

Business Insurance

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American Reliance to transfer most business to Vik Brothers

LAWRENCEVILLE, N.J.—American Reliance Group Inc., battered by losses from Hurricane Andrew, has reached an agreement to transfer most of its insurance business to units of Vik Brothers International USA Inc., a holding company based in Raleigh, N.C.

Under the Dec. 23 agreement, Vik Brothers will assume all of American Reliance's business, except its Florida policies and New Jersey private passenger auto business. Vik Brothers also will assume certain

Continued on next page

Earliest signals of a turn appear

Property rates rising, but market's path still uncertain

By MARK A. HOFMANN and CHRISTINE WOOLSEY

Neither rain nor snow nor dark of night will keep the postman from his appointed rounds. But, a hefty dose of the same perils—plus a couple of hurricanes—might be just the thing to lift insurers' gloom over the prolonged soft market. Insurers report they're generally obtaining modest rate increases for some coverages, including many types of property policies, boiler and machinery coverage and some liability lines.

Insurers have yet to determine the impact of Hurricane Andrew, which could cost them up to \$16.5 billion (*BI*, Dec. 21, 1992). But they say that property insurance rates can't go anywhere but up over the next year or so.

Some underwriters warn, though, that a tightening property market may lead to a further capacity glut for liability coverages as reinsurers shift their capacity from property to casualty risks.

"We're seeing evidence of the market firming. I can't speculate as to how much," said William E. Moriarty Jr., vp and staff officer-marketing of property insurer Arkwright Mutual Insurance Co. in Waltham, Mass.

"Something has to give," said Michael
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Soft market holding for most liability lines

Property cutbacks may fuel casualty competition

By MICHAEL SCHACHNER and SARA J. HARTY

Insurers are raising rates and imposing tighter coverage terms on higher-value property accounts in light of their massive losses from Hurricane Andrew and other catastrophes, brokers report.

However, most casualty lines as well as smaller property and package policies are renewing at flat or slightly reduced rates as insurers still possess more than ample capacity.

With insured losses stemming from a string of crushing catastrophes pushing toward \$20 billion for 1992, property insurers are finding the cost of catastrophe reinsurance soaring and capacity dwindle

(see story, page 30).

The result of the catastrophe reinsurance crunch on the high-value property insurance market is 10% to 30% rate increases as well as stricter policy terms, including new or higher deductibles based on a percentage of insured property value.

But while this segment of the market is clearly firming, the market for most types of liability coverage remains soft. Several brokers said they believe major property/casualty underwriters are offsetting their reluctance to write property insurance by becoming more bullish on liability accounts.

Insurers are willing to renew general liability accounts—both primary and excess—at expiring terms and, in some cases, are willing to reduce premiums by up to 10% to retain existing business or to attract a

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No crisis foreseen this time around

Buyers expecting prices to climb at modest pace

By SARA MARLEY

Risk managers renewing coverages at year end see signs of a market turn, but they expect a kinder, gentler transition than the abrupt hike in prices that signaled the previous market tightening.

Companies' increased use of alternative risk financing mechanisms and more cooperation between insurance companies and risk managers make a repeat of the astronomical rate hikes of the mid-1980s unlikely, risk managers say.

Meanwhile, flat rates or increases of less than 10% mark year-end renewals.

However, many risk managers think Jan. 1 renewals may signal the end of the stubbornly soft commercial property/casualty market.

Even risk managers who have renewed their coverage at expiring rates, terms and conditions over the past several months believe that insurers' record catastrophe losses in 1992 and a tightening property catastrophe reinsurance market will force rates up, particularly for property risks.

"The market is going up somewhat to compensate for losses, but I don't see it turning into a seller's market," said Arnold L. Davenport, vp-risk management

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Insurer Report

Risk Manager Report

Broker Report

London cat cover market 'bloody awful'

By STACY SHAPIRO and GAVIN SOUTER

LONDON—A tough property catastrophe reinsurance market continues to dominate year-end renewals in London, with soaring prices, rising retentions, shrinking capacity and new coverage terms.

Energy insurance programs that have heavy concentrations of non-marine risks, like onshore

refineries, also are seeing prices rise as sharply as in the last hard market of 1986.

And marine insurers in London are pushing through rate increases, in spite of increased competition from U.S. marine underwriters.

Only North American primary property/casualty rates are holding still or are seeing nominal increases in the London market. But, even for this business, the rate reductions of recent years are petering out, some say. And some renewals are being put on hold over uncertainty about re-

insurance renewals.

And property insurance programs for risks outside of North America are costing substantially more at year-end renewals.

"Property is where everything's happening," summed up Kenneth Barrett, underwriter for Lloyd's of London syndicate 1066, managed by Merrett Underwriting Management Ltd. "There are huge retention increases and massive rate increases on accounts with and without losses," he said, referring to property cat covers.

The cat cover market is

"bloody awful," said Michael Payne, deputy chairman of Janson Green Ltd., whose syndicates write non-North American business. "It's the worst I can remember since 1986...the capacity is just not there."

Observers estimate that catastrophe reinsurance capacity in London for U.S. ceding companies has now shrunk to between \$50 million and \$70 million from around \$90 million a year ago.

One U.S. client of broker R.K. Carvill & Co. Ltd. that went to London to negotiate \$100 million

in property catastrophe reinsurance only found \$70 million in London, completing the rest in the U.S. market. The ceding company's retention rose to \$35 million from \$25 million a year earlier and rates rose 30%.

The reduction of catastrophe reinsurance capacity in London is reflected worldwide.

In the past year, more than 370 insurance and reinsurance companies worldwide have ceased underwriting, according to John Myers, managing director of the international reinsurance divi-

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London Market Report

American Reliance deal

Continued from previous page

non-insurance liabilities and assets of American Reliance, including its headquarters building.

American Reliance expects to receive at least \$21 million in the deal. This includes \$6 million for the building, plus ceding commissions equal to 30% of the net unearned premium reserve on the assumed business at year-end 1992, subject to a minimum commission of \$15 million.

In 1994, Vik Brothers will also pay American Reliance 8% of 1993 premiums written on the assumed business and will pay a profit commission in 1995 based on 1994 underwriting results, American Reliance reported.

American Reliance announced plans to seek a buyer after suffering \$574 million in gross losses and \$80 million in net losses from Hurricane Andrew (BI, Nov. 23, 1992; Oct. 26, 1992).

Primerica retiree premiums up

NEW YORK—Primerica Corp. says it plans to require 1,600 retirees of its predecessor, American Can Co., to either pay the full cost of current health care coverage—nearly triple current premiums—or pay less for reduced coverage or go without coverage.

Primerica said the move is in response to Financial Accounting Standard 106, which requires firms to recognize their retiree health care liabilities as they are accrued.

In 1989, the financial services firm increased premiums to \$50 from \$5 per month for those 1,600 retirees. All other Primerica retirees pay \$100 per month. The retirees sued, claiming the increase violated the terms of their health plan. A federal judge ruled in favor of Primerica in 1991. An appeals court reversed the decision in June 1992 and sent the case back to the original judge. A rehearing is set for later this month.

Last week, an appeals court denied the retirees' request to expedite the hearing or restrain Primerica from making any plan changes.

The American Can retirees were given until Dec. 23, 1992, to decide among three options: continue paying \$50 a month for much less coverage; pay \$100 a month for somewhat less coverage; or pay the full \$144 a month for their current coverage.

Separately, Rep. Ron Wyden, D-Ore., is asking the General Accounting Office to investigate the growing trend among employers to reduce or eliminate retiree health care plans.

U.S. sues Becker under ADA

WASHINGTON—The Justice Department, in its first lawsuit filed under the Americans with Disabilities Act, alleges that Becker CPA Review has discriminated against clients with impaired hearing.

The suit, filed last week in federal court in Washington, charges that Becker has refused to provide sign language interpreters or other needed auxiliary aids to people taking Becker courses in Washington. Becker offers courses to people who plan to take the certified public accountant examination.

The Justice Department is asking that Becker be ordered to provide the appropriate aids to people with disabilities and is seeking civil penalties of up to \$50,000 and other damages.

Becker says it has handed out transcripts of classes to deaf students in the past and offered to in this case. Becker also says it offered to hire an interpreter before the suit was filed.

The Justice Department enforces the accessibility requirements of the ADA. The Equal Employment Opportunity Commission in November filed an employment-related suit against AIC Security Investigations Ltd. in Chicago (BI, Nov. 9, 1992).

Retirees fail to halt benefit cuts

LOS ANGELES—A federal judge has cleared McDonnell Douglas Corp. to proceed with plans to cut salaried retirees' health benefits.

However, U.S. District Judge A. Wallace Tashima in Los Angeles stressed the importance of expediting a lawsuit brought by retirees who claim the plan violates the Employee Retiree Income Security Act of 1974 (BI, Dec. 7, 1992).

No trial date has been set, but a status conference will be held in early January, said a lawyer for the retirees, James S. Cahill of Rossbacher & Associates in Los Angeles. Although disappointed that the judge did not block implementation of the plan, which began Jan. 1, "we were buoyed by (his) thoughtful remarks," he said.

Attorneys for McDonnell Douglas could not be reached.

McDonnell Douglas will replace retiree health care programs with an employee-pay-all plan financed over a four-year period by surplus defined benefit pension plan assets (BI, Oct. 19, 1992).

Heist target insured at Lloyd's

NEW YORK—A New York armored car company is insured by Lloyd's of London syndicates for an \$8.3 million robbery at its warehouse, one of the largest cash robberies in U.S. history.

Thieves entered the Brooklyn warehouse of the Hudson Armored Car & Courier Service on Dec. 27, tying up a lone security guard, disabling security systems and carrying away four bags containing \$8.3 million, including 80,000 sequentially numbered \$100 bills.

The robbers left behind several other bags containing more than

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Errors & omissions

• The listings of Benefit Controls Cos. and Benefit Matters Inc. were transposed in the Dec. 21, 1992, directory of employee benefit consultants. The corrected listings appear on page 37.

Breast implant maker hit with \$27 million jury award

By JOANNE WOJCIK

HOUSTON—Bristol-Myers-Squibb Corp. plans to appeal a \$27 million state court jury award to a Houston woman who claimed she developed an autoimmune system disease when her silicone breast implants ruptured.

The award, which includes \$20 million in punitive damages, is the largest to date against a sili-

cone breast implant manufacturer.

The second-largest award is believed to be \$7.3 million, which was awarded by a U.S. District Court jury in San Francisco to a California woman who became severely ill from a ruptured implant made by Dow Corning Corp. (BI, Dec. 23, 1991).

New York-based Bristol-Myers-Squibb bought about \$5

billion in combined product liability and general liability insurance limits during the period in which its products were implanted in the woman. That information came out during the discovery portion of the case.

Under Texas law, the insurance can be used to pay the punitive damages unless the policies specifically exclude it.

Bristol-Myers-Squibb would

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Court limits excess cover

High-layer insurers won't pick up liability of insolvent carriers

By DOUGLAS MCLEOD

NEW YORK—Paramount Communications Inc. is deciding whether to appeal a court ruling that its high-layer excess liability insurers do not have to drop down to cover portions of a \$40.5 million product liability settlement left unpaid by insolvent lower-layer insurers.

Paramount sued two dozen of

its excess liability insurers in 1990 to recover portions of the settlement of suits over faulty nuclear reactor safety valves made by a Paramount subsidiary.

New York State Supreme Court Judge Shirley Fingerhood ruled Dec. 3 that high-layer insurers are not obliged to drop down to a lower layer to pick up the unpaid liabilities of the de-

fect Integrity Insurance Co. and Midland Insurance Co.

The judge also dismissed claims against several insurers that covered Paramount in years after 1984, when the company became aware of the potential product liability losses. Since the liabilities represented known losses after 1984, they are not covered, the judge found.

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Court applies continuous trigger to property damage

Asbestos coverage ruling

By JOANNE WOJCIK

MINNEAPOLIS—The settlement of litigation filed by school districts against an asbestos product manufacturer triggers all of the company's general liability insurance policies in effect during the time its products were present in school buildings, a state court judge says.

The decision is significant, attorneys say, because the court applied the so-called continuous trigger theory in an asbestos property damage dispute. The trigger, which grants wide coverage for asbestos producers, has mainly been applied to asbestos bodily injury cases.

And while the ruling is only applicable in Minnesota, the

judge's harsh criticism of insurers that refuse to represent policyholders in settlement talks and later try to re-litigate issues that are resolved will prove helpful to other policyholders involved in similar coverage disputes nationwide, attorneys say.

The decision in *Independent School District No. 197 vs. Acci-*

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Hospital liability ruling reversed

By SARA J. HARTY

CHICAGO—A federal law that prevents hospitals from refusing to treat emergency patients should not be broadly interpreted to expand hospitals' liability, a federal appellate court said late last month in a reversal of a prior ruling by the same court.

But the ruling reinstates common law negligence and wrongful death allegations against the University of Chicago Hospitals.

The case revolved around a nurse's decision in February 1990 to reroute an ambulance at a time when the hospital's patient load put it on "partial bypass." That de-

cision sent Lenise Nelson, a 1-month old girl already in full cardiac arrest, to a hospital that was farther away and lacked a pediatric intensive care unit.

After being treated at two other area hospitals, the child died.

Her mother, Emerald Denise Johnson, sued the University of Chicago Hospitals on four counts of common law negligence and wrongful death. Ms. Johnson also alleged violations of the Consolidated Omnibus Budget Reconciliation Act, which requires hospitals receiving federal funds to provide stabilizing treatment to patients who come in before sending them elsewhere.

Although Lenise was never brought to the hospital, Ms. Johnson argued that the hospital telemetry system, which gives ambulances directions by radio, could be viewed as an extension of the hospital's emergency room.

A federal court in 1991 dismissed Ms. Johnson's claims, ruling that the hospital had no common law duty to treat Lenise. The COBRA claim was dismissed on the ground that Lenise never was transported to the hospital.

In a 2-1 ruling, a panel of the 7th U.S. Circuit Court of Appeals in October 1992 affirmed dismissal of the common law claim, but

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Inside

✓ The property/casualty insurance industry is not in the midst of a solvency crisis, says Robert Vagley at a recent Coopers & Lybrand conference. **PAGE 6**

✓ This week's editorial presents *Business Insurance's* sixth annual predictions of what will be "in" and what will be "out" in the coming year. **PAGE 8**

✓ The many benefits of wrap-up insurance programs far outweigh any disadvantages, writes risk management consultant Delmer Ison in *Perspectives*. **PAGE 23.**

✓ Mark Hardy vows to fight a contempt of court ruling and an order to disclose his finances that were issued by Bermuda's Supreme Court. **PAGE 31**

✓ Insurers in Australia are boosting the professional liability rates for all accountants, especially auditors, in the wake of recent court decisions. **PAGE 31**

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Experimental treatment: Who pays?

Not the insurer, one judge rules, but others differ

By JERRY GEISEL

For U.S. District Judge Daniel Tinder, the choice was an agonizing one.

At stake in his Indianapolis courtroom last fall was treatment for Judy Harris, 50, who is suffering from advanced breast cancer.

Doctors had told Ms. Harris—who worked as a rural letter carrier for the U.S. Postal Service—that she was an excellent candidate for HDC/ABMT, a procedure that involves high-dose chemotherapy and an autologous bone marrow transfusion.

In this procedure, some bone

marrow is removed, preserved and later re-introduced after the toxic chemicals from chemotherapy have washed out of the patient's system. This lets a patient survive a higher dose of chemotherapy.

But Mutual of Omaha Co., which underwrites benefits for the Rural Carrier Benefit Plan, denied coverage. HDC/ABMT, the insurer said, is an experimental treatment and plan documents exclude coverage for investigational or experimental procedures.

Ms. Harris sought a court injunction to order Mutual of Omaha to provide coverage while the case was being argued.

Judge Tinder refused.

The record, he said, indicates that there is no "consensus of opinion" that HDC/ABMT is either more or less effective than

standard therapies.

"As a result of this ruling, Ms. Harris is potentially deprived of the best medical treatment that is available to her. While this is not a personally satisfying result for the court, it is the only legally proper result," wrote Judge Tinder.

"Judy Harris well deserves, and in a perfect world would be entitled to, all known medical treatments to control the horrid disease from which she suffers. In ruling, as this court must, no personal satisfaction is taken, but the law was followed," Judge Tinder added.

Openly expressing his agony, Judge Tinder said he would not be disappointed if the 7th U.S. Circuit Court of Appeals, where the case now is pending, reversed his ruling.

"Regrettably," he concluded,

"there is no authority for this court to order Mutual of Omaha to pay for the treatment."

His ruling is one of many on the controversial issue of HDC/ABMT treatment.

Last month, U.S. District Court Judge Suzanne Conlon in Chicago ordered Benefit Trust Life Insurance Co. of Lake Forest, Ill., to cover HDC/ABMT treatment for a 37-year-old woman with breast cancer.

Judge Conlon said the proposed treatment for Grace Fuja, a customer service representative for Emsco Management Services Inc., a Hinsdale, Ill.-based medical billing service, met criteria laid out in plan documents as "medically necessary."

Mary Dahl-Eimers, 40, was not so fortunate. A federal judge in Pensacola, Fla., recently denied the Destin, Fla., woman coverage

for HDC/ABMT for her advanced breast cancer. Her policy, written by Mutual of Omaha, also denied coverage for experimental treatments.

These three rulings are just the tip of what has become a mountain of litigation on the issue of medical treatment for breast cancer.

And with 140,000 new cases of breast cancer a year, more litigation is a certainty as patients look to their health plans to pay for treatment that can easily cost more than \$150,000.

As yet, say both attorneys for insurers and patients, no patterns in the litigation have emerged. Courts have split on whether coverage is warranted or not.

In some cases, attorneys say, insurers have agreed to pay be-

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IRS narrows application of pension withholding tax

By JERRY GEISEL

WASHINGTON—The Internal Revenue Service is clearing up some of the problems that employers face in administering a new 20% withholding tax on some pension plan distributions.

IRS Notice 93-3 makes clear that the 20% withholding tax will not be imposed in most cases in which employers use a portion of an employee's defined contribution plan account balance to offset plan loans that have not been repaid by the time an employee terminates employment.

If the remaining funds in an employee's account—after the

loan offset—are directly transferred by the employer to the employee's Individual Retirement Account or to a defined contribution plan sponsored by the employee's new employer, the 20% withholding tax will not be imposed.

The tax also will not be imposed if—after the offset—terminating employees decide to leave the remaining funds in their former employer's defined contribution plan.

Earlier IRS regulations suggested that the 20% withholding tax would be applied in situations in which account balances are used to offset loans for ter-

minating employees. The IRS reasoned that the offset is a distribution and, as a result, the 20% withholding tax would apply.

Benefit consultants described such transactions as "phantom distributions" since no money actually was being distributed to the employee.

In such offset situations, "There is no actual distribution. The key to withholding is that assets have to be transferred to the employee," said Seth Tievsky, a principal in the Washington office of Ernst & Young.

The clarification "is very wel-

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Health of Urban America

Managed care plans reduce access for uninsured: Study

By JOANNE WOJCIK

SANTA MONICA, Calif.—The growth of managed care plans—which are designed to contain health care costs—has had the ironic side effect of reducing access to care for the uninsured in Southern California, a new study has found.

Health care coverage in the region has been limited even further by the combined effects of reduced government spending for Medicare and Medicaid programs, a burgeoning immigrant population and the growth of small businesses, many of which do not provide health care coverage to their employees, according

to the study by Santa Monica-based RAND Corp.

And the public health system's ability to shift costs to the private sector has been severely reduced by employers' increasing use of direct contracting and preferred provider arrangements that cap providers' fees, the study said.

"Urban America: Policy Choices for Los Angeles and the Nation," a collection of essays by a score of leading social policy experts, was precipitated by the civil disturbances that took place in the Los Angeles area last April.

Paying special attention to Southern California, the study's

authors review several critical problems in the community, assess the effectiveness of past policies to address those problems and offer a host of suggestions for meeting the challenges more successfully in the 1990s.

In addition to access to health care for the uninsured, other topics include immigration; crime and drugs; education; the homeless; the widening gap between rich and poor; and other complex issues involving families and children.

While the report focused on Los Angeles, the authors noted that its findings can be applied in general to other urban areas.

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Billions for defense

Legal defense costs ranged up to 70% of incurred losses in casualty lines in calendar year 1991.

	Defense costs (\$ billions)	Incurred losses (\$ billions)	Defense costs as a percentage of incurred losses
Workers compensation	\$2.3	\$31.1	7.3%
Personal auto liability	2.9	39.3	7.5
Commercial auto liability	1.2	8.8	13
Commercial multi-peril	2.3	10.6	22
General liability (excluding products)	4.2	12.6	33
Medical malpractice	1.1	2.7	39
Products liability	1.1	1.6	70
All casualty lines of business	\$15.0	\$106.6	14%

Sources: A.M. Best Co. and Insurance Services Office Inc.

GRAPHIC BY CHRIS ROY

Cost of defense rising faster than liability losses

By EILEEN P. GUNN

Insurers' cost of defending commercial policyholders against third-party claims is rising faster than incurred losses for several lines of coverage, according to a report by the Insurance Services Office Inc.

Defense costs for casualty lines increased 194% to \$15 billion from accident year 1982 through 1991. During the same period, actual losses climbed only 143% to \$106.6 billion.

Annual increases in defense costs averaged 12.7%, while annual incurred losses increased by 10.4% on average.

The study also found that insurers are less adequately reserved for defense costs than they are for casualty losses.

The report, "Legal Defense: A Large and Still Growing Insurance Cost," looks at changes in the ratios of defense costs to indemnity costs for workers compensation, commercial auto liability, commercial multiperil, general liability, medical malpractice and product liability lines of coverage from 1982 through 1991.

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AP/Wide World Photo

Ms. Baird: Next attorney general

Insurers applaud Baird's nomination

By MARK A. HOFMANN

WASHINGTON—While insurers say Zoe Baird will bring a welcome knowledge of their industry to government if she is confirmed as U.S. attorney general, they say they don't—and shouldn't—expect any special treatment.

"When you become attorney general, your client is the United States," said Craig Berrington, senior vp and general counsel for the American Insurance Assn.

Aetna Life & Casualty Co., where Ms. Baird is currently senior vp and general counsel, is a member of the AIA.

Mr. Berrington added that Ms. Baird is not likely to play a role in an antitrust suit brought against 32 insurers—including Aetna—and insurance organizations by 19 state attorneys general. The Supreme Court is now considering the insurance industry's request to overturn an appellate ruling that reinstated the litigation (BI, Dec. 28, 1992).

"Under normal canons of ethics, an attorney is obligated to stay uninvolved when you're taking over a government position where there's active litigation involving a former client," said Mr. Berrington.

The Justice Department opposed Supreme Court review of the case (BI, Aug. 17, 1992).

Joseph P. Giasi Jr., vp and general counsel for the Insurance Services Office Inc. in New York, which is also a defendant in the antitrust suit, agreed that Ms.

Baird is unlikely to play a role in the litigation.

With her background as an Aetna employee, "she would probably have to distance herself," said Mr. Giasi, who has worked with Ms. Baird on the antitrust suit.

"I don't see (Ms. Baird's background) as a problem in antitrust" litigation, said J. Robert Hunter, president of the National Insurance Consumer Organization in Alexandria, Va. Mr.

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Polaroid offers early retirement plan

Benefit Beat

Polaroid Corp. is offering a two-part early retirement option to its employees as part of efforts to contain expenses and re-focus its operations on new product lines.

The Cambridge, Mass., photographic materials company is offering to add five years of age or service to the formulas used to calculate retirement benefits under its defined benefit plan for employees age 55 or older with at least 10 years of vested service.

For workers ineligible for early retirement, the company is offering a severance option that will pay one month's salary for every two years of service, up to a maximum of 21 months.

The one-time offers are open to

all 11,000 employees, but the company expects only a few hundred will opt for them.

"The offers will have a limited scope," said a spokeswoman for Polaroid. But "the company is moving in new direction and this will help align the company in that direction."

The deadline for applying is March 31.

Polaroid expects to take a loss in the first quarter of 1993 for the plan, but has not released information on the amount.

Analyst Ty Govatos with Donaldson, Lufkin & Jenrette in New

York predicted the charge will be "relatively small."

"People are shrugging it off," Mr. Govatos said.

—By Eileen P. Gunn

PepsiCo 401(k) plan

PepsiCo Inc. has consolidated its five 401(k) savings plans and is offering participants new investment options, including the opportunity to trade stocks and bonds through a discount brokerage.

About 45,000 employees of the Purchase, N.Y.-based company can now invest their contributions through a discount brokerage in common and preferred stocks, corporate and govern-

ment bonds, U.S. Treasury bills, notes and bonds and U.S. agency securities, like those issued by the Government National Mortgage Assn.

Pepsico also added the option of investing in mutual funds managed by Fidelity Investments Inc.

At the same time it introduced the new options, PepsiCo merged five separate savings plans for its North American divisions into a single plan and hired State Street Bank & Trust Co. of Boston as plan administrator.

This streamlining cut administration costs for the savings plan, with \$350 million in assets, by one-third, according to PepsiCo. State Street also designed and

manages the discount brokerage investment option.

Employees enrolled the company's 401(k) plan make investment selections by phone on a voice response system. Employees can transfer money and monitor their accounts on a daily basis.

Employees choosing the discount brokerage option must invest at least \$1,000 initially. Subsequent transfers to the brokerage account must total at least \$250.

Transfers into the account are automatically invested in Fidelity money market funds until a trade is made.

It costs employees \$4.20 per month to maintain a brokerage account and \$5.00 per fund for the mutual funds.

The convenience and cost-containment achieved by merging five programs into one and the choices it allows PepsiCo to offer employees were key factors in the decision to reorganize the 401(k)s.

"It gives employees more options and the ability to direct their own funds if they want to," said the spokeswoman. "And adding another benefit makes us an employer of choice."

In addition to the new 401(k) options, the "core" investment options already available to employees are:

- Company stock.
- A fixed income fund that invests in guaranteed investment contracts and short-term investments.
- The Vanguard Institutional Index Fund.
- The Fidelity Equity Income Fund.

Employees may not invest in unlisted foreign securities, futures, options or bank certificates of deposit. Margins and short sales are prohibited as well.

Few corporations the size of PepsiCo. offer a discount brokerage option, which affords employees investment opportunities within the 401(k) that they usually can only find if they invest on their own.

Because the discount broker option is still so new, though, employee response has been slow. As of early December, only about 100 people had signed up for the option.

A spokeswoman for PepsiCo. said information packages about the new plan are still being distributed.

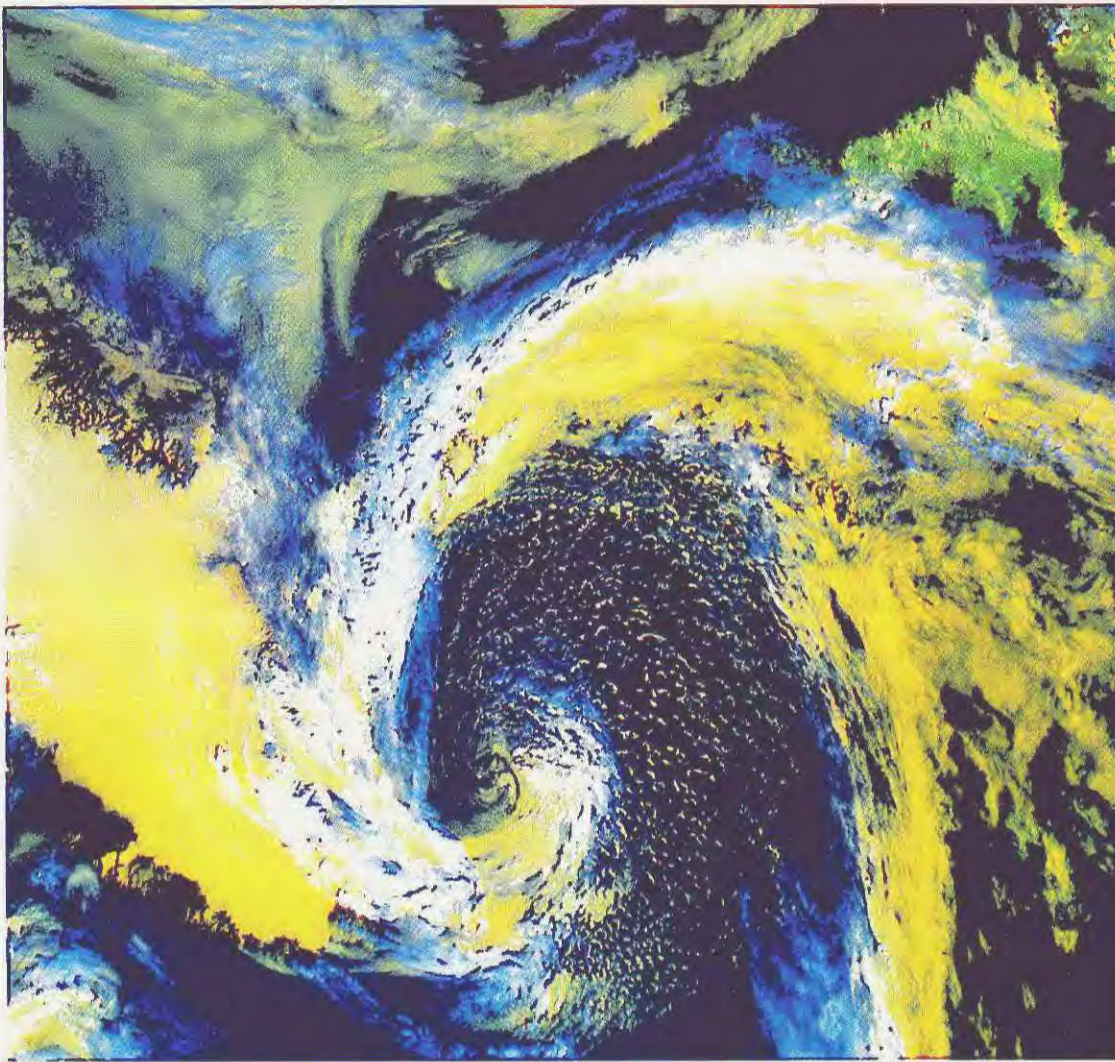
Plan participation is expected to increase gradually as people learn more about the plan and hear about it from other employees.

Another factor keeping enrollment down is that even employees interested in the brokerage option are tentative because they do not know very much about the areas of investment being offered.

For those employees, PepsiCo is holding educational events such as a recent "Investors Day," during which people from the stock exchange and the Wall Street Journal explained terminology and the basic ins and outs of the markets to PepsiCo employees.

"Education is a very important part of the plan," said a company spokeswoman, "We don't want this to be a wild card for employees."

—By Eileen P. Gunn



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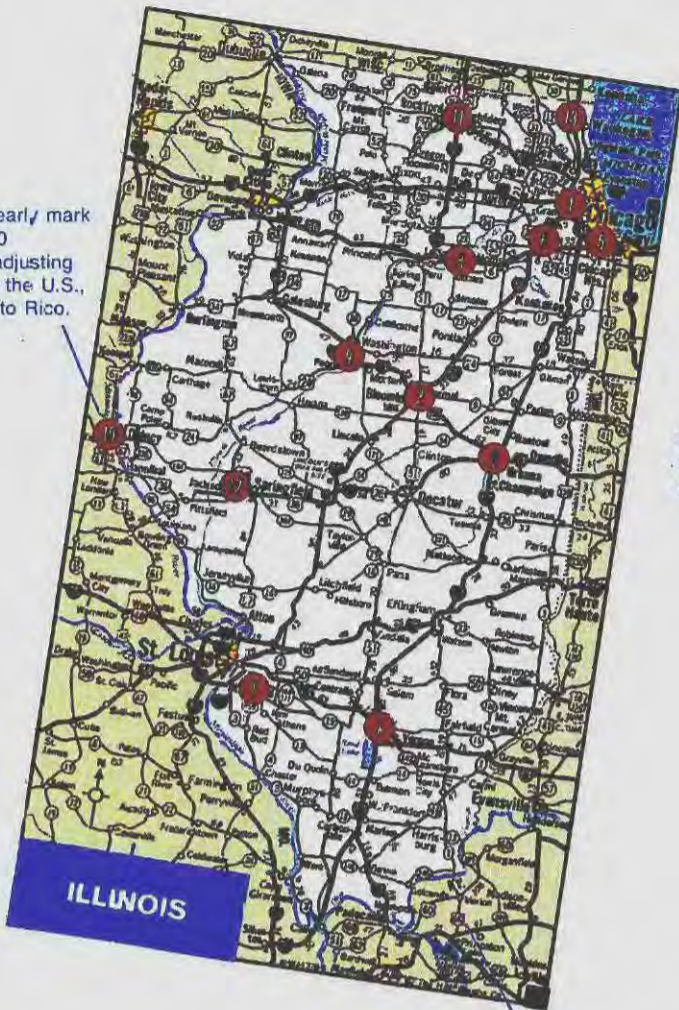
Midwestern Region
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Handy "Refer to" section
makes case referrals for
small towns easy.

Directory listings
include the name of
the manager of
each office.

Listings include FAX
numbers for fast
case referrals.

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BI



Regulation, solvency must be stepped up

Changes must be substantive: Vagley

By MICHAEL SCHACHNER

NEW YORK—The property/casualty insurance industry is not in the midst of a solvency crisis, though there are some weaknesses in regulation and solvency oversight that need to be addressed, says the leader of a major insurer association.

On the heels of the savings and loan and banking crises, the insurance industry needs to make improvements to current solvency regulation practices to prevent the public from losing confidence in insurers and to ensure that strong companies aren't forced to bail out failed

insurers, said Robert Vagley, president of the American Insurance Assn. in Washington.

However, the solvency changes that eventually are implemented must be substantive and not simply approved for political reasons, he emphasized.

"There is no solvency crisis but we still have to do something to improve solvency regulation," said Mr. Vagley, during Coopers & Lybrand's Fourth Annual Executive Conference for the Property/Casualty Industry, held last month in New York.

"Poor solvency regulation hits the good companies twice. First, when regulators allow lowball-

ing on rates, it takes away from the prudent companies' market share. Then, when the price cutters go under, the good companies pay the bailout costs," he

said. The Michigan Democrat and chairman of the House Energy and Commerce Committee is the sponsor of legislation

'Taking action after an insolvency has occurred isn't much help. Early intervention would prevent more problems than cracking down on the criminal fraud identified by (Rep. John) Dingell,' says AIA President Robert Vagley.

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A step in the right direction in terms of cementing good solvency regulation is the re-elec-

tion of Rep. John Dingell, said Mr. Vagley. The Michigan Democrat and chairman of the House Energy and Commerce Committee is the sponsor of legislation that would allow insurers to choose between state and federal solvency regulation (BI, April 20, 1992).

"I, for one, am glad Dingell is back. He's the most objective and knowledgeable person for the job. But his findings aren't indicative of the entire industry," he said in reference to Rep. Dingell's investigation into the failures of several large insurance companies during the 1980s, which alleged criminal fraud was responsible for some of the insolvencies (BI, March 5, 1990, Feb. 26, 1990).

It isn't fraud that is hurting the solvency of insurers, but delays in regulatory intervention when an insurer is failing, Mr. Vagley insisted.

"Taking action after an insolvency has occurred isn't much help. Early intervention would prevent more problems than cracking down on the criminal fraud identified by Dingell," he said.

The National Assn. of Insurance Commissioners, with its formal accreditation program and model solvency laws, has taken some admirable steps toward policing solvency, "but the NAIC can't enforce its good intentions," he noted.

Mr. Vagley outlined the AIA's proposals on how insurer solvency could be improved.

"First, you have to make solvency your first priority. Then, we must eliminate barriers to the free movement of capital. We also must remove large coverages from guaranty fund protection, and in no way can we have dual regulation. We'd be better off as an unregulated business than being subject to federal and state oversight at the same time," he said.

Ideally, a state regulatory system and federal regulatory system would coexist, with individual insurers choosing the system under which they would be regulated, according to Mr. Vagley.

"Small companies don't want to be regulated in Washington, which makes sense considering they do business locally," he said.

The AIA would also like to see the federal government enact a law that authorizes the pre-emption of any state law that is deemed to jeopardize insurer solvency.

"I think any kind of rate suppression law would fall into this category," Mr. Vagley said.

"And, we believe we need uniform liquidation procedures for failed companies," he said.

Something that could enhance solvency and at the same time give regulators guidelines for when to intervene in a company's affairs would be the adoption of a risk-based capital formula for property/casualty insurers, said Steven Foster, Virginia's commissioner of insurance and newly elected NAIC president (BI, Dec. 21, 1992).

"As we venture into adopting a risk-based capital formula, it isn't a concept that comes easily," Mr. Foster said.

"But we all realize that it's something whose time has come. It will enhance our ability to protect consumers."

Recently, the NAIC adopted a risk-based capital formula for the life/health industry (BI, Dec. 14, 1992).

A risk-based capital requirement for the property/casualty industry, which is currently being worked on by an NAIC

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A Global Perspective...



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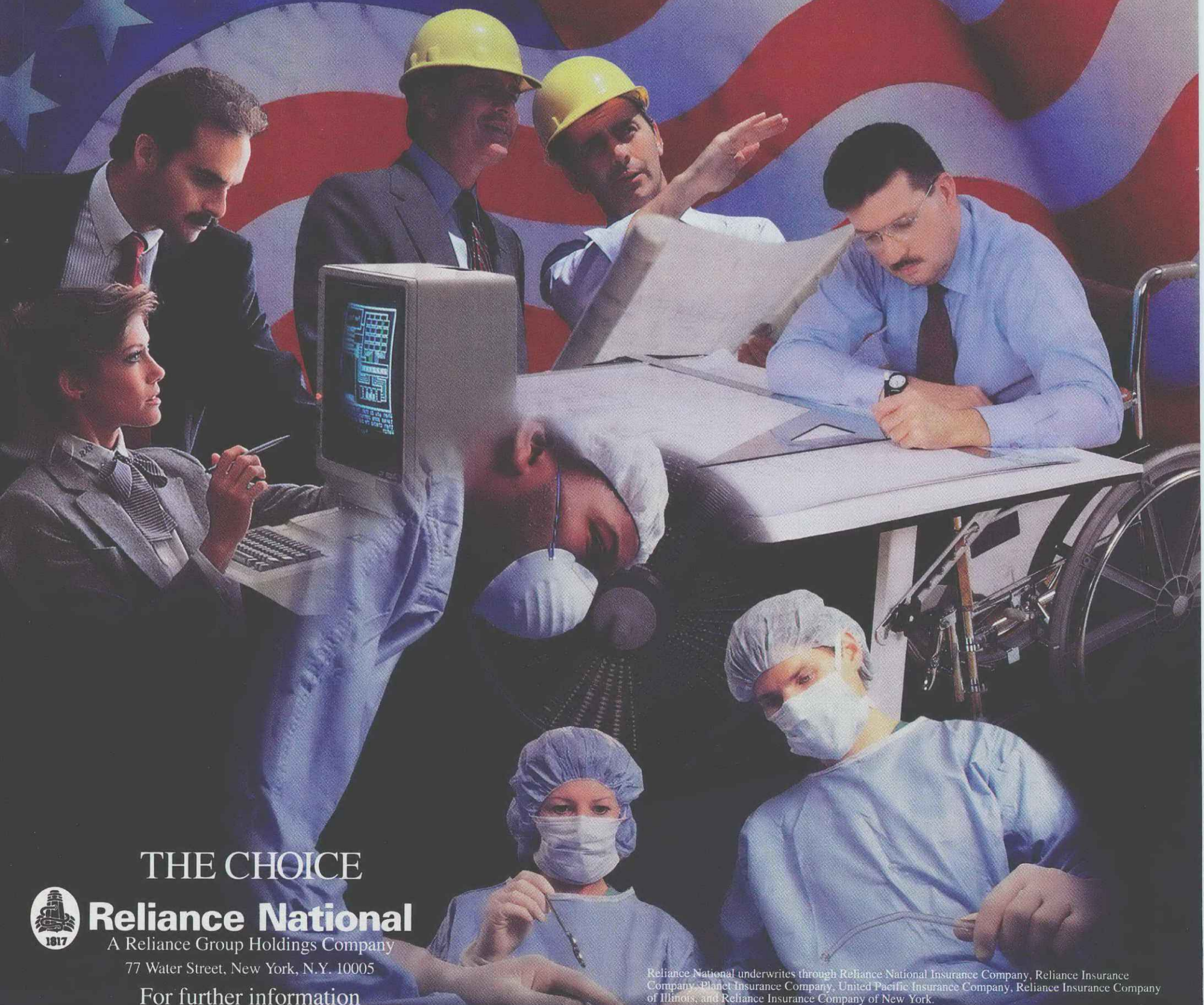
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Opinions

The ins and outs of 1993

1992 WAS NOT A very good year for risk and employee benefit management in general. Record catastrophe losses buffeted property/casualty insurers and many risk managers. And, benefit managers saw health care costs continue to climb and more regulations come out of Washington.

However, it was a good year for the prognosticators at *Business Insurance*. We did a pretty good job a year ago predicting what would be "in" and "out" during 1992 (*BI*, Jan. 13, 1992). Health care reform did become a presidential campaign issue, risk managers did worry about the end of the soft market, pollution liability insurance became more available, turmoil reigned at Lloyd's of London, health care inflation slowed, property/casualty insurer profits plunged and federal insurer solvency regulation legislation was proposed.

No, we didn't predict Hurricane Andrew and we weren't willing to go out on a limb in support of Bill Clinton a year ago.

While some of us would like to hang up this yearly practice now while we're on a high note, we'll resist that temptation. Thus, we humbly present our sixth annual list of what will be "in" and "out" during the coming year:

In: Presidential leadership on health care reform legislation.

Out: Waiting for Congress to come up with proposals.

In: ATLA.

Out: ATRA.

In: Managed competition.

Out: National health insurance.

In: Higher property/casualty insurance rates.

Out: Effortless property/casualty insurance renewals.

In: Reform of the Pension Benefit Guaranty Corp. program.

Out: Big pension plan failures.

In: Financial reinsurance.

Out: Property catastrophe reinsurance.

In: Big hits to profits because of FAS 106.

Out: Generous retiree health care plans.

In: Reserve strengthening by property/casualty insurers.

Out: Real estate and junk bond investments.

In: Joining employer health care purchasing pools.

Out: Offering unmanaged medical care plans.

In: Captives.

Out: Low retention levels.

In: More benefit groups taking positions on



health care reform.

Out: Refusal to admit there is a health care crisis.

In: Risk-based capital standards.

Out: The NAIC model law on fronting.

In: Enactment of family and medical leave legislation.

Out: Presidential vetoes.

In: Understanding of insurance issues at the Justice Department.

Out: Insurance antitrust litigation.

In: Increased political activism by risk and benefit managers.

Out: Resignation to the status quo.

In: Workers comp medical cost containment.

Out: Physician "self-referrals."

In: Lower insurance company ratings.

Out: Higher insurance company profits.

In: Total quality management.

Out: Unfocused management practices.

In: Top management recognition of risk management departments.

Out: Downsizing of risk management staffs.

In: Jackson Hole Group.

Out: HIAA.

In: Superfund reform debate.

Out: McCarran-Ferguson debate.

In: Disaster contingency plans.

Out: Catastrophes.

Letters

Don't fall for the national health care 'hype'

To the editor: Even *Business Insurance*, which I consider to be a little more conservative than our local newspapers, has fallen for all of the media hype over national health care. I strongly disagree with your opinion in the Dec. 14 issue titled "HIAA Plan a Good Sign." What has the Health Insurance Assn. of America really said that the liberal press hasn't already been blasting us with over the last 12

months of the presidential campaign? I would have hoped that *BI* could have seen through all of this "bandwagon hopping" and pointed out just how ridiculous the various national health care proposals are.

As an employee of a large third-party administrator, I constantly hear this cry for national health care, but I always try to point out what the media and Gov. Clinton always fail to mention.

First, large national health care purchasing groups of employers have been around for years, currently known as multiple employer trusts or multiple employer welfare arrangements. However, many liberal Democrats in Congress are trying to pass legislation to control or even eliminate these "purchasing groups."

Second, quit comparing a potential system to the German and Canadian health care systems. These systems are almost bankrupt, and even "basic" coverage is

virtually non-existent. Additionally, if these systems are so great, why do many individuals from these countries want to come to the United States for more complicated procedures?

Finally, get off the insurance companies' backs. Yes, some reform may be necessary, but let's face it: Insurance companies are only paying what is billed. Maybe the HIAA ought to review how insurers come up with their schedules. Surveying doctors to see what they charge doesn't seem like the most effective measure for determining payable charges. Also, let's focus on our tort reform system. Not a day goes by that some "ambulance chasing" lawyer doesn't file suit against an insurance company because the company did not pay enough. Who will people sue when the federal government decides how much gets paid?

Christopher J. Matz
Atlanta

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Play a role—or pay big: CNA chief

By MICHAEL SCHACHNER

NEW YORK—Insurance executives have only two choices, says the CEO of a major insurer: They can manage the biggest changes in the industry in 30 years or be managed by them.

Executives must decide whether to play a role in issues like federal insurance regulation, workers compensation reform and health care reform, or let the issues dominate them, said Dennis Chookaszian, chairman and chief executive officer of CNA Insurance Cos. of Chicago.

Regulatory changes in the near future may have a greater impact on property/casualty insurers than any other change in the past three decades, said Mr. Chookaszian at Coopers & Lybrand's Fourth Annual Executive Conference for the Property/Casualty Industry, held last month in New York.

"There is a growing call for federal regulation of insurance, which was once not supported at all. This could lead to dual regulation with federal solvency oversight and state rate regulation. This would be disastrous, but I'm afraid there is a lot of impetus for this," he said.

Similarly, there is a great deal of momentum behind health care reform. Mr. Chookaszian predicted that, as promised, within

Regulation

Continued from page 6
working group, should be presented to the NAIC for approval next year and should go into effect for 1994 annual statement filed with insurance departments in 1995.

The theory behind the formula centers around the reality that different companies face different risks and shouldn't be tied to the same arbitrary, fixed-dollar capital requirement.

"A fixed-dollar amount for capital makes no sense. Capital requirements should be tied to the inherent risk of the business that's being written," Mr. Foster said. "We'd like to have a universally recognized standard for adequate capital that provides regulators with a threshold to observe and a push to take action that they might not otherwise have."

Currently, this does not exist, he pointed out. "Underwriting risk has proven itself to be hard to qualify, so loss reserves are manipulable. While a risk-based capital formula may not be perfect, it at least gives regulators a chance to force insurers to comply with a solid standard," Mr. Foster said.

Whatever changes in insurer regulation that do occur over the next few years will not be determined by the Clinton administration, Mr. Vagley predicted. "This issue will continue to be a House issue, although the Senate may take some action. Health insurance policy, on the other hand, will be determined by the president," he said.

"Clinton won't be hostile to the industry. He's a centrist, which is better than ideologue on either end of the spectrum," Mr. Vagley said. "Things will be difficult, but we can deal with a Democratic Congress. We have experience with them and we should be able to work with them." **BI**

Bill Clinton's first 100 days in office, some type of health care reform proposal will be introduced in Congress.

"At first there was talk of a universal Canadian-style system, but the initial appeal for this appears to have worn off. I don't think there is sufficient pressure for this type of program," said the CNA chairman.

What appears more likely, he said, is some form of play-or-pay system combined with a free-market reform approach based on health care spending accounts.

Regardless of which changes do occur, the insurers that best manage internal and customer costs will be the winners, while

companies that fail to be cost-conscious will be the losers.

"Successful companies will have to step up to cost management. There is no way we can just keep score and expect to succeed, especially for larger accounts," Mr. Chookaszian said.

Workers compensation continues to be the biggest profitability problem for insurers for a handful of reasons, he said.

"Rates are inadequate by 5% to 25%, depending on the state, and the benefit rules in almost all states encourage fraud. Litigation is another problem. Workers comp was designed to be a no-fault system, which everyone knows isn't true anymore."

Reform is needed but will not

come easily, he said. "It's tough to reform a system that is different in 50 states. Meaningful reform will require grass-roots efforts and better jobs. It's also tied to tort reform, which is badly needed, but probably won't be addressed by the new administration."

A greater focus on global insurance also will affect many insurance companies, both abroad and in the United States, he said.

"The move to globalization offers a great deal of opportunities, but the opportunities are divided among the 'haves' and the 'have nots.' I question whether global expansion is for everyone. For some, the challenges may exceed the opportunity. In many

foreign countries, there is little stability in the legal systems, communications and infrastructure," Mr. Chookaszian said.

"Companies that have not yet gone international don't know the language, customs and regulations in other countries and it's virtually impossible to buy a foreign company because of the low exchange rates," he said.

Also affecting the insurance industry will be two long-standing problems: pollution and asbestos claims.

"Pollution is the biggest liability issue the industry has ever faced and it begs for a broader mechanism to spread cleanup costs to all of society, not just insurance," Mr. Chookaszian said, suggesting that a 2% charge be added to all policies to pay for the cleanup of polluted sites. "And what's scarier is that asbestos may even be worse." **BI**

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Seeking an end to the work comp crisis

Some advocate rate, fraud reform, while others stress workplace safety

By MICHAEL SCHACHNER

NEW YORK—Making workplaces safer and delivering fair benefits more quickly are two key ingredients of successful workers compensation reform, says a state insurance regulator.

Insurers may wish to pin blame for workers compensation losses on rate restrictions and widespread fraud, he said. But it's the high incidence of workplace injuries that is primarily responsible for driving workers comp combined ratios above 122%.

"Without workplace injuries,

illness and fatalities, there wouldn't be a workers compensation crisis," said Gary Weeks, director of the Oregon Department of Insurance and Finance. "We have to do more to control workplace injuries and deaths," which now total 6 million and 10,000, respectively, per year.

Mr. Weeks, whose state is considered a model for workers compensation reform because it has lowered rates and improved workplace safety (*BI*, Sept. 28, 1992), spoke last month at Coopers & Lybrand's Fourth Annual Executive Conference for the

Property/Casualty Industry. "Emphasis on safety has reduced our workplace injuries by two per 100 and we have employers requesting OSHA inspections. This combined with timely, appropriate and effective medical treatment leads to a return of insurers and economic growth," Mr. Weeks said.

Richard W. Palczynski, a senior vp with Travelers Corp. in Hartford, Conn., agreed that real workers compensation reform goes beyond simply increasing rates.

"Real reform is needed and I'm talking about more than just jacking up rates during tough times. That does nothing for our credibility or the real problem.

The greatest leverage in controlling costs has nothing to do with rates and everything to do with what employers do in terms of safety and employee treatment

medical costs exceeding \$7,000 per claim, "our line is in trouble," Mr. Palczynski said. "We're like fire hydrants waiting for the dogs to come by."

With the current level of workplace injuries and with average medical costs exceeding \$7,000 per claim, workers compensation 'is in trouble,' says Travelers' Mr. Palczynski. 'We're like fire hydrants waiting for the dogs to come by.'

after injuries," said Mr. Palczynski.

With the current level of workplace injuries and with average

Countering that injury prevention is only a minor factor in the workers compensation crisis, William Hager, president and chief executive officer of the National Council on Compensation Insurance, argued that raising rates and cracking down on fraud are much more important. The NCCI lobbies for higher rates on behalf of its member insurers.

"The immediate solutions to the workers compensation crisis are simple. We need rate adequacy and system reform. We have to drive the parasites out of the system and the worst offenders are the attorneys, chiropractors and doctors that rip the system off," Mr. Hager exclaimed.

Workers comp insurers have lost money every year since 1984, and have posted an average annual loss of 5.7%, he said. "This may sound minuscule, but on \$1 billion of business that's \$57 million.

"Medical costs are driving the system to its death. One third of all guaranty fund assessments are from workers comp failures. Until fraud and safety issues are tackled, costs will continue to go through the roof," said Mr. Hager. "Unless we put the skunk on the table and talk about the rate suppression, we'll have nobody writing workers compensation on a voluntary basis."

Fraud is largely responsible for medical claim costs quadrupling over the past 12 years, he argued. "Medical inflation within the workers comp system is 50% higher than general medical inflation. There are no deductibles, no coinsurance, unlimited medical benefits and virtually no managed care, and the attorneys and doctors know this."

He said physicians treating an injured worker commonly make unnecessary referrals to facilities in which they own a financial stake, and lawyers are infamous for turning sprains and minor scratches into weeks of lost time and thousands of dollars in medical benefits.

"Managed care is really our only current choice" to reduce medical claims costs, offered Mr. Palczynski of Travelers.

Not all fraud and abuse is attributable to workers filing bogus claims, Oregon's Mr. Weeks points out. "It's easy to focus on the shiftless, lazy worker who files a fraudulent claim and then collects benefits. But these people take only a fraction of the fraudulent dollars that are sucked out of the system.

"There is a lot of payroll misrepresentation by employers to reduce premiums, and insurers are a problem, too, when the stretch out the payment of claims or deny legitimate claims," said Mr. Weeks.

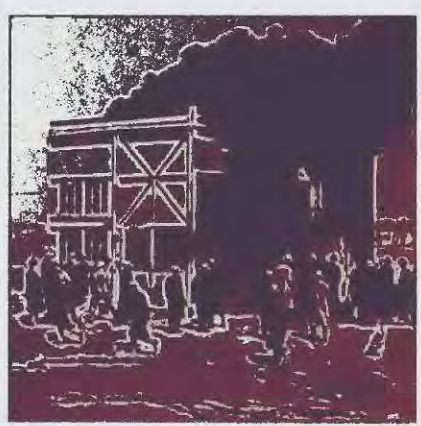
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January 13-15, 1993
Hotel del Coronado • San Diego

HEALTH CARE MANAGEMENT CONFERENCE AGENDA

WEDNESDAY, JANUARY 13

6:00 p.m. - Early Registration and
7:30 p.m. - Cocktail Reception
Hosted by The Upjohn Company

THURSDAY, JANUARY 14

7:45 a.m. Continental Breakfast & Registration

9:00 a.m. **OPENING REMARKS BY CONFERENCE
CHAIRMEN**

Kathryn J. McIntyre
Publisher/Editorial Director
Business Insurance

James M. Burcke
Editor
Business Insurance

9:15 a.m. **LATEST DEVELOPMENTS IN HEALTH
MAINTENANCE AND PREFERRED
PROVIDER ORGANIZATIONS**

This panel discussion, moderated by James Burcke of Business Insurance, will focus primarily on the impact managed care has had on the delivery and financing of health care and on the range of options now available to employers. The panel will analyze the following models in terms of their ability to deliver affordable quality care:

- ▶ Exclusive Provider Organizations
- ▶ Point-of-service plans
- ▶ Managed fee-for-service

- ▶ Utilization review
- ▶ Specialty networks

Moderator:
James M. Burcke
Editor
Business Insurance

Larry Goelman
President & Chief Executive Officer
Cost Care, Inc.

Chip Sharkey
Senior Vice President,
National Marketing
Cigna Corporation

Ed Zalta
Chairman of the Board
& Chief Executive Officer
CAPP CARE, INC.

10:30 a.m. *Mid-morning Refreshments &
Table-Top Exhibits*

11:00 a.m. **SPECIAL PRESENTATIONS ON THE NEXT
GENERATION OF MANAGED CARE**

New models are in the making as managed care continues to evolve and establish itself as the preferred approach in delivering quality care at an affordable cost. Two distinguished experts in the health care field will share their perspectives and insights on the future direction of managed care and what the implications are for purchasers in the health care marketplace.

Joseph W. Duva
Partner
Ernst & Young

Jacque J. Sokolov, M.D.
President
Sokolov Strategic Alliance

12:15 p.m. *Luncheon for Speakers and Attendees
Hosted by John Hancock
Financial Services*

1:00 p.m. **KEYNOTE LUNCHEON SPEAKER**

Stephen M. Wilder
Assistant Treasurer, Risk Management
Walt Disney Company

1:45 p.m. *Break*

2:00 p.m. **Concurrent Session A:
DIRECT CONTRACTING: SELECTING AND
STRIKING A DEAL WITH A HOSPITAL**

- ▶ Selection criteria
- ▶ Negotiating and cutting the deal
- ▶ Case Studies: State of Utah and Safeway, Inc.

Linn J. Baker
Director - Public Employees
Health Program
State of Utah

Nancy Hughes
Group Insurance Manager
Safeway, Inc.

Dr. Arnold S. Milstein
Managing Director
William M. Mercer, Inc.

2:00 p.m. **Concurrent Session B:
WORKERS COMPENSATION WORKSHOP:
APPLYING MANAGED CARE
TECHNIQUES TO CONTAIN WORKERS
COMPENSATION COSTS**

- ▶ The range of services required
- Specialized networks
- Case management
- Practice guidelines

HEALTH CARE MANAGEMENT CONFERENCE AGENDA

- ▶ **Fraudulent claims: Who is the culprit?**
 - Closing the loopholes
 - Implementing a prevention program
- ▶ **The working model**

Charles Jacobs
President
InterQual, Inc.

Jerry A. Miccolis
Vice President & Workers Compensation
Practice Leader
Towers Perrin

Ed Zutler
President
FHP Insurance Group

3:30 p.m. *Mid-afternoon Refreshments & Table-Top Exhibits*

4:00 p.m. **HEALTH CARE COALITION UPDATE**
As organizations committed to purchasing quality health care for their members and as lobbyists for health care reform, coalitions have spearheaded research projects that have been at the forefront in exploring creative solutions to the health care crisis. Ms. Hubers of The Alliance will discuss how employers can purchase health care based on value. Ms. Powers of the Bay Area Business Group on Health will outline current projects, with special emphasis on the coalition's preventive care initiatives.

Debra Hubers
Director of Marketing
The Alliance

Patricia E. Powers
Executive Director
Bay Area Business Group on Health

5:00 p.m. **COCKTAIL RECEPTION**

FRIDAY, JANUARY 15

7:45 a.m. *Continental Breakfast & Table-Top Exhibits*

9:00 a.m. **REMARKS FROM THE CHAIR**

9:15 a.m. **THE AIDS/HIV CRISIS: ONE EMPLOYER'S RESPONSE**
With no cure in sight, AIDS has challenged employers to respond to a worldwide

epidemic that is affecting all aspects of corporate life and the bottom line. Digital Equipment Corporation has established and implemented a coordinated, integrated strategy on behalf of all employees and their families. Worldwide in scope, Digital's HIV/AIDS program encompasses education and outreach that has increased productivity, maintained excellent employee relations and contained health care costs.

Paul A. Ross, Ed.D.
Corporate Manager,
HIV/AIDS Programs
Digital Equipment Corporation

10:00 a.m. *Mid-morning Refreshments & Table-Top Exhibits*

10:30 a.m. **PREVENTIVE CARE: INTEGRATING PREVENTIVE CARE INTO BENEFIT PROGRAMS**
▶ *Financial incentives to promote healthy behavior*
▶ *The ingredients of a successful wellness program*
▶ *Effective employee communication*

Michael Fox
Managing Consultant
A. Foster Higgins & Co.

Lynn Gilfillan
Community Wellness Development
Coordinator
Coors Brewing Company

Allen Iampaglia
Risk Manager
City of Glendale, Arizona

11:30 a.m. **Concurrent Session A: NEW DIRECTIONS IN FLEXIBLE BENEFITS**
▶ *New ways to manage flexible benefits administration*
▶ *Flexible benefits for retirees*

Larry Atkins
Manager, HR Systems
Barnett Banks, Inc.

Sally Gottlieb
Manager of Benefits Administration
Apple Computer, Inc.

11:30 a.m. **Concurrent Session B: BALANCING QUALITY AND COST IN PRESCRIPTION DRUG BENEFIT PLAN DESIGN**
▶ *Critical factors in plan design*
• *Quality versus cost in prescription drug benefits*
• *Appropriate drug utilization review*
• *Patient-focused pharmaceutical care*
▶ *Coordinating a full service pharmaceutical benefit*
▶ *Utilizing mail-service in combination with pharmacy networks*

James Heenan
Director, Corporate Accounts Sales
The Upjohn Company

12:30 p.m. *Luncheon for Speakers and Attendees Hosted by FHP, Inc.*

1:15 p.m. **KEYNOTE LUNCHEON SPEAKER**

Frank McArdle
Partner
Hewitt Associates

1:45 p.m. *Break*

2:00 p.m. **AN IN-DEPTH LOOK AT THE CANADIAN HEALTH CARE DELIVERY SYSTEM**
With the health care crisis continuing unabated, the United States has looked with increasing interest to other nations' health care delivery systems. The Canadian health care system has received considerable attention for its ability to deliver universal health care.

Dr. Robert M. MacMillan
Executive Director
Health Insurance Division
Ministry of Health, Ontario

2:45 p.m. **DEBATE ON THE CANADIAN SYSTEM**

Dr. Anthony R. Masso
Vice President, Managed Care and
Insurance Products
Health Insurance Association of America

Howard Weizmann
Vice President
Aetna Benefits Consulting Practices
Aetna Life & Casualty

3:30 p.m. **END OF CONFERENCE**

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2. Fax your registration to us at (516) 229-2386, or
3. Mail your completed registration form (or a photocopy) to:
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London market

Continued from page 1
sion of Willis Faber & Dumas Ltd.

Of these, 28 were based in Britain, 24 were in Bermuda and 266 were in the United States, he said at a recent Insurance Institute of London seminar.

Although it is not clear how much capacity has been withdrawn from insurance and reinsurance markets as a result of these closures, a recent report estimates there is now a whopping \$18 billion to \$20 billion in outstanding claims and reserves for reinsurance companies that have shut down and are in runoff.

"These estimates, based on claims and claims reserves (of companies in runoff), underline the growing concern of the insurance industry that there could be

a domino effect resulting from insurance failures," said Market Run-Off Services P.L.C. of Great Hampden, England, in a recent report.

London brokers are turning to international reinsurers to provide capacity for North American risks, said Keith Sheridan, managing director of the North American division of Bain Clarkson Ltd.

"And we are not just doing it by fax and telephone, we are getting on planes with slips and going there in person," added Mr. Sheridan.

In recent years, European reinsurers tended to back away from North American business because of prevailing low rates. Now, however, the rates are high enough to start attracting them back on to the slips, according to Mr. Sheridan.

The principal reinsurance

markets now being used for North American risks outside of London are Australia, France and Scandinavia, he said.

London underwriters are also losing some business to continental European insurers because of the high price of catastrophe reinsurance, said a London company underwriter.

"The price rises in London now are exaggerated," contends Mr. Sheridan.

Catastrophe rate increases vary widely but are sharp for most accounts, underwriters say.

"Anything with a catastrophe element in it is going through the roof," said George Lloyd-Roberts, chairman of Lloyd's Underwriters Non-Marine Assn.

The increases can be as much as 300% for accounts that have suffered large losses from Hurricanes Andrew and Iniki or have a high exposure to California

earthquake risks, he said.

Average rate increases for catastrophe business are about 40%, said Philip Marcell, chairman and chief executive officer of Unionamerica Insurance Co. Ltd.

"Reinsurers have suffered a lot of catastrophes this year and it's not only the big ones like Andrew and Iniki. There have also been quite a few medium-sized catastrophes, like the Chicago flood and the L.A. riots that have got into the catastrophe layers," he said.

These losses are not only driving rates higher; they are driving retentions up, too.

It is estimated that U.S. insurance companies in 1992 bought a total of \$8 billion in catastrophe reinsurance excess of about \$2 billion in retentions, said Mr. Myers of Willis Faber & Dumas. For 1993, it is likely that they

will buy the same amount of coverage but the overall retentions will rise to \$4 billion, said Mr. Myers.

"Retentions are going up by between 40% and 50% for catastrophe reinsurance," said Mr. Marcell.

Catastrophe retentions are increasing the most for windstorm and earthquake risks, said Michael Barnfield, managing director of the North American non-marine division of broker Lowndes Lambert Group Holdings Ltd.

Catastrophe reinsurance underwriters are firmly demanding a retention equal to 5% of placement value for California earthquake risks, he said. Previously, brokers were sometimes able to place earthquake risks with retentions of around 2.5% of the placement value.

Windstorm retentions are also increasing, he said.

"It's not a general market trend yet, but some underwriters are saying that they want a 2% deductible for windstorm risks. Before it would have been a smaller dollar amount," Mr. Barnfield said.

One U.S. insurer seeking cat cover in the London market trebled its property catastrophe retention to \$450 million from \$150 million, sources say.

Continued on page 16

Deep troubles quiet the usually bustling Lloyd's of London

LONDON—Shrinking capacity and consolidation among underwriters is taking its toll at Lloyd's of London.

It is apparent walking around the Lloyd's building that there are fewer underwriters operating in the market. At least half of the third floor, which was once filled with underwriters, is now empty.

Lloyd's executives have said they expect capacity to dip in 1993 to between 8 billion pounds and 8.5 billion pounds (\$12.26 billion and \$13.03 billion at current exchange rates) from 10.2 billion pounds this year (\$19.07 billion at appropriate exchange rate) (BI, Aug. 31, 1992).

Syndicates merged or shut down throughout 1992. This consolidation has left fewer syndicates controlling a larger proportion of capacity at Lloyd's, said Keith Sheridan, managing director of the North American division of Bain Clarkson Ltd.

"The larger syndicates have absorbed a lot of capacity from the smaller syndicates and they will have a lot of power next year," he said.

The concentration of capacity may lead to additional large increases in reinsurance rates later this year because competitive pressure to hold down rates will be reduced, Mr. Sheridan said.

Part of the vacant space at Lloyd's has been leased to insurance companies that have set up their own underwriting boxes in a specially designated area. They include: American International Group Inc., Liberty Mutual Insurance Co. and Reliance National Insurance Co. (U.K.) Ltd.

Reliance National has two people writing non-U.S. third party liability and financial-related coverages at its Lloyd's box, said Carl Bach, managing director. The box opened two weeks before Christmas to take advantage of the increased broker traffic at year-end renewals, he said. **B**



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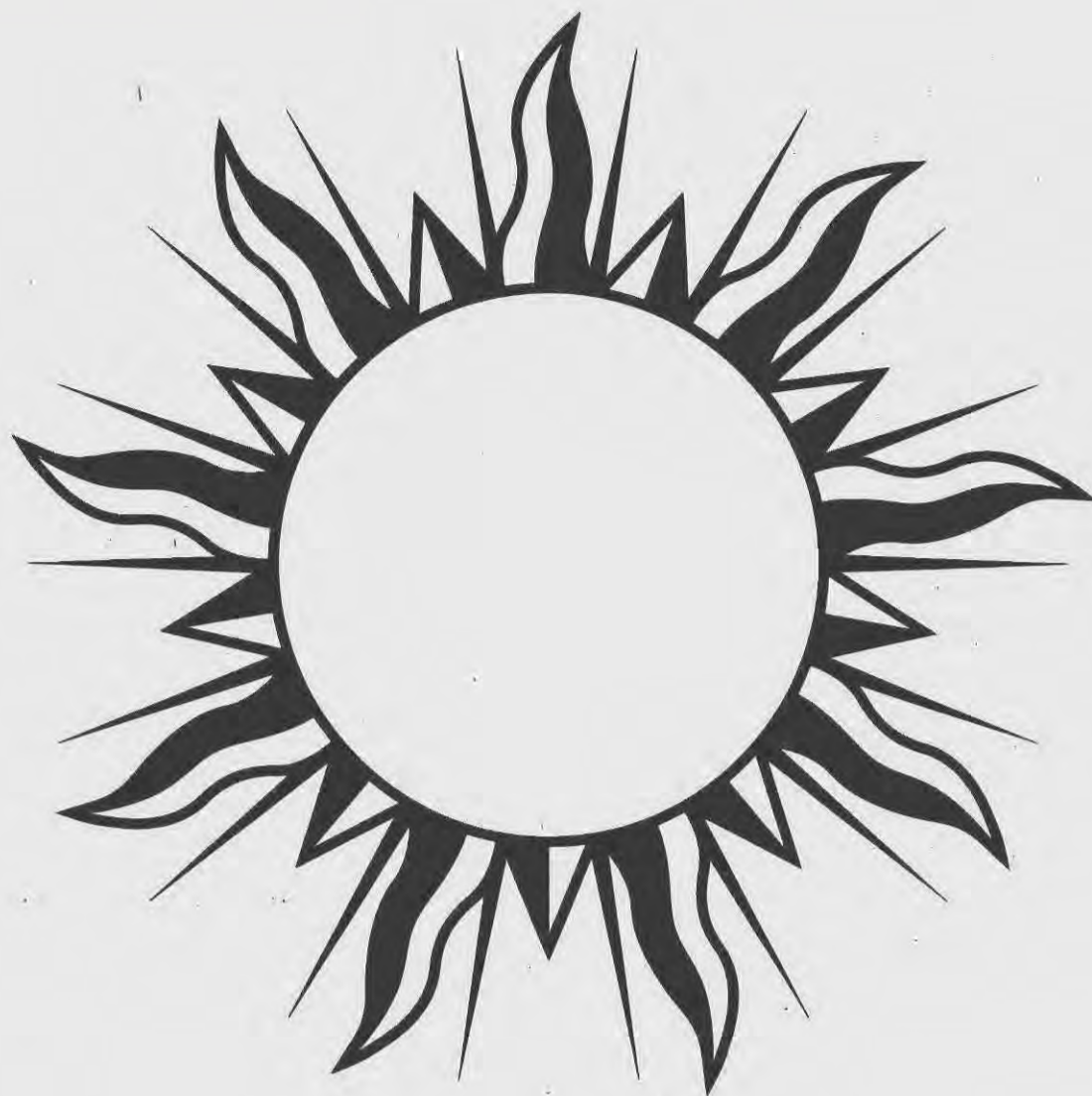
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London market

Continued from page 14

Catastrophe underwriters are not just hiking rates and retentions; many are also seeking to analyze their exposures more thoroughly, sources say.

London underwriters have carved the world into catastrophe zones; once they have written their aggregate limit in that zone they will not write anymore coverage in the area.

Reinsurers are also now charging as much premium for the first reinstatement as for the original limit on a catastrophe program.

Each catastrophe reinsurance policy typically has a limit for one catastrophe plus one reinstatement. But, if one catastrophe exhausts the coverage, the ceding company will have to pay 100% of the original premium for the reinstatement.

Many reinsurers are also trying to restrict coverage by not allowing reinstatements to be triggered during any one event, even if it lasts longer than 72 hours, according to Mr. Barrett of Merrett Underwriting.

For example, if a hurricane hit the Caribbean and it then hit the United States more than 72 hours later, a ceding company would only be covered once for the policy limit.

Brokers, though, are trying to resist this change.

The energy market in London is also enduring a stormy renewal season.

Property rates for energy risks are seeing double-digit increases, said John Turner, chief operating officer of the non-marine group of Alexander Howden Ltd.

"Throughout the world on the property side we are seeing property insurance rate increases in the oil and gas industry," Mr. Turner said.

Prices have returned to the levels of 1986 for onshore non-marine oil and gas risks, like refineries, said another broker.

"Lloyd's is writing business again at huge rate rises, but it's not more than the levels of 1986," he said.

With the demise of most major energy line slips, there is only about \$200 million of property coverage available in the open market for a combined offshore/onshore property damage and business interruption program and \$100 million for liability coverage, the broker said.

Marine insurance rates are also increasing.

"We are seeing general rises on the marine hull account of between 20% and 40% and in some cases, depending on the loss record, they can go up by 100%," said Ian Agnew, underwriter for syndicate 406, managed by Wellington Underwriting Agencies Ltd.

The marine price increases in London are going through despite increased competition from marine underwriters in the United States, he said.

And London is managing to retain most of its business.

"Some fleets are leaving London but others are returning, so on balance London probably hasn't lost any of its market share," Mr. Agnew said.

Although U.S. underwriters are undercutting marine rates in London, it is seldom by more than 15%, said Richard Hilliard, managing director of Leslie & Godwin Marine Ltd.

In addition, the increase in competitiveness by U.S. underwriters is being balanced by a reduction in capacity in other markets around the world, he said.

"French and Scandinavian capacity is down by about a third. . . a lot of people are withdrawing from the marine markets there because they still can't make a profit," Mr. Hilliard said.

Marine cargo rates are still soft, though, with only nominal increases of 10% or less being imposed on most accounts, said Mr. Agnew.

The low cargo rates stem in part from a misunderstanding of cargo exposures, he said.

"Some people seem to think that it does not produce much of a catastrophe risk, but that is wrong. The cargo account can produce very large claims; we just have not had many cargo catastrophes for some time," Mr. Agnew said.

Direct North American property and casualty rates are also seeing few increases in London.

"The property programs we have put through so far have had few

changes," said Alan Lee, underwriter for syndicate 210, managed by Sturge Non-Marine Syndicate Management Ltd.

However, 1993 may witness changes in the direct market for North American risks because of the lack of catastrophe reinsurance capacity, he said.

"The market began to look at business for 1993, but that now seems to have ground to a halt because there appears to be a serious lack of reinsurance capacity," Mr. Lee said.

Renewals for some major programs have been delayed as underwriters are unsure about their own catastrophe reinsurance protection, agreed Mr. Barnfield of Lowndes Lambert.

"The market is sensing that the North American domestic market has got to turn and that is beginning to impact on it," he said.

Underwriters are examining

risks in North America more closely, especially high-risk direct programs like underground mining, Mr. Barnfield said.

Direct property rates are stabilizing, said Mr. Sheridan of Bain Clarkson. "Gone are the days when you can ask for rate reductions. People are realizing that there is a change in the market coming," he said.

General liability rates are still flat and there is little likelihood of any sharp rises in the near future, underwriters and brokers agree.

"Everybody is looking for a hardening market but it is not happening," according to John Holford, deputy chairman of Sedgwick Non-Marine Insurance Ltd.

Underwriters are imposing liability price increases on some accounts, but to a similar degree they are quoting rate decreases on other accounts, he said.

Certain areas of liability business are seeing more sustained increases, said Marcus Brown, underwriting director at Anglo-American Underwriting Management Ltd.

"We are quoting 20% increases on directors and officers liability business and we are losing very little of it. We are renewing most of what we see," he said.

Underwriters in London are also trying to increase hospital liability rates, but so far have been unsuccessful, said Mr. Holford.

"Some underwriters are trying to dig their heels in and toughen things up, but the result is that they lose the business," he continued.

"We have not tried to put up our HPL rates because we would lose business," said Keith Peacock, general manager of Lexington Insurance Co., a unit of American International Group Inc. **BI**

Sunday Afternoon Workers' Comp

Access the Alternatives with

Insurers

Continued from page 1

McIntyre, senior vp of Allendale Mutual Insurance Co. in Johnston, R.I., another property specialist. "We just consider ourselves to be at the bottom this year."

While the liability insurance market remains softer than the property market, some liability rates also are hardening.

"I would surmise, given the nature of recent property catastrophes, that rates have to come up to fund some of those catastrophes," said Robert Cooney, senior vp of excess and general liability for X.L. Insurance Co. Ltd. in Hamilton, Bermuda. And, "If you are a multiline insurer, you may be looking to shore up on your casualty lines" to make up for property insurance losses.

Still, business is renewing

pretty much as usual at X.L. "We are not planning any across the board rate increases or decreases. Accounts will renew as is unless the exposure has changed," Mr. Cooney said.

"We, like everyone else, would very much like to see a market turn. We see preliminary indications from the reinsurance market that would suggest that because of the property catastrophes, reinsurers are moving to increase rates and diminish capacity," observed Bradford Rich, executive vp and general counsel for ACE Ltd. in Bermuda. "We hope that will spill over into the casualty business, but to date we haven't seen much of it."

ACE is reporting rate increases for some high-risk casualty lines. "We announced to brokers that we will be increasing rates for certain highest-risk categories—

like pharmaceuticals, chemical and energy risks," he said.

In short, "We are beginning to see the last phase of the soft market," said Charles Clark, president of the commercial lines division of Travelers Corp. in Hartford, Conn. But, he noted, only the property insurance market thus far is showing real signs of hardening.

While it is difficult to predict how wrenching the market turn will be, the battered property market will likely be the cause, Mr. Clark said. "Product liability (shortages) caused the turn last time. It could be property coverage this time."

Mr. Clark said the "feeding frenzy" of six months to a year ago has ended. "I don't think anyone believes they can make money on new business now."

But not all insurance company executives agreed that the mar-

ket turn has indeed begun.

"We do see somewhat of a change in the marketplace—it's getting more competitive," said Joseph Basta, president of Zurich-American Commercial Insurance in Schaumburg, Ill.

"The pricing really has deteriorated," he said. Underwriting standards have been lowered and agents are complaining if insurers ask for more underwriting information than the agents deem justified, he said.

Mr. Basta said that competition is hottest in recession-ravaged New England and in the Southeast, for reasons he couldn't identify.

He said that the catastrophes haven't had any impact on the commercial insurance market yet. Personal lines insurers were hit much harder than commercial underwriters.

Since Zurich-American doesn't renew its reinsurance treaties until July, he cannot yet gauge the impact on the insurer of Hurricanes Andrew and Iniki and the rest of the catastrophes that made 1992 a record year for insured property damage.

While Mr. Basta sees undiminished competition, many reported at year end that the property insurance market was beginning to turn as they spoke.

"We're finally starting to see some signs of moving up," said Thomas Kelsey, executive vp for Chubb & Son Inc. in Warren, N.J. He added, however, that rates for small property risks remain flat.

George Ramsdell, senior vp and chief underwriting officer for the agency group of Continental Corp. in Cranbury, N.J., said that property rates for petrochemical clients had risen, with some tightening of capacity.

Rates for both large and small property risks remain "somewhat competitive," said Richard W. Wratten, president of Transamerica Insurance Co.'s commercial insurance division in Woodland Hills, Calif. Insurers will probably seek double-digit increases next year to cover their own escalating catastrophe reinsurance costs, he said.

Rates for both large and small property risks are beginning to tighten, with underwriters obtaining increases of 10% or more, observed Bruce Smith, senior vp of Employers Insurance of Wausau, a Nationwide Mutual Insurance Co. unit in Wausau, Wis.

Travelers wants to increase rates for property risks by at least 10% and maybe as high as 20% on the East and West Coasts, said Mr. Clark. In addition, Travelers will increase rates for multiperil risks by about 7% in 1993.

"We are willing to lose business if we don't get the increases," said Mr. Clark.

Rates for large property risks renewing in February will increase about 5% to 10%, with some increases reaching 25%, depending on the risk, said Robert W. Trainer, senior vp of underwriting for Hartford Steam Boiler & Inspection Co. in Hartford, Conn. "Last year pricing was flat," he said.

Smaller property risks will probably renew as is, with adjustments for inflation, Mr. Trainer said.

Rates for highly protected property risks also are on the upswing, but not significantly, said Chubb's Mr. Kelsey.

Rates are "up a little bit"—maybe 5%—but heavily dependent on individual experience, said Continental's Mr. Ramsdell.

Mr. Smith said that HPR rate increases of between 10% and 15% are not unheard of, even though the tightening has just started.

HPR rates may increase by 5% to 15%, Mr. Trainer said. Mr. Kelsey also noted a light uptick in boiler and machinery rates.

Meanwhile, insurers say the casualty market remains soft.

"Casualty in general continues to be a very soft market. Competition is extremely keen," Mr. Smith said.

Primary liability rates are flat, said Chubb's Mr. Kelsey.

Mr. Ramsdell used the same word to characterize the primary liability market.

However, Travelers wants to increase general liability rates by about 9% and so far appears to

Continued on next page

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Continued from previous page
be successful, said Mr. Clark. "We've been asking for these increases for about two months, and so far our retention rates look like they are holding."

Transamerica's Mr. Wratten said rates for primary liability coverage have risen between 10% and 15% during the past year.

The low-layer excess liability market is "competitive," said Mr. Ramsdell. "We've been pushing our prices up, but our prices may have been low," he said, explaining that Continental has obtained rate increases of about 10%.

The low-layer excess liability market is "pretty competitive," because "the bottom line is more capacity chasing a smaller book of business," said Ken Goldstein, executive vp with The St. Paul Cos. Inc. in St. Paul, Minn.

Both Chubb's Mr. Kelsey and Transamerica's Mr. Wratten described rates for low-layer excess liability coverage as flat.

Mr. Kelsey said that rates for high-layer or catastrophe excess liability insurance are up a percentage point or two, while Mr. Ramsdell called the market for the coverage competitive. However, he said that there had been some double-digit increases in high-hazard liability rates.

"There's been a slide for the past nine months but now it's hit rock bottom," said Mr. Wratten.

St. Paul has been able to obtain small rate increases for medical malpractice liability coverage in 1992 and expects the market to be stable throughout 1993, Mr. Goldstein said.

The directors and officers liability insurance market has been hardening all year (*BI*, Nov. 30, 1992). Late last year, William Smith, president of National Union Fire Insurance Co. of Pittsburgh, Pa., reported that the American International Group Inc. unit was getting rate increases of 12% to 15% on renewals for publicly held companies in general. For high-tech companies and others prone to shareholder suits, rates were going up by 60% to 100%, he said.

Continental's Mr. Ramsdell said municipal liability insurance rates have gone up slightly, "depending on what you're writing."

Wausau's Mr. Smith, however, described the municipal liability market as "extremely competitive" because losses have been decreasing.

Insurers generally agreed that capacity for most lines of commercial insurance remains plentiful, although some senior executives questioned just how reliable that capacity is.

"It really looks like capacity is increasing," said Zurich American's Mr. Basta.

Continental's Mr. Ramsdell said that while there may be some tightening of capacity for property coverage in catastrophe-exposed areas, "it's still pretty early" to posit a capacity crunch.

"Capacity is illusionary in my opinion," said Wausau's Mr. Smith. He said that some insurers are not paying enough attention to adequate reserves, which means that they're going to have to take money out of surplus to build up their reserves.

But there are rumors that some reinsurers will begin shifting capacity from property to casualty lines, said Mr. Smith. If this happens, it will add to the capacity glut, he said.

"Capacity dedicated to property may slide over into casualty," agreed Mr. Clark, though he said Travelers does not plan to follow that strategy.

Capacity still is a bit of a problem for hydrocarbon, chemical and oil and gas property risks, Hartford Steam Boiler's Mr. Trainer said. "That market has been hardening for a while and is continuing to harden," primarily because of problems in the treaty reinsurance market.

"Treaty renewals are the worst in 20 years," Mr. Trainer said.

"Capacity is shrinking, rates are rising—the question is when and what do the primary insurers do with their customers as a result," he said.

"We are seeing a constriction in coverage or capacity and rate increases in the general liability market, particularly for business that has been placed in the Lon-

don marine market or business that is reinsurance-supported," said X.L.'s Mr. Cooney. And, he said, the hardening in the oil and gas market is continuing.

While insurers are hoping the year of record catastrophes and the resulting hardening in the reinsurance market will cause a general market turn, some still question when and how it will happen.

"I don't think the property market is big enough to withstand" the unprecedented catastrophe losses of 1992, said Wausau's Mr. Smith. He added, however, that it is too early to compare this infant market turn with what happened eight years ago.

Others are more confident.

"It's going to turn the property market for sure," said Transamerica's Mr. Wratten. He added, though, that insurance regula-

tors are highly unlikely to allow insurers to impose massive price increases all at once, or aimed at one particular region. "We're going to have to spread these cats around the country," he said.

The catastrophes are "turning the property market right now," said Chubb's Mr. Kelsey. But he said that "the jury's still out" on the casualty market. Low interest rates will have a greater impact on liability insurance than the catastrophes will, he said. "You can't smother as much underwriting loss" when interest rates are low, he said.

Any market turn is unlikely to be as sharp as that of 1985-86, said Arkwright's Mr. Moriarty.

"I think the awareness of the catastrophe exposures and the reinsurance shortfalls" will make insurers take a hard look at their exposures, said Mr.

Ramsdell. He noted that insurers must also contend with greatly reduced investment income and deteriorating combined ratios. Combined ratios worsened to 112.3% in 1992 compared with 108.9% in 1991, estimates the Insurance Information Institute (*BI*, Dec. 21, 1992).

"You can't make any money on cash-flow underwriting with investment income heading south," he said.

Insurer executives who think a turn is under way foresee it extending throughout the year.

Mr. Ramsdell said that insurers will feel pressure to increase rates during the second half of this year, but the impact will be uneven, not hitting all lines or regions. "I don't think we'll see anything like we did last time."

Instead, as underwriters really feel the pinch, rates will begin

Continued on next page

Are renewals reflecting your or the m

Acts of nature, unforeseen losses or just bad planning may have left some companies a little short. Unfortunately, your security could be someone else's cash flow.

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Continued from previous page moving up, probably by 10% to 15%, Mr. Ramsdell said. As the reaction spreads, there could be a one-time round of 25% or even greater rate increases before leveling off, he said.

"I don't think this industry can continue to support what's been happening out there," said Wausau's Mr. Smith. He predicted that within six to nine months, both the property and casualty markets will begin to change "rather dramatically."

Recession is one factor that has delayed a market turn.

"It has essentially lowered the premium base" as businesses buy less coverage, said Mr. Kelsey. "We're seeing premium audits where we're giving premium back."

The recession has caused construction to drop off, cutting into the demand for surety bonds,

said St. Paul's Mr. Goldstein.

Transamerica's Mr. Wratten said that the recession has resulted in fewer premium dollars to cover increased loss frequency. For example, workers comp claims are increasing even though payrolls are down, he said. And suspicious fires are becoming more and more common as owners attempt to cash in on unproductive property, he said.

And, the recession has pushed buyers to look for "the best service at the lowest price," said Mr. Smith.

The prolonged soft market has led some senior insurer executives to speculate that the insurance cycle has fundamentally changed, with the soft markets of the future likely to last much longer than those of 20 or more years ago.

For example, Chubb's Mr. Kelsey, who has 38 years' experience

as an underwriter, predicted that the normal cycle now will consist of a long soft market broken by short periods of hardening. For the foreseeable future, the market will be driven by competition, he said.

"The last (market cycle) was so long, it was out of synch. This one is even longer," said Zurich-American's Mr. Basta.

"We might be like the airline industry," he noted. Low rates could continue until only a handful of underwriters remain.

Mr. Basta stressed that Zurich is "not driving the market. We're grudgingly giving ground."

"I think the traditional cycle is one or 1½ years and five or six down," said Allendale's Mr. McIntyre.

Continental's Mr. Ramsdell said he isn't certain that the insurance industry is truly over-capitalized. He believes some in-

surers have under-reserved and others have not determined their true catastrophe exposures.

Given the changes in the marketplace, insurers are increasingly willing to draw the line and refuse business on which they see no chance of profit. "We are losing accounts occasionally because we can't get the price we need," said Mr. Kelsey.

"We've had the walkaway philosophy and that's going to continue," said Mr. Wratten.

"We're not going to go down any farther. We've got to get a return equal to the risk," said Mr. McIntyre.

Nevertheless, buyers are now shopping around, said several insurers.

Mr. Kelsey said buyers are shopping the market if they can't get lower rates. "We taught people how to shop in the last hard market," he said. **BI**

Brokers

Continued from page 1 new account.

Brokers report little movement in rates for specialty liability lines, noting that these coverages—with the exception of directors and officers liability coverage and professional liability for lawyers and accountants—have stabilized over the past several years.

And, except in Texas where system reforms have made progress, brokers say workers compensation continues to be a sticking point as fewer and fewer insurers are writing the coverage voluntarily, and more businesses are exploring self-insurance options.

Brokers agree that the overwhelming majority of activity in the January 1993 renewal is centered around rate increases on property accounts generating at least \$200,000 in annual premium. Rate hikes of 10% to 30% are common for this type of business, regardless of where the property is located, according to brokers.

And, in regions susceptible to catastrophic losses—the Florida and Northeast coastlines, portions of the Midwest, California and Hawaii—insurers are imposing rate increases in excess of 50%.

Brokers, however, say that the hardening of the property market should not be taken as a sign that the entire market is turning. Competition remains keen for small property-driven accounts and most casualty-based business, they insist.

"There's plenty of capacity out there with the exception of large property schedules," and the Florida market is very difficult, said J. Patrick Gallagher, president and chief operating officer of Arthur J. Gallagher & Co. in Itasca, Ill. Otherwise there's still too much capacity to support widespread rate increases, he added.

"The commercial lines business is probably more fragmented now than in recent years," said Andrew Marks, president of MLW Services Inc. in New York.

Competition is "as intense as ever for smaller, general business. We can still knock 5% to 10% off these rates," he said. "But large property is definitely hardening. Anything with a storm, flood or quake exposure is up 15% to 25%, with that rate increase going straight through to the reinsurers."

Bruce Guthart, executive vp with Kaye Insurance Associates L.P. in New York, also attested to property rate increases. "Large property risks with premiums of over \$250,000 are in for double-digit rate hikes. In catastrophe-prone areas, it's a minimum 15% increase."

But it's not just rate increases that buyers are facing, he added. "Coverage is being restructured to include windstorm deductibles of 2% to 5% of insured value. The underwriters don't think it's much, but on a \$100 million shopping mall it's pretty significant," said Mr. Guthart.

Mike Sikora, vp and manager of the property and marine division of Johnson & Higgins in Chicago, has also witnessed insurers trying to cut their potential for losses by other means than simply pumping up premiums.

"We're seeing higher deductibles and more stringent applica-

Continued on next page

1 premiums loss experience market's?

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Brokers

Continued from previous page
tions of" percentage of value deductibles for catastrophic perils, he said.

"The throw-ins that were free are now being charged for or are not being offered," echoed Charles Ruoff, senior vp with Sedgwick James Inc. of New York, a division of Sedgwick Group P.L.C. "And, I think we'll be seeing more of this as the year progresses."

"Large property risks will see 10% to 30% rate increases" and should expect gaps in coverage, restricted terms and less favorable conditions, said Richard M. Miller, chief executive officer with Willis Corroon Group P.L.C. in Nashville, Tenn.

"Cat cover costs have increased 100% to 500%, and while cat covers do not make up the bulk of treaty costs, the problem is that the coverage just isn't there," he said.

Regions of the country undergoing the most noticeable change in terms of property rates and capacity are Florida and California, according to several brokers.

"Property in Florida has changed dramatically since Hurricane An-

drew. We can't find the capacity we had last year so the layers we had in place are unraveling. Reinsurance has become so expensive for the carriers that we can barely afford what they're charging for excess coverage," said Nelson Green, a vp with Poe & Associates in Tampa, Fla.

As an example of what's happening in the Florida property market, Mr. Green explained that property coverage in excess of \$50 million is now costing \$2,500 to \$5,000 per \$1 million in limits, up from about \$700 to \$1,000 per \$1 million in limits in 1992.

"We write a lot of coastal risks in South Florida, and for wind-prone buildings—especially the ones of higher value—there's a scarcity of capacity," said Kenneth Held, president of Joseph Held Co. Inc. in New York.

Several areas in the Western United States also are feeling the property market harden.

For example, the Hawaiian property market is going through much of the same constriction as that in Florida due to the devastation brought by Hurricane Iniki. And, California earthquake capacity is

down significantly this renewal period as underwriters look to reduce regional exposures, said Jeffrey McKinley, head of Jardine Insurance Brokers Inc.'s West Coast operations in San Francisco.

"Property rates in Hawaii have doubled since Iniki. One writer just got up and left because of the exposure," he said, referring to the Hawaiian Insurance Group, which has ceased writing business after posting \$300 million in storm-related losses (BI, Dec. 7, 1992).

Meanwhile, earthquake insurance capacity in California is down 20%, Mr. McKinley said. "If global quake capacity was in the high \$200 millions last year, it's now in the low \$200 millions."

Larry Sorensen, senior vp with Rollins Hudig Hall Co. in Chicago, said insurers' problems obtaining catastrophe reinsurance have caused a virtual "moratorium" on new earthquake writings.

International property insurance programs also are harder to place.

Many buyers are "stepping back" from global insurance programs and "separating their U.S. and international risks until they get a better read for where the market is going,"

said Teresa L. Pahl, senior vp-business development for Rollins Hudig Hall International in Chicago.

Companies with operations in five or more countries are having an especially difficult time obtaining property coverages for their international risks, she said.

"We are fighting to keep rates stable" for those risks, Ms. Pahl said.

"Underwriters are getting a good grasp of the data and understand where they are making money and where they are losing money," Ms. Pahl said. As a result, "they are pricing much more concisely," she said.

"Underwriters are asking much better questions in my view," she added. The buyer has "to know what their contingency plans are and what kind of interdependency" the international plants have with each other.

In addition, international property underwriters are offering tougher terms and conditions. For instance, "individual plant locations are being asked to take bigger retentions," Ms. Pahl said.

"Major markets are also coming in and removing terrorist coverage

from policies" that were negotiated during the Gulf War, she said.

"It's not that we're not getting (the coverages); it's that we're spending much more time negotiating," she said.

As insurers reduce capacity that had been allocated to previously profitable high-premium property business, they are adding capacity for casualty underwriting, especially general liability coverages, according to brokers.

"To keep market share, insurers may be gravitating toward casualty where the losses won't come in until sometime in the future," said John F. O'Sullivan, managing director with Marsh & McLennan in New York. "This could cause some additional softening."

"There seems to be an uptick in casualty competition as property catastrophe writers move to greener fields. General liability is as loose as ever. We can still get virtually any coverage at any price," said Sedgwick James' Mr. Ruoff.

But Elliott Jones, vp-marketing with Alexander & Alexander Inc. in Chicago, said buyers should take advantage of the casualty competi-

Continued on next page

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December 18, 1992

In brokers' crystal ball: A line-by-line hardening that lasts the whole year

Most brokers forecast that the commercial property/casualty insurance market will harden on a line-by-line basis throughout 1993, with the casualty market likely remaining soft.

Brokers say insurers cannot run the risk of alienating the buying public by hiking rates across the board, like they did in the mid-1980s. Brokers also contend that insurers' underwriting capacity remains too high to justify such wholesale hikes.

Portions of the property insurance market already are turning as a result of unprecedented catastrophic losses in 1992. And, rates for aviation, marine, and oil and gas coverages hardened significantly last year. However, most casualty lines remain soft and show signs of staying that way until at least year end.

Therefore, what risk managers and other commercial insurance buyers should expect is some firming this year, depending on the type of coverage and previous loss experience.

"All indications now are for a line-by-line and account-by-account tightening as opposed to an across-the-board percentage increase," said Mike Sikora, vp and manager of Johnson & Higgins' property and marine unit in Chicago.

"Property should harden by at least 10% nationwide and more in coastal areas. I hope there isn't much more because we don't need to drive people away. Once customers flee the traditional market, they're gone forever," said Charles Ruoff, senior vp with Sedgwick James Inc. in New York.

Richard M. Miller, chief executive officer with Willis Corroon Group P.L.C. in Nashville, Tenn., warned against a "knee-jerk" raising of all rates.

"The implementation of huge rate increases would bring insurance commissioners and Congress down on us like fleas on a dog. I would much rather see gradual rate increases that make sense and the public understands."

Jeffrey McKinley, director of Jardine Insurance Brokers Inc.'s West Coast division in San Francisco, predicts the market will turn line-by-line, with rate increases of 5% to 30% for the lines that do turn. "This should comfort the insurers. I don't think they're looking for 60% to 80% increases in most cases."

"The public simply won't tolerate 50% to 100% rate increases. They'll say 'shove it' and go self-insured. That's what happened in 1984 and it's happening now with workers compensation," commented Nelson Green, senior vp with Poe & Associates Inc. in Tampa, Fla.

"I can't believe that the market can continue as is with these losses. But with the capacity that's out there, it just might," pointed out Andrew Marks, president of MLW Services Inc. in New York.

Other brokerage executives, though, say the costly catastrophes of 1992 may cause some additional hardening in the market as the year progresses.

"By the latter part of the year, I expect to see some real hardening of the market," said Robert Hilb Sr., president of Hilb, Rogal & Hamilton Co. in Glen Allen, Va. "Now it's mixed as to what insurers are doing."

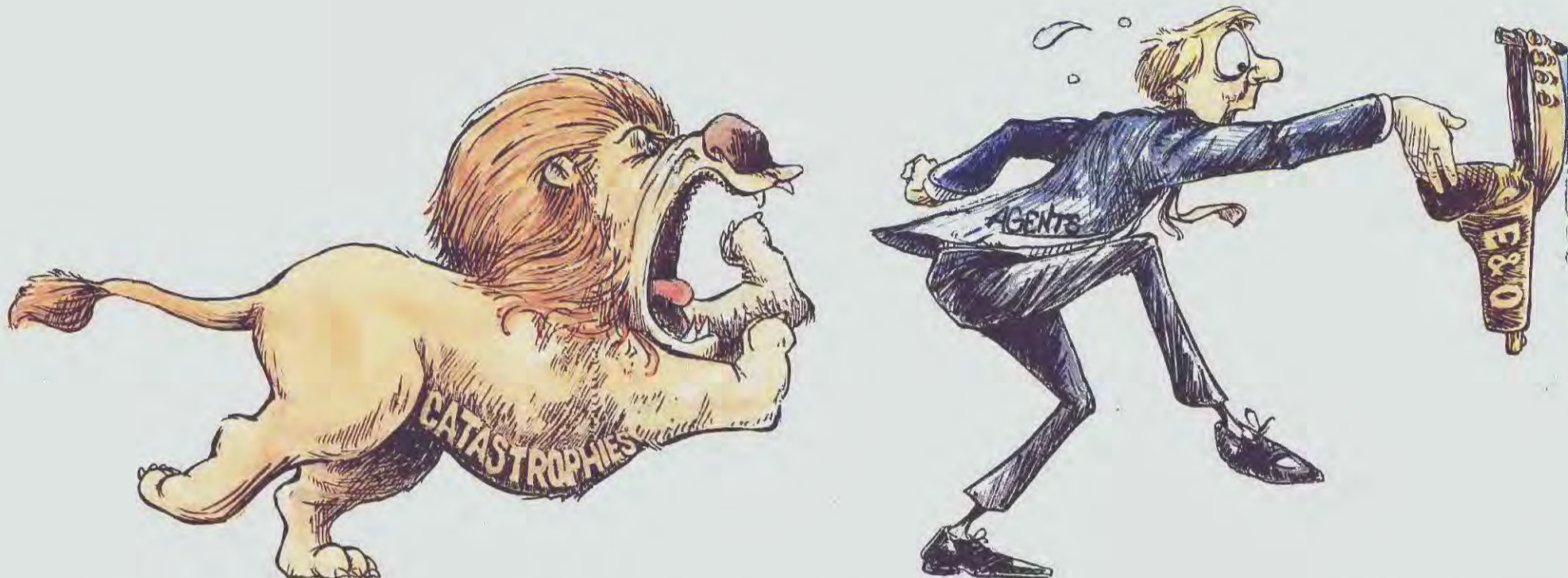
Casualty pricing is still holding up a turn in the overall market, said John O'Sullivan, managing director with Marsh & McLennan in New York.

"But when people realize that they're not making money on casualty, there will not be a soft landing. When this realization will come, though, is hard to say," he noted.

—By Michael Schachner and Sara J. Hartly

Agent/Broker Topics

A monthly editorial section sent exclusively to agents and brokers



An E&O catastrophe

By LAURA MAZZUCA

A year of unprecedented natural disasters and the insurer insolvencies that followed are expected to take a toll on insurance agents and brokers in the form of increasing errors and omissions claims.

Clients hit by catastrophes like Hurricane Iniki and the recent East Coast storms are likely to bring E&O suits against agents if they believe their coverage was insufficient, observers believe.

These catastrophes have hit many insurers where they live, resulting in insolvencies—and E&O claims against the agents who placed the coverage with the defunct companies.

Producers doing business in the soft market have been struggling with the threat of E&O claims for the last several years, and statistics from insurers that write agent errors and omissions coverage show claims steadily on the rise.

At Utica Mutual Insurance Co. the average number of claims filed through November 1992 was 13 for every 100 policies in force. A year ago, the figure stood at less than 12 per 100, said Curt Pearsall, vp and manager of special programs. Utica Mutual underwrites the National Assn. of Professional Insurance Agents-endorsed E&O insurance program.

"In general, it's just the climate out there that is becoming more litigious," Mr. Pearsall said.

Employers Reinsurance Corp., which underwrites an E&O coverage program sponsored by the Independent Insurance Agents of America, reports that there is one E&O claim filed for every seven policies in force. While this number has remained stable for several years, the claims have grown larger, said Vp Richard Fagerberg.

Over the past several years, rising failure rates for both admitted and non-admitted companies have created problems for insurance agents, said Mark Harty, an attorney specializing in E&O coverage with Morrison, Mahoney & Miller in Boston.

According to Employers Re, only 1.8% of the E&O claims connected with the IIAA program were caused by insurer insolvency from 1984 through 1989. This figure grew to 3.6% in 1990 through 1991.

While these numbers may appear insignificant, insolvency claims represent the "big-ticket" E&O cases, with large settlements at stake, Mr. Harty said.

Even unsuccessful lawsuits can be costly for agents. Utica Mutual, which tracks claims whether or not it pays out any damages, estimates that while about 70% of its files are settled without payment, the average expense per

Storms, insolvencies could team up to spur more claims against agencies

suit is \$14,000 in attorneys' fees and related costs, Mr. Pearsall said.

The impact of 1992's spate of natural disasters will add to agents' woes with more insurer insolvencies and more E&O claims filed by irate policyholders, observers predict.

Overall changes in the insurance market have also spurred the growth of E&O claims, Mr. Harty said.

As agents are forced to move coverage between insurers to find the best price in a highly competitive market, coverage gaps and other problems can occur, leading to an increase in E&O claims, said Richard J. Kasyjanski, president of the IIAA's member services division.



And, in a hardening market when agents tap surplus lines insurers when coverage for their clients is expensive or unavailable in the standard market, they are more likely to face E&O suits because of the lack of state guaranty fund protection, Mr. Harty added.

Diversification can also bring about E&O problems. As more agencies turn to sophisticated financial products and services to make up for low commissions in commercial lines, the chance for an E&O claim rises exponentially, he added.

Underwriter statistics bear this out.

In the third quarter of 1992, "failure to obtain proper coverage" was the most commonly cited reason for E&O claims on Utica Mutual's combined cause code, comprising 459 claims, or 43% of total E&O claims for its PIA-sponsored program.

Other common problems included "failure to place coverage after agreeing to it," in 151 cases, or 14% of total claims; "failure to renew or service policies," 105, or 10% of all claims; and "failure to give proper advice," 95, or 9% of all claims.

E&O claims are also growing more frequent in certain product lines. Employers Re statistics show that 9.4% of its claims from January 1990 to November 1992 arose from accident and health coverage. That is more than double the 4.2% figure for 1984 through 1989.

Problems involving health insurance claims could be attributable to the fact that the health insurance market is so unstable, Mr. Pearsall of Utica Mutual said.

Workers compensation is perceived as a major headache for agents.

Because the standard market is so unwilling to underwrite it, agents must frequently place coverage with self-insured compensation pools, which are not covered by state guaranty funds, Mr. Pearsall said.

However, both Utica Mutual and Employers Re show that workers comp E&O claims comprise only a small portion of the total claims pie. The number of comp claims at Utica Mutual increased by only one case from 1991 to 1992 to 86 cases, or 8% of all claims filed. And Employers Re reported that only 7.7% of its total claims for 1990 through 1991 were for workers comp.

The lion's share of Utica Mutual's third-quarter claims are attributable to other commercial property/casualty policies—1,744 claims, or 35% of the total.

E&O loss experience tends to be much better for personal lines coverages than commercial coverages. Personal lines products tend to be less complex and more standardized, Mr. Pearsall explained.

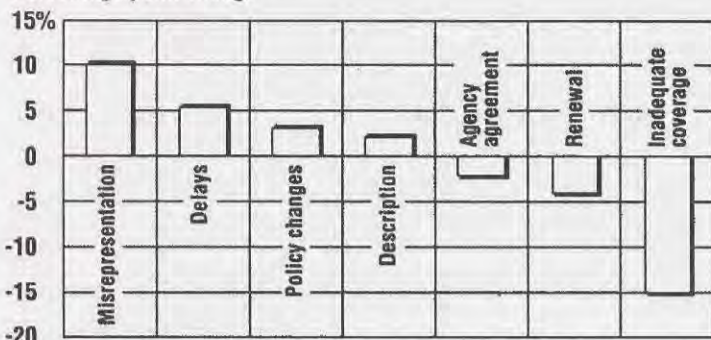
For example, personal auto coverage, which from 1984

Continued on next page

Hot spots

Figures represent the change in the portion of claims in each area of the IIAA errors and omissions program between a 1984-89 sampling and a 1990-92 sampling. Misrepresentation errors, for instance, increased to 21.6% of all claims from 11.6% in the earlier sample.

Percentage point change



Source: Employers Reinsurance Corp.

GRAPHIC BY A. TRANCHITA

E&O claims

Continued from previous page to 1989 made up 22.6% of Employers Re claims, dropped to 19.5% from 1990 to 1991—in part because many agents may be dropping the business, Mr. Fagerberg speculated.

Greater use of technology can also contribute to E&O exposures. Automation brings increased E&O exposures involving data ownership, said John Pottridge, vp of government and industry affairs for the PIA.

And customer service centers, a controversial topic for many agents (*A/BT*, Nov. 2), can theoretically create an E&O exposure because of the muddying of service responsibility and account ownership, Mr. Pearsall

Problem lines, old and new

Figures represent the portion of claims from each line in the IIAA errors and omissions program during 1984-89 and 1990-92. About a fifth of the claims in both samples were scattered among other lines.

Line of coverage	1984-89	1990-92
Personal auto	19.5%	22.6%
Commercial general liability	16.0	12.4
Accident and health	9.4	4.2
Homeowners	9.1	9.6
Workers compensation	7.6	6.2
Commercial auto	5.8	5.8
Commercial fire	5.1	9.3
Professional liability	2.4	2.7
Personal fire	2.4	2.6
Inland marine	1.4	2.3

Source: Employers Reinsurance Corp.

GRAPHIC BY JOHN HALL

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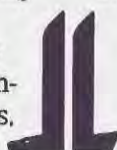
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said.

That is just an educated guess, though. Because only a few major insurers are using service centers in a significant way, the concept still is fairly new and its liability problems untested. So far Utica Mutual has not had any claims relating to service centers. But "agents will have to follow the service center agreement to a T" to avoid problems, he said.

Even with E&O claims against insurance agents increasing, observers see some light on the horizon.

Both Employers Re and Utica Mutual use their claims statistics as part of their agent loss control education programs. The IIAA and Employers Re have been conducting seminars since the

Educational efforts give E&O awareness 'a high profile' among agents, said Mr. Pearsall of Utica.

early 1980s, Mr. Fagerberg said.

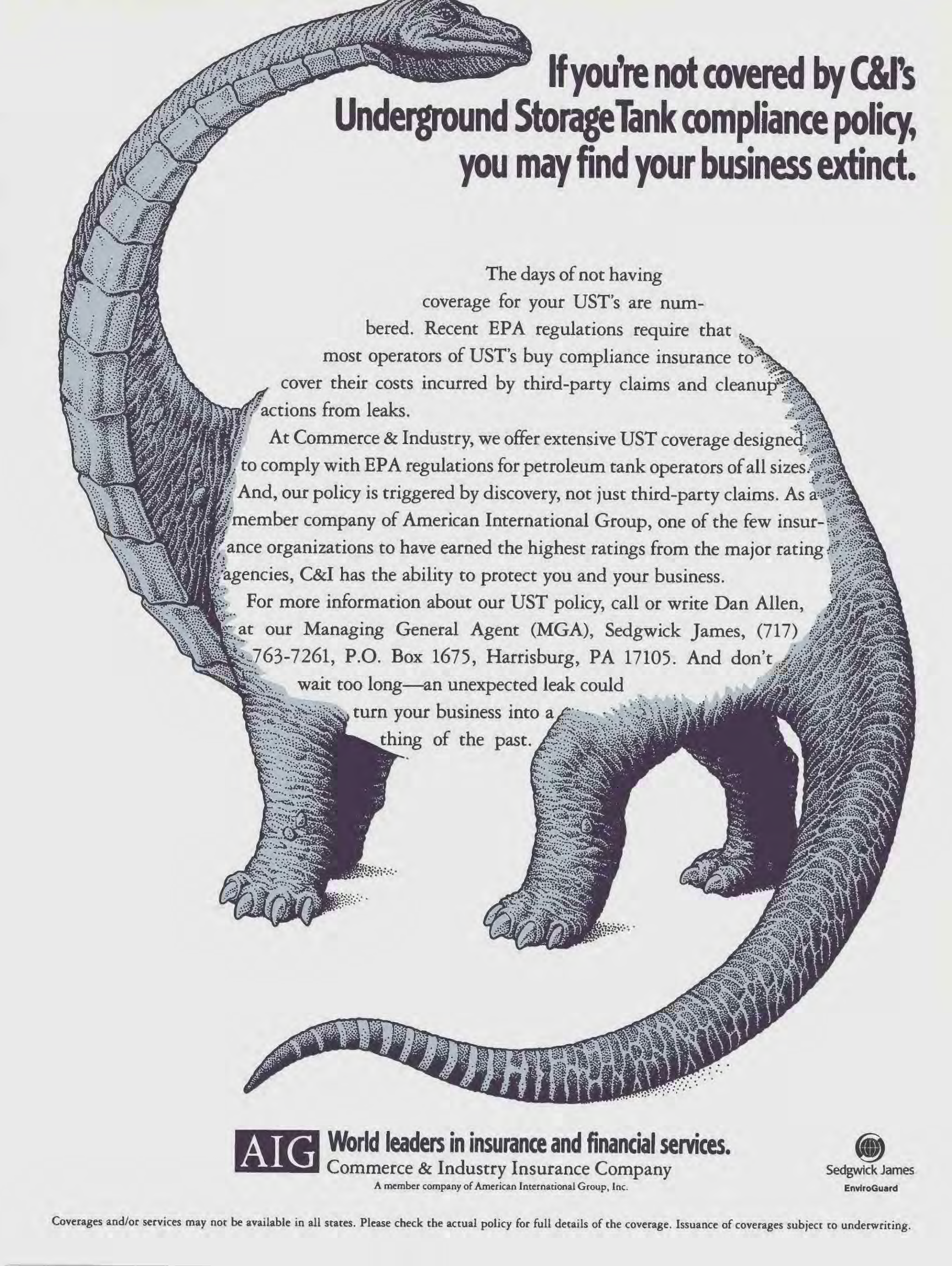
Educational E&O seminars focus on agency basics—from prospecting for clients, choosing an insurer for the risk and handling claims—with E&O loss control in mind.

"We basically look at all agency operations through the eyes of a potential claimant," he said. "Documentation, organization, knowledge of product, and timeliness are probably the main issues."

Such educational efforts give E&O awareness "a high profile" among agents, said Mr. Pearsall of Utica Mutual. More agencies are closely following documentation programs and internal procedures manuals to protect themselves in the event of an E&O suit, he said.

There is also more of a market for E&O coverage than in the past, Mr. Pearsall said. Over the past six to 12 months, more underwriters are choosing to write E&O, even for specialties like managing general agents and new agents, according to Mr. Pearsall.

He warned agents to be careful in choosing an E&O insurer, and urged them to opt for expertise rather than price. Both Utica Mutual and Employers Re have a long-standing presence in the market: Utica Mutual has been underwriting the PIA's program since 1966, and Employers Re has offered agency E&O coverage for 35 years. **BI**



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Insurer contracts can trigger E&O problems

By LAURA MAZZUCA

Agency/insurer contracts and commercial general liability forms are minefields of potential errors and omissions claims.

Both need to be carefully studied and negotiated, experts say.

Take "hold harmless" agreements in insurer contracts, for instance. Under these agree-

ments, agencies agree to assume all liability arising from the contract, even liability for the insurer company's wrongdoing.

With producers anxious about finding markets, many consent to these agreements in their contracts with insurance companies, observed Curt Pearsall, vp and manager of special programs for Utica Mutual Insurance Co.

Utica Mutual underwrites an agents E&O insurance program sponsored by the National Assn. of Professional Insurance Agents.

Some agreements would require agency owners to back up the contract with their own assets, not just those of the agency, said Mr. Pearsall.

"There has been a recent increase in the burden that many carriers are trying to place on agents," he said.

Under common law, an insurer is liable for its own mistakes. But that liability can be shifted by contract, said Rebecca Choi, executive counsel for the Independent Insurance Agents of America in Alexandria, Va.

That's not the worst of it for agencies. Not only could some agencies be opening themselves up to liability for insurer wrongdoing, but hold harmless clauses in insurer contracts can void many agency errors and omissions policies.

Many E&O policies have a clause excluding coverage for losses from liabilities incurred by contract, explained Mr. Pearsall.

Still, with markets hard for agents in some areas to find, many agents agree to those contract conditions.

Those same poor market conditions are also the driving force behind many contract changes by insurers, said Ms. Choi.

Over the past five years, insurers have been tinkering with several contract requirements. One noticeable change is shorter periods for contract cancellation. This makes it easier for insurers to move into promising markets and out of unprofitable ones, especially personal lines auto.

That added mobility can create problems for agencies. They can lose books of business when insurers withdraw and could be held liable for placing coverage with a company that later quit a

market, added Ms. Choi.

While at least 15 states have statutes dealing with contract termination, insurers in general try to offer agents the bare minimum in notice while still adhering to the law, she said.

Other E&O problems in insurer contracts stem from language concerning requirements like payment schedules, notice of policy cancellation provisions and other vagaries, Ms. Choi said.

Even the agency's E&O coverage can cause problems in insurer contracts that vaguely require "adequate" levels of E&O protection without defining what "adequate" is. Unless such questions are raised before the contract is signed, troubles can come up later if an insurer deems an agent's level of coverage inadequate, she said.

Insurers typically indemnify their agencies in at least two areas: processing and handling of direct billing accounts; and the reporting and disclosure required by the federal Fair Credit Reporting Act.

But indemnity in other areas, unless specifically addressed in the contract, is open to interpretation, Ms. Choi said.

This is not necessarily deliberate; much uncertainty is the result of bad drafting.

But with more suits being filed against insurers, insurers have been taking deliberate defensive action. They have been "narrowing the language" to more clearly define agent responsibility, Ms. Choi said.

Insurer suits against agents—for instance, those who exceed their binding authority—are also becoming more common, Mr. Pearsall of Utica Mutual said. "There are fewer accommodations for agents probably than ever before."

For agents facing E&O claims, he had a simple bit of advice: Rather than contact the involved insurer directly, contact your

E&O insurer and let the two companies fight it out. "The agent should never admit any kind of liability," he said.

The IIAA is trying to head off problems before they get that far. The trade group is offering to review contracts for agents or insurers to ensure "a somewhat more bilateral arrangement," Ms. Choi said. It also offers seminars on insurer contracting.

Contracts with insurers are not the only fertile grounds for E&O claims; insurance policies themselves can also cause problems.

Consider, for instance, 1992 changes to the Insurance Services Office Inc.'s commercial general liability form, which are now raising troubling questions for insurance agents.

Last year, ISO broadened its 1988 CGL contractual liability coverage to include defense costs for third-party contracts, said John Pottridge, director of industry affairs for the National Assn. of Professional Insurance Agents in Alexandria, Va.

But agents could have difficulty detailing in an underwriting submission all the third-party contracts of a business client, who may contract with dozens of suppliers or vendors. Agents could be liable if an undisclosed contract exposes insurers to liabilities.

The contract change, which was made in 50 ISO jurisdictions, would have to be withdrawn by each state insurance department.

In the meantime, confusion over the form's language is creating an E&O problem for agents, Mr. Pottridge said.

Until individual states act on the new form, the PIA advises agents to attach an additional client endorsement or issue an Owners and Contractors Protective Policy, and review all agreements with clients to ensure they clearly understand their defense and payment obligations. **EI**



When you're choosing an underwriter for your own errors and omissions coverage, should you insist on a fresh outlook or depth of experience?

PIA, NACSA to host global event

By LAURA MAZZUCA

WASHINGTON—The National Assn. of Professional Insurance Agents and the National Assn. of Casualty & Surety Agents will jointly host a 1993 meeting of insurance producers from around the world.

The Bureau International des Producteurs d'Assurances et de Reassurances—an international trade association of producer associations—will hold its 56th annual conference June 29-July 2 in Washington.

It will be the first time that BIPAR has met in the United States.

Both the PIA and NACSA are members of BIPAR, a "loosely connected federation of professional associations in Europe," primarily in European Community nations, said Patricia A. Borowski, vp of government and industry affairs for the PIA.

BIPAR, which was founded in 1937, represents all forms of professional insurance intermediaries, including exclusive company agents and independent brokers. Originally based in Paris, the group moved to Brussels, Belgium, in 1989.

The 1993 meeting, titled "Windows to the World," will focus on

doing business in the expanding international marketplace. As many as 900 people from Africa, Australia, Canada, Europe, Latin America and the United States are expected to attend, Ms. Borowski said.

Panel discussions and general sessions will examine regulation, consumer issues, technology, trade policies, cooperative ventures, professional liability, sales and marketing. Interpreters will provide French, German and Spanish translations of BIPAR programs.

Small to medium-sized independent U.S. agencies can benefit from involvement in BIPAR as a way to network with counterparts from around the world, said Ms. Borowski. The meeting gives U.S. agents a chance to develop relationships that will provide "reciprocal service and support for their clients," she said.

By forging relationships with agents around the world, U.S. agents can offer clients a broader array of services, products and competitive choices, she added.

This can help help independent agents compete with large brokers for small and medium-sized U.S. and European clients, Ms. Borowski added.

The PIA has been a member of

BIPAR since 1984; NACSA joined in 1991.

BIPAR's 1992 conference, held in October in Oporto, Portugal, dealt with educational and professional requirements for doing business in the United States, outlined by outgoing PIA President Daniel J. Blum.

The October meeting culminated in European members' agreement to put forward a proposed directive to the European Commission, which is the rulemaking body of the European Community, that would deal with education, licensing and registration of insurance intermediaries, Ms. Borowski said.

BIPAR, which favors regulation of insurance intermediaries, supports compulsory registration for qualified intermediaries and the establishment of a clear distinction between dependent and independent intermediaries. A dependent intermediary produces a substantial percentage of business on behalf of a single insurer or corporate client.

"The BIPAR topics are similar to issues in this country concerning MGAs and independent agents," Ms. Borowski said.

BIPAR's 1991 meeting in Lausanne, Switzerland, was the site for the development of these directives

Continued on next page

Coverage for computers adds up

Principals of Ohio agency are pioneers of policies for PCs

By LAURA MAZZUCA

Ten years ago, David K. Johnston was just another person who couldn't buy insurance for his home computer.

Today, as chief executive officer of Safeware, an agency in Columbus, Ohio, he's selling such coverage to the owners of microcomputers, laptops and anything else that technology can dream up to process data.

Safeware is the country's largest source of insurance for small-computer owners, said Mr. Johnston, providing protection against virtually all exposures. Premium volume is an estimated \$4 million.

The agency's "broad form" policy, designed by Mr. Johnston and Sherry L. Scott, Safeware's president and chief operating officer, is underwritten primarily by the American Bankers Insurance Co. of Miami. The policy covers everything except liability exposures, earthquake damage and theft from an unattended motor vehicle.

While a typical homeowners policy may provide coverage for the computer itself, the coverage generally does not cover software and the other computer elements used for business, Mr. Johnston said.

Safeware, through a network of agents and managing general agents, places coverage for 40,000 U.S. and Canadian policyholders. Half of the policyholders run businesses from their homes. Others include businesses that use microcomputers in specific departments, like hospitals and schools.

About 50% of Safeware's business comes from referrals. The agency also advertises in computer magazines and is endorsed by several computer-user groups, he said.

Safeware recently established a "Quick FAX Quote" toll-free phone line, which provides prospects with a non-binding fax quote.

Safeware's growth has paralleled the growth of the personal computer industry, Mr. Johnston said.

Back in the early 1980s, microcomputers were still viewed as something of a novelty or an expensive electronic toy. Setting up a business at home, with a computer as its centerpiece, was considered revolutionary.

When Mr. Johnson bought a home computer 10 years ago, he found it was excluded from his homeowners coverage.

BIPAR meeting

Continued from previous page (BI, July 1, 1991).

Regulation and registration of intermediaries is an especially controversial subject, since requirements vary so widely from country to country, Ms. Borowski said. In the United Kingdom, for instance, broker registration is voluntary. Other nations, like Germany and Denmark, do not regulate intermediaries at all.

And in Italy, government-employed postal workers can be made brokers—an aberration that BIPAR brought to the European Commission's attention for investigation after complaints from Italian agents, Ms. Borowski said.

Tax matters are another major topic. For example, a German resident had purchased an annuity pension program from a German insurer, then retired to Belgium, where the income was taxed at a

Ms. Scott, who was Mr. Johnston's agent at the time, was puzzled, too. As a commercial lines underwriter for a Columbus agency, she was familiar with placing coverage for large mainframe computers. But Mr. Johnston's new Atari 400 was too small to fit into this category. And "none of the homeowners policies available were ready for this," she said.

Mr. Johnston, who at the time was national director of quality assurance for Coopers & Lybrand's computer audit assistance group, wanted to use the computer to pursue his hobby of writing computer games, but he also planned to use it for business at home.

He reasoned that all computers costing more than \$500 would have business applications, and that if he wanted to use his computer for work as well as play, other PC owners might have the same idea.

With that in mind, Mr. Johnston and Ms. Scott researched the small computer market.

"We realized intuitively that they were going into homes or small businesses, and not just as game machines," he said.

They saw that PCs were a growth area, and that by providing coverage for these systems, they would be meeting a real need.

The two developed a policy: Mr. Johnston outlined the features, and Ms. Scott put them into an acceptable format, "cleanly designed and rated beautifully," he said.

The idea was so well constructed that the two landed an underwriter without even having any clients, Mr. Johnston said.

Policies for personal computer protection start at about \$49 per year; the average premium is \$100, Mr. Johnston said.

The microcomputer policy, based on an inland marine form, covers computers at home, in the office, or in transit. Coverages include loss from fire, theft, vandalism and water damage. Damage from power surges and other electrical disturbances are also covered.

Over the years, the coverage has been expanded to include insurance for travelers abroad, and to cover new products like laptop computers, fax machines, portable copiers and related equipment.

Not surprisingly, these broad coverage terms have brought many odd claims.

For instance, there was the "kitty

litter" claim, in which a policyholder's befuddled feline mistook a box of software for its cat box. "That's a good example of broad-form coverage," Mr. Johnston said.

Another Safeware client came up with "his own version of 'the dog ate my homework,'" when the family dog knocked his computer into a

swimming pool, he said.

As people flocked to buy home computers, Safeware's sales boomed during its first five years.

Although that growth has tapered off since then, today's larger and more complex computer systems are worth more, Mr. Johnston said. Most of Safeware's existing clients enhance their coverage to reflect these improvements, he said.

Admittedly, low premiums keep Safeware hopping to turn a profit. "A lot of agents think they can write this coverage and make money, but it isn't easy," Mr. Johnston said. "You really have to do a lot to make money in this business." But Safeware's principals have no intention of getting into other lines of business.

Over the past year or so, the recession put a crimp in the sale of personal computers. But things are starting to pick up again, said Ms. Scott. **BI**



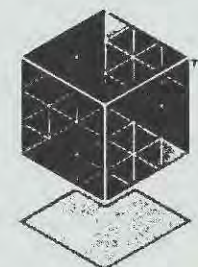
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higher rate than if the man had bought the annuity from a Belgium insurer. BIPAR objected to the European Commission about such taxation, and the issue now is before the World Court, Ms. Borowski said.

BIPAR recommendations to the European Commission are similar to when the National Assn. of Insurance Commissioners develop a model act and present it to states for adoption, Ms. Borowski observed. However, once the commission passes a directive, countries belonging to the European Community are required to adopt it into their national laws—as opposed to the United States, where states voluntarily adopt NAIC model acts.

For information about BIPAR or the 1993 meeting in Washington, call or write to BIPAR, Avenue Albert-Elisabeth 40, B-1200, Brussels, Belgium; phone: 322-735-6048; fax: 322-732-1418. **BI**

APT software

Continued from previous page
 require from agents, and put it into ACORD standards, Mr. Cutro said. The software, which runs on personal computers and is menu-based, receives and prints data from participating agency systems. The software allows insurers to send the same set of requirements to any agency customer of any APT vendor which has purchased the agency module.

For example, an agent using an AGENA automation system could send Travelers all the unique information the insurer requires for a business owners policy and enter the same data into the AGENA system simultaneously, thus eliminating the need for multiple data entry.

After the data is entered, it can be sent to other insurers either through the IVANS network or by

diskette in the mail.

For insurers, the APT system is beneficial because it allows them to send their unique data requirements to all participating automation firms rather than individually contracting with each firm.

Insurers can update their data requirements as needed simply by sending revisions through the IVANS system to the agency vendor system.

The stand-alone software product now being tested is designed to allow agents without APT vendor systems to capture insurer-unique data, apply insurer edits, and send ACORD transactions back to the insurer either through the IVANS network or by mailing diskettes, Mr. Cutro said.

Designed for compatibility with the agent's existing vendor system, the agency program will allow processing of insurer-specific requirements transmitted from the insurer program. The information sent from all participating agency automation systems will conform with each insurer's usage of the ACORD standards.

The agency product, which will be released to APT vendors for direct sale to agencies, is expected to be available by July, Mr. Cutro said. Initially the system will be used only for homeowners and personal auto business, but commercial property/casualty applications will follow sometime this year, he added.

Insurers involved in the development of APT interface systems are

enthusiastic about the progress made in 1992.

Before APT, insurers interested in offering single-entry, multiple-company interface had to negotiate separate development projects with each automation vendor, said Craig Heere, director of agency automation for Fireman's Fund.

"Obviously, this was one of the cost factors that has hindered the rapid expansion of SEMCI," he said.

With the APT, insurers can electronically communicate with eight vendors—and all their users—with the single program, he said.

Fireman's Fund, an original APT member that had already developed an insurer system through Applied Systems software, is currently testing the stand-alone product.

The program uses roughly eight screens, which correlate with the groupings on an ACORD form. Categories include general information, coverage, rating, underwriting, optional endorsements and binder information, Mr. Heere said.

The insurer-unique screen, which appears at the end of the process, contains about six questions particular to Fireman's Fund, so "we're not adding a significant amount to the ACORD form," Mr. Heere said.

"Help" tables are available behind each screen to assist with data input.

Because the APT format uses "graphical user interface"—meaning it looks like an ACORD form on the screen rather than a text-based program—it is easy to work with and lends itself to use by agency principals, customer service representatives and producers, Mr. Heere said. Agencies using proprietary interface systems with several insurers are at a disadvantage because there are usually only a few people in the agency who know how to operate all the systems, he said.

The ideal for agencies is to use interface technology the way travel agents do—accessing information from many airlines to serve the client. "That's what we're trying to do, so the agent makes his decision based on the needs of the client," Mr. Heere said.

After the stand-alone pilot is up and running, probably by the second quarter of this year, agencies using the stand-alone program will be able to take homeowner information on the ACORD form, apply the unique Fireman's Fund information and transmit it back to the insurer, where it is reformatted into its system "with little or no human intervention," he said.

APT members pay a one-time fee based on the company's size, Mr. Cutro said. This fee can range from \$5,000 to \$50,000, he said, but is recovered through subsequent soft-

ware purchases.

Members are committed to the concept of SEMCI and the development of software to make it a reality, Mr. Cutro said.

But they have not always been committed to the APT. Continental Insurance Co., for instance, waited until June 1992 to commit, joining only once the APT "convinced us they had the talent to do it," said Michael R. Gannon, vp and national business center officer.

Joining the association meant a commitment to piloting and testing the products, and Continental has been testing the insurer system for homeowners coverage since October 1992.

"The beauty of this is that it allows agents to work with the systems already in place" rather than having to develop a whole new system, Mr. Gannon said.

In today's competitive market, agents and their insurers must become more competitive, and SEMCI is the key to success, he said.

"We're looking at this as a way to strengthen the independent agency system, to make it more competitive," he said. "To be successful, agencies will have to have SEMCI."

As other insurers become committed to the group, new interface technology will become a reality, Mr. Gannon said. **EI**

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Business Insurance

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Continued from previous page
tion while it lasts because this renewal period may be the last soft market they see for quite some time.

"Now the insurers are only talking about their 1992 storm losses, but when the annual reports come out and these property losses are right there in black and white, we could see some catching up on the casualty side," he predicted.

But for the time being, rates for virtually all casualty lines—with the exception of directors and officers liability and certain professional liability coverages—are competitive, with rates remaining flat in many cases and continuing to plummet in others, brokers say.

"Umbrella coverages are dropping by 25% or more. It seems as though the already tremendous amount of capacity for umbrella is growing," said David Thompson, vp and casualty manager with J&H in Chicago. He said no casualty writers appear committed to raising rates. "There's no consistency in (casualty) pricing."

M&M's Mr. O'Sullivan also commented on the lack of an underwriting pattern among liability insurers. "If you listen to the people in the industry, they seem to think that the market is in transition. We think it's erratic, with an anecdote available to support any position you want. Personally, I think the casualty market will remain soft for some time."

A sampling of reports from various brokers would indicate that there is no significant pattern in the liability market. Rates vary by specialty and loss experience, and rates also are fluctuating depending on whether the account is renewing or is being pursued on a first-time basis.

"Overall, things are pretty hectic and the buyer understands this," said A&A's Mr. Jones. "D&O is up 5% to 10%, liability for the petrochemical industry is almost nonexistent and aviation and marine rates from London have steadied after huge increases last year."

Other brokers also say D&O rates are climbing by 10% or less.

"Increased capacity from offshore facilities has kept D&O rates relatively stable except for banks, which are seeing rate increases ranging from 5% to 25%, said Lawrence Drake, managing director with M&M.

Mr. Ruoff said D&O and errors and omissions coverage are "fine unless you're a financial institution, and then you may have some trouble getting good terms."

Robert Hilb Sr., president of Hilb, Rogal & Hamilton Co. in Glen Allen, Va., said all casualty pricing is relatively unchanged compared with a year ago, "except for anything coming out of London."

Aviation, D&O, E&O and special trucking liability programs written in London are all experiencing 25% to 50% rate increases, Mr. Hilb said.

Meanwhile, professional liability coverage for lawyers is slightly more expensive this year for smaller firms and about 25% more costly for large law firms that do some work for the financial industry, said M&M's Mr. O'Sullivan.

However, Mr. Marks of MLW Services said that lawyers and accountants professional liability policies with limits below \$5

million are "still competitive with some price cutting."

Above \$5 million is another story. "It's tough to find excess limits. Nobody wants to be on the hook for a major settlement or another S&L crisis," Mr. Marks added.

"Professional liability coverage for accountants is tightening in light of the Ernst & Young \$400 million settlement," agreed Mr. Ruoff. "But medical malpractice insurance for doctors and hospitals has stabilized after a few years of price reductions."

Brokers agree that general liability capacity is plentiful at the primary level and all layers of excess coverage.

"Limits up to several hundred million are no more expensive now than they were six months ago. Terms and prices are no trouble, especially if we shop," Mr. Ruoff said.

John Van Osdall, chairman of ANCO Corp., a Houston-based brokerage, said that rates for low-level excess liability coverage are up about 5% in the Southwest, while high-level ex-

cess rates are up by less than 5%.

"Excess coverage is still going for about \$1,000 per \$1 million in coverage. That's pretty cheap," said Mr. Jones of A&A.

Workers compensation, meanwhile, continues to be a problem in most states. One broker said so little fully insured workers comp coverage is being written voluntarily that it has freed up large amounts of capital for other lines of business.

"Employers are going to large deductibles and self-insurance, which has freed up a lot of capi-

tal, but has reduced gross premiums for the insurers," according to Bruce Dunbar, chairman and CEO of McGriff, Seibels & Williams Inc. in Birmingham, Ala. "The workers comp problem may actually be driving the whole market."

"Workers compensation is undesirable in most states," said Mr. Thompson of J&H. "Maine, Louisiana and Rhode Island are states insurers are still leery of. Only in Texas is the situation more positive."

Continued on page 26



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Wrap-up plans—unveiled

By Delmer Ison

THE TIME HAS COME TO drop the curtain on the subject of wrap-up insurance.

The debate should center not on *whether* the wrap-up concept should be utilized but on *when* to utilize it.

Wrap-ups, also known as "owner-controlled insurance programs," are package plans coordinated so as to be applicable to all liability risks. A wrap-up policy can cover all contractors working on a specific job, for example.

Any analysis of the potential advantages of the OCIP approach should be made from the owner's perspective. It's the owner's money that's at stake and it's the owner's interest that should be protected.

There are many benefits available by using an OCIP:

- The owner has complete control over all elements of its insurance, safety and claims programs.
- Significant savings in premium costs can be achieved through volume buying.
- The owner can establish a fully coordinated, project-wide safety program.
- Claims administration is simplified.
- Uniform insurance coverage, with the highest limits, is provided to all entities involved.
- The possibility for overlapping and duplicative insurance coverages is eliminated.
- The owner avoids the risk of having insurance policies of individual contractors canceled.
- Completed operations insurance, with uniform limits, can be provided to all entities for a fixed number of years.
- Small and disadvantaged contractors are able to participate in the project.
- The owner may be immune from third-party lawsuits brought by injured workers on the project.
- The owner is able to establish a medical management program to control medical costs.
- The owner may establish an elaborate risk management information system.
- The owner may enjoy big cost savings.

As to disadvantages, there is one facet of an OCIP that should be aggressively addressed by the owner. Since the owner provides insurance protection for the contractors without any cost to them, it can be argued that there is little incentive for the contractors to perform safely.

To overcome this, some owners have instituted safety incentive programs that give cash rewards to contractors for a good safety record and penalize for a poor record.

In the early stages of construction of the Washington, D.C., commuter rail system under an OCIP, the number of workers compensation claims skyrocketed. The Washington Metropolitan Area Transit Authority concluded that something had to be done to motivate the contractors to adopt a policy of the most stringent enforcement of all applicable safety provisions.

The WMATA instituted a safety program that provided a monetary incentive tied to a safety-performance goal.

Under the program, a contractor stood to earn a significant reward at the contract's conclusion if the incidence rate for lost-time accidents was below the incidence rate specified in the contract. Conversely, a higher lost-time incidence rate would result in withheld monies due the contractor.

The "incidence rate" to be specified in the contract should be a rate that is representative of the average for the construction industry for that type of job. Some owners have elected to utilize the national average incidence rate as the "base rate." When the WMATA introduced its safety incentive program the national average incidence rate for heavy construction was about 6.4. The incidence rate is calculated in accord with the federal standards.

One-stop coverage offers big savings in building projects

For each decimal fraction the incidence rate is reduced below the base rate, the contractor will earn award money, the amount to be determined by the dollar value of the contract. Similarly, if the incidence rate is above the assigned base rate, the contractor will be charged.

Results of the WMATA incentive program were phenomenal. The workers comp lost-time incidence rate decreased by 83% for the nine-year period ended 1986. At year-end 1986, the lost-time incidence rate was reduced from over 7.0 in 1978 to 2.8 in 1986. The national average at that time was about 6.4.

For the nine-year period it was conservatively estimated that the safety incentive program had saved the WMATA more than \$53 million. Of 84 total completed contracts, 81 contractors received award money and only six did not receive the full amount. Only three contractors had to pay a penalty. For every dollar paid out in award money, savings in comp claims averaged about \$9,000.

When should an owner choose an OCIP for a construction project? In discussing the subject, one will frequently hear that the project should cost at

Some argue that there is little incentive for the contractors to perform safely. To overcome this, some owners have set up safety incentive programs with cash rewards and penalties.

least \$50 million or \$100 million, be of five years duration, and so on.

Following are some of the questions that a risk manager should ask when deciding whether or not an OCIP is justified:

- Will the project require at least five contractors, including subcontractors?
- Is the owner required to provide participation for small and/or disadvantaged contractors?
- Is the exposure to loss such that rather high insurance limits will be required?
- Will the project require a minimum of three years to complete?

If "yes" is the answer to all of the above questions, then an OCIP is justified without regard to total cost. However, it is unlikely that any project meeting the above criteria would come in under \$75 million.

The mere establishment of an OCIP does not guarantee that numerous benefits will be realized by the owner. It is more appropriate to state that an OCIP provides the owner opportunities to achieve these benefits. In order to cash in on these opportunities, a number of steps must be taken at the outset.

First, the risk manager should have an adviser who has had hands-on experience in establishing, implementing and administering OCIPs.

Unless management, including the board of directors, has already been sold on the OCIP approach, the risk manager should do this necessary homework up front. The adviser can be of great assistance in performing this task.

After management has signed off on the OCIP approach, the next step to be taken by the risk manager is to select an insurance broker, who will ultimately play a major role in establishing, implementing and administering the OCIP.

In large construction projects, it is the general

practice of owners to utilize the request for proposals approach in making the broker selection. Some owners have chosen the simple "broker of record" letter approach. Preparation of the RFP is an appropriate function for the risk management adviser to perform, coordinating efforts with the risk manager.

The RFP should include the functions to be performed by both the broker and the primary underwriter. Also, the RFP should require the selected broker to provide a full-time safety coordinator. The broker should have experience working with OCIPs.

Following the selection of the broker, the underwriters are selected.

One of the broker's first tasks is to prepare the marketing package—also known as the underwriting submission—for placement of the insurance required under the OCIP. The underwriting submission will be served on potential underwriters and will be the primary basis for underwriter selection.

The underwriters have an important role to play in the OCIP. In addition to providing the insurance coverage, they must become very active in implementing the safety program, the claims management program, developing the risk management information system and other functions.

The primary underwriter—the underwriter of workers comp and, generally, the primary layer of general liability coverage—should be required to furnish a loss control engineer, on an as-needed basis, and to perform a minimum number of inspections per week or month. The loss control engineer will make periodic safety inspections and assist the owner and the contractors in implementing the project safety program. On very large projects, the loss control engineer should be full-time, and the size of the project could dictate that more than one loss control engineer be assigned to the project.

The underwriter should have a solid background and experience in underwriting OCIPs. The risk manager's adviser should play a key role in the selection of underwriters.

Next, the risk manager should consider the importance of using the retrospective rating plan approach in placing the workers' compensation insurance.

The retrospective rating plan enables the owner to cash in on the dividends resulting from an effective safety program. If the owner is aggressive in pursuing safety, the payoff is dividends—as can be verified by the risk manager of the Regional Airport Authority of Louisville and Jefferson County, Kentucky.

The airport was engaged in a major construction project. However, it wasn't clear whether workers compensation insurance could be written in Kentucky under a retrospective rating plan or whether a single insurance policy could be written covering all contractors involved in the project. The risk manager wanted both.

I was engaged as a risk management consultant to assist the risk manager in establishing an OCIP for the airport project. The risk manager asked me to look into the situation and to not leave any stones unturned.

The first thing I did was to review the rating manual issued by the National Council on Compensation Insurance as it related to the Kentucky filings. Lo and behold, I found the

Continued on next page

Delmer Ison is a risk management consultant in Pinehurst, N.C. Mr. Ison, who was risk manager of the Washington Metropolitan Transit Authority from 1971 to 1987, was named to Business Insurance's 1986 Risk Management Honor Roll, representing government entities.

Modern innovations help small firms, too

By The Insurance Institute of America

The following question and answer are drawn from the curriculum for the Associate in Risk Management designation awarded by the Insurance Institute of America. They represent the type of questions asked—and the possible answers to—the three examinations for the A.R.M. designation.

This month's exercise, drawn from a recent national examination in ARM 55—Essentials of Risk Control, explores how even a firm as small as a local grocery store chain can use modern innovations in loss prevention, including perhaps a computer-based risk management information system, to improve its level of safety and its profitability.

Q: Ben, the founder of the Superior Grocery Co., opened his first store after returning from the Korean War. The company, which has remained a sole proprietorship, has prospered. Ben is now ready to retire, to be succeeded by his daughter, Tina. SGC operates eight stores within a Midwestern metropolitan area.

Tina holds college degrees in business administration and safety management. With this background, she is keenly aware of some of the general management and risk control challenges faced by SGC. Tina believes that SGC should install a central computer to provide fast and accurate financial operating results on each store's activities. She hopes this computer could also be useful in gathering and analyzing data on the company's accidental losses, especially those arising from injuries to each store's employees. Tina also recognizes, however, that the computer would create new risk control problems for SGC.

Merchandise often arrives on the loading docks of SGC stores in large containers. Hand cuts and back strains appear to be the most frequent and significant injuries suffered by the SGC employees who prepare the merchandise for sale. How would the underlying causes of these employee injuries be explained and eliminated through accident prevention programs based on each of the following theories of accident causation and control?

- The Technique of Operations Review system.
- The energy-release approach to accident causation and control.
- The general methods of industrial hygiene control.
- The domino theory of accident causation and control.

Ben believes that installing a centralized

A.R.M. exercises

computer to track the stores' operating results will generate greater costs than benefits for the company, primarily by creating greater exposures to accidental loss.

Tina believes that, on the contrary, the benefits stemming from the computer system would greatly outweigh the additional losses to the company. Describe a proper procedure by which Ben and Tina could resolve this difference of opinion.

A: Note: Each of the theories of accident causation and control given in the question have numerous applications to preventing hand cuts and back strains among the loading dock employees of SGC stores. Therefore the following only illustrate the many correct answers that would have earned full national examination credit.

- The TOR system of accident prevention assumes that all accidents are due to failures of senior, middle and supervisory managers to fulfill their responsibilities in coaching employees, assigning clear responsibility and authority, supervising subordinates, maintaining orderly workplaces, planning and organizing departmental activities, or overcoming their own personal deficiencies.

For example, the work injuries to SGC loading dock employees could be caused by the failure of Ben or of the manager of each store to clearly delegate responsibility for loading dock safety to particular supervisors or by these supervisors' failure to keep loading dock areas clean and orderly, free of tripping hazards or other danger. Under TOR, Ben or the other managers should correct their own behavior to improve loading dock safety.

- The energy-release approach assumes that accidents arise whenever a source of energy present in a workplace is improperly controlled, allowing the release of that energy to impact a structure (or a human being) that cannot withstand the impact of that energy.

The energy-release approach emphasizes various strategies for better control of these potentially harmful energy sources, better protection of the structures this energy might damage, and prompt action to control the effects of any escaped energy.

For example, the weight of the containers being moved in the loading dock area could be reduced (thus limiting the buildup of the gravitational energy their weight represents.)

Another application of the energy-release theory of accident causation and control would be to

require loading dock employees to wear gloves, thereby placing a barrier between their hands and the possibly sharp edges of the containers they must move.

- The general methods of industrial hygiene control consist of actions that have proven useful in protecting employees from harmful substances they often inhale, ingest, or absorb through their skin in many workplaces. Several of these general methods, such as improved ventilation or the substitution of less hazardous substances in workplaces, would have little application in a SGC loading dock.

However, such industrial hygiene control methods as changing operating procedures (by, for example, mechanizing the process for moving) or scheduling rest breaks to reduce employee fatigue, could help protect loading dock employees.

- The domino theory is based on the premise that accidents are the end result of a causative sequence that begins with deficiencies in the personal backgrounds of employees or their supervisors which, in turn, lead to unsafe acts or conditions and then to accidental events that culminate in property damage or bodily injury.

Thus, the domino theory would attack loading dock injuries through more careful selection of employees, more complete training to teach employees to lift or cut safely, and consistent discipline of any employee who violates the company safety rules.

Note that this question does not call for a decision about whether a computer-based tracking system would improve safety in SGC stores. Instead, the question deals with the process for deciding whether such a system would have such a result.

To resolve their differences, Ben and Tina should first identify what they agree would be the relevant costs and benefits of a centralized computer to track their stores' operating results and accident experience. They should then gather the data that they agree is relevant for several accounting periods until they have enough information to reach an informed conclusion.

Finally, they should total the pertinent costs and benefits and agree to institute a computerized system if it then becomes apparent that the benefits would significantly exceed the costs. **BI**

The sample questions and answers used in this column are taken from the Associate in Risk Management designation curriculum of the IIA. For more information on the content of the A.R.M. program, write Dr. G.L. Head, Vp, Insurance Institute of America, P.O. Box 314, Malvern, Pa. 19355.

Wrap-ups

Continued from previous page following note in the manual:

"All references to Wrap-Up construction projects in this Manual are not applicable in the following states:" Kentucky was one of nine states listed.

In another section of the manual, it appeared that even if Kentucky could utilize the OCIP, it could not utilize the retrospective rating plan.

It also appeared that a single insurance policy, covering all contractors and subcontractors engaged in a single project could not be issued in Kentucky.

I advised the risk manager of my findings, which led to a number of meetings with the Kentucky insurance authorities. The authorities were briefed on the benefits of the OCIP and the potential cost savings that would benefit Kentucky taxpayers.

After several meetings with the Kentucky authorities, we obtained

approval to use the OCIP in Kentucky; use the retrospective rating plan in obtaining workers comp insurance; and issue a single comp policy covering all contractors and subcontractors engaged in the project.

When it is in their best interest to do so, states will go that extra mile to cooperate, as Kentucky did.

Once the authorities realized the extent of the potential savings under the OCIP, they approved our request in about three days. As a result, the OCIP for the airport improvement program will save Kentucky taxpayers a minimum of \$5 million in insurance costs.

No program is more important to the realization of the benefits available under the OCIP than is the owner's project safety program, which is not to be confused with the contractor's safety program.

The contractor's safety program contains safety requirements to be

observed by its employees and the employees of its subcontractors. The requirements for safe conduct and safe practices, like the requirement to wear hard hats, are included in the contractor's safety program.

The owner's safety program consists primarily of safety and reporting procedures. It defines responsibilities of the various entities and personnel having safety responsibilities.

The owner's project safety program should be prepared by the owner's risk manager and/or the risk manager's adviser. This task should not be delegated to anyone else. As noted earlier, one of the major advantages of an OCIP is that it gives the owner control over insurance and safety. The best way to exercise control over safety is to put those controls in the owner's project safety program.

It is general practice for an OCIP to be written "for the life of the project." If the owner is to reap the full benefits

available under the OCIP, continuity in the membership of the OCIP team over the life of the project is important.

Assuming that high standards of efficiency and reliability are met, it is usually taken for granted that the broker and the underwriters will be members of the team for the life of the project. It is particularly important to maintain continuity in the positions of the owner's safety engineer, the underwriter's loss control engineer and the broker's safety coordinator.

If an OCIP is properly established and efficiently administered, the owner should realize savings in insurance costs, resulting from fewer claims, of between 25% and 50% compared to the cost of a conventional insurance program.

The owner cannot afford to forego these savings—even if there are perceived disadvantages to the OCIP approach. **BI**



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Brokers

Continued from page 21

Mr. Van Osdall, based in Houston, agreed: "Our comp rates are starting to come down. It's a real driving force here."

Rates for surety bonds are stable, but brokers report that surety capacity is plentiful and underwriters are just waiting for the economy to improve more before unleashing more surety capacity.

"The poor economy has hurt contractors' balance sheets, so coverage has been unfavorable" to insurers, said Mr. Guthart of Kaye Associates.

"I know the surety writers want to write more because they have the capacity. They're just waiting for the right time," he said.

Surety appears to be "coming back after some real poor loss years," Mr. Ruoff said. "The market's back, capacity is there and pricing is reasonable to favor."

Some brokers say long-standing clients appear to be getting better deals than newcomers, which may indicate that the market is preparing itself for a hardening.

"Property renewals are cer-

tainly going more smoothly for those insureds that have developed a long-term relationship with their insurers. They're much more likely to get an as-is price," commented J&H's Mr. Sikora.

"Continuity with the insurers appears to be serving our clients well," added Mr. Sorensen.

"In casualty, long-term clients are being accommodated in al-

Surety appears to be 'coming back after some real poor loss years,' according to Charles Ruoff.

most every way except for workers comp, which is its own problem," said Mr. Miller.

But other brokers disagreed.

Mr. Thompson of J&H said long-term relationships between policyholders and insurers aren't worth much in the casualty area. "The casualty market is still very negotiable. Insureds have the opportunity to find the terms and conditions they want at good prices."

And, Mr. Dunbar said casualty renewals are coming in "slightly down," while rates for new business are "significantly down."

Anticipation of a possible wide-scale market hardening is spurring interest in alternative risk financing mechanisms, several brokers said.

"There seems to be a tremendous amount of interest in alternative markets, which could have a negative impact on the market as a whole," said Mr. Gallagher. "There are thousands of risks just waiting for any sign of a market turn to go self-insured. This can only cause further underpricing."

Brent LaGere, chairman and CEO of LaGere & Walkingstick in Chandler, Okla., said a complete turn of the market would cause an exodus toward captives and self-insurance.

"If the cycle comes, we will see a lot of business move that way," he said.

Only property is safe from alternative markets, said Mr. McKinley of Jardine.

"Property doesn't lend itself to alternatives. It's tail is too short. These people will just have to pay the price and maybe take higher deductibles," said Mr. McKinley. **BI**

Risk managers

Continued from page 1

of Marriott Corp. in Bethesda, Md.

That correction will be short-lived, Mr. Davenport projects.

"If there's not a gross over-reaction, the market ought to settle down" by next year, said Mr. Davenport, though "rates are probably stuck at a little higher level for a few years."

Higher rates have already struck Marriott, which is renewing its property coverage for about 500 domestic hotels at a "moderate increase," Mr. Davenport said.

"We are seeing an increase in line with both our history and changes in the market," Mr. Davenport said.

Allendale Mutual Insurance Co. writes Marriott's property coverage.

Losses at Marriott properties this year, including waterfront properties in Florida, contributed to the rate increase, he said.

"It's difficult to argue with the need for an increase," Mr. Davenport continued. "Based on the factors, we are not shocked."

One risk manager who was shocked by rate increases and lack of available coverage was Christina Swanson, director of insurance and risk management for the Hillsborough County School District in Tampa, Fla.

While Tampa was left unscathed by Hurricane Andrew, the district faces a 50% rate increase for property insurance—after scrambling for coverage.

The district wanted to maintain \$200 million in limits, including a \$20 million sublimit for flood exposures, on its \$1.1 billion in property, Ms. Swanson said. The district owns and operates 180 sites, including schools, offices, special education, and early childhood centers and maintenance facilities.

After the district's current insurer, Travelers Corp., offered only one-eighth of the coverage at nearly doubled rates, Arthur J. Gallagher & Co. in Miami approached more than 20 insurers to place the coverage.

"Insurance companies just are not interested in writing in coastal flood areas," Ms. Swanson said.

Chubb Corp. offered to write a \$100 million primary layer and another \$100 million divided between two excess layers. However, Chubb withdrew the offer as the risk management staff was preparing to present it to the school board, Ms. Swanson said.

"The withdrawal put us in a very embarrassing position. It was on the agenda and we had to remove it. Chubb is a big business. It should have been able to stand by its offer."

The district has since purchased a policy from Northbrook Insurance Co., a unit of Allstate Insurance Group, paying \$10.4 million for \$200 million in coverage with a three-year rate guarantee. However, that represents a 50% rate increase.

Risk managers without exposures in hurricane-plagued Florida anticipate a more gradual market turn. Many are enjoying flat or even continued soft market conditions.

"I hear a lot of talk, but I haven't seen much change in pricing," said Tom Hugdahl, manager of insurance at Minnesota Mining & Manufacturing Co. in St. Paul. "It's still a stable market."

3M's liability insurance will

renew Jan. 1 with a rate increase of less than 5%, he said.

The manufacturer will maintain its limits of \$24 million above a \$1 million deductible with The St. Paul Cos. Terms and conditions remain the same.

Aircraft product liability and directors and officers will also renew Jan. 1 with "very moderate increases," Mr. Hugdahl said. He also foresees increases when 3M renews its property program on July 1 and its excess liability coverage with ACE Ltd. and X.L. Insurance Co. Ltd. on June 1.

"I expect (summer) renewals to see continued hardening in the property market," Mr. Hugdahl said.

David W. Eaton, manager-risk and insurance at Bandag Inc. found a continuing soft market in January renewals.

"We were lucky in '92," Mr. Eaton said. "In '93, prices will be tighter, but nothing drastic."

The Muscatine, Iowa-based manufacturer renewed umbrella liability coverage with a 5% to 10% rate reduction and same terms.

Bandag's Jan. 1 international property policy is renewing as expiring. However, that may be due to early negotiation, Mr. Eaton noted.

"If we had waited until (December), maybe we would have seen more increases," Mr. Eaton said. "I have seen and heard of rate increases in the 25% area."

Also, Bandag is expanding overseas. "We gave (the insurer) a lot of additional business," Mr. Eaton said. "They are happy with our loss control activities and we gave them more volume, which offset a price increase." Bandag's international liability rates increased 5%.

Risk managers are anticipating more difficulty with renewals later this year.

Terry Moulder, pension and risk manager for Teleflex Inc., has already met with a representative of Allendale, which underwrites Teleflex's property insurance that expires Feb. 28.

"He told me their reinsurance treaties are increasing," Mr. Moulder said. "That probably spells an increase (in primary rates). It will trickle down to retail sooner or later, probably sooner."

Risk managers found underwriters asking more—and more detailed—questions about specific risks. That surprised some, who fielded questions from excess insurers and others protected by huge deductibles.

"Underwriters are more interested in the windstorm exposures," Marriott's Mr. Davenport said. "They want to look at the construction of buildings in those high-risk areas."

"Excess carriers are asking questions about building construction they never asked before," agreed Bandag's Mr. Eaton. "Before they just looked at the exposure and the location."

In the next year, "all carriers will be more selective where they spend their capital," Mr. Eaton continued. "Only companies with solid risk management and loss control programs will be able to get good deals in the market."

Home offices of insurers seem to be exerting more pressure on renewals than in the past, said David Adler, risk manager for The Portman Cos. in Atlanta. The home office of Portman's workers comp underwriter issued an edict to offer no sche-

Continued on page 28

NEW

NEW

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- Wide Range of Limits of Liability
- Wide Range of Deductible Options
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- First-Aid Coverage Included
- Coverage for "Moonlighting" Included
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- Retroactive Dates for Claims Made and Occurrence
- Insured's Right to Select Legal Counsel
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Risk managers

Continued from page 26
 dued credits regardless of loss history, he said.

Mr. Adler also fielded questions about the development company's financial stability due to the company's involvement in the sagging real estate market.

"Underwriters have legitimate concerns that they are dealing with financially sound companies," Mr. Adler said. However, risk managers should also question their insurers' solvency, he added.

Portman is facing a 34% increase in workers compensation rates, though it has evaded increases in recent years with an excellent loss history and an experience modifier of just 0.68.

Portman's current workers comp insurer is The Home Insurance Co., but a bid from Fireman's Fund Insurance Co. is being considered. "They were one of the few who would give us a monoline proposal," Mr. Adler said.

Risk managers disagree over whether hardening in the property market will result in tighter casualty rates.

"I don't think it should affect the casualty market," Marriott's Mr. Davenport said.

If property rates increase, liability rates won't necessarily follow, agreed Cheri J. Hawkins, assistance treasurer and director of insurance for Weyerhaeuser Co.

Mr. Adler, though, predicts that a change "will start in property, (but) casualty will not be far behind."

"I think an awful lot of the property problems hit in personal lines," Ms. Hawkins said. "We are not experiencing a tightening of markets at this point. However, we understand it is prior to treaty renewals."

Tacoma, Wash.-based Weyerhaeuser renewed its D&O policy on Jan. 1 with a small reduction in premium and expiring terms and conditions. National Union Fire Insurance Co. of Pittsburgh, Pa., continues to lead the coverage.

Weyerhaeuser renewed its domestic and Canadian general liability policies on Nov. 1, also with the same rates, terms and conditions.

One factor that influenced the favorable D&O renewal was that Ms. Hawkins met with insurers on the program prior to negotiations. "We did a 'state-of-the-company message' with the underwriters directly," she said. "It helps to have that face-to-face."

"We carry a high retention, so long-term relationships are very important to us," she added.

While most risk managers agree that long-term relationships are advantageous, many are willing to market their programs to ensure a competitive price.

3M put its D&O policy on the market, though it kept its primary coverage with National Union. Chubb Corp. will take over the excess layer previously written by X.L.

"A lot of competing companies have expressed interest in bidding" on 3M's account, Mr. Hugdahl said. "Generally we don't shop around. However, we do on occasion put programs out for bid."

Zurich-American Insurance Co. won 3M's non-U.S. property program in November.

3M will introduce even more competition if the market turns, Mr. Hugdahl said.

"I'd like to think there is something gained by loyalty, but there's a limit to that," Mr. Hugdahl said.

Times Mirror Co. is already preparing to shop its account next year, though it recently renewed property and aviation coverages as they were expiring, said Ralph E. Gentry, director-risk management.

In its Dec. 1 renewal, the Los Angeles-based media company stayed with its property insurer, Protection Mutual Insurance Co.

Soliciting bids from new insurers doesn't make sense for all types of businesses, Mr. Eaton of Bandag said. Because the manufacturer purchases liability and workers comp coverage on a retrospectively rated basis, it makes little sense to market programs. "The biggest chunk of premium is losses," he noted.

On those coverages, stability and service are important. "We don't market only because of price considerations," Mr. Eaton said.

Bandag will sometimes change insurers for excess liability and property difference in conditions coverages, he added. In those lines, "Coverage is more of a commodity. Relationships are not as critical."

More brokers than insurers are competing for the Bandag account, Mr. Eaton said.

"Premiums and commissions are down. There's pressure on brokers to put new business on the books," Mr. Eaton said. "Every year when the Fortune 500 list comes out, our phone starts ringing."

In addition to shopping coverage, risk managers also are willing to assume greater portions of their risk in order to weather the next hard market.

Teleflex renewed its D&O policy on Dec. 18 with Chubb Corp. at the expiring rate, but the company chose to double its retention to cut its premium by 23%, Mr. Moulder said.

The decision to change the deductible was made after the Limerick, Pa.-based manufacturer compared itself to companies profiled in a D&O survey by The Wyatt Co. (BI, Feb. 24, 1992).

"This move is consistent with what others are doing," Mr. Moulder said.

Hasbro Inc. created a new master marine and transportation policy to cover risks in Europe, the Far East and the United States. That coverage cost one-third of what coverages in individual countries would have, said Brian Casey, director of risk management.

The Pawtucket, R.I.-based toy manufacturer also is increasing deductibles for international property and liability coverages as part of its strategy. As a result, Mr. Casey expects increases of no more than 5% on domestic casualty and less than 10% on international property accounts when they renew this month. Domestic property renewed in October with flat rates.

"I'm glad I have January renewals rather than July," Mr. Casey said.

Many companies are increasing retentions voluntarily.

"Major corporations will take increased retentions or self-insurance to keep premium payments level," Times Mirror's Mr. Gentry said.

"I believe large buyers of insurance are better positioned to deal with the hard market than the last time," agreed 3M's Mr. Hugdahl. "They are retaining more risk and participating in

the development of alternative markets."

That preparation "perhaps is why (the hard market) is delayed in coming," Mr. Hugdahl said.

More cooperation between insurers and risk managers also contributes to the delay and a less severe market turn when it

'There's pressure on brokers to put new business on the books,' says David W. Eaton.

arrives, another risk manager said.

"In 1986, everything came unglued," said Jeffrey W. Pettegrew, director of risk manage-

ment at Western Temporary Services Inc. "Now insurers have a tighter grip on controls and parameters for writing programs."

The Walnut Creek, Calif.-based company is renewing its paid-loss retrospective rated workers comp program with Travelers at a 22% increase.

"That's after renegotiation. Originally, (the increase) was much higher," Mr. Pettegrew said.

Despite his experience renewing that program, Mr. Pettegrew said he is optimistic about changes in insurer-risk manager relations.

"There's more partnership and long-term contracts of three to five years," he said. "There's more risk sharing."

Most risk managers acknowledge the need for higher rates after 1992's record catastrophe losses. However, they are not

prepared to shoulder the entire burden.

"Most professional risk managers will not dig their heels in so much if (insurers) show a need for premium increase," Mr. Gentry said. "We will have to contribute, but we should not pay more than our fair share."

"The industry has been hit with losses, but most (insurers) are not in great financial danger," Ms. Swanson of Hillsborough County said.

"If you go back to years preceding 1992, there are years with a low level of catastrophe losses," Portman's Mr. Adler said. "Insurers should have properly reserved and funded for a year like 1992."

Still, he thinks risk managers will see rates rise "over a two-year period," though he added that the increases will be "not as violent as in the mid-'80s." **BI**

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Risk managers see rate hikes in their future

By JOANNE WOJCIK

Risk managers believe that property/casualty rates are destined to rise in 1993 as insurers, already smarting financially, realistically tally their losses from 1992's record spate of catastrophes.

And in response to enhanced regulatory scrutiny, insurers likely will turn to more conservative investment strategies that will increase their need for capital, say many risk managers responding to a *Business Insurance* Risk Management Board survey.

But some wonder if the commercial market will ever harden.

"I just have a feeling that (premiums) are going to rise as insurers lick their wounds from the insured losses they've had to pay out," said Kay Millonzi, risk analyst for Pleasant Co. in Middleton, Wis.

David R. Brown, risk manager for NICOR Inc. in Naperville, Ill., agreed. "The piper must be paid!"

"Underwriters have, in fact, experienced large losses and the business world is generally convinced that some increase is warranted," observed William H. Meyerhoff, corporate director of risk management for Lubrizol Corp. in Wickliffe, Ohio.

"I think that the reinsurance markets are beginning to turn, which will gradually be pushed down to direct insurers," said Tom

Ivey, risk manager for Cato Corp. in Charlotte, N.C.

"Property is already turning," said a manufacturing risk manager. "Casualty may follow once property gets going."

Jeff Duncan, risk manager for Consolidated Food Service Cos. in Virginia Beach, Va., hopes rates do rise, if "only to lessen the impact of a drastic hard market. We need stabilization."

Several factors are pressuring insurers to raise rates, according to Robb Hubbard, principal at Williams & Co. in Des Moines, Iowa.

"Increasing awareness of pollution exposures" will require reserve increases, he said. In addition, losses from workers compensation claims and the record level of catastrophe losses during 1992 "will create tightening in the marketplace," Mr. Hubbard predicted.

"Reinsurers are experiencing too much pressure for the market to continue to be soft," said the risk management coordinator for an energy resource company with \$350 million in gross sales.

"Insurers will be required to increase rates to cover the losses suffered during 1992," concurs Robert L. Duzef, director of risk management for Dollar Rent-A-Car Systems Inc. in Los Angeles.

"Catastrophe losses, problems at Lloyd's (of London) and the absence of tort reform, along with

continuing environmental litigation, dictate that rates must rise," said Phillip C. Bly, risk manager for Brush Wellman Inc. in Cleveland.

"The disasters of this past year added to weak returns on investment will dictate higher rates," believes Dick Wandersce, safety and risk manager for Taylor Precast Inc. in Green Cove Springs, Fla.

"Market conditions warrant a change," said Kenneth W. Exelby Jr., director of insurance at the Washington Bankers Assn. in Seattle.

Some risk managers believe that increased regulatory scrutiny of insurance company solvency will further pressure insurers to raise rates.

"With increasing regulation a likely prospect, insurers will be caught between the need to fund catastrophes from surplus and the difficulty of raising new capital," said Chris Sparrer, director of risk management for Ericsson Inc. in Richardson, Texas.

"The pending risk-based capital requirements will force insurers to take a conservative investment strategy," said the risk manager for an electronics manufacturer with \$1.3 billion in gross sales.

As a result, "the market 'psychology' will change," one manufacturing risk manager predicts. "Combined ratios, catastrophic losses, low interest rates all will combine to turn the market."

While most believe a market turn is imminent, a few risk managers are skeptical the market will ever

turn.

Rates may rise, "but not dramatically," said Alfred Johnson, risk manager for the Scotsman Group Inc. in Baltimore, at least not "until after the antitrust suit is dismissed."

"Property damage during '92 will adversely affect homeowners, not commercial," insurance rates, said the director of risk management for a trailer leasing company with \$85 million in gross sales.

The risk management director for a fertilizer manufacturer with \$1.1 billion in sales believes across-the-board rate hikes are unlikely because "market capacity is more than adequate."

"Do not expect property/casualty rates to rise," said Walter D. Haney, chairman of American Risk Managers Inc. in Hamilton, Ala. "There is nothing on the horizon to diminish the companies' capacities to the level that would prohibit their protecting market share," he said.

The continued weak economy also serves as a deterrent to severe price hikes, according to the risk management supervisor for a wholesaler with more than \$8 billion in gross sales.

"Insureds are not healthy enough to pay more, plus most insurance companies are making money," he said.

"Most commercial property companies are stretched so thin with overbuilding and vacancies that I believe the insurance industry will be afraid their product would be too expensive to sell," agreed Wil-

liam Casey, insurance manager for Consolidated Personnel Corp. in Chesterfield, Mo.

"Everyone thought Andrew would do it, or the Hawaiian storm, but the market remains pretty much the same," said Lawrence Sokolowski, manager of global risk management for Campbell Soup Co. in Camden, N.J.

On the one hand, "if the economy doesn't improve, rates will have to go up. The insurance industry isn't a bottomless pit," he said.

But, on the other hand, if interest rates rise in response to a rebound in the economy, "investment income will replace the funds being lost on the '92 catastrophes and the market will remain soft," Mr. Sokolowski reasoned.

The insurance manager for an educational institution with more than \$400 million in gross revenues put it this way: "People headed for suicide are rarely deterred by logic or reason," he said. "Market share' and 'cash flow' are still the most important terms to the senior management of most insurance companies."

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Surplus lines execs report some big property rate hikes

By DEBORAH SHALOWITZ

After years of price cuts, surplus lines insurers are raising rates—in some cases dramatically—for property coverage.

Surplus lines insurer and broker executives agree that insurers are raising property insurance rates 20% to 100% for risks in catastrophe-prone areas. Rates for other types of property risks are rising 10% to 20%.

However, rates for casualty coverages written on a non-admitted basis are holding steady or even declining moderately, though rates are rising in some niche liability lines.

Some executives predict that rates for surplus lines casualty coverages will change sometime this year, though there's a disagreement whether that change will be up or down. Some remarked that casualty rates could fall as companies back away from property risks and instead emphasize casualty coverage.

For now, though, the big news in the surplus lines market is property rate increases.

"What we are seeing as of this hour is that the property market has begun to firm and pricing has begun to move north," said Warren Stanley, president of Swett & Crawford Group in Los Angeles, the nation's largest wholesaler.

"There is a definite hardening on the property side," said Kevin Kelley, president of Lexington Insurance Co., an American International Group Inc. unit in Boston, the largest U.S. surplus lines insurer. "It's

real; it's here."

"There is certainly tightening occurring in areas that are perceived to be catastrophe-prone," said Seth Freudberg, president and chief executive officer of United National Insurance Co. in Bala Cynwyd, Pa. "There is virtually no question about that."

"There is very definitely a change in property insurance rates," said Pennington H. Way III, executive vp in charge of the excess and surplus lines underwriting division of Reliance National Risk Specialists in New York. There is a "minimum of 25% increase in rates," he said.

Mr. Stanley said rates for coverage for coastal property in the Southeast that is highly exposed to hurricanes could go up 40% to 60% in 1993, while other property rate increases will be in the 10% to 20% range.

Paul McCain, a property manager with wholesaler Crump E&S Group in Dallas, said rates are up 25% to 100% for property on the Gulf and Atlantic coasts of Florida—"if you can find someone to quote the business." And, prices are up 10% to 50% for residential and apartment buildings in parts of Texas, Louisiana and other areas of the Southeast, he added.

Not everyone in the market agrees that prices are rising.

"What I've seen is more wishful thinking than any reality," said Tony Markel, CEO of Shand, Morahan & Co. Inc. in Evanston, Ill. Other than a tightening in the Florida property market, "we really

don't see anything of a concrete nature."

"Everybody's talking about it but no one's doing anything about it," agreed Britt Glisson, executive vp and chief operating officer of Essex Insurance Co. in Richmond, Va., which like Shand is a unit of Markel Corp.

Both Mr. Markel and Mr. Britt, though, said they do expect property rates to increase during the coming year.

Virtually everyone cited the gargantuan losses from Hurricane Andrew—recently estimated to total as much as \$15 billion to \$16.5 billion (*BI*, Dec. 21, 1992)—as a major impetus for surplus lines underwriters to raise property rates.

"Undoubtedly, (property rate increases) come as a result of the property losses that came in earlier this year," said Ralph Palmieri, president of First State Management Group Inc., an underwriting manager in Boston that is a unit of IIT/Hartford Group Inc.

Several experts said they expect treaty reinsurance capacity for catastrophe property coverage to shrink significantly and prices for catastrophe reinsurance to rise. "Presumably that will have some trickle-down impact on property rates," noted Kevin Brooks, president of General Star Indemnity Co. in Stamford, Conn., a surplus lines unit of General Re Corp.

On the casualty side of the surplus lines market, prices are either holding steady or continuing to fall.

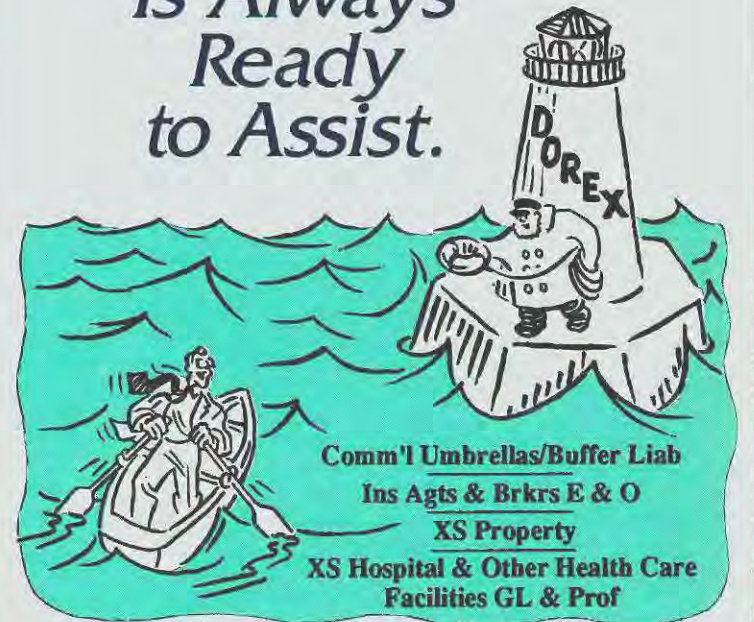
"There is no change in the casualty lines; (they are) soft, soft, soft," said Joseph Walsh, chairman of American Empire Surplus Lines

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Catastrophe reinsurance market a disaster

By JUDY GREENWALD
and DOUGLAS McLEOD

Property insurers battered by Hurricane Andrew and other storm losses now are facing a different kind of disaster: the chaotic market for catastrophe reinsurance.

Activity in the shell-shocked property catastrophe market has slowed to a crawl as retrocessional capacity dries up and stunned reinsurers try to limit their exposure to future losses. As the New Year dawned, many treaties had not been finished.

Amid falling catastrophe coverage capacity worldwide, reinsurers are demanding higher prices and higher ceding insurer retentions on the business they write, brokers and reinsurers agree.

Buyers are being hit with double- and triple-digit price increases and, in some cases, tripling of retention levels.

Some London reinsurers are also revising the terms of catastrophe covers to eliminate previously available reinstatements of limits for losses from the same event, reinsurers and brokers report.

The huge hurricane losses that blindsided some pro-rata property treaty reinsurers also have produced one widely anticipated change: For the first time, reinsurers are imposing occurrence limits in pro-rata treaties to cap their exposure to future catastrophe losses.

Terms and conditions are generally tighter for property pro-rata risks with catastrophe exposures, while property per-risk excess treaties and casualty reinsurance remain relatively easy to renew, reinsurer and brokerage executives say.

For catastrophe renewals, though, the market is suffering from sluggishness approaching paralysis.

"The market seems to be paralyzed like it's never been before. It's really, really amazing," said Robert T. Tremelling II, president of San Francisco-based Tretis Group Inc.

"These people are underneath their desks wondering whether they can come out. They're just shell shocked," he said.

"Confusion, total confusion is probably a wonderful way to put it," said Steven K. Bolland, senior vp with intermediary Gill & Roeser Inc. in New York.

"Most reinsurers are confused about where they are and where they want to be," he said. "This is the slowest year I've ever seen."

The renewal season could stretch out to February or March, Mr. Bolland added. "We're going to have a December 62nd this year."

"I don't think we've seen a market

like this in the last 30 years," said John N. Gilbert Jr., president of the New York-based Holborn Agency Corp. "There's some capacity that seems to be coming forward now, but it's still going to be a real push to get any program of a meaningful size completed. A real push."

"The market is moving like glue," agreed Michael Rothpletz, executive vp with G.L. Hodson & Son Inc. in New York.

"I think many are still concerned about their own retrocessional situation and what sort of capacity they're going to have," Mr. Rothpletz said.

Continuing the disappearing act that it began more than a year ago, the retrocessional market, which provides reinsurance support to reinsurers, has virtually vanished.

"What retrocessional market?" asked Mr. Gilbert, explaining that it will be hard for reinsurers to line up more than \$7.5 million in retrocessional capacity except in unusual circumstances.

"For all practical purposes, it's almost non-existent," agreed Paul R. Davies, chairman, president and chief executive officer of Aon Reinsurance Agency Inc. in Chicago.

Where \$10 million to \$20 million in retrocessional capacity was available before Hurricane Andrew, no more than \$6.5 million may be available by mid-1993, predicted John W. Smithson, chairman and president of PMA Reinsurance Corp. in Philadelphia.

With the market for traditional risk-bearing retrocessional covers all but dead, reinsurers are turning to funded retro programs or other forms of financial coverage, said Jeff Webb, senior vp with Prudential Reinsurance Co. in Newark, N.J.

He added that Pru Re is issuing renewal quotes on the assumption that it will have retro protection comparable to last year's, even if on a funded basis.

Others, however, say that reinsurers have been slow to offer renewal quotes partly because of uncertainty over how much—if any—protection they can arrange for themselves.

Constitution Reinsurance Corp. has cut back its own catastrophe reinsurance commitments by 10% to 20% because it hasn't yet fixed its own retrocessional covers, according to Bard E. Bunaes, chairman and CEO.

Nevertheless, "premiums will be significantly ahead of last year" because of rising rates, he added.

"It's a meltdown situation," Mr. Smithson said. "All the turmoil people have anticipated has certainly hit with a lot of force."

Reinsurer Report

"If anything, (the catastrophe market) is worse than people anticipated," said Mark Mosca, vp and manager of the treaty department at NAC Re Corp. in Greenwich, Conn.

Mr. Mosca and several others report dwindling catastrophe capacity, rising rates and retentions, and tightening of other contract terms, with the biggest renewal problems faced by large national insurers with big losses or significant catastrophe exposures.

"Prices are up (and) market capacity is down," Mr. Webb said. "All reinsurers are being more careful in monitoring their aggregate (exposures)."

Mr. Mosca estimated that worldwide catastrophe reinsurance capacity may amount to only about \$170 million excluding ceding insurer retentions, a drop of 33% to 40% from a year ago.

"Companies are finding a great

'The market seems to be paralyzed like it's never been before,' says Robert T. Tremelling II.

deal of difficulty filling out their programs under any terms," he said.

"Last year things got mostly done. This year they are not going to get done," agreed Paul Ingrey, president of F&G Re, a Morristown, N.J.-based unit of USF&G Corp.

Ceding insurers faced with this capacity shortage have a few choices for filling holes in their programs, Mr. Mosca noted. They may buy a funded cover; a "super-catastrophe" cover that kicks in when industry-wide losses from a given event pass a defined threshold; one of a recently devised group of hybrid covers that combine elements of funded programs with traditional risk-bearing reinsurance; or they may keep the added exposure net.

Rates for available capacity, meanwhile, are rising anywhere from 20% to 250% depending on the ceding insurer's exposure and loss history, reinsurers and brokers say.

The best anyone can do is a 20% or 25% rate increase "if everything were perfect," according to Mr. Tremelling. But if there have been severe losses, rates can also more than double, he said.

Mr. Mosca reported seeing renewals with rate increases of 20% to 100% depending on the layer of coverage being quoted.

Mr. Webb said he has been surprised that ceding insurers that suffered no losses from Hurricane Andrew are coming to Pru Re with contract offers that include 50% to

80% rate increases.

Insurers with Andrew losses that did not exhaust their catastrophe limits are seeing even larger increases on the lower layers of their programs with smaller but still significant increases in the upper layers, he added.

Ceding companies that used up their catastrophe limits are seeing heavier price increases for the upper layers, said Ajit Jain, president of the reinsurance division of Berkshire Hathaway Inc. in Stamford, Conn.

Payback periods—the time over which ceding insurers would repay reinsurers for losses at a given premium level—have been shortened dramatically, brokers and reinsurers add.

Where payback periods for upper layers may have stretched to 100 years a few years ago, these have since been reduced to 20 years, Mr. Webb observed. Lower-layer payback periods have been cut to three to five years from the 10 years allowed a few years ago, he said.

"I think underwriters are looking to get paybacks a little more quickly because—let's face it—it's been a bloodbath for the market. Andrew is still not over," Mr. Rothpletz said.

To reduce costs, some ceding insurers have begun breaking up their programs, buying different limits for different areas of the country or different exposures, Mr. Jain added. "People are now starting to zero in on peril-specific and region-specific covers."

Along with rate increases, ceding insurers are seeing dramatic increases in their catastrophe retentions, reinsurance observers say.

An insurer operating nationwide may see last year's \$40 million retention jump to \$90 million or \$100 million, said William H. Stempson, an executive vp with North American Reinsurance Corp. in New York.

Where cedants previously negotiated retentions based on how much they were willing to lose, reinsurers are now "picking a market loss and estimating that participant's share of the market loss and setting retentions pegged on that," he said.

Mr. Ingrey cited one insurer whose retention has jumped to \$100 million from \$30 million as an extreme example of the trend, but added that 50% increases in retentions are not unusual.

Attempting to limit their aggregate exposure, some reinsurers are also trying to impose other coverage restrictions.

London reinsurers, for example, are rewriting the "72-hour clause" in catastrophe contracts, which limits coverage for an event like a hurricane to losses occurring within a 72-hour period. Previously, ceding insurers that exhausted their limits on a given event could absorb a sec-

ond retention and reinstate their limits for a price.

Now London underwriters are seeking to eliminate reinstatements of coverage for the same event, reinsurers say.

Mr. Stempson said some London reinsurers are offering a "168-hour clause" with no reinstatements for losses from the same event.

Domestic reinsurers, however, have resisted following London's lead on the 72-hour clause, Mr. Rothpletz said. "I think it's too early to determine" whether London will be successful, he said.

Meanwhile, Berkshire Hathaway has tightened certain terms of its super-catastrophe product in the wake of Hurricane Andrew, increasing the market loss attachment point to between \$7 billion and \$10 billion from a previous low of \$3 billion, Mr. Jain reported. Most of this business is written on a retrocessional basis, he said.

Stunning losses from Hurricane Andrew also battered reinsurers writing pro-rata property treaty coverage, which many in the market have jokingly referred to as the cheapest form of catastrophe reinsurance available.

The losses on these treaties mounted because they typically had no per-occurrence limit capping reinsurers' exposure. This renewal season, though, occurrence caps are being added for the first time.

"That is a revolution of terms in the pro-rata market," Mr. Stempson observed.

Reinsurers are also boosting their margins on pro-rata contracts by reducing ceding and sliding-scale commissions paid to ceding insurers, reinsurers say.

The market for property per-risk excess coverage, meanwhile, remains relatively competitive and has not tightened nearly to the extent the pro-rata and catastrophe markets have, reinsurers say.

The casualty reinsurance market, oddly enough, is also a quiet backwater in renewals dominated by angst in the property markets.

Albert P. Amato, senior vp at C.L. Frates Reinsurance Intermediary Inc. in Greenwich, Conn., which specializes in fidelity and directors and officers liability coverage, said business is being renewed at expiring terms.

It's "business as usual" in the casualty market, Mr. Rothpletz said. "Things are sort of being renewed as is."

In some cases, he added, ceding insurers are even using their casualty business as leverage "to get a line on a property cat cover, which I never thought I'd see."

"It's a great irony that all this agony has been caused by property," PMA Re's Mr. Smithson observed. "The world has turned totally upside down." **BI**

Surplus lines renewals

Continued from previous page Insurance Co. in Cincinnati.

"On the casualty side, we don't see any hardening of the market at the moment," said Reliance National's Mr. Way.

Rates for most lines of casualty coverage are under "continued downward pressure," said United National's Mr. Freudberg. Rates for most liability lines generally are dropping about 10%, he said.

Others agreed that, in general, rates for directors and officers liability and most types of professional liability coverage are dropping about 10%, as are rates for high-hazard general liability and

product liability coverages.

Surplus lines market capacity for most liability insurance lines remains plentiful and in some cases is increasing.

But in some niche liability lines, prices are rising.

For example, rates are rising for D&O coverage for troubled financial institutions, even though other D&O and professional liability rates still are falling, said Ed Casey, president of Stewart Smith Group Inc. in Los Angeles.

And liability coverage for architects and engineers seems to have "bottomed out," with policies being renewed at previous prices, said

Paul L. Genecki, senior vp of The Schinnerer Group Inc. in Chevy Chase, Md.

Michael Mullen, president of K&K Insurance Group Inc. in Fort Wayne, Ind., said he has heard of rates increasing 12% to 15% for liability coverage for racetracks and motor sporting events and for motorcycle dealers.

Also, rates are increasing 25% to 50% for liability coverage for water parks, he noted.

American Empire's Mr. Walsh said rates for professional liability coverage for attorneys who work on leveraged buyouts and initial public offerings are up 25% to 50%.

Predictions about the future course of the casualty market differed.

If the casualty market indeed turns, the change will occur in the second half of 1993, said First State's Mr. Palmieri. "There's more of a likelihood now than there was a year ago or two years ago."

Although casualty rates may rise following a hardening property market, "I still do not see a real dramatic market change," said Marcus Payne, executive vp and chief operating officer for Crump E&S.

"The potential's there for a hard (casualty) market, but I'm not predicting it," said Reliance

National's Mr. Way.

"The soonest we'll see some real firming of (casualty) rates that goes beyond individual lines is the first quarter of 1994," Mr. Genecki said.

All the surplus lines industry experts agreed that there are no regional differences in pricing, other than for catastrophe-prone property coverage.

Virtually no surplus lines companies are offering better coverage terms or conditions or longer policy terms to hold onto business. "I don't think that represents a disciplined underwriting approach when you have to do that in a soft market," Mr. Palmieri said. **BI**

INTERNATIONAL

Judge issues arrest warrant for Hardy

By ROGER SCOTTON

BERMUDA

HAMILTON, Bermuda—Sir James Astwood, Bermuda's chief justice, is seeking the arrest of Mark Hardy, former chairman of Focus Insurance Ltd., for disobeying Supreme Court orders.

Sir James said he would hold Mr. Hardy, a resident of the United Kingdom, in contempt for violating injunctions issued in July 1991 and February 1992 that froze his assets worldwide.

The Dec. 22 ruling said that Mr. Hardy should be arrested and brought before Sir James on Jan. 8 "to show cause why I

should not commit him to prison."

The chief justice said the arrest warrant would not take effect until Jan. 8, but he warned that if Mr. Hardy, who currently lives in Suffolk, England, fails to show up in court, "it remains in full force and effect."

While Mr. Hardy faces the possibility of a prison sentence for contempt, he has not been accused of a criminal offense.

At the same time the contempt

charge was issued, the Supreme Court also allowed an application by the liquidators requiring Mr. Hardy to authorize his bankers in the United States, England and Switzerland to disclose to the liquidators details concerning Mr. Hardy's accounts and financial transactions.

The same application required Mr. Hardy to produce within 21 days an itemized accounting of his expenditures since July 5, 1991. This account must include details of his monthly expenses and the source from which all funds have been drawn.

Failure to comply with the dis-

closure order by Jan. 13 will result in his defense in the underlying action to be struck out and a default judgment entered against him.

Mr. Hardy condemned the ruling as "scandalous" and vowed never to set foot in Bermuda. "The underlying action is totally flawed, and I look forward to litigating this matter in England where I can expect to receive some justice," he said.

"The chief justice has erred on a key point of law in allowing the liquidators to embark on this fishing trip. It is a manifestly unjust ruling," he said, referring

to the disclosure order.

The chief justice's decision follows a series of hearings over the past three months into the financial affairs of Mr. Hardy, who once controlled a highly profitable, multimillion-dollar insurance empire. Mr. Hardy's group of Bermuda companies included Forum Reinsurance Ltd., Aneco Reinsurance Ltd. and Focus Insurance, all of which now are in liquidation after being closed under pressure from creditors.

Mr. Hardy's worldwide assets were frozen by the Bermuda *Continued on next page*

Liability rates rise for accountants following recent Australian rulings

By KATE McILWAINE

BRISBANE, Australia—Insurers in Australia are boosting the professional liability rates for all accountants, especially auditors, in the wake of recent court decisions.

Australian courts have recently widened auditors' liability, assessed huge damages against auditors and have ordered an insurer to cover a loss that was not reported until after a claims-made policy expired.

Those rulings have made underwriters wary, and some will no longer cover audit business.

All professional indemnity underwriters are "pretty cautious" about accountants doing audit work, said John S. Harris, general manager of specialist professional indemnity insurer Pacific Indemnity Underwriting Agency Pty. Ltd. in Melbourne, which does not write coverage for auditors.

He said deductibles have been increasing, which tends to make clients more careful, but "at the end of the day you don't save too much."

Now, underwriters are boosting premiums.

Auditors have "enjoyed a bit of a holiday," but insurers have now "rebelled," observed Greg Brown, a professional indemnity underwriter

for C.E. Heath Casualty & General Insurance Ltd. in Sydney.

Mr. Brown said all accountants' rates will go up 15% to 18% beginning Jan. 1, and additional charges are being imposed for audits.

"We're getting tougher," he said.

Ray Armstrong, general manager of the professional and financial services division of Marsh & McLennan Ltd. in Sydney, sees a significantly more substantial hardening in the professional liability market for auditors.

"We're not talking 5%, 10% or 50% increases, we're talking 100%," he said.

Professional liability rates for auditors were previously based on the fees auditors charged, Mr. Brown explained. Competition among auditors, though, forced down fees, and insurers found the premiums inadequate to turn a profit.

In addition, insurer competition kept auditors' professional liability insurance rates down, he said.

Coverage was "still fairly cheap" for auditors compared with other professions, he said.

But, Mr. Brown warned that professional liability rates are becoming "price-reactive."

M&M's Mr. Armstrong agreed that the professional liability rate

war of the past four to five years has ended.

"We're clearly at the end of the soft professional indemnity cycle," he said.

And rate hikes will not be limited to only those accountants who perform audit work, he said, warning that narrower coverage is likely for all accountants. They will no longer be able to afford the same levels of coverage, he said.

"Professional indemnity is being driven by claims experience," Mr. Brown said.

He observed that accountants are "entering a danger period" as reinsurance capacity also tightens and reinsurance rates increase. Those with "less-than-good claims experience will pay."

Some firms had been charged additional premiums for audits during past renewals, but even more charges have been imposed over the past few weeks, Mr. Brown said.

Mr. Armstrong said adding charges for accountants performing audits is fair because "that's where all the claims are coming from."

The latest auditor professional liability decision that concerns insurers is a 173-page decision by the New South Wales Supreme Court.

Continued on next page

Specialize and mutualize to meet global challenge, Bebear tells U.S. insurers

By DOUGLAS McLEOD

NEW YORK—U.S. insurers are facing a growing challenge from overseas competitors and must take several steps to survive in a global marketplace, says the chairman of Paris-based AXA Group.

"More and more, you will have competition with (insurers from) other countries, and big competition," AXA Chairman Claude Bebear told an audience of insurer and brokerage officials in an address at The College of Insurance last month.

Foreign insurers have succeeded by finding niches where they can write profitable business and by becoming among the largest and financially strongest players in their markets, he said.

After making an unsuccessful run at Farmers Group Inc. in 1990, AXA satisfied its goal of establishing a larger U.S. presence when its AXA Midi Assurances S.A. unit acquired a stake in what is now Equitable Cos. (BI, July 22, 1991).

"We bought the shares for \$8.50. Now they are \$14. We are happy," Mr. Bebear said.

Mr. Bebear cited several strategic goals that have guided AXA and that he said would benefit an insurer looking to become a global competitor. These include:

- Focusing on the business it understands and not diversifying into unknown territory.

- "If you want to be strong, you have to practice one business. Ours is property/casualty insurance and management of third-party funds," he said.

- "To try to become a conglomerate is a very big mistake," he said, explaining that it is more difficult for a conglomerate to provide professional service.

- "If you are not professional, you disappear."

- Concentrating on client service.

Unlike manufacturing businesses that own patents and machinery, an insurer's most valuable assets are its people, he noted. While large insurers run the risk of becoming bureaucratic and losing sight of client needs, management must concentrate on both profitability and client service, he said.

- Adopting a mutual insurer structure.

This has allowed AXA to concentrate on long-term goals rather than short-term investor returns, Mr. Bebear said. "We are not obsessed with short-term (stock market) quotes."

Responding to a question, he added that "quarterly reporting is killing American industry" by diverting management attention from the long-term needs of their companies.

"In the insurance industry especially, (quarterly reporting) means nothing," Mr. Bebear observed, noting that three to five years of experience are needed to judge an insurer's performance.

- Decentralizing management.

A global insurer needs people in each country where it operates who understand the local market and have the power of a chief executive officer to manage the business, Mr. Bebear said.

"If you are a centralized company, you are dead," he said.

International operations also have the benefit of spreading a company's risk by allowing it to deal in different economies with different currencies. If a company operates in only one country, it is more vulnerable to the fluctuations of a single economy and a single currency, he explained.

"Is it necessary to become international to become global? I think it is necessary," he said.

Asked which insurers will likely survive the global competition, Mr. Bebear named several companies, including Allianz A.G. Holding of Germany, Assicurazioni Generali S.p.A. of Italy and "one or two" insurance companies in the United Kingdom.

He added that he does not expect any Scandinavian insurers to remain among the largest global competitors.

Noting the financial turmoil that has gripped the Scandinavian markets, Mr. Bebear quipped, "It's like a Viking fight—a lot of blood, and nobody knows why."

U.S. and European risk managers getting a foot in boardroom door

By SARA J. HARTY

Risk managers in Europe and the United States are gaining more respect as risk management concerns increasingly are decided in the boardroom rather than by middle-management officials, a recent survey suggests.

Meanwhile, environmental risks top the list of risk management concerns in all of the nations covered in the study except France.

The survey, "Risk Management—A Boardroom Issue for the 1990s," was conducted by broker Sedgwick Group P.L.C. Sedgwick polled 355 finance directors and senior managers who oversee risk management at companies in the United States and five Western European countries.

In all the surveyed nations, 92% of survey respondents said that risk management is generally of increasing concern; 82% said that a

risk management policy has been adopted by its company; 70% said that the board of directors had considered risk management in the past year; and 39% reported that risk management is a regular board agenda item.

And in each individual country, more than nine out of 10 respondents said risk management is of increasing concern within their company.

Ninety-one percent of U.S. respondents said that their company had adopted a risk management policy, compared with 84% of the U.K. respondents, 77% of the French respondents and 73% of respondents from the Benelux countries, which include Belgium, the Netherlands and Luxembourg.

"It was reassuring to get confirmation that there are generally increasing levels of concern for risk management," commented John P. Hurrell, director of Sedgwick Eu-

rope Ltd. in London.

Interestingly, far more boards of directors at European companies considered risk management issues in the last year than did U.S. boards: 82% of the boards in the United Kingdom, 81% in the Benelux nations, 71% in France and only 51% in the United States.

Similarly, 60% of respondents from the Benelux nations said that risk management is a regular item on the board agenda. Forty-five percent said this was the case in the United Kingdom, compared with 43% in France and only 19% in the United States.

Rather than reflecting less of a concern for risk management in the United States, the results probably are indicative of the emphasis that U.S. companies have previously placed on risk management, Mr. Hurrell said.

U.S. companies "have already

Continued on next page

BERMUDA

Continued from previous page
court in connection with a civil action filed against him by Focus' liquidators, accountants David Lines and Peter Mitchell. The liquidators are suing Mr. Hardy for \$19.7 million, alleging he acted negligently while chairman of Focus (BI, July 15, 1991).

The liquidators claimed that Mr. Hardy broke the terms of the orders freezing the assets and, in late December hearings, produced two wit-

nesses, Charles and Christina Stolper, who testified they had purchased property in Concord, Mass., from Mr. Hardy for \$492,000.

Legal experts in Bermuda note that a person facing contempt charges cannot be extradited and that Mr. Hardy would only risk arrest if he came to Bermuda. However, they added that the integrity of Bermuda's legal jurisdiction is clearly being tested by the Focus proceedings.

Saul Froomkin, the attorney for the liquidators, said he is relieved that the Supreme Court had "seen fit to deal with the matter in the

serious way that it has."

"The paramount interest in this matter is the administration of justice and we cannot just have people ignoring the orders of this court," he said.

Julian Hall, Mr. Hardy's Bermuda attorney, said he has advised his client to be present for the Jan. 8 hearing. Mr. Hardy could "purge" his contempt by voluntarily coming to Bermuda, apologizing to the court and producing the \$492,000 in proceeds from the sale of the U.S. property, Mr. Hall said.

He added, though, that the Supreme Court has no power to have

his client brought to Bermuda.

Mr. Hall said he would be seeking further instructions from Mr. Hardy. One possible course of action would be to appeal the chief justice's ruling to the U.K. Privy Council, the highest appeals court for members of the Commonwealth and British colonies.

Mr. Hardy said the contempt order did not come as a surprise, contending that it is the result of a "vicious witch hunt" aimed at bankrupting him.

"I have no intention of ever setting foot in Bermuda," Mr. Hardy said. "Instead, I will be dealing with this matter at the level of the (U.K.) Privy Council. I have instructed my London lawyer to seek an immediate judicial review of the conduct of this case, which is aimed at getting me at any cost. But the real cost is to the creditors, who will not get a penny out of Focus because of the legal bills that are being run up."

TOPS opens doors

TOPS Insurance, the new energy industry insurer, has opened its Bermuda underwriting facility with 16 shareholders, 50 risks and what it calls a "unique capital structure" worth \$200 million.

President K. Doyle Stephens said TOPS—which stands for Total-loss Offshore Production Structure—has been set up by 16 oil companies to provide high-layer catastrophe protection for their North Sea oil rigs (BI, Oct. 26, 1992).

Mr. Stephens said that some of TOPS' founding shareholders are also members of the oil industry mutual, Oil Insurance Ltd. Mr. Stephens is president and CEO of OIL.

But he stressed that TOPS is technically closer to a stock company than a mutual insurer. "Our lawyers will tell you this is not a mutual, though I'd agree it does look like one in some respects," he said.

The new insurer, which will be managed by OIL subsidiary Oil Management Services, will offer the uppermost \$100 million layer of catastrophe insurance protection against a total oil or gas platform loss.

The 16 shareholders' 50 North Sea rigs are the first to be underwritten

by TOPS, but Mr. Stephens said that coverage will not be restricted to shareholders. He anticipates that premiums will be in excess of \$30 million during the first year and could be as high as \$50 million.

Mr. Stephens said the company will commence operations with \$100 million in cash and "liquid assets" like letters of credit. A further \$100 million is available to the insurer under a cash call provision agreed to by shareholders. Shareholders will contribute, if needed, additional capital based on their participation in TOPS.

"What we're effectively saying is that TOPS members will be putting in the necessary assets to make the company work," he said. "This is not a traditional capital structure but then we do expect to be able to operate for several years without a loss."

The insurer has no reinsurance protection, which the founding shareholders considered too expensive and not in keeping with their avowed aim of adding net new capacity in a tight market.

"The probability of a total loss is remote, and the probability of two total losses even more so," said Mr. Stephens. TOPS' technical management team has analyzed an aggregate of 1,700 operating years for offshore structures in the North Sea, he noted. "There has only ever been one total loss and that was Piper Alpha," he said.

The need for TOPS' cover, according to Mr. Stephens, is driven not only by a lack of available capacity, but also by the exposure to risks in which the replacement costs can be billions of dollars. "Not many corporations can afford to run that kind of risk," he said.

Mr. Stephens said coverage is being restricted to the North Sea "because that's where the need is right now."

In the future, though, TOPS may consider extending its underwriting activities, he added.

Mr. Stephens said TOPS has established an initial rate of 0.9%.

"That means that for each structure that buys the full \$100 million limit, and not all are doing that, the premium will be \$900,000, which is a rate that assumes one loss in every 100," he said. **BI**

Risk manager survey

Continued from previous page
put more professional resources into the problem" than some European companies, he suggested.

Eight out of 10 respondents report that in the past three years there has been greater centralization of the risk management function within their company.

Centralization was most prevalent in the United States with 86% reporting that it had occurred, compared with 81% in France, 76% in the United Kingdom and 75% in the Benelux countries.

Fifty-seven percent of all respondents said that a main board director was making risk management decisions. This varied widely between European countries and the United States: 80% in the Benelux nations reported that a board director made risk management decisions, compared with 79% in France,

66% in the United Kingdom and only 15% in the United States.

The respondents also were asked to prioritize 12 specific risk management challenges.

Environment-related risk was regarded as of increasing concern by more respondents than any other risk in all countries except France, which deemed it to be of decreasing concern on the whole.

Security risk emerged in second place overall and in each country except the United States, where it came in sixth.

Employee and public safety was the third most important concern overall, although it was the second most important in the United States and the least important among French respondents.

Credit risk, directors and officers liability and product liability were generally considered to be of in-

creasing concern, and was seen as the most increasing concern in France.

Pension fund integrity, image impairment, business interruption, political risk, fire and explosion were generally ranked near the bottom of risks in terms of increasing concern to risk managers.

When the risk managers were asked to rank the group of risks in terms of which were most critical risks to their business, environmental risks still came in near the top of the list; safety came in second, followed by product liability, fire and explosion.

Copies of "Risk Management—A Boardroom Issue for the 1990s" are available from Sedgwick Group Development Council, Sedgwick House, The Sedgwick Centre, London E1 8DX; 071-377 3615.

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Australian ruling

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The decision says that auditors may be sued for damages by plaintiffs that are not clients but that relied on the auditors' reports.

In the case, accounting firm Nelson Parkhill BDO was sued in 1989 by Columbia Coffee & Tea Pty. Ltd. and Donyoke Pty. Ltd.

The two small companies sued Nelson Parkhill BDO over a 1987 audit of Columbia that Donyoke said it relied on in deciding whether to purchase shares in Columbia.

In its Nov. 5 decision, the court noted that the accountant's own manual of accounting practices acknowledged that there would be "interested parties who read and rely on our reports and this extends beyond the persons who employ us in the first instance."

The plaintiffs were awarded only a nominal sum of \$1 Australian in damages, because there was no "causal connection" between the breach committed by the auditors and the damages alleged by the plaintiffs.

But, insurers say the decision sets a precedent that could result in substantial damage awards in future.

In another decision, the New South Wales Supreme Court ruled on Nov. 18 that accounting firm De-

loitte Haskins & Sells, now Deloitte Ross Tohmatsu, was 80% liable for the 1986 foreign-exchange losses of communications firm AWA Ltd.

The losses totaled almost \$50 million Australian (\$34.4 million).

Those decisions followed on the heels of the East End case (BI, Nov. 16, 1992), which attorneys and insurers say has made claims-made policies ineffective.

In that case, East End Real Estate Pty. Ltd. had a standard claims-made general liability policy written by C.E. Heath Insurance Co. During the policy period, a client made a claim and started proceedings against East End.

Six weeks after the policy expired, the client received a judgment against East End, which then first notified its insurer and sought indemnity, explained Peter Garrison, a partner in the Melbourne law firm Home, Wilkinson & Lowry.

C.E. Heath initially won the case, but it was overturned on appeal, and an application to appeal further to the High Court was not granted.

Proposals to limit professional liability claims against accountants are still under consideration by a working party established by federal and state attorneys general (BI, June 29, 1992). **BI**

Defense costs

Continued from page 3

The cost of defending policyholders in personal auto liability litigation also was studied, but defense costs for this line have "remained flat" in proportion to losses paid, ISO found.

"It's the same story: Legal defense costs are continuing to grow faster than losses," said the author, Peter Licht, manager and associate actuary, who conducted a similar study in 1989.

"Insurance is all about paying for losses, but the growth in defense costs is outstripping indemnity costs," an ISO spokeswoman added.

By line of coverage, insurers in calendar year 1991 incurred their highest legal defense costs—\$4.2 billion—in general liability litigation.

Workers compensation- and multiperil-related litigation each racked up \$2.3 billion of defense costs for insurers in calendar

year 1991. Insurers incurred \$1.2 of defense costs in commercial auto-related litigation last year.

And, medical malpractice- and product liability-related litigation each accounted for \$1.1 billion of defense costs for insurers in 1991.

But, among all lines studied, defense costs were the highest in proportion to losses paid in product liability and medical malpractice litigation.

Defense costs in product liability cases amounted to 70% of incurred losses in calendar year 1991, more than double the ratio of defense costs to general liability losses, which was 33%.

ISO also found that product liability defense costs were 76% in accident years 1990 and 1991 combined, up from 54% in accident year 1982.

The next highest ratio was for medical malpractice defense costs, representing 39% of incurred losses in calendar year 1991.

On an accident year basis, medical malpractice defense costs were 55% of incurred losses in 1990-1991, up from 34% in 1982.

The report found that, for other lines of coverage studied, insurers' defense costs in calendar year 1991 amounted to:

- 33% of incurred general liability losses.

On an accident year basis, the ratio of general liability defense costs to incurred losses was 39% in 1990-1991, up from 29% in 1982.

- 22% of incurred multi-peril losses.

The ratio was 21% in accident years 1990-1991, up from 15% in 1982.

- 13% of incurred commercial auto losses.

The ratio was also 13% in accident years 1990-1991, up from 9.5% in 1982.

- 7.3% of incurred workers comp losses.

The ratio was 8.5% in accident

years 1990-1991, up from 5.2% in 1982.

The study also found that only 24% of third-party general liability claims were litigated and insurers paid claims in only half of those cases. However, these 12% of general liability cases accounted for two-thirds of insurers' defense costs for that line, or close to \$2.8 billion.

The study did not break out similar figures for other lines of coverage.

Defense costs in the study are measured as allocated loss adjustment expenses. They include lawyers' fees, expert witnesses' fees, court costs and any other related costs picked up by the insurer.

The report indicates that insurers are able to anticipate these costs only about half as well as they can anticipate indemnity payouts and general loss adjustment costs.

At the end of 1991, loss and general loss adjustment reserves

were 11% to 14% deficient on average, according to ISO. In comparison, reserves set aside specifically for allocated loss adjustment expenses were 34% to 41% deficient on average.

Deficiency in ALAE reserves for the commercial lines studied ranged from 14% to 58%, with insurers having the weakest reserves for general liability-related litigation.

The study is one of a series that ISO conducts on insurance-related public policy issues. The studies are typically sent to lawmakers, regulators and "opinion leaders" who deal with the insurance industry.

Copies of "Legal Defense: A Large and Still Growing Insurance Cost" are free to ISO members but cost \$40 for non-members. Contact ISO's Industry Relations-Customer Service department, 7 World Trade Center, New York, N.Y. 10048; 800-888-4476.

Urban health care problems

Continued from page 3

The managed care industry's expansion since the formation of Los Angeles' first prepaid health plan in 1928 "has meant the withdrawal of health care resources potentially available to meet the medical needs of the uninsured and the underinsured," observe study authors Robert E. Tranquada and Peter A. Glassman.

"Twenty years ago, nearly all private physicians and beds in Los Angeles County were potentially available for charity care," the authors note. "Now, however, in staff and group model HMOs, such as Kaiser Permanente or FHP, neither physician nor hospital care is normally available to non-members."

In 1989, the latest year for which RAND had statistics, there were 28 health maintenance organizations serving 32% of the Southern California health care market, compared with a national average of 15%.

While managed care covers a greater proportion of the population in California than in any other state, fewer California workers receive health insurance from employers than the national average, according to Messrs. Tranquada and Glassman.

"Only 56% of working Californians receive insurance from their employers, compared with 64% elsewhere in the United States," they point out.

The problem is especially acute for working Hispanics and blacks, of which only 40% and 52%, respectively, have work-related health care coverage, according to the authors.

Fully 87% of the uninsured in California have jobs or are in families headed by at least one working person, and 65% are full-time employees or dependents of full-time employees, the authors estimate.

Companies that do not offer health insurance typically have fewer than 25 employees, and small business has been the fastest growing sector of the state's economy in recent years, according to the authors.

Los Angeles County also has a large population of undocumented, or "illegal," immigrants, estimated at between 660,000 and 770,000. Many of these immigrants—except for pregnant women—are not eligible for Medi-Cal, the state's Medicaid program, because federal legislation specifically bans spending

federal funds for these people except for emergency conditions and pregnancy-related care.

The 35,000 to 50,000 homeless persons in Los Angeles County also have difficulty obtaining Medi-Cal coverage, the authors point out. This is partly because they are ineligible unless they are also disabled, blind or have dependent children.

The 1990-91 recession also helped swell the number of uninsured because economic pressures caused some firms to drop or reduce their employees' health care coverage, while many workers lost their insurance when they became unemployed.

"Although Congress sought to help laid-off workers through (the Consolidated Omnibus Budget Reconciliation Act of 1985), many of the unemployed cannot afford the monthly COBRA premium they are required to pay" to receive extended health coverage, the authors point out.

"Moreover, this law does not benefit those who had no health insurance while employed," they stress.

Los Angeles' public health system, which has been in operation since 1878 when County General Hospital was founded, has attempted to address the uninsured problem with many resources, including property tax dollars, private funds and insurance, Medicaid and Medicare and state and federal grants.

But all of these sources together do not provide sufficient funds to meet the county's health care needs, according to the RAND study's authors.

As a result, "the county has not increased its health care subsidy in parallel with increased health care needs and costs: While the county population rose from 7.5 million in 1980 to 8.9 million in 1990 and while the population in poverty increased from 980,000 to 1,308,000, the Los Angeles County health care subsidy, adjusted for inflation, fell from \$384 million to \$316 million," the authors state.

And, while Medi-Cal payments have kept pace with the growing Medi-Cal patient load, reduced payments from the federal government for Medicare beneficiaries have further limited the ability of the region's health care providers to absorb the costs of uncompensated care, the RAND study points out.

Even though it would be expected that private payers would

'Only 56% of working Californians receive insurance from their employers, compared with 64% elsewhere in the United States,' according to Robert E. Tranquada and Peter A. Glassman, authors of the RAND study.

be forced to make up the shortfall through some sort of cost-shifting, employers instead are pushing back, according to the RAND study.

For example, large employers have begun self-insuring and arranging discounts with hospitals, physician groups and managed care organizations.

"This has reduced hospital revenues significantly and, in turn, decreased surplus hospital

income previously used to cover uncompensated care for the uninsured and medically indigent," the authors point out.

As a result, "the private sector is playing a smaller role in bearing the costs of uncompensated care," they say.

The study's authors pointed out that while its research focused primarily on Los Angeles, urban problems—including access to health care—are

national in scope.

"The civil disturbances in Los Angeles in April 1992 brought home to this community and to the nation the serious continuing problems facing our large urban centers," said RAND researchers James B. Steinberg and David W. Lyon in an introduction to the study.

"We turned to 19 RAND analysts who have conducted extensive research on social policy and asked them to reflect on the current issues facing our cities and our cities' people."

Copies of "Urban America: Policy Choices for Los Angeles and the Nation" are available for \$20 each from the RAND Corp., 1700 Main St., P.O. Box 2138, Santa Monica, Calif. 90407-2138; 310-451-6913.



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Asbestos coverage

Continued from page 2

dent & Casualty Insurance of Winterthur is a partial summary judgment stemming from a settlement reached between five Minnesota school districts and W.R. Grace & Co.

The school districts had sued the Florida-based asbestos manufacturer in 1987, alleging continuous property damage caused by the installation of asbestos insulation in seven school buildings between 1968 and 1973.

When Grace notified its liability insurers of the claims, they denied coverage and declined to participate in Grace's defense.

In late 1990, serious settlement negotiations began in all five underlying suits. Despite repeated requests by Grace, none of the company's 52 excess liability underwriters offered to participate in the negotiations.

In March 1991, the school districts and Grace settled the underlying suits for an undisclosed sum, invoking the Miller-Shugart provision. Based on a 1982 state court case, Miller-Shugart permits plaintiffs to seek satisfaction of a judgment from the proceeds of a defendant's insurers.

In June 1991, the school districts sought a summary judgment against the insurers and a ruling that the settlement was reasonable. The insurers opposed the motion, moving for dismissal on the grounds that the forum was inappropriate and demanding to re-litigate the reasonableness of the settlement.

While 1st District Court Judge Thomas H. Carey initially dismissed the coverage issue on forum non conveniens grounds, he later reversed his position and granted partial summary judgment to the school districts.

Judge Carey said he reversed his earlier position for "two compelling reasons." First, the case involved Minnesota parties, and second, "resolution of this matter on a national basis has languished in the federal courts of New York for almost a decade,

and there is no hint of a final disposition at any time in the immediate, foreseeable future."

The judge also rejected insurers' allegations that Grace had colluded with the school districts in the settlement negotiations.

"While the court would not deny them the opportunity to protect themselves from collusion, their claim of unreasonableness is totally without merit," he wrote.

"We must keep in mind that the (insurers) did not elect to defend W.R. Grace & Co. . . . Instead, they immediately, and long before any facts were developed or discovery commenced, denied coverage across the board on every conceivable basis, thus walking away from this multimillion-dollar exposure, leaving W.R. Grace & Co. to defend itself."

Furthermore, the court adopted the injury-in-fact trigger of coverage, finding that the alleged property damage caused by the asbestos products was continuous. Therefore, every policy in effect at any time the asbestos-containing products were present in the school districts' buildings would be triggered by the settlement.

Judge Carey used a decision by the 6th U.S. Circuit Court of Appeals in *Ray Industries vs. Liberty Mutual Insurance Co.* to draw the conclusion that "every policy written during the period of contamination was triggered."

He also cited a 1991 article contained in the *William Mitchell Law Review* that stated "these 'multiple-trigger' decisions are consistent with the plain terms of the standard CGL policy, which do not express any limitation on the number of policies which may be triggered in a cumulative injury situation. Further, the 'multiple trigger' rulings are consistent with the drafting history of the standard CGL policy."

Judge Carey also held that the four exclusions invoked by insurers—the loss-of-use exclusion, the sistership exclusion, the pollution exclusion and the

owned-product exclusion—did not apply to asbestos property damage.

The only factual issue relating to coverage that may be litigated, Judge Carey said, is whether Grace expected or intended the property damage alleged by the school districts. A Feb. 10 hearing date has been set for resolution of this issue.

It is not known whether Grace's insurers will appeal the partial summary judgment. Insurer attorneys did not return phone calls.

The decision marks one of the few times a court has applied the continuous trigger theory in an asbestos property damage case, observers say.

'The continuous trigger theory is usually applied in bodily injury cases,' says Mr. London.

"Most of the original coverage decisions have been asbestos bodily injury cases," said Randy Paar, an attorney with Anderson, Kill, Olick & Oshinsky in New York who represented the school districts in the Minnesota case. As a result, he said, insurers have not been paying for asbestos property damage cases.

"The continuous trigger theory is usually applied in bodily injury cases," agreed Bud London, a partner with London Fischer in New York, who represents insurers in asbestos coverage cases.

However, insurer attorney Raymond Coates of Low, Ball & Lynch in San Francisco said the Minnesota decision "is unlikely to have any impact outside of Minnesota."

And Thomas Freeman, a policyholder attorney with Brobeck, Phleger & Harrison in San Francisco, said that while the continuous trigger application was significant, it would not be as useful to other policyholders as

Judge Carey's opinion that insurers that opt out of settlement negotiations should not be permitted to re-litigate various issues.

Insurers that do not like certain settlement provisions often "feel like they're entitled to start over from ground zero," he said.

But Judge Carey maintains that "an insurance company just can't walk away and then come forward and expect to re-litigate it," Mr. Freeman said.

"When you reach a settlement, you don't re-litigate issues of liability of property damage," agreed Ms. Paar of Anderson, Kill.

Mr. London criticized the court for its failure to stay a decision pending the resolution of asbestos property damage liability on a national basis.

"The problem with this decision is that it attempts to administer on an ad hoc basis tremendous global environmental exposures," he said.

"While this one particular school district was able to get the money it needed to resolve its asbestos problem, thousands of others may not" because of inconsistent court decisions around the country.

The continuous, or injury-in-fact, trigger so far has mostly been applied to asbestos bodily injury cases.

For example, following the precedent set by California Superior Court Judge Ira A. Brown in the 1987 consolidated asbestos case, a San Francisco Superior Court judge recently ruled that every CGL policy covering asbestos maker Flintkote Co. between 1942 and 1985 must respond to third-party claims seeking indemnification for bodily injury caused by exposure to asbestos during those years (*BI*, Oct. 26, 1992).

At the time, Judge Brown's ruling was generally considered the broadest interpretation of coverage for asbestos bodily injury claims ever handed down (*BI*, June 1, 1987).

But that broad trigger was not applied to property damage in

either the Flintkote or the consolidated asbestos case.

While Judge Brown's initial decision also applied the broad continuous trigger to property damage claims, he later restricted it to a multiple-trigger approach (*BI*, Dec. 25, 1989).

And in the Flintkote case, the court ruled that coverage is triggered when the installation of asbestos causes the property to lose value or to become "contaminated."

Judge Brown's decision is being appealed to California's 1st District Court of Appeal in San Francisco. No hearing date has been set.

Grace's insurers named in the school district litigation are:

Accident & Casualty Insurance of Winterthur; Admiral Insurance Co.; American Employers Insurance Co.; American International Underwriters; American Re-Insurance Co.; Ancon Insurance Co. (U.K.) Ltd.; Argonaut Northwest Insurance Co.; Bermuda Fire & Marine Insurance Co. Ltd.; Birmingham Fire Insurance Co.; Bishopsgate Insurance Co. Ltd.; Bryanston Insurance Co. Ltd.; British National Insurance Co. Ltd.; California Union Insurance Co.; Continental Casualty Co.; and CNA Reinsurance Ltd.

Also, Delta-Lloyd's Non-Life Insurance Co.; English & American Insurance Co. Ltd. Cie Europeene D'Assurances Industrielles; Federal Insurance Co.; First State Insurance Co.; Folksam International Insurance Co. Ltd.; Assicurazioni Generali S.p.A.; Gerling Group; Granite State Insurance Co.; Guarantee Insurance Co.; The Home Insurance Co.; IIT Hartford Group Inc.; Insurance Co. of North America; Insurance Co. of the State of Pennsylvania; Lexington Insurance Co.; Lloyd's of London underwriters; London & Edinburgh General Insurance Co.; Ludgate Insurance Co. Ltd.; Maryland Casualty Co.; National Casualty Co. of America; and National Union Fire Insurance Co. of Pittsburgh, Pa.

Also, New Hampshire Insurance Co.; Northbrook Insurance Co.; Pacific Employers Insurance Co.; Prudential Reinsurance Co.; St. Katherine Insurance Co. Ltd.; Southern America Insurance Co.; Stronghold Insurance Co. Ltd.; Terra Nova Insurance Co. Ltd.; Transamerica Insurance Co.; Turegum Insurance Co.; Unigard Security Insurance Co.; Walbrook Insurance Co. Ltd.; Winterthur Swiss Insurance Co.; Yasuda Fire & Marine Insurance Co.; and Zurich Insurance Co.

Independent School District No. 197 vs. Accident & Casualty Insurance Co. of Winterthur, No. CA-88-7950, 1st District Court of Minnesota.

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Sub-total	28,089
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Others Allied to the Field	904
Single Copies	4
TOTAL	52,785

* Source Business/Occupational breakdown of qualified circulation, May 25, 1992 issue, as submitted to BPA for June 1992 BPA Publisher's Statement.

Experimental

Continued from page 3

fore a suit is even filed to avoid bad publicity.

But there are plenty of charges and counter-charges. Some insurers contend that the litigation is an attempt to squeeze money out of them now that federal cancer research grants are harder to come by.

"Patients, hospitals and doctors are finding it easier to get money out of the insurance industry than research grants from the proper government authority," said Dr. Ken McDonough, senior vp and corporate medical director at Mutual of Omaha.

Lawyers representing cancer patients and treatment centers counter that HDC/ABMT is not experimental and should be covered.

"There is substantial data supporting the efficacy of this treatment," said John R. Thomas, an associate with de la Parte & Gilbert in Tampa, Fla. The law firm represents the Moffitt Cancer Center, which filed a friend of the court brief in the Dahl-Eimers case.

"Some insurance companies are interfering with the delivery of potentially life-saving treatment," adds Karen L. Illuzzi Gallinari of Anderson, Kill, Olick & Oshinsky,

a New York law firm that prepared a brief for several cancer centers in the Dahl-Eimers case.

Lawyers for patients also argue that benefit plan documents have often been vague on what is considered experimental. When language is ambiguous, the policyholder is entitled to coverage, they say.

"It comes as a surprise when someone—who has paid thousands of dollars for a policy—is told that 'this is what you need to survive,' and then the insurer will not cover the treatment because the treatment is considered experimental by the insurer" without the criteria spelled out, Mr. Thomas said.

All sides agree that the stakes involved in the litigation are huge, and not just for breast cancer treatment. For patients, insurance means they may be able to afford treatment that they and their physicians believe offers the only hope of survival.

For insurers, the costs could prove substantial. Insurers say that if they are forced to pay for procedures which may not be effective, both patients and employers—which ultimately pay the costs in the form of higher premiums—will be the real victims.

"If a procedure is covered, but does not work, what will be achieved? In the long run, we will all be losers. We will have lost

time. We want to find out what works and what does not. That will only take place through careful scientific research, not through trials and publicity," said Naomi Aronson, manager of technology evaluation with Blue Cross/Blue Shield Assn. in Chicago.

"Employers are barely able to

'It comes as a surprise when someone—who has paid thousands of dollars for a policy—is told that "this is what you need to survive," and then the insurer will not cover the treatment,' says John R. Thomas, an associate with de la Parte & Gilbert.

keep up with paying the costs of things that do work. If we look to health insurance to cover experimental therapy, there is no bottom to that pit. It would be a blank check for funding costs that would bankrupt employers," said Dr. Michael Soper, national medical director with CIGNA Corp. in Hartford, Conn.

If insurance coverage is offered for breast cancer treatment that is experimental, why not cover experimental treatment for AIDS? asks Dr. John Cova, director of medical technology assessment for the Health Insurance Assn. of America, a Washington-based in-

surer trade group.

Some insurers say the federal government could help cut down on litigation and advance medical science. Dr. Cova of the HIAA favors a federal law protecting insurers that provide coverage for patients in certain clinical tests from lawsuits by others outside the

proceed, benefit consultants say many employers need to do a better job of spelling out coverage to employees.

At a minimum, plan documents should indicate that not all procedures may be covered. Participants should also be told whom to contact to determine if a procedure is covered, said Mary Case, a partner with Kwasha Lipton in Fort Lee, N.J.

For instance, plan documents that Judy Harris and other letter carriers received defined experimental and investigation treatment in some detail.

A treatment was to be considered experimental if "reliable evidence" showed that the consensus of opinion among experts was that further trials or studies are needed to determine its maximum tolerated dose, its safety and its efficacy compared with standard treatments.

Reliable evidence means published reports and articles in the authoritative medical and scientific literature.

Often documents are far less detailed. Documents that Mary Dahl-Eimers received, for instance, said only that treatment that is "not considered experimental" was covered.

"Policyholders should know what they are getting," said Ms. Gallinari of Anderson, Kill. **BI**

Datebook

JANUARY

JAN. 11-13. Environmental Regulation Course in Dallas; Washington; and Salt Lake City; sponsored by Executive Enterprises Inc.; \$1,090. **Also Jan. 13-15** in Birmingham, Ala.; **Jan. 20-22** in San Francisco; **Jan. 27-29** in New York City; **Feb. 8-10** in Orlando; **Feb. 22-24** in Cincinnati; **March 10-12** in Cherry Hill, N.J.; **March 29-31** in Chicago. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

JAN. 13. Untangling the Web: Managing Workers Compensation Medical and Medical-Legal Costs sponsored by The California Workers Compensation Institute; \$165 for members; \$245 for non-members. **Also Jan. 14** in Long Beach, Calif.; **Jan. 15** in Ontario, Calif.; **Jan. 19** in Millbrae, Calif. Virginia Sullivan, CWCI, 120 Montgomery St., Suite 1300, San Francisco, Calif. 94104; 415-981-2107.

JAN. 13-15. Winter Health Care Management & Cost Containment Conference in San Diego, sponsored by *Business Insurance* and IBF Conferences; \$795; group discounts are available. IBF Conferences/International Business Forum, 50 Charles Lindbergh Blvd., Suite 400, Uniondale, N.Y. 11553-3619; 516-229-2375.

JAN. 13-15. Behavioral Health Programs in HMOs: Making Quality a Reality conference in Lake Tahoe, Nev., sponsored by the Group Health Assn. of America; \$570 for GHAA members; \$670 for non-members; add \$80 after Dec. 11. GHAA, 1129 20th St. N.W., Suite 600, Washington, D.C. 20036; 202-778-3225

JAN. 13-16. ABA's Tort and Insurance Practice Section Annual Meeting in Palm Beach, Fla., sponsored by TIPS and the American Bar Assn.; \$230. Teresa B. Rafol, American Bar Assn., TIPS, 750 N. Lake Shore Drive, Chicago, Ill. 60611; 312-988-5672.

JAN. 14-15. Premises Liability for Violent Crimes Seminar in Tampa, Fla., sponsored by the Defense Research Institute; \$375 for DRI members; \$425 for non-members; some discounts available. DRI, 750 N. Lake Shore Drive, Suite 500, Chicago, Ill. 60611; 312-944-0575.

JAN. 19. Pollution Liability: The Law and Available Insurance workshop in Allentown, Pa., sponsored by the Society of Chartered Property & Casualty Underwriters and the Lehigh Valley chapter; \$75 for society members; \$85 for non-members. Karen Williman, continuing education coordinator, Society of CPCU, 720 Providence Road, P.O. Box 3009, Malvern, Pa. 19355; 215-251-2773.

JAN. 20. CPCU Leadership Forum in Denver, sponsored by the Society of Chartered Property & Casualty Underwriters; \$250. Karen Williman, continuing education coordinator, Society of CPCU, 720 Providence Road, P.O. Box 3009, Malvern, Pa. 19355; 215-251-2773.

JAN. 20-22. Risk Management—New Tools of the Trade conference in Atlanta, sponsored by Atlanta Chapter of the Risk & Insurance Management Society Inc.; \$100 for RIMS members; \$125 for non-members; \$25 for students. Sally Wissel, Worldspan, 300 Galleria Parkway No. 2030, Atlanta, Ga. 30339; 404-916-7813.

JAN. 21-22. Industrial Health and Safety Regulation Course in St. Louis, sponsored by Executive Enterprises Inc.; \$1,090. **Also Jan. 25-26** in Cleveland; and **Feb. 4-5** in Atlanta. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

JAN. 21-23. West Regional Managed Health Care Congress in San Francisco, sponsored by the National Managed Health Care Congress; \$795; \$895 on site. Sara Evangelous, 617-487-6723.

JAN. 24-27. Continuing the Debate of the Workers Compensation Issues of the '90s seminar in State-line, Nev.; sponsored by the International Workers Compensation Foundation; \$250 for government representatives; \$350 for private sector attendees; \$25 for guests. Robert B. Collyer, treasurer, 1575 Aviation Center Parkway, Suite 512, Daytona Beach, Fla. 32114; 904-252-2915.

JAN. 26-27. Health Care Cost Containment workshop in Los Angeles, sponsored by the Health Research Institute; \$595. **Also March 16-17** in San Francisco; **April 6-7** in Atlanta; **May 4-5** in Chicago; **June 8-9** in New York. Workshop Coordinator, Health Research Institute, 1600 S. Main

Plaza, Suite 170, Walnut Creek, Calif. 94596; 510-676-2320.

JAN. 27. National Academy of Forensic Engineers Annual Meeting in Kona, Hawaii; \$250 for NAFE members; \$300 for non-members. E. Joyce Dixon, 174 Brady Ave., Hawthorne, N.Y. 10532; 914-747-1123.

JAN. 28. 14th Annual Risk Management Conference in Orange, Calif., sponsored by the Orange Empire Chapter of the Risk & Insurance Management Society; \$80. Maury DeBont, Mitsubishi Motor Sales of America, P.O. Box 6400, Cypress, Calif. 90630-0064; 714-372-6216.

JAN. 28-29. Understanding Today's London Insurance Market conference in New York City, sponsored by Executive Enterprises Inc.; \$1,090. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

JAN. 28-29. Putting Theory into Practice: How Providers and Payers Use Medical Guidelines and Outcomes Research seminar in Washington, sponsored by Capitol Publications Inc.; \$595. Peggy Dwyer, Capitol Publications Inc., 1101 King St., Suite 444, Alexandria, Va. 22314; 800-847-7772.

JAN. 29. Advanced Care Cost Containment workshop in Los Angeles, sponsored by the Health Research Institute; \$595. **Also March 19** in San Francisco; **April 9** in Atlanta; **May 7** in Chicago; **June 11** in New York. Workshop Coordinator, Health Research Institute, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 510-676-2320.

FEBRUARY

FEB. 1-2. Developing Profit Opportunities in Alternative Insurance Markets seminar in Chicago, sponsored by Infoline; \$995. Infoline Inc., 225 Turnpike Road, Southborough, Mass. 01722-1749; 508-481-6400.

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Rx for high drug costs: Managed care strategy

By LAURA MAZZUCA

WASHINGTON—More U.S. businesses are battling the high cost of prescription drugs with managed care strategies, according to a recent study conducted by The Wyatt Co.

Cost controls like drug utilization review programs, organized pharmacy networks, drug card programs and mail order programs are used by a growing number of the 300 companies recently polled

by Wyatt.

Twenty-eight percent of the companies reported that they contracted with mail-order pharmacies in 1992, up from 20% of respondents in the consulting firm's 1991 survey.

Some 22% established drug-card programs, down from 24% in 1991, while 6% used organized networks of pharmacies. The study did not report how many employers used pharmacy networks in 1991.

The steady growth of prescrip-

tion drug cost-containment programs is directly attributable to increases in both drug prices and the cost of drug therapy, the survey states.

According to industry figures, the price of a typical \$10 prescription drug in 1980 had risen to \$21.95 by 1990, an increase of 120%. That compares with a 93% increase in costs for other types of medical care over the same period, according to Wyatt.

At this rate, the study estimates

that national aggregate drug expenditures, which totaled \$20.1 billion in 1980, will top \$90 billion by the year 2000.

Prescription drug usage has increased as well.

In 1990, the average number of prescriptions filled annually per active employee covered by a prescription drug benefit program was 4.4, according to a 1991 study cited by Wyatt. This figure reflects the growing use of drug therapy in treating medical conditions and

aging workforce, and extended life spans, the Wyatt study said.

The study indicates that drug costs now account for about 10% of total health benefit costs for active employees and 30% or more for retirees.

Although 70% of the survey respondents indicated they are still covering prescription drugs as part of their medical benefits, a significant number reported using one or more cost-containment programs for prescription drugs.

Mail-order drug programs—the most popular, at 28%—are easy for companies to use and are especially economical for maintenance medications taken for chronic medical conditions.

Wyatt estimates that businesses using mail-order programs can realize savings as high as 30% on drug costs, especially through the use of lower-cost generic substitutes and volume purchasing.

Companies using drug-card programs—22% of the respondents—cited the convenience of accessing patient information at the point of service through a computer or phone network, which can simplify billing and expedite payment.

According to industry figures, the price of a \$10 prescription drug in 1980 had risen to \$21.95 by 1990.

Such programs were especially popular with smaller employers: 34% of companies with fewer than 500 employees offered a drug-card benefit, according to the survey.

However, drug cards have been associated with excessive use by unauthorized people, the survey authors caution.

Stand-alone, carved-out prescription drug benefits were in use at 18% of the respondents' companies. This format allows employers to identify and track the cost and utilization of prescription drugs separately from other medical expenses.

Another 6% of respondents used pharmacy networks in an attempt to manage prescription drug costs. In an earlier study, Wyatt estimated that companies can save 18% in medical costs by using pharmacy networks.

Employee cost-sharing is also part of the picture in holding down prescription drug costs, the survey concluded.

Of the 70% of employers that cover prescription drugs as part of their medical plan, two out of three indicated that the cost-sharing provisions that apply to other medical benefits also apply to prescription drugs.

Thirty-seven percent of these plans require employees to pay a fixed-dollar copayment per prescription, typically \$5 on generic drugs and \$10 on brand-name drugs.

Another 20% of the plans require employees to pay a fixed percentage of covered prescription charges, while 15% of the respondents have instituted specific provisions, such as deductibles or an annual benefit limit for prescription drug reimbursement.

Copies of "Prescription Drug Benefits: How Can Prescription Cost Increases Be Cured?" are available by calling Roseanne Rubin at Wyatt, 800-666-2871.

The IRI Difference:

IRI Responds Quickly to the Violent and Destructive Forces of Hurricane Andrew

Pre-emergency Plans, Post-storm Followup Assist IRI Insureds

ORLANDO, FL — Within minutes after Hurricane Andrew devastated Florida and Louisiana on August 24, 1992, IRI staff members were enroute to the ravaged areas to visit customers.

"Most of our insureds were amazed at how quickly we were at their facilities," said Kevin Morris, Manager—District Loss Prevention, Orlando. "They were surprised that they didn't even have to call us. We

just appeared at their doorstep ready to do what we could to assess damage, mitigate further loss and help in any way possible."

Kevin attributed the speedy service to good pre-emergency planning. "Before the storm hit, we called insureds to review their hurricane and flood pre-emergency plan, which generally was based on OVERVIEW, IRI's total management program for loss prevention and control."

Within four days, loss prevention and claims staff had visited virtually all IRI customers in the stricken areas.

"Most of IRI's insureds located in Louisiana were well prepared," said Bill Leach, Manager—District Loss Prevention, Houston office. "They weren't about to take any chances."

"We just appeared at their doorstep ready to do what we could." — Kevin Morris, IRI

"At times like these," Bill added, "insureds want to know that IRI is ready to respond to their needs and do what it can to make a difficult situation easier."



Some of the members of the Orlando office who responded to customer needs are, left to right, first row, Dave Hendon, Daryl Fincher, Doug Grant, Chris Rowe, Jack Acoca; second row, Kevin Morris, Hal Bailey; third row, Mary Roth, Suzanne Brouillette, Jean Batcheller, Donna Cotton, Ralph Miller.

For information concerning IRI's loss prevention, claim handling and underwriting capabilities, contact your servicing IRI office or IRI Marketing (800) 243-8308 (in Connecticut call Trish Sasso 520-7412).

IRI

can make a difference

Breast implants

Continued from page 2
not provide coverage details.

Judge Don Wittig, who presided over the two-week trial that began Dec. 8, has scheduled a Jan. 11 hearing to hear post-trial motions.

A spokeswoman for Bristol-Myers-Squibb said the company intends to appeal at that time.

A Texas Superior Court jury in Houston on Dec. 23 found the

company liable for \$5 million plus interest in compensatory damages, \$20 million in punitive damages, and attorneys' fees to Pamela Jean Johnson, 45.

In her suit, Ms. Johnson said that silicone leaked from two sets of implants made by Medical Engineering Corp., a subsidiary of Bristol-Myers-Squibb, causing a lupus-like autoimmune system illness that forced her to have a partial mastectomy.

Ms. Johnson, who sued Medical

Engineering in May 1991, received her first implants in 1976. After the implants ruptured in 1989, they were removed and replaced. When the second set of implants ruptured, Ms. Johnson was required to undergo a partial mastectomy because of damage to surrounding tissue, explained her attorney, John O'Quinn of Houston.

A third set of implants, made by another company, was removed earlier this year. No liti-

gation is planned against that manufacturer, said Mr. O'Quinn.

Although Mr. O'Quinn was pleased with the jury's verdict, he said he hoped it would serve as a warning to other silicone breast implant manufacturers facing similar lawsuits that they should settle out of court.

"I had offered to settle this case for far less than the jury awarded to spare the company and my client the expense and the ordeal of a trial," he said.

Mr. O'Quinn, who is in private practice, represents nearly 1,000 other women in similar product liability suits involving faulty silicone breast implants.

Silicone breast implants were taken off the market last January after the U.S. Food & Drug Administration called for a voluntary moratorium. The FDA has since limited implant use to women requiring reconstructive surgery who participate in controlled clinical studies. **BI**

Insurance TV show moves to new slot

"The Premium Dollar Today," a half-hour cable television series on insurance industry issues, is moving to Tuesday mornings from Friday mornings on the USA Network beginning Jan. 5.

The programs, which air at 6 a.m. Eastern and Pacific Standard Time and 5 a.m. Central Standard Time, feature industry experts discussing insurance issues in a roundtable format.

The first new program in 1993, airing Jan. 5, will cover the future of the property/casualty insurance business. Panelists are: Michael J. Snead, chairman of Admiral Insurance Co.; Pete Synnott, executive vp of Society of Chartered Property & Casualty Underwriters; and Carol D. Manning, senior vp, InsuranceWatch Rating Service.

"The Premium Dollar Today" is sponsored by: A.M. Best Co.; KPMG Peat Marwick Financial Services; Reliance National Insurance Co., a unit of Reliance Group Holdings Inc.; and The Society of CPCU.

Herbert E. Goodfriend, director of insurance analysis with KPMG Peat Marwick, is the host.

Business Insurance provides special editorial assistance to the series.

Reliance National launched the program in 1990 in an effort to "demystify" the insurance business. It is designed to deliver information but not to promote the insurance industry. Industry critics as well as industry representatives appear on programs.

The schedule of programs through January is:

- Jan. 12, "The McCarran-Ferguson Act," including panelists Mavis A. Waters, executive vp of the Insurance Services Office Inc.; Theodore C. Whitehouse, partner with Wilkie Farr & Gallagher; and Andrew S. Wright, senior counsel at the American Insurance Assn. This program first aired in 1992.

- Jan. 19, "The Future of the Life/Health Insurance Industry," including panelists Larry Mayewski, vp of Best's life/health division; Gordon Pratt, vp of Conning & Co.; and Steve Pionteck, managing editor of the National Underwriter's Life/Health edition. The program is airing for the first time.

- Jan. 26, "National Health Care," including panelists Claudia Bradbury, policy associate in the employee benefits department of the AFL-CIO; Ellen Goldstein, director of health policy and communications for the Assn. of Private Pension & Welfare Plans; and Stephen Young, director in the New York office of the Health Insurance Assn. of America. This program first aired in 1992.

Directory correction

The listings for the following companies in the Dec. 21 directory of employee benefit consulting firms were transposed. The corrected listings appear below.

Benefit Controls Cos.

910 E. Washington St., Greenville, S.C. 29601; 803-242-9441; fax: 803-232-6655

Founded: 1978.

Services: 72% of revenues from benefit consulting.

Retirement/savings plan consulting: 4% of revenues.

Welfare plan consulting: 68% of revenues.

Other services: Compensation consulting; brokering; claims administration; voluntary plans, non-qualified plans.

Locations: Atlanta; Charlotte, Columbia, S.C.; Hickory and Raleigh, N.C.

Staff: 24 total; 19 professionals, including one attorney.

Clients: 220 total; 30% with 1-100 employees, 30% with 101-1,000, 20% with 1,001-5,000, 20% with 5,001 or more; 97% corporations, 3% individuals. No minimum size client.

Compensation: By the project, commissions, on retainer, by the hour: senior consultant, \$175; consultant, \$145; clerical, \$50; administrative assistant, \$75.

Gross revenues: \$2.1 million from worldwide benefit consulting in 1992, (100% from U.S. locations). Total worldwide 1992 revenues: \$3 million.

Non-U.S. benefit consulting: From the U.S.

Principal officers: William A. Gantt, Donald E. Ward, P. Edwin Icard, Michael A. Hawkins, Robert Lassiter, Douglas Dellinger, William P. Foster, Richard A. Gantt, Laurence K. Provence.

Benefit Matters Inc.

993 Old Eagle School Road, Suite 410, Wayne, Pa. 19087; 215-688-1500; fax: 215-688-8880

Services: 10% of revenues from benefit consulting.

Retirement/savings plan consulting: 1.5% of revenues. Includes plan design consulting; plan administration consulting; investment manager selection consulting.

Welfare plan consulting: 8% of revenues. Includes plan design consulting; insurer/broker selection consulting; evaluation of service providers; health care cost containment.

Benefit communications consulting: 0.5% of revenues. Includes communications consulting; benefit statement, booklet and audiovisual preparation.

Other services: Brokering.

Locations: Blue Bell, Pa.

Staff: 11 total; seven benefit consulting employees; four professionals, all CLUs.

Clients: 89% with 1-100 employees, 10% with 101-1,000, 1% with 1,001-5,000; 90% corporations, 10% individuals.

Compensation: By the project, commissions, on retainer, by the hour: senior consultant, \$150; consultant, \$100; clerical, \$60.

Principal officers: James S. Grant, president/secretary; William S. Sibson Jr., vp/treasurer. **BI**

Commercial Union names chairman

Kenneth J. Duffy has been named chairman of Commercial Union Corp., the Boston-based insurance holding company. Mr. Duffy, who will remain CEO, succeeds Anthony L. Brend, who will remain a director of the holding company, which is a unit of U.K. insurer Commercial Union Assurance Co. P.L.C.

Robert C. Gowdy will succeed Mr. Duffy as president and was also named chief operating officer. He previously was executive vp-insurance operations.

In other insurer changes:

Ronald E. Timpe elected president and chief operating officer of Standard Insurance Co. in Portland, Ore. Standard Insurance CEO Benjamin R. Whiteley was promoted to the additional title of chairman.

Marilee Roller named president and chief operating officer of Pacific Corinthian Life Insurance Co., a new Pacific Mutual Insurance Co. unit in San Diego.

Charles G. Lynch named a vp in the group insurance department of New York Life Insurance Co.

Karen Bowers appointed vp-workers compensation claims at Argonaut Insurance Co. in Menlo Park, Calif.

Jonathan M. Fuchs named vp of managed care at Employers Health Insurance Co. in Green Bay, Wis.

Gary C. Dunton elected executive vp of commercial lines for the United States Fidelity & Guaranty Co. of Baltimore. Previously, Mr. Dunton was vp for commercial and personal lines field operations.

Also at USF&G, James R. Lewis has been elected senior vp of the Northeast region, Alan K. Crater elected vp of inland marine insurance within the commercial lines operation, and Kenneth F. May elected senior vp of the Southeast region.

Walter D. Bannerman was promoted to vp of Associated Aviation

Comings & Goings: Industry

Underwriters in Short Hills, N.J.

Kenneth J. McPartlin named vp and assistant to the president of United Community Insurance Co. in Albany, N.Y., a subsidiary of Lawrence Insurance Group Inc.

Agents/brokers

Timothy J. Danis named chief executive officer of Rollins Hudig Hall of Illinois Inc. in Chicago. He previously was senior vp.

John C. Adams Jr. named executive vp and chief operating officer of Hilb, Rogal & Hamilton Co. of Richmond, Va.

F. Glen Graham Jr. joined Poe & Associates Inc. as executive vp in charge of the company's Insurance Administration Center subsidiary in Tampa, Fla.

Also at Poe, Wayne H. Carter III joined as senior vp in charge of the firm's Professional Protector Plan for dentists.

Mac D. Nadel appointed a vp in the Stamford, Conn., office of Johnson & Higgins.

Joseph M. Rotiliano joined Jones & Hawkins Insurance Agency in St. Petersburg, Fla., as a benefits account executive.

Louise M. Seebold named director of risk management services for Andreini & Co. in San Mateo, Calif.

Reinsurance

Thomas J. Toth named vp at American Re-Insurance Co. in Princeton, N.J. He previously was assistant vp.

Timothy M. Lamothe promoted to vp of treaty marketing at National Re Corp. in Stamford, Conn. He previously was a second vp. Also at National Re, James J. Breen promoted to vp of finance.

Doreen Sue Faga promoted to

vp-actuarial of Newark, N.J.-based Prudential Reinsurance Co.

Kemper Reinsurance Co. recently announced several promotions at its Long Grove, Ill., headquarters: Thomas J. Nering named senior vp; and Richard Clymer, Steven Dee, Mark Hoadley and Melvin Silver named vps.

Other suppliers

Robert Elliott named president of Private Medical-Care Inc., an affiliate of Delta Dental Plan of California in Los Alamitos, Calif. Formerly, Mr. Elliott was director of product development for Delta Dental.

David J. Jasmund promoted to president and chief operating officer from senior vp of Executive Risk Consultants Inc., a Altamonte Springs, Fla.-based claims administrator.

Max Brown appointed general manager and head of operations for Blue Cross of California's CaliforniaCare HMO in Woodland Hills. He previously was vp and executive director of Sanus Texas Health Plan of Irvine, Texas.

MedView Services Inc. of Farmington Hills, Mich., announced two promotions: Valerie Wilson, formerly director of operations for the company's claims operations, to vp in Chicago; and Russell L. Whatmore, formerly director of operations for the provider contracting division, to vp in Colorado Springs.

Diane C. Chiponis promoted to vp and chief financial officer of Greater Atlantic Health Services, a managed health care company in Philadelphia.

Peter Greenland promoted to senior vp-marketing in the new Manhattan branch office of Scott Wetzel Services Inc. **BI**

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Chicago

Withholding tax

Continued from page 3

come news," commented Frank Roque, a consultant with Hewitt Associates in Lincolnshire, Ill.

However, the 20% withholding tax would be imposed on the total distribution—including the loan offset—in cases in which a terminating employee takes the distribution remaining after the offset, instead of keeping the funds in the plan or having them directly transferred to an IRA or a new employer's defined contribution plan.

For example, assume the employee has a \$10,000 account

balance in his company's 401(k) plan, but the employee also owes \$3,000 on a loan provided earlier by the plan.

The employee terminates employment. The employer offsets the employee's account balance with the \$3,000 loan.

The employee then asks for the remaining \$7,000.

Under the IRS notice, the employer would have to withhold 20% of the entire \$10,000 account balance. As a result, the employee would receive only a \$5,000 distribution.

Meanwhile, benefit consultants hope that the incoming Congress quickly enacts legislation—included in a tax bill

passed by legislators last year but later vetoed by President Bush—that would reduce the administrative burdens of the 20% withholding tax.

For example, the proposal vetoed by President Bush would have exempted distributions of less than \$500 from the 20% withholding tax.

"We have an expectation that the proposed changes will be resurrected and put into some type of tax bill," said Mr. Roque of Hewitt Associates.

"A lot of problems still remain to be addressed," pointed out Henry Saveth, a principal with A. Foster Higgins & Co. Inc. in New York. **BI**

Baird nomination

Continued from page 3

Hunter, who supports the antitrust action, predicted that Ms. Baird would have to remove herself from the case because of her affiliation with Aetna.

The AIA's Mr. Berrington said, however, that entering government service "doesn't mean you check your experience at the door. That will be very helpful to us and to the country."

He said Ms. Baird—the first woman to be nominated as attorney general—will be helping develop the administration's policies on insurance issues as attorney general.

"It certainly will be helpful to have someone in that position who has knowledge of the industry," he said.

"I think it cannot but help from the insurance industry's perspective to have someone so knowledgeable in such a key post in the Clinton administration," said ISO's Mr. Giasi, who praised Ms. Baird as "extremely intelligent, strong, articulate and independent." He called her "an excellent choice."

"It's obviously a good thing to have someone so highly placed in the administration who has a working knowledge of the industry and understanding of the complex nature of the issues that affect our business," said a spokeswoman for the Alliance of American Insurers in Washington.

"I was glad to see that a person who has substantial administrative experience has been appointed to the job of attorney general," said Victor E. Schwartz, a partner in the Washington law firm Crowell & Moring and an advocate of product liability reform.

He praised Ms. Baird as "a person who has seen at least a significant portion of our civil justice system and the problems on both sides: those faced by people who are hurt and deserve compensation when they've been hurt by some wrongful act and also those who have to pay damages sometimes beyond what is appropriate."

NICO's Mr. Hunter expressed some concern about

potential conflicts of interest in Ms. Baird's role in setting administration policy regarding the McCarran-Ferguson Act.

"Say the administration is asked to take a position on the Brooks bill, H.R. 9 or whatever number it is this year," said Mr. Hunter. Sponsored by Rep. Jack Brooks, D-Texas, that bill would remove most of insurers' key exemptions from federal antitrust law (*BI*, June 1, 1992).

Even though her employment ties with Aetna will be severed, "It's hard to sever intellectual ties," Mr. Hunter commented.

Ms. Baird's ties to the insurance industry are relatively recent. She joined Aetna in 1990 after four years at General Electric Co. as a counselor and

Joining the government 'doesn't mean you check your experience at the door,' says Craig Berrington of the AIA. 'That will be very helpful to us and to the country.'

staff executive. She was associated with the Washington law firm O'Melveny & Myers from 1981 to 1986 and was associate counsel to President Carter during the last year of his administration.

In a prepared statement, Aetna Chairman Ronald E. Compton praised Ms. Baird as a "key member of Aetna's senior management team."

"My reaction to her nomination is a mixture of disappointment and delight: disappointment because we have come to rely on Zoe's acute legal insights and incisive leadership; delight because this represents a wonderful opportunity for an enormously talented individual to serve our country.

"She will be a tremendous asset to the Clinton administration and to the Justice Department," said Mr. Compton. **BI**

Hospital liability

Continued from page 2

overtured its dismissal of the COBRA violation.

That opinion caught the interest of area hospitals and hospital organizations, many of which had filed friend-of-the-court briefs with the 7th Circuit.

"We disagreed with the court's holdings that a phone call to an

claims, but it dismissed the COBRA claim.

"We do not believe that Lenise ever 'came to' the (University of Chicago Hospital) or its emergency department," Chief Judge William Bauer observed in the unanimous ruling. "For purposes of COBRA, a hospital-oriented telemetry system is distinct from

port to ambulance teams.

A lawyer representing Ms. Johnson, Jeffrey M. Goldberg, says he will try to prove that the hospital was guilty of "willful or wanton misconduct" in providing that support.

The common law allegations were remanded to the trial court.

Despite reinstating the common law counts, the appellate ruling is "a step in the right direction," observed Susan Phillips, vp-government and public affairs for the University of Chicago Hospitals.

"We feel confident that there will be no outstanding claims after the final analysis," said Ms. Phillips.

UCH self-insures its liability exposures.

"We can't use COBRA, but the ruling does not affect our ability to gain damages. . . . We still have the right to seek every penny of recovery that we could before," said Mr. Goldberg, who has his own practice in Chicago.

Emerald Denise Johnson, administrator of the Estate of Lenise Xavier Nelson, vs. University of Chicago Hospitals, Illinois Court of Appeals for the 7th Circuit, No. 91-3587.

that same hospital's emergency room."

The court did rule that Ms. Johnson could continue to press her negligence and wrongful death charges against the university hospital because it assumed the responsibilities of a "resource" hospital under the state Emergency Medical Services Act.

That law requires the hospital to provide communications sup-

'We do not believe that Lenise ever "came to" the (hospital) or its emergency department,' Chief Judge William Bauer observed. 'For purposes of COBRA, a hospital-oriented telemetry system is distinct from (the) hospital's emergency room.'

emergency room was the same as an actual visit," said a spokeswoman for Evangelical Health Systems, the parent of five Chicago-area hospitals.

The trial court ruling was vacated by the appellate court on Nov. 23.

Then, in a new ruling issued last week, the same 7th Circuit panel reversed its original stance on both issues: It reinstated the negligence and wrongful death

Update

Heist target insured at Lloyd's

Continued from page 2

\$30 million. FBI and police officials are investigating the possibility that the robbery was an inside job.

Hudson's primary coverage of \$1 million was led by Lloyd's of London syndicate 287 managed by Spratt & White Ltd., London sources say. Excess coverage with limits of more than \$8 million was also placed at Lloyd's.

EBP shareholder settlement

MINNEAPOLIS—Employee Benefit Plans Inc. will pay \$4.2 million in cash and issue \$6.5 million in debentures to settle class-action shareholder litigation that followed a plunge in the third-party administrator's stock price last year.

Proceeds of the settlement will go to EBP stockholders who bought their shares between Oct. 15, 1991, and Oct. 9, 1992. The \$4.2 million cash portion of the settlement includes \$3 million paid by EBP's liability insurers, the company said.

EBP, the nation's third-largest benefit claims administrator, also will issue class members 6¼% senior subordinated convertible debentures valued at \$6.5 million. The debentures are convertible to common stock at a fixed price. The issue is not expected to increase EBP's outstanding debt since the firm will retire a similar amount of its existing convertible debentures.

The settlement will result in a net aftertax charge of \$2.2 million to \$2.7 million, most of which will be taken in the second fiscal quarter ending Nov. 30.

Shareholders sued EBP when its stock plunged from \$64 a share to \$30 in January 1992 on news of a flat quarterly earnings report (*BI*, April 13, 1992). EBP's stock closed at \$12 a share last Tuesday.

Family settles car seat suit

ATTLEBORO, Mass.—Kolcraft Enterprises Inc. is fully insured for the \$4.25 million settlement of a suit by a family of a boy paralyzed in a 1989 accident while riding in a Kolcraft car booster seat.

A lawyer for Kolcraft, Michael Pope of Pope & John in Chicago, said its insurer participated in settlement talks.

"This is a good product that saves lives," Mr. Pope said. "The product did not cause the injury, but considering the current situation with juries and the sympathy factor, we were facing a massive exposure." Mr. Pope said a Massachusetts jury could have awarded the family the \$20 million they sought, plus interest.

Michael Wright, then 2, was paralyzed when he came part way out of a booster seat. Booster seats have a padded, chest-high bar to protect children. Unlike car seats for smaller children, they have no backs and therefore no shoulder restraints.

Chicago-based Kolcraft discontinued the model in 1992.

Mall fire under investigation

MOORESTOWN, N.J.—Most stores in a shopping mall in Moorestown, N.J., remain closed after a fire caused extensive damage.

The Dec. 23 fire in the Moorestown Mall is believed to have started in the store of tenant Herman's Sporting Goods Inc., a chain based in Carteret, N.J. The cause of the fire is still unknown, according to a spokesman for Herman's, who said that store personnel were not allowed into the store until early last week. Estimates of property damage and lost business were unavailable.

Herman's is insured for both property damage and business interruption losses with Travelers Corp., he said.

Sears, Roebuck & Co., Boscov's Department Store Inc. and John Wanamaker Inc., the mall's three anchor stores, were the only tenants to reopen Christmas Eve. The rest of the more than 120 stores remained closed last week.

Prop. 65 to cover more firms

SACRAMENTO, Calif.—Companies that make and sell food, drugs, cosmetics and medical devices will have to conform with Proposition 65 beginning July 1 under an agreement between the California Environmental Protection Agency and environmental and labor groups.

The agreement settles a suit challenging exemptions for those industries in regulations implementing the 1986 toxic labeling law.

Under Proposition 65, businesses that expose people to cancer-causing chemicals must provide warnings. If an exposure occurs and no clear and reasonable warning is given, a business may be held liable for civil penalties unless it can prove the exposure poses no significant health risk.

Under the agreement, reached last week, the state will adopt exposure standards for about 30 additional chemicals.

Briefly noted

Amoco Corp. will take a one-time aftertax charge of \$850 million to recognize its FAS 106 obligations. But, after recognizing anticipated tax benefits as an offsetting asset, the charge will actually be \$750 million. . . . **Travelers Corp.** shareholders approved the sale of \$722.5 million in outstanding common stock to Primerica Corp. Primerica will pay Travelers about \$572.5 million in cash and exchange the remaining \$150 million worth of shares for 50% equity in Commercial Insurance Resources Inc., a Primerica unit (*BI*, Oct. 19, 1992; Aug. 28, 1992). . . . **A.M. Best Co.** has raised the rating of **LMI Insurance Co.** to A from A-. The change reflects the acquisition of the insurer by Vik Brothers Insurance Group from Prudential Property & Casualty Insurance Co. . . . Consumer activists Ralph Nader and J. Robert Hunter plan to release a study of the impact of California's **Proposition 103** at a press conference Wednesday.

Paramount

Continued from page 2

Leslie G. Fagen, a lawyer representing Paramount, expressed disappointment with these portions of the ruling, but said he was pleased with a section granting Paramount summary judgment against one of its 1984 excess insurers.

"There are appealable issues" in the sections of the ruling that went against Paramount, said Mr. Fagen, who is with the firm of Paul, Weiss, Rifkind, Wharton & Garrison in New York.

The coverage litigation arose from two product liability lawsuits filed against Crosby Valve & Gauge Co., a Paramount subsidiary that produced safety valves for nuclear reactors.

Crosby officials notified Paramount in December 1984 that Crosby faced "significant product liability claims" as a result of a design deficiency in the valves, court papers say.

Paramount immediately notified the Nuclear Regulatory Commission of the potential safety hazard. In February 1985 it also notified Aetna Casualty & Surety Co., which provided a \$1 million primary liability policy in 1984, and First State Insurance Co., an ITT/Hartford Group Inc. unit, which wrote a \$10 million umbrella liability policy.

Both Aetna and First State later paid out their 1984 policy limits toward Paramount's \$40.5 million settlement of the two product liability actions, according to last month's ruling.

Along with this coverage, Paramount had excess liability coverage in varying layers and amounts for 1983 through 1987.

Excess coverage at issue for the 1984 policy year provided limits up to \$120 million, consisting of layers of \$10 million excess of \$10 million, \$30 million excess of \$20 million and \$70 million excess of \$50 million.

The structure and limits of the excess program were essentially the same in 1983 but varied in the 1985, 1986 and 1987 policy years.

Several excess insurers in the 1984 policy year contributed along with Aetna and First State to the \$40.5 million settlement, though some did so conditionally depending on the outcome of coverage litigation.

Paramount sued 24 of the excess insurers participating in various layers and

various years of its excess program.

Paramount's original complaint and an amended complaint—filed in 1991 in New York State Supreme Court—raised several arguments seeking to hold the insurers liable for contributions to the settlement.

In her ruling, Judge Fingerhood addressed several coverage arguments raised in pre-trial motions by Paramount and the insurers.

Among other findings, the judge rejected Paramount's contention that insurers in the upper layers of its program should drop down to cover amounts that cannot be collected from insolvent companies in the \$30 million excess of \$20 million layer.

Paramount had argued that the excess policies, following the form of the First State umbrella policy, must provide coverage over any "other valid and collectible" insurance. This phrase should be interpreted to require drop-down, Paramount argued.

Instead, Judge Fingerhood granted a motion by insurers in the \$70 million excess of \$50 million layer in 1984 to dismiss claims in that layer.

Insurers in this layer included Atlanta International Insurance Co.; Century Indemnity Co., a CIGNA Corp. subsidiary; Federal Insurance Co., a Chubb Corp. subsidiary; National Union Fire Insurance Co. of Pittsburgh, Pa., an American International Group Inc. subsidiary; Protective National Insurance Co. of Omaha, Neb.; and Transamerica Insurance Co.

The judge cited a ruling last year by the New York Court of Appeals, the state's highest court, refusing to require an excess insurer to drop down in a case where a policyholder's primary insurer had become insolvent (*BI*, March 16, 1992).

When the upper-layer insurers issued policies excess of \$50 million, "they obviously did not intend to provide coverage in the \$30 million excess of \$20 million layer in the event that the insurers in that layer became insolvent," the judge wrote. "If they had so intended, the premium charged would have had to be commensurate with the risk insured, not the low costs of excess liability insurance," she continued.

The judge also rejected Paramount's argument that solvent insurers in the \$30 million excess of \$20 million layer should pick up the liabilities of insolvent com-

panies in that layer.

"They, too, have charged and been paid a premium commensurate with the share of the risk which they assumed and no more," the judge wrote.

Meanwhile, Judge Fingerhood also granted a motion to dismiss claims against several insurers that did not participate in the 1984 excess program but only in the 1985, 1986 and 1987 programs.

These insurers included Columbia Casualty Co., a CNA Financial Corp. unit; Harbor Insurance Co., a Continental Corp. unit; The North River Insurance Co., a Crum & Forster Inc. unit; Pacific Insurance Co., another Continental unit; Royal Indemnity Co.; Travelers Indemnity Co.; and Zurich Insurance Co.

The 1984 policies apply to the settlement "because Paramount was given notice that there was a substantial risk of loss associated with the defective valves in that year," the judge wrote.

"Because Paramount received actual notice of the condition that created the property damage prior to the effective date of the 1985, 1986 and 1987 policies, those policies cannot cover. At the time of their inception, the fault in the valves was a 'known loss,'" Judge Fingerhood concluded.

Separately, Paramount requested a summary judgment that the 1984 policies of Protective National and Gibraltar Casualty Co. cover the product liability claims. Both insurers participated in all three excess layers in 1984.

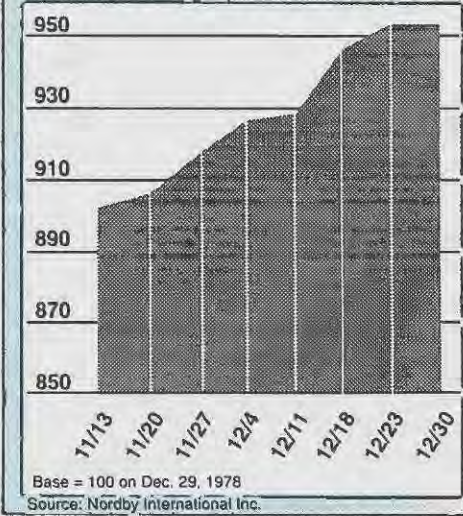
Noting that Protective National's policies followed the form of the Aetna primary policy, Judge Fingerhood ruled that Paramount's claims are covered by the policies.

However, Gibraltar—a unit of Prudential Insurance Co. of America—argued in a cross-motion for summary judgment that it did not receive notice of the Paramount claims until April 1987 and that coverage should be barred because of the late notice.

The judge refused to grant summary judgment to either side on the 1984 Gibraltar policies, finding that the court had insufficient information to decide whether or not notice was timely.

Paramount Communications Inc. vs. Gibraltar Casualty Co. et al; New York State Supreme Court; Index No. 25473/90.

BI Insurance Index



Insurance industry stocks finished the year on an upswing last week, as the *Business Insurance Index* climbed 3.0 points to 954.4 on Dec. 30 from 951.4 on Dec. 23. Advancing issues for the week were led by Pacificare Health System, up 8.5%; US Facilities Corp., up 8.1%; and Acordia Inc., up 6.3%. Declining issues for the week followed Seibels Bruce Group, down 16.7%; Reliance Group Holdings, down 5.8%; and Tokio Marine & Fire, down 4.5%. The most active issue was Sears, Roebuck, with 2.8 million shares traded. The *BI* index was up 0.3%; the NYSE Composite was up 0.1%; the Standard & Poor's 500 was down 0.1%; and the Dow Jones 30 Industrials rose 0.2%.

British Issues

Dec. 29 Companies	Price pence	P/E	Div. pence	Yield %	1 Week	
					High	Low
Current Union	630	N/M	31.5	5.0	630-629	
Genl Accident	581	N/M	35.7	6.1	585-581	
Gen Royal Exch	170	N/M	10.0	5.9	173-170	
Royal	270	N/M	7.0*	2.6	273-270	
Sun Alliance	347	N/M	19.0	5.5	353-347	
Brokers						
Bradstock	133	15.6	6.8	5.1	133-133	
CE Health	350	20.2	21.3*	6.1	350-348	
Hogg Group	171	16.1	10.9	6.4	171-170	
JIB Group	154	11.8	10.0	6.5	154-153	
Lloyd Thompson	260	21.0	7.5	2.9	260-259	
Lowndes Lambert	324	12.6	16.8	5.2	325-324	
PWS Holdings	53	6.1	5.3	10.0	53-53	
Sedgwick Grp	167	13.3	8.0*	4.8	173-167	
Steel Bnt Jones	210	10.3	17.7	8.4	210-204	
Willis Coroon	191	12.2	17.6	9.2	195-191	

Source: Philip Olsen, London * Estimated

BI Industry Stock Report

DEC. 24, 1992 THROUGH DEC. 30, 1992

	Price	Weekly % change	Year to Date % change	Annual		Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk value	Price	Weekly % change	Year to Date % change	Annual		Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk value	
				High	Low										High	Low							
BROKERS																							
Acordia Inc	NYS	21.00	6.33	N/A	22.25	15.13	22	0.36	1.71	15	7.01	3.00											
Alexander & Alexander	NYS	26.50	-1.40	29.27	27.63	18.00	304	1.00	3.77	95	10.00	2.65											
Gallagher Arthur J & Co	NYS	28.50	2.24	27.37	29.00	20.00	28	0.64	2.25	19	6.35	4.49											
Hilt, Rogal & Hamilton	NYS	15.50	1.64	16.98	15.63	11.00	58	0.44	2.84	23	3.11	4.98											
Marsh & McLennan	NYS	91.38	0.55	12.29	94.50	71.25	367	2.68	2.93	22	14.40	6.35											
Poe & Associates	OTC	16.75	0.00	39.58	17.00	11.25	29	0.40	2.39	21	2.64	6.34											
BROKERS AVERAGE																							
1.6																							
CONGLOMERATES & HOLDING COMPANIES																							
Berkley W R Corp	OTC	43.13	-1.99	41.39	47.75	31.00	237	0.36	0.83	16	23.51	1.83											
Berkshire Hathaway Inc	NYS	11700.0	1.30	29.28	11700.0	8575.00	0	0.00	0.00	65	6437.25	1.82											
ITT (Hartford Group)	NYS	71.50	1.42	23.81	72.00	54.75	978	1.84	2.57	17	68.23	1.05											
Sears (Allstate)	NYS	45.75	3.10	20.79	48.00	37.00	2752	2.00	4.37	45	40.18	1.14											
CONGLOMERATES AVERAGE																							
1.0																							
INSURERS/REINSURERS																							
AEGON NV	NYS	41.63	-1.19	18.93	42.75	33.00	59	2.68	6.44	7	34.06	1.22											
Aetna Life & Casualty	NYS	46.50	0.81	5.68	48.88	38.00	516	2.76	5.94	15	67.08	0.69											
Allied Group Inc	OTC	31.75	2.42	86.76	33.50	16.75	26	0.64	2.02	9	11.29	2.81											
Allmerica Prop & Casualty	OTC	49.50	2.59	38.46	51.00	33.00	295	0.44	0.89	8	40.44	1.22											
American General	NYS	57.13	3.63	28.37	57.13	40.25	1102	2.08	3.64	12	39.89	1.43											
American Heritage Life Ins	NYS	30.00	2.56	-2.04	32.50	23.34	3	0.84	2.80	14	16.51	1.82											
American Indemnity Fin I	OTC	6.00	0.00	26.32	9.25	4.75	2	0.08	1.33	3	14.43	0.42											
American International	NYS	118.25	-0.53	20.20	121.38	82.00	754	0.56	0.47	16	54.21	2.18											
Aon Corp	NYS	53.38	2.64	34.70	53.38	39.50	172	1.68	3.15	14	27.17	1.96											
Argonaut Group	OTC	30.00	-1.64	26.32	31.25	24.00	57	0.84	2.80	9	21.70	1.38											
AVEMCO Corp	NYS	23.13	4.52	-7.50	28.00	21.00	23	0.40	1.73	25	7.33	3.15											
Baldwin & Lyons Inc	OTC	33.50	0.00	30.10	36.50	25.00	14	0.48	1.43	8	30.85	1.09											
Chandler Insurance	OTC	4.63	2.78	42.31	7.63	3.25	30	0.00	0.00	21	8.63	0.54											
Chubb Corp	NYS	89.38	-0.42	16.07	91.00	62.38	412	1.60	1.79	14	40.67	2.20											
CIGNA Corp	NYS	57.75	3.13	-5.52	60.88	47.13	466	3.04	5.26	11	81.73	0.71											
CNA Financial Corp	NYS	99.00	-2.34	1.02	104.50	78.50	58	0.00	0.00	12	80.24	1.23											
Continental Corp	NYS	26.75	1.90	-3.17	34.75	20.00	553	1.00	3.74	20	38.32	0.70											
EXEL Ltd	NYS	47.00	0.27	25.33	47.00	32.13	435	0.92	1.96	9	N/A	N/A											
Fund American Corp	NYS	71.00	-1.39	1.61	74.50	62.50	23	0.68	0.96	17	81.65	0.87											
Fremont General Corp	OTC	33.50	1.52	37.44	33.50	17.00	88	1.00	2.99	8	25.62	1.31											
Frontier Insurance Group	NYS	43.50	1.75	61.11	43.50	24.53	22	0.60	1.38	16	13.97	3.11											
Ganisco Inc	ASE	14.00	-3.45	50.00	15.63	7.78	60	0.04	0.29	19	2.65	5.28											
General RE Corp	NYS	117.63	-3.29	15.46	123.50	77.50	385	1.80	1.53	16	46.07	2.55											
Guaranty National Corp	NYS	19.63	5.37	35.34	20.38	13.50	9	0.48	2.45	13	9.12	2.15											
Harleysville Group	OTC	26.75	1.90	25.88	28.25	17.75	71	0.64	2.39	11	16.77	1.60											
Hartford Steam Boiler	NYS	58.25	-1.06	1.30	58.25	45.13	43	2.12	3.64	22	19.74	2.95											
Kemper Corp	NYS	30.00	3.90	-21.31	46.13	20.75	842	0.92	3.07	21	37.66	0.80											
Lawrence Insurance Group	ASE	8.50	0.00	-23.60	10.75	7.00	0	0.48	5.65	19	4.66	1.82											
Liberty Corp	NYS	28.13	0.00	27.12	32.88	20.13	178	0.56	1.99	11	18.43	1.53											
Lincott National	NYS	74.88	-0.66	36.76	76.13	50.50	127	3.04	4.66	12	58.92	1.27											
Market Corp	OTC	31.13	1.22	41.48	31.25	20.75	16	0.00	0.00	8	15.44	2.02											
INSURERS/REINSURERS AVERAGE																							
0.5																							
HEALTH MAINTENANCE ORGANIZATIONS																							
FHP International	OTC	19.75	0.00	38.60	23.00	12.50	665	0.00	0.00	19	9.61	2.06											
Pacificare Health Sys.	OTC	49.63	8.47	151.27	49.63	19.50	156	0.00	0.00	28	3.90	12.72											
Safeguard Health Enter.	OTC	9.25	0.00	-1.33	14.75	7.00	72	0.00	0.00	11	4.03	2.30											
Sierra Health Services	ASE	42.00	3.07	354.05																			

The snowshoe rabbit changes color with the season, adopting a white coat in winter and a brown coat in summer. This change, which is governed by the shortening length of day, enables the rabbit to blend into its background for protection.



The Ability To Adapt To The Environment Is Necessary For Survival In Nature. And In Benefits Management.

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