

business insurance

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Congressional panel OKs state health insurance pools

WASHINGTON—A provision allowing states to require all employers with 20 or more employees to participate in state health insurance pools for the uninsurable was approved by a key House subcommittee as part of Medicare reconciliation legislation.

Under the provision, losses from state risk pools for the uninsurable would be divided equally
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Taxing benefits under scrutiny

By DEBORAH SHALOWITZ

WASHINGTON—Elimination or modification of the tax-favored status of many employee benefit plans is under consideration again by two key congressional committees trying to reduce the federal budget deficit.

The proposals are outlined in a 291-page report prepared by the staffs of the Joint Committee on Taxation and the House Ways and Means Committee. They do not actually recommend the new taxes but, rather, lay out the pros and cons of the options and the estimated revenue effects.

Some of the key options outlined by the report include:

- Altering the tax status of employer-provided health coverage, which could raise between \$1.2 billion and \$9.1 billion in 1988, depending on the specific proposal.

- Taxing employer-provided group-term life insurance, which could raise between \$800 million and \$2 billion in 1988.

- Taxing employee benefits for workers with an annual income of \$60,000 or more, which could raise \$1.1 billion in 1988.

- Altering the tax status of cafeteria plan benefits, which could raise between \$600 million and \$800 million in 1988.

The report also describes how redefining full-funding limitations for pension plans could raise \$600 million in 1988.

The report is significant because it will be used in discussions by the Ways and Means Committee, which, with the Senate Finance Committee, has jurisdiction over taxes. Ways and Means Committee Chairman Dan Rostenkowski, D-Ill., requested the report.

The report "is the laundry list that the committee will work from in considering the various ways of achieving revenues that are called for in the budget resolution," observed Frank McArdle, director of education and communication at the Employee Benefit Research Institute, a Washington-based benefits think tank.

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High D&O premiums here to stay: Wyatt

By ROBERT A. FINLAYSON

CHICAGO—Risk managers should not expect the cost of directors and officers liability insurance to drop significantly anytime soon from current lofty levels, although rates may be stabilizing, concludes a survey released today by The Wyatt Co.

While the cost of directors and officers liability coverage escalated tremendously from 1984 to 1987, Wyatt's biennial "Directors and Officers & Fiduciary Liability Survey 1987" reveals that the coverage is not greatly overpriced in relation to losses.

"The survey seems to say that underwriters were underpricing the product in the early 1980s, and when they increased premiums, they overshot to some degree but not to the degree people tend to think," says Warren Brockmeier, vp of risk management for The Wyatt Co. in Chicago.

And, the survey finds that claim frequency continues to rise 15% to 20% per year.

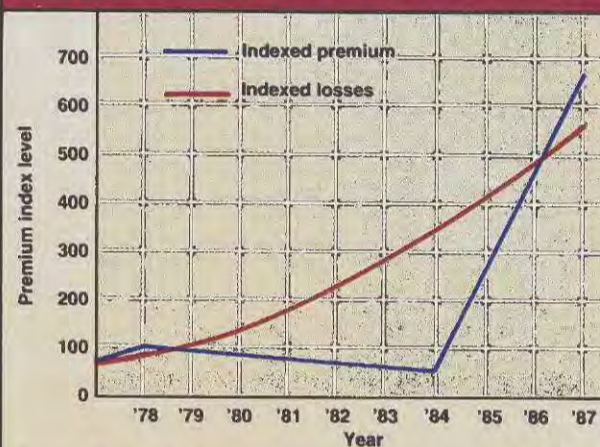
In an effort to chart the rising cost of D&O insurance, while also taking into account other variables such as corporate asset size, policy limit, corporate reimbursement deductibles and retentions above the deductible, Wyatt developed a premium index.

The index, with premiums in 1974 serving as the base of 100, vividly illustrates the dramatic increase in D&O premiums in 1985 and 1986 for U.S. corporations. The index average jumped from 54.3 in 1984 to 682.4 in 1987, while the index median soared from 38 in 1984 to 415 in 1987.

Taken by itself, the survey says, this increase "would appear to support the contention that the market overreacted to a horrendous degree."

However, the survey continues, when the premium index is plotted against an index illustrating D&O losses, "it appears that the redundancy in premium currently is

Indexed D&O premiums and losses



Source: The Wyatt Co.

Chart: Amy Palmer

not as great as one might suspect."

The survey concludes that this relationship "tells us that underwriters were digging a substantial hole for themselves during the soft market, and have over-adjusted to some degree at this time, but with the present trend in losses, prices will never return to the levels of the early 1980s."

"There may be a modest decrease, but I would be very surprised if the market came back with cost reductions of 40% or 50%. I can see them coming back with a 10% or 20% reduction next year in a somewhat more competitive

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Steinberg's pay tops among insurers

By KAREN HUELSMAN

Asked to comment on his salary during a meeting with potential investors, the chief executive officer of a reinsurer going public last year quipped: "If your implication is I am grossly underpaid, I totally agree."

When the laughter among the group died down, Trenwick Group Inc. Chairman and Chief Executive Officer James F. Billett Jr. didn't have to say any more about his 1985 cash compensation of \$190,000.

Indeed, the CEOs of many of the major commercial property/casualty insurance and reinsurance companies are still playing cash compensation catch up to their brethren in other financial services businesses, but they are hardly poor step-brothers.

And a few of the executives have nothing to complain about: The most fortunate among the CEOs of the major commercial insurers: Saul P. Steinberg, 47, chief executive officer of Reliance Group Holdings Inc., who earned \$4.19 million in cash compensation

last year, including bonuses.

But, there are few people to question Mr. Steinberg's paycheck since he controls about 33 million shares—or 77%—of Reliance's common stock. Reliance, which went public in 1986 after four years as a privately held company, has interests in insurance, real estate and consulting businesses.

And, Mr. Steinberg's compensation from Reliance is just a fraction of his total wealth: Forbes magazine last year reported that Mr. Steinberg and his family control holdings valued at \$650 million.

No other insurance company chief executive among the 30 companies surveyed by



Mr. Steinberg

Business Insurance could even come close to matching Mr. Steinberg's cash compensation, though three others garnered cash compensation exceeding \$1 million last year.

But, ironically, the lowest-paid of the 30 insurance company CEOs surveyed by *Business Insurance* was Warren E. Buffett, 56, chairman and CEO of Berkshire Hathaway Inc., who probably is the only billionaire on the list.

Mr. Buffett received \$101,099 in cash compensation in 1986—only a 1.1% increase from 1985 compensation. But he owns 41.8% of the company and is the only person known to own more than 5% of the company's common stock, according to its proxy statement.

Mr. Buffett's Berkshire Hathaway stock was valued at \$1.4 billion last year, according to Forbes, making him the nation's fifth-wealthiest individual.

Business Insurance gathered information on commercial insurance and reinsurance company chief executives' salary, bonuses and stock holdings from the 1986 proxy

statements and annual reports of 30 leading holding companies specializing in commercial insurance and reinsurance.

Half of the CEOs included in the survey received compensation between \$500,000 and \$850,000. The median figure was nearly \$670,000.

As publicly held insurers expand into financial services, executives are being paid more, according to David Cates, a consultant in the compensation group at Hewitt Associates in Lincolnshire, Ill.

"A small mutual insurer traditionally has not been as aggressive in compensation as a stock company," Mr. Cates said. "The corporate missions differ."

For example, he said mutual insurance companies have concentrated on providing the policyholders, or owners, with service. Stock companies have emphasized a return on investment and, therefore, have paid more competitive salaries to executives, he said.

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Willis Faber moves into U.S.
by acquiring Stewart Wrightson
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Panel OKs health pools

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among participating insured and self-insured employers. Non-participating employers would be assessed 5% of gross annual wages.

Premiums for the risk pool coverage could not exceed 150% of average comparable individual policies sold in the state.

Meanwhile, a bill to require employers that provide medical insurance to offer catastrophic coverage, H.R. 2300, was withdrawn during the Medicare reconciliation debate in the Health subcommittee of the House Ways and Means Committee (BI, May 11).

OSHA pre-empts state litigation

CHICAGO—Illinois companies and their executives cannot be prosecuted under state criminal law for subjecting employees to dangerous working conditions, the Illinois Appellate Court ruled.

Such legal action is pre-empted by the Occupational Safety and Health Act of 1970, the appellate court ruled last week.

The decision upholds a Cook County Circuit Court judge's December 1985 decision to dismiss criminal charges of aggravated battery, reckless conduct and conspiracy brought against Chicago Magnet Wire Corp., an Elk Grove Village, Ill.-based company, and five of its executives for allowing workers to be exposed to toxic substances (BI, May 26, 1986; Dec. 30, 1985; June 24, 1985).

The Illinois Supreme Court is expected to review the case.

Ex-AIG execs join Reliance unit

NEW YORK—Dennis A. Busti, who left an American International Group Inc. unit earlier this year to join a Berkshire Hathaway Inc. subsidiary (BI, Feb. 2), has now joined Reliance Insurance Co. to form Reliance Brokerage Inc.

RBI will write directors and officers liability insurance, professional liability coverage and other lines.

Michael B. Russo, who left AIG to join Berkshire Hathaway with Mr. Busti, will also join Mr. Busti at RBI.

Mr. Busti had been president and chief executive officer of Columbia Insurance Co., a Berkshire Hathaway subsidiary, while Mr. Russo had been senior vp and chief financial officer. The pair will hold the same positions at RBI.

At AIG, Mr. Busti was president of American Home Assurance Co.; Mr. Russo was a vp.

Mr. Busti said he decided to join RBI because it will provide him with a "broader operating scope" in the long run.

Separately, William Munson, former senior vp and chief underwriting officer for AIG's American International Underwriters, joined The Home Insurance Co. as executive vp—standard commercial lines and president and CEO of The Home Indemnity Co.

LTV may re-assume liabilities

DALLAS—The Pension Benefit Guaranty Corp. may force LTV Corp. to re-assume responsibility for its \$2.32 billion in pension liabilities now that the steel company may restore some supplemental pension benefits, says Royal Dellinger, the agency's deputy executive director.

A tentative labor agreement between LTV and the United Steelworkers union calls for LTV to restore an average of 92% of the \$400 in monthly supplemental pension benefits lost by about 8,000 early retirees when the company filed for reorganization under Chapter 11 of the Federal Bankruptcy Act in July 1986 (BI, July 28, 1986).

The PBGC assumed the company's unfunded pension liabilities, but it does not insure supplemental benefits.

Union local presidents have approved the agreement with LTV, and the union's membership is expected to vote within the next few weeks. The PBGC will not decide what action it will take until the members vote, Mr. Dellinger says.

NYIE targets three syndicates

NEW YORK—The board of governors of the New York Insurance Exchange voted June 26 to seek rehabilitation or liquidation of three exchange syndicates: KCC New York Syndicate Corp., U.S. Risk Inc. and Pine Top Syndicate Inc.

Joseph Fahys, exchange president and chief executive officer, said the board has not yet asked the New York Insurance Department to petition for court supervision of the syndicates. The exchange may supervise the rehabilitation or liquidation efforts.

KCC, owned by Donald Kramer and other investors, reported a policyholder surplus deficit of \$1.5 million at year-end 1986; U.S. Risk, owned by Chesapeake Financial Corp., reported a surplus deficit of \$1.4 million; and Pine Top, owned by Pine Top Insurance Co.—recently being liquidated by the Illinois Insurance Department—reported surplus of \$82,066.

Mr. Kramer, who was a chief architect of the exchange, is chairman of NAC Re Corp.

Philippine Airlines crash

LONDON—Philippine Airlines Inc. has \$500 million in liability insurance to cover compensation for the families of 45 passengers, including 10 Americans, who were killed when the airline's HS 748 aircraft crashed into Mount Ugo in the Philippines on June 26.

However, last week, the underwriters had not set up a liability fund to pay for the losses.

The plane, which was insured for \$990,000, crashed nine miles southeast of Baguio, killing the passengers and five crew.

Hull and liability insurance for the airline, which was renewed Dec. 15, is placed in London by Stewart Wrightson (Aviation) Ltd. and led by The British Aviation Insurance Co. Ltd., Lloyd's of London's Ariel syndicate and The Orion Insurance Co. P.L.C.

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Altering McCarran-Ferguson won't solve crisis, NAIC says

By MEG FLETCHER

WASHINGTON—Repeal or modification of the McCarran-Ferguson Act would not solve the liability insurance crisis but rather would create new headaches for insurance buyers, contend state insurance regulators.

In a 12-page position paper released last week, the National Assn. of Insurance Commissioners claims that any change in the 1945 law, which gives insurers limited immunity from federal antitrust law and grants primary regulation of the industry to the states, would be "severely detrimental" to insurance buyers' interests.

Repeal or modification of the act would deprive insurance buyers of the advantages inherent in state regulation, including local responsiveness to consumer complaints and innovative programs, such as market assistance programs and joint underwriting associations, the NAIC says.

In addition, changes to McCarran-Ferguson would hamper effective state regulation and result in increased involvement of federal officials and numerous court tests, according to the NAIC.

The position paper was released after five NAIC members testified before the Commerce, Consumer Protection and Competitiveness Subcommittee of the House Energy and Commerce Committee in a hearing on the adequacy of states' responses to the problems of unavailable and unaffordable insurance.

The NAIC unanimously adopted the position paper June 26 in a closed session at its summer meeting in Chicago. The paper is an effort to detail the NAIC's previously stated objections to any change in McCarran-Ferguson.

ran-Ferguson.

One proposal for amending the act is legislation introduced by Sen. Howard Metzenbaum, D-Ohio, which would subject insurers and advisory organizations to federal antitrust law. However, the joint collection and exchange of historical loss data as well as engaging in certain joint activities—such as banding together to provide coverage through industrywide pools—would be legal under the bill (BI, June 8).

In addition, Rep. Don Edwards, D-Calif., has introduced a bill, H.R. 2727, that would repeal the antitrust exemption granted by McCarran-Ferguson. But unlike the Metzenbaum bill, Rep. Edwards' proposal does not explicitly grant insurers permission to jointly collect and exchange information.

However, existing state laws allow insurers to engage in "reasonable" joint activity, according to Rep. Edwards' office.

In its position paper, the NAIC says that the public interest groups, small businesses and associations that support repeal of the antitrust exemption are motivated by "an understandable frustration" with the high cost and limited availability of liability insurance.

But "modification of McCarran is not even a partial solution to the liability crisis. The issues are fundamentally unrelated," the NAIC contends.

The insurance crisis was not caused by a lack of competition, "which a repeal or modification of McCarran would be designed to address," the NAIC says.

"The practice of insurers severely undercutting prices in order to gain increased market share led

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Workers lose punitive claim

By STEPHEN TARNOFF

ATLANTA—An employer can be sued for property damages stemming from a workplace accident, but not punitive damages if the employee also was injured, a state appellate court says.

The Court of Appeals of Georgia ruled June 18 in *Superb Carpet Mills Inc. vs. Thomason* that "the Workers' Compensation Act does not bar an employee from bringing a claim for property damage against his employer."

While the employer is not protected by the exclusive remedy of the Georgia Workers Compensation Act against suits for the value of personal property destroyed in a work-related accident, an employer may not be sued for punitive damages for its alleged reckless conduct in causing the property damage if the employee also suffers personal injuries in the same accident, the court said.

As a result, Superb Carpet Mills does not face a \$2 million punitive damage claim brought by two employees who suffered \$20 in damages to their clothing, but also suffered serious personal injuries in a plant explosion (BI, April 20).

The decision by the appeals court partly affirmed and partly reversed a lower court decision that permitted the employees to sue their employer for both compensatory and punitive damages in connection with the property damage they suffered.

Had the punitive damage ruling been affirmed on appeal, it could have opened the door to many more employee lawsuits that alleged property damage against employers in Georgia in order to recover punitive damages, the attorneys for the defendant con-

tended.

The exclusive remedy doctrine mandates workers compensation benefits as the only source of compensation from employers for employees injured during the course of employment.

Last week, James A. Secord, the attorney for the employees in the Thomason case, said he had filed a motion for a rehearing with the appeals court and that if the motion is not granted he would likely seek review from the state Supreme Court.

Calling the decision "logically inconsistent," Mr. Secord contends that the punitive damages sought by the employees are based on Superb Carpet Mills' alleged outrageous conduct that caused damage to the plaintiffs' property, not the personal injuries they suffered. Mr. Secord is with the Rossville, Ga., firm of Harriss, Hartman, Aaron, Townley & McWharton.

An attorney for Superb Carpet Mills called the decision "favorable to employers" in Georgia.

"It is a step by the court of appeals of Georgia to maintain the sanctity of the doctrine of exclusive remedy," said James T. McDonald Jr., with the Atlanta firm of Swift, Currie, McGhee & Hiers.

However, Mr. McDonald acknowledged that the decision to some extent opens up the possibility of more suits for property damage against employers.

"In some circumstances, the employee could recover for property damages which occur through the negligence of the employer," he noted. "But there won't be that many circumstances. This doesn't open up a Pandora's box."

The case arose out of a Dec. 8, 1983, accident at Superb Carpet Mills' plant in Gilmer County.

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✓ A Bermuda court has given liquidators of Cambridge Reinsurance Ltd. the go-ahead to begin their novel plan to liquidate the company. **PAGE 6**

✓ This week's editorial points out there is nothing new or overly convincing in the National Assn. of Insurance Commissioners' arguments for preserving the McCarran-Ferguson Act. **PAGE 8**

✓ Establishing a structured settlement program can significantly cut claims costs for defendants, says William L. Winslow of Merrill Lynch Structured Settlement Services Inc., in a Perspective article. **PAGE 21**

✓ A new Lloyd's of London non-marine syndicate that hopes to begin underwriting next year will use about a quarter of its capacity to write North American reinsurance business. **PAGE 32**

✓ Securities analyst Myron M. Picoult of Oppenheimer & Co. says investors should examine how much stock property/casualty insurer executives own in their companies to find out "who is minding the store?" **PAGE 35**

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Fireman's Fund leaves Massachusetts

By LAURA MAZZUCA

BOSTON—In a surprise move that some industry experts fear may lead to a mass exodus of insurers, Fireman's Fund Insurance Cos. and its subsidiaries July 1 stopped writing new or renewal insurance policies in Massachusetts.

Citing an inability to make a profit in the state, Fireman's Fund allowed all of its licenses to transact insurance business in Massachusetts to expire on June 30. It eventually will close its two Massachusetts offices in Boston and Middleboro, employing more than 550 people. The Boston office is the insurer's largest branch office in the country.

Although the insurer did not cite automobile insurance rates specifically, most observers agree that Massachusetts auto rates are too low and losses under its assigned risk auto plan are too large.

"In 1986, Massachusetts auto insurers lost \$1 million a day for a total loss of \$365 million. We see Fireman's Fund's action as symptomatic of the terrible problem in Massachu-

setts auto insurance," Liberty Mutual Insurance Co. said in a prepared statement.

But the Massachusetts Department of Insurance, in flat refusal to recognize the company's abrupt withdrawal, sent renewed licenses to the company's Novato, Calif., headquarters on June 30, fully expecting Fireman's Fund to honor agents' contracts.

"They're not going to withdraw from our market in violation of Massachusetts law," said Insurance Commissioner Peter Hiam.

If, upon receipt of the licenses, Fireman's Fund refuses to do business in Massachusetts, the department more than likely will be forced to litigate, said Mr. Hiam.

Under Massachusetts statute, an insurer cannot withdraw from the state if its departure will disrupt the market, unless there is a threat of insolvency.

And under Massachusetts Insurance Department regulations, an insurer must notify the commissioner of its intentions to withdraw.

Notification times vary by line of insurance. For example, automobile insurance requires a 45-day non-renewal notice. However, a servicing carrier for the state's auto insurance pool, such as Fireman's Fund, must notify the commissioner in advance of its intention to withdraw, and the withdrawal process will take at least six months for completion.

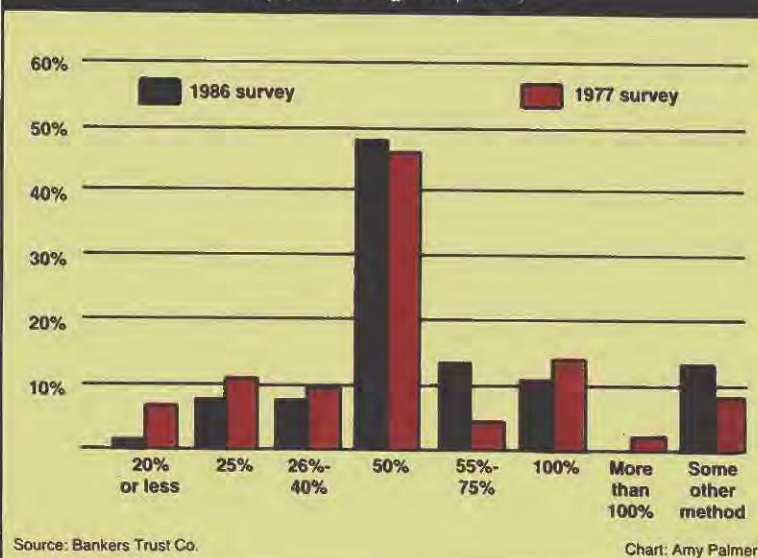
If an insurer as large as Fireman's Fund does withdraw and allows its existing policies to run off, it would still have to maintain offices in the state for at least three years to service valid policies on its books, said Deputy Commissioner Roger Singer.

Fireman's Fund wrote \$265 million in premiums in Massachusetts last year, Mr. Singer said. Coverage included policies for approximately 150,000 autos in the state, with much of the commercial auto coverage for municipalities. Mr. Singer estimated that Fireman's Fund is the fifth- or sixth-largest insurer in the state.

Fireman's Fund market share in Massachusetts has been
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Level of company matching contributions to employee savings plans

(By percentage of plans)



Most big firms offer 401(k) plans: Survey

By ALISON KITTRELL

Nearly all Fortune 500 companies now offer 401(k) salary reduction plans even though the plans are not yet 10 years old, according to a new survey.

Only 11% of the 242 defined contribution pension plans surveyed have no 401(k) provision and allow contributions only on an after-tax basis, according to a new study of savings plans at Fortune 500 companies conducted by Bankers Trust Co. in New York.

In addition, large employers are giving employees greater control over their savings plans by allowing workers to choose how to invest at least part of their funds, the survey reveals.

The study, the sixth in a series conducted since 1961, covered plans offered by 214 companies that rank among the nation's 500 largest industrial and 500 largest non-industrial corporations. Those plans had a total of \$58 billion in assets in 1986 and covered 5.5 million eligible employees, with 3.7 million actually participating.

The plans ranged in size from 1,000 participants to 165,000 par-

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Unauthorized use of auto doesn't trigger CGL: Court

By STEPHEN TARNOFF

WASHINGTON—A business that negligently entrusts an employee with a vehicle that is later involved in an accident can tap its commercial automobile insurance—but not its general liability insurance—for coverage, a federal appeals court says.

In *Rubins Contractors Inc. vs. Lumbermens Mutual Insurance Co.*, the U.S. Court of Appeals for the District of Columbia overturned a U.S. District Court decision that said the business would be covered under both policies for claims resulting from an accident involving a company vehicle driven by an employee without permission.

As a result of the June 16 decision, Rubins Contractors has only \$1 million in coverage under a commercial automobile insurance policy written by General Accident Insurance Co. of America to pay a \$2 million judgment awarded against Rubins Contractors by a District of Columbia Superior Court jury in February.

The appellate court ruled that Brentwood, Md.-based Rubins Contractors cannot collect an additional

\$1 million in coverage under a general liability insurance policy written by Lumbermens Mutual Insurance Co., a Mansfield, Ohio-based insurer that is not affiliated with Lumbermens Mutual Casualty Co., a Kemper Group unit.

Both the General Accident and the Lumbermens' policies had limits of \$1 million.

The case may be the first time that courts have addressed whether a general liability policy covers claims against an employer that negligently entrusts an auto with an employee, said an attorney involved in the case. The issue previously had not been addressed in Maryland or District of Columbia courts, he added.

Last week, an attorney for Rubins Contractors in the coverage dispute declined to comment on the case, but said the company was still assessing whether it would seek a rehearing from the Court of Appeals.

In addition, the company has filed post-judgment motions with the District of Columbia Superior Court in the underlying litigation, seeking to overturn the

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Illinois tightens HMO rules

By DONNA DIBLASE

SPRINGFIELD, Ill.—Gov. James R. Thompson is expected to sign a bill passed unanimously by the Legislature that would establish a health maintenance organization guaranty fund as well as offer other protections to HMO enrollees in Illinois.

S.B. 1115, which began as a proposal to authorize the Illinois Department of Insurance to collect more HMO financial statistics, was amended by the House Insurance Committee to include the creation of an HMO guaranty fund and to increase regulation of the prepaid health care plans.

Sen. Emil Jones Jr., D-Chicago, sponsored the original bill.

Gov. Thompson supports the bill and has until late August to sign it, said a spokesman for the governor.

"Before the week is out, our General Assembly will approve legislation protecting more than one in 10 Illinois consumers who are enrolled in health maintenance organizations," Gov. Thompson said at the

Summer National Meeting of the National Assn. of Insurance Commissioners in Chicago late last month.

"HMOs have had an astounding growth in this country, and it is up to all of us in our individual states to ensure that consumers who enroll in HMOs have the kinds of protections that they need so that their claims will be paid," Gov. Thompson said.

Other state officials and employer representatives agree that the measures in the bill are necessary to protect consumers.

"The marketplace is very competitive and health care costs have escalated over the last couple of quarters. When costs and price competition escalate, there is a danger of insolvencies," said Director of Insurance John Washburn.

The measures in the bill are "badly needed," asserted Rep. William Shaw, D-Chicago, one of the sponsors of the House amendment. "The guaranty fund and financial solvency requirements included in the amendment will offer a better check and balance system," he said.

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Willis Faber, Stewart Wrightson merge

By STACY SHAPIRO

LONDON—Willis Faber P.L.C., the second-largest British broker, will make its first major move into the United States with the purchase of Stewart Wrightson Holdings P.L.C. for more than \$450 million.

By purchasing Stewart Wrightson in what will be the second most expensive brokerage acquisition in history, Willis Faber will not only acquire the world's 12th-largest broker, but it also will acquire its first major U.S. affiliate, Stewart Smith Holdings Inc., the third-largest U.S. surplus lines broker as ranked by *Business Insurance*.

However, the acquisition will not upset Willis Faber's close ties with Johnson & Higgins, the third-largest U.S. broker, says J&H Chairman Robert V. Hatcher.

The combination of Willis Faber and Stewart Wrightson—which will create the

world's fifth-largest brokerage—"is terrific, absolutely terrific," Mr. Hatcher said last week. "It is the most synergistic merger of two London brokers that has yet occurred. I wish them good luck."

J&H will continue to use Willis Faber almost exclusively to place U.S. retail business in the London market, Mr. Hatcher said, adding that J&H will retain its 5% equity interest in Willis Faber.

Stewart Wrightson's U.S. subsidiary, Stewart Smith, placed \$299 million in premiums in 1985 and generated \$20.8 million in gross revenues.

The acquisition of Stewart Smith will give Willis Faber a U.S. revenue base that Willis Faber has been looking for for some time, said Willis Faber Chairman David Palmer.

However, acquiring Stewart Smith does create one potential conflict with J&H: Stewart Smith directly competes with Neal

'It is the most synergistic merger of two London brokers that has yet occurred,' says J&H Chairman Robert V. Hatcher.

Lloyd & Co. Inc., a U.S. surplus lines brokerage jointly owned by Willis Faber and Johnson & Higgins. Either Willis Faber or Johnson & Higgins will have to purchase full control of Neal Lloyd to avoid this conflict, said Mr. Hatcher.

But, Willis Faber's acquisition of Stewart Smith will pose no problems for J&H, Mr. Hatcher and Mr. Palmer agreed. They pointed out that Stewart Smith, as a whole-

sale broker, will not compete directly with Johnson & Higgins.

In fact, J&H is a Stewart Smith client, Mr. Hatcher noted.

"I think (the merger) will be good for Johnson & Higgins," said Mr. Hatcher. "We've been doing business with Stewart Smith. We have never done any business with Stewart Wrightson, but we don't have to worry about that any more."

Willis Faber's and Stewart Wrightson's combined 1986 revenues of 264.8 million pounds (\$391.9 million at year-end 1986 exchange) nose out Frank B. Hall & Co. Inc., which holds fifth place in this year's ranking of brokers worldwide, with 1986 revenues of \$390.9 million, but fall short of fourth-place Johnson & Higgins, with estimated 1986 revenues of \$647.6 million. Willis Faber reported 1986 gross revenues of 169.7 million

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Auto liability

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\$2 million verdict and/or obtain a new trial, said William J. Donnelly Jr., the attorney for Rubins Contractors in the liability suit. He is with the Washington firm of Martell, Donnelly, Grimaldi & Ghalagher.

Mr. Donnelly said General Accident, which was defending Rubins Contractors in the liability suit, rejected a \$1 million settlement demand from the plaintiff prior to the trial.

"It was a case where the carrier believed, as I do, that there was no evidence of negligence on the part of Rubins" and that the employee was not operating the truck with

Rubins Contractors' permission, said Mr. Donnelly.

The verdict against Rubins Contractors and the coverage litigation arose from an accident involving a Rubins Contractors truck that the company allowed an employee to park at home to protect the truck against vandalism.

Rubins Contractors' employee Wilbur Jackson was permitted only to drive the truck to and from work and not for his personal use.

On July 9, 1983, however, he drove the truck to a wedding in Washington, D.C. On the way home, he was involved in an accident in which a pedestrian was seriously injured.

The woman, whose leg was sub-

sequently amputated, sued Mr. Jackson and Rubins Contractors on various legal theories, including that Rubins had negligently entrusted the vehicle to Mr. Jackson.

Rubins Contractors informed General Accident of the claim, and the insurer agreed to defend the company. However, General Accident reserved the right not to indemnify Rubins Contractors for damages on the negligent entrustment claim, contending the claim was based on a business decision that was not covered under the commercial automobile policy.

Rubins Contractors then asked Lumbermens to respond under its general liability policy. However, Lumbermens declined to defend or

indemnify Rubins Contractors, citing an exclusion in the policy barring coverage for all damage caused by the operation of automobiles.

Rubins Contractors filed a declaratory judgment action in U.S. District Court in Washington to determine its coverage.

In April 1986, U.S. District Judge George Revercomb, interpreting Maryland law, ruled that both the General Accident and Lumbermens policies should respond to the claim. Judge Revercomb also ruled that the Lumbermens general liability policy was excess of the General Accident commercial auto policy and that both policies covered punitive

damages.

Lumbermens and General Accident appealed to the Circuit Court of Appeals.

The appellate court first rejected General Accident's argument that its policy should not apply.

The General Accident policy provided that the insurer will pay all sums Rubins Contractors became legally obligated to pay as damages because of bodily injury or property damage "caused by an accident and resulting from the ownership, maintenance or use of a covered auto."

General Accident argued that any damages that were awarded based on a theory of "negligent entrustment" resulted from Rubins Contractors' negligent business decision to entrust the truck to Mr. Jackson and not from the vehicle's "use."

"We see no basis for such a crabbed reading of the policy," the court said. "The quoted language seems naturally to encompass the liability in question. The 'bodily injury' undoubtedly resulted from 'use' of the truck.

"We have no doubt that Maryland would find coverage under the automobile policy," the court added.

The court next found that the Lumbermens' general liability policy did not cover Rubins Contractors for the claim.

The Lumbermens policy covers "all sums which the insured shall become legally obligated to pay as damages because of bodily injury or property damage." But, it also contains an exclusion for bodily injury or property damage arising out of the ownership, maintenance, operation and use of any automobile owned by the policyholder.

Lumbermens argued that the bodily injury resulted from the "use" of an automobile and that, therefore, any liability—whether based on negligent entrustment or any other theory—was excluded from coverage.

"We believe that Maryland would accept Lumbermens contention," the court said.

While the court noted that jurisdictions are divided on whether liability policies with similar exclusions cover the negligent entrustment of a vehicle, it noted that "the view rejecting exclusion seems to us to require a torturing of the language in which the Maryland courts would not be likely to indulge."

"The exclusion is framed in terms of the instrumentality causing harm," the court added. "Ordinary usage suggests no reason to suppose that the parties intended to qualify the exclusion by introducing a factor to which it makes no reference whatsoever—the theory underlying liability.

"Maryland has yet to take a position on this issue, but we believe that it would adopt the majority view and find the Lumbermens policy inapplicable," the court added.

"The exclusion in the Lumbermens policy is broadly worded and indicates that the policy was not intended to cover any injury resulting from the use of an automobile, irrespective of the theory on which liability rests," the court said.

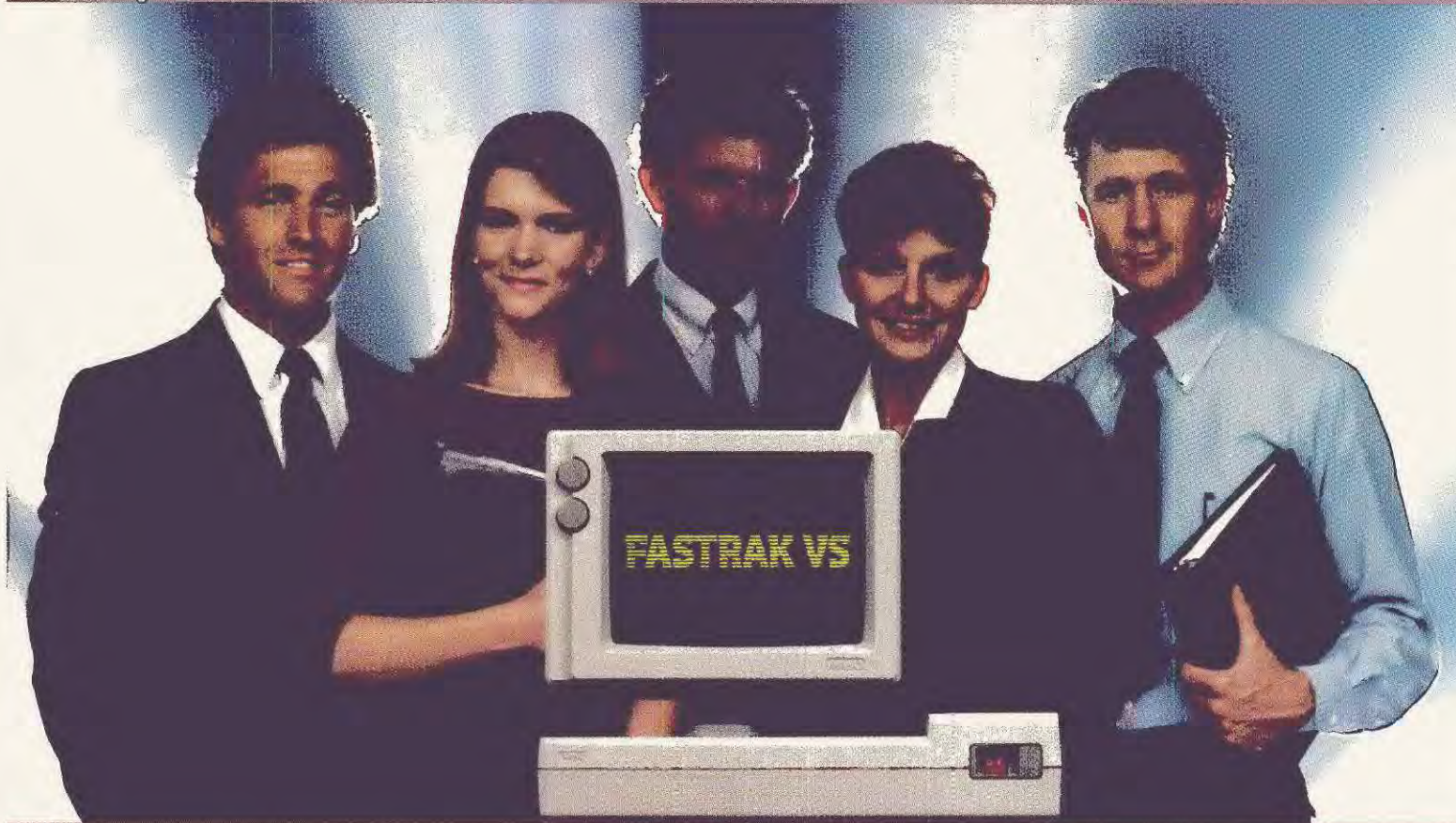
William Breslin, vp-claims at Lumbermens, said last week, said the court affirmed that general liability policies are "not intended to cover the use of automobiles."

An attorney for Lumbermens said the decision was significant in light of recent court decisions that have found policy language to be ambiguous and, thus, favored policyholders.

"The court was not ready to find the written language ambiguous," said Walter J. Smith Jr., with the Washington firm of Wilson, Elser, Moskowitz, Edelman & Dicker.

General Accident officials could not be reached for comment. ■

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Sources for statistics: Employee Benefit Research Institute, 1985; Benefits Research, Inc. 1986; National Underwriter, 1986.

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Cambridge Re liquidation plan proceeds

By ROGER SCOTTON

bermuda

HAMILTON, Bermuda—The Bermuda Supreme Court is giving creditors of Cambridge Reinsurance Ltd. until the end of the year to object to the accuracy of contract files that will be used by Cambridge Re's liquidators to estimate the size of future claims.

The court order, released last month, effectively allows liquidators David Lines and Gerry Weiss to activate the first phase of an ambitious plan that could reduce the time it will take to liquidate Cambridge Re by as much as 15 years (*BI*, March 16).

But the court has issued strict instructions to ensure that the reinsurer's 2,000 to 3,000 creditors and retrocessionaires understand the liquidation proposal and how claims—last estimated at \$43 million—will be run off.

The liquidators were appointed by the court in May 1985 after the subsidiary of Halifax, Nova Scotia-based National Sea Products Ltd. was placed in liquidation.

Mr. Lines, a partner with Coopers & Lybrand in Bermuda, said the liquidators hope to finish actuarial assessment of the creditors' contingent claims by September 1988 and that an interim dividend could be paid by Jan. 1, 1989.

In order to begin the assessment, the court directed the liquidators to:

- Send explanatory letters to all creditors and debtors by July 17.
- Send each insurance creditor by Sept. 1 a "provision of information" form, which will show an estimate of a creditor's claim and details of the information on which the estimate is based.
- Notify all creditors and debtors of the steps they will have to take by placing advertisements in U.S., British and Bermuda periodicals, to be published no later than Sept. 30.

Creditors that disagree with the information contained on the provision of information form must file their objection with the liquidators by Dec. 31. Failure to do so will bind the creditors to accept the information as "complete and accurate in every respect, both for the purposes of any estimation of the value of the company's contingent liabilities and other liabilities of an uncertain value."

The order also gives the liquidators discretion to dispense with the usual lengthy process of requiring creditors to file proof of debt.

Mr. Lines said that if the actuarial plan is approved, the Cambridge Re liquidation, which would normally have taken up to 20 years to complete, could be concluded within three years of the dividend payment date.

Cambridge Re's assets were estimated at \$21.8 million as of Dec. 31, 1986.

BF&M results

Bermuda Fire & Marine Insurance Co. Ltd. paid out \$3.3 million last year arising from business written for it by London-based H.S. Weavers (Underwriting) Agencies Ltd. under an agency agreement that was discontinued in December 1983.

Another \$3.3 million has been set aside based on actuarial advice to meet future claims from this business.

But, according to BF&M's recently released financial report for the year ending Dec. 31, 1986, the provisions made over the last two years for the runoff of the London market business are "now at a level believed to be adequate."

The provision, net of reinsurance, now stands at \$21.7 million. BF&M's net earned premiums

from its life, property, casualty and marine insurance portfolios rose to almost \$41 million last year, up 50.7% from \$27.2 million in 1985. Investment income topped \$6 million, while commissions and fees from captive management and other services advanced to \$2.5 million from \$1.6 million in 1985.

Underwriting expenses totaled \$47 million, leaving BF&M with flat underwriting income of \$2.4 million.

A \$5.8 million gain from the sale of investments raised total earnings to \$8.2 million. But, after allowing for a \$6.6 million provision from the discontinued operation, net profits finished at \$1.6 million

—up 17.5% from 1985 results.

The company, which this month announced a joint venture with A.C.E. Insurance Co. Ltd. to build a new office building in Hamilton costing up to \$15 million (*BI*, June 15), says its risk management and captive management subsidiaries continued to grow last year. BF&M Management Ltd. increased the number of captive clients to 25, while Fortress Insurance Co., which operates rent-a-captive facilities, boosted assets under management to about \$35 million.

Additionally, BF&M recently started supplying local management services to two North American brokers: McDonough Caperton

Insurance Group of Charleston, W.Va., and Toronto-based Dale-Parizeau Inc.

The 1986 results were released just days after BF&M announced plans to raise \$10 million in new capital from an issue of convertible preferred shares paying an 8% dividend. The share issue is to be launched at the end of July and is intended to help the company increase its limits.

Pinnacle provision

Pinnacle Reinsurance Co. Ltd. says the \$2 million it has set aside is "necessary and sufficient" to defend the company against a suit filed in March 1986 by the liquidators of Mentor Insurance (*BI*, Dec. 22, 1986; March 24, 1986).

The liquidators claim Pinnacle

and Mentor's parent, Ocean Drilling & Exploration Co., defrauded Mentor and its policyholders with the use of three stop-loss reinsurance contracts between 1982 and 1984.

The civil suit, filed in New Orleans, seeks recovery of Mentor's insolvency, which could be \$700 million.

Pinnacle's \$2 million provision for legal expenses is included under general and administrative expenses of \$4.4 million in the reinsurer's 1986 annual report.

The results, which have been given a clean audit opinion by accountant Arthur Andersen Co., show that net premiums fell sharply last year to \$80.6 million from \$126.1 million, while claims paid rose to \$26.3 million.

Continued on next page



**EXPECT OTHER
REINSURERS TO FOLLOW
IN OUR FOOTSTEPS,**

Continued from previous page

Despite reduced premium volume, Pinnacle Chairman Bruce Swann said that profits rose by more than a half-million dollars to a record \$13.6 million in 1986. After the payment of a \$10 million dividend to its parent, Lloyd's of London broker C.E. Heath P.L.C., Pinnacle's capital and surplus totaled \$53.2 million, up from \$49.6 million in 1985.

Mr. Swann says in his annual report that the decline in premiums "will inevitably affect our future underwriting income and is directly attributable to the pending Mentor suit. Nonetheless, underwriting income for 1986 was satisfactory, due largely to re-assumption of loss portfolios by several American reinsurers who wished to take benefit of the new tax reform act or had received fresh capital infusions."

The 1986 report includes a lengthy footnote on contingent liabilities, which says that in addition

to the Mentor liquidators' action, Mentor's New Orleans-based parent ODECO has filed cross-claims against Pinnacle seeking indemnity against any liability ODECO might suffer as a result of the liquidators' suit.

The footnote also reveals that Pinnacle has been named in two parallel lawsuits in Florida. One has been brought by the receiver of three energy companies: U.S. Oil Corp., Eagle Oil & Gas Corp. and Stratford Co. The other is a class action brought on behalf of these companies.

The suits name 98 defendants, including Pinnacle, and claim a total sum of \$265 million plus punitive damages. They allege conspiracy to defraud investors in U.S. Oil & Gas, a claim which Pinnacle refutes.

Pinnacle says it entered into an annuity contract with U.S. Oil & Gas in 1982 by which Pinnacle, in return for a premium, would pay \$1 million in April 1987.

The footnote says that Pinnacle acknowledges this contractual commitment and has sought instruction from the Florida court as to how it wants Pinnacle to meet the obligation.

It goes on to say that Pinnacle and its legal counsel believe that the possibility of material loss resulting from any of these lawsuits is remote. "Accordingly, provision has been made only in respect of anticipated future legal costs, the footnote says.

Heddington results

Heddington Insurance Ltd., the Bermuda-based insurance subsidiary of Texaco Inc., reported 1986 underwriting income fell 9.2% to \$27.4 million from \$29.7 million in 1985.

Net premiums earned fell by \$27 million to \$208 million, while underwriting expenses, including a loss provision of \$160 million, dropped to \$180.5 million com-

pared with \$204.8 million in 1985.

Investment income remained flat at just over \$62 million.

The company's 50% stake in Heddington Brokers, a joint venture with Lloyd's of London broker Willis Faber P.L.C., brought in a further \$5 million in revenues.

Heddington Insurance's net income of \$92.7 million was about \$1.2 million lower than in 1985. A \$12 million dividend left retained earnings at \$547.7 million.

President and Chief Executive Officer Robert Golden said the results show Heddington is continuing on a strong and steady path. He said more than 80% of Heddington's business is Texaco-related.

Heddington Insurance (U.K.) Ltd., a wholly owned subsidiary, continued to expand into Europe by increasing its participation in the direct insurance of Texaco units while reducing its portfolio of London market business, Mr. Golden added.

He stressed that Heddington remained unaffected by Texaco's decision to seek protection under Chapter 11 of the Federal Bankruptcy Act from its continuing battle with Penzoil Corp. (BI, April 13).

Heddington has written policyholders, assuring them that the company is able to respond to any and all financial commitments that may arise in the normal course of business and that it expects existing business relationships to continue unchanged, he said.

In addition, Richard Anderson, chairman of Heddington, retired last week after 36 years with Texaco, the last six of which were spent with Heddington.

Mutual Indemnity

Mutual Indemnity Ltd., the Bermuda-based rent-a-captive operation that manages the Insurance Profit Center program, added 14 new risk funding programs to its client list during the first quarter, President Robert A. Mulderig Jr. said last month.

Almost 160 clients now participate in the program, which started Jan. 1, 1980.

Speaking on the eve of the company's annual meeting, Mr. Mulderig said that most of the first quarter's new programs were fully funded arrangements.

The preponderance of fully funded programs caused Mutual Indemnity's premium volume to fall to \$17.9 million during the first three months of this year, compared with \$24.4 million for the same period last year, he said. Typically, the bulk of the funding for these programs is in the form of letters of credit or other instruments, which are not included in premium figures.

Investment income advanced in the first quarter to \$2.3 million while losses and underwriting expenses fell to \$15.6 million, leaving Mutual Indemnity with operating income of \$4.6 million—up \$1.8 million compared with the 1986 first quarter. Capital and surplus grew by \$3.6 million to \$40.7 million, while balance sheet assets topped \$140 million.

Shareholders attending the annual meeting on June 26 were told that Mutual Indemnity's in-house research found the impact of the U.S. Tax Reform Act of 1986 on the Insurance Profit Center program "will be minimal and will produce increases of the order of 1% of the average premium, if there is such a thing," Mr. Mulderig said.

He added that despite what he said was a good start to the year, Mutual Indemnity is not expected to achieve the levels of net income or underwriting profit attained in 1986. He explained that the 1986 results, which included a near quadrupling of operating income to \$28.7 million, were helped by a one-time, fourth-quarter adjustment for substantial over-reserves for losses.

Argus results

Argus Insurance Group, one of Bermuda's leading domestic insurers, reported a \$2 million increase in net premium income to \$17.1 million for 1986.

Almost \$15.3 million came from Argus' local property, motor and medical insurance operations, while its life and pension insurance portfolio produced premiums of \$1.8 million.

A further \$3.1 million was earned in commissions and management fees, and group investment income rose to just over \$3 million.

Net profits for the year topped \$4 million against \$3.3 million in 1985. Argus last year increased its general reserve by \$3 million to \$13 million, while share capital and surplus grew marginally to \$5.6 million. ■



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Unconvincing arguments

THERE IS NOTHING NEW or overly convincing in the National Assn. of Insurance Commissioners' arguments for preserving the current McCarran-Ferguson Act (see story, page 2).

The NAIC's 12-page position paper on the issue fails to persuade us that "repeal or modification of the limited exemption of McCarran would be severely detrimental to effective state regulation and the interests of the insurance buying public."

Perhaps this is because the paper only recites every dire consequence of amending or repealing McCarran-Ferguson ever imagined, with no explanation of the relative importance of the various possible consequences.

One of the best defenses in the paper against tampering with the act is that it would not solve or rectify a liability insurance crisis.

However, other arguments also advanced in the paper can be used to dispute that.

The NAIC says the current scope of exemption from antitrust law is needed to maintain a large number of property/casualty insurers in the marketplace, while also arguing that a major problem causing the recent liability insurance crisis was too much competition among insurers. One could counter that if amending the act in fact reduces the number of insurance companies, there would be less cutthroat competition during the competitive cycle and a less severe crisis during times of price increases. We are not sure this is true, or that if it were, whether less competition is desirable, but it is interesting how multiple defenses can be juxtaposed to poke holes in an overall position.

Furthermore, the NAIC takes a weak stab at the concession by Sen. Howard Metzenbaum, D-Ohio, to permit specific exceptions to insurers' activities

subject to federal antitrust law. The proposal, S. 1299, would permit insurers and advisory organizations to collect and exchange some data on paid claims and reserves and would allow insurers to engage in certain joint activities, such as providing coverage through industrywide pools (*BI*, June 8).

The NAIC contends: "Any such list of permissible items will subject the regulation and operation of the insurance industry to years of uncertainty and instability due to the potential for costly litigation and conflicting judicial interpretations." A more complete list of permissible activities could be drafted to minimize this uncertainty.

We also are surprised to see the NAIC reveal how little faith it has in the insurance industry's preference for state regulation of insurance. To quote the NAIC: "It appears that any of the contemplated changes in existing law would interject the Federal Trade Commission, as well as the Justice Department, into insurer activity. This may lead to the regulated industry, the insurers, attempting to evade the state regulators by seeking prior federal approval or arguing absence of state authority due to federal pre-emption, to the ultimate disadvantage of the insurance consumer."

We do agree, however, that if there is any doubt about state vs. federal regulation, quick-buck artists will try to exploit the void. But, since we are jaded to the proverbial "camel's nose in the tent" argument on any issue, we are not convinced that amending McCarran-Ferguson as proposed will lead to federal regulation of insurance.

A more in-depth analysis of how amending McCarran-Ferguson would or would not improve the regulation of insurance is needed than the NAIC has provided with this paper.

letters

Asbestos decision limited in scope

To the editor: Your editorial, "Insurers Get Just Reward," states that the insurance industry has mishandled the coverage dispute over asbestos bodily injury claims (*BI*, June 15). You state, in addition, that insurers lost a sweeping decision that will affect coverage for bodily injury and property claims caused by other toxic substances and claims for removal of asbestos from buildings.

I believe your conclusions are wrong on both counts.

Judge Brown based his decision on clear policy language which requires that injury occur during the policy period. He concluded that based on the medical evidence of injury *unique to asbestos*, there is a continuous trigger for *asbestos bodily injury* claims. This decision is expressly limited in scope and admittedly contradicts decisions in a number of state and federal courts. The court also held that an insurer can be called upon to pay the entire amount of a claim without participation of the insured. It specifically reserved for the next phase of the trial the issue of whether "other insurance" clauses could limit an insurer's obligation to a share of a claim.

Judge Brown's decision was far from a complete victory for asbestos producers. The ruling that primary insurance policies have no further obligation to pay defense costs once indemnity limits are ex-

hausted represents a significant financial result and an important precedent for the insurance industry.

Travelers, of course, shares your concern with the enormous resources consumed litigating coverage issues. It is inaccurate, however, to suggest that the insurance industry bears all or even the greater share of responsibility for this litigation. Efforts *were* made to settle the coverage disputes and, indeed, as pointed out in other articles in *Business Insurance*, many settlements have been made. Nonetheless, there is a point beyond which insurers are not willing to strain the language of their policies. An insurer cannot voluntarily agree to pay for losses that occurred during a period when no coverage was provided, or fund defense costs on an unlimited basis.

Litigation is not often the solution of choice for complex coverage issues. Productive negotiation of coverage disputes, however, requires a realistic assessment of the positions sponsored by both insurers and their policyholders—including a realistic evaluation of the court decision that will affect these positions.

With respect to the precedential impact of Judge Brown's decision, your statement that it will have "tremendous influence over asbestos removal and environmental coverage issues" fails to recognize the limiting language of the decision. It also fails to consider the distinction between asbestos bodily injury (admittedly covered by most general liability insurers) and claims for coverage of asbestos removal and property damage caused by disposal of hazardous waste. Whether these claims allege damage that is covered by liability insurance policies or whether various exclusions would limit available coverage was not addressed at all in this phase of the California asbestos litigation.

George A. McKeon
 General Counsel
 The Travelers Cos.
 Hartford, Conn.

ICA's counsel says stories omitted facts

To the editor: As counsel to Insurance Corp. of America, I was disappointed to read the article containing the so-called "license probe of ICA" (*BI*, June 1). Although the content of the article was generally factual, it was conspicuous by the absence of facts favorable to ICA.

You refer to a temporary restraining order obtained in Connecticut last month, but fail to mention that it was handed down by the court before ICA ever had an opportunity to appear or present evidence. ICA was given no opportunity to be heard. More importantly, the verified complaint filed by the state of Connecticut against ICA makes no mention of the prior federal court decisions that give ICA its right to operate unregulated. The state had knowledge of the existence of the court cases and reviewed them prior to filing the complaint.

Your article also states that the judge continued the restraining order until July 9. However, the May 28 hearing was more in the nature of a status conference and the judge specifically requested that no witnesses appear. ICA will not have the opportunity to present any evidence in opposition to the state until July 9.

With reference to the state of Wisconsin, it offered to withdraw the cease and desist letter provided that ICA agree to submit to the commissioner a financial report audited by a "Big Eight" accounting firm. ICA's accountants are not a Big Eight firm, but ICA offered to submit a certified financial audit from its Florida certified accountants. The Wisconsin Insurance Department insisted it would only accept a Big Eight firm audit; therefore, the cease and desist order is still in effect. ICA considers the insistence on a certified financial statement from only a Big Eight firm unreasonable.

Continued on page 10

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letters

Continued from page 8

As to the previous dissolution of ICA, my understanding is that the corporation was involuntarily dissolved for a period of time for its failure to pay the annual fees and taxes due in the state of West Virginia. I know of no court case that assesses any back taxes due ICA.

Also, I believe the word "allegedly" is inappropriately used to refer to two rulings issued by a federal court in 1911 and 1914. My client has, in its possession, two separately certified copies of these decisions stating that they are true and correct copies of the federal court. Under the federal rules of evidence, and in most states, a certified copy authenticates the documents and the cases must be accepted into evidence at face value. To my knowledge, no evidence has been produced in a court of law

that would undermine or impeach the authority of those cases.

You mention that the rulings are stamped as true copies of court records. The more accurate description should be that they were "certified" as true copies of court records. In addition, the copies were certified by two different clerks still employed by the U.S. District Court for the District of Columbia.

Also as counsel to Dyna Span Corp., I want to comment on the "update" item, "Reinsurer Cancels Contracts with Dyna Span, ICA," (BI, June 8).

The Panama-based reinsurer incorrectly states that it decided to cease being a reinsurer of the Dyna Span and ICA programs. The principals of Dyna Span and ICA decided some time ago not to renew the contract with New England International Surety Inc. This decision was based on numerous broken promises and misleading statements made by the principals

of New England International to the principals of Dyna Span and ICA when the insurance and reinsurance contracts were in effect.

Had New England been licensed as promised, the Dyna Span program would have been able to continue under the 1936 Risk Retention Amendments. Because New England failed to obtain licensing or failed to get a clean certification of authority in Louisiana, Dyna Span was unable to go forward until it obtained a licensed carrier.

It was the principals of Dyna Span who first introduced New England International and Hendrik Reinsura to Louisiana in an attempt to introduce that company to the American marketplace and have it obtain a license so it could continue to underwrite the Dyna Span program. New England, in spite of its promises, never obtained a "clean" certificate of authority, allowing it to insure purchasing groups and, therefore,

Dyna Span was unable to go forward. If New England had been a licensed insurance company as promised, many of the objections to the Dyna Span program would not have been made.

No court of law has ever made a final determination that Dyna Span was not operating as a purchasing group in accordance with the federal Risk Retention Act of 1981 and, in fact, Dyna Span was never issued a valid cease and desist order in its home state, Florida.

Finally, I feel compelled to point out that neither Dyna Span nor ICA has ever been accused of failing to pay valid claims, failing to defend valid claims or failing to adjust valid claims. Further, the financial solvency of any of the aforementioned corporations has never been questioned in a court proceeding.

Peter M. Feaman
Marchbanks & Feaman, P.A.
Boca Raton, Fla.

Story misinterprets cargo liability rules

To the editor: I read with interest and a fair amount of incredulity your June 15 article on the effort to revise the ocean cargo liability regime.

I don't maintain that the 63-year-old Hague Rules couldn't use some work or, indeed, perhaps shouldn't be replaced by a scheme more reflective of modern circumstances and technology.

However, I don't think that the cause of rational discourse on the subject is helped along by a serious misdescription of the current system.

Aside from the technical errors in your report (there is no such thing as the "Hague-Visby Rules of 1936"), the substance of the article is seriously flawed.

For instance, you state categorically that "shipowners currently are responsible only for cargo lost due to theft. . . ." This is simply not true. Shipowners are responsible for a litany of negligence-based damages including, among other things, water damage allowed by faulty containers, damage caused by stevedores, breakdown of refrigeration machinery, mistowage, misdelivery, etc.

Your article continues that "the shipowner has to pay only \$500 per lost 'package,' which courts worldwide have interpreted to mean a bulk container." I can't speak with authority for "courts worldwide" but, as an example, in the 9th U.S. Circuit Court of Appeals an ocean carrier trying that approach would receive a judicial spanking and be sent home.

The system may indeed have flaws, and I have always admired William Augello and the Shippers National Freight Claims Council for the energy and determination with which they represent their constituency. However, it doesn't seem helpful to categorize the Hague-Visby Rules as "... the most unconscionable, inequitable liability scheme ever devised by man . . ." as did John Gillieron of the Australian Shippers Council. Several other candidates come to mind for that honor.

Let me assure you that Darth Vader did not have a hand in the composition of the Hague Rules, nor did Luke Skywalker toss off a replacement during his last trip to Hamburg.

Business Insurance ought to take more care in providing accurate background information to its readership in this important and fluid area.

Alan L. Rutherford
Manager-Insurance
Matson Navigation Co.
San Francisco

Soft market due for quick return

To the editor: The article "Insurers Share Liability for Cycles: Experts" on the insurers' panel at the annual meeting of the National Assn. of Insurance Brokers quoted William E. Thiele of Continental Corp.: "Management won't be able to duck responsibility for the severity of market cycles" (BI, June 8).

Also, "Front-line pricing is very much a product of the will and direction of senior managers. It's up to them how they behave over the next two years."

What makes this interesting is that in our part of the country, Continental is leading the charge into the soft market. A soft market is coming faster and with far more confusion than the soft market of the early '80s.

Clifford T. Elgin
Senior Vp
Harris & Co.
Louisville, Ky.

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Nevada, Arkansas enact tort changes

CARSON CITY, Nev.—Tort and insurance reforms passed by the Nevada Legislature this session establish comparative negligence in damage suits, modify joint and several liability and establish rules regarding insurance policy non-renewals and cancellations.

The measures, signed into law by Gov. Richard H. Bryan, include:

- S.B. 511, which establishes comparative negligence instead of contributory negligence in suits seeking damages for death, injury or property damage.

Under the new law, plaintiffs are entitled to recover damages if their negligence was not greater than the negligence of the defendant or the combined negligence of multiple defendants.

In some cases where the plaintiff can recover damages from more than one defendant, each defendant is severally liable only for the portion of the judgment representing the percentage of negligence attributable to him. However, the new law does not affect the joint and several liability of defendants in suits based on strict liability, intentional torts, pollution or from injuries from products manufactured, distributed or used in the state.

- A.B. 214, which contains provisions for the cancellation or non-renewal of insurance policies.

The law requires insurers intending to stop writing a particular class of insurance to notify the insurance commissioner at least 60 days before cancellation or non-renewal notices are mailed.

Midterm cancellations of policies issued for one year are prohibited except for failure to pay the premium, the insurer's discovery of fraud or misrepresentation by the policyholder or a material change in the nature or extent of the risk.

For commercial lines policies issued for terms longer than one year, the insurer may cancel by giving 60 days' notice before the policy's anniversary date.

- A.B. 308, which prohibits insurers from canceling, refusing to renew or increasing the renewal premium of a property/casualty policy because of claims for which the policyholder was not at fault.

- A.B. 315, which amends Nevada's insurance rating statutes.

The insurance commissioner may now disapprove rates if there is not a reasonable degree of competition in the marketplace.

To determine whether there is reasonable competition, the commissioner may consider factors such as the number of insurers writing a particular risk in the market, rate differential among insurers writing that class of business and insurers' profitability.

Arkansas reforms

LITTLE ROCK, Ark.—Gov. Bill Clinton has signed several insurance and tort reform measures, including laws that limit the liability of directors of non-profit corporations and governmental entities.

The major bills include:

- H.B. 1077, which provides limited immunity from liability to directors of non-profit corporations, members of governmental boards or agencies and school athletic directors and other non-profit entities, except for acts of gross negligence or intentional torts.

The law becomes effective on Aug. 1.

- H.B. 1267, which provides certain minimum standards for commercial property/casualty insurance policies, including claims-made policies.

Under the law, any notice of a claim that is given by the insured to any agent of the insurer constitutes notice of a claim.

around the states

In addition, an insurer must give a policyholder purchasing a policy whose premium is annually adjusted at least 30 days' notice if the premium is to be changed during the next policy year.

Under the law, the commissioner will not approve any policy that would reduce liability limits by the amount of payment for defense costs unless a separate defense limit equal to 100% of the annual aggregate liability limit is offered.

Claims-made policies defined by the bill as policies providing coverage for claims made during the policy period must also meet certain requirements.

These include: the policy appli-

cation and initial page of each claims-made policy must conspicuously note that it is a claims-made policy; insurers must automatically provide a 60-day extended reporting period upon cancellation or termination of the policy; and any termination notice must advise the insured and his agent of the availability of and the premium for an extended reporting period endorsement.

The law does not apply to reinsurance and special coverages like aircraft insurance, ocean marine or foreign trade insurance, medical malpractice, surety or fidelity insurance, workers compensation or employer's liability insurance.

The law became effective with the governor's signature.

- S.B. 346, which gives the insurance commissioner authority to create risk sharing plans for lines of property/casualty insurance that are not reasonably available in the marketplace.

Insurers' participation in the plans will be based on the proportion of their direct written premiums in the state to the total aggregate written premium in the state.

S.B. 346 became effective with the governor's signature.

- S.B. 509, which gives the insurance commissioner more authority over property/casualty insurance rates.

Under this law, when a reasonable degree of competition exists in the market, insurers must file rates and supplementary rating and risk

information with the commissioner 20 days prior to the effective date of the rate.

In determining whether reasonable competition exists, the commissioner will consider such factors as the number of insurers writing a certain risk, market shares and the long-term profitability for insurers in the market.

When a reasonable degree of competition does not exist in the market, insurers must file the same information at least 60 days prior to the effective date of the rate.

The commissioner could disapprove a rate without a hearing if the insurer fails to file all of the necessary information or if the rate is excessive, inadequate or unfairly discriminatory.

S.B. 509 will become effective in October. ■



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Every bit of material and equipment needed to build the 96-square-mile King Khaled International Airport in Riyadh, Saudi Arabia—more than a billion dollars' worth of cargo from around the world—was insured by Fireman's Fund.

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likewise part of the family. We can call them up at a moment's notice. Whether they're in Buenos Aires or Borneo. And we can depend on them to be down at a port checking a ship or settling a claim within hours of our phone call. In short, we know the seven seas. Call us up anytime. From anywhere in the world. If you have cargo that has to cross the ocean, by sea or by air, we'll take care of it.



FIREMAN'S FUND
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Benefit taxes

Continued from page 1

"It is significant that employee benefit tax changes continue to surface when these options are developed," he pointed out.

However, "because something is an option on that list, it doesn't mean that it's going to happen," Mr. McArdle added.

Gerald Uslander, a principal in the Louisville, Ky., office of benefit consultant William M. Mercer-Meidinger-Hansen Inc., agreed.

The report 'won't be the only consideration (for the committee), and not all of the options will be passed," Mr. Uslander noted. Still, "this will be an important document in Ways and Means."

It is important to put this document in perspective in terms of what is politically feasible, noted Edward Davey, vp and manager of the research department in the New York office of Johnson & Higgins.

For example, Mr. Davey questioned how limiting the tax-favored status of health benefits would be reconciled with the mandated health benefits legislation proposed by Sen. Edward Kennedy, D-Mass. (BI, June 29; May 25).

The rationale for cutting or modifying the tax-favored status of employee benefits is that "the exclusion from taxation" of these benefits "can result in taxpayers having the same economic income

(while) paying different amounts of FICA tax because of the form in which their compensation is received," the report suggests.

Presenting the opposing point of view, the report states that leaving these benefits untaxed "is justified, as a matter of social policy," because the non-discrimination rules for tax exemption of these benefits encourages employers to provide the benefits "to low-and-middle who otherwise might not purchase such insurance."

The new revenues that many of the options in the report would generate would stem from including employee benefits in the calculation of wages for purposes of employer FICA tax contributions.

FICA contributions are payroll taxes used to finance Social Security, parts of Medicare and other federal programs. The 1987 FICA rate is 7.15%, paid by both employers and employees on wages up to \$43,800.

Under many options, employee benefits also would be included in the definition of wages for employer federal unemployment tax act (FUTA) provisions.

The gross FUTA tax rate is 6.2% of the first \$7,000 paid to each employee during the year. Employers in states meeting certain federal requirements and having no delinquent federal loans are eligible for a 5.4% credit, making the minimum net FUTA tax rate 0.8%.

Included in the report are analyses of the following employee ben-

efit and pension revenue options:

Taxing employer-provided health care coverage

The report outlines four possible revenue options for altering the tax status of employer-provided health coverage.

One option, which was part of a Treasury Department report to the president issued in November 1984, is to tax employer group health insurance contributions that exceed a certain amount of an employee's income (BI, Nov. 26, 1984; Nov. 12, 1984).

The threshold for taxation of employer contributions specified by the report is \$70 per month for an individual and \$175 per month for family coverage. The limits could be set higher and would be adjusted annually to reflect changes in the Consumer Price Index.

These limits would apply for Social Security and FUTA tax purposes as well as income tax purposes.

This option would raise \$3.3 billion in 1988, \$6 billion in 1989 and \$7.5 billion in 1990.

Another option is to apply this cap on tax-exempt health benefits only for FICA and FUTA purposes. This would generate revenues of \$1.2 billion in 1988, \$2.1 billion in 1989 and \$2.6 billion in 1990.

A third option, which was part of the president's May 1985 tax reform proposal, is to include in an employee's income employer contributions to a health plan up to \$10 per month for an individual or \$25 per month for family coverage.

This option would raise \$2.8 billion in 1988, \$4.2 billion in 1989 and \$4.6 billion in 1990.

Another option is to include all employer-provided health benefits in wages for FICA and FUTA purposes. This would generate the most revenues of the health benefits taxation options: \$9.1 billion in 1988, \$14.6 billion in 1989 and \$16.7 billion in 1990.

In addition to the pros and cons outlined above, the report notes that the tax-favored status of health benefits is more valuable to highly paid employees than to em-

ployees paid less, "because the higher the bracket, the more valuable the exclusion. Moreover, the rules establishing the exclusion are structured to permit larger exclusions for highly compensated employees, increasing the bias in favor of high-bracket taxpayers."

And the tax-favored status of health benefits can lead to overutilization of services, resulting in higher costs for those services, the report says.

However, the report states that "if any of the proposals were enacted, employers would be less likely to provide adequate health coverage to low-and-middle-income employees."

Furthermore, if a limitation is based on a flat dollar amount of employer contributions, it would discriminate against employers that have higher per-employee costs for the same health coverage, the report says. Those employers would include small employers, employers in high-cost regions and employers with older workforces, noted the report.

Taxing employer-provided group term life insurance

Two related options to alter the tax-exempt status of employer-provided group term life insurance are outlined in the report.

The first proposal, which was part of the Treasury Department's November 1984 report, is to consider employer-provided life insurance as part of an employee's income for tax purposes and part of an employee's wages for FICA and FUTA purposes.

This would generate \$2 billion in 1988, \$3.1 billion in 1989 and \$3.2 billion in 1990.

The second proposal is to repeal the tax-exempt status of life insurance for FICA and FUTA purposes only, which would generate \$800 million in 1988 and \$1.3 billion in 1989 and in 1990.

These proposals are politically more feasible than altering the tax status of health benefits, observed Johnson & Higgins' Mr. Davey.

Taxing employee benefits of higher-paid workers

Taxing employees with an annual income of \$60,000 or more for employer-provided health coverage, group-term life insurance and dependent-care would generate \$1.1 billion in 1988, \$1.8 billion in 1989 and \$2 billion in 1990, according to the report.

One of the reasons for this proposal is that "high-income employees do not need what is, in effect, a government subsidy (provided through the tax system) to purchase benefits," the report contends.

Altering the tax status of cafeteria plan benefits

Under current law, benefits such as health coverage, group-term life insurance and dependent-care assistance are non-taxable to employees in cafeteria plans.

One proposal to alter this arrangement would limit non-taxable benefits to \$500 for purposes of an employee's income, FICA and FUTA taxes. This would generate revenues of \$800 million in 1988, \$1.4 billion in 1989 and \$1.9 billion in 1990.

Justifying this proposal, the report notes that "the dollar limit does not eliminate an employer's ability to allow employees to choose different benefits... (but) simply limits the tax benefits provided to such an arrangement."

A second option is to alter the tax status of cafeteria plans only for FICA and FUTA purposes. This would generate \$600 million in 1988, \$1.2 billion in 1989, and \$1.7 billion in 1990.

A third option is to disqualify dependent-care assistance from the tax-exempt status of cafeteria plans, which would generate less

than \$50 million in 1988 and \$100 million in 1989 and in 1990.

The reasoning behind this, according to the report, is that low-income employees generally do not elect such coverage, so the tax-favored benefit "functions largely to enable high-income taxpayers to obtain a larger tax benefit for their housekeepers."

However, the report notes that the proposed limitations on cafeteria plans "would reduce their usage by employers and thus could result in some employees receiving benefits they do not need and others not receiving benefits they do need."

Taxing death benefits and dependent care assistance

These two options, each a carry-over from the Treasury Department's 1984 report, would not generate significant revenue.

Taxing an employer-provided death benefit would generate less than \$50 million annually in 1988, 1989 and 1990.

Taxing employer-provided dependent care assistance, both for employee income, FICA and FUTA tax purposes, would generate less than \$50 million in 1988, \$100 million in 1989 and \$100 million in 1990.

If only the tax-exempt provisions of dependent care assistance for FICA and FUTA were repealed, the revenue effect would be less than \$50 million for each of the three years.

Pension revenue options

Redefining full funding limitations for pension plans would generate revenue of \$600 million in 1988, \$1.8 billion in 1989 and \$1.4 billion in 1990.

According to the report, the full funding limitation could be defined as a multiple of a plan's termination liability for tax deduction and minimum funding purposes.

Thus, an employer would be permitted to make a tax-deductible contribution to a defined benefit plan if, after the contribution, the plan's assets do not exceed a certain percentage, such as 150% or 200%, of the plan's termination liability.

One argument in favor of the proposal says that an employer should not be permitted to deduct contributions to a defined benefit plan for liabilities that have not yet been incurred if the plan assets significantly exceed the liability.

Furthermore, under current law, an employer can overfund its pension plan just to obtain the benefit of a deduction, notes the report.

However, "the defined benefit plan funding and deduction rules were designed to encourage employers to fund for projected, rather than accrued, liabilities, states the report.

A proposal to treat any loan from a qualified plan as a distribution of plan benefits and include that in an employee's income would generate less than \$50 million in 1988 and \$100 million in 1989 and 1990. Currently, only some loans to plan participants are treated as taxable income.

This proposal would make the treatment of loans from qualified plans consistent with the treatment of loans from Individual Retirement Accounts, the report points out.

Furthermore, the proposal would discourage loan withdrawals from qualified plans, increasing the likelihood that retirement benefits will be held until retirement.

Other revenue options discussed in the report include raising individual and corporate income taxes, imposing a luxury tax on certain items, limiting the interest deduction on home-equity loans, withholding taxes from interest and dividends and raising excise taxes on gasoline, liquor and telephone use.

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Illinois now self-insuring dental benefits

The state of Illinois is dropping Delta Dental Plan of Illinois and is self-insuring its 8-month-old employee dental benefit program, effective July 1.

"Delta was having financial difficulties meeting the terms of the contract and had some procedural difficulties fulfilling the contract. We made a mutual agreement to terminate the contract," explained a spokesman for the state's Department of Central Management Services, which administers the state's benefit plans.

Delta Dental officials could not be reached for comment.

In addition to the switch to self-insurance, state employees are not being required to contribute to the premium under the new plan, but they also no longer will have the option to purchase more comprehensive coverage.

The state decided to offer a dental plan to its 250,000 employees after it switched to a self-insured health care plan from a 13-year-old plan underwritten by Blue Cross/Blue Shield of Illinois, producing a one-time \$20 million savings (*BI*, Jan. 5; April 14, 1986).

The dental plan was to be phased in over a three-year period, with additional dental services covered each year.

The state had originally budgeted \$8 million to implement a dental plan, but had worked out a "minimum-maximum" agreement with Delta, under which it would pay a minimum of \$5.5 million and a maximum of \$6.2 million for the plan in the first year.

The Delta plan, which expired on June 30, offers two options.

Employees received "basic" coverage at no cost. The plan covered all diagnostic, preventive and minor restorative services, up to an annual maximum of \$1,000.

Employees also had the option of purchasing additional, comprehensive coverage which covered emergency care, dentures and oral surgery.

Employees buying the comprehensive coverage paid \$4.90 a month for single coverage, \$10.70 a month for coverage of the employee and one dependent and \$20.10 a month for coverage of the employee and two or more dependents. The maximum annual coverage under the comprehensive plan also was \$1,000.

If the old Delta plan had been retained, employees would have received coverage for more services under the basic plan each year, while the premiums for additional comprehensive coverage would have decreased each year.

Some 40,000 of the 250,000 state employees opted for the comprehensive plan this year. Now, services not covered by the basic plan will be paid for completely by employees, the spokesman said.

The new plan will continue to cover diagnostic and preventive services, as well as some minor restorative services. The maximum annual coverage under the plan is \$1,000. And, the state will continue its three-year plan to improve and increase the services covered by the plan, the spokesman said.

Under the new self-insured plan, employees do not pay monthly premiums, but they could pay some copayments under a new fee schedule system used by the state.

Under the system, employees receive a list of covered procedures and the maximum amount the state will pay for each procedure. Employees pay the difference if their dentist charges more than the fixed amount, the spokesman explained.

Formerly, employees choosing optional comprehensive coverage must use dentists participating in Delta's provider network to receive maximum coverage for a service.

benefit beat

Under the self-insured basic plan, employees will be able to choose their own dentists without penalty, he said.

CHAMPUS dental plan

Dependents of active duty military personnel soon will receive their first dental insurance plan from the federal government.

The program, coordinated by the Department of Defense, will cover more than 2 million dependents in the United States, Puerto Rico or the U.S. Virgin Islands.

The plan, which will be underwritten by Delta Dental, will be effective Aug. 1, said a spokeswoman for the Civilian Health and Medical Program of the Uniformed Services.

The plan will cover 100% of the cost of diagnostic and preventive dental services, including routine check-ups, X-rays and fluoride treatments, she said.

The new plan also will cover 80% of the cost of some restorative services, such as fillings, stainless steel or plastic caps for baby teeth only and denture repair.

Active duty military personnel will pay a monthly premium of \$3.93 for one dependent and \$7.86 per month for two or more dependents, the spokeswoman said.

Military personnel will not be covered by the new plan because they receive all of their health care at military facilities.

Benefit beat keeps insurance and employee benefit managers informed on what other companies are doing and of current developments in the employee benefit field. We'd like to know if you've made any changes. Write Donna DiBlase, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611; 312-649-5393.

Here's What To Look For In A Typical Embezzler.



Short or tall. Old or young. Male or female. Try to draw a portrait of the typical embezzler and you'll probably draw a blank. Because it could be anyone.

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Employee Benefits Communications Conference

On August 3 & 4 an influential group of employee benefit executives will meet to explore issues critical to their professional responsibilities. The annual Business Insurance Conference provides an opportunity to gain valuable insight into communicating benefits to employees.

Speakers

Jim Biggerstaff
Manager, Compensation & Benefits
PEARL HEALTH SERVICES
Tax Reform and 401K

Catherine A. Corse
Employee Benefits Officer
BARNETT BANKS INC.
Communicating COBRA

Laura Fairman
Director, Product Research & Development
Group Insurance Marketing
METROPOLITAN LIFE INSURANCE COMPANY
PANELIST: *Triple Options*

Victoria George
Benefits Specialist
Benefit Planning Department
BANKAMERICA CORPORATION
PANELIST: *Utilization Review*

Sally Gottlieb
Flex Plan Coordinator
PACIFIC GAS & ELECTRIC COMPANY
CASE STUDY: *Total Benefit Programs*

Alfred Hayes
Director, Human Resources
SONY CORPORATION OF AMERICA
CASE STUDY: *Computer Communications*

Jeffrey Horn
Principal
TOWERS, PERRIN, FORSTER & CROSBY
CASE STUDY: *Total Benefit Programs*

Alfred Malecki
Publisher
BUSINESS INSURANCE
EBC AWARDS

H. L. Marchant
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WILLIAM M. MERCER-MEIDINGER-HANSEN, INC
CASE STUDY: *Interactive Video*

Kathryn J. McIntyre, A.R.M.
Editor
BUSINESS INSURANCE
OPENING REMARKS

Arnold Milstein, MD
President
NATIONAL MEDICAL AUDIT
PANELIST: *Utilization Review*



Agenda

Keynote Address Monday, August 3
Influence — Elaine Zuker, President of Success Strategies, sets the tone for the 1987 EBC Conference. Effective communication possesses a powerful ability to influence. Communicators sometimes get lost in a maze of glitz and glitter, worrying too much about deadlines and production values. Employee benefits communicators may also get bogged down by legislative and health care cost control requirements. But no communicator should ever lose sight of the impact communication has ... its potential to influence attitudes, choices and response. Ms. Zuker will walk you through six influence styles — discover an approach that can get you results.

Communicating COBRA

COBRA Simplified — Creative ways of communicating COBRA to employees and keeping paper work down to a minimum. Find out how one company took the sting out of COBRA.

Triple Options

The Challenge — Communicating indemnity plans, HMO and PPO options to employees. The challenge begins with devising a plan that keeps information overload to a minimum and ends with effective communication that still defines the parameters of employees' choices.

EBC Awards Luncheon

Achievement — Recognizing outstanding communications programs, Alfred Malecki, Publisher, Business Insurance, presents the 15th Annual EBC Awards. Also shown will be the first place C-V winner.

Research — Techniques

Inspiration — Developments in consumer research and statistical techniques inspire a new management strategy that identifies employee satisfaction with benefits and their direct relation to corporate benefit costs.

Case Studies

Informal workshops, presented as concurrents, give you the opportunity to attend all sessions.

Flexible Benefits — A Total Program

Innovative — Pacific Gas & Electric Company's benefits program, "Flex," is a 1986 award winning example of a total communications effort, effectively communicating flexible benefit options. They've taken the complexity out of choice. Their innovative approach incorporated input from their employees.

Interactive Videos

Creative Technology — When is it appropriate? This case study of the Ford Motor Company will cover the evaluation process that confirmed the use of interactive videos, the strategy for implementing this communication program, and examples of the technology used: touch screen, digital audio and video disc.

EBC

• conference •





John Parkington, PhD
 Director, Organization Research
 & Analysis Services
 THE WYATT COMPANY
 Research

Timothy Stentiford
 Consultant
 HEWITT ASSOCIATES

CASE STUDY: *Computer Communications*

I. B. Wallman
 Employee Benefits department,
 Employee Relations Staff
 FORD MOTOR COMPANY
 CASE STUDY: *Interactive Video*

Herb Zeltner
 President
 HERBERT ZELTNER CONSULTING INC.
You Be The Judge

Edward J. Zeman
 Director, Employee Services
 THE LONG ISLAND RAILROAD
 PANELIST: *Triple Options*

Elaina Zuker
 President
 SUCCESS STRATEGIES
 KEYNOTE: *Influence In Communication*



Computer Communication

The Cutting Edge — Why Sony Corporation opted for computer communication and how they combined market trends with technological innovations to implement state-of-the-art interactive computer communication vehicles. This case study walks you through personalized benefits and provides scenarios for combining benefit options.

Case Studies

All three case studies **Tuesday, August 4**

You Be The Judge

A-V Excellence — Presented annually, this energetic session presents audio-visual programs submitted to the EBC Competition. You be the judge — see what other industry professionals are doing in this medium.

Luncheon

A final opportunity to gather with industry leaders and peers.

Utilization Review

Performance — The nature of utilization review demands peak performance. This session provides an examination of operations, key findings on performance levels and a look at how one benefits department performs this communications task.

Tax Reform & 401k

Issues and Ideas — Better marketing is essential to communicating tax reform and 401k, especially to lower paid employees. Find out how humor and a promotional contest got attention and boosted participation.

Adjournment

Until next year ...



The BI Conference opens Sunday, August 2, with registration check-in and a cocktail reception from 5-7pm. Sessions begin Monday, August 3 at 8:30am. The conference adjourns Tuesday, August 4 at 4:30pm.

The cost is \$650. A 10% discount is offered to additional registrants from the same company. The fee includes sessions, workbook, educational materials, and scheduled functions.

Payment required with registration. All registrations will be confirmed.

Cancellations must be received in writing. A refund will be made on cancellations received prior to July 1. A \$100 service charge will apply to cancellations received after July 1. No refund will be made on cancellations received less than 5 business days prior to the conference. If your plans change, you may substitute the name of another person from your company without penalty.

To register, complete the form and send it with your payment to:

**Business Insurance, Communication Services Department,
 220 E. 42nd St., Suite 930, New York City, NY 10017
 For information call: Barbara Dalton, Registrar, at (212)210-0780.**

Hotel Accommodations

We have set aside a limited block of rooms at a special rate of \$130 single/\$150 double, at the Grand Hyatt Hotel in New York City. These rates are available to Conference Registrants only, and will be honored until July 13.

You must mention the *Business Insurance Benefits Conference* when making your reservations. Hotel cards will be included with your Conference Registration Confirmation. Or call the Grand Hyatt Hotel at (212)850-5900; or toll free at (800)228-9000.

Travel Arrangements

We have arranged for discounted airline tickets to New York City from almost every location in the U.S. Contact Travel Technology Group at 800/524-4442. You must mention the *Business Insurance Benefits Conference* to take advantage of these low rates with no restrictions.

Awards Luncheon

A luncheon ticket is included with your Conference registration. A limited number of additional seats are available for the EBC Awards Presentation Luncheon. Additional tickets are \$60 each, available on a first come-first serve-basis; **reservations required.** Contact Registrar.

Please register me for the 1987 BI Conference
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 August 3 and 4 • The Grand Hyatt Hotel in New York City

Name _____

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Hjorth named vice chairman at Equicor

William T. Hjorth has been named vice chairman and chief operating officer of Equicor, the joint venture between The Equitable Life Assurance Society of the United States and Hospital Corp. of America.

Mr. Hjorth, who joined Nashville, Tenn.-based Equicor in January, previously served as executive vp and chief financial officer.

Previously, Mr. Hjorth was chief financial officer and senior vp at Clark Equipment Co. of South Bend, Ind.

In other insurer changes:

Laurence P. O'Connor elected president and chief executive officer of John Hancock Property & Casualty Cos. in Boston. Most recently, Mr. O'Connor was vp and general manager of Northbrook Insurance Co., a Northbrook, Ill.-based subsidiary of Allstate Insurance Co.

Raymond Barrette has been named executive vp of Fireman's Fund Commercial Insurance in Novato, Calif., a unit of Fireman's Fund Insurance Cos. Mr. Barrette is responsible for underwriting, finance and planning. Previously, Mr. Barrette was senior vp and actuary at Fireman's Fund.

James R. Brennan elected president and chief executive officer of NWNL General Insurance Co. in

comings & goings: industry

Minneapolis. He succeeds **Don Henyan**, who has been elected chairman. Previously, Mr. Brennar was vp of strategic planning for Northwestern National Life Group Division and senior vp of NWNL General. He retains responsibility for NWNL Group's strategic planning.

Nicholas A. Creatore promoted to senior vp at The Home Insurance Co. of Illinois and The Home Insurance Co. of Indiana. Mr. Creatore is also vp of the parent company, The Home Insurance Co. in New York. Mr. Creatore oversees the special property risk unit, which is composed of ocean marine, special property and petrochemical divisions. Previously, Mr. Creatore was senior vp-property with American Home Assurance Co. and National Union Fire Insurance Co. of Pittsburgh, Pa.

Also at The Home Insurance Co. of Illinois and The Home Insurance Co. of Indiana, **Robert E. Piller** appointed vp. Mr. Piller is responsible for new product development and marketing. Prior to joining The Home, Mr. Piller was assistant vp and manager with Constitution State Management Co., a subsidiary of Travelers Indemnity Co.

Eugene E. Pittelli promoted to vp from assistant vp in the loss control department of The Home Insurance Co. in New York. Mr. Pittelli formerly was manager of casualty engineering for Royal Insurance Co. in New York.

John F. Carney appointed president of The Ohio State Life Insurance Co., a subsidiary of Farmers Insurance Group Inc. in Columbus, Ohio. Mr. Carney succeeds **Harvey T. Goerlitz** who will become chairman until his Sept. 30 retirement. Most recently, Mr. Carney was vp-risk management and secretary for OSL.

Daniel J. Grim appointed vp in the general obligation leases and special tax division at Bond Investors Guaranty Co. in New York, a municipal bond insurer. Previously, Mr. Grim was a vp at the Bank of America.

Andrew S. Frazier appointed

executive vp and chief operating officer at Westco Insurance Co. in Ramsey, N.J. He had been senior vp-finance at Westco.

Thomas F. Mulligan named vp of underwriting and marketing for Western World Insurance Co. in Ramsey, N.J., a subsidiary of Westco Insurance Co. Previously, Mr. Mulligan was manager of underwriting for Tudor Insurance Co., another Westco subsidiary.

Carl Pheffer promoted to vpc-claims at Westco. Previously Mr. Pheffer was manager of Westco Claims Management Services.

G. Thomas Folds promoted to president of Greenwood, Ind.-based North Atlantic Casualty & Surety Insurance Co. Inc., a property/casualty insurance subsidiary of Brougher Insurance Group Inc. specializing in professional liability and errors and omissions coverage.

Also at Brougher Insurance Group, **Mary Anderson** named vp/actuary. Ms. Anderson previously served with Blue Cross and Blue Shield of Indiana.

Brian McBride and **Kenneth J. Mount** promoted to vps from assistant vps of Associated Aviation Underwriters in New York. Mr. McBride will continue to manage the airline department. Mr. Mount will continue as manager of home office products.

William C. Hart elected president of Mercer Mutual Insurance Co. in Pennington, N.J. He succeeds **Eric W. Turner Jr.**, who retired. Previously, Mr. Hart was president and chief executive officer of Centennial Savings & Loan Assn. in Pennington and president of Colonial Service Corp. in Roselle, N.J.

Alfred G. Martz elected senior vp of Chubb & Son Inc. Mr. Martz currently serves as chief underwriting officer of Chubb's International Division in Warren, N.J.

In addition, **Royal (Duke) Terrell Jr.**, who serves as branch manager of Chubb's Birmingham, Ala., office, was elected vp.

Jeffrey S. Fraser and **Thomas A. Dean** named vps of Topa In-

urance Co. in Los Angeles. Mr. Fraser manages the property insurance underwriting department. Mr. Dean is in charge of the company's casualty insurance underwriting department.

Michael Hogan appointed senior officer and vp of group executive accounts in the St. Louis home office of General American Life Insurance Co. Prior to his promotion, Mr. Hogan was group vp and general manager of executive accounts. Previously, Mr. Hogan was senior staff manager and a second executive for First Bank System Insurance in Minneapolis.

Robert S. Marcotte named vice chairman of American General Life & Accident Insurance Co. in Nashville, Tenn. Mr. Marcotte will continue as president and chief executive officer of Equitable Life Insurance Co. in Nashville. American General Life & Accident and Equitable Life are subsidiaries of American General Corp. in Houston.

Albert P. Rich Jr. elected resident vp at Bituminous Insurance Co. in Atlanta. Mr. Rich will retain his current position as regional manager in the Atlanta office.

Mark Anderson elected president of American Interstate Insurance Co. of Georgia. Mr. Anderson works out of the insurer's executive offices in Dallas. Previously, Mr. Anderson was vp and chief operating officer of American Interstate.

Bernard Feldman promoted to president from executive vp and chief operating officer of I.C.W. Group in San Diego, Calif., a multiline commercial insurer.



Mr. Feldman

Reinsurance

Peter M. Armour has joined Willcox Inc. Reinsurance Intermediaries as senior vp. Most recently, Mr. Armour was corporate director and senior vp of Towers, Perrin, Forster & Crosby.

Betsy Brougher-Ayers promoted to president of North Atlantic Treaty Managers Inc., Brougher Syndicate Inc. and Kansas-Brougher Syndicate Inc., all in New York. North Atlantic Treaty Managers Inc. is the underwriting management subsidiary of Brougher Insurance Group Inc. of Greenwood, Ind. Both Brougher Syndicate Inc. and Kansas-Brougher Syndicate Inc. are members of the New York Insurance Exchange.

Agents/brokers

J.P. "Chip" Carter II has joined Corroon & Black of the Carolinas as senior vp and manager of the construction industry division in Charlotte, N.C. Mr. Carter is responsible for the production and service of construction and construction-related insurance and surety accounts for the Charlotte, Columbia, S.C., and Greenville, S.C., offices. He previously was a vp with Collier Cobb & Associates in Charlotte.

William J. Tvenstrup appointed vp and senior account executive from assistant vp in the production division of Frank B. Hall & Co. of Massachusetts Inc. in Boston.

Warren D. (Dick) Johnson promoted to chairman and **Douglas S. Stirling** promoted to president and chief executive officer of Rollins Burdick Hunter of Oregon Inc. in Portland. Prior to their promotions, Mr. Johnson was president of

RBH's Portland office and Mr. Stirling was executive vp of RBH's Sacramento, Calif., office.

Ron Massa appointed executive vp of Western International Cos., an insurance broker in San Francisco.

Jay Frank joined Alper Services Inc., a brokerage and risk management consulting firm in Chicago, as chief operating officer and executive vp. Mr. Frank also is a principal of the firm. Previously, Mr. Frank was senior vp and principal of Cohen Seltzer Inc. in Philadelphia, another brokerage.

Other suppliers

Sylvain Dion will become chairman of The Wyatt Co.'s risk management committee and will head its Chicago risk management consulting practice following the retirement of **Warren Brockmeier** as vp and head of the Chicago risk management consulting department on Dec. 31.

Previously, Mr. Dion was head of Wyatt's risk management consulting practice in Montreal.

Edward J. Callahan named vp of Claims Management Services in Chicago, a division of Fred S. James & Co. Inc. In his new role, Mr. Callahan will be responsible for technical and claims support of CMS' workers compensation programs. Previously, Mr. Callahan was director of operational review at CMS.

Jack Iannantuono named director of POMCO's Allentown, Pa., division. POMCO is an employee benefit consultant based in Syracuse, N.Y.

At Merrill Lynch Settlement Services Inc. in Washington, D.C., **James P. "Pat" Piper** appointed regional vp. Mr. Piper will oversee structured settlement services in Washington, Delaware, Virginia, West Virginia, North Carolina and Kentucky.

Will B. Waterman appointed regional vp of Merrill Lynch Settlement Services Inc. in Pasadena, Calif. Mr. Waterman will handle structured settlements for clients in Arizona, Southern California and Southern Nevada.

Yale D. Tauber has joined the New York office of William M. Mercer-Meidinger-Hansen Inc. as a managing director. Mr. Tauber will specialize in executive compensation and benefits consulting. Previously, Mr. Tauber was head of the compensation and benefits department and a partner of LeBoeuf, Lamb, Leiby & MacRae, a New York law firm.

Terry W. Warren appointed vp of Corroon & Black Health Care Concepts, a Nashville, Tenn.-based health care consulting firm and a unit of Corroon & Black Corp.

HMOs/PPOs

Gene R. Heath appointed chief executive officer of PARTNERS National Health Plans in Bala Cynwyd, Pa., a managed health care organization. Previously, Mr. Heath was president and chief executive officer of both CareAmerica-Great Lakes Health Network and HealthCare Network in St. Louis.

William L. Young promoted to chief operating officer of MetLife HealthCare Network of South Florida, a health maintenance organization in Fort Lauderdale. He had been vp-marketing. MetLife is an affiliate of Metropolitan Life Insurance Co.

Alfred R. Dardis joined U.S. Healthcare Inc. as vp and medical director in northern New Jersey. Blue Bell, Pa.-based U.S. Healthcare operates a network of health maintenance organizations throughout New England. ■

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wish to thank the following speakers
for their contribution to the success
of our recent conference held
in Boston on June 17, 1987

RISK RETENTION—"WHERE THE RUBBER MEETS THE ROAD"

H. Felix Kloman—Tillinghast
Bruce P. Wright—LeBoeuf, Lamb, Leiby & McRae
Joseph F. Morris—Reliance Risk Management
Roger D. Teese—Hanna Services
James F. Billett, Jr.—Trenwick

Crump/H&W forms D&O insurance unit

markets

Surplus lines broker Crump/H&W Insurance Services has formed a special unit to broker directors and officers liability insurance.

"Through any of our offices, brokers can now access virtually every worldwide D&O market and be assured the submission will be handled by real D&O professionals," said David R. Hoskins, president and chief executive officer of Crump/H&W.

Crump Senior Vp Earl Lanning has been appointed to head the special marketing unit based in Memphis, Tenn.

For more information contact Mr. Lanning at 5350 Poplar, Memphis, Tenn. 38119; 901-761-1550.

Wyatt enters Japan

The Wyatt Co. has received approval from the Japanese Ministry of Health and Welfare to offer pension actuarial consulting services.

The ministry has instituted a new licensing system that allows independent consultants to provide actuarial consulting services to member plans of the ministry's employee pension fund system, which covers both Japanese and multinational companies. Previously, only life insurance companies and trust banks could offer these services.

According to Eiji Mizutani, president of The Wyatt Co. K.K., Wyatt is the only officially designated international actuarial firm in Japan.

Benefit consultant

John C. Garner, formerly a principal at Towers, Perrin, Forster & Crosby in Los Angeles, has launched his own employee benefit consulting firm.

Specializing in life, health and disability insurance plans, Garner Consulting will assist with plan design, financing, administration and the selection of vendors.

Mr. Garner, who worked at TPF&C for more than 10 years, has 15 years of experience in the employee benefit field.

Garner Consulting can be contacted at 510 S. Marengo Ave., Pasadena, Calif. 91101; 818-440-0969.

New consultant

Larry Bell, formerly assistant vp-risk management of Revco. D.S. Inc. in Twinsburg, Ohio, has formed his own risk management consulting firm in Green Valley, Ariz.

Mr. Bell will specialize in consulting on alternative risk financing methods, including self-insurance and captives. Before joining Revco, Mr. Bell was a captive specialist for Johnson & Higgins.

Arizona Risk Management Inc. is located at 1780 W. Placita Del Gatto, Green Valley, Ariz. 85614; 602-625-8664.

Name change

Classified Insurance Corp., a San Francisco-based commercial insurer, has changed its name to American Star Insurance Co.

Mergers/acquisitions

Zurich Insurance Group, through its subsidiary Zurich Australian Insurance Holding, has agreed to acquire National & General Insurance, a Sydney, Australia-based property/casualty insurer with a premium volume of \$56 million Australian (\$40.4 million U.S.).

The Crump Co. of Connecticut, a Fairfield, Conn.-based broker and a subsidiary of Sedgwick Group P.L.C. of London, has acquired Kaufman Insurance Ser-

vices of Stamford, Conn. Kaufman's operation will be folded into Crump's Fairfield office.

Partners National Health Plans of Irving, Texas, has agreed to acquire Network Health Plan, a Fairfax, Va.-health maintenance organization, from National Hospital Health Systems Corp.

South Pasadena, Calif.-based workers compensation administrator Bierly & Associates has purchased Advanced Claims Technology of Redwood City, Calif. ACT is a workers compensation self-insurance administrator that also handles retirement and disability plans. ACT will continue to

operate as a separate entity, and Bierly's Burlingame office will be consolidated with ACT's Redwood City office.

Brazilian brokers MacFarlane & Associates Ltda. and Power Ltda. have announced their intention to merge. Alexander & Alexander Inc. also will be a partner in the new entity. The combined company, based in Sao Paulo, will be known as MacFarlane Alexander Power Corretores de Seguros Ltda.

Little Rock-based Arkansas Diversified Services, the holding company for Life Insurance Co. of Arkansas, HMO Arkansas and Primary Care Network of Arkansas, has acquired BSC Life Insurance Co., a Dallas-based group life and health insurer.

Doranco Inc., a Mechanicsburg, Pa.-based company, has acquired wholesale insurance broker Commonwealth Underwriting Services Inc. in Mechanicsburg. ■

RLI

Consolidated Statutory Financial Information for RLI Insurance Company and Mt. Hawley Insurance Company

STATUTORY SURPLUS COMBINED RATIO (000 Omitted)

1986 — \$53,063	1986 — 84.1
1985 — \$37,037	1985 — 99.7
1984 — \$16,739	1984 — 97.0
1983 — \$12,238	1983 — 94.9
1982 — \$11,084	1982 — 99.1

5 YEAR
COMBINED RATIO: — 92.9
(1982-1986)

ASSETS (000 Omitted)

1986 — \$159,568
1985 — \$105,993
1984 — \$ 48,719
1983 — \$ 35,156
1982 — \$ 36,171

LOSS RESERVES (000 Omitted)

1986 — \$46,243
1985 — \$22,784
1984 — \$ 9,150
1983 — \$ 4,985
1982 — \$ 4,455

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RLI Insurance Co. — Mt. Hawley Insurance Co. — American Capacity Insurance Co.
For Specialty Insurance Coverages

The benefits of claims made coverage in professional liability

Claims made insurance is hardly a new concept. It has been the basic form of coverage for many professional liability lines for over 30 years. During this period it has proven its stability and has served the professional insureds who have benefited from its advantages exceedingly well.

Today, liability insurance written on a claims made basis continues to grow in popularity and use. One reason is that it enables both the insurer and the insured to respond with some control to the current liability and economic climates, and to periodically make adjustments in the coverage as required.

Simply defined a claims made policy is one where the insurer is responsible for claims first made against the insured during the period when the policy is in force.

(An "occurrence" policy is one where the insurer is responsible for events that occurred during the policy period, regardless of when the claim is made.) The basic question to be answered to determine if a claims made policy will cover is "When was the claim first made against the insured?"

This concept offers several advantages and benefits to insureds, especially professionals, directors and officers and others who are subject to "long tail"

claims. With coverage based on the date the claim is made, the question of when the occurrence took place becomes relatively unimportant. The insured knows that he will be covered on all claims made during policy period. He does not need to be concerned with unknown claims that may be made sometime in the future, or with the size of judgments that may then prevail. A future claims made policy, with proper limits, will protect him at that point in time.

Architects & Engineers Professional Liability

Shand Morahan continues to be one of the leading sources of quality liability protection for architects and engineers.

Since 1970 we have offered continuity of coverage in this industry which has been beset by a decade and a half of escalating claims and compensatory judgments. We continue to renew coverage for our present clients, and we are also writing new business in this area. Most favorable risks include medium-size firms: architects, HVAC and civil engineers, landscape architects, land surveyors, and interior designers.

We are particularly interested in firms with annual gross fees of \$2 million or less; firms with annual gross fees or billings of up to \$7.5 million may be considered. We are also writing a limited number of project policies.

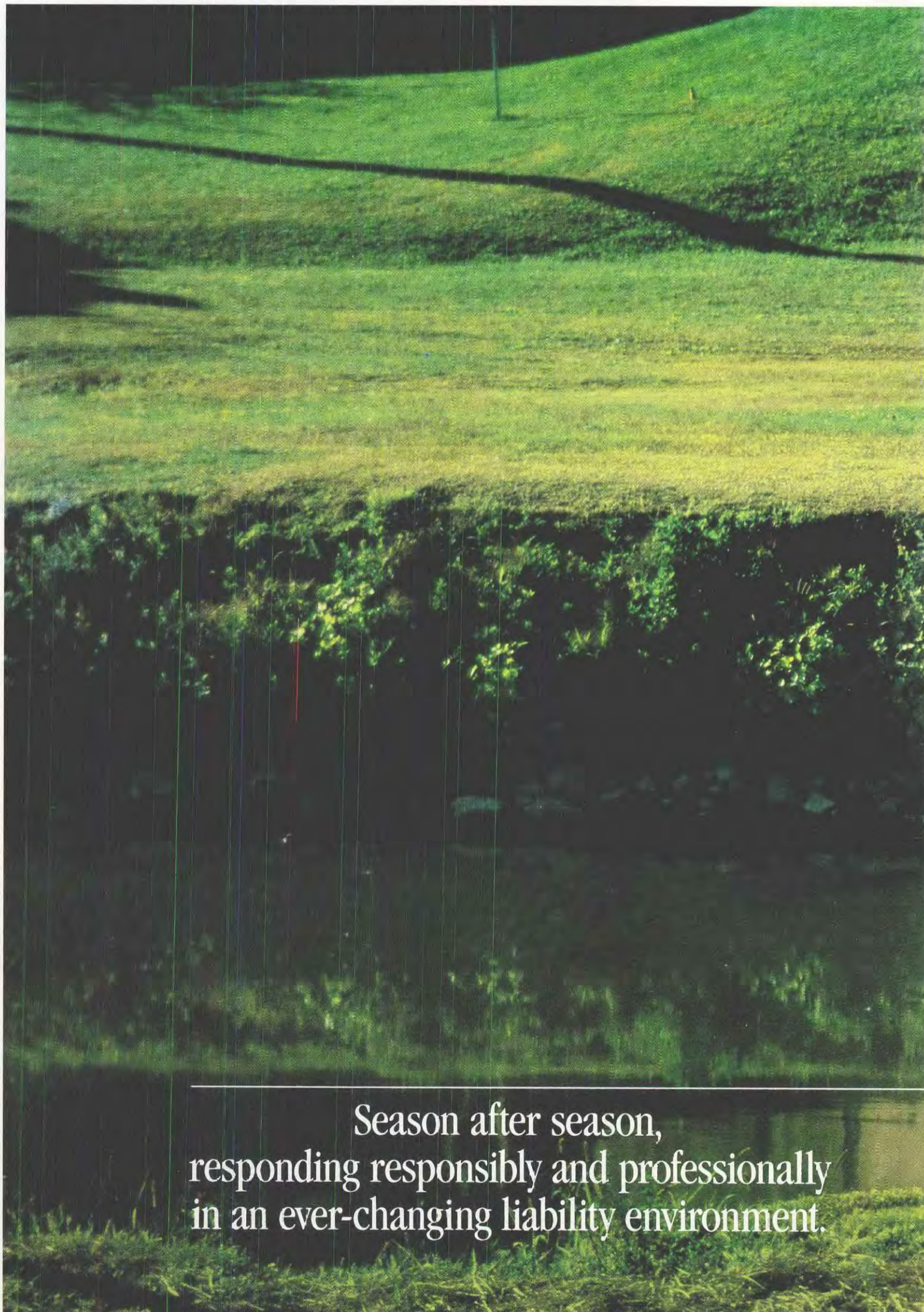
Coverage is written on a professional liability claims made basis and clients are assured of our highly respected, prompt claims service along with the stability, continuity and expertise that has kept us a leader in Architects & Engineers Liability Insurance for the past seventeen years.

Insurance Agents & Brokers Professional Liability

Insurance professionals can look to Shand Morahan for reliable liability protection as well. Under our Insurance Agents & Brokers policy coverage is provided to the named insured while acting as an insurance agent, broker, managing general insurance agent, surplus line broker, excess line broker and life insurance agent.

The policy covers acts, errors or omissions in professional services, including such related activities as notarizing, mutual fund sales, premium financing, insurance consulting and advising, engineering, appraising, incidental claims adjusting and public relations activities. Limits of liability up to \$3 million are available. This coverage requires a minimum premium of \$30,000 and a minimum deductible of \$30,000. Coverage is on a claims made basis and prior acts coverage is available.

We are particularly interested in medium-size firms producing \$10 million to \$100 million annually in agency premium volume.



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Facilities gain ground in D&O market: Survey

By ROBERT A. FINLAYSON

CHICAGO—Policyholder-owned insurers now hold 27.4% of the primary market and 49.8% of the excess market for directors and officers liability coverage based on premium volume, reports a survey released by The Wyatt Co. today.

Wyatt's "Directors and Officers & Fiduciary Liability Survey 1987" clearly reveals a dramatic shift by U.S. corporations away from traditional commercial D&O insurers to policyholder-owned facilities.

However, by number of D&O policies written, traditional commercial insurers still write the vast majority: 94.4% of all primary policies and 73.1% of all excess policies, according to Wyatt.

New York-based American International Group Inc. retains its position as the largest writer of D&O insurance, ranking first in total premium volume and the percentage of policies written. AIG writes 30.6% of the total D&O premiums, according to the survey results gathered in late 1986 and early 1987. AIG writes 41.1% of the primary premium and 18.8% of the excess premium volume. By number of policies, AIG writes 28.2% of all the primary policies and 17.9% of all excess policies.

But, the survey shows that policyholder-owned Directors & Officers Liability Insurance Ltd. of Bermuda now writes 16.6% of the total U.S. D&O premium volume—making it the second-largest underwriter of this coverage.

However, because DOLI writes a small number of risks at high premiums, it writes only 3.6% of policies.

Chubb Group of Warren, N.J., through its Federal Insurance Co. unit, dropped a notch to third in terms of premium volume, writing 12% of the total U.S. D&O premiums. But the insurer drew close to AIG in the number of D&O policies issued: 24.1% of all primary D&O policies and 15.7% of all excess D&O policies written in the U.S.

Wyatt suggests that these figures indicate that Chubb is handling a larger portion of the small and medium-sized D&O accounts.

A.C.E. Insurance Co. Ltd. of Bermuda ranks fourth in premium volume with 8.8%, while London underwriters rank fifth with 5.5%.

In terms of primary policies written, Chicago-based CNA Group ranks third behind Chubb with 11.4% of the total, while London underwriters rank fourth with 5.9% and New York-based Continental Corp. ranks fifth with 5.6%.

In the excess market, the survey found that A.C.E. and AIG share the top spot, each with 18.8% of the premium volume. Chubb occupies the third position with 12.7%, policyholder-owned Energy Insurance Mutual of Barbados is fourth with 8.5%, and DOLI is fifth with 7.6% of the total excess premium volume.

In terms of total premiums, EIM ranks sixth with 4%; X.L. Insurance Co. of Bermuda ranks seventh with 3.3%; Continental ranks eighth with 2.4%; CNA ranks ninth with 2.3%; and policyholder-owned Oil Casualty Insurance Co. of Bermuda ranks 10th with 2%.

Ranking 11th through 15th are St. Paul Surplus Lines Insurance Co., a unit of St. Paul Fire & Marine Insurance Co., with 1.7% of total premiums; Philadelphia-based Insurance Co. of North America, a CIGNA Corp. subsidiary, 1.6%; policyholder-owned Corporate Officers & Directors Assurance Co., 1.2%; Crum & Forster of Morristown, N.J., 1%; and Western Employers Insurance Co. of

Santa Ana, Calif., 0.7%.

Policyholder-owned insurer Bankers Insurance Co. Ltd. of Bermuda and the group of policyholder-owned insurers managed by The Reiss Organization of New York tie for the 16th spot in the ranking. BICL and the Reiss group each write 0.6% of total D&O premium volume.

Five insurers tie for the 18th position with 0.5% of total premiums: Wausau Underwriters, which is no longer active; Calvert Insurance Co. of New York; Evanston Insurance Co. of Evanston, Ill.; Old Republic Insurance Co. of Chicago; and Associated International Insurance Co. of Los Angeles.

Other, unnamed insurers wrote 2.6% of total premiums. ■

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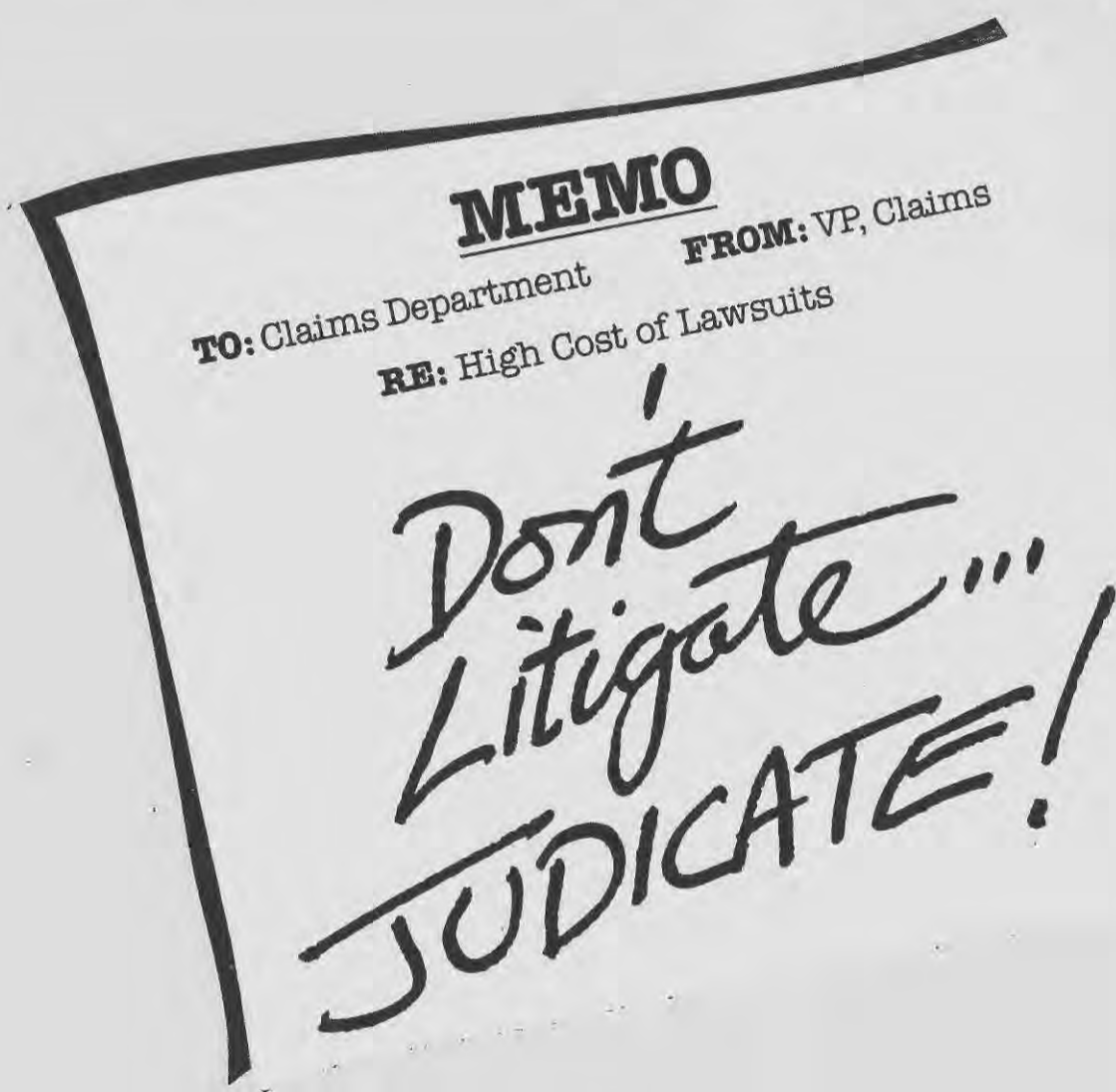
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British brokers

Continued from page 3

pounds (\$251.7 million), up 21% from 140.3 million pounds (\$203.5 million based on year-end 1985 exchange rates) in 1985. Pretax operating profits totaled 74.8 million pounds (\$110.9 million) in 1986, up 16.7% from 64.1 million pounds (\$92.9 million).

Stewart Wrightson's gross revenues increased 11.6% in 1986 to 95.1 million (\$141 million) from 85.2 million pounds (\$123.5 million) the previous year. Pretax profits rose 15% last year to 21.5 million pounds (\$31.9 million) from 18.7 million pounds (\$27.2 million) in 1985.

The acquisition is a "quantum leap" for Willis Faber, said Mr. Palmer. "It is the most exciting merger (in the U.K.) for a long time."

"We are extremely excited in what we hope to achieve," added Stewart Wrightson Chairman David Rowland.

The combination will provide Willis Faber with a powerful team of brokers in Britain, particularly in the aviation, reinsurance and British retail insurance markets.

Brokers and underwriters in the London market believe there may be "bloodletting" as some employees defect to other brokers from the merged company, particularly in the aviation department.

However, Mr. Palmer hopes the merger can be managed so there is "no fallout," though he admits the company may lose some employees and may have to lay off a few others.

Under the terms of the merger, which were approved by both companies' boards last week, Willis Faber will offer three Willis Faber shares for every two Stewart Wrightson shares. Based on the share prices contained in the offer, which are the prices on June 26 when trading in both stocks was suspended on the London Stock Exchange pending the merger announcement, the transaction is valued at 302.6 million pounds (\$484.2 million).

However, Willis Faber's share price dropped last week

after trading resumed to 4.08 pounds (\$6.52) per share from 4.37 pounds (\$6.99) per share, which drops the value of the acquisition to 282.7 million pounds (\$452.3 million).

According to London newspaper reports, an investigation is likely into possible insider trading of Stewart Wrightson stock a week before the acquisition was announced. Stewart Wrightson's stock price had climbed to 5 pounds (\$8) per share when trading was suspended, up from 4.43 pounds (\$7.09) per share one week before the announcement.

Both companies say they will cooperate in any probe.

The London Stock Exchange would not comment on whether there is an investigation. However, an exchange spokeswoman said the investigation may not affect the merger.

The acquisition will be the second most expensive brokerage acquisition in history, following the \$640 million purchase of Fred S. James & Co. Inc. by Sedgwick Group P.L.C. in 1985 but ahead of the \$345 million acquisition of Reed Stenhouse Cos. Ltd. by Alexander & Alexander Services Inc. that same year (*BI*, April 8, 1985).

Under the terms of the acquisition, the merged company will be called Willis Faber P.L.C. The name of the merged company's British retail brokerage will be changed to Willis Faber Wrightson Ltd. from Willis Faber & Dumas Ltd.

Stewart Smith will keep its name in the United States. It has not yet been decided whether two Willis Faber surplus lines brokerage subsidiaries in the United States—Global Special Risks Inc. and McAlear Associates Inc.—will be incorporated under the Stewart Smith banner.

Mr. Palmer, 60, will become chairman of the merged companies, though he said it is "probable" he will retire by the end of the year. Mr. Rowland, a member of the Council of Lloyd's of London, will join the Willis Faber board as joint deputy chairman alongside current Deputy Chairman Dick Bowes.

Mr. Rowland could succeed Mr. Palmer when Mr. Palmer retires, though Mr. Rowland said it will be up to the Willis

Faber board to elect the next chairman.

Roger Elliott, a current Willis Faber director, will become a deputy chairman when Mr. Bowes retires at year end.

Four other inside members of the Stewart Wrightson board and one outside Stewart Wrightson director will join the Willis Faber board.

Willis Faber and Stewart Wrightson had been discussing a merger on and off since the late 1970s, said Mr. Palmer.

The talks began seriously this spring, but they were "terminated" by Stewart Wrightson, said Mr. Rowland. Stewart Wrightson returned to the table only a few weeks ago.

Willis Faber has been planning for some time to become one of the five largest brokers in the world rather than a medium-sized broker, explained Mr. Palmer. "We took the decision to be a major broker in that league. . . . That meant an acquisition of some substance," he said.

Willis Faber and Johnson & Higgins also have discussed the possibility of a merger over the years, Mr. Hatcher admitted. But he pointed out that the styles of the two brokerages—one publicly and one privately owned—are different.

"Our style is to be a privately held company, rightly or wrongly," said Mr. Hatcher. To merge with Willis Faber, "we would have had to change the lifeblood of our corporate system. . . which may be tax-disadvantageous."

However, he did not rule out the possibility of new merger talks with Willis Faber in the future.

In the meantime, Johnson & Higgins will continue to tap Willis Faber as its main London wholesale broker for U.S. business but also will use its newly acquired London-based broker—Johnson & Higgins Ltd., formerly Carter, Brito e Cunha Ltd.—to place reinsurance for non-North America ceding companies, said Mr. Hatcher (*BI*, June 22; May 25).

The acquisition of Stewart Wrightson marks only the third major merger by Willis Faber in 88 years, according to Mr. Palmer. The others occurred in 1898 when Henry Willis & Co. merged with Faber Brothers to form Willis Faber Co., and in 1929 when Willis Faber merged with Dumas & Wylie. ■

Defined contribution plans

Continued from page 3

participants, with an average of 15,000 participants. Plan assets ranged from \$500,000 to \$3.2 billion, with an average of \$240 million.

According to the survey, 89% of the plans have a 401(k) provision, allowing employees to make contributions on a pretax basis. Twenty percent of the plans only allow pretax contributions, and an additional 21% require that employees make a minimum pretax contribution before making any contributions on an aftertax basis.

The most common maximum employee contribution that a company will match is 6% of compensation, used by 49% of the plans. However, 91% of the savings plans allow employees to make additional contributions that are not matched by the company.

This represents a significant increase from a previous Bankers Trust survey, conducted in 1977, when 54% of the plans allowed such additional contributions.

The vast majority of those companies with 401(k) plans implemented them during the mid-1980s: Some 31% were added in 1983, 37% in 1984 and 22% in 1985. In contrast, only 1% of the 401(k) plans were implemented in 1986.

In 87% of the plans covered in the survey, the amount of the company's contribution is determined by the amount of the employee's contribution.

The most common company match among the surveyed plans is 50 cents for each dollar contributed by the employee. This match was reported by 48% of the plans in 1986, compared with 46% in 1977 (see chart).

Although this median match is virtually unchanged from 1977 to 1986, the survey authors note there is "a slight trend from the 1977 study to the 1986 study toward higher basic company matching contribution rates."

For example, in the 1986 study, only 15% of the plans reported a match of less than 50%, compared with 23% in the 1977 study. And, in 1986, 24% reported a match of more than 50%, compared with only 20% in 1977.

And the authors note, "The plan's company matching contribution is an important factor determining the acceptance of the plan by eligible employees." Those plans with a matching contribution of 100% have participation rates of 84% of employees, compared with 79% at those companies that match at a rate between 50% and 100%.

Employees also are being allowed more freedom in deciding how to invest the money in their company-sponsored savings plans, the survey shows.

Ninety-six percent of the plans surveyed in 1986 allow employees some choice over how contributions are invested, compared with

86% in 1977.

Some 44% of the plans in the 1986 survey give workers a say in how all contributions are invested, up from 31% in 1977; 50% of the plans surveyed last year offer investment options for employee contributions only, down from 54% in the prior survey; and 2% of the plans surveyed last year allowed workers to select investment options for company contributions only, up from 1% in 1977.

"The investment provisions of defined contribution plans continue to be liberalized," the authors say. "There is a trend toward allowing more direction from the employee to allocate his own and/or the company's contribution among the plans' investment funds."

The most common number of investment options remains three, offered by 38% of the plans in the 1986 survey and 45% in 1977.

The survey also showed a liberalization of participation and vesting requirements since the previous survey, conducted in 1977.

At 67% of the companies, virtually all employees are eligible to participate in the savings plan. The remaining 33% of the companies limit plan participation to salaried or non-bargaining employees.

"Service-only provisions continue to be very common and grow in prevalence," the survey authors say.

For example, 13% of the plans

surveyed in 1986 had no age or service requirement for participation, compared with 9% in 1977. And, 73% had only a service requirement in 1986, compared with 64% in 1977.

The most common length-of-service requirement was one year, required by 52% of the plans surveyed in 1986, up from 45% of those surveyed in 1977. Thirteen percent of the plans in 1986 had service requirements of less than one year, compared with 14% in 1977. And, 8% had service requirements of two to three years in 1986, compared with 5% in 1977.

In 1986 and in 1977, 1% of the plans had only age requirements for participation.

Only 13% of the plans in 1986 had age and service requirements, compared with 26% in 1977.

Vesting requirements also have eased in the last decade, according to the survey. In the 1986 survey, 25% of the plans allowed for immediate full vesting, compared with only 12% in 1977.

Forty-four percent of the 1986 plans—and 48% of the plans in 1977—had membership vesting, in which the employee vests in employer contributions after a set period of participation in the plan or service with the company.

Class system vesting—in which plan members are vested in company contributions at a set time after the contribution is made—was incorporated in 31% of the plans in 1986, down from 40% of the plans in 1977.

And, according to the survey authors, "All the plans in the (1986) study fully vest the employee's total account upon his death, retirement or permanent disability."

Employees also are vesting more quickly, the survey shows.

For example, 37% of the plans in the 1986 survey using membership vesting have vesting requirements of less than five years, compared with only 14% of the plans in the 1977 study. Another 37% of the plans surveyed last year required five years of service for full vesting, compared with 52% in 1977; 12% of the plans in 1986 required six to nine years of service, down from 19%; and 7% in 1986 required 10 years of service, down from 9% and 1977.

In addition, 7% of the plans surveyed in 1986 required 11 to 14 years of service before full vesting, while 7% of the plans in 1977 required 15 years of service.

The survey notes that "slightly

over one-half of the plans" will meet the more rapid vesting requirement contained in the Tax Reform Act of 1986 after Dec. 31, 1988. Under that law, employers must offer either 100% vesting after five years' service or a graduated seven-year vesting schedule (20% vesting after three years services, plus 20% for each year thereafter).

Considerably fewer of the plans allow for a scheduled, periodic disbursement of funds to employees while they are working: Only 11% of the plans allowed for such in-service disbursement in 1986, compared with 28% in 1977.

But, the survey authors note, "This relatively low and declining rate is probably due to the increasingly liberal provisions for voluntary withdrawals and also the increasing incidence of hardship withdrawal and loan provisions."

Some 86% of the plans in 1986 allowed employees to make discretionary in-service withdrawals or hardship withdrawals, and 43% included a loan provision. However, the Tax Reform Act of 1986, which generally imposes a 10% excise tax on the taxable portion of pre-retirement distributions, may have an adverse effect on such withdrawals.

Finally, 88% of the plans in the 1986 study and 79% in the 1977 study permit options other than lump-sum distributions when an employee's service terminates.

For example, 61% of the plans in 1986 and 58% in 1977 allow distribution in installments over a specified period of time. An annuity contract is an option in 36% of the 1986 plans, down from 61% of the 1977 plans.

And, 56% of the 1986 plans allow the new option of a deferrable lump sum, in which the employee can defer distribution until a specified date.

These options other than lump-sum distribution are important because, as the authors note, "the Tax Reform Act of 1986 repeals the favorable tax treatment on lump-sum distributions."

Copies of the survey, "Corporate Defined Contribution Plans: A Changing Environment," are available at a cost of \$200 each. The survey also includes summaries of the individual plans studied. To order, contact Sook-Kuen Chang, Bankers Trust Co., Eighth Floor, West Wing, 280 Park Ave., New York, N.Y. 10015.

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D&O survey

Continued from page 1

market," Mr. Brockmeier says.

But, the survey shows that while the cost of primary coverage seems to be stabilizing, the recent formation of several buyer-owned insurance facilities appears to be exerting some downward pressure on the price of excess D&O coverage.

According to the survey, the average cost of settling a D&O claim, including defense costs, jumped 147% in the past two years, up to a staggering \$2.57 million in 1986 from \$1.04 million in 1984 (BI, Jan. 21, 1985).

Further, the survey notes that while claim frequency continues to show a strong correlation with corporate size, claim severity appears to plateau beginning with corporations with \$25 million in assets.

"This would seem to suggest that mid-sized corporations may have a need for policy limits of somewhat equal magnitude to those of giant multibillion-dollar companies," the study concluded.

For the survey, Wyatt gathered data from 1,047 organizations: 895 U.S. and 152 Canadian concerns. The survey group included 65 health care organizations and 44 educational institutions, and the remaining respondents were various types of business organizations.

Survey respondents included 28% of the Fortune 1,000 companies, and respondents represent 47 states, the District of Columbia and all 10 Canadian provinces.

Manufacturing firms dominated the survey group, with 325 participating in the survey, followed by banking and financial institutions with 112.

Among those companies that did not buy D&O insurance, the survey found a dramatic increase in the number of companies that did not buy the coverage because they were unable to obtain it. That percentage rose to 3.3% of respondents in 1987 from 0.5% of survey respondents in 1984.

There was a comparable increase in the number of survey respondents that did not buy D&O insurance because they considered the cost too high or the coverage too limited.

In 1984, only 1.7% of the survey participants did not buy D&O coverage because of its cost or limitations. But, by 1987, that figure jumped to 9.5% of the survey respondents.

The survey found that during the period from July 1, 1985, to Dec. 31, 1986, the overall premium for D&O insurance increased in excess of 100% for 65% of the survey participants. The study also found that 54% of the participants were hit with a premium increase in excess of 200%, 33% experienced a 500% hike in rates, and 20% were socked with a premium increase in excess of 1,000%.

The cost of excess D&O coverage rose even more severely, the study says. A company is now likely to pay 18 times as much for 60% of the excess D&O coverage it had in prior years.

For example, in 1984, the average premium per million dollars of coverage for excess coverage attaching over a \$10 million primary layer was \$948. In 1987, that premium jumped to \$28,689 per \$1 million, an increase of 2,927%.

Mr. Brockmeier points out that excess D&O coverage may have been even more underpriced than primary D&O coverage.

However, Wyatt says there appears to be some easing of the cost of excess D&O insurance and that the formation of buyer-owned D&O insurers may be responsible for the downward pressure on these premiums.

By quarter, the study found that the cost per \$1 million of excess D&O coverage above a \$10 million primary layer peaked at \$37,913

per \$1 million in the fourth quarter of 1985, but dropped to \$20,518 per \$1 million of excess coverage for policies issued in the fourth quarter of 1986.

The most prominent of the alternative D&O liability insurance markets are Cayman Islands-based A.C.E. Insurance Co. Ltd.; Bermuda-based Bankers Insurance Co. Ltd.; Corporate Officers & Directors Assurance Co., which is underwritten by A.C.E.; Bermuda-based Directors & Officers Liability Insurance Ltd.; Barbados-based Energy Insurance Mutual; and Bermuda-based X.L. Insurance Co. Ltd., according to Wyatt. Combined, those markets write more than 25% of all of the respondents' D&O policies, the survey notes.

The survey points out that the tight market also significantly reduced the amount of limits available in the market.

In 1984, the highest D&O limit

Continued on next page

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D&O survey

Continued from previous page
 reported by a survey participant was \$215 million, while in 1987 the highest reported limit was \$141 million, a 34.4% decrease.

But Wyatt notes that the reduction in available policy limits has been "to the degree which might have been anticipated."

In addition, the survey reports, the average policy limit carried by U.S. companies with assets in excess of \$2 billion dropped to \$41.3 million in 1987, from \$48.6 million in 1984, a decrease of \$7.3 million, or 17.7%. But the D&O limits that companies carried in 1987 are still 23.7%—or \$7.9 million—more than the \$33.4 million in limits they had in 1982.

However, Wyatt found that corporations with between \$25 million and \$100 million in assets have limits that are 41.7% lower than they were in 1984. Those com-

panies' D&O policy limits declined to \$6.5 million in 1987 from \$11.1 million in 1984.

Wyatt said this reduction may stem from a combination of the substantial increase in minimum premiums needed to access the excess market; the lack of access to buyer-formed alternative insurers; and a perception of a reduced need for D&O coverage.

In charting the tightening of the D&O insurance market over the past two years, the survey shows that by the first quarter of 1985, about 53% of renewals were for reduced primary limits, and the average reduction was 25%.

The market reached its most constricted point in the last quarter of 1985 and the first quarter of 1986, when 67% of all renewals were for reduced primary policy limits, with the average reduction being about 50%.

But by the last quarter of 1986, the situation had stabilized, with only 30% of renewals involving a reduction in primary limits. And this reduction was offset by an increase in policy limits on 24% of the renewals in that quarter.

Wyatt notes that a variety of restrictions also have been added to D&O policies since 1984, with the elimination of coverage for outside directors the most widespread.

Of those organizations in the survey, 30% reported no coverage for outside directors, 41% said they had blanket coverage and 29% said they had coverage specifically for outside directors.

Of those companies that reported an unresolved problem in obtaining D&O coverage, 28% said they lost board members as a result.

Interestingly, 24% of the survey participants did not respond whether they had D&O coverage for outside directors. "That seems to indicate that 24% of the partici-

pants were either unaware of what their policy provided, didn't understand the question or chose to ignore it," the survey notes.

"If one interprets the percentage giving some response to the question as a 'sophistication index,' it would appear that banks, utilities, professional service firms and those in the communications and oil industries are most aware of what their policies provide," the report concludes.

The survey also found that the amount of time allowed under extended discovery options continues to decline. "A full year as an extended discovery period was generally available for the asking during the soft market of the early 1980s," the survey notes.

But in 1987, only 42% of respondents said they had a full year to report claims, compared with about 57% of respondents in 1984 reporting a full year discovery period under their D&O policies.

Of the remaining 1987 survey respondents, 41% reported they have a 90-day discovery period, and 15% reported a discovery period of fewer than 90 days. About 9% reported a discovery period of fewer than 30 days.

In addition to tightening policy conditions, D&O underwriters also have dramatically increased deductibles and retentions, according to the survey.

The average corporate reimbursement deductibles skyrocketed 1,326% over the past three years, to \$736,290 in 1987 from \$51,646 in 1984. The increases in corporate reimbursement deductibles was partly due to pressure exerted on policyholders by underwriters and partly voluntary by corporations entering into buyer-owned alternative D&O insurance facilities, Wyatt said.

Personal coverage deductibles

for directors, or the deductible applicable to the liability of each director or officer, jumped on average about 44% to \$7,292 in 1987, from \$5076 in 1984. And, the increase in the aggregate maximum on personal coverage deductibles per claim or series of connected claims was up 196% to \$37,766 in 1987 from \$12,747 in 1984.

Wyatt says increases in personal coverage deductibles for directors were running in the 100% range throughout 1985 and the first two quarters of 1986. But pressure to increase personal coverage deductibles peaked in the third quarter of 1985 and that pressure became almost non-existent in the fourth quarter of 1986.

Wyatt found that while the tight market of 1985 and 1986 drove the price of D&O coverage up dramatically, most organizations continue to carry the coverage.

Of the large, publicly held companies participating in the survey, 96.8% said they still buy D&O insurance, only 1.3% less than 98.1% in 1984.

However, the percentage of small, closely held companies with D&O insurance dropped from 64.3% in 1984 to 42.4% in 1987.

And, among all U.S. corporations with assets of less than \$10 million, the percentage with D&O coverage plummeted to 29% in 1987 from 70% in 1984.

Wyatt warns, as in its previous D&O studies, that the loss data presented in the report may be understated because of the reluctance of companies with very large claims to provide information about those claims. Wyatt notes that it is aware of nine D&O claims that involved awards or settlements in excess of \$20 million and that none of the companies involved in these claims participated in the study.

The survey also projects:

- Approximately 10% of all D&O claims will involve an award or settlement in excess of \$1 million, while about 2.6% will be in excess of \$10 million.

- Legal costs associated with D&O claims continue to climb at a rate estimated at between 10% and 14% per year, with the average defense cost for closed claims reported in 1986 about \$338,000, compared with \$250,000 in 1984.

- The average ultimate defense cost, considering open claims, was \$592,000 in 1986, up 28.4% from \$461,000 in 1984.

- One out of every five Fortune 1,000 companies will be hit with a D&O claim in 1987.

- Shareholder actions continued to be the largest source of D&O claims, but Wyatt said claims by employees and customers are increasing at a faster rate.

- For example, Wyatt said financial institutions are experiencing a sharp growth in claims frequency that can be attributed to actions taken by customers.

- Closely held companies have about 72% more claims than their publicly held counterparts.

- Some 136 of the 232 closed claims reported by respondents, or 58.6%, were closed with no payment to the claimant. This represents a slight increase from the 1984 survey, in which 141 of the 247 closed claims, or 57.1%, were closed without payment to the claimant.

Copies of "Directors and Officers & Fiduciary Liability Survey-1987" by The Wyatt Co. are available for \$400 (\$500 Canadian) from ECS Inc., c/o Risk Management Services, The Wyatt Co., 233 S. Wacker Drive, Suite 5600, Chicago, Ill. 60606. New Jersey residents should add 6% sales tax.

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In Focus:

Los Angeles Overview



Dave Hartoch
Sr. V.P./Branch Manager

How does a wholesale brokerage firm, well-known and respected for providing a highly personalized and dedicated approach to business, succeed in importing its business style to branch offices? Sherwood Insurance Services, founded in San Francisco in 1978, achieved this with its Los Angeles office, which opened in 1984.

"Finding the right people in Los Angeles was the key," revealed Don Sherwood, president. "Establishing our reputation solely on the quality of service means that our people, no matter where they are, must believe and implement our high standards."

The "right staff with the right stuff" is headed by Dave Hartoch, Senior Vice President and branch manager. "We really believe that as long as we give good service, without regard to commissions earned, our customers will be satisfied and the business will grow," stated Hartoch. In the first six months of business, the LA branch pulled in \$6 million in premium; it finished 1986 with \$40 million.

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Fiduciary liability premiums soar

By ROBERT A. FINLAYSON

CHICAGO—Premiums for primary fiduciary liability coverage shot up 264% between 1984 and 1987, while claim frequency rose only 7%, according to The Wyatt Co.'s "Directors and Officers & Fiduciary Liability Survey 1987."

The survey also found that premiums for excess fiduciary liability coverage increased about 587% between 1984 and 1987.

And, insurance buyers are obtaining lower limits and being hit with higher deductibles for the coverage, which protects corporations and their directors against claims stemming from employee benefit plans.

The increased cost of fiduciary insurance does not reflect loss experience, but rather fewer markets "and the unwillingness of underwriters to risk their capacity for anything less than a stipulated premium, even on very remote risks," Wyatt says.

The consultant notes that:

- The 0.087 frequency of fiduciary claims is 9.6% of the 0.908 D&O claim frequency.

- Average fiduciary defense costs of \$38,590 for closed claims are 11.4% of the average cost of \$338,324 for D&O liability closed claims, while the ultimate average of fiduciary defense costs are \$105,756, or 17.9% of the average ultimate defense costs of \$592,000 D&O liability claims.

Noteworthy, the ultimate average expected defense costs for settled and closed fiduciary liability claims declined 9.5% over the past two years from \$116,838 in 1984 to \$105,756 in 1986.

- Fiduciary demands and awards on average are substantially lower than D&O liability demands and awards. For example, 28% of the fiduciary liability claims demanded in excess of \$1 million, while 61% of the D&O claims demanded that amount.

Based on this data, Wyatt concludes that early fears that the Employee Retirement Income Security Act would impose huge monetary burdens on the U.S. business community are "not coming to realization."

The survey found that while prices for fiduciary liability coverage rose substantially, fewer companies have first dollar coverage now. Nearly 41% of those participating in the survey reported having first-dollar coverage, a decrease of 26.8% since 1984, when 56% of the survey respondents reported first-dollar coverage.

The survey also found that the percentage of participants with deductibles over \$100,000 rose from 1% in 1984 to 4% in 1987.

Fiduciary liability insurance limits declined an average of 15% between 1984 and 1987.

The largest companies participating in the survey

suffered the greatest decline in limits. On average, U.S. organizations with more than \$2 billion in assets saw their limits drop 27.8% to \$17.4 million in 1987 from \$24.1 million in 1984.

The second most severe drop in limits was experienced by organizations with assets between \$25 million and \$100 million. Their limits dropped an average of 21.7% to \$3.6 million in 1987 from \$4.6 million in 1984. The percentage of companies carrying limits of \$10 million or more held steady between 1984 and 1987 at 48%, but the percentage of companies with limits of \$25 million or more declined from 17% of those surveyed to 12%. The percentage of survey respondents with limits of \$50 million or more dropped from 5% to 2%.

In 1987, only one respondent reported limits of \$100 million and no respondent reported policy limits of more than \$100 million. This contrasts sharply with the 1984 survey, in which four companies reported limits in excess of \$100 million and nine reported limits equal to \$100 million.

While premiums rose substantially and policy limits declined, the number of corporations carrying some form of fiduciary liability coverage increased to 79.3% in 1987, compared with 78.8% in 1984.

Further, the survey found that more than 90% of all U.S. corporations with more than \$50 million in benefit plan assets or more than 5,000 employees buy fiduciary liability insurance.

A separate fiduciary liability policy was the most popular way of insuring this risk, with 60.6% of the survey respondents buying a separate policy in 1987, up from 56% in 1984. Meanwhile, the percentage of companies with this coverage as an endorsement to a D&O policy declined to 12.4% in 1987 from 17.8% in 1984.

Examining the claims data compiled for the survey, Wyatt found:

- An increase of 2% from 1984 to 1987 in claims susceptibility.

- While there was only a 7% increase in claim frequency on average, claim frequency nearly doubled for plans covering between 10,000 and 25,000 employees.

- The increase in fiduciary claims is less than half the estimated 15% to 20% increase in D&O liability claim frequency.

- Past or present employees or their families continue to be the major source of fiduciary claims. This group accounts for 86% of the claims brought in 1987.

- Denial of benefits continues to be the major allegation in fiduciary claims. But the allegation is now cited in fewer than 50% of all cases, compared with 66.7% in 1984.

France's AGF buys 2 Sentry companies

PARIS—The second-largest insurer in France has purchased two British insurance companies from The Sentry Corp. of Wisconsin for an undisclosed sum.

Assurances Generales de France has acquired Sentry (U.K.) Insurance Co., which writes auto and personal lines insurance, and City of Westminster, which writes life insurance.

AGF, which already writes marine, aviation and non-marine insurance in the London market, will have a combined gross premium volume in Britain of about 100 million pounds (\$160 million), of which 60% will come from the two new acquisitions, said AGF.

AGF, which wrote \$3.7 billion in gross premiums last year, will soon be sold by the French government to the public under a privatization plan.

The French insurer writes 52% life insurance and 48% non-life insurance, holding 8.5% of the total French insurance market, according to an AGF announcement.

Outside France, AGF's gross written premiums last year reached \$518 million and were written mainly in Spain, Brazil, Belgium and Germany.

AGF now employs more than 12,000 people in France and operates in more than 40 countries.

AGF was first registered in London in 1951. Last year, the insurer's gross premiums written in the London market reached 43.8 million pounds (\$64.8 million at year-end exchange rates).

"Clearly, London is a most important center for the insurance world and AGF is pleased to have this opportunity to acquire a group which so effectively complements our current activities here," said Jean-Pierre Paumier, AGF's principal U.K. executive.

"This operation is a significant step in the international development of Assurances Generales de France."

EC export credit

BRUSSELS, Belgium—Companies in Europe may soon find it easier to buy export credit insurance if the 12 member states of the European Community adopt a proposal to set up an export credit insurance system.

The proposal would establish an agency called System Europeen d'Assurance-Credit a l'Exportation (SEACE), which would write insurance coverage on export contracts carried out by companies from two or more EC member states.

The EC export credit system is designed to boost the EC's competitive edge on exporting to developing country markets by making it easier and cheaper for consortiums to buy adequate coverage, said the EC executive commission. The SEACE system could reduce the cost of export insurance by as much as 0.5% of the present premium rate, it says.

Currently, 12 different export credit insurance systems operate in EC countries, all under the control of the national governments. These include Hermes in German, Coface in France, and the Export Credit Guarantee Department in the United Kingdom.

However, each system only protects national exports. So when export contracts include goods or services from more than one EC member state, ad hoc insurance arrangements are made that often take a long time to arrange.

The SEACE, however, would coordinate the activities of these 12 national export credit insurers and draw up one, single policy and divide the coverage among the national export credit insurance

worldwide

companies involved.

The company at the head of the consortium seeking export credit insurance would make an application to SEACE, which would decide on extending the coverage within a 10-day time limit.

SEACE also will decide how the risk will be distributed between the different national export credit organizations.

Approval of SEACE could take up to a year.

EC product liability

BRUSSELS, Belgium—BEUC, the European consumers union, fears that consumers will have less

protection if European Community states adopt three options allowed under the EC's product liability directive.

The EC directive, adopted in July 1985, enforces strict liability on manufacturers for their products and must be implemented in each member state under national legislation.

The directive, however, allows three options that weaken protection to consumers, according to the BEUC. The member state can limit a manufacturer's total liability; introduce a "state-of-the-art risk defense," whereby a manufacturer can claim that products of similar nature were not known to cause

injury at the time they were produced; and decide whether to include agricultural products under the legislation.

The BEUC now fears that member states will apply these options, particularly the state-of-the-art defense, "fully giving in to industry lobbying."

So far, only Great Britain has passed legislation under the Consumer Protection Act that permits the state of the art defense, while the Netherlands and Denmark have legislation in the pipeline.

Britain's law and the other draft laws "confirm our fears, while preparatory discussions in other member states give rise to the same concern."

The BEUC also goes so far as to say that the implementation of the EC directive may be a step back-

ward from the consumers' point of view.

BEUC is calling on the Council of Minister to look into this problem soon.

Mergers/acquisitions

The AEGON Insurance Group of the Netherlands is negotiating to acquire Spanish insurance company Union Previsors S.A., a Madrid-based property/casualty insurer with annual premiums of about \$50 million. AEGON's annual premiums total approximately \$100 million.

Contributing to this column were Business Insurance International Editor Stacy Shapiro in London and correspondent Denise Claveloux in Brussels, Belgium.

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Workers compensation ruling

Continued from page 2

Michael Thomason allegedly was replacing a seal on a 120,000-gallon tank used to store latex when the tank exploded, causing severe injuries to Mr. Thomason and to Agatha M. Edmondson, another employee who was nearby.

Although Mr. Thomason and Ms. Edmondson received workers compensation benefits, they sued Superb Carpet Mills in 1985.

Among their allegations was that Superb Carpet Mills increased the pressure applied to the tank to nearly double the maximum pressure for which the tank had been designed. In addition, the company had permanently plugged up three "blow-off" safety valves, they contended.

The employees argued that their claims for property and punitive damages are not covered by the exclusive remedy provisions of the state's Workers' Compensation Act, which Superb Carpet Mills disputed.

In August 1986, the trial court judge ruled that the employees' right to sue their employer for property damage was not superseded by the exclusive remedy of the state workers

compensation act.

And, the trial court concluded, because the plaintiffs could sue for property damages outside the workers compensation system, they could also seek to recover punitive damages based on Superb Carpet Mills' alleged misconduct.

In a six-page opinion, the Court of Appeals of Georgia agreed with the lower court that the employees' property damage claim was not barred by the exclusive remedy provision of the state's workers compensation act. However, it disagreed with the trial court's finding that the act also did not bar the employees' claim for punitive damages.

According to the appeals court, the original purpose of workers compensation legislation was to create by statute a remedy for personal injuries suffered by employees.

Looking at the Georgia Workers' Compensation Act, the court found that "injury" means "personal injury" and that both terms mean "only injury by accident arising out of and in the course of employment."

"The benefits conferred by the act relate to damages for personal injury and not property damage," the court said.

The court also noted that there have been other claims not

based on physical injury that courts have held are barred by the workers compensation act. But in those cases, the act provided a specific remedy for the damages sought.

"Because the Georgia Workers' Compensation Act does not provide a remedy for damage to personal property, we find the act does not bar an action for damages to personal property," the court said.

"To hold otherwise would deny an employee of this constitutional right to due process and equal protection of the law."

However, the court found that the employees could not recover punitive damages under the workers compensation act because the alleged property damage and personal injuries arose out of the same conduct or incident.

"It is well settled that the Georgia Workers' Compensation Act precludes recovery of additional damages for willful or intentional acts of the employer so long as the injury arises out of and in the course of employment," the court said.

While some jurisdictions make an exception to this general rule through a statute, Georgia does not make a statutory exception to the exclusive remedy rule.

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Vice-presidents, General Managers and Other Administrative Personnel 3,136

Financial:
Chief Financial Officers and Vice-presidents of Finance 2,683
Secretaries, Treasurers, controllers and other Financial Personnel 4,888

Risk/Employee Benefits:

Vice-presidents, directors, managers, and other related department personnel of: insurance, risk, employee benefits, personnel, compensation, pension, safety, security, industrial relations, human resources and employee/labor relations 8,144

Sub-total 21,277
Associations 506
Government, Unions and Educational Institutions 1,400

Commercial Consumers

Sub-total 23,183

Insurance Agents and Brokers 11,009
Insurance Companies 7,111
Financial Institutions 989
Actuaries, Attorneys, Adjusters, Appraisers and Consultants 5,560
Others Allied to the Field 1,442
TOTAL 49,294

* Source Business/Occupational breakdown of qualified circulation, November 24, 1986 issue, as submitted to BPA for December 1986 BPA Publisher's Statement.

The best-paid CEOs among leading commercial insurers

Rank	Firm rank	CEO/age	Company	1986 cash compensation	1985 cash compensation	% change from 1985	No. of shares held	Firm's 1986 revenues (in millions)	% change from 1985	Firm's 1986 net income (in millions)	% change from 1985
1	12	Saul P. Steinberg, 47	Reliance Group Holdings Inc.	\$4,188,000	N/A ¹	N/A	32,837,800	\$3,225.7	+27.7%	\$63.0	+45.3%
2	18	Marshall Manley, 46	The Home Group Inc.	1,825,477	\$1,001,975 ²	+82.2%	121,315	2,193.7	+10.0	178.7	N/M
3	2	Robert D. Kilpatrick, 63	CIGNA Corp.	1,217,500	1,047,000	+16.0	34,694	17,064.1	+5.4	817.3	N/M
4	10	Jack Moseley, 55	USF&G Corp.	1,211,656	420,027	+188.5	22,005	4,336.8	+21.9	296.3	N/M
5	6	Harold S. Hook, 55	American General Corp.	939,216	904,000	+3.9	136,996	6,160.0	+8.5	669.0	+32.0
6	3	Edward H. Budd, 53	The Travelers Corp.	829,769	742,570	+11.7	45,181	16,046.6	+10.3	545.8	+45.5
7	4	Maurice R. Greenberg, 61	American International Group Inc.	822,500	750,000	+9.7	3,492,808	8,876.0	+53.5	796.0	+89.3
8	7	James R. Harvey, 52	Transamerica Corp.	807,600	585,000	+38.1	145,780	6,075.5	+8.7	267.5	+83.4
9	5	Edward J. Noha, 59	CNA Financial Corp.	800,333	625,583	+27.9	450	6,392.3	+8.8	403.5	+32.2
10	1	James T. Lynn, 60	Aetna Life & Casualty Co.	798,626	630,511	+26.7	21,379	20,483.0	+10.1	1,043.0	+117.4
11	13	Henry V. Harder, 62	The Chubb Corp.	788,485	570,185	+38.3	14,198	3,208.8	+34.0	267.9	+279.8
12	14	Robert J. Haugh, 61	The St. Paul Cos. Inc.	720,455	676,481	+6.5	19,672	3,181.6	+19.1	217.1	+130.6
13	9	Ian M. Rolland, 53	Lincoln National Corp.	704,782	501,295	+40.6	57,785	5,998.8	+22.3	284.4	+32.8
14	11	John J. Byrne, 54	Fireman's Fund Corp.	670,000	283,333	+136.5	1,700,000	3,699.0	+10.4	228.0	N/M
15	30	Pierre D. Croizat, 46	Scor U.S. Corp.	669,694	N/A ¹	N/A	9,134	58.7	+43.4	10.2	+949.4
16	21	Patrick G. Ryan, 49	Aon Corp.	617,835	512,738	+20.5	2,949,673	1,805.6	+32.8	247.2	+35.9
17	15	Ronald E. Ferguson, 45	General Re Corp.	576,517	New CEO	N/A	5,318	3,175.2	+49.6	328.7	+142.0
18	25	William R. Berkley, 41	W.R. Berkley Corp.	572,608	461,100	+24.2	1,637,954	413.4	+92.7	39.3	+339.3
19	26	Wilson Wilde, 59	The Hartford Steam Boiler Inspection & Insurance Co.	567,692	527,308	+7.7	12,852	388.8	+22.7	53.1	+72.2
20	20	Colin C. Hampton, 63	UNUM Corp.	546,346	N/A ¹	N/A	8,514	2,116.8	+18.4	115.1	-4.4
21	8	John P. Mascotte, 47	The Continental Corp.	464,615	507,615	-8.5	16,209	6,002.3	+17.9	449.6	+633.9
22	28	James A. McIntyre, 54	Fremont General Corp.	413,745	377,881	+9.5	268,789	93.1	+7.2	(23.0)	N/M
23	17	Bruce Maines, 60	SAFECO Corp.	394,763	288,071	+37.0	25,814	2,598.6	+19.5	228.7	+34.2
24	24	Alan R. Gruber, 59	Orion Capital Corp.	351,814	318,378	+10.5	65,271	478.9	+9.4	(36.0)	N/M
25	16	Joseph E. Luecke, 60	Kemper Corp.	301,168 ³	192,479 ³	+56.5	76,836	2,778.3	+12.9	201.1	+115.0
26	22	John G. Sloneker, 65	Ohio Casualty Corp.	300,000	265,567	+13.0	812,760	1,379.4	+20.0	102.7	+132.9
27	23	William R. Stover, 64	Old Republic International Corp.	264,200	261,383	+1.1	1,744,019	1,143.5	+28.6	67.7	+188.0
28	29	James F. Billett Jr., 42	Trenwick Group Inc.	225,625	190,000 ¹	+18.8	86,700	70.7	+114.3	5.9	+227.0
29	27	Donald Kramer, 49	NAC Re Corp.	221,350	191,250	+15.7	379,792	96.8	+215.0	6.1	N/M
30	19	Warren E. Buffett, 56	Berkshire Hathaway Inc.	101,099	100,000	+1.1	474,998	2,167.6	+131.6	282.4	-35.2

¹ Went public in 1986 ² Includes moving expenses ³ 1986 and 1985 figures reflect Mr. Luecke's salary as CEO of Kemper Corp. and are, respectively, 41% and 42% of the total cash compensation he received for all positions held in Kemper Group.
 N/A—Not available N/M—Not meaningful
 Chart: Amy Palmer Research: Peter Elstrom Source: Proxy statements and annual reports

Compensation

Continued from page 1

As insurance companies become more competitive with other financial services, they are "playing catch-up" with other industries in paying their top executives, he noted.

For example, the average compensation earned by property/casualty insurance company chief executives trailed the average compensation earned by CEOs in five of six other sectors of the financial services industry, according to a new survey by Heidrick & Struggles, an executive search firm.

The \$259,800 average annual compensation earned by property/casualty CEOs exceeded only the average \$227,800 in compensation earned by the chief executives at mortgage banks.

By contrast, the chief executives at brokerage firms and investment banks earned an average of \$673,800 in cash compensation, according to Heidrick & Struggles.

CEOs at commercial banks earned average cash compensation of \$456,000; life insurance company chief executives took home an average cash compensation of \$414,000; investment management company CEOs earned an average cash compensation of \$408,200; and savings and loan chief executive officers were paid an average cash compensation of \$378,500.

According to a voluntary survey by Hewitt of the CEOs of 70 diversified financial institutions, including insurers, the average base pay was \$527,800 and the average bonus was \$467,200 for a total average compensation of \$995,000 in 1986.

Among those respondents were approximately 20 life and property/casualty insurers, who reported an average base salary of \$521,700 and an average bonus of \$187,600 for a total average compensation of \$709,300.

According to Hewitt's Mr. Cates, a property/casualty insurance company CEO's compensation rests largely on performance of the company. "A bonus plan now might pay out at 50% of salary for a CEO," Mr. Cates said.

"Bonuses are often based on performance and if a company had a banner year in '86, then 1986 was a banner pay year," concurred Heidi Toppel, a principal and consultant at The Wyatt Co. in New York.

The average base salary increase for top executives in the financial services area was 10% last year, but total cash compensation increases spanned a very broad range, Ms. Toppel said.

In addition to an emphasis on performance-based compensation, Ms. Toppel said as the U.S. economy shifts toward a service-oriented economy, financial services companies are paying higher salaries.

Previously, the banking and insurance industry lagged behind manufacturing industries in compensation. "But now the sides have switched," she said.

Ms. Toppel also predicted that compensation tied to stock ownership for top executives will be changing because of tax law revisions. "Stock options have lost a lot of their luster," she said.

Because capital gains now will be subject to the same tax rate as regular income, there will no longer be an incentive to merely hold stock.

Companies now are instituting restrictive stock plans, in which stock is acquired at no cost but with strings attached. For example, executives may be required to stay with the company a certain period or reach set earnings goals in order to claim the shares promised to them.

"This also helps increase the interest of the executive in the long-term performance of the company," Ms. Toppel said. "Boards of directors are very receptive to this."

The second highest-paid CEO in the BI survey was Marshall Manley, president and chief executive of The Home Group Inc., parent of The Home Insurance Co. and other insurers.

Mr. Manley's cash compensation totaled \$1.83 million in 1986, an increase of 82.2% from \$1 million in 1985. Mr. Manley, 46, owns 121,315 shares of Home stock and his long-term compensation includes future stock options.

The Home Group's profits rose along with

Mr. Manley's compensation. The company reported net income of \$178.7 million in 1986, compared with a \$5.2 million loss in 1985.

Coming in third with \$1.22 million in cash compensation was Robert D. Kilpatrick, 63, chairman and CEO at CIGNA Corp. His cash package increased 16% from 1985 when his compensation totaled \$1.05 million in salary, bonus and stock rights.

Philadelphia-based CIGNA reported net income of \$817.3 million in 1986, compared with a \$732.5 million net loss in 1985.

Also earning more than \$1 million last year was Jack Moseley, 55, chairman and president of USF&G Corp. of Baltimore. Mr. Moseley earned \$1.21 million in cash compensation in 1986, a raise of more than 188.5%. USF&G reported net income of \$296.3 million last year, up from a net loss of \$108 million in 1985.

American General Corp. of Houston paid Chairman and CEO Harold S. Hook, 55, \$939,216 in cash compensation in 1986, a 3.9% increase from 1985.

At the same time, American General's net income rose 32% to \$669 million in 1986 from \$506 million in 1985.

Four CEOs earned between \$800,000 and \$900,000 in 1986:

- Edward H. Budd, 53, chairman, president and CEO of The Travelers Corp., who earned \$829,769 in 1986, up 11.7% from \$742,570 in 1985.

Hartford, Conn.-based Travelers' net income rose 45.5% last year to \$545.8 million.

- Maurice R. Greenberg, 61, who received \$822,500 in cash compensation as president and CEO of American International Group Inc. in 1986, a 9.7% raise from \$750,000 in 1985.

The New York-based insurer's net income increased 89.3% to \$796 million last year.

A Business Week survey published in May listed Mr. Greenberg as the seventh-highest paid executive in the nation based on his long-term compensation package. The combination of his 1986 salary and bonuses added to his long-term compensation totaled \$4.6 million.

In addition, Mr. Greenberg is also one of

the 400 wealthiest individuals in the United States, according to last year's Forbes survey. Forbes estimated that Mr. Greenberg's AIG stock, plus other holdings, totaled \$220 million.

- Transamerica Corp.'s Chairman and CEO James R. Harvey, 52, who earned \$807,600 in cash compensation last year, a 38.1% increase from his 1985 compensation of \$585,000.

The San Francisco-based company's net income increased 83.4% in 1986 to \$267.5 million.

- CNA Financial Corp. Chairman, President and CEO Edward J. Noha, 59, who received \$800,333 in cash compensation in 1986, up 27.9% from \$625,583 in 1985.

Net income for the Chicago-based holding company increased 32.2% to \$403.5 million in 1986.

Only one executive in the survey took home a smaller paycheck last year: John P. Mascotte, 47, chairman and CEO at Continental Corp. took an 8.5% cut in cash compensation to \$464,615, while the company's net income increased 633.9% in 1986 to \$449.6 million.

Continental officials could not be reached to comment.

The only company in the survey that elected a new CEO last year was Stamford, Conn.-based General Re Corp. Ronald E. Ferguson, 45, earned \$576,517 in 1986 as General Re's top officer.

Four of the companies in the survey, including Reliance and Trenwick, went public in 1986, and the 1986 compensation of three of these companies' chief executives could not be compared with 1985.

Besides Reliance, these companies are:

- Scor U.S. Corp. of New York, which paid President Pierre D. Croizat, 46, \$669,694 in total cash compensation during 1986.

- UNUM Corp. of Portland, Maine, which paid Colin C. Hampton, 63, cash compensation of \$546,346 in 1986.

Finally, Trenwick's Mr. Billett got a raise last year: His cash compensation increased 18.8% to \$225,625.

Trenwick's net income rose 227% to \$5.9 million last year.



Mr. Manley



Mr. Kilpatrick

The average compensation of property/casualty insurance company CEOs trailed the average in five of six other financial services sectors

New Lloyd's syndicate to write U.S. risks

By CAROLYN ALDRED

LONDON—A new Lloyd's of London non-marine syndicate hopes to begin underwriting next year using about 25% of its projected 16 million pounds (\$25.6 million) in premium capacity to write North American reinsurance business.

Lloyd's underwriting agency Wellington Underwriting Agencies Ltd. recently announced that it plans to set up a new non-marine syndicate to attract new reinsurance business to Lloyd's. Wellington has had an encouraging response from people interested in becoming members of the new syndicate, said Anthony Cooper, managing director of Wellington Underwriting Agencies.

While the syndicate will have a 16 million pound premium capacity, the syndicate probably will write about 12 million pounds (\$19.2 million) in premium volume in 1988, according to the syndicate's prospectus.

"It is anticipated that a major proportion of the business written by the syndicate will be new to the Lloyd's market," according to the prospectus.

The amount of U.S. business written "is likely to be a less significant proportion of the account than for most non-motor syndicates at Lloyd's," the prospectus adds. However, according to the prospectus, up to one-quarter of the business written by the syndicate will come from the United States.

"It will be the aim of the syndicate to become a leading reinsurer in most lines of business worldwide," according to Wellington. The syn-

dicade initially will specialize in property, light-medium liability, motor and short-tail accident classes of insurance.

"An extremely cautious policy will always be adopted towards the most hazardous liability areas, especially in relation to risks emanating from the U.S.," the prospectus says.

In addition, the syndicate will not grant binding authorities to brokers.

According to the prospectus, between 28% and 34% of the syndicate's initial business will be produced from the United Kingdom, while between 21% and 25% of the business will come from North America.

The current capacity of the syndicates managed by Wellington is about 380 million pounds (\$608 million), of which only 7.5%—or 28.5 million pounds (\$45.6 million) is devoted to non-marine risks. The additional 16 million pounds in capacity from the new syndicate would raise Wellington's overall non-marine capacity to 44.5 million pounds (\$71.2 million).

Lead underwriter for the new syndicate will be Bill Petzold, formerly managing director of Munich Reinsurance Co.'s non-life insurance branch in Britain.

Meanwhile, Wellington is closing marine syndicate 447 at the end of the year as a result of recommendations of the special government committee headed by Sir Patrick Neill that investigated Lloyd's.

The Neill report, published in January, recommends that each syndicate under the same managing agency should have a separate independent underwriter.

While syndicate 447 was started in response to "consistent demand for a syndicate writing short-tail business only, risks were always written as an addition to the line of syndicate 448," said syndicate 447 underwriter David Beaumont, who is also underwriter for syndicate 448.

Although syndicate 448 has people "capable of being underwriter" for syndicate 447, "not only would that weaken the team on syndicate 448, but more importantly I do not think the best of the business will follow for the comparatively small line written," said Mr. Beaumont.

Syndicate 447 wrote 3 million pounds in premium for the 1984 accounting year (\$4.44 million at applicable exchange rates), the year now closing under Lloyd's three-year accounting system. Syndicate 448 wrote 57.5 million pounds (\$85.1 million) in premium in 1984.

Although 447's results for 1984 are "unnaturally good," the syndicate last October was forced to place its reinsurance program separately from syndicate 448's to comply with new codes of practice at Lloyd's, says Mr. Beaumont.

Because "we have hit our reinsurers so hard, they quoted prohibitive rates on renewal, which would have made it impossible for us to make a profit," he adds.

In addition, it would "not be possible to maintain 447's account on a strictly short-tail basis, which was the reason why members of that syndicate found it attractive," according to Mr. Beaumont.

All business currently written by syndicate 447 will be absorbed by syndicate 448 for the 1988 account, according to Mr. Beaumont. ■

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Jun 8	May 27
Jun 15	Jun 3
Jun 22	Jun 9
Jun 29	Jun 17
Jul 6	Jun 24
Jul 13	Jun 30
Jul 20	Jul 8
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Aug 24	Aug 12
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Sep 7	Aug 26
Sep 14	Sep 2
Sep 21	Sep 9
Sep 28	Sep 15
Oct 5	Sep 23
Oct 12	Sep 30
Oct 19	Oct 7
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Nov 2	Oct 20
Nov 9	Oct 28
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Nov 16	Nov 3
Nov 23	Nov 11
Nov 30	Nov 18
Dec 7	Nov 25
Dec 14	Dec 2
Dec 21	Dec 8
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JULY 12-24. Executive Management Program in Harriman, N.Y., sponsored by The College of Insurance; \$1,995 for college sponsors; \$2,295 for non-sponsors. The College of Insurance, 1 Insurance Plaza, 101 Murray St., New York, N.Y. 10007; 212-962-4111.

JULY 13-17. Modern Safety Management seminar in Atlanta, sponsored by the International Loss Control Institute; \$695. International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 404-466-2208.

JULY 14. Avoiding Employer Liability Under the State Laws of Illinois seminar in Schaumburg, Ill., sponsored by Haimes Associates Inc.; \$325; \$300 each for more than one attendant from same company. Also July 21 in Chicago, Haimes Associates Inc., 708 S. Washington Square, Philadelphia, Pa. 19106; 215-922-1617.

JULY 16-17. Introduction to Qualified Pension and Profit-Sharing Plans seminar in New York, sponsored by the Practising Law Institute; \$390. Also Aug. 6-7 in Chicago and Aug. 20-21 in San Francisco. Practising Law Institute, Dept. 5W, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700.

JULY 16-17. Video Display Terminal Safety course in Los Angeles, sponsored by the University of Southern California's Institute of Safety and Systems Management; \$265. University of California, Institute of Safety and Systems Management, Office of Extension and In-service Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-6523.

JULY 26-31. Fundamentals of Employee Benefits Management conference in Brookfield, Wis., sponsored by the International Foundation of Employee Benefit Plans; \$900. Also Oct. 11-16. International Foundation of Employee Benefit Plans, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

JULY 27-28. Health Care Cost Containment workshop in Honolulu, sponsored by the Health Research Institute; \$495. Also Aug. 17-18 in San Diego; Sept. 14-15 in Cleveland; Oct. 5-6 in Boston; Oct. 26-27 in San Francisco; Nov. 9-10 in New York; and Dec. 7-8 in Chicago. Health Research Institute, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

JULY 27-31. Managing Program Implementation seminar in Atlanta, sponsored by the International Loss Control Institute; \$695. International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 404-466-2208.

JULY 29. Health Improvement/Wellness workshop in Honolulu, sponsored by the Health Research Institute; \$250. Also Aug. 19 in San Diego; Oct. 7 in Boston; Oct. 28 in San Francisco; Nov. 11 in New York; and Dec. 9 in Chicago. Health Research Institute, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

JULY 29. Advanced "Post Graduate" Cost Management workshop in Honolulu, sponsored by the Health Research Institute; \$250. Also Aug. 19 in San Diego; Sept. 16 in Cleveland; Oct. 7 in Boston; Oct. 28 in San Francisco; Nov. 11 in New York; and Dec. 9 in Chicago. Health Research Institute, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

JULY 29-30. 1987 National Workers Compensation Seminar in Cape Cod, Mass., sponsored by Workers' Compensation Monthly; \$195. Workers' Compensation Monthly, P.O. Box 590, Falmouth, Mass. 02541.

JULY 30. Assessing Vendors (HMOs, PPOs, Utilization Review Firms, etc.) workshop in Honolulu, sponsored by the Health Research Institute; \$250. Also Aug. 20 in San Diego; Sept. 17 in Cleveland; Oct. 8 in Boston; Oct. 29 in San Francisco; Nov. 12 in New York; and Dec. 10 in Chicago. Health Research Institute, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

JULY 30. Cost Containment Through Communications and Education workshop in Honolulu, sponsored by the Health Research Institute; \$250. Also Aug. 20 in San Diego; Sept. 17 in Cleveland; Oct. 8 in Boston; Oct. 29 in San Francisco; Nov. 12 in New York; and Dec. 10 in Chicago. Health Research Institute, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

JULY 30-31. Labor/Management Cost Containment workshop in Honolulu, sponsored by the Health Research Institute; \$495. Also Aug. 20-21 in San Diego; Sept. 17-18 in Cleveland; Oct. 8-9 in Boston; Nov. 12-13 in New York; and Dec. 10-11 in Chicago. Health Research Institute, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

JULY 30-AUG. 1. Florida Surplus Lines Assn. Annual Convention in Amelia Island, Fla.; \$200 for FSLA members; \$225 for non-members. Roger Gobler, Florida Surplus Lines Assn., P.O. Box 2909, Jacksonville, Fla. 32203.

AUG. 2-7. Basic Reinsurance Program in Tarrytown, N.Y., sponsored by the College of Insurance; \$950 for college sponsors; \$1,115 for non-sponsors. The College of Insurance, 1 Insurance Plaza, 101 Murray St., New York, N.Y. 10007; 212-962-4111.

AUG. 2-7. Middle Management Program in Kansas City, Kan., sponsored by The College of Insurance; \$950 for college sponsors; \$1,115 for non-sponsors. The College of Insurance, 1 Insurance Plaza, 101 Murray St., New York, N.Y. 10007; 212-962-4111.

AUG. 3-4. Non-Qualified Deferred Compensation Plans seminar in San Francisco, sponsored by the Practising Law Institute; \$390. Practising Law Institute, Dept. 5W, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700.

AUG. 3-4. 1987 Business Insurance Employee Benefit Communications Conference in New York; \$650. Barbara Dalton, Registrar, Business Insurance, Communication Services Department, 220 E. 42nd St., Suite 930, New York, N.Y. 10017; 212-210-0780.

AUG. 5-6. The Sixth Annual Governmental Insurance Conference in Austin, Texas, sponsored by Professional Development Institute; \$245. Professional Development Institute, North Texas State University, P.O. Box 13288, Denton, Texas 76203-3288; 817-565-2483.

AUG. 10. Questions on the New CGL and CP Policies? Ask the Claims Department! workshop in Asheville, N.C., sponsored by the Society of Chartered Property & Casualty Underwriters; \$120 for Society members; \$145 for non-members. Mari Jennings, Society of CPCU, Kahler Hall, 725 Providence Road, CB#9, Malvern, Pa. 19355; 215-251-2741.

AUG. 11-14. Supervisory Program in New York, sponsored by the College of Insurance; \$630 for college sponsors; \$715 for non-sponsors. The College of Insurance, 1 Insurance Plaza, 101 Murray St., New York, N.Y. 10007; 212-962-4111.

SEPT. 8-11. Reinsurance Accounting and Fi-

nance for Ceders and Assurers seminar in Tarrytown, N.Y., sponsored by Robert W. Strain Seminars Inc.; \$1,295 (includes lodging and meals). Robert W. Strain Seminars Inc., P.O. Box 1000, Wingdale, N.Y. 12594; 914-832-9384 or 212-677-5974.

SEPT. 11. Managing and Controlling Asbestos Contamination course in Los Angeles, sponsored by the University of Southern California's Institute of Safety and Systems Management; \$160. University of California, Institute of Safety and Systems Management, Office of Extension and In-service Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-6523.

SEPT. 12-16. 73rd Annual Convention of the International Assn. of Industrial Accident Boards & Commissions in Hartford, Conn.; \$185 for members; \$250 for non-members; \$100 for registrant companions. International Assn. of Industrial Accident Boards & Commissions, P.O. Box 4335, Hamden, Conn. 06514.

SEPT. 13-16. Computerized Plan Administration Institute in Dallas, sponsored by the International Foundation of Employee Benefit Plans; before July 16: \$480 for IFEBP members, \$555 for non-members; after July 16: \$525 for IFEBP members, \$600 for non-members. Registrations Department, International Foundation of Employee Benefit Plans, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

SEPT. 14-16. Training Methods and Techniques in Occupational Safety and Health: Training the Trainer course in Los Angeles, sponsored by the University of Southern California's Institute of Safety and Systems Management; \$420. University of California, Institute of Safety and Systems Management, Office of Extension and In-service Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-6523.

SEPT. 14-18. Fundamentals of Industrial Hygiene Monitoring course in Long Grove, Ill., sponsored by The National Loss Control Service Corp.; \$500. Also Nov. 16-20. John Garis, NATLSCO, K-3, Long Grove, Ill. 60049; 800-323-9585; 312-540-2400 within Illinois.

SEPT. 20-23. 42nd Annual Workers Compensation Educational Conference in Orlando, Fla., sponsored by the Florida Workers' Compensation Institute Inc.; \$95. James M. McConaughay, Florida Worker's Compensation Educational Conference, P.O. Drawer 229, Tallahassee, Fla. 32302-0229; 904-222-8121.

SEPT. 21-25. Developing and Managing a Basic Safety and Health Program course in Long Grove, Ill., sponsored by The National Loss Control Service Corp.; \$650. Also Nov. 2-6. Tommy Thomas, NATLSCO, K-3, Long Grove, Ill. 60049; 800-323-9585; 312-540-2400 within Illinois.

SEPT. 28-30. Audio-Visual Media for Safety and Health: Developing and Producing Inexpensive Programs course in Los Angeles, sponsored by the University of Southern California's Institute of Safety and Systems Management; \$420. University of California, Institute of Safety and Systems Management, Office of Extension and In-service Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-6523.

OCT. 4-7. 1987 Benefit Communication Institute in Williamsburg, Va., sponsored by the International Foundation of Employee Benefit Plans; by Sept. 4: \$480 for members, \$555 for non-members; after Sept. 4: \$525 for members, \$600 for non-members. International Founda-

tion of Employee Benefit Plans, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

OCT. 7-9. The International Insurance and Risk Management Conference in Venice, Italy, sponsored by Management Centre Europe; 73,000 Belgian francs (approx. \$1,927) for non-members; 65,700 Belgian francs (approx. \$1,734) for members; 60,800 Belgian francs (approx. \$1,605) for risk managers. Registrar, Management Centre Europe, Postbus 95, NL-3417 ZH Montfoort, The Netherlands.

OCT. 11-14. Remembering the Past... Anticipating the Future: The Society of Chartered Property & Casualty Underwriters' 43rd Annual Meeting and Seminars in San Antonio, Texas; before Sept. 14: \$275 for Society of CPCU members, \$170 for spouses/guests; after Sept. 14: \$325 for Society of CPCU members, \$170 for spouses/guests. Society of Chartered Property & Casualty Underwriters, Kahler Hall, Providence Road, CB#9, Malvern, Pa. 19355-0709.

OCT. 11-14. Risk Management Forum: Association of Insurance des Assures de l'Industrie and the Risk & Insurance Management Society Inc. International Conference in Monte Carlo; 2,300 French francs (approx. \$386) for university members or students; 4,600 French francs (approx. \$772) for members of a risk management department; 6,300 French francs (approx. \$1,058) for insurers, brokers, adjusters and other professions other than those listed. Association Europeenne des Assures de l'Industrie/Risk & Insurance Management Society Monte Carlo Conference, SOCFI, 14 Rue Mandar, 75002 Paris, France.

NOV. 9-10. The Solution to the High Cost Claim—Medical Case Management conference in New York, sponsored by Intracorp; \$385; \$340 per additional registrant from the same organization. Jackie Mazoway, Intracorp, Chesterbrook Corporate Center, 701 Lee Road, Wayne, Pa. 19087; 800-345-1075.

NOV. 9-12. Seventh Annual Construction Insurance Conference and Pre-conference Seminars in New Orleans, sponsored by the International Risk Management Institute Inc.; \$235 for one pre-conference seminar (Nov. 9); Construction Insurance Primer, Insurance Cost Control, or Risk Financing Alternatives; \$495 for conference (Nov. 10-12); \$595 for conference and one pre-conference seminar. International Risk Management Institute Inc., 1222 Merit Drive, Suite 1660, Dallas, Texas 75251-2217; 800-527-2580; 214-960-7693 within Texas.

NOV. 15-19. National Assn. of Independent Insurers' 42nd Annual Meeting in Maui, Hawaii; \$250 for members; \$350 for subscribers and guests; \$100 for spouses. National Assn. of Independent Insurers, 2600 River Road, Des Plaines, Ill. 60018-3286; 312-297-7800.

DEC. 4-9. 33rd Annual Employee Benefits Conference in San Francisco, sponsored by the International Foundation of Employee Benefit Plans; before Oct. 4: \$480 IFEBP members only; after Oct. 4: \$525 IFEBP members only. Registration Department, International Foundation of Employee Benefit Plans, 18700 Blumound Road, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

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Fireman's Fund

Continued from page 3

reported as 5.3% of the auto insurance market, with 4.4% of the personal auto insurance marketplace and 9% of the commercial auto insurance marketplace.

"Fireman's Fund is in violation of state laws and regulations by not giving notice," said Mr. Singer, adding that even if Fireman's Fund accepts the reissued licenses and resumes writing, it may still be fined or subject to a class-action suit by its agents.

"Four hundred agents aren't going to take this sitting down," Mr. Singer added.

Agents and brokers in Massachusetts were notified of the pullout by letters delivered by an express delivery service, dated and received July 1. Attorneys and representatives from Fireman's Fund broke the news in person to the Insurance Department the same day.

In a memorandum included with the letter to the agents, Fireman's Fund stated that it would continue to service existing policies and new policies processed before July 1 through their expiration dates.

Fireman's Fund said in its letter: "For a number of years, we have tried but have been unable to make a profit in the Commonwealth of Massachusetts. Likewise, we do not believe that Fireman's Fund is likely to make a reasonable return on its investment in the future, and thus cannot continue to remain licensed."

The letter was signed by Bruce P. Berthelsen, senior vp/Eastern zone executive, who could not be reached for comment.

The suddenness of the action surprised the state's insurance industry. The Insurance Department's main switchboard was jammed all day Wednesday with calls from furious agents and brokers.

But a representative from Fireman's Fund said the decision was far from rash. "We had been thinking about it for a long time," said a spokeswoman. "We were experiencing heavy losses in auto." Fireman's Fund last year was assessed about \$26 million by the state's assigned risk auto plan, she said.

Most agents in the state expressed both surprise and dismay at the news.

"We're facing huge errors and omissions exposures here," said Frederick J. England Jr., president of ISU/Hastings-Tapley Insurance Agency Inc. Mr. England is concerned that some policies the agency thought were renewed may not be renewed. Of Hastings-Tapley's \$70 million in annual premium volume, about \$2.5 million is placed with Fireman's Fund.

Although Mr. England noted there appeared to be a high turnover in Fireman's Fund's personnel in recent years, Hastings-Tapley had no indication in the last several weeks the insurer was considering a pullout.

"We were unaware that this was even contemplated," said John D. Riley, senior vp of Fred S. James & Co. of New England. "It took everyone by surprise—even their employees. They're as devastated by the news as the producers are."

While James has never placed a great deal of personal auto insurance with Fireman's Fund, Mr. Riley said local and regional agents will be sadly affected by the pullout.

"We feel comfortable that we can replace the business," said Mr. Riley, referring to the corporate accounts formerly placed with Fireman's Fund.

The Massachusetts chapters of the National Assn. of Professional Insurance Agents and the Independent Insurance Agents of America echoed the agents' reaction.

"We were surprised, although if one were comparing insurers, (Fireman's Fund) would be a prime company to do this," said William H. Kilmain, executive director of the IIAA of Massachusetts. Fireman's Fund had "expressed great dismay" about auto insurance rates in the state.

"We had no indication that this would happen," said Donna M. McKenna, executive assistant at the PIA of Massachusetts. "We're concerned that there was no prior notice given to agents."

Mr. Kilmain noted the insurer had "excellent legal counsel" through the Boston firm of Finnegan & Underwood, which is "very well-versed in the politics of Massachusetts and the insurance politics of Massachusetts."

He added, "They have a very good case on all points raised."

Insurers had requested a 37% rate increase for private passenger auto insurance in 1987, but Commissioner Hiam last month approved only an 8.9% rate increase retroactive to Jan. 1.

An appeal by the Massachusetts Automobile Rating Bureau on behalf of its member insurers, including Fireman's Fund, is pending with the Massachusetts Supreme Court.

"Something has to be done about the insurance climate in this state," Mr. Kilmain said, citing in addition to "grossly inadequate" auto rates insufficient workers compensation insurance rates and a poor processing system for filing rates and forms.

The problem of inadequate auto insurance rates is compounded in the state's Commonwealth Auto Reinsurer, or CAR, a reinsurance pool for substandard auto risks in which all insurers writing auto insurance must participate. Any deficit in the pool is assessed participating insurers based on their market share.

CAR operated at a \$550 million deficit last year, and the auto insurance industry in Massachusetts last year only generated \$1.8 billion in premiums, said Frank Mancini, director of government affairs at the IIAA of

Massachusetts.

Hartford Insurance Group is contesting the CAR assessment, said Stephen I. Martin, vp-government relations, because the 1986 assessment is based on 1982 market share.

Fireman's Fund is not the first insurer in Massachusetts to try to escape from low rates and overregulation. Peerless Insurance Co. of Keene, N.H., filed notice a year ago seeking to withdraw from the automobile insurance business, but to continue to write other lines of casualty business.

Peerless, which is in litigation with the Insurance Department over the withdrawal, is negotiating with the department and CAR, said Joseph H. Youngs, the insurer's chairman and chief executive officer.

"We feel optimistic we have reached the point where we can come to a mutual agreement," he said, describing the discussions as "constructive and meaningful."

Mr. Youngs noted that more than 50% of Massachusetts' drivers are covered by the reinsurance facility, not necessarily because they are bad drivers, but because of the rate inadequacies. "There's no other similar situation anywhere else in the country," he said.

In the mid-1970s, GEICO Corp. also pulled out of Massachusetts. At that time, the insurer was under the management of John J. Byrne, who is now chairman and chief executive officer of Fireman's Fund Corp., the insurer's parent.

Commenting on Fireman's Fund's decision, William B. Mather, administrator of risk management at The Gillette Co. in Boston, said: "It is a very unfortunate situation." The auto insurance market in the state has been "heavily politicized for many years. It's a tug-of-war between the state and the industry on rates that goes on for months."

Massachusetts' mandatory auto liability insurance and controlled rates "removes a lot of the normally competitive nature between the insurance companies," he explained. Add to that the state's poor law enforcement and reckless drivers and the result is a very problematic system, Mr. Mather said.

Competitive rating was attempted about eight years ago, Mr. Mather recalled. But when some rate increases were extremely high, there was a "tremendous outcry" from the public to return to rate regulation, and the competitive rating system was rescinded.

If Fireman's Fund succeeds in leaving the state, the result could be severe.

"The companies that are left can't pick up the slack," said Richard A. Grant, vp at Mahoney & Wright Insurance Agencies, an agency that was dropped by Fireman's Fund last year. "How many cars can they write?"

"The effects of this (pullout) are tremendously dramatic," Mr. Kilmain said. "For them to take this step is obviously part of a domino effect."

"We (Massachusetts) can't afford to have another Peerless," he added.

While commercial liability and property insurance probably will not be a problem to place with other insurers, auto coverage will be difficult. "Insurers are not willing at all to write what they have, let alone pick up the slack in auto," he said.

"Liberty Mutual is concerned that other insurance companies, when they have to absorb these new policyholders and additional losses, may also withdraw," said a statement from Liberty Mutual Insurance Co.

If more insurers withdraw from Massachusetts, reducing the number of insurers supporting CAR, "somebody is going to have to respond. It's a very dangerous situation," said Mr. Martin of The Hartford.

Several industry representatives remarked that word is circulating in the state that at least three other major insurers are considering a similar pullout; however, they declined to name the companies.

Major insurers contacted by *Business Insurance* said they were not considering leaving Massachusetts, including Liberty Mutual, Continental Insurance Co., USF&G Corp., Nationwide Insurance Co., Hartford and Metropolitan Property & Liability Insurance Co.

However, a Kemper Corp. spokesman, when pressed for an answer on whether Kemper was considering leaving the state, said the insurer is making a "strong effort" to reform the system. He added: "The situation in Massachusetts is a very fluid one. We are continually examining all our options there."

Bill Gibson, vp and director of government affairs at Continental Insurance Cos. in New York, said good business will be picked up by Continental and other insurers, while the poorer risks will "have a hard time finding a market."

Mr. Gibson said he does not expect the withdrawal to have a significant impact on the overall market's pricing or capacity because Fireman's Fund did not have a large share of the business.

By and large, as a commercial insurance marketplace, Massachusetts is "as attractive, or difficult, as any other place," he said. "The real problem is personal lines, and specifically auto."

The Insurance Department minimized the possibility of an exodus.

But in a state where compulsory auto insurance has been in effect since 1927, many agencies and insurers have gotten fat because of Massachusetts' auto regulations, Mr. Grant of Mahoney & Wright.

"So maybe now the chickens are coming home to roost," he said. "Maybe now it's payback time."

Associate Editor Judy Greenwald in New York contributed to this report.

update

Robins ponders Rorer offer

RICHMOND, Va.—Former Dalkon Shield manufacturer A.H. Robins Co. received a \$2.6 billion offer to merge with pharmaceutical manufacturer Rorer Group Inc.

The offer includes payment of claims from women who used the intrauterine device. Fort Washington, Pa.-based Rorer proposes establishing two trusts worth \$1.75 billion to pay the 330,000 Dalkon Shield claims pending against Robins. In addition, non-Dalkon Shield claims that Rorer estimates at \$120 million would be paid.

Robins filed its own reorganization plan in U.S. Bankruptcy Court last April in which it proposes formation of a trust fund to pay \$1.75 billion to Dalkon Shield victims (*BI*, April 20).

Dow unit wins Bendectin cases

CINCINNATI—In separate cases, a federal and state court jury each found Cincinnati-based Merrell Dow Pharmaceuticals Inc. not liable for the birth defects of two children whose mothers used the anti-nausea drug Bendectin during their pregnancies.

A California Superior Court jury in Los Angeles on June 26 found that Bendectin did not cause the birth defects of a 14-year-old boy. And last Monday, a U.S. District Court jury in Philadelphia found that Bendectin was not defective and that the company was not negligent in manufacturing or testing the drug.

Merrell Dow, a unit of Dow Chemical Co., said the verdicts were "consistent with the strong and continually growing scientific evidence that Bendectin does not increase the risk of birth defects."

Merrell Dow, which made the drug from 1956 to 1983, has won 13 of the 16 Bendectin trials so far, the company said.

Merrell Dow's primary product liability insurance was written by Dow's Dorinco Reinsurance Co.; excess insurance was placed primarily with Lloyd's of London underwriters.

Safety board investigates crash

BOSTON—The National Transportation Safety Board is investigating the June 26 crash of a Piper Seneca cargo plane that killed its pilot and injured three others.

The crash, which also destroyed three houses and four cars, caused at least \$2 million in damage, said a Boston Police Department spokesman.

Lawrence, Mass.-based Cash Air, the plane's owner and operator, was insured by the New York-based United States Aircraft Insurance Group, according to market reports. Spokesmen for Cash Air and USAIG could not be reached for comment.

Retiree health bill introduced

WASHINGTON—Legislation that would allow employers to pre-fund retiree health care benefits on a tax-favored basis was introduced in Congress last week by Reps. Rod Chandler, R-Wash., and Ronnie G. Flippo, D-Ala.

The bill would allow employers to establish for each employee a voluntary retiree health plan account, which would accumulate tax-free interest until funds are dispersed for health care when an employee retires at age 65 (*BI*, May 4).

Under the bill, H.R. 2860, employers could contribute annually on a tax-deductible basis the lesser of \$1,500 or 25% of an employee's compensation for employees up to age 50. The maximum contribution would be \$1,750 for employees age 50-55, \$2,000 for employees age 55-60 and \$2,250 for employees age 60-65. These limits would be indexed to the Consumer Price Index.

The VRHP accounts would be subject to the same five-year or seven-year pension plan vesting schedules that will be effective in 1989 under the Tax Reform Act of 1986. A vested VRHP account would be portable to a new employer.

Briefly noted

The Illinois House unanimously passed a bill that would encourage formation of **captive and regulate risk retention and purchasing groups** in the state. Gov. James R. Thompson is expected to sign the bill this week (*BI*, June 29). . . The liquidators of **Mentor Insurance Ltd.** are appealing against arguments contained in a Bermuda Supreme Court judgment handed down in April, even though the judgment went in their favor and against reinsurer Pinnacle Reinsurance Co. Ltd. Pinnacle also is appealing. The appeal is scheduled to be heard starting July 13 (*BI*, May 4). . . **Corporate Officers & Directors Assurance Ltd.**, a Bermuda-based D&O insurer conceived by Johnson & Higgins and Chase Manhattan Bank, is changing managers. CODA, formed in October 1986 and currently managed by J&H Ltd., will become a client of ACE Management Co. Ltd., a new management subsidiary being formed by A.C.E. Ltd., the Cayman-based holding company for A.C.E. Insurance Ltd. The management change will occur on or before Oct. 1, when CODA's contract with J&H expires. A.C.E. underwrites CODA policies and many of CODA's 53 shareholders are ACE shareholders. . . **Vishwa Shah**, a Nepalese citizen living in New York, pleaded no contest June 17 to six wire fraud charges stemming from a loan application that used fraudulent collateral guaranteed by Cambridge General Insurance Co. of the Turks & Caicos Islands (*BI*, Jan. 19). . . The Texas Legislature is considering a bill that calls for a temporary 6% **sales tax on premiums** written by commercial and personal lines insurers and health maintenance organizations in the state. . . St. Louis-based Monsanto Co. will not have to pay a **\$108 million award** to the family of a former plant worker exposed to benzene following a federal court judge's decision to grant a new trial in the case (*BI*, Dec. 22, 1986). . . Legislation establishing new regulations for the **Insurance Exchange of the Americas** became law last week without Florida Gov. Bob Martinez' signature. The IEA, which shut down in February due to reinsurance losses, hopes to reopen on Sept. 1, writing only surplus lines business (*BI*, June 22).

NAIC position

Continued from page 2
the industry into another 'cycle' in which the product was overly discounted. Once insurers became aware that many of their competitors had met their price discounts and that returns were inadequate, they began to increase prices, cancel policies and refuse to provide coverages on many risks."

The unpredictability of the civil justice system also fueled the hard market cycle, the NAIC notes.

Competition already "truly exists," Edward J. Muhl, Maryland insurance commissioner and NAIC president, said last week at the press conference at which the NAIC released its paper.

The "alarm is being sounded for the wrong reasons," he said.

Some critics of McCarran-Ferguson incorrectly believe that insurers colluded to manufacture restrictions and increase prices, the NAIC says in its paper.

But the state regulators argue that allegation has never been demonstrated. "What we demonstrated was massive stupidity (on the part of the industry) and the need for regulation," asserted New York Insurance Superintendent James P. Cerroran at the press conference.

Even if insurers were guilty of such misconduct, they would not be protected by McCarran-Ferguson, because those actions would still violate the federal Sherman Antitrust Act and state antitrust laws as well as provisions in state insurance codes, the regulators point out in their paper.

The NAIC also notes that while joint data collection, interpretation and dissemination gives insurers actuarially reliable information on which to base rates, insurers set their rates independently.

"Too stringent restrictions on sharing information necessary to formulate rates would impair com-

petition by affording larger insurers a competitive advantage, reducing over time the number of insurers in the market," the paper says.

State insurance regulators and legislators already have offered the best available solutions to a hard market, according to the NAIC:

- Helping frustrated insurance buyers find coverage by establishing voluntary market assistance plans and mandatory joint underwriting associations.

- Changing tort laws and insurance regulations, including "new reporting requirements on claims data and various pricing restrictions to moderate the cyclical swings."

"We have found a lot of solutions to individual problems through the states," Mr. Muhl pointed out.

Some critics of the act also have urged that McCarran-Ferguson be totally repealed, claiming that effective state regulation still is possible under existing legal precedents, like the State Action Doctrine, the NAIC notes.

That doctrine allows a business being sued for an antitrust violation to defend its actions by claiming that its conduct is exempt from federal antitrust laws because those actions were compelled or required by the states.

But, Congress appears unlikely to repeal the entire McCarran-Ferguson Act, which "would have placed regulatory action as well as insurance industry activities into total chaos and confusion, subject to years of future court interpretations," the NAIC says.

Still, current proposals to substantially modify McCarran-Ferguson would cause problems because they eliminate the antitrust exemption while specifically authorizing certain joint actions deemed necessary or beneficial, the NAIC says.

Such legislation, if enacted, would "subject the regulation and

operation of the insurance industry to years of uncertainty and instability due to the potential for costly litigation and conflicting judicial interpretations," the NAIC predicts.

Those litigation costs may place smaller insurers at a disadvantage, the NAIC warns.

Also, the NAIC predicts that voluntary joint underwriting programs, pooling arrangements and market assistance programs could be jeopardized if McCarran-Ferguson were repealed.

In addition, "Whether intentionally or inadvertently, repeal or modification of the McCarran antitrust immunity ultimately promises the establishment of a substantial federal insurance regulatory role due to the creation of an insurance regulatory vacuum," the NAIC warns.

"It appears that any of the contemplated changes in existing law would interject the Federal Trade Commission as well as the Justice Department into insurer activity," the NAIC says.

The partial substitution of federal for state insurance regulation would deprive insurance buyers of local responsiveness to consumer complaints and local innovations to help resolve them, the NAIC adds.

The NAIC contends that the antitrust exemption granted by McCarran-Ferguson "is necessary and appropriate due to the unique nature of the insurance industry."

Unlike other industries, insurance involves a buyer paying a premium in the present in return for an insurer's promise to pay in the future. Consequently, state regulators are "extremely concerned" with the solvency of insurers.

In addition, the ill effects of insurer insolvencies would fall on policyholders, not solely on stockholders as an insolvency in other industries would, David Thornberry, a member of the Texas Board of Insurance in Texas, pointed out last week.

Furthermore, other regulated industries also have partial antitrust exemptions, he said.

"It should be emphasized that the insurance industry has only a limited exemption from the antitrust laws," the NAIC stresses. "Under McCarran, actions are protected from antitrust attack only if the activity constitutes the 'business of insurance' and only to the extent that it is 'regulated by state law.'" The NAIC added courts have interpreted the antitrust exemption narrowly.

The NAIC opposes totally exempting insurers from antitrust law, which was suggested in the original McCarran proposal, the group points out.

The business of insurance is competitive under the current regulatory system given the number of competitors and the ease of entry into the industry, the NAIC says.

"Although a particular type of coverage may have limited sellers at a given point in time, the number of potential sellers is several thousand," it explains.

According to Bill Rothbard, counsel to the Antitrust Monopolistic and Business Rights Subcommittee of the Senate Judiciary Committee, at least 20 organizations have gone on record favoring repeal of the antitrust exemption.

Those organizations include: the National Conference of State Legislators, the National Assn. of Attorneys General, the American Bankers Assn., the Small Business Legislative Council, the American Physicians & Surgeons, the American Nurses Assn., the AFL-CIO, the American Assn. of Retired Persons, the National Insurance Consumers Organization and the Consumers Union.

Associate Editor Deborah Shalowitz also contributed to this report.

Transamerica stock zooms

financial briefs

Intense trading of Transamerica Corp. stock are spurring rumors of a possible takeover attempt.

The stock rose from \$34.88 per share on the New York Stock Exchange on June 11 to a new high of \$42.88 on June 26, before dropping back to \$40.50 on July 1.

On June 26, more than 1.43 million shares of Transamerica stock were traded, while more than 900,000 shares traded on July 1. On an average day, between 150,000 and 250,000 shares are traded, said a company spokesman.

He attributed the rise in the price of Transamerica stock to a series of presentations made by the company to potential investors in New York, Los Angeles, Boston, London and Tokyo. The meetings ended June 11.

"There was some press following the presentations and a number of analysts issued new recommendations and started pushing Transamerica stock," the spokesman said. "The analysts said that our stock was undervalued and should be in the \$40 to \$50 range."

The spokesman acknowledged the takeover rumors, but emphasized: "We have held no discussions."

Financial analyst Samuel G. Liss, vp of Salomon Brothers Inc. in New York, said, "There have been a series of rumors going on around the trading floor" about a

possible Transamerica Corp. takeover. But Mr. Liss agreed that part of the reason for the activity was the investor presentations.

Analyst Samuel J. Weinhoff, first vp of Shearson Lehman Bros. in New York, commented, "It sure looks like someone is trying to accumulate a big position in the company."

PICO settlement

Physicians Insurance Co. of Ohio policyholders will pay an annual \$7,200 premium surcharge for three years under a settlement between the insurer and the Ohio Insurance Department in a dispute over the adequacy of medical malpractice reserves.

The department said its Dec. 31, 1985, triennial examination of the Pickerington, Ohio-based insurer concluded loss reserves were deficient by \$59 million, while PICO reported a \$22 million surplus.

The surcharge on 5,000 policyholders will strengthen reserves by about \$36 million.

In addition, PICO's capital immediately will be increased about \$4 million by restructuring executive compensation and certain reinsurance contracts. ■

Illinois HMO bill

Continued from page 3

If enacted, the bill also would benefit Illinois employers, according to Pamela Mitroff, manager of health care cost management for the Illinois State Chamber of Commerce in Chicago.

"The biggest thing is that for many employers, shopping for alternative delivery systems is still new, and it's very difficult to sort out which HMOs are quality plans. The hold harmless requirement and the guaranty fund remove, to a certain degree, the questions employers have" about the consequences of an HMO failure," she said.

The HMO industry worked closely with the Legislature on the bill and hopes that "the insurance department is rigorous in enforcing the financial requirements in the bill to prevent HMOs from having to go into liquidation and insolvency" and to prevent assessments of HMOs to the guaranty fund, said Barry Averill, president of the Illinois Assn. of HMOs and president of Michael Reese Health Plan HMO in Chicago.

Under the bill, the HMO guaranty fund would operate on a post-insolvency assessment basis: HMOs would be assessed only after an HMO is declared insolvent.

Assessments against each HMO would be made based on each HMO's enrollment income earned in the year preceding the assessment in proportion to the enrollment income earned by all HMOs in that year. HMOs' annual assessments would be capped at 2% of their enrollment income in the year preceding the assessment.

However, if the fund determines that an HMO may have difficulty meeting its contractual obligations as a result of paying its assessment, the fund can abate or defer part or all of the HMO's assessment.

"Since the assessment is after the fact, there's no way to budget for it and that's what makes HMOs nervous," Mr. Averill noted.

The board of directors of the fund would consist of a minimum of five members and a maximum of nine members selected by all HMOs. The insurance commissioner would have final approval of the membership.

The guaranty fund would retroactively cover all insolvencies in 1987, said Arnold Dutcher, deputy director of insurance.

The maximum liability of the guaranty fund for HMOs that became insolvent prior to July 1, 1987, would be \$300,000.

So far this year, only Chicagocare Inc. of Oak Brook, Ill. has been declared insolvent. The HMO had 4,000 enrollees and about \$1 million in unpaid medical claims (BI, June 15).

The bill also would increase the initial net worth requirement for licensure to \$2 million from \$600,000. All HMOs licensed after the bill takes effect would be required to maintain a net worth of \$1.5 million.

HMOs licensed between Jan. 1, 1986 and the effective date of S.B. 1115 would be required to maintain a contingent reserve equal to 5% of net earned enrollment revenue for the first year in which they were licensed. In subsequent years, the HMOs would have to add amounts to their reserve equal to 2% of enrollment revenues.

HMOs licensed on or before Dec. 31, 1985, would be required to maintain the net worth and special contingent reserve that was required at the time they were licensed. But beginning Dec. 31, 1988, these HMOs must maintain a net worth of at least \$300,000 and a contingent reserve calculated by the same formula that HMOs licensed between Jan. 1, 1986, and the effective date of the law must follow.

In addition, all HMOs would be required to deposit cash or securities equal to \$100,000 with the insurance department for the protection of enrollees, the bill says. This amount would remain as an admitted asset of the HMO.

Along with those financial requirements, the bill also would require hold-harmless agreements in contracts between HMOs and hospitals to prohibit hospitals from collecting unpaid claims from enrollees.

"Because the hold-harmless agreements will put the hospitals at a considerable financial risk, I hope they will be more selective about who they contract with. This is kind of a stamp of approval that a hospital has really checked out an HMO," said Ms. Mitroff.

S.B. 1115 also would establish a formal procedure for the Insurance Department to handle grievances by both enrollees and physicians. ■

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