

# Business Insurance

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

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## Cooney to leave XL Insurance to become CEO of new venture

HAMILTON, Bermuda—A new finite risk and enterprise risk insurer and reinsurer is being set up in Bermuda and will be headed by Robert J. Cooney, currently president and chief executive officer of XL Insurance Ltd.

Initial investors in the as-yet-unnamed reinsurer are Moore Capital, a hedge fund in New York, and Capital Z Partners, an investment fund set up by Stephen Gluckstern, the founder of Centre Re Ltd. More capital will be raised in a private offering.

The new reinsurer will focus on long-tail  
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## Asbestos bill faces struggle in Congress

By MARK A. HOFMANN

WASHINGTON—The Supreme Court's call for a legislative solution for compensating victims of asbestos-related diseases is adding urgency to passage of a bill that would remove many asbestos suits from the courts.

The bill, the Fairness in Asbestos Compensation Act of 1999, sponsored by House Judiciary Chairman Henry Hyde, R-Ill., and a bipartisan group of lawmakers, was introduced in March. The measure, which, among other things would create a national claims facility to resolve asbestos injury claims, drew little attention at first. Similar legislation was introduced last year and died a quiet legislative death.

But last month the Supreme Court thrust to the fore the question of how best to handle asbestos-related cases. On the last day of its 1998-99 term, the justices ruled 7-2 in *Ortiz vs. Fibreboard* that a \$1.5 billion settlement that would have resolved claims against Fibreboard Corp., a unit of Toledo, Ohio-based Owens Corning, did not meet federal standards governing civil cases, particularly regarding class actions (*BI*, June 28).

Justice David Souter wrote for the court, "This case is a class action prompted by the elephantine mass of asbestos cases, and our discussion defies customary judicial administration and calls for national legislation."

But testimony offered and comments made at a hearing on Rep. Hyde's bill last week made it clear that such a solution will not easily be found.

The president-elect of the Assn. of Trial Lawyers of America, Richard H. Middleton Jr., blasted Rep. Hyde's proposal, saying that he spoke not only for the trial bar but also for the thousands of victims it represents in asbestos cases. Mr. Middleton, who also is senior partner in the Savannah, Ga., law firm of Middleton, Adams & Tate, said the bill could itself create a "morass" and "bureaucracy" that would process claims neither fairly nor effi-

*See Asbestos on page 57*

## Drug plan could cut employer health costs

By JERRY GEISEL

WASHINGTON—The Clinton administration's plan to add a prescription drug benefit to the Medicare program could provide a financial windfall for employers with retiree health care plans.

Last week, the administration proposed expanding Medicare to allow beneficiaries to opt for a prescription drug benefit beginning in 2002.

Initially, monthly premiums would be \$24, with retirees and Medicare each paying half of up to the first \$2,000 in bills. By 2008, the monthly premium would be \$44, with Medicare and retirees equally sharing in the first \$5,000 of prescription drug bills. Premiums are supposed to cover about half of the cost of coverage.

While the package would fill in a huge and long-standing gap in coverage for many of the  
*See Medicare on page 57*

### A prescription for benefit reform

President Clinton's Medicare proposal would offer coverage of prescription drug benefits for the first time, starting in 2002. Details include:

**Premiums:**  
Initially set at \$24 a month, rising to \$44 by 2008.

**Participation:**  
Voluntary, though government would pay premiums for low-income retirees.

**Benefit:**  
Medicare would pay 50% of first \$2,000 in prescription expenses annually, later rising to \$5,000 limit.

**Private coverage:**  
Employers would receive financial incentives to offer retiree health care plans with equivalent prescription drug benefits.

GRAPHIC BY MIKE GARVEY

### More lawsuits predicted

## Temps seek benefits

By ROBERTO CENICEROS

LOS ANGELES—A Web site for the law firm Bendich, Stobaugh & Strong P.C. invites any temporary, contracted and leased employees who have performed work for Los Angeles-based Atlantic Richfield Corp. to download a claim form.

The Web site is example of a growing number of plaintiffs attorneys seeking clients for potentially lucrative class actions that allege employers improperly withheld pension and welfare

benefits from temporary, freelance or contract workers who should be regarded as employees.

Seattle-based Bendich, Stobaugh last month filed such a suit in federal court in Los Angeles against ARCO on behalf of nine people the suit contends were "misclassified" by the company as non-employees. The complaint alleges violations of the Employee Retirement Income Security Act and seeks to recover retirement, 401(k) plan, stock bonus plan, and health and dental benefits.

The ARCO suit is one of at least

two recently filed against Los Angeles-area employers alleging that benefits are due these workers.

More such complaints are sure to follow, predicted Teresa R. Tracy, a partner and employer defense specialist for Baker & Hostetler L.L.P. in Los Angeles.

Nationwide, about half a dozen similar lawsuits have been filed against large corporations, and others are likely to come, said a spokesman for Bendich, Stobaugh. The plaintiffs firm works closely with labor and non-profit organizations

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## Y2K bill awaits signing

Measure would limit liability related to computer problem

By MARK A. HOFMANN

WASHINGTON—Congress may have helped assure a happier New Year for business last week when both houses overwhelmingly approved a bill that would limit liabilities stemming from the Year 2000 computer problem.

The House voted 404-24 for the measure on Thursday afternoon, and the Senate followed suit an 81-18 vote later that evening. White House spokespeople indicated that President Clinton would sign the bill, even though he previously had threatened to veto earlier versions of the Y2K legislation, which he said did not provide enough protections for consumers.

The passage of the legislation drew praise from insurers and employers alike.

"We think this is a very important piece of legislation that will help encourage remediation and reduce frivolous litigation," said Melissa Shelk, assistant vp at the Ameri-

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The White House expects President Clinton to sign the recently passed Y2K bill, even though he had threatened to veto previous versions.



PHOTO: AP/WIDE WORLD

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## Updates

### XL exec to join new venture

Continued from previous page

casualty and life and annuity business, said Mr. Cooney, who will leave XL later this summer to become CEO of the new company.

"We'll be targeting highly structured transactions where there's an opportunity to invest the reserves over a long period, and we'll be looking at alternate asset classes," he said.

The reinsurer also will seek to cover enterprise risks, which are business risks not traditionally covered by insurance.

Mr. Cooney joined XL as a senior vp in 1987 shortly after the insurer was founded. He was named president and CEO in March 1998 and has been one of its longest-serving executives along with Brian O'Hara, president and CEO of XL Capital, the group holding company.

The new appointment will give Mr. Cooney the opportunity to head a company and to be more involved in structuring deals rather than he is in his executive management role at XL, he said.

Also, it is better to make a major career change now rather than later, Mr. Cooney said. "When you make a career move, it's best to make it at the top of your game," he said.

It will likely be several more years before there is any change at the top of XL, Mr. Cooney said. "You never know how a succession will turn out, and Brian O'Hara is only 50, and I'm 45, so he is not going anywhere anytime soon," he said.

### GTE seeks cover for Y2K costs

NEWARK, N.J.—GTE Corp. has sued five insurers, seeking coverage for the cost of its Y2K remediation efforts.

The suit charges that the Irving, Texas-based telecommunications company had insurance policies with the defendant insurers—Allendale Mutual Insurance Co., Affiliated FM Insurance Co., Allianz Insurance Co., Federal Insurance Co. and Industrial Risk Insurers—that should cover the cost of its Y2K remediation program.

According to the suit, the policies contained "sue and labor" clauses that require GTE to expend money to safeguard its computer data and software and that say such expenses would be covered.

GTE filed a claim with the insurers June 17, stating it expects to spend \$380 million on fixing its Y2K problem. The suit, filed the next day, seeks a declaration that this amount would be covered.

Although the complaint does not say the insurers have denied coverage, it does say Allendale has informed GTE that it would impose restrictions on the policies for Y2K losses.

John Pomeroy, general counsel for Factory Mutual Insurance Co. in Norwood, Mass., the successor of defendant Allendale and parent of Affiliated FM, said the company has not been served with the complaint and "in due time will formulate a response."

Brent Sorenson, senior vp of claims for Allianz in Burbank, Calif., called the suit "a novel approach." Sue and labor clauses, he said, don't apply to Y2K remediation.

GTE, however, is not the first entity to seek coverage for its Y2K remediation expenses using the sue and labor clause: The Port of Seattle recently sued Lexington Insurance Co. for such coverage (BI, June 14).

### HMOs drop Medicare in places

WASHINGTON—Health maintenance organizations plan to withdraw coverage for at least 250,000 Medicare beneficiaries next year because of insufficient federal government reimbursement, according to the American Assn. of Health Plans.

July 1 was the deadline for Medicare managed care plans to notify the Health Care Financing Administration of their willingness to participate in the Medicare program next year.

An AAHP-sponsored survey included 23 of AAHP's largest member health plans. They represent 4 million Medicare+Choice beneficiaries, or about two-thirds of all current Medicare managed care beneficiaries, according to the AAHP.

A HCFA spokesman said it was too soon to determine the total number of Medicare beneficiaries affected by the withdrawals for the Year 2000. For this year, pullouts affected an estimated 400,000 HMO Medicare recipients, he said.

The AAHP survey that estimated 250,000 people would lose Medicare HMO coverage also found that, next year, 1.5 million of the 4 million beneficiaries covered in its survey will have premium increases, including 930,000 whose increases will amount to more than \$20 a month.

HMOs offering Medicare-risk programs complain that, though they offer richer benefits than traditional Medicare plans, their reimbursements from HCFA are insufficient in certain areas of the country and they cannot afford to continue the coverage in those places.

"We are very active in our efforts to effect some positive change to the program, but I think the change will be long in coming," said David K. Erickson, vp-investor relations for PacifiCare Health Systems Inc., which is discontinuing operations affecting 16,400 members, or slightly more than 1.6% of its 991,000 Medicare risk members nationwide.

HCFA Administrator Nancy-Ann DeParle issued a statement that, in part, HCFA is disappointed HMOs "are making decisions that will force some Medicare beneficiaries to change their health coverage and, at the same time, scaring them about their Medicare benefits." Medicare "will always be there for every beneficiary," she said.

Other HMOs that announced Medicare withdrawals last week include: Foundation Health Systems Inc.; Humana Inc.; United HealthCare Group; Oxford Health Plans; CIGNA Corp.; and Aetna U.S. Healthcare.

### PBGH to see 10% rate increase

SAN FRANCISCO—Premiums will increase 10% under an agreement between the Pacific Business Group on Health and 11 California health maintenance organizations—an amount that is double the sum of the net increases PBGH members have experienced over the past five years.

The increase for year 2000 contracts irked the purchasing group into

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# Superfund spending

## Percentage of money used on cleanups drops: GAO report

By AMANDA MILLIGAN

The amount of Superfund money spent on cleanup work has declined six percentage points from 1996 to 1998, according to a recently released report.

Contractor cleanup costs dropped to 42% of total Superfund expenditures—or \$595.3 million—in 1998 from 48% of total expenditures—or \$685.4 million—in 1996, the U.S. General Accounting Office.

The report, titled "EPA Can Improve Its Monitoring of Superfund Expenditures," found that despite a reduction in contractor cleanup costs, overhead expenditures continued to rise each year surveyed.

According to the GAO report, costs for site-specific work, which includes such activities as site analyses and supervising cleanup crews, jumped 10% to \$253.9 million in 1998 from \$230.4 million in 1996. Non-site-specific support, which are costs to the overall Superfund project such as financial management, increased 5.5% to \$553.9 million in 1998 from \$524.9 million in 1996.

In a letter written in response to the GAO's findings, the U.S. Environmental Protection Agency criticized the report for focusing only on Superfund monies spent toward cleanup and not also including

See Superfund on page 58

# 1998 U.S. A&E losses up: Best

By MICHAEL PRINCE

Reversing a two-year trend, U.S. insurers' net incurred losses for asbestos and environmental liabilities jumped 44% in 1998, fueled largely by reserve additions by a handful of companies, according to preliminary data of A.M. Best Co.

Although the rise in A&E losses to \$2.7 billion was the first increase since 1995, 80% of last year's losses were generated by 10 insurers, the report says.

Despite the big percentage jump, the impact of the higher

losses added only one point to the overall industry's combined ratio.

"This is a modest impact on the industry," said Dolson Smith, senior financial analyst in the property/casualty division of Oldwick, N.J.-based A.M. Best.

But, he cautioned, the impact is heavily felt by some insurance groups that saw large increases in A&E losses.

The overall numbers are not alarming, "but for individual companies there could be a great deal of concern," he said.

The biggest change came with the CGU Group, which saw its

combined ratio climb 15 points in 1998 to 128.2% because of its \$616 million in A&E net incurred losses. The increase was attributed to reserve additions made by Commercial Union P.L.C. and General Accident P.L.C. prior to their 1998 merger, which formed CGU P.L.C.

In fact, the CGU increase was so large it accounted for almost two-thirds of the industry's 44% increase, according to Best.

Other insurance groups whose reserving had a large impact on 1998 combined ratios included:

• Prudential of America Group,

See A&E on page 58

# Voluntary benefits see gains

By MICHAEL PRINCE

This is the dilemma:

Employers want to add benefits to attract and retain employees. But benefits cost money. With health plan costs rising, employers have little money to spend on other programs. So how to escape this predicament?

Voluntary benefits.

Voluntary programs offer benefits to employees, who pay all or

most of the premiums, for a better price than they can get on their own. In addition, these programs have the added attraction of being payable by payroll deductions. Benefits commonly offered include life, auto, home, disability and long-term care insurance.

Voluntary benefits are "a great tool" for solving the problem of how to offer more benefits without paying more money, said Robert Sollman Jr., senior vp at Metropolitan Life Insurance Co.

in New York.

Theresa Gelchie, associate director of human resources for New York Medical College, said these programs "add value to the overall benefit programs without hitting the bottom line." The medical school, in Valhalla, N.Y., added a voluntary program in 1998 for its 1,500 employees.

Although voluntary benefits are not new, there has been a recent surge in activity. The past two

See Benefits on page 56

# Government-backed suits face uncertain future: Panel

By MARK A. HOFMANN

WASHINGTON—The outlook for government-sponsored product liability litigation remains as cloudy as the smoke-filled rooms that some of its most vocal advocates hope to clear.

The state attorneys general's lawsuit against the tobacco industry will be remembered as but the first in a series of government-backed lawsuits against unpopular products, warn some speakers at a discussion of government-sponsored litigation at the U.S. Chamber of Commerce late last month.

Others argue that tobacco presented a special

case, and that governments that sue other industries to recover funds for damage allegedly caused by those industries' products will have a much harder time.

Meanwhile, government plaintiffs—including the federal government—would have to play by the same rules as private plaintiffs if a legal reform bill introduced only a day after the conference becomes law.

The proposed Litigation Fairness Act of 1999 "is necessary to prevent an avalanche of lawsuits against law-abiding companies," said Sen. Mitch

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## Inside

• The Y2K compromise bill represents a hard-won legislative solution to a unique problem, this week's editorial says. **PAGE 8**

• New Zealand's newly privatized workers compensation system is generating strong insurer competition and lower insurance rates for New Zealand employers. **PAGE 49**

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Business Insurance (ISSN 0007-6864) Vol. 33, No. 27, is published weekly by Crain Communications Inc., 740 N. Rush St., Chicago, Ill. 60611-2590. Periodicals postage is paid at Chicago and at additional mailing offices. POSTMASTER: Send address changes to Business Insurance, Circulation Department, 965 E. Jefferson Ave., Detroit, Mich. 48207. \$4 a copy and \$89 a year in U.S. \$109 in Canada and Mexico (includes GST). All other countries \$209 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 0293512. GST No. 136760444. Printed in U.S.A. Copyright 1999 by Crain Communications Inc.

Presorted Standard mail enclosed in Editions 02, 05, 08, 14, 18, and 20. Presorted Standard postage paid at NY RCSC under CPP.

# Buyers see few big rate hikes, despite talk

By MICHAEL BRADFORD and MEG FLETCHER

Try as they might, most insurers are having little success in wringing large premium increases at renewals, risk managers say.

Underwriters in some cases appear to be trying to create a hard market with small price increases and talk of an impending tightening, buyers report. But when push comes to shove, they aren't seeing much in the way of price hikes at midyear renewals.

Among the lines of coverage renewed, rates for property and casualty coverage generally remain down, or up only slightly for some accounts.



Catastrophe-exposed property and boiler and machinery coverage are exceptions to the rule, according to some risk managers.

Conversations with brokers have indicated to Susan Moreland, director-risk management for The San Francisco Newspaper Agency, that "some of the larger (insurers) are acting as if it is hardening" by being a little less competitive during the current renewal.

"They're trying to act as if a hard market is starting," she said.

"I know brokers are all whistling in the dark hoping the market will change," said Fred W. Barrowman, risk manager and senior attorney for risk and claims at ONEOK Inc., a transportation and distribution company in Tulsa, Okla., providing services to gas utilities. "As long as the stock market thunders along at this rate, there will continue to be a lot of capacity and a soft market," he predicted.

The commercial property/casualty market overall "is still in the doldrums," said James E. Crockett, manager of risk and benefits for Denver Water, the water department for the Denver metropolitan area.

"Very little is happening except the mergers among insurers," which eventually might lead to higher premiums as the number of companies in the market shrinks, he said.

Another sign of possible change, he added, is that "underwriters are asking for information about the risk, and that is usually a harbinger of future premium increases."

One line of coverage where insurers might be able to make rate increases stick is property insurance, suggested one risk manager.

"I expect the market generally to harden slightly—3% to 5% overall—based on natural disasters other companies have experienced," said Stan Smith, director of risk management for Boyd Gaming Corp. in Las Vegas.

The U.S. insurance industry reported \$10.4 billion in catastrophe losses in 1998, the third-worst year on record (BI, Jan. 18).

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# Brokers label market as being 'in transition'

By MICHAEL PRINCE and SALLY ROBERTS

The widespread drop in prices has ended, and brokers now see numerous areas where rates have steadied or increased during the midyear renewal season.

Although the rate increases are not large, nor do they apply to every policyholder, they are sufficient for many brokers to call this a time of transition.

"I think that there clearly are areas of the country and business lines where, in fact, it appears rates are not getting much softer," said Frank C. Witthun, president and chief executive officer of Acor-dia Inc. in Indianapolis.

"That's hardly a ringing endorsement of super growth, but, at least, it appears rates are not dropping," he said.

Overall, rates are "a little firmer than January. The discount is not quite as great," said J. Hyatt Brown, chairman, CEO and president of Brown & Brown in Daytona Beach, Fla. "There's a little firming in the marketplace."

Opportunities exist for rate reductions in the property market, "but they're not as constant and ever-present as they were a year ago," said Rob Meyers, managing director for Marsh Inc. in New York.

Michael D. O'Halleran, president of Chicago-based Aon Group Inc. and president and chief operating officer of parent company Aon Corp., said he is seeing account-specific rate increases in various lines of business, including medical malpractice, workers compensation and directors and officers liability insurance.

"We are not experiencing any significant rate increases

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# Insurers rejoice at first few signs of firmer pricing

By ROBERTO CENICEROS and MARK A. HOFMANN

Will a long-awaited turn in the commercial insurance market arrive before the turn of the century?

Insurers say they are beginning to notice signs that it just might. During the past two or three months, insurers have begun to see something they haven't seen for at least a decade: firming commercial lines rates and tighter underwriting.

The rate increases being quoted for standard property/casualty lines are not huge, running 3% to 5% in many cases. In a few cases, though, increases have been double those levels, some insurers say.

Yet there is nothing on the horizon that points to a drastic market hardening such as last occurred in the mid-1980s, other insurers contend.

"There is still way too much capital in the market to drive a dramatic change," said Stephen W. Lilienthal, executive vp-commercial lines group for The St. Paul Cos. Inc. in St. Paul, Minn.

But, due to pressure to improve their results, several insurers say they are more willing to walk away from underpriced business than they were six months ago. They expect rates to continue to firm moderately for desirable accounts. New accounts and poorly performing ones will face increased scrutiny, and some insurers said they sense that with rates firming, their competitors are now growing reluctant to lock into multiyear contracts.

In response, some large accounts since April have begun to change their buying habits, said Dinos Iordanou, chief executive officer of Zurich U.S. in Schaumburg, Ill. "They believe that they are not buying below cost on a guaranteed-cost basis anymore," he said. "They want to take their chances on their own experience. So they are reverting to the large-deductible and retro plans."

Rates for most classes of commercial property/casualty insurance have bottomed out, and buyers are finding fewer underwriters who are willing to offer terms and prices that are less than expiring ones, Mr. Iordanou said.

Joe Gilles, senior vp-business markets for Liberty Mutual Insurance Co. in Boston, said: "Everybody—our competitors and us—is more selective. Coverages are being restricted, and there is more variety in terms of rate changes."

Certain rates still are decreasing, others are flat, some are positive and some lines have seen big increases, Mr. Gilles said. A year ago, he added, those customers all would have received similar reductions. Now, there is a broad range of rates because of a shifting and unprofitable market.

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# HMO rate hikes accelerating toward double digits

By JERRY GEISEL and AMANDA MILLIGAN

Health maintenance organization rate increases are accelerating, with no sign that rates will stop climbing any time soon.

"We certainly have seen an escalation of cost trends in just the last few months," said Randy Abbott, a senior consultant in Watson Wyatt Worldwide's health care practice in Philadelphia.

"It is not going to be a pleasant renewal season this year or next year," said John Erb, area vp of Gallagher Benefit Services in Boca Raton, Fla.

While at the start of the year HMOs were boosting rates typi-

cally by 4% to 7%, the range for July 1 renewals now is 6% to 12%.

Rates will be climbing even more for other types of plans. Rate hikes for point-of-service plans generally will be one to three percentage points more than increases for traditional HMOs, while preferred provider organization rate increases will average 9% to 12%.

The new round of rate increases marks a sea change from the era of rate stability, which lasted from 1993 to 1998. Rates began to rise in mid-1998 and have accelerated ever since.

And as grim as the news is for employers, no one is willing to say the worst is over and that rate in-

creases will begin to slow. "There now seems to be an opportunity for HMOs to raise rates. I don't know how long that will



continue before the market resists," said Ken Jacobsen, national health practice leader in the Atlanta office of The Segal Co.

"The rate pendulum is swinging the HMOs' way," concurred Blaine Bos, a principal with William M. Mercer Inc. in Chicago.

Still, some benefit managers worry that discussions of rate hikes will become a self-fulfilling prophecy.

"We are reluctant to talk about preliminary rate adjustments," because all the talk about rising health care costs has made increases inevitable for next year, said Bruce Taylor, director of health care for GTE Corp. in Irving, Texas.

But HMOs and others say rate increases are necessary, as nearly five years of price competition

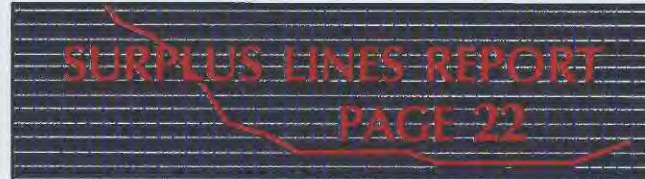
have eroded their financial base.

"We have come off a period where rates were depressed," said Susan McLaren, vp-sales with Tufts Health Plan, a Waltham, Mass.-based HMO with about 1.3 million enrollees. Tufts said its July 1 rate increases generally will range between 6% to 9%.

"Many HMOs still are in a tough financial position, though that is starting to change," said Tom Beauregard, a consultant in the Rowayton, Conn., office of Hewitt Associates L.L.C.

Indeed, HMOs have plenty of catching up to do. For example, in the first quarter of this year, 10 of the 22 HMOs doing business in

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# Overcapacity in London keeping rates low

By SARAH GODDARD  
and EDWIN UNSWORTH

Overcapacity, rampant competition and multiyear deals are combining to keep London market property/casualty premiums the lowest they have been in many years, and there are few signs that the market is going to harden in the near future.

Despite dire predictions of future losses—current estimates of losses at Lloyd's of London for the 1998 year of account are running anywhere between £60 million and £500 million (\$94.6 million and \$788.5 million)—more capacity is entering London than is leaving.

Already this year, Houston-based insurer HCC Insurance Holdings Inc.

has entered the London market, while Swiss insurer Rhine Reinsurance Co. Ltd. is setting up a new operation in the London Underwriting Centre. Marsh & McLennan Capital Inc.-backed Danish Reinsurance Co. Ltd. intends to set up a Lloyd's operation for the 2000 year of account, as is another Marsh-backed operation, New-market Managing Agencies.

Although it felt the heat of large catastrophe and satellite losses in 1998, Sydney, Australia-based Reinsurance Australia Corp. Ltd. is still planning to launch a Lloyd's syndicate in the near future.

There have been some withdrawals of capacity from London—most of them from property business—though not enough to have had any marked

impact on the rating environment.

AIG (Europe) Ltd. earlier this year closed facultative reinsurer AIU Re and the primary property arm of its



energy division. At the same time, another subsidiary of American International Group Inc., Lexington Insur-

ance Co., decided to cease writing new international property business from London (BI, May 24).

Shortly after the AIG withdrawal, Odyssey Re (London) Ltd., part of the Toronto-based financial services group Fairfax Financial Holdings Ltd., stopped writing in London as part as of a worldwide reorganization of its Odyssey Re operations. The move came just days after Fairfax announced it had bought \$1 billion in stop-loss coverage for group exposures above its aggregate reserves (BI, May 31).

The first 1999 withdrawal from the London market—the January shutdown of Liberty Re Ltd. just over a year after it was launched with £250 million (\$394.3 million) in capacity—

caused little concern, mainly because the reinsurer had not made much of an impact in the market. But the AIU Re and Lexington withdrawals are seen as signals that market conditions remain poor and are unlikely to improve any time soon. At the time AIG shut down both operations, a company spokeswoman said soft market conditions with no signs of change on the horizon were the factors behind the decision to stop writing property business in London.

U.S. insurer UNUM Corp. also is exiting the London market, seeking to sell its Duncanson & Holt Europe Ltd. subsidiary, though no buyer has yet been announced.

In spite of the departures, the net result of the London market's many entrances and exits this year is an increase in capital, adding pressure on companies to not raise rates.

"Despite our hopes earlier this year that everything had bottomed out, it hasn't happened yet," said Charles Catt, managing director of NAC Re International Ltd. in London, and a board member of the International Underwriting Assn. At January renewals, he said, "I thought the market was at the low point, but it has still managed to go down."

In some cases, buyers have been switching insurers to obtain greater rate reductions, said Adrian Ballardie, chief executive of London-based AXA Reinsurance (UK) Ltd., as some insurers and reinsurers have been trying to stand firm on pricing.

Some contend that pricing in the London market, as a whole, still has further to fall.

"Generally, we think that rates in 1999 are going to continue to reduce across the board," said Dominic Simpson, senior analyst and vp-European property and casualty insurance and reinsurance with Moody's Investors Service Ltd. in London.

Although aviation rates likely will reach a "standstill" in 1999, both marine and non-marine rates are continuing downward, said Mr. Simpson.

"The market is bumbling along at the bottom," according to Guy Bessis, managing director of global property and casualty at broker Willis Corroon Group Ltd.

"I think we will be navigating around the bottom for some time. I think the market will need to have a lot more pain to see some changes. . .there is oversupply of capacity and continuing consolidation, which create competitive pressures," he said.

But, according to market executives, some sectors, particularly the international property retrocessional market, are showing signs of stabilization.

Martyn Hooper, managing director of non-marine business at London broker Kininmonth Lambert Ltd., said some London market business is showing signs of hardening, caused by a strengthening of insurers' resolve and recent adverse loss experience.

Mr. Bessis of Willis said the market needs "a change of sentiment." And that change must be broader than just a few underwriters walking away, as those abandoned accounts can still be placed with other underwriters, in part because of the excess capacity in the market, he said.

Rob Childs, underwriter at Hiscox Syndicates Ltd., described the market as "grim," though he added that direct reinsurance rates seem to have stabilized recently and that retrocession rates are starting to "go up a bit."

Capacity is "a little more scarce" in the bottom-end retrocession business; that is helping to push rates up marginally, he said. Nevertheless, any rate increases in property business generally have been driven by the loss records of the accounts. Speaking toward the end of last month, Mr. Childs said, "over the last three weeks, almost all the business has renewed as

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# London

Continued from page 4

before" as far as rates are concerned. "The only thing that will (harden the market) is old-fashioned stuff like willpower and being prepared to lose business," he said.

Certain categories of business, such as Caribbean property, are beginning to harden, said John Pelly, chairman and CEO of Willis Reinsurance in London. "There is a significant variation, depending on claims record and claims experience," he said.

As the poor results come home to roost, shareholder dismay at low returns on equity could trigger a capacity withdrawal, as investors demand their capital be put to more-fruitful use, some market executives say.

This year, loss activity has been above that of recent years. Oklahoma

tornadoes; two major satellite losses; the Sydney, Australia, hailstorm and other losses coming on the heels of a higher-than-usual property loss experience in 1998 could help stabilize the market, said Moody's Mr. Simpson.

Since January, there have been about \$1 billion of claims notifications from last year's Hurricane Georges, said Tony Taylor, underwriting director at Wellington P.L.C.

Some insurers suggest that the claims have been slow coming through because the business is caught up in a London market spiral. Even if this is the case, it is unlikely to be as complex and threatening as the London market excess-of-loss spirals of the late 1980s and early 1990s.

Mr. Taylor, though not upbeat about the conditions, thinks the market "is kind of at the turning point." Wellington, he said, is getting reports that some U.S. insurers are increasing

rates on commercial business.

In addition, attritional catastrophe losses are beginning to hurt, he said. Although the losses generally are \$200 million to \$500 million, he said, the attrition is hitting the net accounts of primary markets rather than reinsurers. "I think there are enough losses in the system to change things," he said.

And several years of rate reductions between 15% and 25% are strengthening the resolve of certain insurers, said Mr. Pelly. "Without doubt, we are seeing certain insurers saying they are either getting an increase in the price or they will walk away," he said. Reinsurer Munich Re, for example, recently stated in its annual report that it will not be granting rate reductions.

Despite such sentiments, widespread withdrawals of capacity are not yet materializing. "There's still a lot of capacity in the market. And while there have been a couple of

withdrawals, I don't see any further significant withdrawals in the short to medium term," said Kininmonth Lambert's Mr. Hooper.

Neil Maidment, treaty underwriter at Lloyd's agency Beazley Furlong Ltd., agreed. "My own perception is that there is not yet a capacity crunch," he said. "Until there are losses of significant size, whether it's catastrophes or a stock market correction...there's still quite a lot of capital around for most risks."

AXA Re's Mr. Ballardie said he welcomed AIG's decision to walk away from certain London market property business. "When the AIG pulls the plug, it usually means there is a good reason behind it. If enough people take that attitude, capacity shortens and we are off into a hard market," he said.

"For the first time in many years, many insurers and reinsurers are try-

ing to change conditions," said Mr. Pelly. Even so, there is no indication of universal rate increases "or that the market is on the turn," he said.

Reg Brown, underwriter for non-marine syndicate 702, which specializes in liability business, said he sees some improvements in rates, though "it will take a long time to recover."

In general, liability market conditions are "flattening or bottoming out," he said, and some—but not many—renewals were showing rate increases. Six months ago, there were no rate increases at all, he said.

The pain is there, as is the will to turn the market, but multiyear coverages are slowing down a possible upturn, according to several market executives. Many buyers have opted for multiyear contracts to lock in the soft market conditions.

"Certain buyers think now is a good time to lock in, because the market can't go down much further," said Tony Hill, director of London-based broker Ballantyne McKean & Sullivan Ltd.

At the same time, the prevalence of multiyear contracts means insurers and reinsurers can't take advantage of annual renewals to increase premiums and tighten coverage conditions.

Nigel Barton, underwriting director at DP Mann Underwriting Agency Ltd., said he was seeing fewer two- and three-year deals being struck at the moment. The prevalence of multiyear contracts, however, in past years may be hampering an upturn in pricing, he added.

Mr. Barton agreed with the general opinion that there is a great deal of pain across the market, though he said it is at different levels in different classes. He said the underwriting agency is working with clients and brokers to explain exactly why rates in certain sectors must go up, so that everybody understands the reasoning behind the decisions and so buyers have explanations to take back to their organizations.

George Lloyd-Roberts, underwriter for syndicate 55, said he does not remember the market ever being so bad. He said it is likely that his syndicate writes only one in 20 of the facultative coverages on which it issues quotes. For renewals, rates may be stable, but the insured values have increased, he said. "It may not be quite so overt, but there still are rate reductions (in effect)," he said.

"Nobody is making any money," Mr. Lloyd-Roberts said.

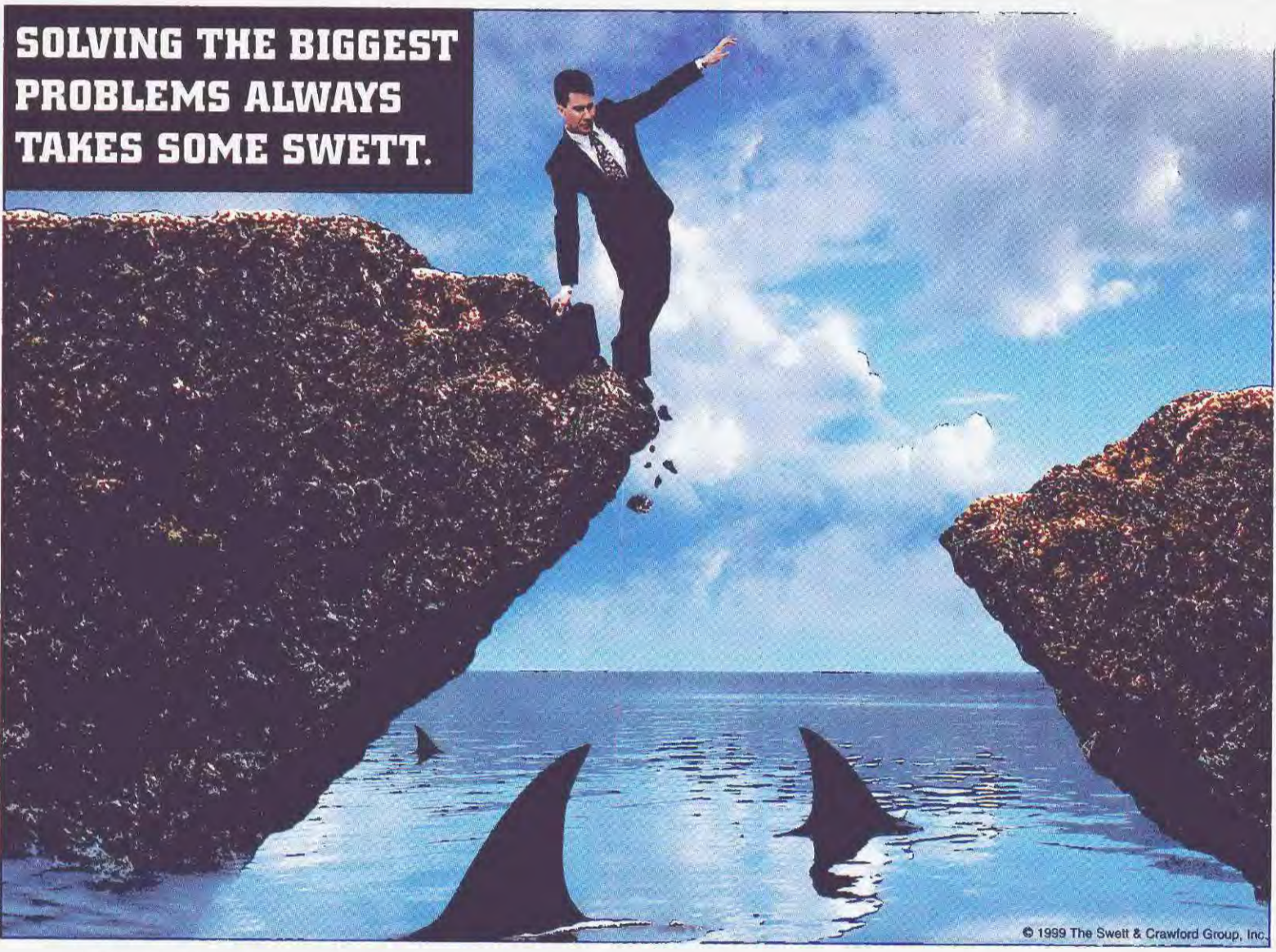
He said he suspects there will be a "small bloodbath" for Lloyd's 1997 and 1998 years of account, and he says there could be a correction in non-marine business at Lloyd's quite soon. The problem, Mr. Lloyd-Roberts said, is that in the larger scheme of things Lloyd's is a small player in non-marine business, he said, and a buoyant investment market in the United States means that U.S. insurers are still generating ample investment income to offset low underwriting returns.

Mr. Lloyd-Roberts said he doesn't expect the market to start to turn until this time next year, though he added that he wouldn't be surprised if it took another 12 months beyond that.

Julian Phillips, a consultant with the London office of Tillinghast-Towers Perrin, said he thinks a London market upturn is even further away.

"I don't think there are significant changes on the immediate horizon," said Mr. Phillips. "There is a bit of falling away to come...Capacity should have started to disappear by now, because few people are making money, but we are seeing consolidation, particularly at Lloyd's."

Bringing all the market factors together, "unless there are significant catastrophes, we will not see significant hardening for three years," predicted Mr. Phillips.



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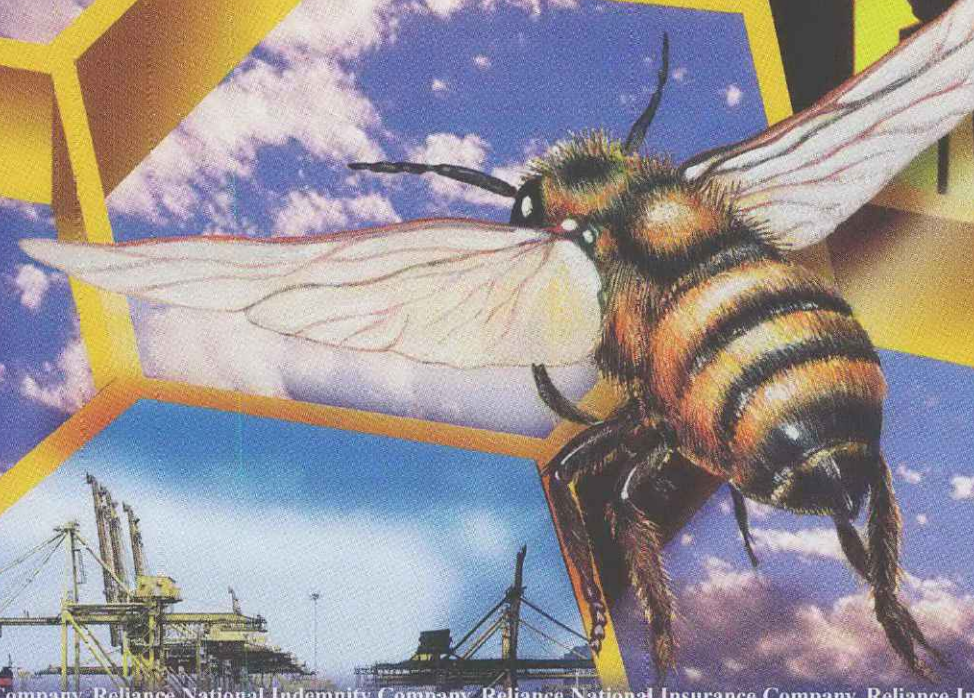
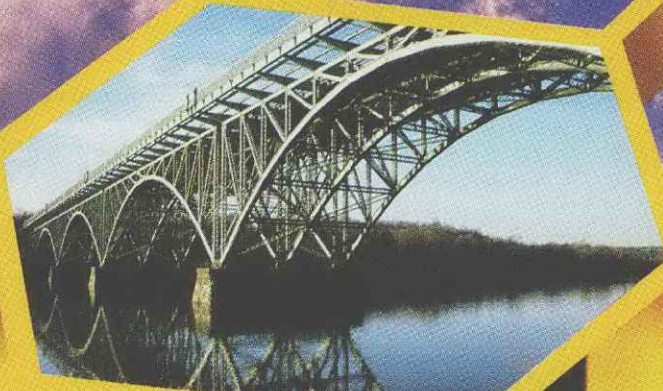
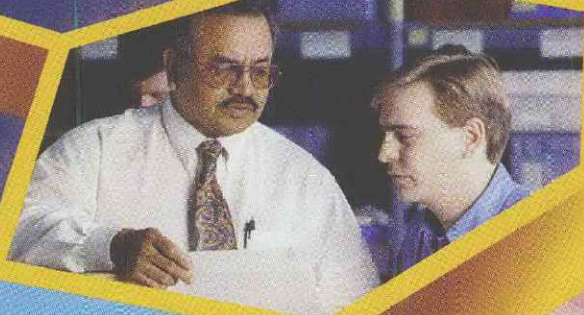
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# Opinions

## Y2K compromise welcome

**T**HE YEAR 2000 COMPUTER problem arises from a rare calendar occurrence—the turn of a century. That has led to an equally rare legislative occurrence: agreement on a meaningful federal tort reform measure.

The announcement last week that the White House and congressional negotiators had tentatively agreed on a compromise bill that would offer businesses some much-needed legal protections against liability arising from the Y2K computer problem came as welcome news for more than one reason.

Most importantly, the agreement is well-received because it shows that meaningful federal tort reform is not impossible to achieve, if the expectations of reformers remain reasonable.

Proponents of the measure wisely resisted the urge to allow the perfect to be the enemy of the good. Instead, proponents of Y2K liability relief agreed to accept a bill that stopped short of providing all of the protections they initially had sought. The resulting bill still would extend protections to businesses against joint-and-several liability, impose restrictions on class-action suits and encourage good-faith efforts to fix Y2K problems without having first to proceed to the courthouse.

In addition, the agreement on a compromise is welcomed because President Clinton has repeatedly threatened to veto Y2K legislation, leaving the very real possibility that there would be no special legal defenses in place when the year 2000 arrived, which after all is less than six months away.

Although White House spokesmen said that the president still had some problems with the bill, they also indicated that he nevertheless would sign Y2K legislation.

By backing off the veto threat, the president has given



businesses some degree of certainty about their legal liabilities as they prepare to deal with the uncertain impact of Y2K.

The Y2K compromise represents a hard-won legislative solution to a unique problem. If it proves as successful in encouraging remediation of this particular problem, as we believe it can, and shuts off a feared flood of litigation before it occurs without unfairly infringing on consumers' rights, the Y2K Act will serve as proof that reasonable federal tort reform indeed can work.

It's a rare opportunity to prove the value of an even-rarer legislative occurrence.

## Letters

### More research needed on quality

To the editor: Regarding the latest Quality Scorecard from the Risk & Insurance Management Society Inc./Quality Insurance Congress (BI, June 21), I question if a future study might attempt to find a correlation between the disappointing results in vendors' performances and the constant pressure from purchasers, for more than a decade, to achieve lower premiums and fees.

Perhaps the results would include a finding that those who insist on spending only 70 cents for a buck's worth of product and service merely get what they pay for.

Michael C. McIntyre  
Manasquan, N.J.

\*\*\*

To the editor: Kudos to the Quality Insurance Council and Risk & Insurance Management Society Inc. for their leadership to help solve a chronic problem for our industry: The utter disdain in which it is held by all too many of our customers, claimants, legislators, and others (including sometimes even our own kids).

At least "utter disdain" is clearly our customers' perception as evidenced by the dismal scores granted our nation's most respected insurers, brokers and claims administrators in the RIMS/QIC Quality Scorecard (BI, June 21).

Those who fared well—relatively so, that is, but still lagging behind other financial

service industries—were most gracious in their comments. But the notion not to conduct this evaluation process on a year-to-year basis defies all quality principles. It's not a single scorecard that matters, it's the longer-term statistical trending that counts.

Is continuous improvement in evidence? Are initiatives under way to map processes with internal and external customers in mind? Are front-line staff empowered to lead these efforts? Are appropriate metrics used to identify root causes of problems in processes and systems and to find permanent solutions? Are CEOs committed to these quality disciplines?

Perhaps so. But considerably more needs to happen. And it takes time.

Concern was expressed that little improvement was evidenced from last year's initial Quality Scorecard.

W.E. Deming, the "father" of quality im-

provement said, "There's no such thing as instant pudding." Quality doesn't happen overnight. We need to understand this and be patient.

The QIC and RIMS should be encouraged to continue their efforts to help us understand these issues and what is needed to elevate public perception.

Benefits extend not only to an organization's bottom line but to our industry's treatment by state legislators—and even to how good we feel when we go home at night from work. Think of the improvement this can create in recruitment of the brightest and best for our industry!

Onward and upward—but not biannual-ly!

John Pryor  
Chairman-Total Quality Section  
Society of CPCU  
Bakersfield, Calif.

### Alabama reform praised

To the editor: How refreshing to see the Alabama Legislature and the state's governor making a true commitment to tort reform by capping punitive damages (BI, June 21).

Now jurors will have some "reasonable" guidelines to follow and judges will not spend their time doing damage control by

reducing outrageous jury awards. Perhaps there is hope for the future in the great state of Alabama.

Lance J. Ewing  
Director-Insurance & Loss Prevention  
GES Exposition Services  
& Exhibit Group  
Giltspur, Nev.

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SUBSCRIPTIONS: Detroit: 888-446-1422

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Published weekly at 740 Rush St., Chicago, Ill. 60611-2590, Fax 312-280-3174, E-mail: [biweb@crain.com](mailto:biweb@crain.com), Offices: 220 E. 42nd St., New York, N.Y. 10017-5806, Fax 212-2100704, CRAIN COM NYK, 473 Fairfield Ave., Gretna, IA 70056, Fax 504-364-1337; Suite 814, National Press Building, Washington, D.C. 20045-1801, Fax 202-638-3155; 6500 Wilshire Blvd., Suite 2300 Los Angeles, Calif. 90048-4947, Fax 323-655-8157; 967 Bermuda Court, Sunnyvale, Calif. 94086-6750, Fax 408-774-1155; New Garden House, 78 Hatten Garden, London EC1N 8LD England, Fax 207-457-1440; 8157 N. Torrey Way, Tucson, Ariz. 85743, Fax 520-579-3476; 777 E. Speer Blvd., Denver, Colo. 80203-4214; Fax 303-733-2244. \$4 a copy and \$89 a year in U.S. \$108 in Canada and Mexico (includes GST). All other countries \$209 a year (includes expedited air delivery). DON MERENDORF, circulation manager. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, Business Insurance, 965 E. Jefferson Ave., Detroit, Mich., 48207-3185, or phone 888-446-1422 or 313-446-0450, Fax 313-446-6777. Microfilm copies are available from University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48103. Microfiche copies available: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For information and rates to reproduce in general circulation media, contact: JOSEPH P. HANLEY, Crain News Service, 220 E. 42nd St., New York, N.Y. 10017-5806, 212-254-0890. For reprints or reprint permission contact: KAREN BROWN TUCKER, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590, 312-649-5319, Fax 312-280-3174.

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# Risk

Continued from page 3

Boyd Gaming's costs for property/casualty coverages at renewal have remained flat, with the company seeing only a small 3% increase in property insurance rates after years of flat or declining prices.

Ms. Moreland of the San Francisco Newspaper Agency said the "big challenge" with regard to her property renewals is finding affordable earthquake coverage. Prices don't appear to be softening in that area, she said.

It's an important coverage for Ms. Moreland's company, because it operates only in the San Francisco area, she pointed out.

Apart from earthquake, however, Ms. Moreland said she expects

to see some "significant price reductions" in property coverages and little change in casualty prices.

On the other side of the country, wind is a bigger threat to property, and prices for insurance to cover the risk remain high for some companies.

Mr. Smith said that in spite of Boyd Gaming's casino exposures in Louisiana, he doesn't buy catastrophe property coverage. "We are in a hurricane zone in Louisiana, but we decided this year and last to assume the risk rather than buy expensive coverage. We look at it each year."

It was the right decision for the company last year, because the \$66,000 in Hurricane Georges-related damage that Boyd Gaming's property sustained would have fallen under its coverage de-

ductible anyway, he said.

Other risk managers see continued savings at midyear for property coverage.

Weingarten Realty Investors in

coverage also came with a lower deductible than the previous year's coverage which was written by Firemar's Fund Insurance Co.

**'We didn't see any significant changes' in casualty coverage. 'We saved maybe 1% or 2%. I don't see it softening in casualty,' says Sheryl Bittick of Weingarten Realty Investors.**

Houster saw "significant savings" this year on its property coverage, which was switched to a unit of CNA Insurance Cos., according to Sheryl Bittick, corporate risk manager for the property management company. The CNA

"And there were some guarantees for pricing in the future in case we have some bad losses," Ms. Bittick pointed out. "We wanted to look at this as a long-term relationship," she said of how the program was structured.

Ms. Bittick said the property coverage was an especially good deal because Weingarten has added several shopping centers to its portfolio over the past year. The company's property coverage at renewal remained cheaper despite the added values, she said.

A majority of risk managers, however, don't believe property rate declines will continue much longer, according to a recent survey on the property market by Zurich U.S., a unit of Zurich Financial Services Group.

The survey, conducted in March by Washington-based Mathew Greenwald & Associates, was based on telephone interviews with 100 insurance buyers and 50 insurers.

Fifty-two percent of risk managers said they do not expect soft property prices to continue. In addition, 19% said they expect property rates to increase over the next 12 months.

Insurers were less confident of price hikes in the coming months. The survey showed that only 12% of insurers believe that will happen, even though 64% of the insurers surveyed also said the current property market was "not healthy."

Insurers see their policyholders focusing much more heavily on property insurance pricing than service. Among insurers, 76% said "rate reduction" is the area they believe that clients are most concerned about, with only 18% of insurers identifying "adequate service" as most important to buyers.

Mr. Crockett of Denver Water said his experience with a quote for boiler and machinery coverage the utility buys for hydroelectricity-generating turbines illustrates how consolidation can drive up prices.

Over the past 10 years, for example, Hartford Steam Boiler Inspection & Insurance Co. has acquired two of the utility's insurers, he noted.

Denver Water's boiler & machinery coverage, which includes physical damage and lost revenue up to \$1 million at seven sites with the turbines, carries overall limits of \$7.5 million with a \$50,000 deductible and cost an average of \$8,500 per year during the past 10 years, Mr. Crockett said.

The 1992-93 coverage year, underwritten by The Home Insurance Co., was the cheapest, costing \$6,000 in premium, he said.

When The Home's boiler & machinery business was acquired by Hartford Steam Boiler, the quote for renewing the coverage increased and the utility switched insurers.

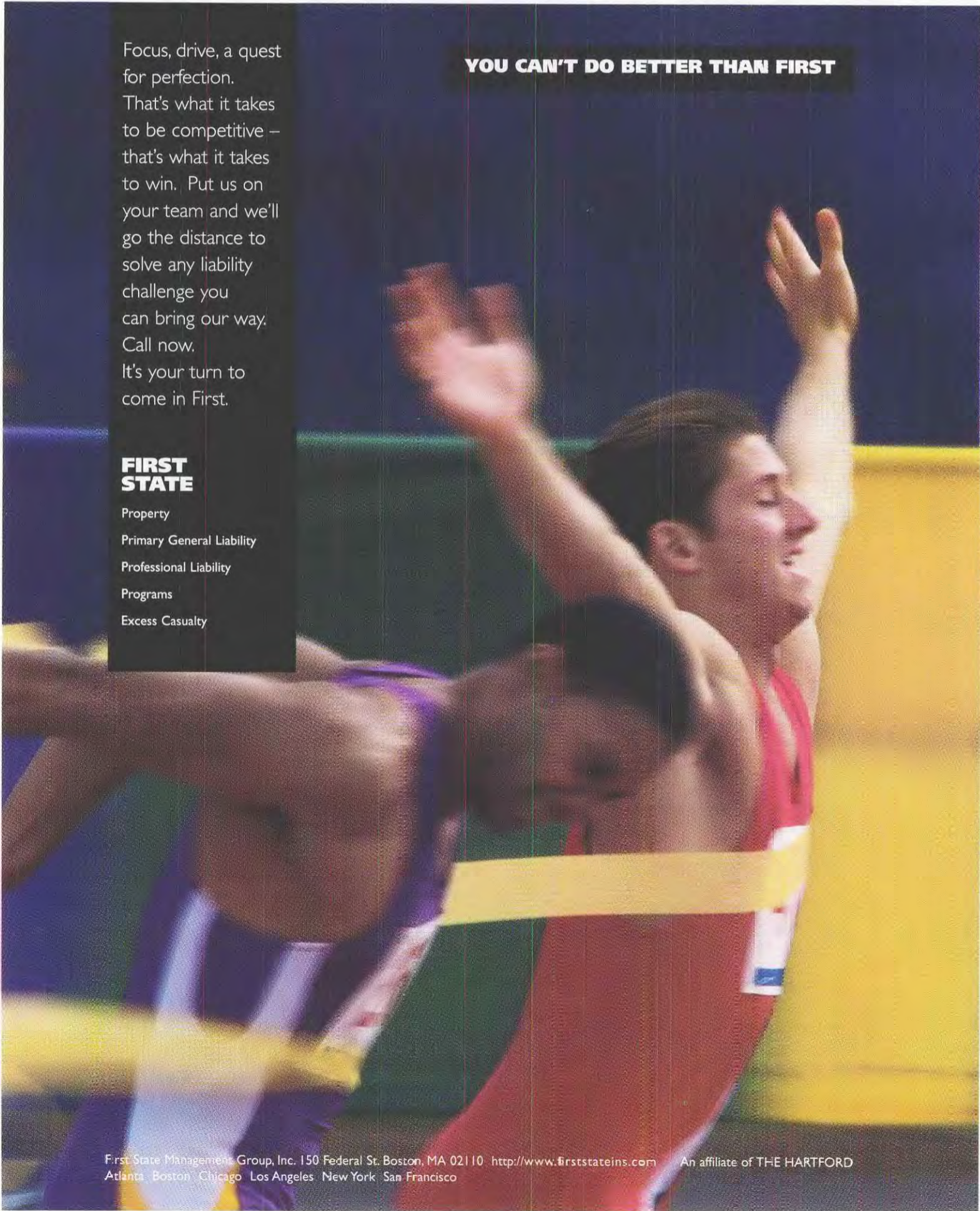
The utility's current boiler and machinery policy was written by a unit of Kemper Insurance Cos. and cost \$8,900. But, Mr. Crockett pointed out, Hartford Steam Boiler in 1998 acquired Kemper's book of boiler and machinery business and now wants to charge \$25,352 for the same amount of coverage at renewal, which the company will pay.

"I think it just reflects a narrowing number of companies for a specialty line," Mr. Crockett said. "The competition is just gone for that line of coverage."

Meanwhile, casualty prices are still falling in most cases, but the savings there are generally being held to less than 5%, according to buyers.

"We didn't see any significant changes," said Ms. Bittick of Weingarten. "We saved maybe 1% or 2%. I don't see it softening in casualty."

See Risk on page 12



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# Risk

Continued from page 10

Mr. Smith of Boyd Gaming said prices for most liability coverages were unchanged at this year's renewal. There was, however, a 20% savings in marine excess liability insurance on the company's casino boats in Illinois. That specialized excess liability coverage was 5% cheaper for the gaming company's boats in Louisiana ports, he said.

Mr. Barrowman of ONEOK said high-layer excess liability rates still are dropping slightly. "I find that the market continues to soften, though not as dramatically as in past years."

Some excess liability layers are costing about 10% less, and terms and conditions continue to improve, he said.

Mr. Barrowman also pointed out that "capacity is increasing and may well include more new foreign insurers by year-end."

ONEOK's directors and officers liability coverage was cheaper at midyear, costing about 5% less than the expiring D&O coverage, according to Mr. Barrowman. While he declined to provide details, he said an additional \$25 million in D&O coverage was purchased this year even though he is in the second year of a three-year policy.

Link Staffing Services Inc. saw "fairly substantial savings" of about 20% on its general liability, errors and omissions and D&O liability coverages, said Faith Daniels, claims supervisor for the Houston-based company.

"It was a piece of cake this year," she said of casualty insurance re-

newals. "We've been hearing it's going to harden for three years," she said. "There's been no evidence of it that I've seen."

Link Staffing's workers compen-

sation coverage also was renewed for a slight savings, Ms. Daniels added.

locking in rates for multiple years, according to Grant L. Johnson, risk manager for the Austin, Minn.-based company.

His one-year policy for contami-

**'We've been hearing (casualty is) going to harden for three years. There's been no evidence of it that I've seen,' says Faith Daniels of Link Staffing Services.**

nated products carries a guaranteed rate renewal in August regardless of whether he filed a claim before then.

That strategy is paying off. He expects to file a multimillion-dollar claim for the company's ex-

poseds from battling an incidence of contamination by listeria bacteria. The bacteria was discovered by a major customer—the U.S. Department of Defense—during a spot-check of Hormel's microwaveable sandwiches. No injuries were reported as a result of the contamination, so no civil suits are expected.

The damages stemmed from pulling and dumping the product, changing cooking procedures, business interruption losses, and restoration of sales and extra expense for sales representatives.

"Hormel feels very lucky to have a guaranteed rate for this year's coverage," Mr. Johnson said.

The company also increased its coverage for future claims, he noted. Hormel purchased a new layer of excess coverage in the London market, giving it four times the amount of its original coverage.

Risk managers reported mixed pricing on various other coverages.

Boyd Gaming's hull and machinery coverage for its casino boats saw a 3% drop in premiums, while its protection and indemnity coverage yielded 5% savings, Mr. Smith said.

Mr. Smith said the gaming company's replaced two airplanes with new aircraft and, while the insured value of its fleet doubled, the cost of coverage on the aviation risk increased only slightly.

"Having an effective loss control and safety program has helped us to maintain our current renewal rates," he remarked. "Other companies that have less of a focus may have experienced higher rates."

Hormel's Mr. Johnson said he expects a slight rise of around 2% to 3% when he renews crime and fidelity bond coverages.

He said he also is considering a proposal to purchase employment practices liability insurance.

Mr. Crockett of Denver Water also looked at EPLI coverage but decided not to buy it on the advice of the utility's legal staff. He said that, based on his review of the EPLI market, an increase in companies writing the liability coverage is resulting in lower prices.

The executive summary of the Zurich U.S. study "State of the U.S. Property Insurance Market" is available free from Kathy Heiman of Zurich U.S., 847-605-6822; e-mail: kathy.heiman@zurichus.com.



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## Brokers

Continued from page 3

across the board," he said. "Certainly in the U.S., there might be some slight increases, but internationally, it's still very, very competitive."

F. Michael Crowley, president of Palmer & Cay Inc. in Savannah, Ga., describes the insurance market as "schizophrenic." Some insurers "are giving it away," while others are "holding things flat," and still others "are asking for modest increases of 2% to 3%," he said.

"One major carrier came to us and demanded 10% to 15% increased renewals on our middle-market business," Mr. Crowley said.

He said that he also has seen some middle-market insurers walk away from accounts when the rate structures were not profitable.

Accounts with less-than-stellar loss history are seeing an increase

though drops of 10% or greater are rarer today than they were six months ago.

Overall, the casualty market is "flat," said Bob Peretti, managing director for Marsh in New York.

**'One major carrier came to us and demanded 10% to 15% increased renewals on our middle-market business,' says F. Michael Crowley of Palmer & Cay Inc.**

in prices that varies by class, said Bruce Guthart, chairman, CEO and president of Kaye Group Inc. in New York. But for choice accounts, prices have continued to drop about 5% to 10%, he said, al-

"For the most part, it's stopped going down."

If a policyholder's exposure has not changed and it isn't coming out of a multiyear program, the rates will be stable, Mr. Peretti

said. A policyholder coming out of a multiyear program, however, will see rate drops, he said.

The brokers generally agree that the changes in the market stem from insurers raising rates to better reflect the risks involved.

Mr. Guthart is seeing a "tightening of underwriting requirements" by insurers. They are asking more questions and "trying to probe for that real good business," he said.

Rates are rising because of "the losses that are being experienced by the insurance companies" and insurers' response with a more-rational pricing strategy, said Jim Braniff, president of brokerage services for Arthur J. Gallagher & Co. in Itasca, Ill.

Insurers now are focusing on tightening underwriting, Mr. Brown said, and they are either turning away some bad risks or

pricing them accordingly.

There is "a tiny bit of firming in the pricing philosophy" by many insurers, he said. "They've lost all the blood they want to lose."

The market, however, has not been uniform, as some lines and areas of the country are experiencing differing rate changes.

For example, nursing homes in Texas and Florida are seeing rate hikes of between 25% and 100% for professional liability coverage, said Mr. Brown of Brown & Brown.

For lines such as directors and officers, errors and omissions, kidnap and ransom, and finite risk programs, rates "are still very competitive. The market is flat to a continued downward trend," he said.

In addition, the market varies by account size. "The middle-market business (accounts with 100 to 200 employees), where we specialize, continues to be a competitive market in every aspect of property/casualty," said Bernard H. Mizel, president and CEO of San Francisco-based USI Insurance Services Inc.

Although the market appears to be tightening somewhat, brokers don't think a prolonged hard market lies in the future.

High capacity will prevent price increases from being too steep, and the current spate of increases reflects an organized and rational approach by insurers, said Mr. Braniff. A price increase that is too large will drive policyholders to other insurers, he said.

Mr. Guthart of Kaye also predicted that, due to overcapacity in the industry, any market tightening that occurs will be brief.

Because of the recent rate increases, insurers are less enthusiastic about multiyear deals and aren't giving policyholders any discounts on them, Mr. Peretti said. "There's a reluctance to go out longer on this pricing, as it's unclear where it's heading," he said.

At the same time, policyholder interest in multiyear programs has increased. Policyholders think that "if this is the bottom of pricing, then having a two- or three-year program, if they can get it, would be pretty good," Mr. Brown said.

While Y2K issues are perhaps not as intense as they were at the end of last year, they remain a significant topic of conversation during midyear renewals, said Gary Mathieson, president and CEO of Willis Corroon Corp. in New York.

Clients want to make sure they are getting the broadest coverage available in the market or, at least, a clarification from the market as to how it will respond to Y2K failures, Mr. Mathieson said. He noted that most conversations revolve around the potential for property loss.

Liability associated with the Y2K problem and how such liability is addressed in insurance contracts continue to be important issues for risk managers during this renewal period, Palmer & Cay's Mr. Crowley said.

While the outcome of any Y2K liability won't be seen until next year, Palmer & Cay has been busy making sure it has "the appropriate brainpower" on staff to deal with any outcome, Mr. Crowley said. The broker, for instance, has beefed up its claims department, its legal staff and its business interruption expertise.

"We want to make sure that we're more than prepared to help clients work through this," he

See **Brokers** on page 20

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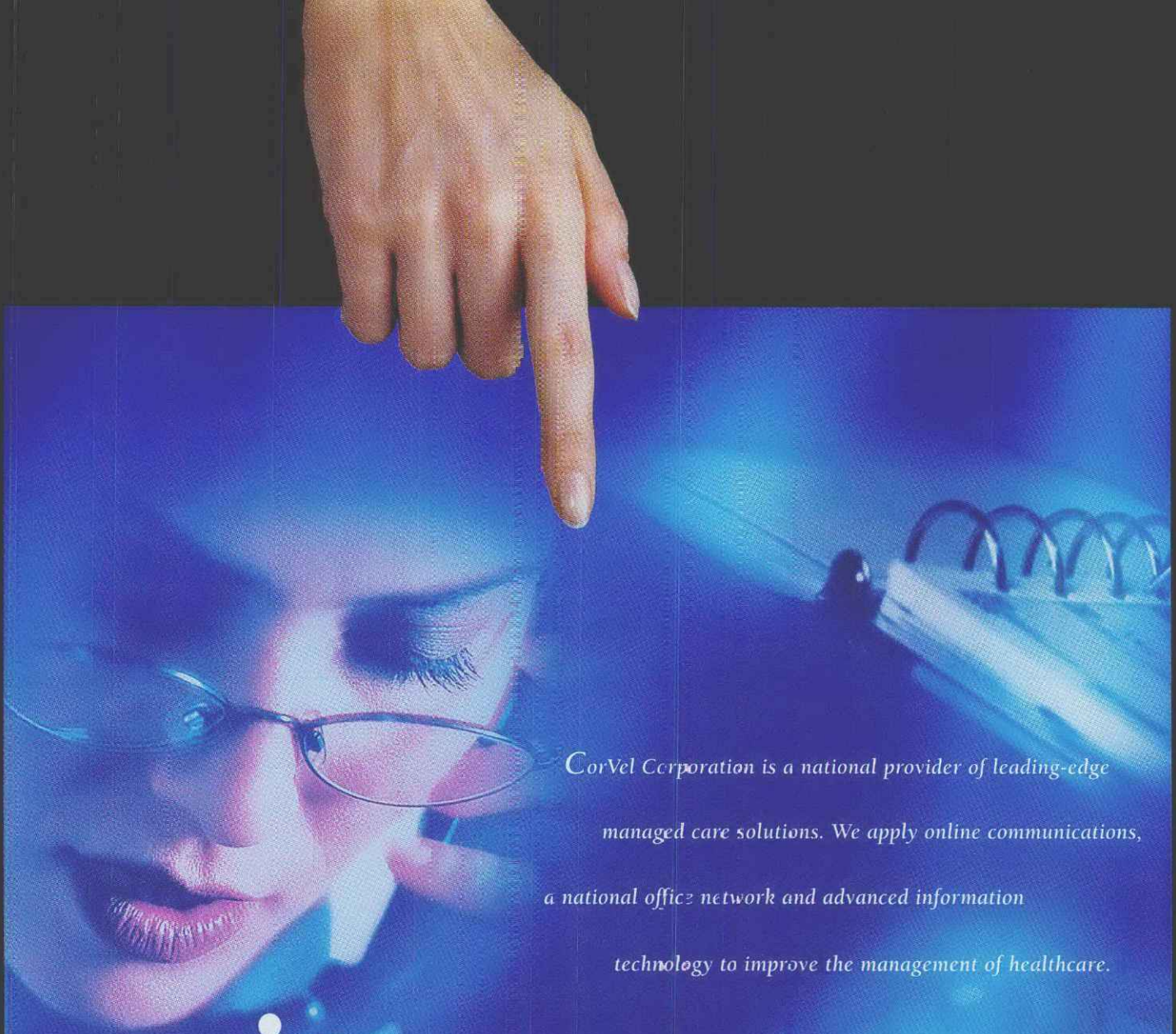


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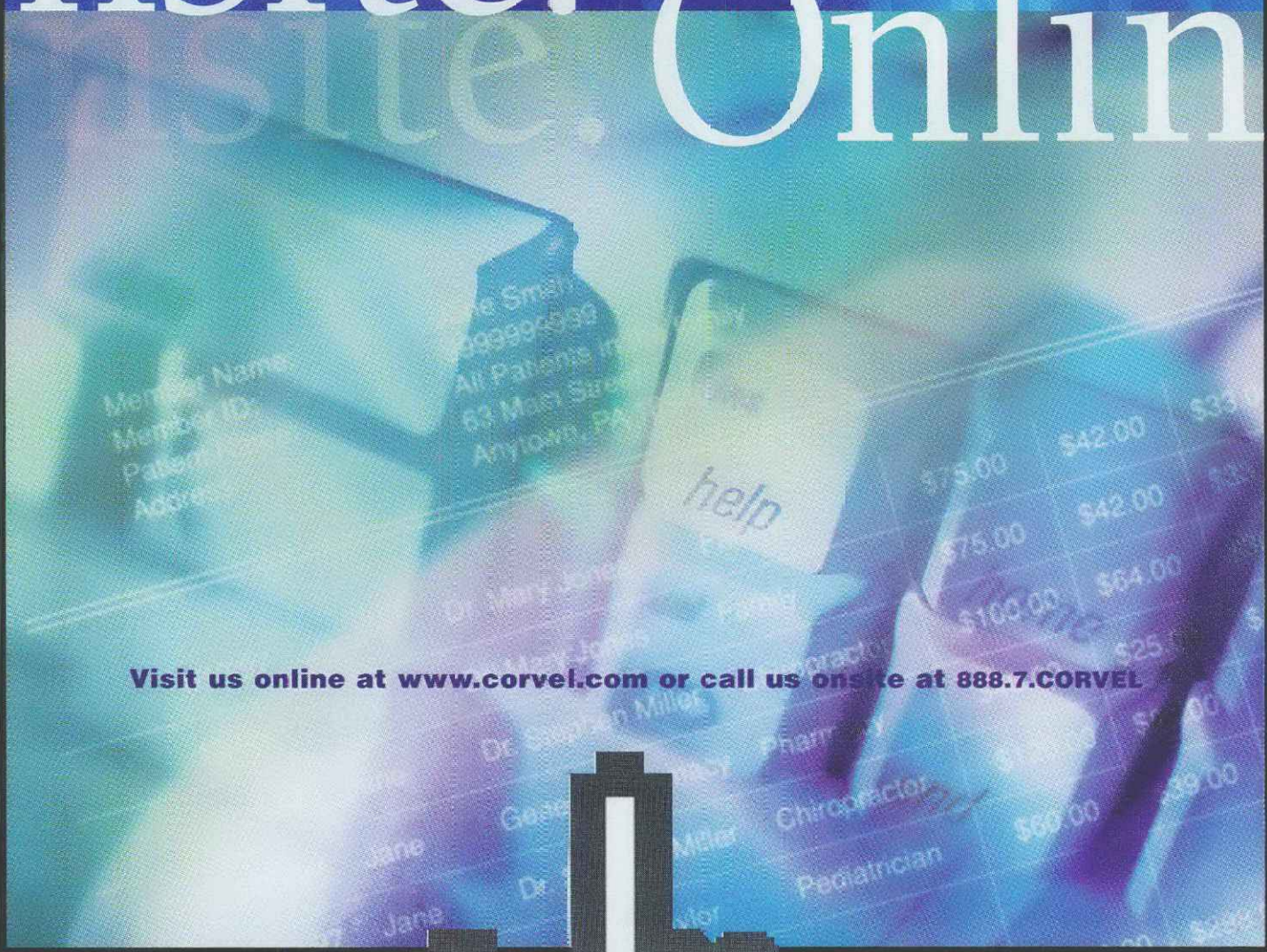
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# Brokers

Continued from page 18 said.

In addition to Y2K, activity has been strong in a number of areas. As in years past, the market for employment practices liability insurance has grown. "From our standpoint, (EPLI) is one of the biggest areas of new business written," Mr. Mathieson said.

Mr. Crowley noted that many clients are now interested in third-party discrimination coverage, which covers, for example, a suit against a company by its customers.

Another growth area has been risks associated with climate change and how these risks could hurt some businesses, such as utilities and entertainment companies, Mr. Peretti said. "There's a lot more

willingness to talk about this," he said.

Policyholders also have expressed strong interest in products that help protect company earnings. But while these programs are being examined, the current low prices for standard coverage means few companies are buying them.

"Until there is a change with property/casualty prices, some of these things are interesting but wait-and-see," Mr. Peretti said.

Mr. Mathieson added that, despite strong interest, "so far, nothing is actually getting done" with regard to these new products.

He also noted that few enterprise risk programs are being written, but that, as with earnings protection insurance, they are attracting interest. He said that unless there is a specific risk that needs to be incorporated into an enterprise risk

program because it is not insurable in the standard market, that risk will be placed in the standard market, as it would not be cost-efficient to use alternative financing for it. Marsh's Mr. Peretti also noted

**'Any time the market changes a bit, clients begin to take a look at the quality of the paper,' says Gary Mathieson.**

strong growth in business interruption policies for companies that conduct business over the Internet.

The changing market also has forced risk managers and brokers to learn how to operate in a new

world.

Mr. Crowley advises risk managers to be "diligent and understanding that this market is very unsettled and very inconsistent."

Clients continue to demand more and better services from brokers, Mr. Mathieson said. In some cases, while working out terms, conditions and prices, insurance buyers are negotiating various broker service requirements into policy contracts, he said. Such a service requirement might, for example, establish a time period for responding to requests or for delivering a policy.

The middle market "is looking for a more-effective solution to their problems," he said. "Insurance-buying clients have become fatigued with people offering them cheap products and not providing good services with that," he said.

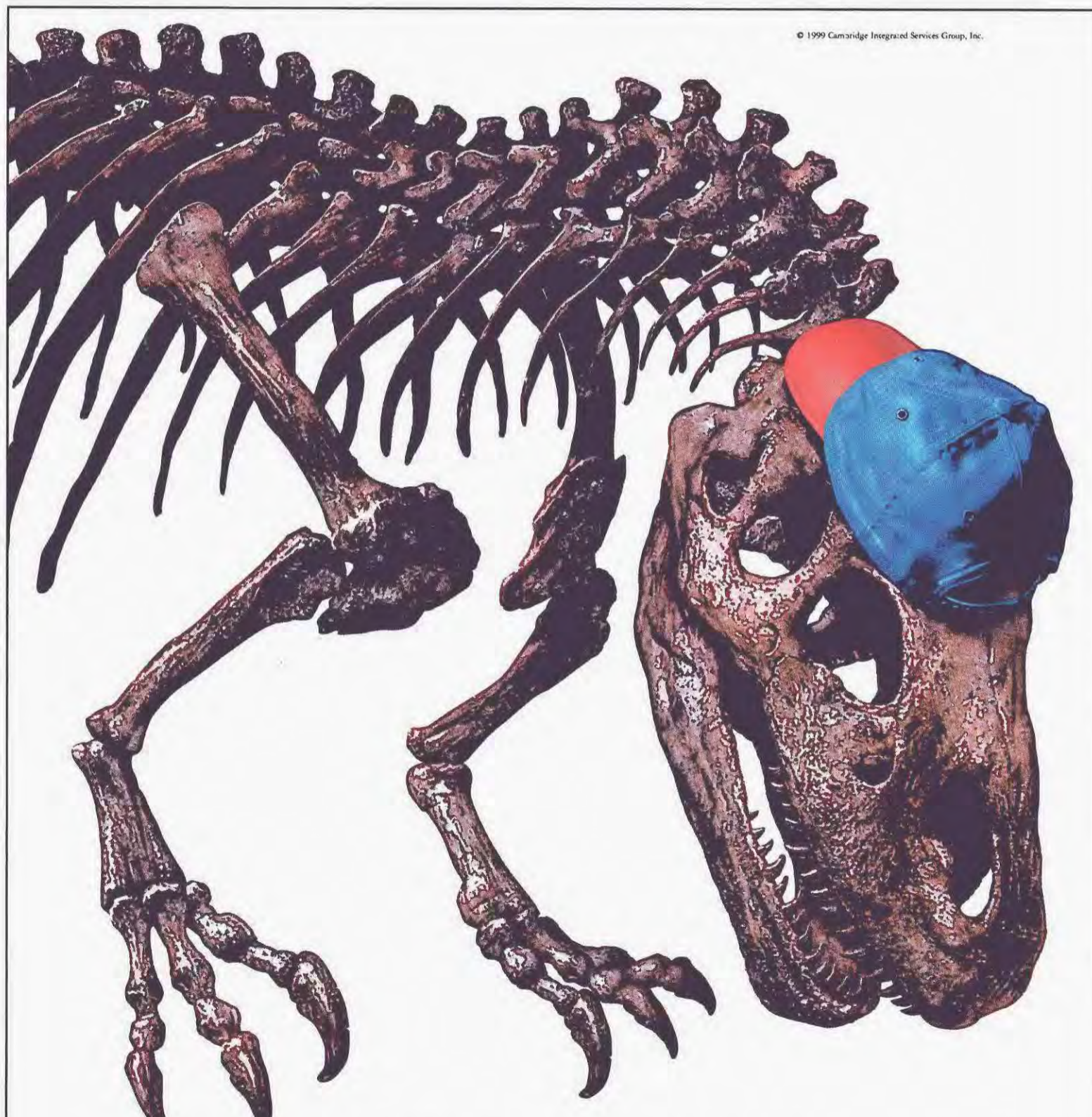
Brokers themselves have to learn to sell and relate to policyholders in the new environment, Mr. Guthart said.

One interesting phenomenon he has noticed is that brokers have received inquiries from risk managers who are used to "getting everything they want" at renewal. With this year's price hikes, these risk managers are looking at different brokers in search of creative ways to ease the hikes.

Mr. Mathieson said that, because the market is changing, Willis is receiving more inquiries about insurer quality.

"Any time the market changes a bit, clients begin to take a look at the quality of the paper," he said.

"Clients still want price reductions, but they want to make sure that the company will be around to pay the losses," he said. **BI**



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# Firmer pricing, exiting capacity seen in surplus lines

By JOANNE WOJCIK

While the excess and surplus lines market may not be turning, most prices are definitely firming, wholesalers and insurers say.

Also, standard insurers that had been competing for traditional surplus lines business seem to be backing out of the market, surplus lines executives say.

But insurers and brokers agree that market competition means there still are some bargains to be had, even in a firming surplus lines environment and especially for large risks and customers with good loss experience.

"It's a market that's showing signs it will harden," observed

Kevin Kelley, chairman of Lexington Insurance Co. in Boston. "We're seeing some transition firsthand in those lines with big rate deficiencies, such as property, and where medical inflation has occurred."

For example, property rate hikes "are beginning to approach double digits," with some premiums climbing as much as 25% for accounts with significant losses, Mr. Kelley said.

Nursing home liability insurance premiums are up about 15%, while liability for managed care organizations is up between 5% and 15%.

Employer medical stop-loss also is up about 15%, and provider capitation reinsurance, a type of stop-

loss coverage for providers, also is up about 15%, he said.

Paul Springman, president of Evanston Insurance Co. in Evanston, Ill., said his company also is achieving some large rate hikes in its medical malpractice lines.

Mr. Springman estimated that medical malpractice liability insurance premiums are up between 20% and 25% across the board in surplus lines.

He also said a lot of medical malpractice business that had moved to standard market companies is returning to the surplus lines market.

"We're seeing a lot of activity in med mal," he said. But while mal-

practice premiums for some medical practices or specialties are tightening, others remain competitive, he added. For example, orthopedic surgeons and obstetricians generally are seeing rate cuts, he said.

And there are still a few risks that are finding bargains, according to Letha Heaton, vp-sales and marketing at Evanston.

For example, Evanston lost to a standard market insurer one 12-doctor group that historically had claims only about every other year. The group had been paying Evanston an annual premium of \$190,000 for limits of \$1 million per claim/\$5 million aggregate, but was able to find in the admitted



market limits of \$5 million per claim/\$5 million aggregate with no deductible—and defense costs outside of policy limits—for just \$80,000.

"It's an interesting time to be in med mal underwriting," observed Mr. Springman. "It's just like pulling teeth. Sometimes we're the ones who need the anesthetic, and sometimes it's our clients."

Evanston also is seeking—and, in many cases, successfully getting—rate hikes in other professional liability lines, he said.

For example, rates for architects and engineers are up between 5% and 15%, and rates for miscellaneous errors and omissions coverage is up anywhere from 3% to 7%, he said.

**'We're seeing some transition firsthand in those lines with big rate deficiencies,' says Kevin Kelley.**

But there's still a lot of competition for lawyers' professional liability, especially in California, according to Mr. Springman.

When Evanston tried to impose 10% to 40% rate hikes in this line of coverage, "we lost a lot of our lawyers' business," he said.

In general, the size of rate hikes in professional liability "depends on the sophistication of the client," summed up Lexington's Mr. Kelley.

The more complicated programs are being underwritten more carefully than simpler programs that can be commoditized, he explained.

Mr. Springman puts it a bit more colorfully: "It's indicative of the schizophrenic marketplace we're operating in."

Despite the apparent inconsistency of approach in some lines, most surplus lines marketers predict there will be more migration of business to the surplus lines market as standard insurers begin walking away from business for which they cannot get the premium increases they seek.

"I think a lot of standard companies are letting business go," observed Leonard LoVullo, president of LoVullo Associates Inc., a managing general agent in Buffalo, N.Y.

"We're writing more business non-renewed by standard companies," said Mr. LoVullo, who also is president of the American Assn. of Managing General Agents.

And, overall, LoVullo Associates' business is up about 30% from last year at this time, he said.

Dick Quehl, president of CNA E&S, based in Chicago, said many brokers are asking that surplus lines policies renew at the same cost as the expiring policy rather than seeking the deep rate cuts they have in the past.

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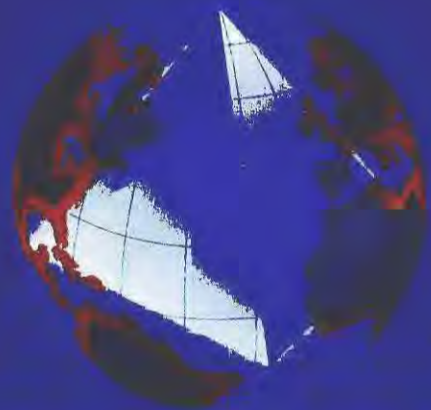
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# Surplus

Continued from page 22

"You've got to stop the negative momentum to get any real positive momentum," he reasoned. He noted, for example, that CNA's railroad risks are renewing at the same cost.

At the same time, CNA's long-haul trucking risks are seeing rates climb between 10% and 12%, he noted.

Scottsdale Insurance Co. of Scottsdale, Ariz., also is seeing some firming in its transportation book, according to Mike Miller, vp of finance.

Competition had been intense for transportation risks such as trucking, Mr. Miller said. "But the competition has moved off some of those risks due to poor experi-

ence."

In the surplus lines market in general, "things have botched out," he said. "The standard companies are getting off some blocks of business, and that's all it takes. There's definitely some migration back to the surplus lines market."

But when risks return to the surplus lines market, they'll find that it still is quite competitive, he added.

"We're happy to see prices firming a little bit, but there's a lot of capacity still out there," Mr. Miller said.

And large accounts that produce significant premiums are still up for grabs, points out CNA's Mr. Quehl.

"The bigger the account, the more problematic it is to get rate (increases)," he said. "So we've lost some fairly large accounts as a

consequence."

Mr. Quehl was not alone in saying that despite the apparent firming trend, a few "renegade" sur-

Mr. Springman agrees: "A lot of underwriters are too young to remember the last hard market. That's why I prefer that my under-

**'The more sophisticated risk managers . . . understand that they have been the beneficiaries of some real good rates for the past few years,' says Marcus Payne.**

plus lines insurers still are offering coverages at a discount.

"We're losing business to small players that may be looking to expand market share," he said. "In many cases, these are underwriters who haven't been through a hard market."

writers have a little gray over the ears."

Robert W. Grace, a principal of Fort Worth, Texas-based MGA Russell Grace Inc., agrees with those who maintain that the market's behavior is inconsistent.

For example, at least one of the

insurers with which he places commercial auto coverage is raising rates 10% to 20% across the board and is willing to lose customers, if necessary.

But other insurers seem to be waiting in the wings, ready to offer a lower rate for any business that walks out their competitors' doors.

In still other cases, insurers are giving discounts to commercial auto classes with good experience, Mr. Grace said.

"We've got a client that paid \$1,200 last year for commercial auto that renewed at \$800 this year with the same company," he said.

"And we've got a company that will write virtually all E&S classes on an admitted basis," he added.

In fact, "we write more business on admitted paper than on non-admitted paper," Mr. Grace said; he said that indicates how much the prolonged soft market has changed the surplus lines industry.

Marcus Payne, president and chief operating officer of Crump Insurance Services Inc. in Dallas, agreed with Mr. Grace's assessment of the market as erratic.

"There's a lot of unrest," he said. "We're seeing some increases and we're seeing some firming."

But the firming at this point is more by line of coverage than by geographic area, Mr. Payne said, pointing out that wind and earthquake capacity is still plentiful, and pricing is competitive.

"The further away you get from the event, the more people forget," he said, referring to the last spate of natural catastrophes, including Hurricane Andrew and California's Northridge quake, which had firmed property pricing somewhat.

The more recent catastrophes have been localized, points out Mr. Miller, referring to the tornadoes in Oklahoma as an example. "Even though Oklahoma was large, it hit surgically, so it tends to spread the losses among many carriers," he said.

Oklahoma tornadoes "hit more upscale neighborhoods, so the standard market was hit harder" than the surplus lines market, said Gary Tiepelman, vp-contract underwriting at Scottsdale.

Scottsdale still raised property rates an average of 10% across its book during July 1 renewals, Mr. Miller said. He acknowledged the insurer might risk losing some of that business because "there's a lot of capacity out there," he said.

Crump's Mr. Payne suggested that some of the firming may be due to "natural causes."

"It's been a long, long soft market," he said.

Buyers seem to be anticipating a market turn, too, Mr. Payne said.

"The more sophisticated risk managers, those risk managers who understand the insurance business, understand that they have been the beneficiaries of some real good rates for the past few years," he said. "There just seems to be more of a feeling that the market is firming."

But, despite the overall feeling that the market is ready to change, "there are still a lot of companies out there sleeping," Mr. LoVullo said.

"There are still a lot of companies not paying attention to what's going on, and they refuse to change their ways. I don't see them surviving," he said.

"There are a few standard market carriers dabbling in (traditional surplus lines business) naively," agreed Evanston's Ms. Heaton. **BI**

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# Health

Continued from page 3

Wisconsin lost money, said Larry Rambo, president and chief executive officer of PrimeCare, a United HealthCare Corp. subsidiary in Milwaukee.

"The financial performance of the health plan industry has been so poor that plans have to develop appropriate margins for their products," Mr. Rambo said. He said PrimeCare's rate increases for July 1 renewals will range between 7% and 10%.

HMOs say they are employing a new market discipline: setting rates based on what they think they need to earn a profit.

"You are seeing the industry price these products more appropriately," said David Erickson,

director of investor relations for PacifiCare Health Systems Inc. in Santa Ana, Calif. PacifiCare's HMO rates will increase 7% to 9% next year, while Mr. Erickson projects that PacifiCare's POS products and PPO plan rates will increase in the range of 10% to 13% and 15% to 19%, respectively.

In addition, some plans are willing to walk away from accounts they think will be unprofitable.

"Plans will be willing to lose business rather than take a rate that they see as inadequate," said Harvey Sobel, a health care actuary with Buck Consultants Inc. in Secaucus, N.J.

In fact, Kaiser Permanente, the huge Oakland, Calif.-based HMO, said it will drop out of Connecticut, Massachusetts, New York and Vermont by the end of the year

because of continuing losses. In other markets, Kaiser expects to raise its rates between 9% and 10%, a spokeswoman said.

But the need to catch up for

often are 15% of an employers' total health care costs, up from an historic average of 7% to 10%, said Mr. Abbott of Watson Wyatt. Indeed, Sally Bullen, vp-corporo-

**'The financial performance of the health plan industry has been so poor that plans have to develop appropriate margins for their products,' says Larry Rambo.**

past losses is only one driver of HMO rate hikes. Underlying costs, particularly for prescription drugs, also are fueling rate increases.

Drug costs have increased so much that prescription drugs now

rate human resources at Kemper Corp. in Long Grove, Ill., described escalating prescription drug costs as "dramatic and alarming."

"Prescription drugs are a hot button for everyone," said Bob

Skaggs, director of marketing for HAP, a Detroit-based health plan that offers managed care and indemnity plans. Rates for HAP's traditional HMO will increase on average 5% to 8% on July 1, while Jan. 1, 2000, rate increases could be 8% to 11%.

The reasons cited for soaring prescription drug costs are familiar, including the constant introduction of more-expensive drug therapies.

For example, some of the new drugs being introduced cost five to 10 times more than the drugs they are replacing, said Michael Seibold, Chicago-based executive vp of Health Service Corp., which operates as Blue Cross & Blue Shield of Illinois. BC/BS of Illinois' HMO and POS rates next Jan. 1 will increase 9% to 12%, while PPO rates will increase 13% to 17%, Mr. Seibold said.

Prescription drug makers' direct advertising, which many say is driving consumer demand, also is blamed for rising costs.

Because of advertising, an individual may say, for example, "I want a prescription for sexual dysfunction," said Segal's Mr. Jacobsen.

"The more sophisticated consumer is asking for drugs by their name," concurred Susan Kluge, senior vp and chief financial officer for Blue Care Network in Southfield, Mich.

In the wake of these increases, employers are more closely examining what they can do to hold down prescription drug costs.

Some are moving to increase copayments. "The \$5 copayment is a thing of the past," said Barry Barnett, a principal with PwC Kwasha in Teaneck, N.J.

"We've started discussions on increasing the copay, pretty drastically, for a 50-50 copay for a brand-name drug," said Steven Kull, director of compensation and benefits for Rand McNally & Co. in Skokie, Ill.

An approach growing in popularity is a three-tier copayment structure. In such a structure, the lowest copayment, perhaps \$7, would be for generic drugs. A higher copayment, perhaps \$12, would be charged for a brand-name drug on a preferred list, and the highest copayment—\$25 to \$30—would be charged for brand-name drugs not on the preferred list.

"The result is the consumer's buying decision is based on the best drug that is appropriate at a cost that is appropriate," PrimeCare's Mr. Rambo said.

Other more radical cost-saving approaches being considered—though not yet implemented by employers—include the elimination of coverage for lifestyle improvement drugs, said Mercer's Mr. Bos.

Yet another approach under discussion is one in which employer plans pay the cost of prescriptions for generic drugs, with an employee picking up the difference if he or she chooses a brand-name drug.

"We expect to see much more of this," Mr. Bos said.

While everyone agrees that prescription drug increases are a big factor in surging health care costs, there is, by contrast, no clear consensus on whether the consolidation in the managed care industry, especially among HMOs, is boosting or restraining costs.

Hewitt's Mr. Beauregard, for example, said consolidation—from a buyer's perspective—ultimately will prove beneficial.

See Health on page 30

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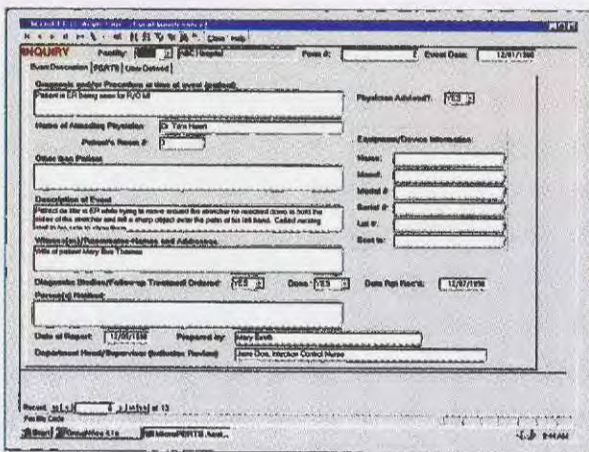
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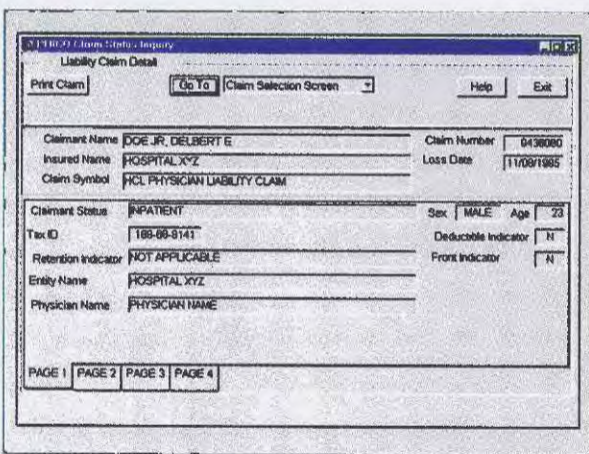
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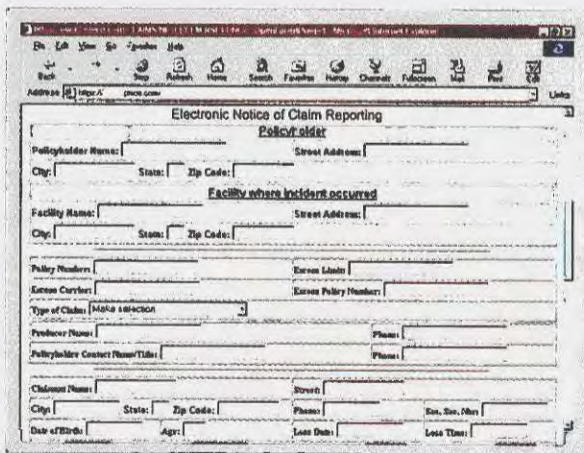
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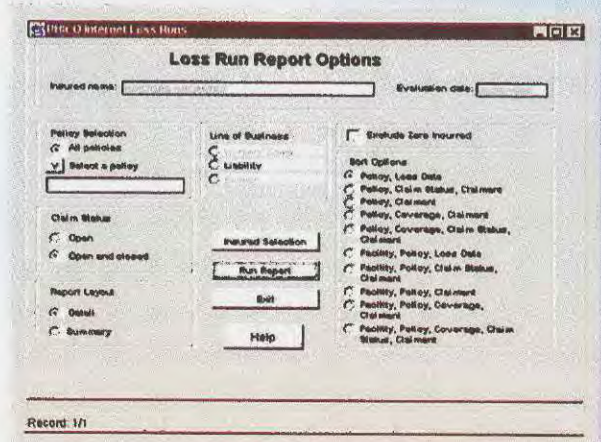


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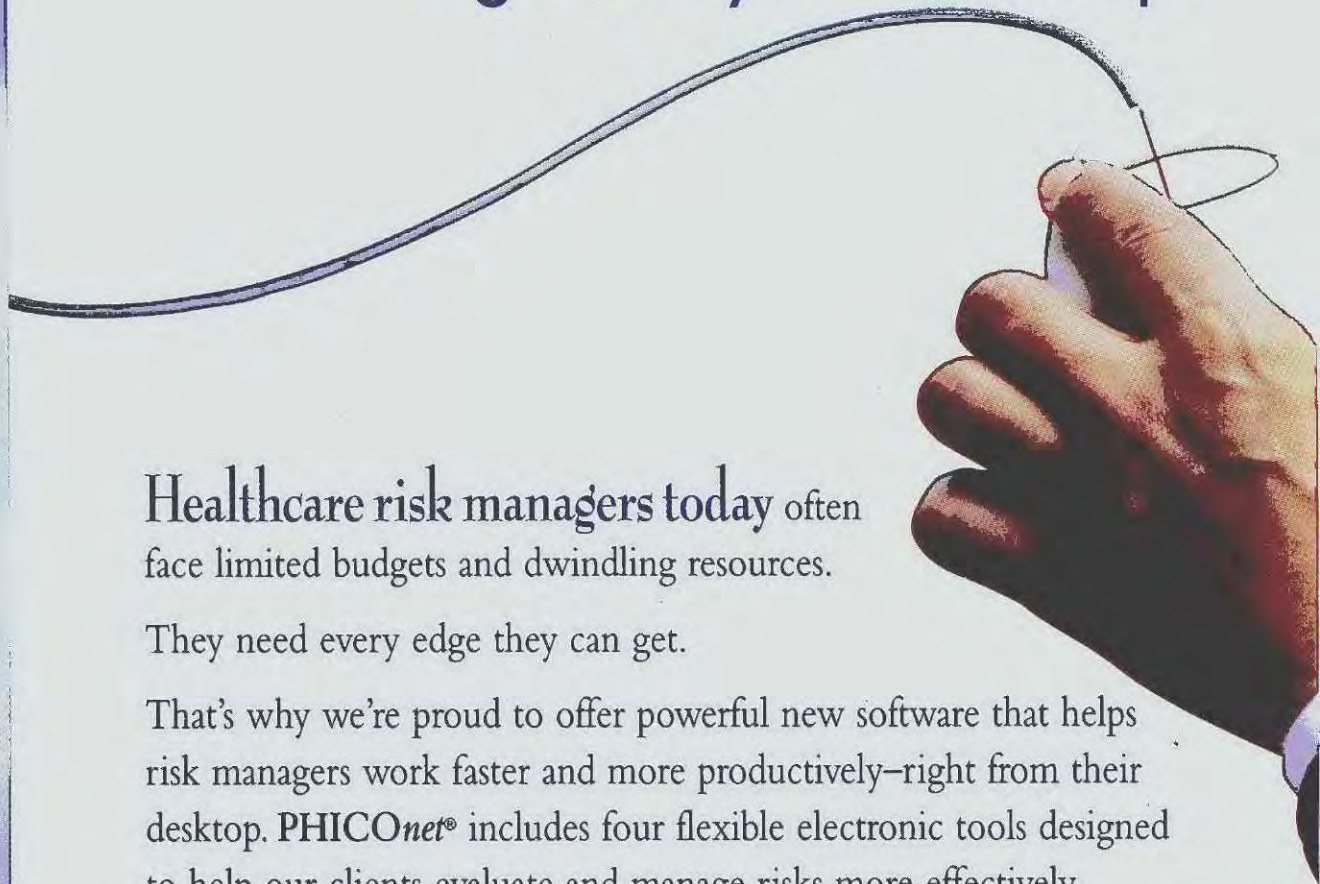


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# Health

Continued from page 26

"The slow consolidation we are seeing should mean lower administrative costs and more leverage" for HMOs in negotiating with providers, he said.

Others aren't so sure. Mr. Bos, for example, said several managed care organization mergers have not gone smoothly; the merged plans have had to untangle administrative snafus and have not achieved the economies of scale they sought.

Given escalating health care premiums, some employers say that more costs have to be passed on to employees.

"If this continues, we'll increase premiums to employees by more than 10%," said Michael Pikelný, corporate actuary and employee

benefits consultant for Hartmarx Corp. in Chicago.

Still, big cost shifts to employees—in the wake of a booming economy and a tight labor market in most ar-

**Given escalating health care premiums, some employers say more costs have to be passed on to employees.**

reas of the country—remain the exception.

"The economy is booming. Unemployment is low. Employers are concerned about having attractive benefits so they can compete. I don't see employers wanting to cut benefits,"

said Ms. McLaren of Tufts Health Plan.

In fact, some experts say the tight labor market and other factors could actually lead to a resurgence of health care plans for employees who retire before they are eligible for Medicare. Many employers eliminated early-retiree health plans in the early and mid-1990s as new accounting rules made companies more aware of the true cost of the plans.

But now some companies are beginning to worry that the absence of early-retiree health care plans could make it more difficult for them to recruit older senior management executives while also discouraging older production-line employees from retiring.

"This is an issue that is just beginning to raise its head," Mr. Bos said.

Amid escalating premiums, health care experts say much more can be done to hold down costs without damaging quality.

For example, plans need to do a better job of managing claims for patients with chronic conditions such as diabetes and asthma, Mr. Abbott said.

"Thirty to 35% of claims can be avoided with proper intervention," said Watson Wyatt's Mr. Abbott. For example, he said, employee education on conditions such as asthma can keep more patients out of emergency rooms.

At the same time, HMOs and other managed care organizations need to make better use of health care claims information they maintain to share results with providers and, ultimately, to improve quality.

"We need to educate physicians on practice patterns. Why are there twice as many hysterectomies in one part of the country as another? That is inexplicable and indefensible over time," said Segal's Mr. Jacobsen.

Rising costs aren't the only worry, though, for employers and health care plans. They are concerned that Congress could pass legislation that could make them liable under state laws for coverage decisions and expose them to huge jury awards.

That, predicted Mr. Erb of Gallagher Benefits, "could be the death of employer-sponsored insurance."

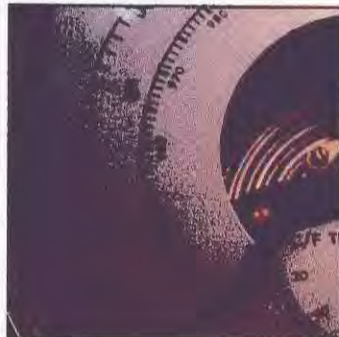
Tim Nolan, head of field operations for Aetna U.S. Healthcare in Blue Bell, Pa., said: "There is a chipping away at ERISA. Ultimately, that means the plan sponsor, the employer, will be held liable."

Already, the wave of benefit mandates Congress has passed in recent years, such as minimum length-of-stay coverage after childbirth and a ban on discriminatory annual and lifetime dollar caps for mental health care coverage, has raised costs.

Even if the cost of any individual mandate is small, in the aggregate they add up, Mr. Jacobsen said. **BI**

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# Agent/Broker Topics

A monthly editorial section sent exclusively to agents and brokers

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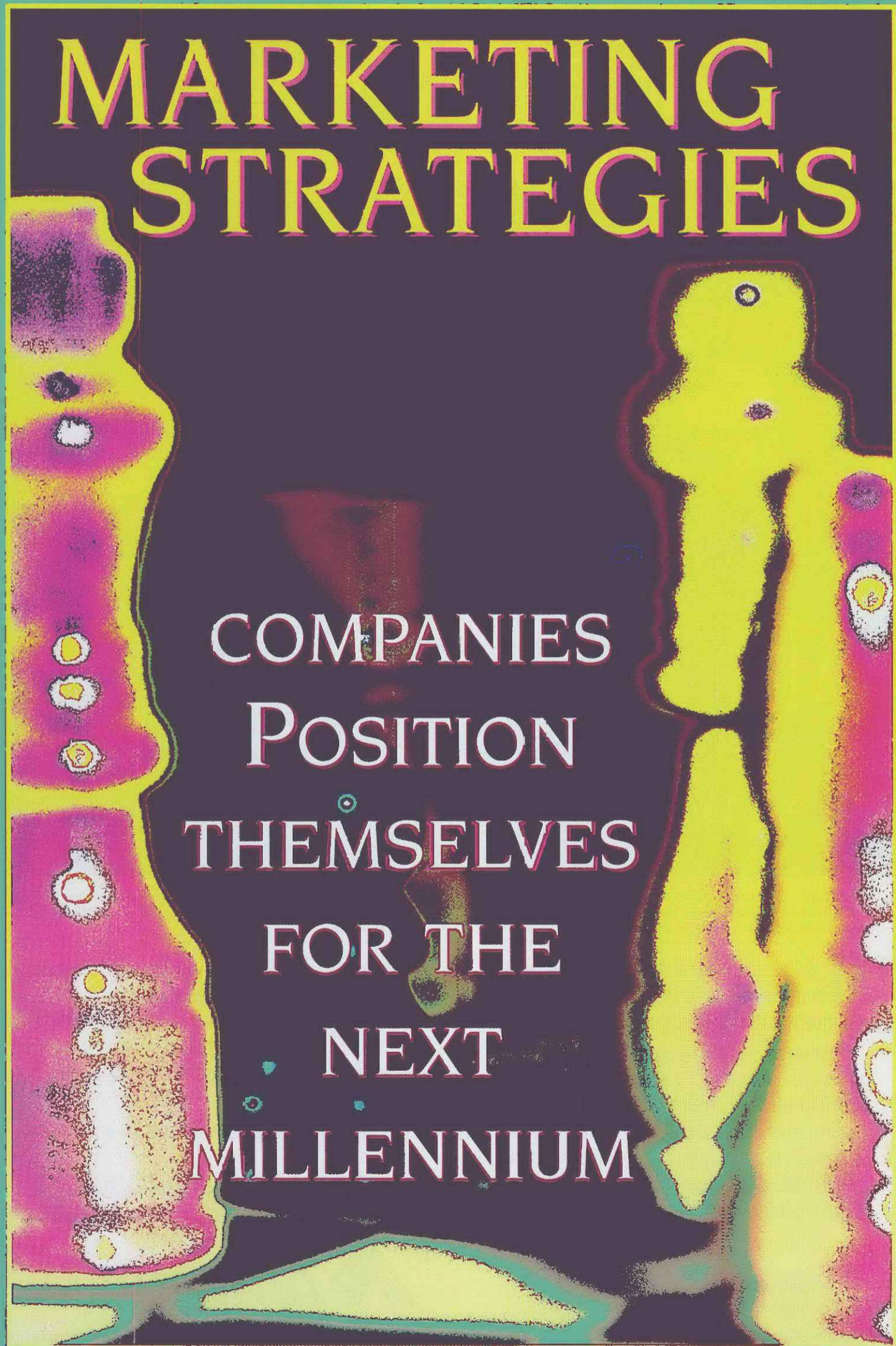
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# MARKETING STRATEGIES

COMPANIES  
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# Generational differences make a difference

Marketing should appeal to each generation's values, background, buying patterns: Expert

By SALLY ROBERTS

**T**he insurance marketplace is made up of multiple generations, and agency marketing plans need to target the different characteristics of each generation, a consultant contends.

In describing the specific habits, behavior and buyer patterns of "Xers," "boomers" and "matures,"

Emily Huling, president of Selling Strategies Inc. in Terrell, N.C., explained that each generation has been shaped by various events.

For example, Generation Xers, those born between 1965 and 1976, grew up with Dennis Rodman, Anita Hill, Dr. Jack Kevorkian, the Branch Davidian cult and the Space Shuttle Challenger disaster, Ms. Huling explained. "These people have seen their parents downsized, they've seen homelessness, and

they've seen companies go bankrupt."



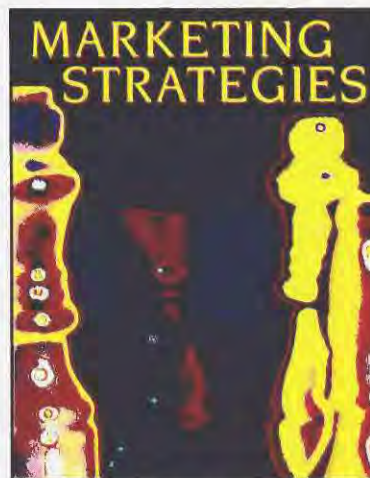
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Xers have grown up in uncertain-

ty, she said. As a result, their mantra is "Eat dessert first," she said. "That's the way they operate; they're very pragmatic."

On the other hand, baby boomers, those born between 1946 and 1964, grew up with the Beatles, Watergate, "60 Minutes," President John F. Kennedy's assassination and "The Today Show," Ms. Huling said.

Boomers think there always is another side to the story, she said.



They are information junkies and want facts and figures. In addition, they are "the me generation" and expect a lot from those with whom they do business.

The mature generation, those born between 1909 and 1945, is the "warm and fuzzy generation." They grew up with presidential fireside chats, Polaroid cameras and Frank Sinatra. "They believe in duty before pleasure," she said. "Success is valued and treasured because they worked so hard for it; they also want to protect it."

Because each generation is different, agencies need to shape their marketing and selling strategies to fit each generation, Ms. Huling told agents attending a session on multi-generation selling at the recent Insurance Marketing & Management Services annual conference held in Boston.

With Generation Xers, Ms. Huling advises agents to abandon the hard sell. This generation values individuality and takes a no-nonsense approach to solving problems, she said. "Attitude sells" with this generation.

She pointed out an ad campaign targeting this generation, which asks, "Is your insurance protection keeping up with your success?"

"That says it all when you think about Xers," Ms. Huling said, noting that many Xers start their own businesses in their early 20s.

Prudential Insurance Co. of America also has done a good job of targeting this generation, Ms. Huling added. The Roseland, N.J.-based insurer changed its well-known marketing slogan of "Get a Piece of the Rock" to "Be Your Own Rock" in order to target Generation Xers, who value their individuality.

She also praised the soft drink Sprite in its Gen X-targeted ad campaign, which tells them to "Obey Your Thirst."

To reach Xers, Ms. Huling suggests using technology. World Wide Web sites are a good means to get information across, but they need to be rich enough in content, she warned.

Ms. Huling recommends putting a "frequently asked questions" link on an agency's Web site. There, Xers could find information and answers to common questions such as "What do I need if I open my own business?" or "I'm starting a family. What do I need to consider?"

Agents need to let members of this generation make their own decisions, she said.

See **Generation** on next page

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Pictured at the Phillips Family Athletic Center Project at Greenhill School, Carrollton, Texas, are from left to right Jay Cashion, Project Superintendent, Hisaw & Associates; Dan Waldorf, Amwest Dallas Branch Manager; Kathryn Rehm-Hisaw, Executive Vice President, Hisaw & Associates; Orvil Coborn, Director Construction Division, Greyhawk Insurance And Risk Management Services, Inc. Dallas, Texas; Dick Hisaw, President, Hisaw & Associates

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## Generation

*Continued from previous page*

While Xers care less about facts, figures and information, baby boomers are "information junkies," Ms. Huling said. "They want to make educated decisions." Therefore, agents should give these people the information they need to make those decisions.

The best way to reach this generation is through educational seminars, surveys and newsletters, Ms. Huling said.

She added that boomers want to know what the "experts say"

when it comes to making decisions. "It validates what they do."

She stressed, however, that boomers don't want to be called "seniors" and don't want to hear about retirement. "They embrace youth," she said.

Ms. Huling advised agents to employ approaches that "make it invisible" that clients are aging. She suggests, for example, making all informational material 14-point type and making sure that chairs in the agency are comfortable.

With the mature generation, agents need to show respect for and focus on clients' "success,

wisdom and experience," Ms. Huling said.

This generation is richer than

**Audio tapes are a great way to get information across to the mature generation, says Emily Huling.**

any other, and many are buying second homes, she said. They also want protection, whether it's security systems for their homes or protecting their assets so their children have an inheritance.

Like baby boomers, Ms. Huling suggests reaching the mature generation via newsletters and seminars.

Also like the baby boom generation, mature clients need lots of stories, metaphors and examples in the marketing material, Ms. Huling said. Agents should give examples of the benefits other clients have achieved by using the specific insurance product being marketed.

One marketing effort many agencies have "totally missed" with the mature generation is the use of audio tapes, Ms. Huling said. Audio tapes are a great way to get information across to this

generation. These tapes could contain information about all of an agency's services, or such information as "What do you need to know so that the government doesn't get your money?"

She also suggests sending handwritten notes and birthday cards to this generation.

"I hear success stories all the time" that this approach works, Ms. Huling said.

She added that insurance agencies should have wide-barrel pens handy to help arthritic clients and to be careful about the office temperature because the mature generation is more sensitive to the cold. **BI**

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# Success hinges on relationships: Consultant

By SALLY ROBERTS

**W**hile many competitive forces are attacking insurance agents today, an agency's focus should remain on clients and not the competition, a consultant advises.

"The loyalty and respect of a customer base is the only asset of any value that a business will carry into the new millennium," according to

Jack Burke, president of Sound Marketing Inc. in Thousand Oaks, Calif. "Forget about what the marketplace is doing and focus on your clients," he said.

Mr. Burke discussed marketing strategies that will help to build better relationships with clients during a session at the recent Insurance Marketing & Management Services annual conference held in Boston.

Marketing is not just advertising, he said. "It's the entire fiber of your organization" from the person answering the telephone to what the

company's World Wide Web site looks like. "It's everything you do."

As such, all of the marketing ef-



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forts in an agency need to focus on the customer, he said.

"Today's market is not about dollars, it's about relationships," he said. "The companies that you represent will either be competitive or be out of business. The only thing that you have is your ability to relate, support and bring value to the relationships you've got."

The first thing agents need to do is brand the agency, Mr. Burke said.

If the agency's name is the owner's name, "you've got to take the name to the streets," he said. If the agency's name is a corporate name, "you need to give it an identi-



ty."

He stressed, however, not to brand the agency with "We give good service." This is no longer a competitive advantage, because if an agency is not giving good service, the agency will not be in business, he said.

Mr. Burke suggests discovering the company's uniqueness by getting key agency staff and the top 10 customers together and find out what the customers think is unique about the agency. Ask why they are doing business with the agency and brand the agency accordingly, he said.

In terms of technology, Mr. Burke told agents that it "is not the answer, it's only the tool" to get closer to the client. If the agency does have a Web site, the agency's Web address needs to be simple so that others can easily find it on the Internet.

The Web site also should have links that bring value to clients, he said, suggesting that agents find out from customers what they would like to see on the site.

He also advocates putting a personnel page on the site so clients can click on and find out a little more about the employees of the agency.

"If you do use the Internet and you do build a Web site, they will not come unless you use every form of marketing from word of mouth on," he said. "You have to drive folks to the Web site."

Among other marketing suggestions, Mr. Burke told agents that if they have an automated phone system with a menu, don't make it so that customers get lost in it.

"Be simple and have easy exit routes," he said. "Speed is a customer entitlement, it's not an enhanced service. What may be efficient for you, may not make the customer happy."

Mr. Burke also told agents to look at their agency fax cover sheets and determine if they are being used as a marketing device.

Other suggestions included opening up the agency's resource library to clients. For example, if the agency keeps on file a video about safety, offer clients the opportunity to come and borrow it. This "brings value to relationships because clients don't have to go out and search for it," he said.

Another suggestion Mr. Burke offered included opening up the agency conference room to the local community.

He also suggests writing personal handwritten notes to clients letting them know that the agency appreciates their business or to convey the agency's sympathy when a tragedy occurs for a client.

"Do you bring the human aspect to all that you do?" he asked. "How do you handle it when someone cashes in a life insurance policy or has a car wreck?"

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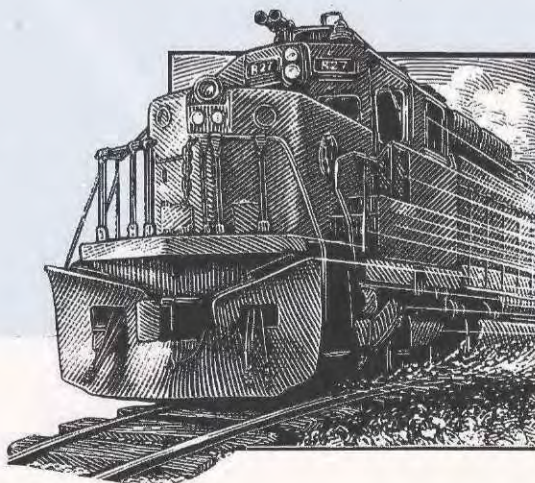
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## Megabrokers seek to stand out

MMC, Aon, Willis embark on new ad campaigns to set them apart

By MICHAEL BRADFORD

Following the rash of mergers and acquisitions in recent years, each of the world's three largest insurance brokers are setting out to make sure clients and investors can tell them apart.

Marsh & McLennan Cos. Inc., Aon Corp. and Willis Corroon Corp. all are in the midst of marketing campaigns they hope will solidify their identities as companies that provide value and solutions to their clients and investors.

"1997 was a year of consolidation," said Jeff Jacobs, senior vp of brand development at Aon in Chicago. "1998 was a year of integration. Aon believes now is the time to brand the Aon name."

To that end, Aon has em-

barked on a campaign titled "Insure Your Vision," with television and print ads that aim to illustrate the depth of services the company provides.

"We spent a lot of time talking to clients to understand what role Aon plays in their businesses," Mr. Jacobs explained. What the broker found was that many clients view Aon's services mostly as "transaction-oriented" and not always as providing "strategic value," he said.

That research helped shaped the ad campaign into one that will communicate how Aon's many services can increase a client company's value, Mr. Jacobs noted. "We do a lot more than just get them a great deal on insurance."

The ads point out ways that Aon can help clients cover eventualities they never would have considered, Mr. Jacobs said. In one television spot, a silver

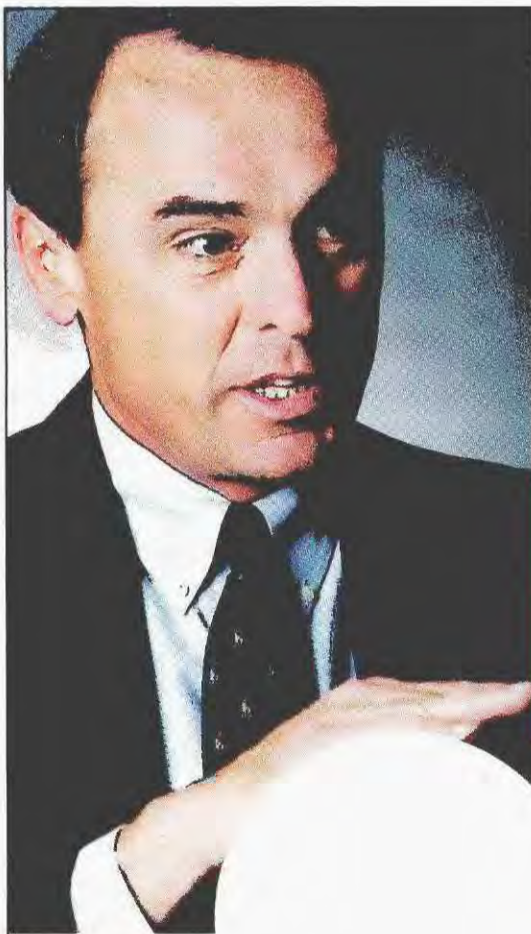


sports car races along as an announcer sings its praises. When the wind rips the hood off, the voice-over points out that it was made with the "poorest workmanship in the industry."

The spot asks, "Who could have helped?" and the answer is Aon's human resources consulting services that develop hiring and retention plans for optimal employee performance.

The branding campaign will be seen worldwide, with print ads appearing in such publications as The Wall Street Journal, Financial Times, Forbes, BusinessWeek and others. Aon's TV ads began appearing in May on ABC, CBS, NBC, CNBC and CNN networks.

See **Campaigns** on next page



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## Campaigns

Continued from page 30F

Marsh & McLennan Cos. Inc. launched its campaign to raise corporate visibility with the sponsorship of The Memorial golf tournament held May 31 to June 6.

MMC, which is the parent company of broker Marsh Inc., had its name prominently displayed during the telecast of the tournament at Muirfield Village Golf Club in Columbus, Ohio. MMC also ran a number of television commercials during the 12-hour golf telecast on CBS and the USA network.

"This is really part of a campaign to enhance the visibility of MMC as the parent company of three distinguished financial services businesses," said Barbara S. Perlmutter, vp-public affairs at Marsh & McLennan Cos. Inc.

She said the campaign primarily targets institutional investors to make them aware of the brokerage unit, as well as subsidiaries Putnam Investments and Mercer Consulting Group.

Ms. Perlmutter said the parent company now is referred to as MMC, which is its stock symbol, rather than M&M. Its logo has been redesigned to include the three financial services subsidiaries.

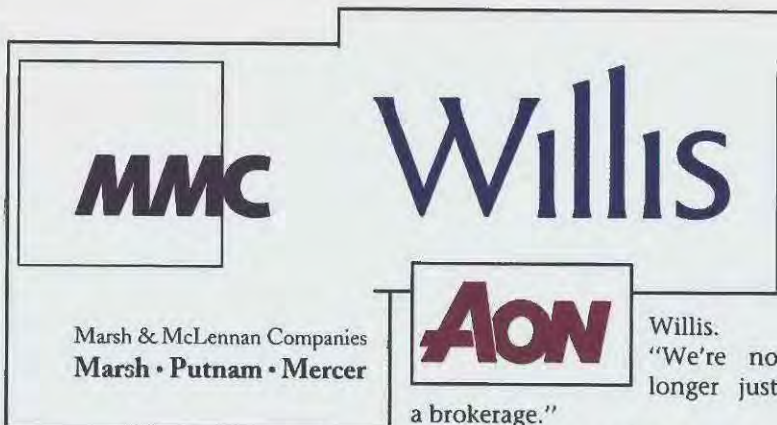
Research by the parent company indicated people knew "bits and pieces" about Marsh & McLennan and its operating units, Ms. Perlmutter explained. "But very few people put all the pieces together," she said, to come up with the full picture of the companies that make up Marsh & McLennan.

An advertising campaign that is under way is putting the MMC message out through commercials that are running on CNN and CNBC. Full page ads are running in The Wall Street Journal, as well as being placed "in all the major business publications," Ms. Perlmutter pointed out. The MMC campaign uses a light-hearted approach to get the word out that the Marsh & McLennan companies "are the best-kept secret in the Fortune 500," she said. "That's the message we want to deliver."

TV ads, for example, show people describing who or what they think Marsh & McLennan is. Their answers—"heart surgeons" and "movie critics," for example—deliver the message that while many people have heard of the company, they can't identify what it does.

The company's print ads also are being reproduced as posters that are being placed in the business class lounges of United Airlines, Delta Air Lines and TWA at airports across the United States.

In addition to Aon and MMC, Willis Corroon is following up a recent change in the way it refers to itself worldwide with a new ad campaign that introduces the new brand and "tells people



what our company has become," said Kevin Gwin, Nashville, Tenn.-based vp and director of corporate communications at

the company this summer began referring to all of its units as Willis as a way to reduce confusion among clients that did not always see various units as

part of a single entity (BI, June 7).

Willis has launched a print ad campaign to introduce Willis—The Risk Practice, an expression intended to convey the message that all of the company's units operate as a unified entity with the goal of providing solutions to risk management problems.

Willis' approach is to use its employees in the ads accompanied by text that describes actual problems they have solved for clients.

For example, one shows a Willis consultant standing and holding a laptop computer. The ad's headline text reads "Super-model" and smaller print de-

scribes how he and his team helped the United Kingdom subsidiary of an insurer restructure its investment portfolio so that it was better suited to changes in the global economy.

"These are real stories with real people, real risk experts coming up with solutions that you're just not going to get any other place," Mr. Gwin remarked.

Mr. Gwin said Willis has "made our media buys through the end of the year" and the ads will be appearing in publications including The Wall Street Journal, BusinessWeek, The Economist, The Treasurer, CFO and others. **BI**

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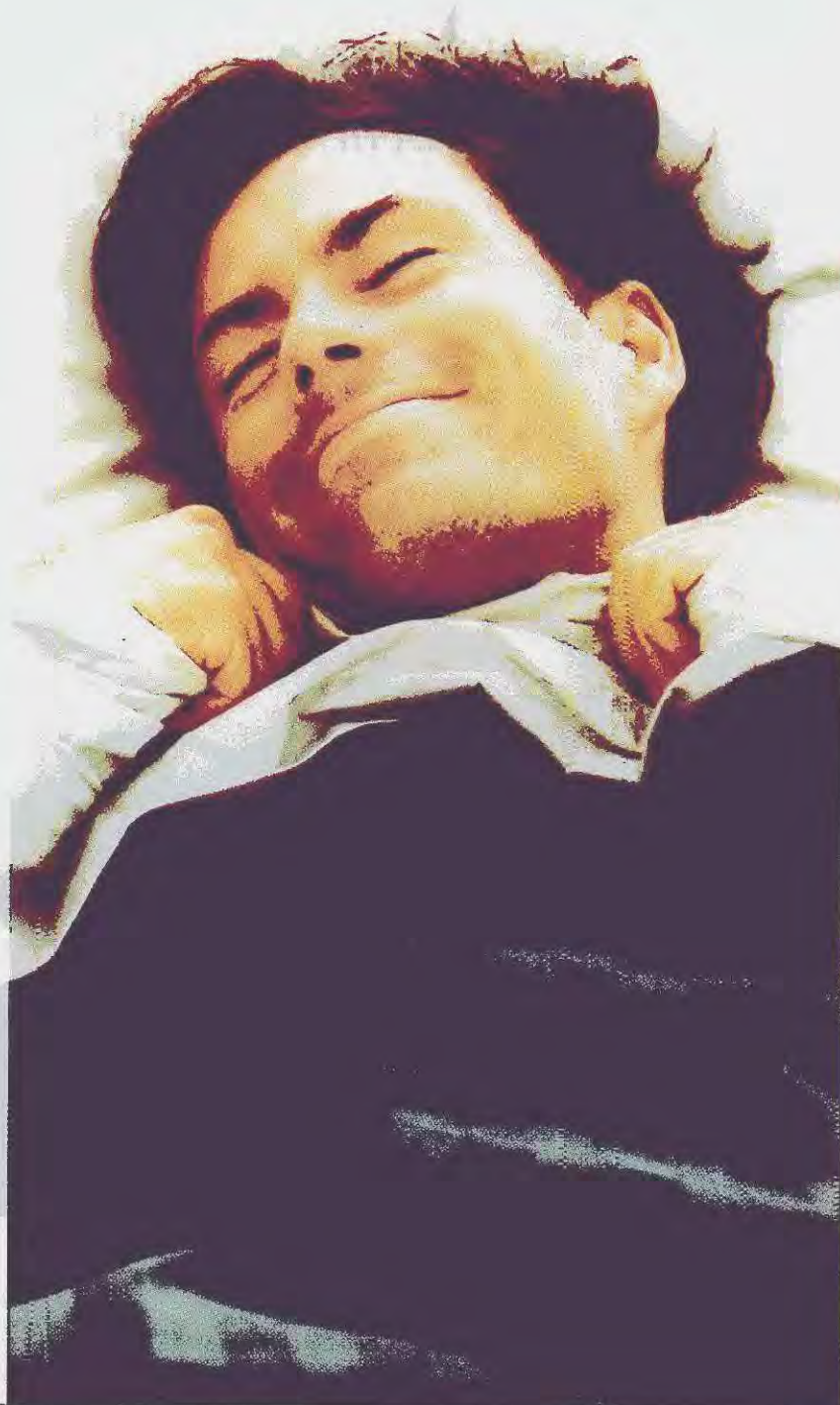
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# Two insurers working for stronger links with brokers

By ROBERTO CENICEROS

While many insurance companies have closed local offices, two insurers recently realigned their organizational structures to establish closer ties with producers.

Their goal is to help agents and brokers find their way around their growing companies so that those producers will have easy access to an expanding spectrum of products, said officials for the two insurers, Kemper Insurance Cos. and Zurich U.S.

One of the biggest challenges for insurers with an abundance of products is clearly communicating to producers—in a consistent way—the availability of those products, said Jeff Yates, chief executive officer for industry and state relations for the Independent Insurance Agents of America Inc. in Alexandria, Va.

Some insurers are responding to that challenge.

In April, Schaumburg, Ill.-based Zurich U.S. named seven regional vps to help consolidate its business insurance lines under one organiza-

tional structure and to build distributor relations.

Part of the regional vps' responsibility is to help agents and brokers identify appropriate contacts within Zurich, said Thomas H. Hite, who in April was named executive vp for Zurich U.S. as part of the new marketing initiative.

The regional vps also are responsible for improving Zurich's brand identification and improving agents' ability to cross-sell the company's products. They work out of offices in Atlanta, Chicago, Dallas, Los Angeles, New York, Philadelphia and San Francisco.

"It's a recognition that, as we move from products to solutions and as we try to figure out ways to leverage the entire enterprise, the messages get a little more complicated, and we have to figure out ways to make sure we are getting the messages out there," Mr. Hite said. "You cannot always do that through advertising or education. Sometimes, you have to have people on the ground that actually work with agents and brokers to get them to the right places."

The insurer's capabilities now have a breadth and depth not easily understood by agents and brokers,

Mr. Hite said. Past Zurich market research has shown that agents may be aware that Zurich can provide certain products but might not know how to gain access to them.

While Mr. Hite said agents who frequently place specialty coverages typically don't have that problem, he admitted that "there are capabilities that we have that are simply hard to figure out."

Helping agents cross-sell Zurich's products is important because "we also believe that we were not doing a good enough job of representing the entire enterprise within a region," Mr. Hite said.

"We wanted to do a better job of making the entire Zurich franchise available to our agents and brokers in a more ease-of-doing-business way," he said.

To do that, the new regional vps will develop strategies and programs to help producers access and sell products and services that originate outside of Zurich U.S. but still are offered by the broader Zurich family. For example, these products may come from Zurich units such as asset manager Scudder Kemper Investments or from another Zurich unit that provides payroll services for businesses.

Because the effort is new, just what programs and strategies the vps will develop to better reach producers remains to be seen, Mr. Hite said.

Also in April, Long Grove, Ill.-based Kemper announced it had hired Douglas A. Batting to oversee its commercial insurance operations and that it was realigning itself into four product groups: the Business Customer Group, Kemper International, the Individual & Family Customer Group, and Kemper Casualty Co.

Mr. Batting is an insurance industry veteran, a former Chubb Corp. executive vp and managing director of global operations, with plenty of experience in integrating new products and services, according to Kemper officials. He also is known in the industry for being a strong supporter of the agency system, the IIAA's Mr. Yates said.

During the past two-plus years, Kemper has developed more than a dozen new lines, such as professional liability, contract surety and environmental casualty.

Given its expansion, Kemper's newly realigned "platform" will give producers easier access to the company's entire portfolio, William D.

Smith, Kemper's president and chief operating officer, said in a statement.

"We now have a product portfolio that rivals any in the industry," Mr. Smith said in the statement. "Our goal is to make it as easy as possible for our producers to sell everything we have to offer. So we have built a new Kemper to make that happen."

For agents, navigating their way through an insurance company's products and personnel can be a tough challenge, the IIAA's Mr. Yates said.

Companies need to focus on providing services for producers, he said. Yet several national companies have pulled back from operating local offices, he noted.

Those insurers that bring all of their commercial lines together and clearly communicate all of their products are aiding agents and giving themselves a competitive edge, he said.

"Having people that know local conditions, know the local risks, work with the agent in building the account, is very positive," Mr. Yates said. "There is a competitive advantage that a company gets by having a local presence." **EI**

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# The risks of the risk business

Agents and brokers must protect against their own exposures

By Michael Rosen and Larry Hoellworth

## A/BT Perspective

**A**gents and brokers increasingly find themselves called upon to help their clients manage and plan for risk.

Likewise, in this increasingly litigious world, agents and brokers find it necessary to manage and plan for their own risk.

The old phrase "the shoemaker has no shoes" is often all too true for agents and brokers who have not adequately managed their own risks. As an insurance sales representative, you must expect and accept that, in the complex and ever-changing world of insurance, sooner or later an error or omission may occur and a professional liability claim, valid or not, will be made against you by one of your own clients. By applying the following eight risk management principles, you can better prepare your own defense against an unwarranted claim.

### 1. If you can't procure the insurance, confirm that fact in writing.

A fundamental rule the courts apply to broker conduct was originally set forth in *Barile vs. Wright* by the New York Court of Appeals in 1931 (256 N.Y. 1931). When you undertake to procure insurance, you have a duty either to obtain that insurance in a timely manner, or promptly notify the client if unable to do so.

You may find it difficult to tell your client that the coverage he or she needs is not available. However, from a liability standpoint, bad news is better than no news. You may personally discuss the situation with your client to keep your client aware of the situation and to discuss options. But a follow-up letter protects you from liability, because the client will not be able to assert years later, when memories have faded or witnesses are gone, that he or she was under the presumption that "full coverage had been obtained."

### 2. Deliver and report, but don't promise.

The most common refrain heard in liability claims against agents and brokers is: "She told me I had full coverage," or "He promised he would get the coverage and I never heard anything further." The important point: *Don't tell your client that you have something until you have it.*

Never promise to get coverage; instead, endeavor to get coverage as quickly as possible. Offer systematic feedback to your client. If a placement is difficult or delayed, let your client know. If your client wishes to have exclusions or limitations modified or deleted, you can offer to attempt to have them eliminated.

When you over-promise, you

raise your client's expectations and set yourself up for failure. From a practical business standpoint, it is far better to set realistic expectations for your client and then deliver beyond those expectations.

### 3. Keep written records of all contracts.

In insurance sales, a lot of business is conducted via e-mail, by telephone, and in personal conversation. From a liability standpoint, it is extremely important to keep a written record confirming (a) what was said in those conversations and (b) what was concluded, agreed or promised.

When possible, print out e-mails and file them so that computer purges or crashes won't destroy these records. Years later, when a claim arises, the hard copy of that e-mail could contain important evidence of your innocence.

Telephone conversations are often the focus of insurance malpractice lawsuits. In court, recollections of phone conversations often end up as "he said-she said" affairs, and juries all too often give the complainant the benefit of the doubt as to what was really said.

The most meaningful discussions—personal messages—are habitually the most overlooked in terms of documentation.

Therefore, *it is important that you establish rigorous telephone log and personal conversation record procedures.* A written record or log may be the best evidence as to what was said and what happened when a suit arises months or even years later. A log can even be admitted as evidence to prove that something was *not* said or *not* done. Every client file should contain a complete log sheet upon which all client contacts—whether by telephone, e-mail, or in person—are chronologically entered. This log should contain, at minimum:

- Date of contact.
- Customer contact name and agency or brokerage employee's name.
- Names of agency or brokerage staff people involved in the contact, as well as any outside parties involved in the contact.
- Initials of the person entering the record.
- Clear statement of key substantive discussions.

Again, the *best* record is the follow-up letter. It ends up in the client's hands and, if the client doesn't write back, the record demonstrates that, at the time, the client agreed with your record of the conversation or decision.

It is critical that you complete your notes on a client contact immediately, while the memory is fresh. Avoid the pitfall of taking another phone call or driving to the next meeting before you complete

the notes from the prior contact.

Your written record does more than enhance the defense of most claims against you. By enhancing communication and follow-through, it will also enhance your service to your client. The client satisfaction that results from good communication will improve your chances of retaining your client, thus reducing the chances of an errors and omissions claim ever occurring in the first place.

### 4. Retain records.

There are minimum standard periods of time for retaining records. A record retention schedule must be followed to meet legal or company requirements. If you disposed of a record prematurely, you may be seen as trying to hide embarrassing evidence. The best advice: Exceed the minimums. Keep those records for when you most need them—when memories have faded and witnesses are not available.

### 5. Be a faithful "telephone wire."

An insurance representative is often considered a "dual agent" who has obligations to both the insurer and the policyholder. This role as facilitator and enabler often involves filtering problematic or irrelevant information between the two parties.

Problems can arise for agents and brokers if they decide not to transmit to an underwriter information that is disclosed by a policyholder but is considered irrelevant by the agent. Later, when a claim is made, the underwriter may decide that the information was critical to the underwriting decision, thereby exposing the agent to liability. Such a position, of course, can be taken only if the information was not transmitted by the agent.

Avoid adding information as well. Don't editorialize or characterize coverages when it isn't necessary. Such comments can come back to haunt you should the policyholder disagree with any characterizations you made.

### 6. Show different levels of coverage and pricing.

A successful Midwest broker shares the story of his success. When he first started out, he could not afford to buy E&O insurance for himself. Fearing even a single claim, he ran his business to make sure he had no claims.

Whenever a client asked for a certain insurance policy, he would supply several quotes, giving options for increased limits and broader coverages with higher premiums. He continued to offer additional options until he documented that either (a) the insurer refused to provide greater limits or broader coverage, or (b) the client rejected a proposed higher limit or broader coverage. As a result, the broker eliminated his most important exposure:

See *Risks* on next page

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## Risks

Continued from previous page  
inadequate coverage.

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Sometimes you may feel pressure from clients or the competition to provide lower quotes. You can do that while giving options for better coverage at higher rates. It is important to show clients many levels of price and coverage, allow clients to make their own value judgments, and document each client's decision.

### 7. Never complete or sign an application for a policyholder.

The insurance application form should be completed by the policyholder. Only your client knows the facts about his or her own business, personal health, or personal finances. As a facilitator, you can, of course, assist your client with completing the application.

Your standard practice must always be to advise your client to truthfully and completely answer each question. Always make sure your client signs the application and takes responsibility for the truth of the answers to the questionnaire. Any errors will be the responsibility of the client.

Even in those rare circumstances

where an application must be completed over the telephone or expedited by you in some other manner, do not sign the application. Rather, submit the unsigned application to the insurer immediately for review, subject to the insurer's receipt of an application properly signed by the policyholder. This can be confirmed via fax, with the hard copy to follow, and with a copy to the insured to sign and fax back. In writing, tell the client to read before signing!

Completing an application for a client may expedite completion of the application but, by doing this, you put yourself unnecessarily at risk. Juries and judges often believe that policyholders do not properly proofread their answers on applications before signing if the answers were filled in by the sales representative. Judges and juries also may believe policyholders who later assert that they did not understand a question because of how it was read to them. When the answers are in your handwriting, you risk being blamed.

Furthermore, always use the insurer's own application form—the insurer will not be able to argue that further information should have been obtained or disclosed if, in fact, it was not requested on the company's own application form.

### 8. Let clients make decisions.

Understand and limit your role—to provide sound advice and information, not to make value judgments, guesses, or operating decisions that only clients should make.

The most common type of claim, comprising nearly half (43%) of insurance agent and broker E&O claims, involves allegations of "inadequate coverage."

Often in first-party coverage, the policyholder fails to insure property for its full value or fails to obtain adequate limits for business interruption coverage.

By requiring the policyholder to make the decisions on limits, you limit your own exposure.

No doubt, as "the insurance professional," you want to provide "all the answers" for your customer. However, those answers should be in the form of options, not prescriptions: The answers must be the client's answers, too. **BI**

*Michael Rosen and Larry A. Hoellworth are risk management counsel for Executive Risk Inc.'s insurance agents unit and partners with the Chicago-based law firm Peterson & Ross. The practice primarily in the areas of directors and officers liability and professional liability defense litigation.*

## E-commerce regulations reviewed in IIAA study

Independent agents and insurance companies confused by the current regulatory environment for Internet sales now have a comprehensive review of applicable laws and regulations.

The study, "E-Commerce and the Law: Regulatory and Legal Implications of Electronic Commerce on the Insurance Industry," reviews the insurance industry's current use of the Internet and provides a comprehensive examination of how existing state laws and regulations apply to online insurance marketing activities and sales transactions.

Washington-based law firm LeBoeuf, Lamb, Greene & MacRae L.L.P. compiled the study for Future One, a cooperative effort between the Independent Insurance Agents of America Inc. and 25 insurer partners.

"Many agents and insurance

companies are beginning to use the Internet to offer new services, build upon their existing systems, realize new efficiencies and enhance overall performance," IIAA President William B. Greenwood said in a statement. "Hundreds of other agencies and companies are

just beginning to explore Internet options. This study will help agents and companies understand the regulatory impediments to conducting

sales over the Internet and offer suggestions for establishing an Internet presence that will operate within the bounds of the regulatory system's current limitations," he said.

For an order form, call IIAA's fax-on-demand service at 800-282-9183 and select document No. 012. The study costs \$75 for IIAA members and \$150 for non-members. It can be ordered through [www.independentagent.com](http://www.independentagent.com) at a 20% discount. **BI**



## Direct marketing work gets some online help

A new software product is aiming to help small to medium-sized insurance agencies that are having a difficult time generating lists for direct-marketing efforts.

Stamford, Conn.-based Digital Asset Management Inc. recently launched ThinkDirectMail, an online direct-marketing product.

ThinkDirectMail's database lets insurance agents and brokers search more than 130 million consumers and businesses by ZIP code, standard industrial classification, phone number, within a geographic radius as well as by name and address.

While the Web-based application requires Internet Explorer 4.0 or an ActiveX compatible browser, all the data can be downloaded to virtually any database.

An annual subscription fee of \$195 provides unlimited searches and downloads of up to 250,000 names, with no additional fees.

"The age old model" in direct marketing is that one pays a certain amount of money, say 4 cents, per name, explained Keith Goodman, vp-sales and marketing in the Longmont, Colo., office of DAMI. Most list vendors, however, only sell names in large geographic areas, like the state of Colorado

or the central portion of the United States, he said.

ThinkDirectMail enables insurance agents, for example, to access all the dry-cleaning stores within a 10-mile radius of their agency, he said.



ThinkDirectMail's online information, which is available by Web-based application or by CD-ROM, is updated monthly by DAMI's strategic investment partner, Acxiom Corp. in Conway, Ark.

In addition to ThinkDirectMail, DAMI also launched a companion Web site, [www.ThinkDirectMarketing.com](http://www.ThinkDirectMarketing.com), that offers direct marketing educational resources to help agents and other businesses with their marketing efforts. The Web site offers links to direct marketing news, in-depth articles and reports, interactive tools, calendars, forums and live chats.

For more information, contact Digital Asset Management's sales and marketing department toll-free at 877-288-DATA.

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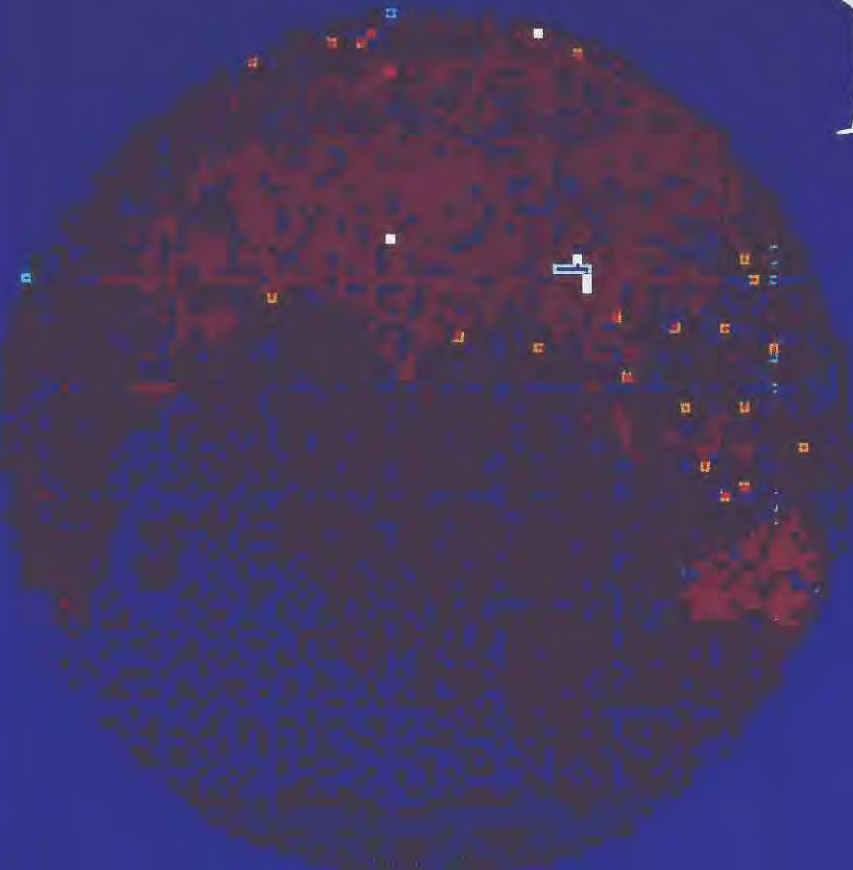
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Issue Date	Directory
Feb 2	Utilization Review Providers & Case Managers
Feb 16	Third-Party Administrators
Mar 2	Benefit Information & Claims Systems
Mar 16	Risk Management Consultants
Apr 6	401(k) Plan Administrators
Apr 27	Captive Managers
May 25	Environmental Risk Management Consultants
Jun 8	Alternative Risk Financing Facilities
Jun 15	EAPs & Dependent Care Resources & Referral Services
Jul 20	Agents & Brokers
Aug 3	Prescription Benefit Managers
Aug 17	Property Loss Control Consultants
Aug 31	Leading Reinsurers Worldwide
Sep 7	Surplus Lines Insurers & Wholesalers
Oct 5	International Insurers & Benefit Networks
Oct 26	Safety Consultants & Rehabilitation Services
Nov 9	Reinsurance Brokers
Nov 23	Benefit Communication Systems
Dec 7	Risk Management Information Systems
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# **Business Insurance**

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## Agent/Broker Topics Briefs

### ISONet offered

NEW YORK—For the first time, Insurance Services Office Inc. is offering to insurance agents ISONet, its Internet-based insurance information delivery system.

Agents can now access real-time information from ISO's 25,000-page Commercial Lines Manual and more than 5,000 personal and commercial lines policy forms.

ISO also has added address-specific underwriting and rating information for homes and commercial properties from its Geographic Underwriting System to the ISONet product, which agents can access.

"Access by agents and the addition of GUS information to the ISONet system both are strategic advances in making the Internet the primary channel for delivering our insurance information to all our customers," Donald J.

Rainone, ISO's executive vp-marketing and strategic planning, said in a statement.

ISONet is a secure, password-protected Web site launched last year for insurance company clients.

For more information on agent access to the ISONet system and GUS, call ISO customer service at 800-888-4476 or e-mail ISO at ISONet@iso.com.

### Group cooperation

WASHINGTON—The National Assn. of Professional Insurance Agents and the National Assn. of Life Underwriters are discussing possible cooperation to better serve both organizations' members.

In a joint statement, the associations said that exploring new areas of cooperation makes sense because they already have worked together in a number of areas, most notably on the leg-

islative front.

PIA President Arthur I. Moll, in a statement, described both associations as having "similar organizational cultures, as well as recognized areas of expertise that complement each other."

The associations said they will not limit the areas in which they will explore cooperative efforts and have set no timetables.

The Independent Insurance Agents of America Inc. issued a joint statement commenting on the PIA/NALU announcement, saying that enhanced cooperation, strategic alliance and other efforts between agent associations is needed as the integrated financial service marketplace becomes more of a reality.

The IIAA has an ongoing strategic alliance with the NALU and said it is reviewing several joint initiatives, such as new life products and services, employee benefits and other financial services to help better serve their memberships.

Separately, the IIAA is joining forces with the American Institute for Chartered Property Casu-

alty Underwriters and the Insurance Institute of America to enhance the quality and delivery of its Accredited Customer Service Representative program.

Under the three-year agreement, AICPCU and IIA will review, revise and update IIAA's ACSR program materials, including course text, leadership guides, tests and certificates.

In addition, technology giants AMS and Applied Systems announced they will join forces with IIAA's Council for Technology to create long-term strategies toward electronic insurance commerce. And, IIAA and the Life Underwriter Training Council announced that they will expand their 1998 strategic alliance to expand IIAA's Accredited Customer Service Representative Designation Program to life and health coverages.

### New SIAA member

KEENE, N.H.—SIAA Inc., a national insurance agency alliance of independent agents, signed on its 250th member agency in early May, Christensen Insurance L.L.C. of West Simsbury, Conn. SIAA signed 44 members in the first four months of 1999.

Since that time, four SIAA Master Agencies have been established: The Baldwin Agency Inc. of Americus, Ga., established Georgia Agents Insurance Network Inc., which will build its agency network throughout southwest Georgia; Schlitt Insurance Services Inc. of Vero Beach, Fla., established InsurCorp Satellite Services, which will build its agency network in eastern Florida; Aronov Insurance Inc. of Montgomery, Ala., established Alabama Insurance Alliance L.L.C., which will build its agency network throughout the central and southern part of Alabama; and Wright & Kimbrough of Sacramento, Calif., established West States Insurance Alliance, which will build its agency network in the Sacramento Valley and northern Nevada.

### Marketing deal

LOS ANGELES—Insurance Marketing & Management Services and InsurQuote Systems Inc. recently signed an agree-

ment to jointly market the Complete Internet Package to independent insurance agents nationwide.

The Complete Internet Package combines IMMS' CompleteAuto online car buying service and its P&C Plus agency management product with InsurQuote's e-commerce product InsurWare, which will be available this month.

IMMS P&C Plus is an agency management tool that, among other things, contains online sales, business and marketing strategies. IMMS' CompleteAuto product is accessed from agents' Web sites and allows customers to obtain one-stop Web-based auto buying, financing and leasing.

InsurWare, among other things, will allow agents to conduct e-commerce and to give customers instant quoting for the insurers they represent.

The Complete Internet Package is available for a discounted price of \$595 per year.

For more information and to subscribe contact Guy Quinn, IMMS sales director, at 800-753-4467, e-mail quinn@imms.com.

### Briefly noted

The **Latin American Assn. of Insurance Agencies** will join forces with the **National African American Insurance Assn.** for NAAIA's second annual conference, "Building Successful Insurance Careers." The conference will be held Sept. 19-22 at the Hyatt Regency Hotel in New Orleans... Bret Quigley recently joined **Hobbs Group L.L.C.** in Atlanta as its chief financial officer. Previously, Mr. Quigley was vp and director of investment banking at First Union Capital Markets Corp... **Palmer & Cay Inc.** of Savannah, Ga., acquired Slabaugh Morgan & Associates Inc., an employee benefits consulting firm based in Richmond, Va... **Mann & Smith Inc.**, an independent insurance agency in Clarksville, Tenn., recently joined Synaxis Group Inc. Synaxis was established in 1998 to link major regional insurance brokers with community-based insurance agencies. **BI**

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## Business Insurance

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Environments, Inc., nationally acclaimed independent consultants who can evaluate and help minimize your risks on-site.

**We can cover what others won't.**

We've built a reputation underwriting unique liability policies to help meet your needs. To learn how you can start protecting your company, call us at 617-330-8531.

**LEXINGTON INSURANCE COMPANY PIONEERS IN REVOLUTIONARY PROTECTION**

# Insurers

Continued from page 3

A year ago, commercial lines rates generally fell an average of 10% at renewal. Now, they are rising about 3% across all lines, said Mr. Gilles. "Plus 3% is not big in and of itself, but when you think of it relative to a year ago, that is a pretty big shift."

Even in lines where price has not been firming, such as some general liability and commercial property accounts, rate reductions are slowing, he added. "Even those lines are small, single-digit negatives. There isn't any line that is anywhere near where it was for the last five years, much less last year."

So far, property/casualty rates are increasing the most in California, with increases running about 7% to 8%, especially in workers compensation, said Mr. Gilles. But in New England, rates for commercial lines coverage are still falling by about 2%. Nevertheless, he expects other regions will begin to raise rates, as California is now doing.

Tom Swensen, vp-underwriting and product services for Wausau Insurance Cos. in Wausau, Wis., said that rate increases haven't become evident across the board—yet.

The market is starting to respond, however, to "accounts that merit increases" because of poor loss experience, said Mr. Swensen.

If a particular line of coverage within an account shows poor experience, underwriters will respond with higher prices. "It's the point where the rest of the account can't subsidize" adverse experience, he said.

With underwriters concerned that the current hurricane season will be more active than usual and with "the upcoming issues from Y2K from a casualty standpoint, the industry's basically saying things are on the horizon" that underwriters must prepare for, Mr. Swensen said. In addition, he said, workers comp "medical inflation rates are moving up" and are considerably higher than they were even a year ago.

With the market showing some signs of firming, compared with recent renewals, insurers say more risk managers now are willing to share their loss data, as buyers are finding fewer companies willing to underwrite risks with limited information.

As recently as a year ago, insurers lost some business opportunities when they asked for five or seven years of loss history before agreeing to underwrite a new account, Mr. Iordanou said. "They used to tell us, 'Just take three years and if that is not good enough for you, just close the account because we have other places to do it,'" he said. "Now those phone calls

don't happen."

But the rate increases being sought still do not make up for the price reductions of the past several years, according to insurers.

"This is the first blush of any pricing improvement that we have seen in a five- or six-year period," St. Paul's Mr. Lilienthal said. "The level of price increases is not significant enough, though, to offset the erosion that has taken place over the past 10 years."

Yet the apparent shift is a welcome relief for insurers.

"The real story for us is that the firming has continued every month and has increased," said Paul J. Krump, senior vp and managing director for Chubb & Son Inc. of Warren, N.J. "We are very excited here about getting out of the hole and getting back to decent rates and eventually getting to an underwriting profit again."

For standard commercial lines—including workers comp, commercial automobile, package and umbrella liability—rates have increased month over month as accounts renew, Mr. Krump said. In May, Chubb was able to obtain a 4.3% increase on average over the previous year for that standard business. The goal by year end is to raise rates 5% across the board. With month-over-month increases, Chubb is on target to get that, he said.

Chubb also has been able to raise rates to account for additional exposures in existing business. In the past few years, the competitive market prevented insurers from taking into account such things as the rising cost of construction or building additions.

But recently, a desirable policyholder with worldwide standard lines coverage agreed to rate increases to correct additional exposures, Mr. Krump said. Despite the increases, the client renewed with Chubb because of the insurer's tailor-made coverages, good service and explanations for the increase, he said.

"It's real encouraging to me because I think the real story is not only are rates increasing, but underwriting is back in vogue," Mr. Krump said.

While Chubb and other insurers say that this year they have walked away from underpriced business, some competitors still are picking it up at or below expiring rates.

"Interestingly, some of my competitors seem to be taking a very hard stance on the renewal business," Mr. Krump said. "But they are still aggressively going after some new business. But I think that is changing every day."

While there is some variation in rates geographically, pricing patterns also vary among insurers.

For large, national property accounts, Zurich is getting increases of around 10%, Mr. Iordanou said.

But on the liability side, 10% increases have been more sporadic, he said. For package purchases including workers comp, auto and general liability, buyers have been moving from guaranteed-cost policies to retro and large-deductible programs.

Rate increases for middle-market clients have remained more elusive, despite a greater need for increases in that arena, insurers said.

Middle-market package business, including property and liability insurance, has increased 2% to 3% during the first quarter, Mr. Iordanou said. Zurich is pushing that to about 10% for the second quarter, but it is costing the insurer some business.

The middle-market remains very erratic and inconsistent, St. Paul's Mr. Lilienthal said.

Many customers have never seen increases before, and the numbers are not yet large enough to convince them a change is here, he said. "They almost don't know how to respond, and they

## 'Not only are rates increasing, but underwriting is back in vogue,' says Chubb's Paul J. Krump.

don't believe their agent or broker that this is what the market truly is, because they have been schooled to accept that it's a question of how much of a discount, not whether there will be one," Mr. Lilienthal said.

But in general, St. Paul, with its focus on middle-market business, has seen low single-digit increases in pricing for property, inland marine and auto liability risks throughout the first half of the year, Mr. Lilienthal said.

But general liability pricing remains flat and under pressure not to increase.

"Many companies, including ourselves, have experienced a rash of pressure or adverse loss activity in the property area, so we have pulled prices on that," Mr. Lilienthal said. "But general liability, for some reason, has not responded."

"The loss costs we are seeing to the general liability line have been very disappointing and have put pressure on the rest of the book," he added.

"We will have to push more aggressively on the general liability line, and I think the market will have to push. From our standpoint, this will be a significant pressure point on us achieving our results if we don't get more price on this line," he said.

St. Paul is holding to a position it took last October to shed \$250 million

worth of middle-market and construction business rather than follow the market on business that one or two years of incremental increases would not have improved, he said.

"We could show much more dramatic price increases if we were willing to retain some pretty hideous segments of our book of business," he said.

Construction and transportation coverages also are seeing price change levels in the low digits, Mr. Lilienthal said. St. Paul loses some of that business every time it pushes for higher rates, but it is more willing to shed that business because its loss ratios are significant.

Workers comp has continued to drop in terms of pure rate changes, but that does not reflect the structure of deals, such as whether dividend plans are being pulled back, Mr. Lilienthal said.

For its middle-market accounts, Zurich during April and May has seen workers comp rate increases of about 9% for guaranteed cost programs, Mr. Iordanou said.

Mr. Krump also said he believes workers comp and commercial auto still need more price increases than do package and umbrella business.

There are signs of firming in some specialized liability lines as well, insurers say.

High-risk directors and officers liability exposures, such as those in the high-tech and biotechnology industries, are seeing 15% to 20% rate increases, Zurich's Mr. Iordanou said.

Steve Sills, CEO of Executive Risk Inc. in Simsbury, Conn., also noted a firming in D&O liability. Chubb's previously announced acquisition of Executive Risk is expected to be completed this month (BI, Feb. 15).

"For many years, there's been a steady rate reduction. We've seen a halt in that," Mr. Sills said. For example, "rates have very much firmed" in the high-tech initial public offering area. There have been a lot of losses in that particular sector, and given the current stock market, "disappointments are much more magnified when things go wrong," he said.

But Mr. Sills added the current D&O firming is "not the type of turn people saw in '86."

Rates are also firming for law firms' professional liability coverage, he said. While "there have been large decreases over the years, those are coming to a halt," in part due to loss experience, said Mr. Sills. He added that there are not a lot of underwriters in the large law firm professional liability market.

"Rates are still soft" in the employment practice liability area, Mr. Sills said, as competition brings greater capacity. "More and more people are jumping into that business," he said.

The medical malpractice liability market also is showing signs of change, said Jim Voltz, senior vp-field operations for PHICO Insurance Co., a medical malpractice underwriter based in Mechanicsburg, Pa. "There clearly is something going on—I would not go so far as to say a hardening," he said.

"You've got more insurance companies in play than in anywhere else," but during the past 12 or so months, some national insurers have retreated from the medical malpractice arena, Mr. Voltz said. That retreat has led to opportunities for insurers that can write national programs, because of growth of national health care chains, he said, adding that PHICO now writes in all states.

But despite the pullback of some national insurers, competition remains on a local basis, as small single-state or regional insurers—the so-called bedpan mutuals—continue to compete aggressively, he said. "The problem you have is, locally, the bedpan mutuals are still willing to keep

the rates at the lowest possible level." When the surplus of the bedpan mutuals burns up, that will trigger a hardening in malpractice rates, predicted Mr. Voltz.

There are signs of change in the commercial property market as well, say underwriters.

For catastrophe-prone areas, insurers are obtaining rates slightly above other areas, but the business still is underpriced, and the additional rates are not enough to offset the extra risk, St. Paul's Mr. Lilienthal said.

"I think there is a lot of naive capacity being deployed out there in cat areas," he said.

"From our perspective, we define the highly protected risk market as being at the bottom. Certainly we don't see any further erosion of pricing," said Roland Bonitati, senior vp-marketing of Allendale Mutual Insurance Co. in Johnston, R.I.

Allendale is on the verge of obtaining final approval to merge with the two other Factory Mutual insurance companies—Arkwright Mutual Insurance Co. of Waltham, Mass., and Protection Mutual Insurance Co. of Park Ridge, Ill.—to form a single HPR insurer called Factory Mutual Insurance Co.

"In fact, we see some spot opportunities to improve our premium on an account-by-account basis, essentially linked to the performance of the account and the exposures," Mr. Bonitati said.

But he expressed some concern about risk managers' commitment to loss control.

"Our concern in general is there's a movement to use risk financing rather than risk engineering and prevention. We think people are making a leap of faith," he said.

The boiler and machinery market "has bottomed," said Normand Mercier, senior vp for Hartford Steam Boiler Inspection & Insurance Co. in Hartford, Conn.

"But it is remaining competitive on the way up. As we go, the prices are firming" where they have been depressed, he said. "We're choosing very carefully where we want to implement some increases. We're choosing occupancies where we need it the most," said Mr. Mercier. The changes are not industry specific, but need to be "more aggressive" in the small manufacturing sector.

"We're watching our renewal retention very carefully month by month, and our sense is firming is in the cards in the months ahead," he said. "The loss experience is the driver of it."

Insurers say they expect pricing pressures to continue.

"I think there is a lot of internal pressure from boards on behalf of shareholders saying, 'How are you deploying our capital, and what is the rationale for accounting this much capital that has been underperforming for years?'" Mr. Lilienthal said.

Zurich's Mr. Iordanou said insurers cannot continue to rely on the capital markets to perform as they have in the past three years, so that investment returns will offset underwriting losses. The momentum to correct fundamentals will continue to build in the form of changing prices.

"You will see earning surprises and you will see people admitting to aggressive reserving practices in the past and making those corrections," he said.

Mr. Iordanou also said reinsurers have been tightening up their underwriting practices and pushing for price increases. That "eventually will reflect what we put out to insureds," he said.

Costlier reinsurance could play a role in firming the market, agreed Mr. Bonitati. The first signs could show up in the July 1 reinsurance treaty renewals or the Jan. 1, 2000, renewals, he said.

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# Minimizing the risk of workplace violence

By James E. Crockett

**VIOLENCE IN YOUR WORKPLACE:** Who will be the victim?

Today everyone has an answer to this question. Numerous programs and procedures are designed to prevent this violence. But the question isn't *if* violence will occur in your workplace—the real question is *when* will the violence occur, regardless of the steps taken, and what will be the aftermath?

With workplace violence defined as violent acts, including threats and physical assaults directed toward people at work or on duty, workplace violence can take several forms:

- Violence inflicted by unknown third parties, such as the public, customers and clients.
- Violence inflicted by co-workers involved in fighting, threatening behavior, assault, harassment, stalking and the like.
- Violence inflicted upon an employee by someone the victim knows, including domestic violence that spills into the workplace.

Even organizations that take extensive and expensive steps aimed at eliminating workplace violence on occasion have been subject to lapses in security that result in violence. These organizations include correctional facilities, courts, airports, and other "secure" facilities, including military and research institutions.

Violence can strike any employer, office building, or public facility, as evidenced by the growing number of tragic events reported almost daily in newspapers. Workplace violence continues to capture headlines, spawn seminars and, in general, alarm the business community.

No workplace is immune. The risk once was limited to gas stations, liquor and convenience stores, taxi drivers, and other similar types of business operations, but now workplace violence has infiltrated every commercial arena.

The characteristics of the high-risk workplace, according to the National Safe Workplace Institute, include:

- Chronic labor/management disputes.
- Frequent grievances filed by employees.
- A large number of workers compensation injury claims, especially for psychological injury.
- Understaffing and excessive demands for overtime in an authoritarian management style.

Just recently, workplace violence has been associated with the cost of doing business in challenging economic times.

The fastest-growing form of homicide is the workplace killing. Workplace homicide is the third-most common cause of on-the-job death for men and the leading cause of on-the-job death for women. Recent studies conducted by criminologists show workers are killing supervisors at twice the rate of a decade ago. Many other employees are being damaged both physically and psychologically by these situations.

The headlines focus on tragic incidents involving numerous fatalities, school children, government workers, anti-abortion extremists, and high-profile situations. Regrettably, however, more than 750 people each year are murdered on the job, and the cost to employers for all workplace incidents is more than \$4.2 billion annually.

Workplace violence in the '90s has burgeoned to extreme levels, and the annual number of reported workplace victimizations and number of injuries are overwhelming.

Just looking at the factors that relate to violent incidents involving employees in the workplace, respondents to a survey conducted by the Society for Human Resources Management listed numerous reasons for violent acts. Among the most common were personality conflicts; marital or family problems; drug or alcohol abuse; and firing or layoffs.

To address prevention, employers must examine who is committing violence in the workplace. Although

profiles vary, enough data has been collected to generalize the perpetrator of workplace violence. He is male; 35 or older; has a previous history of violence toward women, children or animals; owns a weapon; reflects low self-esteem connected with his job; has few or no outside interests; and is likely to be withdrawn or a loner. These people are characterized by a tendency to externalize blame for disappointments. There is a high probability of military history and substance abuse and/or mental health problems, which usually are not identified until after a violent act has occurred.

From these general profile characteristics, a violent behavior probability checklist could be developed that would look like this:

Characteristics of violent persons	
Loner	Access to weapons
Aggressive attitudes	Anti-establishment attitudes
Battered child	Blames others
Impulsive	Doesn't accept authority
Has few friends	Identifies with his job
History of interpersonal relationship problems	Works in an authoritarian organization
Interested in weapons	No wife or significant other
Arrests for violence	Poor work history
Prior assaults	Previous emotional problems
Abuse problems	Private stress
White male 35-45	Heavy drinker/smoker
Drug user	Tattooed
Threatens others	Violates company policies
Perceives imminent job loss	Talks frequently about violence

These profiles reflect to some extent the actual causes of violent crime in the workplace, which include: a feeling of betrayal on the part of management due to increased workplace stress, job layoffs and elimination; autocratic methods of management; and the emotional aspects of social problems involving drug, alcohol, and family difficulties.

Although profiles can be helpful, it is important to be aware that any employee at any level can become violent if a triggering event produces too much stress. The stress is measured in the mind of the person involved, and a crisis can occur when a person faces an insurmountable obstacle. In a crisis involving job loss, there is a sudden threat to the employee and his or her role as a provider.

By recognizing this as a crisis situation, efforts can be made to prevent violence. Thoughtful approaches include using employee assistance programs, outplacement assistance, referrals to community resources, and using what is referred to by out placement organizations as "soft discharge." This involves continuation of pay and benefits for a period of time over and above the normal severance pay package and is intended to minimize the economic impact upon an employee.

Many arguments are put forth that careful recruitment, including reference-checking, criminal background checks, drug testing, and extensive pre-employment screening, would limit the negligent hiring of dangerous individuals. Unfortunately, most of these techniques are inconclusive. You just can't tell who will snap and commit a violent act in the workplace.

What are the legal consequences of violence in the workplace, and what are the potential areas of litigation that should concern employers? They include civil actions for negligent hiring; discrimination lawsuits; workers compensation claims; third-party claims for damages; invasion of privacy actions; and Occupational Safety and Health Administration violation charges.

First let's address the issue of negligent hiring and how it relates to violence in the workplace and areas of potential liability for the employer. More than half the states recognize and uphold the negligent hiring doctrine. To avoid negligent hiring liability, which can result in substantial awards, many employers are turning to pre-employment screening following traditional practices and including honesty tests, personality tests,

handwriting analyses, and other investigations.

Screening involving such tests as the Minnesota Multiphasic Personality Inventory, the Myers-Briggs Type Indicator, and Personnel Selection Inventories have not been shown conclusively to be effective tools for determining who might become violent in the workplace.

The mental health community has not demonstrated the ability to make accurate predictions of long-term dangerousness. They can be successful in predicting eminent dangerous behavior, but they tend to overpredict violence by as much as 100%.

As employment-related violence usually involves a crime by an employee and serious physical injury—and in some cases, mental injury—suffered by the victim, the potential for large jury verdicts is great. A few examples from the courts indicate the significance of these types of verdicts:

- A 16-year-old female restaurant employee was raped by her assistant manager. The assistant manager previously was convicted of sexual abuse and had been reprimanded for sexual harassment. She was awarded \$6.5 million.
- A hospital worker was kidnapped, raped and murdered by a male employee at the hospital laundry. The attacker had two previous convictions for assault and had attacked two females at the hospital previously and had only received minor discipline. The result was an award of \$1.9 million.
- A 55-year-old engineer suffered severe physical injury in an altercation with a parking attendant. The employer hired the attendant even though it knew the attendant had acted violently previously. The result was an award of \$864,000.

The cases go on and on as more and more courts recognize claims for negligent hiring and negligent retention.

One technique used by almost all firms is to thoroughly check a job applicant's background. Experts indicate that based upon the position and the industry, between 10% and 30% of all job applicants distort the truth or lie on their resume. Although it may cost \$50 to \$200 for a thorough background check, when you consider the potential exposure from negligent hiring, it is certainly worth the money.

Although only several of the legal consequences related to violence in the workplace have been reviewed, the general duty clause of the federal Occupational Safety and Health Act requires that each employer furnish a place of employment free from recognized hazards (risk of violence) that are likely to cause death or serious physical harm.

In the workers comp arena, the exclusive remedy still applies in many situations and may limit civil liability outside of the workers comp statutes, but workers comp costs still may be significant. For example, in a recent hostage case involving the U.S. Postal Service, five hostages held by a former employee who returned to the workplace have not returned to work one year later, and each of the five hostages is suing the Postal Service for \$5 million for failure to provide a safe workplace.

As workplace violence is increasing so dramatically, all employers must become sensitive to the issue and begin to think of ways of defusing situations that can become violent and ways of avoiding the situations in the first place. The issue is literally a matter of life and death in some situations, and the organization's human resources, legal areas and risk management must develop ongoing strategies to address the potential for violence in the workplace. **EI**



James E. Crockett is manager-risk and benefits for the Denver Water Department.

# Business Insurance®

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| <input type="checkbox"/> Educational Inst | <input type="checkbox"/> Actry/Attorney |   |

2. Number of employees:

- |                                       |                                      |  |
|---------------------------------------|--------------------------------------|--|
| <input type="checkbox"/> 150 or fewer | <input type="checkbox"/> 500-999     | <input type="checkbox"/> 5,000 or more |
| <input type="checkbox"/> 151-499      | <input type="checkbox"/> 1,000-4,999 | <input type="checkbox"/> Unknown       |

3. My title is best defined as:

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# Business Insurance's midyear directory of risk management information resources

### CAPTIVES

■ Meadowbrook Insurance Group Inc. offers information regarding the benefits of **captives**, offshore vs. onshore domiciles and the various legal forms of captives. Request item 301.

■ An overview of the 1986 Lia-

bility Risk Retention Act, discussing risk retention groups, purchasing groups and related issues, is available from The Risk Retention Reporter. Request item 302.

■ An outline of **captive formation** is available from Meadowbrook Insurance Group Inc. Request item 303.

■ Northern States Management offers a booklet describing the various types of **captive insurance companies** and their suitability for a variety of captive programs. Request item 304.

■ Meadowbrook Insurance Group Inc. presents an article on how agents and brokers can use agency-owned captives by entering the **alternative risk market**. Request item 305.

### COMMERCIAL PROPERTY/ CASUALTY INSURANCE

■ A newsletter from Wilson, Elser, Moskowitz, Edelman & Dicker L.L.P. addresses recent legal developments in the area of **product liability** and also reports on recent significant cases. Request item 401.

■ Alternatives to **claims settlement** are discussed in an article from Wisenberg Insurance+Risk Management. Request item 402.

■ A newsletter from Clausen Miller P.C. summarizes recent significant developments in **litigation issues**. Request item 403.

■ A booklet from ECS Underwriting Inc. examines important issues and trends in **environmental insurance coverage**. Request item 404.

■ A newsletter by CFR discusses **sexual harassment hazards** and provides suggestions about what employers can do to protect themselves against lawsuits. Request item 405.

■ Wilson, Elser, Moskowitz, Edelman & Dicker L.L.P. offers a newsletter to keep executives and professionals abreast of legal issues that affect them in their business and assist them in their **risk management** efforts. Request item 406.

■ Tillinghast-Towers Perrin provides an overview of the U.S. **property/casualty industry** from the perspective of industry executives. Request item 407.

■ A **state-by-state analysis of employment law** is available from Wilson, Elser, Moskowitz, Edelman & Dicker L.L.P. Request item 408.

■ An article discussing **steps to take immediately after a loss** occurs is available from Deloitte & Touche. Request item 410.

Continued on page 38

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to move mountains."**



Frank C. Wilham  
President and  
Chief Executive Officer

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Continued from page 36

■ A newsletter addressing the risks and liabilities of **construction and surety** is available from Wilson, Elser, Moskowitz, Edelman & Dicker L.L.P. Request item 411.

■ A description of the **property and casualty insurance courses and programs** offered by the

The Property/Casualty and Health Care Information Resource section is an editorial compilation of current informational and educational materials on topics of interest to risk management, employee benefits and financial executives.

The listings are published as an editorial service by *Business Insurance*; there is no charge to list materials in the section. All the materials are available free to *BI* readers.

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American Institute for CPCU and the Insurance Institute of America is provided in a booklet. Request item 412.

■ Wisenberg Insurance+Risk Management offers an article on reducing the overall cost of risk for clients in **motor sports programs**. Request item 414.

■ A newsletter from Wilson, Elser, Moskowitz, Edelman & Dicker L.L.P. discusses important developments within all areas of **general liability litigation**. Request item 417.

■ A newsletter from Wilson, Elser, Moskowitz, Edelman & Dicker L.L.P. reports on timely issues in **securities litigation, securities arbitration and investment adviser registration**, among other topics. Request item 419.

■ A new study from broker Marsh Inc. explores **liability coverage data** for 23 U.S.-based industries. Request item 420.

■ A newsletter from Wilson, Elser, Moskowitz, Edelman & Dicker L.L.P. focuses on developments in **directors and officers liability**. Request item 421.

■ A flier that describes the **Chartered Property Casualty Underwriter (CPCU) professional designation program** is offered by the American Institute for CPCU. Request item 422.

■ Wilson, Elser, Moskowitz, Edelman & Dicker L.L.P. offers a newsletter addressing various lia-

bility issues such as lead poisoning, repetitive stress injury and brownfields. Request item 424

■ A periodic newsletter addressing various aspects of **accountant's liability** is available from Wilson, Elser, Moskowitz, Edelman & Dicker L.L.P. Request item 427.

■ The Insurance Institute of America's three-course **Program in General Insurance** is described in a flier. The program is geared toward individuals in insurance-related occupations who require an understanding of insurance principles and policies. Request item 428.

■ A newsletter by CFR examines the problems that building owners face from **enforcement of building codes** and offers suggestions about what they can do to protect themselves. Request item 429.

■ A booklet from Wilson, Elser, Moskowitz, Edelman & Dicker L.L.P. gives a state-by-state analysis of the **Punitive Damages Review and Unfair Claims Settlement Practices Act**. Request item 430.

■ A CFR newsletter discusses problems faced with **renting a vehicle for business purposes** and the related business auto policy coverage issues. Request item 431.

■ A newsletter available from Wilson, Elser, Moskowitz, Edelman & Dicker L.L.P. covers recent developments in **patent law,**

**trademarks, copyrights** and other matters pertaining to unfair competition. Request item 433.

#### FIDELITY & SURETY

■ A flier from the Insurance Institute of America describes the five-course **Associate in Fidelity and Surety Bonding designation program**. Request item 701.

#### INTERNATIONAL

■ Globex International Inc. offers a newsletter on **issues faced by companies that conduct business internationally**. Request item 903.

■ An article from Marsh & McLennan Cos. Inc. discusses the **impact of the euro** on companies conducting business in Europe. Request item 905.

■ Articles from Employers Reinsurance Corp. analyze the **German liability insurance market**. Request item 907.

■ Employers Reinsurance Corp. offers a discussion of the **euro and its implications for the insurance industry**. Request item 909.

#### LOSS CONTROL/PEOPLE

■ Comprehensive Health Group offers a pamphlet on how **drugs in the workplace** affect safety and productivity. Request item 1001.

■ An injury prevention program brochure discussing **lifting techniques, back exercises, ergonomics, safety promotions and**

**back belts** is available from Hepner Risk Management. Request item 1003.

■ A guide to **protecting executives from threats** such as kidnapping and terrorism is available from Professional Indemnity Agency Inc. Request item 1004.

■ Case studies illustrating the effects of **injury prevention programs** involving back safety exercises, training, ergonomics and back belts is available from Hepner Risk Management. Request item 1005.

#### LOSS CONTROL/PROPERTY

■ A booklet from American Re-Insurance Co. summarizes **post-judgment interest, prejudgment interest and punitive damages** as applied by various states and territories. Request item 1101.

■ Driver Check Inc. offers an insurance video explaining the advantages of a **24-hour vehicle safety monitoring program**. Request item 1102.

■ The Insurance Institute of America's five-course **Associate in Loss Control Management designation program**, is described in a flier. Request item 1103.

■ EQE International Inc. offers a recent **hurricane report for Puerto Rico**. Request item 1104.

■ A publication on **preventing vehicle collision losses** is available from Driver Check Inc. Request item 1105.  
*Continued on next page*



The Spark  
That Ignites  
The Solution

Continued from previous page item 1105.

■ BMS Catastrophe Inc. offers a workbook with the **basic tenets of disaster recovery planning**. Included are discussions of current restoration technology and procedures. Request item 1106.

■ American Re-Insurance Co. offers an overview of **insurance coverage and environmental tort cases** in the United States and Canada. Request item 1107.

**MARINE**

■ A flier from the Insurance Institute of America describes the six-course **Associate in Marine Insurance Management designation program**. Request item 1201.

**REINSURANCE**

■ A review of **catastrophe reinsurance programs** in the United States analyzing price, retention levels, limits of insurance and market placement is available from Guy Carpenter & Co. Inc. Request item 1301.

■ An expanded **glossary of selected reinsurance terms** reflecting the changing life/health and property/casualty insurance industry can be ordered from Gill & Roeser Inc. Request item 1302.

■ A booklet by Guy Carpenter & Co. Inc. reviews the **Year 2000 computer problem** and coverages under existing insurance and reinsurance contracts, and explains the reinsurers' approaches

to the problem. Request item 1308.

■ A booklet from Marsh & McLennan Securities Corp. explains developments in **reinsurance and the capital markets for financing the recovery from catastrophic events** and shows how markets for these risks are likely to evolve in the next decade. Request item 1310.

■ A booklet from Guy Carpenter & Co. Inc. discusses topics that include the **globalization of reinsurance**, the integration of financial services and merger and acquisition activity. The report analyzes the U.S., Bermuda, London and European markets. Request item 1311.

■ International Risk Management Institute Inc. provides practical examples and case studies covering **products, strategies and trends in securitization, convergence and financial reinsurance**. Request item 1315.

■ The Insurance Institute of America's four-course **Associate in Reinsurance designation program**, designed for employees of reinsurance companies, reinsurance intermediaries, primary insurers and others, is described in a flier. Request item 1317.

**RISK MANAGEMENT**

■ American International Group Inc. offers a pamphlet that explores **Year 2000-related liability and insurance issues and risk**

management steps companies may take to **avoid or mitigate Year 2000-related directors and officers liability claims**. Request item 1401.

■ Information prepared by American Appraisal Associates Inc. explores how appraisals are used in establishing the **insurable property value** of historic buildings. Request item 1402.

■ Duff & Phelps Credit Rating Co. shares its system for **rating insurance-linked securitizations**, or so-called catastrophe bonds. Request item 1403.

■ A booklet from Victor O. Schinnerer & Co. Inc. explains

how design professionals can **manage risk through contract language and negotiation**. Request item 1404.

■ Evolution Underwriting Services has developed a manual designed to help **expedition outfitters and guides manage liability exposure**. Request item 1405.

■ The Insurance Institute of America's three-course **Associate in Risk Management designation program**, designed to teach risk management problem-solving techniques, is described in a flier. Request item 1407.

■ Marsh & McLennan Cos. offers an article explaining why

companies need to **consider business-oriented risks** as well as traditional hazards when forming their risk and insurance programs. Request item 1409.

■ The T.E. Brennan Co. has published an article with a thorough discussion of **disaster planning** and step-by-step guidelines for formulating a company plan. Request item 1412.

■ VISTA Information Solutions Inc. has developed a guide designed to aid companies as they develop and implement **environmental risk programs**. Request item 1414.

Continued on next page

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2. Number of employees:
 

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2 <input type="checkbox"/> 151-499	4 <input type="checkbox"/> 1,000-4,999	6 <input type="checkbox"/> Unknown
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■ An article from SIGMA Actuarial Consulting Group Inc. discusses factors driving the trend of **employee vs. employer suits**. Request item 1415.

■ ICALM Group offers a practical checklist to assist in the evaluation of **claims and litigation management procedures**. Request item 1416.

■ Victor O. Schinnerer & Co. Inc. has produced a pamphlet addressing the Y2K issue and how the new millennium will affect **professional design firms**. Request item 1417.

■ ICALM Group offers a guide highlighting **operational and contingency planning**, litigation coordination and legal expense audits. Request item 1419.

■ A manual developed by Evolution Underwriting Services is designed to help manage **recreational exposure** for members of the International Special Events & Recreation Assn. Request item 1420.

■ The law firm of O'Brien & Hennessy offers monthly advice to companies on claims **subrogation issues**. Request item 1422.

■ ICALM Group offers a preliminary checklist of actions for **hotel and management personnel** with legal, financial, risk management and catastrophe planning responsibilities. Request item 1423.

■ Executive Risk offers a newsletter providing information on **employment-related lawsuits and vulnerability audits**, as well as the Age Discrimination in Employment Act. Request item 1424.

■ Network Medical Review Co. provides leaflets of general information about **evidence-based independent medical examinations and peer file reviews**. Request item 1425.

■ ICALM Group has published a handbook for **financial exposure containment** through practical management of liability problems and transactional costs. Request item 1426.

■ An Executive Risk newsletter provides information on the **Americans with Disabilities Act and sexual harassment**. Request item 1427.

■ Wisenberg Insurance & Risk Management offers an article highlighting the importance of **contracts as tools to reduce loss exposures and transfer risk**. Request item 1428.

■ ICALM Group offers a leaflet that highlights ways to simplify the process of finding, organizing and **using information in major litigation**. Request item 1429.

■ Executive Risk offers a newsletter addressing **third-party employment practices liability claims** and the "glass ceiling." Request item 1430.

■ ICALM Group offers model guidelines for **litigation billing and reporting procedures**. Request item 1431.

■ American Re-Insurance Co. offers a guide to insurance coverage and liability issued in **sexual**

**misconduct claims**, particularly sexual abuse during childhood. Request item 1432.

■ A newsletter by Executive Risk highlights **liability issues** related to managed care organizations' marketing. Request item 1433.

■ The T.E. Brennan Co. is offering an information sheet that describes the **Year 2000 problem** and what companies can do to prepare. Request item 1434.

■ A one-page leaflet from ICALM Group offers a brief **guide to communications** that reduce legal costs. Request item 1435.

■ Marsh & McLennan Cos. Inc. offers an article that explains how companies can apply the **enterprise risk management** concept to guard against global economic challenges. Request item 1436.

■ Executive Risk offers a newsletter that includes a discussion of **medical exclusive contracts and risk management strategies** for exclusive contracts. Request item 1437.

■ BNA Books offers a newsletter explaining **sexual harassment** and how to deal with harassment situations. Request item 1438.

■ ICALM Group offers an article about enhancing relationships with **defense counsel**. Request item 1439.

■ An article from Marsh & McLennan Cos. Inc. describes how multinational companies can establish **seamless international risk management programs** that still address regional and local issues. Request item 1440.

■ Executive Risk offers a newsletter that includes information on **fraud and abuse in managed care**. Request item 1441.

■ Victor O. Schinnerer & Co. Inc. provides a newsletter on **construction industry liability issues**. Request item 1442.

■ ICALM Group has published a list of questions for determining when and where to conduct **claim audits**. Request item 1443.

■ AIG Environmental offers a newsletter on **environmental liability issues**. Request item 1444.

■ Marsh & McLennan Cos. Inc. offers a discussion of **total cost of risk** and how corporations are using this approach to protect earnings, manage processes and increase profits. Request item 1445.

■ ICALM Group offers 10 steps to successful and cost-effective **litigation management**. Request item 1446.

■ Executive Risk has published the 1997 Harris study, covering **risk management at large law firms**. Request item 1447.

■ ICALM Group offers guidelines to make **legal bills from litigation and claims** easier to understand. Request item 1448.

■ Specialty Risk Services Inc. offers a white paper presented at the 1999 RIMS conference in Dallas on **workplace violence** as an increasing common problem that should not be ignored. Request item 1449.

Continued on page 42

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<input type="checkbox"/> Association	<input type="checkbox"/> Ins Broker	<input type="checkbox"/> TPA
<input type="checkbox"/> Union	<input type="checkbox"/> Ins/Reins Co	<input type="checkbox"/> Health care
<input type="checkbox"/> Government	<input type="checkbox"/> Consultant	<input type="checkbox"/> Inst
<input type="checkbox"/> Educational Inst	<input type="checkbox"/> Actry/Attorney	<input type="checkbox"/> Other
- Number of employees:
 

<input type="checkbox"/> 150 or less	<input type="checkbox"/> 151 - 499	<input type="checkbox"/> 500 - 999
<input type="checkbox"/> 1,000 - 4,999	<input type="checkbox"/> 5,000 or more	<input type="checkbox"/> Unknown
- My title is best defined as:
 

<input type="checkbox"/> Administrative Mgt	<input type="checkbox"/> Benefits Mgt
<input type="checkbox"/> Financial Mgt	<input type="checkbox"/> Loss Prevention Mgt
<input type="checkbox"/> Risk Mgt	<input type="checkbox"/> Other
- My purchasing involvement for the requested products is to:
 

<input type="checkbox"/> recommend only	<input type="checkbox"/> specify	<input type="checkbox"/> approve
---	----------------------------------	----------------------------------
- Do you now receive a personally addressed copy of Business Insurance?
 

<input type="checkbox"/> Yes	<input type="checkbox"/> No, so please send subscription info
------------------------------	---

Circle the numbers below that correspond to the companies listed on our Advertiser Index for the July 5, 1999 issue. Cards with more than 20 items circled will not be processed. This card expires August 30, 1999.

- |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |
|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| 1   | 2   | 3   | 4   | 5   | 6   | 7   | 8   | 9   | 10  | 11  | 12  | 13  | 14  | 15  |
| 16  | 17  | 18  | 19  | 20  | 21  | 22  | 23  | 24  | 25  | 26  | 27  | 28  | 29  | 30  |
| 31  | 32  | 33  | 34  | 35  | 36  | 37  | 38  | 39  | 40  | 41  | 42  | 43  | 44  | 45  |
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| 121 | 122 | 123 | 124 | 125 | 126 | 127 | 128 | 129 | 130 | 131 | 132 | 133 | 134 | 135 |
| 136 | 137 | 138 | 139 | 140 | 141 | 142 | 143 | 144 | 145 | 146 | 147 | 148 | 149 | 150 |

Please print clearly

Name \_\_\_\_\_  
 Title \_\_\_\_\_  
 Company \_\_\_\_\_  
 Address \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Phone ( ) \_\_\_\_\_ Fax ( ) \_\_\_\_\_



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Chicago, IL 50605-1702


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City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

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Fax ( ) \_\_\_\_\_

NOTE: THIS COUPON WILL NOT BE PROCESSED AFTER August 30, 1999.

All questions must be answered in order to have your inquiry processed.

Please check one item for each category:

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- |   |   |  |
|---|---|--|
| A <input type="checkbox"/> Mfg/Svcs         | F <input type="checkbox"/> Ins Agent      | K <input type="checkbox"/> Adj/Apprs   |
| B <input type="checkbox"/> Association      | G <input type="checkbox"/> Ins Broker     | L <input type="checkbox"/> TPA         |
| C <input type="checkbox"/> Union            | H <input type="checkbox"/> Ins/Reins Co   | M <input type="checkbox"/> Health Care |
| D <input type="checkbox"/> Government       | I <input type="checkbox"/> Consultant     | Inst                                   |
| E <input type="checkbox"/> Educational Inst | J <input type="checkbox"/> Actry/Attorney | N <input type="checkbox"/> Other       |

2. Number of employees:

- |   |  |  |
|---|--|--|
| 1 <input type="checkbox"/> 150 or fewer | 3 <input type="checkbox"/> 500-999     | 5 <input type="checkbox"/> 5,000 or more |
| 2 <input type="checkbox"/> 151-499      | 4 <input type="checkbox"/> 1,000-4,999 | 6 <input type="checkbox"/> Unknown       |

3. My title is best defined as:

- |   |  |
|---|--|
| A <input type="checkbox"/> Administrative Mgt | D <input type="checkbox"/> Benefits Mgt        |
| B <input type="checkbox"/> Financial Mgt      | E <input type="checkbox"/> Loss Prevention Mgt |
| C <input type="checkbox"/> Risk Mgt           | F <input type="checkbox"/> Other               |

4. My purchasing involvement for the requested products is to:

- |   |                                    |                                    |
|---|------------------------------------|------------------------------------|
| 1 <input type="checkbox"/> recommend only | 2 <input type="checkbox"/> specify | 3 <input type="checkbox"/> approve |
|---|------------------------------------|------------------------------------|

5. Do you now receive a personally addressed copy of *Business Insurance*?

- |                                |   |
|--------------------------------|---|
| A <input type="checkbox"/> Yes | B <input type="checkbox"/> No, please send subscription information |
|--------------------------------|---|

Continued from page 40

### RISK MANAGEMENT INFORMATION SYSTEMS

■ DORN Technology Group Inc. offers information on how RMIS can help **limit paper documents while improving risk management processes**. Request item 1501.

■ EDS provides material reviewing **what data houses are** and how a risk manager can ensure return on investment through better decision support. Request item 1502.

■ A DORN Technology Group Inc. brochure discusses the **sophistication of risk management information system applications** and the need for close working relationships between RMIS vendors and users. Request item 1503.

■ Health Risk Management Inc.

offers a brochure discussing the reasons behind **medical risk exposures** and ways to reduce them. Request item 1504.

■ The DORN Technology Group Inc. has published material discussing how the **Internet can be used to help manage risks** when integrated with RMIS applications. Request item 1505.

■ Deloitte & Touche L.L.P. offers a risk management information systems/lab methodology CD-ROM that serves as a guide to **selecting evaluating and implementing** a new RMIS. Request item 1506.

### SELF-INSURANCE SERVICES

■ InPhoto Surveillance offers an analysis of court decisions relating to **disability surveillance**. Request item 1602.

■ Prime Insurance Syndicate Inc. offers a manual to help commercial policyholders manage **bodily injury claims** in the early stages after an accident. Request item 1604.

### WORKERS COMPENSATION

■ Actec Inc. offers an informational packet that includes articles about companies' experience and promotion of **toll-free claims reporting service**. The packet also contains examples of standard reporting guides. Request item 1701.

■ American Re-Insurance Co. offers a guide to **U.S. workers comp settlements**. Eight questions are asked in 51 jurisdictions that explain the circumstances allowing various forms of settlement. Request item 1702.

■ Crawford Insights, published by Crawford & Co., offers information to current and prospective clients and associates in the casualty, workers comp and group health environments. Its editorial focus is to cover key issues while offering **solutions to cost-containment problems**. Request item 1703.

■ Corporate Risk Management offers a booklet explaining **workers comp retrospective plans**. Request item 1704.

■ CFR offers a newsletter discussing certified workplace medical plans in **workers compensation in Oklahoma**. Request item 1705.

■ The HJH Group Inc. has published an overview of industry trends and events that affect **workers comp and workers comp managed care**. Request item 1707.

■ The Mid-America Coalition on Health Care offers insight into the demonstration project funded by the Robert Wood Johnson Foundation to improve the **timeliness of communication in the medical component of workers compensation**. Request item 1709.

■ AIG Claim Services Inc. offers a quarterly publication for brokers and risk managers. It examines workplace issues, **including workers compensation and modified duty programs for disabled employees**. Request item 1712.

■ SAC3 offers a booklet describing the **workers compensation insurance system** and recent industry trends. Request item 1713.

■ An article from SIGMA Actuarial Consulting Group Inc. discusses factors that drive the **workers compensation experience modification factor up or down**. Request item 1714.

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# Rate hike to put focus on loss control: Exec

By MARK A. HOFMANN

PHILADELPHIA—Commercial insurance prices will rise during the next few years, meaning risk managers and others charged with performing risk management functions will have to be vigilant about reducing losses.

That is one of several assessments about change in the commercial property/casualty insurance market offered by John M. Collins, senior vp and manager-business market of Boston-based Liberty Mutual Insurance Co. Mr. Collins made his observations during the sixth annual CFO Forum on Risk Management in Philadelphia earlier this month.

The forum is sponsored jointly by Liberty Mutual and Boston-

based CFO Publishing. About 150 chief financial officers, chief risk officers and others from around the country attended the event.

"My industry—commercial insurance—is in a state of turmoil right now," said Mr. Collins. He said the current turbulence is only partly cyclical in nature and that three trends—extreme competition, consolidation and the growth of technology—will have a major impact on insurers and their dealings with customers.

Mr. Collins said underwriters are engaged in a period of what he called "hypercompetition."

He illustrated this by pointing to the overall combined ratio posted by workers compensation insurers. Citing statistics prepared by the Boca Raton, Fla.-

based National Council on Compensation Insurance, Mr. Collins noted that the industry's combined ratio for 1998 was 122%, adding that the results actually might be worse. He said a combined ratio of about 110% is generally considered the break-even point for insurers.

A combination of factors is driving the current property/casualty market, said Mr. Collins. First, workers comp reform and tort reform—both of which were pushed by businesses—have "dramatically reduced losses." Second, information technology has allowed insurers to cut their own costs. Third, capital remains abundant, allowing some insurers to become very aggressive as they attempt to increase market share.

And, finally, the "incredible performance" of the U.S. economy as a whole is driving the market, he said.

As a result, prices will "have to" rise over the next few years, said Mr. Collins. Insurers will become pickier about which risks they will write. And customers will have to "remain on top" of their risk management programs or face increased costs.

Insurers are attempting to slash delivery costs by centralizing services and reducing staff, he said. "While I recognize this sounds attractive to many customers, I continue to believe that the customer is best served by a focus on long-term reduction in losses. I think you do, too. But the question of the day is, are you—as buyers—willing to pay for it?"

Although he did not answer that question for his audience, Mr. Collins added a minute or so later that, as prices start to rise, "those of you who have stayed focused on your risk management programs will be the ones that achieve competitive advantage. Others that haven't are going to see costs go up."

Mr. Collins also said that underwriters "who cannot accurately predict their customers' future losses cannot survive."

Continuing consolidation of the insurance industry is another trend likely to mark the next few years, with possibly as many as one-third of insurers disappearing, said Mr. Collins. This consolidation mirrors that in the economy as a whole, he noted.

For customers in some industries, he said, the effect of consolidation has been clear: reduced choices. And while concentration has meant reduced costs, greater efficiency and stronger companies, it has also meant higher prices in some cases, he said. "Look at banking fees," he said.

"The question is whether the merger activity we've seen in commercial insurance to date will bring that about. So far, I don't think so," he said.

Mr. Collins said Liberty Mutual compared the number of workers comp insurers in the top 10 states in terms of workers comp premiums in 1993 and 1998. On average, the number of insurers dropped to 27.4 in 1998 from 28.7 in 1993.

He explained the difference between consolidation among insurers and that prevalent in the economy as a whole by saying that commercial insurers' merger and acquisition activity to date has been "less about strategically increasing market power than it has been a reaction to other forces."

First, globalization has led "capital-rich" European and Bermuda-based insurers to expand their presence in the United

States. Second, small and midsize domestic insurers have merged so they can compete with larger insurers.

"What this means for customers is not fewer choices between carriers, just different choices," he said. Mr. Collins noted that the situation among brokers is far different, with more than 60% of the retail brokerage going through two brokers now, compared with only 23% in 1992. But dramatic change in distribution channels has occurred in almost every sector of the economy, he said.

The final trend—the growth of e-commerce—will allow insurers to improve performance in three main areas, he said. These areas are claims management; the buying process; and, of course, risk management.

Mr. Collins said technology already allows many customers to look into Liberty Mutual's claims management system to access claims information and to leave messages electronically for claims personnel. This cuts down on telephone time and makes the process more efficient, he said.

As for buying insurance, Liberty Mutual found in a survey of risk managers and finance managers that 27% of the respondents representing companies with more than 5,000 employees said they expect to buy insurance over the Internet and that 40% expected to renew policies electronically. "Already some of our account executives fret that they will soon be replaced by a mouse. In reality, that's not going to happen," he said.

Instead, "routine parts of purchasing insurance" will be automated, he predicted, and both customer and insurer will be able to concentrate on finding new ways to reduce losses and cover the right risks.

Finally, in terms of risk management, the Internet gives customers more analytical tools to evaluate coverages and to compare them to benchmarks. This evaluation and comparison includes, among other things, analyzing the effectiveness of the buyer's safety and risk management programs; gauging their effectiveness in getting workers comp claimants back to work; and analyzing insurers' flexibility in designing coverage that reflects a company's specific needs, he said.

Mr. Collins closed by telling his audience that the recognition of the three current trends he spoke of should prompt buyers to look for underwriters that invest heavily in technology, focus on loss reduction, remain financially strong, and view commercial property/casualty insurance as a "primary business for the long haul." **EI**

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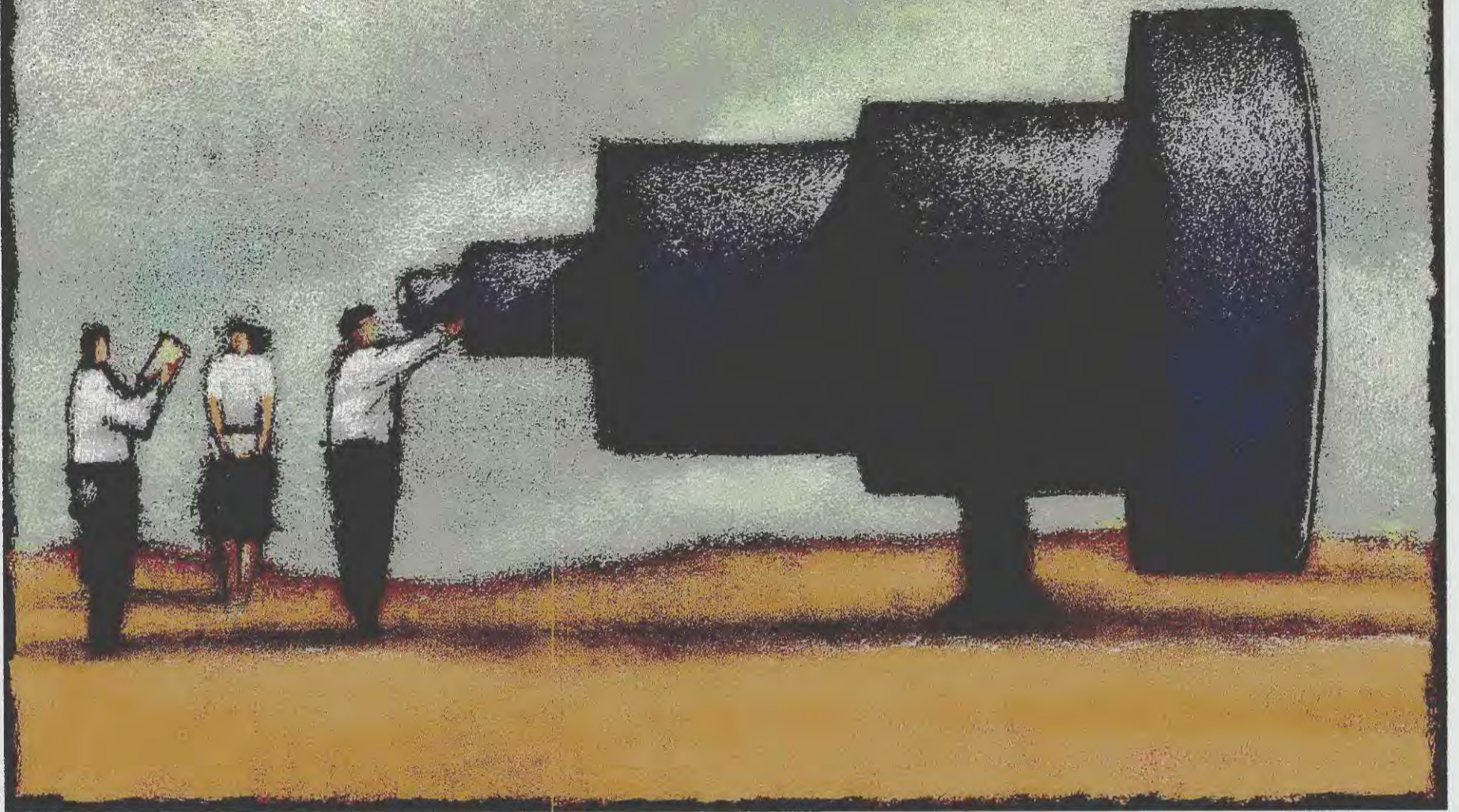
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Jul 12			Jun 29
Jul 19	Agent/Broker Profiles <sup>RS</sup> <i>Directory: Agents &amp; Brokers</i>	IT Marketing Strategies	Jul 7
July 26			Jul 14
Aug 2	Benefits: Managed Care Trends & Issues <sup>RS</sup> <i>Directory: Prescription Benefit Managers</i> <i>Information Resource: Employee Benefits</i>	ABT Government Relations	Jul 21
Aug 9	<i>Distribution: ARIA</i>		Jul 28
Aug 16	Property Loss Control <sup>RS</sup> <i>Directory: Property Loss Control Consultants</i> <i>Distribution: Vermont Captive Insurance Association</i>	IT Government Relations	Aug 4
Aug 23	Ward's Results		Aug 11
Aug 30	Reinsurance: International Markets <i>Directory: Leading Reinsurers Worldwide</i> <i>Distribution: Monte Carlo Rendez-Vous</i>	GLOBAL FOCUS	Aug 18
Sep 6		ABT Leaders in Productivity	Aug 25
Sep 13	<i>Distribution: IUMI</i>		Sep 1
Sep 20	Reinsurance: Rendez-Vous Report <i>Distribution: Canadian RIMS; Houston Marine; NAMIC</i>	IT Fighting Fraud	Sep 8
Sep 27	Marine Market Report <sup>RS</sup> <i>Distribution: IIAA</i>		Sep 15

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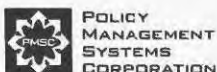
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Risk managers, loss prevention and safety managers, benefit managers, workers compensation and disability managers, along with representatives from state and local governments ... plus insurers, brokers, consultants, and representatives from HMOs and PPOs.

**PRELIMINARY AGENDA**

**MONDAY, OCTOBER 18**

**9:30 AM  
 GOLF TOURNAMENT\***

**10:30 AM  
 TABLE-TOP EXHIBITS &  
 REFRESHMENTS**  
*Hosted by: Wausau Insurance Cos.*

**3:00 PM  
 EARLY REGISTRATION**

**4:00 PM  
 EMPLOYERS' PRIVATE  
 ROUNDTABLE**

*Moderator:*  
**Kathryn J. McIntyre**  
*Vice President, Publisher and Editorial Director  
 Business Insurance*

**5:30 PM  
 PRE-CONFERENCE  
 WELCOME RECEPTION\***

**11:00 AM  
 WORKERS COMP 2000:  
 CHANGES ON THE HORIZON**

**Jeffrey W. Pettegrew**  
*V.P. Ins. & Risk Management  
 Westaff*

**Edward Frackiewicz**  
*Director, Risk Management  
 Del Monte Foods*

**Larry L. Hansen**  
*National Practice Leader  
 Wausau Insurance Companies*

**Kenneth R. Ross**  
*Sr. VP, Product Development & Management  
 Intracorp*

**TUESDAY, OCTOBER 19**

**7:45 AM  
 REGISTRATION AND  
 CONTINENTAL BREAKFAST**  
*Hosted by: Specialty Risk Services*

**9:00 AM  
 OPENING REMARKS**  
**Alexandra Scott**  
*President & CEO  
 International Business Forum*

**9:05 AM  
 KEYNOTE: How Disney Does It —  
 "It's all about dealing with people"**  
**Stephen M. Wilder**  
*Vice President, Risk Management  
 The Walt Disney Company*

**9:45  
 INTEGRATED DISABILITY  
 MANAGEMENT**  
**Robert Gelb**  
*Vice President, General Manager  
 QTC Management Inc.*

**12:00 PM  
 LUNCHEON\***

**1:15 PM  
 BUILDING A WINNING TEAM**

**Barry E. Thompson**  
*National Practice Co-Leader  
 WC Disability Management Services  
 Deloitte & Touche LLP*

**Dave Chetcuti**  
*Director of Workers Compensation  
 Sysco Food Services*

**Bernadette Melchionne**  
*Senior Corporate Insurance Administrator  
 Mattel, Inc.*

**Suzanne Guyan**  
*Director of International Workers Compensation  
 Costco*

**2:30 PM  
 COMBATING FRAUD**

**Keith Neuman**  
*Deputy Commissioner  
 California Department of Insurance*

**John P. Massucco, Jr.**  
Chief, Insurance Fraud Division  
San Diego County  
District Attorney's Office

**Bill Strickland**  
Special Investigation Unit Manager  
Liberty Mutual

**3:30 PM**  
**TABLE-TOP EXHIBITS & REFRESHMENTS**  
Hosted by: Bayne Consulting Group, Ltd.

**4:00 PM**  
**CONCURRENT SESSION: A OR B**

**Session A:**  
**NIOSH ADVICE ON EASING THE IMPACT OF JOB STRESS AND SHIFTWORK SCHEDULES**

**Dr. Steven L. Sauter**  
Chief of Applied Psychology and Ergonomics  
National Institute for Occupational Safety and Health

**Dr. Roger R. Rosa**  
Research Psychologist  
National Institute for Occupational Safety and Health

**Session B:**  
**HOW TO MEASURE PERFORMANCE OF EMPLOYER PROGRAMS**

**Anshell Boggs**  
Workers Compensation Manager  
Pep Boys

**Jill A. Dulich**  
Regional Director  
Marriott Claims Services

**Peter Rousmaniere**  
President  
Rousmaniere Designs

**Maria Bayne**  
President  
Bayne Consulting Group, Ltd.

**5:00 PM**  
**COCKTAIL RECEPTION**  
Hosted by: GENEX Services Inc.

**WEDNESDAY, OCTOBER 20**

**7:45 AM**  
**CONTINENTAL BREAKFAST**  
Hosted by: Intracorp

**9:00 AM**  
**CASE STUDY: TEXTRON AUTOMOTIVE COMPANY WORKERS COMP 'BOOT CAMP'**  
**Douglas Hamrick**  
Director of EH&S and Energy  
Textron Automotive Company

**10:00 AM**  
**ERGONOMICS: EFFECTIVE WORKPLACE PROGRAMS**  
Winner of "The 1998 Outstanding Office Ergonomics Award"

Presented by:  
The Center for Office Technology

**Marynka S. Rojas**  
Safety and Ergonomics Manager  
City of San Jose

**11:00 AM**  
**TABLE-TOP EXHIBITS & REFRESHMENTS\***

**11:30 AM**  
**RETURNING INJURED WORKERS TO MEANINGFUL JOBS**

**Annette Sanchez**  
Vice President of Business Development  
Specialty Risk Services, Inc.

**Marshall Sherman**  
Director, Risk Management  
Aramark Corp.

**Philip B. Renaud, II**  
Vice President of Insurance  
The Limited, Inc.

**W. Tom Fogarty, M.D.**  
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**LUNCHEON WORKSHOP**  
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**HIGH-TECH SOLUTIONS TO WORKERS COMPENSATION PROBLEMS**

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Claims and Benefits Solution Group  
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**2:00**  
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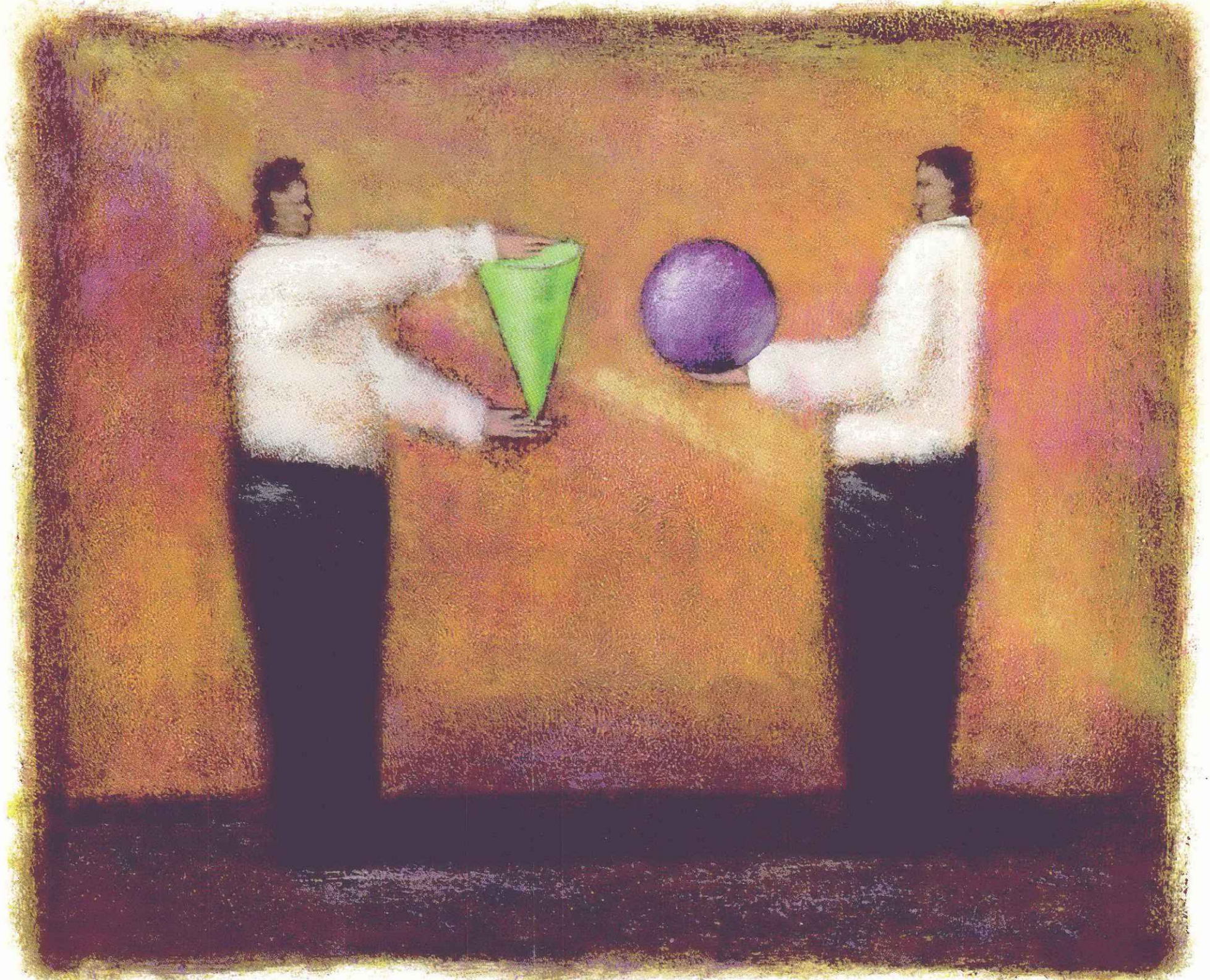
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# INTERNATIONAL

## New political risk capacity

### Global Briefs

Beginning July 1 the London operations of Marsh Inc., incorporating broker Sedgwick Group P.L.C., which was acquired last year, have been renamed **Marsh Ltd.** Hamish Ritchie, joint chairman of Marsh Ltd., said the new name contributes to "a clearly branded global presence" that will allow the group to capitalize on its combined strengths. . . . Lloyd's of London corporate capital provider **Euclidian P.L.C.** has agreed to a £29.2 million (\$46.1 million) management buyout that will make the company private. The offer came from Euc Re, a company made up of Euclidian executives and backed by a Centre Solutions, a Bermuda-based unit of Zurich Group. . . . **The London Processing Centre**, which processes and settles claims for members of the International Underwriting Assn., is extending its central settlement system to accommodate six more currencies, beginning in November. The new currencies are the South African rand, Swiss franc, Hong Kong dollar, Swedish krona, Norwegian krone and Danish krone. This will increase the number of currencies in which the LPC processes claims to 16, including the euro. . . . **AIG Global Trade & Political Risk Insurance Co.**, a unit of New York-based American International Group Inc., has been admitted to the International Union of Credit and Investment Insurers, known as the Berne Union. The union, made up of 42 members and five observers from 37 countries, works for international acceptance of sound principles in export credit and investment insurance. . . . Danish reinsurer **Copenhagen Re** has opened representative offices in Tokyo and Rio de Janeiro, Brazil. The Tokyo office will be headed by John Deane, formerly of Liberty Re and Mercantile & General Reinsurance Co. P.L.C. The company said the move in Brazil is part of its planned long-term expansion in Latin America. It said it views Brazil, in particular, as a "potentially enormous" market, with more than 165 million inhabitants and a growing economy. . . . Marsh Inc. has bought a majority stake in **DeLima S.A.**, an insurance brokerage in Colombia, for an undisclosed amount. DeLima, which has been Marsh's correspondent in Colombia since 1956, will be combined with Marsh's other operations in Colombia and renamed DeLima Marsh. . . . French officials and police have launched a full-scale investigation into last week's **cable car tragedy** in St. Etienne en Devoluy, in the southeast of France, in which 20 people died. The privately owned cable car was carrying employees of Iram SA to the company's observatory at the top of the 8,900-foot Pic de Bure mountain Thursday morning when the car plunged 260 feet, killing all those aboard. . . . Colin Spreckley has replaced Bill Davis as chairman of **SVB Syndicates Ltd.**, the managing agent for three Lloyd's syndicates. Mr. Spreckley has been a SVCS director since its formation and was active underwriter of syndicate 1007 from 1985 to 1996. Mr. Davis, who is retiring, will remain on the board as a non-executive director. . . . GPM Development Ltd. and CGU Risk Management Ltd. have developed **The Captive Manager**, a fully integrated software system for captive managers. The Captive Manager can be used for full claims processing, including control over reserves and limits. The system also integrates with word processing, spreadsheet, fax, e-mail, PC conferencing and diary software and the Internet. The system already is in use by CGU Risk Management in its London, Guernsey and Isle of Man offices. . . . **James H. Veghte**, executive vp of XL Mid Ocean Reinsurance Ltd., has been appointed general manager of XLMO London Branch. He also has been appointed managing director, beginning July 20, of NAC Re International, a London-based subsidiary of NAC Re Corp., which last month completed its merger with XLMO's parent, XL Capital Ltd. Charles Catt, NAC Re International's current managing director, will leave the company Oct. 1.

By MARIA KIELMAS

LONDON—In a groundbreaking agreement, Lloyd's of London and the World Bank are cooperating to provide political risk insurance for trade transactions to Bosnia and Herzegovina.

Lloyd's political risk insurers—led by Wellington Underwriting P.L.C. through Lloyd's syndicate 2020 and supported by Brockbank War & Political Risk Consortium through Lloyd's syndicates 861, 1209 and 588—will double, and may eventually triple, the capacity of the Bosnian government's trade and investment insurer, the Investment Guarantee Agency. London-based political risk insurance broker Berry Palmer & Lyle Ltd. was appointed by the IGA to design and place the new insurance plan.

The IGA started underwriting trade and political risk insurance in 1997, using 40 million deutsche marks (\$21.2 million) of funds provided by the International Development Agency, a division of the World Bank. The insurance policies written by IGA also were backed by a letter

of credit from the ING Bank in Amsterdam, Netherlands.

"Every dollar on the IGA insurance policy had to be backed by a dollar in collateral," said Charles Berry, chairman of Berry Palmer & Lyle Ltd.

The 40 million deutsche marks were used as collateral for these letters of credit and held in an escrow account at the ING Bank in Amsterdam.

Lloyd's underwriters' entry into this arrangement means the funds backing the underwriting of political risk will be increased first to 80 million deutsche marks (\$42.3 million) and, if needed, to 120 million deutsche marks (\$63.5 million). The facility has been named the "Leveraged Insurance Facility for Trade," or LIFT. Wellington will cover two-thirds of the amount that Lloyd's is putting up, while Brockbank will take one-third.

Limits on the policies are 6 million deutsche marks (\$3.2 million) per risk. The maximum period of cover-

See Bosnia on page 52



An elderly Bosnian woman, left, collects wood from an apartment building in Sarajevo that was hit by a rocket in July 1995. The photo below, taken in April 1999, shows a destroyed railway track near the town of Rudo.



PHOTOS: REUTERS

## Competition strong for comp in New Zealand

By MATTHEW MacDERMOTT

WELLINGTON, New Zealand—New Zealand's newly privatized workers compensation system is generating strong insurer competition and lower insurance rates for New Zealand employers.

The New Zealand government announced in May 1998 that it would introduce a private workers comp insurance system effective July 1, 1999. Previously, the New Zealand government-owned Accident Rehabilitation & Compensation Insurance Corp. was the monopoly provider of workers comp insurance in New Zealand.

Under the new system, New Zealand employers had until July 1 to purchase private workers comp coverage or a policy from a new government-owned insurer, At Work Insurance Ltd.

Michael Vine, a director with Standard & Poor's Corp. in Melbourne, Australia, said early feedback on the new system suggests workers comp rates have gone down, though there has not been a massive drop.

He said strong competition, particularly for large corporate risks, means the pool of premiums generated in the private workers comp market is now probably closer to \$800 million New Zealand (\$427.8 million) than the government's original estimate of \$1 billion New Zealand (\$534.8 million).

Five Auckland-based private insurers are competing in the New Zealand comp system: Royal & SunAlliance Insurance (New Zealand) Ltd.; New Zealand Insurance Ltd.; HIH Insurance (New Zealand) Ltd.; New Zealand's Farmer Mutual Group; and MMI General Insurance (New Zealand) Ltd.

On April 30, the New Zealand government announced that it would purchase a 50% stake in the new insurer, At Work Insurance Ltd. See Work comp on page 52

## Report blames worker training in gas plant fire

By MATTHEW MacDERMOTT

MELBOURNE, Australia—The failure of Esso Australia Pty. Ltd. to train its workers to handle emergencies has been cited as the main cause of last year's fatal fire at Esso's Longford natural gas plant in Victoria, Australia.

The Longford Royal Commission, the Victorian Government commission formed to study the cause of the Sept. 25, 1998, fire, released its 287-page report into the accident June 28.

The report, which followed 53 days of evidence from Esso management, Esso workers, trade unions, safety experts, workers compensation executives and insurers, provides a damning critique of Esso's risk management, health and safety, and training procedures.

Melbourne, Australia-based Esso, a wholly owned subsidiary of Houston-based Exxon Corp., tried at the com-

mission hearings to blame the fire solely on the plant's control room operator at the time the fire began.

The commission dismissed Esso's argument, however, concluding that Esso's corporate culture and failure to train and equip its workers with the knowledge to deal with an emergency were the primary reasons for the fire.

Esso declined to comment on the report.

The findings of the Royal Commission report may leave the company more vulnerable to fines and compensation claims arising from the fire and subsequent gas shutdown in Victoria.

The fire at Esso's Longford plant, which pumps natural gas from wells in the Bass Strait between the Australian states of Victoria and Tasmania, killed two Esso workers and injured eight others (BI, Oct. 5, 1998).

Gas supplies to the plant See Esso on page 51

## Lawyers to get open market in 2000

By CAROLYN ALDRED

LONDON—Beginning in September 2000, lawyers in England and Wales once again will have a choice as to who insures them.

The Law Society's decision late last month to scrap its professional indemnity mutual has been welcomed by many law firms, some of which have long been asking for primary coverage in the open market.

Currently, all law firms must buy at least £1 million (\$1.6 million) of professional indemnity coverage

from the Solicitors Indemnity Fund, a mutual set up in 1987. Rising claims against lawyers, particularly following a recession in the U.K. property market earlier in the decade, have led to huge subscription increases in the past few years.

Lawyers likely will continue to face hefty annual bills from SIF for several years after the mutual goes into runoff. According to the last set of figures published by SIF, the fund had a shortfall of £359.2 million (\$604.5 million converted at a

year-end 1998 exchange rate) as of Aug. 31, 1998. In 1997, when the shortfall stood at £432.6 million (\$726.3 million converted at a year-end 1997 exchange rate), the Law Society decided to let members pay for the shortfall over seven years, resulting in an additional annual payment of about £80 million (\$125.8 million converted at a current exchange rate), including interest, for the Society's 80,000 or so lawyers. This collection will continue after the fund is put into

runoff, said a spokeswoman for SIF.

Meanwhile, SIF has informed the Law Society Council that additional contributions also may be collected from lawyers next year to cover potential Y2K claims and a surge of claims that might come in before the fund is closed, according to a Law Society statement.

The Council will consider any extra contribution and how it will be collected later this month, according to a spokeswoman.

Between now and September See Lawyers on page 52

## INTERNATIONAL

# Broad array of emerging liabilities seen

By EDWIN UNSWORTH

## Threat of new hazards, latent diseases may spur new liability claims: Panel

LONDON—Genetically modified foods and animals, cross-species infection and the Internet are among potential sources of new liabilities for multinational risk managers and insurers, experts say.

Many of these emerging risks are new and untested, and there is a great deal of uncertainty as to how insurers and the legal system will deal with any claims they generate, according to speakers in a broad-ranging discussion of potential new liabilities at a conference in London sponsored by Mealey Publications Inc.

For European risk managers and insurers, one leading indicator of potential exposures will be liability claims from the United States, speakers noted.

An emerging source of liability will be genetically modified plants and animals, speakers say.

Derek Burke, a retired professor from Cambridge University and a specialist in biotechnology, explained that genetic modification of organisms has already won acceptance for medical purposes.

Mr. Burke said, though, that there is much more resistance to consumption of genetically modified crops, which may increase the risk of lawsuits. European regulators and farmers, in particular, are much more reticent about accepting genetic crop modification than are the U.S. government and farm-

ing industry, he said.

There is also research into genetic modification of animals, such as the altering of sheep and goats so that their milk produces more "Factor 9," a chemical that promotes blood clotting and could, therefore, be helpful to some hemophiliacs.

While Mr. Burke said there is enormous potential for using these scientific skills beneficially, he also said consumer groups and politicians are urging caution over their introduction because the safety of genetic modification is uncertain.

Electromagnetic radiation, including microwaves as used in ovens and mobile telephones, is another area where potential health hazards could create liabilities for companies and their insurers.

Edward Grant, the principal scientific consultant of London-based Microwave Consultants Ltd., said that, while it is known that microwaves can produce electric currents in the body at low levels and heat body tissues at higher frequencies, there is still no conclusive proof to allegations that microwaves can cause illnesses such as leukemia.

Mr. Grant said the burgeoning use of mobile phones is probably the biggest new liability risk in this area because of allegations that their use can cause cancer. But, he

also noted, "they haven't been in use long enough to do any definitive epidemiological surveys."

Threats from cross-species infections, such as acquired immune deficiency syndrome; infections from vaccines; and risks from xenotransplantation—the transplantation of animal tissues or organs into humans—are other areas where new liabilities are emerging.

Robin Weiss, a professor of viral oncology at the Institute of Cancer Research at the Chester Beatty Laboratories in London, said that one issue that "is going to run and run" is the SV40 virus. This is a virus that commonly contaminated batches of polio-virus vaccine between the years 1955 and 1962.

During this period, polio vaccines were grown in African green monkeys, and some vaccines became contaminated if the host monkey was a carrier for SV40, which can cause tumors in species other than its natural host. People immunized with the tainted vaccine still may be carriers of the virus.

While Mr. Weiss said "the link between polio vaccination and SV40 remains highly controversial," he added that it is an issue that will be a cause for concern as long as it is not ruled out as a human health hazard. The manufacturers of the vaccine could face lawsuits if plaintiffs attempt to prove a link between tumors and vaccinations more than 30 years ago.

Other zoonoses, or infections of humans by animal microbes, include AIDS and bovine spongiform encephalopathy, otherwise known "mad cow's disease."

In light of scientific studies to modify animals so they can be used to treat humans, such as using fetal pigs' brain cells to treat Parkinson's disease, and the potential for cross-species infection, the liability implications of these developments are potentially enormous, conference-goers were told.

"The risk of triggering an epidemic in the community at large is more remote (than cross infection) but potentially far more devastating," said Mr. Weiss.

According to Ake Munkhammar, managing director of Stockholm-based Risk Control Services A.B. in Sweden, two other new liabilities could be auditory problems caused by music played too loud in places such as discos and multiple chemical sensitivities caused by exposure to solvents.

Anthony Fitzsimmons, a partner in the London law firm of Ince & Co., said that underwriters have sometimes been blind to developing liabilities. In particular, he cited exposures from the Year 2000 computer problem and those stemming from genetically modified organisms. In the latter case, it is too common for insurers to rely on the "false reassurance" that there has been no evidence that they are harmful. If health threats do emerge from genetic engineering of crops, for example, they could rebound on seed producers and farmers, and thus on their insurers, he warned.

Mr. Fitzsimmons concluded that underwriters have a choice. "New risks can either be seen as a problem to cut out of portfolios or they can be seen as an opportunity" for new business, he said.

Gary Miles, who heads the Year 2000 study initiative at PA Consulting Group, a London-based management and technology consultant, warned that many latent problems could emerge from the Year 2000 date change. This is both because there will be a lot of issues we have not yet thought of dealing with, he said, and because where and how problems arise will be "completely random," he said.

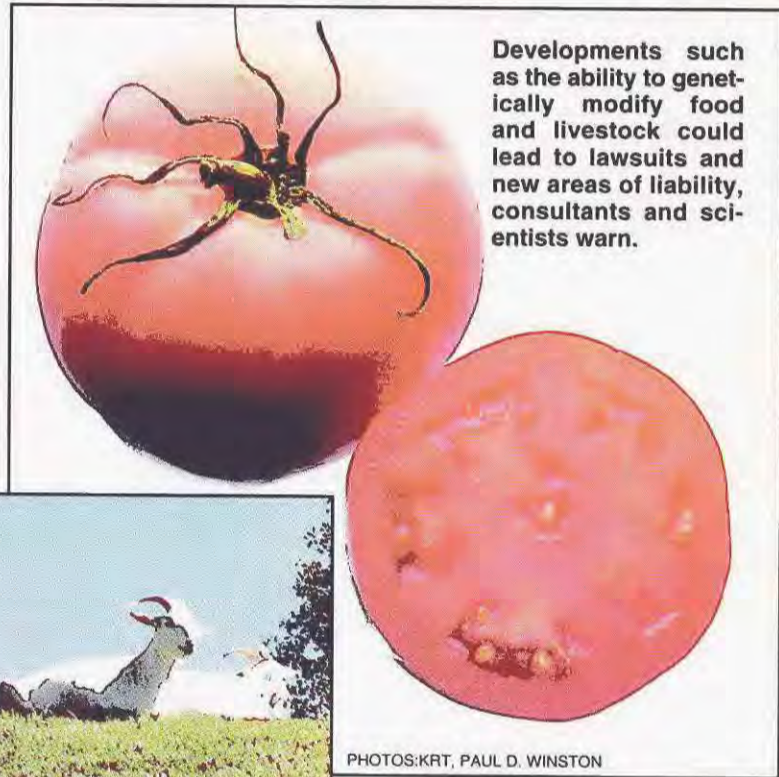
Mr. Miles said consumer behavior will also significantly affect problems. If, for example, only 7% of bank account holders seek to withdraw their money, it will lead to a global liquidity crisis, he warned.

Several U.S. lawyers at the con-

ing," Ms. Medaglia warned.

She said that, because virtually every business that sells a product or service is involved in advertising in some manner, it is not enough just to have advertising injury liability coverage. Product liability, directors and officers and errors and omissions are just some of the other liability coverages that are essential, according to Ms. Medaglia.

In the realm of tobacco-related liabilities, Klaus-Heinz Kunze, senior vp-claims of the Hannover Reinsurance Group of Hannover, Germany, said that a likely future target area for claims will be the manufacturers of cigarette filters and papers.



Developments such as the ability to genetically modify food and livestock could lead to lawsuits and new areas of liability, consultants and scientists warn.

PHOTOS:KRT, PAUL D. WINSTON

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ference spoke about emerging liabilities in the United States. They made the point that liability exposures that are prominent in the United States today will soon grow in prominence in the rest of the world.

Sexual harassment claims are one such area. The number of charges filed with the federal Equal Employment Opportunity Commission has risen steeply, to 15,618 in 1998 from only 75 in 1980, according to Deborah Kelly, a partner in the Washington law firm of Dickstein Shapiro Morin & Oshinsky L.L.P.

Ms. Kelly advised employers how best to protect themselves. Her suggestions included producing employee handbooks that make clear employee rights and obligations, establishing and publicizing internal complaint procedures, training all employees in the pertinent laws and regulations proscribing harassment, and training internal investigators how to deal with allegations of sexual harassment.

Advertising injury, where a company is alleged by a competitor to have committed some offense during its advertising activities, is another area of emerging liability risks, according to Elizabeth Medaglia, a senior partner in the Washington law firm of Jackson & Campbell P.C.

"There is going to be a lot of litigation in this area in the future, and there are a lot of cases pend-

He also warned that because the makers of filters and papers have not yet been targeted, their insurance policies are not yet subject to exclusions, and so there could be emerging liabilities in store for their insurers. Makers of filters and papers that made claims of reducing the health risks of smoking may be at risk of a lawsuit.

In the area of the Internet and computer usage, Mr. Kunze also predicted a rise in claims as a result of losses caused by hackers, credit card-related thefts and sexual harassment.

Mr. Kunze said he also believes that insurers' and reinsurers' woes regarding asbestos-related claims are not yet over. He predicted that asbestos claims will not even peak until around 2011, when they will "blow the reinsurance limits."

Jeffrey Morris, senior vp-claims and legal management services at The Hartford Financial Services Group of Hartford, Conn., agreed that asbestos-related claims "are still, by far, the largest personal injury element in the tort system."

New suit filings continue, the level of claims being sought is rising and forum shopping is rampant, he said. While the real problem is the sheer number of claims, this is exacerbated by a U.S. tort system that is ill-suited to deal with the asbestos issue and that "would appear to be powerless to do anything about it," Mr. Morris said.

U.S. lawmakers, in fact, are exploring possible reform of asbestos liability (see story, page 1). **BI**

# Esso

Continued from page 49

were cut off immediately in an effort to contain the fire, and those supplies remained out for 10 days, leaving residences and thousands of Victorian businesses without gas.

A \$1 billion Australian (\$656.4 million) class-action suit on behalf of Victorian gas customers already has been filed against Esso and is scheduled to be heard in Australia's Federal Court next year (BI, June 7).

The chances of the class action, the largest ever bought in Australia, succeeding are expected to be strengthened by the Royal Commission report. Esso and the law firm coordinating the class action, Slater & Gordon of Melbourne, have said the report would be a major piece of evidence during next year's court hearings.

Esso could also face recovery actions from Australian insurers that paid out an estimated \$350 million Australian (\$229.7 million) in claims stemming from the gas shutdown.

In the wake of the report findings, Esso is also likely to face fines for breaching Victorian occupational health and safety regulations.

Victorian WorkCover, the Victorian Government's safety authority, suspended its investigations into the Esso fire when the Royal Commission was launched late last year.

James Judd, counsel assisting the commission, suggested at the commission's

hearings that Esso had potentially committed a total of 18 breaches of the Victorian Occupational Health and Safety Act and other Victorian safety regulations.

WorkCover has now reopened its investigations, which will determine the actual number of breaches and the total level of fines.

The Royal Commission's report chronicles the events leading up to the fire and describes how Esso workers were "not adequately trained to deal with the process upsets which occurred."

The report said Esso had not carried out investigations to identify the various risks associated with disruptions in the operation of equipment at the Longford plant. It said the lack of risk identification, plus deficiencies in Esso's training, supervision and operating procedures, led to Esso workers "not adequately and appropriately responding" to the circumstances preceding the fire.

The report found that irregularities in Esso's plant processes began occurring almost a full day before the fire broke out.

A pump stoppage reduced the level of hot oil circulating in the gas plant, resulting in equipment functioning at dangerously cold levels.

When efforts were made to repump hot oil through the freezing equipment, a heat exchanger erupted and released an estimated 20 to 25 tons of hydrocarbon vapor into the air, causing a massive explosion and fire.

The report highlighted several interrelated factors within Esso's corporate culture

that allegedly contributed to the fire and the workers' failure to take steps to prevent it.

Among other things, the report states:

- No engineers were permanently based at the Longford plant, meaning that engineering expertise had to be obtained from Esso's Melbourne head office.

The report found this reduced opportunities for building trust and confidence between operators and engineers. Ultimately, Longford plant operators were reluctant to seek help from the Melbourne-based engineers.

- Longford operators placed great reliance on senior plant employees and supervisors, who were not adequately trained to deal with process disruptions.

- There was a reluctance among Esso operators to report incidents or near misses to engineers in Melbourne.

- Shift-changing procedures were not structured to allow effective communication of disruptions in plant processes.

Esso has made no public comment on the report findings, but its submission to the commission hearings argued the only probable cause of the fire was operator error that occurred the day of the explosion. The

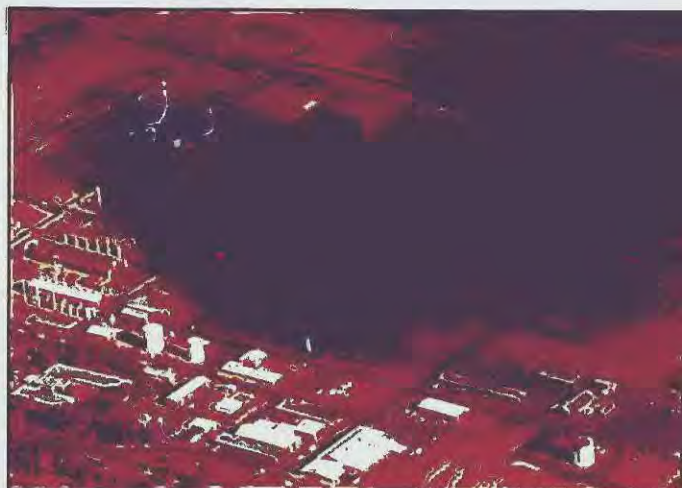


PHOTO: AFP

Last September's fatal explosion and fire at an Esso Australia Pty. Ltd. natural gas plant left local residences and businesses without gas for more than a week.

report rejected that claim.

The Royal Commission report recommends that Esso introduce stricter training programs and review its operating standards, practices and policies.

The report also recommends the establishment of a new Victorian Government authority to administer safety procedures at all major hazardous facilities in the state. The report said there is a need for a new authority to administer safety procedures and conduct safety reports—including technical, management and operational information—on hazardous facilities. BI

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## INTERNATIONAL

## Lawyer

Continued from page 49

2000, the Law Society will draw up a list of insurers it approves; members will be able to use those insurers. In addition, the Law Society also plans to put together a group program run by a managing general agency, which will administer insurance arrangements on behalf of a consortium of insurers.

Much of the existing expertise at SIF, including SIF employees, likely will be incorporated into the new group program, according to a Law Society spokeswoman.

For several years, many large law firms have been pushing the Law Society to allow them to purchase

insurance competitively, claiming they were being penalized with high subscriptions to help support law firms with poorer loss records. The Law Society Council reversed an decision made last year to retain the mutual system after a recent mail-in vote by members in which 70% of all those voting opted for more choice.

"A substantial majority of those voting wanted more choice. One cannot ignore that members of the profession have been severely burnt" by SIF, said David McIntosh, a Law Society Council Member and senior partner of London law firm Davies Arr. old Cooper.

Although Mr. McIntosh recognizes that "in theory, a mutual has a lot to commend it—such as no prof-

it-taking or brokerage payments—the profession has suffered by being its own insurer," he remarked.

### In a recent vote, 70% of those Law Society members voting said they wanted more choice in insurance.

He said law firms with good risk management practices and good loss records will benefit from the ability to buy insurance on the open market.

Some insurance executives, how-

ever, think the Law Society has made the wrong decision for the profession as a whole, despite the opportunities it will create for the insurance industry.

"I think they are mad to dismantle" SIF, said Reg Brown, a leading Lloyd's of London liability underwriter.

Professional indemnity insurance through the fund "has been underpriced. That is why they are looking at a £400 million (\$629.1 million) black hole," he said, predicting that the final losses faced by SIF will increase significantly as it is forced to deal with all the claims that will be filed before it winds up.

Broker Michael Silcock, a director of Aon Risk Services, said he believes the Law Society has made "a

shortsighted decision."

Premiums for the profession as a whole will have to increase over the long term if insurers are to make money, he said.

Initially, lawyers will benefit from a competitive market, Mr. Silcock said. This will result in many law firms that are good risks facing lower premiums, he said.

However, law firms that are more risky for insurers will find it much harder to find insurance at reasonable rates, and some may fail to find coverage at all, he said.

Initially, Mr. Brown predicts there will be no shortage of capacity available in the open market for lawyers. "I don't think lawyers will be disappointed, at least for a period," he said. **BI**

## Bosnia

Continued from page 49

age is three years, including 12 months prior to the delivery of goods in trade transactions. The political risks covered include war, violence, expropriation, transfer delays, embargoes and license cancellation. Though issued by IGA, the policies are underwritten at Lloyd's.

More than 20 such policies have been issued by the IGA for such multinational companies as Siemens A.G. of Germany or Sweden's L.M. Ericsson Telephone Co. to cover damage to power generation units and communication equipment exported to Bosnian companies for use in its reconstruction program. The policies also cover non-payment by Bosnian customers due to political risks such as embargoes or confiscation.

"So far, we have issued 33.5 million deutsche marks (\$17.7 million) in guarantees, and we still had indications of new applications," said Mirza Mesinovic, marketing and underwriting manager for IGA in Sarajevo.

"So, we had to find a way to increase capacity." Mr. Mesinovic said, though it is not yet clear whether customer demand will grow to meet that capacity.

IGA put out a competitive tender to find a broker to devise a plan to increase its capacity. After

choosing Berry Palmer & Lyle, a second tender was issued for underwriters, which is when Wellington Underwriting stepped in to augment IGA's capacity, said Bernie de Haldevang, political risk underwriter at Wellington.

Mr. de Haldevang explained that, as a private-sector political risk underwriter, he always has been very keen to work with multilateral organizations such as the World Bank. This is because in most cases the private-sector insurance market is unaffiliated with multilateral organizations and therefore is a last option for exporters and investors who seek political risk insurance.

Under the new arrangement for Bosnia with the World Bank, however, the private-sector insurance market is the first in line to be reimbursed in the event of a claim or default, he said.

After a claim is paid, IGA is required to reimburse the fund. "If they do not, they are in default to the World Bank, and the World Bank does not forgive debts," said Mr. de Haldevang.

Such a facility could be used in many developing countries needing postwar reconstruction, he said. There is an incentive for governments to honor foreign contracts because they would be liable, in part, in the event of a claim.

But under this kind of plan, the government of that country would

have no access over its own funds held in an escrow account. It also would not be able to modify contracts with foreign exporters and investors, such as by increasing taxation, because this would be construed as contract frustration under the insurance policy. This has given officials in some countries pause for thought.

"Some governments say that this is an infringement of their sovereignty," said Mr. de Haldevang. He declined to name the

countries.

Mr. Berry predicted a big demand for the new political risk coverage in Bosnia.

Onno Ruhl, a World Bank official who helped negotiate the scaling up of the existing IGA facility with Lloyd's, said in a statement that potential financiers have not been scared off by the worry that the war may start up again and said IGA's clients were not put off by the Kosovo conflict.

IGA's Mr. Mesinovic acknowl-

edged widespread media reports that foreign investment into Bosnia has been slow. But he noted that there has been 200 million deutsche marks (\$105.8 million) in investment into the country since the war ended following the 1995 Dayton Agreement. But the Bosnian government is planning to privatize a number of financial and industrial entities.

"I expect that privatization will give a push to foreign investment," he said. **BI**

## Work comp

Continued from page 49

Zealand government established a new state-owned enterprise, At Work Insurance, to compete with the private insurers.

Mr. Vine estimated that Royal & Sun Alliance had captured a market share of about 30%; followed by At Work, with a market share of more than 20%; and the remaining companies, each with market shares of around 10%.

"It is a large premium pool, and there is enough to go around," Mr. Vine said. He predicted more insurers may look to enter New Zealand's privatized workers comp system in the future, particularly if the New Zealand government eventually withdraws At Work from the market.

Mr. Vine said he believed At Work may be only a "transitional vehicle" as the country's comp system shifts to a competitive marketplace. He said the fact that "a good number" of

private insurers have already been attracted to the market and are generating strong competition may persuade the New Zealand government to exit workers comp insurance entirely in the future.

A report by the financial services research firm ABN AMRO Pty. Ltd. of Sydney predicts, however, that New Zealand's privatized workers comp system will prove a "difficult and dynamic" challenge for insurers to "build up business from scratch."

But Mr. Vine said the private insurers operating in New Zealand are creating good economies of scale by targeting customers that already buy other types of property/casualty insurance besides workers comp. "There are higher levels of premiums on offer for, hopefully, only small increments in expenses," he said.

Mr. Vine said insurers have been issuing quotes for workers comp insurance in New Zealand for about three months prior to the July 1 effective date. He said a lot of employers "sat back and looked" for the first month, and there was a "hell of a lot

of volume" processed in the last two months, creating some minor processing delays for the insurers.

"But on the whole, it looks like (the new system) has worked out well," Mr. Vine said.

Chris Ryan, chief executive officer of the Insurance Council of New Zealand, described the reforms to New Zealand's workers comp system as "long overdue." He said privatization will benefit employers by giving them a choice of companies from which to buy coverage, and by creating a greater focus on customer service and accident prevention.

New Zealand has had a "pretty poor" record on workplace accidents, said Mr. Vine. But, he said, the new systems would provide incentives, in the form of reduced premiums, for employers to introduce improved workplace accident prevention processes.

"Under the old system, the government just paid out money and there were no great incentives to improve practices and get employees back to work," Mr. Vine said. **BI**

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## Isle of Man changes LLC law

By EDWIN UNSWORTH

DOUGLAS, Isle of Man—The Isle of Man last week passed legislation reforming its statutes for limited liability companies, which would enable the formation of Lloyd's of London investment vehicles that can take advantage of the island's tax-free environment.

Steven Beevers, business development director of the International Services Division of the Isle of Man government, said that while no such Lloyd's investment vehicles are currently in development, he anticipates the legislation will lead to "a couple of hundred" such entities within the next 12 months after the legislation is approved by the Queen of England.

The new legislation, the Limited Liability Companies and Financial Services (Amendment) Bill of 1999, was passed by Tynwald, the Isle of Man's parliament, to

amend the Limited Liability Companies Act 1996. The key change would be the removal of the limited life of such entities, previously set at 30 years, which had been a barrier to allowing them to invest in Lloyd's.

The Isle of Man maintains that the amendment also would bring its legislation more closely into line with revised U.S. tax rules, which in 1997 eliminated the requirement of a limited life span for limited liability companies before they could be treated as limited partnerships for tax treatment in the United States.

Mr. Beevers expects the ability to form limited liability companies would attract U.S. and other foreign individuals, as well as other Lloyd's names, that are seeking to create Lloyd's investment vehicles that not only have limited underwriting liability compared with traditional names, but also now enjoy favorable tax treat-

ment.

Both the LLCs and individual investors that comprise the entities would be free of tax in the Isle of Man, though individuals may be subject to income tax in their home countries.

Commenting on the legislative change, Sir Miles Walker, a member of the Isle of Man's Treasury responsible for the International Services Division, said: "We anticipate widespread interest from sponsors looking to launch new corporate capital vehicles based on the Isle of Man enabling participation in the market with the benefit of limited liability, a simple partnership-like management structure and a potentially attractive tax treatment."

Because the Isle of Man is a U.K. crown dependency, the amendment requires assent from Queen Elizabeth II for it to become law. Mr. Beevers said assent is likely to be given this month.

# Temps

Continued from page 1  
that represent temporary employees to identify potential targets.

Consultants, insurers and defense attorneys agree the risk of being sued for not providing benefits to certain workers is increasing for employers.

"What I tell our clients is that, in terms of assessing risks, they have to be ever more sensitive to these issues, because the plaintiffs bar is getting more comfortable with issues that they were not comfortable with five years ago," said Harry Conaway, head of William M. Mercer Inc.'s Washington Resource Group in Washington. "ERISA is becoming a much more risky area to work in as a result."

Employers using temps need to concern themselves with more than just employee morale issues or meeting the legal statutes enforced by the Internal Revenue Service or the Department of Labor, he said. They also must clearly define what constitutes an employee for the purpose of participating in pension and benefit programs. He advises using the common-law definition used by the IRS.

Plaintiffs attorneys currently are testing courts for favorable rulings in ERISA cases involving contract or temporary workers, said Frank Baron, managing vp for Reliance National Insurance Co.'s financial products division in New York, which underwrites fiduciary liability and employment practices liability coverages. "They are definitely looking to try and find opportunities to exploit," he said. "It's not something that is completely new on the horizon, but something we have been seeing an evolution of for the last couple of years."

To date, the 9th U.S. Circuit Court of Appeals in San Francisco stands out as siding with plaintiffs, in virtue of its decisions in the ongoing case of *Donna Vizcaino et al. vs. Microsoft Corp.* (BI, Oct. 21, 1996). Last month, the court refused to reconsider a ruling by a panel that expanded the potential number of free-lance and temp agency workers eligible for Microsoft's stock option plan from hundreds to thousands.

The *Microsoft* decision has highlighted the issue of contract and temp workers' status. Within the past two years, more employers have been reviewing and changing their benefit plan designs to spell out who is and who is not an employee for purposes of benefits eligibility and other issues.

"It's on a checklist of items to review when plan amendments are made," said Mr. Conaway. It's now in "the first or second tier of issues."

But employers need to do more than examine and adjust benefit plan language, Mr. Baron said. Hiring procedures, temporary agency agreements, and supervisory and disciplinary guidelines all must be evaluated. "Even down to (the question of), are they invited to the company Christmas party and picnics?" he said. "Are you, in fact, treating them as employees, even though you are giving them a different name?"

Bendich, Stobaugh & Strong, which represented plaintiffs in *Microsoft*, now specializes in such cases.

The United States has about 3 million temp workers, and about half have been at the same position for six months or longer, Mr. Baron said.

An employer's use of a large number of temporary workers is one criterion that plaintiffs attorneys look for when trying to establish that the

workers are legally employees and deserve regular benefits, he said.

High-tech employers could be at the greatest risk from suits, he said. Such companies rely heavily on con-



**Bendich, Stobaugh & Strong is using its Web site to attract plaintiffs for a class action against ARCO.**

tract workers and their potentially lucrative stock option plans typically exclude such workers.

In fact, Bendich, Stobaugh's Web-based strategy for recruiting plaintiffs for its suit against ARCO is also used by law firms that specialize in share-

holder litigation against high-tech firms, an insurer said.

While stock plans frequently are tempting targets in suits, health and welfare plan offerings also are sought, Mr. Baron said.

There also is a potential for discrimination suits, he said. Once plaintiffs attorneys explore an employer's temporary or contract worker practices, they might raise such allegations based on the employer's criteria for determining which temp workers it hires as full-time employees, he said.

While high-tech firms are perhaps at the greatest risk, the ARCO case points out that other industries are not immune from such actions.

The plaintiffs in the ARCO case are current or former temp workers in Alaska, according to the suit. They seek the same health and pension benefits provided to regular ARCO employees. The suit was filed June 24 in U.S. District Court in Los Angeles.

The suit also charges the company

with misclassifying as leased employees or contractors at least 100 employees over a 10-year period to avoid paying health and pension benefits. The court will determine whether the suit can continue as a class action.

The plaintiffs contend they were supervised by, trained by and worked with supplies provided by ARCO and thus were ARCO employees.

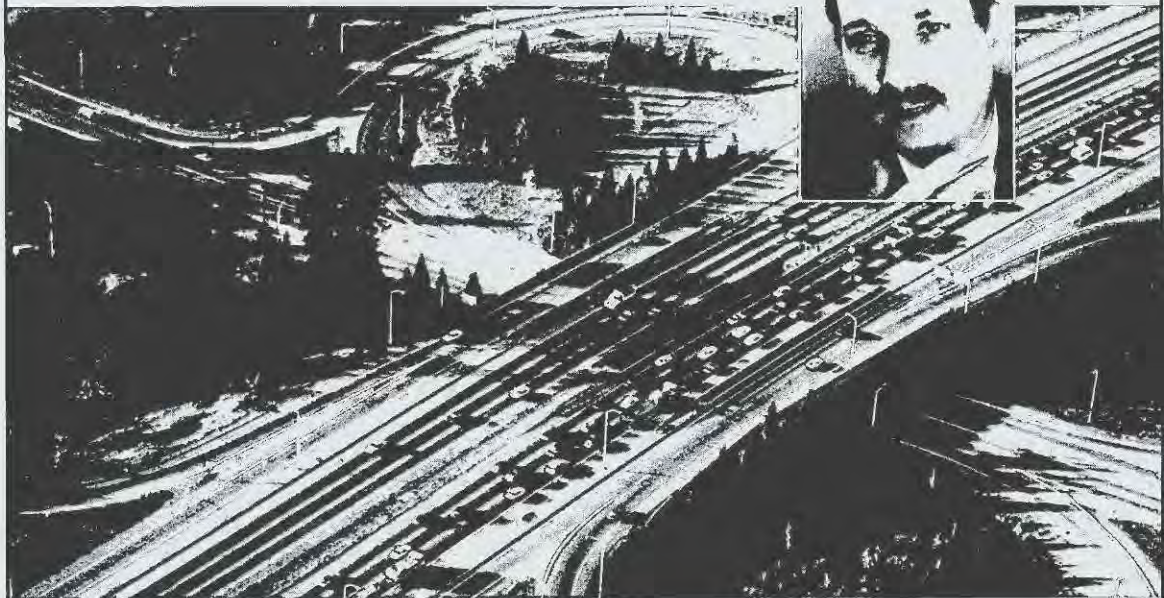
An ARCO spokeswoman said none of the plaintiffs ever has been an ARCO employee, and all of them voluntarily became employees of oil field service companies with which ARCO contracts. The service companies provided their employees with benefits and had the ultimate responsibility for decisions affecting their employment, including matters regarding discipline and termination, she said.

Like other oil industry companies, ARCO relies heavily on service companies to provide workers for drilling projects and other temporary operations, the spokeswoman said.

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# Litigate

Continued from page 2

McConnell, R-Ky., as he unveiled the two-page bill at a Capitol Hill press conference.

But will that avalanche descend upon the nation's courts?

"I'm actually going to predict that we're not going to see much more of this," said Dan Webb, a partner in the Chicago law firm Winston & Strawn, during a panel discussion at the symposium. Mr. Webb said tobacco presents a unique case, in part because governments have had a "love/hate relationship" with the product for centuries, condemning its use yet subsidizing its production.

Going after other legal products would result in "extraordinarily high-risk" cases likely to fail before a jury,

a fact states attorneys general realize, Mr. Webb said.

John Coale, a Washington attorney, said that only tobacco, and possibly firearms, have reached the "threshold" where such actions can succeed. "I don't think now there is much else out there," he said.

Mr. Coale later blamed consumer advocacy groups for blocking the initial 1997 settlement between the tobacco industry and the states attorneys general (BI, June 23, 1997). "It is almost impossible to work with the advocacy groups" because they are never satisfied, he said. As a result, "I don't think the threat is as big as you think it is" of further massive government-sponsored litigation against specific industries, he said.

"There will be people out on the fringe who will want to go after Ronald McDonald," he said, adding

that they will lose.

Jacob Sullum, a columnist for Reason magazine, noted that tobacco was indeed easy to go after because, only one in four Americans smokes, whereas "most of us drink and all of us eat."

Anne G. Kimball, a partner in the Chicago law firm Wildman, Harrold, Allen & Dixon, said, however, that the government-sponsored litigation avalanche already has begun.

Ms. Kimball, who has represented handgun manufacturers sued by local governments, said the cases brought against her clients "have no basis in law and no basis in fact" as cities have even sued the manufacturers of guns used by their own police departments.

Other industries are likely to eventually be targets of government lawsuits as well, she predicted.

Walter Olson, author of the book

"Litigation Explosion" and a fellow of the Manhattan Institute, a New York-based think tank, moderated the panel. The forum was sponsored by the Chamber of Commerce, the Manhattan Institute and the Washington-based Federalist Society.

A day later, the sponsor of the measure to curb government-initiated lawsuits against private industries insisted, "this legislation is not—I repeat not—about tobacco.

"Tobacco was just the beginning—the 'Model Act' is for hungry and enterprising trial lawyers," said Sen. McConnell.

If Sen. McConnell's bill becomes law, governments would have no "superior" rights when bringing civil suits against private parties.

"For example, if a person is injured in an automobile accident, but cannot prove that his or her injuries were

caused by a defect of the automobile, then the person cannot recover from the manufacturers," the senator noted. "This legislation simply says that if the injured party couldn't recover from the auto manufacturer, then the government should not be able to sue the manufacturer to recover health care expenses incurred by the government on behalf of the injured person," he said.

Sen. McConnell said his bill was needed to prevent "taxation through litigation" and stressed that the measure does not bar government lawsuits and does not place any caps on recoveries or lawyers' fees. He added that it would not prohibit "the unholy marriage between plaintiffs' lawyers and government officials—although it admittedly makes such a marriage of money and convenience a bit less desirable." **BI**

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### New global policy

CHICAGO—CNA International recently introduced its WORLD-PASS program, which provides multiline insurance protection for companies doing business around the globe.

WORLDPASS incorporates locally admitted insurance policies with additional coverage components to create a single, comprehensive global insurance program.

The WORLDPASS program offers one-stop shopping for companies doing business abroad through a host of coverages, including property, general liability, workers compensation and auto liability, as well as political risk coverage for exposures such as confiscation, expropriation and nationalization. The program's

kidnap and ransom coverage offers protection for employees who work and travel abroad.

Additional coverage can be purchased under the WORLDPASS program for marine, transit, boiler and machinery, employee theft and dishonesty, and crime exposures.

For more information, contact Larry Nelligan, 312-822-7780, or Michael Knudtson, 818-226-5215.

### Disability services

HARTFORD, Conn.—Phoenix Home Life Mutual Insurance Co. is enhancing its disability management services in conjunction with a new subsidiary, Clinical Disability Management.

CDM provides programs to minimize losses resulting from em-

ployee absences. With CDM, Phoenix has developed Return to Wellness, a new program for managing the short- and long-term disability claims of employers that buy its group disability insurance.

Return to Wellness combines a telephonic claim application process, the use of nurse specialists and a proprietary case management software system to determine return-to-work solutions. The pairing of technology with clinical data leads to less reliance on duration guidelines and standardized solutions.

Nurse case managers are involved for the duration of all short-term disability claims, excluding routine maternity.

The case management software system includes an online medical library and database on pharmaceuticals as well as the Americans with Disabilities Act and the Family and Medical Leave Act.

For information, contact Joel

Sanders, vp-group sales and marketing at Phoenix Home Life, 860-403-2537.

### Training software

NOVATO, Calif.—Lawgic Publishing Co. is offering two new software products for training key personnel and employees on employment issues.

Employee Handbook is a CD-ROM that provides a system to draft and update employee handbooks. Lawgic produces employee handbook titles geared to employment practices in California, Connecticut, Florida, Georgia, Massachusetts, New Jersey, New York, North Carolina and Pennsylvania. Lawgic plans to make available soon a product that will enable users to produce a handbook compliant with the laws of remaining states. Free updates to the Employee Handbook are available.

The other CD-ROM product, TrainSoft, provides employment training in three core areas: preventing sexual harassment, managing employee performance and hiring effectively.

TrainSoft helps employers quickly create customized training session materials. It automatically generates PowerPoint slides as well as speaker's notes, participant handouts and a legal reference guide. And the software uses a simple Q&A format to guide an employer in organizing and preparing training presentations specific to the company.

The legal data for both products is supported and updated by research and commentary from Littler Mendelson P.C., an employment law firm.

For information, contact Kenneth M. Kovitz, software application specialist at Lawgic Publishing Co., 415-898-8855, or visit [www.lawgic.com](http://www.lawgic.com). **BI**

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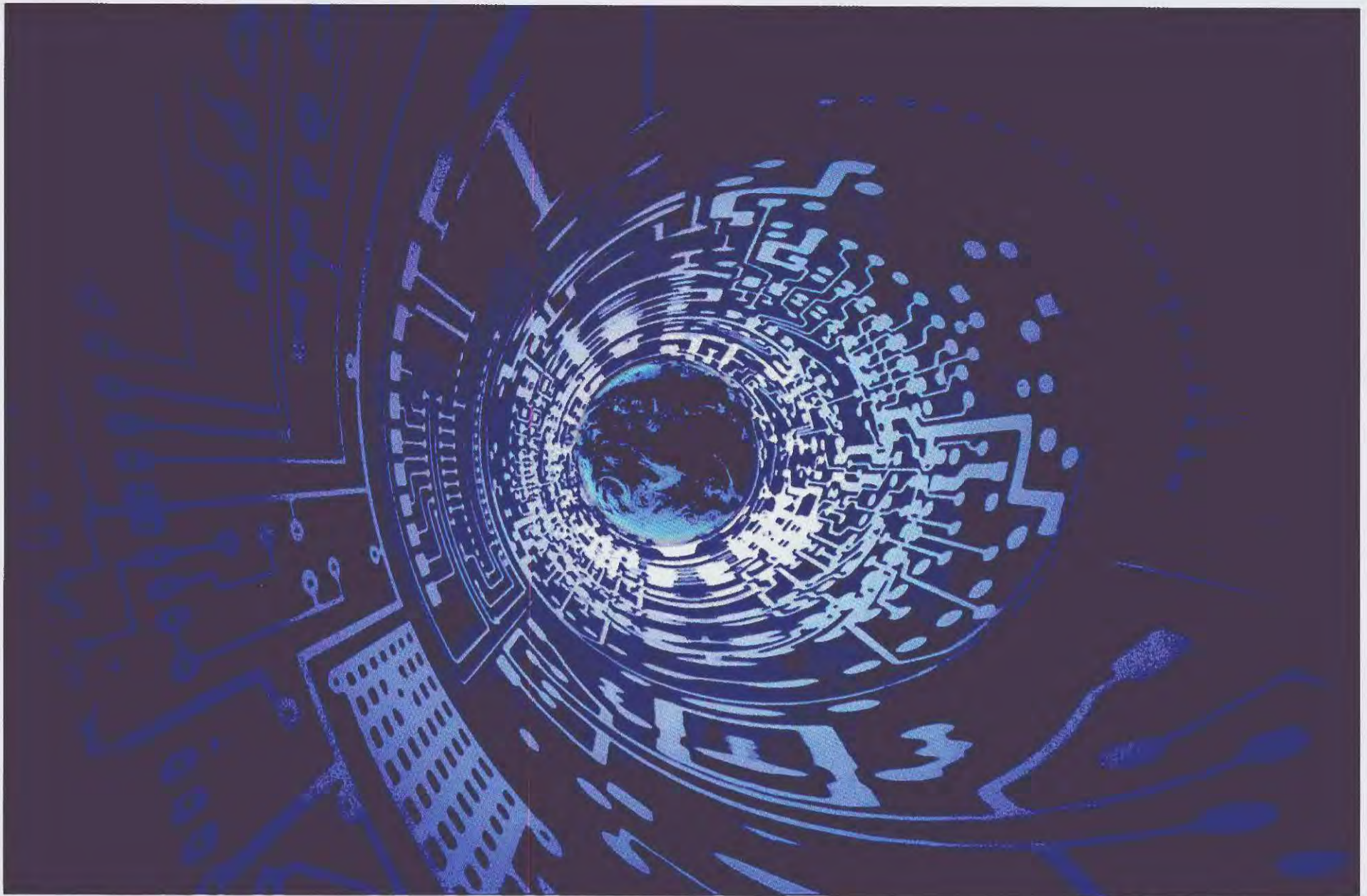
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# FTR FOR THE RECORD

## McDonald's to pay \$4 million fine

OAK BROOK, Ill.—McDonald's Corp. will pay \$4 million to the U.S. government for not reporting injuries resulting from playground equipment at some of its restaurants.

More than 400 children were injured on Big Mac Climbers during the 1970s and 1980s from falls that left some children with broken bones, skull fractures and concussions. These injuries dwindled as McDonald's began to remove the equipment in the 1990s, according to a statement from the U.S. Consumer Product Safety Commission in Washington.

All of the Big Mac Climbers have been removed, McDonald's and the CPSC said.



"The Big Mac Climber has been out of McDonald's play facilities for almost five years," Joe Beckwith, senior vp and corporate safety officer for the restaurant, said in a statement. "Only a handful remained in the 1990s when the CPSC and McDonald's began discussing it. We regard this

settlement as an investment in safety."

The CPSC said this is not the only lapse in playground injury reporting that McDonald's has had in the past. The Tug-N-Turn merry-go-round, also a fully replaced piece of old playground equipment, was causing injuries such as broken bones.

In 1995, McDonald's settled the case and established a joint safety campaign with the CPSC. As part of this settlement, the restaurant chain agreed to be diligent about reporting injuries and also consented to pay \$5 million should it become delinquent in this duty.

## Wisconsin Blues to donate equity

MILWAUKEE—Blue Cross & Blue Shield United of Wisconsin, which is seeking to convert to a stockholder-owned company, plans to donate the full equity value of the new entity, estimated to be \$250 million, to a public health care foundation.

It would be the first Blue Cross operation converting to stock ownership to donate its full value to a charity, said a spokesman. "Our goal is to avoid the lengthy hangups that have occurred elsewhere, where regulators and Blues plans have disagreed and ended up in protracted negotiations about what the charitable donation ought to be," the spokesman said.

Forming the Blue Cross & Blue Shield United of Wisconsin Public Health Foundation also is in the spirit of Wisconsin's

"progressive tradition," said the spokesman. The principal beneficiaries of the foundation would be the Milwaukee-based Medical College of Wisconsin Inc. and the University of Wisconsin.

Blue Cross is now waiting for the Wisconsin Insurance Department to set a timetable for hearings on the planned conversion.

Blue Cross spun off its "non-Blues" products into United Wisconsin Services Inc. in 1991. United, a managed care company, includes three Wisconsin HMOs with a total membership of about 300,000, as well as a specialty products and specialty services division that services 1.5 million lives and extends into 38 additional states. United had \$657 million in 1998 premium volume.

Blue Cross & Blue Shield of Wisconsin, which is under the same management and had \$359 million in 1998 premiums, operates exclusively within Wisconsin and provides group health coverage as well as a Medicare HMO among its businesses.

United Wisconsin and Blue Cross may merge once Blue Cross also becomes public, said the spokesman.

## Allianz Life sues over work comp pool

MINNEAPOLIS—Claiming it was the victim of a "fraudulent bait and switch," Allianz Life Insurance Co. of North America has sued to rescind its reinsurance agreements connected to a controversial workers comp pool.

The suit, filed in federal court in Minneapolis earlier this year, alleges that the defendants misrepresented to Allianz the type and size of the risks involved.

A large part of the risk came from a reinsurance pool managed by Unicover Managers Inc. Earlier this year the Unicover pool stopped writing business as its projected losses soared, causing reinsurers to pull out (BI, March 15).

The complaint claims that Centaur Underwriting Management Ltd. of Bermuda, the pool's managing general underwriter acting as an agent for the insurer defendants, created a portfolio of high-frequency, low-severity workers comp risks, hid the nature of the risk and then defendant Aon Re Inc. go: Allianz to reinsure the risk, contrary to Allianz's underwriting philosophy. Centaur, the complaint further alleges, wrote the coverage not to make an underwriting profit but to "increase its commission income."

Centaur, while not named as a defendant, acted as the managing general agent for defendants American Phoenix Life & Reassurance Co., Phoenix Home Life Mutual Insurance Co.

Allianz



and Sun Life Assurance Company of Canada.

A spokesman for Aon Re said the suit was "groundless" and that the company is "confident this will be resolved in our favor."

A spokesperson for Phoenix Home Life said the company believes "the case is without merit." Efforts to reach Sun Life were unsuccessful.

## Lloyd's, FSA to share oversight

LONDON—Lloyd's of London is set to share its statutory regulatory functions with the Financial Services Authority.

In a response paper issued last week, the FSA—currently being set up to oversee all U.K. financial services regulation—stated it will carry out functions such as authorizations, though it expects to leave other areas, such as the regulation of syndicate capacity auctions, to Lloyd's.

At the same time, Lloyd's solvency procedures, currently comprised of three tests, will be streamlined and reduced to one test that satisfies European Union requirements.

The Financial Services and Markets Bill, which will grant these powers to the FSA, received its second reading in the House of Commons last month.

Despite several respondents to the initial consultation on Lloyd's regulation suggesting that Lloyd's policyholders should have access to a central FSA-controlled compensation fund, the FSA decided that Lloyd's Central Fund provides protection that is as good as that of the FSA Single Compensation Scheme.

In a statement, Howard Davies, chairman of the FSA, said: "The primary aim of the FSA's regulation will be to ensure that Lloyd's policyholders have the same level of protection available elsewhere in the insurance market. Now that the bill has been introduced into Parliament, we will press on quickly with the practicalities of developing a robust regulatory regime for Lloyd's for the new century."

The bill is expected to become law in the first half of next year.

## Coming & Goings: Industry

American International Group Inc. has named Susan Rivera president of its American Home Assurance Co. subsidiary. Ms. Rivera, who previously was executive vp and chief operating officer of American Home, succeeds Larry D. Hollen, who left the company. Also at American Home, Roger J. Fries has been named president of the company's workers compensation division. Mr. Fries comes to American Home from Kentucky Employers' Mutual Insurance, where he was president and chief executive officer.

# Voluntary

Continued from page 2

years "is really when interest and attention has been accelerating," Mr. Sollman said.

"We see many more employers wanting to take it," remarked Phillip Soule, president of Allmerica Voluntary Benefits, part of Allmerica Financial Corp. in Worcester, Mass. "It's growing rapidly."

Mr. Sollman said the number of employers offering MetLife's voluntary programs is increasing 10% to 15% per year, with significantly higher increases for some benefits, such as prepaid legal services.

Perhaps the biggest reason for the surge in demand has been the need to offer more benefits to attract employees in these times of labor shortages.

Indeed, a recent survey by the Society for Human Resource Management shows that employers are offering more benefits this year than they offered last year (BI, June 14). And a survey of voluntary benefit insurers conducted this year by LIMRA International Inc. shows that 69% of those insurers see strong growth for the programs.

Employers like to offer voluntary benefits and other programs that "single them out from the crowd but don't cost them money," said Lawrence Singer, senior vp with The Segal Co. in New York.

Complicating this need for more benefits is employers' wish to cap or reduce costs for benefits.

"Employers are trying to find ways to transfer costs from themselves to employees," said Michael Lichman, senior vp at Willis Corroon Corp. in New York. For example, employers may be cutting the amount of short-term disability

from, say, 60% of salary to 40%, or may be reducing employer-paid life insurance from three times salary to two times salary, he said.

Along with employers, insurers and employees also like the new benefits. For insurers, "there are tremendous economies of scale associated with distribution through the work site," said Mr. Singer. By selling a product, such as life insurance, in quantity, the insurer incurs lower sales and marketing costs and also can do a group underwriting, providing lots of savings for the insurer.

These savings can be passed along to the employees. Generally, an insurance product such as home, auto or life insurance bought through a voluntary program costs 10% to 25% less than if bought individually.

Employees pay the premiums through payroll deductions, eliminating the need for an employee to write a check each month. Also, because the employer does all the work picking a plan, the employee saves the trouble of finding the insurers.

In a survey of employees MetLife conducted last year, out of a list of six advantages for voluntary benefits, the most frequently cited was the cost savings, which 74% saw as an advantage. But just behind that was the convenience of payroll deductions; 71% of those questioned agreed they were an advantage. The convenience of not having to shop for the insurance ranked third in the survey, cited by 67% of those surveyed.

Employees also like the programs because "there is some level of comfort that a good selection has been made" by the employer, said Stacey Rollings, assistant vp with PM Group Life Insurance Co. in Fountain Valley, Calif.

Although most insurers perform

all the work for a program, a program's success greatly hinges on the benefit manager, consultants and insurers said.

Choosing an insurer at the outset and negotiating a price is the first role for the benefit manager. Not all insurers pass their cost savings on to employees through lower premiums,

ing the new benefits. That was followed up by e-mails sent to work-based computers and fliers posted around campus as added reminders. In addition, Liberty Mutual sent representatives to campus each month to explain the benefits to employees, sign them up and calculate premiums for each interested per-

said.

Employers offer long-term care insurance, "but everybody yawns," Mr. Lichman said. More commonly, employees purchase life insurance or additional long-term disability insurance, he said.

At New York Medical College, the auto, home and life products have a participation rate of about 10%, while only 1% of employees have bought the long-term care insurance available.

"It's a little bit more difficult for people to acknowledge the need" for long-term care insurance, Ms. Gelchie said, explaining the low participation.

Low participation is more than just a wasted opportunity—it could devastate the entire program, Mr. Singer explained. With low participation, the economies of scale for administration are lost.

In addition, it's more likely that the employees who do enroll will have a higher number of claims, leading to poor claims experience for the insurer. If the plan starts to lose money, the insurer could raise premiums, reduce benefits or drop the plan entirely.

But raising premiums or cutting benefits would cause fewer people to sign up, intensifying the problem. To prevent this death spiral, as he called it, the plan has to be planned correctly at its outset to bring in people.

Voluntary programs are not feasible for every employer, insurers and consultants warn. Those businesses with high employee turnover, for example, would cause problems for the insurer. With high turnover, the insurer would have to continually introduce and explain the program to the new employees, and "the administration costs start to eat the program alive," said Mr. Soule of Allmerica.

## In a survey of employees last year, MetLife found that 74% saw the cost savings of voluntary benefits as an advantage; 71% cited the convenience of payroll deductions.

said Mr. Singer. For the employees to value the benefit and for it to have the impact the employer wants, the benefit manager has to negotiate aggressively for a good price.

In addition, for the program to be successful, the employees must want the offered benefits. "As a benefit manager, you have to ask yourself, 'What do my people need?'" Mr. Singer said.

But picking a program and an insurer doesn't guarantee participation of employees, even if they are interested. To get people to sign up, the program must be communicated clearly and often.

"Marketing expertise is real critical to the success of the program," said Mr. Soule of Allmerica.

For example, when the New York Medical College introduced its program last year, the insurer for the auto, home and life insurance, Liberty Mutual Insurance Co. embarked on a wide-ranging education effort.

For the campaign, fliers were sent to each employee's home announc-

son.

Liberty Mutual "was very aggressive" with its marketing, Ms. Gelchie said. That was critical to promote higher participation by employees, she said. "Communication is key to achieving a successful campaign," she said. Poor communication could be "the kiss of death" for a voluntary program, she added.

In addition, the employer has to help set up meetings with groups of employees and the insurer's representative while also making the payroll deductions possible.

"The employer's support is absolutely critical" for success, Ms. Rollings said.

With lower prices and greater convenience, one might anticipate every employee signing up. Despite the advantages, however, some employees' enthusiasm for the products is not as high as that of their employers.

Low participation rates are a problem at times, depending on the benefit. In particular, employees have not been signing up for long-term care insurance, consultants

## Ensuring and insuring a captive audience

Chicago, where *Business Insurance* is based, tends to be known around the world for its famous personalities. For many years, Chicago was most well known worldwide for being home to Al Capone. Later, Michael Jordan took over as the most famous Chicagoan. But when he retired from basketball, a void was left.

And now, sadly, some people identify Chicago as the home of Jerry Springer, host of one of television's more odious talk shows.

It was Chicago's City Council that recently held hearings to determine whether the violence on "The Jerry Springer Show" was real—in which case, lawmakers felt that assault charges should be brought against the antagonists, or was faked—in which case, fraud charges were contemplated against the producers. Jerry nicely dodged the issue when asked by a council member if the fights were real: "It looks real to me."

Due to the controversy about the show's content, foul language and violence, though, the producers of the show pledged, for the second time in a year, to downplay controversial antics and stick to real, serious issues—like June 29th's "Bizarre Love Triangles" and July 1st's "My 14-Year-Old Is a Wife and a Mother."

Unfortunately for Jerry's show, this bland fare has led to a drop in ratings and that, in turn, has prompted the show's distributor to shop it around. Clearly, Jerry's star is fading fast.

If Jerry Springer is the best we can come up with these days to represent our city, I shudder to think what will come next. That's



why I'm doing my part to ensure that Jerry Springer remains on the air with exciting, controversial topics that will keep viewers glued to their sets, boost ratings and make Chicago a better place for my children.

To wit, I have sent the following suggested episodes to the producers of Mr. Springer's program:

- *I Was Abducted by the Uncover Pool.* In this show, several reinsurance executives discuss how their lives were turned upside down by the discovery that some unknown entity, without their knowledge, had bound them to a pool of substandard workers compensation risks.
- *Secret Fantasies of an Underwriter.* An underwriter shares his deepest fantasies of what his bonus would be like if he could charge the rate he wants to charge for casualty insurance.
- *Kinky and Deviant: The Alternative Market.* Representatives of a captive insurer, a protected cell company and a municipal pool discuss their untraditional lifestyles. In a dramatic surprise twist, however, a broker persuades the pool member to renounce his wicked ways and return to the traditional market.
- *Jilted: My Risk Manager Left Me for a Cheaper Price.* Insurer executives try to top one another's horror stories of buyers who switch to competitors for more coverage at a fraction of the old cost. A fight breaks out when one of the competitors is brought on as a surprise guest.
- *Burned Again: Flirting with MGAs.* Insurers and reinsurers confess their shame at having to learn all over again why giving away the pen is the road to ruin. They tearfully pledge to learn from their mistakes this time.
- *It's a Crime How Cheap My Coverage Is.* An anonymous risk manager reveals the shocking story of how he took his insurer to the cleaners by accepting a guaranteed-cost program he knows is priced less than his actual losses will be.
- *Held Captive: I Locked up My Program for Three Years.* Risk managers describe the despair of locking in a multiyear program, only to see prices go lower and lower in succeeding years.
- *Groundhog Day II: Nightmares of an Underwriter.* A property underwriter tells of his recurring nightmare of being hit by catastrophe losses one day yet waking up the next unable to raise rates to make up his losses. The nightmarish cycle repeats infinitely until he accepts the fact that he can never raise rates.
- *My Broker Is Sleeping with My Insurer.* A buyer reveals her suspicion that her broker is in bed with her insurers. In an emotional scene, the broker renounces the affair, promises to return the insurers' gifts and cash and pledges his everlasting fealty to the buyer. The audience is moved to tears.
- *Cross-Dressing: When Banks and Insurers Switch Roles.* Risk managers reveal their confusion over all the talk of H.R. 10 and the Travelers/Citicorp combination and what, if anything, this gender-bending will mean for them.
- *The End of the World: What Y2K Means for Me.* Executives whose anonymity is protected by shadows and voice distortion confess to having no clue whether they are truly protected from the millennium bug but say they'll file insurance claims anyway. Stay tuned.

Editor Paul D. Winston's commentary appears fortnightly. He can be contacted at [pwinston@craim.com](mailto:pwinston@craim.com).

## Medicare

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nation's 39 million Medicare beneficiaries, it also could shave billions of dollars in employers' retiree health care costs.

As an inducement for employers to retain their retiree health care plans, the package says there would be "financial incentives" for employers that provide prescription drug benefits at least equal to what Medicare would offer.

That financial incentive would be an amount that "we will have to work out," said Department of Health and Human Services Secretary Donna Shalala.

According to a document released Friday, "under the policy, Medicare would provide a partial drug premium subsidy to employers whose retiree coverage is at least as good as the Medicare benefit. The Medicare contribution would be 67% per beneficiary of the subsidy that it would otherwise provide for Medicare Part D enrollees. As such, Medicare would save 33% of its costs for each beneficiary in private employer-based retiree coverage."

With employer prescription drug benefit plans costing roughly \$700 to \$900 per retiree, depending on the scope of the benefits, the promised financial incentive would significantly cut employer costs.

"I don't see how this can be interpreted as anything other than good news for employers," said Mary Case, a principal with PwC Kwasha in New York.

"This does have the potential for reducing employer costs," said Joseph Martingale, a principal with Towers Perrin in New York.

For those employers who decide to use the expansion of Medicare to cover prescription drug costs as an opportunity to terminate retiree health care plans, the savings would be even greater. Employer-provided health care plans for Medicare-eligible retirees last year cost an average of about \$2,100 per retiree, according to a William M. Mercer Inc. survey.

"Certainly, this could be a catalyst for some employers to terminate coverage," said Edward Ka-

plan, a vp with The Segal Co. in New York.

Others, though, caution that legal restrictions, collective bargaining agreements and concern about souring employee relations might prevent many employers from walking away from their plans.

"You can't assume everyone will drop their coverage," said Frank McArdle, a consultant with Hewitt Associates L.L.C. in Washington.

Putting any potential financial gain aside, employers say expanding Medicare to offer prescription drug benefits is good health care policy.

"A medical plan without pre-

**'A medical plan without prescription drug coverage doesn't make sense,' says Shirley Grill of Atlantic Mutual Cos.**

scription drug coverage doesn't make sense," said Shirley Grill, vp-human resources with Atlantic Mutual Cos. in Madison, N.J.

"From a social standpoint, this is a good thing," said Dennis Nirtaut, managing director of compensation and benefits at Arthur Andersen L.L.P. in Chicago.

Other employers, though, would prefer a different approach. Rather than expanding Medicare to offer a new benefit, policymakers would have been better off proposing improved Medicare coverage for physician and hospital services, said Alan Skolnik, director of compensation, benefits and employment at Suburban Propane in Whippany, N.J.

And Mr. Skolnik and others question—in the face of soaring prescription drug costs—whether the government could maintain the new benefit at the stated levels and costs.

"There is a risk as to whether this program is (fiscally) sustainable," said Greger Vigen, a Mercer consultant in Los Angeles.

The question, now, though, centers more on whether Congress will pass the Clinton Medicare package. Aside from the new pre-

scription drug benefit, the proposed package would remove beneficiary cost-sharing requirements from certain preventive services, while adding a new 20% copayment requirement for clinical laboratory services.

Other provisions would change the payment structure for Medicare HMOs, allow retirees as young as 55 who lost employer-provided health care to buy COBRA coverage for 10 years from their former employers, and give retirees 62 and older the right to buy Medicare coverage for a monthly premium of about \$300.

In fact, political sniping began immediately after President Clinton last week outlined the package at a ceremony in the East Room of the White House.

Republicans questioned why the government should offer prescription drug benefits when their former employers already provide that benefit to millions of retirees.

"We should be careful not to force those who already have prescription drug coverage to accept a government-run plan that costs more and provides fewer choices," Speaker of the House Dennis Hastert, R-Ill., and Senate Majority Leader Trent Lott, R-Miss., said in a joint statement.

On the other hand, House Minority Leader Richard Gephardt, D-Mo., said the new prescription drug benefit would be "the single greatest improvement to the Medicare program since its inception in 1965."

Benefit experts note that, despite the pressure legislators feel from retirees on their exposure to soaring prescription drug costs, passage of the Clinton package is anything but a sure thing.

"Even if everyone agrees that the current system is broken, that does not mean there is a consensus on how to fix it," said Richard Ostuw, global practice director for Watson Wyatt Worldwide in Stamford, Conn.

And while Hewitt Associates' Mr. McArdle acknowledged that adding a new prescription drug benefit to Medicare would be popular among voters, he noted that "there is a disagreement on approach with some Republicans and some Democrats" who favor a more-narrow expansion. **BI**

## Asbestos

Continued from page 1

ciently.

The Hyde bill, like companion legislation backed by Senate Judiciary Chairman Orrin Hatch, R-Utah, would create a new agency, the Asbestos Resolution Corp., paid for by asbestos manufacturers and their insurers. Under the measure, claimants would have to prove that certain specified medical conditions had been caused by asbestos exposure in order to receive compensation from the agency.

The bill would prohibit the awarding of punitive damages and mass consolidations of asbestos cases. Claimants, however, would not be bound by existing state statutes of limitation in pursuing their claims. In addition, claimants could sue for further compensation under certain circumstances, but attorneys fees would be limited to 25% of any award.

The bill also drew fire from Rep. John Conyers, D-Mich., the committee's ranking Democrat. He called asbestos manufacturers' conduct "reprehensible," adding, "I cannot agree to any legislation

that merely serves to bail out this industry."

The bill won strong support, though, from Christopher F. Edley Jr., a professor at Harvard University Law School who served in both the Carter and Clinton administrations.

Mr. Edley said that, under the current system, transaction costs eat up almost two dollars for every dollar spent to compensate vic-

**Under the Hyde bill, claimants would have to prove that certain medical conditions had been caused by asbestos.**

tims. Many who receive compensation are not sick and never will develop asbestos-related illnesses, he said. Mr. Edley said that "this bill benefits almost everyone," adding that "the only losers are a few dozen powerful lawyers and individuals who are not now sick, who never will become sick in the future, and who would have won the jury lottery under our current tort system."

Former Secretary of Health and

Human Services Louis Sullivan joined Mr. Edley in supporting the bill.

The U.S. Chamber of Commerce has been the major employer group supporting the bill. The *Fibreboard* decision has prompted renewed interest in the measure, said Keith Holman, chief regulatory counsel of the Washington-based Chamber.

Mr. Holman said the measure faces considerable opposition from the trial bar and organized labor, but, he added, "we wouldn't be in this fight if we didn't think this was a very compelling case and it had some chance of success."

John Arlington, assistant vp-federal affairs of the American Insurance Assn. was a bit more skeptical in his assessment. "The political future for this bill is limited, because it is supported neither by labor nor the trial lawyers. You don't even have a united asbestos manufacturing industry," on this issue, he said. The AIA has not taken a position on the Hyde bill.

"The increasing number of asbestos cases is a serious problem for the insurance industry. The transaction costs are sky high on these cases. We think there's got to be some kind of way to resolve these cases other than the current tort system," Mr. Arlington said. **BI**

# Y2K

Continued from page 1

can Insurance Assn. in Washington. She noted that the measure's proponents had made significant concessions to win White House support, such as setting a threshold requiring that class-action suits seek \$10 million in damages—rather than the \$1 million threshold initially sought by businesses—before a case would be removed to federal court from state courts.

She said the supporters felt like they were on a "roller coaster" earlier in the week as the details of the bill were worked out. She stressed that the bill was necessary to encourage businesses to fix Y2K problems before the year 2000 arrives.

The president of the U.S. Chamber of Commerce made a similar point in a written statement released moments after the House vote. "Republicans and Democrats came together to make sure small businesses, communities, hospitals and high-tech entrepreneurs can fix Y2K problems instead of worrying about a group of trial lawyers looking to get rich," said Thomas J. Donahue.

The chair of the Risk & Insurance Management Society Inc.'s External Affairs Team noted that the bill was not all that it could have been, and was in fact less comprehensive than some state laws passed to deal with litigation that might stem from Y2K.

"This bill is truly a compromise bill, and I think it was an opportunity for the Clinton administration to look consumer-oriented as best as they could. I think, quite frankly, a number of the state reform acts for Y2K have a higher evidentiary standard, and

that would be a good thing for most companies doing business within certain states," said Lance Ewing, director-insurance and loss prevention for GES Exposition Services Inc. in Giltspur, Nev.

"I think most risk managers are shocked that there is a punitive damages cap on anything coming from the Clinton administration, so we have to, quite frankly, take the crumbs that fall from the Clinton administration's table when it comes to actions such as this for big business," he said.

The liability limits contained in the measure, H.R. 775, would not apply to

## Business has to 'take the crumbs that fall from the Clinton administration's table,' says Lance Ewing.

claims for personal injury or death. The limits would cover other Y2K actions brought after Jan. 1, 1999, for Y2K-related failures that occur before Jan. 1, 2003.

Among other things, the bill would require "clear and convincing" evidence be shown before any punitive damages could be awarded in a Y2K suit. Punitive damages levied against an individual with net worth of less than \$500,000 or a business or association with fewer than 50 employers would be capped at the lesser of \$250,000 or three times compensatory damages. The cap would not apply, however, in cases where the plaintiff established by clear and convincing evidence that the defendant acted

with specific intent to injure.

Governmental entities also would be immune from punitive damages.

In general, defendants would be liable only for the portion of compensatory damage that can be attributed to them. Joint-and-several liability still would apply where defendants acted with specific intent to injure the plaintiff or committed fraud. Defendants also could be held responsible for more than their portion of liability under certain circumstances if other defendants cannot pay and the plaintiff is an individual with a net worth of less than \$200,000 who had suffered damages in excess of 10% of his or her net worth. This provision also would apply if the plaintiff is a consumer whose suit stems from a defective consumer product, provided that the plaintiff sues as an individual and not as part of a class action.

Before filing suit, a plaintiff would have to notify the defendant in writing of the defect. The defendant then would have 30 days to respond with a written plan to fix the defect and an additional 60 days to fix it. If the defendant did not respond within the 30-day period, the suit could proceed immediately.

Y2K class-action suits would have to be heard in federal, rather than state, court if the suit seeks more than \$10 million and the class has at least 100 members.

That provision would not apply, though, to situations where most of the members are citizens of a single state, the defendants are citizens of that state and the claims would be governed primarily by that state's law. It also would not apply to cases where the defendants were state governments, state officials or other governmental entities. **B1**

# Updates

## PBGH to see 10% increase

Continued from page 2

announcing that Health Net and CIGNA HealthCare of California "have fallen out of favor with the Alliance," a PBGH statement said.

The 21 employers in the Alliance spend about \$500 million a year on health care premiums for nearly 400,000 plan members.

"While some increase is justified, we are not confident that the return of double-digit premium inflation is justified," Claire Carter, director of benefits for APL Ltd. and chairwoman of the PBGH's Negotiating Alliance, said in the statement. "More than a third of the Alliance employers, including my own company, will be terminating or freezing plans we think charge too much compared to the quality of service they provide."

A Health Net spokesman said the 10% rate change is needed due to escalating pharmacy costs and that the increase will help it continue to provide quality care to PBGH members.

A response prepared by CIGNA said that it contracts with only two companies through the PBGH alliance and that those companies have fewer than 10,000 members in CIGNA plans. CIGNA does, however, contract with a number of large employers that are members of PBGH but contract directly with CIGNA. Such employers are not affected by the alliance negotiations.

CIGNA has not received notice of a contract termination, and both it and Health Net said they will continue working with PBGH members.

## Frankel lawyer talking to feds

BRIDGEPORT, Conn.—Federal prosecutors pursuing fugitive businessman Martin R. Frankel were in touch last week with a Connecticut lawyer who said Mr. Frankel has hired him.

The lawyer, Hugh F. Keefe of New Haven, said that contrary to reports last week, Mr. Frankel has no plans to surrender, but he declined to describe his discussions with the U.S. Attorney's office in Bridgeport. A spokeswoman for the U.S. Attorney would not comment.

Mr. Frankel fled his Greenwich, Conn., mansion in early May as a life insurance group he controlled collapsed. Federal law enforcement authorities charge that Mr. Frankel, using aliases that included "David Rosse" and "Eric Stevens," controlled Thunor Trust, the Tennessee-based parent of seven life insurers in five states. Mr. Frankel drained hundreds of millions of dollars of the insurers' assets through an unlicensed securities trading operation he ran from his Greenwich, Conn., home, the FBI alleges.

Mississippi regulators placed three of the seven insurers into liquidation last week.

While Mr. Frankel allegedly took pains to conceal his role with the companies, 1991 Tennessee Insurance Department filings for Thunor's initial insurance acquisition—Franklin American Corp.—offered clues as to his involvement. The filing included documents purportedly signed by three investors who allegedly capitalized Thunor: Sonia Dix Howe, a former girlfriend of Mr. Frankel; Edward M. Krauss, a Frankel family friend from Toledo, Ohio; and Mark Shuki, a Chicago businessman.

Mr. Krauss denied putting any money into Thunor, though, and said his signatures on several Tennessee documents are forgeries.

Mr. Krauss' signature on these documents appears to be notarized by "Leon Frankel, attorney-at-law." Leon Frankel, Mr. Frankel's father, was a former lawyer and referee for a Toledo domestic relations court; he died last October at age 87.

Mr. Krauss expressed doubts that the elder Mr. Frankel notarized the documents. Ms. Howe and Mr. Shuki could not be reached.

## Briefly noted

**Forrest L. Minix**, chairman and chief executive officer of Crawford & Co., will retire effective July 27. Mr. Minix will remain on the board of directors at the Atlanta-based risk and claims management service provider. He will be succeeded by **Archie Meyers Jr.**, the company's current president and chief operating officer. . . . Sen. Slade Gorton, R-Wash., and Rep. Cliff Stearns, R-Fla., will introduce legislation calling for the installation of **automated external defibrillators** in federal buildings and the training of likely users. The Cardiac Arrest Survival Act also would provide immunity from civil liability for AED users and providers in states where such immunity does not already exist. . . . The U.S. House of Representatives voted 343-86 Thursday in favor of H.R. 10, the **financial services modernization bill** supported by much of the insurance industry. Differences between the House bill and a Senate financial services reform bill passed in May remain to be ironed out. . . .

**ACE Ltd.** completed its \$3.45 billion acquisition of the international and U.S. property and casualty business of CIGNA Corp. last Friday. ACE INA Holdings Inc. is the holding company for the former CIGNA businesses and ACE's existing U.S. unit, ACE USA. . . . **Fairfax Financial Holdings Ltd.** has bought 38.4% of Zenith National Insurance Corp. for \$184.1 million. Fairfax paid Reliance Insurance Co. \$28 a share for its stake in Zenith, a workers compensation insurer. Shares in Zenith closed last Friday at \$25.69. . . . After nearly a year of examination, regulators gave final approval late last week to the merger of Allendale Mutual Insurance Co., Arkwright Mutual Insurance Co. and Protection Mutual Insurance Co. into **Factory Mutual Insurance Co.**, which will do business as FM Global (BI, Aug. 3, 1998). The new company is headquartered in Johnston, R.I. . . . Insurers must defend two Colorado cities in a **dispute over the cleanup of a Superfund site**, the Colorado Supreme Court ruled last week. Echoing its ruling in a 1991 case, the court said in *Compass Insurance Co. vs. City of Littleton and City of Englewood* that "the words 'sudden and accidental,' contained in the exception to the pollution exclusion clause, meant 'unexpected and unintended.'" . . . A panel of the Massachusetts Supreme Judicial Court has affirmed a single justice's 1998 ruling dismissing the state Insurance Department's effort to regain control of the **insolvent Electric Mutual Liability Insurance Co.** from its Bermuda liquidators (BI, Oct. 5, 1998). . . . California's Senate last week passed a **workers compensation bill** that would raise benefits by \$2.7 billion annually but would be phased in over three years. The legislation now goes to the Assembly.

# Superfund

Continued from page 2

the cleanup expenditures incurred by potentially responsible parties that the agency said are derived from these support expenditures.

"Inclusion of estimates of PRP spending on cleanups in the analysis would recognize the total amount of spending toward cleanup," wrote Timothy Fields Jr., acting assistant administrator for the EPA in Washington. "EPA believes that those site-specific expenditures necessary to obtain PRP commitment and oversee implementation of PRP-led cleanups should be included in the definition of cleanup expenditures."

John Arlington, assistant vp for federal affairs at the American Insurance Assn. in Washington, said the GAO figures can be likened to an older report published by the now-defunct Office of Technology and

Assessment that found that in 1989, only 56% of the EPA's Superfund expenditures went toward actual cleanups.

"The spending on Superfund by the EPA has always been inefficient," he said.

Mr. Arlington said it made sense to allocate more Superfund money to cleanup in the 1980s because, back then, heavily contaminated sites like Love Canal and the Stringfellow Acid Pits demanded an involved cleanup.

"Yes, there has been progress made," said Mr. Arlington, adding that now PRPs foot most of the cleanup bill. "But like other government agencies, the overhead never goes away. It's time to wind this (project) down."

Lance J. Ewing, chair of RIMS' external affairs committee and director of insurance and loss prevention GES Exposition Services Inc. in Giltspur, Nev., said the EPA should

run itself more like a business and less like a bureaucracy.

"This appears to be a classic case of a government agency that has, quite frankly, grown so large and powerful that they believe that no one should challenge them on how they spend businesses' and taxpayers' money," said Mr. Ewing. "I applaud the GAO for looking the EPA in the eye and saying, 'You need to improve on your fiscal dealings and accountability.'"

In addition to the Superfund report, the GAO also recently examined employers' concerns that EPA does not properly address issues involving the dissemination of the sensitive or competitive business information it collects as a regulatory body.

*Copies of "Superfund: EPA Can Improve Its Monitoring of Superfund Expenditures" are available free at the Web site <http://www.gao.gov>.*

# A&E

Continued from page 2

led by Prudential Insurance Co. of America, which saw its combined ratio rise 10.2 points to 103.7% as a result of \$163 million in A&E losses. That includes losses incurred from a number of insurers, including runoff subsidiary Gibraltar Casualty Co.

• Great American P&C Insurance Group, led by Great American Insurance Co., had an 8.7-point increase in its combined ratio to 111.1% as a result of \$232 million in A&E losses.

• GE Global Insurance Holding Corp., a unit of General Electric Co., saw a 6.3-point increase to 110.9% after incurring \$194 million in A&E losses. Eighty-four percent of those losses were due to its acquisition of Kemper Re.

Losses for A&E liabilities will continue to fluctuate from year to year, and the increase did not come

as a surprise, said Amy Bouska, principal and consulting actuary for Tillinghast-Towers Perrin in Minneapolis.

"To assume they will be always trending down is not realistic," she said.

Despite the rise in losses, total A&E reserves declined slightly in 1998 to \$26.2 billion from \$26.6 billion, the Best report found. Mr. Smith attributes this overall decrease to insurers reducing reserves in the face of a soft market.

"This is not a time when managements feel they can strengthen A&E reserves," he said.

At the start of 1995, total industry A&E reserves stood at \$18.9 billion. That figure climbed to \$26.8 billion in 1996 and then to \$27.4 billion in 1997 before dropping to \$26.6 billion to start 1998.

Net incurred A&E losses peaked in 1995 at \$10.3 billion, the report states. It then declined for two years to \$5.5 billion in 1996 and \$1.9 bil-

lion in 1997 before the increase in 1998.

Reserves for asbestos vs. environmental losses moved in different directions last year, the report shows. Asbestos reserves increased to \$11.3 billion from \$10.9 billion, while environmental reserves dropped to \$14.9 billion from \$15.7 billion.

Mr. Smith attributes the drop in environmental reserves to a reduction in the number of new Superfund sites identified.

The overall reduction in reserves, however, is of concern, as many insurers have yet to fully reserve for their A&E liabilities, Mr. Smith of Best said.

"By and large, the industry has a long ways to go in terms of reserving their ultimate liabilities," he said.

Tillinghast's Ms. Bouska noted that insurers are not that concerned with environmental losses, "but asbestos is a continuing problem." The losses "just keep going and going and going," she added. **B1**

# Lawyer reviews Y2K due diligence

By JUDY GREENWALD

SAN FRANCISCO—Managed care organizations face "foreseeable and preventable" Y2K failures, a consultant says.

To deal with these, Stephen H. Goldberg, a consultant and attorney with Needham, Mass.-based Y2K Risk Management L.L.C., suggests a risk management program for health care organizations with four cornerstones: executive support, business risk assessment, a legal audit and a due diligence plan.

He spoke at a session of the 1999 American Assn. of Health Plans' Managed Care Institute & Display Forum, held last month in San Francisco.

Y2K is not just a computer issue, said Mr. Goldberg; its impact will be felt in business and service disruptions, financial losses and liability exposures. And it is not just a one-day event, he said. Instead, "there is going to be a rolling series of events" that will continue after Jan. 1.

The sources of Y2K business risks for health care, according to Mr. Goldberg, are:

- Internal information technology systems.
- Medical devices and other embedded systems.
- Electronic data exchange.
- Third-party compliance.
- Public infrastructure, including power, water and transportation.
- Regulatory compliance.

Mr. Goldberg said one study indicates that two-thirds of health care organizations are likely to have a "mission-critical" Y2K failure, such as something that endangers patients. Y2K and health care together present a "bad combination of high risk and low preparedness," he said.

Discussing the foreseeability and preventability of Y2K failures, Mr. Goldberg posed a rhetorical question: If someone is injured and it was foreseeable, "doesn't that raise the liability exposure significantly?"

The possibility of endangering life and health, the industry's late start on compliance efforts, and the lack of both necessary resources and regulatory oversight all add up to severe Y2K liability exposures for the health care industry.

Mr. Goldberg drew an analogy between the impact of Y2K on the health care industry and the savings and loan crisis, which led to the failure or merger of 3,000 S&Ls

and a bailout cost of \$520 billion for a \$900 billion industry.

An analogous crisis in the health care industry, he warned, could conceivably lead to bankruptcies, political recriminations, investigations, regulatory re-trenchment, enforcement actions, lawsuits and criminal prosecutions.

The Y2K liability framework, Mr. Goldberg said, includes torts, such as personal injury types of cases; fiduciary violations, such as shareholder suits; and statutory and regulatory violations.

Managed care organizations have a duty to monitor and encourage providers' Y2K compliance efforts to minimize their own li-



## If someone is injured and it was foreseeable, 'doesn't that raise the liability exposure significantly?' asks Stephen H. Goldberg.

ability exposure, said Mr. Goldberg.

He also raised the issue of fiduciary liability stemming from Y2K under the Employee Retirement Income Security Act. "I see this as a very important area of liability exposure" that is not getting much attention, Mr. Goldberg said.

Managed care organizations also must look at computer systems, including those of the plan and the plan sponsor and those of third-party service providers.

They must also look at Y2K issues related to their investments, he said.

He noted that, after the year 2000, when plaintiffs attorneys become one of the principal drivers of health care Y2K compliance and liability, questions they will ask include:

- How did senior management respond?
- Were foreseeable risks identified?
- How were risks evaluated and prioritized?
- Was due diligence exercised?
- Were fiduciary duties fulfilled?
- Were required disclosures made?

The health care industry should prepare for these questions now, Mr. Goldberg advised.

Elaborating on the four cornerstones of Y2K risk management, Mr. Goldberg dis-

cussed directors and officers support, focusing on their necessary sponsorship and oversight of Y2K preparedness.

This involves executive briefings; the establishment of Y2K programs and their objectives; the formation of steering committees; the establishment of monitoring and reporting systems; the deferral of non-essential projects; executive signoffs; internal audit and risk management roles; and independent compliance audits.

Business risk assessment, another cornerstone of Y2K management, involves an assessment of the possible effects on business, said Mr. Goldberg. That includes assessing the likelihood of each failure, its consequences and how critical a failure would be.

The assessment of business risks also calls for an inventory of the Y2K risks for each department, the definition and application of triage criteria, and the setting of priorities among remaining tasks.

Also key are Y2K legal audits, Mr. Goldberg said. The questions to be asked should include:

- Does someone else have to fix or pay for this?
- If so, how is our claim preserved?
- What legal obligations do we have to others before and after Y2K failures?
- What obligations do others have to us?
- What is our regulatory exposure?

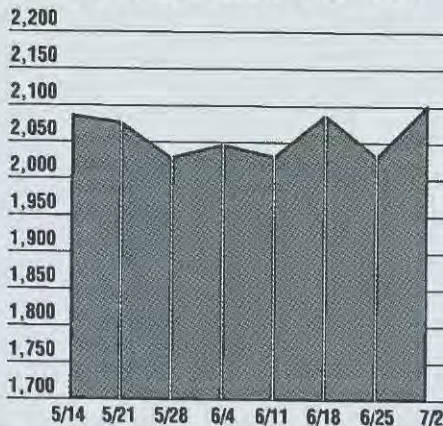
Part of the framework of the fourth cornerstone, due diligence, includes keeping directors and officers informed and involved, conducting adequate investigations of risks in order to make sound judgments, and making required disclosures.

The main areas of due diligence include compliance by vendors, customers and regulators; contracts and purchasing; and major business transactions, said Mr. Goldberg. Pointing to the need for vendor compliance plans in particular, Mr. Goldberg said, "You want to get out there and find out if they are really ready."

Disclosures should be made to investors, banks, partners in mergers and acquisitions and regulatory agencies, among others. Do not disclose too much or too little or make disclosures too soon or too late, Mr. Goldberg warned, admitting that that is "a difficult task."

Also speaking at the session was Cassandra Junker, senior vp at Minneapolis-based Rx20000 Solutions Institute, a non-profit information clearinghouse for health care Y2K information.

## BI Insurance Index



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

## PCS catastrophe options

As of July 2	Call spread	Price bid/ask	Call spread	Price bid/ask
National Annual 1999	40/60	15.0/19.0	60/80	0.8/1.8
	60/80	9.0/16.0	80/100	0.6/1.6
	80/100	5.0/—	150C	1.2/1.5
	150C	5.3/9.0	Western Annual 1999	
	200/250	3.6/6.0	80/100	0.8/1.9
Southeastern September 1999	40/60	2.8/—	Midwest June 1999	
	60/80	2.3/—	10/20	8.5/9.5
	80/100	2.4/—	Florida Sept./Dec. 1999	
Eastern September 1999	40/60	3.3/—	100/150	1.8/—

Total volume: 4 Total open interest: 10,022

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

Source: Chicago Board of Trade

## British Issues

Companies	Price pence	P/E	Div. pence	Yield %	52-week high-low
Gdn Royal Exch	360	5.6	4.3	1.2	423-227
Legal & Gen	170	48.3	3.6	2.1	237-125
Royal & Sun	562	13.6	25.3	4.5	884-4817

Brokers	Price	P/E	Div.	Yield	52-week high-low
Lmbrt Fenchurch	84	NA	4.2	5.2	118-68
JLT	249	12.3	12.3	12.0	263-169

Note: Prices are July 2 closings; other numbers from July 1.

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

# BI Industry Stock Report JUNE 28, 1999, THROUGH JULY 2, 1999

BROKERS							INSURERS/REINSURERS							HEALTH MAINTENANCE ORGANIZATIONS								
Company	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)	Company	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)	Company	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)		
Aon Corp.	41.31	3.28	10.54	50.38	32.19	1784	CNA Surety	NYS	15.19	-1.62	1.67	16.00	10.19	96	SCOR	NYS	50.63	-1.34	-22.12	72.75	48.00	16
E.W. Blanch Holdings Inc.	68.56	2.52	46.85	70.25	34.68	382	EMC Insurance Group Inc.	NDQ	11.75	0.00	-7.84	15.00	9.00	13	SAFECO Corp.	NDQ	44.38	1.14	4.41	49.38	36.69	3356
Gallagher Arthur J. & Co.	49.94	2.30	14.14	50.63	34.88	246	ESG Re Limited	NDQ	14.75	3.51	-25.55	23.88	12.75	24	SCPIE Holdings Inc.	NYS	31.63	7.66	5.20	35.50	23.69	NA
Hib. Rogal & Hamilton	21.88	1.45	17.45	22.50	15.58	100	Enhance Financial Services	NYS	19.63	-0.95	-35.12	37.31	17.31	846	Seibels Bruce Group	NDQ	5.25	5.00	50.00	7.50	2.69	20
Kaye Group Inc.	7.50	0.00	3.45	8.38	5.00	6	Everest Reinsurance	NYS	33.19	5.99	-9.54	43.50	28.75	1158	Selective Ins. Group	NDQ	19.16	-1.76	-5.40	23.94	16.69	290
Marsh & McLennan	78.25	5.56	32.35	81.13	43.38	2415	Executive Risk Inc.	NYS	84.13	-1.75	56.15	92.88	35.50	220	Terra Nova Ins. Co. Ltd.	NYS	26.63	0.00	9.23	35.00	21.25	228
Brown & Brown	39.38	9.00	12.70	42.50	29.31	50	EXEL Ltd.	NYS	56.25	-0.99	-21.40	83.25	54.50	2037	Tokio Marine & Fire	NDQ	56.50	0.89	-4.03	62.88	39.00	136
AVERAGE		3.47	21.16				Freight General Corp.	NYS	19.13	2.34	-20.73	30.06	16.50	504	Torchmark Corp.	NYS	35.13	6.24	1.08	47.19	30.69	2173
ACE Ltd.	28.06	1.35	-14.15	43.00	24.38	4454	Frontier Insurance Group	NYS	15.13	1.68	21.00	24.00	10.88	438	Transatlantic Holdings	NYS	75.50	-0.08	-0.17	94.50	72.50	98
Accel International Corp.	1.75	7.69	-41.67	3.38	1.50	30	Gainsco Inc.	NYS	5.19	23.88	-17.82	8.06	3.94	888	Travelers Property Casualty	NYS	39.88	1.92	30.20	45.75	24.13	1278
Acceptance Insurance Cos.	14.88	-2.06	-25.16	24.81	12.06	205	Harleysville Group	NDQ	20.38	0.31	-20.10	27.25	17.00	275	Trenwick Group Inc.	NDQ	24.81	-0.75	-21.54	40.00	24.63	242
AEON N.V.	77.63	0.24	-36.34	130.13	69.25	2799	HSB Group Inc.	NYS	41.75	1.52	-3.89	59.56	34.75	239	Unico American Corp.	NDQ	10.25	0.61	-11.11	15.25	8.63	14
Aetna Life & Casualty	89.25	0.35	11.82	99.88	60.19	3009	HCC Insurance Holdings	NYS	23.25	10.39	37.27	23.25	16.00	994	United Fire & Casualty	NDQ	25.69	0.24	-22.82	41.50	22.25	13
AFLAC Inc.	46.69	4.92	6.11	56.75	25.13	3073	ING Groep N.V.	NYS	53.25	0.24	-12.70	76.75	36.06	362	Unitrin	NDQ	41.63	4.55	17.46	41.63	27.88	1262
Allmerica Financial Corp.	63.00	3.49	11.26	75.25	38.38	530	IPC Holdings Ltd.	NDQ	19.88	0.63	-12.64	30.63	17.38	494	UNUM Corp.	NYS	56.00	-3.45	-6.57	62.50	41.75	3370
Allstate Corp.	37.13	4.76	-3.57	52.38	34.75	12086	Hartford Financial Services	NYS	60.00	4.35	7.50	66.44	37.63	2565	Vesta Insurance Co.	NYS	4.88	-3.70	-15.22	25.00	3.38	836
AMBAC Indemnity Corp.	58.81	4.79	-1.88	65.94	40.88	1596	LaSalle Re Holdings Ltd.	NYS	18.00	-1.37	-12.73	39.19	11.63	360	Zenith National Ins.	NYS	25.69	3.53	11.08	28.50	20.31	180
American Bankers Ins.	54.44	0.23	14.01	61.31	30.13	745	Lincoln National	NYS	54.44	6.87	31.37	54.44	33.50	1969	AVERAGE		2.31	-2.57				
American Financial Group	33.69	-1.46	-18.21	44.88	30.50	196	MAIC Holdings Inc.	NYS	28.50	-1.72	-10.94	33.13	23.25	96								
American General	76.44	7.00	-2.32	79.00	52.38	1863	Markel Corp.	NYS	188.94	5.51	4.82	193.00	132.00	16	Foundation Health Systems Inc.	NYS	16.19	1.57	47.16	27.13	5.88	2491
American Heritage Life Ins.	25.75	7.29	7.01	26.69	18.63	438	MBA Insurance Group	NYS	66.38	3.51	0.09	80.13	46.06	1127	Humana Inc.	NYS	13.00	-1.42	-31.35	32.13	10.06	3678
American Indemnity/Fin'l	14.25	0.00	34.12	15.38	10.25	11	Meadowbrook Insur. Group	NYS	13.88	3.74	-14.94	31.50	12.31	134	Oxford Health Plans	NDQ	15.94	-6.25	13.84	24.25	5.81	6589
American Intl Group	121.94	1.14	25.22	134.00	64.88	18021	MMI Cos. Inc.	NYS	16.13	9.79	-3.37	23.44	13.75	177	Pacificare Health Sys.	NDQ	69.50	-3.22	-2.80	100.38	55.63	348
American Safety Insurance	8.25	-4.35	-13.16	12.50	6.63	11	Mutual Risk Mgmt. Ltd.	NYS	34.69	-0.89	-8.57	43.25	25.38	1151	Safeguard Health Enter.	NDQ	4.00	33.33	12.28	7.19	2.34	114
Argonaut Group	25.25	-4.49	5.21	33.13	21.25	152	Navigator Group	NDQ	15.44	4.66	1.23	19.50	13.25	60	Sierra Health Services	NYS	13.63	-9.92	-34.73	26.00	10.44	304
AXA-UAP Group	64.38	8.08	-10.04	80.25	38.25	238	NYMagic Inc.	NYS	15.88	-0.78	-23.95	28.63	12.00	116	United HealthGroup	NYS	61.56	1.86	38.15	70.00	29.56	4439
Baldwin & Lyons Inc.	23.81	0.26	1.87	26.00	18.50	97	Ohio Casualty Corp.	NDQ	36.50	-2.67	-11.25	47.88	33.75	654	Wellpoint Health Networks	NYS	82.56	-3.29	-3.86	97.00	50.50	8712
Berkley W.R. Corp.	25.13	0.25	-25.56	41.75	23.50	1302	Old Republic Int'l	NYS	17.56	3.31	-18.08	31.25	16.88	1641	AVERAGE		1.58	4.84				
Berkshire Hathaway Inc.	69600.00	0.58	1.90	81100.00	57000.00	1	Orion Capital Corp.	NYS	38.31	13.52	-2.23	59.25	27.56	766	ALL COMPANIES		2.45	7.81				
Capital RE Corporation	15.88	4.10	-18.85	38.19	11.94	1064	Partner Re Ltd.	NYS	38.88	3.84	-13.97	52.50	33.63	282								
Capitol Transamerica Corp.	15.25	16.19	-13.78	22.75	12.50	217	Penn-America Group Inc.	NYS	10.25	1.23	10.81	13.63	8.13	59								
Centris Group Inc.	10.00	1.27	6.67	14.06	7.94	243	PMA Capital Corporation	NDQ	20.50	-0.91	4.79	23.75	16.63	191								
Chartwell Re	19.19	-																				