

Business Insurance

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

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UPDATES

HIPAA health plan design regulations proposed

WASHINGTON—Employers with wellness programs would be allowed to charge non-smoking employees lower health insurance premiums under proposed regulations issued last Friday by several federal agencies.

The long-awaited regulations—required under the federal 1996 Health Insurance Portability and Accountability Act, which curbed the use of pre-existing medical condition exclusions—detail health care plan designs that the agencies would consider to be

See Updates on next page

Asbestos continues to bite industry

By DOUGLAS McLEOD

Asbestos liabilities, like a recurring bad dream, are rising again to haunt a new array of corporate defendants and their insurers.

Defying expectations that they would begin to fade with the arrival of the new millennium, asbestos claims are proliferating and settlement demands are rising 34 years after the first asbestos injury lawsuit was filed in Beaumont, Texas, in 1966.

In 2000, a rising tide of claims pushed five manufacturers and users of asbestos products into bankruptcy, which is the largest one-year total of asbestos-related bankruptcies in at least a decade. Those filing include building products makers Armstrong World Industries Inc., Owens Corning and Pittsburgh Corning Corp., and engi-

neering firms Babcock & Wilcox Co. and Burns & Roe Enterprises Inc.

Last week, G-I, the privately held successor to GAF Corp., became the sixth and latest Chapter 11 casualty after paying more than \$1.5 billion in asbestos claims and expenses since the 1970s.

More ominously, the Chapter 11 filings promise to speed another trend: Facing smaller recoveries from companies in bankruptcy, plaintiffs' lawyers are suing a widening array of "non-traditional" asbestos defendants, ranging from IBM Corp. and AT&T Corp. to regional "mom-and-pop" installers and distributors of asbestos-containing products.

Nearly 2,000 companies are now defendants in asbestos lawsuits, which is an "exponentially larger" number than a decade ago, said Scott D.

See Asbestos on page 32

Biggest A&E reserves

U.S. property/casualty groups ranked by asbestos and environmental reserves, 1999 figures in millions of dollars

Company	Net share of industry A&E reserves	Net A&E loss reserves	Net reserve growth 1998-99	Asbestos reserve	Environmental reserve
Travelers Group	6.3%	\$1,500	-17%	55%	45%
Nationwide Group	6.2	1,486	15	46	54
Hartford Financial	5.7	1,362	-9	35	65
Liberty Mutual	5.7	1,358	-8	50	50
Berkshire Hathaway	5.6	1,345	-3	32	68

Source: A.M. Best Co.

Medicare HMO reimbursement to increase

By JERRY GEISEL

WASHINGTON—Health maintenance organizations that provide coverage to Medicare-eligible beneficiaries will receive higher payment rates from the federal government this year, which may help stem the exodus of HMOs from the Medicare+Choice program.

A budget bill that was passed by Congress late last month and signed by President Clinton contains several provisions—including the increased payment rates—that may help stabilize the Medicare HMO program. HMOs participating in that program had sought higher payments, arguing that government rates, which are based on Medicare costs in the areas in which enrollees reside, are too low and don't allow them to operate profitably.

Because of concerns about profitability, several large health insurers—including CIGNA Corp. and Aetna U.S. Healthcare Inc.—announced last year they were terminating their Medicare HMOs in certain markets. Under the Medi-

care+Choice program, HMOs, in exchange for a fixed payment from the federal government, agree to provide at least the same level of coverage that enrollees would have under Medicare. But because beneficiaries must use providers in an HMO's network, HMOs have to offer additional benefits to attract enrollees, such as prescription drug benefits and lower cost-sharing requirements for medical services.

In the last year alone, Medicare HMO withdrawals affected about 900,000 enrollees. Although some of those enrollees were able to find coverage through other Medicare HMOs, others were forced to return to the traditional Medicare program.

In addition, the withdrawals have affected employers with retiree health care plans that had sought to cut their benefit costs by shifting retirees into Medicare HMOs. Many employers have found it less costly to pay for the enhanced benefits offered by Medicare HMOs, such as unlimited pre-

See Medicare on page 34

House adapts to change Financial Services panel to oversee insurance, banking

By MARK A. HOFMANN

WASHINGTON—Many in the insurance industry hope that the creation of a new Financial Services Committee in the U.S. House of Representatives will help put them on a par politically with their counterparts in the banking industry.

The new committee replaced the old House Banking Committee last week and will, in addition to having jurisdiction over banking concerns, handle many of the insurance and securities matters that formerly were in the purview

of the Commerce Committee. The expansion of jurisdiction reflects the changes in financial regulation wrought by the Gramm-Leach-Bliley Act, a far-ranging financial services modernization measure enacted in late 1999. The act was named after its chief sponsors—Senate Banking Committee Chairman Phil Gramm, R-Texas; House Banking Committee Chairman Jim Leach, R-Iowa; and House Commerce Committee Chairman Tom Bliley, R-Va.—and it lowered barriers that had kept banks, insurers and securities firms from engaging in each other's business since the Glass-Steagall Act went into effect in the 1930s.

Of the three committee chairmen, only Sen. Gramm retains his job. Rep. Bliley retired, and Rep. Leach was barred from serving another term as chairman under term limits adopted for all committee chairmen by House Republicans after they won control of that chamber as a result of the 1994 elections.

That opened the way for Rep. Michael Oxley, R-Ohio, to become chairman of the new committee.

See House on page 34

Ford unit markets new benefit option

Saving employees time

By LEE FLETCHER

NOVI, Mich.—Getting an oil change was never as easy, and purchasing the "right" used car never as painless for some employees whose companies are offering a new benefit.

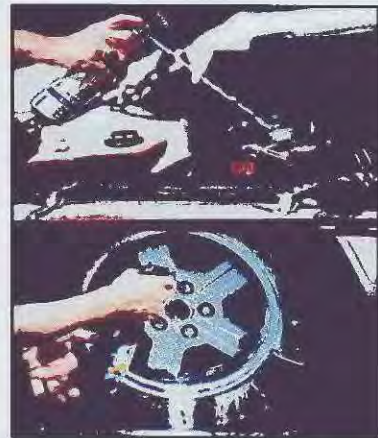
AutoConcierge, a company owned and operated by Ford Motor Co., is saving workers from have to take time away from work or their families to take care of a variety of automobile maintenance tasks. By taking advantage of the service, the company says, the employees can be more productive in

the workplace.

According to David M. Westerman, national sales and service manager for AutoConcierge in Novi, Mich., when something goes wrong with an employee's automobile, he or she often must take time off of work to have it fixed.

"To have these things done, they leave early, they arrive late, and sometimes take a co-worker with them. Because the automobile is such a mainstay in the consumer's household—and also because they use it as their primary transportation to work—there's always a de-

See Autos on page 31



MARKET REPORT
2001
JANUARY RENEWALS

BEGINS ON
PAGE 3

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UPDATES

HIPAA regulations proposed

Continued from previous page
non-discriminatory.

In the case of wellness programs, for example, it would not be discriminatory to charge smokers more than non-smokers, so long as the differential was between 10% and 20% for employee-only coverage.

Such differentials have become increasingly common in wellness plans, said Camille Haltom, a consultant with Hewitt Associates L.L.C. in Lincolnshire, Ill.

The proposed regulation regarding wellness programs was issued along with final regulations dealing with other health care non-discrimination issues by the Labor and Treasury departments and the Department of Health and Human Services.

The final regulations state that, in general, it is not discriminatory for an employer to offer a lower coverage limit for a specific medical condition than is offered for other medical conditions, provided the lower limit is not directed at any individual participant. Such so-called sublimits, though, still would not be allowed for certain conditions, such as pregnancy, for which other federal laws require equitable coverage.

The final rules also make clear that a group health care plan cannot require an employee to pass a physical examination as a prerequisite for enrollment, nor can a plan charge a higher premium for an employee with a history of high claims. Nonetheless, an insurer is free to take into account the health factors of all individuals in a group plan when setting the rate for the plan.

Finally, an individual cannot be excluded from enrolling in a group plan because that individual engages in a sporting activity, such as skiing, for example. Coverage can be denied, though, for an injury that does not result from a medical condition, such as an injury sustained in a high-risk activity. The regulations cite bungee jumping as one example of such a high-risk activity.

The regulations will be published in today's Federal Register.

Subrogation case dismissed

WASHINGTON—At the request of the parties involved, the U.S. Supreme Court has dismissed a case centering around the right of an employer to sue to retrieve the cost of health care benefits paid to an injured employee when the employee had received payment for the same services from a third party.

The court had agreed to hear the subrogation case, *Reynolds Metals Co. vs. Robert Ellis*, late last year (BI, Dec. 4, 2000). After being severely injured in a 1994 automobile accident, Mr. Ellis received more than \$561,000 in medical benefits from his employer, Reynolds Metals. Mr. Ellis later received a settlement in excess of that amount from third parties found liable for the accident. Reynolds Metals, citing a provision in its employee health-care plan requiring reimbursement from beneficiaries who received payment from third parties for medical services already paid for by the plan, sued Mr. Ellis for repayment in 1997. When both a U.S. District Court judge in Los Angeles and a three-judge panel of the 9th U.S. Circuit Court of Appeals rejected Reynolds Metals' arguments, the company appealed to the Supreme Court.

But by the time the high court agreed to hear the case, Reynolds Metals had merged with Alcoa, and Alcoa joined Mr. Ellis' attorneys in asking that the case be dismissed. The high court agreed to do so on Dec. 29.

"The issue of reimbursement of medical payments made on behalf of workers injured in off-the-job accidents is important and deserves the attention of the courts," Alcoa said in a written statement issued last week.

"The accident involved in this case, the settlement and the litigation filed by Reynolds all occurred before Alcoa's acquisition of Reynolds. This matter came to our attention only after the Supreme Court accepted it for review. The facts of Mr. Ellis' case and the grievous nature of his injuries are such that Alcoa would not have brought a reimbursement action on its own behalf. After a review of the situation Alcoa decided to end this case and the company wishes Mr. Ellis well."

The high court may still soon deal with the issue of subrogation, said Edward Scallet, a principal with The Groom Law Group in Washington and author of Reynolds Metals' Supreme Court appeal. Mr. Scallet noted that several other cases involving similar subrogation questions have recently been appealed to the high court, though the justices have yet to agree to hear any of them.

Pool loses bid to recover funds

AUSTIN, Texas—A Texas county government insurance pool cannot recover an amount it paid to settle a claim that later was determined to be excluded from coverage, the Texas Supreme Court has ruled.

The court ruled last month that the Texas Assn. of Counties' County Government Risk Management Pool cannot recover the \$300,000 it had paid to settle a lawsuit filed by inmates of a Matagorda County jail. The pool provided law-enforcement liability insurance to the county.

Three prisoners sued the county and its sheriff over a 1993 incident in which the prisoners were assaulted by other inmates armed with razor blades. County officials demanded that the pool defend and indemnify them under the law-enforcement liability policy.

Initially, the pool denied coverage based on an exclusion in the county's policy that disallows claims "arising out of jail." Eventually, though, the pool did pay the amount, after issuing two reservations-of-rights letters that stated it would seek reimbursement

See Updates on page 34

Louisiana reversal in pollution dispute

Court curbs exclusion's scope

By DAVE LENCKUS

BATON ROUGE, La.—Even after Louisiana's Supreme Court reversed itself and restricted the scope of pollution exclusions in general liability insurance policies, Louisiana insurance regulators still plan to promulgate a regulation that would codify and expand the court's ruling.

In a 4-3 decision on Dec. 19, 2000, the court ruled that an insurer could not invoke the total pollution exclusions to bar coverage for a loss if it could not prove:

- The policyholder is an active polluter.
- A substantial amount of a pollutant was spilled and the spill was intentional and the result of negligence.
- The injury-causing substance is generally viewed as a pollutant.

In narrowing the insurance industry's definition of

a pollutant, the court looked beyond the exclusion's broad coverage-barring language and analyzed the drafting history of pollution exclusions. Given that history, the court found that the total pollution exclusion applies only to the kinds of hazardous materials that federal pollution cleanup law addresses, because that was the industry's intention when it drafted the exclusions.

Applying the exclusion to every loss that involved any kind of contaminant would lead to the "absurd consequences" of thwarting "the very purpose" of general liability policies, Chief Justice Pascal F. Calogero Jr. wrote for the majority.

The ruling reverses a decision by a state appellate court that had overturned a trial court's decision. More importantly for policyholders, it overturns the high court's own 4-3 ruling in *Ducote vs. Koch Pipeline Co.* in January 1999 (BI, Jan. 22, 1999).

See Exclusion on page 33

Microsoft hit by third lawsuit alleging racial discrimination

By JUDY GREENWALD

WASHINGTON—A lawsuit filed last week that charges Microsoft Corp. with racial discrimination is the third such suit the software giant faces.

The suit, filed in U.S. District Court in the District of Columbia by seven current and former Microsoft employees, seeks class-action status and about \$5 billion in damages. Originally filed in June by former Microsoft executive Rahn D. Jackson, the suit was re-filed last Wednesday to include the six other plaintiffs.

The case will be heard by Judge Thomas Penfield Jackson, who presided over the federal govern-

ment's antitrust case against Redmond, Wash.-based Microsoft and who ordered the company split into two.

Microsoft®

In a statement, Deborah Willingham, Microsoft's vp-human resources, said the company has no specific comment on the suit filed last week. Her statement also said in part that African-Americans make up 2.7% of Microsoft's domestic workforce, which she said is on par with the 3.2% nationwide figure for African-Americans in the science, engineering

and technology workforce that was reported by a congressional commission last September.

"We are making progress in attracting more minorities and women to Microsoft, but this is a challenging and complex issue across the high-tech industry," said Ms. Willingham.

The suit is the second filed in recent months charging Microsoft with discrimination and seeking class-action status. Last Oct. 4, a suit was filed in U.S. District Court in Seattle on behalf of former Microsoft employee Monique Donaldson. That suit seeks "to challenge a pattern and practice of race and sex discrimination and

See Microsoft on page 33

Stanford, FM Global settle

Parties negotiate end to Y2K coverage lawsuit

SAN JOSE, Calif.—Stanford University and its insurer on Wednesday reached "an agreement in principal" to settle the university's Y2K remediation coverage lawsuit, according to papers filed in U.S. District Court in San Jose, Calif.

Although terms of the proposed settlement are not being disclosed, the insurer, Factory Mutual Insurance Co., which does business as FM Global, issued a statement asserting that no money will be changing hands.

"Stanford has agreed to dismiss its suit, and FM Global has

committed to the continuation of the parties' long-term insurance relationship based on commercially competitive terms," the FM Global statement said. "There has been no payment or compromise of the litigation, nor will there be."

The settlement in *Board of Trustees of Stanford University vs. Factory Mutual Insurance Co.* is the first resolution of a Y2K coverage suit to be made public.

Stanford's suit, filed last summer, is one of about a dozen nationwide seeking coverage under the "sue and labor"

clause of first-party property insurance policies to pay for the costs of upgrading computer systems to be Y2K compliant. The clause provides coverage should a policyholder act to "sue, labor or travel" to minimize an actual or imminent loss to covered property.

Meanwhile, another Y2K coverage suit was filed Dec. 29 in U.S. District Court in Phoenix by Baptist Hospitals & Health Systems Inc. against FM Global. FM Global said it will continue to "vigorously defend" any other Y2K coverage suits.

—By Joanne Wojcik

INSIDE

- We hope that a new Congress and administration can get past partisan bickering and pass legislation of importance to employers, this week's editorial says. **PAGE 8**

- European employers, like those in the United States, are turning to flexible benefits, employee stock options and other programs aimed to meet the needs of a changing workforce. **PAGE 29**

- Lloyd's of London names who had hoped to appeal the verdict in the *Jaffray vs. Lloyd's* fraud case have been dealt a blow by the judge in the case. **PAGE 29**

Departments

Advertiser Index 31

Classifieds	30
Event Guide	27
For the Record	35
Global Briefs	29
Insurance Services Guide	28
International	29
Opinions	8
Ticker	35

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Hardening of market is felt by more buyers

By MICHAEL BRADFORD
and DAVE LENCKUS

The classic symptoms of a painful renewal season are afflicting many risk managers this year. Rates are rising for both property and casualty coverages. Underwriters are more carefully scrutinizing risks. Reinsurers are increasing the prices they charge insurers.

It all adds up to an uncomfortable case of a hardening insurance market.

"This has been a painful renewal process," said Dave Parker, director of risk

management for Pima County, Ariz. "Life isn't as simple anymore."

The pain isn't the same for everyone, though. Some insurance buyers are seeing double-digit rate increases, while others are reporting much smaller increases. Although the days of falling rates appear to have ended, risk managers, in some cases, have been able to renew their coverages at around expiring prices.

And buyers who participate in less traditional insurance vehicles, such as industry mutuals, are finding that their commit-

ments are paying off in the hardening market. Many buyers spread renewals through the fall and into the end of the year. They say the tightening already was evident in many renewals that were completed two or three months ago.

Mr. Parker said Pima County's casualty rates went up when renewals were completed in October because of a hardened reinsurance market, tough insurance market conditions and the county's loss experience.

To keep the county's excess liability insurance rates stable, Mr. Parker doubled his casualty retention to \$2 million per loss with no aggregate. He restructured the program by adding two insurers to build the coverage he wanted for the county.

With one exception, limits and coverage remained much the same as they were under Pima County's expiring program. Mr. Parker dropped employment practices liability insurance from his upper layer, saving \$10,000 in premiums with little fear that a loss would reach such a high layer.

On its primary casualty coverages, the county was hit with double-digit rate hikes, Mr. Parker said.

Pima County's costs for general liability, automobile liability and coverage for public officials jumped nearly 13.5% combined.

The underwriter of the combined medical malpractice and general liability insurance for the county's medical facilities socked Pima County with even stiffer rate hikes, even though the county has not tapped the coverage in 10 years. Rates for the first layer jumped 22% and went up 24% on the next layer. Limits, terms and retentions re-

See Buyers on page 10

Dramatic rate increases the exception, not the rule

By RODD ZOLKOS
and JOANNE WOJCIC

Price increases were the norm even for the best commercial insurance buyers renewing coverages at the start of the year, and that trend will continue throughout 2001, insurance company executives say.

But buyers don't seem surprised by the increases, which generally range from approximately 10% to more than 20%. And, unlike the drastic market turn of the mid-1980s, the current firming is characterized by gradual, if steady, price increases and no apparent capacity shortages.

"I would say what (buyers) saw in 2000 is

have been talking about and hearing about a little bit of a correction that started last year," said Dennis P. Kane, president and chief executive officer of Kemper Casualty Co. in New York.

"I would not describe the change as 'dramatic' or 'traumatic,'" Mr. Kane said. He noted, however, that as premiums increase and underwriters exercise more discipline, some buyers are studying alternatives.

Stephen W. Lilienthal, executive vp-U.S. insurance operations at The St. Paul Cos. in St. Paul, Minn., noted that prices firmed incrementally throughout 2000. Unlike the market turn of the mid-'80s, when there were dramatic jumps in pricing, "this has been a very steady, almost tidal effect," Mr. Lilienthal said.

"We see no reason that the market will not continue to provide the opportunity to achieve increased pricing in 2001," he said. "We see no indication of dramatic price changes in 2001, either up or down."

Current price increases, Mr. Lilienthal noted, are "pretty evenly distributed across the country and pretty evenly distributed by line."

Although rate hikes have been imposed across the board, some lines and regions do stand out as harder hit.

Workers compensation, for example, "has become less available, particularly on a stand-alone basis," Mr. Lilienthal said. In addition, there has been a "general tightening" in auto lines, and, because of the continuing trend of sizable jury awards, there also is some firming in general liability coverage, he said.

Liberty Mutual's Mr. Gregg suggested the workers comp price hikes are likely to continue as insurers try to bring their combined ratios down to more acceptable levels.

See Insurers on next page

MARKET REPORT 2001 JANUARY RENEWALS

LONDON MARKET PAGE 22

SURPLUS LINES PAGE 24

Property reinsurance is tough buy for cedents

By MARK A. HOFMANN
and DOUGLAS MCLEOD

Reinsurance prices are still heading upward, but no one is ready to call it a hard market yet.

Continuing the trend of recent renewals, the property retrocessionary market is proving the toughest for reinsurance buyers at year end, while rates are also rising for property catastro-

phic reinsurance, non-catastrophe property reinsurance and a number of casualty reinsurance lines.

MARKET REPORT 2001 JANUARY RENEWALS

REINSURANCE

The property retro market remains so constricted that many reinsurers, unable to buy traditional retrocessional protection, are opting for finite risk or other alternative forms of coverage to spread their risk.

The current market is in "a period of transition," said David Tritton, executive vp-marketing for American Re-Insurance Co.'s domestic insurance company operations in Princeton, N.J.

Reinsurance prices for certain casualty lines are also rising, among them workers compensation, non-standard automobile and program business such as nursing home or trucking liability programs.

Despite the tightening conditions, though, many market observers say that reinsurers need further price hikes to restore profitability, and are waiting to see if the trend continues.

"After years of soft conditions, the market is definitely improving, but how much is still uncertain. Underwriters would prefer to see a few years of sustained improvement vs. a one-year disruptive lurch," said Mr. Tritton.

See Reinsurers on page 16

Brokers helping clients navigate market, options

By SALLY ROBERTS
and ROBERTO CENICEROS

Risk managers renewing their property/casualty risks for 2001 are in for a bumpy ride.

Rates for all commercial property/casualty lines are increasing, on average, 10% to 15% for renewing accounts, brokers report. They add, though, that increases vary greatly by risk, geogra-

phy and loss history. And, despite insurer attempts to raise rates unilaterally, brokers say they had some success reducing those increases somewhat, especially for good accounts.

MARKET REPORT 2001 JANUARY RENEWALS

BROKERS

phy and loss history. And, despite insurer attempts to raise rates unilaterally, brokers say they had some success reducing those increases somewhat, especially for good accounts.

Unlike the last hardening in the market, which resulted from a lack of capital and policyholder surplus, the current turn is the consequence of poor insurer profits.

Indeed, brokers say, there is no lack of capital in the market; insurers, though, are

becoming more selective about the risks they will underwrite. Consequently, property catastrophe risks in the Gulf Coast region and workers compensation risks in California are being hit the hardest, seeing both rate increases and also some capacity depletion.

Not surprisingly, the firming market has forced risk managers to re-examine their risk retention and risk transfer strategies. And, more often than not, risk managers are opting to retain more risk this renewal period, brokers say.

Captive insurance companies also are becoming more popular, brokers note, particularly among companies that established captives previously but then returned to the traditional market to take advantage of the soft pricing in recent years.

Some brokers also report that the market is piquing interest in enterprise risk management, as risk managers try to get their arms around their companies' entire risk portfolios.

Brokers say, though, that while rates generally are increasing, the overall market is inconsistent.

"Rates vary considerably by line of business and, sometimes, even by geography," said Kenneth LeStrange, chairman of Chicago-based Aon Risk Services Cos. Inc. of the Americas. "It's safe to say that the trend toward pricing increases is continu-

See Brokers on page 12

MARKET REPORT 2001 JANUARY RENEWALS

INSURERS

probably what they're going to see in 2001: somewhat moderate price increases, depending on the customer," said Gary Gregg, executive vp-commercial markets at Liberty Mutual Insurance Co. in Boston.

"Folks who have stayed focused on their risk management programs and their experience has been good will see fairly modest increases in the mid- or high single digits," Mr. Gregg said. Buyers with poorer loss experience, however, will see increases in the high teens or low 20s, he said.

"There's probably no surprise in terms of what's going on in the marketplace. People

Insurers

Continued from previous page
ratios down to more acceptable levels.

The workers comp sector's combined ratio is more than 130%, and insurers are seeking to bring that to around 105%, he said. With the current round of premium increases, "we're probably about halfway there," Mr. Gregg said. "So, looking at costs, we probably need another year like 2000."

"I think that most companies,

from what I'm hearing, are trying to differentiate in any way that makes sense," said Mike Petruzzello, senior vp and chief underwriting officer, commercial division, Hartford Steam Boiler Inspection & Insurance Co. For example, he noted that in the property area, the larger price increases are going to those buyers in areas susceptible to such hazards as windstorms or earthquakes.

Bill Curcio, president of Special Risk Facilities at ACE USA in Philadelphia, suggested that premium increases vary and are based

on loss experience. "From a casualty perspective, each account is essentially being evaluated on its own experience, on its own merits," he said.

Mr. Curcio said that, in addition to workers comp, the lines seeing higher prices and more rigid underwriting include long-haul trucking with large fleets, guaranteed-cost programs and directors and officers liability coverage. And although pricing is firming, capacity in those areas is "pretty constant" he said.

Price increases are higher in the

property lines, particularly those with coastal or wind exposures, according to Mr. Curcio. And while capacity is still abundant in most property lines, it is shrinking in the energy arena, he said.

With Kemper Casualty entering the property market in July writing large-risk business, "Our view is one of a new entrant into the field," Mr. Kane said. "What we've seen is quite a bit of upward pressure for substantial rate increases."

"The only thing we have not seen yet in the property area is under-

writers getting back to basics on the property form," Mr. Kane added. During the soft market, in the property area "what we saw was rates had gone too low and forms had gotten too broad," he said.

He agreed that, in the property area, buyers—except for the very biggest companies—don't appear to be seeing any capacity problems, though they will see further price hikes.

And Mr. Kane shared Mr. Curcio's assessment of the outlook for guaranteed-cost programs.

"The programs that I think are under a little bit more stress are those that had abandoned the risk management programs and transitioned to what are called 'discounted guaranteed-cost programs,'" he said. "These programs have not stood the test of time."

Mike Turner, vp-marketing at FM Global in Johnston, R.I., noted that premium increases for commercial property coverage may go well beyond the 15% to 20% average hikes in the coming year in some circumstances. FM Global is the name under which Factory Mutual Insurance Co. does business.

Accounts with poor loss experience or those with earthquake or

'What we've seen is quite a bit of upward pressure for substantial rate increases,' says Dennis P. Kane of Kemper Casualty.

Caribbean wind exposures can expect to pay as much as 40% to 50% more for their property coverage this year, according to Mr. Turner.

But there's still plenty of capacity.

"It's not so much that the capacity is not available. I think what's happening is the depressed prices and reinsurance results led toward everything bottoming out at the end of 1999," Mr. Turner said. And, as treaties renew later in the year, "We expect to see more changes," he added.

"The reinsurance segment's results have been equally dismal for the past several years," St. Paul's Mr. Lilienthal said. "They hear all the noise about rate increases in the primary market and they try to hop on that bandwagon, too."

"It has affected the market," he continued. "Obviously, any price increases that come through the reinsurance side are pass-throughs."

Liberty Mutual's Mr. Gregg said he hasn't seen any significant changes in reinsurance capacity, adding that reinsurance price increases seem to be in line with those in the primary market.

"Unlike previous cycles, with this particular cycle I think the primary carriers are leading the price increases to come in line with cost," he said.

Kemper's Mr. Kane said the environmental insurance market currently seems to be one sector that's lagging the rest of the industry in terms of firming.

"There's a relatively small number of companies that underwrite that, and I think it's still a growth area for the industry," he said. Over the past couple of years, insurers' results in the environmental area have probably been better than in other areas, "so, what we probably have is results driving actions there," Mr. Kane said.

See Insurers on page 6

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What can we do to help you?

Insurers

Continued from page 4

It's still too early to tell what might happen with capacity in the environmental area, he added.

In terms of new products or structures sought by customers, Mr. Kane said he's seeing increased interest in multiyear/multiline approaches. "We're beginning to see renewed interest in these concepts," he said. And—perhaps more significantly—more of those deals are coming to fruition, he noted.

"From our perspective, over the past several months we have completed a handful of deals," Mr. Kane said. "But what was interesting was probably half the deals we quoted were actually bound." And,

of the remaining half, while Kemper might not have participated in the final program, about 20% ultimately chose an integrated approach.

This is an indication, Mr. Kane said, that customers may have stopped simply "window-shopping" integrated risk financing deals.

FM Global's Mr. Turner said he's seeing more customers seeking coverage for their e-commerce risks. Such exposures became "a hot topic after we got past Y2K," he said.

In particular, buyers are seeking coverage for data and electronic transactions, as well as for business interruption, Mr. Turner said. The latter coverage would protect a company if "someone attacks their Web site and shuts it down

and, therefore, they can't get business orders they normally would have expected," he explained.

While FM Global does not cur-

rently write such coverage, it is looking into developing a program sometime this year, Mr. Turner said.

Meanwhile, "our customers are asking us to help them to find exposures from a risk management

'I think some customers have cut back,' says Stephen W. Lilienthal of St. Paul. 'We've seen some customers buy less limit to try to stabilize their pricing levels.'

rently write such coverage, it is looking into developing a program sometime this year, Mr. Turner said.

Meanwhile, "our customers are asking us to help them to find exposures from a risk management

coverage, but they're mostly 'gap' policies," Mr. Turner said.

Because of the increasing reliance on outsourcing in manufacturing industries, buyers also are seeking "contingent time element" coverage, which is triggered if a

supplier is unable to provide component parts, Mr. Turner said.

Although rising rates are prompting greater interest in multiyear programs, aside from certain integrated structures, such policies are generally unavailable.

"That's kind of a common factor. As the market begins to harden, (buyers) try to nail down their positions for the coming years," Hartford Steam Boiler's Mr. Petruzzello said. He noted, though, that HSB hasn't routinely offered multiyear programs in the past and is not doing so currently.

"We've certainly had requests for multiyear arrangements, but we're not all that interested in offering them right now," St. Paul's Mr. Lilienthal said.

"We saw a tremendous amount of interest in multiyear deals two or three years ago. I would say there's still interest, but I would say, on the supply side, they're not as available now," Liberty Mutual's Mr. Gregg said. And, he noted, in those few cases where multiyear deals are provided, they need to be structured well.

Multiyear deals are a thing of the past unless the insurer sees a multiyear structure to be in its favor, said FM Global's Mr. Turner.

"They are the exception rather than the rule," he said. Some integrated-risk programs can still get multiyear contracts, he said. "But those underwriters are taking the same conservative approach," Mr. Turner said.

ACE USA's Mr. Curcio said he's not seeing many customers ask for multiyear deals. "I think they're getting the sense that carriers don't have a great appetite for them," he said.

But buyers do seem to be more interested in obtaining global policies, particularly for their worldwide liability exposures, he said.

In general, customers trying to reduce the impact of premium increases seem to be looking to larger retentions or lower limits.

"I think some customers have cut back. There's been a constraint in some of the capacity available in the marketplace," Mr. Lilienthal said. "We've seen some customers buy less limit in order to stabilize their pricing levels."

But, although buyers may be taking steps to cope with higher premiums, the hikes don't come as a surprise.

"We're not, as an industry, shocking our customers," Mr. Gregg said, adding, though, that "the increases are substantial."

But, he said, buyers seem to recognize that they enjoyed a "tremendous run" for a number of years and, consequently, aren't particularly shocked by the hikes they now face.

Mr. Lilienthal said he thinks insurers might have overestimated the magnitude of buyers' fears of higher premiums. What's more, underwriters are doing a better job explaining the price increases to their customers than in the past, and "producers are now selling to a little bit more prepared public."

And the gradual nature of the increases is helping prevent "sticker shock" among buyers, he suggested.

Since late 1999, "It's almost like we went up three-quarters of a point a month," Mr. Lilienthal said. "For us, it was a little bit deliberate, because we gave instructions to our field people to push a little bit more premium every month."

"That's one of the reasons I think this market is a little bit more sustainable," he said.

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OPINIONS

Cooperation key to progress

Will a new Congress and a new president be better able to work together on legislation of importance to employers than the last Congress and the Clinton administration?

We certainly hope so, as that would help break the stalemate that has stymied legislative action on a variety of risk management and employee benefit issues for the last couple of years. Regrettably, however, gamesmanship and conflict—rather than progress and cooperation—between the executive and legislative branches have been the rule.

A case in point from the 106th Congress was its failure to pass a hugely popular pension reform bill. The reason for the stalled action was that Senate Republicans attached the measure to a tax cut bill, even though they knew the bill was one the administration would not support and that it would ultimately die. Some Republican leaders reasoned that if President Clinton rejected the tax bill then the Democratic administration, not GOP lawmakers, would be blamed for allowing the pension bill to die with it.

We think the public is disgusted with that sort of strategy. It's a certainty that employers that had looked forward to significant reform of pension administration rules and red tape are disappointed.

A wiser and better course of action, of course, would be working to reach a consensus, rather than maneuvering to place blame. We hope that's a strategy the 107th Congress and the Bush administration will agree to pursue.

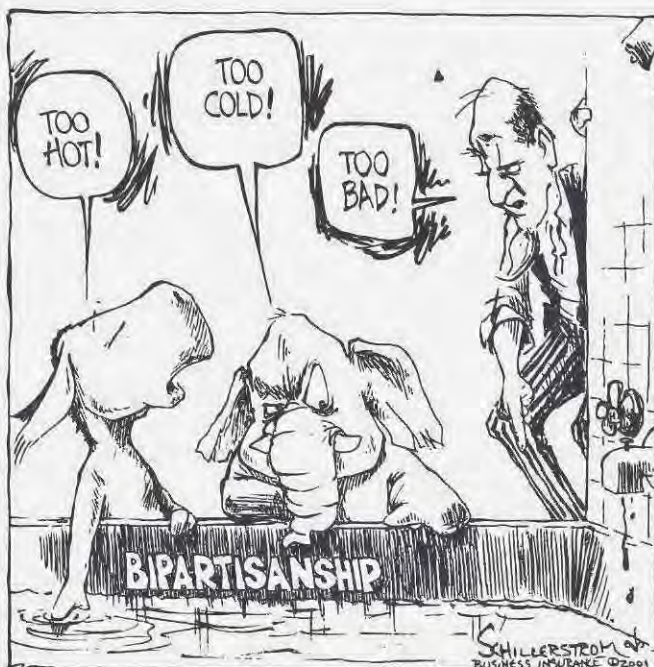
There is no shortage of issues for which we think a consensus can be achieved.

For example, there is widespread agreement on the need for tort reform. Surely, a compromise measure can be reached that would, for example, cap punitive damages in personal injury suits and place a reasonable limitation on the period of time a manufacturer could be held liable for the safety of its products.

In addition, given the new wave of asbestos-related suits that target secondary defendants, such as distributors and installers of products that contain asbestos, Congress needs to pick up where it left off in the last session. The proposed Fairness in Asbestos Compensation Act would have created an Asbestos Resolution Corp. to manage the compensation of asbestos claimants. This legislation is needed to assure quick and equitable compensation of victims, without requiring them to go through lengthy court battles.

On the employee benefits front, there is a compelling need for the administration and Congress to quickly reach an agreement on the pension reform measure that died in the last days of the previous session. The bill that cleared the House last year, which would have boosted benefit and contribution limits and eased certain administrative requirements, would make a good starting point for new negotiations on a compromise bill.

Similarly, we think prompt action is needed to add a prescription drug benefit to the Medicare program. The lack of such a benefit makes no sense given the importance prescription drugs have assumed



as medical therapy. It also creates disparity between the benefits provided under the Medicare program and those available under Medicare HMOs and most private benefit plans.

Congress and the administration also need to build on legislation passed late last year to give health maintenance organizations greater financial incentives to provide coverage to Medicare-eligible beneficiaries. Inadequate payment rates and onerous government rules have led to the unraveling of a program that once appeared to promise cost savings to the government and better benefits to retirees.

At the same time, there are several areas that the new Congress and administration would be well advised to leave alone.

One is the controversy involving the Clinton administration's ergonomics standard. That standard almost certainly faces legal challenges on a variety of grounds. Waiting for the outcome of that litigation might be the most prudent course of action.

Similarly, on the employee benefits side, we'd suggest caution on the highly contentious issue of patient protection legislation. For the last two years, Republicans and Democrats have bashed each other over this rather than working to find a middle ground. In that time, though, states have moved fairly aggressively to curb abuses by managed care plans. Many states, for example, have enacted laws that mandate external independent reviews to resolve coverage disputes, which was a key aim of the federal legislation. It may well be that the state action has forestalled the need for federal intervention—and without exposing employers to new liabilities, as would occur under one congressional proposal.

In every new Congress and presidential administration, there is a great opportunity to make a fresh start and make meaningful progress on issues of importance to the public. We hope lawmakers and the Bush administration will not squander this opportunity.

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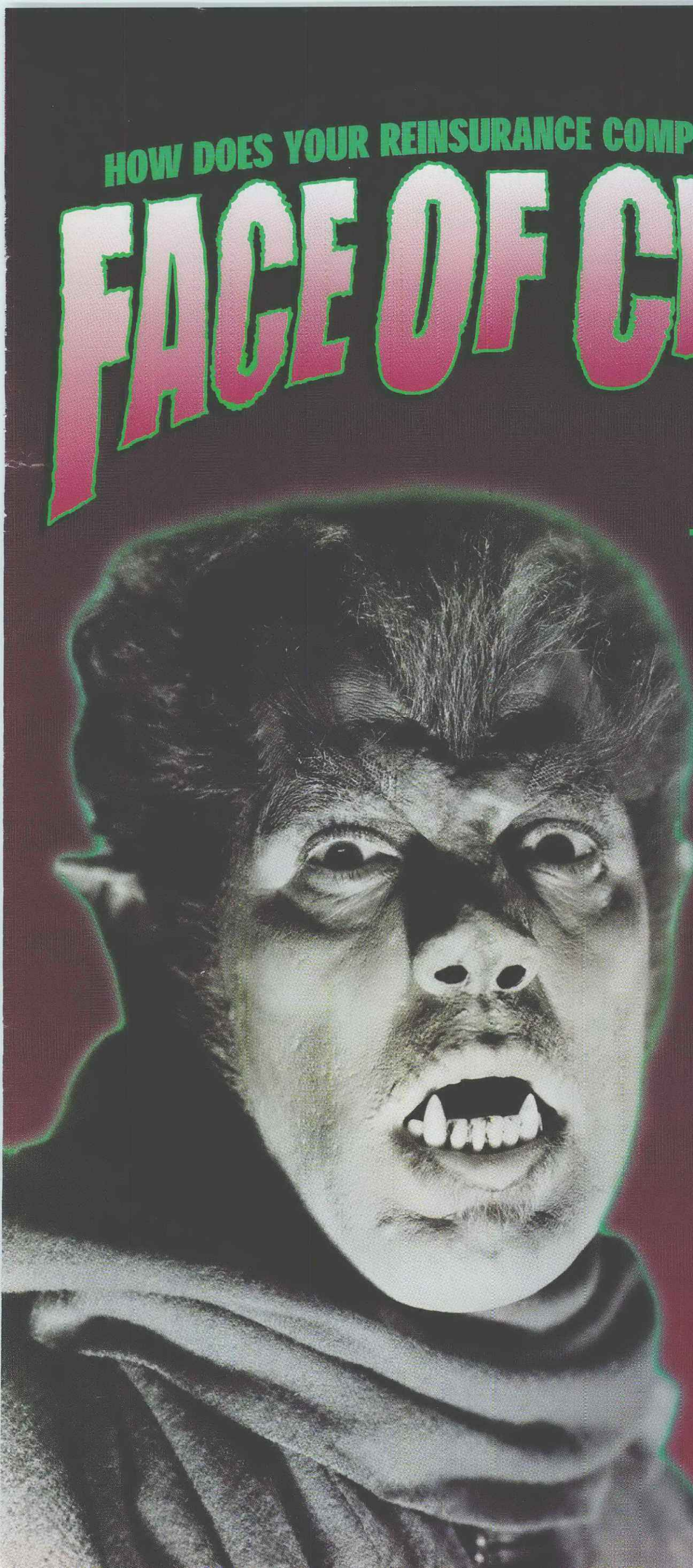
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Buyers

Continued from page 3
retentions renewed as expired.

Only in the workers compensation insurance market did the county fare relatively well, according to Mr. Parker. He said rates rose 4.14%, but the county's payroll base grew 3.4%.

In an example of the unevenness of the casualty market, Omnicon Group Inc. was able to buy a products liability policy at virtually no change in rates.

Omnicon, a New York-based holding company for advertising and marketing subsidiaries, bought the insurance for a unit that manufactures toy premiums for a fast food restaurant chain, according to James McGuire, director of risk management at the parent company.

"We changed carriers, and the renewal terms came in very well," he said. Coverage and limits stayed as expired under the previous insurer's policy and the insurance was written at "pretty much the same" price, according to Mr. McGuire.

Next up for Omnicon is a February crime and fiduciary renewal, an area of the market that Mr. McGuire said he has heard is tightening, but not drastically.

Risk management officials at Boston-based FMR Corp., better known as Fidelity Investments, do not expect an easy time when they renew the company's five-year domestic program next year, despite a relatively easy recent renewal of international coverages.

FMR inked renewals on its international professional liability, fidelity bond and directors and officers liability risks on Nov. 30. The company was able to purchase \$100 million of additional limits with no change in rates.

Peter Burd, a director with Fidelity insurance and risk management, said he expects a rate hike at the midyear renewal, but could not say how much.

The international program has been "very profitable" for underwriters, according to Judy Lindenmayer, vp-FIRM at FMR Corp. She noted, however, that FMR has suffered some domestic losses.

"The general sense is that there is going to be a tightening of rates," Ms. Lindenmayer said of the insurance market in general. "But to be fair about it, it's difficult to predict what an increase would be if you had an annual program vs. a three-, four- or five-year program."

Mr. Burd said FMR's underwriters at Lloyd's of London, many of which participate in both programs, made it clear in November that they are "looking at their existing book of business and doing a better job of understanding who their better risks are and who is otherwise causing problems."

The underwriters also outlined the reinsurance rate hikes they faced and "made it clear we should be mindful of that as well," Mr. Burd noted.

By the time FMR renews its program next year, underwriters likely will have suffered reinsurance rate hikes of 15% to 40%, Ms. Lindenmayer predicted.

As the market hardens, alternative risk financing arrangements generally prove their worth to those who have stuck with the vehicles. Some utility companies are finding that to be the case during this renewal season.

Casualty renewals for the Salt River Project in Tempe, Ariz., went "very well," according to

Bill Powell, manager-risk management at the utility. He said coverage with industry mutuals

year programs." Mr. Powell said that "the mutual concept gets tested in this type market. As far

'We're anticipating continued tightening of the market, but as far as percentage increases on our casualty, we expect to see it along the same lines as last year,' says Bob L. Smith.

Associated Electric & Gas Insurance Services Ltd. and Energy Insurance Mutual Ltd. renewed with no rate increases.

"We've got outstanding relationships" with the insurers, Mr. Powell said. "It went very smoothly. We wrapped up three-

as I'm concerned, it got an A+."

The two insurers also write coverage for OGE Energy Corp. in Oklahoma City, and that utility also saw smooth casualty renewals.

"It went just fine," said Bob L. Smith, corporate insurance man-

ager with OGE Energy. He pointed out that "we don't have much of a loss history that insurers want to recoup from."

Mr. Smith said the utility was wrapping up its renewals at the end of the year and he expected casualty prices to inch up slightly above the previous year's levels. No major changes in coverage or conditions were expected.

"We're anticipating continued tightening of the market," Mr. Smith said, "but as far as percentage increases on our casualty, we expect to see it along the same lines as last year." Property costs for the utility are moving up more significantly than are the casualty rates.

"Losses had something to do with that," Mr. Smith remarked. "We did have past losses that un-

derwriters are keeping in mind when calculating the premium."

OGE's property premiums, written by AEGIS and other insurers, are up 25% to 30% at the renewal, according to Mr. Smith.

Mr. Powell of Salt River Project said a small property renewal in January likely will give the utility an indication of what it will face when it renews its entire property program in the spring.

"We'll get a little (increase) in January," he said. And while the property value on the renewal is "not anywhere near what the corporate values are," the upcoming renewal will be a "precursor" to what the utility is likely to see from underwriters later in the year, Mr. Smith noted.

In talking to colleagues, it ap-

Continued on next page



Continued from previous page
appears that "everybody is beginning to hunker down for a hard market in the property area," Mr. Smith said.

Mr. Parker of Pima County doesn't need more proof that a hard property market is building. Rates for the county, which is a highly protected risk, shot up 35%.

"I wasn't expecting an increase of that magnitude, but I was expecting as high as a 25% increase," he said.

The county has about \$750 million of insured property, according to Mr. Parker. The county's only property loss was \$50,000 to \$75,000 of insured smoke damage in a court office about six months ago, he said. The fire was caused by an arsonist who has not yet

been apprehended.

Part of the problem for Pima County was that its insurer, Travelers Insurance Co., is facing a

the past few years, the county's broker, Marsh Inc., had been able to negotiate stable rates while the county worked to assemble such

county's property rate will remain flat or drop, depending on market conditions at the time.

Another public-entity risk manager said he hopes a recent effort to create more buying power will lead to lower rates or better coverage when property coverages renew in the spring.

In mid-December, Ray Sibley, risk manager of Washoe County, Nev., won approval from the county, the county school district and the county fire district to market the entities' property coverages together. The plan creates a combined property program of nearly \$2 billion.

While he said he hopes for lower rates or improved coverage, Mr. Sibley acknowledged that "more realistically," he might have to be content with avoiding a rate hike.

The three entities liked the plan well enough, though, to agree to jointly market other coverages in 2001. The first step will be to select a joint broker early in the year.

But while many risk managers are lamenting property rate hikes, others have been more fortunate.

The risk manager for a Florida-based trucking firm said that his property coverage is expected to renew in January with little change. "Our property exposure is not as serious as our workers compensation and liability," he said.

"We'll be OK there," he said of the property renewal, with no big rate hikes expected on the coverage for the company's 22 locations.

The trucking company's workers comp coverage could be a little trickier, the risk manager acknowledged, but it isn't expected to be prohibitively expensive to cover the company's 750 employees. "I've heard of some moderate increases; I hope that's right," he said.

The California State Automobile Assn. renewed several coverages at year end. While the risk manager for the San Francisco-based association would not speak specifically about the renewals, he did offer some advice to others going through the process.

The association operates an insurer and a travel agency, and it provides other services for its members. It is renewing its reinsurance coverages and casualty coverages.

"One thing that I feel is important is to make sure that you are differentiating yourself from others out there who are trying to buy capacity," said John Donahue, risk manager for the association. "If you've got a good story to tell, you should be telling it."

Mr. Donahue emphasized that, with the market hardening, it has been very important for the association to tout its good performance. "We started telling our story in March and followed up in September and October. We got out and got it in front of them." Mr. Donahue said he believes the effort has helped keep down the cost of renewals.

Mr. Donahue acknowledged that the association also relies on its Bermuda-based captive to limit the cost of risk. **BI**

Insurance buyers should seek to differentiate themselves, says John Donahue of the California State Automobile Assn. 'If you've got a good story to tell, you should be telling it.'

hardened reinsurance market, Mr. Parker said.

The insurer also penalized the county for its inability to provide details about its exposure, occupancy and protection efforts. In

data, Mr. Parker said.

He said most of the information has now been gathered and will be compiled in time for the county's 2001 renewals.

Mr. Parker said he hopes the

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Brokers

Continued from page 3
ing, and we don't see that abating in 2001 at this point."

Jim Braniff, president and chief operating officer of brokerage services for Arthur J. Gallagher & Co. in Itasca, Ill., pointed out that "those accounts that are yucky are getting hit pretty hard. Those accounts, however, that have been through a year of increases already—and if their losses are favorable—are not getting hit."

"Our good accounts are really experiencing low single-digit increases," Mr. Braniff said. "There are plenty of instances of 4% increases."

"It's certainly very clearly a correction," said Gary Ham-

bright, executive vp-commercial insurance for Lockton Cos. Inc. in Kansas City, Mo. "The people running companies are demanding a return to some profitability."

Although that is a great way to buy insurance, he said, "the prices are going up dramatically in that approach."

Gary Mathieson, chief executive officer of Willis Risk Solutions,

'Those accounts that are yucky are being hit pretty hard. Those accounts, however, that have been through a year of increases...are not getting hit,' says Jim Braniff.

"For some national-account clients, they have been used to buying discounted first-party coverage," Mr. Hambright said.

the broker's national large-account practice in New York, reported on one extreme case this renewal season. He said he "saw

one general liability account where losses were starting to trend up ... receive in excess of 100% premium increase."

Mr. Mathieson noted, though, that the property market is showing the most change. Rate increases vary, he said, depending on the property's potential for loss and the level of previous losses the account has sustained. In general, windstorm and earthquake catastrophe risks "are areas that underwriters are very sensitive to commit capacity to right now," he said.

J. Hyatt Brown, chairman, president and CEO of Brown & Brown Inc. in Daytona Beach, Fla., said that rates for habitational property—apartments and condominiums—accounts are going up substantially, depending on the loca-

tion, construction type and deductible. The higher risks are going up 30% to 50%, but with lower-risk accounts, rates are increasing about 15%, he said.

"If you have an account that has had some property losses and it's a habitational account and it's along the ocean front from North Carolina through Texas, then you are talking about 50% to 75% increase to no market at all," Mr. Brown said.

Damian Testa, executive vp for Kaye Group Inc. in New York, noted that "windstorm capacity in Florida has dried up a lot. I don't really understand that, because there have been no big hurricanes."

Brokers are in agreement that, in addition to windstorm and earthquake risks, workers comp risks, especially those in California, are being hit very hard this renewal season.

"California work comp is just unbelievable," Mr. Braniff said. Rate increases range from 10% to 100%, he said, noting that lower-end rate hikes are going only to accounts that have histories of purchasing coverage solely from well-regarded insurers, have maintained good loss histories and already sustained rate hikes last year.

Mr. Braniff said that some accounts that insured workers comp risks with troubled Fremont General Corp. will likely take a big hit when they renew with a new company. Fremont and California regulators recently developed a rehabilitation plan for the Santa Monica, Calif.-based insurer (BI, Dec. 11, 2000).

"California comp is just a disaster," because of the introduction of open-rating deregulation in 1995, agreed John Ermlich, vp-risk manager for USI Insurance Services Inc. in San Francisco. Many insurers avoid significant comp exposure in California unless the buyers are in loss-sensitive programs. Even then, Mr. Ermlich said, insurers are still concerned.

"We are seeing spotty prices elsewhere, but California is really in the tank," agreed Charles Ruoff, senior vp and chief marketing officer of Acordia Inc. in Chicago. "A number of companies have dropped out of the playing field."

Even though rates are going up at least 30%, no new insurers have entered the California comp market, he said. "Normally, you would expect more markets to be coming in, but you don't see that. It's because they don't think 30% (rate increases) are enough," Mr. Ruoff said.

Mr. Brown of Brown & Brown remarked that, aside from California workers comp, rates are increasing in the range of 5% to 15%.

"There are some states where work comp is still profitable and may still be depressed 1% to 2%," Mr. Brown said. "New Mexico, for example, is one of those states where prices are still depressed and very competitive. It's not a big state for workers comp," he said, "but it is competitive. Next door, in Arizona, prices are tightening 5% to 15%, which is the national average," he said, noting, though, that "if you get a bad risk, it's a different deal."

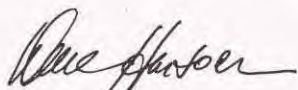
Brokers say that although the market is turning, the change is not reminiscent of the last market downturn.

"This is nowhere near what happened in the mid-'80s," Mr.

See **Brokers** on page 14

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Brokers

Continued from page 12

Mathieson said. "There's too much stability and plenty of capacity."

Lockton's Mr. Hambright said: "We all know that there is still significant policyholder surplus available in the marketplace. In the old days, one talked about capacity and the scarcity of surplus."

Mr. Hambright said that, although there is no lack of surplus, the underwriting community "is less willing to put their surplus at risk in some areas of the marketplace."

"Generally, the market is firming, but I don't think it's as drastic as it was in '85 and '86," said Kaye's Mr. Testa. "I think that there is capacity out there."

Overall, brokers say, risk man-

agers' reactions to the rate increases vary.

Those customers being hit with dramatic rate increases because of

all they typically ask is that communication lines remain open and that there are no surprises, he said. The risk managers want to make

to keep costs down, must explain to their bosses the budget variances from the hikes, "let's just say it's not the best conversation," he said.

The overall firming of the market has renewed risk managers' interest in the alternative market, brokers say.

Aon's Mr. LeStrange pointed out that it is not just large employers that are looking at alternative risk transfer mechanisms today. Clients in the middle market are also taking on more significant levels of risk retention, increasing deductibles or using captives, he said.

"What we're finding is that, now that people that have those mechanisms in place, as the prices increase in the direct insurance market and even the reinsurance market, they are examining very carefully the tradeoffs between risk re-

tention and risk transfer. And most of our clients would have more financial capacity to retain risk than they are currently utilizing," Mr. LeStrange said.

Willis' Mr. Mathieson maintains that clients will consider anything that may keep their costs down. "We're seeing people look at the tradeoffs of higher retentions," he said. They also are "rethinking their capital expenditures from a risk control standpoint," he said.

In addition to increasing retention levels, some risk managers are dusting off dormant captives.

Gallagher's Mr. Braniff said that, recently, the number of clients opting to transfer risk to captives has grown faster than at any other time in the broker's history. Gallagher, he said, has seen a 15% increase in the number of clients in captives, most of which are group captives.

Lockton's Mr. Hambright said he also believes that captives are a popular option today because of the current market, but "a lot depends on who the client is and how sophisticated they are," he said. "If they've been in the business before and stepped out because the marketplace allowed them to do so, they are beginning to step back in."

Acordia's Mr. Ruoff noted that "those that don't have captives, I don't think you are seeing a rush to form new ones yet. As the pricing continues for another cycle, you may find more of that; but right now, we don't see a rush to that arena. But there is some migration of what was in the conventional market moving into existing captives."

In addition to captives, risk managers also are looking with greater interest toward enterprise risk management, according to brokers.

"I think the interest in enterprise risk management is starting to increase," Aon's Mr. LeStrange said. "It was certainly strong before, but with all the pricing changes and coverage issues" emerging in the marketplace, companies—particularly large companies—are taking a closer look at their risk retention and risk transfer strategies, he said.

Willis' Mr. Mathieson said that he, too, is seeing more interest among clients in enterprise risk management. "We're doing a number of consulting assignments to identify all the risks of an organization and to quantify those risks," he said. "We don't necessarily end up in an enterprise risk transfer, but we see a lot more activity analyzing and quantifying risks."

Typically, brokers agree that rate increases will last throughout 2001, but at least one broker sees relief on the horizon, beginning in 2002.

"I think that the marketplace in April is going to be much firmer," said Mr. Testa of Kaye Group. "People will look back at this (renewal period) and say, 'December was not so bad.'" But Mr. Testa said he believes that, by the spring of 2002, risk managers will begin to see some relief. **BI**

'Generally, the market is firming, but I don't think it's as drastic as it was in '85 and '86. I think that there is capacity out there,' says Damian Testa.

poor loss histories "are not happy," Mr. Hambright said. Those with more reasonable increases are a bit more understanding, he said.

"I think it depends on the client," Willis' Mr. Mathieson agreed. For those that have been through the previous hard market,

sure, he said, that the relationships they have built with the insurers are really there.

Then, Mr. Mathieson said, there are those risk managers who have not been through a market change before. When those risk managers, who are under corporate pressure



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Reinsurers

Continued from page 3

The market "continues to show some degree of improvement in terms of pricing...and some more-sensible conditions, but it is certainly nowhere near the type of (hard) markets that existed in the past," said William Munson, chairman and chief executive officer of Toa Reinsurance Co. of America in Morristown, N.J.

"I wouldn't call this a hard market," agreed Paul Davies, chairman of Aon Re Worldwide Inc. in Chicago. "People are grasping at straws if they're calling this a hard market."

Some parts of the reinsurance market are tighter than others, though. Reinsurers' own catastrophe retrocessional programs are

among the most difficult business to place at the end of the year, because capacity dries up and prices for what remains spiral upward.

One problem, market observers point out, is that no ready source of retro capacity has appeared to ease the shortage.

In previous renewal seasons, new retro capacity was offered by Bermuda catastrophe reinsurers, by Lloyd's of London underwriters and by Australian reinsurers. For the most part, those sources no longer exist.

"We're not seeing any Lone Ranger coming to the rescue this time around," said Sean Mooney, senior vp and chief economist with Guy Carpenter & Co. Inc. in New York.

Rate hikes on the retro capacity that is available are about 25% to 30% higher than last year, he said.

As a result, "a lot of people are forgoing traditional retro covers," said Steven Bolland, senior vp with Gill & Roeser Inc. in New York. Instead, these reinsurers are opting for finite risk and other alternative risk retro programs for which capacity is more plentiful.

"Most of the retro buyers have at least some part of their catastrophe purchase as finite, because it's just impossible to place in the traditional market," said Stephen Tirney, president and chief operating officer of PMA Reinsurance Corp. in Philadelphia.

Conditions are tightening—but not nearly as drastically—in the catastrophe reinsurance market.

"We started to see rates improving in the property business in regional-type business beginning in January in the mid-single digits, and that improved a bit in July

and we're seeing even more improvement in the current renewal period," said David R. Robb, president-reinsurance operations for the Hartford Financial Services Group Inc. in Hartford, Conn.

Catastrophe property rates in "loss-free situations" are up 10% to 15% compared to a year ago and "if there are losses, it depends on how much loss," said William J. Adamson, chief executive officer of CNA Re, a unit of CNA Financial Corp. in Chicago.

U.S. insurers with losses on their cat programs could see rate hikes of 30% to 40%, depending on their region and degree of storm loss exposure, Mr. Bolland said.

Even these increases are small compared to those faced by French and other European insurers set upon by winter storm loss-

es a year ago, he noted. Those insurers could see their rates double in their first reinsurance renewal after the Lothar and Martin storms struck in December 1999; at that time, terms already had been set for 2000 reinsurance renewals.

Following the European storms, many ceding insurers found themselves "severely under-reinsured," Mr. Bolland said. "Two storms in two weeks were storms of the century, and you should not get two storms of the century in two weeks."

Thus, not only are prices rising but many European insurers are trying to buy two to three times the reinsurance limits they had before, he said.

"It's not a great year to buy more reinsurance on the catastrophe side," Mr. Bolland said.

Aside from rates, few other terms of property cat coverage are tightening so far, market observers say.

This renewal season is bringing fewer multiyear catastrophe reinsurance contracts, Guy Carpenter's Mr. Mooney noted.

"Reinsurers obviously anticipate that rates will continue to go up and are not wanting to lock in rates at this point," he said.

One or two Lloyd's syndicates are pressing for such restrictions as exclusions for transmission and distribution lines, Mr. Bolland reported.

"In a harder market, they can push their pet peeves," he observed. "Most people are going with the flow."

The relatively light losses enjoyed by U.S. insurers this year will not slow down rate increases for cat coverage, observers agree.

"In the past, if you went through a season like we did, there usually would be price reductions on renewal. That's not taking place," said Mike Schell, president and chief operating officer of the New York-based global reinsurance operations of St. Paul Re, the reinsurance operations of The St. Paul Cos. Inc.

"The lack of U.S. property catastrophe activity has had a minimal impact on the market, whereas the European storms definitely impacted results and thinking," American Re's Mr. Tritton said. "Since property catastrophe reinsurance is a global spread business, a lack of activity in one territory does not necessarily have a major effect."

Both reinsurers and insurers have also become much better in understanding cat exposures and their long-term costs, so they are putting more emphasis on exposure pricing and less on experience pricing, Mr. Schell added.

A key reason for the tightening in catastrophe and other lines, though, is reinsurers' overall poor financial performance over the last several years, observers agree.

"There's still plenty of capacity out there, but the thing that's really turning the rates are the results," PMA Re's Mr. Tirney said. "The year-end reinsurance results are going to be somewhere north of a 112% to 115% (combined ratio). That's driving results—you can't write business at that (level)."

"The big players are much more bottom-line oriented than in the past," said Andreas Beerli, chief executive officer of Swiss Re Reinsurance Co.'s Swiss Re America division in Armonk, N.Y. "We are working very hard to have only business where we expect positive results."

"It seems to me that it took five

See Reinsurers on page 20

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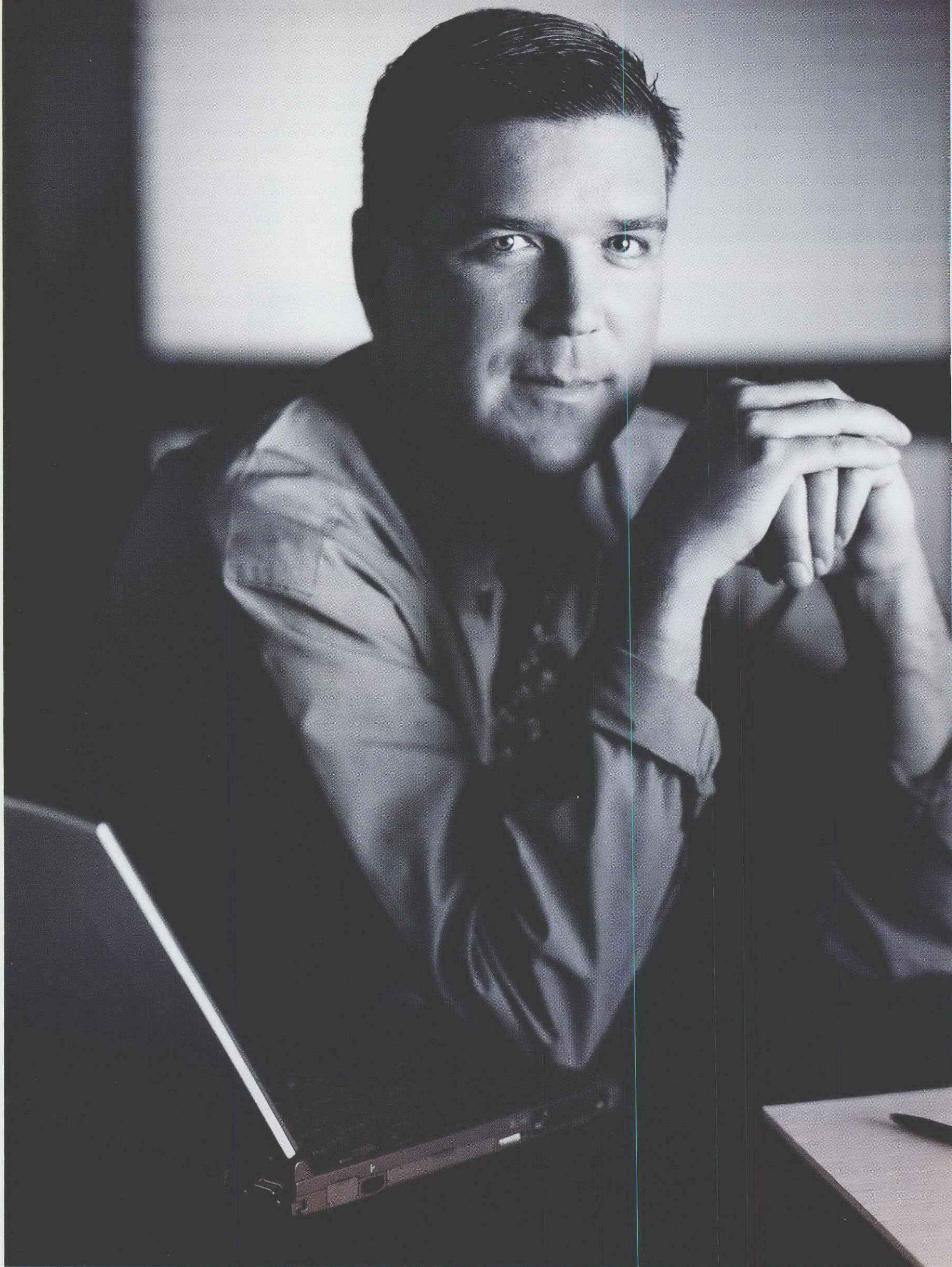


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Reinsurers

Continued from page 16
or more years for pricing to get to the level it was at the end of 1999, and repairing that will not happen all in one year," Mr. Robb said. "So I think this is a two- or three-year time frame for improvement."

Property treaty reinsurance, meanwhile, is heading in the same direction that catastrophe renewals have gone.

Over the last few years, an increasing number of property programs have been reinsured on a proportional basis rather than an excess-of-loss basis, observers note.

Under proportional coverage, reinsurers take a percentage of the ceding company's loss for a

percentage of its premium. Reinsurers have favored these covers because they generate more premiums than do excess covers, though they also expose reinsurers to higher losses.

That trend is now reversing itself, with many reinsurers imposing restrictions on proportional contracts or encouraging cedents to shift to excess contracts.

For example, reinsurers are cutting the amount of ceding commission they will pay insurers for their business and are pushing to increase retentions and reduce the per-occurrence caps on reinsurance payouts, PMA Re's Mr. Tirney said.

Some cedents that balk at these terms are turning instead to excess-of-loss structures, he said.

"There is a significant shift away from proportional busi-

ness," Gill & Roeser's Mr. Bolland said, noting that reinsurers are more likely to use their capacity this year to write excess business.

While this may improve reinsurers' loss experience, it will also have the effect of reducing premium volumes.

"If people are pulling back from proportional, it will be interesting to see what happens with the top-line numbers," Mr. Bolland said. He said he wondered whether reinsurers would try to make up the lost volume by expanding in other lines.

Excess coverage, though, is not dropping in price.

Reinsurers are getting rate hikes of between 8% and 12% for property-per-risk excess contracts that have little or no catastrophe loss exposure, while excess contracts that have produced losses are renewing with hikes of 25% or more, Mr. Tirney said.

Unlike the property reinsurance market, which has been tightening broadly and steadily, the casualty market presents more of a mixed bag, market observers report.

"In the casualty area, workers comp, nonstandard auto and some of the specialty kinds of coverages are seeing a lot more rate firming than standard commercial auto, general liability and umbrella," Hartford's Mr. Robb said.

He noted that though rates for casualty coverage are strengthening, they are not rising as much as are property rates. Mr. Robb estimated the increase at "less than 10%."

Specialty lines program risks, such as nursing home or trucking liability programs, are seeing firming rates for both underlying primary insurance coverage and reinsurance, brokers and reinsurers say.

"We are seeing a lot greater growth in surplus lines companies, because standard companies are starting to push that business out," Aon Re's Mr. Davies said.

Because surplus lines insurers tend to buy more reinsurance than do admitted market insurers, reinsurers may see more of this business than they have in the past, he said.

Mr. Davies added that he has seen instances of "class underwriting" by reinsurers that drop certain categories of business without examining whether poor experience with the class can be turned around.

"They're throwing the baby out with the bath water," he said. "I don't think some reinsurers and some brokers are taking the correct amount of time to visit with ceding companies to see what is being done to correct situations."

Tightening in various casualty lines is contributing to what several observers predict will be a late renewal season.

"My view is you're going to have a December 60th this year," CNA Re's Mr. Adamson joked, "because the casualty business is so log-jammed. There's a mismatch between reinsurers' rate need and clients' willingness to pay."

"It's going to be a long season," Mr. Bolland agreed.

Reinsurers say ceding companies have delayed marketing their programs.

Some cedents, meanwhile, have tried to renew existing proportional coverage, have come up with holes in their programs and are having to consider restructuring the programs with excess-of-loss coverage, Mr. Bolland said.

"I think it's going to drag into January," he said. **BI**



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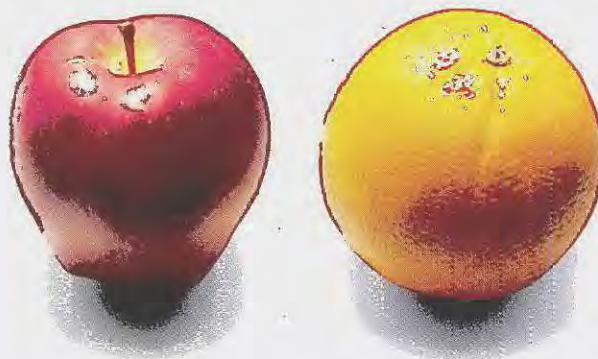
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London market sees rates rise across most lines

By SARAH VEYSEY
and EDWIN UNSWORTH

The London insurance and reinsurance market is seeing rate increases, more or less across the board, at January renewals.

Despite optimism among market participants, however, it likely will take a couple of years of higher pricing before the market can accurately be described as "hard."

Reinsurance rate hikes are greater in frequency and degree than those for primary insurance, which could put a squeeze on some insurers, market sources say.

"Rates are increasing at these renewals, but there is still more work to be done," said Dominic Simpson, senior analyst at Moody's Investors Services in London. "It might not be until 2002 that we can truly talk about a hard market, and there is no guarantee of a profit for Lloyd's for 2001," he said.

Mr. Simpson said that Moody's regarded 1999 as the rock bottom of the soft pricing cycle for London market companies and noted that insurers and reinsurers are reporting significant rate increases for 2001. "Our general feeling is that 1999 was the low point in the cycle, although some classes—such as motor—began to improve before then, because they had to," he said.

"In 2000, rating improvements occurred, but not to a great extent; 2001 rating improvements compared to 2000 will be much more significant

than 2000 compared to 1999," Mr. Simpson predicted.

"Reinsurance is beginning to bite, because people are now having to buy it," said John Eltham, head of special risks at London-based broker Miller Insurance Group Ltd. "Reinsurance rates are increasing pretty much across the board, and capacity is tightening. The increase in certain areas is very severe. It makes for an exciting market."

"Last year, people thought the market would harden and it didn't," said James Geffen, head of reinsurance at Miller. "This year, people were nervous (that rates wouldn't harden enough) because of the overcapitalization in the industry, but the upturn is happening."

"There is an increase in rates and an increase in retentions. This probably means that the (insurers) with the best results are going to be paying a little bit too much premium, but that is better than some who won't be able to get any reinsurance. Some won't survive," Mr. Geffen said. "When direct rates may not be moving at the same rate as reinsurance rates, there is a squeeze."

"The market has turned," said Doug Morton, the newly appointed chief analyst at Lloyd's of London. "One precursor that has been identified over a long period of time—the last 40 years—is that when premium income has been picking up in the Lloyd's market, that is precursor to a turn," he explained. "Premium (volume) was up in 1999 and 2000. Though neither year will be prof-

itable, the signal has been flagged that the turn has come."

The degree of improvement in rates

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varies greatly from class to class, Mr. Morton noted. "Some began to improve some time ago; for example, motor began to change in 1998, and the retrocessional market started picking up (in 2000). The reinsurance market will show a substantial increase this year," he said.

These reinsurance rate hikes could spell trouble for some direct insurers, he warned. "There are attendant problems for buyers (of reinsurance). You can have a problem—because you have to pay 50% more for your reinsurance program, but can you get 50% more premiums on your own business?"

"You have two choices—you can take the squeeze and just pay more for the reinsurance, or you can not buy as much reinsurance. The cupboard is getting a bit bare for some" insurers, Mr. Morton said. "There are fewer reinsurers available and capacity is reducing, which means reinsurers can charge more. The last man standing really does make hay."

Moody's Mr. Simpson agreed that

greatly increased retrocessional rates may cause problems for some direct market players. "There are some encouraging noises coming from players in the market. We are hearing of ratings increases pretty much across the board," he said. "But one problem is that, for 2001, retrocessional rates are increasing more than reinsurance rates, which are, in turn, increasing more than primary rates."

"Some direct players will, potentially, face a squeeze, and, together with increased retention, they could face increased catastrophe exposure," Mr. Simpson warned. Such a situation could cause the hard market to look somewhat different this time around, he said, pointing out that catastrophe exposures were fairly low during the last hard market.

In anticipation of an upturn in pricing, several Lloyd's managing agents have increased their capacity for the 2001 year of account. One such company is Beazley Furlonge Ltd., which is almost doubling its capacity at Lloyd's. "We're going up from £125 million to about £215 million. That really is because we detected, during both 1999 and 2000, a significant uplift in business, and this current increase is to take care of further buoyant market conditions," said Nicholas Furlonge, director and deputy underwriter of Beazley. "In particular, it is the commercial property area and some of our specialty lines areas."

Jonathan Gray, director of Beazley and team leader of its property group, said it was impossible to put price increases into percentage terms. "It is not just rating. Deductible is part of it and also policy conditions," he said. "It is going back to basics. I think it is increased retentions, policy terms are being tightened, rates are going up and deductibles are going up. A lot of quota-share placements are being collapsed into layered programs."

"There is a general upward trend in rates, driven partly by the very poor reinsurance results of the last few years and, also, the scarcity and increasing cost of retrocessional capacity," said Neil Maidment, treaty underwriter at Beazley.

One effect of the rate increases is a

drop in the number of multiyear deals. "There are still a number of multiyear policies in the market, but the market has generally gone back to annual policies," Mr. Maidment said. "We have already seen a number of what were multiyear terms reviewed on an annual basis."

According to Thomas Mahoney, managing director of St. Paul Reinsurance Co. Ltd. in London, it is still too early to tell whether the London market has turned. "The market is better than it has been, but it is not the whole new world some people were expecting," he said. "It is an improving market—but not one for banner headlines saying, 'The market has hardened.'"

Mr. Mahoney said that the retro market had hardened quite considerably, that cat rates had gone up more than some individuals had expected, and that, in general, rates were improving.

He pointed out that the renewal season has been slow and was likely to run on into January and perhaps even February.

"Lots of people in this market are dependent on retro, for which capacity has shrunk considerably and prices have gone way up," Mr. Mahoney said. "So it takes a while for people to quote their retro. And when buyers have seen the conditions, they have been quite shocked and, therefore, they have been slow coming back."

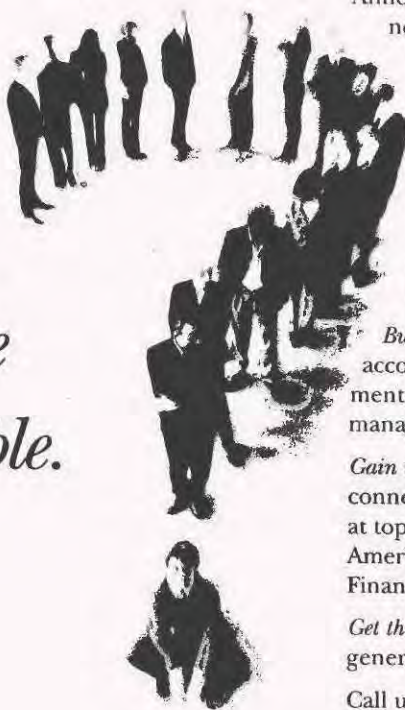
"It is the same with some of the cat programs, where some of the big brokers say it has been very slow. They have been active in getting quotes, but people have been slow getting back to them," he said.

Some are voicing concerns about how the latest generation at Lloyd's of London will respond to changing conditions.

"Many young underwriters have not been through a turn in the market. I'm not sure how significant this is in terms of numbers, but there are some active underwriters who were not in that position six years ago," Mr. Morton said. "One concern is that, not having seen a hard market before, some of the young underwriters might

See London on page 24

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London

Continued from page 22
not have the nerve to push it as far as it could go."

But Mr. Morton said he was confident that the presence of more-experienced underwriters in the market would limit the extent of such a problem. "There is still gray hair in the market," he said.

There will be an increased interest in alternative risk transfer as the London market hardens, experts say.

Chris Mundy, alternative risk transfer practice leader at Marsh Ltd. in London, said that today's market may be seeing double the number of requests for proposal it saw in 1999. "It's been a progressive buildup over the period, because rates have been hardening since 1999 on a progressive basis and there is greater attractiveness in exploring this option."

Mr. Mundy said that many European companies are now seeing the appeal of alternative risk transfer. "Whereas 12 months ago it was the energy sector and U.S. corporations

showing interest, today we are seeing far more interest from European organizations as well," he said.

"Scandinavia, Continental Europe—mainly France, Germany and Spain—all are showing increased activity," Mr. Mundy said. "The proportional increase in European business is even greater, because you are coming from a zero basis 18 months ago."

An increase in reinsurance rates and a change in the make-up of clients will prompt greater interest in alternative risk transfer, said Mr. Morton of Lloyd's. "Consolidation has been

the *mot du jour* for the last eight or nine years in all industries, with the result that (insurers') clients are much-bigger entities," he said.

The real value of many large multinational companies, such as Microsoft Corp. or The Coca-Cola Co., lies not in their physical assets but in their brand, reputation and intellectual property, he said. "Damage to reputation needs to be insured, so the insurance industry has to respond to the fact that its client base is changing."

Mr. Morton said that if alternative

risk transfer, which previously had been fairly expensive, offers an option that will save companies money, the companies will go for it. "But it is now that underwriters need to be commercial and not chase their clients away by charging too high a price," he said.

Mr. Mundy said that most current alternative risk transfer deals involve credit or finite deals. In particular, credit enhancement and credit risk products tend to be the most popular, he said. "And also weather—it is edging towards operational risk." **BI**

Renewal rates up, some sharply, for surplus lines

By MICHAEL PRINCE
and LEE FLETCHER

Surplus lines rates are up—in some cases, increasing by triple-digit percentages at year end.

Following the prolonged softness in the market, rate increases at renewals during the second half of 2000 have become the norm rather than the exception, surplus lines industry executives note.

"There is now a market momentum where there is an expectation upon renewal that the price will go up," said Seth Freudberg, president and chief executive officer of United National Insurance Co. in Bala Cynwyd, Pa.

"Pricing power has returned to the market," said Kevin Kelley, chairman, CEO and president of Lexington Insurance Co., a Boston-based unit of American International Group Inc.

While some classes of business are

seeing rates go up by 10%, others, however, are seeing a doubling or more of their rates at this renewal season, surplus lines insurers and wholesalers said. The amount of increase also depends on loss experience, with rates for the worst risks increasing many times over one with a good loss history.

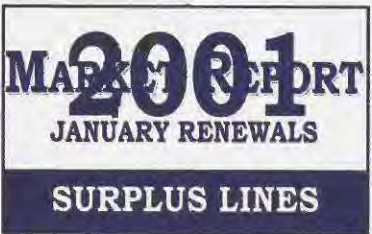
Among the sharpest increases are rates for property risks in catastrophe-prone areas, such as windstorm in Florida and earthquake coverage in California.

Overall, property rates are up about 30%, but rates are even higher in windstorm- and quake-exposed areas, Mr. Kelley said. Part of the increase is because surplus lines and admitted insurers have pulled back from this business and those that continue to write it can push up their rates, he said. Also, the surplus insurers have to pay more for their own catastrophe reinsurance coverage and this forces them to take on less risk and raise

rates.

Furthermore, in recent years there has been a big increase in the value of exposed property in these catastrophe-prone areas, pushing up demand for this coverage, he said.

"The closer you get to salt water, the higher up rates go," said Kevin Brooks, president and CEO of Gener-



al Star Indemnity Co. in Stamford, Conn.

Other areas also are seeing sharp rate increases. "If it has wheels, beds or hammers and nails attached to it," rates are up sharply, said David Har-

toch, chairman of Swett & Crawford Group in Woodland Hills, Calif.

He was referring to liability coverage for transportation, operators of nursing home and assisted living facilities, and construction. Rates in those lines are up between 10% and 100%, Mr. Hartoch said. "The experience has been horrendous," he said.

Liability coverage for general contractors is becoming tight all over the country because of the California Supreme Court's 1995 Montrose decision, according to Mr. Freudberg. The ruling, which allowed policyholders to tap their general liability policies from the time damage begins until the liability is known, has been widely cited in construction defect cases.

"Basically, general liability policies are turning into home warranty policies, but that was not of course intended," Mr. Freudberg said. Renewal rates for contractors liability coverage are "going up in the hundreds of percents, if you can find it at all," he said.

Court awards and settlements involving homebuilders and contractors, particularly in California, have helped push up liability rates.

Overall, casualty rates are not going up as quickly as property and stand about where the property market was a year ago, Mr. Kelley said. At the moment, there are some rate increases with accounts with a poor loss history, but even risks with strong records have seen some rate increases the past six months. In particular, transportation, construction and product liability risks have seen rates up by 15% to 30%, he said.

One of the most extreme examples of rate increases can be seen in the nursing home arena.

"We've seen nursing home professional liability business go up 1,000%. In other words, the quote that is being made is a thousand percent higher than the expiring premium. There is just a societal problem now being cre-

See Surplus on page 26

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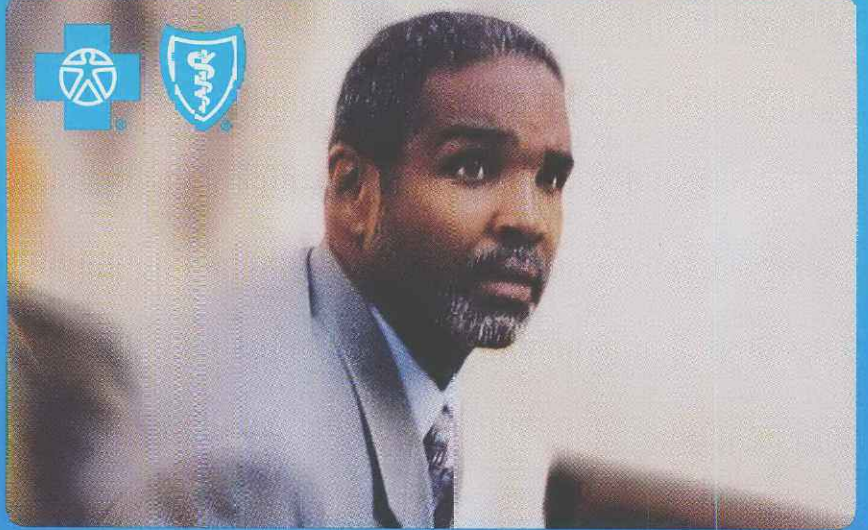
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Surplus

Continued from page 24

ated by a rash of lawsuits against nursing homes—it's very, very serious in Texas and Florida and it absolutely is a spreading issue into other states," Mr. Freudberg said.

Mr. Freudberg acknowledged that renewal rate increase percentages in the hundreds are not abnormal for nursing home risks.

Curt Biersch, president of Sherwood Insurance Services in Woodland Hills, Calif., agreed that rates are soaring for nursing home liability coverage.

"Coverage is in multiples of what it was. There are some that have gone up 50% and others that have gone up 500% or more," he said.

Adds Mr. Kelley, "That market is in crisis."

Other areas are seeing rates go up, but not as sharply as with nursing homes. Property coverage for apartments and condominiums has gone up, said Stephen Connor, president and chief operating officer of Crump Insurance Services in Dallas.

"Habitational has been tough, but the property rating has gone up. The rates on the small to medium-size accounts that were in the 20 to 30 cents property rates, are now into the 40 to 65 cents. The larger accounts are slightly less," he said.

Directors and officers liability coverage is also up. "The D&O for dot-coms on average are up about 20%. For the rest of the marketplace, we're seeing about a 5% to 20% rise," Mr. Biersch said.

Mr. Freudberg said that school-board professional liability pricing

has gone up 10% to 25%. In addition, hospital professional liability is up considerably, particularly in Pennsylvania, he said.

"There is another renewal coming up in January where the renewal will be more than four times the expiring policy for excess hospital professional liability," Mr. Freudberg said.

A few forces have been at work in pushing up rates. First, there has been a pullback by admitted insurers in a number of areas, leaving the surplus market as the main market.

"The lines where the prices are hardening are hardening because the standard markets are getting out of them," Mr. Freudberg said.

Adds R. Max Williamson, president and chief operating officer of Scottsdale Insurance Co. in Scottsdale, Ariz.: "As the admitted market develops their underwriting standards, they probably are omitting owner risks, risks with multiple losses, even the bars, taverns and those types of things. They (the admitted market) are being much more selective."

As admitted insurers pull back, some business coming back to the surplus lines industry includes product liability and general liability for shopping centers, hotels, single-family dwellings and restaurants, according to Mr. Connor.

"Restaurants, especially those with a high percentage of liquor, are coming back. Before, the standards were always writing them," Mr. Connor said, referring to admitted-market insurers.

"Your standard markets are going through and trimming the classes that have been giving them the higher loss ratios," Mr. Connor added.

In addition, surplus insurers have

become more committed to tightening their underwriting standards and lowering their combined ratios.

The past few years saw many insurers with poor financial results, said Mr. Brooks. As a result, many companies have finally realized that they could not consistently have high combined ratios and now are focusing on making underwriting profits. 2000 was considered to be the year where pricing discipline returned to the surplus lines market.

While total capacity in the industry has not changed that dramatically, how it's used has, said Mr. Kelley.

For example, surplus lines insurers are taking on fewer risks and not using their full capacity. "Fear is the overriding emotion right now," he said. Because of the high losses experienced the past few years, "underwriters are afraid to make mistakes," he said.

But not every renewal will see an increase, as pockets of softness still exist, Mr. Connor pointed out. Generally speaking, he said, renewal rates are on the rise. However, "on larger, good accounts, they're doing some as-is renewals."

"In some D&O and especially miscellaneous E&O, it's still a soft market. In some E&O, we're actually getting some reductions," Mr. Connor said.

"Companies are increasing minimum premiums and that's what they're doing in some of the non-profit, smaller D&Os. They're getting 10% to 20% from some markets, but some are renewing as is, if there are no loss ratio problems," Mr. Connor said.

In addition, the employment practices liability insurance market is still soft, he said. "I'm told that there are

too many players," he said.

With the pullback by the admitted market and the collapse of Reliance Group Holdings Inc., many surplus lines insurers are seeing a surge in EPL business. Reliance, which recently sought bankruptcy protection, wrote EPL and professional liability risks through its non-admitted subsidiary, Reliance Insurance Co. of Illinois.

"Our activity is up significantly. New business and a number of quotations and just the basic risk premium are all up nicely," said Mr. Williamson.

"We'll be up about 16% to 18% over the prior year. For 2001, we expect an increase but not to that magnitude," he said.

Sherwood's Mr. Biersch said he has seen business formerly underwritten by Reliance. "We're getting them placed," he said, "but it seems like some of this business is being penalized just because of where it came from."

"It's just an observation, but it almost seems that business coming from somebody like a Reliance is almost assumed to be underpriced, more so than other business," he noted.

This reduction in players has helped push up rates, Mr. Hartoch said. "Where you had three or four companies writing the same product, now there is usually one," he said.

But no matter how high rates have gone, Mr. Freudberg said it might have been worse. Commercial lines deregulation has prevented the market from hardening any further, he said.

"Before, because of regulatory constraints, some lines would have been

forced into the surplus lines market. Now, because of commercial lines deregulation, certain types can simply be repriced by the expiring carrier," he said.

Looking toward the future, no one predicts that rate hikes will slow down.

"What we think is going to happen, in particular on the umbrella and excess casualty lines, is a reduction of capacity resulting in further rate increases," Mr. Biersch said. "We haven't seen anything profound as far as a 2001 renewal quote to indicate that it's a whole new ballgame. I think it's just a continuation of the same" hardening.

Mr. Williamson said the firming market "will continue throughout 2001 and I think it is going to last beyond that."

Mr. Connor agrees. "I believe it's going to continue," he said. "This isn't going to change because Jan. 1 rolls around. Property is worse than casualty. I think a lot has to do with reinsurers."

In addition, "we're seeing tightening in the London marketplace. We're going to be looking for homes for percentages of our businesses that we're not going to be able to keep in the London marketplace," Mr. Connor said.

Rates will continue upward in 2001 as capacity will shrink because reinsurers are cutting their coverage so insurers will have to cut their own risks, Mr. Brooks said.

He said 2000 was a year to get back to basics with underwriting discipline, and "2001 will be the real test to put it all together" and keep that discipline and turn a healthy profit.

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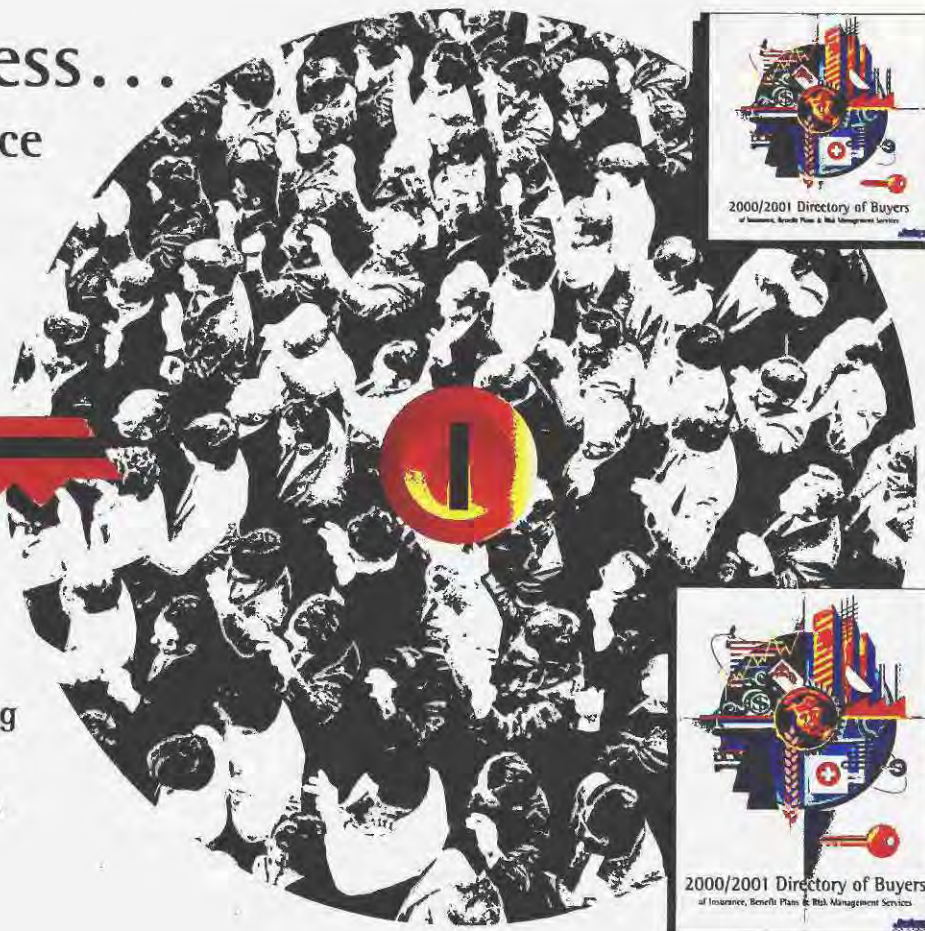


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The following guide lists meetings and events scheduled throughout 2001 that may be of interest to risk managers and employee benefit managers. The list is compiled from national and international notices sent to *Business Insurance* and selected for their interest to readers. This special Datebook section also may be downloaded at www.businessinsurance.com as an 8-1/2 by 11-inch PDF.

Business Insurance's Datebook listing of conferences and events appears in the magazine throughout the year as well as on the Web site. If no fee is listed, organizers have not determined one or fee information was unavailable.

January

JAN. 28-31. Insurance Risk Management Conference in San Antonio, sponsored by American Bankers Assn.; \$795 for members and \$975 for non-members. ABA, P.O. Box 79129, Baltimore, Md. 21279-0129; 800-226-5377; fax: 202-663-0129; www.aba.com.

February

FEB. 2-4. Young Insurance Professionals Annual Conference in Lake Placid, N.Y., sponsored by Professional Insurance Agents of New York; \$225. PIANY, Tiffany Petrikis, 25 Chamberlain St., Glenmont, N.Y. 12077; 800-424-4244; www.piaonline.com.

FEB. 4-7. Third Annual Cyberinsurance Conference in Scottsdale, Ariz., sponsored by Strategic Research Institute; \$1,795. SRI, Jennifer Pierce, 333 Seventh Ave., Ninth Floor, New York, N.Y. 10001; 800-599-4950; www.srinstitute.com.

FEB. 7-9. Alliance of Work/Life Professionals Fifth Annual Conference in Orlando, Fla.; \$695 for members and \$945 for non-members. AWLP, 515 King St., Suite 420, Alexandria, Va. 22314; 800-874-9383.

FEB. 18-21. Professional Insurance Marketing Assn. Annual Meeting in Indian Wells, Calif. PIMA, Tim Cietek, 4733 Bethesda Ave., Suite 330, Bethesda, Md. 20814; www.pima-assn.org.

FEB. 25-MARCH 4. Federation of Insurance & Corporate Counsel Winter Meeting in Tuc-

son, Ariz.; \$595. FICC, Joseph Olshan, 302 Centre Lane, P.O. Box 111, Walpole, Mass. 02081-0111; 508-668-6859; www.thefederation.org.

March

MARCH 7-8. Workers Compensation Research Institute Annual Issues & Research Conference in Cambridge, Mass.; \$495 for members and \$595 for non-members before Feb. 9. WCRI, 995 Massachusetts Ave., Cambridge, Mass. 02139; 617-661-9274.

MARCH 11-14. Commercial Insurance Legislative Summit in Washington, sponsored by Council of Insurance Agents & Brokers and American Insurance Assn.; \$175. CIAB, Paula Karchner, 701 Pennsylvania Ave. N.W., Suite 750, Washington, D.C. 20004-2608; 202-783-4400.

MARCH 19-22. National Managed Health Care Congress in Atlanta, sponsored by the NMHCC; \$1,595. NMHCC, P.O. Box 102713, Atlanta, Ga. 30368-2713; 888-882-2500.

MARCH 24-28. National Assn. of Insurance Commissioners Spring Meeting in Nashville, Tenn.; \$500 before Feb. 21. NAIC, Miriam Henosy, 120 W.

12th St., Kansas City, Mo. 64105; 816-842-3600; www.naic.org.

MARCH 25-27. Financial Institutions Insurance Assn.'s 13th Annual Spring Meeting in Indian Wells, Calif.; financial institutions; \$595 for members and \$985 for non-members, suppliers/service

companies; \$995 for members and \$1,385 for non-members. FIIA; Meetings Department, 21 Tamal Vista Blvd., Suite 125, Corte Madera, Calif. 94925; 415-924-8122; www.fii.org.



MARCH 26-28. Life Office Management Assn. Annual Systems Forum in Las Vegas; \$1,195 for members and \$2,290 for non-members. LOMA, 2300 Windy Bridge Parkway, Suite 600, Atlanta, Ga. 30339-8443; 770-951-1770; www.loma.org.

April

APRIL 8-10. American Assn. of Insurance Services Annual Conference in Las Vegas AAIS, Joe Harrington, 1745 S. Naperville Road, Wheaton, Ill. 60187; 630-681-8347; www.aaisonline.com.

APRIL 18-19. National Council on Compensation Insurance Annual Issues Symposium in Orlando, Fla.; \$575. NCCI, 901 Peninsula Corporate Circle, Boca Raton, Fla. 33487; www.ncci.com.

APRIL 22-25. AMS Users Group 25th Annual Conference in Nashville, Tenn.; \$409 for members and \$509 for non-members. AMSUG, 8615 Freeport Parkway, Suite 250, Irving, Texas 75063; 972-929-8803; www.amsug.org.

APRIL 25. Annual Statement Investment Seminar in Chicago, sponsored by the National Assn. of Insurance Commissioners;

\$195 for government employees and \$295 for others. NAIC, Monica Horvat, 2301 McGee, Suite 800, Kansas City, Mo. 64108; 816-783-8200; www.naic.org.

APRIL 29-May 1. Alliance of American Insurers Annual Meeting in San Francisco, sponsored by Alliance of American Insurers; \$775 for members and \$1,275 for non-members. AAI, Thomas O'Dowd, 3025 Highland Parkway, Suite 800, Downers Grove, Ill. 60515; 630-724-2100; www.allianceai.org.

APRIL 29-MAY 3. The Risk & Insurance Management Society Inc.'s 39th Annual Conference and Exposition in Atlanta; \$745 for members and \$1,045 for non-members. RIMS, 655 Third Ave., New York, N.Y. 10017; 800-713-7467; fax: 212-986-9716; www.rims.org.



May

MAY 10-11. Professional Insurance Wholesalers Assn. of New York Midyear Conference in Pearl River, N.Y. PIWANY, Mike Cocca, 25 Chamberlain St., Glenmont, N.Y. 12077; 800-424-4244; www.piaonline.org.

MAY 20-22. ACORD Technology Conference in Orlando, Fla.; \$475 for ACORD members and \$475 for non-members. ACORD, 1 Blue Hill Plaza, Pearl River, N.Y. 10965; 845-620-1700, ext. 506.

MAY 22-25. National Flood Conference in Minneapolis, sponsored by National Flood Insurance Program; NFIP, 7700 Hobbie Drive, Lanham, Md. 20706; 301-918-1436; www.fema.gov/nfip.

June

JUNE 3-5. Inland Marine Underwriters Assn. Annual Meeting in Keystone, Colo.; \$550. IMUA, Melissa Kalt, 111 Broadway, 15th Floor, New York, N.Y. 10001; 212-233-7958; www.imua.org.

JUNE 3-6. The Insurance Accounting & Systems Assn. Inc.'s Conference and Business Show in San Antonio; \$460 for members and \$920 for non-members. IASA; 919-489-0991; www.iasa.org.

JUNE 4-6. Assn. of Insurance & Risk Managers Conference in Birmingham, England; \$550 for members and \$700 for non-members before Feb. 28. AIRMIC, 6 Lloyd's Ave., London EC3N 3AX, England; 44-207-480-7610; www.airmic.co.uk.

JUNE 9-13. National Assn. of Insurance Commissioners Summer Meeting in San Francisco; \$500 before May 9. Miriam Henosy, NAIC, 120 W. 12th St., Kansas City, Mo. 64105; 816-842-3600; www.naic.org.

JUNE 10-13. Public Risk Management Assn. Conference in Chicago; \$495 for members and \$635 for non-members in government, \$715 for corporate non-members. PRIMA, 1815 N. Fort Myer Drive, Suite 1020, Arlington, Va. 22209; 703-528-7201; www.primacentral.org.

JUNE 10-13. American Assn. of Health Plans Conference in Los Angeles; \$950 for members and \$1,150 for non-members. AAHP,

1129 20th St. N.W., Suite 600, Washington, D.C. 20036; 877-291-2247.

JUNE 10-14. Million Dollar Round Table Meeting in Toronto; \$575. MDRT, Randy Kopcinski, 325 W. Touhy Ave., Park Ridge, Ill. 60608-4265; 847-692-6378; www.mdr.com.

JUNE 19-21. National Insurance Crime Bureau Annual Meeting in Arlington, Va. NICB, May Schuld, 10330 S. Roberts Road, Palos Hills, Ill. 60465; 800-447-6282; www.nicb.org.

JUNE 24-27. Insurance Marketing and Communications Assn. Annual Conference in San Diego; \$695 for members and \$900 for non-members. IMCA, 9710 N. 80th Place, Scottsdale, Ariz. 85258; 425-353-8504.

JUNE 24-27. 53rd Annual Society for Human Resource Management Conference in San Francisco; \$785 for members and \$990 for non-members. SHRM, P.O. Box 79402, Baltimore, Md. 21279-0482; 800-283-7476.

July

JULY 8-11. International Insurance Society Annual Seminar in Vienna, Austria; \$1,850 for members and \$2,150 for non-members. IIS, Colleen McKenna, 101 Murray St., New York, N.Y. 10007; 212-815-9290; www.iisonline.org.

JULY 22. Federation of Insurance & Corporate Counsel Annual Meeting in London. FICC, Joseph Olshan, 302 Centre Lane, P.O. Box 111, Walpole, Mass. 02081-0111; 508-668-6859; www.thefederation.org.

August

AUG. 5-7. Vermont Captive Insurance Assn. Annual Conference in Burlington, Vt.; \$350 for members and \$550 for non-members. VCIA, Diane Leach, 1 Lawson Lane, Fourth Floor, Burlington, Vt. 05401; 802-658-8242; www.captive.com/assoc/vcia.

SEPT. 9-12. National Assn. of Insurers & Financial Advisors Annual Meeting in Salt Lake City. NAIFA, 2901 Telstar Court, Falls Church, Va. 22042-1205; www.naifa.org.

SEPT. 9-12. International Society of Certified Employee Benefits Specialists Conference in See Guide on next page



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More than 400 companies displayed exhibits at the 38th Risk & Insurance Management Society Inc. Annual Conference and Exhibition.

Boston; \$695 for members and \$795 for CEBS graduates and non-members. ISCEBS, P.O. Box 209, Brookfield, Wis. 53008-0209; 262-786-8771; www.iscebs.org.

SEPT. 9-12. 26th Canadian Risk Management Conference in Ottawa, sponsored by the Canadian Risk & Insurance Management Society Inc.; Canadian RIMS, Suite 320, 1000 Center St., N. Calgary T2E7W6, Canada; 403-277-7377.



SEPT. 12-14. National Assn. of Professional Surplus Lines Offices Annual Convention in San Antonio. NAPSLO, 6405 N. Cosby Ave., Suite 201, Kansas City, Mo. 64151; 816-741-3910; www.napslo.org.



SEPT. 21-28. National Safety Council Annual Congress and Exposition in Atlanta. \$300 for members and \$425 for non-members before June 15. NSC; 800-621-7619; www.nsc.org.

SEPT. 22-26. National Assn. of Insurance Commissioners Fall Meeting in Boston; \$500. NAIC, Miriam Hennosy, 120 W. 12th St., Kansas City, Mo. 64105; 816-842-3600; www.naic.org.

SEPT. 23-26. National Assn. of Mutual Insurance Cos. Annual Convention in Washington. NAMIC, Larry Baile, P.O. Box 68700, Indianapolis, Ind. 46268; 317-875-5250.

October

OCT. 2-5. Self Insurance Institute of America Inc.'s National Conference and Exposition in Chicago. SIIA, P.O. Box 15466, Santa Ana, Calif. 92735; 800-851-7789.

OCT. 6-10. Insurance Leadership Forum in White Sulphur

Springs, W.Va., sponsored by the Council of Insurance Agents & Brokers/Council of Insurance Company Executives; \$950. CIAB, 701 Pennsylvania Ave. N.W., Suite 750, Washington, D.C. 20004-2608; 202-783-4400.

OCT. 7-9. International Foundation of Employee Benefit Plans Annual Conference and Exhibi-



tion in San Francisco. \$795 before Aug. 22. IFEBP, Stacey Van Alstyne, 18700 W. Bluemound Road, P.O. Box 69, Brookfield, Wis. 53008-0069; 262-786-6700; www.ifebp.org.

OCT. 22-24. Ninth Annual Business Insurance Workers Compensation and Disability Management Conference in San

Diego, sponsored by *Business Insurance* and International Business Forum. IBF, 100 Merri- c Rick Road, Suite 500, West Building, Rockville Centre, N.Y. 11570; 516-594-3000.

OCT. 24-27. Applied Systems Client Network Annual Education Conference in Orlando, Fla. ASCNET, 801 Douglas Ave., Suite 205, Altamonte Springs, Fla. 32714; 407-869-0404; www.ascnet.org.

OCT. 27-30. Independent Insurance Agents of America Annual Conference in Honolulu; \$399 for agents and \$545 for others. IIAA, 127 S. Peyton St., Alexandria, Va. 22314; 800-221-7917.



OCT. 28-NOV.1. American Society for Healthcare Risk Management Annual Conference in Boston. \$575 for members and \$730 for non-members. ASHRM, 1 N. Franklin, Chicago, Ill. 60606; 312-422-3980; www.ashrm.org.

OCT. 29-NOV. 1. Annual Construction Insurance Conference in New Orleans, sponsored by International Risk Management Institute Inc.; \$1,050. IRMI, 12222 Merit Drive, Suite 1450, Dallas, Texas 75251-2276; 800-827-4242.

November

NOV. 3-7. Health Insurance Assn. of America Annual Forum in Orlando, Fla. HIAA, 555 13th St. N.W., Washington, D.C. 20004; 202-824-1600; www.hiaa.com.

NOV. 4-7. National Assn. of Independent Insurers Annual Meeting in New Orleans. NAII, 2600 River Road, Des Plaines, Ill. 60018-3286; 847-297-7800.

NOV. 11-14. Society of Insur-

ance Research Annual Conference in St. Pete Beach, Fla. Stan Hopp, 691 Crossfire Ridge, Marietta, Ga. 30064; 770-426-9270.

International Foundation OF EMPLOYEE BENEFIT PLANS



NOV. 12-13. Corporate Benefits Conference in Tucson, Ariz., sponsored by International Foundation of Employee Benefit Plans and Council on Employee Benefits; \$540 for IFEBP/CEB members and \$640 for non-members. 888-334-3327.

NOV. 12-14. 11th Annual World Captive and Alternative Risk Financing Forum in Palm Beach Gardens, Fla., produced by *Business Insurance*, Skandia/SINER and Tillinghast-Towers Perrin; \$975 for risk managers and \$1,250 for others. Tina Gassman,

4248 Park Glen Road, Minneapolis, Minn. 55416; 800-845-0778.

NOV. 14-16. Professional Liability Underwriting Society Conference in Chicago. PLUS Conference, 4248 Park Glen Road, Minneapolis, Minn. 55416; 800-845-0778.

NOV. 19-22. Assn. of Risk & Insurance Managers of Australasia Conference in Sydney, Australia. Intermedia Convention & Event Management, P.O. Box 1280, Milton, Queensland, 4064 Australia; 61-7-3369-0477; fax: 61-7-3369-1512; www.airma.com.au.

December

DEC. 8-12. National Assn. of Insurance Commissioners Winter Meeting in Chicago; \$500. NAIC, Miriam Hennosy, 120 W. 12th St., Kansas City, Mo. 64105; 816-842-3600; www.naic.org.

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April 30
Captive Managers
May 28
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June 25
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July 16
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July 30
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August 13
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September 3
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September 10
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INTERNATIONAL

GLOBAL BRIEFS

Global airline premiums are set to rise to between \$1.7 billion and \$1.8 billion for 2001, up from an estimated \$1.2 billion to \$1.3 billion in 2000, according to aviation loss adjuster Airclaims Ltd. In its latest bulletin, Airclaims described 2000 as "not a bad year" and noted that, after 1999, the safest year ever, 2000 marked a return to the average. Major passenger liability losses totaled \$735 million in 2000, it said, and major hull losses on Western-built jets totaled an estimated \$848 million, the third-worst year ever....The need to consider country-specific risks when rating insurance companies has increased in recent years, according to Moody's Investors Service Ltd. in London. Moody's said that, as companies have expanded outside their domestic markets, the importance of taking into account the operating environment of overseas markets has grown....**Marine strike claims** continued to run above average in both number and size in 2000, reported the Strike Club, the London-based marine strike and delay insurance coverage specialist. The protection and indemnity club described the strike claims environment as unhealthy and pointed out that it had paid claims following strikes at about 140 ports during the 2000/2001 underwriting year. The club announced its directors had decided upon a 10% general increase in advance call rates before adjustment for individual claims experience. The club also pointed out that many shipowners in large mutual P&I clubs were facing premium increases of up to 10% and that, while increases in marine insurance rates remained patchy, rises of 10% to 50% had been noted....John Kavanaugh has been appointed chief executive officer of the London branch of **Houston Casualty Co.**, known as HCL, a subsidiary of Houston-based HCC Insurance Holdings Inc. Mr. Kavanaugh will also become an adviser to the HCC board of directors. He replaces Mark Donald, who has retired for personal reasons. Mr. Kavanaugh recently retired as deputy chairman of London-based Aon U.K. Holdings....**New rail safety regulations** came into force in the United Kingdom last week. Under the new rules, drawn up following the October 1999 Paddington rail disaster, train operators will have to present a detailed health and safety plan for approval by the U.K. Health and Safety Executive....**Wellington Underwriting Inc.** in Hartford, Conn., the U.S. subsidiary of Lloyd's managing agency Wellington Underwriting P.L.C., has appointed Stanley Knott as CEO. Mr. Knott has been executive vp and director of Wellington since 1999....**Paris-based Compagnie de Reassurance d'Ile de France** has announced the closing of its London branch office. Corifrance is a division of Markel Group....**Standard & Poor's Corp.** has assigned an AA+ long-term counterparty credit and insurer financial strength rating to Dutch reinsurer **ING Re (Netherlands) N.V.** ING Re is a wholly owned subsidiary of the Dutch financial services company ING and was set up as the intergroup reinsurer and to provide support to other reinsurers within the ING group....**London-based United Insurance Brokers Ltd.** has appointed Nick Vine a director of the board. Mr. Vine is head of the aviation division of the Lloyd's broker. He joined UIB three years ago from Aon Aviation, where he was an executive director....The first broker has signed on with the **LPSO Service Centre**, the new venture set up by Lloyd's Policy Signing Office. London-based Mar Risk Services Ltd. joined the new venture when it began operations last week. LPSO Service Centre offers back-office administration services, including risk recording, policy administration, management of premium and claim payments and claims administration.

Europe employs flex benefits

Share ownership, defined contribution pensions, family programs increase

By CAROLYN ALDRED

European employers, like those in the United States, are turning to flexible benefits, employee stock options and other programs aimed to meet the needs of a changing workforce, benefit consultants say.

Companies in Europe are reviewing benefit packages as competition for workers remains high and employees are increasingly mobile.

"Many organizations are looking at changing their benefit plans," according to Jon Weston, a consultant with Hewitt Associates Ltd., in St. Albans, Hertfordshire.

The main drivers for change in the European Union, identified by Mr. Weston, are:

- Steady economic growth.
- Low inflation.
- Skills shortages.
- Changing demographics, including an aging population.
- More competition for labor.
- A more-competitive European market.
- A more-competitive global marketplace.

- More part-time and freelance workers.
- More women workers.
- National and European Commission legislation on pensions and other benefits.

"Because of the changes going on, it's the right time now for companies to redefine their strategies to recruit, motivate and reward employees. There are great opportunities to rebalance benefits," said Mr. Weston.

Flexible benefits are one approach more companies are adopting, he said.

U.K. employers, as do companies in the United States, are offering their employees a menu of benefit options to choose according to their needs. In the United Kingdom, such flex benefits may include child care, stock ownership plans, learning and development, vacation, cars and computers.

Smaller companies originally led the way on flexible benefits, but flex plans now are being offered by large companies, too, led by those industries that suffer competition for talent, such as information technology, financial, media and the pharmaceutical sectors, he said.

"Flexible benefits are increasing significantly," Mr. Weston noted.

Other benefit consultants agree. Many employers are considering offering flexible benefits to their staff, according to a survey of British companies conducted by Gissings Ltd. in London.

"Too often, companies will offer their staff benefits that they do not want or value as highly as others. Employers need to find out what their employees want and tailor the benefits they offer accordingly. Employees cannot be treated as one homogeneous group, and good employers are increasingly going to want to fit benefits around the requirements of each of their individual employees," said Andrew Dawson, Gissings' managing director.

Hay Management Consultants also found in their most-recent benefit trends survey that U.K. companies are increasingly allowing flexible benefits, with 68% of organizations surveyed providing employees with choices concerning levels or types of benefit.

See Benefits on page 30

High court upholds law firm fraud exclusion

By DAMIEN TOMLINSON

SYDNEY, Australia—A recent ruling by Australia's High Court in a multimillion-dollar professional liability coverage dispute underscores the need for risk management among professional firms.

Australia's High Court—the equivalent of the U.S. Supreme Court—delivered a judgment on Dec. 14 that will see Sydney-based law firm Allen Allen & Hemsley's partners bearing the \$20 million Australian (\$11.1 million) in losses that resulted from the fraudulent dealings of a former managing partner in the firm's London office.

At the time of the loss, the law firm had sought indemnity from its insurers—Switzerland Insurance Australia Ltd., AMP General Insurance Ltd. and GIO Australia Holdings Ltd.—with which the firm held multilayer professional indemnity policies. But four of the five High Court judges ruled that a fraud exclusion in the policies meant the insurers did not have to indemnify the firm.

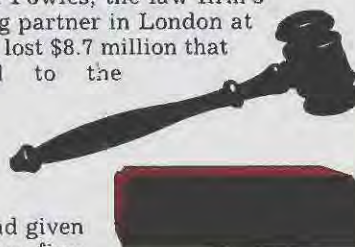
The 65 partners who were at Allen Allen & Hemsley in 1992, when the dealings oc-

curred, now must bear the losses, which a spokesman for Allen Allen & Hemsley said had already been repaid to the Nauru Phosphate Royalties Trust. The NPRT is a statutory trust fund organized by the tiny island nation of the Republic of Nauru, a former United Nations trust territory located in the western Pacific Ocean.

Adrian Powles, the law firm's managing partner in London at the time, lost \$8.7 million that belonged to the NPRT. The money, which the NPRT had given to the law firm to invest, disappeared in a series of tangled transactions in the Swiss banking system.

Mr. Powles sought not only to make profits for his clients but also to obtain secret commissions for himself, the High Court found.

In 1998, the New South Wales Supreme See Fraud on page 31



Plaintiffs firm must pay Counsel assessed costs in 'hopeless' class action

By DAMIEN TOMLINSON

SYDNEY, Australia—In a landmark judgment by an Australian federal court, a judge has ordered a law firm to pay the court costs for a failed class-action lawsuit, which the court described as being "hopeless" and "doomed to fail."

Typically, under Australian federal law, the plaintiff in a group proceeding pays the court costs from failed proceedings. This ruling is the first in which a plaintiffs law firm has been ordered to pay costs.

The Sydney-based law firm Coleman & Greig launched the class action in the Federal Court of Australia last February against Pasminco Ltd., a publicly traded mining company based in Melbourne, Australia. Coleman & Greig claimed that 1,000 residents and ex-residents living near Pasminco's zinc smelters in Cockle Creek, New South Wales, and Port Pirie, South Australia, had been made ill by lead emissions (BI, Aug. 21).

Last May, the court rejected Coleman & Greig's suit, which the law firm, in an at-

tempt to find a federal jurisdictional claim, brought under Australia's Trade Practices Act 1974. That act makes it illegal for a corporation to supply defective goods.

Coleman & Greig had argued the emissions were goods manufactured by Pasminco and supplied to the plaintiffs and that the plaintiffs were injured because the emissions were defective. The claimants said the emissions were "defective goods."

Pasminco argued the emissions did not constitute "goods," had been neither "manufactured" nor "supplied" by Pasminco, and were not "defective," according to court papers.

After the ruling, Pasminco sought a costs order in federal court against the law firm rather than the members of the class. David Lambert, Pasminco general counsel, said the company sought to recover costs from the law firm rather than the plaintiffs because the firm had pursued the action "even though the likelihood of it proceeding in the federal court was re-

See Costs on page 31

Judge denies request for Jaffray appeal

LONDON—Lloyd's of London names who had hoped to appeal the verdict in the *Jaffray vs. Lloyd's* fraud case have been dealt a blow by the judge in the case.

At a Dec. 21 hearing, Mr. Justice Cresswell, the presiding judge, denied the 216 names permission to appeal. He gave the names 21 working days to seek a reversal of that decision in the appeal courts.

Mr. Justice Cresswell reiterated his desire to see an end to a decade of asbestos-related litigation against Lloyd's. Last October, he ruled that senior figures at Lloyd's in the 1980s were innocent of making fraudulent representations to the plaintiffs regarding the extent of imminent asbestosis losses (BI, Nov. 6, 2000).

The litigant names had hoped to appeal the *Jaffray* verdict on the grounds that Article 14 of the Lloyd's Act of 1982 is contrary to their human rights under the newly signed European Convention on Human Rights. Under that provision, Lloyd's cannot be sued for gross negligence.

At the hearing, Lloyd's presented the court with a settlement plan for both the *Jaffray* names and all other names who refused the 1996 reconstruction and renewal plan and still have outstanding liabilities at Lloyd's.

Under the plan, names would be required to pay 35% of their outstanding liabilities. A 5% discount would be made available to names who had suffered especially high losses. Names who were party to the *Jaffray* case would be required to pay £25,000 (\$37,250) to settle Lloyd's court costs; those names who were involved in court-cost orders arising from other legal actions worldwide also would receive settlement offers.

A spokesman said that Lloyd's will contact all affected names worldwide in January with details of the plan, which names will have one month to accept or reject. Lloyd's said it would begin debt enforcement proceedings against names who reject the offer.

Lloyd's also said it would set up a panel to assess names' requests for assistance in settling. Such a panel was one of the suggestions made by Mr. Justice Cresswell in handing down his verdict in October. Lloyd's said details of the panel would be finalized shortly.

—By Sarah Veysey

Benefits

Continued from previous page

"It should matter little to the employer whether the money it spends goes for pay, pension or other benefits. There is a strong case that employers can maximize their return on total remuneration costs by allowing individuals flexibility in deciding how they will receive the money that the employer is prepared to spend on their behalf," according to a William M. Mercer Inc. benefit guide.

Employers now are looking to "get value from every euro spent" on pay and benefits, agreed Mr. Weston.

Many companies have adopted flexible benefit plans to integrate staff benefits following mergers and acquisitions. And flexible benefits are suitable for pan-European and multinational companies, where differing benefits may be required from country to country, consultants point out.

Another trend highlighted by benefit consultants is an increasing move toward employee share ownership and profit-driven bonuses.

"The linking of elements of employees' remuneration to their company's financial performance, through profit-related pay and share schemes, is

gradually becoming more widespread and is increasing to the extent that people are now sharing their employer's risk," according to a Hay statement.

The consulting firm noted that 53% of the 136 U.K. industrial and service organizations surveyed in its annual survey of employee benefits in 2000 offered "some kind of long-term incentive scheme."

Employee share ownership is increasing, encouraged by both employers and governments, Mr. Weston said.

In the United Kingdom, the government is introducing a new, highly tax-efficient All Employee Share Ownership Plan, to encourage employees to hold company shares.

Mr. Weston believes the government's move is a "huge opportunity for companies to rebalance compensation programs to promote the performance and ownership culture and to improve employee engagement."

He advises all employers to "at least review the design and implementation of employee share ownership programs."

Meanwhile, in France, "share plans are really expanding at an enormous rate," said Mr. Weston, noting that a lot of Hewitt's work in France involves share ownership plans.

Employees across Europe, meanwhile, are taking on greater risk and responsibility for their pensions, with a trend away from defined benefit and final salary related pension plans, consultants agree.

Substantial growth in part-time, casual employment and greater job mobility has led to a move away from defined benefit, or final pay plans, to defined contribution pension plans, according to Mercer, which predicts that most European countries will see an increase in the percentage of defined contribution pension plans by 2003.

Many U.K. companies have introduced defined contribution pension plans to replace traditional final salary related plans to reduce and control costs, said Mr. Weston, adding that most company plans started in the last decade have been defined contribution—or money purchase—plans.

"Employers are increasingly moving away from final salary pension schemes to money purchase schemes, which involve employees bearing the investment risk," according to Hay.

Hay found that 78% of organizations it surveyed in 2000 operate a final salary pension plan, compared with 98% in 1990, while the percentage operating a defined contribution plan has doubled in the last 10 years to

22% in 2000, compared with 11% in 1990.

A more worrying trend is the lack of new occupational pension plans being started at all, said a spokesman for the National Assn. of Pension Funds in London. "Very few new schemes are being set up, and those...are mainly money purchase schemes," he said.

This trend, along with an aging European population putting an increased strain on countries providing state pensions, has led several governments to introduce legislation or tax incentives to encourage employees to make their own provisions.

In Germany, where most employees are members of occupational pension plans, the government is introducing tax incentives to increase the number of employer pension plans and to encourage employees to take out life insurance, following a recent reduction in occupational pension plans, said Juergen Siemens, an employment lawyer with Hamburg law firm CMS Hasche Sigle Eschenlohr Peltzer Schafer.

The U.K. government is introducing new legislation to encourage employees to take out their own pension plans, known as stakeholder pensions. Under the legislation, employers must provide employees with access to such

a pension and employers may contribute to an employee's stakeholder pension.

NAPF believes the stakeholder pension provisions will "exacerbate the decline in occupational pensions if all employers have to do is provide access to a pension rather than a company pension plan," said the spokesman.

Other employee benefit trends identified by Hay in its 26th annual survey include an increase in the number of organizations offering stress counseling in the last nine years—to 53% in 2000, compared with 18% in 1991.

More companies are also offering benefits such as child care facilities, sabbatical leave and work-at-home programs to help employees balance their professional and personal lives. Child care facilities are now offered by 17% of companies, compared with just 2% in 1990, and 26% offer sabbatical leave, compared with 18% in 1990. Meanwhile, the number of companies permitting employees to work from home has increased to 65% from 39% in the last five years, the Hay survey showed.

Full copies of the report are available only to survey participants, but a summary is available online at www.haygroup.co.uk.

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IN THE MATTER OF THE REHABILITATION OF
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No. 87 CH 8615

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INTERNATIONAL

Costs

Continued from page 29
note."

Federal Court Judge Kevin Lindgren, delivering his judgment on Dec. 12, said the case involved "two important and valued features" of the legal system.

"First, lawyers must be at liberty, without fear of intimidation, to undertake cases that appear to have little prospect of success," he said.

"Second," Judge Lindgren said, "lawyers must not commence a proceeding irresponsibly, in particular, without...consideration of the question of whether the proceeding has any prospect of success at all."

Judge Lindgren said Coleman & Greig should pay Pasminco's legal costs, because the law firm "gave no consideration...to the question whether the federal claim had any prospect of success at all. If they had done so, they would have appreciated that it had none."

"Although I am making an order that the (plaintiffs) solicitors pay Pasminco's costs, the circumstances are extraordinary and are of a kind unlikely to recur," the judge said. "Solicitors remain free to undertake risky litigation, whether of a class-action kind or otherwise."

Coleman & Greig partner Paul Gambin said the firm expected to pay only \$10,000 Australian (\$5,588) as a result of the judgment. Mr. Gambin said the court held that, because the lawsuit's likely demise was "immediately obvious," the extensive legal team assembled by Pasminco was "unreasonable."

Following the dismissal in feder-

al court, Coleman & Greig filed the class action in the Victorian Supreme Court in November, arguing that Pasminco was negligent and failed its duty of care. Pasminco applied to have the suit dismissed on the grounds that the class members, being from different states, had not experienced similar circumstances and, therefore, could not be part of the same class in a suit brought in state court. The Victorian Supreme Court on Dec. 15 ruled in favor of Pasminco.

'Threats of cost sanctions are becoming more and more routine...in Australia,' says Peter Cashman.

Class-action proceedings were introduced when the Federal Court Act was amended in 1991.

Peter Cashman, president of the Sydney-based Australian Plaintiff Lawyers' Assn., said the federal court's decision to force plaintiffs attorneys to bear the court costs in the Pasminco case may have implications for Australia's legal system.

Mr. Cashman said the decision could encourage companies to use threats of similar actions in the hope of smothering legal proceedings against them.

"Threats of costs sanctions are becoming more and more routine in legal proceedings in Australia," he said, adding that the tactic could "scare lawyers away" from initiating legal action.

ing legal action.

Pasminco's Mr. Lambert said the mining company "accepts it has responsibilities in relation to the environment and community health wherever it operates," but a class-action suit was not the appropriate way to deal with the claimants' issues. People who believed they were injured should have approached the company individually, he said.

Bruce Ferguson, president of the Sydney-based Assn. of Risk & Insurance Managers of Australasia, welcomed the federal court decision to make Coleman & Greig pay Pasminco's costs.

Mr. Ferguson said the decision should prompt plaintiffs law firms to consider the merits of their arguments more closely before "rushing to the courts."

"What (plaintiffs law firms) do not consider is the fact that these actions force insurance premiums up and increase product manufacturers' costs," he said. "The consumer is the one who loses in the long run, through higher prices."

Mr. Ferguson said risk managers appreciate that consumers need an avenue for redress if they are injured by faulty products, but the increasing tendency among plaintiffs law firms to embark on class actions is not the best way to resolve complaints.

"Court action should be a last resort, if negotiations on settlements fail. Instead, we are seeing plaintiff law firms launching court actions before they even have a chance to amass all the evidence and ascertain whether there is a legitimate case to answer," he said. "It is time for sanity to prevail." **BI**

Fraud

Continued from page 29

Court ruled that the insurers were liable for \$20 million Australian—including interest and court costs—which the firm paid in 1996 to the Republic of Nauru to settle a 1995 British High Court case over the loss.

The insurers appealed the New South Wales Supreme Court's ruling, citing a dishonesty exclusion in the policies. In 1999, the New South Wales Court of Appeal overturned the Supreme Court ruling.

Allen Allen & Hemsley then sought leave to appeal to Australia's High Court. Leave was granted, and the case was heard last August, with judgment reserved until Dec. 14.

Tim Price, a partner with Sydney-based Phillips Fox Lawyers, represented the insurers. Mr. Price said the High Court ruling was important for insurers because of the implications for professional indemnity policies if the Supreme Court's original judgment had stood.

"Policies such as the one Allen Allen & Hemsley had in place are not intended to cover the dishonesty of partners such as Mr. Powles," he said.

"If the original judgment in favor of Allen Allen & Hemsley had been left to stand, it would have extended the scope of cover well beyond innocent mistakes, to include dishonest conduct," Mr. Price said. "This would have meant insurers who thought they had only insured liability for innocent conduct would have been paying for losses caused

by dishonesty and fraud, an outcome which they never intended."

Mr. Price said the law firm had failed to detect Mr. Powles' fraudulent activities, which were made public in 1992.

"This case has classic risk management lessons. The Powles affair has already caused many larger law firms to look at their internal controls and the issue of partner accountability," Mr. Price said.

Allen Allen & Hemsley had initially included its broker, which it would not name, in the New South Wales Supreme Court action, claiming the broker should have advised the firm of the availability of policies to cover innocent partners.

The broker settled out of court before the hearing, paying Allen Allen & Hemsley \$5 million Australian (\$2.7 million), Mr. Price said.

"Every professional and their broker (should) take a long, hard look at their insurance arrangements and consider whether they have appropriate and sufficient insurance cover for all the risks of professional life," Mr. Price said.

An Allen Allen & Hemsley spokesman said the law firm "accepted the judgment unreservedly, and we feel this is the end of the matter now."

He said Mr. Powles had been a long-standing member of the firm before the loss occurred, and the firm would not take action against him to seek reimbursement of the loss.

"Since this case began, we have implemented world-class risk management procedures. This won't happen again," the law firm's spokesman said. **BI**

Autos

Continued from page 1

mand for it," Mr. Westerman said.

He said AutoConcierge serves a dual purpose, meeting the needs of both employees and employers.

"It not only helps the employee as a timesaver and a time/life balance tool, it also is a great productivity tool to the employer who knows that employees now can get that (auto) work done at work," Mr. Westerman said.

Launched in October of 1998, AutoConcierge currently provides services to companies in Chicago, Los Angeles, San Diego and the San Francisco Bay area. AutoConcierge charges \$40 per year for each employee enrolled, and those costs are generally paid by the employer, Mr. Westerman said.

The yearly fee covers the basic services provided by AutoConcierge; it does not cover the cost of services provided by mechanics and vendors. "We sell time. Any cost of service is extra," Mr. Westerman said.

AutoConcierge will pick up a vehicle in need of maintenance and then return the car and bill the employee once the work is complete. The company also offers temporary transportation services, including arranging short-term leases and car rental. In addition, AutoConcierge provides information to car owners, including recall notices and service reminders.

Another service the company provides is assistance with buying and selling vehicles. "If you're buying a car, we'll come in, do an assessment, do the research" and assist with "haggling and negotiating" with the car dealer, Mr. Westerman said.

According to Dawn Di Leo, a consultant with William M. Mercer Inc. in Chicago, such services hold strong appeal for employees. "Employees will value concierge services that allow them access to services that they do not want to perform themselves," she said, noting that, in particular, em-

ployees will value the convenience of not needing to take time away from work to deal with automotive maintenance.

"People are going to spend money on their cars because they have to, and anybody who helps them do that more easily...that's going to be viewed as high-value," Ms. Di Leo said.

Offering new types of benefits is a way for employers to differentiate themselves in the competition for employees. Although the economy has cooled somewhat, there will continue to be a labor shortage in certain areas, Ms. Di Leo said. As a result, recruiting and retaining talented employees will continue to be a challenge for employers, and offering attractive benefit packages—including creative discretionary benefits—will remain important.

Ford has taken its core competency and wrapped it around a set of services that are different and unusual as a benefit, according to Helen Darling, senior benefit consultant with Watson Wyatt Worldwide in Stamford, Conn.

Ms. Darling said that with any downturn in the economy, employers may become less interested in being "supercreative" with benefits.

Even so, she said, there will continue to be a need for novel benefit offerings in the war for talent, she said.

Mr. Westerman said he is confident that AutoConcierge's appeal will survive any downturn in the economy.

"The average household has over two vehicles, so we know that the automobile plays a big role in people's lives. Not only is it a benefit to entice an employee to come in and work for that company, it's also a productivity tool. People need their vehicles to drive to work—and vehicles inevitably break down," he said.

About 30,000 people currently use AutoConcierge. Most are enrolled through their employers, though the service is also available through building and parking garage owners, Mr. Westerman said. **BI**

New pollution exposure seen

LOS ANGELES—The record settlement of a Superfund liability case underscores the caution that general liability insurance policyholders must take in accounting for potential natural resources damages when settling with insurers, a policyholder attorney says.

Under a Dec. 19, 2000, settlement with several California and federal agencies, four companies have agreed to pay a total of \$73 million to clean up contamination from the pesticide DDT and restore the ocean environment off the Los Angeles coast.

At least \$30 million of the settlement has been earmarked for costs related to restoring natural resources in the affected area. That is the largest amount that polluters have ever agreed to pay to restore natural resources damaged by a pollution incident that did not involve an oil spill, according to the U.S. Department of Justice. The remaining \$43 million would be used to pay for cleanup efforts.

The companies that agreed to the settlement are Montrose Chemical Corp. of California in Los Angeles; Aventis CropScience USA Inc. of Collegeville, Pa.; Chris-Craft Industries Inc. of New York; and Atkemix Thirty-Seven Inc., a subsidiary of Wilmington, Del.-based Stauffer Management Co.

All four companies at some point either operated a DDT manufacturing plant in Los Angeles County that caused the pollution or owned the property. Montrose once was a leading manufacturer of DDT, or dichloro-diphenyl trichloroethane. The pesticide has been banned in the United States since 1972.

For decades beginning in 1947, the plant discharged hundreds of tons of DDT or DDT-contaminated waste

into the Pacific Ocean, either directly or through the Los Angeles sewer system, according to the Department of Justice. The dumping contaminated a 17-square-mile layer of sediment on the Palos Verdes shelf, an area of ocean floor off the Los Angeles coast.

DDT remains in the environment for years and can cause reproduction problems in fish and birds, the Department of Justice maintains. But Montrose attorneys had argued that no evidence has shown that the DDT has substantially harmed the environment and that new scientific research shows that the pesticide biodegrades if left undisturbed on the ocean floor.

The portion of the cleanup settlement relating to the harm caused to natural resources confirms policyholders' fears that such legal damages will form the next wave of huge pollution-related liabilities, said policyholder attorney Finley Harckham, a partner with Anderson Kill & Olick P.C. of New York.

Natural resource claims tend to lag substantially behind pollution cleanup claims, he noted. Consequently, policyholders that settle with their insurers for cleanup costs also should factor in the potential liability for natural resource damages before releasing the insurers from further liability, he advised.

Indeed, Mr. Harckham said, natural resource damages should be recoverable even in jurisdictions where case law precludes policyholders from recovering pollution cleanup costs from insurers.

Attorneys involved in the case either did not return calls or would not comment on whether insurance would cover any part of the settlement.

Over the past decade, however,

the case has spawned substantial California case law that has allowed Montrose to clear some important coverage hurdles, said attorneys who are not involved in the case. Those attorneys, though, said they are not sure whether Montrose and its co-defendants have cleared all hurdles.

—By Dave Lenckus

ADVERTISER

INDEX

Issue of January 8

ADVERTISER	PAGE #
Admiral Insurance	14
Allianz Insurance Company	4
Blue Cross Blue Shield	25
Corporate Systems Corp.	10,11
Crawford & Company	20
First State Management Group	6
Goldman Sachs	9
Liberty Mutual	36
Max Re Ltd.	23
Mound Cotton Wollan & Greengrass	22
OPCAT	26R
Overseas Partners US Re	7
Partner Reinsurance	15
Pavenstedt & Pauli, Inc.	20
PMA Group Inc.	16
PMA Reinsurance Corp.	9
Reliance Standard Life	21
Renaissance Reinsurance	24R
Roosevelt University	22
Swett & Crawford	12
Wausau Insurance Company	5
Zurich US	13

Asbestos

Continued from page 1

Gilbert, a lawyer with Gilbert, Heintz & Randolph in Washington who specializes in mass tort and insurance issues.

"You can't say that someone is just a peripheral defendant and say they don't have risk," said Edward Houff, a lawyer with Church & Houff in Baltimore. "In today's climate, they do have risk."

This is bad news for insurers. They not only face mounting asbestos losses from a larger number of policyholders, but also face new demands for coverage under relatively little-used sections of general liability policies.

Changing loss pattern

Earlier losses from big asbestos producers and manufacturers were generally paid under product liability sections of general liability policies, most of which included aggregate limits capping insurers' liabilities.

A growing number of asbestos claims, though, are "non-products" claims, including, for example, claims by installers of asbestos products under the premises and operations sections of GL policies. Insurers typically covered these non-products exposures without aggregate limits, meaning that primary insurers are confronted with potentially huge liabilities in any surge of these claims.

"I believe the potential exposure to the insurance industry for these new defendants on the non-products (claims) is very substantial and could rival the product liability cost" over a period of years, Mr. Gilbert said.

"The insurance industry ought to be getting a wake-up call about now," he said. While "many of them thought this was winding down, they are going to find that is just not the case."

The asbestos litigation crisis has often been described as developing in waves, beginning with personal injury claims of workers at asbestos mines and asbestos product manufacturing plants and moving on to installers of asbestos products and—in the 1980s—claims stemming from the presence of asbestos in buildings.

While these waves were expected to be receding by this year, that hasn't happened.

Christopher Edley Jr., a professor at Harvard Law School, told a congressional committee in 1999 that the number of asbestos cases then pending in U.S. courts had doubled to about 200,000 from 100,000 in 1993, despite the settle-

ment of more than 300,000 cases in the interim.

Asbestos defendants themselves reported jumps last year in the number of new asbestos cases filed against them. Armstrong, for example, said it had been named in 45,300 claims during the first nine months of 2000, compared with 40,500 during the same period in 1999, and faced a total of 173,000 pending claims.

"Many people believed that the cases would begin tailing off around the year 2000, and what has happened is that they have increased with no signs of any significant drop-off," observed Mr. Houff, a member of the Defense Research Institute's mass torts task force.

Mass settlement efforts by defendants may paradoxically have contributed to the problem by attracting questionable claims, he added.

"I think (defendants) have realized that mass settlement has resulted in two things: more cases and less meritorious cases," Mr. Houff said, noting an increase in claims by plaintiffs claiming exposure but with no symptoms of asbestos-related disease. By their settlement strategy, defendants "have kind of indirectly encouraged that result," he said.

Large-scale settlement schemes and other alternatives to case-by-case litigation in fact have not fared well in many instances.

The U.S. Supreme Court struck down billion-dollar class-action settlements of claims against Amchem Products Inc. and others in 1997 and Fibreboard Corp. in 1999, finding the plaintiff classes too large and varied to meet federal rules governing class actions. In the Fibreboard ruling, the court wrote that "the elephantine mass of asbestos cases defies customary judicial administration and calls for national legislation."

Congress, however, failed last year to enact a bill, the Fairness in Asbestos Compensation Act, that would have created an Asbestos Resolution Corp. to take over managing compensation of asbestos claimants.

Several companies that filed for bankruptcy in 2000 cited these failed efforts—along with the rising frequency and severity of claims—in explaining their decisions to seek court protection from claimants and other creditors.

"We have been attempting to manage this liability for more than two decades," said Glen H. Hiner, chairman of Owens Corning, which had established a National Settlement Program with plaintiffs' lawyers to manage its own claims and those of affiliate Fibre-

board. "However, the cost of resolving current and future claims, together with a flurry of recent new filings from plaintiff lawyers not participating in the NSP, led us to the conclusion that a Chapter 11 reorganization was prudent and necessary."

"Recent increases in settlement demands from claimants, coupled with a lack of legislative relief from the financial burden presented by the increased demands, have forced us to re-examine our ap-

proach," Babcock & Wilcox Chief Executive Officer Roger Tetrault said in announcing the New Orleans-based company's Chapter 11 filing last February.

'The insurance industry ought to be getting a wake-up call about now,' says lawyer Scott D. Gilbert. While 'many of them thought this was winding down,' that is not the case, he says.

proach," Babcock & Wilcox Chief Executive Officer Roger Tetrault said in announcing the New Orleans-based company's Chapter 11 filing last February.

Burns & Roe Enterprises, a unit of Oradell, N.J.-based Burns & Roe Group Inc., sounded the same note in its Chapter 11 announcement last month: "Over the past 12 months, demands from plaintiffs' lawyers spiked to levels dramatically above the historic pattern, and the number of cases brought against the company increased markedly... (E)fforts to negotiate demands for settlement down to tolerable levels were largely unsuccessful," the company said.

New targets

While the bankruptcy filings may help resolve these companies' liabilities, they will likely make life tougher for other defendants. Plaintiffs' lawyers who see a shrinking potential for recoveries against bankrupt defendants now will increasingly target companies that earlier were considered peripheral.

"To the extent that many defendants are in bankruptcy or post-bankruptcy... (claimants) will now seek recoveries from a broader base," Mr. Gilbert said.

"Plaintiffs' counsel are willing to take on product manufacturers and theories of recovery they were not willing to take on in the past in an effort to extend the liability," Mr. Houff said.

The widening of the litigation net is already well under way, with lawsuits filed against a variety of "non-traditional" defendants. These have included giants like IBM, AT&T, Ford Motor Co. and Chrysler Corp.—accused of exposing workers to asbestos-contaminated brake parts—to small distributors and installers of building materials and supplies, as well as institutions like hospitals and universities with small amounts of asbestos in their buildings.

"There is no 'asbestos industry' anymore," Harvard's Mr. Edley told the House Judiciary Committee in 1999. "And many, perhaps most, of today's defendants cannot accurately be described as 'asbestos companies.' These defendants are in every industry and every region, from large companies, such as AT&T, to smaller companies."

"We're getting more claims from players that were considered real peripheral," confirmed William Barbagallo, vp and director of claims with the Transit Casualty Co. receivership in Los Angeles. In the last six months, Transit—a major liability insurer before its 1985 insolvency—has seen adverse verdicts against three or four companies that never had asbestos liabil-

ities before. Facing increases in the frequency and cost of claims, Transit has boosted its reserves, he added. "Asbestos is our biggest problem," he said.

Reserve adequacy

This combination of circumstances—more frequent claims for more money against a widening array of defendants—bodes ill for insurers, many of which have yet to recognize their exposure in their reserving levels, insurance industry observers say.

While a handful of the largest property/casualty companies boosted asbestos reserves in 1999, most did not, and "it is only a matter of time before the current asbestos incurred (loss) activity spreads to additional insurers," warned A.M. Best Co. in an October 2000 report.

Insurers are exposed to a new wave of claims in a few different ways, Best noted.

Claims from peripheral defendants will become more severe as these defendants are forced to contribute larger shares of settlements in the wake of the major manufacturers' bankruptcies.

In addition, more suits are targeting property owners with asbestos in their buildings, and these defendants are increasingly filing claims under the premises sections of their general liability policies, which typically had no aggregate limits.

Insurers are also exposed to "double dipping" by major asbestos defendants—including those in bankruptcy—that have exhausted their product liability limits and are now filing claims for asbestos product installation activities under the operations section of their GL policies, Best notes. This coverage, as with premises coverage, typically included no aggregate limits.

Non-products coverage litigation and settlements "are going to increase very substantially" in coming years, Mr. Gilbert predicted.

Many of the new defendants will be small companies with limited assets whose insurance claims will be huge in comparison to their asset base, he added.

The rise in asbestos losses for insurers is being masked by improving experience on environmental claims, according to Best. Total calendar-year asbestos and environmental incurred losses were basically unchanged at \$2.8 billion from 1998 to 1999, the rating agency found.

The insurance industry, howev-

er, swapped about \$600 million in environmental reserve decreases for a similar amount of asbestos loss deterioration. In 1999, insurers' net asbestos losses jumped 40% from the previous year, while calendar-year incurred environmental losses dropped by 50%, Best reported.

A large part of 1999's incurred asbestos loss, moreover, was concentrated in just seven large insurance groups that boosted reserves: CNA Financial Corp., which added \$500 million for non-Fibreboard exposures; American Re-Insurance Co. and Munich Reinsurance Co., which added \$387 million; Allstate Insurance Co., \$360 million; Nationwide Insurance Enterprise, \$181 million; Liberty Mutual Insurance Co., \$162 million; Fairfax Financial Group, \$141 million; and American International Group Inc., \$124 million.

"This concentration of activity may signal the need for more groups to increase current reserve levels in recognition of unfavorable peripheral defendant and coverage claim trends," Best noted.

The rating agency went on to predict that "significant asbestos reserve strengthening will take place during the next few years, particularly for companies involved with (merger and acquisition) activity as buyers attempt to box in and fund acquired liabilities."

One insurer that led the way in adding to reserves is London-based Equitas Ltd., the runoff reinsurer that assumed pre-1993 long-tail liabilities of Lloyd's of London syndicates. Equitas last year announced a "top-to-bottom" review of its asbestos exposures and boosted net reserves by \$711 million (\$1.06 billion), much of it to cover future asbestos claims that Equitas Chairman Hugh Stevenson said were "substantially exceeding the group's revised expectations."

Creating chaos, opportunity

The specter of asbestos liabilities, meanwhile, continues to create chaos for defendant companies.

In November, Atlanta-based Georgia-Pacific Corp. was forced to issue a public statement about its asbestos exposure after speculation about the liabilities threatened its proposed takeover of paper producer Fort James Corp. The acquisition was completed later in the month.

Southfield, Mich.-based auto parts maker Federal Mogul Corp. has seen its debt ratings cut and its stock price slide, in part over concerns about its management of asbestos liabilities.

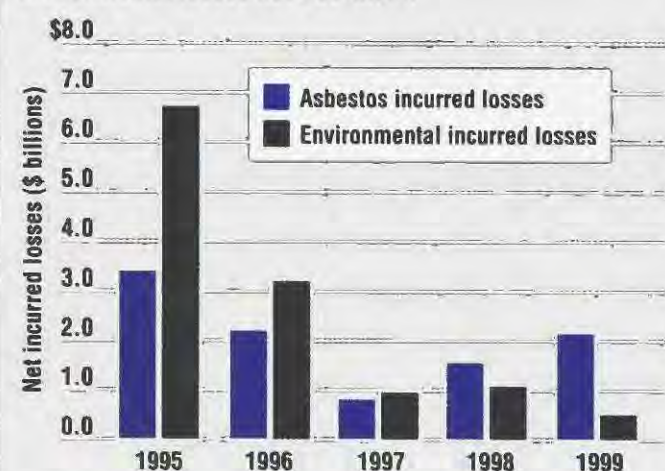
Not everyone is put off by the asbestos cloud, though: Warren Buffet's Berkshire Hathaway Corp. has bought up a 15% stake in USG Corp., a manufacturer of gypsum wallboard with significant asbestos liabilities. Berkshire also announced a deal to buy the ongoing building products business of Johns Manville Corp. from the Manville Personal Injury Settlement Trust—created to fund the bankrupt company's asbestos liabilities—and other Manville shareholders.

The possibility of congressional action to deal with the asbestos litigation morass also may not be dead.

While last year's Fairness in Asbestos Compensation Act may not be revived in its earlier form—having drawn heavy fire from plaintiffs' lawyers and only lukewarm support from defendant companies—a new legislative proposal may emerge in the coming year, said Mr. Gilbert, who described himself as "mildly optimistic" about the possibility. **BI**

Asbestos losses increase

Insurers are facing rising asbestos losses, while environmental losses have declined.



Source: A.M. Best Co.

GRAPHIC BY JOHN HALL

COMMENTARY

Start off new year with a good giggle

One of my favorite New Year's traditions is poring over my new pocket calendar from Odyssey Re. It's a great way to start the new year with a good case of the giggles.

Getting the giggles from a pocket calendar is possible only if one is reading the "Disaster Diary" published by the Stamford, Conn.-based reinsurer. This unique pocket calendar, which takes its name from its feature of noting memorable insured and uninsured disasters on their anniversaries, pokes fun at insurance industry issues and leaders as well as current events with an insurance twist. The mastermind responsible for the contents of the diary is the irreverent and astonishingly imaginative Odyssey Re Executive Vp Mark Hinkley.

The 2001 edition is dubbed "e-space odyssey," a theme that is explained in the "Welcome Page."

"Welcome back to the Diary, or as we in the e-business call it, the 'space.' As you know, we're either (1) well into, (2) just beginning the 3rd millennium or (3) it's Groundhog Day and we're doomed to repeat the endless soft market, soft market, soft market.

"But No! The Diary has to take a stand. The soft market is nearing financial obsolescence—we're calling for an end to this blood soaked romp of the last 12 years. All respiration and no oxygen."

On the opposite page is an advertisement for a new movie of Mark's dreams: "The Perfect Terms," about "Da Market, Da Risk Takers, Da Moneychangers."



Kathryn J. McIntyre

In a parody of the popularity of the Palm Pilot, the Disaster Diary features a "Psalm Pilot" screen, capturing an alleged e-mail from Fr. O'Halloran to the pope. If anyone doubts that Fr. O'Halloran is Chicago-based Aon Corp. President Michael O'Halloran, the e-mail notes copies being sent to "rdaly@mykindatown.org and pdavies@scottsdale.edu," the latter referring to Aon Re Chairman Paul Davies who has a second home in Scottsdale. The e-mail pleads: "Need psalm ASAP for annual 'blessing of the brokers.' Recommend oblique reference to hardening market, emphasis on good deeds by brokers, keys to heaven, etc."

The back of the diary is chock-full of valuable reference material, including a list of winners from "A Night at the Reinsurance Oscars." Among the categories and winners: "Prettiest Parking Attendant Shirts Trophy for unabashed haberdashery to Gee Carpenter. Shirts change colors based on the many mood swings of Sal the Z." To translate for those who have never attended the Reinsurance Rendez-Vous in September in Monte Carlo, all Guy Carpenter representatives wear matching polo shirts, a different color for every day of the week. I've never, however, detected mood swings by Guy Carpenter Chief Executive Officer Sal Zaffino.

A "Personals" column includes such intriguing entries as "1) Earn £££ in your (plentiful) spare time—apply to be chairman of Lloyd's. No limit on earnings or abuse. Huge office, sassy uniforms, tangle with feisty names and dazed scions of capital." Mark obviously is unimpressed with Lloyd's downgrading of the chairman's office to part-time.

Back again this year is the glossary of insurance and reinsurance terms with definitions unavailable, or unprintable, elsewhere. Of those I dare to print, Aon is defined as "Ancient Celtic lullaby translated as 'I own you,'" while Blue is defined as "The shirt for Wednesday, not Tuesday!" (See above reference to Gee Carpenter.) Other definitions of note:

"Convention Blank—The inability to recall how all the counterfeit money got into your suitcase."

"Net—Amount of money left after everyone else has leased a Mercedes and joined a club."

"Nett—English spelling, whereby even less money is left."

"No—A rare, infrequently used one-syllable word meaning 'talk to me.'"

"Workers compensation—A method of providing medical care and income to workers who are injured or who, in L.A., are related to lawyers or physicians."

Rounding out the theme that the soft market is over, the diary includes this advertisement:

"Never See a Soft Market Again! Volunteers Needed!! The 'Blue Lip' Foundation is looking for Volunteers for the Reinsurance Cryogenic Deferred Comp Project. Our goal is to freeze-dry several reinsurance executives to join already stiff colleagues and then thaw them out as the market hardens so they can be rewarded appropriately. Must be over 50 and in reasonable health (blood alcohol under 5%). Please specify whether you are relationship or technically oriented as it affects molecular motion at absolute zero. Note: If defrosting is unsuccessful, volunteers will be dipped in paraffin and given a place of honor in the Reinsurance Wax Museum in Cincinnati.)

There's plenty more I want to quote, including some friendly jabs at *Business Insurance*, but I'm not willing to risk our libel insurance limits.

Publishing Director Kathryn J. McIntyre's commentary appears fortnightly and on www.businessinsurance.com. She can be reached at kmcintyre@craim.com

Exclusion

Continued from page 2

Those previous rulings, however, were aberrations, Justice Calogero wrote. The court's latest ruling is in line with a dozen rulings by other courts in the state, including a 1994 state Supreme Court decision that the justice said had been vacated erroneously on technical grounds.

The current case now returns to a trial court, which must apply the high court's three-pronged coverage test to determine whether the policyholder is entitled to coverage.

The policyholder, St. Bernard Parish, the New Orleans-area municipality, is being sued by a court-certified

The court conveyed to insurers, 'This exclusion came in a box, and we're going to put it back in the box it came in,' says senior attorney C. Noel Wertz.

class of 6,000 residents. The residents allege they were injured by polluted drinking water that the parish's water system distributed to their homes in January 1998. The contaminants at issue were hydrocarbons that a Mobil Oil Corp. refinery discharged into the Mississippi River and were drawn into the parish's water system, the suit charges.

The case drew wide attention from the insurance industry both domestically and internationally. Amicus briefs were filed in the case either jointly or individually by the industry-backed Insurance Environmental Litigation Assn., the Alliance of American Insurers, the National Assn. of Independent Insurers, Lloyd's of London underwriters and London market insurers.

Even though the high court reversed itself, insurer attorney Laura A. Foggan, who represents the IELA, described the decision as a "sort of middle-ground ruling."

Ms. Foggan said that trial-averting summary judgments in favor of insurers still would be appropriate in some cases, "but now it's likely that more cases will be drawn out past the summary judgment phase."

"So, I'm hesitant to attach any labels to this case, like a pro-policyholder or pro-insurer ruling," said Ms. Foggan, a partner with Wiley, Rein & Fielding in Washington.

While the decision weakens insurers' ability to quickly dispose of pollution coverage disputes, it "left a lot of latitude for courts to determine how the exclusion would work in the real world," said law professor Adam Babich, director of the environmental law clinic at Tulane University in New Orleans.

But C. Noel Wertz, a senior attorney with the Louisiana Insurance Department, and policyholder attorneys characterized the ruling as a major policyholder victory.

"It was an early Christmas present," said Ms. Wertz, who has been spearheading the insurance department's effort to promulgate a regulation that would bar insurers from invoking pollution exclusions if a loss did not involve an active polluter and did not result in environmental contamination.

Ms. Wertz said that the court conveyed to insurers: "This exclusion came in a box, and we're putting it back in the box it came in."

Policyholder attorney Finley Harkham said there is "nothing in the case that's good for insurance companies."

The ruling is even more far-reaching than the 1993 New Jersey Supreme Court decision on the sudden and accidental pollution exclusion, asserted Mr. Harkham, a partner with Anderson, Kill & Olick P.C. in New York. The New Jersey court ruled that while the exclusion clearly bars coverage for gradual pollution losses, insurers could not invoke the exclusion because doing

so would be contrary to the industry's intent when it drafted the exclusion.

The Louisiana court's decision to limit the total pollution exclusion's applicability to active polluters is even more significant, Mr. Harkham asserted.

While the decision does not provide policyholders an absolute guarantee of coverage, it does eliminate an absolute bar of coverage, observed policyholder attorney Kirk Pasich, a partner with Howrey Simon Arnold & White L.L.P. in Los Angeles. "It's clearly a loss for insurers."

State and federal courts throughout the country that have ruled on this issue are widely split, attorneys agree. But, at the state supreme court level, policyholders now hold a 12-3 advantage, according to a recent study by Brian T. Valery, a law clerk with Anderson Kill.

Attorneys said they expect the decision will have at least some impact on other courts that take up the issue.

Regardless of the ruling, Louisiana insurance regulators plan to press ahead with their efforts to restrict the scope of the exclusion (*BI*, Sept. 25, 2000; June 5, 2000).

One reason is that the state high court's latest ruling fails to address what Ms. Wertz called "the front-of-plant vs. the back-of-plant distinction."

She explained that the pollution exclusion was meant to apply only to back-of-plant incidents—environmental contamination that occurs after an active polluter has improperly disposed of hazardous waste generated during the company's manufacturing process.

She said the exclusion was not meant to apply to front-of-plant incidents—when, for example, a chemical spill causes environmental contamination while a company is taking delivery of the substance for future use in manufacturing.

Already last week, a group of insurers in another pollution coverage dispute attempted to jump through the loophole that the state's high court did not close, Ms. Wertz said.

That case centers on a chemical spill that occurred at a Gaylord Container Corp. and Gaylord Chemical Corp. plant in Bogalusa, La., in October 1995 while the plant was taking delivery of nitrogen tetroxide. The chemical ate through a rail tanker car and formed a poisonous acid cloud that forced local authorities to evacuate the city.

Attorneys representing a group of insurers for the Gaylord companies asked the state appellate court that already had heard arguments in the case to accept their supplemental brief. The brief argues the court should apply the three-pronged coverage test that the high court established in the Mobil Oil case. Under that test, the Bogalusa spill would not be covered, the attorneys argue.

Ms. Wertz said that under the regulation that she hopes will be enacted by this summer, that kind of front-of-plant incident would not be subject to the high court's test. Insurers would not be allowed to apply a pollution exclusion to such a loss, she said.

A regulation also would ensure coverage stability if the high court were to reverse itself again in a later case, Ms. Wertz said.

But even though Louisiana courts are not bound as much by case precedent as are courts in other states, legal experts said another reversal is unlikely for a couple of reasons.

Until late last year, the high court consisted of eight elected justices, seven of whom heard cases to avoid tie votes. A slightly different panel of justices participated in the *Ducote* and *Mobil Oil* cases. But a justice who voted with the majority in *Ducote* has retired, and his seat will not be filled.

Additionally, even if the court's makeup changes after elections and the court accepts another pollution case, a new justice with any uncertainty about the issue likely would lean toward upholding the *Mobil Oil* precedent, Professor Babich predicted. Constant reversals "get embarrassing," he observed.

Attorneys for St. Bernard Parish and its insurer, Genesis Insurance Co. of Stamford, Conn., could not be reached for comment.

Phyllis Kay Roby Doerr et al. vs. Mobil Oil Corp. et al., Louisiana Supreme Court; No. 2000-CC-947.

Microsoft

Continued from page 2

retaliation committed by Microsoft Corp.," according to the complaint. "These practices reflect that discrimination is the standard operating procedure—the regular rather than the unusual practice at Microsoft," says the suit, which seeks unspecified compensatory and punitive damages.

Ms. Donaldson's attorney, Steven T. Toll of Seattle-based Cohen, Milstein, Hausfeld & Toll, said he expects to see the suit filed in Washington, D.C., next week and the Donaldson suit combined. This will be done either voluntarily, or through a judicial panel on multidistrict litigation that decides whether similar cases in different federal courts should be combined. "This will clearly happen at some point in the not-too-distant future," he said.

Another suit, which does not seek class-action status, was filed in federal district court in Seattle in 1999 by Peter M. Browne, who was Microsoft's highest-ranking African-American employee when he was first hired. Mr. Browne's suit, which asks for at least \$10 million in damages, says, "Time after time, Mr. Browne has watched Microsoft promote younger, non-black, less-experienced employees into positions for which Mr. Browne was the most qualified employee."

Mr. Browne's attorney, Jerry McNaull of Seattle-based McNaull, Ebel, Nawrot, Helgren & Vance, said a trial was originally set for March 5 but is expected to be delayed to allow the completion of discovery. The case is not expected to join the others, he said. "Our case was filed so much earlier than the other cases and is already so far along in discovery relative to the other cases, it certainly makes sense for ours to remain independent," Mr. McNaull said.

Medicare

Continued from page 1
scription drug coverage, than to provide comparable coverage in their own plans that supplement Medicare.

But with more and more HMOs leaving the Medicare market, relying on Medicare+Choice HMOs as a cost-cutting strategy has been put in jeopardy.

The new budget law will pump more federal money into Medicare HMOs and perhaps help stabilize the program, through which about 6 million people, chiefly retirees, receive coverage. For example, the law sets a new minimum monthly HMO payment rate of \$525 for enrollees who reside in counties in metropolitan areas with a population of at least 250,000, and a minimum monthly payment rate of \$475 for enrollees residing in more rural areas. By contrast, the current minimum monthly payment rate is \$415.01 for both. The new payment rates take effect March 1.

In addition, the new law ensures that all Medicare HMOs will receive a minimum rate increase this year of 3%. Under prior law, the minimum rate increase was set at 2% per year.

Other changes are designed to reduce the administrative burden on Medicare HMOs. For example, the law restricts when the Department of Health and Human Services can implement regulations that impose a "significant burden" on Medicare HMOs. Under the law, such regula-

tions can be imposed only at the beginning of the year.

In addition, the law reduces to 10 days from 45 days the amount of time government regulators have to review Medicare HMOs' marketing materials if the plan uses model language specified by HHS.

These and other changes are a vital first step toward shoring up the Medicare+Choice program, said Karen Ignagni, president and chief executive officer of the American Assn. of Health Plans in Washington.

The new law ensures that all Medicare HMOs will receive a minimum rate increase this year of 3%.

"While relief is on the way for beneficiaries who live in rural communities and small urban areas, we must now work to stabilize the program in other areas of the country, including large urban areas," Ms. Ignagni said in a statement.

Meanwhile, as earlier reported, the budget law also extends through Dec. 31, 2002, a pilot program that allows employers with 50 or fewer employees to offer high-deductible indemnity plans linked to tax-favored medical savings accounts. The 1996 law that permitted such arrangements had been set to expire on Dec. 31, 2000.

Had that law expired, the roughly 60,000 existing MSAs could have continued, but no new MSAs could have been established.

In extending the pilot program, legislators also changed the name of MSAs to "Archer MSAs" in recognition of Rep. Bill Archer, R-Texas, who was instrumental in developing the MSA legislation. Rep. Archer recently retired from Congress after serving for six years as chairman of the House Ways and Means Committee.

In addition, because of cost-of-living adjustments set under the 1996 law, changes have been made to the deductible levels in the indemnity plans to which MSAs are linked. For 2001, the annual deductible for individual coverage cannot be less than \$1,600, up from \$1,550 last year, or more than \$2,400, up from \$2,350.

In addition, for family coverage, the annual deductible cannot be less than \$3,200, an increase from \$3,100, while the deductible cannot be more than \$4,800, up from \$4,650, according to the Internal Revenue Service.

The IRS also announced that employers may pay up to \$180 a month for an employee's parking expenses without that amount being added to the employee's taxable income. As an alternative, an employee may reduce his or her salary by up to \$180 a month to pay for the expense. The 2000 tax-favored limit was \$175 a month.

However, the current monthly \$65 maximum limit on tax-favored mass transit passes remains unchanged for 2001. **BI**

House

Continued from page 1
Rep. Oxley, who initially sought to succeed Rep. Bliley at the helm of the Commerce Committee, is regarded as a friend of the insurance industry and of regulatory reform.

The move transfers all of the Commerce Committee's securities powers and much of its insurance powers to the Financial Services Committee. This jurisdiction over "insurance generally," as noted by Rep. David Dreier, R-Calif., in announcing the change, does not include consumer protection matters that will remain with the Commerce Committee, nor does it include jurisdiction over health insurance, crop insurance, workers compensation or other areas left to other committees.

In general, the move drew praise from insurers, risk managers and producers alike.

The American Insurance Assn., for example, views the change as a "very positive" development, said Leigh Ann Pusey, senior vp-federal affairs for the Washington-based insurer trade association.

"We feel that, in a post-Gramm-Leach-Bliley world, it makes sense to have all three industries under the same roof," Ms. Pusey said. "We are very comfortable with the way that the jurisdiction was written."

"Bringing insurance, banking and securities under the auspices of a single committee is a sensible approach in the Gramm-Leach-Bliley era. It should help minimize the potential for regulatory conflict or overlap, or for unfair competitive advantage or domination by one segment of the financial services marketplace," said Daniel Barry, director-government affairs for the Risk & Insurance Management Society Inc. in New York.

"There's no question that it streamlines the process and is a reflection of the consolidation in the marketplace. From a raw political standpoint, that can be good or that can be bad on an issue-by-issue basis. On balance, we believe this is a good thing," said Joel Wood, senior

vp-government affairs for the Council of Insurance Agents & Brokers in Washington.

Others in the insurance industry took a more cautious view.

"From the perspective of the insurance industry, it represents a new challenge, because the new Financial Services Committee will have jurisdiction over banking, securities and insurance in the post-Gramm-Leach-Bliley era. It will be a challenge for us to make sure that the functional regulation outlined in Gramm-Leach-Bliley continues to be the guiding principle of financial policy," said David Farmer, senior vp-federal affairs for the Alliance of American Insurers' Washington office.

'I don't think that risk managers could envision a better chairman than Mike Oxley,' says Joel Wood.

vice.

Robert Dibblee, senior vp-government relations in the National Assn. of Independent Insurers' Washington office, also said he regarded the change as challenging.

"We are kind of wait-and-see now, although we think that property/casualty insurers will probably face some tougher challenges now that jurisdiction has been moved from the Commerce Committee. I say that because the Financial Services Committee is, basically, going to be the Banking Committee with some new areas of jurisdiction," he said.

"The Banking Committee has, historically, been a difficult place for insurers to get their voices heard. Now, we're going to be part of a committee where depository institutions have a tremendous foothold," Mr. Dibblee said, noting that members "are more familiar with their issues."

The new Congress is likely, at the least, to discuss the possibility of optional federal chartering of insurers, an issue that is "critical to longevity

of the insurance industry," Mr. Dibblee said. "We want to make sure that folks enter the debate with open minds," he said.

Mr. Dibblee praised the choice of Rep. Oxley as chairman.

"The positive is, obviously, having Mike Oxley as chairman of this new committee, who will bring a firm understanding of insurance to the new committee," he said.

The CIAB's Mr. Wood also stressed the importance of having Rep. Oxley heading the new panel.

"You will see a more sophisticated and knowledgeable approach from members on that committee on broader issues of financial services. So issues like risk retention groups, captives and a broader look at national treatment of insurers will occur in a single committee structure, particularly with Mike Oxley at the helm," he said.

"I don't think that risk managers could envision a better chairman than Mike Oxley. He very much understands that perspective, and I'm not sure that we've ever had a chairman of either committee that understands that perspective of the commercial marketplace," Mr. Wood said.

"You're going to have a new chairman with experience in the insurance and securities industries," said the AIA's Ms. Pusey. "Insurers are actually more on a level playing field because legislators will have to consider balancing of all three sectors."

"It's a clear plus for insurers and risk managers alike," she said.

One prominent critic, though, sees the move as a pure minus. The transfer of jurisdiction did not sit well with a former chairman of the Commerce Committee, Rep. John D. Dingell, D-Mich. Rep. Dingell, who chaired the committee when it was known as the Energy and Commerce Committee—the name that it again assumed last week—called the move "misguided and asinine."

"I hope the securities and insurance industries do not suffer the same fate as the saving and loan industry, but I am not holding my breath," Rep. Dingell said in a written statement. **BI**

UPDATES

Pool loses bid to recover funds

Continued from page 2

if a declaratory judgment that the pool had filed were to establish that the claim was not covered.

In the coverage dispute, a trial court ruled that the jail exclusion was valid and awarded recovery of the \$300,000. Later, though, an appeals court ruled that the pool had no right to recover the funds and that there was no indication that the county was bound to pay back the settlement amount.

The state Supreme Court, in a 7-2 opinion, upheld the appeals court decision.

Policyholder loses comp suit

ST. LOUIS—A Missouri judge has ruled that General Dynamics Corp. cannot recover more than \$60 million in workers compensation costs it sought under four policies purchased from London market companies.

The late December ruling by St. Louis County Circuit Court Judge Robert Cohen reduced General Dynamics' claim to \$27.6 million from the nearly \$90 million the Falls Church, Va.-based defense contractor sought, said Mark Leimkuhler, a partner with Baach Robinson & Lewis P.L.L.C. in Washington, who represented the insurers.

The four policies provided General Dynamics total coverage of \$120 million from 1988 to 1992 and would be triggered if the company's workers comp costs exceeded \$40 million in a single year. The London insurers filed suit in 1995 seeking to rescind the policies, claiming General Dynamics and its London broker, Lloyd Thompson Ltd., withheld information from them showing that the company's annual workers comp losses would exceed \$40 million.

"What the court found was that the broker had acted improperly, and because the broker was the agent of the policyholder, the policyholder was held responsible for it," Mr. Leimkuhler said. The judge permitted the rescission of two of the policies, but he ruled that the other two remain in force because the insurers did not meet all the requirements to rescind them, though claims under those policies were reduced.

More than 25 London insurers, including five Lloyd's syndicates, were involved in one or more of the policies. "The leading underwriters were Commercial Union companies," he said. "Sun Alliance companies also were substantial participants."

A General Dynamics spokeswoman said the company is aware of the ruling and over the next 30 days will determine what action to take, including whether it will appeal.

PBGC taking over pension plans

WASHINGTON—The Pension Benefit Guaranty Corp. is taking over and terminating an underfunded pension plan sponsored by The Grand Union Co., a Wayne, N.J.-based grocery chain that is liquidating.

The plan is underfunded by \$22 million, with \$183 million in assets and \$205 million in liabilities. The plan has about 17,000 participants, including approximately 8,400 participants who worked for or were the dependents of employees of the now-defunct Colonial Stores chain. Grand Union purchased Colonial Stores in 1980, and the two pension plans were merged in 1993.

Separately, the PBGC is likely to take over an underfunded pension plan sponsored by Bradlees Inc., a Braintree, Mass.-based retailer that is liquidating. Information on the extent to which the Bradlees' plan is underfunded was not available late last week.

However, another major company, Dallas-based steelmaker LTV Corp., which late last month filed for protection from creditors under Chapter 11, said it currently has no intention of terminating its pension plans. In the mid-1980s, those plans became the subject of a court battle, when the PBGC took over the plans after LTV said it could no longer afford to fund them.

In 1987, though, after LTV set up new plans to provide plan participants with benefits not guaranteed by the PBGC, the agency returned the terminated plans to LTV. At that time, the terminated plans had more than \$2 billion in unfunded liabilities. In 1990, the Supreme Court ruled the PBGC had the authority to return the plans to LTV.

Since then, LTV has increased its plan funding. Nevertheless, the PBGC maintains that the plans are still underfunded, based on its actuarial assumptions.

Finally, the PBGC estimates that the Jan. 1 termination of two plans covering employees of Trans World Airlines Inc. will result in a net loss to the agency of about \$540 million. The termination of the plans by Pichin Corp., a company controlled by financier Carl Icahn, had been anticipated several years ago by the PBGC, which currently has a surplus of more than \$7 billion.

Briefly noted

Mark V. Mactas, president of Towers Perrin, is now also chairman and chief executive officer of the New York-based consulting firm. Mr. Mactas, who is based in Stamford, Conn., replaces John T. Lynch, who retired on Dec. 31. Mr. Mactas' eventual appointment to chairman and CEO was originally announced when he was named president in April 2000....Massachusetts may soon become the 18th state to enact a bill to protect recipients of structured settlements by requiring court approval before such a settlement could be sold. The state Legislature approved H.B. 5348 on Jan. 2 and sent the measure to Gov. A. Paul Cellucci to sign. Legislators are concerned about the sale of such settlements because "too often, 'factoring companies' have persuaded people to 'sell' future benefits that they need for some quick cash," said James T. Harrington, vp-northeast region for the American Insurance Assn., which supports such legislation.

ST. PAUL BROADENS TECH UNIT The St. Paul Cos. Inc. is expanding its technology business unit and is now offering insurance coverage for Internet, wireless communication and e-commerce risks to non-technology companies. St. Paul's Networker and media liability products previously were available only to high-tech companies. The insurer has added 33 staff

members throughout the United States to meet expanded demand for the coverage. Experts in e-commerce, security and intellectual property law are among those recently added to the unit. The insurer's media liability insurance covers personal injury and injuries related to advertising and the media. The Networker program provides coverage for losses arising from computer fraud, denial of service, telecommunications theft, ransom for computer-related threats, post-loss mitigation expenses and public relations costs. A specialty underwriting operation within the technology unit is developing e-commerce products to address Internet-related exposures.

BEST EXEC JOINING AMERICAN RE John H. Snyder, an executive at A.M. Best Co., is leaving the Oldwick, N.J.-based rating agency to join American Re-Insurance Co. Starting Jan. 16, Mr. Snyder will be a senior vp at American Re; he will be in charge of strategic planning at the Princeton, N.J.-based reinsurer. Mr. Snyder also will be responsible for two business units: American Re Strategic Investments, which advises and invests in insurance-related businesses; and AmRe-Solutions, which develops e-business initiatives for American Re. Mr. Snyder has been at A.M. Best for 11 years and is currently an executive vp. He and members of his family are significant stockholders in the rating agency. His father, Arthur Snyder II, is chairman and president, and his brother, Arthur Snyder III, is also an executive vp. John Snyder said he will resign from the board of directors of Best and will likely divest his shareholding. "I'm at a point in my career where I'm ready to be a participant in the

industry instead of just an observer," Mr. Snyder said. He will be succeeded as executive vp of ratings by Larry Mayewski, who is currently senior vp for life and health insurance ratings.

CONTRACEPTIVE COVERAGE The state of Washington is adopting new rules that will require health insurers that offer prescription drug benefits to include coverage for female contraceptives. "The new rules will prevent carriers from excluding contraceptives from prescription drug benefits already included in group and individual policies," Washington



Insurance Commissioner Deborah Senn said in a statement. The new rules, though, would not force insurers to add contraceptive benefits to those policies without drug coverage. The new rules, which go into effect July 1, result primarily from a bill the state Legislature passed last year. Ms. Senn estimates that the cost of adding contraceptives to prescription drug coverage will be minimal, especially in light of costs associated with unintended pregnancies, including abortion and childbirth, a spokesman for the commissioner said.

ERC APPOINTMENTS Employers Reinsurance Corp. announced the appointment of leaders for four business segments as well as its global underwriting, operations and marketing operations last week as part of an effort to refocus its business around key customers and products. Several of the appointees have served as officers of ERC's parent, General Electric Co., while others have been at ERC. Rick Smith, who served as chief executive officer of General Electric Fleet Services, was named president and CEO of ERC P&C Reinsurance Americas. Bob Dellinger was named to lead ERC P&C Reinsurance Europe & Asia, in addition to his current post of president and CEO of GE Frankona Re. In addition, John Tiller, who has served as president of ERC's North American life reinsurance operations, was named president and CEO of ERC Global Life & Health Reinsurance.

Louis Parker, who has led several GE Financial Assurance businesses, was named president and CEO of ERC's commercial insurance operations. Also, Hoyt Wood, who has had a 32-year career at ERC, was named global chief underwriter; Al Stanley, who has been CEO of GE Mexico, was named global operations leader; and Robin Sterneck, who has been pricing leader at ERC for the past year and a half following several leadership roles in other GE businesses, was named global marketing leader.

MEXICAN TIRES RECALLED Following its massive recall last year of tires made at a U.S. plant, Bridgestone/Firestone Inc. announced last week a voluntary recall of about 8,000 tires produced in Mexico. The recall applies to the company's P265/70R16 Wilderness LE tires produced the week of April 23, 2000, at its Cuernavaca, Mexico, plant. The recall was issued



because of concerns about the belt areas on about 150 of those tires manufactured on April 24, Bridgestone/Firestone said in a statement. The recalled tires may have been used on thousands of model year 2000 vehicles—General Motor Corp. Yukon XL 1500 series and Chevrolet Suburban 1500 series—assembled in Silao, Mexico, during late April and early May last year. Nashville, Tenn.-based Bridgestone/Firestone, which is not insured for product recall costs, said it was unaware of any claims for property damage or injury caused by the recalled tires made in Mexico.

QUEBEC PENSION REFORM Pension reform legislation enacted in Quebec that became effective Jan. 1 is intended to encourage employers in the Canadian province to offer pension plans, according to The Segal Co. In addition to full, immediate vesting for plan participants and an increase in termination benefits, the law will allow employers in Quebec to take a break, in some cases, from paying into overfunded pension plans, said Tom Levy, senior vp and

chief actuary in Segal's Toronto office. Employers also will be able to skip annual plan meetings, unless at least 10% of participants request one. The provisions of the law, which the Quebec National Assembly passed in November as an amendment to the 1990 Supplemental Pension Plans Act, will apply to all plans covering Quebec workers, according to Segal.

BRIEFLY NOTED Insured losses from winter storms that hit Arkansas, Oklahoma, and Texas late last year will likely reach at least \$100 million, according to the Insurance Information Institute in New York. The storms caused significant damage to homes, businesses, farms and motor vehicles....Chicago-based Aon Corp. has named Jerry Tegan president and chief executive officer of Aon Specialty Product Network, which gives independent agents access to the wholesale and specialty insurance marketplace. Previously, Mr. Tegan was senior vp and chief marketing officer for Aon Alternative Market Operations....President-elect George W. Bush last week named Linda Chavez as his nominee for U.S. Secretary of Labor. Ms. Chavez headed the U.S. Civil Rights Commission during the Reagan administration....Crum & Forster Insurance Co., a unit of Fairfax Financial Group based in Morristown, N.J., has bought Transnational Insurance Co. of Edison, N.J., the excess and surplus lines unit of PXRE Group Ltd., for an undisclosed amount. All pre-acquisition liabilities of Transnational, which will be renamed Crum & Forster Specialty Insurance Co., have been retained by PXRE....David J. Clark has joined CNA Re, the reinsurance unit of CNA Financial Cos., as vp-international treaty in London. Previously, he was chief underwriter at NAC Re International Ltd. in London.

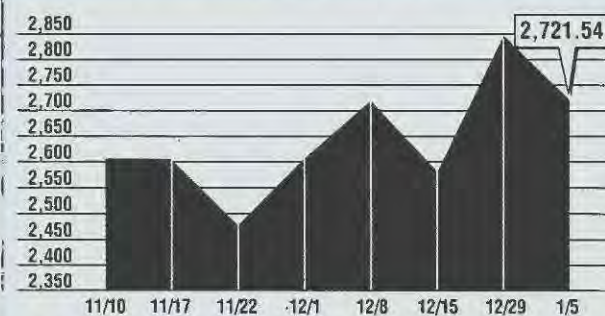
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B/I Industry Stock Report JAN. 2, 2001, THROUGH JAN. 5, 2001

BROKERS		Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)
Aon Corp.	NYS	32.44	-5.29	-18.91	42.75	20.69	6437
Brown & Brown	NYS	32.13	-8.21	67.70	35.68	15.63	184
Clark Bards Holdings	NDO	10.50	3.70	-26.96	17.68	8.50	29
E.W. Blinn Holdings Inc.	NYS	15.94	-8.60	-73.98	62.00	13.00	324
Gallagher Arthur J. & Co.	NYS	56.19	-11.69	73.55	68.50	23.06	1634
Hibb, Rogal & Hamilton	NYS	38.75	-2.92	37.17	42.13	25.63	106
Kaye Group Inc.	NDO	7.88	1.61	-5.97	11.86	5.00	21
Marsh & McLennan	NYS	107.00	-8.55	11.82	135.69	70.50	6367
BROKERS AVERAGE			-6.38	18.38			
INSURERS/REINSURERS		Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)
ACE Ltd.	NYS	37.94	-10.60	127.34	43.94	14.06	10983
Accel International Corp.	NDO	0.31	4.00	-68.80	1.13	0.10	14
Acceptance Insurance Cos.	NYS	5.00	-4.76	-13.04	6.94	2.75	35
AEGON N.V.	NYS	38.25	-7.69	-19.90	49.13	31.50	794
Aetna Life & Casualty	NYS	38.31	-6.70	37.29	42.69	32.94	4481
ARAC Inc.	NYS	64.38	-10.82	36.42	74.94	33.56	4739
Allmerica Financial Corp.	NYS	61.50	-15.17	10.56	74.25	35.06	1199
Allstate Corp.	NYS	38.06	-12.63	58.18	44.75	17.19	13115
Ambac Financial Group	NYS	51.25	-12.11	47.31	58.31	25.91	3690
American Financial Group	NYS	23.88	-10.12	-9.48	29.00	18.38	1252
American General	NYS	77.44	-4.98	2.06	83.44	45.63	4502
American Intl Group	NYS	87.88	-10.84	21.91	103.75	52.38	32395
American Safety Insurance	NYS	6.00	-2.04	-7.69	7.38	3.25	11
Argonaut Group	NDO	19.44	-7.44	-2.20	21.25	14.44	164
AXA-UAP Group	NYS	69.94	-2.61	-1.50	81.50	58.25	3078
Baldwin & Lyons Inc.	NDO	22.06	-5.11	-0.28	23.88	15.25	16
Berkley W.R. Corp.	NDO	40.50	-14.17	47.63	47.63	14.00	1013
Berkshire Hathaway Inc.	NYS	67800.00	-4.51	20.86	74800.00	40800.00	3
Capitol Transamerica Corp.	NAS	12.25	-1.51	21.74	13.25	9.38	24
Chubb Corp.	NYS	75.13	-13.15	33.41	90.25	43.25	4380
CIGNA Corp.	NYS	115.00	-13.08	42.75	136.75	60.75	4743
Cincinnati Financial Corp.	NYS	39.81	0.63	24.90	43.31	26.19	2917
Citigroup	NYS	53.69	5.14	28.22	59.13	35.34	98005
CNA Financial Corp.	NYS	36.31	-6.29	-6.74	41.94	24.56	333
CNA Surety	NYS	13.75	-3.51	5.77	14.94	10.38	112
EMC Insurance Group Inc.	NDO	12.50	6.38	36.99	12.81	6.81	121
ESG Re Ltd.	NDO	2.50	35.59	-63.96	7.00	1.72	85
Enhance Financial Services	NYS	14.19	-8.10	-12.89	17.00	8.83	1305
Everest Reinsurance	NYS	60.13	-16.06	169.47	74.75	20.69	3784
Fremont General Corp.	NYS	2.44	-13.33	-66.95	9.63	1.50	615
Frontier Insurance Group	NYS	0.13	33.33	-96.36	3.69	0.06	1477
Gaisco Inc.	NYS	3.13	19.05	-41.86	6.38	2.19	259
Harleysville Group	NDO	29.38	0.43	106.14	30.63	11.63	456
HSB Group Inc.	NYS	38.75	0.00	14.60	40.63	21.50	782
HCC Insurance Holdings	NYS	23.63	-12.30	79.15	27.19	10.94	1514
ING Groep N.V.	NYS	82.06	2.42	34.53	83.94	46.81	825
IPC Holdings Ltd.	NDO	21.13	0.60	42.02	22.88	9.75	53
Hartford Financial Services	NYS	63.06	-10.71	33.11	80.00	29.38	6462
John Hancock Financial Services	NYS	34.50	-8.31	102.94	38.25	13.44	7774
LaSalle Re Holdings Ltd.	NYS	18.83	0.00	14.39	19.38	10.88	0
Lincoln National	NYS	42.19	-10.83	5.47	56.38	22.63	3728
MAIC Holdings Inc.	NYS	17.75	6.37	-16.22	23.13	10.00	211
Market Corp.	NYS	163.83	-9.46	5.73	183.25	111.50	140
MBIA Insurance Group	NYS	68.13	-8.09	28.99	76.19	36.31	3642
Meadowbrook Insur. Group	NYS	7.13	-12.31	8.57	8.38	3.94	31
MetLife	NYS	31.55	-9.82	121.49	36.63	14.25	13979
Mutual Risk Mgmt. Ltd.	NYS	13.75	-9.47	-18.22	23.75	12.31	532
Navigators Group	NDO	13.25	-0.47	35.90	14.13	8.63	2
NYMag Inc.	NYS	18.38	-2.65	39.34	19.25	12.25	60
Ohio Casualty Corp.	NDO	11.06	10.63	-31.13	17.88	6.13	1260
Old Republic Intl	NYS	27.94	-12.70	105.05	32.06	10.63	2927
Partner Re Ltd.	NYS	51.13	-16.19	57.61	62.50	28.38	1892
Penn-America Group Inc.	NYS	7.50	-1.64	-3.23	9.75	6.63	11
PMA Capital Corp.	NDO	17.00	-1.45	-14.47	20.06	15.19	151
Philadelphia Cons. Holding	NDO	27.69	-10.32	90.95	31.25	14.13	354
PXRE Corp.	NYS	16.00	-5.19	23.08	17.56	11.75	212
RekStar Financial Corp.	NYS	53.64	0.00	37.65	53.94	23.75	0
RenaissanceRe Holdings Ltd.	NYS	72.68	-6.94	78.29	81.50	35.88	855
RLI Corp.	NYS	45.58	1.54	33.46	46.00	26.25	43
St. Paul Cos.	NYS	47.63	-12.31	41.37	57.00	21.31	5308
SCOR	NYS	51.88	3.23	17.23	53.75	38.38	29
SAFECO Corp.	NDO	29.73	-11.41	17.09	35.85	18.00	4897
SOPE Holdings Inc.	NYS	23.69	0.26	-26.26	36.94	18.31	NA
Selabs Bruce Group	NDO	0.69	22.78	-60.57	2.08	0.53	39
Selective Ins. Group	NDO	22.31	-7.99	29.82	25.88	14.63	173
Tokio Marine & Fire	NDO	55.81	-2.06	-5.60	61.00	45.00	34
Torchmark Corp.	NYS	34.00	-11.54	16.99	41.19	18.75	1749
Transatlantic Holdings	NYS	102.31	-3.36	31.06	107.06	68.75	116
Transwest Group Inc.	NYS	22.88	-7.81	35.06	27.13	12.00	358
Unico American Corp.	NDC	5.88	0.00	-16.07	7.88	4.50	4
United Fire & Casualty	NDC	21.75	10.13	-3.87	23.31	15.50	35
Unilin	NDC	38.13	-6.15	1.33	41.94	27.19	427
UNUM Corp.	NYS	24.06	-10.47	-24.95	31.94	11.94	4617
Vesta Insurance Co.	NYS	5.44	7.41	40.32	7.88	3.44	714
HEALTH MAINTENANCE ORGANIZATIONS		Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)
XL Capital Ltd.	NYS	75.38	-13.73	45.30	89.25	39.00	6164
Zenith National Ins.	NYS	28.13	-4.26	36.36	29.75	18.75	88
INSURERS/REINSURERS AVERAGE			-3.73	18.99			
Health Net Inc.	NYS	21.13	0.00	112.63	21.88	6.63	0
Humana Inc.	NYS	13.63	-10.66	66.41	15.81	4.75	4834
Oxford Health Plans	NDO	33.25	-15.82	162.07	42.75	12.06	14346
Pacificare Health Sys.	NDO	15.50	3.33	-70.75	72.31	9.81	6523
Sierra Health Services	NYS	4.05	6.58	-39.44	8.25	2.44	654
United HealthGroup	NYS	53.94	-12.12	1.53	63.44	23.19	11884
Wellpoint Health Networks	NYS	100.19	-13.07	51.94	121.50	56.94	4518
HMOs AVERAGE			-5.96	40.83			
ALL COMPANIES			-5.36	26.00			

B/I Insurance Index



Top advancing issues: ESG Re Ltd., Frontier Insurance Group, Seibels Bruce Group. Leading decliners: Partner Re Ltd., Everest Reinsurance, Oxford Health Plans. Most active issue: Citigroup. The B/I Index decreased 4.4%; the Dow Jones 30 Industrials fell 1.2%; the S&P 500 dropped 1.7%; and the NYSE Composite went down 2.5%. Average P/E: Brokers, 21.7; Insurers/reinsurers, 28.1; and HMOs, 14.6.

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



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