JULY 12, 1999

Business Insurance®

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

Entire contents copyright © 1999 by Crain Communications Inc. All rights reserved

Updates

New York's Con Ed self-insured for $3 million in blackout claims

NEW YORK—The Consolidated Edison Co. of New York Inc. has insurance above a $3 million self-insured retention for losses and potential lawsuits from a blackout last week that affected nearly 200,000 Manhattan residents.

One proposed suit by the City of New York still is in the planning stages, a spokeswoman for the Office of Corporation Counsel said. The suit will seek reimbursement for city property destroyed by the blackout, such as spoiled food from city schools and damaged computers. The suit, however, will not seek reimbursement

See **Updates** *on next page*

Court dismisses USAU convictions, criticizes feds' case

By DOUGLAS McLEOD

NEW YORK—Insurer and policyholder lawyers are at odds over a federal appeals court ruling throwing out criminal convictions of U.S. Aviation Underwriters Inc. and its former president, John Brennan, on charges relating to their handling of claims from a 1987 air crash.

A panel of the 2nd U.S. Circuit Court of Appeals last week reversed the 1996 convictions on the grounds that the charges, stemming from the crash of a Pacific Southwestern Airlines jet in California, should have been brought by federal prosecutors in Manhattan rather than in Brooklyn.

In a move that cheered insurers and worried at least one policyholder attorney, however, the panel went on to note that the case against USAU and Mr. Brennan "appears seriously problematic in several respects." The main problem, the court said, was prosecutors' questionable contention that USAU owed a fiduciary duty to its policyholder, co-insurers and reinsurers.

William J. Muller, executive assistant U.S. attorney in Brooklyn, said prosecutors are reviewing the opinion but have not decided whether to seek a rehearing.

Officials of General Re Corp., USAU's parent, said they are "very pleased" with the ruling. A lawyer for Mr. Brennan could not be reached.

PSA Flight 1771 crashed in 1987 when a disgruntled airline employee smuggled a gun on board and shot his supervisor, the pilot and the co-pilot during the flight from Los Angeles to San Francisco. All 43 passengers and crew died.

USAU, manager for U.S. Aircraft Insurance Group, led the liability coverage for both USAir Inc., PSA's parent, and Ogden-Allied Corp., an airport security firm potentially liable for the crash. While USAU placed reinsurance for all of USAIG's coverage of the airline, it did not fully reinsure its coverage of Ogden-Allied's risks. USAU later allocated all of the PSA crash liability to the fully reinsured USAir policy and none to Ogden-Allied.

In 1995, federal prosecutors in Brooklyn indicted USAU and Mr. Brennan, charging that they defrauded USAir, USAIG's co-insurers and its reinsurers by allocating the loss to only USAir. USAU did so knowing that USAIG would be hit with up to $7.5 million in losses if it had allocated liability to Ogden-Allied instead, prosecutors charged.

A jury found USAU and Mr. Brennan guilty on 43 fraud counts in 1996, but the three-judge panel of the 2nd Circuit overturned that verdict last Wednesday.

The panel ruled that the case should have been brought in the Southern District of New York in Manhattan, where USAU is based. The judges warned, though, of several "seriously problematic" elements in the prosecution's arguments.

The government alleged, for example, that USAU owed fiduciary duties to USAir and USAIG's co-insurers and reinsurers and violated those duties by failing to disclose the Ogden-Allied reinsurance gap. The appellate judges, however, cited a string of civil cases holding that there is no such fiduciary relationship and questioned whether USAU could have known it might be committing a crime.

"The government has pointed to no precedent for criminal liability based on non-disclosure to sophisticated corporations in

See **Brennan** *on page 4*

Court raises threshold for shareholder suits

By ROBERTO CENICEROS

A pro-defendant ruling in a securities fraud lawsuit won't broadly reduce directors and officers liability coverage rates for the frequent targets of shareholder class-action complaints, insurers say.

The ruling, however, imposes tougher standards for plaintiffs who want to file lawsuits. The July 2 decision by the 9th U.S. Circuit Court of Appeals in San Francisco also could cut the settlement value of pending cases, some insurers and attorneys say.

In addition, the decision could help slow the growing number of class-action lawsuits that typically follow a drop in a company's stock price. Such suits often allege accounting fraud, insider trading or misleading statements made by company officers to try to recoup investment losses.

The decision marks a substantial turn in shareholder class-action litigation because the court considered, at length, Congress' intent in the Private Securities Litigation Reform Act of 1995, said Bruce G. Vanyo, a partner in the Palo Alto, Calif., law firm of Wilson Sonsini Goodrich & Rosati. Mr. Vanyo argued the case for defendant Silicon Graphics Inc. and has argued similar cases before several appellate courts.

But Mr. Vanyo and other observers expect that either the U.S. Supreme Court or a full 11-member en banc panel of the 9th Circuit eventually will revisit the decision.

Insurers, however, note that the 9th Circuit ruling is at odds with a standard set by the 2nd Circuit in New York. The standard that the New York court adopted requires

See **Shareholder** *on page 23*

Motorola joins pension wave

Hybrid plan a response to more mobile workforce

By JERRY GEISEL

SCHAUMBURG, Ill.—Motorola Inc. is converting its traditional defined benefit pension plan to a more-flexible hybrid plan.

The new pension equity plan will offer faster benefit accruals, benefit portability and a benefit formula that is easier to understand—features Motorola executives say today's employees want.

Motorola also is sweetening its 401(k) plan by improving its matching contribution, immediately vesting participants in matching contributions and adding five investment options to the four it already offers.

In addition, the Schaumburg, Ill.-based high-tech company will give employees the opportunity to purchase Motorola stock at a 15% discount.

The changes are a response to a

more mobile workforce and will better enable Motorola to compete for talent in the high-tech industry, company benefit executives say.

"Our objective was to design a package that could help to attract and retain employees," said Rick Dorazil, Motorola's vp and director of global rewards.

With its new pension equity plan, or PEP, Motorola joins the hundreds of employers that, in recent years, have converted old-style final-average-pay plans to hybrids. Hybrids, such as PEPs and cash balance plans, are so named because they are designed to combine the best features of defined benefit and defined contribution plans.

But, in several ways, Motorola's move to a hybrid plan sets the company apart from many other employers that have made similar moves.

Employers often require at least some current employees to move into the new plan. Such require-

See **Motorola** *on page 22*

Diversity training programs help reduce risk of bias suits

By AMANDA MILLIGAN

Employers with diversity training programs in place are not only likely to be seen as more progressive but also could be less exposed than other companies to liability for discrimination claims.

Taking measures to eliminate bias in the workplace is especially important for employers seeking to avoid vicarious liability for discrimination or harassment by managers in light of new guidelines by the Equal Employment Opportunity Commission and a U.S. Supreme Court decision, both issued last month.

Diversity training programs vary broadly, but most attempt to examine the differences that can drive coworkers apart and encourage candid yet constructive talk about perceptions of differences in gender, race, age and abilities.

"Diversity programs are good in and of themselves and are good legal protection," said John Sikorski, partner and head of the employment law practice at Robinson, Donovan, Madden & Barry P.C. in Springfield, Mass.

"The U.S. Supreme Court is sending an extremely strong signal with *Faragher*, *Ellerth* and *Kolstad* to corporations that having effective policies, procedures and training programs should count very heav-

See **Diversity** *on page 21*

To Subscribe Call
1-888-446-1422 in the U.S. or
1-313-446-0450 outside the U.S. or
go online to www.businessinsurance.com

NEWSPAPER

Updates

Con Ed has $3 million retention

Continued from previous page

for the costs of extra city services, such as police overtime, resulting from the blackout. No dollar amount has yet been calculated for the city's losses, she said.

A record-setting heat wave in New York caused power usage to skyrocket, leading to a blackout for 68,000 customers in northern Manhattan. One customer might be, for example, an entire apartment building; that drives up the number of affected people. The outage was caused when six primary feeder cables burned out in the Washington Heights section of Manhattan. Two of them were replaced, but one subsequently malfunctioned. Power officials then were forced to shut down all the power in that area around 10 p.m. on July 6, a Con Ed spokeswoman said. Power was returned to most customers late the next afternoon, but some customers still lacked power as late as Friday.

The Con Ed spokeswoman said the company would reimburse residents up to $100 and businesses up to $2,000 for spoiled food. Con Ed has liability insurance above a $3 million self-insured retention.

The move to reimburse customers, however, is not enough for state Sen. David Paterson, D-New York City, whose district includes the blacked-out area. He is leading the effort to organize and file a class-action suit by customers against Con Ed, claiming the utility cut power to the area to prevent outages in other sections of the city.

Columbia University suffered damage to numerous scientific experiments when the blackout knocked out freezers storing tissue and blood samples at its health sciences division. Although damage estimates were unavailable, the university said they are expected to be "considerable."

Buyer trying long-term product

DANBURY, Conn.—Union Carbide Corp. is the first company to use a new long-term excess insurance product developed by Swiss Re New Markets that ties annual premium changes to a preapproved combination of capital markets and hazard indexes.

Richard M. Inserra, assistant treasurer at Danbury, Conn.-based Union Carbide, said that, for his company, the new product, dubbed GAMMA, addresses the need for a long-term relationship with an underwriter while "determining a way that the pricing can move up and down in a way that's appropriate for both partners."

GAMMA achieves that by tying the price of insurance to fluctuations in both the insurer's loss experience in a particular line of business and its overall financial performance, according to Edward Guzik, a director and head of product development at Swiss Re New Markets in New York.

From Union Carbide's perspective, the approach "tends to smooth out the swings, and it makes the pricing changes transparent," Mr. Inserra said, while for Swiss Re it provides "a more-predictable and long-term premium flow" and allows the company to use its capital to its best advantage, Mr. Guzik said.

Mr. Inserra said Union Carbide's GAMMA policy is a five-year contract with prices adjusted annually, covering both excess property and liability exposures. The GAMMA program is capable of providing $400 million in coverage, and Swiss Re now provides $300 million of coverage to Carbide in a combination of property and liability coverage, Mr. Inserra said.

2Q cat losses at $3.25 billion

NEW YORK—Thirteen catastrophic events cost insurers about $3.25 billion in insured property losses during the second quarter, the Property Claim Services unit of the Insurance Services Office Inc. says.

That pushed the total estimated catastrophe loss figure to just under $5.1 billion for the first half of 1999, a slight decrease from the $5.5 billion in insured property losses registered during the first half of 1998, according to PCS.

Most of the second-quarter catastrophe losses arose from tornadoes and windstorms that devastated portions of 18 states in early May. Those storms caused an estimated $1.5 billion in insured property damage; Oklahoma sustained the greatest amount of damage at $955 million. The storms resulted in 370,000 of the 2.1 million catastrophe-related claims handled by insurers in the second quarter of this year, PCS said.

PCS defines a catastrophe as an event that causes at least $25 million in insured property damage and affects a significant number of policyholders and insurers.

Tobacco companies lose suit

MIAMI—Tobacco companies will have to wait for a damage award before they can move to dismantle last week's jury verdict in a class action lawsuit in Florida.

Jurors in state court in Miami held that tobacco makers produced a defective product that caused illnesses in hundreds of thousands of smokers. The suit, commonly called the Engle case, was filed in 1994 on behalf of Florida smokers with smoking-related illnesses and the estates of smokers who died.

The jury will next determine what, if any, damages should be paid to the nine representative class members. If damages are awarded, the remainder of the class can seek recoveries, and tobacco makers would be allowed to challenge the decision.

Observers say it is likely the cigarette companies will move to decertify the class, which usually means they will argue there are not enough common factors among class members or that resolving their claims would be too unwieldy.

A settlement isn't likely unless a ruling upholds the validity of the class, said Floyd Matthews, a plaintiffs attorney who handles tobacco cases with the firm of Spohrer, Wilner, Maxwell & Matthews in Jacksonville, Fla. "They are not likely to settle this outside of a ruling that the class is appropriate. It seems like they would want to get an appellate court ruling as soon as possible."

Mr. Matthews said that, at this point, the verdict "probably has more impact from a public opinion standpoint than anything else."

See **Updates** *on page 22*

Employers eager for data from new review of PPOs

By MICHAEL PRINCE

WASHINGTON—Employers are welcoming news that the National Committee for Quality Assurance will begin evaluating the quality of preferred provider organizations, a representative of an employer group says.

Starting in 2000, the organization, best known for accrediting health maintenance organizations, will take a look at the nation's 1,035 PPOs. The move comes in response to employers who have asked the NCQA to provide information on PPOs that currently is unavailable, an NCQA spokesman said.

The NCQA's decision has been enthusiastically greeted by employers, said Laurel Pickering, executive director of the New York Business Group on Health, a group of some 150 members, including such large employers as American Express Co., Bell Atlantic Corp. and Citigroup Inc. Ms. Pickering said the lack of accreditation of PPOs has become a problem, as more employees are now choosing PPO plans.

The lack of data became evident, Ms. Pickering said, when the NYBGH began creating the pur-

See **NCQA** *on page 4*

Cat bonds to grow

Increasing frequency of losses will contribute: S&P

By DOUGLAS McLEOD

NEW YORK—The rising frequency of large catastrophe losses and reinsurance industry consolidation will fuel the growth of catastrophe bonds as an alternative to traditional reinsurance, Standard & Poor's Corp. analysts predict.

Widespread property development in catastrophe-exposed areas of the southeastern United States is one factor contributing to the increase in catastrophe losses, noted Francis Parisi, director with S&P in New York.

"We are seeing more and more catastrophic events happening," he said. "As the population (in catastrophe-exposed areas) has grown and all of the businesses associated with that have grown. . .that's causing more-frequent large losses to occur."

While only a handful of catastrophe bond deals have been completed in the past two years, these have been done despite a relatively soft reinsurance market. This, S&P officials say, suggests there will be rising demand for bond products in the future, as reinsurance industry consolidation and tightening market conditions make alternative sources of capacity more attractive.

In a typical catastrophe reinsurance bond structure, a ceding insurer forms a separate company, known as a "special purpose vehicle," to act as its

See **S&P** *on page 22*

Y2K risks not limited to technology

By MARK A. HOFMANN

WASHINGTON—Computers aren't the only things that might go haywire when the year 2000 arrives.

In fact, the arrival of the millennium will be an "enormous invitation to terrorists, criminals and wackos," said Neil C. Livingstone, chairman and chief executive officer of GlobalOptions L.L.C., a Washington-based crisis management firm. "We expect in the runup to the new millennium, a certain number of people are going to short-circuit," Mr. Livingstone predicted during a symposium in Washington last week.

Entitled "The Other Y2K Problem," the symposium examined the potential problem of terrorism and crime linked to the better-known Y2K computer problem. Mr. Livingstone stressed to his colleagues that this problem could spill into the workplace as well.

"From a law enforcement standpoint, Jan. 1, 2000, will be the full moon of all full moons. Police departments across the land are bracing for an increase in crime, especially violent crime, on the eve of the year 2000," he said.

"I think violence in the workplace is a real possibility," in part because of stresses connected with the Y2K computer problem, warned Gary Stubblefield, GlobalOptions'

See **Y2K** *on page 21*

Deadline near for directory of international reinsurers

Business Insurance will publish its annual Directory of Worldwide Reinsurers in the Aug. 30 issue, which will also include a Spotlight Report on international reinsurance markets.

The directory is published as an editorial service, and there is no charge to be included. To be listed, a company's consolidated net reinsurance premiums written—including both property/casualty and life/health—must exceed $100 million. In addition, a company must provide premiums written and capital and surplus figures for 1997 and 1998 to be included in the directory. If your company meets the requirements and has not received a questionnaire, please request one immediately by calling Directory Editor Kevin Edison at 312-649-5279.

Copies of the questionnaire also can be printed from the *BI* World Wide Web site at www.businessinsurance.com/magazine/directories.html.

Completed questionnaires must be submitted by the extended deadline of July 23.

Inside

- The Clinton administration's proposed inclusion of coverage for outpatient prescription drugs in the federal Medicare program addresses profound changes in health care in the last 34 years, this week's editorial says. **PAGE 8**
- The 1996 federal law extending tax benefits to employers and employees who buy long-term care insurance has not sparked much demand for the coverage. **PAGE 10**
- Prosecuting lawyers and a senior judge are pressing for a change in the U.K. law to make it easier to charge companies with corporate manslaughter. **PAGE 15**

Departments

Advertiser Index 19
Classifieds 18
Commentary 21
For the Record 17
Global Briefs 15
Insurance Services Guide 16
International 15
Letters 8
Ticker 23

Business Insurance (ISSN 0007-6864) Vol. 33, No. 28, is published weekly by Crain Communications Inc., 740 N. Rush St., Chicago, Ill. 60611-2590. Periodicals postage is paid at Chicago and at additional mailing offices. POSTMASTER: Send address changes to *Business Insurance*, Circulation Department, 965 E. Jefferson Ave., Detroit, Mich. 48207. $4 a copy and $69 a year in U.S. $108 in Canada and Mexico (includes GST). All other countries $209 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 0293512, GST No. 136760444. Printed in U.S.A. Copyright 1999 by Crain Communications Inc.

PHOTO: CORBIS IMAGES

New coalition seeks to reduce fraternity alcohol abuse, losses

By ELIZABETH LINDSEY

A national fraternity, a broker and an association of university risk managers are among the members of a new coalition formed to combat alcohol abuse in college fraternities and avoid alcohol-related losses.

In addition to saving lives by reducing alcohol abuse, the group believes that more-responsible drinking will lead to lower losses.

"The greatest exposure among fraternities, as far as risk management goes, is people being under the influence of alcohol," said Jacques L. Vauclain, executive director of Sigma Phi Epsilon, a Richmond, Va.-based fraternity that has chapters on 260 college campuses in 48 states.

Sigma Phi Epsilon and a Marsh Inc. division, the Global Higher Education Group, earlier this year initiated the program, which calls itself the Campus Alcohol Abuse Prevention Program.

Joining the coalition were the University Risk Management Assn., the National Assn. of College & University Business Officers and the Campus Safety Health & Environment Management Assn. The coalition, which held its first meeting in April, aims to encourage responsible use of alcohol, craft behavior guidelines for fraternity members and make sure those guidelines are enforced.

CAAPP was scheduled to present its guidelines to the Fraternity Executive Assn. last week.

The program recognizes that losses often stem from alcohol and drug abuse among fraternity members. A study by Harris & Harris showed that 88% of fraternity deaths involved alcohol and 61% of fraternity claims were associated with underage drinking. Additionally, 95% of falls from roofs, 93% of sexual abuse claims, 87% of automobile incidents, 94% of fights, 67% of slips and falls, and 49% of hazing claims involved alcohol.

D. Jean Demchak, senior vp and chair of Marsh's Global Higher Education Group, said it is too early to project the insurance claims savings that CAAPP could produce for fraternities and universities, but a rough estimate would be between 10% and 30%. Defending lawsuits over accidents or rape cases, for example, is expensive and victims often receive large settlements, she said.

CAAPP has no timetable for seeing results. Instead of looking at how much money is saved and how quickly changes occur, Mr. Vauclain said he will measure the program's success by how well fraternities and universities work together to hold fraternity members accountable for their actions.

The idea for CAAPP was developed when Mr. Vauclain and Ed Holinski, senior vp and vice chairman of Marsh's Global Higher Education Group, began discussing ways to reduce fraternities' insurance costs.

CAAPP decided to seek support from groups such as URMIA, NACUBO and CSHEMA because they represent the financial and safety interests of colleges and

See **Campus** *on page 19*

State mandates coverage for alternative health care

By JUDY GREENWALD

OLYMPIA, Wash.—The cost impact of a Washington state law requiring insured health plans to provide access to alternative health care providers will be closely watched across the country, observers say.

Other states mandate access on a piecemeal basis for some alternative medical providers, particularly chiropractors. But Washington will be the first state to require access to a wide range of therapies, including naturopathy, massage therapy and acupuncture, as long as they are administered by licensed practitioners.

Consultants and others hope data from implementation of Washington's law will provide answers to long-held questions about the cost of alternative medicine coverage.

The Washington law also could increase the already-growing momentum nationally

See **Alternative** *on page 6*

'Destroy privacy expectations': Lawyer

By RODD ZOLKOS

ATLANTA—While employee right-to-privacy suits against employers are on the rise, employers do enjoy broad information-gathering rights, if they take the proper steps to maintain them.

"Information is power. Employers want it. Employees want to contain it. And we have this clash of rights," said Jonathan A. Segal, a partner at the Wolf, Block, Schorr & Solis-Cohen L.L.P. law firm in Philadelphia.

Speaking late last month at the annual conference of the Society for Human Resource Management in Atlanta, he noted that the employer's right to search an employee's belongings, work area, desk, locker, vehicle, computer, e-mail or voice mail "depends on whether the employee has enforceable privacy rights."

A key is whether the employee has a "reasonable expectation of privacy," he said. The employer determines whether there is a reasonable expectation.

"What my recommendation to you would be is though we all value privacy, you don't want to create an expectation of privacy, however well-intended," Mr. Segal said. Instead, "you want to destroy privacy expectations."

While an employer can create privacy rights by providing assurances of employee privacy, it can eliminate such expectations by having a clear policy that reserves its right to search.

Such a policy should explicitly apply to employees' personal belongings on the work

See **Privacy** *on page 19*

Structure set for expanded ACE

Completion of CIGNA deal makes insurer a major U.S. player

HAMILTON, Bermuda—ACE Ltd. is now a major player in the U.S. insurance market and has expanded its operations worldwide, with the completion of its $3.45 billion purchase of CIGNA Corp.'s domestic and international property/casualty operations.

The deal, which was announced in January and finalized July 2, results in the creation of several new units of ACE that will encompass former CIGNA units.

Hamilton, Bermuda-based ACE Ltd. will now be the holding company for four main units: ACE INA Holdings Inc; ACE Bermuda; Tempest Re; and ACE Global Markets. The composition of those four units are as follows:

- ACE INA is the holding company for ACE's U.S. operations and comprises ACE USA and ACE International.

ACE USA now houses the former CIGNA property and casualty business as well as ACE's existing U.S. domestic business. It also contains Brandywine Holdings, which manages the runoff of CIGNA's long-tail liability business.

Another division of ACE USA, Commercial Insurance Services, may be put up for sale, the company said. The division offers middle-market and guaranteed cost workers compensation coverage, whereas most of ACE's other business is specialty coverages, said Dennis Reding, president and chief executive officer of ACE USA.

ACE International houses the former CIGNA international business under four subdivisions: ACE Europe; ACE Far East: ACE Asia Pacific; and ACE Latin America.

The chairman, president and CEO of ACE INA is Dominic Frederico, and Kingsley Schubert is president and CEO of ACE International.

- ACE Bermuda will continue to house the high-level excess liability, directors and officers liability and property business that ACE writes from its headquarters in Bermuda. Gary Schmalzriedt will become president and CEO on Aug. 1.
- Tempest Re is a property catastrophe reinsurer based in Bermuda and led by President and CEO John Engstrom.
- ACE Global Markets in London houses the Lloyd's of London operations of ACE. William Loschert is chairman; John Charman is CEO.

Concurrent with the closing of the purchase a $1.25 billion reinsurance program was bought by CIGNA from National Indemnity Co., a subsidiary of Berkshire Hathaway Inc., to cover any reserve shortfalls in Brandywine (*BI*, Feb. 1).

Also, CIGNA took a $64 million charge in its second-quarter earnings for expenses related to the sale. It would not give further details.

—By Gavin Souter

Alternative market growth flat

But firmer insurance rates could spur new demand: Conning

By LEE FLETCHER

The alternative market is expected to experience only slight growth over the next few years, but that could change if rates increase in the commercial insurance market, an analyst predicts.

Alternative risk financing options account for about one-third of the total commercial "risk protection market," according to research by Conning & Co. But that level could grow even with modest increases in commercial property/casualty insurance rates, the insurance analyst predicts.

"One of our themes is that if the market turns and rates start increasing, companies that are in the traditional marketplace will be asking the question, 'What other options do I have for risk protection?' The other option that comes clearly to the surface is looking to the alternative markets," said Mary Ann Godbout, a vp at Conning & Co. in Hartford, Conn., and author of a new study on alternative markets.

As past experience has shown, once businesses cross the line to alternative markets, they rarely return to the traditional market, she added.

The study, the seventh in a series on alternative markets by Conning, is based on anecdotal evidence and informal interviews with risk managers and various insurance industry executives.

Conning predicts that alternative markets' share of the total risk protection market will in-

See **Conning** *on page 10*

GRAPHIC BY MIKE GARVEY

NCQA

Continued from page 2

chasing alliance the group is about to unveil. The organization was able to get quality data for the HMOs but not for the two PPOs offered. "You're not then providing a real comparison of quality of the plans you're offering," she said.

The NCQA has been looking into PPO accreditation because, in recent years, the number of enrollees in PPOs has exceeded those in HMOs, said NCQA President Margaret O'Kane. "Without this piece of the picture, it's a very incomplete picture," Ms. O'Kane said.

The evaluation will involve two steps. Starting later in 1999, the NCQA will introduce a satisfaction survey, which will be a modified version of the Consumer Assessment of Health Plans Study currently used for HMOs. Any PPO seeking to be evaluated will contract with an NCQA-approved vendor to conduct a survey of the PPO's enrollees, with results ready for release in early 2000.

A full-fledged evaluation program will start after the NCQA releases its standards for PPO accreditation in July 2000. This evaluation will be similar to those currently used for HMOs, modified to eliminate items not relevant to PPOs, such as preventive health programs, the spokesman said. The first designations are expected to be announced in the fall of 2000.

A full-fledged accreditation program for PPOs will start after the NCQA releases standards in July 2000. The first designations are expected to be announced in the fall of 2000.

One possible problem with the accreditation process is that, given the large number of PPOs and the limited number of evaluators, many PPOs may never undergo evaluation. To avoid this pitfall, Ms. Pickering of the NYBGH recommends that employers and other health care purchasers demand that their PPOs receive accreditation.

It has not yet been determined whether the PPO accreditation will be based on the newly updated HMO designations that took effect July 1, Ms. O'Kane said. These new designations—excellent, commendable, accredited, provisional and denied—replace the older, four-level designations. Eventually, the NCQA would like to use a similar ranking system to evaluate PPOs and HMOs, Ms. O'Kane added.

The focus on PPO quality was welcomed by Richard Sinni, practice leader-group and health care for Watson Wyatt Worldwide in New York.

PPOs claim to concentrate on quality, "but they primarily function as a discount network with minimal medical oversight," Mr. Sinni said.

He also noted that many PPOs are small and might not have gathered the necessary data to become accredited. In such cases, the PPOs might forgo the accreditation process, he said. BI

Brennan

Continued from page 1

arms-length contractual insurance relationships," the panel found. "Indeed, there was substantial reason for (the defendants) to conclude that the relationships at issue were not fiduciary under New York law or otherwise."

In its instructions to the jury defining fiduciary relationships, the trial court also failed to emphasize that such relationships must involve "control and dominance" of one party in a transaction by another.

This is important in the USAU case, "where the alleged victims had a variety of practical and contractual rights to participate in or challenge defendants' decisions," the court found.

Insurer representatives cheered the decision: "If the conviction had been upheld, it would have opened the door to numerous lawsuits every time an insurance executive makes a good-faith business decision," said Patrick Watts, assistant vp with the Alliance of American Insurers in Downers Grove, Ill.

If parties to insurance agreements had wanted to establish the kind of fiduciary duties prosecutors argued for, they could have done so through their contracts, said William F. Sheehan, a partner with the Washington firm of Shea & Gardner who represented several British and French aviation insurers as friends of the court.

'The idea that the industry ought to be reformed by (federal prosecutors) came as a surprise,' says William F. Sheehan.

"The idea that the industry ought to be reformed by (federal prosecutors) came as a surprise to many of us," Mr. Sheehan said.

At least one policyholder lawyer is disturbed by the ruling, though: "I think this sets policyholder rights back 130 years," said Eugene Anderson, senior partner with Anderson, Kill & Olick P.C. in New York.

While the panel was right in finding no fiduciary duty between insurers and reinsurers, it was wrong to find none between US-Air and USAU, he said. "An insurance company owes its policyholders a fiduciary responsibility. It can't put its own interests above the interests of the policyholders."

One thing both sides agree on is that the criminal case against USAU and Mr. Brennan is likely at an end.

"The last couple of pages of the court's opinion are a strong invitation to the U.S. Attorney's office to drop the case," Mr. Sheehan said. BI

Merck-Medco was rated #1* by our toughest critic — your employees

#1 Overall customer satisfaction

#1 Pharmacist information and counseling

#1 Satisfaction with generic substitution

#1 Ability to get the best medication

For more information on how Merck-Medco can work with you, contact us at 1-800-248-2268 or on the world wide web at http://www.merck-medco.com.

Merck-Medco Managed Care, L.L.C.

©1999 Merck-Medco Managed Care, L.L.C., is a subsidiary of Merck & Co., Inc.

* Based on an independent survey of national PBMs (including Aetna/US Healthcare, Caremark, CIGNA, DPS, Express Scripts, Merck-Medco, PacifiCare/Prescription Solutions, PCS, Prudential, and Rite-Aid) conducted by CareData Reports, Inc., White Plains, NY, from May 1998 through August 1998.

Business Insurance®

• SERVICES •

SINGLE-COPY SALES

To order any current or back issue of *Business Insurance*, call the single-copy sales division of *BI's* Circulation Department: 313/446-1609

Larry Hansen
National Practice Leader
Organizational Performance Services

Wausau Insurance Companies
2000 Westwood Drive, Wausau, WI 54401
www.wausau.com

Loss Control To tighten control of losses, companies everywhere are turning to Wausau. And with good reason. Our ability to help identify factors that impact workplace safety and productivity is well documented. But our real expertise is partnering with clients to develop specific programs that reduce or eliminate risks. So talk to us. And get a better grasp of how our loss management services can improve your business's productivity.

Wausau Insurance Companies ▪ 2000 Westwood Drive, Wausau, WI 54401 ▪ www.wausau.com ▪ A+ A.M. Best Rating

What can we do to help you?

Alternative

Continued from page 3

to offer this coverage, leading either to mandates in some states or the voluntary introduction of coverage by health insurers eager to stand out in today's competitive market.

The Washington law was set to take effect in 1996 but was delayed by a federal suit brought by insurers that oppose the legislation. The way was cleared when the 9th U.S. Circuit Court of Appeals ruled in the state's favor last year and the U.S. Supreme Court earlier this year refused to hear the insurers' appeal.

The hold placed on implementation of the coverage mandate while the federal litigation was resolved is expected to be lifted within the next few weeks, said a Washington Insurance Department spokesman. Meanwhile, regulations promulgating the law are tentatively set to be issued Thursday.

But there may be additional litigation. Two state lawsuits brought by insurers had been stayed pending resolution of the federal case; those cases are now expected to proceed, said a spokesman for one of the insurers, Regence Blue Shield in Seattle.

The Washington law essentially says insurance policies must provide coverage for treatments and services by every category of health care provider, which would include licensed alternative medical care practitioners. Washington provides licenses to a large number of alternative medical providers, including naturopaths, acupuncturists, midwives and massage therapists.

Managed care plans can continue to restrict access to providers in the plans' networks. But the law would require them to include all categories of health care within their network, meaning they would be unable to restrict access to, for example, a naturopath by claiming the network does not include the specialty, according to the Insurance Department spokesman. Self-insured health plans would not be subject to the state law.

The law may not have a dramatic impact in Washington itself, because many insurers already have introduced at least some coverage for alternative medical therapies in anticipation of the law's implementation.

"I think it's a pretty mixed bag at the moment as to who's offering and who's not offering, and the types of coverage they're offering," said Beth Rutherford, a Seattle-based consultant with William M. Mercer Inc.

She noted that while the law applies only to insured plans, a number of self-insured businesses in the state also are offering at least some level of alternative care coverage.

Most of the insurers "did implement on their insured plan some level of coverage" when the legislation was originally passed, said Mary Greening, a senior vp with Aon Consulting in Seattle.

Anita Boser, executive director of the Seattle-based Employers Health Purchasing Co-op, which represents about 500 small companies, said her organization's members already offer coverage for alternative care.

Seattle-based Starbucks Coffee Co. already provides coverage for alternative health care, including chiropractic, homeopathic and naturopathic treatments, said a spokeswoman.

Implementation of the law, though, will expand the number of employers offering such coverage and could provide valuable insight into the cost of covering alternative medicine. One school of thought says employees will save employers money because they will go first to less-expensive alternatives to conventional medicine.

The theory is that when alternative care is available, costs will decrease because patients using it get better more quickly and therefore do not use conventional services.

"We haven't found it to be expensive," said Ms. Boser. She said her plan has controlled costs by requiring a physician referral to go to an alternative practitioner and by limiting coverage for spinal manipulation by chiropractors to 10 times per year.

But others believe employees will use these therapies as a last resort, which means the cost of covering these treatments would come in addition to the cost of conventional care, thereby increasing overall claims.

Which view is right may be settled in Washington state, consultants say.

The Washington program is likely to spur more research on alternative medicine costs, said Janice Stanger, a Mercer principal in San Francisco. Health plans in the state will begin to generate data, and "the data will be very useful in determining when it's clinically appropriate and effective" to offer alternative therapies, she said.

"I think it will also demystify alternative medicine," she said "Right now, people think it's something that's totally inappropriate, or just something that's very 'New Agey,' and that the people who do it are kind of kooky." That will change, though, if alternative medicine outcomes can be grounded in evidence and research and used appropriately, Ms. Stanger said.

The Washington program "is going to create a test, if you will, for employers to see what kind of impact this is going to have on their costs, and what the utilization will look like, how many people are actually going to use the service," said Camille Haltom, a consultant with Hewitt Associates L.L.C. in Lincolnshire, Ill.

More employers may introduce coverage for alternative therapies "if they like what they see in Washington," she said.

Many who are concerned about increased costs are likely to wait a year or two to see what happens in Washington before introducing alternative medicine coverage themselves, said Lee Launer, a partner with PricewaterhouseCoopers in New York. If it is found that the cost of broadening coverage is not excessive, then "there will be others who will, in fact, follow that path," he said.

Rollout of the law also could increase momentum for health plans to provide coverage for alternative medical therapies.

"I think the country has already looked to Washington state as a leader in alternative medicine, perhaps because it's the location of a couple of schools of naturotherapy and this law has been in the news the past several years," said Nancy Hakes, a Phoenix-based health care benefits consultant with The Segal Co.

"We've had lots of inquiries from around the country about this law," said the Washington Insurance Department spokesman.

"I think coverage is definitely going to expand just through voluntary decisions made by employers and insurance companies and health plans such as HMOs," said Mercer's Ms. Stanger.

According to a Mercer survey of employer-sponsored health plans conducted last year, from 45% to 65% of employers with at least 500 workers now offer chiropractic coverage, depending on the type of health plan they offer. The percentage covering other alternative therapies drops precipitously, though. For instance, only 5% to 10% of large employers offer coverage for biofeedback.

"I think we're going to see those percentages growing over time, because alternative medicine is very popular among plan enrollees, and it also tends to be relatively low-cost, and it's a good way to maintain competitive advantages," said Ms. Stanger.

"It's a very hot topic right now," said Hewitt's Ms. Haltom. "A lot of employers are asking for it, and employees are asking for it as well." BI

NATIONAL INDEMNITY

AXA Re Group
has purchased a $300,000,000
5-Year, Second Event, Retrocession Index Cover.

The entire program was assumed by
National Indemnity Company,
a subsidiary of Berkshire Hathaway, Inc.

This transaction was
arranged and completed by
Guy Carpenter & Company.

GUY CARPENTER

Reinsurance Intermediaries Worldwide www.guycarp.com

Supermodel

The changing global economy led a major worldwide insurance company's UK subsidiary to review its investment strategy.

Willis consultant Oliver Peterken and his team created one of the world's most sophisticated financial models, guiding the restructuring of a portfolio of over £1 billion.

Successfully? Well, they've just come back for more.

Consultant Oliver Peterken. One of 10,000 Willis people around the world united behind one objective: your success.

Willis

The Risk Practice

UK Tel: +44 (0)20 7488 8111
US Tel: +1 615 872 3000
Website: www.willis.com

Opinions

A complete health plan

WHOEVER HEARD of a health care plan that doesn't offer coverage for outpatient prescription drugs?

Well, there is at least one and, regrettably, it is the federal Medicare program, the nation's largest group health care plan.

Looking back, one can perhaps understand why Congress in 1965 did not include a prescription drug benefit when it passed the legislation that set up the Medicare program.

Federal legislators 34 years ago didn't worry much about prescription drugs because they still were a relatively small, incidental item in overall health care costs, which themselves were very low. At the same time, drug therapies had yet to develop as a widespread alternative to hospitalization.

As we all know, however, the world has changed drastically since the mid-1960s.

Today, no one would describe prescription drugs as an incidental cost item. Drug costs, in fact, are increasing much faster than any other health care good or service and are a major factor behind medical inflation.

We also know that the use of prescription drug therapies has exploded—though this is not necessarily a bad thing. A patient who takes a prescription drug that costs $100 a month, for example, may be avoiding a stay in hospital room that costs a $1,000 a day.

While the costs and usage of prescription drugs has changed since the 1960s, the Medicare program has not been altered to recognize that change, an omission the Clinton administration quite properly wants to correct.

As we have reported, the administration has proposed adding, commencing in 2002, a prescription drug benefit to Medicare (*BI*, July 5).

The administration's approach to adding coverage of prescription drugs under the federal program stands in stark and pleasant contrast to the overreaching health care reform plan it advanced—with disastrous results—in 1993.

To start, the proposed prescription drug benefit wouldn't begin until 2002 and wouldn't go fully into effect until 2008. That should give government regulators sufficient time to work out any bugs.

At the same time, the design of the prescription drug benefit is well thought out. On each prescription, Medicare and the retiree would share equally in the cost, which should discourage unnecessary utilization of the benefit.

In addition, with 50% of drug costs—up to $5,000—reimbursable, retirees will have a good benefit without creating an enormous fiscal burden on the government. In fact, the benefit could even save the government money if greater use of drug therapies keeps retirees out of the hospital.

Another plus is that the administration wants to include employers in this change.

Recognizing that Medicare, administratively, can handle only so much change at once, the Clinton administration would give financial incentives—roughly $200 per retiree per year—to employers that continue to offer retiree health care plan coverage with a prescription drug benefit at least equivalent to that which Medicare would offer.

We hope that this plan for fixing a health care plan that lacks coverage of prescription drugs is one health care reform on which Republican and Democrat lawmakers alike can agree.

Letters

Quality of some buyers may be poor

To the editor: I have received my copy of the RIMS/QIC 1999 Quality Scorecard rating the performance of brokers and insurance companies.

Five thousand individuals participated in this year's survey, compared with 1,700 in 1998, so the survey results should have more validity. Therefore it's surprising that this year's ratings were only slightly better than last year's "C" evaluations.

This poses two questions. First, are the brokers' and insurers' performances really this poor? Second, if the answer is "yes," why aren't risk managers doing something about it?

I personally find these ratings suspect. Wm. Wrigley Jr. Co., for example, rated our two brokers, Marsh and Aon, as well as our insurers, quite high in almost all categories. If risk managers or other raters are this dissatisfied, and if they can't resolve service problems, they should change brokers and/or insurance companies.

Now that RIMS/QIC has conducted this scorecard survey for two years, perhaps it's time to allow brokers and insurance companies to rate the risk managers and insurance buyers with whom they must work on their expertise, integrity, initiative, cooperation and other traits. I expect there would be more than a few surprises in the results, showing many risk managers and other raters rated as "C" or lower in the performance of their duties.

But before RIMS/QIC conducts any more surveys, perhaps it would be beneficial for all parties to find a way to better accentuate the positive aspects of broker/client relationships.

Kenneth P. Simpson
Corporate Risk Manager
Wm. Wrigley Jr. Co.
Chicago

Business Insurance welcomes letters to the editor. The section is intended to be a forum for readers' opinions and comments. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters. Please send your letters to Letters to the Editor, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611; fax: 312-280-3174; e-mail: pwinston@crain.com

Solve licensing headache

To the editor: I read with great interest the June 14 article "NAIC Supports Federal Licensing Plan."

Because I have clients in many states, I am hearing increased concerns from insurers about how to service them. In fact, I get the impression that, unless I get a license in all of the states in which my clients reside, it would probably be in the insurers' best interest to ignore these clients rather than to maintain contact with them.

I'm sure the insurers are obsessed by compliance regulations, but this concern should not create a barrier to my contacting out-of-state clients. A federal license would solve this problem. It would certainly make life easier for me. Give me the freedom to keep in touch with all of my clients, and get the insurers off my back.

Richard P. Duffy
Duffy Associates
Millbrook, N.Y.

Business Insurance®

Reporting weekly on corporate risk, employee benefit and managed health care news

Vice President/ Publisher/Editorial Director:	Kathryn J. McIntyre, ARM *(Chicago)*
Associate Publisher/Advertising Director:	Martin J. Ross III *(New York)*
Editor:	Paul D. Winston *(Chicago)*
Editor-at-Large:	Jerry Geisel *(Washington)*
Managing Editor:	Regis J. Coccia *(Chicago)*
Assistant Managing Editor:	Todd J. Behme *(Chicago)*
Graphics Editor:	Kathy L. Barnes *(Chicago)*
Senior Editors:	Meg Fletcher, ARM *(Chicago)*
	Judy Greenwald *(San Jose)*
	Dave Lenckus *(Tucson)*
	Douglas McLeod *(New York)*
	Joanne Wojcik *(Los Angeles)*
	Rodd Zolkos *(Chicago)*
Washington Editor:	Mark A. Hofmann *(Washington)*
Bureau Chiefs:	Sarah Goddard *(London)*
	Gavin Souter *(New York)*
Associate Editors:	Michael Bradford *(New Orleans)*
	Roberto Ceniceros *(Los Angeles)*
	Amanda L. Milligan *(Chicago)*
	Michael Prince *(New York)*
	Sally Roberts *(Denver)*
	Edwin Unsworth *(London)*
Directory Editor	Kevin P. Edison *(Chicago)*
Copy Editor:	Mary B. Nick *(Chicago)*
Assistant Copy Editors:	Richard Trout *(Chicago)*
	Matt Scroggins *(Chicago)*
Assistant Graphics/Online Editor :	Amy R. Kepka *(Chicago)*
Assistant Directory Editor	John Keagy *(Chicago)*
Editorial Assistant :	Lee Fletcher *(Chicago)*
Assistant to the Publisher:	Karen Brown Tucker *(Chicago)*
Editorial Cartoonist:	Roger Schillerstrom *(Chicago)*
Midwest Advertising Manager:	Robert L. Niesse *(Chicago)*
Eastern Advertising Manager:	Blake Delany *(New York)*
District Managers:	Chris Graff *(New York)*
	Elizabeth McGahren *(New York)*
	Deborah D. Neale *(Chicago)*
Classified Advertising Manager:	Irais Amleshi *(Chicago)*
Sales Assistant:	Lori Lieberman *(Los Angeles)*
Production Manager:	Elmer Kerstowske *(Chicago)*
Director of Communications:	Ronnie I. Drachman *(New York)*
Promotion Manager	Barbara O'Brien *(New York)*

EDITORIAL:	Chicago:	312-649-5398
	Denver:	303-698-7601
	London:	207-457-1400
	Los Angeles:	323-651-3710
	New Orleans:	504-364-1908
	New York:	212-210-0100
	San Jose:	408-774-1500
	Tucson:	520-579-1937
	Washington:	202-662-7200
ADVERTISING:	Chicago:	312-649-5276
	New York:	212-210-0228
	Los Angeles:	323-651-3710
COMMUNICATIONS:	New York:	212-210-0132
SUBSCRIPTIONS:	Detroit:	888-446-1422

Business Insurance is published by Crain Communications Inc.

Keith E. Crain, **Chairman**
Rance Crain, **President**
Merrilee Crain, **Secretary**
Mary Kay Crain, **Treasurer**
William A. Morrow, **Executive Vice President/Operations**
Robert C. Adams, **Vice President/Production**
Peter Johnson, **Vice President/Circulation**

G.D. Crain Jr., *Founder (1885-1973)*
Mrs. G.D. Crain Jr., *Chairman (1911-1996)*
S.R. Bernstein, *Chairman-executive committee (1907-1993)*

Published weekly at 740 Rush St., Chicago, Ill. 60611-2590, Fax 312-280-3174, E-mail: biweb@crain.com, Offices: 220 E. 42nd St., New York, N.Y. 10017-5806, Fax 212-210-0704, CRAIN COM NYK; 473 Fairfield Ave., Gretna, LA 70056, Fax 504-364-1337; Suite 814, National Press Building, Washington, D.C. 20045-1801, Fax 202-638-3155; 6500 Wilshire Blvd., Suite 2300 Los Angeles, Calif. 90048-4947, Fax 323-655-8157; 967 Bermuda Court, Sunnyvale, Calif. 94086-6750, Fax 408-774-1155; New Garden House, 78 Hatton Garden, London EC1N 8LD England, Fax 207-457-1440; 8157 N. Torrey Way, Tucson, Ariz. 85743, Fax 520-579-3476; 777 E. Speer Blvd., Denver, Colo. 80203-4214; Fax 303-733-2244. $4 a copy and $89 a year in U.S. $108 in Canada and Mexico (includes GST). All other countries $209 a year (includes expedited air delivery). DON MIERENDORF, circulation manager. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, Business Insurance, 965 E. Jefferson Ave., Detroit, Mich., 48207-3185, or phone 888-446-1422 or 313-446-0450, Fax 313-446-6777. Microfilm copies are available from University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48013. Microfiche copies available: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For information and rates to reproduce in general circulation media, contact: JOSEPH P. HANLEY, Crain News Service, 220 E. 42nd St., New York, N.Y. 10017-5806, 212-254-0890. For reprints or reprint permission contact: KAREN BROWN TUCKER, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590, 312-649-5319, Fax 312-280-3174.

www.businessinsurance.com

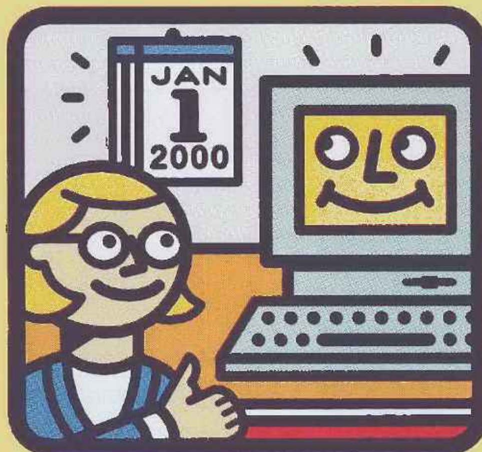
TO SUBSCRIBE CALL 888-446-1422 • 313-446-0450 outside of the United States

EMERGENCY PROCEDURE

WHEN THE NEW MILLENNIUM STRIKES:

FIGHT OFF ALIENS TRYING TO RECLAIM PLANET.

CELEBRATE YOUR TPA'S YEAR 2000 COMPLIANCE.



At GAB Robins, we've anticipated the technology adjustments necessary to face the new millennium without fear. Our Client Server-based systems are already year 2000-compliant, so no matter what claims tomorrow may bring, we'll be ready to respond. And without the Y2K monster to deal with, we can concentrate on planning for more important things...like the future. Questions? answers@gabrobins.com or call 888.888.4242

Visit us at www.gabrobinsna.com

©1998 GAB Robins North America, Inc.

Conning

Continued from page 3

crease only slightly over the next few years, rising to 35% in 2001 from 34% in 1997, the most recent year Conning analyzed. That increase, however, is based on an assumption that the commercial market's rates may be reaching the bottom; if soft pricing continues, the alternative market's share will remain at about 34% of the overall market, according to Conning.

Conning broadly defines the alternative market to include any risk financing option outside of traditional insurance. The largest of these is self-insurance; other alternatives include captives, risk retention groups and even capital markets instruments, Ms. Godbout explained.

Ms. Godbout said that even a modest increase in rates will likely drive risk managers to explore new alternative market options.

"I maintain that we don't need rates to increase to levels that we saw in the 1980s, where companies went to the alternative markets because rates were so high. I am contending that smaller rate increases will drive businesses to ask the question, 'What are my other options?,'" she said.

"I talked to various insurance companies, risk managers, agents and brokers," said Ms. Godbout, explaining the study is based on information gathered through informal conversation.

The people she spoke with agreed that it's not going to take much if rates go up before people will be looking at other options, she said.

"Commercial insurers are kind of stuck right now hoping that rates are going to increase. I don't think that they've really thought about the next step, which could be that they are going to lose business," Ms. Godbout said.

Merton J. Segal, chairman and chief executive officer of Meadowbrook Insurance Group Inc., based in Southfield, Mich., disagrees that modest rate firming would drive more buyers to the alternative market.

"I think the change has to be fairly dramatic. Prices have to go up at least 10% to 15% before companies start to panic," he said.

If the market does turn and buyers abandon traditional insurance, Ms. Godbout said insurers will have to look to new opportunities.

One way for insurers to remain competitive, she suggested, would be to expand their product offerings and develop new coverages. Another idea is to offer integrated risk financing products that include different types of risk, such as operational risk and financial risk, that previously have not been insured.

"For those companies that only offer single-line insurance, business will get harder and harder," she predicted.

Jeffrey Ward, chairman and CEO of Ward North America Inc., a San Diego-based claims administrator, strongly agrees with Ms. Godbout's conclusions.

"Any broker, insurer or reinsurer who has not devised a strategy in the alternative market—if they can't accommodate small and mid-sized accounts—they're going to be limited in their growth. Others are going to outdo them," said Mr. Ward.

Ms. Godbout noted that most large commercial insurance companies already are providing services in the alternative markets.

"When prices increase, it's the middle-sized and smaller (insurance) companies which will be looking for the new arrangements and options," she said.

Meadowbrook's Mr. Segal said the smaller insurers will be best positioned to respond to any shift to the alternative market.

"I don't believe that the larger (insurance) companies will be better positioned in this marketplace, because they are in general the more traditional, the more entrenched in their ways and less agile and flexible," he said.

"Many of the smaller companies will have the agility and flexibility to cope with the changes. They're just smaller and less institutionalized," he said.

Despite the potential for change, Ms. Godbout said she does not see any dramatic turn in the commercial insurance market in the near future.

"Right now, it just makes sense for companies involved in traditional insurance to stay put, because they're getting a terrific value for their money," Ms. Godbout said.

Even in the midst of a soft market, however, Meadowbrook is seeing continuing strong interest in its alternative market services, said Mr. Segal.

"We're busier than ever. We're adding more alternative risk programs. Every year we have more than the year before," he said.

•

The study "Alternative Markets: An Ever-Evolving Mosaic" is available from Conning & Co. for $575 by calling toll free 888-707-1177 or 860-520-1245 or can be purchased through the company's Web site at www.conning.com.

LTC demand low: Study

The 1996 federal law that extended tax benefits to employers and employees who buy long-term care insurance has not sparked much new demand for the coverage, a new study shows.

But, nearly half—47.5%—of the survey respondents that do not offer the benefit said they may offer it eventually, and 1.3% said they definitely would. Still, nearly as many—44.9%—said they would not offer LTC benefits.

The International Foundation of Employee Benefit Plans in Brookfield, Wis., surveyed 1,411 of its corporate members in June 1998. Of those, 448, or nearly 32%, responded. The IFEBP released results last month.

The LTC coverage tax benefit was created under the Health Insurance Portability and Accountability Act of 1996. For an LTC plan to qualify for tax-favored status, the beneficiary must meet a minimum disability level for at least 90 days.

The survey's results on low employer sponsorship of LTC benefits and low employee participation in the plans that employers do sponsor mimic earlier studies, said Larry V. Aarbus Jr., an IFEBP research associate.

Sixty-five of the 448 respondents—or 14.5%—offered the benefit. The top reasons for offering the benefit were a desire to offer an emerging benefit—76%—and the benefit's importance to employees—68%.

Employers with 1,000 or more workers accounted for 74% of the companies that offer the coverage.

Most employers that offer the benefit—80%—sponsor a voluntary, employee-paid LTC benefit.

But, for nearly 71% of those employers, employee participation is less than 10%, and participation is below 5% for more than half of those employers.

Nearly 48% of respondents that offered LTC reported that their employees were satisfied with the benefit. But almost 25% said their employees were not satisfied. Nearly 22% said measuring employee satisfaction now would be premature.

The survey shows, however, that the HIPAA may have both increased employer awareness of the benefit and created a larger potential market for LTC insurance, Mr. Aarbus said.

"For employers considering the benefit, ensuring employees are aware of the need for LTC insurance can contribute to a more successful implementation of the benefit," he said.

Fifty-one percent of the survey respondents that do not offer the benefit said it is too new and untested; 35% said employees are not interested or do not understand the benefit; and 28% said it is too expensive.

•

Free copies of the IFEBP study are available from Michelle McDowell at 414-786-6710, ext. 8219, or by e-mail: pr@ifebp.org.

Save the Date • November 14 – 17, 1999 • Doral Golf Resort and Spa • Miami, Florida

Links to the New Basics

The World Captive and Alternative Risk Financing Forum brings together the most innovative captive sponsors as well as the leading experts serving the risk financing needs of corporations and institutions to examine cutting edge risk financing programs and explore the future.

New for 1999 — Two Session Tracks

The World Captive and Alternative Risk Financing Forum is structured to create two parallel tracks: One focuses on issues involving captive insurance companies and the other focuses on the use of capital markets, employee benefits financing and integrated risk financing programs. Attendees can attend sessions in one suggested track, or select sessions from either track to best meet their information needs. Topics to be covered include:

- Capital markets
- Reinsurance
- Integrated risk financing programs
- Employee benefits in captives
- Captive case studies
- Improving captives' financial performance
- Rent-a-captives
- Group captives
- Shutting down a captive

1999 Advisory Board

James D. Cameron
Partner
Baker & McKenzie

Bruce Connell
President and Chief Executive Officer
X.L. Capital Products

Corbette Doyle
Chief Executive Officer of Healthcare
Aon Healthcare Alliance

John Gantz
Executive Vice President, ART
Swiss Reinsurance America Corp.

Roger Gillett
Senior Vice President, Business Development
ACE Bermuda Insurance Ltd.

Roger Greiner
President
Genesis Underwriting Management Co.

Richard Inserra
Assistant Treasurer, Risk Management and Insurance
Union Carbide Corp.

Judy Lindenmayer
Vice President, Insurance and Risk Management
Fidelity Investments

Hugh O'Neill
Group Risk Manager
DHL International Ltd.

Eileen Sweeney
President
Zurich Capital Health Care

Michael A. Waskom
Vice President and Corporate Risk Manager
Marsh & McLennan Cos, Inc.

William G. Watson
Executive Vice President
Reliance National Insurance Co.

9th WORLD CAPTIVE
AND ALTERNATIVE RISK FINANCING FORUM

Produced by
Business Insurance
SINSER
Tillinghast - Towers Perrin

www.captive.com/CaptiveForum

For a brochure or more information, contact Judith Harrington, WCF Conference Director,
4248 Park Glen Road, Minneapolis, MN 55416 • Telephone: 612-928-4659 • Fax: 612-929-1318

When was the last time you kept a promise for three hundred years?

CGU The new CGU traces its roots back to London in 1696, making it the oldest, continuously operating insurance company in the world. CGU has kept its promises to clients across four centuries. Among those clients have been Queen Victoria, Winston Churchill and two American Presidents.

~ And we'll keep our promises to you. ~

We're the new CGU some eight thousand people strong across America, dedicated to continuing our over three hundred year global history of keeping promises to our clients, agents and brokers:

The promise of financial strength, leadership and stability. The promise of quality service and support. The promise to be there when your customers need us most ~ when they have a loss.

Since 1696.

WINSTON CHURCHILL
A CLIENT
FROM 1906 TO 1963

The merger of Commercial Union and General Accident in the UK created CGU, the 11th largest insurance company in the world. Here in the United States, CGU has the size, stability, experience and regional network to provide a comprehensive range of innovative personal, commercial, specialty and life insurance products as well as responsive claims service through 7,100 independent brokers and agents.

We have kept our promise across four centuries.

CGU's goal is to become the premier independent agency and broker property/casualty insurance company in America. That's our promise to you.

CGU

IT'S NOT A PROMISE UNTIL YOU KEEP IT.

PERSONAL COMMERCIAL SPECIALTY LIFE

Global Briefs

Lloyd's of London regulators have put an unexpected **risk-based capital loading** on syndicates of four agencies for next year's account. Amlin Underwriting Ltd., Chartwell Managing Agents Ltd., Crowe Syndicate Management Ltd. and Omega Underwriting Agents Ltd. have been informed they will need to provide an extra 10% in funds to back their syndicates' underwriting plans for the 2000 year of account. All four agencies have said they are working with Lloyd's regulators to resolve the situation by the end of the year. Lloyd's regulators declined to comment. . . .Underwriter Timothy Humm has resigned from **Hiscox P.L.C.** to take up the reins at CGU P.L.C.'s marine syndicate. Mr. Humm, active underwriter for Hiscox syndicate 625—merged into syndicate 33 at the beginning of 1998—also was an executive director at Hiscox. Derek Netherton and Carol Franklin Engler have been appointed non-executive directors at Hiscox. . . .London-based broker **Bradstock Group P.L.C.** has launched a policy to cover contingency fee libel cases in the United Kingdom through its Bradstock Insurance Brokers Ltd. subsidiary. The broker, still the subject of market speculation as a takeover target, has teamed up with specialist media law firm Peter Carter-Ruck & Partners, and premiums are expected to be about 10% of the amount of coverage purchased. . . .Achim Bauer has been appointed principal and head of insurance marketing at **Swiss Re New Markets**, part of the Swiss Reinsurance Co. At the same time, Charlotte Gubler has been elected principal of Swiss Re New Markets. Mr. Bauer and Ms. Gubler will be based at the organization's Zurich, Switzerland, office. . . .Zurich Financial Services has announced that **Zurich Insurance Co. (Slovakia) Ltd.**, based in Bratislava, has been licensed to write non-life business in Slovakia. . . .German reinsurer Munich Reinsurance Co. has set up a service company in Santiago, Chile. **Munchener Consultora Internacional SRL** will coordinate life reinsurance business in South America. . . .Meanwhile, Munich Re has said it wants a **global resolution to Holocaust claims** stemming from life and property policies that survivors say they were not allowed to claim against after World War II. As a reinsurer, rather than a direct insurer, Munich Re is not a target for unresolved claims, it said in a statement. . . .German non-life insurer **Wurttembergische Versicherung A.G.** is expanding its London market business with the appointment of Alan Howell, former managing director of Eagle Star Re, as joint managing director of Wurttembergische U.K. Ltd., working with John Solder. Georg Mehl, chairman of the parent company, said he saw "early signs of a more rational approach to pricing" and that conditions are now right "to enter into a new phase in the development of our international business." . . .The **People's Insurance (Group) Co. of China** has officially closed, after approval from China's State Council. . . .Russian insurance group **Megaruss** likely will pay out $15 million for last week's failed launch of the Raduga military communications satellite on the Proton rocket. A malfunction resulted in the engine and parts of the booster detaching from the Proton, and the satellite shattered over the Siberian steppe. . . .French insurer **Axa Group** is merging its Axa Al Amane subsidiary with Compagnie Africaine d'Assurance to form a new Moroccan property/casualty insurer, Axa-Ona. . . .U.K.-based **Midland Bank** is appealing a court award of £50,000 ($77,990) for five employees who developed arm pain when working as processors for the bank. The bank argues that the so-called repetitive strain injuries are psychogenic rather than physical in nature.

Change in law sought for punishing companies

By CAROLYN ALDRED

LONDON—Prosecuting lawyers and a senior judge are pressing for a change in the law to make it easier to charge companies with corporate manslaughter.

The push for a broader definition of corporate manslaughter follows the failure to prosecute a railway company after the Southall train crash in September 1997, which killed seven passengers and injured more than 150.

Old Bailey Justice Scott Baker this month dismissed charges of corporate manslaughter against Great Western Trains Co. Ltd., based in Swindon, Wiltshire. The prosecution could not prove gross negligence by one person in a position of responsibility, as required under existing corporate manslaughter law, though it was able to prove general negligence under health and safety legislation.

But the Judge said in his ruling that many people regard the present law as unsatisfactory and want it changed to make it easier to prosecute large corporations for manslaughter.

Manslaughter convictions would carry unlimited fines, but experts say it is the stigma attached to such charges that would severely harm the offending companies.

Justice Baker said it is up to Parliament, not the courts, to change the law. He pointed out that the Law Commission, a government-funded body, had recommended changing corporate manslaughter legislation three years ago.

"There is little purpose in the Law Commission making recommendations if they are allowed to lie for years on a shelf gathering dust," Justice Baker said.

Queen's Counsel Richard Lissack, the prosecution lawyer for the state in the Southall litigation, told the Central Criminal Court at the Old Bailey, London, that criminal law had failed to keep pace with the changing face of the corporate world in the last part of the 20th century.

"If a company is large, with responsibility for safety assumed by no one and avoided by everyone, it may conduct its undertaking as negligently as it wishes, knowing that, unless the prosecution can prove beyond doubt that a directing mind of the company personally authorized, procured or directed the specific wrong, that neither that individual nor the company can ever be convicted of manslaughter, with all that a conviction for that offense conveys," said Mr. Lissack.

As a result, the Crown Prosecution Service, the state legal body responsible for prosecut-

See **Charges** *on next page*

Syndicates make moves to exit underpriced lines

By SARAH GODDARD

LONDON—Tough market conditions with little prospect of change have forced Lloyd's of London syndicate 1224 to stop writing facultative reinsurance.

Peter Butler, underwriter for syndicate 1224, said the £10 million ($15.7 million) capacity the syndicate was offering for facultative business was not enough to compete with large insurers for the best business.

Up until the end of last year, the syndicate was offering capacity of £5 million ($8.3 million), but it boosted capacity at the beginning of the year in order to remain competitive.

Lloyd's agency Janson Green Ltd. recently has made a similar decision and has ceased writing non-proportional reinsurance business on syndicate 79.

At the beginning of 1997, syndicate 1224, managed by PXRE Managing Agency Ltd., started writing a diversified book of accident and health, excess of loss treaty, and direct and facultative business. Since the syndicate's inception, competing facultative capacity has increased substantially, and large outfits are offering up to $200 million, said Mr. Butler.

"We started off optimistically and believed we could write through the market with a decent book of quality business," he said. But market conditions have consistently toughened, while competitors have become stronger.

"I don't believe it is realistic for us to compete for business of the quality we would like to write" with the amount of capacity the syndicate has to offer, Mr. Butler said. "We think that, for people like us, the prospects are very

See **Lloyd's** *on next page*

E-commerce forum aims to improve London market

By EDWIN UNSWORTH

LONDON—Insurance buyers and brokers are being promised speedier processing of their London market business from a new e-commerce initiative.

As part of the process, a joint effort by Lloyd's of London and the International Underwriting Assn. of London, the work of brokers and underwriters will be closely monitored to see how they perform against a new set of "ambitious service standards."

The attempt to improve services to policyholders by the two leading bodies in the London insurance market was unveiled last week when they set up a joint forum to examine ways to streamline processes and make full use of e-commerce for the benefit of customers, intermediaries and underwriters.

The forum will examine the fastest way to deliver claims payments, issue policies and pay premiums. It also will establish service benchmarks in key areas and then publish statistics comparing these standards against the performance of brokers, underwriters and central services such as policy and claims processing. In addition, the new forum will: support new and existing initiatives to improve broker access to the London market by simplifying procedures, adopting international processing standards and sponsoring joint developments between the IUA's and Lloyd's processing centers; and promote the early adoption of e-commerce and electronic trading.

Lloyd's and the IUA are each putting up five leading members to participate in the forum. These members will meet monthly.

In a statement, the chairmen of the two bodies, Tim Carroll of the IUA and Max Taylor of Lloyd's,

See **E-commerce** *on next page*

Work-related stress gets a break

By CAROLYN ALDRED

BIRMINGHAM, England—A recent U.K. court award for work-related stress is likely to increase employers' attention on ways to minimize the problem in the workplace, risk management groups say.

The award, which may represent the first time a U.K. employer has accepted liability for work-related stress, was handed down July 5 by Birmingham County Court.

The claimant, a former Birmingham City Council employee, was awarded 67,000 pounds ($105,860) for work-related stress, after the Birmingham City Council accepted its liability for the worker's in-

"The decision was made on the very particular circumstances of this case. The authority accepts it was at fault in the way it trained and equipped (Beverley) Lancaster for the job, which led to her medical condition," according to a statement from the council.

Ms. Lancaster was transferred from a technical position to one dealing with members of the public, for which she didn't receive adequate training.

"This case relates to a restructuring when the council had to reduce its staffing levels. The grievance is based on a series of actions taken some considerable time ago. Since that time, the council has reviewed and revised its personal and management pro-

Birmingham City Council is self-insured for the award, the spokeswoman said.

"All local authorities will be looking at their stress cases very carefully following the Birmingham City Council award. Even before this case, stress was high on the agenda of local authorities throughout the U.K.," said a spokeswoman from the Assn. of Local Authority Risk Managers. "Local authorities treat stress cases very seriously. Their policies towards stress-related illnesses are constantly under review," she said.

David Gamble, executive director of the Assn. of Insurance & Risk Managers, agreed that U.K. employers increasingly are con-

the workplace.

"The last time we did a survey of AIRMIC members, they identified stress as the fastest-growing risk," he said (*BI*, April 12).

"Clearly, this case has indicated that they were right to be concerned. Stress is a significant problem for us all and is well on the way to becoming an enormous problem," said Mr. Gamble.

The Health and Safety Executive, a U.K. government-funded agency responsible for monitoring and enforcing workplace health and safety, recently issued a consultation paper looking at how employers could reduce stress in the workplace. A comment period on the consultation paper expires at the end of July, said an HSE

Charges

Continued from previous page

ing criminal cases, will ask the attorney general to refer the point of law to the Court of Appeal.

"We need to get the law clarified," said David Calvert-Smith, director of public prosecutions.

Such an appeal, however, would not be retroactive and thus would not affect the Great Western case, the CPS pointed out. The CPS chose this form of appeal to avoid delaying the public inquiry, due to start Sept. 20, into the crash. In the United Kingdom, any criminal proceedings must be done before a public inquiry so as not to prejudice the criminal verdict.

The CPS also has dropped its prosecution of the train driver, Larry Harrision, on seven charges of manslaughter because expert reports determined GWT to be more at fault because the train's automatic braking system failed to activate.

In a report published in 1996, the Law Commission recommended that there should be a new offense of "corporate killing," to replace the offense of corporate manslaughter. The report followed the lack of prosecutions brought in the wake of a series of disasters in 1987 and 1988, including the loss of 187 lives in the sinking of the Herald of Free Enterprise ferry; the Piper Alpha oil platform disaster, which killed 167 people; the King's Cross subway fire, which left 31 people dead; and the Clapham rail crash, in which 35 people died.

Under existing legislation, prosecutions for corporate manslaughter can be brought only where a 'corporation, through the controlling mind of one of its agents, does an act which fulfills the prerequisites of the crime of manslaughter," according to the Law Commission. In other words, for a company to be prosecuted, gross negligence must be committed by someone in a senior position.

In the above series of disasters, it was impossible to identify one person who was a "controlling mind" of a company that was responsible for an incident, even though gross negligence may have occurred.

But the Law Commission, in the report, saw "no reason why companies should continue to be effectively exempt from the law of manslaughter" and recommended that a corporation should be liable to prosecution if "a management failure" by the corporation resulted in a person's death and that failure constituted conduct below reasonable expectations.

Meanwhile, a hearing will be held on July 23 to determine the penalty to be imposed on GWT following its guilty plea to an offense related to the crash under the Health & Safety at Work Act 1974, which carries an unlimited fine, said a GWT spokesman.

London-based First Group P.L.C., which acquired GWT in March 1998, has "made provision to cover any penalty," said the spokesman, who said he did not know the amount that had been set aside.

Meanwhile, compensation claims for crash victims and their relatives have been settled or are in the process of being settled by the company's insurer, London-based St. Paul International Co. Ltd. BI

More consolidation in Scandinavia

By MARIA KIELMAS

COPENHAGEN, Denmark—Consolidation of the Scandinavian insurance market continues apace with two recent mergers.

Swedish bank Skandinaviska Enskilda Banken on June 21 announced it would sell its non-life insurance company, Trygg-Hansa Forsakring A.B., to Danish insurer Forsikringsselskabet Codan A.S. for 4.3 billion Swedish kronor ($506.1 million).

As part of the deal, SEB will acquire Codan's banking division, Codan Bank A/S, for 750 million Danish kronor ($103.3 million); 49% of its life insurance unit, Codan Link, for 25 million Danish kronor ($3.4 million); and 15.8% of the stock in Copenhagen, Denmark-based bank Amagerbanken A/S held by Codan for 80 million Danish kronor ($11 million). Copenhagen-based Codan is 72% owned by British insurer Royal & SunAlliance P.L.C.

In a joint statement, the companies said that Stockholm, Sweden-based SEB would continue to distribute Trygg-Hansa's non-life insurance products through existing distribution channels. The statement also said SEB intends to develop new integrated insurance and financial products for the Swedish market.

SEB also has entered into a long-term asset management and custody agreement with Codan.

"We are going to be a major player in the Nordic region," an SEB spokesman said.

SEB bought Trygg-Hansa Insurance Co. in 1997. The bank has been seeking a buyer for the non-life operations since February but will retain the life insurance business.

Codan Finance Director Jen Per Jensen said Codan's expanded non-life division will compete with an as-yet-unnamed non-life insurance joint venture created by Sweden's Skandia Insurance Co. and Norway's Storebrand A/S in February.

On June 24, three days after the SEB/Codan deal was unveiled, Finland's Pohjola Insurance Co. announced its non-life business would become part of the non-life insurance venture with Skandia and Storebrand. The new ownership of the entity will now be: Skandia with 42%; Storebrand with 33%; and Pohjola with 25%. Each of the partners, though, will equally hold one-third of the voting rights.

The entrance of Pohjola into the partnership gives the non-life venture a combined 1998 premium volume of 23.4 billion Swedish kronor ($2.75 billion), or approximately 20% of the Nordic non-life market.

A Pohjola spokesman said greater cooperation with Skandia and Storebrand was "self-evident" as Pohjola and Skandia have stakes in each other's companies as well 10 years of close cooperation in the non-life market.

The Pohjola spokesman acknowledged the expanded Codan will be one of the non-life alliance's main competitors and that it is seeking a partner in the Danish market.

The Pohjola-Skandia-Storebrand non-life alliance will spread its operations over four so-called centers of excellence: Oslo, Norway, for private clients; Stockholm, Sweden, for small and medium-sized companies; Helsinki, Finland, for large industrial clients; and Bergen, a center for the Norwegian oil industry, for marine and energy business.

Stock market analysts say the second-largest Finnish insurer, Sampo Insurance Co., is likely to seek an alliance with other Scandinavian insurers as a defensive measure.

"Sampo wanted to buy Trygg-Hansa," said Matthew Wright, insurance analyst at investment bank Daiwa Europe in London. He thinks Sampo may now try to link with Codan.

A Sampo spokesman was unavailable for comment.

Mr. Wright said he believes the non-life ventures are being formed not so much to achieve growth in that sector but instead because Scandinavian insurers wish to shed volatile non-life business and concentrate on life business.

"I think Skandia wanted to free itself from the dead weight of non-life business," he said, noting there is limited growth potential in the Scandinavian non-life market.

E-commerce

Continued from previous page

said: "We must continue to strive to reduce costs and meet the changing expectations of our customers... .The market is now more cohesive than ever before, and we have the opportunity to work together to make London faster, more cost-effective and user-friendly. Better use of electronic commerce will make it easier to do business with the rest of the world."

Meanwhile, starting in July, Lloyd's upgraded its claims handling facilities, introducing the Lloyd's 1999 Claims Scheme to replace the 1994 version. The upgraded facility allows claims to be handled and settled electronically and enables organizations outside Lloyd's to adjust claims.

It is the product of the Claims Handling Business Committee, which is comprised of senior market claims directors and the senior management of Lloyd's Claims Office.

Lloyd's also has launched a new Web site to augment the services of IT Direct, its information technology procurement service. The site, www.it-direct.co.uk, aims to make Lloyd's IT services more accessible to members of the market. BI

Lloyd's

Continued from previous page

poor."

The agency is retaining class underwriter for facultative business David Killelay for the next few months to organize the runoff of the business.

Mr. Butler said the syndicate would "much prefer to continue with (facultative business), but we just didn't feel we could justify the commitment going forward."

Facultative reinsurance represented less than 10% of the syndicate's book, he said, and "we couldn't see it building up to a meaningful proportion of business without (loosening) our underwriting standards."

Instead, the syndicate is diversifying. It has recently hired David Armes to write a U.K. professional indemnity book of business. Mr. Armes previously was the underwriter for syndicate 820, managed by Murray Lawrence & Partners Ltd., part of London-based Lloyd's insurance group Amlin P.L.C. He left Amlin in March.

More recently, Amlin Chief Executive Officer Richard Keeling quit the organization at the beginning of this month, just days before Amlin's annual general meeting. Finance Director Charles Philipps was immediately named as Mr. Keeling's successor.

This brings the number of Amlin board executives down to just three, including Deputy Group Chief Executive Officer John Stace, a former deputy chairman of Lloyd's, and Group Director of Risk Management David Harries. Mr. Harries—a long-time colleague of Mr. Keeling—was voted back onto the Amlin board at last week's annual general meeting.

Amlin is likely to make announcements about the management of the organization in a few weeks' time, said Mr. Philipps. "We don't want to rush. . . .We want time to get consensus about the key roles and developing them," as well as ensuring the right management structure is in place, he said.

The announcement of Mr. Keeling's departure coincided with the notification of Amlin subsidiary Amlin Underwriting Ltd. by Lloyd's that it must increase its capital backing of syndicate 2001 by 10% for the 2000 year of account. All underwriters recently filed their business plans for next year with the Lloyd's authorities.

Following a review by its underwriting agents department, Lloyd's regulators decided the risk-based capital ratio—the needed ratio of capital to premium volume based on the riskiness of the business—should be raised. Amlin Underwriting determined that this means its total risk-based capital ratio will be 46% for the 2000 year of account.

Because of the increased load requirement, Amlin has decided to defer its merger of syndicates 902 and 1141 into syndicate 2001, though Amlin hopes to have the loading removed before syndicate 2001 starts to write next year. BI

Bill in Russia causes confusion

By MARIA KIELMAS

MOSCOW—Russia's upper house of parliament, the Council of the Federation, has passed an insurance bill that has confused and frustrated some foreign and Russian insurance executives, who say it is too restrictive.

The legislation stipulates that the total stake held by foreign investors in the entire Russian insurance sector cannot exceed 15% of the market share. The bill defines this participation figure as 15% of the Russian insurers' market capitalization. Insurance executives point out, however, that it is virtually impossible to calculate Russian companies' market capitalization, as most of these companies' assets are held in instruments, such as government debt, that have been valueless since the financial crash last August.

Adding to the confusion, as part of the same bill, the legislators voted to remove the 49% limit on foreign participation in the share capital of any Russian insurer.

The bill also would ban any foreign company from participating in the Russian market unless it has been established in Russia for at least two years and in its own country for at least 25 years. Foreign companies are also banned from selling life insurance under the new law. As a result, if the bill were enacted, only two foreign companies, AIG Russia and East-West Allianz, both based in Moscow, would be able to operate in the Russian insurance market, but both could have their life insurance licenses revoked. One foreign insurance executive who asked not to be named said such a restriction on trade was incomprehensible at a time when Russia was negotiating for new loans from the International Monetary Fund.

Alexei Stepanov, Moscow-based deputy general manager of the East European Insurance Co., a general insurer that is mainly Russian owned, blames the state-owned insurer Ingosstrakh for the bill's restrictions on foreign companies. "They are the only company which is worried about foreign competition," Mr. Stepanov said. Ingosstrakh holds 15% of the market. Mr. Stepanov said he thinks most Russian insurance companies would welcome foreign companies as joint venture partners.

The bill now goes to President Boris Yeltsin, who can either sign it or amend it and pass it back to parliament. The Duma, the lower house of parliament, returns in September after the summer break. But Duma elections are in December, and insurance executives believe that any further debate on the legislation may be postponed again. BI

Products & Services Guide
To place your ad, contact Irais Amleshi
Phone: (312) 649-5340 Fax: (312) 649-7937
E-Mail: iamleshi@crain.com

CPCU® CIC and IIA candidates
I guarantee you'll learn more in less time with The Burnham System - or your money back!
Ray Burnham, Cpcu, Clu, Cic, Aic, Aim, Arm, Au, Aai, Are
19 Everett St, Southbridge, MA 01550
Call 1-888-BURNHAM Now!

Check Us Out
www.businessinsurance.com

Publishing August 2 in
Business Insurance®
Benefits: Managed Care Trends & Issues
Directory: Prescription Benefit Managers
Information Resource: Employee Benefits
Ad Closing: July 21
Call Now To Reserve Your Ad Space!
(312) 649 - 5340

Court orders domestic partner benefits

SAN FRANCISCO—A federal judge has ruled that airlines landing at San Francisco International Airport must begin the process of providing certain non-health benefits to domestic partners of employees working in San Francisco within 30 days.

U.S. District Court Judge Claudia Wilken had ruled last month in *Air Transport Assn. of America vs. City and County of San Francisco* that the airlines must provide benefits, including bereavement leave, unpaid family medical leave and travel perquisites to domestic partners as a condition for operating at San Francisco International Airport. In her latest ruling last week, she refused a request by the ATA and other plaintiffs to delay implementation pending an appeal.

San Francisco International Airport

The ATA, as well as United Airlines Inc., Federal Express Corp. and the Airline Industrial Relations Conference, had filed suit in 1997, challenging San Francisco's 1996 domestic partner ordinance, which requires companies doing business with the city to provide equal benefits to the spouses and long-term partners of their employees. The airport is owned by the city of San Francisco. Last year, Judge Wilken had ruled San Francisco could not force the airlines to provide health insurance benefits to domestic partners, though the law still applies to other businesses that contract with the city (*BI*, April 20, 1998).

San Francisco's chief assistant city attorney, Dennis Aftergut, commented, "Why we're fighting over bereavement leave and other non-cost benefits is beyond me."

A spokesman for the Washington-based ATA said no decision has been made on whether to appeal.

Aon executive slain in shooting

CHICAGO—Ricky Byrdsong, vp-community affairs for Chicago-based Aon Corp., was fatally shot July 2 near his home in Skokie, Ill.

Mr. Byrdsong, who was 43, was coach of the men's basketball team at Northwestern University in Evanston, Ill., for four seasons, beginning in 1993-94.

Mr. Byrdsong

Mr. Byrdsong was killed in a shooting spree that was apparently racially motivated by a gunman who allegedly killed another person in Bloomington, Ind., and injured others in Illinois. The suspect later fatally shot himself.

Patrick G. Ryan, chairman and chief executive officer of Aon, said in a statement: "It is with heartfelt sorrow that we mourn the death of Ricky Byrdsong. Ricky devoted his life to his family, to coaching and to working with disadvantaged children. His genius was in coaching children in the game of life. He was able to instill vision and provide hope to all he touched. While at Aon, he also energized hundreds of employees to actively participate in community affairs."

Residents sue Kaiser plant over fumes

GRAMERCY, La.—Kaiser Aluminum & Chemical Corp. could face thousands of claims from residents who live near a Louisiana plant that was heavily damaged by an explosion last week.

The cause of the blast, which injured 21 and destroyed nearly a quarter of the plant in Gramercy was still undetermined late last week. Shortly after the explosion, the first lawsuit was filed on behalf of a group of area residents who claimed injuries from toxic fumes released in the accident.

Gov. Mike Foster declared a state of emergency in St. James Parish, where the plant is located. Parish officials are handling thousands of complaints that include accounts of medical problems and property damage.

The explosion was triggered in an area with equipment that converts dry bauxite into liquid form. The substance is used in the manufacturing of alumina, a component of aluminum.

Estimates of losses from property damage and business interruption were unavailable late last week. "We know it will be a lot of money" in property damage, said John Jennings, Kaiser's controller.

He said insurers in the United States and Europe write property and business interruption insurance for the plant. While he could not provide limits, Mr. Jennings referred to comments by a Kaiser executive who said, "We are adequately covered."

City of Hope honors Marsh's Healey

CHICAGO—Marsh Inc. executive Quill O. Healey is the recipient of the 1999 City of Hope Insurance Industry Council's "Spirit of Life" Award.

Mr. Healey

Mr. Healey, chairman of the Americas for Marsh, will receive his award at a benefit on Oct. 28 in Chicago.

The City of Hope is a treatment and research facility for cancer and other diseases in Duarte, Calif. The Insurance Industry Council has sponsored City of Hope activities for more than 20 years and for the past six years has directed its donations to the City of Hope's breast cancer research and treatment programs. Since 1993, the insurance industry has raised nearly $4 million to aid the facility's efforts. For more information on the award dinner, visit www.cityofhope.org.

W.R. Grace to settle SEC charges

WASHINGTON—W.R. Grace & Co. has agreed to settle Securities and Exchange Commission charges that it falsified the earnings of its health care operations between 1991 and 1995.

Without admitting or denying the charges, Boca Raton, Fla.-based Grace agreed to pay $1 million into an education fund related to generally accepted accounting principles and agreed not to violate securities laws in the future.

The SEC had alleged that senior officials of Grace, a packaging and specialty chemicals company, and its Waltham, Mass.-based National Medical Care Inc. unit intentionally altered NMC's results to meet Grace earnings projections. NMC, one of the nation's largest kidney dialysis providers and Grace's main health care unit, created "excess reserves" of up to $63 million that Grace fraudulently used to alter its health care group's earnings, according to the SEC.

For example, while Grace's annual health care net income growth varied from an 8% decline to a 61% increase between 1991 and 1995, the company manipulated the NMC excess reserves—which had no purpose other than "profit planning"—to report relatively smooth growth rates ranging between 23% and 37% annually, the SEC charged.

The SEC also alleged that two partners of Price Waterhouse L.L.P., now PricewaterhouseCoopers L.L.P., knew of the misstatements but nevertheless provided clean audit opinions on Grace's consolidated financial statements. Without admitting or denying the charges, the two accountants, Eugene F. Gaughan and Thomas J. Scanlon, agreed not to violate securities laws in the future.

Zurich's Iordanou awarded medal

NEW YORK—Zurich U.S. Chief Executive Officer Constantine Iordanou recently was awarded one of 140 Ellis Island Medals of Honor, awarded annually to ethnic Americans who have "distinguished themselves" as U.S. citizens by the National Ethnic Coalition of Organizations.

Mr. Iordanou

Mr. Iordanou, who arrived in the United States from Cyprus as a young adult, began his insurance career in 1977 as a management trainee with American International Group Inc.

New York-based NECO is an umbrella organization for 275 ethnic organizations. Its mission is to promote cultural understanding and harmony, to encourage the preservation of diversity and to fight against hatred and bigotry.

Other winners of the Medal of Honor distinction have been U.S. presidents, athletes, and religious and business leaders.

Comings & Goings: Industry

Boston-based Liberty Mutual Insurance Co. has named **Gary Gregg** to head its commercial insurance business unit. Also at Liberty Mutual, **Edward Troy** recently left the company to pursue other business interests, according to a company spokesman. Mr. Troy was executive vp/manager, national market. . . .**George P. Reeth Jr.**, president of Willis Faber North America of New York, has also been appointed chief executive officer. Mr. Reeth succeeds **Peter T. Pruitt**, who will continue as chairman until his retirement, which is scheduled for December 2000. . .Hamilton, Bermuda-based XL Capital Ltd. has named **Paul S. Giordano** executive vp. Mr. Giordano also will continue to serve as general counsel and secretary. . .Accordant Health Services Inc. of Greensboro, N.C., has named **Dr. Richard Hodach** medical director. He previously was associate director of Regional Parkinson Center in Milwaukee. . .Chicago-based Unitrin Inc. has named **James W. Burkett** senior vp. Mr. Burkett also serves as president of the Unitrin Property and Casualty Group and is chairman of all the group's property/casualty companies. BI

SURETY BONDING FAX 860-229-1111

WE'VE INSTITUTED A NEW POLICY THAT WILL PROVIDE SURETY BONDING ON ONE CONDITION.

YOURS.

860-224-2000

ACSTAR has developed a reputation for writing difficult surety. But difficult bonds don't always mean high collateral. Now we can write a bond to your needs – with or without collateral. So, whether you need coverage for a standard or difficult case, find out why we want to become your "go-to" company. Give us a call at 860-224-2000 to set something up – on your terms.

• BONDING • RATED EXCELLENT BY A.M. BEST
• TREASURY LISTED • LICENSED NATIONWIDE

ACSTAR INSURANCE COMPANY
WHEN NO ONE ELSE CAN DO.

At Poe & Brown The Only Constant is Change

Brown & Brown INSURANCE™

And, that's just one reason why our name has changed back to

Brown & Brown, Inc.

the firm with over 60 years of insurance industry experience and leadership.

Call your nearest Brown & Brown office today, your best answer for all your business insurance challenges.

Brown & Brown, Inc.
Headquarters in Daytona and Tampa, Florida.
(800) 877-2769
www.brown-n-brown.com

Privacy

Continued from page 3

premises, in work areas, desks, lockers and motor vehicles, and computer documents, e-mail and voice mail, Mr. Segal recommended.

"The first key point is to have the policy. That's the easier part," he said. "The second key part is how do you implement it?"

In searching an employee or his or her belongings or work area, Mr. Segal cautioned, "Unless you have as a career goal becoming a defendant, don't touch the person."

A person of the same sex as the employee being searched should witness the process, as should a union steward if the employee is a member of a bargaining unit.

While an employer policy could reserve rights to random searches, this approach could generate ill will, he noted. As a result, searches should be conducted only when there is reasonable suspicion to warrant them.

With regard to searching employees' voice mail or e-mail, Mr. Segal said, "You hear a lot about, 'Can you search e-mail, can you search voice mail?' The answer is generally 'yes.'"

Employers should ensure their workplace policies specifically address voice mail and e-mail, Mr. Segal advised. Employers also should make sure there is a legitimate business purpose for such monitoring.

Employers' actions in monitoring voice mail and e-mail are restricted by the federal Electronic Communications Privacy Act as well as applicable state wiretapping laws, Mr. Segal said. Because the ECPA distinguishes between messages in transit and those in storage, employers can reduce their risk by never examining messages while they are in transmission, instead examining them before or after they are sent.

Employers' rights are less clear with regard to voice mail than e-mail, Mr. Segal cautioned. In both cases, those rights become less clear if the sender of the message in question is a non-employee who has not received the employer's search policy.

Employers must balance the legal risks against the business need for the information being sought, he said.

Mr. Segal noted that there are no federal statutory restrictions on video surveillance of employees, as long as there is no audio component. Surveillance in private areas, such as employee locker rooms, however, could raise common law, employee relations or public relations issues, he noted.

Employers that engage undercover investigators in employee surveillance could face privacy issues related to how investigators collect information and whether the employer receives information unrelated to the purpose of the search. Reporting of employee medical information, for example, could lead to claims, he said.

"It's in your self-interest as an employer not to know private facts about employees," he said.

One way an employer can protect itself is by providing an "engagement letter" to investigators that sets out the means for acquiring information and limits the information the investigator can provide the employer.

Mr. Segal noted that employee personnel files are not confidential by law in most states, and he encouraged employers not to create an expectation of privacy.

"I would recommend that you don't say things like, 'Your files are confidential,'" he said. "Because they're not. That doesn't mean you shouldn't treat them as confidential."

With only narrow exceptions, employees' authorization should be required before disclosing information from personnel files. Employers also should consult the employee before responding to a subpoena request for personnel file information, he said.

As regards such off-duty employee behavior as supervisor/subordinate dating, Mr. Segal noted that such situations raise potential sexual harassment claims "every way you turn."

He noted that the employer's goal in dealing with such activities should be to regulate reporting relationships in the workplace, not dating, and those polices should focus on the impact of such behavior on the workplace and conflict-of-interest issues it can raise.

Such policies should be applied consistently, avoiding distinctions based on employees' marital status, he added. BI

Professional Marketplace

www.businessinsurance.com

To place your ad, contact Irais Amleshi
Phone: (312) 649-5340
Fax: (312) 649-7937
E-Mail: iamleshi@crain.com
Business Insurance, Classified Department, 740 N. Rush Street, Chicago, IL 60611-2590
Call for details on Blind Box and Internet Advertising

HELP WANTED

Insurance

Join the Most Admired Company

Strong Organization GE Financial Assurance is a family of insurance and investment companies with a proven track record of success in the financial services industry. Our headquarters in Richmond, VA is currently searching for a Risk Process Leader. And since GE was recently named 'America's Most Admired Company' in FORTUNE® magazine, there's never been a better time to join us!

Key Position RISK PROCESS LEADER
The successful candidate will have extensive interaction with multiple functional areas and will ensure the implementation and maintenance of policy processes for all products, prepare and coordinate portfolio quality reviews, and execute in-force reviews. Qualifications include 5+ years of combined insurance industry and risk management experience, high energy level, project management/process improvement background, proven leadership and presentation skills, and strong quality orientation.

Join Us We offer a competitive salary and an excellent benefits package. Please e-mail your resume as an MS Word document or text attachment (include a detailed cover letter and job code BI-RISK) to: gefarecruiter@gecapital.com. Or forward to: GE Financial Assurance, Human Resources/BI-RISK, 6620 W. Broad Street, First Floor, Richmond, VA 23230. Fax: 804-281-6395. Visit our web site: www.ge.com/financial. An Equal Opportunity Employer.

GE Financial Assurance
GE Capital Services
We bring good things to life.

HELP WANTED

LIBERTY MUTUAL GROUP
Boston
Insurance Operations Attorney
Home Office Legal Department of Liberty Mutual Group seeks part-time attorney (30 hrs. per week) to support property and casualty insurance operating departments. 2-6 years' P&C experience preferred. Opportunity for an innovative attorney with excellent legal analytical skills to work in-house on a range of sophisticated issues. No telephone inquiries. Resumes to Tracey Webber, Liberty Mutual Insurance Company, P.O. Box 140, Boston, MA 02117-0140.

HELP WANTED

HEALTHCARE PRODUCER
National broker specializing in professional liability and P&C for healthcare systems, hospitals, and physician organizations is seeking experienced producers throughout the US. Prefer producers who own and control a book of business but not required. We offer a rapidly growing, forward thinking organization with unlimited access to the healthcare market and unlimited earning potential. Interested individuals should forward their resume to:
Business Insurance, Box 3118, 740 North Rush Street Chicago, IL 60611-2590 or e-mail to jdokc@earthlink.net

HELP WANTED

COMPLIANCE ANALYST

American Honda Finance Corp., a fast-growing subsidiary of American Honda Motor Co., Inc., has an immediate opportunity for a Compliance Analyst in Torrance, CA.

As a Compliance Analyst, your primary focus will be to support the VSC Division field and product development departments. This position will be responsible for: maintenance and auditing of in-house files as they relate to state filing, subsidiary company and obligor requirements; obtaining AHFC personnel and dealer insurance licenses as required; interacting with Honda divisions, state regulatory agencies, attorneys and vendors to obtain information, legal opinions and proposals; analyzing regulatory bulletins and determining their impact on VSC Division programs; and preparing/finalizing rate and form filings and presentation materials as instructed by the Assistant Manager.

The ideal candidate will possess: Bachelor's degree (Business Administration, Economics or Insurance preferred). Minimum 4-6 years insurance filing/licensing and/or compliance background preferred. Some experience in retail and/or wholesale automotive sales preferred. Excellent organizational ability, excellent communication skills. Computer proficiency in Microsoft Windows (MS Word, Excel and PowerPoint) required. Must be capable of obtaining an insurance agent license if requested.

American Honda offers competitive salaries and comprehensive benefits. Send your resume including salary history to: **American Honda Motor Co., Inc., 1919 Torrance Blvd., MS 100-1C-1A, HFC5175/CW, Torrance, CA 90501-2746**. EOE/AA. Women and minorities are encouraged to apply.

HONDA Finance

Business Insurance.
Next Issue: July 19, Closing July 13

LEGAL NOTICES

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
IN THE PETITION OF DAVID LLEWELLYN MORGAN AND MARK W.R. SMITH, AS JOINT LIQUIDATORS OF **STOCKHOLM RE (BERMUDA) LTD.**
Case No. 95-B-40543 (PCB)

NOTICE IS HEREBY GIVEN that on June 30, 1999, the Bankruptcy Court entered an order (the 'Order') continuing the Preliminary Injunction Order Pursuant to 11 U.S.C. §§ 105 and 304(b) originally entered in this case on February 24, 1995. The Order shall remain in effect pending a hearing scheduled for December 2, 1999 at 2:30 p.m. before the Honorable Prudence Carter Beatty, in the Alexander Hamilton Custom House, One Bowling Green, New York, New York. Any person wishing to obtain a copy of the Order should contact Susan Marguccio at (212) 504-6751.

CADWALADER, WICKERSHAM & TAFT
100 Maiden Lane
New York, New York 10038
Tel: (212) 504-6000
Fax: (212) 504-6666
Attention: Kenneth P. Coleman, Esq.
Stephen Doody, Esq.

LEGAL NOTICES

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
IN THE PETITION OF ANTHONY JAMES MCMAHON AND PHILIP WEDGWOOD WALLACE, AS JOINT PROVISIONAL LIQUIDATORS OF **ANGLO AMERICAN INSURANCE COMPANY LIMITED,**
Case No. 97-B-41556 (PCB)

NOTICE IS HEREBY GIVEN that on June 30, 1999, the Bankruptcy Court entered an order (the 'Order') continuing the Preliminary Injunction Order pursuant to 11 U.S.C. §§ 105 and 304(b) originally entered in this case on March 19, 1997. The Order shall remain in effect pending a hearing scheduled for December 2, 1999 at 2:30 p.m. before the Honorable Prudence Carter Beatty, in the Alexander Hamilton Custom House, One Bowling Green, New York, New York. Any person wishing to obtain a copy of the Order should contact Susan Marguccio at (212) 504-6751.

CADWALADER, WICKERSHAM & TAFT
100 Maiden Lane
New York, New York 10038
Tel: (212) 504-6000
Fax: (212) 504-6666
Attention: Kenneth P. Coleman, Esq.
Stephen Doody, Esq.

Looking for a candidate to fill the job?
The most talented men and women in the insurance industry know where to turn when they want to make their moves.
Advertise in **Business Insurance.**
Call 312-649-5340 for Advertising details

Trends prompting changes in benefit plan designs

By RODD ZOLKOS

ATLANTA—While years of relatively low benefit costs have lulled many employers into complacency with regard to benefit plan design, that trend is beginning to change.

Joking that employers someday might recall 1999 as "the era of low-cost health care," consultant Gary B. Kushner, president of Kushner & Co. Inc. in Kalamazoo, Mich., said, "We're seeing employers beginning to get involved in what I would call 'the value purchasing of health care.'"

That value purchasing involves attempts to combine high quality with reasonable cost, and it sees employers forming their health care networks based on which practitioners get the best results at a reasonable cost, Mr. Kushner said.

And, for some employers, the re-engineering goes beyond the health portion of their benefit programs, he said.

"We're seeing employers beginning to go back and reinvent the design of their benefit plan," said Mr. Kushner during a presentation on current and future trends in employee benefits at the annual conference of the Society for Human Resource Management, held late last month in Atlanta.

And such redesigns are warranted both by the increasing cost of some benefit plan components and by changes over the years in an employer's business and in the nature of its workforce.

"You should be able to go through your entire benefit plan strategy and show alignment with your HR reward strategies and your overall business strategy goals," Mr. Kushner said. An employer should be able to show how each benefit fits into the overall employee reward strategy, he said.

Among the questions employers should consider are:

- Why is the benefit plan structured the way it is?
- Why tie benefits to employee retention in an era when people stay with the same employer, on average, only three to five years?
- Who pays for the benefits and how much do they pay?
- How are the plans funded?
- What happens after an employee leaves a company?

On the issue of who pays, Mr. Kushner suggested that passing added costs on to employees is creating unintended consequences.

"We're seeing employees making 'groceries or health care' decisions," he said. "And I don't think that was part of our HR strategy."

Such scenarios often are driven by third-party administrators who warn of higher costs and chief financial officers who say their companies won't pay those extra costs and that such costs should be passed on to employees, he said.

Suggesting a possible alternative model, Mr. Kushner asked, "What would happen if you begin to go to some sort of a means-tested basis?"

While conceding that such an approach won't work for everyone, he said he knows of at least one Fortune 500 company that has adopted a plan under which employees who earn less than $40,000 annually pay 1% of their earnings for health care, while employees who earn more than $40,000 a year pay 2% of their earnings.

"For a lot of us, our plans are funded the way they have been for the past 15 to 20 years, and we don't tend to make changes," Mr. Kushner said.

"The world has changed," he said, and if a company has grown, merged or otherwise changed, its cash flow probably has also changed, prompting a need to examine how benefits are funded.

Another significant factor in benefit plan design is the impact of legislation. "You can't talk about benefits without talking about Washington, D.C., and the states," he said.

Among the most significant legislative and regulatory trends is the "anti-managed care backlash," he said, noting that, together, Democrats and Republicans introduced 68 different bills in Congress last year related to managed care and that there is substantial activity on the state level as well.

And changes to Social Security, such as higher retirement ages, may have numerous effects on existing plans, including employees who remain with their companies later in life. Such changes may necessitate the redesign of retirement programs and long-term disability plans to accommodate Social Security's increased "normal retirement age" and resulting longer work life.

Coupled with changes in Medicare, the longer work life also will mean employers will be the primary providers of workers' health-care coverage later into employees' lives.

Regarding retiree health benefits, Mr. Kushner said human resource managers should discuss the purpose and merits of such programs with their companies' CFOs. "If people are just going to stay with your company for three to five years, I'm not sure you need retiree health benefits."

In terms of benefit plan administration, "We're seeing a significant trend toward outsourcing," Mr. Kushner said. He cautioned the audience, however: "Do not outsource because everyone else is doing it. If outsourcing is a strategically appropriate (option) for you, absolutely."

"In all cases, keep the strategic portion of this in house," he said. "Don't outsource the strategic function." BI

Tiptoeing through HR legal minefields

By RODD ZOLKOS

ATLANTA—The Americans with Disabilities Act, employee retaliation claims and sexual harassment claims all present legal "minefields" through which employers must navigate.

John F. Wymer III, an attorney with Powell, Goldstein, Frazer & Murphy L.L.P. in Atlanta, said part of the difficulty in traversing the ADA minefield is differing interpretations of the law by courts and the Equal Employment Opportunity Commission.

Recent guidance the EEOC provided to employers on reasonable accommodation and undue hardship under the ADA "in many cases is helpful and, in my opinion, is right on," he said late last month at the annual conference of the Society for Human Resource Management in Atlanta.

In other cases, however, that guidance is not helpful and sometimes is contrary to prior rulings, he said.

"Word choice is important," he said, noting courts have looked more at whether an accommodation offered to an ADA-protected employee is "reasonable" than whether it poses an "undue hardship" on the employer.

One area of the enforcement guidance he questions is the guidelines on leave and leave policies. Among other things, the EEOC's guidance suggests that modifying workplace policies, including leave policies, is a form of reasonable accommodation.

This differs, however, from courts' analysis. "Being at work (is) a fairly essential concept," he said. "It's pretty hard to function, it's pretty hard to be accommodated, if you're not there."

Contrary to the EEOC's guidance, "most of the courts that have ruled on this say if you can't work, you're not qualified," Mr. Wymer said.

Another area he questioned involved reassignment as a reasonable accommodation, which the EEOC says an employer must do even if it does not let other employees switch positions. And, the EEOC says, that obligation is not limited to vacancies within an employee's office, branch, agency, department, facility, personnel system or geographical area.

"What I read this to say is that, unless it's an undue hardship, you have to canvass the entire workforce," he said. "Do I think this is the law? No. Do I think the EEOC will be upheld on this? No."

In general, when employers address ADA accommodation, "one of the key issues I think you have to focus on in this area is the issue of reasonable accommodation rather than the issue of undue hardship," he said.

The second major "landmine" Mr. Wymer said he sees is employee suits charging their employer retaliated against them because of their opposition to discrimination against themselves or others, or their involvement in a covered proceeding, such as testifying in a hearing.

"For the past four or five years, the number of retaliation claims has increased 20% to 25% per year," he said. And, he noted, a worker needn't prove the underlying claim to win.

More incumbent employees now are bringing retaliation suits. "You have to be very, very careful about how you deal with the incumbent employee who has some kind of claim or made some kind of charge against you, because the ante from that point on goes up dramatically" with regard to retaliation claims, he said.

A third minefield facing employers is sexual harassment claims, he said.

He encouraged employers to have a "user friendly" sexual harassment policy and suggested such policies define "harassment" so that the prohibited behavior doesn't need to have a sexual aspect but can involve simply hostility.

Employees also should have various means of making complaints. "You want to give people as many options as you can under reasonable circumstances," he said.

Employers should train new hires on their harassment policy and conduct periodic training on harassment issues, including how to investigate claims.

When an incident is alleged, the employer should document all aspects of its investigation. "From a jury's standpoint, if you didn't document everything you did, you didn't do anything," Mr. Wymer said.

The employer also should have a follow-up system to determine whether the harassment ended.

"What better way to determine whether the action you took was effective than to go back to the victim and say, 'What's going on?'" Mr. Wymer said. BI

SHRM meeting attracts 9,000

ATLANTA—The Society for Human Resource Management's 51st Annual Conference and Exposition drew 9,000 paid registrants to Atlanta June 27-30.

Among those attending the conference were some 125 international SHRM members from 30 different countries.

Next year's Society for Human Resource Management's 52nd Annual Conference & Exposition will be held June 25-28 in Las Vegas.

For additional information on future conferences or upcoming SHRM seminars, contact the SHRM Customer Service Department at 800-283-SHRM or 703-548-3440; by fax at 703-535-6490; or by e-mail at custsvc@shrm.org.

Campus

Continued from page 3

universities, Mr. Vauclain said.

A similar effort to address losses was mounted in 1985, when several national fraternities formed the Fraternity Insurance Purchasing Group Inc. in response to the liability coverage crisis at that time.

Although FIPG still retains its name in acronym, its aim has changed. Since the mid-1980s, the organization has developed into a risk management consortium in which members agree to abide by and enforce a risk management policy at their chapters nationwide.

Liability insurance still can be difficult for fraternities to obtain, according to Dave L. Westol, director of policy interpretation for FIPG Inc. in Indianapolis. In 1998, the average cost of coverage per fraternity member was $100, he said.

CAAPP will draft standards of behavior that the member groups will promote within fraternities. Fraternities will continue to buy their insurance individually, however.

"Our immediate goals are to get the guidelines and standards communicated and to get fraternities working with URMIA and NACUBO," Mr. Vauclain said.

'Behavior modification is one of the hardest things to effect in all of us,' says Marsh Inc.'s D. Jean Demchak.

CAAPP is also designing an accountability program, though its guidelines are still being developed. In extreme cases, Mr. Holinski said, a national fraternity might shut down a chapter house for a few years.

The guidelines should be complete by the beginning of the 1999-2000 school year, and Mr. Vauclain expects that the rules will be similar to the FIPG standards but will be enforced more strictly by fraternity organizations and campus authorities.

FIPG standards include the following restrictions: A fraternity must comply with applicable laws about the sale of alcohol during events that could be associated with the fraternity. If individuals are going to drink at a function, the chapter itself cannot sell the alcohol. Instead, a third-party vendor must be brought in or guests must bring their own alcohol.

Fraternities also can neither buy alcohol with their own money nor coordinate the purchase of alcohol. Kegs, cases of beer and parties without guest lists that involve non-members are prohibited. Buying alcohol for and serving or selling alcohol to minors is also prohibited.

Fraternities are not alone, however, in working to reduce drinking on campuses. Officials at many universities also have been trying to reduce alcohol abuse on their campuses for years.

Previously, for the most part, individual fraternities have determined their own rules of conduct. But CAAPP will bring the more than 67 fraternities that are members of the National Interfraternity Conference to an agreement on minimum behavior standards.

Ms. Demchak did acknowledge that waiting until college to introduce students to the CAAPP program makes it less effective. For the program to significantly reduce losses due to alcohol consumption, she believes it has to reach students in high school.

"I'm hoping that, within a year, we will have developed programs that will be appropriate for high schools," she said.

While she is enthusiastic about CAAPP and the programs it plans to implement, Ms. Demchak noted, "Behavior modification is one of the hardest things to effect in all of us." BI

ADVERTISER

INDEX

Issue of July 12

ADVERTISER	PAGE #
ACSTAR Insurance Co.	17
AIG Corporate	24
Av Med	20
Brown & Brown, Inc.	17
Burnham Systems	16
Guy Carpenter & Co., Inc.	6
GCU	11, 12-13, 14
GAB Robins	9
Merck-Medco	4
The Willis Group	7
Wausau Insurance Company	5
World Captive Forum	10

HOLD THIS SHELL UP TO YOUR EAR.
THAT'S THE SOUND OF 350,000
AVMED MEMBERS NOT COMPLAINING.

According to the most recent Newsweek and U.S. News & World Report polls, AvMed is Florida's highest rated health plan. And now that we're affiliated with Kaiser Permanente, we can offer your employees in Florida the same level of service and care you've come to expect everywhere else. To find out how AvMed can increase productivity around your office, call 1-800-432-6676 ext.27321.

AVMED™
MEDICAL EXCELLENCE

©1999, AvMed Health Plan

Commentary

Attention, passengers: Expect flight delays

As an all-too-frequent flyer, I more than appreciate all the safety rules observed by airlines. But, in addition to this commitment to passenger safety, I wish they'd also display a little more concern for the comfort and schedules of their customers.

We expect flight delays, especially those of us who fly in and out of the highly congested Chicago-O'Hare International Airport. If it's not air traffic control problems, it's usually the weather holding up departures and arrivals. Indeed, that's why pilots crow about an on-time arrival on the rare occasion that they pull up to the gate as scheduled.

But this spring and summer, I have had abnormally bad luck getting in and out of O'Hare.

In each of the delays or canceled flights, the pilot asserted that the airline was concerned for not only our safety but also our comfort and schedule. But, while the pilot professed to care, we still didn't get where we were supposed to be on time. I'll share just three incidents of many.

One evening in May I sat on the runway in Detroit for seven hours waiting for thunderstorms to pass through and clearance to be given to proceed to thunder-struck Chicago. The clearance from Chicago never came and, nearing midnight in Detroit, the flight was canceled. The captain apologized profusely, because he had been assuring us hourly that we would get off the ground.

I might have spent the night in the Detroit airport, because all the nearby hotels were filled with passengers whose flights were canceled earlier. But the ingenuity of a colleague who happened to be on the same flight saved the day—or should I say night. He walked up to a car service desk in the airport and asked, "Anyone want to drive to Chicago?" Fortunately, a young man who had never been to Chicago said "sure" and I cat napped in a car until 4:45 a.m. Chicago time when I was finally home. It wasn't that expensive and sure beat sitting in the airport all night.

Kathryn J. McIntyre

I certainly didn't want the pilot to fly into a thunderstorm that night, a point that was not lost on me when, shortly after this trip, passengers were killed and injured in a crash landing during bad weather in Little Rock, Ark. But I question why the captain of my Detroit-to-Chicago flight kept telling us we would eventually lift off, only to kick us off the plane. Who was giving him bad information? Shouldn't he or someone at the airline have canceled the flight sooner?

In June, a flight crew was late for a flight to Los Angeles from Chicago. By the time they arrived and I was allowed to board, thunderstorms hit Chicago and we were delayed two and half hours, just enough to miss an international connection in Los Angeles. Rerouted to Sydney, I landed in Auckland, New Zealand, at 2 p.m., eight hours after the scheduled 6 a.m. I regretted losing those hours in New Zealand more than the extra flying time.

Once again, you may say, better to be on the ground worrying about how to get up than the alternative. But the departure might have missed the thunderstorms if not been for a tardy crew.

And last weekend, my flight to Washington from Chicago was delayed in perfectly good weather because the "No Smoking" signs were not working from row 13 aft in the airplane. We were all set to pull away from the gate when the malfunctioning signs were spotted. Everyone knows there is no smoking on an airplane, so what's so dangerous about flying without the signs lit up? Posed with that question, an indignant flight attendant lectured that the malfunctioning sign could indicate other electrical problems, endangering everyone's safety. The mechanics came on, worked awhile, and then we had to leave the plane while they worked some more. Finally, two hours later, it was decided to just disconnect all the "No Smoking" signs and let us back on board. We departed two-and-half hours late. And no one lit a cigarette.

Why couldn't someone at the airline have decided to disconnect all those signs in 15 minutes instead of two hours?

Don't get me wrong. I don't want any airline or pilot to compromise passenger safety to be on time. But I do wish there was better communication among pilots, ground operations and air traffic control, so when there is bad weather, crew delays or equipment failures, passengers are fully informed and given options other than sitting for hours on a runway. I wish that airlines also were committed to looking after the comfort of their passengers and trying more to help them reach their destination as planned, even if it means putting them on another airline, which used to happen a lot more frequently than it does now.

My advice to anyone who sees me boarding their flight: Rebook on another flight; mine surely will be delayed or canceled.

Publisher and Editorial Director Kathryn J. McIntyre's commentary appears fortnightly. She can be reached at kmcintyr@crain.com.

Diversity

Continued from page 1

ily in deciding both the liability and damages phases of employee discrimination suits," Mr. Sikorski said, referring to a trio of U.S. Supreme Court decisions.

In its guidance document, the EEOC expands on two 1998 rulings—*Burlington Industries Inc. vs. Kimberly B. Ellerth* and *Beth Ann Faragher vs. the City of Boca Raton*—in which the high court set forth both the standard of vicarious liability and an affirmative defense that companies can use to minimize their liability for sexual harassment of employees by supervisors. The EEOC's new guidelines also apply to vicarious liability for other forms of harassment or discrimination, such as actions stemming from racial, gender or age bias.

The high court ruled last month in *Carole Kolstad vs. the American Dental Assn.* that a plaintiff need not prove "egregious" employer conduct to receive punitive damages for employment discrimination. A majority of the court also ruled in *Kolstad*, however, that an employer is not vicariously liable if a manager's discriminatory decisions "are contrary" to the employer's good-faith efforts to avoid discrimination.

Diversity training programs "will absolutely bode as favorable evidence in any court case" in which an employer seeks to avoid vicarious liability for bias, said Marla Petrini, of counsel and head of the national labor and employment group practice in the Jacksonville, Fla., office of LeBoeuf, Lamb, Greene & MacRae L.L.P.

"Now, there will be even greater emphasis on training programs that do not specifically focus on sexual harassment but will broaden to the entire panoply of Title VII discrimination and also disability and age," said Ms. Petrini, referring to Title VII of the Civil Rights Act of 1964, which governs employment discrimination.

"Absent a tangible employment action, such as firing or failing to promote, an employer can avoid liability completely by establishing that it exercised reasonable care to prevent or promptly correct any harassing behavior and that the plaintiff failed to take advantage of those preventative or corrective opportunities," she said.

But other attorneys warned employers against relying on the mere existence of a diversity training program to shield them from liability for improper employment practices.

"To the extent that you have good policies and procedures in place so that people have a safety valve to have small disputes resolved before they escalate into litigation, these procedures help reduce your exposure in court but don't insulate you from lawsuits," said Dona Kahn, of counsel with Anderson Kill & Olick in New York.

Elliot Goldman, a partner with Wildman, Harrold, Allen & Dixon in Chicago, said he's never seen the mere existence of a diversity program "carry the day."

In a case where an employer, rather than merely a supervisor, is being sued, he said, a diversity program could make a difference. "It's the results of the program that provide you with a viable defense," he said, noting that if a diversity program encourages a company to recruit a more-diverse staff, this could be helpful in defending some vicarious liability claims.

The mere presence of a diversity program, however, won't matter much to a court, he said.

This was the case with a recent suit against Amtrak, which the rail company agreed to settle earlier this month for $8 million. The suit, which sought class-action status, was filed in August 1998 in the U.S. District Court for the District of Columbia; it alleged that Amtrak discriminated against African-American employees.

Amtrak appointed a director of diversity one year prior to settling the suit. A diversity department, with a vp that reports directly to the company president was created in April, said a spokesman for National Railroad Passenger Corp., which operates as Amtrak, in Washington.

The new department will conduct seminars and workshops on diversity, and attendance will be mandatory for all 25,000 Amtrak employees. The department will also review and revise the company's application, interviewing and hiring practices.

Following court approval of the settlement, complaint procedures and an appeal board for review of disciplinary actions will be established. Amtrak will also commission a compensation review to identify and correct any discrepancies in pay that may have been racially motivated.

"Most importantly, that department will make sure there isn't even the perception of inequality at Amtrak in its hiring and administrative operations," said the spokesman. "It will ensure that company policy as it relates to anti-discriminatory policies are carried out thoroughly and accurately throughout the company."

But employers need to be aware that an improperly designed diversity program can create new hazards, said Mr. Goldman.

There is a potential for an employee or job candidate to bring a reverse-discrimination case, and that could subject a diversity program and hiring policies to scrutiny for any implications that could support a reverse bias claim, Mr. Goldman said. Careful wording that doesn't imply the use of quotas is essential for diversity programs to avoid such suits, he said.

"It's equally unlawful to say, 'We prefer to hire minorities, or any other protected class,'" Mr. Goldman said. "There's nothing wrong with setting a goal to create a diverse workplace, but if you get into quota selection, you're going to have problems."

In addition to potentially reducing liability, greater workforce diversity can give companies a competitive edge, said Mary-Ellen Rogers, CEO for Family Care & Workforce Diversity Consultants in Wethersfield, Conn. "I think there are companies that approach diversity because they are afraid of lawsuits and there are companies that are implementing diverse practices and policies because they see it as an opportunity."

From strengthening product development to finding the right marketing message, companies that embrace diversity can reap a bounty of benefits from these programs, she said.

Ms. Rogers recommends that diversity training programs be held at least annually, if not more frequently. She also encourages the use of humor to make discussion less combative.

LeBoeuf Lamb's Ms. Petrini, who also has conducted diversity training programs, said it is important for an employer to tailor its diversity program to meet the needs and the demographics of its workforce.

Carol Tait, a consultant with Watson Wyatt Worldwide in Washington, said diversity programs have changed since the time when companies first started to implement them.

"A lot of diversity programs in the late 1970s and 1980s were initiated as 'it's the right thing to do,'" but more companies are now realizing it also is a smart business move, she said.

In McDonald's Corp.'s Hartford, Conn., region, employees have access to McGenerations, a resource and referral service that caters to the diversity of its employees. Addressing the needs of a diverse workforce, such as child care, can affect the duration of employment for some crew members, said Robin Golightly, human resources manager for the region.

"Because of their socioeconomic level, they have a ton of issues on the personal front," she said of the company's restaurant crew workers. "In our industry, it's difficult to attract quality people and keep them."

In a squeezed labor market, addressing how a company deals with diversity is increasingly critical, said Ms. Tait.

"Organizations are looking at it as a three-legged stool," she said. "You're looking at representation on the board, you're still looking at the employee group, and also at your suppliers. It's a constant vigilance; continually listening to employees and the customer population."

At Monsanto Co., a St. Louis-based conglomerate, the need for diversity is integrated into its employee benefits, compensation, professional development and work/life programs, said Susan Ryan, director of diversity.

In fact, 50% of cash incentives paid to every "people manager" is factored, in part, on a diversity measure of his or her department, she said.

Ms. Rogers applauds such an approach. "When diversity programs are tied to pay and performance, you truly see a company that's putting power behind diversity," she said.

Some of Monsanto's diversity initiatives are corporatewide, but others, such as a program in a Luling, La., manufacturing plant, are localized. The Louisiana plant has its own diversity team and established a women's mentoring network, Ms. Ryan said. BI

Y2K

Continued from page 2

chief operating officer and managing director of crisis management.

Three factors—social, organizational and personal—help engender workplace violence, he said. The social factor involves such elements as a general culture of violence, while the organizational factor revolves around such matters as workers having to cope with downsizing and the accompanying increase in workloads that downsizing causes. The personal factor involves such traits as alcohol and drug abuse, he said.

As the millennium approaches, employers need to recognize the possible indicators of potential workplace violence among employees and to intervene as early as possible, said Mr. Stubblefield.

Employers should have crisis management plans in place to deal with potential problems, he said.

Retired Adm. William Crowe, former chairman of the joint chiefs of staff, former ambassador to the United Kingdom and currently a senior adviser at GlobalOptions, stressed the international terrorism exposure aggravated by the year 2000.

Now that the United States is the sole superpower, terrorists "are constantly seeking opportunities to hurt American interests and citizens," he said. There is a "distinct possibility" that the United States could be drawn into what he termed a "maelstrom" of terrorism made worse by terrorists' "fascination of starting a new century" with a series of outrages.

Thomas Ondeck, the consultant's managing director-marketing and strategic planning, warned his audience not to rely on the recently passed federal Y2K Act to provide much in the way of legal protection for corporations (*BI*, July 5).

"In reality, it does very little to protect against legal liability" because it doesn't apply to personal injury cases and places no limits on compensatory damages, he said. Instead, employers must form Y2K task forces charged with implementing a plan to mitigate potential losses from the computer coding problem, he said. BI

Motorola

Continued from page 1

ments often prompt complaints from older employees, who say changing plans can cause them to lose out on benefits, such as early retirement subsidies, for which they were nearing eligibility.

By contrast, all Motorola employees who began employment prior to July 1, 1999, will have the choice to either enroll in the PEP or remain in the current traditional plan. The new plan, which goes into effect July 1, 2000, will cover employees who begin on or after July 1, 1999.

In addition, when companies change the design of their pension plans, they often give employees short notice—sometimes as little as two months. That lack of notice can force an employee to make a rushed decision as to which plan makes most sense for him or her and, thus, can significantly affect the amount of benefits that will be received.

By contrast, each Motorola employee will have until April 1, 2000—about nine months after the company announced the benefit changes—to decide which plan to choose.

During that time, Motorola, along with Arthur Andersen L.L.P. in Chicago, will begin a comprehensive pension education program, including seminars and workshops, to help employees better understand the old and new plans.

In addition, Motorola is providing personalized statements with benefit projections under both plans and an Internet-based pension modeling program that will enable employees to project benefits under various assumptions.

"Hopefully, employees will make an informed decision. That is so critical," Mr. Dorazil said.

Compared to Motorola's traditional "backloaded" plan, the PEP offers more rapid benefit accruals during an employee's first years of employment, resulting in larger benefits for shorter-service employees and lower benefits than the current plan offers for employees who spend most of their careers with Motorola.

The traditional plan was designed in an era when there was a much greater expectation that the average employee would spend most, if not all, of his or her career at the company.

But in today's environment of increased job mobility, a pension plan under which benefit values begin to build only after many years of service is not very appealing to many employees, Motorola executives say.

"In the high-tech industry, individuals are so marketable, they are not likely to stay with one company for their entire career," said Sheila Forsberg, Motorola's director of global benefits strategy. With employees likely to move on after a few years, they are more interested in plans with faster benefit accruals, she said.

Michael Johnston, a consultant with Lincolnshire, Ill.-based Hewitt Associates L.L.C., which helped Motorola design the PEP, said: "With a PEP plan, you have large front-end benefit accruals. That is something employees see immediately."

A PEP allows a job-hopper to take his or her benefits along and roll the benefits into an IRA, for example.

The increasingly mobile workforce also led to another pension plan design change. While the traditional plan allows an employee to take benefits only as an annuity and no earlier than age 55, the PEP allows a terminating employee to take benefits at any age and as a lump sum.

That will allow a job-hopper to take his or her benefits along and, for example, roll the benefits into an individual retirement account or, if permitted, into a new employer's pension plan.

"Portability is something employees have been asking for," Ms. Forsberg said.

The PEP also features an easy-to-understand benefit formula. Under the plan, an employee is credited with a percentage each year, with that percentage based on years of service. For example, each year of service for the first five years of employment receives a 4% credit, while the annual credit for between five and 10 years of service is 5%, and a 6% annual credit is provided for 10 to 15 years of service. A 7% annual credit is provided for more than 15 years of service.

To determine an employee's benefit, the credits would be added up and multiplied by his or her final average pay. The result would be the employee's lump-sum benefit. An employee will have the option of converting the lump sum into an annuity.

Because the PEP benefit formula is easier to understand than the complicated formula used in the traditional plan, employees will have more appreciation for the pension plan, Ms. Forsberg said.

Apart from the defined benefit plan changes, Motorola is improving its 401(k) plan. It will match employees' salary deferrals on the first 3% of pay and will match 50% of deferrals on the next 3% of pay. Currently, Motorola matches 100% of salary deferrals on the first 1% of pay and 50% on the next 2% of pay.

"We wanted to make the plan more robust" to make it more competitive, Mr. Dorazil said.

In addition, employees in the 401(k) plan, which has about $6 billion in assets, will get five new investment options. These options will include an international equity fund, a small-company equity fund, a midsize company equity fund, a long-term bond fund and a balanced fund that invests more heavily in equities compared with an existing balanced fund. The existing balanced fund also will continue to be offered to employees as well as a large cap fund, a Motorola stock fund and a short-term bond fund.

"Participants have asked for a wider range of investment options," Ms. Forsberg said.

Motorola executives say the changes, taken together, are intended to be cost-neutral. BI

S&P

Continued from page 2

reinsurer. The special purpose vehicle then sells bonds in the capital markets to back a reinsurance policy issued to the insurer. If a hurricane or earthquake produces losses above the reinsurance policy's attachment point, the special purpose reinsurer would pay the losses from funds that would otherwise go to its bondholders, putting the bondholders' interest, principal or both at risk.

Special purpose vehicles have largely been set up offshore for tax and regulatory reasons, though Kemper Insurance Cos. earlier this year formed a Delaware company, Domestic Inc., to issue notes backing $100 million in Midwest earthquake coverage (*BI*, March 29).

S&P issued its first rating on a catastrophe bond deal in 1996; in 1997, the market saw seven bond transactions totaling about $1 billion, and last year there were another eight deals totaling the same amount, according to an S&P report, "Modeling Catastrophe Reinsurance Risk: Implications for the Cat Bond Market."

So far this year, S&P has reviewed four bond issues, including Kemper's Domestic; an issue providing southeastern U.S. hurricane cover to USAA Group of San Antonio; one providing cover on a portfolio of treaties written by Gerling Global Reinsurance Corp.; and one providing earthquake coverage directly to a Japanese corporation without insurer involvement.

The market may see as many as a dozen cat bond deals completed this year, said Patricia McWeeney, an S&P director in New York.

The interest in the bonds so far has been driven partly by the rising frequency of multibillion-dollar hurricane, earthquake and other storm losses, the S&P study found.

The number of major catastrophe losses since 1989 is nearly double the total of the preceding two decades, the study shows. While the insurance industry saw 11 large hurricane, earthquake, tornado and flood losses between 1970 and 1988, the number jumped to 19 such events in the seven years between 1989 and 1995.

In addition, the seven most expensive catastrophes of the past three decades—ranging from $3.4 billion to $16 billion in insured losses—have all occurred since 1989. These included hurricanes Andrew and Hugo and the Northridge and Loma Prieta earthquakes.

With ongoing property development in catastrophe-prone areas, the insurance industry's exposure to huge losses is only increasing, the study notes.

Analyzing data generated by Swiss Reinsurance Corp., S&P calculated that a $1 billion hurricane, earthquake or other catastrophe loss is likely to occur at least once a year, and a $3 billion loss is likely to hit more frequently than every three years. A $15 billion loss, such as Hurricane Andrew, is likely to come roughly every 25 years, according to the survey.

S&P used 1992 dollars in the calculations, and the frequency of cat losses actually would be somewhat higher if current dollars were used, Mr. Parisi noted.

S&P also calculated that the probability of a $1 billion loss occurring in any given year is about 68%, while the probability of a $3 billion loss drops to about 31%. The chance of a $15 billion loss in a given year, meanwhile, is about 4%.

Focusing only on windstorms, the study found that a storm packing winds of 75 mph is likely to occur slightly more often than once a year, while storms with 125 mph winds return every 3.6 years and storms with 150 mph winds return every 10.7 years.

The probability of a 75 mph storm occurring in any given year is about 82%, while the probability of more-severe storms drops to about 9% for a 150 mph storm, according to S&P.

While insurers have recognized the growing exposure, the development of the catastrophe bond market has been slow, in part due to the abundant capacity in traditional reinsurance markets.

Worldwide consolidation of reinsurers is likely to intensify ceding insurers' hunt for alternative sources of capacity, though, S&P predicts.

Bond deals, which have tended to be somewhat more expensive than traditional reinsurance, may look more attractive if reinsurance markets begin to harden, S&P officials say.

Several of the ceding companies that already have formed bond deals have done so, in part, to become familiar with the structure in preparation for a possible hard reinsurance market, Ms. McWeeney said. BI

Updates

Tobacco companies lose suit

Continued from page 2

Richard Daynard, a law professor at Northeastern University in Boston and chairman of the Tobacco Products Liability Project, said the decertification argument already has been heard and failed in the case. "They're going to appeal. I'm not sure they can move to decertify any more; that issue may be lost in Florida."

Mr. Daynard said the case is important because there are legal doctrines that could block the tobacco companies from using in other states the arguments that failed in the Engle case.

Both sides in the case were barred by order of Circuit Judge Robert Kaye from commenting on the jury verdict.

Meanwhile, a state court jury in Baton Rouge, La., on Friday ruled against the family of deceased smoker Robert C. Gilboy. Their lawsuit charged that his death from emphysema was the result of negligent manufacture and distribution of cigarettes by R.J. Reynolds Tobacco Co. and Brown & Williamson Tobacco Co.

PMSC buys DORN Technology

LIVONIA, Mich.—Insurance software and systems vendor Policy Management Systems Corp. has acquired DORN Technology Group Inc., a self-insurance risk and claims management system vendor and the developer of a non-proprietary claims data standard.

PMSC, a 25-year-old publicly traded company with 6,000 employees and more than $600 million in annual revenues, completed the acquisition June 30. DORN, which has a staff of 46 and annual revenues exceeding $8 million, will retain its name and operate as a separate business unit of PMSC. DORN founder Mark E. Dorn, president of the Livonia, Mich.-based company, will remain with the company.

Former dissident made chairman

LOS ANGELES—Paul R. Dupee Jr., a former dissident shareholder of Los Angeles-based Maxicare Health Plans Inc., has been named the HMO's chairman in a move some believe could pave the way for its sale.

Last year, Maxicare, which has 480,000 members in California, Indiana and Louisiana, became locked in a proxy fight with Mr. Dupee. At the time, Mr. Dupee said he wanted to enlarge the company's board by naming directors who would consider a sale.

Both sides filed litigation against one another, which eventually led to a settlement under which Maxicare elected Mr. Dupee to its board and agreed to reimburse him for certain expenses (*BI*, Aug. 10, 1998).

Mr. Dupee's election closely follows the June retirement of Peter J. Ratican, the company's chairman, president and CEO. A company spokesman said, however, that there was no connection between the two events. The spokesman would not say whether Mr. Dupee's election means the company will be sold.

Mr. Dupee's election "definitely is surprising," said Arun N. Kumar, a managing director at Standard & Poor's Corp. in New York. "We'll have to see what kind of direction he wants to take the company in if, in fact, he wants to sell it."

Briefly noted

General Motors Corp. will appeal a **$4.9 billion verdict**, believed to be the largest-ever personal injury award, handed down against the automaker Friday in a case involving six people severely burned after their 1979 Chevrolet Malibu's gasoline tank exploded after a 1993 rear-end collision in Los Angeles. A Superior Court jury in Los Angeles awarded the six $107 million in compensatory damages and $4.8 billion in punitive damages for injuries suffered. The plaintiffs charged GM knew the gas tank design was unsafe but chose not to pay for a recall. GM claims the design met or exceeded federal safety standards. . . .Nicholas Mark Cooke has resigned as president and chief executive officer of **Stirling Cooke Brown Holdings Ltd.** but will remain chairman of the board. Len Quick, who has headed U.S. operations, will take over as interim CEO while an executive search firm looks for a new CEO. . . .**Allstate Corp.** is acquiring American Heritage Life Investment Corp. for $1.1 billion in cash, stock and assumption of debt. AHLIC, based in Jacksonville, Fla., specializes in marketing life, disability and health insurance to employees of small companies in their workplaces. . . .**Berkshire Hathaway Inc.'s** National Indemnity Co. unit has written a $300 million five-year catastrophe second-event index cover for AXA Re Group, according to Guy Carpenter & Co., AXA Re's broker. . . .**Lloyd's Council** and the Financial Services Authority have approved changes to how the market disburses dividends from underwriting profits, after an uproar from members (*BI*, June 14). Lloyd's originally calculated that more than £100 million ($168.3 million) of names' 1996 profits would have to be withheld from distribution to cover liabilities on open syndicates. In a letter to members last week, Lloyd's Chairman Max Taylor wrote that refinements to the test mean that less than £50 million ($84.2 million) will be withheld. . . .Massachusetts Gov. Paul Cellucci last week proposed a state **prescription drug plan** for the elderly. Under the proposal, retirees paying a monthly premium of about $50 would be reimbursed for all prescription drug costs exceeding $1,500 annually. Low-income retirees would not have to pay a premium, and the plan would pay the first $750 of bills, with retirees paying the next $750 and the plan covering everything above that. . . .Prompt action in extinguishing a fire and evacuating people from the **Norwegian ferry Prinsesse Ragnhild** after an engine fire last Thursday means claims likely will fall well below insured levels. The 1981-built ferry, owned by Color Line of Norway, is insured for 522 million Norwegian kroner ($65.8 million). . . .Financial modernization legislation passed by the U.S. House of Representatives earlier this month would allow **mutual insurance companies** to relocate from states without mutual holding company laws to states that have such laws without prior approval from their current regulators. The provision was not included in a Senate financial modernization bill passed in May. . . .The Massachusetts Supreme Judicial Court last week struck down an executive order issued by Boston Mayor Thomas Meninos extending **health benefits to domestic partners** of city workers.

Shareholder

Continued from page 1

plaintiffs to show either "simple recklessness" or a motive to commit fraud and the opportunity to do so.

The 9th Circuit, in contrast to the federal appeals court in New York, found that Congress intended to elevate the pleading requirement above the 2nd Circuit's standard, which previously was considered the nation's toughest, observers said.

The ruling in *Edmund J. Janas vs. Edward R. McCracken et al.* stems from the 9th Circuit's review of two cases dismissed by a Northern California federal district court against Silicon Graphics and several of its officers.

The appeals court held that, before a case can proceed, plaintiffs must plead in "great detail" that a defendant intended to defraud shareholders.

In the decision, Judge Joseph Sneed wrote that "a heightened form of recklessness, i.e., deliberate or conscious recklessness, at a minimum, is required to establish a strong inference of intent." Otherwise, the case will be dismissed, Judge Sneed wrote.

To reach its decision, the court reviewed the legislative history of the Private Securities Litigation Reform Act. The court noted that Congress was "prompted by significant evidence of abuse in private securities lawsuits." Congress intended to reduce the volume of such litigation by preventing plaintiffs from asserting baseless claims, Judge Sneed wrote.

The reform act was a response to complaints from high-tech companies that they are frequent targets of frivolous lawsuits seeking to extort settlements. These companies' rates for D&O coverage have continued to rise despite softening in recent years of the commercial insurance market.

In 1995, Silicon Graphics' D&O liability insurer fled Silicon Valley's high-tech market, said Sandra Escher, vp and general counsel for the Mountain View, Calif.-based computer company. Ms. Escher declined to name the insurer.

"It was part of a trend where a number of insurance companies just decided they didn't want to be in that business in that market, and their reason was directly related to the prevalence of the litigation," Ms. Escher said.

The appellate court's decision is consistent with Congress' objectives in passing the reform act, she said. Silicon Graphics became an early test case because the company quickly saw the reform act as an opportunity to openly provide guidance to the public about its future and industry trends, she said. However, such forward-looking statements provide fodder for shareholder claims when experience differs from a company's forecasts.

The ruling by the 9th Circuit Court upholds dismissal by a U.S. District Court judge of consolidated class-action litigation filed in 1996 against Silicon Graphics. Purchasers of the company's stock claimed that share value was inflated by false statements made by corporate officers and directors. Shareholders also alleged insider trading.

Plaintiffs and defense attorneys said they expect the 9th Circuit's ruling will make it harder to bring lawsuits alleging securities fraud.

It will be more difficult, in part because the standard of "conscious recklessness" is a new term that has not been defined, said Paul F. Bennett, a partner at Gold Bennett & Cera, a San Francisco law firm that represented plaintiffs in the suit against Silicon Graphics.

The majority of the securities lawsuits are filed in California and New York, according to the Stanford Securities Class Action Clearinghouse, an Internet site maintained by Joseph Grundfest, a Stanford University law professor and former SEC commissioner. The site, located at securities.stanford.edu and run by the Robert Crown Law Library of Stanford University School of Law, tracks information about shareholder-related lawsuits nationwide.

The 9th Circuit decision came from a 2-to-1 panel split, insurers noted. One of the two concurring judges actually is a district court judge on special assignment, and plaintiffs attorneys have considerable financial motivation to seek an appeal, the insurers added.

Some "more-aggressive carriers" might conclude that the ruling will lead to a reduction in risk and may lower rates, said Kevin LaCroix, president of Genesis Professional Liability Underwriters in Beachwood, Ohio. But uncertainty remains, and Mr. LaCroix said the decision is just one battle in an ongoing war.

"If it stands, it clearly stands as one of the most important developments in the securities litigation arena in years," Mr. LaCroix said.

Ultimately, the U.S. Supreme Court likely will have to rule "on this very, very important issue," said Nick Conca, first vp and claims counsel for Reliance National Insurance Co.'s Financial Products Division in New York.

"We have the 9th and the 2nd Circuits taking fairly conflicting positions," he noted. "So we certainly are not going to change our underwriting guidelines or our pricing."

Defense costs for the lawsuits remain high, and if plaintiffs attorneys are forced to reduce the volume of cases they file, then they are likely to fight harder for higher settlement amounts, Mr. Conca said.

But other observers say the ruling could lead to the dismissal of more cases and downward pressure on settlement amounts.

"If a case that is up for settlement is not as strong as (the Silicon Graphics case), the defense lawyers will have a strong argument that this case will not survive," Mr. LaCroix said.

Mr. Vanyo, the attorney who represented Silicon Graphics, said the split in the appellate courts does not diminish the impact of the 9th Circuit Court's ruling.

"I have never seen a lower court say, 'I'm not going to give that case as much weight because there was a dissent,' so that is an insignificant consideration," he said.

Mr. Vanyo predicted the Supreme Court will take up the issue, because it has yet to define the standard for establishing criminal intent in securities lawsuits. In addition, other federal district courts should be ruling soon on the issue, and their standards could vary, he said.

In fact, just days after the 9th Circuit issued its ruling, the 6th U.S. Circuit Court of Appeals in Cincinnati introduced yet another standard when it dismissed shareholder claims against Comshare Inc., a software maker based in Ann Arbor, Mich.

To survive a motion to dismiss, plaintiffs must plead sufficient facts to create a strong inference showing defendants acted with the requisite state of mind, the 6th Circuit ruled.

The 6th Circuit's standard is not as favorable to defendants as the 9th Circuit's ruling, but it is still helpful, Genesis' Mr. LaCroix said. The 6th Circuit, however, is not as influential as the 9th or the 2nd circuits because far fewer of the cases are filed there and because the 9th and 2nd are viewed as more prestigious, he said.

There is a potential for seeing fewer lawsuits as a result of the 9th Circuit's ruling, Mr. Vanyo said. He also expects there will be greater lag time between the period when a company releases unfavorable earnings news and when lawsuits are filed, as plaintiffs attorneys will have to conduct lengthier investigations.

Immediately after the passage of the Reform Act, that time delay lengthened. But, more recently, plaintiffs attorneys have reverted to filing the suits immediately after earnings news is released, then gathering evidence through discovery, attorneys said.

The volume of lawsuits, which dropped after the Reform Act was passed, also has picked up again, insurers and attorneys said. Last year was a record year, with about 250 class-action securities lawsuits filed nationwide, according to Mr. Grundfest's Web site.

As of March, about 700 of the lawsuits filed in state and federal courts were waiting to be resolved, according to information on the Web site. The average settlement value varies between about $6.1 million and $10.6 million, according to the site.

•

Edmund J. Janas vs. Edward R. McCracken, 9th U.S. Circuit Court of Appeals; No. 97-16204.

BI Insurance Index

2,200
2,150
2,100
2,050
2,000
1,950
1,900
1,850
1,800
1,750
1,700
5/21 5/28 6/4 6/11 6/18 6/25 7/2 7/9

Base=100 on Dec. 29, 1978
Source: *Nordby International Inc.* (nordby.com) Boulder, Colo.

PCS catastrophe options

As of July 9

Call spread	Price bid/ask
National Annual 1999	
40/60	15.0/19.0
60/80	10.0/16.0
80/100	5.0/—
150C	5.3/9.0
200/250	3.6/6.0
Southeastern September 1999	
40/60	2.8/—
60/80	2.3/—
80/100	2.2/—
Eastern September 1999	
40/60	3.3/—

Call spread	Price bid/ask
California Annual 1999	
60/80	0.8/1.8
80/100	0.6/1.6
150C	1.2/1.5
Western Annual 1999	
80/100	0.8/1.9
Midwest June 1999	
10/20	8.7/9.7
Florida Sept./Dec. 1999	
100/150	1.8/—

Total volume: 0 Total open interest: 10,022

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

Source: Chicago Board of Trade

British Issues

Companies	Price pence	P/E	Div. pence	Yield %	52-week high-low
Gdn Royal Exch	360	5.6	4.3	1.2	423-227
Legal & Gen	159	20.1	3.6	2.8	237-158
Royal & Sun	583	20.5	23.0	4.9	633-455
Brokers					
Lmbrt Fenchurch	82	8.2	4.2	6.3	94-58
JLT	249	11.2	12.0	6.1	253-166

Note: Prices are July 9 closings; other numbers from July 8.

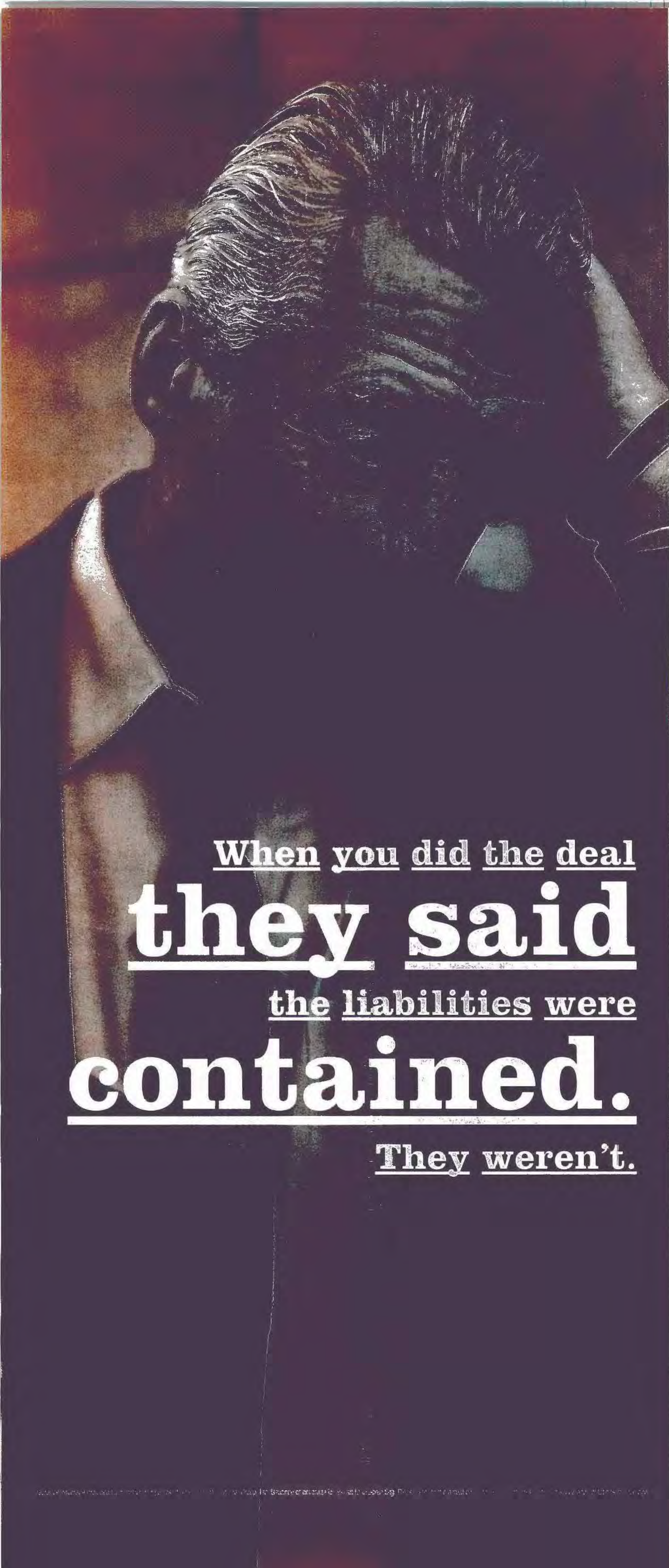
Source: *Nordby International Inc.*(nordby.com) Boulder, Colo.

BI Industry Stock Report JULY 5, 1999, THROUGH JULY 9, 1999

		Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)
BROKERS							
Aon Corp.	NYS	42.44	6.09	13.55	49.50	32.19	968
E.W. Blanch Holdings Inc.	NYS	70.00	4.67	49.93	70.25	34.88	229
Gallagher Arthur J. & Co.	NYS	51.00	4.48	16.57	51.00	34.88	92
Hilb, Rogal & Hamilton	NYS	21.00	-2.61	12.75	22.50	15.56	47
Kaye Group Inc.	NDQ	8.00	6.67	10.34	8.38	5.00	4
Marsh & McLennan	NYS	79.13	6.75	33.83	81.50	43.38	3036
Brown & Brown	NYS	38.81	7.44	11.09	42.50	29.31	36
BROKERS	AVERAGE		4.57	22.42			
INSURERS/REINSURERS							
ACE Ltd.	NYS	26.19	-5.42	-19.89	42.63	24.38	4050
Accel International Corp.	NDQ	1.50	-7.69	-50.00	3.38	1.50	16
Acceptance Insurance Cos.	NYS	14.88	-2.06	-25.16	24.81	12.06	59
AEGON N.V.	NYS	73.44	-5.17	-39.77	130.13	69.25	2242
Aetna Life & Casualty	NYS	88.63	-0.35	11.04	99.88	60.19	3206
AFLAC Inc.	NYS	46.63	4.78	5.97	56.75	25.13	2413
Allmerica Financial Corp.	NYS	64.38	5.75	13.69	75.25	38.38	517
Allstate Corp.	NYS	37.31	5.29	-3.08	52.38	34.75	11945
AMBAC Indemnity Corp.	NYS	59.00	5.12	-1.56	65.94	40.88	511
American Bankers Ins.	NDQ	54.44	0.23	14.01	60.94	30.13	1824
American Financial Group	NYS	34.63	1.28	-15.93	44.88	30.50	176
American General	NYS	80.81	13.12	3.27	80.81	52.38	3097
American Heritage Life Ins.	NYS	31.06	29.43	29.09	31.06	18.63	1974
American Indemnity/Fin'l	NDQ	14.38	0.88	35.29	15.38	10.25	#N/A
American Intl Group	NYS	120.06	-0.41	23.30	134.00	64.88	6171
American Safety Insurance	NYS	8.31	-3.62	-12.50	12.50	6.63	24
Argonaut Group	NDQ	25.44	-3.78	5.99	33.13	21.25	61
AXA-UAP Group	NYS	64.44	8.18	-9.96	80.25	38.25	205
Baldwin & Lyons Inc.	NDQ	22.75	-4.21	-2.67	26.00	18.50	40
Berkley W.R. Corp.	NDQ	26.88	7.23	-20.37	40.63	23.50	544
Berkshire Hathaway Inc.	NYS	71000.00	2.60	3.95	81100.00	57000.00	2
Capital RE Corporation	NYS	15.50	1.64	-20.77	38.00	11.94	504
Capitol Transamerica Corp.	NAS	13.75	4.76	-22.26	22.75	12.50	84
Centris Group Inc.	NYS	10.25	3.80	9.33	14.06	7.94	54
Chartwell Re	NYS	19.00	-1.94	-18.28	30.94	13.25	711
Chubb Corp.	NYS	68.75	-1.17	5.87	88.81	54.00	2149
CIGNA Corp.	NYS	91.50	4.80	17.68	98.63	57.19	2201
Cincinnati Financial Corp.	NYS	37.50	0.33	5.08	41.88	30.50	802
Citigroup	NYS	48.94	11.70	45.18	51.75	19.00	32081
CNA Financial Corp.	NYS	39.56	-1.71	0.64	46.88	33.00	302
CNA Surety	NYS	15.38	-0.40	2.93	16.00	10.19	69
EMC Insurance Group Inc.	NDQ	12.94	10.11	1.47	14.63	9.00	98
ESG Re Limited	NDQ	14.63	2.63	-26.18	23.88	12.75	193
Enhance Financial Services	NYS	19.94	0.63	-34.09	37.31	17.31	1051
Everest Reinsurance	NYS	32.00	2.20	-12.78	43.50	28.75	588
Executive Risk Inc.	NYS	84.69	-1.09	57.19	92.88	35.50	237
EXEL Ltd.	NYS	54.63	-3.85	-23.67	83.25	53.63	1468
Fremont General Corp.	NYS	18.31	-2.01	-24.09	30.06	16.50	515
Frontier Insurance Group	NYS	15.19	2.10	21.50	24.00	10.88	499
Gainsco Inc.	NYS	5.63	34.33	-10.89	8.06	3.94	244
Harleysville Group	NDQ	20.38	0.31	-20.10	27.25	17.00	81
HSB Group Inc.	NYS	40.94	-0.46	1.87	59.56	34.75	174
HCC Insurance Holdings	NYS	24.94	18.40	47.23	25.06	16.00	816
ING Groep N.V.	NYS	53.75	1.18	-11.89	76.75	36.06	341
IPC Holdings Ltd.	NDQ	20.06	1.58	-11.81	30.63	17.38	105
Hartford Financial Services	NYS	60.63	5.43	8.62	66.44	37.63	2203
LaSalle Re Holdings Ltd.	NYS	16.81	-7.88	-18.48	39.13	11.63	160
Lincoln National	NYS	57.00	11.90	37.56	57.00	33.50	2985
MAIC Holdings Inc.	NYS	28.63	-1.29	-10.55	33.13	23.25	40
Markel Corp.	NYS	182.00	1.64	0.97	193.00	132.00	24
MBIA Insurance Group	NYS	66.56	3.80	0.38	80.13	46.06	1061
Meadowbrook Insur. Group	NYS	13.31	-0.47	-18.39	31.50	12.31	52
MMI Cos. Inc.	NYS	15.75	7.23	-5.62	23.00	13.75	71
Mutual Risk Mgmt. Ltd.	NYS	32.75	-6.43	-13.67	43.25	25.38	1103
Navigators Group	NDQ	15.38	4.24	0.82	19.50	13.25	13
NYMagic Inc.	NYS	15.25	-4.69	-26.95	28.63	12.00	28
Ohio Casualty Corp.	NDQ	36.19	-3.50	-12.01	47.88	33.75	382
Old Republic Int'l	NYS	16.63	-2.21	-22.45	31.25	16.63	2266
Orion Capital Corp.	NYS	40.75	20.74	3.99	59.25	27.56	1600
Partner Re Ltd.	NYS	38.13	1.84	-15.63	51.88	33.63	263
Penn-America Group Inc.	NYS	10.00	-1.23	8.11	13.38	8.13	#N/A
PMA Capital Corporation	NDQ	19.88	-3.93	1.60	22.25	16.63	40
Philadelphia Cons. Holding	NDQ	23.25	-4.37	9.41	25.50	18.63	238
PXRE Corp.	NYS	19.00	6.29	-24.75	30.50	16.00	180
Reliance Group Holdings	NYS	7.00	0.00	-45.89	19.81	6.25	1592
ReliaStar Financial Corp.	NYS	45.75	11.25	2.23	52.44	29.00	1844
RenaissanceRe Holdings Ltd.	NYS	36.50	-1.02	1.04	48.31	30.00	80
Risk Capital Holdings	NDQ	13.75	-10.57	-34.91	25.50	12.00	173
RLI Corp.	NYS	37.25	-0.33	11.61	45.63	27.88	13
St. Paul Companies	NYS	29.13	-10.38	-16.79	43.63	28.06	8218
SCOR	NYS	49.63	-3.29	-23.65	72.75	48.00	17
SAFECO Corp.	NDQ	43.75	-0.28	2.94	49.38	36.69	2101
SCPIE Holdings Inc.	NYS	30.69	4.47	2.08	35.50	23.69	NA
Seibels Bruce Group	NDQ	5.63	12.50	60.71	7.28	2.69	38
Selective Ins. Group	NDQ	22.13	13.46	9.26	23.00	16.69	467
Terra Nova Ins Co. Ltd	NYS	26.75	0.47	9.74	35.00	21.25	84
Tokio Marine & Fire	NDQ	57.13	2.01	-2.97	62.88	39.00	134
Torchmark Corp.	NYS	35.25	6.62	1.44	47.19	30.69	1369
Transatlantic Holdings	NYS	75.00	-0.74	-0.83	94.50	72.50	93
Travelers Property Casualty	NYS	39.44	0.80	28.78	45.75	24.13	651
Trenwick Group Inc.	NDQ	24.69	-1.25	-21.94	40.00	24.50	171
Unico American Corp.	NDQ	10.19	0.00	-11.65	15.25	8.63	76
United Fire & Casualty	NDQ	26.00	1.46	-21.88	41.50	22.25	32
Unitrin	NDQ	39.63	-0.47	11.82	42.38	27.88	675
UNUM Corp.	NYS	56.19	-3.13	-6.26	62.50	41.75	2135
Vesta Insurance Co.	NYS	4.63	-8.64	-19.57	22.13	3.38	300
Zenith National Ins.	NYS	25.94	4.53	12.16	28.50	20.31	43
INSURERS/REINSURERS	AVERAGE		2.37	-2.53			
HEALTH MAINTENANCE ORGANIZATIONS							
Foundation Health Systems Inc.	NYS	15.94	0.00	44.89	26.88	5.88	1521
Humana Inc.	NYS	13.13	-0.47	-30.69	31.69	10.06	2228
Oxford Health Plans	NDQ	14.94	-12.13	6.70	24.25	5.81	6251
Pacificare Health Sys.	NDQ	65.25	-9.14	-8.74	100.38	55.63	1708
Safeguard Health Enter.	NDQ	4.00	33.33	12.28	7.19	2.34	41
Sierra Health Services	NYS	14.31	-5.37	-31.44	25.13	10.44	240
United HealthGroup	NYS	60.56	0.21	35.90	70.00	29.56	1944
Wellpoint Health Networks	NYS	85.13	-0.29	-0.87	97.00	50.50	1948
HMOs	AVERAGE		0.77	3.50			
ALL COMPANIES	AVERAGE		2.57	7.80			

Top advancing issues: Gainsco Inc., Safeguard Health Enter., American Heritage Life Ins. Leading decliners: Oxford Health Plans, Risk Capital Holdings, St. Paul Cos. Most active issue: Citigroup. The *BI* index increased 4.1%; the Dow Jones 30 Industrials gained 6.1%; the S&P 500 jumped 6.7% and the NYSE Composite increased 5.5%. Average P/E: Brokers, 19.9; Insurers/reinsurers, 19.4; HMOs, 21.9.

Source: *Nordby International Inc.* (nordby.com), Boulder, CO



Mergers and Acquisitions services

YOU did your homework. Everything was legal and aboveboard. But somehow, something went wrong.

This is the real world companies live in. And if your company is not properly covered, the world becomes an ugly place.

How can AIG help? Take our Mergers and Acquisitions services. Few scenarios demand the speed and creative thinking that an M&A deal does. At AIG, we know that in any deal there is always a surprise, and it is never a good one.

We have the resources and industry-specific knowledge that allow us to guide you through most any M&A issue you face. So whether a deal is known or merely being contemplated, our M&A team is prepared to help minimize existing and potential liabilities to make deals happen.

And because our reputation is solidly backed by Triple-A-rated financial strength, you can rest assured that the AIG Companies will be there for you.

Who insures you?

No matter what the risk, no matter where the risk, the AIG Companies possess the experience and sophistication to help protect you from the unexpected.

Call your broker or e-mail m&a@aig.com to find out more about our Mergers and Acquisitions division.

What's the worst that could happen? That's what we think about every day.

AIG

WORLD LEADERS IN INSURANCE AND FINANCIAL SERVICES

ALL FORMS OF COMMERCIAL INSURANCE • PERSONAL AUTO AND HOMEOWNERS INSURANCE • LIFE, ACCIDENT AND HEALTH INSURANCE • RETIREMENT PRODUCTS AND MUTUAL FUNDS THROUGH SUNAMERICA • WWW.AIG.COM