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Business Insurance®

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

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Updates

State lawmakers push package of anti-managed care legislation

WASHINGTON—A group of state legislators, saying states need a proper model for legislation to restrain managed care excesses, last week unveiled a model bill they claimed would protect consumers' rights.

The model bill was developed by a group of Republican and Democrat state legislators under the auspices of Women in Government, a bipartisan non-profit group. Among its provisions, the bill would: guarantee patients their choice of providers so long as they pay an additional fee; allow the

See **Updates** *on next page*

Health care costs up 2.5% in 1996

Higher cost increases likely to follow

By JERRY GEISEL

Health care plan costs in 1996 remained fairly stable, though larger cost increases may lie in store for some employers this year.

Group health care costs for active and retired employees rose 2.5% to an average of $3,915 per employee in 1996 from $3,821 per employee in 1995, according to a survey of 3,290 employers to be released this week by benefit consultant A. Foster Higgins & Co. Inc. of New York.

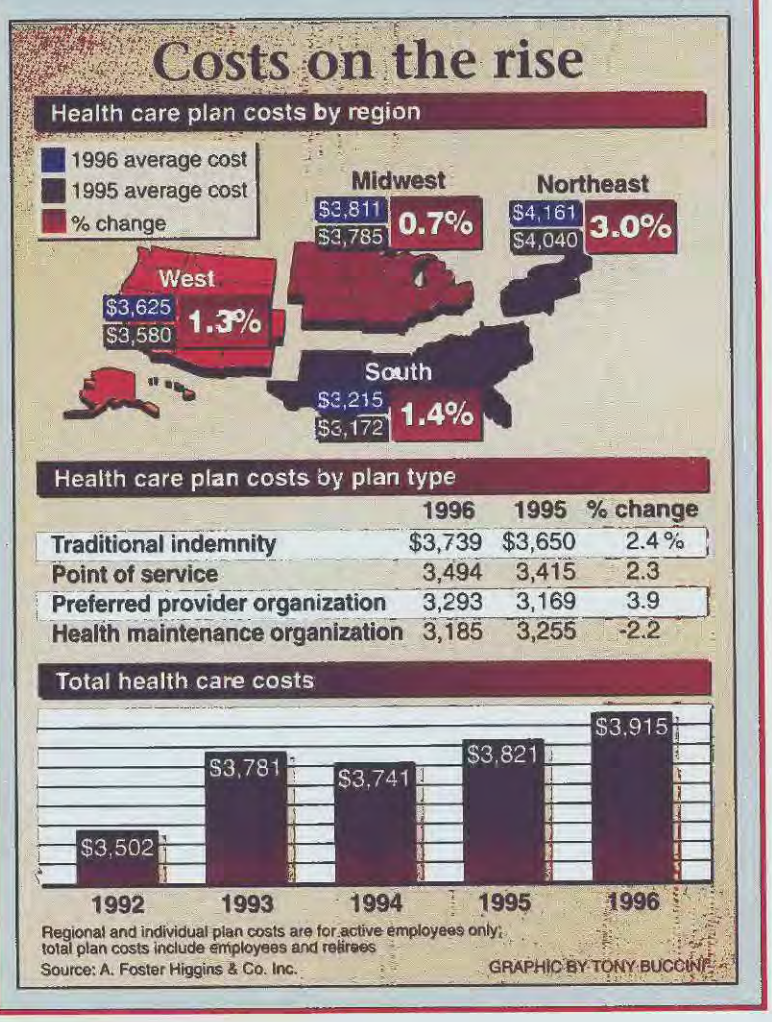
Health care costs for active employees and retired workers at large employers—those with at least 500 employees—climbed slightly more, increasing 3.6% to an average of $4,332 per employee from $4,181 per employee.

On the other hand, health care costs among smaller employers fell 2% to an average of $3,380 per employee from $3,448 as more workers at smaller companies moved into lower-cost managed care plans.

Looking at only active employees, health care costs for all employers surveyed increased just 1.4%, rising to an average of $3,703 per employee, up from $3,653 in 1995.

These small increases in health care costs—the third year in a row of relatively stable costs—are good news for employers, which in the late 1980s were reeling from the blows of double-digit annual increases in health care premiums and claims' costs.

See **Survey** *on page 25*



C&L's buyout of Kwasha boosts competitiveness

By JERRY GEISEL

FORT LEE, N.J.—The benefit consulting landscape continues to change after the second buyout this month of a venerable consulting firm by a much larger organization.

Kwasha Lipton L.L.C. is being acquired by Big Six accounting firm Coopers & Lybrand L.L.P., which will merge the consultant into its Human Resource Advisory Group, ranked as the fifth-largest benefit consultant before the deal.

The merger, which is for an undisclosed amount, could be completed as early as next week.

That combination comes only weeks after Mellon Bank Corp. bought eighth-ranked Buck Consultants Inc. in the first acquisition of a major benefit consultant by a financial services firm (*BI*, Jan. 6).

While the Kwasha Lipton name will be maintained as The Kwasha Lipton Group—which will comprise the combined entity's retirement and benefits administration services—the takeover means an end to independence for one of the oldest and most respected names in employee benefits consulting.

The merger could produce a benefit consulting powerhouse, executives at the two firms say.

The deal brings Coopers & Lybrand a consulting firm highly regarded for customer service and innovation.

"This combination creates unique levels of depth. It is an opportunity to become world-class," said Reed Keller, vice chairman of Coopers & Lybrand Human Resource Advisory Group in Atlanta.

For Kwasha Lipton, the merger gives it a link to an organization

See **Acquisition** *on page 4*

Suits challenge N.Y. surcharge

Union says fees on health care violate ERISA pre-emption

By GAVIN SOUTER

ALBANY, N.Y.—The furor over controversial New York surcharges on hospital treatments and other medical care is moving into the courtroom.

A labor union welfare fund has filed suit against the state, charging the surcharge is pre-empted by the federal Employee Retirement Income Security Act of 1974.

The union wants a declaratory judgment ruling the New York Health Care Reform Act, which included the surcharge, null and void.

In a second suit, the New York State Clinical Laboratory Assn. charges that the act unfairly singles out laboratories to pay the surcharge: it forces labs to pay the surcharge if the patients or insurers refuse to pay; and that as labs operate on a profit margin of about 4.5%, many of them could be forced out of business by the surcharge.

The suits are part of volley of protest from health care plan administrators over the implementation of the surcharge, which varies between 5.98% and 8.18% depending on the category of payer. The most controversial aspect of the surcharge is the hefty potential penalty of up to 57.27% of the bill imposed if employers do not pay the surcharges directly to a state health care pool administrator.

The surcharge and another charge—called a covered-lives assessment—will pay for the training of medical residents and care for the poor in New York.

The surcharge also will be imposed on plans that do not have employees in New York but whose employees are treated in a New York hospital.

The law triggered outrage from plan administrators when the New York health department last November announced a Dec. 2, 1996, deadline to opt to make direct payments.

Administrators protested the size of the surcharge and the short period they were given to file (*BI*, Nov. 25, 1996). The New York Department of Health is accepting filings, but they would only protect payers from surcharges for bills incurred after April 1, a

See **Surcharges** *on page 27*

Columbia/HCA buys Value Health

By ROBERT KAZEL

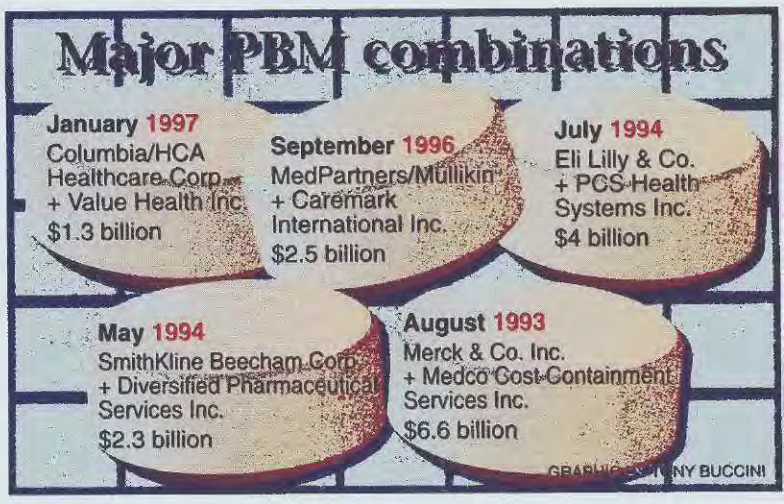
AVON, Conn.—Columbia/HCA Healthcare Corp.'s purchase of Value Health Inc. is likely to create a new super vendor that will be knocking on the doors of many employers and health maintenance organizations.

The Nashville-based diversified health care corporation last week took a large step into prescription management, disease management, and several other managed care fields with its definitive agreement to acquire Value Health in a $1.3 billion stock swap.

Columbia/HCA, the largest private U.S. provider of health services, said that its merger with Value Health—which owns the largest independent drug management firm in the nation—could pave the way to negotiating contracts with large employers and managed care companies for a variety of specialty health services.

The purchase will permit Columbia/HCA, known mainly for its hospitals, home health services and surgery centers, to take on a variety of tasks that HMOs and corporate health plan sponsors now purchase from third-party administrators, managed care companies and other con-

See **Value** *on page 26*



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NEWSPAPER

Updates

Managed care faces state bills

Continued from previous page

patient to pick a specialist as a primary care doctor; prohibit so-called gag clauses preventing open discussion between a doctor and patient; and compel plans to disclose limits on coverage for experimental treatment and to provide written justification of denials.

The bill was introduced last week in the New Jersey Assembly and will be introduced shortly in Texas, Colorado, Georgia, Delaware, Kansas, Ohio, Oregon and Tennessee.

Separately, New York Gov. George E. Pataki and the leaders of the New York Legislature have agreed to introduce a bill that would allow patients and their doctors, rather than insurers, to decide how long they need to remain in hospital after a mastectomy. The bill also would require insurers to pay for reconstructive surgery after a mastectomy.

Zurich to buy out ZRC shares

NEW YORK—Switzerland's Zurich Insurance Group plans to buy all the outstanding shares of U.S. subsidiary Zurich Reinsurance Centre Holdings Inc. for $322.5 million and take the company off the New York Stock Exchange.

The move comes four years after ZRC's initial public offering, which established the reinsurer as a large, publicly held broker market reinsurer. After the IPO, Zurich held 43% of ZRC shares but has since increased its stake to 66%.

Under the proposal, Zurich will pay $36 per share for the about 9 million publicly held shares. ZRC shares closed at $37.75 Friday.

As sole owner of ZRC, Zurich will have a greater opportunity to widen its range of services, said Rolf Hueppi, chairman and chief executive officer.

"Most importantly, it will allow for an integrated customer approach between ZRC, focused on traditional reinsurance products, and our wholly owned subsidiary, Centre Reinsurance," he said, referring to Bermuda-based finite risk reinsurance specialist Centre Reinsurance Co.

Ruling limits thrift D&O suits

WASHINGTON—The federal government will have a harder time suing directors and officers of failed thrift institutions because of a decision handed down last week by the U.S. Supreme Court.

The justices ruled unanimously in *Atherton vs. Federal Deposit Insurance Corp.* that to recover losses from directors and officers of failed savings and loan associations, federal regulators must prove those officials acted with gross negligence rather than ordinary negligence. Gross negligence is harder to prove than ordinary negligence, but Justice Stephen Breyer wrote for the majority that there is no basis in federal common law for setting a standard of ordinary negligence in such cases.

In the decision, however, Justice Breyer noted that the ruling would not bar states from seeking damages on a finding of ordinary negligence if the state laws permitted the use of that standard in such a circumstance.

The decision sends the case, which involved a suit against the directors and officers of insolvent City Federal Savings Bank of Bedminster, N.J., to a lower court.

Lenders shielded from liability

CINCINNATI—A federal appellate court's decision to bar Michigan authorities from holding a Detroit bank responsible for a borrower's pollution liabilities is likely to comfort lenders nationwide about their protection under a new federal statute.

The Asset Conservation, Lender Liability and Deposit Protection Act of 1996 shields lending institutions from being held liable for borrowers' hazardous waste cleanup liabilities as long as the lending institutions were not involved in managing the borrowers' operations (*BI*, Oct. 7, 1996). The act applies to relevant cases that had not been adjudicated by the act's Sept. 30, 1996, effective date. The U.S. Environmental Protection Agency in 1992 issued a rule that provided lenders such protection. But, the U.S. Circuit Court of Appeals for the District of Columbia in 1994 killed that protection when it ruled the EPA does not have rulemaking authority (*BI*, Feb. 14, 1994).

That decision came in the same case in which a panel of the 6th U.S. Circuit Court of Appeals ruled last month. But, in its 3-0 decision, the 6th Circuit on Dec. 19 affirmed a lower court's summary judgment that Manufacturers National Bank of Detroit did not help manage a now-bankrupt borrower's operations, even though a bank official sat on the borrower's board of directors.

Michigan asked the 6th Circuit to reverse the lower court's ruling because that court did not reconsider its decision after the EPA's lender liability rule was vacated. The 6th Circuit instead ruled that the 1996 act's provisions "effectively codify" the vacated EPA rule and that the new act governed the Michigan case.

This case is important to lenders because the 6th Circuit found that the 1996 statute was "absolutely clear" and that Congress did not leave the act open to conflicting court interpretations, said attorney Joseph Lynyak, a Los Angeles-based partner with Graham & James L.L.P., which was not involved in the case.

Even without the new rule, the bank was not liable, said its attorney, Fredrick Dindoffer, a partner with Bodman, Longley & Dahling L.L.P. of Detroit. It acted "as you'd expect a responsible lender to act so its shareholders wouldn't lose money."

See **Updates** *on page 26*

Errors & omissions

• Items from the following companies were omitted from the Jan. 6 Information Resource section on employee benefits: Aon Management Institute, ConnectiCare Inc. and AVERT Inc. An addendum on page 17 provides a description of these items.

Court rejects benefits claim by DuPont contract workers

By JUDY GREENWALD

RICHMOND, Va.—Attorneys and benefit consultants differ over whether the 4th U.S. Circuit Court of Appeal's ruling that a leased employee is ineligible for benefits conflicts with a 9th Circuit ruling that found temporary workers eligible for benefits.

Some observers say the Jan. 9 decision in *Ann Navey Clark vs. E.I. DuPont De Nemours & Co. Inc.* is in such disagreement with the 9th Circuit's decision in *Donna Vizcaino etc. vs. Microsoft Corp.* that the U.S. Supreme Court ultimately will have to resolve the issue. But others say the factual backgrounds of the two cases are different, and there is in fact no inherent clash between the rulings.

In the Microsoft decision, the appellate panel found that Microsoft was liable to pay its long-term independent contractors benefits (*BI*, Oct. 21, 1996). Justice Stephen Reinhardt said that based on the Internal Revenue Service finding that these contractors were employees and Microsoft's plan language, these workers were eligible for benefits. Microsoft is seeking a rehearing of the case.

No decision has been made yet as to whether to appeal the Clark decision, said John Bertram Mann of Richmond-based law firm Levitt & Mann. The original plaintiff, Andrew J. Clark Jr., has died, and Mr. Mann now represents his widow, Anne Navey

See **DuPont** *on page 26*

Constitution Re explores option of selling casualty facultative unit

By MICHAEL PRINCE

NEW YORK—Constitution Reinsurance Corp. is exploring the possible sale or restructuring of its casualty facultative operation.

The New York-based company, which ranks as the 14th-largest U.S. reinsurer based on net reinsurance premiums, has hired investment bank Goldman Sachs & Co. to prepare a possible sale of the operation, which accounts for less than 5% of its business.

Other options the reinsurer is considering include restructuring and folding the facultative operation into the treaty unit.

Bard Bunaes, chairman and chief executive officer of New York-based Constitution Re, would only say that selling the casualty facultative division is a possibility and that the company is "still in the process of determining what to do." He referred further questions to Goldman Sachs, which declined to comment.

Michael Smith, a director with Salomon Brothers in New York, said a sale would have minimal impact on the reinsurance market as Constitution Re is not a large player.

"You have one small company deciding not to be a factor in the business," he said. "It won't affect the market at all."

Constitution Re is known as a solid company that writes nonstandard automobile reinsurance and treaty reinsurance for various casualty and property lines.

Speculation by analysts over a potential buyer for the operation

See **Reinsurer** *on page 12*

Analysts say selectivity will pay dividends

Property/casualty stock a mixed bag

By JUDY GREENWALD

Stock analysts disagree as to how well commercial property/casualty insurance stocks will do relative to the overall market.

But there is general agreement on one major point—the need for selectivity. "If you pick wisely, you're going to be able to get winners," said Joanne Stone Morrissey, president and chief executive officer of Morristown, N.J.-based Firemark Group Inc.

Insurance industry stocks advanced 23.1% on a weighted-average basis last year, according to an index compiled by Hartford, Conn.-based Langen McAlenney, a division of Janney-Montgomery Scott Inc. This compares with a 20.3% improvement in the Standard & Poor's 500 Index.

Results differed by segment. Primary property/casualty stocks were up 22%, for instance, while reinsurer stocks were up 6%, and multiline insurers were up 31.3%. Life insurers were up 21.8%, while the two insurance brokers included in the Langen McAlenney index were up 13.1%.

Steven A. Gavios, managing director at Bear, Stearns & Co. Inc. in New York, expects the property/casualty group to underperform the market this year, "given continued pressure on pricing and underwriting results for most key companies."

See **Stocks** *on page 27*

Deadline nears for third-party administrators directory

The deadline is approaching for companies to return questionnaires to be listed in *Business Insurance*'s annual directory of third-party administrators.

The directory will appear in the Feb. 17 issue, which also will contain a report on trends in self-insurance.

There is no charge to be listed in the directory. Companies need only fill out and return a *BI* questionnaire by the extended deadline of Jan. 29.

If your company offers claims administration, adjusting or auditing services for self-insured clients and has not received a questionnaire, please request one immediately by calling Assistant Directory Editor Richard Trout at 312-649-5483.

Inside

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• Perot Systems Corp. becomes the first major Texas employer to offer benefits to same-sex partners. **PAGE 6**

• Joe Dear brought a welcome change of attitude to the Occupational Safety and Health Administration, this week's editorial says. **PAGE 8**

• The privatization of Britain's rail system is creating new risk management challenges. **PAGE 21**

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Hand-in-hand: Inauguration and risk

By RODD ZOLKOS

WASHINGTON—While the events surrounding President Bill Clinton's second inauguration promise to be somewhat smaller in scope than those of his first induction into office, the various exhibits, parades, balls and assorted hoopla still leave no shortage of potential exposures.

In addition, since Mr. Clinton first took office in 1992, events like the Oklahoma City federal building bombing, this year's Olympic bombing in Atlanta and recent letter bomb incidents in Washington and elsewhere have increased inauguration planners' awareness of potential risks.

"We have hundreds of thousands of people coming to an event from all over and this creates risk," said Ken Stern, chief counsel to the Presidential Inaugural Committee.

The privately financed events organized by the committee cost an estimated $30 million and included today's inaugural parade and 14 inaugural balls scheduled for this evening.

The festivities also included: the weekend-long public celebration on the Mall called "An American Journey"; Saturday night's invitation-only Presidential Gala at the USAir Arena in Largo, Md.; a dress rehearsal for that gala Friday night; as well as a citywide fireworks display Saturday.

The entertainment division of Marsh & McLennan Cos. Inc. placed this year's package of inauguration insurance coverage.

"Next to the Olympics the inauguration is probably one of the biggest special events that we have in the United States," said A. LeConte Moore, senior vp and manager of M&M's entertainment division in New York.

"This year they are much more concerned because of the possibility of something happening at big spectator events because of the Olympic (bombing) situation," Mr. Moore said.

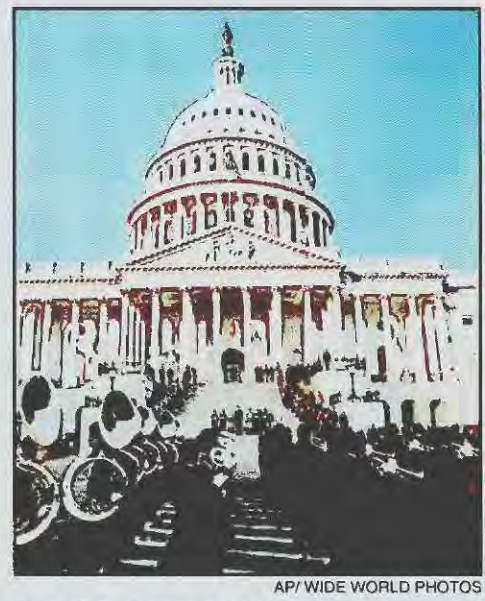
"The biggest exposure is general liability because there are a lot of people there," he said. "Then they rent a lot of automobiles to ferry dignitaries and celebrities around and the auto exposure is also fairly substantial."

The inaugural committee purchases "substantial" umbrella liability coverage to cover any catastrophes, Mr. Moore said.

Cancellation insurance covers the committee in case of cancellation for any reason beyond its control, including bad weather. It also insures against cancellation in case a tragic event should make it inappropriate to go forward with the various celebratory events surrounding the actual inauguration.

The policy's language specifies that it will cover any events canceled because they are

See **Clinton** *on page 10*



AP/ WIDE WORLD PHOTOS

The U.S. Army Field Band marches in Washington in an inauguration rehearsal.

Market crash may spark fund shifts...

By JUDY GREENWALD

While the percentage of 401(k) plan assets allocated to stable value funds has steadily declined in recent years, as more participants put their money into the booming stock market, that trend could reverse in the event of a major stock market correction.

But the extent to which 401(k) plan participants would abandon the stock market in favor of more conservative stable value funds and guaranteed investment contracts is a subject of considerable speculation.

One factor affecting such a shift would be plan sponsors' success at communicating to employees that despite short-term dips, participants are likely to gain higher yields over the long haul by investing in the stock market.

In addition, the majority of employees tend to stick with their original investment decisions in spite of stock market movement, benefit experts say, with a relatively small number of plan participants disproportionately responsible for movement in and out of fund options (see story, page 20).

Another key factor would be the severity and duration of any stock market correction, as well as the factors that may be driving it.

Market observers estimate the current size of the stable value market at $180 billion to $200 billion. But stable value funds' share of 401(k) plan assets has declined in recent years.

According to a recent survey by A. Foster Higgins & Co. Inc., stable value funds accounted for 33% of respondents total plan assets as of December 1995, down sharply from 42% the prior year. Among plans offering some type of equity fund, 40% of assets were invested in equities (*BI*, Dec. 16, 1996).

This was the first time since the survey began in 1990 that a greater percentage of participant accounts was invested in equity options than in stable value options.

Research by Windsor, Conn.-based LIMRA International, a financial services research organization, and by the Washington-based Stable Value Assn. also indicate sales of stable value products are declining.

According to the Guaranteed/Stable Value Products Sales Survey jointly conducted by the two organizations, the more than $45 billion of stable value products sold in 1995 represented a 14% decline from 1994's level.

The study concluded that factors influencing the decline were the strong equities market, low interest rates, and an increased awareness by plan sponsors and participants of the importance of diversifying retirement investments among several asset classes.

That trend continued at least through the first half of 1996, when LIMRA and the Stable Value Assn. found the sale of stable value products fell another 12%.

See **Stocks** *on page 19*

...and lawsuits against 401(k) sponsors

By JUDY GREENWALD

A serious stock market correction will likely yield lawsuits against 401(k) plan sponsors by disgruntled plan participants, but the success of such claims is not as certain.

Employer efforts to communicate the riskiness of stock market investments and to avoid offering anything that could be construed as investment advice should protect them from liability, benefit experts and market observers say.

Under Section 404(c) of the Employee Retirement Income Security Act, providing investment advice could put the employer in the position of fiduciary, which could subject the employer to liability exposures in connection with participant-directed investments.

Fiduciaries are subject to personal liability to make good any losses to a plan resulting from a breach of their fiduciary duties.

However, Department of Labor guidelines suggest that if employers restrict their communications to discussing general topics, such as differences between asset classes or historical returns on different sorts of investments, they will steer clear of being deemed fiduciaries (*BI*, Dec. 18, 1995).

Plan sponsors seeking additional protection will find fiduciary liability insurance coverage widely available at relatively inexpensive rates, said Geoff Fallon, a vp with Johnson & Higgins in Cleveland, who is also an attorney.

"I think such claims will crop up because a lot of people have, in my view, very high expectations that this market will continue, and they have a lot of their wealth tied up in that, and when that goes away, they'll be upset and want to recoup some of that wealth that they've lost," he said.

However, such plaintiffs are unlikely to be successful in pursuing their claims, said Brian Ternoey, a principal with A. Foster Higgins & Co. Inc. in Princeton, N.J. "I think plan sponsors for the most part have been pretty diligent about saying the stock market doesn't have to keep going up so I don't see a whole lot of basis for all the lawsuits there.

"There certainly could be some, but as far as actually losing based on that, I guess I don't see where it would come from," said Mr. Ternoey.

"Case law is developing and it will be very interesting to see what the results of the case law will be," said Robert Sandler, an attorney with Saul, Ewing, Remick & Saul in

See **Liability** *on page 20*

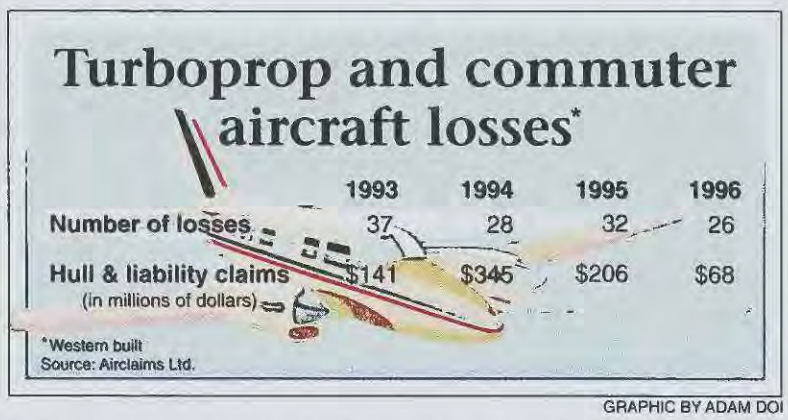
Comair losses may near $100 million

By MICHAEL PRINCE

DETROIT—Despite causing 29 deaths and hull and liability losses that could reach nearly $100 million, the crash of a Comair commuter plane outside Detroit is not expected to drive up commuter aviation insurance rates.

Because of the large capacity in the aviation market, the crash is unlikely to boost aviation rates, said a spokesman for the Alexander Howden Group in London. "One single incident, however severe, is not going to force a change in rating levels," the spokesman said.

Bill Behan, president of AirSure Ltd., an aviation insurance broker in Golden, Colo., said liability claims from the crash could reach $3 million per fatality, or about $90 million total, but "it's not enough to make a difference in the market."



GRAPHIC BY ADAM DOI

As for hull losses, Fort Lauderdale, Fla.-based Embraer Aircraft Corp., which manufactured the Emb 120 Brasilia turboprop plane, estimated the value of the aircraft that crashed at $4.1 million to $4.3 million.

Cincinnati-based Comair has $200 million in liability coverage, placed by a unit of Willis Corroon Group P.L.C. led by U.S. underwriters (*BI*, Jan. 13).

Alexander Howden's spokesman said that Comair's rates are not likely to increase. "There is

See **Comair** *on page 24*

New TPA formed with down-home approach in mind

By MICHAEL BRADFORD

TYLER, Texas—A new third-party claims administrator is hoping a down-home approach will appeal to some of the country's largest self-insurers.

Platinum Safety & Claims Services L.L.C. this month began offering claims administration and safety services to Fortune 1,000 companies from its base in Tyler, Texas, about 90 miles east of Dallas.

The new TPA is a joint venture of brokers Lowndes Lambert U.S. Holdings Inc. and Tyler-based Hibbs-Hallmark & Co. Lowndes Lambert U.S. is a Dallas-based unit of Lowndes Lambert Group Holdings P.L.C. of London.

The creation of Platinum Safety & Claims is the first formation of a TPA of any significant size that industry experts can recall in recent years.

It was the personal touch at Hibbs-Hallmark and its sister TPA company, Claims Administrative Services Inc., that drew Lowndes Lambert U.S. to the venture, explained Richard Kerr, chairman and chief executive officer of Lowndes Lambert U.S.

CAS had carved a niche to provide TPA services to independent school districts in Texas, all of which are self-insured, he explained.

After hearing numerous complaints from employers about the quality of TPA services, Lowndes Lambert U.S. began searching for a way to provide a more personalized service, Mr. Kerr said.

The personalized style of CAS and Hibbs-Hallmark was appealing enough to inspire the formation of a new company that would use such a philosophy to service large U.S. employers.

"They have established a service culture that we couldn't find anywhere else," Mr. Kerr said of the Tyler-based companies.

Platinum is targeting employers that self-insure through captive insurance companies, assume large self-insured retentions or have in place large-deductible workers compensation insurance programs.

Apart from claims administra-

See **TPA** *on page 12*

Acquisition

Continued from page 1

whose parent—Coopers & Lybrand L.L.P.—has enormous resources worldwide.

"This combination is about the future and having the resources to meet new opportunities," said Kwasha Lipton Chief Executive Officer Robert S. Byrne Jr.

Coopers & Lybrand's Human Resources Advisory Group generated an estimated $363 million in benefit consulting revenues in 1996, including $177 million from U.S. benefit consulting. Kwasha Lipton reported $79 million in 1996 revenues (*BI*, Dec. 9, 1996).

The deal also joins Kwasha Lipton to a firm that has moved into several consulting areas, most notably broad human resource consulting, which employers are demanding and in which Kwasha Lipton is not a significant force.

Outside observers agree the two firms appear to make a good fit.

"By consolidating entities in the same field, you build mass and capability. That should mean better service at equal or lower cost," said Dallas Salisbury, president of the Employee Benefit Research Institute, a benefits think-tank in Washington.

'This combination is about the future and having the resources to meet new opportunities.'

—Kwasha Lipton Chief Executive Officer Robert S. Byrne Jr.

Some Kwasha Lipton clients look forward to the combination, saying it will enable Kwasha Lipton to expand operations, most notably in benefits outsourcing.

"We know that Kwasha Lipton has wanted to expand outsourcing beyond pension and savings plans to full human resources consulting. The combination positions them with the capital to make the investment," said Pete DiToro, vp-employee benefits at San Francisco-based BankAmerica Corp., one of Kwasha Lipton's biggest clients.

The Coopers & Lybrand and Kwasha Lipton merger comes on the heels of this month's acquisition of Buck Consultants by Mellon Bank.

The successive acquisitions illustrate the tremendous changes and pressures buffeting the benefit consulting industry.

Most of the major benefit consulting firms, including Kwasha Lipton, began as actuarial consultants. For decades, the consulting firms had that business virtually to themselves and enjoyed huge profit margins, observers says.

The growth of 401(k) retirement savings plans in the early and mid-1980s gave consultants added opportunities in areas like recordkeeping and benefit communications.

And legislators in Washington, through the passing of a plethora of benefits-related legislation throughout the 1980s, drove more consulting growth, as employers sought the specialized expertise of benefit consultants to meet Washington's dictates.

But those engines of revenue growth, as EBRI's Mr. Salisbury calls them, have begun to sputter.

While Congress continues to pass legislation affecting employee benefit plans, the measures of recent years have not required the massive compliance work imposed by bills passed in the 1980s.

More significantly, profit margins from actuarial consulting on defined benefit pension plans—once a huge money machine—have shrunk significantly in recent years as technological advances have enabled employers to do much more of that work themselves. In addition, few if any defined benefit plans are being established, while thousands are being terminated each year.

Actuarial valuations, for example, have become much more of a commodity, benefit consultants say, driving down the rates consulting firms can charge.

At the same time, mutual funds, starting about five years ago, began to move into defined contribution plan recordkeeping, communications and administration services in a big way.

The mutual funds became formidable competition for the consulting firms because the funds could not only provide these administration services—at relatively low cost to employers—but also provide their funds as investment options in the savings plans.

At the same time, the mutual funds, with their huge capital bases and thousands of clients, had the resources to invest heavily in technology and were able to offer state-of-the-art services like voice response systems and daily valuation of employees' account balances.

For benefit consultants, the price of keeping up with the mutual fund giants has been steep.

"If you have a small client base, how do you compete against a mutual fund with" thousands of accounts, Mr. Salisbury noted.

In addition, employers, eager to slim down their own benefits departments, have led the charge to outsource the administration of their benefit programs, as well as other human resources functions.

But the cost of developing and keeping up-to-date outsourcing centers can be beyond the reach of smaller benefit consulting firms like Kwasha Lipton, said Donald Light, an independent consultant in Menlo Park, Calif.

"Kwasha Lipton may be a wonderful firm, but its ability to finance the level of research and development needed for outsourcing is limited," Mr. Light said.

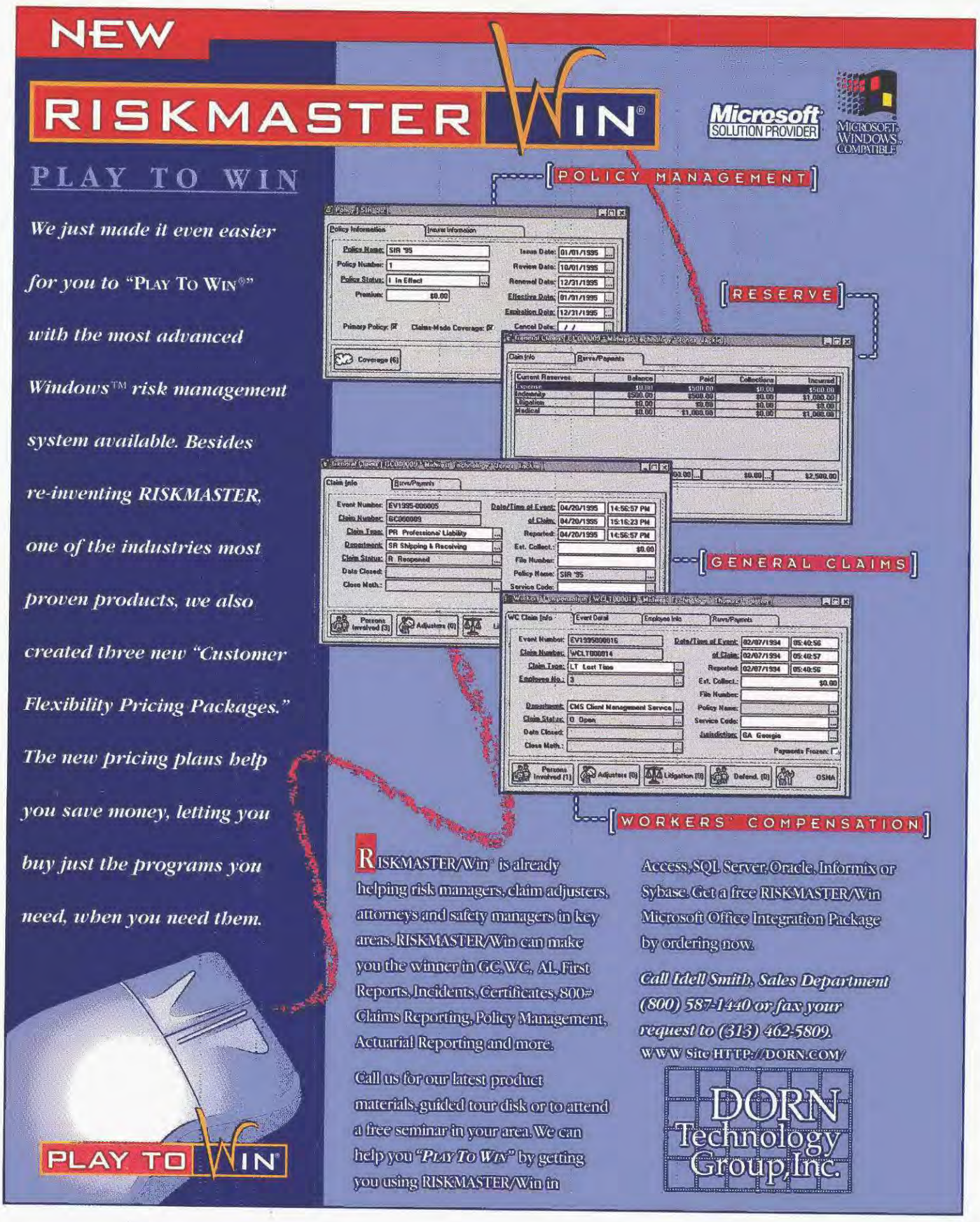
Kwasha Lipton's Mr. Byrne agreed that Kwasha Lipton lacked the resources to expand into new areas like, for example, broad human resources consulting and that more potential business opportunities would have been lost in the future.

"We needed a broader base," Mr. Byrne said.

Because of Kwasha Lipton's structure—it has one central consulting office in Fort Lee, as well as outsourcing centers in Fort Lee and Raleigh, N.C.—the merger is likely to be integrated with Cooper's & Lybrand's 23 offices more smoothly than most such deals.

"Consultants can spend time serving clients rather than worrying about which offices will be closed," Mr. Salisbury said.

Neither firm plans to lay off professional staff or close any offices as a result of the merger. BI



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Michigan overhauls retirement benefit plans

LANSING, Mich.—Michigan is launching a new defined contribution pension plan for newly hired state employees and will offer existing employees the option to remain in the state's current defined benefit pension plan or participate in the new plan.

Michigan Gov. John Engler in December signed into law a package of bills creating the new defined contribution retirement program and an early-retirement program for state employees, among other provisions.

Under the new defined contribution program, all state employees, judges and legislators hired on or after March 31, 1997, will be eligible to participate in a new employer-match 401(k) plan.

Although government employers have been prohibited since May 1986 from adopting 401(k) plans, states like Michigan that had 401(k) plans in existence before that date are granted an exemption.

Benefit Beat

Currently, Michigan provides a defined benefit pension plan in which employees vest after 10 years of service. The state also has long used a 401(k) plan for a deferred compensation program, though it lacked an employer match. That plan will be merged into the new 401(k).

Under the new 401(k) plan, the state will contribute 4% of each employee's annual compensation to his or her personal account. Employees can continue to contribute to their accounts to the extent the Internal Revenue Code permits and the state will match employee contributions up to 3% of salary.

Employees will fully vest in the state's 401(k) contributions after four years of service. The vesting schedule is 50% vesting after two years of service and 75% after three years of service.

A spokeswoman from the state Department of Treasury said the state is reviewing bids from outside administrators to manage the new retirement savings program.

The state will continue to offer its defined benefit pension plan to existing employees who opt to stay in the defined benefit program. Those employees wanting to switch, particularly workers not yet vested in the defined benefit plan, will be eligible to join the new plan in spring 1998.

"The whole reason behind the new program is portability," said a spokeswoman for the state's Department of Management and Budget. Many people refused to take state jobs after they found out they had to make a 10-year commitment before being eligible for a defined benefit pension, she said.

In addition, "we found 45% of the state employees did not vest" in the program before leaving, she said.

"In absolutely every study this is the way of the world nowadays," she said, referring to defined contribution plans.

State employees were first made aware of the new 401(k) plan through e-mail.

"We received a lot of questions back from people interested" in the new plan, the spokeswoman said.

The state is planning a "massive information campaign" to further educate employees about the 401(k) plan.

Retiree health insurance benefits for employees hired on or after March 31 also will change.

Current state employees become eligible for retiree health care coverage after 10 years of service, after which the state covers at least 90% of premiums.

Now, employees will earn a 3% state contribution toward premiums for each year of service, fully "vesting" after 10 years.

Michigan also is launching an early-retirement program expected to save the state $25 million annually.

Currently, only state employees age 60 or older with at least 10 years of service, or age 55 to 59 with at least 30 years of service, are eligible to retire with full pension and health care benefits. Under the new program, employees age 55 or older with at least 15 years of service and those age 50 or older with at least 25 years of service are eligible to retire with full benefits.

In addition, a factor used to calculate retirement benefits for early retirees will be increased to 1.75% from 1.5%. That factor is multiplied by years of service and final average compensation. About 7,000 of the state's approximately 60,000 current employees are eligible under the program to retire as early as April 1 and no later than June 1.

The state estimates 3,000 to 4,000 employees will opt for early retirement. If that occurs, the state will see an average annual savings of $25 million, the Management and Budget spokeswoman said.

—By Sally Roberts

Partner benefits

DALLAS—Perot Systems Corp. apparently has become the first major Texas employer to offer complete benefits to same-sex domestic partners.

Employees of the Dallas-based computer services company were able to enroll domestic partners for health insurance and other benefits beginning this year.

Some small companies in the state already offer domestic partner benefits, but Perot Systems is the first large employer in Texas to make the move, said Steve Atkinson, president of the Dallas Gay & Lesbian Alliance.

Becoming the first large Texas employer to offer the option was "certainly not a motivating factor," according to a spokeswoman for Perot Systems. "One of the values of our company is to treasure our people regardless of their lifestyle, race, color and creed."

She said offering domestic partner coverage did not increase the cost of health care insurance. Employees and domestic partners must sign an affidavit saying they are in a long-term relationship to qualify for the coverage.

Perot Systems offers its workforce of about 4,600 the choice of enrolling in a preferred provider organization, a health maintenance organization or an indemnity plan.

The spokeswoman pointed out that many of Perot Systems' competitors with employees in the state also offer domestic partner benefits. "This is something that's pretty common in our industry."

Mr. Atkinson said he expects more large Texas employers to begin offering such benefits.

"The bottom line is, it's good business to be able to recruit and retain the best possible employees," he said. "In a lot of cases, the best employees happen to be gay and lesbian."

—By Michael Bradford

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Opinions

A legacy of common sense

JOE DEAR'S TENURE at the Occupational Safety and Health Administration marked one of the more promising periods in that troubled agency's history, and we certainly hope the agency's reforms are not lost with his departure.

Mr. Dear took the challenge of reinventing government seriously. He abandoned OSHA's traditional tactic of attempting to assure safety by imposing sanctions and fines on businesses for every imaginable violation, regardless of how trivial.

Mr. Dear instead attempted to promote a more consultative role as regulator, recognizing that working with employers to improve safety has more lasting benefits than deluging them with paperwork and penalties.

OSHA under Mr. Dear generally sought input from all stakeholders as the agency considered new regulations, much to the relief of businesses that for years had found the agency only too willing to fine first, ask questions later.

Under Mr. Dear, OSHA proved willing to help employers do what needed to be done to meet regulations. The agency also moved away from judging its own employees' performance by the chief criterion of how many citations were issued or fines generated.

In addition, experiments such as the Maine 200 program—which targeted worksites with the largest number of workers compensation claims for special attention—showed a new willingness on the part of OSHA to work with employers to correct workplace safety problems. This initiative now is being rolled out throughout the country.

Faced with budgetary constraints and an often-hostile Congress, Mr. Dear focused the agency's enforcement efforts on dealing with the worst offenses and offenders. This targeting of scarce resources on problems that truly threatened worker safety was a realistic and wise response.

IN SEARCH OF THE SUCCESSOR AT OSHA...

That's not to say we didn't have our disagreements with Mr. Dear's OSHA.

While he instituted many reforms administratively, he opposed doing so legislatively, thereby leaving open the door for a future OSHA administrator to undo that progress with the stroke of a pen. We also disagree with OSHA's headlong push for an ergonomics standard, though we take some comfort in Mr. Dear's assurances that OSHA has no intention of imposing a "one-size-fits-all" standard on all industries.

Despite those disagreements, we believe Mr. Dear's record is one of the more innovative during OSHA's history. We hope his successor—whoever that might be—will continue to follow Mr. Dear's philosophy of cooperation rather than confrontation in efforts to make the nation's workplaces safer.

Letters

Alternative models of dental plans ignored

To the editor: An article in the Dec. 9, 1996, issue of *Business Insurance*, "Dental Care Providers on Cusp of Managed Care" and a Perspective in that same issue by Carl Zimmerman, president and chief executive officer of Delta Dental Plans Assn., address new opportunities for companies to provide dental benefits to employees through managed care models of insurance. The American Dental Assn. naturally appreciates the attention given to this topic, as we continue our own efforts to see that more and more companies make access to quality dental care available to workers.

However, the articles omit an important piece of the "what's new in dental benefits" story. Recently, alternative models of dental benefit plans have been created for those employers who wish to avoid the expense of third-party insurance carriers or services corporations altogether and to ensure that employees receive the best quality care available. Many employers are aware that the expensive bells and whistles sold as "services" may be appropriate for medical plans, but are simply unnecessary for dental plans.

One of the most innovative models of dental benefits, for example, is direct reimbursement, a cost-effective, self-funded plan that can be administered either by the employer or by a third-party administrator. Unlike many other dental benefit plans, DR offers complete freedom to employees to choose their own dentists and to plan appropriately for treatment. The simplicity of DR eliminates claims hassles. Both employer and employee know what their financial obligations are.

Direct reimbursement is a straightforward accounting process: An employee visits the dentist of his or her choice, and receives and pays for treatment; the paid receipt is presented to the employer for reimbursement, based on a plan designed by the employer to meet both company and employee needs.

A DR plan is designed by the employer wishes to the amount the employer wishes to commit to the benefit. It is easy to write and doesn't require pre-payment of insurance premiums. The plan works well for industry giants as well as for small companies.

The ADA strongly supports and promotes the concept of direct reimbursement.

Gary Rainwater, D.D.S.
President
American Dental Assn.
Chicago

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Fault lines seen in CEA plan

To the editor: Although California Insurance Commissioner Charles Quackenbush merits recognition for launching the California Earthquake authority—for it took a great deal of ingenuity and persistence on his part—he also deserves the condemnation agents and homeowners are directing his way.

For more than a year I fought the CEA, in the press and in the state Senate. What I feared has occurred: Millions of Californians with low levels of equity will be better off not buying the inadequate mini-policy now on the market. Worse yet, the rating has been skewed politically, so many northern Californians will pay higher rates than those in other heavily populated, high-risk areas, such as the Los Angeles basin.

Former Commissioner John Garamendi refused to have the Legislature abolish compulsory quake insurance for homeowners who asked for it, so capacity got chewed up. Despite that, there was another solution.

Portfolios could have been re-underwritten, existing, "safe" area policies could have been renewed, and mini-policies with 10% (not 15%) deductibles offered to the others. Capacity among insurers and reinsurers would have been divided, just as it is in excess underwriting. Those who like to be "safe" take the high layers (the renewed policies); those who like premium volume take the more risky low layers (the mini-policies).

Fletcher Phelan
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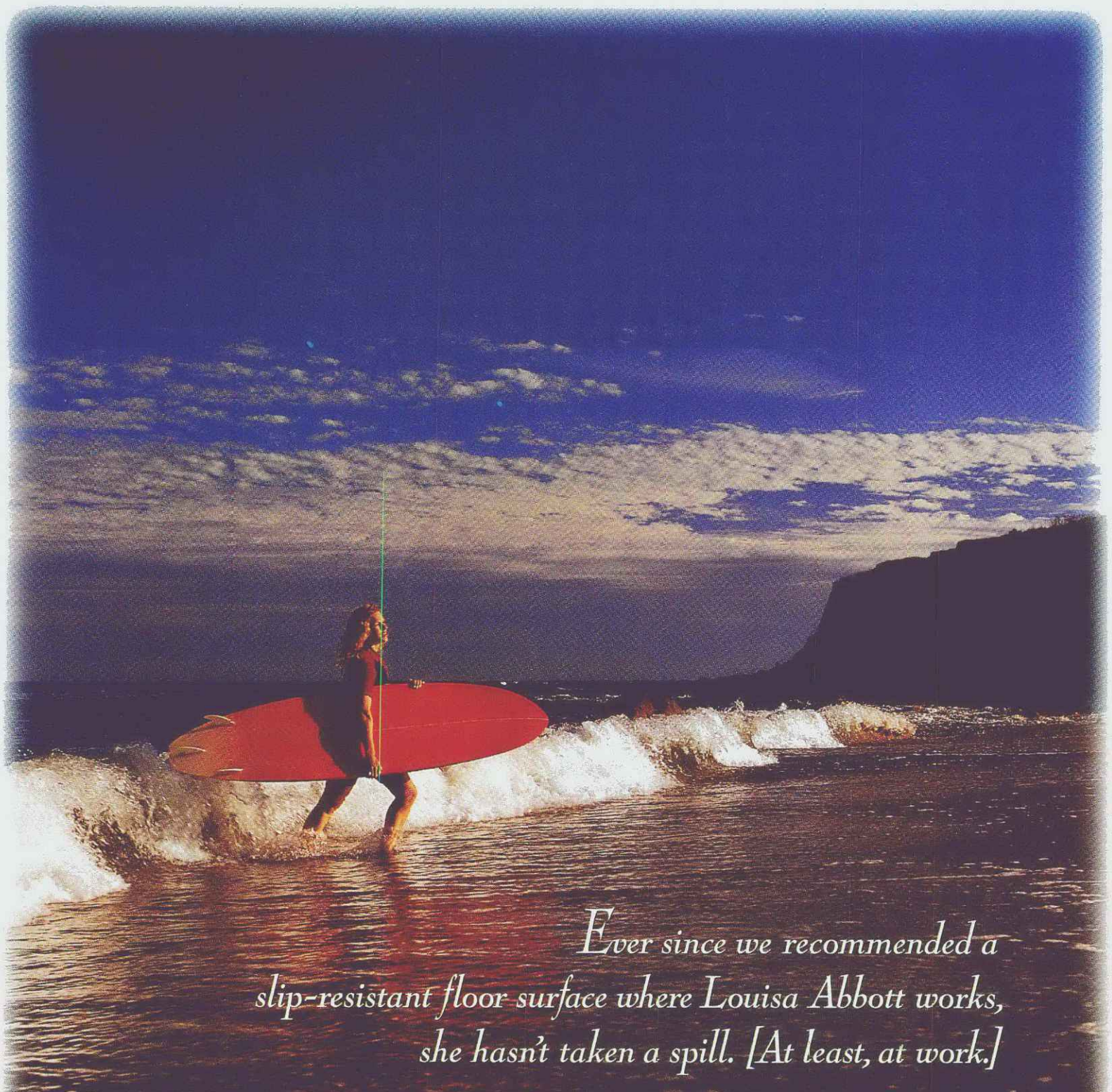

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Clinton

Continued from page 3

"inappropriate based on common standards."

The policy is unusual in that it allows the principal figure in the proceedings, namely the president, to determine whether the events should be canceled, Mr. Moore said.

"You can only get this kind of coverage done when you're talking about the president or the pope, dignitaries of such a stature that they're going to make the call on whether the event occurs or not," he said.

This year all the coverages for the inauguration are included in 10 policies, far fewer than the 25-odd policies that provided the coverage four years ago. Contributing to the consolidation was the fact that with one inaugural behind it, this year's committee is "more of an educated buyer," Mr. Moore said.

Also, M&M has become more experienced at placing coverage for the event, he said. "This is the fourth inauguration we have done, so we're getting better at it."

American International Entertainment Inc., a unit of American International Group Inc., wrote the majority of the inauguration coverages, while Chubb Wholesale, a division of Chubb Corp., wrote some ancillary coverages, Mr. Moore said.

Neither Mr. Moore nor the underwriters would disclose the limits of the coverage or premiums paid.

In addition to the liability coverages and cancellation insurance, the inaugural committee also purchased such policies as not-for-profit directors and officers coverage and workers comp coverage for the various workers associated with the event.

Most of the coverages are manuscripted, "and I think that's based on our experience," Mr. Moore said. "There's a lot of unusual things that come out of special events."

Those "unusual" aspects are one reason many insurers simply choose not to write special event liability coverages, Mr. Moore said.

Another concern for underwriters is that such events typically are organized by groups of people who have never worked together working on the event for the first time. During their "learning process" things can go wrong.

Also, from a business perspective, "You get your premiums only once, you don't have a renewal process, so to speak, and you don't have a chance to do loss control," Mr. Moore said.

"We're obviously handicapped by being a new organization and we obviously don't begin our business until late November or early December and then we put on a huge event," said Mr. Stern of the Presidential Inaugural Committee. "And that's an unusual situation from a lot of dimensions."

But, he noted, this year the group benefited from the fact that many on this year's committee, Mr. Stern included, worked on the first Clinton inauguration, as did Mr. Moore of M&M.

Alice Prine, a senior vp at M&M and special events liability expert, was a key player in placing the coverages, Mr. Moore said, negotiating the various liability contracts.

While the committee could have looked to London underwriters for the special coverage, "there is an unwritten rule that we want to keep it American," Mr. Moore said. Although the broker obtained quotes from Lloyd's of London, the committee chose not to place coverage there, he said, "because they want to keep it American because this is an American event." BI

Special coverage inaugurated years ago

As the times have changed and the price tag on presidential inaugural festivities has grown, so too has the scope of insurance coverage for the event.

In 1960, while working for CNA Financial Corp. in Chicago, William H. Perkins Jr. put together the coverage for the 1961 inaugural events after working on President John F. Kennedy's 1960 campaign.

The Kennedy inaugural was only the second to be insured, recalled Mr. Perkins, now president of Riverside, Ill.-based lobbying firm Howlett & Perkins Associates Ltd. The first was Dwight Eisenhower's second inauguration four years earlier.

"After the campaign was all over I came back (to Chicago) and was contacted by the chairman of the inaugural committee, who asked if I would be interested in writing the insurance for the inauguration," Mr. Perkins said.

"I had never heard of the damned coverage before," Mr. Perkins said. But, he said, "We're talking about the next president of the United States and so forth, so without any authority at all I went ahead and bound it."

The coverages were bound with CNA subsidiary Continental Casualty Co.

Among the coverages were non-appearance insurance for the president-elect and vice president-elect. "If something should happen to either, we would've paid something like $2 million per individual," Mr. Perkins said.

"Then we insured the stands along Pennsylvania and Constitution avenues, liability coverage," he said. "The first claim we paid, incidentally, was on a federal judge who came around the corner of 15th and Pennsylvania Avenue and purportedly tore his pants leg on a protruding board some carpenter hadn't sawed off."

Insurance also covered the mailing of tickets and inaugural medals, losses from the cloakrooms at the inaugural balls and any third-party liability along the parade routes.

Underscoring how times have changed, Mr. Perkins recalled a critical risk management concern in the Kennedy inaugural. While terrorist attacks play on the minds of event planners today, in 1961 a key risk was a botched effort to keep birds away from the parade route.

"They sprayed the overhangs of the buildings and the trees for starlings and pigeons," Mr. Perkins recalled. Unfortunately, most of the material meant to dissuade birds from gathering overhead fell on the sidewalks and bleachers.

"We had visions of people sitting down there and ruining their garments," Mr. Perkins said. But a quick cleanup effort, along with a huge snowfall, mitigated that risk, preventing losses.

—By Rodd Zolkos

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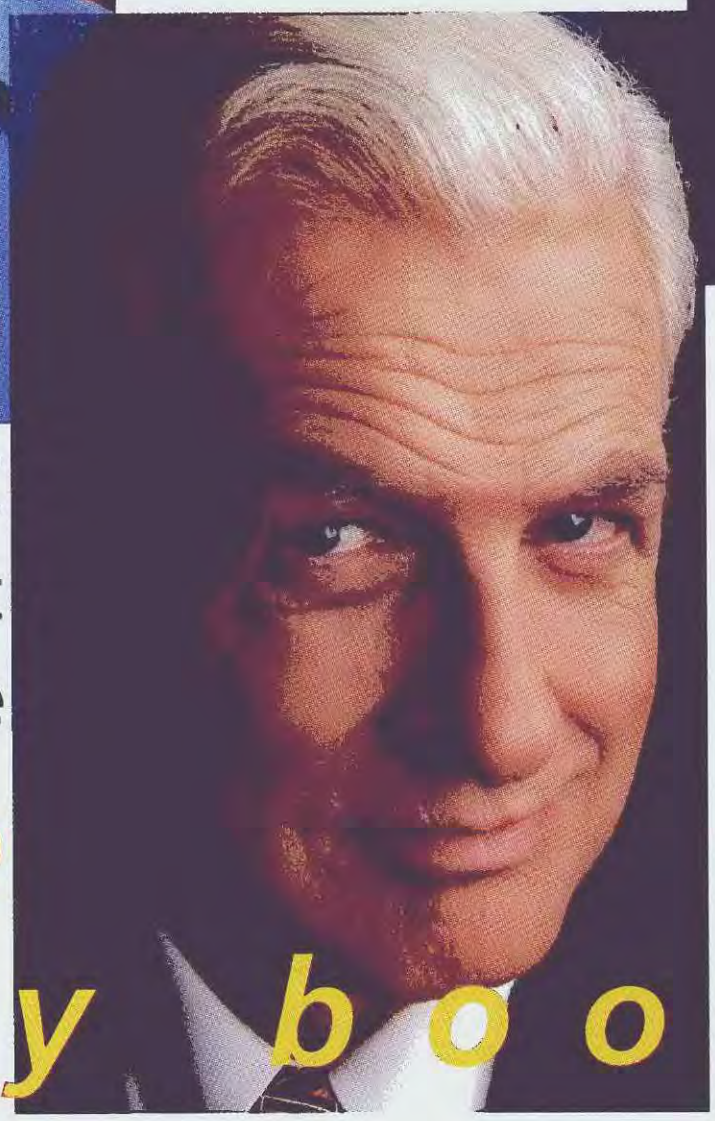

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Reinsurer

Continued from page 2

has centered on Stamford, Conn.-based TIG Reinsurance Co. and Chicago-based CNA Reinsurance Co. Both TIG Re and CNA Re started new facultative reinsurance operations in November, with TIG Re hiring 18 casualty facultative underwriters from Munich American Reinsurance Co. (*BI*, Oct. 21, 1996).

Buying the Constitution Re department would help a reinsurer starting a facultative operation, one reinsurance intermediary said.

"Here you have Constitution, which may not necessarily be focusing its resources on the casualty facultative side, and maybe it's not performing as well as they might like," making a sale sensible, the intermediary said.

Xerox Corp. sold Constitution Re for $400 million in December 1994 to Exor America, a subsidiary of Exor Group of Luxembourg Inc. (*BI*, Dec. 26, 1994). Constitution Re wrote $558.6 million in net premiums in 1995.

For the first half of 1996, the company wrote $258.2 million in net premiums and had a policyholder surplus of $338.7 million. The reinsurer's combined ratio stood at 104.2% in 1995 and dropped to 102.8% for the first half of 1996. In 1995, facultative reinsurance represented only 3.8% of Constitution Re's business.

One analyst, Peter Wade, a vp with Lehman Bros. in New York, regarded it as unusual that Constitution Re would consider selling the unit. "It seems strange for a company to say 'We cannot make a go of it and let's get out,'" he said.

Perhaps they are considering selling because casualty facultative is a small piece of their business, while it has relatively high operating costs, Mr. Wade speculated. BI

TPA

Continued from page 3

tion, the TPA will provide such services as ergonomic studies, loss control engineering and classes that will teach workers how to maintain safe workplaces.

In a highly competitive marketplace, Platinum hopes the down-home touch can give it an edge.

"We've been able to take rural America and instill it into corporate America," Mr. Kerr noted. "It may sound a little bit cliche," he added, but the work ethic outside large metropolitan areas "is a little different. . .It's more of a family-type atmosphere."

The Tyler operation, staffed by about 65 employees, already has snagged a handful of clients, he said. "The Fortune 1,000 companies are eating it up."

The idea of offering a more personalized service has appeal, said Richard S. Betterley, president of Betterley Risk Consultants Inc. of Sterling, Mass.

"That's perfect," he said. "If you think about what frustrates the customer, it's the service level, the lack of that personal touch. That's a very appealing message."

"It's a very competitive field right now," said a spokesman for the Self-Insurance Institute of America Inc. "You are finding that employers are expecting more from TPAs. They want them to be proactive," providing an array of services that result in lower claims costs, he added.

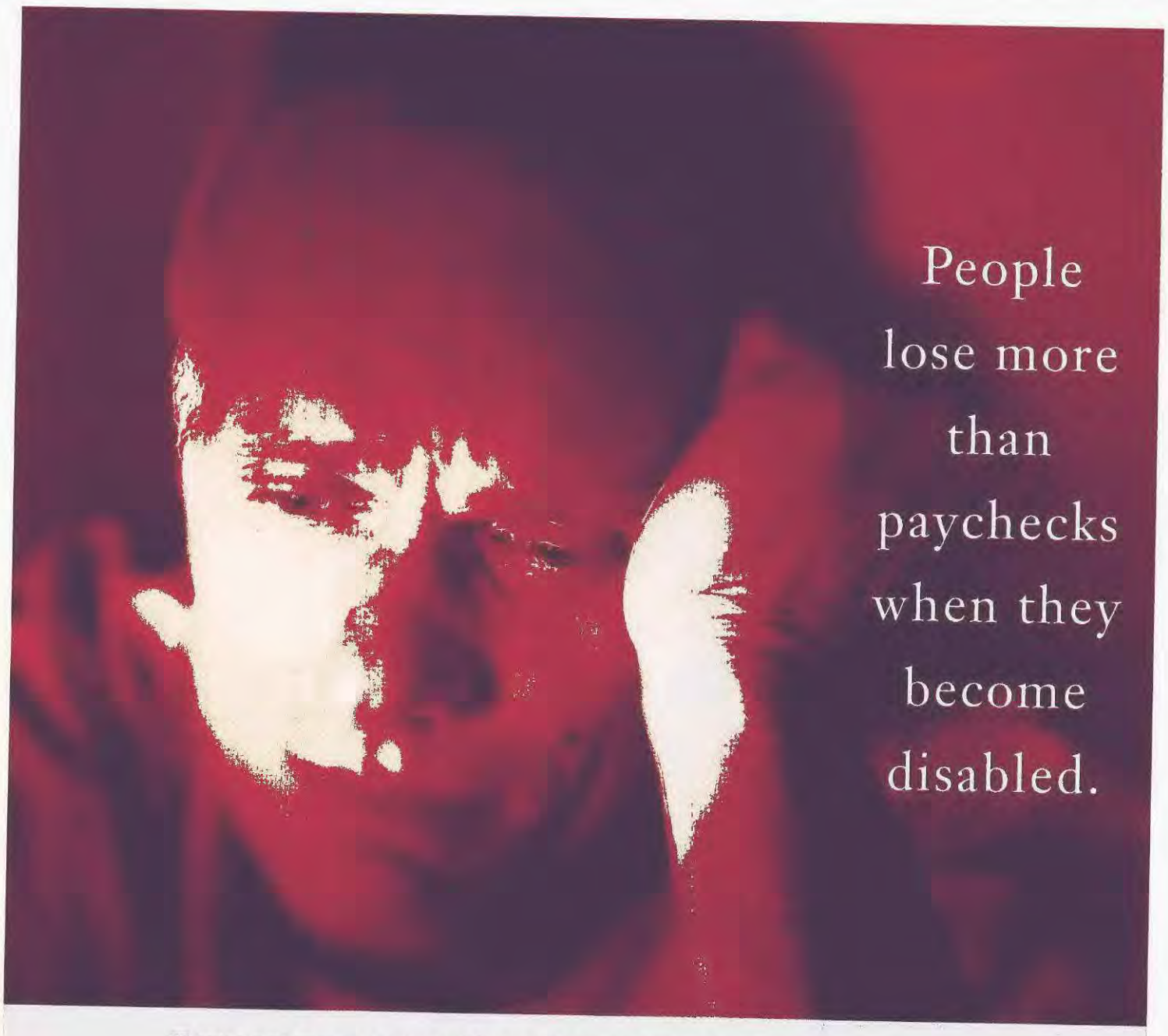
There haven't been a lot of new competitors in the TPA market in recent years, Mr. Kerr pointed out. "I can't find a new TPA of any significance that's been formed in the last seven or eight years."

The SIIA spokesman pointed out that mergers and acquisitions, rather than new formations, have marked the TPA market in the past five years.

The number of TPAs over that period has dwindled to about 900 from about 1,500, he said. "There are becoming very few mid-sized TPAs. They are either very big or very small."

It makes sense for Platinum to narrow its focus to self-insured employers like those with high-deductible workers comp plans, said a spokesman for Atlanta-based competitor Crawford & Co. Otherwise, it would be tough to compete with companies like Crawford & Co. that have been around for many years and have established a broad range of services and clients, he added.

"Competition makes the whole thing work," the spokesman said. "One more won't hurt us, and maybe we can learn something from them." BI



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CNA to buy into capital markets

By GAVIN SOUTER

NEW YORK—CNA Insurance Cos. plans to access capital markets to securitize risk through the purchase of a majority stake in Centre Financial Products Ltd., the New York company run by financial futures guru Richard L. Sandor.

The deal will include the purchase of the 45% stake in Centre Financial owned by Zurich Centre Resource and affiliated Zurich companies, and an undisclosed share of the remaining 55% owned by Mr. Sandor and associates.

The purchase replaces the efforts of Mr. Sandor, Centre Financial Products' chairman and chief executive officer, to raise $200 million last year to run the company as independent entity.

Centre Financial will be renamed Hedge Financial Products Inc., and while it will have its own capital base, most of the risks it assumes will be laid off with financial markets or other reinsurers, said Dennis H. Chookaszian, chairman and chief executive officer of Chicago-based CNA.

The deal has not yet closed, and conditions have not been revealed.

Hedge will start from the base of existing business Centre Financial already writes, including securitization of catastrophe and crop risks, said Mr. Chookaszian.

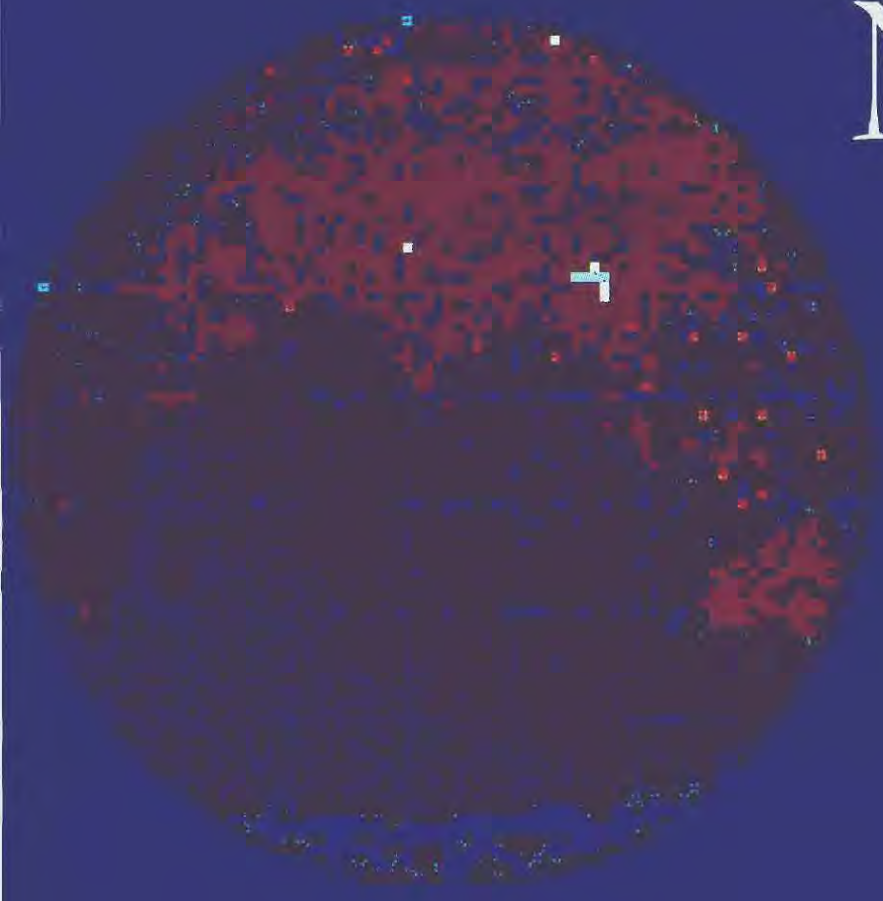
Hedge will then securitize business written by CNA, which will include a wide variety of risks, he said. "It will give us the ability to provide a much broader solution," Mr. Chookaszian said.

Zurich did not object to the deal, said Scott Levine, president and CEO of Zurich Centre Resource in New York.

Zurich is forming a derivatives unit that will be integrated with the rest of the company and work more closely with its traditional insurance and reinsurance businesses, Mr. Levine said.

Zurich has about $30 million in preferred stock and dividends invested in Centre Financial.

Mr. Sandor established Centre Financial in 1993 to develop capital markets insurance products. He is credited with developing financial futures, including insurance futures, while he was an executive at investment banker Kidder Peabody & Co.



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Jun 3	Alternative Risk Financing Facilities
Jun 24	EAPs & Dependent Care Resources and Referral Services
Jul 22	Agents & Brokers
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AUTOMATED SYSTEMS AND SOFTWARE FOR INSURERS

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CAPTIVES

■ A 1996 guide to the **1986 Risk Retention Act** is available from the Risk Retention Reporter. Request item **301**.

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■ Rules and regulations of **captive formation in Vermont** are detailed in an information packet from Commonwealth Risk Management Inc. Request item **304**.

■ Executive Risk presents a booklet with articles about **risk retention groups** and liability insurance for general partners. Request item **305**.

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■ Wilson, Elser, Moskowitz, Edelman & Dicker offers a D&O liability report covering a range of **D&O liability issues**. Request item **405**.

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■ Cozen & O'Connor supply an article about the impact of professional licensure requirements upon **a fire investigator's qualification to testify as an expert**. Request item **408**.

■ Topics such as how landowners can guard against **lead paint lawsuits** are examined in a newsletter from Wilson, Elser, Moskowitz, Edelman & Dicker. Request item **409**.

■ An illustrated guide to **non-profit D&O liability insurance** is provided by Executive Risk. Request item **410**.

■ The American Institute for CPCU and the Insurance Institute of America present a flier describing a **three-course program in general insurance**. Request item **411**.

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■ A paper from Tri-Arc Financial Services Inc. summarizes coverages available for **auto lease and loan portfolios**. Request item **414**.

■ Executive Risk presents a flier that analyzes findings from the Watson Wyatt **D&O liability survey**. Request item **415**.

■ A **D&O liability insurance guide for non-publicly traded companies** is offered by Great American Insurance Co. Request item **416**.

■ An **accountants liability** newsletter is available from Wilson, Elser, Moskowitz, Edelman & Dicker. Request item **417**.

■ Sedgwick James Inc. provides a booklet that analyzes **insurance market trends and developments** in 1996. Request item **418**.

■ A guide to **D&O liability insurance for**

Continued on next page

Insurer Topics

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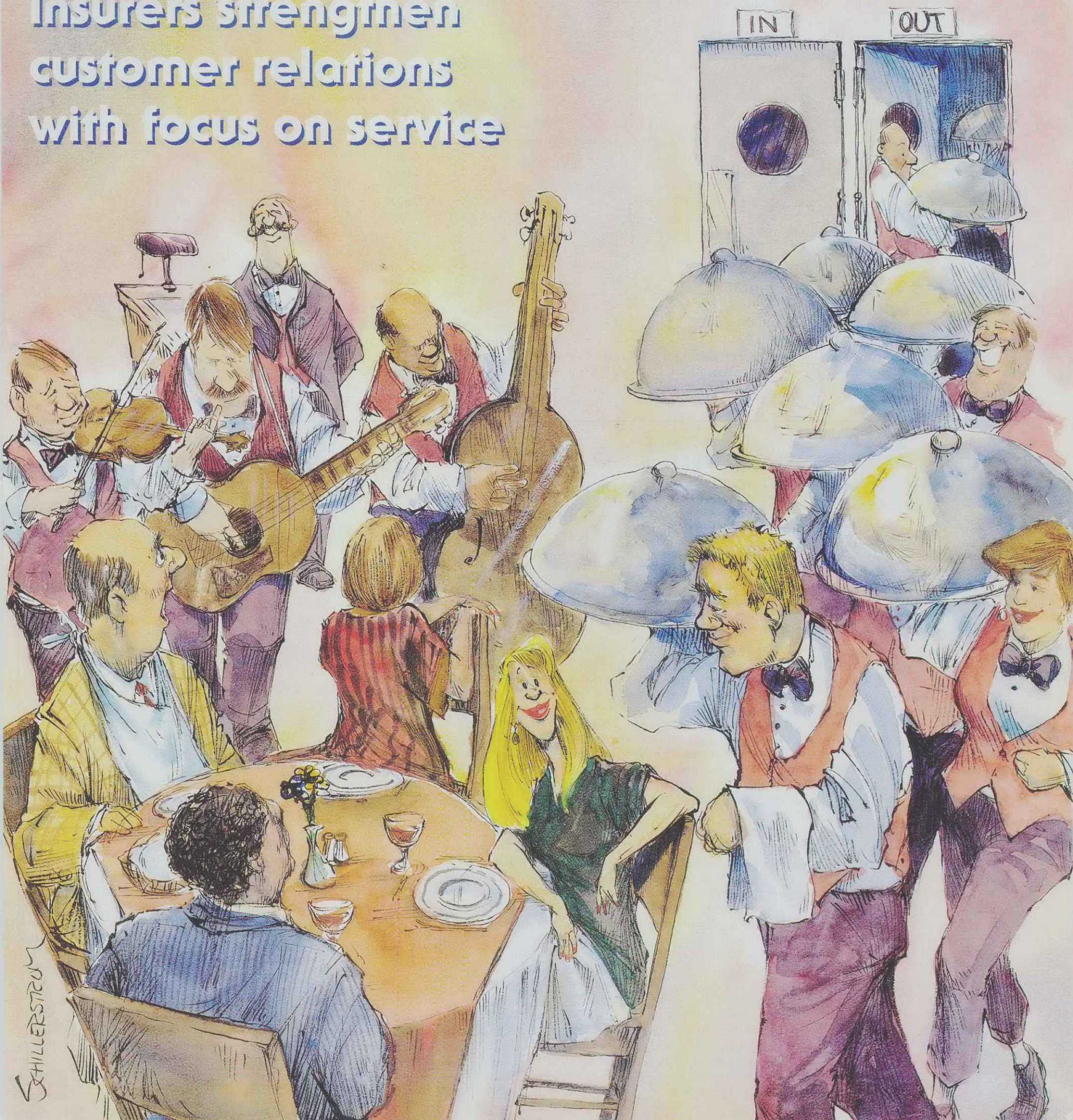


Insurer Topics

Risk managers seek solid service arrangements

To compete, insurance companies must meet policyholder needs

By REGIS COCCIA

Flexibility and attention to claims are among the most important factors in insurers' relationships with corporate clients, risk managers say.

Although low premiums are attractive—and common, thanks to competition on most lines of coverage—commercial buyers say they also value good customer service.

Michael Tawney, vp-risk management/loss control at Houston-based Loomis Armored Inc., values "willingness to be flexible with customer needs."

For example, risk managers occasionally encounter hard-to-place risks. In Mr. Tawney's case, Loomis Armored's business is cash in transit, a risk for which coverage sometimes is difficult to procure.

"There might be something else peculiar to a business. Sometimes the greatest thorn in the risk manager's saddle is having a risk that you can't get covered," he said.

Willingness to underwrite such a risk—in addition to writing other, more general property and casualty coverages—is helpful, Mr. Tawney said.

For large corporations, insurers must recognize that "our needs can't be served by an off-the-shelf product," agreed Susan Meltzer, assistant vp-insurance and risk management at Sun Life Assurance Co. in Toronto.

"Bringing a 'This is what we sell' attitude to the table will make it hard to do business," she said. Ms. Meltzer, former risk manager at telecommunications company Bell Canada, said she looks for insurers that "figure out a way to provide coverage rather than say, 'It's excluded.' "

Good relations entail a mutual relationship between risk manager and insurer, she said. "Who's doing the buying and who's doing the selling? Are they selling me a policy or am I selling them my risk?"

Putting coverage in place is important, but of even greater value is the service a customer receives after the policy is sold, risk managers say.

Mr. Tawney likes insurers to offer flexibility on claims and responsiveness to problems as they crop up.

"The devil's in the details, and handling (of those situations) by the insurer can determine whether you have a hellish relationship or a good one," he said.

"I like them to be available as necessary. Most often, if I have a question or concern, when I reach out to them and they're there, that's important to me," Mr. Tawney said.

"The lion's share of good service is in the claims area," he said. "There's a lot more money to be lost in your claims program than there is in your premium structure," Mr. Tawney said, explaining that premiums are a small cost for a policyholder, whereas significantly more money is at stake in payment of a claim.

'Enlightened risk managers want insurers to work with them to meet their needs,' says Peter Conway.

Ms. Meltzer said her evaluation of insurers' claims service is simple: "What I'm looking for is somebody to pay my claim when I have it."

In the past, insurers used to separate claims departments from underwriting units, meaning customers had to deal with a different set of people when a loss occurred, explained Bill Kelly, managing director at J.P. Morgan & Co. in New York.

"I used to say the best thing about having a claim as a risk manager is you get to meet so many new people," Mr. Kelly quipped.

Nowadays, however, more insurers are integrating claims and underwriting operations, introducing clients to claims personnel before a claim occurs, he said.

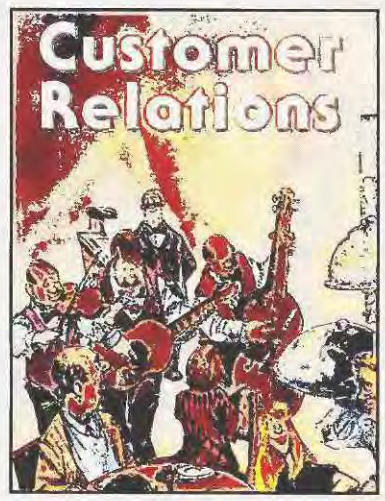
Competition is forcing businesses in every industry to find new ways of doing business, and that pressure is leading insurers to be more flexible in general, risk managers note.

There is "somewhat more flexibility in the marketplace," Ms. Meltzer said. "I don't think rates can go lower, so (insurers) are trying to find ways to distinguish one another," which includes a willingness to look at non-insurance solutions to customer problems, she said.

"I'm finding insurers very willing to be compliant" with requests, Mr. Tawney said. "They're being very flexible. I can't complain about my service with anybody."

By and large, insurers around the world are eager to write business, Mr. Kelly said.

"Even some big European insurers are trying to find ways to be more flexible and competitive."



CNA Financial Corp., for example, is conscious of risk managers' concerns about claims handling and the need to treat each customer individually, according to Peter Conway, president of the Chicago-based multiline insurer's CNA Risk Management unit.

"There are a lot of unique coverage requirements, and (customers) are looking to us to find those at a reasonable cost. And, generally, they can be found," Mr. Conway said.

"Enlightened risk managers want insurers to work with them to find the best way to meet their needs," he said. "Our objective is to form a strategic alliance with all of our customers." BI

Insurers still have time to prevent Year 2000 computer problems

By AMY SLOTEMAKER

Time is running out, literally, for insurers.

As the end of the millennium approaches, insurance companies and other businesses that rely on complex computer systems are facing a massive system malfunction that computer experts call the "Year 2000 problem."

But insurers can take several steps to prevent the problem from occurring, according to a report issued last month by the Life Office Management Assn., an Atlanta-based international association of some 900 life-health insurance and financial services companies.

The 76-page report, "The Year 2000 and Technology: How Prepared Are Insurance Companies?" is directed at insurance executives concerned about the impact the date change will have on their existing systems but who perhaps aren't sure what to do and where to go for help.

The LOMA report emphasizes the urgent need for action in correcting the Year 2000 problem with the date change. Author Lynn Ganim, senior associate-information management for LOMA, noted, "Never before has the warning to plan ahead been so appropriate and so absolutely critical."

Without the updating, computers on Jan. 1, 2000, will assume '00 is 1900, which will play havoc with billing and accounting systems, mutual funds and pension and retirement accounts, among others. All this must be done before the decade ends, less than three years away.

The report, based primarily on a survey of 77 LOMA member companies, describes what the survey respondents are doing to convert systems based on the two-digit dating system ('65, '74, '96 etc.) to a system that will accurately recognize the differences in 1800, 1900 and 2000.

Included in the report is an assessment of the insurance industry Year 2000 problem, examples of various methods being used to determine individual problems, strategies for system conversion, successes and failures to date, advice for businesses that have not begun a system analysis, and the effects of the date change on other business projects.

Perhaps the most important advice in the report is to start a system analysis as soon as possible. With only about three years until the absolute deadline, and allowing adequate time for implementing and testing the new systems, the sooner companies begin addressing the Year 2000 problem, the less expensive and disastrous the date change will be.

Of the more than 50% of responding companies that have already begun a Year 2000 conversion, many stated that having the support of senior-level management was crucial to the success of the project so far. Without this support, it can be difficult to give Year 2000 projects the correct priority over everyday areas of business, the report said.

Other best practices and success stories stated in the LOMA survey focused on establishing standards, both to use in developing the Year 2000 project and in converting the data, communicating among project management and programmers and planning ahead to avoid disaster in not meeting the deadline.

Problems reported with the computer system updates include difficulty in estimating the total cost of the project and persuading senior management to take the problem seriously, the need to coordinate Year 2000 projects with other everyday business projects and lack of software expertise for older systems and applications.

The handbook is available from LOMA for $30 for members, $40 for non-members, and can be ordered by calling 1-800-ASK-LOMA. Member companies will get a discount for orders of five or more copies. BI

Insurer CEOs attribute success to good people, growing technology

Creative, talented employees will be the most important factor contributing to insurance companies' success in the future, according to a recent survey of insurance executives.

The executives also cited technology, continuing merger and acquisition activity and support for state regulation as important.

However, the "people factor" topped their list of priorities, according to the confidential survey conducted for the Des Plaines, Ill.-based National Assn. of Independent Insurers.

The NAII surveyed insurance company chief executive officers for their opinions on the direction of the industry, and the results were then presented at the NAII's annual meeting held last year in San Francisco.

"When you look at the major forces of the insurance industry, such as capital, growing technology and personnel/management, it is interesting to note that talented, creative people were chosen the most critical factor to success in the 21st Century," Frederick E. Dopfel, director of the Western Region for Centre Reinsurance Co., said in presenting his findings at the meeting.

Among other findings:

- Leaders are evenly split on whether federal regulation of the industry would become a reality by 2006, but 75% strongly believe state regulation is the correct form of government oversight.
- CEOs expect that in the next 10 years, 37% of personal lines insurance will be transacted over the Internet, while 31% of commercial lines will go online.
- Nearly 75% of CEOs think their companies will buy, sell or merge with another insurance company in the next 10 years.

As part of the findings, buyers outnumbered sellers almost two to one among survey respondents.

—By Todd J. Behme

Focus new technology on serving customers better

By Rich Jaso

IT Perspective

The facts are simple. Customers are becoming more difficult and more expensive to find. They are more demanding, less loyal and more unpredictable than ever before. They have access to unprecedented levels of information and choices that have increased their demands for lower costs and a more personalized selection of products and services.

Recent studies have shown it is 10 times more profitable to retain a customer than acquire a new one and that only 4% of dissatisfied customers ever complain about a problem, but 65% to 90% of dissatisfied customers never buy from that vendor again.

As products and services in every industry become commoditized, every contact point between the organization and the company becomes an opportunity for value-added interaction with the customer or the potential reason for that customer to switch to the competition. This transition from a product-driven to a customer-driven marketplace already is having a tremendous impact on the insurance industry.

Today, increased competition among traditional and non-traditional providers, advances in technology and regulatory pressures have challenged insurers to anticipate customer needs and to align product and service offerings to meet these needs. The era of mass customization, secure access to information, online and direct distribution, and soaring customer service expectations will only increase the pace of change.

Customers' demand for lower-cost insurance and access to unbundled product and service offerings will make it critical for insurance providers to identify their most profitable customers, anticipate their needs and analyze how well they are meeting needs in relation to the competition—from the customers' perspective.

Many companies have looked to technology to solve the customer acquisition and retention challenge, but leading companies have come to realize that technology alone—or technology too narrowly applied within the marketing, sales and service continuum—yields only limited or even negative returns.

One need look no further than the 50% to 60% failure rate of sales automation projects to realize that focusing on solving the wrong issues and not involving the right "team" often leads to systems that alienate the sales force, ignore the customer and leave management without access to important information about buyer preferences and needs.

This was certainly the case with early sales force automation efforts that focused on automating existing processes to improve the sales representative's efficiency instead of identifying opportunities for process improvement and, ultimately, improved selling. Many of these projects were technology-driven, did not receive input from the sales staff or customer base and rarely considered how a technology-enabled selling process might benefit other parts of the organization.

The current generation of sales force automation systems can improve direct marketing, telesales, customer and technical support activities, enable team selling, facilitate the flow of customer information within the corporation and better manage indirect channels, such as brokers and agents. Sales representatives can take advantage of systems that provide the information and support required to target customers and manage opportunities better, as well as make presentations and close sales more effectively.

For example, today, an insurance sales call can begin with an in-depth view of the prospect's buying patterns, check on the status of existing policies or claims and make on-the-spot recommendations that respond to the prospect's current personal or corporate situation and provide appropriate rate quotes.

Greater emphasis on sales process improvement and advanced technology tools are enabling companies to build more comprehensive solutions with many advantages. These include decreased distribution costs and shorter selling cycles, increased targeted account selling activities and customer satisfaction, as well as improved employee retention and satisfaction.

Lack of clear objectives and the proper commitment of resources, however, may severely compromise potential benefits. Assessment, planning and involving the right organizational team still are critical success factors in implementing a successful sales automation solution.

See **Customer** *on page 14D*

This report on Hailstorm was prepared by **Munich Re.** Like all research prepared by **Munich Re**, it reflects the experience, professionalism and integrity of the **Munich Re** organization.

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Insurer Topics

Customer

Continued from previous page

Today, information gathered in the sales process can be analyzed using data warehouses and other knowledge management technologies. These technologies can assist executives and marketers to determine customer profitability, design campaigns and cross-selling programs tailored to the individual customer, and better understand which agents and brokers successfully represent them and which are non-productive users of company resources.

The financial services industry—particularly the insurance industry—is data rich but often lacks the processes and tools necessary to apply that information to critical business situations. The ability to access, analyze and leverage information from the sales process across the organization will be a competitive advantage, but the journey does not end here.

Many insurance companies have already begun the "customer value management" journey. New processes and sales tools are being implemented to improve the quality of the "message" delivered to customers.

For example, company representatives can find solutions to customer's problems quickly, with minimal involvement of the insurer's underwriting departments.

In addition, companies can use technology to manage sales opportunities, analyzing broker performance so that company resources can be aligned with top performers. Such "opportunity management" also ensures fast turnaround of policies and helps company sales representatives identify and work with "poor-performing" agents. Information gathered during the sales process also can be used for future product development.

All these activities serve to better utilize company resources, shorten the sales cycle and increase customer satisfaction. Truly leading-edge companies are recognizing that building and retaining customer loyalty means going beyond the capabilities of traditional sales automation solutions.

Building the enterprise around the customer requires developing integrated systems and processes that offer "total service." The challenge is to take customer relationship management concepts off the company mission statement pages and convert the necessary processes and systems into opportunities for growth. This means anticipating and responding to customer needs at every point of contact—from product design and development to delivery and support.

Companies must treat customer interaction points as valuable opportunities to gather, analyze and communicate critical customer information to the right people at the right time. These solutions will draw from the growing selection of packaged software alternatives and key technologies such as data warehousing, Internet/Intranet and the integration of computers with telephone systems.

Ideally, this approach provides a companywide view of the available information on a particular customer and ensures a consistent response to that customer, no matter who in the organization is called.

Beyond creating serviceable differentiation, a seamless interface with customers has other benefits as well. Improved customer responsiveness and focus on increasing the share of profitable customers should have a direct impact on revenues. The ability to design and implement integrated customer value management solutions will be a competitive advantage and differentiate industry leaders. BI

Rich Jaso manages KPMG Peat Marwick's Customer Value Management Practice in the Northeast, with a focus on the insurance, utilities and manufacturing industries. He works in KPMG's Boston office.

Bankruptcy ruling favors premium finance companies

By Debra Lee Allen and Thomas R. Hill

IT Perspective

A RECENT bankruptcy court ruling is good news for agents, brokers and insurers that own premium finance companies.

In September 1996, the U.S. Bankruptcy Court for the Northern District of Illinois issued a decision that significantly ameliorates the risk of financing premiums of a financially troubled company. In *Schwinn Plan Committee vs. AFS Cycle & Co. Ltd. (Transamerica Insurance Finance Corp.)*, Judge Jack B. Schmetterer held that payment of premium finance installments to TIFCO within the 90 days prior to the date that Schwinn Bicycle Co. filed for bankruptcy protection did not cause TIFCO to be preferenced over the unsecured creditors of Schwinn, and therefore TIFCO did not have to disgorge the $458,876 in installments it had received. The *Schwinn* decision provided the premium finance industry long-awaited relief to an adverse opinion decided in 1991.

Under U.S. Bankruptcy Code, certain payments made to a creditor within the 90 days prior to the bankruptcy filing date are considered preferential to the creditor that received the payment. Therefore, the payments can be recovered by the debtor or a bankruptcy trustee to be distributed with all other assets of the debtor's bankruptcy estate.

The rationale for the preferential transfer provisions is twofold. First, they are intended to discourage a creditor from pursuing collection of a debt that would prevent the company from working out a financial plan with all its creditors. Second, they are intended to ensure similarly situated creditors are treated equally. By requiring creditors to disgorge the 90-day payments, cash becomes available to be distributed to other creditors under the Bankruptcy Code scheme of priorities.

Under the Bankruptcy Code, the transfer must be made in payment of a debt that arose before the date of the transfer, and the transfer must benefit the creditor. The transfer must be made in the 90 days preceding the filing date, during which time the debtor is presumed to have been insolvent. Lastly, the transfer must in effect give the creditor more than it would receive under the liquidation provisions of the Bankruptcy Code without the transfer.

TIFCO finances insurance premiums, a common commercial transaction whereby a company or policyholder borrows money to prepay its premiums in full at the inception of coverage. The policyholder or borrower signs an agreement promising to repay the loan, with interest.

Repayment is secured by the policyholder's assignment to the finance company of all unearned and return premiums. The policyholder also appoints the premium finance company its attorney-in-fact to cancel the coverage in the event the policyholder defaults on its installment due under the premium finance agreement.

Premium financing lets a company buy coverage with a lump sum. It is attractive to businesses having cash flow problems and may be likely candidates for bankruptcy protection. Thus, it is imperative that the terms protect the finance company's interest in the event the borrower/policyholder files for bankruptcy.

Typically, the loan is structured so there always is enough collateral, or unearned premium, to satisfy the outstanding balance due on the loan at the time of default. Depending on the statute, the finance company can cancel the coverage 15 to 20 days after default. Cancellation stops the daily earning of the prepaid premium. Therefore, premium finance typically is structured—and the monthly installments set—so that the unearned premium at any time will cover the outstanding balance. Usually, the finance company has enough collateral to remain secured for 30 days past the due date. If there is a default, coverage can be canceled, the prepaid premiums stop earning, and the unearned premium satisfies the debt.

Generally, two kinds of risk are involved. One is receiving payment for the rest of the finance contract in the pending bankruptcy case. But, the rights of the finance company after the insured company files for bankruptcy protection have been well-established since 1986, when the U.S. Bankruptcy Court for the District of Connecticut decided *TIFCO Inc. vs. U.S. Repeating Arms Co.*

A premium finance company's claim in a bankruptcy case for premium payments is secured because the transaction is a secured loan. As long as the value of the company's collateral exceeds the balance due on the filing date, the finance company is a fully secured creditor.

There also is a risk of having to disgorge installments paid in the 90 days prior to a bankruptcy filing on a claim of preferential transfer. This has been a risk of premium finance since 1991, when the U.S. Bankruptcy Court for the District of Maine recharacterized a premium finance company's secured loan as unsecured for purposes of the Bankruptcy Code's preferential transfer provisions in *Paris Industries Corp. et al. vs. A.I. Credit Corp.*

Generally, payments to a secured creditor cannot be preferential because, in a bankruptcy case, a secured creditor is entitled to receive full payment of its claim. Payments to a fully secured creditor will only reduce the amount of that creditor's claim, at the same time freeing up an equivalent amount of the collateral securing the debt. Hence, the secured creditor cannot be preferenced in receiving payment. But, despite the secured nature of a finance company's claim, the court in *Paris Industries* held that a premium finance company was preferenced in receiving installments in the 90 days preceding the debtor's filing date.

Schwinn filed for bankruptcy protection Oct. 7, 1992. Prior to that date, Schwinn entered into two typical premium finance agreements with TIFCO. Under terms of the first agreement, dated March 5, 1992, TIFCO advanced $922,682 to pay premiums to various insurers. Schwinn was to repay the monies, plus finance charges, in nine monthly installments of $104,827.77 each, beginning April 1, 1992.

The second agreement was dated July 14, 1992. Under this agreement, TIFCO advanced $116,082 and Schwinn promised to repay the advance in nine installments of $13,188.31 each, beginning Aug. 1, 1992. Under both agreements, Schwinn assigned all unearned premiums to TIFCO and granted TIFCO power of attorney to cancel coverage in the event of default. In the 90 days preceding Schwinn's filing date, TIFCO received four installments due under the March agreement, totaling $419,311.08, and three installments due under the July agreement, totaling $39,564.93.

Nonetheless, the Schwinn Plan Committee, created under Schwinn's liquidating plan, sued TIFCO Oct. 3, 1994, claiming TIFCO had been preferenced in receiving the installments. Relying on the 1991 *Paris Industries* opinion, the Schwinn Plan Committee sought to recover the amount paid to TIFCO.

At issue was whether the finance company had received more with the pre-filing date installments than it would have received without the installments but with payment of its claim in a hypothetical liquidation.

In *Paris Industries*, the court hypothetically constructed the premium finance company's claim by taking the finance company's claim on the filing date, adding back all the installments received in the 90 days prior to the filing date and then comparing this total with the value of the creditor's collateral on the filing date. If the claim on the filing date plus the installments exceeded the value of the unearned premium on the filing date, then the finance company would be considered to have been preferenced to the extent of the difference.

While the *Paris Industries* construction might be a convenient test in most secured creditor cases, it produces an erroneous result in premium finance cases by finding that a lender that is otherwise fully secured is partially unsecured in the hypothetical liquidation. As a result, the lender must repay some or all of the installments.

Paris Industries Corp. paid two installments of $10,565 each to A.I. Credit Corp., a premium finance company, in the 90 days preceding Paris' filing date. On the date of the first installment, the total unearned premiums securing the loan, on a pro rata basis, were $35,133, compared with the total outstanding balance prior to payment of $21,135. After A.I. Credit subsequently received the last installment of $10,565, the loan balance was $10,565 and the value of the unearned premiums, on a pro rata basis, was $22,597. On both days that installments were received, A.I. Credit was fully secured.

One month later, on Paris Industries' filing date, the value of the unearned premiums had declined to $11,118.15. A.I. Credit did not have a claim because the loan had been paid in full.

The court, however, constructed A.I. Credit's claim in a hypothetical liquidation. It started with a claim of $0 and added back the installments received, totaling $21,130. It then compared the claim with the value of the unearned premium of $11,118.15 on Paris Industries' filing date and concluded A.I. Credit had been preferenced in the amount of the difference.

The court did not reconcile the fact that a fully secured lender became an unsecured claimant

See **Bankruptcy** *on page 14F*

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Since 1995, *BI's* expanded news coverage of the Risk and Insurance Management Society's Annual Conference & Exhibition has included televised conference reporting.

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Insurer Topics

Bankruptcy

Continued from page 14D
in the hypothetical liquidation.

Exceptions to the Bankruptcy Code's preferential transfer provisions exist, but such arguments have not been successful in premium finance cases.

For example, one exception is that a transfer made with a contemporaneous exchange of goods or services, to the debtor exempts the lender from preferential transfer attack. Bankruptcy courts have held there is no such exchange under a premium finance agreement.

Another exception is the "ordinary course of business" exemption, which exempts transfers made in the ordinary course of business to the debtor and the creditor. The difficulty with this exemption, however, is the interpretation of "ordinary course of business" depends on the fact of a particular transaction. Further, evidence required to prove ordinary course of business for the creditor, the debtor and ordinary business terms can vary by jurisdiction.

In the *Schwinn* case, Judge Schmetterer needed to reconcile the inconsistency created by the *Paris Industries* ruling. He relied on a 1986 ruling by the 7th U.S. Circuit Court of Appeals, which rested on the well-established "dimunition of estate" principle. Since the early 1900s, courts have held that payments to a creditor that do not diminish the value of the estate will not be preferential.

While the dimunition of estate requirement is not stated in the Bankruptcy Code's preferential transfer provisions, it is integral to a finding that a payment in the 90 days preceding a bankruptcy filing has preferenced a creditor. And bankruptcy courts consistently have applied this principle.

Therefore, the first step in determining whether a creditor has been preferenced is to determine the creditor's status on the date of the transfer or payment. If the creditor is fully secured on that date, payment can only reduce the creditor's claim and free a corresponding amount of collateral. If the creditor is partially or fully unsecured on the date of transfer, the court must compare the fluctuations of the value of the collateral with the debt and payments in the following 90 days to determine whether the creditor has become preferenced.

Judge Schmetterer distinguished the date on which collateral must be valued *for purposes of determining the status of the creditor* from the date on which collateral is valued *for purposes of constructing the hypothetical liquidation*. The hypothetical liquidation and what the creditor would have received is always constructed from the filing date. The creditor's status on the filing date determines what the creditor will be paid from the bankruptcy estate. However, when determining whether a creditor has been preferenced, the first step is to determine the value of the collateral on the date immediately preceding the transfer or payment in issue to determine the extent to which the creditor was secured.

In fact, the hypothetical liquidation in *Paris Industries* is widely used for other types of secured creditors. And, for a secured creditor whose collateral does not decline in value in the 90 days preceding a filing date, the construction may be accurate. But, for a secured creditor whose collateral declines in value within the 90 days, such a claim construction is unreliable.

The court in *Schwinn* noted that in premium financing the collateral diminishes in value throughout the term of the loan, as does the outstanding balance. But as long as the outstanding balance remains less than the remaining collateral, the premium finance company never becomes undersecured or unsecured. The amount by which the collateral diminishes is predictable, and the dimunition is accompanied by value provided to the estate.

Judge Schmetterer ruled the objectives of the Bankruptcy Code's preferential transfer provisions would not be served by a finding that TIFCO had been preferenced. The premium finance installments paid to TIFCO were scheduled for months prior to the beginning of the 90-day period. Payment of the scheduled installments to TIFCO was not an action to obtain additional assets of Schwinn to the detriment of its other creditors. Although the collateral value diminished over time, the installments did not deplete the Schwinn estate. Rather, Schwinn received coverage for every day the policies remained in place. In fact, a finding that TIFCO was preferenced and required to disgorge the installment payments would be a windfall for the Schwinn estate, as the debtor would have free insurance.

The *Schwinn* decision is now precedent in the Northern District of Illinois and likely will be followed by other districts in the 7th Circuit. It is hoped that other bankruptcy courts will follow Judge Schmetterer's lead in revising the *Paris Industries* court's analysis and conclude that a creditor that is fully secured throughout the term of its loan cannot somehow become an unsecured creditor in a hypothetical liquidation.

BI

Debra Lee Allen is senior counsel, in charge of litigation and domestic transactions, for Transamerica Insurance Finance Corp. in Towson, Md.

Thomas R. Hill is a partner in Chicago with law firm Rooks, Pitts & Poust.

IT Briefs

NAII picks chairman

DES PLAINES, Ill.—The National Assn. of Independent Insurers has elected as its chairman Robert W. Pike, senior vp, secretary and general counsel of Allstate Insurance Group in Northbrook, Ill.

Mr. Pike, elected late last year at the NAII's 51st annual meeting in San Francisco, succeeds Robert L. Bailey, chairman, president and chief executive officer of State Auto Insurance Cos. in Columbus, Ohio.

"Bob Pike has long been recognized as an outstanding leader. His broad experience and keen insight will be invaluable in helping NAII pursue its goals of promoting a healthy, competitive and innovative insurance industry," said Jack Ramirez, NAII president and CEO.

Lawrence A. Frazier, president and CEO of Farmers Mutual Insurance Co. of Nebraska in Lincoln, was elected vice chairman of the Des Plaines, Ill.-based NAII.

Quality seminar

WASHINGTON—The Council of Insurance Agents & Brokers and the Quality Insurance Congress are co-sponsoring a seminar on customer service later this month.

The seminar, "Unlocking the Voice of the Consumer," is the second to be offered by the Council/QIC. It will be held Jan. 31-Feb. 1 in Washington.

Aimed at company executives, agents, brokers and risk managers, the seminar will focus on a seven-step plan to redesign a company's processes to provide customers with what they really want.

The registration fee is $495 for QIC and Council members and $595 for non-members.

For more information, contact the Council at 701 Pennsylvania Ave. N.W., Suite 750, Washington, D.C. 20004-2608; 202-783-4400.

AISG Web site

NEW YORK—American Insurance Services Group has launched a site on the World Wide Web as a news and information resource for the service's property and casualty industry subscribers.

The Web site, which is at http://www.aisg.org, offers information on AISG's claims databases, The Index System and Property Insurance Loss Register, and on its other operating divisions: A-PLUS, Claims Training Services, Engineering & Safety Service, Premium Audit Advisory Service and Property Claim Services.

Insurance industry personnel will have instant, online access to schedules and agenda for meetings and also to new subscriber newsletters, home office announcements and other notices about AISG's system and service development programs, AISG says.

For more information on AISG operations, visit the Web site or contact Susan Black, 212-669-0406, or send e-mail to her at sblack@aisg.org.

Company on Web

FRANKENMUTH, Mich.—Frankenmuth Mutual Insurance Co. has launched a World Wide Web site designed to include the company's history, financial strength, products, agency representation by city and state, career opportunities and related links.

The site will help prospective clients and current policyholders review current information on the Frankenmuth, Mich.-based insurance company.

The Web site address is http://www.fmins.com.

RAA adds members

Four reinsurers joined the Reinsurance Assn. of America in December.

The four are CNA Re, the reinsurance division of Chicago-based CNA Insurance Cos.; Hartford Re Co., the reinsurance division of ITT Hartford Insurance Group; New York-based SAFR Reinsurance Corp. of the U.S. and TIG Reinsurance Co. of Stamford, Conn.

Members of the Washington-based RAA write about 65% of the reinsurance coverage provided by domestic reinsurance companies or their affiliates.

InVEST directors

ALEXANDRIA, Va.—Four insurance industry professionals have been appointed to the board of directors of Insurance Vocational Education Student Training.

New members are: Eleanor Barnard, senior vp-distribution for CNA Insurance Cos. in Chicago; Michele Deml Johnson, an agency management consultant with The St. Paul Cos. Inc. in St. Paul, Minn.; Terry L. McDonald, agency principal of Welt-Ambrisco Insurance Inc. in Iowa City, Iowa; and Sherri Stein, assistant director of marketing at SAFECO Corp. in Seattle.

InVEST, celebrating its 25th anniversary, is a business and education partnership established to train high school and college students in insurance agency and company operations and encourage insurance careers.

InVEST serves about 2,500 students in more than 200 U.S. high schools and colleges.

Nearly 75% of the students who complete the program wind up working in the insurance field, says Barbara Miller-Richards, the program's national administrator.

The Alexandria, Va.-based Independent Insurance Agents of America will continue to run the program.

Recruiting Web site

CHICAGO—Insurance National Search, a network of recruiting professionals dedicated to the insurance industry, has launched a site on the World Wide Web.

The Insurance National Web Site, which is located at http://www.insurancerecruiters.com, is targeted to individuals exploring career opportunities in the insurance industry, as well as organizations seeking recruiters with expertise in insurance.

The network is made up of recruiting professionals representing insurance companies, agencies, brokers, managed care organizations and others.

BI

Group accepting nominations for award

The American Institute for CPCU and the Insurance Institute of America in Malvern, Pa., are accepting nominations for the 1997 Thomas S. Carpenter Leadership Award.

The award, in honor of Thomas S. Carpenter, former president of American International South Insurance Co. in Charlotte, N.C., is given to a field office manager for dedication to professional development of himself or herself and others.

During his 32-year career as a field office manager, Mr. Carpenter promoted professional education.

An award selection committee will judge each nominee according to his or her accomplishments in these areas:

- Providing leadership in the development of others, such as staff or agents.
- Promoting, teaching or coordinating education programs.
- Service to others and affiliation with professional groups.
- Demonstrating his or her own professional growth through continuing professional education.
- Contributions to the insurance industry.

The winner of the award receives a $500 honorarium and commemorative plaque.

Nominations may be submitted through Feb. 1.

For more information or to request a nomination form, contact Karen Burger, 610-644-2100, ext. 7805; fax: 610-644-7629; e-mail: burger@cpcuiia.org.

Insurer Topics

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• EVENTS •

RISK MANAGER OF THE YEAR AND RISK MANAGEMENT HONOR ROLL AWARDS

These awards recognize individual accomplishments in the field of risk management. For nominating forms and rules, call or fax:

phone: 312/649-5319
fax: 312/280-3174

EMPLOYEE BENEFITS COMMUNICATION AWARDS

These awards honor employers for excellence in communicating employee benefits programs. For entry forms and rules, call or fax:

phone: 212/210-0299
fax: 212/210-0704

WORKERS COMPENSATION CONFERENCE

Presented in conjunction with IBF Conferences, this event addresses the specific concerns of corporate executives managing workers compensation programs and rehabilitation services. Sessions cover this rapidly changing environment and creative and innovative strategies to curb costs. For details on registration or exhibition, call or fax:

phone: 212/210-0299
fax: 212/210-0704
Or contact:
Alexandra Scott, IBF Conferences
212/279-2525

WORLD CAPTIVE FORUM

Presented in conjunction with Skandia/ Sinser and Tillinghast-Towers Perrin, this event addresses alternative risk financing and the captives market. This forum brings together innovative captive sponsors and experts serving the risk financing needs of corporations and institutions to explore cutting edge programs. For details on registration or exhibition, call or fax:

phone: 212/210-0299
fax: 212/210-0704
Or contact:
Judith Harrington, Conference Director
612/928-4659

• SERVICES •

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• DIRECTORIES •

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Insurer Topics

Agent accuses Nationwide of redlining in Michigan

By MATT ROUSH
Crain News Service

In the latest of several complaints by agents of the insurer, a Michigan insurance agent is accusing Columbus, Ohio-based Nationwide Mutual Insurance Co. of telling him not to write business in Detroit.

In the suit filed in Macomb County Circuit Court, Pasquale "Pat" Casasanta says Nationwide underwriters told him, "We don't want Detroit business."

Mr. Casasanta is suing Nationwide for breach of contract, breach of fiduciary duty, fraud, misrepresentation and other counts over the termination of his status as a Nationwide agent June 6, 1996.

Mr. Casasanta also is suing Nationwide for a violation of the state Whistleblowers Protection Act, which gives employees protection for reporting to state agencies suspected violations of law on the part of their employers.

The agent said he complained about Nationwide's practices to the state Insurance Bureau after February, when Nationwide officials "suggested that (Mr. Casasanta) engage in insurance-sales practices which violated state insurance law."

Nationwide has denied the allegations. Its court papers say the agent's agreement gave the insurer the right to cancel the agency's appointment at any time for any reason.

Nationwide also accuses Mr. Casasanta of "unacceptable business practices," fraud and misrepresentation and says Mr. Casasanta, not Nationwide, may have violated state insurance laws.

The insurer's response neither admits nor denies the accusation of redlining, which is illegal for some regulated businesses.

However, Nationwide attorney Michael Schmidt, of the Troy firm Harvey, Kruse, Westen & Milan P.C., said: "We deny any redlining at all. It's completely off the wall."

A Nationwide spokesman said: "Pasquale Casasanta's contract with Nationwide was canceled in July and because the matter is in litigation, and because we treat contractor issues confidentially, Nationwide declines to discuss specifics of the suit.

"Nationwide has a clear-cut and firm corporate policy that prohibits the denial of insurance only because of the location of the property or because of race or ethnic origin."

According to the lawsuit, Mr. Casasanta began with Nationwide as an employee agent in 1987 and completed training to become an independent agent in 1990. He shared an office with another independent Nationwide agent in Utica until 1994, when Nationwide's management direction changed, the suit says.

Mr. Casasanta said the insurer decided it no longer wanted to do business with small agencies and wanted to move from commercial lines to personal lines.

In an interview late last year, Mr. Casasanta said he came under pressure to establish a big agency, though he'd been winning company awards and was posting about $2 million a year in premiums, of which about 90% was commercial lines and about 20% was in Detroit.

So Mr. Casasanta said he agreed to borrow $90,000 from Nationwide, pledged against his retirement account that, according to the suit, totals $240,000, and went into business with his office mate as the LaCommare & Casasanta Insurance Agency, a partnership that eventually had 16 staff members and an annual premium volume of $4.5 million.

The lawsuit says that in 1994, Nationwide representatives told him they didn't want Detroit business and quoted prices so high that the agency could not legitimately offer Nationwide coverage to Detroit customers.

The lawsuit said a Nationwide audit of his business in August 1995 "erroneously maintained that some of the insurance written by (the) agency was not in compliance" with Nationwide's policies and state law.

Eventually, Nationwide put such restrictions on Mr. Casasanta's agency that his sales staff quit, the suit says.

After he complained to the insurance commissioner, Nationwide terminated Mr. Casasanta's agency agreement, according to the suit.

Mr. Casasanta has since established Casasanta & Associates in St. Clair Shores, Mich. The agency handles commercial lines as well as auto and homeowners business.

Michigan Insurance Bureau Deputy Director Jean Carlson said Mr. Casasanta has no open complaints nor investigations on his enforcement record as an agent for accident, health, life and multiple-lines property/casualty insurance.

Two other former agents have sued Nationwide over the past 18 months in Wayne County Circuit Court, and another early this year in Oakland County Circuit Court.

The Oakland County case, filed Jan. 16, 1996, by Lake Orion resident Jeffrey Harcourt, says he gave up a lucrative career as a health care business manager to become a Nationwide agent in 1993 but was caught in the squeeze as Nationwide moved from individual agents to larger agencies.

In cases filed in Wayne County, former agents Terry Novak of Redford Township and Linda Burnett of Brownstown Township say Nationwide "maintained separate and distinct practices, policies and requirements. . .based on geographical location and ethnicity."

Mr. Novak said his agency appointment was improperly terminated in 1993. Ms. Burnett's appointment was terminated Jan. 24.

The Nationwide spokesman reiterated the insurer's policy against discrimination alleged in these suits. BI

Errors & omissions

• A story in the Dec. 16 *Insurer Topics* section incorrectly referred to newly formed, San Francisco-based Sable Insurance Co. as the first African-American-owned property/casualty company. AAI Syndicate #1 Ltd., a syndicate on the Illinois Insurance Exchange, has been majority-owned and controlled by African-Americans since 1995, according to AAI's chairman and chief executive officer, Thomas B. Mayo. The syndicate writes property and casualty coverage in 35 states. BI

GLOBAL FOCUS
—1997—

Global Focus will appear six times in 1997 as a regular section distributed exclusively to non-U.S. subscribers. Articles in this special demographic section will address the specific risk management and employee benefits concerns of executives in countries other than the United States.

PUBLISHING DATES ..... AD CLOSING DATES

February 17 ..... February 5
Distribution at Bermuda Insurance Symposium

March 24 ..... March 12
Distribution at Association of Insurance & Risk Managers in Industry & Commerce

July 14 ..... July 2
Distribution at International Insurance Society

September 1 ..... August 20
Distribution at Monte Carlo Rendez-Vous

October 6 ..... September 24
Distribution at Federation of European Risk Management Associations

November 3 ..... October 22
Distribution at Association of Risk & Insurance Managers of Australasia

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small, private companies is offered by Executive Risk. Request item **419**.

■ A **CPCU professional designation program** is summarized in a flier supplied by American Institute for CPCU and the Insurance Institute of America. Request item **420**.

■ Wilson, Elser, Moskowitz, Edelman & Dicker present an **employment liability** newsletter covering topics such as ergonomic disorders. Request item **421**.

■ A bulletin from NAC Reinsurance Corp. reviews the latest **issues affecting the property and casualty market**. Request item **422**.

■ **Events and trends in insurance regulation** are explored in a newsletter provided by NILS Publishing Co. Request item **423**.

■ **Liability issues affecting the telecommunications industry** are examined in a newsletter offered by Wilson, Elser, Moskowitz, Edelman & Dicker. Request item **424**.

■ Service Quality Surveys Ltd. offers a flier telling employers and insurers how to **conduct a claims service survey**. Request item **425**.

■ The **executive liability division** of Great American Insurance Co. is detailed in a brochure. Request item **426**.

■ Wilson, Elser, Moskowitz, Edelman & Dicker present a state-by-state analysis of the **Unfair Claims Settlement Practices Act**. Request item **427**.

■ The D&O claims handling process and community banks coverage are examined in a newsletter from Executive Risk. Request item **428**.

■ Wilson, Elser, Moskowitz, Edelman & Dicker offer a report covering **liability issues affecting the health care industry**. Request item **429**.

■ Recent developments in **litigation pertaining to property and casualty issues** are examined in a newsletter from Clausen Miller P.C. Request item **430**.

■ Executive Risk offers a brochure about protecting hospitals' assets through **hospital D&O coverage**. Request item **431**.

■ A state-by-state review of **punitive damages practices** is available from Wilson, Elser, Moskowitz, Edelman & Dicker. Request item **432**.

■ A description of all **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 **433**.

■ Greenwich Insurance Co. offers a program information kit for **long-haul trucking insurance**. Request item **434**.

■ A **premises liability** newsletter is supplied by Wilson, Elser, Moskowitz, Edelman & Dicker. Request item **435**.

■ International Risk Management Institute Inc. presents a flier that describes a **professional liability insurance** reference book. Request item **436**.

■ **Crime insurance and crime-related losses** are overviewed in a booklet from Executive Risk. Request item **437**.

■ A paper from S.H. Smith & Co. Inc. details the responsibilities of board members of **non-profit organizations** and the insurance policies available to them. Request item **438**.

FIDELITY AND SURETY

■ The American Institute for CPCU and the Insurance Institute of America's five-course educational program leading to the Associate in Fidelity and Surety Bonding designation is described in a flier. Request item 701.

■ A summary of recent cases addressing **claims under fidelity and financial institution bonds and crime coverages** is available from Clausen Miller P.C. Request item **702**.

FINANCIAL SERVICES

■ The **Associate in Insurance Accounting and Finance** designation program is described in a flier provided by the American Institute for CPCU and the Insurance Institute of America. Request item **801**.

INTERNATIONAL

■ A variety of **international insurance issues,** such as doing business in Germany from an insurer's perspective, are covered in a newsletter from Wil-

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Business Insurance **Information Resource**

NOTE: THIS COUPON WILL NOT BE SERVICED AFTER APRIL 25, 1997

All questions must be answered in order to have your inquiry processed.

Please check one item for each category:

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2. Number of employees:
1 ☐ 150 or fewer 2 ☐ 151-499 3 ☐ 500-999 4 ☐ 1,000-4,999 5 ☐ 5,000 or more 6 ☐ Unknown

3. My title is best defined as:
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4. My purchasing involvement for the requested products is to:
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2. Number of employees:
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City _____ State _____ Zip _____

Phone ( ) _____

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son, Elser, Moskowitz, Edelman & Dicker. Request item **907**.

■ Coopers & Lybrand L.L.P. presents a brochure that describes **actuarial, risk management and claims consulting services** for international clients. Request item **908**.

■ Two newsletters from Aon Risk Services Cos. Inc. address **international risk management issues**. Request item **909**.

LOSS CONTROL/PEOPLE

■ Some of the best methods and techniques for **controlling the cost of massive injury cases** are discussed in a booklet offered by American Re-Insurance Co. Request item **1001**.

■ Using a **physical capability evaluation** to reduce the incidence rates of injuries to the back, knees and shoulders is outlined in a brochure from INRTEX. Request item **1002**.

■ Martin Dennison Press presents a booklet examining the chief **factors that influence corporate culture and absenteeism**. Request item **1003**.

■ Ways of **assessing the legitimacy of threats** and defusing threats of violence are detailed in a brochure from Crisis Management International Inc. Request item **1004**.

■ The Reliability Group provides a paper that reviews the key human **factors related to workplace accidents and injuries**. Request item **1005**.

■ A fact sheet for employees on **preventing sexual harassment** is available from BNA Books. Request item **1006**.

■ Safety Short Production Inc. supplies a **safety and health training** video. Request item **1007**.

■ A bulletin from Aon Risk Services Cos. Inc. describes **employer exposures to workplace violence**. Request item **1008**.

LOSS CONTROL/PROPERTY

■ Schirmer Engineering Corp. offers a newsletter with articles related to **property and casualty loss control**, fire protection engineering and systems design, and building codes analysis. Request item **1101**.

■ EQE International Inc. provides a booklet that documents the **causes and effects of earthquakes** near major metropolitan areas. Request item **1102**.

■ An educational program leading to the **Associate in Loss Control Management** designation is described in a flier supplied by the American Institute for CPCU and the Insurance Institute of America. Request item **1103**.

■ Steps a Florida shopping mall uses to **contain smoke and reduce the risk of flashover** are detailed in an article from Schirmer Engineering Corp. Request item **1104**.

■ A booklet covering topics related to **risk management** is provided by EQE International Inc. Request item **1105**.

■ Schirmer Engineering Corp. supplies an article explaining techniques for **protecting telecommunication facilities against unexpected shutdowns**. Request item **1106**.

■ EQE International Inc. presents a booklet that examines the **damages from major windstorms of 1995**. Request item **1107**.

■ A paper from Cozen & O'Connor discusses the origin and development of **NFPA 921**, a guide for fire and explosion investigations developed by the National Fire Protection Assn. Request item **1109**.

MARINE

■ The American Institute for CPCU and the Insurance Institute of America supply a flier outlining a six-course program leading to the **Associate in Marine Insurance Management** designation. Request item **1201**.

■ Trade Insurance Services Inc. provides a flier with **packing tips** for minimizing the risks of cargo being exposed to losses. Request item **1202**.

REINSURANCE

■ NAC Reinsurance Corp. presents a book describing the clauses found in

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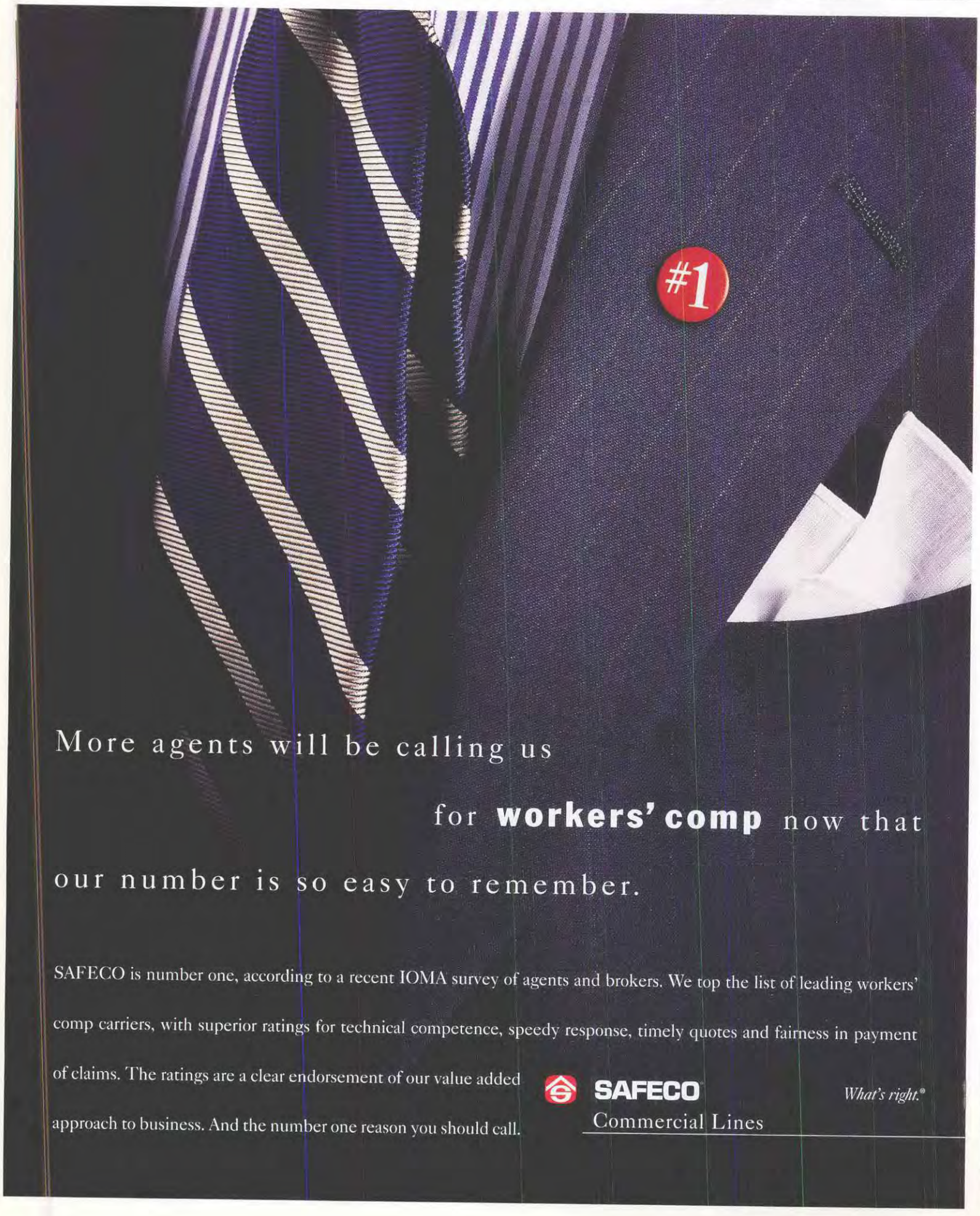

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reinsurance contracts and the regulations affecting them. Request item **1301**.

■ The Chicago Board of Trade supplies a newsletter updating readers on the market for the CBOT's **catastrophe options**. Request item **1302**.

■ A flier outlines the American Institute for CPCU's and the Insurance Institute of America's four-course program leading to the **Associate in Reinsurance** designation. Request item **1303**.

■ A glossary of **selected reinsurance terms** is available from Gill & Roeser Inc. Request item **1304**.

■ G.J. Sullivan Co. Reinsurance offers a book detailing a **new reinsurance coverage product** that protects life and health insurance companies' balance sheets in the event of a catastrophic bad faith punitive damage award. Request item **1305**.

■ A monthly newsletter from NAC Reinsurance Corp. reviews **major developments in the reinsurance industry**. Request item **1306**.

■ The Chicago Board of Trade provides a guide to the CBOT's **catastrophe insurance options** and hedging applications for both insurance companies and reinsurance companies. Request item **1307**.

■ A newsletter offered by Swiss Re America provides a history of the companies of the Swiss Re U.S. Group as well as their perspectives on the **changing risk transfer landscape**. Request item **1308**.

RISK MANAGEMENT

■ **Cost-effective communication during the litigation process** is outlined in a flier presented by the ICALM Group. Request item **1401**.

■ Stone & Webster Management Consultants Inc. provides an article that addresses the use of **claims audits in conjunction with large construction projects**. Request item **1402**.

■ International Risk Management Institute Inc. offers a flier that **outlines a glossary of more than 1,400 insurance and risk management terms**. Request item **1403**.

■ An article from SIGMA Actuarial Consulting Group Inc. gives a general discussion on the **theory and uses of loss triangles**. Request item **1404**.

■ **Successful client/counsel relationships** are described in a flier offered by the ICALM Group. Request item **1405**.

■ Two newsletters from Aon Risk Services Cos. Inc. cover topics such as **loss prevention and disaster planning**. Request item **1406**.

■ The ICALM Group supplies a flier that outlines **criteria for more understandable legal bills**. Request item **1407**.

■ An overview of **classroom, correspondence, video and multimedia courses** offered by Crawford & Co. is available in a booklet. Request item **1408**.

■ A list of **questions to ask when considering claims audits** is presented by the ICALM Group. Request item **1409**.

■ The American Institute for CPCU and the Insurance Institute of America provide a flier describing a three-course program leading to the **Associate in Risk Management** designation. Request item **1410**.

■ The **billing and reporting procedures** of the the ICALM Group are featured in a paper. Request item **1411**.

■ Coopers & Lybrand L.L.P. offers an information packet regarding its **risk management consulting services**. Request item **1412**.

■ **Operational and contingency planning**, litigation coordination and legal expense audits are highlighted in a guide from the ICALM Group. Request item **1413**.

■ SIGMA Actuarial Consulting Group Inc. supplies a flier with **Internet addresses** for the insurance professional. Request item **1414**.

■ The ICALM Group presents a paper that details a comprehensive **litigation methodology program**. Request item **1415**.

■ The advent of new, **innovative risk management and risk financing solutions** is reviewed in a newsletter from Marsh & McLennan Cos. Inc. Request item **1416**.

■ A **hotel disaster response** checklist is available from the ICALM Group. Request item **1417**.

■ A **claims and litigation questionnaire** is offered by the ICALM Group. Request item **1419**.

■ Stone & Webster Management Consultants Inc. supplies a benchmarking survey of **state and local government emergency plans**. Request item **1420**.

■ A list of what to look for and what to ask when **reviewing legal bills** is presented by the ICALM Group. Request item **1421**.

■ SIGMA Actuarial Consulting Group Inc. offers a flier that describes a **new service group** that receives complimentary educational material designed to help the insurance professional. Request item **1422**.

■ A newsletter from PENCO addresses various issues in the insurance industry, such as **risk management and actual claims occurrences**. Request item **1423**.

■ The characteristics of an effective claim presentation are detailed in a **claim preparation** manual from Dempsey, Myers & Co. Request item **1424**.

■ Coopers & Lybrand L.L.P. provides a brochure that addresses the **environmental challenges facing corporate America**. Request item **1425**.

■ **Meeting the requirements of GASB 10** is the subject of a report from SIGMA Actuarial Consulting Group Inc. Request item **1426**.

■ A brochure summarizes the products and services of Crawford & Co. that address various **claims and risk management needs**. Request item **1427**.

■ Information on **casualty claims consulting services for self-insured entities** is available from Coopers & Lybrand L.L.P. Request item **1428**.

■ O'Brien & Hennessy presents an article, a book and case summaries dealing with **subrogation law and procedures**. Request item **1429**.

■ The ICALM Group offers a flier listing **10 essential steps to successful and cost-effective litigation management**. Request item **1430**.

■ A flier from International Risk Management Institute Inc. describes a reference book about **contractual risk transfer**. Request item **1431**.

■ A disk from Structured Financial Associates Inc. outlines the definition and technical functions of **structure use in an individual claim**. Request item **1432**.

■ Intercargo Insurance Co. provides a flier with descriptions of **E&O claims** involving custom brokers, freight forwarders and non-vessel operating common carriers. Request item **1433**.

■ How the **law firm general counsel** increases efficiency and reduces risk is explained in a newsletter from Executive Risk. Request item **1434**.

■ An article from Cozen & O'Connor explains how **subrogation counsel and recovery specialists** can pre-emptively act to preserve subrogation claims. Request item **1435**.

■ American Re-Insurance Co. presents a book with court case citations giving insight into a particular jurisdiction's proclivities when interpreting **coverage issues in environmental cases**. Request item **1436**.

■ A flier from Executive Risk examines how a **medical equipment program** can function as an alternative to outsourcing. Request item **1437**.

■ A risk management newsletter of interest to the **securities and investigation industry** is available from Wilson, Elser, Moskowitz, Edelman & Dicker. Request item **1438**.

■ Structured Financial Associates Inc. supplies a disk that describes the functions of **structured financial claim settlements**. Request item **1439**.

RISK MANAGEMENT INFORMATION SYSTEMS

■ An ad-hoc reporting tool that simplifies the process of **creating reports from claims and risk data** is outlined in a brochure from Corporate Systems. Request item **1501**.

■ DORN Technology Group Inc. offers an article detailing the effort to establish an **industry-wide claims data standard** designed to facilitate claims processing via client-server computer systems. Request item **1502**.

■ A brochure from Corporate Systems describes the **reconstruction and conversion process** as the foundation of an effective risk database. Request item **1503**.

■ A newsletter from Marsh & McLennan Cos. Inc. contains articles and examples to help readers use information systems for their **risk management processes**. Request item **1504**.

■ Corporate Systems presents a brochure that explains the benefits of a **risk management and claims administration system**. Request item **1505**.

■ A user's guide and a disk containing **loss forecasting and reserving software** is available from SIGMA Actuarial Consulting Group Inc. Request item **1506**.

■ A single-source EDI solution for comprehensive **risk data intake and regulatory compliance reporting** is described in a brochure supplied by Corporate Systems. Request item **1507**.

SELF-INSURANCE SERVICES/ CLAIMS ADMINISTRATION

■ An article from Self-Insurance Marketing Service describes what it takes for a claims administrator to **successfully reach the self-insurance market**. Request item **1604**.

■ Marketing and sales tips for **targeting the self-insurance market** are contained in an article from Self-Insurance Marketing Service. Request item **1607**.

■ FACTS Services Inc. offers a package of information sheets on its automated software and hardware **solutions for claims processing, risk management and managed care**. Request item **1610**.

■ **Underwriting stop loss coverage** from an underwriter's perspective is covered in a manual from Duncanson & Holt Group. Request item **1611**.

■ The **self-insurance and risk management services** of JECO Excess Agency are described in a brochure and two booklets from JECO Excess Agency/ Johns Eastern Co. Inc. Request item **1613**.

■ Coopers & Lybrand L.L.P. supplies an information packet that describes its **risk management consulting services for self-insured entities**. Request item **1614**.

■ An information packet from Berkley Risk Services/States Self-Insurers Risk Retention Group Inc. contains material about a risk retention group structured to provide **excess liability coverages on a broad form basis**. Request item **1615**.

WORKERS COMP

■ A workers comp program designed for **public trucking fleets** is outlined in an abstract from Baldwin Sadler Corp. Request item **1701**.

■ Aon Management Institute supplies a newsletter addressing workers comp **issues for long-term care facilities**. Request item **1702**.

■ A report from Tillinghast-Towers Perrin analyzes responses from **public sector employers** to a survey on workers comp issues. Request item **1703**.

■ WLT Software of Florida Inc. provides a guide to a **workers comp claims administration system**. Request item 1704.

■ How **improved account servicing instructions** help workers comp claims servicing is the focus of an article from Aon Management Institute. Request item **1705**.

■ Thomco-WCA Division offers an article about **workers comp alternatives** for independent contractors. Request item **1706**.

■ An explanation of the pitfalls of **retrospectively rated workers comp insurance programs** is available from Corporate Risk Management Inc. Request item **1707**.

■ Aon Management Institute supplies an article that examines unique workers comp **problems and exposures in the health care industry**. Request item **1708**.

■ The advantages of a **group self-insurance program for workers comp** are summarized in a brochure from Berkley Administrators. Request item **1709**.

■ A training seminar aimed at **improving a company's performance in workers comp and disability management** is described in a brochure from Aon Management Institute. Request item **1710**.

■ International Risk Management Institute Inc. provides a brochure describing a reference book about workers comp **coverage, laws and cost containment**. Request item **1711**.

■ AVERT Inc. offers a booklet addressing the Americans with Disabilities Act and **workers comp claims and medical histories**. Request item **1712**.

■ A checklist designed to assist large self-insured employers in **evaluating their workers comp claims management program** is available from Richard B. Frank & Associates. Request item **1713**.

■ Approximately 700 executives are surveyed about the performance of **workers comp cost-management initiatives** in a booklet from Tillinghast-Towers Perrin. Request item **1714**.

■ Aon Management Institute presents an article stressing ways to prevent a workers comp or disability claim for **workers on overseas assignments**. Request item **1715**.

■ A paper from Specific Software Solutions L.L.C. shows how a **workers comp modification factor** can help reduce an employer's historical loss experience. Request item **1716**.

■ A paper that explains three ways an employer can **cultivate a healthier work atmosphere** to reduce workers comp costs is offered by Aon Management Institute. Request item **1717**.

■ The **sweeping changes managed care has brought to workers comp** are reviewed in a newsletter from Gallagher Bassett Services Inc. Request item **1718**.

■ The Reliability Group supplies an article that details how to reduce workers comp costs by **focusing on key human factors**. Request item **1719**.

■ Berkley Administrators provides a brochure that describes the advantages of a **self-insured workers comp program for a sovereign nation** and the opportunities it offers tribal governments. Request item **1720**.

■ An article from Aon Management Institute explains how **understanding your company's unique problems** is the key to dramatic reductions in workers comp costs. Request item **1721**.

■ **A workers comp medical cost management system** is outlined in a flier from Corporate Systems. Request item **1722**.

■ The advantages of an **individual self-insured workers comp program** are summarized in a brochure presented by Berkley Administrators. Request item **1723**.

■ Coopers & Lybrand L.L.P. offers an information packet describing its **workers comp claims consulting services**, including managed care for workers comp. Request item **1724**.

■ Several ways an employer can **take charge of a return-to-work program** are discussed in a paper from Aon Management Institute. Request item **1725**.

■ Answers to common questions about **drugs in the workplace** are given in a booklet supplied by Great American Insurance Cos. Request item **1726**.

■ Travelers Indemnity Co./Aetna Casualty & Surety Co. provide a brochure that examines an **office ergonomics and injury management improvement process**. Request item **1727**.

■ Strategies to **control workers comp in the health care industry** are detailed in a brochure from Travelers Indemnity Co./Aetna Casualty & Surety Co. Request item **1728**.

ADDENDUM

The following items were omitted from the employee benefits information resource in the Jan. 6 issue.

■ A self-help guide to assist people who are **trying to select a health care plan** is available from ConnectiCare Inc. Request item **561**.

■ Aon Management Institute provides an article that explains how some corporations are defending themselves against **chronic absenteeism**. Request item **562**.

■ AVERT Inc. provides a guide to the process of **hiring honest, competent employees**. Request item **563**.

Perspective

ASK A RISK MANAGER

Q **How can risk managers improve their lot in the corporate hierarchy and their ability to influence decision-makers more effectively?**

A I've been concerned for some time that risk managers and our profession are losing ground among the senior managers who run the business world. The most obvious evidence of this may be the treatment risk management often gets in corporate reorganizations (downsizings, re-engineerings, right-sizings, etc.) While we don't always get hurt, too many risk management departments have been nearly eliminated in these initiatives.

Risk managers shouldn't be surprised at this result, as we can't escape the fact that we are typically situated as a staff support function and not core to the business.

On the other hand, there are ways to improve the way the function and its practitioners are perceived and thus treated in restructurings.

Many of us have thought that if we just cut the cost of risk enough, we will be perceived as heroes, but the fact is that much of the "savings" are not our doing at all, but rather the results of soft markets and intense competition for the insurance dollar, especially the large-buyer dollar. There has to be more to our roles if we are to improve our stature, which will translate into being better-protected as business structures continue to evolve.

I think the key to this dilemma is becoming core to the business. Because risk management is unlikely in most cases to become a profit center (though there are ways to do this), our focus needs to be on becoming indispensable through complete integration into the mission, vision and objectives of our companies. This means completely selling the idea of the prevention of loss through the high prioritization of the safety of employees, customers and the general public. And while some would argue that companies have no moral obligation to anyone, we can't have a well-functioning society without some element of corporate responsibility for "safe" operations.

So how can we accomplish this integration and sell safety and loss prevention as corporate priorities?

First, it would be helpful to draw the proverbial line connecting risk financing and insurance-buying to loss prevention and control. Too many risk managers are out on islands, focusing primarily on the financing issues and largely ignoring the prevention and control aspects of their accountabilities. None of these should function in isolation, and so we need to integrate our own risk management house first.

You might start with balancing the exotic trips to make the "deals" with the greater importance of getting out into your locations and getting to know your business.

Getting out into the business and really learning how it works and where and how the profits are made will help you earn the respect not only of the operators who ensure profitability, but of the senior team that ultimately holds sway over your fate and the fate of what you and your team do to make the company a little more successful.

More importantly, risk managers can't do their jobs effectively without truly understanding what goes on at the core. Knowing and understanding this will not only help you in your obvious and more traditional responsibility of identifying and "treating" hazards (both present and possible), but you will develop a bond with the core personnel that will help you be more successful. You'll earn their respect when you know and understand what they do and how they do it.

Another aspect that can improve your lot in corporate life is effectively communicating with senior management. Most of us know instinctively that this is necessary, but getting it done is another matter.

You need to think through what it is that management needs to know, wants to know and, most importantly, doesn't need to know. (Note: Need is the operative word in that last one, as there always will be things they won't "want" to know but must be told regardless.)

To do this, you first need to know which managers are your primary constituents. Typically they will include the chief financial officer, the chief personnel officer, the chief operating officer, the general counsel and perhaps the chief executive officer. Which ones you communicate what information to will be driven by your company's culture and the structure of the organization.

Next, consider carefully what you have to communicate and, most importantly, how you communicate it. Nothing could be more damaging to meeting your integration objective than the timing and accuracy of your communications.

For example, you're faced with an imminent hurricane approaching an area of significant property concentration for your company. You've done everything you can think of in assisting operations to prepare for the storm, and yet you haven't let your chief operating officer know that operations is fully prepared.

Guess what? He expected you to keep him informed.

You fully intended to tell him later, but his expectation was to be informed beforehand—a critical mistake in his eyes that easily could have been avoided. It is safe to say most managers don't like surprises, and thus keeping the right people informed accurately and on a timely basis is critical to your status as a respected risk manager.

Ultimately—and this concept is a little time-worn—you must be a value-added player. Risk managers, like all managers, need to continuously think in terms of how they can add value in all business situations. Admittedly, that's not always easy, especially if you're involved in as many areas of the company as you should be, continuously scanning the corporate horizon and foreground for risk-related issues that need to be addressed. Nevertheless, it is critical to the way you are perceived.

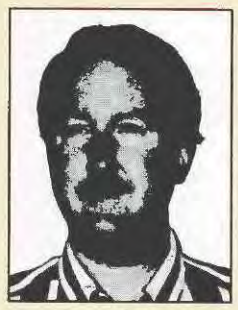
One way to assess whether you're adding value is to ask yourself a few questions, like: When did I last suggest a new way of doing something that was accepted and used? When was the last time someone on the senior team asked me for my opinion? When was the last time I identified a problem with a solution to fix it that was accepted and implemented?

In general, always be thinking in terms of new ideas, solutions and best practices. If you can develop a reputation for thinking and acting this way and maybe even thinking outside the box, you'll move far down the road and away from being a dispensable player and function.

BI

Would you like advice from an experienced colleague on a risk management, benefits management or actuarial problem? Four periodic features in the Perspective section of Business Insurance can give you some answers.

Ask A Risk Manager, Ask A Benefit Manager, Ask A Benefit Actuary and Ask A Casualty Actuary answer written questions from readers on risk and benefits management issues and actuarial problems.



Mr. Mandel

This month's column on risk management issues is written by Christopher E. Mandel, director of risk management for KFC Corp. in Louisville, Ky. Dennis J. Nirtaut, managing director of compensation and benefits for Andersen Worldwide S.C. in Chicago, answers questions on benefits management. William J. Miner, an actuary with Watson Wyatt Worldwide in Chicago, answers actuarial questions on benefits issues. And Richard E. Sherman, president of Richard E. Sherman & Associates Inc. in Ashland, Ore., answers actuarial questions in the casualty field.

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

Ambiguous use of 'event' must benefit policyholder, court rules

Legal Briefs

The use of the term "event" in an excess liability insurance policy was, at best, ambiguous and must be resolved in favor of the policyholder, according to the Supreme Court of Vermont.

The city of Burlington fueled its electric generation plant with wood chips supplied by the Moffatts.

The Moffatts sued the city, claiming the latter refused to purchase the volume of wood chips called for in their contract.

They sought damages for bodily injury, including severe emotional distress as well as economic losses. The city was insured under a primary liability policy. Associated Electric & Gas Insurance Services Ltd. provided excess coverage.

Both insurers declined to defend or indemnify the city in the Moffatt suit. Thereafter, the city settled with Moffatt for an undisclosed amount exceeding $100,000.

The excess policy covered an "occurrence," defined as "an accident, event or continuous or repeated exposure to conditions which result in bodily injury, personal injury or property damage."

The trial court concluded that the excess insurer was not liable. The appellate court said an insurance policy is a consensual contract. "If an insurance carrier makes a business decision to take on such an obligation," the court said, "we must enforce it for the insured who is entitled to the benefits of the bargain made."

The court pointed out that the dictionary definition of "event" did not suggest that the term was limited to an action that is accidental or unintended, as argued by the insurer.

According to the court, the term was ambiguous and was to be resolved in favor of the insured city. Therefore, the court said the excess insurer had a duty to indemnify the city.

City of Burlington vs. Associated Electric & Gas Insurance Services Ltd., Supreme Court of Vermont, Sept. 22, 1995 (*BI*/01/Ju.-$10). BI

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

Stocks

Continued from page 3

While Glendale, Calif.-based Nestle U.S.A. Inc. has seen a decline in the amount of 401(k) money going into its stable value investment options, it is hard to say whether it is a reflection of the company's education efforts or of the lure of the stock market, said Dave Kaiser, a vp in Solon, Ohio.

"Most of our employees, I think, have learned enough that they can't time the market," he said. "We try to get across the message that they should invest long-term and only fine-tune asset allocation, not make dramatic swings from day to day."

When the stock market had a minor correction in July, "we didn't see a lot of money move into stable value," said Mr. Kaiser. In fact, over the past few months, Nestle has seen a slow shift toward stable value funds, as participants seek to protect their recent stock market gains.

A Hewitt Associates L.L.C. study of 25 clients who permit daily movement in and out of their investment options found there was asset movement out of equity funds when the market dropped in July, and movement back in when the market recovered. At the same time, investments in stable return funds dropped once the market recovered, according to the study by the Lincolnshire, Ill.-based benefits consultant.

"We have not had any grand movement of money out of GICs," said Ed Roche, vp and managing director at NYNEX Asset Management Co. in New York. "It has not continued to grow, but in the midst of a huge market rally, it's natural for people to start chasing equity and putting more in their equity portfolios."

"We're riding a six-year bull market right now in the stock market, and as long as that boom goes on, I would expect employee investments in equities would continue to be an upward trend," said Larry Mylnechuk, president of Integra Associates Inc., a Lake Oswego, Ore.-based investment advisory firm.

"The trend away from stable value and into equity is one that has been developing over the last few years by virtue of the tremendous annual gains that the stock market has produced in the last few years," agreed Cynthia Hargadon, executive director of the Stable Value Assn.

"What we see is the encouragement of employers who have been wanting to get participants into equity as a way to build their balances and as a long-term investment strategy, and it's one that the Stable Value Assn. understands was a change that needed to happen over the years. People did need to have equity in their portfolios," she said.

The movement away from stable value to equity-oriented investments has been "pretty steady" over the past few years, "and I think that's been fine," said Brian C. Ternoey, a principal with Foster Higgins in Princeton, N.J.

"I think GICs so dominated the market for a long time, that it isn't necessarily bad for GICs. It's just that participants are becoming more familiar, comfortable with other types of investments," he said.

GICs will continue to have a significant share of the 401(k) market, Mr. Ternoey added, though "things are not quite as rosy as they used to be for GIC salespeople."

But some benefit experts and consultants warn that now may not be the best time for 401(k) participants to be shifting their assets into the stock market.

"It's better for them to move in when returns on the stock market are down," said Bruce Vane, senior vp at San Francisco-based Certus Asset Advisers, a fixed-income investment adviser. But "I think that the majority of plan participants don't view their 401(k) plans on a long-term basis. They're more short-term oriented," he added.

Ms. Hargadon of the Stable Value Assn. said she also is concerned about market timing. The move toward equities "has possibly put individuals into perhaps a riskier investment strategy than they can handle long-term, because the equity market has pretty much masked a lot of the volatility it is capable of over the last eight to 10 years. It's been a remarkably quiet time in terms of volatility. Volatility isn't measured by (the stock market) going up all the time," Ms. Hargadon said.

The magnitude of any stock market correction will be a critical factor in determining how many participants move out of equities and back to stable value funds.

"If there's more of a leveling off, I would expect it not to have an immediate effect on employee investments and investment patterns, but if there's anything of a major correction, then I could see money flowing out of equity options," said Mr. Mylnechuk.

"If there is a major correction in the stock market, I would expect to see very large transfers into stable value," agreed consultant Murray Becker of Becker & Rooney, a Fort Lee, N.J.-based division of Kwasha Lipton L.L.C.

Employees who have put 401(k) money into equities have done so well that they are now a little afraid of losing a large part of it, so at the first sign of correction, they will try to lock in their gains with stable value investments, predicted Mr. Becker.

If the market's correction is enormous, there will be an even more fundamental change away from equity investments, with some people deciding that dealing with investment risk "is not as much fun as they thought," he added.

"I would say that if there's a dramatic move in one or two days that we probably wouldn't see an enormous movement of money into the stable fund," said Nestle's Mr. Kaiser.

'If there is a major correction in the stock market, I would expect to see very large transfers into stable value,' says consultant Murray Becker.

However, "I would tend to believe that if we see the economy start to deteriorate more gradually and have bad news over a span of months and months and months and see the market decline and decline, then we would see money moving on a fairly regular basis into the stable funds," he said.

"The difference between the two scenarios is our employees know if there's a dramatic correction that it's probably too late to capitalize on that movement in the stable fund, whereas if it's a gradual correction, they might gradually start moving more and more money into that direction," Mr. Kaiser said.

To have an impact on the shift of funds, the correction "would have to be sustained," agreed John Milberg, vp at Newport Beach, Calif.-based Pacific Mutual Life Insurance Co., which provides stable value products.

"I think if the stock market falls off over a week and then comes back a little bit," there would not be a reaction, he said. Plan participants "are educated to the point where they'd have to see a sustained correction" to react and move their money, he added.

The bond market could be a portent for how 401(k) plan participants react, suggested Wayne Gates, general director at stable value provider John Hancock Financial Services Inc. in Boston. He said a study he conducted of the bond market over the past five years, which unlike the stock market has had consecutive down months, found there were outflows from bond mutual funds in months that bonds performed poorly. "You did see a pattern there," he said.

Despite employers' investment education efforts, "participants tend, unfortunately, to chase returns," said Peter E. Bowles, president and chief investment officer at Woodbury, Conn.-based Fiduciary Capital Management, a stable value investment manager.

"My only hope is that the inevitable correction, which I'm sure will occur, is not so traumatic that people bail out to the same extent as they've been flocking into stocks, because if they do, they'll be locking their losses in, obviously," he said. BI

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Liability

Continued from page 3

Philadelphia, who represents plan sponsors in fiduciary liability cases.

"There is debate as to how much of a shield Section 404(c) of ERISA will provide to plan fiduciaries. No one, I believe, claims it's a complete shield from fiduciary liability," said Mr. Sandler.

He added that it is inevitable that as 401(k) account balances grow and more assets are at risk, the plaintiffs bar will try and recover funds when significant amounts of money are lost.

The possibility of being sued "always exists," said Mike Wyatt, portfolio manager-savings plans for the E.I. du Pont de Nemours & Co. in Wilmington, Del.

"We try to educate our employees about the choices that are available to them in our plan, but it's a difficult challenge to get the message across all the time. It's something we have focused our efforts on improving," Mr. Wyatt said.

"We do not give investment advice," said John Milberg, vp at Pacific Mutual Life Insurance Co. in Newport Beach, Calif., which is a stable value product provider, as well as plan sponsor for its own employees.

"Even so," he added, "there's a fine line there that some plan sponsors are probably walking" and there is always the possibility of litigation when investments decline, Mr. Milberg said.

"I think that plan sponsors are always subject to a number of risks," including the risk that the education they provide savings plan participants will be construed as investment advice, he said. If participants act on this and stock values go down, legal action may result.

On the other hand, said Mr. Milberg, if plan sponsors do not provide a good investment education and "fairly aggressive" investment options, they will not be able to attract and maintain good employees.

Donald Butt, manager of trust investments for telecommunications company US West Communications Inc. in Denver, said he believes most plan participants consider their 401(k) assets their money, and the investment choices their own decision. As a result, he predicted, few plan sponsors are likely to find themselves sued in the event of a market downturn.

"I don't think we're going to get sued just because the market went down," he said, noting this did not occur during the October 1987 downturn.

"I don't know that there's a grand potential there (to be sued) as long as you're comfortable in your communications package," said Ed Roche, vp and managing director at NYNEX Asset Management Co. in New York. BI

Investment switching one possible reaction

By JUDY GREENWALD

Investor inertia is one of several factors that must be considered when evaluating plan participants' likely reaction to a major stock market correction, say benefit experts.

Although employee investors fall into a range of risk-tolerance categories, relatively few actively switch investments, they say.

"There are a number of employees who are extremely conservative, like stable value and don't move back and forth," said consultant Murray Becker of Becker & Rooney, a Fort Lee, N.J.-based division of Kwasha Lipton L.L.C. "Others love equities and don't move back and forth, or at least not into stable value."

Still others pick a mix of investments, such as a 50/50 or 75/25 ratio of stable value to stocks, and do not change it very often, he said.

"And then you have the swing players," said Mr. Becker, describing employees who want to be in stocks when they are going up and out of them when they are going down, and are responsible for a disproportionate number of transfers among the stock and stable value funds.

Donald Butt, manager of trust investments for telecommunications company US West Communications Inc. in Denver, agreed that relatively few plan participants change their investments. Less than 5% of his company's employees make one change or more a year, he said. If there were a stock market crash tomorrow, while there might be some grumbling, relatively few people would be changing their investments significantly, he predicted.

"For the vast majority, it's because they're passive," Mr. Butt said. When they were first hired, they made an asset allocation decision operating perhaps from a reasonable knowledge base, but more likely based on information from friends and coworkers, "and then they don't make changes."

"I would like to say we've had a tremendous impact" in educating employees about asset allocation and the benefits of setting investment goals over the long term rather than in response to current market conditions, "but that's not the case," Mr. Butt said.

Certainly a significant number of plan participants know more today than they did 10 years ago, he said, but there is still a long way to go in educating employees.

"It's going to take a while and it's going to have to come through coworkers, neighbors and relatives," said Mr. Butt.

There also is a generational element in investment strategy, with younger people more savvy than their elders, said Mr. Butt, who noted his own son became a 401(k) participant for the first time as a high-school student working a part-time summer job.

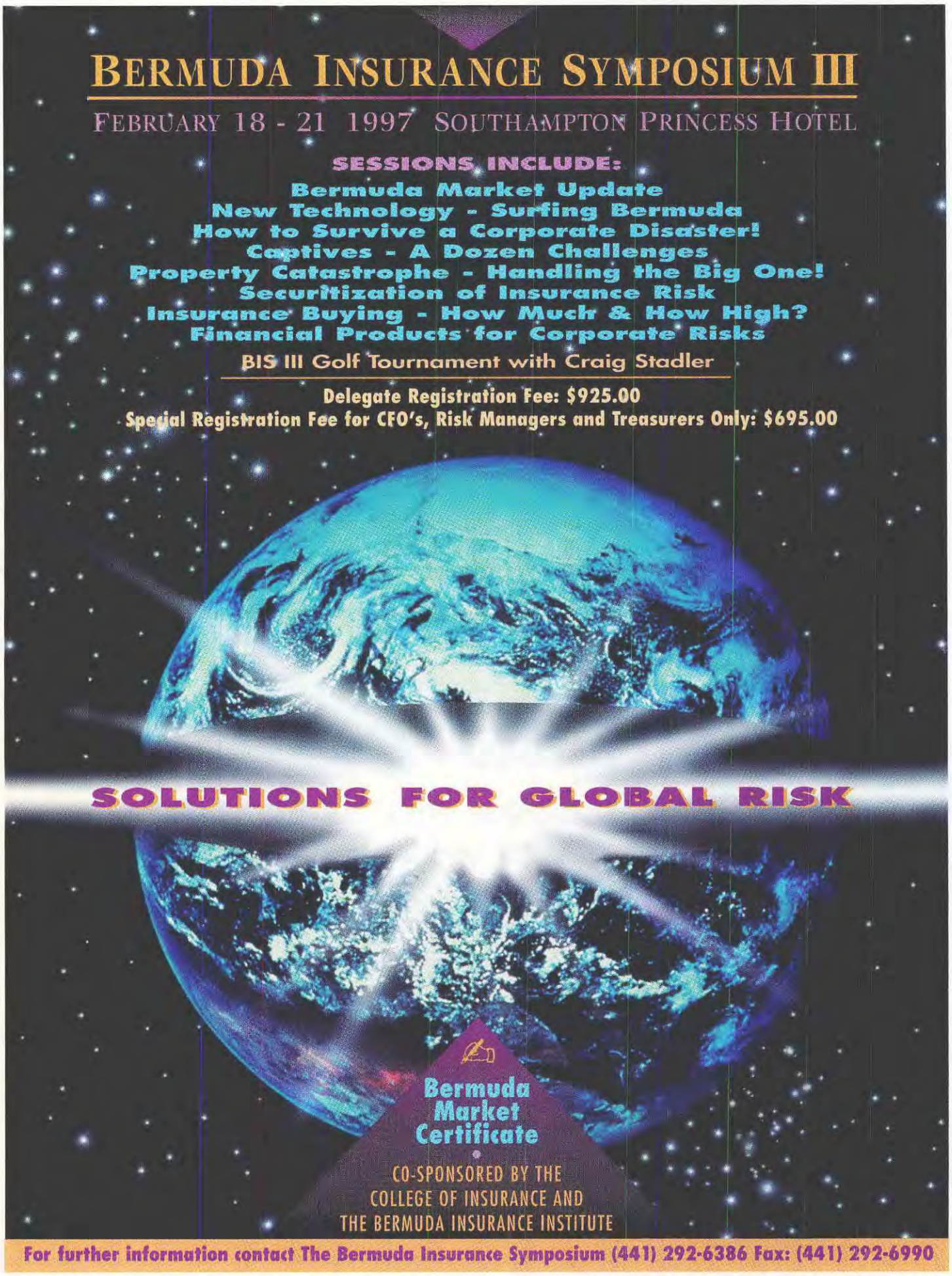
Investment goals also must be taken into account in predicting plan participant activity, said Mr. Becker of Becker & Rooney.

He said it is common for employers to mistakenly view all 401(k) participants as having a single investment objective—which is providing for their retirement—when in fact many employees view these plans as a way to meet intermediate or short-term goals, which could influence their willingness to ride out a stock market downturn.

The average, younger employee, for instance, may see his 401(k) plan as an emergency fund in the event he loses his job and has to spend six months looking for another, while others may see it as a means to fund their children's college educations, Mr. Becker explained.

In addition, he noted, some benefit experts are beginning to question the conventional wisdom that older employees should invest their 401(k) funds more conservatively while younger investors should take more risk.

Many people are beginning to argue that younger people who must build up their assets should have a more conservative investment strategy, while older retirees, who have other assets elsewhere, can afford to take more risk with their 401(k) funds, he noted. BI



INTERNATIONAL

Global Briefs

A team of 12 people is leaving **Willis Corroon Group P.L.C.**'s marine operations in London to join Carpenter Bowring Ltd., a Willis spokesman confirmed last week. The team is led by Simon Wilson, managing director of marine operations. Willis Corroon has 300 employees in its marine division. . . .**Zurich Insurance Co.** has acquired a controlling interest in Swiss legal protection insurer Orion Rechtsschutz Versicherungsgesellschaft by buying 44% of Orion's shares. Added to the 12% already held by Zurich subsidiary Geneva General Insurance Co., the new shares make Zurich the majority shareholder in Orion. Zurich has struck a partnership agreement with minority shareholders Swiss National Insurance Co. Ltd. and Waadt Insurance Holdings. . .Economic Insurance, acquired by **Hiscox P.L.C.** last July, has changed its name to Hiscox Insurance Co. and has become the authorized insurer operating under the Hiscox P.L.C. banner. Hiscox P.L.C. also includes Hiscox syndicates at Lloyd's of London and Hiscox Underwriting Ltd. . . .Corporate and insurance fraud investigator **Bishop International Ltd.**, has ceased being a subsidiary of Merrett Holdings P.L.C. after a management buyout. It becomes the last of the Merrett UK Insurance Services subsidiaries to sever connections with Merrett Holdings. . . .**CNA International Reinsurance Co. Ltd.** has established a Lloyd's of London syndicate, 1229, with a stamp capacity of £25 million ($42.8 million) in its first year. It will write facultative and short-tail insurance and reinsurance and other lines not normally written by CNA in the company market. Bermudan reinsurer LaSalle Re Holdings Ltd. is underwriting £8.3 million ($13.39 million) on syndicate 1229, as the only other member of the syndicate, through newly formed LaSalle Re Corporate Capital Ltd. It is also investing in marine syndicate 62/1018 and non-marine syndicate 839, with overall capacity of £16 million ($27.39 million) . . .Corporacion Mapfre, Spain's largest insurance group, has agreed to sell a 20% stake in its Argentinean subsidiary, **Mapfre Aconcagua**, to another Argentinean insurer, La Patagonia Cia. Argentina Seguros. La Patagonia will pay for the stake by passing on some of its business portfolio to Mapfre Aconcagua. Mapfre said the agreement will combine its insurance management strengths with La Patagonia's access to the large commercial market. . . .Paris-based **Assurances Generales de France** has mandated Shroeders Bank in Paris to examine the future of the insurer's 47% stake in reinsurer Societe Anonyme Francaise de Reassurance. AGF Chairman Antoine Geoncourt Galignani said recently that the company's core interests are in transport ation and credit insurance, not reinsurance. "We don't know yet if we will sell it," an AGF spokeswoman in Paris said. "That is one of the options."

British Rail breakup entails own risks

Ensuring safety top priority

By CAROLYN ALDRED

Privatization of Britain's railroads is producing new challenges to insurers and risk managers as the formerly nationalized British Rail breaks up into dozens of private companies.

By the end of the privatization process, which began in February 1996, there will be some 100 separate companies that formerly were part of British Rail. These include 25 passenger operating companies; Railtrack P.L.C., the company responsible for rail track throughout the country; rolling stock leasing companies; freight train operators; and maintenance companies.

This has huge implications for managing and insuring railroad risks. For example, for the first time since Britain's railroads were nationalized in 1948, liability for passenger and employee accidents and claims could involve more than one company. Safety culture also is likely to vary from one company to another, and ensuring consistent safety standards will be more difficult.

Another issue for the industry is additional primary level insurance, as many of the privatized companies will be unable to maintain the £10 million ($16.8 million deductible held by British Rail.

Safety always was an important aspect of British Rail management and has been dealt with in detail during the privatization process.

In the new regime, responsibility for monitoring and ensuring consistent safety standards lies with Railtrack. In order to obtain an operating license, each company must present a detailed safety report, which looks at safety aspects and procedures, to Railtrack. Railtrack itself, as controller of Britain's rail infrastructure and having the central role in managing health and safety for passengers and employees on the railway, had its own safety report accepted by the Health and Safety Executive, a government-funded body responsible for ensuring safety in industry.

According to Railtrack, railway safety has improved significantly since 1945, with an 80% reduction in the fatality rate for passengers and 95% for employees. From 1992 to 1996, passenger and workforce fatality rates have dropped to just six employee deaths and 13 passenger deaths, compared with 13 employee deaths and 24 passenger deaths from 1989 to 1992.

Railtrack recognizes, however, that privatization may introduce new risks. "Restructuring of the industry in recent years has seen the emergence of new interfaces between organizations," it writes in its 1996/97 Railway Group Safety Plan. Interfaces refer to places where one company's risks and responsibilities end and another's begin.

As a result, "organizations are required to identify and detail their interfaces in safety (reprorts) or contracts," the plan says, noting that "audit and incident inquiry reports have shown that interface management is a key safety risk in the restructured railway industry."

This was recognized by the HSE well before the privatization process began. In a bulky document entitled "Ensuring Safety on Britain's Railways," the HSE advised the Secretary of State for Transport in 1993 that "it is essential that, despite possible fragmentation of control, the limits of responsibilities of each party are clear and the management of safety, particularly at the interfaces between the various players involved, are maintained."

Privatizations will "allow new

See **Railroad** *on page 23*

New railways find insurers reluctant to ride

By CAROLYN ALDRED

The breakup of Britain's formerly nationalized rail company into dozens of private enterprises has provided insurers with a potentially huge new market, though insurers are proving slow to embrace the new risks.

So far, just one insurance company, St. Paul International Insurance Co. Ltd., is prepared to write a big chunk of primary rail insurance business.

Although British Rail previously bought catastrophic coverage from the insurance market, the system was financially strong and geographically and organizationally broad enough to carry a £10 million ($16.8 million) self-insured retention. Most of the new companies emerging from the privatization process, though, are unable to carry such large retentions, industry executives agree.

So why hasn't this demand for primary coverage prompted more insurers to board this train?

"It is the Big E—Emotion," says Andy Brown, a project director with Jardine Insurance Services Ltd. in London.

"The market doesn't understand rail risks. They don't want to touch it," he said.

Mr. Brown, who joined Jardine after several years working in the rail industry, said he gradually is "starting to get other underwriters interested by dispelling a lot of emotions" connected with railway accidents.

The rail industry needs more capacity at the primary level, according to Mr. Brown. "There is just one big underwriter. St. Paul is a high-risk underwriter," he said.

Many underwriters' fears about the new industry are unjustified, he contends.

"Most of the new company owners are leaving management teams in place," he said, adding that "safety standards laid down by Railtrack, the company responsible for the British rail infrastructure, are "quite clear and cannot be compromised."

However, Colin Hamling, manager of strategic innovation and development at St. Paul in London, said concerns about the railroad industry from an underwriting point of view also relate to the catastrophe risk exposure of the business and the fact that primary underwriters have no insurance claims data relating to the industry, Mr. Hamling noted.

St. Paul said it is focusing its U.K. efforts on providing coverage for new, potentially high-risk sectors, such as professional liability for hospital trusts and local municipalities.

Mr. Hamling said he runs a "strategic research team which looks for high-risk but risk-aware areas of business."

"The company began researching the rail industry about three years ago. Although it is a potentially catastrophic industry, it has a lot of positive aspects for the underwriter, said Mr. Hamling. The British railway "has been a heavily regulated industry for at least 100 years, with detailed statistics of railway accidents available for the last 50 years," he noted.

As a result of its research, St. Paul decided the best way to underwrite the rail industry is to "write a strong book. Our target always was to write a substantial portion of the industry rather than dabble in it," he said.

St. Paul insures 15 of the first 18 privatized passenger rail companies, providing up to £10 million primary coverage in most cases, said Mr. Hamling.

Catastrophe coverage, meanwhile, is provided through the Central Insurance Facility, which was created for British Rail in April 1994. The facility, jointly managed by London-based brokers Alexander & Alexander (UK) Ltd. and Bowring Marsh & McLennan Ltd., offers rail companies third-party liability coverage of £175 million ($293.2 million) excess of £5 million ($8.4 million).

The first £55 million ($92.1 million) excess of £5 million is placed in the London market on an occurrence basis. The insurance coverage, which stands alone from any underlying primary arrangements, is led initially by Royal Insurance Co. and Lloyd's of London underwriter John Murphy for the first £5 million excess of £5 million.

Guardian Royal Exchange P.L.C. and Lloyd's underwriter Bob Wallace lead the next layer of £20 million ($33.5 million) excess of £10 million, with Mr. Murphy and Reliance Insurance leading for £30 million ($50.3 million) excess of £30 million.

The remaining £120 million ($201 million) excess of £60 million ($100.5 million) is written in the catastrophe market with Bermuda-based X.L. Insurance Co. writing £40 million ($67 million) excess of £60 million, and ACE Ltd. writing the top £80 million ($134 million) excess of £100 million ($168 million).

The catastrophe part of the facility is written on a claims-made basis, provided that the injury or damage occurs after the beginning of the policy period. BI

Italian railway insured for fatal highspeed crash

ROME—Italy's state-owned railway, Ferrovie dello Stato, is likely to be fully covered for the property and liability damage caused by the crash Jan. 12 of one of its prestigious high-speed trains.

The "Pendolino" express, the country's fastest train service, crashed near Piacenza, about 30 miles south of its Milan departure point en route to Rome. Eight people were confirmed dead and 25 injured, including 10 who were hospitalized. The train derailed on a bend, causing seven of its eight cars to come off the track and hit a number of steel electricity towers.

The train and equipment were insured for about 30 billion to 40 billion Italian lire ($19.4 million to $32.3 million), according to Benito Pagnanelli, deputy general manager of Italy's largest insurer, Trieste-based Generali Assicurazioni Generali S.p.A. He said the railway company also would have had compulsory third-party liability insurance, though he was unsure last week of the limits of coverage or potential level of claims.

Mr. Pagnanelli said Generali had a share of the railway company's risk, in which all the major Italian insurers participated.

Italian investigators last week still were trying to determine the cause of the accident. Initial speculation was that excessive speed or failure of the train's tilting mechanism were likely causes. Security police in Rome issued a statement saying there were no indications the derailment was due to sabotage, such as an obstacle placed on the track.

—By Ed Unsworth

AP/ WIDE WORLD PHOTOS

This train crash led to at least eight deaths and 25 injuries. Investigators last week had not determined the cause of the derailment, which occurred between Milan and Rome.

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LEGAL NOTICE

IN THE SUPREME COURT OF BERMUDA COMPANIES (WINDING-UP)
NO. 277 CF 1996

IN THE MATTER OF
CAPITAL INSURANCE COMPANY LTD. - IN LIQUIDATION and
IN THE MATTER OF THE COMPANIES ACT 1981 and
IN THE MATTER OF THE INSURANCE ACT 1978

(Under an Order for Winding-Up the above-named Company, dated 16th August, 1996)

NOTICE TO CREDITORS OF FIRST MEETING

NOTICE IS HEREBY GIVEN that the First Meeting of Creditors in the above matter will be held at the offices of Coopers & Lybrand Dorchester House, 7 Church Street, Hamilton HM11, Bermuda on 11th February, 1997, at 4:00 p.m.

To entitle you to vote thereat, Proofs of Debt and Proxy forms to be used at the Meeting, must be lodged with me, at the address shown below, not later than 5:00 p.m. on 7th February, 1997.

Dated this 6th day of January, 1997.

Peter C.B. Mitchell
Joint Provisional Liquidator
Capital Insurance Company Ltd.
In Liquidation
Dorchester House
P.O. Box HM 1171 Hamilton HMEX, Bermuda

LEGAL NOTICE

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LINDA S. KAISER
INSURANCE COMMISSIONER OF
THE COMMONWEALTH OF PENNSYLVANIA
Plaintiff
vs.
THE MUTUAL FIRE, MARINE AND
INLAND INSURANCE COMPANY
Defendant

NO. 3483 C.D. 1996

NOTICE OF TERMINATION OF REHABILITATION AND DISCHARGE OF MUTUAL FIRE, MARINE AND INLAND INSURANCE COMPANY (IN REHABILITATION)

TO: ALL POLICYHOLDERS, CREDITORS OR OTHER PERSONS OR ENTITIES INTERESTED IN THE MUTUAL FIRE, MARINE AND INLAND INSURANCE COMPANY (IN REHABILITATION).

By Order dated December 26, 1996, the Commonwealth Court of Pennsylvania granted the Petition to Terminate Rehabilitation and Request for Discharge filed by the Rehabilitator of Mutual Fire, Marine and Inland Insurance Company. Under this Order, the Rehabilitation of Mutual Fire, Marine and Inland Insurance Company is terminated pursuant to Section 518(b) of the Pennsylvania Insurance Department Act as amended, 40 P.S. Section 221.18(b) as December 26, 1996. Pursuant to that Order only those obligations of Mutual Fire which have been established by the Plan of Rehabilitation and/or by an Order of the Commonwealth Court shall survive the termination of rehabilitation and discharge.

POLICYHOLDERS, PAYEES AND CREDITORS WHO WANT A COPY OF THE MEMORANDUM AND ORDER MAY SEND A REQUEST TO:

"MEMORANDUM AND ORDER"
THE MUTUAL FIRE, MARINE AND INLAND INSURANCE COMPANY
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PHILADELPHIA, PA 19103
OR BY FACSIMILE TO: (215) 567 - 9300

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LEGAL NOTICE | LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

Petition of John McKenna, Gareth Hughes and Anthony Joaquin as the Joint Liquidators of The Bermuda Fire & Marine Insurance Company Limited
Case No. 93-B-46013 (PBA)

PLEASE TAKE NOTICE that on January 7, 1997, a Permanent Injunction Order (the "Order") was entered by the Bankruptcy Court pursuant to 11 U.S.C. Section 304 providing: (i) that the Scheme of Arrangement dated October 2, 1996 (the "Scheme") between **The Bermuda Fire & Marine Insurance Company Limited** (the "Company") and its Scheme Creditors (as defined in the Scheme) shall be given full force and effect and is binding on and enforceable against all Scheme Creditors in the United States; (ii) that all persons are permanently enjoined and restrained from taking certain actions against the Company, its property, the Company Parties and the Scheme Parties (as those terms are defined in the Order); and (iii) other related relief.

Interested parties may obtain a copy of the Order by writing to counsel for the Joint Liquidators:

CHADBOURNE & PARKE LLP
30 Rockefeller Plaza
New York, New York 10112
Attention: Kenneth P. Coleman

LEGAL NOTICE | LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN THE PETITION OF DAVID LLEWELLYN MORGAN AND MARK W.R. SMITH, AS JOINT PROVISIONAL LIQUIDATORS OF STOCKHOLM RE (BERMUDA) LTD.

(THE "COMPANY") Case No. 95-B-40543 (PBA)

NOTICE IS HEREBY GIVEN that on January 7, 1997, an order was entered by the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") in connection with the case filed with respect to the Company pursuant section 304 of the Bankruptcy Code (the "Order"):

1. Enjoining and restraining all persons and entities from (a) transferring, relinquishing or disposing of any property of the Company in the United States, or the proceeds of such property, to third parties; (b) commencing or continuing any action or other legal proceeding against the Company or any of its property in the United States, or any proceeds thereof; (c) enforcing any judicial, quasi-judicial, administrative or regulatory judgment, assessment or order or any arbitration award, and commencing or continuing any act or any action or other legal proceeding to create, perfect or enforce any lien, set-off or other claim against the Company or any of its property in the United States or any proceeds thereof, including, without limitation, rights under reinsurance or retrocession contracts; and (d) drawing down any letter of credit established by, on behalf or at the request of, the Company, or withdrawing from, setting off against, or otherwise applying property that is the subject of any escrow agreement or similar arrangement in which the Company has an interest, in excess of what is expressly authorized by the terms of the contract and any related trust or other agreement pursuant to which such letter of credit, escrow, or similar arrangement has been established, except, however, no drawing against any letter of credit shall be made in connection with any commutation unless the amount has been agreed in wr ting with the Petitioners or permitted by further order of the Bankruptcy Court;

2. Requiring all persons and entities that are beneficiaries of letters of credit established by, on behalf or at the request of, the Company, or parties to any escrow or similar arrangement in which the Company has an interest, to (a) provide notice to Petitioners' United States counsel of any drawdown on any letter of credit established by, on behalf or at the request of, the Company, or any withdrawal from, setoff against, or other application of property that is the subject of any escrow agreement or similar arrangemen: in which the Company has an interest, together with information sufficient to permit the Petitioners to assess the propriety of such drawdown, withdrawal, setoff, or other application, including, without limitation, the date and amount of such drawdown, withdrawal, setoff or other application and a copy of the agreement pursuant to which any such drawdown, withdrawal, setoff or other application was made and provide such notice and other information contemporaneously therewith; (b) turn over and account to the Petitioners for all funds resulting from such drawdown, withdrawal, setoff, or other application, in excess of what is expressly authorized by the terms of the contract, any related trust or other agreement pursuant to which such letter of credit, escrow, or similar arrangement has been established;

3. Requiring every person and entity that has a claim arising under a contract of insurance, reinsurance, retrocession or otherwise, written or entered into by the Company and who is a party to any action or other legal proceeding in which the Company is or was named as a party, or as a result of which a liability of the Company may be established to place the Petitioners' United States counsel on the master service list of any such action or other legal proceeding and to take such other steps as may be necessary to ensure that such counsel receives (a) copies of any and all documents served by the parties to such action or other legal proceeding or issued by the court, arbitrator, administrator, regulator or similar official having jurisdiction over such action or legal proceeding and (b) any and all correspondence, or other documents circulated to parties named in the master service list.

The Order shall remain in effect pending the hearing scheduled to be held in Room 617 of the Alexander Hamilton Custom House, One Bowling Green, New York, New York on September 22, 1997 at 2:30 p.m. Any party in interest who has not received a copy of the Order should contact counsel for the Joint Liquidators in writing at the address listed below.

Chadbourne & Parke LLP
30 Rockefeller Plaza
New York, New York 10112
Attention: Kenneth P. Coleman, Esq.

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INTERNATIONAL

Railroad

Continued from page 21

companies with little or no previous experience of operating on the railways to enter the industry," the HSE noted.

"There is likely to be an influx of managers and other staff with limited experience of railway safety, potentially significant changes in working arrangements and a generally more complex arrangement of different organizations with considerably more interfaces between them," the HSE explained.

"Managing safety on multi-contractor sites is a recognized problem elsewhere, but in this case many of the parties may be on the railway network as a matter of right, possibly without the willing consent of the infrastructure controller," the HSE noted, meaning subcontractors may be working on railroad property without the permission of Railtrack.

With so many companies now involved, the industry now faces "interface issues for the first time. This is the No. 1 safety risk," said Andy Brown, project director of Transportation Risk for London-based broker Jardine Insurance Services Ltd.

"What we have to do is make sure everyone knows where their responsibility is," he said.

As a result of these and similar concerns, detailed guidelines and regulations are being drawn up.

The apportionment of liability following privatization is governed by a complex inter-party agreement known as the Claims Allocations and Handling Agreement, or CAHA. A review of CAHA recently was completed and is being studied by the Rail Regulator, a government-appointed industry regulator. The review—which analyzes all aspects of the agreement—will be sent to rail companies at the end of January, said John Gott, secretary to the Rail Industry Disputes Resolution Committee.

CAHA was developed to provide a mechanism for setting claims quickly, avoiding costly and time-consuming later-operator litigation through pre-agreed liability for smaller claims.

Also going out this month is a guidance document on insurance against third- party liability, prepared by the Rail Regulator after consultation with the industry. The document lays down minimum insurance requirements for train operating companies—currently £155 million ($259.7 million) of third party liability cover—and a requirement that all operating companies sign up to CAHA.

Lack of insurance coverage among subcontractors is a 'serious concern,' said Colin Hamling.

Both arrangements likely will be subject to constant review as the privatized industry develops. Indeed, the current CAHA review identifies four to five areas too complex to be dealt with in the current review and that require more study, said Mr. Gott.

But it seems some serious concerns remain to be answered regarding CAHA and insurance arrangements. For example, there is no obligation for contractors or subcontractors of the licensed operators to carry £155 million of insurance, leaving the possibility of a gap in cover.

"In the emergent railway industry, where the employment of contractors and subcontractors is likely to increase, this is a potentially significant and undesirable gap in the protection afforded to third parties," the Rail Regulator, John Swift, noted in the insurance consultation document.

This view is echoed by others involved in the industry.

Lack of insurance coverage among subcontractors is a "serious concern," said Colin Hamling, manager of strategic innovation and development for St. Paul International Insurance Co. Ltd. St. Paul's currently underwrites the primary level (up to £10 million) for most of the rail operating companies.

"Subcontractors on railway premises have the same ability to incur catastrophic liabilities and historically have caused some major accidents," said Mr. Hamling, noting that many subcontractors carry insurance limits of just £1 million ($1.7 million).

As a result, "a lot of work needs to be done to bring contract standards into the industry," he said, including the introduction of "higher insurance limits for subcontractors."

Another concern in the industry is that fact that the rolling stock leasing companies are not party to the agreement," noted Mr. Brown. Such companies lease rail cars and vehicles. This is rooted historically, said Mr. Gott, explaining that the "private owners of rolling stock were never part of any British Rail liability agreement."

But "the fact that the (rolling stock companies) are not parties to the agreement should be looked at in more detail," agreed Mr. Gott, adding, however, that "we believe we can operate (the agreement) without them," he added.

The ability of Railtrack, as provider of the railway infrastructure, to act as a safety monitor, also raises concern.

Although most observers so far are satisfied with Railtrack's ability to do the job, there is some concern whether the organization can remain

See **Railroad** *on next page*

Services Guide

Business Insurance
Circulation Breakdown
Commercial Consumers

Administrative:	
CEO's, Presidents, and Owners	1,746
Vice Presidents, General Managers and Other Administrative Personnel	4,884
Financial:	
Chief Financial Officers and Vice Presidents of Finance	3,011
Secretaries, Treasurers, controllers and other Financial Personnel	2,827
Risk/Employee Benefits:	
Vice Presidents, Directors, Managers, and other related department personnel of: insurance, risk, employee benefits, personnel, compensation, pension, safety, security, industrial relations, human resources and employee/ labor relations	17,307
Sub-total	**29,775**
Associations	301
Government, Unions and Educational Institutions	969
Commercial Consumers Sub-total	**31,045**
Insurance Agents and Brokers	8,664
Insurance Companies	7,831
Accountants, Actuaries, Attorneys & Consultants	3,148
Adjusters, Appraisers, TPA's, Captive Managers & Health Care Providers	1,880
Others Allied to the Field	680
Total Qualified	**53,248**
Non-qualified	12
Single Copy Sales	40
TOTAL CIRCULATION	**53,300**

★ *Source Business/Occupational breakdown of qualified circulation, May 27,1996 Issue, as submitted to BPA for June 1996 BPA Publisher's Statement*

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INTERNATIONAL

Railroad

Continued from previous page

impartial as another company operating in the industry rather than an independent body.

"I don't feel prejudiced by Railtrack's role, but it may be that the industry would be better served by having a separate safety monitor," said St. Paul's Mr. Hamling, noting however that it is early and "a lot of changes may develop."

Connex South Central Ltd., one of the newly privatized train operators responsible for running trains in South London and several counties in the south of England, thinks Railtrack is proving "adequate as a chief monitor so long as it demonstrates impartiality," said a spokesman.

Railtrack's position "generates conflict," said Jardine's Mr. Brown.

"It doesn't hold logic that the monitoring of railway standards which apply to other private companies is within the infrastructure controller," he said.

The central collection of claims data and compensation payments also is causing some concern in the industry. A pivotal plank of CAHA is the provision of a "central agency for the collection of claims data so as to establish an industry claims history (and to provide) claims handling arrangement," according to the Rail Regulator.

Railway Claims Ltd., or RCL, was formed in April 1994 to manage and administer CAHA as well as to handle industry claims, according to Chief Executive David Brindley.

RCL is a non-profit organization, formed from British Rail's formerly extensive claims-handling department to handle claims filed against any rail company.

"The Regulator was concerned that there should be a consistency in the way things are done to protect the public interest," said Mr. Brindley. A central claims agency, together with the CAHA arrangement, would mean members of the public could make claims without worrying about the complexities of which rail company was liable.

However, while adherence to CAHA is mandatory in order for train operators to secure a license, using RCL is not, and a number of new owners and their insurers are seeking to take greater control of claims themselves.

Mr. Brindley understands that "insurance companies who are underwriting rail risk at this (primary) level for the first time want to understand claims handling and RCL can play a major part in providing that understanding."

He stresses the importance of maintaining a consistent claims-handling arrangement for the industry as well as a comprehensive claims-recording procedure. British Rail was "meticulous" in its record-keeping for claims, he noted.

Meanwhile, there are services RCL still can perform for the industry as a whole, such as monitoring CAHA, said Mr. Brindley. BI

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Comair

Continued from page 3

not a knee-jerk reaction from underwriters based on a single accident," he said.

"It will have some impact, but I doubt it will have be sizable one for the shareholders," agreed AirSure's Mr. Behan.

Although the full crash investigation from the National Transportation Safety Board will take months to complete, flight data recorders recovered from Flight 3272 have helped the board piece together its final moments.

According to an NTSB spokesman, the turboprop was flying normally until 33 seconds prior to the crash. At that time the plane was on its descent into Detroit Metropolitan Airport, before it's nose began to dip and the plane rolled to the left.

The spokesman also said the plane's crew did not comment about any system or engine problems.

The NTSB has not ruled out any causes of the crash.

Although Comair's lead insurer, United States Aviation Insurance Group in New York, has not yet established a liability reserve, one Lloyd's of London aviation underwriter estimated the Comair loss alone could offset the total worldwide premiums collected from smaller airlines. If liability losses total about $90 million from the Comair loss, that far exceeds estimated total premiums from smaller, commuter airlines of only $65 million, the underwriter said.

Writing commuter airline hull and liability insurance "is a minefield," said the Lloyd's underwriter. "It just doesn't pay enough money."

"We are writing relatively few regional airlines, not because of (the state of their) operations but because the market is weak" and premiums are down, said Graham Nichols, chief executive and chief underwriter for Westminster Aviation Insurance Group in London.

Hull and liability insurance losses for these smaller airlines dropped dramatically last year to an estimated $68 million from $206 million in 1995. Of that, hull losses plummeted to $43 million last year from $108 million; while liability losses plunged to $25 million from $98 million, according to airline analyst Airclaims Ltd. This reduction in losses for smaller airlines came despite an increase in overall aviation losses in 1996, which rose 25% to $1.6 billion and is one of the worst years on record.

'Some states have more favorable damages laws that provide for better verdicts to the plaintiff,' says David Kupets.

The Comair crash is not the first fatal crash of an Emb 120 plane, NTSB records show. On April 5, 1991, an Emb 120 flown by Atlantic Southeast Airlines crashed in Brunswick, Ga., killing all 23 people on board.

All 14 people aboard a Continental Express flight died when it crashed in Eagle Lake, Texas, on Sept. 11, 1991, when the turboprop broke apart during flight.

More recently, eight people died Aug. 21, 1995, when another Atlantic Southeast Airlines flight crashed in Carrollton, Ga., en route to Gulfport, Miss., from Atlanta.

An NTSB investigation determined the crash resulted from a fracture of the left propeller.

Aviation lawyers said the cause of the Comair crash will be critcal in deciding who will be named in any crash litigation. Who is sued "depends on what failed," said David Kupets, an attorney with Rapoport & Kupets in Rosemont, Ill., who represents air crash victims and their families. "The causes of the clash will determine whether Comair is the sole defendant or other defendants need to be brought in."

Other possible defendants include: any outsourced aircraft maintenance companies; aircraft manufacturer Embraer; or the manufacturers of any component of the plane that fails, such as the engine, propeller or hydraulic systems.

Also, if ice was a cause of the crash, the manufacturer of the anti-icing system may face liability. According to the NTSB, other planes in the area of the crash reported icing problems.

Besides whom to sue, lawyers will look at where to bring a suit.

"Some states have more favorable damages laws that provide for better verdicts to the plaintiff," Mr. Kupets said.

"My guess is the case will eventually be litigated in Detroit," said Jack Harrington, an aviation defense lawyer with Blatt, Hammesfahr & Eaton in Chicago, because that is where the crash occurred and where most of the witnesses live.

The lawyers said victims with high incomes and families generally receive the highest awards in crash litigation, based on lost future earning. They said awards could reach a few million dollars per person. Mr. Harrington agreed that with 29 fatalities, the awards could total $30 million to $90 million.

The lawyers said most of the cases will settle. "A lot of times one case will go to trial and the plaintiffs will test the waters. Both the plaintiffs and defendants will then look at that, and based upon that case, you will see a lot of settlements," Mr. Harrington said.

•

Stacy Shapiro contributed to this report.

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$132.5 million satellite loss

By STACY SHAPIRO

LONDON—Underwriters have been told that there will be a total in-orbit loss of about $132.5 million for AT&T Corp.'s Telstar 401 satellite, which the company declared permanently out of service last Friday.

AT&T stated that it will work with the Telstar 401 manufacturer Lockheed Martin to find out why the communications broadcast satellite that was launched in December 1993 stopped functioning early last week. AT&T had sued Martin Marietta Corp., now part of Lockheed Martin, for the 1994 loss of the Telstar 402 satellite for alleged failure to correct known defects in Telstar's propulsion system, but the suit was settled out of court (*BI*, April 10, 1995).

AT&T is insured for $132.5 million for the loss of the Telstar 401 in orbit, sources in the London market say. The coverage is placed in London by Bowring Space Projects, a unit of Marsh & McLennan Cos. Inc. Insurers on the coverage include Lloyd's of London syndicates, La Reunion Aerienne in Paris and ACE Ltd. in Bermuda.

AT&T would not comment on its coverage.

Several major satellite insurers avoided this loss, however, because they stopped underwriting the satellite at renewal last year. This includes the former leader of the coverage, Lloyd's satellite underwriter Simon Clapham, and Italian insurer Assicurazioni Generali S.p.A.

The Telstar 401 carried TV signals for major customers, including networks ABC, Fox and PBS as well as telephone and computer data. But most of the customers were rerouted and no network was forced off the air by the outage. The customers could have ancillary cover of $5 million to $10 million to insure them against the loss of a transponder, satellite underwriters say. But if they were rerouted and there was no loss of signal, the customer would not have a claim, the underwriters said.

AT&T plans to replace the Telstar 401 eventually with the Telstar 5, which is expected to be launched in May. BI

Merger to create 11th-largest broker

Lowndes Lambert, Fenchurch to combine operations

LONDON—Lowndes Lambert Group Holdings P.L.C. and Fenchurch P.L.C. have agreed to merge to form Lambert Fenchurch Group P.L.C., the brokers announced last week.

Under the terms of the proposed deal, valued at £27.6 million ($45.4 million), Lowndes Lambert will offer Fenchurch shareholders 628 Lambert Fenchurch shares for every 1,000 Fenchurch shares. If the deal is approved by shareholders, Sir Robert Clark, non-executive chairman of Lowndes Lambert, will become non-executive chairman of the new company. Michael Small, chief executive of Fenchurch, will become non-executive deputy chairman. David Margrett, chief executive of Lowndes Lambert, will become chief executive of Lambert Fenchurch.

The merger could reduce costs for the brokers by at least £5 million ($8.4 million) by the year ending March 31, 1998. The combined company would rank No. 11 in the *Business Insurance* ranking of the world's 20 largest brokers, based on 1996 gross revenues of £143.4 million ($224.5 million). That potential ranking takes into account recent merger and acquisition activity among brokers.

—By Stacy Shapiro

Survey

Continued from page 1

"All in all, this has been a very favorable year on the health care cost front for employers," said John Erb, a principal in the Miami office of Foster Higgins.

There are many signs, though, that this run of health care cost stability is nearing an end, Mr. Erb added.

For example, the wave of hospital mergers in many areas of the country ultimately could shift the balance of negotiating power to providers and away from managed care organizations and other buyers.

"The next contract negotiated between a hospital and a managed care organization may not be as favorable as the last one. While provider consolidation has not been happening everywhere, where it has could be the next tripwires of renewed cost increases," Mr. Erb said.

Even before the fallout from provider consolidation is felt, health maintenance organizations are again raising rates. Many HMOs that froze or lowered rates over the past three years are—in the wake of deteriorating financial results—boosting rates, typically by 2% to 6% in 1997.

In addition, managed care may be nearing its saturation point. The huge savings employers have seen over the past few years as droves of employees moved to less costly managed care plans from high-cost traditional indemnity plans may be nearly over because most employees have made the shift.

"The best way to achieve savings is to get employees to move from traditional indemnity plans to managed care plans. That shift has happened," Mr. Erb said.

While health care premiums and costs are likely to edge up this year, survey respondents do not expect a return to the health care budget-busting days of the late 1980s.

Surveyed employers predict health plan rates and costs this year will increase by an average of 4%, higher than recent years but a far cry from the late 1980s, when 15% to 20% cost increases annually were the norm.

That is because today the vast majority—77%—of employees are enrolled in managed care plans that have been able to keep cost increases in check. By contrast, a decade ago, most employees were enrolled in traditional indemnity plans, which were unsuccessful at holding down costs.

"Managed care has and is working," Mr. Erb said.

Indeed, one type of managed care plan—traditional HMOs—not only is the least expensive of the four major types of health care plans, but also has been the most successful in keeping costs under control.

In 1996, HMOs were the only type of health care plan for which costs actually fell compared with 1995. HMO costs declined 2.2% to an average of $3,185 per employee from $3,255. HMO costs also declined a year ago, falling by an average of 3.8% (*BI*, Jan. 29, 1996).

Cost increases for the three other major types of health care plans—preferred provider organizations, point of service plans and traditional indemnity plans—were modest, Foster Higgins found.

For example, traditional indemnity plan costs increased 2.4% to an average of $3,739 per employee from $3,650, while POS plans' costs rose 2.3% to an average of $3,494 per employee from $3,415. PPOs' costs increased 3.9% to an average of $3,293 from $3,169.

While traditional HMOs are by far and away the lowest-cost health plan, enrollment in the plans has stagnated at 27% between 1995 and 1996. By contrast, POS enrollment leaped to 19% of employees from 14%, while PPO enrollment climbed to 31% from 29%. Enrollment in traditional indemnity plans fell to 23% of covered employees from 29%.

Mr. Erb says even if employees don't actually seek services outside a PPO or an HMO network, they want that option.

That freedom to choose—even if not exercised—is leading many HMOs to offer POS products. In fact, from 1993 to 1996, enrollment in POS plans nearly tripled to 19% from 7%. By contrast, during this same three-year period, enrollment in traditional or closed-end HMOs increased much more slowly to last year's 27% level from 19% in 1993.

Group health care plan costs by employer size*

	1996	1995	% change
All employers	$3,703	$3,653	1.4%
10-499	3,405	3,467	-1.8
500-999	3,589	3,585	0.1
1,000-4,999	3,844	3,724	3.2
5,000-9,999	3,686	3,758	-1.9
10,000-19,999	3,953	3,638	8.7
20,000 or more	4,090	3,946	3.6

*For active employees
Source: A. Foster Higgins & Co. Inc.

GRAPHIC BY TONY BUCCINI

The popularity of different health care plans varies considerably by region.

In the West, for example, where the HMO movement began, traditional indemnity plans now are virtually dead. They cover just 11% of eligible employees.

In the West, HMOs are the dominant health care plan, enrolling 39% of employees, while PPOs enroll 35% and POS, 15%.

By contrast, in the Northeast—once the last bastion of traditional indemnity plans—POS plans now dominate and cover 38% of employees, while traditional indemnity plans and HMOs each cover 23% of employees and PPOs cover 16%. As recently as 1993, traditional indemnity plans covered 66% of employees, but since then Northeast employers in massive numbers have turned to managed care to bring down health care costs, which still are the highest in the country at an average of $4,161 per employee.

In the South, where HMOs have been slower to develop, PPOs are the most popular health care plan and cover 40% of employees. Twenty-five percent of employees are in traditional indemnity plans, while 23% are in HMOs and 12% are in POS plans.

In the Midwest, though, no one type of health care plan is dominant. About one-third of employees are in PPOs, 29% are in traditional indemnity plans and 24% are in HMOs. POS plans, though, have been the fastest-growing type of health care plan in the Midwest, with enrollment surging to 14% in 1996, up from just 5% in 1993.

Other survey findings, all involving employers with at least 500 employees, include:

- For active employees, traditional indemnity plan costs in 1996 increased 6.6% and averaged $3,928 per employee, up from $3,686.

Traditional indemnity plan costs were highest among employers in the Northeast, averaging $4,379 per employee, up 3% from $4,252 in 1995.

Traditional indemnity plan costs were lowest in the West, averaging $3,345 per employee, up 5.3% from $3,176.

In the Midwest, traditional indemnity plan costs averaged $3,916, up 8.8% from $3,598. Traditional indemnity plan costs in the South averaged $3,381, up 4.4% from $3,239.

- POS plan costs averaged $3,584 per employee in 1996, a 0.3% increase from $3,572 in 1995.

POS plan costs were highest among large employers in the Northeast, averaging $3,677 per employee, up 0.4% from $3,664. POS costs were lowest in the Midwest, averaging $3,451, up 0.2% from $3,443.

POS plan costs in the West averaged $3,587 per employee, up 1% from $3,552, while POS costs in the South averaged $3,455, a 1.1% decrease from $3,493.

- PPO costs among large employers averaged $3,434 per employee in 1996, a 5.9% increase from $3,242 in 1995.

Northeast employers had the highest PPO costs, at an average of $3,739 per employee, up 1.5% from $3,684. Southern employers had the lowest PPO costs, at an average of $2,997 per employee, up 6.6% from $2,812.

PPO costs among Midwestern employers averaged $3,700 per employee, up 2.7% from $3,602. Western employers' PPO costs averaged $3,600, up 5.6% from $3,410.

- HMO costs for large employers in 1996 averaged $3,350 per employee, down 1.8% from $3,410.

Large Northeastern employers had the highest HMO costs, at an average of $3,759 per employee, down 3.3% from $3,886, while Southern employers had the lowest HMO costs, at $3,009 per employee, up 2.5% from $2,935.

In the Midwest, HMO costs averaged $3,380 per employee, up 0.7% from $3,356, while in the West HMO costs averaged $3,140, a decline of 3.4% from $3,252.

- Thirty percent of employers pay the full premium for traditional indemnity plan for employees' single coverage, while 14% pay the full premium for family coverage.

Among plans that require contributions, employee contributions for single coverage average $43 a month, or 24% of the total premium. For family coverage, employees pay an average of $133 a month, or 32% of the premium.

- Sixty-five percent of large employers say rates charged by their HMOs are lower than those charged by their PPOs or traditional indemnity plans, while 18% say the rates charged by the three plans are about the same, and 17% say HMO rates are higher than PPO or traditional indemnity plan rates.
- On average, employers offer five HMOs.
- Fifty-two percent of employers in 1996 offered a traditional indemnity plan, down from 54% in 1995.
- Six percent of large employers offer health care coverage for employees' same-sex partners.

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Copies of the "Foster Higgins National Survey of Employer-Sponsored Health Plans, 1996" will be available Feb. 24 from Tara Lewis, A. Foster Higgins & Co. Inc., 125 Broad St., 4th Floor, New York, N.Y. 10004; 212-574-9025. The cost is $500, and prepayment is requested.

Economy, managed care control retiree costs

By JERRY GEISEL

A strong economy and a big shift to managed care are helping hold down employers' retiree health care plan costs.

In 1996, retiree health care plan costs for employers with at least 500 employees inched up just 1.6%, increasing to an average of $3,182 per retiree from $3,131 in 1995, according to the A. Foster Higgins & Co. Inc. survey.

That's a big change from 1995, when retiree health care plan costs surged ahead 9.5%, an increase attributed largely to the relatively low number of retirees then in cost-effective managed care plans.

The strong economy is one reason for the dramatic slowdown in retiree health care plan costs, said John Erb, a Foster Higgins principal in Miami.

Because many companies are operating at full tilt, they have had less need for downsizing programs in which older workers are encouraged to retire early, such as by offering them enhanced benefits.

Providing health care benefits to early retirees is especially costly because retired workers only become eligible for Medicare at age 65.

Medicare pays roughly 60% of retiree health care costs, taking a big burden off employers. Indeed, in 1996, health care costs for early retirees averaged $5,210 per retiree, compared with an average of $1,874 per retiree for retired workers age 65 and older.

Another key reason health care cost increases also have slowed for retiree health care plans is that more employers are offering retired workers the opportunity to enroll in Medicare risk contract health maintenance organizations.

Employers clearly see the potential managed care, especially HMOs, has in controlling retiree health care costs. Last year, the number of employers offering so-called Medicare risk HMOs to retired workers leaped to 38% from 21% in 1995.

Under a Medicare risk HMO contract, Medicare will pay an HMO 95% of what Medicare thinks it would cost to provide the retiree with benefits covered by Medicare.

Because HMOs generally can operate far more efficiently than Medicare, a traditional indemnity plan, HMOs often can offer benefits not covered by the federal program—like vision care and prescription drugs—to attract retirees and still make a significant profit.

With Medicare risk HMOs providing more benefits, that leaves a reduced role for employers and a lower liability for employers' retiree health care plans that supplement Medicare.

If employers can persuade more retirees to move into managed care programs, like Medicare risk HMOs, the cost savings could be significant, Mr. Erb said.

"Employers are seeing the light to these programs. Retirees get better benefits and the employer reduces its retiree health care liability," Mr. Erb said.

Retiree health care costs, not surprisingly, are strikingly lower in those parts of the country where employers have had the most success in moving retired workers out of expensive traditional indemnity plans and into lower-cost managed care plans, like HMOs.

For example, in the West, where 83% of retirees under 65 and 68% of retirees 65 and older are in managed care plans, health care costs averaged $2,704 per retiree. By contrast, in the Midwest, where just 49% of retirees under 65 and 20% of retirees 65 and older were enrolled last year in managed care plans, health care costs averaged $3,291 per retiree, or nearly $600 per retiree higher than in the West.

While some employers have taken the ultimate step to control retiree health care costs by terminating the plans, that trend is slowing down.

In 1996, 33% of employers offered health care coverage to retired workers eligible for Medicare, down just slightly from 35% in 1995. By contrast, 40% of employers in 1993 offered a health care plan for retired workers eligible for Medicare.

Similarly, in 1996, 40% of employers offered health care coverage to retirees under age 65, a slight drop from 41% in 1995. In 1993, 46% of employers offered health care coverage to employees who retired before they were eligible for Medicare.

But most employers now require retirees to pay at least a portion of the premium. For example, just 16% of employers pay the full premium for retirees under 65 who opt for coverage for themselves and a dependent, while 48% of employers share the cost with retired workers and 36% of employers require the retiree to pay the full premium.

For employers that require premium contributions from retirees, retired workers under 65 pay an average of 63% of the premium for retiree and dependent coverage.

U.S. clears way for IATA agreement

GENEVA—The U.S. Department of Transportation on Jan. 8 finally backed down on conditions in one of three agreements that waive airlines' passenger liability limits for international flights.

As a result, the International Air Transport Assn. will recommend next month that its airline members enforce IATA's Intercarrier Agreement on Passenger Liability, which waives the liability limitation found in the Warsaw Convention.

The limitation has been $75,000 per passenger on flights to, from and through the United States unless willful misconduct can be proved. Eighty airlines around the world have signed this agreement, which could be enforced retroactively to mid-November 1996.

IATA also will suggest airline members agree to an IATA implementation agreement, which would impose strict liability up to 100,000 Special Drawing Rights ($142,210), said Lorne S. Clark, general counsel and secretary of the association.

If it is approved at a meeting in Miami early next month, the 47 worldwide airlines that signed the implementation agreement could enforce it by mid-February. The implementation agreement defines what conditions should be in a passenger's conditions of carriage.

—By Stacy Shapiro

DuPont

Continued from page 2

Clark.

Mr. Clark was employed directly by DuPont from 1962 until 1970 and subsequently continued to work at DuPont, primarily as an employee a particular employee leasing firm.

After DuPont terminated its contract with that firm, Mr. Clark applied for coverage under various DuPont employee plans, asserting he remained a DuPont employee after 1970 while nominally working for various contracting organizations.

In dismissing Mr. Clark's claim, the appellate court in Richmond, Va., said he "was not a 'participant' because he was not eligible to receive benefits under the plain language of the plans." No reference was made to the Microsoft case in the decision, although it had been discussed in oral argument.

"Both cases turn on questions of plan interpretation," said James P. McElligott Jr., an attorney with McGuire, Woods, Battle & Boothe in Richmond, who represented DuPont.

"If the Microsoft decision as written stands in the 9th Circuit, then I believe ultimately the Supreme Court will need to decide whether the 9th Circuit or the 4th Circuit has identified the proper standard for interpreting what these plans mean," Mr. McElligott said.

However, Bill Sweetnam, an attorney and consultant with Towers Perrin in Valhalla, N.Y., finds no disagreement in the rulings. In the Microsoft decision, the plan administrator had denied benefits because the workers had contractually waived any rights to them. The denial was not on the basis of the plan language, which was the case with the DuPont decision, Mr. Sweetnam said.

"I don't think there's any inherent difference in the law in the different circuits, because really the facts are just different," he said.

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Anne Navey Clark, executrix of the estate of Andrew J. Clark Jr., deceased, plaintiff-appellant, vs. E.I. du Pont de Nemours and Co. Inc., as plan administrator et al. No. 95-2845, 4th U.S. Circuit Court of Appeals.

Value

Continued from page 1

tractors. The deal includes Value Rx, Value Health's prescription benefit management operation and one of only two large independent PBMs in the nation.

Columbia/HCA three years ago started its own PBM, Columbia Pharmacy Solutions, serving both employers and HMOs, which has reached about $100 million in annual sales. It views that venture as successful but limited and wants "to rocket this thing into a huge national position," said Richard A. Schweinhart, a Columbia/HCA senior vp. The pharmacy management field was one of the few segments of health delivery in which Columbia/HCA felt it had little impact, he said.

"Smart providers are forming networks and are themselves taking on some attributes of managed care companies," said Robert E. Patricelli, chairman and chief executive officer of Value Health. "Big provider organizations are challenging managed care for a bigger piece of the pie."

Potential suitors began approaching Value Health last year after it announced it would spin off its Value Rx unit into a separate company and focus more on areas like disease management and health care information technology. The spinoff never occurred, though, because an offer arose from Columbia/HCA to buy Value Health outright.

"As they say on Broadway, a funny thing happened on the way to the spinoff," Mr. Patricelli said.

Mr. Patricelli will leave the company when the sale becomes final, which is expected to occur by the middle of 1997.

Under the terms of the agreement, Value Health shareholders will each get 0.58 shares of Columbia common stock for each share of Value Health stock owned. Columbia/HCA expects to issue about 35 million shares of its common stock to Value Health stockholders in exchange for 54.7 million outstanding shares of Value Health.

On Friday, Columbia/HCA stock closed at $39.13 per share, while Value Health shares closed at $22 each.

In addition to Value Health's PBM business, Columbia/HCA also will get Value Behavioral Health, a provider of managed behavioral services; Value Health Sciences, which produces high technology to support disease management services; and Community Care Network/Medview, a workers compensation and group health network and cost management unit.

No major job losses were expected because of the acquisition, except for about 30 employees in the administrative headquarters of Value Health in Connecticut. That office will be eliminated.

The union between Columbia/HCA and Value Health will be a "natural fit," Mr. Schweinhart said. It will significantly increase Columbia's drug purchasing power for its hospitals and surgery centers.

Columbia/HCA, through Value Health's broad range of managed health services, will be able to provide HMOs and self-insured employers with "virtually everything you need—essentially one-stop shopping," he said. Columbia/HCA will be able to market drug protocols and disease management programs for managed care and provide patient data from its own 345 hospitals for Value Health's research.

Analysts were unsure whether Columbia/HCA's latest move would cause a change in PBM pricing for health plan sponsors, though Mr. Patricelli said "over time" it will probably create a positive change for payers.

Barry Barnett, a principal of Fort Lee, N.J.-based Kwasha Lipton L.L.C., said the acquisition of Value Health matches Columbia/HCA's current strategy of buying rural or community hospitals and using delivery systems to propel patients through them more efficiently. PBM data and programs developed through Value Health disease state management and behavior modification programs, in combination with discounting, are "guaranteed to drive people through (Columbia/HCA) hospitals," he said.

"There is a major consolidation in health care, and one may look at Columbia as the 500-pound gorilla," he said.

"It (the acquisition) has introduced Columbia to a whole client base they never had before in any significant manner," said Bob Eicher, a principal in New York-based A. Foster Higgins & Co. Inc.

Analysts say Value Health's 1995 acquisition of another PBM, Diagnostek Inc., may well have laid the groundwork for an eventual takeover by a larger company. The rapid absorption of Diagnostek, a $216 million acquisition, created the largest PBM in the nation not owned by a pharmaceuticals manufacturer. But it's also caused financial strain for Value Health when Diagnostek's performance faltered.

"I guess you could say they stumbled," said Mr. Schweinhart, though he added that Value Health was able to continue to grow and to reorganize despite problems with Diagnostek.

Foster Higgins' Mr. Eicher agreed the Diagnostek deal did not weaken Value Health to the point that it was forced to seek suitors.

Columbia/HCA's acquisition of Value Health may be viewed as the further eclipse of an endangered species: the independent, large PBM. Several large drug management firms in the last few years have been bought by drug companies in controversial, high-stakes deals:

- Medco Cost Containment Services Inc. was bought by Merck & Co. Inc. in 1993 for $6.6 billion. Medco began operating independently of Merck in 1995.
- Diversified Pharmaceutical Services Inc. was bought by SmithKline Beecham Corp. in 1994 for $2.3 billion.
- PCS Health Systems Inc. was purchased by Eli Lilly & Co. in 1994 for $4 billion, with PCS operating as an independent subsidiary.
- MedPartners/Mullikin acquired Caremark International Inc. for $2.5 billion in 1996.

The sole independent player remaining among leading, national PBMs sees possible gains for itself following Value Health's acquisition.

James M. Guller, vp-marketing for St. Louis-based Express Scripts Inc., said the purchase creates new considerations for buyers who may value a PBM's independence.

"Buyers may start to think not only who the PBM is, but who the parent is," he said.

Mr. Guller believes the merger will enhance Express Scripts' competitive edge somewhat, especially since it will be the only remaining large, independent PBM.

"It presents an opportunity for us," he said.

Columbia/HCA, too, will be able to market itself as owning a PBM free from potential interference by pharmaceutical makers, Mr. Schweinhart noted.

"Do you want to have a PBM that is pushing their own drugs or do you want someone who will make an independent decision for you?" he said.

"There is still a lot of competition in the PBM market," agreed Richard Trapp, vp-finance for Employer Purchasing Alliance in Tampa, Fla., which manages 10 employer coalitions around the United States. The Alliance contracts with ValueRx, the Value Health PBM. "They'd have to buy a lot more than one PBM" to have any significant effect on the market.

Columbia/HCA, in addition to its hospitals, owns 135 outpatient surgery centers and more than 550 home health sites. It has revenues of $20 billion and, with 285,000 workers, is the ninth-largest employer in the country.

The company's 1996 plan to buy the majority of the assets of Blue Cross & Blue Shield of Ohio is in limbo.

The national Blue Cross & Blue Shield Assn. has sued to strip the Ohio plan of its Blues trademark and local citizens groups also have criticized the proposal.

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Joanne Wojcik contributed to this report.

Updates

United, San Francisco clash

ELK GROVE VILLAGE, Ill.—In the first skirmish over San Francisco's new domestic partner benefits law, United Airlines rejected the city's request to provide the benefits to its San Francisco employees.

The city required the Elk Grove Village-based airline to offer domestic partner benefits as a condition of approving its lease at San Francisco International Airport. Tom Ammiano, a member of the Board of Supervisors, said the city offered United a two-year lease without forcing compliance with the new law. After two years, under this proposal, United's lease would be renewed if it provided domestic partner benefits. United, he said, wants a 25-year lease exempt from the new law.

Mr. Ammiano delayed a board vote on approving the United lease until Jan. 28 to allow the airline to consider its position. If United continues to balk, "then we will not vote the contract in and the ball will be in United's court," he said.

A United spokeswoman said providing the benefits will affect more than just the San Francisco employees. "It affects the whole company," she said. "You just can't do it (provide benefits) for San Francisco. You have to do it for the whole company."

San Francisco's ordinance was passed in November and requires all companies contracting with the city to provide to registered domestic partners the same benefits offered to employees' spouses. There are about 3,000 registered couples—primarily gay and lesbian—in San Francisco (*BI*, Nov. 11, 1996).

Despite United's position, Mr. Ammiano is optimistic the situation will be resolved. "My gut feeling is that it will be OK," he said.

'96 cat toll at $7.35 billion

RAHWAY, N.J.—Catastrophes caused an estimated $7.35 billion in insured property damage last year, reports the Property Claim Services division of the American Insurance Services Group.

That made 1996 the fifth-worst year in terms of catastrophe losses, according to PCS. Hurricane Fran was the costliest single event, causing about $1.6 billion in insured property damage. Other notable catastrophes included: winter storms, such as last January's "Blizzard of '96"; wind, hail and tornadoes during the spring and summer; and an additional four hurricanes.

Forty-five states and Puerto Rico sustained insured catastrophe losses last year. North Carolina suffered the most insured property damage, estimated by PCS at $1.5 billion.

Court enforces Dow deadline

BAY CITY, Mich.—Claims against Dow Corning Corp. by U.S. creditors and women with silicone breast implants are being processed following the deadline last week for filing domestic claims with the bankruptcy court.

U.S. creditors and women with silicone breast implants had until Jan. 15 to file claims. Foreign creditors and claimants have until Feb. 14 to file claims against Dow Corning.

U.S. claimants had attempted to get a 30-day extension of the deadline last week, but Judge Arthur Spector of the U.S. Bankruptcy Court in Bay City rejected their motion Thursday.

The court similarly rejected a motion filed last week by Dow Corning seeking to extend by an additional 30 days the court-imposed deadline for co-defendants, such as other implant makers, to file claims with the bankruptcy court. As a result, co-defendants have only 30 days from last week's deadline to file claims.

Thousands of claims have been filed with a court administrator by individuals seeking compensation for defective or disease-causing implants.

In addition, creditors and claimants filed a motion in the bankruptcy court Jan. 10 to terminate Dow Corning's exclusivity protection so that they could file a reorganization plan of their own. The court set an April 17 hearing date for the reorganization motion and a review of claims.

Briefly noted

The U.S. Supreme Court ruled unanimously last week in *Walters vs. Metropolitan Educational Enterprises* that part-time employees and workers on leave must be counted when determining whether a company has the minimum of 15 workers required for exposure to suits under Title VII of the **Civil Rights Act of 1964**. . . .A bill that would permit **privately managed pension funds for** private-sector employees passed France's lower house of Parliament last week. The bill now faces a second round of deliberations Jan. 30 (*BI*, Jan. 13). . . .The Pennsylvania Insurance Department last week approved a **25% reduction in workers compensation rates**, effective Feb. 1 for new and renewal policies. The cut was made possible by 1996 workers comp reforms (*BI*, June 24, 1996). . . .**Chase Manhattan Bank** and insurance broker Various Markets Inc. of Royal Oak, Mich., have settled litigation over an abortive property program covering Chase's mortgagee interest in U.S. Virgin Islands real estate. The confidential settlement involves no payment by VMI or its president, Mark W. Dupuis, court records say. . . .A federal judge in San Diego has dismissed civil racketeering charges against Samuel B. Love, Marvin Lewis and five others over their alleged roles in managing the defunct **First Assurance & Casualty Co. Ltd.** However, the judge let stand a claim by First Assurance's bankruptcy trustee that First Assurance assets were fraudulently conveyed to International Casualty & Surety Co. Ltd. of New Zealand, an alleged First Assurance successor managed by Mr. Love and Mr. Lewis (*BI*, Jan. 6). . . **Morgan Stanley & Co.** said it did not racially discriminate and that it took thorough and effective actions after two African-American employees said they were subjected to racist jokes sent via company e-mail. The employees are suing the investment bank for roughly $30 million each and are seeking class-action status. . . .The National Assn. of Securities Dealers, which is looking for a new president and chief executive officer, has shown interest in **Frank G. Zarb**, chairman and CEO of Alexander & Alexander Services Inc., but no formal offer has been made. . . **John C. Etling**, 61, recently retired vice chairman of reinsurance holding company General Re Corp., died Jan. 11.

Stocks

Continued from page 2

As a result, "our investment thesis is to focus on finding the special situations, or the exceptions to the group, in this difficult environment," said Mr. Gavios, whose recommendations include Chubb Corp. as well as USF&G Corp. and NAC Re Corp.

"It's going to be a more challenging year for the stocks to advance than it was in 1996" because of rising combined ratios and slow premium growth, said Alice Schroeder, vp at Oppenheimer & Co. Inc. in New York.

She added, however, that investors may begin to focus more on core fundamentals, because many insurers whose stocks have lagged have been successfully executing an ongoing strategy rather than making dramatic changes. Some of those stocks are likely to do better in 1997, said Ms. Schroeder, whose recommendations include General Re Corp. and EXEL Ltd.

"I would say the outlook is uninspiring for the pure commercial P/C stocks," said Weston Hicks, an analyst with Sanford Bernstein & Co. in New York. "I think, in the commercial lines area, the excess capacity situation is as large as ever. There's evidence of increasing competition, particularly in the more commodity-like portions of the business, and the valuations of the stocks are not especially cheap," he said.

Mr. Hicks has "neutral" ratings on two-thirds of the commercial lines insurers he follows. Stocks he does recommend include Chubb and Travelers/Aetna Property Casualty Corp.

Commercial property/casualty stocks will lag somewhat behind the overall market, said Ms. Morrissey. "Analysts are beginning to cut their estimates, and I think that's going to continue," she said.

"We don't see it as being disastrous for the industry at all, but we don't expect that it's going to be a terrific year," she said.

Others have more positive outlooks.

Jay Cohen, an analyst with Merrill Lynch in New York, said he has "muted optimism."

"I would say that we certainly don't expect much improvement in premium rates, so as far as improving fundamentals helping the stocks as a whole, it's not really in our forecast," he said.

However, he added: "Individually, a number of companies have been able to produce, or should produce, pretty good earnings growth next year, and that could help those stocks. So in essence, on the fundamentals side, selectivity will be pretty important."

Furthermore, "If we get another situation this year with modest economic growth and a limited threat of inflation, these stocks should perform pretty well."

Industry consolidation could help the share prices, he said. "Most people believe the industry is overcapitalized, or at least amply capitalized, and consolidation is a likely outgrowth of this over capitalization. That generally would be seen as good for the industry and probably would help the share price," said Mr. Cohen, whose recommendations include Frontier Insurance Group, Bermuda-based Terra Nova (Bermuda) Holding Ltd. and reinsurance broker E.W. Blanch Holdings Inc.

Harry Fong, director at C.J. Lawrence-/Deutsche Securities Corp. in New York, said he is optimistic. "Underwriting results continue to be better than most people believe. Return on equity is not particularly good, but that may be a function of how much capital there is in the industry. Bottom line, despite that position, I think the group as a whole could turn in an above-average year.

"Corporate profits in general may be coming under pressure, and other economically sensitive groups could find '97 a lot more difficult than the environment that existed in '95 and '96, hence relative to other sectors of the economy, this group could turn in a pretty good performance, so I'm actually encouraged."

Mr. Fong's recommendations include Chubb, St. Paul Cos., Travelers/Aetna and ITT Hartford Group Inc.

John Keefe, Richmond, Va.-based vp and analyst with Ferris Baker Watts, who specializes in small-capitalization insurers, said, "I think the specialty insurers will continue to deliver above-average results in 1997.

"As the Hartford-based and New York-based multiline insurance companies exit from the smaller suburban and rural markets, it opens up opportunities for the specialty insurers."

Price competition is considerably less sensitive in this market segment, said Mr. Keefe. "Not every insurance company or broker is shooting at the small-business owner who pays $5,000 a year in premiums," said Mr. Keefe, who noted his firm's index of small-account specialty insurers was up 22% in 1996. His recommendations include Penn America Group Inc. and the Markel Corp. BI

Surcharges

Continued from page 1

spokeswoman said. By last week more than 20,000 plans had filed to pay the surcharges to the pool administrator.

The lawsuits contest the legality of the law.

The Cement & Concrete Workers District Council Welfare Fund in Flushing, N.Y., alleges in a suit filed last month in the U.S. District Court for the Eastern District of New York that the NYHCRA violates ERISA by requiring the fund to pay directly for the care of the poor and medical training.

"The act contravenes Congress' intent that the assets of an ERISA fund be used for the exclusive purpose of providing benefits to participants and their beneficiaries," court papers say.

The laboratory association suit was filed late last month in the New York Supreme Court, a trial-level court, in Albany. The association argues the surcharge is unfair because it will only be levied on payments to general hospitals, clinical labs, and diagnostic and treatment centers. The association fears patients will go to other laboratories whose charges aren't subject to the surcharge, such as physician-owned labs.

"Clinical laboratories want to do their fair share to support failing hospitals, but when such a small group is taxed the tax burden is not shared and is too great. Tax all non-hospital providers or tax none of them. We will not be of much help to failing hospitals if we go out of business," said Thomas Rafalsky, president of NYSCLA.

The surcharge will discourage patients from having tests that may lead to the early detection and treatment of diseases, the court papers say. "NYSCLA is entitled to a declaration that the classification of clinical laboratories as the only non-hospital provider subject to the tax is arbitrary and capricious and violates the constitutional guarantees of equal protection of law."

The Department of Health would not comment on the suits. BI

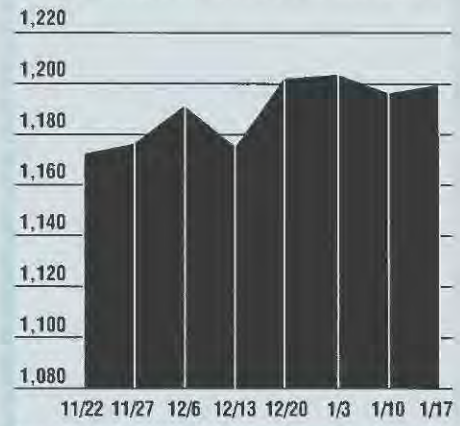
New York surcharge approval available online

ALBANY, N.Y.—With the aid of modern technology, employers can find out if their applications to the New York Department of Health to pay hospital bill care surcharges directly to a state health care pool administrator have been approved by state officials.

The state is listing approved applications on its World Wide Web site at http://www.health.state.ny.us. So far, the state has received more than 20,000 applications from employers and other organizations to make direct payments to the pool administrator, and about 9,500 applications have been approved and are listed on the Web site.

Some applications still have not been reviewed, while many others contained mistakes, which state officials are trying to work out with employers.

BI Insurance Index



Base=100 on Dec. 29, 1978
Source: Nordby International Inc.

PCS catastrophe options

As of Jan. 17

Call spread	Price bid/ask	Call spread	Price bid/ask
Eastern September 1997		**California Annual 1997**	
40/60	3.2/3.9	40/60	—/4.0
60/80	2.5/3.5	80/100	1.5/1.9
80/100	2.2/2.5		
National Annual 1997		**Western Annual 1997**	
80/100	6.5/8.4	40/60	2.2/3.9
120/140	5/5.4	80/100	1.4/2.1
June Midwestern 1997			
10/20	1.1/1.4		

Total volume: 44 Total open interest: 10,481

For information on PCS cat options, call the Chicago Board of Trade at 312-435-3674.
Source: Chicago Board of Trade

British Issues

Jan. 17 Companies	Price pence	P/E	Div. pence	Yield %	52 week high—low
Comml Union	726	12.2	29.0	5.0	729—550
Genl Accident	823	8.9	31.7	4.8	823—612
Gdn Royal Exch	284	4.6	9.3	4.1	285—218
Independent	642	11.7	11.9	2.3	642—373
Royal & Sun	473	9.0	19.0	5.1	473—349
Brokers					
Bradstock	66	10.6	5.7	11.5	75—54
Fenchurch	71	N/A	5.5	10.1	150—46
CE Heath	96	11.9	4.5	5.7	115—74
JIB Group	155	N/A	9.8	6.4	158—97
Lloyd Thmpson	207	N/A	10.0	6.1	207—163
Lowndes Lmbrt	114	13.5	8.4	9.1	153—102
Nelson Hurst	146	9.8	8.1	6.9	206—143
Sedgwick Grp	139	12.6	9.8	6.8	152—114
Steel Brl Jones	32	7.5	3.8	14.6	48—28
Willis Corroon	150	20.9	6.6	5.7	169—117

Source: Nordby International Inc.

BI Industry Stock Report JANUARY 13, 1997, THROUGH JANUARY 17, 1997

		Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)
BROKERS							
BROKERS							
Acordia Inc.	NYS	27.88	0.45	-3.88	33.75	27.25	48
Alexander & Alexander	NYS	17.38	0.00	0.00	21.63	13.63	368
E.W. Blanch Holdings Inc.	NYS	20.13	-2.42	0.00	25.50	17.75	43
Gallagher Arthur J. & Co.	NYS	30.25	0.83	-2.42	39.50	29.13	177
Hilb, Rogal & Hamilton	NYS	13.25	0.00	0.00	14.00	11.38	77
Kaye Group Inc.	NDQ	5.13	0.00	-2.38	7.75	4.63	0
Marsh & McLennan	NYS	107.38	2.14	3.25	114.88	85.75	578
Poe & Brown	NDQ	27.25	2.83	2.83	27.50	22.75	5
BROKERS	AVERAGE		0.48	-0.33			
INSURERS/REINSURERS							
ACE Ltd.	NYS	59.00	-1.87	-1.87	61.25	38.00	236
Acceptance Insurance Cos.	NYS	19.00	0.66	-3.80	22.50	13.88	54
AEGON N.V.	NYS	63.50	1.20	0.40	65.13	41.13	95
Aetna Life & Casualty	NYS	75.50	-2.89	-5.63	82.50	55.38	5940
AFLAC Inc.	NYS	42.00	-0.30	-1.75	44.00	28.25	838
Allied Group Inc.	NDQ	33.25	3.70	1.92	34.25	22.38	379
Allmerica Prop. & Casualty	NYS	30.63	1.24	0.82	31.13	24.25	710
Allstate Corp.	NYS	61.88	0.81	6.91	63.25	37.38	3984
AMBAC Indemnity Corp.	NYS	66.88	2.88	0.75	69.50	45.75	588
American Bankers Ins.	NDQ	53.50	1.90	4.65	54.13	32.50	456
American Financial Group	NYS	36.88	0.34	-2.32	38.88	28.50	381
American General	NYS	40.75	0.00	-0.31	41.88	32.88	2023
American Heritage Life Ins.	NYS	26.25	0.96	0.00	27.75	19.00	92
American Indemnity/Fin'l	NDQ	10.75	0.00	4.88	13.38	9.38	0
American International	NYS	114.38	1.78	5.66	116.38	88.13	3808
Aon Corp.	NYS	63.50	2.42	2.21	64.75	47.50	1258
Argonaut Group	NDQ	29.63	2.60	-3.66	35.00	27.25	73
AVEMCO Corp.	NYS	24.50	33.33	56.80	24.50	11.75	464
Baldwin & Lyons Inc.	NDQ	18.38	0.00	0.00	20.75	14.25	13
Berkley W.R. Corp.	NDQ	47.63	-2.31	-6.16	47.63	23.13	155
Berkshire Hathaway Inc.	NYS	34700.00	3.12	1.76	38000.00	30000.00	1
Capital RE Corporation	NYS	44.88	3.16	-3.75	46.88	28.38	72
CapMac Holdings Ltd.	NYS	34.50	-0.72	4.15	36.88	22.25	44
Capsure Holdings Corp.	NYS	10.75	-2.27	-6.52	18.88	8.00	193
Chartwell Re	NYS	26.75	0.94	0.00	28.38	19.88	86
Chubb Corp.	NYS	55.50	0.45	3.26	56.75	40.88	2520
CIGNA Corp.	NYS	148.50	3.94	8.69	149.00	100.75	1339
CNA Financial Corp.	NYS	103.25	-0.96	-3.50	117.50	95.75	132
EMC Insurance Group Inc.	NDQ	12.25	0.00	2.08	14.50	10.13	4
Everest Reinsurance	NYS	26.88	-1.83	-6.52	29.50	20.13	1643
Executive Risk Inc.	NYS	37.25	4.56	0.68	42.38	26.13	59
EXEL Ltd.	NYS	39.13	3.64	3.30	40.25	31.75	1541
Fremont General Corp.	NYS	30.50	0.00	-1.61	31.63	21.50	222
Frontier Insurance Group	NYS	38.25	3.38	0.00	41.13	28.88	182
Gainsco Inc.	NYS	9.75	-1.27	1.30	11.75	8.75	214
GCR Holding Ltd.	NDQ	23.25	-1.06	4.49	27.25	21.50	353
General RE Corp.	NYS	155.25	-0.16	-1.58	170.25	138.75	1533
Gryphon Holdings	NDQ	14.75	4.42	4.42	20.25	12.00	119
Guaranty National Corp.	NYS	16.88	0.75	0.75	18.00	13.38	15
Harleysville Group	NDQ	29.75	-1.65	-2.46	31.25	24.50	41
Hartford Steam Boiler	NYS	46.38	0.00	0.00	52.50	42.75	277
HCC Insurance Holdings	NYS	27.50	0.00	14.58	32.75	16.25	433
IPC Holdings Ltd.	NDQ	23.63	-3.57	5.59	25.13	19.00	220
ITT Hartford Group	NYS	69.38	2.40	2.78	69.88	44.50	1265
LaSalle Re Ltd.	NDQ	27.50	-1.79	-5.98	29.50	19.75	74
Lincoln National	NYS	52.50	-0.24	0.00	57.00	40.75	824
Markel Corp.	NDQ	94.50	2.72	5.00	94.50	73.00	16
MBIA Insurance Group	NYS	96.00	-3.40	-5.19	104.63	70.00	556
Meadowbrook Insur. Group	NYS	24.13	8.43	14.88	34.13	15.25	81
Mid Ocean Ltd.	NYS	52.63	0.00	0.24	55.38	35.50	212
MMI Cos. Inc.	NYS	32.00	4.92	-0.78	33.38	22.00	79
Mutual Risk Mgmt. Ltd.	NYS	36.63	1.74	-1.01	37.25	26.88	196
NAC Re Corp.	NYS	34.00	0.37	0.37	40.63	28.50	320
Navigators Group	NDQ	19.13	4.79	4.79	20.25	15.63	52
Nobel Insurance Ltd.	NDQ	12.50	-1.96	-0.50	12.88	10.88	60
NYMagic Inc.	NYS	18.13	-0.68	0.69	22.00	17.00	19
Ohio Casualty Corp.	NDQ	36.88	7.27	3.87	40.00	30.00	474
Old Republic Int'l	NYS	26.75	0.47	0.00	27.75	20.13	644
Orion Capital Corp.	NYS	61.63	1.65	0.82	63.00	42.50	111
Partner Re Ltd.	NYS	32.88	-1.13	-3.31	34.50	25.63	594
Penn-America Group Inc.	NDQ	16.50	0.76	2.33	16.75	11.50	15
Philadelphia Cons. Holding	NDQ	25.75	4.04	10.75	26.25	16.75	76
PXRE Corp.	NYS	25.50	1.49	3.03	28.00	22.25	70
Reliance Group Holdings	NYS	9.38	1.35	2.74	9.63	6.50	897
Reliastar Financial Corp.	NYS	58.00	3.57	0.43	58.38	40.00	262
RenaissanceRe Holdings Ltd.	NYS	33.00	0.76	0.00	36.00	26.75	295
Risk Capital Holdings	NDQ	16.38	-8.39	-15.48	22.75	15.88	412
RLI Corp.	NYS	32.63	-2.61	-2.25	34.00	22.38	200
St. Paul Companies	NYS	61.38	5.14	4.69	61.38	50.13	1380
SAFECO Corp.	NDQ	37.50	1.35	-4.91	42.25	30.88	2778
Seibels Bruce Group	NDQ	2.34	1.35	13.64	4.25	1.88	92
Selective Ins. Group	NDQ	37.75	1.34	-0.66	38.75	31.00	32
Sphere Drake Holdings	NYS	9.88	0.00	11.27	12.88	8.13	48
TIG Holdings	NYS	34.75	4.51	2.58	34.75	26.00	764
Titan Holdings, Inc.	NYS	17.88	8.33	8.33	17.88	12.50	39
Tokio Marine & Fire	NDQ	43.50	-1.69	-6.70	69.00	43.25	91
Torchmark Corp.	NYS	51.88	2.22	2.72	52.13	40.25	468
Transatlantic Holdings	NYS	77.00	-0.48	-4.35	81.25	62.38	216
Travelers Aetna Property	NYS	37.75	4.50	6.71	37.75	23.13	1360
Travelers Corp.	NYS	50.63	11.88	11.57	50.63	28.38	8339
Trenwick Group Inc.	NDQ	47.75	2.69	3.24	56.00	46.00	324
Unico American Corp.	NDQ	10.50	5.00	-3.45	11.00	6.50	41
Unionamerica Holdings	NYS	17.13	-12.18	-3.52	20.75	14.75	32
United Fire & Casualty	NDQ	32.50	-6.47	-7.80	40.00	28.25	9
Unitrin	NDQ	53.25	0.47	-4.48	56.38	44.25	167
UNUM Corp.	NYS	75.38	3.25	4.33	75.38	55.38	749
US Facilities Corp.	NYS	19.75	2.60	0.64	20.50	14.88	44
USF&G Corp.	NYS	21.38	0.59	2.40	21.88	14.25	1756
USLIFE Corp.	NYS	35.50	1.43	5.77	36.25	26.88	923
Washington National	NYS	28.13	0.45	2.27	30.75	25.13	102
Zenith National Ins.	NYS	27.00	0.93	-1.37	28.88	21.63	38
Zurich Reinsurance Centr.	NYS	37.75	22.76	20.80	38.75	28.38	1773
INSURERS/REINSURERS	AVERAGE		1.66	1.97			
HEALTH MAINTENANCE ORGANIZATIONS							
FHP International	NDQ	36.44	0.17	-1.85	37.75	21.75	3978
Healthsource Inc.	NYS	13.50	6.93	2.66	40.88	9.75	1709
Humana Inc.	NYS	18.00	-4.00	-5.26	28.88	15.00	4912
Oxford Health Plans	NDQ	54.50	-5.63	-6.94	62.25	27.69	15518
Pacificare Health Sys.	NDQ	74.88	-4.31	-7.85	98.75	59.63	385
Safeguard Health Enter.	NDQ	16.88	-3.57	-3.57	22.50	11.50	62
Sierra Health Services	NYS	26.50	4.43	7.61	36.00	22.38	663
United Healthcare Corp.	NYS	43.25	-5.98	-3.89	69.00	30.00	7120
Wellpoint Health Networks	NYS	34.75	-2.11	1.09	39.13	23.38	746
HMOs	AVERAGE		-1.56	-1.98			
ALL COMPANIES	AVERAGE		0.19	-0.11			

Top advancing issues: AVEMCO Corp., Zurich Reinsurance Centr., Travelers Corp. Leading decliners: Unionamerica Holdings, Risk Capital Holdings, United Fire & Casualty. Most active issue: Oxford Health Plans. The BI Index rose 0.2%; the Dow Jones 30 Industrials gained 1.9%; the S&P 500 increased 2.2% and the NYSE Composite gained 2.1%. Average P/E: Brokers, 15.3; Insurers/reinsurers, 32.7; HMOs, 32.5.

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