

# Business Insurance

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

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## California to amend privacy law amid employer complaints

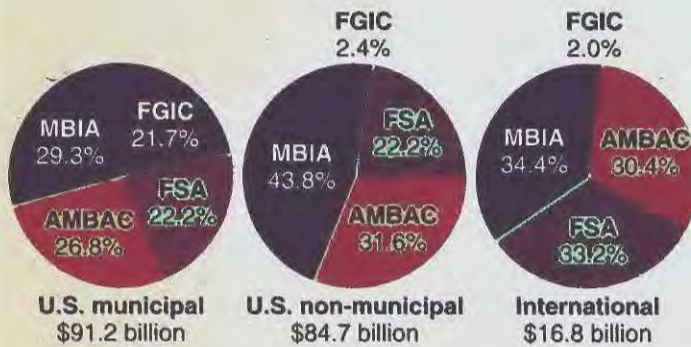
SACRAMENTO, Calif.—Plans are in the works to amend the new California law that severely restricts employer access to the medical information of injured workers.

Employers have railed against the law since it took effect on Jan. 3. They complain that the statute is overly restrictive and will cripple efforts by their workers compensation specialists to adjust claims, return injured employees to work, and audit the reserving practices of workers comp insurers (BI, Jan. 24).

See Updates on next page

## Financial guarantee market share

Major muni bond insurers\*\* share of direct par value insured



\* Includes AMBAC, FGIC, FSA and MBIA only. For the nine months ended Sept. 30, 1999, including secondary markets.

Source: Companies surveyed by Fitch IBCA

GRAPHIC BY ADAM DOI

## Changes afoot in coverage for muni bonds

By JUDY GREENWALD

Municipalities that buy long-term municipal bond insurance are probably paying more for coverage these days.

Led by Armonk, N.Y.-based MBIA Inc., the largest monoline financial guarantee insurer, insurers of long-term municipal bonds have raised rates by 15% to 40%, depending upon the type of business, according to rating agency Fitch IBCA in New York.

Among other factors, financial guarantee insurers' increasing emphasis on the more-promising growth areas of asset-backed securities and international business has eased their reluctance to raise rates in the mature municipal bond arena.

At the same time, at least in part because of the higher rates, the insured portion of the long-term municipal bond market shrank last year. Still, observers agree that this reduction will not have a negative effect on the market.

In the reinsurance arena, multiline reinsurers continue to be active in the municipal bond market. Bermuda-based ACE Ltd.'s acquisition of New York-based Capital Reinsurance Co., which followed a successful bidding war with XL Capital Ltd., will not have a dramatic effect on the market, though, analysts say (see story, page 21).

And observers remain uncertain about the prospect of new players entering the market at the primary level.

In addition to MBIA, the other monoline insurers that dominate the municipal bond insurance market are Financial Guaranty Insurance Co., AMBAC Assurance Corp. and Financial Security Assurance Inc., all based in New York. All four confer their rating agency-granted AAA ratings on the bond issues they insure, which allows the municipalities that buy the insurance to pay buyers of those bonds lower interest rates.

See Guarantee on page 20

## Unicover hid pool's troubles, Reliance says

By DOUGLAS McLEOD

NEW YORK—Unicover Managers L.L.C. duped Reliance Group Holdings Inc. into reinsuring its ill-fated workers compensation business by concealing mounting problems with its retrocessionaires for months before the facilities finally collapsed in early 1999, a Reliance lawsuit charges.

Reliance and Unicover, a South Plainfield, N.J.-based underwriting manager that has since renamed itself Cragwood Managers L.L.C., swapped charges last week in the wake of Reliance's \$100 million settlement of Unicover-related liabilities with cedents and retrocessionaires.

Earlier this month, Unicover demanded arbitration with Reliance, contending the insurer still owes it \$92 million in management fees.

Reliance fired back Friday with a complaint accusing Unicover of fraud, misrepresentation and breaches of fiduciary duty. The suit seeks \$800 million in compensatory damages and alleges that Unicover sought "to line its own pockets" by concealing for several months that the retrocessionaires protecting Reliance were threatening to cancel because of huge unexpected increases in premium volume.

Unicover's actions triggered the freefall of Reliance stock and its

downgrading by rating agencies last year, the suit contends.

John E. Pallat III, chief executive officer of Cragwood—and formerly of Unicover—denied the allegations, saying that the Reliance lawsuit is "without merit."

"This is nothing more than Reliance's effort to avoid the arbitration that Unicover commenced," he said. "Reliance's fraud claims are baseless, and they're inconsistent with what Reliance has been telling its shareholders for months: that its retrocessional contracts are fully enforceable."

Meanwhile, more Unicover repercussions were felt last week

See Unicover on page 23

## Some employers seeing big payoffs

## Ergonomics efforts work

By MEG FLETCHER

A trio of large employers with successful ergonomics programs can offer some reassurance to employers alarmed by recent proposals on musculoskeletal disorders made by the Occupational Safety and Health Administration.

Effective ergonomics programs are in the long-term best interest of employers—as well as that of their workers—according to representatives of Intel Corp., the City of San Jose and 3M.

The workers at these leading employers are among the 50% of

all U.S. workers protected by some type of ergonomics program, though such programs currently are found at only about 28% of all worksites, according to OSHA.

Successful ergonomics programs reduce injury rates an average of 70% while cutting costs and raising productivity and employee morale, according to more than 90 case studies by the General Accounting Office and others.

OSHA calculates that its proposed ergonomics regulations would prevent 300,000 painful and potentially disabling injuries annually and save \$22,500 for

each MSD prevented, for a total of \$9 billion each year.

The proposed regulations would target workers performing manual handling or manufacturing tasks, but also would apply to most general industry worksites where one or more workers report work-related musculoskeletal disorders after the final standard takes effect.

Critics have argued that OSHA's proposed standard unnecessarily interferes with employers' operations and the current state workers compensation

See Programs on page 13

## IRS gets on transit benefits bus

Recently proposed rules clarify tax issues for employers

By JERRY GEISEL

WASHINGTON—New Internal Revenue Service rules will aid employers that want to set up tax-favored transportation benefit plans for their employees.

The proposed rules, published in the Jan. 27 issue of the Federal Register, answer many of the questions employers have raised about the federal laws that permit the establishment of such plans.

The most recent of those laws, the Transportation Equity Act for the 21st Century, allows employees to make pretax salary contributions—currently \$65 per month and increasing to \$100 per month in 2002—to pay for mass-transit expenses, such as monthly commuter train passes or van-pooling arrangements.

The Taxpayer Relief Act of 1997 gave employees the right to make pretax contributions—currently set at \$175 a month—toward parking expenses.

Prior to those laws, employers could, up to certain limits, subsidize employees' mass transit and parking expenses without that benefit's value being added to employees' taxable income. Salary reduction arrangements, however, were barred under prior law.

The laws permitting employees to fund the benefit



PHOTO: AFP

IRS rules addressing transit benefits may encourage more employers to offer the benefits to their workers.

through salary reductions gave employers a new incentive to offer company-provided transportation benefits. Under the new laws, employers would not have to pay any of the costs—other than administrative overhead—and employees would have a tax-ef-

See Transit on page 6

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## Updates

### Privacy law changes mullied

Continued from previous page

The law's sponsor, Assemblywoman Ellen M. Corbett, D-San Leandro, is weighing whether she will support either substantial changes that would scale back the restrictions on employers or only minor technical corrections, said Sheri Pemberton, Ms. Corbett's senior consultant.

In either case, Ms. Corbett met the first deadline for amending the statute by filing draft language for a so-called cleanup bill with the state's legislative counsel on Jan. 21. That draft would make only minor technical corrections, but it still could be amended to include more-substantial revisions, Ms. Pemberton said. The deadline for introducing the cleanup bill in the Legislature is Feb. 25.

Last Friday, Ms. Pemberton met with representatives from about a dozen groups—including employers, insurers, claims handlers and attorneys—to gauge their positions on the law. At the meeting, one employer group, Californians for Compensation Reform, proposed amending the law so that it would guarantee employers access to any medical information related to claims administration, benefits, return-to-work efforts and employers' defense of workers comp claims.

### OSHA extends comment period

WASHINGTON—The Occupational Safety and Health Administration has extended to March 2 the comment period for its proposed ergonomic standard. The original deadline was Feb. 1.

For months, employers had sought an extension, maintaining that the proposal was too long and complex to be examined adequately during the original 70-day comment period (*BI*, Dec. 20, 1999). In a written statement welcoming the extension, Patrick Cleary, vp-human resource policy for the National Assn. of Manufacturers in Washington, pointed out that the original period included only 51 business days because of holidays and weather-related federal government shutdowns.

In addition to the extension for written comments, which was announced last Thursday, OSHA has rescheduled its first public hearing in Washington to begin on March 13, rather than on the original Feb. 22 date. The Chicago hearing will begin as planned, on April 11, and the agency plans to announce a new date for the Portland, Ore., hearing, which was originally scheduled to begin on March 21.

### Surplus may be at risk: ISO

NEW YORK—Insurers may face declines in both their stock and bond portfolios this year, says Michael Murray, vp and financial analyst with the Insurance Services Office in New York.

Mr. Murray said that, although "we are in the midst of one of the strongest periods of economic growth in U.S. history," the Standard & Poor's 500 stock index has fallen 11 out of the past 41 years, from 1959 to 1999. Mr. Murray said he is not projecting that the market will decline this year, but, at the same time, "nobody has repealed the law of gravity."

Mr. Murray said a 10.5% decline in the S&P 500, which is the average amount it has dropped in those 11 years, would translate into a \$15.5 billion decline in the industry's surplus, based on an estimated year-end 1999 surplus of \$335 billion. This would amount to 4.6% of surplus.

Another concern is rising interest rates, which negatively affect the value of insurers' bond portfolios. "Certainly, a fair number of folks are expecting that the (Federal Reserve Board) may raise interest rates when it meets in February," said Mr. Murray. He said decreases in the market value of bonds could affect surplus if insurers begin to sell their bonds to strengthen their cash flows.

### Wash. Senate passes patient bill

OLYMPIA, Wash.—Washington state's Senate last week approved patient protection legislation that would allow enrollees to sue managed care plans when damages result from improper denial of care.

Washington Gov. Gary Locke supports S.B. 6199, which is sponsored by Sen. Lorraine Wojahn, D-Tacoma. The bill now goes to the state Assembly, which defeated similar legislation last year.

In addition to allowing enrollees to sue their health plans, the legislation would:

- Guarantee patients access to independent boards of review in situations where health plans and insurers deny life-saving treatments.
- Require health plans to protect patient privacy.
- Set standards for the disclosure of health plan benefits, policies and practices.
- Establish prompt and impartial grievance procedures.

### Markel lowers Terra Nova bid

HAMILTON, Bermuda—The amount Markel Corp. will pay for Terra Nova (Bermuda) Holdings Ltd. has been cut by more than \$200 million, following poor fourth-quarter results at the Bermuda reinsurer and a sharp reduction in Markel's share price.

Under the revised deal, Markel will buy Terra Nova for \$834.6 million in cash, stock and debt assumption—down from the \$1.08 billion the Glen Allen, Va., excess and surplus lines insurer was due to pay for the reinsurer based on Markel's stock price last August.

When the deal was first proposed last summer, Markel's stock was trading at \$184.50 per share; by last Friday, it was at \$155. Based on the terms of the original deal, the offer would now be worth around \$910.7 million.

Continued on page 22

### Errors & omissions

• Due to unclear information supplied to *Business Insurance*, a Jan. 3 update incorrectly attributed data on employers' holiday bonus practices to Hewitt Associates L.L.C.'s "1999-2000 Salary Increase Survey." The bonus data came from a separate Hewitt survey that is not publicly available.

# OSHA allays concerns over telecommuting

By MARK A. HOFMANN

WASHINGTON—The Occupational Safety and Health Administration has no intention of enforcing workplace health and safety rules in telecommuters' home offices.

Charles N. Jeffress, the assistant secretary of Labor for Occupational Safety and Health reiterated that position repeatedly as he testified under oath before the House Committee on Education

and the Workforce's Subcommittee on Oversight and Investigations last Friday morning.

Mr. Jeffress had been asked to testify about a controversial Nov. 15, 1999, OSHA "advisory" letter that became public earlier this month. The letter implied that OSHA would hold employers liable for workplace conditions in telecommuters' home offices (*BI*, Jan. 10). The advisory was quickly rescinded once the agency came under fire from employer groups,

risk managers, insurers and members of Congress from both parties for overstepping its bounds.

The OSHA chief made clear, however, that the agency would enforce workplace health and safety rules at home-based manufacturing facilities where workers could be exposed to lead and other toxic substances.

Mr. Jeffress also used his appearance before the House panel to assure members that OSHA has

See *OSHA* on page 4

# Enterprise risk policy crafted

Great American unit targets threats to the bottom line

By DOUGLAS McLEOD

NEW YORK—Until recently, a company complaining about revenue lost to an upstart competitor could expect a terse answer from its insurers: "What do you want from us?"

That may be changing. As the concept of enterprise risk management gains ground, a unit of Great American Insurance Co. has become one of the first to offer a

policy covering new competition and other threats to a corporation's bottom line.

Tamarack American, a New York-based Great American specialty underwriting unit, recently unveiled a policy offering up to \$50 million in coverage against revenue hits from any of nine defined "enterprise loss events." These events include losses caused by new market competitors, currency fluctuation and even

changes in consumer buying habits.

In developing the coverage, Tamarack follows Reliance National Insurance Co., which began offering its own "enterprise earnings protection" policy last year (*BI*, Feb. 1, 1999). The two coverages differ in numerous ways, though, including that Tamarack's is a named perils rather than an all-risk policy.

See *Policy* on page 13

# Nevada expects first captive

LAS VEGAS—The first captive to be formed under Nevada's 1999 captive statute is expected to be licensed in February by the Nevada Division of Insurance.

The captive, Nevada Contractors Insurance Co., will provide property, workers compensation and a broad range of casualty coverages to members of the trade group Plumbing & Mechanical Contractors of Nevada.

The new captive is an outgrowth of an existing self-in-

sured workers comp fund, formed in 1995 to provide workers comp coverages to building contractors. The captive's 450 initial policyholders will come from that fund, which will be folded into the captive.

By forming the captive, policyholders gain access to a broader range of coverages beyond just workers comp, said Wayne Harris, chairman of Risk Services L.L.C. in Sarasota, Fla., which will manage the captive. By the

end of its first full year, the captive should generate premiums of about \$25 million, with the average premium in the range of \$160,000 to \$200,000.

ACE USA Group and Employers Reinsurance Corp. will reinsure workers compensation policies written by the captive, while Unionamerica Insurance Co. Ltd. and St. Paul Reinsurance Ltd. will reinsure property/casualty risks, Mr. Harris said.

—By Jerry Geisel

# Directory of employee benefit information and communication systems upcoming

*Business Insurance* will publish its annual Directory of Employee Benefit Information and Communication Systems in the March 6 issue.

That issue will also contain a Spotlight Report on technology solutions for employee benefits.

The directory combines the former employee benefit information directory with the employee benefit communication system listings.

To be listed, companies must produce and supply software products to benefit personnel for the purpose of administering or communicating their own benefit plans. However, software products listed must not be dependent on additional services offered by your organization.

The directory is published as an editorial service, and there is no charge to be included. Companies

must simply submit a completed questionnaire by the extended deadline of Feb. 11.

If your company meets the requirements and has not yet received a questionnaire, please request one from Assistant Directory Editor Michel Schwartz at 312-649-5313. You may print a copy after Feb. 1 from *BI*'s home page at: [www.businessinsurance.com/magazine/directories.html](http://www.businessinsurance.com/magazine/directories.html). **BI**

## Inside

• By demanding quality data from the National Committee for Quality Assurance from their health plans, employers can improve the care their employees receive, one of this week's editorials says. **PAGE 8**

• Michael Bradford reports from Fort Myers, Fla., on the catastrophe management conference hosted by EQECAT Inc. **PAGE 3**

• A judge in New South Wales, Australia, has ruled that a Papua New Guinea insurer and its lead reinsurer must pay about \$22.5 million to settle claims stemming from the 1994 explosion at the Porgera gold mine in the New Guinea highlands. **PAGE 15**

• The wildfires that swept through South Africa's Cape Peninsula damaged many of the region's well-known vineyards. **PAGE 15**

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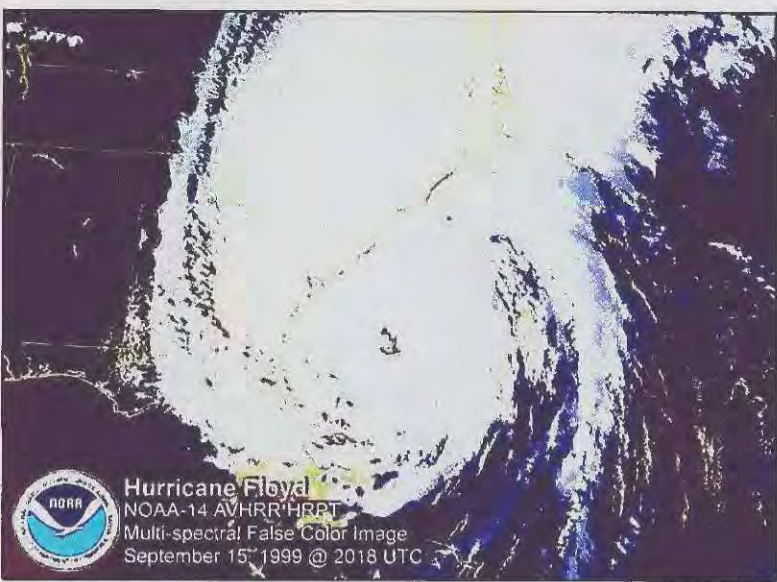


PHOTO: NOAA

The intense hurricane activity of last year is expected to continue.

# History says the hurricanes are coming

By MICHAEL BRADFORD

FORT MYERS, Fla.—If historical patterns hold true, the United States could be facing decades of intense hurricane activity, an expert contends.

And in harm's way are coastal populations that continue to grow—particularly in South Florida—raising the possibility of large losses for insurers, said Chris Landsea, a research meteorologist with the National Oceanic and Atmospheric Administration's Hurricane Research Division in Miami.

During the last five years, South Florida has seen a record number of major hurricanes, Mr. Landsea pointed out during a panel discussion at a catastrophe management conference sponsored by EQECAT Inc., held Jan. 16-19 in Fort Myers. A closer look at historical data, he said, indicates a recurring pattern of intense activity that appears to have begun again.

Records from the turn of the 20th century show that "the first 20 to 25 years of the century were very quiet, especially from Florida to New England," Mr. Landsea noted. "Then, from the late '20s to the mid-'50s, we had a major hurricane making landfall in that

vicinity every other year." After another few decades of relative calm, hurricane activity began to pick up around 1995, he said.

The patterns apparently are influenced by the warming and cooling of ocean waters, particularly in the Atlantic Ocean, Mr. Landsea said. "We have pretty good records going back about 120 years" on the "natural fluctuations" of ocean temperatures, he

noted. And a pattern can be seen, Mr. Landsea said, that indicates that warmer waters spawn more storms.

That's not good news for populations in the traditional hurricane belt. "The warm waters have returned," he said. "The key thing is, it's warm between Africa and the Caribbean; this is our main development region."

"And remember the physics—that a hurricane is an inefficient heat engine," Mr. Landsea explained. Heating up a storm at water level can generate an especially strong hurricane, he said.

"If the past can be our guide for this, we can probably expect 25 to 40 years of warm (water) conditions."

See Storms on page 18

**EQECAT**  
See page 18 for additional EQECAT conference coverage.

# Report offers pros, cons AHPs debated

By MARK A. HOFMANN

WASHINGTON—Both supporters and opponents of plans to expand association health plans are finding some support for their positions in a recent report issued by the Congressional Budget Office.

Several pieces of legislation introduced in the House of Representatives in recent years advocated encouraging the expansion of association health plans, currently subject to state insurance regulation, by freeing them from state benefit mandates. Such proposals have not attracted much interest in the Senate.

Proponents of the plans, such as the U.S. Chamber of Commerce and the National Federation of Independent Business, hold that association health plans—also known as AHPs—would provide coverage for those who otherwise would be uninsured.

But opponents, most notably the Blue Cross & Blue Shield Assn., claim that they could end up drawing relatively lower-cost small business risks, leaving traditional plans with a less healthy population that would be more expensive to cover.

"Firms that already purchase traditional coverage might instead seek lower-cost coverage through an AHP or HealthMart,"

See AHPs on page 13

# Forecast calls for growth in weather risk securitization

By RODD ZOLKOS

Although scientists can't yet control the weather, a growing weather derivatives market may help control its effects on businesses.

The developing market is taking shape through both over-the-counter and exchange-traded vehicles.

And, though the bulk of the interest in weather derivatives to date has been from energy utilities, market participants see the hedging instruments holding potential attractions for other industries as well.

The weather derivatives market began in 1997 in the United States, with a European market getting underway last year. Estimates of the volume of weather derivative transactions thus far ranges from \$3 billion to \$5 billion.

"We continue to see enormous growth, where the number of deals is doubling every six months," said Scott Putnam, head of the weather group at Koch Energy Trading, a Houston-based subsidiary of Koch Industries Inc. and one of the major over-the-counter weather derivative dealers.

And "the risk transfer is growing twice as fast as the number of deals," he said. "We've seen growth in the size of the deals."

"The largest interest that we've seen up until now has been from the energy utilities," said Juerg Trueb, co-head of the global weather desk at Swiss Re New Markets Corp. in Zurich, one of the reinsurance company units that's begun marketing weather hedges to clients.

Other industries will likely recognize the potential benefits of weather derivatives eventually, Mr. Trueb said, "But I think the



AP/WIDE WORLD PHOTOS

Weather derivatives can shield airports from the loss of business due to snowstorms or other severe weather events.

energy sector is most advanced in understanding the effect weather has on their business and cost."

In fact, noted Koch Energy's Mr. Putnam, three major ski resorts have recently done weather derivative deals, and other industries such as the apparel industry are showing interest as well. "It started in the energy industry and now it's getting outside the energy industry," he said.

As was the case in the United States, much of the initial interest in weather derivatives in Europe has stemmed from deregulation of energy markets.

As a result of that liberalization, vertically integrated energy utilities are splitting into separate companies focusing on power generation, transmission and wholesaling. As those companies split and begin trading among themselves, "with all of the trading, there are risks involved," Mr. Trueb said.

For example, an electrical utility company can address electrici-

ty price risks by locking in or hedging prices in advance. But, before the development of the weather hedging instruments, it was difficult for them to address the business risks associated with the effect on consumer demand of a particularly mild winter or unusually cool summer.

"When you are looking at a warmer winter or a cooler summer, it really meant a major hit in their revenues, and they were looking for a way to hedge that," said Larry Grannan, senior director in product marketing at the Chicago Mercantile Exchange, where temperature-related weather futures began trading last September.

Typically, the weather derivatives are based on "heating degree days" or "cooling degree days"—the difference between a day's average daily temperature and 65 degrees Fahrenheit—with the contracts written on the cumulative number of heating or cooling degree days over a set period.

See Weather on page 22

# Bank's work/life services attracting client interest

By AMANDA MILLIGAN

CHARLOTTE, N.C.—When Regina Moody began talking to Wachovia Corp. about her employees' needs, she was focused on learning more about the bank's paycheck direct-deposit program.

But in the course of her conversation with a bank representative, Ms. Moody, who is president and chief executive officer of Holy Angels Inc., found out the bank had the means to enhance her company's work/life program as well.

Wachovia is currently testing a program that fuses work/life services with traditional banking products. The bank, which has branches in five Southeastern states, acts as the liaison between small employers and ComPsych Corp., a Chicago-based provider of employee assistance and work/life services.

The pilot program, in which Holy Angels is participating, now includes more than 20 small employers in the Char-

lotte, N.C., area, said James K. Gehling, senior vp and worksite



segment manager for the Winston-Salem, N.C.-based bank.

"The objective of continuing to add value beyond the financial services box is something that we're trying to do," said Mr. Gehling. The work/life program "fit very naturally into how we can help our customers beyond the traditional banking services."

ComPsych employs counselors, attorneys and accountants, who answer employee questions about the "practical challenges of everyday life," said David Levine, senior vp with ComPsych. ComPsych staff members address questions about day-care and elder-care needs, job stress, legal concerns, family communication problems and homework.

The pilot program is available by itself to small businesses and

also to those bank customers that offer their employees an existing suite of financial products called Wachovia at Work, said Jeanne K. Anthony, Ms. Anthony, who is a vp and segment manager for Wachovia, envisioned the new initiative.

The pilot program became available through Wachovia at Work in October 1999 and directly in December 1999. The bank expects to conclude the pilot phase at the end of the first quarter, and Wachovia will then determine whether it should be expanded, Ms. Anthony said.

Holy Angels, a non-profit organization based in Belmont, N.C., provides residential and daytime care for children and adults with developmental disabilities. The organization, which has about 250 employees, has an in-house referral service and a chaplain who counsels troubled staff members. Therefore, the work/life offerings through Wachovia at Work are supplemental, said Ms. Moody.

See Wachovia on page 22

# OSHA

Continued from page 2

no intention of applying any ergonomics rule it might issue to home office workers. OSHA intends to issue such a rule before the end of the year, despite employer protests that insufficient scientific evidence exists to support a comprehensive standard.

In his testimony before the subcommittee, Mr. Jeffress set out seven major points on employers' responsibilities regarding work performed at home:

- OSHA believes the Occupational Safety and Health Act "does not apply to an employee's house or furnishings."
- The agency will not hold employers "liable for work activities in employees' home offices."
- "OSHA does not, and will not, inspect home offices."

- The OSHA Act does require about 20% of employers, based on size or industry, to keep records of work-related injuries and illnesses. Such employers "continue to be responsible for keeping such records, regardless of whether the injuries occur in the factory, on the road, in a home office, or elsewhere," provided the injuries are work-related.

- Regarding work other than office work performed at home, such as manufacturing operations, employers "are responsible for hazardous materials, equipment or work processes which they provide or require to be used" in the employee's home.

- "OSHA will only conduct inspections of hazardous home workplaces, such as home manufacturing, when OSHA receives a complaint or referral."

"The bottom line is, as it always has been, that OSHA will respect the privacy of the home and expects that employers will as well," Mr. Jeffress

told the subcommittee. He said that the agency is preparing a directive, which should be issued within 30 days, to make sure that all OSHA employees, as well as employees of state workplace safety agencies, understand how home offices should be treated.

Mr. Jeffress said he regretted the "confusion" caused by the initial letter. "The letter suggested OSHA policy where no such policy exists, and I regret the unintended consequences it caused," he said, blaming issuance of the advisory on a breakdown of the agency's internal review procedures.

Several other witnesses blasted the original letter as an attempt to force what one of them—Don Upson, Virginia's state secretary of technology—called "old world" regulations on the new information economy.

Bobbi Kilberg, who served in three Republican administrations before becoming president of the Northern

Virginia Technology Council in McLean, called the initial letter an "egregious example of overreaching" and expressed concern that OSHA must make clear that home workstations would be specifically exempt from inspection. Noting that the Clinton administration leaves office in less than a year, "we cannot take the chance that another administration will allow the bureaucracy to run amok again," she said.

The subcommittee's chairman—Rep. Pete Hoekstra, R-Mich.—pressed Mr. Jeffress on whether the panel would be permitted to see the proposed directive to OSHA staff regarding home offices before it is issued. Mr. Jeffress said that OSHA would not do so, but he stressed that the directive would contain the position set forth in his testimony.

The New York-based Risk & Insurance Management Society Inc. welcomed the change in OSHA's position.

"RIMS appreciates the clarification that Mr. Jeffress has provided in regard to OSHA's role for employers who value and encourage telecommuting. We hope that this common-sense approach will trickle down to the proposed OSHA ergonomics standard," said Lance J. Ewing, chairman of RIMS' external affairs team and director of insurance and loss prevention for GES Exposition Service & Exhibit Group Inc. in Las Vegas.

"Having heard Mr. Jeffress' testimony this morning, it seems that OSHA has had this deathbed conversion in essentially exempting home office work," said Jennifer S. Kresse, director-employment policy for the National Assn. of Manufacturers in Washington.

"We applaud that. The NAM will be eagerly awaiting the directive that Charles Jeffress referred to in his testimony, and we hope that it matches his testimony," Ms. Kresse said. **BI**

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## BI staff changes

*Business Insurance* has made several changes to its staff.

Roberto Cenicerros, has been promoted to bureau chief in Los Angeles. Lee Fletcher has been promoted to staff reporter in Chicago, and Jeremy Freeman has joined the magazine as sales assistant in Chicago.

As bureau chief, Mr. Cenicerros, 43,



Mr. Cenicerros

will coordinate the West coast assignments and news sources.

He previously served as associate editor in *BI*'s Los Angeles bureau. Before joining *BI* in 1994,

he was a reporter at the Pasadena Star-News in Pasadena, Calif. He can be reached at 323-651-3710.

Ms. Fletcher, 23, will report on risk management, insurance and employ-



Ms. Fletcher

ee benefit issues. She succeeds Associate Editor Amanda Milligan, who left *BI* to join sister publication Crain's Chicago Business.

Ms.

Fletcher previously was an editorial assistant. Before joining *BI*, she was a reporter at the City News Bureau in Chicago and an intern at several daily newspapers.

Ms. Fletcher can be reached at 312-649-5282.

Mr. Freeman, 24, joined *BI* as a



Mr. Freeman

sales assistant. His responsibilities include assisting *BI*'s Chicago sales staff and handling advertising traffic. He succeeds Angie Aronson, who resigned to

pursue other interests.

Before joining *BI*, Mr. Freeman worked as a sales representative for the Keebler Co. in Aurora, Ill. He can be reached at 312-649-5275. **BI**

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# Transit

Continued from page 1

effective way to pay for their transportation expenses.

In addition, offering a transportation benefits program cuts the amount of Social Security payroll taxes an employer must pay: Pretax contributions reduce employees' taxable income, on which payroll taxes are assessed.

A growing number of employers are taking advantage of these incentives.

In the Chicago area, for example, the number of employers participating in transit pass plans through the Regional Transportation Authority has climbed to about 1,500—an increase of more than 650 over the last two years.

That number is expected to increase substantially again this year as the RTA and the Chicago Transit

Authority, which is part of the RTA, increase their marketing efforts to employers, a CTA spokeswoman said.

Most major public transit authorities now market transportation benefit programs to employers, according to the U.S. Department of Transportation.

In many employer-sponsored programs, employers purchase vouchers directly from a transportation authority, such as the RTA. These vouchers are distributed to participating employees, whose salaries are reduced by the amount of the voucher. The employee then redeems the voucher with a transit office—or a retailer acting as an agent for the transit authority—for a transit pass that is used on buses and trains.

In the case of parking benefits, an employee presents evidence of payment to his or her employer for reimbursement, which covers these expenses through salary reduction.

In the wake of the proposed IRS rules, which answer many of the questions employers have been asking since transportation benefit legislation was passed in 1998, more employers are expected to offer the programs, benefit experts say.

"These are answers to a lot of nuts and bolts questions. The answers are very straightforward and reasonable," said Liz Vollmar, a senior benefits attorney with Willis Group in St. Louis.

"If an employer had been interested before but hesitated, the rules will probably get them to look again," said Denise George, a consultant with Hewitt Associates L.L.C. in Lincolnshire, Ill.

The IRS' proposed rules are presented in question and answer format and include:

**Q: Can an employee receive tax-favored transportation benefits from two different employers?**

A: Yes. Take the example of an

employee who works in a factory during the day and is a security guard at a warehouse at night. The employee uses mass transit to commute to each job.

The employee could opt to have each employer reduce his or her salary up to \$65 a month—for a total of \$130—to cover the cost of a transit pass.

**Q: Let's say an employee drives to a commuter parking lot and from there takes a commuter train to work. What would be the maximum pretax contribution employees could make toward each expense?**

A: The monthly limit would be \$65 for commuter train costs and \$175 for parking expenses, meaning the employee could make total pretax contributions of up to \$240 a month for a combination of mass transit and parking expenses. In other words, the mass transit and parking expenses limits are independent and do not offset each other.

**Q: What is considered "qualified parking" eligible for this benefit?**

A: Qualified parking includes parking on or near an employer's business premises or a location from which employees commute to work, such as by van pool and mass transit.

**Q: At companies that offer such a plan, how does an employee opt to have his or her salary reduced to pay for transportation expenses?**

A: The employee must elect in writing or electronically to have his or her salary reduced by a certain fixed dollar amount or percentage of salary, up to the statutory limits. The employee's election then can automatically be renewed for subsequent periods.

However, this election must be made prior to the period in which transportation services are used. An employee could not, for example, ask to have his salary reduced by \$175 in February to pay for \$175 of parking expenses paid in January.

**Q: Can an employee revoke an election?**

A: Yes, but only if done before the next period for which he or she had the right to receive the pretax contribution as cash.

Take the case of an employee whose payroll dates are the first and 15th day of each month. Employees can elect at any time before the first day of a month and 15th day of a month to reduce their salaries to pay for qualified transportation expenses by one-half of the monthly maximum limit.

In this example, an employee opts to have his or her salary reduced by \$50 for each pay period to cover parking expenses. Employees are paid on the first and 15th day of the month.

On the 2nd day of the month, the employee is injured and no longer can drive to work. The employee could not retroactively recover the \$50 covering parking expenses for the first two weeks of the month. But the employee could revoke the election for the last two weeks of the month.

**Q: Can an employee carry over contributions that are not used in a month to cover future transportation expenses?**

A: Yes. The IRS provides an example of an employee who, prior to Nov. 1, 1999, agrees to reduce his salary by \$65 in November to cover van-pooling expenses that month.

The employee, though, incurs only \$50 in van-pooling expenses in November and is reimbursed \$50 by his employer.

Prior to Dec. 1, 1999, the employee elects to reduce his salary by \$65 for December. The employee incurs \$65 in van-pooling expenses in December and is fully reimbursed by his employer.

Before Jan. 1, 2000, the employee agrees to reduce his salary by \$50 for January van-pooling expenses. In January, the employee incurs \$65 in expenses. The employer then can reimburse the employee \$65 because the \$15 in prior unused salary reduction for van pooling expenses can be carried over and applied to current expenses.

This carryover feature makes the IRS rules for employer-provided transportation benefits strikingly different from the IRS' so-called "use it or lose it" rules for flexible spending accounts and other flexible benefit plan arrangements.

Under those rules, employees agree, for example, to reduce their salaries—prior to the start of a plan year—by a fixed amount during the next year and transfer those contributions to an FSA.

Funds are withdrawn during the year to pay for uncovered benefit expenses, such as new eyeglasses, and any funds remaining in the FSA at the end of the year are forfeited. **BI**



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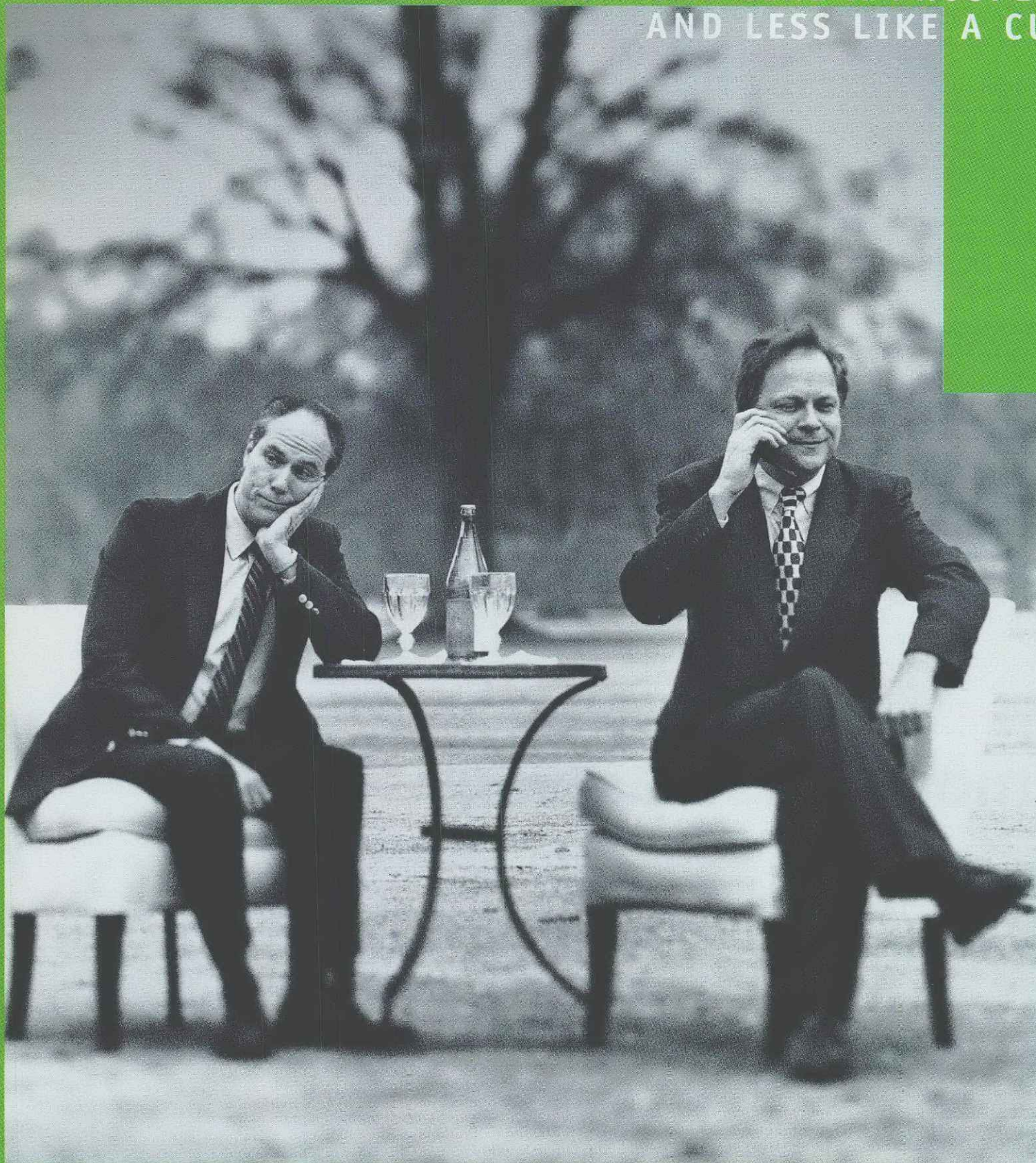
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## Opinions

## Pursue quality managed care

**I**T IS TIME employers put their money where their mouths are.

Employers that purchase managed care plans have long claimed that their goal is not only to lower costs but also to deliver quality care. It's a worthy goal and has long been an effective rebuttal against the critics of managed care.

Unfortunately, though, it may not be true.

As reported last week, research shows that few employers have any idea how their plans stack up in terms of quality, let alone factor such information into their purchasing decisions. Only 5% of employers use quality data from the National Committee for Quality Assurance when choosing a health plan (*BI*, Jan. 24).

Employers need to make the quality of the health care services they purchase a more important part of their selection criteria, or else face deteriorating health care services, potentially greater liability and, ultimately, higher costs. They should be demanding NCQA data from their health plans. While the NCQA is not the only provider of quality measures, its wide use may make comparing plans easier.

The dangers of choosing a health plan without being well informed about the quality of care it provides are many.

Most employers are unlikely to purchase subpar care intentionally. In fact, it should not be construed that simply because an employer is not asking about quality does not make a plan poor quality. At the same time, however, a lack of emphasis on this important element by the purchaser could have a detrimental effect.

That's because promulgating a system that rewards the cheapest care, not the best care, actually provides a financial disincentive for providers and medical systems to invest in improving the care they provide. Although studies indicate that the rate of medical errors in the U.S. health care system is high, unless purchasers make eliminating those a priority—and are willing to pay for it—little will be done.

Failing to consider quality also may expose employers to greater fiduciary liability for making a plan decision that is not in the best interests of employees. Such lawsuits have already been filed



against employers, and more can be expected to follow.

Employers' liability also would be expanded under patient rights legislation that was approved last year by the House but now is stalled in a congressional conference committee. If a plan does not meet quality benchmarks, it could become much easier for a patient to make a case for negligent care. Likewise, if an employer made no effort to ascertain how a plan performed against those benchmarks, it could become easier for the claimant to make a case against the employer in court.

Emphasizing managed care's cost-cutting features over its potential for delivering quality care also makes the plans a continued target for intervention by lawmakers and regulators, and litigation from consumers. Ultimately, that will negate any cost savings potential as the plans' expenses rise in defending themselves from lobbying and legal efforts.

If employers wish to continue using managed care, avoid expanded liability and improve the care their employees receive, they need to stop paying lip service to quality and start investing in it.

## Common sense prevails

**A**MAN'S—OR WOMAN'S—HOME is indeed his or her castle, at least as far as the Occupational Safety and Health Administration is concerned when it comes to telecommuting white-collar workers.

"OSHA will not hold employers liable for work activity in employees' home offices," Charles Jeffress, the assistant secretary of labor in charge of OSHA, told a subcommittee of the House Committee on Education and the Workforce last Friday morning.

"The bottom line is, as it always has been, that OSHA will respect the privacy of the home and expects that employers will as well," he said.

That's the kind of straightforward clarification that could have prevented the original controversy from ever arising.

As we reported earlier this month, OSHA had come under considerable fire for an advisory that suggested the workplace safety agency would hold employers responsible for the safety conditions of home offices used by telecommuting workers (*BI*, Jan. 10).

The advisory gave rise to visions of OSHA inspectors barging into people's houses, measuring just how high toilet paper rolls were above the floor and counting the number of electrical outlets used in any home office and then issuing citations to employers who allowed their telecommuting workers to labor in "unsafe" conditions. It took Secretary of Labor Alexis Herman less than 48 hours after the advisory had become public to rescind it.

Mr. Jeffress added that OSHA does not intend to enforce any ergonomic standard it might promulgate on home offices, either, thus heading off another possible confrontation with employers over the already controversial ergonomics proposal.

Mr. Jeffress' clarification of OSHA's position on home offices is most welcome. It's a reiteration of common sense. We hope that such a common-sense approach on other OSHA matters—including the ergonomics question—will prevail, and quell future avoidable controversies before they turn into the type of verbal and political firestorm that engulfed the agency as soon as the ill-considered telecommuting directive became public.

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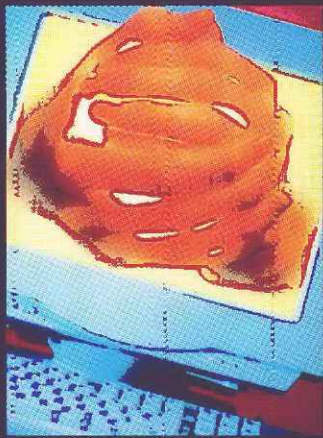
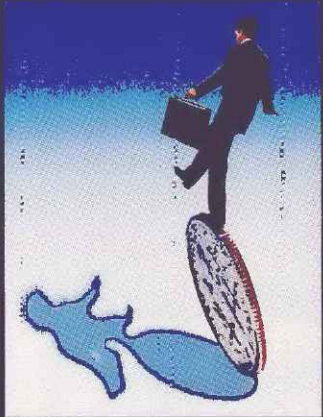
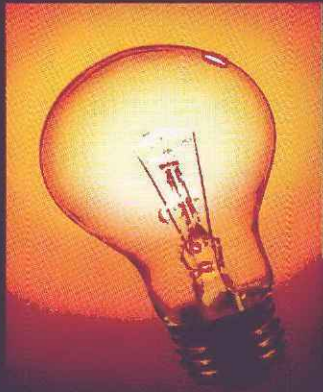
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# Ask a Benefits Manager

**Q**

As we look at the new millennium, what issues should we be considering in employee benefits?

**A**

We face many issues in employee benefits as the new millennium dawns. In answering your question, I took a different approach and provided a series of questions that I believe highlight many, but not all, of the key issues facing us today:

- Will the Employee Retirement Income Security Act be with us for another 25 years?
- Will point-of-service plans disappear as we know them today? What will replace these plans?
- Will a patients' rights bill be passed by Congress?
- Will baby boomers have adequate funds with which to retire? Will employers take actions to ensure there will be adequate retirement income?
- Will the normal retirement age in retirement plans be adjusted to match the Social Security retirement ages—up to age 67 for those born after 1960?
- Will more cash balance pension plans be introduced? Will there be a substitute for cash balance plans?
- Will the popularity of 401(k) plans continue to grow?
- Will employers cease supporting health care benefits?
- Will we have a national health care plan?
- Will there be further growth in the number of participants in HMOs?
- How much more health care consolidation will occur?
- Will we capture the most effective approach for measuring quality in our health care plans?
- Will we all be gathering request-for-proposal information via the Internet?

- Will pretax transportation benefits become popular?
- Will participation in long-term care plans increase?
- Will long-term care provide the level of coverage that is needed?
- Will the Internet be the answer for most employee benefit information needs?
- How long will Social Security really last?
- Will disability plans ever be truly integrated?
- Will the traditional indemnity plan die?
- Will the rate of benefit legislation slow down?
- Will medical savings accounts ever catch on?
- Will 401(k) non-discrimination testing be simplified?
- Will we find ways to control prescription drug costs?
- Do companies with employee stock ownership plans perform better financially?
- Will we determine how best to develop and implement a global benefits strategy?
- Will we begin to insource—rather than outsource—benefits administration?
- As we age as a population, will employees begin retiring later? Will we need to give employees incentives to retire later due to the aging of the baby boomers?
- Will we determine the best way to manage mental health costs?

Of course we do not know the answers to most of these questions, but they do address the many issues that we face as benefit professionals. The interesting question is when will we have the answers to these questions. If the past is any indicator of the future, many of these questions will be answered in some fashion, only to be replaced by a new set of questions and issues that we will need to address.

What we do in employee benefits generally reflects society as a whole, the demographics of our workforce, and how successful our economy is. We need to closely monitor changes in our society to ensure that our benefit plans are doing what they need to do: attract and retain the human resources our organizations need to function effectively.

Because we are not a global economy, we need to monitor not only what is taking place in the United States, but also what is occurring around the world.

I personally look forward to the many new challenges we will face in the new millennium. I look forward to hearing about the issues you face.

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**Mr. Nirtaut**

*This month's column on employee benefit management issues is written by Dennis J. Nirtaut, managing director of compensation and benefits for Arthur Andersen L.L.P. in Chicago. Christopher E. Mandel, director-risk management at Tricon Global Restaurants Inc. in Louisville, Ky., answers questions on risk management issues.*

*William J. Miner, an actuary with Watson Wyatt Worldwide in Chicago, answers actuarial questions on benefits issues. And Richard E. Sherman, president of Richard E. Sherman & Associates Inc. in Ashland, Ore., answers actuarial questions in the casualty field.*

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## Reviewing the employer-retiree contract

By Daryl L. Chapman

Retiree medical benefits present one of the most problematic challenges faced by today's benefit managers.

Nearly 50% of today's Medicare-eligible population receive their health coverage through their employer. When it comes to managing retiree health care, benefit managers and their employers are often caught between a rock and a hard place: How do they honor their promise of providing benefits to their retirees without taking on unlimited financial risk?

Continually rising medical costs, increasingly more-complex health care plans, the Financial Accounting Standards Board 106 ruling requirements—and its huge amounts of financial liability—are forcing employers to consider eliminating their retiree benefits or to evaluate other options. These cost-saving options include shifting more of the cost to the retiree, changing plan designs, introducing managed care, establishing future financial caps on retiree benefits, and/or adopting a defined contribution strategy.

In response to the FASB requirements, some companies are eliminating their retiree benefits altogether. Continuing a five-year trend, the number of employers with 500 or more employees providing coverage to retirees under age 65 fell to 36% in 1998 from 46% in 1993. The number providing coverage to Medicare-eligible retirees fell to 30% in 1998 from 40% in 1993. These figures were reported in the National Survey of Employer-Sponsored Health Plans, conducted by William M. Mercer Inc.

Before deciding to eliminate retirees' benefits or choose an alternative, employers should consider some primary issues, including what employers promised to retirees, what retirees heard and expect to receive, and what the

employer can afford to pay for retiree benefits. These issues must be balanced with the employer's social obligations and the overall financial impact that offering or eliminating benefits has on the employer's retirees.

Additionally, competitive pressures factor into the mix: Has the competition eliminated retiree benefits, or are they using these benefits to recruit and retain valuable employees?

Americans born in the early years of this century had a life expectancy of 50 to 55 years. During the 1960s, when the retirement age was 65, many employers made a basic promise to their employees: In exchange for 25 to 30 years of employment, we promise to give you seven to eight years of retirement medical benefits—from the time you retire at age 65 to the time you pass away, most likely less than a decade later.

During the 35 to 40 years that Americans have been working for these benefits, the demographic landscape has shifted.

In 1960, the life expectancy was 66 years for males and 73 years for females. In 2000, the projected life expectancy at birth is 73 years for males and nearly 80 years for females. Americans are living longer, and many are retiring younger. Early retirement is becoming the norm, with increasing numbers of employees expected to retire between the ages of 55 to 60. A healthy 55-year-old can be expected to live another 30 to 35 years.

Employers are facing a situation where, in all likelihood, they may end up offering retiree benefits to a former employee for a longer period of time than the period the employee actually worked for the company. What employers are now sometimes obligated to provide their retirees is far from the obligation of the original promise. Ultimately, employers want to honor the promise of a fair benefit to the retiree—while doing so at a fair price to the

company.

At many companies, a difference of interpretation may exist between the employer and the employee regarding the meaning of the original promise. The American employer promised the employee less than a decade of benefits in exchange for two or three decades of employment. The American employee interpreted the promise and responded, "Yes, I will work for you for a period of time to earn these benefits, and you will take care of me for the rest of my life."

In addition, if the employer has a history of offering retiree benefits, employees may be unrealistic or even in denial about the possibility of having benefits cut back or eliminated altogether.

Regardless of what was promised by the employer and what was heard and expected by the employee, the question of offering retiree health care benefits often boils down to what the employer can afford to pay. Eventually, there may come a time when the financial viability of a company is put in jeopardy. That's when some of the cost-cutting measures can provide the financial relief necessary for a company to continue offering retiree benefits.

But the financial calculation is often harder than it looks, going beyond the obvious balance sheet pluses and minuses into the law of unintended consequences.

Some obvious questions include:

- What other effects will eliminating or reducing retiree benefits have on my company?
- Will this affect my ability to hire people?
- Will it hurt my ability to retain those critical employees who have been with the company 10, 15, even 20 years, employees who can contribute a tremendous amount to the company in terms of training, experience, skills, and wisdom?

*See Retirees on next page*

# Retirees

Continued from previous page

Employees may take a look at their company's lack of retiree benefits and give some serious thought to jumping ship if the competition offers better benefits. Overall, the cost ramifications of cutting benefits are substantially greater than the most obvious dollars and cents considerations.

The employer's social obligations and commitment to the community—or lack thereof—can have far-reaching financial effects not only on its retiree population, but also on the population at large. Eliminating the subsidy for retiree health care does not just eliminate the health care, it also pulls disposable income out of that community.

Money that retirees would otherwise spend at the hardware store, grocery store or restaurants, gets earmarked

to pay for health care. Not only does this affect the retirees dramatically, but it has a powerful domino effect on the entire economy and other citizens in that community.

For companies that have substantial social obligations and have always considered themselves paternal and community-oriented, a decision to scale back or eliminate benefits carries more weight than bottom-line or competitive concerns. It's a question of: What kind of corporate citizen is my company?

To stay a step ahead of the pack, employers must continually ask what the competition is doing in the realm of retiree benefits. If the competitor cuts its retiree benefits and experiences minimal consequences, then the decision has an obvious cost advantage. At the same time, if an employer cuts or eliminates its benefits, the competition may be able to lure away valuable, highly trained employees by offering better benefits.

As the demographic landscape of America ages, employers that plan to stay in the retiree health care business will strive to assemble the right solution for this multifaceted challenge. A long-term solution for controlling costs and reducing FASB liabilities is adopting a defined contribution strategy. This strategy saves the employer money by capping total expenditures and shifting more of the costs to the retirees.

By thoroughly considering the primary issues—the promise that was made to retirees, what retirees expect, what the employer can afford, the social and community obligations, and competitive pressures—employers will be able to make the wisest, most informed choices about retiree health care benefits, both now and for the future. **BI**

*Daryl L. Chapman is vp of corporate services at Seabury & Smith Inc. in West Des Moines, Iowa.*

# Exposing structured settlement 'scams'

By Jim Terlizzi

The crowd was abuzz. With each round of play, the man in the lime-colored shirt won \$20. Once, twice, four times in a row. "This is easy," said a young woman to her friend as she stepped up to try her luck.

The young woman wasn't as fortunate. Neither were the five people who followed her—each, in turn, contributing \$10, \$20 or \$30 to the dealer.

Three-card monte is a card game played by street hustlers the world over. Basically, the "dealer" has three cards, only one of which is a picture card. The dealer bets the player that he can't guess which card is the picture card after the dealer manipulates them right before the player's eyes. These hustlers generate a crowd around their game by letting someone who is in on the scam—a skill—win repeatedly, thereby making it look easy. Then, when playing with anyone who isn't a shill, the dealer invariably wins, through clever sleight of hand.

Structured legal settlements are similar in several respects. First, however, a bit of background:

Over the last 10 to 15 years, insurance companies have promoted the use of "structured settlements" to help settle personal injury lawsuits. A structured settlement is a series of payments made in the future that is typically funded by a commercial annuity contract.

Structured settlements were originally designed to pay for the daily living and medical expenses of those who were critically injured in accidents and rendered unemployable. In fact, they can be traced to thalidomide litigation of the 1970s. Faced with how to compensate infants who were often terribly disfigured and would need care and medical assistance for many decades, insurers, together with defense and plaintiffs' lawyers, determined that a series of payments in the future would be an appropriate method to settle such claims.

Although originally designed to help provide for long-term benefits to people who were severely injured and permanently disabled, insurance companies quickly realized that a structured settlement was a very cheap way to settle a lawsuit. These settlements are cheaper for the insurer in two ways:

- The money to be paid in the future can be made to "look" like a lot of money even if it isn't, because the insurer is paying the victim with interest not yet earned.
- The insurance companies get to keep for an extended period of time the money they would otherwise pay out, thus allowing them to invest it.

A couple of real-life examples are telling:

In June 1982, B. Grosvenor settled his personal injury claim, which provided for a payment of \$75,236 on June 1, 2002. That was, ostensibly, a \$75,000 settlement. But the insurance company actually paid a mere \$9,999 for this annuity.

P. Abernathy settled his case in 1986. The structured settlement provides for payments of \$1,870 per month for 120 months. A \$224,400 settlement, right? Wrong. The payments don't start until March 2020. The real value is \$13,376—the exact amount the insurance company paid for the annuity to fund these payments!

Halit lost her leg in an accident and settled her case in January 1984. The structured settlement called for payments as follows: \$10,000 due Jan. 1, 1989; \$20,000 due Jan. 1, 1994; \$30,000 due Jan. 1, 1999; \$50,000 due Jan. 1,

2004; and \$100,000 due Jan. 1, 2009. The insurer told her it was a \$210,000 settlement when, in fact, it was worth only about \$40,000.

Because they are very cost-effective settlement tools, structured settlements are now routinely used by insurers to settle garden-variety cases, such as automobile fender benders, slip-and-fall accidents and dog bites. The injured party simply makes a choice between a lump sum or a series of future payments when he or she is about to settle. The trouble is that the insurer is often not required to disclose the true present value of the future payments, and attorneys and their clients are often duped into settling for a lot less than they could have obtained.

In much the same way as the dealer in our three-card monte game, the insurance company and its shill—the structured settlement broker—use sleight of hand. They make a structured settlement look good when, in fact, the injured parties are not getting nearly as much as they've been led to believe. The insurance industry and their settlement broker accomplices foist an enormous con upon injury victims across the country. Indeed, their own internal documents make this manifest:

The following quotes were taken directly from an insurance company's structured settlement manual:

- The primary objective in expanding the use of structured settlements is to maximize their value as a tool to reduce both claim loss and expense costs."
- Essentially, when a claimant has a reduced life expectancy and a substandard age rating has been obtained, the more life-contingent benefits provided in the structure offer, the higher the savings on the claim."
- Structured Settlements are the preferred claim settlement tool... (because) they save significant claim dollars/expenses, and structured settlements benefit [Insurance Company] by the fact that assets are retained by the company rather than being paid out in a lump sum."
- Structured settlements "are instrumental in reducing claim payout."

The World Wide Web site of a leading structured settlement broker boasts, "Initially, the concept (of structured settlements) was used on large, catastrophic-injury cases. Today, claims as small as \$5,000 are structured."

This is not to say that all structured settlements are bad. Properly set up with adequate disclosures and used in appropriate circumstances, they are useful tools that help settle cases and can often bridge the gap between clients' expectations and the insurer's claim limit. Nevertheless, structured settlements suffer from two very real drawbacks:

- As explained above, the injured party can potentially get shortchanged by accepting a structured settlement without first getting the proper disclosures.
- They are inflexible and often stretch over 20 to 30 years or more. An injured party is rarely able to predict his or her needs that far into the future.

A payment schedule that made sense when the victim was 20 years old may not be such a good idea seven or 10 years later, when that person gets married, starts a family or needs money for a down payment on a first home. Life's changing circumstances require some flexibility.

Because injured parties began to demand this flexibility, a group of financial firms began to refinance structured

settlement payments. Such a firm, known as a settlement purchaser, provides an accident victim with a way to obtain a lump sum of cash in exchange for a portion of his or her future settlement payments. Typically, the rates charged by these firms range between 18% and 22% per annum. While this is a relatively high rate of interest for someone to pay, rates are driven largely by the fact that insurance companies routinely refuse to honor these transactions. The insurance industry fights settlement purchasers at every turn—refusing to honor court orders; filing long-winded briefs in legal proceedings that their high-priced lawyers drag out for months; and appealing every adverse court decision, of which there are many.

The reasonable person might ask why the insurance industry is concerned with the sale of structured settlement payments when they will make the exact same payments on exactly the same dates as they would have absent a sale or refinancing transaction.

The answer is quite simple. As a byproduct of settlement refinancing transactions, claimants are being advised of just how little they may have settled for. A settlement purchaser educates an injured party about the true value of his or her settlement—its "present value." This angers insurers, which make hundreds of millions of dollars each year through structured settlements.

In response to this educational effort and the possibility that injury victims and their lawyers will demand to know the real value of their settlements, insurers have gone on the offensive—suing accident victims and settlement purchasers around the country.

Insurers have also used their considerable political might to introduce "consumer protection" legislation that would, effectively, make it impossible for an individual to sell a settlement payment or use it as collateral for a loan. However, conspicuously absent from the debates over these so-called consumer protection efforts are the consumers, or any real consumer advocates. In fact, a witness to one of these debates in Connecticut recently quipped, "Come on, when was the last time the insurance industry sponsored consumer protection legislation? This doesn't even pass the straight-face test."

While masquerading as consumer protection measures, the legislation being advanced by the insurers is, in reality, a ban on the practice of refinancing or selling one's settlement payments. Because of their massive financial and political clout, the three-card monte dealers and their shills—the insurers and the structured settlement brokers—are trying to pass laws to keep the police—the settlement purchasers—off their block and out of their way. They don't want anyone telling the public about their scam.

In an effort to end the practices of the insurance industry's equivalent of three-card monte dealers, the settlement purchase industry is standing up to the insurers and opposing their efforts in courtrooms and legislatures around the country.

What hangs in the balance are the rights of consumers to do with their property as they choose and to know what they are getting in the first place. **BI**

*Jim Terlizzi, a former practicing litigator, is chief operating officer of Atlanta-based Peachtree Settlement Funding. His company is involved with the purchasing of structured settlements.*

# Programs

Continued from page 1  
systems (BI, Nov. 29, 1999).

Intel Corp. in Santa Clara, Calif., launched its ergonomics program in 1992 "because that was the thing to do," said Earnest Ray, occupational ergonomist for the microcomputer component manufacturer. The program, he noted, already complies with OSHA's proposed regulations.

Intel's ergonomics program won the 1999 national Outstanding Office Ergonomics award from the Center for Office Technology in Alexandria, Va. The program serves Intel's 65,000 workers with the help of a database of worker-specific workstation requirements, such as height of work surfaces and keyboard placement preferences, he said. The data is invaluable because workers frequently change workstations, Mr. Ray noted.

In addition, Intel's program emphasizes immediately treating musculoskeletal cases before they become more serious, which "really pays for itself," Mr. Ray said.

"Musculoskeletal disorders are relatively easy to treat and prevent," if a company establishes a good ergonomics program, he said.

Company statistics demonstrate the effectiveness of Intel's program: Its lost-day severity rate, which reflects restricted duty or lost time per 100 workers, dropped from 37.2 in 1993 to 1.4 in 1999, he said. Over that period, the company also saw a 93% drop in its rate of recordable cumulative trauma disorders and a 96% drop in its lost-day rate, Mr. Ray said.

The program is "a huge morale booster" and has reduced workers comp costs "dramatically," he said.

Intel also found that fraudulent claims were not a problem. And compensating workers was not an issue, as the company continued to pay workers their full salary, he said.

Intel is so committed to the concept of ergonomics programs that the company would go one step further than most if OSHA's regulations go into effect, Mr. Ray said. He would consider expanding the criteria Intel uses to screen vendors to include a review of their ergonomics programs, he said.

Meanwhile, the City of San Jose is distributing copies of OSHA's ergonomics proposal to members of its 120 voluntary employee ergonomics teams, which help assess and improve worksite conditions for 5,500 full-time equivalent workers, said Marynka Rojas, safety and ergonomics man-

ager. The city won the COT ergonomics award in 1998.

The city's program, established in 1994, includes workstation or worksite evaluation and design, informational lectures and self-assessment classes and product evaluation.

"I'm doing this so people don't panic," she said. Reviewing the proposed federal standards also helps team members learn that the city already is "pretty much in compliance" with the OSHA measures, including those mandating job analyses, workstation evaluations and training. If the regulations become law, however, the city would have to tighten its record-keeping requirements, she said.

In some ways, Ms. Rojas said, she prefers the federal standard, as it contains a clearer and more detailed definition of a "health care professional" who is authorized to provide treatment. California's less comprehensive standard lacks such a definition.

In addition, "one of the neatest things is the 'Quick Fix' option" in the federal standards, which does not necessarily require use of expensive equipment, she said. For example, a video display terminal set too low for ergonomically correct viewing can be raised to the appropriate height by placing it on top of a thick telephone

book, rather than by buying a more expensive, box-like support, she said. In addition, "you don't need to spend \$1,600 on a chair," she said.

If OSHA's proposal becomes law, many employers undoubtedly will "panic initially," or at least have "an eye-opening experience," she said.

It is important for them to remember that "there are cost savings involved, but it takes three to five years before you see any," Ms. Rojas said.

San Jose, which has about \$10 million in annual workers comp claim costs, has saved about \$6 million total in incurred claim costs since fiscal year 1995-96 as a result of a program that combines ergonomics, safety, wellness and return to work, she said.

In addition, Ms. Rojas does not anticipate a problem with the proposed federal pay mandates for workers with MSDs, because the city's payment policies already exceed state workers comp maximums, she said. But, she added, "for many industries I can see that being an issue."

The federal mandate calls for an employer to pay a worker on modified duty at least 100% of his or her pre-injury, after-tax earnings, while the worker unable to do any job would receive at least 90% of such earnings. Critics of OSHA's proposed compen-

sation plan say it exceeds payments called for under many states' workers comp laws and that it would increase costs to employers.

Reducing MSD symptoms also has improved worker morale and their lives at home, Ms. Rojas said. It also has improved their job longevity, which is a challenge in Silicon Valley's competitive job market, she said.

In addition, the 15-year-old ergonomics program at St. Paul, Minn.-based 3M is considered an essential "smart business practice" that has improved worker health as well as the productivity and efficiency of its 71,000 workers worldwide, said Nancy Larson, the company's manager of corporate ergonomics.

If the federal OSHA standards become law, "we could live with it," she said, though she would like to see the federal compensation mandate be modified. Currently, 3M pays injured workers at the levels required by individual state workers comp laws.

In addition, Ms. Larson emphasized the need for early identification of potential MSD hazards, which helps in efforts to engineer them out of the workplace. She also encouraged workers to report symptoms early, so that physical problems can be minimized. **BI**

# Policy

Continued from page 2

Brokers familiar with the new policy are enthusiastic, though some note there are still wrinkles to be worked out in the policy language, including questions related to claims handling.

"It could be a hell of a marketing tool for the more entrepreneurial brokers," potentially opening doors at new client companies, said Andrew Marks, president and chief executive officer of MLW Services Inc., a New York-based broker.

"They're on the cutting edge. Whether it's the right policy or not, only time will tell," said another broker, who requested anonymity.

Tamarack officials spent nearly a year creating the policy, dubbed RevenueGuard, with help from law firm Davis, Polk & Wardwell, said Sherif M. Zakhary, senior vp and head of Tamarack's executive protection/financial products division.

Arthur S. Phillips oversaw the policy's development until his departure this month as president of Tamarack.

The policy insures against nine enterprise loss events, with policyholders able to choose coverage for some or all of these risks. The risks comprise revenue losses from:

- Business interruption, which—contrary to the standard definition—covers policyholders' inability to make, sell or distribute products because of weather conditions; work slowdowns; death, kidnapping or voluntary resignation of key executives;

or physical product tampering.

- Changes in laws in the U.S. or covered foreign jurisdictions on the safety or possible harmful effects of a policyholder's products, such as warning label requirements; and detrimental tariffs and excise taxes.

- Competition from another company entering the policyholder's market for the first time, as long as the resulting revenue losses exceed 25% of revenues for the same product in the prior fiscal year.

The coverage applies if the losses are caused solely by a drop of more than 25% in the average, undiscounted price of the policyholder's products or services or if a competitor introduces a product that is similarly named or otherwise resembles the policyholder's product.

- "Cultural risk," which the policy defines as a revenue loss of more than 25% from the prior year caused by a change in the public's buying habits, provided the change cannot be explained by any other factor, such as price, quality or product obsolescence.

- Currency fluctuation adversely affecting the market price of a policyholder's products or the prices paid by the policyholder for imported or exported materials or products.

- Customary financing, defined as the policyholder's inability to get financing for its operations at an interest rate within three percentage points of a defined rate, or the inability of customers to get such financing to buy the policyholder's products.

- Public concern about the safety of a policyholder's products, caused by

published studies by a U.S. government agency or a recognized academic or professional body, provided that revenue losses exceed 25%.

- Obsolescence of a product designated in the policy that leaves the policyholder unable to sell the product at a profit in any market, as long as the revenue loss is not attributable to the policyholder's sale of another product.

- Bankruptcy or other failure of a vendor that the policyholder relies on

## Tamarack's policy 'could be a hell of a marketing tool for the more entrepreneurial brokers,' says Andrew Marks.

for services or critical components of a product, as long as it has tried to anticipate the failure and has exhausted efforts to replace the vendor.

The policy also features several exclusions, including losses payable under other property/casualty policies, which this coverage is not intended to replace; accounting changes; taxes; and Y2K-related losses.

Tamarack, backed by co-lead reinsurers General Reinsurance Corp. and Zurich Reinsurance Co., is offering an aggregate limit of up to \$50 million, with sublimits of up to 25% of the aggregate limit—or a maximum of \$12.5 million—for any individual loss event.

The policy requires a minimum

self-insured retention equal to 10% of the policyholder's prior-year earnings. Each loss event may be subject to additional retentions.

A policyholder must pick a single loss event category for reporting a given claim; a claim cannot overlap two or more loss categories.

Tamarack/Great American will pay a claim using a formula aimed at covering lost earnings to the same extent that a loss event hits revenues. For example, a company may see its total revenues drop from \$100 million to \$80 million, with \$10 million of the \$20 million drop—or 50%—attributable to a covered event. If the company's earnings before interest, taxes, depreciation and amortization then fall from \$10 million to \$5 million, the insurer would pay out 50% of that decline as the covered loss, Tamarack officials explain.

The one-year policy is written on a claims-made basis, with a retroactive date to the beginning of a policyholder's fiscal year and a 180-day extended reporting period option.

Claims would be paid only after the end of a policyholder's fiscal year and, thus, would not improve current-year earnings, Mr. Zakhary noted.

Tamarack is targeting U.S.-based companies or corporate divisions with annual revenues of \$50 million to \$1 billion, established operations and solid earnings histories. Tamarack officials concede the largest corporations are not likely to buy the coverage, because they can absorb the kind of revenue losses the policy covers.

Premiums will vary, based on the

buyer, loss events insured against, limits and self-insured retentions, though premiums will range from a minimum \$100,000 to a maximum of \$3.5 million, Mr. Zakhary said.

Brokers familiar with the policy say it fills a void between traditional P/C coverages and financial insurance. But they also express reservations.

"It's going to be tough to sell it," said MLW's Mr. Marks, noting the underwriting process will require a more time-consuming dissection of a policyholder's business than traditional coverages demand.

Another broker said he will be marketing the policy to banks that may, in turn, sell it to loan clients.

One flaw, brokers say, is the pressure the policy could put on companies at renewal time: If a covered event occurs at the end of the policy year but most of the losses don't emerge until the following year, the policyholder may not collect the full loss unless it renews the policy. "It's a very tough sell to say to your client, 'You had your claim at the wrong time of the year, and you're only going to get two-twelfths of the payment,'" a broker said. "You're going to get a lot of angry clients if you do that."

Mr. Zakhary, however, said Tamarack is aiming for long-term relationships with policyholders and that the one-year policies are intended to be renewed to provide continuous coverage. The problem may also be mitigated, he added, by the extended reporting period option. "If the (market) sees us slashing and running, it does not bode well for the product." **BI**

# AHPs

Continued from page 3

says the report, noting that plans could offer less comprehensive benefits at a lower price. "If the firms that dropped traditional coverage had healthier-than-average employees, and thus lower costs for insurance, fewer of these so-called low-cost firms would remain to subsidize the premiums of higher-cost firms. As a result, premiums for at least some firms buying traditional plans would have to rise, which could lead those firms to drop coverage."

The most recent House proposal addressing AHPs was bundled with the patients' rights bill sponsored by Reps. Charles Norwood, R-Ga., and John Dingell, D-Mich., which passed the House last October (BI, Oct. 10, 1999) and is currently before a House-

Senate conference committee.

Under legislative proposals, AHPs could be sponsored by any trade, industry or professional association that had been in existence for at least three years. They could offer a wide range of health plans, including a self-insured option, to their members, though the AHPs generally would be required to offer a fully insured plan as well. Their chief advantage over traditional plans and purchasing cooperatives would be an ability to purchase health insurance exempt from state benefit mandates, which can add significantly to the cost of coverage.

HealthMarts, also cited in the report, would operate in much the same way, except that eligibility for participation would be determined on a geographic basis. The HealthMarts would be set up on a non-profit basis and would offer health benefits to small firms throughout a geographic

area. They also would be exempt from state benefit mandates, but they could not offer self-insured plans.

The proposed reforms would have little impact on large employers that have self-insured benefit plans under the Employee Retirement Income Security Act of 1974.

According to the CBO, a nationwide introduction of association health plans and HealthMarts would have "only slight effects on insurance coverage," increasing the number of people insured through small firms by about 330,000. That would be the case even though the CBO estimates about 4.6 million people would enroll in the new plans, because many people enrolled in the new plans would have otherwise been in traditional plans.

In addition, in some cases coverage would be less comprehensive, both because the new plans would not be subject to state benefit mandates and

because the mix of high-cost and low-cost firms could change, with fewer of the lower-cost firms sharing in the costs of insuring—and thus subsidizing the health care costs of—a wider population, said the CBO.

The Blues said the report shows AHPs would fall short of their goals.

"We were very happy to see that CBO has validated our longstanding position that association health plans would cause premium increases for the neediest of small employers and the sickest employees," said Christina Nyquist, director-policy for the Blues in Washington. "Basically, the CBO paper demonstrates that AHP legislation is a shell game" benefiting a few businesses at the expense of the majority, she said, noting that the Blues are the largest providers of health insurance to small businesses.

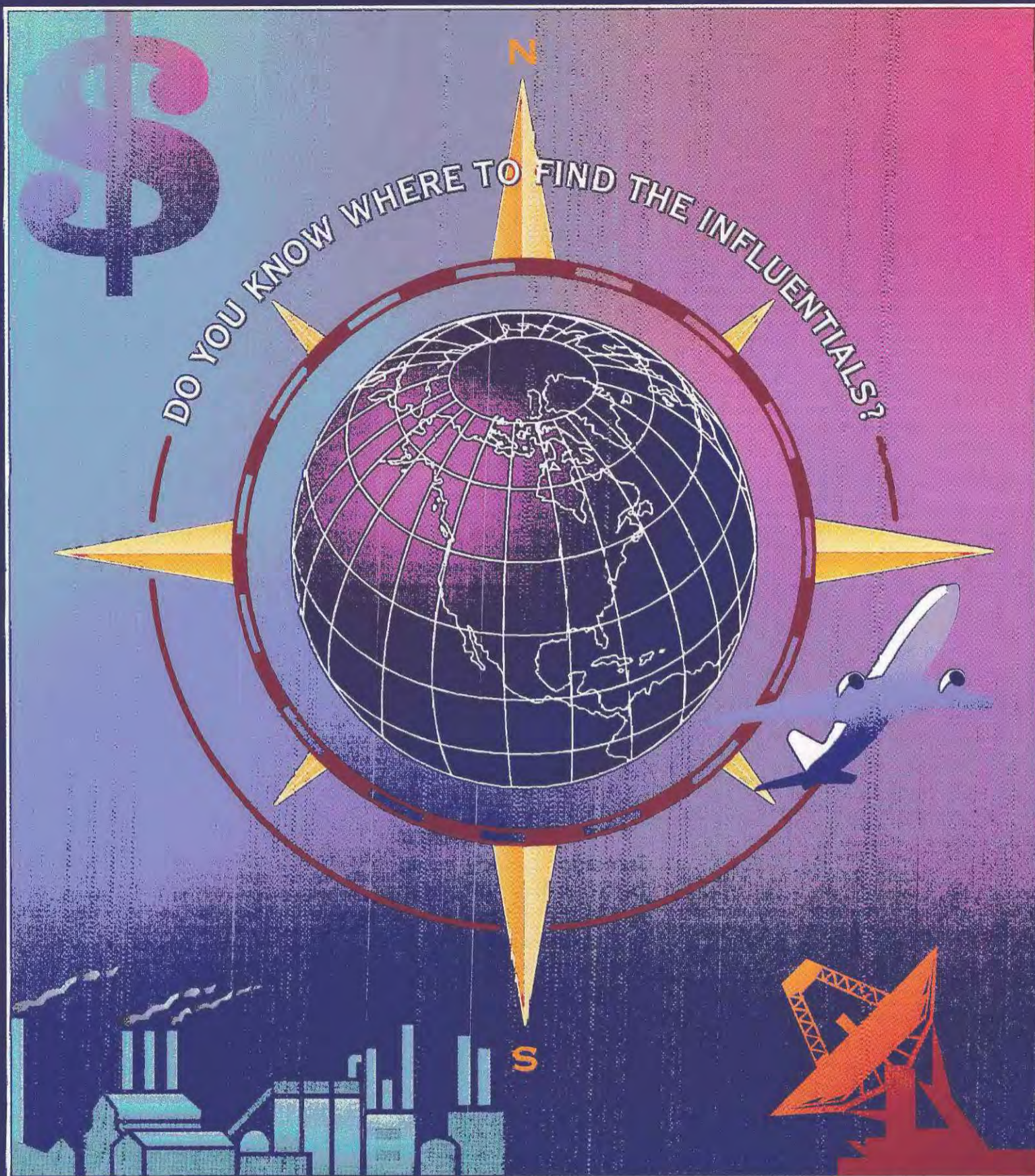
The Self-Insurance Institute of America, which supports AHPs, takes

a different view of the report.

"The SIIA is pleased that the CBO study on association health plans shows that the proposal would reduce the number of uninsured," said Washington Counsel George Pantos.

"The CBO estimates that 330,000 currently uninsured people would have access to health coverage under the association health plan proposal. We believe this figure is conservative, but even that figure means that more than 33,000 employers with fewer than 10 workers" could offer coverage, said Mr. Pantos.

Duane Musser, executive director of the Washington-based Association Healthcare Coalition, said "the CBO analysis is kind of static and it doesn't reflect the dynamics of the marketplace," he said. Association health plans would help small businesses by allowing them to offer competitive benefit packages, he said. **BI**



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## INTERNATIONAL

## Global Briefs

London-based Willis Group Ltd. has made two brokerage investments in Latin America. In Mexico, Willis bought 51% of the country's largest independent insurance broker, Bouchier, Marquard, Zepeda Agente de Seguros y de Fianzas S.A. de CV, which has been a member of the Willis global retail network since 1995. In Venezuela, Willis acquired a 51% holding in Rontarca Prima. Rontarca was recently formed by the merger of two of Venezuela's largest brokers, Ronto Aralca & Asociados CA (Rontarca) and CA Prima Corretaje de Seguros. . . Willis also has combined its business risk resources into a new central operation known as Willis Business Risk Practice. Willis said the change signals its intent "to become a serious player in the business risk/corporate governance market" traditionally dominated by the major accounting firms. . . Amlin P.L.C. has agreed to sell its Lloyd's of London members agency business, Amlin Private Capital Ltd., and associated companies, to CBS Insurance Holdings P.L.C. for £6.5 million (\$10.7 million). The associated companies are Murray Lawrence Members Agency Ltd., Murray Lawrence (Underwriting Agents) Ltd., SBW Insurance Research Ltd., BMA Members Agency Ltd., Onahau Ltd. and Stace Barr Holdings Ltd. Completion of the sale, subject to Lloyd's approval, is expected by the end of February. . . Chubb Insurance Co. of Europe S.A. has acquired the non-life business of PFA Skade-agentur of Denmark for an undisclosed sum. Chubb Europe said the acquisition of PFA Skade-agentur, which was previously its managing agent in Denmark, is part of a strategy to increase its business in Europe—and the Nordic countries in particular—and will strengthen its position as a leading speciality insurer in the region. . . Le Mans Re President Charles-Warner Skrzynski will assume the duties of general manager following the departure of Jean-Luc Bourgault, who is "moving to pursue new activities." Mr. Skrzynski will continue in his role as director of international business at the Le Mans, France-based unit Mutuelle du Mans Assurances. . . AXA Re U.K. has named Duncan Cornwell as its claims manager. He will take over from Paul Moss, who has taken on the role of group claims manager for AXA Re worldwide. . . The European Union and China concluded three days of talks in Brussels last week to negotiate terms of China joining the World Trade Organization. Talks ended with the two sides agreeing to hold another round of technical negotiations in Beijing in the second half of February to discuss certain issues, including calls for China to open its market for service providers, such as insurers, within three to five years. . . Zurich Specialties London and Zurich International (UK) are expanding to the U.K. and London market a risk management solution for exposures resulting from e-business. The product, developed by The Fidelity & Deposit Cos., part of the Zurich Financial Services Group, was introduced successfully in the United States last year. The policy will be offered to financial service institutions and most other commercial enterprises, with policy limits up to \$25 million. . . New York Life Insurance Co., which has acquired two Mexico-based units of Aetna Inc., has renamed the acquired companies, Multiline insurer Seguros Monterrey Aetna S.A. is now Seguros Monterrey S.A., while affiliated bond writer Fianzas Monterrey Aetna S.A. has been renamed Fianzas Monterrey S.A.

## Explosives contractor ruled an insured party

## Gold mine blast claim upheld

By KATE TILLEY

SYDNEY, Australia—A New South Wales Supreme Court judge has ruled that a Papua New Guinea insurer and its lead reinsurer must pay about \$22.5 million to settle claims stemming from the 1994 explosion at the Porgera gold mine in the New Guinea highlands.

The explosion killed 11 workers, caused extensive damage and delayed production at the mine, the largest gold mine outside South Africa, for almost five days.

In a decision delivered late last month, Judge Bob Hunter found that although the explosives subcontractor, Dyno Nobel Asia Pacific Ltd., was liable for the accident, it was nevertheless an insured party under the terms of a contract works policy written

for the owners of the mine by Port Moresby-based Nuigini Insurance Corp. and reinsured 100% with Munich Reinsurance Co. in London. Papua New Guinea law requires insurance to be placed with PNG companies, but large risks are frequently 100% reinsured with reinsurers outside the country. The insurers had refused to indemnify Dyno for its losses and had sought to subrogate against the subcontractor to recoup payouts related to the accident.

Judge Hunter noted in his ruling that Munich Re negotiated the wording and terms of the policy with the broker, Papua New Guinea-based Kila Marsh & McLennan Ltd., a unit of Marsh Inc.

The court action came after efforts to mediate disputes about coverage and the amount of damages failed in early 1998 (BI,

Aug. 3, 1998). In 1995, attempts to settle the claim in London also failed, parties involved in the case confirmed. The case was heard in New South Wales because Dyno and Placer Pacific Ltd., the mine operator, have headquarters in Sydney.

Andrew Peters, an attorney with the Brisbane law firm of Carter Newell, which represented NIC, said an appeal was "being considered. . . There are aspects of the case we will look at closely."

The case returns to Judge Hunter Feb. 11 for "final orders," when the precise amounts to be paid by the insurers will be determined. The insurers then have until March 10 to lodge an appeal with the Supreme Court's Court of Appeal.

Dyno, a 100% Norwegian-owned company, *See Porgera on next page*



PHOTO: AFP

Many wineries near Stellenbosch, South Africa, sustained extensive damage from fires that swept through the Cape Peninsula earlier this month.

## Wildfires spark insured losses

By CAROLYN ALDRED

CAPE TOWN, South Africa—Wildfires that swept through the Cape Peninsula in South Africa damaging many of the region's well-known vineyards may cost insurers about 50 million rand (\$8.1 million), according to the South African Insurance Assn.

Cape Town was declared a disaster area, as more than 100 fires, fanned by high winds and record temperatures of more than 100 degrees Fahrenheit, raged in the area for several days two weeks ago.

According to local news reports, vines in eight wine estates in Stellenbosch were damaged in the fires, as well as buildings on the estates. Many residential homes in some of the wealthiest areas of the Cape also were destroyed, as well as a fish-oil factory in Glencairn.

Johannesburg-based SAIA estimates that total insured damage will be about 50 million rand, following a telephone survey of member companies.

"Most of the losses will be residential," said SAIA Chief Executive Officer Barry Scott.

Although many wine estates were extensively damaged in the fires, losing up to half of their crop, "a lot of the vines themselves were not insured," said Mr. Scott. He added that few of the wine estates have business interruption insurance.

The fires are the worst the area has seen but are unlikely to have an impact on fire insurance rates nationally, said Mr. Scott.

An investigation into South African fire services was conducted by the SAIA and government departments last year, after fire claims doubled from less than 800 million rand (\$130 million) in 1996 to more than 1.60 billion rand (\$260 million) in 1997 on a premium base of just over 1 billion rand (\$162.5 million).

Meanwhile, other areas of South Africa, including the Northern Province, have been suffering from flooding caused by higher-than-normal rainfall.

The extreme weather phenomena may be a result of La Nina, said Mr. Scott, referring to both the high temperatures in the south and the heavy rainfall in the north. **BI**

## Many anti-quake codes unenforced: Expert

By EDWIN UNSWORTH

LONDON—Underwriters should not assume that stringent building codes translate into good risks in many earthquake-prone countries, a loss control expert contends.

Peter Yanev, president of Oakland, Calif.-based EQE International Inc., which provides engineering and risk management services on natural and manmade hazards,

warned last week that, although there are strict building codes in countries such as Turkey and Greece—both of which experienced major earthquakes last year—it is not unusual for those rules to be flouted by builders.

Speaking at a press conference, Mr. Yanev said that insured damage from the August earthquake in Turkey and the September quake in Greece would have been considerably lower had the countries'

strict building codes been enforced.

He pointed out that while such codes exist in many countries, they are commonly ignored by builders, and inspections to detect non-compliant practices all too often are not done. In Turkey, he said, quake damage was, in many cases, more severe among modern buildings, which should have been built to withstand such an incident.

*See Codes on page 17*

## Lothar, Martin leave ReAc tempest-tossed

By PAULA WESTON

SYDNEY, Australia—Directors of Sydney-based Reinsurance Australia Corp. Ltd. refuse to comment on speculation the company may cease underwriting following heavy losses from the December European windstorms, a subsequent downgrade of its credit rating and a dramatic drop in its share price.

In a profit warning issued Jan. 19, Sydney-based ReAc said the European storms, Lothar and Martin, which ravaged Western Europe the last week of December, brought to a close what was considered one of the worst years on record in terms of the frequency and severity of natural catastrophes.

When ReAc disclosed the storms would contribute to \$165 million Australian (\$107.6 million) in catastrophe-related losses for the six months ending Dec. 31, U.S. rating agency A.M. Best Co. downgraded ReAc to B++ from A-, and put the reinsurer's rating under further review "with negative implications."

ReAc stock, whose value dropped to 45 Australian cents (29 cents) per share as of Jan. 17 from 75 Australian cents (49 cents) per share in November, again plummeted on Jan. 19 after the reinsurer disclosed total losses for the year of more than \$281 million Australian (\$183.2 million). ReAc shares were trading at 17 Australian cents (11 cents) each last week.

A ReAc spokesman said the reinsurer was still considering its options. "Within the next 60 days, the board will actively review strategic options available to the company. In the meantime, based on our current information, the board believes the company has more than sufficient shareholders' funds to meet its obligations," the spokesman said.

Within the Australian market, there is much speculation that ReAc will stop writing business.

Ian Thompson, a director of the Melbourne office of rating agency Standard & Poor's (Australia) Pty. Ltd., said the Australian reinsurance market had "taken a real dent with the reported losses of New Cap Re and GIO Re, and the current focus is on ReAc."

The ReAc spokesman said it would be "some months before we can make an accurate estimate of the cost of these storms (in Europe) based on known reported

*See ReAc on next page*

## INTERNATIONAL

## Porgera

Continued from previous page  
ny, was the onsite explosives contractor on Aug. 2, 1994, when the explosion occurred at the mine, 373 miles northwest of Port Moresby.

The explosives facility was destroyed, leaving a crater 132 feet wide and 50 feet deep. Property was damaged up to a mile and a half away. The 11 men who were killed all were employed by Dyno.

The mine's owners, the Porgera Joint Venture, and its insurers, filed suit in 1996 in a bid to force Dyno to pay material damage and business interruption claims, alleging Dyno was negligent. Dyno disputed the claim, saying it was not negligent and, regardless, that it was an insured under the Porgera Joint Venture's contract works policy.

Judge Hunter agreed that, given the nature of the policy, Dyno was an insured party and that NIC, therefore, could not use subrogation rights to seek reimbursement for the \$11.8 million it already had paid to the PJV in material damage claims.

He found Dyno liable but able to recover from the insurers both PJV's business interruption costs—estimated at \$6.9 million, including interest calculated at 6% from September 1994 to March 2000—and about \$2.3 million in material damage costs, in-

cluding interest, which the PJV was unable to recover directly from the NIC but for which Dyno was liable.

Dyno itself was able to recover an estimated \$384,579, including interest, in material damage to leased equipment and raw materials; plus an estimated \$1.1 million, including interest, in costs relating to its legal representation at two inquiries conducted by the PNG government.

Mark Sheller, an attorney with the Sydney law firm of Phillips Fox, represented Dyno's liability underwriter, Bergen, Norway-based Vesta Forsikring A/S. Dyno's policy with Vesta covered it for liabilities over and above any claims met by the underlying insurance, the Porgera Joint Venture's contract works policy.

Dyno had lodged public liability claims through Vesta's Stockholm office and with its Papua New Guinea liability insurer, Fort Moresby-based General Accident Insurance Asia Ltd.

Both Vesta Forsikring A/S and General Accident Insurance Asia Ltd.'s policy conditions required Dyno to first seek indemnity under the PJV's contract works policy, Mr. Sheller said. General Accident will contribute \$360,000 toward the settlement of the claim.

Mr. Sheller said the judge would decide at the Feb. 11 hearing whether NIC was responsible for court costs incurred by parties involved in the action. He estimated

total court costs for PJV, Dyno and Vesta at between \$1 million Australian and \$2 million Australian (\$654,200 and \$1.31 million), but he said the amount was "difficult to quantify yet."

Mr. Sheller said the case illustrated the need to apply sound risk management principles to the negotiation of contracts for large and complex projects.

**'It is imperative that insurers, brokers and insureds understand the scope of their policies,' says attorney Mark Sheller.**

"It is imperative that insurers, brokers and insureds understand the scope of their policies, whether they are adapted specifically for the project or simply adapted from elsewhere to fit the project," he said.

Mr. Sheller also warned of the inherent complexities when policies operate in "unfamiliar legal environments, in conjunction with other policies governed by unfamiliar legal systems."

"At the heart of the judgment was the court's conclusion that NIC and its reinsurers had not properly understood the scope of the NIC policy, including who it covered and for what. That misun-

derstanding prompted NIC to deny Dyno indemnity on several grounds, all of which were rejected by the court," Mr. Sheller explained.

Judge Hunter's ruling followed 30 days of hearings last April and May. His decision criticized the wording of the policy, saying there were "numerous references throughout... which are inappropriate to the subject of construction works."

Section 1 of the policy, the "all-risks cover," indemnifies the policyholder for loss and damage up to \$771 million; Section 2 describes third-party liability coverage; and Section 3 details coverage for financial consequential losses up to \$342 million, minus deductibles, with sublimits for various stages of the mine's development. The policy also has an extension for up to \$20 million to allow for contractors' liability.

Judge Hunter said it was clear that, "on the construction of the endorsed policy, an explosives contractor or supplier would fall within the definition of the insured."

He said evidence presented at the trial indicated it was "clearly understood that the PJV would have their insurance cover also protect Dyno's interests and the risk of the operation to avoid duplication of cover." He pointed out that it is common practice for the principal on a large project to arrange one policy to cover all par-

ties on site.

Judge Hunter rejected the argument that there had been material non-disclosure that Dyno was processing explosives on site.

In his decision, the judge said it was "inescapable that, in a project of this magnitude, having regard to its isolation, it would be inevitable that there would be extensive processing of explosives" on site.

He also found that the PJV was paying premiums in excess of \$25 million, and that some proportion of that was for the risk of operating an explosives plant.

Porgera was owned at the time of the 1994 accident by a joint venture of Placer Pacific Ltd.; Sydney-based Renison Goldfields Consolidated Ltd.; Highlands Gold Ltd., a subsidiary of Brisbane-based mining company MIM Holdings Ltd.; and the Papua New Guinea government.

The Porgera mine is now owned 50% by Placer Pty. Ltd., a unit of Canadian mining company Placer Dome; 25% by Sydney-based Renison Goldfields Consolidated Ltd.; 15% by Sydney-based mining company Orogen Minerals Ltd.; and 10% by PNG landowners. Placer operates the mine for the joint venture partners.

Dyno was represented by Rob Kelly, managing partner of Gagens Lawyers of Sydney, and was assisted by loss adjuster Jeff Gray of Grays Adjusters of Sydney. **BI**

## ReAC

Continued from previous page  
claims."

Earthquakes in Turkey, Greece and Taiwan, windstorms in the United States, the Caribbean, Japan and Denmark, and floods in Mexico and Venezuela, also contributed to ReAC's \$165 million Australian loss from catastrophes during the second half of 1999.

The spokesman said that figure,

combined with further adverse developments in discontinued lines of business, and a first-half loss of \$116 million Australian (\$75.6 million), would result in a total loss for the year of more than \$281 million Australian (\$183.2 million).

"However, it remains too early to quantify the company's full second-half year results until audit and actuarial work is completed," he said.

Meanwhile, GIC Re, now part of Sydney-based AMP General Insurance Ltd., also is exposed to claims

from the European windstorms. GIO Re, part of GIO Australia Holdings Ltd., was merged into AMP General last month as part of an offer for the company approved by its shareholders. More than 97% of votes were in favor of the arrangement, representing 95.75% of shareholders.

An AMP spokesman said it was too early to tell the degree of impact the windstorms would have on GIO Re, which before the storms had already reported losses of \$142 million Australian (\$92.6 million) for the year (*BI*, Sept. 20, 1999).

The problems for Australian reinsurers follow the demise of New Cap Reinsurance Corp. Ltd., which is now in liquidation (*BI*, Aug. 30, 1999).

New Cap Re's liquidation administrator, John Gibbons of Ernst & Young in Sydney, had estimated New Cap Re's 1998 losses at close to \$200 million in U.S. dollars when he recommended liquidation of the reinsurance company.

A spokesman for Mr. Gibbons

said there will be a formal statement "in the next few weeks" about New Cap Re, but he would not comment further.

Meanwhile, a major Australian reinsurance broker has warned that

**'The global reinsurance market could be a horror story in 2000, with a lot of restructuring in the industry,' says Paul Allison.**

the collapse of Australia's reinsurance market could be mirrored around the world in 2000.

Paul Allison, managing director of Sydney-based reinsurance broker MBR Pty. Ltd., said the trends that cast doubt on the futures of New Cap Re, GIO Re and ReAC should be a warning to the international market.

"The Australian reinsurance

problems have taken the world by surprise and will continue to do so," he said.

"Australia always gets bad news first because our reports are prompt and transparent. This is a trend that could go around the world. It will be a horror story in 2000, with a lot of restructuring in the industry. There will be tremendous opportunities for those who survive."

Mr. Allison said MBR would survive, despite a \$12 million Australian (\$7.8 million) drop in annual revenue from reinsurance contracts placed in the international market. He said international reinsurance placements peaked at \$13 million Australian (\$8.5 million) in 1998, but now generated only about \$1 million Australian (\$652,000) a year.

MBR shed 40 staff members in 1999; it now employs only 30 people. "MBR will survive because we have divested and have other sources of income. If we were just in international reinsurance, we'd be dead," Mr. Allison said. **BI**

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## INTERNATIONAL

## Codes

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In last September's earthquake in Taiwan, which caused around \$1 billion in insured losses and \$14 billion in total losses, "loss of life and building collapses were avoidable" if buildings had been properly designed and constructed, said Mr. Yanev.

Israel and Taiwan are other examples of countries that have good building codes but lack either the will or the means to enforce them, added Mr. Yanev.

Israel, which is in an area that has not had a major earthquake for over 70 years, lacks a sense of urgency or

concern, he said, while other countries like Taiwan, Greece and Turkey have problems with government inefficiency and failure by officials to carry out the required checks.

In countries such as Israel and Taiwan, "soft-story buildings" are being constructed, and these buildings are highly prone to collapsing in earthquakes if not properly reinforced, he said. This design, which is often used for hotels, calls for ground floors with large open areas and rigid, partitioned upper floors.

When a serious quake occurs, the ground floor collapses because it is not strong enough to support the rest of the structure, causing the entire building to topple. The soft-story

construction is permitted in many countries, Mr. Yanev said, but ways to make these buildings safer—such

**'We're trying to educate owners to consider the option of an increased level of design,' says EQE's Peter Yanev.**

as stiffening the frame—are often ignored.

Underwriters insuring against earthquake risks in such countries

need to be aware of these problems, Mr. Yanev warned. They should be asking more questions and consulting qualified structural engineers to ensure that the buildings they insure are soundly built, he said.

Mr. Yanev said another problem that is not addressed by even the best building codes—and one that is too often overlooked by insurers—is earthquake-related business interruption. Even the strictest building codes, such as those in California, are designed to minimize loss of life but not necessarily to ensure that business operations can be quickly resumed after an earthquake, he said.

This is why EQE is promoting "performance-based" building de-

sign, Mr. Yanev said. Such a design approach would not only reinforce the structure of a building but also protect the equipment inside it, he said.

"We're trying to educate owners to consider the option of an increased level of design," he said. Mr. Yanev added that underwriters rarely ask about this aspect of the design of the buildings they insure, largely because they do not understand its importance.

He predicted that sophisticated, earthquake-prone areas such as Japan and California will incorporate performance-based design into their building codes within two years. **BI**

## Law Society taps St. Paul to cover liability risks

By CAROLYN ALDRED

LONDON—The U.K. Law Society has named a managing general agency operated by St. Paul International Insurance Co. Ltd. to replace the society's now-liquidated Solicitors Indemnity Fund.

The Law Society selected the as-yet-unnamed MGA last week to succeed the Solicitors Indemnity Fund, a mutual insurer from which all Law Society members previously were required to purchase their first £1 million (\$1.7 million) of professional indemnity coverage. Contrac-

tual details of the formation of the St. Paul MGA are still unresolved, but under the new arrangement, effective Sept. 1, lawyers in England and Wales will be able to buy coverage from either the managing agent or from insurers that receive the approval of the Law Society. The society requires all lawyers to purchase PI coverage.

The Law Society was forced to review the future of the SIF after a dramatic increase in claims during the 1990s led to a shortfall in reserves. Many lawyers, including several large law firms, lobbied the Law Society to allow them to buy their PI coverage on the open market. The Law Society ultimately decided in June to put the mutual into runoff (BI, July 7, 1999).

The new MGA will use the SIF's existing staff and infrastructure, but any commercial risk will be carried by St. Paul, according to a statement released by the Law Society.

St. Paul International, the London-based subsidiary of The St. Paul Cos. Inc. of St. Paul, Minn., will pursue policyholder renewals from

the SIF before Sept. 1. The insurer will have control over underwriting, reserving, policy terms and pricing, according to a written statement from St. Paul.

According to the St. Paul statement, lawyers' PI business in England and Wales is worth about \$400 million, and the company "is confident of securing a significant percentage of this business."

The statement quoted Martin Hudson, general manager of St. Paul International's U.K. operations, based in Redhill, Surrey. Mr. Hudson said, "This is a major opportunity for us to grow our professional indemnity business and become the pre-eminent insurer of legal professionals. We aim to acquire a significant portion of the England and Wales (lawyers') professional indemnity market during 2000."

According to a statement by Robert Sayer, president of the London-based Law Society, "there were a number of very impressive proposals from insurers to operate the managing general agency scheme. Establishing a partnership with a

major insurer like St. Paul is good news for the profession, especially those who practice in smaller firms. It guarantees that insurance cover will remain readily available to all segments of the profession under the new arrangements, whilst giving all firms the benefit of freedom of choice."

Meanwhile, the Law Society still is working out exactly how the runoff of the SIF's existing liabilities will be managed, said a spokeswoman from the SIF.

All claims reported before Aug. 31, 2000, will be handled under existing SIF rules, the spokeswoman said, noting that those liabilities will not be assumed by St. Paul. The fund reported a shortfall of £359 million (\$592.7 million) in 1998. The SIF's annual report for 1999 will be published shortly, and losses for last year are widely expected to be lower.

Currently, Law Society members are paying off the shortfall in annual amounts, with the payoff scheduled to be complete in five years' time, said the spokeswoman. **BI**

## Industry logs on to security effort

By EDWIN UNSWORTH

LONDON—Insurance e-commerce network WISE has announced that 18 major insurers and reinsurers have already signed on with Trusted Trading, one of the network's main services.

London-based WISE, which stands for "worldwide insurance e-commerce," is jointly owned by several insurance industry organizations. It launched Trusted Trading last June as an industrywide cooperative effort to enable companies to place risks securely over the Internet, reducing the complexity and costs of transactions.

Users must sign an interchange agreement, acknowledging that all documents processed through Trusted Trading are legally binding. The Trusted Trading framework also establishes rules for electronic contract formation and data protection, and it uses digital signatures to ensure that documents are read only by their intended recipients.

The companies currently committed to using Trusted Trading are: ACE Ltd., Allianz Holding A.G., Aon Corp., AXA Group, Benfield Greig Group, BT Risk Management Ltd., Communicator Insurance Ltd., CGU P.L.C., Employers Reinsurance Corp., Assicurazioni Generali S.p.A, Hartford Financial Services Group Inc., Jardine Lloyd Thompson Group P.L.C., Marsh Inc., Munich Reinsurance Co., SCOR Group S.A., Swiss Reinsurance Co., Willis Group Ltd. and Zurich Insurance Group. In addition, six managing agencies at Lloyd's of London have signed on: ACE London Underwriting Ltd., Beazley Furlong Ltd., Brockbank Syndicate Management Ltd., DP Mann Underwriting Agency Ltd., Hiscox Syndicates Ltd. and Octavian Syndicate Management Ltd.

Tim Kershaw, an executive director of Willis' Global Financial & Executive Risks Practice in London, said in a statement that Willis has used Trusted Trading successfully with hundreds of submis-

sions. The broker, he said, has "realized the significant savings that we expected, and numerous accounts that were previously loss-making for us now make a profitable return."

Mr. Kershaw said that Willis, upon examining its book of professional and financial risks in 1998, discovered that it was placing a number of smaller, less-complex risks in an overly expensive, labor-intensive manner. Brokers and support staff prepared placing slips, entered information and visited underwriters, and they then repeated that process for endorsements and claims. A significant number of accounts, although they represented a large volume of premiums, were found to be "profit-diluting," Mr. Kershaw said.

Working with a limited number of underwriters, Willis decided to handle this business electronically, and the effort evolved into WISE Trusted Trading, he said.

Mr. Kershaw said Trusted Trading has two key advantages. First, he said, it is a secure trading environment that assures confidentiality to trading parties. In addition, it is backed by an interchange agreement, signed by all users, that legally regulates electronic transactions.

Lloyd's Chairman Max Taylor said he was pleased at the number of Lloyd's businesses that have joined Trusted Trading. "We expect others to follow quickly," he said in a statement.

In a statement, Marsh President Brandon W. Sweitzer, said, "The kind of individual collaboration facilitated by WISE Trusted Trading is fundamental to e-commerce development in insurance and reinsurance."

WISE, which was formed last June out of the convergence of three insurance networks—London Insurance Market Network, Reinsurance and Insurance Network, and World Insurance Network—said that traffic over Trusted Trading is increasing by more than 30% per month, according to a spokeswoman for the network.

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# Storms

Continued from page 3

tions," Mr. Landsea told his audience. Those years could be "very busy as well" in terms of hurricane activity, he said.

"Am I certain this is going to occur? I can't give you a for-certain answer that this is going to occur, but again, the past often gives clues as to what the future is going to hold."

He pointed out that a forecast for 1999 made by William Gray, a noted hurricane expert and leader of the Colorado State University hurricane forecast team, was right on the money. "He called for nine hurricanes, a very strong season, and that's what we had." Mr. Gray's forecast for 2000 is seven hurricanes, which is still "a bit above average," Mr. Landsea said.

And as indicators point toward increasing hurricane activity, the population of coastal areas continues to swell, Mr. Landsea noted. "It doesn't take a rocket scientist to see what's going to be happening."

The hurricane trend information is important to insurers, Mr. Landsea emphasized, because underwriters traditionally base rates partly on the losses and storm activity in recent decades. Underwriting on the basis of the last few decades, which were relatively calm, could be unwise, he warned.

Mahmoud Khater, senior vp with EQECAT in Oakland, Calif., and moderator of the panel discussion, noted that around 10 major storms worldwide last year caused \$25 billion in total damages and \$15 billion in insured losses. "Insured losses

from windstorms were much larger than from quakes and floods in 1999."

"The losses are going up and up and up" from hurricanes, Mr. Landsea noted, adding that amounts are rising in part because of socioeconomic changes in the United States.

Many residents along the U.S. coasts are "fairly wealthy," Mr. Landsea noted. "We're a very wealthy society, we're fortunate. But it also means there's more stuff out there to be damaged."

Another panelist suggested that insurers likely will have a growing influence on the shape of the U.S. coastlines.

"I think the fundamental changing point for how, where and when structures are built" in hurricane-prone coastal zones "is going to be controlled in the future by the insurance industry," said Steve Lyons, tropical program manager with cable network The Weather Channel in Atlanta.

"I think you really do have to look at what the mitigation processes might be... and how you can keep insurance reasonably affordable to people but, at the same time, transition to homes that are really prepared for hurricane landfall," Mr. Lyons suggested.

That's a better scenario for insurers than "just insuring people and having them collect after the fact," he emphasized, because policyholders are more concerned with their lives than their property. "They protect themselves and they pay their insurance companies to protect their property."

Also on the panel was Derek Prior, sales manager with EQECAT in London. **B**

# Building safety with codes

## Construction standards key to mitigating loss: Speaker

By MICHAEL BRADFORD

FORT MYERS, Fla.—Stringent building requirements are the best tools for preventing disaster losses, says an official with the Federal Emergency Management Agency.

"Strong codes are the cheapest and most cost-effective ways to affect your losses and position your communities to be disaster resistant," said Michael J. Armstrong, associate director of mitigation at FEMA's Washington headquarters.

Speaking to a group of businesspeople, public officials, insurers and others, Mr. Armstrong said the federal agency is making a number of contributions to efforts aimed at mitigating the effects of disasters. He made his remarks at a catastrophe management conference sponsored by EQECAT Inc., held Jan. 16-19 at the Sanibel Harbour Resort in Fort Myers, Fla. EQECAT is a subsidiary of Oakland, Calif.-based EQE International Inc.

Organizations that issue building code standards are more frequently embracing FEMA's building-code recommendations, Mr. Armstrong noted.

He said the federal agency is "pleased to see that a number of national code and uniform-model code agencies are adopting

FEMA standards in the areas of seismic, flood and wind. And these national standards, over time, we believe, will significantly reduce the risk for our most disaster-prone communities."

Mr. Armstrong said that, apart from building code standards, FEMA also is working to save

rest of the home was destroyed; they survived."

He pointed out that FEMA is also addressing two issues that are "near and dear" to insurers' hearts: calling on local governments to insure publicly owned buildings and preventing repetitive flood claims.

"Some of the stickiest problems we have at FEMA—and some of the most draining projects to the Treasury—are in the area of publicly owned facilities," Mr. Armstrong said.

He said FEMA Director James Lee Witt maintains it is "almost an act of moral courage for public officials to say, 'We will be responsible for the facilities we own. We won't just reflexively assume that the federal government is going to bail us out.'"

Mr. Armstrong acknowledged that "there is some nervousness about this. There is a lot of work to be done in filling in the blanks on how this would work, but we have received permission to publish a rule for comment to build some sort of a structure around the idea of requiring publicly owned buildings to be insured."

Mr. Armstrong said he has recently "gone through yet another round of putting money into places like San Francisco City Hall and UCLA and various medical centers" to pay for *See FEMA on next page*



lives and property through applied research.

He said, for example, that FEMA has participated in research by Texas Tech University and Colorado State University in the design of "safe rooms" for homes and other buildings.

The recently completed research revealed that, "for a small amount of money," an existing small room in a structure, or one built adjacent to a home or business, can "resist an F5 tornado," according to Mr. Armstrong. Homeowners can make such a conversion for around \$2,500, he said.

"We can actually see the results," Mr. Armstrong remarked. He explained that a family in Oklahoma was able to survive a tornado by huddling in a part of their house that had been converted into a safe room. "The

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### REQUEST FOR PROPOSALS

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### REQUEST FOR PROPOSALS

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- Ref: Request For Proposals (RFP) 00-06

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# FEMA

Continued from previous page  
damage related to the 1994 Northridge earthquake.

In addition, FEMA administers the National Flood Insurance Program, which provides flood insurance to residents of flood-prone areas. The program sets insurance rates for communities that participate, with lower rates going to those communities with more-stringent building codes.

"One of the flaws in the National Flood Insurance Program is that some property owners have been allowed to file claim after claim after claim, far exceeding the value of their home," without taking steps to relocate or elevate their property, the FEMA official said.

As a result, FEMA is taking steps to "remove repetitive-loss properties from our rolls," Mr. Armstrong said. "What we have announced—and there is legislation moving

forward in Congress to support this—is that we are going to do an inventory of all properties that have caused more than two flood insurance claims. And, based upon the amount paid out and the frequency of claims, we are going to begin to offer mitigation grants to property owners."

FEMA will offer a buyout, relocation or elevation of the property, he explained. "If that offer is refused," Mr. Armstrong said, "then we will remove the subsidy from their flood insurance, and they will have to pay actuarial rates."

The time is right for such a stance, he said. "We believe that the political climate is such in this country that there is now a willingness, even from congressional members in places like Louisiana and Texas that have the highest repetitive rates in this country, to acknowledge that we can't keep draining the federal Treasury, we can't keep burdening the flood fund that is paid for by policy premiums, by property owners that know better." **[E]**

## Deals need full data

### Accuracy paramount in hedging weather risks

By MICHAEL BRADFORD

FORT MYERS, Fla.—Risk managers considering buying derivatives to hedge against weather-related losses should insist that the methodology used in structuring the contracts be thorough and accurate, two experts advise.

"Clean data is essential," said David T. Chang, vp-development at Atmospheric & Environmental Research Inc. in Cambridge, Mass. Risk managers also must make sure that "whoever is presenting the deal" has covered the bases when gathering information related to a hedge, he suggested. Data is considered "clean" when it represents a complete set of uniformly conducted measurements without significant gaps.

The contracts are financial instruments purchased by companies such as utilities and other weather-sensitive businesses as a hedge against the risk of lost revenues resulting from unexpected weather conditions. The contracts pay out following certain triggering events, such as when temperatures reach certain high or low thresholds.

Speaking at a catastrophe management conference in Fort Myers, Fla., sponsored by EQECAT Inc. earlier this month, Mr. Chang warned that while a great deal of atmospheric data is available online, it is a mistake to focus solely on that information in considering a derivative.

He was joined in the discussion by Peter J. Kelly, vp of EQECAT in Concord, Mass. EQECAT's parent, EQE International Inc., and Atmospheric & Environmental Research teamed up to form Natural Risk Partners, a company that handles data collection and analysis, places contracts and provides other services to organizations that hedge their weather risks.

Mr. Kelly emphasized that analyzing weather data and developing statistical probabilities are not as simple as they might seem.

Risk managers should resist the temptation to simply download publicly available government weather data and form their own assessment of the viability of using a hedge, he said.

Playing the role of a risk manager for a fictitious utility who had downloaded Internet weather data, Mr. Kelly suggested that "it doesn't take too much experience with statistics to develop a probability distribution" from such data. "In fact, I'm ready to call my broker right now," he quipped.

But Mr. Chang warned, "It turns out that things are not as simple as all that."

Because not all data that comes from government organizations is "clean," he cautioned, and much of it must be reassessed in light of variations not previously considered. For example, Mr. Chang explained, the data has to be examined for flaws resulting from human or mechanical errors.

"The old way of doing things was to actually send a guy out" to record temperatures from a thermometer, he said. "If you have any experience at all in reading old records, you will find that there are things missing because the observer was either too lazy, or forgot to go, or whatever, and there's missing data."

"Even now," Mr. Chang said, "some of the

secondary stations have manual readers."

And just because many weather stations are now automated doesn't mean they're perfect, he noted, explaining that state-of-the-art equipment is "totally dependent on power." Ice, snow or other inclement conditions can cause a loss of power, resulting in gaps in data, Mr. Chang said.

Risk managers need to demand that whoever presents the contract consider these and any other circumstances that could lead to incorrect calculations, Mr. Chang emphasized. Incorrect or missing data must be found and accounted for, he said.

Several other factors that can corrupt weather data should also be considered, he said.

When weather stations are moved or upgraded, readings can change, Mr. Chang pointed out. As an example, he pointed to an examination of readings at Tucson International Airport that showed warmer readings after an equipment upgrade. It was discovered that the new sensor had a ventilating system that drew air over a hot motor and caused thermometer readings to rise.

Mr. Chang pointed out that it is common for stations to be moved. "The primary stations in the U.S. are at airports." Often, because of construction projects, the stations must be relocated, he explained. "That introduces a problem in the data when there is a change in elevation and location."

If a station is moved to a higher elevation, "it will read differently than if it were at the bottom of the hill," he noted. Small variations in data from the different locations can make a big difference if not accounted for when deriving probabilities, Mr. Chang said.

"This sensitivity is something you have to worry about when you are structuring your deal, and you have to understand this," he emphasized.

Contract design also should take into account whether the phenomena El Nino or La Nina have affected weather statistics and whether they will be a factor during the term of the deal, Mr. Chang said.

"The effects of El Nino and La Nina are not uniform" across the United States, he said. "The area most impacted is the Southeast," with the Northeast seeing very little impact from the systems, according to Mr. Chang.

He also told risk managers: "You have to worry about how you handle past years with leap years in them and without leap years in them."

The addition of an extra day into statistical calculations could make a big difference in the outcome, he explained. "You have to consider this when you're structuring your deal."

Mr. Kelly of EQECAT said the assessment of weather-related risks requires expertise from a partner that can account for these and other factors, much the way a risk assessment for "a large, complex facility requires engineering expertise."

"The long and short of it and the lesson that I think we can all take away from this... is that securitized risk and risk transfer instruments that are based on parameterized components have potentially great appeal. But it takes work to leverage the capabilities of those programs and their potential." **[E]**

# Data prompts look at quake probability

By MICHAEL BRADFORD

FORT MYERS, Fla.—New data shows there is a good chance that an earthquake of magnitude 6.7 or greater will rock the San Francisco Bay Area within the next 30 years, a scientist contends.

The United States Geological Survey last October released new earthquake probabilities for the San Francisco Bay area, said Thomas L. Holzer, a Menlo Park, Calif.-based geologist with the USGS. The new data, he added, "was the first revision of probabilities in 10 years."

Speaking at a catastrophe management conference sponsored by Oakland, Calif.-based EQECAT Inc. in Fort Myers earlier this month, Mr. Holzer said "the new probabilities represent a significant change" from earlier studies.

He was joined in the panel discussion by experts who also discussed the debate over earthquake probability along the New Madrid fault and the likelihood of activity along a major fault near Tokyo.

Mr. Holzer said the new USGS information projects, in percentage terms, the probability of a quake along several major faults in the Bay Area.

Along the Bay Area's Hayward-Rodgers Creek fault, there is a 32% chance that a magnitude 6.7 or greater earthquake will occur within 30 years, according to the new data. "For the San Andreas system, the probability is about 21%," Mr. Holzer pointed out.

Many other faults that run through the area have probabilities of less than 10% that a 6.7 or greater quake will occur within 30 years, he noted.

Taken as a whole, the probability that an earthquake of a magnitude of at least 6.7 will strike the San Francisco Bay area is 70% said Mr. Holzer.

In terms of intensity, such a quake would likely be similar to the one that struck Northridge, Calif., in 1994, which caused at least \$15 billion in insured damages.

Mr. Holzer said new earthquake studies are considering the "stress levels" of faults and how those levels can help signal future quakes.

He pointed out, for example, that prior to the 1906 earthquake that heavily damaged San Francisco, there was a "robust period of seismic activity in the Bay Area." After the 1906 quake, there was very little shaking. "It was almost as if someone had turned off the lights in the room."

"What this pattern suggests is that the 1906 earthquake has changed the stresses on the fault system within the Bay Area—that it actually slowed down the clock in terms of the next earthquake," Mr. Holzer explained.

That stress-change information "has prompted a lot of effort to model these stress cases on fault systems," he said. "In fact, we're starting to look at faults around the world in a new light, in terms of stress change."

Mr. Holzer said, for example, that stress-change data along the North Anatolian

Fault collected after last August's earthquake in Izmit, Turkey, indicates that stresses along the fault were increased to the west of the fault's rupture. That "increases the concern about the probability of an earthquake in that area," he said.

Activity along the New Madrid fault remains a somewhat contentious matter among earthquake experts. The New Madrid seismic zone includes parts of Arkansas, Illinois, Indiana, Kentucky, Mississippi, Missouri and Tennessee.

A paper published in the April 1999 issue of Science magazine brought to the fore some of this difference of opinion, said Ken Campbell, a panelist who is vp at EQECAT parent EQE International Inc.'s Denver office.

After studying seven years of plate-movement data gathered by global positioning satellites, the authors concluded that "there is, in essence, virtually no strain accumulation along the New Madrid fault zone," Mr. Campbell said.

Some experts with the USGS have claimed, though, that the paper's authors made an incorrect assumption about how to read the GPS data, which led them to miscalculate certain factors and, ultimately, to draw the wrong conclusions about stress along the fault, Mr. Campbell said.

The last major earthquakes along the New Madrid were in 1811 and 1812, he noted, and "conventional wisdom" holds that such events should occur every 450 years in the area.

"This controversy isn't new," Mr. Campbell said of the debate surrounding activity along the New Madrid fault. He referred to studies whose findings differ widely from the conventional wisdom, some holding that a major quake won't occur in the area for thousands of years.

New data has shown that chances of a large earthquake occurring soon along one of Japan's major faults is low, according to Fumio Yamazaki, associate professor at the University of Tokyo's Institute of Industrial Science and a panelist at the conference session.

Movement along the Tachi Kawa fault, about 20 miles from Tokyo, could cause significant damage in the center of the city, Mr. Yamazaki said. A strong quake would collapse thousands of buildings and kill thousands of people, he added.

Information gathered in a survey of 98 of the major faults in the country, however, shows that significant motion along the fault likely will not occur for some time, he pointed out. The survey has been ongoing since the Kobe earthquake in 1995.

Scientists have determined that major earthquakes along the Tachi Kawa fault occur about every 5,000 years. "And the last event of this particular fault was about 1,500 to 1,600 years ago," Mr. Yamazaki said. "The probability of an occurrence of another event in the near future along the Tachi Kawa fault is low."

Also on the panel was Thomas C. Hanks, a geophysicist with the USGS in Menlo Park. Mr. Campbell moderated the panel. **[E]**

## EQECAT

## EQECAT

## Cat conference hits U.S.

FORT MYERS, Fla.—It doesn't always take a hurricane to draw catastrophe experts to South Florida.

EQECAT Inc., an Oakland, Calif.-based catastrophe risk management company, last week hosted around 100 attendees at its first U.S. conference on issues related to natural disasters.

An assortment of experts made presentations on catastrophe underwriting and modeling, hurricane and earthquake probabilities, risk securitization, weather risk management and other topics.

The conference was held Jan. 16-19 at the Sanibel Harbour Resort in Fort Myers, Fla. Plans for next year's conference are not completed, but it is expected the meeting will be held in February or March 2001. EQECAT plans to host a U.S. and an international conference each year.

More information is available from Elaine M. Brovont, EQECAT senior executive administrator, 1111 Broadway, 10th Floor, Oakland, Calif. 94607-5500; 510-817-3100; emb@eqe.com.

## EQECAT

# FTR FOR THE RECORD

## ADM settles with OSHA

DECATUR, Ill.—Agricultural processor Archer Daniels Midland Co. earlier this month agreed to pay \$650,000 to settle safety and health violations cited by the Occupational Safety and Health Administration in a 1998 inspection of ADM's rail car facility.

According to an OSHA statement, an ADM worker had complained to the agency that the company assigned workers to clean inside rail tank cars even though no attendant was on duty. An OSHA confined-spaces standard mandates the presence of attendants to monitor employees working in such environments.

Employees at the facility were also working without retrieval lines, OSHA discovered. The standard requires that retrieval lines be attached to workers, allowing them to be evacuated in an emergency rescue without exposing other workers to the confined space.

The company, headquartered in Decatur, Ill., was also cited for inadequate storage of combustible and flammable materials. The fine for these three violations was originally set by OSHA at \$1.6 million.

As part of the settlement, which states that ADM has corrected the cited problems, the company agreed to: establish a confined-space rescue team and hire a senior-level manager to supervise safety and health, conduct routine safety audits, provide employee safety questionnaires that may be completed anonymously, and plan to modify policy and procedures regarding confined spaces.

ADM would not comment on the settlement.

## Acordia makes three acquisitions

INDIANAPOLIS—Acordia Inc. has acquired three companies in recent weeks.

The Indianapolis-based broker bought Yaste, Zent & Rye Agency Inc. of Fort Wayne, Ind.; Employers Service Corp. of Charleston, W.Va.; and Insurance Risk Managers Ltd., based in Champaign, Ill. Yaste, Zent & Rye is an insurance broker specializing in employee benefits and risk management services.

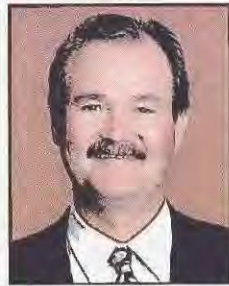
Employers Service Corp. is a third-party administrator and consultant specializing in workers compensation and unemployment compensation for the coal, manufacturing, retail and health care industries. The company also manages federal black lung and short- and long-term disability programs.

Insurance Risk Managers specializes in property/casualty insurance brokerage for the trucking, manufacturing and health care industries, as well as government entities and schools and universities. It also handles workers compensation and employee benefit programs.

Terms of the transactions were not disclosed.

## Convergence unlikely: Duperreault

NEW YORK—Banks and property/casualty insurers likely will not converge, despite the recent removal of legal barriers to doing so, said Brian Duperreault, chairman and chief executive officer of ACE Ltd. in Bermuda.



"The real question is whether the banking industry really wants to be in the insurance industry, and I think the answer is 'no,' especially in the P/C business," he said.

Insurers do not have high enough stock valuations to buy banks, Mr. Duperreault said at the annual joint luncheon of the APIW, an association for women in insurance, and the Society of Chartered Property Casualty Underwriters, held this month in New York.

Banks will not expand into insurance because of the differing natures of the two sectors, Mr. Duperreault said, noting that banks will shy away from the volatility and uncertainty that is a characteristic of the property/casualty insurance industry.

Despite the lack of competition from banks, property/casualty insurers still must change to compete effectively with other insurers, he said.

To satisfy rating agencies' requirements, insurers will need large amounts of capital to support their business, Mr. Duperreault. And because of the agencies' stringent requirements, some of that capital is redundant for practical purposes, he said.

Insurers will also need to be global, Mr. Duperreault said. "You have to have a presence in every world market to serve clients well."

Consequently, "regional oligopolies" are being replaced by "global oligopolies," which include companies such as American International Group Inc., AXA S.A., Zurich Financial Services Group and "hopefully, ACE," he said.

## Antibiotics education continued

BLUE BELL, Pa.—Concerned about the growing number of bacteria strains immune to the most powerful antibiotics and the rising costs of treating these tougher infections, Aetna U.S. Healthcare announced last week that it will continue a physician education program started by Prudential HealthCare during the 1998/99 flu season.

In conjunction with the federal Centers for Disease Control, the program will educate physicians on the appropriate way to prescribe antibiotics.

Aetna, using its pharmacy claims data, compiled a list of 9,000 physicians who prescribed antibiotics more often than did their peers. The company will mail information about the program, as well as information from the CDC on prescribing antibiotics, to these physicians.

The Atlanta-based CDC estimates that approximately

50 million courses of antibiotics are prescribed incorrectly to treat viral infections such as colds and bronchitis, which is contributing to the rise of antibiotic-resistant bacteria, Aetna noted in a statement.

Aetna U.S. Healthcare, which is headquartered in Blue Bell, Pa., acquired Prudential in August 1999.

## Managed Care USA Inc. renamed

CHARLOTTE, N.C.—InServe Corp. is the new name adopted by Managed Care USA Inc. to better reflect its role as a holding company for six diverse subsidiaries.

The Charlotte, N.C.-based company now includes operations that underwrite workers compensation insurance, serve alternative markets, partner with hospitals, provide reinsurance and offer case and claim management services.

The name of one subsidiary, Managed Care USA Services Inc., will be changed to InServices Inc. The names of the other five subsidiaries will remain OccuCare USA, OccuCare Re, OccuCare Special Risk, Providers' Assurance Corp. and Managed Care USA Health Plans.

InServe, founded in 1994, has 250 employees and reported revenues of nearly \$100 million in 1998.

## Florida citrus crops destroyed

MIAMI—An outbreak of citrus canker is destroying hundreds of thousands of Florida lime trees.

The Florida Department of Agriculture and citrus growers are battling the bacterial disease, which first appeared in 1995 in Miami. Since then, it has infected trees in commercial lime groves and residential areas across the southern part of the state.

"We've cut 180,000 to 190,000 trees, mostly in residential areas," said a spokesman for the agriculture department. The cut trees are burned to eradicate the disease.

Tree cutting is continuing in quarantined areas of South Florida, he said.

Citrus canker, which is spread by wind and rain, ruins the fruit of infected trees by causing lesions. Infected trees must be destroyed, because there is no cure for the disease.

The agriculture department spokesman said South Florida lime growers in the affected area sell about \$5 million in crops annually. "Obviously, they will suffer a fair amount of damage," he said.

The spokesman said it is not known how much of the growers' losses will be covered by insurance.

The disease also infected a very small number of grapefruit trees, but it was quickly eradicated in the area where it was discovered, the department spokesman said. **BI**

# Guarantee

Continued from page 1

In addition, New York-based Asset Guaranty Insurance Co., a unit of Enhance Financial Services Group Inc., has an AA rating, while New York-based American Capital Access Corp. has carved out a market niche with a single A rating.

Last year, municipal bond volume dropped 21% to \$226 billion, and the insured portion dropped to 46%, down from 51% in 1998, according to the New York-based Bond Market Assn.

In 1998, municipal bond volume

had hit an all-time high, as lower interest rates encouraged many municipalities to refund their bonds and reissue them at lower rates.

But in 1999, the level of refunding activity dropped substantially because of interest rate increases. "Higher interest rates have largely taken the refunding opportunities away," leading to the drop in overall volume, said Richard P. Smith, senior vp at Standard & Poor's Insurance Rating Services in New York.

Observers say the drop in insured penetration, which is attributable, at least in part, to insurers' higher rates, is not a cause for concern.

The drop "really has no telling message," said David Poulson, an analyst with Duff & Phelps Credit Rating Agency in New York.

In addition, the drop may reflect just a variation in the mix of business that came to market last year, said Ann C. Stern, chairman, president and chief executive officer of FGIC, who noted that certain types of credits are more likely to be insured than others. "I don't look at this as the beginning of a long-term trend, by any means," she said.

Because bond insurers raised rates during the course of the year, "it would be natural for some to choose to go without because of the higher cost of the transaction," said Sabra Brinkmann, an analyst with Advest Inc. in Hartford, Conn.

At the same time, the financial difficulties of health maintenance organization Harvard Pilgrim

Health Care have "raised everybody's awareness yet again about the good aspects of bond insurance, so it's probable we'll see a slight increase in insurance penetration in the year 2000," said Ms. Brinkmann. She noted that FSA had insured \$190.5 million in Harvard Pilgrim

board by a little more than 30% last year, and other financial guarantee insurers followed, at least partway, with their own hikes, said Mr. Dunton.

MBIA's reasons for introducing the hikes are "pretty straightforward," he said. Over the past sever-

**'We figured that we should exercise some market leadership and take the first step in increasing prices...hoping the market would follow us,' says MBIA's Gary C. Dunton.**

debt in 1998. The Brookline, Mass.-based HMO was put into receivership earlier this month (BI, Jan. 10).

An FSA spokeswoman, who noted the insurer's net exposure is \$96 million because of reinsurance, said FSA does not anticipate the bonds will default. "Based on the facts as we know them and conversations we've had with the receiver, we do not expect to have losses on that transaction," the spokeswoman said.

MBIA Insurance Corp. President Gary C. Dunton said, "Our view is that a 45% to 55% penetration is probably the range that we'll see" over the next few years. Mr. Dunton added that the percentage will depend upon several factors, including the market's competitiveness.

MBIA raised rates across the

al years, "there has been a rather steady, albeit gradual, decline in how we priced the business, and while the pricing was still in excess of our cost of capital, we felt, for the value that we bring to the market, that it wasn't enough.

"Being the largest of all the financial guarantors, we figured that we should exercise some market leadership and take the first step toward increasing prices, and in an environment where there's only a handful of competitors, we were hoping that the market would follow us," Mr. Dunton said.

"In fact," he noted, "the market didn't follow us totally, but, generally, there has been an increase in pricing during 1999."

MBIA's new management which is led by Chairman and CEO Jay

Brown, who succeeded David H. Eliott upon his retirement last year, was a factor behind the new strategy, said Mr. Dunton.

Others have also pointed to \$170 million of MBIA losses in connection with the 1988 bankruptcy of the Allegheny Health, Education and Research Foundation as a reason for the hikes. Because of reinsurance obtained by MBIA, however, the bankruptcy has not had an immediate effect on the insurer's bottom line (BI, Feb. 22, 1999).

Frank J. Bivona, AMBAC's executive vp and chief financial officer, said AHERF "increased credit awareness in the market." And any time that happens, Mr. Bivona said, "we will have the ability to price more for our product. I think that's what's happened over the past year."

But Mr. Dunton said AHERF's situation was not one of the primary reasons for the rate hikes. "AHERF really had more to do with tightening our underwriting standards for health care, which we did as a separate initiative for 1999," he said.

"Clearly, they were moving up the pricing curve last year," as insurers sought to find a balance between raising prices and losing volume, said Martin A. Kamarck, president of insurance businesses at Enhance Financial, which operates a monoline financial guarantee reinsurer, Enhance Reinsurance Co. Insurers have become "much tougher about seeking

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## Readers counsel on cheesy lawyer ads

I'm not the only one who is turned off by television commercials from attorneys trying to drum up business, and we have more fans of the Three Stooges than I would have suspected.

Readers from around the country e-mailed me about their local television commercials from lawyers promoting their services, and they gently chided me for misspelling "Cheatem," as in the The Three Stooges' "Dewey, Cheatem & Howe—Attorneys at Law." In my Jan. 17 commentary, I had mistakenly spelled the second partner's name "Cheetem."

A risk manager in Phoenix e-mailed me: "Here in Phoenix, we have our share of 'cheesy' lawyer commercials offering all types of representation. Although this is strictly personal opinion, without basis for fact, I would assume that most of the 'cheesy lawyer commercials' are placed by less-than-ethical attorneys.

"It's indeed unfortunate that lawyers of this type continue to demean their profession by encouraging, as you described it, the 'get yours' mentality. Their action also perpetuates the 'it was everyone else's fault but mine' attitude, which is prevalent in today's litigious culture."

I totally agree that even if the attorney advertisements don't generate more lawsuits today, the ads certainly do engrain in people the idea that if they become injured or sick, somebody else must be responsible for it. So, even if the lawyer doesn't

get the business today, at least the viewer is primed to call an attorney when injury or illness does strike.

The risk manager also noted: "I thought it very interesting that 'defense attorneys contend that many of these advertising lawyers are known to settle legitimate cases for far less than the claim is actually worth.' That's sadly unfortunate for a legitimate claimant. However, I'd be curious to know the ratio of 'legitimate' vs. 'something-for-nothing' claimants that contact these 'cheesy' lawyers. (Cheesy is as Cheesy does!) My guess would be

'something-for-nothing' claimants are more likely to respond to a 'cheesy lawyer ad' than legitimate claimants."

I was hoping that some defense lawyers or claims adjusters who read my commentary might enlighten us on this point, but no one has. Would it be too cynical of me to suggest that defense attorneys and claims adjusters would prefer not to let this cat out of the bag? Best to just complain about the ads and reap the benefits.

And from the West Coast, a risk manager responded that I had hit on his "favorite hate subject" with my comments about "cheesy lawyer ads." He wrote: "Here, in L.A., our daytime TV is loaded with such ads. 'My lawyer got me \$2,000,000.' 'My attorney got me \$4,000,000.' These are the attorneys we meet each day through lawsuits. The majority of suits are filed by those attorneys from the Wilshire area of L.A., yet our exposure is strictly Long Beach, and so the actions are filed in the Long Beach courts, which are 30 miles plus from Wilshire Blvd. And, there are sufficient competent attorneys in Long Beach to provide the service.

"Whenever I see one of these TV ads, my blood pressure rises, as what happened recently following my operation in a local hospital. When I was placed in the hospital room, I turned on the room TV hoping that cable TV was included on the menu. The first image to come on was an ad for a personal injury attorney on one of the local stations. Fortunately, I discovered the set also received FM radio, so, I was able to listen to my favorite classical station."

Hmmm. This gives me an idea. The risk manager was in the hospital, recovering from an operation, and this ad by a lawyer drove up his blood pressure. That's a dangerous condition, especially when recovering from an operation. Is there a cause of action here?

I'm surprised this did not occur to the recovering risk manager, who also wrote: "I have a Three Stooges tie with the 'Dewey, Cheatem & Howe' name on it. I make it a point to wear it to RM gatherings, and, to meet with my favorite defense attorneys."

That's when I realized I had spelled "Cheatem" wrong. I went to the official Web site of the Three Stooges ([www.threestooges.com](http://www.threestooges.com)) and the tie is indeed available for just \$18.99.

While at the Web site, I also noticed that "Disorder in the Court" now is available for viewing. I think I'll just rent it.

*Publisher and Editorial Director Kathryn J. McIntyre's commentary appears fortnightly. She can be reached at [kmcintyr@crain.com](mailto:kmcintyr@crain.com).*

## Guarantee

*Continued from previous page*  
higher prices," he said.

There is room for still more hikes, said Joseph W. Swain, president and chief operating officer of Capital Re. "I do remember when the bond insurers were able to charge even more. I'm still hopeful that there's a bit more upside in these recent rate increases. I think the market can bear it and still provide an enormous amount of benefit to the issuer," said Mr. Swain.

MBIA gave up market share in terms of the par value of the bonds it insured, when it raised rates, although Mr. Dunton said the insurer still accounts for about 40% of the premiums collected in the industry.

Advest's Ms. Brinkmann said that, historically, MBIA has had close to a 40% share of the par value of the bonds insured, with FGIC's share at around 25%. FSA, she said, has been as low as 15%, with AMBAC's share the "real variable." But in 1999, it became "a much more evenly balanced market between the four players than it was in prior years," said Ms. Brinkmann.

"It's a commodity business, so you can gain more share by lowering price," she said. Last year, everybody was a "pretty disciplined competitor, and there wasn't a lot of price undercutting going on," particularly by MBIA, AMBAC and FSA, although the low-risk busi-

ness that is FGIC's focus—including water, sewer and general obligation bonds—remains very competitive.

One major reason behind insurers' recent willingness to raise rates is their increasing focus on asset-backed securities and international business, which, for the first time, accounted for a greater portion of their business than municipal bond insurance last year.

For the first nine months of last year, bond insurers guaranteed \$104 billion in asset- and mortgage-backed securities, collateralized bond and loan obligations, and international transactions; compared with the \$95 billion insured in the municipal market, noted Ari Ginsburg, director at Fitch.

The asset-backed market has higher returns, so "there's less pressure on the muni bond market, because there's other places for the capital to go. The muni bond market is not the only game in town," said Matthew L. Vetto, an analyst with Salomon Smith Barney in New York.

"We're not solely dependent" on the municipal bond business, agreed AMBAC's Mr. Bivona. "That gives us the opportunity to . . . be more selective on credit and price."

One factor driving interest in the asset-backed market is investor appetite for the securities, said Ms. Stern. "There are more and more creative people looking at a particular company or asset originator and seeing how they can maximize their own use of capital through se-

curitization."

Another factor is asset-backed securities' relatively short life span—generally, 18 months to five years—"so you're not locking yourselves into a particular premium environment for quite the period of time on that business" as would be the case with municipal bonds, whose life can extend for decades, Mr. Stern said.

Observers debate the likelihood of new participants entering the financial guarantee business at the primary level.

"I'm not exactly expecting them, but if they showed up I wouldn't be surprised," said Mr. Dunton.

But skeptics point to the high level of capital required and the already-established reputations of existing insurers as deterrents.

Mr. Smith said there are always people who have an interest in entering the market, "and think they have an angle." Historically, however, relatively few of these ideas come to fruition, he said.

Furthermore, he added, "the near-term prospects are at least hampered by the uncertainties" as to whether FGIC will be sold, said Mr. Smith, referring to persistent rumors that FGIC, the only one of the four AAA-rated financial guarantee insurers that is privately held, is up for sale by its owner, General Electric Corp.

But FGIC's Ms. Stern denied those rumors. "There are no imminent plans at the moment, and if and when there ever is, we'll certainly make an announcement about it," she said. **BI**

## Capital Re lends expertise to ACE

### ACE/XL duel showed mutual interest in guarantee business

By JUDY GREENWALD

The bidding war between ACE Ltd. and XL Capital Ltd. over financial guarantee reinsurer Capital Re Corp. was a reflection of both insurers' desire to further expand into the financial guarantee market.

Although observers note that the egos of ACE and XL executives may well have played a role in the battle for Capital Reinsurance Co.'s holding company, both companies already had been involved in the financial guarantee industry. ACE had made a \$75 million investment in Capital Re, while XL had a joint venture with financial guarantee insurer Financial Security Assurance Inc. in New York, as well as a minority interest in the company.

ACE's takeover of Capital Re is not expected to have a significant effect on the market. Nevertheless, it has generated speculation as to whether New York-based Enhance Financial Corp., which operates the only other U.S. monoline financial guarantee reinsurer, Enhance Reinsurance Co., may become an acquisition target, too.

"In some respects, the initial bid by ACE for Capital Re could be viewed as just an evolution of a business relationship that already existed," said Richard P. Smith, senior vp at Standard & Poor's Insurance Rating Services in New York. ACE moved when it did because Capital Re Corp. "had some significant negative things going on in their company," he said.

These included exposure to losses on reinsured business stemming from the 1998 bankruptcy of the Allegheny

Health, Research and Education Foundation; a credit card-backed security where fraud was involved; and an operation connected with suspected swindler Martin Frankel. Capital Re also reported a \$39.2 million third-quarter 1999 loss stemming from its discontinued operations at Lloyd's of London, which are in runoff.

"Here was a company that clearly needed some shoring up," said Mr. Smith. But because ACE's initial offer was an all-equity deal, it left ACE vulnerable to a decline in its stock. Then, ACE's stock did fall in value, "to the point where somebody else could say, 'At this price, this looks pretty attractive.' That's what happened," said Mr. Smith.

XL stepped in on Oct. 6, the day before a scheduled Capital Re shareholder meeting to consider the ACE offer, with its own "11th-hour bid," said Mr. Smith.

"It was an opportunistic situation . . . which had some synergies for XL as well as for ACE," not a case of "an insurance company buying a beef packer in Iowa," he said. But once the bidding war started, "it reached a point where it did not make sense for XL to proceed, so it pulled out."

The deal makes sense for ACE, analysts say.

Capital Re complements ACE's other businesses, said Ari Ginsburg, director at rating agency Fitch IBCA in New York. "ACE does not have either financial guarantee savvy that Capital Reinsurance or Capital Re Corp. has," he said.

"You've got some good skills" at Capital Re, and "it's always easier to go out and buy something than to develop it from scratch," said Ann Ross, vp and

manager of research at New York-based Roosevelt & Cross.

Things will continue much as they have been at Capital Re, said Joseph Swain, Capital Re's president and chief operating officer. Because ACE has neither expertise in financial guarantee insurance nor any redundancies with Capital Re's business, said Mr. Swain, "I would expect other than the obvious corporate oversight that comes from being owned by a large company . . . we would be able to run reasonably autonomously."

"I think it strengthens Capital Re, puts less pressure on management," said Laura Levenstein, managing director at Moody's Investors Service in New York, which had downgraded the financial strength ratings of Capital Re and Enhance Re to AA from AAA.

Mr. Ginsburg noted that losses stemming from ties to Mr. Frankel, Lloyd's and the credit card security were related not to Capital Reinsurance but to another Capital Re Holding unit, KRE Reinsurance Ltd. The deal "just separates Capital Re and its financial guarantee business further from other lines of business where losses may be prevalent," Mr. Ginsburg said.

Some believe Enhance Re could become an acquisition target as well, though company officials say nothing is pending.

Martin A. Kamarck, president of insurance businesses at Enhance Financial, said Enhance has not had the financial losses that led to Capital Re's acquisition. As a result, any proposed deal involving Enhance "would be much more a strategic combination and would be evaluated as such."

# Weather

Continued from page 3

Mr. Grannan estimated that through the end of 1999, 3,000 to 3,500 over-the-counter weather hedge transactions had been done, "and most of those seemed to be in heating and cooling degree day swaps."

Swiss Re New Markets' Mr. Trueb agreed most transactions are based on heating degree days or cooling degree days, though "sometimes we see a request for average temperature, the number of days of temperature above a certain threshold," he said.

And the transactions could be based on an underlying factor other than temperature, Mr. Trueb noted.

For example, in areas where hydroelectric power is more prevalent, such as the Scandinavian countries, utilities have shown interest in precipitation-based weather derivatives. "It could be something as strange as when the snow melts," he said.

Currently, there are about a half-dozen major dealers of over-the-counter weather derivatives, and many are subsidiaries of large energy concerns, Mr. Grannan said. "These people were basically looking for a place where they could lay off their more vanilla-type risk... just like banks who do interest rate swaps would lay off their risks using Eurodollar futures here."

The CME's weather contracts were developed in response to that demand. Initially, they were based on heating degree days in four cities: Atlanta, Chicago, Cincinnati and New York. But, beginning today, the exchange is adding six more cities—Dallas; Des Moines, Iowa; Las Vegas; Philadelphia; Portland, Ore.; and Tucson, Ariz.—and will trade contracts based on heating and cooling degree days.

"So far we've had a modest participation, kind of as we expected," Mr. Grannan said. Through Jan. 26, there were 354 weather contract trades at the CME, most

of them—209—on the Atlanta contract.

"We think the primary users of these to begin with will be the dealers themselves," Mr. Grannan said. The next tier of users might be bank swap desks or energy companies, "along with some of our own locals... who have a more meteorological bent."

"Then the next level may be some other business interests," he said.

Other industries will likely take advantage of weather derivatives eventually, Mr. Trueb said. The beverage industry, for example, where consumer demand may be affected by the weather, might be

## The trigger 'could be something as strange as when the snow melts,' says Juerg Trueb of Swiss Re New Markets.

able to take advantage of weather risk transfer, he said.

Agriculture-related business is another likely area, he said. "With the agricultural markets, now there are lots of future markets," Mr. Trueb said. "But that's more related to price risk, and weather is more related to volume risk," he said.

More research must be done to understand the relationship between price and volume before those in agribusiness can determine when weather derivatives might be useful hedges, Mr. Trueb said. "I think, to some degree, when you think about agricultural products, the question is, what is the appropriate type of hedge, he said.

"I think right now what you're going to see is those corporates (interested in weather hedges) acting like other corporates in the United States who hedge their interest rate risk," Mr. Grannan speculated.

In that scenario, a company looking to hedge weather-related

business risks might go to a bank or a reinsurer that could craft a customized derivative to cover their exposure. That institution might then turn to the CME's contract to hedge its own risks.

"The insurance companies, I think, have been looking at this for the last couple years," Mr. Grannan said. "We hope to be an intermediary for them as we are in the interest rate business."

A portfolio "can be self-hedging to a certain extent," he said. "But if there are any gaps, they may look to an exchange-traded contract."

As the weather derivative market grows, it's attracting participants and demonstrating new nuances.

Online venues for trading weather derivatives have emerged through Princeton, N.J.-based CATEX and New York-based TradeWeather Inc.; and a group of United Kingdom-based companies recently announced its own plans for an online over-the-counter weather derivative market.

If that venture succeeds, the London International Financial Futures and Options Exchange has noted it might offer its own market for exchange-traded weather contracts later this year.

Last November, Koch Energy Trading securitized a portfolio of 28 weather derivative contracts as a \$50 million, three-year note deal sold by Kelvin Ltd., a Cayman Islands-based special purpose company.

Essentially, the deal could be likened to Koch reinsuring its weather risk, Mr. Putnam said. And reinsurers were among the investors buying the weather risk notes.

The reinsurers' participation was a factor the note deal's underwriters cited to other investors considering purchasing the weather risk instruments, Mr. Putnam said. "To give them confidence, the underwriters pointed out we have these other people who are active in the weather market who think it's priced correctly," he said. **BI**

# Wachovia

Continued from page 3

"It was appealing to offer another opportunity for our employees to receive another benefit," said Ms. Moody. "As an employer, anything we can do to help employees manage the challenges of everyday life is a good thing."

But for many employers, their small size or the high cost of the services may prevent them from offering work/life benefits.

"Many of the companies we are targeting are not eligible for work/life services because they're not large enough," said Ms. Anthony. But one goal of work/life programs—helping employers attract and retain employees—is common to employers of all sizes.

Wachovia hasn't yet determined whether, once the pilot program is completed, participating employers or employees will be charged for the service enhancement it will provide.

So far, Mr. Levine said, employees of small organizations appear to be using the work/life services at about the same rate as do employees of large organizations, where about 8% to 10% of employee populations use such services annually. After only a few months of testing the

program among small employers, Mr. Levine said, ComPsych has about 10,000 employees from Wachovia-affiliated companies registered to use the work/life services.

"It all builds on the premise that people generally trust their employer and their employer's choice of benefits," he said. "If their employer is offering counseling, it will cut through the

## 'It's a win-win to a small employer who can't get these services,' says ComPsych's David Levine.

stigma people otherwise have in seeking external family-counseling services."

Because of the large percentage of women in the banking industry, banks have historically been at the forefront of the work/life benefit push, said Rich Federico, vp and work/life practice leader for benefit consultant The Segal Co. in New York.

Banks understand the value that can be derived from these programs first-hand, he said, and thus they are willing to embrace the idea of acting as a liai-

son between other businesses and a work/life provider.

Banks also can profit from ventures that augment their existing customer relationships, said Mr. Federico. And work/life vendors can increase their market share by using banks' customer databases.

"It wouldn't strike me as too unusual that the vendors might see the advantages of subcontracting," he said. "It could really grow as an idea, because vendors of work/life services aren't very big," and they often lack marketing clout.

It has been difficult for work/life and employee assistance programs to grow among larger employers, ComPsych's Mr. Levine said, because that market segment is mature.

"It's been a challenge—not only for us but also our competition—to efficiently bring EAP and work/life services to the half of the population that is employed through small employers," said Mr. Levine. He noted ComPsych's relationship with the bank has raised their visibility among smaller employers. "It's a win-win to a small employer who can't get these services."

Mr. Levine said he hasn't heard of any other financial services organizations offering work/life counseling services.

# Updates

## Markel lowers Terra Nova bid

Continued from page 2

Markel reduced its offer further because of poor results at Terra Nova. Those results have not yet been published, but they are not expected to exceed an after-tax loss of \$2.13 per share for the year, or \$54 million.

Terra Nova suffered losses due to the European storms late last year, as well as adverse claims development of earlier catastrophe losses, said John Dwyer, chairman of the reinsurer. Terra Nova also paid a one-time reinsurance premium to enable it to exit a line of business. Mr. Dwyer would not provide further details.

Under the terms of the new agreement, Markel will pay \$13 per share in cash, 0.07027 of a common share of a new holding company, and 0.07027 of a "contingent right value," whose value will depend on the price of Markel's stock at the time of closing.

## Med mal RRG closes shop

BURLINGTON, Vt.—American Medical Mutual Inc., A Risk Retention Group, has ceased operations, transferring its book of business to MIIX Insurance Co., an affiliated Lawrenceville, N.J.-based insurer.

American Medical Mutual was licensed in Vermont in 1992. Sponsored by the Medical Society of New Jersey, the RRG was created to write medical professional liability insurance outside of New Jersey.

"The malpractice market had been soft, and they just were having trouble penetrating markets," said George A. Chaffee, president of Skandia International Risk Management (Vermont) Inc. in Burlington, which had managed the RRG. "It was just a voluntary windup. As policies came up, they were not renewed, and at the end of '99, they just transferred everything to MIIX." He said, "MIIX was a reinsurer of the risk retention group all along."

In 1998, the American Medical Mutual RRG posted gross premiums of just over \$1.3 million and net premiums of \$43,395.

## NAIC urging reciprocity

KANSAS CITY—States are expected to consider more-streamlined and uniform procedures for licensing insurance agents following the National Assn. of Insurance Commissioners' formal approval of its Single License Procedure Model Act.

The NAIC's new model, approved by the commissioners last week during a conference call, is in keeping with the aims of the new federal financial modernization law. The model seeks to prevent the establishment of the National Assn. of Registered Agents & Brokers by encouraging greater uniformity among states in the licensing of agents over the next three years.

Under the new federal law, states and U.S. territories can prevent the creation of NARAB if at least 29 of them achieve either reciprocity or uniformity within three years of the law's Nov. 12, 1999, signing date (BI, Dec. 20, 1999).

The NAIC's new model includes provisions that would establish uniform agent licensing procedures, simplify the licensing process, eliminate retaliatory fees and create reciprocity while preserving the rights of individual states.

## Briefly noted

**Northwestern Pacific Indemnity Co.**, an indirect subsidiary of The Chubb Corp., has joined the lawsuit that two units of American International Group Inc. have filed against CIGNA Corp. over the restructuring of its former property/casualty operation. The plaintiffs also have named an additional defendant: ACE Property & Casualty Insurance Co., a unit of ACE Ltd., which acquired the CIGNA units last year. . . President Clinton used his final State of the Union Address to push for the enactment of **patients' rights legislation** that would allow participants in managed health care plans to sue their plans over coverage decisions. The House has passed a bill that would permit suits against plans and, in some cases, employers, but the measure is before a House/Senate conference committee charged with working out differences between that bill and a Senate bill that does not expose plans or employers to new liability.

. . . A measure that would partially **deregulate commercial insurance** has been introduced in the Virginia State Senate. S. 547 would exempt from rate and form regulation large commercial policyholders that meet certain conditions, including the employment of qualified full-time risk managers. . . CIGNA Corp. has elected **H. Edward Hanway** as chief executive officer, succeeding Wilson H. Taylor, who remains chairman. A year ago, Mr. Hanway was named president and chief operating officer, after serving as president of CIGNA HealthCare. . . Greenwich, Conn.-based **W.R. Berkley Corp.'s president and chief operating officer**, John D. Vollaro, has resigned effective March 1, after 25 years with the company. Mr. Vollaro said he has not made plans as yet. Berkley's chairman and CEO, William R. Berkley, will assume the president's position. . . Moody's Investors Service in New York has dropped the ratings of Santa Monica, Calif.-based **Fremont General Corp.** and its insurance operating units. Among other changes, Moody's dropped the insurance financial strength ratings of members of the Fremont intercompany insurance pool to Baa1 from A3, citing operating earnings. . . Standard & Poor's in New York lowered ratings on members of **Kemper Insurance Cos.** intercompany pool, including their financial strength ratings, to A from A+, citing poor operating results. . . Johnson Properties Inc., a Baton Rouge, La.-based utility company, and six of its subsidiaries will pay a criminal fine of \$4.36 million after pleading guilty in U.S. District Court in New Orleans earlier this month of conspiring to violate the **Clean Water Act**. The companies admitted they failed to properly operate six sewage treatment plants in southern Louisiana and will pay \$165,000 in restitution to homeowners, according to the U.S. attorney's office for the Eastern District of Louisiana. . . **Metropolitan Life Insurance Co.** will buy the group benefits division of Business Men's Assurance Co., a unit of Assicurazioni Generali S.p.A. Kansas City, Mo.-based **BMAC** specializes in small to midsize group life and disability insurance and generates about \$100 million in annual premiums. Terms were not disclosed.

# Unicover

Continued from page 1

as John Hancock Financial Services Inc. announced a \$134 million aftertax charge in the fourth quarter of 1999 to cover its exposure to workers compensation carve-out reinsurance business, including Unicover business it assumed as a retrocessionaire.

Hancock Chairman and CEO Stephen L. Brown said the company believes the charge will "put this (Unicover) issue behind us."

The charge was announced only days before Hancock's 102 million share, \$1.7 billion initial public offering. Hancock shares, priced at \$17, began trading Thursday at \$17.75 and fell to \$17 at Friday's close.

Separately, Orion Capital, a unit of Charlotte, N.C.-based Royal & SunAlliance USA Inc., announced it has commuted excess-of-loss and quota-share retrocessional treaties with members of the Unicover facilities.

Unicover participants commuting their agreements with Orion are Connecticut General Life Insurance Co., a CIGNA Corp. unit; ReliaStar Life Insurance Co.; General & Cologne Life Reinsurance Co., a General Re Corp. affiliate; Lincoln National Life Insurance Co.; and Phoenix Home Mutual Insurance Co., Orion said.

Terms of the commutations were not disclosed.

Unicover, formerly based in Lisle, Ill., acted as underwriting manager for three workers comp reinsurance facilities, including a pool of the five above-named companies and two facilities fronted by Reliance and Lincoln National.

The facilities in turn passed most of the risks to retrocessionaires General & Cologne Life Re, Phoenix Home and Sun Life Assurance Co. of Canada, with Phoenix Home and Sun Life retroceding the business again to others.

In early 1999, the facilities fell apart amid reinsurer accusations that Unicover had drastically exceeded the premium volume it had projected. Total losses on the business have been estimated at \$2 billion or more.

Reliance earlier this month completed settlements with Unicover ceding insurers and retrocessionaires, and soon afterward the underwriting manager made its arbitration demand.

According to the demand, Reliance had assumed more than \$500 million in premiums and paid Unicover \$42.6 million in management fees until June 1999, after which it halted the fee payments and told

facility, and Reliance later agreed, with the understanding that the bulk of the risk was being retroceded to Sun Life, Phoenix Home and General & Cologne Life Re.

But by mid-1998—before Reliance had accepted any business through the facility—Unicover began dealing with a series of objections from the retrocessionaires who also backed the five-member pool, the suit charges.

From early 1998, for example, a managing agent for Sun Life and Phoenix Home had complained about the unexpected high volume of the facilities and in July 1998 sought to cancel and rewrite the two retrocessionaires' contracts. In August 1998, Sun Life threatened to deny liability, and its managing agent soon afterward accused Unicover of embarking on a "get rich quick" scheme and engaging in "white-collar fraud," the suit alleges.

Unicover did not disclose any of these problems to Reliance. Meanwhile, during 1998, Reliance accepted about 20 workers comp programs from Unicover that could ultimately generate \$1 billion in losses, the complaint charges.

"Unicover concealed all of these developments in order to line its own pockets by fraudulently inducing Reliance to enter into contracts... knowing full well that Reliance, which intended to accept only a small portion of this risk, was relying on the willingness of the retrocessionaires to provide... coverage," the suit says.

The debacle led not only to last year's drop in Reliance's stock price to a low of \$2.88 but also to rating agency downgrades, tens of millions of dollars in lost profits and increased cost of capital, and a "significant" loss of clients and personnel, the suit says.

In addition to \$800 million in compensatory damages, Reliance's suit seeks \$500 million in punitive damages and the return of \$57 million of fees Reliance paid to Unicover. **BI**

**'Unicover concealed all of these developments in order to line its own pockets by fraudulently inducing Reliance to enter into contracts,' Reliance's suit charges.**

Unicover that the fees would be deposited in a segregated account pending arbitration between Reliance and retrocessionaire Sun Life.

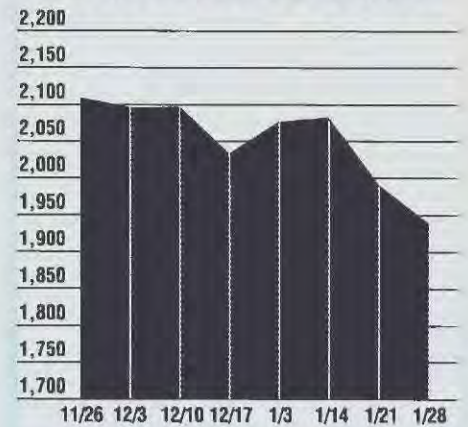
Based on estimates of gross premiums ceded to Reliance, the reinsurer now owes Unicover a total of about \$92 million in unpaid fees, the demand says.

"Once Reliance settled with the retrocessionaires, Reliance's meritless pretext for withholding those fees—that it sought to protect itself in the event the retrocessionaires prevailed in arbitration—clearly disappeared," Unicover charges.

The day after receiving the demand, Reliance filed a notice of suit in New York State Supreme Court in New York City naming Unicover, Cragwood and Mr. Pallat as defendants. The complaint followed last Friday.

According to the complaint, Unicover approached Reliance in 1997 to act as a fronting reinsurer for a new workers comp

## BI Insurance Index



Source: CNET Investor (investor.cnet.com) Boulder, Colo.

## PCS catastrophe options

As of Jan. 28	Call spread	Price bid/ask	Call spread	Price bid/ask
National Annual 2000			California Annual 2000	
60/80	5.0/—		150/155	0.1/0.3
100/150	7.5/—			
150C	6.0/—		Western Annual 2000	
190/195	0.3/0.5		150/155	0.2/0.4
200/250	3.7/—		300/350	0.5/—
Midwest June 2000			Eastern March 2000	
10/20	0.8/3.3		20/30	—
20/30	0.4/1.5			

Total volume: 0 Total open interest: 756

For information on PCS cat options, call the Chicago Board of Trade at 312-435-3674.

Source: Chicago Board of Trade

## British Issues

Companies	Price pence	P/E	Div. pence	Yield %	52-week high-low
Legal & Gen	15	18.7	3.6	2.4	237-15
Royal & Sun	410	14.6	23.0	5.5	633-351

## Brokers

Company	Price	P/E	Div.	Yield	52-week high-low
Lmbt Fenchurch	NA	14.0	4.2	3.0	145-NA
JLT	270	12.4	12.0	4.4	286-166

Note: Prices are Jan. 28 closings; other numbers from Jan. 27.

Source: CNET Investor (investor.cnet.com) Boulder, Colo.

# Hail causes \$50 million in insured losses

NEW ORLEANS—A rare hailstorm that pummeled the New Orleans area left behind more than \$50 million in insured damage.

Louisiana Insurance Commissioner James H. Brown said late last week that insurance companies still were tallying claims from the storm. The total is expected to climb

when losses from commercial and public property are included.

Figures for commercial property losses will include claims from area car dealers who saw hundreds of automobiles suffer broken glass and pockmarks from the quick but powerful hailstorm that moved through the area around 11 p.m. on Jan. 23.

Bloomington, Ill.-based State Farm Group, the largest insurer of risks in the New Orleans area, said that the company expects to pay approximately 12,000 personal auto claims and about 3,000 homeowners claims, totaling an estimated \$36 million.

—By Michael Bradford

## BI Industry Stock Report JAN. 24, 2000, THROUGH JAN. 28, 2000

BROKERS			Year to date			Year to date			Year to date			Year to date			Year to date								
Company	Price	% change	% change	High	Low	Vol.(000)	Company	Price	% change	% change	High	Low	Vol.(000)	Company	Price	% change	% change	High	Low	Vol.(000)			
Aon Corp.	NYS	25.88	1.22	-35.31	46.69	22.75	9452	EMC Insurance Group Inc.	NDQ	9.13	-2.67	0.00	13.38	9.00	11	St. Paul Cos.	NYS	30.00	-4.76	-10.95	37.06	25.38	3814
Clark Baires Holdings	NDQ	15.06	1.26	4.78	21.00	11.63	54	ESG Re Limited	NDQ	6.63	1.92	-4.50	20.06	5.13	407	SCOR	NYS	51.50	0.00	16.38	59.00	42.94	11
E.W. Blanch Holdings Inc.	NYS	48.13	-0.77	-21.43	71.75	46.25	432	Enhance Financial Services	NYS	14.00	-4.68	-13.85	27.38	13.94	796	SAFECO Corp.	NDQ	24.38	0.00	-2.01	46.75	21.81	3384
Gallagher Arthur J. & Co.	NYS	54.06	-5.36	-16.51	64.88	44.06	287	Everest Reinsurance	NYS	25.13	-5.41	12.61	36.25	20.50	1361	SCPIE Holdings Inc.	NYS	26.00	-3.45	-12.84	36.06	23.69	NA
Hib, Rogal & Hamilton	NYS	28.13	0.00	-0.44	29.13	15.56	101	Fremont General Corp.	NYS	7.94	-2.31	7.63	23.38	4.69	1010	Seibels Bruce Group	NDQ	1.75	16.67	0.00	6.25	1.47	144
Kaye Group Inc.	NDQ	7.88	-12.50	-5.97	9.56	5.00	19	Frontier Insurance Group	NYS	3.13	0.00	-9.09	17.25	2.38	1672	Selective Ins. Group	NDQ	14.94	-2.45	-13.09	22.50	14.88	374
Marsh & McLennan	NYS	96.00	-5.42	0.33	104.75	57.50	5387	Gainsco Inc.	NYS	6.25	-0.99	16.28	6.94	3.94	66	Terra Nova Ins Co. Ltd.	NYS	21.00	-27.27	-30.00	32.63	20.50	3433
Brown & Brown	NYS	33.50	-11.26	-12.56	40.63	29.31	92	Harleysville Group	NDQ	12.13	-6.73	-14.91	22.25	11.88	214	Tokio Marine & Fire	NDQ	50.69	-4.36	-14.27	67.00	50.00	136
BROKERS AVERAGE			-5.89	-9.43				HSB Group Inc.	NYS	27.25	-4.60	-19.41	42.25	27.25	472	Torchmark Corp.	NYS	23.00	-1.34	-20.86	38.00	22.63	2394
								HCC Insurance Holdings	NYS	13.88	-2.63	5.21	25.13	8.00	257	Transatlantic Holdings	NYS	76.13	1.58	-2.48	80.50	69.06	117
								ING Groep N.V.	NYS	52.38	-5.84	-14.14	63.94	21.00	517	Travelers Property Casualty	NYS	36.31	-1.19	6.02	41.88	27.69	2196
								IPC Holdings Ltd.	NDQ	14.00	-8.20	-5.88	22.50	13.00	193	Trenwick Group Inc.	NYS	14.25	-3.39	-15.87	33.25	13.75	159
								Hartford Financial Services	NYS	37.31	-1.65	-21.24	66.44	36.50	4783	Unico American Corp.	NDQ	7.00	0.00	0.00	13.13	6.38	22
								LaSalle Re Holdings Ltd.	NYS	13.13	-2.33	-20.45	19.98	10.88	241	United Fire & Casualty	NDQ	20.00	-1.23	-11.60	33.00	19.25	13
								Lincoln National	NYS	35.81	0.00	-10.47	57.50	33.63	3426	Unitrin	NDQ	35.00	-5.96	-6.98	42.38	30.50	339
								MAIC Holdings Inc.	NYS	22.75	0.00	7.37	32.06	19.88	128	UNUM Corp.	NYS	25.94	-3.04	-19.10	60.75	25.69	3461
								Market Corp.	NYS	155.00	9.54	0.00	193.00	134.00	252	Vesta Insurance Co.	NYS	5.00	2.56	29.03	8.19	3.38	215
								MBIA Insurance Group	NYS	46.13	-2.76	-8.88	71.88	45.00	2254	XL Capital Ltd.	NYS	46.83	-6.40	-10.12	67.19	41.94	1424
								Meadowbrook Insur. Group	NYS	6.00	-5.88	-6.57	17.25	4.75	45	Zenith National Ins.	NYS	20.13	-3.88	-2.42	26.69	19.25	20
								MMI Cos. Inc.	NYS	8.94	1.42	3.62	17.44	3.31	419	INSURERS/REINSURERS AVERAGE			-2.32	-7.27			
								Mutual Risk Mgmt. Ltd.	NYS	16.19	-2.63	-3.72	43.25	9.81	842								
								Navigators Group	NDQ	9.75	-8.24	0.00	16.00	9.13	28								
								NYMagic Inc.	NYS	12.75	-5.99	-3.32	19.50	12.00	23								
								Ohio Casualty Corp.	NDQ	12.88	-6.36	-19.84	21.50	12.50	2858								
								Old Republic Int'l	NYS	12.06	-5.39	-11.47	20.69	12.00	1180								
								Partner Re Ltd.	NYS	29.38	1.08	-9.44	46.13	28.38	485								
								Penn-America Group Inc.	NYS	7.44	-2.46	-4.03	11.44	6.63	50								
								PMA Capital Corporation	NDQ	16.06	-11.38	-19.18	21.13	16.00	55								
								Philadelphia Cons. Holding	NDQ	14.38	-3.36	-0.86	25.50	10.81	172								
								PXRE Corp.	NYS	12.00	1.59	-7.69	22.00	9.94	205								
								Reliance Group Holdings	NYS	5.81	-4.12	-12.26	11.88	2.81	1985								
								ReliaStar Financial Corp.	NYS	29.75	-2.06	-24.08	49.81	28.56	2344								
								RenaissanceRe Holdings Ltd.	NYS	38.75	-4.91	-5.20	43.19	30.00	96								
								Risk Capital Holdings	NDQ	15.13	-3.20	19.80	22.00	11.00	229								
								RLI Corp.	NYS	31.88	-3.77	-6.25	38.81	27.88	65								

Top advancing issues: Seibels Bruce Group, Market Corp., AFLAC Inc. Leading decliners: Terra Nova Ins. Co. Ltd., Kaye Group Inc., PMA Capital Corp. Most active issue: Citigroup. The BI Index fell 2.6%; the Dow Jones 30 Industrials decreased 4.6%; the S&P 500 declined 5.6%, and the NYSE Composite fell 4.3%. Average P/E: Brokers, 17.3; Insurers/reinsurers, 17.2; HMOs, 13.3.

Source: CNET Investor (investor.cnet.com) Boulder, Colo.

# Directors & Officers SAFEGUARDING THE FUTURE

As a corporate director and officer, the organization's success can in great part, lay in your hands. One decision that goes awry can jeopardize the company's assets and more importantly, its future. In today's highly competitive global economy, shareholders demand outstanding performance and solid results. Anything less could potentially impact professional reputations and the company's continued operations.

At Reliance National, we're very familiar with the pressure that is placed upon corporate directors and officers. Our portfolio of available insurance coverage includes:

- Commercial Directors and Officers Liability
- Diversified Directors and Officers Liability
- Excess & Surplus Directors and Officers Liability
- Community Banks Directors and Officers Program

Financial Institutions Errors and Omissions Coverage, including:

- Financial Institution Directors and Officers
- Financial Services Directors and Officers/Errors and Omissions
- Non-Profit Organization Directors and Officers Liability
- General Partnership/Limited Partnership Coverage
- Real Estate Investment Trust
- Fiduciary Liability
- Trade Credit Insurance

We take a flexible and responsive approach to designing coverages specific to each client. When offering 'decisions makers' the ease and protection in which to operate, **THE CHOICE** is Reliance National.

## THE CHOICE



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