

Business Insurance

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

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Tenet agrees to lobby Texas to open doctor review records

SANTA BARBARA, Calif.—As part of a unique settlement of a lawsuit against a Texas hospital it owns, Tenet Healthcare Co. has agreed to advocate that the Texas' Legislature consider changes to laws that keep secret the deliberations of doctor peer-review panels.

Tenet, a Santa Barbara, Calif.-based hospital operator, also will pay the plaintiffs \$9.5 million to settle the suit, which accused the hospital's former owner of contributing to the death of a 20-year-old female patient.

See Updates on next page

Employers find onsite clinics a good remedy for medical woes

By ROBERT KAZEL

CHILLICOTHE, Ohio—In a small town where managed care still is a futuristic idea, the Mead Fine Paper Corp. grew tired of doctor shortages and painfully high health care costs and set out to solve the problem.

The Mead Family Medical Center, built not far from the Chillicothe, Ohio, paper mill that employs 2,600 area residents, has been open seven months and now serves 12,000 workers, relatives and retirees. The clinic-pharmacy cost about \$2 million to build, but Mead is expecting annual savings of \$1.1 million on its health care costs after the first year, said Amber Garwood, medical center manager. Drug costs alone have dropped to \$25,000 a month from \$60,000 for Mead, a unit of Dayton, Ohio-based Mead Corp.

At a time when managed care premium increases are generally accelerating, some self-insured employers are looking anew at an idea that gained attention in the early 1990s: employer-owned health centers located either at the plant site or nearby that practice family medicine at nominal cost to employees.

Companies owning such centers include Goodyear Tire & Rubber Co. in four states; USX-U.S. Steel Group in Merrillville, Ind.; American Marine Corp. in Fond du Lac, Wis.; Bethlehem Steel Corp. in Bethlehem, Pa.; Quad/Graphics Inc. in Pewaukee, Wis.; and Adolph Coors Co. in Golden, Colo.

To contractors that manage and staff corporate clinics, these contracts represent an opportunity for lucrative long-term profits at a time when traditional managed care is rising in cost. Although analysts are skeptical that an upswing in managed care rates would prompt many companies to fend for themselves with mortar and shingles, contractors report a consistent level of interest among buyers.

See Clinics on page 21



PHOTO: COURTESY OF CORPORATE HEALTH DIMENSIONS

Employer-owned health care centers are getting a new look from some companies in the 1990s.

New tax incentives for IRAs

But legislators decline to extend more breaks to 401(k) plans

By JERRY GEISEL

WASHINGTON—With Congress poised to give individual retirement accounts new tax breaks, employers will have to do an even better job of communicating the advantages of 401(k) plans to keep up participation levels.

Tax bills passed by the Senate and the House are chock-full of provisions that would make it easier for employees to gain access to funds they have contributed to IRAs without being smacked with tax penalties. The legislation also would give millions of people—specifically the spouses of higher-income employees covered by pension plans—the ability to make tax-deductible IRA contributions.

While some of the proposed IRA tax breaks may be cut back as congressional conferees try to iron out differences in the two bills, the betting is that many of the breaks will remain because of a long-standing congressional interest in boosting retirement savings.

"There is a strong belief among

many members of Congress that something has to be done to encourage the personal savings rate," said Stuart J. Brahs, vp-federal government relations with The Principal Financial Group in Washington.

The Clinton administration, though, has expressed concerns about the IRA provisions, especially those relating to IRAs with deferred tax breaks.

The administration believes these so-called back-loaded IRAs would reduce tax revenue too much while disproportionately benefiting higher-income taxpayers.

The popularity of IRAs would be boosted by:

- Provisions in both the Senate and House bills that would exempt the current 10% penalty tax on pre-retirement distributions from tax-deductible IRAs if

the money is withdrawn to pay for higher educational expenses, such as a child's college tuition. The Senate bill also would waive this penalty for up

Giving IRAs a new shine

The Senate and House tax bills would give new tax breaks to individual retirement accounts.

Provision	Senate	House
Raise income limits for IRA eligibility for employees covered by employer pension plans	✓	
Waiver of 10% early distribution tax on deductible IRAs for first home purchase and educational expenses	✓	✓
Penalty- and tax-free withdrawals of contributions made to non-deductible IRAs for first home purchase	✓	✓
Allow tax-deductible IRA contributions for non-working spouse even if employee is covered by a pension plan and has high income	✓	

GRAPHIC BY JOHN HALL

to \$10,000 in funds withdrawn to pay for the purchase of a first home.

See IRAs on page 16

NAIC reforming accreditation

Proposal would regulate how new standards are added to program

By MEG FLETCHER

KANSAS CITY, Mo.—The adoption of future accreditation requirements would become more open and deliberative under proposals from the National Assn. of Insurance Commissioners.

In some cases, requirements would not be adopted until after a three-year comment period.

Risk management and insurance groups offered tentative support for the proposed changes.

The seven-page detailed proposal by the NAIC's Financial Regulation Standards and Accreditation Subcom-

mittee are designed to ensure that program changes are made at a manageable pace, and not the frenetic one of the early 1990s, when the program

NAIC

was introduced, according to regula-

tors and industry observers.

That fast pace was prompted by the NAIC's urgency to raise the level of state solvency regulation and forestall a heightened congressional interest in federal regulation of insurance that followed several insurer insolvencies in the late 1980s.

However, some state legislators, regulators and insurance industry representatives opposed the NAIC's constant imposition of new requirements. Some saw the NAIC as improperly forcing states to quickly adopt new model laws or lose the accredited status of their insurance departments.

That environment prompted several states, such as New York, Texas and Vermont, to attempt legislative restraints on the NAIC's activities. Ultimately, however, every state complied but New York, which lost its accreditation in 1993 after state lawmakers refused to adopt new standards.

See NAIC on page 16

Insurers lose bad-faith case

N.J. ruling could set precedent in pollution cases: Attorney

By GAVIN SOUTER

SOMERSET, N.J.—A New Jersey court decision awarding punitive damages to a policyholder for insurers' bad faith in handling environmental claims could set a precedent for similar cases in the state.

"The ruling relates to claims-handling procedures that date back a number of years, and if the insurance carriers were employing the same procedures in other claims, the bad faith could already be established" by the New Jersey Superior

Court ruling, said Michael J. Geiger, an attorney at Hanoach Weisman in Roseland, N.J., who represented Princeton Gamma-Tech Inc. in the case.

The primary insurers include ITT Hartford Group Inc. of Hartford, Conn.; North River Insurance Co., a Morristown, N.J.-unit of Crum & Forster Insurance Cos.; and Federal Insurance Co., a unit of Chubb Corp. in Warren, N.J.

The insurers failed to investigate the claim properly before they denied coverage and should cover the

claims and pay punitive damages to Princeton Gamma-Tech, Superior Court Judge Robert E. Guterl ruled last month.

Hearings are scheduled for later this year so the judge can decide on the amount of compensatory and punitive damages and how to allocate them among the insurers.

The insurers' "bad faith was deliberate, malicious and egregious, and compensatory and punitive damages are therefore warranted," according to the ruling.

See Pollution on page 21

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Updates

Hospital company settles suit

Continued from previous page
by hiring a doctor with known drug problems.
Relatives of the woman sued the doctor and OrNda HealthCorp, which owned the hospital when the woman died. Tenet was not named as a defendant, but in January it bought the hospital, Park Hospital & Medical Center in Lubbock, Texas.
Tenet also agreed to advocate that the Texas Legislature pass laws that would negate a recent court ruling forcing plaintiffs to prove a hospital acted with malice in giving a doctor the privilege to work in the hospital.
Tenet will encourage doctors who work at the Lubbock hospital to be tested for drugs. The doctors are not Tenet employees, and a decision to be tested ultimately is up to them, a Tenet spokesman said.
Tenet is insured by American International Group Inc. for the loss.
The settlement, which a Texas state court judge approved last week, stems from the July 1995 death of a woman who died after an anesthesiologist punctured a major blood vessel while administering an injection in preparation for childbirth.
The hospital hired and granted privileges to the anesthesiologist even though references and other hospital medical personnel knew he had potential drug-related problems, the settlement stated.

Willis Corroon buys into broker

LONDON—Willis Corroon Group P.L.C. has agreed to acquire a one-third stake in the largest independent French insurance broker, Paris-based Gras Savoye S.A.
A brief statement Friday said more details would be announced "in due course," while neither company would say in the meantime how much Willis is paying for the stake and from whom it is buying it.
However, Gras Savoye said the agreement provides that the existing managing partners will retain the present structure and that French majority ownership will continue for up to 12 years.
John Reeve, Willis Corroon's executive chairman, said a key reason for the investment in Gras Savoye is "to attain leadership positions in chosen market sectors." He added it would enhance the capabilities of both brokers to service multinational clients.
Willis and Gras Savoye have historic links resulting from their membership in the UNISON brokering network, which Willis left in 1990. Mr. Reeve would not say if Willis would rejoin UNISON or if Gras Savoye would leave it.
Gras Savoye, which entered its 90th year in 1997, is owned 70% by the Gras and Lucas families and 10% each by French insurance companies AXA-UAP, Assurances Generales de France and Athena Assurances.
Julianne Jessup, an insurance brokering analyst in London with UBS Ltd., sees the link as a good and "logical" move for both brokering groups. They have had a longstanding relationship through their UNISON participation and, she adds, it's "good to see Willis building up an international network" by taking a stake in a major independent broker rather than relying solely on its associations with other companies.
However, analyst Nick Bunker of HSBC James Capel said that based on the sketchy information available, he was decidedly "underwhelmed" by the announcement. "If they (Willis) were going to buy Gras Savoye, they should have bought the whole thing," because with a minority stake they haven't gained control and they won't get any dividends, he said.
He added that there is a long history of outsiders buying a minority stake in French brokers, "and it has never worked."

Fen-phen class action sought

SAN FRANCISCO—Attorneys are seeking class-action certification of a lawsuit filed last week against several pharmaceutical companies that manufacture and sell the drugs used in the popular diet drug combination known as fen-phen.
The suit was filed last week in U.S. District Court in San Francisco, one day after researchers at the Rochester, Minn.-based Mayo Clinic raised concerns about the use of fenfluramine and phentermine. The combination was prescribed to 18 million Americans last year.
Mayo Clinic researchers identified 24 women who had developed damaged heart valves after taking the drugs, prompting the Food and Drug Administration to caution doctors. However, the researchers pointed out that a definitive relationship between fen-phen and the medical problem cannot be determined.
Among other things, the lawsuit alleges manufacturers misrepresented the frequency and severity of adverse health effects. It also alleges negligence and product liability. It was filed by the Law Offices of Arnold Laub and the firm of Lief, Cabraser, Heimann & Bernstein on behalf of people nationwide who have taken the drugs. Both are San Francisco firms.
The suit seeks unspecified amounts for medical monitoring of people who may suffer adverse effects in the future as well as general and punitive damages. The suit also names the manufacturers of a related drug, dexfenfluramine, known as Redux. Redux sometimes is part of the drug combination.
Not all of the pharmaceutical companies could be reached for comment. Officials for SmithKline Beecham declined to comment on the lawsuit. In a press release related to the Mayo Clinic findings, the company said the combined use of phentermine with fenfluramine is not approved by the FDA and it is not recommended by SmithKline, which manufactures a brand of phentermine that accounts for about 5% of the phentermine prescriptions written in the United States.
Other defendants in the suit are: Gate Pharmaceuticals, Seatrice Pharmaceuticals Inc., Abana Pharmaceuticals Inc., Richwood Pharmaceuticals Co. Inc., A.H. Robins Co. Inc., and Wyeth-Ayerst Laboratories Co.

OSHA reforms raise concerns

WASHINGTON—The Clinton administration has major concerns about attempts to reform the Occupational Safety and Health Admin-
See Updates on page 22

Sale of Texas comp facility hits snag on reserve levy

By MICHAEL BRADFORD

AUSTIN, Texas—Texas insurance companies may face a \$58 million assessment from the Texas Workers' Compensation Insurance Facility before the former market of last resort is privatized.
European International Reinsurance Co. Ltd., a Barbados-based subsidiary of Swiss Reinsurance Co., submitted the only bid for the facility, offering \$5 million to take over the fund and run off its business.

The sale of the facility, however, is not yet assured. In a meeting last week, representatives from Swiss Re and the facility's governing board were wrangling over a tax issue that could derail the transaction.
"It's an economic issue that could wreck the train, but we're hoping to work it out," said Gene Fondren, chairman of the governing board of the TWCIF.
Legislation enacted in Texas this year authorized privatization of the facility, which last wrote

coverage in 1993.
As part of its bid, the buyer requested that the \$58 million assessment be made to boost the facility's loss reserves and cover runoff expenses. The facility's board of directors approved the charge, and insurers are receiving notices regarding their assessments.
Some insurers are receiving notices of assessments that range from \$5 million to \$8 million, said John B. Lennes Jr., vp of the
See Texas on page 4

Uncovering Holocaust ties

Policyholder cancels coverage over Allianz link to SS

By DOUGLAS McLEOD

MUNICH, Germany—Several European insurers are facing troubling revelations about their wartime business dealings with the perpetrators of the Holocaust and its victims.
The German magazine Der Spiegel reported last month that groups of insurers led by Allianz Insurance Group wrote property and liability coverage for Nazi SS operations at Auschwitz and other death camps.
Allianz has acknowledged its

dealings with the SS and announced it has hired a University of California history professor to research the company's wartime activities.
The revelations this month led Vishay Intertechnology Inc., a large Pennsylvania electronics manufacturer headed by a Holocaust survivor, to cancel its Allianz global property insurance program. Whether other policyholders will follow suit remains to be seen.
The new disclosures follow a lawsuit that Holocaust survivors

and heirs filed in a New York federal court, charging that Allianz and other insurers failed to honor life insurance policies taken out by Jews and other victims of Nazi persecution. The suit, which originally named seven insurers, was amended earlier this month to add 12 new defendants, including German, Swiss and French insurers.
Meanwhile, Assicurazioni Generali S.p.A., one of those named in the New York action and reportedly a participant in the concentration
See Germany on page 21

Reinsurer directory deadline

The deadline for reinsurance companies to return questionnaires for a listing in the annual *Business Insurance* directory of worldwide reinsurers has been extended to Aug. 1. The directory will appear in the Sept. 1 issue.
If your organization's consolidated worldwide net reinsurance premium volume exceeds \$100 million and has not yet received a questionnaire, please request one by calling Assistant Directory Editor Matt Scroggins at 312-649-5483. A copy of the company's annual report must be provided for the reinsurer to be included in the directory.
There is no charge to be listed in *BI* directories; companies need only complete and return a questionnaire by the extended deadline of Aug. 1.

Tobacco pact draws criticism

Settlement likely to undergo changes

By MICHAEL BRADFORD

WASHINGTON—The proposed settlement between tobacco companies and state attorneys general is beginning to wobble under the weight of opposition from health advocates, trial lawyers and politicians.
The proposal, which requires Congress' approval, calls for tobacco companies to pay more than \$360 billion to settle lawsuits by 40 states while giving the industry some immunity from future legal action.
Among other things, the proposal would limit punitive damages that could be assessed against cigarette makers and calls for regulation of the industry by the Food and Drug Administration (*BI*, June 23).
Sharp criticism of the proposal from several directions—as well as last week's release of a report challenging the pact by former

Surgeon General C. Everett Koop and former FDA Commissioner David Kessler—suggest that the proposal likely will be changed before Congress approves it.
"I'm just worried that too much tinkering and the whole deal blows up," Mississippi Attorney General Mike Moore said in a televised interview last week.
President Clinton stated his opposition to the portion of the proposal that restricts the Food and Drug Administration's ability to regulate the industry if the regulations encourage a black market for cigarettes. Such a restriction on the FDA is "totally unreasonable," the president told reporters in Madrid, Spain, last week.
A joint statement by tobacco companies said that the risk of a black market for higher nicotine-content cigarettes "should be a legitimate concern to all Americans for a variety of reasons."
See Tobacco on page 22

Inside

- Congress should not rush to reform 401(k) withdrawal regulations, without careful analysis and deliberation, this week's editorial says. **PAGE 8**
- Severe flooding in the Czech Republic is one of the country's worst natural disasters in modern times. **PAGE 17**

Departments

Advertiser Index.....	21
Ask a Benefit Actuary.....	15
Benefit Beat.....	10
Classifieds.....	18
Global Briefs.....	17
Insider Trading.....	10
Insurance Services Guide.....	19

International.....	17
Legal Briefs.....	15
Letters.....	8
Markets.....	12
Opinions.....	8
Ticker.....	23

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Insurers dodge big losses from Detroit storm

By MARK A. HOFMANN
and BRUCE KELLY

DETROIT—Commercial insurers appear likely to escape the brunt of the claims caused by violent thunderstorms and tornadoes that struck the Detroit area earlier this month.

Despite the speed with which the storms bore down on the Detroit metropolitan area the night of July 2, area risk managers reported relatively little damage. Insurers said the overwhelming majority of claims were to personal property.

The storms ravaged Detroit's west side and the cities of

Hamtramck and Highland Park. At least 13 people died in a seven-county area around the Motor City as a result of the unusually violent weather.

The extent of property damage is not likely to be known for several days.

Although the Property Claim Services division of the American Insurance Services Group classified the Detroit-area damage as a catastrophe—meaning the weather had caused at least \$25 million in insured damage—PCS did not have an estimate of total insured property damage late last week.

But Michigan State Police estimated \$134 million in total damage last week. That figure is based on damage estimates from local authorities and has been verified by the state and the Federal Emergency Management Agency, said a spokesman for the Michigan State Police Emergency Management Division in Lansing. He warned that a "drastic adjustment" in that number may occur as more information becomes available.

By the middle of last week, Michigan Gov. John Engler requested \$60.2 million in federal aid for underinsured or

uninsured properties. That figure was determined by a combination of local, state and FEMA investigators.

Gov. Engler asked President Clinton to declare a major disaster for the state of Michigan because of severe damage to public facilities, private homes and businesses. As of late last week, the president had not yet made that declaration.

At least eight businesses were destroyed and 357 were damaged, the state police spokesman said.

Allen Gross, president of Globe Midwest Corp., a claims

See Detroit on page 22



Munich Re takes large primary role in German market

By CAROLYN ALDRED

MUNICH, Germany—Munich Reinsurance Co., the world's largest reinsurer, is set to become Germany's second largest primary insurer.

By merging two Munich Re subsidiaries with Victoria Holding A.G., in which Munich Re has a minority shareholding, the reinsurer will become a majority shareholder in the new ERGO Insurance Group, with gross premiums written of 21 billion deutsche marks (\$11.92 billion).

Upon completion of the merger, which requires no cash payment by Munich Re, primary insurance revenues will almost match the group's reinsurance revenues.

Munich Re's strategy of increasing its involvement in the primary market directly contrasts other major reinsurers such as Swiss Re, which in 1994 sold its primary insurance companies to Allianz A.G., Germany's largest insurer.

Munich Re's share price leapt 8% when the announcement was made on July 3. By last Thursday, the share price had reached 5,550 deutsche marks (\$3,151), up from 4,890 deutsche marks (\$2,777).

Munich Re said in a statement that strengthening its presence in the personal insurance market "will improve the risk balance in the Munich Re Group," providing additional

security and stability for its reinsurance clients.

If approved by shareholders and regulators, the merger will leave "Munich Re prepared for further globalization and the ongoing consolidation process worldwide," said German insurance analyst Sylvia Wurl-Aydilec.

Ms. Wurl-Aydilec, who works with Dresdner Kleinwort Benson in Frankfurt, said, however, that the merger "surprised everyone because we were expecting Victoria would be bought by a foreign company. It was astonishing because Munich Re has always said that reinsurance would remain its core business."

She noted that the merger was logical if Munich Re wants to remain a primary underwriter.

Under the proposal, Hamburg-Mannheimer A.G., in which Munich Re has an 80% shareholding, and DKV A.G., in which Munich has a 60% shareholding, will be merged with Victoria Holding A.G., in which Munich Re has a 23.5% shareholding. Victoria shareholders will receive shares in the new group, to be named ERGO. According to provisional valuations, Munich Re will have a majority 55-60% shareholding in ERGO.

Victoria, which underwrites mainly personal lines insurance and small-business insurance

See Munich on page 23

Non-profit D&O exposure up

By MICHAEL PRINCE

Not-for-profit doesn't mean not-to-be-sued.

More lawsuits are being filed against directors and officers of U.S. non-profit organizations, a recent survey indicates.

Thirty-six percent of non-profits surveyed reported a D&O claim during the period 1987 through 1996, according to Watson Wyatt Worldwide. That is more than double the 17% that had faced a claim in the 10-year period prior to the 1993 Watson Wyatt survey.

Among the non-profits that responded to the survey, the average was 1.78 D&O claims per organization, the survey showed.

The Bethesda, Md.-based consulting firm surveyed 726 U.S. non-profit organizations, 119 of which have assets exceeding \$1 billion. These organizations in-

clude health care companies, public and private colleges and universities, foundations, museums and social welfare organizations. Fifty-seven percent of those surveyed are privately run.

While non-profits of all sizes experienced an increase in claims filed against them, organizations with total assets of less than \$30 million saw the most dramatic increase. Twenty-one percent of such organizations reported D&O claims in the new survey, compared with 6% in 1993.

For organizations with assets between \$30 million and \$100 million, those reporting claims rose to 26% last year from 11% in 1993. For those with \$100 million to \$400 million in assets, the figures rose to 44% from 25% in the same period, while those with assets of more than \$400 million to \$1 billion rose to 48% from 35%. The largest organizations—with

assets of more than \$1 billion—saw claims climb to 54% from 40%.

By type of non-profit, health care organizations saw the greatest increase in claims since 1993. Forty-five percent of the health care non-profits surveyed reported claims last year, compared with 11% in 1993.

Private schools saw an increase in claims from 27% to 38%, claims against public schools rose to 36% from 20%, and for all other types of non-profit organizations, the claims increased to 22% from 14%, the survey reported.

The most frequent claims involve employment practices. They are in two categories: claims concerning wrongful termination, which account for 25% of all claims filed against non-profits; and claims alleging discrimination against current, past or

See Non-profit on page 11

BI conference to explore workers comp trends, issues

By ROBERTO CENICEROS

Just how far can an employer go to avoid hiring employees prone to filing workers compensation claims?

How does a company build a labor/management team that reduces workers comp costs? And why do savvy risk managers pursue alternative risk financing when workers comp insurance rates are dropping?

Answers to those questions and more will be offered by industry professionals scheduled to speak at the Fifth Annual Business Insurance Workers Compensation Conference. The conference will be held Oct. 27-29 at the Loews

Santa Monica Beach Hotel in Santa Monica, Calif.

"As we conduct our fifth annual conference on workers compensation, we believe that we have assembled a first-class faculty that will deliver a provocative and educational program," said Kathryn J. McIntyre, publisher and editorial director of BI and conference chairman.

"This year, we are offering concurrent sessions in order to expand the amount of material we can cover and to allow attendees

to structure an educational program that best fits their interests and needs," Ms. McIntyre said.

Presented by BI and New York-based International Business Forum, the event kicks off Monday, Oct. 27, with a golf tournament at the Malibu Country Club hosted by Deloitte & Touche L.L.P. and SAC3.

An informal, off-the-record roundtable discussion will follow the tournament, allowing risk managers, benefit executives and others responsible for their companies' workers comp programs to share ideas and concerns. Ms. McIntyre will moderate the roundtable.

See Conference on page 12

AIG appeal criticizes regulators in Golden Eagle deal

By JOANNE WOJCIK

SAN FRANCISCO—American International Group Inc. is continuing to battle for control of Golden Eagle Insurance Co.

AIG last week filed an appeal seeking to overturn a May 30 trial court decision that awarded control of the insurer's rehabilitation to Liberty Mutual Insurance Co. (BI, June 9). That ruling reversed the California Insurance Commissioner's earlier acceptance of AIG's bid for Golden Eagle.

AIG argues that the court overstepped its bounds in rescinding the contract the department had awarded to AIG.

The New York-based insurer also makes several allegations in its appeal that question the actions of Commissioner Chuck Quackenbush, Liberty Mutual and Golden Eagle owner John Mabey.

Liberty Mutual declined comment on the controversy. A spokesman said it is against company policy to comment on matters in litigation.

In its appeal, AIG charges that Mr. Quackenbush made an about-face and lent his support to the competing bid after Liberty Mutual negotiated a backdoor settlement with Mr. Mabey and the Insurance Department.

But California regulators deny any improper dealings took place in the bidding for Golden Eagle.

Furthermore, they assert that the overbidding process triggered by Liberty Mutual's enhanced offer will benefit policyholders.

"AIG is simply a disappointed bidder that's trying to get its foot back in the door," said Cynthia J. Larsen, an attorney with Orrick, Herrington & Sutcliffe in Sacramento who is representing the insurance commissioner in the case. Ms. Larsen added that "all of AIG's arguments will ultimately be found meritless."

When San Francisco Superior Court Judge William Cahill agreed to entertain Liberty's post-deadline offer, he invited AIG to enter into a new bidding contest in which the two insurers were pitted against one another. Although AIG matched "virtually all" of Liberty's bid, Judge Cahill reversed the commissioner's decision and awarded the company to Liberty Mutual, according to AIG's appeal.

In a phone interview last week, Ms. Larsen said the Liberty Mutual offer approved by Judge Cahill was superior to AIG's in several areas.

See AIG on next page

AIG

Continued from previous page

According to the commissioner's brief opposing AIG's appeal, these benefits were added:

- Increased reinsurance coverage. The level of reinsurance coverage that protects Golden Eagle's policyholders was increased to 135% of total liabilities under the Liberty plan, from about 127% under the AIG plan.

- More money for the liquidating trust. The Liberty deal provides for \$20 million—\$5 million more than the original rehabilitation plan—to be paid to the Golden Eagle Liquidating Trust for payment of unreinsured policyholder and general creditor claims.

- An option payment to the Mabees. The Liberty plan includes a \$20 million payment to the Mabees, from funds outside the

Golden Eagle estate, to pay for an option to buy their stock in the insurer and their residual rights in the liquidating trust.

In sum, "the proposal that Liberty came forward with is better for policyholders," Ms. Larsen asserted.

But in its appeal, AIG repeatedly alleges that the \$20 million Liberty Mutual offered to the Mabees would be coming from Golden Eagle's assets.

"After spending months portraying Real Party in Interest John Mabee (who, with his wife, was the sole shareholder of Golden Eagle) as the second coming of Attila the Hun, the Commissioner entered into an agreement with Mr. Mabee by which erstwhile arch-fiend will emerge with a net financial gain that will necessarily come at the expense of Golden Eagle policyholders," says the AIG appeal.

The commissioners' brief con-

tains a counterargument: "This is false. The terms of the settlement expressly provide that any funds that flow to the shareholder, particularly the \$20 million 'option price,'

'The proposal that Liberty came forward with is better for policyholders,' asserts Cynthia J. Larsen.

must not derive, directly or indirectly, from any assets that come from Golden Eagle."

The settlement agreement contained in the Liberty Mutual offer provides for, among other things, the release of all claims that the Insurance Department and Golden Eagle might have against the

Mabees and for the Mabees to drop their objections to the Insurance Department's conservation order. In exchange, Liberty Mutual offered the \$20 million for the option on the Mabees' Golden Eagle stock.

AIG also charges in its appeal that a portion of the settlement agreement between the Mabees and the department has been sealed, so that nobody other than the court, Mr. Mabee and the commissioner knows what the full deal really is.

While Ms. Larsen acknowledged that Golden Eagle had asked that a portion of the agreement be sealed, she said all relevant components have been put on the record.

But AIG also argues that policyholders and creditors of Golden Eagle are not being given enough time to review the rehabilitation plan, which is scheduled for a hearing July 23.

"First, the court ignored the commissioner's auction and conducted

one of its own," said Florence Davis, vp and general counsel for AIG.

"Now the commissioner wants the policyholders' approval (of the rehabilitation plan) in an impossibly short time frame and without telling them that the man who ran Golden Eagle and whom the Department of Insurance has spent months vilifying will actually make money on the rehabilitation," she said.

"AIG has asked the Court of Appeal to restore some semblance of rationality to this process, give full disclosure to the policyholders and provide them with adequate time to respond," Ms. Davis said.

American International Group Inc. and American Home Assurance Co. vs. Superior Court of the State of California, County of San Francisco; Sup. Ct. Case No. 984502. July 3, 1997.

Texas

Continued from page 2

Alliance of American Insurers in Schaumburg, Ill.

A majority of the state's workers comp insurers are TWCIF members.

The assessment may come after insurers in Texas lost a recent fight to hold on to their portion of surpluses paid in recent years when the fund showed profits (BI, July 7). The Texas Department of Insurance last week approved a rule ordering insurers to pay policyholders that bought retrospectively rated plans a portion of the \$718.5 million returned to insurers from 1991 through 1994. The department estimates those policyholders will receive \$272 million in payments.

An American Insurance Assn. spokesman said it hopes the state will give insurers credit for paying the proposed assessment and the surplus refunds, if both payments are ordered.

A Swiss Re spokesman declined to discuss the purchase of the facility because it is pending. But he said the facility always has had "an ability to assess its membership for costs" or make refunds following a surplus.

The TWCIF operated as the state's residual market until 1994, when it stopped writing coverage and was replaced by the Texas Workers Compensation Fund. The facility rang up sizable deficits until workers comp reforms in the state prompted marketplace changes that in 1991 began generating surpluses for the insurer.

There weren't a lot of takers when the insurer was put on the block.

"Early on, there were some potentially interested parties," but the Swiss Re unit's bid was the only one to materialize, said Betty Patterson, director of financial monitoring in the financial program at the Texas Department of Insurance.

Insurers will have a chance to recoup some of the investment if the runoff goes well. Any payoff, however, won't be available for some time.

Terms of the sale call for insurers that pay assessments to get stock in Facility Insurance Holding Corp., a Texas company that Swiss Re has formed to handle the runoff. If in the next 20 years the claims payments do not exceed \$1.15 billion, the stock is redeemable at amounts determined then. If losses exceed that amount, the shares are not redeemable. But a sticking point in the negotiations centers on the tax on redeemed stock.

Mr. Fondren said Swiss Re disagrees with the facility's understanding that the seller would pay the taxes. "My personal view is that we can compromise to share" the payment if one comes due, he said.

Ms. Patterson said the law authorizing the sale requires the conversion to be made by Aug. 31. Otherwise the Texas Property & Casualty Insurance Assn. will absorb the facility. **BI**

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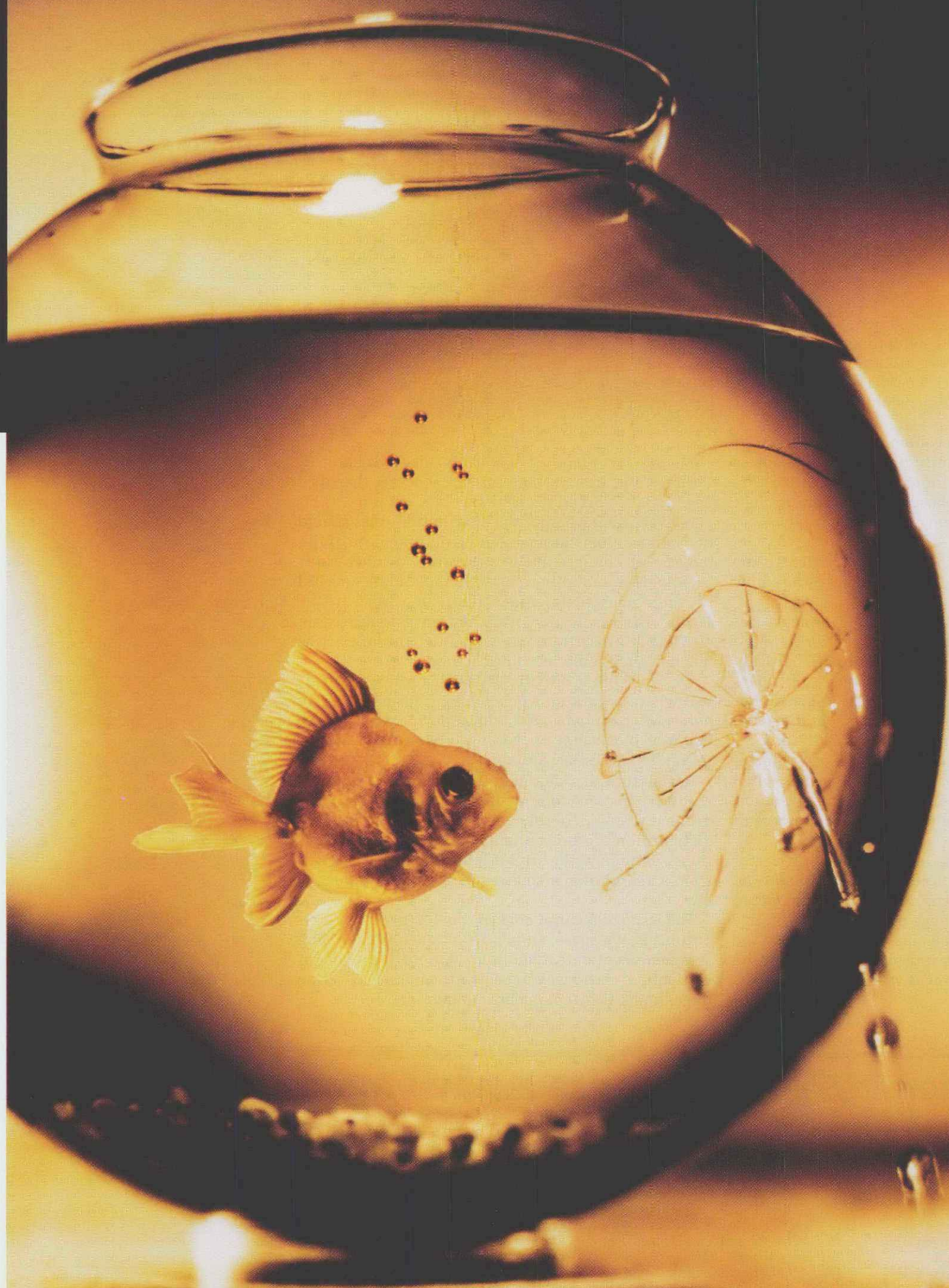
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Opinions

Don't rush 401(k) plan reform

LAWMAKERS SHOULD STUDY the lessons of the past before continuing with what we regard as potentially harmful tinkering with retirement laws.

Thirteen years ago, Congress—after numerous hearings and compelling evidence—addressed a real problem in the defined benefit pension area: spouses, especially widows, left without a pension benefit after the other spouse died.

As numerous witnesses told congressional panels during the early 1980s, an employee could work for decades and earn a generous pension benefit. But employees—perhaps to save a little money—sometimes failed to opt for a joint and survivor benefit that would have provided a surviving spouse with about half the worker's promised benefit. As a result, the surviving spouse would get nothing.

The financial results of this situation could be devastating, especially in cases where a surviving spouse never worked and had no pension benefit of his or her own.

Congress fixed that problem in 1984 when it passed the Retirement Equity Act. That law requires a defined benefit participant to select a joint and survivor benefit unless the spouse waives his or her right to receive it. The REA then was and still is a good solution to a real problem.

Contrast the deliberative process that led to the REA law with what Sen. Carol Moseley-Braun now is doing.

She has proposed, and the Senate Finance Committee and the Senate has accepted, an amendment to a sprawling tax bill that would bar loans, hardship withdrawals or lump-sum distributions from a participant's 401(k) plan account without his or her spouse's written approval. Without such approval, distributions would have to be paid as an annuity.

Backers of the amendment paint it as pro-woman. They say numerous wives have been victims when their spouses have taken big chunks of money out of a 401(k) plan, leaving the wife with little in case of death.

Perhaps so. But anecdotal evidence and horror stories never should be the foundation of legislation. Unlike the REA, which was developed and enacted amid overwhelming evidence of the need to change the law, such a record does not exist to justify the proposed 401(k) plan distribution rules. Indeed, the Senate passed the amendment without any substantive discussion.

IF RETIREMENT PLANNING SHOULD NOT BE AN AFTERTHOUGHT...



Should the 401(k) distribution rules be changed? Perhaps. But first, let's investigate whether there is a need for such broad restrictions.

In examining whether the distribution rules should be changed, legislators should first take note of demographic changes in the workforce. Women today are much more likely to be working and be covered by their own 401(k) plans than they were in the 1980s. As a result, if spousal consent is required on 401(k) plan distributions, women could be hurt as much as they could be helped.

We can think of situations if such a rule were in effect where a working woman who needs money from her 401(k) plan to pay for a down payment on a house might be blocked by an estranged husband unwilling to sign the necessary approval.

Legislators also should keep in mind that rules already are in place to protect 401(k) plans from being drained. Tough federal rules restrict pre-retirement distributions to only a handful of hardship situations. Similarly, the size of loans that can be taken from a 401(k) plan also already is limited under the law.

The issue of spousal consent on 401(k) plan distributions is, we agree, an important one. But slapping an amendment onto a tax bill—with no debate or investigation—is no way to deal with an issue affecting the nation's 401(k) plan participants.

Letters

Insurers offer first line of defense against fraud

To the editor: The June 16 article "As If Fraud Weren't Expensive Enough," reports on the annual meeting of the International Assn. of Insurance Fraud Agencies. At the meeting, Sheila J. Carpenter stated that despite immunity statutes, the exposure of an insurer to "policyholder suits can be expensive" and that "one bad verdict can wipe out all of your savings on fighting fraud."

I must take issue with this speaker's conclusions. In my experience as New York state's superintendent of insurance and in my capacity as counsel to many insurers, the

contrary is the case. Insurers are the first to be aware of insurance fraud and, therefore, are the first form of defense against insurance fraud. Insurers face more exposure from bad faith claims in defending or denying claims than in reporting criminal insurance frauds. The worst-case scenario described by Ms. Carpenter is not based upon a false report of fraud but relates to egregious claims handling by the insurer.

New York Insurance Law, Article 4, was first enacted during my term as superintendent of insurance. The statute mandates that any licensee of the department who has reason to believe that an insurance transaction is fraudulent or has knowledge that a fraudulent insurance transaction is about to take place, or has taken place, shall report the facts of the transaction to the department's Fraud Bureau. The report is confidential, privileged and, absent bad faith, the entity making the report shall be immune from prosecution. The licensees, therefore, are under a statutory mandate to make the report or face a disciplinary action that could in-

clude the loss of license and/or a fine.

This law has been an effective deterrent to insurance fraud, and I know of no action against a person making the required report since 1981, when the statute was passed.

If insurers that are protected by immunity statutes are deterred from notifying law enforcement agencies or insurance departments of fraudulent transactions, then the fraudsters will have an open field to defraud insurers and thereby increase the premiums charged to law-abiding policyholders.

The International Assn. of Insurance Fraud Agencies would do well to encourage insurance legislation that mandates privilege, immunity and confidentiality to insurers, managing general agents and other licensees who report insurance fraud, and to fight insurance fraud by being vigilant in reporting insurance fraud to regulatory authorities and to law enforcement entities.

Albert B. Lewis
Counsel
D'Amato & Lynch
New York

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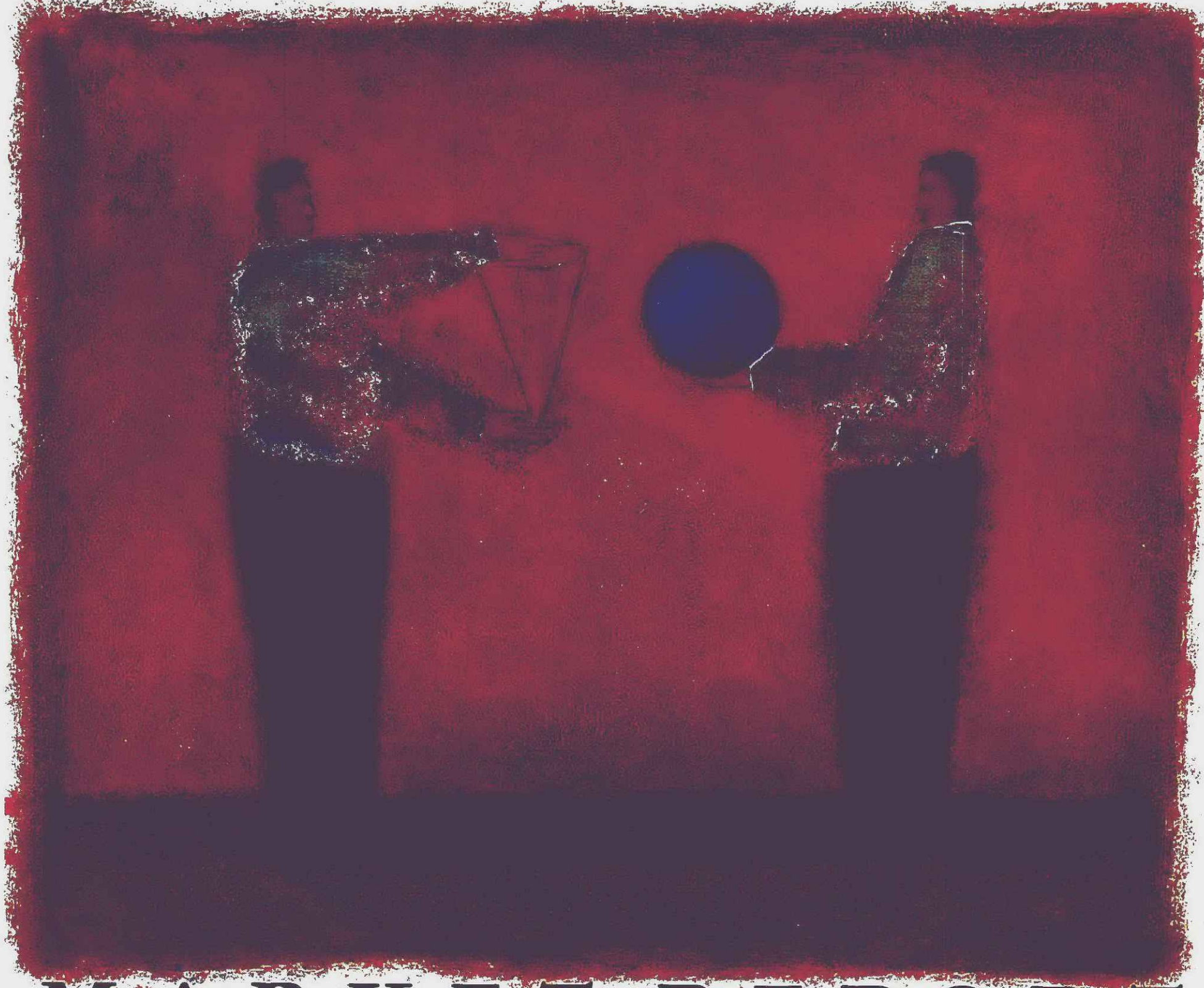
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Survey sees continued popularity of HMOs

By HOLLY SIMPSON

Benefit Beat

HMO enrollment is expected to continue to rise by the year 2000, though such plans are unlikely to become the only health plan option offered by employers, a new study finds.

"I don't think that we will wind up with a total HMO environment. I think employers will offer some choices because they want to or because they have to," said Lew Devendorf, a principal at William M. Mercer Inc. in Stamford, Conn., which conducted the survey.

In fact, the number of employers offering only one type of health care plan is projected to drop to 13% by the year 2000 from 22% currently, according to the survey.

At the same time, HMO enrollment is expected to rise to 39% of eligible employees from 31%, the survey found.

The Fax Facts survey, consisting of responses from 283 participants, also showed that while employers continue to offer a variety of health plan options, the most common combinations are an HMO, PPO and indemnity plan, or offering HMO and PPO plans.

A greater percentage of employers today are attempting to encourage HMO enrollment than two years ago, though they are still in the minority, Mercer found.

Currently, 57% of the 197 responding employers that offer an HMO do not create any incentives to enroll in that option, while 34% use either financial incentives or added communication about the plan. Mercer's 1995 Fax Facts showed only 8% were using such incentives, while 81% made no extra efforts to encourage HMO enrollment.

Employers have a variety of reasons to offer incentives, said Mr. Devendorf, one of these being some employers think high-quality, low-cost HMOs will help reduce costs and keep people healthy and at work.

Among the 84% of respondents that obtain employee feedback regarding satisfaction with their health care plans, only 34% use for-

mal methods, such as surveys, whereas 56% rely on informal feedback. The remaining 10% use satisfaction information provided by their health plans.

Among the employers that measure employee satisfaction, all say they have made changes based on that feedback, with 51% of them negotiating new services. Other additional actions include adding a new HMO, dropping an HMO or adding performance guarantees. 1995 survey results showed that only half of the companies that solicited employee feedback had made any changes.

"I think that a higher-quality HMO can help reduce time lost at work. Purchasers today are becoming increasingly aware of quality issues that present themselves, and many employers are taking steps to ensure that the health plans they offer are high-quality health plans," said Mr. Devendorf. "It's not just a cost issue."

Further projections going into the year 2000 include slight increases in both POS offerings and enrollment, no change for PPO enrollment and a significant decrease in indemnity plan participation, to 9% from 17%.

Free copies of the Mercer Fax Facts survey are available via fax by contacting the Business Development Group by mail, 2 World Trade Center, 54th Floor, New York, N.Y. 10048, or by fax: 212-345-8483.

Coalition wins grant

CHICAGO—A grant will allow a Midwest employer coalition to measure whether members' employees are getting appropriate health care compared with other regions of the country.

The Chicago-based Midwest Business Group on Health, in conjunction with the Hospital Research and Educational Trust of the American Hospital Assn., received a \$100,000 grant from the Robert Wood Johnson Foundation to benchmark

health plans using a tool called the Dartmouth Atlas of Health Care.

The atlas is a computer-based database of medical treatment practices nationwide. The atlas was developed by researchers at the Dartmouth Medical School in Hanover, N.H., who concluded that the kinds of medical procedures and care one receives often depend on where a person lives (BI, Feb. 26, 1996).

"We hope to identify five sites in the community, primarily in the Midwest, where we can find a group of employers that would be willing to use Dartmouth's findings," according to Larry Boress, vp of MBGH.

These employers, in partnership with local hospitals and the medical community, would compare treatment practices with atlas data on practices in the region and elsewhere around the country.

They would then work to identify strategies aimed toward improving community health care systems.

"(The hope) is to bring together employer plans and purchasers to identify significant projects that can be done at the community level," said Mr. Boress.

The participants of the demonstration are expected to be chosen later this month, and the first meeting is scheduled to take place by the beginning of August.

Among some of the criteria included in selecting the five participants are employers that are significant in their communities, hospital executives who show an interest in reaching out to the community, and a local staff that is familiar with using the atlas, said Mr. Boress.

The Robert Wood Johnson Foundation is a health care philanthropy that supports projects to evaluate health care and how changes in the market affect it.

Wellness project

SEATTLE—The federal government and the leading trade association for managed health plans are launching a national campaign aimed at encouraging exercise and better nutrition for employees.

The U.S. Department of Health and Human Services' Centers for Disease Control and Prevention and the American Assn. of Health Plans are funding the 12-week project starting in September.

The project includes four health plans: Blue Cross & Blue Shield of Georgia, Medica Health Plans of Minneapolis, Keystone Health Plan Central of Camp Hill, Pa., and OmniCare Health Plan of Detroit.

Each plan selected a local company to work with and they will jointly target employees interested in improving their exercise and eating habits.

The employers chosen for the project, respective to the above health

plans, are: Scientific Atlanta, the Star Tribune newspaper, Hershey Foods Corp. and Comerica Inc.

The initiative will involve placing a coordinator in the worksite to motivate workers to exercise or improve nutrition, explained Nicole Kerr, a registered dietitian and health communications specialist for the CDC in Atlanta.

Alternatively, a company could form a committee of workers to consult with other employees on exercise and nutrition issues, Ms. Kerr said.

It is anticipated that this wellness initiative eventually will be expanded nationwide for use by other health plans and employers. **BI**

Insider Trading

Aetna Inc.: Daniel P. Kearney, vp, exercised an option for 45,403 shares of common between \$45.38 and \$55.25 each on May 14. To cover expenses of the transaction, Kearney turned in 10,130 of them for \$98.63 each on May 14 and sold 31,528 shares in the open market between \$97.63 and \$98.38 each on May 14 and now directly and indirectly holds 10,688 common. Aetna stock closed at \$105.38 a share on July 3.

American International Group Inc.: Pei Yuan Chia, director, purchased 1,000 shares of common between \$115.88 and \$117.25 each on April 15 and now directly holds 2,337 common.

Petros K. Sabatacakis, vp, exercised an option for 4,874 shares of common between \$59.17 and \$93.25 each on April 7 and now directly holds 44,385 common.

AIG stock closed at \$154.63 a share on July 3.

Argonaut Group Inc.: Charles E. Rinsch, president, exercised an option for 10,000 shares of common at \$10.25 each on May 6 and now directly and indirectly holds 104,923 common.

Norman H. Burdick, officer of subsidiary, exercised an option for 1,200 shares of common at \$13.58 each on May 22 and now directly holds 2,350 common.

Argonaut stock closed at \$30 a share on July 3.

Berkshire Hathaway Inc.: Malcolm Greene Chace, director, acquired by gift 240 shares of class A common at an unreported price on April 3. Mr. Chace indirectly disposed of by gift 720 shares of class A common at an unreported price that same day and now directly and/or indirectly holds 30 class B common, 5,116 class A common and 13,308 class A common.

Charles T. Munger, officer and director, disposed of by gift 100 shares of class A common at an unreported price from May 15 to May 23 and sold 230 shares between \$42,200 and \$42,500 each from May 15 to May 23 and now directly holds 18,390 class A common.

Berkshire Hathaway stock closed at \$47,200 a share on July 3.

General Re Corp.: Dallas W. Luby, officer of subsidiary, exercised an option for 3,081 and disposed of 585 shares of common between \$86.38 and \$154.56 each on May 13. Mr. Luby indirectly acquired by gift

585 shares of common at an unreported price that same day and now directly and indirectly holds 22,414 common.

Martin G. McGuinn, director, purchased 100 shares of common at \$160.25 each on April 22 and now directly holds 165 common.

Stephen P. Raye, vp, exercised an option for 2,616 shares of common between \$87.94 and \$113.63 each on May 7. To cover expenses of the transaction, Mr. Raye turned in 1,716 of them for \$168.69 each on May 7 and sold 141 shares in the open market at \$169.75 each on May 7 and now directly and indirectly holds 2,072 common.

Harry L. Richter, officer of subsidiary, exercised an option for 11,511 shares of common between \$63.06 and \$91.44 each on May 12. To cover expenses of the transaction, Mr. Richter turned in 7,707 of them for \$172.25 each on May 12 and now directly and indirectly holds 9,575 common.

Gen Re stock closed at \$190 a share on July 3.

Marsh & McLennan Cos. Inc.: Lawrence J. Lasser, director, exercised an option for 30,000 shares of common at \$79.31 each on May 14 and sold them at \$127.88 each on May 14 and now directly and indirectly holds 73,700 common.

Robert Clements, director, sold 5,568 shares of common between \$129.00 and \$130.29 each from May 21 to May 22 and now directly and indirectly holds 4,843 common.

Douglas C. Davis, vp, exercised an option for 3,000 shares of common at \$79.31 each on May 14 and sold them at \$124.88 each on May 14 and now directly and indirectly holds 4,881 common.

David D. Holbrook, director, exercised an option for 77,500 shares of common between \$73.88 and \$95.06 each on May 1 and sold them at \$119.22 each on May. Mr. Holbrook now directly and indirectly holds 63,941 common.

M&M stock closed at \$74 a share on July 3.

Insider Trading, compiled by Invest/Net Trading Group Inc. of Fort Lauderdale, Fla., from reports filed with the Securities and Exchange Commission, tracks stock sales and purchases by insurance industry directors and officers. The column is distributed by Tribune Media Services Inc.

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prospective employees, totaling 23%.

"The employment practices liability exposure continues to be the driving force behind the dramatic increase in D&O claims made against health care organizations, educational institutions and other non-profits," the survey report states.

Claim payments overall averaged \$376,178, a decrease from the \$457,000 respondents reported in 1993. However, for the largest block of claims, employment liability, the cost of an average payment more than doubled, to \$275,000 last year from \$107,500 reported in 1993.

The employment practices figures are "a very good representation of where the trend of costs actually lie," said Mark Larsen, a Watson Wyatt consultant in Chicago and the survey author.

The dramatic increase in average employment liability payments reflects changes in federal law also affecting for-profit companies, Mr. Larsen said. The most significant change is the passage of the Civil Rights Act of 1991, which permits plaintiffs to request punitive damages and seek a jury trial for discrimination suits in federal court.

Another reason for the uptick in claims is that more organizations have insurance policies that cover not only the directors and officers but the entity as well. That leads to more claims being covered by D&O insurance and the surveyed organizations reporting more D&O claims.

"When coverage is broader, we find out about more claims," he said.

Despite the increase in claims,

"pricing has remained stable or even been reduced in many cases," the study states.

The recent study shows that 81% of surveyed organizations had purchased D&O insurance in 1996, compared with 80% of the respondents to the 1993 survey. These policies covered 65% of the 1,290 claims reported by respondents in the new survey between 1987 and 1996. Another 16% of the claims fell within deductibles. Only 2% of claims reported were found to be uninsurable under the terms of the policy.

Public schools were the least-covered entity, with only 60% of those surveyed saying they had D&O coverage. Mr. Larsen found that figure disturbing. He noted that 55% of the public schools that did not purchase D&O coverage said they thought state sovereign immunity laws would protect them. But because the majority of D&O claims are employment suits under federal law, he said, sovereign immunity will not protect these schools.

"It is simple enough to establish that discrimination, harassment and even many termination claims are federal claims, and thus state laws providing indemnification would be inapplicable," the study states.

"It's possibly a position that institutions ought to rethink, given the rise of employment-related claims and the statutes being cited with those claims, namely federal statutes," Mr. Larsen said.

Copies of the survey, "1996/1997 Watson Wyatt's Non-Profit Organization Directors and Officers Liability Survey," are available for \$300 each from Mark Larsen, 312-704-2500; e-mail: mark_larsen@watsonwyatt.com.

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Zurich-American launches political risk unit

WASHINGTON—The Zurich-American Insurance Group plans to launch a new political risk insurance operation based in Washington.

Zurich-American's Executive Assurance division will oversee the new operation, which will provide political risk insurance products to international investors and financial institutions. The new unit, Zurich-American/Political Risk Insurance, is the first private political risk operation located in Washington, according to Zurich-American.

The political risk division will target international investors and lenders, providing coverage of expropriation, political violence, currency inconvertibility, and breach of contract, drawing on its experience in these markets and its global network of offices.

Daniel W. Riordan, managing director and vp, will lead the unit. Mr. Riordan most recently was a senior executive and vp of insurance for the Overseas Private Investment Corp., an independent federal agency that underwrites political risk insurance on 20-year terms for U.S. companies doing business in developing countries.

Schaumburg, Ill.-based Zurich American is a unit of Switzerland's Zurich Insurance Group.

Arkwright high-tech

WALTHAM, Mass.—Arkwright Mutual Insurance Co. has formed a new business unit to serve high-technology companies.

Arkwright Technology offers property loss control, risk management and insurance services to manufacturers of semiconductors, software, computers and computer equipment. The group provides the services of property loss control engineers, values analysts and underwriting specialists trained to address high-tech risks.

Merger completed

NEW YORK—Physician practice management company Com-

Markets

plete Management Inc. has completed the purchase of Piscataway, N.J.-based Consumer Health Network Inc. for \$12 million.

The price includes \$8 million cash and 314,650 Complete Management shares, with a possible \$1 million contingent payment based on CHN's earnings.

CHN operates a network in New York, New Jersey and Connecticut of 7,818 physicians and 119 hospitals, serving about 975,000 lives. CHN management will remain in their current positions.

The transaction is expected to add up to \$10 million in revenue to New York-based CMI over the next 12 months.

FPA credit extended

SAN DIEGO—FPA Medical Management Inc. has received a \$275 million financing commitment from Lehman Brothers for an expanded senior credit facility.

The new credit facility will provide the San Diego-based physician practice management company with the resources to meet future working capital and acquisition needs.

Separately, FPA recently entered into a long-term provider relationship with Aetna U.S. Healthcare Inc.

The two companies will work together to develop quality improvement programs and preventive care programs for Aetna U.S. Healthcare members.

New holding company

HARTFORD, Conn.—Shareholders of The Hartford Steam Boiler Inspection & Insurance Co. have approved the formation of a new holding company, HSB Group Inc.

The new holding company structure will provide greater operating and financial flexibility in

future investments, business operations and financing activities, officials say.

Current Hartford Steam Boiler shareholders will automatically become holders of HSB Group common stock through a share exchange, with current Hartford Steam Boiler stock certificates automatically representing corresponding HSB group shares.

The company's stock will continue to be listed on the New York Stock Exchange under HSB.

Insurer acquired

WALTHAM, Mass.—Care management organization ManagedComp Inc. has acquired the Indiana-domiciled Financial Security Assurance International Inc. subsidiary of New York-based Financial Security Assurance Inc. for \$10.5 million.

The transaction includes the cost of licenses and assets required to maintain statutory capital and surplus in 43 states.

Following regulatory approvals, the new company will be called ManagedComp National Insurance Co. and will be integrated with ManagedComp's CareManagement Network primary occupational physician, managed care and medical cost management system network.

Officials of Waltham, Mass.-based ManagedComp say the acquisition will enable the company to offer more flexible multistate programs and rating options.

Gallagher acquisition

ITASCA, Ill.—Arthur J. Gallagher & Co. has acquired White Plains, N.Y.-based broker and risk management services provider Trinder & Norwood Inc.

Terms of the transaction were not disclosed.

Founded in 1953 as a marine insurance specialist, Trinder & Norwood today handles all lines of commercial property and casualty insurance and risk management services with a special emphasis

on the transportation industry. The broker also handles a full range of benefit products.

It will continue to operate as Trinder & Norwood under the direction of Robert J. Casella, area president.

New Burnham division

SAN DIEGO—John Burnham & Co. Insurance Services has formed a health care division specializing in medical malpractice insurance for managed care organizations, independent physician alliances, physician group practices and associations.

The agency provides a range of commercial insurance services from its offices in Southern California.

Anthem unit acquired

CLEVELAND—International Alliance Services Inc. has agreed to acquire the Managed Care Workers Compensation business unit of Shelby, Ohio-based Anthem Casualty Insurance Co.

The deal could be for as much as \$500,000 cash and 50,000 shares of IASI common stock over a two-year period, depending on the acquired unit's results. Under the agreement, IASI also will become the lead manager and underwriter of all managed care workers comp coverage for Anthem health customers in Indiana and Kentucky.

The transaction is expected to close by July 15.

MRM acquisition

HAMILTON, Bermuda—Mutual Risk Management Ltd. has agreed to acquire a workers compensation insurer that is in runoff.

Bermuda-based Mutual Risk Management said late last month it will buy Burlington, Mass.-based American Policyholders' Insurance Co., a wholly owned unit of American Mutual Liability Insurance Co., which is under the receivership of the Massachusetts Division of Insurance.

Terms were not disclosed, though all existing API liabilities will be transferred to a liquidating trust established pursuant to a court order.

American Policyholders' Insurance Co. ceased writing new and renewal business in 1989, the same year that its parent, American Mutual Liability Insurance Co., was declared insolvent. API continues to act as servicing insurer for assigned risk workers comp business in Massachusetts. API wrote about \$16 million in premiums in 1995.

"The acquisition of an additional insurance company will accommodate our growing program business segment," Mutual Risk Chairman and Chief Executive Officer Robert A. Mulderig and President John Kessock Jr. said in a statement. "An alternative admitted insurer to Legion Insurance Co. will allow us to offer our clients options in terms of rate and form filings and avoid conflicts among our producers of program business."

The acquisition is subject to several conditions, including court approval in Massachusetts and approval of Massachusetts regulators. **BI**

Conference

Continued from page 3

Monday's conference schedule concludes with a cocktail reception hosted by Boston-based Liberty Mutual Group.

Tuesday morning, Oct. 28, will begin with a continental breakfast hosted by Kemper Insurance Cos. Opening remarks by Alexandra Scott, president and chief executive officer of International Business Forum, will precede the keynote speaker, Dwight E. Davis, president and CEO of Wausau Insurance Cos. in Wausau, Wis.

Mr. Davis will speak on "The Case for Integration: Sorting Out the Myths and Realities of Disability Integration Management."

A session on "Ergonomics: Effective Workplace Practices and Programs" will follow. Panelists' discussions will include litigation avoidance, education and training, and appropriate ergonomic assessments.

Speakers scheduled to discuss ergonomics are: moderator Wayne S. Maynard, product director for Liberty Mutual's Ergonomics & Manufacturing Technology Services; Michael Lichtenberger, manager-loss control for BOC Gases; Russell C. Opferkuch, vp-corporate risk and insurance for Bankers Trust Co.; Cynthia R. Parks, manager of employment-related risk for Turner Broadcasting Systems Inc.; Michelle Robertson, senior program manager in the Product Research Group at Herman Miller Inc.; Neal J. Taslitz, executive director of the National Repetitive Strain Injury Foundation.

Commonwealth Risk Services Inc. will host refreshments in the table-top exhibit area.

A second morning session, "Developing a Successful Anti-fraud Program," will focus on identifying fraudulent claim schemes, adopting checks and balances, and managing claims administrators. The panelists will be: moderator Peter C. Madeja, president and CEO of GENEX Services Inc.; Donald Elisburg of Donald Elisburg Law Firm and a former

Continued on next page



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member of the National Council on Compensation Insurance's Fraud Advisory Commission; William Kizorek, president of In-Photo Surveillance; Christopher E. Mandel, senior director of worldwide risk management at PepsiCo Restaurant Services Group; and Philip J. Polazzo, assistant vp-insurance/risk management at Olsten Corp.

Intracorp will host lunch. Adam W. Potter, managing director-risk management and ground safety for Continental Airlines Inc., will talk about "Soaring Toward the Year 2000."

The first afternoon session, "Integrating Occupational Workers Comp with Non-occupational Short-term and Long-term Disability Plans," will weigh how innovative insurance products can improve health and disability management. Vendor performance, returning employees to work and overcoming computer system problems will be discussed. Ms. McIntyre will moderate. Scheduled panelists are: Elizabeth M. Lindner, executive vp of Kemper Insurance Cos.; Ruth D. Theule, supervisor-managed claims services for Steelcase North America; Jenny Parker Emery, principal and consultant for Towers Perrin; and Charles A. Amis, vp-employee benefits at Provident Cos. Inc.

Later, there will be two sets of concurrent sessions.

"Returning Employees to Work" will examine issues such as the effectiveness of onsite rehabilitation, offsetting redundancies among collateral source benefits, and the special concerns of public sector employers. The session will be moderated by Rebecca S. Bruce, president, CEO and director of Aon Management Institute. Scheduled panelists are: Daniel L. King, president of The Risk Control Group of Risk Management Casualty Services at Host Marriott Services Corp.; Larry Kurtz, president of The Achievement Institute; and Rosemary Osman, manager-workers compensation for the University of Pennsylvania Health System.

"Workers Compensation Trends in California Today: Where is Reform Going?" will include results from an upcoming RAND report on California's workers comp system. Panelists will be: moderator John G. Pasqualetto, president of the Specialty Workers Compensation Division of American Home Assurance Co.; Rachel Kaganoff Stern, associate political scientist for RAND Corp.; and Edward C. Woodward, executive director of the California Workers Compensation Institute.

"Identifying Factors that Drive Workers Compensation Costs: Case Study of an Innovative Approach" will showcase data used by Kentucky Fried Chicken to evaluate key drivers in workers comp costs. The panelists will be: Mr. Mandel of PepsiCo Restaurant Services; Christopher A. Duncan, director-human resources for Frito-Lay Inc.; and I. Jeff Turshen, consulting manager at The MED-STAT Group.

"Creative Incentives and Pay-for-Performance Methodologies" will examine how risk managers can persuade vendors to improve their loss prevention, performance measurements and linking providers. Panelists will be Michael Gibney, director-loss control at Rollins Inc.; and Lizbeth Mackenzie, vp-human resources at Coors Ceramics Co.

Tuesday evening concludes with a cocktail reception.

Wednesday, Oct. 29, begins with

a continental breakfast hosted by GENEX Services Inc.

"Outcomes Measurement—Managed Care vs. Managed Costs" will be the day's first session. Panelists will review several landmark projects and employer experiences. Issues to be discussed include holding managed care companies responsible, setting managed care program goals and benchmarking. The panelists will be: moderator Maddy E. Bowling, senior vp-workers comp managed care for Intracorp; Mary Furnanz, manager-workers compensation at Levi Strauss & Co.; Brenda Olsen, vp-risk control services at J&H Marsh & McLennan Inc.; and Richard A. Victor, executive director of the Workers Compensation Research Institute.

Wausau Insurance Cos. will host a refreshment period and opportunity to view exhibits. Afterward, a session will examine why savvy

risk managers tap into alternative risk financing even when soft pricing prevails. The panelists will be John Kessock Jr., chairman of Commonwealth Risk; Art Engel, chairman and CEO of Southwest Marine Inc.; and Keith Terrano, director of risk management for Labor Ready Inc.

Concurrent sessions will follow. "New Medical Approaches to Old Problems," will look at alternative health care and credentials for managed care and alternative providers. Panelists will be moderator Mary Stoik Dymond, director of risk management at ACX Technologies Inc.; Dr. Peter G. Hanson of Hanson Peak Performance Clinic; and David Bresler, a visiting professor at the University of California at Los Angeles.

A session on risk management information systems will evaluate data quality, data flow, how risk management can benefit from

data warehousing, and emerging data standards. Panelists will be moderator David P. Duden, national RMIS practice leader, Deloitte & Touche L.L.P.; Tim East, manager-risk management business process for The Walt Disney Co.; Michelle DeLizio, president of CompReview; and Scott Lund, vp-marketing at SAC3.

Lunch will be hosted by American International Group Inc. Sandra M. Jensen, director of risk management information services at CNA Insurance Cos., will speak on "Innovative Principles for Reducing Workers Compensation Claim Costs."

Concurrent sessions will follow lunch. "Screening Out Your Problems—How Far Can You Go?" will look at employer efforts to avoid hiring people prone to file workers comp claims. Prior-injury questionnaires, ergonomic testing and background checks will be dis-

cussed. Panelists will be: moderator Jeffrey W. Pettegrew, vp-insurance and risk management at Western Staff Services; Chris Berka, vp of Psychomedics Corp.; and Brent A. Winans, national accounts manager at Avert Inc.

"Building a Labor/Management Team to Work Together in Reducing Workers Compensation Costs" will consider teaming up with labor to educate employees about workers comp costs and joint union-management safety committees. Panelists will be William C. Bruce, a partner at Mayo, Gilligan & Zito; and Catherine M. Hopkins, director environmental health at The New York Times.

The conference adjourns at 3 p.m. Wednesday.

For more information or to register, contact International Business Forum, 7 Penn Plaza, Suite 901, New York, N.Y. 10001; 212-279-2525.

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ASK A BENEFIT ACTUARY

Q Which defined benefit hybrid plan should be adopted?

A This question comes from a director of benefits at an organization that now sponsors a traditional defined benefit plan. The organization expects to increasingly be seeking mid-career hires to provide the core capabilities it needs. In order to align its defined benefit plan to attract these hires, the

organization determined that the defined benefit plan should deliver the same benefit value as a percentage of pay for each year of service, regardless of whether the service is rendered at 25, 45 or 65. The current defined benefit plan provides greater value to longer-service employees.

The organization is reviewing its options, considering a pension equity plan or a cash balance plan. For a career employee with a typical earnings progression—which, for this organization, represents increases of 4% per year—either plan can be designed to provide the same benefit value as a percentage of pay for each year. The director of benefits is trying to decide which plan is better in light of the organization's other design objectives.

The plans are similar in one respect. Both define the benefit as a lump sum. For a cash balance plan, the lump sum benefit is the value in a hypothetical account balance that is similar to an account balance in a defined contribution plan.

Each year, the hypothetical account balance increases by an employer "contribution" to the hypothetical account, and by interest on the prior year's account balance. For example, a plan might provide a "contribution" to the hypothetical account of 5% of pay and credit interest based on the yield on 10-year Treasury securities.

For a PEP, the benefit is a lump sum calculated using a percentage of highest average earnings, typically a three- or five-year average. To figure the percentage, an employee is credited with percentage points for each year of service. At retirement, these percentage points are accumulated and multiplied by the highest average earnings to determine the lump sum benefit. The lump sum for a career employee might be 200% of the highest average earnings. For example, the lump sum in such a case would be \$100,000 for

an employee with highest average earnings of \$50,000.

A key factor for a plan sponsor in choosing to adopt either a PEP or a cash balance plan is what happens when the employee's true salary progression does not match the salary assumption used in plan design. For employees who receive above-average increases—4% per year is average for this organization—a PEP will do a better job of delivering the same benefit as a percentage of pay per year of service.

For example, a fast-tracker—an employee who averages pay increases of 8% per year—will receive a lower benefit as a percentage of pay with a cash balance plan than with a PEP. And a slow-tracker—who averages pay increases of 2% per year—will receive a greater benefit as a percentage of pay with a cash balance plan than with a PEP. This means a PEP generally will be more effective in delivering benefits to executives, who typically are fast-trackers.

A PEP also has advantages in inflationary environments. Because a PEP bases benefits on highest earnings, it automatically adjusts benefits if inflation accelerates beyond current levels. With a cash balance plan, some inflation protection is provided through the interest credit, but additional benefits may be necessary through periodic benefit update.

Cash balance plans do have advantages over PEPs:

- While both PEPs and cash balance plans are easier for an employee to understand than a traditional defined benefit plan, the cash balance plan is often more easily understood than a PEP. A cash balance plan operates much like a defined contribution plan; that similarity often makes it easier for employees to understand cash balance plans.

- A cash balance plan can be designed to meet a non-discrimination safe harbor rule. In general, a defined benefit plan can provide highly compensated employees with greater benefits than non-highly compensated employees, but only within certain limits. The IRS will deem that a plan provides benefits within these limits if its benefit formula meets certain requirements known as a safe harbor.

Under Internal Revenue Service regulations, a cash balance plan can have a safe harbor design, but a PEP cannot. A safe harbor design can be beneficial in reducing the plan sponsor's administrative cost for complying with the non-discrimination requirements, and it can provide year-to-year certainty that the requirement will be met.

However, in practice, very few plan sponsors design cash balance plans to meet the safe harbor requirements, because some aspects of these requirements are at odds with a typical employer's plan design objectives. For example, the required approach for crediting interest to the hypothetical account balance may not meet the plan sponsor's objectives.

- For a sponsor with an overfunded traditional pension plan, cash balance plans can be an intermediate step to a defined contribution plan. After the overfunding is exhausted by using it on employer "contributions" and interest credits, the cash balance plan can be terminated and replaced smoothly with a defined contribution plan.

In these circumstances, a PEP usually does not provide a smooth transition because employees expect that PEP points will be multiplied by their highest average earnings, which typically are at career end. These expectations are not met when a PEP plan is terminated in the middle of an employee's career, creating employee dissatisfaction and less than a smooth transition.

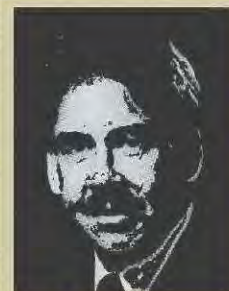
Ultimately, the choice of a PEP or cash balance plan depends on the sponsor's priorities. The unique advantages of the PEP and cash balance plan must be considered against what the sponsor values. And different sponsors will have different priorities, as evidenced by the adoption of both types of plans throughout the United States. **BI**

Would you like advice from an experienced colleague on a risk management, benefits management or actuarial problem? Four quarterly features in the Perspective section of Business Insurance can give you some answers.

Ask A Casualty Actuary, Ask A Benefit Actuary, Ask A Benefit Manager and Ask A Risk Manager answer written questions from readers on risk and benefits management issues and actuarial problems.

This month's column on actuarial issues in the benefits field is written by William J. Miner, an actuary with Watson Wyatt Worldwide in Chicago. Richard E. Sherman, president of Richard E. Sherman & Associates Inc. in Ashland, Ore., answers actuarial questions in the casualty field. Christopher E. Mandel, director-risk management at PepsiCo Restaurant Services in Louisville, Ky., answers questions on risk management. Dennis J. Nirtaut, managing director of compensation and benefits for Andersen Worldwide S.C. in Chicago, answers questions on employee benefit plans.

Address your questions to ASK, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. Please give us your name, title and employer; however, Business Insurance will consider unsigned letters.



Mr. Miner

Death during volleyball compensable, court says

A worker's estate was entitled to workers compensation benefits for his death while playing volleyball during a break, according to the Supreme Court of New Hampshire.

James Balamotis, a field service engineer employed by Digital Equipment Corp., played volleyball with his co-workers several times per week during his lunch hour break. Volleyball was not a company-sponsored recreational activity; however, it was not forbidden. In June 1992, Mr. Balamotis died during a lunchtime game at the company, probably the result of an aggravated heart condition. His estate filed for workers comp benefits.

The compensation board denied benefits because his death did not arise out of and in the course of his work.

On appeal, the appellate court said accidents sustained during personal activities at work arise as much out of the employment as when actually doing the work. In general, the court held that on-premises recreational activities conducted during the work day arise out of employment.

Further, the court said the accident here occurred during the course of work because the activity was reasonably acceptable so as to be an incident of employment and, thus, in essence a part of it. The board's decision was reversed.

Appeal of Estate of Balamotis, Supreme Court of New Hampshire, Nov. 21, 1996, Rehearing denied Dec. 20, 1996 (BI/03/Jy.-\$10).

Legal Briefs

ERISA can't be used to recover benefits

An employer, who was a fiduciary with respect to a health care plan, could not bring suit under the Employee Retirement Income Security Act to recover benefits for an employee, the 4th U.S. Circuit Court of Appeals ruled.

Until 1991, Coyne & Delany Co. maintained a group health insurance plan under contract with Blue Cross & Blue Shield of Virginia. The policy was cancelled and replaced with a self-insured plan reinsured by Standard Security Life Insurance Co. The reinsurance policy paid any benefit obligations incurred by Coyne in excess of \$10,000. The new plan was effective April 1, 1991.

Prior to that date, Herman Tyree, a Coyne employee, had been hospitalized for a heart condition. He was on sick leave on April 1 and did not return to work before being readmitted to the hospital on April 20 for the same condition. Mr. Tyree's family was assured by Coyne that he was covered under the self-insured plan. Coyne paid \$160,000 to Mr. Tyree's health providers and sought reimbursement from Standard. However, Mr. Tyree was not covered because he had failed to meet the "active service" requirement of the reinsurance plan. Thus, Coyne

sued Blue Cross claiming the latter violated its fiduciary duties under ERISA by unreasonably denying Mr. Tyree benefits. The trial court denied Coyne any monetary recovery but ordered Blue Cross to pay Mr. Tyree's medical services claims.

The appellate court noted that Coyne was seeking medical benefits which it claimed are owed to Mr. Tyree. But, the court said that ERISA permits only "a participant or beneficiary" to sue for benefits.

The court said that the text, structure and purpose of ERISA all lead to one conclusion—that Coyne could not bring a suit to recover benefits for Mr. Tyree. "Any change in the statute will have to come from Congress," the court said, "not the courts."

The trial court decision was reversed.

Coyne & Delany v. Blue Cross & Blue Shield of Va., 4th U.S. Circuit Court of Appeals, Dec. 16, 1996 (BI/02/Jy.-\$10) **BI**

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

IRAs

Continued from page 1

• Provisions that would allow annual non-tax-deductible contributions of \$2,000 a year to a new savings vehicle known as IRA Plus in the Senate bill and American Dream Savings Accounts in the House bill. Funds and accumulated interest in these accounts could be withdrawn tax free if held in the account for at least five years and used for certain purposes, such as purchase of a first home.

• A provision in the Senate bill that would make more people with employer-provided pensions eligible to make tax-deductible contributions to IRAs. Under current law, the full \$2,000 tax deduction for IRA contributions only is allowed for individuals with adjusted gross incomes of less than \$25,000 and joint filers with adjusted gross incomes, or AGI, of less than \$40,000.

The \$2,000 tax deduction under current law is reduced, based on a sliding scale, for individuals with an adjusted gross income of between \$25,000 and \$35,000 and joint filers with an AGI of between \$40,000 and \$50,000.

Under the Senate bill, the income threshold for making the full \$2,000 tax-deductible contribution to an IRA would be gradually raised over the next six years. By 2004, an individual with an AGI of up to \$50,000 could make the full \$2,000 deduction, while a couple filing a joint return with an AGI of \$80,000 could make the maximum tax-deductible IRA contribution.

• A provision in the Senate bill that individuals without pension coverage would qualify for a tax-deductible IRA regardless of household income or whether the individual's spouse was covered under a pension plan.

Currently, a person without pension coverage is ineligible to maintain a tax-deductible IRA if the individual's spouse is covered by a pension plan and income is above a certain level.

While lawmakers appear ready to bestow a raft of new tax breaks for individuals investing in IRAs, that congressional beneficence doesn't extend to 401(k) plans offered by employers.

Neither the House nor Senate bill, for example, would waive the 10% penalty tax that applies to all withdrawals from 401(k) plans before age 59½. Indeed, the Senate bill actually would decrease the attractiveness of 401(k) plans for some employees.

The Senate measure now includes an amendment by Sen. Carol Moseley-Braun, D-Ill., that would require written spousal consent before an employee could take money out of a 401(k) plan in any form other than an annuity (BI, June 30).

Despite the boost to IRAs and the slap at 401(k) plans, benefit experts doubt that employees would shun 401(k) plans in favor of IRAs.

"The 401(k) plan still should be on top," said Richard Koski, a benefit consultant at Buck Consultants Inc. in Secaucus, N.J.

That is because most employers match—typically at a rate of 50%—employees' 401(k) salary deferrals, which is a financial windfall that IRAs cannot touch, he said.

"My gut tells me that 401(k)s will remain more attractive than IRAs, especially when there is an employer match," agreed Frank McArdle, a consultant with Hewitt Associates L.L.C. in Washington.

Still, with IRAs becoming more attractive, some employers will have to beef up their 401(k) plans to maintain participation levels.

"There will be more pressure on employers to make 401(k) plans more competitive, such as by adding or improving matches, as well as more investment options," said Ted Benna, president

of The 401(k) Assn. in Langhorne, Pa.

Benefit experts say they are concerned, though, about liberalizing rules that limit the pre-retirement withdrawal of funds contributed to an IRA. They say that if access to IRA funds is eased, individuals may not put away enough savings for retirement.

"The problem is we don't save enough for retirement. These proposals are geared to taking money out before retirement," said Margaret-Ann Cole, a principal at The Kwasha Lipton Group in Fort Lee, N.J.

There also is a concern that even if Congress liberalizes IRA contribution rules now, there is no certainty legislators won't change their minds a few years down the road and withdraw any tax advantages.

"While IRAs have been attractive to members of Congress, they have had a real roller coaster history," Mr. McArdle notes.

For example, in 1981, Congress opened up tax-deductible IRAs to virtually all employees. But just five years later—to cut revenue losses against a swelling federal deficit—legislators adopted the current rules that restrict tax-deductible IRA availability to lower-income individuals and those without pension coverage. **BI**

NAIC

Continued from page 1

Since then, though, the NAIC's accreditation program generally is considered a success.

"Nearly everyone has recognized the benefit of the NAIC's accreditation program, which standardized the process of financial solvency regulation," said Anne Allen, state legislative counsel for the Risk & Insurance Management Society Inc. in New York.

Insurance departments in 49 jurisdictions have adopted the program's

minimum financial regulation standards for at least the first five-year period. Apart from New York, only Nevada lacks accreditation.

In addition, nine insurance departments already have received accreditation for a second five-year period.

Now, the NAIC subcommittee has proposed new detailed procedures for updating the accreditation program to make it more open and deliberative.

The proposal, which the full NAIC must approve, would make the accreditation process more open by call-

ing for broad input and comment on new model laws from a wide variety of sources, including regulators, state legislators, governors, consumers and the insurance industry.

The proposal also would require that the NAIC publicize early in the process when it is considering adding new requirements, said Harold T. Duryee, chairman of the NAIC's Financial Regulation Standards and Accreditation Subcommittee and director of the Ohio Insurance Department. Interested parties would be advised of public hearing dates and provided with relevant drafts and other materials, he said.

In addition, the proposal would "considerably" tighten up the process of changing current accreditation standards, Mr. Duryee said.

The proposal describes in extensive detail at what stages in deliberations over new standards approval would be needed from various subgroups, including the relevant subcommittee, the NAIC's 17-member Executive Committee or its total membership.

In some cases, support from 60% of those voting at the NAIC or in subgroups would be required, which would require a change to the NAIC's current bylaws.

Accreditation standards currently can be modified by:

- Creation of new models, sections or amendments to expand the existing list of 18 required laws, regulations or "regulatory frameworks."

- Addition of specific requirements to an insurance department's regulatory practices and procedures as well as its organizational and personnel practices.

- Indirect modification of standards

through changes in manuals or books that are incorporated by reference in the standards, such as the NAIC's Financial Condition Examiners Handbook.

The proposal outlines step-by-step procedures that would have to be followed in each of those situations.

For example, the proposal calls for any new measure to be presented for comment for at least three years after the NAIC's full membership considers adopting it as part of the standards an insurance department must adopt for accreditation. States adopting the minimal requirements of the measure in the interim, though, would essentially be guaranteed their action would fully satisfy the future accreditation standard, if the NAIC's total membership ultimately adopts it.

However, the proposal includes a "safety valve" that would allow the Financial Regulation Standards and Accreditation Subcommittee to waive—on a three-fourths majority vote—the outlined procedures if necessary, Mr. Duryee noted.

For indirect changes, a public hearing would be held if the FRSS considered the changes "significant," according to the proposal.

Indirect changes to accreditation is an issue with the NAIC's current project to rewrite accounting guidelines, known as the codification project. There are questions, for example, about how the proposed reforms would apply to the codification project, according to the American Council of Life Insurance.

Most states have adopted the NAIC's current accounting manual for use in insurer examinations. The ACLI and some other insurer groups

are concerned that if the NAIC adopts new accounting guidelines, then those guidelines indirectly will become accreditation standards. That and related issues are being discussed in a series of three public hearings, Mr. Duryee said.

Regardless, he said, the codification issue likely will be resolved before the full NAIC adopts the proposal to update the accreditation process. Mr. Duryee said he would like the NAIC to vote on the accreditation reform in December, after a special Executive Committee meeting.

The accreditation reform proposal is garnering favorable reaction from risk managers as well as insurers, though neither group has taken a formal position on it.

The NAIC accreditation process "really seems to have matured," said Ms. Allen of RIMS. With this proposal, the NAIC would be moving "in a more positive direction," including bringing in comment from outsiders sooner than before, she said.

"Overall, I think the Alliance of American Insurers would be supportive of the procedures," said Lenore S. Marema, vp-legislative and regulatory affairs for the Schaumburg, Ill.-based group.

The NAIC's Financial Regulation Standards and Accreditation Subcommittee is inviting comment on its proposal. Written comments should be sent to the NAIC's support and services office in Kansas City, Mo., by Sept. 1.

Those who want to make verbal comments to the subcommittee during the NAIC's fall national meeting, Sept. 20-24 in Washington, also may request a time slot. **BI**

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Global Briefs

Twenty insurers and reinsurers last week formed the **United Nations Environment Program Insurance Assn.** in Zurich, Switzerland, to address industry concerns about the environment. The companies are among the 70 signatories of a 1995 UNEP Insurance Initiative statement of environmental commitment aimed at reducing environmental risk and resulting insurance losses... The Brussels, Belgium-based **Bureau International des Producteurs d'Assurances et de Reassurances**, an international brokerage association, welcomed the European Commission's decision to draft legislation next spring on the role of the insurance intermediary. BIPAR Director Harald Krauss said he hopes the measure will provide brokers with a "single license or passport" to conduct business throughout the European Union. Brokers currently cannot follow their clients across borders... The Council of **Lloyd's of London** is considering whether the new Central Fund should pay losses before or after an unlimited liability member's personal wealth is exhausted. Currently, members' funds at Lloyd's are tapped first, then their personal wealth and finally the Central Fund. Under the proposed arrangement, the Central Fund would pay losses after the members' funds at Lloyd's had been tapped, but before their personal wealth was raided... The executors of 3,000 estates of deceased Lloyd's of London members were correct in paying to reinsure the members' liabilities into **Equitas Ltd.**, London High Court Justice Lindsay ruled last week in the *Test Case, re: Yorke*. The executors now can distribute the rest of the members' estates to their beneficiaries and need do no more to provide for Lloyd's creditors, according to the decision. The Society of Trust and Estate Practitioners sponsored the test case... **Hyundai**, Korea's largest business conglomerate, has set up a spread fund of an undisclosed amount at Lloyd's through its insurance affiliate, **Hyundai Marine & Fire Insurance Co. Ltd.** The fund, known as **Hyundai U.K. Underwriting Ltd.**, managed by Murray Lawrence Members Agency, will commence underwriting on various syndicates next year and plans to establish a corporate syndicate at a later date... **Standard & Poor's Corp.** has assigned its A- claims-paying ability rating to Madrid-based **Nacional de Reaseguros S.A.**, "reflecting the company's leading position in the Spanish reinsurance market, excellent capitalization and satisfactory operating results." However, S&P said the company, one of the largest in Spain, is exposed to "the volatility" of the primary Spanish market because it writes mainly proportional domestic property reinsurance and may have to shift its portfolio in the long term to more sophisticated coverages. **Nacional** wrote 25.2 billion Spanish pesetas (\$175 million) in gross premiums last year.

INTERNATIONAL

Floods devastate Czech Republic

By MARIA KIELMAS

PRAGUE, Czech Republic—Several days of heavy rains and severe floods in the Czech Republic have led to the country's worst natural catastrophe in modern times.

Insured losses are expected to be significant, though local insurers last week were unable to estimate the extent of their claims.

Almost the whole region of Moravia in the east of the Czech Republic was flooded, with the cities of Ostrava, Olomouc and Opava being some of the worst hit initially by the swelling of the Oder River. The floods also hit the Elbe River in eastern Bohemia and progressed east, before moving south along the valleys of the Opava and Morava Rivers, hitting the towns of Zlin and Brno. The floodwaters were expected to hit the confluence of the Morava and Danube Rivers between Vienna and Bratislava late last week.

By the end of last week, 15 people were officially reported dead or missing, thousands were left homeless, factories closed and crops

were ruined in the country's breadbasket. Economic losses were estimated by government officials to be "billions of crowns."

"We don't know what our losses are. The details are in our Olomouc office, but that office is flooded," said a spokeswoman for Prague-based Ceska Pojistovna, the Czech Republic's largest insurer.

The rains and floods also hit large swaths of southern Poland, swelling the Oder and Neisse Rivers and inundating the cities of Opole, Katowice, Walbrzych and Raciborz, one of Poland's largest industrial regions. About 20 people were reported dead or missing, hundreds of homes were flooded or in some cases swept away by the floodwaters.

"The flooding is not as widespread as in the Czech Republic but there were reports that waters rose two or three meters within the space of 20 minutes," said Wlodzimierz Stebnicki, insurance department director at Warsaw-based Heros Banking Insurance & Reinsurance Co. S.A.

See Floods on page 19



GRAPHIC BY JOHN HALL

Pension funds lose tax credits in U.K. budget

By SARAH GODDARD

LONDON—U.K. occupational pension plans likely will undergo changes in light of the withdrawal of tax credits on stock dividends announced in the U.K. budget earlier this month.

In the first Labour budget for almost 20 years, Chancellor of the Exchequer Gordon Brown abolished the 20% tax credit on advanced corporation tax, which is paid when dividends are distributed to tax-exempt shareholders such as pension funds. The change, which took effect July 2, will cause pension plans to lose more than £3 billion (\$5.1 billion) each year.

The finance bill including the change eventually will need parliamentary approval, but because Labour holds a majority, there is little chance anything will change substantially in the bill.

In a statement, Her Majesty's Treasury explained: "Abolishing payable tax credits removes a distortion in the tax system that has encouraged the distribution of profits rather than their retention for reinvestment, and

has favored investments yielding dividends rather than capital growth."

Describing the change as "the biggest attack on pension provision" since World War II, the National Assn. of Pension Funds likened the chancellor's move to the deceased media magnate Robert Maxwell's raid on his company's pension funds. However, "Robert Maxwell only took £400 million (\$675.4 million), and the pensioners got most of the money back," said an NAPF spokeswoman.

Meanwhile, the chancellor also reduced corporation tax to 31% from 33% on companies with profits of more than £1.5 million (\$2.5 million). Companies with corporate profits up to £300,000 (\$506,550) also saw their corporation tax reduced to 21% from 23%. Companies with profits between £300,000 and £1.5 million pay corporation tax on a sliding scale. The reductions are retroactive to April 1. Taxes were reduced to encourage reinvestment, the chancellor said.

In all, U.K. pension plans will lose a total of about £3.5 billion (\$5.91 billion) in tax credits each year under the

See Budget on page 19

P&I Clubs reduce shipowners' liability

By EDWIN UNSWORTH

LONDON—Shipowners are winding up with a smaller exposure to catastrophic claims in the wake of E.U. pressure on protection and indemnity clubs.

The International Group of P&I Clubs, which represents 14 of the shipowner mutuals that insure some 90% of the world's merchant shipping fleet, has been threatened with a possible loss of its exemption from E.U. antitrust rules if it does not alter how it pools shipowners' exposures for large claims. Karel van Miert, the E.C. competition commissioner, has expressed concern about the current practice, especially in light of protests by some members.

In February 1996, the International Group introduced a so-called overspill limit of 20% of a shipowner's reserve fund, which under their arrangements for pooling losses created an aggregate exposure for members of the International Group of about \$20 billion (BI, Jan. 15, 1996). Over-

spill refers to general losses that exceed the International Group's reinsurance coverage. Those losses currently are pooled among P&I club members.

Previously, club members had unlimited liability for claims over the reinsurance limit.

However, while the 20% overspill limit was designed to limit that exposure, some individual P&I clubs and shipowners associations balked at the International Group's limit, arguing that it was still too high and could bankrupt a number of shipowners (BI, Aug. 19, 1996).

The Greek Shipping Cooperation Committee, an association of shipowners, wanted an overspill limit of only 1% or 2% and complained to the E.U. competition commissioner about the 20% limit, saying it was not only too burdensome but also that it left shipowners with too great an exposure to the losses of others.

However, earlier this month at one of their regular meetings, P&I club managers agreed to a signifi-

See P&I Clubs on page 19

Japanese oil spill contained

Severity of Tokyo Bay spill not as bad as feared

YOKOHAMA, Japan—The costs of cleaning up an oil spill in Tokyo Bay earlier this month are still being calculated, though fears that the spill would be far larger and more damaging have abated.

The Japanese owners of the Panamanian-registered tanker **Diamond Grace** are insured for pollution damage.

About 121 million gallons of crude oil—one-tenth of the amount initially thought to have spilled—leaked from the **Diamond Grace** when it struck a reef in the bay. The spill came only a few months after the disastrous **Nakhodka** oil spill caused widespread environmental damage to Japan's waters and coastline (BI, Jan. 13).

Investigators currently are trying to determine how the spill happened in calm and well-charted waters, and have suggested that human error was responsible. **Diamond Grace**, built in 1994, was carrying more than 2 billion gallons of crude oil.

The bulk of the cargo was moved from the punctured tanks into ballast tanks, preventing

additional spillage, and the cleanup operation took just 10 days, involving more than 300 vessels. They were helped by the type of crude oil involved, much of which vaporized on contact with the atmosphere, according to a spokesman for the Japanese government.

Diamond Grace is owned by **Mari-tech Management**, whose majority shareholder is **Nippon Yusen Kaisha**, Japan's largest shipping line. Pollution coverage is with the **United Kingdom Mutual Steam Ship Assurance Assn (Bermuda) Ltd.**, known as the U.K. P&I Club, which refused to comment on the incident.

Cleanup costs are still being estimated. Under international law, the ship's owner and its insurer are liable up to a limit determined by the size of the ship, or about \$19.5 million. Up to about \$170 million in excess of that limit would be paid by the **International Oil Pollution Compensation Funds**, an international organization set up by nations that are party to shipping and pollution conventions.

—By Sarah Goddard



AP/WIDE WORLD PHOTOS

More than 300 ships were involved in the effort to clean up the 121 million gallons of crude oil spilled last month in Tokyo Bay.

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**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

**PEOPLE OF THE STATE OF ILLINOIS, ex. rel.
MARK BOOZELL, DIRECTOR OF INSURANCE
OF THE STATE OF ILLINOIS,**

Plaintiffs,

NO: 94 CH 11337

v.

**MERIT CASUALTY COMPANY,
formerly known as MERIT INSURANCE
COMPANY, an Illinois Domestic Stock
Property and Casualty Insurance Company,**

Defendant.

NOTICE OF CLAIM FILING DEADLINE AND PROCEDURES

PLEASE TAKE NOTICE, that on April 1, 1997, the Circuit Court of Cook County, Illinois, entered an Agreed Order of Liquidation with a finding of Insolvency against MERIT CASUALTY COMPANY, formerly known as MERIT INSURANCE COMPANY. Mark Boozell, Director of Insurance of the State of Illinois, is the statutory and court affirmed Liquidator of Merit Casualty Company.

TAKE FURTHER NOTICE, that on April 15, 1997, the Circuit Court of Cook County, Illinois, entered an Order Fixing Rights and Liabilities and Providing for the Filing of Claims and Claim Filing Deadlines (Fixing Order). Pursuant to the Fixing Order, all rights and liabilities of Merit and its policyholders, creditors and stockholders, and all other persons interested in the property or assets, are fixed as of April 1, 1997, unless otherwise fixed in prior or subsequent orders of the Court.

TAKE FURTHER NOTICE, that all persons and entities who have, or may have claims against Merit, its property or assets, or against a Merit insured or policyholder, shall have the right to present and file with the Liquidator proper proofs of claim on or before April 1, 1998 at 4:30 p.m. (C.S.T.).

TAKE FURTHER NOTICE, that any insured under an insurance policy issued by Merit shall have the right to present and file with the Liquidator a proper proof of claim setting forth a contingent claim on or before April 1, 1998, at 4:30 p.m. (C.S.T.). No contingent claim shall be allowed for purposes of participating in any distribution of estate assets that may be made at the fourth priority level, 215 ILCS 5/205 (1)(d), unless such claim has been liquidated and the insured has presented and filed evidence of payment of such claim to the Liquidator on or before April 1, 1999, at 4:30 p.m. (C.S.T.). Any contingent claim for which a proper proof of claim is filed on or before April 1, 1998, at 4:30 p.m. (C.S.T.), but which is not liquidated on or before April 1, 1999, at 4:30 p.m. (C.S.T.), may be estimated pursuant to 215 ILCS 5/209 (4)(b) for purposes of participating in any distribution of estate assets that may be made at the fifth priority level, 215 ILCS 5/205(1)(e), unless otherwise directed by the court.

TAKE FURTHER NOTICE, that the form and required contents of all proofs of claim are described in 215 ILCS 5/209. Proofs of claim, along with supporting documents, if any, are to be filed with and may be obtained from the Liquidator of Merit at the Office of the Special Deputy Receiver, 222 Merchandise Mart Plaza, Suite 1450, Chicago, Illinois 60654. A proof of claim shall be deemed "filed" with the Liquidator upon the Liquidator's receipt thereof. The Liquidator reserves the right to require such additional information with respect to any claim filed with him as he may deem necessary. The Liquidator further reserves any and all defenses available to Merit upon all filed claims. All proofs of claim must be duly sworn to before an officer authorized to take oaths.

THE LAST DATE FOR THE FILING OF PROOFS OF CLAIM WITH THE LIQUIDATOR IS APRIL 1, 1998. NO PERSONS OR ENTITIES HAVING OR CLAIMING TO HAVE ANY CLAIMS AGAINST MERIT, OR ITS POLICYHOLDERS, SHALL PARTICIPATE IN ANY DISTRIBUTION OF THE ASSETS OF THE COMPANY UNLESS SUCH CLAIMS ARE PROPERLY FILED WITH THE LIQUIDATOR ON OR BEFORE APRIL 1, 1998 AT 4:30 P.M. (C.S.T.).

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INTERNATIONAL

Budget

Continued from page 17

new rules, according to government calculations. This is equivalent to 5% to 10% of the plans' total investment and capital growth income, though the effect on pension plans will depend on a number of factors.

These include whether the plans have a surplus. Mr. Brown justified the changes by saying many pension funds have a substantial surplus, allowing employers to suspend new contributions, "so this is the right time to undertake a long-needed reform."

But pension experts disagree. "This was true a few years ago, but the position is changing," said Sue Pollock, research actuary with London-based benefits consultant William M. Mercer Ltd. Of the top 100 companies in the United Kingdom, 9% have deficits in their occupational pension plans, according to a recent Mercer survey.

As the government changes take effect, that figure will rise to 40% of the top 100 companies, said Ms. Pollock, under minimum funding requirements implemented by the 1995 Pensions Act. Another 25% of plans will show a surplus of less than 10%, according to the survey.

"A 10% (drop in income) is probably right for a typical scheme, if you don't take into account mitigating factors," said Ms. Pollock. These factors include the lower rate of corporation tax.

The chancellor also introduced the idea of Individual Savings Accounts, which he described as a "tax-favored" retirement savings plan for individuals that could be phased in by the end of the decade.

Mercer's Ms. Pollock said the increased contributions that employers with defined benefit pension plans will need to make, coupled with the tax advantages of ISAs, could compel some employers to abandon their private pension plans.

Employers operating defined benefit plans could see their annual funding commitment rise by 10%, and this could "inevitably lead to some companies questioning whether they want to provide (pensions) in that way," said Ms. Pollock. The alternative would be to operate defined contribution plans, with the benefit tied to the amount an employee accumulates in his or her account. In these cases, retirees would feel the impact of the chancellor's moves and most likely would see 5% to 10% reductions in their retirement benefits.

However, Ms. Pollock does not think employers will rush to switch to defined contribution plans, though she has seen a lot of interest. "There are other investment vehicles which are more efficient," she said, including the proposed ISAs, though these are to be designed for low- to medium-level wage earners. Another alternative would be to increase employee salaries and withdraw pension benefits entirely, she said.

Few occupational pension plans set up over the past 10 years have been on a defined benefit basis, said Alan Fishman, chief actuary at Croydon, England-based consultant Sedgwick Noble Lowndes Ltd., which advises 1,200 occupational pension plans. Instead, defined contributions are funding most new plans. In addition, a number of occupational pension providers now have both defined contribution plans along with the more traditional defined benefit plans, which are closed to new employees.

The chancellor's changes to the advanced corporation tax "could be the last straw which breaks the camel's back," said Mr. Fishman. "There are many employers who... now have given consideration to move to money purchase (defined contribution) arrangements," and "one or two" may now take that step, he said.

Mr. Fishman warned against the pension industry panicking in reaction to the chancellor's announcements. "I take the view that we... just need to keep a cool head to assess how this will affect us," particularly in regard to minimum funding requirements of pension plans.

A "windfall tax" of 23% on the profits of recently privatized utility companies also may hit occupational pensions' investment income, though Mr. Fishman pointed out its effect already may have been discounted.

Stacy Shapiro contributed to this report.

Floods

Continued from page 17

The emergency services have been so overwhelmed that homeless people had to find shelter wherever possible.

"The manager of our office in Opole has taken in seven homeless people in her flat," Mr. Stebnicki said.

The express train running from Vienna—via Prague and Ostrava—to Krakow was derailed on July 7 near Suchdol, north Moravia, because a bridge carrying the railroad was damaged by the flooding. Seven carriages were derailed, 64 people were injured, 10 severely, but there were no deaths.

Some of the Czech Republic's largest industries are in the flooded areas. Automobile manufacturer Skoda Auto, a division of Germany's Volkswagen A.G., had to close down production of its Felicia model for three days.

"Most of our suppliers are based in Moravia and they were seriously hit by the flooding," said a company spokesman. "Like many companies today we operate on a just-in-time basis and so we do not have many parts in."

On July 10, the plant was preparing to restart Felicia production on a step-by-step basis beginning with the paint shop, followed by welding, with full production resuming after a few days.

Skoda Auto purchases material damage, business interruption and liability insurance from local insurer Ceska Pojistovna, with excess coverage from Germany's Allianz Versicherung A.G.

"We are in discussions with our insurers. Our main problem is satisfying customer demand. Cars are a very seasonal business and the highest demand in the Czech Republic is during summer," he said.

Skoda produces about 1,200 Felicia models daily, meaning that about 3,600 have been lost during the shut-

down. These models retail for 220,000 Czech crowns (\$6,774) in the Czech Republic and 16,000 DM (\$9,085) in Germany.

"Three days production loss is not such a great tragedy for us. We hope to make up the lost production through extra shift work and we are discussing this with our union," the spokesman said.

Flood insurance is a standard part of homeowners insurance policies, though flood coverage varies for commercial and industrial risks, said Jitka Bendova, a member of the international department at broker Aon Risk Services in Prague. "It depends on each company," Ms. Bendova said.

In the Czech Republic there is no state-sponsored catastrophe insurance pool, comparable to that in France and Spain, the spokeswoman said. But the Czech parliament last week authorized 900 million crowns (\$27.7 million) in federal funds to help with immediate relief.

Prime Minister Vaclav Klaus said that the costs of the crisis will be met from a combination of funds from the state budget, extra taxes and private insurance.

Skoda's spokesman said that while there has been no similar flooding in the country in decades, it could have been much worse had not a countrywide system of flooding defenses and dams not been built during the earlier part of this century.

"If there had not been defenses along the Vltava River, then waters could have risen to the height of St. Wenceslas' statue in Prague's Wenceslas Square," he said.

There has not been time to estimate economic or insurance losses in Poland either, said Mr. Stebnicki. Various factories were unable to operate because they were flooded, but there were no estimates yet of losses.

Farmers must insure their buildings but crop insurance is voluntary.

The Polish government authorized 300 million zlotys (\$91.1 million) from the state budget for disaster relief. **[B]**

Professional Marketplace

LEGAL NOTICE

LEGAL NOTICE

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISIONIN THE MATTER OF THE LIQUIDATION OF)
RESURE, INC.)

NO. 97 CH 01974

NOTICE OF CLAIM FILING DEADLINE AND PROCEDURES

PLEASE TAKE NOTICE, that on February 27, 1997, the Circuit Court of Cook County, Illinois entered an Agreed Order of Liquidation With a Finding of Insolvency against Resure, Inc. ("Resure"). Mark Boozell, Director of Insurance of the State of Illinois, is the statutory and court affirmed Liquidator of Resure ("Liquidator").

TAKE FURTHER NOTICE, that on March 27, 1997, the Circuit Court of Cook County, Illinois, entered an Order Fixing Rights and Liabilities and Providing for the Filing of Claims and Claim Filing Deadlines ("Fixing Order"). Pursuant to the Fixing Order, all rights and liabilities of Resure and its policyholders, creditors and stockholders, and all other persons interested in its property or assets, are fixed as of February 27, 1997, unless otherwise provided in prior or subsequent orders of the Court.

TAKE FURTHER NOTICE, that all persons and entities who have, or may have, claims against Resure, its property or assets, or against a Resure insured or policyholder, shall have the right to present and file with the Liquidator proper proofs of claim on or before February 27, 1998 at 4:30 p.m. (C.D.T.).

TAKE FURTHER NOTICE, that any insured under an insurance policy issued by Resure shall have the right to present and file with the Liquidator a proper proof of claim setting forth a contingent claim on or before February 27, 1998 at 4:30 p.m. (C.D.T.). No contingent claim shall be allowed for purposes of participating in any distribution of estate assets that may be made at the fourth priority level, 215 ILCS 5/205(1)(d), unless such claim has been liquidated and the insured claimant has presented and filed evidence of payment of such claim to the Liquidator on or before March 1, 1999 at 4:30 p.m. (C.D.T.). Any contingent claim for which a proper proof of claim is filed on or before March 1, 1999 at 4:30 p.m. (C.D.T.), but which is not liquidated on or before March 1, 1999 at 4:30 p.m. (C.D.T.), may be estimated pursuant to 215 ILCS 5/209(4)(b) for purposes of participating in any distribution of estate assets that may be made at the fifth priority level, 215 ILCS 5/205(1)(e), unless otherwise directed by the court.

TAKE FURTHER NOTICE, that the form and required contents of all proofs of claim are described in 215 ILCS 5/209. Proofs of claim, along with supporting documents, if any, are to be filed with, and may be obtained from, the Liquidator of Resure, at 222 Merchandise Mart Plaza, Suite 1450, Chicago, Illinois 60654. A proof of claim shall be deemed "filed" with the Liquidator upon the Liquidator's receipt thereof. The Liquidator reserves the right to require such additional information with respect to any claim filed with him as he may deem necessary. The Liquidator further reserves any and all defenses available to Resure upon all filed claims. All proofs of claim must be duly sworn to before an officer authorized to take oaths.

THE LAST DATE FOR THE FILING OF PROOFS OF CLAIM WITH THE LIQUIDATOR IS SET FORTH ABOVE. NO PERSONS OR ENTITIES HAVING OR CLAIMING TO HAVE ANY CLAIMS AGAINST RESURE, OR ITS POLICYHOLDERS, SHALL PARTICIPATE IN ANY DISTRIBUTION OF THE ASSETS OF THE COMPANY UNLESS SUCH CLAIMS ARE PROPERLY FILED WITH THE LIQUIDATOR ON OR BEFORE FEBRUARY 27, 1998 AT 4:30 P.M. (C.D.T.).

Peter G. Gallanis
Special Deputy Receiver

Business
InsuranceCirculation Breakdown
Commercial Consumers

Administrative:

CEO's, Presidents, and Owners 2,200
Vice Presidents, General Managers and
Other Administrative Personnel 5,129

Financial:

Chief Financial Officers and Vice Presidents
of Finance 3,166
Secretaries, Treasurers, controllers and
other Financial Personnel 2,973

Risk/Employee Benefits:

Vice Presidents, Directors, Managers, and other
related department personnel of: insurance, risk,
employee benefits, personnel, compensation,
pension, safety, security, industrial relations,
human resources and employee/
labor relations 17,043

Sub-total

..... 30,511
Associations 290
Government, Unions and
Educational Institutions 946

Commercial Consumers

Sub-total

..... 31,747
Insurance Agents and Brokers 8,588
Insurance Companies 7,327
Accountants, Actuaries,
Attorneys & Consultants 2,831
Adjusters, Appraisers, TPA's Captive Managers
& Health Care Providers 1,624
Others Allied to the Field 966

Total Qualified

..... 53,083
Non-qualified 9
Single Copy Sales 16

TOTAL CIRCULATION

..... 53,108

★ Source Business/Occupational breakdown
of qualified circulation, November 25, 1996 issue,
as submitted to BPA for December 1996 BPA
Publisher's Statement

P&I Clubs

Continued from page 17

cant reduction to a 2.5% overspill limit. That would reduce the aggregate liability of the International Group for any loss exceeding the \$2 billion of reinsurance to about \$2.25 billion.

This lower limit still needs to be individually adopted by club boards, but last week the Steamship Mutual Underwriting Assn. (Bermuda) Ltd. and the London Steamship Owners' Mutual Protection & Indemnity Assn. both adopted the 2.5% limit.

John Riley, International Group chairman, acknowledged last week that the 20% limit was a compromise that was never wholly acceptable to all the group's membership, and he expects the remaining clubs to endorse the 2.5% limit.

John Lean, chairman of Steamship Mutual, said: "We believe that the overwhelming majority of shipowners in all group clubs will feel able to support this revised formula and that, as such, it will be acceptable to the European Commission."

However, the European Commission has not only taken issue with the overspill limits but also with the International Group Agreement, which governs the transfer of shipowners from one P&I club to another.

The agreement means that if a shipowner decides to move to a new club within the group its rates with the new club for the first year will

be based on its claims record with the previous insurer. Effectively, the rule discourages movement of shipowners between clubs to obtain a better rate.

Richard Youell, a Lloyd's of London marine underwriter who is involved in the International Group's reinsurance program, defended its overspill limit and its IGA. He said shipowners can still move between clubs and that he believes competition still exists between them, though they are competing mainly on the level of service they offer shippers.

The European Commission has disagreed with the International Group's claim that the agreement is necessary to protect the International Group's system for pooling claims.

The P&I clubs were granted a 10-year exemption from E.U. competition rules in 1985 and, though they have continued to operate normally since this exemption expired, they are now trying to win an extension from the competition commissioner. Last month, the commission issued a "Statement of Objections" to the International Group, saying it breached E.U. competition rules by setting a liability limit, rather than allowing club members to choose their own individual limits.

Mr. Riley said the International Group is preparing its response to the commissioner's objections, though he expected to meet with Mr. van Miert beforehand. He said there is no specific timetable for meetings, but hopes for a meeting by the end of July or early August. **[B]**

1967 was a landmark year for environmental liability.



When the Torrey Canyon ran aground in 1967, the value of the lost oil was easily calculated. But who could have known the spill's ultimate cost?

Just months after the 118,000-ton Torrey Canyon set out on its ill-fated journey, Crain Communications launched *Business Insurance* — a new magazine for the commercial insurance marketplace. As world attention turned to the tanker spill's devastation of the environment, corporate executives — risk managers, benefits and health care executives — as well as insurers, reinsurers, agents, brokers and consultants turned their attention to *BI*. There they found ways to manage — and prevent — the catastrophic impact of all types of risk.

Thirty years after the Torrey Canyon accident heightened awareness of environmental risks, *BI* continues to present news and information that helps corporations preserve their resources. We'll celebrate three decades of publishing with a special commemorative issue that looks at the most noteworthy people, issues and events in the world of business insurance.

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Clinics

Continued from page 1

In Mead's case, opening a company-owned clinic has been a rousing success and the facility is brimming with users, Ms. Garwood said. Two doctors staff the 10,300-square-foot clinic, which was the culmination of about five years of planning and building.

"We're getting killed—we're so busy we don't know what to do with ourselves," Ms. Garwood said. Demand is high partly because of the scarcity of primary care doctors taking new patients in town; before the clinic opened, about one in six workers had reported not visiting a doctor in 10 years.

Employer-owned primary care clinics are a "creative option" both for employers in rural areas and those in cities where managed care costs are rising or quality and access problems are becoming vexing, said Dr. Michael Hardies, chief executive officer of Troy, N.Y.-based Corporate Health Dimensions, which manages company primary care clinics.

Dissatisfaction with health maintenance organization pricing or care is generating new interest in do-it-yourself clinics, he said, because employers often have become dissatisfied as to "what the HMOs have promised and what they've delivered."

In addition to running the Mead clinic, CHD recently announced contracts to run new work site clinics at the Gaylord Container Corp. in Bogalusa, La.; USS Fairless Works in Fairless, Pa., and Prince Corp. in Holland, Mich.

For Prince, a manufacturer of auto interior products, the completion of a family medical clinic in January was a way to exert long-term control over health care in the region, which had few primary care doctors and virtually no HMO penetration.

"We made the decision to take a quantum leap forward," said Chris LaFave, manager of health and wellness. The need to innovate was made urgent when the company's employee base more than doubled to 5,000 from about 2,300 three years ago.

"We didn't do this as a knee-jerk reaction to our health care costs being out of whack," according to Mr. LaFave.

"Our average age is around 31. We did this as an investment in our future." Having a clinic onsite is innovative and will help attract and retain employees, he said.

The \$2 million investment in the project was supposed to be paid back through cost reductions within three years, but because of extremely high clinic usage it appears the clinic will have paid for itself in less than two years, he said. After that, it is expected to save Prince \$2 million a year; the company's current annual health care budget is \$12 million.

The 12,000-square-foot clinic, which is partly new and partly renovated from an existing portion of the company's tennis club, is staffed by three full-time, salaried doctors. About two-thirds of employees use the center for family care—twice what the company had expected—while about 93% are using its pharmacy, Mr. LaFave said.

"Initially, we were understaffed, and we could not meet demand the first month we were open," he said.

"That's the good—and the bad—part of it."

While it may be too early to judge the efforts of either Mead or Prince, one corporate clinic that has been open two-and-a-half years is still getting high praise from its owner. Sterling, Ill.-based Northwestern Steel & Wire's center (BI July 3, 1994) has been used by 50% to 60% of its workers for primary care at least once since it opened, said Andy Moore, vp of human resources. About half of the users are employees and half are retirees and relatives.

After seeing health care costs rise about 15%, Northwestern Steel & Wire contracted with PHP Healthcare Inc. of Reston, Va., to build a company clinic on a former parking lot downtown, near the plant. In the first full year, health care costs dropped 6%, Mr. Moore said. Costs increased in the second year but only due to a number of catastrophic medical claims, he said.

"It's done all we expected it to do," he said. The clinic's doctors "are able to handle almost everything, and they do a better job of finding anything before it becomes a major problem."

Demand for services has been so high that a coalition of other employers in the region, which were turned away by Northwestern Steel & Wire when they asked to use the clinic, has drawn up plans to build a medical center of its own in nearby Rock Falls. It is to be owned collectively by the River Valley Health Care Coalition, a group of smaller businesses.

But employer-owned clinics are not a cure for every company's health care financing headaches.

They are probably best suited for rural, self-insured companies that

lack access to primary care physicians and that can rally the support of employees and unions around the new clinic, said Tom Boshell, senior vp of Liberty Healthcare in Bala Cynwyd, Pa. "It takes a unique company with a large concentration of employees in one area for this to make sense," said Mr. Boshell, whose company has won seven contracts for health facilities in eight years. All are family care centers integrated with occupational medicine centers. But many other employers have taken pains to separate occupational health clinics from primary care clinic, fearing that workers' traditional mistrust of "company doctors" and worries over a loss of privacy might cause employees to shun family care facilities.

Clinic contractors also have learned that today's employers have an insatiable hunger for data once the centers open—information to prove that quality standards are being met and outcomes are being achieved, Dr. Hardies said. Clinic users are periodically surveyed about their satisfaction, and as part of its contract CHD must demonstrate annually to clients cost savings goals are being met.

In addition to wanting basic services such as laboratory tests, emergency care, minor surgery and wellness programs, employers also are expecting clinic contractors to screen and construct a network of preferred specialist providers from area physicians. A cardiologist from the local hospital may visit the clinic twice a week, for example.

While a very large company may have ready access to managed care networks and no need for worksite

clinics, those with fewer than 5,000 users most likely will not have the critical mass to sustain a facility, consultants say.

Employers in recent years have been hesitant to own their own health center, fearing the medical liability exposures it might bring them. They also are discouraged by logistics, such as how to mesh the clinic with a preferred provider network to allow optional outside provider usage. Arranging for clinic doctors to be accepted on staff at local hospitals may also be a challenge, Mr. Boshell said.

Industry consultants also pointed to a host of hurdles and start-up expenses that have apparently discouraged most businesses from starting clinics, and said they see no general trend to attempt such projects.

"My sense is more and more employers are critically evaluating if they should be in the business of providing medical care, and it seems more companies are trying to get away from it," said Janet Snow, a principal in William M. Mercer Inc. in New York.

The market for corporate health clinics probably will be small if HMOs learn how to respond to employers' insistence on quality at a fair price, said William Lubin, chief executive officer of commercial managed care for PHP, which has not had a client for a corporate clinic since Northwestern three years ago. On the other hand, he said any HMO rate increase sustained over a few years could reinvigorate his industry.

Markets for corporate health clinics also may exist in foreign countries, Dr. Hardies of CHD said. His company will open a facility soon in Argentina. **BI**

Germany

Continued from page 2

camp coverage, agreed last month to set up a \$12 million Holocaust memorial fund in Israel after Israeli government leaders threatened a boycott of Migdal, an Israeli insurer in which Generali recently acquired a majority interest. Generali also has said that it will open a Trieste, Italy, warehouse containing wartime archives to inspection by heirs of former policyholders.

Generali and other insurers have denied claims under many policies issued to Eastern European residents, arguing that Communist governments seized the insurers' assets after the war and should therefore be held liable for the claims.

In the 1950s and 1960s, the German government settled many other claims arising from the Nazis' seizure of Jews' life insurance assets, said a spokesman for Allianz, which has set up a hot line for Holocaust victims and their families and hired auditor Arthur Andersen to review its wartime policy records.

After examining German government archives in Berlin and Koblenz, Spiegel reported that Allianz acted as lead insurer for pools of German companies that covered SS-run slave labor factories, barracks, motor pools and other operations attached to several death camps, including Auschwitz, Buchenwald and Dachau.

Allianz representatives inspected death camp sites with SS officials and found the risks to be minimal. One Allianz delegate wrote of an Auschwitz site in 1942 that "thanks to constant military supervision, impeccable order and cleanliness prevail," Spiegel reported.

Allianz and other German insurers began firing Jewish employees in 1936 when they could have kept them on with little risk, according to Spiegel. Allianz directors also were close to top Nazi Party officials, and Kurt Schmitt, the insurer's chairman when Adolf Hitler rose to power, re-

signed in 1933 to become Hitler's Minister of Economic Affairs. Mr. Schmitt joined the SS the same year and rose to the rank of brigadier general, the magazine said.

In an interview that accompanied the article, Herbert Hansmeyer, a member of the management board of Allianz and chairman of Allianz subsidiary Fireman's Fund Insurance Cos., said the company "got dangerously close to being involved in the Holocaust."

"Possibly some employees even knew what was happening in the camps," Mr. Hansmeyer told Spiegel. "However, we must differentiate between mass murders in the gas chambers and the SS operations. We didn't insure the concentration camps themselves."

An Allianz spokesman said the company believes the Nazi government never insured gas chambers and other elements of the camps' machinery of death, but "these are all things that are currently being researched."

"We do not want to make unnecessary distinctions between these things," he added. "Morally, there is no distinction."

Vishay Intertechnology, a Malvern, Pa., electronics manufacturer with more than \$1.2 billion in annual sales and 15,000 employees, this month canceled its Allianz global property program insuring 56 factories and other locations in 15 countries, confirmed Becky Huntsman, corporate risk manager. The program generated a \$1.2 million annual premium, she said.

Felix Zandman, Vishay's founder and chairman, is a Holocaust survivor whose parents were killed in Auschwitz.

"We were obviously very surprised and troubled by the decision, but we can also understand there were deep personal feelings involved," the Allianz spokesman said.

Allianz has not had any similar cancellations so far, though a number of other policyholders have sought "clarification" of the insurer's wartime history, he said. **BI**

Pollution

Continued from page 1

An award for a bad faith finding in environmental claims handling is rare, said Laura Foggan, a partner at Wiley, Rein & Fielding in Washington, who represents insurers in environmental coverage disputes.

"Bad faith is routinely alleged, but it is not common for a bad faith award to be made," she said.

Judges are reluctant to make bad-faith awards for the handling of what are usually complex claims, Ms. Foggan noted.

The case centered on pollution at several sites in New Jersey that began in the 1960s and continued for several years.

Princeton Gamma-Tech manufactures measuring and monitoring instruments, including nuclear radiation detection equipment. In its operations, it used trichloroethylene as a degreasing agent. The company disposed of TCE by pouring it onto the open ground at the manufacturing site and in later years at waste disposal sites.

By 1980, TCE had been found in the water at properties near the Princeton Gamma-Tech site. In 1988, the Environmental Protection Agency told Princeton Gamma-Tech that it had been designated a potentially responsible party for environmental contamination at sites surrounding its manufacturing unit. In 1989 the EPA also said the company was a PRP at the waste disposal sites.

The estimated cleanup costs for all of the polluted sites is several million dollars.

Princeton Gamma-Tech informed its insurers of the claim. All the insurers denied coverage and refused to defend Princeton Gamma-Tech.

Neither Princeton Gamma-Tech nor Hartford had copies of the company's comprehensive general liability policies, so Hartford said there was no evidence of coverage, court papers say.

However, the judge accepted sec-

ondary evidence of coverage, including condensed records of insurance coverage, certificates of insurance and coverage binders.

Hartford then accepted the secondary evidence but said there was no proof of the extent of the coverage, court papers say.

The judge ruled that Hartford typically used Insurance Services Offices Inc. forms and the ISO forms would include coverage for the Princeton Gamma-Tech claims.

Hartford's denial of coverage and its handling of the claim illustrated "Hartford's arrogant disregard of its fiduciary obligations to an insured," court papers say.

The designated claims handler was inexperienced in environmental claims and was overburdened with claims, as he had to process 1,000 to 1,200 environmental claims from 1985 to 1992, court papers say.

He "accomplished this achievement by avoiding personal attention to the individual facts of a claim and by simply generating standard form letters which demanded information from the insured, declined coverage and asserted *pro forma* reservations of rights that often did not even relate to the facts of the claim," according to court papers.

Hartford also made little effort to locate the missing policies or verify the coverage, the court found.

"Instead, it conducted a superficial search which confirmed that the actual policy had been destroyed, ignored ample secondary evidence of coverage and refused to evaluate the merit of PGT's claim," court papers say.

Much of the evidence in the case centered on Hartford's claims handling, but the judge said North River and Federal also failed to adequately investigate the claim, court papers say.

North River did not comply with the claims handling procedures set out in its environmental claims processing manual, court papers say. "In stark contrast to its own procedure manual, North River undertook

no investigation of its own and did not even respond to PGT's notices of claim until it was reminded of that failure by PGT's counsel in June of 1990," court papers say.

Federal conducted no meaningful review of the claims and applied its standard "philosophy" for environmental claims, court papers say.

"According to that 'philosophy,' remediation costs did not constitute property damages, the owned-property exclusion extended to the property of others if it was used by the insured and only abrupt discharges were covered," court papers say.

As a result of the failure to investigate the claim and other inadequate claims-handling procedures, the insurers acted in bad faith, court papers say.

Hartford plans to file a motion for the judge to reconsider the ruling. Lawyers representing North River, and a spokeswoman for Chubb would not comment on the case.

Princeton Gamma-Tech Inc. vs. Hartford Insurance Group et al., Superior Court of New Jersey Somerset County-Law Division; Civil Action, No. SOM-L-1289-91, June 5, 1997.

ADVERTISER INDEX

Issue of July 14

ADVERTISER	PAGE #
AIG Corporate	24
Bell Atlantic	9R
Burnham Systems	16
Business Insurance	9, 20
Carvill America	11
CNA/Excess & Select	13
General Reinsurance	14
Mercantile & General	11
Provident Life & Accident	4
Reuters	12
St. Paul Reinsurance	6-7
Sobel Associates	10
Technical Insurance Services	16
Wausau Insurance Company	5

Tobacco

Continued from page 2

The settlement proposal has drawn fire from legislators led by Sen. Frank Lautenberg, D-N.J., and Rep. Henry Waxman, D-Calif. Sen. Lautenberg is authoring legislation that would alter the settlement to include proposals made by the Koop-Kessler report, which public health groups helped prepare.

The report recommends, among other things, that smoking be banned completely in workplaces and outdoor gathering places such as stadiums. The settlement proposal, however, would exempt restaurants, bars and casinos.

The settlement proposal calls for tobacco companies to pay \$50 billion in punitive damages over 25 years and establish a fund of up to \$5 billion a year to be used partly for payment of future punitive awards.

Restrictions on future lawsuits and limits on punitive damages drew a broadside from the Assn. of Trial Lawyers of America.

"It's unclear who, if anybody, could bring legal action in the future and which cases are preserved," said a spokesman for ATLA.

Tobacco companies should not have been allowed to negotiate the amount of punitive damages while essentially admitting "outrageous wrongdoing," the spokesman added.

"Every detail of the proposed settlement must be thoroughly scruti-

nized and evaluated," Richard D. Hailey, ATLA's president-elect, said in a statement. "What it does for consumers and the public health, what limitations it places on Americans' legal rights, and what punishment it metes out to the deadly industry that has killed millions of Americans and cost our economy trillions of dollars."

'It's unclear who, if anybody, could bring legal action in the future and which cases are preserved,' says a spokesman for the Assn. of Trial Lawyers of America.

ATLA's opposition to the settlement proposal that some of its members helped craft does not present a

conflict, the spokesman said. "They are doing what they are supposed to be doing: representing the interests of their clients," he added, while the association is doing its job of defending the civil justice system.

If the settlement falls through completely, Mississippi won't be out in the cold. That state settled its claims against the industry in a separate agreement earlier this month (BI, July 7).

Florida is negotiating a settlement of its lawsuit, which is scheduled to go to trial next month.

Meanwhile, both houses of the California legislature have passed a bill permitting people to sue the

tobacco industry. The law, if enacted, would repeal part of a 1987 law prohibiting suits by individuals against tobacco manufacturers. California Gov. Pete Wilson has not said whether he will sign the measure.

Last month, California amended the 1987 law and permitted the state to sue tobacco manufacturers. After the bill became law, the state Attorney General joined most other states in suing the tobacco industry. **BI**

Detroit

Continued from page 3

aduster in Southfield, said the \$134 million damage estimate did not surprise him. "I think it could be more once they get into it," he said by cell phone as he drove through the streets of Detroit, looking at blocks of damaged houses and buildings.

Mr. Gross said he saw everything "from total losses to just a few windows blown out. A lot of roofs are gone, and depending on the area, water damage from rain."

"The claims are complicated because tornadoes cause hidden structural damage," said Mr. Gross. Buildings implode rather than explode due to tornadoes, he said, and twisters also can damage the steel beams and girders that make up buildings' internal structure.

Commercial insurers reported relatively few claims.

A week after the storm struck, Long Grove, Ill.-based Kemper Insurance Cos. had received four commercial claims, with an estimated total loss of \$200,000 to \$250,000, a company spokesman said.

CNA Insurance Cos. received 41 commercial claims totaling \$156,500 from all parts of Michigan struck by the storm, said a company spokeswoman. The Chicago-based insurer also received 297 personal lines claims totaling \$974,000, she said.

A spokeswoman for Allendale Mutual Insurance Co. of Johnstown, R.I., called Allendale's claims from the storms "negligible."

Spokeswomen for both Protection Mutual Insurance Co. of Park Ridge, Ill., and Hartford, Conn.-based Industrial Risk Insurers said the insurers had received no claims at all as of last week.

In contrast, a Michigan personal lines insurer, AAA Michigan, the Dearborn-based insurance subsidiary of the Automobile Assn. of America, reported having received 2,343 homeowners claims and 750 auto claims, with no projection of losses expected for several days. AAA Michigan is the state's fourth-largest homeowners insurer.

Bloomington, Ill.-based State Farm Mutual Insurance Co.'s Marshall, Mich., office said the insurer estimates it will receive 5,000 storm-related claims, with an early estimated

total loss of \$15 million.

Citizens Corp., parent of Howell, Mich.-based Citizens Insurance Co. of America, on Friday announced claims of about \$15 million from the storms. The company, which writes personal and commercial lines, reported that reinsurance will cover 95% of its losses above \$10 million.

National Insurance Group of Columbus, Ohio, had received slightly more than 100 claims in Macomb, Oakland and Wayne counties, with the typical claim averaging about \$1,300.

Northbrook, Ill.-based Allstate Insurance Co. received about 2,900 claims from the Detroit area but would not release loss estimates.

The storm hit so quickly that risk managers said they had no time to take any steps to mitigate potential damage.

The storm gave "no warning; no one knew it would be this severe," said Nancy Rough, manager of insurance for The Budd Co., a Troy, Mich.-based manufacturer. "We knew we'd get heavy rains, but there was no time to do preparation."

No claims have been called in from Budd's subsidiaries, she added.

American Axle & Manufacturing Inc. of Detroit suffered "minimal damage," a spokeswoman said, even though it had no time to brace itself for the storm.

The storm ripped parts of the roofs from buildings on two Wayne County Community College campuses outside of Detroit. The damage estimate was between \$3.2 million and \$4 million, a spokesman said. The Wayne County Community College District is insured by the Michigan Municipal Risk Management Authority, a municipal insurance pool. "We're self-insured to \$500,000," the spokesman said.

Classes were in session when the tornadoes hit and tore the roofs off buildings and broke windows. The spokesman estimated close to 800 students, teachers and support staff were on the two campuses at the time of the storm.

Afterward, staff discovered the storm had picked up and lifted a three-ton rooftop heating and air conditioning unit half a foot, the spokesman said.

Between July 2 and July 8, nearly 330,000 customers of Detroit Edison Co. went without power—some for days. "We've just completed service

restoration," said a Detroit Edison spokeswoman on Wednesday. The storm and five tornadoes knocked down or ripped up utility poles, transformers and wires in downtown Detroit and surrounding suburbs.

The spokeswoman said Detroit Edison has not filed a claim with its insurer, which she refused to identify. "There hasn't been enough time," she said. The company was still determining payroll for the overtime its employees worked during the clean up, she said.

Bernard Schroeder, senior claims executive for broker J&H Marsh & McLennan Inc. in Parsippany, N.J., said claims were "fortunately not major." About a dozen claims have been filed and run the gamut from \$10,000 to \$1 million, Mr. Schroeder said. He said he had heard of no claims in the \$5 million to \$10 million range.

"We feel lucky this wasn't another Andrew," he said, referring to the 1992 hurricane that devastated south Florida. The Detroit-area storm's impact was more on families and residential properties than on businesses and commercial properties, he added.

The broker is handling one claim in Minnesota from the same storm system. The client was near completing a building when its roof was blown off and eight rooftop air conditioning units fell to the ground.

J&H Marsh & McLennan is the broker for several hospitals in the Detroit area that were damaged, as well as a Detroit auto parts maker.

Municipalities also are working on damage estimates and cleanup. "There wasn't much damage to commercial property," said a spokesman from the Detroit mayor's office.

Damage to Tiger Stadium was "no big deal," a spokeswoman for the baseball team said. "It was like shingles falling off a roof. The grounds crew cleaned up quickly."

But the hard-hit city of Hamtramck had "landmark business that will never be seen again," said Robert Kozaren, mayor of Hamtramck, which is surrounded by Detroit.

"Hamtramck got the worst of it," he said. "There should have been bodies all over the place." Only one resident, though, died, suffering a heart attack after removing downed trees, he said.

"We're compiling information now," he added. "Trees are on people's houses. Insurance companies set up a headquarters in town." **BI**

Updates

OSHA reforms raise concerns

Continued from page 2

istration, the acting head of OSHA says.

Although the White House has not taken a formal position on legislation introduced by Sen. Michael Enzi, R-Wyo., the administration does have several concerns about the bill, said Gregory Watchman, OSHA's acting head.

Among the administration's concerns are provisions in S. 765 that would: exempt some employers from random OSHA inspections if they hired a third-party auditor to conduct workplace inspections; permit fines of employees as well as employers for safety violations; and call for alcohol- and drug-testing of workers. Mr. Watchman said many employers he has spoken with do not favor the third-party audit proposal in part because it raises the question of employer liability if a fatal accident occurred after a workplace had been approved by an auditor. The drug-testing and employee fine provisions would not expand and protect workers' rights, which is a key function of OSHA, he said.

However, Mr. Watchman praised Sen. Enzi's legislation in testimony last week before the Senate Labor and Human Resources Subcommittee on Public Health and Safety, saying the freshman senator had "made a good-faith effort" in seeking out the concerns of business, labor and government while drafting his bill.

The Clinton administration also has expressed opposition to portions of other OSHA reform measures introduced last year by Sens. Judd Gregg, R-N.H., and Kay Hutchinson, R-Texas, Mr. Watchman noted. Although he did not say outright that the administration categorically opposed new versions of the two bills introduced earlier this year, Mr. Watchman noted that the measures are very similar to the 1996 bills.

Burger King settles suit

WASHINGTON—Burger King Corp. will review all its company-owned restaurants to ensure they are accessible to disabled people as part of a settlement with a Bowie, Md., woman who claimed the fast-food chain discriminated against her.

The lawsuit, filed by Patricia Day in 1994 under the Americans with Disabilities Act, asserted that two Burger King franchises in the Washington, D.C., area did not comply with the 1990 law mandating that all public areas must accommodate the disabled. Ms. Day pressed charges after her wheelchair got stuck in the metal barriers of the restaurant's service line.

The Washington-based Disability Rights Council, which handled Ms. Day's case, said at news conference in Washington that under the terms of the settlement, Burger King will hire a consultant to survey the 502 restaurants that the company owns to identify and fix any areas that would impede a disabled person. Included is a monetary award of an undisclosed amount.

"We recognize the importance of assuring that all our customers enjoy the experience of eating at our restaurants, and we'll continue to take the necessary steps to achieve that goal," a company spokeswoman said.

There are no estimates of the total cost of the settlement for Burger King, said the spokeswoman, who added it is not yet known if those costs will fall under the corporation's insurance coverage.

Starbucks reviews its security

WASHINGTON—Starbucks Corp. has beefed up security in seven stores in and around the District of Columbia in the wake of the gunshot slayings of three employees in a Starbucks store in Washington, D.C.'s Georgetown area.

The Seattle-based coffee chain stationed security guards in six Washington, D.C., stores and one in Alexandria, Va., last Monday.

Starbucks now is reviewing its security policies and procedures, said a spokesman, who declined to say whether security guards have been stationed at any other of its more than 1,200 stores nationwide. Starbucks also is considering other security changes, the spokesman said.

Each Starbucks outlet has dead-bolt locks on its door and an alarm system, while some stores also have surveillance cameras, he added.

After arriving at work at 5:15 a.m. last Monday, a Starbucks employee discovered the bodies of three workers in a back room of a store in the Georgetown neighborhood, police said.

Starbucks has 62 stores in the Washington area, which includes the District of Columbia and surrounding Maryland and Virginia suburbs.

Briefly noted

Willis Corroon Group P.L.C. last week moved to put a defunct insurance subsidiary, **Sovereign Marine & General Insurance Co. Ltd.**, into provisional liquidation following an arbitration decision in favor of a French reinsurer. The undisclosed decision meant that Sovereign, in runoff since 1991, had to ask for "an unlimited future financing commitment" that Willis Corroon could not meet, said a spokesman for the broker. Willis appointed KPMG partner Tony McMann provisional liquidator for Sovereign. . . . **Sally B. McCarty** has been named insurance commissioner in Indiana after serving as acting commissioner since February. Ms. McCarty, who assumed the position late last month, had been chief deputy commissioner since August 1996. . . . Gov. Tom Ridge of Pennsylvania appointed **Gregory Martino** on June 28 the acting insurance commissioner. He replaces Linda Kaiser, who left Pennsylvania's Insurance Department to become senior vp, general counsel and corporate secretary of Reliance Insurance Co. in Philadelphia (BI, June 9). . . . A bill giving **unmarried persons some of the same benefits and rights** as those in traditional marriages became law last week in Hawaii. The legislation passed last spring will allow adults of at least 18 years of age to extend their group health insurance, family leave provisions and other benefits to another person registered with the state as a reciprocal beneficiary (BI, May 5). . . . The Pension Benefit Guaranty Corp. is taking over and terminating two **underfunded pension plans** sponsored by Silo Inc., an appliance retailer, which ceased operations last year. The two plans have about 3,000 participants and \$3.4 million in unfunded liabilities.

Top advancing issues: Partner Re Ltd., E.W. Blanch Holdings Inc., Seibels Bruce Group. Leading decliners: CapMac Holdings Ltd., RLI Corp., Chubb Corp. Most active issue: Travelers Corp. The *B/I* Index dropped 0.3%; the Dow Jones 30 Industrials gained 0.3%; the S&P 500 remained virtually unchanged and the NYSE Composite gained 0.1%. Average P/E: Brokers, 19.8; Insurers/reinsurers, 43.0; HMOs, 32.7. System design: Nordby International Inc.

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