

# Business Insurance

Reporting weekly for corporate risk, employee benefit and financial executives / \$2.00 a copy; \$75 a year

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## Cost of mandated cleanups insurable, state court rules

OLYMPIA, Wash.—The costs of responding to a government order to clean up polluted property are insurable, the Washington Supreme Court has ruled.

The Jan. 4 decision marks the first time that a state's highest court has interpreted the standard provision of comprehensive general liability policies that states the insurer "will pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages."

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# Mission recoveries shrinking

## Court allows reinsurer offsets

By DOUGLAS McLEOD

LOS ANGELES—The liabilities of more than 100 Mission Insurance Group reinsurers sued by Mission's liquidator for full payment on hundreds of millions of dollars in claims could be greatly reduced or eliminated under a recent California appeals court ruling.

A three-judge California Court of Appeals panel ruled unanimously Dec. 27 that reinsurers may offset amounts they owe an insolvent insurer against amounts the insolvent company owes them.

The court ruled that reciprocal reinsurance agreements between Prudential Reinsurance Co. and units of the defunct Mission Insurance Group created mutual credits and debts that may be offset under state insurance law (BI, Jan. 1).

Mission's liquidator last week expressed disappointment with the decision and is considering a mo-

tion for reconsideration by the court, according to Karl Rubinstein, a partner with Rubinstein & Perry in Los Angeles, representing the liquidator.

Many of the 144 Mission reinsurers named in the liquidator's complaint for full payment of claims have offset claims of varying sizes against Mission units, which were ordered into liquidation in February 1987 and have been estimated to be insolvent by more than \$1.5 billion—assuming full collection of reinsurance.

Mission's liquidator has estimated the reinsurers' offset claims at up to \$300 million, reinsurance lawyers say.

That amount is 13 times more than the liquidator can expect to recover under a recently proposed reorganization plan for Mission Insurance Group Inc., the insolvent insurers' ultimate holding company (see related story).

"It's a very favorable ruling for

the reinsurers. I think it's an important step in the Mission reinsurance litigation," observed Peter R. Chaffetz of Sidley & Austin in Los Angeles, who represents two Mission reinsurers in litigation with the liquidator.

Mr. Chaffetz noted that the allowance of offsets may spur commutations of Mission reinsurance contracts or may lead the liquidator to drop claims against reinsurers whose offset claims exceed Mission's claims against the reinsurers.

"I think what you are going to see now is a shakeout, with many of the parties settling" in the litigation between the liquidator and the reinsurers, said Dean Hansell of LeBoeuf, Lamb, Leiby & MacRae in Los Angeles, who represents two Mission reinsurers.

Mr. Hansell said that roughly half of Mission's reinsurers may commute their contracts or settle without making any payments.

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## Plan would permit MIG to reorganize

By DONNA DiBLASE

LOS ANGELES—The insolvent insurance company subsidiaries of bankrupt Mission Insurance Group Inc. could receive about \$23 million under a proposed MIG reorganization plan.

After almost three years of Chapter 11 bankruptcy proceedings, MIG has signed an agreement with state insurance regulators and other creditors to lay a basis for a plan of reorganization.

If the planned reorganization is successful, Mission's liquidator could receive about \$23 million, estimates Karl Rubinstein of the Los Angeles law firm of Rubinstein & Perry. The firm represents California Insurance Commissioner Roxani Gillespie, who is liquidating the insolvent insurers.

MIG, a holding company for the several MIG insurance companies currently being liquidated, filed for Chapter 11 protection in the U.S. Bankruptcy Court for the Central District of California in February 1987 (BI, March 2, 1987; Feb. 9, 1987).

The insurance subsidiaries—including flagship Mission Insurance Co., are estimated to be insolvent by \$1.5 billion to \$2 billion, depending upon the amount of reinsurance the liquidator recovers.

Late last month, however, reinsurers won their case to offset

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## Wellness plan penalizes tobacco users

By MICHAEL SCHACHNER

HOUSTON—Baker Hughes Inc. is rewarding healthy workers and penalizing tobacco users under a new wellness-driven flexible benefits plan in an effort to promote wellness and reduce health care costs.

Houston-based Baker Hughes expects the plan, implemented Jan. 1, to save the company up to \$2 million in health care costs over the program's first two years and up to \$4 million annually after its fourth year, said Joe Vinson, director of compensation and benefits.

Under the insured flex program's voluntary wellness feature, Baker Hughes will make a \$100 pre-tax contribution to a health care reimbursement account for each employee who meets minimum health standards. The company, which manufactures oil processing equipment and provides oil field services, will pay for a physical exam to determine whether employees meet key health criteria.

However, employees who use tobacco not only are ineligible for the wellness incentive payment but also will be required to pay an additional \$10 premium surcharge toward the cost of coverage under Baker Hughes' insured health care plan.

The wellness checkups and the incentives and disincentives will stem the company's soaring health care costs, Mr. Vinson asserted.

Baker Hughes projects 1990 health care costs for its

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# Conventions limit liability for oil spills near Morocco

By CAROLYN ALDRED

LONDON—The owners of two tankers that spilled more than 100,000 tons of crude oil into the eastern Atlantic Ocean last month would be liable for a maximum of about \$20 million each if the oil washed up on the Moroccan coast, even though both have \$400 million in pollution liability insurance.

However, late last week environmental damage from the two spills was thought to be less than originally feared.

Rough seas in the area have broken up and dissipated most of the leaked oil, explained Joe Nichols, a director of the London-based International Tanker Owners Pollution Federation.

Even if oil hits the Moroccan shoreline, Morocco's membership in an international convention on oil pollution damage should limit compensation for claims from that nation to less than \$20 million for each incident, Mr. Nichols said.

Morocco, like many other nations, is a signatory to the international convention on Civil Liability for Oil Pollution Damage, which provides shipowners the statutory right to

limit pollution claims to a maximum amount according to the ships' tonnage, said Mr. Nichols. The convention is roughly equivalent to the aviation industry's Warsaw Convention.

Conservationists and Morocco's fishing and tourism industries feared widespread damage would be caused by an oil slick nearly 200 miles wide that was spilled after a series of explosions on Dec. 19 ripped a hole in the hull of the Iranian tanker Kharg 5.

About 80,000 tons, or about 560,000 barrels, of the tanker's 285,000-ton load of Iranian heavy crude oil spilled into the ocean off the Canary Islands, according to Mr. Nichols.

At one point last week, the oil slick drifted as close as 20 miles from the Moroccan coast, leading to fears of an environmental disaster on a similar scale to the Exxon Valdez spill last April. The Exxon Valdez spilled about 250,000 barrels into Alaska's Prince William Sound (BI, April 3, 1989).

But, "because of the tremendous seas in the area, we believe that the vast majority of the oil has been dispersed. Some may get on shore but it will be in small amounts," said Mr. Nichols, adding

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BI/John Hall

Survey finds many firms offer pre-retirement planning  
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Eastern Airlines agrees to hasten COBRA notification  
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## Update

## Cleanup costs covered: Court

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"The decision will have a substantial precedential effect nationwide," said policyholder attorney Robert Sayler of Covington & Burling in Washington, D.C. Not only is this the first state supreme court to rule on this issue, but the court also provides "a compelling list of reasons rejecting insurer arguments," said Mr. Sayler, who represented The Boeing Co. in the litigation.

The ruling came in a consolidation of five lawsuits. One involved litigation between Boeing and its insurers, including Aetna Casualty & Surety Co., Hartford Accident & Indemnity Corp. and Lloyd's of London syndicates, over the costs to clean a polluted site in Kent, Wash.

The insurers have not decided whether to appeal the decision to the U.S. Supreme Court, said attorney Dave Schoeggl of Lane, Powell, Moss & Miller in Seattle, who represented Lloyd's syndicates.

The cases were filed in the U.S. District Court for the Western District of Washington, which asked the state Supreme Court to decide whether response costs constitute insurable damages under Washington law.

The cases will now return to the federal court, which is expected to rule shortly on motions for summary judgment.

## Court limits Pan Am damages

LONDON—Plaintiffs suing Pan American World Airways Inc. over the December 1988 bombing of Flight 103 over Lockerbie, Scotland, will appeal a U.S. district judge's decision last week barring them from seeking punitive damages.

Judge Thomas C. Platt of the U.S. District Court of the Eastern District of New York ruled that the Warsaw Convention on international flights bars punitive damages. The convention, as amended by the Montreal Agreement, limits liability for international flights in and out of the United States to \$75,000 per person. The limit is waived only if the plaintiffs prove willful misconduct.

"While the Warsaw Convention does not expressly refer to punitive damage claims, it appears that the Warsaw Convention bars such claims," regardless of willful misconduct, Judge Platt ruled.

Meanwhile, a June trial has been set for the plaintiffs to prove that Pan Am and its subsidiaries showed willful misconduct in failing to warn the passengers of a bomb threat.

Judge Platt's decision affects 150 lawsuits—consolidated for pre-trial proceedings—filed by families of most of the 259 killed on Flight 103 when it exploded Dec. 21, 1988 (BI, Dec. 26, 1988).

"We are very disappointed," said Steven Pounian, liaison counsel for the plaintiff's committee and partner with Kreindler & Kreindler, a New York firm handling 95 lawsuits seeking between \$5 million and \$25 million each in compensation.

The decision contradicts an August 1989 jury verdict—which is being appealed—awarding \$50 million in punitive damages to the families of 137 passengers killed when Soviet fighter jets downed a Korean Air Lines jet in 1983, Mr. Pounian noted (BI, Aug. 7, 1989).

Meanwhile, loss reserve estimates by Pan Am's liability insurers vary from \$60 million to \$300 million due to uncertainty over whether Warsaw Convention limits apply.

The airline's hull and liability insurance was renewed Jan. 1 in a nine-month insurance program placed in France and the United States, but not in London. The airline's hull war risk insurance, all placed in London, renews July 1.

## Study finds rising defense bills

NEW YORK—Legal defense costs for casualty insurance lines—as a portion of insured losses—increased 45% between 1978 and 1988, says a new Insurance Services Office Inc. study.

Defense costs for all casualty lines—general liability, workers compensation, auto liability, medical malpractice and multiperil—in 1988 totaled \$11.8 billion, or 13.9% of the \$84.9 billion in losses for the same lines of business, ISO found. In 1978, defense costs were \$2.8 billion for those lines, or 9.6% of the \$28.9 billion in total casualty losses.

Defense costs for medical malpractice claims and long-tail general liability lines were the highest, with both exceeding 40% of indemnity costs, according to the study.

The study also found that the longer it took to settle a claim, the higher defense costs were as a percentage of indemnity costs.

"A significant portion of the indemnity dollars paid within the first two settlement years had no associated legal defense costs," study authors said. Remaining claims "closed in the first two settlement years had associated legal defense costs but at a lower level than the claims that closed after the second settlement year."

## Comp fund transfers spark suit

HARRISBURG, Pa.—The Pennsylvania Chamber of Business & Industry is suing the state to recover millions of dollars transferred over the past two years from the state's residual workers compensation insurance fund to state coffers and to prevent further transfers.

The Chamber also is asking a Commonwealth Court in Harrisburg to declare unconstitutional and rescind two state laws authorizing the transfers of \$95 million in fiscal 1990 and \$110 million in fiscal 1989.

More than 20,000 employers—mostly small firms—currently purchase insurance from the State Workmen's Insurance Fund.

The chamber argues in its 42-page lawsuit that the transfers violated several federal and state laws, including those that give policyholders the right of due process, equal protection and just compensation for seized property.

The chamber seeks to recover the money plus interest.

Any returned funds that can be distributed without jeopardizing the fund's solvency should be paid to current and former SWIF policyholders, the chamber says.

The state Department of Labor and Industry, which oversees the fund, calls the transfers "appropriate" because the Legislature ordered them, said Don Liskay, deputy secretary of the department.

But, the department supported granting most SWIF subscribers a

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## Eastern vows to speed COBRA notifications

By ADRIENNE C. LOCKE

MIAMI—Eastern Airlines Inc. has pledged to more quickly notify striking and laid-off workers of their eligibility for COBRA continued group health insurance coverage under an agreement with the U.S. Labor Department.

The consent order issued by a federal court in Miami last month is intended to resolve a complaint the department filed on behalf of striking and former employees and other beneficiaries who had paid COBRA insurance premiums to Eastern but were refused benefits by its health insurers.

The department charged Eastern had failed to inform its indemnity plan insurer, Prudential Life Insurance Co. of America, and several health maintenance organiza-

tions that the Miami-based Texas Air Corp. unit had received premiums from beneficiaries that qualified them for coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985.

"Employers must know that the Labor Department is serious about protecting the rights of working Americans to continued health care coverage in cases like Eastern," said Secretary of Labor Elizabeth H. Dole.

COBRA requires most employers to allow former employees and their families to continue group health care coverage. Employers can charge a premium equal to up to 102% of the group rate for COBRA coverage. Coverage for workers is available for up to 18 months after employment ends.

After an investigation last

spring, the Labor Department's Pension and Welfare Benefits Administration alleged that Eastern did not notify beneficiaries of their right to elect COBRA continuation coverage within the required 14 days of a massive walkout by Eastern employees. Workers had been on strike 76 days before the airline mailed notices about continuing COBRA coverage, according to the complaint.

Eastern machinists walked off the job March 4, 1989, and initially pilots and flight attendants refused to cross the picket lines. The job actions resulted in thousands of layoffs among the airline's 39,900 employees. Just more than a fifth of 27,000 eligible employees elected COBRA benefits, a Labor Department spokesman said.

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## Life insurer called leader in workplace education

## AIDS effort praised

By CHRISTINE WOOLSEY

WELLESLEY HILLS, Mass.—The U.S. headquarters of Sun Life Assurance Co. of Canada is in the forefront of employee AIDS education, according to a Boston area business organization.

The New England Corporate Consortium for AIDS Education, a leadership and advocacy group of nine Boston-area businesses that promotes workplace education about acquired immune deficiency syndrome, presented Sun Life its first award for outstanding contribution to and leadership in this new field.

"While it's widely agreed that education about AIDS is our most powerful ally, few corporations are hearing the message, and denial and avoidance is running rampant," said Paul Ross, the group's chairman.

"Sun Life's leadership will make a critical difference in the AIDS fight because it can encourage other companies to take similar action," added Mr. Ross, who also manages an AIDS education program office at Digital Equipment Corp. in Maynard, Mass.

With the help of the AIDS Action Committee of Massachusetts Inc., a non-profit advocacy and education group in Boston, Sun Life recently implemented an in-house AIDS educational program for its employees and managers. The program includes:

- Information about how AIDS is contracted.
- Instruction for managers in handling employees with AIDS and the legal implications of dealing with these employees.
- Training an employee to run ongoing AIDS education programs.

Through the award, the group wants to recognize companies and individuals who are taking positive action in face of the frightening epidemic, Mr. Ross said.

"The clear message is, from our perspective, this is going to be the employee relations issue of the 1990s," Mr. Ross said.

The Consortium is telling employers to "get started now—don't wait for your first AIDS case, because people will panic."

Citing Fortune magazine, Mr. Ross said only 10% of U.S. employers formally address AIDS in the workplace.

Possible crises, like discrimination suits by employees, can be averted by setting up a specific corporate policy on AIDS and educating employees about the virus, said Susan Faks, workplace education consultant for the AIDS Action Committee.

Setting up such a program also can aid employee/employer relations, Ms. Faks said.

"What Sun Life did worked as a tremendous public relations tool—both internally and externally. It communicates to employees that their employer cares," she said.

Patrick J. Twohig, assistant vp of human resources at Wellesley Hills, Mass.-based Sun Life, said the program "generated a lot of goodwill" among employees.

The insurer initiated the program because it "had seen the beginning of what could be a very significant problem for employers," though Sun Life has had no AIDS-related claims from its employees, he said.

Being a life insurance company helped Sun Life become aware of the enormity of the problem, Mr. Two-

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## Deadline nearing for UR directory

The Feb. 19 issue of *Business Insurance* will contain the annual directory of utilization review providers. The issue also will feature a spotlight report on benefit cost control.

The directory is published as an editorial service; there is no charge for companies to be included. However, companies that wish to be listed must fill out and return a questionnaire provided by BI.

If your company provides utilization review services directly to employers and you have not yet received a questionnaire, please request one by calling Editorial Assistant Sara Harty at 312-280-3195.

The deadline for returning completed questionnaires to *Business Insurance* is Jan. 29.

## Inside

✓ The endowment of two new chairs—one in risk management, another in employee benefits—is a boon to these professions, says this week's editorial. **PAGE 8**

✓ Australian property/casualty insurers estimate that losses from the quake that struck New South Wales last month will total more than \$500 million. **PAGE 12**

✓ In Perspectives, Continental Bank Corp.'s Dennis J. Nirtaut reviews the motives and procedures in setting up an ESOP at the bank. **PAGE 15**

✓ The federal takeover of an insolvent Illinois S&L will cost a real estate developer an \$18 million judgment he had won against the thrift. **PAGE 22**

✓ The *Business Insurance* stock index soared nearly 350% in the 1980s. A review appears on **PAGE 23**

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Photos courtesy of San Diego Festivals, Inc.

Among the Russian Fabergé Imperial Eggs displayed at the San Diego exhibition are, from left, the Palace egg, the Cuckoo egg, the Trans-Siberian railway egg and the Mosaic egg.

# Russian exhibit cover pays off

By LINDA J. COLLINS

SAN DIEGO—Political risk insurance on a historic Russian arts festival that closed yesterday in San Diego proved fruitful to festival organizers.

The policy paid a claim in excess of \$500,000 after ethnic and religious unrest in the Soviet Union forced the last-minute cancellation of a key exhibit.

That was the only claim against several insurance policies for the nearly three-month festival, which ended Sunday with the closing of several art exhibits, including the largest collection of Russian Fabergé Imperial Eggs ever assembled for public viewing.

"The San Diego Festival: Treasures of the Soviet Union," the largest Russian art and performance festival ever held in the United States, was sponsored by San Diego Festivals Inc.,

a non-profit organization formed by the city last March.

A collection of Russian religious icon art scheduled to be shown in the Timken Gallery was canceled by the Minister of Culture for the Soviet republic of Georgia the week before the festival began Oct. 21 due to massive protests staged by Georgian citizens to keep the icons in their country.

"This is the only claim we've had to file under any of our policies" for the festival, Julian Johnson, San Diego's insurance and claims manager, said Jan. 3.

California law limits to six months the period during which a claimant can file a claim against a public entity, Mr. Johnson noted.

The first-dollar political risk coverage had a combined single limit of \$6 million, the budget for the festival. A \$3 million city allocation—financed by raising the hotel tax rate one cent—and matching private contributions funded the

festival, according to Bruce Herring, executive director of San Diego Festivals Inc.

More than 95% of the political risk coverage was underwritten by syndicates at Lloyd's of London and the remainder was written by Italian insurer Assicurazioni Generali S.P.A.

The premium was \$30,900, Mr. Johnson said.

Georgians held massive demonstrations last fall to protest the icons leaving the country because they hold such "strong religious meaning and nationalistic significance," explained Mr. Herring.

The religious objects, which date from the ninth through the 19th centuries, have never been exhibited in the United States. They are embossed gold and silver metal reliefs, some enameled in the cloisonné method and others studded with

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## Risk, benefit chairs funded at two schools

By JUDY GREENWALD

NEW YORK—Brokerage Corroon & Black Corp. of New York has pledged \$1.5 million to endow a College of Insurance chair in insurance and risk management in honor of recently retired Chairman Robert F. Corroon.

Meanwhile, the University of Pennsylvania's Wharton School plans to establish what is believed to be the first professorship in employee benefits with a \$1 million endowment from the International Foundation of Employee Benefit Plans.

The Robert F. Corroon Chair of Insurance and Risk Management, which will be funded over 10 years, is the largest chair endowment at the New York-based College of Insurance, according to college President Ellen Thrower.

Only a few higher education endowments in insurance around the nation are for \$1 million or more, she said.

The chair is expected to be filled in 1991 after the opinions of academic and industry leaders are solicited, said Ms. Thrower. "It will be a very prestigious chair," she said.

Richard N. Miller, chairman and chief executive officer of Corroon & Black, said the contribution recognizes the achievements of Mr. Corroon's 43 years of service, including the last 15 as C&B chairman. Mr. Corroon retired in December.

"We felt that this would be a living tribute to the job he had done" for the industry and the brokerage, said Mr. Miller.

For the last 15 years, including "some rather troubled times," Mr. Corroon was a director of The College of Insurance, said Mr. Miller. "He was a very loyal and helpful and beneficial director."

He noted also that the endowment will enable The College of Insurance to improve its academic program.

The \$1 million Wharton endowment, which will be funded over five to eight years, will allow the school to develop employee benefits courses, said Dan F. Graham, director of the International Foundation's Certified Employee Benefit Specialist program, based at its Brookfield, Wis., headquarters. Wharton runs the CEBS program with the foundation.

Wharton's chair will be known as the International Foundation of Employee Benefit Plans Professorship in Employee Benefits.

The endowment is expected to be a significant step toward preparing students for careers in employee benefits, according to Mr. Graham.

"There has been no type of formal academic training that someone working in employee benefits can get," said Mr. Graham.

People with backgrounds in human resources, liberal arts or

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# Most employers to offer retirement planning aid

By JAMES M. BURCKE

More than one-third of U.S. employers—most of them large businesses—offer workers pre-retirement planning programs, a new survey shows.

And of the employers that currently do not offer such programs, half say they plan to offer programs to help employees make financial and lifestyle plans before they retire, according to Buck Consultants Inc., a New York-based employee benefit consulting firm.

"The survey found a substantial interest in pre-retirement planning programs that reflects the trend toward employees being asked to shoulder more responsibility for financing their retirement," said William J. Arnone, the company's director of financial and retirement planning services.

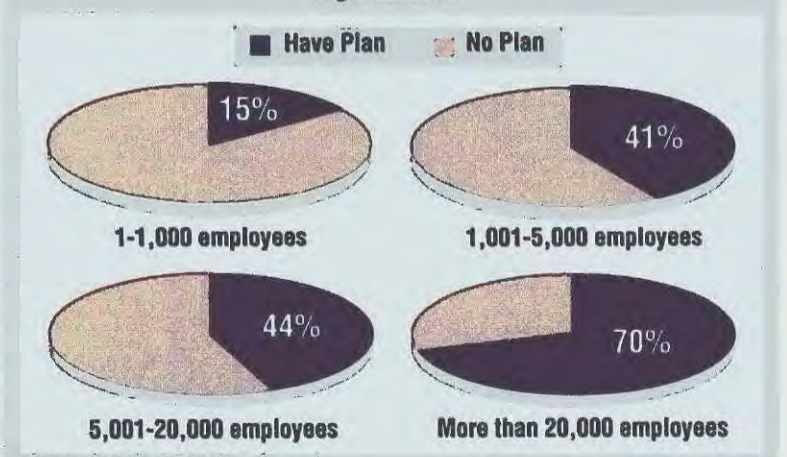
"This increased responsibility is particularly evident in the growing use by companies and non-business organizations of defined contribution plans and the move to have retirees pay for more of their post-retirement health coverage," he said.

Mr. Arnone noted that he expects that pre-retirement planning programs will grow "because I think more and more employees will be expecting this type of program as they are given more responsibility to finance their retirements."

However Mr. Arnone conceded that he was surprised by the number of employers that already had instituted wide-ranging pre-retirement planning programs, rather than simply explaining benefits shortly before a worker retired. "I was surprised at the number of companies that do more than the

## Pre-retirement planning programs

While 38% of all employers offer pre-retirement planning programs, large employers are far more likely to offer the benefit than smaller organizations.



By JOHN HEILAND, HOLLY SEGUINE

minimal," he said.

To assess the prevalence of pre-retirement planning benefits, Buck mailed questionnaires in July 1989 to about 1,200 U.S. businesses, government entities, universities and other organizations. About a third—383—responded.

Thirty-eight percent of responding employers said they currently offer workers some pre-retirement planning, but larger organizations are much more likely to offer such benefits, the survey found.

For example, surveyed companies that offer pre-retirement planning benefits employed an average of more than 20,000 workers, while those without such programs have an average of only about 7,500 employees.

In addition, almost 70% of em-

ployers with more than 20,000 workers offer pre-retirement planning programs, compared with only about 15% of organizations with fewer than 1,000 employees.

"It is much easier for big employers to do it right," but more mid-size organizations—those employing about 2,500—are instituting pre-retirement programs, notes Paul M. Sanchez, director of communication consulting with The Wyatt Co. in San Diego.

Of the employers that do not offer pre-retirement planning, 50% say they plan to offer such benefits and 49% say they do not plan to offer them. The total does not equal 100% due to rounding.

Eighteen percent of employers that currently do not offer pre-re-

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## AIDS education

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 hig said. The company employee benefits program does not distinguish AIDS from other long-term disabilities, he said.

The education program includes on-site sessions for employees and managers about the virus itself, its transmission and popular myths surrounding AIDS. Sessions include video presentations, question-and-answer periods and panel discussions among people with AIDS or family members of AIDS patients.

"It is really designed to alleviate employees' fears about transmission and educate them about how the disease works and how to prevent it," Ms. Faks explained.

At "intensive" sessions, managers are taught about particular symptoms and how they should respond when confronted with an employee who has AIDS, she said.

"We teach them about reason-

able accommodation," Ms. Faks explained, noting that most employees who have AIDS want to keep their jobs for as long as possible.

But, she pointed out, managers who do not understand symptoms of the syndrome may mistakenly over-exert an AIDS victim.

For example, Ms. Faks explained, "a bank teller has to stand all day long, but that may be very fatiguing to an AIDS patient. So, we recommend that employers provide them with a high stool to sit on."

Handicap and discrimination laws and other legal implications are also explained to senior and mid-level managers.

For example, Ms. Faks said, supervisors need to be familiar with confidentiality laws in case they find out an employee has the disease.

"Managers should be educated on how to respond and deal with AIDS because they'll be on the

front line. They may break confidentiality rules by not knowing who they can tell and not tell," Ms. Faks said. "Uninformed managers can be a potential liability to a corporation because of the possibility of a lawsuit."

The session for managers and

costs \$795 per person. The program is designed to train an individual to present in-house education programs and develop educational materials.

AIDS experts including doctors and attorneys address medical, legal and psychosocial issues on

**'Managers should be educated on how to respond and deal with AIDS because they'll be on the front line,' says Susan Faks. 'Uninformed managers can be a potential liability to a corporation because of the possibility of a lawsuit.'**

employees is \$300 and the intensive management workshop focusing on legal issues is \$600, Ms. Faks said.

Employers also can enroll an individual in the committee's "Train the Trainer" program, an intensive two-day off-site workshop that

the first day. Next, participants are trained in presenting effective educational seminars to employees.

Training a staff member to run similar program is invaluable for companies with many branch locations or without access to other

educational organizations, Ms. Faks said.

"You can't rely on that one video or one question-and-answer period. It takes three, four, five times to internalize the significance" of the AIDS epidemic, Mr. Ross pointed out.

Mr. Twohig said the entire education program is effective because it does not rely on only one medium, such as printed materials. "Sending out fliers is not enough. The video we used had a great effect and so did the panel of persons living with AIDS."

Written communication is not as effective as workshops, but all communication is vital, Ms. Faks agreed.

"If employers do not have a communicated policy, an employee is not going to let you know he has AIDS," she said, noting that the omission may result in a crisis at the workplace.

"What happened at New England Telephone is a perfect example," she said.

In the mid-1980s, after employees at Boston-based New England Telephone & Telegraph Co. learned that a co-worker had been diagnosed with AIDS, the employee with AIDS sued the company for, among other things, breach of confidentiality, according to Andrea Dudley, the company's director of human resources.

After reaching an out-of-court settlement, the employee with AIDS returned to work, but 29 of his immediate co-workers then refused to work with him and walked off their jobs.

New England Telephone then implemented an AIDS education campaign to alleviate employees' fears and in 1987 founded the Consortium, which now includes, along with Digital and New England Telephone, Bank of Boston in Boston; Bank of New England Corp. in Boston; Cabot Corp. in Waltham, Mass.; Daka International Inc. in Wakefield, Mass.; Lotus Development Corp. in Cambridge, Mass.; Polaroid Corp. in Cambridge, Mass.; and Textron Inc. in Providence, R.I.

Employee surveys conducted before and after the AIDS program at Sun Life show the program was successful, said Mr. Twohig. Surveys on what employees learned in the program were mailed to 900 Sun Life employees, and 51% responded.

"Approximately 92% of the respondents say they learned more about AIDS than they had known before the company's education session," Mr. Twohig said.

"People think they know enough about AIDS, but when we do an education program, we find they are starved for information," Ms. Faks said.

Sun Life plans to conduct AIDS education programs at its 35 branch locations.

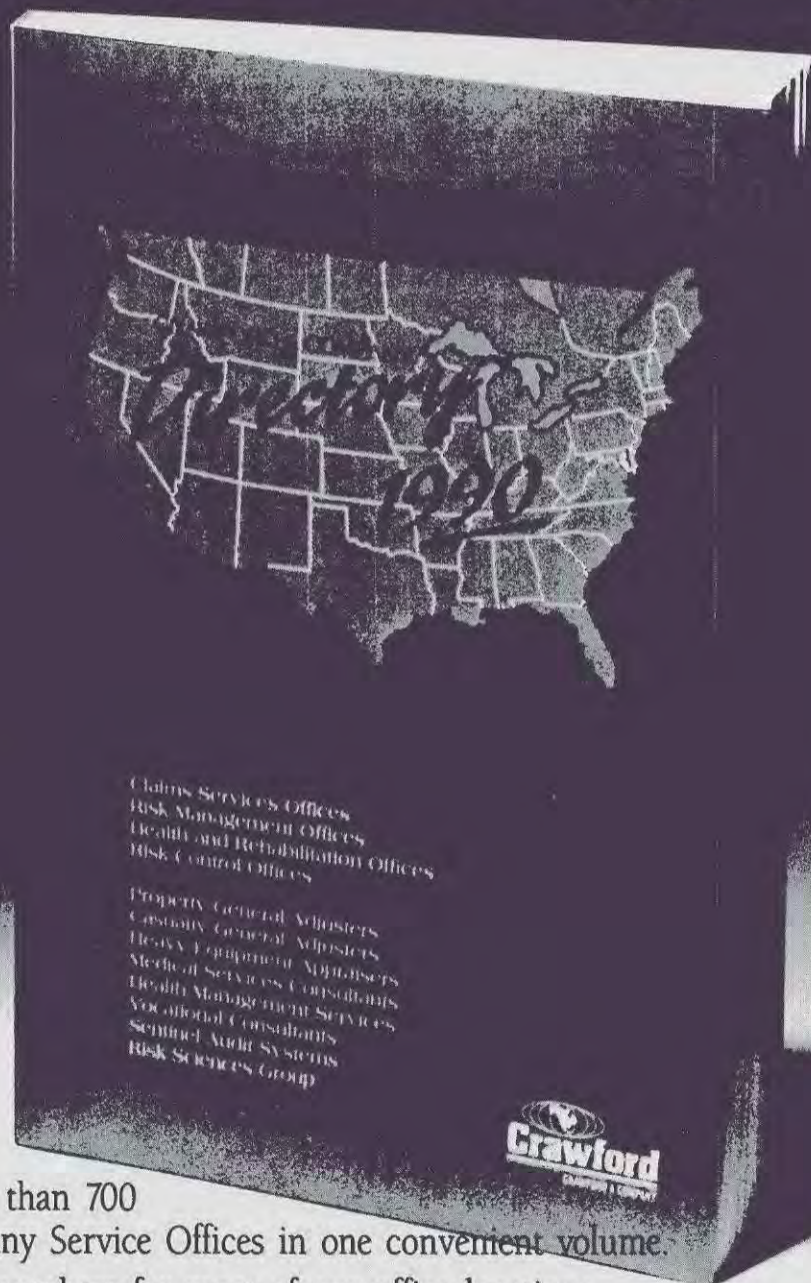
The Consortium's Mr. Ross explained that the award, "100 Legends," is a booklet consisting of 100 pieces of artwork and literature—including sketches, prints and poems—by artists with AIDS, along with brief personal histories of the artists.

"It is symbolic, because art is a way of educating and the creativity that goes into art is symbolic of the creative solutions needed to deal with the epidemic," Mr. Ross said.

Although AIDS education programs are still relatively rare and a lot of them are limited, employers can find assistance from local AIDS advocacy groups, among other organizations, to help them establish sound AIDS policies and to educate staff members, according to Ms. Faks.

*For more information about AIDS corporate education programs nationwide, contact the AIDS Action Committee of Massachusetts Inc., 131 Clarendon St., Boston, Mass. 02116; 800-669-0696.*

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# Electric utility offers open-ended HMO

By MICHAEL SCHACHNER

The Potomac Electric Power Co. is offering an open-ended health maintenance organization option under which employees willing to pay deductibles and copayments are free to seek care outside the HMO network.

Employees of the Washington, D.C.-based utility who enroll in Healthplus Inc., a Riverdale, Md.-

based HMO, will pay \$7 per office visit when they use network providers.

However, employees are free to use non-network providers but are then required to pay a \$250 per-person deductible and a 20% co-payment.

PEPCO will pay Healthplus a premium for enrolling employees in the plan. PEPCO also will pay for the cost of treatment of its em-

ployees who opt out of the HMO, after employee deductibles and co-payments.

However, PEPCO's costs for treatment of employees who opt out of the network will be limited under the PEPCO-Healthplus contract, according to Bill Wolverton, manager of industrial relations with the utility.

Under the contract, if total health care costs for PEPCO-enrolled Healthplus employees exceed a certain negotiated amount, PEPCO will be responsible for paying only a portion of the costs above that agreed-upon level, he said.

However, he declined to reveal the amount PEPCO had agreed to pay.

The open-ended HMO, which was launched Jan. 1, is "best suited for employees who have one special doctor who they see on an occasional basis," Mr. Wolverton observed.

But, "it is imperative that PEPCO works to keep its employees within the network as much as possible. We have structured in-

## Benefit beat

centives that if met will keep the cost of the program down," he stressed.

PEPCO expects about 700 of its 5,400 employees to enroll in the open-ended HMO.

In addition, 900 other PEPCO employees are expected to remain with three other HMOs to which PEPCO pays premiums, and about 3,800 remain in a self-insured indemnity program.

Those HMOs include Group Health Assn., Kaiser Foundation Health Plan of the Mid-Atlantic States Inc. and M.D./Individual Practice Assn., all of which are located in the greater Washington, D.C., area.

## Service incentives

Under a new one-year contract, the Broward County Public School Board in Fort Lauderdale, Fla., will receive penalty payments from Humana Health Care Plans if the health care giant fails to meet certain negotiated levels of performance.

Humana of Fort Lauderdale, a unit of the Louisville, Ky.-based health care insurer and hospital operator, had come under fire for failing to issue identification cards promptly to district employees and not paying claims in a timely fashion.

The health plan now will face fines of up to \$100 per day per member that does not receive certain services within a specified time period.

For example, if Humana does not provide emergency care within 24 hours of an injury, it must pay the board a fine equal to \$100 per day per member waiting for services, according to Richard Thomas, benefits director for the school district.

Humana is subject to the same \$100 fine per member that must wait for non-emergency care for more than 72 hours, according to Mr. Thomas.

In addition, as an incentive to pay claims on time, Humana must pay a \$100 per-day, per-claim fine for each past-due claim.

Humana also is subject to a \$10 per-day fine for failing to deliver a membership card by a certain date, Mr. Thomas said.

"Companies in South Florida are being pressed to provide better service," Mr. Thomas said.

Approximately 17,000 people are employed by the Broward school district and receive health care through a Humana HMO or a Humana indemnity plan with a preferred provider option.

In March, the Broward board replaced its previous insurer, Blue Cross & Blue Shield of Florida, with Humana, citing Humana's lower costs.

Upon renewal for 1990, the board solicited proposals from 400 health insurers, but only two companies, Humana and BC/BS of Florida, were willing to underwrite the board's multiple option plan, said Mr. Thomas.

The board's insurance committee chose Humana based on price, Mr. Thomas said.

"Humana bid \$27 million compared with Blue Cross wanting \$33 million," he explained.

"However, we insisted that they guarantee quality service. We said, 'Standards and responsiveness have to improve.'"

"Because they are both the provider and insurer, service becomes paramount," Mr. Thomas also observed.

In addition to the penalty system, Humana has agreed to limit

increases in 1990 premiums to 17.5% for the indemnity/PPO plan and 15% on the HMO portion. Humana had originally requested 18% and 16% increases, respectively, according to Mr. Thomas.

Under the agreement, Humana also will establish a claims processing unit that will be solely responsible for claims of Broward school board employees and their dependents.

It also will provide a complaint handler and a medical affairs assistant that will work out of the school board's offices, Mr. Thomas said.

## AIDS costs up 56%

The life and health insurance industry paid approximately \$802 million in individual and group claims related to acquired immune deficiency syndrome in 1988, a 56% increase from 1987 AIDS-related claims of nearly \$514 million, according to a recent A.M. Best Co. survey.

Based on these results, the insurance industry "will probably see a rapid increase in AIDS costs as a percentage of total claims for at least the next three to four years," said William Kling, senior actuary with AEGON Insurance Co. in New York.

The report was based on information provided by 462 insurers that responded to a claims survey Best's sent in July 1989.

The form requested state-by-state life and health information for 1987 and 1988.

For the companies that responded, AIDS-related claims totaled \$466 million for 1988, with 52%, or \$242.3 million, of costs stemming from individual and group life insurance policies. Forty-eight percent, or \$223.7 million, in AIDS claims costs came from individual and group health insurance policies.

The responding insurers accounted for \$25.2 billion, or 62%, of the \$40.6 billion in individual and group accident and health claims paid in 1988, as well as \$11.9 billion, or 55%, of the \$21.6 billion of individual and group life benefits paid by the entire industry during 1988.

AIDS-related claims accounted for nearly 1.3% of the cost of individual and group life and health claims payments by the industry in 1988, according to the survey. In comparison, for 1987, AIDS claims represented 0.9% of all claim payments.

The survey also found that the average amount of an AIDS claim increased in 1988 from 1987.

For example, the average size of death benefits paid to beneficiaries of AIDS victims with life insurance was nearly \$31,000 in 1988, nearly 5% higher than the \$29,541 average benefit paid in 1987.

However, inconsistent accounting procedures used by respondents prevented Best's from tracking the average cost of an AIDS health claim.

Of the respondents, only 80 insurers, or 17%, reported no life or health AIDS-related claims in 1988. Best's noted that of the 80 companies without AIDS-related claims, most were very small insurers.

The survey also found that 50.9% of total AIDS-related claim payments were reported in four states: California, with \$119.9 million in claims; Texas, with \$67.7 million; New York, \$61.1 million; and Florida, \$46 million.

Illinois, Georgia, Oklahoma, Pennsylvania, Ohio and New Jersey were next, in descending order, among the 10 states with the highest claim payments for AIDS-related claims.



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## Opinions

## A great beginning

THE ENDOWMENT OF TWO new chairs, one in risk management and another in employee benefits management, at two important educational institutions is an auspicious beginning of the decade for the two disciplines.

The professionalism of risk management and employee benefits management is greatly enhanced with each new commitment by colleges and universities to the study of these important disciplines before students begin their careers.

A chair in insurance and risk management has been created by a \$1.5 million contribution to The College of Insurance in New York by Corroon & Black Corp. in honor of retiring Chairman Robert F. Corroon. In addition, a professorship in employee benefits management will be created by a \$1 million endowment to the University of Pennsylvania's Wharton School in Philadelphia by the International Foundation of Employee Benefit Plans (see story, page 3).

Just two years ago, Aon Corp. donated \$1 million to Northwestern University's Kellogg School of Management in Evanston, Ill., to establish a chair in risk management in memory of Harold H. Hines Jr., the former president of Aon subsidiary Rollins Burdick Hunter (BI, June 15, 1987).

These professorships are important for what they will accomplish in substance and in image.

Students at The College of Insurance and Kellogg will be afforded the opportunity to study risk management in courses that otherwise would not exist at these institutions without these endowments. The students will be better prepared to assume roles in risk management departments with a firmer grounding in the principles of risk management.

And, students at the Wharton School will be provided with what is believed to be the first opportunity to formally prepare for careers in employee benefits management.

This is not to say that learning risk management and employee benefits management at the side of a seasoned professional—as so many accomplished risk managers and employee benefit managers have done—is not excellent preparation for a career. But no one can argue that a college graduate who has studied the discipline extensively in school will not be better equipped to perform on the job.

These academic chairs also go a long way toward enhancing the image of risk management and employee



benefits careers. They say that these prestigious institutions regard these as important careers, which will help attract bright students to these professions. And, as the graduates in these programs enter the workforce, they certainly will command respect for their abilities and their positions more quickly.

The chairs also establish a new standard of excellence for risk management and employee benefits management.

However, no commentary on education in risk management, employee benefits management and insurance would be complete without also commending the work of the Insurance Institute of America in Malvern, Pa., for its numerous programs in insurance and risk management and the joint venture of the International Foundation and the Wharton School for the Certified Employee Benefits Specialist program. These programs are vital to furthering the professionalism of those already involved in the fields.

For two disciplines that have matured in professionalism and stature in the face of great challenges in the 1980s, these new chairs and the continuing efforts of existing educational programs in risk management and employee benefits promise to produce new leaders capable of meeting the even greater challenges sure to emerge in the coming decade.

## Letters

## Firm defends activities

To the editor: Articles have recently mentioned our company in the same breath as Consortium of 89 and Colin Youell (BI, Dec. 11, 1989). We resent the implication there is a reason for such a grouping of companies and individuals. A proper investigation of the circumstances would have disclosed that we were the victims, just like so many others. We were duped into allowing Consortium of 89 and Mr. Youell to use our company's name, and they then commenced using the name in ways we never intended or authorized. We have been damaged by these actions just as Summit Home Insurance Co. and others.

Our company is relatively small and gen-

erally needs the support of others to have an effective presence in the marketplace. It was our hope that by allowing Consortium of 89 to combine our company with other relatively small companies we could have a greater presence in the marketplace and, thus, make more money. We did receive a few small payments through the reinsurance agreements Consortium of 89 apparently negotiated while being allowed to use our name. Those payments have no relation to the risks we have assumed from those agreements. We have taken the stance that we are bound by the agreements even though there is probably no legal basis for such an interpretation. Thus, we are looking at major reinsurance obligations for which we have received only nominal payments. Those payments were received with our understanding that we were entitled to the receipt of the funds. There has been no request, and we expect no request, that the funds be returned.

Upon discovering the manner in which our name was being used, we severed all ties with Consortium of 89. This action was not precipitous. It was a conscious act accompanied by our offer to assist those who were victimized through the use of our name or our name in conjunction with others. This offer was openly made and with full knowledge that, though there was probably no legal obligation on our part to attempt to

right the wrong done by others, there should be a fraternal attitude among industry members with all the industry stepping in to assist those victimized by interlopers such as Consortium of 89.

This company, though it was itself duped, has not dug its head into the sand nor tried only to protect itself from the fallout created by the situation.

We made an error in trying to deal with Consortium of 89, as did many others who took their representations at face value. Instead of running from the situation, we have tried to assist the company our name was used to damage, Americas Life Insurance Co. We have agreed to back our proposed reinsurance treaty with extraordinary trust arrangements, and we have otherwise cooperated in the effort to salvage a situation that appeared beyond salvage.

We wish only that reporters writing about Consortium of 89 and the others named in articles investigate far enough to see that our company has not just done an honorable thing but also has taken the further steps necessary to be an example to the industry of the type of reaction each industry member would want other members to have if it had been victimized as our company and Americas Life have been victimized.

Robert R. Campbell  
American Financial Co.  
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## Planning benefits

Continued from page 3

retirement planning benefits say they plan to offer such a program within two years.

Another 31% say they plan to offer a pre-retirement planning program, but have not decided when to do so.

While larger organizations also are more likely to be planning to institute programs than smaller employers, the proportion of smaller companies planning to offer pre-retirement planning help to employees is greater than the number of small companies currently offering the benefit.

For instance, while almost 60% of companies with 5,000 to 20,000 employees plan to offer a pre-retirement planning program, about 40% of employers with fewer than 1,000 workers also plan to establish one.

Most pre-retirement programs currently offered include financial planning information.

Ninety-seven percent of companies offering programs say their programs include information on Social Security,

while 95% say their programs deal with retirement benefits and 90% say their programs contain information about savings and investments.

Other topics commonly covered by pre-retirement planning programs include:

- Financial planning, cited by 85% of respondents offering programs.
- Taxation of benefits, cited by 34%.
- Lifestyle adjustments in retirement, cited by 81%.
- Health concerns, cited by 75%.
- Estate planning, cited by 75%.
- Income taxes, cited by 65%.
- Efficient use of time, cited by 61%.
- Work opportunities in retirement; individual retirement accounts; and where to live; each cited by 60%.
- The use of professional advisers, cited by 53%.

Retirement benefits—cited by 79% of employers with pre-retirement programs—was of most interest to prospective retirees in the programs.

Fifty-seven percent of respondents said participating employees were interested in Social Security, and half said employees were interested in financial planning.

Many programs offer financial projections to prospective retirees.

Eighty-two percent of the employers furnish projections of retirement benefits to participants in pre-retirement planning programs; 61% furnish Social Security projections; 25% can do tax projections; and 10% can offer personal budgeting projections.

Five percent offer other types of projections, while 10% of those offering pre-retirement planning programs cannot offer any type of financial projections to program participants.

Many employers use a combination of in-house and outside experts to present their pre-retirement planning programs.

Seventy-eight percent of respondents now offering programs say in-house benefits staff members participate in conducting the programs; 63% use local experts and/or professionals; 33% use other, non-benefits in-house staffers; 23% use consulting firms; and 22% say retirees participate in the programs.

The totals do not equal 100% because many companies use more than one source to present their programs.

Wyatt's Mr. Sanchez noted that the qualifications of the professionals offering the program is one of the most important ingredients in a successful pre-retirement planning program.

Organizations use several different formats in presenting pre-retirement planning programs, though the group meeting/workshop format is almost universally employed, with 37% of employers offering pre-retirement planning programs using it.

In addition, 33% use workbooks in their programs; 31% hold meetings with individual employees; 7% use mailings to conduct portions of their programs; and 5% utilize take-home audio cassettes.

Practically all—96%—of the employers offering programs allow the employee's spouse to participate.

Pre-retirement planning programs can last for several weeks at 30% of the employers offering such programs, while 23% say they last one or two consecutive days, 16% say their programs last less than a day and 14% say the program takes one full day to conduct. The remainder gave some other answer.

According to Buck, the most common program—offered by 30% of employers—is conducted on employee work time and lasts two or more consecutive days.

The size of pre-retirement planning programs, in terms of the number of employees that participated in 1988, varies widely. For instance, 11% of employers said that more than 500 employees participated in their programs in 1988; 8% said that 301 to 500 employees participated; 25% said

that 101 to 300 employees participated; 19% said 51 to 100 employees participated; and 17% said only between one and 25 workers participated in their programs.

Eighty-two percent of employers offering pre-retirement planning programs set some type of eligibility requirement.

For instance, 60% have a minimum age standard, while 19% require participants to be of a certain age and to have worked a certain number of years at the organization. Three percent have a years-of-service requirement, but no age standard and 18% have no age requirements.

Of those programs with an age standard, 41% set the minimum at 50 to 54, another 41% require participants to be 55 to 59 years old and 4% have a minimum age of at least 60. Fourteen percent set some other minimum age.

Of those programs with service requirements, 25% require five to nine years of service, 39% require 10 to 14 years of service, 11% require 15 to 19 years of service, 7% require 20 or more years of service and 18% have some other service requirement.

Meanwhile, employers that do not currently offer and do not plan to offer pre-retirement planning benefits most frequently cite the amount of staff time necessary to operate such a plan as a reason they do not

offer such a plan.

Thirty-seven percent of companies that neither offer nor intend to offer pre-retirement planning put the amount of required staff time among the main reasons they do not plan to offer such a program.

Other reasons for not offering a program include:

- A pre-retirement planning benefit is not needed by employees, cited by 28% of the respondents.
- A program would be too costly, cited by 26%.
- Management objections to offering a pre-retirement planning program, cited by 10%.
- Such benefits are not required by law, cited by 8%.

In addition, 32% of employers that do not plan to offer pre-retirement planning gave other reasons, including a lack of older workers, the fact that pre-retirement planning is a low priority compared with other benefit issues and the fact that their workers are not centrally located.

However, 34% of the respondents with multiple locations already offer pre-retirement planning programs to their employees, according to Buck.

Copies of "Pre-Retirement Planning Survey, December 1989" are available for \$100 each from Carolee Martin, Manager of Marketing, Buck Consultants Inc., 500 Plaza Drive, Secaucus, N.J. 07096-1533.

## Planning tied to incentives

Pre-retirement planning benefits often are offered by employers in conjunction with early retirement incentive programs.

Fifty-one percent of employers that have offered early retirement incentive programs also conducted pre-retirement planning programs, according to a survey by New York-based Buck Consultants Inc.

All told, 46% of responding employers said they had offered an early retirement incentive or "window" program, in which employees below retirement age are encouraged to retire early. Employers most often use the programs to cut workforce size and avoid layoffs.

Buck found that the vast majority—82%—of pre-retirement planning programs offered in conjunction with early retirement incentives are special, rather than regular ongoing pre-retirement planning programs.

Only 12% of respondents said they expect to offer an early retirement incentive program within the next two years. However, of these employers, 69% said they likely would offer a pre-retirement planning program along with the early retirement option.

—By James M. Burcke

## Retirement plans vary by employer

Retirement plans offered to employees vary greatly depending upon an employer's type of business, a new survey shows.

For instance, 96% of the service industry employers polled by New York-based Buck Consultants Inc. offered defined contribution pension plans to their workers, as did 95% of the manufacturers.

However, only 65% of the universities, foundations and trade and labor associations—referred to by Buck as "non-business employers"—sponsored defined contribution plans.

Only 55% of surveyed universities offered defined contribution plans.

On the other hand, 18% of surveyed manufacturers did not offer a defined benefit pension plan, compared with 14% of the non-business employers and 11% of the service industry employers.

All government entities surveyed by the benefit consultant sponsored defined benefit plans.

Government entities, though, were far more likely to require employee contributions to defined benefit plans than the other types of employers surveyed.

Ninety percent of the government entities with defined benefit plans required employee contributions to the plans, compared with only 10% of non-business employers, 8% of service employers and 6% of manufacturers.

In addition, 52% of government entities with defined benefit plans offered employees the option of a lump-sum payout, compared with 35% of non-business employers, 33% of manufacturers and 31% of service industry employers.

Government entity pension plans also were much less likely to be integrated with Social Security than other employers' plans, the survey found.

Twenty-nine percent of government entities' defined benefit plans were integrated with Social Security, compared with 35% of non-business defined benefit plans, 75% of service industry plans and 78% of manufacturers' plans.

However, until April 1983, local government entities were permitted to withdraw entirely from the Social Security program.

And, none of the government entities' defined contribution plans were integrated with Social Security, compared with 5% of service industry defined contribution plans, 8% of manufacturers' plans and 23% of non-business employers' plans.

To integrate a defined contribution plan with Social Security, an employer can vary its contributions to the plan in accordance with changes in FICA tax levels.

And, only 31% of the government entity defined contribution plans contained loan provisions, compared with 46% of non-business employers' plans, 60% of manufacturers' plans and 72% of service industry employers' defined contribution plans.

Meanwhile, government entities were more likely to offer fully subsidized health care benefits to retirees under age 65 than the other types of employers.

Thirty-five percent of the government entities provided fully subsidized health care benefits to retirees under age 65, compared with 28% of the manufacturing and service employers and 9% of the non-business employers.

In addition, only 19% of the government entities did not offer any types of health care coverage to retirees under age 65, compared with 18% of service industry employers, 21% of manufacturers and 27% of non-business employers.

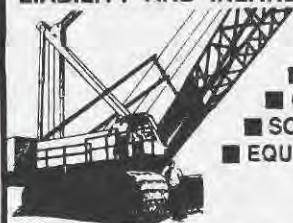
Likewise, 21% of government entities offered no health care coverage to retirees over 65, compared with 20% of service employers, 23% of non-business employers and 32% of manufacturers.

—By James M. Burcke

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# Russian art

Continued from page 3  
rubies and sapphires.

The political risk event cancellation coverage was purchased to reimburse San Diego Festivals Inc. for any out-of-pocket expenses and obligations incurred between May 10, 1989, and Jan. 7, 1990, if state or federal governments in either country canceled any events.

The policy was "the biggest challenge for us," said Thomas W. Corbett, executive vp of San Diego-based Robert F. Driver Co. Inc. and director of its Newport Beach, Calif.-based Special Risk Division, which placed coverage for the festival. Through its large book of municipal business, the firm was familiar with special events coverage, but had never placed political risk coverage for such an event.

Lloyd's of London broker Crispin Speers & Partners Ltd. handled placements at Lloyd's for Driver.

"The political risk aspects of the event—doing business with Russia—led us to believe there was a need to arrange political risk event cancellation protection," Mr. Corbett explained.

Officials also asked Mr. Corbett to explore the costs of traditional event cancellation coverage to protect the city from weather or natural disaster-related cancellation losses, he said.

"What we found was that the pricing for event cancellation coverage for such things as rain, wind and earthquakes was three times the cost of cancellation coverage for political risk exposures, which we felt was unusual because we saw the political risk exposure as a bigger risk," Mr. Corbett pointed out.

The cost differential was particularly surprising, Mr. Corbett said, because of the political upheaval in China and the general unrest abroad at the time he was marketing the coverages.

San Diego elected not to purchase traditional event cancellation coverage, Mr. Corbett noted, and did not need it. No events were canceled due to weather.

Though the Masterworks in Metal icon exhibit was to have been a focal point, the festival was a success without it, officials said.

It was "by far the largest Russian festival ever held in the U.S.," said Mr. Herring, who estimated total attendance at nearly 750,000.

While the performances and festivities—including 325 Soviet performers and a variety of Russian art at various theaters, parks and museums throughout the city—ended Nov. 11, the popular Faberge Imperial Eggs remained on display until Sunday, as did several other exhibits.

Twenty-seven of the eggs, hand-crafted by master jeweler Peter Carl Faberge as Easter gifts for Russian royalty between 1885 and 1916, were on display at the San Diego Museum of Art.

The eggs—made of platinum, gold and silver, encrusted with precious stones and each representing hundreds of hours of work—are valued at \$1.5 million to \$6 million each. They range in height from less than 3 inches to slightly under 12 inches.

Some of the eggs were crafted with clocks or mechanized and musical animals inside them. Others featured miniature ships, working trains, replicas of palaces and painted portraits on jeweled easels.

While Mr. Herring would not disclose the appraised value of the entire collection, he confirmed that it exceeds \$50 million.

Eight eggs were loaned to the museum from The Armory Museum-State Museums of the Moscow Kremlin, nine from the Forbes Magazine Collection, two from Queen Elizabeth II of England and eight from other muse-

ums or private collections.

The Armory Museum eggs had not previously been exhibited in the United States, according to the San Diego Museum of Art.

The museum sold about 205,000 tickets to the Faberge exhibit, making it the San Diego Museum of Art's largest draw ever, a spokeswoman said.

The museum purchased a special exhibition policy on the Faberge egg exhibit, according to its broker, Patricia J. Hayes, manager of the Museums and Exhibitions Department of Huntington T. Block Insurance in Washington, D.C.

Coverage for the exhibit, which opened Oct. 22, was written by The Home Insurance Co. in New York and reinsured with Lloyd's underwriters, Ms. Hayes said.

Huntington Block also had arranged to provide coverage for the Masterworks in Metal exhibit before it was canceled, Ms. Hayes said.

The various San Diego museums housing Russian art and photography displays were responsible for arranging fine arts coverage for those exhibits, with some subsidization from the city, Mr. Herring said.

Other exhibits held in various San Diego locations included: Folk Art of the Soviet Union; Soviet/American Space Art; Contemporary Soviet Photography; Soviet and American Children's Art; Miniature Lacquer Art; Poster Art of the Soviet Union; and Faberge Gem and Mineral Carvings.

Mr. Corbett said that when the city asked him to market the various fine arts exposures on an individual basis, "we found that individual coverages would have been a lot more expensive" than adding coverages to the museums' existing policies.

Round-the-clock security at the Faberge eggs exhibit throughout the festival included guards on the floor of the exhibit; armed guards on a platform overlooking the display cases; alarms in each of the cubicle clear-view display cases housing an egg; and other electronic surveillance equipment.

Guards also used hand-held metal detectors, viewers had to pass through two metal detectors, and all bags and purses were physically searched.

The Russian festival included opera, drama, marionette theater, dance, symphony and Moscow circus performers. It also featured a Russian film festival, performances by Soviet child prodigies and food prepared by master chefs from the Soviet republic of Georgia.

And, an additional 175 Red Army Choir members who were on a U.S. tour, paid the city \$10,000 to perform during the festival, Mr. Herring said.

San Diego also sponsored three Soviet performances in Tijuana, Mexico, as a neighborly gesture.

In addition to political risk insurance, the festival events were insured under special event liability insurance and medical and accidental death coverages for performers.

A master all-risk special event policy covered liability for everyone attending any of the events, said Mr. Johnson.

The liability policy also provided host liquor liability coverage for any functions where alcohol was served and non-owned auto coverage for any transportation-related exposures.

Irving, Texas.-based Gulf Insurance Co. provided primary limits of \$1 million per occurrence with a \$2 million general aggregate.

A \$4 million per occurrence/\$4 million aggregate first-layer excess policy was underwritten by Chubb Custom Insurance Co. of Warren, N.J., a unit of Chubb Corp. And, First State Insurance Co. of Boston, a Hartford Insurance Group unit, wrote a \$5 million per occurrence/\$5 million aggregate policy excess of Chubb's \$4 million layer.

For the three events in Mexico, a \$25,000 per occurrence/\$25,000 aggregate primary policy for general liability and non-owned and hired

autos was underwritten by Seguros America S.A. in Mexico City.

CIGNA Property & Casualty Insurance Co. of Philadelphia, a CIGNA Corp. unit, provided a \$1 million difference-in-conditions policy for auto and general liability exposures arising from the Mexican events.

The CIGNA DIC policy carried separate \$1 million aggregates for products and completed operations exposures and personal and advertising exposures. Auto coverage provided up to \$1 million per accident with no aggregate.

The total cost of the festival's special event liability coverages was \$41,400, Mr. Johnson said.

Medical coverage of up to \$1 million per person, and accidental death and dismemberment coverage of up to \$100,000 per person, both with a \$10,000 deductible, were written Lloyd's underwriters. The AD&D coverage carried a \$5,000 sublimit for children under the age of 16.

The combined aggregate for both coverages was \$5 million. Total cost for the coverage was \$9,300, Mr. Johnson said.

Only one performer was hospitalized during the festival, and the resulting \$5,600 hospital bill fell within the city's medical deductible, Mr. Johnson said.

San Diego's Mercy Hospital agreed to provide free outpatient emergency care for the performers, regardless of the cost.

The hospital treated more than 60 Soviets on an outpatient basis, Mr. Johnson noted.

First-aid station services for outdoor festival events were donated by Physicians & Surgeons Hospital in San Diego, he added.

The San Diego police department provided security for public events and "about a dozen" private security guards were hired for events where money was handled, Mr. Herring said. Two civic groups donated additional informal security personnel, he added.

San Diego also required the more than 20 local sponsoring organizations hosting exhibits and performances during the festival to carry at least \$1 million in liability coverage naming the city and San Diego Festivals Inc. as insureds.

The festival was inspired by San Diego Mayor Maureen O'Connor's 1988 trip to Moscow, Mr. Herring explained. She subsequently entered into a cultural agreement with the Ministry of Culture in Moscow, he said.

Before agreeing to loan its artwork to San Diego, the Soviet government required that the city provide proof of a federal waiver of judicial seizure, which requires federal government approval, according to Mr. Herring.

Basically, under the waiver of judicial seizure, the government pledged to help assure that private individuals in this country who thought that they had some right to any of the objects through their heritage would not seize the object.

The Faberge egg exhibit is scheduled to open Jan. 30 at the Kremlin in Moscow.

As part of the arrangements to transport the exhibit to the Soviet Union, the San Diego Museum of Art asked the federal government, through a federal indemnity, to provide the primary level of coverage for eggs owned by Americans while on display in Moscow.

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THE FAST TRACK TO A COMEBACK

# Quake losses hit Australian market

By KATE McILWAINE

SYDNEY, Australia—Australian property/casualty insurers are estimating that losses from the earthquake that struck southeastern Australia last month will total about \$700 million Australian (\$548.8 million) and will lead to a tighter commercial insurance market.

Overall loss estimates by insurers range from between \$500 million Australian (\$392 million) and \$1.2 billion Australian (\$941 million), with most estimating about \$700 million Australian in damage.

The expected loss rivals the losses from Cyclone Tracy, Australia's worst loss ever. Cyclone Tracy pummeled the coast of the Northern Territory in 1974, causing \$800 million Australian (\$627.2 million) in insured damage in 1989 dollars (*BI*, Oct. 17, 1988).

The Dec. 28 quake, which measured 5.5 on the Richter scale, hit the industrial city of Newcastle, 60 miles north of Sydney. The central business district of the city of more than 150,000 people was severely damaged, with engineers estimating that 70% of the buildings will have to be demolished and others will require extensive refurbishing.

In hard-hit residential areas, many homes will be demolished and others will have to be repaired.

Most Australian homeowners and commercial property insurance policies cover earthquake damage. And, while insurers say they are adequately reinsured for the expected flood of claims in the London and other markets, observers say the quake will have a major impact on the Australian insurance industry.

"If commercial claims are significant, (the total cost) could be hundreds of millions of dollars," said John K. Westmore, chief executive of the Insurance Council of Australia in Sydney.

While Newcastle is not the "wasteland" that the city of Darwin was in 1974 when Cyclone Tracy hit, the earthquake will cause "a lot of pain and suffering" in the insurance industry, Mr. Westmore said.

It will take weeks before insurers are able to assess the full business interruption losses from the earthquake, sources said.

Newcastle's central business district was still closed last week to all but residents and property owners with special entry permits.

However, one source said that many business interruption losses will not reach the average minimum deductible of \$20,000 Australian (\$15,680) per policy.

The Sydney-based Government Insurance Office of New South Wales, a New South Wales state-owned insurer and one of the largest insurers in Newcastle, had received nearly 3,000 claims by late last week, according to Hunter Region Manager George Quintrell.

GIO wrote property insurance policies with limits of more than \$5 million Australian (\$3.9 million) for many businesses in Newcastle's central business district. However, GIO still does not know the extent of damage to all of the buildings it covered, he said.

However, Mr. Quintrell estimated that GIO will pay out \$40 million in gross claims for earthquake-related losses. Claims from commercial policyholders total \$20 million so far, he said.

Mr. Quintrell said that while many GIO policyholders in Newcastle's central business district had obtained business interruption coverage in the past five years, "whether their cover is sufficient is another matter."

GIO's single biggest loss probably will be the Newcastle Returned Servicemen's League Club, which sustained more than \$2 million in damage, not including business interruption losses, he said.

GIO also manages a New South Wales government fund that will cover losses to government property. Mr. Quintrell estimated that damage to government buildings

would range between \$50 million Australian (\$39.2 million) and \$100 million Australian (\$78.4 million).

Melbourne-based Guardian Royal Exchange Insurance Ltd. likely faces the single biggest earthquake-related loss, said Terry R. Herbert, general manager.

GRE wrote 50% of the coverage for the Newcastle Workers' Club, which sustained \$8.5 million Aus-

tralian (\$6.7 million) in damage and business interruption, he said. The club's top floors collapsed onto lower floors during the quake, killing 12 people. The quake's entire death toll was 14.

Other insurers share the remaining 50% of the loss, according to Mr. Herbert.

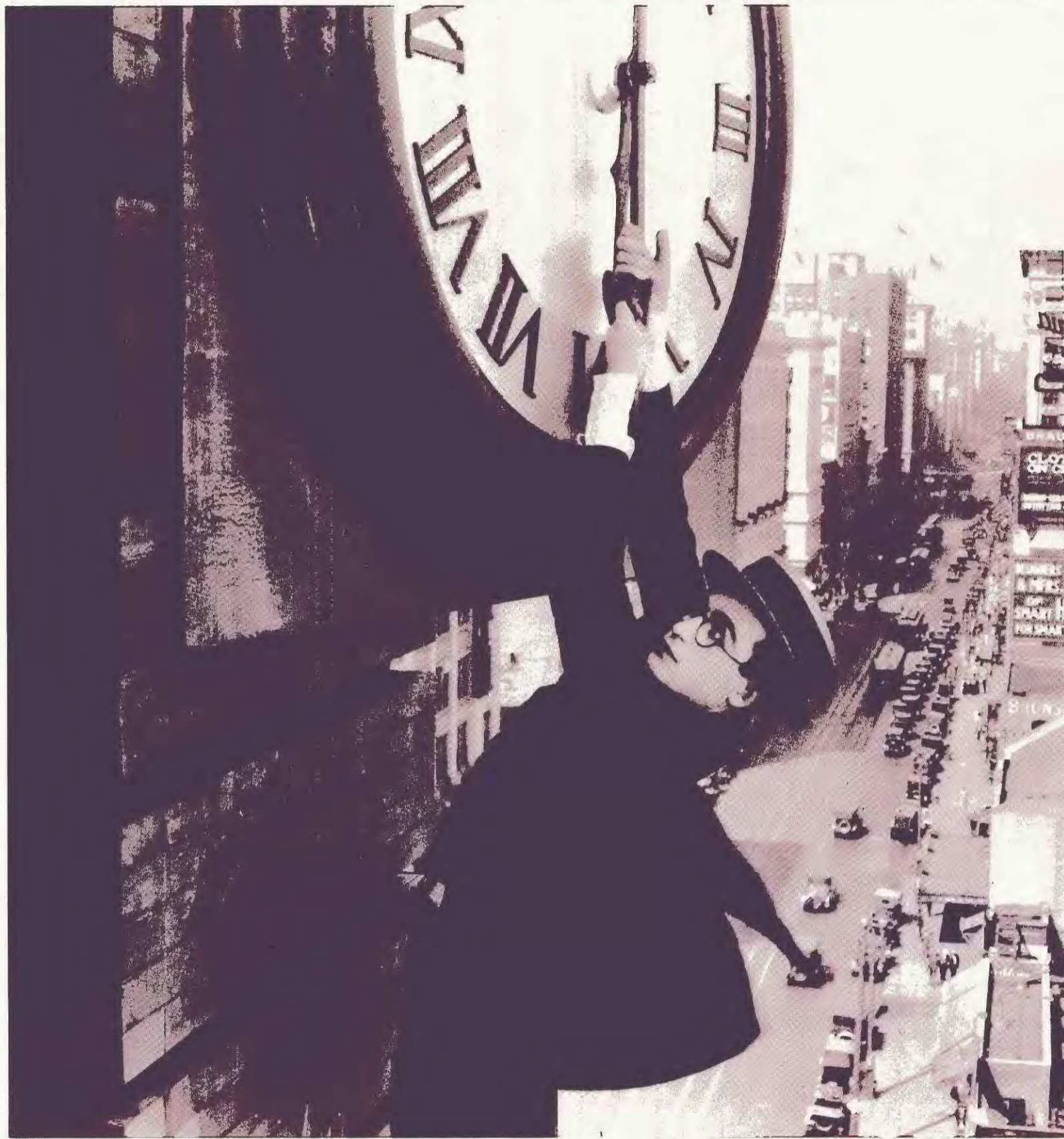
Overall, GRE expects to pay more than \$15 million Australian

(\$11.8 million) in gross earthquake related losses, he said.

Sydney-based Manufacturers' Mutual Insurance Ltd.'s gross losses will "top out at \$10 million Australian" (\$7.8 million), estimated Bob S. Sparks, general insurance manager for the insurer's Northern New South Wales region.

Commercial accounts represent

*Continued on next page*



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Continued from previous page  
only 40% of the coverage MMI writes, but losses from those accounts will exceed losses from homeowners, Mr. Sparks estimated.

Rodney J. Adler, chief executive officer of FAI Insurances Ltd., Australia's largest non-life insurer, expects that total insured losses will reach \$1.2 billion Australian (\$941 million) from the earthquake.

FAI so far has received 100 claims from the quake for approximately \$5 million Australian (\$3.9 million) of losses, Mr. Adler said.

However, he stressed that it is too early to estimate total damages.

FAI will retain only \$1.5 million Australian (\$1.2 million) of that \$5 million, he said.

FAI "learned its lesson" after Cyclone Tracy, when its reinsurance was inadequate, Mr. Adler explained. He said the company now reinsures a major portion of its risk.

Sydney-based N.R.M.A. Insurance Ltd. is expecting to pay between \$20 million Australian (\$15.7 million) and \$50 million Australian (\$39.2 million) in gross

earthquake-related losses.

The insurer, which is affiliated with the National Roads & Motorists' Assn. and is one of Australia's largest non-life insurers with a 1989 premium volume of \$774 million Australian (\$606.8 million), has received 2,400 claims so far and expects more, said General Manager Ray B. Willing.

Sydney-based QBE Insurance Group Ltd. Secretary and General Counsel Geoffrey Budge said the insurer still had adjusters working in the area and that losses were difficult to estimate.

It will be another two to three weeks before a reasonable estimate is available, he said.

QBE, like many other insurance companies, has been hampered assessing damage because it can no longer operate from its offices in the central business district of Newcastle. The insurer has set up temporary offices in an outer suburb.

QBE insures very few commercial insurance risks in Newcastle's downtown area, though it underwrites coverage for about 25% of the homeowners in the area.

Some insurance experts expect that the quake will turn around Australia's soft property/casualty insurance market.

For example, Mr. Budge of QBE expects that the Australian quake as well as all of the catastrophic losses worldwide in 1989—including Hurricane Hugo and the San Francisco earthquake—will lead to a hardening of reinsurance rates.

N.R.M.A.'s Mr. Willing predicts a hardening of reinsurance rates after the Australian quake.

1989 was "an endless stream of big knocks" for the insurance industry, which will tighten Australia's property/casualty insurance market, said GRE's Mr. Herbert.

"It will hurt," he warned. June, a major reinsurance renewal season for Australian ceding companies, will be "the testing time," he said.

The earthquake "could be the catalyst we have needed to turn around rates," said Rex Parker, deputy executive director for Sydney-based NZI Insurance Australia Ltd.

Others believe that insurers will reassess how they underwrite earthquake risks.

Mr. Willing said the quake will mean a total reassessment by the insurance industry of the potential for earthquakes in Australia.

Mr. Budge of QBE also said the insurance industry will need to reassess earthquake coverage, because Newcastle was not in a known earthquake zone.

Mr. Adler of FAI agreed that the Australian market would now look closely at how industrial special risks and homeowners insurance would be underwritten. And premiums are likely to rise as a result, he said.

"Evidence shows that after a catastrophe there is always a surge in premium income" because property owners can be expected to buy higher coverage limits, Mr. Adler said. "If an earthquake could happen in Newcastle, it could happen in Sydney."

Months before the earthquake struck, independent insurance industry analyst Jim Irish warned that several factors have led insurers to inadequately rate property risks and that insurers would not be adequately reserved for a catastrophic loss.

In a paper he wrote for an October meeting of the Insurance Institute of Australia, Mr. Irish warned that because of the almost universal provision of earthquake coverage in property policies, the growth in availability of business interruption coverage and the intense competition in the Australian general insurance market, insurers would not have adequate reserves.

However, Mr. Irish explained that insurers can ill afford to sufficiently reserve for such a loss, in part because interest earned on such reserves are taxable under Australian tax law.

Mr. Irish also said insurers should consider whether minimum earthquake-resistant building code specification should be mandatory for insured buildings.

GRE's Mr. Herbert said it was likely the building codes would be changed, with more "earthquake-proofing" required. Insurers then could apply different policy terms to cover buildings that meet those codes.

However, Joe Gawin, acting director of Australia's Canberra-based Building Regulations Review Unit, warned that research is necessary before Australia is "saddled with an unbearable task" of making buildings earthquake resistant.

Mr. Gawin said there should not be a "knee-jerk" response to the Newcastle earthquake because imposing stringent regulations would only add to building costs and may not be necessary.

"The cost to the community would be enormous. It would be billions of dollars," he said. ■



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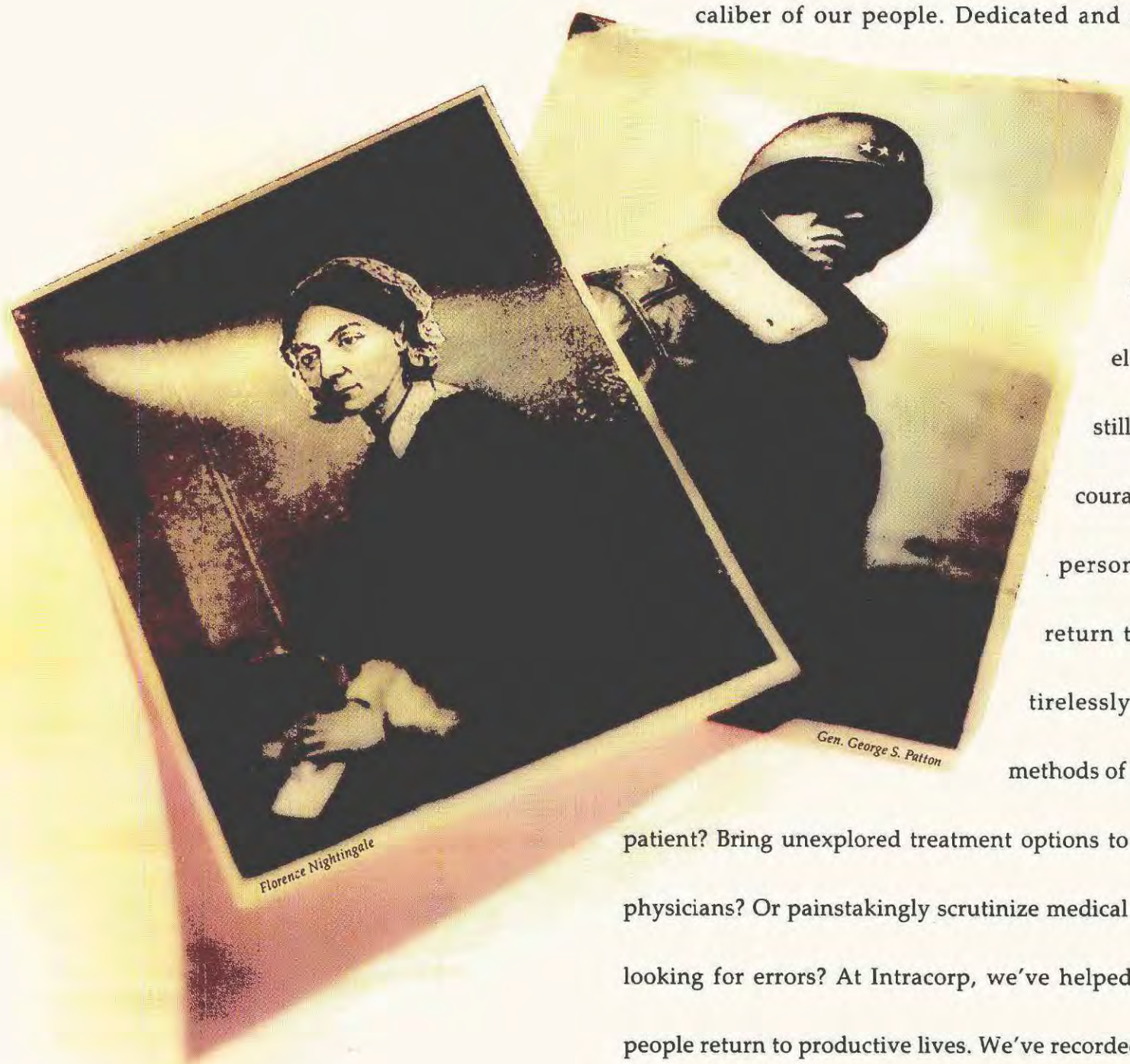
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# Making an ESOP work

## A bank's attempt to motivate its shareholder-employees

By Dennis J. Nirtaut

IN 1987, following a slow but steady rebound, Continental Bank Corp. in Chicago charted a new direction: It set out to become a business bank. The years 1987 and 1988 were transitional for Continental Bank, involving the restructuring of the organization for the new business focus. The strategy and hard work has already paid off with record company earnings in 1988 and the first quarter of 1989.

Continental Bank's chairman and senior management wanted to both reward employees for their hard work during this recovery period and provide them with an ongoing incentive to continually improve their efforts. Employee stock ownership was determined to be an effective and innovative means to allow employees to share in Continental Bank's success and to continuously reinforce the entrepreneurial spirit. An employee stock ownership plan was announced in October 1988, with the first allocation of stock to employee accounts effective Dec. 31, 1988.

The Continental Bank ESOP was initially funded with \$27.2 million, consisting of two components:

- ✓ A cash contribution by the company of \$8.2 million, which represented the 1988 contribution.
- ✓ A loan by the ESOP of \$19 million, scheduled to be repaid in three annual installments.

The funding source for the ESOP was essentially supplemental contributions that otherwise might have been made to participants in the company's 401(k) plan for 1988 through 1991. The 401(k) plan provides for a basic match by the company of 50 cents for each dollar saved by the employee, up to 4% of annual salary, with potential for an additional supplemental match at year-end of up to \$1.50 per employee dollar saved based on the company's financial performance for the period.

Posters announcing Continental Bank's new ESOP, using the theme 'You now have a piece of the business,' were displayed in all areas of the company.

With the introduction of the ESOP, supplemental matching contributions to the 401(k) for the years 1988 through 1991 are not anticipated.

For Continental Bank—or any company—to be competitive, cost control is important. To keep implementation costs to a minimum, the human resources staff was given the task of designing and implementing the ESOP program. Many plan design issues must be addressed when introducing an ESOP. The major issues are summarized below:

• **Eligibility.**

A key issue is when an employee is eligible to participate in the plan. Generally, the maximum waiting period allowed by law is one year of company service. The eligibility dates of a company's other qualified plans (e.g., pension and savings plans) should be considered in this determination along with other factors.

The Continental ESOP provides for immediate eligibility since the corporation wanted all employees to become shareholders as soon as possible.

• **Vesting.**

How soon an employee vests in the ESOP benefit is also a key consideration. Vesting alternatives range from immediate to some form of step vesting, such as 20% vesting for each year of company service or plan participation. If vesting is not immediate, automatic vesting is usually provided in cases of an employee's retirement, death or

disability. At Continental Bank, immediate vesting was chosen, since the 401(k) savings plan offers immediate vesting and that plan essentially was the source of funding for the ESOP.

• **Forfeitures.**

If the plan does not provide immediate vesting, a provision must be made for how participant forfeitures will be utilized. A company can either use the forfeitures to offset expenses of the plan (e.g., to pay interest on the loan) or choose to reallocate the forfeitures to plan participants.

• **Dividends.**

Dividends on the stock allocated to employee accounts can be used by the company to reduce the plan's cost. Another option is to provide the dividends to participants, which can be done in one of two ways: The dividends can either be allocated to the employees' accounts or distributed to employees in cash.

Allocating dividends to employee accounts provides the advantage of tax-deferral without the benefit of deferring the income for participants and further growth of accounts. Distributing the dividends in cash, though without the benefit of deferring the income for employees, provides employees with a regular reminder of the plan and provides the company with a current tax deduction.

At Continental Bank, management decided to allocate dividends to employee accounts, providing participants with additional tax-deferred income and avoiding the quarterly administrative expense of distributing checks.

• **Allocation of company contributions.**

The basis for allocation of company contributions to employee accounts must be determined. The most common approach is to base the allocation on the ratio of each employee's compensation to the compensation of all eligible employees. The key element here is how compensation is defined: as either base salary earnings (exclusive of bonus payments, overtime, etc.) or W-2 earnings.

In making this decision, one must consider that the maximum allowable compensation for eligibility of any employee is currently \$200,000. Also, ESOPs are subject to a discrimination test that dictates that no more than one-third of an allocation can be provided to highly compensated employees (as defined by the Internal Revenue Code; currently, those employees earning at least \$54,480 annually). The ability to pass this discrimination test is dependent on salary distribution within the organization.

Many organizations have difficulty meeting this requirement, particularly if W-2 earnings are the basis for allocation of stock. If a plan does not pass this discrimination test, the easiest solution often is to allocate one-third of the stock to the highly compensated group, using the ratio of each participant's earnings to total earnings for that group; the remaining two-thirds of the stock is allocated to the non-highly compensated group on the same basis.

There are many more issues to be resolved in designing an ESOP. Making design decisions will be easier if the factors listed below are considered:

• **Objective of the ESOP.**

The reason or purpose for implementing an ESOP will influence design issues. Some objectives may include enhancement of employee benefit plans or a takeover defense. At Continental Bank, the major purpose of the ESOP was to reward and to further motivate the employees by making them shareholders. Therefore, eligibility for participation in the ESOP was immediate.

• **Consistency of plan design.**

When making plan design decisions, the provisions of the company's other qualified benefit plans should be considered. In most cases,

consistency of plan provisions among the different plans is preferred. As explained above, at Continental Bank immediate vesting was chosen for the ESOP, given that the 401(k) plan provides for immediate vesting.

• **Legal considerations.**

The Internal Revenue Code and the Employee Retirement Income Security Act restrict choices in some areas of plan design.

An example of this is vesting, which has very specific requirements.

Once the design of the ESOP has been hammered out, the next step is communicating the new benefit to employees. Communication of the new ESOP was a challenge at Continental Bank, mainly due to other events that were occurring at the bank at the same time. In addition to the ESOP, the company announced an increase in its dividend, a reverse stock split, a simplification of the bank and

Distributing dividends in cash, though without the benefit of deferring income for employees, provides employees with a regular reminder of the plan and the company with a tax deduction.

corporation name and also a revised stock option plan.

The purpose of the initial ESOP communication campaign was to generate employee interest and excitement about the new plan and to ensure that employees understood the plan.

Within a two-week period during October 1988, the following communication activities occurred:

• **Human resources meeting.** A meeting was held with all human resources divisional representatives to explain the plan so that they would be able to field questions from employees in their respective business areas.

• **General announcement.** The general announcement of the ESOP (as well as the reverse stock split, increased dividend, name simplification and stock option plan) was made in a press release distributed throughout the company and a letter with general questions and answers sent to all eligible employees. Posters announcing the ESOP, using the theme "You now have a piece of the business," were displayed in all areas.

• **Post announcement.** One week after the initial announcement of the ESOP, a highlights brochure with additional information was distributed throughout the bank. The final major communication vehicle involved divisional employee meetings, featuring a video presentation in which the plan provisions were explained. The video was approximately 10 minutes long and included employees' comments on the new ESOP, an explanation by Continental Bank's chairman of why the company was implementing the plan, observations about Continental Bank stock from an investment analyst and an explanation of the plan provisions. The employee meetings were conducted by senior executives from the organization and questions were fielded by employee benefits personnel.

In addition, the ESOP was discussed in several articles in the company newsletter. As an extra reminder, tent cards were placed on tables in the bank's cafeterias.

It was important that the impact of the initial communication campaign not be lost. Therefore, any further general information and activities relating to the ESOP were promptly communicated to employees, mainly through the company newsletter. For instance, the initial purchase of the stock for the

*Continued on next page*

## Continental Bank's ESOP

*Continued from previous page*

plan was announced to employees. The actual purchase price of the stock is always an item of keen interest for employees.

Other items announced were the actual allocation of stock to employee accounts, as well as the quarterly allocation of dividends. Items requiring direct communication with employees include the solicitation of a beneficiary designation for the plan as well as the initial distribution of the initial employee statements of account.

Another follow-up communication opportunity was the company's annual personal benefits reports, which employees receive in the second quarter each year. This year, the reports included the value of the employee's ESOP account and contained a specially prepared section summarizing all employee benefit plan changes made during the past year, including the introduction of the ESOP. A section explaining how to monitor the price of the bank's stock in daily newspapers was also included.

Overall, our communication campaign was effective from at least two perspectives. A major objective of the communication program was to ensure that employees understood the ESOP and how it works. Based on informal feedback, as well as the relatively few questions received by the employee benefits department, employees generally understood the plan.

Another significant goal was to communicate to employees the message expressed in the theme of the campaign, "You now have a piece of the business." Through the ESOP, employees can enjoy the benefits of company ownership. The purpose of the ESOP at Continental Bank is to promote the mutual interests of stockholders and employees by

providing employees with an equity interest in the company. Everyone benefits from an employee work force whose performance is motivated through a closer identity of interests with the stockholders and the success of the corporation.

Employee ownership was the key reason for implementing the ESOP. The ESOP trust now holds about 3% of the outstanding shares of the company. Based on this, the ESOP clearly was not implemented to prevent potential takeover attempts of the corporation.

The ESOP has aroused increased employee interest in the bank's stock. During the initial employee meetings, and in subsequent chairman's conferences recently conducted for the entire bank population, several employees raised questions regarding increased stock allocation to the ESOP and the possibility of the company implementing an employee stock purchase plan.

Without extensive experience with ESOPs, it is difficult to "do it alone" when designing, communicating and implementing such a plan. Because ESOPs are unique, plan design features and issues are different from those of the standard defined benefit or defined contribution plan. For any organization seriously considering initiating an ESOP, a law firm with experience with such plans can be invaluable.

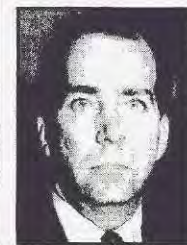
Communication of the plan to employees is extremely important. Since an organization will spend a substantial amount for an ESOP, it is important that employees understand the plan and exactly how it will benefit them. A very important element of an ESOP is the opportunity it presents to link employees to the company. This can be done only through a carefully planned communication campaign. Employee benefit communication consultants can be very helpful in this regard.

After the ESOP is designed and communicated, the plan must be implemented. This includes record keeping and trust arrangements. Record keeping can be a relatively easy process, particularly in an organization that currently operates a 401(k) or profit sharing plan, since the record keeper for these plans is most likely receiving much of the information that is required for the ESOP record keeping.

Generally ESOPs require relatively little active record keeping. The activity usually includes an annual allocation of stock to employee accounts based on the company's contribution or repayment of the loan, as well as quarterly dividend allocations. Since dividends are usually a small amount, particularly in relationship to the total account value, quarterly statements are probably not necessary. In most cases, an annual statement is sufficient.

The expense of outside experts is a necessary start-up cost of an ESOP. A budget of approximately \$75,000 to \$150,000 is a general range for legal, communication and record keeping expenses.

The actual amount for such expenses will be influenced by how much of the expertise may be "in-house" and available and how quickly the plan is to be implemented. ■



Dennis J. Nirtaut is manager of employee benefits at Continental Bank Corp. in Chicago.

# Comp law not discriminatory: Court

A Louisiana law denying an employee workers compensation benefits if his or her intoxication caused injury did not unconstitutionally discriminate against alcoholics, a Louisiana appellate court ruled.

Curtis Wayne Smith was fatally injured while piloting a rented airplane. Blood tests performed after the accident showed his alcohol level to be between 0.211 and 0.237, far in excess of the amount allowed by federal aviation regulations. No evidence of mechanical malfunction was found.

Mr. Smith's widow and children applied for compensation benefits but were denied.

They then brought this suit against the employer and its insurer, seeking benefits. The trial court denied benefits.

Under Louisiana law, no workers compensation benefits are allowed for an injury caused by the employee's intoxication at the time of the injury. Mr. Smith's survivors argued that alcoholism is a chronic disease and that the state law denied equal protection rights to those classified as alcoholics.

The appellate court said that the law did not discriminate against alcoholics as a class. An admitted alcoholic can recover benefits so long as intoxication did not cause the injury, the court noted. Likewise, a non-alcoholic cannot receive benefits if his intoxication caused the accident, the court added.

The court concluded that the law's classification was not arbitrary and that it had a rational basis.

## Legal briefs

*Smith vs. Datachem Inc.*, Court of Appeal of Louisiana, March 15, 1989 (BI/02/Feb.-\$10).

### Exclusive remedy bars suit

A California appellate court held that an employee's suit to recover compensation based on allegations of discrimination because of an industrial injury belonged exclusively before the workers compensation appeals board.

Arliss Pickrel sustained an industrial injury while employed by General Telephone Co. of California. She suffered a back sprain while moving a ladder and as a result of "continuous trauma" at work during the year preceding the ladder incident. She filed for workers compensation and settled for \$18,000.

Thereafter, Ms. Pickrel filed this suit against her employer alleging discrimination of employment because of a physical handicap in violation of state law.

The physical handicap alleged in this suit was the same back problem she suffered on the job with General Telephone that was the basis of her workers compensation claim. Ms. Pickrel asserted that she was not rehired by General Telephone because of her physical handicap, even though she was capable of returning to work. The trial court ruled against her.

The appellate court said that since adoption of the workers compensation scheme, a basic philosophy underlying

the exclusivity of the workers compensation system has been that an employer who had complied with the law by securing the payment of benefits through insurance should be immune from tort actions brought by injured workers.

"Curtailing the exceptions to exclusivity benefits both employers and employees within the system by keeping down the costs of compensation insurance and preserving the low cost, efficiency and certainty of recovery which characterizes workers compensation," the court said.

The trial court judgment was affirmed.

*Pickrel vs. General Telephone Co. of California*, California Court of Appeal, Nov. 9, 1988, as modified Nov. 29, 1988 (BI/04/Nov.-\$10).

### Group policy covers ill employee

A dental assistant, who worked for part of the day that a group health policy became effective before she left for a doctor's appointment that was scheduled due to illness, was entitled to coverage under the policy, according to a Georgia appellate court.

Jennifer Meade began work as a full-time dental assistant for Dr. Larry Dunn on Feb. 24, 1986. Shortly after Ms. Meade began work, John Alden Life Insurance Co. provided Dr. Dunn and his employees with group health care insurance. The coverage became effective April 15,

1986.

During the early morning hours of April 15, Ms. Meade began experiencing nausea and abdominal pain. She called her physician and arranged for a 9 a.m. appointment that day. At 8:15 a.m. she arrived at her job, began performing her normal functions and at 8:45 a.m., she left for her appointment. She did not return to work until June 7, 1986. During the months following April 15, Ms. Meade incurred substantial medical expenses for which she claimed benefits under the group policy.

The insurer denied the claim on the basis that Ms. Meade was not at work on a full-time basis on the effective date of the policy. Ms. Meade sued and won in the trial court.

On appeal, the court said that the master policy language and the certificate of insurance merely required full-time employees to appear at work on or after the effective date of the policy and to perform normal job functions to invoke coverage under the policy.

The court held that the trial court determination was correct that Ms. Meade was covered under the policy.

*John Alden Life Insurance Co. vs. Meade*, Court of Appeals of Georgia, Feb. 8, 1989, rehearing denied Feb. 27, 1989 (BI/05/Nov.-\$10). ■

*These abstracts were prepared by Cases Unlimited Inc. Copies of these decisions are available by sending a \$10 check payable to Cases Unlimited to Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. List the number for each opinion.*

# Lloyd's to review market barriers

London

By STACY SHAPIRO  
and CAROLYN ALDRED

LONDON—The Council of Lloyd's of London this week is expected to review its decision to dismantle its four-market structure after underwriters protested the change.

Since the Council's December announcement that traditional barriers among the marine, non-marine, aviation and motor markets would be removed, Lloyd's underwriters have signed three petitions opposing the move and presented them to Chairman Murray Lawrence.

A majority of Lloyd's underwriters signed the petitions—one each from the marine, non-marine and aviation markets—said a Lloyd's spokesman. Underwriters representing petitioners also discussed the issue with Mr. Lawrence last week.

The council decided late last year to remove traditional market barriers to make way for composite syndicates that could write all classes of business as early as January 1991. Removing market barriers would increase the attractiveness of Lloyd's to brokers, the Council reasoned.

Barriers had been implemented for motor business near the turn of the century; non-marine business in 1903; and aviation business in the early 1950s. Until the turn of the century, all Lloyd's syndicates were marine syndicates (BI, Dec. 11, 1989).

But petitioners fear removing barriers could harm Lloyd's, especially if it is done quickly.

They worry about increased competition among syndicates, said a Lloyd's underwriting agent.

Others say the petitioning underwriters feel they have been railroaded by larger syndicates into removing barriers, which the Council approved without market consultation.

However, "the main problem is the names," said a petitioner. "It is most important that names have a spread of risk. I as a name would want a percentage of my premium to be in the marine market, non-marine market, aviation market and motor market so, if there is a major San Francisco earthquake, I know that my aviation and motor syndicates most likely will not have to respond to a loss.

"But if we break down market barriers, it is that much more difficult for names to know what his syndicates are underwriting," said the petitioner.

If the barriers are removed, members would have to review each underwriter's annual syndicate statement to determine what kind of business each syndicate was underwriting, he said. As a result, members might decide "late in the day" to switch syndicates, "which will bring with it instability," said the petitioner.

"It is premature to bring down market barriers. The market is not ready yet," he said.

The petitioner said he does not oppose composite policies combining marine, non-marine and aviation risks, but feels such policies can be underwritten without taking down market barriers.

However, if Lloyd's could develop a solid risk classification system allowing syndicates to identify the type of risks they underwrite, "the names would know where they stand" and barriers could come down, added the petitioner.

"Underwriters have agreed in principle to the breaking down of market barriers, but not until Lloyd's introduces a proper risk classification system," added a Lloyd's spokesman.

"But it is estimated that it would take two to 2½ years" to program risk classification into Lloyd's computers.

## EIL coverage

Up to \$750 million of pollution liability insurance will be available next month to shipowners belonging to the International Group of P&I Clubs if the shipowners show sufficient interest in buying the coverage.

As of Feb. 20, protection and indemnity clubs—the shipping industry's mutual liability insurers—will increase pollution liability insurance limits offered to policyholders to \$500 million from \$400 million (BI, Nov. 6, 1989).

In addition, the International Group—which reinsures as a group nearly all the major P&I clubs—may offer individual shipowners an additional \$250 million of pollution insurance in excess of the \$500 million from the P&I clubs. The insurance would be bought by each shipowner and would be purchased through the International Group rather than through each P&I club.

However, the excess insurance will only be available if owners representing at least 50% of the vessels belonging to the International Group agree to buy it, said John Riley, International Group chairman and partner of Tindall Riley & Co., which manages the P&I club Britannia Steamship Insurance Assn. Ltd.

Clubs have contacted members about their interest in the excess insurance and expect replies later this month, he said.

Shipowners have been able to buy additional pollution liability insurance in excess of the clubs' limits before now, said Mr. Riley. However, the International Group's proposed coverage would be offered at a competitive rate of 13 cents per gross ton, said Mr. Riley.

## Market leaders named

David Robertson is the new chairman of Lloyd's Underwriters' Non-Marine Assn., following the annual market underwriting association elections at Lloyd's.

Mr. Robertson, who succeeds Tim Holloway, will be assisted by John Wetherell, who was elected deputy chairman of LUNMA.

Meanwhile, underwriter Derek Wills was re-elected to a second term as chairman of the Lloyd's Underwriters' Assn., which represents marine underwriters at Lloyd's, and Robin Eliot was re-elected chairman of Lloyd's Aviation Underwriters' Assn. for a second year.

John Gordon remains chairman of the Lloyd's Underwriting Agents' Assn., with Paul Archard and Robert Hiscox as deputy chairmen.

## Underwriting boxes

The Corporation of Lloyd's of London is raising rental charges for underwriting boxes in its Underwriting Room by nearly 12% this year.

Charges rose to 290 pounds (\$466.70) per square foot from 260 pounds (\$418.60) per square foot.

It was the last of a series of incremental rent hikes to set the charges on a "strict economic basis," said a Lloyd's spokesman.

Increases reflect construction costs from the new Lloyd's building and increased services the Corporation of Lloyd's provides to underwriters, said the spokesman. ■

In 1990, rate hikes and tighter market conditions are predicted for the property/casualty market and continued premium increases are expected for group health plans. Executives responsible for risk management and employee benefits will be looking at all the funding options available, in particular, self-insurance, as a viable alternative for both large corporations and small companies.

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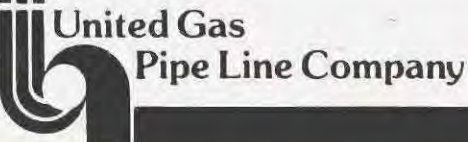
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### PROPOSALS

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The City of Eugene is soliciting proposals from qualified vendors for a claim management software system to replace the various systems presently in use for the administration of insured and self-insured, self-administered claims (worker's compensation claims management system not required). A copy of the Request for Proposal may be obtained by contacting Bonnie Lindberg, Finance Division, CITY OF EUGENE, 960 W. Park, Suite 300, Eugene, Oregon 97401, Ph. 503/687-5055. Written proposals must be received at the above address by 5:00 p.m. on Friday, January 26, 1990. The City of Eugene reserves the right to accept or reject any or all proposals and to waive any formalities.

### Business Insurance Circulation Breakdown\* Commercial Consumers

<b>Administrative:</b>	
CEO's Presidents and Owners	2,659
Vice-Presidents, General Managers and Other Administrative Personnel	4,006
<b>Financial:</b>	
Chief Financial Officers and Vice-presidents of Finance	2,795
Secretaries, Treasurers, controllers and other Financial Personnel	3,842
<b>Risk/Employee Benefits:</b>	
Vice-presidents, directors, managers, and other related department personnel of: insurance, risk, employee benefits, personnel, compensation, pension, safety, security, industrial relations, human resources and employee/labor relations	10,719
<b>Sub-total</b>	<b>24,021</b>
Associations	554
Government, Unions and Educational Institutions	1,417
<b>Commercial Consumers</b>	
<b>Sub-total</b>	<b>25,992</b>
Insurance Agents and Brokers	10,515
Insurance Companies	7,673
Actuaries, Consultants, Attorneys, Adjusters, Appraisers and Third Party Administrators	3,900
Others Allied to the Field	2,771
<b>TOTAL</b>	<b>50,751</b>

\* Source: Business/Occupational breakdown of qualified circulation, May 29, 1989 issue, as submitted to BPA for June 1989 BPA Publisher's Statement.

## BI CLASSIFIEDS WORK!

# Endowments

*Continued from page 3*  
 other areas who are already working in employee benefits can fill gaps in their knowledge by earning the CEBS designation, which is awarded after a series of 10 tests.

But neither undergraduates nor graduate students have had programs available, and "we see this as a big, significant step in that direction," said Mr. Graham.

The position is expected to be filled in about three years based on the recommendation of a committee to be appointed by Wharton's dean, according to Dan M. McGill, Wharton's Frederick H. Ecker professor of life insurance. He noted that the endowment must be partially funded before the position is filled.

"We'd be looking for someone who's a recognized scholar in the field," said Mr. McGill. Both Wharton faculty and outside candidates will be considered, he said.

"As far as we know, this is the only chair of its kind in the world" in a "fairly young, new academic discipline," said Mr. Graham.

Mr. McGill noted that the Philadelphia school plans to build an employee benefits concentration around the skills and plans of its new professor.

There has been discussion "for

some time" about establishing an employee benefits concentration and the endowment will enable the school to proceed, according to Mr. McGill.

Where a major involves course work in a single department, the employee benefits concentration will allow students to take electives from departments including insurance, finance, labor relations, accounting and perhaps public policy.

**It may be 'the only chair of its kind in the world' in a 'fairly young, new' field, says Dan F. Graham.**

While Wharton now offers pension courses, the new concentration is expected to offer additional courses in pension plan investments, defined benefit and defined contribution plans, health care plan design and foundation, and international benefits planning.

The International Foundation is a non-profit, educational association founded in 1954 whose members include more than 6,800 organizations and 32,000 individuals.

In addition to its CEBS program,

the foundation runs 50 educational programs a year and maintains an employee benefits library of more than 10,000 books, according to Dean Ossanna, director of marketing and membership.

A third new educational effort is under way with the Continental Corp. Foundation's establishment of a \$100,000 scholarship fund at Temple University's School of Business and Management. The fund is named after Continental's just-retired president, John H. Bretherick Jr.

The program will emphasize attracting minority students to Temple's department of risk management and insurance and provide access to job opportunities at Continental Corp., said David J. Vidal, the foundation's vp and manager.

While the program is expected to be operating in a year, the number of students awarded scholarships and amounts received could vary from year to year, he said.

As part of the program, Temple University in Philadelphia will also attempt to attract prospective students to the field, through efforts at the high school level, Mr. Vidal noted.

Mr. Bretherick will administer the scholarship program as part of a three-person committee along with representatives of the Continental Foundation and the university. ■

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# Eastern settlement

*Continued from page 2*  
 "Many complaints were brought to the attention of PWBA by COBRA participants who paid insurance premiums but were told by insurance carriers that they were not covered," said David Ball, assistant secretary of labor for PWBA.

The complaint also alleged that Eastern many times took 30 days or more to record, process and notify health insurers of beneficiaries' premium payments and that some payment envelopes were left unopened for up to two weeks.

Because of the time lag, many qualified beneficiaries were unable to verify their coverage with Eastern's health insurers and had "to pay their medical expenses out-of-pocket or to delay needed medical treatment," according to the complaint.

Although Eastern neither admits nor denies guilt, the airline agreed to resolve the issues in the complaint, the consent order said. As a

result, the airline will not be fined by the Labor Department.

Under COBRA penalties put into effect last year (BI, Oct. 31, 1988), the Internal Revenue Service generally will fine an employer \$100 for each day it failed to properly extend COBRA coverage to qualified beneficiaries.

The IRS would not comment on whether it is investigating the alleged COBRA violations at Eastern Airlines.

After finding "no just reason for the delay," the U.S. District Court for the Southern District of Florida ordered Eastern to notify all qualified beneficiaries of their right to continuation of health care coverage within 14 days after a strike or layoff.

The airline also was directed to notify its COBRA administration personnel within 30 days of an event that would qualify a current or former employee for COBRA coverage.

Eastern must record all certified

check payments within five working days of receipt and notify the health care provider of the payment within two working days of receipt according to the consent order.

Eastern will be given an additional three working days for clearance of local personal checks and seven more days for out-of-state personal checks, through Aug. 31, according to the consent order.

However, Eastern will not be considered in contempt of the order if it can show it made, "in good faith, all reasonable efforts to comply."

Eastern agreed to assign appropriate staff members to meet the terms of the order, and provide Labor Department officials with quarterly reports for five years documenting compliance and explaining any instances of non-compliance.

A spokesman for Eastern was unavailable for comment. ■

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Environmental impairment liability insurance for underground storage tanks with added coverage for defense costs is available through two brokers.

The EIL policies—offered by James Group Services Inc. and General Star Management Co.—provide up to \$250,000 in defense cost coverage above policy limits.

And while one of the policies—offered by James Group Services—emphasizes early detection to reduce the size of losses, the other—offered by General Star—includes an optional 12-month extended reporting period.

The James program provides continuous inventory monitoring designed to detect leakage as small as a gallon a day, thus allowing corrective action to be taken quickly, the company said.

This initial monitoring process, which determines risk acceptability, costs \$64 per tank. And the cost of subsequent analysis, which is conducted throughout the policy period, is built into premiums.

Underwritten by Anglo American Insurance Co. Ltd. and Walbrook Insurance Co. Ltd., two insurers managed by H.S. Weavers (Underwriting) Agencies Ltd. in London, the policy provides claims-made limits of \$1 million for cleanups and \$1 million for third-party damage.

Deductibles range from \$10,000 to \$100,000, and there is no minimum premium.

To qualify, policyholders must complete a 30-day tank inventory form based on the system already required by the Occupational Safety

## Products and services

and Health Administration.

The policy is available in all 50 states, but is being marketed primarily to associations.

For more information on James' EIL policy, contact James Stewart, vp, James Group Service, Inc., 230 W. Monroe St., Chicago, Ill. 60606; 800-621-5081.

The Gen Star EIL policy, written by General Re Corp. subsidiary General Star Indemnity Co. of Stamford, Conn., provides limits of \$1 million per incident/\$1 million aggregate for on-site and off-site cleanups, as well as for third-party bodily injury and property damage.

However, earthquake-related losses for California policyholders are capped at \$100,000 per quake.

Gen Star also offers an optional 12-month extended reporting period.

Deductibles range from \$10,000 to \$50,000, with a minimum premium of \$3,500.

Gen Star's EIL policy, now available only in California, is expected to be offered in Arizona, Texas, New Mexico, Iowa, Nebraska and Missouri after Jan. 15.

To qualify for coverage, policyholder-paid tank tightness tests must be conducted.

For more information on Gen Star's EIL policy for underground storage tanks, contact Ron Austin, second vp, General Star Management Co., 695 E. Main St., P.O. Box 10354, Stamford, Conn. 06904-2354; 203-

328-5700.

### Higher limits

Vermont-domiciled United Educators Insurance Risk Retention Group Inc. now offers up to \$25 million per occurrence in excess liability coverage, up from \$10 million per occurrence.

The broadened capacity is the result of new reinsurance agreements between United Educators and its reinsurers, General Reinsurance Corp., Prudential Reinsurance Co. and School, College & University Underwriters Ltd.

United Educators also offers up to \$5 million in educators legal liability coverage, written on a broad claims-made form. That limit has not changed.

United Educators, which began operations in April 1987, now writes coverages for about 400 educational institutions. Its annual premiums are about \$12.5 million.

Coverage is available to public and private colleges and universities, independent elementary and secondary schools and education-related associations.

For more information, contact Arthur Broadhurst, vp, United Educators Insurance Risk Retention Group Inc., 2 Wisconsin Circle, Suite 1040, Chevy Chase, Md. 20815-9913; 800-346-7877. In Maryland, call 301-907-4908. ■

## Datebook

### JANUARY

**JAN. 13. CPCU Exam Review Day** in Chicago, co-sponsored by the Chicago, Northwest Suburban and West Suburban chapters of The Society of Chartered Property & Casualty Underwriters; \$30 before Jan. 5; \$40 after Jan. 5. Carole Batterman West, CPCU Review Day, Insurance Co. of Illinois, 175 W. Jackson Blvd., Suite A-1425, Chicago, Ill. 60604; 312-341-6000, ext. 9-6064.

**JAN. 14-17. Medical Issues/Data Management Conference** in Tampa, Fla., sponsored by the American Managed Care & Review Assn.; \$395 for AMCRA members; \$500 for non-members; \$130 for spouses. AMCRA, 1227 25th St. N.W., Suite 610, Washington, D.C. 20037; 202-728-0609.

**JAN. 14-17. Insurance Marketing Communications** conference in Phoenix, Ariz., sponsored by the Insurance Marketing Communications Assn.; \$285 for IMCA members; \$325 for non-members. William Hadley, Executive Director, IMCA, 62 Northgate Road, Wellesley, Mass. 02181; 617-266-8400.

**JAN. 17. Workers Compensation Conference** in Chicago, sponsored by the Midwest Business Medical Assn. Ltd.; no charge. Noreen F. Orbach, MBMA, Executive Towers, 5901 N. Cicero, Chicago, Ill. 60646; 312-685-9299.

**JAN. 17. Introduction to Workers' Compensation Claims** workshop in San Francisco, sponsored by the Insurance Education Assn.; \$110 for IEA members; \$135 for non-members; \$95 each for two or more IEA members from the same organization; \$120 each for two or more non-members from the same organization. Also **Jan. 22** in Orange, Calif.; and **Jan. 24** in Los Angeles. IEA, 901 Dove St., Suite 190, Newport Beach, Calif. 92660; 714-833-8784.

**JAN. 18. 11th Annual Risk Management Conference** in La Mirada, Calif., sponsored by The Orange Empire Chapter of the Risk & Insurance Management Society; \$70. Orange Empire Chapter of RIMS, 20 Civic Center Plaza, Santa Ana, Calif. 92701; 714-647-5470.

**JAN. 18. Park and Recreation Risk Management Seminar** in Syracuse, N.Y., co-sponsored by the Florida, New York and Pennsylvania chapters of the Public Risk Management Assn.; \$150 for PRIMA members; \$225 for non-members. Also **Jan. 22** in Orlando. PRIMA, 1117 N. 19th St., Suite 900, Arlington, Va. 22209; 703-528-7701.

**JAN. 18. Maximizing Coverage; Minimizing Costs** seminar in Irving, Texas, sponsored by The Society of Chartered Property & Casualty Underwriters; \$95 for CPCU members; \$145 for non-members. Bonnie Kinsley, Continuing Education Coordinator, The Society of CPCU, Kahler Hall, 720 Providence Road, CB No. 9, Malvern, Pa. 19355; 215-251-2735.

**JAN. 18. The Property Owner's Liability for Asbestos** seminar in Lincoln, Neb., co-sponsored by The Society of Chartered Property & Casualty Underwriters and the Nebraska chapter of The Society of CPCU; \$40 before Jan. 4; \$55 after Jan. 4. Mari Jennings, Professional Services Coordinator, The Society of CPCU, 720 Providence Road, CB No. 9, Malvern, Pa. 19355-0709; 215-251-2741.

**JAN. 18-19. Insurance, Excess, and Reinsurance Coverage Disputes** seminar in New York City,

sponsored by the Practising Law Institute; \$495. Also **Jan. 25-26** in San Francisco. Practising Law Institute, Dept. 8A-105, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700, ext. 271.

**JAN. 18-20. Managing Case Management** seminar in Dallas, sponsored by Individual Case Management Assn.; \$435 for ICMA members; \$485 for non-members. ICMA, 10809 Executive Center Drive, Suite 105, Little Rock, Ark. 72211; 501-227-5553.

**JAN. 23. Planning a State-of-the-Art Human Resource Information System** seminar in Chicago, sponsored by the University of Illinois at Chicago Executive Education; \$695. Joseph O'Rourke, Director of Executive Education, College of Business Administration, 322 S. Green St., Suite 204, Chicago, Ill. 60607; 312-996-4646.

**JAN. 23-24. Seventh Annual Flexible Compensation Conference** in Arlington, Va., sponsored by Charles D. Spencer & Associates Inc.; \$425 for Spencer subscribers; \$500 for non-subscribers. Charles D. Spencer & Associates Inc., 250 S. Wacker Drive, Suite 600, Chicago, Ill. 60606-5258; 312-993-7900.

**JAN. 24. Orientation to Insurance** workshop in Pleasant Hills, Calif., sponsored by the Insurance Education Assn.; \$50 for members; \$75 for non-members. Also **Jan. 25** in Newport Beach, Calif.; **Feb. 1** in San Fernando, Calif.; **Feb. 15** in Los Angeles; **Feb. 21 and March 21** in San Francisco. IEA, 901 Dove St., Suite 190, Newport Beach, Calif. 92660; 714-833-8784.

The Datebook is compiled from notices sent to Business Insurance. Notices should be sent at least eight weeks in advance to Datebook, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. Please include the price, if any, of the meeting and information on registration for interested readers. Business Insurance reserves the right to select meetings of most interest to its readers and cannot guarantee that notices will be printed.

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closing: January 3  
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conference report: Joint Insurance Industry Meeting  
demographic section: Insurer Topics: Consumer Relations

issue: January 22  
closing: January 10

issue: January 29 — Reader Service  
closing: January 16  
editorial feature: Self-Insurance — Directory: Claims Administrators

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## Reinsurer offsets

Continued from page 1

The appeals court decision overturns a May 3 ruling by a Los Angeles Superior Court judge that would have severely restricted Pru Re's ability to claim offsets.

In an unusual procedural step, the appellate panel had suspended the ruling and ordered the lower court to show cause why its May 3 order should not be overturned.

The appeals panel heard oral arguments from the liquidator and Pru Re on the show cause order Dec. 12, and two weeks later reversed the lower court.

Pru Re reinsured various Mission units under 14 different reinsurance treaties, while two Mission units in turn reinsured Pru Re and one of its subsidiaries, Gibraltar Casualty Co., under another set of contracts, the appeals ruling notes.

In concluding that the credits and debts created under these contracts were "mutual credits and debts" for which offsets are allowed under California insurance law, the court turned aside several arguments by Mission's liquidator.

The liquidator argued that reinsurance debts are not mutual because a ceding insurer and assuming reinsurer act in different capacities without the "mutuality of identity" required to allow offsets.

A distinction between ceding and assuming reinsurance "is a technical one having no impact upon the mutuality issue," the appellate court found.

The panel also dismissed the liquidator's argument that the mutuality of the parties was destroyed by the liquidation order itself, which substituted the insurance commissioner for Mission. This theory would never allow offsets in insurance liquidations, a result the court described as "absurd."

In ruling on the mutuality issue, the California appeals panel cited *O'Connor vs. Insurance Co. of North America*, a 1985 Illinois Federal District Court ruling also upholding the right of offset (*BI*, Nov. 11, 1985).

A decision on an appeal of the *O'Connor* ruling is expected from the 7th U.S. Circuit Court of Appeals shortly.

At the same time, however, the court refused to allow Pru Re to offset balances it owes Mission against balances Mission owes Gibraltar, noting that Gibraltar ceded business to Mission but did not assume reinsurance from the group and therefore does not have mutual credits and debts.

## Mission reorganization plan

Continued from page 1

amounts owed them by Mission against claims they owe Mission (see related story, page 1).

The MIG reorganization agreement was signed last week by MIG, the California Insurance Department, Missouri Insurance Director Lewis Melahn and MIG's Unsecured Creditors Committee.

It calls for the Mission liquidator to receive about 29% of the common stock of the reorganized company, according to Lawrence G. Becker, vp and general counsel of MIG in Cincinnati.

Mr. Becker could not estimate the cash value of the stock that the regulators and creditors could receive under the agreement. "How much each will get will depend on how the market values the stock" once the new company is formed, he explained.

However, Mr. Rubinstein, representing the California Insurance Department, said that the total value of the reorganized MIG could be roughly estimated at about \$30 million.

The liquidator will sell the stock as soon as it is feasible, Mr. Rubinstein added.

In addition, the reorganization

The appeals panel also concluded that a reinsurer's right to offset does not depend on the ability of an insolvent insurer's estate to first pay all claimants in higher priority creditor classes.

Though Mission's liquidator argued that offsets should only be allowed if the estate has enough assets to pay higher priority claimants first, the court said this position is "contrary to the plain language" of state insurance law and would render the statute meaningless.

The liquidator also argued that offsets create a "double preference," allowing reinsurers to recover before claimants in the same creditor class and before claimants in higher-priority classes.

However, the appellate court concluded that offsets "in insurer-liquidation proceedings are not unlawful preferences."

The court also rejected the liquidator's argument that public policy goals favor payment to primary policyholders and that this goal should override any reinsurer offsets allowable under California statutes.

Claims by primary policyholders will be covered—subject to limitations—by the California Insurance Guaranty Assn., and this cost will be passed on to insurers doing business in the state, the court noted. It added that the state itself will not bear any expenses because of the allowance of offsets.

Guaranty fund officials expressed concern about the impact of the ruling.

John W. Gates, CIGA's executive director, noted that "it could have a substantial financial impact on our association," because the loss of reinsurance proceeds to the Mission estate will mean a smaller recovery by CIGA for losses it pays on Mission's behalf.

CIGA's gross paid, unpaid and incurred-but-not-reported losses from the four Mission Insurance units in liquidation totaled \$714 million as of Sept. 30, 1989, Mr. Gates said.

CIGA's losses represent more than 60% of the roughly \$1 billion in nationwide guaranty fund losses stemming from the Mission collapse, Mr. Gates estimated.

However, some reinsurers see long-term benefits to allowing offsets.

"Offsets might increase the burden on guaranty funds in specific (cases), but I do not believe that they increase the burden in the long run," said Robert W. Hall, general counsel for American Reinsurance Co. in Princeton, N.J.

agreement is contingent upon the payment to Mission's liquidator of about \$14 million by a unit of American Financial Corp., which is the major stockholder of MIG.

MIG's other creditors—principally bond holders—would receive virtually all of the remaining equity in the new company.

The reorganized MIG would retain its 62.5% interest in KCP Holding Co., a Rancho Dominguez, Calif.-based company whose subsidiaries underwrite workers compensation and other property/casualty insurance.

The KCP subsidiaries assumed the ongoing business of Mission American Insurance Co. (*BI*, Aug. 8, 1988).

The new shareholders also will receive the right to invest about \$17 million in the common stock of the reorganized company to realize the benefits of tax losses.

The MIG agreement "is a complicated, but elegant way to" reorganize MIG and benefit policyholders of the insolvent insurance units, Mr. Rubinstein said.

"While we realize that the \$23 million policyholders could get through this agreement is not

Denying offsets could damage the financial stability of reinsurers, and resulting reinsurer failures could in turn create additional ceding insurer insolvencies, Mr. Hall explained. This would have a more severe impact on guaranty funds, he said.

Mr. Hall and other reinsurer representatives also said that denial of offsets could lead to restricted capacity and higher prices in reinsurance markets and—by extension—in primary markets as well.

Without the ability to offset, reinsurers face substantial additional risks and may respond either by refusing to do business with all but the most highly-rated ceding insurers or by raising prices, Mr. Hansell noted.

For example, Mr. Hall said, reinsurers rely on the ability to offset in writing retrospectively rated programs covering large or difficult risks. If the primary insurer on such a program becomes insolvent, the reinsurer must rely on its right of offset to recover additional premiums due after rating adjustments, since the reinsurer probably will not recover the premium by filing a claim against the defunct insurer's estate.

In taking away the right to offset, "you are taking away a mechanism that can create capacity in difficult classes of business," he observed.

Meanwhile, reinsurer representatives predict the ruling will help the pro-offset faction in the protracted debate within the National Assn. of Insurance Commissioners over offset restrictions contained in proposed amendments to the NAIC's model offset law (*BI*, June 5, 1989).

"I'm sure item number one on the agenda for their next meeting will be this opinion," Mr. Hansell said. "For those whose minds are not made up, this may have some influence."

However, David Levinson, Delaware insurance commissioner and chairman of the NAIC's Rehabilitators and Liquidators Task Force, minimized the ruling's importance.

"I am not personally influenced by the judicial interpretation of the existing state of the law when it is my task to decide what the law should be," Mr. Levinson said. "They are not related issues," he said. "Our basic task is not to track what the courts say they think the law is but to clearly enunciate what the law ought to be."

Further debate on the issue of offsets is expected at the NAIC's March meeting in Salt Lake City. ■

much compared to the \$2 billion in policyholder obligations, it is the duty of the commissioner to pursue all avenues to maximize the return to policyholders," he added.

The California Insurance Department now is preparing to file motions with the Los Angeles Superior Court—the court that has handled the liquidation proceedings of MIG subsidiaries—to hold hearings on the MIG agreement.

"Our attitude is that unless someone comes up with a reason not to go through with this plan," then the department supports approval of the plan, Mr. Rubinstein said.

Along with approvals by the various courts involved, creditors and shareholders of MIG must consent to the reorganization agreement.

MIG creditors, who are primarily bond holders, are expected to agree to obtain some recovery while shareholders, whose stock is valueless absent a reorganization, are not expected to object to the plan.

The company expects the plan to be approved and confirmed shortly after the first quarter of 1990, Mr. Becker said. ■

## Update

### Comp fund transfers spark suit

Continued from page 2

15% deviation off approved work comp rates, effective Jan. 1, which was the first deviation or dividend approved for SWIF policyholders in at least the past five years, he said.

Meanwhile Pennsylvania also has approved a 7.5% workers compensation rate increase. Insurers had sought a 30% across-the-board rate increase.

### CBS derivative suit settled

NEW YORK—National Union Fire Insurance Co. of Pittsburgh, Pa., will pay a \$6 million settlement on behalf of CBS Inc. in a stockholders' derivative action stemming from the 1986 purchase of 12 Ziff Davis Publishing Co. magazines by CBS, said CBS.

National Union, an American International Group Inc. unit and directors and officers liability insurer for CBS, will pay the broadcasting company \$4.5 million.

The remaining \$1.5 million will go to Richard D. Greenfield of Greenfield & Chmicles in Haverford, Pa., attorney for Roger B. Minkoff, the stockholder who sued. Among other charges, the suit alleged that CBS paid too much for the publications.

In a derivative suit, a shareholder acts on a company's behalf. Therefore, any award or settlement is payable to the corporation.

### Size of punitive awards rises

SACRAMENTO, Calif.—The amount of punitive damages awarded by California juries increased 178% to \$3 million on average in 1989 from \$1.69 million in 1987, according to an Assn. for California Tort Reform study.

Based on 1,846 jury verdicts, as reported by *Jury Verdicts Weekly*, the study identified 48 punitive damage awards from 1987 to 1989 of \$1 million or more and 19 of \$5 million or more.

However, the percentage of civil lawsuits in which punitive damages were awarded declined to 9.3% in 1989 from 15.2% in 1987.

Victor Schwartz, a Washington, D.C., attorney and product liability expert, attributes the decrease in part to the stricter standard of proof now needed to win punitive damages: "clear and convincing" evidence rather than a "preponderance of evidence."

Findings were presented last week to the legislature's Joint Committee on Tort Liability.

### Illinois revokes broker's license

CHICAGO—The Illinois Insurance Department has revoked the license of bankrupt reinsurance broker Daniel Lodderhose for violating rules requiring brokers to keep premiums in trust accounts.

In addition, the department fined Mr. Lodderhose \$5,000 and ordered him to pay the costs of the investigation: \$366.25.

Neither the broker nor his attorney, Daniel Engel of Schwartz, Cooper, Kohl & Gaynor in Chicago, attended licensing hearings, according to Mr. Engel.

Three syndicates of the now-defunct Insurance Exchange of the Americas are suing Mr. Lodderhose and his company, Lodderhose Inc., charging them with negligence in withholding nearly \$600,000 of premiums collected on their behalf (*BI*, March 21, 1988; Jan. 11, 1988). The plaintiffs say they did not agree to allow their premiums to offset claims against reinsurance policies underwritten by several IEA syndicates, managed by IEA underwriting manager Global Underwriting Management Inc., which also is a plaintiff in the suit.

According to syndicate attorney William Schaller of Baker & McKenzie in Chicago, the syndicates are attempting to collect from a \$5 million errors and omissions policy written for Lodderhose Inc. by Boca Raton, Fla.-based Insurance Corp. of America.

ICA, which has been hit with cease and desist orders in several states, has claimed it can operate free of state regulation under two purported turn-of-the-century federal court decisions. A Virginia man who sold ICA to its current owner was sentenced to 25 years in jail for fraud last year, and the two court decisions have been branded as phony in criminal and civil court proceedings (*BI*, Oct. 31, 1988; June 1, 1987).

In addition, the syndicates are attempting to stop Mr. Lodderhose from shielding himself under bankruptcy laws.

The trial in this litigation is scheduled to begin Feb. 20.

### Briefly noted

The Indian Supreme Court has upheld Union Carbide Corp.'s \$465 million settlement of claims stemming from the 1984 **Bhopal gas disaster**, confirmed a Union Carbide spokesman (*BI*, March 6, 1989; Feb. 20, 1989). However, the funds will not be disbursed until additional challenges to the settlement by victims' advocacy groups are resolved. . . . New Jersey has granted **workers compensation** insurers a 4% rate increase on average for 1990. . . . Farrell, Pa.-based Sharon Steel Corp. has committed \$110 million to **six underfunded pension plans** covering 6,500 employees and retirees to prevent plan terminations under a tentative agreement with the Pension Benefit Guaranty Corp. The agreement, part of Sharon's proposed reorganization plan under U.S. bankruptcy law, calls for the company to make a \$67 million cash payment this year and additional unspecified payments in four subsequent years. The plans are underfunded by \$275 million. . . . New Jersey Gov. Thomas Kean signed into law a bill requiring employers to provide workers up to **12 weeks of unpaid leave** to care for a seriously ill child, spouse, parent, newborn or newly adopted child. Connecticut, Maine and Wisconsin have similar laws (*BI*, Jan. 1). . . . Massachusetts legislators trimmed \$1 million from the \$11 million fiscal 1989 budget for the state's **universal health care pilot programs**, which are developing affordable insurance plans for small businesses. . . . Christiania Holding Co. Inc. has agreed to buy a 49.9% stake in New York-based **Belvedere Corp.** Christiania, a unit of Storebrand International A/S of Norway, will acquire the Belvedere shares currently held by Sprout Group, a venture capital arm of Donaldson, Lufkin & Jenrette Inc., and two institutional investors affiliated with Sprout Group.

## Baker Hughes

Continued from page 1

12,500 domestic employees will be \$47.8 million, a 17.7% increase over 1989 costs. Baker Hughes' health care tab has more than doubled since 1987, when its outlay was \$23 million.

Baker Hughes' health care plan is underwritten by Chattanooga, Tenn.-based Provident Life & Accident Insurance Co.

Mr. Vinson pointed out that more than half of Baker Hughes' 1989 health care expenditures are attributable to life style-related ailments in four diagnostic categories: circulatory system; digestive system; musculoskeletal system and connective tissue and the respiratory system.

"In the four areas generating more than \$20 million in costs last year, there is clearly no doubt that smoking contributes," he said.

"After looking at the four diagnostic areas, we realized that they are all lifestyle-driven. Our foundation for the program is that if we can influence lifestyle in some positive way, we can reduce health care costs," he said.

"Granted, musculoskeletal ailments are not exclusively life style-related," he added. "However, back problems comprise the majority of ailments found in this area, and body weight and overall physical condition are the key contributors to back problems."

All domestic employees may participate in the wellness checkup, which tests a worker's cholesterol and triglyceride levels and blood pressure. The checkup also provides a height/body weight analysis and questions employees about

use of tobacco.

If an employee does not use tobacco products and falls within an acceptable level in three of the four testing categories, the company will contribute to a health care spending account.

Mr. Vinson said the company expects 50% to 60% of its workforce to take the wellness exam.

The plan is designed to achieve positive long-term results for Baker Hughes and its employees, said Dale Gifford, a consultant with Hewitt Associates, the benefit consulting firm that coordinated the flex plan.

"There are significant health risks associated with smoking and bringing these risks to a personal level is much different from presenting figures compiled by associations," he said.

The flexible program is unique, according to Messrs. Gifford and Vinson.

"We went all around the country and no one has these types of wellness incentives. We have seen discounts for non-smokers, but no surcharges," Mr. Vinson said.

Other benefit consultants concurred.

"Having actual rewards and penalties in place is unique. The only resemblance I have seen has been insurance companies rating small group policies based on smokers and non-smokers," said Bill Danish, a consultant with Fort Lee, N.J.-based Kwasha Lipton.

"I don't know of any other employer doing this. Some companies are offering wellness programs, but only in order to heighten awareness. Outright penalties are currently being explored by companies, but they haven't been im-

plemented. But I might add that it isn't such a bad idea," said John Welch, a consultant with A. Foster Higgins & Co. Inc. in Washington, D.C.

However, the consultants did find a potential problem with Baker Hughes' program: Employees are on the honor system to report tobacco use.

"It's a great concept for getting at the fact that smokers do drive up health care costs, but enforcement based on an honor system is open to abuse," Mr. Welch said.

Mr. Danish concurred. "Enforcement is a problem. There's a lifestyle element here and I'm not sure where employees will draw the line. It is an interesting concept and other companies will continue to discuss it, but problems could arise in enforcement and answering questions of those who do smoke or are tested to be unhealthy but have had no claims."

Hewitt's Mr. Gifford said enforcement by the honor system should not be a big problem because the premium surcharge for tobacco users is not an "overly onerous amount. We don't think that \$10 per month will create a problem with people misrepresenting themselves."

Mr. Vinson said Baker Hughes' directors did not embrace the program initially. "It was a hard sell to management, but logic says there are only two ways to cut costs. One, is on the backside, where you can reduce the costs providers charge. But that isn't going to happen. However, you can cut 100% of the cost if your employees don't go to the doctor at all."

Other advantages of the pro-

gram, Mr. Vinson said, include:

- Minimal costs to implement the program.

For example, Baker Hughes expects that the cost of providing wellness exams will be offset by the added premiums that tobacco users will pay.

With an estimated 15% to 20% of Baker Hughes employees using tobacco products, the premium surcharge for tobacco users will generate at least \$175,000 annually, said Mr. Vinson.

- The program imposes little administrative burden on Baker Hughes.

- Employees easily understand the program and have accepted it.

- All employees in all locations have an equal opportunity to participate.

Under the flexible benefits plan, employees can opt for coverage with the same monthly contributions, deductibles and coinsurance requirements the company has offered under its traditional indemnity plan or select coverage with lower monthly contributions but higher deductibles and out-of-pocket maximums.

For example, individuals still can elect to pay \$23 per month for comprehensive health insurance, an employee with dependents can elect to pay \$44 per month, an employee and spouse can elect to pay \$48 per month, and an employee with full family coverage can elect to pay \$70 per month.

Under this plan level, individuals are required to pay a \$250 annual deductible and 20% of costs up to \$1,300 per year. An employee with a spouse or dependents would pay a \$250 per person deductible up to \$500 and a \$2,000 annual

maximum. The deductible for full family coverage is \$500 and the annual out-of-pocket maximum is \$2,000.

Or, under a new tier of contributions, deductibles and coinsurance, individual coverage costs \$6 per month, coverage for employees and dependents costs \$11 per month, coverage for an employee and a spouse costs \$12 per month, and full family coverage costs \$18 monthly.

However, the individual deductible is \$500 and the out-of-pocket maximum is \$2,000. Employees with dependents or a spouse pay a \$500 per person deductible up to \$1,000 per year, with an annual maximum of \$3,000, and the family deductible is \$1,000 with an out-of-pocket maximum of \$3,000.

The flex plan also includes the new pretax health care reimbursement account. In addition to the \$100 Baker Hughes will contribute to the account of each employee who meets minimum health standards, employees can place up to \$2,500 per year, pretax, into their accounts. In addition, a new pretax dependent care reimbursement account is being offered, with an annual maximum pretax employee contribution of \$5,000.

Baker Hughes also implemented a second option for long-term disability insurance, which the company self-insures.

The existing LTD plan offers 60% of base salary up to age 65 or until recovery at a cost of 30 cents per \$100 of monthly benefits.

The new plan continues to provide 60% of salary, but only for two years, at a cost of 10 cents per \$100 in monthly benefits. ■

## Oil spills

Continued from page 1

that there was "a good chance" no oil would hit the Moroccan coastline.

Meanwhile, in a separate incident, the Spanish tanker Aragon lost up to 25,000 tons (175,000 barrels) of Mexican crude oil off the Portuguese island of Madeira, which is about 400 miles west of Morocco.

The vessel reported steering problems on Dec. 12 and was being towed to Spain when it hit bad weather 25 miles northwest of Madeira on Dec. 29. Bad weather stripped away the plating on one of the vessel's central tanks, causing oil to leak into the sea.

However, by Dec. 31, the oil slick from the Aragon had "largely been dispersed at sea 60 miles southeast of Madeira" causing no further threat to any coastline, said Mr. Nichols.

The Aragon, owned by Madrid, Spain-based Fleetamentos Maritimos, last week was docked in Tenerife, in the Canary Islands, and its remaining cargo of oil, owned by Spanish oil company Repsol, was being unloaded, said Mr. Nichols.

The Kharg 5, which is owned by the National Iranian Tanker Co., last week was still being towed by a Dutch salvage company south of the Cape Verde Islands in search of calmer seas to repair the ship, Mr. Nichols said. The ship was refused entry to Spanish or Moroccan ports, he noted.

The Iranian tanker no longer is losing oil, Mr. Nichols said.

The Kharg 5 is a member of the United Kingdom Mutual Steamship Assn. (Bermuda) Ltd. Protection & Indemnity Club, which is managed by Thomas Miller & Co., confirmed a spokeswoman for Thomas Miller.

The Aragon is a member of The Standard Steamship Owners' Protection & Indemnity Assn. (Bermuda) Ltd., said Nicholas Williams, a director of Charles Taylor & Co., the P&I club's London agent.

Because both vessels are mem-

bers of P&I clubs, their owners each have up to \$400 million of insurance to cover:

- Losses and damages resulting from oil spills.

- The costs of any reasonable measures taken to avoid or minimize pollution and any liability for losses or damages to property resulting from those measures.

- Costs of, or resulting from, liabilities from complying with an order or direction from any government or authority to reduce pollution.

The clubs retain the first \$1.2 million of a loss, though sometimes clubs require minimal deductibles of shipowners, often of no more than \$15,000.

Then, the International Group of P&I Clubs assumes the next \$10.8 million of risk.

The International Group of P&I Clubs then reinsures the remaining \$388 million in coverage with syndicates at Lloyd's of London, member companies of the Institute of London Underwriters and world marine insurance markets.

However, it appears that based on their gross registered weight—Aragon with 122,582 metric tons and the Kharg 5 at 131,605 metric tons—under the international convention Morocco signed, the total liability limit for each of the two ships would be less than \$20 million, Mr. Nichols estimated.

Most countries in the world, excluding the United States, have accepted that shippers must have the benefit of limitations on liability for orderly trading.

Legislation passed by both houses of Congress, however, would limit shippers' liability, yet permit states to impose unlimited liability.

The legislation is scheduled to be considered by a conference committee early this year (BI, Nov. 13, 1989).

The owners of both ships also are members of the Tanker Owners Voluntary Agreement Concerning Liability for Oil Pollution (TOVALOP), which is an out-of-court compensation mechanism for pol-

lution incidents that provides payments of up to \$16.8 million per ship. In addition, Repsol, the owner of the Aragon's cargo of oil, is a member of the Contract Regarding Supplement to Tanker Liability for Oil Pollution fund (CRISTAL). As a result, the Aragon is entitled to a further \$53.2 million from TOVALOP plus payments through CRISTAL up to a maximum \$135 million, said Mr. Nichols (BI, April 3, 1989). These payments would be made by the vessels' P&I clubs.

Under these agreements among shipowners, claimants seek payment through TOVALOP and CRISTAL rather than through the courts.

Direct hull and cargo coverages for both vessels are placed in their respective local insurance markets, according to London sources.

In another incident, Exxon last week spilled between 400,000 and 500,000 gallons of No. 2 heating oil into Arthur Kill—a waterway between New Jersey and Staten Island, N.Y.—when an underwater pipeline burst. The heating oil, which is heavier than gasoline but much lighter than the fuel spilled near Morocco and Alaska, threatened late last week to pollute a 13-mile shoreline and a bird sanctuary in the area.

An Exxon spokesman said it was premature to estimate the size of the loss. He added, though, that the value of the lost fuel was about \$1.10-\$1.20 per gallon.

Exxon late last month said it had a self-insured retention of \$10 million for property and occurrence-based liability coverage to respond to an unrelated refinery explosion (BI, Jan. 1).

The New York Department of Conservation said it is considering filing a claim against Exxon under the federal Clean Water Act and state navigation laws for full restoration and replacement of damaged natural resources.

Associate Editor Michael Schachner in New York contributed to this report.

## S&L takeover voids \$18.6 million award

By STACY ADLER

ARLINGTON HEIGHTS, Ill.—The federal takeover of an insolvent Illinois savings and loan institution will cost a real estate developer an \$18 million judgment he had won against the thrift.

Federal regulators took over the troubled Arlington Heights Federal Savings & Loan last month, assuming all liabilities except one: the \$18.6 million a DuPage County jury recently awarded the Wheeling, Ill., developer.

Without assets or insurance that would cover the breach of contract award, the now-defunct Arlington Heights Federal—now reopened under a new name—will not be able to pay Mr. Harper or his firm, Landsmith Enterprises, says the thrift's attorney.

But the developer says he will challenge the regulators' action in court and may seek payment from Resolution Trust Corp., the federal agency managing the thrift bailout.

Last month regulators closed Arlington Heights Federal and reopened it under federal control as Arlington Heights Savings Assn. F.A. (Federal Association).

Under new rules established by Congress, regulators that take over a trouble savings and loan can choose not to assume some liabilities, according to Riccardo DiMonte of DiMonte & Lizak, the Chicago firm representing the thrift.

Because the former savings and loan has no assets and the new thrift is not responsible for the \$18.6 million judgment, "the plaintiff will not recover anything," said Mr. DiMonte.

Furthermore, Arlington Federal had no insurance to cover payment of the award, said Mr. DiMonte. "It is impossible to buy insurance for this," he said, referring to this type of breach of contract.

Mr. Harper claimed in a lawsuit that the savings and loan violated a 1973 loan contract by refusing to

fund the full \$3.8 million loan for a planned shopping center.

In November, a DuPage County Circuit Court jury rejected the savings and loan's claim that Mr. Harper did not meet terms of the agreement and ordered Arlington Federal to pay Mr. Harper \$18.6 million.

Attorneys for Mr. Harper and Landsmith Enterprises could not be reached for comment.

Regulators' decision not to assume responsibility for the \$18.6 million verdict will ease the financial strain on the new savings and loan.

When Arlington Federal was taken over, its liabilities exceeded its \$520 million in assets by \$22 million.

Its financial problems stemmed from skyrocketing interest rates in the early 1980s.

During this period Arlington Federal was paying more interest on deposits than it was earning on the long-term, low-interest home loans it made in the 1970s, before interest rates were deregulated.

To cope with that problem, federal regulators allowed thrifts to sell off the old loans at less than their face value, but record the loss on the sale over the life of the loans.

Arlington Federal sold \$250 million in home loans, showing a loss of \$56 million. But because the loss was to be written off over many years, its net worth remained virtually unaffected.

Last year Congress disallowed the practice and required savings and loans to recognize the full value of losses on sales of home loans.

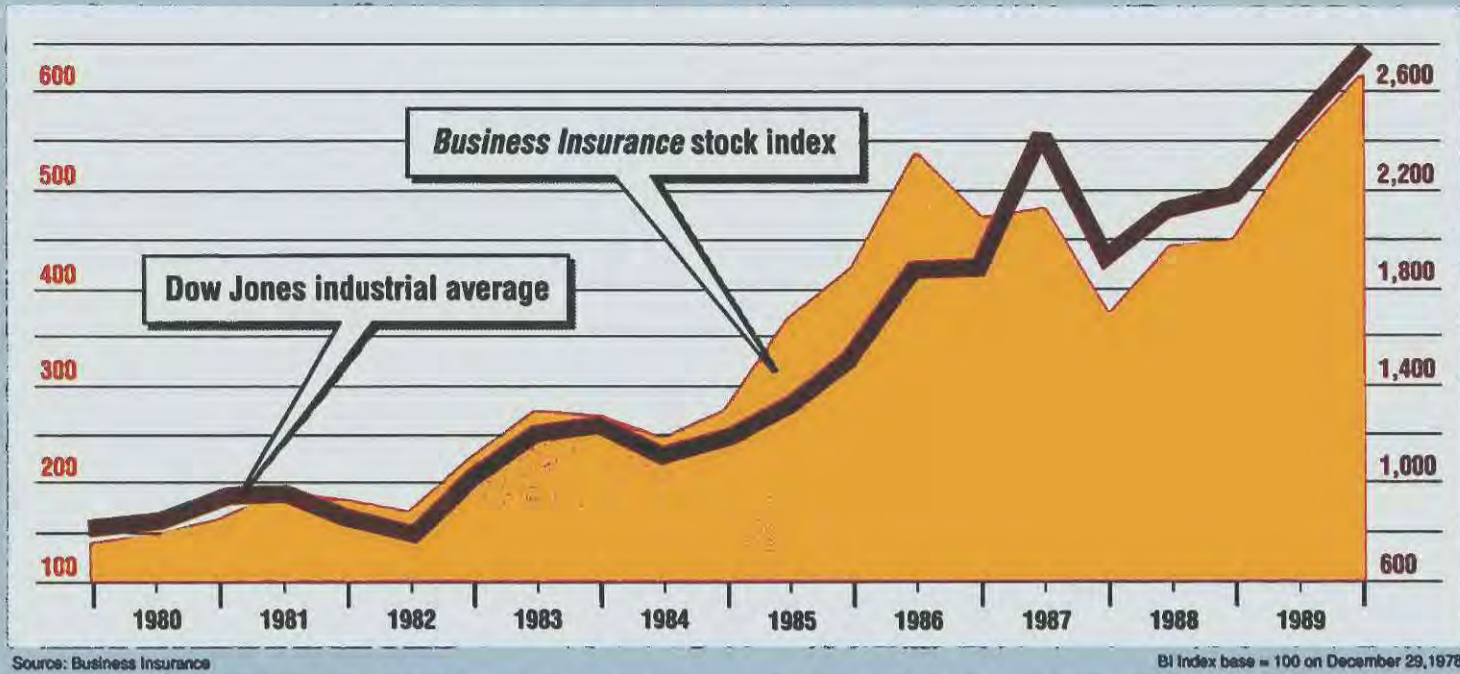
New rules also require savings and loans to have a tangible net worth (cash) equaling at least 1.5% of assets.

When the rule took effect Dec. 6, Arlington Federal's tangible net worth plummeted from 4.2% to a negative 4.5% of assets.

The takeover of Arlington Federal, which has more than 60,000 customers, follows the seizure of hundreds of other troubled thrifts nationwide. ■

# Decade in review

## Business Insurance stock index & Dow Jones industrial average



### BI Insurance Index



Insurance industry stocks continued to climb last week, as the *Business Insurance Index* rose 3.2 points to 619.4 on Jan. 5, from 616.2 on Dec. 29. Advancing issues were led by American Indemnity Financial Corp., up 10.0%; Frank B. Hall & Co. Inc., up 9.1%; and SAFECO Corp., up 8.7%. Decliners followed Hilb, Rogal & Hamilton Co., down 20.65%; Safeguard Health Enterprises, down 7.0%; and United Healthcare Corp., down 6.2%. The most active issue was Sears, Roebuck & Co. (Allstate) 3.3 million shares traded. The *BI Index* gained a slight 0.5% for the period; the Dow Jones 30 Industrials dropped 0.7%; the Standard & Poor's 500 fell 0.3%; and the New York Stock Exchange Composite lost 0.2%.

BI/John Hall

# Stocks see big gains in 1980s

The stock market took quite a trip in the 1980s, and insurance industry stocks went along for the tumultuous ride.

The past decade was marked by significant increases in stock values, as the *Business Insurance* stock index of 76 commercial insurance industry related stocks soared 477.3 points to 616.2 on Dec. 29, 1989, from 138.9 on Dec. 31, 1979, a whopping 343.6% gain. Likewise, the Dow Jones industrial average grew to 2753.27 on Dec. 29, 1989, from 838.74 on Jan. 2, 1980, a 228.3% jump.

To be sure, there were declines during the period, including the market's spectacular Oct. 19, 1987 crash, when the Dow Jones industrial average took a 508-point nosedive (*BI*, Oct. 26, 1987). But the stock market's strong recovery from that plunge characterized the momentum in the market during most of the decade.

The bull market that began in August 1982 saw the Dow Jones industrial average shatter

numerous records, including one set last week, when the Dow average surpassed the 2800 benchmark for the first time.

The *BI* index, for its part, crossed the 600-threshold for the first time last year. The index, which debuted a decade ago in the Jan. 14, 1980 issue of *Business Insurance*, uses a base of 100 on Dec. 29, 1978.

A year-by-year look at the progression of insurance industry stocks compared to the Dow Jones 30 industrials follows:

- 1980. The *BI* index began the decade with a 16.92% gain, while the Dow Jones 30 industrials climbed 11.71%.

- 1981. The *BI* index increased 12.75%, while the Dow Jones 30 industrials dropped 9.23%.

- 1982. The *BI* index jumped 23.48%, while the Dow Jones 30 industrials climbed 19.61%.

- 1983. The *BI* index increased 18.49%, while the Dow Jones 30 industrials climbed 20.27%. In 1983, the industrial average closed at a record

level 29 times.

- 1984. The *BI* index was up a slight 2.05%, while the Dow Jones 30 industrials fell 3.74%.

- 1985. The *BI* index jumped 53.95%, fueled largely by massive rate hikes in the commercial property/casualty insurance market. The Dow Jones 30 industrials shot up 27.66%.

- 1986. The *BI* index increased 11.71%, while the Dow Jones 30 industrials climbed 22.58%, despite lackluster gains in the second half.

- 1987. The *BI* index fell 21.14%, while the Dow Jones 30 industrials salvaged a gain of 2.26% despite the October stock market crash.

- 1988. The *BI* index jumped 21.09%, while the Dow Jones 30 industrials climbed 12.98%, largely on the strength of merger euphoria.

- 1989. The *BI* index jumped 37.24%, while the Dow Jones 30 industrials climbed 25.69%, and regained the peak it had ascended prior to the October 1987 crash (*BI*, Jan. 1).

—By Paul D. Winston

### British Issues

Jan. 4	Price	P/E	Div.	Yield	1 Week	
					High—Low	Change
Comm'l Union	507	28.2	29.3	5.8	531—507	
Gen'l Accident	1200	17.1	68.0	5.7	1240—1200	
Gdn Royal Exch	245	19.3	15.7	6.3	264—245	
Royal	543	26.1	34.0	6.3	579—543	
Sun Alliance	337	11.7	17.0	5.0	347—337	

Brokers		Price	P/E	Div.	Yield	1 Week	
Company	Share					High—Low	Change
Bradstock	227	16.0	10.0	4.4	229—227		
CE Heath	531	15.0	34.5	6.5	531—528		
Hogg Robinson	174	12.2	9.7	5.5	174—168		
Lloyd Thompson	275	18.3	9.3	3.4	275—273		
PWS Holdings	43	11.6	2.7	6.2	48—43		
Sedgwick Grp	314	23.3	16.0	5.1	315—310		
Steel Br'l Jones	285	17.8	15.3	5.4	285—280		
Wills Faber	290	20.4	15.3	5.3	294—285		

Source: Philip Olsen/Alan Clifton, Insurance Industry Specialists Kitcat & Aitken Stockbrokers, London

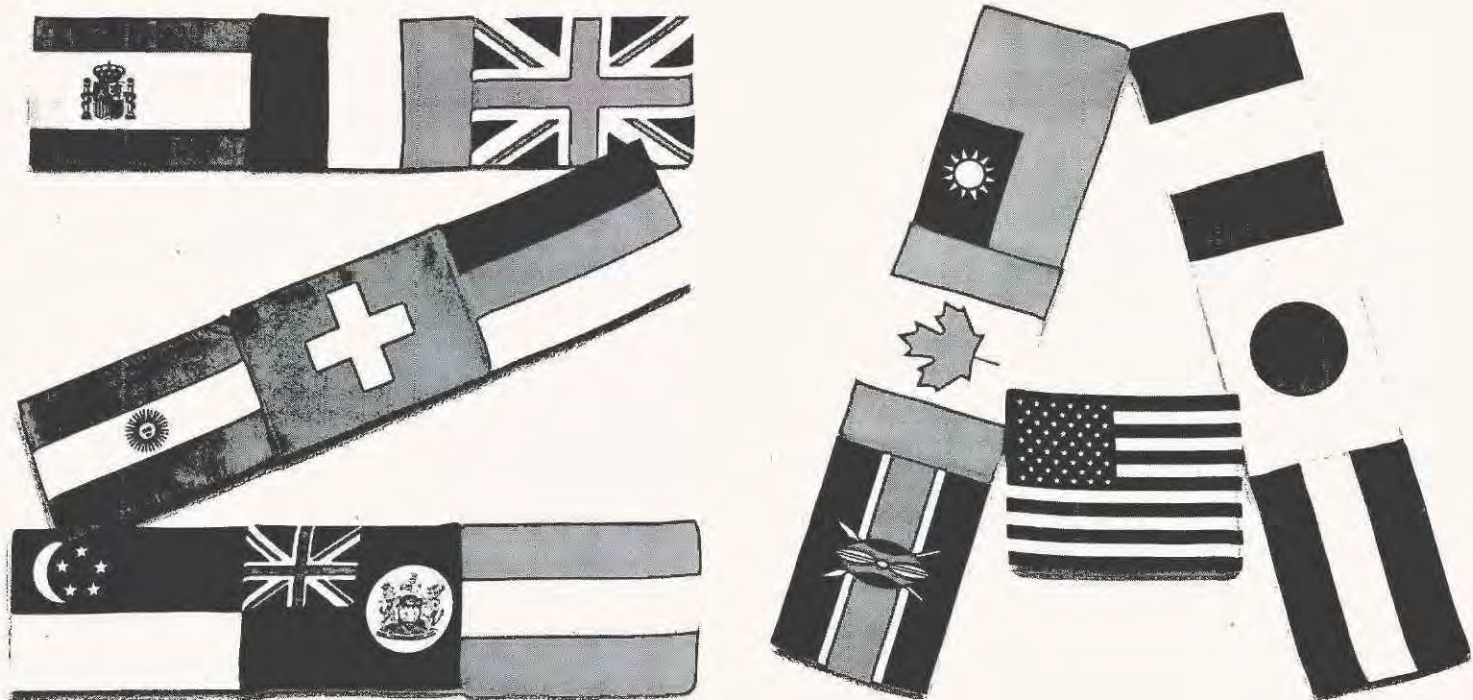
# BI Industry Stock Report

JAN. 5, 1990

1/2/1990 THROUGH 1/5/1990

	NYS	Price	Weekly % change	Year to Date % change	Annual		Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk. value		NYS	Price	Weekly % change	Year to Date % change	Annual		Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk. value																																
					High	Low												High	Low																																						
<b>BROKERS</b>																																																									
Alexander & Alexander	NYS	29.88	-2.45	28.49	34.00	22.63	446	1.00	3.35	18	9.18	3.25	Kemper Corp.	NYS	49.88	6.12	112.23	51.88	22.75	148	0.84	1.68	11	29.97	1.66																																
Corroon & Black	NYS	38.75	7.27	22.05	41.00	30.00	123	1.24	3.20	18	12.73	3.04	Lawrence Insurance Group	ASE	7.25	7.41	-9.38	8.50	6.63	5	0.28	3.86	15	3.29	2.20																																
Gallagher Arthur J. & Co	NYS	24.63	0.00	44.85	26.50	15.88	22	0.52	2.11	17	5.33	4.62	Liberby Corp.	NYS	43.25	-0.29	18.90	45.00	32.50	18	0.80	1.85	18	31.82	1.36																																
Frank B. Hall	NYS	3.00	9.09	0.00	4.63	2.50	80	0.00	0.00	-1	-2.80	-1.07	Lincoln National	NYS	58.75	-3.49	35.84	62.88	42.75	202	2.60	4.43	11	49.19	1.19																																
Hilb, Rogal & Hamilton	OTC	18.25	-20.65	31.65	25.75	13.50	77	0.32	1.75	16	4.60	3.97	NAC Re Corp.	OTC	37.75	5.59	82.68	41.00	20.38	226	0.20	0.53	16	22.81	1.65																																
Marsh & McLennan	NYS	75.00	-3.85	35.14	89.75	55.00	647	2.48	3.31	19	10.56	7.10	Navigators Group	OTC	27.50	-2.65	34.15	28.25	20.00	6	0.00	0.00	10	15.22	1.81																																
Poe & Associates	OTC	12.75	0.00	45.71	12.75	8.00	8	0.40	3.14	12	1.89	8.92	Nobel Insurance LTD	OTC	2.00	0.00	-56.76	5.00	1.50	7	0.00	0.00	0	7.76	0.26																																
<b>BROKERS AVERAGE</b>																																																									
AVERAGE																										-1.5	29.7																														
<b>CONGLOMERATES &amp; HOLDING COMPANIES</b>																																																									
Berkley W R Corp	OTC	41.88	4.04	41.35	46.50	29.25	200	0.40	0.96	9	25.06	1.67	Provident Life	OTC	25.13	-1.95	29.68	30.13	18.83	301	0.80	3.18	8	23.24	1.08																																
Berkshire Hathaway Inc	NYS	8625.00	-0.58	85.48	8900.00	4625.00	1	0.00	0.00	-30	2869.00	3.01	Re Capital Corp.	ASE	15.00	5.26	62.16	15.00	8.88	21	0.00	0.00	13	12.60	1.19																																
ITT (Hartford Group)	NYS	57.63	-2.12	14.96	64.50	49.75	1551	1.60	2.78	9	56.33	1.02	RLI Insurance Corp.	NYS	8.75	2.94	14.75	9.50	6.88	9	0.40	4.57	8	10.71	0.82																																
Sears (Allstate)	NYS	39.13	2.96	-3.10	48.13	36.50	3312	2.00	5.11	14	37.75	1.04	St. Paul Companies	OTC	61.25	3.59	42.44	63.50	43.00	1144	2.20	3.59	8	43.47	1.41																																
<b>CONGLOMERATES AVERAGE</b>																																																									
AVERAGE																										1.1	34.7																														
<b>INSURERS/REINSURERS</b>																																																									
Aetna Life & Casualty	NYS	57.50	1.77	22.67	62.50	46.63	1010	2.76	4.80	9	58.11	0.99	SAFECO Corp.	OTC	42.00	8.74	79.68	42.00	23.13	1662	1.20	2.86	10	24.87	1.69																																
Ambase Corp	NYS	11.63	-6.06	4.49	16.38	10.25	223	0.20	1.72	4	29.08	0.40	SCOR U S Corp	NYS	14.13	0.00	63.77	14.50	7.50	87	0.40	2.83	14	10.61	1.33																																
American General	NYS	32.75	4.80	9.17	38.50	29.50	1919	1.48	4.52	10	34.68	0.94	Seibels Bruce Group	OTC	10.75	2.38	-4.44	13.63	10.25	84	0.80	7.44	-51	13.75	0.78																																
American Heritage	NYS	29.63	5.33	16.18	29.63	25.00	8	1.20	4.05	11	22.60	1.31	Selective Ins. Group	OTC	19.50	2.63	-15.22	20.00	14.50	75	0.96	4.92	7	15.72	1.24																																
American Indemnity Fin'l	OTC	8.25	0.00	-21.43	13.00	7.50	2	0.56	6.79	-6	17.38	0.47	Statesman Group Inc.	OTC	2.75	-4.35	-4.35	3.63	1.88	62	0.16	5.82	7	4.19	0.66																																
American International	NYS	100.75	-2.66	51.22	112.00	66.25	987	0.48	0.48	12	41.92	2.40	Takoi Marine & Fire	OTC	74.50	-2.93	-18.80	95.50	66.00	22	0.92	1.23	32	70.93	1.05																																
Aon Corp	NYS	40.75	-3.55	47.51	43.25	27.00	472	1.40	3.44	12	19.62	2.08	Torchmark Corp	NYS	55.25	-0.90	81.15	58.75	30.00	217	1.40	2.53	15	13.23	4.18																																
Argonaut Group	OTC	70.50	1.81	62.07	70.50	43.25	63	1.00	1.42	9	36.83	1.91	Transamerica	NYS	43.25	-2.26	29.59	48.00	32.75	329	1.92	4.44	10	34.63	1.25																																
AVEMCO Corp	NYS	24.50	2.08	-4.39	27.50	20.38	10	0.40	1.63	14	9.52	2.57	Trenwick Group Inc.	OTC	23.75	-3.06	66.67	26.88	13.50	59	0.36	1.52	12	16.91	1.40																																
Baldwin & Lyons Inc	OTC	22.50	2.86	55.17	24.00	14.38	112	0.28	1.24	7	20.80	1.08	United Fire & Casualty	OTC	32.88	0.00	7.79	34.50	29.00	0	1.20	3.65	9	22.56	1.46																																
Belvedere Corp	ASE	5.00	-4.76	11.11	6.50	4.25	5	0.04	0.80	16	8.03	0.62	USF&G Corp	NYS	29.50	1.29	1.72	34.00	28.25	771	2.80	4.99	46	22.87	1.29																																
Chandler Insurance	OTC	11.63	0.00	55.00	13.25	7.00	25	0.00	0.00	6	9.53	1.22	UNUM Corp	NYS	49.88	3.91	86.45	49.88	26.38	621	0.60	1.20	14	31.20	1.60																																
Chubb Corp	NYS	95.25	0.00	64.94	99.50	57.63	722	2.32	2.44	10	55.49	1.72	USLIFE Corp.	NYS	44.63	-0.83	29.82	48.13	33.13	77	1.48	3.32	10	54.34	0.82																																
CIGNA Corp	NYS	59.00	0.00	28.65	66.75	45.88	728	2.96	4.97	11	66.64	0.89	Washington National	NYS	28.50	2.24	7.04	29.13	24.00	31	1.08	3.79	-	32.90	0.87																																
CNA Financial Corp	NYS	96.38	-1.66	64.04	108.75	57.63	139	0.00	0.00	9	54.87	1.76	Zenith National Ins	NYS	18.63	3.47	5.67	21.50	16.75	17	0.84	4.51	9	13.81	1.35																																
Continental Corp	NYS	31.25	0.40	-2.34	38.63	31.25	488	2.60	8.32	64	41.36	0.76	<b>INSURERS/REINSURERS AVERAGE</b>																																												
Durham Corp.	OTC	30.38	-2.02	-5.08	34.75	29.00	24	0.92	3.03	19	26.32	1.15	AVERAGE																										0.9	30.5																	
Fireman's Fund	NYS	35.63	2.52	22.32	40.75	28.75	223	0.60	1.68	13	32.74	1.09	<b>HEALTH MAINTENANCE ORGANIZATIONS</b>																																												
Fremont General Corp	OTC	20.25	-1.22	62.00	20.25	12.13	291	0.80	3.95	18	19.09	1.06	FHP International	OTC																																											

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