

JANUARY 9, 1984

business insurance

update

Bermuda Risk Exchange underwrites its first risks

HAMILTON, Bermuda—The Bermuda Risk Exchange started underwriting Jan. 1, attaching seven risks for a total premium of \$350,000, according to Duane Allen, executive director of the exchange and assistant treasurer of Hanna Mining Co. in Cleveland.

Two of the seven risks were marine and the rest were property risks. No casualty risks were submitted.

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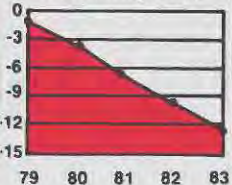
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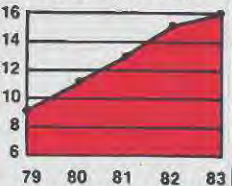
Despite worsening results, insurers not raising rates

Property/casualty insurers 5-year results (in billions of dollars)

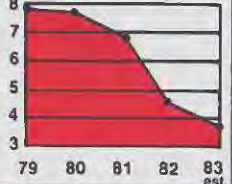
Underwriting results



Investment income



Pre-tax net income



Source: Best's Aggregates & Averages

Despite worsening underwriting results, a slowdown in the growth of investment income and a drop in pre-tax net income, property/casualty underwriters are not expected to raise rates across the board in 1984.

U.S. property/casualty insurance companies are estimated to have lost \$12.2 billion on underwriting premiums of \$108.4 billion in 1983, according to preliminary figures from A.M. Best Co. That's a 17.6% increase in underwriting losses compared with 1982 and only a 4.6% gain in premium. The combined loss and expense ratio is estimated at 110.9% after dividends to policyholders compared with 109.7% in 1982. Only 1906, the year of the San Francisco earthquake and fire, was worse.

And, while investment income of \$16 billion is expected to produce a pre-tax net income of \$3.8 billion, investment income was just 7% ahead of 1982, the lowest increase in 20 years, according to Best.

Unrealized capital gains, however, added another \$5 billion and the industry's surplus is expected to grow 9.4% to \$66 billion, the largest year-end surplus ever.

Against this backdrop, leading property/casualty insurers say they want to raise rates, especially for high-risk and big-loss accounts. Reinsurance underwriters are said to be tightening terms and conditions. But, no one predicts there will be wholesale rate increases in 1984 in the direct property/casualty insurance market.

For a full report on the conditions predicted for the property/casualty insurance market and the health insurance market in 1984, turn to the special section beginning on page 3.

A&P, newspaper workers win extra pension assets

By JERRY GEISEL

Employees will reap extra retirement benefits in two of three terminations of overfunded corporate pension plans.

In the largest pension termination case that was actively litigated, the 3rd U.S. Circuit Court of Appeals in Philadelphia last week gave final approval to a settlement that gives the more than 30,000 participants in the Great Atlantic & Pacific Tea Co. pension plan \$50 million in added retirement benefits.

But Montvale, N.J.-based A&P will gain even more. It will now terminate its 36-year-old defined benefit plan for salaried employees and garner a whopping \$275 million in excess assets. A&P then will set up a contributory savings plan.

In another case, an arbitrator ruled last month that the 625 participants in the Washington Star/Baltimore Newspaper Guild Retirement Income Plan are entitled to all of the 10-year-old plan's \$1.3 million in excess assets.

"The excess remaining in the trust fund should be used to the advantage of beneficiaries and not for restoration of the Star," said arbitrator Walter Gellhorn, a professor at Columbia University School of Law in New York.

In contrast, the 7,500 participants in New-York-based GAF Corp.'s 40-year-old defined benefit plan will not receive excess assets when GAF terminates the plan and replaces it with a savings plan.

U.S. District Court Judge H. Lee Sarokin in Newark, N.J., said GAF is entitled to all \$57 million in excess assets that will remain after GAF terminates the plan and pays the participants their promised benefits.

"If in an effort to be conservative, the plan is overfunded, surely the employer should not be deprived of that surplus," Judge Sarokin said.

The terminations of the pension plans sponsored by A&P, the defunct Washington Star and GAF, which are subject to review by federal regulators, are just three in a wave of terminations and proposed terminations by companies that want to recapture more than \$1 billion in excess assets (BI, Dec. 19, 1983).

This wave started rolling about two years ago when companies' pension plans began accumulating big surpluses. The big stock market rise, which boosted the value of plan assets, was one factor behind the surpluses.

Companies, which conservatively figured that the assets in their pension plans would increase 6% to 7% a year, found that plan assets were increasing 15% to 20% or more as the value of the stocks held by the plan soared.

At the same time, the recession forced companies to lay off workers. As a result, workers were leaving companies before vesting in benefits.

High interest rates also boosted corporate interest in terminating pension plans.

Companies, which faced borrowing costs of 20% or more, are now... Continued on page 56



Firms embrace flexible spending accounts

By SALLIE J. DRURY

The love affair benefit managers have had with tax-saving benefits since 401(k) salary reduction plans hit the scene is reaching new heights.

Now, more and more companies are offering employees flexible spending accounts, which allow employees to spend pretax dollars on a variety of non-taxable benefits.

The accounts are funded by employee pretax contributions, tax-free employer contributions or both.

And, if 401(k) plans were the hottest new benefit of 1983, flexible spending accounts—offered either as part of a full-blown flexible benefit plan or alone—probably will take the honors in 1984.

No numbers are available on exactly how many companies offer flexible spending accounts, but benefit consultants say the idea sparked in 1983 and a major explosion of the plans is expected in 1984.

"Probably every one of our major customers is installing or seriously considering (a flexible spending account) program," said Tom Russo, director of flexible benefits for Metropolitan Life Insurance Co. in New York. "I have been in this business many years, and I have never seen an explosion like this."

"I know of dozens of plans that seem to be going up every month, whereas there were virtually none before Jan. 1, 1983," said Lawrence N. Bader, managing director of consultant William M. Mercer Inc. in New York.

Said David L. Glueck, vp and practice leader for U.S. group benefits at Towers, Perrin, Forster & Crosby in New York, "I can't give you exact numbers (of how many companies have these plans), but my guess is in the hundreds. We ourselves know of 35 now in operation. There's just a tremendous amount of activity."

"I know of 70 or 80 (flexible spending accounts) in effect today and, based on those that are coming on line, I think we are easily talking 200 or 250 companies by the end of 1984," said Dale Gifford, a partner at benefit consultants Hewitt Associates in Lincolnshire, Ill.

"It's amazing. Everybody is interested in these plans," said John Hickey, partner at Kwasha Lipton of Fort Lee, N.J. "We've been having seminars on FSAs, and our attendance really surprised us."

Even one benefit manager is surprised with the amount of interest

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Graphic: Amy Palmer

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NEWSPAPER

update

Bermuda exchange writes risks

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Sixteen of the 17 member companies underwrote the property risks and nine also underwrote the marine risks. Mr. Allen declined to name the member that is not yet underwriting.

Risk Exchange members are insurance subsidiaries of major corporations around the world that formed the exchange to trade risks and bypass the commercial reinsurance market and its heavy brokerage costs (BI, July 25, 1983; Nov. 14, 1983).

The largest property line underwritten by the exchange was \$2 million, excess of underlying limits ranging from \$500,000 to \$2 million on the scheduled property risk. One company's line was only \$25,000, but three companies took lines of \$250,000. The average line was \$100,000.

The total capacity offered by the 16 underwriting members is slightly more than \$2 million, including the capacity offered by Hudson Reinsurance Co., which is taking 10% of all risks that it underwrites for the exchange members under a contract. Five members have discretionary approval over Hudson's underwriting for their own accounts. Three of these members also have the discretion to increase their limits by \$50,000.

Two new members of the exchange since mid-December are: Harbour Assurance Co. of Bermuda, an International Harvester subsidiary, and AMF Insurance Ltd., a subsidiary of AMF Inc.

Legislation creating the exchange was passed by the Bermuda Parliament and signed by the governor Dec. 14. A provisional board was appointed the same day. The board of governors will be elected at a formal membership meeting Jan. 19.

Court rejects dual capacity

SACRAMENTO, Calif.—The California Supreme Court is upholding the view that injured employees receiving workers compensation benefits cannot sue their self-insured employers in a "dual capacity" as both employer and insurer.

The state high court last month refused to hear an appellate court decision that ordered a trial court to throw out a verdict favoring Gallo Glass Co. of Modesto, Calif., a division of the E & J Gallo Winery. The Supreme Court acted similarly in a 1982 dual-capacity case, Winston Williams vs. International Paper Co. (BI, June 21, March 29, 1982).

In the Gallo case, employee Daniel J. Emfinger tried to show that the company acted as a separate entity—an insurer—by investigating his workers compensation claim and, therefore, could be sued outside the workers compensation system. The lower court ruled that workers compensation is the sole remedy open to the employee, said Michael G. Lowe, a San Francisco attorney representing Gallo.

FASB hearings scheduled

NEW YORK—The Financial Accounting Standards Board has extended public hearings on its proposal that would force employers to list their pension plan liabilities on their balance sheets (BI, May 30, 1983).

Hearings will now be held Jan. 11-13 and Jan. 18-19 at the Roosevelt Hotel in New York to accommodate the large number of speakers who want to express their views on the FASB's proposal.

Manville sues government again

WASHINGTON—For the third time in seven months, Manville Corp. has sued the federal government to recover damages and legal costs the company has paid out for asbestos injury lawsuits.

In the suit filed last week in the U.S. Court of Claims, Manville alleges that government officials knew—but failed to disclose—that shipyard workers were being exposed to dangerous levels of asbestos between 1946 and 1964.

The suit seeks to recover \$36 million in connection with claims brought by about 1,200 workers.

Manville filed similar lawsuits last July and November, both in an attempt to force the government to pay similar claims.

The company filed for reorganization in August 1982 because of the overwhelming number of claims against it brought by persons alleging injuries from exposure to asbestos.

Final AFIA agreement signed

NEW YORK—CIGNA Corp. said last week that it has signed "definitive agreements" for the purchase of AFIA Worldwide Insurance for \$215 million, the previously announced price (BI, Dec. 26).

The acquisition by CIGNA International is subject to closing on or before Jan. 31, along with approval by various U.S. and foreign regulatory authorities.

AFIA is an international insurance underwriting association that provides property, liability, marine accident and health, surety and life insurance in about 130 nations.

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Hyatt files \$4 million suit against hotel contractors

By BILL DENSMORE

KANSAS CITY, Mo.—Hyatt Corp. is seeking \$4 million from 12 contractors involved in construction of the ill-fated Kansas City Hyatt Regency Hotel, charging them with negligence, breach of implied warranty and defectively designing the two skywalks that collapsed.

The suit, filed in Jackson County Circuit Court, also raises new questions about agreements reached last year among the 12 contractors and the hotel's owner,

owner, Crown Center Redevelopment Corp., a subsidiary of Hallmark Cards Inc.

Those agreements helped finalize two class-action settlements of victims' claims resulting from the July 1981 tragedy, which killed 113 people and injured about 200 others.

All but two of the victims' claims are either resolved or pending appeal of jury verdicts, lawyers say. Total liability costs have reached \$112 million, about \$10 million more than most experts predicted earlier this year.

The contractors named in the latest suit, filed Dec. 27, include:

- Gillum-Colaco Consulting Structural Engineers Inc. and five affiliated defendants. Gillum-Colaco, based in St. Louis, performed structural engineering services for the hotel's construction.

- Havens Steel Co. of Kansas City, which fabricated, supplied and erected the steel used in the skywalks.

- Eldridge & Son Construction Co. Inc. of Kansas City, the hotel's general contractor.

- Concordia Property Management Ltd., a Delaware company, which managed the hotel's construction.

- Patty Berkebile Nelson Duncan Monroe LeFebvre Architects Planners Inc. of St. Louis, the hotel's architect.

- General Testing Laboratories Inc., which inspected the hotel.

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Does your salary stack up?

Are you wondering where your 1984 pay raise puts you in relation to your peers? You'll find out in March when *Business Insurance* publishes the results of the 1984 salary survey conducted by Logic Associates Inc, a New York recruiter.

If you are the top insurance and risk management professional in your company and have not received a survey, contact Richard Meyers or Bill Perry at Logic Associates Inc., Room 1708, 170 Broadway, New York, N.Y. 10038; 212-227-8000.

The survey does not cover colleges, banks or government entities.

The deadline for returning the completed questionnaire is Jan. 30.

Reinsurer sues for \$49.5 million

By LEN STRAZEWSKI

STATESVILLE, N.C.—Universal Marine Insurance Co. Ltd., a Bermuda-based reinsurer, is seeking \$49.5 million in damages from two U.S. insurers, a U.S. reinsurance intermediary and a London managing general agency.

The lawsuit, filed in U.S. District Court in Statesville, alleges that Beacon Insurance Co., Cherokee Insurance Co., New Orleans Reinsurers Inc., the intermediary, and B.F.G. Toomey Associates Ltd., the London MGA, conspired to defraud Universal of at least \$10 million in reinsurance premium while violating the terms and fiduciary responsibilities of various reinsurance agreements.

Universal Marine is a subsidiary of Ingram Corp. in New Orleans.

Specifically, Universal Marine's suit alleges that Nashville, Tenn.-based Cherokee wrongly served as a conduit for risks written by Beacon to be reinsured by Universal Marine. Cherokee reinsured Beacon and re-

troced the Beacon risks along with Cherokee written risks to Universal Marine.

The risks written by Beacon were, according to the suit, produced by B.F.G. Toomey in London and accepted by Beacon and New Orleans Reinsurers, which at the time was also owned by Ingram but is now owned by Beacon.

Tracing the interactions along that chain of risk, the suit alleges the defendants, specifically Beacon President Neil Portermain and New Orleans Reinsurers President Robert Shirmer:

- Accepted risks that were much larger than what was allowed under the reinsurance agreement between Cherokee and Beacon for the purposes of passing the exposure to Universal Marine.

- Failed to properly allocate premiums that were due to Universal Marine for the risks assumed from Beacon by Cherokee.

- Failed to disclose and withheld loss experience in prior underwriting years of account so as to preclude

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Agent Orange class actions to include punitive claims

By STEPHEN TARNOFF

NEW YORK—About 15,000 plaintiffs suing to recover for injuries allegedly suffered due to exposure to Agent Orange can sue seven defendants as a class for both compensatory and punitive damages, a federal judge has ruled.

U.S. District Judge Jack B. Weinstein last month rejected arguments by the defendants that claims should be brought individually, saying the case would be more manageable as a class action.

Judge Weinstein also said that a class for punitive damages would guarantee that if punitive damages are awarded, available funds would not be exhausted by just a few plaintiffs.

The decision goes beyond the conditional certification of an Agent Orange class action on certain issues authorized by the court in 1980. The court at that time rejected certification of a class on the punitive damages issue.

It is also the first time that class actions have been certified in mass tort cases of this nature, defense attorneys say, and—if upheld on appeal—could significantly add more cases to the Agent Orange litigation. (Defense lawyers argued their case last Wednesday before the 2nd U.S. Circuit Court of Appeals in

Manhattan.)

Moreover, the Agent Orange litigation is the only remaining product liability class action. Recently, a Massachusetts court decertified a class of 3,800 plaintiffs alleging they were injured after taking the anti-miscarriage drug DES (see

story, page 58).

About 2.5 million servicemen were exposed to Agent Orange, a defoliant used during the Vietnam War. Many are contending that they and family members are suffering from various diseases as a

Continued on page 58

ISO to release final versions of new general liability forms

By DOUGLAS McLEOD

NEW YORK—Insurers and policyholders soon will get a look at the long-awaited final versions of two new general liability forms drafted by the Insurance Services Office.

ISO last week unveiled the two new forms, one of which features a claims-made trigger and the other a more traditional occurrence trigger. The forms are now being filed with state insurance departments and are expected to go into effect Nov. 1, 1985.

Brokers and insurance buyers say the policies' provisions are generally as expected, and though they note substantial improvements over ISO's earlier drafts, some still point out problems.

ISO's first major revision of the CGL policy in nearly two decades was prompted by the looming exposure of insurers to asbestos and other long-latent injury claims.

Under the occurrence trigger used in most CGL policies today, insurers are liable for losses that occur during their policy period, regardless of how long after the policy's expiration date a claim is brought.

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Where are rates headed in '84?

Predictions of higher liability rates may prove true

By DOUGLAS McLEOD

NEW YORK—Warnings that liability insurance rates will rise soon have been about as frequent as the boy's cries of "Wolf!" in the old folk tale—and about as effective.

But, insurers are saying much the same thing again this year.

While conceding that the market for general liability coverages defied last year's warnings and remained fiercely competitive in 1983, many U.S. insurers say that mounting losses and dwindling revenues from investments and the more profitable lines of insurance will force them to make "selective" rate hikes in 1984.

But this year, unlike at the beginning of 1983, several brokers and independent risk management consultants say they've already seen some policyholders hit with rate increases and that such increases are likely to continue for some buyers.

And, most reinsurance and some direct insurance underwriters in London say they are insisting on higher rates, which could force U.S. underwriters to raise prices if reinsurance capacity tightens (see story, page 14).

Rate hikes and other restrictions from U.S. underwriters are likeliest for high-risk, high-exposure accounts like chemical and pharmaceutical manufacturers and hotel chains, sources say. But, no one expects any across-the-board rate increases.

Other insurers, though, contend that competition will remain stiff enough to keep rates flat.

But no matter what the predictions for 1984, it's clear that losses mounted during 1983.

The industrywide loss ratio—not including expenses—for general liability lines is expected to top 130% at year-end 1983, according to the Insurance Services Office. For the four quarters ending September 1983, the product liability loss ratio stood at 202.8%; the owners, landlords and tenants liability loss ratio was 110%; and the manufacturers and contractors liability loss ratio was 124.7%.

In an attempt to trim these losses, ISO has filed advisory

rate increases for product liability insurance averaging 7.8% nationwide, effective this coming April. Advisory rate hikes averaging 9.1% were filed for OL&T, and advisory hikes averaging 16.5% for M&C will go into effect in this year's first quarter.

But insurers offering liability coverage packages are currently quoting rates that are about 35% less than the ISO benchmarks, ISO says.

Some insurers say that the losses these discounts have produced will force them to make selective rate hikes.

Although Commercial Union Insurance Co. expects continuing intense competition, it also anticipates some "modest" rate increases for some risks by the middle of 1984, according to Vp Vicki Sarides.

CU is not planning rate hikes for any particular line. The increases will come from a more selective application of credits applied to ISO advisory rates for particular risks, Ms. Sarides said.

Compounding the problems created by huge general liability losses is the dwindling of other sources of revenue. *Continued on page 13*

Some policyholders may see price of property coverage rise

By LEN STRAZEWSKI

Tighter reinsurance and wounded-but-wiser underwriters will take property insurance rates upward for the first time in six years, according to the nation's largest property insurers.

But don't expect a dramatic premium increase that will destroy your risk management program, underwriters add, because day-to-day competitive pressure will keep insurers from getting too greedy too quickly.

At first, about mid-1984, only the smaller and least desirable property risks will see slight rate hikes. Medium-sized risks will see slight rate hikes by the end of the year.

Large corporate risks may remain insulated from increases indefinitely, underwriters say, though a shrinking of the facultative reinsurance market may remove some insurers from the competition.

"Basically what we are seeing is a slight tightening in the property insurance market," reports Robert P. Mairs, senior underwriting officer for St. Paul Fire & Marine Insurance Co. "We are predicting no fundamental changes or erosions in rates in 1984, but for less desirable business we expect a slightly upward pressure on rates."

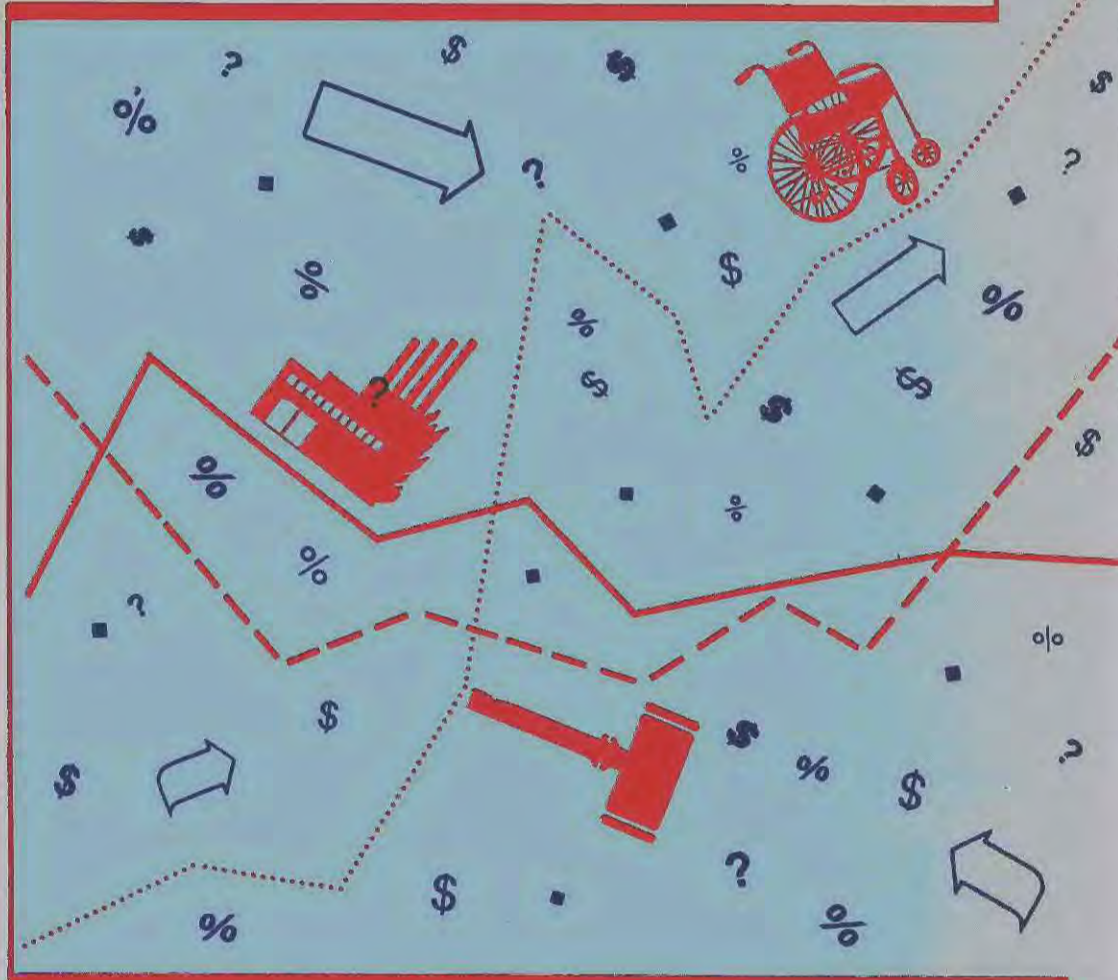
St. Paul was the largest underwriter of monoline fire insurance with \$136.3 million in premium in 1982, the most recent year for which premium volume results are available from A.M. Best Co.

St. Paul was the second-largest underwriter of allied lines of property coverage, including difference-in-conditions and business interruption coverages with \$83.9 million in premiums 1982.

Last year's volume, according to Mr. Mairs, was about the same or down slightly from 1982. But, that was typical for the industry, he says, as six years of rate reductions finally took their toll on the amount of money flowing to insurers.

Underwriters, however, are becoming less interested in chasing the remaining cash, Mr. Mairs adds, and the facultative reinsurance market, which had been extremely competitive for several years, is now significantly tighter.

"The facultative reinsurance market is in complete disarray. For the first time *Continued on page 10*



Health premium hike may not be as steep as past years'

By RHONDA L. RUNDLE

This could be the year that benefit managers see a slight—but perceptible—break in the steep increases they have endured in group health insurance costs since 1981.

But, the break is good news only by comparison with the bleak forecasts of the past three years. Rates will continue to climb this year at a 20% clip, with renewals at the start of the year likely to be higher than those in the second half.

Last year at this time, insurers were predicting rate increases for 1983 of between 25% and 35%. This followed increases of about 30% in 1981 and 1982 (BI, Jan. 10, 1982; May 31, 1982; Jan. 26, 1981).

Burned by their heavy health insurance underwriting losses in the early 1980s, insurers are

nervous about letting rate increases drop too fast—even though their claims costs are not rising as feverishly as they did during those years.

This slowdown in the rise of claims costs and insurance rates is largely attributable to a letup in the medical care component of the Consumer Price Index, which climbed

only 6.6% last year, compared with 11.6% in 1982 and 10.8% in 1981.

If these percentages told the whole story about health insurance costs, the picture, however, would be a lot rosier than it is. Unfortunately, other upward pressures on claims costs continue to alarm ratemakers and cause uncertainty about the future.

Steady increases in health care utilization, cost-shifting from government to private payers, aging in the population and costly advances in medical technology are causing the total U.S. health care bill to soar much higher and faster than the medical care component of the CPI.

In addition, the portion of that bill paid by insurance companies has steadily increased due to a phenomenon called "leveraging." This means that deductibles and coinsurance payments absorbed by patients have failed to keep pace with costs, leaving more of the total to be covered by insurance.

All of these pressures helped insurers to vastly underestimate claims costs in the early 1980s—a mistake they are vowing not to repeat. So, as long as these trends continue, it is likely that the cost of health care insurance will climb too, regardless of what happens to medical care price indexes.

"Past experience has made everyone conscious of the risk in this business," observes Sam Shaw, a second vp in the group insurance financial operations of the John Hancock

Mutual Life Insurance Co. in Boston. Health insurers have had to reassess the relationship between this risk and their returns, he admits.

Many major insurers lost money on their health insurance business during 1981 and 1982, although the industry appears to have turned a corner back to profitability last year.

"It's an interesting point in time," notes Richard B. Sleezer, director in the group department of The Travelers Insurance Cos. in Hartford, Conn. "You can be a pessimist or an optimist—cost increases are coming down, but we're all afraid we may be burned again."

This cautiousness linked with optimism about abatement in the medical care CPI, sums up the ambivalence of insurers toward future health care costs, based on an informal survey of a dozen major companies conducted by *Business Insurance* in late December.

Indeed, it seems that this ambivalence—and paranoia about reliving recent past years of unprofitability—could help to maintain rates at higher levels than claims costs merit.

"Insurers have been playing catch-up since 1980-1981 when they underestimated the medical inflation rate," said an actuary at one major insurance company. "During 1984-1985 there's some reason to hope that we can get ahead of costs—the opposite of catch-up."

Continued on next page

Health insurers may ask for smaller hikes

Continued from previous page

Other insurers concede that there is some truth to this view, but stress that competition typically takes the cushion out of rates.

"Insurers will be slower to get more aggressive until they recover those losses," agrees John A. Wickens, vp-group underwriting in Roseland, N.J., for The Prudential Insurance Co. of America. But, he emphasizes: "The market is still very competitive so it will be difficult for insurers to be too conservative in their rate assumptions."

Nearly all insurers say that 1983 was a turnaround year in which average rate increases for both large and small groups began to slide in the third or fourth quarter.

The general U.S. economic recovery is a major factor contribut-

ing to the upswing for insurers, points out Merwin Soper, group marketing vp for Allstate Life Insurance Co., a Northbrook, Ill., affiliate of Sears, Roebuck & Co. As employment picks up, so does the number of people covered under insured plans and, in turn, premiums paid to insurers.

He estimates that rate increases will average 15% to 18% on group health plans this year, down from about 20% to 25% last year. These figures are somewhat lower than estimates given by other insurers who participated in the survey.

At the beginning of last year, John Hancock's average annual rate increases were just over 50% for small groups with up to 50 lives and 30% to 35% for larger groups, reports Alex Neiley, a sales consul-

'There's a lot of uncertainty about 1984,' agreed Mr. Griswold at Pacific Mutual Life.

tant in marketing operations.

Rate increases for groups with more than 150 lives underwritten by John Hancock are based on the group's individual claims experience so actual rate changes vary widely. Other insurers also offer experience-rated plans when the group includes at least 100 to 200 lives.

Today, rate increases at John

Hancock are running at an average of 20% or slightly more for both large and small groups. However, that represents an annual increase for the large group policyholder and only a six-month rate for small groups.

Since 1980, claims experience on small groups has been so volatile that John Hancock and some other insurers have revised rates upward twice a year. "If a miracle takes place, we could defer an increase next July when we would normally increase rates again," said Mr. Neiley.

The small group business has been troublesome for other insurers as well.

For example, The Equitable Life Assurance Society of the United States stunned its policyholders

and competitors last October when it announced it would phase out the Equi-Group life and health policy for small groups with fewer than 100 lives (BI, Oct. 31).

Although Equitable won't reveal how much money it lost on the program, the company has acknowledged that the business was unprofitable. In 1981, Equitable estimated that it lost \$5 million on the Equi-Group plan (BI, Nov. 16, 1981).

Prudential readily admits that it continues to have problems with its small group business. Rate increases early this year for groups with fewer than 50 lives will be at least 10 to 15 percentage points higher than for larger groups, reports Mr. Wickens.

He expects increases for large groups to average about 20%, compared with 30% to 35% for small groups.

"We began to see average rate increases slide a bit at the end of 1983 to the high teens," he says. "But the new system for Medicare could push rates back up slightly by causing greater cost-shifting."

Several other insurers also expressed concern about the impact that the prospective payment system for Medicare reimbursement would have on medical care costs financed by private payers.

Starting Jan. 1, Medicare will phase in a reimbursement system tied to diagnostic-related groups. The federal government also has tightened the reimbursement formula for Medicare claims that continue to be paid on the old cost-basis method.

"There's a lot of uncertainty about 1984," agreed Gerry Griswold, vp-group actuarial at Pacific Mutual Life Insurance Co. in Newport Beach, Calif. "Insurers are uneasy with the effects of the Medicare change on those insured under private health care policies."

Mr. Griswold placed average rate increases for 1984 in the 18% to 23% range. Policyholders renewing coverage toward the end of the year are more likely to get increases at the low end of this range if the present slackening trend in claims costs continues, he adds.

Although their projected 1984 rate changes tended to dovetail at about the 20% mark, insurers' attitudes toward the future tended to differ significantly. Some are much less optimistic than others about the long-term prospects for a slowdown in the spiraling upward costs of health care.

"There is not an awful lot out there to suggest that health care costs are coming down in price like other goods and services," notes John Burnosky, vp & actuary for Aetna Life Insurance Co. in Hartford.

Overall usage of health care is growing at a 6% to 8% annual rate, he notes. And \$50,000 to \$100,000 claims—rare a few years ago—are becoming increasingly common as more people undergo costly procedures such as heart surgery and kidney dialysis.

Aetna is renewing its small group policies for one year at rates of 22% to 25% above last year and its large groups at about 20% above last year, said Mr. Burnosky. This is about four percentage points below last year's renewals at this time, but Mr. Burnosky does not see much likelihood of a further slackening.

"I expect to see 20% annual rate increases for the foreseeable future," he said.

Joe Walton, director of marketing for Hartford-based Connecticut General Life Insurance Co., a unit of CIGNA Corp., projects a trend factor of 18% to 22% for health insurance rates. This breaks down

Continued on page 6



THIS IS THE WRONG TIME TO FIND OUT YOU DON'T HAVE THE RIGHT INSURANCE.

It's too late after your business or your inventory has been badly damaged or destroyed.

That's why it's a good idea to consult an Independent Insurance Agent before you buy your business policy. An Independent Agent represents several



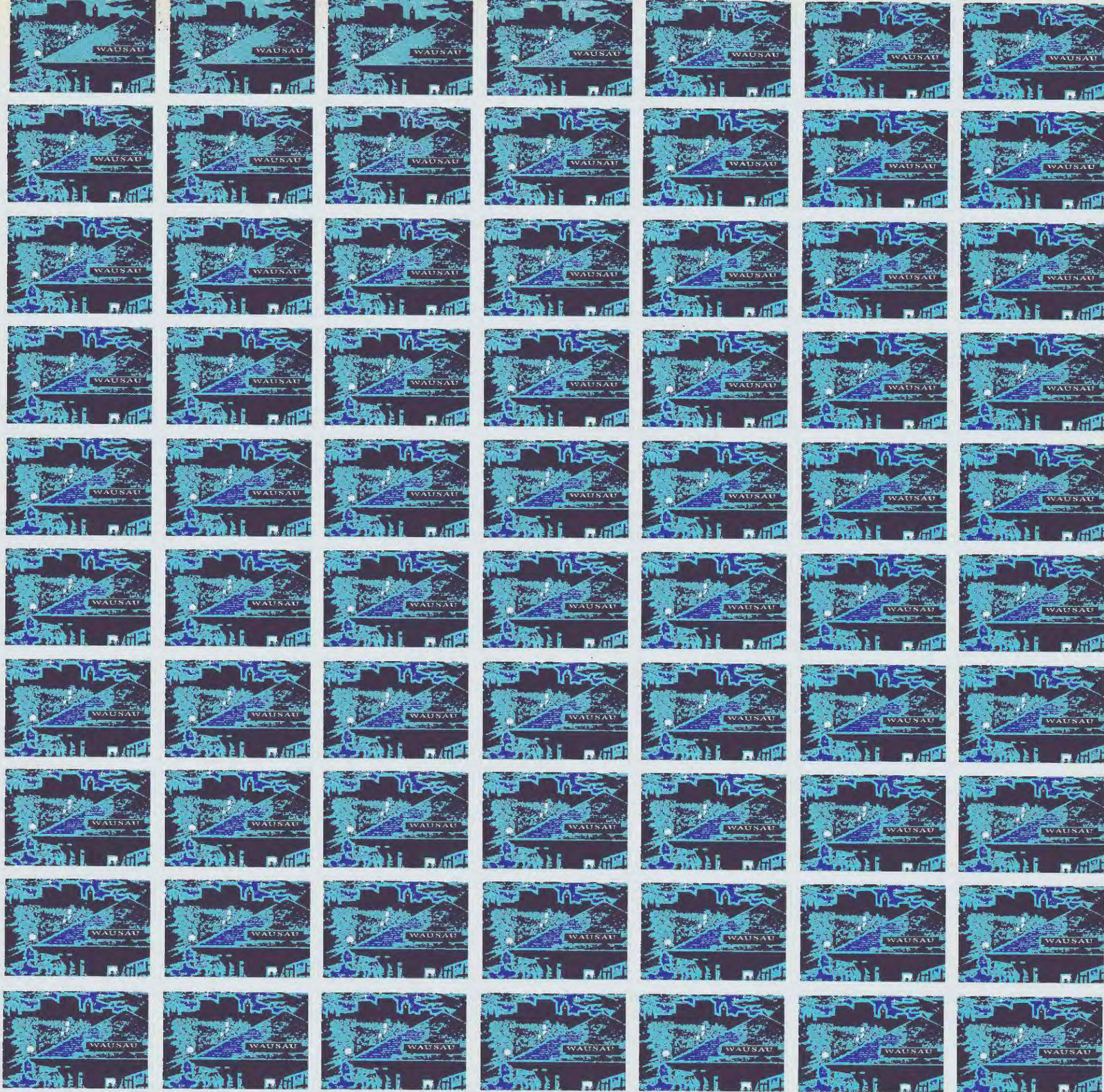
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Health rate increases hovering around 20%

Continued from page 4

into 13% to 15% for inflation and cost shifting, 3% to 4% for utilization and demographic changes and 2% to 3% for leveraging.

Another cost he is watching carefully is dental fees. During the second half of 1983 there was a dramatic increase in the dental fee component of the CPI, he reports. In October, the annual rate of dental fee inflation was running at 8.3%, compared with 5.2% in April.

This comes as kind of a surprise because in recent years dental fees have been more in line with the overall CPI, currently under 5%, says Mr. Walton.

This jump has not yet been reflected in claims, but it seems likely that it will be. If the trend con-

tinues, it could translate into higher rate increases for employers later this year—especially for those with plans based on reasonable and customary charges rather than fixed benefits, warned Mr. Walton.

CG's current group dental rate increases are averaging about 9%.

Dental services accounted for \$19.5 billion or about 6.5% of the total U.S. health care bill of \$322 billion during 1982. About 25% of the cost of dental services is reimbursed under dental insurance plans, said Mr. Walton.

Other insurers said they had noticed the upward trend in dental fees, but agreed that the impact had not yet been felt in claims costs.

"We will probably see the change in the next few months, but we do not expect a huge jump," said

Thomas Ferguson, vp & actuary for Equitable. "Right now dentists' inflation is higher than doctors'. We are surprised and perplexed as to why this is."

Many insurers are urging group policyholders to redesign benefit plans to make employees and their dependents more cost-conscious buyers of medical care.

The trend toward higher deductibles and elimination of first-dollar hospitalization coverage is continuing, for example. Higher reimbursement levels for ambulatory surgery, second opinion surgical reviews and prior authorization for hospitalization all are gaining wider acceptance.

Many employers are switching to deductibles of \$200 or \$300 up from \$100, says The Travelers' Mr.

Sleezer. And even \$500, \$750 and \$1000 deductibles are becoming more common.

Often, plans that include a \$1,000 deductible provide for the employer to self-fund a layer between the \$1,000 and a much lower deductible paid by employees. Such plans may require the employer to administer claims.

Nearly all major health insurers have signed or are in the process of negotiating preferred provider contracts with hospitals and physician groups in various urban centers throughout the country.

Preferred provider organizations are legal arrangements in which health care providers contract with employers, insurance companies or other third-party payers to deliver health care serv-

ices to an employee group at a reduced fee.

Typically, employees are offered a financial incentive to use the PPO's doctors and hospitals.

"It will be at least a couple of years before the effectiveness of PPOs will be known," observes Joe Filippo, assistant vp-cost control and management for Pacific Mutual.

On Oct. 1, Pacific Mutual started its first PPO in the San Diego area involving several thousand employees. "It's very early, but we've had good results so far," reports Mr. Filippo. "Of course, we're merely cost shifting to others now."

Indeed, other insurers expressed the same view that PPOs—at least in the beginning—may be another cost shifting mechanism that works to the advantage of employers who participate and against businesses and private individuals who do not.

The real test of the effectiveness of PPOs will be their power to change the health care delivery system through strong utilization review programs. If the delivery system can be made more cost-effective without sacrificing quality of care, then everyone would eventually benefit from the PPO concept.

Another cost containment approach recently introduced by Pacific Mutual is "focused incentive" plans for second opinion surgical review and ambulatory surgery. The plans offer financial incentives to employees to get a second opinion or to have surgery performed as an outpatient for specific procedures.

Ten procedures, which are different for the second opinion and ambulatory surgery plans, were identified by Pacific Mutual as the ones most susceptible to cost containment.

"Why pay 100% for ear surgery on an outpatient basis if the procedure is usually performed on that basis anyway?" asks Mr. Filippo, explaining the type of procedures that would not be included in the incentive program.

The cost-effectiveness of across-the-board second opinion surgical review programs is still very controversial, he points out.

Pacific Mutual's focused incentive plan pays for the cost of the second opinion only for 10 procedures it believes are likely to yield conflicting opinions, such as heart bypasses, hysterectomies and knee surgeries.

An employer can tailor-make a list of procedures to be included in the focused incentive plan based on the company's own experience and geographical location, adds Mr. Filippo.

Pacific Mutual makes no promises to the policyholder about what the financial impact of the plans will be, but based on its own research believes that they will be cost-effective.

Among the cost containment approaches under study at Metropolitan Life Insurance Co. are PPOs, precertification hospitalization and a gatekeeper concept in which patients are asked to consult a medical advisor about alternative forms of treatment.

"We are taking a slow, cautious approach to precertification hospitalization," says Ed Shults, assistant vp-group insurance marketing. "If it's going to work, then we want professionals doing it."

Although Metropolitan has not started marketing this plan—which requires changes in its policies—it has begun using it on a limited basis in some areas of the country and expects to expand its programs during 1984. ■

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opinions

A benefit you should consider

IN SEPTEMBER, we suggested that companies that did not want to start a flexible benefit program could at least set up a reimbursement or flexible spending account.

Apparently, many benefit managers were in agreement with us. As Sallie Drury's report on page 1 indicates, flexible spending accounts are springing up all over and are expected to be THE benefit of 1984.

A flexible spending account allows employees to spend pretax dollars for non-taxable benefits, like health insurance deductibles or copayments or day-care expenses.

Sometimes the plans are funded through employee salary reductions, other times through employer contributions, or sometimes through both. Sometimes the accounts are part of flexible benefit programs, but often they are set up on their own by companies that do not want the administrative hassle of a full-blown flexible benefit plan or are not yet ready for one.

Many times FSAs are introduced to sweeten a company's decision to raise health insurance deductibles, and still other companies set them up as a long-range health care cost-containment move on the notion that it is necessary to get employees involved in their health care expenses at some level.

If you are still debating whether your company should offer an FSA, we still say yes—especially after reading this issue's report on them.

The companies that have started them are reporting that FSAs create very little administrative hassle, often can be administered in-house with or without staff additions and can even save them money.

And besides all those good points, they provide employees with an incredible benefit—tax savings.

If you've been defending your decision not to start an

FSA by pointing out that Congress is expected to alter Section 125 of the Internal Revenue Code, which allows employers to offer them, we don't buy it.

We agree with the benefit managers who have gone ahead and started FSAs despite the possibility of rule changes later. As one benefit manager said, "There's almost no reason why you shouldn't implement this plan. The (uncertainty of the) regulations don't bother me in the least. If they change, we will change. We are giving our employees the benefit while we can."

No one expects Congress to act on Section 125 for at least a year, so why not let your employees benefit from tax savings while they can?

And if you do start an FSA, we strongly suggest you follow the advice of the benefit managers *BI* interviewed: Be conservative in the way you set up your FSA program so that if Congress does pass more stringent rules, your plan will stand a good chance of still fitting in. Put a cap on the amount of money that can be diverted to the account and limit the type of expenses on which money can be spent.

If we and the benefit managers in our report have convinced you now to seriously investigate setting up an FSA benefit, we do want to throw in one warning: Be prepared to spend some time and money on communicating this new benefit.

FSAs are a whole new concept that your employees probably are not familiar with and when you suggest that they might want to reduce their salaries to fund the account, they may be totally turned off if you have not communicated the benefits of paying deductibles or day-care expenses with pretax dollars.

But if you prepare them well, chances are you will have some pretty appreciative employees and there could be some benefits for you, too.

Strategy for the new year

WE'RE NOT GOING TO advise you to get prepared for tougher insurance negotiations in 1984—unless you have been piling up losses for your insurers.

Last year at this time, we had heard enough about insurers wanting higher rates by the end of 1983 that we told you to hone your negotiating skills. But, one year later, it appears corporations with decent loss histories can breathe easy about property and casualty insurance costs for yet another year.

Unfortunately, not the same can be said about health plan costs.

Our reporters' interviews with the leading insurers in major lines of insurance reveal that corporate insurance buyers can pretty much expect more of the same in prices in 1984. Although property and casualty insurance underwriters for the most part would like more premium, and reinsurers are tightening their terms and conditions, none of the primary insurance companies appears willing to risk market share by hiking property or liability prices too much. Workers compensation insurers say they don't need any rate increases in 1984.

Unfortunately, health plan underwriters expect to need increases of about 20% to cover the ever-increasing

cost of health care. True, it's better than 30%, but 20% is still unacceptably high.

What are risk managers and benefit managers to do now that they have been handed nearly the same script for 1984 that they saw in 1983?

Risk managers should not become complacent. Good risk managers don't need to be reminded that insurance buying is only one part of their broader responsibility to protect corporate assets—both property and people. And to the extent that a competitive insurance market willingly offers up the products and services a risk manager needs, there is more time to pursue loss prevention and loss-control projects and creative risk financing projects. And, there is an opportunity to be choosy about which insurers underwrite the company's insurance.

Employee benefit managers, meanwhile, should not become discouraged. They must continue their efforts to redesign health care plans to encourage cost control and to redesign funding plans to get the best price possible. It's going to be another year of hard work without a lot of immediate success since successful cost control efforts pay off in the future, not immediately.

Welcome to 1984.

letters

Look to dental insurance for cost-control ideas

To the editor: There is a way to slow health care inflation—the same way dental prepayment programs have always done it. Involve the consumer in cost-sharing, through deductibles, maximums and copayments. Emphasize and reward prevention by covering diagnostic and preventive services at a higher copayment than for restorative work.

The medical and hospital insurance industry needs to adopt consumer cost-sharing

measures like those of the dental insurance industry. The numbers speak for themselves: In 1982, dental care costs rose only 7.8% vs. 12.5% for health care costs. Preventive copayment programs work.

The proliferation of comprehensive health care plans without any regard for cost control is a major contributor to the rapid increase in health care costs in recent years. Some plans are so generous that individuals pay virtually nothing for

doctor's visits or hospital services. And without any copayment, doctor and hospital services are overused.

The medical and hospital insurance industry must bear the responsibility for managing inflation. The dental insurance industry has done so all along.

Onan A. Thompson

President
Delta Dental Plan of Minnesota
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Property coverage

Continued from page 3

in years, sellers are setting the prices instead of buyers," he says.

With tighter reinsurance, fewer direct insurers will be able to compete as aggressively for large property risks, and small insurers that once competed aggressively for portions of large risks may no longer be able to muster capacity.

"That alone may not be enough to increase property insurance rates, but it means that underwriters everywhere will have to be more selective with their capacity and that large risks are less likely to be gobbled up by insurers offering very reduced rates," Mr. Mairs says.

Rate competition, however, is far from over, insurers note. Rate decreases continued throughout 1983 to a bottom of 2 cents per \$100 of value for highly protected risks up to 20 cents for Main Street business.

Few underwriters expect that momentum to fail completely before the first half of 1984.

The Insurance Services Office, an insurance industry-supported statistical and rate advisory organization, reports that monoline fire or basic single-risk fire insurance was being sold at 10% lower than advisory rates through the first quarter of 1983, but individual underwriters report much greater bargains proceeding into the last quarter of 1983.

"As late as September of last year, we were still seeing a couple of very severe examples of rate competition—large risks going for 25% to 30% of our best quote," remarks Enoch G. Sherman, senior vp of American Home Insurance Co., a unit of the American International Group Inc. in New York.

AIG was the nation's second-largest underwriter of fire insurance in 1982 with about \$135 million in annual premium and one

of the largest underwriters of allied coverages and commercial package plans. Premium volume for 1983 remained flat, Mr. Sherman says, and AIG devoted part of its year to re-underwriting some of its existing business. Deductibles, for example, were adjusted and the reinsurance was renegotiated.

"There certainly is a lot of talk, both internally here and externally, about a tightening market, and the reinsurance market is definitely tightening. But as to whether or not these factors will actually affect rates for most risks is anybody's guess. I don't think rates will change significantly in 1984, but if they do, I wouldn't be satisfied with anything less than a 15% to 20% rate increase."

Mr. Sherman agrees, however, that some smaller insurers may step out of the intense competition as facultative and treaty reinsurance becomes less available.

"But larger insurers with firm,

longstanding treaties should be able to continue to underwrite at their present rates for some time into 1984," he says.

Hartford Insurance Group, traditionally one of the most conservative property underwriters, is one of the insurers that most experts agree could continue to underwrite at its 1983 pace. However, even the hoary Hartford, whose rate cuts have generally lagged behind the industry as a whole, would like a bit more premium for a bit less risk.

"Things can only go up in 1984, in underwriting results and rates," remarks Vp John F. Donahue. "Hartford is looking to get a little more real premium in its coverage. Property policies will produce losses, so results will continue to deteriorate unless we generate more premium."

Only the biggest and best risks can expect rate decreases or broader coverage from Hartford.

Medium-sized risks in the \$25,000 to \$250,000 annual premium range can probably count on some rate increases by the end of the year.

"Nobody is making any money in the medium-risk part of the business," Mr. Donahue says. "And in 90% of the cases in that range, property insurance is combined with some casualty risks. The casualty portion is generally in poor condition, making the whole coverage area grossly underrated."

Hartford Insurance Group was the nation's third-largest underwriter of monoline fire insurance in 1982, according to A.M. Best Co., with \$128.7 million in premium. It also was one of the 10 largest underwriters of both allied property coverages and commercial multiperil packages.

Commercial package plans, which cover a variety of property and liability perils under one policy, are also expected to become less competitive in 1984, insurance industry sources say. Rates are expected to increase slightly.

Package policies, which are generally purchased by small to medium-sized industrial and retail businesses, are considered the meat-and-potatoes business of the large stock insurance companies. Even though each package policy generates only \$3,000 to \$15,000 in annual premium and the business frequently produces less than 25% of an insurer's total volume, many large insurers look to package plans the way fast food franchises look at standard hamburgers. If their sales and profitability drop, the whole business is in trouble.

Profits on package plans have dropped industrywide, experts say. From 1980 through September 1983, premium income derived from commercial multiperil policies lagged about 29 points behind what ISO advisory rates would have produced, the statistical organization reports.

ISO develops rates that, based on members' loss experience, could be expected to generate a profit with some consideration for investment income.

During that period, ISO rates changes should have boosted premium 33% over 1980 rates, but actual premium reported by insurers grew only 4%.

The gap between the premium the advisory rates would have generated and the collected premiums accelerated during that period, ISO adds. In the first quarter of 1983, insurers were charging commercial multiperil package policyholders 35% less than the ISO advisory rate.

The competition didn't stop at all during the remainder of 1983, insurers add.

INA/Aetna, the retail commercial insurance division of CIGNA Corp., reports that field underwriters for CIGNA and other large insurers were charging rates 48% lower than ISO advisory rates by the end of 1983.

These rates were about 10% to 20% lower than similar charges in 1982, says Joseph Reynolds, CIGNA's vp in charge of field services.

"One of the basic assumptions of the insurance marketplace is that the industry as a whole will let package plan rates deteriorate only so far before making changes in pricing or underwriting," he says. "But it hasn't so far."

CIGNA, the largest underwriter of package policies, generated \$705.5 million in annual commercial multiperil premium volume in 1982, according to A.M. Best Co. This volume gave CIGNA slightly more than 8% of the market.

The insurer, however, has been underwriting these policies to a combined ratio of about 120% without generating significantly more premium in 1983 than the insurance group did in 1982, Mr. Reynolds says. This practice will have to

Continued on page 12

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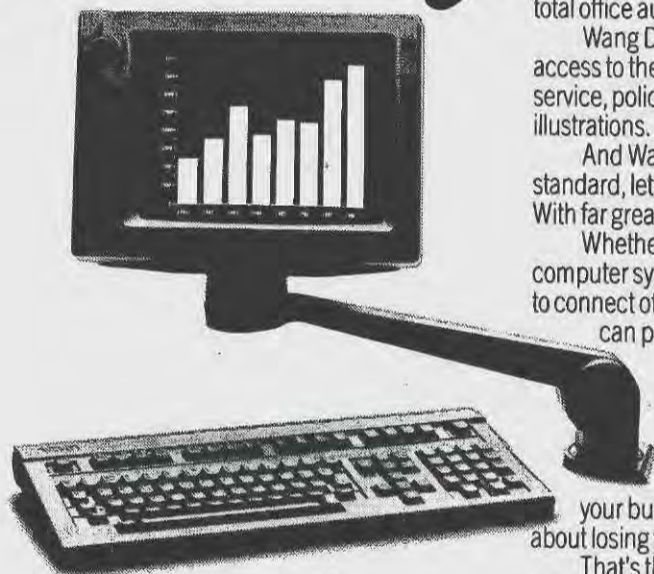
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Property rates to inch up

Continued from page 10
stop, he adds.

CIGNA would like to increase rates 4% to 5% in 1984 and reverse the downward slide of underwriting results which, according to Mr. Reynolds, have been deteriorating at a rate of 2 percentage points per quarter in 1983.

"The change won't come quickly though," he adds. "It will have to start in the field offices where most of these policies are underwritten and getting our needs through the heads of the field staff could take some time."

Robert S. Ebersold, assistant vp for product development at Aetna Life & Casualty Co. agrees. "Ninety-nine percent of all underwriting for these policies is done in the field, so changes will have to go slow, at least for us."

For another type of property coverage, boiler and machinery insurance, the end of the recession may mean the end of low rates, underwriters say.

"It's a two-headed coin for boiler and machinery insurers and business in general," explains David V. Carlson, second vp at The Hartford Steam Boiler &

Inspection Co. "The nation's business cycle appears to be turning upward and that's good for everyone, including insurers. The more machinery in use, the more premium volume we can generate."

But more use and more start-up operations will mean even more frequent losses and higher adjustment expenses, underwriters say.

Hartford Steam Boiler is the nation's largest boiler and machinery specialty insurer, generating about \$150 million in annual premiums. It holds about 37% of the market.

Although Hartford Steam Boiler has standing agreements with several large stock insurers to underwrite boiler and machinery portions of coverage, it has not been insulated from market competition.

Rate competition from members of the Factory Mutual System and other large insurance companies—including Kemper Group, Travelers Corp. and Continental Corp.—has held Hartford Steam Boiler's volume flat over the past two years while losses have been rising slowly but steadily.

"Generally, we will be taking on more risk so we will need a little more premium. I expect rates to increase steadily to four or five percentage points above last year by the end of 1984," Mr. Carlson says.

HPR insurers to offer broader coverage in '84

By LEN STRAZEWSKI

Broader and more comprehensive, perhaps, but not cheaper, say underwriters that specialize in highly protected risk property insurance and new high-limit, all-risk property policies.

Highly protected risk property insurance rates, already bottoming out at 2 cents per \$100 of value and ranging up to only about 6 cents per \$100, just can't go any lower, underwriters say. But the premium can be used to purchase coverage than goes far beyond the named perils for which the rates were originally created.

Highly protected risk insurers have virtually abandoned the limited coverage they once offered and are now specializing in all-risk policies that can include boiler and machinery risks as well as ocean marine cargo insurance.

The reason for the change is competition, and while other property underwriters are predicting some lessening of competition for standard property coverage, highly protected risk underwriters are predicting continued intense battles among a handful of competitors.

The competitors include Industrial Risk Insurers of Hartford, Conn., the four Factory Mutual insurers—Allendale Mutual Insurance Co. of Johnston, R.I., Arkwright-Boston Manufacturers Mutual Insurance Co. of Waltham, Mass., Philadelphia Manufacturers Mutual Insurance Co. of Philadelphia and Protection Mutual Insurance Co. of Elk Grove Village, Ill.,—American International Group Inc. of New York and Kemper Group of Long Grove, Ill.

"There is a very strong tendency among HPR underwriters to introduce more and more coverages into one package plan," confirms Wayne Crawford, senior vp at Industrial Risk Insurers, a consortium representing 45 separate property insurance companies.

"There are some economies for insurers in combining the coverages over one deductible and one limit and several advantages for policyholders.

"If, for example, a policyholder has mostly highly protected risk property but a few buildings that don't quite come up to standards, the poorer risk can be smoothed over in one all-risk policy and covered for the lower HPR rate."

Mostly, however, the broader coverage is a competitive tool, Mr. Crawford admits, and IRI is continuing to expand coverage by offering boiler and machinery insurance both within an all-risk plan and as a separate policy—a notable expansion for the insurer which previously offered the coverage as part of packages but retained none of the risk.

"After you have given a risk manager all you can in price, all you can offer is better coverage. Two cents per \$100 of value is just about as low as you can go, so I don't expect any further rate decreases. But there is plenty of competition in coverage."

IRI did not fare particularly well in the competitive bouts last year as premium volume fell from \$406 million in 1982 to \$375 million in 1983 (underwriting year ending in November), but the insurer hopes for a modest growth in 1984, according to Mr. Crawford.

The Factory Mutual insurers, IRI's main competition, are also hoping for volume gains as more buyers switch to their all-risk policy, officials say.

"In the last six to nine months, the all-risk policy has received

very high policyholder acceptance," remarks Burr Mosher, vp and manager of all-risk underwriting and facultative reinsurance at Arkwright-Boston. "About 90% of our policyholders are now buying all-risk coverage."

Though all four of the FM insurers recently modified their premium deposit plan in hopes of encouraging new business, the key to increasing premium volume is price, they say (BI, Dec. 19, 1983).

FM underwriters are simply not happy about the rates their policyholders are paying, but say there is little they can do about it. Arkwright-Boston's premium volume dropped about 4% from \$202.4 million in 1982.

"There is some uneasiness here about the pricing on some accounts and capacity in the industry seems to be shrinking overall, but there are no changes in the HPR and all-risk market to speak of," Mr. Mosher says. "Oh, there may be some firming up in price by the end of 1984, but there is no sign that coverage will narrow. It can only get broader."

Arkwright-Boston, which already offers boiler and machinery coverage both separately and as part of a package, attempted to broaden its offering with ocean marine coverage last year and will be adding crime and fidelity insurance as part of its all-risk coverage.

Allendale Manufacturers Mutual, another FM insurer, is also hoping for a modest volume gain after a slight premium reduction in 1983, but it isn't counting on dramatic improvements.

"We are still being buffeted by the competition in the market and there's not much we can do," agreed Michael McIntyre, vp and director of marketing. "The best we can hope for is that there will be some inflation of premium as the economy rebounds and a return of buyers who prefer Factory Mutual's engineering services."

AIG, which underwrites HPR risks through Commerce & Industry Insurance Co., had previously positioned itself against FM insurers by promoting that it required no premium deposit.

Since FM's changed its premium deposit plan, AIG also has joined the coverage competition and is offering a "miniglobal" all-risk policy that is designed to offer to small and medium-sized companies the same broad international coverage AIG sells to large corporations.

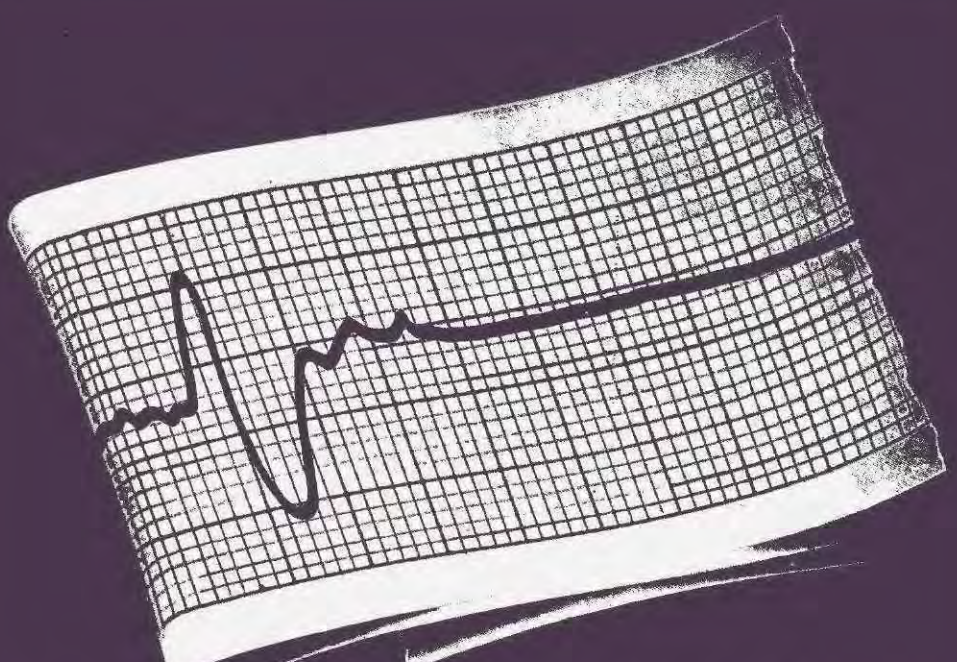
But just like its competitors, AIG foresees no rate increases in 1984, says Commerce & Industry President Dick Williams.

The only holdout against the trend to broader and more comprehensive coverage is Kemper Group, which underwrites HPR property risks through its American Protection Insurance Co. subsidiary. Though Kemper also offers an all-risk policy, HPR Underwriting Manager Bob Smilak says it would rather not blend too many diverse coverages into one policy.

Boiler and machinery coverage, for example, is best kept separate, he says, for underwriters and engineers to properly evaluate the extent of the risk.

"Engineering has always been the key to HPR underwriting and there are some insurers out there who are offering broad coverage without the service to back it up," he says. "We believe that it is important to our credibility to provide the engineering service the risk needs in the best way we can and stay with the risk as long as we can."

Like most of its competitors, Kemper's HPR premium volume was down about 5% from 1982. ■



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Liability rates

Continued from page 3

nue, like profits from workers compensation coverages, Ms. Sarides noted.

Because of the deterioration in workers comp, "we can't afford to give away as much" on general liability, she explained.

"I would anticipate that we'd begin to see price strengthening," said Fred P. Themmes, senior underwriting officer with The St. Paul Cos. Inc., adding that any rate hikes at St. Paul would be based on an annual review of its business by class and geographic region.

"If the review indicates problem areas, we would react to that in pricing or coverage," he explained.

Mr. Themmes said that the overall amount of CGL premiums collected probably will increase this year if the economic recovery continues, since premiums are partially based on company payrolls and sales. But St. Paul has also experienced a decline in market share because of unwillingness to cut rates too far, he said.

Rate changes that would significantly affect the insurer's results probably won't come until 1985 or after, he indicated.

"1984 is half-priced already. There isn't a lot that can be done to improve 1984," he observed.

The one insurer that seems to have the firmest plans to increase rates is Fireman's Fund Insurance Cos. Rates for Jan. 1 and July 1 renewals will increase an average of 12% to 15%, including reductions of premium credits, according to Fred G. Marziano, senior vp for commercial lines.

Individual increases will range from zero to 25% but will not be across-the-board in any line, Mr. Marziano said, adding that the company had not increased rates for OL&T and M&C liability in some states for two or three years.

"We haven't had tremendous problems with any of (our lines)," he explained. "It's just a matter of shoring up our base rates."

"With the deterioration of workers comp coming on strong, we don't have a line to support the other lines," he said.

Fireman's Fund, an affiliate of American Express Co., recently added \$230 million to its loss reserves, a move that is expected to leave the insurer with a huge fourth-quarter loss and its parent with a 10% drop in 1983 earnings. But Mr. Marziano says the reserve shortfall had nothing to do with the company's decision to seek rate increases, which were decided upon last October before the reserve problems surfaced.

He added that he doesn't think many companies will follow Fireman's Fund in the kind of hikes it seeks. "I expect there's going to be a subtle approach. I don't think we will see too many people doing what we've done."

Nevertheless, some insurers wonder if the Fireman's Fund reserve shortfall won't provoke more widespread stiffening of rates.

"Frankly, Fireman's Fund is not too alone there," CU's Ms. Sarides said. "Perhaps it will cause people to stop and reflect."

Earl R. Lanning, vp with broker E.H. Crump Cos. Inc. in Memphis, Tenn., says he has already seen signs of a tightening market, particularly in the reinsurance arena where underwriters are insisting on "much higher rates."

"Finally this long tail is beginning to catch up," he observed.

Umbrella underwriters that have recently charged \$500 per \$1 million of liability coverage for hotel chains are now asking \$1,000 per million, he said.

Quotes on liability coverages for chemical and pharmaceutical companies and ladder and scaffold manufacturers have doubled in some cases, and Mr. Lanning re-

ports that he has bound coverage at rate increases of up to 50%.

The first area to see firming prices was commercial auto and long-haul trucking, Mr. Lanning noted. Several insurers are already scaling back their underwriting in this area, and about 10 specialty markets—including Scottish & York Group and Atlanta International Insurance Co.—have pulled out of auto liability altogether.

More than half of Crump's commercial auto policyholders facing rate increases have gone ahead and bound coverage in spite of the higher prices, Mr. Lanning noted.

"Six months ago we could have quoted like this and we wouldn't have sold one (policy) in 10."

At the same time, umbrella insurers that wrote commercial auto risks over a \$300,000 underlying layer may now demand a \$500,000 underlying layer, he said.

Many buyers are facing higher minimum premium requirements

and more expensive excess umbrella layers, adds James A. Robertson, principal consultant with Warren, McVeigh & Griffin, a Newport Beach, Calif., risk management consulting firm.

Some underwriters are doubling premiums for umbrella coverage and in the case of one policyholder, this led to the anomaly of having a high excess layer costing more than a lower layer, Mr. Robertson said.

Hotel chains, in particular, are facing higher minimum premiums. In addition, underwriters are refusing to write coverage for both the owner and operator of the same hotel. Capacity is sufficient for both parties to find coverage, but one may have to settle for lower-quality insurers, Mr. Robertson said.

One hotel company, which he declined to name, was unable to place first-layer umbrella coverage with a Best's A-rated insurer and had to settle for a B-plus company because its first-choice insurers al-

ready had pieces of hotel risks on other policies, he explained.

"Companies are actively watching their lines on liability risks," he said. "It looks like there's new apprehension there."

Most of the rate increases are likely to hit smaller policyholders—the ones with the least clout, he added.

Marsh & McLennan Inc., the world's largest broker, is seeing a "significant tightening" of the market for high-risk business, but doesn't expect to see rate increases of more than 20%, according to Lawrence Drake, an M&M managing director in New York.

"We're seeing some underwriting judgment where there wasn't much underwriting before," Mr. Drake noted.

But competition probably will remain stiff for moderately risky accounts, even if some insurers go under or pull out of the business.

"You have a lot of people in that

business and even if you eliminate 30% to 40% of them, you still have enough companies to make it competitive," he explained.

Aetna Life & Casualty Co. plans selective changes in rates for some policyholders but sees no dramatic changes in the marketplace, despite "significant tightening" of treaty reinsurance markets and difficulties in placing some facultative reinsurance contracts, according to Brian E. Scott, a vp for commercial insurance.

"We'll probably have much the same market as we've got right now," he said. "I would be very surprised if we see any further rate decreases. We don't expect to see any downward pressure, we just don't expect to see a quick rebound."

"I think underwriters are going to become more conservative in writing hazardous risks," said Wayne Wheeler, an underwriter with Kemper International Insurance Co.



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Product liability rates to remain competitive

By **DOUGLAS McLEOD**

NEW YORK—Despite having produced some of the worst losses among the liability lines, product liability insurance is not expected to be dramatically more expensive or difficult to place in 1984.

Underwriters, brokers and consultants say that while modest rate increases and other revisions of terms are likely for some risks, the product liability market will remain surprisingly soft.

"I wish (markets would tighten) because it's the only sane way to go, but realistically, I don't see it happening," said Donald R. Cook, senior vp with Ebasco Risk Management Consultants Inc. in New York.

Rates for product liability insurance—often written as part of a comprehensive general liability package but rated separately—typically firm before other general liability lines.

This year, product liability rates may rise an average 10% to 15%, Mr. Cook said. But, compared with the rate cuts of up to 50% that have been achieved over the last three years, that kind of hike doesn't amount to much, he indicated.

Increases of 50% would probably be required to begin to keep pace with mounting losses, he added.

The loss ratio for product liability coverage as compiled by the Insurance Services Office for the four quarters ended last Sept. 30 was 202.8%, well above the loss ratios for other liability lines, ISO reports.

Reinsurance for product liability risks has been more difficult to place in some London and domestic markets but capacity is still plentiful, especially as several captives are expanding their third-party underwriting, Mr. Cook noted.

A handful of London and domestic markets have demanded increases of up to 25% in the minimum premiums charged on excess product liability layers for a few isolated risks, he said.

In addition, he noted that two policyholders have been forced to increase deductibles to \$250,000 from \$100,000 and two others have gone to \$1 million from \$500,000. He said he expects more of this sort of restriction of terms in the coming year.

Earl R. Lanning, vp with broker E.H. Crump Cos. Inc. in Memphis, Tenn., says he has seen minimum premium requirements double in some cases and expects to see some higher rates for products that present the risk of long-tail losses.

Rates for "short-shelf" products, like food products, probably won't go up at all, though.

"They're virtually giving it away with the liability (coverage)," Mr. Lanning said.

Others see even fewer signs of any firming of the product liability market.

In most cases, product liability is a relatively small part of an overall liability package, so the impact of higher-than-average losses is reduced, according to Bernard M. Brown, a vp with Risk Planning Group Inc. in Darien, Conn.

"For many insurers, it represents a small portion of total liability premiums, and insurers aren't going to move on that one line," he said.

The improving economy and gains in the stock market have also served to increase insurer capital and hold down rates, he added.

"Until you reduce capital, you aren't going to see any increases in rates," he explained.

Insurers that step away from the pack—deciding that their financial health demands increased rates or more restrictive conditions—may find themselves with a significant loss of market share, he indicated.

"The reward of being different and right is not worth the risk of being different and wrong," he pointed out.

Insurers themselves indicate that rates for general liability as a whole may rise for some risks as income from investments and more profitable lines, like workers compensation, dwindles.

Few, however, single out product liability as a likely area for rate hikes.

"It's been a very competitive

marketplace and I see no reason to believe that will change," said Brian E. Scott, vp for commercial insurance with Aetna Life & Casualty Co., adding that product liability accounts for only about 20% of the company's liability business.

Discounts from ISO advisory product liability rates probably will continue between 20% and 30% this year, said Wayne Wheeler, an underwriter for Kemper International Insurance Co. Fireman's Fund Insurance Cos.,

a unit of American Express Co., plans to increase general liability rates by an average 12% to 15% this year, but those increases haven't been spurred by product liability losses, says Fred G. Marziano, senior vp for commercial lines.

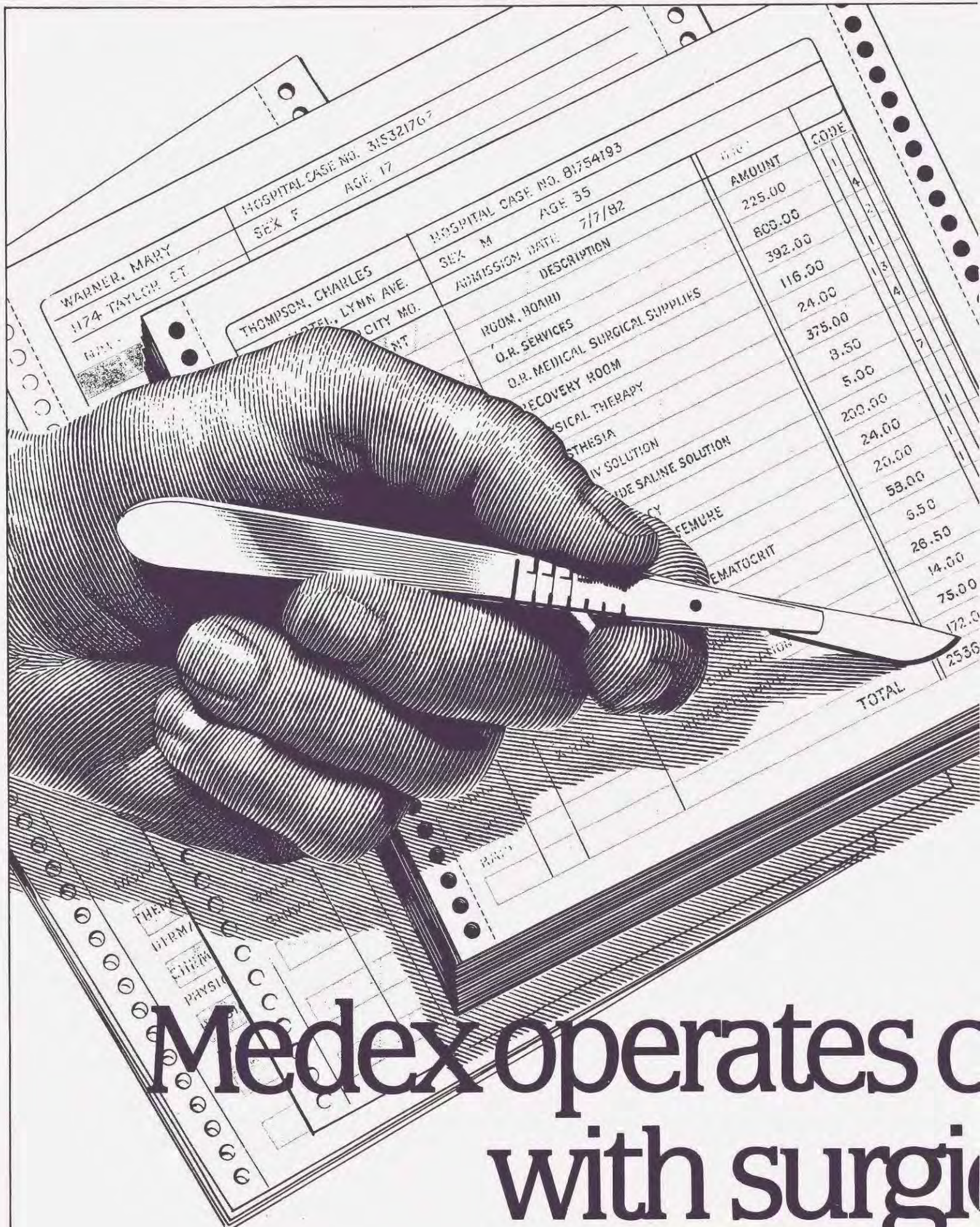
"We haven't had a problem with products," Mr. Marziano said, adding that the company's experience was probably better for products than for other liability lines.

Mr. Marziano also said that the apparent under-reserving that re-

cently led to the company's addition of \$230 million to reserves was not connected to the rate hikes.

But in many cases where insurers raise general liability rates, the increases can be traced to products liability losses, suggested Peter M. Polstein, an Alexander & Alexander Inc. vp who underwrites liability risks in the broker's special marketing department.

"They will call it (general liability), but it will mask the products," Mr. Polstein said.



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Professional E&O market may tighten soon

By BILL DENSMORE

The era of declining liability insurance costs for accountants, doctors, lawyers, insurance brokers, architects and other professionals may end later this year, many insurance brokers, underwriters and reinsurers warn.

Reinsurers, particularly in London, are telling U.S.-based professional liability underwriters that they must either hike their rates or be hit with increased reinsurance

costs (see story, page 17).

Because most reinsurance on professional liability risks is written on a quota-share basis, an increase in direct insurance rates would automatically generate greater premium flow to reinsurers. Thus, reinsurers are encouraging higher direct insurance rates so they won't be forced to change terms and conditions with ceding companies and risk losing business.

The reinsurers note the cumula-

tive impact of multimillion-dollar jury verdicts against professionals is driving up claims costs to the point where the once-lucrative professional liability market is losing its profit appeal.

"I don't admit to making a profit," says Robin A. Jackson, a director of Merrett Holdings P.L.C. and a Lloyd's of London underwriter whose syndicate leads many professional liability reinsurance placements in London.

"I would say the (reinsurance)

rates are firming," Mr. Jackson says. "There's no doubt that errors and omissions rates will be going up steadily in 1984."

Underwriters on both sides of the Atlantic are seeing the need for professional liability rate increases.

No longer should the risk that in the late 1970s brought a \$500,000 premium be covered for \$140,000, says a key U.S. underwriter who declined to be identified. This underwriter said he had already raised rates 25% for small- and me-

dium-sized accounting firms and would also raise liability rates charged insurance brokers because of "tremendous increases in frequency and severity."

In fact, at least one U.S. underwriter—Shand, Morahan & Co. Inc. of Evanston, Ill.—announced at the end of 1982 that it would hike some professional liability rates (BI, Oct. 18, 1982, and Nov. 1, 1982).

Representatives of four of the largest professional liability underwriters—American International Group Inc., Shand, Morahan, Chubb & Son Inc. and CIGNA Corp.—all agree rates are heading upward in 1984.

And, The St. Paul Cos. Inc. says it will hike rates by "at least 10%" across most lines.

"There is an acceptance (on the part of buyers) that rates have to go up," says Joseph DeAlessandro, president of National Union Fire Insurance Co. of Pittsburgh, Pa., the AIG affiliate that writes professional liability coverage. "I think the market is ready and poised."

He notes that professional associations that control millions of dollars in professional liability premiums are more willing than a year ago to emphasize the quality of coverage over its price.

At Shand, Morahan, President E.L. "Mac" Calhoun said the underwriting manager's efforts to raise professional liability rates have met with "spotty" success, with major losses in market share apparent in some areas like coverage for state bar associations and real estate agents.

"Our efforts (last) year have been to try to identify the lines where we felt the rate corrections were most needed," said Mr. Calhoun. "We managed to keep probably a little more of the business than we anticipated we would."

"We just had to put in rate increases and (some accounts) have gone to the competition," said Mr. Calhoun.

Shand generally expects professional liability rates to rise among its competitors. "We see particularly the international reinsurance market tightening with respect to U.S. casualty risks," says Mr. Calhoun.

"I don't think in 1984 a risk manager can expect to get his prices cut any," he adds. "Probably he should expect an increase in price."

At Chubb & Son, officials declined to be explicit about their plans for 1984. But Robert M. Lynyak, manager of the national crime unit at Chubb, predicted that reinsurance rates for professional liability risks will rise this year.

"In well-managed companies, there has got to be a distinct relationship" between reinsurance rates and primary rates to policyholders, Mr. Lynyak suggested.

"We're increasing rates almost everywhere," said Stephen E. Gerstman, president of INAPRO Inc. in New York, the professional liability arm of CIGNA Corp. Despite plans to hike rates, Mr. Gerstman says he doesn't think INA will lose significant market share "because I don't think we're going to be alone."

"We're trying to do the impossible for 1984—to grow profitably," he says. "But I'd rather lose some market share than show an unprofitable combined ratio."

Yet, a senior executive at one large professional liability underwriter, who asked not to be identified, says he has yet to see evidence of any firming in rates on end-of-year renewals. He dismisses such statements by competitors as wishful thinking.

A professional lines underwriter
Continued on next page

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Accountants liability rates to rise

Continued from previous page

for Munich Reinsurance Co. in New York, who asked not to be named, suggested that the entry of new professional liability underwriters into the market tends to prohibit rate hikes by established underwriters.

Other market sources drew a distinction between their expectation that rates will rise and the reality of little or no price movement so far.

"Recently, we're continuing to see the same trend that the rating is pretty soft," says Brian L. Smith, vp and manager of bond and errors and omissions marketing for broker Fred S. James & Co. of New York Inc.

"There is a lot of talk among carriers who would like increases, but on significant risks I have not seen that translated yet into real numbers," Mr. Smith says, except for policyholders with poor loss records.

But, even the market sources who were pessimistic that rates would rise significantly singled out accountants E&O coverage as one class that would become more expensive.

Corporate bankruptcies and problems with bank loan portfolios—two events that dominated newspaper business pages in the past two years—ultimately lead to lawsuits against corporate officers and their accountants, notes Cyril J. Warrilow, lead underwriter on Lloyd's Syndicate 553. "I'm quite convinced that in 1984 there will be more corporate bankruptcies," he says.

"I think accountants professional liability will tighten more swiftly than some of the others," says Warren E. Brockmeier, vp and director of the risk management practice for The Wyatt Co. in Chicago.

Medical malpractice is cited as another area where rates are almost certain to rise. That's because of a combination of increasing claims costs and the withdrawal from the market of several insurers.

L. John Goldberg, a senior vp at broker Johnson & Higgins in Philadelphia and chairman of its national health care resource group, says medical malpractice rate increases are averaging 15%, though whether a policyholder will be hit with a rate hike depends upon loss experience.

D&O rates not expected to rise during new year

Corporate directors and officers may be the only group of professionals to enjoy continued low insurance rates during 1984.

Brokers and underwriters say the entry of at least two new insurers into what is now a market glutted with underwriters will stimulate competition and could prevent the rate hikes predicted for most professional lines from spreading into the more-mature D&O market.

"I would say that anybody who can go into the D&O business today needs their head examined," says Robin A. Jackson, a Lloyd's of London underwriter and director of Merrett Holdings P.L.C.

"It is without a doubt the most

underrated class of E&O business." "As long as you get these kinds of new markets opening up, you won't see any rate increases," says a U.S.-based casualty underwriter for Munich Reinsurance Co.

One of the new entrants is Chicago Underwriting Group Inc., a Chicago-based managing general agent established by four former executives, two from L.W. Biegler & Co. Inc. and two from Wausau Underwriters Inc.

The company soon expects to begin writing all lines of professional liability insurance—including D&O—on behalf of Chicago-based Old Republic Insurance Co., even though it realizes that the D&O field is already crowded, says Vp Martin J. Perry, who was formerly a vp at Biegler.

The other major new D&O market is Royal Insurance Group Inc., which has established a New York-based unit catering to large corporate accounts.

Among the new products offered by the Royal is D&O liability.

More markets are offering directors and officers coverage despite the fact that D&O claim frequency is increasing.

"Lawyers and assureds alike know how to work the policy now and they're working it (for coverage for claims)," says Jim R. Martocci, vp for D&O liability underwriting at Stewart Smith East Inc. in New York.

Another factor increasing D&O claims is the rash of corporate bankruptcies brought on by the poor economic climate of the last few years.

When a company goes under, shareholders often sue directors and officers.

Stewart Smith's Mr. Martocci notes that as claims experience from D&O losses builds, more and more insurers are seeking to write the coverage as an add-on to basic corporate property/casualty packages.

For instance, Chubb & Son Inc. markets D&O coverage as part of an executive risk policy that includes coverage for kidnap and ransom expenses, fiduciary liability and fidelity bonding.

The idea of bundling D&O with other coverages as practiced by Chubb and others is increasingly popular with clients, says Brian L. Smith, vp and bond manager at Fred S. James & Co. Inc.

He says one popular combination is the bundling of directors and officers coverage with coverage for a corporation's responsibility as a pension plan trustee.

"More and more insureds are looking to have their D&O and pension trust wrapped into a combo policy or at least a single carrier," says Mr. Smith.

"Otherwise, you get the pointing finger routine among carriers when there's a claim."

Despite all the new competition, Edwin V. Hughes, president of Harbor Insurance Co., an affiliate of Continental Corp., is predicting that D&O rates will harden.

"We feel generally that the D&O market is leveling off and will firm," says Mr. Hughes. "And if it does, it will do so before property/casualty rates generally and behind the reinsurers."

He says that some industries that previously were solid-gold risks for D&O insurers have become questionable because of the recession or particular developments. He specifically cited banks and utilities, hit respectively by loan portfolio losses and the cancellation of power plant construction, both of which could trigger shareholder suits. ■

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Insurance market hardening in London

By STACY SHAPIRO

LONDON—Everywhere you turn in London there are signs that the commercial insurance market is finally hardening.

Brokers are still scurrying from one underwriter to the next, trying to negotiate reasonable rates for 1984 insurance and reinsurance renewals.

However, many underwriters—especially reinsurers—refuse to quote rate reductions, a change from recent years.

And, an unusual amount of reinsurance treaties—which allow direct insurers to offer more capacity—cannot be completed unless the ceding companies accept rate hikes ranging up to 30%.

“For years we have been predicting that the market will harden, but that was wishful thinking,” said one Lloyd’s of London underwriter. “But now, for the first time, you are actually seeing physical signs of it.

“For example, the art of broking is returning,” he explained. “The day when the broker just plonked down a slip in front of an underwriter and said ‘sign’ is no longer there. Enough bad results have come into the market for underwriters to take notice.

“So now it is harder to renew reinsurance. And, on the direct side, underwriters are being more selective.

“Brokers will tell you it ain’t as easy as it used to be this season. But we can no longer afford charity,” he said.

These sentiments were echoed by more than a dozen brokers and underwriters in the midst of one of the most grueling year-end renewal seasons the market has known.

Much of the year-end negotiations in London centers on reinsurance treaties, which comprise at least 60% of Lloyd’s business.

And although last year’s renewal season was thought to be a tough one, “it was simple compared with this year,” a Lloyd’s broker said.

Last year, capacity for many marine, non-marine and aviation risks contracted because ceding companies could not find enough reinsurance (BI, March 25, 1983).

Since then, reinsurance capacity has continued to contract, making this year’s renewal season more difficult.

For instance, many underwriters—including 35 Lloyd’s underwriting syndicates, Dunedin Underwriters (HMT) Ltd. and March Insurance Co. Ltd.—have ceased underwriting in the past year.

And, about half a dozen companies have stopped underwriting American facultative property reinsurance, including Exxon Corp.’s insurance subsidiary Ancon Insurance Co. (U.K.) Ltd., English & American Insurance Co. Ltd. and Lloyd’s underwriter Robin Jackson, a director of Merrett Holdings P.L.C.

Worsening underwriting results, too, fueled reinsurance rate hikes, sources here agree.

“The reinsurance and retrocessional markets have made up their minds that this is the moment of truth,” noted J.M. Payne, chairman of Lloyd’s reinsurance brokerage Sedgwick Payne Ltd.

Pricing has gone up dramatically, he said, particularly on excess-of-loss treaties, which shot up 20% to 30% from last year’s quotes, he said.

“In the last four years the market thought that it was the moment of truth, but they couldn’t justify it. But now, there is little possibility of

justifying going into 1984 reinsurance and retrocessions unless the price goes up,” said Mr. Payne.

“I can honestly say that during this treaty season, London is clearly being more responsive to increases than the United States,” said Mr. Jackson. “We are getting quite a lot of rate increases in reinsurance and retrocessions. Increases on most casualty reinsurance, for example, are greater than 10% to 15% (over last year)—and that is a minimum.”

Aside from the mounting claims from long-latent occupational diseases like asbestosis, for which London underwriters are currently reserving, the single biggest loss to

Continued on next page

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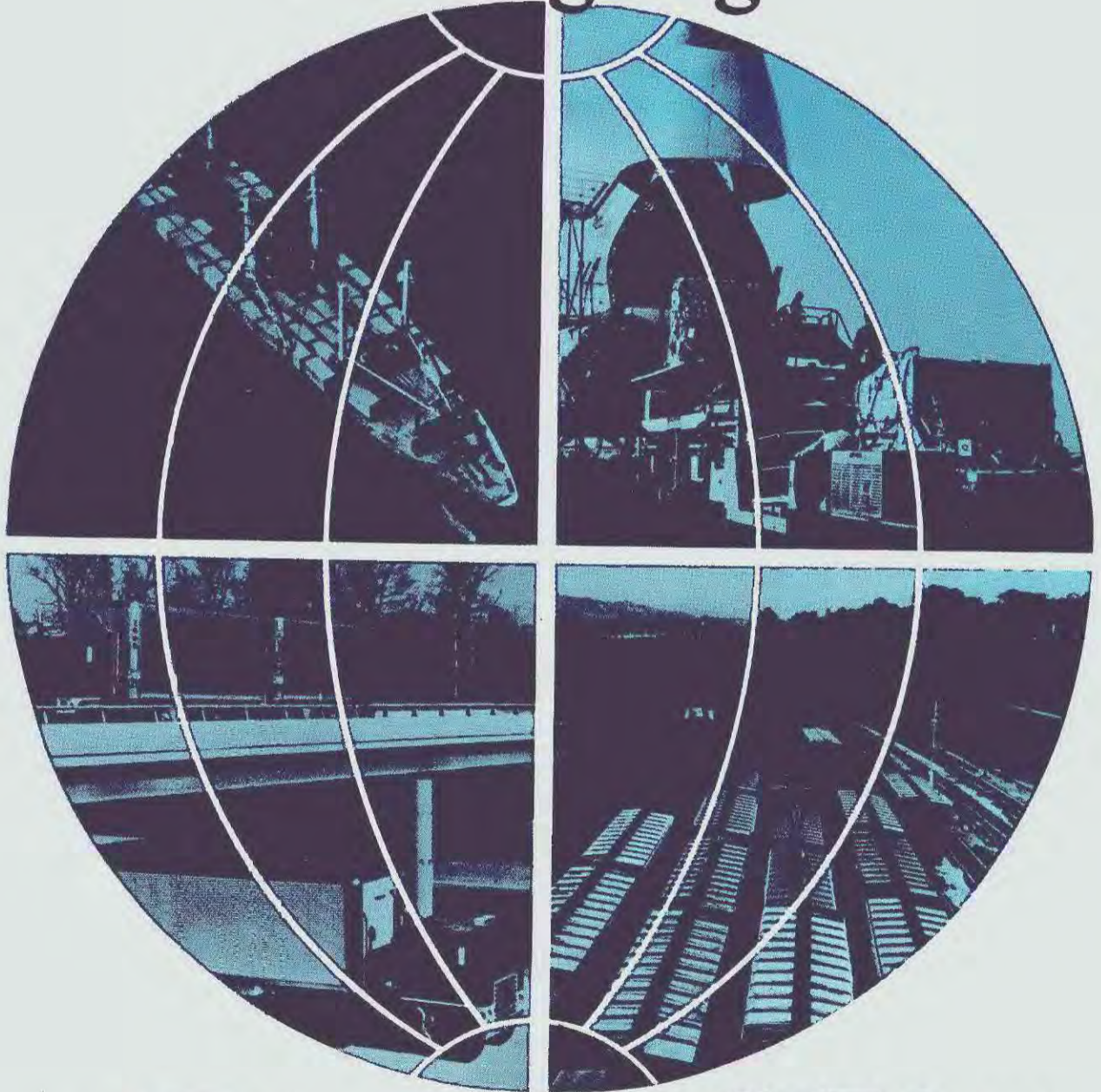
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London market

Continued from previous page
hit the London reinsurance market this year was Hurricane Alicia, sources say (BI, Aug. 29, 1983).

"Hurricane Alicia was a small market loss... in the sense that it was not the subject of a big bang," said Mr. Payne. "But, Alicia coincided with the gradual deterioration of results... and became the single most important factor to set minds straight."

Like last year, ceding companies are also settling for more excess-of-loss reinsurance in the place of proportional reinsurance because underwriters are refusing to complete

proportional reinsurance treaties, sources agree.

Buying excess-of-loss reinsurance instead of proportional treaties costs ceding companies more money for less capacity, which in turn may cause the ceding companies to boost premium for policyholders.

Proportional reinsurance describes forms of reinsurance in which the reinsurer shares with the ceding company a portion of the original premium and any of the attendant losses. Excess-of-loss reinsurance reimburses a ceding company for losses exceeding an agreed-to retention; a flat premium rate is charged upfront for these

treaties.

Some market sources report that some ceding companies were not able to find sufficient reinsurance capacity by year-end, specifically proportional treaties, which has forced some reinsurance buyers to continue negotiating into January and perhaps even February.

"There is a tremendous amount of negotiating going on," said David Johnson, managing director of Commercial Union Risk Management Ltd.

"And, there are more cases than I have ever known that have not been settled by this time. Buyers are pushing policies as late as possi-

ble to see if they can get better terms," Mr. Johnson said.

The direct insurance market, too, is starting to feel the contraction of the reinsurance capacity.

Hardest-hit this year is the aviation insurance market, which is not only suffering from lack of reinsurance capacity, but also from its worse loss record ever.

A slew of aviation disasters at the end of the year pushed insured hull losses to more than \$400 million.

Not included in the hull total is the partial loss of a Japan Air Lines 747 cargo aircraft that struck a car on a runway at the Anchorage, Alaska, airport. Repairs to the jetliner will cost just a bit less than its

insured value of \$55 million.

How much is reserved for aviation liability claims is not known, but market sources point out that nearly 1,000 people were killed in air accidents last year.

"The market is in turmoil because of the run of losses," said one London aviation underwriter. "It is the highest level of losses so far, compounded by the wholesale withdrawal of aviation underwriters from the proportional reinsurance market."

"We know of six (reinsurance) treaties which have been allowed to lapse until after Jan. 1 because they cannot be completed," he said. "And all this puts pressure on the front end to get rates up."

Airlines renewing hull and liability policies at year-end—including Turkish Airways, Gulf Air and Nigeria Airways—were hit with rate increases exceeding 30%, aviation underwriters confirmed.

Underwriters also said there was the possibility, for the first time ever, that at least one Third World airline would not be able to complete its coverage and would have to retain some risk it would normally insure.

"We have already seen considerable signs of hardening," said John Palmer-Brown, a director and senior aviation broker at Stewart Wrightson International Group Ltd. "Usually the market give small reductions or flat premiums after losses. It is only this year that you are seeing substantial increases."

Buyers looking for umbrella liability policies are also starting to feel the pinch, some sources say.

Brian Hibbert, chairman of Bowring Non-Marine Insurance Brokers Ltd., says that some clients have been charged rate increases as high as 10% for casualty umbrellas placed in London, while others' rates are holding flat without the now-usual decrease.

Peter Wilson, managing director of H.S. Weavers (Underwriting) Agencies Ltd., also says he sees signs that rates on umbrella policies written by U.S. insurers will also rise, particularly excess policies for pharmaceutical companies.

"But this is brought about by necessity," said Mr. Wilson. "Excess casualty business is probably as much as 50% underpriced."

Even the marine insurance market, hurt by the worldwide recession and oil glut, is showing some signs of hardening.

Hull war risk insurance rates, for example, have been boosted to a minimum of 0.1% of the sum insured from 0.025% of the sum insured. And, rates are rising for surety and specie cargo insurance since \$40 million in gold was stolen from a Brinks-Mat Ltd. warehouse in London last month, said Stephen Merrett, chairman of Merrett Holdings P.L.C.

"But otherwise, it is pretty depressing," said Mr. Merrett. For hull and cargo risks, "it is difficult to hold good business with present rates."

Although rates are beginning to rise in London, many buyers aren't going elsewhere to search for better prices. Buyers will stick with the outstanding security that London underwriters—particularly Lloyd's syndicates—can provide, market sources say.

"Clients are telling us that security must be Lloyd's or A-plus companies or have a minimum surplus of \$20 million or be a long-established London underwriting agency," said Roger Earl, managing director of Lloyd's brokers Fenchurch Insurance Holdings Ltd.

"Clients now are sticking to London because they sense the trend in the market," said Bowring's Mr. Hibbert. "If they leave here, then in 12 months' time it will be difficult to come back."

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Comp rates to hold level in '84: Insurers

By CAROL CAIN

Workers compensation insurance promises to be a good buy in 1984, just as it was in 1983, say leading work comp insurers.

Rates are expected to level out this year—or decrease slightly—as competition continues, most say. But by the end of 1984, and certainly in 1985, insurers expect rates to start going back up.

The rate scene in 1983 was a mixed bag with 15 states approving decreases and 17 states approving increases. The overall result was an average 1.6% increase, said Robert L. Hilton, senior vp with the National Council on Compensation Insurance, the New York-based rate-making organization that prepares workers compensation rates in 32 states and offers similar assistance in about nine others.

"Rates are going to stay pretty much where they are," said Kevin Ryan, the NCCI's president.

"The experience that we use to evaluate where the level should be is telling us there is no need for a change.

"We will not be asking for nor will insurers be needing increases."

Individual insurers also see rates holding.

"We believe rates will hold about the same...not a significant change either way," said Donna Symonds, director of product development for Aetna Life & Casualty Co. in Hartford, Conn.

"I think the rates will vary from the current levels maybe only 2%, up or down," said a product manager for workers compensation for Wausau Insurance Cos. in Wausau, Wis.

"My guess is that they will move sideways or a little up," said James J. Holland, director of product management for Travelers Insurance Co. in Hartford, Conn.

"The whole rating issue has stabilized over the last year or so and will either maintain the present level or there will be a slight reduction," said Steven Millikan, associate vp and director of workers compensation for the Alliance of American Insurers in Schaumburg, Ill.

"If you take all the rate changes (approved last year), then we'll probably see a slight decrease in rates," said Tom W. Brown, secretary and manager of workers compensation for The Hartford Insurance Group in Hartford, Conn.

"Rates will go down about 2% overall because so many already have gone down. (Several) states have announced rate declines of substantial amounts," said Richard C. Franklin, vp of commercial lines product development for the agency division for CIGNA Corp. in Philadelphia.

When Martin Bondy, a senior vp with Crum & Forster in Morristown, N.J., looks into his crystal ball, he sees rates continuing to drop, but not for much longer.

"We probably will continue to see a rate reduction...that's the way any class works after good experience," he said. But, some see workers compensation losses increasing after a period of reduced losses.

Usually during a recession, accident rates and severity go down because marginal workers are laid off, said Bob King, assistant vp in charge of workers compensation product management for Fireman's Fund Insurance Cos. in Novato, Calif.

And, during a recession, injured workers also want to protect their jobs, so they return to work sooner, he said. This cuts the size of claims.

"We've had good experience in the past few years (and rates went

down)," noted Hartford's Mr. Brown, "but the '84 economy is on the upswing; unemployment is going down so exposures are now increasing."

"Claims are going up. There's no question...exposures started going up six months ago," said John W. Purkis, vp for commercial underwriting for Liberty Mutual Insurance Co. in Boston, Mass.

"Losses and claims are already on the way up," a Wausau spokesman said. "They've been increasing, at least for us, since midyear. And the number and severity will go up. As the economy expands it will bring in new inexperienced people and also more mobility," he said.

"Not only will there be more claims but more situations that will

lead to more serious accidents. People will be working more overtime, they will be tired," said Travelers' Mr. Holland.

All these influences, in addition to increasing medical costs, ultimately will result in higher rates, insurers say. But rates won't go as high as they could because of continued competition, they note.

"It looks as if the competition will continue into 1984; it may even be more severe because there's still a perception that it's the best line of business for insurers...they will continue to go get that line of business because other lines are so bad," the NCCI's Mr. Ryan said.

"We're expecting 1984 still to be a competitive year for workers competition, but after that we'll see the poor (experience) results of 1983

and 1984 and the industry will take some type of corrective action in 1985," Hartford's Mr. Brown said.

"Perhaps the rates will start to turn back upward and the regulatory people will approve increases."

"Many insurers see the workers compensation market as never really returning to the days of old," said the Alliance's Mr. Millikan. "They might have created a competitive workers compensation marketplace that will continue to be competitive, but how that plays around with the ultimate price is still unknown."

But the "brutal" competitive market of the past few years, fueled by open rating laws, is a thing of the past, he said.

Open rating laws just took effect

Jan. 1 in Georgia and Minnesota and have been in effect in Arkansas, Oregon, Kentucky, Rhode Island, Michigan and Illinois.

But, interest in open rating laws, which mandate that insurers file rates independently rather than en masse, is waning.

"We (the Alliance) feel that competitive rating per se, at this particular day and time, is really not the political issue it was two years ago," Mr. Millikan said. "In 1983, not one competitive rating law passed and there's relatively little interest now."

Although open rating probably will be discussed in one or two state legislatures in 1984 (Vermont has several drafts on the table), "I would be very surprised if any

Continued on facing page

AMERICAN IN REINS

The arson crisis: putting the heat where it belongs

How big is the arson problem today?

One northeastern county with 69 municipalities identified 66% of structural fires as suspicious or incendiary in 1981. In 1982 this same county delivered 42 criminal indictments for arson and received 92 more confessions of arson.

No one knows how many fires are actually caused by arson. A leading property insurance company shows that over 43% of structural fires in 1982 were suspicious or incendiary in origin.

One of the country's best-known arson experts estimates that at least 50% of all

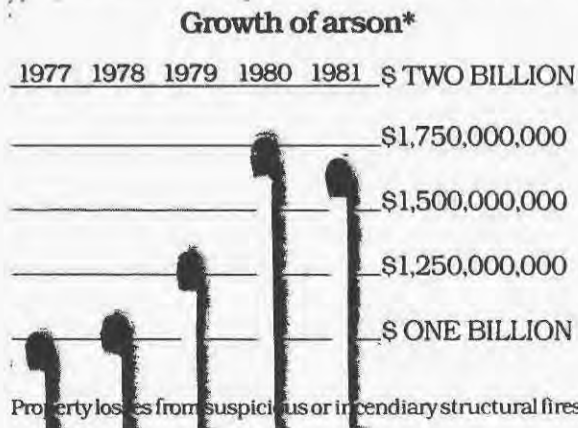
structural fires are deliberately set.

Figures from the National Fire Protection Association show a 72.5% increase in costs associated with arson from 1977 to 1980. In 1981, however, the dollar loss declined slightly. Is this the effect of increased anti-arson activity? It is too early to tell.

What can be done about this growing problem? At American Re we decided to tackle it head on. We teamed one of America's foremost arson experts with one of the country's most respected arson attorneys to lead a series of anti-arson seminars. The seminars address such topics as:

- Whose problem is arson?
- What's the toughest problem in fighting arson?
- Working with local anti-arson squads
- Preserving evidence
- Identifying arson defense firms
- The role of the arson investigator
- Benefits of an anti-arson program
- How to set up a successful anti-arson program

At the seminars, small numbers of primary insurance company executives discuss their experiences with arson, and exchange ideas on how to cope with this



*Source: National Fire Protection Association

AMERICAN REDEF

Continued from facing page state would adopt it," Mr. Purkis said.

"I don't foresee many changes in the workers compensation laws (to allow open rating). That movement seems to have slowed down pretty much. Companies are using scheduled rating and deviations to compete... ways allowed under the current laws," NCCI's Mr. Ryan commented.

"The workers comp insurers are competing much more vigorously on the go-in," Mr. Ryan said, explaining that about one-third of workers compensation premium volume now is transacted in jurisdictions where deviations and competitive rating are allowed.

"Thirty-eight states allow deviation now," Liberty's Mr. Purkis noted.

All that competition has meant a loss of money for insurers, many say. Premium volume dropped an

estimated 5% from 1982 to 1983 in the states the NCCI serves, Mr. Hilton said. The direct premium volume for 1983 is estimated to be \$14.4 billion, compared with \$15.2 billion in 1982.

But increases are projected for the next three years, he noted. The NCCI sees a 3% increase in 1984 to \$14.9 billion, a 7% increase in 1985 to \$15.9 billion and a 7% increase in 1986 to \$17 billion.

There's money being made, but only through investment income, several insurers say. "Certainly no one is making any money in underwriting," one said.

If there is any silver lining in this scenario, it lies with self-insurers, said Hartford's Mr. Brown. "Self-insurers are coming back into the market," he noted.

"I think a lot of this company activity (insurers' rate-cutting) is bound to have an impact on self-insurers. (Insurers) are pushing so hard, I think it really will bring

some (self-insurers) back to the commercial market," Mr. Ryan said.

"We're depopulating the self-insurers in Michigan," noted Charles Coakley, counsel with the American Insurance Assn. in New York. Michigan's open rating law took effect Jan. 1, 1983 (BI, April 4). The previous year, Michigan insurers were forced to drop rates by 22% (BI, Jan. 11, 1982).

"We have had some success in the past six months taking some employers out of self-insurance, but it's not measurable," Liberty's Mr. Purkis said, adding that this didn't happen in the two years previous.

However, Douglas F. Stevenson, a Chicago attorney and executive director of the National Council of Self-Insurers, sees no major employers that self-insure their workers compensation swinging back to the commercial market.

"Self-insurance for a major company is still much less expensive than commercial insurance," he said. But he noted that some smaller companies have gone back because of the competitive prices.

The Alliance of American Insurers reports that its members have seen "a significant impact on the self-insurance market, both groups and individuals."

"It's not as attractive to self-insure your own risks or enter in a group when you can buy workers compensation in a broad competitive market for less than it costs you to administer," Mr. Millikan said.

"I think we will see a lessening of the self-insurer involvement," he added.

CIGNA's Mr. Franklin also sees the self-insurer movement winding down.

"I think the momentum has slowed. The equations don't work anymore now that you have com-

petitive rating," he said. "However, we've seen a lot of activity in the area of group self-insurance. We think that will continue."

Self-insurance is peaking, according to a Wausau spokesman.

"Self-insurance will recede, I think, sometime in the future, but 1984 won't be the year," he said.

"Self-insurance is not moving along. There's such competition for the premium dollar," Travelers' Mr. Holland said. There's little incentive to go into that mode these days, he said. "But it's not a dead issue."

Mr. Holland believes that if the market stabilizes and prices then rise, self-insurance will look attractive again. "But not in 1984," he said.

Meanwhile, the rating scene in 1984 appears to be as mixed as it was in 1983.

Proposed average decreases of 10% are pending in South Carolina; 8% in Alaska; 4% in Utah, and 0.4% in Mississippi.

Proposed average increases of 18.7% are pending in Florida; 16.6% in Vermont; 4.4% in Nebraska; and 4.3% in Wisconsin. An average 30% rate increase also has been proposed in Maine, where hearings will be scheduled.

Last year, 17 states approved increases in workers compensation rates, including hefty averages in California, 15% (BI, Sept. 26); Massachusetts, 15.9%; and Hawaii, 29% (BI, April 4).

But 15 states also approved decreases, five of which just took effect Jan. 1. They are North Carolina, an average 13.1% decrease; California, an average 6%; Maryland, an average 5.2%; Louisiana, an average 3.3%; and Idaho, an average 2.2%.

"There's no room to go down any further," Fireman's Fund Mr. King said.

"I think most (insurers) are looking for a way to increase their prices at this point. But by how much and how to do it... that's still up in the air," he said. ■

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Competition continues in fidelity market

By WILLIAM KILLEN

"Competition is just as robust in fidelity coverage as it is in other areas of business insurance," says Joseph P. Kiernan, assistant vp-bonds for Aetna Life & Casualty Co., the leading writer of this coverage in the U.S. market.

And, competition is likely to continue through 1984, according to Mr. Kiernan and other leading underwriters.

Fidelity coverage—which includes bankers blanket bonds for financial institutions and similar employee-dishonesty coverages for stockbrokers, thrift institutions and other businesses where employees handle money—generated \$420 million in premium for U.S. insurers in 1982, down some 4% from

\$429 million in 1981.

Meanwhile, losses are growing, according to the Surety Assn. of America. Member insurers' 1982 combined ratio was 114%, compared with 100.1% in 1981 and 95% in 1980 when premium volume was \$399 million.

The loss ratio alone jumped to 77% in 1982 from 48.1% in 1980, the "worst in memory," according to one underwriter.

But, the premium volume decline in the fidelity insurance market is not entirely due to excessive price competition.

Mergers and acquisitions of thrift institutions hard-pressed during the recession also affected insurers' premium volume.

"Before Thrift A merged with Thrift B, their combined premium

'The fidelity insurer is basically acquiring more potential liability for substantially less premium,' says Joseph P. Kiernan, assistant vp-bonds for Aetna Life & Casualty Co., the leading writer of fidelity coverage in the U.S. market.

was, for example, 2X," explains Mr. Kiernan. "After the merger, their combined premium declines to 1.75 even though increased limits of liability are added. The true incremental exposure is not being reflected in the premium.

"The fidelity insurer is basically acquiring more potential liability for substantially less premium," says Mr. Kiernan, whose company

wrote about \$70 million in 1982 and was expected to write a bit more than that by the end of 1983.

Although this explains part of the decline in premium, it cannot be denied that rate cutting hurt premium volume, too.

The availability of cheap reinsurance is helping to keep prices low.

"There is still a good deal of innocent reinsurance capacity in the market," said Mr. Kiernan. "Overseas reinsurers, particularly from the Pacific Basin, are supporting a lot of current competition."

Mr. Kiernan notes that many reinsurers and their retrocessionaires have limited understanding of the fidelity exposures they are picking up in the U.S. market.

"The competition is erratic," says Bob Lynyak of Chubb Group, the second-largest underwriter of fidelity coverage. "In one town, Competitor X writes no business—nothing is good enough. In the next, they write everything at rates you wouldn't believe. They're giving the store away."

Part of the problem, according to Mr. Lynyak, is the lack of experienced fidelity underwriters.

Mr. Lynyak, who heads Chubb's Executive Protection Department that writes directors and officers, crime and other coverages, says the volume of fidelity business doesn't warrant the assignment of skilled experienced underwriters at many insurance companies.

However, Chubb, which has been a specialty writer of fidelity coverage for a long time, has 100 underwriters handling a broad range of crime coverages for multinational corporations, race tracks and supermarkets, among other businesses.

"At other companies, fidelity is a stepchild which doesn't get much

attention until the losses get out of hand," he says.

Mr. Lynyak thinks the recession helped companies discover more fidelity losses.

"In a recession, as management tightens its control over expenses, as it scrutinizes items more closely; attention is focused, for example, on suppliers' bills. Why is the company spending \$250,000 a year with this supplier? As it turns out, a key employee of the insured company has a covert financial interest in the supplier."

When times are good, he says, management rolls with it. "When it's bad, they start digging and what they find are a lot of fidelity claims."

Some also believe that the recession is responsible for the increasing losses in the fidelity market because as individuals come under economic pressures and their lifestyles are threatened, they may resort to dishonest methods to repair their situations.

Aetna's Mr. Kiernan does not necessarily agree.

"That may be true for smaller losses," he notes, "those in the \$2,000 to \$5,000 category, where the smallness of the loss indicates some intention to replace the money at a later time. But they do not explain the increasing severity of today's fidelity losses."

This is particularly true among financial institutions, he says. The loss ratio for financial institutions was 65.1% in 1981; a year later it was 81%.

One of the principal problems facing underwriters of financial institutions, particularly the larger ones with more than \$500 million in assets, is management attitudes, Mr. Kiernan says.

"When your product is money," he says, "they lose sight of its value. The volume and velocity of money passing through the hands of key bank individuals is staggering. Financial institutions are relying on procedural audits that are just not adequate to the task of detecting fraud."

For this reason, he believes there are a number of seven-figure losses that go undetected for years.

Continued on page 24

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Continued from facing page

There are more than 500 banks with assets of \$500 million or more, Mr. Kiernan notes. "As they expand their operations—interstate or multinational—or go into collateral financial businesses, management controls are stretched to their limit."

But, the problem is not confined to banks. Insurers have been hit with a growing number of large losses from other areas. Stock brokers, for example, are a problem. The Prudential-Bache Securities loss of more than \$15 million in 1983 may be just the tip of the iceberg, underwriters suspect.

Even credit unions, which have begun to take on some of the characteristics of small commercial banks, are coming under closer scrutiny by fidelity bond underwriters.

Cumis Insurance Society of Madison, Wis., is the fourth-largest writer of fidelity coverage in the United States. About half of its \$90 million in premium writings comes from fidelity coverage for credit unions.

While price competition is not the factor in this sector of the market that it is elsewhere, increasing frequency and severity of loss have become a disturbing problem, says Cumis Executive Vp John Heiser.

"While the overwhelming majority of credit unions present no problem," Mr. Heiser says, "those that do show increasing frequency and severity of loss. This is not due to the recession."

Citing Cumis statistics, Mr. Heiser says the problem is the number of people credit union managements must monitor.

"There are three times more people employed by credit unions today compared with 10 years ago. The losses practically track that growth and the growth of the Consumer Price Index."

Mr. Heiser points out that the security of credit unions against burglary and robbery has increased substantially in recent years. Better vaults, safes, alarms and reduced amounts of cash on hand have

brought dramatic improvements.

"But the problem of embezzlement remains. The safeguards in this area are not adequate."

Will mounting losses cause underwriters to "pull in their horns, be less aggressive about writing business and more concerned about those big losses waiting to be discovered?

For one company they have. Low rates are keeping St. Paul Fire & Marine Co. out of the war.

"We are not trying to compete for commercial fidelity business. The rates are just too low," says Allen J. Stendhal, senior fidelity

underwriting officer.

Meanwhile in the surety bond market, competition and rate-cutting is not a problem yet.

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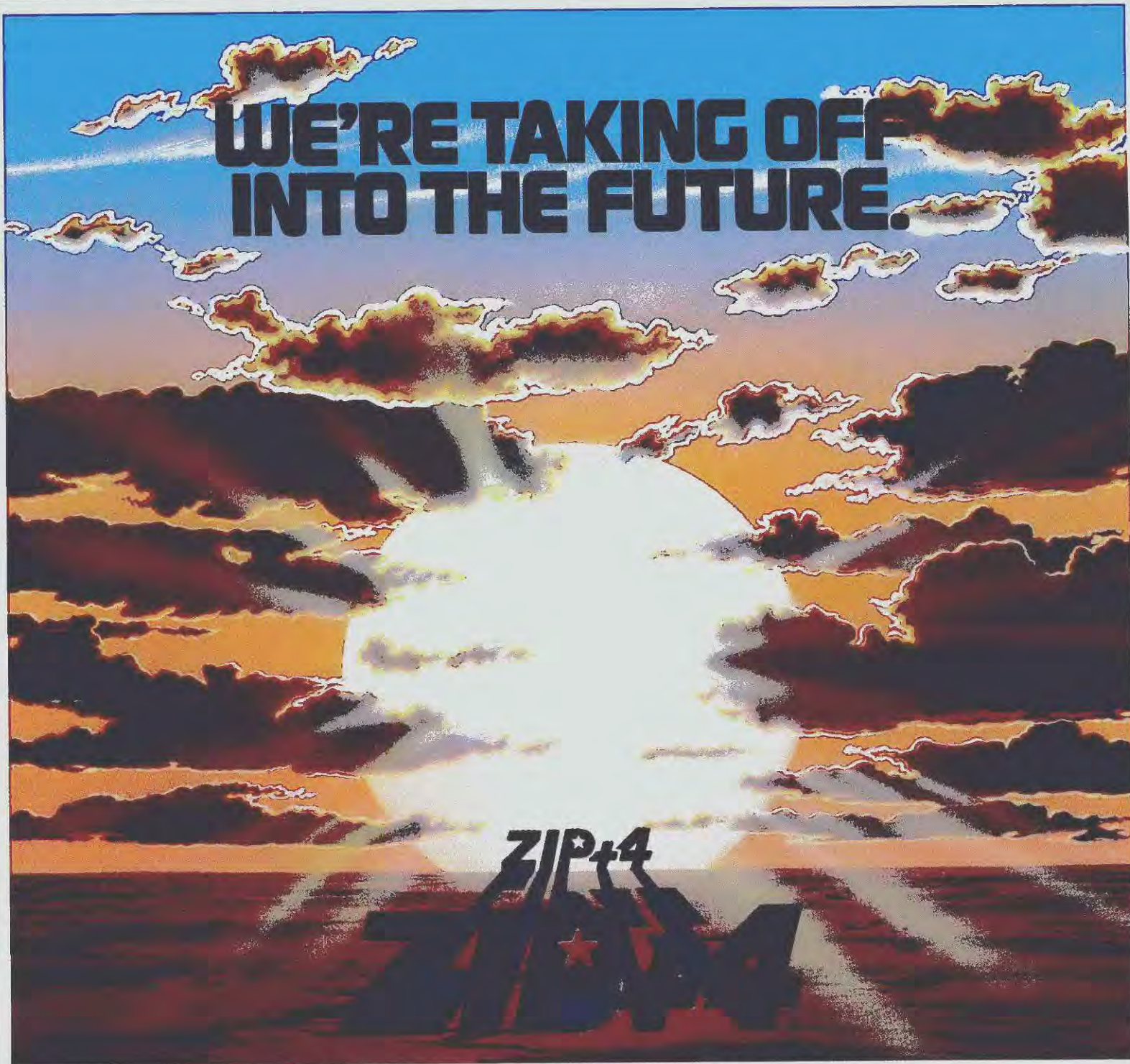


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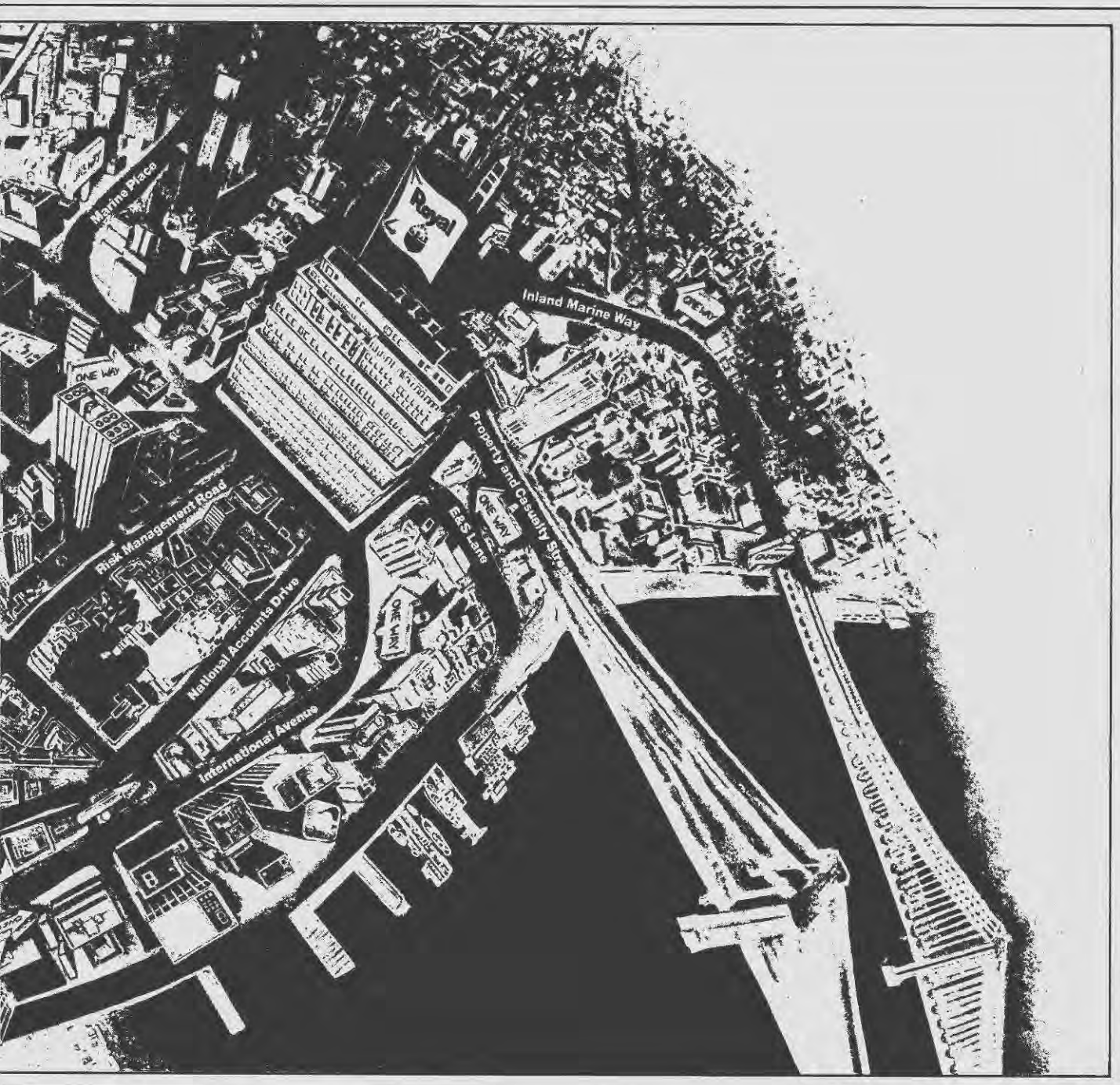
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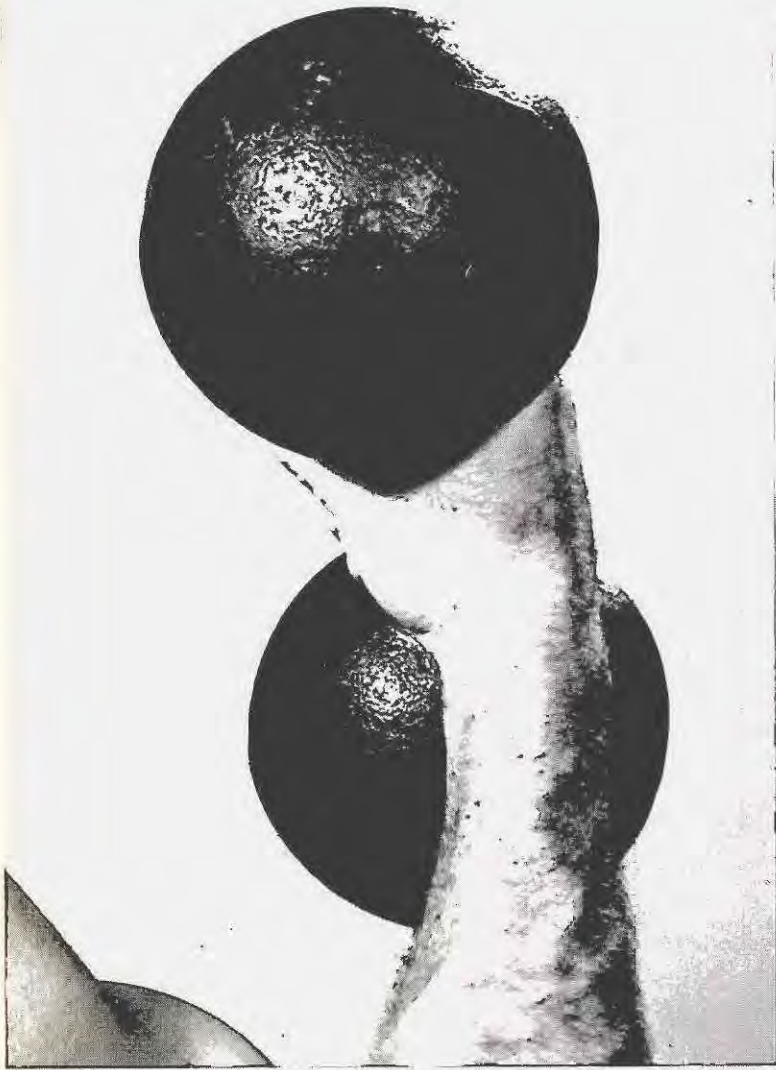
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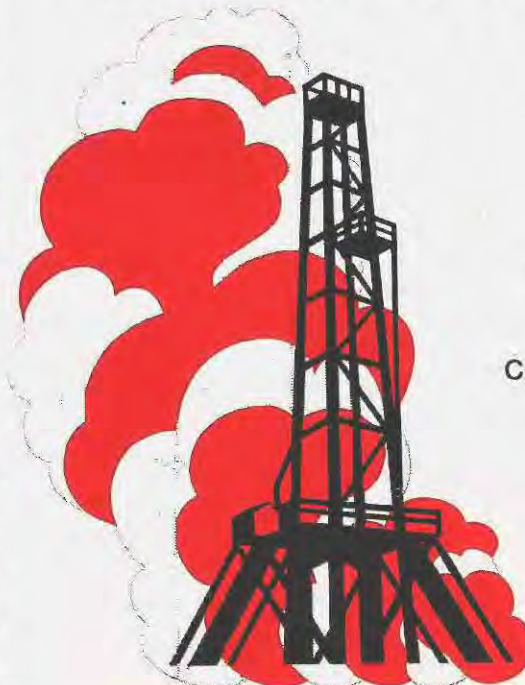
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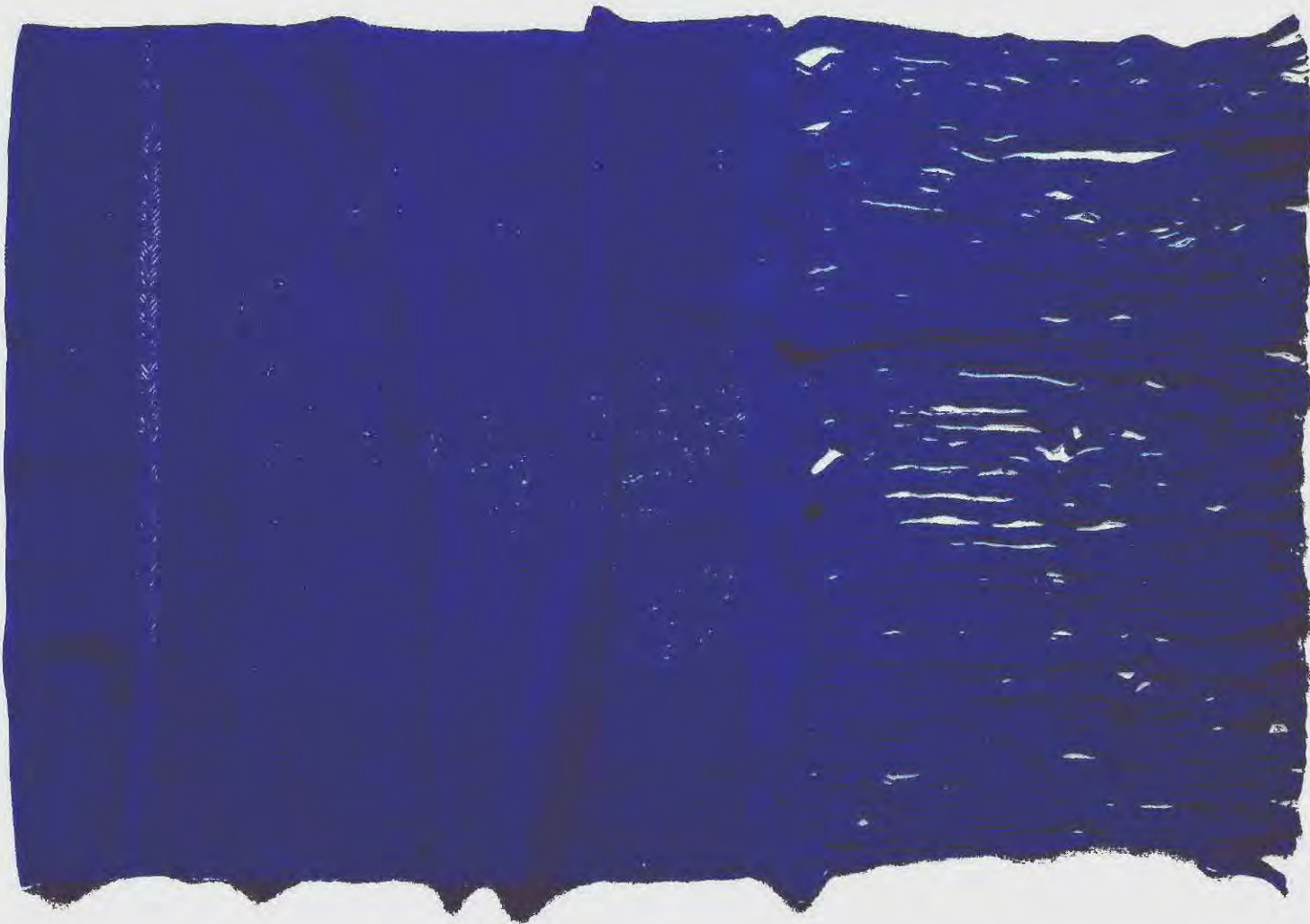
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BUSINESS INTERRUPTION

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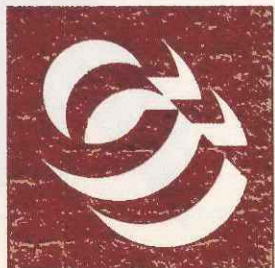




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Benefit costs will remain a major concern in 1984

By Joseph W. Duva

COST PRESSURES will continue to be the dominant factor affecting employee benefits in 1984, as we struggle to control the impact of rising employee benefit costs on our companies' "bottom line". These cost pressures will be compounded by proposed government legislation intended to increase revenues and by the need for increased productivity from a changing work force.

In the past, the efforts to minimize the cost of employee benefits programs were mainly directed at negotiating different kinds of financial arrangements with insurance companies, self-insuring all or part of medical and disability plans or changing the actuarial funding methods for pension plans.

At the same time, employee benefit programs—nourished over the years by inflation and tax incentives—grew at a significant rate. Medical plans were influenced over the years by competitive pressures and labor settlements and developed into the type of plan that provided full payment for semi-private room and board charges, hospital additional and for reasonable and customary charges for surgery.

Given the business realities of intense worldwide economic competition in the 1980s, many companies have already recognized rising health care costs as their No. 1 concern and have redesigned their medical plans to slow down the rate of increase in medical costs by increasing cost sharing in the form of employee contributions, higher deductibles, less first-dollar coverage and more coinsurance.

Many more companies, spurred by these pressures, will be redesigning their medical plans in 1984. And, although plan redesign has the most immediate impact on slowing down a company's medical cost increases, companies will be expanding their cost-control efforts for the longer haul to include better data analyses, claims audits, provider analysis and contact, employee education and community involvement.

To make the changes in the medical programs more acceptable to employees, some companies have adopted flexible spending accounts that can be used to reimburse employees for required contributions to medical or dental plans or for unreimbursed expenses under their health care or dental plans.

Assuming a positive regulatory environment, the trend toward flexible spending accounts will continue in 1984 as part of a larger effort that managers will be making to "decouple" their benefit programs from "built-in" cost increases by providing employees with fixed dollar amounts that they can spend, rather than making benefit improvements that are tied to increasing levels of compensation.

Flexible spending accounts on a pretax basis can also be more effective for employees in addressing the needs of the changing demographics of the work force. Concurrent with the trend, we can expect to see less emphasis on defined benefit plans as companies seek relief from the financial and administrative requirements imposed on them by the Employee Retirement Income Security Act, the Pension Benefit Guaranty Corp. and the Financial Accounting Standards Board. There will be more emphasis on defined contribution thrift or savings plans that are also more popular with employees—especially younger employees—and, like flexible spending accounts, shift the decision-making responsibility on how best to meet their individual needs from the company to employees.

The growth of employee benefit programs over the years has been

Continued on next page

Companies will be striving to control risks in mid-1980s

By Edith F. Lichota

JAN. 1 IS resolution time for every new year, and the process of making those resolutions reminds all of us that the future will be what we make of it; it will be influenced (if not exactly shaped) by our action or inaction, our reactions or our indifference. It behooves us, therefore, to peer into the future with the dual objective of defining, not only what we think will happen, but also what we believe should happen and how we can bring it about.

Risk management as both a discipline and a profession has evolved rapidly in the United States. Yet it has by no means been as broadly recognized and implemented as it will be in the years to come.

Of all the shadows I see cast into the future, I believe this central statement is the single most important one I can make: Companies will move more and more in the direction of the total management and control of all the types of risk with which they are faced—regardless of whether they have been previously regarded as insurable and regardless of the methodology yet devised for their essential management and control.

Otherwise stated, the importance of the function will transcend the presently somewhat limited notions of what risk managers do and how they do it and will lead to vastly expanded responsibilities and a whole new array of response mechanisms.

We will find, in the future, that the work done on self-insurance, risk retention, loss control and alternative funding was fundamental, but was only the beginning. Tremendous strides will be made to expand the processes of risk identification, risk evaluation, risk measurement.

The risk manager will become a critical player in business and strategic planning, product development and marketing, finance and control. As a corollary, the risk manager will require expanded personal technical resources and will have to assume greater responsibilities, not to his or her corporate employer, but to the markets in which we all must function.

Within this decade, corporate management in many parts of the world where the discipline is not yet well understood will come to recognize the nature of the contribution risk management can make to operating results, as well as to implementation of social and cultural objectives.

So I am predicting higher visibility, greater influence and a concomitant increase of responsibility for risk managers and risk management, worldwide.

But note the repetitive use of the word responsibility. Educational demands will increase. We already function in conjunction with most of the other staff and operational areas of the corporations we serve; to serve them well, we must understand them all.

As risk managers, we will also have to understand the financial markets of the world in their broadest sense—not just the insurance companies, or the banks or the hybrids taking shape. We are entering an era of rapid change in the financial marketplace, and we have a role to play in assuring the long-range development and survival of financial institutions that will provide continuing capacity to fund continuously escalating large risks—some of which we have yet to identify and certainly have not yet quantified.

We will be instrumental in developing efficient financing vehicles that will combine the total resources of the financial marketplace without destroying any of its essential components.

In fact, our long-range best interests will be served by conduct aimed at preserving a viable financial marketplace with a full range of competitive

Continued on next page

Future holds more benefit cost worries

Continued from previous page encouraged by government-sponsored tax incentives. However, in 1984 we may see more legislation that will further reduce the benefit limits set by the Tax Equity and Fiscal Responsibility Act of 1982 and that will put a cap on the amount of health benefits an employee receives tax-free.

Although the purpose of these legislative proposals is purportedly to limit discrimination in favor of the higher-paid and to control health care expenditures, many benefit professionals feel that the chief attraction for Congress is in the additional revenue the legislation will raise. Other types of legislation we can expect to see are enactment of the Retirement Equity Act (Women's Pension Equity Act) and the Single Employer Pension Plan Amendments Act.

Among other changes, the Retirement Equity Act will lower the age for pension eligibility and the minimum age for vesting. The bill will also prohibit the exclusion of maternity leaves for vesting purposes and requires spousal consent to opt out of joint and survivor coverage.

The Single Employer Pension Plan Amendments Act would increase the premiums for PBGC insurance and make it harder to terminate a pension plan in order to get excess or surplus funds and to avoid liabilities in the event of a sale or plan spin-off.

Changing workforce demographics will also complicate efforts to control benefit costs and get the maximum value for our benefits dollar in 1984.

These demographic changes will involve dramatic shifts in the age of our workforce over the next 10 years. At the same time, as employees approaching age 65 will be exerting pressure for increased pension and retiree health care benefits, the younger generations will want the "now" benefits, such as vacation time, expanded capital accumulation plans, etc.



Joseph W. Duva is director of employee benefits and compensation at SCM Corp. in New York.

Goal for mid-'80s is control of all risks

Continued from previous page institutions to serve our corporations' needs.

We will see a continuing seesaw between regulation and deregulation, between private markets and government resources.

Regulators will try to restrict our choices to bring risk management into line with their preconceived notions of what the marketplace should look like. While regulators are supporting the appropriate solvency regulation, risk managers will have to remain vigilant, watching the regulations and restrictions which exceed the solvency objective. This type of regulation could turn insurance into a wealth redistribution mechanism or self-insurance into regulated



Edith F. Lichota is vp-risk management at Irving Trust Co. in New York.

More working women and single heads of households will want greater flexibility in employee benefits and work assignments.

Given the diversity of needs, and the pressure for increased productivity, benefit managers will consider restructuring their employee benefit programs and involving employees directly in the benefit decision in order to make their benefit programs more responsive to the needs of their work force.

A completely flexible benefit or cafeteria plan in which employees "trade-off" various benefit options may well be a way of more effectively managing the benefits dollar, if the employees' direct involvement in designing their individual plans leads to a better understanding and appreciation of the value of the various benefit options.

There are a number of concerns and problems to overcome before moving toward a flexible benefits program, such as higher administrative and systems costs and the possibility of adverse selection against benefit plans. And not everyone would agree that the programs adopted to date have been effective in motivating employees.

An additional concern in recommending a flexible benefits program to management is attempting to measure its ultimate cost since this is determined by the choices made by participants. Nevertheless, a number of companies have adopted flexible benefit programs and more companies will adopt them in 1984, as others watch the results to see if there is any direct correlation between flexible benefits, controlled costs, increased performance and productivity.

Finally the challenges presented by the 1980s, including the factors we have reviewed and many others, will highlight the employee benefits function as a key organizational element affecting a company's bottom line. These challenges really represent opportunities for benefits professionals to prove themselves as business executives whose ability to manage this strategic function will be critical to their companies' financial well-being.

quasi-insurance—either to minimize competition in the market, or to augment tax revenues at the cost of the industry's capacity.

We will always need a viable insurance industry as one of our options; risk managers have a role to play in determining the form in which it will survive. They also have a responsibility to recognize and deal with it as the global mechanism that it really is.

It is the commercial consumers who must insist that narrow, parochial interests or short-sighted protectionist policies should not be allowed to distort the options available to their companies.

In short, I see an era of great change and huge challenge, with an exciting and critical role for risk managers to play, and I predict that the really good risk managers, by the end of this decade, will be among those who will be contending for the top jobs in their corporations by reason of the credentials and global perspectives they will have developed in risk management.

I welcome you to that world, because, ready or not, it is already upon us.

Insurer must pay award for delayed group benefits

AN ILLINOIS APPELLATE court has upheld an award to a claimant under a group disability policy for vexatious and unreasonable delay.

Tresa Perschall was employed by General Electric Co. She was covered under a group disability insurance policy issued to the company by Metropolitan Life Insurance Co.

She became disabled in June 1977 due to pain and swelling in her right hand and wrist.

Metropolitan paid her disability benefits under the group policy for 12 months following her departure from work. Her leave lasted from June 21, 1977, to June 21, 1978.

After that period, however, Metropolitan repeatedly denied her request for benefits. This happened despite her physician writing to GE in July 1978 stating that she would never be capable of gainful employment again.

Subsequently, Ms. Perschall was treated by a second physician and was released to work on June 18, 1980. She sued Metropolitan for benefits under the group policy and was awarded about \$9,400 plus punitive damages equal to 25% of the verdict.

The appellate court affirmed, pointing out that it was evident that Metropolitan had not terminated benefits on June 21, 1978, because it believed Ms. Perschall had been cured or had removed herself from the care of her physician.

The court was satisfied that her condition did not show signs of improvement until 1980 when she was treated by a second physician.

Furthermore, the court noted that there was no evidence as to whether Metropolitan explained the basis for its refusal to pay benefits. *Perschall vs. Metropolitan Life Insurance Co.*, Appellate Court of Illinois, March 7, 1983 (BI/01/F.-\$5).

Assault compensated

The Illinois Supreme Court ruled that assaults by co-employees in the workplace that are motivated by general racial or ethnic prejudice are best treated as compensable incidents under the Workers Compensation Act as "neutral" risks arising out of the employment.

Trinidad Rodriguez sustained injuries while at work when a co-worker struck him over the head with a two-by-four. The co-worker had no apparent provocation for the assault on Mr. Rodriguez; his only apparent motive was prejudice against Mr. Rodriguez because he was a Mexican.

The arbitrator denied compensation, which was upheld by the Illinois Industrial Commission. A trial court reversed and Mr. Rodriguez was awarded about \$25,000 by the

legal briefs

commission.

On appeal, the employer argued that the ethnic motive for the attack must be characterized as "personal," notwithstanding the absence of any dispute between the attacker and his victim.

But the court pointed out that prior to the day of the assault, there was no connection between Mr. Rodriguez's private life and his assailant.

"We believe," the court said, "that a claimant must bring something from his private life to the scene of an assault by a co-employee for the assault to be considered personally motivated." *Rodriguez vs. Illinois Industrial Commission*, Illinois Supreme Court, Dec. 17, 1982, rehearing denied, April 8, 1983 (BI/02/F.-\$5).

Insurer's duty to defend

In determining whether a duty to defend exists, a court considers the reasonable expectations of the insured as to its rights under the policy, the New Hampshire Supreme Court said.

For 20 years, Johnson Shoes Inc. leased premises from Cohas Realty Corp. During this period, Johnson Shoes had a comprehensive general liability insurance policy with United States Fidelity & Guaranty Co.

In November 1972, Johnson Shoes terminated its business and the premises became unoccupied.

In August 1973, after a period of heavy rains, oil, which had apparently escaped from an underground storage tank on the leased premises, spilled over onto neighboring property causing \$200,000 in damages.

Previously, Johnson Shoes' maintenance man had reported to the company that he believed the tank was leaking. Cohas Realty sued Johnson Shoes to recover the cleanup expenses and for damages to the premises. Johnson Shoes, however, had gone bankrupt. USF&G then sought a declaration that it was not required to defend. The trial court ruled against the insurer.

The appellate court pointed out that an insurer's duty to defend was not necessarily co-extensive with its duty to pay a claim. Here, the court said, the language of the comprehensive general liability policy obligated USF&G to defend Johnson Shoes against lawsuits even if groundless, false or fraudulent.

Therefore, the court said Johnson Shoes would have a reasonable expectation that the insurer would defend based on the language of the policy. *United States Fidelity & Guaranty Co. vs. Johnson Shoes Inc.*, New Hampshire Supreme Court, March 24, 1983 (BI/03/F.-\$5).

These abstracts were prepared by Cases Unlimited Inc. A copy of an entire decision may be obtained by sending a check for \$5 made out to Cases Unlimited to Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. List the number for each opinion.

The Perspective section, which is a forum for readers' opinions, is compiled and edited by Assistant Copy Editor Claudette Dampier. She can be reached at 312-649-5282.

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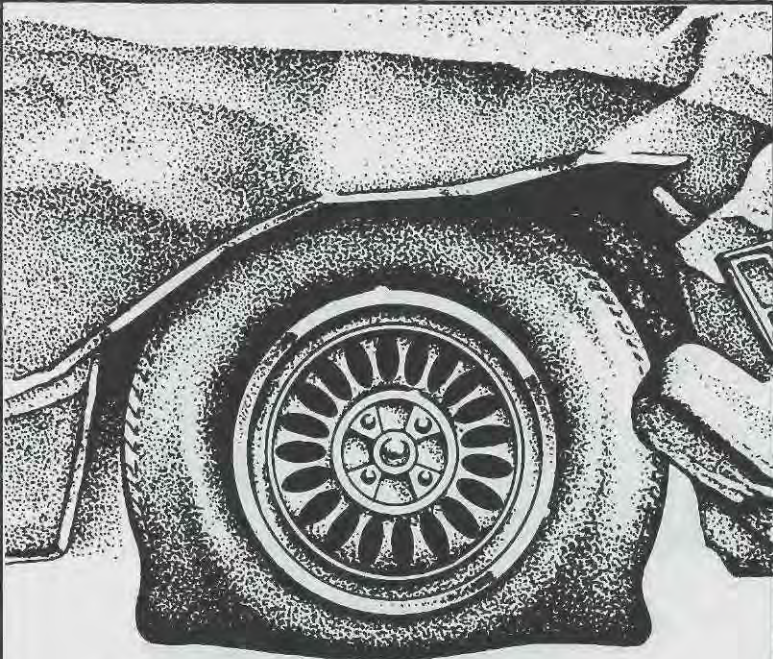
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- "Investing for Defined Contribution Plans: Fixed Income Alternatives" is an eight-page pamphlet published by Kwasha Lipton, an employee benefits consulting firm, discussing fixed-income investment vehicles. For a free copy, write 403 in the box on the reader service coupon.

- **Financial services deregulation** is the topic of a 109-page report available from New York State Sen. John R. Dunne. For a free copy, write 404 in the box on the reader service coupon.

- A guide to the **tax consequences of disability insurance plans** is a flier from Paul Revere Insurance Cos. For a free copy, write 405 in the box on the reader service coupon.

- An 11-page pamphlet describes Fidelity & Deposit Co. of Maryland's comprehensive protection program providing **blanket bonds, business risk insurance and property/casualty coverage for financial institutions**. For a free copy of the pamphlet, write 406 in the box on the reader service coupon.

- "Offshore Investment Management," a 24-page booklet from Citibank, discusses **investment opportunities in the offshore Eurodollar market for captive insurers**. For a free copy, write 407 in the box on the reader service coupon.

- "Application Software for Financial Institutions" is a folder including a pamphlet and data sheets on software and computer services offered by Shaver Associates Inc. For a free copy, write 408 in the box on the reader service coupon.

- Three pamphlets describe the Templeton Funds, which offer a choice of **investment in worldwide securities**, are available from Securities Fund Investors Inc. For a free copy, write 409 in the box on the reader service coupon.

- An eight-page booklet outlining the **various mechanisms available to finance employee benefit plans**, including rating arrangements, reinsurance coverages and payment plans, is available from Blue Cross & Blue Shield of South Carolina. For a free copy, write 410 in the box on the reader service coupon.

international

- A 27-page booklet explaining **experience rating in multinational employee benefit programs** is available from Swiss International Services Inc. For a free copy, write 500 in the box on the reader service coupon.

- "Post-Retirement Pension Increases: Patterns of Foreign Subsidiaries," is a single issue of a Kwasha Lipton newsletter describing causes why foreign pension benefits are costing more and how those costs can be controlled with a comprehensive policy. For a free copy, write 501 in the box on the reader service coupon.

- A **glossary of insurance**

Continued on page 39

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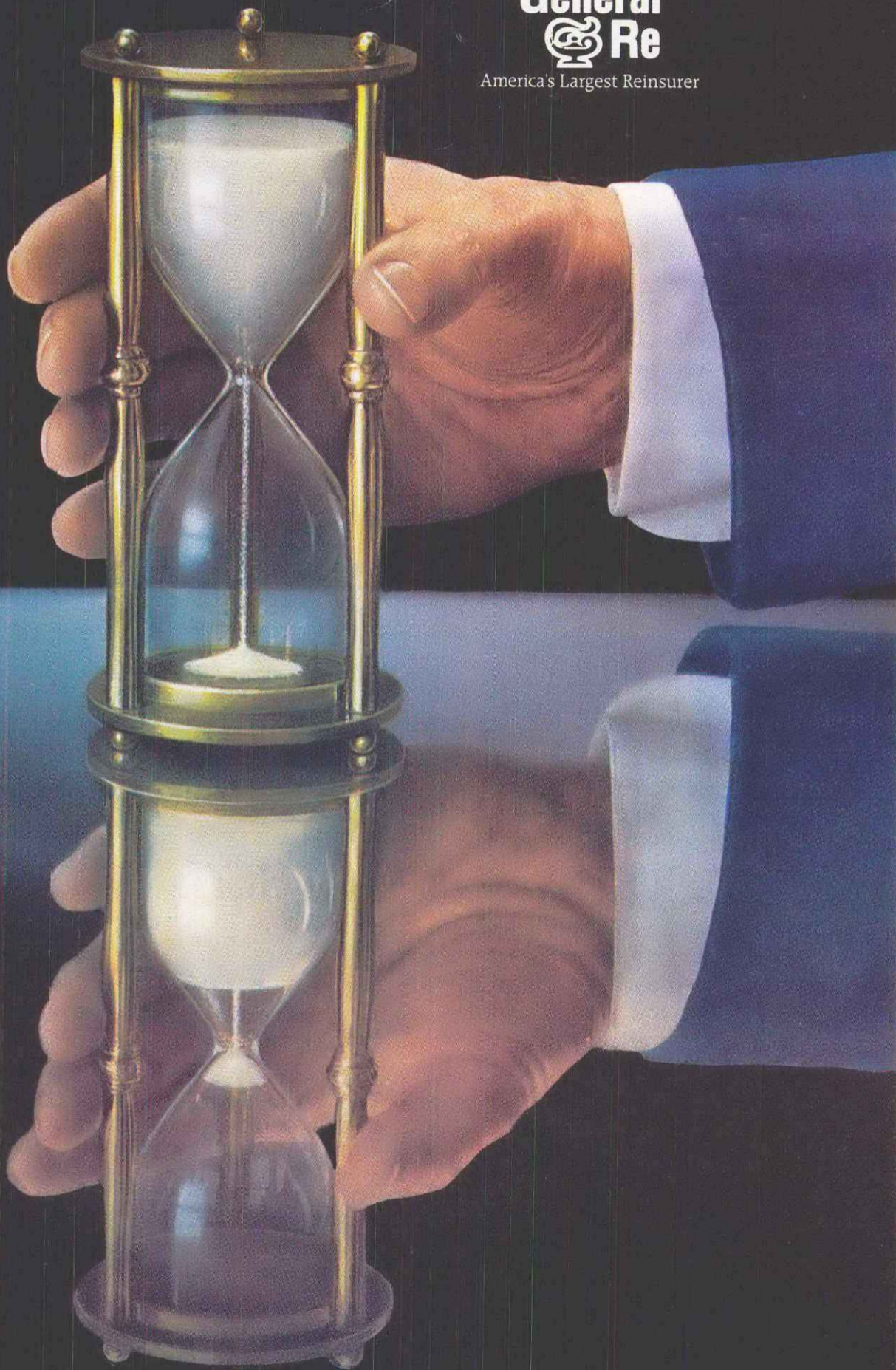
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Continued from page 38
terms in six languages, including English, French, German, Spanish, Italian and Dutch, is available from Alexander & Alexander Services Inc. For a free copy, write 502 in the box on the reader service coupon.

cusses loss-control procedures when handling flammable and combustible liquids and gases. For a free copy, write 705 in the box on the reader service coupon.

• A sample copy of Code Newsletter, a quarterly publication that updates developments in building fire protection regulations, is available from Schirmer Engineering Corp. For a free copy, write 706 in the box on the reader service coupon.

• A 40-page booklet discussing pulp and paper mill safety is available from Industrial Risk Insurers. For a free copy, write 707 in the box on the reader service coupon.

• "Loss Prevention & Control for Design Professionals," a publication describing loss-prevention and control techniques for architects and engineers on de-
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loss control/people

• A free issue of Smart's Health & Safety Newsletter, a monthly publication for risk managers, is available from Smart's. For a copy, write 600 in the box on the reader service coupon.

• A brochure describing an employee exercise program is available from Wausau Insurance Cos. For a free copy, write 601 in the box on the reader service coupon.

• A booklet describing the environmental health services offered by Occupational Health Services Inc. is available. For a free copy, write 602 in the box on the reader service coupon.

• A catalog of safety, training and health films and tapes that can be rented from the National Safety Council can be ordered. For a free copy, write 603 in the box on the reader service coupon.

• Technical information on environmental developments, risk assessments and methodology is available free three times a year in a newsletter from Clayton Environmental Consultants, a technical service company of Marsh & McLennan Cos. Inc. For a copy, write 604 in the box on the reader service coupon.

loss control/property

• "PCB—This Risk Beyond Regulatory Compliance," a three-page magazine article reprint explaining the costs and liabilities of PCB loss control, is available from Sunohio. For a free copy, write 700 in the box on the reader service coupon.

• A suspicious vehicle claims profile outline is provided in a free one-page flier from Lee S. Cole & Associates that lists tips on how to recognize fraudulent claims. For a free copy of the flier, write 701 in the box on the reader service coupon.

• A two-page flier describing a driver performance test and an driver perception audiovisual course is available from W. Kent Jessee & Associates. For a free copy, write 702 in the box on the reader service coupon.

• Auto dealership security is the subject of a four-page flier issued by Lee S. Cole & Associates that explains methods for reducing losses at auto dealerships. For a free copy, write 703 in the box on the reader service coupon.

• A three-page brochure describing various kinds of fire detection devices is available from Detector Electronics Corp. For a free copy of the brochure, write 704 in the box on the reader service coupon.

• "Truck Loading Rack Safety" is a 32-page booklet published by Industrial Risk Insurers that dis-

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 signing projects, is available from Professional Design Insurance Management Corp. For a free copy, write 708 in the box on the reader service coupon.

- A 17-page index of **loss-control publications, films and slide shows** issued by Industrial Risk Insurers is available. For a free copy, write 709 in the box on the reader service coupon.

- **Developments in new residential sprinkler systems** and a summary of new products are the subjects of a five-page magazine article reprint from Schirmer Engineering Corp. For a free copy, write 710 in the box on the reader service coupon.

- "Preventive PCB Management," a pamphlet from Sunohio, discusses the known and assumed **risks associated with PCB-contaminated transformers**. For a free copy of the pamphlet, write 711 in the box on the reader service coupon.

- "A Guide to Fire Protection" is a 20-page booklet on **fire, fire extinguishers and rating system classifications** from Ansul Fire Protection. For a free copy, write 712 in the box on the reader service coupon.

- A 12-page brochure, "Ansul Halon Systems," from Ansul Fire Protection, outlines the **need for and operation of Halon 1301 control systems**. For a free copy, write 713 in the box on the reader service coupon.

- A brochure, "Grinnell Fast Response Fire Sprinklers Proven Successful in Fort Lauderdale Fire

Tests," describes Grinnell Fire Protection System Co. Inc.'s **fast response sprinkler system**. For a free copy of the brochure, write 714 in the box on the reader service coupon.

- "Meeting the Challenge" by BMS Catastrophe Inc. explains **how businesses can recover from catastrophic property loss due to fire**. For a free copy, write 715 in the box on the reader service coupon.

- "Restaurant Fire Protection" is the name of a loss-control brochure from Ansul Fire Protection. For a free copy, write 716 in the box on the reader service coupon.

- A pamphlet on "**Boiler and Machinery Engineering Services**" describes the services of Constitution State Service Co., a subsidiary of Travelers Insurance Co. For a free copy, write 717 in the box on the reader service coupon.

- Ken Buhler Associates Inc. offers a brochure detailing their **fire protection and loss-control engineering services**. For a free copy of the brochure, write 718 in the box on the reader service coupon.

- "When the Fire Ladder Won't Reach..." is a brochure from Honeywell Inc. that describes their **Sentara 324 multiplex fire and security system**. For a free copy, write 719 in the box on the reader service coupon.

- "**Cost-effective Claims Management**" is a pamphlet that details the services of CMA Property Claims Management Product Lines, a unit of CMA Consulting

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Group. For a free copy, write 720 in the box on the reader service coupon.

- "Hospitality Automation Systems" is a brochure from Honeywell Inc. that describes the company's **hotel/motel room safety systems**. For a free copy, write 721 in the box on the reader service coupon.

- A flier entitled "The IRI Story" recounts the **history and development of Industrial Risk Insurers**. For a free copy of the flier, write 722 in the box on the reader service coupon.

- "**Fire Investigations**" is the title of a booklet from Equifax Services Inc. For a free copy, write 723 in the box on the reader service coupon.

- **Halon fire detection/control systems** are described in a free brochure from Ansul Fire Protection. For a free copy, write 724 in the box on the reader service coupon.

marine

- A booklet describing **how to file a marine insurance claim** is

available from Royal Insurance Co. For a free copy, write 750 in the box on the reader service coupon.

- A brochure describing **ocean cargo insurance services** is available from Royal Insurance Co. For a free copy, write 751 in the box on the reader service coupon.

- National Aviation Underwriters and its products, including **business and pleasure, commercial and agricultural aircraft insurance** are outlined in a brochure. For a free copy, write 752 in the box on the reader service coupon.

- **Sample policies for commercial, business, pleasure and agricultural aircraft** are available from National Aviation Underwriters. For a free copy, write 753 in the box on the reader service coupon.

reinsurance

- A 19-page booklet, "**Suggestions for Litigation Management**," from American Re-Insurance Co., includes advice and sample report sheets. For a free copy, write 760 in the box on the reader service coupon.

- A reprint of the Reinsurance Auditing and Accounting Task Force's "**Auditing Property and Liability Reinsurance**" is available along with a four-page compliance guide from National Reinsurance Corp. For a free copy, write 761 in the box on the reader service coupon.

- A brochure describing the **reinsurance services** of American Re-Insurance Co. is available. For a free copy, write 762 in the box on the reader service coupon.

risk management

- "Twenty-six Questions Every President Should Ask His Risk Management Team" to **evaluate the risk management function** is the topic of an 11-page booklet published by Emett & Chandler. For a free copy of the booklet, write 766 in the box on the reader service coupon.

- A descriptive brochure on **risk management computer programs**, "Microcomputer Programs for Risk Management," is available from Compu-Risk Software. For a free copy of the brochure, write 766 in the box on the reader service coupon.

- A brochure describing the **property/casualty claim investigative services** of Equifax Services Inc., entitled "For Service, Scope and Skill," is available from Equifax. For a free copy of the brochure, write 767 in the box on the reader service coupon.

- A pamphlet discussing the **computerized risk management capabilities** of Anistics, Alexander & Alexander Services Inc.'s risk management subsidiary, is available from A&A. For a free copy of the four-color pamphlet, write 768 in the box on the reader service coupon.

- A brochure describing the **risk management services** offered by Fred S. James & Co. Inc. is available. For a free copy, write 769 in the box on the reader service coupon.

- A discussion of **hospital risk management issues** is contained in a booklet published by broker Johnson & Higgins. For a free copy of the booklet, write 770 in the box on the reader service coupon.

- A brochure describing the **risk management services for health care facilities** from Johnson & Higgins discusses professional liability, workers compensation, self-insurance and hazardous substance management. For a free
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• A flier on the **automated premium audit system** is available from Equifax Services Inc. For a free copy of the flier, write 772 in the box on the reader service coupon.

self-insurance services

• A two-page quarterly newsletter on the **role of periodic payments** in self-insurance is available from Settlement Planning Inc. Topics include legislative changes, judicial concerns, annuity taxation and negotiation techniques. A one-year subscription is free. To order, write 800 in the box on the reader service coupon.

• A three-page checklist of considerations for **evaluating an automated claims processing and medical information management system** is offered by S.W. Medical Data Systems Inc. For a free copy, write 801 in the box on the reader service coupon.

• **"Self-Funding: Concepts and Practices,"** a nine-page booklet discussing the history and the practice of self-funding, the effects of ERISA, the role of reinsurance and claims administration services requirements, is offered by Universal Insurance Systems. For a free copy, write 802 in the box on the reader service coupon.

• A single-page checklist detailing the benefits of **self-administration of medical, dental and vision plans through automation** is available from S.W. Medical Sys-

tems Inc. For a free copy, write 803 in the box on the reader service coupon.

• **"Self-Insuring: A Practical Solution to Rising Health Care Costs,"** a four-page brochure highlighting the **benefits of a self-funded health care plan**, is offered by Employee Benefit Management Corp. For a free copy, write 804 in the box on the reader service coupon.

• **"Automated Claims Processing and Medical Information Management System,"** a 24-page booklet summarizing **automated claims processing for self-insured and self-administered employer plans**, is available from S.W. Medical Data Systems Inc. For a free copy, write 805 in the box on the reader service coupon.

• A two-page reprint outlining the methods of **controlling claim expenses and payments** and the management reports necessary to control property/casualty claims is available from Insurance Management Group Inc. For a free copy, write 806 in the box on the reader service coupon.

• **"Why Self-Administer Through Automation?"** is a four-page report on the **advantages of automated administration** of self-insured medical, dental or vision plans. The report is offered by S.W. Medical Data Systems Inc. For a free copy, write 807 in the box on the reader service coupon.

• **"Measuring Salvage and Subrogation Results,"** a four-page magazine reprint reporting results of a survey of property/casualty companies by major line of business and cost of litigation, is available

from Insurance Management Group Inc. For a free copy, write 808 in the box on the reader service coupon.

• **"Multi-claim System Overview,"** a three-volume series describing the **function of benefit claims administration systems**, is available from Lawson Associates Inc. For a free copy, write 809 in the box on the reader service coupon.

• A three-page issue of a Society of Chartered Property & Casualty Underwriters' newsletter discussing **current developments and trends affecting insurance pools** is available from Risk Planning Group Inc. For a free copy, write 810 in the box on the reader service coupon.

• A five-page brochure with **descriptions of six different alternative funding approaches**, including high-deductible major medical, contingent discount, minimum premium, cost-plus, stop-loss and administrative services only programs, is available from Washington National Insurance Co. For a free copy, write 811 in the box on the reader service coupon.

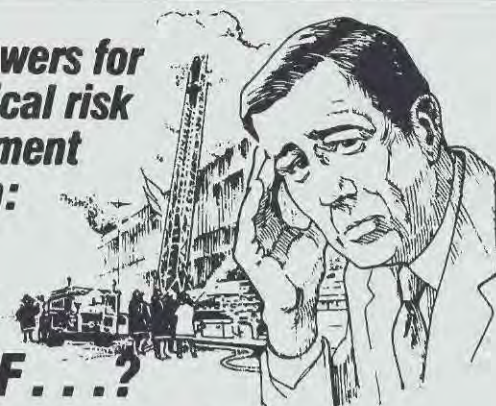
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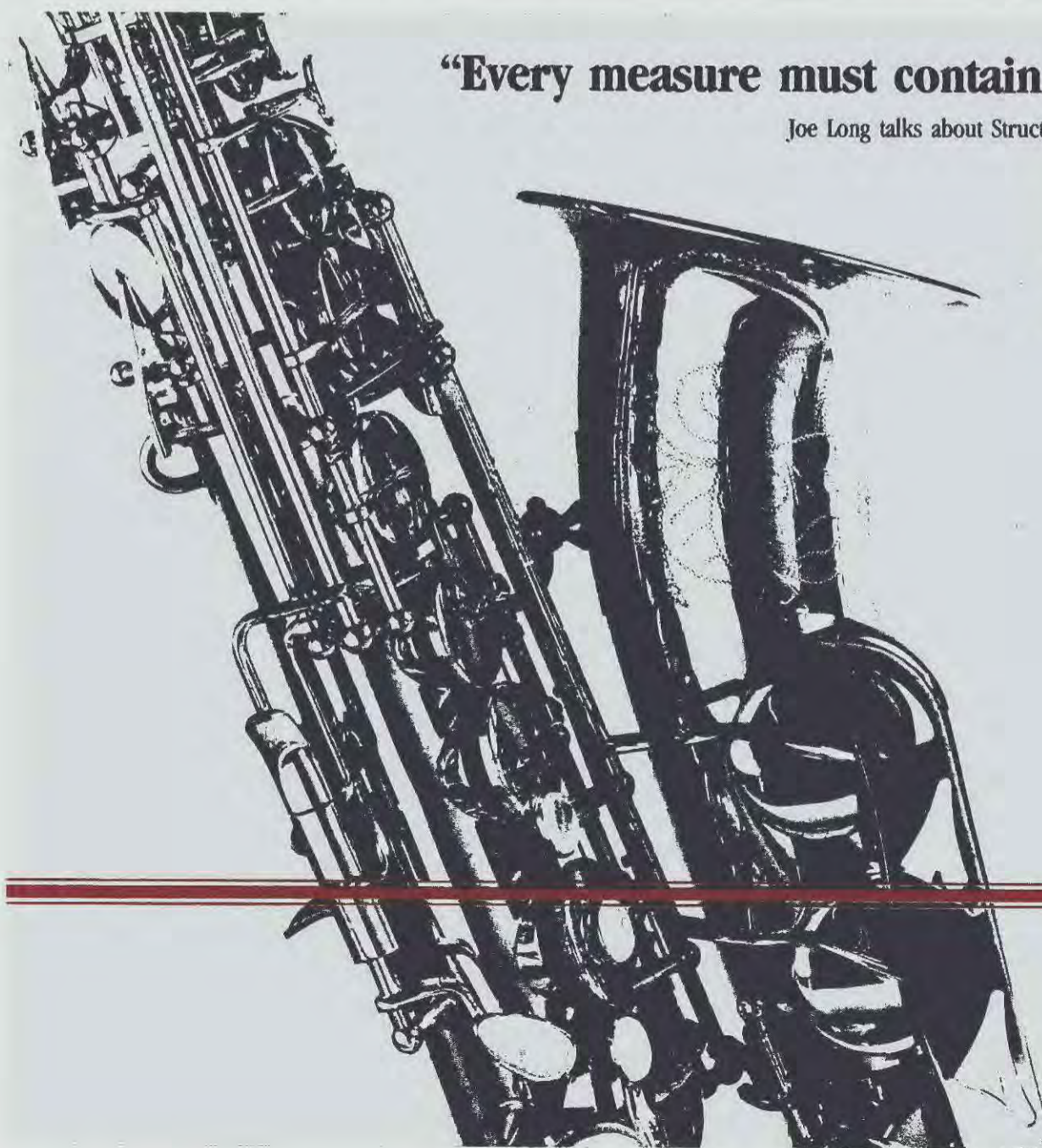
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spotlight report

Continued from previous page
ices" is the title and the topic of a pamphlet from Self-Insurers Service Inc. For a free copy, write 814 in the box on the reader service coupon.

• Constitution State Service Co. outlines its **claims, loss-control, audit and actuarial services** in the "Insurance Services Without the Insurance" booklet. For a free copy, write 815 in the box on the reader service coupon.

• A brochure, "**Risk Management Service Company**," describes the services of Lindsey & Newsom. For a free copy, write 816 in the box on the reader service coupon.

• "What is the Foundation?" is a booklet that describes **third-party services of Foundation for Medical Care of Santa Clara County**. For a free copy of the booklet, write 817 in the box on the reader service coupon.

• Equifax Services Inc. is offering a booklet on their **risk management services** called "Risk Management Services Resource File." For a free copy, write 818 in the box on the reader service coupon.

• The **claims management services** of Fred S. James & Co. Inc. are detailed in a booklet. For a free copy, write 819 in the box on the reader service coupon.

• A pamphlet outlines RE-SCOMP, a **time-sharing computer program** from the accounting firm of Ernst & Whinney that analyzes loss reserves. For a free copy, write 820 in the box on the reader service coupon.

• A brochure describes the **risk management capabilities** of Sentry Insurance Co. and Parker Services Inc., a Sentry subsidiary. For a free copy of the brochure, write 821 in the box on the reader service coupon.

workers compensation

• "Physician's Guide on Workers Compensation," a three-page pamphlet outlining the **physician's role in the workers compensation system**, is available from Wausau Insurance Cos. For a free copy of the pamphlet, write 900 in the box on the reader service coupon.

• "**Working with Your Claim Representative**," a seven-page report from Equifax Services Inc., explains the workers compensation claims process from the claim representative's point of view and offers suggestions to improve claims handling. For a free copy, write 901 in the box on the reader service coupon.

• "What Makes Heart Attacks Compensable?" a two-page essay explaining the rationale behind court decisions on the **compensability of heart attacks** citing landmark decisions, is offered by Equifax Services Inc. For a free copy, write 902 in the box on the reader service coupon.

• A six-page reprint from the Independent Insurance Agents of Texas' newsletter, The Texas Insuror, contains a series of articles examining the **pros and cons of coverage options for Texas employers who don't have workers**

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compensation insurance. For a free copy, write 903 in the box on the reader service coupon.

• "Surveillance and the Right of Privacy," an eight-page report outlining **invasion of privacy**, especially in connection with surveillance activity, is available from Equifax Services Inc. For a free copy, write 904 in the box on the reader service coupon.

• "Workable Solutions," a brochure from Westcott Corp., describes **funding methods for workers compensation and settlement cases**. For a free copy, write 905 in the box on the reader

service coupon.

• The **rehabilitation, file reviews, and medical recovery profile services** of The Remedy Co. are discussed in a pamphlet by the firm. For a free copy, write 906 in the box on the reader service coupon.

• A free folder of information is available from Medata Inc. on its **workers compensation medical cost-control procedures**. For a free copy, write 907 in the box on the reader service coupon.

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lance assignments procedures. For a free copy, write 908 in the box on the reader service coupon.

• "Exciting News" is the name of the Kemper Group pamphlet detailing the company's **dividend history on select class and group workers comp insurance plans**. For a free copy, write 909 in the box on the reader service coupon.

• The **work comp hospital bill auditing services** of Equifax Services Inc. are explained in the "Audit of Hospital Bill Service" booklet. For a free copy, write 910 in the box on the reader service coupon.

Profit-sharing contributions dip

LINCOLNSHIRE, Ill.—Employer contributions to profit-sharing plans dipped slightly during 1982, according to a survey conducted by an independent consulting firm. Employer contributions averaged 8.9% of payroll in 1982, down from 9.2% in 1981, according to the survey conducted by Hewitt Associates of Lincolnshire, Ill., for the Profit Sharing Council of America, a national trade and information association.

During the last five years, average profit-sharing contributions have declined gradually, but have remained within 9% to 10% of pay, the survey reports. Employer contributions vary by industry, noted the survey, which has been conducted annually since 1956. Contributions were higher among wholesale and retail trade employers, where they averaged 9.4% of payroll. Non-durable goods manufactur-

ing and non-manufacturers showed the lowest contributions of the companies surveyed, 8.5% of payroll. Other industry groupings showed only slight differences in average contribution levels: 9.3% of payroll for finance, insurance and real estate; 9.1% for durable goods manufacturers; and 9% for service industry employers. As in previous years, smaller companies tended to contribute more to profit sharing than larger companies.

Contributions averaged 9.2% of payroll among companies with fewer than 100 employees, compared with 7.8% of payroll among companies with more than 5,000 employees. Sixty-two percent of the 515 plans surveyed allowed employee contributions, up from 61% in 1981. Of these plans, 86% allowed deposits on a voluntary basis; 9% required a specific deposit and permitted additional voluntary contributions; and 5% allowed only mandatory contributions. In addition to making profit-sharing plan contributions, many employers also pay the plans' operating expenses. The survey reported that 96% of employers paid for the cost of communicating plans to employees, 84% paid audit fees, 80% paid administrative costs and 61% paid investment management fees. Expenses not fully paid for by employers can be paid from a trust fund or partially by employees as a shared expense with employers.

Copies of the survey can be obtained free by members of the Profit Sharing Council of America. The charge to non-members for the 50-page report is \$10. Organizations can receive survey copies by contacting the Profit Sharing Council of America, 20 N. Wacker Drive, Chicago, Ill. 60606.



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Insuring the unusual is business as usual.

Goodrich names Wesolowski director of risk management

comings & goings: buyers

Deborah Wesolowski, 30, is the new director of risk management at The BFGoodrich Co. in Akron, Ohio. She replaces **Spencer J. Traver**, 54, who resigned as assistant treasurer after a 10-year career with the company to accept a position as senior vp with American Risk Management in Cleveland. Ms. Wesolowski earned a bachelor of arts degree at Emory University in Atlanta and a master of business administration degree in risk management from the University of Georgia in Athens, graduating cum laude. She also has earned the Associate in Risk Management designation and is taking courses leading to the Chartered Property & Casualty Underwriter designation. Ms. Wesolowski has been at Goodrich for five years, first as risk management analyst, then administrator-risk management and most recently as manager of corporate risk and insurance. The current treasurer of the Cleveland/Akron Chapter of the Risk & Insurance Management Society, Ms. Wesolowski also will assume Mr. Traver's responsibility as a member of the national RIMS committee on continuing education.

Sheila Kornbluh, 34, is corporate vp and risk manager for Selig-

man & Latz Inc. in New York City. In this new position, Ms. Kornbluh will direct the company's employee benefits, property/casualty insurance and risk management programs. She has been with the company for eight years, most recently as risk manager. She received a bachelor of arts degree from the State University of New York at Fredonia, a master of arts degree from Queens College in Flushing, N.Y., and is currently pursuing the Associate in Risk Management designation. Ms. Kornbluh reports to Norman Potash, executive vp & controller.

Mark A. DeLillo, 28, is senior risk management analyst, a new position at Jack Eckerd Corp. in Clearwater, Fla. Mr. DeLillo will coordinate property/casualty claims, safety and risk management analysis. Prior to joining the company, he served as liability claims supervisor in the Tampa, Fla., office of The Travelers Insurance Co. He received a bachelor of science degree at Geneva College in Beaver Falls, Pa., the Casualty Claim Law Associate designation and is currently pursuing the Associate in Risk Management designation. He reports to Lawrence J. Babbitt, director of risk management.

Robert J. Gas, 28, is the new casualty claims manager for Wal-



Mr. Gas

green Co. in Deerfield, Ill. Prior to joining Walgreen, he was property/casualty claims supervisor at the Chicago office of The Travelers Insurance Co. He received a bachelor of arts degree in business administration at Lewis University in Lockport, Ill., and is a deputy member of the Risk & Insurance Management Society. Mr. Gas reports to Craig Ames, director of insurance and risk management.

Louis J. Drapeau, 37, is the new manager of insurance and risk management for The Budd Co. in Troy, Mich. He replaces **Harold Corbe**, who died. Mr. Drapeau, who has been with the company since 1979 as assistant manager of insurance and risk management, will oversee the property/casualty programs for the company. He received a bachelor's degree from



Mr. Drapeau

Continued on facing page

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Continued from facing page
Western Michigan University in Kalamazoo, a master of business administration degree from Eastern Michigan University in Ypsilanti and the Associate in Risk Management designation. Mr. Drapeau also serves on the board of directors of the Detroit Chapter of the Risk & Insurance Management Society. Mr. Drapeau reports to Russell R. Kaczmar, assistant treasurer.

Daniel W. Houston, 32, is director of risk management and insurance for NCR Corp. in Dayton, Ohio. In this new position, Mr. Houston will handle the company's worldwide property/casualty and workers compensation risk programs. He joined the

company in 1979 as insurance administrator for domestic risks and later was named manager of the department. He received an associate of science degree in accounting from Catawba Valley College in Hickory, N.C. He is also president of the Dayton & Miami Valley Chapter of the Risk & Insurance Management Society. Mr. Houston reports to N.A. Cocke, treasurer.

Meredith Drummond, 40, has been promoted to property/casualty insurance supervisor at Howard Johnson Co. in Braintree, Mass. She was previously senior secretary for the insurance department. Ms. Drummond attended the Quincy City Hospital School of Nursing in Quincy, Mass., and has held several positions in the corporate risk and insurance department over the past 17 years. She is a deputy member of the Risk & Insurance Management Society. Ms. Drummond reports to Jim Gunther, corporate risk manager.

Margaret D. Naku, 28, is assistant director of corporate employee benefits, a new position, at CIBA-Geigy Corp. in Ardsley, N.Y. Ms. Naku will manage the company's qualified pension, profit-sharing and thrift plans. She joined the employee benefits department in 1981 as a benefit consultant; prior to that she worked for AMF Inc. in New York in the corporate employee benefits department. She received a bachelor of arts degree from Fordham University in New York and a doctor of jurisprudence degree from Pace University School of Law in Pleasantville, N.Y. She reports to Michael Whelan, director of corporate employee benefits.

Missouri adopts negligence theory

JEFFERSON CITY, Mo.—Missouri has become the latest state to adopt the doctrine of comparative negligence, which apportions damages in lawsuits among plaintiffs and defendants based on their relative percentages of responsibility. In a decision late last year, the state Supreme Court adopted "pure" comparative negligence. Under this doctrine, a plaintiff can theoretically recover damages from a defendant as long as the plaintiff is less than 100% negligent.

Other states have adopted a "modified" form of comparative negligence which bars recovery if the plaintiff is more than 50% negligent.

Thomas R. Coles, 33, is claims supervisor for Revco D.S. Inc. in Twinsburg, Ohio. It is a new position. He is responsible for the administration of all claims handled in-house and through administrators. Mr. Coles joined the company in 1982 and previously supervised liability and workers compensation claims; before that he served in the claims department of the Akron, Ohio, office of Liberty Mutual Insurance Co. He received a bachelor of arts degree in business administration from Westminster College in New Wilmington, Pa. Mr. Coles reports to Lawrence J. Bell, assistant vp and risk manager.

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Firms rush to set up flexible spending accounts

Continued from page 1

in flexible spending accounts. "Since I put this plan in last year, I've received probably over 300 inquiries," said Chuck Velure, director of compensation and benefits at The Toro Co. in Minneapolis.

Flexible spending accounts—or FSAs—are popular because they offer employees a chance to save on taxes and are easy for employers to administer. And, in some cases, employers offering them are finding they are saving money, either by having employees pay with pretax dollars for benefits they otherwise would want their employers to provide or through reduced FICA taxes when employees fund their accounts through salary reductions.

Flexible spending accounts are allowed under Section 125 of the Internal Revenue Code, which allows companies to offer employees a choice between taxable and non-taxable benefits. It is the same section that governs cafeteria benefit plans.

According to the tax law, employees can use account funds for non-covered health expenses—like

deductibles, copayments, vision and orthodontia care and dependent care costs—and legal expenses.

At the end of the year, an employee must withdraw unused funds in cash, which is added to his or her taxable income since an employee may not defer compensation from year to year in a flexible spending account, according to Section 125. However, the law does allow employees to roll unused dollars into a savings plan that complies with Section 401(k) of the tax code.

Within these parameters, employers can write their own rules for operating flexible spending accounts. Each company determines how the accounts will be funded, which non-taxable benefits will be eligible and how much money may be held in any employee's account.

And, a company decides what an employee may do with leftover funds at year-end: take the cash or roll it over into a 401(k) plan.

Or, more rarely, a company may sharply restrict the account and thus allow employees to roll over

'Flexible spending accounts are enticing in their simplicity. I see a lot of companies saying they are interested in flexible benefits, but saying they will start with an FSA this year,' says Mr. Russo at Metropolitan Life.

credits from year-to-year within the flexible spending account.

Because the tax laws covering FSAs are so broad, consultants and employers expect the federal government—either through congressional action or Treasury Department regulations—to tighten rules sometime in the future. This has caused some employers to be more conservative in the way they structure FSAs (see story, page 48).

The type of FSA a company sets up and the rules governing it depend on its objectives.

For example, an employer interested in short-term savings may use the FSA as a "sweetener" when the company decides to increase health insurance deductibles or co-

payments. This way the employee can pay new medical expenses through pretax dollars.

Or, a flexible spending account can be a cost-effective alternative to adding a new benefit, like dental insurance or day care. Instead of receiving the benefit from their employers, employees can use pretax dollars to pay for it.

An employer interested in more long-term health care savings may introduce a flexible spending account without passing additional cost-sharing onto employees but by offering them a financial incentive to decrease health care utilization. If the account is funded by employer contributions, at the end of the year an employee can keep what has not been spent on health care expenses.

Other companies have added FSAs simply to keep a competitive recruiting edge in their industries.

Those benefit managers who have already set up FSAs praise the programs' ease and effectiveness.

"How has it been? Fantastic!" said Robert H. Rasch, director of personnel at Dickinson College in Carlisle, Pa.

The FSA program at Dickinson has been in place since July 1. It is funded primarily through salary reduction, but the college contributes 10% of an employee's salary to a retirement plan; half of that contribution may be directed to the flexible spending account.

Dickinson actually offers two accounts: one that holds money for health care expenses and one for other benefits, such as dependent care expenses. There is no cap on the latter, but an employee may only draw from a \$200 maximum in the health care account.

"We wanted to be conservative and guard against discrimination," Mr. Rasch explained.

Dickinson's flexible spending accounts have been "very well-received by employees," Mr. Rasch said, "and they have allowed us to offer additional benefits to those who need them without the expense of setting up a program for everybody."

"Our program became effective Jan. 1, and it's been going very well," Toro's Mr. Velure said. "We started on a totally voluntary basis, and we had 80% participation."

At Toro, funds may be used only to pay for health care expenses. The company deposits enough in each employee's account to pay for the employee's share of the health insurance premium; employees may then choose to contribute additional funds through salary reduction. Toro placed a \$1,200 cap on deposits for 1983 which was boosted to \$2,400 this year.

"Upper management is pleased with the savings," he added. "The plan paid for itself in about seven months through FICA savings (because of salary reductions)."

"We have had a fairly large amount of participation and we are getting favorable responses from employees," said David P. Lyle, director of employee benefits for Jones & Laughlin Steel Corp. in Pittsburgh, whose program has been in place since Oct. 1.

Jones & Laughlin employees are given "sources of income," meaning a regular salary plus a supplemental salary that was created when flexible benefits were intro-

duced. Employees may choose to direct portions of their sources of income to their flexible spending account, called a benefit bank, to pay for health care, dependent care and legal expenses. Employees can deposit up to \$500 per month into the benefit bank.

Many companies are enticed by the simplicity of flexible spending accounts and often use them as an alternative to a full flexible benefit program or as a step toward one.

"Flexible spending accounts are enticing in their simplicity," said Mr. Russo of Metropolitan Life. "I see a lot of companies saying they are interested in flexible benefits, but saying they will start with an FSA this year."

That is the plan at Toro. "Our intent was that this would form the base for moving toward a variable or flexible benefit program down the pike," Mr. Velure said.

But, "A flexible spending account is not necessarily an entree to a full-blown choice plan," said Mr. Bader at Mercer. "I think most (employers) see it as an excellent opportunity to help employees save on taxes."

Some prefer flexible spending accounts over a flexible benefit plan simply because it is more feasible to administer.

"Everybody talked about the cafeteria approach and then everybody talked about the administrative problems," said Dickinson College's Mr. Rasch. "We didn't go in (the cafeteria plan) direction."

"We considered flexible benefits, but decided it would be too difficult to administer," said Howard Goldman, chief financial officer for Papercraft Corp. in Pittsburgh. "We are going to be administering our flexible spending account in-house" (see related story, page 47).

Dickinson College and Johnson Controls Inc. of Milwaukee are two employers that decided to offer FSAs instead of introducing new benefits.

"We did not have to purchase a dental plan or set up a day-care center, which would have been more expensive than the FSA," Mr. Rasch said. "But, with the flexible spending account, employees can get a tax break on these services."

"We don't cover vision and hearing in our other plans," said Frank M. Sterner, vp of human resources management and strategic planning for Johnson Controls. "And, with an increasing number of working families, child care is becoming a more important benefit. So, our employees get the pretax advantage."

At Aluminum Co. of America in Pittsburgh and Armco Inc. of Middleton, Ohio, FSAs were used to get unions to agree to more employee sharing of health care costs, which helps the companies better control the rate of health care cost escalation.

"We had first-dollar coverage," said Dick Wardrop, general manager of compensation and benefits at ALCOA. "Giving free tickets like that fuels the utilization problem, and we realized we were part of the problem."

"So, we now have a new comprehensive health plan that has a maximum out-of-pocket expense of \$700. We put that \$700 in each employee's flexible spending account. And, the unions were not really difficult to convince that this is a good thing for them."

"We had known for some time we wanted to get employees involved in health care costs," he continued. "And, we watched other companies demand deductibles and copayments at the bargaining table and fail. We saw that we

Continued on next page

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Continued from previous page would have to develop a strategy that would make sense to the employee. The reimbursement account was that strategy."

Armco Inc., which also has union participation in its flexible spending account, similarly used an FSA to sweeten the effect of a new medical plan with deductibles and co-payments.

"All in all, I think the flexible fund was certainly a critical element in the success of our program," said Albert C. Worrell, manager of employee benefits. "Paying for medical expenses on a pretax basis is one of the biggest factors that allowed us to put in a comprehensive medical program and have short-term and long-term cost savings."

Some employers say that flexible spending accounts are not true cost-containment devices, but they say they can help control long-term health care cost escalation.

"For the first time the employee will be involved in the costs," said Mr. Goldman of Papercraft Corp. "I think they are going to start questioning the type of care they are getting; they are going to want to review bills and charges."

"It's healthy for employees to become consumers in the medical community the way they shop in supermarkets and look at prices," he continued. "Maybe it will have an effect on the medical community. And, ultimately, maybe flexible spending accounts will help decrease utilization, and that will bring prices down."

Chemical New York Corp. and The St. Paul Cos. Inc. of St. Paul, Minn., are using flexible spending accounts to keep their benefits program in tune with the changing workforce and to remain competitive with others in their industries.

"We noted the changing demographics of the workforce," said Elenita Bader, vp and benefits manager of Chemical Bank, a division of Chemical New York Corp. "A flexible spending account, which we put in place with a high/low-option medical plan, gave us flexibility that the two-income family and the single parent needs."

Chemical Bank set up a flexible spending account and deposited \$300 for each employee with a year of service or more. Employees also can allocate profit-sharing distributions for use in the FSA, but otherwise do not contribute through salary reductions.

"Our achievements are that we now have the flexibility to respond to changing demographics in a cost-effective manner," Ms. Bader said. "And, we are a leader in the industry."

"Looking at our benefits program, we decided that if we are going to stay competitive, we are going to have to find another way to introduce cost sharing than just to keep raising deductibles and co-payments," said Carol L. Beatty, compensation administrator of The St. Paul Cos.

St. Paul implemented a total flexible benefits program, with a flexible spending account to fund uncovered medical, legal and dependent care expenses. Both employer money and employee salary reductions fund the account. Caps on amounts are assigned to employees based on income and length of service with the company.

With all these advantages that flexible spending accounts have to offer, observers say FSAs will exist in some form for a long time.

"Flexible spending accounts are very hot now, but I think the interest in them is really only beginning," said Mr. Russo of Metropolitan Life. "Some say this may mean the death knell of broad flexible benefits programs, but I see them as a stepping stone to even more flexible benefits. I think both (FSAs and broader flexible benefit programs) will grow in time."

Some find administering FSAs in-house feasible

Whether a company administers its flexible spending account in-house or contracts with an outside source depends on a company's computer system capabilities and the complexity of the plan.

Some companies found that in-house administration required few changes.

"We administer our program totally in-house," said Chuck Velure, director of compensation and benefits for The Toro Co. in Minneapolis. "We have a Wang payroll system, and we had two payroll clerks program it completely. We didn't have to add any people, and it really hasn't taken that much additional time."

For others, in-house administration proved a more ambitious task. "We administer our program in-house, and it's going better than we anticipated," said Elenita Bader, vp and benefits manager for Chemical New York Corp. in New York. "We have a big enough (15,000) population to justify doing it in-house."

"We did have a special system put in and added five people. Yes, there is some additional cost but it's less costly than it would have been if we asked someone outside to do it."

"We administer our plan in-house, and setting up the system was a major undertaking," said Albert C. Worrell, manager of employee benefits at Armco Inc. in Middleton, Ohio. "We looked at systems that were available outside, and what it really came down to is that we have a lot

of locations scattered throughout the country and it just wasn't cost-effective for us to contract out.

"So, we've added five to 10 systems people since the summer; it was a lot of work."

"My advise to other employers," he said, "is to allow plenty of time to get your system's work done."

But, setting up a payroll system to accommodate pretax dollars or handling medical claims are things some companies prefer to avoid. Those companies prefer to have an outside firm administer their FSAs.

"We rejected in-house administration because we wanted to make it easier on employees," said David P. Lyle, director of employee benefits for Jones & Laughlin Steel Corp. in Pittsburgh. "Now, they only have to send in a claim form once and Metropolitan (Life Insurance Co.) determines whether it will be paid for through our health plan or the benefits bank."

"And it's easier for me," he continued. "I don't have to hire any people. It's a very quick thing for Metropolitan to do."

"I don't want to get in the hassle of claims," said Dick Wardrop, general manager of compensation and benefits for Aluminum Co. of America in Pittsburgh. "We have a plan administrator. It's easier that way, and we wanted to make this plan as simple as possible at the outset."

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Most expect changes in rules governing accounts

By SALLIE J. DRURY

Most employers and benefit consultants expect Congress to hand down tax legislation restricting flexible spending accounts.

But most argue that any changes in Section 125 of the Internal Revenue Code governing FSAs and flexible benefit plans are at least a year away.

Still, those who are forging ahead with flexible spending accounts are girding themselves in anticipation of regulatory changes.

"Many believe we are operating in an area of uncertainty," said Theresa B. Stuchiner, a partner at consultant Kwasha Lipton in Fort Lee, N.J.

"If we are operating in an area of uncertainty, we need to lean on the conservative side."

'We told our employees that all the laws aren't there yet. There is some concern among them that the government will change the laws and their flexible benefits will have to be taken away,' said St. Paul's Carol Beatty.

Other benefit observers agree. "Section 125 legislation is open to conjecture, and that is construed as a drawback by some clients," said Tom Russo, director of flexible benefits for Metropolitan Life Insurance Co. in New York. "Our approach is that if you are going to (offer an FSA), at least cover yourself by being prudent."

"Make sure you keep accurate records and require documentation

for claims."

Many businesses are taking this conservative approach. They believe a prudently designed plan will be in keeping with whatever new rules Congress may impose.

Some expect that when and if new regulations do come, a cap will be placed on the amount that can be held in a flexible spending account. Thus, some design their plans with maximum contributions

—by company or employee—to the FSA.

"Legislative uncertainties have caused us to take a conservative point of view," said Frank M. Sterner, vp of human resource management and strategic planning for Johnson Controls Inc. in Milwaukee.

"Employees can contribute from \$50 to \$400 per month into their account," he noted.

"We feel it's important to be fairly conservative, so when regulations do come down we will be within the parameters of what they will be," said Chuck Velure of The Toro Co. "We had a \$1,200 maximum last year and we going to raise it to \$2,400 in 1984."

"Voluntary employee contributions (to the flexible spending account) are based on profit-(sharing)

awards or, for employees who have worked for us only one to three years, based on a special allocation of 2% of salary," said Elenita Bader, vp and benefits manager for Chemical New York Corp., holding company for Chemical Bank in New York. "We limit contributions to 50% of profit-sharing or all of the special allocation."

Others are conservative in what they allow FSA funds to be used for.

Although now it is possible to use FSA funds for non-insured medical expenses such as premiums, deductibles or copayments; other medical benefits not insured, such as vision or dental care; dependent care; group life insurance; a company savings plan; group legal insurance; or buying vacation days, many companies believe an FSA is simpler to administer and more likely to comply with any coming regulations if an employee's eligible expenses are limited.

"We wanted to start with a very simple program," said Dick Wardrop, general manager of compensation and benefits at Aluminum Co. of America in Pittsburgh. "We do not have an employee contribution feature. The company puts \$700 into an employee benefit security fund, which can be used to pay for the (medical) deductible and copayment features we added when we revised our benefit plan."

"Our employees can use the (flexible spending account) to pay for health care expenses not covered by our present medical insurance or child care. We decided to limit the choices initially to get some experience," Mr. Sterner said.

The FSA at Papercraft Corp. in Pittsburgh "can be applied only to medical expenses," said Howard Goldman, chief financial officer.

Still others are concerned that the government may revoke Section 125 plans altogether. These employers include a disclaimer in employee communications, telling employees that government regulations are not final but that the plans are "legal" at this point.

"We told our employees that all the laws aren't there yet," said Carol Beatty, compensation administrator for The St. Paul Cos. Inc. "There is some concern among them that the government will change the laws and their flexible benefits will have to be taken away."

Yet despite the uncertainty of legislation, even those companies favoring a conservative approach strongly believe other employers should not hesitate to implement flexible spending accounts.

"My advice to other employers is: Do it. Don't waste any time," said Robert H. Rasch, director of personnel at Dickinson College in Carlisle, Pa.

"It's a benefit available now to employees and we have some obligation to provide it to them," Mr. Sterner said. "Strategically, it's also better not to wait on regulations."

"The logic is this: Employees are the constituents (of congressmen who would approve regulations). The longer these plans are permitted, the harder it will be to take them away."

Even if the ability to offer employees a choice between taxable and non-taxable benefits is eliminated altogether, one benefit manager believes he must seize the opportunity while he can.

"There's almost no reason why you shouldn't implement this plan," said David P. Lyle, director of employee benefits at Jones & Laughlin Steel Corp. in Pittsburgh. "The (uncertainty of) regulations doesn't bother me in the least. If they change, we will change. We are giving our employees the benefit while we can."



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Good communication is key to successful FSA program

By SALLIE J. DRURY

The key to starting a successful flexible spending account program is well-executed communications, benefit managers with FSAs and consultants agree.

"The FSA is a whole new concept people aren't familiar with at all," said John C. Hickey, a partner at consultant Kwasha Lipton of Fort Lee, N.J. "Communications plays a very important role.

"Anything to do with taxes gets complicated," he continued. "And anything involving salary reduction means people are going to have to make some pretty important decisions. You need active communications."

"Communications is vital. I can't emphasize that enough," said Carol L. Beatty, compensation administrator of The St. Paul Cos. Inc. in St. Paul, Minn.

"My advice to another employer (starting an FSA) is to make sure you have as comprehensive a communications program as possible," said David P. Lyle, director of employee benefits at Jones & Laughlin Steel Corp. in Pittsburgh.

"Our biggest hurdle (in introducing the FSA) was education," said Howard Goldman of Papercraft Corp. in Pittsburgh. "We felt communications is extremely important in this type of program; employees don't fully understand it from the start. It's a totally new concept for them unless they are really aware of the tax laws."

"The key is the communications," said Chuck Velure, director of compensation & benefits for The Toro Co. in Minneapolis, "because you're introducing a new concept of salary reduction."

Some of the benefit managers advised other employers to concentrate on specific aspects of a communications program.

"It's very important for the communications to be effective and to hold small group meetings so employees can ask questions," Mr. Velure said.

"Make sure your meeting leaders look good," Mr. Lyle said. "You have to make them instant experts on the plan, so devote an extensive effort to training them. Make them knowledgeable."

Another company recommended a slow buildup of information rather than splash and fanfare.

"One of the consultants recommended that we not put out any communications until we were in the enrollment process," said Albert C. Worrell, manager of employee benefits at Armco Inc. in Middletown, Ohio.

But, Armco did some pretesting and found that its employees knew something was brewing with their benefits. Because they did not understand the benefits, the employees were hostile to change.

"So, instead, we put out 'Benefacts' sheets on each aspect of our new program. Then we showed the audiovisual and had enrollment," he said. "At that point, employees understood the program and were receptive to it."

Since most FSAs ask employees to make salary reduction decisions, understanding salary reduction is a primary objective of any FSA communications. And, different employees bring different levels of awareness to this concept.

"Communications depends on your workforce," said Dale Gifford, partner at consultants Hewitt Associates in Lincolnshire, Ill. "Part of it depends on whether you have already introduced a 401(k) program. "If you have, employees have already picked up a lot of principles and it will streamline the process."

Time is an important considera-

tion for benefit managers planning to communicate a flexible spending account program. In fact, a company should carefully assess its resources before embarking on the venture.

"I think communications has a great deal to do with the success of your program," said Frank M. Sterner, vp of human resources for Johnson Controls Inc. in Milwaukee.

"A company has to really ask itself, 'Are we willing to invest the time, effort and resources needed to communicate (the FSA) clearly and effectively?' I have talked to some companies that felt it was too much for them," he said.

"I don't think it's too much for most companies, but it is an important issue to face."

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FEB. 6. Directors and Officers Liability workshop in King of Prussia, Pa. sponsored by the Society of Chartered Property & Casualty Underwriters; \$80 for members; \$90 for non-members. Celeen Mulhern, Society of CPCU, Kahler Hall, Providence Road, Malvern, Pa. 19355; 215-251-2735.

FEB. 6-10. Basic Government Risk Management seminar at the University of Arizona, Tucson, sponsored by the Public Risk & Insurance Management Assn.; \$360. Joseph Hrabosky, 3820 N. Harrison Road, Tucson, Ariz. 85745; 602-749-3137; or Natalie Wasserman, PRIMA, 1120 G St. N.W., Suite 707, Washington, D.C. 20005; 202-737-7556.

FEB. 6-10. Reinsurance Practice course in London, sponsored by the Risk Research Group; \$1,000. Sue Moore, Risk Research Group, Eridge House, 181 Queen Victoria St., London EC4V 4DD; 01-236-2175, ext. 22; telex 8811636.

FEB. 13-15. International Foundation of Employee Benefit Plans 1984 Trustees and Administrators institute in Orlando, Fla. \$420. Also **May 14-16** in Las Vegas, Nev.; **July 23-25** in Monterey, Calif.; **Aug. 13-15** in McAfee, N.J. Public Relations Department, IFEBP, P.O. Box 69, Brookfield, Wis. 53005; 414-786-6700.

FEB. 13-17. Loss Control Management seminar in Atlanta, sponsored by the International Loss Control Institute; \$625. Richard Jump, International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 800-544-6001; 404-466-2208.

FEB. 16. Risk Management Information conference in Chicago, sponsored by Corporate Systems; \$50. Matt Davis, Corporate Systems, Box 31780, Amarillo, Texas 79120; 806-376-4233.

FEB. 21-22. Compliance with the New CAL/OSHA Noise Standard and How to Establish an Effective Hearing Conservation Program course in Los Angeles, sponsored by the University of Southern California; \$375. University of Southern California, Institute of Safety & Systems Management, Office of Extension & In-Service Programs, Los Angeles, Calif. 90089; 213-743-6523; 6524.

FEB. 22-24. Issues Facing Captives course in London, sponsored by the Risk Research Group; \$630. Sue Moore, Risk Research Group, Eridge House, 181 Queen Victoria St., London EC4V 4DD; 01-236-2175, ext. 22; telex 8811636.

FEB. 25-MARCH 3. Western Assn. of Insurance Brokers Third Annual Winter Conference in Snowmass, Colo.; \$125. Sue Farber, Western Assn. of Insurance Brokers, 535 Montgomery St.,

Suite 962, San Francisco, Calif. 94114; 415-332-5383.

FEB. 29-MARCH 2. Introduction to International Employee Benefits seminar in Brussels, Belgium, sponsored by the International Benefits Information Service; \$525. Bruce F. Spencer, 222 W. Adams St., Chicago, Ill. 60606; 312-236-2615; or Vincent J. Simone, Orchard House, 7 Little Austin Road, Farnham, Surrey, England; 0252-726416.

MARCH 1-2. Ansil Fire Protection school in Beaumont, Texas; \$450. Also **March 5-6, March 8-9, March 12-13.** Jill Davis, Ansil Training Services, Marinette, Wis. 54143; 715-735-7411.

MARCH 6-7. International Reinsurance conference in London, sponsored by Kluwer Publishing Ltd.; \$475. Kluwer Publishing, 20/24 Ropermaker St., London EC2Y 9AS; 01-588-4274; telex 8811725.

MARCH 12-14. Advanced Government Risk Management seminar at the University of Arizona at Tucson, sponsored by the Public Risk & Insurance Management Assn.; \$325. Dr. Nestor Roos, 2030 E. Broadway, No. 11C, Tucson, Ariz. 85719; 602-622-5174; or Natalie Wasserman, PRIMA, 1120 G St. N.W., Suite 707, Washington, D.C. 20005; 202-737-7556.

MARCH 12-16. Fundamentals of Modern Safety Management seminar in Atlanta, sponsored by the International Loss Control Institute; \$625. Richard Jump, International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 800-

544-6001; 404-466-2208.

MARCH 13-15. Reasoning Reinsurance seminar in Irving, Texas, sponsored by the University of Dallas; \$475. Professor Bruce Evans, Reinsurance Management Institute, University of Dallas, Irving, Texas 75061; 214-721-5360 or 214-721-5299.

MARCH 13-21. Advanced Safety Management seminar in Atlanta, sponsored by the International Loss Control Institute; \$550. Richard Jump, International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 800-544-6001 or 404-466-2208.

MARCH 13-21. Society of Fire Protection Engineers annual symposium in Leesburg, Va.; \$375. Marianne Casey, Society of Fire Protection Engineers, 50 Batterymarch St., Boston, Mass. 02110; 617-482-0666.

MARCH 19-21. Human Resources conference in Boston, sponsored by the American Management Assn.; \$525 for members; \$595 for non-members; group discounts available. American Management Assn., 135 W. 50th St., New York, N.Y. 10020; 518-891-1590.

MARCH 19-23. Highly Protected Risk Property Conservation course in Long Grove, Ill., sponsored by Kemper Group; \$400. Also **May 7-11 and Oct. 15.** W.P. Thomas Jr., Manager of Engineering Research and Staff Development, HPR Development, Kemper Group, A-1, Long Grove, Ill. 60049.

MARCH 19-23. Industrial Ventilation course in

Los Angeles, sponsored by the University of Southern California; \$650. University of Southern California, Institute of Safety and Systems Management, Office of Extension and In-Service Programs, Los Angeles, Calif. 90089; 213-743-6523/6524.

MARCH 19-23. Fundamentals of Hygiene Monitoring course in Long Grove, Ill., sponsored by National Loss Control Service Corp.; \$490; group discounts also available for this hygiene monitoring course. Also **May 14-18, Sept. 10-14, Nov. 12-16** in Long Grove, Ill. For information contact John Garis, Industrial Hygiene, National Loss Control Service Corp., Long Grove, Ill. 60049; 312-540-2026.

APRIL 9-12. Seventh Annual Conference on Prevention, Behavior, Cleanup of Spills and Waste Sites sponsored by the Bureau of Explosives, the Chemical Manufacturers Assn., the U.S. Coast Guard and the U.S. Environmental Protection Agency; \$200; \$150 for early registration. 1984 Hazardous Material Spills Conference, 1629 K St. N.W., Suite 700, Washington, D.C. 20006; 202-887-1209.

APRIL 9-13. Loss Control Management seminar in Atlanta, sponsored by the International Loss Control Institute; \$625. Richard Jump, International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 800-544-6001; 404-466-6001.

APRIL 12-14. 1984 Employee Benefits Communications institute in Miami, sponsored by the International Foundation of Employee Benefit Plans; \$420 for members; \$495 for non-members. IFEBP, 18700 W. Bluemound Road, P.O. Box 69, Brookfield, Wis. 53005; 414-786-6700.

MAY 13-19. Fourth Third World Insurance Congress in Casablanca, Morocco, sponsored by the Assn. of Insurers of Developing Countries; \$274 for members or delegates; \$550 for others. John D. Thomas, John David Thomas Inc., 401 E. 80th St., Suite 10F, New York, N.Y. 10021; 212-570-2338.

SEPT. 17-19. Fundamentals of Industrial Exhaust Ventilation course in Long Grove, Ill., sponsored by National Loss Control Service Corp.; \$400; group discounts available. John Garis, National Loss Control Service Corp., Long Grove, Ill. 60049; 312-540-2026.

SEPT. 24-26. Highly Protected Risk Valuation seminar in Long Grove, Ill., sponsored by Kemper Group; \$300. W.P. Thomas Jr., Manager of Engineering Research and Staff Development, HPR Development, Kemper Group, A-1, Long Grove, Ill. 60049.

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Bermuda may alter license regulations

HAMILTON, Bermuda—Captives in Bermuda that want to do more than underwrite insurance may have to secure separate licenses for other activities.

Captives wanting to engage in underwriting, management and brokerage will soon have to form a separate company for each activity, says the Bermuda Monetary Authority, the semiautonomous government body that monitors new incorporations and applies foreign exchange controls.

Ministry of Finance Permanent Secretary Mansfield Brock, however, said recently, "We will hold off until full consultations have taken place with the industry and will go ahead with it unless there is strong disagreement."

Although the BMA has been unofficially applying a single registration policy on companies formed since December 1980, captives licensed before that time may well have in their bylaws the provision for multiple activities. Under current rules, those companies have been able to simply register as a broker or manager in addition to as an insurer.

If the BMA rule goes through, captives with provisions in their bylaws that allow them to act as managers as well as brokers will have to decide whether they want to conduct those activities and register separate companies.

When this new rule will take effect is unclear. A Feb. 1 deadline for the new rule was postponed in response to complaints from the market that there had been too little notice of the change.

There is still concern among managers and lawyers about compliance with this new rule because the logistics of changing the companies' current bylaws could be cumbersome.

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Public pension plans improve funding: Study

By JERRY GEISEL

WASHINGTON—State and local public retirement plans are improving their funding, statistics show.

In 1982, state and local retirement plans had \$245.25 billion in assets and paid out \$15.68 billion in benefits. That works out to a ratio of \$15.64 in assets for every \$1 in benefits paid out, according to an analysis of U.S. Census Bureau Data by the Employee Benefit Research Institute.

In 1977, public pension plans maintained \$123.5 billion in assets and paid out \$8.5 billion in benefits for an asset to benefit ratio of 14.5-to-1.

"The new census of governments suggests that state and local retirement plans have increased their assets and strengthened their funding in the past five years," said Emily Andrews, a research associate at the EBRI, a Washington-based benefits think tank.

The EBRI, in its analysis of Census Bureau data, also found:

- The number of advance-funded public retirement plans, excluding certain teacher plans, dropped to 2,559 last year, compared with 3,075 in 1977.

That decrease was largely the result of the consolidation of local plans with state-administered systems in Colorado, Oklahoma, Pennsylvania and Wisconsin, the institute said.

- In 1982, there were 3.5 active participants for every retiree in state and local retirement plans, compared with a ratio of 4.5 active plan participants per retiree in 1977.

- Between 1977 and 1982, the number of active plan participants rose to 10.1 million from 9.7 million, while the number of retirees covered by public retirement plans increased to 2.9 million from 2.2 million.

- Excluding the federal government's giant pension programs, state-administered plans account for 87% of public plan participants, 79% of total assets and 73% of benefits paid out.

Social Security

The Social Security program continues to pay more out in benefits than it is collecting in payroll taxes.

In 1982, the most recent year that complete statistics are available, the nation's 35.8 million Social Security beneficiaries collected \$156.1 billion from the program. That's \$10.5 billion more than \$145.6 billion that employers, employees and the self-employed paid in FICA taxes, according to statistics analyzed by the American Council of Life Insurance, an industry trade group.

The ACLI also reports in its 1983 update of "Pension Facts" that at the end of 1982, some 147.8 million persons had worked long enough to be entitled to a Social Security benefit when they retire.

In 1981, 144.5 million people were assured a Social Security benefit.

In addition, according to the ACLI, some 30.5 million persons were enrolled in pension plans administered by life insurance companies in 1982, up from 27.9 million in 1981.

Free single copies of the 1983 update of "Pension Facts" are available from the ACLI, Department 507, 1850 K St. N.W., Washington, D.C. 20006.

Misused assets

The Labor Department says last year it recovered more than \$13 million in employee benefit assets

washington

that had been misused.

Plan assets are recovered when the Labor Department requires plan officials, either through litigation or voluntary compliance, to return assets that were imprudently used.

The department said it closed 2,241 civil investigations last year involving possible misuse of employee benefit plan funds.

OSHA inspections

Federal safety officials inspected 68,577 worksites in fiscal 1983, 8% more than the previous record set in fiscal 1980, the Occupational Safety and Health Administration

says.

"We are on track for making the American workplace even safer and more healthful in the coming years through our enforcement efforts targeted at high-hazard worksites..." said OSHA chief Thorne G. Aucher.

In fiscal 1983, employers contested 3% of all citations OSHA issued for violations of federal safety and health rules, compared with 21% in fiscal 1980.

Mr. Aucher noted the time saved by the decreased contested citations was equal to the work of 30 additional inspectors.

Meanwhile, in another development, OSHA will hold a public

meeting in Washington on Feb. 8 to hear testimony on proposed revisions of rules limiting worker exposure to the chemical ethylene dibromide.

Workplace exposure to EDB—a colorless, non-flammable liquid used in the blending of leaded gasoline and the manufacture of pesticides—has been linked to cancer and reproductive damage.

Last year, OSHA proposed lowering the maximum worker exposure limit over an eight-hour day from 20 parts of EDB per million parts (ppm) of air to 0.1 ppm.

After issuing the proposal, OSHA received requests from the International Brotherhood of Teamsters and the Food and Beverage Trade Department of the AFL-CIO to conduct hearings.

The hearing will begin at 9:30

a.m. in Room N-3437 C and D at the Labor Department Building, 200 Constitution Ave. N.W.

OSHA estimates that about 56,000 workers around the nation are exposed to EDB. ■

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P&I club sued for \$1.5 million

By ROGER SCOTTON

HAMILTON, Bermuda—Oceanus Mutual Underwriting Assn. (Bermuda) Ltd., a protection and indemnity insurance club here run by John Laing Management (Bermuda) Ltd., is being sued for \$1.5 million by three of its smaller creditors, one of which has petitioned for the P&I club to be wound up.

The Colombian National Shipping Co., Flota Mercante Gran, Colombia S.A., has filed an action along with its New York-based agent John F. Curry for \$625,000. Flota also has applied to the Supreme Court in Bermuda to have Oceanus wound up, a petition the court may hear later this month.

Another action is by Intersure International Brokers Ltd., agents for Royal Cruise Line Ltd., seeking \$77,000. The third action, by London brokers R.T.C. Ltd., is the biggest of the three for \$738,000.

The Bermuda government is reviewing what steps it can take to protect Oceanus' existing assets, which are not publicly known.

The government already has told Oceanus it is considering invoking Section 32 of the 1978 Insurance Act—a rarely used section which among other things empowers the

Minister of Finance to freeze the company's activities.

Latest available figures for the insurer show 1981 gross premiums of \$48.3 million.

Oceanus released a statement late last month that said, "The action of certain members who have delayed payment of calls or tried to set off unagreed amounts has led to Oceanus' very recent decision to arrest ships where delay in paying has been placing an unfair burden on the other members and third parties. This new step coupled with a policy of rigorous examination of new risks before acceptance is designed to maintain the club's unique position as the major ship-owners P&I club offering cover in competition with the international group of P&I clubs."

The Oceanus release continued, "Despite increased pressure on its

resources, caused by the continuing delay in settling claims by certain reinsurers, headed by the Chegaray Group, Oceanus continues to be supported by its members and by third parties who have shown great understanding and forbearance."

Chegaray Group is a French reinsurance agency.

A statement issued by Laing (Bermuda) on Dec. 22 said: "Representatives of the club have recently met with the Registrar of Companies, as the representative of the Minister of Finance, to report to her the club's current position and to arrange to update her periodically on the results of the club's present actions".

In November, Oceanus was taken off the list of insurers acceptable to the U.S. Coast Guard to underwrite pollution liability insurance for tankers (BI, Nov. 21). ■

Disputes could harm business

NEW YORK—Twelve of the world's 171 territorial disputes are likely to expand to such an extent in the next two years that they could hinder international business, according to a study by a political risk consulting firm.

Among the trouble spots around that world that Frost & Sullivan Inc. gives more than a 50% chance of violently erupting during the next 24 months are:

- The Falkland Islands dispute between the United Kingdom and Argentina.
- The border dispute between Nicaragua and Honduras.
- The dispute in the western Sahara involving Morocco, Algeria and Mauritania.

• The 4-year-old border war between Iran and Iraq.

• The dispute over the Shatt-al-Arab waterway, also between Iran and Iraq, that has already cost insurers millions of dollars in marine claims.

• The conflict between Israel and Syria.

• The ongoing conflict in Lebanon.

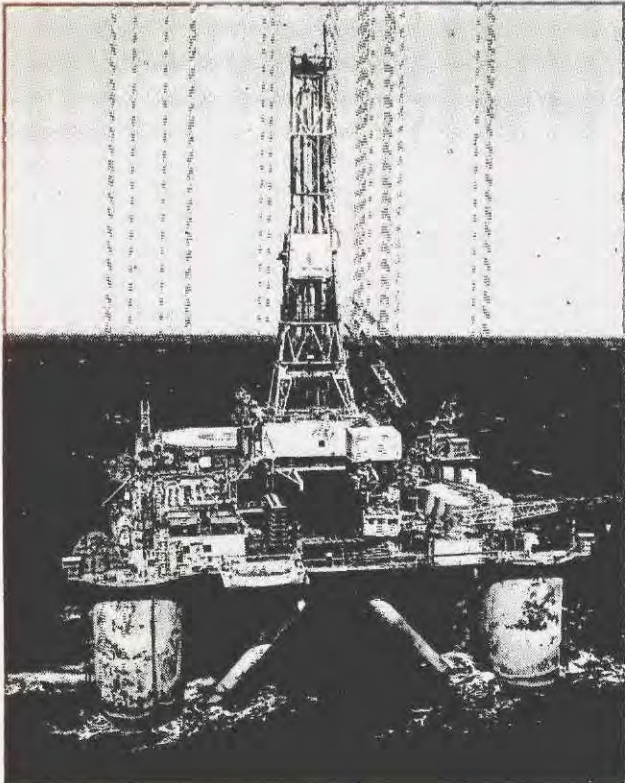
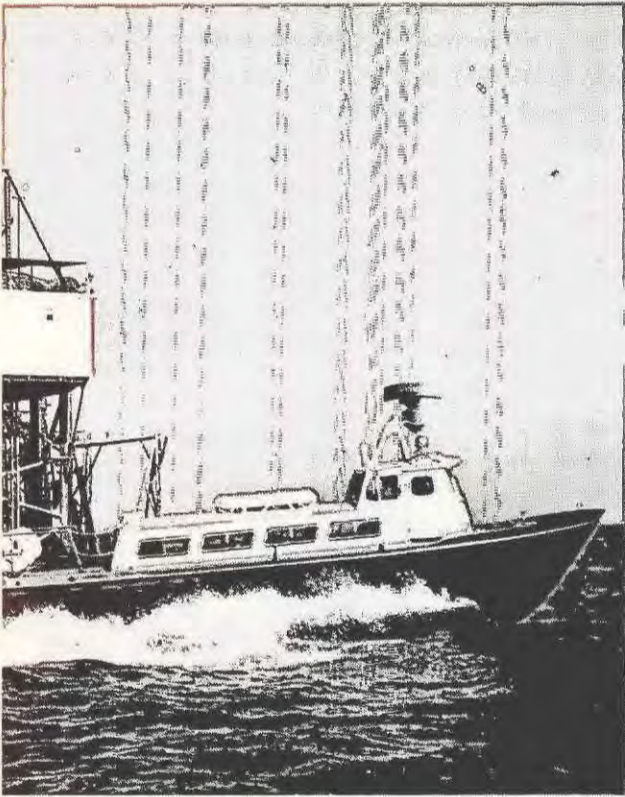
• The border conflict between South Africa and Mozambique.

• The struggle in Namibia between South Africa and Angola.

• The Libyan invasion of Chad.

• The border conflict between Libya and the Sudan.

• The border skirmishes between China and Vietnam. ■



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Reinsurer seeks damages of \$49.5 million

Continued from page 2

proper exercise of underwriting judgment by Universal Marine in reinsurance agreements with Cherokee for 1980, 1981 and 1982.

- Beacon, Cherokee and New Orleans Reinsurers charged commissions and underwriting fees that exceeded normal levels by a significant percentage.

- Withheld and concealed the fact that Beacon and/or Mr. Portermain owned the Toomey agency.

- Maintained loss reserves at inadequate levels to induce Universal Marine to renew its reinsurance agreements with Cherokee.

- Withheld the fact that Beacon was purchasing excess-of-loss reinsurance from undisclosed reinsurers and passing on a portion of the cost at an improper rate to Cherokee and, therefore, to Universal Marine.

- Worked in concert and engaged in racketeering by executing a scheme to defraud Universal Marine.

- Committed wire and mail fraud while executing this scheme.

The suit seeks to cancel outstanding reinsurance agreements among Universal Marine, Cherokee and Beacon; to enjoin Beacon's and Cherokee's banks from preventing Universal Marine from tapping letters of credit posted by the defendants; and to prevent Beacon and Cherokee from tapping letters of credit posted by Universal Marine.

The suit also seeks an estimated \$16.5 million in total damages which, under the federal Crimes and Criminal Procedures statute, may be trebled to a total of \$49.5 million.

But, an attorney for Wilkesville, Tenn.-based Beacon vigorously denied the allegations. She said that because Beacon believes that the allegations were made in bad faith and without a factual basis, Beacon will counterclaim for attorneys' fees, court costs and any resulting damages.

Beacon's attorney, Katherine D. Woodruff of the Dallas law firm of Condos, Shafer, Poynor, Beggs & Woodruff P.A., also told *Business Insurance* that Universal Marine's attempt to use federal criminal statutes as a cause of action was a "last-ditch" effort by the reinsurer to avoid the financial drain of the claims.

The Universal Marine lawsuit, she says, is linked to a recent decision by the Bank of Nova Scotia to not renew a letter of credit issued to Universal Marine that secured its financial obligations to Cherokee.

Ms. Woodruff contends that Universal Marine anticipated that Cherokee would tap that letter of credit to cover Universal Marine's reinsurance obligations to Cherokee. Therefore, she says, Universal Marine sought and received a restraining order late last year that prevented the Bank of Nova Scotia from releasing funds under the letter of credit.

Ms. Woodruff confirmed that during the years 1979 to 1982, Beacon was reinsured by Cherokee under an agreement that called for Cherokee to accept 50% of the first \$100,000 of all risks underwritten by Beacon.

She also confirmed that Beacon was aware that Cherokee was reinsured by Universal Marine.

However, Ms. Woodruff said that the reinsurance agreement covered all risks underwritten by Beacon, not just those produced by B.F.G. Toomey Associates, the London agency that was owned in part by Beacon President Mr. Portermain and managed by another defendant, Barry Toomey.

Moreover, Ms. Woodruff claims that, at all pertinent times, principals and representatives of Cherokee were aware of the types of business Beacon was underwriting, primarily through Cherokee's managing general agency, New Orleans Reinsurers, and its president, Mr. Schirmer.

Beacon contends that Cherokee's reinsurance agreement with Universal Marine was irrelevant to Beacon's own underwriting and its reinsurance relationship with Cherokee, Ms. Woodruff said.

She also noted that New Orleans Reinsurers had been a subsidiary of Ingram Corp., which also owns Universal Marine, during the years referred to in the suit. Ingram sold New Orleans Reinsurers to President Schirmer, who later sold 80% of the company to Beacon in 1983.

She says she believes that New Orleans Reinsurers made Universal Marine management aware of Beacon's business.

Fred Kitchens, chief executive officer of Cherokee, confirmed Ms. Woodruff's understanding of the reinsurance structure but told *Business Insurance* that Beacon's risks had always been intended to go to Universal Marine.

"I'm completely surprised by the complaint," he said. "Several years ago, about 1977, we were approached by Ingram Corp. to do them a favor—front for reinsurance business produced by New Orleans Reinsurers so that it could be placed offshore in Universal Marine."

"The Ingram organization structured the deal at both ends, so I am

sure they knew exactly what risks were flowing through."

Mr. Kitchens said Cherokee was a very small part of the conduit, retaining only about 5% of the risks produced by New Orleans Reinsurers.

Cherokee staff counsel is now studying the complaint, Mr. Kitchens added, but pending outcome of the lawsuit, Cherokee sought and received a restraining order preventing Beacon from withdrawing from letters of credit Cherokee had posted to secure its financial obligations to Beacon.

Universal Marine's attorney Sol Kroll of the New York law firm Kroll, Pomerantz & Cameron, would not comment further on the lawsuit.

Ms. Woodruff also commented on an affidavit filed by Universal

Marine officers as part of the court proceedings. The affidavit refers to Beacon's and Toomey's reinsurance agreements that preceded the 1982 insolvency and subsequent liquidation of Kenilworth Insurance Co. of Illinois.

Although both Beacon and B.F.G. Toomey Associates were cited as a reinsurer and producer of business, respectively, of Kenilworth in a 1982 report promulgated by the Illinois Department of Insurance, Ms. Woodruff says the dispute with Universal Marine does not in any way involve Kenilworth.

Beacon, she said, is currently negotiating a settlement of alleged reinsurance obligations with Kenilworth liquidators and expects to complete the settlement soon. ■



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New ISO forms

Continued from page 2

ISO's answer to this long-term exposure was to devise an alternative claims-made form, under which an insurer is responsible only for claims first filed during the policy period.

However, features in the ISO form unveiled Jan. 4 allow the claims-made form to provide the same coverage provided by occurrence forms, the insurer organization maintains.

For example, the new claims-made form includes the option of indefinitely extending the reporting period for claims if the policy is canceled either by the insurer or the policyholder for any reason other than non-payment of premium (BI, Feb. 7, 1983).

This "extended-tail" feature provides coverage for claims filed after the policy expires, so long as they stem from occurrences taking place before the expiration date.

This coverage, which insurers cannot refuse to grant if policyholders request it, is considered excess of any other primary or excess insurance available to the insured.

In addition, the claims-made form has no retroactive date, meaning that losses occurring before the policy's inception will be covered so long as the claim is first made during the policy period.

This coverage is also considered excess of other primary and excess insurance. For example, if a claim is filed under the claims-made form for an incident that took place while an occurrence form was in effect, the claims-made insurer would consider its coverage excess. However, it won't be considered excess of coverage available under the extended-tail provision of another of the new policies.

Limiting coverage under both of the new forms is a revised system of aggregate limits that will cap an insurer's total liability.

Currently, aggregate limits are

applied to products/completed operations liability, manufacturers and contractors property damage liability and personal and advertising injury liability. No overall policy aggregate is imposed, though.

Liability limits under the new policies will be structured this way:

- Per-occurrence limits will be imposed on all bodily injury and property damage claims, except those for products/completed operations liability. Fire damage to premises rented by an insured will be subject to a per-fire limit, medical payments will be subject to a per-person limit and personal injury and advertising injury will be subject to a per-person or per-organization limit.

An overall annual aggregate limit will then be added to cap the insurer's liability for losses in all these areas for any one year.

- For products/completed operations coverage, separate per-occurrence limits will be imposed for bodily injury and property damage claims, and these will be subject to a separate products/completed operations annual aggregate limit.

Another new feature of the claims-made and occurrence forms is a revision of the wording of the pollution exclusion. Currently, CGL policies exclude coverage for pollution incidents unless they are "sudden and accidental." Several courts have found the exclusion to be ambiguous, though, and have in-

terpreted "sudden and accidental" narrowly against insurers.

The new exclusion specifically rules out coverage for environmental contamination and bodily injury or property damage resulting from an insured's intentional pollution or from the "gradual emission, discharge, release or escape (of pollutants) from any source."

ISO Senior Vp Richard R. Savage notes that the change is merely meant to "track the intent" of the original exclusion.

Brokers and policyholders note that the new forms are much improved over earlier drafts. The new policies, for example, follow a more standard format than earlier versions and offer the extended-tail coverage. In addition, ISO dropped the idea of a "first-discovery" trigger, under which claims would be paid by the insurer whose policy was in effect when a loss was first discovered (BI, Jan. 3, 1983).

Furthermore, pollution caused by products or completed operations is covered unless the pollutants are released from the insured's premises or are treated or disposed of as waste by the insured, said Jesse Pagonis, director of corporate insurance for Engelhard Corp. of Edison, N.J., and a member of the Risk & Insurance Management Society's ISO liaison committee.

ISO has yet to announce an advisory rating schedule for the new

forms. Extended-tail coverage on the claims-made form will be available at a separate one-time premium that will be a percentage of the policy premium, according to Mr. Savage.

Rates for the claims-made coverage should be lower than for the occurrence form, he said.

Some worry that, regardless of any ISO maximum premium for the extended-tail coverage, insurers may charge more than policyholders would be willing to pay.

The addition of a general aggregate limit could also result in higher prices for umbrella coverage, as umbrella underwriters are asked to write over a smaller underlying layer, said Donald Jordan, executive director of the National Assn. of Insurance Brokers.

Mr. Savage replied that any effect on umbrella layers will depend on what aggregate limit a policyholder decides to buy, suggesting that aggregate limits may be raised in some cases.

Mr. Pagonis said the popularity of the new claims-made form will depend on how much cheaper it is than the occurrence alternative. Companies with no significant long-tail liability exposures will probably switch to the claims-made form if it is less expensive, while large companies with long-latent injury exposures probably will stay with the occurrence forms they've grown accustomed to, he said.



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Hyatt sues contractors for \$4 million

Continued from page 2

● Marshall & Brown Inc., which also inspected the hotel.

In the latest lawsuit, Hyatt says it seeks \$4 million from these defendants for:

● Damage to Hyatt's name and reputation stemming from the tragedy, which was described as the nation's worst structural building collapse.

● Business interruption losses suffered by the hotel operator the 60 days the Hyatt Regency was closed for repairs. Hyatt did not insure those losses.

● Legal fees and expenses charged by two law firms that Hyatt says it was forced to retain after its insurers initially balked at paying any of the victims' claims.

The two firms—Reuben & Proctor in Chicago and Deacy & Deacy in Kansas City—have filed suit for Hyatt against more than 25 insurers that wrote coverage for Hyatt and Hallmark. Hyatt also has sued Marsh & McLennan Inc., the broker for both Hyatt and Hallmark. That coverage litigation is still pending (BI, Sept. 26, 1983).

"We've been getting a lot of talk about how everyone is going to make us whole and they haven't. That's why we filed the (latest) suit," says Hyatt lawyer Thomas E. Deacy Jr. of Deacy & Deacy.

Mr. Deacy also said the filing of the new lawsuit would enable Hyatt to obtain a court order unveiling the wording of the agreements between Hallmark, Crown Center and the 12 contractors.

"I don't know what their agreements have been," said Mr. Deacy.

Hyatt has submitted a similar \$4 million claim to Hallmark, noted Judith A. Whittaker, Hallmark's associate general counsel, "and we've submitted it to our carriers." However, Hallmark has not been sued by Hyatt and is not a defendant in the latest Hyatt suit.

"I don't have any real reaction" to the latest suit, Ms. Whittaker said. "It's no surprise to me. . . The (news)papers here made a big deal of it and I don't think it's a big deal."

She said such a suit by Hyatt had always been a possibility because the hotel operator had refused to rule out future claims against co-defendants when it agreed to the two class settlements early in 1983.

"Hyatt wouldn't agree to waive anything," she said. "It was always viewed as a possibility that they would sue, and the construction defendants hoped that Hyatt wouldn't do it."

Among the key questions created by the latest suit is who will pay if the suit is successful.

The construction defendants carried approximately \$30 million in professional liability insurance at the time of the collapse. According to Ms. Whittaker, all of that money, less \$5 million paid out for legal costs, was tendered to Crown Center and Hallmark last spring to help pay victims' claims.

By tendering those funds to Hallmark and Crown Center, each of the 12 construction firms became participants in the class settlements under which the "settling defendants"—Crown Center and Hallmark—agreed to pay the compensatory damage claims of the collapse victims.

Ms. Whittaker says that while none of the agreements indemnify the 12 defendants from a claim by a third-party, like Hyatt, some of the agreements provide that continuing legal costs to defend all collapse-related lawsuits against the 12 companies will be covered by the pool of insurance set up by the class settlements, including some coverage provided by Hyatt.

However, some of the agreements only cover legal costs to de-

fend victims' lawsuits, not a third-party action like Hyatt's.

"Some of them do, and some of them don't. . .," Ms. Whittaker said.

Among the insurers now paying claims and legal costs is Columbia Casualty Co., a CNA Financial Corp. affiliate and one of the excess insurers in Hyatt's \$201 million line of liability insurance. If legal costs incurred by the participating defendants—which include the 12 construction firms and Hyatt—must be paid by the pool of insurers, Ms. Whittaker suggests that Columbia Casualty could be partly responsible for the legal bills of companies its own policyholder has sued.

A Columbia Casualty attorney declined to comment on the suggestion, and other lawyers—some of whom did not wish to be identified

—differed on the point.

"It looks to me like there could be all kinds of problems (with the suit) for Hyatt," notes Steven S. Cozen, an attorney with the Philadelphia firm of Cozen, Begier & O'Connor, which represents Commercial Union Insurance Cos., the insurer that led Hallmark's \$101 million in liability coverage at the time of the skywalk collapse.

Mr. Cozen also noted that by filing the suit, Hyatt could be exposing itself to counterclaims from the construction firms.

Reactions of some of the defendants named in the new suit ranged from shock to disappointment that negotiations among Hyatt, Hallmark and other defendants had failed to settle the dispute.

"My reaction is, frankly, one of disbelief that they would file it,"

said Joseph A. Sherman, a Kansas City attorney for Havens Steel Co., a steel fabricator and erector, which was one of the 12 defendants named by Hyatt.

"It's a lawsuit that's mind-boggling because the only thing they can gain is more publicity, which—if I understand the pleading—is just what they don't want."

Mr. Sherman added the suit might have the effect of diminishing the amount of money available to the remaining collapse victims.

"I think it's unfortunate," said Donald L. James, attorney for Gillum-Colaco Structural Engineering Inc.

"My reaction is that we're broke," Mr. James commented. "We put all our insurance coverage into the principal settlement. . . it just seems a shame to have this

mop-up action."

Gillum-Colaco carried \$2 million of liability insurance from another CNA affiliate at the time of the collapse, though Mr. James could not identify the specific insurer. Mr. James says Gillum-Colaco did not obtain any pledges of indemnity from Hallmark/Crown Center and thus has limited funds available to defend against the Hyatt suit.

Lawyers for the other defendants could not be reached for comment.

A federal study into the tragedy concluded a design change during construction altered the way steel hanger rods coupled to the concrete-and-steel skywalks and made the walks incapable of supporting their own weight. However, it has never been determined what company ordered the design change. ■



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A&P, newspaper workers get more benefits

Continued from page 1

more, were attracted to tapping their pension funds as a potential source of new money.

High interest rates also made it possible for companies to buy annuities from insurers at a cheaper rate to replace the benefits that would be paid by the terminated plan.

But the termination of overfunded defined benefit plans has drawn the concern of some members of Congress, like Sen. Howard Metzenbaum, D-Ohio, and Rep. Edward Roybal, D-Calif., as well as pension activists.

They say, among other things, that many employees, particularly older workers, often do not fare as well when companies terminate overfunded pension plans and replace them with defined contribution plans.

In addition, some pension activists say the terminations violate the spirit of the Employee Retirement Income Security Act, which says pension plans are for the exclusive benefit of participants.

While the legal actions surrounding the terminations of the A&P, Washington Star and GAF pension plans don't provide a uniform answer of who—the employer or the participants—has a right to the excess assets—they do indicate that employers that want to terminate overfunded pension plans are likely to face lengthy litigation.

The A&P case is an example of just how long litigation can drag on

when a company wants to terminate an overfunded plan.

On October 16, 1981, A&P announced that it intended to terminate its defined benefit plan to recapture what it then estimated to be some \$200 million in excess assets (BI, Nov. 2, 1981).

At the time, A&P, which is more than 50% owned by Tengelmann Group, a West German company, had accrued enormous losses. In 1981, for example, A&P lost \$231.6 million. Lately, the company has become profitable.

Recapturing the pension plan's \$200 million in excess assets would have helped the giant grocery chain modernize its many aging stores.

However, two weeks after A&P proposed terminating the plan and replacing it with a contributory savings plan, William J. Walsh, a retired A&P executive, filed a class action suit in U.S. District Court to block the termination.

Mr. Walsh asked the court to declare null and void a provision A&P added to the plan that called for the reversion to A&P of any excess assets if A&P terminated the plan. Mr. Walsh said the amendment was a breach of A&P's duty as a plan fiduciary.

In April 1982, a settlement was hammered out by attorneys representing A&P and Mr. Walsh. Under the settlement, A&P would amend its plan so that \$50 million in excess funds would be used to purchase annuities from an insurer

to increase retirement benefits.

Of the \$50 million, \$40 million would be allocated among about 2,800 retired employees and about 18,000 participants who left the company after pension vesting. In addition, about \$10 million would be distributed to about 10,000 participants still employed by A&P.

The remaining excess funds—then estimated at \$200 million and now calculated by A&P to be \$275 million because of favorable market performance—would revert to A&P.

The proposed settlement, attorneys for Mr. Walsh estimated, would on average boost benefits by 15% to A&P pensioners.

"It is hard for us to appreciate what a 15% increase in benefits means to a pensioner who retired 30 years ago," said Marc S. Friedman, a partner with Kalb, Friedman and Siegelbaum, a Roseland, N.J., law firm which represented Mr. Walsh.

"A 15% increase may mean the difference between paying or not being able to pay an oil bill," Mr. Friedman added.

On May 24, 1982, A&P's and Mr. Walsh's counsels presented the settlement to the court. One week later, on June 1, 1982, Mr. Walsh filed objections to the settlement saying that all the excess assets belonged to plan participants.

Mr. Walsh then asked the court for a new counsel in the class action suit and asked that A&P pay for

the new counsel.

On June 9, 1982, the court denied Mr. Walsh's motion to dismiss the class counsel noting that the counsel was acting consistently "in the best interest of the class."

On Feb. 9, 1983, the federal court in Newark ruled that the 1982 proposed settlement giving A&P participants \$50 million in excess assets was fair and reasonable.

Mr. Walsh, in March 1983, appealed the lower court decision to the U.S. 3rd Circuit Court of Appeals.

Last week, the appellate court rejected Mr. Walsh's appeal and allowed the \$50 million settlement to stand.

The appellate court rejected Mr. Walsh's contention that the lower court abused its discretion by failing to discharge class counsel.

"The court was required to and did consider whether class counsel provided fair and adequate representation to the class as a whole. There was no abuse of discretion in refusing to remove class counsel," the appeals court said.

In addition, the appeals court said the settlement as approved by the lower court was "fair, adequate and reasonable."

While A&P's pension plan participants will get \$50 million of the plan's \$325 million in excess assets, participants in the Washington Star/Baltimore Newspaper Guild Retirement Income Plan will get all of the plan's \$1.3 million in excess assets, under arbitrator Mr.

Gellhorn's ruling.

The Star plan was created in 1974 after negotiations between the Star and the Guild. The Star agreed to pay up to \$10 per employee per week to fund the plan. The plan was jointly managed by three trustees representing the Star and three representing the Guild. Such jointly-managed plans are known as Taft-Hartley plans.

In 1978, publishing giant Time Inc. bought the Star, but continued the Guild plan, which offered 25% vesting after five years and full vesting after 10 years of service, according to a Time spokesman.

In August 1981, Time stopped publishing the Star after heavy financial losses. The plan trustees were unable to decide who—Time or the plan participants—should get the \$1.3 million in excess assets. The trustees then agreed to appoint an arbitrator to resolve the issue. Both parties agreed that they would abide by the arbitrator's decision.

The arbitrator, Mr. Gellhorn, noted that the plan was structured to produce the assurance of retirement benefits for Star employees and not to produce a possible monetary refund to the Star.

"The pension fund's trustees did not seek advantageous (though secure) investment opportunities in order to create a bit of extra cash for the Star's ultimate use; they did so for the sake of the plan's beneficiaries," Mr. Gellhorn said.

Continued on facing page

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Continued from facing page

"To impose on the fund's trustees an obligation to disburse money not to the beneficiaries whose interests the trustees have guarded, but to the corporate employer who had agreed to soften the consequences of retirement, would be a distortion of benefit design," Mr. Gellhorn said.

As a result, any excess assets created by actuarial miscalculations should be used to further the plan's basic purpose—the well-being of pensioners, Mr. Gellhorn said.

Neither Time, which said it was disappointed with the ruling, nor the Guild's counsel, Paul & Thompson of Arlington, Va., know yet by what amount monthly benefits of plan participants will increase after they receive the \$1.3 million in excess assets.

Time, though, does intend to terminate the plan, which has been inactive since the Star folded in 1981, and use non-excess assets to buy annuities to pay retirement benefits to the participants.

In the third pension termination case, GAF Corp. will get all \$57 million in excess assets when it terminates its defined benefit plan.

In his ruling, which dismissed a class-action suit that was filed in 1982 to block the reversion of excess assets to the company, Judge Sarokin noted that the GAF plan made no provision for a reversion of surplus assets to plan participants.

In addition, GAF in 1982 added a provision to the plan that specifically called for the reversion to the company of excess plan assets in the event of termination. That amendment was not beyond the scope of GAF's amendment power, Judge Sarokin said.

Ultimately, Judge Sarokin said, the question of who is entitled to the excess assets is a matter of expressed written intention.

"In this case the employer has been designated, the designation is sufficient and no policy considerations demand otherwise. Therefore, upon termination, the surplus, if any, shall be the property of the employer," Judge Sarokin said.

The court ruling in the GAF case is a victory for participants and employers, said GAF attorney Dean Gaver of Hanoach, Weisman, Stern, Besser, Berkowitz & Kinney in Newark.

If companies were barred by courts from recovering excess assets, they would be reluctant to set up new defined benefit plans and would only fund existing plans at minimum levels, Mr. Gaver said.

Such skimpily funded pensions could place a new burden on the federal government's pension insurance agency, some experts say. For example, if a plan were funded at minimum levels and then suffered serious investment losses, the

plan might lack sufficient assets to pay basic benefits.

As a result, if the company went out of business and terminated the plan, the Pension Benefit Guaranty Corp.—the federal agency that guarantees pension benefits through insurance premiums it charges employers—would have to take over the plan and pay benefits.

But plaintiffs' attorney Mr. Friedman, who represented participants in the A&P and GAF cases, said the terminations are not in the interest of participants. Retirees, for example, lose the chance of ad-hoc benefit increases when their employer terminates the plan and buys annuities to pay the monthly retirement benefits.

GAF intends to set up a profit-sharing plan with 401(k) salary-reduction features after it terminates the defined benefit plan (BI, Oct. 11, 1982).

Judge Sarokin's ruling will not be appealed, said plaintiffs' attorney Mr. Friedman.

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Leasing losses cost \$370 million

LONDON—Underwriters at Lloyd's of London will pay \$60 million less for computer leasing insurance losses than they had originally estimated.

Virtually all the computer leasing claims from the late 1970s are now settled with the final tally hitting \$370 million, estimates Lloyd's lawyers Lord, Day & Lord in New York and Elborne Mitchell & Co. in London.

This final figure is lower than the earlier estimates by Lloyd's of \$432 million.

The computer leasing losses stem from a dramatic drop in the value of leased computers in the 1970s. When the leases were not renewed, the resale value dropped far below the anticipated leasing revenues, a loss that was insured by Lloyd's syndicates.

Agent Orange class actions certified

Continued from page 2

result of exposure to the herbicide. The defendants in the litigation include Dow Chemical Co. of Midland, Mich.; Monsanto Co. of St. Louis; T.H. Agriculture & Nutrition Co. Inc.; Diamond Shamrock Chemicals Co. of Cleveland; Uniroyal Inc. of New York; Hercules Inc. of Wilmington, Del.; and Thompson Chemical Corp. of Kansas City, Kan.

Judge Weinstein's decision comes several months before a May 7 trial date in which 10 representative plaintiffs and the defendants are scheduled to litigate central issues in the dispute.

Those issues include whether Agent Orange caused the injuries claimed by plaintiffs; whether defendants' products were misused by the government; and whether the federal government is wholly responsible for injuries.

Answers to these questions would then govern in the remaining cases brought by plaintiffs, with perhaps litigation over minor issues needed in individual cases, explains plaintiffs' attorney Stephen J. Schlegel.

But defense attorneys say it is uncertain how the determinations will be applied. "There is a considerable amount of uncertainty about what effect those determinations will have," one defense attorney said.

The defendants opposed certification of the class actions, contending that significant differences in the victims' injuries made them less amenable to trial at one time.

They argued that each veteran, spouse or child claiming damages as a result of exposure to Agent Orange has a unique history upon which their claim depends.

Since each veteran was exposed at different times, at different places and under different circumstances, a finding of causation would not be applicable to other members of the class, the defendants argued.

However, Judge Weinstein said the enormous size of the litigation, the "critical common defenses" by the defendants and the advantage of determining the issue of causation would dispose of the litigation more fairly and for considerably less time and money.

"Certification would be justified if only to prevent re-litigating those defenses over and over again in individual cases," Judge Weinstein said.

"Given the enormous potential size of plaintiffs' case and the judicial economies that would result

from a class trial a class action is superior to all other methods for a 'fair and efficient adjudication of the controversy.'"

With respect to punitive damages, the court said that a class is necessary because—if claims are decided individually and punitive damages are assessed—only a few plaintiffs may receive them.

While the court said there are a number of factors that could preclude punitive damages, there is a "substantial probability" that limited punitive damages may be allowed.

"If they are, it would be equitable to share this portion of the possible award among all plaintiffs who ultimately recover compensatory damages," Judge Weinstein said.

Much of the court's decision on punitive damages was based on an analysis of potential liability conducted by a court-appointed master and released late last year.

The master estimated that between 40,000 and 50,000 cases may eventually be brought and that the combined net assets of the defendants, including insurance, total between \$9 billion and \$16 billion.

He concluded that the evidence before the court did not support the view that the claims will exhaust the defendants' assets.

Judge Weinstein's decision also established how plaintiffs' attorneys will have to notify potential claimants about the class actions.

Under the order, notice to potential class members will have to be provided by first-class mail, radio and television announcements, newspaper and magazine ads and a toll-free number.

The class includes all persons in the U.S., New Zealand or Australian armed forces injured in or near Vietnam by exposure to Agent Orange or other herbicides between 1961 and 1972.

Veterans' spouses, parents and their children born before Jan. 1, 1984, who were directly or indirectly injured because of exposure to Agent Orange are included.

According to defense attorneys, the notice provisions could mean that significantly more cases will be brought.

"If the plaintiffs prevail (on appeal in the class action) and people are notified that all they have to do is prove their claims rather than bringing a separate lawsuit, it could bring in more claims," one attorney said.

Plaintiffs' attorney Mr. Schlegel of the Chicago firm of Schlegel & Trafelet estimated the cost of the

notice to be between \$150,000 and \$250,000.

Attorneys also said that the certification of the class action leaves the Agent Orange litigation as the only remaining class action in product liability litigation.

"There are no presently certified cases other than our cases," Mr. Schlegel said, estimating that as

many as 75,000 cases may ultimately be brought into the Agent Orange class.

Defense attorneys contend there has never been a class action in a product liability case of a similar size and nature.

"There's never been one of this magnitude," said William A. Krohley, a partner in the New York

firm of Kelley Drye & Warren.

David R. Gross, another defense attorney, pointed out that prior certifications of classes for punitive damages have been reversed.

"The rules were never written to contemplate this situation," said Mr. Gross of the Newark, N.J., firm of Budd, Lerner, Kent, Gross, Piccolo & Rosenbaum.

Federal judge throws out DES class action

BOSTON—While a judge in the Agent Orange litigation last month authorized two class actions, a federal judge in Boston recently threw out a class of 3,800 women suing for injuries resulting from the anti-miscarriage drug DES.

In *Payton vs. Abbott Labs, U.S. District Court Judge Walter Jay Skinner* said that separate trials for the plaintiffs were appropriate rather than a class action.

The women allege that they face an increased risk of cancer because their mothers used DES, or diethylstilbestrol, during pregnancy.

Most do not know which pharmaceutical company manufactured the DES that their mothers ingested.

Judge Skinner based his decision on a number of issues decided by the Massachusetts Supreme Judicial Court, which helped determine whether the class action would survive.

Judge Skinner conditionally certified the class in 1979 pending the resolution of the issues.

In his opinion, Judge Skinner cited a decision by the Supreme Judicial Court that women who suffer from emotional distress because their mothers used DES cannot be compensated unless the injury they suffer is reasonably related to medically identified physical symptoms.

Since only "a relatively small percentage" of the class has suffered physical symptoms related to DES, Judge Skinner said the class must be redefined to include only those women.

Another reason for decertification is the Supreme Judicial Court's rejection of the theory proposed by plaintiffs for classwide imposition of industrywide liability for plaintiffs who cannot identify the source of the DES affecting them.

Judge Skinner, however, said that the court left the door open for the concept of industrywide liability in appropriate cases.

But, "the conditions for imposition of enterprise liability sug-

gested by the court make it clear that a class action would not be an appropriate case," Judge Skinner said.

Judge Skinner, who said he does believe a class action can be useful in product liability litigation, added:

"It is clear from our labors in this case, however, that it is less likely to be useful when there are a number of defendants, the viability of plaintiffs' claims depends on enterprise liability and each individual defendant has the right to offer exculpatory evidence with respect

to each individual plaintiff."

"We're very pleased with the decision," said a spokesman for Eli Lilly Corp. of Indianapolis, another manufacturer of DES.

"We think that any judge considering a class action in DES will be persuaded by this decision and that of the other courts (that have thrown out other DES class action requests)," the spokesman added.

In addition to Abbott Labs and Eli Lilly, defendants include Merck & Co. Inc., Rexall Corp., E.R. Squibb & Sons Inc. and Upjohn Co. Inc.

Lloyd's underwriters face charges

LONDON—The Lloyd's of London investigations committee has decided to bring charges against underwriters Raymond Brooks and Terence Dooley this year, says Lloyd's Chief Executive Ian Hay Davison.

The decision was made last month after the committee read a 231-page internal report on the two underwriters' activities prepared by trial lawyer Anthony Colman and Stephen Hailey, a partner at the accounting firm of Arthur Andersen & Co.

Lloyd's had earlier ordered the probe into the relationship of syndicates managed by Brooks & Dooley (Underwriting) Ltd. with the Fidentia Marine Insurance Co. of Bermuda. Lloyd's alleged that large sums of syndicate funds were channeled through reinsurance contracts to Fidentia, which was controlled by Messrs. Brooks and Dooley through family trusts between 1970 and 1983.

Under a new bylaw passed by the council before Christmas, the two underwriters' fates will be decided under new disciplinary procedures set down under the Lloyd's Act of 1982.

But, says Mr. Davison, any Lloyd's members found guilty of

misdeeds prior to January 1983—before the new act came into power—either will be suspended or expelled from the market under the rules in the Lloyd's Act of 1871.

Along with the probe into the allegations surrounding Messrs. Brooks and Dooley, Lloyd's also recently handed another six-month suspension to underwriter Ian Posgate (BI, Dec. 19, 1983). Besides barring him from acting as an underwriter, the suspension also will prevent Mr. Posgate from taking his seat on the Council of Lloyd's.

Mr. Posgate had been barred from council proceedings for the past year, since he was first suspended. The suspension stems from allegations made by Alexander & Alexander Services Inc. and Alexander Howden Group P.L.C. that Mr. Posgate and four other ex-Howden directors misappropriated syndicate funds.

The investigations committee is now reading a report on the Howden allegation prepared by an independent panel and will decide if charges should be pressed, according to Mr. Davison.

The Howden report, however, will not be distributed to the public as other investigative documents have been, he said.

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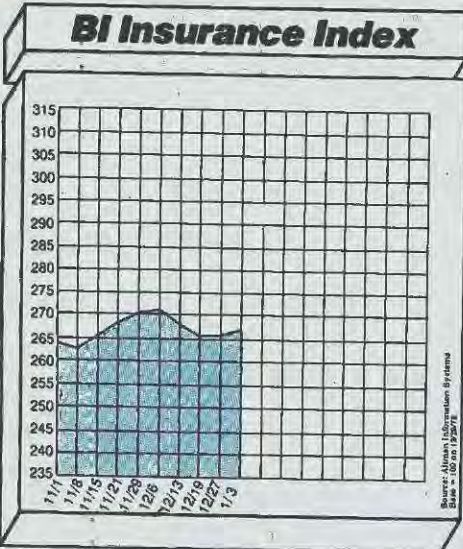
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Brokerage budget makers see improved results ahead

By LEONARD M. WILSON

Special to Business Insurance

IT IS BUDGET TIME in the world of insurance brokerage. Budget makers are inevitably conditioned by trends of the prior year. Consequently, profit plans for 1984 cannot escape the malaise felt by the entire insurance brokerage industry in 1983.

The mood is one of caution, with hardly anyone we contact daring to voice genuine optimism about 1984's environment. Caution translates into restrained revenue expectations and austerity on the expense side. Since it took great effort to imbue organizations with the mindset of cost control, managements are understandably interested in keeping the brakes on the increase in expenses.

Budgets, starting from individual profit centers and coalescing into a corporate plan, are private affairs. We can only surmise what a typical public broker might be anticipating for 1984.

But if we could look over the shoulder of the financial officer of Risk-Adverse Brokers, a fictional entry, we might find the substance of a representative budget, as detailed in the following paragraphs.

Renewal commissions may improve somewhat on 1983's performance due to an easing in rate cuts. Nevertheless, premium rates, despite increasing industry talk about better pricing, are likely to remain soft. With regard to insurance company managements, the philosophy must still be watch what they do, rather than heed what they say.

The economy, though, is expected to move into the positive column as an influence on commission growth. Definitive figures are lacking on the extent of the recession's dam-

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Mr. Wilson

age to growth in renewal commissions, but for budget purposes, perhaps 1983's negative economic impact of 2% to 3% might yield to a gain of 3% to 4% in 1984.

This real growth in insurance demand could generate a 5% to 6% year-over-year swing in commission growth in 1984.

Allowing for the combined impact of soft premium rates, a stronger economy and lost business at about the level of 1983, Risk-Adverse Brokers still faces shrinking dollar realizations from the renewal book of business. Contingent commissions, too, may also be lower.

Once again, the production effort comes to the rescue. Lower premium rates continue to whittle away at dollars realized on new business. Nonetheless, expectations for new business production have not faltered. Production efforts, it is assumed, will sustain last year's strong momentum during 1984.

Pulling together premium rates, lost business, the economy and new business, our cautious broker looks for a gain of 5% to 7% in domestic property/casualty insurance commissions, a far cry from the good old days, but a welcome improvement over last year's performance.

Employee benefits, having grown steadily through this cycle of rate-cutting, are a favored area. Resources will be ploughed into what is seen as an area of continuing growth. Higher penetration in the fragmented employee benefit marketplace could produce revenue gains of 10% to 15% in 1984.

Reinsurance brokerage, steadier through the cycle than direct insurance brokerage, may feel some acceleration from a slight firming in rates that most observers now cite as a fait accompli. A reasonable goal for 1984 might be an advance in reinsurance commissions of 10% to 12%.

International insurance brokerage, still a fairly modest area for all the public brokers with the exception of Marsh & McLennan Cos. Inc., should be a continuing bright spot. While the recent strength in the dollar could water down 1984 gains, the logic of a somewhat weaker dollar seems compelling and so the budget makers feel comfortable with projected 15% gains.

Ancillary services and non-insurance-related activities should rise also, by perhaps 10% to 15%. In the realm of investment in-

come, we seem to have passed the point of adverse comparisons due to lower interest rates. Since investment income should respond to modestly increased premium volume, a 5% rise for 1984 seems a plausible number. A significant drop in interest rates may be precluded by the federal deficit and the expanding credit needs of the private sector.

The rise in total revenues for the year's budget depends upon the weighting of property/casualty and other activities. A revenue gain of 7% to 8%, though, seems valid for planning purposes.

Cost increases ground to a virtual halt in 1983 for most of the public brokers. Expense control was the first line of defense against the brokers' rapidly deteriorating income statements. With disciplines now in place, employee growth may be nominal in 1984 and other operating expenses will have already responded to the exigencies of difficult times.

Consequently, the budget calls for a 5% to 7% advance in expenses, slightly less than the rise in revenues.

The result of this budgetary arithmetic is wider profit margins, positive operating leverage and earnings growth in the range of 25% to 35% for 1984.

The budget of Risk-Adverse Brokers comes together on an upbeat note, but a "show-me" attitude seems warranted for managements and investors in brokerage issues alike. Premium rates in commercial insurance lines are still intensely competitive and the anarchy in insurance pricing may not recede quickly.

And yet, perhaps there is a basis for cautious optimism notwithstanding the justifiable caveats.

Financial briefs Swiss Re

Swiss Reinsurance Co. posted another relatively good year profitwise in 1982, according to the reinsurer's recently released annual report, but the overall situation of the reinsurance industry worldwide gives it cause for long-term concern.

Reporting a net profit of 87.5 million Swiss francs (\$39.4 million) against 80.2 million francs (\$36.1 million) the previous year, Chairman Walter Diehl said the profit increase obscures the fact that worldwide reinsurance business in the non-life branches is still suffering from a serious profitability crisis.

Swiss Re's worldwide net premiums grew to 8.7 billion Swiss francs (\$3.9 billion) in 1982 from 8.1 billion Swiss francs (\$3.6 billion) a year earlier. Underwriting losses in non-life business increased to 319 million Swiss francs (\$143.5 million) from 136 million Swiss francs (\$61.2 million), but investment income rose to 788 million Swiss francs (\$354.6 million) from 672 million Swiss francs (\$302.4 million).

Eagle Star

The battle for British insurer Eagle Star Holdings P.L.C. may be over. Then, again, the takeover struggle may have just begun.

BAT Industries, the British tobacco giant, emerged as the apparent victor after it increased its bid for Eagle Star to 966 million pounds, or 7 pounds per outstanding share.

Allianz Versicherungs A.G., the West German insurer, then dropped out of the bidding, refusing to increase its offer of 6.75 pounds per share. However, Allianz will make about a 167 million pound profit if it sells—as anticipated—its 29.9% stake in Eagle Star to BAT.

However, under an agreement it negotiated with BAT, Allianz has the right to re-enter the bidding for Eagle Star if a third party makes a new bid higher than BAT's. Speculation in London last week indicated that a bid from an American company could be made before Jan. 18, the closing date of the BAT offer.

The Eagle Star board said that it would soon officially advise shareholders to accept the BAT offer.

Insurance industry stocks started the new year on the right foot as the *Business Insurance* stock index climbed 1.0 point during the period ending Jan. 3, to 267.9 from 266.9. Twenty-six issues reported gains, 18 were unchanged and 20 closed lower. The largest gains were reported by Bitco Corp., 7.5%; Mission Insurance Group Inc., 6.7%; Old Republic International Corp., 5.7%; Integrated Resources Inc., 4.9%; and Tokio Marine & Fire Insurance Co., 4.6%. The largest losses were posted by Optimum Holding Corp., 5.0%; American General Corp., 4.8%; Gulf United Corp., 4.2%; Marsh & McLennan Cos. Inc., 4.0%; and The Hartford Steam Boiler Inspection & Insurance Co., 2.7%. The *BI* stock index posted a 0.4% increase and was outperformed by the NYSE composite, which rose 0.6% during the same period.

British Issues

Jan 3 Companies	Price	P/E	Div. pence	Yield %	1 Week High—Low	
					pence	pence
Comml Union	178	29.7	16.86	9.5	187—178	
Eagle Star	692	21.0	27.86	4.0	714—692	
Genl Accident	445	13.1	26.43	5.9	460—445	
Gdn Royal Exch	510	13.4	30.71	6.0	520—510	
Phoenix	370	16.1	26.00	7.0	388—370	
Royal	482	12.4	39.28	8.2	493—482	
Sun Alliance	1425	16.4	78.57	5.5	1439—1413	

Brokers	Price	P/E	Div. pence	Yield %	1 Week High—Low	
					pence	pence
CE Heath	342	8.6	22.86	6.7	342—327	
Hogg Robinson	131	10.1	9.43	7.2	131—129	
JH Minet	143	11.0	7.57	5.3	143—139	
Sedg Grp	237	11.9	11.43	4.8	237—233	
Stenhouse Hldg	132	12.7	9.43	7.1	132—131	
Stew Wrightson	300	10.0	22.57	7.5	300—296	
Willis Faber	705	14.7	30.00	4.3	705—693	

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

BI Industry Stock Report

JAN.3, 1984 12/28/83 THRU 1/3/84

Insurance Cos.		Price	% Chg.	P/E	\$ Div.	% Yld.	High	Low	Vol. (000)
American Bankers Ins Group	OTC	13.63	-2.7	11.0	0.50	3.7	13.63	13.13	89.5
American Gen Ins Co	NYSE	22.38	-4.8	7.7	0.80	3.6	23.50	22.38	765.4
American Indty Fintl Corp	OTC	22.50	-1.1	12.0	1.12	5.0	22.75	22.50	6.9
American Intl Group Inc	OTC	63.50	-0.4	10.6	0.44	0.7	64.25	63.50	330.5
American Natl Ins Co	OTC	21.50	1.2	7.8	0.96	4.5	21.50	21.38	168.7
American Svs Life Ins Co	OTC	49.50	0.0	13.6	0.88	1.8	0.00	DID NOT TRADE	
Aneco Reins Ltd	OTC	3.88	3.3	27.7	0.00	0.0	4.00	3.88	19.5
Avenco Corp	AMEX	21.38	-0.6	12.6	0.58	2.8	20.63	20.13	9.1
Banks Iowa Inc	OTC	47.50	0.0	15.3	1.52	3.2	47.50	47.50	1.0
Bitco Corp	OTC	18.00	7.5	0.0	1.33	7.4	18.00	16.75	19.4
Carolina Cas Ins Co	OTC	6.75	0.0	0.0	0.20	3.0	6.75	6.75	0.2
Chubb Corp	OTC	68.75	0.7	9.0	3.12	4.5	68.88	68.63	102.7
Combined Intl Corp	NYSE	40.25	1.6	11.9	2.00	5.0	40.25	39.25	157.9
Continental Corp	NYSE	27.63	1.4	37.3	2.60	9.4	27.63	27.50	210.2
Crawford & Co	OTC	13.50	-1.8	10.0	0.60	4.4	13.50	13.50	42.7
Crown Life Ins Co	OTC	124.50	-0.4	8.1	3.20	2.6	125.00	124.50	0.6
Employers Cas Co	OTC	31.25	0.0	7.0	1.20	3.8	31.50	31.25	3.3
Equifax Inc	NYSE	27.25	-1.8	11.4	1.60	5.9	27.88	27.25	48.0
Excelsior Ins Co	OTC	21.63	0.0	18.2	0.00	0.0	21.63	21.63	0.0
Farmers Group Inc	OTC	41.63	4.4	10.3	1.36	3.3	41.63	40.38	273.6
Foremost Corp Am-	OTC	27.25	0.9	8.3	0.88	3.2	27.25	27.00	101.2
Fremont Gen Corp	OTC	14.25	3.6	0.0	0.48	3.4	14.25	13.63	261.7
Great West Life Assur Co	OTC	270.00	0.0	9.7	11.00	4.1	270.00	270.00	0.0
Hanover Ins Co	OTC	55.50	-2.6	7.1	0.88	1.6	55.50	55.25	18.5
Hartford Steam Boiler Insptn	OTC	53.50	-2.7	10.4	3.00	5.6	55.00	53.50	8.3
Jefferson Natl Life Ins Co	OTC	43.50	2.4	14.6	0.76	1.7	46.50	42.50	19.5
Keuper Corp	OTC	39.88	0.0	8.6	1.80	4.5	39.88	39.88	38.0
Lincoln Natl Corp Ind	NYSE	65.88	-2.0	9.3	3.36	5.1	67.58	65.25	85.3
Mission Ins Group Inc	NYSE	26.00	-6.7	10.5	1.00	3.8	26.75	24.50	300.9
Nationwide Corp Ohio	OTC	41.75	0.0	15.3	0.70	1.7	0.00	DID NOT TRADE	
Northwestern Natl -life Ins	OTC	36.75	2.2	9.2	1.50	4.3	34.75	33.88	15.7
Ohio Cas Corp	OTC	45.38	0.3	8.4	2.52	5.6	45.63	45.25	24.1
Old Rep Intl Corp	OTC	36.88	5.7	7.8	0.90	2.6	35.50	33.13	128.1
Orion Cap Corp	NYSE	27.63	-1.8	13.3	0.76	2.8	27.88	27.38	16.1
Preferred Risk Life Ins Co	OTC	19.75	1.3	7.5	0.67	3.4	19.75	19.50	2.1
Provident Life & Acc Ins Co	OTC	63.50	0.4	8.1	2.60	4.0	65.50	65.25	4.8
St Paul Cos Inc	OTC	59.63	-0.2	8.1	2.80	4.7	60.25	59.63	292.7
SAFECO Corp	OTC	54.75	-1.1	10.8	2.60	4.7	55.50	54.75	249.2
Sri Corp	OTC	16.00	0.0	6.9	0.68	4.3	16.00	16.00	148.7
Seibels Bruce Group Inc	OTC	21.50	-2.3	12.1	0.80	3.7	21.63	21.25	44.6
Statesman Group Inc	OTC	8.88	0.0	7.7	0.15	1.7	8.88	8.75	128.1
Tokio Marine & Fire Ins Co	OTC	119.75	4.6	24.2	0.96	0.8	120.25	118.00	7.8

		Price	% Chg.	P/E	\$ Div.	% Yld.	High	Low	Vol. (000)
United Fire & Cas Co	OTC	32.00	0.0	11.4	0.88	2.8	32.00	32.00	1.1
United States Fid & Gty Co	NYSE	55.63	0.2	9.8	3.84	6.9	56.00	55.25	204.8
United Svcs Life Ins Co	OTC	23.00	0.0	4.7	1.00	4.3	23.00	22.88	16.0
Uslife Corp	NYSE	28.63	3.6	8.2	0.96	3.4	28.88	28.25	40.1
Washington Natl Corp	NYSE	25.00	3.1	11.9	1.08	4.3	25.13	24.13	173.2
Zenith Natl Ins Corp	OTC	14.50	0.0	10.2	0.60	4.1	14.50	14.50	9.2
INSURANCE COMPANIES	AVERAGE			10.2		3.7			
Agents/Brokers									
Alexander & Alexander Svcs	NYSE	21.88	0.6	0.0	1.00	4.6	22.50	21.75	248.6
Baldwin & Lyons Inc	OTC	37.50	0.0	15.6	0.80	2.1	37.50	37.50	0.1
Corroon & Black Corp	NYSE	24.00	0.0	0.0	0.40	4.2	24.38	23.50	24.5
Crumpp E N Cos Inc	OTC	10.75	2.4	16.7	0.40	3.7	10.75	10.50	33.3
Emett & Chandler Cos Inc	OTC	11.88	0.0	32.1	0.00	0.0	11.88	11.88	0.3
Hall Frank B & Co Inc	NYSE	23.38	0.5	21.2	0.00	0.0	23.63	23.13	453.5
Integrated Res Inc	AMEX	26.75	4.9	8.7	0.00	0.0	26.75	24.00	285.1
Marsh & McLennan Cos Inc	NYSE	47.75	-4.0	13.9	2.20	4.6	49.75	47.75	154.3
Poe & Assoc Inc	OTC	5.00	0.0	0.0	0.00	0.0	5.00	5.00	6.4
Reed Stenhouse Cos Ltd	OTC	12.50	0.0	15.2	0.60	4.8	12.75	12.25	21.3
AGENTS/BROKERS	AVERAGE			17.1		2.7			
Conglomerates/Holding Cos.									
American Express(Fireman's Fd)	NYSE	31.13	-4.6	9.0	1.28	4.1	33.50	31.13	5,914.0
Anderson Clayton(Ranger/PanAm)	NYSE	28.25	0.4	13.1	1.32	4.7	28.50	28.13	100.5
Araco Inc	NYSE	20.75	0.0	0.0	0.40	1.9	21.13	20.75	303.1
Baldwin Untd Corp	NYSE	2.63	0.0	0.0	0.00	0.0	2.75	2.50	1,260.8
CIGNA Corp	NYSE	43.63	-0.9	7.5	2.48	5.7	44.00	43.63	469.2
City Investing Co. (Home Ins.)	NYSE	37.75	-0.7	11.1	1.80	4.8	37.75	37.38	832.6
CNA Finl Corp (CNA)	NYSE	21.13	-1.7	6.9	0.00	0.0	21.38	21.13	107.8
Control Data (Comm. Credit)	NYSE	44.88	1.4	10.9	0.60	1.3	46.00	44.88	425.4
General Re Corp	NYSE	66.75	-1.3	14.1	1.28	1.9	68.50	66.75	449.0
Gulf Untd Corp	NYSE	28.75	-4.2	8.8	1.32	4.6	29.88	28.75	3,950.7
ITT (Hartford Group)	NYSE	44.38							

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