

Business Insurance

Reporting Weekly For Corporate Risk, Employee Benefit and Financial Executives / \$4

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Intel hit by several lawsuits over handling of flawed chip

SANTA CLARA, Calif.—Intel Corp. is facing at least six shareholder suits related to the much-publicized flaws in its Pentium microprocessor chip.

An Intel spokesman said it also faces several product liability and false advertising suits related to the Pentium chip.

He would not discuss Intel's insurance coverage that might respond to the suits.

One shareholder suit, which was filed in Santa Clara County Superior Court by the New York law firm of Jaroslawicz & Jaros,

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Regulators investigate Uruguayan insurer

By DOUGLAS McLEOD

NEW YORK—State regulators are investigating an unlicensed Uruguayan insurer that is writing workers compensation business in the United States while claiming to be exempt from certain state regulations under the North American Free Trade Agreement.

Azteca Insurances S.A., purportedly based in Montevideo, Uruguay, has been marketing discounted workers comp coverages to employers and employee leasing firms in several states through brokers in California, Colorado and Arizona.

Azteca officials contend that because the business is passed through an intermediary in Canada, the insurer falls under the purview of the NAFTA accord signed by the United States, Canada and Mexico, and therefore is exempt from state restrictions on alien insurance companies.

State regulatory officials, however, say that NAFTA provides no exemptions from state oversight. The National Assn. of Insurance Commissioners last year advised state insurance departments that NAFTA has little impact on states' regulatory authority, and warned that they should "be wary of those who claim that your department must act or refrain from acting because of NAFTA."

Several Azteca representatives have previously been involved with other insurers that have run into regulatory trouble or failed. These include Paul Yorke-Wade, a director of Azteca's Ireland-based

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Zurich offers to buy out Home

New bid accepted, but Byrne group may make counter offer

By MICHAEL SCHACHNER

NEW YORK—The race for Home Holdings Inc. is still on and the Zurich Insurance Group appears to be in the lead.

Under an agreement in principle announced last week, a Zurich-led investment group would help finance a repurchase of all outstanding Home Holdings shares; Zurich would take over a large block of The Home Insurance Co. business; and, eventually, The Home would cease underwriting and be liquidated by Zurich.

Some policyholders of The Home already could see benefits from the new deal: higher-rated

Zurich is offering to stand behind new and renewal policies.

The surprise new offer is a complex, multistage transaction that could take as long as eight years to complete. Home Holdings said Zurich's offer would supersede an earlier transaction in which Home was to have received a capital infusion of up to \$630 million, of which \$420 million was to come from an investor group led by John J. Byrne's Fund American Enterprises Holding Inc. (BI, Dec. 12, 1994).

In Stockholm, Sweden, a spokesman for Trygg-Hansa SPP Holding A.B., Home Holdings' majority shareholder, said it opted instead for the Zurich offer

because it promised a bigger upside with the same downside as the earlier deal.

If Zurich's deal goes through, the Byrne-led group would receive about \$30 million in walk-away fees and various expenses.

However, Mr. Byrne and his investor group are not necessarily throwing in the towel.

A spokesman for Fund American said it is exploring all options, including sweetening its offer for The Home. "The way we see it, there are now two agreements in principle sitting on their desk," he said.

As of deadline last week, the spokesman said the group was contemplating making a new offer

for the insurer but had no details.

Home Holding's stock closed last Thursday at \$9.38, up from \$7.13 on Dec. 9, the week the Byrne deal was announced, and volume on Thursday was heavy, with 32,000 shares traded.

Here's how the Zurich offer would work:

First, all Home shareholders other than Trygg-Hansa and Zurich would be offered \$10 a share in a stock repurchase program. Those shares were sold at \$17 in a 1993 IPO.

That buyback would be partially financed through a \$98 million loan to Home Holdings from: Zurich Insurance Group; Zurich's Bermuda-based investment unit, Zurich Centre Investment Ltd.;

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Prudential Re changing focus

New CEO has big plans for reinsurer

By GAVIN SOUTER

NEWARK N.J.—"Make no little plans." was a motto of Daniel Hudson Burnham, the architect and city planner best known for designing Chicago.

Today, one would-be architect of the reinsurance industry appears to be following that same path.

Joseph V. Taranto, who became chairman and chief executive officer of Prudential Reinsurance Co. in October, is following an ambitious blueprint built around specialty underwriting. He also hopes to take the company public in 1995 and increase its international business.

Outside experts say the former high school math teacher's prospects hinge on recruiting a significant amount of expertise in specialty underwriting. Based on his previous success at Transatlantic Holdings Inc., which he helped

take public in 1990, they say he has a pretty good chance of making his plan work.

The top position at Pru Re is one of the few that could have tempted Mr. Taranto away from Transatlantic, an American International Group Inc. affiliate. "It is a unique opportunity," he said. "How many times can you take on something that's as big and important as this, something that's going to be spun off and something that has the Prudential behind it?"

Ironically, Prudential Insurance Co. of America has been trying to scale back its role in reinsurance for some time.

Saying reinsurance was not a "core business," Prudential planned to spin off much of the unit in an initial public offering last year (BI, March 15, 1993). Those plans were dropped when the stock market shifted, but Pru

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DAVID LUBARSKY

Joseph Taranto has big plans for Prudential Re, including eventually taking it public.

RIMS plans to increase visibility with lawmakers

'Frankly, I've been sick and tired of RIMS sitting on the sidelines and not being more proactive'

Lucky Gallagher

By MARK A. HOFMANN

NEW YORK—Congress will be playing a new tune in Washington, and the Risk & Insurance Management Society Inc. wants to make sure it is no wallflower at the legislative dance.

Energized by the Republican electoral sweep and the fear that it had remained on the sidelines previously, RIMS is adopting a much more aggressive position as the 104th Congress convenes this week.

"We're very interested in influ-

encing the product liability and Superfund debates," said Bill Kelly, first vp of RIMS and senior vp of J.P. Morgan & Co. Inc. in New York.

RIMS feels that there is an "opportunity to do more with this Congress than we could in the past," said Mr. Kelly.

RIMS President Lucille Gallagher gave a less philosophical reason for the group's decision to seek more influence on Capitol Hill.

"Frankly, I've been sick and tired of RIMS sitting on the side-

lines and not being more proactive," said Ms. Gallagher, who is also vp-risk management for Congra Red Meat Cos./Monfort Inc. in Greeley, Colo. "I believe that RIMS needs to be leading and not hanging onto the tail."

Mr. Kelly and others in RIMS point out that the desire to project a higher profile does not end in Washington. The Society recently appointed a state legislative counsel to represent members' interests in statehouses and Canadian provincial parliaments.

RIMS kept a low profile in leg-

islative affairs largely until last summer, when representatives of the Society began appearing in congressional offices and meeting rooms with other opponents of the Clinton administration's Superfund reauthorization bill.

RIMS representatives, including Paul Brown, the Society's government affairs director and counsel, met with members of Congress and their staffs to discuss why the group thought the administration's approach was wrong.

Even after Superfund legisla-

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Updates

Intel faces Pentium suits

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is intended to be a class action covering Intel shareholders.

The derivative action alleges gross mismanagement and breach of fiduciary duty for the company's handling of the flawed chip, said attorney David Jaroslawicz. The suit claims Intel created a substantial liability for shareholders by embarking on a deceptive marketing campaign and denying that problems existed.

Six other shareholder suits have been filed in federal court in San Jose, Calif., and will likely become a single class action, said Alan Mansfield, a partner at Milberg Weiss Bershad Hynes & Lerach in San Diego. Those suits allege that investors lost money because Intel did not disclose information about problems with its Pentium chip.

Grand jury faults fraud queries

AUSTIN, Texas—A grand jury in Travis County, Texas, last week accused the Texas Department of Insurance of improperly handling insurance fraud investigations.

"We have determined that there exists a significant reluctance on the part of Department personnel to investigate and report fraudulent occurrences in the insurance industry," the 12-member grand jury wrote in a signed letter to Gov.-elect George W. Bush.

A special grand jury investigating the Department reported similar findings in April 1990.

"It is our unanimous conclusion that little progress has been made by the Texas Department of Insurance since 1990," the current jury wrote. The jury found "continuing failure to investigate and report fraud at all levels of regulatory administration, lax regulatory oversight, undue influence from the industry and political pressure on the regulators."

Insurance Commissioner Rebecca Lightsey met with state auditors the day after the letter was released, and an investigation has begun.

Ms. Lightsey was appointed Dec. 13 to serve out the term of J. Robert Hunter, who resigned from the post after a year for family reasons (*BI*, Dec. 19, 1993; Dec. 5, 1993). Her term expires Jan. 31.

She cited record fines the TDI levied on insurers in 1994 for misrepresentation and discrimination. "If the reviews I have begun today show weaknesses, I will move swiftly to remedy the problem."

Health services provider grows

TAMPA, Fla.—Long-term health care services provider Beverly Enterprises Inc. is acquiring Pharmacy Management Services Inc., a Tampa, Fla.-based workers compensation cost containment firm, in a stock swap valued at \$148.5 million.

The acquisition, which is subject to, among other things, antitrust clearance and approval of PMSI's shareholders, will make Beverly Enterprises a leading provider of health care services to injured workers. The Fort Smith, Ark.-based company currently operates 725 nursing homes, six acute care hospitals, eight sub-acute care units, 60 institutional pharmacies and 25 retirement communities in 33 states.

PMSI provides medical cost containment and managed care services to workers comp payers and claimants. Its services include: a preferred provider network and pharmacy benefit management through a national retail pharmacy network; and home delivery of prescription drugs and medical equipment.

The parties expect the transaction to be completed in the spring.

Arbitrating employee disputes

PASADENA, Calif.—Signing forms agreeing to adhere to the rules of an organization does not mean employees agree to arbitrate employment disputes, the 9th U.S. Circuit Court of Appeals ruled last month.

When applying for jobs as sales representatives at Prudential Insurance Co. of America, Justine Lai and Elvira Viernes signed a standard securities industry registration form known as a U-4.

The women later joined the National Assn. of Securities Dealers.

On Nov. 30, 1990, they sued Prudential and their immediate supervisor, claiming he had raped, harassed and sexually abused them. A federal district court ruled the women were subject to the Federal Arbitration Act and could not pursue their case in court.

Reversing, the 9th Circuit found that the U-4 mentioned neither arbitration nor employment matters. The form stated that the women must follow NASD rules, but they were not given the NASD handbook that covers the rules on arbitration.

The public policy of protecting victims of sex discrimination is "at least as strong" as the policy favoring arbitration, Judge Mary M. Schroeder wrote. She ruled the women "did not knowingly contract to forgo their statutory remedies in favor of arbitration."

Bad faith verdict overturned

LOS ANGELES—Maryland Casualty Co. will not have to pay \$61 million in bad faith damages to the owner of a concrete cutting firm after a Los Angeles Superior Court judge overturned the award and granted a new trial.

In overturning the award Dec. 20, Judge William Drake ruled that evidence failed to support the award against the Zurich Insurance Co. unit and in some cases contradicted the jury's verdict.

Edward Dempsey sued when the insurer refused to pay a claim after fire destroyed his business in 1991. Maryland Casualty claimed it had rescinded his policy four weeks before the fire after determining he had provided false information to his insurance agent.

In October, the jury awarded \$3 million in compensatory and \$58 million in punitive damages. The agent who wrote the policy had earlier reached a separate \$650,000 settlement with Mr. Dempsey.

No date has been set for the new trial.

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Vermont accreditation push not hurt by RRG insolvency

By RODD ZOLKOS

MONTELIER, Vt.—Vermont's captive industry has frequently cited the state's unblemished risk retention group solvency record in addressing its differences with the National Assn. of Insurance Commissioners.

Now, though, as the state waits for court approval of a petition to liquidate the Beverage Retailers Insurance Co. risk retention group—Vermont's first such insolvency—the industry is saying that the BRICO failure shouldn't affect

the state's stalled NAIC accreditation bid.

Vermont's method of regulating risk retention groups like captive insurers rather than as traditional property/casualty insurers has been a key sticking point in the state's efforts to win NAIC accreditation.

However, Elizabeth R. Costle, Vermont's commissioner of banking, insurance and securities, said the NAIC approach to regulating risk retention groups—including requiring financial statements to be filed on a statutory accounting

principles basis rather than the generally accepted accounting principles method stipulated in Vermont—wouldn't have changed anything in BRICO's case.

She filed a petition to liquidate BRICO in Vermont Superior Court Dec. 22. No date has been set to hear the petition.

"Basically, the court will rule on that petition," Ms. Costle said. If it's approved, "we will proceed to look at our options and to pay claims and find out, frankly, how many claims there are out there."

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Coverage dispute continues

Liability to be allocated among Owens-Illinois, insurers: Court

By MARK A. HOFMANN

TRENTON, N.J.—Owens-Illinois Inc.'s long-running fight for nearly \$1 billion in insurance proceeds for asbestos claims is far from over—even after 11 years and a recent ruling from the New Jersey Supreme Court.

In a unanimous ruling that focused on only two issues, the court handed the insurers a victory by overturning part of a lower court ruling that had held all insurers that wrote coverage

from 1977 to 1985 jointly and severally liable for complete coverage up to policy limits.

Instead, the court has appointed a special master to allocate liability between Owens-Illinois and the insurers and sent the case back to an appeals court.

In a victory for the policyholder, the court agreed with two lower courts that the "continuous trigger" of coverage should apply to the claims.

Though the 57-page ruling involved only two issues, it did not

resolve all the uncertainties even in those areas.

"I promise you this, there will be litigation about what this means and how it translates into coverage for years, if not decades," said Gita Rothschild, an attorney for Owens-Illinois with McCarter & English in Newark, N.J.

The New Jersey Supreme Court's Dec. 22 decision in *Owens-Illinois Inc. vs. United Insurance Co. et al.* overturned

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Business Insurance to chart CAT futures trading action

A new regular feature on *Business Insurance's* Ticker page—a table showing catastrophe insurance options trading activity—debuts this week.

Four quarterly catastrophe insurance futures contracts are traded at the Chicago Board of Trade—one for the Eastern, Midwest and Western regions of the country, and a quarterly National contract—as well as an annual Western contract (*BI*, Oct. 31, 1994).

The so-called CAT futures contracts are settled about six months after each loss quarter ends, with values determined by loss ratios for that quarter.

Loss ratios, which can range from 0% to 200%, are based on incurred losses and estimated premiums for a particular quarter. Loss and premium data are supplied by a unit of the Insurance Services Office Inc.

The table will feature information on CAT option call spreads, which can offer financial protection similar to a layer of reinsurance (see table, page 23).

A call spread is a bundled option to buy and sell CAT futures contracts at a set price.

Attachment points for the call spread are the loss ratios that underlie the contract.

For example, a 50/70 call spread for the third-quarter 1995 Eastern contract represents a layer

of protection between the loss ratios of 50% and 70%.

The CAT call spread's price is shown in a bid/ask format; a single price indicates that a trade occurred.

The price is expressed in points and tenths of a point. Each point has a dollar value of \$250.

For the 50/70 call spread example, the bid/ask price on Dec. 29 was 5.3/5.5 points, or \$1,325/\$1,375.

The table also translates the call spread's price into a rate on line, which is a means of comparing reinsurance rates by dividing the premium by indemnity limits.

For the above example, the rate on line would be 26.5%/27.5%.

The table each week will feature data on the five most popular options for two contracts. Also shown are total volume, which indicates the number of trades for that week, and open interest, which is the number of positions that have not yet been offset.

For more information on the CBOT's catastrophe insurance futures and options, call Product Manager Dena Karras, 312-435-3674.

For quotes on the contracts, call the CBOT trading floor during trading hours, 8:30 a.m. to 12:30 p.m. CST, at 312-341-3342.

Inside

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MICHAEL A. MARCOTTE

Corporations and employees may be more liable for third-party claims because of recent changes in rental car coverage agreements.

Watch for blind spot: Rental car insurance may be driving away

By MEG FLETCHER

Remember when the best advice for traveling employees was "don't buy the insurance when renting a car"?

That simple advice, prudent in the late 1980s for many businesses wanting to avoid duplicate collision coverage, now may be as obsolete as Henry Ford's Model A.

Recent changes in short-term agreements used by leading rental car companies make it far more likely that some employers and employees may be held responsible for third-party liability and other claims arising from rental car accidents.

As a result, corporations and their individual employees must check the insurance and other protection they have against this exposure and determine how that coverage relates to the rental car contract terms. Otherwise, gaps may exist that could create serious financial liability for a company and its employees.

"Corporate America isn't fully aware of what major and minor rental car companies are doing to the consumer," warned Harold C. Lang, director-insurance and risk management for Kohler Co., a diversified company in Kohler, Wis., that primarily manufactures

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Patent coverage lags well behind infringement suits

By MARK A. HOFMANN

With every invention comes new liability, particularly where a patent is involved.

In fact, patent infringement suits are one of the fastest growing areas of litigation.

In 1982, 843 patent infringement cases were filed in the United States. In 1992, 1,474 such cases were filed and last year, the number of cases grew to 1,535.

In one of the most celebrated patent infringement cases so far, Redmond, Wash.-based software giant Microsoft Corp. was ordered earlier this year to pay \$120 million to Stac Electronics Inc., a Carlsbad, Calif.-based software company. Stac had accused Microsoft of using its technology without permission for increasing computer disks' storage capacity.

In addition to the risk of potentially huge court awards, another exposure is uncertain coverage rulings by the courts.

In recent years there have been repeated decisions by state courts, notably in California, that the ad-

vertising injury clause of comprehensive general liability policies does not cover patent infringement claims.

Given the high stakes involved in patent cases, it is hardly surprising that underwriters have begun offering patent infringement liability policies. The field, though, is a very new one—the first such product went on the market less than a year ago.

"We've had requests from time to time to offer this sort of thing," said Anthony S. Coddling, an assistant vp with National Union Fire Insurance Co. of Pittsburgh, Pa., a New York-based unit of American International Group Inc. National Union introduced its patent infringement policy in January.

The policy, which targets a broad range of companies rather than high-tech firms, initially offered limits of \$5 million, which were later increased to \$15 million. Mr. Coddling said that although there's no hard and fast minimum premium, the insurer

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Employer says clear policy cuts discrimination claims

By SALLY ROBERTS

CINCINNATI—LensCrafters credits keeping a close eye on workplace discrimination with minimizing its exposure to employment practices liability.

The optical products and services retailer, a unit of Cincinnati-based U.S. Shoe Corp., credits its corporate culture with the fact that fewer than 10 employment-related lawsuits were filed against the 9,600-employee company in the past year, and that it has never lost such a case in court.

It currently is named in a lawsuit filed by a former employee alleging AIDS discrimination. While the company will not comment on the suit while in litigation,



tion, it is confident that its risk management program minimizes its liability exposure from such actions.

Like most employers, LensCrafters does not purchase employment practices liability insurance. Its parent company also does not buy the coverage.

Instead, the company relies on internal risk management measures that include training seminars for managers, a phone line for employee complaints and an arbitration program.

"We've never lost any employment-related lawsuits because we

have a culture of treating people right," said Carolyn Slager, senior director of human resources for LensCrafters in Cincinnati.

Core company values—such as a belief in nurturing individuals, building on people's strengths and demanding the highest possible quality—are explained to new employees and the message is also printed on company letterhead and business cards.

Part of the culture is giving employees places to turn when they feel they are not being treated fairly.

For instance, LensCrafters advocates an "open-door policy" that allows employees to express problems with supervisors. Ms.

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Sun, golf and an HMO

Major employers are trying to steer retirees in Florida into managed care

By CHRISTINE WOOLSEY

NEW YORK—Eight New York-area employers are jointly trying to increase retiree participation in managed care plans.

Through an initiative called the Florida Medicare Risk Coalition, designed for employers with large retiree populations in Florida, the employers will encourage retirees age 65 and older to enroll in health maintenance organizations that treat Medicare patients.

Towers Perrin, the consulting firm that helped bring together the coalition, selected five finalists from a group of 15 Florida HMOs that contract with the Health Care Financing Administration to treat Medicare-eligible retirees.

Towers Perrin identified those HMOs best able to serve retirees' specific health care needs and also offer employers maximum cost-effectiveness. The consulting firm evaluated factors like quality of care and access, benefits offered and communication capabilities. Towers Perrin also checked references from the HMOs' current cli-

ents.

The five HMOs that were selected are: Avmed Health Plans; CAC Ramsay; PCA Health Plans, an HMO owned by Physicians Corp. of America; Blue Cross & Blue Shield Health Options; and Humana Health Plans.

To date, only four New York-area employers in the coalition are offering the programs: the city of New York; LTV Steel, a unit of LTV Corp.; NYNEX Corp.; and Union Carbide Corp. Together, they have about 27,000 eligible retirees in Florida.

The coalition employers could choose one or more of the HMOs to provide health care services to their Florida retirees. Three companies—LTV Steel, NYNEX and Union Carbide—will introduce the managed care plans this month, while New York City plans to introduce the program in February.

Currently, retirees of those employers are covered under traditional Medicare indemnity plans. The new program is voluntary and retirees can switch back to Medicare indemnity plans at any time.

Some participating employers will offer the managed care plans to all retirees, as long as they or their spouses are age 65 or older and therefore eligible for Medicare. Other employers will offer the managed care plans only to Medicare-eligible retirees.

All or most of the HMO premi-

ums are paid by Medicare based on a formula pegged to the average cost of health care in the area.

The cost of the HMO coverage for retirees and the financial incentives to enroll in managed care vary by employer, said Ken Berkowitz, a health and welfare consultant with Towers Perrin in New York.

"One employer, for example, has a rather draconian benefit design where retirees pay the full cost of coverage. The zero premium cost of the managed care plans in some areas is obviously attractive," he explained.

Other employers have cost-sharing arrangements with retirees, but the additional benefits included under the HMO, like vision care, and the lack of claims forms will attract retirees, he said.

Bringing a coalition approach to the initiative was instrumental in striking good deals with the HMOs, Mr. Berkowitz noted. "NYNEX had tried to do this earlier for 5,000 employees in Florida and was unsuccessful. The greater numbers (of retirees) helped."

Mr. Berkowitz said employers that offer the managed care plans can expect to save \$600 to \$1,000 per retiree annually, for a total potential savings of \$16.2 million to \$27 million. Savings will be even greater for employers with particularly rich retiree benefit plans, he noted.

BI

Not out of the woods yet

Reinsurers recover, but study finds inflexibility, rate paradox

By DOUGLAS McLEOD

NEW YORK—Even after a decade of financial strengthening, the U.S. reinsurance industry still faces some potential problems, reinsurance brokerage Guy Carpenter & Co. suggests in a new report.

The traditionally press-shy Carpenter late last month publicly released an overview of the composite financial performance of 62 U.S. reinsurers from 1983 to 1993.

The report noted that surplus of the 62 companies had jumped 500% to \$17 billion at year-end 1993 from \$3.4 billion in 1984.

The companies' gross leverage—defined as the ratio of net premiums, loss reserves and reinsurance recoverables to surplus—has also improved. That ratio stood at 338% in 1993, down

from a peak of 523% in 1984, the study found.

Interpreting these figures, Carpenter concluded that if premium rates, reserves and reinsurance recoverables were collectively inadequate by 10% last year, the result would be a 34% drop in reinsurers' surplus. This compares with a 52% decline in surplus that the same 10% shortfall would have produced in 1984.

The study also found that:

- Liquidity, while somewhat improved in 1993, remains "relatively weak."

Reinsurers' cash flow ratio—defined as premiums received divided by losses and expenses paid—rose to 113% last year from 101% in 1992. However, it was still far below the 146% peak of 1986.

- Maximum capacity for traditional catastrophe reinsurance programs returned this year to the 1986 level of about \$270 million, with Bermuda-based reinsurers picking up about \$100 million of the total while London market capacity dropped by 50% to about \$60 million.

- None of the major reinsurers will fall below the minimum capital requirements outlined in the National Assn. of Insurance Commissioners' risk-based capital rules, which become effective at the end of this year.

However, reinsurers may attempt to manipulate their financial statements to improve risk-based capital ratios for competitive reasons, Carpenter said.

- Reinsurers' return on equity,

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The Home

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and Insurance Partners, an investment fund with backers including Centre Reinsurance Co., Chase Manhattan Corp. and Robert Bass.

Home Holdings probably could get up to another \$35 million in funding from that investor group or banks, or both, if needed for the repurchase.

Immediately upon completion of that transaction, which should occur sometime during the second quarter, Home Holdings would be de-listed from the New York Stock Exchange and The Home would cease underwriting, with Zurich-American Insurance Group taking over renewal business only for policyholders it wishes to retain. Home Holdings would then be placed into liquidation under Zurich's management.

Under the deal, Zurich would most likely take over net written premiums of more than \$1 billion, said Robert A. Spass, a managing director of Insurance Partners L.P. who would become chairman of The Home in runoff under the deal.

Zurich officials could not be reached last week for comment.

The agreement ultimately gives Zurich an option to purchase all Home Holdings shares still owned by Trygg-Hansa at any time during an eight-year period. But, even if Zurich declines to buy all of Trygg-Hansa's holdings, it would still have to buy a minimum of 4 million shares from the Swedish company beginning in 1999.

The agreement also establishes a global "strategic alliance" between Zurich and Trygg-Hansa, allowing Trygg-Hansa's Scandinavian clients access to Zurich's extensive international network of insurers and giving Zurich clients access to Trygg-Hansa professionals in Scandinavia.

As of last week, the parties were

talking as if the Zurich deal were already in force.

Potential new policyholders of The Home and those coming up for renewal before the close of the stock repurchase were already getting assurances from Zurich.

By means of cut-through endorsements and similar arrangements on new and renewing policies, Zurich is offering to stand behind The Home's coverage.

"The investor group is pretty enthusiastic about this," said Mr. Spass. "We feel that The Home has two broad classes of business that are very attractive to Zurich and those are large accounts and specialty lines. These classes account for 60% to 65% of The Home's business. It is expected that much of this will transfer to Zurich."

Once the stock repurchase is completed and Zurich takes the business it wants, Home Holdings would enter into liquidation under the management of Risk Enterprises Management Ltd., a newly formed unit of Zurich.

Mr. Spass added that he thinks Zurich may ultimately take over The Home completely.

"It will be an economic decision that will be made at that time. We believe The Home runoff has the potential to produce value," he said. "(The Home's) value will be determined based on the progress of the runoff, claims activity, and the performance of (its smaller holdings)."

In liquidation, The Home would service only existing policyholders and bondholders.

The Home would enter the liquidation process with the following assets: \$800 million in statutory surplus; interest earnings on its investments; earnings from a small securities unit, Gruntal Financial Corp., and Sterling Forest Corp., a land management unit that holds about 20,000 acres north of New York City that is scheduled for development; and ceding commissions on the business that Zurich picks up.

A.M. Best Co. Vp Eric Simpson estimates the ceding commission on \$1 billion in business is \$200 million. Best says those resources should enable Home to maintain its B+ rating and meet its runoff obligations.

In another part of the deal, Zurich Centre Investment agreed to purchase 800,000 shares of Home Holdings stock from Trygg-Hansa at \$7.50 a share, or \$6 million total.

One key to the deal is that Zurich and the other investors could take The Home off Trygg-Hansa's hands altogether.

Investors would have an eight-year option to acquire 12 million

remaining \$60 million. Payment of the remaining \$109 million would be contingent on The Home's loss reserves during runoff.

"Basically, this is a deal that allows Trygg-Hansa to walk away from Home with something in its pocket. Under the (Fund American) deal, they were going to lose the \$170 million loan and still own a company they no longer want. Now, over time, they can transfer ownership to Zurich and get paid. For Trygg, it's a better deal," said Peter Wade, an associate director with Standard & Poor's Corp. in New York.

Similarly, Bob Yates, an analyst

'Basically, this is a deal that allows Trygg-Hansa to walk away from Home with something in its pocket,' says Peter Wade of Standard & Poor's Corp.

Home Holdings shares held by Trygg-Hansa for \$8.50 a share, or \$102 million total. That is equivalent to about 65% of Trygg-Hansa's stake in Home.

If Zurich exercises that option, Trygg-Hansa can sell its remaining shares to Zurich at an actuarially determined price.

Regardless of whether Zurich exercises option on 12 million shares, the deal stipulates that Trygg-Hansa would sell 1 million shares per year to Zurich at a predetermined price beginning four years after the stock repurchase closes.

Furthermore, a \$170 million loan Trygg-Hansa made to Home that would have been forgiven under the Fund American-led deal would be restructured under the Zurich deal.

Investors would buy \$110 million of the face value of the loan from Trygg-Hansa for \$1 million, with Trygg-Hansa retaining the

with Fox-Pitt McKellan in London, said, "In the first deal, (Trygg Hansa) was getting rid of two-thirds of Home for effectively nothing."

Policyholders and bondholders, though, would fare worse under the Zurich deal than under either the Fund American deal or Home's original plan to secure a \$250 million cash infusion (BI, Nov. 14, 1994).

"Under the previous plan, we assumed that under Jack Byrne, Home would see increased surplus, better management, reduced costs and marginal earnings within a couple years. Now Home has virtually no earnings profile at all," said S&P's Mr. Wade.

As a result, S&P is keeping Home Holdings' BBB- claims paying rating on CreditWatch with negative implications. It also placed Zurich's AAA rating on CreditWatch with negative implications because "if they're going

to pick up more than \$1 billion in new premiums, they should also increase capital by about half that," he said.

Moody's Investors Service Inc. also reacted negatively. It had placed Home's Baa3 rating on review for a possible upgrade after the Fund American deal was announced early last month but changed its review status last week to a possible downgrade.

Meanwhile, Moody's reiterated its review for possible downgrade of the debt rating of Trygg-Hansa but confirmed Zurich's financial strength rating of Aaa.

While most insurance industry analysts were unavailable for comment last week, David Matthews, an insurance analyst with Fitch Investors Service in New York, said the news that Trygg-Hansa and Home were eschewing the Fund American deal for Zurich's offer came as a big surprise.

"When I first heard about the Byrne deal, I thought they'd take it because of Byrne's track record at GEICO and Fireman's Fund. I'm a bit surprised by Zurich's entry into the Home sweepstakes. Obviously, Trygg-Hansa is looking out for its best interests. If I was a Home debtholder, though, I'd be wary of this arrangement. Who knows if Zurich will ever buy out Trygg? A lot can happen in eight years," Mr. Matthews said.

Reinsurance markets may also have been caught off guard.

The Home's 1995 reinsurance program was being put together in the United States and London last week when the Zurich deal came to light.

Aon Re Inc., which is coordinating the program in Philadelphia, could not be reached for comment.

One source, though, said the Zurich deal may require The Home program to be restructured and remarketed.

Stacy Shapiro and Maria Kielmas contributed to this report.

Insurer settles comp dispute

RANCHO CORDOVA, Calif.—California Compensation Insurance Co. has agreed to pay \$450,000 to settle a state Department of Insurance charge that it violated the workers compensation minimum rate law to undercut other insurers.

In November 1994, Insurance Commissioner John Garamendi charged that CalComp violated the minimum rate law by requiring brokers to rebate to customers portions of their commissions.

CalComp, a Foundation Health Corp. unit, denied wrongdoing.

"We were dismayed by the commissioner's allegations because we sought the advice of his staff many months ago, followed their guidance and believed that no violation of the law occurred," CalComp President Maurice A. Costa said. "In the interest of resolving this matter quickly, however, we have cooperated fully with the commissioner."

The agreement calls for CalComp to pay the Insurance Department \$350,000 in administrative fees and \$100,000 as reimbursement for investigation expenses.

California's minimum rate law expired Jan. 1, when open rating began.

HIGHLAND PARK, Mich.—Chrysler Corp. will offer voluntary long-term care coverage and group legal services to its salaried employees beginning this year.

The automotive giant decided to offer the new benefits after an employee survey found strong interest in both products. Some 17,000 employees will be offered the new benefits programs and an additional 12,000 retirees will have access to the long term care plan.

Metropolitan Life Insurance Co. will underwrite the long-term care plan, which pays for expenses not normally reimbursed by medical insurance or Medicare.

Employees and retirees can choose from several benefit levels, ranging from \$80 to \$160 per day, to pay for nursing home stays or in-home nursing care for themselves, spouses, parents and parents-in-law.

Employees and retirees will pay for the coverage through premiums deducted from their paychecks and pension payments. The premiums will be based on the age of the person when he or she joins the plan, according to Ira Baum, senior account manager for Seabury & Smith, Chrysler's insurance program manager and administrator.

Mr. Baum would not give details on the cost of premiums for the Chrysler long-term care plan, but said that, typically, \$100

Benefit Beat

worth of daily coverage purchased by a 45-year-old individual would cost \$18 to \$30 per month.

Chrysler will be offering group legal benefits through Midwest Legal Services Inc. of Des Moines, Iowa. The program also is voluntary and will be prepaid entirely by employees, who will have access to a network of private practice attorneys.

Employees can contact those attorneys through a toll-free telephone number and get help with a variety of family legal matters, like making a will or closing on a new home.

Premiums will be deducted from employees' paychecks and most general services will be covered at 100%, according to Mr. Baum.

More complex legal matters may require payment of a deductible or copayment, he noted.

—By Christine Woolsey

Allstate retirements

About 560 of the 700 employees to whom Allstate Corp. offered early retirement in October have accepted the offer.

A spokesman for the Northbrook, Ill.-based insurer said the number of early retirees was 15% higher than expected. As a result,

the company increased its original estimate of fourth-quarter after-tax charges for costs related to the program to about \$92 million from \$80 million.

Allstate expects to save \$34.5 million over the next three years due to the offer.

Under the offer, employees have three years of service and five years of age added to their record for calculating retirement benefits (BI, Oct. 10, 1994).

—By Sally Roberts

TIAA partners plan

NEW YORK—The domestic partners of employees and retirees covered by retirement programs underwritten by the Teachers Insurance & Annuity Assn. can now apply for the individual insurance products offered by TIAA.

New York-based TIAA provides pension and insurance benefits to more than 1.6 million participants at 5,000 non-profit educational and research institutions.

It is a leading provider of retirement benefits to faculty and staff at colleges and universities.

Among the products now available to domestic partners of covered employees and retirees are individual annuities, long-term care insurance, and individual life insurance policies.

Domestic partners are defined as: two adults unrelated by blood, who have lived together continu-

ously for at least six months and plan to do so permanently, are mutually responsible for their common welfare, and maintain no other domestic partnership or marriage.

—By Stacy Ashley

Pension slip-up

WINSTON-SALEM, N.C.—Wachovia Corp. would like to recover pension benefits it paid out by mistake.

Because of a computer glitch, the bank—acting as pension plan administrator for Lane Co. Inc., an Altavista, Va.-based furniture manufacturer—paid out an extra \$60,000 in pension benefits from Lane's pension fund to 13 Lane retirees over eight years.

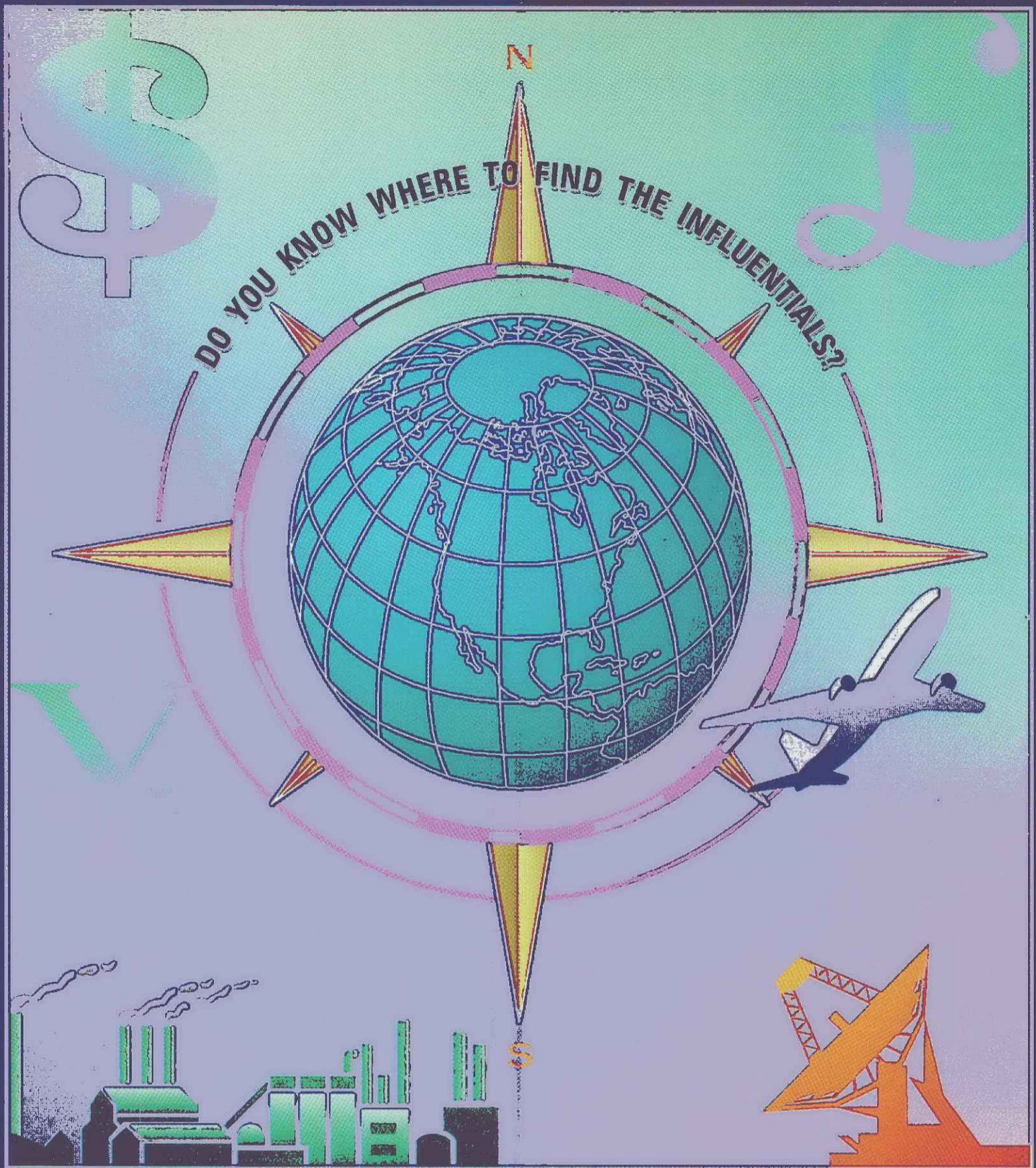
After discovering the error several months ago, the bank sent letters asking the 13 recipients to pay back the money.

"We weren't threatening," a Wachovia spokesman said. "We simply asked them to pay it back."

One of the recipients was the 75-year-old widow of a deceased Lane retiree. She had received checks totaling \$3,815.

If the people don't repay the money, the bank will just have to take the loss, the spokesman said. But Wachovia is willing to work out payment plans, if needed, he said.

—By Stacy Ashley



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**Business
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Rental

Continued from page 3
tures plumbing products.

"Contracts more and more are starting to use hold harmless phrases so any third-party liability that may arise out of the use of a car—whether the renter's fault or the car rental company's fault—is assumed by the renter. Then, the rental car company turns around and sells protection for what you just held them harmless for," said Richard D. Rogers, deputy director of the consumer market division of the Illinois Insurance Department.

"All this has been done by rental car companies without a lot of fanfare," Mr. Lang added.

"There is massive confusion out there," said John Pottridge, division vp for the National Assn. of Professional Insurance Agents in Washington. "It's a big problem."

Mr. Pottridge said some usually savvy PIA members recently "were startled" when they realized how much liability they had assumed personally under recent rental car agreements and have asked about how best to advise corporate and personal clients to minimize this exposure.

Employers' biggest concerns generally arise from two major changes made by rental car companies in basic rental agreements that are used by small businesses and individuals.

First, rental car companies reduced the amount of third-party liability coverage they offer to state-mandated minimums.

At one time, rental car companies offered limits as high as \$100,000 per injured person and \$300,000 per occurrence if a renter injured another motorist or pedestrian.

Those were reduced some years ago to \$25,000 per person and \$50,000 per occurrence and, in some states, have dropped even lower to individual states' "financial responsibility" limits.

In New York, for example, the limits are \$10,000/\$20,000 in cases not involving deaths and \$5,000 for property damage.

"In general terms, states' financial responsibility limits are

grossly inadequate" to cover a serious bodily injury or property damage claim today, the PIA's Mr. Pottridge said.

The second major change was that rental car companies recently made their coverage secondary instead of primary for third-party claims.

"They are shrewd about this and have you sign a contract that says the rental car company is secondary," said Dan Kummer, senior personal lines specialist with the National Assn. of Independent Insurers in Des Plaines, Ill.

"That's a very smart move by rental car risk managers—to remove themselves from the circle of risk," Kohler's Mr. Lang said.

However, not all states allow rental car companies to make their protection secondary instead of primary because the rental car companies own the vehicles.

Even rental car companies disagree about the number of jurisdictions where they are allowed to offer secondary coverage in the basic contract, according to discussions with company spokesmen.

For example, National Car Rental System Inc. considers its coverage secondary in 25 states, while Hertz Corp. says secondary coverage applies to its operations in 39 states and the District of Columbia.

"This is a controversial legal issue which will come up in most states," said a claims executive for a major auto insurer.

Also controversial are efforts by some rental car companies to remove themselves from all liability, even for accidents caused by improper maintenance, said PIA's Mr. Pottridge.

"Rental car companies, employers and insurers will duke it out," he said. "The problem is, the employee is in the middle."

Large U.S. corporations that rent cars at a high volume are generally able to negotiate better coverage arrangements with rental car companies than what is available to the general public and smaller businesses.

These negotiated agreements override the basic rental car agreement and often provide

Negotiating better rental car coverage

Negotiating more favorable terms with rental car and credit card companies may prove to be the most effective way for employers to cope with rental car exposures.

Businesses that rent cars at a high volume generally prize the negotiated arrangements for expanding liability coverage—and sometimes property protection—to employees at an economical cost.

These arrangements also can help a company transfer back some of the liabilities rental car companies are assiduously trying to shift to customers today.

"Renting cars is part of doing business," said Pamela Vance, chairwoman of the National Business Travel Assn.'s Surface Transportation Committee.

Approximately 80% to 95% of all car rentals are business-related, according to representatives of several major rental car agencies.

Factors that companies may want to negotiate with rental car companies include:

- Higher liability limits.
- Making rental car coverages always primary.
- Extending a corporate rental policy's more generous terms and conditions to a business renter's personal vacation days.
- Unlimited mileage.
- No drop-off fees.
- Discounts for high-mileage cars.
- Discounts for inconvenience, including situations when the wait is long or a rental outlet runs out of cars.
- Reduced surcharges in major cities.

A company's ability to achieve that "wish list" of contract changes will likely depend upon the amount of its annual rental car use.

Several rental car companies said they are primarily interested in negotiating corporate accounts that produce \$25,000 in annual rental car revenue, though a few have programs for smaller clients.

Industry leader Hertz Corp. of Park Ridge, N.J., "has negotiated agreements with more than

100,000 clients," said John Johnson, vp-sales. However, only a "very small" number of those agreements include provisions that make the rental car agency's liability coverage primary and increase limits to \$100,000 per person and \$300,000 per occurrence, he said.

Negotiating contracts may be easier if the rental car company is trying to establish itself in the marketplace.

For example, Alamo Rent A Car Inc. of Fort Lauderdale, Fla., only recently began pursuing high-volume contracts and is "open to any negotiation," said a spokeswoman. "We are the newest player on the block. We want to get a foothold in the business."

Another popular alternative used by corporations and individuals to broaden their protection when renting cars is credit card protection for car rental loss and damage.

Credit card-sponsored collision damage waiver protection emerged in the late 1980s, said John Pottridge, division vp of the National Assn. of Professional Insurance Agents in Washington.

For example, American Express Travel Related Services Co. gives even basic cardholders its version of "Car Rental Loss & Damage Insurance" as a benefit of membership at no additional charge.

In the United States, CRLDI provides excess coverage for loss or damage to rental cars due to collision, theft or vandalism which is not covered by the rental company, personal auto coverage or other sources of insurance or reimbursement.

The coverage is secondary in the United States, but primary elsewhere. To use the coverage, cardholders rent and pay for the rental with the charge card, though they should decline the collision damage waiver or similar coverage offered by the rental company.

Any company relying on these arrangements needs to review them periodically and keep up with changes that affect coverage.

—By Meg Fletcher

higher limits of liability protection and freedom from extra claims-related charges such as "loss of use" or administrative fees (see related story).

However, at least one major rental car company no longer will extend that more generous coverage to a business traveler who is using the car for personal vacation days added to his or her business trip. Most other rental car companies, though, continue to extend those terms, as long as the rental uses the corporate rate for the entire period.

As a result, employers should check the terms of their coverage arrangements with rental car companies to determine if employees will be covered. If not, employees may have to rent a new car for non-business travel with new coverage arrangements.

"That was a big concern of mine," said Judie Shyman, manager of training and employee services at defense contractor Hazeltine Corp. in Greenlawn, N.Y., a unit of Esco Electronics Corp. She checked and was relieved to learn that this was not a problem for her company's employees.

"It's really inconvenient to send someone back to the airport to start over (to rent a car for personal vacation days)," she explained.

Competition in the price-sensitive rental car industry is the driving force behind the move to reduce liability, most rental car companies agree.

"The car rental industry has come to the point where if it doesn't raise rates or change the way it does business, it will be very difficult for them to maintain profitability," said Pamela Vance, chair of the National Business Travel Assn.'s Surface Transportation Committee. She is also supervisor of travel services and meetings for GTE Personal Communication Services Inc. in Atlanta.

"Accident-related costs have skyrocketed in recent years," said Dennis Stuth, director of risk management for Budget Rent A Car Corp. in Lisle, Ill. For example, a former Budget licensee and a trucking company were found liable for more than \$180 million in a New Jersey case last year, though Budget was not found liable, said Roy Spilker, senior corporation counsel.

The industry is especially concerned about millions of dollars of "vicarious liability" judgments it faces in 11 jurisdictions that allow plaintiffs to recover damages from rental car companies merely because they own the rented vehicle involved in an accident, said Jan Armstrong, executive vp of the American Car Rental Assn. in Washington. Unlimited awards are possible in Connecticut, Florida, Iowa, Michigan, Minnesota, New York and the District of Columbia. California, Idaho, Nevada and Rhode Island have established caps for such awards, she said.

Larger rental car companies are having some positive experience in reducing their liability with a new program to screen some rental applicants to ensure they have valid drivers' licenses and safe driving records, Ms. Armstrong said. "It's good public policy and keeps bad drivers out of our cars."

While transferring risk may reduce rental car companies' losses, it increases the exposure for client corporations and their employees if they are unprepared to cope with them.

Transfer of risk is not new, but "it creates a concern because everyone is doing it," said Jerold Mullane, director of corporate risk management for apparel maker Jockey International Inc. in Kenosha, Wis.

Corporations—even those with negotiated rental car agreements—and individual employees

need to re-evaluate their coverage to ensure that each is properly protected, especially if the employee is a city dweller with no car and no personal auto insurance to back up rental car coverage.

"There is a lot of gray area between what an insurer will provide and what a rental car company provides," said NAI's Mr. Kummer.

For example, rental car companies typically do not provide uninsured-motorist coverage. It is available through most personal auto policies, but an employee who does not own a car may not have this protection if his company has a bare-bones corporate auto insurance policy.

In addition, if a car is totaled in an accident, many rental car companies say they may charge "loss of use" and "administration fees" in connection with the claims.

Risk managers and insurers differ on how employers should manage these risks.

"Often there is no simple answer you can give anymore," said PIA's Mr. Pottridge.

"You need to throw a big red flag in front of Corporate America to make sure they have coverage for 'any auto' and not just 'hired autos' or other options on the declarations page of a business auto policy," Kohler's Mr. Lang urged.

While that's the best advice for a company that buys such a policy, an underwriter may prohibit some classes of businesses from using that option, which is the first of nine available on a business auto policy form, said Charles R. Ewert, president and chief executive officer of Partners Mutual Insurance Co. in Waukesha, Wis. In situations where the broader coverage is not available, the best a corporation can do is choose one of the other alternatives and add the "hired autos" coverage. *Continued on next page*

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Rental cars

Continued from previous page
only" option to it, he said.

Other companies differ in their approach to financing rental car exposures.

Because Houston-based Petro-United Terminals Inc. has no separate auto insurance policy, it protects traveling employees who rent cars under its umbrella liability policy, said Bert White, travel and meeting planning coordinator.

Smaller companies and individuals without personal auto insurance may want to consider purchasing the basic or supplemental protection provided by the rental

car companies, others recommended.

However, that will drive up the cost of the rental.

Even a business traveler whose company has broad protection may want to consider buying loss damage waiver protection to ensure that his or her personal charge cards are not "maxed out" for the full cost of a vehicle totaled in an accident, said Mr. Ewert.

Some rental car outlets require immediate payment when the rental vehicle is totaled. If that occurs, a business traveler may not be reimbursed quickly enough by his company to use his credit card for other purposes, Mr. Kummer added.

Patent

Continued from page 3

"probably wouldn't quote a \$1 million policy for \$20,000."

The policy, written on a claims-made form, covers both damages and defense costs within limits. Mr. Codding would not reveal how many policies are currently in force other than to say that "multiple" policies had been issued.

He did say, however, that no claims have been filed yet.

The typical target of patent infringement suits are manufacturers, though some service industries can be targeted as well, said Mr. Codding.

While there "certainly are a lot" of high-tech companies involved in these cases, pharmaceuticals and even food manufacturers can also be sued, sometimes for infringement of a patented process such as how the icing is put on a cupcake, he said.

"Software, especially high-level or large PC companies, are targets. They are both targets and defenders. They are often also the plaintiffs in cases," said Thomas R. Cornwell, vp-electronics industry group in Warren, N.J.-based Chubb & Son Inc.'s commercial lines division.

"We have a product on the drawing board that will be broad in its application, which will be both patent and copyright" offering coverage for defense costs only, he said. By offering defense costs only, Chubb can allow the policyholder to select its own attorneys and control its own defense.

Mr. Cornwell explained that as the software and electronic industries began to mature, companies started to look for ways to protect themselves and to fend off competitors, leading to increased litigation.

"Basically, it's a tough world for anyone operating in a technology-based company," said Steven D. Glazer, partner and patent litigator at Weil, Gotshal & Manges in New York. Mr. Glazer serves as a consultant to National Union.

"There was in patent law what I consider to be a revolutionary event" in October 1982, said Mr. Glazer. That's when Congress created the U.S. Court of Appeals for the Federal Circuit and established it as the single court to which all appeals in patent cases would be taken, he said. Before the creation of that court, appeals went to the various circuit courts of appeal.

In the circuit courts, many judges disliked patents, viewing them as monopolies. As a result, "most patent owners would not come out of the courthouse victorious," Mr. Glazer said.

The new court "harmonized the

patent law," with the result that patent holders have become much more likely to win, he said. And since the Federal Circuit became the exclusive venue of patent appeals, the Supreme Court has rarely accepted patent cases for review, he said.

"Along with that, we've seen ever-increasing damage awards. Before 1982, it was extremely rare to see damage awards in excess of \$9 million," said Mr. Glazer.

"What you see in many cases now is that the patent holder charges that the infringement was willful" because damages can be trebled if an infringement is ruled willful, he said.

Mr. Glazer explained that before 1982, willful infringement centered around the question: "Did you copy it?" But over the past dozen years, willful infringement has come to mean that the defendant has an "affirmative duty" to make sure that it didn't infringe if it is aware that another party has patent rights.

"Whenever somebody launches a new product, they're usually going to do a patent search," said National Union's Mr. Codding.

There are two ways to do this, either seeking the information online or researching in the patent office. But as simple as that seems to be, "it's not really black and white," he said.

Patents aren't necessarily classified in the manner that the researcher might think, he explained. In some cases, "it comes down to the judgment of the person doing the search." Thus there's a chance the information being sought will be missed.

Mr. Codding also noted that researchers can't search for pending applications, so a company can become inadvertently caught in an infringing situation because it did not know that a competitor was awaiting a patent for a new product.

"Searching for potential patent infringement is not foolproof," he said.

"Because this is a risky market, we have to see that companies have done their diligence properly," said Peter Foster, an underwriter at Lexington Insurance Co., a Boston-based unit of AIG that began offering patent infringement liability insurance in March.

The Lexington policy is aimed at high-tech, biotechnology, pharmaceutical and medical device manufacturers. Lexington currently offers limits of up to \$2 million on a claims-made, defense costs within limits basis. Although Lexington has received about 20 applications so far, it has not issued any policies yet, he said.

Mr. Foster said that the intent of many companies typically has been to get a new product on the

Another alternative would be for a company to provide an employee a corporate credit card for business use, though some companies may shy away from exposing themselves to the possibility of inappropriate and unauthorized charges.

The NAI is currently studying rental car-related issues and seeking the best way for policyholders, insurers and rental car companies to resolve disputes, Mr. Kummer said.

Illinois regulator Mr. Rogers would like the National Assn. of Insurance Commissioners to review rental car issues, including collision damage waivers, which have been outlawed in Illinois and New York (BI, March 9, 1987). ■

market as quickly as possible without checking on the patent first.

Then they'd be sued or forced to license from a competitor, he observed.

"Now you'll see biotech companies with a team of patent attorneys constantly researching," he said.

As Mr. Glazer puts it: "Ignorance is absolutely no defense and lack of copying is absolutely no defense." ■

Reinsurers

Continued from page 3

while volatile, has exceeded ROE for the property/casualty insurance industry every year since 1986.

In addition, reinsurers' ratio of unassigned surplus funds to assets—described by Carpenter as an excellent measure of reinsurance company profitability—has climbed more or less steadily since 1985, indicating the industry is much stronger than during the mid-1980s.

The industry developed large loss reserve deficiencies in the early 1980s: In 1984, for example, reinsurers estimated their accident year loss ratio at 85%, but by 1993 the loss ratio for the 1984 accident year had ballooned to 127%.

"Given the industry's tendency to follow trends and cycles, it is reasonable to ask: Will history repeat itself?" the study questioned.

Reinsurance companies are losing the ability to use capital gains on their investment portfolios to cover large losses and bolster net income.

Some reinsurers in recent years have taken large capital gains and

reinvested at lower rates of return.

As interest rates rise, though, the market value of the reinsurance companies' fixed-income holdings could decline dramatically.

"There's not a lot of financial flexibility in the reinsurance industry today on the asset side of the house," observed Shaun P. Flynn, a Carpenter senior vp.

Despite a record volume of new capital coming into the reinsurance business last year, rates on property risks remain hard, the study observed.

Casualty pricing remains soft despite difficulties of assessing exposure levels.

The report also noted the "paradox" of high property rates, rising capacity and low return on equity for reinsurers: High rates have attracted massive amounts of capacity, but ceding insurer retentions remain high and ROE for the insurance and reinsurance industries remains "inadequate," the study says.

For a free copy of "Reinsurance Security Analysis," contact Nathan J. Sambul, Senior Vp, Guy Carpenter & Co., 2 World Trade Center, New York, N.Y. 10048; 212-323-1333.

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Opinions

Looking forward to 1995

AS 1994 draws to a close and the new year commences, it is time again for our annual look at what will be "in" as well as "out" in the worlds of risk management, employee benefits and commercial insurance over the next 12 months.

Looking back to the beginning of 1994, some of our prognostications for the year appear on target: Bermuda property catastrophe reinsurers looking to broaden their horizons; increasing use of managed care for workers comp; corporate investment at Lloyd's of London; benchmarking among risk management departments; greater attention to earthquake risks; Superfund reform debate; and broker expansion in Latin America.

However, some of our predictions in hindsight look overly optimistic: An end to gridlock over health care reform; making money underwriting insurance and an end to cash-flow underwriting; less attention paid to windstorm risks; increased use of reinsurance futures contracts; and the U.S. team out in the first round of the World Cup.

Despite falling short of 100% accuracy for 1994, we'll take our eighth annual stab at forecasting the ins and outs of 1995:

In: State health care reform efforts.

Out: Federal health care reform proposals.

In: Repeal of Superfund retroactive liability.

Out: The Environmental Insurance Resolution Fund.

In: State regulation of insurance.

Out: McCarran-Ferguson modification (along with its chief proponent—Rep. Jack Brooks, D-Texas).

In: Newt Gingrich.

Out: Hillary Rodham Clinton.

In: American Tort Reform Assn.

Out: Assn. of Trial Lawyers of America.

In: Individual retirement accounts.

Out: Defined benefit plans.

In: Better-funded pension plans.

Out: Insolvency of Pension Benefit Guaranty Corp.

In: About 29 new Vermont captives in 1994.

Out: Vermont's accreditation by the NAIC.

In: Medical savings accounts.

Out: Unlimited tax breaks for health care premiums.

In: Selecting managed care plans based on employee satisfaction surveys.

Out: Relying only on marketing materials and price to pick a managed care plan.

In: Outsourcing the whole spectrum of benefit program administration.

Out: Outsourcing only pension plan administration.



THIS YEAR, TRY NOT TO STEP ON MY HEELS!!

In: Massive increases in insurer reserves for long-tail losses.

Out: Insurers keeping policyholders and regulators in the dark about pollution exposures.

In: Cooperation between small- and large-employer health care coalitions.

Out: Large and small employers pursuing separate health care reform agendas.

In: Raising capital from insurance industry investors.

Out: Raising money from public offerings.

In: Benefit plan losses on highly speculative derivatives.

Out: Losses on guaranteed investment contracts.

In: Workers comp fraud prevention and prosecution.

Out: Workers comp claim mills.

In: T-bills.

Out: Inverse floaters.

In: A settlement of claims from the 1988 explosion of Pan Am Flight 103 over Lockerbie, Scotland.

Out: The \$75,000 per passenger liability limitation for international flights in the Warsaw Convention.

In: Internet and E-mail.

Out: Phone conversations.

In: A marketwide settlement offer to end Lloyd's of London litigation.

Out: Lloyd's members action groups.

In: Insurance industry mergers and acquisitions.

Out: Insurer insolvencies.

In: A happy New Year to all BI readers.

Letters

Pension reforms mean better security: Reich

To the editor: Thank you for your editorial coverage of the problems of underfunded pensions and the reforms we proposed to Congress to protect workers' hard earned pensions. The pension reforms, which recently became law in the Retirement Protection Act, will make the retirement of nearly 8 million workers and retirees with underfunded pension

plans more secure.

When people work hard and play by the rules, they should not have to worry about whether the pension they have earned will be there when they retire. With these reforms, we are making sure that the promises made by employers will be kept and workers will have the pension they expected for their retire-

ment years.

With the new law, funding of underfunded pension plans will improve and the federal pension insurance program will be placed on a sound financial basis.

Robert B. Reich
Secretary of Labor
U.S. Department of Labor
Washington

Global Capital Re's capacity misstated

Your Nov. 28 coverage of the recent Bermuda market briefing conference organized by the Bermuda Insurance Institute and the New York and Bermuda chapters of the CPCU Society was excellent.

However, I would just like to draw your attention to an inaccuracy in "Cat Reinsurers' Expansion Shows Strength."

The article says that Global Capital Re is offering \$300 million in capacity; in fact, that figure was used by Global Capital Re to refer to the worldwide market capacity.

Roger R. Scotton
Director of Information
The Bermuda Insurance Institute
Hamilton, Bermuda

Business Insurance®

Reporting weekly for corporate risk,
employee benefit and financial executives

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RIMS

Continued from page 1

tion died last year, RIMS held a series of meetings in Washington with insurer and other business groups, said Mr. Brown.

RIMS is currently refining its Superfund position around three key points: the elimination of joint and several liability for cleanup costs; a binding allocation system for liability; and what Mr. Brown called "no EIRF-like object" within a reauthorization bill.

The EIRF, or Environmental Insurance Resolution Fund, was proposed as a way to reduce insurance litigation. Supported by a tax on property/casualty insurers, the fund would have paid a portion of the cleanup costs of policyholders that promised not to sue insurers for more money.

RIMS saw the EIRF as an unwarranted government intrusion into a business contract.

"During the summer of '94, (the RIMS representatives) were a big help on the Superfund issue. They did staff briefings with us on Capitol Hill and were working the issue actively with members of Congress and their staffs, and we're looking forward to working together with them this year on Superfund and on any other issue in which we have common interest," said Julie A. Rochman, assistant vp and Superfund lobbyist for the Alliance of American Insurers in Washington.

Another key issue for RIMS is product liability. RIMS belongs to the Washington-based Product Liability Alliance and its government affairs committee will meet this month to work out a position, said Mr. Brown.

Federal product liability legislation failed to survive a filibuster last year, but with both chambers of Congress now in Republican—and presumably pro-business—hands, its prospects seem brighter.

Another federal initiative of interest in RIMS members is workplace safety legislation, particularly reform of the Occupational Safety and Health Administration.

RIMS, like other business groups, opposed union-backed OSHA reform legislation sponsored by Sen. Edward M. Kennedy, D-Mass., and then-Rep. William Ford, D-Mich., in the 103rd Congress.

"We're thankful that bill is dead," said Mr. Brown.

Regarding health care reform, RIMS is "expecting smaller, more technical changes" to the current system than what had been proposed by the Clinton administration.

RIMS, which is committed to maintaining the Employee Retirement Income Security Act in its present form, will track issues involving ERISA, he said.

If it appears that RIMS's legislative agenda is fuller now than it was only months ago, it is no accident.

Ms. Gallagher noted that at an executive retreat last summer, RIMS's leaders agreed that the society needed to be more active in Washington, including using its veteran part-time lobbyist, James McIntyre, more. The leaders also thought RIMS had to broaden its educational efforts at both the federal and state level.

It was to influence the latter area that the group hired Anne Allen as state legislative counsel.

Ms. Allen, the former legislative director for the American Tort Reform Assn. in Washington, describes her job as building communications, identifying the issues most important to individual chapters and building coalitions with other groups seeking the same

goals, and in simply educating chapters about the political process. RIMS also wants to get more involved in Canadian legislative affairs, she added.

"Our biggest function is hooking up people who have the same concerns," said Ms. Allen.

The level of political sophistication among chapters varies greatly. Sometimes, she said, representatives of different chapters within the same state have served on task forces dealing with issues such as workers compensation and have found out only by chance that they both belonged to RIMS.

In other cases, such as a recent campaign against a constitutional amendment in Colorado, RIMS members acted effectively statewide (*BI*, Nov. 14).

"We want to tap into people who are already involved with the political process and get them involved as RIMS," she said.

Not surprisingly, workers comp is high on the list of state issues that confront RIMS chapters, she said. Maintaining and fine-tuning workers comp victories as well as

'Our biggest function is hooking up people who have the same concerns,' says Anne Allen.

examining the impact of issues such as 24-hour coverage are the types of questions with which RIMS chapters will be involved, she said.

RIMS chapters are also monitoring state tort reform questions such as the application of joint and several liability and punitive dam-

ages, she said. State health care reform initiatives interest some chapters, while environmental law application, which Ms. Allen described as "trickle-down in states from Superfund," may interest others.

"We like to encourage that attitude of being part of broader coalitions," Ms. Allen said.

But, broad coalitions or not, RIMS may just not take positions on some important issues.

"We're taking a higher profile while also re-emphasizing the nature of our role. I think it's important to remember that we are both a trade association (and) a professional society. For that reason, and because of the diversity of our membership, you may not find RIMS taking a position on an entire piece of legislation," Mr. Kelly said.

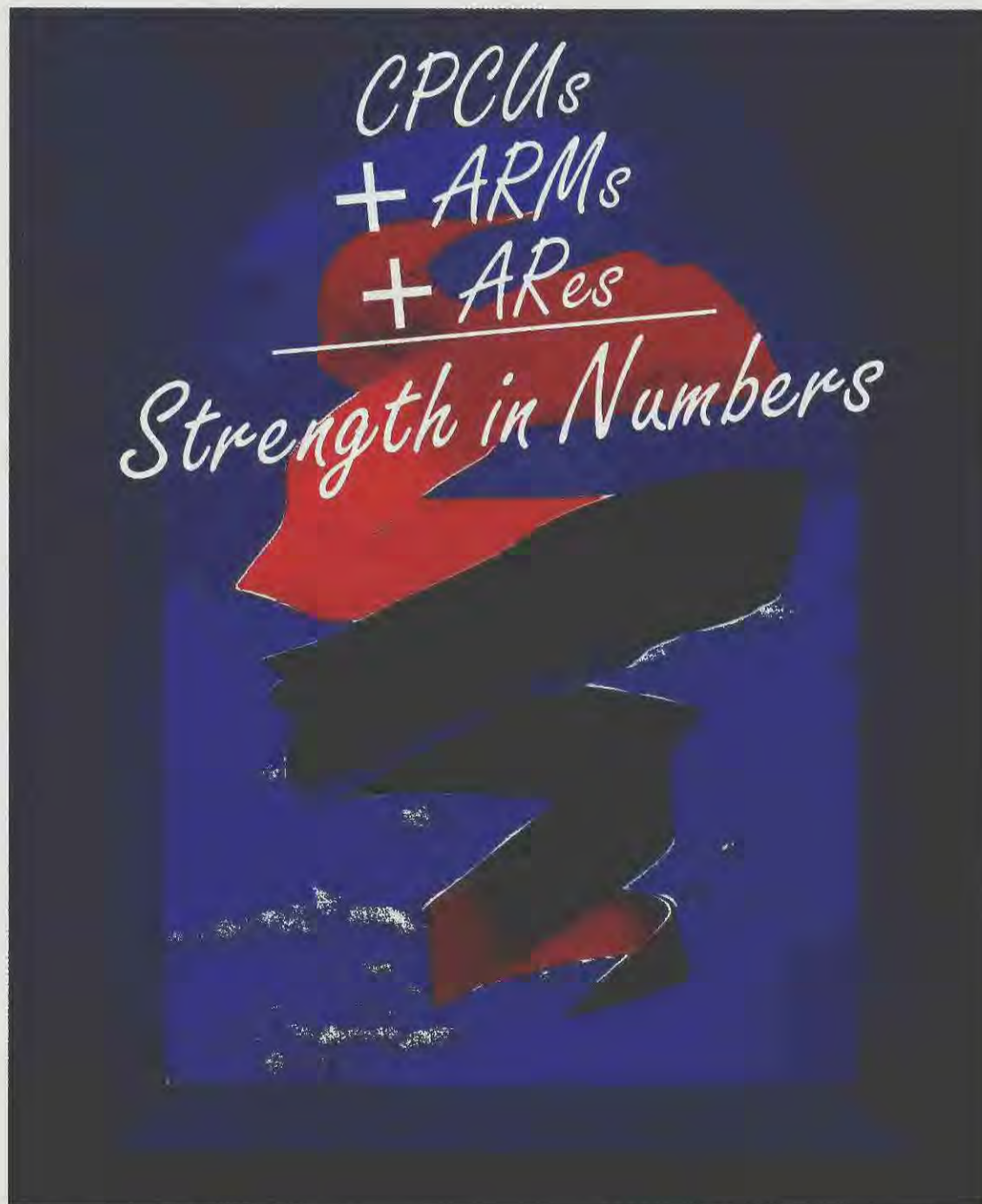
Because the Clinton health plan, for example, would have hurt some

members and helped others, RIMS did not take a position on all aspects of the proposal, said Mr. Kelly.

But RIMS was able to take a position on "something that did no good for any members": opposing a proposed merger of the workers compensation system with a reformed national health care delivery system.

RIMS's newfound commitment to greater visibility in Washington is being welcomed by its potential allies.

As the Alliance's Ms. Rochman put it: "They bring a unique perspective because their members not only have a very good working knowledge of insurance but also are members of the business community. They represent our customers. It's nice to deal with people who represent a different perspective but still speak our language and understand our concerns." **BI**



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Nirtaut joins Arthur Andersen

Dennis J. Nirtaut has been named to the newly created position of managing director, compensation and benefits for Arthur Andersen & Co. S.C.

Mr. Nirtaut, 44, is responsible for managing the compensation and employee benefits programs for Chicago-based Arthur Andersen's 73,000 employees.

He reports to Peter Pesce, managing partner, human resources.

Mr. Nirtaut was previously vp and manager of employee benefits for Continental Bank Corp., which was acquired by Bank America Corp. earlier this year and renamed Bank of America-Illinois.

He earned a bachelor of science degree in human resources from Northern Illinois University in De Kalb and a master of business administration degree from DePaul University in Chicago. He holds the Certified Compensation Professional and Certified Benefits Professional designations.

Mr. Nirtaut is the chairman of the steering committee for the Chicago Business Group on Health and writes the quarterly "Ask a Benefits Manager" column for *Business Insurance*.

Bernard C. Knobbe is the new manager of employee benefits at Morton International Inc. in Chicago.

Mr. Knobbe, 34, is responsible for all welfare and retirement benefit plans for both active and retired employees, including plan design, communication and administration. He replaces Ron Garrett, who left the company in March.

He reports to Christopher K. Julsrud, vp of human resources.

Mr. Knobbe previously was director of employee benefits at Chicago Title & Trust Co.

He holds a bachelor of science degree in accounting from Northeast Missouri State University in Kirksville, and is a member of the International Society of Certified Employee Benefits Specialists and Working in Employee Benefits.

Keith J. Lazarz has been named president of Northern Trust Ser-

Comings & Goings: Buyers

vices Inc., a position in which he serves as risk manager for Northern Trust Corp. in Chicago.

Mr. Lazarz, 45, replaces **Thomas H. Lueck**, who retired. Mr. Lazarz reports to Peter Rossiter, executive vp, general counsel and secretary.

Previously, Mr. Lazarz was vp of Northern Trust Services and before that, he served as assistant treasurer of Chicago Title & Trust Co.

He earned a bachelor of arts degree in management from the College of St. Thomas in St. Paul, Minn., and an M.B.A. from Northern Illinois University.

He is a deputy member of the Risk & Insurance Management Society Inc. and the American Bankers Assn.

Nicholas A. Parillo has been named director of risk management for Columbia Gas System Service Corp. in Wilmington, Del.

Mr. Parillo, 45, is responsible for placement of insurance, risk management information systems and loss control for the diversified energy company. In the newly created position, he reports to Joseph Yandoli, vp of risk management.

Prior to joining Columbia Gas, Mr. Parillo was manager of corporate insurance for Sun Co. in Philadelphia. He has also held positions with Reliance Insurance Co. and Royal Insurance Co. and served on the board of directors of Oil Casualty Insurance Ltd. in Bermuda.

Mr. Parillo holds a bachelor's degree in political philosophy from St. John's University in Jamaica, N.Y. He is an associate member of RIMS.

Lynn M. Abreu has been named risk manager of The Doctors Agency of Washington in Seattle.

In this newly created position, she is in charge of loss prevention for the medical malpractice insurer in the state of Washington. The Doctors Agency of Washington is the local representative for the Doctors Co., the nation's largest professional liability insurance company

owned by member physicians and surgeons.

The insurer provides medical malpractice coverage for about 18,000 U.S. doctors, including about 700 in Washington.

Ms. Abreu reports to Bill Tallyn, vp of risk management in the Doctors Co.'s Napa, Calif., offices.

Prior to joining The Doctors' Agency, Ms. Abreu worked as a trial attorney specializing in defense litigation, including personal injury and medical malpractice. Prior to earning her law degree, she worked as a registered nurse for eight years in Hawaii and the Pacific Northwest.

Ms. Abreu received a bachelor's degree in nursing from Walla Walla College in College Place, Wash., a master's degree in public health and health administration from the University of Hawaii in Honolulu and a juris doctor degree from Willamette University in Salem, Ore.

AIDS suit

Continued from page 3

Slager said employees are told "the chain of command" to go through if problems arise with supervisors and "if they come through the open door (the complaints) will be investigated." The investigation may result in a supervisor's termination or a transfer to another store.

Employees that are uncomfortable going to a supervisor can turn to a 24-hour phone line. This way, complaints can be reported anonymously. Ms. Slager said that LensCrafters employees have used the hot line in the past, and their complaints have been investigated and resolved. She would not comment on the number and type of complaint received.

Another avenue, though one that few employees have actually used, is to seek a binding arbitration agreement from the human resources department.

David G. Yetter has assumed the position of president of Texaco Inc.'s environment, health and safety division.

He is responsible for Texaco's worldwide programs related to the environment, health and safety.

Mr. Yetter, 47, replaced **J. Donald Annett**, who retired after 28 years with Texaco. He reports to James L. Dunlap, newly named senior officer with oversight for several worldwide units.

Mr. Yetter joined Texaco in 1973 as an attorney with the legal department in Los Angeles, where he later served as senior attorney. In 1981, he was appointed senior attorney in Houston and division attorney in 1988. In 1990, he was named regional counsel with responsibility for giving legal counsel and advice to Texaco divisions and departments based in Houston.

In his new position, Mr. Yetter relocated to Texaco's executive offices in Harrison, N.Y.

Mr. Yetter received a bachelor's degree in political science from Occidental University in Los Angeles and a law degree in 1972 from the University of California at Davis. He is a member of the state bar of

In a binding arbitration, both sides present their cases to an agreed upon outsider who then adopts one side's proposed resolution and disregards the other's.

Only about three employees' complaints actually went to arbitration in 1994, Ms. Slager said.

LensCrafters reinforces the policies in several ways. The phone line is advertised on paycheck envelopes and posters in the back rooms of stores advertise the open-door policy, said an optician at a Chicago store.

LensCrafters managers are also involved in the company's anti-discrimination programs. During an orientation, all managers learn what they need to do and whom they need to contact when an employee comes in with a complaint, Ms. Slager said. For instance, managers know they must go through human resources before they counsel or terminate any employee, she said.

Managers also attend a "civil treatment" training seminar that covers issues such as sexual harassment.

LensCrafters goes a step further and monitors its policies and procedures through an employee opinion survey that gives employees yet another opportunity to confidentially evaluate their managers and the company in general, Ms. Slager said.

The survey allows the company "to measure if the store is living up to the company's core values and culture," she said.

Of course, even a careful company can be done in by one supervisor, an employment law specialist points out.

"A company can be the greatest, fairest company in the whole world and still have a supervisor make a mistake," said Karen Ludington, an attorney with Mirick, O'Connell, DeMallie & Lougee in Worcester, Mass.

That is what a former Michigan employee of LensCrafters contends happened at his store.

In April 1994, in one of the few suits to be filed against LensCrafters by an employee, Timothy Hale alleged he was demoted from his position as sales supervisor after he told his supervisor he was HIV-positive and was forced to disclose his illness to co-workers.

LensCrafters denies any wrongdoing but will not discuss the case, which is pending in Ingham

California.

Robert Nio has been promoted to vp, risk management of Hazar Inc.

The San Francisco-based firm leases employees and provides workers compensation insurance, health insurance and payroll and other administrative services.

Mr. Nio, 35, reports to Hazar President S. Cash Nickerson.

He holds bachelor's and master of science degrees in mechanical engineering from Stanford University in Palo Alto, Calif.

Mr. Nio joined Hazar in 1992 as national safety director and developed the company's risk management services group.

Prior to that, he had his own consulting firm where he developed a safety and health program for Amoco Corp.'s laser optics manufacturing facility that was later adopted throughout the company.

We'd like to report on staff changes in your company's risk management, safety and employee benefit departments. Contact Sara Marley, Associate Editor, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590; 312-649-5313. Photographs also are welcomed.

County Circuit Court. Mr. Hale is seeking \$50 million in damages.

Mr. Hale charges that his supervisor, Vickie Jaworski, demoted him because he is a homosexual and harassed him because he has AIDS. After he told her that he had AIDS, Mr. Hale alleges that Ms. Jaworski called the county health authorities, who investigated the workplace and assisted Ms. Jaworski in posting warning notices in the store about blood-borne diseases.

Mr. Hale also charges that Ms. Jaworski notified all management-level and other associates that Mr. Hale had AIDS and then forced him, under the threat of discharge, to inform these people himself that he had the disease.

According to the complaint, after Mr. Hale utilized LensCrafters

'A company can be the fairest in the world and still have a supervisor make a mistake,' says Karen Ludington.

open-door policy and filed a complaint against Ms. Jaworski, he was told to take an unscheduled leave of absence and to use his accumulated vacation leave. Mr. Hale alleges that when he returned to work a couple months later, he was advised he could not work until he accepted LensCrafters' proposed severance pay or relocation offers.

A trial date has been set for June 19.

Meanwhile, experts say that LensCrafters is hardly alone in not buying employment practices liability insurance, but that could be changing.

Given the size of verdicts and the number of employees bringing suits today against their employers EPL coverage is "the wave of the future," said Gerald L. Maatman Jr., an employment law attorney with Baker & McKenzie in Chicago. Currently only a "distinct minority of employers" have purchased EPL coverage, he said.

However, most employers within the last decade have taken a "critical self-examination" to make sure discrimination policies within the company are up to snuff, Mr. Maatman said.

This announcement appears as a matter of record only

American Income
Holding, Inc.

has been acquired by

TMK Acquisition Corporation

a wholly owned subsidiary of

Torchmark Corporation

The undersigned acted as a financial advisor and rendered a fairness opinion to American Income Holding, Inc. in this transaction

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London - New York

October 1994

Principal's CEO named chairman

David Drury, president and CEO of The Principal Financial Group in Des Moines, Iowa, has assumed the additional post of chairman after the Jan. 1 retirement of **G. David Hurd**.

A 40-year veteran of The Principal, Mr. Hurd is a previous president of the Health Insurance Assn. of America and had been chairman of the company since 1989. Mr. Drury became president in 1993.

In other insurer changes:

Klaus Ullmann named chief engineering officer at Arkwright Mutual Insurance Co. in Waltham, Mass.

Farmers Insurance Group announced several new appointments in Los Angeles: **William H. Brad-dock** named executive vp-marketing; **Leonard H. Gelfand** named senior vp-commercial lines operations; **John H. Lynch** named vp-personal lines operations; and **Anthony F. "Tony" Gasich** named vp-life insurance operations.

Leslie D. Inman named vp-group strategic alliances for Ameritas Life Insurance Corp. in Lincoln, Neb.

Jon Gice named executive vp of EBI Cos., the workers compensation insurance unit of Orion Capital Cos., in Milwaukee.

Ronald C. Petrunoff named vp-investor relations for Transamerica Corp. in San Francisco.

John B. DeNault named chairman of 20th Century Industries, succeeding **Louis W. Foster**, who is now chairman emeritus.

W. Preston Hutchings has been named to the new position of vp and chief investment officer of

Comings & Goings: Industry

Hamilton, Bermuda-based Mid Ocean Ltd., effective Feb. 1. He currently serves as a managing director of Butterfield Asset Management.

Albert Mauceri retired as senior vp and chief claim officer of Royal Insurance Co. in Charlotte, N.C., and was named vice chairman of the board.

W. Kenneth Hunt III named president of Liberty Life Insurance Co., a unit of Liberty Corp., in Greenville, S.C. Mr. Hunt was previously president of Liberty Life unit Pierce National Life Insurance Co. He succeeds **Ralph L. Ogden**, who remains president of Liberty Insurance Group.

Robert M. Lally joined Associated Electric & Gas Insurance Services Ltd. in Jersey City, N.J., in the new post of chief investment officer. Previously, he was a portfolio manager and strategist for Metropolitan Life Insurance Co. in New York.

Georgette A. Schaefer named vp-counsel at USLIFE Corp. in New York.

Continental Insurance Corp. announced several new appointments in its Continental Pro division in New York: **Rosemarie Rogers** named vp-specialty errors and omissions; **Jeff Bossart** named senior vp-claims; **Karen Callanan** named chief underwriting officer.

American Bankers Insurance Co. of Florida and American Bankers Life Assurance Co. of Florida, both

in Miami, announced the following appointments: **Sanford L. Neubarth** named senior vp and chief actuary; **Leonardo F. Garcia** named senior vp-corporate planning; and **Dennis J. DiMaggio** named senior vp-government affairs. Mr. Garcia was also named secretary of the parent company, American Bankers Insurance Group.

Donald J. Stoner named vp-assistant treasurer of the Amerisure Cos. in Detroit.

Wilson C. Cooney named president of USAA Property/Casualty Insurance Group in San Antonio, Texas, succeeding **Charles E. Bishop**, who is retiring.

Marc Slutzky named senior vp and actuary at Mutual of America Life Insurance Co. in New York. He was previously a consultant at Tillinghast, a Towers Perrin company.

HMOs/PPOs

Jon Wampler named president and chief executive officer of PacifiCare of California and regional vp for parent company PacifiCare Health Systems Inc.' Western region in Cypress, Calif. Mr. Wampler succeeds **Jeff Folick**, who resigned from the managed care company in November but then rejoined PacifiCare this month as executive vp and chief operating officer of PacifiCare Health Systems Inc.

Also at PacifiCare, **Richard Lipeles**, co-founder and executive vp, announced he will retire in November 1995. He plans to remain a consultant and director upon his retirement.

Dr. Jeffrey A. Rideout named medical director of group and network services at WellPoint Health Networks Inc., a Woodland Hills, Calif.-based managed care organization majority-owned by Blue Cross of California.

Dr. Samuel W. Warburton Jr., named senior vp and chief medical officer at Sanus Corp. Health Systems, a Fort Lee, N.J.-based HMO subsidiary of New York Life Insurance Co.

Bonnie Davis Tabor joined HealthAmerica of Central Pennsylvania as general manager-provider relations in Harrisburg. Previously, Ms. Tabor was managed care programs director for Pennsylvania Blue Shield.

John D. Jones named director of contracting and compliance for Prescription Solutions, the pharmacy benefit management subsidiary of PacifiCare Health Systems Inc. in Cypress, Calif.

Agents/brokers

James R. Swearingen joined Sedgwick James of Connecticut Inc. as managing executive of the Stamford, Conn., office. Previously, Mr. Swearingen was a branch manager at Northbrook Property & Casualty Insurance Co.

Sharon A. Dowis named vp and **Joseph B. Inge** named vp-major corporate accounts at Johnson & Higgins in Costa Mesa, Calif. Also at Johnson & Higgins, **W. Kingsley Flynn** named manager of the firm's Hartford, Conn., office and execu-

tive vp of its retail subsidiary.

Bruce J. Eberly joined the San Francisco office of Rollins Hudgins Hall as a senior vp. Previously, Mr. Eberly was director-corporate risk management and insurance for Syntex Corp., a Palo Alto, Calif.-based pharmaceutical manufacturer.

Reinsurance

Kenneth J. Rutkowski named executive vp with overall responsibility for the treaty and facultative operations at The Mercantile & General Reinsurance Co. of America in Morristown, N.J. Previously, Mr. Rutkowski was senior vp of U.S. Reinsurance Corp.

Richard E. Cartland joined Discover Re Managers Inc. in Farmington, Conn., as senior vp-underwriting. Previously, he was vp-underwriting in Aetna Life & Casualty Co.'s national commercial account unit.

Stephen J. Bodnar named vp of the treaty underwriting department at National Reinsurance Corp. in Stamford, Conn.

Peter M. Wallner joined the Dallas office of intermediary Sedgwick Payne Co. as senior vp-treaty producer focusing on new business development. Previously, Mr. Wallner was senior vp and director of Ranger Insurance Co. in Houston.

James C. Hooban named vp at Am-Re Managers Inc., the Princeton, N.J.-based unit of American Re-Insurance Co.

James W. Canfield, **Wilma J. Davis** and **Douglas M. Holaday** named vps in the Stamford, Conn., office of General Reinsurance Corp. In addition, **Leslie F. Howell** named vp in the Chicago office of Gen Re. ■

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GLOBAL FOCUS

Global Focus will appear six times in 1995 as a regular section distributed exclusively to non-U.S. subscribers. It will address the specific risk management and employee benefits concerns of executives in countries other than the United States.

PUBLISHING DATES AD CLOSING DATES

February 13 February 1

April 10 March 29

May 29 May 17

August 28 August 16

October 2 September 20

November 6 October 25

Britamco opens London office

Illinois Insurance Exchange syndicate Britamco Underwriters Inc. has opened a London office to solicit marine-related business.

Britamco will provide capacity for boat dealers, charter and excursion boats, commercial vessels hull and protection and indemnity, excess P&I, marinas, marine contractors, ship repairers, terminal operators and wharfingers.

Depending on the coverage desired, Britamco will provide liability limits of up to \$1 million. Specific information on terms and conditions can be obtained by calling Stanley Chard at Equistar Management Co. in London, 071-680-1016.

Britamco is one of 11 underwriting syndicates making up the

Markets

Chicago-based IIE (BI, Sept. 26).

PacifiCare deals

Prescription Solutions Inc., the pharmacy benefit management subsidiary of PacifiCare Health Systems Inc., has signed an agreement to acquire San Jose, Calif.-based pharmacy benefit manager Preferred Solutions.

The acquisition of Preferred Solutions, which has nearly 1 million members across the country, will give Prescription Solutions a total of more than 3.5 million lives covered.

Terms of the transaction, which is subject to shareholder approval, were not disclosed.

Meanwhile, Cypress, Calif.-based PacifiCare of California, a PacifiCare health maintenance organization subsidiary, has announced its intent to acquire the membership of ValuCare, a 61,000-member HMO owned and administered by Priority Health Services of Fresno, Calif.

The transaction is subject to federal and state approval, and terms were not disclosed.

Governmental programs

U.S. Risk Insurance Group Inc. of Dallas has formed a new governmental programs division.

The new division, part of subsidiary U.S. Risk Underwriters Inc., specializes in underwriting law enforcement liability, public officials liability, school board legal liability, 911 emergency dispatch agencies errors and omissions, and a program for privately owned detention facilities.

Limits of up to \$5 million are available and each line of business is written on broad, comprehensive forms. The law enforcement liability coverage is written on an occurrence form while the other liability lines are on a claims-made basis.

The programs are being marketed through local agents and brokers.

The underwriting manager places the coverage with Acceptance Insurance Co. in most states and Northland Insurance Co. or Northfield Insurance Co. in Indi-

ana, Kansas, Massachusetts, Michigan, Minnesota, Missouri, New York, North Carolina and Vermont.

An alternative program, written by Lloyd's of London underwriters, is available in most states.

The new division will be managed by James W. Chapman, executive vp. For more information about the governmental programs division, call Mr. Chapman or Kevin Mabus, the division's sales manager, at 800-232-5830.

CNA reorganizes units

The CNA Insurance Cos. have formed a single health care business unit to meet the professional liability needs of health care providers.

The new organization, CNA Health Pro, consolidates three

Continued on next page

Pru Re

Continued from page 3

dential hopes market conditions will allow it to go ahead with the sale in 1995.

Prudential will remain a major shareholder in the reinsurer after the IPO, Mr. Taranto said.

Pru Re, the sixth-largest U.S. reinsurer, has performed poorly of late. In the first nine months of 1994, it recorded a net loss of \$3.8 million on net written premiums of \$567.2 million.

To ensure profits over the long term, the new CEO favors emphasizing specialty casualty business over general property/casualty risks.

"It is only the intelligent competition that can do it long term, and that makes it a much more reasonable marketplace," he said of specialty lines. Large losses effectively drive out reinsurers that try to write the business at inadequate rates.

While specialty casualty lines are competitive, rates in those lines are still better than general liability business, Mr. Taranto said. "You can make a reasonable profit to the degree that you pick the right spots."

That means selecting the right types of business and the right companies to reinsure. Some areas of directors and officers, errors and omissions, and environmental insurance are reasonably rated, and some insurers underwrite the business better than others, he said.

"Over the past 25 years, Prudential Re has built up a great business, and a lot of that busi-

ness has been with small regional companies. We want to take that and add more specialty business, so we have customers running from small regional companies to mega companies with specialties," Mr. Taranto said.

The specialty lines that Prudential Re will expand include E&O, D&O, medical malpractice and environmental liability, he said.

Currently, those lines account for less than 20% of Prudential Re's U.S. casualty business. Mr. Taranto says he is not aiming for any specific target in the future.

The E&O and D&O business will be concentrated on architects and engineers, real estate agents and insurance agents, Mr. Taranto said.

"We'll look at lawyers and accountants but that is tough," he said.

Generally, though, it is the tough lines of business that Mr. Taranto likes.

"I've always liked those types of classes. If you have the right people, you can do it well and make a nice profit. If not, you get hammered and get out," he said.

One of the major direct specialty insurers is AIG, which is also the largest shareholder in Transatlantic, Mr. Taranto's former company. Prudential Re will seek to establish relationships with AIG and many other specialty carriers, he said.

Mr. Taranto has already begun recruiting new people to help achieve his goals for Prudential Re.

So far he has hired three people from Transatlantic: one D&O and E&O treaty underwriter who will underwrite facultative and treaty

business; a property treaty underwriter; and a data processor.

Although Prudential Re is already expanding its specialty writing during year-end renewals, the main growth in these areas will occur over the next three years, Mr. Taranto said.

The reinsurer will also expand internationally, he said.

"Currently about 30% of the business is non-U.S., and that is good because the world is becoming more of a global marketplace and you need to give customers a global package... we want to build on that," Mr. Taranto said.

Prudential already has a high-quality book of Latin American

Re's business will be in an expansion phase.

The mainstream property/casualty insurance market in the U.S. continues to be highly competitive, Mr. Taranto noted.

"In the non-catastrophe area, there's very little you can do as a reinsurer or insurer if rates are 20% short of what they should be, so we may end up doing less of that business in the short term," he said.

General casualty business is also extremely competitive, and while Prudential Re will continue to support its long-term customers, it is not likely to expand this book, Mr. Taranto said.

Prudential Re has performed poorly of late. In the first nine months of 1994, it recorded a net loss of \$3.8 million on net written premiums of \$567.2 million.

business, he said.

"It is mainly property reinsurance, and it is much better rated than in the U.S., so we will continue to grow in Latin America," Mr. Taranto said.

In London, the hard market is at its tail-end, he said.

However, marine business is still profitable, and Prudential Re will probably increase that line of business a little, Mr. Taranto said.

In Canada, "property rates are moving north and there are some selective pockets in Canada where we can expand," he said.

But not every area of Prudential

Overall, Prudential Re will focus on bottom-line growth and becoming more cost-effective, he said.

"We'll spend what we need to spend, but we'll be taking a long hard look at expenses," Mr. Taranto said.

Some employees will be laid off, though Mr. Taranto said he had no job reduction targets.

"We have to assure ourselves that future contributions will be there to warrant the positions, and there are some areas that were needed in the past that will not be needed in the future," Mr. Taranto said.

When the IPO eventually happens, Pru Re should be an attractive investment, he said.

He hopes to repeat his success with Transatlantic, which went public at \$27 per share and is now trading at about \$56.

Public ownership lets employees see the company as a distinct entity and regard it more as their own, and opportunities arise to reward employees with stock as well as salary, Mr. Taranto said.

Public ownership also brings challenges.

"Suddenly you are into quarterly earnings and visions of the future, so you have to make sure that you are profitable and a forward-thinking company," he said.

Prudential Re's course won't be straightforward, but having Mr. Taranto at the helm is a huge advantage, observers say.

"He is extremely well qualified and he did a good job running Transatlantic," said Michael Smith, an analyst at Lehman

Bros. in New York.

He was disciplined in soft markets and ready to pounce when markets turned in Europe and in the United States after catastrophes, Mr. Smith said.

Mr. Taranto is also right to select specialized lines as an area of expansion, Mr. Smith said. It is the more complex specialty lines that draw people into the broker market, so "simple risk transfer won't pay off," he said.

Having the right people is fundamental in successfully reinsuring specialty business, noted Seth D. Freudberg, president and CEO of surplus lines insurer United National Insurance Co. in Bala Cynwyd, Pa.

"If he is going to succeed, he is going to have to have a team with him that has expertise in the business. If they can speak the same language as the insurers, it will make it that much easier to get the orders," he said.

Another insurance executive and former associate of Mr. Taranto was full of praise for the Prudential Re chief. "He's really a great guy; smart, energetic, a good business man and he has got good underwriting savvy," he said.

However, transforming Prudential Re will not be a simple job, he added.

"He has staffing issues. He has a lot of people there but not many of the ones that he will need to do what he wants to do," the executive said.

In addition, Prudential Re is one of several companies that are interested in expanding their specialty casualty business, said Mr. Freudberg of United National.

That added capacity is softening the market, he said.

"Reinsurance for specialty lines is already softening and Prudential Re could soften it further," Mr. Freudberg said.

The reinsurers that will make it in specialty lines over the next few years will be ones with good security, sufficient capacity and the right expertise, said Dennis B. Zettervall, chairman and CEO of Hartford Reinsurance Co. in Hartford, Conn.

"We will see more business going to better capitalized and stronger companies," he said.

There also should be increased business for U.S. reinsurance carriers as the troubled Lloyd's of London market writes less U.S. casualty business, Mr. Zettervall said.

Whether Prudential Re will pick up more of that business will depend on its capital structure after the IPO, he said.

"They will be losing the full support of the parent, so people will have to look at it again from a security perspective," he said. ■

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Agent/Broker Topics

A monthly editorial section sent exclusively to agents and brokers



U.S. agents and brokers see opportunities in following their clients to such foreign markets as Japan (above) and Mexico (right).

Global brokerage firms anxious to increase presence in Japan

Market reforms seen in 1995, but pace of change likely to be slow

By MICHAEL SCHACHNER

After decades of pushing for free access to the world's second-largest non-life insurance market, global brokers should see their efforts rewarded next year when Japan greatly liberalizes its insurance laws and regulations.

Sometime during the first half of this year, the Japanese Diet is expected to pass legislation that will, among other things, open up Japan's insurance system to foreign brokers beginning in 1996. The desired effect, according to the Japanese government, is the creation of an insurance marketplace that will diversify delivery systems and promote sales competition within a traditionally closed market.

Major U.S. brokers with global operations say they are ecstatic about the October signing of a market reform agreement by U.S. Trade Representative Mickey Kantor and Japanese Ambassador Takakazu Kuriyama. The agreement sets the framework for the most significant changes in Japanese insurance laws this century.

But, while foreign brokers say they are eager to operate more freely in the world's largest untapped market, they remain conservative in assessing the business opportunities that will exist under new Japanese laws. Just because Japan is taking steps to de-

regulate and open up its insurance market to brokers does not mean that a change in business culture and insurance buying practices will occur as quickly, brokers warn.

In addition to introducing a brokerage system for the purpose of providing Japanese insurance consumers with more options and advice about insurance products, the precedent-setting agreement on insurance deregulation signed by Messrs. Kantor and Kuriyama calls for the multistage liberalization of commercial insurance product rate and form regulations.

Rate and form deregulation, brokers have long said, is imperative to a new and improved Japanese commercial property/casualty insurance market and to foreign brokers' success. Maintaining the current system of tariff-based pricing and heavy restrictions on which products can be sold would greatly limit opportunities for global brokers and insurers.

However, brokers also point out another possible barrier to immediate success in Japan: There is no timetable for deregulation. Therefore, it is quite possible that real business opportunities may not present themselves for several years after passage of the legislation.

"With no genuine timetable for deregulation of rate, rule and form, this means nothing," noted Henry G. Parker III, an international consultant to Chubb Corp. in Warren, N.J. "The only way brokers can com-

pete in Japan is for them to unlock rate and form. That should happen, but when?"

That is uncertain, but brokers eventually hope to derive sizable brokerage commissions and bring value-added services to Japanese companies to which they never had access under Japan's outgoing system. Brokers currently function as agents of domestic companies, only able to service the Japanese-based operations of their multinational clients.

"Japan is the second-largest non-life market in the world. We very much want to see an open market by 1996, and eventually one that resembles Europe's, where there is no regulation of rate and form beyond solvency regulation," said Christopher Collins, head of Marsh & McLennan Cos. Inc.'s Japanese operations in New York. "Passage of this legislation by the Diet will significantly liberalize Japan from its current level."

Why global brokers want to take a shot at a deregulated Japanese insurance market is obvious when one looks at the premiums it generates.

Swiss Reinsurance Co., in its most recent annual survey of global insurance premiums, estimated that Japan's non-life market produced \$100.6 billion in premiums in 1993,

Continued on page 12G

Cross-border alliances help U.S. brokers serve clients entering Mexico

By ROBERTO CENICEROS

While large brokers have spent millions of dollars to establish footholds in Mexico, smaller, independent producers can catch up by forming alliances with counterparts south of the border.

Some immediate opportunities lie in following domestic clients as they expand south, insurance experts agree. In the wake of liberalized trade and the North American Free Trade Agreement, observers foresee a growing market of small and medium-sized U.S. companies opening manufacturing, distribution and sales operations in Mexico.

The effect of the recent surprise devaluation of the peso on business remains to be seen. Observers say a weaker peso could mean lower labor and property for brokers' clients. But, a devalued peso could

also mean Mexican consumers will be less likely to spend money on products and services.

But, the opportunities are accompanied by pitfalls for newcomers that lack business contacts and familiarity with the terrain. For example, one way a broker can blunder is by placing coverage for clients with a Mexican insurer that may be incapable of paying claims.

One problem is that basic financial information on Mexican companies is not readily available. For example, insurer rating agency A.M. Best Co. of Oldwick, N.J., does not provide ratings for Mexican insurers. At the same time, the Mexican government does not allow foreign insurers to underwrite risks in Mexico. The easing of trade restrictions does allow U.S. and other insurers to form joint ventures with Mexican insurers, but for now the ventures must be majority-owned by Mexican companies.

But, independent producers too shy to find coverage for a client's Mexican operations could lose that customer's domestic business to a larger broker capable of finding in-

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Anne Rippe/The Image Bank

Mexico

Continued from previous page
 surance in both countries, said Henry G. Parker III, former chairman of the American Insurance Assn.'s international committee and international insurance adviser to Warren, N.J.-based Chubb Corp.

Combining domestic and international coverage is the wave of the future, Mr. Parker said. He estimates U.S. insurers stand to reap 10% of Mexico's insurance-market growth—which is expected to become a \$50 billion entity over the next 10 years.

He recommended identifying clients with Mexican exposures and checking with the state Chamber of Commerce to see which firms intend to expand operations there.

Then there is the task of obtaining

insurance coverage for those risks.

Mr. Parker said Chubb and other insurers, as well as the alphabet house brokerages, provide or place coverage in Mexico through their alliances and partnerships with Mexican insurers and brokers.

Independent brokers can seek help from a large broker in tapping the Mexican market, but doing so in effect gives a competitor a look at their book of business.

Fortunately, independent brokers have another option that can provide competitive quotes while screening insurers. Although limited in number, there are brokerages with solid reputations that specialize in working with U.S. producers seeking to help a client expand to Mexico.

Ribbens International, for example, is a Tijuana-based operation that typically offers U.S. brokers 30% of

the commissions it earns from Mexican insurers.

To make life easier for U.S.-based brokerages, Ribbens offers a San Diego telephone number and transcribes Mexican policies from Spanish into English. The brokerage specializes in assisting the clients of U.S. producers, said founder Peter Ribbens, who teaches courses on the Mexican insurance market for the Society of Certified Insurance Counselors and the Insurance Brokers & Agents of the West, the organization that emerged from the consolidation of the Independent Insurance Agents & Brokers of California and the Western Assn. of Independent Insurance Brokers & Agents.

Forming partnerships with brokers specializing in Mexican coverage limits its producers' worries about losing clients to a larger broker.

"We are not licensed in the United States as brokers, neither do we want to be," Mr. Ribbens says to his U.S. counterparts. "You are my client. I'm not going to compete with my client. If you lose an account, I lose that account."

He can help steer a business away from potential trouble and point out existing coverage differences.

"There are so called 'all-risk' insurance policies from Mexican companies, but they are not as broad as they are in the United States," he said. "It's called all-risk, but it can be just (a fire policy)."

There are also other needs. "By law, (Mexican) workers must be paid in cash weekly," said Allan Brumly, a producer with May & Associates in Harlingen, Texas, who has helped his clients insure their manufacturing operations across the bor-

der. Payroll robberies are not uncommon in Mexico, he said.

Ribbens helped him obtain monies-and-securities insurance to protect his clients' payroll.

Regardless of the industry, establishing close business relations is a must in Mexico, observers agree.

Failing to follow that fundamental advice can be especially problematic for brokers, advises John Edelman, senior vp of international consulting services for Bain Hogg Robinson.

A number of brokerages are selling themselves as experts in the Mexican insurance market, yet their degree of sophistication varies, he said.

Accompanying that rise has been an increase in policyholders running into problems because their coverage is inadequate, he said.

"It's the middle-size and smaller firms that are getting hurt and it's a significant impact on them," he said.

The large brokerages expend significant energy scrutinizing Mexican insurers and their ability to adequately cover risks, Mr. Edelman said. For smaller brokers, he advises checking the references on brokers and insurers that may be potential partners.

Obtaining the right Mexican insurer is critical for obtaining additional layers of coverage, such as difference-in-conditions policies, experts advise.

And, independent producers who subcontract a client's business to another broker are exposing themselves to lawsuits in the event that a disgruntled customer finds they are underinsured, said Portland, Ore., attorney Thomas Gordon, who represents agents and brokers in errors and omissions cases.

Mr. Ribbens agreed there can be gaps in agents' E&O coverage when they conduct business in Mexico. But, producers can transfer their risks by obtaining "agent of record" letters, which Mr. Ribbens provides. These letters certify that Mr. Ribbens' firm is the broker on the risk.

Meanwhile, many agents are asking about the Mexican market but are uncertain how to approach it.

"I don't want to be last in the race," said Ralph Koe, a broker with Koe & Associates in Oakland, Calif. "You don't just wait for the market to come to you. You have to go to the market."

Mr. Koe said he is trying to learn as much as he can about Mexico. He figures any day, the Silicon Valley computer firms that are his clients will ask him for help finding insurance in Mexico. But, when he contacted a brokerage in Mexico City to ask if it needed help placing business in the United States, the response was a lukewarm, "wait and see."

That might be because many of the companies that are moving north are huge companies with plenty of political and economic clout. Their insurance is already in the hands of the big brokerages and insurers, he said. ■

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European explorers were stunned by the wild beauty of Washington State's San Juan Islands and Puget Sound.

Errors found in articles

Two recent *A/BT* articles erroneously reported that National Assn. of Professional Insurance Agents chapters in Kansas, Michigan, Minnesota and Oklahoma had renewed their ties with the PIA national group.

Instead, new state associations have been formed and chartered with the PIA, including: the Assn. of Professional Insurance Agents in Michigan; the Professional Insurance Agents of Minnesota; the Kansas Assn. of Professional Insurance Agents Inc.; and the Professional Insurance Agents of Oklahoma Inc.

Brokers find opportunities in professional sports

By **RODD ZOLKOS**

With the owners of many professional sports franchises also involved in other major business enterprises, it seems logical that they'd recognize opportunities to apply the same sort of risk management techniques to their teams that their other businesses use.

Indeed, some brokers doing business with those teams have found opportunity in developing sports specialties that help those teams upgrade the quality of their risk management and reduce their costs.

And, over the past few years, the opportunities to cut costs by utilizing some of the services those brokers offer have gotten the attention of ownership.

"I think over the past seven or eight years the teams really have gotten more sophisticated in terms of working with the insurance carriers," said John Henderson, president of L.A.Xcess Insurance Brokers Inc. in Carlsbad, Calif. "They're starting to run it like a business, which is good."

"As the costs have gone up and the number of claims have perhaps increased, they are now becoming aware of the need to control the workers compensation for their baseball teams as well as they do for their other entities," said Timothy Kenny, who until a few months ago was a key part of a developing sports practice at Near North Insurance Brokerage Inc. in Chicago before leaving to join The Wyatt Co. in San Francisco.

Working for teams like the Chicago White Sox, the Milwaukee Brewers, the New York Yankees and the Atlanta Braves, Near North provides claims and loss control services, helping the teams control liability exposures and reduce costs.

Working with several teams puts a broker like Near North in the position to see what different teams are doing well and share that information with others.

For many years, though, that was contrary to the confidential approach team owners took to their insurance programs.

"A lot of the teams realize that now, that it's not competition, it's good business sense to share information," said John Tinseth, an account executive at Near North. That change has prompted Near North to compile a data base to track claims.

With slip and fall claims and occasional security-related claims representing most teams' typical general liability claims, a general liability information data base would allow a team to compare its experience with slips and falls, for example, to the industry average.

"All this really is focused on managing claims," said Joseph Zinnecker Jr., vp/loss control services at Near North. "Another reason I think this is really successful is that baseball is tightening down its expenses."

Beyond working with teams on their general liability exposures, Near North found it could offer value-added services to its Major League Baseball customers by helping them rein in workers compensation costs.

The most frequent workers comp exposure baseball teams face is from injuries to players at their minor league teams. Major league players' contracts typically provide for them to continue at full salary during an injury, though Mr. Kenny said teams have seen an increase in players trying to claim permanent disability for career-ending injuries at the major

Developing a sport specialty pays off for brokers—and their clients

league level.

"A lot of the time what we're seeing is somebody filing a claim after they're retired and they're trying to claim cumulative trauma over their entire careers," he said.

Injuries to teams' administrative staff or other personnel follow the lines of more traditional workers comp cases, "especially with ground-keepers. You can run into some pretty substantial kinds of back injury claims."

Near North helped the White Sox develop a much tighter claims management program, including a computer claims tracking process. Mean-

while, they developed a workers compensation training seminar for trainers.

"They are the actual eyes and ears of the organization when it comes to player injuries," Mr. Kenny said. At the same time, though, "A lot of these trainers have probably never seen how much money is at stake in the whole workers compensation deal," he said.

The seminar's aim was to promote timely reporting and to help the teams' trainers determine what injuries and conditions were baseball related and which were more appropriately covered under the team's

health care coverage. As Near North subsequently picked up the business of the Braves, Brewers and New York Yankees, the broker started doing similar seminars for those teams.

The Near North approach to helping teams control workers comp costs emphasized the importance of identifying players injured during the season with an eye toward controlling their medical care in the off-season and discussed ways to monitor injured minor league players during the winter months to make sure that they stay on their treatment programs.

With players frequently moving



from team to team, it also stresses the importance of identifying with which team an injury occurred, using player entrance and exit medical exams and detailed injury logs to identify injuries that occurred elsewhere or over the off season.

And, on a less pleasant front, it focused on the importance of identifying players who medically will never

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Agents, brokers tapping into Internet opportunities

By SALLY ROBERTS
and GAVIN SOUTER

Whether it is for electronic mail, information retrieval, product order placement or service delivery, the Internet could well become the medium of choice in the future for conducting business.

With tens of thousands of users worldwide, this network of networks is becoming a source of new business opportunities for insurance agents and brokers.

At the moment, however, intermediaries are just beginning to drive down the information superhighway, with most initially becoming Internet subscribers just for the electronic mail function. Some are looking to the Internet to gain quick access to a wealth of information, while others are looking to provide online services. Still others are waiting for security issues to be resolved before they subscribe.

Sports

Continued from previous page
be able to play baseball again, and preparing them psychologically to accept that reality.

Much of L.A.Xcess's sports business is with teams in the National Football League, among them the Los Angeles Raiders, New England Patriots, Washington Redskins, New York Jets and the expansion Jacksonville Jaguars, and that brokerage also has focused on helping professional sports teams control workers comp costs.

"The workers comp is very critical obviously because the prices just keep going up and up," Mr. Henderson said. His firm also works closely with team doctors and trainers in the effort to control workers comp costs. "You have to work hand in hand with them to get those claims down," Mr. Henderson said.

Dealing with other coverages as well, including teams' property/casualty, auto and spectator liability, L.A.Xcess finds business opportunities in pointing out other ways football teams as well as their clients among professional baseball and basketball teams and stadium operators can control insurance costs.

"We get very involved with the contracts of just about everything you can think of, from the security to concessions to the doctors," said Mr. Henderson, noting the broker has a loss-control attorney go over those contracts "to try to lay the liability where it belongs."

L.A.Xcess encourages the teams it works with to take large self-insured retentions—typically from \$250,000 to \$1 million—on their medical insurance programs. "It works out nice because they care about it, they're not just going first dollar paying the claims," Mr. Henderson said.

And the team's willingness to take a more sophisticated approach to managing insurance costs again offers evidence of the opportunities for brokers that develop sports specialties.

"They'll take a lot of the risk as well as the carrier," Mr. Henderson said.

"It's more of a partnership with the insurance carriers now." ■

NEW Business Opportunities

"Everybody is enamored with the Internet and what information they can find on it, but (agents and brokers) have had a hard time figuring out what business opportunities it can provide," said Gene Hengel, director of strategic technologies for the Insurance Value Added Network Services Inc. in Tampa, Fla.

"The Internet is a good vehicle

to get one's capabilities in front of anyone on the Internet," said Ellen Hoeg, manager of marketing development for the insurance industry in North America at International Business Machines Corp. in Armonk, N.Y.

It is only a matter of time before customers will prefer to sit at home in front of their personal computers and navigate through their insurance options on the Internet, she said.

"Electronic commerce is key to business success in the future," Ms. Hoeg said. Insurance agents and brokers are starting to figure out that the Internet provides "an opportunity for them to have an-

other way to communicate with the ultimate clients," she said.

But, right now, there is a lot of experimentation going on, so it is hard to know if one's target market is actually on the Internet, Ms. Hoeg said.

"The best way in which insurance brokers could use the Internet would be as a promotional or informational medium at this point," said Michael Rinzel, an online analyst at Jupiter Communications Co. in New York.

Brokers could put information onto the system with more graphical input than might be included in print, Mr. Rinzel said.

"You could put up a page with

all sorts of information about who to call and where to go, backed up with charts and data, which you might not be able to put in a brochure," he said.

In the next two months, all Willis Corroon Group employees will be connected to the Internet, allowing everyone to send E-mail messages to clients and suppliers around the world, said Vincent Culhane, chief executive officer of the broker's U.S. information services division in Nashville, Tenn.

Currently, Willis Corroon clients have access to the broker's own computer system, which has an E-mail function, but after clients

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Continued from previous page
started inquiring if Willis Corroon was on the Internet and a client survey was conducted, the broker decided to become a subscriber, Mr. Culhane said.

The E-mail function on the Internet "is easier access for clients and it's something many are already familiar with," he said.

Within the next four months, the broker will provide its U.S. employees additional interactive information on the Internet, Mr. Culhane said.

Such Internet resources as the World Wide Web will provide brokerage employees fast and easy access to worldwide information. For example, at the touch of a button, a broker can access and research information on a company's specific risk or exposure, he said.

The next step for Willis Corroon, Mr. Culhane said, is to start making those services that currently are available to clients on its own system available on the Internet.

For example, Willis Corroon offers a service called "country information" that provides trend data on a specific country, including recent legislation passed or current exposures plaguing corporations, he explained. Soon, this information will be accessible on the Internet anytime of the day to anyone interested.

While providing its services online is not a direct prospecting tool, it does open the possibility of gaining clients, Mr. Culhane said.

While Alexander & Alexander Services Inc. does not use the Internet at the corporate level like Willis Corroon, several individuals at

A&A have access to the network, which helps to simplify the process of gathering information, said Kenneth Schneider, senior vp at A&A and a director of AlexEnvironmental in New York.

Information useful to brokers on the Internet runs from train timetables to Environmental Protection Agency databases, Mr. Schneider said.

"It gives you access to incredible amounts of information," he said.

And, that information can be accessed quickly. For example, when trying to obtain information from the EPA, brokers previously would have to go through the sometimes laborious route of tracking down the right department on the telephone. Now, they can access it in minutes on the Internet, Mr. Schneider said.

Internet also helps brokers contact experts in a given field when they are conducting client research, he said.

"There are numerous discussion groups that are business and environment-related, so rather than just having contact with a pocket of people in New York, you can contact two or three hundred people all over the world," Mr. Schneider said.

And, the Internet makes communication with existing contacts in difficult-to-reach areas easier, he said.

"I have communicated with an environmental expert in Russia on the Internet, and it is much cheaper and easier than using the telephone. We had a client who had questions on environmental issues there and he was able to fax

us some articles and answer some questions about the law," Mr. Schneider said.

At Sedgwick James Inc., "there are all sorts of opportunities (on the Internet) that we've started to focus on beyond the communications aspect," said Gary Lasko, director of information technology for Sedgwick in Memphis, Tenn.

Currently, Sedgwick subscribes to the Internet to take advantage of its worldwide E-mail function. But, the broker is now looking to expand its network opportunities. Sedgwick's risk control engineers and claims consulting people, for example, are looking at the World Wide Web to obtain worldwide information and research, Mr. Lasko said.

While some of the world's largest brokers are looking into Internet, the world's largest broker is a little apprehensive.

Marsh & McLennan Cos. Inc. has access to the Internet through a third-party gateway provider for security reasons, said Ezra Wohlgemuth, senior vp-planning and technology.

"We need to have some protection because of the uncertainty about things that can and cannot go wrong with the system," he said.

By using a gateway provider, M&M protects itself against viruses entering its own system and computer hackers getting into its system, Mr. Wohlgemuth said.

"We want to make sure that we protect the trust that our clients put in us, and we don't want to put it at risk just because there is new technology available," he said.

M&M will maintain that stance for at least the next two years. Only if the Internet improves its security system will the broker opt for direct access, Mr. Wohlgemuth said.

The amount of information available on the Internet would also have to increase before the Internet would be widely used within M&M, he said.

Currently, the Internet provides little information that is not available through M&M's own network, Mr. Wohlgemuth said.

"There is no sole proprietary information that is only in the Internet," he said.

The broker is still putting its own computer network system in place, but by the middle of 1995 all of its U.S. and overseas offices should be connected and able to consult with each other and exchange information, he said.

"They will have access to all of the offices and to clients so they can share information among each other... We rely mainly on our internal knowledge base," Mr. Wohlgemuth said.

Security is still a major issue for many companies, including agents and brokers, consultants say.

When a company starts communicating over a worldwide network, the information it sends out may be intercepted by unintended users, like computer hackers or competitors, for example. For that reason, agents and brokers may be hesitant to send price quotes or other financial information on the network.

There is a lot of added infrastructure that needs to be provided on the Internet before any transactions can be done securely, said IBM's Ms. Hoeg.

But, if a broker wants to get information about the company out to as many people as possible, the Internet is the way to go, Ms. Hoeg said.

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Agents, brokers fight to maintain role

Some health reforms would cut them from market

By SARA MARLEY

Health care reform proposals in 1994 threatened agents and brokers' role in selling health insurance, but those producers are not giving up the fight to maintain their business.

"There's no doubt that Clinton's, Gephardt's and Mitchell's (proposals) diminished the role of the agent," said Jay B. Grant, president of the National Assn. of Health Underwriters.

But, near the end of the debate,

proposed federal legislation like the House mainstream coalition bill and Sen. Phil Gramm's proposal "called for voluntary alliances. Agents' position was not diminished."

Although the congressional leadership has changed, "we are advocating the same things as last year. The government should not regulate an individual's right to choose an agent or adviser," said Mr. Grant, a former independent agent who is now vp of PacificCare Health Systems Inc. in Seattle.

While he thinks the incoming Republican-led Congress will be more successful in passing health care re-



form, Mr. Grant realizes the executive branch will still play an important role.

"I wrote the president to offer the olive branch," Mr. Grant said. "I told him we have more in common, not less."

NAHU's position is that health care must be affordable and accessible. Employers and individuals should also be able to choose the agent, plan and insurer.

"You can't replace what the agent does," Mr. Grant said. "Health care is complicated and it's getting more complicated, not less."

Employers will not get the same level of service from a government agency or telephone system that they get from agents, Mr. Grant said.

"I don't think everyone wants the exact same (health) plan, the way not everyone wants the same car," he added. "There are different needs for different people and independent advisers can help with choices."

"The president and the First Lady overestimated what they thought they could get accomplished. Health care is one-seventh of the entire economy," Mr. Grant said. Reform is "too big to just go do. There are too many consequences. In the president's plan, so many things were experimental. It would have been a total catastrophe. If we went to a government or social system, could we go back if it didn't work?"

"We need to slow down and be careful. (Legislators) got the message," Mr. Grant said.

Others believe the House Republican leadership's Contract with America, which does not include health care reform, is just as ambitious as the Clinton program was.

The new Congress "has taken on as much as Clinton did" when coming into office, said Jim Reynolds,

president of the employee benefits division for the Lawrence Group, an agency in San Diego. The ambitious agenda may not leave much time for addressing health care reform, he said.

Many agents expect Congress to pass certain mandates, such as eliminating exclusions for pre-existing conditions, but give the states flexibility in implementing them.

"Insurance reform will be brought to bear," predicted Mike Henning, executive vp of Acordia in Indianapolis. "Pre-existing conditions and portability of coverage will definitely be looked at."

"It's a different battle this year than last" because people understand and have thought about the issues, Mr. Grant said.

Just debating health care caused providers to offer different products.

"Companies developed products to compete with what they thought the Clinton plan would look like," Mr. Reynolds said. "I don't think there is as massive a need for revision now. A lot of health care has leveled out in cost."

"We felt even before reform was talked about that the marketplace causes things to move quickly," agreed Mr. Henning. "With the move to managed care and capitation arrangements, we see that continuing to increase and we want to be a part of this."

"National health care will be passed in 1995, but I don't think it will look anything like the initial Clinton bill," said Bob Huxel, director of governmental affairs for the Texas Assn. of Insurance Agents in Austin.

"I think there will be national guidelines for states, minimum standards for them to meet. I really think they will leave it as a state issue," Mr. Huxel said.

Several states, such as California and Minnesota, have not waited for federal guidelines to reform their health care systems.

Agents are faring better with health care reform on the state level, NAHU's Mr. Grant said.

"We are part of what's going on. We are involved," he said. "We are gearing up for a lot of activity on the state level."

Health care reform in California dates to April 1991, when the governor outlined his vision of health care reform. Apparently developed without the input of the insurance industry, that paper proposed to eliminate the role of agents.

"Agents' commissions was an easy place to cut administrative costs," said Mike Pinkerton, director of government affairs for the California Assn. of Life Underwriters in Sacramento. "Everyone would call 1-800-INSURANCE or something, and there would be no agents and no overhead and they would get a dip in cost. 1991 was spent undoing that."

CALU then drafted an amendment giving agents access to the Health Insurance Plan of California, the state's small group purchasing cooperative. The amendment eventually was passed by a conference committee.

After the reform was approved, administrators surveyed business owners and found that most of them preferred to use agents and agreed that they earned their commissions.

Now, "agents are involved in placing the vast majority of the business into HIPC," Mr. Pinkerton said. The cooperative recently raised agents' commission on renewal business.

"I definitely think we made our case and it was accepted," Mr. Pinkerton said. "But we have to keep making it."

In Texas, a small-employer health bill went into effect last year, forming the Texas Insurance Purchasing Alliance, or TIPA.

"From an agent's perspective, the small-employer health bill has never really been successful," said Mr. Huxel of the Texas agents group. "The first problem was that they were not paying enough commission. There was not an incentive to sell and to learn about this new thing that was not offering a coverage (agents) couldn't sell before."

TIPA has since increased the commission it pays to agents to a competitive level, Mr. Huxel said.

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BSC America

Japan

Continued from page 12A
up from \$83.7 billion in premiums in 1992.

Despite these appetizing figures, brokers are containing their excitement. They realize that since Japan last changed its insurance laws in 1939, Japanese companies have purchased insurance from Japanese underwriters only.

They assess Japan as an extremely traditional market that had been dominated by direct-writing domestic insurers. A change in laws will not result in Japanese companies using international brokers overnight.

"We're very excited as brokers to see the No. 2 market in the world open its doors," said Claude Gallelo, managing director of Willis Corroon International/Americas in New York and chairman of the National Assn. of Insurance Brokers' international committee. "But you have to take a wait-and-see approach. The marketplace will determine the pace of change, not a trade agreement or our desire for change. We can only encourage and explain, but they haven't changed their laws since 1939. So doubling or tripling our staff there doesn't make sense until we see what transpires."

Mr. Gallelo said U.S. brokers could eventually play a critical role in helping Japanese insurance buyers with non-traditional lines of

coverage like environmental liability and earthquake insurance.

"But I'd be reluctant to say foreign insurers can use brokers to take market share from the Japanese carriers. We intend to work with local companies because they have the ties to the buyers. It wouldn't be in our best interest to neglect them because they have the history and geography on their side," he said.

Richard Ambrose, country general manager for Johnson & Higgins Japan in Tokyo, agreed that once the market opens up, global brokers will see their best opportunities in brokering specialty lines and consulting on risk management issues.

"Every Japanese company can do property, marine and motor insurance direct. Aircraft and environmental liability, captives, self-funding and product liability is where

our help can be useful. But I think it will still be three or four years after rate deregulation when corporations there begin to believe in the concept of price competition and cost savings," Mr. Ambrose said.

Joe Chettle, managing director-international with Sedgwick James Inc. in New York, said it would be naive for brokers to believe that the Japanese insurance buying market will roll out a red carpet to companies like his and the other major brokerage houses immediately after a change in law.

"Regardless of an agreement on paper, there's an entire mindset that doesn't now include brokers that must be overcome. Even when price tariffs are removed, you're talking about a fanatically loyal market," he said.

To illustrate what brokers may be

dealing with in Japan, Mr. Chettle pointed to the uproar that occurred in the German insurance world when Siemens A.G. took a large portion of its global property program from the German market and placed it with Arkwright Mutual Insurance Co. (BI, Oct. 3, 1994). "If losing Siemens was mortifying to the Germans, imagine what losing a huge Japanese company would be like to Japanese underwriters. We won't just step in and boot out the Japanese, but there is a genuine opportunity here for growth. We will go for it in a big way," said Mr. Chettle.

Like the other global brokers, Mr. Chettle also said the best early opportunities for brokers won't be in the traditional lines, but in "value-added" services like claims management, engineering and safety, and

consulting on reinsurance programs.

Mr. Parker, the consultant to Chubb, said brokers should pay close attention over the next few years to see how the Japanese business community responds to the new system.

"How heavy to invest depends on how quickly effective deregulation occurs. As a practical matter, you don't need to triple your staff the minute this becomes effective. There must be a balanced equation of known commissions and costs. Japan is one of the most expensive places to have an expatriate staff, but at the same time it behooves brokers to get over there with good people and be prepared to hit the market with inventive products that the Japanese need," Mr. Parker said. **BI**

Health reform

Continued from previous page
Houston area on a trial basis, the TIPA is currently being expanded to employers statewide.

Mr. Huxel expects the Texas Legislature to address several controversial points of the law, including the guaranteed issue clause that requires insurers to accept all qualified applicants and the provisions that employers must pay 75% of employees' premiums and that 90% of employees must purchase health insurance.

"We're in a state of flux," Mr. Huxel said. "We want it to work, but we'll wait and see what the Legislature does."

The uncertainty of health care reform prompted some agents to consider getting out of the business.

"We saw some (members) diversify more," NAHU's Mr. Grant said. "Some thought twice about being in this business. But the vast majority stood their ground and got involved politically."

"A lot of members talked about getting out of health insurance, but that was an overreaction to the political backdrop," Mr. Pinkerton noted.

Agents and brokers must change their marketing thrusts to include all types of employee benefits, such as retirement and profit sharing plans, not just health insurance, advised Mr. Reynolds of the Lawrence Group.

"Those with full insurance services tend to do OK," Mr. Reynolds said. "Those that only do health for small groups will be hurt more."

Larger brokers have less to fear. "Everybody wants something for less," said Acordia's Mr. Henning. "It's up to the broker to bring value. If you help customers manage the medical component, there is enough value to justify any commission."

"The unknown is always a little scary," he said. "I don't think things will change drastically. The market is ahead of any legislation. You have to adapt" to the marketplace. **BI**

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Agent/Broker Topics

ADA-related services take off for agents

By MEG FLETCHER

The Americans with Disabilities Act not only provides marketing opportunities for agents' and brokers' risk management consulting services but also helps them sell products.

Interest in ADA-related issues began in 1990, when the federal law was passed, and has grown slowly until it "just mushroomed" this year, said Colette Kemper, director of industry affairs for the Council of Insurance Agents & Brokers in Washington.

Under the ADA, employers of disabled workers are required to extend certain job accommodations to qualified individuals unless they can prove that the accommodations are not needed to perform an essential function of the job or are an undue hardship on the company.

"Most clients understand this is a human problem they must deal with," said Southgate Jones Jr., chairman of J. Southgate & Son Inc. in Durham, N.C., an independent insurance agency. "They are more receptive to this than to rules from OSHA," he said.

"The first choice for most customers has been to look at their own hiring and employment practices" and do what they can to improve them, said Roger A. Haynes, managing executive of Sedgwick Financial Risk Specialists, a division of broker Sedgwick



James Inc.

For many agents and brokers, that means helping clients review job descriptions to determine the essential functions of jobs as well as employee-related policies concerning hiring, training and benefits.

"This is an opportunity where risk management services are much more important than insurance," said William Henry, director of business development and communication for CIMA Cos. Inc. in Alexandria, Va., which offers both insurance brokerage and risk management consulting services to clients.

"The ADA has expanded the type of health and safety services that I offer to long-term clients as a part of our risk management consulting," said Sharon A. Falkenburg, vp/manager of technical services for Rollins Hudig Hall of Wisconsin Inc. in Milwaukee.

Advice about how to comply with the federal act, which is enforced primarily by the Equal Employment Opportunity Commission, "adds another dimension to the value-added service we provide," she said.

Most firms first approach clients by offering periodic seminars, newsletters

and letters, agents and brokers say.

Agents' and brokers' risk management operations may also provide more in-depth consulting about a client company's specific problems, which can include expanding access to the client's facility or the fairness of employee-related leave policies. The services are often provided without added fees to established customers of an agency or brokerage, though special projects may be billed separately.

Growth in the number of ADA-related claims as well as high-profile judgments relating to employment practice issues are increasing client awareness of the potential costs of such exposures. More employers are turning to their agents and brokers for answers on these issues.

For example, the EEOC has predicted a record number of claims—currently approaching 100,000—this year, eclipsing the 87,942 filed in 1993 (*BI*, Nov. 21, 1994; April 4, 1994). About half of those allege discriminatory termination under ADA provisions.

"The fact that there are so many claims drives the market demand and the need for coverage," said the Council's Ms. Kemper.

The type of coverage used to protect organizations against ADA-related claims varies. While policies have been developed specifically with ADA exposures in mind, most clients appear to be less interested in a stand-alone, ADA-specific liability insurance policy than other coverage options, most brokers said. Companies seem to be more interested in covering general workplace exposures.

"The reason is there are more encompassing ways to address that risk and associated or affiliated risks," said Dick Clarke, corporate vp of Palmer & Cay/Carswell Inc. in Atlanta, a regional insurance brokerage.

One way is to treat an employer's ADA exposure as a peril under an employment practices liability policy.

Another approach is to modify a company's commercial general liability policy to provide some protection, though the general trend is to exclude such coverage under the CGL policy, he said.

"CGL policy language is not designed to be as encompassing as the scope of the employment practices liability policy," Mr. Clarke said.

Employment practices liability coverage typically protects against sexual harassment as well as discrimination in the employment of individuals, which may include ADA violations.

Coverage terms vary widely, though. Approximately 10 insurers now offer specific employment practices liability insurance with different terms (*BI*, Nov. 21, 1994). **BI**

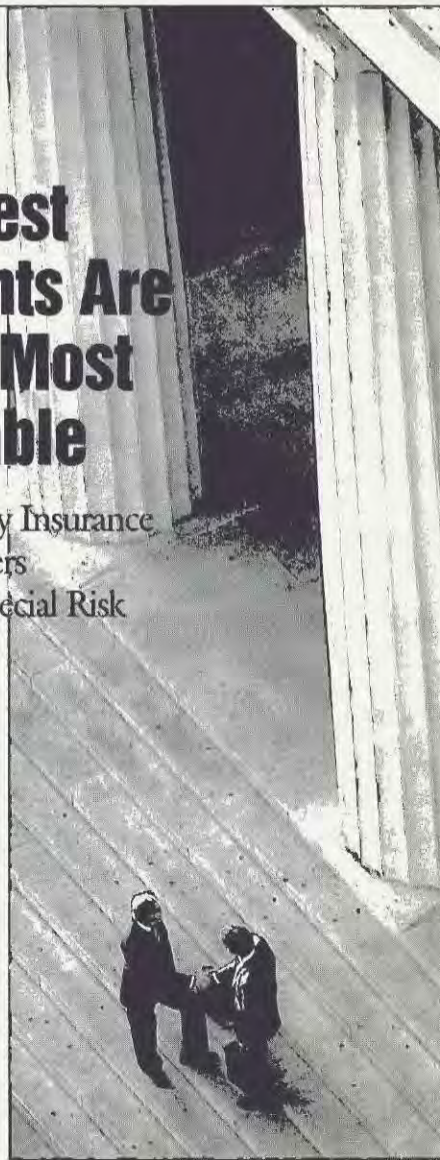
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separate business units that had provided liability insurance to individual practices, group practices, nurses and other medical care professionals; professional liability and comprehensive property coverages for dentists; and comprehensive property and professional liability coverage for optometrists.

James W. Macdonald, group vp responsible for all of CNA's professional liability business, is managing the launch of CNA Health Pro.

In addition to the new health care professional liability unit, CNA's reorganized Professional Liability Group also includes a lawyers and accountants business unit and a specialty errors and omissions business unit.

For more information contact Bob Jones, national marketing director for Health Pro, at 312-822-5270.

USF&G re-enters Texas

United States Fidelity & Guaranty Co. has announced that it is re-entering the Texas commercial property/casualty market on a limited basis.

The announcement came after talks with the Texas Department of Insurance and key USF&G agents in the state.

USF&G restructured its commercial property/casualty operations in 1991, and because of heavy underwriting losses in Texas, the company consolidated its Texas operations into its Oklahoma City branch.

While maintaining an active presence in Texas for fidelity and surety lines, USF&G didn't renew most of the remainder of its Texas property/casualty book of business.

However, company officials now say the Texas insurance environment has improved, citing regulatory changes, state workers compensation reforms and a generally more pro-business attitude in the Texas Legislature.

Baltimore-based USF&G plans to move slowly in its return to the Texas property/casualty market, initially focusing on larger contractors, primarily in the Dallas/Fort Worth area, that are already surety clients. Future expansion could include classes of risk other than contractors and moving into other areas of the state.

USF&G's Texas property/casualty operation will be located at 4099 McEwen, Suite 250, Dallas, Texas 75244. The telephone number is 214-386-4542.

Disaster services team

Princeton, N.J.-based American Re-Insurance Co. and Comdisco Disaster Recovery Services of Rosemont, Ill., have agreed to jointly deliver risk and financial management and disaster recovery consulting services.

The two companies plan to develop a range of solutions to reduce risk exposure for their customers, primarily insurance and Fortune 1000 companies, in the event of a catastrophe. Services will include business impact and insurance analyses as well as traditional insurance, prevention and recovery services.

For more information, contact Bill Wise of American Re-Insurance Co. at 609-243-4856, or John Collins of Comdisco at 800-272-9792.

Environmental claims

Sedgwick Group P.L.C. has launched a new environmental

claims services unit in the United States.

The Nashville, Tenn.-based subsidiary is a joint effort of Sedgwick Environmental Services, Sedgwick Claims Management Services and Sedgwick Public Entity Division.

The environmental claims services unit will specialize in managing underground storage tank claims for large public and private clients.

The new unit includes professionals with environmental engineering, regulatory, claims handling and legal knowledge to assist clients in matters of remediation, regulatory compliance and subrogation.

For more information, contact Donna Herrmann, U.S. managing director, at 615-298-1414.

Retirement services

As one of the first strategic moves stemming from the August merger of the Dreyfus Corp. and Mellon Bank Corp., Dreyfus has formed Dreyfus Retirement Services.

The new division will market the combined defined contribution plan and investment capabilities of Dreyfus, Mellon and The Boston Co., which Mellon had acquired in 1993.

The combination of the three firms will result in a full-service provider representing more than \$10 billion in retirement plan assets under management.

Dreyfus Retirement Services offers specially designed retirement programs, with plans encompassing the 401(k), 457, 403(b), ESOP and other variations of defined contribution plans.

It provides investment management, trust and custody, plan administration, record keeping and education services to companies and institutions across the country.

Barbara E. Casey was appointed president of Dreyfus Retirement Services.

For more information, contact Diane M. Coffey at 212-922-6070.

Asian marketing venture

Superior National Insurance Co., a Calabasas, Calif.-based workers compensation insurer, has announced its association with the California Asian Risk Assn., an Oakland-based association dedicated to the research, development and delivery of employee benefits and high-end compensation plans to the Asian population.

Additional information about CARA can be obtained through California agents and brokers or by calling AIS, the association's administrators, at 800-788-6524.

New offices

Weiss Research Inc. has moved its offices. The new street address is 4176 Burns Road, Palm Beach Gardens, Fla. 33410. The mailing address is P.O. Box 109665, Palm Beach Gardens, Fla. 33410. The telephone number is 407-627-3300 and the fax number is 407-625-6685.

Actuarial and consulting firm Milliman & Robertson Inc. has opened a property and casualty office in Bermuda. The office, which will serve captive insurance and reinsurance companies, is managed by James McNichols, who can be reached at 809-295-4177.

Hutton, Kruse & Associates Ltd., an accounting firm specializing in providing financial analy-

ses to property/casualty insurers, has opened a Cincinnati office. The address is 250 E. Fifth St., Suite 1500, Cincinnati, Ohio 45202. The phone number is 513-762-7611.

Universal Group Holdings (Bermuda) Ltd. has opened a marketing and consulting company in the United States, Universal Risk Services Inc. Brokers and agents will have direct access to Universal's alternative risk plans, including rent-a-captive programs, through the new office by contacting Steven C. Nordstrom, President, Universal Risk Services, Wall Street Plaza, 88 Pine St., New York, N.Y. 10005. The telephone number is 212-785-7890 and the fax number is 212-785-7895.

Executive compensation consulting firm Clark/Bardes Inc. has opened an office in Overland Park, Kan. The new office is

headed by David Baum, who has been named regional director of the firm. The new office is located at 6201 College Blvd., Suite 375, Overland Park, Kan. 66202. The phone number is 913-663-1290 and the fax number 913-491-4797.

The Reliance National Insurance Co. (U.K.) Ltd., a U.K. subsidiary of Reliance National Insurance Co., has opened operations in Madrid. Alvaro Mengotti is branch manager for the operation, which is located at Paseo de la Castellana, 21, Bajo Derecha, 28049 Madrid, Spain. The telephone number is 34-1-308-0501 and the fax number 34-1-308-5904.

San Francisco-based Sherwood Insurance Services has opened an office in Newport Beach, Calif., to service clients in Orange County and San Diego. Marion Woodbury Jr., formerly of Sherwood's Wood-

land Hills office, is resident manager. The new operation is located at 4675 MacArthur Court, Suite 1430, Newport Beach, Calif. 92660. The telephone number is 714-261-2570 and the fax number is 714-261-2576.

Johnson & Higgins has opened an office in Omaha, Neb., with Michael F. Sikora as manager. The office is located at 9290 W. Dodge Road, Suite 204, Omaha, Neb. 68114. The telephone number is 402-391-8200 and the fax number 402-391-0639.

Underwriting manager Burns & Wilcox Ltd. of Farmington Hills, Mich., has opened a branch office in Atlanta. Irving E. Greene is manager of the new operation, which is located at 8 Piedmont Center, Suite 305, 3525 Piedmont Road N.E., Atlanta, Ga. 30305. The telephone number is 404-262-1885 and the fax number 404-262-1883. **BI**

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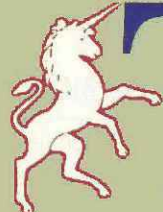
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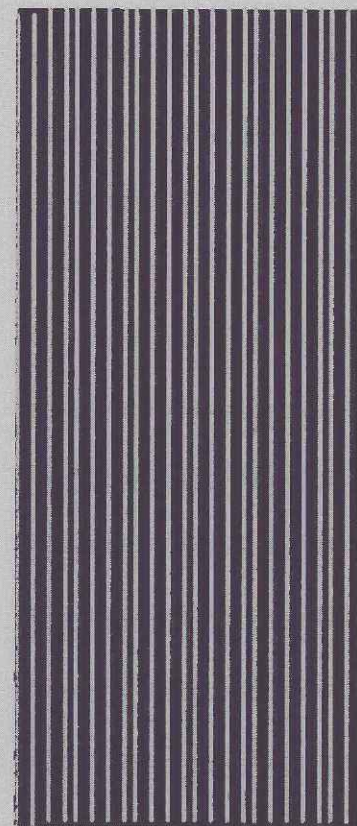
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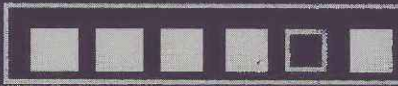
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U.K. insolvency procedures

Long-tail business, regulatory woes behind most insolvencies

By Tom Cherry and William Sturge

IN THE LAST FEW YEARS, many policyholders have paid substantial premiums only to later discover that their insurance companies have become insolvent and stopped paying out by the time it came to their own claim.

A number of these insolvent insurers are in the United Kingdom. The accompanying chart shows the current status of various British companies involved and the entity to contact in each case for up-to-date claims advice.

How do insurer insolvencies come about?

The primary reason is that many long-tail liabilities do not crystallize into quantifiable claims until many years after the policy was written; environmental pollution, asbestosis and medical malpractice are examples of such risks.

Cash shortage is rarely the immediate cause of an insolvency; the cause more often is the failure to maintain the solvency margin required by the British regulatory authorities, as losses develop on long-tail business.

As soon as the directors of a British insurance company recognize that it will be unable to meet its current and future liabilities, they must immediately cease further payments. This is because of the guiding principle that unsecured creditors should receive equal treatment in the distribution of an insolvent company's assets.

The insurer will withdraw from any central settlements system and, from this point on, the only practical ways in which claims can be paid out are likely to be pursuant to either a liquidation or a scheme of arrangement.

U.K. liquidation procedure

A common method of proving insolvency under English law is for the creditor to serve a "statutory demand" for a sum exceeding £750 (\$1,159). If the company fails to pay within three weeks, it is deemed insolvent. Thereafter the creditor can petition the court to wind up the company.

Where it is important to protect the company's assets pending the hearing of a petition for compulsory liquidation, a "provisional liquidator" may be appointed who is empowered to take immediate control of the company's assets.

The petition proceeds to a hearing, at which the court will generally make a "winding up order" unless the company has a bona fide dispute over the debt. The date of commencement of the liquidation is deemed to be the date the petition was filed at court.

Upon issuing a winding up order, a formal liquidator is appointed to carry out an initial investigation in to the cause of failure.

Thereafter, the appointment is handed on to a licensed insolvency practitioner chosen at a meeting of creditors.

From that point on, the liquidator's task is to collect the assets of the company and distribute them to its secured and unsecured creditors. There is no requirement that insurance companies keep premiums separate from other assets and normally policyholders will receive only a low dividend on their claims, since they rank behind secured creditors.

The liabilities of an insurance company are established by claimants and other creditors "proving in the liquidation," a process usually involving completing and submitting a prescribed form that details the amount of their claims. The liquidator will then admit these claims, in whole or in part, or reject them, as appropriate.

As to collecting assets, the insolvent company will almost always have purchased reinsurance in order to spread the risk.

In the light of admitted claims, the liquidator will

seek to recover from the insolvent company's reinsurers the full amount due under reinsurance contracts, even though he will later pay claims out at only the dividend rate.

It will be apparent from this brief description that it is necessary for the liquidator to await crystallization of substantially all claims and then recover the appropriate amount from reinsurers before he can determine the level of even a first dividend payable to creditors.

This will be lengthy and costly.

To illustrate the point, St. Helens Insurance Co. Ltd.

went into liquidation in 1966, but only by entering a scheme of arrangement in 1993 has it been able to pay its first dividend payment.

How mature must claims be?

At the date of the winding up, claims can be in any of one of three stages of "maturity":

- Overdue for payment.
- Incurred but not yet due for payment ("contingent claims").

Continued on next page

SCHEDULE OF TROUBLED U.K. INSURANCE COMPANIES

NAME OF INSURANCE CO.	CURRENT STATUS	WHO TO CONTACT
Andrew Weir Insurance Co. Ltd.	No longer in provisional liquidation since a scheme of arrangement became effective on April 13, 1994.	Scheme administrators are Richard Boys-Stones and Colin Bird of Price Waterhouse. Contact Helpline, 071-488-3889.
Anglo American Insurance Co. Ltd. This is owned by Centre Reinsurance Holdings, a wholly owned subsidiary of Zurich Insurance.	Ceased to write new business in March 1994 and announced that it had gone into "orderly run-off" in June 1994.	Head office: Claims Department, Guild House, 36-38 Fenchurch St., London EC3M 3DD; 071-929 5412.
Bryanston Insurance Co. Ltd.	Went into provisional liquidation on March 23, 1992 and entered into a scheme of arrangement with creditors on April 13, 1994. Provisional liquidators have set up Trinity Management Services to administrate claims.	Provisional liquidators are Richard Boys-Stones and Colin Bird of Price Waterhouse. Contact Leslie Goodman, claims manager, 4525 28691 or TMS, 0452 528691.
Cavalier Insurance Co. Ltd.	Winding-up order was made February 2, 1984. Liquidator continues to admit proofs from extended warranty policyholders.	Mr. G. A. Auger of Stoy Hayward was appointed liquidator in November 1989 in place of the official receiver.
Chancellor Insurance Co. Ltd.	In provisional liquidation. A winding-up petition has been adjourned pending consideration of a scheme of arrangement.	Joint provisional liquidator is Mr. D. L. Morgan of Touche Ross. Contact Rita McCracken, 071-936-3000.
Charter Reinsurance Co. Ltd. (UK)	Has ceased to write new business and no further claims will be paid pending the approval of a scheme of arrangement by creditors.	Head Office/Claims Office, 40 Lime St., London EC3M 5BS; 071-621 9332.
Continental Assurance Co. London P.L.C.	Went into liquidation on March 27, 1992.	Joint liquidators are Chris Hughes of Coopers & Lybrand and David Buchler of Buchler Phillips. Contact Paul Meitner, 071-606 7700.
The Cotton Trade Insurance Assn. Ltd.	Liquidated in 1985. A single dividend was paid.	Derek Wright, Secretary of the Policyholders Protection Board; 071-600 3333.
English & American Insurance Co. Ltd. (UK)	Ceased paying claims and went into provisional liquidation in April 1993.	Provisional liquidator is Mr. A. J. McMahon of KPMG Peat Marwick, Corporate Recovery, P.O. Box 730, 20 Farringdon St., London EC4A 4PP; 071-236 8000.
The "KWELM" companies, subsidiaries of London United Investment P.L.C.: a) Kings Cross Insurance Co. Ltd. b) Walbrook Insurance Co. Ltd. c) El Paso Insurance Co. Ltd. d) Lime St. Insurance Co. Ltd. e) Mutual Reinsurance Co. Ltd.	Proposal for scheme of arrangement passed in November 1993 by creditors. Provisional liquidators have set up KWELM Management Services Ltd. to administrate claims.	Joint provisional liquidators are Chris Hughes and Ian Bond of the Coopers & Lybrand. Contact David Vaughan, 071-606 7700 or KMS, 071-234 9000.
Municipal General Insurance This is a wholly-owned subsidiary of Municipal Mutual Insurance (UK).	Stopped underwriting in September 1992 and has announced an indefinite moratorium on claims payments. A scheme of arrangement will be submitted "soon".	Head Office: Claims Department, Wey House, Farnham Rd., Guildford, Surrey GU1 1AX; 0483 303176. Provisional liquidators are Ernst & Young. Contact Mr. S. Hopper, 071-928 2000.
Municipal Mutual Insurance (UK)	Stopped underwriting in September 1992. Court has approved a "scheme of arrangement in waiting" for the run-off. The scheme will only be activated in the event that a solvent run-off is not possible.	Head Office: Claims Department, 25/27 Old Queen St., Westminster, London SW1; 071-222 7933.
National Employers Mutual General Insurance Assn. Ltd. ("NEMGIA")	Winding-up order was made in October 1990.	Joint liquidator is Mr. A. J. McMahon of KPMG Peat Marwick, Corporate Recovery, P.O. Box 730, 20 Farringdon St., London EC4A 4PP; 071-236 8000.
Oaklife Assurance Co. (UK)	Went into liquidation on Sept. 13, 1993. Liquidators are continuing to run the business with the aim of transferring policies to another company. Policyholders are advised to continue paying premiums as usual.	Joint liquidators are Philip Singer and Adrian Stanway of Coopers & Lybrand. Contact Mr. S. Newman on 071-606 7700.
Orion Insurance Co. and its subsidiary London & Overseas Insurance	Provisional liquidators appointed October 1994, who plan to discuss a scheme of arrangement with major creditors in the near future.	Provisional liquidators are Richard Boys-Stones and Paul Evans of Price Waterhouse Southwark Towers, 32 London Bridge St., London SE1 9SY; 071 939 3000; fax: 071 378 0647.
Pacific & General Insurance Co. Ltd.	Winding-up order was made Nov. 15, 1985.	Liquidator is Mr. M. C. Withall of Grant Thornton, Grant Thornton House, Melton St., Euston Square, London NW1 2EP; 071-383 5100.
Scan Re Insurance Co. Ltd.	Payment of claims suspended in 1992 and on March 10, 1993, the company was placed in provisional liquidation. Consideration is being given to a scheme of arrangement.	Provisional liquidators are Gareth Hughes and Nigel Hamilton of Ernst & Young. Contact claims department, 0273 204621.
St. Helen's Insurance Co. Ltd.	Ceased writing new business in 1966 and went into run-off. Went into liquidation in September 1984. A scheme of arrangement was entered into with creditors in 1993.	Joint liquidators are Ian Bond and Timothy Harris of the Coopers & Lybrand, Insolvency Unit, Cork Gully. Contact Barry Harding or Jim Whelan, 071-606 7700 or 0444 414141.
Trinity Insurance Co. Ltd.	Winding-up petition presented in March 1992 was adjourned in May 1992 pending the consideration of a scheme of arrangement. The scheme was approved by creditors on Feb. 12, 1993 and received sanction of the court on March 17, 1993.	Provisional liquidators are Richard Boys-Stones and Colin Bird of Price Waterhouse. Contact Trinity Management Services: 0452 528691.

Insolvencies

Continued from previous page

• Possibly going to occur, in that the policy period is as yet unexpired.

Creditors can prove in a liquidation for both overdue and contingent claims. An example of the latter is where there has been an act of professional negligence within the policy period which, under the terms of the policy, constitutes a triggering event but no claim has yet been notified.

Policyholders can prove for the full value of claims that were already overdue for payment at the date of the winding up. However, a "just estimate" of the "value" is to be made by the liquidator for less mature claims. Liquidators can approach this valuation exercise by estimating the value of the policyholder's contingent rights as they existed at the date of winding up, with the benefit of hindsight as losses develop during the course of the liquidation.

However, an insurance company effectively ceases to be on risk for any insurance protection it has undertaken once a winding up order has been issued. This means that, where claims are incurred between the date of the liquidation and the date when the policy period would have expired, policyholders can generally only claim for a pro rata return of premium.

An alternative that is often preferable to a liquidation is a scheme of arrangement, similar to a plan of reorganization in the United States. A scheme is a compromise between the company and its creditors that becomes binding if it is approved by a sufficient number of creditors—specifically, more than 50% in number representing at least 75% in value of those creditors who attend to vote.

While the scheme of arrangement is being prepared,

it is necessary to appoint provisional liquidators in order to protect the company from individual creditor actions.

Once the scheme has been approved by the court, the company exits provisional liquidation and the scheme becomes effective. After the provisional liquidators become the scheme administrators. A committee of creditors assists them in operating the scheme.

Insurance company schemes fall broadly into two types: those that carry out runoff, paying some proportion of claims as they are agreed; and those that seek to impose valuation of all policies with a view to making a final payment. Valuation schemes can be used to bring long-running liquidations to a close.

Under a runoff scheme, any claims reported to the company that are not the subject of litigation will normally be agreed and processed as they would be in an ordinary solvent runoff. Claims that are, or may become, the subject of litigation may be dealt with under special procedures. Since the company is insolvent, creditors are likely to be paid only a percentage of their claims as and when they are agreed.

It is usually anticipated that the payment percentage should rise during the scheme, in which case agreed claims that have already been paid a lower percentage will attract a further amount.

If the company has assets in the United States or is engaged in litigation in that country, it is usual for the company, through its provisional liquidator, to petition for protection under Section 304 of the U.S. Bankruptcy Code as an "ancillary case" while the scheme is developed.

The U.S. Bankruptcy Court, if the petition is approved, is empowered to enjoin any actions against the company or its assets located in the United States.

In the context of insurance companies, the possible advantages of schemes are that they are likely to produce earlier and larger payments—larger because of greater flexibility in investment and lower administrative costs.

Possible disadvantages can include risks for creditors whose claims mature in the future, if too much cash is paid out early in the scheme. Also there are certain courses of action available to a liquidator if there has been any wrongful or fraudulent trading by a director, or if the company has been a party to any transaction at an undervalue. These remedies are not available in a scheme.

Relevance of claims maturity in a scheme

Under a scheme of arrangement, there is no cutoff date for liability. Occurrence-based insurance policies can, theoretically, continue to produce claims indefinitely, and therefore it is very difficult to terminate a scheme for a company that has written long-tail business.

It is anticipated that, after some years, runoff schemes will tend to be converted into valuation schemes so that a final estimate and distribution can be made. BI



Mr. Cherry



Mr. Sturge

Tom Cherry is regional managing partner of law firm Wilson, Elser, Moskowitz, Edelman & Dicker's London office. William Sturge is a partner with Waltons & Morse in London.

Court upholds health plan's denial of liver transplant

The 9th U.S. Circuit Court of Appeals ruled that the administrator of an Employee Retirement Income Security Act health plan had not acted arbitrarily or capriciously in denying benefits for a liver transplant.

Ralph Barnett is afflicted with Hepatitis B.

He is infected with a large amount of the virus, which is replicating rapidly outside the liver.

This carries with it a greater risk that a new liver could become infected with the virus, court papers show.

Mr. Barnett was covered under an ERISA-regulated service agreement with the Kaiser Foundation Health Plan Inc.

The health plan provides coverage for organ transplants if the medical group Kaiser contracts with determines that the member satisfies medical criteria developed by the medical group.

Mr. Barnett's physician at the medical group concluded that a liver transplant was not medically appropriate for him because of his e-antigen positive status. Mr. Barnett's efforts to gain permission for a transplant were consistently denied.

He brought this action against the plan administrator seeking a determination that the plan covered the liver transplant.

The trial court ruled against Mr. Barnett.

The appellate court noted that Kaiser's plan explicitly vested Kaiser with discretionary power to determine eligibility for benefits and to construe terms of the agreement.

The court concluded that Kaiser had in existence established medical criteria excluding Mr. Barnett from coverage in effect at the time it denied the coverage for the transplant.

Thus, the court said that Kaiser and

the district court properly found that Barnett did not satisfy the medical criteria because of his e-antigen positive status.

The trial court decision was affirmed.

Barnett vs. Kaiser Foundation Health Plan Inc., 9th U.S. Circuit Court of Appeals, Aug. 4, 1994 (BI/05/F.-\$10)

Insurance defense cover denied

May an insurer recover from another insurer the costs of defending a mutual policyholder?

The District Court of Appeal of Florida ruled that it could not.

In 1987, Nievers Guerrero sued Ponce de Leon Building Associates and the Allen Morris Development Co.

Continental Casualty Co. had issued a liability insurance policy to Ponce pursuant to which Morris was an additional policyholder.

Continental defended both Ponce and Morris.

In April 1991, Continental learned that Morris also had a policy of liability insurance issued by United Pacific Insurance Co. Both policies provided primary coverage for the Guerrero claim.

In April 1991, Continental notified United of the lawsuit and that it was seeking contribution from United. Subsequently, Continental and United contributed equally to a settlement with Mr. Guerrero.

However, United refused to reimburse Continental for any part of the expenses of defending the suit.

Continental sued United to recover half of the expenses, costs and attorney's fees it incurred in the defense of the Guerrero claim on the theory of

"equitable subrogation."

The trial court ruled for United.

The appellate court noted that there was a substantial divergence of views on the issue of contribution between insurance companies. The court concluded that the complication arising from the creation of a right of "equitable contribution" or "equitable subrogation" are at least as troublesome as the speculative ill sought to be remedied by the creation of this right in the first place.

The court emphasized that the place for this issue to be examined and remedied, if appropriate, is in the Legislature.

The trial court decision was affirmed. *Continental Casualty Co. vs. United Pacific Ins. Co.*, District Court of Appeal of Florida, April 22, 1994.

Certification Denied May 31, 1994 (BI/03/D.-\$10).

Surplus assets not due

Participants in a pension plan governed by the Employee Retirement Income Security Act were not entitled to receive surplus assets in their pension plan, according to the 3rd U.S. Circuit Court of Appeals.

The employees here were entitled to receive benefits under RCA Corp.'s pension plan.

The RCA plan was a defined benefits plan that required employees to make contributions to the plan in order to receive a specified level of benefits upon retirement.

In 1986, General Electric bought out RCA.

GE also sponsored a defined benefits plan for its employees. In 1989, the RCA

and GE plans were merged.

At the time of the merger, RCA's plan had residual assets of roughly \$1.3 billion.

The RCA employees here challenged the results of the merger of the two large pension plans maintaining that GE improperly planned the capture of more than \$1 billion in residual assets of the RCA plan for its own benefit.

According to the employees' argument, this was improper under ERISA.

They asserted that RCA pensioners were entitled to receive a share of the excess assets from the former RCA plan.

The employees sued but lost in the trial court.

The appellate court said that a defined benefits plan gives current and former employees property interests in their pension benefits, but not in the assets held by the trust.

If the investments appreciate, the court said, the plan need not devote that increase to improving benefits; it may retain the surplus as a cushion against the day when yields decrease, or the employer may cease making contributions and allow the surplus to erode as liabilities continue to increase.

Thus, the court agreed that the employees here did not have rights to residual assets in the context of a plan merger.

Malia vs. General Electric Co., 3rd U.S. Circuit Court of Appeals, May 13, 1994 (BI/02/D.-\$10) BI

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

INTERNATIONAL

Hijacking underscores Algerian terrorism risks

BY STACY SHAPIRO

LONDON—Aviation insurers have no plans to impose additional war risk insurance premiums for flights in and out of Algeria despite the fatal Christmas hijacking of an Air France Airbus.

French officials last week suspended air and sea passenger services to Algeria after the Air France flight to Paris with 173 passengers was seized by militant Islamic gunmen at the Algiers airport.

Three passengers were killed by the four gunmen at the airport before the French government insisted the Airbus be allowed to fly to Marseille, where it was stormed by French anti-terrorist police. Police killed the four gunmen, and

13 passengers were injured in the rescue. French authorities said last week that the terrorists planned to explode the Airbus over Paris.

Recently, international political risk consultant Control Risks Group Ltd. warned about the safety of foreigners in Algeria. In a report on business security, Control Risks noted that "only a miracle will save Algeria from descending into civil war in 1995." The report called Algeria "the most extreme example of a political crisis threatening business" (BI, Dec. 26).

Control Risks noted that foreigners have been shot on sight and 71 have been killed in Algeria since September 1993. "Most of the attacks have taken place in

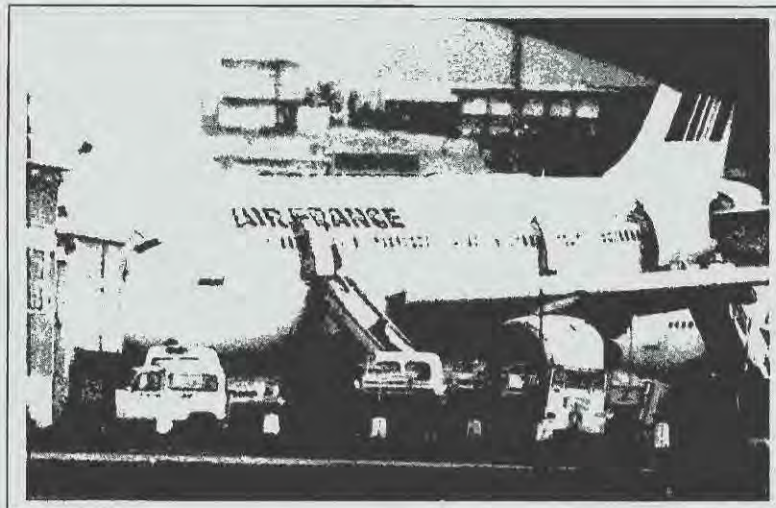
and around Algiers, but the assassins, who often wear genuine security force uniforms, strike anywhere against anyone," the report warned.

Despite these warnings and the Air France debacle, aviation underwriters were not planning last week to charge additional war risk premiums for flights to Algeria.

"If Algerians tighten up their regime, then there may not be a surcharge. If they don't, however, and there is a perceived increase in exposure, then the airline insurance market would consider its position and possibly increase premiums," summed up a Lloyd's aviation underwriter.

Meanwhile, the French govern-

Continued on next page



AP/Wide World photo

French anti-terrorist police rescued 173 passengers by storming the hijacked plane.

Australia may lift aviation liability limits

By KATE TILLEY

CANBERRA, Australia—The Australian government has proposed raising liability limits for passengers on international airline flights to keep them in line with higher limits set last year for domestic flights.

The domestic limit was lifted to \$500,000 Australian (\$388,700) per passenger from \$180,000 Australian (\$139,932), effective Oct. 18, after a spate of accidents (BI, Nov. 28, 1994; Aug. 29, 1994).

The government introduced legislation in Parliament last month that would raise the minimum li-

ability limit to 260,000 Special Drawing Rights (\$377,000) per passenger on international flights by Australian carriers Qantas Airlines and Ansett Airlines. That would be dramatically higher than the current limit of 100,000 SDRs (\$145,000) set by the Montreal Protocols, which was an international agreement to change the currency used in the Warsaw Convention.

Advocates of higher liability limits argue that increases would actually reduce costs, since the impetus to litigate for increased compensation would be removed.

A spokesman for Australian

Transport Minister Laurie Brerton said the Australian government could not force overseas airlines flying into Australia to adopt the same limit but had written to international airlines, seeking voluntary compliance with the proposed higher limit.

The spokesman said the bill was likely to be passed at the next sitting of Parliament, which starts in late January.

The bill would amend the provisions of Australia's Civil Aviation (Carriers' Liability) Act that pertain to international air carriers.

But the spokesman said the details of the proposal were still be-

ing discussed with the airlines and their insurers, and a draft bill has not yet been developed.

Tony Pyne, a consultant in aviation law to the Melbourne law firm of Minter Ellison Morris Fletcher, said the new bill would not mean Australia was changing the Warsaw limits, but was making Australian-based airlines buy higher levels of insurance.

He said some European Union countries also were looking at increasing the per passenger liability limit on international flights to 250,000 SDRs (\$362,500) (BI, April 11, 1994).

However, not one country has

followed Japanese airlines' initiative to provide unlimited liability for deaths of injuries to passengers on international flights in an effort to reduce costly litigation following aviation accidents (BI, March 15, 1993).

Mr. Pyne said he expected some resistance to the proposed higher limits from Australian airlines, but he expected the government would put pressure on the international airlines to comply.

He was uncertain whether that would be enough to raise ticket prices but said insurers would expect higher premiums for the increased coverage. **BI**

Russian brokers lobby for insurance reforms

By ELENA KUDIMOVA

MOSCOW—Russian insurance brokers are taking the idea of safety in numbers to heart.

A new organization of domestic brokers plans to lobby for insurance law reforms they hope will increase their chances of successfully competing with foreign brokers.

Twelve Moscow insurance brokerages have united to form the Guild of Insurance Brokers. The Guild's members will work together to compete against well-established foreign brokers that have stepped up their efforts to lure away lucrative commercial insurance accounts from their domestic rivals.

Alexander Krapivsky, president of TFK Brokers & Consultants in Moscow, serves as the Guild's president.

He said the Guild will work to increase members' recognition among local insurers, which are the only companies with which Russian brokers currently can place primary insurance coverage.

The group will also lobby Parliament to push through new legislation that would set forth regulations for insurance brokers and would prevent excessive rate cutting.

Draft legislation on insurance brokerage practice has been in Russia's Parliament for more than a year.

The current Russian Insurance Law merely mentions insurance brokers as participants in the insurance market and does not pro-

vide any further interpretation of their function.

As a result, they are taxed as trade brokers, meaning they pay a 20% value added tax and a 3% special tax on premiums and an income tax of 38%. The Russian Federal Supervisory Insurance Service does not license or register domestic brokers.

Foreign brokers are not regulated at all in Russia.

Russia's highly bureaucratic system needs a law to recognize the brokers' role in the insurance market and lower their tax burden, the Guild contends.

According to Mr. Krapivsky, foreign brokers offer competitive rates in order to gain new clients in Russia. But, if new local brokerages were to lower their commissions, they would go bankrupt because of these high taxes.

Mr. Krapivsky claimed that about 80% of all insurance coverages in Russia are placed through some form of intermediary, but professional insurance brokers participate in barely 10% of the deals. A broker's commission can be paid to anyone—neighbor, friend or trade broker—who convinces someone to buy an insurance policy.

State-owned companies like Ingosstrakh readily work with foreign brokers but generally ignore Russian brokers, mostly because they don't have a sizable client base.

Foreign insurance brokers working in Russia may apply for status as associated members of the Guild. **BI**

EIL coverage woes

German firms say strict conditions could void coverage

By DON LEWIS KIRK

German companies have launched a renewed broadside at the German insurance industry for "poor insurance coverage" of environmental risk.

Risk managers cite "impossible-to-meet policy conditions" and "unattainable demands" among their complaints. They charge that German environmental impairment liability insurance has so many loopholes that they could wind up with no coverage for even an accidental pollution event.

Large industrial companies particularly complain of policy conditions that require them to declare dangerous substances and report minuscule changes in operations immediately. Such "declarations" have become a bone of contention with many policyholders.

"Even a slight change in research procedures must be reported," says Fritz-Juergen Cremer, risk manager of chemical manufacturer Hoechst A.G. and also chairman of the Federation of German Industries' insurance division. "Under real conditions, it's a requirement that is impossible to meet."

The reporting requirements are so strict, according to Mr. Cremer, that even an alteration of the acid level in a chemical reaction tank must be reported. As a result, companies fear they won't be insured for the risk of accidental pollution should they fail to report a minor change in operations.

Klaus-Wolfgang Schulze-Wislarn, risk manager of Germany's largest soap and detergent manufacturer, Henkel KGaA, said that such restrictive policy conditions also have had a wide reaching effect on operations.



Kevin Forest/The Image Bank

German companies remain at odds with insurers over EIL coverage.

"We even have to report on companies we work with," he said. "In effect, we've become responsible for their safety procedures. That's totally foreign to normal business practices."

In addition, "conditions are so restrictive we'd have to check all third-party facilities," to ensure pollution hazards are not present, Mr. Schulze-Wislarn added.

Warehouses, for example, are potential time-bombs, Mr. Schulze-Wislarn said. "We have no way of telling if an assortment of goods, stored at non-Henkel warehouse would exceed toxic substance levels should a fire occur. But it could be our responsibility."

Such policy conditions have added oil to the fire burning since expanded EIL insurance was first

Continued on page 19

INTERNATIONAL

Air France

Continued from previous page
ment—rather than Air France's war risk insurers—may pay for compensation to victims of the hijacking.

Air France renewed its insurance program Dec. 1 after it switched London reinsurance brokers to Willis Corroon Group P.L.C. from Nicholson Leslie Aviation. The airline—which has suffered three major losses in the past three years totaling \$292 million—also switched its lead insurer to La Reunion Aérienne in Paris from Assurance France Aviation. London sources claim Air France's premium doubled, but La Reunion Aérienne did not return calls.

The airline's all-risk hull and liability coverage, which includes

liability war risk, is reinsured in London, led by Lloyd's aviation underwriter John Westcott. Its hull war risk reinsurance is led by Lloyd's underwriter John Charman.

Air France's liability coverage may compensate the injured passengers and relatives of those killed.

It was uncertain last week whether the \$18.6 million Airbus would be a total hull war risk insurance loss following the shoot-out in the plane.

Air France's liability coverage could pay compensation to the in-

jured passengers and relatives of the three who were killed.

Under the French Terrorism Act of 1986, however, French citizens anywhere in the world and all victims on French soil regardless of nationality are paid compensation for terrorist attacks by a government-funded guaranty fund set up by the act. It is not certain

what levels of compensations are provided. But if the fund is liable to pay compensation, Air France's liability insurers may not pay out anything.

The fund may have the right to subrogate against Air France, however, if negligence can be proved in French courts.

Just recently, plaintiffs repre-

senting the fund filed a lawsuit against British Airways in France, charging that BA was negligent in landing at Kuwait Airport during the August 1990 invasion by the Iraqis, who seized its passengers as human shields. BA contends it was not negligent because no one told the airline it was unsafe to land in Kuwait. **■**

Cologne Re acquires control of Austrian reinsurer

COLOGNE, Germany—Cologne Reinsurance Co. has acquired a majority share of Austrian reinsurance company Vienna Reinsurance Co.

The German reinsurer now holds 70% of its former competitor.

The remaining 30% will be controlled by Austrian insurers Wiener Staetische Allgemeine Versicherungs A.G. and Bun-

deslaender Versicherungs-A.G. The company will be renamed Cologne Re Vienna.

Vienna Re is Austria's oldest reinsurance company, with 1993 gross premium volume of 130 million DM (\$74.8 million).

A Cologne Re spokesman called the deal "a strategic move" that gives Cologne Re "better access to the reform states of eastern Europe."

Cologne Re's Vienna operations will focus especially on Austria, Czech Republic, Slovakia, Hungary and Slovenia, according to company Chairman Peter Luetke-Bornefeld.

Cologne Re executive Herbert Ingenillem, one of the reinsurer's foreign business directors, will be the company's new managing director.

—By Don Lewis Kirk

The Professional Marketplace

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Financial:

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Secretaries, Treasurers, controllers and other Financial Personnel 3,335

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 16,157

Sub-total 28,309

Associations, Unions and Educational Institutions 974

Commercial Consumers

Sub-total 29,652
Insurance Agents and Brokers 8,408
Insurance Companies 8,181
Accountants, Actuaries, Attorneys & Consultants 3,611
Managers & Health Care Providers 1,903
Others Allied to the Field 849

TOTAL 52,604

★ Source Business/Occupational breakdown of qualified circulation, May 30, 1994 Issue, as submitted to BPA for June 1994 BPA Publisher's Statement

LEGAL NOTICE

IMPORTANT NOTICE TO FORMER AGENTS OF THE ORION INSURANCE COMPANY PLC AND THE LONDON AND OVERSEAS INSURANCE COMPANY PLC (the "COMPANIES")

On October 1, 1992, The Orion Insurance Company PLC ceased writing new business and has been in run-off since that date. On December 30, 1991, The London and Overseas Insurance Company PLC ceased writing business and has been in run-off since that date. The authority of all agents to write business on behalf of the Companies ceased on the dates on which their run-off commenced. On October 20, 1994, Winding-Up Petitions were presented in the High Court of Justice of England and Wales in London, England, against the Companies under the United Kingdom Insolvency Act of 1986. In connection with the proceedings initiated by the presentation of the Winding-Up Petitions, on October 21, 1994, the High Court appointed Paul Anthony Brereton Evans and Richard Claude Boys-Stones as Joint Provisional Liquidators of the Companies. Agents of the Companies should immediately contact the Joint Provisional Liquidators at the following address and provide an accounting of all funds held and any business transacted on behalf of either of the Companies since the dates that the Companies ceased writing new business.

Mr. P.A.B. Evans
Mr. R.C. Boys-Stones
Price Waterhouse
No. 1 London Bridge
London SE1 9QL
England

Agents should also return all stationery, policies, forms, applications and other materials of the Companies to the Joint Provisional Liquidators.

On October 24, 1994, the Joint Provisional Liquidators commenced ancillary proceedings with respect to the Companies under Section 304 of the Bankruptcy Code in the U.S. Bankruptcy Court for the Southern District of New York (Case Nos. 94-B-44968, 94-B-44969 (SMB)). On October 28, 1994, a Temporary Restraining Order was issued which remains in effect pending a hearing on March 14, 1995 at 10:00 a.m. Any party who has not received a copy of the Order should contact counsel for the Joint Provisional Liquidators at the following address:

Chadbourne & Parke
30 Rockefeller Plaza • New York, New York 10112
Attention: Margaret Groarke, Esq.

INTERNATIONAL

EIL

Continued from page 17

German insurers began offering coverage in 1993, a year after German lawmakers passed one of the world's most stringent environmental liability laws, mandating that companies purchase minimum EIL coverage limits of 160 million DM (\$101 million) for personal injury and 160 million DM for property damage arising from pollution caused by normal operations.

However, insurers provide only a fraction of the capacity needed to meet those statutory levels of coverage, offering only about 20 million DM (\$12.7 million) in limits.

As a result, many of Germany's chemical giants have decided to go it alone, turning to captive insurance (BI, Sept. 19, 1994).

"Coverage for risk of environmental impairment through normal operations is generally excluded from coverage, even though lawmakers have made this an explicit liability," complained Hoechst's Mr. Cremer. Hoechst buys available EIL coverage and self-insured the rest of its risk.

In some rare cases, when German insurers do offer coverage for damage from normal operations, it's only in limited form, he said. "The sum of insurance available is low compared to other exposures. But at least it's something."

Mr. Cremer conceded that German insurers must be given credit

for offering the EIL coverage they do, which is not available anywhere else in the world.

Manfred Illner, a member of Allianz Insurance Co.'s executive board who is responsible for industrial insurance operations, admitted that EIL policies have some shortcomings. "Many policy conditions are of a general nature and were created for the middle-sized company," he said. "As a result, there are problems adapting policies for larger companies."

Mr. Illner pointed out that German insurers and buyers are still in the midst of a learning process regarding EIL coverage. "We've entered new terrain," he said. "It will take time to adjust policies to special problems."

A recent poll by the Assn. of German Industry, or BDI, found that German companies with EIL insurance saw their premiums increase 30% over the last two years. In one case, a company saw its premium increase 2500%.

Despite the steep rate hikes, most companies surveyed claimed their insurance coverage had not worsened as a result of German EIL. Many companies were able to increase their limits at the same time rates increased, according to the poll.

And, 68% were able to negotiate individual changes in coverage terms and conditions. Nearly a third of the companies polled, for example, were able to change some policy conditions for declaring individual risk.

Insurers refused, though, to make changes in policies that

would provide increased coverage of damage of their policyholder's own facilities.

In addition, coverage of pollution claims in foreign countries are limited to sudden and accidental occurrences. In many cases, German EIL policies exclude coverage for pollution damage in the United States and Canada.

Half of the companies polled by the BDI said they retained at least 10% of their own EIL risk.

The maximum limit of insurance available for accidents that affect the environment was 20 million DM (\$12.7 million), according to the BDI poll, which is only a fraction of the 160 million DM liability imposed by German law.

Companies have loudly criticized insurers for being less than tactful in pushing through sharply higher EIL rates at a time when the German economy is going through its worst recession in 50 years.

Moreover, even companies with a good pollution track record confronted higher rates at renewals. "Many companies have the impression, individual evaluation of risk plays no role at all in setting premiums. On the contrary, they pay more and get less for their money," said Mr. Cremer.

"German companies have wanted gradual rate hikes and not gotten them," he said.

As a result, German companies like Siemens A.G. have taken their business outside Germany. "It's a warning signal insurers should take seriously," Mr. Cremer suggested. **BI**

Russia to set up new partly private reinsurer

By ELENA KUDIMOVA

MOSCOW—To help generate increased domestic reinsurance capacity, the Russian government is planning to establish a new partially state-owned reinsurer this year, a government official says.

The government would own half of the company, with the other half being held by private investors ranging from banks and insurance companies to wealthy individuals, said Capitolina Turbina, deputy head of the Russian Federal Insurance Supervisory Board. The government would gradually sell off its shares to other private institutional investors.

As proposed, the reinsurance company would have \$150 million in capital, but the company's name and its top executives have not yet been decided.

The need for a large and reliable national reinsurer is great, because the reinsurance capacity of the local market is far from adequate, Ms. Turbina said. There has a boom in the number of new insurers operating in Russia, with 54% of the insurers operating for less than a year.

Currently, though, up to 90% of large risks written in the Russian market are reinsured abroad.

For example, in September 1994, Princeton, N.J.-based American Re-Insurance Co. successfully coordinated a \$500 million property reinsurance program for Naberezhnyie Chelny-based KamAZ, which is Russia's largest truck maker, with a number of international reinsurers and Russian insurers participating on the risk.

In addition, Germany's Munich Reinsurance Corp. alone accounts for 5 billion deutsche marks (\$3.18 billion) in Russian companies' reinsurance coverage in the

current year.

Often, Russian insurers cannot resist the temptation to write a risk—even if it is bigger than they can handle. Russia lacks regulatory guidelines on underwriting that would prevent this problem.

Only 53 of the 2,517 Russian companies that had been licensed by the Supervisory Board as of Oct. 1, 1994, are reinsurers and their financial backing is often weak. On average, a Russian insurance company is equipped with capital of only about 70 million rubles (\$21,000).

The total capacity of the market is difficult to estimate because of ever-increasing inflation. It is thought that a strong state-backed reinsurer would lend stability to the domestic market.

A Russian brokerage firm called Insurance Chamber advocates domestic insurers forming reinsurance pools, as an alternative to relying on foreign reinsurers.

Before demand for reinsurance takes off, however, demand for insurance coverage must grow. Currently, only 5% of businesses are insured in Russia.

But, if a major obstacle to purchasing insurance in Russia—the lack of a business tax deduction for property insurance premiums—is removed, insurance sales are expected to take off, Ms. Turbina said. If that occurs, more Russian insurers will seek reinsurance from European or U.S. reinsurers as the local reinsurance market alone would not be able to cope with growth in business.

Currently, there are only two exceptions to the ban on tax deductions for property premiums: the state gas monopoly, Gasprom, and the state electricity monopoly, United Energy Systems, are allowed to treat up to 1% of their deductible business costs as insurance. **BI**

France to allow private pensions

By LEE COPPACK

Crain News Service

PARIS—Private pensions will be encouraged for all employees in France this year, a government official confirms.

French Economy Minister Edmond Alphandery said recently that conditions should be right for an initiative in 1995.

However, the reaction to Mr. Alphandery's remarks has been muted so far, and nothing new is expected until after the presidential elections in May.

"No, I do not think anything new has emerged, and certainly we do not expect anything to happen until after the election," said Anne Bozec, press attache with the French Federation of Insurance Cos.

A similar reaction came from Jean-Marie Tirard, head of the tax unit for the Paris office of British law firm Clifford Chance. "Nothing will happen until 1995."

More than a year ago, Mr. Alphandery told the National Assembly the government would introduce a privately funded system to augment its strained pay-as-you-go state scheme early in 1994.

One step taken to reduce the deficit in the obligatory system—estimated at more than 40 billion French francs (\$7.5 billion) last year—has been to extend the contribution period for full state benefits to 40 years from 37½ years. The government also increased the number of years used to calculate the benefit. Benefits now are based on the average salary for the 25 highest-paid years; previously it was a 10-year average.

The main evidence of reform so far is the Madelin Law, published in February 1994, which will give tax relief to certain groups, basi-

cally the self-employed in professions and commerce, for payments up to a specified limit made to private pension contracts from Feb. 13, 1994. The final step needed to bring the Madelin Law into effect, which would spell out the tax position, is expected soon.

At least 36 products are already available from insurers, banks and mutuals aimed at the Madelin Law market, according to the trade press reports in France.

However, neither the Madelin Law nor any reforms affecting the wider working population is likely to generate a rush of assets, according to Françoise Hebreteau, analyst with Societe Generale Equities & Derivatives, a Paris investment house. "We do not expect an explo-

So far, the government has not indicated what form additional funding for private pensions would take.

sion of funds, even when the reform affects the whole of the population. The payments that people are already making for the life insurance products now used for retirement savings do not leave sufficient revenue for additional savings."

Herve de Lattre, international development manager for money manager Fimagest in Paris, said the amount of assets generated by a private pension system would depend strongly on how the government treated the life insurance products now used for retirement savings.

"The fiscal treatment of these products is extremely favorable and it is a way of saving which has seen

a real explosion. In such a highly taxed regime, what will matter for any new pension funds is the tax treatment," he said.

So far, the government has not indicated what form additional funding for private pensions would take, and there are strong interest groups pressing each option, said a leading European insurance analyst who asked to remain unidentified.

"Basically there are four broad options: do nothing, which is what the unions want; Anglo-Saxon-type corporate pensions; personal pensions; or German-type book liabilities where companies provide in their balance sheet for their pensions liabilities, which are insured against the risk of insolvency, which not surprisingly, is what appeals to employers. Or they could for some combination of these," the analyst said.

The analyst also noted that while the government hopes that private pensions will create an additional source of capital and aid the privatization process, the Paris Bourse had not yet reacted to Mr. Alphandery's latest comments.

According to Ms. Bozec, French insurers continue to call for the creation of a capitalized system of private pensions and a balanced pay-as-you-go system. In the annuities vs. lump-sum debate, the insurers come down on the side of annuities because they believe they provide more secure retirement income and better protect the interest of dependents.

"This debate is often presented as a conflict between banks and insurers," said officials of the insurance federation in a briefing on retirement funds this summer. "In reality, it arises from two different ways of looking at the problem posed by the unavoidable erosion of the obligatory pay-as-you-go systems." **BI**

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JANUARY 1995

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JAN. 10. Gaining Market Share in Health Care: Understanding Your Customer—The Employer symposium in Chicago, sponsored by the Midwest Business Group on Health; \$325. Midwest Business Group on Health, 8303 W. Higgins Road, Suite 200, Chicago, Ill. 60631; 312-380-9090.

JAN. 13. Forming and Using Limited Liability Companies and Limited Liability Partnerships seminar in San Francisco, sponsored by the Practising Law Institute; \$695. Practising Law Institute, 810 Seventh Ave., New York, N.Y. 10019; 1-800-260-4754.

JAN. 16-18. Intro to Financial Analysis-Life/Health Insurance seminar in New York, sponsored by A.M. Best Co. and The College of Insurance; \$950. Also Feb. 13-15 in Chicago and March 13-15 in San Francisco. The College of Insurance, 101 Murray St., New York, N.Y. 10007-2132; 212-962-4111.

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JAN. 18. 1995 All Industry Day in Pittsburgh, sponsored by the Allegheny Chapter of the CPCU Society. Contact Gregory S. Barth, 412-456-3230.

JAN. 23-24. Behavioral Healthcare Outcomes conference in San Francisco, sponsored by the Institute for International Research; \$1,295. Institute for International Research, 708

Third Ave., Fourth Floor, New York, N.Y. 10017-4103; 212-661-8740.

JAN. 23-24. Risk Management Strategies for Managed Care conference in Dallas, sponsored by the Institute for International Research; \$1,195. Conference Coordinator, Institute for International Research, 708 Third Ave., Fourth Floor, New York, N.Y. 10017-4103; 212-661-8740.

JAN. 25-26. Mergers and Acquisitions: From A to Z seminar in New York, sponsored by the Practising Law Institute; \$995. Practising Law Institute, 810 Seventh Ave., New York, N.Y. 10019; 1-800-260-4PLI, or 1-800-260-4754.

JAN. 26-27. Outsourcing Employee Benefits and Human Resource Functions conference in Orlando, Fla., sponsored by the International Quality & Productivity Center; \$795 for employee benefit or human resource managers, \$1,095 for others. International Quality & Productivity Center, P.O. Box 43155, Upper Montclair, N.J. 07043-7155; 1-800-882-8684.

JAN. 26-27. Managed Care: The Next Generation conference in Longboat Key, Fla., sponsored by the Florida West Coast Healthcare Coalition; \$295. Florida West Coast Healthcare Coalition, 6637 Superior Ave., Suite C, Sarasota, Fla. 34321; 813-923-1697.

JAN. 30.-FEB. 1. Financial Analysis-Life/Health Insurance seminar in New York, sponsored by A.M. Best Co. and The College of Insurance; \$950. Also Feb. 27-March 1 in Chicago and March 27-29 in San Francisco. The College of Insurance, 101 Murray St., New York, N.Y. 10007-2132; 212-962-4111.

JAN. 31-FEB. 1. Designing and Managing Specialty Niche Insurance Programs conference in San Francisco, sponsored by the International Quality & Productivity Center; \$1,195. International Quality & Productivity Center, P.O. Box 43155, Upper Montclair, N.J. 07043-7155; 1-800-882-8684.

JAN. 31-FEB. 1. Fourth Annual P&I Defined Contribution Conference in

New York, sponsored by Pensions & Investments and International Business Forum; \$695 for plan sponsors, \$1,095 for others. IBF/International Business Forum, 7 Penn Plaza, Suite 901, New York, N.Y. 10001; 212-279-2525.

FEBRUARY

FEB. 2. Proven Strategies for Successful Insurance Sales seminar in Normal, Ill., sponsored by Illinois State University's Katie Insurance School; \$30. Illinois State University, Katie Insurance School, Attn: Kathy Kelly, Campus Box 5490, Normal, Ill. 61790-5490; 309-438-3021.

FEB. 2-3. Mealey's Insurance Fraud and Bad Faith Conference in Phoenix, sponsored by Mealey Publications Inc.; \$595. Mealey Publications Inc., P.O. Box 446, Wayne, Pa. 19087-0446; 1-800-632-5397.

FEB. 3-4. Joint Technology Conference in Kansas City, Mo., sponsored by the National Assn. of Insurance Commissioners and ACORD; \$125 for regulators, \$450 for non-regulators. NAIC Meetings Department, 12 Wyandotte Plaza, 120 W. 12th St., Suite 1100, Kansas City, Mo. 64105; 816-889-4400.

FEB. 9-10. Products Liability Seminar in San Francisco, sponsored by Defense Research Institute; \$445 for DRI members, \$495 for non-members. Defense Research Institute: Products Liability Seminar, 750 N. Lake Shore Drive, Suite 500, Chicago, Ill. 60611; 312-944-0575.

FEB. 9-10. Provider Network Management conference in Santa Monica, Calif., sponsored by the Institute for International Research; \$1,295. Also Feb. 16-17 in Washington. Conference Coordinator, Institute for International Research, 708 Third Ave., Fourth Floor, New York, N.Y. 10017-4103; 212-661-8740.

FEB. 9-10. Lloyd's and London Insurance Market conference in New York, sponsored by Executive Enterprises; \$1,195. Executive Enterprises, 22 W. 21st St., New York, N.Y. 10010-6990; 800-831-8333.

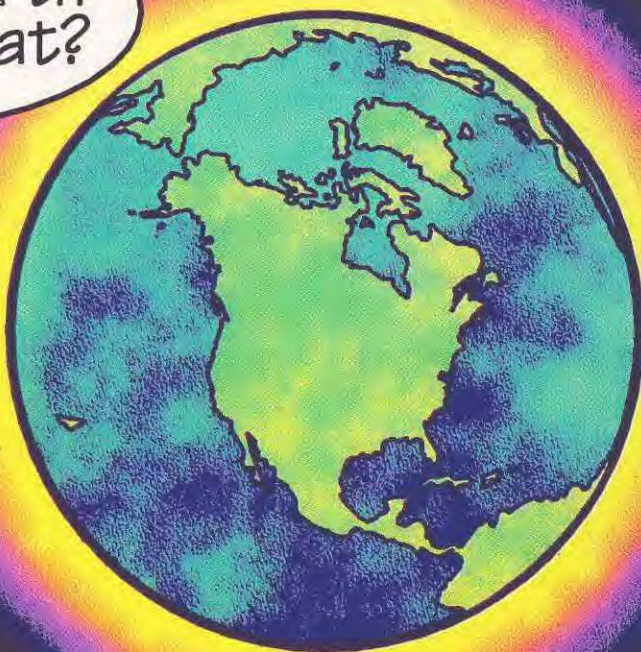
FEB. 9-10. Workers Compensation Managed Care conference in Orlando, Fla., sponsored by the Institute for International Research; \$1,295. Conference Coordinator, Institute for International Research, 708 Third Ave., Fourth Floor, New York, N.Y. 10017-4103; 212-661-8740.

FEB. 10-11. Advanced Behavioral Group Practice Management conference in Dallas, sponsored by the Council of Behavioral Group Practices and Group Practice Affiliates Inc.; \$595. Also Feb. 24-25 in Atlanta. IBH-A, 4370 Alpine Road, Suite 108, Portola Valley, Calif. 94028; 415-851-8411.

FEB. 13-14. Rate Setting & Product Development for Managed Care conference in Tampa, Fla., sponsored by the Institute for International Research; \$1,295. Institute for International Research, 708 Third Ave., Fourth Floor, New York, N.Y. 10017-4103; 800-345-8016 or 212-661-8740.

FEB. 13-14. Workers Comp Update 1995 seminar in Oak Brook, Ill., sponsored by the Council on Education in
Continued on next page

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Management; \$495. Council on Education in Management, 325 Lennon Lane, Walnut Creek, Calif. 94598-2418; 510-934-8333.

FEB. 14. Secondary Insurance Market Research Workshop in New York, sponsored by the Society of Insurance Research; \$275 for SIR members, \$325 for non-members. Society of Insurance Research, 3285 Crawford Circle, Marietta, Ga. 30066; 404-919-8862.

FEB. 19-22. Trustees and Administrators Institute in Orlando, Fla., sponsored by the International Foundation of Employee Benefit Plans; \$625 for IFEBP members, \$715 for non-members. Also **June 25-28** in Stateline, Nev. Registrations Department, International Foundation of Employee Benefit Plans, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6710.

FEB. 20-24. Government Risk Management Seminars in San Diego, sponsored by the Public Risk Management Assn.; \$595 for basic certificate program for PRIMA members, \$725 for non-members; \$490 for continuing education program and schools risk management program for PRIMA members, \$620 for non-members. PRIMA, 1815 N. Fort Myer Drive, Suite 1020, Arlington, Va. 22209; 703-528-7701.

FEB. 26-MARCH 1. Managing Ergonomics in the 1990s conference in Cleveland, sponsored by the Center for Office Technology and the American Automobile Manufacturers Assn.; \$395. Managing Ergonomics Conference Secretariat, 1150 S. Washington St., Suite 210, Alexandria, Va. 22314; 703-683-6334.

FEB. 27-28. Insurance, Excess and Reinsurance Coverage Disputes seminar in New York, sponsored by the Practising Law Institute; \$695. Also **March 23-24** in San Francisco. Practising Law Institute, 810 Seventh Ave., New York, N.Y. 10019; 1-800-260-4754.

MARCH

MARCH 8-10. 15th Annual Health Agenda '95 conference in Washington, sponsored by the Washington Business Group on Health; \$695 for WBGH members, \$895 for non-members. Washington Business Group on Health, ATTN: Health Agenda '95, 777 N. Capitol St. N.E., Suite 800, Washington, D.C. 20002; 202-408-9320.

MARCH 8-11. Work Injury Management '95 forum in Orlando, Fla., sponsored by Work Injury Management New & Digest and the Assn. of Disability Management Executives & Specialists; \$445. MHR, 1430 Wilamette St., Suite 213, Eugene, Ore. 97401-4049; 503-484-5853.

MARCH 16-17. 1995 Ratemaking Seminar in New Orleans, sponsored by the Casualty Actuarial Society; \$410 for CAS members, \$510 for non-members. Kathy Spicer, Casualty Actuarial Society, 516-352-8453.

MARCH 19-22. CAPCON '95 Annual Congress on Healthcare Contracting in Lake Buena Vista, Fla., sponsored by International Business Communications; \$1,295. IBC USA Conferences Inc., 225 Turnpike Road, Southborough, Mass. 01772-1749; 508-481-5400.

MARCH 30-31. Insurance: Third Party Liability seminar in Atlanta, sponsored by Defense Research Institute; \$445 for DRI members, \$495 for non-members. Defense Research Institute, Insurance: Third Party Liability Seminar, 750 N. Lake Shore Drive, Chicago, Ill. 60611; 312-944-0575.

APRIL

APRIL 2-5. National Managed Health Care Congress in Washington; \$795. NMHCC, 70 Blanchard Road, Suite #000, Burlington, Mass. 01803; 617-270-6000.

The Datebook is compiled from notices sent to Business Insurance. Notices should be sent at least eight weeks in advance to Datebook, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. Please include the cost, if any, to attend the meeting and information on registration for interested readers. Business Insurance reserves the right to select meetings that are of most interest to its readers and cannot guarantee that notices will be printed.

Azteca

Continued from page 1
administration firm who was formerly president of the defunct Victoria Insurance Co. and is a former business associate of late insurance con man Alan Teale.

Winmill International Inc., a Winnipeg intermediary that has acted as the Canadian conduit for Azteca's business, was also the North American representative for Global Insurance Co. S.A., another Uruguayan insurer that was hit last year with cease-and-desist orders in several states.

Global Insurance, for which Mr. Yorke-Wade has also acted as a consultant, shares a Montevideo address with Azteca. Mr. Yorke-Wade said the address is that of an accounting firm that acts as the registered agent for the two insurers, which he said are not related.

He also said Winmill no longer represents Azteca.

Regarding his past connections to Victoria and Mr. Teale, Mr. Yorke-Wade said, "I've done nothing wrong. I've made mistakes, but I've done nothing wrong."

No state insurance department has yet taken action against Azteca, though the Arizona and Colorado departments confirm they are investigating the insurer's workers comp solicitations.

Azteca officials, meanwhile, suggest they will fight any state regulatory effort to restrict the insurer's operations.

Insurance regulators may say Azteca can't operate, but "I say, 'Tell me why I can't do it,'" said Steven Buckley, an Azteca marketing and sales official in Phoenix. "We have given up our national sovereignty, and that means all rules and regulations," he said of the NAFTA accord.

"The whole thing is a complete gray area. It's not as cut and dried as either side would have you believe," Mr. Yorke-Wade said.

"I doubt (Azteca) would pursue a course of action so high-profile without legal opinions backing them up," he said.

Mr. Yorke-Wade added, though, that "all of this depends on lawyers' opinions, and you can get any number of them. At the end of the day, it's going to go to court, and then it's a matter of who has done their homework."

Other insurers have entered the U.S. market under the auspices of NAFTA: The Texas Insurance Department became the first to authorize a Mexican insurer following the NAFTA agreement when it last year admitted Aseguradora Mexicana S.A., Mexico's largest casualty insurer.

Asemex's authority was granted under an amendment to the Texas insurance code—passed in antici-

pation of NAFTA but applying to all alien insurers—that still requires an insurer to submit to a "fairly rigorous" financial and operational review that includes more than two dozen documentary filing requirements, Texas department officials say.

Alien insurers intending to write workers comp coverage would additionally have to submit an accident prevention plan to the state workers comp board before receiving permission to operate in the state, Texas officials say.

Whether Azteca could meet these standards is open to question.

Azteca says it is registered as an international company in Uruguay, but Ana Maria Acosta y Lara, Uruguay's superintendent of insurance and reinsurance, said the company is not licensed as an insurer or reinsurer there.

Mr. Yorke-Wade said Azteca is not licensed in Uruguay because it does not operate within that country. The Texas law, for one, requires proof of an insurer's license in its domiciliary country before that insurer could operate in the state, officials say.

While purportedly based in Uruguay, Azteca is represented by Mr. Yorke-Wade's Dublin firm, Corporate & Trust Administration Services Ltd.; is audited by P.J. Dunne & Co., a Dublin firm; and identifies its accountant as Paul & Co., an Isle of Man firm that has no telephone listing.

Mr. Yorke-Wade said C&T Administration provides back-office services to Azteca, but he denied operating the insurer.

"We do not control it. We do not make decisions," he said. "We are a consulting company, and we provide reports they ask us to provide."

He declined to identify members of Azteca's management, but said messages could be left for them at C&T Administration's Dublin office.

Azteca officers could not be reached.

A May 6, 1994, opening balance sheet for Azteca reports total assets of \$25 million, described only as "cash on deposit."

Mr. Yorke-Wade and Mr. Buckley, Azteca's sales representative in Phoenix, said they could not provide further details of the assets, and Mr. Yorke-Wade referred the question to officials of accountant P.J. Dunne, who could not be reached.

Officials of Azteca's U.S. bank, First Capitol Investments Corp. of Wilmington, Del., did not return phone calls regarding the insurer's assets.

Azteca maintains that it has legal opinions backing its contention that it can operate in the United States under NAFTA be-

cause it does business through intermediaries in Canada and Mexico, both NAFTA signatories.

Whether this also means that Azteca is exempt from any state regulation is a matter that appears to be heading toward a dispute.

Mark Pyper, a lawyer with Woodruff, Owens & Pyper in Phoenix, provided Azteca with an opinion letter last November saying that NAFTA allows "citizens of the three signatory countries... to transact insurance and conduct other business in the countries of the other signatories."

In an interview, Mr. Pyper—who has also agreed to defend Azteca in regulatory disputes—said this does not mean Azteca would be exempt from state licensing laws, but only that it would have to be treated as a domestic insurer for licensing purposes.

Mr. Buckley contends that NAFTA bars regulators from applying alien insurer regulations and says Azteca only has to comply with rules covering surplus lines insurers.

He also suggested, though, that state filing requirements for surplus lines companies would have to be eased to comply with NAFTA and that states "are just setting themselves up for heartache" if they follow "pre-NAFTA" rules.

Azteca, he said, is not licensed or authorized in any state because no state has told the insurer what it must do to comply with post-NAFTA law.

"It's easy to say, 'No, you can't do it,' but my thing is, 'Why?'" he said.

One legal opinion has already created problems for Azteca: The insurer's representatives have been using a June 1994 letter to Mr. Yorke-Wade from the London office of LeBoeuf, Lamb, Greene & MacRae, confirming that a surplus lines broker in one state can export business to another broker out of state or out of the country.

A LeBoeuf, Lamb lawyer, however, said that the letter actually dealt with a question unrelated to Azteca and that "Azteca is unknown to us."

Mr. Yorke-Wade said that LeBoeuf, Lamb has since complained about Azteca's use of the letter.

In fact, there is very little difference between pre-NAFTA and post-NAFTA insurance regulation, according to the NAIC.

Mr. Buckley and other Azteca representatives rely on a particular passage of NAFTA that requires each signatory country to "permit persons located in its territory... to purchase financial services from cross-border financial service providers of another (signatory country)."

Regulatory officials, however, note that the same passage goes on

to provide that "this obligation does not require a (signatory country) to permit such providers to do business or solicit in its territory."

NAFTA also includes a so-called "prudential provision" that allows the participating countries to enforce "reasonable measures for prudential reasons" to protect consumers and maintain the soundness of financial institutions.

As a result, "there are very few state laws and regulations that do not now conform with the principles in NAFTA or that are not reasonable and prudential," the NAIC said in a letter to state insurance departments.

While it braces to fight state regulators, Azteca has been marketing and writing workers comp business through producers in several states.

These have included Cordell Excess & Surplus Lines Insurance Services in Santa Monica, Calif., and Sanders Brokerage Services of Mesa, Ariz.

Some Azteca quotations have been accompanied by a "NAFTA acknowledgement" in which a policyholder agrees to accept coverage "as provided by Azteca Insurance S.A. under the terms of (NAFTA)" and acknowledges that there is no state guaranty fund coverage for unpaid claims.

Azteca has also been trying to line up a fronting arrangement with a licensed U.S. insurer, according to a Dec. 2 letter to a Colorado agent from Cost Solutions International Inc., a Lake Forest, Calif.-based Azteca marketer.

William C. Neel, president of Cost Solutions, could not be reached.

Mr. Buckley said Azteca is concentrating on writing workers comp business through employee leasing firms because of the large volume available through the firms, and is hoping to expand in California this year as open rating rules for workers comp take effect.

He also said that Azteca will typically bind coverage at a 33% discount from rates set by the National Council on Compensation Insurance.

"Welcome to 1965 work comp again!" he exclaimed.

NAFTA may only be the first opportunity for alien companies looking to enter the U.S. market, added Mr. Buckley, explaining that the General Agreement on Tariffs and Trade could do the same thing for companies in a host of European and other countries.

"NAFTA is the first two sentences of a 3,000 page novel called GATT," Mr. Buckley said. "There has been the biggest change in the last year that the insurance industry has ever gone through in this country, and you know what? Nobody knows it." ■

Insider Trading

General Re stock closed at \$125.63 a share on Dec. 22.

Marsh & McLennan Cos. Inc.: Gregory F. Vangundy, officer, sold 284 shares of common stock at \$76.50 each on Nov. 9, 1994.

Mr. Vangundy now directly and indirectly holds 36,973 common shares.

M&M stock closed at \$79.63 a share on Dec. 22.

NAC Re Corp.: Daniel J. McNamara, director, bought 1,000 shares of common stock at \$26.75 each on Nov. 14, 1994. He now directly and indirectly holds 5,000 common shares.

NAC Re stock closed at \$30.75 a share on Dec. 22.

Ohio Casualty Corp.: Howard L.

Sloneker, officer and director, acquired by gift 666 common shares and disposed of by gift 1,667 common shares at an unreported price from Nov. 1 to Nov. 4, 1994. He indirectly acquired by gift 1,998 shares at an unreported price that same day. Mr. Sloneker now directly and indirectly holds 188,689 common shares.

Ohio Casualty stock closed at \$28.38 a share on Dec. 22.

Poe & Brown Inc.: Joseph E. Brown, retired, exercised an option for 7,500 shares of common stock at \$14.75 each on Oct. 20, 1994, and sold them at \$20.50 each on the same day.

Mr. Brown now directly and indirectly holds 20,266 common shares.

Poe & Brown stock closed at

\$20.63 a share on Dec. 22.

RLI Corp.: Gerald D. Stephens, president, disposed of by gift 200 shares of common stock at \$21.88 each on Sept. 20, 1994. He indirectly acquired by gift 200 common shares at \$21.88 that same day and now directly and indirectly holds 351,729 common shares.

RLI stock closed at \$20.38 a share on Dec. 22.

Insider Trading, compiled by Investor/Net Trading Group Inc. of Fort Lauderdale, Fla., from reports filed with the Securities and Exchange Commission, tracks stock sales and purchases by insurance industry directors and officers. The column is distributed by Tribune Media Services Inc.

BRICO

Continued from page 2

BRICO has been in rehabilitation since August 1993, and as of Sept. 30 was insolvent by nearly \$4.8 million. Chartered in Vermont in 1988 to issue liquor liability insurance coverage for licensed beverage retailers, BRICO was formed under the non-profit Consortium of Licensed Beverage Retailers Assns., whose members are BRICO policyholders.

BRICO was initially capitalized with \$6.8 million—\$2.3 million in cash and a \$4.5 million letter of credit.

Ms. Costle believes the BRICO insolvency shouldn't have an impact on Vermont's accreditation efforts, arguing that none of the NAIC's accreditation standards, "other than that you need sufficient departmental staff, which we now have but didn't have back when this one was forming," would have been a factor in preventing the insolvency.

"I think when you look at the accreditation standards that we do not necessarily meet they would've had no effect on this particular insolvency," Ms. Costle said. "The accounting differences between GAAP and SAP were relatively minor. The other factors weren't there."

If anything, the BRICO insolvency points to a need to monitor companies' conformance with their business plans, something Vermont regulators say is a cornerstone of their

approach to handling risk retention groups.

A 1993 underwriting review of BRICO conducted for the state by Milliman & Robertson Inc. found that for various reasons BRICO was susceptible to business that was underpriced and difficult to underwrite.

The insurer's primary underwriting consideration was not the degree of risk of the policyholder but whether the policyholder was a member of the designated associations, the audit said. While BRICO only wrote the liquor liability portion of its policyholders' coverages, it was unable to offset the relatively higher losses associated with that line of business with other, more profitable lines.

Meanwhile, the risk retention group's efforts to raise its prices in its monoline market prompted "adverse selection," which resulted in only risks that couldn't find coverage elsewhere seeking coverage from BRICO.

"In this case, what you had was a company that was formed in a hard market and by the time it got going it was in a soft market and it was selected against. That's what brought this company down," Ms. Costle said.

"I think in the future we're going to be looking at companies' conformance with business plans very, very closely," the commissioner said, adding that such monitoring of business plans is not part of the NAIC guidelines.

John L. Primmer of the Primmer & Piper law firm in St. Johnsbury, Vt., joked that maybe the BRICO insolvency would help Vermont win NAIC accreditation, "because I'm thinking of all the other states that had 100% of their risk retention groups declared insolvent that are accredited, so maybe that's the last thing you have to do to get accredited, have a risk retention group fail."

While saying he'd rather that Vermont still had its perfect record intact, Jon Harkavy, vp and general counsel at USA Risk Group in Arlington, Va., said, "The argument still holds that Virginia had one risk retention group and that went down, Nebraska had one risk retention group and that went down, New Mexico had one risk retention group and that went down, Louisiana had one risk retention group and that went down, and they're all accredited."

Noting that Vermont's accreditation problems go beyond its treatment of risk retention groups, Virginia Insurance Commissioner Steven T. Foster, chairman of the NAIC's Financial Regulation, Standards and Accreditation Subcommittee, said the BRICO insolvency won't affect Vermont's accreditation chances.

"This receivership will have no bearing on whether they are accredited or not," he said. "We look at the tools they have available to them, not the number of receiverships or insolvencies. ■

Asbestos

Continued from page 2

portion of a 1993 state appellate court ruling that held Owens-Illinois' liability insurers jointly and severally liable for complete coverage up to the limits of policies issued from 1977 to 1983 (BI, May 3, 1993).

The appellate court's decision had upheld most of a broad victory granted Owens-Illinois by a lower state court. That court had ruled in 1990 that Owens-Illinois was entitled to tap \$960 million in aggregate limits of liability policies issued during the six years beginning in 1977 (BI, April 16, 1990).

However, the Supreme Court upheld the lower courts' application of a "continuous trigger" of coverage. This means that underwriters are liable for bodily injury claims if they are on a risk any time between a claimant's exposure to asbestos and manifestation of an asbestos-related disease.

Owens-Illinois' exposure to litigation stemming from the 1948-1958 manufacture of insulation products containing asbestos is enormous.

"The economic realities of this litigation are stark. By 1991, when (Owens-Illinois) filed its Appellate Division briefs, it had settled 43,000 bodily injury lawsuits. More than 90,000 bodily-injury and 63 property-damage cases were pending in all state and some territories. With bodily injury lawsuits accumulating at the rate of 1,700 per month, (Owens-Illinois') unreimbursed costs of defending and settling those cases had by then exceeded \$95 million. (Owens-Illinois) had already spent close to \$10 million in defense and settlement costs associated with the property-damage cases," wrote Associate Justice Daniel O'Hern.

Owens-Illinois self-insured its product liability exposures between 1948 and 1963. Between Sept. 1, 1963, and Sept. 1, 1977, Aetna Casualty & Surety Co. issued excess liability policies to Owens-Illinois with limits varying

from \$20 million to \$50 million during the life of the relationship. The Aetna policies had a self-insured retention of \$100,000 per year between 1963 and 1970 and, thereafter, a \$250,000 retention per occurrence.

From 1977 to 1985, Owens-Illinois bought liability coverage with limits of \$750,000 excess of a \$250,000 per occurrence retention from United Insurance Co., a Cayman Islands-based group captive.

In 1975, Owens-Illinois had set up a captive insurer, Owens Insurance Ltd. of Hamilton, Bermuda. Beginning in 1977, the captive provided umbrella coverage with limits ranging from \$50 million excess of \$1 million in 1977 to a maximum of \$150 million excess of \$1 million in 1985.

Owens-Illinois' captive then reinsured 100% of its risk with United Insurance, General Reinsurance Corp., CIGNA Reinsurance Co. and Allstate Insurance Co.

Separately, a group of reinsurers of the Owens captive recently agreed to pay \$96 million to Owens-Illinois to settle asbestos-related claims. As part of the settlement agreement, the names of the reinsurers would not be released.

As the number of asbestos-related suits against the company mounted, Owens-Illinois sued its insurers and reinsurers, asking the New Jersey Superior Court to hold the underwriters liable for defending and indemnifying it for asbestos-related bodily injury claims and property damage.

Justice O'Hern noted that both Owens-Illinois and the insurers from which it sought payment quoted the same policy language to bolster their arguments.

Owens-Illinois held that the language in the policy issued by United Insurance obligated the group captive to cover "all sums which the insurer shall become legally obligated to pay as damages."

"The policies do not state that the insurer shall pay only some of the damages sustained or that the insurers must pay only a portion of the ultimate net loss sustained dur-

ing the policy period," the justice noted in his decision.

Justice O'Hern said that the insurers countered that the lower court had ignored "plain language of the policies and applicable law. They contend that in its citation of the policy language, the Appellate Division omitted the language limiting the insurers' liability to injury 'which occurs during the policy period.'"

The justice branded both arguments as "flawed." He said the language of the policies themselves did not spell out allocation. After reviewing similar cases and applications of the continuous-trigger theory of liability, the justice spelled out what he thought was fair. "Because multiple policies of insurance are triggered under the continuous-trigger theory, it becomes necessary to determine the extent to which each triggered policy shall provide indemnity. 'Other insurance' clauses in standard CGL policies were not intended to resolve that question. A fair method of allocation appears to be one that is related to both the time on the risk and the degree of risk assumed," he wrote.

"When periods of no insurance reflect a decision by an actor to assume or retain a risk, as opposed to periods when coverage is not available, to expect the risk-bearer to share in the allocation is reasonable. Estimating the degree of risk assumed is difficult but not impossible," the justice concluded.

One insurer lawyer, Thomas Brunner of Wiley, Rein & Fielding in Washington, called the decision "moderately important" because it "begins to hold policyholders to their bargains."

Mr. Brunner, who is associated with the Insurance Environmental Litigation Assn., which filed a brief in the case, noted that the decision comes in what is generally considered a pro-policyholder state.

Owens-Illinois, Inc. vs. United Insurance Co., et al. Supreme Court of New Jersey, A-10/11/12/13/14, September Term 1994, Dec. 22, 1994.

Updates

Play-or-pay delay?

BOSTON—Massachusetts Gov. William Weld was expected to receive by the end of last week a bill that would postpone implementation of the play-or-pay portion of the state's universal health care law for an additional year.

A 1988 universal health care law set a tax of up to \$1,680 per worker, though employers with health care plans could offset the tax with each dollar spent per employee on health care.

In 1992, the Legislature postponed implementing the tax until 1995. Last week, lawmakers again postponed the tax until Jan. 1, 1996.

A spokesman for Gov. Weld said the governor had not decided whether to sign the bill. He said the governor would prefer a complete repeal of the tax rather than another delay in implementation.

Brockbank agency spinoff

LONDON—One of Lloyd's of London's most successful underwriting agencies is asking members to vote on a proposal to spin off its members agency and to vote on a new remuneration package for its leading underwriter, Mark Brockbank.

Following the failure of The Brockbank Group P.L.C. to attract sufficient interest in a dedicated corporate capital vehicle for 1995, the managing agency called for an extraordinary general meeting of members last Friday to vote on the two items.

Independent directors on the group's board asked shareholders to vote in favor of placing Brockbank's members agency into a new company called M.A.H. P.L.C. Shareholders were also to vote on canceling part of Mr. Brockbank's remuneration.

Penney pension settlement

PLANO, Texas—J.C. Penney Co. Inc. will pay between \$45 million and \$80 million to about 150,000 former and current employees to settle a class-action suit over pension calculations.

The 1988 lawsuit alleged that Penney's pension plan violated the Employee Retirement Income Security Act because it offset Social Security benefits based on the assumption that all employees had been fully employed from age 22. For employees who entered the workforce later in life, the Social Security benefits were overestimated and their pensions were offset by the overestimation.

In 1990, the retailer began basing the pension formula on the actual Social Security payments received, a spokesman said.

The settlement, which has received preliminary approval from a federal judge in Dallas, will cover an estimated class of 150,000 people who began working for Penney between 1976 and 1990.

Under the terms of the settlement, class members will have the opportunity to recalculate their pensions based on an agreed formula and receive a percentage of the difference, if any.

Final approval of the settlement is subject to a hearing that the judge has scheduled for the end of this month.

Farmers appeals large award

PORTLAND, Ore.—Farmers Insurance Group says it will appeal a \$40 million award that a Multnomah County Circuit Court jury gave last week to a former Farmers district manager whom they found had been wrongfully terminated.

The manager, Darrell Bennett, said he had a verbal guarantee that the B.A.T. Industries P.L.C. unit would fire him only in a case of fraud or theft. He was fired in August 1994.

In a trial that ended Dec. 22, jurors rejected Farmers' argument that the manager was dismissed for failing to meet business goals.

Separately, the California Department of Insurance ordered Los Angeles-based Farmers to pay \$183 million in Proposition 103 rollbacks.

Briefly noted

Robert C. Johnson is retiring as chairman and chief executive officer of PCS Health Systems, and new owner Eli Lilly & Co. will not fill the post. Mr. Johnson will be an independent consultant to the health care industry. . . . **District of Columbia Insurance Commissioner Robert M. Willis** has resigned his post and joined the law firm of Mitchell, Williams, Selig, Gates & Woodyard in Washington. . . . California insurers are seeking U.S. Supreme Court review of two California Supreme Court rulings upholding the constitutionality of **Proposition 103** (BI, Nov. 28). One of the companies, 20th Century Insurance Co., will not have to pay an ordered \$120 million in rollbacks until after the high court decides whether to hear the appeal after the California Supreme Court recently refused to lift a stay issued by a Los Angeles judge. . . . Three former directors of failed **First Capital Life Insurance Co.**—Robert I. Weingarten, Gerry R. Ginsberg and Philip A. Fitzpatrick—will pay \$2.4 million to First Capital Life and be barred from conducting insurance business in California for five years under a settlement of a suit by state insurance regulators (BI, Dec. 14, 1992). . . . **Richard Tee**, general manager of airline insurer Polygon Insurance Co. Ltd., has been elected chairman of the new **Assn. of Guernsey Insurers**. . . . **John Percy-Davis** this week becomes CEO of London brokerage **Nelson Hurst P.L.C.** Brian K. Dallamore replaces him as joint managing director. . . . **General Re Corp.** completed its formation of a new venture with Colonia Group A.G. that will give Gen Re contraol of Cologne Reinsurance Co. The new venture is Luxembourg-based **General Re-CKAG Reinsurance & Investment S.A.R.L.** (BI, Oct. 31). . . . The **BT Securities Corp.** unit of Bankers Trust New York Corp. has settled with the Securities and Exchange Commission and the Commodity Futures Trading Commission over an **investigation of the firm's derivatives business**. The derivatives dealer will pay \$10 million in civil penalties while neither admitting or denying any of the regulators' findings.

For the Record

Malpractice awards higher for hospitals

HORSHAM, Pa.—Medical malpractice awards against hospitals are considerably higher than those against physicians, and hospitals tend to lose more cases than doctors do, according to a six-year study from Jury Verdict Research.

For the five most common injuries cited in malpractice claims, hospitals pay higher awards than doctors except in cases of wrongful death, the study reported.

For example, between 1988 and 1994, the median medical malpractice award against hospitals for brain damage—the most common injury cited in malpractice suits—was nearly \$3.5 million, compared with a median award of about \$2.3 million against physicians.

The median malpractice award against hospitals for paralysis was more than \$2.5 million in that period vs. a median award of \$1.4 million against physicians.

Meanwhile, the median malpractice award against hospitals for wrongful death was \$470,320, compared with a median award of \$579,000 against physicians.

While the awards differ significantly for doctor and hospital defendants, they are not out of line with awards in other types of litigation, such as product liability and business negligence, said Brian Shenker, editor of the study and director of Horsham, Pa.-based Jury Verdict Research.

The firm maintains a database of verdicts and settlements in personal injury cases.

For a free copy of "Trends in Health Care Provider Liability, Second Edition," call Gary Bagin at 215-784-0941.

Oklahoma comp fund disputes actuary report

OKLAHOMA CITY—Oklahoma's workers compensation residual market fund is disputing an independent actuary's conclusion that it is not adequately reserving for losses and is technically insolvent.

The actuary, hired by the state's Insurance

Department to conduct a routine three-year review, found the State Insurance Fund was insolvent by more than \$1 million as of year-end 1993. That assessment, developed under statutory accounting guidelines, does not figure in investment income for the fund.

The actuary, Mark Crawshaw of Wakely & Associates Inc. of Atlanta, said the fund's \$65 million addition to reserves in 1993 illustrates that the fund has consistently underreserved.

But, another outside actuary regularly retained by the fund says Mr. Crawshaw's reserving assumptions do not reflect the better class of business the fund began writing last year as more employers were forced out of the private insurance market.

And, the 1993 addition to reserves was a conservative response to the additional premiums the fund generated because of a 10% rate hike and its higher market share, said E. James Stergiou of Stergiou & Gruber Risk Consultants of Carlstadt, N.J.

He said loss development through September this year depleted only about \$60 million of \$128 million of projected incurred-but-not-reported losses for that period.

Even if Mr. Crawshaw's reserving projections were accurate, Mr. Stergiou said, the fund would have at least \$90 million left over after it paid all claims, depending on investment income.

But, Mr. Stergiou's figures show it would have at least \$150 million remaining.

Kingdome owner suing insurers

SEATTLE—Washington's King County is suing three insurers, seeking coverage for claims filed against the county by Seattle's professional baseball and football teams, the Mariners and Seahawks.

In a third-party suit stemming from the forced closure of the Seattle Kingdome, which King County owns, the county is seeking a declaratory judgment against Hartford, Conn.-based Travelers Insurance Co., Federal Insurance Co. of Warren, N.J., and Indianapolis-based American States Insurance Co.

King County is named as an additional insured on two building contractors' commercial general liability policies totaling \$11 million in coverage.

Travelers wrote a \$1 million policy and Federal wrote \$9 million in umbrella coverage, said William Price, a partner with Seattle law

firm Karr Tuttle Campbell, who represents the county. American wrote a separate \$1 million CGL policy.

The Kingdome closed for two months in July after roofing repairs caused ceiling tiles to fall, Mr. Price said. The two professional teams were forced to play their games elsewhere. The county paid the Mariners \$4.1 million on Aug. 31 for lost revenues related to the stadium's closing and is reviewing a \$2.7 million claim from the Seahawks.

Travelers rejected the county's insurance claim and the other two insurers have not responded, Mr. Price said. In a suit filed in federal court, the county alleges that Travelers has acted in bad faith.

A spokesman for Travelers declined to comment on matters under litigation.

In a separate lawsuit filed Nov. 8, King County is attempting to collect the cost of replacing the roof and related damages from Allendale Mutual Insurance Co. (BI, Nov. 21, 1994).

Workers comp claims stabilize

SAN FRANCISCO—California workers compensation claim frequency steadied somewhat in the third quarter after a tumultuous six-month period.

After sinking to a record low in the first quarter of 1994, workers comp claim frequency surged nearly 17% in the second quarter, sparking some concern that the state's economic recovery and benefit increases that took effect in July might generate a rash of new workplace injury claims.

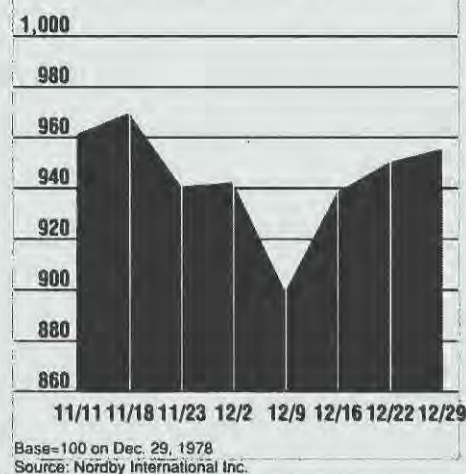
But the latest survey by the California Workers Compensation Research Institute found that claims had fallen 4.8% in the third quarter to 110.2 claims for each \$1 million in workers compensation premium collected by the insurers surveyed.

The third-quarter survey included data from 50 insurer groups writing 87% of the workers compensation insurance premiums in California.

The survey also marked the third time that the Institute collected frequency data from self-insured employers.

Claim incidence for the five self-insured employers that participated in all three quarterly surveys followed the insurer experience, declining 3% to 2.23 claims per \$1 million in adjusted payroll, the Institute reported.

BI Insurance Index



Catastrophe insurance option call spreads

As of Dec. 29			Eastern September 1995			Western Annual 1995		
Call spread	Price bid/ask	Rate on line %	Call spread	Price bid/ask	Rate on line %	Call spread	Price bid/ask	Rate on line %
45/65	5.6/6.1	28/30	20/30	0.5/3.0	5/30	30/40	0.3/1.8	3/18
50/70	5.3/5.5	26.5/27.5	30/40	0.5/2.5	2.5/12.5	60/80	4.0/5.5	20/27.5
100c	8.5/12.0	8.5/12	50/70	0.6/1.8	3/9	150c	4.0/5.5	8/11
60/80	4.0/5.5	8/11	60/80	0.3/3.5	1.5/12.5			
Total volume: 0			Total open interest: 5,974					

For quotes call the CBOT trading floor at 312-341-3342. For general information call 312-435-3674.
Source: Chicago Board of Trade

British Issues

Dec. 28 Companies	Price pence	P/E	Div. %	Yield %	1 week high-low
Comm Union	518	16.5	31.0	6.0	518-513
Genl Accident	518	10.4	34.4	6.6	519-515
Gdn Royal Exch	170	11.0	9.5	5.6	175-169
Independent	267	8.7	10.4	3.9	269-267
Royal	280	12.2	9.4	3.3	280-276
Sun Alliance	300	13.4	18.4	6.1	300-295
Brokers					
Bradstock	94	10.6	7.1	7.5	94-93
FE Church	161	11.2	10.0	6.2	161-160
CE Heath	248	8.9	20.0	8.1	248-248
JIB Group	126	11.0	9.4	7.5	126-126
Lloyd Thompson	161	11.2	9.8	6.1	161-161
Lowndes Lmbt	163	10.3	9.4	5.8	164-163
Nelson Hurst	180	17.6	7.0	3.9	180-176
PWS Holdings	35	N/A	1.9	5.4	35-35
Sedgwick Grp	153	17.0	7.5	4.9	155-153
Steel Bri Jones	122	N/A	11.3	9.3	122-121
Willis Corroon	140	12.8	8.3	5.9	140-137

Source: Philip Olsen, London * Latest actual year

BI Industry Stock Report DEC. 26, 1994, THROUGH DEC. 29, 1994

BROKERS	Price	Weekly % change	Year to date % change	Annual		Vol.(000)	% Div.	% Yield	P/E	Book value	Mkt/Bk. value	Price	Weekly % change	Year to date % change	Annual		Vol.(000)	% Div.	% Yield	P/E	Book value	Mkt/Bk. value			
				High	Low										High	Low									
Accordia Inc.	NYS	33.00	2.33	34.01	33.00	23.00	7	0.60	1.82	17	13.24	2.49	NAC Re Corp.	NDQ	32.13	1.98	10.30	32.13	24.00	158	0.16	0.50	16	10.75	1.63
Alexander & Alexander	NYS	19.25	0.00	-3.14	22.75	14.00	74	0.10	0.52	-148	6.08	3.17	National Re Corp.	NYS	25.63	-3.30	-16.33	31.75	22.25	24	0.16	0.62	11	17.31	1.48
E.W. Blanch Holdings Inc.	NYS	20.25	2.53	16.55	23.00	15.75	45	0.32	1.58	17	4.55	4.45	Navigators Group	NDQ	15.25	5.17	-56.43	36.00	14.25	6	0.00	0.00	-4	10.21	1.49
Gallagher Arthur J. & Co.	NYS	31.38	2.45	-12.24	37.13	28.13	28	0.88	2.80	16	6.48	4.84	Nobel Insurance Ltd.	NDQ	8.31	2.31	9.02	8.75	7.63	29	0.20	2.41	4	6.84	1.22
Hilt, Rogal & Hamilton	NYS	12.25	4.26	-6.67	13.38	11.00	37	0.56	4.57	15	4.72	2.60	NWNL Companies	NYS	29.00	0.43	-10.77	34.50	27.00	133	0.90	3.10	10	24.81	1.17
Marsh & McLennan	NYS	79.38	0.16	-2.46	88.75	71.25	186	2.90	3.65	16	19.40	4.09	Ohio Casualty Corp.	NDQ	27.75	-1.77	-12.94	33.75	26.50	223	1.46	5.26	10	24.68	1.12
Poe & Brown	NDQ	20.63	0.61	14.58	22.75	16.88	14	0.48	2.33	14	4.49	4.59	Old Republic Int'l	NYS	21.00	1.82	-6.67	24.50	18.88	209	0.48	2.29	9	24.60	0.85
BROKERS AVERAGE			1.8	5.8				2.5	-8				Orion Capital Corp.	NYS	35.13	5.64	13.77	35.13	28.13	30	0.80	2.28	9	25.86	1.36
													Partner Re Holdings Ltd.	NDQ	20.75	-0.60	-4.60	22.25	18.50	231	0.40	1.93	10	N.A.	N.A.
													Penn-America Group Inc.	NDQ	6.75	-6.90	-12.20	8.50	6.50	98	0.00	0.00	9	6.21	1.09
													Phoenix RE Corp.	NDQ	28.38	0.22	3.18	29.25	18.50	33	0.60	2.11	6	22.86	1.24
													Provident Life	NYS	21.75	1.16	-31.23	31.88	21.63	268	1.04	4.78	6	27.09	0.80
													Re Capital Corp.	NDQ	12.50	2.04	-8.26	14.75	12.00	90	0.32	2.56	10	17.63	0.71
													Reliance Group Holdings	NYS	5.38	0.00	-30.65	8.13	4.88	420	0.32	5.95	13	3.48	1.54
													RLI Corp.	NYS	20.63	0.61	-22.90	27.75	19.88	18	0.60	2.91	-28	20.51	1.01
													St. Paul Companies	NYS	44.50	-1.39	-0.84	45.38	37.69	489	1.50	3.37	9	31.88	1.40
													SAFECO Corp.	NDQ	52.00	0.00	-4.81	59.75	46.75	568	1.96	3.77	11	46.94	1.11
													SCOR U.S. Corp.	NYS	8.13	0.00	-35.64	13.00	7.50	20	0.36	4.43	-37	13.60	0.60
													Seibels Bruce Group	NDQ	2.63	-8.70	50.00	3.50	1.25	57	0.00	0.00	11	1.05	2.50
													Selective Ins. Group	NDQ	24.75	0.00	-18.18	30.75	23.00	22	1.12	4.53	10	23.36	1.06
													Sphere Drake Holdings	NYS	13.88	0.91	-15.91	18.25	10.75	18	0.16	1.15	6	13.15	1.06
													TIG Holdings	NYS	18.00	-5.26	-20.44	23.25	17.00	343	0.20	1.11	22	17.25	1.04
													Titan Holdings, Inc.	NYS	9.63	-2.53	-11.49	11.75	7.75	65	0.28	2.91	8	9.31	1.03
													Tokio Marine & Fire	NDQ	60.75	2.10	12.50	66.00	51.38	7	0.41	0.67	53	57.72	1.05
													Torchmark Corp.	NYS	35.00	0.00	-21.79	49.50	32.38	284	1.12	3.20	9	17.49	2.00
													Transatlantic Holdings	NYS	56.00	-1.75	4.92	56.38	45.38	151	0.40	0.71	13	32.43	1.73
													Transnational Re Corp.	NDQ	22.50	2.27	-16.67	27.00	17.25	74	0.00	0.00	11	N.A.	N.A.
													Travelers Corp.	NYS	33.00	1.54	-15.11	43.13	30.38	1374	0.60	1.82	8	24.26	1.36
													Trenwick Group Inc.	NDQ	42.13	2.74	8.71	43.75	33.25	18	1.00	2.37	14	29.20	1.44
													United Fire & Casualty	NDQ	44.75	6.55	24.31	44.75	36.00	2	1.20	2.68	10	28.96	1.55
													Unitrin	NDQ	43.25	2.37	1.76	51.50	38.50	301	1.60	3.70	20	38.64	1.12
													UNUM Corp.	NYS	38.63	-0.96	-26.43	58.00	35.13	664	0.96	2.49	16	27.78	1.39
													US Facilities Corp.	NDQ	9.88	-4.82	-16.84	14.63	8.25	39	0.00	0.00	12	11.07	0.89
													USF&G Corp.	NYS	13.63	-1.80	-9.92	16.13	11.69	670	0.20	1.47	6	10.04	1.36
													USLICO Corp.	NYS	20.00	-0.62	21.21	24.00	15.75	22	0.24	1.20	10	24.44	0.82
													USLIFE Corp.	NYS	34.63	1.09	-10.65	41.38	30.88	44	1.32	3.81	8	40.82	0.85
													Washington National	NYS	18.63	-5.10	-23.20	25.38	18.63	67	1.08	5.80	6	23.61	0.79
													Zenith National Ins.	NYS	21.75	-0.57	-1.69	27.38	20.63	269	1.00	4.60	10	17.54	1.24

The snowshoe rabbit changes color with the season, adopting a white coat in winter and a brown coat in summer. This change, which is governed by the shortening length of day, enables the rabbit to blend into its background for protection.



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