

JANUARY 29, 1996

Updates

Business Insurance

NAIC names panel to review CIGNA-like restructurings

KANSAS CITY, Mo.—The National Assn. of Insurance Commissioners plans to study insurer restructurings that create "good company/bad company" units and report its conclusions to state regulators before its fall national meeting.

The topic is timely given concerns raised among regulators and insurers over CIGNA Corp.'s proposal to reorganize into an active operation and a runoff operation for its long-tail liabilities (BI, Jan. 22).

The 13-member committee that will re-
See Updates on next page

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

© Entire contents copyright 1996 by Crain Communications Inc. All rights reserved.

Taxing question on partner benefits

IRS rules out some breaks

By DAVE LENCKUS

WASHINGTON—A private letter ruling underscores that federal tax officials likely will not approve tax-free domestic partner health benefits for workers who do not financially support their partners, benefit experts say.

That stance, though, could change if states ever recognize same-sex domestic partners as legal spouses—an issue that promises to draw much attention in many statehouses nationwide over the next year or two as lawmakers await a ruling on the issue from a state court in Hawaii.

If Hawaii recognizes same-sex marriages, other states may have to legally recognize the marriages of same-sex couples married there.

In the meantime, the Internal Revenue Service ruling is a reminder to employers that are considering offering domestic partners coverage that they first should consider the tax, administrative and communication issues that are involved in providing the benefits.

The ruling, though, likely will have little bearing on the few employers that already offer the benefits, experts said. Hewitt Associates L.L.C. of Lincolnshire, Ill., estimates that 250 companies offer the benefits.

The IRS sent the ruling last Oct. 18 to the em-
See IRS on page 21

Benefit concerns may sink flat tax

By RODD ZOLKOS

Despite the presidential primary season hoopla over a flat tax, such a system is unlikely to be implemented without preserving tax-favored employer-sponsored benefit plans, experts say.

The current proposals carry considerable implications for pensions and other employee benefits. But, if the 1980s tax reform debate teaches anything, the proposals surfacing now are not a good barometer of what will remain when the dust settles.

Like an earthworm pie, tax reform might look good to everybody on the surface. It's only after probing beneath the appealing crust that many see what they regard as something far less palatable.

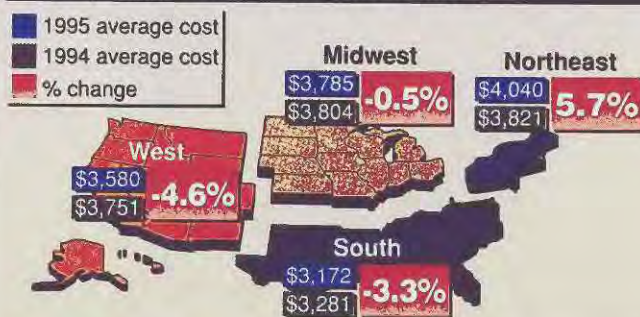
As in the 1980s, once special interests get a good look beneath the surface of the latest flat tax bills, they're bound to send the pie back to the kitchen, demanding something a little more satisfactory.

That was the case in the years leading to the 1986 Tax Act, a process that began with a familiar-sounding goal: to draft a tax code simple enough that Americans could file their tax returns on postcards. Volumes have been written about the lobbying efforts that shaped the tax code various lawmakers and presidential candidates now seek to reform.

But history hasn't stopped Republican presidential candidate Malcolm "Steve" Forbes Jr. from making an exemptionless, single-rate flat tax proposal a cornerstone of his campaign.

Meanwhile, the National Commission on Economic Growth and Tax Reform appointed by Sen. Bob Dole,
See Flat tax on page 22

Led by declines in the West and South ...



... and among the most managed plans ...

Plan	1995	1994	% change
Traditional indemnity	\$3,650	\$3,495	4.4%
Point of service	3,415	3,302	3.4
Health maintenance organization	3,255	3,385	-3.8
Preferred provider organization	3,169	3,238	-2.1

... total health care plan costs rose only slightly



Regional and individual plan costs are for active employees; total plan costs include employees and retirees
Source: A. Foster Higgins & Co. Inc.

GRAPHIC BY MIKE GARVEY

Health plan costs remaining stable

Managed care key to control: Study

By JERRY GEISEL

The dramatic slowdown in group health care costs is no fluke. For the second year in a row, the cost of group health care plans remained virtually flat, a new survey shows.

Group health care costs for active and retired employees rose 2.1% to an average of \$3,821 per employee in 1995 from \$3,741 per employee in 1994, according to a survey of 2,764 employers to be released this week by benefit consultant A. Foster Higgins & Co. Inc. of New York.

Looking at group health care costs just for active employees, the study found a negligible 0.2% increase in 1995 to an average of \$3,653 per employee from \$3,644. The new study marks the first time that Foster Higgins formally separated active and retired workers' health care expenses.

Last year's stability in group health care costs follows a 1.1% decline in group health care costs in 1994 (BI, Feb. 13, 1995).

And as 1996 begins, employers can expect health care costs to remain stable or even decline. Many health maintenance organizations, for example, are either cutting or holding the line on rates (BI, Dec. 11, 1995).

What could become at least a three-year stretch of health care cost stability is in stunning contrast to the late 1980s, when the annual story was one of double-digit increases in health insurance rates and claims costs.

"Only a few years ago, few people would have thought that costs would be virtually flat two years in a row," said John Erb, a principal in the Miami office of Foster Higgins.

The main reason that group health care costs are stable is the continuing shift of employees into lower-cost managed care plans
See Costs on page 16

Lead liability stakes high

Pollution exclusion offers insurers no respite from paint cases

By MICHAEL SCHACHNER

The multimillion dollar jury awards and six-figure settlements emerging from lead paint liability suits against landlords and property managers could be a costly thorn in the side of commercial insurers for years to come.

Suits alleging that the paint in public housing and private apartment buildings caused lead poisoning in children also are threatening to overwhelm court systems, primarily in big Northeastern cities. In New York alone, an estimated 6,000 lead paint suits have been filed in the past three years and the pace shows no signs of slackening.

Only recently did insurers begin trying to exclude lead paint damage from general liability coverage, and only certain states will permit such exclusions. Without them, general liability policies cover the defense costs and indemnification when landlords are sued on behalf of children with lead-related blood contamination, in the opinion of most courts that have considered the issue.

"Suffice it to say that on indoor lead paint, unless the pollution exclusion specifically identifies lead or refers to indoor or residen-

tial releases, coverage should be anticipated in the major industrial states where these cases flourish," noted NAC Re Corp. in a recent liability bulletin.

"If you liked asbestos," runs the joke in insurer circles, "you'll love lead."

It is estimated that more than 10,000 suits alleging lead poisoning from paint have been filed against landlords in the 1990s. One reason for that proliferation: In 1991, the Centers for Disease Control significantly lowered the threshold for lead poisoning to 10 micrograms per deciliter of blood from 25.

Because lead paint was only banned by the Consumer Products Safety Commission in 1978, there are still millions of apartment units and other buildings nationwide where lead paint is a problem.

Most lead paint suits focus on injury to children who eat the sweet-tasting paint or breathe paint-laden dust—and juries are responding. In a notable 1995 case, for example, a Bronx County jury awarded \$10 million to the family of a child who was poisoned in the family's public housing apartment. The judge cut the award to \$4.4 million and the city

is still appealing.

Early estimates had put the average settlement in lead paint suits at \$500,000 per person injured (BI, July 12, 1993).

"Plaintiffs have the upper hand in these cases. Juries don't want to hear about other reasons for a child's mental impairment," said Paul Bottari, an attorney with Wilson, Elser, Moskowitz, Edelman & Dicker in New York. "It seems landlords are in trouble."

"The game board is now tipped toward plaintiffs," said another lawyer who specializes in defending these cases, Charles Norris of Fischer Fiden & Norris in New York. "The cases are sexy because you have children as victims. Juries are sympathetic to that."

Much as they did with asbestos cases in their early years, trial lawyers are watching lead paint cases carefully. No state high court has ruled on the pollution exclusion yet, but if continued rejection of that defense prompts settlements, the litigation could explode. And if paint and pigment manufacturers, rather than just landlords and property managers, are ever found liable, the stakes would be raised markedly.

To date, paint and pigment
See Lead paint on page 10

Updates

CIGNA prompts NAIC study

Continued from previous page

view the issue is chaired by Robert E. Wilcox of Utah and co-chaired by Terri Vaughan of Iowa. Also serving are commissioners from California, Illinois, Louisiana, Maine, New York, South Carolina, Tennessee, Texas, Virginia and Wisconsin. Pennsylvania Commissioner Linda Kaiser, who is considering CIGNA's plan, also will serve on the panel.

In other action, the NAIC will allocate \$506,000 to fund through June 1996 its System for Electronic Rate and Form Filings and Producer Information Network projects. However, the NAIC delayed until March consideration of a budget amendment to earmark \$400,000 for revision of the annual statement.

Spill damages covered

PROVIDENCE, R.I.—The owner of a tank barge involved in a massive oil spill off the Rhode Island coast is insured for liabilities arising from the accident.

The barge, owned by Eklof Marine Corp. of Staten Island, N.Y., was driven aground off Moonstone Beach, R.I., after a fire broke out on its tug, also owned by Eklof, during a storm. About 828,000 gallons of the 4 million gallons of heating oil on board leaked into Block Island Sound. The cause of the fire still is unknown.

The spill, near a national wildlife refuge, killed lobsters and other marine life and closed about 254 square miles of Block Island Sound and Rhode Island Sound to fishing.

Eklof has \$10 million in liability coverage through New York-based Water Quality Insurance Syndicate to meet the financial responsibility requirements the federal government imposes on shippers to ensure that damages relating to such incidents are covered. An additional \$500 million in liability coverage is provided by West of England Shipowners Mutual Insurance Assn. (Luxembourg), a protection and indemnity club.

While most or all of the first \$10 million in coverage is expected to be exhausted, no estimate of total damages was available last week.

Eklof set up a claims center in Rhode Island and agreed to buy thousands of pounds of possibly tainted live lobsters from local dealers, spokesmen for the company and the Rhode Island Department of Environmental Management said.

Transit makes second payment

LOS ANGELES—The receivers for Transit Casualty Co. this month made a second payment to creditors of the hugely insolvent insurer. Forty-five state guaranty funds and many corporate policyholders received about \$65 million. Transit made its first payment of \$55 million about a year ago.

To date, the receivers have collected \$720.1 million of assets, said liquidator Burleigh Arnold. Of that, \$450.5 million has been set aside for creditors, and about \$70.6 million more is earmarked for long-tail creditors. The other \$199 million has been spent on a computer software system to allocate losses to more than 900 reinsurers worldwide, on staff and on collecting records from 20 managing general agents in 256 locations nationwide, Mr. Arnold said.

Transit is insolvent by more than \$4 billion.

Derivatives dispute settles

NEW YORK—Bankers Trust Co. will pay \$67 million to settle a derivatives-related dispute with Allentown, Pa.-based Air Products & Chemicals Inc.

The dispute—which was never filed as a lawsuit—stemmed from more than \$107 million in losses Air Products reported in fiscal 1994 associated with leveraged interest-rate swap contracts that it had entered into in late 1993.

A Bankers Trust spokesman could not provide insurance information concerning the settlement.

In 1994, Bankers Trust entered into an enforcement agreement with the Federal Reserve Bank of New York that required Bankers Trust to take steps to ensure that its derivatives customers understood the instruments' risks (BI, Dec. 12, 1994).

Bankers Trust settled disputes with Cincinnati-based Gibson Greetings Inc. and Montvale, N.J.-based Federal Paper Board Co. for \$14 million and \$12 million, respectively, in 1994, while a dispute with the Swiss pharmaceuticals firm Sandoz A.G. was settled last year for an undisclosed amount. Still pending is litigation by Cincinnati-based Procter & Gamble Co. over its derivatives-related losses.

SEC and Orange County settle

LOS ANGELES—Current and former Orange County officials will face no financial penalties or other punishments under terms of a settlement reached last week with the Securities and Exchange Commission over charges stemming from the county's investment fund debacle.

Under the agreement, the SEC will charge but not fine the county, its supervisors and two former finance officials—former Treasurer Robert Citron, who ran the failed investment pool, and Matthew Raabe, who was Mr. Citron's deputy—with defrauding investors in offering documents for \$2.1 billion in county bonds by failing to disclose the financial condition of the investment pool. The pool, whose proceeds were invested in highly leveraged derivative instruments, ultimately collapsed in December 1994, losing nearly \$1.7 billion (BI, Dec. 12, 1994).

While none of those named admitted wrongdoing, all agreed not to violate securities laws in the future. Messrs. Citron and Raabe also agreed to cooperate with the SEC's ongoing investigation.

See Updates on page 22

High water, low claims

By GAVIN SOUTER
and MICHAEL SCHACHNER

Though several feet of snow melted and rivers rose over their banks in numerous counties in Pennsylvania, West Virginia, Maryland, Virginia, New Jersey, and New York last week, commercial areas were spared most of the damage.

"We've had a few isolated cases, but most of the flooding did not affect areas where businesses are located," said Charles Ruoff, senior vp at Sedgwick James Inc. in New York.

Since commercial insurance coverage normally excludes flood damage, businesses that did suffer damage may be uninsured.

"In general, the flood damage would be covered by federal government flood policies and not private-sector policies. There are some commercial policies, particularly for highly protected risks which would cover flood, but we're not aware of too many buildings or structures that would have been damaged by the flood that would fall into this category," said Sean F. Mooney, senior vp and economist at the Insurance Information Institute in New York.

Boats were the best mode of travel through the Old Town section of Alexandria, Va., early last week. Melting snow and heavy rains led to severe flooding in several Eastern states.



AP/WIDE WORLD

surance Information Institute in New York.

Jon S. Saltzman, president of Penn-American Insurance Co. in Hatboro, Pa., said commercial insurers will not face claims if policyholders have flood protection through the National Flood Insurance program.

"Flood isn't a covered peril on most property policies, and when a peril's not covered, it's not covered," he said, noting that neither property damage nor business interruption for flood is normally covered by all-risks insurance

policies.

Allendale Mutual Insurance Co. in Johnston, R.I., is expecting claims in the "low millions," said Michael McIntyre, senior vp at the HPR insurer. "Some of that will be covered under the federal program, and what's left is either facultatively reinsured or we take it net."

Other claims could come in difference-in-conditions policies, which are often written by inland marine insurers, said James Mooney, president of the Inland

See Flooding on page 21

State to review awards

Punitive award at issue in bad faith case

By JUDY GREENWALD

SAN FRANCISCO—California courts may receive some long-awaited guidance on punitive damages when the state Supreme Court reviews an insurance bad faith case.

The eventual decision in *West American Insurance Co. vs. Freeman*, which is not expected for another year or two, might also influence courts in other states.

In accepting the case for review, the California high court said it would focus on the \$12 million punitive award made by a jury and later upheld on appeal. It is the largest punitive award to be upheld by a state appellate court in a published decision.

Previous high court rulings on

punitive damages do not give lower courts adequate rules to apply when juries are trying to determine whether to award punitive damages and how much to award, some attorneys say.

"Further guidance in this area is desperately needed," said Ellis Horvitz, an insurer attorney with Horvitz & Levy in Encino, Calif., who had urged the Supreme Court in a letter to take the case. Right now, "It's like doing brain surgery with a meat ax."

Even the U.S. Supreme Court, in a series of constitutional cases spanning several years, has not given U.S. businesses the clear, concrete guidance that they have been looking for on punitive damages.

See Punitive on page 12

Medical device liability case

High court's ruling likely to be pivotal

By MARK A. HOFMANN

WASHINGTON—The U.S. Supreme Court will decide how far the federal government can go in shielding manufacturers of certain medical devices from product liability.

Beyond that, the eventual ruling in *Medtronic Inc. vs. Lohr* could focus attention on how far Congress has intended to go in preempting state tort suits and at least indirectly affect other industries.

The case, which the justices accepted for review earlier this month, began in 1990, when Lora Lohr's pacemaker failed and she had to undergo emergency surgery. Her doctors attributed the failure to a defect in the lead wire that delivers an electrical impulse from the pacemaker to the heart. Mrs. Lohr and her husband sued Minneapolis-based Medtronic, which manufactured both the pacemaker and the Model 4011 lead, under state product liability law.

Soon the case was removed to a federal district court, where a judge ruled that state product liability law was pre-empted by the

See Devices on page 4

Consultant directory near

The deadline is approaching for companies to return questionnaires to be listed in the annual *Business Insurance* directory of risk management consultants.

The directory of risk management consultants will appear in the March 4 issue, which will also include a Spotlight Report on risk management services.

If your consulting company generated at least \$250,000 of its 1995 gross revenues from pure risk management consulting and you have not received a questionnaire, please request one from Rich Trout, Assistant Directory Editor, at 312-649-5483.

There is no charge to be listed, but companies must fill return a completed questionnaire by the Feb. 14 extended deadline.

Inside

- An onsite occupational health clinic is expected to cut Delta Air Lines' workers comp costs. **PAGE 6**
- Flat group health care costs are good news for employers, one of this week's editorials says. **PAGE 8**
- Corporate strategies necessitate a variety of pension plans, Benefit Actuary William Miner writes. **PAGE 15**
- A proposed runoff of Lloyd's of London would worsen the market's problems, the DTI says. **PAGE 17**

Departments

- Advertiser Index.....20
- Ask a Benefit Actuary.....15
- Benefit Beat.....6

- Classifieds.....18
- For the Record.....20
- Insurance Services Guide.....19
- International.....17
- Letters.....8
- Opinions.....8
- Perspectives.....15

Business Insurance (ISSN 0007-6864) Vol. 30, No. 5, is published weekly by Crain Communications Inc., 740 N. Rush St., Chicago, Ill. 60611-2590. Second-class postage is paid at Chicago and at additional mailing offices. POSTMASTER: Send address changes to *Business Insurance*, Circulation Department, 965 E. Jefferson Ave., Detroit, Mich. 48207. \$4 a copy and \$85 a year in U.S. \$105 in Canada and Mexico (includes GST). All other countries \$205 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 0293512, GST No. 136760444. Printed in U.S.A. Copyright 1995 by Crain Communications Inc.

Cash balance plan rules

By SALLY ROBERTS

WASHINGTON—New guidance on interest credits for cash balance plans proposed by the Internal Revenue Service will not result in major plan redesigns for employers, benefit consultants say.

The proposed regulations, released earlier this month, mark the second time the IRS has issued guidance on cash balance plans, which have increased in popularity among employers, especially those wanting to replace traditional defined benefit plans. The IRS issued non-discrimination testing rules for cash balance plans under section 401(a)(4) in 1991.

"There has been lots of talk, some speculation and in some

IRS offers guidance on interest credits

cases concern over what restrictions will be placed on these plans," said Larry Sher, principal with Kwasha Lipton L.L.C. in Fort Lee, N.J. "They've set up a structure that is workable and acceptable for many people."

In the future, Mr. Sher said, guidance will get progressively better and will provide more clarity. This will "lead to employers feeling more secure about the plans, and lead other employers sitting on the sideline waiting for more clarification of what they can and can't do with the plans to jump into these," he predicts.

"These regulations are about one-fifth of the regulations people

have been waiting for," said Mike Johnston, actuary and principal for Hewitt Associates L.L.C. in Lincolnshire, Ill. There are still many other defined benefit issues that need clarification. However, "a lot of plans will fall under the proposed guidelines" and with few exceptions, there won't be many "out and out design changes."

While cash balance plans are defined benefit plans, they include many features of defined contribution plans, like individual account balances and benefit portability. Account balances are credited with employer allocations based on a percentage of compensation and interest credits. Interest credits are typically determined using an interest rate or

See Guidance on page 21

Quality certification gives broker an edge

By SALLY ROBERTS

MEMPHIS, Tenn.—While many brokers have jumped on the quality bandwagon in recent years to improve client service, Sedgwick Group P.L.C. may be raising the stakes.

Earlier this month, Sedgwick became the first broker in the United States to receive ISO 9000 quality certification in four of its U.S. retail brokerage offices and two of its divisions.

The ISO 9000 quality standards, which were established by the Geneva, Switzerland-based International Organization for Standardization in 1987, govern business processes from the time of design and placement of an order through the entire service process, to the actual delivery of the product or service.

To receive the certification, a broker must undergo an audit by an accredited third party to ensure the firm meets the elements set forth in the ISO 9000 standards. Those elements are: a plan for quality within the company; documentation of the plan into operating procedures; communication of the procedures to the workforce; a mechanism to monitor the success of the efforts; modification of the standards; and ability to prove the existence of the qual-

ity standards to others.

Several other multinational brokers have received ISO 9000 certification, but only in their non-U.S. offices, especially in Europe, where the set of international quality standards has seen its most widespread adoption.

But as more U.S. companies seek ISO 9000 certification—8,462 U.S. companies were certified by ISO as of year-end 1995, compared with only 2,160 U.S. firms in 1993—their insurance brokers may find being certified in the United States a necessity in the future.

Indeed, risk managers whose companies are currently ISO certified say a broker's quality certification would influence their decision if choosing a new broker.

However, until ISO 9000 becomes the standard for businesses in the United States, brokers say they will continue with their own continuous quality improvement initiatives, rather than obtain certification of their U.S. offices.

That approach is fine by Sedgwick, which sees its new certification as a way to differentiate itself from its competitors and better serve U.S. clients.

"Everyone is talking about quality" and "we're all fight-

See ISO 9000 on page 10

Clinton endorses benefits bill

Measure to curb pre-existing condition exclusions touted

By JERRY GEISEL

WASHINGTON—Proclaiming the end to the era of big government, President Clinton last week formally endorsed limited health care reform legislation.

In his State of the Union Address, President Clinton urged

Congress to pass a measure—introduced by Sens. Nancy Kassebaum, R-Kan., and Edward Kennedy, D-Mass.—that would curb pre-existing condition exclusions in health care plans.

Enactment of that measure, President Clinton said, would be a start in making health insurance available to all Americans.

Ironically, it was the Clinton administration's own health care reform package that linked the administration with the big government approach to solving problems. That package, among other things, would have forced most employers to purchase coverage through monopolistic government-organized pools.

But after the collapse of his health care reform package and the drubbing in the November 1994 congress-

sional elections, President Clinton acknowledged he had overreached on health care reform and said next time he would develop a more limited reform package.

Last week's State of the Union Address, though, is the first time the administration endorsed a specific health care reform bill introduced in Congress since the collapse of its reform package.

Under the Kassebaum-Kennedy legislation, approved by the Senate Labor and Human Resources Committee last summer, group plans generally could exclude coverage for pre-existing conditions for up to 12 months. A pre-existing condition is defined as one that is treated within six months prior to an individual joining a health care plan (BI, Aug. 7, 1995).

However, the 12-month period in which pre-existing medical conditions were excluded would be offset by the amount of time a new employee was covered under a previous health plan.

For example, if an individual

See Speech on page 23



AP/WIDE WORLD

President Clinton's State of the Union address mentioned a few issues of particular interest to employee benefit managers.

Kansas defends settlement

End to suit against liquidation adviser draws complaints

By JOANNE WOJCIK

TOPEKA, Kan.—A member of Congress and the former president of National Colonial Insurance Co. are complaining about the recent settlement of a 1995 lawsuit charging a Denver consultant with losing \$4 million of the insolvent insurer's assets through an "unauthorized" investment.

They claim that the settlement—reached last month between the Kansas Insurance Department and Denver-based Hugh Alexander & Associates Ltd., and under seal by a federal judge in Topeka—was improperly reached in secret and was filed in federal court, which would make it harder for parties to object.

Regulators overseeing NCIC's liquidation call the complaints a diversionary tactic. They contend that former NCIC President Gerald Zipper is trying to divert attention from a lawsuit in which the regulators charge him with driving the non-standard auto insurer into insolvency through fraud and mismanagement.

The Alexander suit, the regula-

tors contend, is merely a sideshow to that suit, which also names Mr. Zipper's partner, NCIC Director Barry Gossett.

"Our lawyers advised us to drop the suit (against Alexander)," said Brian Moline, general counsel to the Kansas Insurance Department. "The litigation costs would be significant," and, after examining the assets of consultant Hugh Alexander, there was little chance of recovering the \$4 million, he said.

The department's suit charged Mr. Alexander and his firm, HA HA Enterprises Ltd., doing business as Hugh Alexander & Associates Inc., with engaging in a series of "improper, unauthorized and unsuitable transactions" while serving as deputy liquidator of NCIC that led to the loss of one-third of the insurer's estate. The suit had sought \$4 million (BI, Jan. 9, 1995).

As part of the settlement of that suit, Mr. Alexander agreed to pay an undisclosed sum—"but nothing like the \$4 million"—and signed a document called a "consent judgment," which includes

an agreed-upon version of the events, said Mr. Moline.

In that document, he said, Mr. Alexander "admits he made the investment and that it was lost, but it was an innocent mistake—not fraud."

Kansas Insurance Commissioner Kathleen Sebelius "wanted something in writing so she could warn others about Mr. Alexander, who apparently still solicits business at meetings of the National Assn. of Insurance Commissioners," said Mr. Moline.

Mr. Alexander did not return phone calls.

Mr. Zipper asserts that the settlement may have been politically motivated because Mr. Alexander has longstanding ties to the Kansas department—he served as deputy liquidator on numerous other insolvencies.

It was at the behest of Mr. Zipper, who lives in New York, that U.S. Rep. Jerrold Nadler, D-N.Y., wrote to the U.S. Justice Department seeking an investigation of Kansas regulators' activities in connection with the insurer liqui-

See Lawsuit on page 12

CEA unveils bonds to fund quake loss

SACRAMENTO, Calif.—The California Earthquake Authority plans to issue up to \$3.8 billion in "earthquake risk bonds" to fund an upper layer of the proposed homeowners earthquake insurance facility.

The state-sponsored CEA is intended to take over most homeowners' earthquake risks in the state, providing up to \$10.5 billion in capacity through a combination of insurance industry contributions, reinsurance, state-arranged debt financing and capital markets participation.

The earthquake risk bonds could provide up to \$1.5 billion of this total in a layer that could attach excess of \$7 billion, according to documents released by the CEA last week.

Investors would be guaranteed return of their principal, but interest payments would depend on the CEA's losses—the coupon rate on the bonds could be as low as 0% if losses consumed the bond layer's limit.

Bondholders would be at risk for up to four years, though the bonds would carry a 10-year maturity. The CEA would have to issue new bonds at the end of the four-year period.

The amount of the issue will depend on insurance industry participation in the CEA, which must attract 75% of the residential quake market to begin operating.

Assuming 100% participation, the CEA could issue between \$3 billion and \$3.8 billion in bonds. Roughly half that total would be invested in U.S. Treasury securities to secure investors' principal. The balance would be available to cover potential quake losses.

The bond layer's attachment point would be based on a formula reflecting the CEA's annual premium volume. At the expected annual volume of \$1.3 billion, the "loss payment trigger" would be \$7 billion.

Unlike other layers of the CEA program, the bond layer would respond on an annual aggregate basis to losses surpassing its trigger point. With a \$7 billion trigger, for example, two earthquakes costing \$5 billion and \$3 billion, respectively, would produce \$1 billion in bond layer payments if they occurred in the same year, but no bond layer participation if they occurred in successive years. Conceivably, large losses in each of the CEA's first two years could tap all of the layers below and above the bond layer but leave the bond layer itself untouched.

The coverage gaps thus created could be plugged with short-term debt financing, mandatory insurer loans or policyholder assessments.

Morgan Stanley & Co., Bear Stearns & Co. Inc. and Goldman Sachs & Co. will start marketing the first of three planned bond issues in March if the Legislature gives the CEA a green light to operate.

The bond underwriters are hoping that cat reinsurers will be the first investors, allowing the reinsurers to set the price for the issue.

The bond pricing quote should bear an "appropriate relationship" to the cost of the CEA's underlying commercial reinsurance layer.

—By Douglas McLeod

Devices

Continued from page 2

1976 Medical Device Amendments to the Food, Drug and Cosmetics Act.

Now at the center of the Supreme Court appeal, those amendments were intended by Congress to balance public health concerns with the concerns that medical device innovations not be stifled by unneeded regulations.

Under the amendments, no state or jurisdiction "may establish or continue in effect with respect to a device intended for human use any requirement which is different from or in addition to any requirement applicable under this chapter to the device, and which relates to the safety or effectiveness of the device or to any other matter included in a requirement applicable to the device under this

chapter."

Some courts have interpreted this to pre-empt product liability suits against manufacturers of medical devices that the Food and Drug Administration has authorized for market.

Getting to market can be a long road for makers of so-called Class III devices—those that sustain life, are of substantial importance to preventing impairment of health or present a potentially unreasonable risk to patients, such as pacemakers, artificial hip joints, kidney dialysis systems and some breast implants.

The FDA can review these devices under several clearance processes. It can clear a product for experimental use only, or it can allow the product on the market through "pre-market approval" if test data reasonably assure the safety of a product.

Third, and the most common

way for devices to get to the market, is through the so-called "510(k) process," named for a section of the Food, Drug & Cosmetic Act. Under this process, the FDA evaluates whether the device is substantially equivalent to devices on the market before the 1976 amendments took effect.

The pacemaker leads manufactured by Medtronic fell into the third category.

On appeal, the 11th U.S. Circuit Court of Appeals in Atlanta took a middle road. It said that claims based on allegations of failure to warn of the device's potential for harm and for manufacturing defects were pre-empted. But, the 11th Circuit said, allegations of design defects were not pre-empted by the amendments.

Both sides sought Supreme Court review, which was granted last week. This is the first case in which the high court will decide

whether or to what extent the 1976 amendments pre-empt state product liability suits based on design criteria for Class III medical devices, which were cleared for market through the 510(k) process.

This could prove to be a very important case, explained Brian Wolfman, a staff attorney with Public Citizen in Washington who helped prepare the Lohrs' petition for Supreme Court review.

"What's at stake is the ability of those injured by the use of medical devices to be compensated under the laws of various states. It's an affront to their rights and to the concept of federalism that they would be denied the right to compensation," he said.

"They're saying that the mere permission of the federal agency that the product may be marketed pre-empts the ability of injured consumers to any compensation at

all. The fact that it was permitted on the market, not necessarily proved as safe and effective, by the FDA means that they get zero. That's probably the most pernicious example of extension of the pre-emption doctrine that I've seen," Mr. Wolfman said.

Medtronic agrees that the case could be very important.

"(It) would have widespread and profound effects upon the medical device industry and the consuming public, because it would define the scope of potential liability for the vast majority of the most critical medical devices. The court certainly would resolve the scope of pre-emption concerning Class 510(k) devices such as the Model 4011 lead, a question that is being litigated repetitively throughout the country with hopelessly inconsistent results," the company said in seeking Supreme Court review.

"Essentially, the Supreme Court is going to decide the scope of product liability for the entire medical device industry. Although this case involves Medtronic, ultimately the entire industry will be effected," said Jeff Kimbell, executive director of the Medical Device Manufacturers Assn. in Washington.

"It presents the question of whether 510(k) clearance—which is a notification to go to market, it's not an approval—for a Class III product insulates the device manufacturer from product liability claims. If the Supreme Court affirms the pre-emption, it could go a long way toward achieving tort reform without a single vote from this Congress or the next Congress," he said.

Others were less sure about the breadth of the case's potential impact.

Class III devices are unique, pointed out Victor Schwartz, counsel to the Arlington, Va.-based Product Liability Coordinating Committee.

Whatever decision the Supreme Court makes, its impact "will be on the medical device field—which is not small—but it will be difficult to jump from there" to other areas, said Mr. Schwartz, a partner with the Washington law firm of Crowell & Moring.

"This is a classic case where the court has to resolve what a federal law means. There is no one who can predict what will occur," he said.

"The impact potentially on tort law and product liability law by a Supreme Court decision can be profound or otherwise," said Bob Charrow, a former law professor, federal official and expert on medical device law. The case could have "profound implications for everyone who is concerned with pre-emption issues," and its reasoning might be extended to other areas of law, said Mr. Charrow, who also is of counsel with Crowell & Moring.

But like Mr. Schwartz, Mr. Charrow pointed out the uniqueness of Class III devices and the pertinent amendments, noting that the amendments are the only section of the FDC Act that contain any pre-emption language.

An attorney for a consumer advocacy group predicted that the court's opinion on the Medtronic case is only the beginning of a larger legal battle.

"You're going to see a lot more attorneys ask the Supreme Court to grant cert to determine whether state court claims are pre-empted—specifically pesticide claims and claims relating to medical devices," said Rich Vuernick, legal policy director at Citizen Action in Washington. **BI**

Introducing NYLCare from New York Life. Helping millions of Americans feel at ease about health care.

There's a new name for a trusted partner in employee health benefits. NYLCare Health Plans.

NYLCare (pronounced "nile-care")

unifies into a single organization New York Life's

Group Department and New York Life's Sanus and HealthPlus managed care subsidiaries. The result? A health benefits company that is national in scope and capability, yet local in operations and responsiveness.

NYLCare offers employers a full range of quality, cost-effective health plan choices from traditional managed indemnity plans and market-leading

HMOs to innovative PPO, POS, and Multi-option products.

Plus, our ancillary coverages and programs make NYLCare the single source for all health and related employee benefits. And for individuals eligible for Medicare, NYLCare 65 means peace of mind in locations across the country.

In fact, NYLCare now serves more than 16,000 employer groups and 3.5 million Americans nationwide. Businesses from the corner flower shop to Fortune 500 giants count on NYLCare. You can count on us, too.

So if you are an employer seeking innovative alternatives and responsive relationships, call your agent, broker, insurance consultant, or your local NYLCare office, or call NYLCare at 1-800-445-5015.

NEW YORK LIFE **NYLCARE**
HEALTH PLANS

Confidence in health care

HMO benefits provided by subsidiaries of NYLCare Health Plans Inc., a subsidiary of New York Life Insurance Company, New York, New York. Indemnity benefits provided by New York Life Insurance Company or one of its affiliated insurance companies. In North Carolina, NYLCare and Duke University Medical Center and Health System are strategic partners in WellPath Community Health Plans, offering a range of health benefit products. ©NYLCare Health Plans, Inc., New York, New York.



Cutting workers' comp costs is an operation best left to specialists.

At the AIG companies, our specialists provide cutting-edge cost containment. In fact, our claims services can reduce workers' compensation loss costs by as much as 20 to 30%.

While other companies use generalist adjusters who are expected to manage all aspects of claims, we put specialists on the case. By concentrating the focus of each specialist, we deepen the expertise the adjuster can bring to each file. And in time-critical situations, you want experts to make expert decisions.

Each specialist uses proven strategies in their area of expertise: Compensability, Disability Management, Early Return to Work, Critical Claims, Investigations or Medical Management. And all closely operate together for the best results possible.

And we've recently introduced one more specialist, *IntelliRisk*,™ a Windows®-based real-time software solution that allows you to access, analyze and use claim information much more efficiently and effectively.

Find out more by calling AIG's leading provider of workers' comp, American Home Assurance Company, at 1-800-291-3400. Or just ask your agent or broker.



World leaders in insurance and financial services.

American International Group, Inc., Dept. A, 70 Pine Street, New York, NY 10270

CICA

CAPTIVE INSURANCE COMPANIES ASSOCIATION, INC.

Don't miss this one . . .

23rd Annual CICA Conference
March 17-20, 1996 • Arizona Biltmore, Phoenix AZ

JOIN US FOR EDUCATION, NETWORKING AND EXHIBITION OPPORTUNITIES.

For registration material and membership information call **Judith A. Harrington** at (612) 927-9220 or write us at our administrative headquarters: 4248 Park Glen Rd., Minneapolis, MN 55416. Fax: (612) 929-1318

CICA . . . For A Better Industry

Onsite clinic expected to cut Delta comp tab

ATLANTA—Delta Air Lines' new tool to fight the rising cost of workers compensation claims is an occupational health clinic to be built this year near Hartsfield International Airport in Atlanta.

The 11,600-square-foot health center, which is being planned in cooperation with Delta's health insurer, CIGNA Health Care Inc., will be staffed by Emory University doctors.

The center is being built by Delta on land it already owns and will be leased to CIGNA, which will operate the clinic for employees of Delta and other airlines with CIGNA plans. It will be staffed by a full-time medical team of four, including internal medicine physicians for primary care and occupational medicine special-

ists. Sub-specialist physicians such as dermatologists also will staff the clinic on a part-time basis, and dentists, a pharmacy, rehabilitation services, laboratory and X-ray facilities also will be available.

The main motivation to build the center was high workers compensation costs, said Dr. Cris Bisgard, director of health services for Delta. As more injured employees are treated at Delta's center, the airline will be able to precisely track its capitalized occupational health expenses instead of being at the mercy of Georgia's workers comp fee schedule for providers, he said.

The clinic is expected to save the company \$2 million a year in health care expenses, Dr. Bisgard said, mainly through workers comp savings.

The clinic, which is to open in May, will provide primary care to workers at any airline that has a CIGNA contract. Occupational medicine services will only be available to Delta employees at first but, if successful, could be made available to employees of other airlines as well.

Benefit Beat

Dr. Bisgard said.

Having a medical facility that brings the insurer, provider and employer together will greatly ease the burden on workers when filing workers comp claims, he said. "Many employees injured on the job really don't understand who you have to call, what forms to fill out, what to do," he said. "This kind of approach makes it extremely simple."

—By Robert Kazel

Bell Atlantic pact

ARLINGTON, Va.—Union workers at Bell Atlantic Corp. would get new company-paid preventive care and wellness benefits—including annual visits to an obstetrician/gynecologist, mammograms, well-baby care, routine physicals, immunizations and routine eye and ear screenings—under a tentative three-year accord disclosed last week.

A vote on the pact will be taken in about a month by the 34,000 Bell Atlantic employees in the Communications Workers of America. They had been working without a contract since August (*BI*, Aug. 14, 1995).

Employment security plays a major role in the accord, which also includes wage increases of 10.6% over three years, a \$1,500 ratification bonus and team-based incentives of up to 5% of base wages, with no base wages at risk.

- A 4% increase in company contributions to its defined benefit plan for current retirees and a 12% increase over three years for current employees when they retire.

- A new senior managed care plan that will begin in 1998 for dependents and retirees who retired after 1989 and are 65 or older. The plan, while still in the early stages of development, will include a Medicare risk health maintenance organization and will require an out-of-pocket fee for retirees. Currently, all retirees have the same managed care plans and pay no premiums, only small out-of-pocket costs.

- Adoption reimbursements up to \$2,000 for children under 18.

- An accelerated death benefit option allowing terminally ill patients to receive advance payment of half the face amount of their life insurance with a minimum of \$10,000 and maximum of \$250,000.

—By Sally Roberts

Not quite clear
 where
 on earth
 to find it ?

It's clear. Your best resource is here !

1995 DIRECTORIES

Issue Date	Directory
Feb 6	Third-Party Administrators
Feb 20	Utilization Review Providers & Case Managers
Mar 6	Benefit Information & Claims Systems
Mar 20	Risk Management Consultants
Apr 3	Prescription Benefit Managers
Apr 24	Captive Managers
May 29	Alternative Facilities
Jun 12	Property Loss Control Consultants
Jun 26	EAPs & Mental Health Networks
Jul 17	Agents & Brokers
Jul 31	Dependent Care Resource & Referral Services
Aug 14	401(k) Plan Administrators
Aug 28	Leading Reinsurers Worldwide
Sep 11	Surplus Lines Insurers & Wholesalers
Oct 2	Environmental Risk Management Consultants
Oct 9	Safety Consultants & Rehabilitation Services
Oct 23	Reinsurance Brokers
Nov 6	International Insurers & Benefit Networks
Nov 20	Benefit Communication Systems
Dec 4	Risk Management Information Systems
Dec 11	Employee Benefit Consultants
Dec '95	Managed Care Providers—HMOs & PPOs

If you're in immediate need, order now from our list of 1995 issues, while quantities last, call Dorothy Wood at 1-800-678-9595.

Are you looking for a list of agents and brokers, TPAs, HMOs and PPOs, captive managers, reinsurers, or other suppliers of insurance services?

Search no more. Every year, *Business Insurance* compiles comprehensive directories of the insurance services providers that you need the most.

But these issues are so popular they might not make it past the first name on your company's routing slip. So when you're trying to locate lists of vendors you know must exist somewhere, don't go to the ends of the earth trying to find them.

Just take a look at the exclusive directories *BI* offers.

You're sure to find the ones that are right for you . . .

To order your copies, call
1-800-678-9595.

1996 DIRECTORIES

Issue Date	Directory
Feb 5	Third-Party Administrators
Feb 19	Utilization Review Providers & Case Managers
Mar 4	Risk Management Consultants
Mar 18	Benefit Information & Claims Systems
Apr 22	Captive Managers
May 20	401(k) Plan Administrators
Jun 3	Alternative Risk Financing Facilities
Jun 24	EAPs & Dependent Care Resource and Referral Services
Jul 22	Agents & Brokers
Aug 5	Prescription Benefit Managers
Aug 19	Property Loss Control Consultants
Sep 2	Leading Reinsurers Worldwide
Sep 16	Surplus Lines Insurers & Wholesalers
Oct 14	Reinsurance Brokers
Oct 28	Benefit Communication Systems
Nov 4	Safety Consultants & Rehabilitation Services
Nov 11	Environmental Risk Management Consultants
Nov 18	International Insurers & Benefit Networks
Dec 2	Risk Management Information Systems
Dec 9	Employee Benefit Consultants
Dec '96	Managed Care Providers—HMOs & PPOs

To reserve your 1996 directory issues, call Dorothy Wood at 1-800-678-9595. For directory information, contact Sandra Budde at (312) 649-5279.

Business Insurance
 a publication of Crain Communications Inc.



*...and then the worst blizzard
~~of~~ of all times broke out!*

Things happen. We are there when you need us.



HANNOVER RE
EISEN UND STAHL RE

Opinions

Managed care makes strides

THE NEWS IS getting better for employers.

For a second year in a row, group health care costs have remained essentially flat. As we report on page 1 this week, a new survey by A. Foster Higgins & Co. Inc. shows that group health care costs for active and retired workers rose only 2.1% in 1995 to an average of \$3,821 per employee from \$3,741 per employee a year earlier.

The survey shows that the 1994 cost results were no fluke: group health care costs actually fell 1.1% that year. All indications are that the good news will continue this year.

That relative stability—which is in striking contrast to the annual double-digit inflation of only a few years ago—illustrates the success of employer and health insurers' efforts to reign in group health care costs.

This has been accomplished without government intervention or mandates. And while the threat of health care reform is often cited as a factor, the real contributor is the fundamental overhaul in the health care market brought about by managed care.

According to the survey, 71% of active employees were enrolled last year in managed care plans, up from 63% in 1994. With a cost differential between managed care and traditional indemnity plans of several hundred dollars, the continuing shift of workers to managed plans has meant billions of dollars in annual savings.

In 1995 alone, the percentage of employers offering an indemnity plan dropped to 54% from 60%, while the percentage offering a preferred provider option leaped to 49% from 40% and the percentage offering a health maintenance organization climbed to 57% from 53%.

At the same time more employers are offering the plans, they also are gaining wider acceptance among employees. The survey noted that the percentage of eligible employees in HMOs is climbing steadily. Other surveys have noted high satisfaction among employees with managed care plans.

Despite these successes, there is more to be done.

Employer costs continue to climb for retiree health care, where managed care has yet to make significant in-



roads. The potential for savings is clearly there, but first employers have to do more to encourage retirees to enroll in managed care plans. In 1995, just 15% of retirees under 65, and 7% of retirees 65 and older, were enrolled in HMOs, compared with 31% of active employees.

The Medicare program also must make greater use of managed care. We are encouraged by the program's use of risk contracts, under which Medicare contracts with an HMO to provide care to beneficiaries. We also hope Congress and the administration eventually reach a consensus on a Republican plan to increase incentives for Medicare recipients to use managed care alternatives.

Finally, managed care companies and employers cannot rest on their laurels. Managed care must continue to demonstrate that quality care and lower costs are not mutually exclusive. Continued refinement of quality measurement tools is needed.

We expect more good news lies ahead for employers.

Covering catastrophic risk

THE CALIFORNIA EARTHQUAKE AUTHORITY is closer to achieving its goal of lining up financing for a state-sponsored earthquake insurance program.

As we reported Jan. 22, the CEA has obtained commitments from reinsurers to provide nearly \$2 billion worth of protection. This week, on page 3, we report that the facility has settled on the investment product that it intends to sell once the Legislature gives the facility the green light.

The CEA program, which will take over most homeowners earthquake exposures in the state, ultimately aims to have up to \$10.5 billion in capital.

What is next to be seen is to what extent the facility is able to attract support from the capital markets. There is

much talk today about the convergence of traditional and alternative sources of capacity to fund risks. However, we have yet to see whether the capital markets will step up to the plate and provide the more than \$1 billion the facility is counting on from them.

Ultimately, though, the support of reinsurance and capital markets and the state is not enough.

It is the public that needs to contribute more if catastrophic exposures are to be adequately financed. The industry must determine if risks in catastrophe-prone areas are paying a fair rate for the coverage they receive and, if not, convince the public it needs to pay more for the privilege of living on fragile fault zones or in hurricane-prone areas.

Letters

No work comp 'opt outs' seen in New Jersey

To the editor: The Jan. 15 article, "Texas Comp Opt Outs Report Success," concerning Texas employers that "opt out" of the workers compensation system perpetuates a common misunderstanding that the New Jersey workers compensation law is elective.

The article cites a study that reported: "besides Texas, only New Jersey and South Carolina permit employers to opt out."

The New Jersey law permits employers to reject Article 2, which provides statutory benefits. Employers are pre-

sumed to have accepted Article 2 unless there is written rejection prior to any accident. Rejection of Article 2, however, automatically subjects the employer to Article 1, which provides for common law negligence without the traditional defenses.

Whether subject to Article 2 or Article 1, the law provides in Article 5 that insurance is compulsory, except for certain governmental entities. Thus, the ability to "opt out" of the New Jersey law is illusory because, in reality, it is a Hobson's choice between statutory cov-

erage and unlimited liability, both of which are subject to the system and require insurance protection.

To the best of our knowledge, no employer has ever rejected Article 2 and no employer can be self-insured without prior authorization by the Department of Insurance.

David H. Hannum
Special Deputy Commissioner
Compensation Rating
& Inspection Bureau
State of New Jersey
Newark

Business Insurance®

Reporting weekly on corporate risk,
employee benefit and managed health care news

Vice President/
Publisher/Editorial Director: Kathryn J. McIntyre, A.R.M. (Chicago)

Editor: Paul D. Winston (Chicago)

Editor-at-Large: Jerry Geisel (Washington)

Managing Editor: Timothy Stanton (Chicago)

International Editor: Stacy Shapiro (London)

Senior Editors: Meg Fletcher, A.R.M. (Chicago)

Judy Greenwald (San Jose)

Dave Lenckus (Chicago)

Douglas McLeod (New York)

Joanne Wojcik (Los Angeles)

Assistant Managing Editor/News: Roseanne White (Washington)

Washington Editor: Mark A. Hofmann (Washington)

Bureau Chief: Michael Schachner (New York)

Graphics Editor: Eric J. Williams (Chicago)

Copy Editors: Regis J. Coccia (Chicago)

Sara J. Harly (Chicago)

Assistant Copy Editor: Lee Velker (Chicago)

Associate Editors: Michael Bradford (Dallas)

Deborah Shalowitz Cowans (Chicago)

Roberto Cenicerio (Los Angeles)

Sarah Goddard (London)

Robert Kazel (Chicago)

Sally Roberts (Chicago)

Gavin Souler (New York)

Rodd Zalkos (Chicago)

Directory Editor: Sandra L. Budde (Chicago)

Assistant Directory Editor: Rich Trout (Chicago)

Editorial Assistant: Ovie M. Dent (Chicago)

Assistant to the Publisher: Karen Brown Tucker (Chicago)

Editorial Cartoonist: Roger Schillerstrom (Chicago)

Advertising Director: Martin J. Ross III (New York)

Eastern Advertising Manager: Stephen P. Lincoln (New York)

Midwest Advertising Manager: Robert L. Niesse (Chicago)

District Managers: Cynthia Bykowski (New York)

Blake Delany (New York)

Barrie Harmelin (New York)

Deborah D. Neale (Chicago)

James Patten (New York)

Sales Assistant: Lori Lieberman (Los Angeles)

Classified Advertising Manager: Cheryl Butler (Chicago)

Production Manager: Elmer Kerstowski (Chicago)

Director of Communications: Ronnie I. Drachman (New York)

Promotion Coordinator: Barbara O'Brien (New York)

EDITORIAL: Chicago: 312-649-5398

Dallas: 214-361-2295

London: 171-608-1172

Los Angeles: 213-651-3710

New York: 212-210-0100

San Jose: 408-379-1790

Washington: 202-662-7200

ADVERTISING: New York: 212-210-0228

Chicago: 312-649-5276

Los Angeles: 213-651-3710

COMMUNICATIONS: New York: 212-210-0132

SUBSCRIPTIONS: Detroit: 800-678-9595

Published by Crain Communications, Inc., Chicago

Founder: G.D. Crain Jr. (1885-1973)

Chairman: Mrs. G.D. Crain

Vice chairman: Keith Crain

President: Rance Crain

Chairman-executive committee: S.R. Bernstein (1907-1993)

Treasurer: Mary Kay Crain

Secretary: Merrilee P. Crain

Executive Vice president-operations: William A. Morrow

Vice president-production: Robert C. Adams

Circulation director: Peter J. Johnson

Published weekly at 740 Rush St., Chicago, Ill. 60611-2590. Fax 312/280-3174. E-Mail 76735.3045@CompuServe.com. Cable CRAINCOM. Offices: 220 E. 42nd St., New York, N.Y. 10017-5806. Fax 212/210-0704. CRAIN COM NYK; Suite 114, 8950 N. Central Expressway, Dallas, Texas 75231; Fax 214-696-1936; Suite 814, National Press Building, Washington, D.C. 20045-1801; Fax 202/638-3155; 6500 Wilshire Blvd., Suite 2300 Los Angeles, Calif. 90048-4947. Fax 213/655-8157; 540 Laimier Circle, Campbell, Calif. 95008. Fax 408/379-3257; Cowcross Court, 2nd Floor, 75-77 Cowcross St., London EC1M 6BP, England. Fax 71/608/1173. \$4 a copy and \$85 a year in U.S. \$105 in Canada and Mexico (includes GST). All other countries \$205 a year (includes expedited air delivery). DAVE KELLEY, circulation manager. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, Business Insurance, 965 E. Jefferson Ave., Detroit, Mich. 48207-3185, or phone 800-678-9595 or 313-446-0450. Fax 313/446-6777. Microfilm copies are available from University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48103. Microfilm copies available: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For information and rates to reproduce in general circulation media, contact: JOSEPH P. HANLEY, Crain News Service, 220 E. 42nd St., New York, N.Y. 10017-5806, 212-254-0890. For reprints or reprint permission contact: KAREN BROWN TUCKER, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590, 312-649-5319, Fax 312/280-3174.

TO SUBSCRIBE TO THE WORLD'S LEADING
COMMERCIAL INSURANCE PUBLICATION, CALL
800-678-9595

BPA
INTERNATIONAL

313-446-0450 outside of the United States

ABP

Accident and health · Aircraft products liability · Airlines · Alternative risks · Auto liability and
 physical damage · Aviation hull · Aviation liability · Aviation workers' compensation · Bailees
 Bankers blanket bond · Bloodstock · Blue water hull · Boat dealers · Boiler & machinery · Brown
 water hull · Bunkershoot · Burglary · Business interruption · Business owners · Capital markets
 Capitation excess · Captives · Cargo · Commercial multiple peril · Commercial lines
 Commercial surety · Confiscation · Contract surety · Contractors all risk · Creditor product
 Crop hail · Data processing · Directors & officers liability · Earthquake · Employers' liability
 Employment practices · Energy · Engineering risks · Entertainment · Environment impairment
 liability · Errors & omissions · Expropriation · Farmowners · Fidelity · Financial guarantee and
 credit · Fine arts · Finite · Fire and allied lines · Flood · Force placed property · Furriers custom
 block · Gaming vessels · General aviation · General liability · Group life · Health insurance
 Health maintenance organization · Highly protected risks · Hole-in-one · Homeowners · Hospital
 professional liability · Individual life · Inland marine · Jewelers block · Jones Act coverage
 Kidnap and ransom · Land drilling rigs · Libel and slander · Livestock · Long-term care · Long-
 term disability · Lumbermans · Managed care medical malpractice · Managing general agents
 Marina operators · Marine liability · Medical malpractice · Mining · Mortgage indemnity
 Nationalization · Non-standard auto · Nuclear risks · Occupational accident · Ocean marine
 Offshore oil rigs · Ordinary life · Pension and welfare · Physicians medical malpractice · Plate
 glass · Political risk · Pollution · Professional liability · Property · Protection & indemnity
 Provider excess · Reciprocity · Rental auto liability · Reserve enhancement · Retrocession · Risk
 retention groups · Satellite · Standard automobile liability · Surety · Title insurance · Tourist and travelers'
 liability · Umbrella/excess · Utilities · War risk · Whole account marine · Whole account property
 Workers' compensation · Workers' compensation carve out · Yachts

GUY CARPENTER

Guy Carpenter & Company, Inc. Two World Trade Center, New York, N.Y. 10048 212-323-1000
 Offices Worldwide

Lead paint

Continued from page 1
companies—such as NL Industries Inc. and Sherwin Williams Co.—have stayed out of the fray because it cannot be determined which company's products were responsible for any particular poisoning.

Plaintiffs' lawyers are trying to overcome that problem by arguing, in a class action in U.S. District Court in Manhattan, that nine companies that made lead pigment from 1925 to 1960 should be liable based on their share of the pigment market, or jointly and severally liable on the basis that they all knew of the risks and misled consumers about them. That suit covers several hundred thousand children under 6 years old and pregnant women.

Market share is rarely used as a basis for liability. Even asbestos companies have not been held liable on the basis of their share of any particular market. Market share liability primarily has been used against makers of the anti-miscarriage drug diethylstilbestrol, or DES.

In fact, the 1st U.S. Circuit Court of Appeals and other courts have expressly rejected the use of market share liability in lead paint cases (*BI*, Sept. 20, 1993).

"Counsel is throwing a lot out here hoping something sticks. The paint companies certainly will have arguments aimed at getting themselves out of this case, as they have in other cases," said Mr. Botari, who is representing New York City in the class action.

"How big this litigation gets really depends on whether it ever gets going against the paint and pigment manufacturers. They've been slipping out of these cases because no one knows whose paint it was. But if the dam breaks and a court holds manufacturers jointly and severally liable, it's a whole new ballgame," said Paula Osborn, an attorney with Oppenheimer Wolff & Donnelly in Minneapolis.

"This field is growing because cities, especially New York, are woefully behind in enforcing the old laws that make it clear that if

there's lead, it must be safely removed," said John Fitzgerald of Fitzgerald & Fitzgerald in Yonkers, who is lead counsel for the plaintiffs in the Manhattan class action.

So how are liability insurers responding?

Some are "lead lining"—a politically incorrect term for not insuring inner city apartment buildings and other habitational risks.

"There's a lot of selective underwriting going on. Basically, there's no coverage for pre-1978 buildings. There's a real dearth of lead coverage in most new GL policies. The property insurance industry is seeking to exclude lead wherever possible," said Jack Anderson, director of finance and insurance at the National Center for Lead-Safe Housing, a non-profit group in Columbia, Md.

Others are seeking state approval to add lead paint exclusions to their policies. New York, Maryland, Connecticut and Pennsylvania all permit such exclusions. New Jersey does not, and few insurers cover habitational risks in that state. In Massachusetts, insurers by law cannot deny insurance coverage to landlords that comply with a 1994 law aimed at preventing lead poisoning in children.

Still other insurance companies do not really know how big their problem is.

"These claims are just emerging, and the impact hasn't been contemplated by insurers and reflected in rates or reserves. At some (insurance) companies, only the claims people know what's going on. It hasn't worked its way to underwriting yet," said Vickie Kartchner, president and chief operating officer of TIG Excess & Surplus Co. in Phoenix. The insurer does not write lead liability coverage.

Landlords looking for coverage can find some specific, stand-alone policies, policies that critics say are too limited in scope.

Surex Managers of Hunt Valley, Md., for instance, sells coverage on behalf of specialty insurers United National Insurance Co., Frontier Insurance Co. and Commercial Underwriters Insurance Co., depending on the state.

Surex manages the program, except New York, where SIR Services Inc. manages it.

Limits range from \$25,000 to \$1 million, and mandatory self-insured retentions range from \$5,000 to \$100,000. Coverage is written on a per-occurrence basis, with higher aggregate limits available. But only claims involving people with at least 25 micrograms of lead per deciliter of blood will be covered.

"Most of the business we're writing currently is in New York, where there is a claims explosion," said Tom Schruben, assistant vp with URC Environmental Specialty Underwriters, a unit of Underwriters Re Corp. and an affiliate of Commercial Underwriters. But policies have also been written for Connecticut, Massachusetts, Washington, Philadelphia, Maryland, Chicago and San Francisco.

"Some people may think we're crazy to be taking this on, but our strength is our underwriting requirements. We do inspections and screenings of every risk, and we feel that...we can avoid the true high-risk buildings," Mr. Schruben said.

A landlord program developed by Kaye Insurance Associates Inc. in New York offers \$250,000 in coverage if blood contamination is at least 15 micrograms per deciliter. It's a claims-made policy that calls for an SIR of \$10,000 or \$20,000, and multiyear tails can be purchased.

The program is sold by the AROMA Purchasing Group, a unit of Kaye. Coverage is backed by insurers including Kaye unit Old Lyme Insurance Co. of Rhode Island Inc. and units of Reliance Group Holdings Inc.

"Most carriers have put in lead paint exclusions, and to make matters worse for policyholders, insurers that don't have exclusions are only responding to claims with reservations of rights letters. There are a lot of angry property managers out there, and we're trying to offer something that's solid, if not comprehensive," said Mike Zeldes, director of new business development with Kaye.

For housing authorities, another common target of lead liability lawsuits, coverage has been avail-

able since 1988 through the Housing Authority Risk Retention Group in Cheshire, Conn.

In conjunction with general liability, public housing authorities can buy up to \$500,000 in coverage for existing lead hazards. The minimum deductible on this claims-made program is \$25,000, and applicants must go through a risk assessment.

"We've seen all the articles about how settlements are coming in for millions of dollars, but so far, we haven't seen that," said Dan Labrie, vp of underwriting with Housing Authority Insurance, the parent of the RRG. "The problem isn't as big as one might believe in conventional public housing. There's a lot of monitoring going on. Higher risks come when HUD asks a housing authority to take over single family homes in disrepair."

Other insurers just don't want to write any lead-related coverage.

Insuring lead paint liability on low- to middle-income housing doesn't afford Zurich-American Insurance Co. in New York "any chance of insuring the policyholder properly and still making a profit," said Bill McElroy, assistant vp-environmental. So Zurich excludes lead paint damage where it permitted.

"We do write habitational risks, but no stand-alone lead," said Philip Conti, senior staff underwriter with Nationwide Mutual Insurance Co. in Columbus, Ohio.

"Otherwise, we look for lead-specific exclusions," explained Mr. Conti. "Writing lead is a lot like asbestos. It requires a high degree of expertise and loss control to underwrite it. Those doing it must think there's a lot of up-front money to be made, but who knows? It hasn't really sifted out yet in the courts."

"I really wish those that are doing this luck," said Ms. Kartchner of TIG E&S. "I just don't believe there's enough money in it to make it work."

There is even a moral hazard involved, asserted Ms. Kartchner. "People will actually feed their children paint chips (to raise their blood poisoning levels). I don't see how you can price against something like that." **[B]**



Call the middle market specialists.

With the AIG companies, independent agents can get more custom-tailored coverages than any other carrier. No minimum volume requirements. And unmatched financial strength.

It's easy to find out details. Just contact the nearest regional office.

EAST

New Hampshire Insurance Co.
1-212-770-6669

MIDWEST

Illinois National Insurance Co.
1-312-930-2190

WEST & PACIFIC

American International
Pacific Insurance Co.
1-206-344-3200

SOUTH

American International
South Insurance Co.
1-704-347-6600

GULF STATES

Audubon Insurance Co.
1-800-274-9830

Or call AI Express. We'll connect you with the AIG companies' representative nearest you.
1-800-228-8244

ISO 9000

Continued from page 3
ing to differentiate from each other," said Donald Morford, president and chief operating officer of Sedgwick James Inc. in Seattle.

Being certified by the ISO is one way to appeal to prospective clients, especially if they also are certified, he said. Indeed, risk managers say ISO certification either is a factor or could be a factor in the future in choosing brokers.

"If it were between three brokers and one had (ISO 9000) certification, it would certainly enter into the equation," said Janet Scott, director of personnel for Shurflo Pump Manufacturing Co. in Santa Ana, Calif., which received ISO 9000 certification in 1993.

"The overriding influence with our insurance broker is the track record we have with them," said Roland Ramberg, president of The Gear Works, Seattle Inc., which became ISO certified in 1994. However, if the manufacturing company were choosing a new broker, "there would be considerable weight given to a broker who's gone through the process to comply with the standard."

"As we, as a company, reconfigure ourselves to address the components of ISO 9000, a broker that has met the same components may indeed be

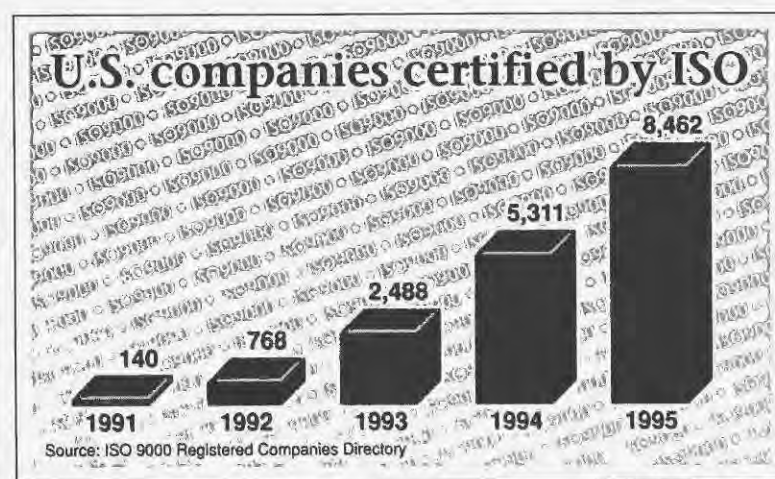
a compelling factor in the future," agreed Jeffrey W. Pettigrew, vp-risk management and insurance for Western Staff Services Inc. in Walnut Creek, Calif. "It's just a matter of time before it will be a standard for brokers."

Sedgwick's retail brokerage offices in Irvine, Calif., Seattle, and Orlando, Fla., received ISO 9000 certification for all lines of business, including property, casualty, personal lines, employee benefits and claims management. Sedgwick James of Texas Inc. in Dallas received certification for all lines except employee benefits, and the offices of benefit consulting subsidiary Sedgwick Noble Lowndes in Florida received certification for all of its activities, as did Sedgwick James Claims Management Services of Texas in Dallas.

Despite the "onerous" task of becoming certified, not to mention the "millions of dollars" that went into the initiative, "we believe it's the right way to go," said Sedgwick's Mr. Morford. Whereas brokerages often call themselves quality organizations, Sedgwick's clients now know "that we say what we do, do what we say, and we can prove it," he said.

While Sedgwick aims to receive certification of its offices worldwide by the end of 1998, other brokers do not put a high priority on it.

"We've looked at ISO 9000 and



GRAPHIC BY JOHN HALL

felt, in the U.S., it's not something we're going to do at the moment," said Harry Taback, a managing director at Marsh & McLennan Cos. Inc. and head of M&M Protection Consultants in New York.

Marsh & McLennan's quality commitment is as strong without the certification, he said. But in the future, he added, "undoubtedly, more companies, including brokers, will seek the certification."

At Johnson & Higgins, "we're relying much more heavily on customer-focused initiatives and staff-focused initiatives, rather than process-focused initiatives like ISO 9000," said Betsy Balderston, a prin-

cipal and senior vp in the Philadelphia office.

Richard A. Riley, president of Chicago-based Rollins Hudig Hall Co., which will be known as Aon Risk Services effective Feb. 1, said that while RHH has been looking at ISO 9000 certification for its U.S. offices for quite some time, it has instead chosen to focus on its own "signature service" quality initiative.

ISO 9000 is the standard with manufacturers in Europe, "but that's not the case here yet," Mr. Riley said. However, he added, "if customers tell us that (ISO 9000) is the standard, we will hold ourselves to that standard." **[B]**



Be free to serve your clients instead of being locked in to sales quotas.

Being an independent agent is tough enough. But to be restrained from getting the right kind of coverage for your clients is sheer punishment.

What's the alternative? The AIG companies.

Unlike other carriers whose limited line of coverages often fails to meet your clients' needs, we offer a full range of custom-tailored products and services.

What's more, the AIG companies have no minimum volume requirements and will entertain submissions from any licensed broker. So you're never held back from delivering the best solutions.

There are many other ways we demonstrate our commitment to small- and mid-sized businesses. For starters, there's our growing regional

company network that allows us to bring you responsive, personalized service. And our unmatched financial strength and triple-A ratings from the major ratings services.

Call us to get the full story on how AIG can help strengthen your business. And do it now.

After all, you have nothing to lose but your chains.



World leaders in insurance and financial services.

American International Group, Inc., 70 Pine Street, Dept. A, New York, NY 10270

Punitive

Continued from page 2

The California suit involves Mark A. Freeman, a contractor who sold a Palo Alto house he built to Edward and Rhonda Pierce in 1985. The Pierces sued Mr. Freeman in 1987 for fraud and other charges after complaining of a defective foundation.

His insurer, West American, an Ohio Casualty Corp. unit in Hamilton, Ohio, provided a defense for Mr. Freeman, but reserved its right to seek reimbursement of payments made on his behalf for defense and indemnity.

The case was eventually settled for \$56,500 despite Mr. Freeman's complaints about his lawyer's conduct and his allegations that the insurer had threatened to stop funding his defense unless he agreed to the settlement.

In 1991, following up on its reservation of rights, West American filed suit to limit or deny coverage as well as for reimbursement of its costs. Mr. Freeman countersued, charging the insurer with bad faith. A jury, which heard Mr. Freeman testify that he had lost his business because of the insurer's actions and had incurred more than \$323,000 in attorney's fees, then awarded him \$1.3 million in compensatory damages and the \$12 million in punitive damages.

Four years later, upholding the award, a state appeals court in San Francisco found "substantial evidence in the record of its bad faith conduct, including forcing Freeman to settle the Pierce claim through the threat of withdrawal of defense counsel, ignoring the expert opinions on the Pierce matter, refusing to join other liable parties, refusing to turn over the defense file on the Pierce claim and putting its interests ahead of those of Freeman."

In addition, the theory that the insurer had "attempted to create new law at Freeman's expense and that

this was further conduct evidencing bad faith is not without merit," the court said.

In its review, the high court said it will focus on three questions:

- "Were punitive damages impermissibly awarded on the grounds that West American Insurance Co. had acted in bad faith in advancing a novel legal theory?"

- "Was the punitive damage award excessive because it was based on passion and prejudice?" This refers to inaccurate statements by Mr. Freeman's attorney at trial that another Ohio Casualty unit had paid \$8 million in punitive damages; the actual amount had been \$5 million.

- "Was the punitive damages award excessive in light of West American's financial condition?" The \$12 million award represented nearly 28% of West American's net income in 1991.

Insurer attorneys say if the appellate decision is left to stand it could seriously disrupt the normal insurer practice of providing policyholders with a defense while reserving the right to later seek reimbursement.

All insurers, particularly liability insurers, would be "walking on eggshells" about whether to seek declaratory judgments on coverage issues, said Alister McAlister, a Wilton, Calif.-based attorney who is California counsel to the National Assn. of Independent Insurers.

Mr. McAlister had sent a letter to the Supreme Court urging it take the case.

What's more, a ruling that insurers which advance novel legal theories are acting in bad faith would make insurers second class citizens, say some attorneys.

That means that insurers, unlike any other participants in civil litigation, could be held liable in tort for advancing arguments that are not frivolous but are merely "incorrect and novel," said Elliot L. Bien, of Bien & Summers in San Francisco, who represents West American.

Such a ruling would threaten in-

surers' "ability to participate in their own disputes in a court of law," he added.

"I don't understand how the law could say an insurer is not entitled to pursue their rights in court like any other party," agreed Peter Davis, an insurer attorney with Crosby, Heath, Roach & May in San Francisco.

But policyholder attorneys have a different characterization of the case. "The insurance company believes that they can insulate themselves from bad faith liability with the issue of reservation of rights when there was no good faith belief that their legal position was tenable... and I think the court of appeals saw through that," said Walter Lack, of Engstrom, Lipscomb & Lack in Los Angeles.

This is a good case that further confirms that "bad faith is alive and well in the state of California on behalf of policyholders, not just individuals, but small businesses, who buy liability insurance and expect insurers to stand behind them," according to Charles Mazursky, of Mazursky, Schwartz & Angelo in Los Angeles. "Too often people take out liability insurance and pay premiums and find a piece of paper instead of a promise to defend them and stand behind them and stay on the same team as them."

Even some insurer attorneys say that West American's conduct makes this a poor case to use to evaluate the standards for punitive damages.

"The insurance company could have acted a little more reasonably, there's no doubt about that, and I'm sure insurance companies would prefer to see the issue tested on facts different from these," said Kirk G. Forrest, of Carroll, Burdick & McDonough in San Francisco, who represents insurers.

"I think there's a couple of lessons that insurers can learn from this case, whether the punitive damage amount is upheld or not, or whether they strike down part of it and re-

duce the amount," said Linda Dakin-Grimm, a partner with Chadbourne & Park in Los Angeles who specializes in representing insurers in construction defect claims.

"The case really stands for the proposition that if you provide a defense for the insured, you have to provide a real defense. You can't provide a partial defense or a defense aimed at minimizing fact gathering and settling a case," she said.

Aside from the bad faith issues, the case could provide some important guidance on punitive damages.

The state court's decision to grant review "offers some hope and encouragement that it is ready to give much more careful definition and much better guidelines to the lower courts and the litigants and to the business community generally about what criteria should be applied in determining whether to grant punitive damages and how much to award," he said.

"I think it's very significant in that the Supreme Court is reviewing the issue of punitive damages for the first time really in any serious fashion" in five years, said Julia

Molander, an insurer attorney with Bronson, Bronson & McKinnon in San Francisco.

"It could well have national impact because there's generally a truism that where California goes everyone else walks," Ms. Molander added.

Mr. Horvitz agreed. "What the California Supreme Court does is very likely to influence what other states do," he said. "I would say some other states are likely to go along with the California Supreme Court" even if they do not entirely agree with its decision.

But other disagree. "Each state deals with this issue on its own," said Bob Schiff, of Fisher & Hurst in San Francisco, an insurer attorney. Other state courts are "not going to look at California. They don't care."

It may not even influence other California cases, said Dick Barger, of Barger & Wholan in Los Angeles, an insurer attorney. "It occurs to me the court may review the case on its own merits, do whatever they do re punitive damages and decertify it" so that it is not published and does not become precedent. **[B]**

Lawsuit

Continued from page 3

dations.

The department will not say whether any action was or will be taken.

Citing the Jan. 9, 1995, article in *Business Insurance* that reported the Alexander suit, Rep. Nadler wrote in September: "In past years, when the Kansas Department of Insurance appointed receivers to manage the assets of seized insurance companies, the department permitted said receivers to squander the assets of these seized companies."

"From the information that is available in the article, it appears that this laxity substantially enriched receivers. What is not contained in the article, but possibly brings this matter to a level of criminal misconduct, is the allegation that these firms and their attorneys, in turn, made substantial contributions to candidates for political office in the state of Kansas, including a contribution of possibly as much as \$40,000, or more, to the campaign of the Kansas Insurance Commissioner."

"While we cannot verify this allegation or confirm a link between the Kansas Insurance Department's laxity of supervision of the receivers or their appointment of unqualified receivers and the receivers' political contributions to Kansas politicians, we believe that an allegation of this seriousness about an agency with the extensive regulatory authority that is found in Kansas Insurance Department deserves your attention," Rep. Nadler wrote.

In response, Mr. Moline asserts that Mr. Alexander did not contribute to the commissioner's campaign. The liquidator did, though, contribute to Ron Todd, Ms. Sebelius' predecessor as commissioner and the one who seized NCIC in 1993, he said.

Had Mr. Alexander not mishandled NCIC's estate, its former president asserts, more money would have been available to pay claims.

In fact, Mr. Zipper also contends that NCIC was not really insolvent when it was seized in 1993. "The company was not insolvent," he said. "They had asked us for a rehabilitation plan, and we submitted it."

But the plan included a rate increase that Kansas regulators

claimed would not be approved by regulators in California, NCIC's principal place of business, Mr. Zipper recounted. "The day we were put into liquidation, we were notified that we were granted the rate increase in California," he said.

Kansas regulators seized NCIC on July 12, 1993, and placed the company into liquidation a few days later.

In its April 1995 suit, the Kansas department charges Messrs. Zipper and Gossett with breach of fiduciary duty, alleging that they drove NCIC into insolvency through mismanagement and fraud.

Among other things, the suit alleges Messrs. Zipper and Gossett forced NCIC to pay "substantial sums to its parent company, DSN

Gerald Zipper also contends that NCIC was not really insolvent when it was seized in 1993.

Dealer Service Network Inc., impairing the insurer's ability to fulfill its contractual obligations. Messrs. Zipper and Gossett were the principals of DSN, which also is named in the suit. Meanwhile, DSN has filed for bankruptcy protection in New Jersey, where it is based.

DSN purchased NCIC in December 1988 from American States Insurance Co., a unit of Lincoln National Corp. NCIC was formerly known as Western Indemnity Insurance Co. Inc., which was incorporated in 1964 and only did business in Kansas.

At the time of purchase, NCIC was essentially a shell corporation with approximately \$8 million in surplus and no liabilities. DSN paid about \$11.5 million for NCIC, most of which was borrowed from various trusts that were part of automobile and other extended warranty programs administered by DSN, the Kansas department's suit alleges.

While the majority of NCIC's business was non-standard automobile liability and physical damage insurance, it also wrote more than \$1.5 million in automobile warranty business premium between 1989 and 1993. **[B]**

Carvill

Reinsurance Intermediary

INDEPENDENCE INTEGRITY SERVICE

CONSISTENT PHILOSOPHY & PERFORMANCE

SINCE 1977

Atlanta Bermuda Chicago London Stamford

RISK MANAGER OF THE YEAR AND RISK MANAGEMENT HONOR ROLL AWARDS

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

BUSINESS INSURANCE • Editorial Department • 740 N. Rush St. • Chicago, IL 60611-2590

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

EMPLOYEE BENEFITS COMMUNICATION AWARDS

The EBC awards honor employers for excellence in communicating benefits programs to their employees. Insurance companies and consulting firms also are recognized for their participation in the preparation of award-winning communication programs. For entry forms and rules, write or call:

BUSINESS INSURANCE • Communication Services • 220 E. 42nd St. • New York, NY 10017-5806

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

WORKERS COMPENSATION CONFERENCE

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

BUSINESS INSURANCE • Communication Services • 220 E. 42nd St. • New York, NY 10017-5806

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

REPRINT SERVICES

BI's Reprint Department can provide reprints, in quantities of 100 or more, of any article appearing in the weekly newsmagazine. Legal permission, complying with U.S. copyright laws, also can be provided to companies wishing to reprint, on their own, material appearing in the newsmagazine. For information, write or call:

BUSINESS INSURANCE • Reprint Department • 740 N. Rush St. • Chicago, IL 60611-2590

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

ARTICLE FAX SERVICE

For article photocopies sent by fax on the same day, call us with your credit card information, specify *BI* issue date and article headline. The charge is \$7.50 per copy/per article. In-publication directories are not available by fax.

BUSINESS INSURANCE • Reprint Department • 740 N. Rush St. • Chicago, IL 60611-2590

phone: 312/649-5398 • fax: 312/280-3174

SINGLE COPY SALES

To order a current or back issue of *Business Insurance*, call the single copy sales division of *BI's* Circulation Department:

800/678-9595

DIRECTORY OF BUYERS

The 1995/96 *Business Insurance* Directory of U.S.-Based Corporate Buyers of Insurance, Benefit Plans and Risk Management Services contains alphabetical listings of nearly 3,200 U.S. corporations. You'll find names and titles of over 16,000 executives responsible for risk management, employee benefits and more — plus vital statistics on primary type of business, revenue or assets, and number of employees. To order your copy of this thirteenth edition, available in print or on disk for the PC, call:

313/446-1623

The 1995/96 *Business Insurance* International Directory of Corporate Buyers Based Outside the U.S., lists nearly 3,000 executives in more than 500 companies from 21 countries. In addition to address, phone and fax numbers, listings include primary type of business, currency of the country, revenue or sales, names and titles of CEO and other executives responsible for risk management, security, benefits, health care and finance. To order your copy of this second edition, available in both printed bound volume or on disk for the PC, call:

313/446-1623

DIRECTORY OF HMOs and PPOs

The 1995/96 *Business Insurance* Directory of Managed Care Providers is published as a special extra edition of *BI*. The directory contains profiles of over 1,700 HMOs and PPOs across the country — organized alphabetically by state. To order, call:

313/446-1623

IN-PUBLICATION DIRECTORIES

Business Insurance publishes more than 20 comprehensive in-publication directories during the year, making access to services and suppliers easy. Providing detailed listings of firms in specialized areas, *BI's* directories give readers a direct route to better management techniques and eliminate frustrating hours researching services and suppliers available in the marketplace. For a listing of *BI's* in-publication directories, call:

312/649-5279

For more information, call one of the numbers listed below:

Advertising Information: 212/210-0228

Subscription Information: 800/678-9595

**Business
Insurance®**

The lights in our office are always on

Contact us 24 hours a day on the Internet

<http://www.rlicorp.com/>

RLI's home page on the Internet Worldwide Web means you can now contact us 24 hours a day, from anywhere in the world. If you've got a laptop or a desktop computer, our doors are always open.

RLI

Fundamentally Innovative

9025 N. Lindbergh Dr. • Peoria, IL 61615
Ph: (309) 692-1000 • Fax: (309) 692-1068

**Lincoln Life purchase**

FORT WAYNE, Ind.—Lincoln National Life Insurance Co. has reached a definitive agreement to acquire the group tax-sheltered annuity business of two UNUM Corp. units for about \$70 million.

Combined, UNUM Life Insurance Co. of America and First UNUM Life Insurance Co. of New York, had about 1,700 group contracts covering employees at tax-exempt institutions.

New Gallagher name

ITASCA, Ill.—Arthur J. Gallagher & Co. has changed the name of its National Risk Management Sales division to Gallagher Risk Management Services.

Markets

Based in Itasca, Ill., Gallagher Risk Management Services also has branches in Grand Rapids, Mich., and Philadelphia.

The renamed division also is increasing its focus on value-added services and risk management activities, both domestically and internationally.

Near North in London

CHICAGO—Near North National Group has opened a new division, Near North Entertainment Ltd., in London.

Derek Townshend has been named managing director of the new division and will develop the new office's business in the film, television and related businesses and provide service in the London and European markets for Near North's multinational clients.

Near North Insurance Brokerage is part of Near North National Group, a diverse organization providing insurance products and comprehensive risk management services. It also is a joint venture limited partner with Fireman's Fund Insurance Co. and motion picture film completion bond company International Film Guarantors.

For more information on Near North Entertainment Ltd. in London, call 011-44-193-256-2611.

Buck service center

NEW YORK—Buck Consultants Inc. has opened an expanded Participant Service Center in its Secaucus, N.J., office.

The Participant Service Center provides customized benefit plan services directly to clients' employees who call a toll-free number and receive answers to benefit plan questions and assistance with plan transactions from representatives or a voice-activated center.

The expansion adds both space and new technology to meet clients' needs for the next three to five years.

Gibbs name change

LONDON—The Gibbs Group of companies, which includes Lloyd's broker Gibbs Hartley Cooper, has been renamed to reflect its membership of financial service group HSBC Holdings P.L.C.

Gibbs Hartley Cooper, meanwhile, now will be known as HSBC Gibbs Ltd.

The other Gibbs Group companies also have been renamed to include the "HSBC Gibbs" moniker.

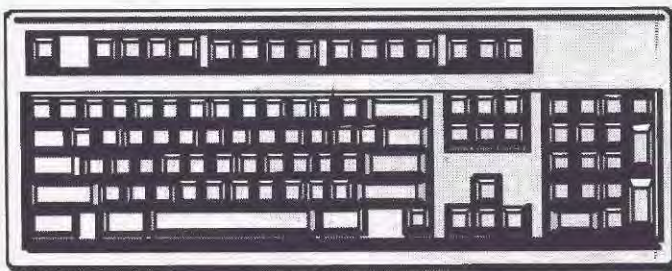
HSBC Group employs more than 100,000 people in more than 3,000 offices in 70 countries.

New Sedgwick division

SAN FRANCISCO—Insurance broker Sedgwick James of California Inc. has restructured its Los Angeles, Irvine and San Diego offices and refocused its ongoing California property and casualty operations. Those offices and P/C operations now will be under the direction of a new division, Sedgwick One California Risk Management Group.

Managing Director Stephanie Sparks, who is based in Los Angeles, will chair the new group, working closely with Pam Pastore and Ron Massa, co-managing directors based in San Francisco.

For more information, contact Ms. Pastore at 415-983-5187, Mr. Massa at 415-983-4601 or Ms. Sparks at 213-385-0545. **EI**



Corporate buyers are a keystroke away.

BI's Directories of Corporate Buyers of Insurance, Benefit Plans and Risk Management Services, are published in two editions — U.S.-based buyers and buyers based outside the United States. And now, both are available in electronic editions for IBM-PC and compatible computer users.

Now, you can print your own labels or reports in a variety of formats with the touch of a key.

The **BID U.S. Software** and **Non-U.S. Software** are self-contained programs ... load it in and put it to work.

Each alphabetical listing includes:

- company name, address, telephone and fax
- nature of business
- company size in assets or sales
- number of employees
- corporate buying influentials by name, title and area of responsibility.

The BID Software

- puts corporate buying influentials from U.S.-based companies or from companies outside the U.S. at your fingertips
- puts the facts and figures you need easily at hand
- lets you search by company name; geographic location — including city, state or zip code; country; or by company size — by range in assets, sales or number of employees; or individual's name, title or area of responsibility.

And, with BID Software

- mailing labels or hard copy reports are just a keystroke away.

To install and use the **BID Software** you must have:

- an IBM-PC or 100% compatible computer
- 512K RAM
- 3.5" or 5.25" high density floppy
- DOS version 3.1 or above
- 7MB free hard disk space

To order the 1995/96 **BID Software** for the **Business Insurance Directory of U.S.-Based Corporate Buyers** at \$595, or for the **Directory of Corporate Buyers Based Outside the U.S.** at \$595, or to buy both editions at only \$995, simply complete the form below and mail to:

Dorothy Wood, BID Software
Business Insurance
965 E. Jefferson Avenue, Detroit, MI 48207

Or, fax your order to: Dorothy Wood, BID Software, 313-446-6782

Format for BID Software: ☐ 3.5" disk ☐ 5.25" disk ☐ U.S. Edition ☐ Non-U.S. Edition ☐ Both U.S. & Non-U.S. Editions

Residents of the following states are required to pay corresponding sales tax:

CA ... 7¼% IL ... 8% MI ... 6% NY ... 4% NYC ... 8¼% OH ... 5¾%

Enclosed is a check for \$ _____ payable to *Business Insurance*,
or charge my: ☐ VISA ☐ AmEx ☐ MasterCard ☐ Discover

Account # _____ Expiration Date: _____

Name _____

Title _____

Company _____

Address _____

City _____ State _____ Zip _____

Phone (_____) _____ Fax (_____) _____



**Business
Insurance®**

ASK A BENEFIT ACTUARY

Q

Does our defined benefit pension plan align with our human resource strategy?

A

This question comes from a manufacturing company that is currently contemplating a replacement of its defined benefit program. The company currently sponsors both defined benefit and defined contribution plans for its salaried employees.

In a prior column (BI, Nov. 13, 1995), we looked at how

demographic trends will influence the alignment of a defined benefit plan with human resource strategies. We noted that contrary to conventional wisdom, workers are becoming less mobile; this calls into question the need for a portable defined contribution plan to attract more mobile workers.

We also saw how the largest growth in the U.S. workforce is among older workers. This trend is

In order for the company to run its business, the company also needs employees to retire in an orderly fashion.

attributable to the aging of the baby boomers. This has implications for attracting employees since older workers find defined benefit plans to be more important than defined contribution plans.

In this column, we will look at issues that are specific to the alignment of the company's retirement plans to its human resource strategy. This company needs salaried employees with two critical skills: manufacturing process knowledge and customer relationship management skills. This company's business strategy is supported through the retention of salaried employees with critical skills for long periods. The defined benefit plan supports this retention strategy. The company's defined benefit plan retains employees because the employee's defined benefit value increases with time. The benefit value increases at age 55 by nearly 1.5 times the age 55 pay. This dramatic increase is generally understood by employees and serves to retain employees to at least age 55.

Different corporate strategies call for varied pension plans

The increase is attributable to the company's subsidized early retirement benefit. Under the plan, a participant can retire at age 55 and receive an unreduced benefit. A defined contribution plan cannot match this spike in benefit value due to the contribution limits under a defined contribution plan.

In order for the company to run its business, the company also needs employees to retire in an orderly fashion. Orderly retirements are needed to keep promotional channels open for younger employees. In addition, older employees not meeting minimum productivity levels need to be replaced with more productive employees.

The defined benefit plan supports an orderly retirement strategy. The plan delivers an increase in benefit value after age 55, with the benefit value increasing by approximately 10% of pay per year. However, after age 60, the benefit value decreases. This occurs because the increased value in the employee's benefit, due to increasing pay and service, are worth less than the value of a year's pension payment, which the employee did not receive because of continued employment. Employees understand this decrease in value and generally retire from this company between the ages of 55 and 60.

A defined contribution plan does not offer the same incentives for orderly retirement. Benefit values increase every year due to investment returns and additional contributions. The incentives in a defined contribution plan are entirely for continued employment rather than orderly retirements.

Research by Gregory Lozier and Michael Dorris bears this out, as illustrated in the accompanying chart. It displays retirement ages for faculty members at colleges and universities during the 1980s, a period during which these institutions could impose a mandatory retirement age of 65. Figure 3 shows retirement ages of slightly over age 65 when only a defined contribution plan was present, indicating that faculty would not retire until required. But when a defined benefit plan was present, faculty members had an incentive to retire before the mandatory age.

A defined benefit plan supports this company's human resource strategies much better than a defined contribution plan. But other employers have different human resources strategies. For example, some employers want to attract younger employees and retain them for a 5 to 10 year period, after which time their skills are expected to be obsolete. For such employers, a defined contribution plan may support its

Retirement ages of higher education faculty

Academic year	Defined benefit plan only	Defined benefit & defined contribution plans	Defined contribution plan only
1981-1982	62.7	63.2	65.1
1983-1984	62.8	62.7	65.4
1985-1986	62.6	62.5	65.3
1987-1988	62.4	62.7	65.6

Source: Faculty Retirement Projections beyond 1994, Effects of Policy on Individual Choice

GRAPHIC BY JOHN HALL

human resource strategies better than a defined benefit plan. Whatever the human resource strategy, one goal of retirement plan design should be alignment with these strategies. By aligning retirement plans and all human resource practices and policy, organizations can achieve competitive advantage, which is really the name of the game. **BI**

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

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



Mr. Miner

This month's column on actuarial issues in the benefits field is written by William J. Miner, an actuary with Watson Wyatt Worldwide in Chicago. Richard E. Sherman, president of Richard E. Sherman & Associates Inc. in Ashland, Ore., answers actuarial questions in the casualty field. Susan M. Werner, director of risk management at Hardee's Food Systems Inc. in Rocky Mount, N.C., answers risk management questions.

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

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

Welfare benefits not covered by ERISA anti-alienation clause

The anti-alienation provision in the Employee Retirement Income Security Act does not apply to welfare benefits, according to the 8th U.S. Circuit Court of Appeals.

This suit was brought to determine who was entitled to the proceeds of a life insurance policy governed by ERISA. The decedent's widow, Nancy Cryslar, claimed as his last designated beneficiary under the policy, while his former wife, Phyllis Cryslar, claimed under a divorce decree that allegedly prohibited beneficiary changes. Phyllis demanded payment of her divorced husband's \$45,000 basic death benefits.

Nancy then sued the insurer to recover the entire death benefit.

The insurer filed this action in federal court requesting the court to decide who was entitled to the benefit. The trial court awarded the benefit to Nancy, the deceased's widow.

Legal Briefs

The appellate court said that ERISA's anti-alienation provision did not bar Phyllis' claim because this was a welfare benefit plan, not an employee pension benefit plan.

The court said that Congress elected to regulate welfare benefit plans less rigorously. Furthermore, the court said that Congress had not prohibited the assignment or alienation of welfare plan benefits. Thus, the court said, a state law divorce decree effecting or prohibiting such a transfer did not conflict with ERISA.

The trial court decision was reversed and the case was sent back to the trial court for further proceedings.

Equitable Life Assurance Society of U.S. vs. Cryslar, 8th U.S. Circuit Court of Appeals, Sept. 29, 1995 (BI/03/F.-\$10)

Ambiguity leads to coverage

The 4th U.S. Court of Appeals ruled that an ERISA health insurance policy was ambiguous with regard to high dose chemotherapy treatment and, thus, the ambiguity had to be construed against the insurer.

Mary Bailey suffers from stage IV breast cancer and has health insurance with Blue Cross. In 1994, She sought coverage for a procedure known as HDC with peripheral stem cell rescue. The policy excluded treatment for "...other forms of stem cell rescue...with high dose chemotherapy." She conceded that the PSCR portion of her treatment was excluded but said the HDC was covered since chemotherapy was listed under the policy's definition of covered services. The insurer denied coverage. Ms. Bailey sued and won in the trial court.

The appellate court rejected the insurer's contention that the word "with" in the

exclusionary clause unambiguously meant "and." The court pointed out that the lower court found that the record did not preclude the possibility that there may indeed be cases where HDC was not accompanied by PSCR. The court said that possibility was consistent with Ms. Bailey's interpretation of the policy as providing coverage for all types of chemotherapy—including treatment with high dose. The trial court decision was affirmed.

Bailey vs. Blue Cross and Blue Shield of Virginia, 4th U.S. Circuit Court of Appeals, Oct. 11, 1995 (BI/05/F.-\$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.

Costs

Continued from page 1
and out of expensive traditional indemnity plans.

Surveyed employers reported that 71% of active employees were enrolled last year in managed care plans, up from 63% in 1994, while enrollment in traditional indemnity plans fell to 29% from 37%.

With the annual cost of traditional indemnity plans between roughly \$400 and \$500 per worker higher than health maintenance organizations and preferred provider organizations—the two fastest growing types of managed care plans—the ongoing shift of workers to managed care plans means big cost savings for employers.

"There has been a fundamental restructuring of the health care system with a large scale replacement of traditional indemnity plans with managed care plans. Employers are now harvesting the fruits—lower costs—of that restructuring," Mr. Erb said.

The continuing shift to managed care plans comes at a time when the plans are aggressively competing for business—especially that of employers with less than 500 employees—and in many cases are

east. That increase may be because many employers in the Northeast only first started to offer a POS plan in 1994, according to Foster Higgins. As a result, employees' use of cost-effective network providers, which typically grows over time, was below average in these new plans. Just 53% of Northeast employers with more than 500 employees that offer POS plans reported that at least 80% of their total claims dollars went to network providers compared with 61% of companies nationally.

Traditional indemnity plan costs—the most expensive health care program—increased 4.4% rising to an average of \$3,650 per employee in 1995 from \$3,496.

While traditional indemnity plans will never entirely disappear—managed care networks are difficult to establish in many sparsely populated areas of the country—enrollment in indemnity plans could dwindle to as little as 20% of employees, Mr. Erb predicts.

In 1995 alone, the percentage of employers offering a traditional indemnity plan dropped to 54% from 60%, while the percentage offering a PPO leaped to 49% from 40% and the percentage offering an HMO climbed to 57% from 53%.

tradeoff for less freedom to choose providers, Mr. Erb said.

"They accept less choice in favor of lower out-of-pocket expenses," he said.

The difference in out-of-pocket expenses between traditional indemnity plans and HMOs is dramatic. HMOs, for example, don't impose deductibles, while employees in traditional indemnity plans often are slapped with big deductibles: last year, the median deductible among large employers was \$200 for individual coverage and \$500 for family coverage.

Among employers with at least 500 employees, the cost of the four major types of health care plans was highest in the Northeast, while employers in the West had the lowest cost traditional indemnity plans and employers in the South had the lowest cost HMOs and PPOs. Employers in the Midwest had the lowest cost POS plans.

Traditional indemnity plan costs for large Northeast employers averaged \$4,252 per active employee, up 6.5% from \$3,992 in 1994. By contrast, traditional indemnity plan costs for employers in the West averaged \$3,176, up 1.5% from \$3,128.

PPO plans costs in the Northeast averaged \$3,684 per employee, up 2.6% from \$3,588 in 1994. PPO plan costs for Southern employers averaged \$2,812 per employee, down 4.7% from \$2,951 in 1994.

The cost of Northeast employers' HMOs averaged \$3,886 per employee, up 4.8% from \$3,700. HMO costs among Southern employers averaged \$2,935, down 9.5% from \$3,213.

The cost of Northeast employers' POS plans averaged \$3,664 per employee, down 1% from \$3,700. POS plan costs averaged \$3,443 per employee in the Midwest, up 5.5% from \$3,262.

Other survey findings involving employers with at least 500 employees include:

- On average, employees in HMOs paid 22% of the premium for individual coverage and 35% of the premium for family coverage. Employees in traditional indemnity plans paid 23% of the premium on average for individual coverage and 33% of the premium for family coverage.

- In traditional indemnity plans, 70% of employers self-fund the plans, including 59% that self-funded with stop-loss insurance and 11% that self-fund without any stop-loss coverage. In addition, 11% of large employers fully insure their traditional indemnity plans, while 15% utilize experience-rated plans and 5% purchase minimum premium plans.

- Thirty-four percent of large employers with self-insured traditional indemnity plans use a commercial insurance company to administer the plan, while another 34% use an independent third-party claims administrator and 25% use a Blue Cross/Blue Shield plan as their TPA. Just 7% of employers self-administer their traditional indemnity plans.

- Just over half of employers say their flexible benefit programs have helped to reduce health care costs, while 31% say the plans have had no effect and 14% said the effect on costs cannot be measured. Three percent of employers said flexible benefit plans increased health plan costs.

Copies of the "Foster Higgins National Survey of Employer Sponsored Health Plans" will be available next month from Lisa Gilleeny, A. Foster Higgins & Co. Inc., 125 Broad St., New York, N.Y. 10004; 212-574-9025. The cost is \$500 and prepayment is requested.

Group health care plan costs by employer size*

	1995	1994	%change
All employers	\$3,653	\$3,644	0.2%
10-499	3,467	3,448	0.5
500-999	3,585	3,442	4.2
1,000-4,999	3,724	3,831	-2.8
5,000-9,999	3,758	3,730	0.8
10,000-19,999	3,638	3,792	-4.1
20,000 or more	3,946	3,904	1.1

*For active employees.
Source: A. Foster Higgins & Co. Inc.

GRAPHIC BY MIKE GARVEY

cutting rates.

Indeed, for the first time in the 10-year history of the survey, group HMO costs fell, declining 3.8% in 1995 to an average of \$3,255 per active employee from \$3,385. For small employers, which many HMOs are aggressively courting, costs plunged 11.9% to an average of \$2,883 per employee in 1995 down from an average of \$3,274 in 1994.

"HMOs are increasingly targeting smaller employers, and among this group they compete almost solely on the basis of price," the survey notes.

PPO costs also fell last year, declining 2.1% to an average of \$3,169 per employee from \$3,238 a year earlier. That cost decrease was fueled mainly by a 4.8% drop in costs in the South, where competition among PPO vendors is especially intense, Foster Higgins says.

Because PPO enrollment in the South is so high—36% of all PPO enrollees are in the South—changes in PPO costs in the South significantly influence the national average.

Bucking the cost trend among managed care plans was point-of-service plans, whose costs increased 3.4% in 1995 to an average of \$3,415 per employee from \$3,302.

Slight reductions in POS plan costs in three of four geographic regions were offset by a 10.9% increase in POS costs in the North-

And, 28% of employers offered a POS plan, up from 25%.

Of the employers with at least 500 employees offering HMOs, 44% of their eligible employees were enrolled in HMOs last year, up from 38% in 1994.

The leading reason for obtaining an indemnity plan—cited by 40% of employers—was because they couldn't find suitable managed care networks in all employee locations. By contrast, just 16% of employers said they offer an indemnity plan because they are committed to full provider choice, while another 16% believe a traditional indemnity plan is necessary to attract employees.

Although many employers once were skeptical about the savings they could achieve from managed care plans, especially HMOs, that skepticism has largely dissipated in the face of a continued gap between the costs of indemnity plans and HMOs.

Last year, 81% of large employers—those with at least 500 employees—said their HMOs were effective in controlling their health care costs, up from 68% in 1994, while 31% of large employers said they encouraged enrollment in HMOs, up from 24% in 1994.

"Managed care is working and employers know it," Mr. Erb said.

In addition, employees have come to believe that the lower cost-sharing requirements in managed care plans are an acceptable

In a first, retiree data separate

The 1995 Foster Higgins health care cost survey marks the first time that the benefit consulting firm has formally separated employees' and retirees' health care costs in many categories.

When A. Foster Higgins & Co. Inc. began the survey a decade ago, few employers were able to isolate their retiree health care costs from those of employees.

The most credible numbers then were aggregate costs—total health plan costs, which included active employees and retirees. Foster Higgins then used the information to determine per capita health care costs by dividing total costs for active and retired employees by the number of active employees.

That calculation still is valuable because it provides a "big-picture"

view of employers' total group health care costs. But, the method has its drawbacks. "Employers that provided retiree health care coverage saw their costs compare unfavorably with employers that didn't," Foster Higgins says in its most recent survey.

During the last few years—in large part because of reporting requirements imposed by the Financial Accounting Standards Board—employers have more detailed information about the cost of their employees' and retirees' health care plans.

As a result, in the new survey, Foster Higgins separately broke out employees' and retirees' health care costs in most categories. But it also will continue to combine employees' and retirees' costs for the "big-picture" view of health care costs. **BI**

Retiree health costs continue to climb

By JERRY GEISEL

While group health care costs for active employees have been holding stable, the news is not so good for retiree health care plans.

Last year, retiree health care plan costs for employers with at least 500 employees climbed 9.5% to an average of \$3,131 per retiree from \$2,859 in 1994, according to the A. Foster Higgins & Co. Inc. survey. That is substantially higher than the 3.5% increase in health care plan costs for active employees during the same period.

The major reason for the surge in retiree health care costs: retirees, unlike active employees, generally have not made the shift to cost-effective managed care plans and mainly are enrolled in expensive traditional indemnity plans. For example, 69% of retirees age 65 and older and 39% of those under 65 are enrolled in traditional indemnity plans. By contrast, just 27% of active employees working for large employers are enrolled in traditional indemnity plans.

Total health care plan costs per retiree

1995	\$3,131
1994	2,859
1993	2,751
1992	2,548

Source: A. Foster Higgins & Co. Inc.

GRAPHIC BY MIKE GARVEY

Not surprisingly, retiree health care plan costs are highest in those parts of the country where retiree enrollment in traditional indemnity plans is greatest.

For example, retiree health care plan costs for employers in the Midwest—where just 23% of retirees age 65 and older and 47% under 65 receive coverage through managed care plans—averaged \$3,311 per retiree in 1995, up 12.9% from \$2,932 in 1994.

By contrast, retiree health care plan costs for employers in the West—where 74% of retirees 65 and older and 87% of retirees under 65 are enrolled in managed care plans—were the lowest in the country. In 1995, retiree health plan costs for Western employers

averaged \$2,686 per retiree, up 2.7% from \$2,616 in 1994.

Still, there are signs that retiree health care plan enrollment in managed care plans could increase. Last year, 21% of employers offered their retirees the opportunity to enroll in health maintenance organizations with Medicare risk contracts. Under a Medicare risk contract, Medicare will pay an HMO 95% of what Medicare thinks it would cost to provide the retiree with benefits covered by Medicare.

Since HMOs can operate much more efficiently than Medicare, HMOs often can afford to offer additional benefits not covered by the federal program—like prescription drug coverage—to attract retirees and still make money. With the Medicare risk contract HMOs providing additional benefits, that leaves a smaller role—and lower costs—for retiree health care plans that supplement Medicare.

"Employers that offer a retiree medical plan to supplement Medicare can reduce their benefits cost—sometimes to nothing—when a retiree joins a Medicare risk HMO," the Foster Higgins survey notes.

Some employers, though, have taken a more drastic approach to cutting retiree health care benefits: they have eliminated the plans.

Last year, 35% of employers with at least 500 employees offered a health care plan to retirees eligible for Medicare, down from 40% in 1994. Also, 41% offered retiree health care plan coverage to retired employees under 65 last year, down from 43% in 1994.

In addition, 16% of employers with retiree health care plans last year increased retiree contributions, 12% increased cost-sharing, such as through higher deductibles and coinsurance requirements, and 7% tightened eligibility requirements.

The survey provides dramatic evidence of the financial importance to employers of the federal Medicare program, which provides the bulk of health care benefits to retirees 65 and older. Retiree health care plan costs in 1995 averaged \$1,803 per retiree for retired workers 65 and older covered by Medicare. By contrast, health care plan costs for retired workers under 65 averaged \$5,242 per retiree.

INTERNATIONAL

Pension law scrutinized in Maxwell case aftermath

Upcoming reforms feared insufficient to prevent similar cases

By EDWIN UNSWORTH

LONDON—One of the most pressing questions arising from the recent acquittals in the Maxwell pension fraud trial is whether the U.K. Pensions Act 1995—the passage of which was influenced by the Maxwell case—will ensure the safety of pensions.

After a shortfall of about £440 million (\$666.4 million) was found in the pensions of some 30,000

Maxwell company employees following the mysterious death of media tycoon Robert Maxwell in November 1991, the U.K. government was pushed into reforming pension legislation and overhauling financial services regulation.

Among the main recommendations of the Pension Act, which will go into effect in a little more than a year's time, are:

- Creation of a compensation program to pay benefits when

fraud has occurred.

- A requirement for programs to be funded at a minimum level.
- The appointment of member-nominated trustees.
- Creation of a pension regulator.

Despite these recommendations, however, some experts—including U.K. pension fund managers, accountants and the National Assn. of Pension Funds—consider the reforms insufficient.

Money disappeared from the Maxwell pensions because Robert Maxwell considered pension fund assets as no different than any other corporate assets to be used to fund any corporate activities, evidence in the trial showed. Shares owned by the funds were allegedly used to raise loans to prop up Robert Maxwell Group P.L.C., the financially ailing holding company for Maxwell family interests.

At the trial, two of his sons, Kevin and Ian Maxwell, who were directors of Maxwell companies and of fund manager Bishopsgate Investment Management Ltd., and Larry Trachtenberg, a financial adviser to Robert Maxwell, were found not guilty of conspiring to defraud the pension funds of as-

See Maxwell on next page

Repetitive strain ruling to lead to more claims

By EDWIN UNSWORTH

LONDON—A U.K. High Court judge's finding that a mining company can be sued for failing to prevent injuries from vibrating equipment like drills may open the floodgates to injury claims from miners.

The judge found that British Coal Corp. should have taken steps as far back as 1975 to prevent workers who used pneumatic drills and other power tools from suffering a cumulative trauma disease known as "vibration white finger."

The ruling, issued earlier this month by Judge John Stephenson of the High Court in Newcastle-upon-Tyne, clears the way for nine miners to bring suit against the company in test cases that may lay the groundwork for hundreds of additional lawsuits.

Judge Stephenson said that British Coal should have known of the occupational risks that cause VWF as early as Jan. 1, 1973, and should have implemented preventive measures as of Jan. 1, 1975. He added that he was following established legal principles that place a duty on an employer to keep reasonably abreast of developing knowledge on industrial diseases and not be slow to apply preventive measures.

A British Coal spokesman said, "It is inappropriate to comment in detail before we have had time to consider the judgment and its implications in full."

Arthur Scargill, leader of the National Union of Mineworkers, predicted the judgment could lead to VWF claims from more than 1,000 miners and excavation pit workers, with the final bill for damages against employers reaching as high as £150 million (\$226.5 million).

The nine miners in the test case are represented by solicitors who represent 500 mine workers.

However, by the time additional cases and any probable appeals are heard, it is likely that British Coal will have been liquidated, leaving any awards to fall on U.K. taxpayers. British Coal already is little more than a shell company as its mines are being sold off as part of U.K. government privatization measures.

VWF, caused by prolonged exposure to vibration, impairs the circulation and neurological function of the hand and can cause permanent damage to nerves, muscles and bones in the fingers. Apart from mining, this repetitive strain injury has been reported in the construction, shipbuilding and steel industries.



Kevin Maxwell gives a thumbs up after he and his brother, Ian, are found not guilty of conspiracy to defraud pension funds.

ACE's stake in Methuen opens door to Lloyd's

ACE aims to expand markets

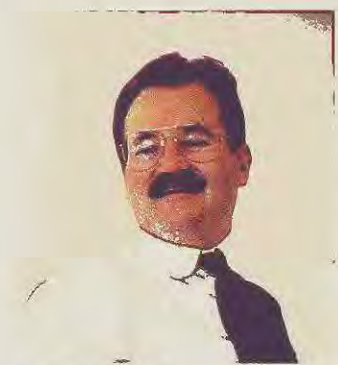
By EDWIN UNSWORTH

LONDON—ACE Ltd. is the latest Bermuda insurer to gain a foothold in Lloyd's of London with its acquisition last week of a controlling stake in Methuen (Lloyd's Underwriting Agents) Ltd.

ACE, parent of high-level excess liability insurer ACE Insurance Co. Ltd., will obtain the stake in the managing agency after buying a 51% interest in its parent, Methuen Group Ltd. Hamilton-based ACE expects the acquisition, subject to Lloyd's approval, to be completed in the spring. ACE will have an option to acquire the remaining shares in Methuen in 1999 and 2000.

The Methuen investment "represents a major step in our strategy to reach new markets and diversify our product range," said Brian Duperreault, president and chief executive of ACE.

Leslie Goodman, chief executive of Methuen Group, said the new structure will provide Methuen with extra underwriting capacity and the capital to expand in-



Mr. Duperreault

ternally and through acquisitions.

Methuen is one of the largest managing agencies at Lloyd's, with an underwriting capacity this year of £367 million (\$555.8 million). Its six Lloyd's syndicates underwrite diversified specialty lines primarily on non-marine, marine and aviation risks.

Corporate investment in Lloyd's has increased steadily since it was first allowed in 1994, with Bermuda companies increasingly taking an interest.

According to the chairman of one recent Bermuda investor, William Bailey of Terra Nova (Bermuda) Hold-

See ACE on page 19

Lloyd's runoff not an option

Lloyd's would be unable to maintain solvency, DTI contends

By SARAH GODDARD

LONDON—Putting Lloyd's of London into runoff, an alternative a group of members has proposed, would create greater problems for names than the market's current course, since policyholder interests would take precedence in a liquidation.

So contends the U.K. Department of Trade and Industry and the Janson Green Action Group, both responding to a proposal by the Lloyd's Names Assn. Working Party that the marketplace be liquidated rather than create Equitas Ltd. to segregate and run off old business (BI, Dec. 11, 1995).

The LNAWP argued that an orderly liquidation of Lloyd's would be of greater benefit to names because they would only be liable to pay claims as they came due, rather than make large, upfront payments into Equitas. In addition, in a runoff, policyholders would not receive full payment of their claims, thereby reducing names' burden.

The LNAWP also suggested that any ongoing and profitable business could be taken over by new insurance companies or syndicates.

However, the DTI questions whether Lloyd's could remain in solvent runoff under such a scenario, warning that it could be placed in involuntary liquidation.

In a paper sent recently to Sir David Berriman, chairman of the Assn. of Lloyd's Members, Jonathan Spencer, head of the DTI's insurance division, pointed out: "The department's responsibilities are, first, to monitor the solvency of Lloyd's... and, second, to make appropriate use of its powers if any of the statutory requirements are breached, in order to protect policyholders' interests to the maximum

extent possible."

An accompanying paper from the DTI commented that if Lloyd's were to stop paying claims in full, as the LNAWP suggested, the market likely would be unable to attract new business, causing it to become insolvent.

What's more, from experience in past cases where insurers have been put into runoff, the DTI has found that "the very act of going into runoff could lead to a rapid crystallization of claims, which would increase the likelihood of the solvency requirements being breached."

The DTI's comments rebut the LNAWP's suggestion that putting the market into runoff would make life easier for names because they would only have to pay claims when they became due.

If Lloyd's stopped paying claims and went into runoff, members would have to provide not just for paid claims but also for incurred-but-not-reported losses, the DTI noted.

Also, it pointed out the LNAWP's proposal that business could be transferred to new insurance companies or syndicates implies that this will happen the next working day. "The reality would be very different," the DTI paper said.

First, the new market participants would have to be independent insurance companies, killing the traditional form of unlimited liability membership and the basis of trading as syndicates.

What's more, the Insurance Companies Act proscribes that only "unimpaired capital" would be allowed to support the new market. Under the circumstances, it would be "problematic" for names to continue underwriting in whatever guise.

And the market likely could not be

resurrected immediately. The DTI pointed out it would take some time for the insurance companies to be authorized—typically between six and twelve months. Whether such companies would be located at One Lime Street was also questioned by the DTI. The London Underwriting Centre is an option, although "they might also seek to obtain whatever benefit might be possible from the continued use of the Lloyd's name (assuming that it has not been tarnished by the prior failure of the market)," the paper said.

The Janson Green Action Group also sent a letter to Sir David, pointing out that most names also are policyholders, particularly through personal stop-loss and estate protection plan policies. "Many names would want the names on the syndicates who gave them stop-loss or runoff protection to be actively pursued for what they had," the group noted.

As for other policyholders, in a runoff they could well be able to aggregate several large claims, such as pollution coverage disputes, against a syndicate, as well as combining different claims against the same name. "Some very large liabilities could result for such aggregation," the action group said.

The Janson Green Action Group's letter also pointed out that "for long-tail syndicates, the 1985 and prior liabilities as estimated by Equitas include typically a 50% discount." This discount may not be available to names if Equitas were shelved in favor of liquidation, and syndicates also probably would be forced to reserve at higher levels, the action group said. "Indeed, if the usual pattern of insolvency follows," the group warns that some policyholders could inflate IBNR

See Lloyd's on page 19

INTERNATIONAL

Maxwell

Continued from previous page
sets (BI, Jan. 22).

Although the men were acquitted, there is no disputing that assets were missing from the pension funds. The National Assn. of Pension Funds believes the absence of any measures in the Pensions Act to prevent this from happening at other companies is a major omission.

Commenting after the Maxwell acquittals, the NAPF said: "The main question is whether the Pensions Act 1995 can ensure that incidents of this kind do not happen again. An essential element of this is the requirement for custody of investments by regulated custodians independent of the employer. NAPF was particularly disappointed that the government did not accept an amendment to the bill making this provision."

Kenneth Trench, chairman of the Maxwell Pensioners Action Group, also is skeptical that the act will fully fit the bill.

"We should also be aware of the blandishments of government and not be lulled into such a sense of security that we think the new Pensions Act will solve all the problems and rekindle the public's faith in the system," he said.

If the act's proposed compensation in cases of proven fraud had been in place, the not-guilty verdicts in the Maxwell case would have deprived Maxwell pensioners of their right to compensation, Mr. Trench added.

Of the £440 million found to be missing from Maxwell pension funds after Robert Maxwell fell from his yacht and drowned off the Canary

Islands in November 1991, most has been recovered. The majority, £276 million (\$418 million), came from a global settlement reached with banks and accountants. The money was forthcoming after the contributing parties were pursued by liquidators and accountants appointed to sort out the Maxwell companies' affairs.

As a result, the Maxwell case has contributed to the calls for tighter regulation of the banking and financial services sectors.

Robert Maxwell apparently was able to borrow huge amounts from banks and from his companies' pension funds without any auditors or regulatory authorities becoming concerned. Despite having been declared by U.K. Department of Trade Inspectors as unfit to run a public company in the early 1970s, Mr. Maxwell apparently had unlimited access to the retail financial services business—without having to meet any test of fitness or propriety.

While Prime Minister John Major and his government have declined to comment on the Maxwell trial's outcome, others have not.

Frank Field, Labour Party chairman of the House of Commons social services committee, which had been investigating the Maxwell affair before the trial started, said the acquittals "must cause massive concern" for financial institutions based in the City of London.

Referring to the sums found missing from the pension funds and other Maxwell companies, he said, "If £800 million (\$1.21 billion) can disappear and no one is successfully prosecuted, the message to the world is that the City is not nearly as safe a

place as we had assumed."

Mr. Field said his committee is considering reopening its investigations into the Maxwell pension funds and calling the brothers back to testify.

Considerable uncertainty overhangs the future of the Serious Fraud Office, which investigated the Maxwell case and brought the unsuccessful prosecution. The Labour Party, which is widely expected to win the next general election, is considering plans to abolish the SFO. It proposes creating a Companies Commission that would take over the SFO's role and the powers of investigation currently held by the Department of Trade and Industry.

While the SFO has successfully brought many fraud prosecutions, it has failed to win convictions in a number of the most publicized and costly cases. The seven-month Maxwell trial cost an estimated £25 million (\$37.9 million), which included about £11 million (\$16.7 million) in costs to the SFO and an estimated £10 million (\$15.1 million) in legal aid to the defendants.

George Staple, SFO director, has resisted calls for his resignation over the Maxwell affair but has since announced that he will stand down when his contract expires in April 1997. He said the decision had nothing to do with the Maxwell case.

Earlier this month, the Institute of Chartered Accountants in England & Wales asked the government to examine ways to combat fraud. It proposed that the profession "re-examine the detection role of the statutory auditor in relation to corporate fraud and be prepared to take a more active stance." **BI**

U.K. pension reform gains new support

By EDWIN UNSWORTH

LONDON—A new voice has been added to the growing demands for U.K. pension reform.

The Retirement Income Inquiry, an independent panel commissioned by the National Assn. of Pension Funds, advocates creation of a new two-tiered system. Such a system would include a basic assured pension, which would guarantee all pensioners a govern-

employees, employers and the self-employed to some form of funded pension program. This program could be an employer-sponsored or personal pension or a proposed National Pension Scheme set up by the government but privately administered, the panel suggests in "Pensions: 2000 and beyond."

For higher earners, their assured pension would be gradually reduced by a percentage of whatever other income they received over the

Under the proposal, the State Earnings Related Pensions Scheme would be phased out and replaced with compulsory contributions to some form of funded pension program.

ment-backed minimum retirement income, while workers with higher earnings would be required to save for their own pensions, which could be provided through an employer-sponsored plan with employer/employee contributions.

Under the proposal, the State Earnings Related Pensions Scheme, the current component of the government pension system that calculates benefits based on salary, would be phased out and replaced with compulsory contributions by

assured level.

The Retirement Income Inquiry, chaired by former senior Treasury official Sir John Anson, did not endorse any of the widely differing suggestions on what should be deemed adequate minimum retirement income. Rather, its assured pension has been designed to be compatible with a range of views on what the level should be. However, the report noted that adoption of its proposals should

See Pensions on next page

The Professional Marketplace

RATES AND CLOSING TIME:

Rates: Display classified is \$153.00 per column inch, minimum of one inch. Straight classified is \$13.50 per line, minimum of 5 lines. Count 34 characters per line (include each space and punctuation as a character). Additional \$22.00 charge for all blind box ads. Only those responses which fit into a business size envelope will be forwarded. Responses are forwarded daily.

Closing: Published every Monday. Copy must be in typewritten form by 5:00 Tuesday, 6 days preceding publishing date. No verbal phone copy accepted. Most major credit cards accepted. Mail ads to, Cheryl Butler, Classified Advertising, 740 North Rush Street, Chicago, Illinois 60611. For more information call 312-649-5340 or FAX 312-649-7799.

HELP WANTED

APPRAISER

The Sill Adjustment Company is the nation's leading firm of public insurance adjusters. We currently have opportunities available in our Contents Appraisal Department in Cleveland and Indianapolis. The ideal candidate would have experience in either property adjusting, salvage, or experience in the appraisal of business personal property. Position requires extensive travel. Attractive salary and benefits package. Please send resume and salary requirement in confidence to: Jack Kunz, President, Alex N. Sill Adjustment Company, 6000 Lombardo Center, Suite 600, Cleveland, OH 44131. Fax: 216-524-8152, E-Mail: sillco@aol.com.

COMMERCIAL LOAN OFFICER

LaSalle National Bank, one of Chicago's premiere financial institutions, has an excellent career opportunity in our Commercial Lending department. We are seeking an experienced Commercial Lender (AVP or VP level) to join our insurance lending division. This position will focus on business development and marketing efforts. Qualified candidates should have a bachelor's degree, 5-10 years of marketing experience preferably with a strong focus on insurance companies. Formal credit training is required.

We offer a competitive salary and a comprehensive benefits package. For consideration, please send your resume to:

LaSalle Bank
HR—Insurance Recruiter
135 South LaSalle Street
Suite 3300
Chicago, IL 60603
or Fax to: (312) 904-6180

LEGAL NOTICE

REQUEST FOR QUALIFICATIONS
INSURANCE BROKER SERVICES

Please be informed the Los Angeles Convention Center is seeking qualifications from an insurance broker or agent able to provide insurance broker services to the Los Angeles Convention Center Department of the City of Los Angeles and the Los Angeles Convention and Exhibition Center Authority. Request for Qualifications packages are available at the following location:

Los Angeles Convention Center
Administrative Offices
1201 South Figueroa Street
Los Angeles, California 90015

A Proposer's Meeting is scheduled for Thursday, February 15, 1996, at 10:00 a.m., at the above address in Room 409A. Although attendance at this meeting is not mandatory, it is strongly recommended that all potential proposers attend.

For additional information,
call (213) 741-1151 extension 5329.

HELP WANTED

INSURANCE SALES

Fast growing company interviewing for sales people for Albany, Syracuse, Buffalo and Long Island. We specialize in Self-Insured Workers' Comp. Prior sales and insurance experience helpful but not mandatory. Please send resume to:

First Cardinal Corporation
Executive Park East
Albany, NY 12203

HELP WANTED

DIRECTOR OF GROUP BENEFITS

Group health, dental and vision insurance firm in Lansing, MI, seeks candidate with 10 or more years of experience to manage its group operations. This person must possess knowledge in claims, underwriting, administration and product development.

Qualified candidates will require a high degree of managerial experience and the ability to effectively communicate with staff and top management.

Send confidential resume including salary history to:

Executive Secretary
415 West Kalamazoo Street
Lansing, MI 48933
E.O.E.

HELP WANTED

GENERAL
COUNSEL
and CORPORATE
SECRETARYINSURANCE
(P&C) INDUSTRY

One of the world's largest insurance and financial services companies, seeks a General Counsel/Corporate Secretary in New York City.

You will be responsible for all Corporate Secretarial and Legal Activities, including contract wording, company licensing and regulatory/legislative issues. Will manage outside counsel arrangements and oversee Government and Industry Relations.

We offer a competitive salary and benefits package. All qualified candidates should fax their resumes to: (212) 742-0950. EOE

HELP WANTED

INSURANCE TECHNICIAN
GERMAN REVERSE
FLOW BUSINESS

Full or part time basis for US service office of German Insurance Co. New York based. Good technical knowledge of P/C Commercial Lines required; 3-5 years underwriting experience with multi-line carrier very desirable. German language skills essential.

Reply to: P.O. Box 177,
Mountain Lakes, NJ 07046.

HELP WANTED

HELP WANTED

Looking
for a
candidate
to fill
the job?

Business
Insurance
Classifieds
assure top
quality results!
Call
Cheryl Butler
at
312-649-5340
for
advertising
details.

Business
Insurance
Circulation Breakdown
Commercial Consumers

Administrative:
CEO's, Presidents, and Owners 1,866
Vice Presidents, General Managers and
Other Administrative Personnel 5,213
Financial:
Chief Financial Officers and Vice Presidents
of Finance 3,180
Secretaries, Treasurers, controllers and
other Financial Personnel 3,053

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 16,931

Sub-total 30,243
Associations 355
Government, Unions and
Educational Institutions 955

Commercial Consumers
Sub-total 31,553
Insurance Agents and Brokers 8,658
Insurance Companies 7,857
Accountants, Actuaries,
Attorneys & Consultants 3,556
Adjusters, Appraisers, TPA's, Captive Managers
& Health Care Providers 1,935
Others Allied to the Field 960

Total Qualified 54,519
Non-qualified 9
Single Copy Sales 0

TOTAL CIRCULATION 54,528
★ Source Business/Occupational
breakdown of qualified circulation,
May 29, 1995 issue, as
submitted to BPA for June 1995
BPA Publisher's Statement

INTERNATIONAL

Quake forecasts not reliable

Insurers should push for alternative building methods

By DON LEWIS KIRK

Evidence is mounting that earthquake losses are far from predictable.

As a consequence, experts say alternative building methods are needed and insurers should reward those who use them.

Quake experts at a "Big Cities World Conference on Natural Disaster Mitigation" in Cairo, Egypt, last month said forecasts are ineffective and called for "greater government and industry action" to promote protective measures that reduce the effect of quakes when they occur.

Less than two months after Cairo itself was hit by a quake, 400 specialists from 50 countries reported on earthquake dangers in large cities. The conference, which insurers attended, was sponsored by Egypt University and the Berlin-based International Center for Earthquake Prognosis.

Delegates called on countries to implement stricter building codes and land use that would limit the effect of natural disasters in large cities, such as greater attention to the quality and stability of soil during construction planning.

Andreas Vogel, director of the Berlin-based International Center for Earthquake Prognosis, told

delegates any hope of predicting earthquakes has vanished in light of new evidence.

"Earthquake predictions remain a wishful dream and a total disregard of reality," Mr. Vogel said.

Changes in the underground water level, occurrence of many smaller quakes or escaping earth gases like radon are not necessarily the harbinger of a quake, he

waves in the earth's crust," according to Mr. Vogel.

As a result, protective building methods will grow in importance around the world. Mr. Vogel supports the use of rubber shock absorbers in the foundation of some buildings.

These changes increase construction costs by up to 10% but effectively reduce building move-

'Earthquake predictions remain a wishful dream and a total disregard of reality,' says Andreas Vogel, director of the International Center for Earthquake Prognosis.

said.

"Many serious quakes in the last decade occurred where experts didn't expect them," Mr. Vogel said in a statement from Berlin. He cited the Jan. 17, 1995, quake in Kobe, Japan, which scientists had considered much less likely to suffer a large seismic event than Tokyo.

"They contradicted existing theory based on the tectonics of earth plates. Experts are now looking at the other causes, like the effect of

ment should a quake occur.

Other methods include new "intelligent" buildings with sensors that register movement of the earth and activate a system of shifting weights that compensate for earth movement.

Anselm Smolke, an earthquake specialist at Munich Reinsurance Co. in Munich, Germany, says the insurance industry in general and Munich Re in particular are willing to support innovative preventive methods.

Pensions

Continued from previous page

avoid the current problem of some unemployed needing to receive state income support.

The National Assn. of Pension Funds, which commissioned the nearly two-year inquiry but remained independent of it, welcomed the report's emphasis on funded pensions for all as the most effective solution to the U.K.'s long-term retirement income needs.

NAPF Chairman Tom Ross said the association fully supports the proposal to replace SERPs with a compulsory funded pension system, but doesn't want it managed by a state governing body. "Our view is that such a scheme would be best run by competing private organizations with individuals having personalized accounts."

Mr. Ross added that he hoped the report would lead to positive action "sooner rather than later, because the pensions time bomb is already alight."

The report claims that for demographic reasons, the existing state pension arrangements will not be able to cope for long. By 2030, the number of people in Britain of working age for each person of pension age will have fallen to 2.7 from 3.3 in 1991. The basic state pension,

now about 15% of average gross male earnings, will fall to 9% of earnings by 2030 if it continues to be linked to price inflation.

The government, which has previously opposed calls for compulsory pension savings, gave the proposals a cool response. Social Security Secretary Peter Lilley said extending means-testing of pensions would discourage savings. He said the government had already introduced a number of reforms to ensure that employer-sponsored and

should make increased contributions to employee pensions. This could make British industry less competitive and place an undue burden on many smaller employers, said Dominic Johnson, the CBI's labor markets and benefits policy adviser.

Pension reform has been debated in the United Kingdom for the past few years. One of the most important outcomes of the debate to date is the Pension Act 1995, which will go into effect in April 1997. This

'Our view is that such a scheme would be best run by competing private organizations with individuals having personalized accounts,' says NAPF Chairman Tom Ross.

personal pensions "are affordable without putting unacceptable charges and costs on employers."

The country's leading employers' group also had reservations about the report's recommendations. The Confederation of British Industry said that while the proposal for an assured pension "strikes us as an idea with potential," the organization is worried by the report's recommendation that employers

was the result of the Goode Report into pension law reform, written by a government-appointed committee headed by attorney and Oxford University law professor Roy Goode, largely in response to the Maxwell pension scandal (BI, Oct. 11, 1993). The report became the basis of the Pension Act 1995, which deals primarily with controls over pension fund management and security. **BI**

Lloyd's

Continued from page 17

claims in anticipation of not receiving 100% of the amount, while others would speed up the filing of claims.

"This would inevitably swell the outstanding claims notified to Lloyd's and increase the crystallization of loss," the action group predicted.

Lloyd's Chief Executive Ron Sandler made a similar point about liquidations in a memo he circulated to members agents last

November.

"There would be a 'first-past-the-post' rush by policyholders to enforce or secure their claims," he said.

As the market's regulator, the Council of Lloyd's would have a legal duty of care to the policyholders and creditors rather than investors if Lloyd's were put into runoff, Mr. Sandler added.

Under such a scenario, members would forfeit several features of the reconstruction and renewal plan, including: the contribution of £1.1 billion (\$1.66 billion) in Central Fund assets to reduce

names' debts; the special levy and agents' contributions of £650 million (\$981.5 million); and "the society's assets, including the buildings and its subsidiary companies (including Lloyd's of London Press Ltd.), would also need to be preserved and/or realized for the benefit of the society's own creditors and could not be used for the benefit of names."

Lloyd's of London Press was sold to its management in December 1995 (BI, Jan. 1), and the market is looking into the sale and lease-back of its flagship building at 1 Lime St. **BI**

Areas like the Tokai district around Tokyo, where sophisticated seismographic measurements are taken regularly, "must live with limited effectiveness of earthquake prognosis," he said.

"It's almost self-evident that the insurance industry supports innovative efforts to limit the effect of earthquakes. We believe insurance rates should be adjusted when policyholders take steps to limit the damaging effects of earth quake."

Unfortunately, competition for earthquake business in low-risk regions has led insurers to reduce rates to the point that returns might not be enough to meet losses, Mr. Smolke said.

But, overall, he said he sees potential for underwriting policies that favor better rates for innovative building methods.

Ake Munkhammer, vp and head of underwriting control at Skandia Insurance Co. Ltd., recommended that insurers and scientists communicate more on earthquake issues. "Scientists have solutions we should be using," he said, citing as an example knowledge about soil conditions.

Insurers also should offer more varied rates to distinguish between good and poor quake risks, Mr. Munkhammer said. Such rates would be a "good economic incentive" for policyholders to adhere to building codes. He also suggested introducing a "seismic declaration of quality," based on engineers' evaluations of a building's ability to withstand a quake. **BI**

ACE

Continued from page 17

ings Ltd., investment shows confidence in the long-term effects of Lloyd's reconstruction plan.

This support comes despite the fact that Lloyd's has yet to reach agreement with its members on the plan, which hinges on their acceptance of a settlement of lawsuits over underwriting losses.

Terra Nova last month acquired the ongoing business of five syndicates managed by Octavian Syndicate Management (BI, Dec. 18, 1995). This involves the creation of a new managing agency for 1996 and the provision of an additional £25 million (\$37.8 million) of corporate capacity. Terra Nova has committed itself to providing another £75 million (\$113.3 million) if necessary.

At the time, Mr. Bailey said corporate membership in Lloyd's enabled the Bermuda-based company to "be where the business is rather than ask the business to come to us." He also said it provides "the opportunity to participate in the world's oldest insurance and reinsurance market."

Recently, Lloyd's Brockbank Group P.L.C. announced the combination of its existing managing agency businesses with two new dedicated corporate syndicates that are supported by £50 million (\$75.7 million) of capital provided by Bermuda-based Mid-Ocean Ltd. The property catastrophe reinsurer will have a 51% interest; Brockbank will hold 49%. **BI**

Services Guide

CPCU® and IIA candidates

I guarantee you will learn more in less time with The Burnham System — or your money back.
Ray Burnham, CPCU, CLU, ARM
19 Everett Street, Southbridge, MA 01550
Call 1-800-GET-CPCU Now!

FOR 1996
SERVICES GUIDE
ADVERTISING
INFORMATION
CALL 312-649-5340

SBPA SYSTEMS

- MEDICAL
- DENTAL
- VISION
- DISABILITY
- LIFE

Innovative benefit
administration systems for
today and beyond.

1-800-444-1189

10777 Westheimer, Suite 125
Houston, TX 77042
FAX 713-974-3544

Publishing: February 19th

Benefits: Health Care Innovations

Directory: Utilization Review Providers
& Case Managers

Services Guide Closing: February 13th

Reserve Your Advertising Space
In The Services Guide Today!

For advertising information contact: Cheryl Butler,
Classified & Services Guide Advertising, 740 North Rush Street, Chicago, Illinois 60611.
Telephone (312) 649-5340 • Fax (312) 649-7799

Managed care initiative would be radical change

SAN FRANCISCO—Consumer advocate Harvey Rosenfield and the California Nurses Assn. are preparing a petition to put a proposition on the November ballot that could dramatically affect the state managed care market.

Among other things, the proposition would restrict health care organizations' denial of treatment recommended by the people treating the patient. Treatment could not be denied unless the patient first had a physical exam by someone with qualifications equal to those of the person recommending treatment.

This would prevent "some consultant sitting in Seattle with a cookbook" from denying recommended treatment, said a spokesman for the San Francisco-based nurses' group.

The proposition also would: establish criteria for the denial of care; establish guidelines on what doctors should tell patients about their care; ban financial incentives to limit or deny care; and prevent HMOs and hospitals from retaliating against physicians and nurses who speak out on behalf of patients.

For the Record

The proposition also would impose fees on mergers and acquisitions, the conversion of non-profit facilities to for-profit facilities and the "excess" stock holdings of health care executives. Proceeds from these fees would go toward enforcing the proposition and public health services.

The drive to gather the required 700,000 signatures is expected to begin in mid-February.

OSHA faults criticism of ergonomics efforts

WASHINGTON—The Occupational Safety and Health Administration is blasting a report that accuses it of distorting medical research to justify its proposed ergonomic standards.

The Washington-based, business-backed National Coalition on Ergonomics released a study last week saying OSHA did not weigh evidence fairly before proposing the standards. "There are inconsistencies between OSHA's claims regarding study findings and what the cited research actually shows. In ad-

dition, OSHA's findings did not fully consider non-occupational factors," said Dr. Richard Blume, an occupational medicine specialist with Sandler Occupational Medicine Associates Inc. in Melville, N.Y.

Assistant Secretary of Labor Joseph A. Dear, who heads OSHA, criticized the National Assn. of Manufacturers—which backs the coalition—for the report. "If NAM wants to debate the science behind ergonomics, then the appropriate place is the regulatory process, in which all interested parties—not just the well-funded special interests—can participate fully and openly," he said.

Debate over the proposed standard, however, is moot because Congress used an appropriations bill specifically to forbid OSHA from issuing such a standard for now. Although an ergonomics standard had been cited as one of the chief workplace safety initiatives of the Clinton administration, it never got beyond the draft stage before Congress put the matter on hold.

Michigan law targets insurance fraud

LANSING, Mich.—A new Michigan law creates the specific crime of insurance fraud and sets penalties of up to four years in prison and \$50,000 in fines.

The law, signed by Gov. John Engler, also gives broad immunity from libel or slander suits to those who report suspected fraudulent activity, such as claims adjusters' reporting suspected improprieties to state authorities.

"Once you put in an immunity level... you do give claims adjusters a higher level of confidence to report fraud," said Rey Becker, associate vp and general manager of the Schaumburg, Ill.-based Alliance of American Insurers. "It's like whistle-blowing insurance."

The insurer-backed law covers property/casualty and workers compensation coverages as well as health insurance, Mr. Becker said.

Under the new law, restitution must be made to defrauded companies, and licensed professionals who are convicted of insurance fraud, such as lawyers or doctors, must be reported to state licensing boards.

Comp rates fall 4.7% after Wyoming reforms

CHEYENNE, Wyo.—Workers compensation premiums will fall 4.7% on average for Wyoming employers following reforms in 1995

and previous years.

"We essentially took an old-fashioned workers comp system in Wyoming" and modernized it, said Frank Galeotos, director of the Department of Employment, which houses the Division of Workers' Safety and Compensation.

Some legislative changes came in 1990 when the exclusive state fund had unfunded liabilities of \$365 million and zero in reserves, he said. But some of the most significant reforms were adopted in 1994 and implemented in 1995.

Safety was encouraged by changing the calculation of employer experience modifications so that claims became a larger liability for employers. A program also was introduced to reward safety. And, safety seminars, managed care and bill review were introduced.

Through 1995 there was a 10% reduction in covered reportable accidents, Mr. Galeotos said. The system now has cash reserves of \$110 million and the unfunded liability has been reduced to \$280 million.

Bill would mandate emergency care cover

HARRISBURG, Pa.—Health insurers would have to pay for certain emergency room services, whether or not patients requested permission before seeking treatment, under two Pennsylvania Senate bills.

S.B. 1356 and S.B. 1357, introduced Jan. 11 by state Sens. Roy Aflerbach, D-Lehigh County, and James Gerlach, R-Chester County, would require insurers to pay for all emergency room services provided to get a patient stabilized. The companion bills also would require health insurers to reimburse a plan member for emergency services related to any symptom or ailment a reasonable person believes would jeopardize that patient's health or result in serious impairment to bodily functions or serious dysfunction of any body organ or part.

"A plan may deny payment for emergency services only if the plan determines that the services were never performed," S.B. 1357 states. The bill also would permit health plans to deny reimbursement to a provider when the plan enrollee reasonably should have known that an emergency did not exist.

The bills come in response to cases in which insurers have denied payment for what they said was unneeded care in emergency rooms.

Comp insurers seeking Rhode Island rate cuts

PROVIDENCE, R.I.—Workers compensation reforms in Rhode Island have improved claims experience in the state enough to warrant an average 6.7% premium decrease in the voluntary market, says the National Council on Compensation Insurance.

An analysis of the latest data "shows a significant decrease in overall claim frequency and severity in the state in recent years," said William D. Hager, president of NCCI in Boca Raton, Fla.

Effective April 1, 1996, workers comp rates in Rhode Island should decrease 8.9% for manufacturing, 5.9% for goods and services, 11.1% for office and clerical and miscellaneous groups. Workers comp rates for the contracting group should increase by 2.6%, the NCCI says.

The improved claims experience is largely due to reforms enacted in 1990 and 1992, said Ken Christiansen, NCCI's director of government consumer and industry affairs for Rhode Island. Among the changes: limiting permanent total compensation to 75% of the employee's aftertax pay and requiring providers to send insurers itemized bill-

ing notices every six weeks.

Other factors in reduced claims are employers' emphasis on workplace safety, growing efforts to combat fraud, and return-to-work and managed care initiatives, he said.

Information in brief

Jeff Post has been named executive vp and chief financial officer of Fireman's Fund Insurance Co. in Novato, Calif., succeeding **John Meyer**, who died last month. . . Zurich Insurance Co. is buying \$62 million in **Zurich Reinsurance Centre Holdings Inc. stock** from Fund American Enterprises Holding Inc. After the transaction, Zurich will own 65% of ZRC. . . A discount that **saves Texas businesses about \$1 million** in annual workers comp insurance costs will remain in force, Insurance Commissioner Elton Bomer has ruled. He refused a request by the Texas Workers' Compensation Insurance Fund to drop the discount to employers in the START program, which provides coverage to those who can't find it elsewhere. Employers with premiums of at least \$5,030 are eligible for discounts ranging from 0.1% to 11%. . . **North Carolina Insurance Commissioner James Long** will seek a fourth term. Mr. Long, a Democrat, was first elected in 1984. . . Armonk, N.Y.-based **MBIA Inc.**, holding company for MBIA Insurance Corp., has filed a registration statement with the Securities and Exchange Commission seeking permission for Aetna Casualty & Surety Co. to sell 2.86 million shares, which would reduce its stake in the financial guarantee insurer to 2.24% from 9.12%, excluding a possible over-allotment. MBIA also plans to sell 670,000 new shares as part of the offering. MBIA shares closed at \$71.63 on Jan. 25. . . Houston businessman **Martin H. Young Jr.** is the new chairman of the **Texas Workers Compensation Insurance Fund**. Mr. Young, appointed by Gov. George W. Bush, succeeds Larry Durrett, who remains on the fund's board. . . Jay S. Ralph, president of Centre Reinsurance (Bermuda) Ltd., has been named chief underwriter of **Centre Reinsurance Holdings Ltd.**'s finite risk operation in Zurich, Switzerland. Michael D. Hamer, president of Centre Re's London and Dublin, Ireland, offices, will become CEO of Centre Reinsurance (Bermuda) Ltd., and Daniel V. Malloy, a senior vp in Bermuda, will become president. Terence G. Wheatley will become president of the London and Dublin offices. **BI**

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LINDA S. KAISER,	:	
INSURANCE COMMISSIONER OF	:	
THE COMMONWEALTH OF	:	
PENNSYLVANIA,	:	
	:	NO. 3483 C.D. 1986
Plaintiff	:	
	:	
vs.	:	
	:	
THE MUTUAL FIRE, MARINE AND	:	
INLAND INSURANCE COMPANY,	:	
	:	
Defendant	:	

NOTICE TO CEDENTS AND OTHER CREDITORS OF MUTUAL FIRE, MARINE AND INLAND INSURANCE COMPANY (IN REHABILITATION)

On December 15, 1995, the Commonwealth Court issued an Order setting a bar date of March 31, 1996 and a record date of December 31, 1995 for all Class 1 ad 6 cedent claims. These claims are limited to claims of insurers who ceded business to Mutual Fire, as a reinsurer. The record date of December 31, 1995 limits cedent claims to those actually paid by December 31, 1995.

ANY CEDENT WHO FAILS TO FILE A FULLY COMPLETED PROOF OF CLAIM ON OR BEFORE MARCH 31, 1996 SHALL BE FOREVER BARRED FROM PARTICIPATING IN OR RECEIVING ANY DISTRIBUTION FROM THE ESTATE. Copies of the Proof of Claim are being sent to all eligible cedents and are available upon request. A full description of the rights and obligations of cedents is contained in the Plan of Rehabilitation, which will be provided upon written request. All such requests must include a 9" x 12" self-addressed envelope with \$2.36 postage pre-paid.

Please submit all requests in writing to: P.O. Box 58129, Philadelphia, PA 19102-8129.

"Be sure that you return it."

If you're racing through this issue of *Business Insurance* because you "borrowed" it from a colleague, you should have your own subscription. Then you'll be first on the list. You can take as much time as you like with all of *Business Insurance's* exclusive worldwide news of loss prevention, risk financing and benefit management every week.

To subscribe, use the card in this issue or Call 1 (800) 678-9595 Toll-Free.

Ask about our special 20%-off group subscription rate for five or more subscriptions. A great way to save money. And avoid pass-along problems.

Subscription Rates in U.S. Dollars for 1 year, 52 Issues.

USA	\$85
Canada/Mexico	\$105*
All other countries by expedited air.	\$205
*Price includes Canadian GST.	

Business Insurance

Subscription Dept.
965 E. Jefferson
Detroit, MI 48207
Outside the USA
Call (313) 446-0450

ADVERTISER INDEX

Issue of January 29

ADVERTISER	PAGE #
AIG Corporate	5,10,11
Burnham Systems	19
Business Insurance	6,13,14
CICA	6
Guy Carpenter & Company	9
Carvill America, Inc.	12
Hannover Reinsurance	7
Mutual Fire Marine & Inland Ins	20
NYL Care	4
Reliance National	24
RLI Corp.	14
SBPA Systems, Inc.	19
Standard Securities Life Ins. ..	13NY

Flooding

Continued from page 2

Marine Underwriters Assn. in New York.

DIC coverage is usually bought as a supplement to all-risks policies that exclude flood and earthquake risks, he said. DIC policies often cover property being transported through a hazardous zone.

But, large flooding claims are unlikely, he said.

In some cases, DIC coverage also covers property permanently located in a flood zone, said Mr. Ruoff of Sedgwick. But as the flooded areas were generally not industrial or commercial, insurers will not receive many DIC claims, he said.

While insurers will pay very few flood-related claims, they will still see claims through their involvement in the federal flood program. Insurers sell the policies, service them, handle claims, adjust losses and reap a commission on the premium paid.

Only the National Flood Insurance Program, which is run by the Federal Insurance Administration, a unit of the Federal Emergency Management Administration, pays claims.

Insurers and agents that sell the program make about 10% to 15% in commissions on the policies, which are cheaper than flood insurance written on a DIC basis by commercial companies. Taxpayer money is not used to pay claims.

FEMA has been encouraging insurers in the plan to aggressively promote the flood coverage, said a spokesman for Aetna Life & Casu-

alty Co. in Hartford, Conn., which participates in the program.

Aetna has increased its number of policyholders covered by the plan by between 15% and 20% a year over the past several years, in line with FEMA policy, he said.

An NFIP spokesman said 8,000 to 10,000 claims are expected in the eight states hit by flooding. By last Thursday, 5,738 had been reported to the FIA.

In total, 437,056 policies were in force last November in Maryland, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia and Washington, up about 10% from the number of policies that were in force in the same areas in November 1994.

The spokesman said the NFIP had not predicted how much the flood will cost but said the historical average claim is \$12,000.

During the 1993 Midwest floods, the NFIP paid 10,214 claims, totaling \$270.1 million.

"The Midwest flooding involved three of the biggest rivers in the United States. You had a 120-mile flood zone in Illinois alone. This is not even close to that, but Pennsylvania is the worst hit," he said.

As of Thursday, the NFIP had received word that 3,677 claims were filed in Pennsylvania.

In individual states, damage estimates differed greatly.

In Pennsylvania, total snow and flood damage to state-owned facilities and construction projects exceeds \$18.25 million, said Gary E. Crowell, secretary of the Pennsylvania department of general services.

About \$15.75 million of the damage was due to flood.

The Fort Pitt Museum in Pittsburgh sustained about \$500,000 in flood damage to the grounds and buildings, he said.

In total, the Pennsylvania Historical and Museum Commission reported \$1.1 million in damages to historical sites and buildings.

Penn State University suffered \$200,000 in snow and flood damage to the roof, downspouts, electrical and plumbing systems of buildings on the University Park Campus.

The Commonwealth of Pennsylvania has buildings and contents flood coverage with St. Paul Fire & Marine Insurance Co. in St. Paul, Minn., a spokeswoman said.

Pennsylvania has a \$1 million self-insured retention and \$25 mil-

lion in coverage.

However, not all of the \$15.75 million in flood damage will be covered, since some of the damage was sustained by state parks and other buildings which are not covered by the policy, she said.

The governor's residence, which had a flooded basement, is covered by the National Flood Insurance program, the spokeswoman said.

In Virginia, the Department of Emergency Services said total flood damage will exceed \$70 million. Flooding was worst along the Shenandoah River, and a flood wall built several years ago on the James River near Richmond may have saved that city from serious flooding, said a department spokeswoman.

But in New Jersey, despite severe flooding along the Delaware River, a state police spokesman said damage likely will not be great enough for Gov. Christine Todd Whitman to declare the state a disaster area.

In New York, Gov. George E. Pataki declared a disaster emergency in 22 counties affected by flooding and ice jams. Most of the damage was to private homes.

In West Virginia state-owned facilities sustained about \$25 million in damage. No estimates for other damage were available late last week, said a spokeswoman for the West Virginia governor's office.

Mark Hofmann contributed to this report.

Thawing in the Northeast after the recent blizzard caused widespread flooding and other damage. Pennsylvania was among the states suffering severe flooding. At right, the Allegheny River caused damage to cars and barges along its banks in Pittsburgh.



IRS

Continued from page 1

employer that sought the guidance, but the Treasury Department released it publicly last week.

Private letter rulings are not meant to set precedent for all employers, but the letters do indicate how the IRS views a tax issue. The latest domestic partners tax ruling is the fifth on this issue, and all are comparable, experts say.

In its ruling for an unidentified law firm, the IRS notes that employees can treat domestic partners coverage as a tax-free benefit if their partners lived with them throughout the year and received more than half of their financial support from the employee.

But, in situations where employees' partners are self-supporting, the IRS will require the employees to declare as taxable income the value of the domestic partner health coverage that their employers provide.

Employees with legal spouses are not taxed on the value of health benefits that their employers provide to the spouses, regardless of whether the spouses are self-supporting.

Even unmarried opposite-sex couples who have lived together for many years enjoy the same tax treatment in states that recognize common-law marriages, pointed out Chip Kerby, a principal in the Washington Resource Group at William M. Mercer Cos. Inc.

Thirteen states and the District of Columbia recognize common-law marriages.

The IRS acknowledged in its latest ruling that this tax treatment may be inequitable. But, the agency noted, Section 152 of the Internal Revenue Code requires the IRS to defer to state laws on marital status issues.

No state currently recognizes same-sex relationships as legal marriages.

But, under a 1993 Hawaii Su-

preme Court decision, a trial court must decide whether the state Legislature has a "compelling" reason to prohibit local authorities from issuing marriage licenses to same-sex couples. In response to the ruling, the Hawaii Legislature barred same-sex marriages in 1994, stating that marriage is "intended for the propagation of the human race by man/woman units."

But, commitment and choice, not procreation, are the basis of civil marriage rights under standards that the U.S. Supreme Court has set, said the Lambda Legal Defense & Education Fund Inc., a New York-based gay- and lesbian-rights organization.

Others, though, say the high court has linked marital rights with the right to procreate.

If the Hawaii court recognizes same-sex unions as legal marriages, "common sense, constitutional doctrines and legal precedent suggest" other states will have to recognize at least the same-sex marriages that Hawaii recognizes, according to Lambda.

Lambda expects the Hawaii court to begin hearing the case in July.

There already is a legislative backlash in several states against the case.

Perhaps most notably, the California Legislature is considering a measure, A.B. 1822, that would block the state from recognizing same-sex marriages that other states recognize.

Utah enacted a similar law last year. A comparable bill in South Dakota died last year and likely will meet the same fate this year. The Senate tabled it last week.

In Alaska, in response to a 1995 state Supreme Court ruling that an employer's benefit plan cannot discriminate between same-sex and opposite-sex couples, the Legislature is considering a bill that would clearly state that Alaska recognizes only marriages between men and women. That distinction was muddled during the 1970s when the state's statutes were "gender-neutralized," said a

spokeswoman for the bill's sponsor, state Rep. Norman Rokeberg, R-Anchorage.

The Alaska bill does not clearly address whether the state would not recognize same-sex marriages that other states recognize.

Regardless of state action, there likely will be a moderate increase in the number of employers that offer domestic benefits, Mercer's Mr. Kerby predicted. Those employers will be compelled to offer the benefits either because competitors do or their employees demand them, he said.

In cases involving common-law marriages or if some states do recognize same-sex marriages, multistate employers could face some administrative burdens in determining whether domestic partner benefits should be treated as taxable income.

"Most employers tend to not want to get involved in any real examination or analysis of this issue," Mr. Kerby said. Employers that offer domestic partner coverage typically ask employees to decide how the employer should treat the benefit for tax withholding purposes, he said.

Ultimately, though, "this is really a personal tax matter," observed Dennis Coleman, a principal with Kwasha Lipton in Fort Lee, N.J. "This is going to be a deductible expense for the employer one way or the other."

Apple Computer Inc. of Cupertino, Calif., which began offering domestic partner benefits several years ago, treats them as taxable income, said Sally Brewster, benefits manager.

"Most of the time it is not going to be deductible, so we wouldn't want to get into requesting documents to determine whether it is or isn't," she explained.

"I'm not even sure what documents we can get to prove it one way or the other, and we certainly don't want to look at people's personal income tax filing" to determine if an employee financially supports a partner. [B]

Guidance

Continued from page 3

rate of return under a variable outside index, such as the one-year Treasury bill rate, plus 1%.

Until now, there has been no guidance on how to determine the interest credits employers should use for accruing account balances.

Employers can run into possible plan violations when distributing lump sum payouts to employees leaving the company, when the interest rate component used is larger than the 30-year Treasury bond rate, which, under the Retirement Protection Act of 1994, is the standard index to use when determining the present value of an account.

Protection of existing plans will be 'liberal because there was no guidance before,' says Buck's Fred Rumack.

If the interest credit offered by an employer is larger than the 30-year Treasury bond rate, the present value of the employee's accrued benefit will generally exceed the original account balance. If this happens, the employee would receive a lump sum that is less than the amount the employee is entitled to and the plan would be in violation.

In determining the proposed indices, the IRS

took into account the historical relationship between each index and the 30-year Treasury interest rate standard and assumes that they will not exceed the standard.

The proposed standard indices are:

- The discount rate on 3-month

Treasury bills, plus 1.75%.

- The discount rate on 6-month or 12-month Treasury bills, plus 1.5%.

- The yield on 1-year Treasury Constant Maturities, plus 1%.

- The yield on 2-year or 3-year Treasury Constant Maturities, plus 0.5%.

- The yield on 5-year or 7-year Treasury Constant Maturities, plus 0.25%.

- The yield on 10-year Treasury Constant Maturities or any longer period Treasury Constant Maturities, plus 0%.

- Annual rate of change of the Consumer Price Index, plus 3%.

Consultants say most employers are already using one of these options to determine their interest credits. However, employers that have opted to use a non-fluctuating interest credit, such as a flat 5% rate increase, will have to redesign their plans to comply with the regulations, Hewitt's Mr. Johnston said.

For those employers that have interest credits currently in violation of the proposed regulation, benefit consultants say they believe the government will give some sort of relief or reprieve to employers.

Going forward, employers will have to comply, going backward, "I think the proposed rules say as long as you did something that was reasonably in good faith and is based on interpretation of rules that can be supported, the IRS will not audit cash balance plan payouts from three years ago," Mr. Johnston said.

"I anticipate the protection of existing plans to be somewhat liberal because there was no guidance before," agreed Fred Rumack, director of tax and legal services for Buck Consultants Inc. in New York.

"The IRS doesn't want to disqualify these plans," Mr. Rumack said. [B]

Flat tax

Continued from page 1

R-Kan., and House Speaker Newt Gingrich, R-Ga., and headed by Jack Kemp, also has advocated a flat tax.

"After the Kemp Commission held its major non-event, at least half a dozen members of Congress told their staff, 'Gee, let's put together our own tax reform scheme,'" said Stuart Brahs, vp of federal government relations for The Principal Financial Group in Washington. "It's sort of the political flavor of the month."

Tax reform has "a lot of allure," said Frank McArdle, consultant in the Washington office of Hewitt Associates L.L.C. "But when the public finds out that the price of a flat tax might be taking away some of the advantages they enjoy now for mortgage interest or employee benefits, then the bloom will be off the rose as far as they're concerned and it will be more difficult to pass."

"There's a big middle class that's interested in keeping the status quo," said Olivia S. Mitchell, the International Foundation of Employee Benefit Plans professor of insurance and risk management at the Wharton School of the University of Pennsylvania in Philadelphia. "It's hard to see those exemptions falling by the wayside."

Adding to the sense of déjà vu is that again the drumbeat for tax reform comes against a backdrop of demand for balancing the federal budget. But many suggest most of the proposals released so far would increase the deficit if key exemptions were kept in place.

Eliminating some popular tax exemptions could go a long way toward making a tax reform measure "revenue neutral." For example, the congressional Joint Committee on Taxation has estimated that excluding employer contributions to employee medical care from taxation would cost the U.S. Treasury \$48.4 billion this year and \$279.8 billion in the five-year period ending in 2000.

Eliminating the home mortgage interest deduction, meanwhile, offers similar revenue raising potential, with the committee estimating its cost to the Treasury at \$59.2 billion in 1996 and \$333.1 billion between now and 2000.

"I think opposition will emerge from many different quarters once it becomes apparent that in order to keep the proposal (revenue) neutral, most of the deductions would have to go away," Mr. McArdle said. "Already the Realtors and the homebuilders are mobilizing in anticipation of tax reform."

"I would expect organized labor to be opposed to key pieces of tax reform," he said, such as the elimination of employers' deductions for health and welfare program costs and probably to the possibility that a flat tax could reduce the tax burden of the wealthiest Americans while increasing that of middle- or lower-income taxpayers.

"I think my friends in the real estate industry—of which we are a very small part—have already weighed in on the home-interest deduction, and certainly they will continue to do so," said The Principal's Mr. Brahs. If the insurance and financial services industries see their products and services threatened, they too will weigh in against the measures, he added.

While commending the Kemp Commission for its efforts, the Washington-based Health Insurance Assn. of America started to stake out its position by saying the commission's commitment to a "pro-family tax code... underscores the value of employer-sponsored

health coverage."

"It is imperative that we encourage employers to continue this role by preserving the exclusion of employer contributions from employees' taxable income," the HIAA statement said. "Removing the favorable tax treatment for health benefits would discourage some employees from purchasing health insurance."

The Kemp Commission report calls for making all employer health and welfare costs non-deductible business expenses. Discussion and background papers accompanying it called for the taxation of all labor income including fringe benefits.

With most of the tax reform plans still "amorphous," it's difficult to develop a thorough position on the issue, Mr. Brahs said.

"If anyone tells you that they know what their position is on federal tax restructuring, I don't think they're being totally candid with you," he said. "Most of us are in a situation where we are assessing what the implications will be for our products and services down the road."

The potential implications for pensions and benefits are numerous, stemming from such direct sources as possible elimination of employers' tax deductions for benefit payments or taxing employees on the value of employer-paid benefits or indirectly from such proposals as giving all forms of savings the same tax advantages currently enjoyed by qualified retirement plans.

"It's difficult to generalize because there are many proposals," said Hewitt's Mr. McArdle. "But in general, tax reform would likely alter the relationship between the company and the employees."

"The tax effectiveness of benefits under tax reform would either be eliminated or be diminished," he said. And, while other reasons might remain for employers to offer benefits, "companies would be likely to be driven by impact on the bottom line," Mr. McArdle said. "In that schema, benefit issues are likely to be well down on the company's list of priorities, and that would be bad news for people who rely on benefits and people who work with them."

The Wharton School's Ms. Mitchell recently examined the issue of taxing benefits when she co-chaired a technical panel on retirement savings for the Advisory Council on Social Security, a panel appointed by Health and Human Services Secretary Donna Shalala to study the existing Social Security system and make recommendations on how to strengthen it.

"My panel was asked to think about the possibility of taxing benefits, and in that case the issue was raising money for the Social Security system," she said. "My panel was unanimous against the idea."

One problem, Ms. Mitchell said, is that benefit programs would be less attractive to workers if they were taxed based on a uniform value, a situation that could lead to an "unraveling," particularly in the health care market.

For example, she contends, an employer currently paying 100% of group health insurance costs actually pays a premium based on an average cost for all employees in the group. If the government begins trying to tax employees on the value of that benefit, "a very young, very healthy single employee might reasonably protest that he didn't use \$5,000 worth of coverage," or whatever the average cost per employee is, she said.

That young, healthy employee might demand an opportunity to opt out of the health plan to reduce their tax burden, and "since the es-

sence of insurance is risk pooling, that might lead to a breakdown of risk pooling," Ms. Mitchell said.

"If a dollar of benefits is the same as a dollar of wages, I can see companies just giving up benefit plans and giving employees cash and telling them to get their own insurance," said Michael Pikely, corporate actuary and employee benefits consultant at Chicago-based Hartmarx Corp.

Such a system would create several problems, however, including the inability of an employee with a pre-existing condition to get coverage outside of a companywide health plan, he said.

And economists who have studied the issue predict many workers would deliberately choose to purchase less health care coverage than what they currently receive from their employers, noted Dallas L. Salisbury, president of the Washington-based Employee Benefit Research Institute. "It would lead to a significant reduction in the number of individuals with health insurance," he said.

Pension plans, meanwhile, definitely would be affected by giving the same tax advantages to other forms of savings. "When that happens, the tax reasons for having a qualified plan change, because individuals can do just as well outside of those plans and have more control over their money and more flexibility," Mr. McArdle said.

"I think it would lead to more terminations and tremendous pressure by employees to receive cash in lieu of pension contributions," Mr. Salisbury said.

Ms. Mitchell noted that while pensions' primary purpose is to provide retirement savings, companies have other reasons for offering them, such as attracting and retaining workers and encouraging them to retire at an appropriate age. Any tax plan that diminishes pensions' attractiveness would reduce their value to employers, she said.

But, with companies already moving to give employees more benefit flexibility and greater responsibility in directing their retirement plans, tax reform proponents such as the Kemp Commission see tax reform as a way to promote those efforts. Tax reform could prompt companies to replace their benefit plans with extra cash to employees to be used as they see fit in meeting their health and welfare needs.

The result "may be a shift from the company's role as a financier of benefits to a facilitator of benefits," Mr. McArdle said.

However, he said, "Employer plans may be discouraged, but employee needs will persist. And if those needs are unmet, what will the consequences be for the company and the individual and the country?"

Of course, many of these proposals have been offered before. "I know in the past there have been proposals to eliminate deductions for medical plans or limit deductions to a certain amount, but that ends up going away and then gets resurrected," said Hartmarx's Mr. Pikely.

Most recently, that talk surfaced during the Clinton administration's ill-fated health care reform effort, another experience some believe this tax reform process might echo.

"Tax reform is likely to turn out as troublesome for the Republicans as health care reform was for the Democrats," Mr. McArdle said.

The entire tax reform process could take three years, Mr. McArdle believes, and the 1996 election is key.

"I think if President Clinton wins re-election and there is a Republican-controlled Congress, then the

Updates

USX settles class action

PITTSBURGH—USX Corp. will pay \$8.5 million to settle a class-action lawsuit alleging that it violated federal securities laws in a 1993 offering of USX-U.S. Steel Group common stock.

The Pittsburgh-based company denied liability in the case—which focused on allegations that the company made false statements in the offering's prospectus and registration statement—but said it was settling "to dispose of burdensome, protracted and expensive litigation."

A company spokesman said the settlement, which is subject to approval by the federal district court in Pittsburgh, would resolve the suit's claims against both the company and company officers named in the complaint. USX said it would retain the cost of the settlement.

Scientology Church wins suit

ARLINGTON, Va.—A federal district court judge in Arlington, Va., has ruled that Arnaldo Lema, who had posted unpublished writings by Church of Scientology founder L. Ron Hubbard over the Internet, was guilty of copyright infringement.

Judge Leonie M. Brinkema issued an order from the bench in granting a summary judgment motion made by the Scientology Church-affiliated Religious Technology Center and said a more detailed written order would be issued later, according to a church spokeswoman.

In November, Judge Brinkema had granted summary judgment in favor of the Washington Post and two of its reporters and dismissed them from the same case, ruling there was no evidence they had copied the church documents for reasons other than news gathering, news reporting and responding to litigation (BI, Dec. 11, 1995).

N.J. premium finance law

TRENTON, N.J.—Buyers of commercial property/casualty insurance will face higher penalties for late installment payments to premium finance companies under new law in New Jersey.

The law, sponsored by Assemblywoman Clare M. Farragher, R-Monmouth County, allows charges of 5% on the portion of the delinquent installment that is \$5,000 or less, 3% on the portion that is more than \$5,000 but does not exceed \$15,000 and 2% on the portion that exceeds \$15,000. Policyholders have a 10-day grace period before being considered delinquent in their payment.

Before New Jersey Gov. Christine Whitman signed A. 1074, the maximum delinquency charge allowed was \$5, a penalty that had been unchanged since 1968.

"If a commercial insurance installment is \$10,000 to \$15,000 and all that has to be paid is \$5 to make the payment 20 to 30 days late, then there is an obvious disincentive to paying on time," said Assemblywoman Farragher.

Briefly noted

A jury in Jacksonville, Fla., on Friday ruled in favor of Bristol-Myers Squibb Co. and its subsidiary, Medical Engineering Corp., in a lawsuit filed by plaintiff Karen Love seeking damages for medical problems she suffered as a result of allegedly faulty **silicone breast implants**. . . The U.K. Serious Fraud Office will pursue **new fraud charges against Kevin Maxwell** and three former directors of the Maxwell media empire. Earlier this month, a court acquitted Kevin Maxwell, his brother Ian and former Maxwell adviser Larry Trachtenberg of pension fraud charges (BI, Jan. 22). The SFO charges, which are subject to a pretrial hearing, include conspiracy to defraud three banks. . . A panel of Massachusetts state Democratic legislators this month unveiled a proposal to **require employers to pay half the cost of a basic health insurance policy** for their employees. Republican Gov. William Weld strongly opposes an employer health care mandate. . . Standard & Poor's Corp. has lowered **Lincoln National Corp.'s long-term ratings outlook** to negative from stable following the announcement by the insurer's Lincoln National Life Insurance Co. affiliate that it plans to acquire the group tax-sheltered annuity business of UNUM Life Insurance Co. of America and First UNUM Life Insurance Co. of New York in a transaction valued at about \$70 million. S&P said that increased competition within the annuity business, as well as the business' characteristics in general, pose challenges to the insurer's ability to maintain strong spreads in the future. . . Oklahoma Sen. Bruce Price, D-Hinton, has asked the State Board on Property & Casualty Insurance to approve a **14% workers comp rate cut**, citing an actuarial report the board commissioned and several workers comp reforms in recent years. The National Council on Compensation Insurance seeks a 1.2% rate hike effective April 1.

odds of any tax reform are probably 40/60, and any tax reform changes would be far less," he said. If the Republicans win the White House and retain control of Congress, "then the odds rise sharply for something called 'tax reform.'"

EBRI's Mr. Salisbury also sees the November election as critical but believes that should the Republicans retain control of Congress, "the likelihood of the elimination of the deduction for benefits is almost certain."

"If Clinton's in the White House, it would likely be a compromise proposal rather than out-and-out

taxation," he said. One result might be allowing an exemption only for employer-provided catastrophic health insurance.

Whatever the course, Mr. Pikely said his hope "is that whatever does get passed is based on decisions that relate to employee benefits rather than decisions that are based on taxes."

The past has given him little reason for optimism, though, since previous tax law changes have made benefit administration more cumbersome, he said, because they were purely tax-driven rather than written with an eye toward their impact on employee benefits. **BI**

Blues find some common ground

Some plans agree to follow standardized guidelines to ease multistate contracting

By ROBERT KAZEL

STAMFORD, Conn.—Multistate employers that have feared dealing with a plethora of Blue Cross/Blue Shield plans may be encouraged by a new initiative: a group of Blues plans that are now following common guidelines on thorny technical and medical matters.

So far nine of the nation's 60-plus Blues plans have joined the compact, which is being promoted by the Stamford, Conn.-based National Account Consortium Inc. That company, founded in 1994 by several plans, is trying to persuade Blues plans that to win multistate managed care contracts they will need standardized operating procedures, utilization review rules and marketing strategies.

'The intention is always to keep the individual plans as individual plans,' says Timothy F. Ray.

Twelve other plans are discussing joining the compact, said Timothy F. Ray, NAC senior vp for marketing. And because multistate companies often have workers only in a handful of contiguous states, it won't be necessary to sign up Blues throughout the country in order to start offering unified, consistent health plans to many of them, Mr. Ray said.

"We don't need 50 Blue Cross/Blue Shields in the consortium to generate national accounts," he said. "We need 20."

Blues plans historically have had great success attracting plan sponsors in local and state markets but have resorted to patchwork coverage for national clients, said Dr. Alex R. Rodriguez, vp and medical director of the NAC.

The new organization is targeting compa-

nies with 500 to 10,000 insured workers and dependents, especially those with point-of-service plans, who can be persuaded that more consistency between states will lead to better care overall.

Many Blues plans have expressed a need for common standards that would allow for quick decisions on issues such as the use of sophisticated diagnostic equipment, Dr. Rodriguez said. Such decisions have at times varied greatly among plans.

The guidelines also cover some routine procedures, such as how often women should have Pap smears, for example, and what doctors should do as a follow-up procedure based on the test result. The guidelines were based on the consensus of medical experts, not by the Blue Cross/Blue Shield Assn. or the NAC, Dr. Rodriguez said.

"It's not just a cost issue," he said. "It has to do with safety and efficiency."

The consortium will make the guidelines

available on computer diskette for incorporation into individual Blues plans' utilization review and billing systems. Member plans have agreed to abide by the guidelines, and the consortium believes several other Blues plans will consult the guidelines as well on an unofficial basis.

The Blues plans that have signed contracts with the NAC, representing some 20 million group members, are Blue Cross & Blue Shield plans in Connecticut, Illinois, Massachusetts, Michigan, Ohio and Texas; Blue Shield of California; Blue Cross of Western Pennsylvania; and Pennsylvania Blue Shield.

The coalition does not want to eliminate the uniqueness of individual Blues and create a unified Blue for all Americans, Mr. Ray said. "The intention is always to keep the individual plans as individual plans," he said. "But by knitting them together in a more seamless, back-office way, we believe we can have the benefits of both."

Speech

Continued from page 3

changing jobs had been covered under a previous group plan for four months, the new employer could not deny coverage for that condition for more than eight months.

More than 70% of indemnity plans now restrict coverage for pre-existing medical conditions, according to benefit consultant A. Foster Higgins & Co. Inc. Health maintenance organizations, though, typically do not restrict care.

In his address, President Clinton also reaffirmed his strong opposition to legislation that would allow employers to remove surplus assets from overfunded pension plans.

Such legislation "would endanger" the stability of pension plans, he said. While reversion legislation would raise money for the government, "I believe it is false economy. I vetoed that proposal last year and I would have to do so again," he said.

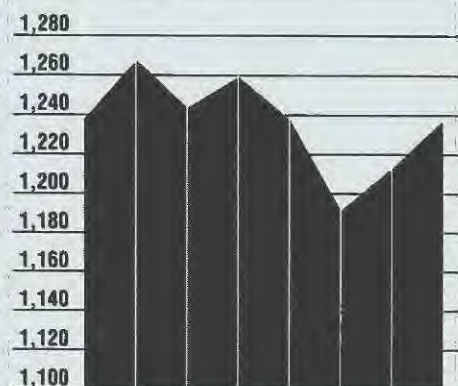
President Clinton was referring to a pro-

vision in a sweeping budget bill approved by Congress last year that would have allowed companies to remove surplus assets from their pension plans so long as the plans remained at least 125% funded after the reversion and the surplus assets were used to help pay the cost of other employee benefit programs.

President Clinton also said he continues to back a pension simplification package that he first unveiled last year. That package, among other things, would make it easier for employers to run non-discrimination tests on their 401(k) plans, allow upper middle income workers—in certain situations to contribute more to 401(k) plans—and allow tax-exempt employers to establish 401(k) plans (BI, June 19, 1995).

Those pension provisions were part of the broader budget legislation that President Clinton vetoed last year. The budget bill was vetoed chiefly because of administration concerns that cuts in projected spending on the Medicare and Medicaid programs were too steep.

BI Insurance Index



Base=100 on Dec. 29, 1978
Source: Nordby International Inc.

PCS catastrophe options

As of Jan. 26							
Call	Price	Call	Price	Call	Price	Call	Price
spread	bid/ask	spread	bid/ask	spread	bid/ask	spread	bid/ask
Eastern September 1996				Texas June 1996			
40/60	5.4/6			5/15	2/4.2		
50/70	4/6			10/20	1/1.4		
80/100	2.5/4						
Southeast Sept. 1996				California Annual			
40/60	4/4.6			40/60	2/4.5		

Total volume: 363 Total open interest: 1,262
For information on PCS cat options, call 312-435-3674.
Source: Chicago Board of Trade

British Issues

Jan. 25	Price	P/E	Div.	Yield	1 week
Companies	pence		pence	%	high-low
Comm Union	630	12.6	35.0	5.6	630-618
Genl Accident	667	9.5	38.8	5.8	667-656
Gdn Royal Exch	268	8.9	11.3	4.2	273-265
Independent	415	9.2	13.8	3.3	415-405
Royal	392	8.0	18.8	4.8	397-392
Sun Alliance	387	8.4	21.3	5.5	391-378
Brokers					
Bradstock	71	11.8*	7.1*	10.0	71-70
Fenchurch	144	9.7*	10.6*	7.4	147-144
CE Heath	149	9.3	12.5	8.4	149-148
JIB Group	104	10.9	9.4	9.0	105-104
Lloyd Thompson	164	10.1*	11.3*	6.9	164-164
Lowndes Lmbt	153	8.3	11.0	7.2	153-153
Nelson Hurst	166	11.1	9.5	5.7	166-165
Sedgwick Grp	126	11.0	8.1	6.4	129-126
Steel Bri Jones	44	5.5	5.6	12.7	44-43
Willis Corroon	149	13.5	8.3	5.6	151-149

Source: Philip Olsen, London * Actual, Others estimated.

BI Industry Stock Report JAN. 22, 1996, THROUGH JAN. 26, 1996

BROKERS																											
	Price	Weekly % change	Year to date % change	Annual High	Low	Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk. value			Price	Weekly % change	Year to date % change	Annual High	Low	Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk. value			
Accordia Inc.	NYS	29	0.87	-2.52	34.50	23.50	17	0.72	2.48	16	14.00	2.07	National Re Corp.	NYS	36.75	-1.01	-3.29	38.13	26.75	38	0.2	0.54	13	17.05	2.16		
Alexander & Alexander	NYS	18.75	-1.32	-1.32	26.44	18.00	220	0.1	0.53	-15	19.17	0.98	Navigators Group	NDO	17.625	2.17	0.00	19.75	12.75	21	0.00	0.00	17	10.21	1.73		
E.W. Blanch Holdings Inc.	NYS	23.5	7.43	0.53	23.50	16.50	145	0.4	1.70	18	4.93	4.77	Nobel Insurance Ltd.	NDO	12.5625	1.52	10.44	12.56	8.13	519	0.2	1.59	6	6.84	1.84		
Gallagher Arthur J. & Co.	NYS	37.125	1.71	-0.34	38.00	32.50	83	1.16	3.12	15	6.48	5.73	Ohio Casualty Corp.	NDO	35.5	1.43	-8.39	39.25	29.00	216	1.52	4.28	19	23.64	1.50		
Hilb, Rogal & Hamilton	NYS	12.875	-4.63	-3.74	14.38	10.50	61	0.6	4.66	16	1.21	10.64	Old Republic Int'l	NYS	34.125	1.87	-3.87	35.50	22.13	209	0.52	1.52	11	25.79	1.32		
Kaye Group Inc.	NDO	7.75	6.90	-3.13	10.75	6.75	8	0.1	1.29	8	NA	NA	Orion Capital Corp.	NYS	43.75	0.29	0.86	45.25	34.25	58	0.92	2.10	9	26.00	1.68		
Marsh & McLennan	NYS	90.75	4.46	2.25	90.75	76.13	984	3.2	3.53	17	19.95	4.55	Partner Re Ltd.	NDO	27.875	4.69	1.36	28.38	19.00	2199	0.00	0.00	0	20.37	1.37		
Poe & Brown	NDO	24.375	0.52	-2.01	25.25	20.50	156	0.48	1.97	15	5.15	4.73	Penn-America Group Inc.	NDO	13.25	-4.50	-7.02	15.50	6.50	165	0.12	0.91	10	6.40	2.07		
BROKERS	AVERAGE		2.0	-1.3					2.8	13			Philadelphia Cons. Holding	NDO	19.75	-1.25	21.54	21.88	12.00	101	0.24	1.22	16	9.05	2.18		
													PXRE Corp.	NDO	26.75	0.94	0.94	29.75	21.00	238	0.72	2.69	5	21.27	1.26		
INSURERS/REINSURERS																											
ACE Ltd.	NYS	43.5	8.37	9.43	44.00	23.00	1725	0.00	0.00	0	22.45	1.94	Provident Life	NYS	28.375	0.00	-2.16	29.75	20.50	0	0.72	2.54	13	22.34	1.27		
Acceptance Insurance Cos.	NYS	14.125	-3.42	-5.04	17.50	13.13	101	0.3	2.12	29	10.76	1.31	Prudential Reinsurance	NYS	21.875	0.57	-6.42	23.50	18.50	1835	0.12	0.55	13	NA	NA		
AEGON N.V.	NYS	43.75	-3.31	-0.57	46.75	25.63	45	1.08	2.47	16	17.28	2.53	Reliance Group Holdings	NYS	8.375	0.00	-2.90	9.25	4.88	409	0.32	3.82	12	3.42	2.45		
Aetna Life & Casualty	NYS	73.875	0.00	6.68	76.75	48.00	2143	2.76	3.74	36	48.85	1.51	Reliastar Financial Corp.	NYS	43.875	2.83	-1.13	44.50	31.25	367	1	2.28	11	24.53	1.79		
AFLAC Inc.	NYS	46.75	0.81	7.47	47.13	32.63	973	0.52	1.11	14	17.58	2.66	RenaissanceRe Holdings Ltd.	NDO	30.25	-3.20	-0.41	33.13	20.72	59	0.00	0.00	0	NA	NA		
Allied Group Inc.	NDO	37.75	-0.17	4.86	39.00	23.31	137	0.68	1.80	8	21.81	1.73	Risk Capital Holdings	NDO	20.375	-4.68	-12.83	23.38	19.88	55	0.00	0.00	0	NA	NA		
Almerica Prop. & Casualty	NYS	24.875	-0.50	-7.87	27.13	18.25	131	0.16	0.64	11	19.87	1.25	RLI Corp.	NYS	25.25	3.06	1.00	25.50	17.00	62	0.52	2.06	25	20.51	1.23		
Allstate Corp.	NYS	41.625	4.39	1.22	42.38	23.75	5027	0.78	1.87	11	18.75	2.22	St. Paul Companies	NYS	58.125	0.87	4.49	59.38	45.00	823	1.6	2.75	11	32.46	1.79		
American Financial Group	NYS	32.875	2.33	7.35	33.88	22.88	396	1	3.04	31	24.94	1.32	SAFECO Corp.	NDO	35	2.56	1.45	39.25	26.00	2236	1.06	3.03	11	44.95	0.78		
American General	NYS	35.875	2.67	2.87	39.13	28.38	2078	1.24	3.46	13	17.03	2.11	Seibels Bruce Group	NDO	2.125	0.00	41.67	2.75	0.44	258	0.44	20.71	-1	0.04	53.13		
American Heritage Life Ins.	NYS	23.125	0.00	1.09	23.88	16.25	18	0.72	3.11	12	12.51	1.85	Selective Ins. Group	NDO	36.25	-2.03	2.11	38.38	25.75	62	1.12	3.09	10	23.23	1.56		
American Indemnity(Fin'l)	NDO	10.25	5.13	2.50	13.25	9.00	3	0.3	2.93	-4	15.92	0.64	Sphere Drake Holdings	NYS	12.125	-2.02	-13.39	19.13	12.13	128	0.00	0.00	0	13.86	0.87		
American International	NYS	90.625	-3.85	-2.03	95.50	66.50	4173	0.34	0.38	18	34.66	2.61	TIG Holdings	NYS	27.25	1.40	-4.39	29.50	18.88	1938	0.2	0.73	16	16.62	1.64		
American Re Corp.	NYS	42.625	-2.85	4.28	45.00	29.38	252	0.32	0.75	14	16.77	2.54	Titan Holdings, Inc.	NYS	13.125	-0.94	-8.70	15.75	9.38	109	0.3	2.29	10	9.04	1.45		
Aon Corp.	NYS	52.625	1.23	5.51	53.38	32.25	1207	1.36	2.58	15	18.30	2.88	Tokio Marine & Fire	NDO	62.5	0.20	-5.30	69.25	49.88	11	0.4	0.64	22	57.72	1.08		
Argonaut Group	NDO	32.5	5.69	0.00	34.50	28.88	68	1.32	4.06	14	29.91	1.09	Torchmark Corp.	NYS	45.125	0.56	-0.28	46.00	36.75	674	1.16	2.57	12	17.37	2.60		
AVEMCO Corp.	NYS	15.625	2.46	-2.34	18.25	14.63	37	0.48	3.07	17	6.28	2.49	Transatlantic Holdings	NYS	69.625	-3.63	-5.11	75.25	54.25	86	0.48	0.69	13	33.30	2.09		
Baldwin & Lyons Inc.	NDO	16.6875	-1.84	2.69	18.00	14.25	39	0.32	1.92	8	13.90	1.20	Transnational Re Corp.	NDO	24.125	-1.03	-1.53	27.25	19.13	29	0.00	0.00	7	18.84	1.28		
Berkley W.R. Corp.	NDO	49.5	-1.49	-7.91	55.50	34.50	406	0.48	0.97	19	34.46	1.44	Travelers Corp.	NYS	60.75	-1.02	-2.99	63.88	34.50	3855	0.9	1.48	12	24.77	2.45		
Berkshire Hathaway Inc.	NYS	314.00	1.29	-2.18	334.00	213.00	1	0.00	0.00	66	10089.11	3.11	Trenwick Group Inc.	NDO	55.25	-0.90	-1.78	57.50	40.75	51	1.12	2.03	13	29.23	1.89		
Capital RE Corporation	NYS	31	3.33	0.81	31.63	22.00	46	0.24	0.77	10	22.30	1.39	United Fire & Casualty	NDO	29.25	0.00	4.46	29.50	17.88	14	0.9	3.08	11	28.96	1.01		
Capsure Holdings Corp.	NYS	16.5	0.76	-6.38	18.13	12.38	68	0.00	0.00	15	14.61	1.13	Unitrin	NDO	48.75	0.26	1.56	50.50	43.50	106	2	4.10	13	37.51	1.30		
Chubb Corp.	NYS	102.25	-1.92	5.68	104.38	57.00	642	1.96	1.92	14	48.92	2.09	UNUM Corp.	NYS	58	-0.64	5.45	59.00	39.88	1098	1.06	1.83	15	28.45	2.19		
CIGNA Corp.	NYS	114.875	-1.61	11.26	119.38	66.25	885	3.04	2.65	75	80.46	1.43	US Facilities Corp.	NDO	18.375	-3.92	-14.04	23.38	10.63	200	0.2	1.09	8	14.20	1.29		
CNA Financial Corp.	NYS	112.25	-0.33	-1.10	123.25	67.63	63	0.00	0.00	10	71.13	1.58	USF&G Corp.	NYS	16.375	-0.76	-2.96	19.50	13.38	1638	0.2	1.22	9	10.86	1.51		
EMC Insurance Group Inc.	NDO	13	-3.70	-5.45	15.25	9.50	7	0.56	4.31	8	11.13	1.17	USLIFE Corp.	NYS	32.875	0.77	10.04	33.25	23.13	646	0.93	2.83	11	38.45	0.86		
EXEL Ltd.	NYS	67.625	1.31	11.09	67.63	38.75	424	0.00	0.00	0	31.47	2.15	Washington National	NYS	27	-2.26	-2.26	30.50	17.75	135	1.08	4.00	11	25.13	1.07		
Fremont General Corp.	NYS	34.625	-1.42	-5.78	37.25	18.88	387	0.8	2.31	9	19.04	1.82	Zenith National Ins.	NYS	23.125	3.35	8.19	24.63	19.38	28	1	4.32	31	16.35	1.41		
Frontier Insurance Group	NYS	31.625	7.20	-1.17	33.75	20.25	82	0.48	1.52	13	14.65	2.16	Zurich Reinsurance Centr.	NYS	29.875	0.84	-1.65	30.88	27.88	179	0.00	0.00	35	21.64	1.38		
Gainco Inc.	ASE	11.375	-1.09	0.00	12.38	8.25	127	0.05	0.44	16	3.98	2.86	INSURERS/REINSURERS	AVERAGE		0.2					2.2	15.6					
General RE Corp.	NYS	145.5	-3.72	-6.13	158.25	123.00	2277	1.96	1.35	15	59.35	2.45	HEALTH MAINTENANCE ORGANIZATIONS														
Guaranty National Corp.	NYS	14.625	0.00	-4.88	19.00	13.75	70	0.5	3.42	15	11.60	1.26	FHP International	NDO	28.75	1.10	0.88	30.00	19.50	833	0.00	0.00	151	28.15	1.02		
Harleysville Group	NDO	30.75	2.07	-5.02	33.00	23.50	40	0.76	2.47	11	20.72	1.48	Humana Inc.	NYS	27.875	0.45	1.83	28.50	17.00	2920	0.00	0.00	24	6.56	4.25		
Hartford Steam Boiler	NYS	50.25	0.75	0.50	51.50	40.88	186	2.28	4.54	16	14.68	3.42	Oxford Health Plans	NDO	67.75	-2.87	-8.29	93.75	38.50	5448	0.00	0.00	53	6.56	10.33		
HCC Insurance Holdings	NYS	43.125	6.15	16.55	43.38	21.75	147	0.00	0.00	23	15.86	2.72	Pacificare Health Sys.	NDO	86.75	2.51	-0.29	93.25	44.50	258	0.00	0.00	24	15.02	5.78		
ITT (Hartford Group)	NYS	54.5	1.63	2.83	55.25	47.38	2247	1.98	3.63	44	45.46	1.20	Safeguard Health Enter.	NDO	12.25	3.16	5.38	13.25	8.25	30	0.00	0.00	31	6.15	1.99		
Lincoln National	NYS	51	-1.69	-5.12	55.38	35.38	622	1.84	3.61	11	28.90	1.76	Sierra Health Services	NYS	33.125	4.33	4.33	33.63	22.13	184	0.00	0.00	17	9.22	3.59		
Market Corp.	NDO	75	-0.66	-0.66	78.00	40.75	27	0.00	0.00	15	25.71	2.92	United Healthcare Corp.	NYS	62	4.86	-5.16	65.63	34.13	3359	0.03	0.05	31	16.17	3.83		
Meadowbrook Insur. Group	NYS	31	2.90	-7.46	33.88	24.00	42	0.08	0.26	28	NA	NA	U.S. Healthcare	NDO	47.25	4.13	1.61	48.50	26.50	9447	1.1	2.33	19	5.86	8.35		
Mid Ocean Ltd.	NDO	40	1.27	7.74	42.00	24.88	516	0.00	0.00	0	22.18	1.80	Wellpoint Health Networks	NYS	35	0.72	8.95	37.00	27.00	305	0.00	0.00	16	14.26	2.45		
Mutual Risk Mgmt. Ltd.	NYS	41.75	-0.60	-8.74	45.75	25.75	60	0.4	0.96	20	9.72	4.30	HMOs	AVERAGE		2.0						0.3	41				
NAC Re Corp.	NYS	32	-3.03	-11.11	39.00	28.25	147	0.2	0.63	11	18.23	1.76	ALL COMPANIES	AVERAGE		1.4						2.3	21				

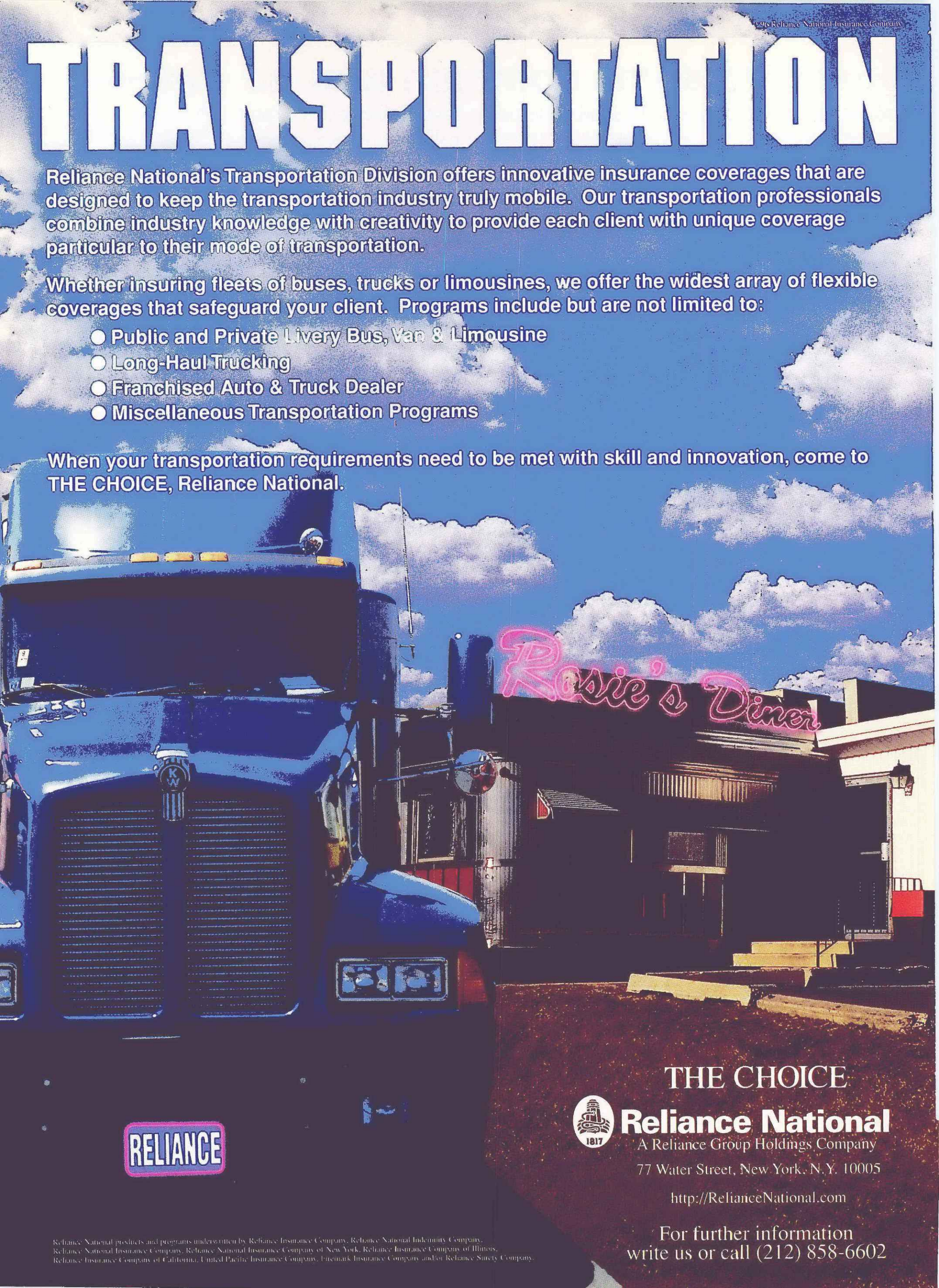
TRANSPORTATION

Reliance National's Transportation Division offers innovative insurance coverages that are designed to keep the transportation industry truly mobile. Our transportation professionals combine industry knowledge with creativity to provide each client with unique coverage particular to their mode of transportation.

Whether insuring fleets of buses, trucks or limousines, we offer the widest array of flexible coverages that safeguard your client. Programs include but are not limited to:

- Public and Private Livery Bus, Van & Limousine
- Long-Haul Trucking
- Franchised Auto & Truck Dealer
- Miscellaneous Transportation Programs

When your transportation requirements need to be met with skill and innovation, come to **THE CHOICE**, Reliance National.



RELIANCE



THE CHOICE
Reliance National

A Reliance Group Holdings Company

77 Water Street, New York, N.Y. 10005

<http://RelianceNational.com>

For further information
write us or call (212) 858-6602

Reliance National products and programs underwritten by Reliance Insurance Company, Reliance National Indemnity Company, Reliance National Insurance Company, Reliance National Insurance Company of New York, Reliance Insurance Company of Illinois, Reliance Insurance Company of California, United Pacific Insurance Company, Firemark Insurance Company and/or Reliance Surety Company.