

Business Insurance

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Updates

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Xerox divests Coregis unit, adding to GE Capital's portfolio

CHICAGO—Four months after Xerox Corp.'s \$2.7 billion sale of its Talegen Holdings Inc. property/casualty insurance operation fell through, Xerox has begun its piecemeal divestiture of the operation by selling Chicago-based Coregis Group Inc. to GE Capital Corp. for \$450 million.

The sale price for the largest Talegen underwriter consists of \$375 million of cash and \$75 million of debt assumption, according to a Xerox spokesman. He and a GE Capital
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Insurers not at whim of stock downturn

By JUDY GREENWALD

Because stock investments represent only a relatively small part of insurance companies' investment portfolios, a stock market downturn is unlikely to have a dramatic impact on insurers.

Indeed, a rise in interest rates—which could well accompany a stock market downturn—could have a more significant impact on insurers because it would reduce the value of insurers' bond holdings, which are far greater than their stock investments, market observers say.

According to Oldwick, N.J.-based A.M. Best Co., as of year-end 1995, about \$90 billion of the industry's \$673 billion in total invested assets, or about 13%, was invested in the common stock of non-affiliated companies.

As a result, even a 30% stock market correction would have a "very limited impact on individual insurers," said Eric Simpson, vp in Best's property/casualty department.

Mr. Simpson said only about 150 insurance groups, or about 12% of the total of 1,200 insurance organizations, have more than
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Captive insurers rethink market moves

By JOANNE WOJCIK

Captive insurers, whose investment strategies have demonstrated an increased tolerance for risk over the past few years, are rethinking their market moves in anticipation of a potential correction.

Some captive owners already have begun restructuring their portfolios not only to protect their investments from a market plunge but also to take advantage of the opportunities a downturn would present. While traditional insurers have to worry about demonstrating to the public the liquidity of their investments in case assets are needed to pay claims, captives can afford to be more heavily invested in stocks.

"They just have to worry about their own parents," said Sean Mooney, senior vp at the Insurance Information Institute in New York.

"In general terms, a captive that's not a publicly traded entity (but has) the same capitalization as a publicly traded entity can afford a somewhat riskier and more long-term oriented investment strategy," said Anders Ekernas, president of ABB International Management Corp. in Stamford, Conn. ABB is an investment manager whose clients include captives and other insurers.

And, "a strongly capitalized single-parent captive can be more aggressive than a group captive," he added.

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M&M in talks for Minet

CECAR stake, Minet negotiations put M&M on acquisition path

By SALLY ROBERTS and MARIA KIELMAS

NEW YORK—After standing on the sidelines of merger mania during the past few years, Marsh & McLennan Cos. Inc. is on the offensive.

The New York-based broker last week confirmed it is in negotiations with The St. Paul Cos. Inc. to acquire London-based broker Minet Group. One week earlier, M&M acquired a 41% interest

in French broker Cie. Europeenne de Courtage d'Assurances et de Reassurances.

Neither St. Paul nor M&M would comment about a pending transaction, only to affirm they are in negotiation regarding the sale of Minet's brokerage operations, excluding wholesale unit Swett & Crawford Group and Australian reinsurance broker Minet Burn Roche.

St. Paul retained Goldman Sachs International last August to

assist it in examining strategic alternatives for Minet, which has struggled financially over the past few years (*BI*, Sept. 2, 1996).

Late last year, Alexander & Alexander Services Inc. entered a bid to buy Minet from St. Paul but withdrew it when Aon Group Inc. offered to acquire A&A for \$1.23 billion in cash (*BI*, Dec. 16, 1996).

After the Aon/A&A combination was announced, rumors in the market ran rampant that M&M, which also had been in the bidding for Minet at the time, would be quick to step in and close a deal, especially because
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Kemper exec has eye on risk

By MARK A. HOFMANN

LONG GROVE, Ill.—Managing exposures arising from the shift to a service-based economy might be the biggest challenge facing risk managers today, says the new president of Kemper Insurance Cos.

The general shift away from manufacturing poses an array of new risks to be assessed and managed by risk managers, who already are very concerned with controlling their loss costs, he says.

William D. Smith, who became the Long Grove, Ill.-based insurer's president and chief operating officer in September, brings a risk manager's perspective to his new job.

He became corporate director of risk management at Sears Roebuck & Co. in 1983 and four years later assumed the additional responsibilities of corporate finance/corporate director of risk management, a position he held until 1990, when he joined American International Group Inc. He served as AIG's executive vp-domestic brokerage group immediately before he joined Kemper.

Mr. Smith, 52, said he had a "great time" at AIG, but the Kemper position was "an opportunity I

couldn't pass up—it was just that simple."

"Ten years from now, Bill will be in charge," said David B. Mathis, Kemper's chairman and chief executive.
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Kemper CEO David Mathis, left, and President William Smith understand the challenges facing risk managers.

Hospital tracks risks for savings

By RODD ZOLKOS

OAK PARK, Ill.—Combining the mutual goals of risk management and quality management along with developing a method for quantifying potential losses has helped a Chicago area hospital reduce its cost of risk.

At the heart of the program at West Suburban Hospital Medical Center in Oak Park, Ill., are various mechanisms for generating information on problems that ultimately could result in claims, an atmosphere in which hospital physicians and staff are encouraged to report those problems and a database for compiling and tracking the information that is collected.

That information is critical to convincing insurers the hospital is a low risk. At the same time, it helps hospital officials identify ways to improve the quality of the service provided to West Suburban's patients. And that improved quality provides an additional reward in the risk management process.

"Quality helps us build defenses," said Melinda S. Malecki, West Suburban's director of risk management/legal services.

West Suburban's efforts were driven by a recognition of the need to reduce the hospital's self-insured retention and its overall cost of risk, Ms. Malecki said. Five years ago, the hospital had a \$3 million

self-insured retention on its occurrence-based liability coverage.

"This hospital, like many hospitals, doesn't make that kind of money that we could fund that \$3 million retention or pay out \$3 million on a claim," she said. "That was our biggest fear, that we would have to pay out a \$3 million claim."

The aim of its information-gathering effort was to
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Diagnosing problems

Source of investigations



194 investigations between 9/1/95-8/31/96
Source: West Suburban Hospital Medical Center

GRAPHIC BY ADAM DOI

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Updates

Xerox sells Coregis Group

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spokesman would not provide details on the debt GE Capital would assume if regulators approve the deal. Coregis' 1996 gross premium volume was \$423 million. It ended the year with \$271 million of statutory surplus.

Insurer rating agency A.M. Best Co. likely will issue a ratings update on Coregis, which specializes in public entity coverage, later this week, said Eric Simpson, a vp in Best's property/casualty insurance division. But, noting that Best's recent formal review of Coregis showed "business persistency and stability," he suggested that Coregis' A rating would be affirmed with at least a stable outlook.

After Xerox's \$2.7 billion Talegen deal with Kohlberg Kravis Roberts & Co. fell apart in September, Best reaffirmed the A rating with a negative outlook because of its concerns about potential market disruptions after the busted deal, ownership uncertainty and insurer competition.

Mr. Simpson said the sale creates "some potential business opportunity" both for Coregis and GE Capital unit Financial Guarantee Insurance Corp., which writes financial guarantee coverage for municipalities, if they can cross-penetrate their overlapping markets. The acquisition also broadens GE Capital's stable of insurance products, GE said.

Based on Coregis' third-quarter 1996 statutory net income of \$2.2 million, the sale price is "significant," said John Wicher, a managing director with San Francisco-based investment bank Russell Miller Inc., which specializes in insurance. "But again, this is a specialty company," he said. He noted that specialty insurers are "the darlings" of the property/casualty industry because of their superior performance compared with the industry as a whole. Xerox said the sale price exceeds Coregis' book value "and is consistent with the estimated value for the unit when Xerox discontinued insurance operations in 1995."

Another "important story" surrounding the acquisition is GE Capital's growing stake in the insurance industry, Mr. Wicher said. GE Capital Corp., which owns Overland Park, Kan.-based Employers Reinsurance Co., also recently bought two life insurers from Aon Corp., Life Insurance Co. of Virginia and Union Fidelity Life Insurance Co.

S&P refines ratings system

NEW YORK—Standard & Poor's Corp. is refining its insurance company rating procedures with new tests to measure insurers' exposure to catastrophe losses.

Under the new method, S&P will estimate an insurer's gross exposure to a hypothetical \$20 billion in industry cat losses. The rating agency then will calculate the insurer's net exposure after factoring in reinsurance recoveries and other alternative risk financing tools, such as bank lines of credit or capital markets products.

An insurer's ability to withstand cat losses then will be measured using three ratios:

- A catastrophe exposure ratio comparing net cat exposure with consolidated statutory surplus. An insurer with a AAA claims-paying ability rating, for example, should have a net cat exposure less than 15% of surplus, while a company rated AA should have an exposure between 10% and 35% of surplus, according to S&P.
- A catastrophe recovery ratio comparing net catastrophe exposure to average pre-tax income over three years.
- A catastrophe liquidity ratio comparing net cat exposure to liquid assets.

The first ratio is the best overall measure of an insurer's exposure, while the latter two focus on its ability to pay cat losses, S&P says.

S&P has set benchmark ranges for each ratio in each of its rating categories; insurers whose ratios are outside the benchmark ranges and who are not taking "appropriate" steps to address the exposure could be subject to downgrades. Because many insurers have taken such steps in recent years, though, S&P expects most companies will fall within the benchmark ranges.

The 20 largest property/casualty companies showed a wide range of gross exposures, according to S&P. Allstate Insurance Group, with \$9.4 billion in year-end 1995 surplus, for example, had a gross cat exposure of \$3 billion; by contrast, Berkshire Hathaway Group, with \$19.4 billion in 1995 surplus, had a gross cat exposure of \$84 million.

S&P will use the new catastrophe tests for both claims-paying ability ratings and—with some modifications—for qualified solvency ratings, according to Managing Director Alan Levin.

Travelers/Aetna profits drop

HARTFORD, Conn.—Travelers/Aetna Property Casualty Corp. reported net income of \$390.5 million for 1996, down 6.8% from \$419 million for 1995.

The net income, however, reflects \$422.5 million in 1996 net charges related to Travelers' acquisition of Aetna Casualty & Surety Co. Aetna's results are included only from April 2. The combined company reported \$8.2 billion in revenues, up 79.4% from \$4.57 billion in 1995.

For commercial lines, total net premiums for the year were a combined \$4.67 billion, down 9.3% from a combined \$5.14 billion last year.

Chairman and Chief Executive Officer Robert I. Lipp said the market is competitive, and "our assumption is that that is not going to substantially change. Our real effort is to try to get our expenses and claims operations in superior shape so we can compete in this kind of marketplace."

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Errors & omissions

• A Jan. 20 brief incorrectly stated that a federal judge had dismissed racketeering charges in a case involving a defunct insurer. The judge in San Diego has refused to dismiss racketeering charges filed by a proposed class of First Assurance & Casualty Co. policyholders against Samuel B. Love, Marvin Lewis and others allegedly responsible for the company's collapse (BI, Jan. 6). The judge dismissed similar racketeering claims filed by First Assurance's bankruptcy trustee.

Networks aim at customer service

Goal is quicker information access, delivery to clients

By SALLY ROBERTS

Organizers of two brokerage networks hope to put recent challenges behind them and fulfill the networks' potential to improve customer service in the coming year.

The World Insurance Network, an electronic network formed by the world's six largest brokers,

and ExcelNet, a global network spearheaded by Acordia Inc. and Bain Hogg Group P.L.C., both debuted in late 1995 (BI, Sept. 11, 1995).

Since then, the networks have faced some stumbling blocks on the road to their goal of improving client services via quicker access to and delivery of information.

WIN, which initially expected to launch its electronic network during the second quarter of 1996, met with organizational challenges that have delayed its expected rollout.

ExcelNet was up and running

smoothly until two of its partners were acquired in late 1996, forcing a search for a new partner in London and France.

WIN is owned equally by Alexander & Alexander Services Inc., Aon Corp., Johnson & Higgins, Marsh & McLennan Cos. Inc., Sedgwick Group P.L.C. and Willis Corroon Group P.L.C.

The electronic network was formed to improve communication among insurers and brokers, and thereby boost efficiency and productivity. The network is open to other brokers and insurers on process

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ISO predicts 40% revenue rise

By GAVIN SOUTER

NEW YORK—The newly for-profit Insurance Services Office Inc. will increase its revenues by 40% by the year 2001, predicts Fred R. Marcon, ISO's chairman, president and chief executive officer.

ISO will increase the revenues from \$250 million in 1996 to \$350 million in five years by providing new and improved services rather than increasing ISO's fees, he said at the New York-based organization's first meeting of ISO-partic-

ipating insurers since it became a for-profit entity Jan. 1.

"We will increase revenues by increasing our real value to our customers. We will not achieve revenue growth just by charging you more for what you're already getting," Mr. Marcon said.

Participation fees will remain at 8/100ths of a cent per premium dollar or less for the next five

years, he said.

"Revenue growth from new products and services and new markets will be the basis of improving ISO's profitability and value for our shareholders," Mr. Marcon said.

ISO historically has provided core services that include prospective loss costs, policy forms and specific-property information, he said.

New services will include information in addition to pricing and underwriting information across

See ISO on page 27

Lukewarm reception for Superfund bill

By MARK A. HOFMANN

WASHINGTON—Superfund reformers are encouraged that a legislative proposal for making the pollution liability system fairer is getting attention so early in the congressional session, but some contend the measure does not go far enough.

S. 8, the Superfund Cleanup Acceleration Act, does not call for comprehensive relief from retroactive liability. Instead, the bill would provide liability relief for certain small businesses, municipalities and transporters of waste to Superfund sites. It also would create a new mandatory but non-binding system of allocating liability for others found responsible for cleaning up pollution.

The bill is one of 10 priority bills unveiled by the Senate Republican leadership last week. Business interests disap-

pointed in the limited nature of the Superfund reform proposal are taking some solace, though, in the importance the Senate leaders have placed upon another long-sought reform: product liability. The product liability reform bill that passed both houses of Congress last year, H.R. 956, only to fall to the president's veto, has been resurrected as S. 5—the Product Liability Reform Act—to kick off another round of debate on federal product liability standards.

No companion measure to either bill has been introduced in the House.

Insurers say that while the Republican leadership's decision to move quickly on Superfund is welcome, much remains to be done with the measure, the chief sponsors of which are Sens. John Chafee, R-R.I., and Robert Smith, R-N.H.

See Superfund on page 26

U.K. woman wins RSI case

NEWCASTLE UPON TYNE, England—Eagle Star Insurance Co. may appeal a U.K. court's record-setting repetitive strain injury award to a machinist.

After a three-day hearing, Judge Moreland in the Newcastle upon Tyne High Court awarded Muriel Simpson £186,281 (\$304,000) in damages for pain and suffering, loss of future earnings and interest on the award. Ms. Simpson cannot perform another manual job as a result of her condition, an inflammation of the vascular supply to the elbow.

Ms. Simpson operated a toilet paper-making machine—which involved a repetitive twisting motion—at the former Scott Paper plant in Northeast England for three years before retiring in poor health in 1990. Eagle Star was the insurer for Scott Paper, which has since been purchased by Kimberly-Clark Ltd.

Owen Tudor, legal services officer for the Trades Union Congress, a labor organization in London, estimated there are 2,000 cases of RSI settled out-of-court in the United Kingdom every year.

—By Sarah Goddard

Inside

• Employers should look at their own efforts before sounding the alarm on rising health care costs, this week's editorial says. **PAGE 8**

• Germany's Gerling Group is reorganizing its North American reinsurance business in hopes of introducing financial products and strengthening its rating. **PAGE 19**

• London is watching for a shakeup in the wake of Aon's acquisition of Alexander & Alexander. **PAGE 19**

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Companies not waiting for ergonomic standards

By MEG FLETCHER

CHICAGO—Many companies are voluntarily addressing a wide range of workers' musculoskeletal problems without waiting for federal or state governments to adopt ergonomic standards they would be required to follow.

Representatives of dozens of companies, unions, university researchers and consultants met recently in Chicago to share information about effective ergonomics practices and programs as part of a proactive approach to resolving problems.

The conference was organized primarily by the National Insti-

tute for Occupational Safety and Health and the Occupational Safety and Health Administration.

Participants supported proactive activities as a way to improve worker productivity and ultimately reduce companies' costs, including workers' compensation claims. However, many also acknowledged the continuing scientific controversies, including the extent to which ailments are caused by workplace exposures as well as how best to prevent them.

"Whatever the controversy,

there is a need to move past the controversy and solve the problem," said Dr. Linda Rosenstock, director of the National Institute of Occupational Safety and Health in Washington.

Many major U.S. indus-

tries—"from assembling autos to disassembling chickens"—

face a significant problem due to musculoskeletal injuries and illnesses that affect workers' lower

backs and upper extremities, often because of repetitive motions, speakers said.

In many cases, "workers and employers have recognized the scope (of problems) for a long time and are trying to do something about it," Dr. Rosenstock said.

The size of the problem is significant, according to NIOSH's statistics.

Back disorders among U.S. workers in 1993 accounted for 27% of all non-fatal occupational injuries involving days away from work. An average lower-back

workers' compensation claim costs \$8,300, more than twice the \$4,075 average cost for all of compensable claims combined.

In addition to lower-back injuries, many companies are concerned about musculoskeletal disorders affecting the soft tissues of a worker's neck, shoulder and arms. Ailments include tension neck syndrome, tenosynovitis and carpal tunnel syndrome.

In 1994, 332,000 musculoskeletal disorders due to repeated trauma were reported in U.S. workplaces, representing 65% of all illness cases reported to the Bureau of Labor Statistics.

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face a significant problem due to musculoskeletal injuries and illnesses that affect workers' lower

Tort liability exposure seen from state's welfare reform

By ROBERTO CENICEROS

As states look to get welfare recipients working, employers are concerned about potential tort liabilities associated with hiring people unaccustomed to workplace culture.

While business associations in some states are just beginning to discuss those concerns, the California Chamber of Commerce already plans to propose legislation that would limit an employer's liability for wrongful termination when firing former welfare recipients.

Between 15% and 20% of recipients have relied on welfare for more than five years, according to Fred Main, who is general counsel for the California Chamber of Commerce.

"They have very little connection

to the workforce and need a significant amount of help learning how to show up on time and the culture of work," he said.

"When you are hiring an additional 200,000 to 300,000 individuals who have had less of a connection to work, some of them are not going to work out," Mr. Main observed.

Without some form of tort relief, California's employers will be reluctant to find additional jobs needed for hundreds of thousands of potential workers whose benefits will end under state and federal reform efforts, Mr. Main explained.

"California is an easy state to bring and win employment litigation cases already," he said. "So most other states wouldn't

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Medical device makers find ample cover for product risks

By MICHAEL BRADFORD

SUNNYVALE, Calif.—Products liability coverage is plentiful for manufacturers of medical devices, in spite of the big-claim potential of some of their products.

While incidents like the recent deaths of two patients implanted with cardiac defibrillators manufactured by Ventritex Inc. still generate headlines, they aren't having much effect on coverage availability and price, insurance market experts say.

Claims also are low, perhaps in part because of industry efforts to defend their products against those claims.

"There seems to be an adequate amount of coverage and limits," said Thomas A. Konopka, senior vp at MEDMARC Mutual Insurance Co. in Fairfax, Va. "Availability and price are not an issue anymore."

In the case of Ventritex, the Sunnyvale, Calif.-based company says it is adequately insured to cover claims that might result from the patients' deaths. The deaths—one of which occurred earlier this

month—occurred apparently because defibrillators implanted in the patients failed and caused their hearts to beat too rapidly.

"What is unusual about the failure is that the devices were in the patients for two years and there were no problems," said Mark Meltzer, general counsel at Ventritex. "It's not what you would expect."

The company's product liability coverage is written under an arrangement whereby National Union Fire Insurance Co. of Pittsburgh, Pa., provides limits of \$5 million and in turn cedes \$2 million of that to MEDMARC.

Mr. Meltzer said Ventritex assumes a \$250,000 per-occurrence deductible with a \$1 million aggregate.

No claims had been filed related to the deaths of any of the approximately 5,600 units Ventritex installed in patients as of last week, Mr. Meltzer said. Most of the units can be reprogrammed in a doctor's office, but some that are identified with defects may have to be surgically removed.

Mr. Meltzer said it is uncertain how many might

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Capital market products may be ahead of times

By GAVIN SOUTER

NEW YORK—Market conditions will have to change before capital markets-linked insurance products arrive in force, a group of senior insurance executives predicts.

While the lack of spread available for catastrophe risks is apparent in the insurance market, other factors are holding back capital markets-based products from coming forward as a solution to the problem, the executives say.

Among factors halting rapid development in capital markets insurance products are: low insurance rates; difficulty in determining a basis risk, which is the risk that the price set for the instrument does not match the actual value if the event occurs; difficulties in pricing the product; and simple lack of experience, the insurer executives said at the Property/Casualty Insurance Joint Industry Forum held in New York earlier this month.

However, traditional insurance products do not address the problem of the high-level catastrophe risks, said Kenneth A. Froot, a professor at Harvard University and an associate at the Cambridge, Mass.-based National Bureau of Economic Research.

Little of the catastrophe exposures above \$5 billion are covered by insurers, he said.

"If you look at the higher-layer catastrophe risks, you see that

these risks are basically not very much shared," Mr. Froot said.

The trillions of dollars in the capital markets could be used to help share those risks, he said.

Several insurance executives said insurers likely will use capital markets in some way.

"It's coming," said Dennis A. Chookaszian, chairman and chief executive officer of CNA Insurance Cos. in Chicago.

But it could be 15 years before the market is widely used, he added.

"Many of the initial attempts will fail, and there will be false starts, but 15 years from now things will have changed dramatically," Mr. Chookaszian said.

CNA this month announced it planned to access capital markets through its new subsidiary Hedge Financial Products Inc., to be headed by financial futures expert Richard L. Sandor (BI, Jan. 20).

One thing holding back the development of the sector is the complexity of the risks, which increase the basis risks, Mr. Chookaszian said.

Whereas other financial products may only be affected by interest rates, insurance-based products will be affected by a wide range of catastrophe risks, so they need to be effectively aggregated before they can be transferred to capital markets, he said.

The constantly changing risk exposures and price of the cover-

See Forum on page 12

London market exclusion gets hearing in Delaware

By DAVE LENCKUS

WILMINGTON, Del.—The Delaware Supreme Court, one of the first state supreme courts that will directly interpret the London market's sudden pollution exclusion, will review a lower court's finding that the exclusion bars gradual pollution coverage.

Chancery Court Vice Chancellor Myron T. Steele on Dec. 24, 1996, refused to alter his Aug. 23, 1995, summary judgment that the London market exclusion, known as NMA 1685, unambiguously bars coverage for E.I. du Pont de Nemours & Co. of Wilmington, Del. His earlier order also rejected the chemical company's argument that U.S. insurers misled regulators about the intent of the insurers' sudden and accidental pollution exclusion.

The Delaware Supreme Court, which had asked Vice Chancellor Steele to review his earlier Superior Court decision in light of an amicus brief the state filed, has asked both sides in the case to submit supplemental briefs.

Attorneys disagree over how much coverage is at stake in liability policies containing the NMA 1685 exclusion, but they agree the amount is substantial.

Twenty state supreme courts have interpreted the sudden and

accidental pollution exclusion that U.S. insurers included in comprehensive general liability policies for about 15 years until 1986. Eleven of those courts ruled either that the exclusion does not bar coverage for gradual pollution, or that insurers fooled regulators into approving the exclusion by suggesting the insurers intended to cover gradual pollution.

Some of the 20 cases involved London market umbrella or excess policies that contained the NMA 1685 sudden, unintended and unexpected pollution exclusion. In those cases, the courts often lumped the London policies in with the U.S. policies without directly ruling on the London exclusion.

But, in siding with policyholders, the Washington Supreme Court in 1994 ruled that a U.S. insurer's pollution exclusion that essentially duplicated the NMA 1685 exclusion was ambiguous.

And, in interpreting the policyholder victory on the regulatory deception issue in a New Jersey Supreme Court case, the 3rd U.S. Circuit Court of Appeals in June 1996 ruled that the state court's finding also applied to the London market's exclusion. The 3rd Circuit noted that London markets did nothing to clear up regulators' misconcep-

tions about the exclusion.

In September 1996, the Delaware Supreme Court asked Vice Chancellor Steele to review his 1995 decision in light of the state's brief and other submissions filed with the state's highest court. Litigation in Delaware proceeds directly to the state's Supreme Court from trial courts.

In his latest ruling, Vice Chancellor Steele refused to link the regulatory histories of the U.S. and London pollution exclusions, noting that the London market submitted NMA 1685 for regulatory approval only in Kentucky and Illinois. The judge said that DuPont bargained for that language in its policies.

Vice Chancellor Steele said the state also suggested that his earlier opinion could lead to heavier tax burdens on state residents if policyholders could not bear the full cost of pollution cleanups.

"It is not for the court to rewrite the parties' insurance agreements in order to redistribute financial responsibility under the pretense of promoting an alternative social contract," the judge wrote.

E.I. du Pont de Nemours & Co. vs. Admiral Insurance Co. et al., Delaware Superior Court; No. 89C-AU-99.

Hospital

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prove that the hospital was a good enough risk that it could get insurance at a lower retention and still an affordable price. "To do that, we had to go to the excess carriers and show why we are low risk," Ms. Malecki said.

Ultimately the effort proved successful, and for the past three years West Suburban has had a \$1 million self-insured retention on a claims-made excess liability program with The St. Paul Fire & Marine Insurance Co. with limits of \$25 million per occurrence/\$25 million aggregate.

West Suburban and nearby Loyola University Medical Center in Maywood, Ill., which joined forces in a health care network arrangement last year, together will save an average of \$2.7 million annually on their three-year jointly marketed general and

professional liability program because of West Suburban's efforts, said Ms. Malecki. Loyola currently does not have a similar risk management and quality improvement effort in place.

West Suburban's comprehensive program involves monthly peer quality review for every department in the hospital, including physicians.

"Part of our success here at West Suburban is driven by the fact that our medical staff participates in the review process," said Jane A. Matz, director of quality/utilization management and administrative director of medical staff services at the hospital.

In developing the quality management peer review system the hospital's quality and risk management staff worked closely with the medical staff to develop trust and open lines of communication.

"This is something that is not easy to do," Ms. Matz said. "Things hap-

pen. Bad things happen to people in hospitals some times. You don't mean for them to happen but they do."

The hospital indemnifies physicians for any legal issues that might arise from their doing peer review in good faith.

"In addition to the medical staff support we also have the support of the board of directors," Ms. Malecki said.

The board has its own quality management committee, and board member Marianne Schiavone, the quality panel's chairwoman, recalls that when she first joined the hospital's board she and other board members typically would not learn of problems until they became lawsuits.

"The sharing of information makes it easier for any mistake to be rectified," Ms. Schiavone said. And if a mistake can't be corrected, at least hospital staff can learn from it and prevent it from happening again.

The board's quality management

panel meets monthly to discuss particular incidents. Sometimes it asks various quality improvement teams established throughout the hospital to re-examine issues if board members believe the team didn't capture the nature of the problem, Ms. Schiavone said.

"If you look at something closely enough you end up with a result that you can take to a completely different area of the hospital and say, 'Look what we found. Can this be made to apply to you?'" the board member said.

The result of examinations by groups representing all aspects of the hospital is that referrals of events to be investigated as potential liabilities come from throughout the West Suburban organization.

An emphasis like West Suburban's on gathering incident information and tracking them before they turn into claims is an approach gaining popularity with hospitals, said Ed-

ward M. Wrobel, a principal with Tillinghast-Towers Perrin in Westport, Conn.

"We are seeing more and more hospitals try to do that. I think it's a beneficial type of program," he said. "The real key, of course, is responding to that information and being able to implement risk management practices that lead to a reduction in losses."

At West Suburban, information on events that are investigated is compiled in a database that provides the mechanism for quantifying possible claims in the future.

Together, the review process and the database make it possible to offer detailed information to the hospital's excess carrier, a particular concern since the hospital switched to claims-made coverage, said Nancy Jarasek, West Suburban's assistant director of risk management, who is responsible for maintaining the database.

"We have a very high level of reporting to our excess carrier so that they have a comfort level with what is out there," Ms. Jarasek said. The database includes information the excess carrier might want on any sort of claim situation and allows various permutations of that data.

Ms. Jarasek reports monthly to the carrier on potential claims as well as cases that have been filed. "I think this shows the carrier that we are seriously watching our risk," she said.

Collecting that data and quantifying potential claims "is very time consuming," Ms. Malecki conceded. "But if you are a qualified risk manager this is something that is not difficult to do."

She noted that out of seven lawsuits filed against the hospital in a 12-month period, the hospital was able to alert its excess carrier to five of them even before they became suits.

"That's something that's important to report to underwriters," Ms. Malecki said. "What we're talking about is an early warning system."

"We knew that in meeting with the underwriters we could really capitalize on all the information that was being produced by West Suburban," said Eileen M. Oswald, senior vp of healthcare risk management at Chicago-based Near North Insurance Brokerage Inc., West Suburban's broker.

The management of its early warning system and the statistics that were being developed were key elements of West Suburban's successful efforts to lower its retention, reduce its premiums and switch to claims-made coverage, Ms. Oswald said.

Tillinghast-Towers Perrin's Mr. Wrobel noted that it's difficult for hospitals to try to quantify potential claims, but the kind of database West Suburban has constructed can make it possible.

"In medical professional liability in particular it's not an easy task to put a hard dollar amount on it because there's such a long time lag. A claim may not be paid out for a long time after an incident occurred," he said.

"(But) they're tracking incidents so they're looking at things even before they become claims and a large number of things probably will never become claims, but a keen risk manager can identify similar kinds of events and see what they have turned into."

Ms. Malecki said West Suburban has relied heavily on Near North in its efforts to reduce its liability insurance costs, and Linda Milliken, a vp in Near North's health care division noted that the broker saw its task going beyond reducing the hospital's excess liability premiums.

"We're real clear on the fact that the excess premiums that the system pays to the underwriter are a much smaller piece of what their total cost of risk is and we feel if we don't do something to affect that total cost of risk then we're not doing our job as a broker," Ms. Milliken said. **B1**

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Devices

Continued from page 3

have to be removed. "It's not really clear what the number will be. Estimates are ranging from 5% to 10% of the total, but that could be lowered if an analysis pinpoints which lot of devices contained the defect.

Much of the product liability coverage for medical device manufacturers is written in the surplus lines market.

"The top 15 to 20 surplus lines markets would all be markets for medical products," said Ron Austin, senior vp at General Star Management Co. in Stamford, Conn.

A sister company, surplus lines insurer General Star Indemnity Co., writes medical products liability coverage to limits of \$25 million. "You certainly can get limits on top of that without any difficulty," Mr. Austin said. "It wouldn't be difficult to find \$25 million excess of \$25 million."

"For a well-run company that makes a good submission, with a decent track record, there's coverage out there," said James A. Freeman III, president of Litigation Management Specialists Inc., a Nashville, Tenn.-based risk management consulting firm whose specialties include medical devices.

"For a new company with a product that has no track record, it may be difficult to find that," he added. "But that's not impossible by any means."

Coverage prices depend on the medical product.

"When you talk about medical devices, it could be anything from tongue depressors to defibrillators," said Mr. Austin. "There is a very wide band of exposures" and a "wide disparity of rate," he added.

Mr. Konopka pointed out that some risks, like permanent implants, "provide a greater challenge" in finding adequate limits at a price that will satisfy a customer, but for most products, "generally speaking, pricing is coming down."

While insurers are willing to provide capacity for products liability coverage, they are not as keen to insure against the risk of recalling a medical device.

Ventritex's coverage with National Union and MEDMARC, for example, pays bodily injury and property damage claims if the manufacturer is found to be negligent. It does not cover the cost of a recall of the defibrillators, according to Mr. Konopka.

"We don't provide recall coverage," he added. "And, where I've seen it, it is inadequate and costly."

The coverage is available, said Mr. Austin, but General Star Indemnity does not provide it.

And, despite the news of high-profile problems like those related to breast implants, the frequency of claims related to medical devices is not a big problem, experts say.

"Claim frequency overall seems to be dropping, regardless of what area you are in," said Mr. Freeman of Litigation Management Specialists.

One reason for fewer claims is the "vigorous defense of cases by the medical device industry," he said, which is causing claimants to consider the cost of bringing suits that may lack merit.

Estimates aren't available on the cost of removing or reprogramming the devices, Mr. Meltzer said, adding that sufficient coverage is in place to respond to patient claims.

And manufacturers are doing as much as they can on the risk management side to limit the chance of problems with devices, Mr. Free-

man pointed out.

Manufacturers have to meet U.S. Food and Drug Administration requirements before some devices can be sold, and "the best risks don't stop with the FDA requirements," according to Mr. Freeman.

"They look for other things that can be done to reduce the risk," like beefing up product warnings beyond the standards that the Food and Drug Administration requires, he added.

Mr. Austin emphasized that manufacturers have to be certain that product distributors—whether in-house or outside vendors—do not misrepresent the product to

customers.

The loss experience at Kinetic Concepts Inc. of San Antonio bears out the notion that claim frequency is not a big problem among most medical device manufacturers.

Kinetic Concepts manufactures and markets therapeutic hospital beds and medical devices that help correct circulatory problems, pulmonary complications and other medical conditions in patients who are immobilized.

"Product liability losses have been minimal over the 20-year history of the company," according to Melvin A. Millsap, director of benefits and risk management. "Risk

management at KCI involves strong adherence to Occupational Safety and Health Administration and federal drug administration standards."

Kinetic has insured the product liability exposure in its Cayman-based captive, KCI Insurance Co. Ltd. for five years. Fronting services for the captive are provided by American International Group Inc. units Insurance Co. of the State of Pennsylvania and National Union.

The captive, which also insures the company's automobile liability, workers compensation and general liability exposures, retains the first

\$500,000 of risk while AIG provides excess coverage and \$30 million in umbrella coverage.

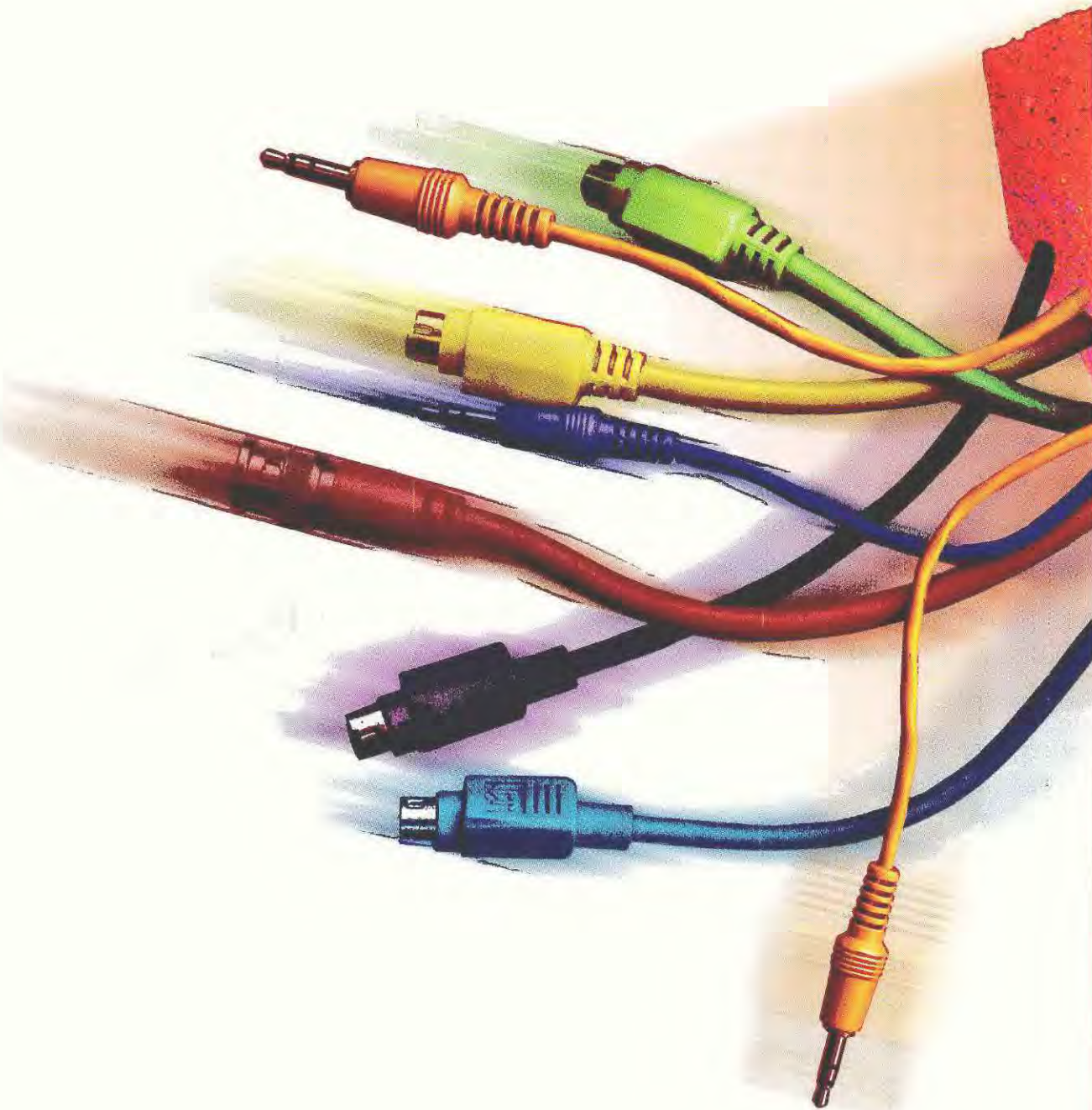
"Manufacturers are doing everything they can to limit the risks," said Donnell Rice, general counsel at the Washington-based Health Industry Manufacturers Assn.

However, there is no way to eliminate the risk associated with some products, particularly implant devices, she acknowledged.

Research, testing and educating doctors and the public on how to use devices are ways to limit risk, Ms. Rice said. "But you have to realize some devices are inherently risky." **EI**

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Minet

Continued from page 1

Aon now eclipses M&M as the world's largest retail broker and reinsurance intermediary.

Market observers generally were not surprised by the announcement, noting Minet has been on the block for some time, but some stock analysts questioned M&M's motives for buying Minet.

Minet posted a pretax loss for the fiscal year ended Sept. 30, 1995, of \$13 million, a 30% larger loss from a \$10 million loss in fis-

cal 1994. Revenues, though, were up 6.7% during the same period to \$370.9 million from \$347.6 million. 1996 results are to be released this week.

"The Marsh Mac management seems to be quite intelligent," said a London analyst who asked not to be named. It would be very risky if M&M was buying Minet for No. 1 status, he said. "It is not a very good strategic justification."

John Wicher, managing director of Russell Miller Inc. in San Francisco, said: "Marsh isn't a reactive company. Being impulsive is not Marsh's style and it's inconsistent

with its leadership."

One U.S. analyst, though, said he thinks M&M's move is wholly

'Being impulsive is not Marsh's style and it's inconsistent with its leadership,' John Wicher says.

in reaction to the Aon deals.

"Aon has been super aggressive (acquiring brokers) while M&M

has been lying there dead in the grass," the analyst said.

The U.S. analyst did point out that the sale last year of The Frizzell Group Ltd. for \$290 million does give M&M ample cash to make an acquisition. The unit, which specialized in program management business for affinity groups, was sold to Liverpool Victoria Friendly Society.

Minet also has some attractive specialty business that might be attractive to M&M, observers say. These include its professional liability program for accountants and lawyers and a directors and officers liability book for compa-

nies in the biotechnology and information technology fields.

"Minet historically is a company that provides professional coverages for accountants and the like. For Marsh, this fits in very nicely," Mr. Wicher said.

Specialty markets "appears to be the theme in consolidation," he said. And Minet's specialty businesses would "add a new complexion to Marsh's existing capabilities," he said.

M&M has said it plans to develop more "expert practices" (BI, July 22, 1996).

If the Minet deal were to close, M&M would secure its spot as the world's largest broker, with \$4.2 billion in combined gross revenues.

It also would catapult M&M back to the top spot among the world's largest reinsurance brokers. Combined, Guy Carpenter & Co. Inc. and Minet Re would have \$404.4 million in revenues. This would surpass the combined Aon Re Worldwide Inc. and Alexander Reinsurance Intermediaries Inc., whose combination ranks as No. 1 with an estimated \$396 million in revenues.

But a Minet deal would not be enough for M&M to regain its position as the world's largest retail broker. Combined, the brokers would have \$1.7 billion in retail brokerage revenues, just shy of Aon's acquisition-fueled \$1.9 billion.

Even if M&M could add the revenues from its newly acquired stake in CECAR, it would not be enough to surpass Aon.

M&M's purchase of a 41% stake in Paris-based CECAR significantly boosts the broker's presence in the French market.

M&M has bought the direct and indirect shares in CECAR that were held by Bain Hogg P.L.C., which Aon acquired last year (BI, Oct. 21, 1996). That holding consisted of a 36% direct holding in CECAR and a 10% share of CECAR Participations. The latter company is controlled by the CECAR management and owns 45% of the French broker.

CECAR had risen to be the world's 18th-largest broker, following Aon's acquisitions of Bain Hogg and A&A.

M&M already has a strong presence in France via wholly owned subsidiary Faugere & Jutheau, France's fourth-largest broker. The combination of Faugere & Jutheau and M&M's interest in CECAR, France's second-largest broker, could mean added competition for Gras Savoye S.A.

Gras Savoye is France's largest broker and has risen to No. 12 worldwide, after the recent Aon purchases.

Neither M&M nor CECAR spokesmen would reveal the price of the deal. But London stock market sources suggested the price was \$60 million, a figure that would value CECAR at \$140 million. CECAR's 1995 gross revenues were \$138.3 million (BI, July 22, 1996).

Insurance market analysts said CECAR had held talks about a possible sale of the former Bain Hogg stake with a number of brokers, including Aon.

M&M and CECAR spokesmen said it is too early to speculate about any future merger between Faugere & Jutheau and CECAR in the French market.

"There are synergies between CECAR and Faugere & Jutheau, and we hope to take advantage of them," said an M&M spokeswoman in New York.

Sarah Goddard contributed to this report.

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Opinions

Health cost outlook not hopeless

ARE EMPLOYERS' HEALTH CARE COSTS headed for a return to out-of-control, double-digit increases?

Certainly, costs are edging up again. As we reported Jan. 20, group health care costs in 1996 increased an average of 2.5%, according to an annual employer survey by A. Foster Higgins & Co. Inc. That's a bit higher than the 2.1% rise in 1995 and the 1.1% fall in costs in 1994. Surveyed employers expect even larger cost increases this year, roughly in the 4% range.

But should this be a call for alarm after years of price stability? We don't think so.

No benefit manager can realistically expect health care costs to remain frozen forever. Providers face the same inflationary pressures—wage demands, building maintenance, fuel, technology upgrades—that boost costs for other employers.

In fact, benefit managers have had something of a free ride in terms of bearing the tab for health care cost inflation in recent years. Health maintenance organizations in many areas of the country have absorbed those expenses while competing vigorously to win market share.

But in the face of deteriorating financial results, many HMOs can no longer afford not to pass such costs on to their customers.

The rate increases many HMOs are putting in this year—generally 2% to 6%—are reasonable given how their own costs have risen since 1994, which is the year when many plans last raised rates.

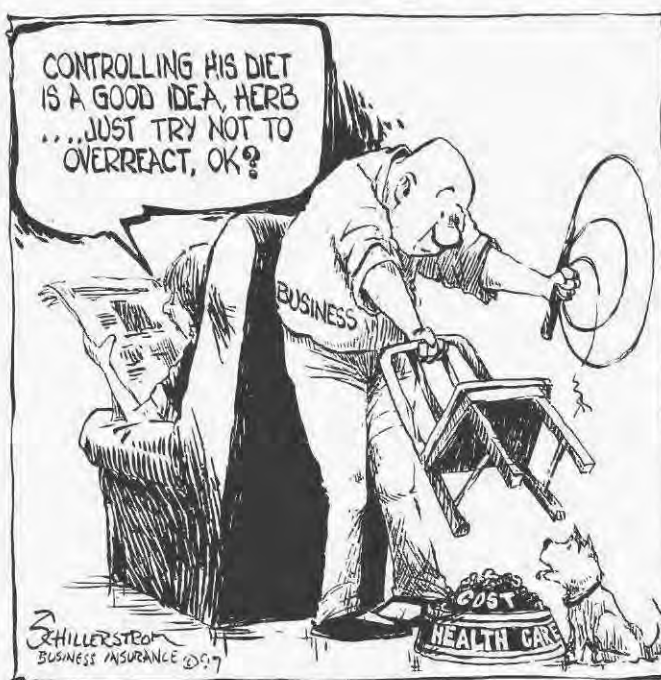
As illustration, during 1994, the medical component of the U.S. Consumer Price Index increased 4.9%. It rose 3.9% during 1995 and was up 3.0% for 1996, according to the Bureau of Labor Statistics.

While we think the new round of rate increases is reasonable and can be justified, there are some disturbing signs on the horizon that costs could climb even higher.

One is that state legislatures seem increasingly bent on pushing so-called anti-managed care measures, which, if passed, could boost health plan costs.

In addition, hospitals in many areas of the country are merging, which will reduce the leverage HMOs and other health care purchasers have during rate negotiations.

At the same, the federal government seems almost certain to scale back expected increases in Medicare



payments to providers. Those providers will no doubt try to boost fees for those covered under employer plans to compensate for the lower Medicare payments.

Before employers panic, however, they should realize there is still much they can do to restrain cost increases.

Many employers, for example, still offer too many HMOs to employees, reducing their own buying leverage with those plans. Other employers still haven't done enough—such as through plan design changes—to encourage their employees to use their managed care plans.

And yet other employers have not taken advantage of business health care coalitions in their areas, which as a group can more effectively negotiate with providers than any individual employer can.

Finally, many employers, despite having the resources to do so, have not examined provider practice patterns to determine the most effective providers in their communities, in terms of both price and quality.

In short, before sounding the alarm about a potential return to soaring cost increases, employers first have to be sure they are doing all they can to assure cost increases remain low. We think they will find they still wield considerable control over their costs.

Letters

Coverage education apparently lacking

To the editor: I read James H. Costner's article "Clauses Can Interrupt Coverage" (BI, Oct. 21, 1996) with interest. After reading the article, it confirmed why there is needless confusion among insureds and others regarding business interruption insurance. It is obvious there is a dire need for education and communication among all those involved in this phase of insurance, which is perceived to be complex but, when you step away from the trees and look at the forest, it is remarkably simple.

There has been much discussion over the need for an idle periods clause in the business interruption policy. I assume it was originally inserted to clarify and identify situations where an insured would otherwise have been idle and, therefore, would

not have manufactured products or conducted operations. This would affect the probable experience of the insured after the physical damage.

There is a school of thought that states the clause is not needed because of the basic actual loss sustained features in business interruption policies. Mr. Costner's reference to ISO's manual confirms that position.

The presence of the idle periods clause—or even when not present—does not serve to totally "avoid" coverage as the author suggests. Certain events, such as strikes, scheduled maintenance—or re-scheduled maintenance—vacations and holidays, among other factors can affect the probable experience of the insured after the loss and physical damages. If the insured would not have produced or operated during those periods, it would not have suffered a loss. To reimburse the insured for such idle periods would unjustly enrich the insured and would violate the principle of indemnity.

Does Mr. Costner believe that an insured is entitled to collect for lost production under a scenario where a fire occurs on a Friday night and the workers go on a four-week strike on Sunday night? Since the insured would not have operated during the

strike, it would not suffer a production loss. Is the insurance company avoiding payment for production that would not have occurred or is the insured, under the author's theory, if it claims a loss, collecting for production it otherwise would not have made? This situation is covered under the policy provision of actual loss sustained, whether there is an idle period clause or not. The insurer must address the property damage loss, but is there a loss of production that the insured has sustained during the four weeks of the strike? If the restoration period is longer, the insurer will give consideration to the production that would have been made during the weeks after the strike.

The industry—and that includes not just the insurers, but brokers, agents, risk managers, consultants and insureds—needs to collectively and individually address the education and communication gap that exists. Matters such as these should be addressed with the insureds and insurers as partners rather than in an adversarial manner. They should be resolved among professionals across the table, rather than in court rooms.

Chris Campos
Campos & Stratis
Teaneck, N.J.

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Stocks

Continued from page 1

50% of their assets invested in common stocks.

"For the most part, those insurers that have taken large positions in the stock market are doing so because they have not overextended themselves on the underwriting side of the business," he said.

"They'll take a long-term view of their equity holdings, as they should," which will enable them to sustain a stock market downturn, he said.

Todd Stephenson, senior vp and chief financial officer of Indianapolis-based American States Financial Corp., said that as of the end of September, the insurer had \$225 million invested in common stocks, or "just about 5% of our total invested assets, so it's not a large percentage of our investment portfolio, obviously."

A 20% stock market correction, which some financial analysts predict is likely, would amount to \$45 million pretax, which represents just 5% of American States' statutory surplus, or

3.5% of its equity on a generally accepted accounting principles basis, according to Mr. Stephenson.

American States views these investments from a long-term perspective.

With the liquidity available to the insurer elsewhere, "we would not have to sell any of those equities to be liquid," he explained.

The stock market would have to drop by a "highly unlikely" 40% to have a significant impact on insurers, said Sean Mooney, senior vp at the Insurance Information Institute in New York. He noted that 1987's 20% drop "didn't have much impact."

Other observers also point to the relatively small proportion of insurer investments in equities.

If there is a downturn, "capital will shrink, but there's so much capital out there that I don't know it makes that much difference one way or another. I don't think that's a major concern," said Harry Fong, director at C.J. Lawrence/Deutsche Securities Corp. in New York.

Insurance companies have not had a large amount of their investments in equities since the early '70s, when

there was a significant correction in the market, "and a lot of insurance companies that had substantial investments in equities lost most of their surplus," said George Yonker, vp-finance, at SAFECO Corp. in Seattle.

"I think at that time a lot of companies got out of equities and have just never gotten back in any meaningful amount," he said.

SAFECO has a policy of having no more than 20% of its investments in equities, though "it's been running closer to 15% for us than it has that 20% maximum," said Mr. Yonker, who noted SAFECO had \$593 million in unrealized gains as of the end of September.

A spokeswoman for ITT Hartford Group Inc. said about 10% of the insurer's invested assets are in stocks, with the balance in bonds. Of that 10%, 75% are in domestic common stocks and the remainder in foreign common stocks.

"We're pretty comfortable with our exposure, and we have no immediate intention to reduce that exposure," she said. "It's performed quite well for us this past year, but we're always as-

sessing the situation."

"Most of the companies I deal with take a fairly prudent approach to asset allocation with regard to equities, and I think a 20% decline is completely manageable within the context of their capital structures," said Weston Hicks, an analyst with Sanford Bernstein & Co. in New York.

"I don't think it'll help and I don't think it'll hurt," he added.

"The market's up over 50% the last two years. Many (insurers) have benefited from that increase, so you'd have to take all of that away before you'd be back to even where you started from," he said.

"I think environmental and catastrophe exposures would probably be more material" than a stock market correction, said Craig Elkind, a director at Standard & Poor's Corp. in New York. "There might be some companies out there for which this could be a ratings issue or a solvency issue, but I just don't think it's a general issue as regards the solvency of the entire industry."

However, John Keefe, a vp and analyst with Ferris Baker Watts in Bal-

timore, thinks a stock market downturn could have a serious impact.

"I think it's fair to say at least two-thirds of the increase in surplus in 1996 is a result of unrealized gains, which are marked to market, and that could vanish pretty quickly."

"When people talk about the insurance industry's low operating leverage—for every dollar of surplus there's only \$1.10 in net premiums written—people say the insurance industry has an extraordinary amount of excess capital. Well, a lot of that capital can vanish overnight."

Insurers have been harvesting realized gains over the past few years, said Mr. Keefe.

"I don't think that insurance companies will be forced to liquidate bonds and liquidate stocks in a falling market to pay for the next (major) hurricane, but I also think that when you look at the huge increases in surplus over the past couple of years, which have far outstretched the increase in premium writings, that an analyst has got to keep an eye on the equity markets and how that affects particular stocks." **BI**

Captives

Continued from page 1

Indeed, many captives have been taking advantage of the bull market.

"We've run a more aggressive portfolio over the past five years," said Marc Werner, president of Boulder, Colo.-based Manufacturers Indemnity Insurance Co., the captive subsidiary of climbing-products manufacturer Werner Holding Co. (PA) Inc. in Greenville, Pa.

But Manufacturers Indemnity's aggressive investment strategy came to an abrupt end at the beginning of this year.

With the market up more than 50% in the past 24 months, Mr. Werner decided to harvest some of his company's profits "to protect us in case there's a 25% downturn," he said.

"Although the market may remain buoyant for the next year or two, we've restructured our entire investment portfolio to be more conservative."

As part of that new conservative strategy, Manufacturers Indemnity as of Dec. 31, 1996, liquidated many of its holdings in outside money management companies and limited partnerships as well as its hedge and arbitrage funds, Mr. Werner explained.

Since the beginning of this year, 75% of the captive's assets have been redeployed into more conservative instruments, such as short-term money market funds and U.S. Treasury bonds maturing in two years or less.

The objective is to stay as liquid as possible so that Manufacturers Indemnity can take advantage of the drop in equity prices if a stock market correction occurs, Mr. Werner said.

"We're not buying any stocks and

are staying liquid so that we'll have the money available to invest when the correction occurs," he said. "From a stock trading standpoint, we'll be more nimble."

By contrast, however, the remaining 25% of Manufacturers' portfolio will be more aggressively invested, according to Mr. Werner.

He has his eye on small-cap stocks, which are those issued by small companies, and on doing some private placements with companies—"things that aren't as liquid."

Mr. Werner also plans to maintain his strategy of investing in property tax delinquent liens, which yield returns averaging 12% to 15% on investment.

"That's been a real success for us," he said. "They have a good return, short maturity and have the same risk profile as Treasury bills."

Some financial experts think Mr.

Werner's strategy is prudent.

"It's smart, said Mr. Ekernas. "They are willing to forego the higher returns in an effort to minimize or avoid the potential losses if the market were to correct," he said.

For the most part, captives usually don't spread their investment risks as well as they spread their underwriting risks, said Hugh Lamle, executive vp of M.D. Sass Investors Services Inc. in New York. The company manages funds for many large corporations, including insurers and captives.

"They tend to invest in mid-term bonds and some equities rather than in more conservative and more risky instruments," Mr. Lamle said. "It has to do with what your liquidity needs are and how well-funded you are."

"We try to have sufficient cash and short-term bonds to pay for immediate needs, such as reserves. Then, the rest goes into long-term, high-yield

instruments," he said. "By combining short-term, mid-term and long-term investments, we can make the same returns as having all long-term investments," Mr. Lamle said.

For example, as interest rates rise, the interest earned on cash investments can offset any losses from the decline in bond prices that usually accompanies interest rate increases, he explained.

Mr. Lamle also advises captive clients to spread their investment risks on a "timing" basis so each instrument matures at a different time.

"It's called diversification across time and across asset classes," he said.

Investing a captive's additional resources also can be advantageous from a tax standpoint, Mr. Lamle pointed out. A captive's stock market windfall is not subject to the same capital gains tax liability as its parent company's return on such investments would be, he explained.

But no matter what kind of hedging strategy captives like Manufacturers Indemnity employ, it's impossible to time the market, experts agree.

In fact, some investors who tried to take advantage of past anticipated stock market corrections have been burned.

"Those who've made changes in the past anticipating a correction lost a lot of money," recalled Mr. Ekernas. "They obviously have been severely penalized."

As a result, "investors have capitulated in most cases and said, 'We can't time the market and there's no point trying, so we're just going to go with the flow,'" he said.

Indeed, in the current bull market, "the environment has been such that anything but an aggressive equity investment strategy is a losing strategy," he acknowledged.

"As we have logged 35% returns in the equity markets, the temptation to try to capture that return has pulled money out of more conservative investments," he said.

Still, "this would be an extremely inappropriate time to throw caution to the wind and invest heavily in equities," Mr. Ekernas cautioned.

Mr. Lamle agreed. "We've done our own analysis, and for the stock market to get the same return as it has for the past 30 years—an average of 10.7%—earnings will have to average 8.7%—higher than ever before."

He said the highest sustained annual growth in corporate earnings to date has been 7%.

"It's unlikely we'll see the same returns," he said. "We're in for a period of slower growth."

Judy Greenwald contributed to this report.

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Forum

Continued from page 3

age is another factor that makes it difficult for capital markets to be used for insurance, said Kaj Ahlmann, chairman, president and CEO of Employers Reinsurance Corp. in Overland Park, Kan.

'There's lots of capital markets capital ready to come in, but not at the current pricing levels,' says Maurice Greenberg.

"The big problem is we are trying to price something that is constantly changing," he said.

For example, the acknowledged windstorm exposure in Florida changed dramatically after Hurricane Andrew hit the state in 1992, Mr. Ahlmann said.

"Most of us were surprised by the ultimate losses that came out of that," he said.

The most sophisticated way to deal with these changing exposures is through reinsurance, but ultimately capital markets also will play a role in spreading the risk, Mr. Ahlmann said.

The current low rates for insurance are holding back rapid development of capital markets insurance products, said Maurice R. Greenberg, chairman and CEO of American International Group Inc.

"There's lots of capital markets capital ready to come in, but not at the current pricing levels," he said.

AIG is working with several other organizations seeking to develop capital markets products, but it has little expectation of immediate success, Mr. Greenberg said.

Insurance products currently do not provide large enough returns to attract capital markets practi-

tioners, agreed William H. Bolinder, member of the corporate executive board of Zurich Insurance Group.

"The capital markets are clear right now that they don't think that the rewards are really there," he said.

The few deals that have been sealed have been extremely small, Mr. Bolinder said.

However, the size of the deals will grow, and that will lead to new problems for the insurance and reinsurance industry as capital markets target the most attractive business, he said.

"The risk that's left behind is what troubles me," Mr. Bolinder said.

Some insurance companies already are using or considering using capital markets, said some members of a later panel at the forum.

State Auto Insurance Cos. in Columbus, Ohio, buys catastrophe reinsurance and then uses other financing tools to fund risks above that coverage, said Robert L. Bailey, chairman and CEO.

"If the models we use are right, we can handle a 250-year event without hitting our surplus by more than 15%," he said.

The reinsurance industry does not provide adequate coverage for high-level losses, agreed Gary L. Countryman, chairman and CEO of Liberty Mutual Insurance Cos. in Boston.

Liberty Mutual would be interested in reinsurance coverage of \$1 billion excess of \$1 billion, but that is generally unavailable, he said.

"So we have thought a lot about concentration management," Mr. Countryman said.

The first session was moderated by Roberto G. Mendoza, vice chairman of J.P. Morgan & Co. Inc. in New York; the second session was moderated by Kathryn J. McIntyre, publisher and editorial director of *Business Insurance*. **BI**

Voluntary

Continued from page 3

For all types of repetitive stress injuries, U.S. employers spend \$20 billion annually in workers comp costs and \$100 billion on lost productivity, employee turnover and other indirect expenses, according to NIOSH.

While "no one ever died of an ergonomic injury," many workers suffer severe pain and experience a limited ability to perform basic life functions, such as brushing their teeth or lifting a child, said Gregory Watchman, who recently became acting assistant U.S. secretary of labor overseeing the Occupational Safety and Health Administration.

In the wake of Joe Dear's resignation, Mr. Watchman pledged he would continue to push for reinvention initiatives, including helping employers solve ergonomics programs and developing new ergonomic standards (*BI*, Jan. 13).

The conference is "the most important" meeting since the agencies were established in the 1970s, said Peg Seminario, AFL-CIO director of occupational safety and health. "This will move the issue out of the political arena and back to the safety and health area," she said.

During the most recent Congressional session, a rider on the OSHA appropriations bill prevented the agency from addressing ergonomic standards until the rider expired in October, she said.

Drafting ergonomics standards that can apply to several different industries is a challenging task because "there is no overriding solution to musculoskeletal disorders," NIOSH said in its draft, 116-page primer "Elements of Ergonomics Programs." The draft

manual released earlier this month, which is available to employers, is part of NIOSH's effort to improve workplace ergonomics programs.

However, NIOSH has found that effective ergonomics programs in diverse industries usually address seven steps to reduce and prevent musculoskeletal injuries.

Here is a list of those steps and some examples of companies that found them effective:

- Look for signs of a potential problem in the workplace, including worker complaints of pain or job tasks that require repeti-



tive, forceful exertions.

Having hospital orderlies redraft an ergonomics checklist to assess workplace problems was an encouraging sign because it showed they "took ownership of it," said Suzanne Rogers, an ergonomics consultant from Rochester, N.Y.

- Show management commitment in addressing possible problems and encouraging worker involvement in problem-solving activities.

Hay & Forage Industries in Heston, Kan., finds that members of a special peer review team often can help a worker solve an ergonomics problem using a step-by-step approach involving a questionnaire, videotaping and brainstorming.

- Offer training to expand management and worker ability to evaluate potential problems.

- Gather data to identify jobs or work conditions that cause the most problems. Resources can include injury and illness logs, med-



ical records and job analyses.

Minnesota Mining & Manufacturing Co. reports a 58% decrease in the number of lost-time ergonomics cases and a 22% decrease in all OSHA recordable cases from 1990 to 1996. However, it is important not to rely on a single data source such as incident rate, said Tom Albin, an ergonomist at the St. Paul, Minn.-based manufacturing giant.

- Identify effective controls for tasks that pose a risk of injury and evaluate these approaches once they have been instituted to see if they have reduced or eliminated the problem.

PPG Industries Inc. found that installing a pneumatic device to lift large drums of coatings and other paint-like products reduced injuries at its plants, said Larry Kreh, manager of ergonomics and loss prevention at

the coatings and resins unit of the Allison Park, Pa.-based company. However, a machine designed to mechanically manipulate five-gallon pails is not working as successfully, he added.

- Establish health care management to emphasize the importance of early detection and treatment of problems before impairment and disability occurs.

- Minimize risk factors for problems when planning new processes and operations.

"We don't own the design process—the engineers do. So, an ergonomist should infiltrate the design process" to prevent manufacturing machines that require workers to assume awkward postures, said Brian Peacock, manager of General Motors Corp.'s manufacturing ergonomics laboratory in Warren, Mich. "The solution in the long run is to educate engineers." **BI**

Alternative keyboards not comforting solution

By MEG FLETCHER

CHICAGO—Computer keyboard design is not a significant factor in enhancing user comfort, federal researchers found after a recent "exploratory" study.

The National Institute for Occupational Safety and Health studied 50 female clerical workers, each of whom performed typing duties over a two-day period on a conventional keyboard or one of three alternative keyboards.

The alternative units all featured a "split design," in which keys for the left hand and the right hand were on separate panels, among other differences.

The subjects reported "no significant differences between the levels of discomfort and fatigue they experienced" when using the different styles of keyboards. In all cases, reported levels of discomfort and fatigue were low.

"The findings of this study provide a vital ingredient for the further research needed to protect keyboard users effectively from upper-extremity musculoskeletal disorders," said Dr. Linda Rosenstock, NIOSH director, during a recent conference on ergonomics issues in Chicago.

"Additional research is needed to determine whether alternative keyboard designs have benefits for users over longer periods, or for workers who previously have reported symptoms of discomfort or fatigue," NIOSH said in a report on the study. "Some scientists have theorized

that changes in keyboard configuration can protect users from musculoskeletal disorders of the wrist, arm and back," NIOSH noted. As public concern about these injuries has grown, manufacturers have begun to market split keyboards in alternative designs.

"However, few studies have examined actual performance on alternative keyboards to evaluate whether they are more beneficial than standard designs in preventing discomfort, fatigue and strain," NIOSH reported.

Results of one such study, which NIOSH funded for a two-year period at Marquette University in Milwaukee, will be released soon.

Meanwhile, a few employers at the conference said they do not anticipate widespread use of alternative keyboards, though they may provide them to workers in special situations.

With alternative key arrangements, "you have a real long reach to the mouse," said Bob Morency, program developer-health for L.L. Bean Inc. in Freeport, Maine.

"Our workforce doesn't usually touch-type that much anymore," said Christopher Plott, manager-ergonomics at US West Inc. in Denver. "In fact, the tilted positioning of keys on an alternative keyboard tends to make them more difficult for a hunt-and-peck typist to see," he added.

For a free single copy of the study, call NIOSH, 1-800-356-4674.

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Ergonomics crucial to safety programs

By MEG FLETCHER

CHICAGO—Ergonomics training is an essential element of any effective safety and health program for workers at all levels, experts agree.

The overall goal of such training is to help workers identify portions of job tasks that may increase the risk of developing musculoskeletal disorders and then to participate in developing strategies or controls to prevent them.

Common forms of training focus on ergonomics awareness, job analyses and controls as well as problem-solving, according to panelists at a recent federal conference on effective workplace practices and programs.

In the past, unfortunately, the traditional approach to training usually consisted of an intense, short-term campaign that then faded away, said Stephen H. Gutmann, an ergonomics specialist with Minnesota Mining & Manufacturing Co. in St. Paul, Minn.

Such traditional programs usually were targeted toward hourly workers, dealt with a specific topic and often were superficial, he said.

"The quality revolution has shown that a different approach can work better," Mr. Gutmann said. Training "must be a process, and not just a program." It also should be tailored to a specific organization and reflect its culture, he said.

An effective training program also should address workers at all levels, he added.

For example, engineers need to understand that the tools or processes they create have an ergonomic impact on the workers and customers who use them, though very few engineers have had any training in ergonomics, he said.

Managers need to understand how to analyze injury and illness trends, as well as cope with issues that include case management, workers compensation, productivity and quality.

Supervisors need to understand the importance of encouraging workers to report injuries early, as well as how to best work with employees to define and prioritize ergonomic issues.

Hourly workers, who often serve on ergonomic teams or committees, need training so they can recognize and develop skills to analyze risks, prioritize issues, assist in finding solutions and follow up on actions taken.

3M's process-oriented approach paid off from 1990 to 1996 with a 58% decrease in the number of lost-time ergonomic cases and a 22% decrease in all cases that must be reported to the Occupational Safety and Health Administration, Mr. Gutmann said. The company also experienced significant reductions in workers compensation costs, he added.

The most effective type of training can best be done by actively involving workers rather than lecturing to them, experts say.

"Workers are, in fact, experts when it comes to identifying hazards and identifying solutions," said Laura Stock, associate director of the Labor Occupational Health Program at the Berkeley, Calif.-based University of California's School of Public Health.

The United Brotherhood of Carpenters used that idea to develop a successful training program for ap-

prentices, said Paula Coleman, curriculum developer and senior grants coordinator for the union's Health and Safety Fund in Washington.

The union used skilled carpenters, many of whom had experienced musculoskeletal disorders, to train apprentices during a mandatory four-hour session. The sessions emphasized participatory discussions—rather than lectures—about evaluating tools from an ergonomic perspective and sketching improvements in tool and equipment designs.

The program was funded with a grant from the National Institute of Safety and Health. **BI**

NIOSH, OSHA conference focuses on musculoskeletal injuries

CHICAGO—About 1,000 people braved Chicago's worst snowstorm in about three years

to attend a two-day conference about preventing musculoskeletal disorders, which are one

of the fastest-growing threats to workplace safety and health.

The conference, whose chief sponsors were the National Institute for Occupational Safety and Health and the Occupational Safety and Health Administration, gave participants an opportunity to exchange informa-

tion about effective workplace practices and ergonomics programs to prevent such injuries.

Representatives of business, labor, government and academia

discussed ergonomic issues during general and industry-specific sessions, which analyzed risks in a broad variety of workplaces. They included offices, factories, health care facilities,

plants, construction sites, farms and mines.

Conference co-sponsors also included the National Safety Council, the American Society of Safety Engineers, the American Industrial Hygiene Assn., the Human Factors and Ergonomics Society, the Voluntary Protection Program Participants Assn., the American Assn. of Occupational Health Nurses and the American College of Occupational and Environmental Medicine.



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Training may help prevent tragedies

By John D. Byrnes

The fast-growing problem of aggression in the workplace is being validated.

With homicide as the leading cause of work-related deaths among women and the second-leading cause for men, incidents of workplace violence are on the rise. But aggression in the workplace does not necessarily involve homicide.

According to the Society for Human Resource Management, 97% of workplace aggression incidents range from verbal threats to fistfights. The remaining 3% include shootings, knifings and sexual assaults.

In 1994, 16 million U.S. workers reported they were harassed in the office; 6 million were verbally threatened at work; 2 million were physically attacked on the job; and 1,004 were killed.

In addition, a survey released by the society reports that nearly half the respondents have seen or experienced one or more acts of workplace violence in their companies, up from 33% in 1993.

Anyone can become an aggressor

The problem doesn't stop with disgruntled employees. Perpetrators of workplace aggression often range from dissatisfied clients to complete strangers.

Although most reported cases of workplace aggression involve company employees or unknown outsiders, experts now are citing domestic abuse as a major contributor to on-the-job violence. In a recent year, for example, 13,000 acts of violence were committed against women at work by their husbands or boyfriends, according to a 1994 U.S. Department of Justice study. The reasoning is logical: The woman's office is the one place an angry spouse or boyfriend is sure to find his target.

The November 1996 shootout at a Ford Motor Co. plant that killed one person and left three injured apparently was a case of a spurned potential fiancée seeking revenge on a woman, The Associated Press reported. The woman was not among the victims.

Violence: A costly business quandary

Although immeasurable, the social ramifications of this problem can be overwhelming. The psychological repercussions can be devastating. And the price tag? A staggering \$4.2 billion each year, spent on medical bills, litigation fees, increased security, employee turnover, lost productivity and workers compensation.

The Wall Street Journal recently described workplace violence as a Catch-22 for all companies: Firing is not a feasible option because of potential liability of discrimination; mandating a psychological test can be considered an invasion of privacy; reference-checking for past violence may result in a slander lawsuit against the referrer; and reducing employee responsibilities and status because of emotional instability can be challenged by the Americans with Disabilities Act. Yet ignoring a potentially violent employee can result in extensive company liabilities.

Finding a viable solution

What can businesses do to curb this growing problem?

There are several solutions. Corporations nationwide now are implementing workplace violence policies and procedures, increasing security, adding special insurance policies and developing post-crisis management plans.

But according to experts such as Patricia Biles, the Occupational Safety and Health Administration workplace violence coordinator, the most viable solution—and one U.S. businesses are recognizing more and more—is employee training.

To substantiate this need, OSHA implemented national guidelines in 1995 that recommend employee training in workplace violence prevention. OSHA now uses these guidelines as a basis for its general provision requiring U.S. corporations to provide a workplace free of harm.

Because workplace aggression is a human problem, it is important to train humans to deal with it. Practical aggression management training provides employees the skills to identify, predict, prevent and defuse aggression. In today's litigious society, it also is crucial to learn techniques for effective intervention that will help prevent potential lawsuits.

Understanding workplace aggression

Aggression typically is viewed as an explosive event, but there are several phases of aggression that offer opportunities for averting the possibility of violence.

It is important to note that aggression is made up of three parts: the trigger phase, the escalation phase and the crisis phase.

Human aggression can be triggered by other people, events, situations, objects or a combination of these elements. After the trigger phase, the first clear warning sign that someone might be approaching the escalation phase of aggression is a noticeable change in behavior.

During the escalation phase, one trigger accumulates on top of another, and the symptoms of mounting anxiety appear. From irritable and scattered behavior to shallow and fast breathing, signs of mounting anxiety should not be overlooked. Recognizing this stage makes it easy to quickly assess a situation and select the response most likely to head off an explosion.

During the crisis phase, words become garbled and facial color changes, often to white with rage. It is important to keep the agitated person talking, because this usually keeps the person from becoming physical. Law enforcement research shows that armed people seldom pull the trigger while talking; they wait until they're finished.

The crisis phase leaves the responder, or "aggression manager," with two primal human instincts: "fight" or "flight." "Fight" may lead to injury and almost certainly will lead to costly litigation. When an aggressor cannot be defused, the aggression manager must choose "flight."

This is where "safe escape" comes into play. The typical person can move up to 7 feet in half a second. Because of this, it is important to be cognizant and manage the workplace environment. By arranging office furniture in a way that allows for "safe escape," employees are better protected against potentially violent attacks.

When faced with a potentially explosive situation, part of

the problem is the responder's own aggression—resulting from the attacker's aggression. An effective means of controlling this adrenaline-related anxiety is cycle-breathing. This technique is what law enforcement experts use to regain the methodical mind-set needed to keep calm. Cycle-breathing helps prevent hyperventilation and fosters the control needed to help an aggression manager react appropriately and professionally.

On-the-job violence is a significant threat to employees involved in altercations and to companies unprepared to deal with the financial and social repercussions associated with it.

As more businesses and government agencies recognize this problem and begin to implement viable solutions, such as the training of aggression managers, the U.S. workplace will become safer and, ultimately, more productive.

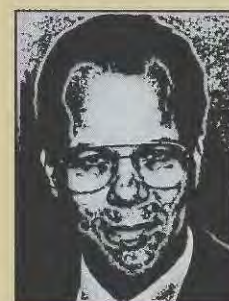
In the past, employers looked to their workers compensation policies to cover expenses of victims of workplace violence. But an increasing number of industry experts have said that as incidents of workplace violence increase, victims may seek additional restitution under their employers' general liability policies for failure to provide workplaces free from harm. That's why insurance policies and programs to teach employees to effectively manage workplace aggression are so important. In fact, training employees to recognize a potentially harmful co-worker or situation and to defuse the aggression may be the only way to ultimately control losses resulting from workplace violence.

The most effective way to train employees is to first identify those personnel with the greatest likelihood of encountering aggression on the job. In some companies, this may be human resources professionals (particularly in organizations that are re-engineering or downsizing), and in other organizations it may be customer service personnel, risk managers or others. For example, a bus company may train people in administrative offices as well as bus operators. Likewise, hospitals and airlines may decide to train administrative personnel as well as front-line employees such as nurses and flight attendants.

Once employees or areas within the company are identified for training, employers then may choose to provide training to all individuals or to a select group that, in turn, will train the remainder of the targeted individuals, as in a "train the trainer" format.

Either way, those who undergo training are preparing to become aggression managers who will be better able to prevent aggression from escalating to violence in the workplace. Properly trained aggression managers will gain practical skills and techniques that can be used immediately.

BI



John D. Byrnes is president of the Center for Aggression Management in Winter Park, Fla. The center offers workshops for employers on aggression management.

Employers may want to look at care options

By Robert E. Olsen

As the current tide of merger mania sweeps across the health care sector, the composition of the managed care industry is changing from a market made up of large, midsize and small companies to one dominated by a handful of giants.

Soon, close to 70% of all HMO members in California may be concentrated in three large managed care organizations when planned merger activity is finalized. On

the national and regional levels, other mega-companies have been formed or are in the planning stages that are expected to attempt to dominate their respective markets.

If the current scenario seems familiar, that's because it all has happened before. In the early 1980's, the market was undergoing a similar upheaval. The insurance industry was dominated by the "sisters": Prudential, Metropolitan, Equitable, Aetna, Travelers, CIGNA and Hartford. Prices were escalating, double-digit inflation and interest rates reigned, and the insurers were undergoing massive system

changes designed to accommodate early forms of managed care and administrative simplification.

Today's market is quite similar in many respects. While no insurer or health maintenance organization now could be said to dominate, the trend toward consolidation and large, monolithic health care organizations is clear.

What does all this mean for the employer, the buyer of health benefit plans? Based on past experience and the history of consolidation in other industries, these scenarios

See *Managed care on next page*

Managed care

Continued from previous page
may emerge:

- Less emphasis on customer service. As these entities combine and grow, some of their energies must of necessity be diverted toward supporting the consolidation and away from their customers. Also, concentrating the majority of customers in a few companies will lessen competitive pressures and the need to differentiate based on service. As these giants seek to streamline their operations, layoffs frequently occur. Consequently, the level of service to consumers may be in question.

- A slower rate of innovation. Large organizations typically are slow to respond to the need for change. A company that dominates the market has less incentive to introduce innovation.

- Higher premium costs. The early 1980's clearly surpass the current market in the rate of acceleration of costs. Nevertheless, even moderate increases in premium or health care costs will impact today's employer to a greater extent in absolute dollars, as medical costs have become a significantly larger portion of employers' costs. With a lessening of competitive forces, larger companies will have fewer incentives to keep prices low.

- A decrease in HMOs' ability to control costs. As the demand for choice and greater access by consumers increases, the HMOs may lose the controls—strict gatekeeper models, for example—that had enabled them to ratchet their own costs. They will begin to look more like their insurer counterparts, especially where price is concerned.

- Constriction in provider fees. The large HMOs will feel price pressure from the provider side.

In response to the growing demand from employers to keep rates down and from shareholders to increase earnings, HMOs will demand that providers accept lower fees. Contract and capitation rates already have been squeezed down so low in many areas that the providers simply are unable to compete effectively.

In Southern California, primary care doctors receive capitation payments of as little as \$3 a month per member. Providers in turn argue that these payments will not come close to covering their overhead and, as a result, they are forced to leave California or drive up fees for those covered by traditional insurance. More than 2,600 doctors gave up their California licenses in 1994 and headed for destinations where HMO enrollment still is small, according to the Los Angeles Times. As a result, concern for quality of care will continue.

In summary, the future may present decreasing levels of

service and employee satisfaction, rising costs, and fewer alternatives. What is the impact on the employer?

First, employers with significant HMO penetration in their plans suffer a double whammy. They see their costs rise on the segment of their population in the HMO and, because they are liable for a fixed "premium" payment to the HMO, they are subject to a non-participating insurance contract where the HMO retains all gains regardless of the employers' experience.

There has been some movement by employers to demand a form of experience rating or self-funding from the HMOs, but the pressure has been relatively light. At some point, however, it seems likely the HMOs will be coerced into providing alternative funding mechanisms to employers, and when that happens, they will find themselves in the same position as those insurers who saw methods like minimum premium as the answer and could not adjust their organizations to the reduced revenue stream.

Second, even if prices are not increasing at the rapid rate of previous years, medical inflation continues to surpass the U.S. Consumer Price Index, and there will be continued pressure on employers to keep their costs of doing business down and obtain maximum returns on income. This focus on profitability and competitive position will have a greater impact on how employers deal with relatively stable medical costs.

In the early 1980s, although medical costs were rising at a much faster rate, they had not yet reached a saturation point with respect to their impact on the big picture for the employer. Medical costs, simply by virtue of the attention they are getting, will force employers to take aggressive measures aimed at controlling them even in a market where they seem stable by comparison with the past.

Third, more employers may want to revisit the option of self-insurance with a new perspective. In the early 1980's, ERISA gave birth to new and innovative forms of health care financing, which led to the development of entrepreneurial third-party administrators and insurance products—such as stop-loss—that would protect those provident employers who, through self-funding, could gain more control of the costs of their employee benefit plans. The "big is better" trend likely will prompt more employers to develop competitive alternatives in a fashion similar to the emergence of the self-funded industry.

New developments in the self-insurance industry are worth a second look from employers who have not pursued this option before. First, providers are beginning to form local and regional alliances or networks designed to compete directly with HMOs. These regional alliances are put together to meet the needs of that marketplace and the employers in that area. This concentrated focus enables greater specificity in the selection of providers, a higher

level of accountability, monitoring of utilization data and, ultimately, improved outcomes and lower costs.

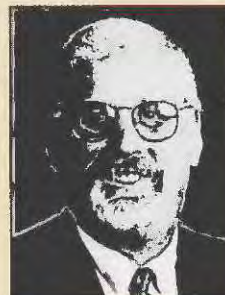
Even more promising is the idea of direct contracting, where the provider group bypasses the middleman—HMO/carrier—and contracts directly with the employer.

The second is a shift in the focus of TPAs from one of claims adjudication to one that involves medical practice management. TPAs are establishing the capability to effectively monitor and manage practice patterns, utilization controls, emerging technologies, quality of care and, ultimately, individual satisfaction. New turnkey systems modules are available that will allow many of the functions performed by HMOs to be performed by TPAs for employers at a more efficient cost and efficiently; these systems do more than process claims—they can monitor the entire treatment plan for the patient, identifying duplication of services, drugs that may have adverse reactions and a host of other functions that improve overall care for the patient and obtain the maximum value for expenditures. The entrepreneurial TPA can use this technology in support of already-established, close-to-the-customer relationships. The large health care organizations, with their one-size-fits-all approach, simply cannot compete on this level.

The combination of technology and new areas of expertise will enable the TPA to serve as an effective buying agent for an employer, in setting up and choosing a network, and as the manager of the provider network.

The convergence of local/regional alliance and TPA brings together the best of contract medicine and medical practice management and can provide the self-funded employer with the tools necessary to offer an effective alternative to the HMO market, increasingly dominated by large companies.

Self-funding with an exclusive provider organization can offer competitive and stable pricing, plan participant choice of provider and strong management of the network and plan utilization by the TPA. This concept, which should be dubbed "managed choice," bears examination by employers who remain committed to managing their own destinies. **BI**



Robert E. Olsen is managing director of Pacific Risk Management Services, a Fountain Valley, Calif.-based marketer of stop-loss coverage and a unit of PM Group Life Insurance Co.

Insurer may limit coverage to 'eligible' new employees

A state law requiring an employer to extend group health insurance coverage to new employees permits an insurer to restrict coverage to "eligible" new employees, according to an Illinois appellate court.

Linda Johnson-Maday began working for North Suburban Medical Consultants Ltd. in June 1991. She met with her employer's insurance agent and filled out an application for group health coverage. The application did not mention Linda's extensive hospitalizations in 1989 and 1990 for pancreatitis and related disorders. Her insurance application was accepted.

In 1991, she was admitted to a hospital for viral gastritis. She remained at the hospital for two months. The insurer refused to pay the hospital bill on the ground that Ms. Johnson-Maday materially misrepresented her medical history. She was readmitted to a hospital in 1992 for septicemia and again stayed two months. Her bill from the two hospitalizations totaled almost \$300,000. The insurer again refused to pay. Ms. Johnson-Maday sued the insurer for breach of the insurance contract. The insurer countersued, seeking rescission of the insurance contract. The trial court ruled for the insurer.

On appeal, Ms. Johnson-Maday argued that state law required the insurer to offer coverage to all new employees of North Suburban regardless of pre-existing conditions. According to the court, the state law permits the insurer to restrict coverage to "eligible" new employees and did not prevent the insurer from establishing any contractual limit

on eligibility.

The court said the law did not require the insurer to cover all new employees regardless of eligibility. Ms. Johnson-Maday's misrepresentation of her medical condition could have materially affected the insurer's risk, the court said. The trial court decision was affirmed.

Johnson-Maday vs. The Prudential Insurance Co. of America, Nov. 9, 1995; rehearing denied, Nov. 29, 1995 (BI/02/A.-\$10).

Company wins early retirement ruling

Does the Employee Retirement Income Security Act require an employer that sells a business but retains the pension plan covering the employees of that business to credit service with the purchaser when determining the eligibility of those employees for an early retirement benefit subsidy? The 3rd U.S. Circuit Court of Appeals ruled it did not.

North American Philips Corp. sold its Magnavox division in October 1993 to MESC Electronics Systems Inc. The plaintiffs in this case were Magnavox employees who had participated in Philips' pension plan prior to the sale. Under the Philips plan, 65 was the normal retirement age.

However, participants who were at least 55 could elect to retire earlier with reduced benefits, except that the benefits would not be reduced if the sum of the participant's age and years of service at retirement was at least 85 (the Rule of 85). Philips retained sponsorship of the plan after the sale. But the plan was amended to allow no credit for subsequent service with MESC except for one year. The employees here sued, claiming Philips violated ERISA's prohibition against decreasing accrued benefits by the plan amendment. The trial court ruled against the employees.

The appellate court said ERISA does not mandate the creation of pension plans, nor does it dictate the benefits to be afforded once a decision is made to create one. Thus, Philips was at liberty to define the early retirement benefits in any way it chose, the court said, including a stipulation that only service to Philips or an affiliate would be credited toward the Rule of 85 requirement. The court could find no provision of ERISA that contained a contrary doctrine. The trial court decision was affirmed.

Dade vs. North American Philips Corp., 3rd U.S. Circuit Court of Appeals, Nov. 1, 1995 (BI/02/Ju.-\$10). **BI**

These abstracts were 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 each opinion.

INTERNATIONAL

Global Briefs

Lloyd's regulators detail procedures for spotting early signs of market problems

BY STACY SHAPIRO

LONDON—Behind closed doors in the offices of Lloyd's of London regulators is what looks like an electric circuit grid drawn on a whitewashed wall.

The boxes in this circuit represent syndicates, Lloyd's director of the regulatory division David Gittings explained. The lines connecting the boxes represent the movement of syndicates' reinsurance programs from one syndicate to another. And if too many lines go to one syndicate, a regulator makes a visit to the syndicate because it may indicate the beginning of another "spiral" reinsur-

ance market, the likes of which caused many of Lloyd's past problems. If too many lines leave the market up at the ceiling and go to one insurance company, Lloyd's regulators tell the Department of Trade and Industry, which regulates non-Lloyd's insurance companies.

Meanwhile, every day one person in Lloyd's regulatory division picks out 100 underwriting slips out of the thousands that are submitted to the Lloyd's Policy Signing Office, said Mr. Gittings. The person is looking to see what underwriters are covering and whether it will cause potential harm to the market, he said.

Regulators want in the future to sieve electronically through all of the thousands of slips that pass through the LPSO to detect problems before they occur.

The object of these exercises and many others in Lloyd's regulatory division is to detect early "where the next major risk of loss is going to come from," Mr. Gittings explained. "We want to do everything we can to identify that before it happens. We don't want to be left cleaning up the mess again after the event."

Last week, Lloyd's regulatory board and Mr. Gittings' division, which reports to the board, published a report outlining the

progress made in 1996 on the regulatory front and the regulatory plan of action this year.

Among the priorities for the regulators this year is to complete a regulatory review of the market, Mr. Gittings said. The review could lead to a new Lloyd's Act or incorporation of Lloyd's into other financial services regulations. This review will be completed in the summer to coincide with a new British government coming into power, following a general election likely to be held by May.

This year there also will be a review of Lloyd's broker regulations and a consultative document is

See Lloyd's on next page

Melding of Aon, A&A raises questions

BY STACY SHAPIRO

LONDON—The London market is watching to see who will stay and who will go after the recent completion of Aon Group Inc.'s bid for Alexander & Alexander Services Inc.

Indeed, just about every industry conversation includes some speculation about the structure of

the new London-based operations.

A shakeup is likely in London as Aon attempts to bring together the operations of its original London broker, Nicholson Jenner Leslie Group Ltd., with recently acquired Bain Hogg Group P.L.C. and A&A's London-based Alexander Howden Group Ltd., said stock analyst Julianne Jessup of

UBS Ltd. in London, voicing publicly what many in the market have said in private.

"There is a clear pecking order among these three, with Bain Hogg emphatically at the bottom and Alexander Howden, by size and market share, at the top," she said.

Both Nicholson Leslie and Howden are accustomed to being

"the London jewels in the respective crowns of their U.S. parents," Ms. Jessup noted. However, their specialist teams overlap, particularly in reinsurance, aviation and energy, which could lead to people leaving and joining other brokerages or layoffs.

"Meanwhile, Bain Hogg, as a smaller and weaker player in al-

See Aon on next page

Gerling focuses on operations in North America

By DON LEWIS KIRK

COLOGNE, Germany—Gerling-Konzern Globale Ruckversicherungs A.G., the reinsurance arm of the Gerling Group, is reorganizing its North American operations in an effort to strengthen its ratings and introduce new financial products.

The company has pumped \$67 million into the reserves of its U.S. branch, which will now focus on running off long-tail casualty business, discontinued since the mid-1980s. Active operations will now be handled by three newly formed subsidiaries under a new holding company.

The three units include a broker market property/casualty reinsurer, a life reinsurer and a company offering financial products.

Gerling's U.S. insurance unit, Gerling America Insurance Co., is not affected by the changes.

Norbert Strohschen, chairman of Gerling Global Re in Cologne, Germany, said the reinsurer initiated the reserve addition and restructuring to ensure it maintains its A rating from A.M. Best Co. in the United States.

Mr. Strohschen added that the changes also will strengthen Gerling's ability to provide alternative risk transfer products in the United States.

The three new companies, which will be under the holding company Gerling Global U.S. Investments Inc., are:

- Gerling Global Reinsurance Corp. of America, which will write U.S. property reinsurance business.

- Gerling Global Life Reinsurance Co., which will write life reinsurance.

- Gerling Global Financial Products, which will focus on "the strong trend to financial solutions outside of traditional insurance," according to Juergen Zech, chairman of Gerling Group.

Charles Troiano, who previously was senior vp and chief financial officer for Munich American Reinsurance Co., will serve as president and chairman of the new Gerling Global Re unit.

Peter Gentile, who previously worked for Swiss Re Atrium Corp. in New York and was responsible for finite risk products, will be CEO of the Gerling Global Financial Products unit.

Asbestos and environmental liability claims have been isolated in the U.S. branch of Gerling Global Re, which will now be a runoff company. The U.S.

See Gerling on page 21

Insurers assess losses in Russian tanker disaster

LONDON—Almost a month after the Jan. 2 breakup of the Russian tanker Nakhodka during severe storms in the Sea of Japan, insurers and salvage experts still are trying to assess the likely costs and the extent of pollution.

The London-based International Tanker Owners Pollution Compensation Funds said that only small amounts of leakage are still occurring from about 5.3 million gallons of oil the 27-year-old tanker was carrying on its voyage from China to Russia.

About 1.5 million gallons have spilled so far.

The biggest uncertainty was whether periodically bad weather would undermine the efforts of cleanup workers, who were struggling to keep oil from reaching sensitive coastal areas.

The spillage threatened not only fish farms, ports and tourist areas, but 15 nuclear reactors at Wakasa Bay. Oil slicks had breached a ring of oil fences erected to protect the reactors. The breach took place at the Mikama nuclear power plant in Fukui Prefecture, where only small oil patches were reported to have broken through the ring, and the Shiga nuclear power plant in Ishikawa Prefecture, where it was reported that the oil was collected and no damage found to the reactor.

The Nakhodka is owned by Russian shipping company Prisco Traffic Ltd. The vessel is insured for \$1.8 million with Russian insurer Zascita and 85% reinsured with Black Sea & Baltic General Insurance Co. Ltd.

While the vessel, which broke in two, looks certain to be declared a total loss, the biggest insurance claims will fall on Prisco's liability insurers, The United Kingdom Mutual Steam Ship Assurance Assn. (Bermuda) Ltd., known as the UK P&I Club.

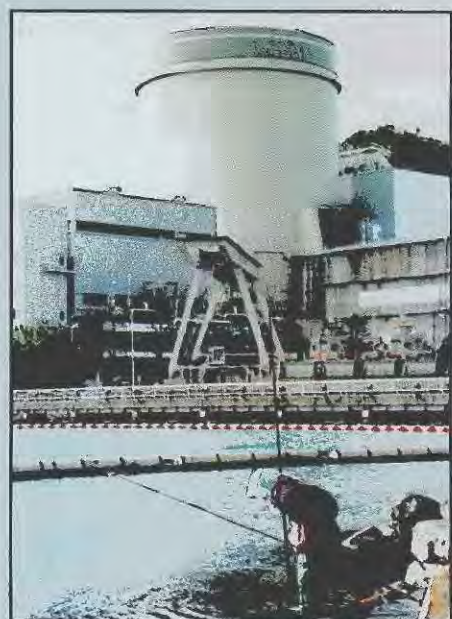
The International Oil Pollution Compensation Funds—an alliance of government pollution funds, including one from Japan—said pollution damage or injury arising out of the Nakhodka incident will be compensated under applicable Japanese legislation, which is based on international

conventions. These are the 1989 Civil Liability Convention and the 1971 Fund Convention and its 1992 Protocols.

Two layers of compensation are due under these conventions. First, the shipowner and its insurer must pay compensation up to a level related to the size of the ship, in this case about 260 million yen (\$2.2 million). If this amount is insufficient to cover all valid claims, additional compensation is payable by the IOPC Funds up to about 22.5 billion yen (\$191.7 million). The latter amount includes payments made by the shipowner and its insurer.

The Japanese government, which has insisted that compensation is up to the shipowner, said last week it is considering offering emergency funding to local governments to help with costs until compensation is paid by the shipowner's insurers.

—By Edwin Unsworth



API/WIDE WORLD PHOTOS

Oil from the tanker Nakhodka threatens both fishing in the area and nearby Japanese nuclear reactors.

The Overseas Private Investment Corp., a U.S. agency that underwrites political risk in developing countries, has expanded political risk insurance services to U.S. companies and increased support to defense conversion projects. It will offer \$200 million in coverage for currency inconvertibility for companies investing in Russia, up from \$5 million of coverage previously offered, taking it to the same level of coverage it offers in other countries. . . . Moody's Investors Service Inc. has said it expects deregulation of the Japanese insurance sector to increase competitive pressures on the country's life and property/casualty insurers. Such pressure will come from Japan's agreement to fully deregulate insurance premium rates in 1998, profit pressures and takeover vulnerability of smaller companies, competition from banks and other financial institutions, and increased competition between Japanese insurers and from foreign insurers. As a result, Moody's has placed its A3 insurance financial strength rating of Sumitomo Mutual Life Insurance Co. under review for possible downgrade. . . . Sedgwick Group P.L.C. has become the first Lloyd's of London broker to form an insurance facility for property risks following the approval by Lloyd's of the reintroduction of cover for war risk on land. It has lined up coverage in the Lloyd's market totaling \$150 million for any one location, claiming "there is significant pent-up demand for the cover amongst multinational organizations which are seeking to exploit opportunities in developing markets around the globe." . . . Michael Eagles has resigned as chief executive of London-based Windsor Insurance Brokers Ltd. While a company statement said he left "to pursue his own business interests," . . . Britain's Export Credit Guarantee Department has issued its first guarantee for a British contract with Uzbekistan. It will support an order placed with Crosrol Ltd. of northern England to install and commission machinery for Tashkent Textile Combinat, one of the country's largest spinning mills. . . . Whittington Rodney-Smith Ltd., an insurance consulting firm owned by Murray Lawrence Holdings Ltd., has changed its name to Whittington Insurance Consultants Ltd. and appointed Martin Rodney-Smith its executive chairman. Mr. Rodney-Smith, previously the consulting firm's managing director, took over the chairmanship from Chris Keeling, who will continue as a company director. . . . London-based Unionamerica Insurance Co. Ltd. has acquired a 51% stake in Jago Capital Ltd., a dedicated Lloyd's

See Briefs on next page

Lloyd's

Continued from previous page
due out shortly. Among the questions to be asked are whether Lloyd's should be regulating brokers at all or just the business of the brokers into the market, according to Mr. Gittings.

Lloyd's regulators visited 39 of the 197 registered Lloyd's brokers last year as part of a review into the market. Thirty-six of those visits were with regard to 57 underwriting slips in which there were suspicions of "grossing up" premium. Grossing up premium refers to a broker quoting a higher premium to a policyholder than than that quoted by the underwriter. Six disciplinary investigations are now pending against brokers as a result of the visits, Mr. Gittings said.

Regulators also this year will work on protection of the market following the changes in the control of syndicates from individual members to corporations. Regulators already are vetting the new

capital coming into the market and have already refused to allow some questionable new owners into Lloyd's, according to Mr. Gittings.

The regulatory board and

the Securities and Futures Assn. They were:

- To simplify the regulation book, which consisted of two volumes of bylaws. There are now 10 simple principles—"like the 10

There are now 10 simple principles—'like the 10 commandments'—that underwriting agents must follow, says David Gittings, director of Lloyd's regulatory division.

Lloyd's Market Board also are reviewing the security of the market and in particular the role of the Central Fund. Lloyd's also is considering whether to be rated by an outside agency, said several executives in the market.

Last year, regulators tackled four clear priorities that Mr. Gittings set out when he joined Lloyd's in October 1995 from his post as director of surveillance at

commandments," says Mr. Gittings—that must be followed by underwriting agents. The principles are similar to rules other financial institutions in the United Kingdom must follow. They include acting with "due skill, care and diligence," disclosing conflicts of interest and maintaining adequate financial resources to meet commitments.

- To simplify Lloyd's disci-

plinary machinery in order for it to be more effective. "It must be quick" and out in the public domain so everyone can be cautious, said Mr. Gittings.

Last year there were fines imposed on eight underwriting agents and one Lloyd's broker for minor breaches such as late submissions of syndicate quarterly figures. These were published in Lloyd's bulletins and the monthly market magazine "One Lime Street."

There are 63 current investigations into allegations of misconduct, mainly in regard to problems of the past and one of the priorities this year is to complete these investigations, said Mr. Gittings.

- To register 3,606 individual directors of underwriting agents and those who report to them as well as active underwriters and senior underwriting staff.

"That's quite a big job," Mr. Gittings said.

So far, 2,000 applications have been dealt with and 45 of those have either been restricted, re-

fused or withdrawn. There are another 150 that require "further analysis," he said.

To go out and visit every underwriting agency to make sure they conducted business properly. This inspection process resulted in more than 1,000 recommendations for improvement. Some of the shortcomings found included poor control over the aggregation of risk—a problem that caused the demise of many syndicates in the past—and inadequate control over the use of reinsurers.

In some cases, at the heart of the problem was that the agency did not know what the underwriter was doing, according to Mr. Gittings.

"To some extent, I was surprised by what I found" because in some pockets of the market there were practices that could cause problems similar to the past, he said.

Regulators will be returning to some of these agencies this year to make sure that they have improved their practices, Mr. Gittings added. **BI**

Aon

Continued from previous page
most all areas, looks set to become the sacrificial lamb as its new bedfellows begin maneuvering for position."

Just after the merger was announced in December 1996, Ron W. Forrest, former chairman and chief executive officer of Bain Hogg and a more than 30-year veteran of A&A, was named chairman and CEO of retail brokerage unit Aon Risk Services Inc.

Since then, however, there has been no word on who will head Aon's numerous London operations. Until now, Alan Colls has remained

at the helm of Aon's London operations even as Aon bought Frank B. Hall & Cos. Inc., merged London-based Leslie & Godwin Ltd. into the group and bought London-based energy specialist Jenner Fenton Slade Ltd.

NJL Chairman Mr. Colls headed the formation of Nicholson Chamberlain Colls Ltd. in 1988 by more than 100 people, many of whom left Stewart Wrightson Group P.L.C. after it merged with what was then Willis Faber P.L.C. and now is Willis Corroon Group P.L.C. Aon, which had a 47% stake in NCC, acquired full ownership in 1993 (*BI*, March 8, 1993).

Mr. Colls said last week it was too soon to comment on any changes to

the structure or personnel of the new group.

However, Michael D. O'Halloran, president of Aon Group Inc. in Chicago, who is in charge of merging the operations, said the integration is "going extremely well."

"We're moving along in all areas as quickly as practical. Logistics and timing are the keys to how quickly we move," he said.

Few people within Howden, Nicholson Leslie and Bain Hogg seem to know what the new structure will be. But what is certain is that Aon Chairman and Chief Executive Officer Patrick Ryan is taking a personal interest. The day after the merger of A&A was announced, just before Christmas, Mr. Ryan

flew to London and spoke to senior Howden executives, particularly Deputy Chairman Dennis Mahoney. Meetings have continued between Aon personnel in Chicago and London to sort out a structure. Mr. O'Halloran will be in London this week.

In its first move toward integration, Aon announced last week the merger of Aon's existing London-based employee benefit consulting company, Godwins Ltd., with A&A's Alexander Clay. The two companies in due course will trade under the name "Aon Consulting Ltd.," signaling what many observers expect—that the name "Aon" will come out on top no matter what the structure.

Joint task forces are being formed to manage the integration of Godwins and Alexander Clay, announced Hunter Devine, chairman of Godwins, and Ron Amy, chairman and CEO of Alexander Clay.

Merging those two operations was "fairly uncomplicated" in terms of the number of people involved, whereas merging the much larger London operations will be more cumbersome, Mr. O'Halloran said.

Meanwhile, although operators at A&A's U.K. retail operations are already answering the phone, "Aon Alexander," Mr. O'Halloran said that is only an interim name.

Sally Roberts contributed to this story.

Mergers creating regulatory challenges

By SARAH GODDARD

LONDON—The era of the global insurance and reinsurance player is upon us, presenting many challenges that the market and regulators must address.

The belief that "big is beautiful" shows no signs of waning, said Ron Whyte, managing director of broker Johnson & Higgins Ltd. in London. Instead, the top insurance players need "to have a certain critical mass and to have a developed and efficient infrastructure around the world," Mr. Whyte said as he introduced J&H's "1997 U.K. Insurance Market Review and Forecast."

The wave of mergers and acquisition will continue to gather momentum in the wake of recent deals, including the union of Royal Insurance P.L.C. and Sun Alliance Group P.L.C. (*BI*, May 13, 1996) and Union des Assurances de Paris S.A. and AXA S.A. (*BI*, Nov. 18, 1996). Mr. Whyte predicted. The end result of this activity will be between eight and 10 major global insurers, including reinsurers that are already "becoming ever more visible to direct clients," he said.

Mr. Whyte projects that between three and five major global brokers will dominate the field, with J&H among their number. He did not mention which other brokers he sees in the top ranks.

The broker's role will move further away from the traditional areas of insurance placement, splitting into three distinct areas, he said. First, the broker will provide analy-

sis of a client's total risk and address it with financial and risk management strategies. Second, using this information, the broker will "find the best solution in the insurance market" to meet a client's needs. And, finally, the broker will provide "traditional day-to-day requirements," also offering guidance on loss prevention and mitigation.

Mr. Whyte's view of a global insurance marketplace is not uncommon. However, what government officials have not yet addressed is just how this marketplace will work. Questions of cross-border trading and regulation are only beginning to be confronted.

Speaking at a recent Institute of London Underwriters/Kroll & Tract L.L.P. meeting, Jonathan Spencer, insurance director at the U.K.'s Department of Trade and Industry, which regulates insurers, tackled this thorny issue. "At present there is quite a wide divergence in how individual countries regulate their insurance industries," he pointed out to the audience of underwriters, brokers, lawyers and a delegation from the Louisiana Department of Insurance. Mr. Spencer compared the British system with its emphasis on financial strength and "fit and properness" to the Japanese approach, which, before it was recently relaxed, focused on product rather than company regulation.

"It is this divergence in regulatory practice, coupled with the limited ability or willingness of regulatory authorities to cooperate with each other, which has created barriers to

international insurance," Mr. Spencer explained. "Most notably, many countries—on prudential grounds—completely ban the provision of insurance services except by companies established within their own territories."

But this limits capacity and product availability in the local markets, reducing the options for insurance buyers.

Even in the acknowledged international arena of reinsurance, certain countries' regulators—including those in the United States—demand locally held trust funds. "This does not in my view promote the optimal use of capital or the prudent spread of risk," said Mr. Spencer.

The fundamental problem is one of non-cooperation between different countries' regulatory authorities. With the exception of Europe—which has a degree of harmonization through 1992's Third Life and Non-Life Insurance Directives—"mutual recognition of each others' regulatory approaches has largely been deemed inappropriate, unachievable or impossible," he asserted.

But regulators are feeling the pressure of the increased globalization of the business, and responded in 1993 by forming the International Assn. of Insurance Supervisors. Although the IAIS has been running alongside the National Assn. of Insurance Commissioners, it will this year set up a separate secretariat in Basel, Switzerland.

The IAIS's aims are "to ensure improved supervision of the insurance

industry at the domestic as well as at the international level," explained Mr. Spencer, "in order to maintain efficient, fair, safe and stable insurance markets for the benefit and protection of policyholders."

Its first priority is to establish proper arrangements for the exchange of information, improving on the current "at best patchy and at worst non-existent" arrangements. Following its annual meeting in Paris last October, the association now has the authority to develop international standards for supervision.

Work got under way almost immediately. A technical committee set up in November has already begun two projects, one involving the draft of principles for national standards.

Adopting these will be at the choice of the IAIS member, though "as many members as possible will be encouraged to embrace the standards" and the standards will be designed to "encourage convergence towards common approaches to supervision without attempting detailed harmonization of members' supervisory techniques."

The second project—U.K.-based and led by the DTI—is developing proposals on supervising international insurance groups and their overseas interests. "No foreign insurance establishment should escape supervision," said Mr. Spencer, "and each country has a duty to ensure that foreign insurance establishments in its territory are supervised." **BI**

Global Briefs

Continued from previous page
corporate capital investment vehicle. Jago Capital provides capacity for non-marine syndicate 205... Newly merged AXA-UAP has announced its net losses as a result of the Eurotunnel P.L.C. fire last year came to 100 million French francs (\$18.2 million) (*BI*, Nov. 25, 1996). The former Union des Assurances de Paris had a net 75 million franc (\$13.7 million) loss, with the former AXA S.A. sustaining the rest. AXA's losses were smaller as it insured a higher excess-of-loss layer than UAP, a company spokesman in Paris said... Benfield & Rea Investment Trust P.L.C. and Finsbury Underwriting Investment Trust P.L.C. have acquired 25.1% and 15% respectively of Wren Holdings Group Ltd. for £6 million (\$10.03 million). Wren has two main subsidiaries, Wren Syndicate Management Ltd., one of the leading managing agencies at Lloyd's of London, and Wren Underwriting Agencies Ltd., a Lloyd's members' agency. Benfield & Rea Chairman John Coldman said that the investment in Wren "marks a further step in building a first rate portfolio of insurance investments." Finsbury Chairman Robin Bailie said that his group plans to work closely with Wren to identify opportunities.

INTERNATIONAL

Gerling

Continued from page 19
branch also received a \$67 million boost in reserves from Gerling Group that will serve primarily to pay off those claims.

The three new companies will take over Gerling Re's active business, Mr. Zech says.

Several years of subsidizing the branch and equalizing reserves for the long-tail losses depressed the company's earnings and underwriting results, Mr. Strohschen said.

As a result, Gerling decided on its current course.

Mr. Strohschen said the reinsurer had no trouble winning regulatory approval of its reorganization plan.

It gained the insurance commissioner's approval in New York largely because of its ongoing commitment to the U.S. market. "We are not withdrawing," he said.

"On the contrary, we're strengthening our commitment to the U.S. market," Mr. Strohschen said.

In addition, A.M. Best conferred its A rating on the newly formed companies.

Mr. Zech said he sees great potential for U.S. reinsurance business, especially in offering products that involve using the capital markets in risk-financing programs.

Gerling plans to make Gerling Global Financial Products the worldwide center for the company's financial products, according to Mr. Strohschen.

Mr. Strohschen said there is an "international convergence of insurance and reinsurance as well as of traditional and non-traditional products," which motivated the formation of a financial products group.

Overall, the moves will "enhance our U.S. presence, as well as strengthen our ability to compete," Mr. Strohschen said.

To underline its commitment to alternative risk products, Gerling also plans to set up an offshore facility, probably in the Barbados, to support that market, Mr. Strohschen added.

Mr. Zech said that there is growing demand for financial reinsurance and other financial products.

"Some risks are better financed using banking instruments. Bonds, for example, can be an excellent means for clients to finance claims," according to Mr. Zech.

Gerling will develop financial products for its clients as a service but has no plans to provide the capital for such instruments itself. Instead, Mr. Zech said, it will work with major banks.

On other fronts, Mr. Zech said he expects group profits to drop because of the company's 1995 sale of its stake in Frankona Re A.G. to Employers Reinsurance Corp.

Following the sale, net profits fell to 110 million DM (\$68 million) for the fiscal year ending June 30, 1996, from 274 million DM (\$169.4 million) in the previous fiscal year.

Premium volume in the most recent fiscal year increased primarily due to foreign business, not German domestic business, which fell off dramatically in 1996 due to increased competition in Germany, Mr. Zech said.

In key areas, like property insurance, Gerling lost substantial market share, he said.

However, Mr. Zech said the company outperformed the market overall, with a premium volume increase of 6.5% to 11 billion DM (\$6.8 billion) for the year end-

Mr. Zech said he expects this percentage to increase eventually to 40%.

For the current business year, Mr. Zech projects that premium

growth in reinsurance, which he expects to increase 10% overall in the current fiscal year. For the year ended June 30, 1996, reinsurance premium volume increased 6.7% to 3.3 billion DM (\$2 billion).

To maintain its competitiveness in Germany, Gerling plans to offer new insurance products and services.

It will move more strongly into offering package policies—including property, casualty, health and accident coverages—to small and mid-sized business.

In addition, Gerling plans to step up its risk management consulting business, which it thinks will be a factor in policyholders winning better rates.

Gerling's consulting will go beyond such things as highly protected risk procedures to also in-

clude corporate safety and security measures that focus on company training of personnel.

Major losses for the fiscal 1996/1997 include the Eurotunnel P.L.C. disaster (BI, Nov. 25, 1996), which cost 120 million DM (\$74.2 million) for Gerling, one of the tunnel's main insurers.

Total insured losses from the English Channel tunnel fire, which Mr. Zech said were largely business interruption losses, were approximately 1 billion DM (\$618 million).

In addition, in fiscal 1995/1996, Gerling shared in coverage for the Dusseldorf airport fire, which was one of the largest commercial losses in German history. (BI, April 15, 1996).

Losses from the fire cost the company 40 million DM (\$24.7 million). **BI**

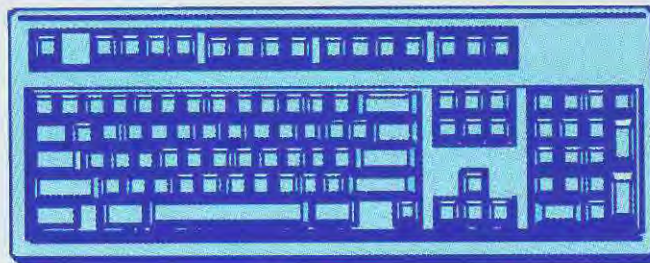
'We are not withdrawing. On the contrary, we're strengthening our commitment to the U.S. market,' says Gerling Global Re's Norbert Strohschen.

ing June 30, 1996. Foreign business grew 12.9%, while domestic business increased 3.7%.

Foreign business, mostly European, accounts for 32.4% of Gerling Group's total premium volume.

volume will increase slightly by 7.2% and reach 11.8 billion DM (\$73 billion), with foreign business increasing 18.9% and domestic business increasing 1% to 1.5%.

Mr. Zech also expects strong



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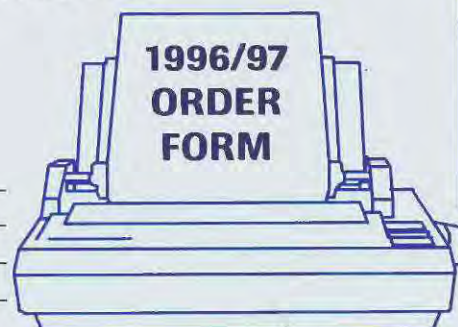
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Business Insurance®

Caymans authority will oversee insurance, banking services

By EDWIN UNSWORTH

GRAND CAYMAN, B.W.I.—The Cayman Islands government has created a Monetary Authority to oversee insurance and banking services—though the new unit may not have as much independence as originally anticipated.

Start-up of the Monetary Authority at the beginning of the year also coincides with changes in key personnel overseeing the islands' insurance operations.

William McCullough has been appointed to the new post of Head of Insurance Supervision, a position he took up Nov. 1, 1996, filling a void created in July 1996 when John Darwood, the island's deputy inspector of insurance since 1993, left to become senior adviser in the Insurance Division of the Guernsey Financial Services Commission.

Mr. McCullough, a native of Northern Ireland, has held a num-

ber of posts in insurance brokering, underwriting and supervision around the world since 1976. His most recent position was general manager of a Commercial Union Assurance Co. P.L.C./Swiss Reinsurance Co. joint venture company in Saudi Arabia. Prior to that, he was the insurance regulation and supervision adviser in Bahrain.

Between Mr. Darwood's departure and Mr. McCullough's arrival, the Cayman Islands' insurance supervision was overseen by John Mantz, formerly chief analyst in the Cayman Insurance Department.

Mr. Mantz had been expected to succeed Mr. Darwood, but he left the department when his contract expired.

Mr. Mantz's replacement as chief analyst in the insurance department is Christopher Collins. He has worked in the insurance industry in senior executive roles in Europe, South America and the

United States.

Mr. Collins said his additional background in fund investment will be helpful, as this area is becoming "increasingly important in Cayman as local companies become more sophisticated in invest-

Many key personnel changes have occurred in the islands' insurance oversight as expatriates chose to return home.

ing activities."

Those involved and the Cayman Islands government emphasize the personnel changes were entirely a result of expatriates deciding not to renew contracts, mainly so they could return home.

Mr. Darwood, who already had

twice extended his contract with the Cayman Islands since 1994, had made it clear last year that he wanted to return to England.

In creating the Monetary Authority, which had been planned since at least last year, the Cayman Islands government has disbanded the Financial Services Supervision Department, which oversaw insurance and banking, and created a wider-spreading unit that will oversee banking, insurance, mutual funds, management companies, the Cayman's Currency Board, and the islands' new stock exchange, which started up this year (BI, April 22, 1996).

However, the authority is only semi-autonomous, rather than fully autonomous, as the government had originally envisaged.

The result is that the authority will not have final say on insurance regulatory matters, but will have to defer to the government.

Anthony Stelling, a director with Midland Bank Trust Corp. (Cayman) Ltd., doesn't see this as a problem.

While Mr. Stelling thinks it will take about six months before the Authority's record can be judged properly, he says semi-autonomy should not make any difference.

"There is no conflict between the Monetary Authority and the government when it comes to issues that involve the private sector" in insurance regulation, he said.

Meanwhile, Guernsey is hoping the expansion of its insurance regulatory team with the addition of Mr. Darwood will help it win more captive business from U.S.-based multinationals, particularly those with European subsidiaries.

"Since I'm here with good working knowledge of the Americas and Caribbean, we should probably trade on that," Mr. Darwood said. **BI**

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LEGAL NOTICE

IN THE SUPREME COURT OF BERMUDA No. 496 of 1993
IN THE MATTER OF THE BERMUDA FIRE & MARINE INSURANCE COMPANY LIMITED (IN LIQUIDATION)

AND
IN THE MATTER OF THE COMPANIES ACT 1981 OF BERMUDA

AND
IN THE HIGH COURT OF JUSTICE (ENGLAND) No. 06565 of 1995
CHANCERY DIVISION

IN THE MATTER OF THE BERMUDA FIRE & MARINE INSURANCE COMPANY LIMITED (IN LIQUIDATION) (a Bermudian registered company)

AND
IN THE MATTER OF THE COMPANIES ACT 1985 OF GREAT BRITAIN

NOTICE IS HEREBY GIVEN that on 20 November 1996, the Scheme of Arrangement between The Bermuda Fire & Marine Insurance Company (the "Company") and its Scheme Creditors (as defined in the Scheme of Arrangement) was approved by Scheme Creditors.

On 18 December 1996, the Supreme Court of Bermuda and the High Court of Justice of England and Wales sanctioned the Scheme of Arrangement as approved by Scheme Creditors.

On 7 January 1997, the United States Bankruptcy Court for the Southern District of New York granted a permanent injunction order under section 304 of the United States Bankruptcy Code providing for the enforcement of the terms of the Scheme of Arrangement in the United States.

On 15 January 1997, the High Court of Justice of England and Wales ordered that the winding-up petition presented against the Company in England be dismissed.

On 15 January 1997, the orders made in the Supreme Court of Bermuda and the High Court of Justice in England and Wales sanctioning the Scheme of Arrangement were delivered to the Registrar of Companies in Bermuda and the Registrar of Companies in England for registration, respectively. The Effective Date of the Scheme of Arrangement is therefore 15 January 1997.

Dated: 15 January 1997
Clifford Chance, 200 Aldersgate Street, London EC1A 4JJ
Milligan-Whyte & Smith, Bermuda Commercial Bank Building, 44 Church Street, Hamilton HM 12 Bermuda
Chadbourne & Parke, 30 Rockefeller Plaza, New York, NY 10112, USA

Solicitors and Attorneys to:
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Liquidators of the Company.

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LEGAL NOTICE

In the matter of
National Employers' Mutual General Insurance Association Limited
(In Liquidation)
(("NEMGIA"))

NOTICE IS HEREBY GIVEN that the liquidators of NEMGIA intend to declare a second interim dividend to the creditors of the company within four months of 28 February 1997. Creditors who have not submitted claims to the liquidators of NEMGIA, PO Box 730, 20 Farringdon Street, London EC4A 4PP, England by 28 February 1997 will be excluded from this dividend. Forms of proof of debt may be obtained from the liquidators or from policyholders' brokers.

As regards NEMGIA's former branches in Cyprus and Malta, creditors should contact the local liquidator (or similar appointed person) to establish their claims. Only to the extent that UK dividends exceed local percentage distributions will creditors be entitled to participate in distribution from UK funds.

R Smith, Joint Liquidator
30 January 1997

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INTERNATIONAL

Falkland Islands' government requires employers liability

PORT STANLEY, Falkland Islands—An increase in commerce on the Falkland Islands has prompted the government to make employers liability insurance mandatory.

The Executive Committee of the islands' authority, the Falkland Islands Government, or FIG, made the insurance obligatory as of Jan. 1. Commerce on the sparsely populated islands has expanded since the mid-1980s. The Falklands are a British South Atlantic dependency.

Since then, private sector commercial life on the islands has been boosted by the sale of fishing licenses and increased tourism. Last year the FIG authorized a number of U.S., British and European oil companies to explore for oil offshore.

"There were no lawyers on these islands before 1986. Most disputes were settled between the people and the government. There is no history of people suing each other as such. But

now with things opening up they might go the way of the U.K. and the U.S.," said Drew Irvine, Mr. Irvine is director of Consultancy Services (Falklands) Ltd., a Port Stanley-based division of Aberdeen, Scotland-based accounting firm, Pannell Kerr Forster.

There also has been an effort to bring matters such as health and safety standards up to date with U.K. practice, said Richard Storey, divisional director at London-based insurance brokers HSBC Gibbs. FIG itself already includes employers liability insurance in its insurance program.

HSBC Gibbs is the insurance broker for FIG, which is the islands' largest employer, and places risks such as building, aviation liability, employers liability and hospital medical malpractice in the London market.

The Falkland Islands' population is only 2,500, plus 2,500 British military personnel.

—By Maria Kielmas

Swire to withdraw from underwriting

By SARAH GODDARD

HONG KONG—Swire Insurance Holdings Ltd., part of Swire Pacific Ltd., is withdrawing from underwriting, though it will keep its brokering operations.

Subject to the approval of local authorities, Hong Kong-based Swire will sell its 49% stake in Taikoo Royal Insurance Co. Ltd. to Royal & Sun Alliance Insurance Group P.L.C., which will then fully own Taikoo Royal and merge it with the Sun Alliance Hong Kong branch.

Zurich Insurance Group will buy the 25% of Zurich Insurance Co. (Asia) Ltd. that Swire now owns, along with Swire's 35% interest in Wing Hang Swire Insurance Co. Ltd. and 60% interest in Paofoong Insurance Co. (Hong Kong) Ltd.

In addition to buying into Wing Hang—which is a joint venture with Paofoong and the Wing Hang Bank, Hong Kong—Zurich is acquiring local holding, management and distributing companies. Last year, Zurich Asia's premium income totalled \$30 million; Swire's was about \$10 million. The balance of Paofoong is owned by Shanghai Commercial & Savings Bank Ltd.

Once regulators have approved the deals, they will be effective retroactively from Jan. 1 this year.

The Swire Fraser Ltd. brokering operation will not be affected by the decision to sell off the underwriting operations, confirmed Garth Bearman, chief executive and chairman of Swire Fraser in London.

Swire's decision to withdraw from underwriting forms part of its move toward concentrating on core activities, said Executive Director James Hughes-Hallett, at a time when the British colony is gearing up for repatriation to China at the beginning of July. A spokeswoman for Zurich confirmed Swire made the first move, approaching Zurich

The Swire Fraser Ltd. brokering operation will not be affected by the decision, says Garth Bearman.

with an offer to sell.

Both deals have a confidentiality clause about the amount paid for the former Swire insurance operations, though a Royal & Sun Alliance spokeswoman said the deal was for less than 0.5% of its value at June 30, 1996. Royal & Sun Alliance was valued at £6.23 billion (\$10.36 billion) then, meaning it will pay less than £31.2 million (\$51.9 million) for the balance of Taikoo Royal.

Taikoo Royal and Sun Alliance's Hong Kong office together posted premium volume of £27 million (\$44.9 million) for 1995. The insurer has no immediate plans for further investment in its Hong Kong operations, though "we would hope to increase the business written in Hong Kong," said the Royal

& Sun Alliance spokeswoman. "We still see Hong Kong as a very important future growth area," she said.

Robin Rowland, group director of international operations at Royal & Sun Alliance, said: "Once we have completed the purchase and merged the two operations, Royal & Sun Alliance will be one of the biggest non-life insurance companies in Hong Kong. This will give us an excellent base for future development."

Royal & Sun Alliance's three Chinese contact offices in Beijing, Shanghai and Dalian still are awaiting licenses to start trading, and the British government is backing the insurer in its bid to become the first admitted U.K. insurer in the country.

Although there are pockets of concern about the effects of the looming Chinese rule on the Hong Kong business sector, the general feeling is that it may present an accelerated opportunity to enter the mainland Chinese market. The reversion to Chinese rule on July 1 is not expected to hinder the license process, said the Royal & Sun Alliance spokeswoman.

The Zurich spokeswoman said the insurer is "very optimistic" about the prospects for a Chinese-run Hong Kong, though it will take until at least August before any outcome is known. "Our people in Hong Kong are very positive," she said, and Zurich expects to expand operations there.

Zurich has representative offices in Beijing and Shanghai. **BI**

E. coli recommendations could affect businesses

LONDON—Thousands of meat-handling businesses could be subject to new health and safety legislation and licensing arrangements if recommendations made following the E. coli food poisoning outbreak last month in Scotland are accepted by the government's Scottish office.

Michael Forsyth, Scotland's Secretary of State, told Parliament in London earlier this month that the outbreak, which killed 17 people and infected 400 others, "has raised some fundamental questions about current food safety procedures."

Mr. Forsyth went on to outline the recommendations in a report commissioned by the government following the outbreak.

In a related development, John Barr, the Scottish butcher believed to be at the center of the E. coli food poisoning outbreak, was charged earlier this month with culpable and reckless conduct. Mr. Barr is accused of supplying contaminated cooked meat from his shop in Wishaw on Nov. 23, 1996. The business is an award-winning butcher shop that supplies more than 60 outlets throughout central Scotland.

The Lord Advocate has emphasized that public interest demands that any criminal trial should go ahead as soon as possible.

A fatal accident inquiry, a civil proceeding to determine causes of death and how the deaths occurred, will take place after the criminal proceedings are completed, Mr. Forsyth said.

Previous, smaller scale E. coli outbreaks in the United Kingdom already have led to compensation claims against the government, McDonald's Restaurants Ltd.—the U.K. arm of McDonald's Corp.—and various meat suppliers (*BI*, Dec. 16, 1996).

The government-commissioned report recommends "urgent consideration of legislation and action to enable selective licensing of premises handling, producing or selling cooked meat or cooked meat products, which are not currently approved under the Meat Products (Hygiene) Regulations 1995."

"The target premises for licensing would be butchers and producers who are handling raw and cooked meats, whether at retail, preparation or wholesale," the report said.

Canneries, not already approved, also could be included, the report suggested.

"Around 1,000 premises may be affected in Scotland," according to the report. However, if the regulations are accepted they will apply throughout the rest of Britain.

The Scottish will consult with several parties before deciding whether or how to accept the recommendations. There is no timetable for a decision.

Licenses would be renewed annually and could be revoked if conditions were considered a risk to public health.

National license conditions should be established that "would enable the food authority to require as a condition of licensing the education/training of staff, the separation of cooked and raw meats, that adequate arrangements for product recall exist, and that the labeling and recordkeeping of distribution of product is maintained," the report suggests.

Other recommendations include a review of the Food Hazard Warning System, by which Health Departments are warned of food poisoning outbreaks, and the better targeting of food hygiene inspections.

—By Carolyn Aldred

Train driver to face manslaughter charges

WATFORD, England—The driver of a passenger train that collided with another train last year is being charged with manslaughter and endangering the safety of passengers, according to British Transport Police.

Peter Afford, 56, from Bushey, Hertfordshire, was driving the North London Railways train when it collided with another train last August, leaving one woman dead and more than 70 passengers injured (*BI*, Aug. 19, 1996; Aug. 12, 1996).

The criminal charges come after several investigations into the accident conducted by the police; North London Railways; Railtrack P.L.C., which is responsible for the rail infrastructure; and the Health and Safety Executive.

None of the accident reports will be published until after the court proceedings, spokesmen for the various organizations confirmed.

Details of the case, including Mr. Afford's alleged offenses, also will not be released until the court proceedings due to begin in April, said a police spokesman.

Spokesmen from the rail companies, HSE and the Crown Prosecution Service could not recall any other incident where a train driver has been charged with manslaughter as a result of a fatal train accident.

The last year has seen an increase in the number of manslaughter charges brought in work-related accidents (*BI*, March 11, 1996; Sept. 12, 1996). **BI**

Services Guide

Business Insurance

Circulation Breakdown Commercial Consumers

Administrative:	
CEOs, 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
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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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For the Record

Mattel hit with suit over Snacktime doll

SAN DIEGO—Mattel Inc. is facing a \$25 million lawsuit seeking punitive damages for injuries allegedly caused by its Cabbage Patch Snacktime Kids doll, which was recalled earlier this month after reports the doll was munching on hair and fingers as well as its intended plastic food.

The suit, filed Jan. 9 in the Superior Court of California, County of San Diego, alleges the toy manufacturer and Wal-Mart Stores Inc., which sold the doll, designed, manufactured, distributed and/or retailed the defective product in conscious disregard of 9-year-old Jessica Wells' rights.

Jessica woke early one morning screaming to find the Cabbage Patch doll she received for Christmas had consumed her hair to her scalp, according to attorneys at Potter, Day & Associates P.C., the San Diego-based law firm that brought the suit.

"A simple on/off switch could have prevented needless pain and suffering for many of the children injured by the product," George Najjar, an attorney with Potter, Day, said in a statement. "When companies choose profits over safety, they should be punished accordingly."

Jessica, on behalf of her parents Thomas and Genie Taylor, is seeking \$15,000 in economic and future economic damages, \$500,000 in non-economic damages and \$25 million in

punitive damages. Separately, Mr. Taylor and Ms. Taylor each are seeking \$30,000 in economic and non-economic damages.

Mattel and Wal-Mart said they would not comment until they had a chance to fully review the suit.

In the meantime, a spokeswoman for El Segundo, Calif.-based Mattel said 1,000 dolls have been returned for a refund. After at least 100 incidents in which the doll munched on hair and fingers, the company announced it would voluntarily withdraw the product from all retail shelves across the United States, discontinue distribution and offer a full cash refund of \$40 to consumers for any returned doll. These actions came one week after Mattel said it would put a warning label on all remaining and new dolls (BI, Jan. 13).

Fireman's Fund to seek bad faith rehearing

SAN FRANCISCO—Fireman's Fund Insurance Co. will seek a rehearing of a California appeals court decision that upheld a \$28.6 million bad-faith jury verdict against the insurer.

The 1st District Court of Appeals in San Francisco earlier this month let stand the 1992 award, which includes \$21 million in punitive damages.

Paul Glad, an attorney with Sonnenschein, Nath & Rosenthal in San Francisco, which represented the insurer, confirmed that a petition for rehearing would be filed, partly on the grounds that "we deeply believe the court failed to focus on whether the conduct was reprehensible enough to justify the punitive damages."

The request for the rehearing will be filed in the 1st District Court of Appeals.

The appeals court concurred with the verdict that the Novato, Calif.-based insurer improperly refused coverage under an excess liability policy written to limits of \$25 million for PaineWebber Real Estate Securities, a unit of PaineWebber Inc.

The jury also awarded PaineWebber \$3 million in compensatory damages and \$2.8 million in interest, and the trial judge approved \$1.8 million in attorneys fees.

PaineWebber had sought coverage for a \$20 million settlement reached in 1987 with Burlingame, Calif.-based Homestead Savings & Loan over allegations that PaineWebber brokers were responsible for the poor performance of a program to repackage and resell government mortgage loans as Government National Mortgage Assn. securities.

Court throws out dioxin verdict

ATLANTA—A property damage verdict against Georgia-Pacific Corp. for more than \$1 million in damages is not valid, the Mississippi Supreme Court ruled last month.

In *Leaf River Forest Products Inc. vs. Simmons*, the court reversed an appellate decision upholding a 1990 verdict that the paper products company discharged dioxin from a pulp mill in New Augusta, Miss. A jury had awarded the plaintiff \$40,000 in compensatory damages and \$1 million in punitive damages.

The Supreme Court ruled that a previous verdict for the plaintiff for trespass or nuisance was invalid because no evidence was presented that dioxin was on or in the vicinity of his property.

"We are pleased and gratified by this most recent victory," said James F. Kelley, senior vp and general counsel at Atlanta-based Georgia-Pacific. "This decision and other recent decisions in Mississippi trial courts confirm our consistent position that there was no evidence of exposure or injury from our Leaf River mill. . . . The vast majority of claims regarding this issue already have been dismissed."

Separately, a Mississippi state circuit court in July dismissed about 9,100 lawsuits against Georgia-Pacific that sought damages resulting from the alleged discharge of dioxin and other chemicals from the same pulp plant.

Lawyer indicted in insurer insolvencies

PHILADELPHIA—A former partner of a prominent Philadelphia law firm has pleaded not guilty to charges of looting two now-defunct life insurers he controlled.

Allen W. Stewart was indicted on 63 counts of racketeering, mail and wire fraud and money laundering for allegedly driving Summit National Life Insurance Co. and Equitable Beneficial Life Insurance Co. into insolvency in a series of schemes from 1988 to 1993. Pennsylvania regulators placed both insurers in liquidation in 1994, the same year Mr. Stewart resigned as a partner of the law firm Morgan, Lewis & Bockius.

According to the indictment, Mr. Stewart bought Summit National in 1988 from Cargill Inc. with a bank loan, later using \$59.3 million of the insurer's money to repay the bank and cover other costs. Mr. Stewart then used sham reinsurance agreements and overvalued assets to conceal the reduction of the insurer's capital and surplus, prosecutors charge.

The indictment also alleges that Mr. Stewart diverted Summit National

money to his own benefit, buying a \$1.6 million oceanfront house in Del Mar, Calif., a \$51,750 grandfather clock, a \$29,900 Chippendale dresser and a collection of fine wines.

Mr. Stewart also borrowed \$5 million from Summit National to buy another life insurer—later named Conestoga Life Assurance Co.—which he controlled and that took over the business of Equitable Beneficial, prosecutors charge.

Mr. Stewart sold Summit National and Equitable Beneficial in 1993 to a buyer who later discovered they were actually insolvent by a combined \$123.7 million, according to the indictment.

Mr. Stewart last month pleaded not guilty to the charges. If convicted on all counts, he faces a statutory maximum sentence of 495 years in jail, more than \$15 million in fines and forfeiture of \$26.9 million in property.

Separately, A.M. Best Co. has downgraded Conestoga Life and a property/casualty subsidiary, American Sentinel Insurance Co., to D from B. Both are owned by Mr. Stewart.

Two companies settle job bias claims

Boston Edison Co. is settling an age-discrimination lawsuit for \$2.25 million.

Separately, The Minneapolis Star Tribune is paying \$500,000 to a group of female employees who alleged sexual discrimination.

The Boston-based utility said the settlement filed late last month in U.S. District Court in Boston was reached to avoid expensive litigation. The company admitted no wrongdoing in agreeing to pay 34 former employees who alleged they were laid off in 1988 because of their age.

The lawsuit was filed in 1991 by the Equal Employment Opportunity Commission on behalf of the employees, who were between the ages of 55 and 60 when they were laid off.

A Boston Edison spokesman said the EEOC approached the company about a settlement after 22 pieces of the plaintiffs' evidence were disallowed in the suit. He declined to discuss whether insurance would fund the settlement.

The Star Tribune and 70 female reporters and editors used a private mediator to settle complaints regarding pay-equity and gender fairness. The newspaper said in a statement that the two sides have been negotiating such issues for years.

In addition to \$500,000 in back pay, the agreement calls for around \$125,000 in annual pay increases for some female newsroom employees.

A spokeswoman for the newspaper would not say how the settlement is funded.

California court approves drug tests

SAN FRANCISCO—The California Supreme Court has upheld employee drug testing by public employers, ruling it is permissible to screen job applicants. However, blanket testing cannot be required as a condition for employee promotions.

State and local governments will be bound by the Jan. 6 decision in *Lorraine Loder vs. the City of Glendale*, but it also is expected to benefit private sector employers.

The case is the first ruling on the constitutionality of drug testing in the workplace from the high court, which previously let stand a lower court's ruling allowing screening.

Court justices ruled that screening is constitutionally permissible for Glendale's potential hires because the city required them to take medical exams 10 years before it added a drug testing component to the exams. Drug screening was adopted in 1986 after

the city noted an increase in disciplinary problems related to drug use.

Employers also have a greater need to test potential hires because their day-to-day behavior is unknown, the court noted. But testing all employees already known to the employer, regardless of their duties, violates the U.S. Constitution's 4th Amendment, which prohibits unreasonable search and seizure, the court said.

Such testing might be allowable for jobs where public safety is a concern or positions where substance abuse is particularly a problem, justices wrote. Additionally, testing an employee who shows signs of drug or alcohol impairment is allowable.

The suit was brought by Lorraine Loder, a taxpayer who argued against spending tax money for a program she viewed as unconstitutional. She was backed by the American Civil Liberties Union. The trial court and an appeals court in the case had ruled that testing was allowable only for certain job classifications.

Information in brief

A New York trial court judge earlier this month dismissed five suits alleging negligence by the **Long Island Rail Road** in a mass shooting incident in 1993. Seven other suits are pending. . . . Former California Assemblyman **David Knowles**, R-Placerville, has been appointed deputy insurance commissioner for policy, research and special projects. Mr. Knowles chaired the Assembly Insurance Committee during 1995 and 1996 and helped push the California Earthquake Authority through the Legislature. . . . Policyholders of defunct **Guarantee Security Life Insurance Co.** of Jacksonville, Fla., will receive \$6.1 million from the sale of Rudder Cut Cay, a 363-acre island in the Bahamas. The island was among assets seized as part of a settlement with principals of the insurer, which was found insolvent in 1991 (BI, April 8, 1996; April 1, 1996). . . . **Aon Corp.**'s tender offer for all outstanding shares of A&A common stock was completed Jan. 15, and the tender offer of Series B preferred shares held by subsidiaries of American International Group Inc. was to be completed last Friday. . . . **Prudential HealthCare** is selling its managed care business in Massachusetts to Tufts Health Plan, including HMO and point-of-service plans serving 50,000 people. The agreement will give Tufts access to 500 new employer groups. . . . A U.S. District Court jury in Los Angeles found New York consultant John D. McAllister **guilty of 24 counts of bribing Abdul Sesay**, the former risk manager for the Los Angeles County Metropolitan Transportation Authority. Mr. McAllister made \$115,000 in payments to Sesay—who has been convicted of accepting bribes—to obtain MTA contracts, charged the U.S. attorney's office. Mr. McAllister is scheduled to be sentenced March 24. . . . **Equipment Insurance Managers Inc.**, a Dallas broker charged in civil fraud lawsuits with diverting premium from nearly two dozen insurers, has filed for Chapter 11 bankruptcy protection. The filing cites United National Group, a plaintiff in one of the suits, as EIM's largest unsecured creditor, with a \$1.7 million disputed claim (BI, Oct. 2, 1995). . . . A federal judge in New Haven, Conn., late last month cleared the way for Connecticut to proceed with its **\$1 billion suit against the tobacco industry**. Judge Peter Dorsey threw out a pre-emptive lawsuit filed by the industry that aimed to block the state's suit seeking to recover its costs for treating smoking-related illnesses. . . . The U.S. Supreme Court's recent decision not to review **KAL vs. Forman** opens the way for some relatives of victims of the **1983 Soviet attack on a Korean airliner** to seek damages for the victims' pre-death pain and suffering. [BI]

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Kemper

Continued from page 1

utive officer, whom Mr. Smith succeeded as president.

Mr. Mathis makes clear where he wants the company to be at that time.

"I would like to see Kemper first and foremost as a consistent profit-maker, and by that I equate profit with growth in surplus that exceeds what you would get in the normal investment market," said Mr. Mathis, adding that he does not consider the past couple years to represent a "normal" investment market.

"I can't predict how big we'll be. But I'd like to see us continue our dominance in the lines of business we are strong in," such as workers compensation and highly-protected-risk property insurance while "enhancing our business by significant involvement" in some other products, he said.

As he accepts that new job and challenge when traditional property/casualty insurers continue to lose business to alternative markets and other forms of self-insurance, Mr. Smith says he does not think insurers have necessarily lost the best risks to the other markets.

"I guess I'm not sure I buy the premise. I think people choose to self-insure or insure for a wide range of reasons, and not necessarily the best are self-insured."

"I think that has to do with issues in corporate culture and values, whether or not they want to finance risks a certain way, or handle losses a certain way," he said.

"The risk manager today has an array of alternatives that weren't there five or six years ago, so I think we're seeing a lot of investors going back to fully insured programs because they get excellent financial benefits, they increase deductibles wherever they choose, and they get out from under the administration of running a self-insurance program. So I'm not sure it's correct that the best risks are self-insured right now," he said.

"The most progressive risk managers are focusing on, 'What is my real ultimate loss cost?' To the degree that a risk manager focuses on that, and that we as a traditional insurer can provide a service that brings them the lowest ultimate loss costs, we're very well-positioned," he said.

Controlling loss costs is among the critical issues risk managers face today that he faced more than a decade

ago at Sears, said Mr. Smith.

Holding down workers comp and health care loss costs, particularly with an aging workforce, is one of the most crucial issues, he said. Another issue is catastrophe exposures and property protection questions, he said.

But the most significant issue facing risk managers arises from structural changes in the economy, according to Mr. Smith.

The United States is "shifting from a manufacturing to a service economy, and the exposures from a service organization are different from that of a manufacturing organization," he said.

"What a service organization might be responsible for: That's sort of like what product liability was for a manufacturing organization. Everybody has a very clear understanding how to risk-manage and (implement) loss control for product liability. I think it's a much less clear understanding of how to deal with the liability issues arising out of being a service provider, and I think that's going to be the issue for risk managers to grapple with over the next four or five years," Mr. Smith said.

He cited health care and telecommunications as examples of enterprises where interdependent services create new questions of liability, questions that haven't yet been answered.

"Who's liable for what? What are the exposures?" he asked rhetorically.

"As we move to a service economy and as the population continues to shift into hazardous areas, this is a real challenge for risk managers. As we shift to services, people have to think about in essence what's kind of a professional liability rather than a products liability, and this is going to be a real challenge," he said.

These types of concerns create new opportunities for Kemper, pointed out Mr. Smith.

"Generally casualty is where we are going to have to expand," he said, adding that Kemper's name recognition should be a plus in this effort.

"So we'll be looking at really the whole spectrum," he said. That could mean Kemper will find opportunities in excess casualty, professional liability or environmental coverages, he said.

In fact, Kemper announced late last week that it will establish a new business unit to underwrite excess casualty insurance. Charles Abruzzo, currently president of Underwriters

Reinsurance Group's surplus lines-northern division, will join Kemper in early February to head the new unit.

"We have aggressive business projections and intend to become a major player in this line," said Mr. Smith.

In the past several months, Kemper has put together a product development department to explore new avenues. Mr. Smith said he's told underwriters and marketers to "go find out what others aren't doing, and then start driving the product development mechanism to respond."

Looking for new casualty insurance business does not mean Kemper will turn its back on two lines of coverage in which it has been a significant player over the years, noted Mr. Mathis.

'As we move to a service economy and as the population continues to shift into hazardous areas, this is a real challenge for risk managers,' William D. Smith says.

"Clearly, workers comp is an area where we are strong; over the years, generally we outperform the industry," he said.

"We see lots of opportunities related around that workers comp area," said Mr. Mathis. For example, the KemperCare comprehensive workers comp program, offered jointly between the insurer and health plan companies, allows policyholders who choose it to have access to the health plan's occupational network and physician management expertise.

In addition, Kemper National Service is marketing non-occupational disability management.

Kemper also will continue to emphasize its highly protected risk property insurance business, he said.

"We're really managing to refocus that business and not trying to be all things to all people. We'll focus on middle-kind of accounts, such as hospitals, as opposed to giant risks where there's a lot of sharing," he said.

HPR also will continue to play a key role in Kemper's international operations, said Mr. Smith, though he cautioned that Kemper's overseas operation will be more in the area of strategic partnerships rather than as a standalone player.

"We are simply not big enough to compete in 170 countries with some of the companies that are established for a long time. Even if we wanted to, we couldn't build that network in our lifetime. So I think what you'll see us do is identifying strategic partners around the world," said Mr. Smith.

"For a non-U.S. company, we're an almost ideal partner, because we're very good at work comp, which non-U.S. companies don't understand, and we're very good at highly protected risks, which non-U.S. companies don't understand, so our ability to service U.S. business for foreign insurers is probably better than anybody else's," he said. "At this time, it is not really our intent to become an on-the-ground, direct-market major player outside North

America."

Regardless of where its operations might be, Kemper will rely on technology to meet the demands of its customers, he said.

"A great deal of how we are able to drive down our loss costs today better than the next guy is driven by technology, but that technology is very, very expensive. So we're having to learn how to manage technology as well as we manage other parts of our enterprise," Mr. Smith said.

The competitive nature of the current market is unlikely to change significantly in the foreseeable future, said Mr. Mathis, who added though that "you never say never in this business."

He said while there may be some price recovery in some lines of business, "generally speaking, companies need to recognize that they are going to have to be more focused, and they're going to have to be more productive and operate in a more efficient way."

For Kemper, the challenge is how to achieve productivity without damaging the insurer's service reputation, he said.

Kemper, and the insurance industry as a whole, also face challenges in the public arena, said Messrs. Smith and Mathis. This is particularly in

regard to the U.S. Comptroller of the Currency's moves to give banks a freer hand in the business of insurance, said Mr. Smith.

The opening of a federal door to insurance for banks raises again the question of solvency regulation, said Mr. Smith. He said insurers must address how to create a kind of solvency regulation as "vibrant" as that which exists in the banking industry.

"I wouldn't want insurers and their policyholders to in essence be second-class citizens because of the perception. I think part of what's going to happen here is some major insurers, especially diversified insurers, are going to say, 'Well, if banks are in insurance, we're going to enter banking because we can do it as well as they can,' and they probably can. And that's probably good for the customer, but under today's environment, you're going to have firewalls, and the far better-protected side of the equation will be the bank side."

Mr. Mathis said he thinks the answer to those questions can be better provided by state rather than federal regulation.

"I personally don't put myself in the camp that dual regulation, even at some limited level, for this industry makes sense at all. From our perspective, responsible state regulation works. I think it's totally within the capability of the state commissioners to arrive at solvency standards that are uniform throughout each state. I personally would rather see it go that way than to see the industry to get involved and have to deal with a federal regulator."

Looking toward the next century, Mr. Mathis said he views the consolidation among primary brokers as a "an opportunity for a company like ours." He said he doesn't see the moves toward consolidation raising a question of increased broker leverage on insurers.

Instead, "it means less people that we have to call to get a shot at major opportunities," he said.

Mr. Smith said he doesn't think there is that much consolidation going on among primary insurers, and expects that regional and what he called "super-regional" insurers will be major players in the marketplace.

No matter what happens, Mr. Smith is optimistic about his new job and company.

"We've got a great franchise, and what I'd like to see in 10 years is that the brand is even more prominent than it is today, and I think we've got a tremendous opportunity to do that."

BC/BS in Missouri appeals ruling, explores partnership

By JUDY GREENWALD

ST. LOUIS—Blue Cross & Blue Shield of Missouri is appealing a state court judge's ruling that its creation and operation of a for-profit subsidiary exceeds the plan's authority.

Separately, the Blues plan said it is negotiating a possible "business combination" with St. Louis-based BJC Health System, the largest health care provider in the St. Louis area. The court case is not expected to interfere with those discussions, a spokeswoman said.

If the Blues plan's appeal is unsuccessful, the lower court's decision could lead to the dissolution of the for-profit unit—called RightCHOICE Managed Care Inc.—though Cole County Circuit Court Judge Thomas Brown III said the court will consider "reasonable alternatives."

Insurance Commissioner Jay Angoff and the Missouri Department of Insurance are not seeking to dis-

solve RightCHOICE, a department spokesman said. Instead, regulators are asking the Blues plan to designate a "reasonable," though unspecified, amount of assets to support expanded health care coverage for the state's underinsured, he said.

The department and the state attorney general's office, which is also a party in the case, had been negotiating with BC/BS of Missouri in May when the Blues filed suit, asking that the state offices be barred from taking any action against the health care organization.

In his Dec. 30 ruling, Judge Brown revised his Sept. 9 decision that had favored the Blues plan (*BI*, Sept. 23, 1996).

RightCHOICE, now the largest managed care provider in the state, serving 1.8 million members, was organized in 1994. The company's stock is traded on the New York Stock Exchange, with BC/BS of Missouri owning 80% of its out-

standing shares.

RightCHOICE assumed the Blues plan's managed care business, while BC/BS continues to operate non-profit health plans, including traditional indemnity insurance

If the Blues plan's appeal fails, the lower court decision could lead to the dissolution of for-profit RightCHOICE.

programs, court papers show.

By continuing to operate in its new corporate structure, BC/BS of Missouri "has continued to act contrary to its purposes as a non-profit corporation operating as a health services corporation," Judge Brown ruled. In addition, the Missouri Blues' contention that the reorganization was necessary for its sur-

vival as a non-profit business "lacks factual support," he wrote.

The judge suspended further proceedings pending an appellate review of the judgment.

BC/BS of Missouri filed an appeal of Judge Brown's decision with the state appellate court in Kansas City on Jan. 9, and the Missouri Insurance Department and the attorney general's office responded with a cross-appeal last week.

The Blues plan said Judge Brown's decision is "not the final word. In fact, this is just the beginning of a legal process to clarify how Missouri law truly applies within the context of a dramatically changing health care industry."

Meanwhile, BC/BS and RightCHOICE said last week it had reached an agreement with BJC Health System, which owns 13 hospitals and seven nursing homes throughout central Missouri and southern Illinois, to pursue an "in-depth analysis of a possible busi-

ness combination or other form of strategic alliance or affiliation." The two parties agreed to negotiate on an exclusive basis through March 18. Talks between the two organizations had been rumored for several weeks.

BC/BS said integration of the two health care delivery and financing systems "may offer potential benefits for both organizations and their constituencies." The announcement notes discussions are still preliminary, and the structure and terms of any alliance have not been determined.

The BC/BS spokeswoman said "nothing in Judge Brown's ruling stops us from carrying out our day-to-day activities or exploring any business opportunities," though any eventual arrangement would require regulatory approval.

The Insurance Department spokesman said the department would not take action on any proposal until it receives a full application.

Superfund

Continued from page 2

"We're encouraged that a bill was introduced early in the 105th Congress, but we're disappointed that the liability provisions do not go far enough. We want to work with Sen. Chafee and Sen. Smith to make the proposal more workable. The administrative allocation system appears to benefit some (potentially responsible parties) more than others, and we wonder whether or not it would produce an overall savings," said David Farmer, senior vp-federal affairs for the Alliance of American Insurers in Washington.

"I think it's quite obvious that Sen. Smith and Sen. Chafee are trying to break the deadlock they've experienced over the past two years," observed John Arlington, senior counsel for the American Insurance Assn. in Washington.

"We think this is just a starting point. There's going to be a lot of work put on this bill before it's over," Mr. Arlington said.

"We're glad to see that Superfund reform has taken such a high profile in this Congress as one of the first 10 bills introduced by the Republicans, and while the information we have on the liability system is still somewhat sketchy, we are encouraged to see the fair share allocation system and at least a limited repeal of retroactive liability," said Paul Brown, director-government affairs for the Risk & Insurance Management Society Inc. in New York.

"RIMS would still like to see a complete repeal of retroactive liability, but given the political realities we now face, we believe Sen. Smith's proposal is a good starting point. RIMS will continue to push for repeal of as much of the retroactive liability as possible, because we still believe it to be unfair and the biggest drag on the Superfund program," he said.

Under the allocation system advocated in the bill, a mutually agreeable qualified third party would determine the portion of liability each potentially responsible party should shoulder. Those that accepted would be absolved of joint and several liability for cleaning up other portions of the site.

The Superfund itself would pick up the costs of cleanup attributed to insolvent parties or for which no potentially responsible party could be found. PRPs that refused to accept the allocator's division and that were later found to be responsible could be held liable for cleanup costs under the program's current systems of joint, several, strict and retroactive liability.

In addition, the liability of municipal owners and operators of landfills would be limited at 10% or 20% of total costs, according to the population of the municipality, and the liability for private owners and operators capped at 30% of total costs.

Businesses with fewer than 30 employees or \$3 million in gross revenues would also enjoy liability relief, as would generators and transporters of municipal solid waste, recyclers of certain materials and other specified small contributors of waste to a site. There would be no liability relief for PRPs guilty of illegal acts.

Sen. Smith made clear that he would have preferred broader relief.

"Liability has always been one of the most contentious issues in the Superfund reform debate. My position has been clear from the beginning. I believe that retroactive liability is fundamentally unfair, and if I had my way, I would repeal it," said Sen. Smith.

How the GOP leadership addressed the other matter of concern to insurers and risk managers during the first week of this Congress—product liability reform—is draw-

ing little but praise.

"I think the introduction of legislation signifies that the Senate leadership sets this as a most important part of their legislative agenda," said the Alliance's Mr. Farmer. He said if that congressional level of "optimism and enthusiasm" for reform can be maintained, he is "guardedly optimistic" the measure could become law.

Supporters of S. 5 say it is a "placeholder" bill, designed to get the matter on the Senate docket early with the understanding the measure might not be the final bill.

"We're glad to see it take such a high profile, and if it is in fact just a placeholder, we look forward to seeing the final bill when it is ready," said RIMS' Mr. Brown.

Victor Schwartz, senior partner in the Washington law firm Crowell & Moring and a longtime lobbyist for product liability reform, noted that the product liability bill is the only measure among the GOP leadership's top 10 that already has won congressional approval. He said this approach was better than attempting to draft yet another bill from scratch.

"To some extent, this can become a good poster child for reconciliation" because it has been passed twice by both houses and enjoys bipartisan support, he said.

By saying the bill is a placeholder, the measure's backers are signaling that they are willing to work with the administration to craft a measure, he said.

Mr. Schwartz cautioned supporters about reading a slight increase in GOP Senate strength as a sign that all ahead is smooth sailing. "We are going to have to work extraordinarily hard to get the 60 votes," to end debate on S. 5 and bring the measure to a vote, he said.

"One should never assume that any new senator will vote one way or another on this bill" until the vote is actually cast. **BI**

Updates

Golden Eagle to boost reserves

SAN DIEGO—Golden Eagle Insurance Co. will comply with California Department of Insurance demands that it increase its reserves by \$138.5 million.

The company will file a plan with the Insurance Department to increase its reserves through a combination of reinsurance and direct additional reserves, John Maybee, president of the San Diego-based insurer, announced last week.

Mr. Maybee's announcement followed Golden Eagle's unsuccessful attempt to persuade an appeals court to overturn a lower court decision stating Commissioner Chuck Quackenbush has the authority to order the company to boost reserves without holding a hearing (*BI*, Nov. 25, 1996).

Despite the setback, Golden Eagle was right to have battled the order, Mr. Maybee said in a written statement.

ABC News will appeal verdict

GREENSBORO, N.C.—ABC News will appeal a federal jury award of \$5.5 million in punitive damages to Food Lion Inc. in a case involving a 1992 episode of "PrimeTime Live."

The verdict was based not on libel but on fraud allegedly committed by ABC News employees in obtaining jobs at the Salisbury, N.C.-based supermarket chain while conducting their undercover investigation.

The punitive damages follow a Dec. 30 award of \$1,400 in compensatory damages.

"We believe this jury has said that ABC must be held accountable when it breaks laws that everyone else is expected to obey," said Tom Smith, president and chief executive officer of Food Lion.

ABC News President Boone Arledge called the verdict "unconscionable" and troubling, noting the suit did not challenge the truth of the broadcast. Mr. Arledge said in a written statement that "if large corporations were allowed to stop hard-hitting investigative journalism, the American people would be the losers."

This verdict against ABC follows a Miami jury's December award of \$8.75 million in damages to a bank executive in a libel suit against the news organization.

In awarding the verdict last month, the federal court jury ruled that Alan Levan, the chairman and chief executive of BankAtlantic Financial Corp., was damaged by an ABC News broadcast of "20/20" from November 1991. Mr. Levan's award includes \$8.25 million from ABC and \$500,000 from the show's producer, William Wilson. In addition, the network was ordered to pay \$1 million and Mr. Wilson was ordered to pay \$250,000 to BankAtlantic Financial Corp., bringing the total award to \$10 million. ABC also plans to appeal this decision.

Companies lose cleanup ruling

LOS ANGELES—Montrose Chemical Co. and Westinghouse Electric Corp. may become obligated to pay more to help clean up Los Angeles Harbor as a result of a recent federal appellate court ruling.

The 9th U.S. Circuit Court of Appeals on Jan. 17 reversed a district court ruling that had capped the two companies' cleanup liability for pollution in the harbor to \$50 million plus response costs.

The appellate court also found that the statute of limitations had not yet run out for the state and federal government to seek additional cleanup costs from the companies.

The case has been remanded to U.S. District Court in Pasadena, Calif., for retrial. The case stems from a 1990 lawsuit filed by the United States and the State of California as part of an effort to clean up DDT and PCBs released over several decades by Montrose and Westinghouse into the Los Angeles-Long Beach harbors.

The suit was filed under the Comprehensive Environmental Response, Compensation and Liability Act.

Briefly noted

California Commissioner of Corporations Keith Paul Bishop is fining 43 health care plans a total of more than \$500,000 for failure to comply with a 1995 law that requires plans to notify enrollees of the right to complain to Mr. Bishop's department through a toll-free number. . . . The Illinois Industrial Commission is expected to refund at least \$4 million in now-unneeded workers compensation security fund contributions to more than 700 Illinois employers, after a Cook County Circuit Court judge verbally approved the unopposed settlement earlier this month. . . . On the heels of opening its Japanese underwriting operation, Lloyd's of London is establishing a representative office in Hong Kong to expand its Asia-Pacific business. The office, headed by Paul Murphy, is expected to be up and running by the end of February. . . . Former Arizona Senate President John A. Greene, 49, has been appointed Arizona insurance director. He is the fourth Insurance Department head in five months. Insurance Director Chris Herstam resigned in August 1996, and two acting directors headed the department before Gov. Fife Symington named Mr. Greene director. . . . Coopers & Lybrand L.L.P. last week officially completed its purchase of Kwasha Lipton L.L.C. Coopers & Lybrand, as earlier reported, will merge Kwasha Lipton into its Human Resource Advisory Group (*BI*, Jan. 20). . . . Two suits have been filed against Comair Holdings Inc. arising from the crash of a commuter plane outside Detroit (*BI*, Jan. 13). Both suits were filed by the family of Dexter Adams, who perished along with 28 other people when the Comair Emb 120 turboprop crashed Jan. 9. The plane's manufacturer, Empresa Brasileira de Aeronautica S.A., also was named as a defendant in one suit. . . . Lakeland, Fla.-based Publix Super Markets Inc. agreed late Friday to settle a class-action sex discrimination suit for \$81.5 million. The settlement, which covers about 150,000 current and former female employees in four Southeastern states, includes \$63.5 million in payments to the class and \$18 million in legal fees. . . . St. Paul Re, the reinsurance operation of The St. Paul Cos. Inc., last week agreed to purchase renewal rights to Constitution Reinsurance Corp.'s book of U.S. casualty facultative reinsurance. New York-based Constitution Re earlier this month reported it was exploring the possible sale or restructuring of the casualty facultative operation (*BI*, Jan. 20).

Democratic senators take aim on adding to pension reform

WASHINGTON—With the ink barely dry on comprehensive pension legislation passed by Congress last year, a group of Democratic senators is pushing for a new round of changes.

But unlike last year's measure, which included many provisions welcomed by employers, the new bill, The Retirement Security Act of 1997, is a decidedly mixed bill for business.

"Some provisions will be welcomed, but others are troubling," observed Frank McArdle, a consultant in the Washington office of Hewitt Associates L.L.C.

Perhaps the most troublesome provision in the measure, introduced by Senate Minority Leader Tom Daschle, D-S.D., and other Democratic senators, is one that would increase employers' 401(k) plan costs by requiring employers' matching contributions to be fully vested after three years.

Under common 401(k) plan design, employees have to work anywhere from five to seven years before employers' matching contributions to the 401(k) plan are fully vested.

Backers of the provision say faster vesting of 401(k) contributions is needed to assure that workers who move from job to job obtain benefits.

The cost of accelerating vesting of 401(k) contributions would vary considerably by employer with the highest costs incurred by employers in high-turnover industries,

said Frank Roque, a Hewitt Associates consultant in Lincolnshire, Ill.

Other provisions, though, will be welcomed by employers. For example, one provision will eliminate the requirement that employers provide copies of summary plan descriptions, or SPDs, to the U.S. Department of Labor. However, copies of SPDs still would have to be given to employees.

Under current rules, SPDs have to be issued every 10 years, though the Labor Department and employees have to be given copies of material modifications to the plans no later than 210 days after the close of the plan year in which the changes are made.

Other provisions, while important for employees, would not have a direct effect on employers.

For example, the measure would define highly compensated employees—for non-discrimination testing purposes—as those earning more than \$80,000 a year. Current law sets several definitions for highly compensated employees. Under the most widely used definition, highly compensated employees are defined as those earning more than \$80,000 a year. Under an alternative definition, which the new measure would eliminate, highly compensated employees are those who earn more than \$80,000 and rank in the top 20% of compensation in their companies.

In addition, the measure would

double the amount of benefits guaranteed by the Pension Benefit Guaranty Corp. for participants in multiemployer pension plans.

Other provisions are aimed at potential future developments. For example, the proposal would bar 401(k) plans from allowing employees to use credit cards to take out loans from the plans. While financial institutions have discussed offering such a feature, none is currently marketing those kinds of cards.

Yet another provision involves a past practice—reversions from terminations of overfunded pension plans—that essentially has died out. The measure would require the Department of Labor to issue an annual report detailing pension reversions.

That practice, under which employers in the early and mid-1980s recovered more than \$20 billion in surplus assets after terminating their overfunded pension plans, died out by the early 1990s in the wake of changes in federal law that imposed a big tax bite on reversions.

But the reversion issue has resurfaced from time to time. In 1995, Republicans proposed allowing employers once again to remove surplus assets from overfunded plans without any significant taxes. But Republicans later abandoned the idea after vehement opposition from President Clinton.

—By Jerry Geisel

Welfare

Continued from page 3

have nearly the problem that we think we would have here."

But the issue also is being discussed in other states that are pursuing welfare reform.

"There is an awareness that this is a population of new workers that employers are going to have to take a little chance on," said a spokesman for Wisconsin's Department of Work Force Development. Liability has been brought up in Wisconsin, he said, because there are concerns that if some of these employees don't meet standards and are fired, they will sue.

In Virginia, the Greater Richmond Chamber of Commerce is developing a project called Welfare to Workfare that would train new workers and make the city a prime location for high-tech businesses, a Chamber spokesman said. Employer liability "is a concern in our planning stages," he said. "If you look at the whole pic-

ture, that is something that is going to have to be dealt with sooner or later."

The California Chamber of Commerce is talking with state lawmakers about authoring legislation that would grant employers some measure of immunity from wrongful termination suits by former welfare recipients, Mr. Main said. He declined to name those legislators. But, he said, "I don't believe we will have trouble finding one."

One option would be a cap on damages, though the Chamber did not specify a figure. Another would be ensuring "at will" dismissal means just that for a period, such as one year.

In theory, California is an "at will" state, where most employees can be dismissed without the presumption of a contract. But case law developed in the late 1970s and early 1980s expanded the arguments for bringing employment litigation, Mr. Main said.

Of note is "the idea you can establish an implied contract for employment pretty easily," he said. "And, if you win that, you can prove your damages would have lasted as long as you were

without work," meaning a 40-year-old worker could seek lost wages until retirement age.

There is also a broad definition of "termination in contrast to public policy," which lets plaintiffs seek punitive damages, he explained.

The chance of reform passing is slight. In each of the past three years, legislation the Chamber has introduced to limit employment liability in hiring in general has failed each time. But lawmakers may have incentive now. California risks losing federal funds if it does not move 80% of its welfare case load into jobs, Mr. Main said.

A spokeswoman for the Washington-based National Restaurant Assn., which represents companies such as McDonald's Corp. and Burger King Corp., said the increased labor pool will help meet a critical need for less-skilled workers.

The group plans to educate members on managing employees who may need to learn basic work skills, such as proper dress and arriving on time, which could cut turnover. "We are really trying to prevent a situation where liability will come into play in the first place," she said. **BI**

Network

Continued from page 2

claims and distribute non-proprietary data.

However, while it had expected to launch its electronic technology initiatives in 1996, it is now looking to do so in mid-1997.

"Basically, it took us longer to get the organizational structure of WIN established," said David Evans, co-chief executive officer of WIN in London. He insisted the delay was not due to the technology or competitors working closely.

Instead, it took months longer than expected to fill key positions, he said. In the beginning, WIN "was a consultant-supported organization with the brokers working as shareholder support. While we had the support of shareholders, most of the people had other jobs to do as well."

Since August, Mr. Evans, who is chief operating officer of Alexander Howden Group Ltd., and Richard Wales, director-group information technology for Sedgwick Group P.L.C., have shared the CEO position. They succeed Michael Heath, a former senior vp and managing director for NYNEX Network Systems Co. in Hong Kong, who was named WIN's president and CEO in March but resigned in August.

Dennis L. Mahoney, chairman and CEO of Alexander Howden Group, is WIN's chairman.

Since September, WIN has "progressed very rapidly," Mr. Evans said.

Indeed, the network's desktop computer software, called WINconnect, is in an advanced testing phase with the six broker owners and six leading insurers, said Mr. Evans, who declined to name the insurers. The testing phase is ex-

pected to be complete by the end of March.

WINconnect offers users an array of applications, including: secure electronic mail; a global directory of WIN members and other insurance industry players; and access to online services such as Internet sites and bulletin boards.

While Mr. Evans said Aon's recent purchase of A&A has had no effect on WIN, acquisitions have shaken up ExcelNet. One of ExcelNet's largest partners, Bain Hogg, was acquired by Aon last October. In addition, M&M last week bought Aon's 40% interest in Paris-based CECAR, another member of ExcelNet. Aon acquired the stake as part of its deal to buy Bain Hogg from Inchcape P.L.C.

ExcelNet expects to announce a new partner, replacing Bain Hogg and CECAR, in the first quarter, said Kevin Conboy, president and CEO of Acordia Northeast in Morristown, N.J., and a member of ExcelNet's operations committee.

Formed in September 1995, ExcelNet is a network of six brokers linked through a proprietary risk management information system that lets them give clients data on their international risk, insurance and claims positions at any time. Members also have a reciprocal relationship, placing coverage and servicing multinational clients on each other's behalf, which is facilitated by the information system.

Founding members of ExcelNet are Acordia Inc. of Indianapolis, Dale-Parizeau Inc. of Montreal and Bain Hogg of London. In addition to CECAR, members also include several other brokerages affiliated with London-based Inchcape—Inchcape Insurance Services of Hong Kong, and Boels & Begault of Brussels, Belgium.

With a new parent in Aon and a new affilia-

tion in M&M, neither Bain Hogg nor CECAR need ExcelNet's resources. In fact, Bain Hogg's former chairman and CEO, Ron Forrest, represents Aon on WIN's board.

While a reciprocal arrangement still exists with Bain Hogg and CECAR, Mr. Conboy said it will not continue.

He said the prospective partner has operations in London and France and effectively would replace both Bain Hogg and CECAR.

"The partner we're talking to is very supportive of the (risk management information) system, and once the announcement is made, we'll continue to install the system on a global basis." **BI**

ISO

Continued from page 2

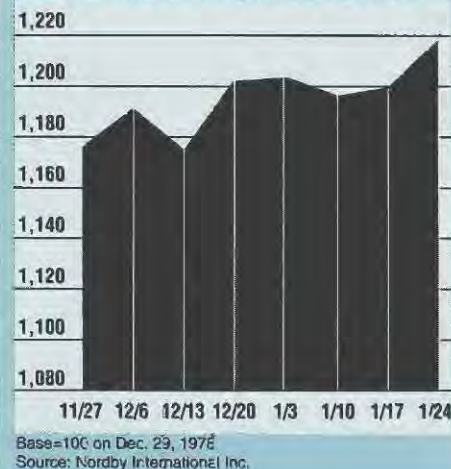
all lines of insurance, including specialty products, Mr. Marcon said.

"On policy forms, you can look to us to go beyond standardized programs by line of business to provide standardized programs for individual classes of risk and individual industries," he said.

As a for-profit entity, ISO will have greater access to capital to help it achieve its goals, he said. "Currently, ISO has no immediate need for capital. But our for-profit structure gives us the flexibility to raise capital through the sale of stock, or to use stock to acquire other firms."

Meanwhile, Dennis H. Chookaszian, chairman and CEO of Chicago-based CNA Insurance Cos., was named to ISO's board. He replaces Gerald A. Isom, president of CIGNA Property & Casualty, who stepped down from the board. **BI**

BI Insurance Index



PCS catastrophe options

As of Jan. 24			
Call	Price	Call	Price
Spread	bid/ask	Spread	bid/ask
Eastern September 1997			
40/60	3.4/3.9	California Annual 1997	
60/80	2.4/3.5	40/60	—/4
80/100	2.1/2.5	80/100	1.5/1.9
National Annual 1997			
80/100	6/E	Western Annual 1997	
120/140	3.5/5	40/60	2.2/3.9
		80/100	1.4/2.1
June Midwestern 1997			
10/20	1.1/1.4		
Total volume: 264 Total open interest: 10,753			
For information on PCS cat options, call the Chicago Board of Trade at 312-455-3674.			
Source: Chicago Board of Trade			

British Issues

Jan. 24	Price	P/E	Div.	Yield	52 week
Companies	pence	pence	%	%	high—low
Comml Union	700	12.2	29.0	5.0	735—550
Genl Accident	802	8.5	31.7	4.8	823—612
Gdn Royal Exch	276	4.6	9.3	4.1	285—218
Independent	647	11.7	12.0	2.3	651—373
Royal & Sun	483	9.0	19.0	5.1	483—349
Brokers					
Bradstock	72	10.6	5.7	11.5	75—54
Fenchurch	65	N/A	5.5	10.1	150—46
CE Health	98	11.5	4.5	5.7	115—74
JIB Group	151	N/A	9.8	6.4	158—97
Lloyd Thompson	199	N/A	10.0	6.1	207—163
Lowndes Lomb	107	13.5	8.4	9.1	153—102
Nelson Hurst	146	9.8	8.1	6.9	206—143
Sedgwick Grp	136	12.6	9.8	6.8	152—114
Steel Bri Jones	32	7.5	3.8	14.6	48—28
Willis Corroon	146	20.9	6.6	5.7	169—117
Source: Nordby International Inc.					

BI Industry Stock Report JAN. 20, 1997, THROUGH JAN. 24, 1997

BROKERS																							
	Price	Weekly % change	Year to date % change	Year to date				Price	Weekly % change	Year to date % change	Year to date				Price	Weekly % change	Year to date % change	Year to date					
				High	Low	Vol.(000)					High	Low	Vol.(000)					High	Low	Vol. 000			
Acordia Inc.	NYS	28.13	0.90	-3.02	33.75	27.25	9	EMC Insurance Group Inc.	NDQ	12.25	0.00	2.06	14.50	10.13	20	RLI Corp.	NYS	33.38	2.30	0.00	34.00	22.38	142
Alexander & Alexander	NYS	17.50	0.72	0.72	21.63	13.63	58	Everest Reinsurance	NYS	27.88	3.72	-3.04	29.50	20.13	694	St. Paul Companies	NYS	63.63	3.67	8.53	64.00	50.13	1127
E.W. Blanch Holdings Inc.	NYS	20.50	1.86	1.86	25.50	17.75	119	Executive Risk Inc.	NYS	38.13	2.35	3.04	42.38	27.00	87	SAFECO Corp.	NDQ	38.81	3.50	-1.58	42.25	30.88	1315
Gallagher Arthur J. & Co.	NYS	30.25	0.00	-2.42	39.50	29.13	94	EXEL Ltd.	NYS	40.50	3.51	6.93	41.38	31.75	1319	Seibels Bruce Group	NDQ	2.06	-12.00	0.00	4.25	1.88	115
Hill, Rogal & Hamilton	NYS	13.13	-0.94	-0.94	14.00	11.38	51	Framont General Corp.	NYS	30.13	-1.23	-2.82	31.63	21.50	479	Selective Ins. Group	NDQ	37.00	-1.99	-2.63	38.75	31.00	63
Kaye Group Inc.	NDQ	5.25	2.44	0.00	7.75	4.63	2	Frontier Insurance Group	NYS	38.13	-0.33	-0.33	41.13	29.25	113	Sphere Drake Holdings	NYS	9.75	-1.27	9.86	12.50	8.13	7
Marsh & McLennan	NYS	107.00	-0.35	2.88	114.88	85.75	794	Gainco Inc.	NYS	9.38	-3.85	-2.60	11.75	8.75	383	TIG Holdings	NYS	34.50	-0.72	1.85	35.13	26.00	675
Poe & Brown	NDQ	26.75	-1.83	0.94	27.50	22.75	9	GCR Holding Ltd.	NDQ	23.50	1.08	5.62	27.25	21.50	568	Titan Holdings, Inc.	NYS	17.38	-2.80	5.30	17.88	12.50	42
BROKERS AVERAGE			0.35	0.00				General RE Corp.	NYS	151.50	-2.42	-3.96	170.25	138.75	1663	Tokio Marine & Fire	NDQ	42.88	-1.44	-8.04	69.00	42.25	143
INSURERS/REINSURERS																							
ACE Ltd.	NYS	56.63	-4.03	-5.82	61.25	40.50	1942	Gryphon Holdings	NDQ	14.88	0.85	5.31	20.25	12.00	398	Torchmark Corp.	NYS	51.88	3.00	2.72	53.38	40.25	803
Acceptance Insurance Cos.	NYS	20.38	7.24	3.16	22.50	13.88	92	Guaranty National Corp.	NYS	16.63	-1.48	-0.75	18.00	13.38	57	Transatlantic Holdings	NYS	77.13	3.16	-4.19	81.25	62.38	123
AEGON N.V.	NYS	64.38	1.38	1.78	65.13	41.13	69	Harleysville Group	NDQ	29.50	-0.84	-3.28	31.25	24.50	118	Travelers Aetna Property	NYS	35.63	-5.63	0.71	39.00	23.13	951
Aetna Life & Casualty	NYS	75.88	0.50	-5.16	82.50	55.38	4215	Hartford Steam Boiler	NYS	46.00	-0.81	-0.81	52.50	42.75	269	Travelers Corp.	NYS	51.13	3.99	12.67	55.13	28.38	10892
AFLAC Inc.	NYS	42.38	0.89	-0.88	44.00	28.25	659	HCC Insurance Holdings	NYS	28.88	5.00	20.31	32.75	16.38	850	Trenwick Group Inc.	NDQ	49.25	3.14	6.49	55.25	46.00	363
Allied Group Inc.	NDQ	31.50	-5.26	-3.45	34.25	22.38	227	IPC Holdings Ltd.	NDQ	24.25	2.65	8.38	25.13	19.00	234	Unico American Corp.	NDQ	10.13	-3.57	-6.90	11.00	6.50	73
Allmerica Prop. & Casualty	NYS	-31.38	2.45	3.29	31.88	24.63	402	ITT Hartford Group	NYS	72.25	4.14	7.04	74.00	44.50	1822	Unionamerica Holdings	NYS	17.25	3.73	-2.82	20.75	14.75	33
Allstate Corp.	NYS	63.63	2.83	9.94	66.00	37.38	5663	LaSalle Re Ltd.	NDQ	27.13	-1.36	-7.26	29.50	19.75	269	United Fire & Casualty	NDQ	31.00	-4.62	-12.06	40.00	28.50	25
AMBAC Indemnity Corp.	NYS	66.50	-0.56	0.19	69.50	45.75	505	Lincoln National	NYS	53.13	1.19	1.19	57.00	47.75	1656	Unilirin	NDQ	53.50	1.47	-4.04	56.38	44.25	73
American Bankers Ins.	NDQ	55.25	3.27	8.07	57.50	32.50	381	Market Corp.	NDQ	93.00	-1.59	3.33	97.00	75.00	11	UNUM Corp.	NYS	74.50	-1.16	3.11	76.00	55.38	873
American Financial Group	NYS	37.13	0.68	-1.66	38.88	28.50	353	MBIA Insurance Group	NYS	93.88	-2.21	-7.28	104.63	70.00	582	US Facilities Corp.	NYS	19.88	3.63	1.27	20.50	14.88	29
American General	NYS	40.63	-0.31	-0.61	42.00	32.88	2613	Meadowbrook Insur. Group	NYS	23.25	-3.63	10.71	34.13	15.25	91	USF&G Corp.	NYS	20.63	-3.51	-1.20	21.88	14.25	2393
American Heritage Life Ins.	NYS	25.88	-1.43	-1.43	27.75	19.00	103	Mid Ocean Ltd.	NYS	50.88	-3.33	-3.10	55.38	35.50	542	USLIFE Corp.	NYS	39.13	13.21	17.67	40.50	26.88	1373
American Indemnity/Fin'l	NDQ	13.75	27.91	34.15	14.00	9.38	18	MMI Cos. Inc.	NYS	31.75	-0.78	-1.55	33.38	22.00	54	Washington National	NYS	28.25	3.44	2.73	30.75	25.13	233
American International	NYS	117.63	2.84	8.66	123.75	88.13	5239	Mutual Risk Mgmt. Ltd.	NYS	36.25	-1.02	-2.03	37.25	26.88	51	Zenith National Ins.	NYS	26.00	-3.70	-5.02	28.88	22.50	43
Aon Corp.	NYS	64.13	0.98	3.22	64.88	47.50	776	NAC Re Corp.	NYS	35.00	2.94	3.32	40.63	28.50	406	Zurich Reinsurance Centr.	NYS	37.88	3.33	21.20	38.75	28.38	233
Argonaut Group	NDQ	29.50	-0.42	-4.07	35.00	27.25	63	Navigators Group	NDQ	18.63	-2.61	2.05	20.25	15.63	4	INSURERS/REINSURERS AVERAGE							
AVEMCO Corp.	NYS	26.38	7.65	68.80	27.38	11.75	978	Nobel Insurance Ltd.	NDQ	12.63	1.00	5.00	12.88	10.88	110								
Baldwin & Lyons Inc.	NDQ	18.63	1.36	1.36	20.75	14.25	1	NYMAGIC Inc.	NYS	18.13	0.00	0.69	22.00	17.00	10	HEALTH MAINTENANCE ORGANIZATIONS							
Berkley W.R. Corp.	NDQ	44.75	-6.04	-11.82	44.75	23.13	971	Ohio Casualty Corp.	NDQ	36.75	-0.34	3.52	40.00	30.00	294	FHP International	NDQ	35.75	-1.89	-3.70	37.75	21.75	913
Berkshire Hathaway Inc.	NYS	34100.00	-1.73	0.00	38000.00	30000.00	1	Old Republic Int'l	NYS	26.50	-0.93	-0.93	27.75	20.13	480	Healthsource Inc.	NYS	13.25	-1.85	0.95	40.88	9.75	2322
Capital RE Corporation	NYS	45.88	2.23	-1.61	46.88	30.25	83	Orion Capital Corp.	NYS	62.13	0.81	1.64	63.00	42.63	95	Humana Inc.	NYS	18.75	4.17	-1.32	28.88	15.00	4176
CapMac Holdings Ltd.	NYS	34.68	1.09	5.28	36.68	22.25	84	Parlner Re Ltd.	NYS	34.38	4.56	1.10	34.63	25.63	626	Oxford Health Plans	NDQ	51.88	-4.82	-11.42	52.25	27.89	5793
Capsure Holdings Corp.	NYS	10.88	1.16	-5.43	18.88	8.00	239	Penn-America Group Inc.	NDQ	16.13	-2.27	0.00	16.75	11.50	15	Pacificare Health Sys.	NDQ	72.63	-3.01	-10.62	98.75	59.63	321
Chartwell Re	NYS	27.00	0.93	0.93	28.38	19.88	71	Philadelphia Cons. Holding	NDQ	26.75	3.88	15.05	28.00	16.75	95	Safeguard Health Enter.	NDQ	16.50	-2.22	-5.71	22.50	11.50	13
Chubb Corp.	NYS	54.00	-2.70	0.47	56.75	40.88	1979	PXRE Corp.	NYS	25.50	0.00	3.03	28.00	22.25	64	Sierra Health Services	NYS	25.50	-3.77	3.55	36.00	22.38	203
CIGNA Corp.	NYS	149.75	0.84	9.61	158.50	100.75	1257	Reliance Group Holdings	NYS	9.63	2.67	5.48	9.75	6.50	1256	United Healthcare Corp.	NYS	47.38	3.54	5.28	69.00	30.00	6711
CNA Financial Corp.	NYS	104.25	0.97	-2.57	117.50	95.75	105	Reliastar Financial Corp.	NYS	56.88	-1.94	-1.52	58.38	40.00	442	Wellpoint Health Networks	NYS	34.13	-1.80	-0.73	39.13	23.38	364
								RenaissanceRe Holdings Ltd.	NYS	34.00	3.03	3.03	36.00	26.75	234	HMOs	AVERAGE		-2.63	-2.63			
								Risk Capital Holdings	NDQ	16.25	-0.76	-16.13	21.25	15.88	85	ALL COMPANIES AVERAGE			0.04	-0.38			

Tire Dump

California

5 October
1600 hrs



**DUMP THEM, YOU BREAK THE LAW. RECYCLE IMPROPERLY, YOU BREAK THE LAW.
MEANWHILE, MORE TIRES JUST CAME IN.**

Whether your company produces waste, tries to recycle it or depends on a steady supply of raw materials, your business is bound to be affected by environmental controls. There are thousands of regulations, both in the U.S. and overseas, designed to protect the environment. These environmental standards are in a constant state of flux, and can have far-reaching risk implications for all kinds of businesses.

Fortunately, AIG specializes in designing the kind of custom coverages you need to cope successfully with changing conditions. In fact, AIG

is the only worldwide insurance and financial organization that helps manage your business risks with a broad range of customized services. Services like cleanup cost cap, hedging and market-making in commodities and stop-loss protection. And we've got the top financial ratings to back us up. So we'll be there to help keep your business rolling along.

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