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Updates

General Re, Cologne Re deal to create world's No. 3 reinsurer

COLOGNE, Germany—General Reinsurance Co. will assume a controlling interest in Germany's Cologne Reinsurance Co. through a new Dutch holding company, which would make their combined operations the world's third-largest reinsurer.

Colonia Konzern A.G. and Colonia unit Nordstern Allgemeine Versicherungs A.G. will contribute 75% of the voting shares and 30% of the preferred shares of Cologne Re to an as-yet-unnamed holding company in the Netherlands.

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Reform bills carry new employer taxes

By JERRY GEISEL

WASHINGTON—Action in Congress last week sets the stage for floor votes on health care reform bills that take fundamentally different approaches to expanding coverage for the uninsured.

But, as the House and Senate move closer to voting on legislation, employers are likely to find the price of reform is an array of new taxes and other new costs.



Legislation under consideration would slap employers with new health insurance premium taxes, a new payroll tax for large employers and a new tax on generous employer-provided plans (see story, page 61).

A Senate Finance Committee bill would give states new power to levy taxes or surcharges on employer health plans, including self-funded programs, to help finance coverage for the uninsured. And, a House bill could raise costs by making it more difficult for health maintenance organizations to negotiate fee schedules with physicians.

In addition, both bills would wipe out the use of flexible spending accounts, which many employers use to allow employees to finance unreimbursed medical expenses like deductibles.

"We're being clobbered out there," said a business lobbyist outside the House Ways and Means Committee hearing room, referring to the health care-related tax increases that employers would face under the legislation.

That assessment came as the drive to pass health care reform legislation took several major steps forward last week. Those steps include:

• The Ways and Means Committee approved on a 20-18 vote a reform proposal introduced by Chairman Sam Gibbons, D-Fla.

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Flat pricing in most lines cheers buyers

By DAVE LENCKUS and RODD ZOLKOS

How low can you go?

The answer from property/casualty insurers for many risk managers during the midyear renewal season is: "Even lower."

Risk manager report

For the majority of risk managers whose property risks are not in the nation's two major catastrophe-prone areas, property insurance rates, as well as terms and conditions, are stable.

And the casualty side looks even better. Many risk managers, thinking they had cut the best deals last summer that they would likely see for a while, were surprised this year that insurers were still negotiating. Several risk managers reported that they reduced their casualty rates by 10% or more.

The notable exception is in the property market for earthquake risks in California. Because of the Jan. 17 Los Angeles quake (*BI*, Jan. 24), rates are dramatically higher and capacity has shrunk for California risks, forcing risk managers to scramble to complete their property programs.

"The earthquake pricing literally made me gag," said Sue Anne Mitro, manager-risk and insurance for The Hillman Co., a Pittsburgh-based holding company with vast real estate investments.

The company's primary property insurance rate for California risks was raised 20%, although Hillman's non-California primary property rate was basically unchanged.

For the company's excess property program, insurers boosted rates 50%.

"When the pricing started coming in, I was literally stunned," Ms. Mitro said.

Hillman has some buildings that are flood risks, but "nobody raised a flag" about that risk, she said. "It was explained to me the excess coverage was purely quake-driven."

Exacerbating the problem for Hillman, its underwriters cut capacity, sending Ms. Mitro hunting for additional

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Insurers unable to raise rates in soft market

By MARK A. HOFMANN and MEG FLETCHER

Despite record first-quarter catastrophe losses and continued disappointing investment returns, property/casualty insurers say rate increases are about as frequent as goals in a World Cup soccer match.

Insurers report

Except for isolated segments of the market, like property risks with earthquake exposures, competition remains the rule at midyear renewals, insurers say.

But in spite of ongoing competition, few buyers are switching companies, judging by the high retention levels reported by insurers.

"Nothing has really changed despite the hit that companies have had on surplus," said George Ramsdell, senior vp and chief underwriting officer-agency and brokerage group of Continental Corp. in Cranbury, N.J. "The first quarter was a bummer for most people," he observed.

'The market is very competitive for everything," said Dennis Busti, chairman, president and CEO of Reliance National Cos. in New York. "It hasn't bottomed out yet. Every year it seems to get worse."

Mr. Busti blames the ongoing soft market on too much capacity and the unwillingness of companies to sacrifice market share by raising rates in the competitive environment. In fact, he said, some companies are trying to increase market share, especially in primary and excess lia-

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Rates hardening only for property with quake risk

By GAVIN SOUTER and SALLY ROBERTS

Aftershocks from the Los Angeles earthquake are hitting the commercial property insurance market in the form of steep rate increases for some policyholders with quake exposures, brokers report.

Broker report

And that is only if they can find an underwriter willing to write earthquake coverage.

Reduced capacity and higher deductibles have cut the amount of coverage available for California earthquake risks in half, brokers estimate.

However, earthquake coverage is one of the few areas in which rates are rising significantly.

Non-catastrophe property risks are becoming more attractive to underwriters seeking to shift their capacity away from catastrophe-prone areas. Medium-sized risks in the Midwest, for example, are a prime target for property insurers, brokers say.

Rates for most casualty risks are generally flat, with policyholders seeing either nominal rate increases or decreases as capacity expands in several individual lines of coverage, according to brokers.

Finally, brokerage executives say a widescale marketwide hardening is still far away.

Still, January's earthquake in Los Angeles has shaken the insurance market in the same way that Hurricane Andrew shook up the windstorm insurance market 1992,

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Updates

Gen Re to control Cologne Re

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For an undisclosed amount of cash and securities, Stamford, Conn.-based General Re will acquire a majority stake in the holding company. Under the agreement in principle reached last week, part of the cash contributed by General Re will be used to boost Cologne Re's capital base and finance further expansion. By premium volume, the combined operations would be the third-largest reinsurer in the world, behind Munich Reinsurance Co. and Swiss Re Group. In 1992, Cologne Re reported net premiums written of $2.4 billion and General Re reported net premiums of $2.3 billion (*BI*, Aug. 30, 1993).

"As a critical part of this investment, General Re will also enter into operating arrangements with Cologne Re to develop joint reinsurance opportunities on a worldwide basis," said Ronald E. Ferguson, General Re's chairman and chief executive officer.

Colonia CEO Claas Kleyboldt said the German reinsurer was looking for a partner "as an answer to the increasingly strong consolidation processes in the European and German insurance markets."

Cologne Re also had talked with other reinsurers, including Employers Reinsurance Co. (*BI*, June 13).

Study finds insurer returns lag

NEW YORK—Property/casualty insurers' returns on net worth continue to lag behind those of other service industries, according to a recently released report by the Insurance Services Office Inc.

"Insurer Financial Results: 1993" plotted the returns of insurers against the Fortune Service 500, an index of the nation's 500 largest service companies. During the period 1986-93, property/casualty insurers' median return on year-end net worth averaged 10.6%, lagging behind the Fortune Service 500's median return of 12.1%. The disparity was even greater for 1993, when the Fortune Service 500 registered a median return of 12.7%, compared with 9.8% for property/casualty insurers as a whole and 10.2% for the largest property/casualty insurers.

According to ISO, the 1993 rate of return—which was insurers' highest since 1989—reflected reduced catastrophe losses, premium growth of 5.6% from 1992 and record realized capital gains of $10.1 billion. But 1993 investment income fell by 5% to $32.1 billion, the second year of decline in a row.

"This decline, together with more than half of earnings coming from unpredictable and undependable realized capital gains, points to the need for the property/casualty industry to improve its fundamental underwriting results," said John J. Kollar, ISO's vp-information and customized products.

Rehearing for pollution case

NEW ORLEANS—The Louisiana Supreme Court, without explanation, has agreed to rehear a case in which its stunning decision dramatically diluted the commercial general liability policy's absolute pollution exclusion in unintentional pollution incidents.

The court ruled on May 24 that the exclusion does not bar coverage for non-environmental third-party claims. It also ruled that insurers must cover even environmental third-party claims if the insurers breached their fiduciary duty to policyholders when they first added the exclusion to the policy. Such a breach would occur if an insurer failed to reduce its policyholder's premium to reflect the reduced coverage and failed to inform the policyholder that pollution coverage was available through endorsements, the court ruled (*BI*, June 13).

Seibels Bruce capital infusion

COLUMBIA, S.C.—Still reeling from Hurricane Andrew losses, specialty insurer Seibels Bruce Group Inc. is giving 7 million shares of stock—a 48% stake in the company—to two Saudia Arabian businessmen in return for cancellation of $24.9 million in debt.

About $40 million in net Andrew losses caused a sharp drop in its equity and left Seibels Bruce unable to repay its loans, said Terry E. Fields, senior vp and chief financial officer.

The Alissa Group, which consists of father and son Abduilatif Ali and Saad A. Alissa, had purchased a $24.9 million note from Seibels Bruce's lender in December, and the note was renegotiated down to a $10 million interest-bearing note at that time.

Both the note, which was due June 30, and the 7 million shares were then put in escrow. Seibels will recognize the $10 million as an equity increase in the second quarter, said Mr. Fields.

The transaction was approved by Seibels Bruce shareholders and South Carolina and Kentucky insurance regulators last week.

The Alissa Group has named four new members to the insurer's board of directors, expanding it to 10 from nine. But no operational changes are planned, said Mr. Fields.

Until it was stung by Andrew losses, Seibels Bruce was heavily involved in commercial coverages. Now it specializes in personal lines, only writing commercial business as a managing general agent on behalf of the U.S. branch of Italy's Assicurazioni Generali S.p.A.

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Errors & omissions

- Columbia/HCA Healthcare Corp. is not the parent of Humana Inc., as was incorrectly reported in a June 6 Update. Columbia/HCA in 1993 acquired Humana's hospital division, which is why it is contributing to the settlement of allegations that the hospitals overcharged customers.
- The National Council on Compensation Insurance estimates Maine's workers compensation residual market deficit for policy years 1988 through 1992 at $431 million. A June 13 article reported the estimated deficit was "more than $300 million" based on information supplied by an NCCI spokesman.

Product liability bill killed

Reform advocates see improved chances in next Congress

By MARK A. HOFMANN

WASHINGTON—The sudden death of a product liability reform bill on the Senate floor last week is not deterring proponents from promising to resurrect it during the next Congress.

"Opponents of legal reform succeeded in obstructing the Senate from voting on the Product Liability Fairness Act, but we will take up the fight once again in the next Congress. I will persist with this legislation for one simple reason: We must fix the badly broken system of product liability regulation, which inadequately protects consumers and unfairly burdens businesses," said Sen. John D. Rockefeller IV, D-W.Va.

"As far as RIMS is concerned, we'll try again next year. We still favor the measure and we are quite disappointed that it didn't succeed this year. This is too important an issue to give up on, and we'll keep trying," promised Paul Brown, vp and counsel for the Risk & Insurance Management Society Inc. in New York.

Sen. Rockefeller was the chief Democratic sponsor of S. 687, the latest in a series of bills designed to provide a uniform federal product liability standard. Although the bills—the first of which was introduced in 1981—have become successively more protective of consumer interests, none has made it to a Senate vote.

In fact, the closest a bill has come to full Senate consideration was in September 1992 (*BI*, Sept.

Continued on page 4

Study sees incentive to misclassify injuries as comp claims

HMO comp costs questioned

By MEG FLETCHER

BOCA RATON, Fla.—Doctors in health maintenance organizations are more likely to classify employee medical claims as compensable under workers compensation than non-HMO doctors, a research paper says.

HMOs may be tempted by financial incentives to classify injuries whose origin is questionable as work-related, a trio of researchers concluded after analyzing 33 million aggregated workers compensation claims filed in 36 states during the last decade.

Many of those financial incentives continue today, and may be exacerbated by proposed health care reforms encouraging use of HMOs, said Robert P. Hartwig, a research economist with the National Council on Compensation Insurance in Boca Raton, Fla.

However, at least one HMO spokesman contends that some of the practices reviewed for the research are no longer used in the industry and the findings may no longer be applicable.

The research paper, "HMOs, Moral Hazard and Cost Shifting in Workers Compensation," was jointly written by the NCCI's Mr. Hartwig; Richard J. Butler, an economics professor at the Brigham Young University in Provo, Utah; and Dr. Harold Gardner, president of Gardner & Associates, a non-profit consult-

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IRS finalizes SLOB rules

By JERRY GEISEL

Flexibility did not eliminate complexity

WASHINGTON—Despite some added flexibility, final Internal Revenue Service rules intended to help companies with pension plans that cover various units pass IRS non-discrimination tests remain immensely complicated.

Employers with plans that failed some non-discrimination tests now will be allowed to try to prove to the IRS, through "facts and circumstances," that the plans do not discriminate in favor of highly paid employees.

And employers will have more flexibility in allocating so-called residual shared employees—typically headquarters staff—to different corporate units.

Benefit experts agree that these and earlier changes make the so-called SLOB rules, short for "separate line of business," a more practical option for employers that want to run the non-discrimination tests on pension plans offered by different corporate units.

"Separate line of business testing will be an option for more employers. The IRS has responded favorably to employer requests for greater flexibility," said Harry Conaway, a managing director with William M. Mercer Inc. in

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20th Century boosts reinsurance cover

WOODLAND HILLS, Calif.—20th Century Industries has obtained another $400 million in reinsurance while once again boosting its loss estimate from the Los Angeles earthquake.

20th Century Industries, parent of 20th Century Insurance Co. and 21st Century Casualty Co., increased its estimated gross quake losses 14.2% to $685 million from $600 million.

The new reinsurance coverage is written by National Indemnity Co., a unit of Berkshire Hathaway Corp.

That additional reinsurance was a condition of a loan agreement to borrow $175 million from the First National Bank of Chicago and Union Bank of Los Angeles.

The loan was prompted by a California Department of Insurance order requiring the insurer to have at least $250 million in statutory surplus by June 30.

At that same time, the department ordered 20th Century to stop selling earthquake policies immediately. The insurer also will phase out all homeowners coverage in the next two years (*BI*, June 13).

Earthquake losses had caused the company's statutory surplus to fall 66.6% to $188 million as of the end of 1994's first quarter from $564 million at year-end 1993.

The additional $400 million in reinsurance is on top of an already-existing $200 million layer that expired July 1 but is in the process of being replaced, said a spokesman. The new coverage is designed to protect the company until its earthquake exposure is reduced or eliminated.

Before the Jan. 17 earthquake, 20th Century had some 240,000 personal lines earthquake policyholders, mostly in the Los Angeles Basin.

—By Judy Greenwald

Inside

- There's hope that the High Court will take a more definitive stance on punitive damages, one of this week's editorials says. **PAGE 8**
- The CGL pollution exclusion bars coverage for third-party discharge, the 1st Circuit has ruled. **PAGE 10**
- Communication and prompt investigation can help control punitive damage claims, an attorney says. **PAGE 18**
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Departments

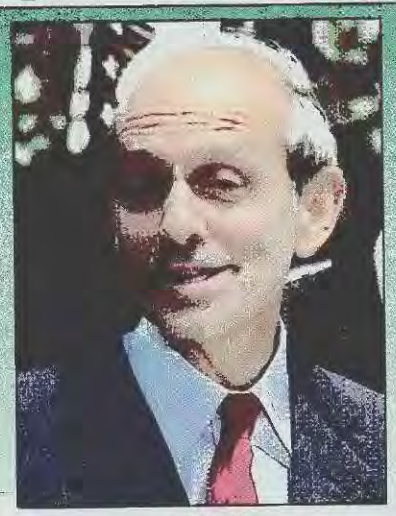
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Breyer Superfund rulings raise ethics questions

ON THE BENCH:

- *U.S. vs. Ottati & Goss* (1990): Judge Breyer wrote an opinion allowing less rigorous cleanup of a Superfund site than sought by the EPA.
- *Reardon vs. U.S.* (1991): Judge Breyer was part of a court that ruled that a lien the EPA put on a Superfund site violated the Constitution.



IN THE BOX:

- Judge Breyer's profits at Lloyd's have fallen from $50,000-$100,000 in 1989 and 1990; to $15,000-$50,000 in 1991; to $1,000 or less in 1992 and 1993.
- Judge Breyer was a member of Merrett syndicate 418 in the 1985 underwriting year. That account remains open, with total losses of about $245.6 million as of 1993, primarily from U.S. asbestos and pollution liabilities.

Source: Lloyd's of London; Chatset Ltd.; Judicial Ethics Committee

GRAPHIC BY KIM ROME

By GAVIN SOUTER

WASHINGTON—Supreme Court nominee Stephen G. Breyer's former membership at Lloyd's of London, his potential unlimited liability for pollution and other claims and his rulings on two Superfund-related cases could be at issue in his nomination hearing beginning next week.

One legal scholar contends that the judge violated judicial ethics by ruling on two Superfund-related cases without disclosing that he was a former Lloyd's member facing potentially unlimited liability on pollution and other claims.

A White House spokesman and supporters on Capitol Hill said there was no conflict of interest because Judge Breyer did not know at the time of the rulings that he would face such large pollution-related losses.

"Judge Breyer's actions were fully consistent with the code of judicial ethics," said Sen. Edward M. Kennedy, D-Mass., in a statement. "He recused himself from asbestos cases and participated in no other cases where he knew he might have any financial interest."

As chief judge on the 1st U.S. Circuit Court of Appeals, Judge

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High court affirms limits on punitive awards

By JOANNE WOJCIK

WASHINGTON—The Supreme Court's latest ruling on punitive damages—which marked the first time the justices have overturned such an award on Constitutional grounds—may be too narrow to provide much guidance to lower courts.

Though the 7-2 ruling marked the first time a majority of the court held that the Constitution does somehow limit punitive awards, it came in a challenge to a jury award in Oregon, which alone among the states provides no judicial review of punitive awards.

By providing no judicial review of a jury's punitive award, the state ran afoul of the due process guarantees in the U.S. Constitution, the Supreme Court ruled.

The June 24 decision, *Honda Motor Co. Ltd., et al., vs. Karl L. Oberg*, is the latest in a series of constitutional challenges to punitive awards and followed two notable earlier rulings.

In *Pacific Mutual Life Insurance Co. vs. Haslip*, the high court had held in part that punitive awards must be subject to reasonable judicial review and indicated there might be a limit on the ratio of punitive-to-actual damages (*BI*, March 11, 1991). And, in *TXO Production Co. vs. Alliances Resources*, the court reaffirmed that judicial review of punitive awards is necessary (*BI*, June 28, 1993).

Business interests consider the latest ruling—which involved a punitive award of $5 million against Honda Motor Co.—an important signal from the high court.

"This is the first time there has been a single majority opinion stating explicitly that there are limits to excessive punitive damage awards," said Charles Rothfield, of counsel to Mayer, Brown & Platt in Washington, who wrote Honda's Supreme Court brief.

"The court has recognized the need to place some reasonable limits on punitive damage awards," agreed Martin F. Connor, president of the American Tort Reform Assn. in Washington.

Other business representatives said that *Honda vs. Oberg* clarifies what the court had only hinted at in its earlier rulings on punitive damages.

"In the past they've been ambiguous," said Stephen Bokat, vp and general counsel for the U.S. Chamber of Commerce in Washington. "Now they've made it clear that certain basic procedural steps must be taken to protect businesses and that there are substantial limits on punitive damage awards."

The high court "literally upheld the traditional supervision of jury

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Not all firms want to offer a health plan, study finds

By CHRISTINE WOOLSEY

The lack of affordable health insurance is only one barrier small businesses face in providing health care coverage for their workers, according to a University of Michigan study.

Another significant barrier to employer-provided coverage among small businesses, the study finds, is employers' attitudes.

Insurance underwriting practices, specifically the use of preexisting conditions and redlining—the exclusion of certain types of businesses from eligibility for coverage—also contribute to the problem of the working uninsured, the study shows.

"The failure of many small businesses to purchase health insurance has as much to do with attitudes and perceptions as with affordability and insurance restrictions," according to the study's authors.

"Surprisingly, a majority of employers that do not offer health insurance to their employees are simply not interested in doing so."

Employer attitudes, apart from issues of affordability and insurance underwriting practices, "have important implications for the success of any (reform) proposals, such as voluntary purchasing alliances, which seek to entice small-business employers to purchase health insurance," the study says.

The University of Michigan study was based on telephone interviews with 2,400 small businesses with two to 25 employees each working 17 or more hours per week. The interviews were

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Reducing harassment exposure

Harassment claims a growing problem

The number of sexual harassment charges filed with the EEOC has gone up dramatically in some states.

		Number of charges filed in 1993	% increase since 1989
HIGHEST	Illinois	616	433.4%
	Wyoming	37	428.9
	New Hampshire	59	385.9
	North Dakota	17	316.7
	Florida	830	261.2
	Nationwide	**11,908**	**111.8**
	Arizona	165	36.9
	Vermont	21	27.3
	Hawaii	51	13.6
	Rhode Island	29	10.4
LOWEST	California	656	0.8

Source: Equal Employment Opportunity Commission; State University of New York at Albany.

GRAPHIC BY MIKE GARVEY

Ruling offers harassment defense

By MICHAEL SCHACHNER

PHILADELPHIA—Employers can shield themselves from sexual harassment suits alleging a hostile work environment by maintaining an effective grievance process that is known to employees, the 3rd U.S. Circuit Court of Appeals says.

The ruling comes as welcome news to employers that have been struggling to find a reliable defense that protects them from a mounting number of complaints alleging a hostile work environment.

Labor and employment practices attorneys say the ruling expands on the 1986 Supreme Court ruling in *Meritor Savings Bank vs. Vinson*. That ruling refused to hold employers strictly liable for a hostile environment, though it rejected simply having an internal grievance procedure as a defense.

The ruling last month by a three-judge panel came on an appeal of a lower court ruling by an employee of BMW of North America Inc. Trude Bouton originally filed suit against BMW in 1990 under Title VII of the Civil Rights Act and the New Jersey Law Against Discrimination.

The 3rd Circuit panel found that Northvale, N.J.-based BMW had an effective grievance process—one that was known to Ms. Bouton, was accessed by her and functioned to stop the alleged harassment in a timely fashion.

The court, which saw its role in this case as one of interpreting the middle ground left by *Meritor*, hinged its ruling on the word "effective."

In writing for the court, Judge Collins Seitz said BMW had an effective harassment grievance process that was well known to employees and, in fact, was used by the plaintiff on several occasions.

"A policy known to potential victims eradicates apparent authority the harasser might otherwise possess. Because the complaint mechanism was well known to Ms. Bouton and further harassment was prevented in response to her first complaint, we have no occasion to pass upon the outcome if Bouton did not understand the procedure or the initial attempt at a remedy was not successful," the court stated.

Ms. Bouton's claim against BMW under state law was decided in BMW's favor because a statute of limitations had expired.

"This is the first case in the 3rd Circuit that elaborates on the *Meritor* decision. The court has made it clear that a company that offers employees many avenues to report a grievance and then investigates the concerns will not be held liable," said Marilyn Sneirson, an attorney with Beattie Padovano in Montvale, N.J., which represented

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Employers turning to liability cover, prevention efforts

By SAMEERA KHAN

As sexual harassment and other employment liability claims continue to attract widespread publicity and jury sympathy, employers increasingly are turning to employment practices liability insurance.

Brokerages and insurance companies say the insurance policies have caught on particularly well in the past several months.

Some risk managers avoid buying the coverage for cost or other reasons, preferring instead to focus on counseling and prevention efforts. But many others are apparently opting to insure what has not traditionally been a covered risk.

Already this year, sales of employment practices liability insurance policies have risen 25%, said Gerald Brown, managing director at New York-based Marsh & McLennan Cos. Inc. and co-chairman of its FINPRO division, which specializes in financial institutions and professional clients.

"In the seven months of this year we expect to see the same amount of business being generated in employment practices liability insurance as we saw in all of the 12 months of last year," said Jim Gray, professional liability manager at Lexington Insurance Co. Lexington is a Boston-based surplus lines insurer that has offered employment practices coverages since 1992.

By year end, the American International Group Inc. unit hopes that submissions will be 50%

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Products

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14, 1992), when proponents of the measure fell a scant two votes short of the 60 needed to invoke cloture—a parliamentary measure that kills debate—and the bill died in the face of a filibuster.

Proponents of S. 687 last Wednesday fell three votes short of cloture. Wednesday's cloture vote followed a similar attempt Tuesday evening, when proponents found themselves six votes short of cutting off debate. Sen. Rockefeller and others managed to change a few minds but not enough to save the bill.

"I think that we thought we had a stronger position on cloture than we did, although it was on the cusp, and we've seen that when we're on the cusp" trial lawyers and consumer organizations step up their lobbying against product liability reform, said Victor E. Schwartz, a partner in the Washington law firm Crowell & Moring and longtime advocate and lobbyist for a uniform product liability code.

Mr. Schwartz said that unlike some previous product liability reform bills, S. 687 had been designed to carefully balance the interests of consumers and businesses rather than simply serve business interests. The bill would have abolished joint and several liability for non-economic damages in product liability cases; made it more difficult to recover punitive damages in such cases; and eliminated product liability lawsuits involving workplace capital goods that were more than 25 years old (*BI*, April 5, 1993).

It also would have encouraged the use of alternative dispute resolution mechanisms in product liability cases. Unlike earlier bills, though, S. 687 would not have penalized plaintiffs who refused to use ADR and subsequently lost in court. It also would not have penalized those plaintiffs who declined pretrial settlement offers and then lost in court.

'It was a political war and the trial lawyers and the consumer groups won,' says product liability lobbyist Victor E. Schwartz. 'It's taken years, and it may take more years. I've heard nobody in the business community say that it's time to give up.'

"I think federal product liability is not dead, but I do think people have to think what kind of legislation can pass when we see what the new Congress consists of," said Mr. Schwartz. "People need to give very careful thought to how the bill is packaged."

He noted that S. 687 had been deliberately changed from previous proposals to provide more consumer protections.

But, "we learned even if you do make major outreaches to the consumer groups, that may not work," he said.

Mr. Schwartz was particularly critical of Ralph Nader and groups affiliated with the veteran consumer activist, saying that those organizations "will not acknowledge" that pro-consumer changes had been made in the legislation.

Despite the defeat of S. 687, Mr. Schwartz pointed out that product liability reform advocates won one recent battle when the House approved by voice vote its version of S. 1458, the General Aviation Revitalization Act that the Senate passed earlier this year (*BI*, June 27; March 21). Because the House version creates three statutes of repose depending on an aircraft's type of propulsion compared with the Senate bill's single 18-year statute of repose, the two versions must be reconciled. That could prove difficult given the shrinking legislative calendar.

Mr. Schwartz noted that S. 1458 is a short piece of legislation and its brevity could serve as a model for a broader product liability bill in the future. The approval of S. 1458 proves that "properly packaged, product liability bills can go through," he said.

He pointed to another favorable indicator for future passage of product liability reform: Senate Majority Leader George Mitchell, D-Maine., is retiring.

Sen. Mitchell, whom Mr. Schwartz considers the most powerful opponent of product liability reform in the current Congress, is likely to be replaced as majority leader by Sens. Tom Daschle, D-S.D. or Jim Sasser, D-Tenn., if the Democrats retain control of the Senate after November's elections. Both senators voted for cloture. If the Republicans win a majority, Senate Minority Leader Bob Dole, R-Kan., will become majority leader. Sen. Dole is a longtime advocate of reform.

Mr. Schwartz also noted that other opponents of a uniform code are retiring. If Sen. Howard Metzenbaum, D-Ohio, is replaced by GOP candidate Mike DeWine rather than Joel Hyatt—the Democratic standardbearer who happens to be Sen. Metzenbaum's son-in-law—reformers would probably pick up another vote.

"One thing I would not change, if they are available, is the team of Rockefeller, Lieberman and Gorton," the bill's Senate chief sponsors, said Mr. Schwartz. Sens. Joseph Lieberman, D-Conn., and Slade Gorton, R-Wash., do face re-election this year.

"They seem quite ready and willing," he said.

Tom O'Day, associate vp of the Alliance of American Insurers in Washington, said he was "very disappointed" with last week's events. The Alliance is the only insurer group to endorse S. 687.

Like Mr. Schwartz, he pointed to the opposition of Sen. Mitchell as a key factor in the bill's failure. But with a new majority leader, S. 687's successor should get an earlier hearing than it did this time around, with floor action coming in early spring rather than early summer.

"They'll be able to push this bill though the Commerce Committee. With the right majority leader, they're going to push it to the floor," he said.

"We're going to evaluate how we can be supportive as we were in the past," said Mr. O'Day.

"It shows how very difficult it is to get anything that's even slightly controversial through Congress," said Mr. O'Day.

"It was a political war and the trial lawyers and the consumer groups won," said Mr. Schwartz.

"It's taken years, and it may take more years. I've heard nobody in the business community say that it's time to give up," he said. BI



Ornate lost wax process cast face of Howard Miller's limited edition "Beacon Hill" grandfather clock.

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Rochester utility offers early retirement plan

ROCHESTER, N.Y.—Rochester Gas & Electric Corp. is offering its 2,450 employees early retirement benefits that could cost the western New York utility $26 million this year but save it about $56 million through 1998.

The aftertax cost and net savings estimates are based on the assumption that 250 employees will retire by the Oct. 1 deadline. But, the utility expects that somewhat fewer employees, who must announce their intentions by Sept. 1, will take the option. A similar program last year prompted 173 RG&E employees to retire early.

Anticipated competition as the utility industry is deregulated is driving RG&E's workforce reduction and other cost-reduction efforts, according to Jeffrey W. Peters, manager-employee relations.

Benefit Beat

The utility is offering more generous benefits to employees who are 50 or older with at least 10 years of experience than it is offering to younger workers.

All workers can receive 100% of their pension benefits if their age and years of service total 85 or more.

For older early retirees, the benefit is cut 2% for each year short of 85. For example, the benefit for a 56-year-old worker with 24 years of service would be cut 10%—or two times the difference between 85 and her combined 80 years of age and service.

The penalty for younger early retirees is much stiffer. For younger early retirees, the benefit is cut by 2.5% for every year short of 85 plus 3% more for each year the retiree is younger than 55. For example, the benefit for a 49-year-old worker with 20 years of service would be cut by 34%: 16%, or the difference between 85 and the employee's combined 69 years of age and service, plus 18%, or three times the six-year difference between 55 and 49.

Normally, employees cannot retire any earlier than age 55 and still receive pension benefits. Those who retire before 65 with 35 years of service receive 65% of their benefits, and those with fewer years of service receive half of their benefits.

Also under the early retirement offer, RG&E will provide older early retirees a $500 monthly supplement until they reach age 62.

The monthly supplement for younger early retirees with more than 10 years of service is $200 minus 1% for each year their age and years of service are less than 85. The monthly supplement for those with 10 or fewer years of service is $100 minus the same penalty.

Early retirees also may take some benefits in a discounted lump sum up to an amount equaling one year of pay. But, the lump sum reduces future pension benefits.

Early retirees also have the same health plan options regular retirees have. RG&E will contribute up to $190 per month toward the cost of several indemnity plan and health maintenance organization options. Though RG&E does not currently plan any changes in the retiree health care program, it does not promise the early retirees lifetime health benefits, Mr. Peters said.

—By Dave Lenckus

Onsite health facility

STERLING, Ill.—Northwestern Steel & Wire Co. is among the latest employers to develop an onsite medical facility as the trend toward building corporate health care clinics continues.

The Sterling, Ill.-based manufacturer has contracted with PHP HealthCare Corp. to develop and operate a family health center for the company's 2,200 employees and 2,000 retirees and their dependents in Sterling and neighboring Rock Falls, Ill.

Terms of the five-year contract were not disclosed, but the center will be housed in a 16,000-square-foot building designed and constructed by PHP. It will provide full-time primary care physicians, in-house laboratory and radiology services, mammography and preventive health care programs. Physicians will also be "on call" for emergencies and will participate in the care of their hospitalized patients.

The center is scheduled to open in January 1995 and will initially employ two primary care physicians, but the number of full-time staff will eventually total 15 or 20.

NWSW decided to develop a family health center "after two years of research and study that includes site visits to similar facilities," said Andrew Moore, NWSW's manager of employee benefits. The company worked with its employee unions—the United Steelworkers of America Locals 63 and 3720—in developing the project.

NWSW will encourage employees, retirees and dependents to use the clinic by waiving traditional deductibles, instituting copayments and through added preventive care.

Employer-sponsored health centers "will be a model for small and medium-sized companies, particularly in rural and suburban communities that are underserved by managed care plans," said Charles Robbins, president and chairman of PHP in Alexandria, Va.

—By Christine Woolsey

Utility early retirement

KANSAS CITY, Mo.—More than 330 employees of the Kansas City Power & Light Co. will accept voluntary early retirement at the end of this month, thereby reducing the company's workforce of 2,683 by more than 12%.

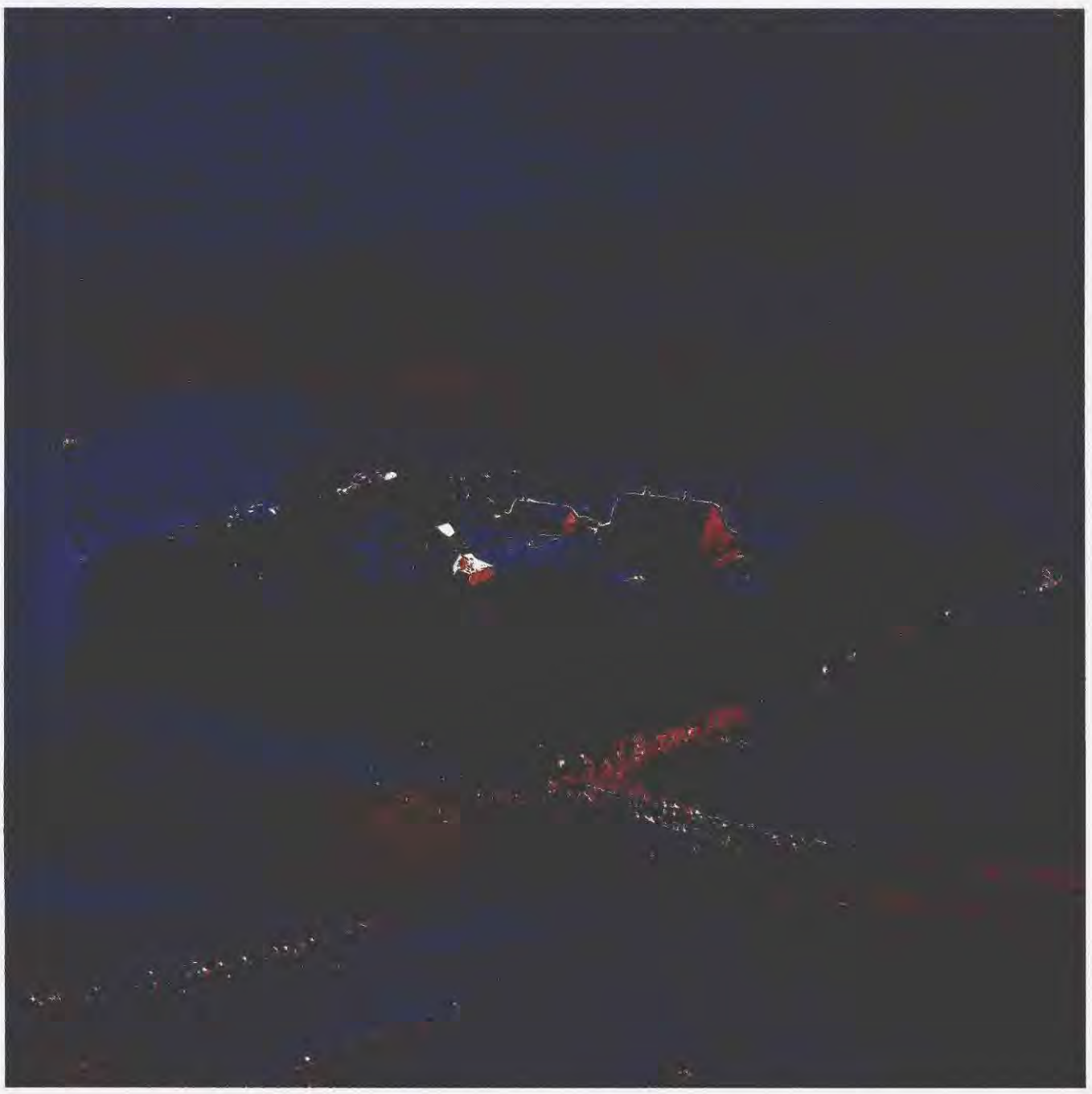
Among the incentives offered were: medical benefits, which normally are not given to retirees under age 65; an extra five years of service added to pension calculations for those who have not completed 30 years of service; and an additional monthly pension benefit of $600 to retirees between the ages of 55 and 62, according to Brenda K. McIntire, manager of benefits administration.

The company estimates its savings from reduced payroll and benefit expenses will be about $8 million this year and will average $15 million per year for the period 1995 through 1998. KCPL estimates it will take a charge of $27 million against earnings in the first half of 1994 to reflect the expenses of the early retirement incentives.

In a letter to employees, KCPL President Drue Jennings noted, "These steps will help us improve our competitive position by providing us greater flexibility in pricing our product and services."

—By Sameera Khan

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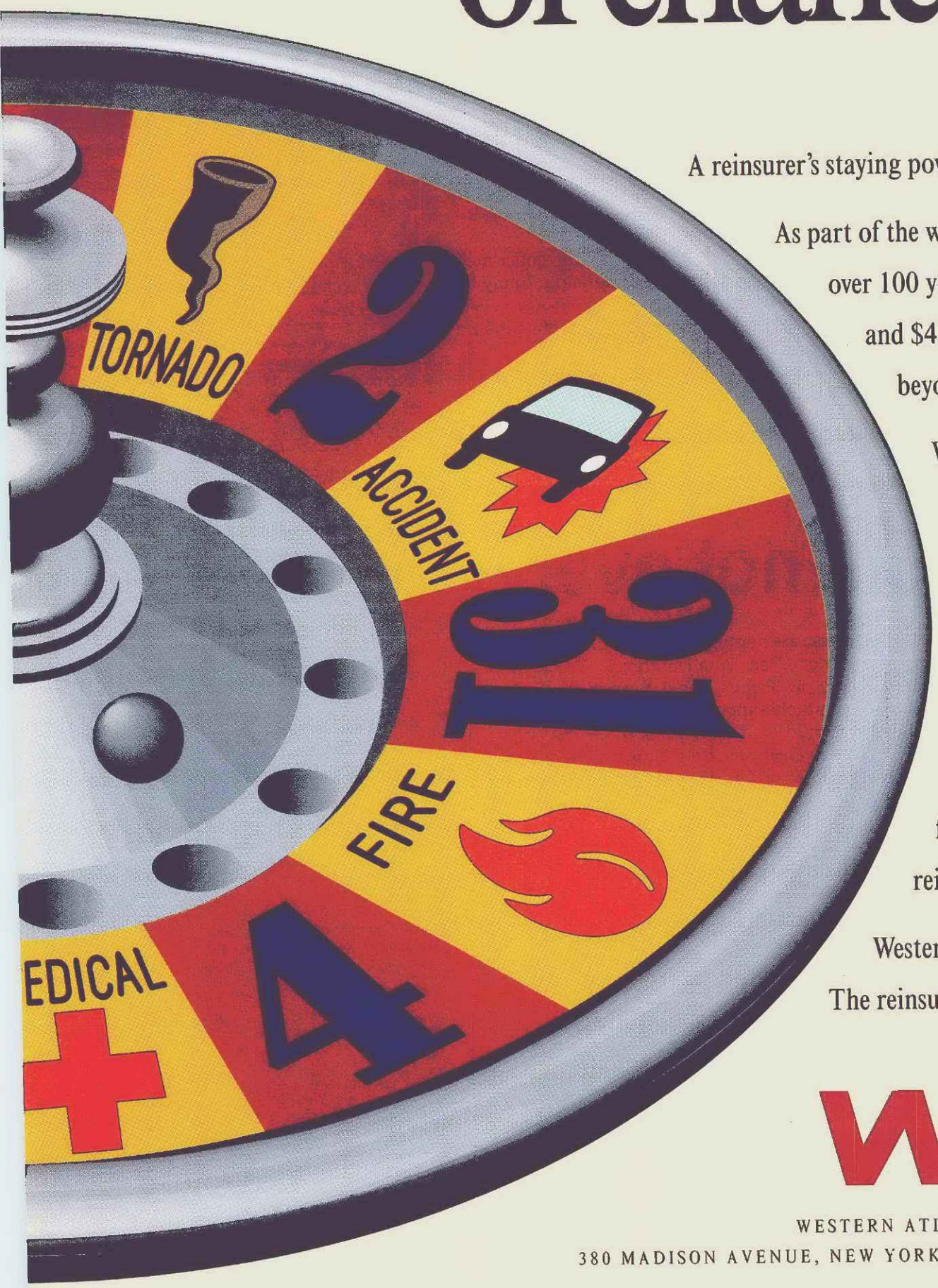
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Opinions

Closing in on punitive awards

ONCE AGAIN, the U.S. Supreme Court has spoken on punitive damages. And, as it did in its 1991 *Haslip* ruling, the court is giving business a glimmer of hope that, someday, the court will issue a definitive decision that places limits on excessive punitive damages.

Businesses and insurance companies looking for a clear-cut limit on judges' and juries' ability to award punitive damages will be disappointed in the June 24 ruling by Justice John Paul Stevens in connection with a $5 million punitive award rendered by an Oregon court against Honda Motor Co. for injuries suffered by a rider of an all-terrain vehicle (see story, page 3).

Honda appealed the ruling, arguing that the punitive damages were excessive and challenging an amendment to the Oregon Constitution that effectively bars appellate courts from reducing excessive punitive awards.

The high court ducked the first issue, again refusing to rule directly on the constitutionality of large punitive damage awards, but it did address the constitutionality question in ruling on the second issue: Justice Stevens noted that the award against Honda was unconstitutional because Oregon's legal system does not provide for proper judicial review of punitive awards.

This ruling is not a substantial departure for the court. In *Haslip*, the high court said the due process guarantees in the U.S. Constitution require significant judicial review of punitive awards (*BI*, March 11, 1991).

However, Justice Stevens used strong language that may be interpreted as sympathetic to those clamoring for limits on punitive damages. For instance, he wrote, "the presentation of evidence of a defendant's net worth creates the potential that juries will use their verdicts to express biases against big businesses, particularly those without strong local presences."



In addition, he wrote: "What we are concerned with is the possibility that a guilty defendant may be unjustly punished."

Does last month's decision place concrete caps on punitive awards? No.

Does it constitute the relief from capricious punitive awards that businesses certainly deserve? Not really.

But the ruling could be a signal that the high court has not yet had its final say on the constitutionality of punitive damages. To this, we can join Marv Albert in exclaiming, "Yesssssssss!"

Tort reform fight not over

ALTHOUGH PROPONENTS of a uniform federal product liability law have every reason to be disappointed, the Senate's failure to vote on a product liability reform bill last week should not be seen as the end of the 13-year effort to enact a broad federal tort reform law.

In fact, proponents can take some solace in certain developments that accompanied the Senate's failure twice to invoke cloture—a parliamentary procedure that cuts off debate and thus sets the stage for a vote—during its consideration of S. 687, the Fairness in Product Liability Act.

First, a few days before the vote to invoke cloture failed in the Senate, the House approved its version of a bill, already passed by the Senate, that would provide product liability relief to the general aviation industry.

Although differences in the House and Senate proposals still must be reconciled, this marks the first time that both chambers of Congress have approved any type of federal product liability reform legislation.

Second, several key foes of product liability reform—including Sen. Howard Metzenbaum, D-Ohio, and Sen. Donald Riegle, D-Mich., who co-sponsored S. 687 only to vote against it at the critical juncture—have announced their retirements. And, months before the vote took place, one of the bill's most vigorous and arguably most powerful opponents—Senate Majority Leader George Mitchell, D-Maine—announced he would not seek re-election. Passing any bill over the objections of the Senate majority leader is a tough task indeed.

Both Democrats hoping to succeed Sen. Mitchell as majority leader—Sen. Tom Daschle, D-S.D., and Sen. James Sasser, D-Tenn.—voted for cloture and have given at least tacit support to the bill. And, if the Republicans should capture control of the Senate after the November elections, Sen. Bob Dole of Kansas, a strong supporter of federal product liability reform, would in all likelihood inherit Sen. Mitchell's leadership post.

Third, supporters of uniform product liability law already are thinking of changes that would improve the chances of passage during the next congressional session. According to longtime reform advocate Victor Schwartz, proponents may attempt to draft a shorter, simpler measure for introduction in the next Congress.

Fourth, and most important, supporters aren't ready to throw in the towel. The bill's two chief sponsors—Sens. John D. Rockefeller IV, D-W.Va., and Slade Gorton, R-Wash.—wasted no time in promising to introduce another reform bill in the next Congress.

As Sen. Rockefeller put it: "I will persist with this legislation for one simple reason: We must fix the badly broken system of product liability regulation, which inadequately protects consumers and unfairly burdens businesses."

We couldn't agree more. Guaranteed that kind of continuing commitment from the legislation's sponsors, and with the absence of some leading opponents, product liability reform advocates should pick themselves up and dust themselves off for another battle.

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Punitive

Continued from page 3

awards by the judiciary," said Andrew Frey, a partner with Mayer, Brown & Platt in Washington who argued the case for Honda.

By contrast, those who represent consumer interests downplayed the significance of the ruling.

While the ruling clarifies Oregon law by requiring the judiciary to do more than merely rubberstamp jury verdicts, "the standard of what's excessive hasn't changed," said Harvard University law professor Laurence Tribe, who argued the case on behalf of Karl L. Oberg, who was injured in an all-terrain vehicle accident.

Other attorneys who follow the Supreme Court's recent punitive damages rulings were likewise divided on the impact of *Honda*.

Instead of providing guidance, "there's something in the opinion that can be displeasing for everybody," observed Mitchell Orpett, a partner with Tribler & Orpett in Chicago.

For example, it "extols the common law for being almost the be-all and end-all of due process interpretations," said Mr. Orpett.

Businesses, by contrast, have often argued that common law safeguards do not adequately protect them against large awards and have lobbied for legislative tort reforms, he noted.

On the other hand, the court seems to acknowledge that juries are often prone to prejudice and bias—especially against businesses—and should be subject to review, Mr. Orpett added.

A spokesman for the American Assn. of Trial Lawyers in Washington agreed with this last point and said it is inappropriate for the U.S. high court to engage in "jury bashing."

But the court's "elevation of common law to constitutional status" may make it easier for plaintiffs to win punitive damage awards, the ATLA spokesman acknowledged. "We are more frequently defending common law in challenging tort reforms."

Kristen Rand, counsel for Consumers Union in Washington, said the outcome reinforces her organization's position that no "magic equation" can be applied to measure the fairness of punitive damages.

"Every case will have some wrinkle that you can't anticipate with an iron-clad rule, and judicial review provides adequate due process on a case-by-case basis," she said.

The *Honda* decision stems from a punitive award of $5 million to Mr. Oberg, who was hurt in an accident while driving a Honda all-terrain vehicle. The jury also awarded about $900,000 in compensatory damages, but reduced that by 20% after finding him partially responsible for the accident.

Honda appealed, arguing that the punitive damage award violated the due process clause of the Fourteenth Amendment because the amount was excessive and because a 1910 amendment to the Oregon Constitution removed state courts' power to review punitive damage awards.

Both the state appeals court and the Oregon Supreme Court rejected Honda's argument.

The state's high court found that Oregon courts are not powerless to review an award because they may vacate a judgment if there is no evidence supporting the jury's decision and because appellate review is available to test the sufficiency of jury instructions.

But a majority of the U.S. high court disagreed, holding that the Oregon Constitution's prohibition on court review of the *size* of punitive damage awards is unconstitutional.

"There is a dramatic difference between the judicial review of punitive damage awards under common law and the scope of review available in Oregon," wrote Justice John Paul Stevens in the majority opinion. He was joined by all but two of the justices: Justice Ruth Bader Ginsburg wrote a dissenting opinion, which was joined by Chief Justice William Rehnquist.

"An Oregon trial judge, or an Oregon Appellate Court, may order a new trial if the jury was not properly instructed, if error occurred during the trial, or if there is no evidence to support any punitive damages at all.

"But if the defendant's only basis for relief is the amount of punitive damages the jury awarded, Oregon provides no procedure for reducing or setting aside that award," Justice Stevens wrote. "This has been the law in Oregon at least since 1949, when the state Supreme Court announced its opinion in *Van Lom vs. Schneiderman* definitively construing the 1910 amendment to the Oregon Constitution.

"In that case, the court held that it had no power to reduce or set aside an award of both compensatory and punitive damages that was admittedly excessive."

Dissenting, Justice Ginsburg found that Oregon's procedures were adequate because state law "guides and limits the fact finder's discretion on the availability and amount of punitive damages" to be awarded in product liability cases.

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Honda Motor Co. Ltd., et al., vs. Karl L. Oberg, U.S. Supreme Court, No. 93-644; June 24, 1994.

No CGL coverage for waste disposal by third party

BOSTON—The pollution exclusion in standard commercial general liability policies bars coverage for liability from a third party's discharge of a policyholder's waste, the 1st U.S. Circuit Court of Appeals has ruled.

In a ruling that applied Rhode Island law, the court said the pollution exclusion does not distinguish between liability from a policyholder's own waste discharge and discharges of its waste by a third party.

In this case, a hauling company had disposed of waste generated by Warwick Dyeing Corp. in a landfill.

"There is no meaningful distinction in this case between arranging for waste to be hauled off for disposal and actually disposing of the waste in a landfill," the court stated.

Nearly all other courts that have considered the question of third-party liability have ruled similarly, said insurer attorney Laura Foggan of Wiley, Rein & Fielding in Washington. The case is the first time the federal appeals court has interpreted the pollution exclusion under Rhode Island law, she added.

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St. Paul Fire & Marine Insurance Co. vs. Warwick Dyeing Corp., 1st U.S. Circuit Court of Appeals, 93-1721.

—By Michael Shachner





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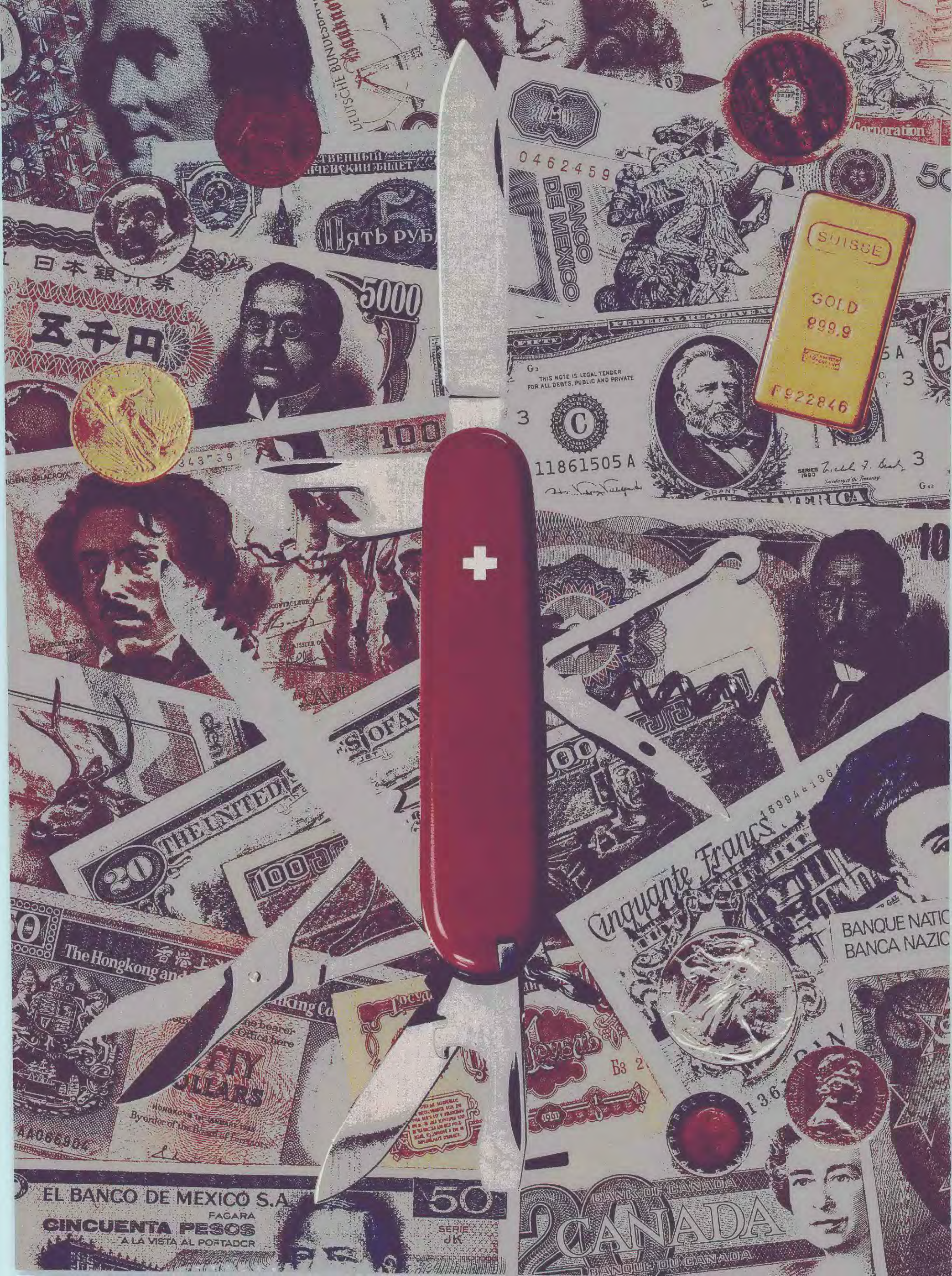
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HMOs

Continued from page 2

ing firm in Cheyenne, Wyo.

The authors found support for their hypothesis that doctors respond to economic incentives created by workers compensation—what they called the "moral hazard" factor—and that this made a significant contribution to the increase in workers comp claims and costs between 1980 and 1989.

This "moral hazard" arises, the researchers contend, because HMOs and their physicians receive a capitated payment for treating an employee's general health care needs but also receive a separate fee for caring for a workers comp injury.

Using empirical data to analyze correlations between HMO coverage and workers comp claims, the researchers found that workers comp claims increased only 0.33% per 1,000 employees between 1980 and 1989. But, those claims handled by HMOs grew by 3.47% per 1,000 employees during the same period.

Controlling for other factors, the researchers concluded that the number of workers comp claims actually would have fallen during the period studied if HMOs and their attendant "moral hazard" had been absent.

"Fee-for-service doctors get paid the same for treating a broken bone arising from an accident at home as they do for the same type of break occurring on the job," they said. "The fact that it is compensable in the workers compensation system makes no difference to them."

But the situation is not so clear-cut for doctors in an HMO, the researchers contend.

For physicians, the decision to treat an injury or health condition under workers comp insurance could translate into a supplement to their salary income, "making the temptation to misclassify and cost shift compelling," the NCCI said.

HMO doctors "are financially better off when they classify as many of their treatments as work-related as possible," the researchers said.

Even HMO doctors who are not directly paid on a fee-for-service basis for treating work-related injuries are often prejudiced toward classifying marginal cases as work-related, the researchers contend. HMO management, if intent on billing as many claims as possible to workers comp payers to build revenues, can pressure their physicians to—at the very least—raise the issue of work-relatedness to their patients, according to the researchers.

The researchers' hypothesis stemmed in part from their analysis of health care cost statistics for a large company in the transportation industry during 1992-1994. Their analysis found that the average per employee cost of most health care programs—group health as well as short- and long-term disability—was generally less when the employee received health care from HMOs compared with fee-for-service providers. However, the transportation company's costs were significantly higher when a workers comp claimant received care through an HMO.

The authors conclude the paper with a call for more scrutiny of the financial motivations of participants in the nation's workers compensation/disability system: "It seems to us that the 'moral hazard' problems are pervasive in the workers compensation/disability system and need to be further quantified for any rational analysis of workplace disability policy in a world of emerging health care reform."

The final paper, which was previewed at a workers comp seminar last fall and released late last month, "is probably the first thorough analysis of this topic," said the NCCI's Mr. Hartwig.

However, other research has come to similar conclusions.

An earlier independent study of eight federal shipyards by Alan M. Ducatman found that the total workers comp cost per worker was substantially higher when workers obtained medical care from HMOs. His work, based on 1983-1984 data, was summarized in a 1987 research brief of the Workers Compensation Research Institute (*BI*, March 14).

"Workers compensation costs could increase if reform increases HMO enrollment in a system that mixes capitated payment for group health with fee-for-service payment for workers compensation. But this effect could be offset if, as in the Clinton plan's corporate health alliances, employers are given the ability to select health plans," said Thomas W. Grannemann, manager of the health policy program for the WCRI in Cambridge, Mass.

"HMOs that compete for selection by employers may find it advantageous to curb misclassification to offer a cost-competitive product. This competitive effect would be achieved, however, only if employers or their workers compensation insurers monitor the effect of individual capitated health plans on workers compensation medical and indemnity costs," he added.

In addition, numerous other studies have shown that workers often succumb to the moral hazards they face in the workers comp system. Specifically, workers filed more claims for more severe ailments and injuries as workers comp benefits increased and waiting periods declined, according to conclusions drawn from about 16 studies reported between 1982 and 1994.

However, one HMO rebuts the researchers' conclusions, arguing that its information is outdated.

A spokesman for Woodland Hills, Calif.-based Health Net, the second-largest HMO in California, called the trio's report "an interesting historical document" but said its utility is "pretty limited" today.

"The market has changed so rapidly since the 1980s, I would question its validity at this time," the spokesman said.

"HMOs have gotten a lot better at managing medical costs," said a spokesman for the Washington-based Group Health Assn. of America, an HMO trade association. That helps account for their growth in enrollment, he said, to 45.2 million people at the end of last year from 9.1 million in 1980.

Also, research reported by the WCRI estimates that HMOs and capitation can cut firms' medical costs 10% to 60% (*BI*, March 14).

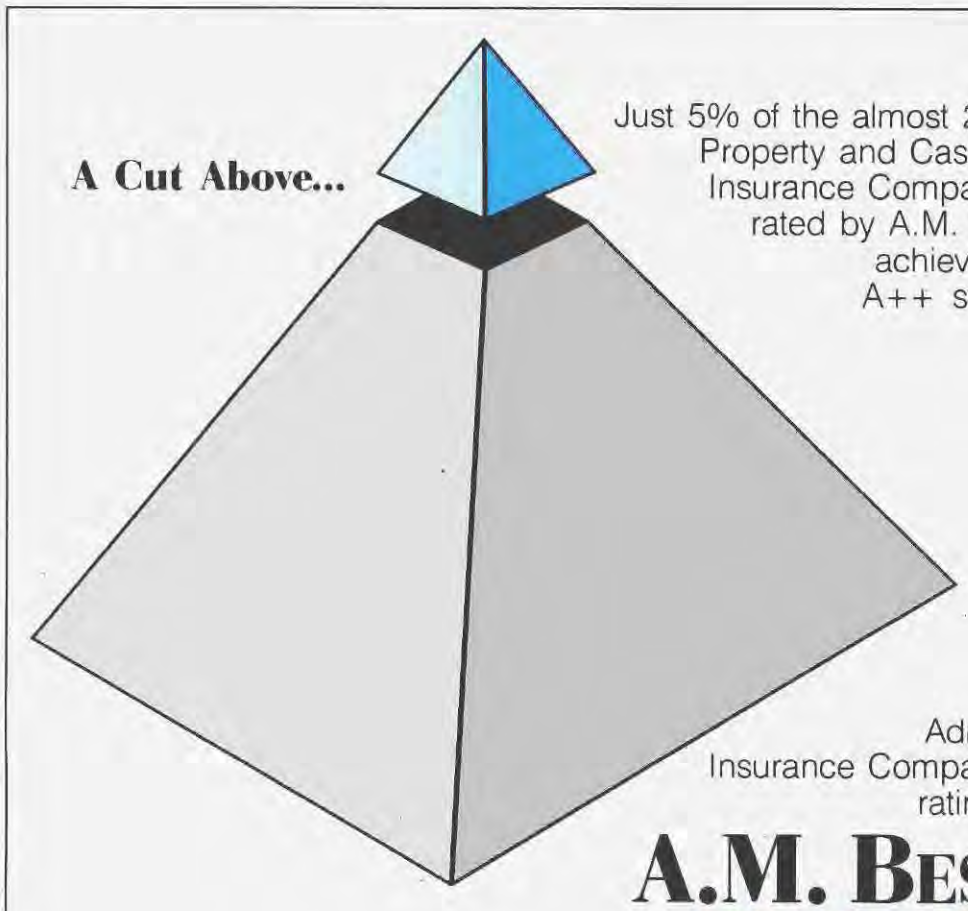
Also, new doctor compensation arrangements are emerging among HMOs that treat workers comp claimants. One study found that an HMO with a financial incentive based on outcomes rather than simply capitated fees could help control increases in workers comp medical costs (*BI*, Oct. 18, 1993).

And, in California, one workers comp insurer is offering an incentive bonus to a treating HMO to encourage doctors to release injured employees for work as early as possible (*BI*, Feb. 28).

Copies of the report are available through the NCCI, though the organization says the opinions and commentary it contains are those of the authors and not necessarily those of the NCCI.

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For a free copy of the report, contact Cheryl Shaw at the NCCI's Corporate Communications Department, 407-997-4762.



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GUIDE TO ALTERNATIVE RISK FINANCING FACILITIES

The alternative risk financing market is holding its own, despite ongoing competition in the commercial property/casualty insurance market.

Although premium volume is down slightly among the facilities responding to *Business Insurance*'s survey of alternative risk financing facilities, they have attracted a greater number of policyholders and have bolstered assets and surplus.

The eighth annual survey of these facilities—which service a wide range of corporations, public entities and professionals—lists a record 93 alternative risk financing facilities, up from 87 in last year's guide (*BI*, July 19, 1993).

Fifty-three of the facilities listed report that they expect to write coverage for more policyholders in 1994 than in 1993.

The 93 facilities listed on the next 11 pages wrote coverage for an estimated 23,000 or more policyholders in 1993. The facilities estimate having combined premium volume of $2.44 billion on 1993. Their policyholder capital and surplus totaled $7.58 billion at year end. Assets totaled $15 billion at year end, an increase due at least in part to the effect of FAS 113, which requires using generally accepted accounting principles for certain transactions.

Thirteen facilities are new to the guide this year, while two facilities returned after a one year absence. These facilities write coverage for a range of policyholders, including: commercial banks; chemical distributors and manufacturers; medical professionals and researchers; national fraternity organizations; public utilities; tank truck operators; petroleum companies; non-profit groups like social service, counseling and residential care organizations; railroads and mass transit systems; home builders and developers; plastics processors and manufacturers; managers of commercial, industrial or multiple-resident buildings; fast-food franchises; metalworking firms; and electrical companies.

Some of the facilities no longer write coverage only for their owners; in some cases, non-shareholders can obtain coverage even without a deposit premium. However, potential policyholders are generally required to invest funds before they can obtain coverage.

The facilities that responded to the survey are domiciled in the United States and abroad. Arizona, California, Colorado, Delaware, Florida, Georgia, Hawaii, Illinois, Maryland, Minnesota, North Carolina, Tennessee and Vermont are home to U.S.-based facilities. Offshore domiciles represented by the facilities include Barbados, Bermuda and the Cayman Islands.

The facilities provide mainstream coverage to their owners and members, including primary and excess liability, directors and officers liability, property and workers compensation coverage. Some provide much more specialized lines—such as medical malpractice liability coverage, export credit insurance, coverage for claims alleging sexual harassment and cargo coverage—to meet the specialized risk financing needs of policyholders.

All of the facilities listed were capitalized by an initial group of policyholders with common insurance needs to obtain coverage they either could not find or could not afford to buy in the commercial insurance market and could not efficiently fund as individual self-insurers or captive insurance company owners.

Each individual listing provides information about: the facility's manager and the name, address and telephone number of the person to contact for additional information; the risks the facility underwrites; the limits it provides; the date the first policy was written and the type of policy form used; how potential policyholders can gain access to the facility; premium volume in 1993 and estimated volume in 1994; assets as well as capital and surplus at year-end 1993; the number of policyholders in 1993 and an estimate for 1994; and a description of the facility's membership, including any association requirements.

The information on each facility was provided by the facility or its manager in response the a *Business Insurance* questionnaire. Although every effort has been made to report complete and accurate information, *BI* in unable to verify all the information provided.

Readers should contact the person listed for more information about each facility.

To be included in next year's guide, contact Kerry Dziubek, Associate Director Editor, *Business Insurance*, 740 N. Rush St., Chicago, Ill. 60611-2590; 312-280-3195; fax: 312-649-7801.

Facility Management company Contact name, address & phone	Risks	Limits	First policy Policy form	Access	Premium volume (in millions) 1993 1994(est.)	1993 assets/ Capital & surplus (in millions)	Number of policyholders 1993 1994(est.)	Membership
AAOMS National Insurance Co., Risk Retention Group Self-managed Kenneth Ludwig, 9700 W. Bryn Mawr Ave., Rosemont, Ill. 60018; 708-928-0041 Domicile: Illinois	Professional liability	$250,000 per occurrence/$750,000 aggregate primary; $5 million/$5 million reinsurance	June 1988 Claims-made	Specific brokers and direct	$21.5 $23.0	$52.0 $6.7	2,084 2,200	Members of American Assn. of Oral & Maxillofacial Surgeons
Accountants Liability Assurance Co. Ltd. Minet Risk Services (Bermuda) Ltd. Colin R. Newell, P.O. Box HM462, Hamilton HM BX, Bermuda; 809-295-0073 Domicile: Bermuda	Accountants professional indemnity	$5 million primary or $5 million excess	June 1986 Claims-made	Specific broker	$10.4 $10.6	$62.7 $41.2	31 31	Public accounting firms
ACE Insurance Co. (ACE Ltd.) Self-managed William J. Loschert, P.O. Box HM 1512, Hamilton HM DX, Bermuda; 809-295-5200 Domicile: Bermuda	Excess liability, excess D&O, space, executive compensation insurance	Excess liability: $200 million excess of $100 million ($50 million for non-U.S. risks); D&O: $50 million excess of $25 million; Space: $25 million primary; Executive compensation: $150 million primary; Property: $25 million excess of $50 million	November 1985 Claims-made	Any non-U.S. broker	$340.0 NA	$2.3 $1.4	523 NA	All classes of business
Adams County BOCES Self-Insurance Pool Self-Insurance Specialists Inc. and Adams County BOCES Sally A. Arnold, 6909 S. Holly Circle Englewood, Colo. 80112; 303-741-5683 Domicile: Colorado	Property, workers compensation, auto and general liability	NA	1979 Occurrence	Direct	$3.3 $3.3	$10.8 $3.3	6 6	Public school districts
Affiliated Chemical Group Ltd. CFM Insurance Managers Ltd. Simon Scupham, Reid House, 31 Church St., Hamilton HM 12, Bermuda; 809-292-6424 Domicile: Bermuda	Commercial general liability, including product and completed operations; sudden and accidental pollution coverage	$1 million per occurrence/$3 million aggregate; or $2 million per occurrence/$5 million aggregate	1977 Claims-made	Specific brokers	$4.0 $4.0	$17.0 $5.0	35 35	Chemical distributors and manufacturers
Alembic Inc. Willis Corroon ARMS Division Cathy Wedekind, 26 Century Blvd., Nashville, Tenn. 37214; 615-872-3200 Domicile: Cayman Islands	General, product and auto liability, workers compensation	$2 million-$5 million primary	August 1980 Occurrence	All brokers	$8.5 $10.5	$35.0 $6.8	28 32	Machinery and chemical manufacturers, contractors, tank truck operators
Alexander Insurance Managers Ltd. Captive Reinsurance Facility Alexander Insurance Managers Ltd. Donald C. Wiseman, Dorchester House, 7 Church St., P.O. Box 2020, Hamilton HM HX, Bermuda; 809-295-0265 Domicile: Bermuda	Property, all-risks	$100 million excess of $125,000 minimum	June 1973 Occurrence	Direct via AIM captives	$33.0 $35.0	Line slip	23 26	Various industrial companies worldwide

Continued on next page

Guide to alternative risk facilities (Continued from previous page)

Facility Management company Contact name, address & phone	Risks	Limits	First policy Policy form	Access	Premium volume (in millions) 1993 1994(est.)	1993 assets/ Capital & surplus (in millions)	Number of policy-holders 1993 1994(est.)	Membership
American Bankers Professional & Fidelity Insurance Co. Ltd. Jardine Pinehurst Management Co. Ltd. Don Baker, 33-35 Reid St., Jardine House, Hamilton HM GX, Bermuda; 809-295-4864 Domicile: Bermuda	D&O, bankers blanket bond, trust department E&O, combined safe depository	D&O: $5 million; Bond: $6 million; Trust: $1 million; Safe: $2 million	1987 Claims-made	All brokers and direct	$14.4 $16.0	$53.3 $12.4	1,200 1,200	Members of the American Bankers Assn.
American Healthcare Systems Excess Liability Insurance Program Johnson & Higgins Services Inc. James C. Jordan or Kathryn M. Boucher, 7 Burlington Square, 6th Floor Burlington, Vt. 05401; 802-864-5599 Domicile: Vermont and Bermuda	Excess and umbrella liability	$50 million per occurrence; $50 million aggregate excess of minimum $1 million self-insured retention	June 1990 Claims-made	Direct	$34.6 $35.6	$138.6 $26.4	25 25	Members of American Healthcare Insurance Assn.
American Safety Risk Retention Group Inc. Environmental Management Insurance Services Inc. Lloyd A. Fox, 1900 The Exchange, Suite 450, Atlanta, Ga. 30339; 404-916-1908 Domicile: Vermont	General and professional liability	$10 million primary; up to $5 million excess of $1 million	March 1988 Claims-made and occurrence	All brokers	$8.5 $10.0	$5.2 $3.0	385 300	Environmental contractors and consultants involved with environmental remediation
Associated Electric & Gas Insurance Services Ltd. Aegis Insurance Services Inc. Norman L. Cocanour, Harborside Financial Center, 700 Plaza II, Jersey City, N.J. 07311-3994; 201-915-7257 Domicile: Bermuda	Excess and D&O liability, workers compensation	$35 million excess of $200,000	March 1975 Claims-made	All brokers and direct	$244.0 $244.0	$2,700.0 $552.0	298 310	Electric, gas, telecommunications and water utilities
Back of the Yards Risk Management Assn. Risk Retention Management and Vermont Insurance Management Wayne Harris, 1800 Second St., Suite 104 Sarasota, Fla. 34236; 813-957-3866 Domicile: Illinois	Workers compensation	Statutory	September 1993 Occurrence	All brokers	$0.5 $2.0	NA NA	20 20	Heterogeneous workers comp risks for members of Back of the Yards Management Assn.

Continued on next page

STRENGTH

Atlanta Chicago Columbus Dallas

Guide to alternative risk facilities (Continued from previous page)

Facility Management company Contact name, address & phone	Risks	Limits	First policy Policy form	Access	Premium volume (in millions) 1993 1994(est.)	1993 assets/ Capital & surplus (in millions)	Number of policy-holders 1993 1994(est.)	Membership
Bankers Insurance Co. Ltd. Powerscourt Group Ltd. Brett Kohli, P.O. Box HM 2267, Hamilton HM JX, Bermuda; 809-295-8495 Domicile: Bermuda	D&O liability	$20 million primary or excess	May 1986 Claims-made	Bermuda brokers	$1.4 $3.0	$97.0 $40.1	17 18	Banking and financial services
CPA Mutual Insurance Co. of America American Risk Management (Vermont) Kathryn A. Westover, 5 Burlington Square P.O. Box 1521, Burlington, Vt. 05402; 802-862-4400 Domicile: Vermont	Professional liability	Up to $5 million primary	1987 Claims-made	Direct	$9.0 $9.0	$19.5 $7.9	390 400	Members of Accounting Firms Associated Inc.
C.P.S. Insurance Co. Ltd. International Advisory Services Ltd. David Ezekiel, P.O. Box 1760, Hamilton HM HX, Bermuda; 809-295-3688 Domicile: Bermuda	Workers compensation, auto and general liability	$1 million per occurrence/$3 million aggregate	July 1980 Occurrence	Specific broker	$9.6 $9.8	$22.2 $2.2	31 32	Termite, pest control and sanitation consulting firms
California Hospital Insurance Co., A Risk Retention Group California Hospitals Affiliated Insurance Services Jeff Sousa, 11060 White Rock Road, Suite 210, Rancho Cordova, Calif. 95670; 916-631-0333 Domicile: Hawaii	Medical malpractice	$5 million primary	April 1989 Claims-made	Management company	$11.8 $13.5	$15.1 $4.2	24 26	Members of California Assn. of Hospitals & Health Systems
Casting Manufacturers Insurance Ltd. Johnson & Higgins (Bermuda) Ltd. Susan Gray, P.O. Box HM 1826, Hamilton HM HX, Bermuda; 800-631-1124 Domicile: Bermuda	Comprehensive general liability	$500,000 primary; up to $5 million excess	1982 Claims-made	Direct	$1.9 $1.9	$7.7 $6.4	40 39	Members of Michigan Tooling Assn.

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IS THE ASSET

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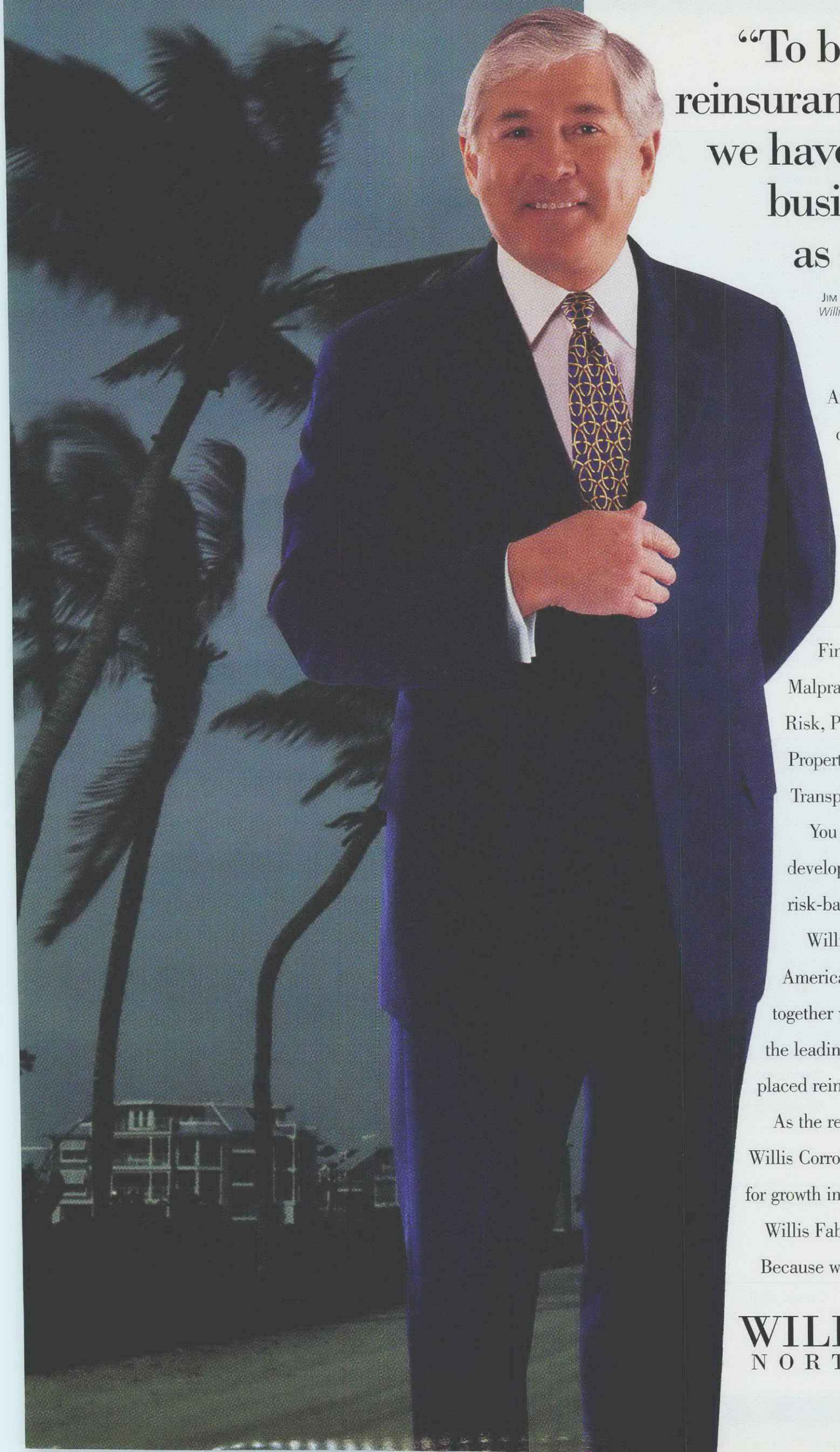
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Guide to alternative risk facilities (Continued from previous page)

Facility Management company Contact name, address & phone	Risks	Limits	First policy Policy form	Access	Premium volume (in millions) 1993 1994(est.)	1993 assets/ Capital & surplus (in millions)	Number of policy-holders 1993 1994(est.)	Membership
Chariots of Hire Risk Retention Group Commercial Insurance Alternatives Inc. E. Richard Crebs, 176 Main St., Suite C, St. Helena, Calif. 94574; 707-963-2400 Domicile: Arizona	Livery	$1 million primary	June 1989 Claims-made	All brokers	$5.7 $7.0	$11.0 $3.1	300 350	Taxi and airport vans
Chesapeake Casualty Insurance Co. RiskCap Sherlyn W. Farrell, 1571 Race St., Denver, Colo. 80206; 303-388-5688 Domicile: Colorado	Professional liability for medical malpractice	Proprietary	1976 Claims-made	Pure captive	$1.2 $1.0	$5.2 $1.5	1 1	Practictioners of medicine and surgery, medical researchers, medical teaching services
Clinic Mutual Insurance Co. Risk Retention Group Willis Corroon ARMS Division Carolyn Greene, 26 Century Blvd., Nashville, Tenn. 37214; 615-872-3365 Domicile: Tennessee	Medical professional liability and general liability	$1 million per occurrence/$3 million aggregate; $1 million excess of $1 million	January 1988 Claims-made	All brokers	$4.0 $4.1	$7.8 $2.1	120 125	Non-profit primary health care centers
College Liability Insurance Co. Ltd., **A Risk Retention Group** Sedgwick Management Services (U.S.) Ltd. Andrew Sargeant, 95 St. Paul St., Suite 3A Burlington, Vt. 05401; 802-658-7947 Domicile: Hawaii	Commercial general liability, auto, and educators legal liability	$250,000 primary; $9,750,000 excess of $250,000	May 1991 Claims-made and occurrence	Specific broker	$0.9 $1.0	$4.1 $2.1	8 8	Members of West Coast College Consortium
Colorado School Districts Self-Insurance Pool Self-Insurance Specialists Inc. and Arthur J. Gallagher & Co. Sally A. Arnold, 6909 S. Holly Circle, Suite 320, Englewood, Colo. 80112; 303-741-5683 Domicile: Colorado	Property, auto, general and professional liability	$250,000 primary; $750,000 excess of $250,000	July 1981 Claims-made and occurrence	Direct	$5.8 $5.8	$17.0 $7.7	91 97	Public school districts
Consolidated Catholic Casualty **Risk Retention Group** Skandia International Risk Management (Vermont) Inc. George Chaffee, P.O. Box 64649, Burlington, Vt. 05406-4649; 802-658-1474 Domicile: Vermont	Excess and D&O liability	$35 million excess	July 1987 Claims-made and occurrence	Direct	$8.2 $7.9	$48.4 $21.8	11 12	Catholic multi-institutional health care systems
Constance Insurance Co. RiskCap H. Edward Rohrer, 1571 Race St., Denver, Colo. 80206; 303-388-5688 Domicile: Colorado	Product and general liability, blanket crime bond, blanket property, business interruption, extra expense	Proprietary	April 1978 Occurrence	Pure captive	$2.5 $2.5	$16.3 $9.7	1 1	Manufacturers of valves and fittings
Consumer Specialties Insurance Co. **Risk Retention Group** Vermont Insurance Management Inc. Michael T. Rogers, P.O. Box 306, Montpelier, Vt. 05601; 802-229-5042 Domicile: Vermont	General and product liability	$5 million excess of $5,000 self-insured retention	October 1987 Claims-made	All brokers	$2.3 $2.3	$6.3 $2.9	104 104	Members of Chemical Specialties Manufacturers Assn.
ELSIP (Excess-of-Loss Self-Insurance Pool) RiskCap James M. Graham, 1571 Race St., Denver, Colo. 80206; 303-388-5688 Domicile: Colorado	General liability	$2 million primary	July 1990 Occurrence	Restricted	$0.2 $0.2	$0.3 $0.3	3 3	Colorado school districts
East River Indemnity Continental Risk Services (Barbados) Ltd. Tim Courtis, ICB Building, Upper Roebuck St. Bridgetown, Barbados; 809-427-3362 Domicile: Barbados	Workers compensation, casualty warranty	Statutory primary; excess of first $250,000 per occurrence	Incorporated June 1993 Claims-made and occurrence	All brokers, direct, specific broker	NA $15.0	$0.1 $0.1	0 4	Canadian commercial risk
Energy Insurance Mutual Ltd. Self-managed Gene L. Weaver, 6200 Courtney Campbell Causeway, Suite 510, Tampa, Fla. 33607; 813-287-2117 Domicile: Barbados	General and D&O liability	General: $100 million excess of $25 million; D&O: $50 million excess of $25 million	July 1986 Claims-made	All brokers and direct	$60.0 $55.0	$368.0 $179.3	131 141	Electric and gas utilities
Engineers Liability Insurance Co. Ltd. (ELIC) IAS (Barbados) Ltd. William Tomlin, CGM Building, Collymore Rock, Barbados, W.I.; 809-436-8296 Domicile: Barbados	Professional liability	$100,000, $250,000, $500,000, $1 million excess of minimum self-insured retention of $10,000	December 1987 Claims-made	Direct	$0.3 $0.3	$1.3 $0.6	10 14	Engineers (civil, electrical, mechanical, structural) and architects

Continued on page 20



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Guide to alternative risk facilities (Continued from page 18)

Facility Management company Contact name, address & phone	Risks	Limits	First policy Policy form	Access	Premium volume (in millions) 1993 1994(est.)	1993 assets/ Capital & surplus (in millions)	Number of policy-holders 1993 1994(est.)	Membership
Englewood Reinsurance Co. Ltd. International Risk Management (Bermuda) Ltd. Graham D. Brice, Belvedere Building, P.O. Box HM 660, Hamilton HM CX, Bermuda; 809-295-0713 Domicile: Bermuda	Property and casualty reinsurance	Various limits	March 1989 Claims-made and occurrence	Captive insurance companies	$59.0 $60.0	$163.0 $25.0	10 10	All classes
Evergreen Indemnity Ltd. International Insurance Services Inc. Richard A. Hartford, C.G.M. Building, Collymore Rock, Bridgetown, Barbados, W.I.; 809-436-8296 Domicile: Barbados	Multi-peril property; general, excess and auto liability; inland marine	$1 million primary; $2 million excess of $1 million	June 1986 Occurrence	Direct	$3.2 $3.4	$10.5 $4.7	721 760	Privately-owned campgrounds and RV parks
Evergreen USA Risk Retention Group Inc. International Insurance Services Inc. Richard A. Hartford, P.O. Box 61, 655 Main St., Lewiston, Maine 04243-0061; 207-784-4566 Domicile: Arizona	General and auto liability	$1 million primary	November 1989 Occurrence	Direct	$0.6 $0.8	$2.3 $1.0	168 200	Privately-owned for-profit campgrounds and RV parks
Exporters Insurance Co. Ltd. BF&M Management Ltd. Robert Svensk or Mark Reynolds, P.O. Box 1007, Hamilton HM DX, Bermuda; 809-292-6396 Domicile: Bermuda	Export credit and political risks	$6.6 million per occurrence	March 1990 Occurrence	All brokers	$3.3 $4.5	$21.0 $17.1	33 38	Major exporters and financial institutions
Financial Institutions Reserve Risk Retention Group Inc. Johnson & Higgins Services Inc. Richard Grayson, 191 Peachtree St. N.E., Suite 3400, Atlanta, Ga. 30303-1762; 404-586-8365 Domicile: Vermont	D&O liability	Various limits	June 1986 Claims-made	Direct	$4.0 $4.0	$97.3 $60.7	16 16	Bank holding companies
Financial Services Mutual Insurance Co., A Risk Retention Group Skandia International Risk Management (Vermont) Inc. George A. Chaffee, P.O. Box 64649, Burlington, Vt. 05406-4649; 802-658-1474 Domicile: Vermont	Professional liability	$1 million primary	April 1989 Claims-made	All brokers	$1.3 $1.5	$2.3 $0.8	1,100 1,200	Financial planners and advisors
Forest Insurance Ltd. International Risk Management (Bermuda) Ltd. Michael P. Daly, Belvedere Building, P.O. Box HM 660, Hamilton HM CX, Bermuda; 809-295-0713 Domicile: Bermuda	Excess umbrella liability	Maximum capacity: $10 million per occurrence/$10 million aggregate	January 1980 Claims-made and occurrence	Must be captive insurance company related business	$2.3 $2.5	$7.3 $4.1	8 8	Forest products industry
Fraternity Insurance Trust C.J. Spivey Associates Inc. C.J. Spivey, 5821 Fairview Road, Suite 100, Charlotte, N.C. 28209; 704-556-9558 Domicile: North Carolina	General liability, property	$2 million primary; up to $5 million excess of $2 million	October 1992 Occurrence	Invitation only through C.J. Spivey Associates Inc.	$1.4 $1.6	$0.5 $0.4	6 10	Members of Fraternity Insurance Purchasing Group
General Eastern Ski Insurance Risk Retention Group Vermont Insurance Management Inc. Jonathan Spencer, P.O. Box 306, Montpelier, Vt. 05601; 802-229-5042 Domicile: Vermont	General liability	$10 million excess of various deductibles	November 1988 Claims-made	All brokers and agents and direct	$1.1 $1.2	$8.2 $5.4	5 5	Owners and operators of ski resorts
Hopewell International Insurance Ltd. International Risk Management (Bermuda) Ltd. Graham D. Brice, Belvedere Bldg., P.O. Box HM 660, Hamilton HM CX, Bermuda; 809-295-0713 Domicile: Bermuda	Property and marine insurance and reinsurance	Unlimited excess of captive retentions	January 1972 Occurrence	Must be captive insurance company related business	$139.0 $140.0	$20.0 $8.5	56 58	Multi-national companies, including metalworking, food manufacturing, banking, pharmaceutical
Housing Authority Property Insurance Inc. Yankee Captive Management Co. John Salisbury, 189 Commerce Court, P.O. Box 189, Cheshire, Conn. 06410; 203-272-8220 Domicile: Vermont	Property	Blanket limits	August 1988 Occurrence	Direct and specific brokers	$6.5 $10.0	$10.5 $6.7	149 300	Members of Housing Authority Insurance Inc.
Housing Authority Risk Retention Group Inc. Yankee Captive Management Co. John Salisbury, 189 Commerce Court, P.O. Box 189, Cheshire, Conn. 06410; 203-272-8220 Domicile: Vermont	General liability	$5 million primary	June 1987 Claims-made and occurrence	Direct	$21.3 $22.0	$103.6 $31.3	299 315	Public housing authorities

Continued on next page

Guide to alternative risk facilities (Continued from previous page)

Facility Management company Contact name, address & phone	Risks	Limits	First policy Policy form	Access	Premium volume (in millions) 1993 1994(est.)	1993 assets/ Capital & surplus (in millions)	Number of policy-holders 1993 1994(est.)	Membership
IARW Insurance Co. Ltd. Atlantic Security Ltd. Richard Witkowski, P.O. Box HM 2078, Hamilton, Bermuda HM HX; 809-295-5425 Domicile: Bermuda	Legal liability	$1 million primary	1973 Occurrence	Direct	$2.4 $2.7	$2.6 $0.9	150 160	Members of the International Assn. of Refrigerated Warehousemen
ISBA Mutual Insurance Co. Self-managed David G. Taylor, 20 S. Clark St., Suite 910, Chicago, Ill. 60603; 312-726-4226 Domicile: Illinois	Professional liability	Minimum: $100,000 per occurrence/ $300,000 aggregate; maximum: $5 million per occurrence/$5 million aggregate	November 1988 Claims-made	Direct	$6.9 $7.5	$18.3 $5.9	4,800 5,500	Members of Illinois State Bar Assn.
Independent Laboratories Assurance Co. Ltd. International Advisory Services Ltd. David Pickering, P.O. Box HM 2274, Hamilton HM JX, Bermuda; 809-295-3688 Domicile: Bermuda	Professional liability	$1 million per claim; $2 million aggregate	1976 Claims-made	Direct	$0.6 $0.6	$2.6 $2.1	23 25	Independently owned testing laboratories
Ironworking Contractors Insurance Program Mutual Risk Management Ltd. Richard C. Holton, 1850 Craigshire, Suite 102, St. Louis, Mo. 63146; 314-469-2184 Domicile: Bermuda	Workers compensation, general and auto liability	$1 million primary	December 1988 Occurrence	Direct	$6.1 $7.0	$9.3 $0.7	18 20	Members of Union of Ironworking Contractors
Joint School Districts Workers' Compensation Self-Insurance Pool RiskCap Sherlyn W. Farrell, 1571 Race St., Denver, Colo. 80206; 303-388-5688 Domicile: Colorado	Workers compensation and employers liability	Statutory	July 1986 Occurrence	Restricted	$3.9 $4.2	$9.5 $2.5	4 4	Colorado school districts
MPC Insurance Ltd. Johnson & Higgins Services Inc. Julie S. Boucher, 7 Burlington Square, Sixth Floor, P.O. Box 530, Burlington, Vt. 05402-0530; 802-864-5599 Domicile: Vermont	Professional liability	$10 million primary; $5 million excess of $10 million; $15 million excess of $50 million	September 1987 Claims-made	Direct	$10.1 $10.6	$67.6 $21.1	13 13	Lawyers of participating member firms
MEDMARC Insurance Co. Hamilton Resources Corp. Roger Loftis, 4000 Legato Road, Suite 800, Fairfax, Va. 22033; 703-273-1995 ext. 330 Domicile: Vermont	Product liability	$5 million primary	January 1979 Claims-made	All brokers	$33.5 $34.0	$138.0 $46.0	530 545	Manufacturers and distributors of medical devices, laboratory, dental and opthalmic equipment
Mental Health Risk Retention Group Inc. Skandia International Risk Management (Vermont) Inc. George A. Chaffee, P.O. Box 64649, Burlington, Vt. 05406-4649; 802-658-1474 Domicile: Vermont	General, professional and D&O liability	$1 million primary	January 1988 Claims-made	All brokers	$4.6 $4.9	$4.3 $1.7	86 90	Members of Mental Health Corp. of America or National Community Mental Healthcare Council
Midwestern Liability Insurance Risk Retention Group Inc. RiskCap Wendy Boutin, 1571 Race St., Denver, Colo. 80206; 303-388-5688 Domicile: Colorado	General and auto liability, surety	Proprietary	June 1988 Claims-made and occurrence	All brokers and direct	$0.2 $0.2	$1.9 $1.4	7 7	Commercial waste collection and disposal
Mount Mansfield Insurance Group Inc. AIG Captive Management Co. Inc. W.A. Taft or T. Burke, 1233 Shelburne Road, Suite 200 South Burlington, Vt. 05403; 802-658-9405 Domicile: Vermont	Workers compensation	Statutory	September 1992 Occurrence	All brokers	$4.6 $10.0	$9.0 $1.2	18 22	Members of Driver Employer Council of America
National Dental Mutual Insurance Co., A Risk Retention Group Professional Benefits Insurance Co. Mary Hart or Vicki Ritter, 10835 Rockley Road, Houston, Texas 77099; 713-561-5311 Domicile: Colorado	Dental medical malpractice	$1 million per occurrence/ $3 million aggregate	January 1988 Claims-made	All brokers and direct	$0.6 $0.6	$2.9 $1.9	351 450	Members of Dental Risk Management Foundation
New Providence Mutual Ltd. Allendale Management Co. Ltd. Robert Eastham, Skandia International Risk Management Ltd. P.O. Box HM 2062, Hamilton, Bermuda; 809-295-2185 Domicile: Bermuda	All-risks property	Various	December 1991 Occurrence	Direct	$4.0 $4.0	$8.0 $5.0	10 14	Industrial and commercial property business

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Guide to alternative risk facilities (Continued from page 21)

Facility Management company Contact name, address & phone	Risks	Limits	First policy Policy form	Access	Premium volume (in millions) 1993 1994(est.)	1993 assets/ Capital & surplus (in millions)	Number of policy-holders 1993 1994(est.)	Membership
Nonprofits' Insurance Alliance of California (NIAC) Self-managed Pamela Davis, P.O. Box 8507, Santa Cruz, Calif. 95061; 408-459-0980 Domicile: California	General liability, auto liability and physical damage, miscellaneous professional liability, improper sexual conduct	No limit	November 1989 Claims-made and occurrence	All brokers	$5.8 $8.2	$8.8 $2.1	940 1,400	California nonprofit organizations tax-exempt under IRS code 501(c)(3)
Nonprofits' Insurance Assn., An Interinsurance Exchange Berkley Risk Services Inc. Vicki Fraher, 920 Second Ave. S., Suite 700, Minneapolis, Minn. 55402-4023; 612-376-4220 Domicile: Minnesota	Property; inland marine; general, professional, D&O and auto liability; physical damage and crime	Various	December 1989 Claims-made (D&O only) and occurrence	Specific agents	$5.0 $8.0	$14.3 $9.7	650 850	Social service organizations with IRS 501(c)(3) designations
Non-Profits' Mutual Risk Retention Group Risk Retention Management Inc. Wayne Harris or Mark Arnold, 1800 Second St., Suite 104, Sarasota, Fla. 34236; 800-533-3097 Domicile: Vermont	General, D&O, auto, property, crime, boiler, machinery and improper sexual contact	$1 million primary; $5 million excess of primary	November 1991 Claims-made and occurrence	All brokers	$3.8 $4.5	$1.0 $1.1	836 1,200	501(c)(3) non-profit organizations, social services, counseling, residential care
North American Builders Indemnity Co. RiskCap Sherlyn W. Farrell, 1571 Race St., Denver, Colo. 80206; 303-388-5688 Domicile: Colorado	Real estate E&O, comprehensive general liability	Proprietary	May 1990 Claims-made and occurrence	Pure captive	$2.7 $2.8	$7.5 $2.7	1 1	National home builders and developers listed on the NYSE
Nuclear Electric Insurance Ltd. Self-managed Quentin Jackson, 1201 Market St., Suite 1200, Wilmington, Del. 19801; 302-888-3000 Domicile: Bermuda and Delaware	Excess property and business interruption coverage for nuclear utilities	Business interruption: $425 million; Excess property: $1.4 billion excess of $500 million	September 1980 Occurrence	Direct	$179.1 $180.7	$2,332.0 $1,911.7	70 70	Electric utility companies
Nuclear Mutual Ltd. Self-managed Quentin Jackson, 1201 Market St., Suite 1200, Wilmington, Del. 19801; 302-888-3000 Domicile: Bermuda and Delaware	All-risks property for nuclear utilities	$500 million primary	January 1973 Occurrence	Direct	$90.0 $94.0	$920.3 $639.5	26 26	Electric utility companies
Oil Casualty Insurance Ltd. Oil Management Services Ltd. K. Doyle Stephens, ACE Building, 30 Woodbourne Ave., Pembroke, Bermuda HM 08; 809-295-0905 Domicile: Bermuda	Umbrella general and D&O liability	Umbrella: $100 million excess of $20 million (non-U.S.), $50 million (U.S.); D&O: $50 million excess of $20 million	June 1986 Claims-made	Bermuda brokers and direct	$32.0 $33.6	$337.2 $244.9	46 50	Petroleum industry
Oil Insurance Ltd. Oil Management Services Ltd. K. Doyle Stephens, ACE Building, 30 Woodbourne Ave., Pembroke, Bermuda HM 08; 809-295-0905 Domicile: Bermuda	Property, well control, pollution liability and marine hulls	Up to $200 million per occurrence; $300 million annual aggregate excess of at least $5 million	January 1972 Occurrence	Bermuda brokers and direct	$192.5 $171.5	$1,822.7 $1,116.8	48 46	Petroleum industry
Ophthalmic Mutual Insurance Co., A Risk Retention Group Self-managed James F. Holzer, 655 Beach St., San Francisco, Calif. 94109; 415-771-1002 Domicile: Vermont	Professional liability	$1,750,000 excess of $250,000	October 1987 Claims-made	Direct	$11.0 $11.0	$32.2 $11.0	1,275 1,350	Members of the American Academy of Ophthalmology
PAR Ltd. Program Mutual Risk Management Ltd. Cathy Stone, Community Corporate Centre, 445 Hutchinson Ave., Columbus, Ohio 43235; 614-888-4869 Domicile: Bermuda	Professional liability	$10 million primary	December 1986 Claims-made	Direct	$7.7 $7.0	$40.9 $20.0	115 115	Large, regional U.S. and Canadian insurance agencies and their affiliates
Plastics Industry Risk Retention Group Risk Retention Management Inc. Wayne Harris or Julius Aebly, 1800 Second St., Suite 104, Sarasota, Fla. 34236; 800-533-3097 Domicile: Vermont	General and product liability, auto, umbrella, workers compensation, property, crime and boiler and machinery	$1 million primary; $10 million excess and umbrella	September 1990 Claims-made and occurrence	All brokers	$0.5 $0.6	$0.8 $0.8	24 27	Plastics processors, machinery and equipment manufacturers and moldmakers
Polaris Asbestos Insurance Corp., A Risk Retention Group Johnson & Higgins Services Inc. and Polaris Management Co. Warren O. Hart, 2777 Summer St., Stamford, Conn. 06905; 800-292-7272 Domicile: Colorado	Premises asbestos liability	$2 million per occurrence/$6 million aggregate	November 1992 Modified claims-made	All brokers	$0.001 $18.0	$0.5 $0.5	1 85	Managers of commercial, industrial, manufacturing or multiple residential buildings

Continued on next page

Guide to alternative risk facilities (Continued from previous page)

Facility Management company Contact name, address & phone	Risks	Limits	First policy Policy form	Access	Premium volume (in millions) 1993 1994(est.)	1993 assets/ Capital & surplus (in millions)	Number of policy-holders 1993 1994(est.)	Membership
Primex Ltd. Johnson & Higgins (Barbados) Ltd. Anderson Marshall, Whitepark House, White Park Road, Bridgetown, Barbados; 809-436-9929 Domicile: Barbados	Excess liability, including auto, employers, general, product and completed operations liability	General liability: $15 million excess of $1 million; auto: $15 million excess of $2 million	July 1986 Claims-made	Any offshore broker	$8.2 $11.3	$68.8 $16.5	16 16	Chemical and chemical-related industries
Professional Business Owners Self Insurance Fund Risk Retention Management and Vermont Insurance Management Wayne Harris, 1800 Second St., Suite 104 Sarasota, Fla. 34236; 813-957-3866 Domicile: Florida	Workers compensation	Statutory	March 1990 Occurrence	All brokers	$23.0 $23.0	$23.0 $2.5	1,336 1,336	Members of Professional Business Owners Assn.
Professional Consultants Insurance Co. Vermont Insurance Management Inc. Jonathan Spencer, P.O. Box 306, Montpelier, Vt. 05601; 802-229-5042 Domicile: Vermont	Professional liability	$30 million excess of $1 million self-insured retention	November 1987 Claims-made	Direct	$4.7 $6.0	$21.0 $9.0	5 5	Large actuarial and managerial consulting firms
The Property Insurance Facility Ltd. (TPIF) International Risk Management (Bermuda) Ltd. Graham D. Brice, Belvedere Building, P.O. Box HM 660, Hamilton HM CX, Bermuda; 809-295-0713 Domicile: Bermuda	Property	Various	August 1992 Occurrence	All brokers	$2.7 $3.0	$16.3 $2.4	6 8	Various unrelated enterprises
Quail Street Casualty Ltd. Quail Street Management Ltd. Mark G. Moffat, Cumberland House, 5th Floor, P.O. Box HM 1088 Hamilton HM EX, Bermuda; 809-292-2582 Domicile: Bermuda	Workers compensation, harvest strike, credit, flood, earthquake, ocean marine cargo	Various	1979 Claims-made and occurrence	All brokers and direct	$4.7 $5.5	$18.0 $7.0	150 150	Members of Western Growers Assn. of California and Arizona
Railroad Assn. Insurance Ltd. Rollins Hudig Hall (Bermuda) Ltd. Tracy Keill, P.O. Box HM 2450, Hamilton HM JX, Bermuda; 809-295-2220 Domicile: Bermuda	Excess liability	$50 million per occurrence excess of $50 million per occurrence or undering limit	May 1986 Notice of occurrence	Direct	$9.7 $9.5	$164.8 $153.9	15 15	Railroad companies and mass transit systems
Resort Hotel Insurance Co. American Risk Management (Vermont) Kathryn A. Westover, 5 Burlington Square, P.O. Box 1521, Burlington, Vt. 05402; 802-862-4400 Domicile: Vermont	Comprehensive general liability	$1.5 million primary; $150,000 excess of various limits	January 1993 Occurrence	All brokers	$1.1 $0.8	$2.5 $1.4	18 18	Members of Resort Hotel Assn. Inc.
The Risk Exchange Assn. International Risk Management (Bermuda) Ltd. Robert P. Klepper, P.O. Box HM 660, Hamilton HM CX, Bermuda; 809-295-0713 Domicile: Bermuda	Property, casualty, marine	Property: $8 million primary; Casualty: $10 million primary; Marine: $7.5 million primary	February 1984 Claims-made and occurrence	All brokers and direct	$0.6 $1.2	NA NA	12 14	Captive insurance companies that reinsure each other's parental risk on a facultative basis
S.E.C.U.R.E. Underwriters Risk Retention Group The Wyomissing Group Ltd. Daniel J. Reardon, 2001 State Hill Road, Wyomissing, Pa. 19610; 610-376-7232 Domicile: Maryland	General liability, E&O, pollution	$150,000 excess of $850,000	July 1987 Occurrence	Direct	$2.9 $3.4	$5.2 $1.4	641 781	Small to medium owner/operator structural pest control companies with gross receipts less than $10 million
Safe Truck Risk Retention Group Inc. Lafayette Insurance Managers Inc. James F. McNally, 140 Kennedy Drive, South Burlington, Vt. 05407; 802-658-1100 Domicile: Vermont	General, auto and cargo liability	Various	1994 Occurrence	All brokers and direct	NA $10.0	NA NA	0 10	Trucking companies and other commercial entities with large fleet exposures
Sargasso Mutual Insurance Co. Ltd. Johnson & Higgins (Bermuda) Ltd. Eugene Carmichael, P.O. Box HM 1826, Hamilton HM HX, Bermuda; 809-292-4402 Domicile: Bermuda	D&O liability	Primary or excess: $5 million, $10 million or $15 million	1986 Claims-made	Direct	$0.8 $0.9	$39.2 $36.0	15 16	Mutual life insurance companies domiciled in the United States and Canada
Sporting Arms Insurance Ltd. (SAIL) International Advisory Services Ltd. Kathy Dain, P.O. Box HM 1760, Hamilton HM HX, Bermuda; 809-295-3688 Domicile: Bermuda	Product liability	$1 million primary	June 1986 Claims-made	Direct	$2.3 $2.5	$7.0 $4.5	31 33	Sporting arms manufacturers and importers

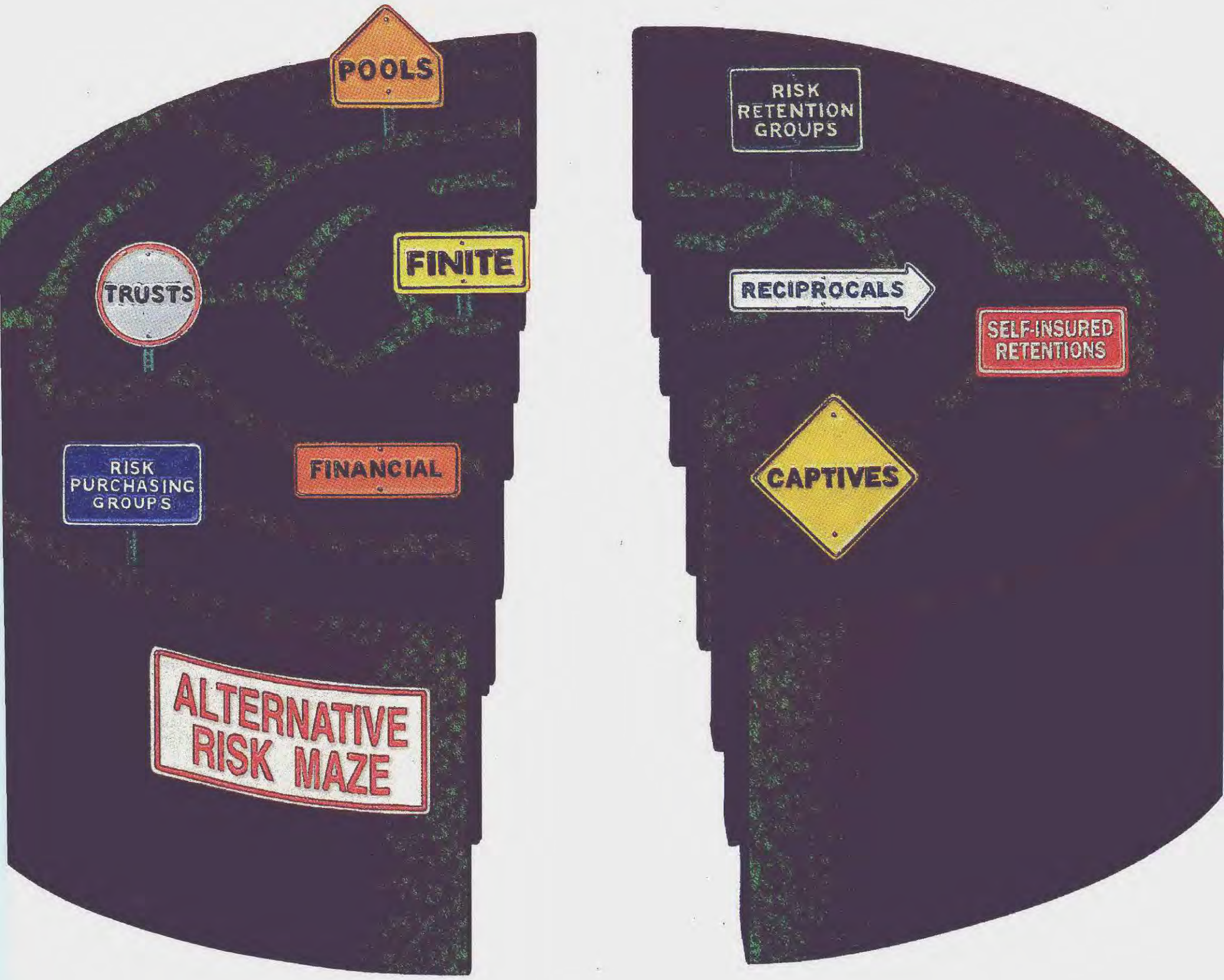
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Guide to alternative risk facilities (Continued from previous page)

Facility Management company Contact name, address & phone	Risks	Limits	First policy Policy form	Access	Premium volume (in millions) 1993 1994(est.)	1993 assets/ Capital & surplus (in millions)	Number of policy-holders 1993 1994(est.)	Membership
States Self-Insurers Risk Retention Group Inc. Berkley Risk Services of Georgia Scott King, 1303 Hightower Trail, Suite 220, Atlanta, Ga. 30350; 404-594-7744 Domicile: Georgia	Auto, general, public officials and law enforcement liability	$10 million excess of minimum $100,000 self-insured retention	July 1988 Claims-made	All brokers and direct	$5.3 $5.7	$14.3 $10.1	120 128	Public entities: cities, counties, affiliated schools and utilities
Steel Tank Insurance Co. Containment Advisors Inc. Brian Donovan, 570 Oakwood Road, Suite 150, Lake Zurich, Ill. 60047; 708-438-0880 Domicile: Vermont	Product and pollution liability, warranty	$1 million primary	August 1988 Claims-made	Direct	$1.0 $1.0	$8.7 $5.6	56 58	Members of the Steel Tank Institute
Structural Engineers Insurance Ltd.(SEIL) International Advisory Services Ltd. David Ezekiel or David Lampit, P.O. Box HM 1760, Chevron House, 11 Church St., Hamilton HM HX, Bermuda; 809-295-3688 Domicile: Bermuda	Professional liability	$1 million primary	1986 Claims-made	Direct	$1.6 $1.8	$8.5 $2.0	13 15	Structural engineering firms with more than $1.0 million annual billings
SUBWAY Owners' Mutual Insurance Co. AIG Captive Management Co. Inc. W.A. Taft or T. Burke, 1233 Shelburne Road, Suite 200, South Burlington, Vt. 05403; 802-658-9405 Domicile: Vermont	Workers compensation and business owners' package	$250,000 minimum retention	January 1993 Occurrence	All brokers	$1.2 $4.2	$2.4 $1.1	613 2,211	Fast food franchises
Terra Insurance Ltd. CFM Insurance Managers Ltd. Simon Scupham, Reid House 31, Church Street, Hamilton HM 12, Bermuda; 809-292-6424 Domicile: Bermuda	Professional and environmental impairment liability	$1 million per occurrence/$1 million aggregate	1971 Claims-made	All brokers and direct	$1.0 $1.0	$5.2 $5.0	10 10	Members of Assn. of Soil and Foundation Engineers
TOPS Insurance Ltd. Oil Management Services Ltd. K. Doyle Stephens, ACE Building, 30 Woodbourne Ave., Pembroke HM 08, Bermuda; 809-295-0905 Domicile: Bermuda	Property	$100 million	January 1993 Occurrence	Direct	$29.3 $37.8	$77.9 $71.4	16 16	Oil and/or gas operations
Tortuga Casualty Co. International Risk Management (Cayman) Ltd. Peter Joy, British American Tower, P.O. Box 69, Grand Cayman, Cayman Islands, B.W.I.; 809-949-0155 Domicile: Grand Cayman	Excess liability	$50 million excess of $25 million	January 1986 Claims-made	All brokers and direct	$5.2 $6.5	$28.0 $7.0	17 18	Various
Transportation & Railroad Assurance Co. Ltd. Rollins Hudig Hall (Bermuda) Ltd. Tracy Keill, P.O. Box HM 2450, Hamilton HM JX, Bermuda; 809-295-2220 Domicile: Bermuda	Excess liability	$25 million per occurrence excess of $25 million per occurrence or underlying limit	June 1987 Notice of occurrence	Direct	$9.7 $9.7	$116.5 $83.4	11 11	Railroad companies and mass transit systems
United Educators Insurance Risk Retention Group Inc. United Insurance Management Co. Arthur G. Broadhurst, 2 Wisconsin Circle, Suite 1040, Chevy Chase, Md. 20815; 800-346-7877 Domicile: Vermont	General, professional, educators legal and ERISA fiduciary liability	Educators liability: $25 million primary; general: $25 million excess of $1 million; professional: $1 million primary; ERISA: $10 million primary	June 1987 Claims-made and occurrence	All brokers	$30.2 $33.0	$76.4 $4.8	802 900	Educational institutions, foundations, museums and cultural organizations
United Insurance Co. International Risk Management (Cayman) Ltd. Peter Joy, British American Tower, P.O. Box 69, Grand Cayman, Cayman Islands, B.W.I.; 809-949-0155 Domicile: Grand Cayman	Property and casualty	$1.5 million primary; $5 million excess of various limits	January 1976 Claims-made and occurrence	All brokers and direct	$61.0 $50.0	$181.0 $14.0	75 75	Various
The Water, Wastewater and Process Equipment Manufacturers' Insurance Co. AIG Captive Management Co. Inc. W.A. Taft or T. Burke, 1233 Shelburne Road, Suite 200, South Burlington, Vt. 05403; 802-658-9405 Domicile: Hawaii	General and product liability, pollution coverage	$1 million primary; $4 million excess of $1 million	November 1989 Occurrence	All brokers	$0.3 $0.4	$1.8 $1.2	22 25	Members of WWEMA or PEMA
Western Pacific Mutual Insurance Co., A Risk Retention Group RiskCap H. Edward Rohrer, 1571 Race St., Denver, Colo. 80206; 303-388-5688 Domicile: Colorado	New home warranty	Home value	July 1990 Occurrence	Warranty administrator	$3.5 $3.5	$8.3 $2.8	Proprietary Proprietary	Home construction and sales companies that use Residential Warranty Corp.

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Guide to alternative risk facilities (Continued from page 26)

Facility Management company Contact name, address & phone	Risks	Limits	First policy Policy form	Access	Premium volume (in millions) 1993 1994(est.)	1993 assets/ Capital & surplus (in millions)	Number of policy-holders 1993 1994(est.)	Membership
Western Rim Insurance Co. Ltd. American International Co. Ltd. Robert Royce, Rollins Hudig Hall, 50 Fremont St. San Francisco, Calif. 94105; 415-512-6140 Domicile: Bermuda	Workers compensation	$210,000 primary	January 1983 Occurrence	Direct and specific brokers	$1.8 $2.0	$3.5 $0.5	18 20	Paper and paper box manufacturers
Wrenford Insurance Co. Ltd. International Risk Management (Bermuda) Ltd. Anna W. Summers, Belvedere Building, P.O. Box HM 660, Hamilton HM CX, Bermuda; 809-295-0713 Domicile: Bermuda	All-risks property - primarily highly protected risks	Unlimited excess of $25,000 deductible	June 1975 Occurrence	Must be captive insurance company related business	$3.0 $3.0	$2.6 $0.8	5 5	Metal working and electrical companies
X.L. Insurance Co. Ltd. Self-managed Robert J. Cooney or James J. Ansaldi, Cumberland House, 1 Victoria St., Hamilton HM JX, Bermuda; 809-292-8515 Domicile: Bermuda	General and D&O liability, E&O and property	General liability: $100 million excess of $25 million; D&O: $20 million excess of $20 million; E&O: $25 million excess of $25 million; Property: $100 excess of probable maximum loss	May 1986 Claims-made	Bermuda brokers	$456.0 NA	$3,627.0 $1,843.1	800 NA	Fortune 500 companies, law firms, insurance brokers and insurance companies
Zurich International (Bermuda) Ltd. Self-managed Michael R. Deevy, P.O. Box HM 2268, Hamilton HM JX, Bermuda; 809-292-8155 Domicile: Bermuda	All risks	Various	October 1988 Claims-made and occurrence	All brokers and direct	$68.0 NA	$512.0 $124.0	40 50	Various

Lawyer offers tips to avoid punitive damages

By RODD ZOLKOS

Good communication among members of the defense team and a prompt, thorough investigation of any claim are strategies companies should follow when defending against punitive damage claims, an attorney advises.

It's also important to look for any possibility for an early settlement or some sort of alternative resolution proceeding that could move a claimant away from punitive damages, according to Mitchell A. Orpett, a partner at the Tribler & Orpett law firm in Chicago.

Too often, Mr. Orpett said at a recent seminar sponsored by the Defense Research Institute, the defense of punitive damages claims falls into one of two extreme categories: the "Chicken Little" approach, or the "asleep at the wheel" approach.

In the former, the risk manager, lawyer and insurance claims representative receive the plaintiff's claim for punitive damages and, "convinced that the sky is truly falling, send alarms and general cries of panic throughout the halls of their institutions and to those with whom they work," Mr. Orpett said.

When defendants and insurers fall into that sort of scenario, reserves skyrocket, they place increased pressure on witnesses, they demand unnecessarily aggressive action and they retain different (and usually more expensive) law firms.

Attorneys fearful that "the sky is falling" often engage in "litigation overkill," resulting in increased fees and drawing even greater attention—and ego investment—to the case by the plaintiff's attorney, making early settlement more difficult or costly, Mr. Orpett said.

In the latter scenario—the asleep at the wheel approach—the defense team basically ignores the punitive damages claim as a plaintiff attorney's pipe dream, cooked up to drive up settlements or create coverage problems for the insurer.

When the defendant or insurer are asleep at the wheel, the claim typically isn't investigated prior to the early days of litigation. Superiors, excess insurers or reinsurers aren't notified of the claim, and so are surprised when made aware of it later. At the same time, reserves often fail to reflect true exposures.

With the defense attorney asleep at the wheel, early opportunities for settlement or to derail punitive damages claims are overlooked, and defense efforts are delayed while the plaintiff builds a stronger case.

Instead of falling into one of these two scenarios, defense teams should strive to take an approach nearer a "Golden Mean" between the extremes of panic and indifference, Mr. Orpett suggested.

If the defense attorney realizes that the plaintiff really knows that a case is a legitimate punitive damages case, the defense attorney should aggressively pursue a settlement, Mr. Orpett said.

The defense should never negotiate punitive damages, however. Instead, the issue of punitive damages should be kept off the table and, if necessary, the defense should deny until the "bitter end" that there is any chance that an award of punitive damages will be obtained, the attorney said.

It's essential that all members of the defense team understand and accept the negotiation strategy, particularly as it applies to the issue of punitive damages, Mr. Orpett said.

And, when a punitive damages case is settled, it's important to take note of how the settlement might affect reinsurance recoveries, he said.

When possible, it's best to involve reinsurers in the settlement decision or to force them to take a position on the settlement before it is finalized, he said.

Mr. Orpett noted that there have been several recent U.S. Supreme Court decisions regarding the constitutionality of punitive damages, with the court essentially ruling on a case-by-case basis that punitive damages in and of themselves aren't unconstitutional.

Most recently, the Supreme Court ruled 7-2 in an Oregon case, *Honda Motor Co. vs. Oberg*, that a $5 million punitive award against Honda Motor Co. in a personal injury case was unconstitutional because the state's legal system doesn't provide for any judicial review of punitive awards (see story, page 3). BI

Cooper skeptical of health reform consensus

By CHRISTINE WOOLSEY

CHICAGO—If Congress doesn't pass comprehensive health care reform this year, it may miss an opportunity that won't come around for another two decades, warns the sponsor of a major health care reform bill.

But the chances that Congress will pass legislation this year are less than 50-50, predicts Rep. Jim Cooper, D-Tenn., who is pushing a bill that advocates market-based managed competition over government regulation.

He said he is skeptical about Congress' ability to find a consensus on how to achieve comprehensive health care reform before the end of its session this year. And, he said, it is doubtful that incremental reforms will be passed instead.

"Congress never wants to unhitch a locomotive from its freight cars—and that's what passing limited reforms would do," Rep. Cooper told a group of brokerage executives and employers at a breakfast meeting sponsored by Johnson & Higgins in Chicago last week.

Because health care is such a personal issue, members of Congress aren't likely to risk alienating their constituencies by passing an unpopular bill, especially during a year when many of them are up for re-election. But, many don't want to be seen as failing to act, either.

"We do not want to rush through with a bad bill," Rep. Cooper said. But, the congressman noted, "If you look back in history, we've only been able to discuss health care reform in Congress about every 20 years. Will the door shut if we don't act this year? Or will next year be a better environment for the health care debate? I don't know.

"It's a judgment call. If you had stock that was at a 40-year high, would you buy or sell? I think most of you would sell. Health care reform is at a 40-year high. This is a rare moment in congressional history."

Like many other Washington observers, Rep. Cooper believes that if a major health care reform bill does manage to make it out of committee and onto the House and Senate floors, it is likely to come from the Senate Finance Committee.

That committee, chaired by Sen. Daniel Patrick Moynihan, D-N.Y., has three bills before it, only one of which currently has any degree of bipartisan support, he said. A still-evolving plan proposed by a group of moderate Republican and Democratic members of the committee "has a better chance of passing than the others," he added (see story, page 1).

Sen. Moynihan has unveiled a proposal that leans slightly more to the left of the political spectrum and may include an employer mandate in five years and premium price controls, unless Congress intervenes (*BI*, June 13). "Both of those ideas are popular with labor groups and organizations to the left of the political debate," Rep. Cooper explained.

Sen. Robert Dole, R-Kan., also is expected to introduce a proposal in the Finance Committee, but it will "look more Republican" and not win over many Democrats, according to Rep. Cooper.

"If this committee can come up with anything, it'll be in the middle. The Senate Finance Committee is a genuinely bipartisan committee and therefore has the ability to pass something with Democratic and Republican support," he said. BI

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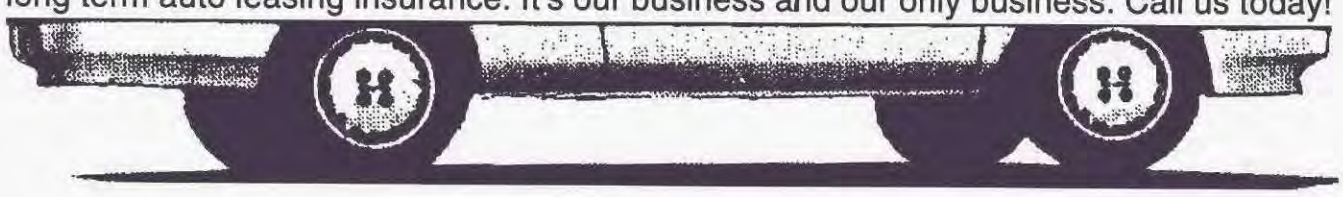
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Agent/Broker Topics

Bannister

Continued from page 32D

that legislators and the Insurance Department do not pay enough attention to them, and I agree with that 100%. We are not a "factor" to them because we are not organized. As Napoleon said, "Divide and conquer." We are divided! The ACIC won't talk to the ACLIC, PIA won't work with IIABC and the American Agents Alliance is not in touch with either.

What was the response of agents and brokers to your campaigns?

I received a great response. Unfortunately, the financial condition of our business is such that raising campaign funds from them was extremely difficult. But many did work very hard to get my message out to their clients. We were just too few.

The days of kissing babies and shaking hands and knowing what a candidate stands for in a statewide race are long gone, if they ever existed in the first place. Television and mail are the key factors and that means money is a must.

In the most recent primary, I was ahead in every poll until the last week. The Field Poll, for example, had me at 21% and Quackenbush at 17%. In the last week, I spent no money, therefore did no advertising. Quackenbush did four major mailers and heavy television. I wound up with the exact 21% Field said I would, and he got 38%! I spent about $30,000 in total, and he spent more than $600,000. (Former California House Speaker) Jess Unruh said long ago that "Money is the mother's milk of politics." I tried twice to prove him wrong. I didn't.

How is morale among agents and brokers in California?

Obviously, there are problems and many are not doing as well as they used to, but agents and brokers are a tough group. They will bounce back and, once they learn there is a real need to band together, they will force solutions to those problems.

What could an agent or broker have offered in the post of commissioner that the other candidates could not?

Before I answer that one, I need to rearrange the direction. How about, "Why would a politician, one who has no knowledge or experience in insurance, run for insurance commissioner?"

First, any real politician is always looking for a "step up." It was obvious that Garamendi was looking beyond the office of insurance commissioner to governor back in 1990. And Torres has said that he wants to be the first Latino governor. Quackenbush is a 38-year-old who has been in elected office for most of his adult life and has said that the insurance commissioner's office is the second most visible office in California.

My biggest concern in California is that someday soon the politicians will decide that the solution to the insurance problems is to eliminate the insurance people! Unfortunately, I keep seeing our industry help the politicians reach that point.

How will history judge the reign of John Garamendi?

He honestly did very little that would set him out as anything worth remembering. If he had solved the rebate problems, made a success of the earthquake program, handled the "takeovers" well, or solved any problems, that might be a different story.

How has passage of Proposition

Continued on page 32H

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Bannister

Continued from page 32F

103 affected agents' businesses?

Proposition 103 has affected every agency I know. It has helped to create a distrust of the industry by consumers. It became the focal point of all insurance issues in California. It created a political Insurance Department and environment.

However, I think it may have done some very positive things to make us, as agents and brokers, realize that we are vulnerable to reactions to industry programs and, in some cases, abuse. If nothing else, it has made my business work harder to establish closer relationships with our clients.

What are the biggest problems the next administration is likely to inherit?

Reorganization of the Insurance Department. Open rating on workers compensation and the danger of insolvencies. Curtailing fraud. The uninsured motorist problems. The expansion of 24-hour coverage and pressures to eliminate employee choice of providers. Agency solvencies and trust accounts. Earthquake.

How are agents and brokers reacting to some insurers' decisions to stop writing homeowners insurance following the Jan. 17 earthquake?

They are placing business with the state-run programs.

For example, today we see that the FAIR Plan will begin filling a part of the hole left by the withdrawal of the homeowners market. If the companies do not immediately step forward with a fair and equitable wrap-around, that will probably be the next step for "let the state do it" proponents. A full-blown homeowner's policy with liability and theft will be next.

I also expect that those politicians will soon see the solution to the automobile insurance program as a British Columbia plan where the state writes all automobile insurance. Maybe we'll see an expansion of the assigned risk plan to include higher limits and physical damage?

We are also currently seeing the State Compensation Insurance Fund expansion into agents and brokers offices.

If the single-payer initiative passes—and I think it will—the only private insurance remaining will be professional and large commercial liability.

What other trends are you seeing in the insurance distribution system?

I think there may be a real effort on the part of insurers to redesign their distribution systems. They will be looking for ways to eliminate the expense of the agency system where possible.

In the future, I expect to see more "direct sales approaches" by the industry, particularly in life and personal lines. BI

Women meet industry challenges

But more opportunities needed to achieve equality: J&H exec

By CHRISTINE WOOLSEY

Women's successes in the insurance industry—and the business world in general—are increasing, a brokerage director says.

But successful careers don't just happen, and the challenge to become a leader is often much greater for women than for men, she said.

"There has been an enormous distance traveled, but there is an enormous distance left to travel," said Christine LaSala, a director of Johnson & Higgins in New York. Ms. LaSala became a director in 1993, the first woman ever named a director of the world's largest privately owned insurance brokerage and the sixth-largest brokerage worldwide, as ranked by *Business Insurance*.

Speaking before the Assn. of Professional Insurance Women last month in Chicago, Ms. LaSala offered her 20-year perspective on careers for women in the insurance industry. However, much of her advice could be applied to any business professional who wants to rise to the top.

"I began my career with the notion that the insurance industry was female-friendly. That misperception was rooted in one fact: After months of job hunting, and unsuccessfully trying to make a philosophy major sound useful, the only two job offers I got came from insurers," she recalled.

Ms. LaSala accepted her first job from Warren, N.J.-based Chubb & Son Inc. in 1972—in part because she was invited to join the company by a female manager and therefore had the impression women were given equal opportunities to advance. "Behind the facade, it took me some time to figure things out," she said. One incident that concerned her was the hiring of a male manager a couple of months after she joined Chubb. That manager was paid a higher salary.

In fact, Ms. LaSala recalled, during the early years of her career she was often the only woman attending industry meetings. "At 23 that was fine, at 28 it was frustrating and by 35 it was embarrassing."

But a lot has changed, she acknowledged. "A couple of weeks ago, I was at a Johnson & Higgins office on the West Coast and 77% of its staff were women. That's change. Six out of 10 large employers in San Francisco have female risk managers. That's change."

Still, women encounter barriers to advancement that men do not, Ms. LaSala said. Statistics show that only 25% of supervisory and higher positions are held by women. "And we still don't make as much money" as male counterparts earn.

It is clear that women—and to some extent business professionals of either sex—who want to make it to the top have to go the extra mile, Ms. LaSala said. And, they need cooperation from their employers.

Successful careers are often "the result of a collaborative effort between employee and employer. They reflect what we as individuals bring, what we learn on the job and the risks given and risks taken."

Having a mentor is important to women's careers, she said. "I am evidence of that," she said, noting that John P. Keyser, a partner with J&H in Chicago, functioned as her mentor when she joined the firm in 1974 and during her rise to the top ranks.

Women often bring a set of skills to the workplace that they take for granted, some of which date back to family upbringing. "When I left for college, I took with me a set of skills: the ability to take responsibility, to be organized, to work hard and lead and guide others. I didn't know these were acquired skills" from growing up as the oldest of seven children. "I just thought at the time I was helping my parents do their jobs."

Ms. LaSala also learned that it is critical to have a strong sense of self. "My high sense of self kept me from feeling inferior (to men). Our work environment can make us feel that way, but there is an inner strength that tells us to resist it and resent it."

To succeed in business, women and men should take risks, she said.

"I'm not talking about 'jump out of the window' risks. But you should display willingness to change, willingness to leave a comfort zone. Embrace change and reject the fear of failure—it stifles ambition."

Professional relationships with coworkers and other women in the industry also are important. "One thing I regret about my early career is I wasn't a 'joiner' and I missed opportunities to learn from others." Groups like the APIW provide that opportunity, she said.

There is not one definition of a "successful career," Ms. LaSala said. But, it helps to "value work for work itself. Take comfort in the fact that you can do an excellent job. By loving your current job and doing it very well, the next job happens."

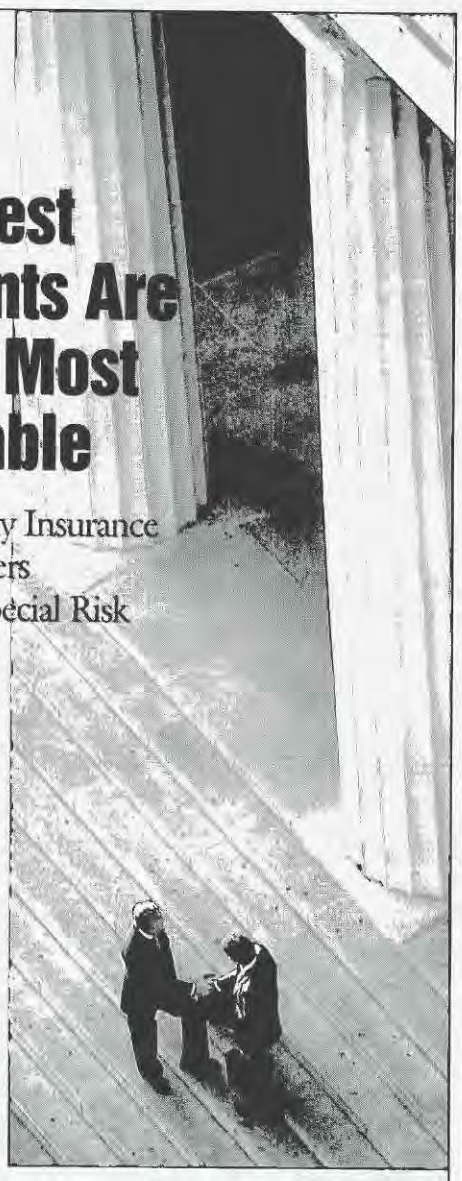
Employers must also do their part to advance women, she said. "There is still in Corporate America a persistent prejudice that prevents women from enjoying equality" with men. Employers must recognize that, given the number of women entering the workforce, it is not pragmatic to deny careers to them. "We can't afford not to tap into the most talented workers available, and the fact is half of that talent is female," she said.

"The glass ceiling is real." To dismantle it, executives need to be committed to promoting women to senior management.

That means identifying career-oriented women early and accepting them as part of the team. And, employers should not assume that a woman with a family does not want to or is not capable of moving up in the company or taking tougher assignments in a new city.

"I marvel at women who manage a family, a career and all the little things. Employers need to stand back and appreciate women who can do that. It's an astounding thing. If women have that kind of wherewithal, imagine how important we are to our employers."

The APIW is a New York-based professional association of women in the insurance and reinsurance industry and related fields. BI



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Agent/Broker Topics

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ing that rates are running flat to slightly up

D&O is "very competitive" because new entrants to the marketplace are bringing increased capacity, said ACE's Mr. Scott. However, most of ACE's accounts are renewing at expiring rates, he said. ACE offers D&O limits of $50 million excess of $25 million.

"D&O right now is flat to softening," with reductions of 10% or more, said Jim Ansaldi, senior vp of marketing-D&O and professional liability for X.L. "It's starting to look like cash-flow underwriting in D&O."

Pricing is firmer for certain professional liability lines like accountants errors and omissions coverage, Mr. Busti said.

"There has been some return of capacity out of London, as well as new entrants, including Chubb and Aetna," noted X.L.'s Mr. Ansaldi. However, he said he considers that "short-term capacity." As a result, "rates are flat at best," he said. X.L. underwrites E&O coverage for lawyers and insurance brokers, but not for accountants.

Executive Risk's Mr. Sills said that lawyers' professional liability rates are flat. Executive Risk underwrites professional liability insurance for law firms with 40 or more people.

The one bright spot many underwriters cite at midyear is workers compensation.

Workers comp is experiencing "a major upward" trend in both rates and activity, said CIGNA's Mr. Wratten. He attributed the line's health to the fact that more states have passed reforms that have helped contain workers comp losses. He cited as examples Oregon, Texas and Colorado.

"Workers comp in some jurisdictions is improving for the first time in years," said Chubb's Mr. Van Gilder.

"We anticipate that rates will stabilize or come down," said Wausau's Mr. Hancock. The industry is reaping the benefits of fighting fraud and of getting the legislatures to restore the balance between benefits and costs.

Mr. Wratten also cited the willingness of industry and government to crack down on fraud, notably in California, as a reason the line is rebounding.

Underwriters are split over the impact national health care reform would have on property/casualty insurers—particularly those who write workers comp. In fact, there was considerable division among insurers over whether any reform would pass this year.

Reliance's Mr. Busti said passage of anything is "unlikely," while Chubb's Mr. Van Gilder took that sentiment a step further by saying reform appears "almost impossible."

However, some underwriters with a heavy book of workers comp business said passage of some reform is still possible—even probable.

"I think it is still likely that health care reform will pass in this Congress," said Paul Mattera, vp and assistant general counsel of Liberty Mutual Insurance Cos. in Boston. However, reform will probably be limited to "insurance reform," such as eliminating preexisting condition exclusions and modified community rating.

Insurers looking for comfort in falling reinsurance rates probably aren't going to find much, several underwriters agree.

Reinsurance rates won't fall, Chubb's Mr. Van Gilder predicted. "I think there is a fair amount of discipline in the market."

"Reinsurance rates for property catastrophe are still tight, but not getting tighter despite losses earlier this year," Reliance's Mr. Busti said. "I don't think primary companies have passed on reinsurer's tighter pricing restrictions to clients. I think for the most part you will see stable or flat reinsurance rates."

Reinsurers report that rates are stable for most lines except property catastrophe reinsurance (see story, page 39).

Insurers see very little evidence of the young Bermuda catastrophe reinsurance facilities branching out into other lines.

Generally, "I think over the long haul you will see them expand the type of business they write in order to utilize capital more effectively, but we haven't seen it much," ACE's Mr. Scott said.

"We don't see it yet in the marketplace, but we hear rumblings," added Reliance's Mr. Busti.

Another factor that could affect insurer pricing is less-than stellar investment results because of generally lower interest rates.

Stock market fluctuation have not been enough to significantly impact how most other underwriters behave, said Reliance's Mr. Busti, a sentiment that was shared by other underwriters.

Most insurers have taken very significant capital gains and "that's not a repeatable phenomenon," said Chubb's Mr. Van Gilder. Consequently, they have to make money on underwriting rather than investments, which eventually should lead to pricing discipline, he said.

"Taking a big cat hit now becomes more difficult" because capital gains have been cashed in, added Continental's Mr. Ramsdell.

"There is clearly a reduced potential for investment income to bolster insurance company statements," said Wausau's Mr. Hancock. "We can't afford underwriting losses of the magnitude seen in the past, which were offset by investment earnings."

The relatively hot initial public offerings market for insurers has slowed down, as well. "The window has effectively been closed for raising of new capital in the insurance industry," said ACE's Mr. Scott. "There was too much sold in 1993. Combined with a decline in the bond markets, it has resulted in a decline in share prices for financial service companies, especially insurers." BI



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All statistics from the *Business Insurance* Audience Profile, 1993, Erdos & Morgan/MPG.

Upcoming Benefits Issues:

	Publishing:	Closing:
Work & Family *Directory: Dependent Care Resource & Referral Services*	July 25	July 13
Communicating with Employees *Directory: Benefit Communication Systems*	August 15	August 3
Pensions/Retirement Plans *Directory: 401(k) Plan Administrators*	September 5	August 24
EBC Award Profiles	November 7	October 26
International Benefits & Risk Mgmt *Directory: Int'l Insurers & Benefit Networks*	December 5	November 23
Market Report *Directory: Benefit Consultants*	December 19	December 7

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No substitute for pension plans

By Gregg P. Richter

IN THIS AGE OF "employee empowerment," a trend in the pension industry has been to transfer responsibility for retirement security from employers to employees via defined contribution plans. In fact, less than 40% of American workers are predicted to be covered by defined benefit pension plans this year. This is a major decline from the more than 50% who were covered by these company-funded and company-invested plans in 1980. At the same time, 401(k) plans have been expanding. More than $911 billion was invested in these plans last year from virtually nothing a decade ago.

This trend has been caused by several factors, including an increase in the number of part-time, temporary and contracted workers who are not eligible for benefits. Some of the reasons companies cite for terminating their defined benefit plans and replacing them with 401(k) plans are increased government regulation, high costs and failure to meet the needs of younger employees.

While defined contribution plans are excellent long-term employee savings vehicles, they are no substitute for the defined benefit approach to funding employees' retirement security. A defined benefit pension plan truly has a long-term investment horizon. In a mature defined benefit plan, annual contributions and earnings on the assets roughly match annual benefit payments and expenses. The corpus of the funds may be invested without great worry about liquidating assets in a down market. In a 401(k) plan, it is really not until the last third of any employee's career that substantial account balances have accumulated. This makes the employee particularly vulnerable to the investment markets in the last 10 years or so before retirement—not a very long investment horizon.

The truth with 401(k) plans is that, because participation is optional, it is impossible to ensure that the plans by themselves can meet all employees' needs. Statistics show that less than 20% of eligible employees earning under $20,000 participate in 401(k) plans vs. 74% of workers earning over $75,000. This is because many lower-paid employees cannot afford to have money deducted from their paychecks.

Employers have an interest in seeing that the retirement security needs of the employees are met. Employees can't retire unless they have the financial resources to do so. Adequate retirement income lets older employees exit the workforce with dignity and provides advancement opportunities for younger employees.

The U.S. League of Savings Institutions contends that

401(k) plans inadequate retirement substitute

employees will need 70% of preretirement income to retire; most cannot accumulate that much on their own, even with Social Security. Therefore, the employer leg of the traditional "three-legged stool" (employer-funded retirement plans, Social Security and personal savings) remains as important as ever. Transferring responsibility for retirement security from employers to employees means that only those having the foresight to save for themselves will be able to retire when they choose.

Demographic projections show that by the year 2000, the entire U.S. population will increase by about 17%, while the population in the 65-year-old age bracket will increase by 25%. According to the Social Security Administration, the ratio of workers to retirees could be as low as 2 to 1 by the year 2035. Today, there are five workers for every retiree. In addition, today the average life expectancy at 65 is 15 years for men and 19 years for women. By 2035, life expectancies at age 65 could be as high as 19 years for men and 23 years for women. As a result, a lot more Americans will reach traditional retirement age with a lot less retirement money than they would have been entitled to a generation ago and they will wind up living a lot longer than the past generation. This may result in pressure for more participation in the workforce by older people. Since decisions on when to retire usually come down to finances, employers that realize the importance of helping build financial security will benefit from the flexibility this gives employees in deciding when to retire.

In the last 20 years, a huge number of young people have entered the workforce. As that has happened, employers have felt less of a need to offer pension plans. The current generation of workers seems to be much more mobile and 401(k) plans are portable, so this has helped the popularity of 401(k) plan to soar. However, several hybrid plans have evolved that mimic some of the more appealing 401(k) plan features but provide a targeted benefit at retirement.

One of these is the cash balance plan, which is a pension plan with the employee's accrued benefit expressed as a cash balance. Employees are credited with a certain amount of money each year based on annual pay and a guaranteed interest rate. This way, employees have the security of a guaranteed account buildup and, if they can afford to contribute more, they can enter a 401(k) plan, if one is available. Because the money is credited each year, employees can be provided easy-to-read statements that communicate how quickly their balances are growing. This gets employees more involved in retirement planning.

Employers often say the drawback of defined benefit plans is the cost. However, this may be a myth. Defined benefit plans typically have a more aggressive investment allocation than defined contribution plans since they truly have a long-term investment horizon. This provides a greater return annually over the long run, which results in a significant reduction in the level of contributions employers must make to provide the same level of benefits. In addition, technology and competition have brought actuarial fees down. Also, these fees can be paid from plan assets.

Use of a 401(k) plan as the sole source of employer-sponsored retirement security can create a conflict. Employees who save diligently and invest with a farsighted view will have the best chance of achieving their retirement goals. But these may very well be the employees an employer would *least* like to lose to retirement. The effect is even more pronounced if the company is matching some portion of employee contributions.

The three-legged stool of retirement planning is still an appropriate model and employee savings are still an important part of the equation. The 401(k) is an excellent way to promote long-term, personal savings. In fact, with the competitive administration and investment packages offered for 401(k) plans today, it is difficult to think of a reason why an employer would not offer one.

However, employers cannot afford to neglect the company-funded leg of the stool. In terms of sheer efficiency, there is no better way of accomplishing this than with a defined benefit plan. The cash balance variation of the defined benefit plan updates the traditional defined benefit plan design with features that employees like about 401(k) plans—visible value and portability. This is entirely consistent with the trend toward greater employee empowerment. At the same time, the plan retains one of the key benefits of traditional defined benefit plans. With a natural, long-term investment horizon, employers can safely absorb their employees' investment risk. BI

Gregg P. Richter is a consulting actuary in the Chicago office of Sedgwick Noble Lowndes. He is chairman of the American Academy of Actuaries Pension Committee.

Maximizing success in insurance coverage disuputes

"Litigating Insurance Claims: Coverage, Bad Faith and Business Disputes"
By Guy O. Kornblum and William A. Cerillo
Published by John Wiley & Sons,
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By Kevin M. Quinley

GUESS WHO'S THE BIGGEST source of lawsuits in the litigation explosion? Trial lawyers? Divorce lawyers? Guess again. Many pundits observe that the biggest source of the so-called tort explosion is *not* all those ambulance-chasing personal injury lawyers trying to turn each whiplash into a windfall, but rather companies suing each other. This "commercial litigation" is increasingly clogging court dockets.

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For good or ill, insurers have become repeat role-players in all U.S. courts. Disputes range from issues of coverage, bad faith or liability actions. Risk managers are often embroiled in these controversies as well. It is no exaggeration to say that a comprehensive knowledge of the field of insurance coverage is more important for the risk manager of the 1990's than ever before.

Books & Ideas

For a thorough but somewhat technical reference on insurance coverage disputes, risk managers can turn to "Litigating Insurance Claims: Coverage, Bad Faith and Business Disputes." While this guidebook is targeted at practicing attorneys and insurance claims managers, risk management professionals will find it a useful resource in dealing with insurers in difficult coverage situations—from reservation of rights to wrongful denial of insurance coverage. In fact, risk managers will be at a disadvantage in dealing with insurers unless they have a grounding in some of the principles covered in this book.

Authors Kornblum and Cerillo are both partners in the law firm of Kornblum & Ferry. The firm has been a bell-ringer in representing policyholders in insurance disputes, and hails from that bad faith hotbed, California.

To guide your understanding, the authors detail numerous real-life cases. They illustrate successful (and unsuccessful) litigation preparation and trial techniques, covering both the plaintiff and defense points of view. Risk managers will see what went right and what went wrong, and learn to help prepare their own winning strategies to maximize the odds of successful recovery.

Among the coverage issues with which risk managers wrestle these days are such conundrums as:

- What are the first steps in determining whether coverage exists?
- How much is covered in environmental claims? Clean-up costs? Damage to the insured's own property?
- If you suspect bad faith, should you file a declaratory relief or bad faith action against the insurer?
- How can you use experts to support your claims for insurance coverage?
- What are extra-contractual claims, and what extra-contractual damages can you recover from an insurer? How about emotional distress? Attorney's fees?

Risk managers with a non-legal background may find some of this book heavy-sledding. Keep sledding, though, for it will impart a handy context for the time when you may have to knock heads with Hard-Hearted Mutual over some coverage denial. Not even the most learned tome is substitute for legal counsel, but "Litigating Insurance Claims" can serve as a useful compass for risk managers faced with an insurer contesting coverage. BI



Kevin M. Quinley is vp of risk services for MEDMARC Insurance Co. Inc. and subsidiary Hamilton Resources Corp., both of Fairfax, Va. Mr. Quinley holds the Chartered Property & Casualty Underwriter and Associate in Risk Management designations.

'Phantom' pain for lost limb compensable

Is the sense of pain localized at a lost limb's former situs compensable under the Workers Compensation Act? In a case of first impression in that state, the Court of Appeals of Iowa ruled that it may be compensable as an "unscheduled injury."

Schlena Dowell was employed in the meat department of a grocery store. She sustained an injury arising out of and in the course of her employment in 1988 when her right hand and arm became caught in a meat grinder. Her right arm had to be amputated just below the elbow.

She sustained a 90% functional impairment of her right upper extremity and was paid permanent partial disability benefits. Ms. Dowell then sought additional benefits because she suffered from phantom pain syndrome—a sense of pain localized at the lost limb's former situs. Her treating physician was of the opinion that she sustained a 67% impairment to the body as a whole. Her claim was denied by the Industrial Commission and the trial court.

The appellate court concluded that phantom pain that is severe enough to require medical treatment may be an independent, unscheduled, compensated injury if it causes disability.

"Applying the industrial disability test to a given case will require a determination both of the functional loss to the body as a whole and of the change in earning capacity of the individual," the court said. The case was returned to the Commission for further proceedings.

Dowell vs. Wagler, Court of Appeals of Iowa, Oct. 5, 1993 (*BI*/01/Au.-$10).

Pre-employment physicals

May an injury occurring during a pre-employment physical give rise to a claim for workers compensation benefits? In a case of first impression in that state, the Court of Special Appeals of Maryland ruled that it could.

Mary P. Jacobson applied to a hospital for a part-time job by submitting a resume. She was personally interviewed. An hourly rate of pay was subsequently agreed upon by telephone. Ms. Jacobson was told to report for a pre-employment physical on Jan. 4, 1991.

En route to the lab, Ms. Jacobson fell and injured one of her knees. She was attended to by two doctors and then sent for a blood test. Thereafter she reported to the Personnel Department.

Ms. Jacobson reported to work on Jan. 7-8. Because of a family emergency, she was unable to continue to work. She applied for and received leave from the hospital. She returned to work for the hospital for a short period in March 1991 but again left the employ of the hospital. She applied for but was denied workers compensation.

The appellate court held that if an employer requires an individual to receive a pre-employment physical on its premises and the reason for the physical is for the employer's benefit, there exists sufficient direction and control by the employer for the examination to be within the scope of coverage by the workers compensation law.

The court emphasized that here the hospital told Ms. Jacobson to report to the job site for the physical, sent her to the lab for blood tests after the accident occurred and paid her for the time spent at the site for the physical. Accordingly, the court concluded that Ms. Jacobson was entitled to benefits.

Good Samaritan Hospital vs. Jacobson, Court of Appeals of Maryland, Dec. 29, 1993 (*BI*/04/Au.-$10).

Legal Briefs

Wrongful death claim

A wrongful death action in state court brought by the wife and daughter of a participant and beneficiary in an employee benefit plan against the plan administrator was pre-empted by the Employee Retirement Income Security Act, according to the 9th U.S. Circuit Court of Appeals.

Steven Spain was a plan participant and beneficiary in a self-funded employee benefit plan governed by ERISA. His plan was administered by Aetna Life Insurance Co.

Mr. Spain was diagnosed with testicular cancer. His doctors decided that a bone marrow transplant was necessary in an attempt to save his life. Aetna pre-approved the first two parts of the three-part procedure.

Initially, Aetna also authorized the last part of the procedure. However, the insurance company later withdrew its authorization on the grounds that Mr. Spain's diagnosed condition did not make him eligible for the procedure.

By the time the procedure was approved and completed, the narrow window of time by which such procedures could be performed successfully had passed. Mr. Spain subsequently died.

His widow and daughter brought a wrongful death action against the administrator, claiming his death was negligently caused by Aetna's initial denial in authorizing the procedure. The trial court dismissed their suit.

The appellate court said that state common law causes of action arising from the improper processing of a claim are pre-empted by ERISA. Hence, the court said ERISA pre-empted the wrongful death action because the state law in its application directly related to the administration and disbursement of ERISA plan benefits.

Furthermore, the court said that the state wrongful death action was not "saved" by the sole exception to ERISA's pre-emption rule for any state law that regulates insurance, banking or securities. The trial court decision was affirmed.

Spain vs. Aetna Life Insurance Co., 9th U.S. Circuit Court of Appeals, Dec. 6, 1993 (*BI*/02/My.-$10).

'Layover' injuries compensable

A long-distance bus driver's injuries on his layover day occurred in the course of employment, according to a Pennsylvania appellate court. Thus, the court ruled that the employee was entitled to workers compensation benefits.

John Nymick Sr. was employed by Lenzer Coach Lines as a bus driver. He was the assigned driver of a chartered bus for a three-day trip to Atlantic City, N.J.

Mr. Nymick picked up passengers in Ohio and drove them to Atlantic City. He was required to stay with the passengers at a hotel and his employer paid for his hotel accommodation. The second day of the trip was a layover day.

Shortly after he woke up on the layover day, Mr. Nymick slipped and fell while stepping into a bathtub in his hotel room to take a shower. He sustained a lacerated left elbow followed by lower back pain.

Mr. Nymick filed for and was awarded workers compensation benefits. The employer appealed.

On appeal, the employer argued that Mr. Nymick's injuries were not compensable because they did not arise in the course of his employment.

But, the court said that in the case of traveling employees, the course of employment is necessarily broad and is to be liberally construed. According to the court, when a traveling employee is injured after setting out on the employer's business, there is a presumption that he or she was furthering the employer's business at the time of the injury. The court further pointed out that it was well-established that a required layover period of a traveling employee is not considered a breach in the employment relationship. The award of benefits was affirmed.

Lenzer Coach Lines vs. W.C.A.B.(Nymick), Commonwealth Court of Pennsylvania, Sept. 29, 1993 (*BI*/05/My.-$10).

Emotional distress claim

Emotional distress is not an injury to the body, according to a decision of the Supreme Court of Minnesota. Thus, the court held that a comprehensive general liability insurer had no duty to defend its policyholder in a suit brought for emotional injury.

Patricia Garvis thought she had purchased automobile insurance from Robert Demuth Jr. and the Demuth Agency. Mr. Demuth, however, failed to process her insurance application to Allstate Insurance Co.

Ms. Garvis was in a serious car accident, in which one of her passengers was killed, her son injured and she herself injured. The next day, after learning of the accident, Mr. Demuth called Ms. Garvis at the hospital where she was a patient and told her she did not have insurance coverage. Mr. Demuth then attempted to cover up his failure to submit the application by returning the uncashed premium check and backdating the letter of transmittal.

Ms. Garvis sued Mr. Demuth, who submitted the claim to Employers Mutual Casualty Co., his CGL insurer. The CGL policy insured Mr. Demuth for "bodily injury." The insurer declined coverage. This suit was brought in federal court to determine whether the insurer had a duty to defend Mr. Demuth. The federal court requested that the Supreme Court of Minnesota clarify state law on this issue.

The state appellate court concluded that the insurer did not have a duty to defend Mr. Demuth under the CGL policy. The court pointed out that Ms. Garvis' suit against Mr. Demuth alleged his conduct caused her extreme and severe emotional distress but that no claim of physical injury was made. The court said that an injury to the body does not include non-bodily emotional distress. The court said that since Ms. Garvis had not alleged any physical manifestation of her emotional distress, the insurer had no duty to defend.

Garvis vs. Employers Mutual Casualty Co., Supreme Court of Minnesota, March 19, 1993 (*BI*/02/J.-$10).

ERISA anti-cutback provision

The 8th U.S. Circuit Court of Appeals ruled that a successor employer did not violate the anti-cutback provision of the Employee Retirement Income Security Act by denying early retirement subsidies to employees hired from the predecessor employer.

This case involved several employees of the Engine Parts Division of Clevite Industries who were covered under Clevite's retirement plan. The plan provided for an early retirement subsidy whereby a participant could retire under certain circumstances before age 65 with a normal retirement benefit reduced by only 0.2% per month for each month before age 65. Such participants had to be at least 55 years of age and have completed 10 years of service.

In 1987, Clevite sold the parts division to JPI Merger Inc. but did not sell the assets of the retirement plan. The employees here were offered and accepted employment with JPI. Later, the Pullman Co. purchased the stock of Clevite as well as the company's retirement plan.

Pullman refused to give the employees the early retirement subsidy because they had not met the age and service requirements to qualify for the subsidy before the parts division's sale to JPI. The employees then sued Clevite, the plan and Pullman for violating the anti-cutback provision of ERISA. The trial court ruled against the employees.

On appeal, the court said that since the employees were never entitled to apply employment with a successor company to their age and service requirements under the original terms of the retirement plan, there was no amendment to the plan and the protection of the anti-cutback provision did not come into play.

Furthermore, the court said that even assuming there was a plan amendment, because these employees were no longer employed by Clevite, as expressly required by the conditions of the plan, they were unable to satisfy the pre-amendment eligibility conditions and the anti-cutback provision would not serve to preserve their entitlement to the early retirement subsidy. The trial court decision was affirmed.

Hunger vs. AB, 8th U.S. Circuit Court of Appeals, Dec. 17, 1993. *Rehearing denied* Jan. 21, 1994 (*BI*/03/Au.-$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.

Agent/Broker Topics

California's agent for change

Two-time commissioner candidate speaks on politics, insurance

By JOANNE WOJCIK

After two unsuccessful bids for the California insurance commissioner seat, independent agent Wes Bannister is back at work finding property/casualty markets for his Southern California customers.

And though Mr. Bannister claims the experience hasn't changed him a bit, numerous requests for interviews and speeches since his primary loss are pushing him back into the limelight as a quasi-political pundit calling the race from the sidelines.

"I decided to run in 1990 because I did not see anyone else stepping up to the line," he recalled in an interview at his Huntington Beach office.

None of the other candidates "really cared about the problems or the solutions, so even if I couldn't win, I felt I could at least get the message out."

Mr. Bannister said he decided to give the commissioner race another shot in 1994 for very much the same reasons.

"Not one potential winner, on either side, had any knowledge of the industry or the consumer problems. They were all people who had essentially lived their lives on the public payroll and not in the area of insurance," he explained.

Despite his losses, he still firmly believes he "could have done some good for the consumers and the industry and would have like to have tried."

It is perhaps because of this attitude that Mr. Bannister hasn't yet endorsed either his opponent in the Republican primary, Assemblyman Chuck Quackenbush of Campbell, or the Democratic challenger, Sen. Art Torres of Los Angeles. Come November these two will go head-to-head for the post now held by John Garamendi.

And while the third time may be the charm for some, Mr. Bannister doesn't plan to take his chances again in 1998, focusing instead on his agency. Formed in 1974, Bannister & Associates Insurance Agency Inc. produces $2 million in gross premiums annually in most property and casualty lines.

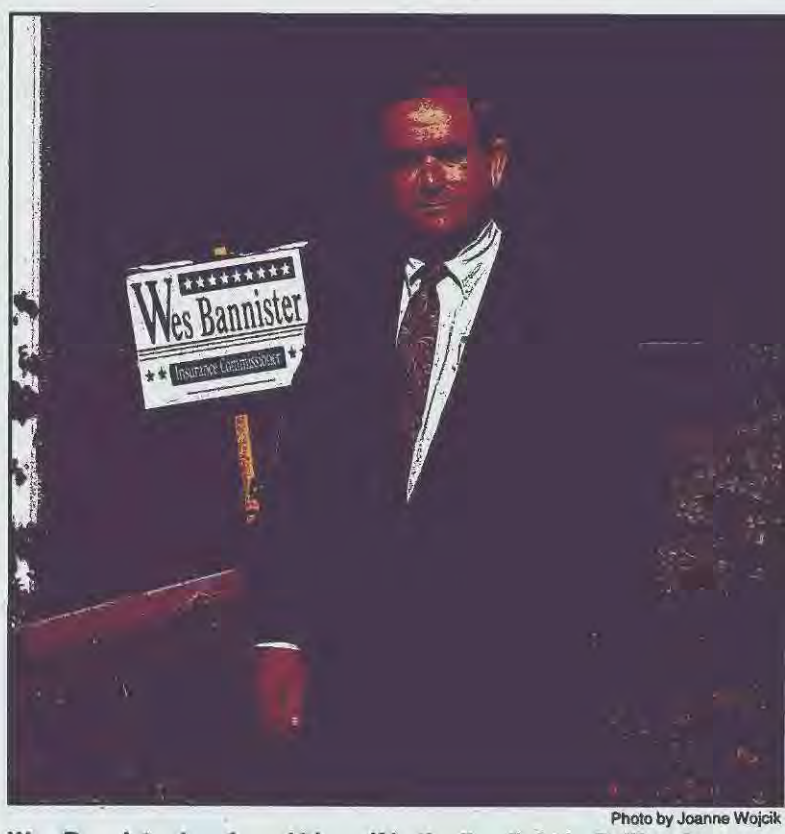


Photo by Joanne Wojcik

Wes Bannister has found himself in the limelight in California.

* * * *

What concerns of agents and brokers don't get enough attention from lawmakers in Sacramento and Insurance Department regulators?

Agents and brokers are concerned

Continued on page 32F

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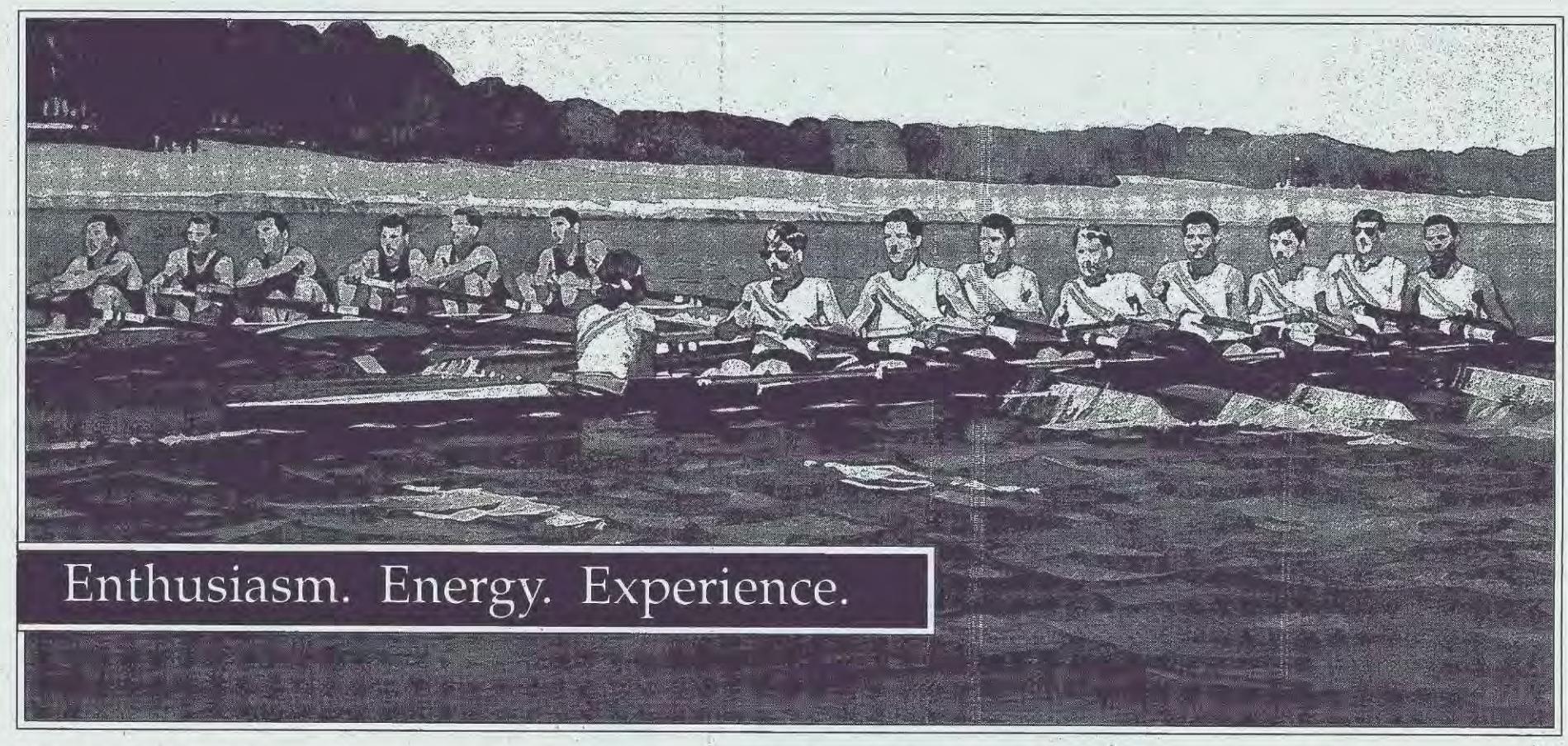
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Agent/Broker Topics

Outsourcing

Continued from previous page

director of risk management services consulting for Coopers & Lybrand in Atlanta.

Someone offsite will not always be immediately reachable, will have a harder time adapting to a company's modus operandi and may never fully learn the intimate, often essential details of the company's business.

But the brokers say the information superhighway cuts through these concerns.

"The technology link is what makes it possible," Mr. Sherlock said.

Acordia has electronic mail for communicating with clients and insurers and is also installing "health information networks" to create three-way links between the broker, employee benefits clients and insurers.

Mr. Sherlock said he would like to develop a network through which a company, its employees, insurers and even doctors can check the status of claims, get preauthorization and instantly add or delete names in the data base—when such technology becomes available.

"Information technology is the key," agreed Mr. Woody, who said e-mail is what has enabled Sedgwick to "get into the loop" fairly easily with clients.

Sedgwick also uses teleconferencing to communicate with customers, while Willis Corroon uses CD-ROM-based technology in training and communication.

Aon Reengineering & Consulting uses "a number of different systems for information flow between us and the client and within the client organization," said Mr. Maddocks.

Mr. Vogler sees other disadvantages to outsourcing, however. Perhaps most important is the perception in the risk management community that brokers' gains in this area are made at the expense of in-house risk management jobs.

"You have to know when to do it because if you do it at the wrong time, you shoot yourself in the foot," he said. "A lot of this will be marketed very quietly."

Indeed, major brokers that appear to be cultivating outsourced risk management work have to juggle that goal with the concerns of risk managers.

Jardine Insurance Brokers of San Francisco Inc., a unit of London-based JIB Group P.L.C., wrote to the Risk & Insurance Management Society Inc. affirming its support for the risk management community after Jardine was mentioned during a discussion of outsourcing at RIMS' annual conference in New Orleans in April.

RIMS President Lucille A. Gallagher said that other brokers were also mentioned but added it was simply a general discussion.

Mr. Hackenburg said Willis Corroon has "certainly heard from customers on that issue, both good and bad."

Other brokers say they have not received any feedback at all, though they are quick to point out they do not market specific programs.

"We're happy to take on additional services if you want to outsource, but we're not going into a separate marketing effort," said David May, a managing director and head of risk management services at Marsh & McLennan who said the only reactions he knows of are the ones he has read.

Mr. Maddocks said Aon Reengineering & Consulting has received feedback on the issue, though most of the company's activities in that area are initiated by risk managers with inadequate staffs.

"We're involved in areas where businesses have grown and not asked internal risk managers to grow but to shift the workload to an outside source," he said.

At Gallagher Bassett Services, Mr. Potenza said the risk manager is the buyer 90% of the time.

While Mr. Sherlock has not received any direct feedback on the issue, he said he sees downsizing risk and employee benefits departments as resources. While companies are losing people so they can outsource, Acordia needs people to do outsourcing. "Companies are looking to get more efficient, and outsourcing is a natural way."

Mr. Hackenburg concurred. "Use any euphemism you want, if companies are not re-evaluating the way they do business, they will be shortly." BI

Agent/Broker Topics

A monthly editorial section sent exclusively to agents and brokers

In business with outsourcing

Client demand offers opportunities for brokers

By EILEEN P. GUNN

Outsourced risk management services are increasingly in demand, and brokers say they must provide these services to both hold on to clients and increase business.

"When a client comes to us and asks for additional services for whatever reason, we're going to meet the needs of the client," said P. Richard Hackenburg, president and chief operating officer of Nashville, Tenn.-based Willis Corroon Corp.'s advanced risk management services division.

"Clients want services, not procurers of insurance," added Henry Maddocks, managing director of Chicago-based Rollins Hudig Hall Inc.'s Aon Reengineering & Consulting Services Inc. "It's a trend that's going to continue."

The large brokers say they do not seek outsourced risk management assignments. It is a client-driven trend that picked up steam during the recession and will remain strong into the foreseeable future.

Most brokers have not seen revenue increases directly attributable to outsourced services. But, during the last several years, brokers have built up their service areas, hiring specialists and upgrading communications technology, to present themselves as broadly accommodating consultants rather than simply placers of coverage.

"There is a changing perception of what we do for a living," said Russell Sherlock, president and chief executive officer of Acordia Business Benefits of Evansville, Ind., a unit of Indianapolis-based Acordia Inc. "It's not 'shop (a client's) insurance around' anymore. Businesses are accepting us as part of their team."

Ben Woody, vp of Sedgwick James of Tennessee, a unit of London-based Sedgwick Group P.L.C., said providing services "has become a major issue in distinguishing one broker from another. . . .We're selling services to show there is value added in dealing with us."

He estimated that 35 offices—about half of Sedgwick's U.S. operations—provide outsourcing services. Sedgwick began developing the area about five years ago and since then has doubled the number of offices that provide those services, he said.

In Tennessee, the focus has been on third-party administrative work, engineering, and actuarial and financial services.

"Some years ago, it was unheard of to have these services in the office," he said. But "premiums are continuing to go down and you have to compete for those."

With the added services, of course, come additional staffing costs that are not necessarily offset by new fees.

In Mr. Woody's office, about half of his 12 staff members are service-oriented specialists, including an attorney, an engineer and account executives focusing on loss evaluation.

But these services are built into the basic client fees. "We don't unbundle," he said.

At Aon Reengineering & Consulting, Mr. Maddocks said he is "not seeing a noticeable increase in revenues but rather a shift in what clients want." The amount of fees vary from client to client.

Still, he said the RHH unit has expanded its risk management services "and will expand further." During the past 10 years, his staff has come to include actuaries and specialists in risk financing, loss prevention and claims.

Aon Reengineering & Consulting currently provides risk management information systems, local consulting services to foreign global corporations and other services, though its biggest area has been dealing with workers compensation claims, according to Mr. Maddocks.

Willis Corroon's Mr. Hackenburg does not attribute growth directly to outsourcing assignments, but he said the broker is seeing "an increase in fees and in the business we do" in risk management services.

In response, Willis Corroon has been "augmenting our staff and increasing our focus on consultancy."

He added that the company is looking to develop risk management services further over the next five or six years.

Willis Corroon's services include identifying risk, evaluating pre-and post-loss cost, and consulting on health and environmental issues and earnings stability.

Although increased revenues from outsourcing are not easily identifiable now, this could soon change. While brokers like Marsh & McLennan Cos. Inc. have been providing some form of risk management services for 30 years, there are strong opinions from some brokers that the crest of the outsourcing wave lies ahead.

At Gallagher Bassett Services Inc., a unit of Itasca, Ill.-based Arthur J. Gallagher & Co., outsourcing revenues make up about 2% of annualized revenues from risk management services, Executive Vp Fred Potenza said. "But it used to be 0%," he said. "We're starting to see it."

Acordia's Mr. Sherlock has a well-developed business in outsourced benefits services but is only beginning to get involved in risk management.

"I know it's out there, and I expect to see more of it over the next two years," he said.

"It's a direction in which global industry is going," Mr. Hackenburg added. "We see a number of customers coming to seek additional services, and we expect that to grow."

Although downsizing is a key element in this trend, it is not the only one.

About half of Aon Reengineering & Consulting's outsourcing clients are companies that find themselves faced with new, sophisticated risk issues and do not want to hire additional staff to deal with them, Mr. Maddocks said.

At Gallagher Bassett Services also, some customers with risk management departments outsource a particular project for which they would otherwise have to hire additional employees.

Another reason for the growth in outsourcing is that emerging communication technologies are intrinsic to the brokers' service capabilities.

A significant downside to outsourcing is that a broker is not inside the company loop the way a risk manager is, said Michael R. Vogler,

Continued on next page



Insurers

Continued from previous page

normal, which is in excess of 90%, and Protection Mutual is also generating "a decent amount" of new business, he said. "We're very, very selective about what we do: The lower the price, the higher the quality we have to write."

"Property insurers in general are trying to be more selective in who they do business with," agreed Wolfgang Friedel, senior vp-marketing of Arkwright Mutual Insurance Co. in Waltham, Mass. Nevertheless, he stressed, Arkwright has not "selected any particular industry groups or type of customer" to avoid.

The insurer is trying to reduce its exposure to catastrophes like windstorm through technology rather than culling clients, he said. "The No. 1 and most important solution to windstorm is engineering. Companies that have built their facilities to our specifications have had very little significant losses."

Although the overall property market is generally soft, some large accounts that have enjoyed depressed rates for years were hit with increases of as much as 50% at midyear, said Dick Wratten, president-commercial insurance services for CIGNA Property & Casualty Insurance Co. in Philadelphia.

But, he added, "the only reason you're getting that much increase is it was depressed for so many years."

"As far as geography goes, in the East, things haven't changed that much this year over last. The only difference is the cost of reinsurance and companies still reeling from Andrew. I think companies are looking harder at what their loss potential is," particularly in areas like Long Island, N.Y., Mr. Wratten said.

In the Midwest, though, buyers are experiencing "rates every bit as competitive, maybe even dropping," he said.

In anticipation of eventual firming in property pricing, X.L. this year began writing excess commercial property insurance, with $100 million in worldwide capacity.

"It's going slow. There is still plenty of capacity," and pricing remains "competitive," outside of windstorm and earthquake areas, said Art Liebelt, senior vp in charge of property at X.L.

It's slow going for most insurers writing liability lines, as well.

For example, general liability rates are up a little bit on the East and West coasts, but only in the single-digit range, said CIGNA's Mr. Wratten.

General commercial liability is "relatively soft," said Continental's Mr. Ramsdell.

The story is much the same in the excess liability arena.

"Rates are actually declining for large primary casualty and excess liability risks," said Reliance's Mr. Busti. There is "easily a 5% to 10% drop" in those lines, as well as in high hazard liability.

"In excess liability, we see continued softness in the layers below us," agreed ACE's Mr. Scott. ACE writes a maximum limit of $200 million excess of $100 million, though its average limits are $137 million excess of $148 million.

In the high-level excess liability layers ACE writes, pricing is "stable to increasing for high-hazard liability risks," like large energy corporations, chemicals and health care corporations. For those three areas, he generally is seeing increases of 20% to 30% predicated on individual loss experience.

X.L., which writes up to $100 million in general liability limits above a $25 million attachment point on U.S.-owned or -located risks, finds that excess liability insurance is "very competitive," said Mr. Arton. "Rates are declining in the single digits."

That's because there has been an increase in competition from U.S. insurers that are willing to write at "unprofitable levels to create market share and generate cash flow," he said.

Specialized liability lines like directors and officers liability insurance present a somewhat hazier picture, although competition remains common.

D&O coverage is "pretty much flat for undifferentiated companies or companies that are doing well" financially, said Steve Sills, executive vp and chief underwriting officer of Executive Risk Inc. in Simsbury, Conn. Executive Risk writes D&O cover through a facility with Aetna Life & Casualty Co.

D&O is "holding its own," agreed Reliance's Mr. Busti, not-

Continued on next page

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few problems in renewing their D&O coverages.

D&O rates for Continental Bank Corp. of Chicago were flat, but Ron Vlamis, director of corporate insurance, wondered if that was an aberration. One explanation may be that its D&O insurers, Lloyd's of London syndicates and other London underwriters, were impressed by the bank's announced merger with BankAmerica Corp.

In addition, over the past 10 years—including last year—the bank's D&O insurers have occasionally cut Continental's D&O rates as it restructured following the bank's 1984 $4.5 billion federal bailout in 1984, the largest federal bank bailout ever. During that period, though, Continental was paying higher-than-market rates because of its past problems, Mr. Vlamis said.

D&O rates also were flat for the 1-year-old subsidiary of American Savings of Florida FSB in Miami, according to Susan Sinclair, director of risk management. The bank and a real estate concern last year created an equal-ownership arrangement in which a bank account executive staffs a real estate office to provide buyers instant borrowing assistance.

In February, Ms. Sinclair negotiated a huge reduction in D&O pricing for the remainder of the bank's operations, tripling its coverage for the same premium.

First Interstate Bancorp of Los Angeles renewed its D&O coverage in May, and officials there reported that it was an easy process and speculated that the D&O market is improving.

At Intel, D&O rates also were flat.

Harris Corp.'s D&O rates increased a modest 5%, Mr. Kervin said. However, that was less than the increases he has seen other high-tech firms swallow. BI

Floods' impact longlasting

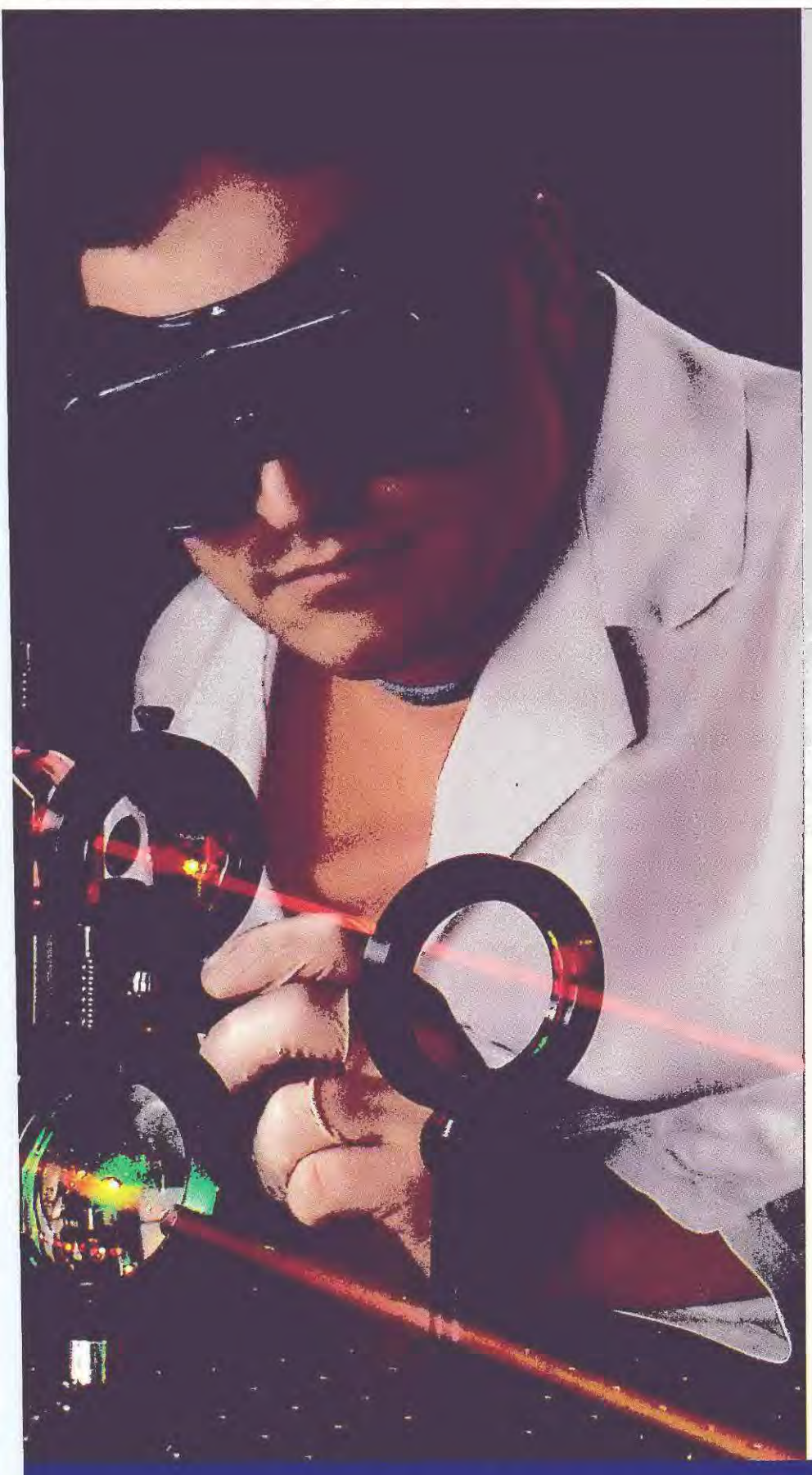
Risk managers with property risks not located on the West, East or Gulf Coasts had few problems renewing their property coverage—unless, of course, they were in areas of the Midwest ravaged by 1993's floods.

The city of Des Moines, Iowa, is set to renew its property coverage July 1. The city's current property coverage, which is written by Chubb Corp.'s Federal Insurance Co. unit, took effect July 1, 1993. Ten days later, Des Moines filed a $5 million flood claim.

Chubb handled the 1993 flood claims "extremely well," said Eric B. Larson, Des Moines' risk manager. This year, though, the city appears to face a 10% to 15% increase in its property coverage rates. "But, more importantly, it looks like we're looking at decreased coverage for flood claims," he said. Instead of the $100,000 per occurrence flood coverage deductible its expiring policy carries, Des Moines will face $500,000 per location deductibles for each of five or six sites heavily damaged in the 1993 flood.

"What that's forcing us to do is purchase coverage through the national flood program," Mr. Larson said. The National Flood Insurance Program should provide the city flood coverage of $200,000 per building plus $200,000 for contents in each of the sites on which the Chubb policy will impose $500,000 deductibles. "I'm not knocking the NFIP program, but when you're used to a replacement cost, all-risk coverage program with Chubb, it's just not the same program," Mr. Larson said.

—By Rodd Zolkos



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Continued from page 1
bility markets.

"There is increased competition for the shrinking premium dollar," agreed Ed Hancock, vp of product development and corporate staff underwriting with Employers of Wausau, a unit of Nationwide Corp. based in Wausau, Wis. "We are seeing no signs of competition abating."

"It's like playing chicken—who's going to be the first one to blink?" said Continental's Mr. Ramsdell.

"The distance between companies that are performing well and those that aren't is expanding," said Terry Van Gilder, executive vp and chief underwriting officer of Chubb Corp. in Warren, N.J.

Nevertheless, "we are able to do what we need to do with renewals" and get rate increases where necessary, he said.

"I do not see a turn in the market," said Walter Scott, chairman, president and chief executive officer of ACE Ltd., the Hamilton, Bermuda-based high excess liability insurer.

"It's a tough market," said Gavin Arton, senior vp of EXEL Ltd., the holding company that owns excess liability insurer X.L. Insurance Co. Ltd. in Bermuda.

'It's like playing chicken—who's going to be the first one to blink?' says George Ramsdell.

"It has not bottomed out yet because of excess capacity."

If any commercial insurance line should be hardening, property would seem the likely candidate, as insurers have taken a beating from January's Los Angeles earthquake—with estimates of quake losses reaching $5.5 billion—as well as other first-quarter catastrophes.

But rates are only rising for property risks with natural catastrophe exposures.

"If property has the risk of having a windstorm or earthquake exposure, you are seeing substantial increases of 100% to 200% or more" at midyear, said Reliance's Mr. Busti.

"Outside of these areas, it's remarkable that the large property losses to date this year are having negligible impact," he said.

While California earthquake coverage has been growing more expensive, there hasn't been much change in the commercial property market as a whole, agreed Michael C. McIntyre, senior vp of Allendale Mutual Insurance Co. in Johnstown, R.I. Property coverage for highly protected risks remains competitive, he said.

"We've had some success with price levels," but increases have been modest, he said. At the same time, client retention has been very good, at a rate of more than 90%, said Mr. McIntyre.

Jim Black, vp and director of regional operations for Protection Mutual Insurance Co. in Park Ridge, Ill., offered a similar observation.

"We're seeing July renewals as somewhat more of the same," he said. Rate increases have run in the mid-single-digit range, continuing a trend that began about a year ago, he said.

Retentions are running about

Continued on next page

Managers

Continued from previous page
bank facilities and to foreclosed property it owns.

But, while lower-layer property insurers also were pressing for rate hikes, they agreed to renew with no increase.

Midyear renewals were not the headache for some risk managers that it was for others, though.

Cheri J. Hawkins, assistant treasurer and director of insurance for Tacoma, Wash.-based Weyerhaeuser Co., said she was surprised at the ease of the July 1 property coverage renewals for the wood products manufacturer's U.S. and Canadian properties.

Tom Henderson, risk manager for Texas Instruments Inc. of Dallas, is in the middle of placing his property coverage, but he expects that rates will be flat. TI does not have any significant exposures in either California or the hurricane-susceptible Southeast. Its most sizable locations are in Texas, far from the Gulf Coast, and in New England.

On the casualty side, risk managers reported the market was as soft as or even softer than last year.

Winn-Dixie Stores Inc. of Jacksonville, Fla., knocked 10% to 15% off the cost of its excess liability program, which covers its general liability, workers compensation, product and auto risks.

"I wasn't expecting that. I was expecting at best flat pricing," said Bill Pezzutti, director of risk management, who did not market the program.

Susan M. Werner, director of risk management for Hardee's Food Systems Inc. of Rocky Mount, N.C., called the excess liability market "extremely favorable."

"We thought we hit rock bottom last year, but we still achieved favorable savings this year" of about 10% with the same insurers for the same amount of excess liability coverage, she said. The manuscript program provides excess coverage for the company's general liability, products, premises, workers comp and auto risks.

Ms. Werner did not take the program to market this year. She did last year, though, when she anticipated that rates would harden.

However, she did go to market to ensure she was getting the best price for claims and other services provided by a third-party administrator—like workers comp cost containment, utilization review, provider bill auditing and rehabilitation services. Ms. Werner stayed with the same TPA, Crawford & Co., receiving a price reduction for the affiliated services and holding pricing stable for claims-handling services.

Motorola Inc.'s primary and excess casualty program, which covers the Schaumburg, Ill.-based electronics manufacturer's general liability, workers comp and auto risks, renewed at a flat rate, said Joseph Wojdula, manager-corporate insurance.

Mr. Wojdula went to market for parts of Motorola's umbrella program, but he renewed with his current insurers. "They were very easy renewals for us."

Rates also were flat for the primary and excess liability coverages for Harris Corp. of Melbourne, Fla., according to David Kervin, a risk analyst for the electronics manufacturer.

Oklahoma Natural Gas of Tulsa renewed its excess liability, directors and officers and excess fiduciary coverages with AEGIS, a Bermuda-based utility mutual, June 1 at an average increase of about 5%, said Frank E. Locke, administrator for risk and insurance. That increase is consistent with recent years, he said.

"We're in the market right now for some Sept. 1 renewals for property and whatnot and I don't anticipate any major increases."

For many companies, the workers comp climate also seems to be improving, with risk managers reporting flat or declining rates at renewal.

State workers comp reforms and improvements in companies' workers comp programs are driving favorable renewal experiences.

Harris Corp.'s workers comp rates were flat, as they have been for the past couple of years, even though the company's workers comp medical costs increased 10%. The company has a paid retro program on top of a significant deductible. Other terms and conditions of the coverage also were unchanged.

Rates for Intel's excess workers comp coverage, which renewed July 1, decreased. Premiums increased only because of greater employee head count.

But, workers comp rates continue to climb for others.

For Ronald W. Stasch, manager-risk management services for automotive parts manufacturer and distributor Federal-Mogul Corp. of Detroit, pricing was not the end-all in taking his casualty program to market.

More important for him was finding an insurer that could provide more efficient workers comp claims-handling support.

'We thought we hit rock bottom last year, but we still achieved favorable savings this year' of about 10% with the same insurers for the same amount of excess liability cover, says Susan M. Werner, risk manager for Hardee's Food Systems Inc.

Rising workers comp rates are driving this approach, said Mr. Stasch, who also is a member of the Risk & Insurance Management Society Inc.'s Risk Management Roundtable.

"I think there's generally a feeling of frustration (among risk managers) because we're continuing to see costs going upwards for workers comp when loss control is doing a better job," he said.

"So, we're looking for other ways to attack the problem," he said, noting that 80% of risk financing costs typically reflect claims costs and 20% represent insurance costs.

Mr. Stasch was critical of insurers that have only "tweaked" their claims-handling systems rather than overhauling them to wring out as much waste as possible.

Because "the market is in such a state of flux," he urged risk managers to network and benchmark more often now to get a true picture of the quality of services insurers are providing. "A lot of carriers and TPAs are talking a good game. You have to be real careful you're not buying snake oil."

Risk managers also reported

Continued on next page

High Tech Workers' Comp



CommonwealthRisk • • •

Managers

Continued from page 1

markets. She eventually was able to find the $100 million of property coverage Hillman typically purchases.

Making the renewal pricing even tougher to take was that Ms. Mitro, for the first time, had used an independent engineering consultant to prepare reports for underwriters on how well the company has protected and maintained its buildings. She did not expect that the report would help get less expensive coverage, she thought it would improve negotiating position with underwriters.

The next problem for Ms. Mitro is charging back the increase to Hillman's subsidiaries, including its non-California units.

She doesn't see how she can pass along the entire increase. "I'm hoping to get some small portion eaten by corporate," she said.

Even if corporate headquarters agrees to swallow some of the increase, the cost of coverage for its subsidiaries would still have to be hiked to about 40 cents from 27 cents per $100 of property value for California subsidiaries and to 8 cents from 6 cents per $100 of property value for other units, she said.

For many of those real estate subsidiaries, the buck stops there. Those real estate development firms have tenants with long-term leases, so they can't pass along the additional coverage costs. Along with the continuing depressed California real estate market, the earthquake rates "put one more burden on the poor real estate people," she said.

Despite the rate hike, Ms. Mitro believes the independent engineering report helped her fill out her property catastrophe program.

She recommends that other risk managers get independent verification of how well their property risks are protected. "You can't expect good underwriting if you just bully your way into the marketplace" and allow insurers to assess your risks by themselves, she said. "It's like letting Uncle Sam figure your taxes for you."

Edward Holden, director of risk management and benefits for Tampa, Fla.-based Anchor Glass Container Corp., faced an even tougher renewal. He was still trying to fill a $25 million California quake insurance program in late June to cover the glass container manufacturer's three California facilities.

Mr. Holden had lined up $6 million of coverage with rate increases of up to 250% on some excess layers. He believed he would be able to find other markets to fill in the layer.

The all-risk coverage rate for Anchor's 17 manufacturing facilities nationwide increased 8%. But that didn't surprise Mr. Holden because a fire destroyed a warehouse facility last year.

Anchor marketed its program and moved it this summer.

Property renewals at Santa Clara, Calif.-based Intel Corp. were shaping up to be flat until its insurers quoted their earthquake rates, said Ken Kwidzinski, risk manager-property/casualty.

Rates for the coverage are set to double in mid-July for Intel facilities in "hot zones" like California, Puerto Rico, Japan and the Philippines.

But, Intel officials aren't sure they'll renew the coverage. "That's a low-value product right now based on the limited amount of coverage out there and the price of it," Mr. Kwidzinski said.

Kirk Paper Co. of Downey, Calif., whose earthquake coverage was scheduled to renew July 1, was still seeking bids in late June.

"I expect that if we can get earthquake coverage, rates couldn't be anything but up," said Joseph Dunne, chief financial officer.

Some risk managers with windstorm risks in the Southeast also were hit with property rate hikes but are not faring as badly as their counterparts in California.

For example, the property coverage rates for the city of Virginia Beach, Va., increased 8% at its June 17 renewal with United States Fidelity & Guaranty Co.

"It went a lot smoother than I anticipated," said Robert W. Esenberg, the city's risk manager. "I was biting my fingernails for a while."

With good reason. Although Virginia Beach did not sustain any damage during Hurricane Andrew in August 1992, its Atlantic Coast location was enough to scare away Fireman's Fund Insurance Co. last year from the lower layers of the city's property program. The insurer refused to renew the coverage, sending Mr. Esenberg scratching for replacement coverage (*BI*, April 19, 1993).

USF&G eventually picked up the coverage, boosting the city's rate slightly less than 100%, according to Mr. Esenberg.

Although located in central North Carolina, the public entities that form the Guilford City/County Insurance Advisory Committee pool saw their property rates increased 10%, said Gaylord Bridegan, risk manager of Guilford County. The pool includes, among others, the cities of Greensboro and High Point, Guilford County's schools and the Piedmont Triad International Airport near Greensboro.

A little earlier this year, high-excess property coverage rates rose 5% for Barnett Banks Inc. of Jacksonville, Fla., according to Jim Dineen, director of risk management. Mr. Dineen had to hunt for additional markets to complete his May 1 renewals when his current insurers reduced capacity.

Still, "I consider that a victory in today's market," he said.

Barnett's Hurricane Andrew claims are still open, but Mr. Dineen estimates that the bank suffered $15 million in losses at

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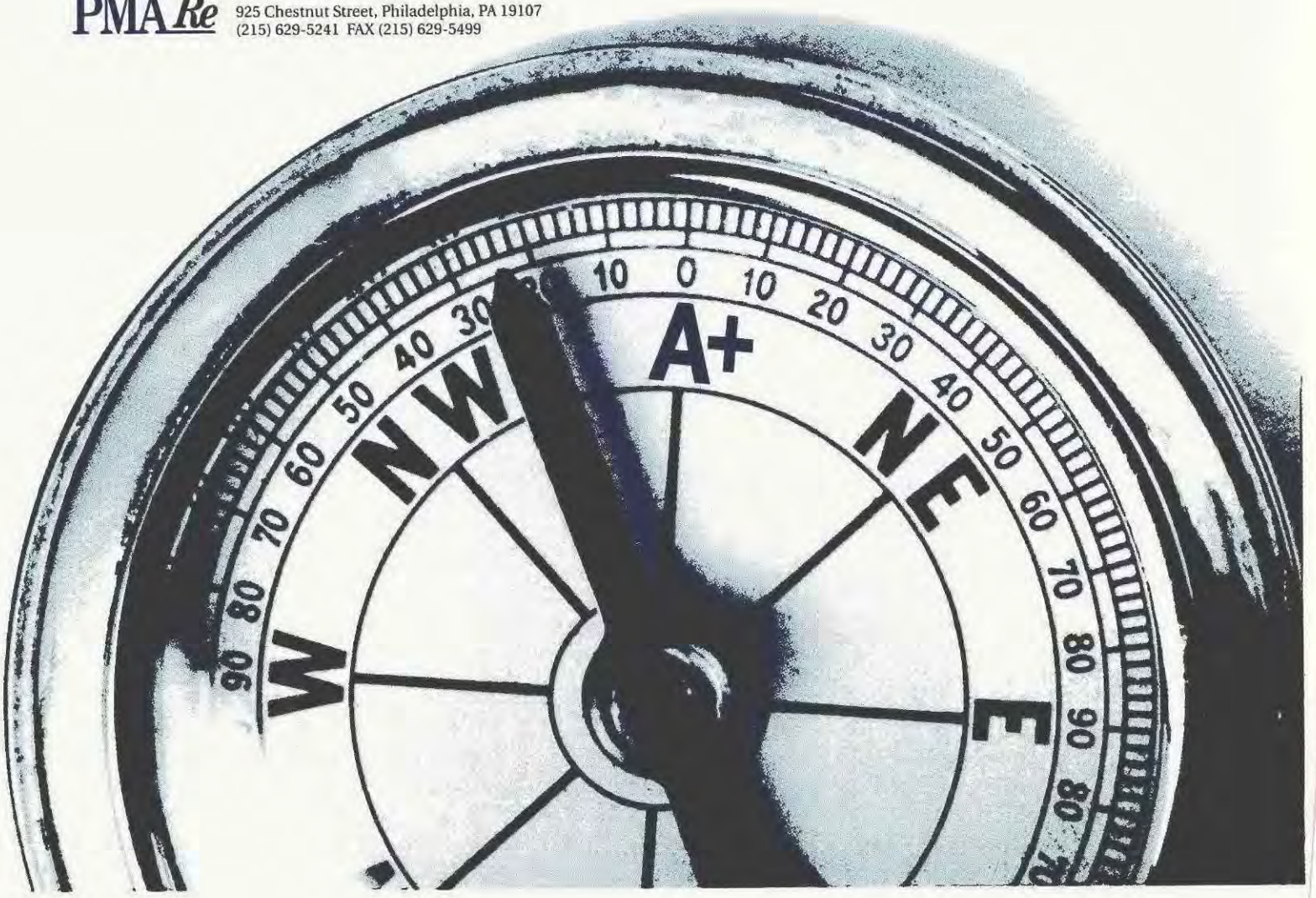
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Brokers

Continued from page 1

brokers say.

There are wide disparities in property rate increases as underwriters discriminate sharply between risks depending on their location, loss experience and loss protection measures.

"It's every man for himself. There have been some renewals as is, while others are seeing rates triple," said Jeff McKinley, national director of Jardine Special Risks, a unit of JIB Group P.L.C. in San Francisco.

Well-engineered properties that have had rate increases in previous renewals and did not suffer any losses in the earthquake can sometimes be renewed at the same rate as previously charged, Mr. McKinley said.

But high-risk properties with poor loss records are being hit hard with rate hikes, he said.

Clients with California earthquake exposures are seeing anything between 50% and 200% rate increases, said Kieran Burke, executive vp at Tri-City Insurance Brokers Inc. in New York. "The big increases are for risks with heavy exposures in Southern California or on the coasts, and the worst would be both."

But it is not just prices that are being affected—capacity for earthquake risks has also fallen sharply.

Typically, capacity has been halved as some underwriters reduce their exposure to quake business or exit the earthquake market completely, Mr. McKinley remarked.

"If you are a really good risk and you are prepared to spend the money, you might be able to buy more, but in most cases if you bought $200 million last year, you will only get $100 million this year."

One year ago, policyholders could buy $200 million in earthquake coverage. Now it's more like $125 million, unless you are willing to pay outlandish prices, according to John F. O'Sullivan, managing director of Marsh & McLennan Cos. Inc. in New York.

"It's there, but the prices are high, therefore people are taking less coverage," he said.

Several underwriters have severely cut their available earthquake capacity or are not offering primary coverage, agreed Suzanne Douglas, senior vp at Alexander & Alexander Services Inc. in New York.

For example, Navigators Group Inc. confirmed it has stopped writing primary earthquake coverage and will only cover existing clients excess of $25 million and new clients excess of $50 million.

The result is that clients seeking a large amount of earthquake capacity are unable to buy all the coverage they are seeking, Ms. Douglas said.

"If you are looking for an easy $100 million, the answer is no, but if you are after $25 million to $30 million there is not much of a problem. . . .Some programs will be like Swiss cheese."

Deductibles for quake cover also are being increased from about 2% of insured value to 5% or, in some cases, 10%, Ms. Douglas said.

And underwriters are not allowing capping the dollar amnount of percentage deductibles, said Dan Batonick, senior vp at Johnson & Higgins in New York.

"You now are seeing deductibles of at least 5%. Before, you could get a lower deductible with, say, a $2 million cap but now there are no caps."

In addition, underwriters are demanding much more information on quake exposures, he said. The Northridge quake "shook up a lot of property underwriters because they realized that they did not have a handle on their earthquake exposures."

Underwriters now are demanding to know, among other things: the geographic spread of values of a property risk; the age of the buildings; the height of the buildings; and other construction details, Mr. Batonick said.

"Before, you could just say you've got $300 million of property values in California," he said.

The earthquake has also made underwriters more wary about the true value of the exposures they are covering, since some losses suffered during the quake were several million dollars higher than the reported values of the buildings, Mr. Batonick said.

The difficulty in purchasing earthquake coverage is forcing clients to reconsider how much coverage they need to buy.

"Some clients are questioning whether they need to buy as much. . . .They are saying, 'If I have a 5% deductible, do I need to insurance?' and then spending the money on loss reduction like bracing up a building," he said.

Among rate hikes, 'the big increases are for risks with heavy exposures in Southern California or on the coasts, and the worst would be both,' according to Kieran Burke, executive vp at Tri-City Insurance Brokers Inc. in New York.

Some clients are also considering ways to self-fund their programs, Mr. Batonick said.

Few insurers are taking advantage of the higher prices being obtained to write more earthquake business, brokers agree.

A scarcity of reinsurance coverage for earthquake risks is preventing primary insurers from writing more quake business, they say.

"You could say that it would be a great time for someone. . .to come in and offer more capacity, but they have not got the treaty support," A&A's Ms. Douglas said.

One or two underwriters are offering some more capacity, she said but declined to identify the insurers.

"They are being opportunistic and we understand that and present them that way to the client. They understand that these insurers are not long-term but if they want the capacity and they can pay the price then they can have it," Ms. Douglas said.

Many underwriters are also deterred from offering more capacity by sophisticated earthquake underwriting models that are now available, said Jardine's Mr. McKinley.

The models show that future earthquake losses could be far worse than the Jan. 17 quake, whose epicenter was in Northridge, just north of

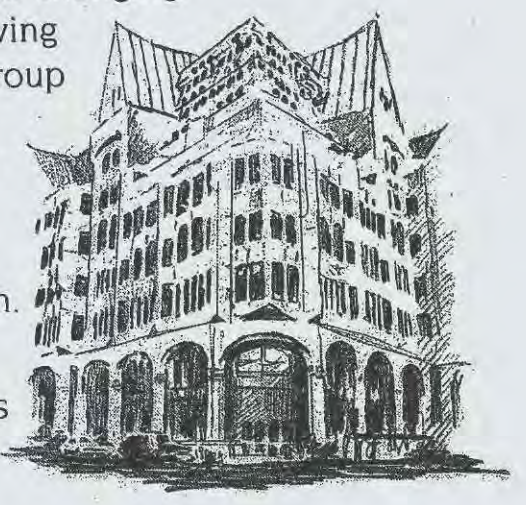
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Brokers

Continued from previous page
Los Angeles, he said.

Underwriters are more wary of catastrophe losses, agreed Tri-City's Mr. Burke.

"There is a higher degree of nervousness in the underwriting community about when the Big One is going to happen," he said.

In addition to earthquake risks, property insurance capacity still tends to be limited in coastal areas with windstorm exposures, said M&M's Mr. O'Sullivan.

Small and medium-sized businesses are finding it more difficult to find property coverage in the coastal areas because insurers tend to "go for larger deals," added Lawrence L. Drake, also an M&M managing director. "There is a finite amount of capacity" and insurers are looking for "the most bang for the buck."

The capacity available for windstorm risks is still volatile, agreed Charles Fiske, group marketing director for Sedgwick James Inc. in Memphis, Tenn.

"We are not seeing a lot of increases in rates yet, but there are some companies out there that are writing a certain amount of business and once they have written that, they will just cut it off and then there will be more pressure on rates," he said.

However, more windstorm capacity may be made available for U.S. policyholders from Bermuda catastrophe reinsurers, which currently are only offering treaty capacity, some brokers speculate.

Several of the new facilities in Bermuda are not obtaining the returns on capital they originally projected and they may be tempted to offer capacity on a facultative basis, brokers say.

"We will have to see how their July 1 renewals go and whether they are prepared to go through their third or fourth treaty renewal without the subscriptions they are looking for," said A&A's Ms. Douglas.

The new Bermuda catastrophe facilities are not yet helping in the problem areas like earthquake zones because they write on a treaty basis, agreed Mr. O'Sullivan.

Outside of catastrophe areas property rates are at best flat and in some areas they are falling, Mr. Fiske said.

In a swath of Midwest states—including Indiana, Nebraska, Ohio and Tennessee—rates are decreasing by as much as 25% for highly protected risk coverage, he said.

"And other business can get reductions of between 10%-15%," said Mr. Fiske.

Some underwriters are trying to obtain modest increases on mainstream property business in return for also offering quake capacity, but even here the increases are only about 5% to 15%, said Jardine's Mr. McKinley.

"People are falling over one another to write non-catastrophe business," agreed Ms. Douglas.

The casualty insurance market also remains competitive, brokers report.

"You don't see any increases whatever in the primary liability, umbrella or excess market. If anything, there is additional capacity and continued softening," Tri-City's Mr. Burke said.

Reductions in rates of between 10% and 20% are common, he said.

The reductions in general liability rates depend on whether clients are matched with underwriters trying to carve a niche in a particular area, Mr. McKinley pointed out.

"All underwriters are heading towards niches and if you fit into that niche then you can get special treatment. . . .There are insurance companies specializing in just about every line of business, you just have to find them," he said.

Decreases in general liability premiums are usually between 5% and 15%, Mr. McKinley said.

The umbrella liability market is clearly down due to overcapacity, Mr. McKinley said.

But, in some cases, clients are spending the same amount on premiums to broaden their coverage rather than saving the money, he said. "If you were buying $50 million before, you can now spend the same money and get $75 million if you are doing OK."

Directors and officers liability rates vary greatly from client to client, Mr. McKinley said.

Policyholders in troubled industries, like aerospace, are seeing some D&O rate increases, he said. "If your earnings are down, that is like a red flag to a D&O underwriter."

However, some D&O underwriters are more willing to cover companies with poor balance sheets, said Mr. Fiske of Sedgwick James. "It always used to be difficult for companies with poor financials to get coverage, but now there are some people who are beginning to offer it."

'All underwriters are heading towards niches and if you fit into that niche then you can get special treatment. . . .There are insurance companies specializing in just about every line of business, you just have to find them,' says Jardine's Jeff McKinley.

Casualty lines more than ever are full of capacity and very competitive, said M&M's Mr. O'Sullivan.

Even professional liability insurance for law firms, whose rates have been rising in recent years, are seeing high single-digit to low double-digit decreases, said Michael Egan, senior vp-lawyers professional service division of Minet Inc. in New York.

There is a "re-energized enthusiasm" among insurers to enter this market, Mr. Egan said. This is due to improved exposures through loss control methods and a recognition that the savings and loan crisis is behind them, Mr. Egan said, referring to medium-sized and large law firms.

Few brokers see any sign of a general hardening of the property/casualty insurance market.

There is still a lot of underutilized capacity in the marketplace, which is leading to underwriters accepting risks for inappropriate premiums, said Mr. O'Sullivan.

However, the market must eventually turn, he said.

"It's a question of time, but we'll see a demise of the soft market," Mr. O'Sullivan predicted.

The insurance cycle is alive and well, he said. As long as the insurance business is seen as a commodity business, "there will always be cycles." BI



Reinsurance renewals hold few surprises

By JUDY GREENWALD

July renewals for reinsurers are shaping up so similarly to January renewals that one may have to blink twice to tell them apart.

Reinsurers report

While specific ceding companies' renewals may vary, reinsurers and intermediaries say the overall picture remains much the same: The market is soft for casualty and non-catastrophe property risks, while property catastrophe reinsurance rates remain at relatively high levels.

"The pricing, as best I can tell, is relatively flat with Jan. 1 levels," said Michael W. Cashman Sr., president and chief operating officer of reinsurance intermediary E.W. Blanch Co. in Minneapolis.

"I think the biggest issue is really the primary market at this point in time," added Mr. Cashman. "The reinsurance market is not driving the whole insurance pricing issue," the primary market is, he said. "Reinsurance is just one part of the whole equation and clearly commercial primary pricing is still down."

"I would think that there's no huge change in the market from what we already know," said Bill Munson, president and CEO of Mercantile & General Reinsurance Co. in Morristown, N.J.

"The casualty business remains relatively soft," he said. While it is not deteriorating much, "there still seems to be a strong desire to write casualty, probably because of an inability to write as much property as people have in the past."

Property reinsurance rating "seems to be holding well" if there is any catastrophe exposure "and is still fairly soft if you deal with safe places like South Dakota, which is deemed to have limited catastrophe exposures," said Mr. Munson.

"I think what we're seeing is a concentration in the casualty and the non-cat-related property lines. I would suspect we're probably going to continue to see that probably through the rest of the year unless there's a major change in the number of storms. I don't see a huge panic or any strong efforts to move business, or any major disruption," he said.

"Our overall feeling is that (property/casualty) reinsurance rates are roughly holding steady," agreed Dennis Arnold, executive vp of Underwriters Reinsurance Co., based in Woodland Hills, Calif.

"On average, accounts are renewing as expiring. I think the issue facing the entire industry, in our opinion, is the underlying rates."

For property catastrophe reinsurance, there has been "probably a slight decrease in rates, but I think we still consider rate levels attractive. Probably, on average, we're seeing perhaps a 5% to 10% decrease in (property catastrophe) rates, and certainly more available capacity," Mr. Arnold said.

There has been little turmoil in the property catastrophe reinsurance market at midyear renewals.

Dan Eudy, executive vp with Hartford Re Management Co., said in some cases there have been 10% to 15% rate decreases for a ceding company that "has demonstrated good underwriting control, and where their experience will support that kind of a decrease. Other programs seem to be going through either on a flat basis, or with a more modest decrease," he said.

"We're seeing stabilized rates (for property catastrophe risks) and increased retentions, with rate credits being given for the additional retentions," said Paul Ingrey, president of F&G Re Inc. in Morristown, N.J., a USF&G Corp. unit.

A major factor in the property catastrophe market's stability is the nearly $4 billion in capital brought to the market by the Bermuda catastrophe reinsurance facilities.

"I guess I'd say they're on track," said James N. Stanard, chairman, president and CEO of Renaissance Reinsurance Ltd., one of the Bermuda catastrophe facilities, discussing property catastrophe reinsurance rates.

"I think there's a slight softening on non-U.S. business. And on U.S. business, I think the price changes are mainly driven by changes in exposure," he said. "Some companies are going down if their exposures are going down. On the other hand, for companies with earthquake losses, pricing is going up, so it's working like a normal market should."

There are two pressures at work in the property catastrophe market, said Mr. Stanard. One is the increased demand created by the January Los Angeles earthquake. The second is the increased capacity created by the Bermuda reinsurers, as well as some expansion in cat capacity from traditional companies both in the United States and London. "Those two pressures are pushing against each other."

"I think we're feeling some latent demand coming through," said Michael A. Butt, chairman and CEO of Mid Ocean Reinsurance Co., another Bermuda facility. In the U.S. market, there has been "considerable concern highlighted by the earthquake for aggregate control and the need for protection, so I think demand remains very strong."

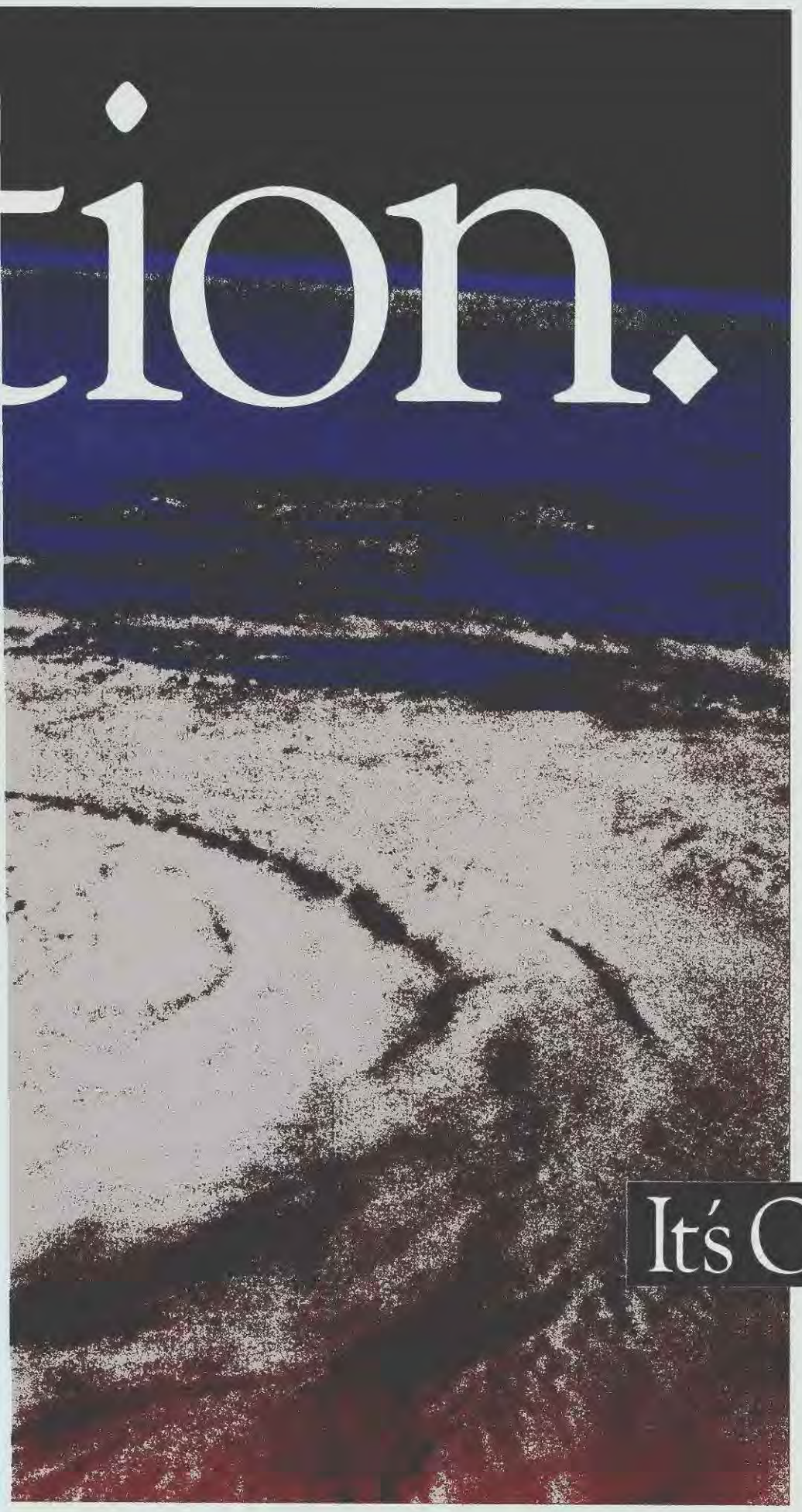
"A year ago, I would say most big programs had holes in them," said Underwriters Re's Mr. Arnold. Now, because of the Bermuda reinsurers, that is no longer true, he said.

Not everyone is happy with the Bermuda reinsurers, though.

Chuck Sabah, chairman of Fortress Re Inc., a Burlington, N.C., underwriting manager that writes cat reinsurance on behalf of three Japanese insurance companies, complained that rates on the business he writes are down 33% to 50% worldwide, with much of the competition coming from "Bermuda companies, in their zeal."

"We're fighting for every line," he said. "We thought that after the disasters of the recent past companies wouldn't start this mad rush to oblivion all over again," said Mr. Sabah, who an-

Continued on next page





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–Charles Dudley Warner, 1890

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Reinsure

Continued from previous page
ticipates he will lose a significant portion of his June-July renewal book to competition.

However, Paul R. Davies, chairman and CEO of Chicago-based Aon Reinsurance Agency Inc., said the Bermuda reinsurers "seem to be responsible."

"I haven't found them to be undercutting the market. I haven't seen anyone undercutting the market substantially," Mr. Davies said.

Most Bermuda reinsurers are still following markets—at least for now.

Nine months ago, the Bermuda reinsurers were "trying to get up to speed and were very much following London," said Robert N. Tremelling II, president of San Francisco-based intermediary Tretis Group Inc.

"This year, they're getting much more aggressive, taking bigger lines" and becoming "well-positioned to being in a lead position going forward, offering tremendous capacity," Mr. Tremelling observed.

"I think they're beginning to develop more of a leadership role," said Mr. Davies. "They're not just relying on the London leads the way they did in the past. They're following domestic leads now quite readily."

Constitution Reinsurance Corp., which tends to write smaller, regional books of property catastrophe business compared with the Bermuda facilities' larger programs, reports that rates are down 20% to 25% depending on the ceding company's particular program, said President Frank Ruyak. "It really moves a lot," he said.

"I think that regional companies in non-catastrophe areas are having no problems," said M&G Re's Mr. Munson. Companies in cat areas, though, or those that need worldwide capacity, "are still experiencing difficulties," he said.

"I think there's obviously continual upward pressure on any cat-prone business and also for national accounts-type business, but beyond that, it's pretty competitive," said Jacques Bonneau, executive vp and chief underwriting officer for Stamford, Conn.-based Chartwell Reinsurance Co.

"We are seeing some reinsurance programs where, in fact, there's been a bettering of terms and conditions for the client," Mr. Bonneau said.

Much depends on the ceding company's experience and exposure, said John W. Smithson, chairman, president and CEO of PMA Reinsurance Corp. in Philadelphia. "The per-risk covers that are not exposed to coastal areas and are not in known and obvious quake areas are pretty much rated on their own," with rates reflecting experience. It is "pretty much a program-by-program effect."

On the other hand, coastal and earthquake-vulnerable areas are a "whole other ballgame," he said.

In general, however, many property pro rata covers "are attractive now to reinsurers because of the occurrence caps and because of more reasonable ceding commissions," Mr. Smithson said.

But earthquake reinsurance remains difficult to find in California, said Urban Kaogedal, a Tretis Group partner. "Anything California earthquake-exposed is definitely up and capacity is filling up for a few people," he said.

Obviously, the magnitude of the shortfall depends on the size of the programs, with smaller programs having fewer problems, added Mr. Tremelling.

Bigger companies, he said, are paying as much as a 12% to 17% rate on line. Rates for smaller companies will depend on the level at which the coverage attaches. Rates have also gone up for insurers that had to pay back for losses incurred during the January earthquake, Mr. Tremelling noted.

Meanwhile, casualty reinsurance pricing remain soft, reinsurers say.

"It's very competitive," said Chartwell Re's Mr. Bonneau. "There probably isn't much of anything that is showing any signs of price changes going upwards. . . .It's a buyer's market, and it's continuing to be that way" with no signs of change.

"Reinsurance pricing, I'd say, is relatively stable on casualty," said E.W. Blanch's Mr. Cashman. "In other words, there aren't really any dramatic changes in casualty over the past six months."

It is the same soft market for casualty covers, agreed Paul Malvasio, vp and chief financial officer of NAC Re Corp. in Greenwich, Conn. There has been "no real improvement in terms, conditions, pricing or demand," he said. Everything is "pretty much the same as it was Jan. 1."

"Frankly, from all that I've heard, it's still not very good," Jeremy Wallis, president and CEO of Chatham Reinsurance Corp. in Chatham, N.J., said of the casualty market. "Primary pricing is still cheap."

"You're seeing excess and surplus lines markets still reporting their volume is going down" because of competition from the conventional market, noted Tal P. Piccione, president and CEO of New York-based U.S. Re Corp., a reinsurance intermediary.

"Quite a few renewals are renewing as expiring, but I think the average is closer to a 5% or 6% decrease in casualty rates," said F&G Re's Mr. Ingrey.

Albert P. Amato, senior vp for C.L. Frates Reinsurance Intermediary Inc. in Stamford, Conn., who specializes in directors and officers and fidelity markets along with hard-to-place casualty business, said casualty contracts generally are renewing as is, though "terms may be slightly better."

"There are some people asking for more money, but they're not getting it."

Meanwhile, retrocessional coverage is "still pretty difficult and probably not cost-effective unless you have exposures that need to be protected that you can't manage very well," said M&G Re's Mr. Munson.

This is less of a problem outside the United States because of the concentration of cat exposures in the U.S. market, he said.

"It's not a soft retro market at all," he said. "There's not a lot of retro capacity at all at any price" unless it has some elements of a financial cover.

"The retro market is not coming back," said PMA Re's Mr. Smithson. There is no more catastrophe retrocessional support than there had been "and it's generally true for the casualty market, too."

However, Mr. Malvasio said he does expect a better market next January when NAC Re seeks to renew its catastrophe retrocessional coverage. "We expect to be able to get more capacity come next Jan. 1, and the programs certainly won't be more expensive," he said, adding, "We might be able to do a little better than we did last year." BI

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London market bends to competition

By CAROLYN ALDRED

LONDON—London underwriters are struggling to maintain higher rates for most types of insurance and reinsurance in the face of increasing overseas competition.

London market report

Although underwriters are seeking to keep the tougher terms and higher rates introduced in the last 18 months, brokers say less business is coming to London because of more aggressive underwriting overseas.

As a result, some London market executives say that underwriters are trying to be more flexible, while others flat-out predict that rates in London will soften during the next six months.

Brokers and insurers already are noticing signs that rates are weakening in both the non-marine and marine markets. However, rates remain firm for some types of risks—including windstorm, earthquake and offshore oil rigs—because of limited capacity.

Overall, though, "if you were to generalize, there is a belief that new capacity is leading to an erosion in rating. It's a question of how far it will go," said Tony Dodd, treaty underwriting manager for The British & European Reinsurance Co. Ltd.

Despite the Los Angeles earthquake, "there is an expectation that property rates will soften rather than harden. It's a bit sad before we have really recovered," noted Mr. Dodd.

Ross McKenzie, chief executive of non-marine brokerage for Alexander Howden Ltd. in London and president and chief executive officers of Alexander Howden North America Inc., agreed that the property market is very competitive. "We are not seeing rate chopping, but it's a very competitive property market. There is competitive pricing," he said.

The only property lines that remain uncompetitive are windstorm and earthquake coverage, Mr. McKenzie said. And, "even the windstorm market is finding some stability," he said, adding that capacity for windstorm risks could increase.

A capacity problem remains for earthquake risks "because of treaty restrictions early this year," said Mr. McKenzie. He noted that "capacity (for earthquake cover) does tend to shrink in the middle of the year" and is "currently disappearing rapidly."

California earthquake rates are shooting up as much as 500%, said Robert Edwards, property underwriter for Lloyd's of London syndicate 190 managed by Cater Allen Lloyd's Holdings Limited.

Policyholders being hit the hardest are new clients with large property exposures in California, Mr. Edwards said. "Anybody with a large exposure in California is getting increases. . . .You do not necessarily have to have suffered a loss in the Northridge quake."

London underwriters are also changing earthquake coverage terms, he said.

In many cases excess coverage is not allowed to automatically drop down after a loss, Mr. Edwards explained. For example, if a policyholders buys $100 million of earthquake coverage excess of $100 million and then suffers a $90 million loss, the $100 million attachment point would still apply to a second quake.

Previously, he said, the excess coverage would drop down after the first loss so that the excess coverage's attachment point for any further losses would be $10 million.

"That has stopped. If it's $100 million over $100 million, then it is still that, or in some cases it might be limited so that (the excess attachment point) would not fall below $20 million or $50 million," Mr. Edwards said.

The London market is not treating these changes lightly. London underwriters "are concerned about losing (property) business" due to increasing overseas competition, according to Callum Stewart, a director of broker C.E. Heath P.L.C.

And, Lloyd's non-marine underwriters are being hindered further in their efforts to attract U.S. business after three leading underwriters in October cut brokerage commissions to 11% in some cases from 15%, Mr. Stewart pointed out.

Typically, one-third of the commission on U.S. property business placed with Lloyd's underwriters is paid to the Lloyd's broker that places the business, while two-thirds is paid to the U.S. broker. Thus, under the former commission structure, the U.S. broker would receive up to a 10% commission, roughly equivalent to the commission it would receive by placing the same business with a U.S. insurer.

Commissions are now paid on a sliding scale, depending on the size of the premium, said a Lloyd's underwriter. If the premium exceeds $30 million, the brokerage commission is 11%; if the premium exceeds $10 million, the commission is 12.5%; and if the premium is less than $8 million, the commission is 15%.

"It was felt that as rates have gone up 400%, it's a little bit thick for the broker's commission to go up 400% as well," he said.

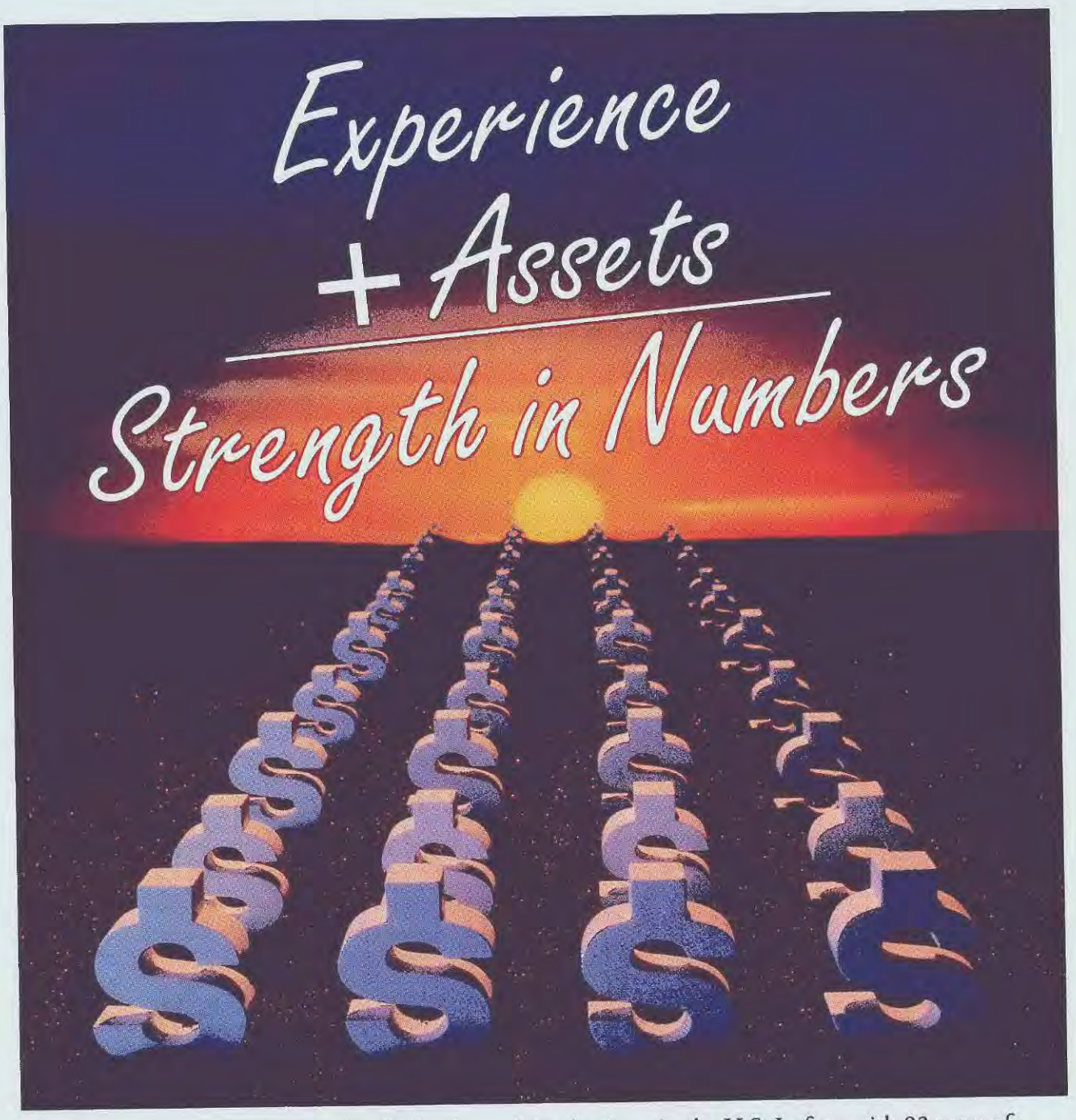
But, with the reduced commissions, the U.S. broker's share can be lower than the rate it would receive from a U.S. insurer, providing the broker with a reduced incentive to place business at Lloyd's, said Mr. Stewart.

The decision, made by several leading property underwriters, came at a time when rates at Lloyd's were rising because of limited capacity and at a time when Lloyd's underwriters were aggressively attempting to cut costs, pointed out Mr. Stewart.

However, underwriters have not raised commission rates despite increasing competition from U.S. insurers and "vociferous" opposition from brokers, he said.

However, policyholders are not allowing their business to move simply to provide their brokers with increased commissions, said one underwriter. "The clients are sensitive to it and we have not no-

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London

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ticed any decrease in the amount of business coming to London as a result."

The underwriters' firm stance is being echoed in their premium quotes.

"Leading underwriters are not prepared to cut rates, (although they) are trying to be as flexible as possible in what they offer in terms," Mr. Stewart said.

For example, Heath recently was able to renew a catastrophe reinsurance account on better terms when the client agreed to exclude certain geographical areas from the treaty, explained Mr. Stewart.

Also, while catastrophe underwriters last year were insisting that clients paid the full premium to reinstate coverage after a catastrophe, they are now offering cheaper, prepaid reinstatement premiums.

A leading Lloyd's property catastrophe underwriter conceded that his syndicate, among others, introduced prepaid reinstatement premiums this spring.

"A couple of our larger accounts" that are paying rates equal to 40% of their cat cover limits "have opted to buy prepaid reinstatements for a 10%" rate on line, rather than having to buy a reinstatement at 100% of the initial premium after a large loss, he explained.

Mr. Stewart noted that many clients have accepted the prepaid reinstatement option "very readily."

The Lloyd's underwriter said this type of flexibility and inventiveness is necessary to retain business at existing rates.

"Property catastrophe rates are being held with difficulty," he said. "We lost a couple of large accounts at the April 1 renewals but so far have been able to hold our line" on rates, he said, noting that the rating pressure was not coming from increased competition in the London market but "from the desire of clients and brokers to see rate reductions."

As a result, the syndicate is "currently thinking about strategy for its January renewals. But "if we see big rate reductions coming, even after a clean hurricane season, we would downsize rather than decrease rates dramatically," he stressed.

However, Mr. Dodd of British & European pointed out that while cat reinsurance rates for U.S. ceding companies are holding up, coverages written in London for risks in other countries is the focus of increasing competition, particularly for nations for which rates have increased dramatically in London over the past few years.

Large rate reductions are "more likely to be seen where rates really hardened (previously). If rates went up sharply, they will come down to readjust," he said.

For example, there is "some weakening of rates generally" for risks in Japan and Australia, typically countries that renew in April or midyear, Mr. Dodd said (see story, page 49).

"There is even more capacity for Japanese windstorm and earthquake cover," said Mr. Dodd, which in his view is "probably misplaced because the expectation of windstorms in Japan remains high."

Meanwhile, London casualty underwriters also are facing stiff competition from overseas markets, particularly from U.S. insurers, brokers agree.

"We are seeing the U.S. standard markets take a more aggressive stance in some casualty classes," said Mr. McKenzie of Alexander Howden.

In particular, "we are finding the standard (casualty) markets in the U.S. very competitive in lead umbrella business," he said. In fact, U.S. insurers are quoting two-year premiums for umbrella coverages so aggressively, the competition has gotten "to a point where one would question whether there's a market share drive," Mr. McKenzie said. He noted that there have been "examples over the last few months of premium reductions of one-third for accounts with chunky premiums."

As a result, London is struggling to compete because "the discounting is too great in many areas," he said.

"There's a possibility that the U.S. standard market will take some (umbrella) accounts from the London market, he said.

In addition, "professional liability business that normally would come to London is now more likely to stay in the U.S. domestic market," said Mr. McKenzie. "We are seeing U.S. markets re-enter the professional liability area and to acquire accounts at a discount.

London is struggling to compete for umbrella coverage because of discounting, says Ross McKenzie. 'There's a possibility that the U.S. standard market will take some (umbrella) accounts from the London market.'

"Some Lloyd's underwriters are aware of their competitors from the U.S. mainland and rate reductions are possible, although not major reductions," he said.

Directors and officers liability rates and professional liability rates generally are flat, said John Wetherell, underwriter for syndicate 190, managed by Cater Allen. However, rates for large D&O risks are falling up to 5%.

"There is some downward pressure on rates for larger business because of competition in the U.S. for risks with a good financial record," Mr. Wetherell said.

Mr. Stewart predicted "more easing of casualty rates due to increased competition" as well as possible easing of terms in reinsurance contracts like sunset clauses, which phase out coverage over several years.

He noted that while leading London casualty underwriters are so far holding firm on pricing, the capacity offered by each syndicate "has gone up dramatically" for risks they want to write.

Marine underwriters also are finding it difficult to retain business without reducing rates due to increasing capacity overseas.

"The marine market is experiencing some softening in terms of foreign competition. The competition is much stronger than in the last 18 months," said John Lloyd, a director of London broker Lloyd Thompson Ltd.

As a result, "London is losing business and having orders re-

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duced. But London underwriters generally are holding firm" on rates, he said.

However, Mr. Lloyd pointed out that the London market "secured an abnormally large market share last year as many foreign markets were in turmoil."

This year, marine business is once again "coming under attack from markets unable to complete (placements) last year," he said, adding that price reductions on some accounts are as large as 20%to 30%.

While London underwriters are seeing a reduction in the amount of marine business they write, they are not yet losing total accounts.

"Price reductions have to be extremely worthwhile to warrant a cedant changing markets completely," he explained.

And while hull rates are decreasing, energy rates are remaining flat and cargo rates are increasing slightly, Mr. Lloyd pointed out.

But, marine rates in the London market are likely to soften further if foreign competition continues.

London marine underwriters are unlikely to 'let all their business go,' says John Lloyd.

"I find it difficult to believe that London underwriters will let all their business go," he remarked.

Leading Lloyd's marine underwriter Ian Agnew, underwriter for syndicates 406 and 672 managed by Wellington Underwriting Agencies Ltd., agreed that most areas of marine coverage are "under pressure."

"There's sign of competition in certain areas of hull and cargo from overseas," Mr. Agnew said.

However, he stressed he is still "renewing business on better terms than last year" and is prepared to lose business rather than reduce rates or weaken terms and conditions.

Fellow Lloyd's marine underwriter Peter Christmas of syndicate 16, managed by Stewart & Hughman Ltd., agreed that "in certain areas competition has increased but is not out of control."

However, he stressed that the London market cannot afford to compete heavily to maintain market share.

"Having made progress, it would be a shame to start weakening now. We can't afford to weaken now. We think we're making profits now, but we still have to show them. There's a need to maintain firmness."

The energy market, meanwhile, also is experiencing increased competition worldwide, particularly from Bermuda and U.S. underwriters, said leading Lloyd's underwriter Richard Youell of syndicate 936, managed by Janson Green Ltd.

In addition to the increased foreign competition, oil companies are "retaining greater risk and reducing insured values," he said, pointing out the most oil companies now have captives.

As a result, "the rises we have gotten in the past have slowed down, but rates are not falling yet," he noted. "Lloyd's underwriters are holding steady but are facing smaller books."

•

Gavin Souter contributed to this report.

Capacity shortage shaking quake market

By DEBORAH SHALOWITZ COWANS

Grossly inadequate capacity, not escalating rates, is at the epicenter of problems facing companies seeking coverage for earthquake-prone property in the surplus lines market.

Surplus lines market report

Other catastrophe-prone property also is facing a capacity crunch, though not to the same degree.

Meanwhile, competition remains keen for casualty coverage written on a non-admitted basis, with capacity plentiful and rates stable or dropping.

There is "no capacity for quake" coverage, said David Hartoch, president of Sherwood Insurance Services in Woodland Hills, Calif. "We have all the business offered to us in the world but nowhere to place it."

During the last month, several insurers, including Homestead Insurance Co., Farmers Insurance Group, and 20th Century Insurance Co., have pulled out of the earthquake market (*BI,* June 27; June 20; June 13).

However, while capacity is limited and rates are up, "you still can buy earthquake coverage," countered Warren Stanley, president and chief executive officer of Swett & Crawford Group in Los Angeles, the nation's largest insurance wholesaler.

Many buyers simply are unwilling to pay the higher rates or accept changes in conditions, he pointed out.

For example, a buyer that previously had a 5% deductible now might be required to accept a 15% deductible as a renewal condition. If the buyer refuses to accept the larger deductible, the whole situation is called a market constriction, Mr. Stanley said.

Rates are rising from 10% to 50% for property coverage renewals in earthquake-prone areas, said Paul McCain, a property manager with wholesaler Crump Insurance Services of Dallas.

There is less capacity available for the first $10 million layer of earthquake-prone property coverage than for higher layers, Mr. McCain added.

As prices have continued to increase, some businesses with masonry construction that is more than 30 years old are going bare, he said.

Meanwhile, "anything even remotely coastal. . .would be subject to price increases" because of its exposure to windstorm perils, said Seth Freudberg, president and chief executive officer of United National Insurance Co. in Bala Cynwyd, Pa.

Surplus lines insurers are losing quite a lot of business in those

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coastal areas where joint underwriting associations have been formed, according to Crump's Mr. McCain.

The state of Florida, for example, set up a JUA in March for apartment and condominium building owners. Since then, most of the property coverage that has come up for renewal has been underwritten by the JUA, Mr. McCain said.

Rates for property coverage written on a non-admitted basis in areas that are not prone to catastrophes are generally stable, underwriters agree.

On the casualty side, the market remains quite soft.

"We believe that the (casualty) market continues to moderately, moderately erode," said Swett & Crawford's Mr. Stanley. "Prices, although close to plateauing, still may be giving 0% to 5% slippage."

"Pricing on an individual risk basis is still as soft as ever," agreed Britton L. Glisson, president and chief operating officer of Essex Insurance Co. in Glen Allen, Va.

"You start to develop a sense of creeping monotony," commented Kevin Brooks, president of General Star Indemnity Co. in Stamford, Conn., a surplus lines unit of General Re Corp.

Less capacity available from Lloyd's of London and other European non-admitted markets would seem to ease competition, mused Mr. Freudberg. "Not! as we would say if we were in 'Wayne's World,' " he joked, referring to the movie and television comedy skit. "There's just so much darn domestic capacity that it just soaked it up without blinking."

As in previous renewal seasons, excess umbrella liability coverage and large liability accounts are among the most competitive areas of the liability market.

Casualty is "as soft as it could possibly be, especially in excess umbrella" coverage, Sherwood's Mr. Hartoch said.

Umbrella liability pricing is "as soft as it's been," agreed Mr. Brooks. "It almost looks like a bottomless pit."

Excess liability rates are dropping an average of up to 10% from a year ago, he said, with more substantial rate decreases for larger accounts.

"It's the same old thing—anything sizable is open season," Mr. Brooks remarked. He said rate decreases may be as high as 30% compared with a year ago for large liability accounts.

Prices for primary liability coverage written on a non-admitted basis with limits of up to $1 million are stable or are dropping up to 5%, Mr. Glisson said.

Unlike in previous renewal seasons, few surplus lines executives have reported any increases in rates for specialty lines of liability coverage.

There is "more and more competition, which then translates to lower and lower rates and broader and broader coverage" for primary liability coverage for environmental engineers, environmental consultants and remedial action contractors, said Walter Snyder, president of American Empire Surplus Lines Insurance Co. in Cincinnati.

Umbrella liability pricing remains soft, says Kevin Brooks. 'It almost looks like a bottomless pit.'

Rates for this coverage, which American Empire writes on a primary basis with limits of up to $1 million, have dropped 10% to 15% from a year ago, Mr. Snyder said.

The coverage has been broadened by decreasing deductibles and self-insured retentions, reducing minimum premiums and paying for defense costs outside of coverage limits instead of within the limits, he added.

Rates have declined between 5% and 15% from a year ago for liability coverage for amusement parks, Mr. Snyder said.

Rates are unchanged in most liability lines handled by The Schinnerer Group Inc., a wholesaler in Chevy Chase, Md., said Paul Genecki, senior vp.

Mr. Genecki said rates are stable for architects and engineers liability, non-profit institutions directors and officers liability, mortgage brokers errors and omissions, educators legal liability and hospital medical malpractice coverages.

United National's Mr. Freudberg reported keen competition in architects and engineers, liquor liability and excess hospital professional liability insurance.

There were very few reports of rate increases for any liability coverage.

Tom Mulligan, senior vp of underwriting and marketing for Western World Insurance Co. in Ramsey, N.J., noted that rates for liability coverage for skilled nursing facilities have increased approximately 10% from a year ago.

And there have been "some selective rate increases for real estate errors and omissions" coverage, but the increases have been "based solely on (bad) experience" and geographic location, with hard-hit areas including California, Florida and northern Illinois, Mr. Genecki said.

Although most surplus lines officials long ago stopped guessing when the market will turn, some experts still muse about a possible turn of events at some point.

"We don't subscribe to the theory that the way it is now is the way it'll always be," said Mr. Mulligan. However, when the market will turn "is hard to predict since it should have already happened."

Since March 1993, there has been a "marked increase in activity levels," according to Essex's Mr. Glisson.

"I'm hoping that the increase in activity level is a precursor to increases in prices as well," he said.

"The restructuring of the business and the restructuring of many (admitted) insurance companies is having a positive effect on the surplus lines business," according to Swett & Crawford's Mr. Stanley.

This restructuring—which includes the consolidation and reorganization of branch offices and the continued re-evaluation of lines and classes underwritten by admitted companies—has made standard insurers less responsive and "in some cases made some opportunities for the surplus lines market," he said.

"The real hot button among companies right now. . .is in the program side of the business," said Marcus Payne, president of Crump Insurance Services. "Everyone wants to get some sort of program going."

Special insurance programs are good for insurance buyers because they translate into lower prices and more coverage, he noted. "It's a good thing from the consumer standpoint."

Some of the programs that Crump has recently been involved in forming include a nationwide liability program for parking garages and a liability program for caterers. BI

May 25, 1994

This announcement appears as a matter of record only.

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• EVENTS •

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The Property/Casualty Information Resource section is an editorial compilation of current informational and educational materials on topics of interest to risk management and insurance executives.

The listings are published as an editorial service by *Business Insurance*; there is no charge to list material in the section.

All items are offered free of charge to *Business Insurance* readers. To receive any of the material listed in this special section, please write the key numbers of the desired items on the reader service coupons that are printed in this section. Fill out the remainder of the coupon and mail it to: *Business Insurance* Reader Service Center, 650 S. Clark St., Sixth Floor, Chicago, Ill. 60605-1702.

All requests for free material must be received before **Aug. 29** to be processed.

■ Swett & Crawford Group provides a pamphlet highlighting the **threat of directors and officers liability to Fortune 1000 companies**. Request item 3201.

■ An outline of insurance coverages describes available **environmental insurance products and services** from ECS Underwriting Inc. Request item 3202.

■ Risk management issues that affect corporate insurance buyers, such as **coverages, services, options and research,** are addressed in a magazine from Liberty Mutual Insurance Group. Request item 3203.

■ ICALM Group supplies a paper outlining a **corporate response plan to catastrophe, claims and litigation** presented at the 31st annual Risk & Insurance Management Society conference. Request item 3204.

■ Mutual Risk Management (Vermont) Ltd. offers information on **establishing a captive in Vermont**. Request item 3205.

■ A quarterly newsletter from Gregory B. Bragg & Associates Inc. contains information on **claims handling in the California claims environment.** Request item 3206.

■ Continental Risk Management offers a series of brochures designed to offer solutions to problems facing risk managers in **claims, loss control, underwriting and cost containment**. Request item 3207.

■ An information packet from ECS Underwriting Inc. lists tools for **contractors in managing environmental exposures**. Request item 3208.

■ The American Institute for Chartered Property & Casualty Underwriters/Insurance Institute of America provides a booklet describing all **property and casualty insurance courses and programs** offered by the institutes. Request item 3209.

■ A brochure detailing the difference between **claims-made and occurrence policy forms**, including information on when the claims-made form is appropriate is offered by Shand Morahan & Co. Inc. Request item 3210.

■ A guide explaining the **lines of insurance coverage available through the Illinois Insurance Exchange** is offered by the facility. Request item 3211.

■ An explanation of **coverages needed by lessors involved in long-term leasing** of automobiles and trucks is provided by Paige-Ruane, a division of TRI-ARC Financial Services Inc. Request item 3212.

Continued on next page

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Continued from previous page

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■ ECS Underwriting Inc. provides a booklet detailing a variety of **property and inland marine insurance coverages**. Request item 3214.

■ A report from the Risk Retention Reporter provides an overview of the **1986 Risk Retention Act** and discusses risk retention groups and related issues. Request item 3215.

■ Liberty Mutual Insurance Group supplies a booklet containing **summaries of speeches** that were delivered during the Boston-based insurance company's 1993 Risk Management Forum. Request item 3216.

■ A booklet on the necessary procedures to **start a captive insurance program** from conception to operation, including costs and timetable, is supplied by Northern States Management Inc. Request item 3217.

■ States Self-Insurers Risk Retention Group Inc. offers informational material pertaining to **risk retention groups structured to provide excess liability coverages** on a broad form basis. Request item 3218.

■ Shand Morahan & Co. Inc. of Evanston, Ill., offers a **bimonthly newsletter** that reviews market conditions, new products and marketing techniques. Request item 3219.

■ A directory of **adjusters, attorneys and claims-related services** listed by state is available in an information booklet from Eagle International Associates. Request item 3220.

■ Gregory B. Bragg & Associates Inc. of Roseville, Calif., provides quarterly newsletters containing **safety and risk control implementation** articles. Request item 3221.

■ Services available to an organization considering **a captive insurance company** are outlined in an information sheet from ECS Underwriting Inc. Request item 3222.

■ A brochure outlining **employment practices liability insurance** is supplied by insurance wholesaler Swett & Crawford Group. Request item 3223.

■ A Global Entertainment Assurance Ltd. booklet details **insurance coverages for feature film production companies**. Request item 3224.

■ A paper from Eagle International Associates discusses **product liability in the pharmaceutical industry**, current U.S. legislation, German pharmaceutical pools and other topics. Request item 3225.

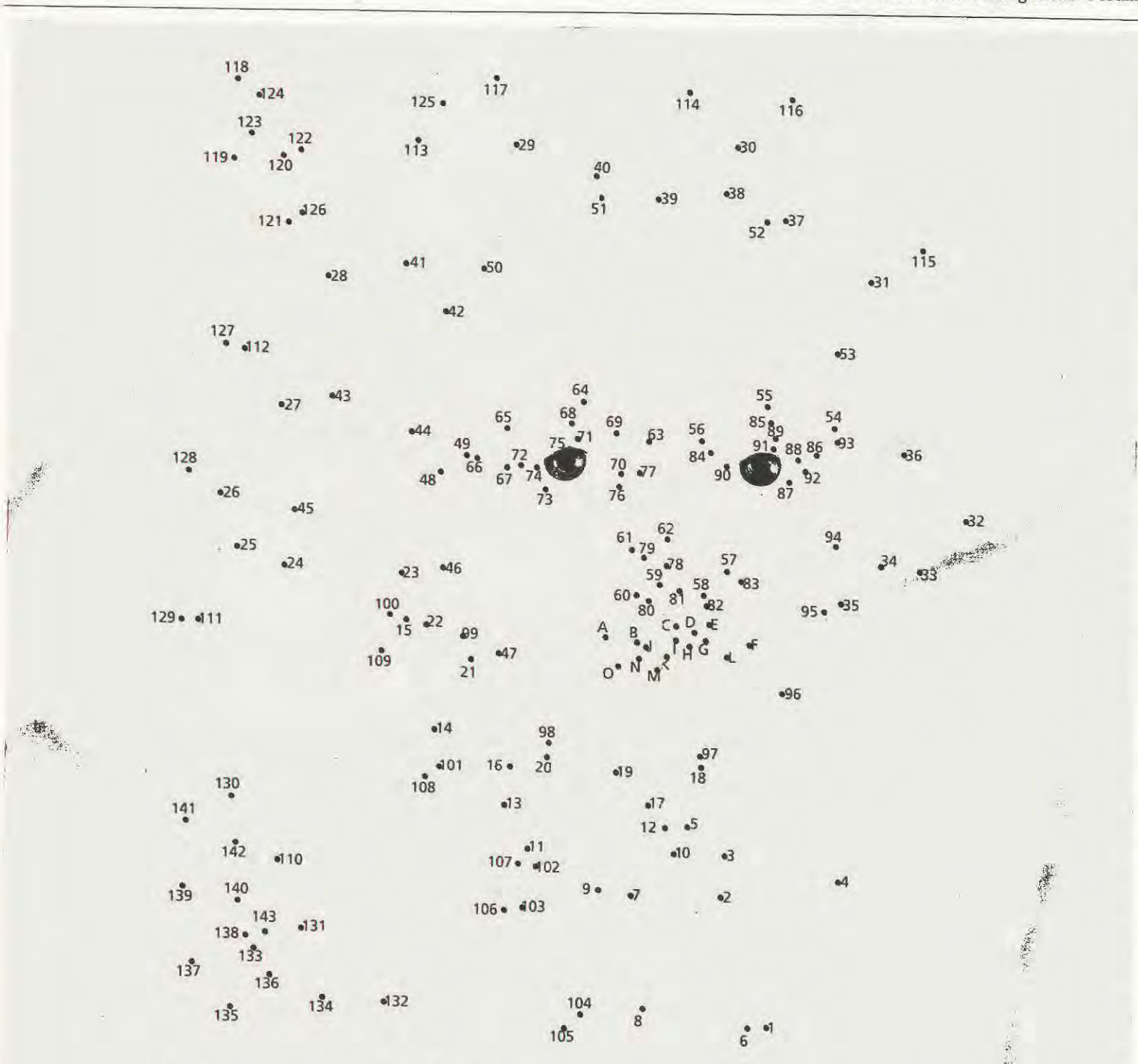
■ An information kit from NAS Insurance Services Inc. in Los Angeles discusses **coverages, underwriting, a specimen policy, minimum premium chart and application**. Request item 3226.

■ An article offered by the Richard Levy law firm in Alexandria, Va., discusses **10 ways to avoid the new pollution exclusions in general liability policies**. Request item 3227.

■ An information sheet supplied by ECS Underwriting Inc. describes casualty insurance available for **transportation of hazardous waste and materials**. Request item 3228.

■ New York banking firm Brown Brothers Harriman & Co. provides a brochure that addresses issues considered in the **investment of insurance company assets**. Request item 3229.

■ An article provided by Clausen Miller & Dutaret of New York analyzes **insurance coverage issues in Europe relative to environmental claims** and an overview of the European legislation for the insurance coverage of such claims. The Clausen Miller & Dutaret article is available in both English and French versions. Request item 3230. BI



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Insider Trading

Aetna Life & Casualty Co.: Elizabeth R. Krupnick, vp, indirectly exercised an option for 8,000 shares of common stock at $46.75 each on May 19 and sold them for $55 each on the same day. She now indirectly holds 313 common shares.

Aetna stock closed at $56.88 a share on June 24.

American International Group Inc.: Aloysius B. Colayco, vp, exercised an option for 5,728 shares of common stock between $22.63 and $54.67 each on May 23 and sold 3,162 shares at $92 each on May 23. He now directly and indirectly holds 2,683 common shares.

Christian M. Milton, vp, indirectly sold 256 shares of common stock at $83 each on April 8 and now directly and indirectly holds 142 common shares.

Douglas A. Paul, vp, sold 285 common shares at $86.63 each on April 12. He now directly holds 4,174 common shares.

AIG stock closed at $89.75 a share on June 24.

Aon Corp.: Andrew J. McKenna, director, bought 2,100 shares of common stock at $47.13 each on Jan. 24. He now directly holds 4,300 common shares.

John W. Rogers, director, bought 250 shares of common stock at $46.88 each on April 13 and now directly holds 1,250 common shares.

Aon stock closed at $32.88 a share on June 24.

Chubb Corp.: Donn H. Norton, vp, sold 1,646 shares of common stock at $76.75 each on April 25 and now directly and indirectly holds 1,735 common shares.

Marjorie D. Raines, vp, exercised an option for 200 common shares at $36.38 each on April 28 and now directly and indirectly holds 1,927 common shares.

Lawrence M. Small, director, bought 2,000 common shares at $77.63 each on April 28. He indirectly purchased 200 shares of common at $77.63 each that same day and now directly and indirectly holds 3,800 common shares.

Chubb stock closed at $77.25 a share on June 24.

CIGNA Corp.: George R. Trumbull, retired, exercised an option for 12,865 shares of common stock between $53.81 and $59.63 each from May 10 to June 6 and sold 23,824 shares between $61.13 and $71.13 each from May 10 to June 6. He now directly holds 6,270 common shares.

CIGNA stock closed at $70.38 a share on June 24.

CNA Financial Corp.: Philip L. Engel, director, bought 200 shares of common stock at $66.13 each on May 31 and now directly holds 200 common shares.

CNA stock closed at $61.50 a share on June 24.

Fremont General Corp.: Dickinson C. Ross, director, bought 700 shares of common stock at $22.88 each on March 24 and now directly holds 2,600 common shares.

Kenneth Lewis Treffizs, director, exercised an option for 937 shares of common stock at $14.67 each on May 14. Mr. Treffizs now directly holds 9,368 common shares.

Fremont stock closed at $24 a share on June 24.

Arthur J. Gallagher & Co.: John G. Campbell, officer and director, exercised an option for 1,500 shares of common stock between $4.97 and $17 each from Feb. 24 to Feb. 25, and sold them at $30 each from Feb. 24 to Feb. 25. Mr. Campbell now directly holds 15,385 common shares.

Gallagher stock closed at $30.63 a share on June 24.

General Re Corp.: Ronald G. Anderson, officer of subsidiary, exercised an option for 8,173 shares of common stock and disposed of 400 shares between $55.81 and $93.25 each from May 6 to May 20. He now directly and indirectly holds 6,490 common shares.

Ronald E. Ferguson, chairman, exercised an option for 18,800 shares of common stock between $87.94 and $91.44 each from May 6 to May 11. To cover transaction costs, he turned in 16,066 of the shares between $119 and $123.50 each from May 6 to May 11. Mr. Ferguson now directly and indirectly holds 63,395 common shares.

Edmond F. Rondepierre, vp, exercised an option for 8,000 shares of common stock between $55.81 and $113 each on May 6. To cover transaction costs, Mr. Rondepierre turned in 6,610 of the shares between $119.81 and $122.31 each on May 6. He now directly and indirectly holds 13,960 common shares.

General Re stock closed at $109.63 a share on June 24.

Hartford Steam Boiler Inspection & Insurance Co.: Donald K. Wilson, vp, exercised an option for 5,300 shares of common stock at $41.12 each from April 12 to April 15. To cover transaction costs, he turned in 6,190 of the shares between $46.63 and $48.38 each. He now directly and indirectly holds 28,928 common shares.

Hartford Steam Boiler stock closed at $43.75 a share on June 24.

Hilb, Rogal & Hamilton Co.: John C. Adams, officer and director, bought 5,000 common shares at $11.50 each on Feb. 28 and now directly and indirectly holds 90,000 common shares.

Norwood H. Davis, director, bought 105 shares of common stock at $12.63 each on June 10 and now directly holds 10,105 common shares.

HRH stock closed at $12.13 a share on June 24.

Lincoln National Corp.: Richard Stuart Robertson, vp, exercised an option for 4,000 shares of common stock at $23.50 each on May 31. To cover transaction costs, Mr. Robertson turned in 574 of the shares for $40.06 each on May 31 and sold 3,400 shares in the open market at $40.75 each on May 31. Mr. Robertson now directly and indirectly holds 21,633 common shares.

Lincoln National stock closed at $41.75 a share on June 24.

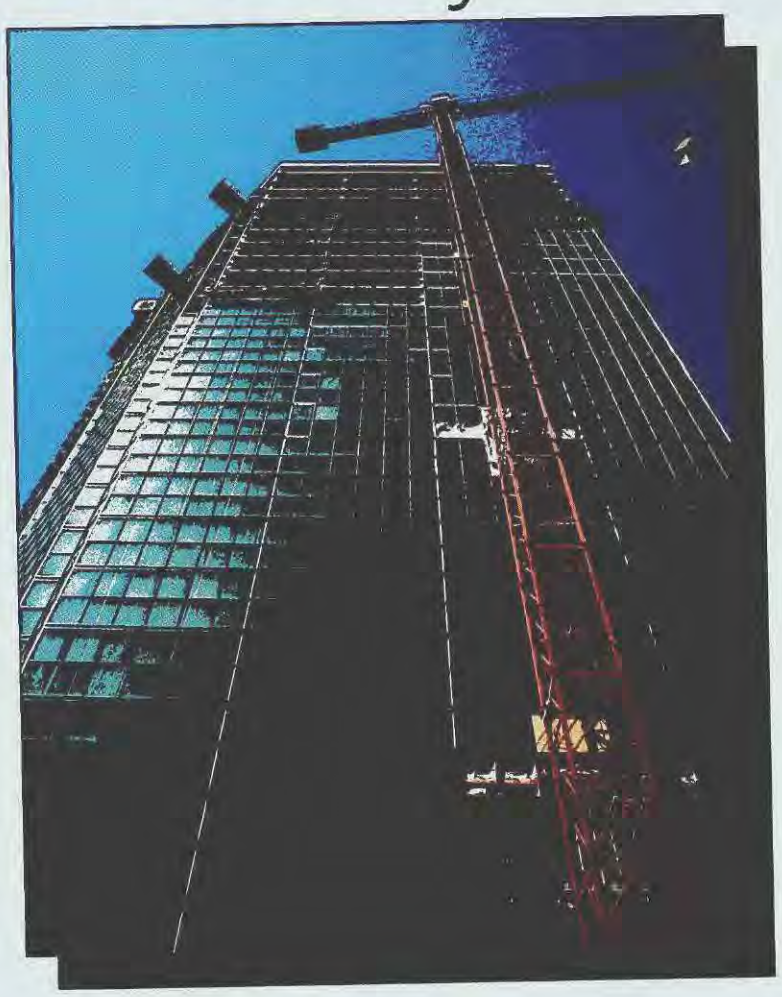
Marsh & McLennan Cos. Inc.: Frank J. Tasco, director, disposed of by gift 1,416 shares of common stock at an unreported price on May 2. He indirectly acquired by gift 1,416 common shares at an unreported price the same day and now directly and indirectly holds 128,319 common shares.

Dan K. Wassong, director, bought 1,000 shares of common stock at $12.50 each on May 31 and now directly holds 1,000 common shares.

M&M stock closed at $85.50 a share on June 24.

Continued on next page

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Insider Trading

Continued from previous page

NAC Re Corp.: Robert A. Belfer, director, bought 30,000 shares of common stock between an unreported price and $26.59 each on March 22. Mr. Belfer indirectly bought 14,000 common shares at $26.59 each from March 15 to March 22. Mr. Belfer bought 4,000 shares of common stock at $24.55 each from April 7 to April 8. He indirectly bought 1,000 common shares at $24.55 each that same day and now directly and indirectly holds 941,332 common shares.

Ronald L. Bornhuetter, chairman, indirectly bought 500 shares of common stock at $29.25 each on March 10 and now directly and indirectly holds 112,717 common shares.

Thomas C. Jones, vp, exercised an option for 21,600 shares of common stock between $12.18 and $15.11 each on May 18 and sold them at $30 each the same day. He now directly holds 12,948 common shares.

Daniel J. McNamara, director, bought 1,000 common shares at $29.88 each on March 1 and now directly holds 4,000 common shares.

NAC Re stock closed at $27.50 a share on June 24.

Ohio Casualty Corp.: James A. Metz, vp, sold 1,500 shares of common stock at $61.50 each on March 9. He now directly and indirectly holds 2,783 common shares.

Ohio Casualty stock closed at $30 a share on June 24.

Old Republic International Corp.: Spencer Leroy, divisional officer, bought 1,000 shares of common stock at $22.25 each on May 13. He now directly and indirectly holds 4,001 common shares.

Old Republic stock closed at $22.38 a share on June 24.

RLI Corp.: Edward F. Sutkowski, director, indirectly bought 7,696 shares of common stock at $22.13 each from May 5 to May 11. He now directly and indirectly holds 50,000 common shares.

Bert M. Thompson, retired, sold 9,100 shares of common stock between $24 and $24.63 each from Feb. 2 to Feb. 17 and now directly holds 2,594 common shares.

RLI stock closed at $21.25 a share on June 24.

SAFECO Corp.: Robert S. Cline, director, bought 100 shares of common stock at $57.13 each on Feb. 7. He now directly holds 1,000 common shares.

John W. Ellis, director, bought 500 shares of common stock at $58.13 each on Feb. 24. He now directly holds 5,012 common shares.

Richard W. Hubbard, vp, exercised an option for 1,438 common shares at an unreported price from Feb. 3 to Feb. 7. To cover transaction costs, Mr. Hubbard turned in 229 of the shares between an unreported price and $57.13 each from Feb. 3 to Feb. 7. He now directly and indirectly holds 29,004 common shares.

Dan D. McLean, officer of subsidiary, exercised an option for 1,125 common shares at an unreported price from Feb. 3 to Feb. 7. To cover transaction costs, Mr. McLean turned in 112 of the shares for $58.38 each from Feb. 3 to Feb. 7. He now directly holds 5,838 common shares.

Paul W. Skinner, director, bought 1,000 shares of common stock at $57.50 each on Feb. 7. He now directly and indirectly holds 131,460 common shares.

SAFECO stock closed at $56.88 a share on June 24.

SCOR U.S. Corp.: R. Daniel Brooks, vp, bought 1,000 shares of common stock at $10.75 each on March 22 and now directly holds 13,911 common shares.

Michel J. Gudefin, director, bought 8,000 shares of common stock at $10.25 each on March 4. He indirectly bought 10,000 common shares at $10.25 each that same day. Mr. Gudefin now directly and indirectly holds 18,000 common shares.

SCOR S.A., holding company, bought 243,279 shares of common stock between $10.63 and $11.50 each from March 8 to March 25 and now directly holds 14,465,756 common shares.

SCOR stock closed at $11.13 a share on June 24.

Trenwick Group Inc.: Barbara R. Freed, vp, exercised an option for 26,764 shares of common stock between $9.65 and $19.75 each from March 8 to March 9. To cover transaction costs, Ms. Freed turned in 292 of the shares for $34.50 each from March 8 to March 9 and sold 20,616 shares in the open market between $33.75 and $34.50 each in the same period. She now directly holds 13,253 common shares.

Michael F. Mather, officer of subsidiary, exercised an option for 1,000 shares of common stock at $17 each on Jan. 17. He now directly holds 5,553 common shares.

Stephen R. Wilcox, director, sold 500 shares of common stock at $34.75 each on March 4 and now directly holds 3,600 common shares.

Trenwick stock closed at $40.75 a share on June 24.

UNUM Corp.: Gayle O. Averyt, director, indirectly sold 30,000 shares of common stock at $53.75 each from Feb. 22 to Feb. 28. He indirectly sold 20,000 common shares at $56.94 each on March 11 and now directly and indirectly holds 651,778 common shares.

William F. Brennan, vp, sold 1,000 shares of common stock at $53 each on Feb. 17. Mr. Brennan now directly holds 27,369 common shares.

Stephen B. Center, vp, sold 13,825 shares of common stock between $50.75 and $52.50 each from Feb. 16 to Feb. 17. He now directly and indirectly holds 40,404 common shares.

Robert E. Dilton, director, bought 200 shares of common stock at $47.88 each on May 5 and now directly holds 1,908 common shares.

Peter J. Moynihan, vp, sold 2,200 shares of common stock at $53.25 each on Feb. 24. He now directly holds 26,944 common shares.

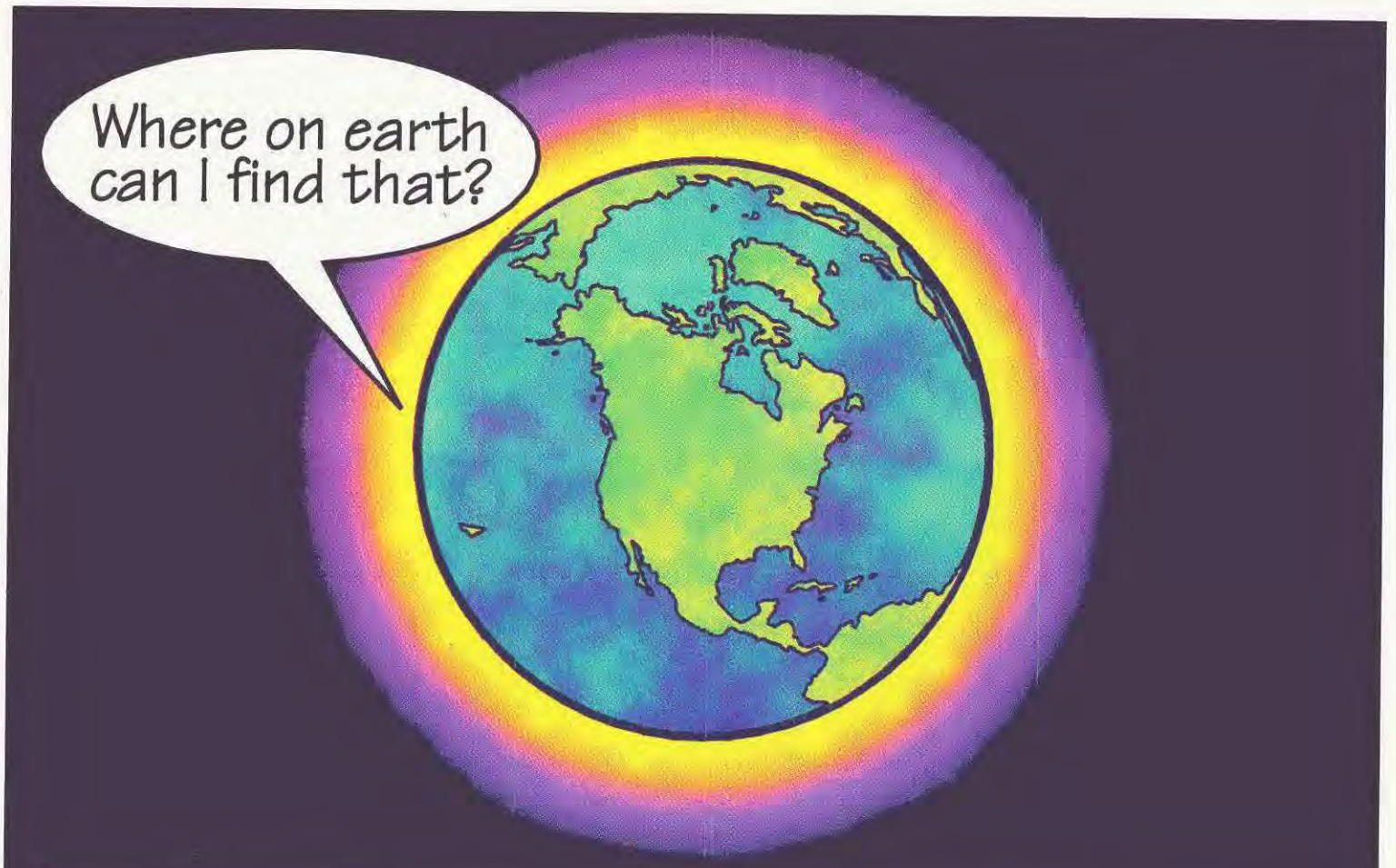
Kevin P. O'Connell, officer of subsidiary, sold 3,897 shares of common stock at $53 each on Feb. 17. He now directly holds 16,064 common shares.

Robert E. Staton, officer of subsidiary, disposed of by gift 1,000 shares of common stock at an unreported price on Feb. 24 and he sold 2,200 shares at $53.25 each on Feb. 24. Mr. Staton now directly and indirectly holds 9,952 common shares.

UNUM stock closed at $46.75 a share on June 24.

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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.



1993 DIRECTORIES

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July	5	Agents & Brokers
July	19	Alternative Risk Financing Facilities
August	2	Benefit Communication Systems
August	16	Surplus Lines Insurers & Wholesalers
August	30	Leading Reinsurers Worldwide
September	6	401(k) Plan Administrators
October	4	International Insurers & Benefit Networks
October	18	Safety Consultants & Rehabilitation Services
November	1	Reinsurance Brokers
November	22	Environmental Risk Management Consultants
December	6	Risk Management Information Systems
December	20	Employee Benefit Consultants
December	'93	HMOs & PPOs

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June	27	EAPs & Mental Health Networks
July	4	Alternative Risk Financing Facilities
July	18	Agents & Brokers
July	25	Dependent Care Resource & Referral Services
August	1	Risk Management Information Systems
August	15	Benefit Communication Systems
August	29	Leading Reinsurers Worldwide
September	5	401(k) Plan Administrators
September	26	Surplus Lines Insurers & Wholesalers
October	17	Safety Consultants & Rehabilitation Services
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INTERNATIONAL

BERMUDA

ACE plans to write property insurance with $25 million limit

By GAVIN SOUTER

HAMILTON, Bermuda—ACE Ltd. is lowering the attachment point of its excess liability coverage for non-U.S. risks and is entering the property insurance market for the first time.

New ACE policyholders outside of the United States will be able to buy excess liability coverage attaching at $50 million instead of $100 million, which is still the attachment point for U.S. risks. Available limits will be up to twice the reduced attachment point, with minimum limits of $25 million up to $200 million excess of $100 million.

To qualify as non-U.S. companies, policyholders must be based outside the U.S. and derive less than 15% of revenues from U.S. operations.

The new attachment point will only be offered to new accounts.

"Companies whose revenues are not primarily derived from U.S. sources have different excess liability needs," said William J. Loschert, executive vp of underwriting at Bermuda-based ACE.

ACE also announced that it will write all-risk property insurance coverage up to a maximum line of $25 million excess of $50 million.

The move follows the 1993 entrance into the excess property market of another Bermuda excess liability insurer, X.L. Insurance Ltd. (*BI*, Oct. 18, 1993).

Unlike X.L., ACE's property coverage will cover business interruption losses as well as physical damage.

Triangle acquisition

U.K. broker Lloyd Thompson Group P.L.C. in London is buying 49% of Bermuda broker Triangle Holdings Ltd. for approximately $5.39 million, with an option to acquire the remaining Triangle shares.

"The investment in Triangle fits (Lloyd Thompson's) strategy of developing its broking operations and establishes that capability in the important and growing Bermuda market," said Ken Carter, chief executive officer of Lloyd Thompson.

The brokers have many clients in common, said Peter Dunne, managing director of Triangle.

Under the terms of the deal, Lloyd Thompson will pay $3 million in cash and up to $2.39 million more, subject to the level of Triangle profits on June 30, 1995. Lloyd Thompson will also likely exercise its option to buy the remaining Triangle shares, said Mr. Dunne.

Triangle was established in 1989 primarily to place liability coverage in Bermuda. It reported brokerage revenues of $2.1 million in 1993. Triangle's subsidiaries include Triangle Reinsurance Intermediaries Ltd. and Triangle Management Ltd., a captive management company. BI

Pension reform fallout

U.K. employers fear financial burden from government plan

By ADRIAN LADBURY

LONDON—Employers support the basic principals of the British government's recently published package of pension reforms, but vow to continue lobbying for further changes before the new measures are implemented in 1997.

Employers that sponsor pension plans believe the government has produced a package of reforms that would help prevent another Maxwell-type scandal. The late publisher Robert Maxwell allegedly stole 450 million pounds ($693 million) from his company's pension plans (*BI*, March 22, 1993).

But many employers attacked the government for suggesting they foot the costs for a regulator and guaranty fund and predict the current proposal would be a disincentive to new employer-sponsored plans.

And many employers and employee groups are unhappy that a proposed new regulator would rely on professionals tied to the plans, such as auditors and actuaries, to "blow the whistle" on poorly run or fraudulent plans. Earlier proposals called for a more proactive regulator with sweeping powers to intervene in any plan it judged to be under threat.

Peter Lilley, secretary of state for social security, announced the government's plans in his white paper "Security, Equality, Choice; The Future for Pensions," published June 23. The white paper endorsed 185 of the recommendations made to it by the Pension Law Review Committee which reported to the DSS last October (*BI*, Oct. 11, 1993).

Key proposals include:

• The imposition of a minimum solvency requirement intended to ensure that pension plans maintain sufficient funds to pay pensions if forced to wind up. The paper suggests a transitional period of five years within which plans will have to reach 100% funding. If a plan is funded between 90% and 100% after the transitional period, it is given three years to make up the difference. If funding falls below 90% after the transitional period,

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Consolidation brings rate stability to Australian insurance market

By KATE McILWAINE

SYDNEY, Australia—What a difference a year makes.

Stability—with some exceptions—is the hallmark of property and casualty renewals in Australia this year, a reversal from a year ago, when property rates increased sharply, underwriters and brokers say.

But what may be good news for buyers is not necessarily pleasing to insurers. They complain that competition is keeping rates far too low for profitability.

To cope with the situation, many underwriters are refusing to write coverage below a minimum rate and are demanding sound loss control measures from policyholders.

The June 30 renewal is the most important in Australia, because it coincides with the end of the fiscal year for many corporations.

Australian risk managers last year saw rate increases ranging from 15% to 250% for major commercial property risks (*BI*, Aug. 2, 1993). Professional liability rates also increased last year, though product liability and general liability rates were soft.

In contrast, the only class that saw significant upward movement in rates this year was large motor fleets, insurers say. D&O liability saw less dramatic increases.

Consolidation in the highly competitive Australian insurance industry—recent years have seen a series of takeovers, mergers and acquisitions—has reduced the number of non-life underwriters in the market. Except for last year's property rate hikes, rate cutting and competition has been a fact of life in the Australian market for years.

Insurers and brokers say the consolidation now is helping to stabilize the market. Figures from accountants KPMG Peat Marwick show the 20 largest Australian non-life insurance companies account for 85% of premium volume in the market.

More consolidation is predicted

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Cross-border buying alters industry

Competition is universal in interdependent global market

By SARA MARLEY

MADRID, Spain—Insurance companies in many parts of the world are facing increased competition both from international rivals and from banks within their own borders.

The worldwide insurance market is becoming more interdependent through the creation and strengthening of regional trade areas, like the North American Free Trade Agreement and the European Union, pointed out Felix Mansilla Garcia, president of Spanish insurer organization UNESPA—Union Espanola de Entidades Aseguradoras Reaseguradoras y de Capitalizacion.

"Not even the U.S. or Japanese (insurance) markets will remain independent. For the first time in history, there is universal access to the free market theory," he told insurance executives and academics from more than 50 nations at the International Insurance Society Inc.'s 30th annual seminar in Madrid last month. That liberalization should not be labeled "deregulation," Mr. Mansilla cautioned. "It is moving from interventionist regulation to more liberal."

Legislative reforms in the European Union—such as the cessation of policy form approval and the end of regulatory authorization of terms and tariffs—"are likely to result in increased competition with regard to price levels and the improvement of service to the customer," said Henning Schulte-Noelle, chairman of the executive board of Allianz A.G. Holding in Munich, Germany. "However, they also imply that there is a high probability that the less efficient and weaker competitors will have to exit the market. The current number of more than 4,000 insurance companies operating in the E.U. will decline."



Photo by David W. Hamilton/The Image Bank

Madrid provided a colorful backdrop for the IIS seminar.

About 15% of all Spanish premiums are written by foreign-owned insurers, 15% by bank-owned insurers and 15% by mutuals, Mr. Mansilla said.

"In the past 10 years in Spain, hundreds of companies from abroad have acquired Spanish companies or set up business here," he said. "I'm not com-

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Annual renewal ritual is a client disservice, Chubb CEO says

By SARA MARLEY

MADRID, Spain—If Dean O'Hare had his way, risk managers, insurers and brokers wouldn't have spent the last few weeks haggling over renewals.

There wouldn't be any renewals.

Customers "hate renewal time, which they equate with paying taxes," said Mr. O'Hare, chairman and chief executive officer of Chubb Corp., at the 30th International Insurance Society Inc. seminar held last month in Madrid.

"Imagine the impact if a company with 500,000 policies decides with its customers to create an efficient relationship with no annual renewals," he continued. "Interactive technology is used to process changes in exposures, report losses, communicate general information and create efficiencies for both clients and carrier. In place of annual renewals is a simple contract laying out terms, conditions and price.

"The price is adjusted annually as necessary, but no renewal forms are sent. Both parties operate under the assumption that the relationship will continue indefinitely, with the proviso that either can terminate it with 60 days notice. What I'm describing, of course, is the kind of relationship most other service firms have with their clients. Why won't it work in insurance?"

In the past, the insurance industry has not focused enough on customer needs, Mr. O'Hare said.

"We spend precious little time assessing the landscape of our customers and the economic, social and political problems they

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INTERNATIONAL

Politics won't impede Mexican market

By MARK A. HOFMANN

WASHINGTON—No matter who wins Mexico's presidential election next month, economic reform will continue.

And that means greater challenges for U.S. risk managers as their employers take advantage of business opportunities in Mexico.

Some of those challenges involve measures that are taken for granted in the United States, such as fire safety, noted Frederick Feldman, senior vp at Rollins Hudig Hall Co. in Chicago.

Mr. Feldman spoke during a discussion titled, "NAFTA, Mexico and Beyond," held at the Mexican Cultural Institute in Washington last week. The discussion of the impact of the North American Free Trade Agreement on U.S.-Mexican trade was co-sponsored by RHH, the Mexican Embassy and the law firm Arnold & Porter.

"I am sure that the next government will reinforce those ties" that have grown between the U.S. and Mexican economies during the past five years of reform under President Carlos Salinas de Gortari, said Jorge Montano, Mexico's ambassador to the United States.

"Reform is for real, and it's going to stay the course," predicted Wayne L. Berman, a consultant and a former undersecretary of commerce in the Bush administration.

How quickly economic reform will progress will depend on the result of Mexico's Aug. 21 presidential election, he said.

If Ernesto Zedillo, the candidate of the long-ruling Institutional Revolutionary Party, wins by a large margin, reform will continue at its present pace, predicted Mr. Berman. But if Mr. Zedillo should win by a small margin, reform will probably slow down, he said.

If the winner is Diego Fernandez de Cevallos, the candidate of the pro-business National Action Party—which Mr. Berman described as "moderate Republicans"—reform will also continue apace.

If leftist candidate Cuauthemoc Cardenas wins—and Mr. Cardenas currently lags far behind the other two candidates, who are virtually tied—there will be more economic reforms, though not nearly as significant as can be expected under the others, Mr. Berman said.

"The investment climate follows the political climate," said Mr. Berman.

There is "little question" that NAFTA will benefit the insurance industry, said RHH's Mr. Feldman. Increased trade alone generates demand for property/casualty coverage, he said. He also predicted that as Mexico continues its policy of economic liberalization, there will probably be less rate and form regulation accompanied by a drive toward greater solvency regulation.

But, for risk managers, doing business in Mexico presents certain challenges to which they may not be accustomed.

For example, "Americans are notorious for thinking that just because someone speaks good English" that person understands what the U.S. citizen really means, he said. U.S. risk managers must make certain that they and their Mexican counterparts have the "ability to communicate the value of risk," he said.

As another example, Mr. Feldman said that while Mexican authorities place great emphasis on employee safety, fire protection receives considerably less attention than in the United States.

There are problems with water supply, he said, and fire protection services lag behind those in the United States. If there is a choice between using limited water to carry out a manufacturing process or to bolster fire protection, the debate can get quite intense, Mr. Feldman said.

He also warned that because the first order of business at a Mexican facility is often to increase productivity immediately, sound risk management principles might be ignored. Local managers have to be educated about risk management and motivated to carry out its demands, he said.

Another area of risk management concern is the windstorm peril, said Mr. Feldman.

He noted that earthquake planning has received a considerable amount of attention since Mexico City's disastrous 1985 quake, which left about 25,000 people dead. But the windstorm peril on both of Mexico's coasts has not received the attention it deserves, said Mr. Feldman.

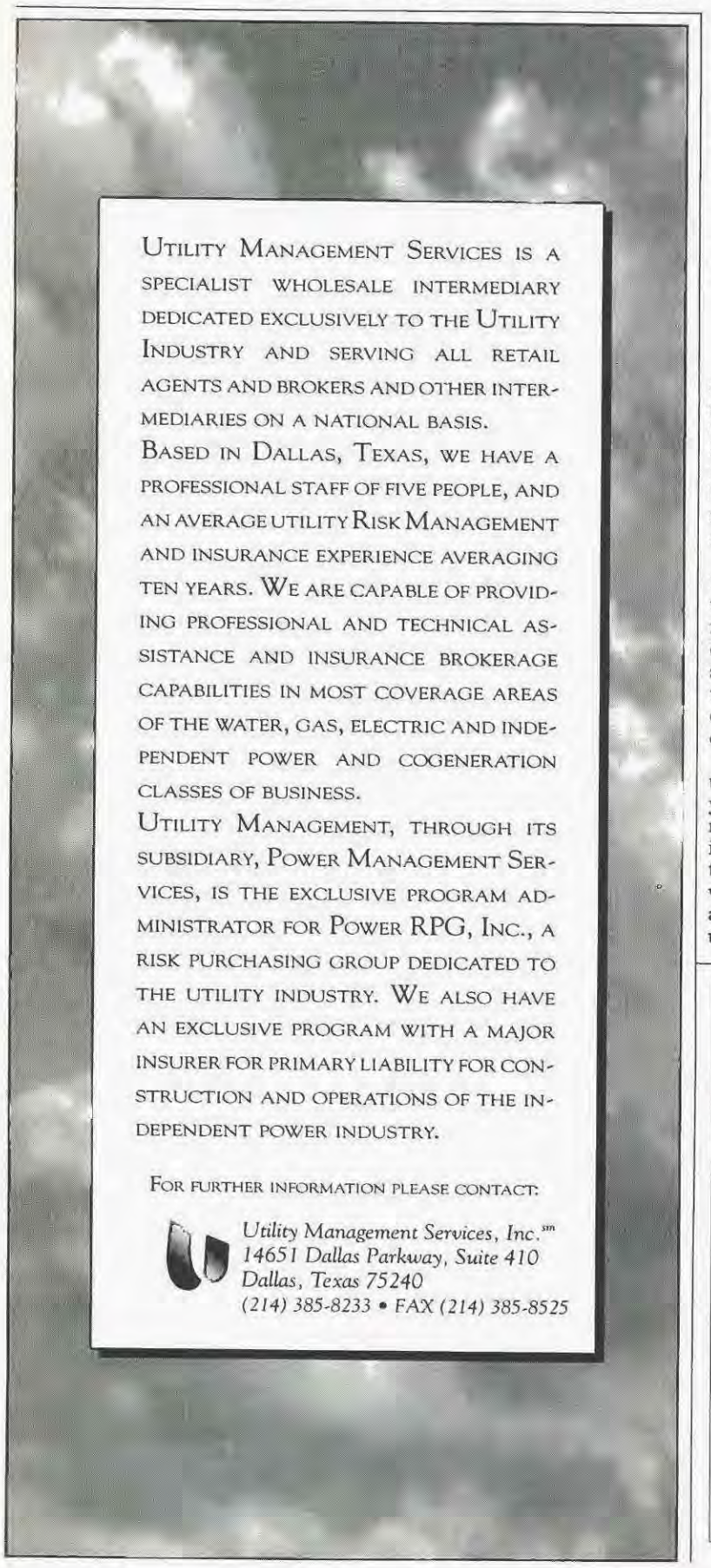
He added that U.S. firms entering Mexico through acquisition must exercise considerable due diligence. He said this is particularly true when the acquisition is a recently privatized government entity, whose managers might not have been held to the same standards expected of their private-sector counterparts.

Even though risk managers must be aware of critical differences between how risk is viewed in Mexico and the United States, Mexico remains an extremely attractive new market, Mr. Feldman stressed. It is politically stable and the chances of sudden nationalization or government action against foreign businesses have decreased in recent years.

"Our political risk analysts are more and more relaxed," he said.

Several speakers also noted that Mexican businesses are considerably less likely to turn to the courts for relief in disputes than their counterparts north of the border.

Mexican businesses "is infinitely less litigious," said William D. Rogers, a senior partner at Arnold & Porter and a former undersecretary of state in the Ford administration. He added that Mexican businesses "do not use the threat of litigation strategically" like many of their U.S. counterparts do. BI



London market business up 21%: Report

By ADRIAN LADBURY

LONDON—The London insurance and reinsurance market's gross premium volume jumped nearly 21% in 1992 to 17.91 billion pounds ($27.12 billion) from 14.8 billion pounds ($27.67 billion) in 1991, according to a new report by the Assn. of British Insurers.

In the five-year period from 1987-1992, the gross premium volume written by the London market—which comprises Lloyd's of London syndicates, London insurance companies, and protection and indemnity clubs—has increased 77.3%, the report indicates.

London insurers' gross premiums rose 73.8% during the five-year period, while their net premiums increased by only 60.6%, indicating companies have cut their retention levels. Likewise, while Lloyd's syndicates reported a 44.9% increase in gross premiums over the five-year period, net premium rose only 16.1%.

Marine, aviation and transport business together accounted for almost half of the total premiums written in 1992, followed by non-marine treaty reinsurance, which accounted for about 30% of the gross volume. Overseas-domiciled direct and facultative reinsurance coverages accounted for 22.5% of the total.

London companies' gross premiums for marine, aviation and transport business rose by 39.6% in U.S. dollars between 1987 and 1992, compared with only a 16.4% gain among Lloyd's syndicates. Insurance companies now underwrite 49.8% of the marine, aviation and transportation business written in London.

Overseas-domiciled direct insurance and facultative reinsurance grew more quickly than so-called MAT business, increasing by 90.1% in U.S. dollar terms over the five-year period.

London market international business still accounts for almost 50% of U.K. insurers' total gross premiums, according to the ABI, with only Swiss companies underwriting more international business in the world market.

Non-U.K.-based companies writing in London now control almost half of all MAT and reinsurance premiums underwritten in the London company market and about 30% of the London market's total premium volume, including Lloyd's.

ABI Chairman Allan Bridgwater noted that U.K. domestic insurance companies had posted a property/casualty worldwide trading profit for the first time since 1989.

The U.K. companies made a profit of 5.4% of premium volume in 1993, compared with a loss in 1992 of 2.7%. Mr. Bridgwater attributed the profit to "the industry's fight against fraudulent claims, lower claims in some areas of business and the full impact of rate increases from the previous year." BI


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Pensions

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the plan would be forced to make up the shortfall within three months by either an immediate cash injection or "some form of cash reserve," like a letter of credit, that would satisfy trustees.

• The creation of an "occupational pension regulator," with powers to investigate plans and impose sanctions on law-breakers.

• The establishment of a post-event compensation system. This would cover 90% of the loss of pension plan funds that are fraudulently removed if the employer becomes insolvent or is unable to make up the deficiency.

• The granting of the right of plan members to nominate up to one-third of the plan's trustees, encouraging clearer information for members and the creation of internal dispute resolution procedures.

But even though Mr. Lilley adopted the bulk of the PLRC recommendations, he did respond to employers fears and lobbying. A key concern voiced by employers when the original proposals were published was minimum solvency standards for plans.

Employers warned the government that overly tough standards would force them to adopt less lucrative investment strategies and could even force some companies out of business by requiring them to make up shortfalls in the plans within the three-month time period. Funding shortfalls frequently would be caused by a downturn in the stock market, and employers say three months would not be sufficient time to recover.

Mr. Lilley consulted the Institute and Faculty of Actuaries, which came up with a new basis of calculation. Under the new approach to solvency standards, calculation of the amount of shortfall an employer would be required to make up would take into account longer-term values of investments. That way, employers would be less affected by short-term changes in stock market conditions. However, the three-month rule remains.

The white paper also states that "to avoid circumstances where a rigid application of these rules could place unnecessary pressures on a sponsoring employer, the government, in specified circumstances, proposes to give the regulator power to vary or waive the time limits at the request of the trustees."

But employers still say they are worried the new standards will be both a burden and a deterrent.

The second major employer concern is the cost of the new regulator and compensation system.

Prior to the white paper, employers assumed that the government would shoulder at least part of the burden.

"We feel the government has made a great effort to strike a balance between the protection of the interests of the members and the need to limit the cost burden on employers. But as with any regulations, there is a price to pay and this may well be a greater reluctance on the part of employers to run schemes," said Gordon Leek, spokesman for the Institute of Directors, the U.K.'s leading association of corporate chief executives and members of boards of directors.

Mr. Leek said that the IOD will submit an "in-depth response" to the government white paper.

"The government has paid some attention to company representations and has proposed a less onerous regime than the (PLRC) advocated," said Howard Davies, director general of the Confederation of British Industry, Britain's leading employer group.

"But we still think the government underestimates the cost consequences of the minimum solvency standard. This will have disincentive effects on companies setting up new schemes, reducing the flexibility for employers and employees alike," Mr. Davies said.

The CBI supports the encouragement of member-selected trustees and increased trustee powers. It also supports the creation of a regulator and compensation system as backups, "but these should be financed by the government," he said. BI

Non-life profit posted in Japan

By KATE McILWAINE

TOKYO—The Japanese non-life insurance industry last week reported underwriting profits for the first time in four years.

The Marine & Fire Insurance Assn. of Japan Inc.—which represents 25 Japanese non-life insurers, including two reinsurers—announced last week a combined underwriting profit for fiscal 1993-94 of 76.5 billion yen ($746.1 million at the appropriate exchange rate), compared with the previous fiscal year's underwriting loss of 7.7 billion yen ($5.8 million).

Yoshiki Amamoto, manager of the Marine & Fire Insurance Assn.'s international department, said gross direct premium volume for all classes was 9.91 trillion yen ($96.62 billion) in 1993-94, up 6.3% from 1992-93. Net premium written was 6.55 trillion yen ($6.39 billion) last year, up 5.2%.

For property insurance lines—including general property risks, industrial risks, warehouses and other property risks, excluding earthquake coverage—1993-94 premium volume was up 8.5% over1992-93.

Compulsory auto liability insurance premium volume dropped 6.9% due to an average 13% premium reduction implemented beginning April 1, 1993.

Last year's premium volume in marine and transportation insurance fell 2.7% and 2%, respectively, from the previous year.

The overall loss ratio for all classes of coverage improved to 57.2% in 1993-94, from 57.9% a year earlier. This improvement occurred in spite of increases in the loss ratio for property insurance, due to torrential downpours and typhoons last summer, and for miscellaneous casualty lines, Mr. Amamoto said (*BI*, Nov. 1, 1993).

The property insurance sector's loss ratio was 42.2%, compared with a loss ratio of 40% in 1992; the loss ratio for miscellaneous casualty was 58.5%, compared with 55.7% in 1992; and the loss ratio for marine and inland transit was 69.4%, compared with 77.3% in 1992.

Aftertax net profits for all classes of non-life coverage totaled 118.2 billion yen ($1.15 billion), down 13.9% from fiscal 1992.

In spite of the improved underwriting picture, the Fire & Marine Insurance Assn. recently filed an application with the Ministry of Finance for an average 7.74% rate increase for general risks, which include commercial property like offices and shops, because of huge losses caused by natural disasters (*BI*, May 23). BI

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O'Hare

Continued from page 49

are facing. We need to redirect our efforts because these problems define their protection needs and therefore our future opportunities," he said.

"It may sound simple, 'Listen to customers.' The insurance industry historically has been product driven. We have done an excellent job of developing new products, coverages and packages of coverages, which we have taken to our customers and told them, 'You need this.' But they are tired of the status quo. They are tired of our inefficiencies being passed on to them as higher costs."

The first step in improving customer service is to let customers talk with the personnel who call the shots on their accounts.

"We too often make customers talk to multiple underwriters for their various needs and do our best to obscure from them who the ultimate decision-makers are in the organization," he said. "It is no surprise that we appear to many as large, faceless bureaucracies in which no individual is held accountable for addressing a customer's needs."

Streamlining customer contact and making underwriters more accessible can cut internal transaction costs by 25%, Mr. O'Hare said.

Specialized insurers will have an easier time getting to know their clients than those that write all lines of business. However, niche companies must be prepared to underwrite outside their specialty when a customer calls for it.

"Insurers that take a specialty approach need not be small," he noted. "In fact, large companies that can realize economies of scale have a significant advantage. They can offer a variety of products within a particular market segment, taking advantage of their size and market penetration to achieve economies and to cross-market their services.

"Specialized insurers have to be more creative and nimble than their multiline counterparts in how they handle large customers with multiple needs," Mr. O'Hare said. "Such customers increasingly have risks that fall outside an insurer's chosen specialties or that cannot be underwritten profitably or cost-effectively. More and more today, big customers are cutting costs by retaining risks, which they do not necessarily know how to manage."

Even business outside the traditional market can provide opportunities for forward-thinking insurers.

"Insurers that can step outside of their instinctive underwriting mind-set (can) approach them instead as consultants or advisers," Mr. O'Hare said. "A big part of our future is lending our expertise to customers looking for innovative ways to handle risks. We may not underwrite the risk ourselves, but we can use our experience to find other, potentially non-traditional solutions. We can charge a fee for our help and maintain and add depth to our customer relationships."

While insurers must focus more on customer needs, they should not neglect regulatory issues like tort reform and Superfund reform, Mr. O'Hare said.

Tort reform efforts in many states are having an impact, he said.

"Some of the most difficult environments have improved rather dramatically," Mr. O'Hare said. "States I thought were gone forever, like California, are coming out with good case law."

Rehabilitating the system for cleaning up polluted land is proving less successful. "The situation in the United States is horrendous," he said. "In seven years we have spent $22 billion but all but $2 billion was spent on lawyers fees."

Reform of the Superfund law is not likely to occur this year, "but it has a good shot next year."

"The insurance industry is so bloody fragmented, they are fighting among themselves. One segment favors prospective market share and the other favors retroactive market share and neither side is willing to compromise. A situation like that dooms the legislation to failure. It's a victory for attorneys. They stand to make another $20 billion."

Although environmental liability was first a problem in the United States, risk managers and insurers in the rest of the world should be prepared for it to hit their countries.

"The problem has risen to the surface in the U.S., but other parts of the world are in much worse shape" environmentally, he said. BI

Compete

Continued from page 49

plaining that foreign companies have set up in my country, I'm complaining that our companies have not gone abroad."

In the case of the United States, the system of state regulation "has created significant barriers to the open markets which we would all like to see exist," said Dean R. O'Hare, chairman and chief executive officer of Chubb Corp. in Warren, N.J.

While proposals to implement federal regulation or a dual system—in which insurers could choose to be regulated by the state or federal government—has taken a backseat to health care reform in Congress this year, the chances of a bill passing next year are "very great," he said. "Ninety-nine percent of the restrictive environment would be eliminated."

While Chubb is working to liberalize U.S. regulation, it is taking advantage of open markets elsewhere.

"I fully expect Chubb will derive 25% of its revenues from outside of North America by the year 2000," Mr. O'Hare said. "Chubb is no longer surprised when a customer in Denver or Cincinnati has a need for coverage in Thailand or Spain."

"We have to adapt our strategy" to meet the needs of prospective customers, agreed Josei Itoh, president of Nippon Life Insurance Co. in Tokyo. "Technology and communication has opened perspectives beyond the confines of national borders. There is a new age of full-scale competition," primarily from financial institutions, he said.

In Europe, many insurers are marketing personal lines coverages through banks, which enjoy greater prestige and reach more people than insurers in many countries, said UNESPA's Mr. Mansilla.

"Banks reach the entire population of Spain while insurance agents reach only a percentage," he said. "You see greater use of the teller window to sell insurance."

However, as insurance products become more diverse and change more frequently, insurers cannot rely on bank staff alone to sell their products.

"With greater complexity, you have to have industry professionals or experts," he said. "We can't leave it to the banks alone. Changes are taking place fast. Products become obsolete in one-third the amount of time. Ten years ago, most of our (current) portfolio didn't exist."

One area of opportunity emerging in many parts of the world is the private pension market.

"With an aging society, the market for pensions and annuities continues to expand," Mr. Itoh said. "We continue to prepare for the day when we can offer a wide range of services for insurance and investment. With insurance as our core business, we are confident we can provide a broader line of products as a comprehensive financial institution."

In many countries, social security systems are unable to keep up with aging populations and declining birthrates.

"In Spair., for a long time the government has sold the idea that social security covered all future needs of citizens," Mr. Mansilla said. "Therefore, private insurance was used in a very limited scope."

Today, every three working Spaniards must support two retirees.

"This is unsustainable," he said. "Unless we change the system completely, it will be non-viable in 10 years. A private system generates savings. UNESPA is able to provide the same service as social security 40% cheaper."

The executive panel was chaired by William G. Poortvliet, chairman of MetLife International Holdings Inc. in New York. BI

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Reinsurer exec doubts cat capacity will endure

By SARA MARLEY

MADRID, Spain—Man-made and natural catastrophes throughout the 1990s have created new catastrophe reinsurance capacity, but not all of it is here to stay, warns a leading reinsurance executive.

"I wonder how long this money is available for big claims, and whether, after paying claims, they are still interested," questioned Dieter Göbel, a member of the board of management for Munich Reinsurance Co. in Munich, Germany. "So I do not pay too much attention to the Bermuda capacity."

"I'm afraid that the money is interested in offering new capacity as long as the prices are there."

Some reinsurers have gone so far as to promise a certain return on equity, Mr. Göbel told delegates at the 30th annual seminar of the International Insurance Society Inc. held in Madrid last month.

"It's not easy. You are limiting yourself to just very good insurance companies and just for the right technical price—you might be in danger of not doing business."

Capacity should not be considered in strictly financial terms, he said.

"We should think also that capacity is the capacity of know-how, capacity of service, capacity of being able to pay and being willing to pay."

Due to the catastrophes, "many reinsurers had to discontinue writing business having suffered not only underwriting but also operating losses," Mr. Göbel said. "Even the reinsurers that did better were able to show at best marginally positive operating results."

Retrocession "costs today are five to 10 times as much as they were before the 1990s," he added.

For established reinsurers, the catastrophes of the 1990s meant a break from conventional pricing.

"The markets began to harden, but we had to redefine the rating parameters," Mr. Göbel said. "Reinsurers had to come down and say, 'What is the money we need to cover (the risk)?' Before, we held our tongues and we followed the original rate in the insurance market. We had to realize that we are not able to follow any more.

"It's like a very good friend who decides to spring out of the window. We go with him to the window, but say, 'Now you spring alone.' "

Reinsurers began to set their own rates, particularly for exposures like earthquake and windstorm.

"I think for the first time mathematics was decisive in property reinsurance and insurance," Mr. Göbel said. "But it was just beginning in the catastrophic field, not in industrial fire business. We are far away from hardening (property) markets worldwide."

Tighter pricing and underwriting controls have revealed how little some insurers control their own underwriting.

"It's ridiculous to imagine that there are insurance companies that don't know their exposure," he said. "They may be buying too much or too little reinsurance. If I were the manager of an insurance company, the first thing I would do would be to install an accumulation control system."

The catastrophes also thrust reinsurance into the limelight, a role in which some companies are not comfortable.

"For decades, reinsurance stood in the background. Now, because of the casualty problem in the United States, because of catastrophic problems, we are known to the public. We don't like it very much. There is no need for the public to know reinsurers. They do not need to know it, as there is no legal relationship between an insured and reinsurers. We prefer to be in the background."

In the current insurance cycle, insurers and reinsurers must be careful not to repeat the mistakes of the past.

In the aftermath of oil price shocks and inflation in the 1970s, "keen competition led companies to forget too much underwriting technique," Mr. Göbel said. "They attached less and less value to their technical departments."

Kurt Vogt, a consulting actuary in Mexico City, chaired the special-interest session on non-life insurance. BI

INTERNATIONAL

Insurer specialization name of the game

By SARA MARLEY

MADRID, Spain—Multiline and niche insurers may have more similarities today than differences.

Multiline insurers should consider becoming "multi-specialists," pursuing a variety of niches as local market demands dictates, said Pierre Labadie, chairman of French insurer UAP International in Paris.

"It is not possible to be all things to all men, no matter how large an insurer you are," Mr. Labadie said. "Multiline companies always have specialties. In the past it was along product or department lines. Today a 'multi-specialist' company is more client-focused and aware of the ability to cross-sell to customers."

The fall of the Iron Curtain, globalization and mass communications have given consumers more choices than they have ever had before, said James F. Orr III, chairman and chief executive officer of UNUM Corp. in Portland, Maine, which specializes in long-term disability insurance. With an expanding marketplace, the audience is becoming too large and too diverse for effective mass marketing, he noted.

"Never have consumers had so much access to information," Mr. Orr said at the 30th annual seminar of the International Insurance Society Inc. last month in Madrid. "It will continue to grow as world trade grows. The larger Free World is spurning macro efforts in favor of niche marketing."

UAP is an insurance conglomerate with operations in 60 countries, but it allows individual branches to focus on local insurance needs. "Each branch is treated as a separate profit center. Each class of business is studied separately," Mr. Labadie said. "The front-line personnel should be empowered to decide all issues and problems."

UAP's two international insurers, PanEuroLife and PanEuroRisk, sometimes compete with local UAP subsidiaries, which Mr. Labadie believes is healthy for the subsidiaries.

"The result has been excellent," he said. "The local national company discovered there were some possibilities they had not chosen."

Although they agree on the need for a targeted marketing approach, Messrs. Labadie and Orr disagree on how to best achieve that focus.

"The multiline company possesses a strong advantage," Mr. Labadie said. "Through the agency network you can sell three or four policies to a single individual."

Multiline companies enjoy economies of scale, a wider spread of risk and the ability to pursue more business, he added.

"A real niche player is limited in finding additional markets," Mr. Labadie continued. "A multi-specialist company has no such limitations. There is a choice of products to adjust to the needs of the client. Without all the eggs in one basket, there is less risk of violent fluctuation when a niche becomes unprofitable."

"You have to give up lines of business to stay focused," Mr. Orr countered. "There is somebody in the marketplace who wants to have you for lunch. Exit markets where you can't achieve" profitability, he advised.

A niche strategy allows for greater focus on "core capability," Mr. Orr said. "Think about products spinning out of the core capability. You are at risk when you don't constantly invest in core capabilities. Don't produce the product first and build the machine to support it second."

Niche insurers also have tighter controls on profitability, he said. "We know the bottom line of ev-

Continued on next page

Meeting in Spain attracts 700

MADRID, Spain—Nearly 700 insurance executives and professors representing 56 countries gathered in Madrid last month for the 30th annual International Insurance Society Inc. seminar.

Attendance was high at the four plenary sessions and three discussion group meetings despite the late hours kept by many delegates, both by observing Spain's late-night dining tradition and by watching first-round World Cup soccer games.

The IIS is a non-profit education- and research-oriented organization with about 1,200 corporate and individual members from more than 80 nations. Most of the members represent insurance underwriters, with the bulk of the remainder being insurance professors and other educators.

At the IIS's annual awards ceremony, Davis W. Gregg, president of the American College in Bryn Mawr, Pa., from 1954 to 1982 and a leading insurance scholar, author, educator and administrator, was inducted into the Insurance Hall of Fame. Mr. Gregg, who died in 1993, is the 86th inductee into the hall, which is at the University of Alabama in Tuscaloosa. During Mr. Gregg's tenure, the American College added the Chartered Financial Consultant designation and established master of science degree programs in financial services and management as part of its Chartered Life Underwriter designation.

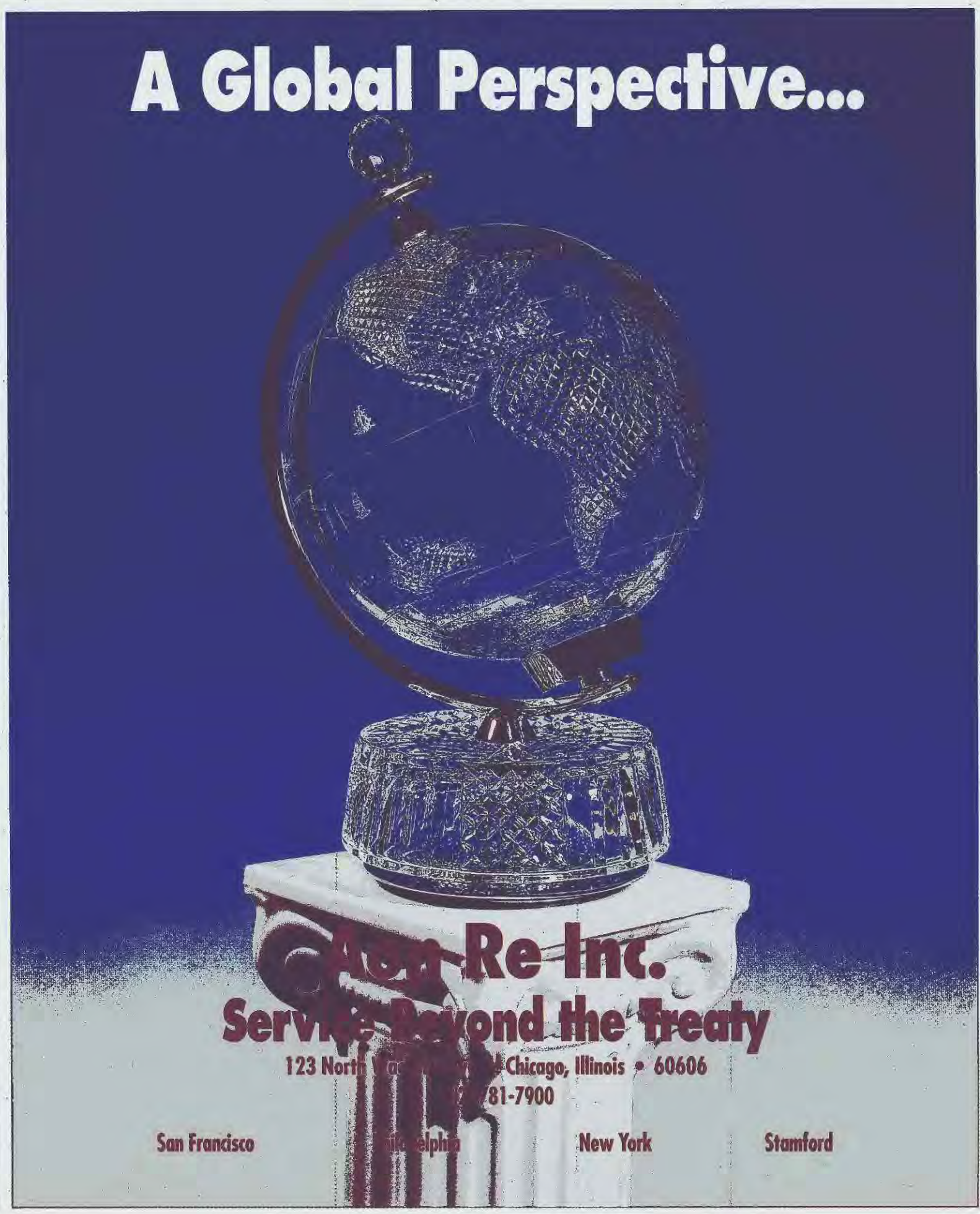
More than 200,000 copies of his doctoral dissertation on group insurance, which is considered the authoritative work on the subject, have been sold.

The John S. Bickley Founders' Award Gold Medal for Excellence was awarded to Henry L. Rosenfeld, who developed the world's first group life insurance product. Mr. Rosenfeld, who died in 1939, was insurance assistant to the president of the Equitable Life Assurance Society.

The first such policy was issued to Panasote Leather Co. in 1911.

Next year's IIS meeting will be held July 9-13 in Washington. For more information, contact IIS Executive Director Mary Silberberg, P.O. Box 870223, Tuscaloosa, Ala., 35487-0223; 205-348-8974, fax: 205-348-8973.

—By Sara Marley



Niches

Continued from previous page
ery line (of business), every day."

Insurance companies pursuing a niche strategy should not be wooed by their success to expand too much or too quickly, Mr. Orr said.

"There is a lot of pressure to add new lines, and in many cases maybe it makes sense," Mr. Orr said. "But the risk is getting lulled into it and offering lines that are not built around what you are really good at. If you offer too many lines, you dilute your capability."

And while companies must focus their marketing efforts, they should not be blind to developments elsewhere in the industry and in the economy.

"Macro-forces affect individual consumer choices at the micro-level," Mr. Orr said.

Insurers should select niches that will grow geographically, "because you can't deepen a niche," Mr. Orr said.

The decision to be a multiline underwriter as opposed to a niche specialist need not be a question of size, the speakers agreed.

"Large firms can think and act small, if you understand the profit," Mr. Orr said.

"In the final analysis, it boils down to good management," Mr. Labadie said. "Multiline companies that don't become multi-specialist will become as extinct as the dinosaurs."

Dr. Hans-Rudolf Stucki, general manager of Winterthur Swiss Insurance Co. in Winterthur, Switzerland, chaired the discussion. BI

Australia

Continued from page 49
for the Australian market, as few insurers recorded underwriting profits last year.

KPMG Peat Marwick's statistics show that underwriting losses among non-life insurers deteriorated to $912 million Australian ($619.3 million) in fiscal 1993 from $584 million Australian ($401.7 million) in fiscal 1992. The industry's overall loss ratio deteriorated to 84.48% in 1993 from 83.93% the year before.

E. John Cloney, chief executive officer and managing director of Sydney-based insurer QBE Insurance Group Ltd., said the market is now "competitive without being irresponsible." Buyers have the option of "quality or el cheapo rates."

Chris L. Meller, managing director of Sydney-based CIGNA Insurance (Australia) Ltd., said he is concerned by the number of insurance companies that are simply "rolling over" existing terms across all classes. "It's a sad day for the insurance industry. . . .Rates are still below acceptable levels, but we are seeing a number of companies take the easy way out."

The Australian insurance industry is undermining its integrity and has a short memory, he said. "One good year and everyone collapses."

Richard Burridge, director and general manager-risk management for broker Marsh & McLennan Pty. Ltd., a unit of Marsh & McLennan Cos. Inc., said some underwriters were seeking higher deductibles during the current renewal period, but they were not imposing the same stringent conditions of 1993.

With favorable rates and little change in terms, few accounts switched brokers or insurers at renewals.

Michael McLeod, Sydney-based managing director of broker Willis Corroon Richard Oliver Pty. Ltd., said clients are more attuned to the way the market operates and are "sitting still." Asked how much premium volume his company gained this renewal, he said: "Not enough."

Most 1994 renewals, unlike 1993, are being completed on time. Last year, a significant amount of uninsured or underinsured accounts were still in the market in mid-July. But, brokers late last month said most accounts were expected to be finalized by June 30.

M&M's Mr. Burridge said insurers initially sought 5% to 10% increases on property risks at July 1 renewals, but brokers have been able to negotiate rollover terms—the same terms and premium as the expiring coverage—for clients with favorable loss experience. He said pricing has "flattened out" and capacity is not a problem for most property risks. The big rate increases property insurers gained last year mean rollovers this year are sustainable, he noted.

QBE's Mr. Cloney said after big increases two years in a row for commercial and industrial property coverage, insurers must "wear those rates for a year or two and see if they can deliver profitability." If the classes still are not profitable, Mr. Cloney said it is inevitable that rates will rise again.

Kevin Kinsella, manager-commercial insurance for Sydney-based insurer GIO Australia Ltd., said GIO achieved rollover terms "fairly easily" but had not achieved increases to the extent it wanted. He blamed competition, saying: "We'll get the feeling someone's on the hunt for new business, face up to the fact that's about as far as they can go for now, and we tend to panic a bit. . . .We do a bit of shadowboxing this time of year."

But he said many underwriters were pricing "at what the market dictates."

Mr. Kinsella said he had expected the Alpine Press printing plant fire, which caused $53.2 million Australian ($38.4 million) in damage, to have a bigger impact on the market. It was one of the biggest single losses in the commercial property market (*BI*, Jan. 17).

Last year, GIO set a minimum rate of six-cents Australian (four cents) per $100 Australian ($72.27) of insured value for large office buildings and, consequently, lost all such accounts. "But the market is still writing at five cents, so we won't write any," Mr. Kinsella said.

GIO instead is looking at writing property coverage for more hazardous risks, including plastics, timber and warehouses, but only for policyholders with good risk management strategies in place.

"I'd rather write hazardous risks at 30 cents and 40 cents, the right rate, and have a chance to make money on it," he said.

Jack F. Woods, regional manager-Asia Pacific for Factory Mutual International Ltd., based in Melbourne, said he was changing terms and deductibles and seeking

Continued on next page

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INTERNATIONAL

Continued from previous page

risk management improvements rather than raising rates. FMI focuses on writing comprehensive property insurance for highly protected risks.

A few insurance companies did raise commercial property rates, though not by significant amounts.

Don Coates, manager-commercial insurance for Melbourne-based National Commercial Union Ltd., said his company is achieving increases ranging from 2.5% to 7.5% in property accounts this year.

Michael Maher, managing director of Sydney-based CIC Insurance Ltd., a unit of Winterthur Swiss Insurance Co., said CIC was achieving increases of 5% to 10%, but rates for some property risks are still too low.

A similar sentiment was expressed by CIGNA's Mr. Meller, who said big property rate hikes last year along with increases of about 10% this year are "still not enough."

WCRO's Mr. McLeod said property pricing has "come off the boil." It is "fairly stable, with maximum increases of 10%, mainly for more hazardous risks." He said there have been some rate reductions of about 5% on risks for which loss control procedures were improved during the past year.

Mr. McLeod said WCRO has gained a timber company's account with "several hundred thousand dollars" in premium, because it was able to get an underwriter to offer coverage at "sizable reductions" to the client.

He said some property insurers may have been "overzealous" with rate increases last year.

In addition, "reinsurers are not seeking such big increases for catastrophe layers. . .and they're more comfortable with the treaty renewals," Mr. McLeod said.

Catastrophe reinsurance rates dropped about 10% this year, but had previously been hiked to "outrageous" levels, QBE's Mr. Cloney said.

Commercial motor fleet business was volatile and highly competitive at the June 30 renewals, QBE's Mr. Cloney said. Competition was strong at the high end of the market, for accounts with more than $100,000 Australian ($72,270) in premium.

GIO's Mr. Kinsella described the motor fleet market as "crazy," with "lots of rate-cutting," and said GIO is not prepared to write the business at a loss. He said some underwriters set premium targets and were writing to meet them.

Liability coverages saw few changes at renewals.

Michael D. Grossman, regional casualty manager-Australasia for American Home Assurance Co., a unit of American International Group Inc., said increases "haven't happened yet," although there have been some increases for risks that have had successive renewals without increases. "It's about 10% in most primary layers, but nothing exceptional."

"The climate for increasing liability rates was stronger 12 months ago, but they didn't go up because property rates kept them under pressure," he said.

Mr. Grossman said liability rates must go up 15%, particularly in the heavier classes of the industrial-commercial risks, because of poor claims experience.

"That's the difference between property and casualty—everyone knows about large property losses, but liability losses don't get the same profile in the marketplace. The claims are happening, but no one knows. There's a perception that there are no big losses," he said. "We need to give a general indication of the fact that the claims are there."

Mr. Grossman said Australia has "too much cheap capacity" for liability coverage.

However, he said catastrophe layers are hardening, with the London market putting a floor price on excess liability layers "and they won't go below that."

That situation is bringing some business back to Australia.

In product and public liability lines, there was still some rate-chopping, according to QBE's Mr. Cloney.

'That's the difference between property and casualty—everyone knows about large property losses, but liability losses don't get the same profile in the marketplace. The claims are happening, but no one knows,' says Michael D. Grossman.

Kevin D. Mutch, general manager-risk management for Melbourne-based mining and resources company CRA Ltd., agreed the property/casualty market has stabilized and capacity has increased.

He said risk managers are getting more involved in marketing their risks to underwriters and are seeing the benefits.

Although corporations have been able to achieve rollover rates in some classes, others are still "difficult," Mr. Mutch warned.

By specific lines, Mr. Mutch noted that the D&O liability market has seen an influx of employment-related claims, like sexual harassment and sexual and racial discrimination claims. While they are not big claims in monetary terms, it is a growing exposure for Australian companies, he predicted. "There are some big D&O claims around, and that's keeping the temperature high."

Meanwhile, GIO's Mr. Kinsella speculated that one reason underwriters may not be uniformly hiking rates as much as needed is fear of allegations of price fixing.

He warned that some insurers could be at risk of violating provisions in the strict Trade Practices Act aimed at preventing anti-competitive actions. The law allows for fines of up to $10 million Australian for companies that breach the Trade Practices Act.

Some insurers, for example, are no longer checking the terms and rates set by a competitor when quoting on an expiring policy because of the risk of being accused of fixing rates, according to Mr. Kinsella.

In addition, he suggested that common policy wordings and coinsurance contracts could be contrary to the legislation.

"This could open a whole Pandora's Box, if the Trade Practices Commission wanted to go into it," Mr. Kinsella said. BI

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Harassment

Continued from page 3

higher than last year's levels.

It should come as no surprise that employers are increasingly ducking for cover. Not only are more charges of sexual harassment being filed with the Equal Employment Opportunity Commission, but victims are receiving bigger awards from juries across the country.

Awards now average about $250,000, said Nancy Boyd, enforcement supervisor at the EEOC district office in New York.

And the 11,908 charges filed against employers in 1993 marked an 111.8% increase from the 5,623 charges filed in 1989.1989. The increase has been far more pronounced in many states, according to a study of EEOC data by the Center for Women in Government at the State University of New York in Albany (see chart, page 3).

What's more, damages awarded against employers in these suits nearly doubled between 1992 and 1993 to $25.2 million, the study found. The number of awards rose 15.4% in that year.

"What we are seeing are only the initial effects of the Civil Rights Act of 1991, which allows targets of sexual harassment in all states to recover compensatory and punitive damages. These monetary benefits will continue to rise," predicts Sharon Harlan, a researcher at SUNY-Albany and chief author of the survey.

That is a risk that many companies, including foreign firms operating in the United States, would like to pass on to insurers. So, for at least the next two years, the employment practices liability insurance market should grow steadily, said M&M's Mr. Brown.

A year ago, many companies discussed the coverage as an option to reduce liability for wrongful termination, sexual harassment and discrimination. Now, companies are actually purchasing such policies.

"A year ago, it was more talk and less action, now it's more action," said Roger Haynes, managing executive of Sedgwick Financial Risk Specialists in Boston.

For example, earlier this year Sedgwick gave presentations on the coverage to 20 companies in the Northwest; 18 actually bought the coverage, he said.

"This is not just a radical acceptance but a dramatic turnaround in the course of a year," said Mr. Haynes. "In fact, underwriters tell us that there is more sales interest in this policy now than ever before."

That is because risk managers like Karen Miller of semiconductor manufacturer LSI Logic Corp. in Milpitas, Calif., are being asked by top management to consider options to protect against sexual harassment suits.

"We have become increasingly aware of the rising trend in this type of litigation. We made the decision to go in for employment practices liability insurance and are in the process of completing applications for it," she said.

Not all risk managers share Ms. Miller's viewpoint, however.

Software firm Borland International Inc. of Scotts Valley, Calif., has decided not to buy the coverage—at least for now.

"It's a fairly expensive coverage. Unfortunately underwriters make no allowances or reduction in premiums for the kind of positive corporate culture we foster that puts us at reduced risk," explained Ellen Pfeiffer, corporate risk manager.

"Underwriting for this policy is done out of the home office and solely on basis of documents," said Ms. Pfeiffer. "I wish they would pay us a visit and check out our corporate culture."

Another company that is forgoing employment practices liability coverage is Merck & Co.

"We have a strong policy which has been effective in deterring this problem," said a spokesman for the Whitehouse Station, N.J.-based pharmaceuticals giant.

Every manager at Merck receives regular updates on what sexual harassment is, who can be held liable for it, how costly it is for the company, and where to direct complaints.

Merck also has a toll-free number that allows employees to register anonymous complaints of any kind, including harassment.

In fact, setting up a clear policy on sexual harassment and a way to investigate complaints is becoming a top priority for many companies.

Employee education is the critical element of such efforts, said Victor Schachter, an employment lawyer with Schachter, Kristoff, Orenstein & Berkowitz in San Francisco. All employees, from the corner offices to the shop floor, should be told what sexual harassment is and how the company handles complaints, he advised.

"Much confusion arises from the fact that people do not know what constitutes sexual harassment. In about 60% of the investigations we are involved in, we find that people did not know that a particular action of theirs can constitute sexual harassment."

Because the cost of harassment extends beyond legal liability to include lost productivity and higher absenteeism, many companies are hiring consultants to train employees in this area.

The investment in training can often be much cheaper than settling a lawsuit. Between damages or a settlement and legal fees, total litigation costs average up to $600,000, said S. Beville May, a Boston attorney who now exclusively counsels companies on ways to prevent workplace harassment and resolve complaints.

A one-day training program instead costs $7,000 to $10,000, depending on the size of the company, Ms. May said.

"Usually my advice to managements is: Settle it before it gets to court," said David J. Duddleston, an employment lawyer who generally represents management at McKall, Crounse & Moore in Minneapolis. "Juries are increasingly becoming less tolerant with companies involved in harassment cases on basis of age, race or gender." BI

Defenses

Continued from page 3

BMW.

Other labor attorneys echoed Ms. Sneirson's assessment, but cautioned against interpreting the ruling too broadly. They point out the ruling is only applicable in the 3rd Circuit, which encompasses New Jersey, Pennsylvania and Delaware. Other federal judicial circuits, as well as many state courts, may still hold an employer liable for a hostile environment if the harassment is perpetrated by an high-ranking individual within the company.

"With respect to federal law and the 3rd Circuit, this ruling is good for employers. Employers know that to avoid liability, they must address and cure the problem. They can't just have a grievance process that exists," but isn't effective, said Karen Ludington of Mirick, O'Connell, DeMallie & Lugee in Worcester, Mass. "Employers shouldn't be lulled into thinking that a written policy on sexual harassment is enough. And, if the harassment is carried out by a supervisor, in some jurisdictions employers still may be held liable."

Even the 3rd Circuit judges raised the question whether BMW should be held liable in this case based on the fact that the alleged harasser was a vice president. "There is intuitive appeal to imposing liability for the torts of high-level executives because they may speak for the company whenever they open their mouths," the court wrote. However, it found the individual manager in this case was "not sufficiently powerful to be wielding actual authority."

"We can't overlook this element of the decision," added Paul Salvatore, a labor and employment law specialist with Proskauer, Rose, Goetz & Mendelsohn in New York. "There can still be strict liability if the person is high enough up in the company. It clearly seems that if a manager has authority, an employer can still be held liable."

That is exactly what the U.S. Court of Appeals for the 2nd Circuit ruled in January in *Columbia University vs. Karibian*. In that case, the court rejected the theory that an employer can avoid liability simply by promptly responding to an employee's complaint of harassment. Instead, the court said an employer can be held liable regardless of its harassment policies if the harasser is using his or her authority or power over the victim (*BI*, Jan. 31).

Still, the BMW ruling is a victory for employers, attorneys and a company spokesman said.

"We do what we feel is appropriate for our company and our employees. People know they can approach their supervisor, a supervisor's supervisor, all the way up the line to the president and their concerns will be taken seriously and they will be investigated," said a spokesman BMW. "It's this understanding employees have beyond a printed policy that made the difference in this case. That is spelled out clearly in the court's decision."

"The court took a strong position on this issue," noted Henry P. Baer, an employment practices attorney with Skadden Arps Slate Meagher & Flom in New York. "Following a trend that has developed post-*Meritor*, employers are in a better position with an internal grievance plan. This pushes the ball a step further."

Ms. Sneirson, BMW's attorney, said other employers can use the case as a guideline for shielding themselves from liability. "Whereas the Supreme Court gave us no guidance with *Meritor*, this court recognized what quality and effectiveness are. BMW got involved in resolving the complaints within days of receiving them."

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Bouton vs. BMW of North America, 3rd U.S. Circuit Court of Appeals; Nos. 93-5296 and 93-5316.



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JULY

JULY 11-12. Disaster Recovery for Local Area Networks seminar in Atlanta, sponsored by Data-Tech Institute; $895. **Also Aug. 1-2** in Denver and **Aug. 16-17** in Chicago. Data-Tech Institute, P.O. Box 2429, Clifton, N.J. 07015; 201-478-5400.

JULY 11-12. Accountants' Liability seminar in New York, sponsored by the Practicing Law Institute; $675. **Also Aug. 11-12** in San Francisco. PLI, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5710.

JULY 12-13. Commercial Property/ Commercial Auto and Garage Coverages Training School in Boca Raton, Fla., sponsored by the Florida Assn. of Insurance Agents; $190 for FAIA members, $280 for non-members. Florida Assn. of Insurance Agents, Education Department, P.O. Box 12129, Tallahassee, Fla. 32317-2129.

JULY 13-14. Employment Regulations in Illinois: A Survival Kit for Illinois Employers seminar in Chicago, sponsored by the Institute of Business Law, California State University at Los Angeles; $595. Department DR-IL, Institute of Business Law, California State University, Los Angeles, P.O. Box 3488, Santa Monica, Calif. 90408; 310-450-0500.

JULY 13-15. Environmental Regulation Course in Washington, sponsored by Executive Enterprises; $1,195. **Also July 18-20** in Chicago, **July 25-27** in Atlanta and **July 27-29** in Boston. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6990; 1-800-831-8333.

JULY 14-15. Understanding ERISA: An Introduction to Basic Employee Retirement Benefits course in New York, sponsored by the Practising Law Institute; $495. **Also Aug. 18-19** in San Francisco. Practising Law Institute, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5710.

JULY 15-17. National Conference of Insurance Legislators' 1994 Summer Seminar in Burlington, Vt.; $250 for legislators, staff of NCOIL members; $275 for legislators, staff of non-members; $650 for industry non-members; $50 for spouses.NCOIL, 122 S. Swan St., Albany, N.Y. 12210; 518-449-3210.

JULY 17-20. Eighteenth Annual National Symposium on Workers' Compensation in East Lansing, Mich., sponsored by Michigan State University; $595. School of Labor and Industrial Relations, Michigan State University, 422 South Kedzie Hall, East Lansing, Mich. 48824; 517-355-9591.

JULY 18-19. Accountability & Performance Measurement for Health Care Payers conference in Boston, sponsored by the Institute for International Research; $1,195. **Also Aug. 8-9** in Chicago. Conference Administrator, Institute for International Research, 708 Third Ave., New York, N.Y. 10017; 1-800-345-8016.

JULY 18-19. Liability & Litigation Management for Managed Care conference in Boston, sponsored by the Institute for International Research; $1,195. Conference Administrator, Institute for International Research, 708 Third Ave., Fourth Floor, New York, N.Y. 10017-4103; 1-800-345-8016 or 212-661-8740.

JULY 18-19. Eleventh Annual Illinois Conference: Personnel Law Update 1994 in Schaumburg, Ill., sponsored by the Council on Education in Management; $495. Council on Education in Management, 325 Lennon Lane, Walnut Creek, Calif. 94598-2418; 510-934-8333.

JULY 18-20. Team Based Competition conference in Dallas, sponsored by the International Quality & Productivity Center; $1,095. International Quality & Productivity Center, 209 Cooper Ave., P.O. Box 43155, Upper Montclair, N.J. 07043-7155; 1-800-882-8684 or 201-783-3712.

JULY 19-21. National Workers' Compensation and Occupational Medicine Seminar in Hyannis, Mass., sponsored by Workers' Compensation Monthly and The Occupational Medical Digest; $425. Seak Inc., P.O. Box 729, Falmouth, Mass. 02541.

JULY 20-22. Understanding Managed Care conference in Boston, sponsored by the Group Health Assn. of America; $675 for GHAA members, $775 for non-members. GHAA, Department No. 0612, Washington, D.C. 20073-0612; 202-778-3236.

JULY 21-22. Risk Sharing & Capitation conference in Chicago, sponsored by Global Business Research; $1,195. Conference Administrator, Global Business Research Ltd., 151 W. 19th St., Eighth Floor, New York, N.Y. 10011; 1-800-868-7188 or 212-645-4226.

JULY 21-22. Twenty-Second Symposium on Directors & Officers Liability in Washington, sponsored by The Wyatt Co.; $795. Mary Maze, The Wyatt Co., 303 W. Madison, Suite 2400, Chicago, Ill. 60606; 312-704-2483.

JULY 21-22. Managing the Workers' Compensation Crisis: Effective Cost-Reduction Strategies in Boston, sponsored by the American Management Assn.; $1,150 for AMA members, $1,325 for non-members. AMA, P.O. Box 319, Saranac Lake, N.Y. 12983; 518-891-0065.

JULY 25-26. Re-engineering for Insurance Operations conference in New York, sponsored by the International Quality & Productivity Center; $1,195. International Quality & Productivity Center, P.O. Box 43155, Upper Montclair, N.J. 07043-7155; 800-882-8684 or 201-783-4403.

JULY 25-27. Compensation and Benefits Certification and Training seminars in Chicago, sponsored by the American Compensation Assn.; $225 for ACA members, $255 for non-members. **Also Aug. 31-Sept. 2, Sept. 8-9** and **Sept. 25-28** in Chicago. American Compensation Assn., P.O. Box 29312, Phoenix, Ariz. 85038-9312; 602-922-2020.

JULY 27. Clinton administration proposals for reforming the Retirement Protection Act of 1993 discussion by Pension Benefit Guaranty Corp. Executive Director Martin Slate in Chicago, sponsored the Midwest Benefits Council; $30. Nora O'Connor, Administrator, Midwest Benefits Council, 1320 Central St., Evanston, Ill. 60201; 708-475-4911.

JULY 28-29. Electronic Pharmacy Benefits Management conference in Chicago, sponsored by International Business Communications; $1,195. IBC USA Conferences Inc., 225 Turnpike Road, Southborough, Mass. 01772-1749; 508-481-6400.

AUGUST

AUG. 1-3. Dental Managed Care Congress in San Francisco, sponsored by the Institute for International Research; $1,195. Conference Administrator, Institute for International Research Inc., 708 Third Ave., Fourth Floor, New York, N.Y. 10017-4103; 1-800-345-8016 or 212-661-8740.

AUG. 4-10. 1994 American Bar Assn. Annual Meeting in New Orleans; $350 for ABA members, $550 for non-members. Deborah Weixl, American Bar Assn., 750 N. Lake Shore Drive, Chicago, Ill. 60611; 312-988-6126.

AUG. 8-9. Health Care Capitation & Risk Sharing conference in Boston, sponsored by the Institute for International Research; $1,295. Conference Coordinator, Institute for International Research, 708 Third Ave., Fourth Floor, New York, N.Y. 10017-4103; 800-345-8106 or 212-661-8740.

AUG. 8-12. Fundamentals of Employee Benefits Management course in Brookfield, Wis., sponsored by the International Foundation of Employee Benefit Plans; $1,125 for IFEBP members; $1,250 for non-members. IFEBP, 18700 Bluemound Road, P.O. Box 69, Brookfield, Wis. 53008; 414-786-6710, ext. 257.

AUG. 10. The Process of Crisis Management Planning seminar in Itasca, Ill., sponsored by Gallagher Bassett Services Inc. and Logical Management Systems Corp.; $195. The Center for Risk Management Training, Attention: Dawn Carlson, Registrar, The Gallagher Centre, 2 Pierce Place, Itasca, Ill. 60143-3141; 708-285-3586.

AUG. 13. Advanced Case Management seminar in Rolling Meadows, Ill., sponsored by the Foundation for Rehabilitation Certification; $125. Helen Carpenter, FRC, 1835 Rohlwing Road, Suite E, Rolling Meadows, Ill. 60008; 708-394-2104, ext. 129.

AUG. 14. Life Care Planning and High-Risk Maternity/Infant Care case management seminar in Arlington Heights, Ill., sponsored by the Foundation for Rehabilitation Certification, Education and Research; $125. Helen Carpenter, FRC, 1835 Rohlwing Road, Suite E, Rolling Meadows, Ill. 60008; 708-394-2104.

AUG 15-16. How to Audit Your Insurance Program: Getting Your Money's Worth seminar in Washington, sponsored by the American Management Assn.; $1,050 for AMA members, $1,210 for non-members. **Also Sept. 12-13** in Chicago, **Oct. 6-7** in San Francisco, **Oct. 24-25** in Atlanta, **Nov. 3-4** in Phoenix and **Nov. 14-15** in New York. American Management Assn., P.O. Box 319, Saranac Lake, N.Y. 12983; 518-891-0065.

AUG. 15-17. Eighth Annual Conference for Risk Retention Pools in Dana Point, Calif., sponsored by Advanced Risk Management Techniques Inc.; $425. Sandra Dick, ARM Tech, 23701 Birtcher Drive, Lake Forest, Calif. 92630-1783; 714-472-8324.

AUG. 16-19. Vermont Captive Insurance Assn. 9th Annual Conference in Burlington, Vt.; $340 for VCIA members, $540 for non-members. Diane Leach, Executive Director, Vermont Captive Insurance Assn., P.O. Box 763, Stowe, Vt. 05672; 802-253-2263.

AUG. 21-23. Customer Relations & Managed Care: Moving Member Services into a New Age of Health Care Consumerism conference in Snowbird, Utah, sponsored by the Group Health Assn. of America; $685 for GHAA members, $785 for non-members. GHAA/Registrar, 1129 20th St., N.W., Suite 600, Washington, D.C. 20036; 202-778-3232.

AUG. 22-23. Advanced VDT Workstations: Ergonomics, Health, Safety & Productivity seminar in Monterey, Calif., sponsored by the University Consortium for Continuing Education; $795. University Consortium for Continuing Education, 16161 Ventura Blvd., M/S 752, Encino, Calif. 91436; 818-995-6335.

AUG. 23. Insurance and Legal Issues in Employee Benefits seminar in Los Angeles, sponsored by the International Foundation of Employee Benefit Plans; $150. **Also Aug. 24** in San Francisco. Registrations Department, International Foundation of Employee Benefit Plans, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6710, ext. 257.

AUG. 28-31. Benefits Discovery '94 national conference in Las Vegas, sponsored by Coopers & Lybrand; $650. Coopers & Lybrand, 1251 Avenue of the Americas, New York, N.Y. 10020; 1-800-820-1101.

AUG. 29-31. Benefit Plan Professionals Institute in San Francisco, sponsored by the International Foundation of Employee Benefit Plans; $595 for IFEBP members, $670 for non-members. Registrations Department, International Foundation of Employee Benefit Plans, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6710, ext. 257.

SEPTEMBER

SEPT. 1-2. Disaster Planning and Preparedness Workshop in Atlantic City, N.J., sponsored by Factory Mutual Engineering & Research; $495. **Also Oct. 13-14** in Norwood, Mass., **Dec. 8-9** in Santa Clara, Calif., and **Dec. 12-13** in Los Angeles. Factory Mutual Engineering & Research, Training Resource Center, Training Department Enrollments, P.O. Box 9102, Norwood, Mass. 02062; 617-255-4606.

SEPT. 11-13. The Second National Primary Care Conference in Dallas, sponsored by the U.S. Department of Health and Human Services; $250. Rose Salton, Social & Scientific Systems, 7101 Wisconsin Ave., Suite 1300, Bethesda, Md. 20814; 301-986-4870.

SEPT. 11-14. Behavioral Healthcare Tomorrow conference in Washington, sponsored by the Institute for Behavioral Healthcare; $595. IBH, 4370 Alpine Road, Suite 108, Portola Valley, Calif. 94028; 415-851-8411.

SEPT. 12-13. Understanding Personnel Law seminar in Oklahoma City, sponsored by the Council on Education in Management; $395. **Also Sept. 19-20** in Arlington Heights, Ill., and **Sept. 21-22** in Milwaukee. Council on Education in Management, 325 Lennon Lane, Walnut Creek, Calif. 94598-2418; 510-934-8333.

SEPT. 12-14. Fundamentals of Insurance course in San Francisco, sponsored by the Risk & Insurance Management Society; $650 for RIMS members, $750 for non-members. **Also Oct. 17-19** in Charlotte, N.C., and **Dec. 12-14** in Denver. Risk & Insurance Management Society Inc., Education Department, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

SEPT. 14-16. Techniques of Risk Management course in Seattle, sponsored by the Risk & Insurance Management Society; $650 for RIMS members, $750 for non-members. **Also Dec. 5-7** in New York. Risk & Insurance Management Society Inc., Education Department, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

SEPT. 18-20. Public Risk Management Assn. Midwestern Miniconference in Itasca, Ill.; $175 for PRIMA members, $225 for non-members. Lynne Armstrong, PRIMA, 1117 N. 19th St., Suite 900, Arlington, Va. 22209; 703-528-7701.

SEPT. 19-20. Workers' Compensation Managed Care forum in Boston, sponsored by the Institute for International Research; $1,195. Conference Administrator, Institute for International Research, 708 Third Ave., Fourth Floor, New York, N.Y. 10017-4103; 1-800-345-8016 or 212-661-8740.

SEPT. 19-20. Designing & Managing Specialty Niche Insurance Programs conference in New York, sponsored by the International Quality & Productivity Center; $1,195. International Quality & Productivity Center, P.O. Box 43155, Upper Montclair, N.J. 07043-7155; 800-882-8684 or 201-783-4403.

SEPT. 19-20. 1994 Casualty Loss Reserve Seminar in Boston, sponsored by the American Academy of Actuaries, the Casualty Actuarial Society and the Conference of Consulting Actuaries; $460 for members of AAA, CAS or CCA, $510 for non-members. Jeffrey Speicher, 202-223-8196.

SEPT. 21-22. Nuclear Insurance Coverages and Current Issues seminar in Atlanta, sponsored by Johnson & Higgins; no charge. Steve Kempsey, Nuclear Insurance Consultant, Johnson & Higgins, 125 Broad St., New York, N.Y. 10004-2424; 212-574-7970.

SEPT. 25-27. CPCU Society Annual Meeting in Chicago; $350 for CPCU Society members only. CPCU Society, 720 Providence Road, P.O. Box 3009, Malvern, Pa. 19355-0709; 610-251-2728.

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SLOB

Continued from page 2
Washington.

Still, the rules remain so complicated that some companies will be deterred from using them.

"The rules are still a can of worms. They should only be considered as a last resort," said Dennis Coleman, a partner with Kwasha Lipton in Fort Lee, N.J.

To use the rules, companies will need data, like the percent of time the highest paid employees work for a unit, that many have never gathered before.

"Does this mean employers are going to have to develop time cards?" asked Mark Arian, a consultant in the Bedminster, N.J., office of Hewitt Associates.

Still, benefit experts welcome the most recent changes as giving more employers the opportunity—assuming they can master all of the complexities—to use the SLOB rules.

Under one major change, a pension plan for a separate line of business, even one that did not pass all the non-discrimination tests, would not be discriminatory based on individual facts and circumstances.

"A company might acquire another firm that is in an entirely different type of business. That is a situation where there is an underlying reason to maintain different pension programs," said Mr. Arian.

However, to qualify for this facts and circumstances option, the plan has to pass a basic IRS non-discrimination test: the percentage of the separate line of business' non-highly paid employees covered by the unit's pension plan must be at least 90% of the percentage of the unit's highly paid employees that are covered.

The other major change involves how employers allocate employees who work for various corporate units to a particular unit for SLOB non-discrimination testing purposes. The most common example of these so-called residual shared employees is headquarters staff.

Under earlier IRS rules, residual employees could only be allocated to a company's "dominant" line of business. Dominant line of business was defined several ways, including a line that accounted for at least 35% of a company's so-called substantial service employees. Substantial service employees generally are those who spend at least 50% of their time with the unit.

Under the latest change, the threshold for what constitutes a dominant line is reduced to 25%.

In addition, employers can allocate residual employees to any company unit—not just the "dominant" unit—if certain conditions are satisfied.

Those conditions include:

- The residual group of employees cannot exceed 3% of the company's workforce.
- The separate line of business to which the residual employees are allocated must include at least 10% of the substantial service employees.
- The percentage of highly paid employees in a separate line of business in which residual workers are allocated must be at least 50% but no more than 200% of the percentage of the company's total number of highly paid employees.

The rules were published in the June 27 Federal Register. BI

How the SLOB rules actually work

WASHINGTON—The Internal Revenue Service's separate line of business—or SLOB—rules are designed for large employers that offer different pension plans to employees of various corporate units.

Without the SLOB rules, an employer generally would have to run the various IRS non-discrimination tests comparing a particular unit's plan to all of the company's workers, including those not even covered by the plan being tested.

In many cases, it would be impossible for a unit's plan to pass the non-discrimination tests if the tests had to be run on a company-wide basis.

For example, under one IRS non-discrimination test that is known as the ratio percentage test, the percentage of non-highly paid employees covered by an individual corporate unit's pension plan must equal 70% of the percentage of highly paid employees companywide who are covered by the same plan.

However, if the company is able to run this non-discrimination test on a separate line of business basis, it would only have to compare the lower-paid and higher-paid employees in an individual unit who are covered by the pension plan.

It would not have to consider plan participants not employed by the plan.

—By Jerry Geisel

Small firms

Continued from page 3
conducted between October 1992 and January 1993 by the University of Michigan School of Public Health and included employers in seven cities: Cleveland; Denver; Flint, Mich.; Pittsburgh; Portland, Ore.; Tampa, Fla.; and Tucson, Ariz.

Project Director Catherine G. McLaughlin, an associate professor in the university's Department of Health Services Management and Policy, co-authored the study with Wendy K. Zellers, senior research associate. The study was funded by a grant from the Robert Wood Johnson Foundation.

Among other things, the study found that 60% of small businesses with 25 or fewer employees offer health insurance to their workers. But that is low when compared with a Health Insurance Assn. of America estimate that 98% of firms with 100 to 499 workers offer health insurance.

Many of the small-business owners who do not provide health insurance think employees can piggyback on the health plans of spouses' employers, the study authors found. This belief, the researchers said, "appears to be a key reason why many companies do not provide coverage for their employees."

Among the firms that were not interested in offering insurance, 56% cited the availability of other sources of insurance for employees, like a spouse's policy, as a "very important" factor in their decision not to buy insurance and 22% said it was a "somewhat important" factor.

The researchers also found that employers contend workers who have this "safety net for coverage often prefer to be compensated in higher wages rather than in benefits."

These findings "underscore that the reasons many small businesses do not offer insurance to their employees are more complex than is commonly believed," the study's authors said.

About 22% of employees, more than 150,000 people in the seven cities studied, have no health insurance because they work for companies that do not offer it, they are ineligible for it or they choose not to participate, according to the report.

Not all employees of companies that do not offer insurance lack coverage, though. About 32% of all employees working 17 hours or more per week in the cities studied obtained coverage through another source, like a spouse's plan or an association.

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Free copies of the Small Business Benefit Survey are available from the University of Michigan, School of Public Health, Room M3541, Ann Arbor, Mich. 48104-2029; fax: 313-764-4338.

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Managers & Health Care Providers	1,941
Others Allied to the Field	1,351
TOTAL	**52,949**

★ Source Business/Occupational breakdown of qualified circulation, November 29, 1993 Issue, as submitted to BPA for December 1993 BPA Publisher's Statement.

For the Record

Continental cuts jobs, underwriting

NEW YORK—In the second phase of a previously announced financial strengthening campaign, Continental Corp., which suffered nearly $90 million in losses in the first quarter, is curtailing property writings in catastrophe-prone areas and eliminating about 900 more jobs, among other things.

The New York-based parent of Continental Insurance Co. announced last week that it will pump $40 million in capital into its domestic insurance operations and will cut pretax annual spending by $80 million, much of that through job cuts.

Continental also said it will pursue more reinsurance, primarily for its personal lines business, which generated about $885 million in premiums in 1993.

"The market isn't yielding enough price to compensate for higher catastrophe costs," Chairman John P. Mascotte said in explaining the moves.

These further cost-cutting measures come on the heels of Continental's announcement in April that it would reduce its 12,275-person workforce by 680 positions to save about $75 million. It also announced plans to sell its Continental Canada and Casualty Insurance Co. units (*BI*, April 18).

New Jersey Blues plans health centers

NEWARK, N.J.—Blue Cross & Blue Shield of New Jersey is planning to develop 10 family health centers across the state, making the company a provider of health care services as well as an insurer and claims processor.

The Newark-based BC/BS plan recently announced a 10-year agreement with PHP Healthcare Corp. of Alexandria, Va. PHP designs, builds and manages primary care family health centers for insurers and employers.

The 10 sites in New Jersey are: Burlington, Clifton, Cranford, Eatontown, Hamilton Township/Atlantic County, Jersey City, Mount Laurel, Paramus, Parsippany and Toms River. BC/BS expects the sites to open in January.

The centers will provide care only to BC/BS of New Jersey subscribers. All members of BC/BS of New Jersey health plans, including those in managed care and indemnity plans, will be eligible to receive care from the new centers. However, members of HMO Blue, the insurer's premier managed care coverage, will be required to choose and receive care from primary care physicians employed at the new health centers.

A New Jersey Blues spokeswoman said the plan will attract members because premiums for people who receive care from the health center network are expected to be 12% to 15% lower than current BC/BS of New Jersey HMO rates.

Each center will be staffed with family practitioners, general internists, a pediatrician, a gynecologist and a mental health specialist. They also will offer diagnostic and radiology services, facilities to perform minor surgical procedures and an onsite pharmacy.

BC/BS of New Jersey covers more than 2 million people in the state. In 1993, it began implementing a strategy to become a managed care company, creating hospital, dental, pharmacy and physician networks.

Ruling shifts burden in disability cases

WASHINGTON—Workers covered by certain federal disability benefit laws should not automatically be granted compensation if the evidence for and against a finding of disability is equal, the U.S. Supreme Court ruled.

In a 6-3 decision, the justices said last month that the U.S. Labor Department was wrong in placing the burden of proof on entities opposing a claim brought under the Black Lung Benefits Act and the Longshore and Harbor Workers Compensation Act. The high court ruling upholds a decision made by the 3rd U.S. Circuit Court of Appeals in Philadelphia in *Director, Office of Workers' Compensation Programs, Department of Labor vs. Greenwich Collieries et al.*

In the majority opinion written by Justice Sandra Day O'Connor, the court said the Labor Department's five-decade practice of having the injured worker win all cases in which the evidence was equal violated the Administrative Procedure Act of 1946. The court ruled the act places the burden of proof on the person seeking the benefit.

$8 million award in air crash death

BROOKLYN, N.Y.—A federal court jury last month awarded more than $8 million in damages to the survivors of a man killed in a March 1992 USAir jetliner crash at LaGuardia Airport in New York.

In what lawyers for the family of Thomas Mikuta say is the fourth-largest death verdict in New York state and federal courts, the jury awarded Mr. Mikuta's widow and two children nearly $8.15 million in compensatory damages.

Separately, another jury awarded $800,000 in damages to Clayton Richter, who had a dislocated ankle in the accident and now suffers from fear of flying that he says interferes with his job at a national trucking company.

Both the Mikuta family and Mr. Richter waived their claims for punitive damages against USAir in exchange for the airline's agreement to pay compensatory damages.

Arlington, Va.-based USAir Inc. is fully insured for liability stemming from the crash, which killed 27 people. Associated Aviation Underwriters of Short Hills, N.J., is the lead underwriter of the airline's $850 million liability policy (*BI*, March 30, 1992).

Information in brief

Kemper Corp. and Conseco Inc. have signed a definitive merger agreement under which Kemper shareholders will receive approximately $67 in cash and Conseco stock per share. The transaction is valued at about $3.25 billion. Kemper Corp.—a holding company with life insurance, asset management and securities brokerage operations—is 4% owned by Lumbermens Mutual Casualty Co., the principal member of Kemper National Insurance Cos. Conseco is holding company with life/health and financial services operations. . . .Charles Scott resigned last week from his position as chief insurance analyst with the **Cayman Islands Financial Services Supervisory Department.** He will become director of Wilde & Co. Insurance Managers, a Guernsey-based captive management firm. Cayman has not appointed a successor for Mr.

Continued on next page

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For the Record

Loven succeeds Patalano at AIG unit

Continued from previous page
Scott. . . .The New York Insurance Department last month approved an 8% rate increase for **primary medical malpractice insurance** for the period July 1 to June 30, 1995. . . .U.S. District Judge William Hart sentenced William W. Li, a dentist and former president of **Health Administrators Inc.**, a Chicago-based dental claims administration firm, to three months in prison and five months of work release for kicking back $36,890 to a union business agent in return for a dental contract (*BI*, Feb. 21). The judge also fined Mr. Li $25,000. Danny Hogan, a business agent for General Service Employees Union Local 73, was also convicted in the scheme and is awaiting sentencing. BI

Julie Loven has been promoted to president of the professional liability division of National Union Fire Insurance Co. of Pittsburgh, Pa., a New York-based unit of American International Group Inc.

In this position, she oversees lawyers and accountants professional liability lines and miscellaneous other professional liability lines. She succeeds **Frank A. Patalano**, who left National Union last month to become executive vp of The Home Insurance Co. and president of its specialty lines group.

Ms. Loven previously was a divisional senior vp responsible for lawyers and accountants liability lines.

In other insurer changes:

John T. Grush named president of US Benefits, the Costa Mesa, Calif.-based medical stop-loss insurance subsidiary of US Facilities Corp. Also, **Craig J. Kelbel** named executive vp and chief operating officer. Mr. Grush succeeds **Douglas L. Bockus**, who left the company earlier this year. Mr. Grush will continue as president of USF Re Insurance Co., US Facilities' reinsurance unit.

Chris Reith named vp-property claims for The Home Insurance Co. in New York.

David L. Wisowaty named senior vp-marketing and business development for CIGNA HealthCare, which is based in Bloomfield, Conn.

William Robinson named president of Fortis Long Term Care, a unit of Fortis Inc. in Milwaukee, Wis.

Kenneth C. Sherman named senior vp of financial guaranty insurer Enchance Financial Services Group Inc. of New York. He had been a director at Marine Midland Bank.

J. Russell Smith named vp-business development for GAN North America in New York, a unit of Paris-based Groupe GAN. Also, **Eileen A. Frank** named vp of GAN North America.

Comings & Goings: Industry

Other suppliers

David Kibbe named chief executive officer of PacifiCare of Florida in Coral Gables, Fla. Also, **Orestes L. Lugo** named vp-finance.

Sedgwick Noble Lowndes named **Randall J. Tomassi** senior vp and benefits manager, overseeing benefit consulting in Chicago. He previously was with William M. Mercer Co.

Dr. Jeffrey S. Harris named national practice leader for health care provider consulting at Alexander & Alexander Consulting Group. He will continue to head the consulting firm's Western Division health care team and remain in San Francisco.

Jeff Root promoted to vp-transportation for Lockton Risk Services in Kansas City, Mo.

Agents/brokers

Donna Herrmann named managing director of Sedgwick Environmental Services, a Nashville, Tenn.-based unit of Sedgwick James Inc.

Martin Loth named president and chief executive officer and **Edwyn Gottlieb** named chairman of the Orange County, Calif., office of Jardine Insurance Brokers Inc. Mr. Loth previously was chief operating officer of Jardine's San Diego and Orange County offices and will continue to oversee both locations.

Martin F. Frank named senior vp of the major account brokerage division of Rollins Hudig Hall Co. in San Francisco.

Hogg Robinson Inc. has named three new senior managers: **John W. Edelman** named senior vp of international consulting services in the St. Louis office of Hogg Robinson Consulting Group; **Michael E. Walton** named regional vp-marketing for Penn General Service Corp. in Irvine, Texas, a subsidiary that specializes in claims administration; and **Tom G. Rardin** named regional vp of Penn General in Chicago.

Reinsurance

Brian M. Boornazian and **Celia R. Brown** promoted to vps of NAC Reinsurance Corp. in Greenwich, Conn. Mr. Boornazian is manager of the property facultative department and Ms. Brown is manager of human resources.

Also at NAC Re, **John W. Oster** promoted to second vp and branch manager-property facultative in San Francisco; and **Douglas M. Rofrano** promoted to second vp and manager of the contract wording department-legal division, in Greenwich.

Guy H. Whitehead named vp and actuary of Mid Ocean Ltd. in Hamilton, Bermuda.

David MacIntosh named vp of Alexander Reinsurance Intermediaries Inc. in Boston.

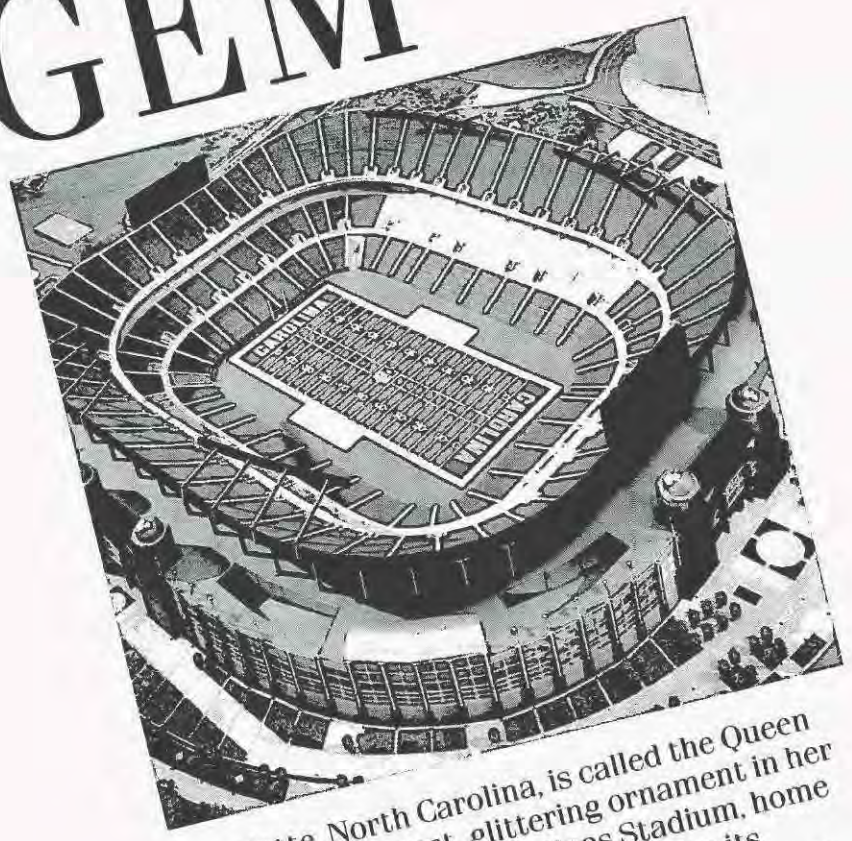
North American Reinsurance Corp. has promoted **Yury A. Zaytsev** and **Paul A. LiCausi** to senior vps in New York.

Excess/surplus lines

John Kirby has been elected president of the American Excess Insurance Assn., a liability insurance pool based on East Hartford, Conn. Mr. Kirby also is a senior vp of Continental Corp. in New York.

Tracy Brunoli named senior account executive with wholesale broker S.H. Smith & Co. in West Hartford, Conn. BI

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Reform

Continued from page 1

That reform measure would, among other things, require employers to pay 80% of the health care premiums of a basic benefits package. It also would vastly expand the Medicare program to provide coverage for the uninsured.

Employers that currently offer more than the basic benefit package would have to continue to offer the package for five years.

Also, companies now providing early retiree health care benefit programs would not be allowed to reduce benefits to current retirees (*BI*, June 13).

The approval of the Gibbons' measure by the Ways and Means Committee assures that the full House will now vote on health care reform legislation, most likely during the third week of July.

Another House panel—the Education and Labor Committee—that has jurisdiction over health care legislation earlier passed a measure similar to the Clinton administration's Health Security Act. A second panel—the Energy and Commerce Committee—decided not to consider legislation after panel members failed to reach a consensus.

• The Senate Finance Committee stripped out—on a 14-6 vote—a provision that would have "triggered" an employer mandate if future targets for increasing the percentage of employees with health insurance were not reached.

That provision was contained in a reform measure proposed by Chairman Daniel Patrick Moynihan, D-N.Y.

While a blow to the Clinton administration, the emphatic rejection of the employer mandate by the Finance Committee significantly increases the chances for passage of legislation by the full Senate.

Sen. Robert Packwood's, R-Ore., amendment removing the mandate will greatly reduce opposition from moderate Republicans and Democrats.

If it had remained in the measure, the proposed "trigger" for an employer mandate almost certainly would have faced a successful filibuster by Republicans on the Senate floor. While a filibuster is still possible, it now could be easier to break.

In addition, key Democratic backers of an employer mandate indicated they will continue to press for a health care reform bill in the Senate even if it no longer includes a mandate.

"I would have preferred the other alternative," said Senate Majority Leader George Mitchell, D-Maine, referring to an employer mandate.

But, rather than continuing to press for a mandate, "the most important thing is to keep the process going forward. This is a credible effort," Sen. Mitchell said.

Rather than continuing to press for an employer mandate, 'the most important thing is to keep the process going forward. This is a credible effort,' Senate Majority Leader George Mitchell, D-Maine, says of the bill debated by the Finance Committee.

But, by removing the mandate, the Senate is on a collision course with the House, which is certain to include an employer mandate in legislation considered on the floor.

Earlier, Sen. Mitchell's staff had sent signals that some Senate Democrats—if they were unhappy with the Finance Committee proposal—might sabotage reform efforts rather than see inadequate legislation enacted.

Under that strategy, a measure that resembles the Clinton administration proposal and was earlier approved by the Senate Labor and Human Resources Committee would be brought up for a vote by the full Senate.

Although the proposal has no chance of passage, its introduction could earn political points for the Democrats, who would then be able to blame the defeat of health care reform legislation on Republicans.

However, by conceding defeat on the employer mandate and pronouncing the Moynihan measure a "credible" step forward, it is unlikely that Senate Democrats like Sen. Mitchell will decide to employ this so-called scorched earth strategy.

With the employer mandate issue resolved during the first two hours of debate on the Moynihan proposal, the Finance Committee moved rapidly to consider a slew of other amendments.

The Finance Committee was expected to meet over the weekend and possibly pass the bill by late Saturday.

That would enable the Senate to take up health care reform legislation in either the third or fourth week in July.

However, supporters of a mandate in Congress, such as Sen. John D. Rockefeller IV, W.Va., said health care reform would be a "mockery" without an employer mandate.

Millions of people are losing coverage in the current health care delivery system, in which employers voluntarily provide coverage, Sen. Rockefeller said.

If the system remains voluntary, millions of workers will continue to be uninsured.

But according to Sen. John Breaux, D-La., health insurance underwriting reforms, such as curbs on pre-existing medical condition exclusions and federal subsidies for lower-income individuals to purchase insurance, could still reduce the ranks of the uninsured.

Sen. David Boren, D-Okla., said legislators should decide later—not now—what is the best approach to reducing the number of uninsured. "We shouldn't tie our hands to a particular approach in 2002," he said.

After rejecting an employer mandate, the committee approved on a 12-8 vote an amendment by Sens. Breaux and John Chafee, R-R.I., that would establish a seven-member commission to make recommendations to Congress on expanding health care coverage if 95% of all Americans are not covered by health insurance by 2002.

Congress would be free to accept, reject or amend any of the recommendations.

In other action, the Ways and Means Committee rejected on a 23-15 vote an amendment by Rep. Bill Archer, R-Texas, that would have imposed a $350,000 cap on non-economic damages for medical malpractice awards.

The opposition was led by Chairman Gibbons, who argued that the Judiciary Committee—not the Ways and Means Committee—has jurisdiction over liability issues.

The Senate Finance Committee bill, as of last Friday, also did not include a cap on damages, but it called for reducing malpractice awards by payments a claimant receives from other sources, like disability benefits, for the same injury. BI

New costs for employers

Reform measures include new taxes, indirect costs

By JERRY GEISEL

WASHINGTON—The price of expanding health care coverage to the nation's uninsured is almost certainly going to be a bevy of new taxes and other added costs for employers.



Both a bill approved last week by the House Ways and Means Committee and a measure nearing approval by the Senate Finance Committee would increase employee benefit plan costs.

Both proposals would directly increase costs by slapping insured and self-funded employer plans with a new federal premium tax.

The Ways and Means Committee bill would impose a 2% premium tax, while the Finance Committee proposal, as introduced, would set the premium tax at 1.75%.

In addition, the Finance Committee bill would slap an additional 1% payroll tax on employers with more than 500 employees.

Both measures would also cripple—if not kill—flexible benefit plans, which are widely used by employers as a way to make cost shifting more palatable to employees. The plans allow employees to tax-effectively finance health care benefits and premiums.

The Senate Finance Committee proposal would wipe out one type of flexible benefit program: flexible spending accounts. Under an FSA, an employee makes pretax contributions to a special account to pay for unreimbursed health care expenses like deductibles or uncovered medical care.

However, it is possible that the Finance Committee proposal could be broadened to ban all types of flexible benefit plans.

The House Ways and Means Committee bill would ban the use of flexible benefit plans to provide health care benefits. But the bill was amended to allow the establishment of so-called high-deductible medical savings accounts (*BI*, June 27).

Insurers and self-funding employers offering "high-cost" health care plans also would be liable for new taxes.

Under an amendment proposed by Sen. Bill Bradley, D-N.J., and approved on an 11-9 vote, the tax would be based on average health care premiums in specified geographic areas.

Under the amendment, a target amount would be set by the Internal Revenue Service in each region. The target would be set so that 40% of health care plans would be above the target amount. Employers or insurers offering health plans whose costs are above this target would be slapped with a special tax.

While the amendment is somewhat vague, the tax apparently would be 25% on the difference between the target amount and the higher cost of the health plan.

Senate Minority Leader Robert Dole, R-Kan., complained that there was no information on how this tax would be implemented or whether it could be administered.

"We have no idea how it would work," he said.

The legislation approved by the House Ways and Means Committee also includes provisions that could indirectly increase employers' health care costs.

Under one of those provisions, managed care organizations—except for staff and group model health maintenance organizations—would be required to accept all providers that met their contract terms.

HMOs say the "any willing provider" requirement would increase their costs in several ways, which would be passed along to employers. HMOs, for example, would have to review all prospective providers, even if they were not needed.

The provision—offered as an amendment by Rep. William Jefferson, D-La., and passed 20-17—says HMOs still would be free to match the availability of health care providers to the needs of patients in the plan.

But, HMO experts say that language might not give HMOs any relief from having to take on unnecessary providers.

"We are seeking clarification," said Karen Ignagni, president of the Group Health Assn. of America, a Washington-based HMO trade group.

An amendment by Rep. Bill Brewster, D-Okla., would require all HMOs to offer a point-of-service option. The provisions would call for the National Assn. of Insurance Commissioners to determine the difference in cost-sharing between services received in and out of an HMO's network of providers.

The Brewster amendment, passed on a voice vote and with little discussion, doesn't make clear if employers could require employees selecting a POS option to pay a higher percentage of the premium.

Premiums for point-of-service HMOs are generally 10% higher than premiums charged by traditional HMOs, said James Norton, a managing consultant with A. Foster Higgins & Co. Inc. in Stamford, Conn.

A study released by Foster Higgins earlier this year reported that 1993 premium costs for POS plans averaged $3,516 per employee, 5% higher than the $3,338 for coverage in a traditional HMO.

And, employer costs could soar under another provision in the Finance Committee. That provision would give states the authority to directly tax employer health plans as long as the tax was not discriminatory. The tax would be applied to insured and self-funded health care plans.

Pre-emption provisions in the Employee Retirement Income Security Act, which have been upheld by a number of courts, now bar such taxes on employer health care plans. BI



Breyer

Continued from page 3

Breyer took part in two rulings in 1990 and 1991 against the Environmental Protection Agency that favored landowners or businesses. Neither case involved insurance.

Many outside legal experts say ruling on issues that will in some way affect their own lives is an occupational hazard for all judges and predicted that Judge Breyer's nomination will not be jeopardized.

Hearings on the nomination are to begin next week before the Senate Judiciary Committee.

Judge Breyer was a member of Lloyd's from 1978 through 1988. His syndicate memberships included marine syndicate 418 in 1985, an account that remains open with reported total losses of $245 million through 1993.

Those losses are expected to deteriorate dramatically due primarily to U.S. pollution and asbestos claims, according to London analyst Chatset Ltd.

Though he was no longer a member by the time the cases came up in 1990 and 1991, his exposure to large losses compromised his position, contends Monroe H. Freeman, a law professor and specialist in legal ethics at Hofstra University in Hempstead, N.Y. "There was conflict of interest. He still stands to lose money (at Lloyd's), but somewhat less money than he would have because of the decisions he made."

Both rulings involve narrow issues of the Comprehensive Environmental Response, Compensation and Liability Act. But both are influential in environmental law, Mr. Freeman said.

"You have a well respected judge in an important court of appeals going against the EPA," he said.

The first of the Superfund cases—*U.S. vs. Ottati & Goss Inc.*—involved the cleanup of a hazardous waste site near Kingston, N.H., by the Environmental Protection Agency.

The EPA had tried to recover its cleanup costs and reached settlements with most of the owners, operators or handlers involved. But one firm, International Minerals & Chemicals Corp., challenged the EPA, arguing that the federal agency had used too stringent a cleanup standard and therefore spent too much.

At the district court level, the judge upheld the company's lower cleanup standard. In an appellate opinion that also considered several other issues, Judge Breyer upheld the judge's use of the lower standard.

Judge Breyer, who has long been an outspoken critic of mounting government regulation, refers to the New Hampshire cleanup in his 1993 book, "Breaking the Vicious Circle." He explains that seemingly reasonable statutory language, such as that in the Safe Drinking Water Act, could become quite unreasonable if applied to something like a toxic waste site.

"Safe Drinking Water Act goals often express ideal conditions that few actual drinking water systems can meet. Typical statutory goals, for example, may include 'no carcinogens,' a goal that, if taken literally, means not a single molecule of aflatomin, red dye no. 2, or benzene, or, for that matter, not the tiniest microscopic particle of pepper, spinach, or mushroom," Judge Breyer writes in his book.

In the second case—*Reardon vs. U.S.*—Judge Breyer was a member of the 1st Circuit when the full court considered a challenge to the EPA by two people who had purchased a polluted site in Massachusetts.

Though the court found it lacked jurisdiction to hear much of the complaint, it did rule that a lien the EPA had put on the property, under authority of the Superfund law, was unconstitutional.

The EPA had removed tons of contaminated soil and put the lien on the property to secure payment of its costs.

The Superfund law gave the agency the power to put such liens on property without a hearing, but the court found that the lien deprived the landowners of their property without due process of law, a violation of the Fifth Amendment.

In both cases, Judge Breyer acted improperly by not disclosing his Lloyd's interests before the appeals court hearings, contends Mr. Freeman.

"He could have disclosed his interest and gotten a waiver or he could have recused himself, but he didn't," Mr. Freeman said.

But the White House says that when Judge Breyer heard the cases he was unaware that he faced large pollution losses.

If he had known about the losses, he would have recused himself from cases involving Superfund legislation, the White House spokesman said.

'There was conflict of interest. He still stands to lose money (at Lloyd's), but somewhat less money than he would have because of the decisions he made,' contends Monroe H. Freeman, a law professor at Hofstra University.

"That is what he did with asbestos cases when he learned, mainly through press reports, that asbestos was becoming a problem for Lloyd's. That was an abundance of caution," the spokesman said.

Judge Breyer would not necessarily have known the extent of his Lloyd's losses in the early 1990s, according to Charles Sturge, an analyst with Chatset Ltd. in London.

"Names only start reading reports and accounts when they have large losses, and he would not have known about them then," he said.

Other legal ethics experts are less damning than Mr. Freeman.

"I think it was ill advised but not ethically improper for him to be a Lloyd's investor because of the risk of a connection," said Geoffrey Hazard, a Yale University law professor.

If, as he claims, Judge Breyer was unaware of the extent of his pollution related losses at Lloyd's at the time of the cases, his judgment would not have been compromised, he said.

Also, none of Judge Breyer's syndicates was involved with the cases, Mr. Hazard said.

Nonetheless, the risk of a conflict arising for judges should deter them from investing in the insurance business, he said.

Lawyers who follow insurance cases closely were also less critical of the judge.

"Unless you expect them to become Trappist monks, judges are always going to be ruling on issues that affect them in some way," said insurer attorney Thomas Brunner of Wiley, Rein & Fielding in Washington.

Judges often have to rule in cases that might be deemed to have an affect on their lives, agreed Harold J. Moskowitz, a partner at Wilson, Elser, Moskowitz, Edelman & Dicker in New York.

For example, a judge in New York might rule against the city of New York in a case that would directly affect him as a tax payer in the city, he said.

Judge Breyer's involvement at Lloyd's should not affect his nomination as a Supreme Court justice, Mr. Moskowitz said.

"At that level, if he felt that there was any conflict of interest he would just recuse himself," he said.

Judge Breyer resigned from Lloyd's at the end of 1988. However, he still has outstanding unlimited liabilities from his membership in syndicate 418—managed by Merrett Underwriting Agencies Management Ltd.—which suffered huge pollution and asbestos related losses.

Syndicate 418's 1985 year was left open because it was impossible to estimate the extent of the losses.

Normally, Lloyd's underwriters close syndicate accounts three years after the calender year. The underwriter estimates the year's liabilities and, if loss reserves are insufficient, charges the members a reinsurance-to-close premium to cede those liabilities to the next underwriting year.

However, large long-tail claims have recently led some underwriters to conclude they cannot reasonably estimate a reinsurance-to-close premium. As a result, they leave the year open until the liabilities can be more accurately determined.

Members on the 418 syndicate in 1985 received a cash call of 12% of their participation on the syndicate in the spring of 1990. Since then, cumulative cash calls totaling 107% of members' participation have been made on members, said Ken Lavery, chairman of the Merrett 418 action group in Toronto.

With allocated capacity of 140 million pounds in 1985, or about $207 million, total cash calls to date would equal about $245 million.

The members' action group is suing underwriter Stephen Merrett, the Merrett agency and their members' agents for negligence. Mr. Lavery would not reveal whether Judge Breyer is a member of the action group. The case is due to be heard in the London Commercial Court next March.

The members are expected to suffer much worse losses. Chatset ultimately predicts cumulative calls of between 350% and 400% on 418's 1985 account, or about $725 million to $828 million.

The extent of Judge Breyer's losses have not been revealed.

In the late 1980s and early 1990s, he made substantial profits.

In disclosure statements filed with the Judicial Ethics Committee in Washington, the judge reported profits of $15,000 to $50,000 at Lloyd's in 1988, $50,000 to $100,000 in both 1989 and 1990, and $15,000 to $50,000 in 1991.

Then, as the 418 cash calls were made, his fortunes sunk. He reported a profit of $1,000 or less in both 1992 and 1993.

The disclosure form only seeks information on profits in broad ranges, not specifics. BI

Updates

Armco settles pension liability

WASHINGTON—Armco Inc. will pay $27.5 million to resolve its liability over the 1987 termination of an underfunded pension plan sponsored by former affiliate Reserve Mining Co.

The Pension Benefit Guaranty Corp. sued Armco in April, contending that the Pittsburgh-based specialty steelmaker should be liable for Reserve Mining's unfunded pension liabilities because Reserve Mining, which was liquidated in 1986, and First Taconite Inc., which the agency said was created to hold its partnership interest in Reserve Mining, were "alter egos" of Armco.

As part of the settlement, Armco last week paid the PBGC $10 million. In addition, Armco by July 15 will contribute $17.5 million to its pension plan for hourly employees. That plan, which has about 22,000 participants, has about $300 million in unfunded liabilities, according to the PBGC.

Comp rates down, charges up

HARTFORD, Conn.—Rates are falling in the Connecticut voluntary workers compensation market, but assessments on employers are rising.

Insurance Commissioner Robert H. Googins last week approved an average 6.2% decrease in voluntary market rates.

Assigned risk plan rates have been increased by 2.7% effective July 1, reflecting a higher loss ratio in that market.

But at the same time, the charge for workers compensation administrative and second-injury fund assessments is rising.

Based on assessments for these funds, the charge was increased to 21.3% of losses from 13.3%. For policies in the assigned risk plan, the charge on premium increases to 17.1% from 9.1%.

Pension plan interest charges

WASHINGTON—The U.S. Supreme Court will hear arguments next term on how interest charges should be calculated for employers withdrawing from underfunded multiemployer pension plans.

At issue in the case, which involves Joseph Schlitz Brewing Co.—later acquired by Detroit-based Stroh Brewery Co.—is whether interest on an employer's withdrawal liability obligation to the plan accrues from the end of the year before the year of withdrawal or from the date an employer formally withdraws from the plan.

Former CEO sues Empire

NEW YORK—The former head of Empire Blue Cross & Blue Shield is suing the company's directors and officers as well as New York Insurance Superintendent Salvatore Curiale for about $120 million, claiming he was defamed by the group and is owed a package of retirement benefits.

Albert A. Cardone, who was Empire's chairman and CEO from 1987 until his forced resignation last year, asserts in his lawsuit that Empire's current board of directors has denied him health and other benefits due under Empire's Benefits Continuation Plan. He alleges that he has suffered "irreparable harm" as a result of Empire's denial of these benefits, which includes one year's salary, or $600,000.

The lawsuit, filed June 14 in federal court in Manhattan, seeks $40 million in compensatory damages and $80 million in punitive damages.

Furthermore, the suit alleges that prior to Mr. Cardone's resignation, various Empire employees told the media that Empire had filed false financial data and misleading reports with regulators to procure rate increases. These reports were "false and defamatory and were spoken with reckless disregard for the truth and with the intent to wrongfully and maliciously injure and damage" Mr. Cardone and his good name, the suit says.

Neither Empire nor Mr. Cardone's lawyer, Chris Jones of Oppenheimer Wolff & Donnelly in New York, would comment on the suit.

MPs faulted on Lloyd's

LONDON—Former British Prime Minister Sir Edward Heath is one of 11 Members of Parliament who have been rapped on the knuckles by a Parliament committee for failing to reveal their investments in Lloyd's of London.

Last year, the House of Commons ruled that MPs should register with the House the names of syndicates on which they are members. Most complied, but Sir Edward and 10 Tory colleagues refused.

That behavior "sets a bad precedent and is to be deprecated," concluded an all-party select committee on members' interests. The committee recommended stricter disclosure rules.

Briefly noted

The House Merchant Marine and Fisheries Subcommittee on Coast Guard and Navigation will hold a hearing on July 21 on new regulations regarding **shipowners' financial responsibility requirements** relating to oil spill cleanup. The Coast Guard's new rules, which took effect last week, require shipowners to prove financial responsibility through self-insurance, insurance or surety bonds. Membership in protection and indemnity clubs does not constitute self-insurance under the new rules. . . .The New York Insurance Department last month approved an 8% increase for primary **medical malpractice liability insurance rates** for the period beginning July 1 through June 30, 1995. . . .**Connecticut Insurance Commissioner Robert R. Googins** resigned last week before the end of his four-year term, as he had previously announced. Gov. Lowell Weicker is expected to name Deputy Commissioner William J. Gilligan acting commissioner. . . .Gov. Mario Cuomo has authorized New York state's Office of Employee Relations to begin negotiating with state employee unions a **domestic partners health benefits program.** The state hopes to have the plan in effect on Jan. 1.

Does AIG/A&A link signal a trend?

By LEONARD M. WILSON

Special to *Business Insurance*

MORE YEARS AGO than we care to admit, we wrote a column that dealt with the subject of vertical integration between insurance broker and underwriter.

That subject was triggered by Transamerica Corp.'s acquisition of Fred S. James & Co. Inc. We concluded then that amalgamation of broker and underwriter would not be the wave of the future for compelling reasons, including the potential for conflicts of interest that might prejudice service to the clients.

Could times be a-changing with American International Group Inc.'s announced intention to invest $200 million in Alexander & Alexander Services Inc. (*BI*, June 13)? We decided to turn to one of our confidants who characteristically has shed light on issues affecting insurance brokers. Our dialogue follows:

Analyst: Why did Alexander & Alexander bring on a CEO from outside the company?

Contact: A&A's directors had made no bones about their desire to bring on board a new top executive. Their intention was articulated quite emphatically in the 1993 annual report. We hear a lot about shareholder value today from public companies. A&A's shares sold at $40 in 1980 and today are pegged at $17. That dramatic erosion of shareholder value tells you in a nutshell why the directors acted.

Analyst: But why someone with no insurance brokerage experience?

Contact: It appears that the directors perceived the need to change the company's culture to a very significant degree. Therefore, a CEO with no past ties to the organization might have a greater probability of achieving the kind of change that the directors seek. The new CEO, Frank Zarb, has a track record that indicates an ability to reduce costs in a financial service business.

Analyst: Can A&A become materially more profitable? We have written often about shrinking profit margins for most insurance brokers, the consequence of the soft market as well as the alternative market. A&A is not alone in having diminished profitability.

Contact: A&A is still the second-largest insurance broker in the world. The company has many strengths, not the least of which is a seasoned and dedicated group of professionals and employees. The foundation exists for improved productivity and higher levels of profitability. The soft market makes the task more difficult, but brokers must manage their way to higher returns, irrespective of the marketplace.

Analyst: How does AIG fit in? We continue to believe that vertical integration of underwriter and insurance broker has few competitive merits. Are we wrong?

Contact: We can only infer AIG's range of motives. If the infusion of $200 million in cash to A&A is viewed as opportunistic, then we can conclude that AIG is aiming to earn a profit by investing in what they likely view as an undervalued situation. $200 million is not a trivial sum, but its magnitude should be related to AIG's own market capitalization of $30 billion.

Analyst: But AIG is a market for Alexander & Alexander. This is a delicate issue, and how does it get handled?

Contact: I believe both parties recognize the possibilities for conflict of interest. Management on both sides are too savvy to fall into any traps. The operating relationships will no doubt continue to be at arm's length with the client's interest remaining paramount. AIG has no board representation at A&A, emphasizing the financial theme in the relationship.

Analyst: Much has been made of A&A's need for capital and a violation of bank loan covenants. Do you think that AIG's infusion was really necessary, at least as much as $200 million?

Contact: A&A's obligations were difficult to gauge. We can cite a tax liability, continuing obligations related to Sphere Drake Ltd., and the Mutual Fire, Marine & Inland Insurance Co. lawsuit. Undoubtedly, the broker's directors wanted to clear the decks for the new CEO by containing these financial burdens. AIG's investment allowed A&A to attract a new CEO and have some financial breathing space.

Analyst: The AIG capital infusion upon conversion into common stock would increase the number of shares by about 21% and dilute the common shareholder accordingly. Do you think the transaction benefits the shareholder?

Contact: It is a given that no one likes dilution from any quarter. Nevertheless, there are tangible benefits to the shareholder if the combination of new management and greater financial strength produces rising earnings over the next several years. In addition, it is conceivable that resurgent earnings might allow A&A to generate free cash down the road, which then could be used to buy back stock and at least partially offset the effect of the additional shares coming from the AIG transaction.

Analyst: How long will it take to see an effect on A&A's profitability?

Contact: Lacking the perspective of an insider, I can only speculate. It will take a period for the new CEO to develop a program. He will have to focus on cost reduction and new business, both the lifeblood of any insurance broker in a soft market, but particularly germane to A&A currently. I would guess that most of the benefits could be implemented in a 24-month period. Again, though, the status of the commercial lines market will help or hinder, depending on the direction of prices.

Analyst: A&A is the second-largest broker in the world, certainly a formidable competitor. What do you see as the specific strengths of the company that ultimately will provide the foundation for improved performance and higher shareholder values?

Contact: I can see what attracted AIG. A&A is a leader in domestic retail brokerage, the company has a strong position in reinsurance and wholesale brokerage, particularly through operations in London. Retail brokerage in Canada and Europe are other sources of strength.

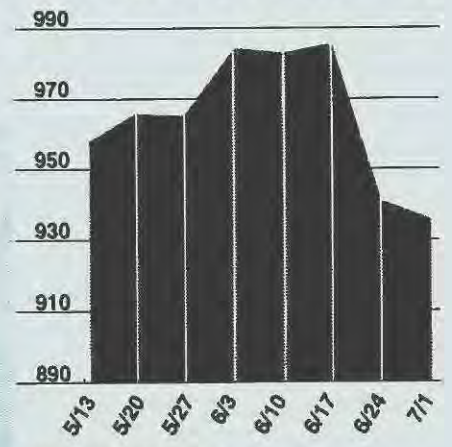
Analyst: The combination of a strong competitive position that needs some reinforcement coupled with new top management and a capital injection are interesting ingredients.

Contact: As you well know, corporate restructurings have become quite common as corporate directors move toward enhancing values for the shareholders. A&A seemingly is a solid enterprise but needs to get more profitable. When you have a strong competitive position and the corporate will to maximize opportunity, the results are usually quite positive for the shareholders. BI



Leonard M. Wilson is a senior vp with Lazard Asset Management Inc. He is a member of the New York Society of Security Analysts.

BI Insurance Index



Base = 100 on Dec. 29, 1978
Source: Nordby International Inc.

Insurance stocks fell last week, as the *Business Insurance* Index lost 4.9 points to 935.8 July 1 from 940.7 on June 24. Advancing issues were led by: Seibels Bruce Group, up 15.4%; Phoenix Re Corp., up 12.8%; and HCC Insurance Holdings, up 12.2%. Declining issues followed: U.S. Healthcare, down 9.6%; Safeguard Health Enter., down 9.0%; and Ohio Casualty Corp., down 6.7%. The most active issue was United Healthcare, 13.6 million shares traded. The *BI* Index fell 0.5%; the Dow Jones 30 Industrials lost 0.4%; the NYSE Composite fell 0.7%; and the S&P 500 fell 0.8%.

British Issues

June 30 Companies	Price pence	P/E*	Div.* pence	Yield %	1 week high—low
Comml Union	506	16.1	31.0	6.1	506—499
Genl Accident	533	10.7	34.4	6.5	552—533
Gdn Royal Exch	170	11.0	9.5	5.6	175—170
Independent	249	3.1	10.4	4.2	249—249
Royal	248	10.8	9.4	3.8	254—248
Sun Alliance	285	12.7	18.4	6.4	290—285
Brokers					
Bradstock	109	12.2	6.9	6.3	112—109
Fenchurch	151	11.8	9.0	6.0	153—151
CE Heath	324	11.6	20.0	6.2	328—324
JIB Group	149	13.1	9.4	6.3	158—149
Lloyd Thmpson	186	12.6	8.4	4.5	230—185
Lowndes Lmbrt	384	12.2	18.8	4.9	402—384
Nelson Hurst	171	16.8	7.0	4.1	173—171
PWS Holdings	55	N/M	2.5	4.5	55—55
Sedgwick Grp	172	19.1	7.5	4.4	172—166
Steel Brl Jones	119	N/M	11.3	9.5	125—119
Willis Corroon	146	13.4	8.3	5.7	150—144

Source: Philip Olsen, London * Figures actual 1993

BI Industry Stock Report JUNE 27, 1994, THROUGH JULY 1, 1994

BROKERS		Price	Weekly % change	Year to date % change	Annual High	Annual Low	Vol.(000)	$ Div.	% Yield	P/E	Book value	Mkt./Bk. value
Acordia Inc.	NYS	28.00	-1.32	13.71	28.75	21.00	12	0.60	2.14	14	10.22	2.74
Alexander & Alexander	NYS	16.50	-1.49	-16.98	27.38	14.00	1134	0.10	0.61	550	6.73	2.45
E.W. Blanch Holdings Inc.	NYS	21.13	4.32	21.58	23.50	15.75	28	0.32	1.51	20	4.10	5.15
Gallagher Arthur J. & Co.	NYS	31.00	1.22	-13.29	37.13	28.13	62	0.88	2.84	15	7.52	4.12
Hilb, Rogal & Hamilton	NYS	12.25	1.03	-6.67	15.13	11.13	47	0.48	3.92	19	4.51	2.72
Marsh & McLennan	NYS	85.25	-0.29	4.76	91.88	77.00	616	2.90	3.40	18	16.76	5.09
Poe & Brown	OTC	19.88	1.92	10.42	20.75	16.88	57	0.40	2.01	16	3.02	6.58
BROKERS	AVERAGE		0.8	1.9					2.3	93		
INSURERS/REINSURERS												
ACE Ltd.	NYS	24.50	2.08	-19.67	36.00	23.75	155	0.44	1.80	5	28.74	0.85
Acceptance Insurance Cos.	NYS	13.38	0.94	15.05	15.63	11.13	36	0.00	0.00	16	9.65	1.39
AEGON N.V.	NYS	51.75	-0.48	-5.48	58.50	43.25	18	2.95	5.69	10	34.71	1.49
Aetna Life & Casualty	NYS	55.88	-1.76	-7.26	66.25	49.75	964	2.76	4.94	-9	71.84	0.78
Allied Group Inc.	OTC	25.50	-0.97	2.00	32.75	22.75	98	0.60	2.35	7	10.45	2.44
Allmerica Prop. & Casualty	NYS	16.88	-2.17	-21.66	22.16	15.00	115	0.16	0.95	9	56.97	0.30
Allstate Corp.	NYS	23.88	-0.52	-19.75	34.25	22.63	543	0.72	3.02	15	18.43	1.30
American General	NYS	27.13	-2.69	-4.82	36.50	24.88	1309	1.16	4.28	22	22.09	1.23
American Heritage Life Ins.	NYS	17.50	0.00	-6.04	25.13	16.75	30	0.60	3.43	11	12.42	1.41
American Indemnity/Fin'l	OTC	11.00	-3.30	-15.38	16.25	10.75	13	0.24	2.18	4	16.18	0.68
American International	NYS	88.13	-1.81	0.00	100.25	81.75	2679	0.46	0.52	14	45.25	1.95
American Re Corp.	NYS	30.38	5.65	7.52	37.50	23.50	227	0.00	0.00	16	14.80	2.05
Aon Corp.	NYS	32.63	-0.76	1.42	39.00	30.00	431	1.28	3.92	11	33.10	0.99
Argonaut Group	OTC	27.50	1.85	-9.84	35.50	26.25	61	1.16	4.22	8	27.65	0.99
AVEMCO Corp.	NYS	14.00	-5.88	-25.33	21.25	14.00	46	0.44	3.14	11	8.13	1.72
Baldwin & Lyons Inc.	OTC	15.00	1.69	0.84	16.25	12.66	5	0.24	1.60	9	12.59	1.19
Berkley W.R. Corp.	OTC	38.63	-0.32	17.94	48.00	32.00	451	0.44	1.14	16	28.12	1.37
Berkshire Hathaway Inc.	NYS	16475.00	1.70	0.92	17800.00	15100.00	0	0.00	0.00	24	8115.28	2.03
Capital Re Corporation	NYS	21.38	6.88	-16.99	28.50	18.50	231	0.20	0.94	8	21.66	0.99
Capsure Holdings Corp.	NYS	15.38	-2.38	13.89	19.38	12.75	9	0.00	0.00	15	13.08	1.18
Chubb Corp.	NYS	77.63	0.49	-1.27	93.38	70.75	759	1.84	2.37	25	46.59	1.67
CIGNA Corp.	NYS	73.25	4.09	15.81	74.00	56.50	1458	3.04	4.15	17	78.23	0.94
CNA Financial Corp.	NYS	61.75	0.41	-21.59	92.63	61.00	136	0.00	0.00	-30	77.92	0.79
Continental Corp.	NYS	15.88	0.00	-42.53	34.63	15.88	1460	1.00	6.30	18	38.99	0.41
EMC Insurance Group Inc.	OTC	9.00	0.00	-5.26	10.25	8.50	6	0.52	5.78	13	N.A.	N.A.
Emphesys Financial Gr. Inc.	NYS	30.25	0.83	NA	32.00	21.25	271	0.60	1.98	8	N.A.	N.A.
EXEL Ltd.	NYS	37.88	-2.57	-15.83	49.38	37.88	802	1.20	3.17	7	33.81	1.12
Fremont General Corp.	NYS	23.75	-1.04	-1.55	28.75	21.50	124	0.76	3.20	7	23.40	1.01
Frontier Insurance Group	NYS	32.00	1.19	-27.07	33.38	25.41	47	0.48	1.50	16	16.33	1.96
Gainsco Inc.	ASE	9.00	0.00	0.00	12.59	7.84	60	0.04	0.44	13	3.49	2.58
General Re Corp.	NYS	110.00	0.34	3.53	133.38	101.75	963	1.92	1.75	15	55.54	1.98
Guaranty National Corp.	NYS	14.63	-4.10	-16.43	24.75	13.75	81	0.50	3.42	10	11.81	1.24
Harleysville Group	OTC	21.00	2.44	-26.32	30.25	19.75	103	0.64	3.05	12	18.35	1.14
Hartford Steam Boiler	NYS	44.13	0.86	-0.84	53.38	42.63	111	2.12	4.80	126	15.80	2.79
HCC Insurance Holdings	OTC	20.75	12.16	2.89	23.84	15.00	90	0.00	0.00	17	14.94	1.39
Home Holdings Inc.	NYS	13.13	0.96	-23.91	18.50	10.63	132	0.00	0.00	-4	19.96	0.66
ITT (Hartford Group)	NYS	81.75	-0.15	-10.90	95.97	77.09	1123	1.98	2.42	11	57.11	1.43
Kemper Corp.	NYS	59.75	-2.65	66.55	65.00	32.88	2530	0.92	1.54	-63	38.98	1.53
Lawrence Insurance Group	ASE	2.50	0.00	-31.03	6.75	1.50	0	0.00	0.00	-6	4.26	0.59
Lincoln National	NYS	42.00	0.60	-2.33	48.25	36.75	547	1.64	3.90	9	32.53	1.29
Markel Corp.	OTC	39.25	-1.26	1.95	44.50	36.50	24	0.00	0.00	9	24.68	1.59
Mid Ocean Ltd.	OTC	25.63	-0.49	-9.29	34.75	25.00	403	0.00	0.00	13	20.24	1.27
Mutual Risk Mgmt. Ltd.	NYS	23.63	-0.53	-21.25	32.75	21.75	50	0.28	1.19	14	5.71	4.14
NAC Re Corp.	OTC	29.75	8.18	2.15	38.25	24.00	180	0.16	0.54	14	19.24	1.55
National Re Corp.	NYS	25.88	-2.36	-15.51	37.13	25.63	248	0.16	0.62	3	17.51	1.48
Navigators Group	OTC	17.25	-2.82	-50.71	39.00	16.50	29	0.00	0.00	-13	16.99	1.02
Nobel Insurance Ltd.	OTC	7.75	-3.13	1.64	8.50	6.63	101	0.20	2.58	5	6.84	1.13
NWNL Companies	NYS	33.50	1.13	3.08	38.75	27.00	326	0.90	2.69	42	23.97	1.40
Ohio Casualty Corp.	OTC	28.00	-6.67	-12.16	36.00	26.50	225	1.46	5.21	13	47.68	0.59
Old Republic Int'l	NYS	22.38	0.00	-0.56	27.63	21.50	224	0.48	2.15	8	23.57	0.95
Orion Capital Corp.	NYS	34.25	0.37	10.93	37.50	28.63	46	0.72	2.10	9	27.43	1.25
Penn-America Group Inc.	OTC	7.00	0.00	-8.94	9.50	6.50	34	0.00	0.00	8	6.21	1.13
Phoenix Re Corp.	OTC	27.63	12.76	0.45	38.25	18.50	436	0.30	1.09	9	19.99	1.38
Provident Life	NYS	26.00	-4.59	-17.79	31.88	24.38	263	1.04	4.00	-13	26.38	0.99
Re Capital Corp.	OTC	12.63	-0.98	-7.34	15.50	12.25	79	0.32	2.53	11	16.88	0.75
Reliance Group Holdings	NYS	5.38	4.88	-30.65	10.38	4.88	1974	0.32	5.95	7	4.22	1.27
RLI Corp.	NYS	21.63	1.76	-19.16	27.75	20.88	12	0.56	2.59	-35	22.91	0.94
St. Paul Companies	NYS	40.38	4.19	-10.03	49.00	37.69	1062	1.50	3.72	9	57.84	0.70
SAFECO Corp.	OTC	55.50	-2.42	1.60	65.75	48.50	1166	1.96	3.53	10	41.59	1.33
SCOR U.S. Corp.	NYS	11.13	0.00	-11.88	16.88	10.13	24	0.36	3.24	32	16.08	0.69
Seibels Bruce Group	OTC	1.88	15.38	7.14	2.13	0.31	144	0.00	0.00	-2	1.90	0.99
Selective Ins. Group	OTC	24.75	-1.98	-18.18	31.00	23.00	99	1.12	4.53	13	23.11	1.07
Sphere Drake Holdings	NYS	16.13	-0.77	-2.27	21.63	14.63	15	0.12	0.74	7	12.17	1.32
Statesman Group Inc.	NYS	14.88	0.00	19.00	15.25	10.13	268	0.10	0.67	6	8.65	1.72
TIG Holdings	NYS	19.50	0.00	-13.81	26.00	17.25	371	0.20	1.03	-14	18.49	1.05
Titan Holdings Inc.	NYS	8.63	-1.43	-20.69	13.38	7.75	71	0.25	2.90	7	8.93	0.97
Tokio Marine & Fire	OTC	32.50	-0.79	15.74	67.00	49.25	37	0.38	0.61	-	57.72	1.08
Torchmark Corp.	NYS	39.13	-0.32	-12.57	59.75	36.75	302	1.12	2.86	10	17.35	2.26
Transatlantic Holdings	NYS	52.63	-1.64	-1.41	61.50	45.38	41	0.36	0.68	14	29.60	1.78
Travelers Corp.	NYS	32.38	0.00	-16.72	49.50	31.75	3431	0.60	1.85	8	33.35	0.97
Trenwick Group Inc.	OTC	40.25	-1.23	3.87	47.75	33.25	91	1.00	2.48	15	26.00	1.55
United Fire & Casualty	OTC	41.75	4.38	15.97	44.00	36.00	2	1.08	2.59	11	28.96	1.44
Unitrin	OTC	40.25	0.94	-5.29	46.25	38.50	187	1.40	3.48	26	38.90	1.03
UNUM Corp.	NYS	44.25	-5.35	-15.71	60.13	44.25	1552	0.96	2.17	11	27.55	1.61
US Facilities Corp.	OTC	13.13	1.94	10.53	14.63	8.25	100	0.00	0.00	14	10.48	1.25
USF&G Corp.	NYS	12.50	-0.99	-17.36	19.63	11.69	776	0.20	1.60	13	10.60	1.18
USLICO Corp.	NYS	18.50	-0.67	12.12	20.50	15.75	16	0.24	1.30	8	25.22	0.73
USLIFE Corp.	NYS	36.00	-2.37	-7.10	45.75	34.88	86	1.24	3.44	8	41.73	0.86
Washington National	NYS	21.50	-3.37	-11.34	26.13	20.63	110	1.08	5.02	8	28.40	0.76
Zenith National Ins.	NYS	23.38	-1.58	5.65	29.13	20.63	65	1.00	4.28	9	17.71	1.32
Zurich Reinsurance Centr.	NYS	27.13	2.36	-3.98	34.00	24.25	229	0.00	0.00	271	24.41	1.11
INSURERS/REINSURERS	AVERAGE		0.2	-6.0					2.4	6.6		
HEALTH MAINTENANCE ORGANIZATIONS												
FHP International	OTC	23.63	-0.53	-9.13	30.00	18.25	1151	0.00	0.00	14	11.43	2.07
PacifiCare Health Sys.	OTC	51.25	-0.24	35.76	60.25	30.50	257	0.00	0.00	20	11.15	4.60
Safeguard Health Enter.	OTC	12.63	-9.01	1.00	15.50	8.75	45	0.00	0.00	15	5.71	2.21
Sierra Health Services	NYS	23.50	2.73	5.62	30.75	15.13	595	0.00	0.00	16	4.60	5.11
TakeCare Inc.	OTC	77.75	0.00	42.66	78.25	38.00	0	0.00	0.00	24	18.69	4.16
United Healthcare Corp.	NYS	45.75	-1.35	22.41	50.75	26.00	13605	0.03	0.07	33	10.64	4.30
U.S. Healthcare	NYS	36.69	-9.55	-4.29	47.50	26.66	8569	0.68	1.85	18	6.21	5.91
Wellpoint Health Networks	NYS	29.63	-1.25	-4.05	37.00	24.00	611	0.00	0.00	15	10.94	2.71
HMOs	AVERAGE		-2.4	11.2					0.2	17		
ALL COMPANIES	AVERAGE		-0.5	2.4					2.5	17		

System design: Nordby International Inc.

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