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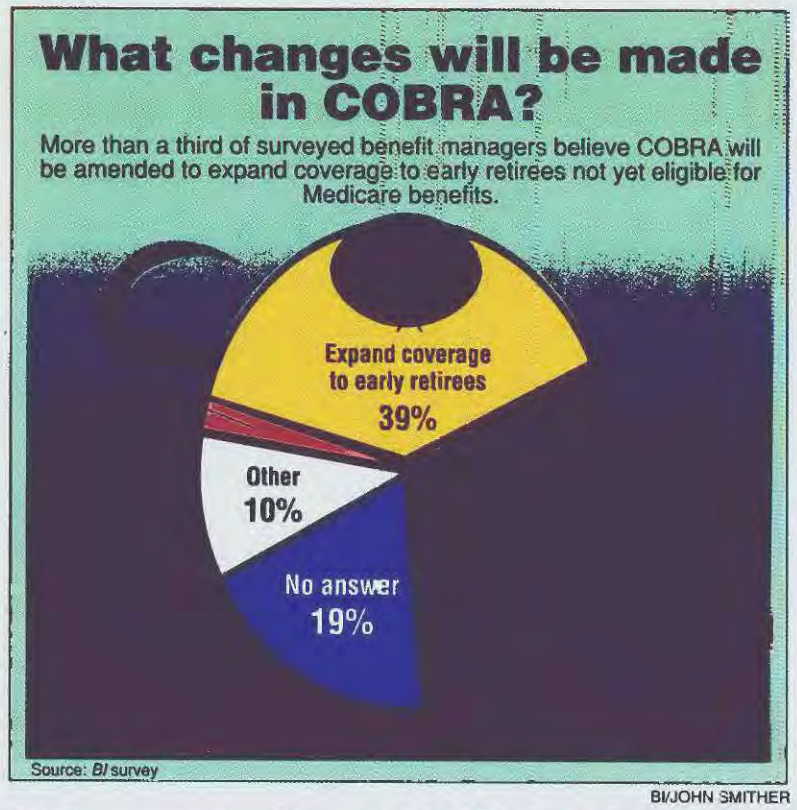
Update

Absolute pollution exclusion is unambiguous, N.Y. court rules

RIVERHEAD, N.Y.—A New York trial court for the first time has ruled that the absolute pollution exclusion in the standard post-1986 commercial general liability policies is clear and unambiguous and, thus, bars coverage for all pollution claims.

The ruling by a New York Supreme Court, released last month, follows most of the handful of trial courts nationwide that have upheld the clause in post-1986 CGL policies that bars coverage for

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BI/JOHN SMITHER

Repair COBRA, don't repeal it: Benefit execs

By DEBORAH SHALOWITZ

Congress should reduce group health care coverage continuation requirements under COBRA, but it should not repeal the law, employee benefit managers say.

Those requirements are necessary and are meeting the congressional objective of providing coverage to former employees and their families who might otherwise be left without such coverage, say benefit managers responding to a *Business Insurance* Employee Benefits Board survey.

"I disliked this piece of legislation at first. . .but I have observed people whose lives have been saved because of continued coverage," noted the director of human resources for an underground utility installation company with 350 employees.

Most employers surveyed, however, report losing money on COBRA beneficiaries and overwhelmingly suggest increasing the cap on premiums that employers can charge for the coverage from 102% of the cost of coverage for all plan beneficiaries.

In the case of self-funded plans, that cost is determined on an actuarial basis taking into account factors prescribed by regulations.

Employee Benefits Board

But, some survey respondents fear that Congress will expand health care continuation as required under the Consolidated Omnibus Budget Reconciliation Act of 1985.

Of the 178 employee benefit managers responding to the survey, 74% said COBRA should be amended to restrict coverage. Many favored shortening the 36-month period of coverage for spouses and the 18-month period of coverage for former employees.

And the employee benefits coor-

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Ruling may widen lenders' liability

Responsibility for cleanups may grow

By JOANNE WOJCIK and STACY ADLER

ATLANTA—A federal appellate court decision could greatly expand lenders' liability for pollution cleanups on property that is used to secure loans

While the appellate court seemingly intended the decision to increase lenders' involvement in preventing pollution and in any needed hazardous waste cleanups, the ruling is more likely to prompt lenders to avoid any involvement in borrowers' pollution control efforts and not to participate in any efforts to refinance a borrower in arrears, attorneys say.

The decision also marks the first time a federal appeals court has ruled on an exemption in the federal Superfund law that shields lenders from liability for hazardous waste cleanups.

The 11th U.S. Circuit Court of Appeals in Atlanta ruled May 23 that a lender that has "the capacity to influence the corporation's treatment of hazardous waste" could be held liable for cleanup costs under the Comprehensive Environmental Response, Compensation and Liability Act, better known as the Superfund act.

The decision could force Fleet Factors Corp. of New York to pay $400,000 in cleanup costs at a Swainsboro, Ga., cloth printing factory formerly owned by a company to which Fleet had extended a secured loan. The 11th Circuit decision remands the case to the trial court to decide if Fleet is liable under the new standard.

Attorneys for Fleet, a unit of Fleet/Norstar Financial Group Inc. of Providence, R.I., say they have not yet decided whether to seek a rehearing before the entire 11th Circuit or to seek review from the U.S. Supreme Court.

"This is a very troublesome decision," said Fleet attorney Douglas Good of the Mineola, N.Y., firm of Ruskin, Schlissel, Moscou, Evans & Faltischek. "The potential ramifications are very broad within the lending community."

It "guts the secured lender exemption" under CERCLA, said Richard Miley, local counsel for Fleet with the Augusta, Ga., firm of Nixon, Yow, Waller & Capers.

"It's an attempt to make the banks, in effect, insurers," said Richard Leland, an attorney with Rosenman & Colin in New York who represented Fleet before the trial court.

Richard B. Stewart, assistant attorney general for the U.S. Justice Department's Division of Environment and Natural Resources, who brought the suit on behalf of the federal government, would not comment on the decision.

The case stems from a 1987 suit by the U.S. Environmental Protection Agency against Fleet and two principal officers of the defunct Swainsboro Print Works to recover the cost of cleaning up hazardous

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Reinsurers' weak results not likely to improve in '90

By DOUGLAS McLEOD

NEW YORK—Reinsurers may sometimes wish they had a crystal ball to predict the course of the market, but it's just as well they don't—they wouldn't like the picture.

Reinsurers' underwriting results remained weak in the first quarter, and several reinsurance executives agree improvement is unlikely until at least 1991.

The combined ratio reported by 67 professional reinsurers to the Reinsurance Assn. of America hit 107% for the first three months of this year, up from the 103.3% reported for the first quarter of 1989 by a similar but not identical group of reinsurers.

The first-quarter combined ratio was unchanged from the 107% reported for year-end 1989.

Reinsurers also reported net written premium volume rose slightly between first-quarter 1989 and 1990, but several hastened to add that this is not a sign of a tightening market.

With the exception of property catastrophe reinsurance and retrocessional coverages, prices remain flat and are still falling in some lines, reinsurers dejectedly concur.

"We haven't seen any change for the better in any of the areas we are active in," said John W. Smithson, chairman, president and chief executive officer of PMA Reinsurance Corp. in Philadelphia. "We still see a very overcapitalized market and continued pressure on rates and terms."

"The first-quarter results were not very good. Clearly we are still in a down cycle," added Michael G. Fitt, chairman, president and chief executive officer of Employers Reinsurance Corp. of Overland Park, Kan.

"I think we are at least three quarters away from any appreciable improvement," Mr. Fitt said.

"We don't see any real evidence of change in the market," agreed Mark Mosca, vp and manager of the treaty department at NAC Re Corp. in Greenwich, Conn.

"I don't believe any real change is imminent," Mr. Mosca added. "I don't think enough pain is being felt (by reinsurers) to trigger a change in the market."

"It's bumping along at a pretty bad level," observed James Stannard, executive vp with F&G Re, the Morristown, N.J.-based reinsurance unit of USF&G Corp.

"The market is still quite soft, with the one exception" of the catastrophe retrocessional market, Mr. Stannard said.

U.S. reinsurers' first-quarter results, as compiled by the RAA, give little reason for optimism.

Net written premium volume for

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NEWSPAPER

Philip Morris seeking cover for Panama invasion losses Page 3

Passage of tort reform law unlikely this year: Lobbyists Page 2

Canada charges intermediary with deceptive practices Page 41

Update

Pollution exclusion upheld

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"bodily injury or property damage arising out of or in any way related to actual, alleged, or threatened discharge, dispersal, release or escape of pollutants," said attorney Carl Pernicone of Wilson, Elser, Moskowitz, Edelman & Dicker in New York.

"Every court that has considered this exclusion has found it clearly and unambiguously bars coverage for all pollution liability claims," said Mr. Pernicone, who represented New York-based Continental Insurance Co.

Courts that have found the absolute pollution exclusion ambiguous were looking at manuscript clauses, not the clause issued by the Insurance Services Office Inc. in 1986, he said (*BI*, Nov. 27, 1989).

The dispute stemmed from a claim by Norman Budofsky, a New York landlord, and his tenant, Circle Technology Inc., that sought coverage for government-mandated cleanup costs.

Both Mr. Budofsky and CTI were named insureds on the Continental CGL policy, which was written on an occurrence basis with limits of $300,000 per occurrence and aggregate.

Mr. Budofsky's attorney said an appeal is being considered.

AIG buying surety policyholder

NEW YORK—American International Group Inc. is seeking to acquire electrical and mechanical contractor Fischbach Corp. in a deal that would exceed $95 million.

AIG would not comment on published reports that the New York-based insurer is pursuing the acquisition to shield itself from potentially high claims on contract surety bonds it issued to Fischbach.

AIG said it is seeking to purchase 4 million shares of Fischbach Corp. stock for $11 a share, or a total of $44 million. That stock was trading at $10.50 late last week.

In addition, APL Corp., a company controlled by Miami financier Victor Posner, has agreed to sell its 54% stake in Fischbach to AIG for $11 per share.

If the 4 million shares of Fischbach stock that AIG is purchasing from the contractor represents the full remaining 46% stake in the contractor, APL's Fischbach holdings would total 4.69 million shares, which would make the total cost of the merger at least $95.6 million.

The proposed merger is subject to approval by Fischbach's board of directors, which is scheduled to meet this week.

AIG said it hopes to bring in a major construction firm as a management consultant to Fischbach after the deal is completed.

Fischbach and APL officials did not return phone calls.

Retiree medical benefits ruling

BRIDGEPORT, Conn.—A federal judge has issued a temporary restraining order preventing Paris-based Societe Nationale Elf Aquitaine from reducing medical benefits for a group of retired executives of subsidiary Texasgulf Inc.

A hearing on a permanent injunction scheduled for last Friday was postponed while both parties discussed the case, said plaintiffs' attorney Marilyn Ford, who is representing a retired Texasgulf executive who sued Elf Aquitaine.

Elf Aquitaine informed the retirees in April that it was terminating the medical plan on May 31.

But, "any attempt to terminate, change the coverage, or reduce the benefits" is a breach of contract, Ms. Ford said.

Ms. Ford argued that terminating the plan would violate a provision of Elf Aquitaine's 1981 purchase agreement with Stamford, Conn.-based Texasgulf. Under the agreement, Elf Aquitaine promised 25 retired executives to provide medical benefits that are "at least equal to the level of the benefits under the plan currently in force," she said. The medical plan pays 100% of the retirees' medical costs.

Elf Aquitaine officials said the company is seeking to lower the level of benefits given to the 25 retired executives to the same level provided to other retirees. The plan covering other retirees pays only 80% of medical costs.

Agents seek to block bank law

WASHINGTON—A group of insurance trade associations is asking the Federal Reserve Board to block federally regulated bank holding companies from taking advantage of a new Delaware law permitting banks chartered in the state to sell and underwrite insurance nationwide.

The Washington, D.C.-based Alliance for Separation of Banking & Insurance charges that the statute would not adequately protect consumers, said Len Brevik, a lobbyist for the Independent Insurance Agents of America in Washington, D.C.

"We don't think the law has the firewalls necessary—and we don't think you can construct legislation—to provide the safeguards against coercion" of consumers by banks, such as making insurance purchases prerequisites for obtaining loans, he said.

"It's the most wide-ranging law of its kind in the nation. If it's allowed to stand, it will fundamentally change the banking and insurance operations in the country," Mr. Brevik said.

S.B. 193, which took effect when signed last week by Gov. Michael N. Castle, is the first law to allow bank holding companies to underwrite and sell all lines of insurance nationally. A few states have long allowed state-chartered banks to sell insurance within their borders (*BI*, May 28).

A spokeswoman for the American Bankers Assn. in Washington, D.C., said that banks are more interested in selling "consumer rather than commercial insurance."

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Errors and omissions

• Lloyd's of London syndicate 787, managed by Octavian (Underwriting) Ltd., has issued cash calls to its members for the 1987 and 1988 underwriting years. The syndicate was incorrectly identified in the May 28 issue as syndicate 1097, managed by Secretan (Underwriting Agencies) Ltd.

Product liability reform

Backers of Kasten bill eye next session

By ADRIENNE C. LOCKE

WASHINGTON—Prospects look bleak for passage of a federal product liability reform law this year, but the bill's recent success in the Senate bodes well for its chances during the next congressional session, supporters contend.

After surviving some turbulent hearings and a relatively uneventful committee vote, the reform legislation faces a renewed and difficult battle on the Senate floor, according to corporate lobbyists.

Time has become a major stumbling block, they say.

The Senate Judiciary Committee must still make its recommendations on the legislation, S. 1400, before the bill can be considered by the full Senate.

But despite the bleak outlook for passage of the bill, many of these lobbyists say its approval by a Senate committee is important because it sets the stage for even more progress next session.

The Product Liability Reform Act was approved last month by the Senate Commerce, Science and Transportation Committee despite opposition from Sen. Ernest F. Hollings, D-S.C., the committee chairman and a leading opponent of the measure (*BI*, May 28).

Sen. Richard H. Bryan, D-Nev., the Senate Consumer Subcommittee chairman who presided at the three hearings on the bill, also opposes the legislation (*BI*, May 21, April 16, March 5).

Sen. Robert W. Kasten, D.-Wis., introduced the bill last year, shortly after Rep. Thomas Luken, D-Ohio, introduced similar legislation in the House (*BI*, July 31, 1989; June 26, 1989). That bill was referred to the House Judiciary Committee and the Energy and Commerce Committee and has not been reported out of either.

The bill's chances on the Senate floor would be 'pretty slim,' says an insurance lobbyist.

Liberty Magarian, co-counsel at The Product Liability Alliance in Washington, D.C.—a business-supported group which testified on behalf of the bill—says the Commerce Committee's short debate did not surprise her.

"Those who opposed the bill knew that they didn't have the votes to defeat the proposal, so they didn't want to waste the committee's time," she said.

She predicts that Sen. Hollings—who said he would not stall the bill in committee—will lead the opposition on the Senate floor.

Peter Lefkin, assistant vp of federal affairs for Fireman's Fund Insurance Co. in Washington, D.C., also says he expects a good fight if the bill reaches the Senate floor.

"It is a deeply held belief of Hollings that the product liability system is working fine and if changes are needed, they should be made at the state level," Mr. Lefkin said.

Both lobbyists believe the bill would be passed were it to reach the Senate floor.

But an insurance lobbyist says the bill's chances are "pretty slim."

If the legislation reaches the Senate floor, opponents might attempt to "amend the bill to death," says Thomas A. O'Day, associate vp of the Alliance of American Insurers in Washington, D.C.

Opponents also could attempt a filibuster, Mr. O'Day said. "Just the threat of a filibuster would remove it from the floor."

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Deadline nears for RMIS firms

Business Insurance will publish its annual directory of risk management information system vendors in the July 23 issue, which will also include a report on trends in risk management automation systems and analysis.

There is no charge to be listed in the directory of RMIS vendors; however, companies that wish to be included must fill out and return a questionnaire provided by *Business Insurance*.

If your company produces and supplies software to corporate risk management personnel and you have not yet received a questionnaire, please request one by calling Editorial Assistant Sara Harty at 312-280-3195.

The deadline for receiving completed questionnaires is June 22.

Weavers to proceed as runoff manager for LUI subsidiaries

By CAROLYN ALDRED

LONDON—H.S. Weavers (Underwriting) Agencies Ltd. will continue to manage the runoff of parent London United Investment P.L.C.'s insurance subsidiaries for at least 12 months, LUI's court-appointed administrators announced last week.

As a result, most of Weavers' employees were told last week they will keep their jobs, though almost a third were laid off.

LUI's administrators also announced the appointment of new chairmen for Weavers and LUI subsidiary Walbrook Insurance Co. Ltd., the lead underwriter on the Weavers line slip.

LUI was placed in court-ordered administration—which is similar to Chapter 11 reorganization in the United States—late last month. The action was taken two months after Walbrook suspended underwriting and six other LUI insurance subsidiaries, all of which are in runoff, suspended claims payments following concerns about the adequacy of loss reserves (*BI*, May 28; April 2).

Walbrook is continuing to pay claims, but the six other LUI insurers still are not, a spokeswoman for the administrators confirmed.

Sir Dennis Marshall, formerly president of the British Law Society and a former commercial lawyer in London, has been appointed chairman of Weavers (Underwriting) Agencies Ltd.

In addition, Sir Ian Morrow, a director of British merchant bank Hambros P.L.C., has been appointed chairman of Walbrook. Sir Ian previously was chairman of

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- Corporate policies that prohibit fertile women from holding certain jobs are discriminatory, says this week's editorial. **PAGE 8**
- A new Connecticut law will encourage small employers to offer group health insurance by making the coverage more affordable, says an insurance group. **PAGE 10**
- In Perspectives psychiatrist Dr. S. Alan Savitz looks at how managed mental health care can avoid the costs associated with needless hospitalization. **PAGE 29**
- Women have a key role to play in shaping the insurance industry's image, says the president of the National Assn. of Insurance Women in Perspectives. **PAGE 30**
- Insurers' underwriting and operating results are far worse than what was reported in the first quarter, says stock analyst Myron M. Picoult. **PAGE 51**

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Firm seeks cover for invasion loss

By JUDY GREENWALD

NEW YORK—Philip Morris International is suing its all-risk property insurer over coverage for damages sustained at a Panamanian plant during last year's invasion by U.S. troops.

Philip Morris International, a unit of New York-based Philip Morris Cos. Inc., contends it is entitled to more than $2 million in coverage for damage and looting at a plant operated by an international affiliate on Dec. 22, 1989, two days after Panama was invaded by U.S. forces.

Philip Morris' all-risk property insurer, CIGNA Property & Casualty Corp., is seeking dismissal of the suit, stating that no coverage is owed because of the policy's war risk exclusion.

However, Lawrence Kill, an attorney with Anderson Kill Olick & Oshinsky in New York who represents Philip Morris in the case, said Philip Morris does not believe the war risk clause is applicable because the looting and damage at the facility was "done solely and exclusively by civilians."

President Bush ordered 10,000 U.S. troops to invade Panama last year in an effort to topple Panamanian President Manuel Noriega, accused of drug trafficking. The decision followed 2½ years of rising tensions between the two countries.

Although eventually successful, the troops, whose ranks ultimately rose to 26,000, spent several days struggling to gain control of the capital, Panama City, as looters and paramilitary troops that remained loyal to Gen. Noriega roamed the city.

Gen. Noriega, who had sought refuge in the Vatican Embassy, eventually surrendered to U.S. troops. He is now incarcerated, awaiting trial on drug charges in Miami.

During the invasion, a plant operated by a Philip Morris international affiliate, Tabacalera Nacional S.A., was damaged and looted, according to the company spokeswoman.

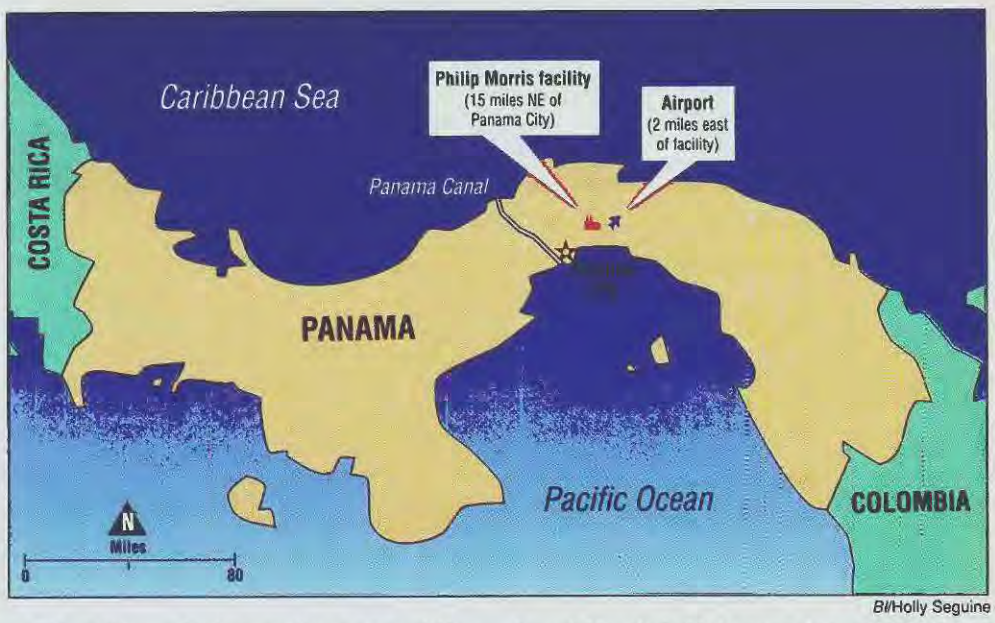
The facility, which is located 15 miles northeast of Panama City, near the airport, processed tobacco and manufactured cigarettes, and contained distribution and administrative facilities. It also distributed cigarettes and liquor that were not Philip Morris products, said the spokeswoman.

During the disturbance, looters "took everything they could possibly remove and carry out," the spokeswoman said.

"There was significant theft of finished goods and liquor from the warehouse facility," she said, adding that tools and vehicles were taken as well. In some cases when the thieves could not take the entire vehicle, they stole tires, seats and other auto parts, she said.

In addition, the facility was vandalized, she said. Restroom facilities were destroyed and areas of the facility were covered with graffiti.

Philip Morris contends in its declaratory judgment action, filed May 17 in U.S. District Court in New York, that the theft and the damage sustained to Tabacalera Nacional is covered by its all-risk policy.



BI/Holly Seguine

The policy, which is written on a difference-in-conditions basis, provides up to $100 million in all-risk property coverage per occurrence for Philip Morris' international operations.

The policy is applicable when the perils covered by the all-risk policy are not covered under a primary policy written locally or when the perils are broader in meaning or scope than those covered by the local underlying primary policies.

The policy's initial period was Dec. 31, 1988 until Nov. 30, 1989. But on Nov. 21, the policy was extended to Dec. 31, 1989.

The policy requires a $25,000 deductible per occurrence.

The policy excludes operations in the United States as well as Canada, Puerto Rico, Cuba, Iran, Cambodia, North Korea, Libya and Vietnam.

The broker for the policy was New York-based Marsh & McLennan Inc., which is not a party to the suit.

Philip Morris contends in the court papers that it is entitled to compensation because of loss or damage caused by:

- The theft or destruction of the physical plant and trade goods at Tabacalera Nacional.
- Business interruption.
- Expenses, which are not explained in the suit.

The suit does not break down how the $2 million sought by Philip Morris is divided among the three categories.

"We don't have an exact breakdown," said the spokeswoman. And because of the nature of the disruption, it is not yet possible to determine the precise loss, she said.

The suit states that "by its terms, the all-risks policy insured against all risks of phys-

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St. Paul, Alleghany truce could curtail hostile insurer bids

By MEG FLETCHER

ST. PAUL, Minn.—A planned cease-fire between The St. Paul Cos. Inc. and Alleghany Corp. suggests hostile takeovers or investments in insurers won't work.

St. Paul said late last month that Alleghany has agreed to end a bitter 2½-year battle to acquire 20% of St. Paul's stock with St. Paul buying back 9% of its stock already purchased by Alleghany and covering Alleghany's related legal costs.

Suitors of insurance company stocks rebuffed by their targets—and their insurer targets—may settle for similar agreements in acquisition attempts because they avoid lengthy state hearings before regulators, who now enjoy renewed confidence in their authority to block the acquisition of a large block of stock in an insurer.

Court rulings involving Alleghany and AXA Midi Assurance S.A.'s hostile bid for Farmers Group Inc. tend to uphold state regulators' power to block a hostile takeover of an insurance company.

In addition, regulators' clout to block insurer acquisitions received a boost by the California Insurance Department's uncontested ruling that blocked the hostile acquisition of Farmers by Paris-based AXA. That decision, in turn, led Hoylake Investment Ltd. to drop its attempted hostile takeover of B.A.T Industries P.L.C., Farmers' parent company.

Alleghany had challenged the constitutionality of state holding company laws that give each state in which an insurer or its affiliates are domiciled the right to veto an acquisition of 10% or more of an insurer's—or its parent company's—stock.

Regulators in several states reviewed Alleghany's operations last year, after the New York-based financial services company announced plans to buy up to 20% of St. Paul (*BI*, March 20, 1989).

"The court rulings regarding the (model holding company) statute have made the statute appear less likely to judicial disruption," said Earl Pomeroy, North Dakota insurance commissioner and president of the National Assn. of Insurance Commissioners.

For example, several U.S. District Courts dismissed Alleghany's federal court actions challenging the constitutionality of the holding company acts, though several other court decisions upheld Alleghany's right to challenge the laws.

In the only ruling that addressed the merits of Alleghany's arguments, Chief Judge Patrick Conmy of the U.S. District Court in North Dakota ruled in favor of Alleghany. However, the 8th U.S. Circuit Court of Appeals subsequently reversed his decision.

In addition, in litigation stemming from AXA's takeover bid for Farmers, "every ruling. . .was pro-regulator on the merits," said David Simmons, general counsel of the National Assn. of Insurance Commissioners.

At least seven state and federal courts ruled on challenges—brought by Hoylake—to the holding company laws, essentially holding that the McCarran-Ferguson Act barred challenges to the

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Battles over excess cover, reinsurance

Coverage disputes to grow

By STACY ADLER

NEW YORK—Today, court dockets across the nation are filled with disputes between policyholders and their primary insurers. Tomorrow, the dockets will be filled with lawsuits involving excess insurance and reinsurance, attorneys predict.

Many issues will carry over from current primary insurance coverage disputes, but many new ones will arise, they say.

Some of the nation's top insurance lawyers discussed trends in "Excess and Reinsurance" litigation at a program in New York last month sponsored by the Defense Research Institute, an association of defense attorneys.

Many issues are found only in excess insurance disputes, such as whether an excess insurer has a duty to drop down and pay claims when a primary insurer becomes insolvent.

Among issues unique to reinsurance policies is the "follow-the-fortunes" doctrine, attorneys say (see story, page 18).

'There is some support for the idea that policies should exhaust by layer,' says Mr. Pope.

They also cite questions of bad faith involving excess insurers and reinsurers (see story, page 16).

While many of these excess and reinsurance insurance disputes will end up in court, arbitration will remain a viable alternative. However, changes are needed to ensure the survival of the current arbitration system, according to these lawyers (see story, page 12).

"There is a lot going on in excess insurance litigation," says Michael A. Pope of Phelan, Pope & John in Chicago. "The verdicts are becoming bigger and bigger."

Among the issues Mr. Pope predicted will arise in excess insurance coverage disputes are:

- Can an excess insurer deny a claim based on late notice?
- Do excess insurers have a duty to share in the costs of defending a claim?
- When are excess policies triggered when multiple policy years must respond to a loss?
- When does an excess insurer have duty to drop down and fill the shoes of an insolvent primary insurer?

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Decline in airline rates not expected to abort

By STACY SHAPIRO

MEMPHIS, Tenn.—Airline hull and liability insurance rates continue to drop during July 1 renewals and underwriters are uncertain if rates will pull up by Oct. 1, when 75% of airline insurance programs renew their programs.

In fact, airline hull and liability rates for two North American airlines that opted to purchase 12-month policies renewing July 1—instead of continuing with their 18-month policies—are expected to fall by more than 25%.

Overabundant capacity and fierce competition among insurers to sign up "quality" airline risks will keep rates low during 1990 renewals, many aviation underwriters said at the annual Aviation Insurance Assn. conference last month in Memphis, Tenn.

However, by mid-1991, reinsurers will be deluged with claims from airline and non-airline losses, which could lead to an increase in aviation insurance rates, others predict.

The airline insurance market "is still very depressed and I don't see any signs of that changing," said Peter O'Grady, outgoing president of the AIA (see story, page 20).

"London is setting the low level of rates," though not everyone is willing to follow those rates down, said Mr. O'Grady, president of Aviators International Insurance Group Inc. of Dallas, an underwriting manager for an insurance pool that has capacity to write up to 10% of an airline's hull and liability insurance program.

Underwriters are ready to raise aviation rates, but "I don't think they can because there is still too much capacity," he said.

"Capacity has to be driven out, not just withdrawn. That means financial failures. Until capacity can't come back again, there won't be a turning market. . .and nobody's willing to pull out of the market now because everyone's waiting for the change (when rates go up)," he said.

The AIA conference, which pri-

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New reinsurance regs may be needed: GAO

By DOUGLAS McLEOD

WASHINGTON—Alternatives to state regulation of the reinsurance industry may be needed if states fail to implement reforms recommended by the National Assn. of Insurance Commissioners, the General Accounting Office says.

While the NAIC has taken steps—through model laws and stricter financial disclosure requirements—to improve state oversight of reinsurance, many states have not followed or fully implemented the recommendations, a GAO study found.

The effectiveness of the NAIC reforms is thus difficult to judge, and alternatives to state regulation should not be considered until the impact of the reforms is known, the GAO concludes.

However, Congress should monitor implementation of the reforms, and if the states fail to adequately regulate reinsurance, "other regulatory approaches may warrant consideration," the study concludes.

The NAIC reviewed a draft of the GAO report, forwarding comments and corrections that were incorporated in the final report.

The GAO study was requested by Rep. John D. Dingell, D-Mich., chairman of the House Oversight and Investigations Subcommittee.

Numerous hearings before that panel have focused on several large insurer insolvencies—including Transit Casualty Co., Mission Insurance Co. and Integrity Insurance Co.

A report issued by the subcommittee on the causes of the failures singled out uncollectible reinsurance as a major contributor to the largest insolvencies (*BI*, Feb. 26).

The GAO report provides an overview of property/casualty reinsurance practices and regulation, including a description of information available to regulators in assessing reinsurance activity, the extent of state regulation and recent attempts to improve oversight.

The study notes several problems regulators face in monitoring reinsurance activity. These include:

- Unavailability of financial data for some reinsurers, including some alien companies, reinsurance departments of primary insurers and reinsurance pools.
- Abuse of reinsurance arrangements that is not discernible from financial data. Reinsurance transactions between affiliated companies can be used to mask an insurer's true condition, the report notes.

Financial statements also may not show the extent to which a licensed insurer is being used as a front by reinsurers trying to avoid regulation. Unscrupulous reinsurance brokers seeking to generate commissions may also place business with financially weak reinsurers contrary to their clients' interests, the report says.

- Inability to discern the impact of reinsurance arrangements from the financial information reported by insurers. For example, an insurer's loss experience may be distorted if it reports loss data net of reinsurance.
- Unreliable financial data resulting from inadequate internal controls by an insurer over its reinsurance placements. While Transit Casualty's 1983 annual statement, for example, listed 450 reinsurers, the company's receiver later found it was actually ceding business to about 1,700 reinsurers, says the report.

Recently, the NAIC has attempted to improve reinsurance regulation, according to the study.

For example, the NAIC amended a model law last year to toughen standards that reinsurers must meet for ceding insurers to be allowed credit for reinsurance on their financial statements.

Under the amended model law, an unlicensed reinsurer must allow a state to examine its records, submit an annual statement consistent with the NAIC's convention blank for insurers and have at least $20 million in surplus, the study says.

Last year, the NAIC also adopted a model law for licensing reinsurance intermediaries and managing general agents, which had not previously been regulated in most states, the report notes.

Among other things, the model law requires intermediaries and MGAs to be licensed and requires a reinsurer to obtain independent audits on the financial condition of an underwriting manager and actuarial certification of loss reserves on business produced by the manager.

The GAO observes, however, that the NAIC has no power to enforce implementation of its model laws. Enactment of the model acts is up to the individual states, and many states have not followed the NAIC's lead, the report notes.

The NAIC, for example, adopted its original model act on credit for reinsurance in 1984; in the five years since, only 10 states have enacted the model. Of the 40 states that have not, 35 have requirements that vary from the NAIC's minimum standards and five have no rules governing credit for reinsurance, the report says, citing NAIC statistics.

Faced with burgeoning insurer insolvencies over the last decade, the NAIC last year adopted comprehensive standards for insurance and reinsurance solvency regulation, the report observes. Among other things, the program requires states to evaluate their compliance with model laws and standards by mid-1990 and report back to NAIC on the extent to which they have followed the association's recommendations.

The GAO observes that it is unclear what sanctions, if any, NAIC would impose on states that have not complied with its standards.

States that meet the NAIC standards will be accredited.

Meanwhile, the NAIC has revised its convention statement to require ceding insurers to identify slow-paying reinsurers and quantify past due reinsurance balances. Undisputed balances more than 90 days past due must be discounted by 20%.

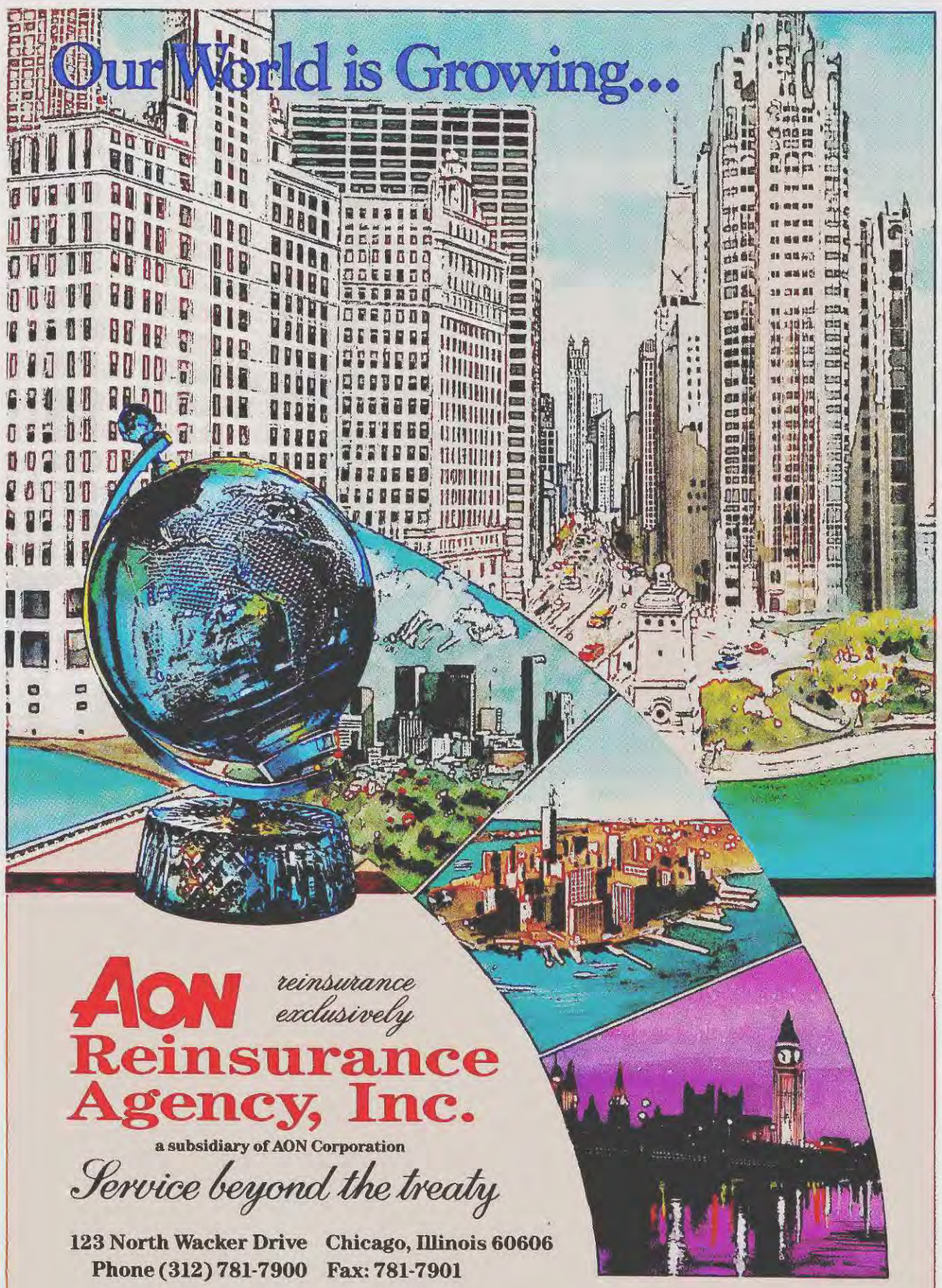
The reporting requirements—effective this year for the 1989 reporting year—are automatically in effect in all states, since all have adopted the NAIC convention statement.

However, judging the impact of those requirements is not yet possible, the study notes. Weighing the effectiveness of other NAIC reforms is also difficult, the report adds, because they haven't been universally followed by the states.

"Since the states have not yet adopted the amended model law (on credit for reinsurance) and the financial reporting requirements. . .have not been fully implemented, we could not determine whether the regulatory changes will prove effective, how consistently they will be implemented. . .and whether additional regulatory initiatives will be necessary," the GAO concludes.

"If state-by-state regulation does not provide adequate regulatory control and oversight to this important segment of the insurance industry, then other regulatory approaches may warrant consideration. However, alternative approaches may not be appropriate until recent reforms are fully implemented and can be evaluated," the GAO says.

The report recommends that Congress monitor the effectiveness of the NAIC's regulatory reforms and the extent to which they are being followed by individual states. ■



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Firm offers health care plan to part-timers

By MICHAEL SCHACHNER and ADRIENNE C. LOCKE

Part-time and hourly workers at Best Western International's 1,800 hotels and motels nationwide now can obtain comprehensive health care benefits through an insured health care plan implemented April 1.

The plan, dubbed Crown Care and underwritten by Philadelphia-based CIGNA Corp., offers, among other things, hospitalization and major medical benefits, reimbursement of lab and X-ray expenses and prescription drug benefits.

Under the plan, covered lives are insured for up to $1,000 annually for illnesses and up to $3,000 annually for non-work-related accidents. Each covered life is subject to a $50 annual deductible and must contribute 20% toward the cost of care. The policy also pays $2,500 for accidental death.

Employees pay $6.05 per week for individual coverage, $13.75 per week for coverage for themselves and one dependent and $21 per week for full family coverage.

Management at individual hotels may opt to pay a portion of the employees' premiums but are not required to do so.

Phoenix-based Best Western is one of the first lodging chains to offer health care benefits to part-time employees, according to a company spokeswoman.

"Crown Care provides coverage where none was available before," said Ken Whitley, plan administrator and director of B-W Insurance Agency in Phoenix, a subsidiary of Best Western.

"It's a step in addressing the special needs of a particular employee group," he said.

Group LTC plan

Nearly 1,300 of about 12,000 active and retired members of a New York City teachers union are opting for one of three levels of group long-term care insurance under a union-arranged program underwritten by John Hancock Mutual Life Insurance Co.

As of May 12, 903 active employees and 375 retirees covered by the Welfare Fund of the Professional Staff Congress of the City University of New York had enrolled in the program, according to Cynthia Hosay, senior vp with benefit consultant Martin E. Segal Co. of New York.

Segal helped the fund coordinate the program.

The PSC/CUNY program is believed to be the first union-sponsored LTC program in New York history.

The teachers union, an affiliate of the American Federation of Teachers, began offering LTC to its 9,500 active members and 2,500 retirees, as well as their spouses, parents and parents-in-law, on Jan. 1.

The plan is paid for entirely by participating members, Ms. Hosay said. Monthly premiums depend on the level of benefits selected and the age of the participant at the time of enrollment.

The program provides nursing home care, custodial care and respite care without any prior hospitalization requirement.

Under the PSC/CUNY LTC plan, members can select:

- The basic option, which pays up to $60 per day for nursing home care and up to $45 per day for home and community-based services. The lifetime maximum is $87,600.

Monthly premiums for the basic plan are about $10 for enrollees age 20 to 29; about $13.75 for enrollees 30 to 39; and approximately $17.75 for enrollees between 45 and 49. Premiums are age-specific beyond age 49, with a 55-year-old paying about $27 per month and a 65-year-old paying about $63 per month.

- The moderate option, which pays up to $80 per day for nursing home care and up to $60 per day for home and community-based services. The lifetime maximum is $116,800.

Monthly premiums under the moderate plan are about $11 for enrollees age 20 to 29; about $16 for enrollees age 30-39; about $21 for enrollees age 45-49; about $34 for 55-year-olds; and about $80 for 65-year-olds.

- The high option, which pays up to $100 per day for nursing home care and up to $75 per day for home or community-based services. The lifetime maximum is $146,000.

Monthly premiums under this option are about $12 for enrollees age 20 to 29 years; $17.50 for enrollees age 30 to 39; about $24 for enrollees age 45 to 49; about $40 for 55-year-olds; and about $97 for 65-year-olds.

"Our members consider long-term care an investment in their future," said Irwin H. Polishook, chairman of PSC/CUNY's welfare fund.

"We have tried to close the gap by designing a plan that represents the best coverage features possible and meets the needs of our unique membership," he said.

Dependent care

Many employers would eliminate flexible spending accounts that allow employees to make pretax contributions to fund dependent care expenses if a child care bill passed by the House becomes law, a new survey shows.

Under the House bill, H.R. 3, employees' maximum annual pretax contributions to a child care FSA would be reduced by $250 for each $1,000 of income they earn in excess of $70,000 in combined family income. As a result, dependent care FSAs no longer would be tax effective for employees with adjusted gross family incomes exceeding $70,000 (*BI*, April 2).

A child care bill passed by the Senate, S. 5, does not contain a similar provision.

A survey of 138 companies belonging to the Washington, D.C.-based Employers Council on Flexible Compensation found that of the 92 respondents with dependent child care FSAs, 47% would scrap their programs if the legislation were enacted. Another 28% said they would keep their FSAs and 25% said they didn't know.

"We don't represent this as being valid" of all employers, only an indication of what the ECFC membership, "the most innovative and progressive employers across the country" would do, said Kenneth Feltman, executive director of the ECFC. ■

Benefit beat

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P R O F E S S I O N A L L I A B I L I T Y

At issue

Is federal legislation needed to regulate insurance company solvency?



Donald W. Avera
Insurance & risk manager
CBK & Associates Inc.,
Dallas

Some sort of supervision may become necessary because states seem to limit the funding of their insurance departments. In either case, I would recommend a higher degree of auditing and mandatory disclosures of insurer financial conditions to agents and policyholders.



Joe I. Banda
Director-risk management
City of McAllen,
McAllen, Texas

Yes, we need federal legislation to increase public access to information on the financial conditions of insurers. We also need penalties or sanctions against insurers that continue to sell policies even though they are on the brink of insolvency. And, it's important to note that even reputable insurers can be placed under receivership.



Debbie K. Roberts
Risk manager
Mosler Inc.,
Hamilton, Ohio

At this point I feel it is better handled at the state level. The federal government still hasn't found a solution to the savings and loan crisis. However, the states do need to implement tighter controls or else federal involvement may become imminent.



Jane A. Keegan
Risk manager,
Port of Oakland
Oakland, Calif.

No, although the states have not done an adequate job regulating solvency because of the lack of dedicated resources. As long as insurance is regulated on a state basis, to be effective, solvency must also be regulated on a state basis. In addition, the federal government has a poor record on regulating industries.

Compiled by Christine Woolsey

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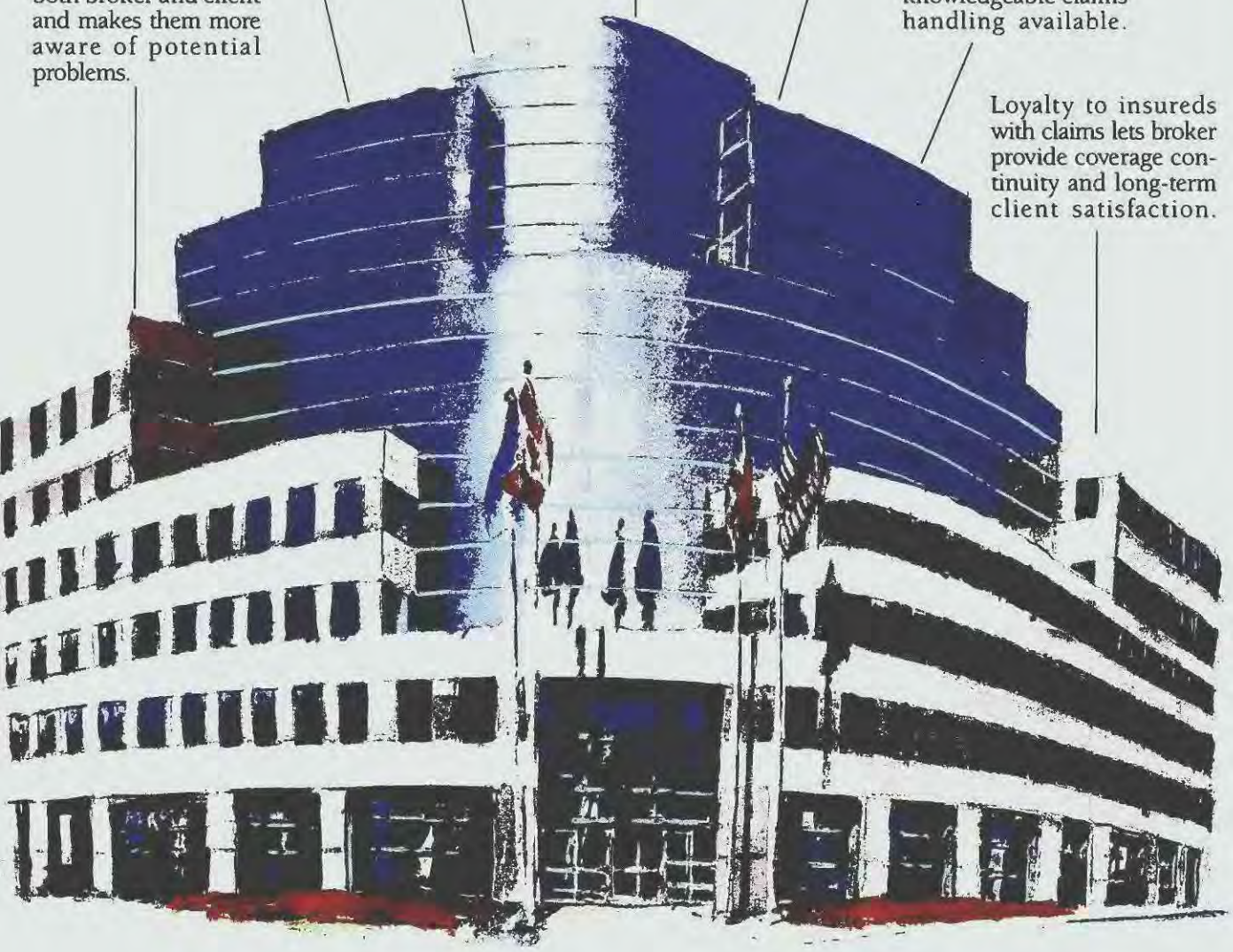
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A N D S P E C I A L T Y I N S U R A N C E

Washington

OSHA seeks comment on right-to-know standard

By ADRIENNE C. LOCKE

WASHINGTON—The Occupational Safety and Health Administration is seeking public comment on how to better inform workers about hazardous chemicals in the workplace, the Labor Department said.

The Labor Department is gathering information to improve its hazardous chemical communication standard, which requires chemical manufacturers and importers to evaluate the potential hazards of the chemicals they produce and handle.

The hazard communication standard—also known as the "right to know" law—also requires companies to provide workers with warning labels and material safety data sheets listing the hazards and specified protective measures.

OSHA is asking both manufacturers and users of warning labels and MSDSs about their experiences in implementing the standard. And, the agency is soliciting suggestions for improving the information they provide.

"Anything that can be done to improve the presentation or quality of this vital information is welcome and encouraged," said Gerard F. Scannell, assistant secretary of labor and head of OSHA.

Only minimal compliance requirements now exist, because many chemical manufacturers that voluntarily provided safety information to employees before the standard was implemented had developed their own communication procedures.

OSHA allowed those companies to use whatever format they wished for labels and MSDSs.

However, chemical companies have asked for more specific requirements for the hazard information communication standard. They have suggested that a standardized format for MSDSs could make information easier to find and would make computerization of MSDSs easier, OSHA said.

Comments are also requested by OSHA on other chemical hazard communication factors, including:

- The language skills needed by employees to understand the information provided and the type of language used to present the information.
- Suggestions for compliance assistance programs, particularly for small business.
- How the standard should deal with chemicals that pose little or no threat to employees because of lack of inherent hazard or exposure.

OSHA says it will make information from its inquiry available to the Environmental Protection Agency, which also wants to improve hazardous chemical warnings.

The hazard communication standard, which was first established in 1983, covers more than 30 million workers in roughly 3.5 million workplaces.

Comments and information should be submitted in quadruplicate, and must be received by Aug. 15 by the Docket Office, Docket H-022G, Occupational Safety and Health Administration, Room N1625, 200 Constitution Ave. N.W, Washington, D.C. 20210; 202-523-7894. ■

Opinions

Safety rule discriminates

THE CALIFORNIA Supreme Court was right in ruling last month that corporate policies prohibiting fertile women from holding certain jobs illegally discriminate against qualified female job applicants.

At issue was Johnson Controls Inc.'s policy of barring fertile women from jobs involving lead exposure at the company's battery manufacturing plants because lead exposure endangers unborn children.

Unfortunately, this so-called fetal protection policy was upheld as legal by the 7th U.S. Circuit Court of Appeals late last year. It was the third federal appellate court to uphold a fetal protection policy, while only one federal appellate court has ruled against such a policy (*BI*, Oct. 16, 1989). The 7th Circuit's decision is pending before the U.S. Supreme Court.

Johnson Controls' policy prohibits all fertile women, including those who do not intend to become pregnant, from holding jobs with lead exposure. Only women who provide medical confirmation that they cannot become pregnant are permitted to hold such jobs.

We appreciate Johnson Controls' contention that it adopted the policy out of concern for the children of employees. It won't comment on whether it also adopted the policy to protect itself from lawsuits that could be filed by injured offspring, which may or may not be a substantial risk.

But we think the Johnson Controls' policy is too strict and that there ought to be a better way to protect all workers—male and female.

As one of the four dissenting judges on the 7th circuit stressed: "By one estimate, 20 million industrial jobs could be closed to women, for many substances in addition to lead pose fetal risks."

And, the jobs that could be closed to women generally are higher-paying jobs that women as well as men need and are entitled to hold.

With the effectiveness of birth control methods—including the sterilization of the male partner, which many couples prefer to sterilization of the woman—Johnson Controls' policy is simply archaic. The policy assumes that any fertile woman will get pregnant, which is simply wrong.

The company says its previous policy of allowing women who did not intend to become pregnant to work in areas where they would be exposed to lead was ineffective because between 1979 and 1983 at least six women working in high-exposure areas became pregnant. We consider that experience dated and invalid.

While the majority of the 7th Circuit held that "society has an interest in protecting fetal safety," we think it is parents' responsibility to protect unborn children. Clear warnings from Johnson Controls about the risks to unborn children created by pregnant women's exposure to lead should suffice.

Legal experts also know of no suits brought by the children of female employees alleging prenatal injury at their mother's place of employment. Suits by offspring of male employees have been unsuccessful. These lawsuits would not be precluded by workers compensation laws.



"TRUST ME, SWEETIE... THIS IS HOW IT'S SUPPOSED TO BE, ANYWAY!?!"

The better response to concern about lawsuits, however, is more protection of all workers

While Johnson Controls says it has spent $15 million since 1978 to protect all employees from lead exposure, it clearly needs to do more if there is still too high a risk to unborn children from current lead exposures. More exposure controls clearly are needed, since some medical experts say the offspring of men exposed to lead also could be injured. With enough effort and new technology, better protection should be possible.

If the U.S. Supreme Court finds that fetal protection policies as stringent as Johnson Controls' policy do not violate Title VII of the Civil Rights Act of 1964, then the act should be amended to protect women's right to work. Or, individual state laws will have to be adopted, which can be tougher than the federal civil rights act.

Women, just because they are capable of being pregnant, should not be denied access to jobs they are qualified to perform.

BI editorial honored

Business Insurance Associate Publisher and Editor Kathryn J. McIntyre won first place in the editorial category of the 1989 NYBPE Editorial Awards Competition.

The winning entry was "Dangers of Debate" (*BI*, Oct. 2), which objected to a speech by an insurance trade association leader who compared consumer advocates who criticized the insurance industry with Hitler.

The NYBPE Editorial Awards Competition is sponsored by the New York Business Press Editors.

Letters

RIMS responds to speaker criticism

Editor's note: This letter is in response to a letter from Fran Romine that appeared in the May 21 issue of Business Insurance:

Ms. Romine: This is in response to your letter concerning the remarks made by Tip O'Neill during his luncheon speech during the 1990 Risk & Insurance Management Society conference. Frankly, I was as appalled as you when I heard the comment. Nevertheless, we cannot censor our speakers' comments. Further, we typically do not have the opportunity to pre-screen what a luncheon speaker plans to say.

Mr. O'Neill's comments concerning women in the workforce are not the reflection of RIMS' position on the subject. In addition, these comments should not be taken as the opinion of any individual involved in the process of choosing luncheon speakers.

Please be assured that, to the extent it is possible to control, the luncheon speakers for the 1991 conference will reflect current thinking and practices. I cannot guarantee that a speaker might not say something with which you or I might disagree.

With respect to the mixed messages you heard at the conference, I am sorry you believe that they have equal weight. I suggest that you listen carefully to the messages that directly come from RIMS: We have a woman as president, a woman as vp-governmental affairs and a woman as vp-conference. Fully 30% of RIMS' deputy members are women, and more than 50% of RIMS' professional staff are women.

Finally, thanks for your comments. It's important to both staff and the executive council that the negative as well as the positive be mentioned. That's the only way we can continue to improve.

Suzanne H. Crager
Vp-Conference
Risk & Insurance Management Society Inc.
New York

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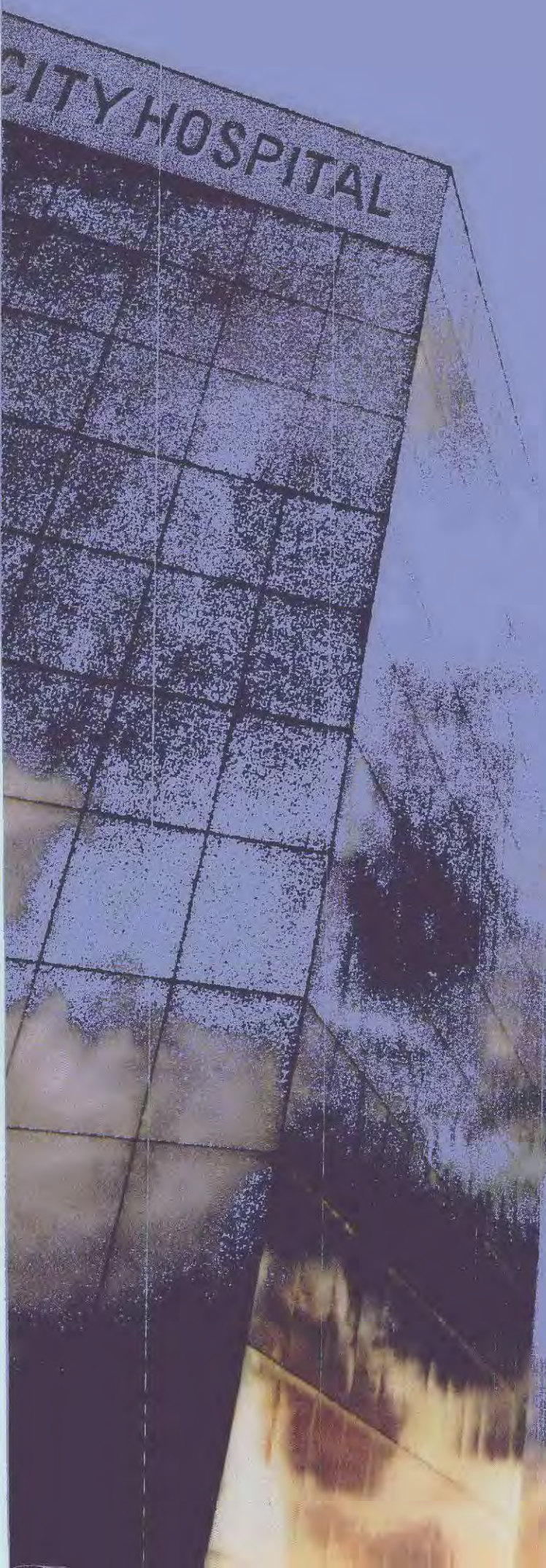
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Connecticut to hike health cover availability

By MICHAEL SCHACHNER

HARTFORD, Conn.—A new Connecticut law will encourage small employers to offer group health insurance by making the coverage more affordable, says an insurer trade group.

The Insurance Assn. of Connecticut, some members of which helped draft the "Special Health Care Plan," says the new law will enable small firms to secure reasonably priced coverage, especially for high-risk workers.

But employee benefit consultants contend that affordable coverage for small employers will come at the expense of their larger counterparts.

Benefit consultants also point out that key details of the law—like premiums and rating restrictions—have not been worked out yet.

A key provision of the law, which becomes effective July 1, establishes a reinsurance pool funded by health insurers of small groups in the state to spread the cost of claims from high-risk employees.

In addition, the law—drafted by the Blue Ribbon Commission on State Health Insurance—also calls for establishing widespread underwriting and rating restrictions to hold down health care insurance costs for small employers.

However, the commission—which consisted of consumer groups and representatives of labor, insurers and health care providers—has not yet determined those restrictions.

The law also prohibits insurers that write coverage for small groups from canceling coverage because of poor claims experience or excluding workers who are considered a high risk.

Health insurers cannot cancel small group's coverage except for non-payment of premium.

Employers with 25 or fewer workers that have not offered health care coverage to their workers for at least two years but want to offer coverage are eligible for the three-year experimental program.

However, small employers with insured health care plans still must continue to offer a host of benefits required under state law, including major medical and hospitalization coverage, coverage for alcoholism and mental illness, dental coverage, care for newborns and home health care coverage.

Gov. William O'Neill, who signed the bill on May 17, called the law "a major step forward for Connecticut."

The law is "an attempt to tackle the problem of the state's estimated 272,000 uninsured," said a spokesman for the IAC, a trade group of 19 insurers based in the state.

Under the Special Health Care Plan, underwriters of small group plans in the state will be required to contribute to the Connecticut Small Employer Health Reinsurance Pool, which is designed to spread the cost of health care for high-risk employees.

Small group health care insurers in the state must contribute to the reinsurance pool at least 5% of premiums collected from the small employers to cover claims filed by individuals classified as high-risk workers.

The commission has not yet established guidelines on what constitutes a high risk.

"With the pool, all high-risk claims for a given year go into the pool and all participants pay proportionately," the IAC spokesman explained.

If additional assessments are necessary to cover losses, small group insurers will pay based on total health care insurance premiums written, excluding premiums they have written for small businesses.

"Hypothetically, all high-risk people will be accepted for insurance without their employers paying for the losses," he said.

However, employee benefit consultants predict that any benefits that small employers enjoy under the new law will come at the expense of larger employers.

Consultants say health care insurers likely will increase premiums for large employers to offset losses from small employers.

However, some large employers may consider avoiding higher premiums by self-insuring their health care plans, according to consultants.

"This is trying to reduce premiums for small employers. The whole idea isn't bad, but it's a tough nut to crack," said Rogers Johnson, an account executive with Alexander & Alexander Benefits Services Inc., a unit of Alexander & Alexander Services Inc. in Greenwich, Conn.

"It's a great concept, but concept and reality are two different things," he said.

Mr. Johnson said the law's provision prohibiting insurers from canceling policies due to poor experience or excluding high-risk workers from group coverage could prove "unwieldy" for insurers.

Conflicts between health insurers and insurance regulators could arise if insurers are forced to provide coverage to employers with poor loss experience for three years and cannot deny coverage to employees with poor medical histories, he said.

John Hickey, an employee benefits consultant with Kwasha Lipton in Fort Lee, N.J., said the law is "another complicated redistribution scheme."

If insurers are required to put 5% of premiums from small businesses into a pool to pay for claims by high-risk individuals against other underwriters, they likely will try to make up for lost premiums by increasing premiums for larger employers.

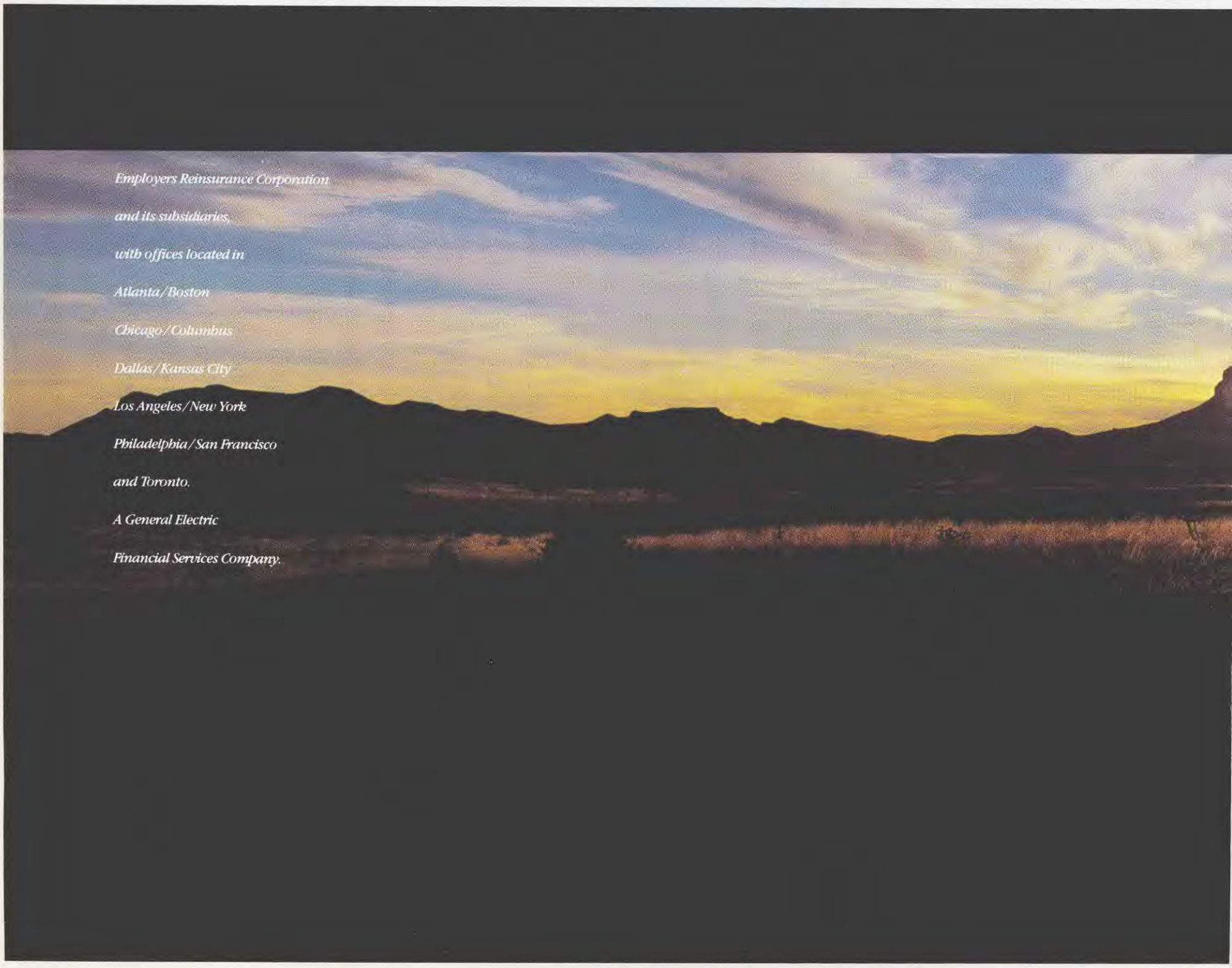
"Someone will have to pay a surcharge to bear the freight," Mr. Hickey said.

"With this plan, large employers will probably have it worse," he predicted. "It may force more large employers to explore self-insurance."

The new Connecticut law also calls for expanding Medicaid coverage.

Coverage will be extended to children of families with income below the federal poverty line. And the state will be authorized to pay an employee's share of his premium for health care coverage through an employer-sponsored plan if the worker is eligible for Medicaid.

In addition, pregnant women not eligible for Medicaid but with incomes below 250% of the federal poverty level will be eligible for medical coverage arranged with an insurer through the office of the Commissioner of Health Services. ■



Excess disputes

Continued from page 3

Because most excess policies require policyholders to provide notice of a claim "as soon as practicable," it has been very difficult for an excess carrier to avoid coverage on the grounds it received late notice, explained Mr. Pope. This is also partly true because primary insurers maintain the duty to defend and respond first to claims, he noted.

Recent decisions, however, have voided coverage in cases of late notice, said Mr. Pope.

For example, the 3rd U.S. Circuit Court of Appeals ruled in 1989 that even though the policyholder did not have to notify its primary insurer of a particular claim because the primary insurer had a very narrow notice clause, the policyholder did have a duty to notify the first-layer excess insurer, which had a much broader notice clause. The court held that an eight-year delay in notifying the excess insurer was unreasonable and voided the coverage.

Excess/Reinsurance Law Conference

Often questions of whether adequate notice was given will hinge on which state's law is applied, explained Mr. Pope. In some states insurers must demonstrate prejudice from the late notice to avoid coverage. Elsewhere, insurers simply have to prove the notice was late.

Another issue likely to arise in future disputes is whether excess insurers have a duty to share defense costs, said Mr. Pope.

"Courts either look at policy language or equity" when addressing these disputes, he explained.

For example, a Cook County Circuit Court in Chicago in January held that "under the clear language" of a number of excess policies written for U.S. Gypsum Corp., the excess insurers were not obligated to defend when asbestos lawsuits were filed against the former asbestos producer.

In other cases, courts have reasoned that excess insurers benefit from defense of claims and have required them to participate in the policyholder's defense.

"Apparently the rule today is that defense obligations will not be shifted to the excess insurers unless there are compelling equities," said Mr. Pope. "Five years from now we may have a drastically different rule."

"Certainly this is an area to watch closely in the next few years," he said.

Another issue to watch closely is how excess policies are exhausted in long-latent disease and pollution cases, said Mr. Pope.

There are two ways to exhaust coverage for a claim spanning several years. The policyholder can use all its primary coverage in all years encompassed by the claim and then tap its excess coverage, beginning with the first year. Or, the policyholder can use all its insurance—excess and primary—in a given year and then move to the next year.

"There is some support for the idea that policies should exhaust by layer," said Mr. Pope. "However, there are cases going the other way."

In the Coordinated Asbestos Coverage litigation in San Francisco, California Superior Court Judge Ira A. Brown Jr. ruled that excess coverage is triggered only after all the primary policies are exhausted.

"The idea of exhaustion of coverage by layer is becoming the majority view," said Mr. Pope.

'Apparently the rule today is that defense obligations will not be shifted to the excess insurers unless there are compelling equities,' says Michael A. Pope. 'Five years from now we may have a drastically different rule.'

The question of whether an excess insurer has a duty to drop down to pay claims against an insolvent primary insurer has been and will continue to be the subject of many excess coverage lawsuits, said Alan G. Miller of Morrison, Mahoney & Miller in Boston.

"The vast majority of courts have resisted allowing drop down when the underlying insurer becomes insolvent," said Mr. Miller. These courts "recognize that excess insurance is a low-cost form of coverage that is triggered only by the payment of claims," he said.

"The risk of insolvency was not bargained for," he added. "And, it wasn't included in the premium."

"These courts also recognize that the imposition of the insolvency risk (on excess insurers) would hinder the availability of this coverage," he said.

Those courts that have forced an excess insurer to drop down when an underlying insurer is insolvent have found an ambiguity in the excess policy language, he said.

For example, some excess policies state that they are "excess of underlying insurance," while others state that they are "excess of collectible insurance."

Some courts have interpreted this language to trigger excess policies when the underlying insurer is insolvent, he said.

"These are the most fertile policies for finding a drop down obligation," said Mr. Miller.

In addition, most excess policies require that underlying insurance be exhausted or reduced before coverage is triggered, he said.

"Generally speaking, where such language is present, insureds have been unsuccessful in arguing that the underlying policy is reduced or exhausted when a primary carrier is unable to pay claims under the policy by reason of insolvency," said Mr. Miller.

"The majority of courts have rejected this contention," he said.

Similarly, policyholders have been unsuccessful in arguing that insolvency of the underlying insurer is an occurrence that triggers the excess coverage.

"Courts have consistently held that the definition of 'occurrence' does not encompass the insolvency of the underlying insurer," said Mr. Miller.

"Insolvency is not an accident resulting in the type of injury, damage or liability defined as an occurrence, and therefore does not serve to exhaust or reduce the aggregate limits of liability of the underlying policy," he said.

However, an excess policy that does not limit the manner in which the underlying insurance is exhausted will be held to require the excess insurer to drop down, Mr. Miller said.

"There is no question that excess insurers can limit their exposure to drop down by proper wording," said Mr. Miller.

In fact, many policies being drafted today specify that excess coverage is not triggered by insolvency of the underlying insurer, he said.

"But this doesn't solve the problem for older policies that are now being litigated," said Mr. Miller, predicting there will be more litigation on this issue. ■

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Attorneys call for reform of reinsurance arbitration

By STACY ADLER

NEW YORK—The current system of reinsurance arbitration must be reformed, according to two leading reinsurance attorneys.

Anthony M. Lanzone and Eugene Wollan chastised the current system for allowing retired insurance executives and attorneys to serve as both arbitrators and umpires in different proceedings involving the same companies.

They charged that allowing people to act as both arbitrators and umpires in disputes involving the same company corrupts the system.

Mr. Lanzone and Mr. Wollan discussed reinsurance arbitration at the "Excess and Reinsurance" symposium last month in New York. The program was sponsored by the Chicago-based Defense Research Institute.

Most reinsurance arbitration panels consist of two arbitrators—who represent each of the parties in the dispute—and an umpire selected by the arbitrators. Decisions are legally binding and appeals to a court are allowed only in very limited circumstances, such as when bias on the part of the umpire is alleged.

"The arbitration system in reinsurance is basically and fundamentally working," said Mr. Lanzone. "Regrettably, however, there are sections and groups of arbitrators" that are troublesome.

He pointed out that some individuals act as an arbitrator one day, umpire the next, and on the third day as an expert witness.



Sometimes individuals act as arbitrators and umpires in separate reinsurance arbitrations involving the same reinsurance company, said Mr. Lanzone.

"We should not allow umpires to also serve as arbitrators or expert witnesses or consultants," urged Mr. Lanzone, who has his own law firm in New York.

"We have got to look for quality people to act solely as responsible umpires," he said.

Mr. Lanzone suggested paying parties more money to serve solely as umpires. "I see the good, the bad and the ugly" in reinsurance arbitration, said Mr. Lanzone. "We have a serious problem and something has got to be done."

Mr. Wollan of Mound, Cotton & Wollan in New York agreed: "The old boy network is dead or dying. The time when disputes were settled over lunch at the club no longer exists.

"Abuse of the reinsurance arbitration system has become for more prevalent," he said. "There is a lot of abuse going on.

"Much of the abuse," Mr. Wollan explained, "comes from new players in the game that are not part of the old traditions."

Another problem with reinsurance arbitration is the cost, said Mr. Lanzone.

"Some arbitrations run neck and neck with the cost of litigation," he said.

Problems with arbitration have caused several reinsurers to drop the mandatory arbitration clauses from their contracts, the attorneys noted.

And some reinsurers are turning to non-binding mediation as an alternative to arbitration.

In mediation, a mediator meets with both parties and attempts to work out a mutually satisfactory resolution to the problem. Most often, however, it is not legally binding.

"In my experience, in upwards of 50% of the cases mediation works effectively," said Mr. Lanzone, who urged reinsurers to institute mandatory mediation clauses in their contracts. ■

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Lawyers foresee more bad-faith claims

By STACY ADLER

NEW YORK—More bad-faith claims will arise among primary and excess insurers—as well as among policyholders and excess insurers—as coverage disputes increase, attorneys say.

Courts are just beginning to struggle with a variety of questions involving bad faith in excess insurance disputes, including:

- Can an excess insurer bring a claim for bad faith against the primary insurer for failing to settle a claim within the limits of the primary policy?
- Can a self-insured policyholder bring a claim for bad faith against an excess insurer for forcing the policyholder into accepting a settlement?

"As if there weren't enough cases arising from claims by third-parties against insurers, we also have disputes between insurers," said John F. Shea Jr., vp and claim counsel for Aetna Life & Casualty Co. in Hartford, Conn.

Mr. Shea and several other attorneys discussed issues relating to bad faith at the "Excess and Reinsurance" symposium held last month in New York. The program was sponsored by the Defense Research Institute of Chicago.

"Judges are expanding the law of good faith," said David F. Snively, assistant litigation counsel for Monsanto Co. of St. Louis.

"Judges are moving away from contract remedies and moving toward tort liability," he said.

Thus, the duty of good faith between primary insurers and excess insurers and self-insured corporate policyholders is "rapidly expanding," Mr. Snively said.

For example, today most courts will allow an excess insurer to bring a claim of bad faith against a primary insurer if the primary insurer fails to settle a claim with the primary policy limits, Mr. Shea explained.



"The duty to defend includes the duty to accept reasonable settlement offers," he explained.

In holding a primary company liable for bad faith failure to settle, the courts have developed three theories of liability, according to Mr. Shea.

Some courts find the primary insurer liable to the excess insurer based on a general duty of good faith and fair dealing, he said.

Other courts use a negligence standard, under which the primary insurer is liable if it fails to act reasonably, he said.

And, "in recent years, a growing minority of courts have imposed a strict liability standard that holds a primary carrier liable for the full amount of a judgment if the primary insurer refuses to settle within its policy limits," Mr. Shea said.

"This is a very strong standard," he said. "It boils down to the court feeling that if the primary carrier wants to gamble, let it gamble with its own money."

However, one problem with allowing an excess insurer to bring a lawsuit against a primary insurer for bad faith is that there is no contractual relationship between the excess insurer and the primary insurer, Mr. Shea explained. Without a contractual relationship, there is no legal basis for a lawsuit.

Some courts have gotten around this problem by allowing the excess insurer to sue the primary insurer on behalf of the policyholder, he said. "Although a minority view, a number of courts allow an excess carrier to bring a direct action for bad faith against a primary insurer," Mr. Shea said.

These courts reason that the primary insurer could foresee that its failure to settle a claim within the primary limits would create liability for the excess carrier and, therefore, should be held liable to excess insurer, he explained.

And, "a very small minority of courts have developed a theory known as triangular reciprocity," Mr. Shea said.

Under this theory, the court finds there are mutual duties owed between the policyholder, the primary insurer and the excess insurer, he explained.

This theory allows the excess insurer to sue the primary insurer and the policyholder for failure to settle a claim within the primary policy limits, he said. However, "this theory is favored more by the writers of law journal articles than by the courts," he quipped.

In addition, at least one court has allowed an excess insurer to step in and settle a case in the place of the primary insurer and then recover from the primary insurer, he pointed out.

Meanwhile, policyholders view bad-faith claims against insurers in a different perspective, explained Mr. Snively of Monsanto. Sometimes an excess insurer that tries to compel a self-insured corporation to settle could be hit with a claim for bad faith, he said.

While the insurer views one claim in isolation, a self-insured policyholder is in a better position to assess the long-term impact of any settlement, Mr. Snively explained. For example, settling one product liability claim could open the door for an avalanche of similar claims, he said.

"The policyholder must be interested in product integrity," Mr. Snively said.

In addition, Mr. Snively predicted that primary and excess insurers that are denying coverage for environmental cleanup costs may in the future face claims from policyholders for bad-faith denial of coverage. "Carriers are taking very hard coverage stances," he said.

"There is a large problem out there," he said. "It is going to grow, especially with respect to environmental claims."

He noted that insurers often take conflicting and inconsistent positions regarding coverage for hazardous waste cleanup costs.

"It may take time, but those things catch up, and there will be an explosion of bad-faith litigation," Mr. Snively predicted.

Among the areas he predicted self-insured policyholders would attack on the grounds of bad faith are insurers' "Rambo-style" litigation tactics and defamation of the corporate policyholder as a defense strategy in coverage litigation.

And, as reinsurers take a more aggressive role, it is realistic to expect that courts will allow policyholders to sue reinsurers for bad faith as well, he said. Usually, the policyholder is barred from suing the reinsurer because there is no contractual relationship between them, he explained.

However, "it is realistic to expect courts will allow the policyholder to reach through to its reinsurers," Mr. Snively said. ■

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Surge predicted in reinsurance litigation

By STACY ADLER

NEW YORK—Many disputes that now are being litigated between policyholders and insurers eventually will also be litigated between ceding companies and reinsurers, according to a leading insurer attorney.

"Almost any type of coverage dispute between a policyholder and its primary insurer can have its mirror image in a dispute between a cedant and reinsurer," says Roger Warin of Steptoe & Johnson in Washington, D.C.



Mr. Warin discussed the future of reinsurance litigation at "Excess and Reinsurance," a symposium last month sponsored by the Defense Research Institute of Chicago.

"The problems of reinsurance have moved from the back room to the front page," said Mr. Warin, who quoted dozens of headlines from *Business Insurance* and other magazines chronicling the continuing growth of reinsurance litigation.

Ceding companies and reinsurers formerly resolved disputes quietly and privately, he said, noting that many reinsurance contracts contained mandatory arbitration clauses.

But as those clauses disappear, "more reinsurer and cedant disputes will appear in the courtroom," predicts Mr. Warin.

He also foresees disputes between reinsurers and their retrocessionaires.

Some issues likely to dominate such disputes are questions of notice, the "follow the fortunes" doctrine and liability for bad faith awards, he said.

Reinsurance contracts, like primary insurance contacts, have notice provisions. Most facultative and treaty contracts require the ceding company to provide "prompt" notice as soon as "reasonably possible" of an occurrence or claim likely to involve the reinsurance.

Two important decisions in the last three months have involved ceding companies' duty to notify reinsurers, said Mr. Warin.

A federal court in New York held that the Travelers Insurance Co.'s three-month delay in reporting a claim to its reinsurer, Buffalo Reinsurance Co., barred coverage under the reinsurance contract. The court held that a reinsurance contract is not distinguishable from a primary insurance contract with respect to notice of a claim.

"The court applied a body of law involving policyholders and insurers," said Mr. Warin, noting that the federal court did not require the reinsurer to demonstrate that it had been prejudiced by the late notice.

On the other hand, a federal court in Connecticut held that Central National Insurance Co. must show it has been prejudiced by late notice before the reinsurer can be excused from paying claims to its cedant, Travelers Insurance Co.

Notice was delayed three years but the court construed an ambiguity in the reinsurance policy in favor of the ceding company, said Mr. Warin.

This is the same reasoning applied in disputes between policyholders and insurers, he noted. Often courts will construe a policy ambiguity against the insurer on the theory that, as drafters of the contract, insurers should be held responsible for vagueness.

Also likely to be the subject of future reinsurance disputes are questions involving the "follow the fortunes" doctrine, predicted Mr. Warin.

Many reinsurance certificates and treaties require reinsurers to "follow the fortunes" of the ceding company. This generally has been construed to mean that if the ceding company pays a claim pursuant to its policy, the reinsurer will be bound to indemnify the cedant.

" 'Follow the fortunes' is the password to reinsurance," said Mr. Warin.

While the "follow the fortunes" clause will almost always force reinsurers to indemnify ceding companies for the claims paid, there may be circumstances where a reinsurer is not so obligated, he explained.

For example, if the ceding company pays claims not covered under its own policy, the reinsurer is not obligated to indemnify, said Mr. Warin.

Similarly, the 2nd U.S. Circuit Court of Appeals ruled late last month that if a ceding company pays claims beyond the limits of its policy, the reinsurer is not obligated to pay claims beyond the reinsurance policy limits (*BI*, May 28).

> **'More reinsurer and cedant disputes will appear in the courtroom,' says Roger Warin.**

The "follow the fortunes" clause itself is subject to all the terms of the reinsurance contract, explained Mr. Warin.

One issue that has not yet been litigated, but likely will be in the future, involves claims by a ceding company against its reinsurer for hazardous waste cleanup costs.

"Insurers and reinsurers take the position that cleanup costs are not covered by comprehensive general liability policies," said Mr. Warin. Only a few state supreme courts have resolved this issue.

"If an insurance company settles an environmental case where the law of the state is not defined," it is not clear whether the reinsurer would be obligated to indemnify the cedant, he said.

"There is not a groundswell of support in the reinsurance community to pay for environmental settlements," quipped Mr. Warin.

Another issue that will be "greatly litigated" is whether a reinsurer can be liable for bad faith awards, said Mr. Warin.

"It is no news to anybody in the industry that bad faith and punitive damage awards are proliferating out of hand," said Eugene Wollan, a lawyer with Mound, Cotton & Wollan in New York.

While there is some case law on whether a reinsurer can be held liable, when a ceding company pays for a bad-faith claim "it is very sparse," said Mr. Wollan.

"The courts are currently split on this issue," said Mr. Warin.

"We have to recognize that this problem is gradually going to become a non-issue as reinsurers draft around this problem," he adds. ■



Aviation market

Continued from page 3

marily focuses on general aviation insurance trends and issues, drew more than 300 aviation lawyers, underwriters, brokers and agents.

General aviation is a generic term for all aviation-related businesses other than airlines and major aircraft product manufacturers. This includes airports, helicopters, light aircraft manufacturers and small commercial operators.

Participants at the AIA meeting, though, informally discussed other aspects of aviation insurance, including the markets for airline hull and liability and aircraft manufacturers' product liability coverages.

"Traditionally, cycles of the aviation insurance industry are driven by the airline side," said William Gossell, senior vp of Aviation Office of America in Dallas.

However, general aviation insurance rates are leveling, he said, noting that general aviation rates usually increase before airline rates.

"People feel that they don't want to go any lower (and) underwriters in London are refusing to (reinsure U.S. ceding companies) at these low rates," he said.

Nevertheless, rates continue to fall for aviation products manufacturers' liability coverage, though at a slower pace, said Philip Freeman, deputy underwriter for Lloyd's of London aviation syndicate 97, managed by Wellington Underwriting Agencies Ltd.

Rates for aviation product manufacturers' liability insurance are down 20% to 30% this year, compared with 50% last year, he said.

Airline hull and liability rates also continue to decline, though not to the same degree they did in 1989, some underwriters say.

"At the end of the first quarter of this year, we have a graph which shows that the level of reductions has reduced," said a London aviation underwriter. "But that doesn't mean much."

In an unusual move to take advantage of the lower rates, Air Canada and Northwest Airlines Inc. have opted for an earlier renewal date, according to the London underwriter.

Montreal-based Air Canada canceled its 18-month policy to buy a new 12-month hull and liability insurance program on July 1, he said.

The Canadian airline—which values its fleet at $3.7 billion—will have its hull rate cut 45% and rates for its liability coverage with limits of just more than $1 billion per occurrence reduced 31%, said the London underwriter.

Northwest had a 12-month hull and liability program with a six-month extension period, but it decided to forgo the extension and is renewing July 1, he said.

The St. Paul, Minn.-based airline, with a fleet value of $7.9 billion, will have its hull rate cut 39% and rates for its liability coverage of $1 billion per occurrence cut 26%, he said.

The airline will pay lower rates despite a 225% loss ratio in recent years, including the crash of a Northwest MD-82 jet moments after taking off from Detroit Metropolitan Airport in 1987 (*BI*, Aug. 24, 1987).

Air Canada and Northwest could not comment on changes in their programs by deadline.

Unlike Northwest, Air Canada and a handful of others, most airlines will renew their hull and liability coverage on Oct. 1 instead of July 1. These include:

- The KSSAF group, led by Scandinavian Airline System, KLM Royal Dutch Airlines, and Swiss Air Transport Co. Ltd. KSSAF is the second-largest group of airlines behind Texas Air Corp. to collectively buy its aviation insurance.
- Japan Air Lines, China Airlines and Thai Airlines in the Far East.
- British Airways and Lufthansa German Airlines in Europe.
- Trans World Airlines Inc., United Airlines Inc. and Pan American World Airways Inc. in the United States.

Most underwriters at the AIA meeting said they doubt rates will increase for Oct. 1 renewals.

"Competition to get dollars in October will be intense (because) the turnover of quality (airline) business in the first six months of this year has been low, so underwriters will need the quality business on their books," said the London underwriter. "I don't think until this time next year will we see any change in the market."

"There is no particular reason for the aviation insurance market to improve" by October, said Richard Elliott, manager of the marine and aviation department of Mercantile & General Reinsurance Co. in London. "I'm not optimistic that rates will start going up again" later in the year, he said.

Some underwriters, though, said the course of rates on Oct. 1 is tough to predict.

On Oct. 1, rates could go up, stay the same or go down, said the Mr. O'Grady of Aviators International Insurance Group. "You could make a scenario for any of those. What the situation will be in October, I don't know."

"I am disappointed that no one has a sense of when the (aviation) market will rebound," said Joseph C. Weaver, treaty underwriting director for Allstate Insurance Co. in South Barrington, Ill., during an impromptu session at the AIA conference.

"It is discouraging at this point, (although) the market can turn with a vengeance," he said.

"A number of people thought rates would have hardened by now. Others think that rates will go up in October, but there are rate reductions in July," Lloyd's Mr. Freeman said. He predicts, however, that rates will only start rising "in mid-1991, at the earliest."

Some U.S. underwriters walked out during this impromptu session, afraid that their participation could be seen as a violation of U.S. antitrust law. However, no specific comments on rates were made during the session.

M&G's Mr. Elliott noted that reinsurers' losses over the past few years, including the $1.5 billion Piper Alpha North Sea platform explosion in 1988, eventually "may spill over into the aviation reinsurance market."

"If excess-of-loss underwriters decide to toughen up, maybe aviation reinsurers would follow suit. Then reinsurance won't be cheap anymore (and) there could be a violent swing in pricing," he said.

However, even with 300% to 400% increases, airline hull insurance rates would still be lower than in previous hard markets, he pointed out.

And, aviation excess-of-loss reinsurance underwriters at Lloyd's and in the London company market have not yet raised prices, Mr. Elliott said.

Treaty reinsurers, though, seem to be renewing at the same rates as last year, according to Mr. Freeman of Lloyd's.

Although he said that is "slightly encouraging," Mr. Freeman noted that new players are entering the aviation insurance market, which could increase capacity and keep rates down.

In particular, at least four London aviation insurers are considering a merger that, if successful, would create a large aviation insurer in London that could write 20% to 25% of each airline insurance program, participants at the AIA meeting said. That, in turn, could attract additional capacity to the market, they said.

The companies involved are Aviation & General Insurance Co. Ltd., British Aviation Insurance Co. Ltd. and the aviation divisions of Commercial Union Assurance Co. P.L.C. and Royal Insurance P.L.C.

BAIC officials were unavailable for comment, though a spokesman confirmed talks were continuing.

In addition, a new aviation insurance underwriting pool was formed in Guernsey earlier this year by Malaysian and Japanese insurers (*BI*, March 26).

Continued on next page



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Aviation market

Continued from previous page

Meanwhile, Allstate's Mr. Weaver says the aviation insurance industry has not yet taken into account the impact that pollution-related losses will have on its capital.

"Our industry has not reflected the full financial impact of those problems," he said. As a result, underwriters have "an illusion" that they are overcapitalized and can afford lower premiums, Mr. Weaver added.

Excluding pollution, the aviation industry faces annual losses of between $1.4 billion and $2 billion, noted Ray Olsen, vp-international aviation and marine at Employers Reinsurance Corp. of Overland Park, Kan. At the same time, annual worldwide aviation premiums total only about $500 million, he said.

"We are not endless pits," Mr. Olsen warned.

Aviation rate increases should at least reflect the rate of inflation, he said. "Our London friends only have so much money (to pay claims). We only have so much money."

Mr. Olsen, however, cautioned against sudden, large rate increases.

Mr. O'Grady of Aviators International Insurance Group said he, too, hopes that underwriters will raise rates gradually, rather than in leaps as they did in 1986. "I hope the market will turn in an orderly fashion," he said. ■

AIA meeting becomes important industry event

MEMPHIS, Tenn.—The Aviation Insurance Assn. conference—begun 15 years ago as a social event for North American general aviation insurers—is now an educational meeting for a broader audience.

U.S. and foreign-based underwriters, brokers and lawyers now attend the conference, which is considered one of the most important events of the year for the aviation insurance industry. In fact, the AIA meeting and the International Union of Aviation Insurers, which is open only to members, are the only events organized by the aviation insurance industry.

E.R. Kinnebrew III, now president of Continental Aviation Underwriters in Memphis, formed the Assn. of Independent Aviation Insurers and in 1975 began meeting informally with other aviation underwriters in Memphis.

The group's name changed and membership broadened in the late 1970s and early 1980s. Today, membership also is open to agents, brokers and lawyers worldwide.

Speakers and workshops were added to the annual get-togethers.

The association decided to become "more professional" about six years ago, said Peter O'Grady, outgoing president of the AIA and president of Aviators International Insurance Group Inc. in Dallas.

Lloyd B. Ericsson, an attorney with Martin, Bischoff, Templeton, Ericsson & Langslet in Portland, Ore., succeeded Mr. O'Grady as president at the end of the conference.

More than 300 people—including about 30 people from London and most major U.S. aviation underwriters—attended the 1990 conference held May 6-9 at the Peabody Hotel in Memphis. U.S. Aircraft Insurance Group, the leading U.S. aviation underwriter, was the only major aviation insurer that did not attend.

Session topics included airport liability, aviation litigation and pollution implications.

Several years ago, AIA decided to become 'more professional,' says its former president.

In addition, private meetings were held in the halls and rooms of the hotel between underwriters and their reinsurers, brokers and lawyers to discuss business. The atmosphere was similar to the Rendez-Vous de Septembre in Monte Carlo, where reinsurers have short informal meetings to discuss year-end renewals.

But, unlike the Rendez-Vous, the AIA conference sessions were well attended.

The AIA "has done a great job," said W.H. Gossell, executive vp of the Aviation Office of America in Dallas, who was involved in the first meetings of the association in the 1970s but had not been to another meeting until this year. "I just wish we could have the whole aviation (insurance) community involved."

Diversions for some AIA members during the meeting included a tour of Elvis Presley's Graceland mansion and a visit to the Memphis airport to observe the operations of Memphis-based courier Federal Express Corp.

Nearly one-third of Federal Express' fleet of 356 planes land at the airport in 60-second intervals between 11 p.m. and 1:30 a.m. every night, a company spokesman said.

About 5,000 part-time employees out of the firm's 80,000 workers then sort and process roughly 1.3 million packages and letters per night, he said.

Beginning at 2 a.m., planes loaded with priority mail for New York and Oakland, Calif., hubs begin to take off, the spokesman said. After 3 a.m., other planes take off at 40-second intervals for other destinations, the spokesman said.

The AIA's 1991 conference will be held in Savannah, Ga., but no dates have been announced. For more information, contact Bob Cannon, c/o Forbes Westar Aviation, 3001 112th Ave. N.E., P.O. Box 245, Bellevue, Wash. 98009; 206-822-8176. ■



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Pilot 'maintenance' urged for airlines

By STACY SHAPIRO

MEMPHIS, Tenn.—Airlines must properly maintain the "carbon-based units" who fly their aircraft to avoid disasters, according to a leading aviation author.

"We have to deal with the human being" in the safety equation, said author and national aviation safety watchdog John J. Nance at the Aviation Insurance Assn. Conference last month in Memphis, Tenn.

Many airline crashes due to engineering bugs have been eliminated, according to Mr. Nance.

Instead, most of the accidents today can be attributed to "pilot error," he said.

"No human being on this planet understands human failure like the engineer who sees his elegant design (for an aircraft) misused," Mr. Nance said.

"When we look at those carbon-based units, we have to supply separate maintenance," he said. "This is the way to reduce accidents."

Human failure is largely predictable and preventable, says Mr. Nance.

"Pilots get tired, angry, upset," he said. "Human beings fail because they are working in an atmosphere that is not conducive to good performance."

For example, pilots can become upset and "not care" about the way they fly if they are not included in merger negotiations between airlines or are brushed aside following a merger, he said.

"It may not be right that your people are upset, but they are upset and you have to deal with it," said Mr. Nance.

Also, pilots who are under stress and concerned about their jobs because they do not get any feedback, may come to work even when they have colds and take self-prescribed medication that can have serious side effects that impair their judgment, he said.

"Human failure is not wholly spontaneous," Mr. Nance observed. "You've got to be sensitive to it because it wrecks planes, costs lives and billions of dollars."

One U.S. airline, for example, has adopted a cockpit resource management system to teach airplane pilots to depend on and work with other people in the cockpit, Mr. Nance said.

But some airlines are "not spending nearly enough as they should" on human resource training, Mr. Nance asserts.

"The key (to better safety records) is in people, not in insurance," he said.

Meanwhile, the Federal Aviation Administration has decided to soften disciplinary measures against pilots in some cases following criticism by general aviation experts that the agency has been too harsh.

For example, the FAA for the last few years has imposed a 60-day mandatory suspension of a general aviation pilot's certificate for a "terminal control area" incursion, noted Roger M. Baker Jr., flight operations specialist of the general aviation staff of the FAA. A TCA incursion occurs when a pilot flies into restricted airspace around an airport without the permission of air traffic control.

But the enforcement of the 60-day penalty "has had a negative impact on the airman community's perception of our enforcement posture," Mr. Baker said.

"It (has become) evident to many of us within the FAA that the punitive deterrence approach with lengthy suspensions, high civil penalties and revocation of privileges for a single transgression has been overused and was no longer effective in promoting aviation safety."

As a result, the FAA rescinded the mandatory requirement for a 60-day suspension for TCA violations, except in extreme circumstances. This provision was signed in March by Admiral Jim Busey, the FAA's administrator.

Following a "top-to-bottom study/review" of the FAA's program for general aviators, the agency developed several draft recommendations, which Admiral Busey supports.

"We have moved out of the study and recommendation phase and are now into the implementation stage," Mr. Baker said.

Among other things, the FAA:

- Plans to introduce a "remedial training program" for pilots after committing an airspace violation and other minor infractions of FAA rules. The FAA still is considering whether to make the program mandatory.
- Plans to reintroduce its Accident Prevention Program to educate and communicate with general airline staff.
- Plans to implement a new training program for FAA inspectors.
- Plans to simplify the FAA's rules and regulations to "enhance understanding and promote compliance."

"The goal for all of us is safety, and we believe the best way to get there is by promoting cooperation, open communications and compliance," Mr. Baker said.

The FAA earlier this year also announced a "major change in the enforcement policy for air carriers," Mr. Baker noted. The FAA introduced the Air Carrier Internal Evaluation Program in March to encourage airline safety, he said. "The FAA cannot have an inspector in every cockpit, or in every maintenance shop, or at every security gate, at least not 100% of the time," he said.

In the late 1980s, the FAA decided to allow airlines to conduct their own safety audits, but in March the audits were officially recognized, he said. "We reasoned that by encouraging airlines to conduct self-examinations to find and report problem areas, we were, in effect, exponentially increasing our surveillance. We wish to continue working together in a partnership for aviation safety."

Under the new evaluation program, "if an air carrier discovers an inadvertent violation, corrects the problem, reports it promptly to the FAA and puts in place a permanent fix acceptable to the FAA to make sure it will not happen again, the FAA will not penalize them, period."

Mr. Baker explained that the FAA's motive is to encourage all sizes of air carriers "to shift their resources from contesting punitive enforcement actions to making their operations safer."

However, the FAA still is carrying out its surveillance of carriers "to make certain that the letter and the intent of the regulations are being honored," Mr. Baker said. ■

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Delay in UST rules may cut capacity: Insurer

By STACY SHAPIRO

MEMPHIS, Tenn.—The Environmental Protection Agency should not delay financial responsibility regulations for owners' underground storage tanks, an insurer says.

The delay until next year of the financial responsibility requirement for tank owners with between one and 99 USTs will delay the cleanup of the environment and could cause pollution liability insurance capacity for USTs to shrink, warned Richard C. Koscielak, general manager of Agricultural Excess & Surplus Insurance Co., a unit of Great American Insurance Co. in Cincinnati.

However, the EPA is going ahead with the delay, said an EPA official.

The EPA in January 1989 began enforcing financial responsibility regulations for owners of underground storage tanks. The rules were supposed to be phased in over a two-year period.

By October of last year, tanker owners with 100 to 999 USTs had to satisfy the EPA requirements (*BI,* May 14; Nov. 20, 1989).

Tanker owners with fewer than 100 tanks were supposed to comply with the financial responsibility regulations this year. However, the EPA recently decided to delay these requirements for a year, said John Mason, chief of the underground storage tank section of the EPA's Region IV in Atlanta.

Businesses with between one and 12 tanks now have until April 1991 to comply, while businesses with 13 to 99 tanks must now comply by October 1991.

The financial requirements can be satisfied by insurance policies, state



trust funds, letters of credit, corporate guarantees, surety bonds or other financial instruments or a combination of methods, Mr. Mason said.

The EPA has approved eight of the 34 state funds already set up to cover UST owners, said Mr. Mason. They are in Alabama, Georgia, Illinois, Iowa, Louisiana, Mississippi, North Carolina and Vermont.

"The financial responsibility requirements have caused EPA a great deal of concern, which is shared by members of the regulated industry and members of Congress," Mr. Mason said at the Aviation Insurance Assn. conference in Memphis last month.

"The concerns revolve around the cost and availability of pollution liability insurance, and the potential impacts of these requirements on small businesses, especially those in rural communities," he said.

State governments have indicated that owners and operators in the "third and fourth compliance groups"—those with between 13 and 99 tanks and between one and 12 tanks, respectively—"need more time to comply with financial responsibility requirements," said Mr. Mason. "The agency has learned that only about 2% of the third compliance group currently have insurance, and recent contractions in the insurance market have demonstrated that the availability of insurance is likely to be further constrained," he said.

By extending the compliance deadline, the EPA "desires to provide short-term relief to UST owners and operators to whom methods of financial assurance are not available," said Mr. Mason.

However, the delay is going to hurt rather than help small businesses with fewer than 100 tanks, AESIC's Mr. Koscielak told participants at the AIA conference, many of whom are involved in general aviation insurance for commercial aviation operators and airports with underground storage tanks.

Fourteen insurance companies offer UST insurance coverage meeting the EPA regulations, compared with only two companies in 1986, conference participants were told.

These insurers rely on premium volume for survival, and cutting the number of businesses that must buy the coverage could hurt the insurers' profitability, Mr. Koscielak implied.

"The AESIC program was based on the premise that the law would be enforced," he said. "Failure to enforce it will lead to a shrinkage of insurance (premium) capacity.

"It is difficult to determine total insurance capacity, but our estimate is that over $1 billion in capacity is currently available. Combining this capacity with the present state funds there appears to be sufficient availability," Mr. Koscielak said.

The current debate raging over the affordability and availability of insurance for USTs "reflects a misdirection of the resources of the concerned parties," he said.

AESIC will write EPA-mandated coverage limits for around $500 per tank for USTs meeting EPA safety guidelines and about $3,000 per tank for unprotected bare steel tanks more than 20 years old, he said.

However, if the 10% to 30% of 1 million tanks that currently are leaking were repaired and the EPA made all tank owners comply with the financial responsibility regulations, "a $1 million limit (policy) should cost less than $100 per tank per year with no shortage of insurance capacity," said Mr. Koscielak.

And by 1998, when most tanks will be forced to meet tough EPA safety requirements, "it won't cost much to insure them," he said.

Mr. Koscielak noted that AESIC has worked with the Wisconsin state government to introduce a $1 million UST insurance program that is jointly underwritten by a state trust fund and AESIC.

Wisconsin's state trust fund offers the first $200,000 of coverage and AESIC offers $800,000 excess of the $200,000, he said. The premium per tank is $300, he said.

AESIC is currently working with the states of Washington, North Dakota, Hawaii and North Carolina to offer similar programs, he added.

Meanwhile, a program in Oregon could serve as a prototype for solving the tank replacement problem of small or rural UST owners, said Mr. Koscielak.

In Oregon, the state UST trust fund is being used to support private bank loans taken out to replace older tanks, he said.

"In this case, AESIC has alleviated the pollution insurance fears of the banking community by offering a guaranteed rate ($500 per tank for full EPA coverage) for the new tanks. Perhaps federal funding for a national program along these lines would be beneficial. AESIC would be willing to support such a program."

Mr. Koscielak noted that in the last five months AESIC has written $6.5 million of gross premiums for EPA-required UST coverage and has quotes pending for premiums in excess of $20 million.

But he warned that all tank owners should buy UST coverage now, no matter what their size.

Some 300,000 to 400,000 USTs will be examined for leaks by the EPA this year, he said.



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PRINCETON MINNEAPOLIS DENVER

Bad 'trips' make up most airport claims

By STACY SHAPIRO

MEMPHIS, Tenn.—The 14,000 U.S. airports rarely are held liable for airline disasters, according to a major airport insurance company executive.

Most airport claims involve passengers tripping and falling in the terminal, said William Gossell, senior vp of the Dallas-based Aviation Office of America, one of the major underwriters of airport liability insurance.

Mr. Gossell equated the loss experience of most airports to large shopping malls. "A lot of people are in a hurry," he said at the Aviation Insurance Assn. conference last month in Memphis, Tenn.

Mr. Gossell said airports can reduce slip-and-fall claims through "loss engineering," particularly in such high-claim areas as particularly fast escalators.

Rarely do catastrophic claims against airports involve airline disasters, he said. Federal Aviation Administration air traffic controllers at airports regularly are named as defendants in personal injury litigation after air crashes, but they are federal employees and therefore their actions are self-insured by the federal government, Mr. Gossell pointed out.

Most major catastrophic losses against airports result when catering staffs that load planes with meals accidentally run their vehicles into parked planes and damage them, Mr. Gossell said.

But in a unique case, a federal court judge ruled last year that the Massachusetts Port Authority was 30% liable for the personal injury losses resulting from an airline disaster at Boston's Logan Airport in 1982, Mr. Gossell noted.

Overall, the judge ruled that MassPort must pay up to $63 million in hull and liability losses stemming from the crash (*BI*, Aug. 7, 1989).

FAA controllers at the airport were held 20% responsible and World Airways Inc. was held 50% responsible when a World Airways DC-10 skidded off an icy runway into Boston Harbor, killing two of 209 people on board, he said.

MassPort did not appeal the decision, Mr. Gossell said.

MassPort's primary liability insurance was written by AOA, which was then a wholly owned subsidiary of Crum & Forster Inc. MassPort had first-dollar coverage limits of $5 million for bodily injury and $3 million for property damage.

MassPort also had $100 million in excess liability insurance underwritten by Lloyd's of London syndicates (*BI*, March 27, 1989).

Mr. Gossell said in an interview there are 14,000 airports in the United States, ranging from "a blade on a ranch" to the 450 airports that accommodate scheduled airline service.

Small municipal airports might carry between $5 million and $25 million of airport liability insurance coverage, he said. Small "hub" airports are insured for between $25 million and $50 million; while medium to large airports are insured for between $100 million and $300 million, he said. O'Hare International Airport in Chicago has about $500 million in liability insurance, while the major New York airports have about $750 million in liability insurance, he said.

Mr. Gossell said that airport liability insurance policies generally are based on the Insurance Services Office Inc.'s commercial general liability insurance occurrence wording. Manuscript policies are available but usually only to the major airports, he said.

Pollution is excluded from airport liability insurance policies, though this exclusion currently is being tested in U.S. courts.

Mr. Gossell also noted that when rating an airport, underwriters will want to know the following:

- How many commercial/commuter, general and military aircraft use the runways.
- The number of passengers who use the airport monthly.
- What premises are to be insured.
- If construction is taking place.

Underwriters will offer airports three-year liability insurance programs, but the rating will be adjusted annually to take into account changes in underwriting criteria. ■

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Insurer team takes off when jetliner crashes

By STACY SHAPIRO

MEMPHIS, Tenn.—When a jetliner crashes, the airline's leading hull and liability insurer charges into action.

Within three hours of the disaster, the insurer will have a team at the crash site to engineer the disaster response plan and pay costs as they arise.

The insurer also will collect data that may be needed in subsequent liability litigation.

An airline's hull and liability insurance policy "says that we're going to pay" when disaster strikes, says Steve Lind, director of branch office claims and vp-general aviation of Associated Aviation Underwriters of Short Hills, N.J. "But it doesn't tell (policyholders) what we are going to do when they really need us. . .when the insured has 100, 200, maybe 300 dead bodies on the ground.

AIA CONFERENCE

"Preparation is the key" to a smooth disaster response, Mr. Lind explained to members at the Aviation Insurance Assn.'s annual conference last month. Airlines, airports and underwriters can avoid chaos at a crash site by meeting before a disaster strikes, he said.

The lead underwriter on the airline's hull and liability insurance coverage has a crash team that will work with the airport and the airline "to minimize the situation. . .to reduce liability exposures and to reduce the ultimate payout that the insured has to pay, which will reduce the loss ratios and therefore reduce premiums," he said.

The insurer's crash team is involved in all aspects of the disaster response plan and many times will take charge on behalf of the airline. It may be the airline's first major disaster, but it is only one of many for the airline's insurer, noted Mr. Lind.

AAU, for example, has as many as 75 people who can be called to a crash site at any given moment, Mr. Lind told *Business Insurance*. The AAU team—from secretaries to the leading claims executive—can be at a U.S. crash within three hours of the crash, he said.

Disaster response training is important, Mr. Lind continued. AAU has just introduced disaster response training to airport policyholders as well as airlines, he said.

"All commercial operators need disaster plans," added Leo H. Howe, president of loss adjuster Howe Associates in St. Louis. He suggested that the AIA form a generic disaster response plan for the scores of smaller aviation operators in the country.

Airport managers and members of the community services—like police and fire departments and hospitals—also should set up a community response committee and meet monthly "so they know each other on a first-name basis and know each other's capability" during a disaster, said Mr. Lind. The committee should include mental health professionals who will play vital roles during a disaster, he added. Journalists also can be involved in the disaster training so they know what to expect if a crash occurs.

Airports should involve insurance companies in their emergency response drills so that everyone knows what his or her responsibility is during a disaster, Mr. Lind said. He pointed out that Sioux Gateway Airport in Sioux City, Iowa, conducted a drill two days before the July 1989 United Airlines DC-10 crash that killed 109 of the 293 people on board. The airport's response to the Sioux City disaster was so effective that a video has been made to help in other airports' disaster training.

"When a disaster happens, the most important thing you can do is communicate," Mr. Lind stressed.

There has to be one person in charge for the airport and one person in charge for the airline's insurance company to coordinate the disaster response plan. "The (insurance) team's leader is in charge of making all the decisions, and those decisions are communicated to all other people who are connected (to the disaster)," he said.

"You'll need a lot of equipment" at the site, Mr. Lind said. AAU has crates packed and ready to go and a load plan to make sure that everything fits into its jet.

AAU's equipment, said Mr. Lind, includes:

- Six or seven lawyers' briefcases.
- Three laptop computers networked to the company's main-

Continued on page 32

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Psychiatric care overused

Hospitalization inappropriate for some patients

By Dr. S. Alan Savitz

THE OVERUTILIZATION of inpatient psychiatric facilities is one of the most important problems facing employers that offer mental health care benefits.

In some instances, hospitalization has reached questionable levels, due in part to the marketing techniques of some psychiatric hospitals, which market treatment programs as easy solutions to complex psychiatric problems. Frequently, patients are over-diagnosed after they have been admitted. There is a growing concern in the medical community that some hospitals are creating rather than responding to a need for such hospitalized care.

Daily, television ads tout psychiatric hospitals' treatment programs for problems ranging from depression to substance abuse, giving the impression that intensive inpatient care is the treatment of choice for many emotional problems. My concern is that hospitalization is inappropriate for many of the patients in psychiatric hospitals today. Hospitals are not the place for psychotherapy, which the patients need. Rather, hospitals are there for the stabilization of the patient, to have them discharged back to their homes and then into long-term outpatient treatment.

There are few mental health patients—whether they be classed as chemically dependent, schizophrenic or severely depressed and be they adult or adolescent—who require hospitalization for these problems. Most can be treated in less restrictive settings with far less risk to the patient emotionally.

Adolescent psychiatric hospitalization, in particular, is of growing concern. Some inpatient programs view adolescent behavioral problems as requiring hospitalization, and diagnose them under the general heading of "conduct disorder." Conduct disorder, which is almost never treated by hospitalization outside the United States, usually cannot be treated as effectively with inpatient care.

In addition to doing a disservice to the patient, these inpatient programs encourage an off-loading of parental responsibility. Often, the real problem behind adolescent problems is a dysfunctional family. Focus on the child as the source of the problem burdens the child with guilt while inuring the parents against the acceptance of their participation in the family difficulties.

What happens, too often, is that parents of adolescents—and, in fact, most people with a mental health or chemical dependency problem—don't know where to turn. They ask relatives or friends for advice about what they should do, and some go no further than the Yellow Pages. They "self-refer" themselves into a treatment program because they don't what else to do.

Once in such a program, patients are likely to find themselves in a Procrustean bed. Like the Greek mythological innkeeper, many treatment centers and individual providers fit patients into treatment programs without regard to individual treatment needs. The truth is that inpatient care is not appropriate for the problems for which most people seek help. Hospitals may have programs, but mental health patients need their own individual treatment plans.

My experience as a psychiatrist has shown that each and every patient with an emotional problem requires an assessment to determine the most effective approach to quality care, an individual treatment plan and referral to the appropriate provider; rarely is hospitalization a required part of this plan. Even detoxification from chemical dependency can often be treated on an ambulatory basis.

Developing a special plan for each patient requires consideration of a variety of treatment modalities. While many health professionals are comfortable using only one or two treatment approaches, an eclectic orientation is now recognized as essential in terms of treatment outcome, quality of care, cost and patient satisfaction.

Mental health care costs, as a component of total health care costs, are going through the roof. Most employers are reporting increases in their mental health benefit costs of at least 15% annually.

This is about twice the rate of inflation for medical/surgical care, and nearly four times the Consumer Price Index. Adolescent mental health care costs alone have risen a dramatic 40%.

. . .Hospitalization is inappropriate for many of the patients in psychiatric hospitals today. Hospitals are not the place for psychotherapy, which the patients need.

Despite the increases, companies recognize the need to provide mental health care benefits. Simply, the costs of *not* providing the benefits vastly outweigh, even at the current inflation rate, the cost of having a good mental health care program. Why?

One reason is the employee with a substance abuse problem will cost the company days of lost productivity.

In addition, the employee with a personal emotional crisis on his hands is inattentive to the job, and is just as likely as the substance abuser to cause a serious accident, or at best perform below par.

Today's approach to mental health benefits incorporates a number of basic facts and assumptions:

- Most people do not know how to get the quality mental health care they need. They know something is wrong, but cannot describe what the "wrong" is.
- Mental health treatment paths, unlike medical health care, can be varied. Each patient is different. Contrast this to medical health care where the results of a given diagnostic test will indicate a single treatment path for patients with that physical condition.
- People seeking help have a specific mental health and chemical abuse problem. The treatment approaches that are the most effective are goal-oriented, short-term and focus on the specific problem.

Using a well-designed mental health care plan, patients enter an environment characterized by easy access with the removal of barriers to quality mental health care. The goals of the plan are to guide patients through the care system, to ensure they are not lost in the "paperwork shuffle," to provide effective and appropriate treatment and to ensure that the treatment progresses to a positive conclusion.

Patients must be properly guided as they enter a mental health care environment. In most managed mental health care plans, this begins with a phone call to a firm's "hot line." Trained service representatives determine the nature of the call, of which about 50% are administrative.

However, if the caller is in a crisis or needs clinical intervention, he or she is immediately transferred to a licensed clinician for crisis intervention and referral. If the clinician determines that further treatment beyond the telephone intervention is necessary, the caller is referred to a licensed mental health care professional in his or her area for assessment.

These "assessors" typically see the patient for a face-to-face evaluation and brief clinical intervention. If long-term treatment is indicated, the assessor can refer the patient to an individual mental health care provider or facility in the managed health care network. The assessor does no further treatment.

Any in-hospital treatment often first must be pre-approved by the network and is then frequently monitored by in-house utilization review. Treatment sessions by individual mental health care providers are also monitored via regular provider reports. This approval-and-review process keeps the treatment appropriate and cost effective and avoids overutilization of facilities and providers.

In the managed mental health care plan, contact with the patient is never lost. Each assessor and treatment provider is in frequent contact with the managed health network and, in this way, the network does not lose contact with the patient throughout the treatment process.

Our own experience with managed mental health care has led us to the following conclusions:

- Employees need to know where they can go for help, and they must feel that they are being received as an individual when they enter the system. They must be assured of confidentiality.
- Assessment of a patient's condition and treatment must be kept separate to avoid the clinical and self-financial interest that will inevitably arise when assessment and treatment are done by the same person or facility.
- Long-term inpatient care is rarely necessary.

Inpatient care, generally, is necessary only for a small percentage of patients who have mental health or chemical dependency problems; and the need for longer hospitalization is only a small percentage of these. Most mental health and substance abuse treatment can be short-term and effective.

- Appropriate and effective treatment has two positive results.

One, better quality care is provided. Two, it reduces both the direct benefit costs and the indirect costs companies suffer from unproductive and troubled employees. An effective, fully managed mental health care program can save money and provide good service.

There is no reason for mental health care costs to be as high as they are, or for persons with mental illness and chemical dependency problems to be without treatment resources. Patient assessment, proper treatment planning and comprehensive utilization review techniques offer effective means of preventing unnecessary inpatient and outpatient care, and can return patients to work as more productive employees. ■



Dr. S. Alan Savitz is medical director Managed Health Network Inc. in Los Angeles. Dr. Savitz is a psychiatrist.

Restoring industry's credibility

Women have role in repairing insurance's image

By Janet M. York

PROBABLY NO INDUSTRY in America is undergoing more examination of its image than insurance.

We're fighting to restore our credibility with the public—and the women of the insurance industry have a special role to play in that effort.

Insurance women can provide unique insights into how the industry's credibility can be restored. That's because women traditionally have played a major role as consumers in their families and often interact closely with the industry's customers in their jobs.

At home, women frequently are the major purchasers of consumer goods. They're usually the ones to do the shopping, the banking, the gift buying, etc. Consequently, women are more likely to know what consumers look for in products and services.

On the job, women often are on the front lines as agents, claims professionals, risk managers and consumer service representatives. They hear first-hand the consumer's frustrations with high prices and poor service. A recent survey asked respondents which industries they had the least confidence in. Insurance finished second behind airlines.

What are the reasons for the insurance industry's dismal showing in such polls? For one, auto insurance premiums have risen dramatically for most people. But the industry's image problems are not related to price alone.

Another issue is the quality of service. Many customers express disappointment in the way their claims are handled.

The decline of service in America affects all businesses. But at a department store, for example, when it's hard to get help from salespeople you still eventually come away with the product you wanted.

With insurance, though, service is what is being sold. Therefore, if the delivery isn't perceived as timely and fair the value of the product is diminished.

Insurance is not a tangible product. It's a promise to deliver service. And when that promise isn't credible in the eyes of your customers, neither is the company that's committed to deliver it.

What can we do to bring back the brilliance to our tarnished image?

First, we must learn to communicate better with regulators, legislators and consumer groups. Right now, our industry is on the defense in terms of economic responsibility. Because we're the experts, no one knows better than we what can be done to lower insurance rates and provide quality service.

Second, we must educate consumers that the costs of insurance are based on what insurance pays for and that as those underlying costs change or increase, they ultimately are reflected in the price of the product.

So, when lawsuits and judgments increased, so did the cost of liability insurance. When health care and auto repair costs rose, so did the cost of health and auto insurance.

Women's professionalism, experience and skills should provide them with a opportunity not just to help shape the industry's image but to personally carry out this critical communications effort.

The more these costs are passed through to consumers, most often without adequate explanation, the more frustrated the public becomes with an insurance system they know little about.

A unique opportunity to reassert ourselves in the public eye as an essential, efficient and compassionate institution was provided by insurers' response to the catastrophes of Hurricane Hugo and the San Francisco Bay area earthquake. While the industry's level of service during these disasters was highly professional and, in some cases, even heroic, we must work to provide this same level of service on a day-to-day basis.

It's not enough to support advertising and public relations campaigns. We must make an industrywide commitment to provide reasonable insurance rates without sacrificing quality service.

Third, in order to compete effectively, not just at home but abroad, we must attract the best and the brightest people to our business. The fact is, insurers, like all businesses, are competing for a dwindling pool of qualified entry-level employees—both male and female. Our educational system is not producing enough of them.

The image of the business does not help in recruitment efforts, either, further compounding the problem. For example, among 2,497 recent graduates from some of the best master of business administration programs, fewer than 2% entered the insurance field.

That's why business, including insurers, must play a greater role in improving the educational system. Business and education partnerships are generating paid work study programs, teacher training, equipment and scholarships. Some companies have adopted individual schools, donating volunteers and equipment. Other companies have created summer jobs.

Now that insurance is front-page news, insurance companies must reach out to consumers even more by discussing ways to reduce the cost of what insurance pays for and not just the price.

Every facet of the insurance industry—from corporate headquarters and branch offices to agents and brokers—must re-evaluate procedures for dealing with customers. They must develop policy statements that are easier to read and understand. And, they must ensure that claims service is handled properly and efficiently to the satisfaction of each and every consumer.

Marketing executives must work to bring to the insurance buying public new and better products that allow more cost saving options.

Finally, the industry must find ways to better utilize one of its greatest resources—its employees. Activities such as presentations to local business, civic groups and schools should be considered.

Women comprise more than 65% of all insurance company employees. Their professionalism, experience and skills should provide them with a special opportunity not just to help shape the industry's image-enhancing strategy, but to personally carry out this critical communications effort. ■



Janet M. York is president of the National Assn. of Insurance Women and executive vp of Business Insurance Planners Inc. in Elm Grove, Wis.

Work break injury compensable: Court

Legal briefs

Injuries sustained by an employee during a lunch hour recreational activity on an employer's premises were held to be compensable by a Missouri appellate court.

Daisy Seiber, an employee of Moog Automotive Inc., injured herself on the company's premises while playing a lunch time basketball game on a court erected by Moog. The lunch period was uncompensated. Employees were free to use the court only on their unpaid breaks. Moog furnished the ball, which was kept in a foreman's office. Essentially, management was indifferent to the use of the court as long as it was not used on company time. Ms. Seiber applied for and was awarded compensation benefits.

The appellate court noted here that the employer had constructed the basketball hoop and provided the ball. Although the activity was unsupervised, the court said that it occurred regularly with the knowledge and approval of Moog.

Since the employer acquiesced, playing basketball became a regular incident to employment and, thus, Ms. Seiber's injuries were compensable, the court said. *Seiber vs. Moog Automotive Inc.*, Missouri Court of Appeals, Aug. 1, 1989 (*BI*/04/June-$10).

Illegitimate posthumous child

A provision in the Virginia Workers Compensation Act granting death benefits for a posthumous child included a posthumous illegitimate child, according to the Court of Appeal of Virginia.

Here, a worker was killed in a compensable accident while working for his employer. He was 24 years of age and unmarried. The evidence indicated that the decedent had co-habitated with the mother of a child born three days after his death. Witnesses, including the decedent's mother and her two daughters, acknowledged conduct expressing their own familial interest in the child following his birth.

The child's mother filed for dependency benefits. The Virginia Industrial Commission awarded benefits on the child's behalf.

On appeal, the employer argued that a putative father's pre-birth acknowledgment of an illegitimate child may not establish dependency. But, the appellate court said that a minor child is conclusively presumed to be wholly dependent upon a parent for purposes of an award of compensation. Furthermore the court said that a "child" includes a "posthumous child" and "an acknowledged illegitimate child."

Affirming the award, the court said the child was both a posthumous child and an acknowledged illegitimate child. *Birdsong Peanuts vs. Cowling*, Court of Appeals of Virginia, June 6, 1989 (*BI*/02/June-$10). ■

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

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- **Old Republic Risk Management, Inc.,** Brookfield, WI, needed an effective system to handle high-volume transactions efficiently.
- **Pioneer Mutual Insurance Company,** Greenville, OH, needed automated Property & Casualty processing to handle growing business with its small staff.

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Air crash response

Continued from page 24

frame computer to collect data on the dead and injured.

- Data bases that include each state's applicable legal statutes.
- Liability forms.
- Office equipment, ranging from staples, note pads and batteries to dictation machines, calculators and portable fax machines.
- Walkie-talkies, flashlights, portable phones, cameras, a compass and a rangefinder.
- A portable generator.
- Instructions for all of the equipment.

The insurer's own jet may be able to land at the airport where the disaster occurs even though the airport is closed to all other traffic, which can cut response time, Mr. Lind pointed out. AAU, as the lead underwriter for United Airlines, could have landed at Sioux Gateway Airport in Sioux City, Iowa, last July, said Mr. Lind. But the AAU crash team didn't know it because of transmission complications, and instead landed 80 miles away.

Once the insurance team gets to the crash site, "there's only about 200 things to do," said Mr. Lind.

The insurance leader first has to meet with the senior airline and airport personnel to coordinate activities and stay with them throughout the disaster. Meetings are scheduled throughout the disaster rescue.

Two command posts are set up, one at the crash site and one as a "staging area" away from the site where portable phones and offices are set up. The alternative staging area is important in case the original command post is engulfed in fire at the crash site, said Mr. Lind.

When a crash occurs, about 200 media people will show up and an "electronic forest" of satellite dishes and cameras will grow, Mr. Lind said.

The insurance team leader examines all information disclosed to the press and collects copies of all information given to journalists.

The airport press officer "should be the mouthpiece" for the airport and the airline, said Mr. Lind, a trained attorney. "No one should say anything about (the crash) except that one spokesperson. Firemen don't. Policemen don't. The workers don't. The insurance representatives don't. The insured must speak with one voice."

The crash scene will be shown on television as many as 50 times in one day. This can create overblown emotions that can increase liability claims, he said.

The media, however, should be given as much accurate information as possible, he said. "Give the media what you've got. . .to make them accurate." The airport's or airline's public relations officer will watch all the television news reports to make sure they are accurate and call the stations with mistakes because the mistakes "can affect liability" claims, he said.

Crash site coordinators should gain the journalists' trust and use press conferences to tell them what's being done. The journalists should be kept occupied by being shown selected views of the crash —such as new camera angles— while bodies are being picked up elsewhere. "Keep them occupied so that they are out of your hair," said Mr. Lind.

Security at the crash site is important, in part to keep journalists and cameramen away from the disaster, but also to avoid any evidence being picked up inadvertently by passers-by, noted Mr. Lind.

The insurance team also meets with the hospital administrators to let them know who will pay for all the medical assistance, said Mr. Lind.

Mr. Lind suggests that the insurance team get to know the nurse supervisor on each floor of the hospitals where the survivors are taken to gather information about their condition.

The insurance crash team must also contact the local coroner. "He's not going to have enough of anything. He's not going to have enough embalming fluid. He's not going to have enough body bags. He's not going to have enough graph paper to draw the location of everybody when he grids the crash site," said Mr. Lind. "Undertakers will have the same problem."

Many of the victims' relatives will show up at the disaster scene. The insurer should coordinate with the airline and the airport to have a representative to stay with each relative. "As much as possible, keep relatives away from the scene," Mr. Lind advised.

The National Transportation Safety Board or other appropriate authority must be contacted and the underwriter should try to work together with the authorities to help find out the cause of the crash. "Do what you can to help the situation and be part of the solution," said Mr. Lind.

The underwriter should be given a copy of everything that is given to the NTSB for its investigation, added James W. (Bill) O'Brien, president of AIG Adjustment Services, Inc. and executive vp of AIG Aviation Inc., both units of American International Group Inc.

Other key details have to be considered at the disaster scene, said Mr. Lind. They include:

- The fire chief should wear an easily-spotted uniform—probably in red—for easy identification.
- Mental health professionals should be on the scene, especially to psychologically debrief the rescuers before they head home. Rescuers should only work at the crash site for 10 or 15 minutes at a time to avoid injury and post-trauma distress.

"Take care of your rescuers," said Mr. Lind. If one fireman collapses, two more will pick him up and then three firemen are lost, he explained.

- Check all identification cards. Representatives of 10 to 15 agencies will be on the site.
- Ambulances should be the only vehicles to use sirens because survivors automatically head toward the sound of the sirens.

When the rescue is over, insurance companies have been known to send letters to victims' relatives offering an out-of-court settlement. But because of criticism, AAU has modified these "opera" letters, Mr. Lind said.

AAU makes no mention of compensation or of settlement if plaintiffs' lawyers have not already been hired, he said. Instead, AAU just says that it is sorry for the loss of that family member. "Here's who we are, and contact us at any time," said Mr. Lind.

"There's no substitute for doing it right the first time," he said. "We try to make these (disasters) non-events." It doesn't do the airline or the insurer any good to drag litigation out forever, he added. "Only when the cases are closed is the grief closed."

Lawsuits, however, will inevitably be filed, especially if the crash is in the United States.

"Please, please, please don't just mail" the suits to the insurers, Mr. O'Brien of AIG Aviation told airlines. "Call, call, call" to tell the underwriters about the litigation, he said. ■

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Apr 16	Apr 4	Insurance Marketing Services	Orlando, FL
Apr 30	Apr 17	Risk & Insurance Management Society	Boston
May 28	May 15	National Assn. of Insurance Brokers	Sea Island, GA
Jun 4	May 22	National Assn. of Insurance Commissioners	Baltimore
Jun 11	May 30	Group Health Assn. of America/GHI	Los Angeles
Jun 11	May 30	Public Risk Management Assn.	Reno, NV
Jun 18	Jun 5	National Assn. of Insurance Women	Denver
Aug 13	Jul 31	American Risk & Insurance Assn.	Orlando, FL
Sep 3	Aug 21	Monte Carlo Rendez-Vous de Septembre	Monte Carlo
Sep 10	Aug 28	Independent Insurance Agents of America	Chicago
Sep 10	Aug 28	Intl. Assn. of Industrial Accident Boards & Commissions	New York
Oct 8	Sep 25	Self-Insurance Institute of America	Washington, DC
Oct 8	Sep 25	National Assn. of Casualty & Surety Agents & Executives	Greenbrier, WV
Oct 8	Sep 25	Chartered Property & Casualty Underwriters	Washington, DC
Oct 22	Oct 9	Baden-Baden Conference	Baden-Baden, W. Germany
Oct 22	Oct 9	RIMS Singapore	Singapore
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COBRA rules

Continued from page 1

dinator for a paper manufacturer with 2,000 employees suggested that "coverage continuity should be restricted only to (the) employee and family covered at (the) time" an employee leaves or is terminated. Extending coverage to a "divorced wife/husband and new family later is ridiculous. The new family did not work for the employer," the coordinator said.

However, 74% of surveyed managers said COBRA should not be repealed.

"While I believe it to be unfair to employers to enact social legislation, it would be far worse to change at this time," said the U.S. benefit manager of a computer manufacturing company employing 70,000. "We need stability in benefits legislation, not continued haphazard benefits legislation."

"I don't see COBRA as a major problem," said the director of human resources for a finance company with 2,000 employees. "We'd rather have COBRA than mandated benefits."

Sixty-six percent of respondents said the law was necessary and 63% said it is meeting its objective.

COBRA helps "with career changes (and) new entrepreneurs," said the employee benefits coordinator of a municipality with 1,500 employees.

However, the employee relations director for a municipality with 2,600 full-time employees said COBRA should be repealed because it is "a disjointed effort to broaden the number of people with coverage."

The employee relations director continued that "the issue of ensuring access to everyone. . .should be addressed on a comprehensive basis rather than in piecemeal fashion."

The manager of benefits and payroll for a banking company with 520 employees also says problems in extending health care coverage under COBRA outweigh the law's merits. "I still contend that the administrative hassles outweigh any good that the act brings. It is still not hitting the group that really is without coverage."

Many of those who said COBRA fails to meet its objective cited high premiums for employees as a significant problem.

"Often individuals who lose coverage find that it is too costly to continue," noted a corporate benefit analyst for a chemical and specialty materials company with 3,000 employees. "The 102% of premium can be quite expensive if you are unemployed or suddenly a single parent."

"People without jobs can't pay the premiums," asserted the personnel manager of a commercial printing company with 150 employees.

Another common complaint: The law shifts responsibility for health care coverage from the former employee to the employer.

Responsibility is shifted "to the employer, who may have a tenuous or even an adversarial relationship with the covered individual, as in cases where an employee starts a business that competes with his former employer," says the benefits manager of a research and consulting firm with 2,600 employees.

Many employee benefit managers also complained that the only people who purchase COBRA coverage are those with pre-existing conditions, resulting in adverse selection.

An amendment passed last year allows a beneficiary to retain COBRA coverage—even after he or she is covered under a new employer's plan—if the new plan excludes coverage for a beneficiary's pre-existing condition (*BI*, Jan. 15; Nov. 27, 1989).

This amendment removes a provision in the original law allowing employers to cancel benefits for former employees who receive health care coverage from a new employer, even if that plan does not cover pre-existing conditions.

"The only people being covered by COBRA are those who have an ongoing medical problem," said the director of human resources for a manufacturing company with 700 employees.

"Those who are healthy do not take COBRA," agreed the employee services manager for a diversified company with 405 workers that manufactures, does data processing work and manages apartment complexes. "They all find cheaper, short-term medical or individual plans. What's left is people with high risk."

Consequently, for most companies COBRA claims far outstripped premiums in 1988.

Of the companies that tracked such data, 76% reported that claims were higher than premiums, and in some cases the difference was significant.

For example, at a heavy construction firm with 100 employees, COBRA claims totalled $150,000 in 1988—15 times greater than the $10,000 in premiums the company collected, according to the company's manager of insurance and personnel.

'The administrative hassles outweigh any good that the act brings. It is still not hitting the group that really is without coverage,' says the manager of benefits and payroll for a banking company with 520 employees.

At a commercial property/casualty insurer with 1,400 employees, the vp of human resources reported that COBRA claims in 1988 totalled $300,000, or 426% of $57,000 in premiums.

"We are losing big dollars on COBRA," said the vp of personnel for a manufacturing company with 11,000 employees. The vp noted that the company collected about $120,000 in COBRA premiums and paid out about $500,000 in claims in 1989.

At a property management company with 2,600 employees, COBRA claims were 275% of premiums in 1988, the benefits manager reported.

And at a rubber tire manufacturing company with 112,000 employees, the director of employee benefits planning said COBRA claims were 148% of premiums in 1988.

Several respondents suggested increasing the premium cap about 3% to 105% of premiums.

And many said they fear that Congress will expand health care coverage continuation requirements under COBRA.

Thirty-nine percent said they expect COBRA will be expanded to allow early retirees to obtain health care coverage until they are eligible for Medicare.

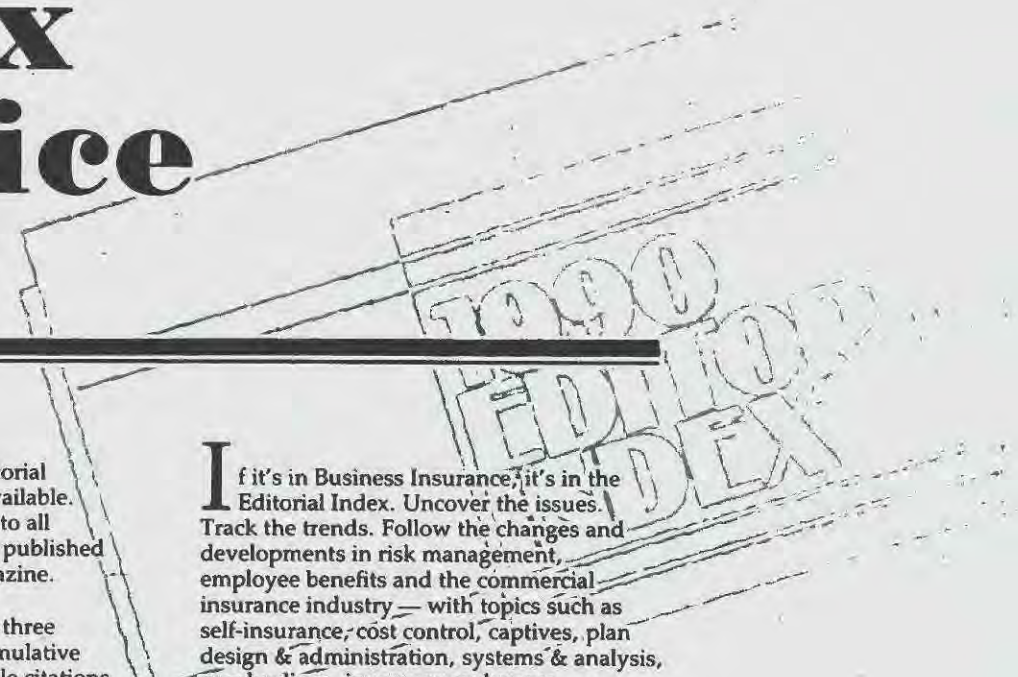
Another 12% said they expect Congress to expand the law in other ways, such as increasing the time coverage must be offered.

"These programs never get smaller—they only get expanded," observed the director of employee benefits for a retail food company with 57,000 employees.

"Knowing Congress, they will expand it and expand it," agreed the manager of human resources for a health maintenance organiza-

Continued on next page

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issue:	**July 9**
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COBRA

Continued from previous page

tion with 31,300 employees.

However, 30% of respondents said they thought Congress will not expand health care continuation coverage under COBRA.

And 19% did not comment.

The survey also found that:

- The majority of beneficiaries took COBRA coverage for three to 12 months. About 5% took such coverage for less than three months, about 31% took it for three to six months, while about 30% took it for six to 12 months.

Only about 15% of beneficiaries took COBRA coverage for more than 12 months but less than the full available coverage term, and about 10% took coverage for the full available term.

- Beneficiaries most often are former employees who obtain coverage after leaving for new jobs.

Second most common are terminated employees.

- The biggest hassles connected with COBRA are collecting premiums and keeping track of who is eligible for coverage.

Many benefit managers complained that finding out about some qualifying events—especially divorces among former employees—is a significant problem for them.

"The administrative burden of COBRA would be reduced significantly if the employee was required to contact the employer" as he or she is when applying for dependent coverage, disability benefits and pension benefits, said the group director of government industry relations for a transportation services company with 40,000 employees.

The benefits manager for the research and consulting firm complained about "dealing with ex-spouses and involuntary terminations who believe they have a right to take out their frustrations for other reasons on the benefits staff."

- 75% of employee benefit managers did not add any staff positions to handle COBRA coverage and compliance.
- Only 24% of employee benefit managers bought a COBRA software package to help them comply with the law.

But, most of the employee benefit managers who bought COBRA software packages—which ranged in price from $500 to $5,500—are pleased with the system they bought.

Many of those who were not pleased with their software complained that it is not flexible enough to handle a wide range of tasks.

- Third-party administrators handled COBRA claims for 40% of the employee benefit managers. Thirty-four percent of the employee benefit managers handled COBRA claims themselves and 25% had an insurer handle their COBRA claims.

One percent did not respond.

- Numerous respondents adding comments in addition to answering the survey questions recommended that the penalties for failing to properly extend COBRA coverage be reduced.

Congress in 1988 reduced the original penalty for violating COBRA, which had been loss of the employer's tax deduction for health care expenses for a single violation.

Currently, the penalties are:

- None for violations that were inadvertent and corrected within 30 days, unless discovered by an Internal Revenue Service audit and not corrected before notice of the IRS audit was received.
- A $100 a day excise tax per violation involving each beneficiary.
- A $2,500 penalty per affected beneficiary or the excise tax that would be due based on the length of the violation, whichever is less, for violations that the IRS discovers and were not corrected before the employer received notice of the IRS audit.

Violations discovered by the IRS during an audit considered more than "de minimus" are subject to a $15,000 fine.

- An annual limit of $500,000, or 10% of the employer's prior year health care costs, whichever is less, on an employer's total liability for violating COBRA.

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Employee benefit managers and buyers of employee benefit plans are invited to join the Business Insurance Employee Benefit Board. Just send a card noting your interest in the Employee Benefit Board—with your name, title, company and address—to Kathryn J. McIntyre, Associate Publisher/Editor, Business Insurance, 740 Rush St., Chicago, Ill. 60611. You will receive several surveys during the year on benefit issues.

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Hensley named president at A&A unit

Clyde K. Hensley was named president and chief operating officer of Alexsis Inc., a unit of Alexander & Alexander Inc. that provides risk analysis services, claims administration and claims information reporting.

Mr. Hensley, who had been managing vp with A&A in Richmond, Va., now will be based at Alexsis' headquarters in Northville, Mich.

Before joining A&A in 1984, he was president of Self Insured Services Co., a subsidiary of Nahm, Turner, Vaughn & Landrum Inc. in Louisville, Ky.

Also among other suppliers:

Donald P. Boutin named vp and chief operating officer at Thomas L. Jacobs & Associates Inc. in Chicago, a UNUM Corp. subsidiary and a third-party disability benefits management firm.

James Reider named senior vp-self-insurance at Frank Gates Co., a risk and benefit management services company in Dublin, Ohio.

Mark W. Agnew joined Buck Consultants Inc. of New York as a benefit consultant in the San Francisco office. **William J. Gnas** joined Buck as a benefit consultant in Secaucus, N.J.

Reinsurance

Philip M. Marcell named chairman of New York-based Continental Reinsurance Corp., succeeding **Nigel Harley**, who joined the French reinsurer Sorema Group in London. Mr. Marcell joined Continental Re, a Continental Corp. unit, in 1986 as chairman of its London reinsurance operations. He will remain based in London.

Also, **Winifred Baker** appointed president of Continental Re and Continental Reinsurance International Ltd., another New York-based Continental Corp. unit.

Harold G. Ingraham Jr. joined Hemisphere Group Inc. of Bridgeport, Conn., as vp and actuary.

Joseph W. Hullett joins E.W. Blanch Co. as senior vp. He will open a Philadelphia office for the Minneapolis-based reinsurance brokerage.

Michael K. Sanders named vp-treaty producer with Sullivan Payne Co. in Dallas.

Gerling Global Offices Inc.—a U.S. subsidiary of Gerling Global Reinsurance Corp. of Canada—announced these changes: **Jack Fu** and **John J. Meyers** named senior vps and **Felix A. Moskie** named vp.

Lothar Riedle named senior vp and **David Preller** named vp at Gerling America Insurance Co. and Gerling-Konzern American Service Corp., two other U.S. subsidiaries of Gerling-Konzern Versicherungs-Beteilingungs A.G. of Cologne, West Germany.

At American Re-Insurance Co. of Princeton, N.J., **Robert M. Hall** and **Edward S. Noonan** named senior vps and **George T. O'Shaughnessy Jr.** named vp.

Anthony M. DiDio promoted to vp with North Star Reinsurance Corp. of Parsippany, N.J.

James H. Veghte promoted to senior vp and **John K. Tracey** promoted to vp in treaty underwriting department of Winterthur Reinsurance Co. of America in New York.

John F. Fisher joined Western Atlantic Reinsurance Corp.—a North American Reinsurance Corp. unit—as vp-claims in New York.

John F. Faustman named vp-underwriting for IRM Services Inc., a reinsurance pool in Charlotte, N.C.

David M. Dee named vp at Reliance Reinsurance Corp., a Reliance Group Holdings Inc. unit in Philadelphia.

Robert E. Miller and **Steven R. Taylor** appointed U.S. regional directors for Mercantile & General Reinsurance Co. P.L.C. of London.

Comings & goings: industry

Insurers

Bert Solski named vp of EBI Cos., the workers compensation unit of Orion Capital Corp. in Farmington, Conn.

Thomas T. Sawicz named president of United World Life Insurance Co., a Mutual of Omaha Insurance Co. unit. Mr. Sawicz replaces **William J. Hetzler**, who retired.

Gerald P. Ring appointed vp-special lines at Commercial Union Insurance Co. of Boston.

Ben H. DeVries elected vp of Ranger Insurance Co. of Houston.

James R. Jones promoted to president and chief operating officer of Dodson Insurance Group, a Kansas City, Mo.-based insurance holding company.

Liberty Mutual Insurance Co. of Boston announced these promotions to senior vp: **George E. Anderer**, New England division; **Kenneth A. Berkov**, Pacific division; **Howard W. Grue**, Midwest division; **Daniel P. Heldman**, Mid-Atlantic division; **Robert J. Lewis**, Southern division; **Gary P. Lia**, home office; **Thomas P. McGahan**, Central division; **Norman L. Staats**, New York division; **Ronald W. Switzer**, Canadian division; and **James L. Walker**, Southwest division.

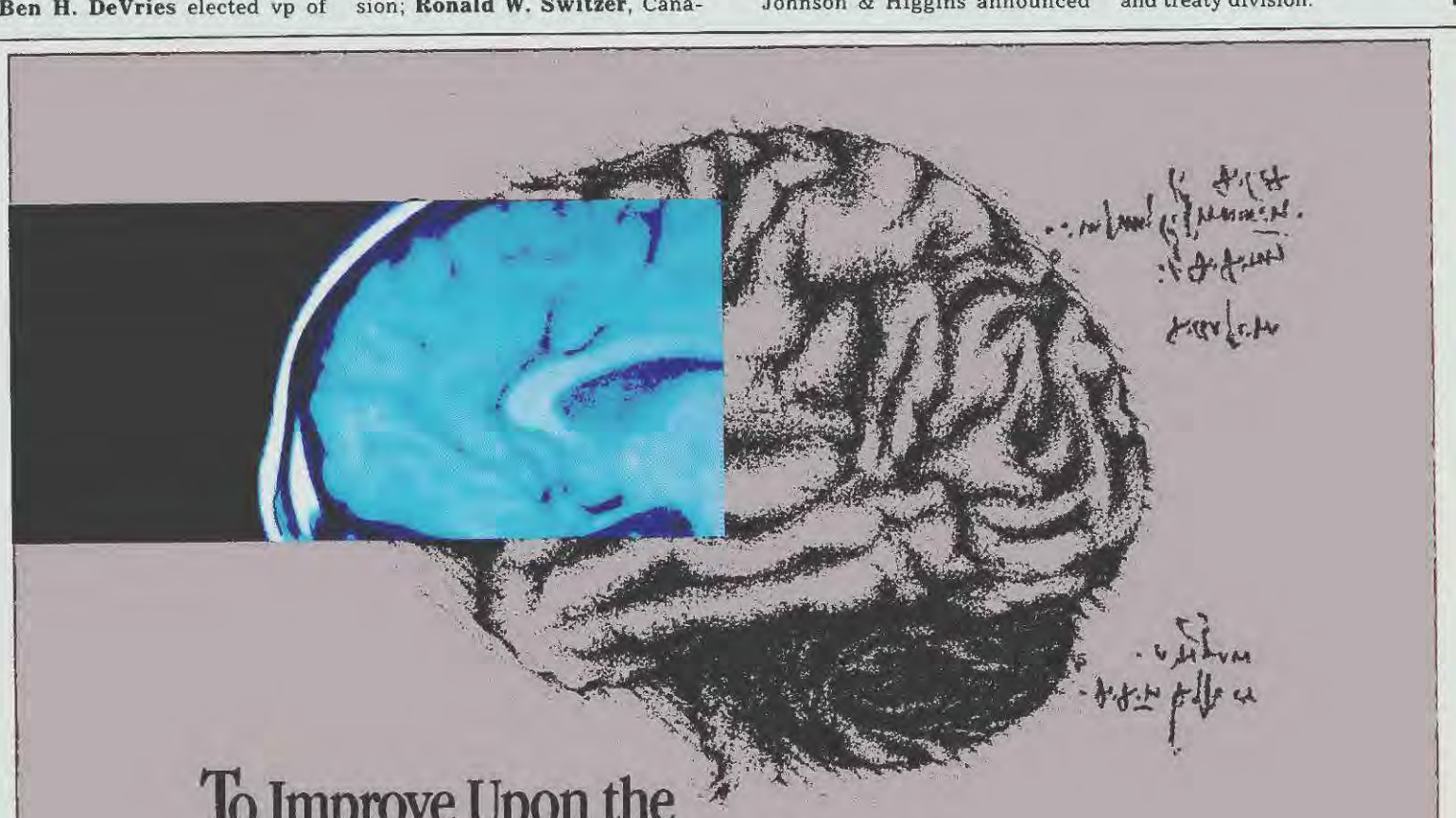
Christopher M. McLain joined Transamerica Corp. of San Francisco as senior vp and general counsel.

Brokers

William C. Brightly promoted to president and chief operating officer at Mintz Girgan Hanlon & Harrison Inc., a brokerage in Lyndhurst, N.J. He replaces as president **Walter B. Mintz**, who has been named chairman and chief executive officer.

Thomas A. Golub elected senior vp at Hobbs Group Inc., a brokerage subsidiary of Arkwright Mutual Insurance Co. in Waltham, Mass.

Johnson & Higgins announced these appointments to vp: **Peter R. Doucette**, **Robert G. Kielly** and **Omar A. Perez** in the account management department; **Robert S. Fissel** and **Paul Walters** in the casualty department; **Yuan-Kee Lee** in the energy division; **Michael Ferreira**, **William A. Goett**, **Stephen R. Leggett**, **George B. Sloane** and **Richard D. Wagner** in the financial group; **James T. Albes** and **Pamela L. Britt** of the international department; **Hasbrouck B. Miller**, **Gordon W. Robbins** and **Joseph F. Silverman** in the middle market department; **William Penn** in the marine department; **John F. Rhodes** of the property department; **Ann Deerling** of the space systems group; and **William G. Snyder** of the casualty reinsurance and treaty division. ■



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Quality of health care to be hot issue in '90s: Managed care experts

By MARK A. HOFMANN

CHICAGO—Quality care will be the focus of managed health care programs of the 1990s, predicted a panel of experts at a recent meeting of the Managed Health Care Assn. held in Chicago.

Managing the quality of care will receive "much more serious attention" in the 1990s than it has in the 1980s, said Richard A. Maturi, executive director of managed care programs for the Chicago-based Blue Cross & Blue Shield Assn.

"Quality care in the mid-1990s will be as crucial as utilization review is today," said Mr. Maturi.

But the question of quality assurance in managed care is not a new one, pointed out Marshall V. Rozzi, executive vp of U.S. Healthcare, a Blue Bell, Pa.-based HMO and PPO firm that does business in six Mid-Atlantic and New England states. In fact, the subject has been kicked around since at least 1980, he said.

"We started the decade talking about quality and ended speaking almost entirely about costs," said Mr. Rozzi.

Mr. Rozzi, a former hospital administrator, said that all providers in a managed care program should be subject to a performance report, which amounts to a professional "report card." He said the best providers in a given field actually help set the criteria against which their peers are measured.

Mr. Rozzi also emphasized the importance of surveying and auditing as a continuing process. Re-audited physicians show a constant improvement with each audit, he said.

Blue Cross/Blue Shield's Mr. Maturi also stressed the importance of measuring quality. In addition to surveying patient satisfaction, he advocated—among other things—carrying out office reviews to see how providers operate on a day-to-day basis.

Howard L. Bailit, vp-employee benefits division of Aetna Life Insurance Co. in Hartford, Conn., also favors on-site review as a means to promote quality care. "Delivery is a local business," he said.

Dr. Rene Lerer, a physician who serves as vp and medical director of employee benefits operations at The Travelers Insurance Co. in Hartford, agreed on the importance of understanding local conditions and expectations.

"You cannot manage from a distance and expect to get the respect of a local physician," said Dr. Lerer. Successful managed care systems must be national in scope but locally managed, he said.

Aetna's Mr. Bailit predicted the managed health care industry will undergo significant restructuring during the next 10 years. Large national companies and regional firms will be the dominant players, he said. "The greater the concentration," the more effective managed care will be in influencing benefits cost and quality, he said.

U.S. Healthcare's Mr. Rozzi also mentioned the power of concentration in influencing quality and cost. "Freedom of choice does not equal quality, in our view," he said.

Instead, "a carefully selected network" of providers offers the best assurance of quality while containing costs, Mr. Rozzi said.

Beach B. Hall, assistant director-employee benefits for General Motors Corp. in Detroit, moderated the panel discussion.

In addition, Shirley Perkins, vp-employee benefits at Los Angeles-based First Interstate Bancorp, succeeded MHCA founder Joseph Duva, a partner in the New York office of Ernst & Young, as president of the organization during the Chicago meeting.

Mr. Duva, then corporate director of employee benefits at Allied-Signal Inc., in Morristown, N.J., launched the group last November. The association's general objectives include furthering the growth of managed care, eliminating inappropriate and unnecessary care and maintaining data on managed care programs.

For further information on MHCA, write to: Shirley Perkins, First Interstate Bancorp, 707 Wilshire Blvd., Mail Sort W33-24, Los Angeles, Calif., 90017. ■

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Eastern Mercy Health names Schlert vp

Ted Schlert, 36, has been promoted to vp-insurance and risk management of Radnor, Pa.-based Eastern Mercy Health System, a health care system with 17 facilities on the East Coast. In this newly created position he is responsible for insurance and risk management programs, including a captive insurer, Stella Maris Insurance Co. Ltd. in Barbados. Mr. Schlert, who was director of the insurance and risk management department, reports to Kent Russell, executive vp. Before joining EMHS in 1987, Mr. Schlert was director of insurance and risk management at Thomas Jefferson University in Philadelphia. He holds a bachelor's degree in education from Kutztown University in Kutztown, Pa., and a master's of business administration from the Philadelphia College of Textiles and Science. He is also a member of the American Society for Healthcare Risk Management.


Mr. Schlert

* * *

J. Kevin Gill, 47, has been named corporate director-compensation and benefits of Collins & Aikman in Charlotte, N.C. In this newly created position he is responsible for compensation, welfare benefits, retirement plans, personnel systems and personnel policy. Mr. Gill reports to Harold R. Sunday, vp-human resources. Before joining Collins & Aikman—a producer of specialty textiles—Mr. Gill was a senior benefits consultant at Martin E. Segal Co. in New York. He holds bachelor's and master's degrees in business administration from Manhattan College. Mr. Gill also is a member of the American Compensation Assn., the International Society of Certified Employee Benefits Specialists and the Society for Human Resources Management.

* * *

Jill M. Wagner, 32, has been named assistant risk manager of Norwest Corp. in Minneapolis. In this newly created position she is responsible for risk identification and analysis, insurance, self-insurance and loss control. Ms. Wagner joined the company in April and reports to K.C. Kidder, vp and risk manager. Before joining Norwest, a diversified financial services company, she was risk and insurance manager for Liberty Industries Inc. in Minneapolis. She holds a bachelor of science degree in business administration from the University of Nebraska at Lincoln. Ms. Wagner holds the Associate in Risk Management and Chartered Property & Casualty Underwriter designations. She is also secretary and serves as a director for the Minnesota chapter of the Risk & Insurance Management Society.

* * *

Donald E. McGuffey, 33, has been named assistant vp-employee benefits administration in the corporate insurance and benefits funding department of Equifax Inc. in Atlanta. Mr. McGuffey, who is responsible for benefit funding and design, replaces **T.J. Collins**, who retired. He reports to Roger Dailey, vp-insurance and employee benefits. Mr. McGuffey joined Equifax—a provider of information for consumer financial transactions—in 1978 and was assistant vp-risk management. He holds a bachelor's degree in business administration from the University of Georgia in Athens. Mr. McGuffey is president-elect of the Atlanta chapter of the Risk & Insurance Management Society.

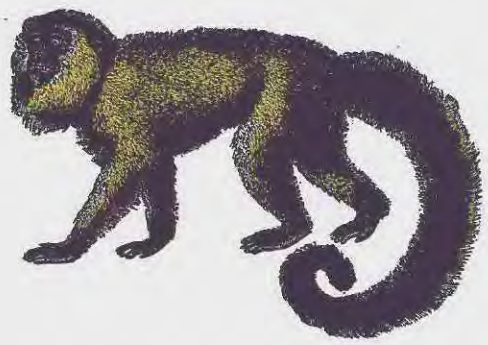
* * *

Paula D. Harms, 30, has been named risk manager of Ash Grove Cement Co. in Overland Park, Kan. In this newly created position she is responsible for managing and administering property/casualty insurance programs. She reports to Gene Billings, director of personnel, and Charles Sunderland, vp-corporate development. Ms. Harms assumed many responsibilities formerly held by Mr. Sunderland, who previously was secretary/risk manager. Before joining Ash Grove in 1988 as assistant risk manager, Ms. Harms was director of risk management at Marsh & McLennan Inc. in Kansas City, Mo. She holds a bachelor of arts degree in business administration from Mid-America Nazarene College in Olathe, Kan. In addition, Ms. Harms holds the Chartered Property & Casualty Underwriter designation.

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We'd like to report on staff changes in your company's risk management, safety and employee benefits departments. Just drop a note to Nancy Johnson, Copy Editor, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590, or call 312-649-7784. Please send a photograph, too.

Comings & goings: buyers

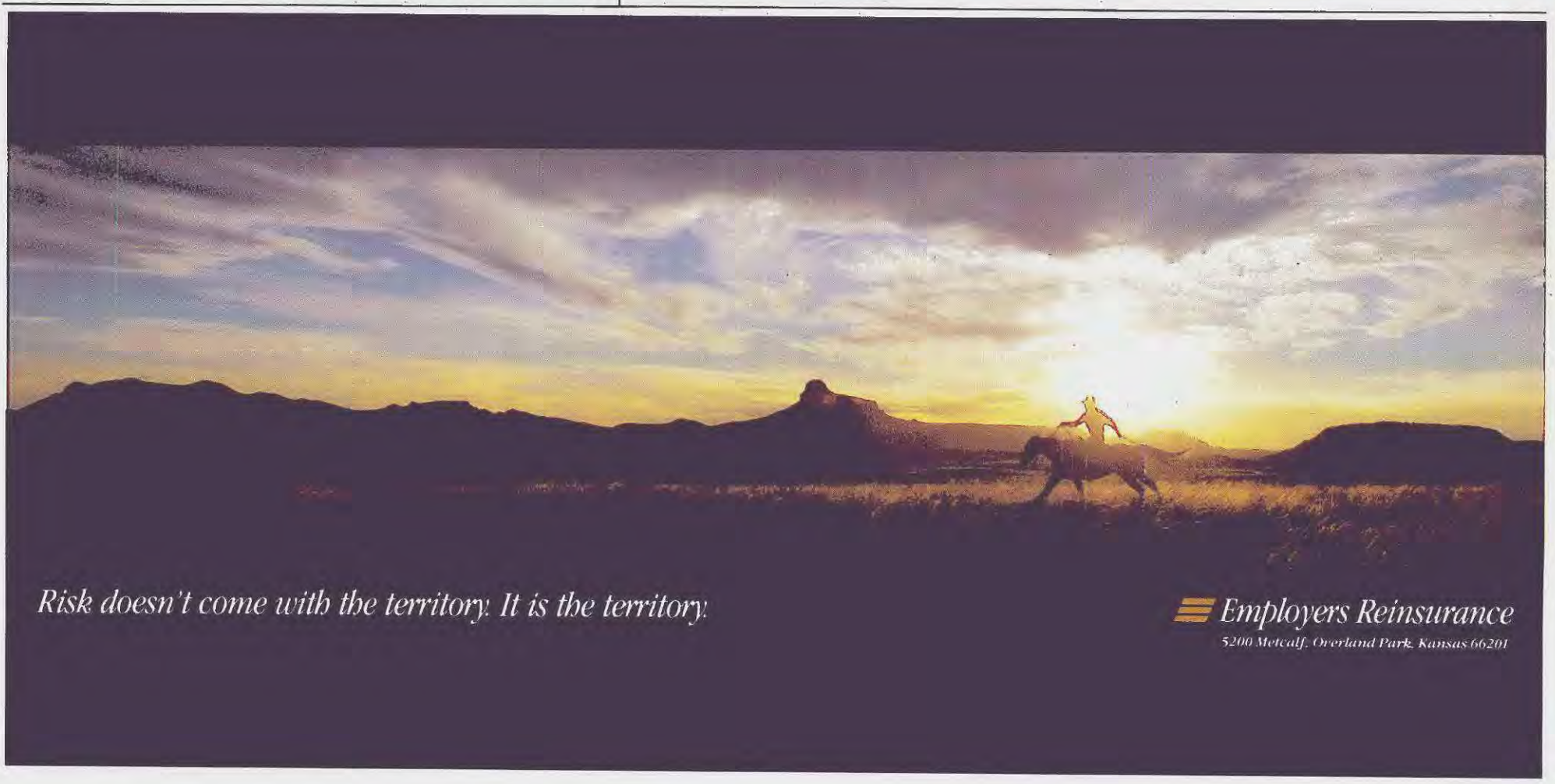


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Senator says reversion tax may rise

By ADRIENNE C. LOCKE

WASHINGTON—If business and labor do not agree soon on who actually owns surplus assets of defined benefit pension plans, Congress could again raise the federal excise tax on asset reversions, says a leading congressional critic of the practice.

The excise tax could be increased to 20% or 30% from its current 15% because businesses are not united in their opposition to an increased

APPWP

tax, says Sen. Howard Metzenbaum, D.-Ohio, sponsor of a bill that would restrict pension asset reversions.



Sen. Metzenbaum

"Not everyone is objecting to the tax," the senator said last month at the Assn. of Private Pension & Welfare Plans' annual meeting in Washington, D.C.

Companies' that terminated their defined benefit plans and recouped the surplus pension assets were first hit with a 10% excise tax on the amount of the reversion in 1986. The rate rose to 15% in 1988.

"There was no reason under the sun for that tax," Sen. Metzenbaum said. But because companies still could retain 90% of the assets they did not complain much, he added.

Unless the issue of surplus asset ownership is settled, Congress will continue to regard reversions as a steady source of tax revenues, Sen. Metzenbaum said.

However, Jim Klein, the APPWP's deputy executive director, noted that "fundamental and philosophical differences" have hindered discussions between Sen. Metzenbaum and the APPWP on asset reversions. Both sides currently are "agreeing to disagree," he said.

It is "because we believe what your proposal would do to discourage companies from sponsoring pension plans that we just have not been able to come to terms," he said.

Employers, Mr. Klein said, may be reluctant to start defined benefit pension plans or increase funding for existing defined benefit plans if they fear losing access to surplus assets in the plans.

Sen. Metzenbaum contended that opponents of proposals to restrict asset reversions won't get very far by simply coming to Washington, D.C., to disagree with them.

"You get somewhere by trying to find some mutuality of concern," said the 14-year Senate veteran. "The legislative process works best when you work toward compromise."

As an example, Sen. Metzenbaum cites his asset reversion bill. He never thought he would have agreed with much of the proposal approved by the Senate Labor and Human Resources Committee in March.

Corporate lobbyists contend that the bill, by imposing several fiduciary responsibilities to pension plan participants, would effectively prevent companies from recouping these assets (*BI*, March 5).

Under the vaguely worded proposal, companies intending to terminate a defined benefit plan would have a fiduciary duty to determine whether a replacement plan's assets would provide "comparable future benefits" to all participants. Before terminating overfunded defined benefit plans, employers also would have to provide for unspecified cost-of-living adjustments in benefits.

The senator accused corporate raiders of "stripping" pension plans—that is, of buying companies with overfunded plans, terminating them and recouping assets. In some cases, he said the reversions totaled more than was originally paid for the company.

That practice has denied plan participants adequate retirement funds, he charged.

Sen. Metzenbaum, reiterating his belief that employees have a right to the excess funds in a defined benefit pension plan, said he considers plan assets deferred compensation.

Rather than increase wages, employers put the money in a pension fund, he said. Had employees not agreed to this form of compensation, the money would have been given to to employees outright, he contends.

'Just because you put some money aside into a defined benefit plan doesn't mean that the money remains yours (the employer's). . .Nowhere can you show me that those dollars belong to the employer,' says Sen. Howard Metzenbaum.

"Just because you put some money aside into a defined benefit plan doesn't mean that the money remains yours (the employer's)," Sen. Metzenbaum said. "Nowhere can you show me that those dollars it belongs to employees, "because if it had not gone into the plan, that money could have, would have, and should have been used for the benefit of the employees."

Sen. Metzenbaum also outlined steps he said are needed to ensure the continued survival of the private pension system:

- Increase the number of workers covered by private pension plans. More than half the U.S. workforce is not covered by a private pension plan, he said. Without more incentives for employers to sponsor plans, more retirees will become the public's responsibility, he said.
- Strengthening the enforcement of federal pension plan laws. The Labor Department's inspector general has expressed concern over the department's ability to enforce laws under the Employee Retirement Income Security Act, he said.

Secretary of Labor Elizabeth H. Dole has proposed legislation that would toughen ERISA enforcement (*BI*, May 21). ■

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Health care competition divides experts

By ADRIENNE C. LOCKE

WASHINGTON—More competition—rather than regulation—is needed within the health care system to hold the line on rising medical costs, a health care economist contends.

And that competition will only come about if employers and employees are allowed to select coverage levels that best fit them, and are not burdened with state coverage requirements and other regulations, he says.

Another health care expert, however, questioned whether the general public would accept the notion that levels of access to health care should vary depending upon what different people are willing to pay.

As U.S. health care costs continue to rise, the public and private sectors are trying to control these expenses, said Gerald Anderson, director of The Johns Hopkins Center for Hospital Finance and Management in Baltimore.

Mr. Anderson moderated a session at the Assn. of Private Pension & Welfare Plans annual meeting last month in Washington, D.C.

The public and private sectors, however, have chosen different paths. Much government effort has gone into regulating prices, while the private sector has begun to focus on managed care to control access to health care providers and the quantity of services rendered, while maintaining competition among providers, he explained.

Both sectors have reasons to justify their measures, Mr. Anderson said.

APPWP

Many in the private sector believe increased competition will reduce prices and improve the quality of service, he said.

"This is based on the economic belief in the free-market theory that what works in other industries should work in health care, and the recognition that a lot of regulation causes inefficiency," Mr. Anderson said.

Many in the public sector, however, believe that free market theory breaks down when applied to health care, he said.

Those who favor regulation believe that it is "very difficult to make the health care market competitive, especially when we have so much insurance, which makes the consumer very unconcerned about the price at the point of service," Mr. Anderson said.

Mark Pauly, an economist at the University of Pennsylvania's Wharton School, said the current U.S. health care system is not too far from the free market envisioned in economic theories.

And he said that freedom of choice by payers and service recipients is essential to keep prices down.

Employers and individuals should be allowed to "choose the regulatory standard they want to implement," he said.

They could opt for a very aggressive standard, where costs are low, but access to health care is greatly restricted, he said. Or they could have what Mr. Pauly calls the "American Express plan," where all medical services are paid for by the employer or insurer. Or they could chose something in between those two extremes.

If people are willing to pay for unrestricted care, then let them, Mr. Pauly said, adding, however, that others who want to keep costs low should be allowed to opt for lower benefits.

Later, in an interview, Mr. Pauly said that state mandates that insured health care plans cover certain procedures interfere with the ability of business "to trade off high-tech services for cost-consciousness."

"There are some theoretical reasons for mandates," Mr. Pauly said, "but personally I think many would impede" both workers' and employers' freedom of choice.

Paul Ginsburg, executive director of the Physician Payment Review Commission in Washington, D.C., says he agrees that a free market ought to exist in health care, but is skeptical about industry's ability to move more quickly toward increased competition.

People generally resist the idea of different levels of care for different people and generally believe everyone should enjoy the same level of care for a fixed cost, he said.

So, for the free market system to work, "there has to be an acceptance of a standard that there should be different levels of care for different people"—something

If people want the 'American Express plan' for health care, let them pay for it, says Mark Pauly.

health care policymakers are hesitant to acknowledge, he said.

People also tend to select health plans based on both current and anticipated needs, Mr. Ginsburg said. That means many people select more benefits than they would use at any given time, he said.

Thus, when given a choice, more people will choose a plan with more services over a cost-effective plan, said Mr. Ginsburg.

As part of his remarks to the APPWP, he also explained some regulations the federal government is implementing to hold down rising health care costs.

Congress set up the PPRC to devise ways to control the cost of services to Medicare patients, Mr. Ginsburg explained, adding that the commission is responsible for reforming the reimbursement of physicians who treat Medicare patients (*BI*, April 9).

A major part of the reform, a new Medicare fee schedule, is an attempt to establish services' actual costs based on the amount of service provided and the cost of individual services, he said.

Under the new reimbursement system, payments to primary care physicians generally increase, while those to specialists decrease.

Medicare reformers also seek to cut payments for services they consider "overvalued," such as cataract or hip surgery.

And a volume performance standard will offer doctors incentives to be cost-effective, he said.

Under the volume standard, if physicians' charges exceed the amount of money allotted for Medicare expenditures, the amount reimbursed to physicians per procedure is reduced the following year so that the Medicare program's cost of covering these procedures stays within the budget. ■

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UR regs not necessary: Expert

By ADRIENNE C. LOCKE

WASHINGTON—State regulation of utilization review firms is unnecessary because the industry will eventually resolve any problems voluntarily, says an industry representative.

The potential benefits of such regulation are unclear, and regulation could hinder the relatively new industry's development, said Greg Scandlen, director of state services at the Blue Cross/Blue Shield Assn. in Washington, D.C.

UR firms believe that self-imposed guidelines as well as maturity will help correct problems—including intrusion by non-experts into medical decision-making and the lack of uniform case evaluation standards—Mr. Scandlen said last month at the annual meeting of the Assn. of Private Pension & Welfare Plans in Washington, D.C.

Concern over poor service by some firms, unqualified reviewers handling cases, inconsistent case evaluation standards among firms, difficulty in contacting UR firms or complying with UR standards and excessive paperwork has motivated legislators in 23 states to pass laws or draft legislation attempting to regulate the industry, Mr. Scandlen said.

States have responded by passing laws that, for example, require UR firms to list the qualifications of their staff, reveal their case evaluation standards and set up an appeals procedure to handle disputes, he said. Some laws also require insurance regulators to monitor compliance with state rules, Mr. Scandlen said.

UR is a new and rapidly growing industry, and, like any such field, has its share of good and bad companies, Mr. Scandlen told the benefits lobbying group for business.

UR is "the most promising answer" to control health care costs, Mr. Scandlen asserted. While it may not reduce costs, it will ensure that money is spent wisely on health care, he contended.

"Someone has to watch out to see that people get the services that they do need and don't get the services that they don't," he said.

Mr. Scandlen said many problems targeted by the states eventually will be eliminated as stronger UR firms become more established and weak firms fail.

"Over time, this industry will be able to weed out the bad and borderline firms, and those remaining can compete on price, quality and service," he said.

Mr. Scandlen said he is not sure what regulation will accomplish, arguing that state insurance departments—already understaffed and overworked from dealing with pressing issues like insurer insolvencies and the automobile insurance crisis—cannot adequately handle more duties.

He also said many regulations that at first blush appear harmless can cause real problems for UR firms. For example, some states require disclosure of client lists.

By complying, a firm is "asking for its competitors to raid its book of business," Mr. Scandlen said.

And variations in state rules would make national competition among UR firms difficult, he said.

Physicians and hospitals also criticize UR firms for rigid limits on the length of inpatient stays, said Mark J. Segal, director of the department of health care financing at the American Medical Assn. in Chicago, who also spoke at the session.

A clear and consistent UR policy has "an important role in medical care management," but doctors find some review procedures objectionable, he said. "When you get down to the implementation" of these procedures, "each party has its own biases and interpretations," he said.

Mr. Segal noted that the AMA has not taken a formal position on UR regulation, but said he believes there are some potential problems with regulating the UR industry.

For example, lawmakers and insurance regulators do not know exactly which regulations are useful, he said. In addition, regulating UR firms with nationwide operations at the state level would be difficult, Mr. Segal said.

Mr. Segal proposed creating practice guidelines to help solve the problem of widely varying quality among UR firms. "They can provide a more logical basis for the review" of UR practices and the quality of service provided, he said.

A group of UR firms, the AMA, the National Institutes of Health and the Health Insurance Assn. of America are developing voluntary guidelines that employers can use to gauge UR firms' service, Mr. Scandlen said.

In addition, the medical association and other groups are working on appropriate criteria for procedures like cataract and coronary bypass surgery, Mr. Segal said.

And, executives of leading UR firms, a trade group and an insurance company recently formed the Utilization Review Accreditation Commission to promote voluntary practice standards that will lead to UR firm accreditation (*BI*, Feb. 19). ■

More than 220 attend APPWP annual meeting

WASHINGTON—More than 220 people attended the Assn. of Private Pension & Welfare Plans' 23rd annual meeting, held May 16-17 in Washington, D.C.

The APPWP is a non-profit national trade association and employee benefits lobbying group. Its 400 members include Fortune 500 companies, banks, insurance companies, and law, actuarial, accounting and investment firms.

Last month, the group also elected a new executive committee and board members.

The four directors elected to the executive committee are: Michael L. Costa, vp and division executive at Citibank Corp. in Long Island City, N.Y.; Russel W. Hawkins, staff vp in human resources at Allied-Signal Inc. in Morristown, N.J.; C.J. Horgan, director of executive compensation and benefits at Sun Co. in Radnor, Pa.; and Jae L. Wittlich, vp of the group benefits department at CNA Financial Corp. in Chicago.

The three new members of the larger board of directors are Rob Henrikson, head of the pension-national accounts department at Metropolitan Life Insurance Co., who replaces Harvey Young of Metropolitan on the APPWP board; Terry Humo, legislative analyst and regulatory specialist at Sedgwick James Consulting Group, who replaces Ann Watson, formerly of Sedgwick James; and Albert W. Buckbee II, vp of group pensions at State Mutual Insurance Co. in Worcester, Mass., whose company is new to the APPWP board of directors.

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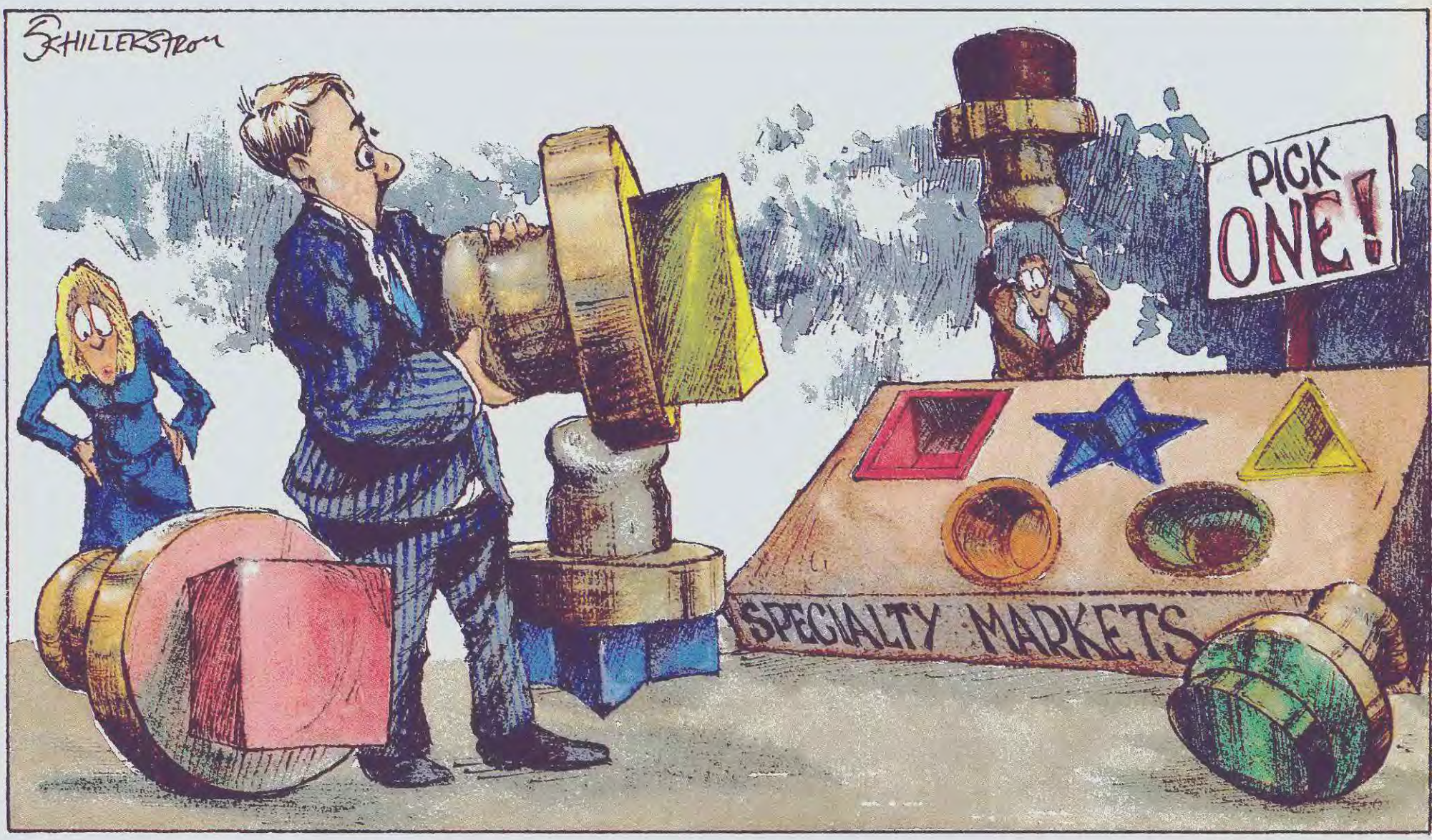
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Business Insurance

Agent/Broker Topics

A monthly editorial section sent exclusively to agents and brokers



Finding your niche

Specialization is expensive but may ensure survival

By LAURA MAZZUCA

Independent agents and brokers unwilling or unable to provide the specialized expertise that insurance buyers are clamoring for may not be around for much longer, according to agency experts.

Developing market niches can cost an agency or brokerage significant amounts of money and time, but the alternative very well could be much more costly, observers point out.

"More and more, the customer of the future is going to look for specialties," said V.C. Jordan Jr., president of broker Poe & Associates Inc. of Tampa, Fla.

"Buyers will increasingly expect specialized products and services, and insurance companies are changing to provide them through agents who are specialists. There will be less and less demand for generalists," he said.

Mr. Jordan, in a recent address to CIGNA Corp. agents that specialize in association business, predicted that less than half of today's independent agents and brokers will survive the 1990s unless they specialize.

"It's absolutely essential" that agencies, especially smaller ones, target a niche, either geographically or by line of business, said Carol A. Hammes, president of The Middleton Group, an agency consultant based in Lisle, Ill.

But to specialize successfully, agencies must carefully pinpoint potential growth areas that coincide with both their existing skills as well as the type of business their insurers want to write, she said.

"You can't throw it against the wall to see if it sticks anymore," Ms. Hammes quipped.

When specialization, or niche marketing, is done correctly, it can propel an agency from a mere survivor to booming success, agency experts say.

For instance, virtually all of the most productive agencies profiled by *Agent/Broker Topics* in its first survey on top-producing businesses had cannily carved out niches that correlated to their region, existing expertise and demands from their insurers (*A/BT*, Sept. 4, 1939).

And, although the alphabet brokerages recognized the importance of niche marketing years ago (see related story), even the smallest agency can successfully develop niche markets.

In fact, some bigger brokerages have had "pretty mediocre results" attempting to specialize because their strengths are placing

Continued on page 40D

Brokerages see specialties as important business tool

By LAURA MAZZUCA

Executives of national insurance brokerages agree on the importance of developing specialized niches, but warn that an agency or brokerage must know a targeted industry inside and out before attempting to carve a niche.

"The days of being a generalist are gone," said R. Jane Hill, senior vp and director of national resources for Sedgwick James Inc. in New York. "But we have to know specific industries just as well as the people who are running those businesses before we can get into them."

Rather than simply jumping in to fill a gap in a demographically desirable industry, an agency or brokerage first must develop the specialty as an outgrowth of its existing skills.

"What you're going to have to do as a broker is first achieve a level of knowledge about an industry, and then have knowledge of what the insurance environment is doing to meet those needs," noted Arthur F. Quern, chairman, president and chief executive officer of Rollins Burdick Hunter Group Inc., an Aon Corp. unit in Chicago.

Brokerage executives agree that increasingly sophisticated and demanding clients are generating greater demand for specialized types of coverage.

Recently, a panel of risk managers told Corroon & Black Corp. executives "that they wanted a broker that really understood their specific business," said James V. Davis, chairman and chief executive officer of C&B's national resource division in Nashville, Tenn.

National brokerages have been carving out niches for years. But demand for specialized service has accelerated in recent years as the clients themselves have grown to national and international stature, Mr. Davis noted.

Larger clients, he said, increasingly view "brokers as consultant/brokers, and not just placers of insurance."

"As clients go from conglomerates to specialists, they're demanding that their vendors know more about their business, too," agreed Donald Bell, chairman and chief executive officer of Frank B. Hall & Co. Inc. in New York, which is noted for its 200-employee aviation division.

"We're becoming a segmented marketplace in every area," said V.C. Jordan Jr., president of Poe & Associates Inc. of Tampa, Fla., which has specialized in professional liability insurance for dentists, lawyers and doc-

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Agent/Broker Topics

Broker niches

Continued from page 40A

tors since the late 1960s. "More and more, the customer of the future is going to look for specialists, rather than someone who will simply jury-rig his solutions."

Recognizing this, most major brokerages years ago capitalized on their expertise and moved into narrow niches.

Marsh & McLennan Cos. Inc., for instance, began developing niches 30 years ago as the "expertise was shared through informal networking" among branch offices. And the brokerage formally targeted niches 10 or 15 years ago by creating profit centers and formal networks, said Lawrence L. Drake, managing director of Marsh & McLennan Inc., New York.

Some large brokers—including Alexander & Alexander Services Inc. of New York—became involved i niches in the mid-1980s because o customer demand—but difficulties i the last hard market "made it eve clearer to us that we needed centra ized specialty resources," said Ro bert Murphy, A&A's director of na tional marketing.

A&A continues to seek out niche for two reasons: Specialization ha proven both stable and lucrative; an clients are more sophisticated, de manding greater expertise from bro kers, added Mr. Murphy. Today, th brokerage has 13 specialized "na tional marketing groups," compare with six in 1985, he said.

Once a niche is developed, a bro kerage can delve even further int subcategories.

"We are continually sharpening th focus and defining sectors w wouldn't have seen before," said Gu R. Migliaccio, managing director o M&M Inc. He observed that marke niches like printing or plastic manu facturing "look like an amorphou group at first, but the closer you ge the more specialized you become."

Alphabet brokers develop niche either through existing skills of pro ducers and other brokerage personne or through acquisitions.

For example, Hall's specialty di visions began as local operations They were later expanded nationall and internationally in health care, fi nancial services, energy and environ mental risks, "a heavy one for us, said Mr. Bell. Other Hall specialtie include marine—"a niche for Hall fo 128 years"—and political risk, whic has "taken off dramatically, particu larly since the Eastern bloc" nation began winning autonomy last fall, h said.

According to Mr. Murphy, A&A primarily has chosen national spe cialties—including health care, en ergy, aviation and aerospace, and fi nancial consulting—on the basis o its "historic presence" in those areas

However, A&A's Kadowaki Asso ciates division, which specializes i Japanese investment businesses, wa purchased outright 2 ½ years ago be cause the California agency ha strong name recognition with Japa nese insurance companies and Japa nese companies investing in th United States, said Mr. Murphy.

RBH has increased its areas of spe cialization through a combination o acquisitions and internal growth.

For example, the brokerage's rail road and transportation niche, one o its oldest, was developed internally said Mr. Quern. But to develop en ergy expertise, it bought in 198 Adams & Porter International Inc. o Houston (*BI*, Sept. 14, 1987). And RBH's international entertainmen and gaming industry expertise come from its 1989 acquisition of Bayly Martin & Fay International Inc which had been the nation's 10th largest broker, said Mr. Quern (*B* June 26, 1989).

But whether through internal de velopment or acquisition, brokerage do not take the decision to specializ lightly, executives say. Potentia niches are carefully researched, wit either internal staff or independen consultants determining whether th broker can develop a competitiv edge in the niche, what others in th market are doing and whether suc specialization ultimately would b profitable.

At most alphabet brokerages, sepa rate research and development team are set up specifically for such work

For example, Ms. Hill recently too over as Sedgwick James' director o national resources—a positio created to meet an increasing em phasis on niches—after 14 years wit the brokerage.

While the brokerage has been a aviation insurance specialist for a least 20 years, the brokerage no is "putting more emphasis on spe cialization by industry," she says.

Several years ago, Sedgwick Jame evaluated its expertise to determin

Continued on next pag

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Agent/Broker Topics

Continued from previous page
which potential specialties looked promising. Officials then studied each niche, assessing the future of each industry, the regulatory environment, demographics like overall client market size, geographic areas of distribution, existing competition and other factors, she said.

Sedgwick James then evaluates its domestic and international strengths and weaknesses in a given specialty to assess "total family strength," she said.

Because such detailed evaluations are expensive, Sedgwick James is selective about the niches it will pursue, especially in today's soft market.

"A (specialty) investment in 1990 is a tough decision because our profit margins are getting squeezed more and more," she said. "But sometimes you can't afford not to pursue a niche."

Corroon & Black's national resource division is currently researching potential niches by pinpointing growth areas and determining whether the brokerage has existing expertise there or must hire an expert, said Mr. Davis.

C&B recently beefed up its construction insurance capabilities by buying Collier Cobb & Associates Inc. The Charlotte, N.C., brokerage—which has an annual premium volume of $22 million—specializes in surety coverage for contractors (*BI*, June 26, 1989).

Internal growth is also fueling specialization at New York-based C&B.

It recently began a hospitality industry division for hotels, motels and related business and hopes to start a concrete/cement division this month, said Mr. Davis. Fifteen of the world's largest concrete companies are already C&B clients, he said.

And C&B is now looking for an expert to expand its presence in transportation insurance by developing a new division, he said.

In seeking out such a niche, the company seeks a "champion," whether the person be internal or external, said Mr. Davis. "If you can identify one or two people who really stand out, one or two people can really carry you along far in the specialty business."

RBH's own staff frequently scouts out specialties, said Mr. Quern.

"Everybody in every part of Aon Corp. is looking for a niche that is either not being served, or being underserved," he said.

For example, an RBH broker in Atlanta knew the textile business, saw its growth potential and was willing to develop the concept. This producer worked with research and consulting personnel to evaluate markets and products and and to organize a new division, he said.

In addition, he noted that West Coast employees 15 years ago helped develop RBH's expertise in California's Silicon Valley by studying high technology's abstruse terminology "so they could talk intelligently to both the industry and the insurance markets," said Mr. Quern.

Having selected a niche, brokerages can further choose subspecialties.

In "big categories"—like energy, construction, finance, health care, high technology and entertainment—"you have to specialize even further in order to be effective," said M&M's Mr. Drake. For instance, several major businesses have sprung from the brokerage's original energy niche, such as gas and electric utilities, nuclear energy and petrochemical development, he said.

This "niche within a niche" approach also works for personal lines development, said Mr. Migliaccio of M&M.

M&M created its personal client services operation 10 years ago for "affluent individuals with more complex needs typically not targeted by Allstate or State Farm," he said. It has yielded specialty clients, including art collectors, yacht owners and sports car enthusiasts.

"And we continue to refine the process, because within each target you begin to identify subtargets," said Mr. Migliaccio.

Brokerage executives point out that brokers must ensure that a market exists for their specialties by working closely with insurers to determine what markets they want to target.

With the soft market continuing, insurers are more willing than ever to work with agents and brokers to develop target markets, said Mr. Murphy of A&A.

"They get excited when brokers talk about meaningful market segmentation," he said. "There's a definite parallel movement afoot here" between insurer interest in specialization and the increase in brokerages developing niches.

Hall's Mr. Bell sounds a warning to would-be specialists: Know which market you are targeting. "The point is not going to the underwriter and asking what they can do for you," but rather offering a fully developed specialty program, he said.

This is important since many insurers are not really prepared to handle highly specialized niches, said M&M's Mr. Migliaccio.

"The companies that have been truly successful have built an infrastructure for the industry they're serving"—including full loss control, claims handling, specialized underwriting and automation—before going after a market, rather than just tacking on an "expertise" that sounds good, he said. "Unfortunately, too many insurers do just that," he added.

Mr. Migliaccio points to The St. Paul Cos. Inc.—especially in electrical and construction niches—and Chubb as examples of two insurers that handle specialization well.

"The ones who do it best tend to have only a handful of specialties," at most six or eight, he said.

"The same thing is true of brokers or agents," who should carefully plan both the approach and execution of any specialty programs, "because if you stumble a little bit, you lose an awful lot of credibility," he said. ■

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Agent niches

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coverage for Fortune 1,000 companies, said Carl Sadler, executive vp of Baldwin Sadler Corp., a managing general agency in King of Prussia, Pa., that also helps independent agents find market niches.

Additionally, larger brokers, which have undergone significant amounts of belt-tightening in the current soft market, frequently find it difficult to justify the time and detail work necessary to develop a specialty program, said Jerome L. Shaver, president of JLS Associates Inc. of Somers, Conn., a specialty lines consultant for general agencies. JLS clients range in size from $2 million in annual premium volume to about $25 million, with clients generating about $7 million on average, he said.

He added that a typical first-year specialty program should be able to produce at least $2.5 million in premium for an agency in order to satisfy insurers and to sustain the program's operation.

Agencies that successfully specialize can look forward to not only a corner on a specific market, but also market stability throughout a market cycle.

For example, Clair Odell Group of Plymouth Meeting, Pa., which specializes placing professional liability coverage for tissue banks and organ procurement facilities, is "doing better than the industry as a whole," said Vp Maury J. Alsher.

Because agencies generally work closely with insurers to develop specific—and usually stringent—underwriting guidelines for their niches, the loss ratio for specialty business is typically very good.

"Our loss ratios have been excellent over the years, and unquestionably, it's attributable to the underwriting guidelines we've developed over that time," said Bruce Brownyard, vp of Brownyard Agency in Bay Shore, N.Y., which has specialized in placing coverage for security guard agencies for 25 years.

"But frankly, we learned by our mistakes," he acknowledged.

Other agents who have successfully specialized also warn that there are many pitfalls involved.

The biggest drawback to specialization is the cost and the time involved in developing a specialty, experts say.

"I've seen some people do it for nothing because they fell into it, but that's like you or me winning the lottery," observed Mr. Shaver of JLS.

Before embarking on developing a niche, agents should carefully research how successful a specialization will be. This step can be costly and time-consuming.

For example, Markel Service Inc., a broker with $200 million in premium volume that specializes in professional liability insurance for police officers, public officials and nurses, spends as much as $100,000 on preliminary market research when it considers developing a niche market, said Alan I. Kirshner, chairman and president of the Glen Allen, Va.-based company.

Markel is large enough to maintain a full-time marketing research department in-house, but smaller agencies typically must use outside consultants to determine the feasibility of a niche.

However, there are other alternatives.

For example, when Markel first set up its police professional liability insurance program in the late 1970s, the principals hired a professor from a local university to perform a "quick and dirty" feasibility study, Mr. Kirshner said.

"For every five (niches) we started in the old days, only one survived," he noted, though he added that the "hit ratio" has not improved significantly since the company hired its own marketing staff.

Maintaining a specialty program also can be expensive—not only because of the initial research needed to develop the line, but also because of subsequent travel, promotional material, fees for exhibiting at conventions for the industries the agency has targeted as a specialty market, paperwork, and tracking legislation relating to the specialty, said Mr. Alsher of Clair Odell.

"The paperwork is voluminous," he said.

Hidden costs also arise when an agency principal devotes much of his own time to developing the specialty.

For example, an agent who launched a specialty in long-term health care insurance policies for individuals in December estimated that the program has cost him "the better part of $100,000" so far because he personally conducts sales seminars on the products available.

"But I don't mind, because we're not looking for a quick fix," said John Schortmann Sr., president of John Schortmann Insurance Agency in Needham, Mass.

Because of the time an agency principal must spend on developing a niche market, such specialization is best done by a general agent with a good book of business who can budget between 5% and 10% of his time to the project, Mr. Shaver recommends.

He estimates that "from conception to first policy," a fully developed niche will cost an agency no less than $250,000 when taking into consideration the producer's time and other expenses.

A solid, profitable niche market cannot be developed overnight. The process is "an evolutionary thing, and it takes time," Mr. Shaver said.

For example, Mr. Schortmann said he has had some slow going with his long-term care programs because of the nature of the product.

"Senior citizens desperately need the information, but part of the problem is that they've been burned many times before and are very wary" of buying this kind of coverage because of unscrupulous sales of multiple supplemental health policies and other scams by unethical agents in the past, he explained.

"It takes a while to break that down in the seminar, which is educational and non-threatening," Mr. Schortmann said, referring to the seminars he presents to senior citizens concerning long-term care coverage.

Thomas J. Dietz, president of Medical Professional Liability Agency Ltd. in Mount Kisco, N.Y., which was spun off from a general agency in 1986, agreed.

"We're growing slowly but surely," he observed.

Mr. Dietz launched his medical malpractice specialty in the mid-1970s, but ran into problems finding underwriters early on and did not write a policy until 1981.

However, the program has since grown steadily and Mr. Dietz was able to spin it off as a self-sustaining unit in 1986.

Since then, the agency expanded its reach to the entire state of New York and to Florida. MEDPRO places coverage for about 10% of

Continued on next page

Regional Insurers Are Important Role For

More stability, special products, flexibility, accessibility to key decision makers and a more personal way of doing business are among the reasons agents cite for the growing popularity of regional insurance carriers. To learn more, we talked to independent agents and brokers about how regional insurers are meeting their organizations' needs in today's complex insurance environment. The following contains highlights of our interviews.

According to agents, regional companies tend to be more focused than the large, national carriers. Few are generalists. Most regionals are niche players. They have an area of expertise and they stick to it. They know the types of risks they write inside and out, and the geographical territory they cover is typically in their own backyard.

Regional companies understand that needs are different in different parts of the country. They are in an ideal position to capitalize on the differences. Unlike many large nationals, a regional carrier isn't forced to deal with one, broad set of guidelines geared to work in every part of the country.

Competitive and Consistent

Many agents and brokers find their regional carriers are more consistent. Because they are so familiar with their market, they know how to price their product to sell and to make a profit. As a result, regionals tend to be more consistent over time in both their pricing and market commitment. They have a pattern of sticking with their agents and their products through good times and bad times.

Regional companies are well aware that their ability to provide a personal touch is their biggest marketing advantage. They are more service-oriented — and it shows. Agents and brokers consistently find that regionals give a level of service large national companies are simply unable or unwilling to provide.

Responsive — Willing to Work With the Agent

When asked about the service regionals provide, agents agree that it boils down to one thing. Regionals are more willing to work with their agents. Agents cited a number of specific examples . . . "If you need fast pricing on an account, they'll give you a quote or at least an estimated premium within the same day" . . . "If you have a question and the company doesn't know the answer, they don't just take the easy way out and say no. They take the time to track the answer" . . . "If they can't write a piece of business for you, they tell you right up front. They understand the pressure the agent is under and they don't waste your time giving you the runaround."

"Regional companies don't try to be all things to all people. They know what they do well and they tend to do it consistently and competitively."



Bernard Michals, President
The Bernard Michals Insurance Agency

Flexibility

Another significant edge is flexibility. According to agents, regional company underwriters tend to be more flexible. While they have clear standards and guidelines on the types of risks they want to write, they're willing to listen to the agent. Sound judgement as it applies to the individual situation is what's most important.

Regional companies also offer flexibility in that they are willing to tailor products and specific policies to better meet the coverage needs of the individual insured.

Continued from previous page
the physicians in each state, Mr. Dietz said. And while he realizes this is not much in terms of the total medical malpractice insurance market nationwide, he believes his agency's market share will grow in time as it eventually expands to other states.

An agency principal also must try to find an outside expert in the niche he has targeted—or develop that expertise himself.

In fact, most observers maintain that developing expertise in the target niche is by far the most important prerequisite to developing a specialty.

For example, "if I were an agency specializing in architects and engineers coverage, I would try to find an architect or engineer to sell that coverage," said Mr. Kirshner of Markel Corp. "They know the language and understand the problems. This is a very important factor in the specialty business."

Markel, which also specializes in equine coverage and liability coverage for children's summer camps as a result of its October 1989 acquisition of the Rhulen Agency Inc. in Monticello, N.Y., has horse owners and former camp directors on staff as producers because they know the risks and can communicate effectively with clients, said Mr. Kirshner, who is a horse owner.

However, no matter what the agency's size, the agency principal should know much about the industries the agency is targeting, experts stress.

Mr. Alsher admits that when he first became involved with coverage for organ procurement agencies, he knew little about the field. "But I had some good people educate me in this area," including the nation's top transplant physicians, he said.

Developing expertise in a market niche gives the agency principal more control over the program by eventually enabling him to take over functions like underwriting and claims administration, said Edward A. Levy, chairman of the excess/surplus specialty lines committee of Delaware Valley Underwriting Agency Inc. of Hatboro, Pa.

But this can also be a double-edged sword. because performing such functions—normally performed by insurers—can drive up the operating cost of an agency, Mr. Shaver said.

He cautions agencies with specialties to devote several years to a new program before deciding whether to take on underwriting or other responsibilities. ■

Specialties range from transplants to pricey poodles

By LAURA MAZZUCA

Areas in which insurance agencies specialize—and the reasons why those niches were chosen in the first place—can be as distinctive as the principals running the agencies.

Some agencies seek out strong growth areas, carefully studying the demographics and variables associated with each specialty.

Others seem simply to fall into a niche, developing expertise almost by a stroke of fate.

No matter how they are chosen, agents increasingly are focusing on "those classes of business that standard lines companies are not interested in writing in all markets," said Carl Sadler, executive vp of Baldwin Sadler Corp., a managing general agency in King of Prussia, Pa., that also helps retail agents find market niches.

Here are how some agencies found their niche:

Clair Odell Group

Clair Odell had its specialty—placing coverage for tissue banking and organ procurement agencies—tossed in its lap, said Maury J. Alsher, vp of the Plymouth Meeting, Pa.-based agency, which has $70 million in annual premium volume.

Mr. Alsher was approached in 1981 by a law firm whose client—a procurement agency—found that liability coverage did not exist, he said.

At the time, organ procurement was in its infancy, with only about a dozen agencies in the country.

Mr. Alsher discussed potential exposures and possible underwriters with a consultant. After brief stints with two other insurers, the agency placed the coverage with General Star Indemnity Co. of Stamford, Conn., a surplus lines unit of General Re Corp.

"It's been very profitable and they've (General Star) done a very good job for us," said Mr. Alsher.

Professional liability exposures of organ procurement agencies, which negotiate with the family of a potential organ donor, are understandably complex. An agency can be sued if it procures a diseased organ or if it fails to follow established guidelines for obtaining the consent of a donor's survivors.

Clair Odell developed a rating system to use with its program, which was difficult since it had no precedent, said Mr. Alsher. "We had to think in terms of what was affordable to the client and what the carrier could live with," he said.

Today, several hundred organ procurement agencies are operating around the nation. Clair Odell places coverage for 70 organ procurement agencies belonging to four associations.

The professional liability coverage placed by Clair Odell has limits of $1 million per occurrence/aggregate, with an additional $500,000 in limits for AIDS exposures. Defense costs are not included in policy limits.

Other coverages—including umbrella liability, directors and officers liability and travel and accident—are also placed for procurement agencies.

"We try to be as full-service to these people as we can," Mr. Alsher added.

Coverage for organ procurement agencies now makes up about 25% of the agency's book of business, according to Mr. Alsher.

"I don't think anyone has a larger share of the market, but I also don't think anyone does it better than we do," he said. However, "we don't rest on our laurels; we still have a lot to learn because medical information changes on a daily basis."

Continued on next page

Filling An Increasingly Agents And Brokers.

Because of their size and compact organizational structures, regional carriers tend to be more manageable companies. There are fewer reporting relationships and fewer levels of authority.

Close to the Market

A regional company can stay closer to its agents. The company tends to know its agents and the agents get to know the people at the company.

This is especially true in underwriting. Underwriters are familiar with their agents, their marketing territories and the type of business they write. What's equally important is they have the authority to get the job done.

"What regional companies do routinely can be time consuming and complicated with other insurance companies."



Mortimer B. Jacobs, President
Jacobs & Jacobs, Inc.

Agents also like the fact that in most regional companies the top people have a hands-on knowledge of the day to day workings of the insurance business. They're not making decisions in an ivory tower.

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Philip L. Kravitz, Chairman
Kalvin-Miller International, Inc.

Agents are quick to point out that for a regional to play an important role in an agency, they have to be big enough to get the job done. That means all lines capabilities needed to write the entire account. Sophisticated support services such as loss control, claims, direct bill programs, and automated rating and policy issuance are also critical.

An Alternative

Agents and brokers today are looking for insurance companies that offer a more personal way of doing business . . . competitive products that reflect the changing needs of today's marketplace . . . prompt, responsive service . . . consistency and stability. Regional companies are providing a viable alternative.

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Specialization

Continued from previous page

John Schortmann Insurance Agency

Needham, Mass.-based Schortmann specializes in long-term health care coverage for individuals, which is a "formidable niche market," said President John Schortmann Sr.

Mr. Schortmann conducts regular sales seminars on his own and at the invitation of the local Council on Aging and retirement communities in the area. While long-term care policies now comprise only about 5% of agency revenues, he predicts strong future growth.

"I knew the process" of building this market niche "could be long, but we're not looking for a quick fix," Mr. Schortmann said.

The agency, with annual premiums of $4.5 million, fell into the specialty two years ago when several clients asked him to look into insurance for nursing homes, he said.

Seizing upon a specialty was a matter of survival for the Schortmann agency, however. The agency, established in 1979, was forced into a niche by poor market conditions in Massachusetts, where insurers, most notably Fireman's Fund Insurance Co. of Novato, Calif., withdrew from the state because of problems in the personal passenger auto insurance market (*BI*, May 7).

In fact, Fireman's Fund, which left the state in 1987, was the agency's lead insurer, collecting 50% of its premiums. "My agency has never recovered from that," said Mr. Schortmann.

Fireman's Fund was replaced by the agency with Reliance Insurance Co. of Philadelphia, which subsequently withdrew from the state.

Mr. Schortmann, who eventually expanded the agency's predominantly commercial business with life/health business, sees the long-term care niche as a natural expansion of the agency's long-standing interest in life insurance sales.

Since only a handful of insurers are licensed to sell long-term health care coverage in Massachusetts, Mr. Schortmann places business with virtually all of them.

As part of its increased emphasis on life/health insurance, the agency last September repackaged an insurer's universal life product and sold it as an investment alternative to an individual retirement account, he said. The program already has generated $100,000 in premium volume, he said.

Industrial Insurance Associates Ltd.

Industrial Insurance Associates has specialized in property/casualty coverage for nursing homes for almost 20 years, and the specialty grew when several clients expanded nationally, said President Dick Wissink.

The Des Moines, Iowa, agency, with annual premium volume of about $2.5 million, places package property, liability, auto and professional liability coverage for about 10 nursing home clients, said Mr. Wissink. He currently is trying to attract another account that has five locations, he added.

A consultant who specializes in helping agencies develop nursing home niches helped launch the program. Allied Mutual Insurance Co., Northwestern National Insurance Co. and Cincinnati Insurance Co. write the coverage.

Because the agency does not have time for intensive marketing, the program comprises only about 10% of total agency revenues, he added.

"We have a balanced book of business between personal lines and commercial," he said. "We would like to do more than we're doing with nursing homes, but with processing our current policies and referrals, we don't have the time."

Brownyard Agency

"We're a classic example of idiot savants," quipped Bruce Brownyard, vp of the Bay Shore, N.Y.-based agency, whose name has become synonymous with security guard coverage.

Mr. Brownyard maintains that the agency founded by his father "fell into" this specialty line 25 years ago, but adds that it was more than luck that helped his father recognize the potential growth of security guard firms.

Like many other agents entering a niche, William H. Brownyard, Bruce's father, first started dealing with security guard agencies when a local client requested coverage and William Brownyard discovered that the available coverage was inadequate. He then worked with an insurer to write a comprehensive coverage program for the security agency.

At the time, the only security agencies in existence were big names, said Bruce Brownyard. But over the years, as the need for private security increased, many smaller firms sprang up. "The business just mushroomed, and we were in on the ground floor," he said.

However, the agency sustained heavy losses early on because it was not selective enough in its underwriting, said Bruce Brownyard.

Learning by experience, the agency carefully narrowed the types of coverage it would write. It will no longer underwrite coverage for armed guards—that coverage usually is written by the surplus lines market—or security agencies specializing in special events, fast food chains, bars and restaurants, said Bruce Brownyard.

At first the agency marketed the coverage only on a retail basis, but "to do proper marketing and underwriting, we decided a wholesale approach was better," he said.

About 15 years ago the agency became a managing general agent and now writes the coverage itself.

Today, Brownyard writes professional and umbrella liability insurance for about 20% of the national security guard market—2,000 accounts from coast to coast. Security guard business comprises almost 85% of total agency business.

Since 1979, security agency policies have been written by Brownyard primarily on behalf of American International Group Inc. units. Because AIG did not have a national security agency program, it was more than willing to work closely with Brownyard to develop the specialty, Bruce Brownyard explained.

As an outgrowth of its relationship with AIG, Brownyard developed two other specialty areas: country clubs and pest control firms.

The agency was attracted to country clubs because the coverage is not commonly written by admitted insurers, Bruce Brownyard said. Feasibility studieswere done four years ago, and the first policies were written in January 1989.

Although country clubs have the expected liquor liability and swimming pool liability risks, they also face other risks, like pollution exposures arising from the use of insecticides on golf courses.

"We're very optimistic about the program; we've begun to meet some success in that marketplace," he added.

Medical Professional Liability Agency Ltd.

Thomas J. Dietz Agency in Mount Kisko, N.Y., was originally a general agency specializing in insurance for school buses and college student unions.

But in the mid-1970s, "when medical malpractice went to hell in a handbasket," President Tom Dietz figured that he'd have little competition in medical malpractice market. His agency launched a medical malpractice specialty program in 1975.

"We suffered through the first five years of failure, and never sold a policy-or generated a cent in commission—until 1981," he said.

Mr. Dietz cites his early mistakes as "not being politically savvy" regarding insurance regulations in different states. Additionally, "just the term 'medical malpractice' scares underwriters away," he said.

However, an affiliation with Frontier Insurance Co. of Monticello, N.Y., helped put the agency on the right track.

Frontier had never written medical malpractice insurance and worked closely with the agency in developing underwriting guidelines. Today, the agency has full underwriting authority and is Frontier's largest producer and its exclusive distributor of medical malpractice insurance, said Mr. Dietz.

The agency finally wrote its first medical malpractice policy, on behalf of Frontier, in 1981. Originally, the agency targeted part-time physicians, but gradually expanded to other providers.

Today it writes coverage for 4,500 doctors and 2,000 dentists nationwide, though 90% of its business is in New York and Florida.

The niche progressed so well that the medical malpractice division was spun off as a separate entity—MEDPRO—in 1986.

Like Brownyard, MEDPRO focuses only on good risks, preferring internal medicine, family practice and primary care physicians to surgeons and obstetricians, said Mr. Dietz.

Levy Associates

If President Ruth Nichols has her way, Levy Associates, an agency in Rockville, Md., will be the dominant insurance agency to the show dog industry.

"The show dog industry is a $198 million national industry," said Ms. Nichols of the market niche she is trying to carve. "Those numbers just kind of screamed at me that a need obviously is not being met."

Ms. Nichols became aware of the lack of show dog mortality coverage about three years ago when she attempted to insure her own prize-winning Weimereiners.

When she contacted the Hartford Insurance Group's livestock office in Chicago, she realized that the policies written to cover show dogs were originally written for livestock like cattle, with coverage on dog mortality tacked on as an afterthought.

The coverage was "for named perils, no theft, and very expensive," she said.

So Ms. Nichols surveyed American Kennel Club members to determine their insurance needs. The sheer numbers involved—more than 1 million new dogs are registered with the AKC annually—captured her attention.

Then, using an all-risk inland marine form, Ms. Nichols wrote a customized policy for show dogs. It covers all causes of loss—including theft, which is a big risk since show dogs can be worth up to $10,000.

First State Insurance Co., a Hartford surplus lines subsidiary, agreed to underwrite the coverage. She also contracted with an outside consultant to handle the data base for the program.

The first five policies were effective March 1.

"It's going kind of slow; I think it's going to take more time than we originally thought," she said.

However, she is optimistic that a combination of the upcoming summer dog shows, her ongoing ad in the AKC Gazette and a toll-free number will build the business.

Premiums range from $125 to $800 per year, or about 8% of policy limits, Ms. Nichols said. This is much less expensive than standard animal mortality products, which are priced at 12% to 15% of the animal's value. ■

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Independent agents predict success for rivals

By LAURA MAZZUCA

Independent insurance agents expect the market share of direct-writing insurers to increase at the expense of their own ranks over the next 10 years, according to a recent poll.

During that decade, self-insurance of commercial risks will continue to grow, which will cause property/casualty agents to increase the amount of life/health and surplus lines business they sell, agents predicted.

As a result, agents expect to offer more diverse services by the year 2000, including field underwriting, claims handling, and safety and risk management consulting, according a survey from Merritt Co., a publisher of insurance newsletters based in Santa Monica, Calif.

Merritt recently published the 300 responses it received to 1,000 questionnaires sent to independent agents late last year.

Nearly 60% of those responding said they expect "some decrease" in the number of independent agencies by the year 2000 and a third predicted a "big decrease." Another 4.1% said they expected "some increase" and 3.1% thought the number would not change.

Nobody predicted a "big increase."

At the same time, a majority of respondents—55.9%—predicted "some decrease" in the number of insurers represented by independent agencies at the end of the century; 11.8% expected a "big decrease"; 19.4% believed the number will remain the same; and 11.8% expected "some increase." Only 1.1% predicted a "big increase" in the number of insurers represented by independent agents.

Surveyed agents also predicted that more agents would exclusively represent a single insurer.

According to the survey, 42.3% of agents envisioned some increase in the number of exclusive agents and 10.3% predicted a big increase. Another 9.3% expected some decrease in the number of exclusive agents, 8.2% expected a big decrease; and 29.9% thought the number of exclusive agents would remain the same.

Direct writers will continue penetrating markets that independent agents now control, according to agents in the survey.

Some 46.4% predicted some increase in direct writers' share of the personal lines market by the year 2000, and 15.5% said they expected a big increase. Thirty-two percent said direct writers' share will remain constant, and only 6.2% predicted some decrease. No surveyed agent predicted a big de-

Continued on next page

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Agent survey

Continued from previous page

crease.

A majority of surveyed agents also said they expect direct writers will make greater inroads into commercial lines by the end of the century.

Nearly 40% predicted some increase and 21.9% said they expect a big increase. A quarter of the surveyed agents said they expect direct writers' commercial market share to remain constant and 13.5% predicted some decrease in direct writers' market share.

No surveyed agent predicted a big decrease.

Most survey respondents also said they expect continued growth in self-insurance of commercial property/casualty risks over the next decade.

Some 60.8% predicted some increase in self-insurance and 21.6% said they expected a big increase. Another 14.4% predicted that levels would remain constant, while 3.1% said they expect some decrease.

No surveyed agent predicted a big decrease.

Most respondents also said they expect property/casualty agencies to pick up business lost to other markets by increasing their volume of life/health business.

A majority—62.5%-predicted some increase and 27.1% said they expected a big increase. Only 9.4% said they expect the level to remain constant and 1% predicted some decrease.

No surveyed agent predicted a big decrease.

In addition to life/health business, surveyed agents also predict that agencies will seek surplus lines business to recoup revenues from lost commercial lines business.

A majority—59.8%—predicted some increase in the volume of surplus lines business handled by independent agents by the year 2000; 8.2% said they expected a big increase; 28.9% predicted the level would remain constant; and 3.1% predicted some decrease.

No surveyed agent predicted a big decrease.

While trying to retain declining amounts of business, the survey found most respondents expect to be providing several types of services by the next century:

- Field underwriting. Some 59.4% of respondents predicted some increase; 22.9% said they expected a big increase; 14.6% said they thought the work load would stay the same; 3.1% predicted some decrease.

None predicted a big increase.

- Claims handling services. A majority—52.1%—predicted some increase; 17.7% said they expected a big increase; 24% predicted the level would remain the same; 5.2% predicted some decrease and 1% a big decrease.
- Safety and risk management services. Some 46.9% predicted some increase; 35.4% said they expect the level to remain the same; and 14.6% predicted a big increase; and 3.1% said they expect some decrease.

None predicted a big decrease.

The survey also found:

- Most respondents expect commission levels to drop over the next decade.

About three-quarters predicted some decrease; 5.3% said they expected a big decrease; 18.1% predicted levels would remain constant; and 1.1% predicted some increase.

No respondent predicted a big increase.

- Most respondents believe insurance regulation will increase.

Some 88.7% said they expected increased federal regulation of the insurance industry; 11.3% predicted no increase in the amount of federal regulation. On the state level, 76.8% predicted an increase, while 23.2% did not expect more state regulation.

- A majority of respondents—82.5%—think the Independent Insurance Agents of America and the National Assn. of Professional Insurance Agents should merge. However, less than half of the agents surveyed—36.1%—predict the two groups actually will merge within the next decade.

•

For a free copy of the survey, contact Don Ball, Editor, The Merritt Co., 1661 Ninth St., P.O. Box 955, Santa Monica, Calif. 90406; phone: 213-450-7234.

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Automated marketing system will be discontinued by IMS

SANTA MONICA, Calif.—Insurance Marketing Services Inc. of Santa Monica, Calif., is discontinuing its automated marketing package, NIMS II, effective July 1.

The last billings for NIMS II—the Nordhaus Insurance Marketing System—were sent out to its 750 users on June 1 for the July usage fees, said Ann George, vp of IMS' education, customer service and production department.

However, NIMS II subscribers can continue to receive phone support through December 1990, she added.

In addition, IMS currently is negotiating with several software vendors to develop a joint venture in which IMS will provide market research and development, and the software vendor will integrate the information into its system, said James MacKenzie, president and chief executive officer of IMS. He declined to name potential partners.

"We're still in discussion about the future of NIMS, and I'm very confident about its continuation, probably under a different guise," he added.

The decision to discontinue ongoing development and monthly support of NIMS II was announced to subscribers at a private meeting held at the annual IMS convention in April.

IMS reached the decision because of the prohibitive cost of updating the software, said Mr. MacKenzie, although he would not elaborate on how much IMS had spent on the system.

Another problem was that the NIMS II system was not integrated with existing agency automation systems, said Ms. George.

If IMS does not find a software vendor partner, it will provide NIMS II material—industry surveys, proposals, agency management and sales and marketing information—in manual form to IMS members, Ms. George said.

NIMS II was introduced in 1981 and updated in 1988. Users paid a $100 monthly fee for the service, which provided the basic software package and ongoing updates and enhancements.

A/BT briefs

Speaker database

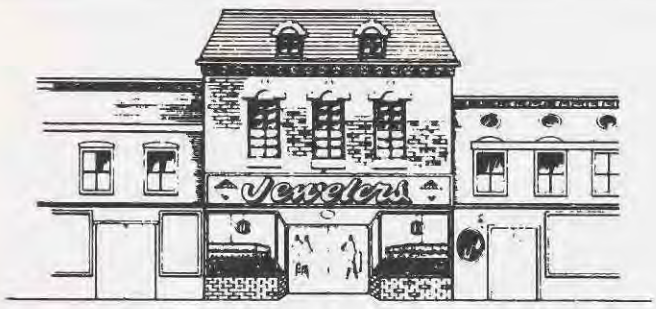
The Independent Insurance Agents of America has created a new speaker/instructor data base service for IIAA state associations, local groups and members interested in hiring speakers.

A list of insurance speakers is being compiled that will include any speaker or instructor who completes and returns the entry form. The form was recently distributed to hundreds of speakers and all IIAA education directors to generate the first listing.

Among other topics, speakers will be qualified to provide instruction in: automation; agency management; sales; customer relations; technical areas; communications; motivation and humor; and programs for spouses at conventions.

Those categories will be broken down to identify speakers in 150 subspecialties, the IIAA says.

Those interested in either using the data base or being listed can contact the IIAA Education Department, 127 S. Peyton St., Alexandria, Va. 22314; 703-706-5389. ■



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Business Insurance

INTERNATIONAL

Canadian regulators seek to close agency

By DOUGLAS McLEOD

TORONTO—Canadian insurance regulators are trying to shut down Amfirst Intermediaries of Canada Ltd., charging that the agency deceived insurance buyers in placing business with three offshore insurers.

Following complaints that one of the insurers failed to pay hundreds of thousands of dollars in claims, the Ontario Ministry of Financial Institutions issued a cease and desist order against Amfirst in April.

Amfirst, based in Mississauga, Ontario, is not licensed as an agent or registered as a broker in the province, and its president, Denis St. Gelais, has been sought by the U.S. Federal Bureau of Investigation since his indictment on unrelated wire fraud charges in Houston last year.

According to Ministry of Financial Institutions documents, Amfirst issued policies, collected premiums and handled claims for Firestone Insurance Co. Ltd. of Antigua, Anatole Insurance Co. Ltd. of the Turks & Caicos Islands and Atlas Insurance Co. Ltd. of the British West Indies.



Mr. St. Gelais is also a director of Firestone, which has failed to pay several large claims filed by commercial policy holders in recent months.

None of the insurers is licensed as a domestic insurer in Ontario or registered with the federal government as a foreign insurer, regulatory sources say.

Mr. St. Gelais and his lawyer could not be reached for comment on this story.

Firestone, operating through Amfirst, was one of a group of insurers that assumed reinsurance business from Consortium of 89, a London-based intermediary. Three Consortium of 89 officials were arrested on fraud charges in London earlier this year (*BI*, Feb. 12; Dec. 11, 1989).

In a Dec. 31, 1988, financial statement, Firestone reported a total of $235.9 million in assets, including $10 million in certificates of deposit, $25 million in stock and a $200 million "gold bond."

Notes to the audited financial statement say that bond was issued by the government of Peru on May 1, 1875, and bears interest in gold at the rate of 7% semi-annually.

Its original value was $1,000, but with interest compounded over 113 years, Firestone calculated its value at $311.2 million at year-end 1988.

Noting that "a negotiated settlement with the Peruvian government would likely result in a discount being taken to collect the balance due," Firestone discounted the bond in its financial statement to "a fair market value" of $200 million.

"Management currently intends to hold the bond as an investment, without seeking a negotiated settlement," the statement adds.

Amfirst serves as exclusive underwriting agent for Firestone under what the financial statement describes as a "non-binding management agreement."

An undated Firestone company profile ob-

Continued on next page

Allianz, Navigation form French insurance venture

MUNICH, West Germany—Europe's largest insurer, Allianz A.G. Holding, has launched a joint venture with financial services company Compagnie de Navigation Mixte of Paris to form one of France's largest private insurance companies.

The new company will consolidate several existing Allianz units in France, including Allianz RAS Holdings and Cornhill France S.A., with the insurance units of Navigation. Allianz last November purchased a 50% stake in Navigation's insurance units.

"From the very beginning, the intention was to merge the (companies' French insurance operations) one way or another under one holding company," a spokeswoman for the Munich-based insurer said.

She noted that an unsuccessful hostile takeover attempt of Navigation by Compagnie Financiere de Paribas last year had delayed talks on the merger of the insurance business.

Allianz will have a 65% stake in the new insurance venture, while Navigation, one of France's largest private diversified financial companies, will have a 34% share. The remaining 1% will be held by unnamed "third parties," Allianz reported.

The new company—which is yet unnamed—will be headed by Emmanuelle Gautier, formerly president of Navigation subsidiary Via Rhin et Moselle, and Yves Soleil, president of Allianz RAS.

GLOBAL BRIEFS

The new venture will be the third-largest private insurance company in France, according to Allianz.

The insurer will write 10 billion francs ($1.73 billion) of premiums, Allianz estimated. Allianz's premium volume from French business totaled only 500 million francs ($86.5 million) prior to the venture, the company said.

France plays a key role in Allianz's strategy for European growth (*BI*, April 16), said a spokesman for the insurer. France is one of West Germany's largest trading partners and, as such, is an important market for Allianz to underwrite commercial insurance, he added.

—By Don Lewis Kirk

New Zealand insurer

WELLINGTON, New Zealand—British insurer Norwich Union Fire Insurance Society Ltd. has acquired the State Insurance Office, the country's largest non-life insurer, for $723 million New Zealand ($415.7 million).

Peter Neilson, deputy minister for state-owned enterprises, said the sale of the government-owned insurer would be used to repay some of New Zealand's national debt.

The sale is part of a privatization program by the New Zealand government aimed at achieving a budget surplus in 1990, he explained.

For example, as of last week the government was still accepting bids for its telecommunications subsidiary, Telecom Corp.

There were 25 companies involved in the bidding for the State Insurance Office, Mr. Neilson pointed out.

FAI General Insurance Co. Ltd. of Sydney, Australia, put in a bid of $500 million New Zealand ($287.5 million), said Chief Executive Officer Rodney J. Adler.

However, Mr. Adler withdrew FAI's bid only days before the sale was finalized.

He explained that FAI's profits would be reduced this year as a result of the natural disasters that have struck Australia and elsewhere in the world.

Another Australian insurer, the Sydney-based Government Insurance Office of New South Wales, was among the bidders, sources said.

State Insurance Office was established in 1905 to counter an influx of foreign insurers in New Zealand. It writes fire, marine, accident and motor insurance coverages.

The insurer, which writes 25% of the non-life insurance premiums in New Zealand, reported a pretax profit of $52.7 million New Zea-

Continued on next page

Troubled economy boosts credit claims for Aussie insurers

By KATE McILWAINE

MELBOURNE, Australia—The number of commercial credit insurance claims in Australia has more than doubled in the past year, fueled by the collapse of numerous small businesses in a troubled economy, say the country's two major credit insurers.



One underwriter reports a three-fold increase in the number of claims in 1989, while another says claims more than doubled.

Vic C. Jacob, managing director of Melbourne-based Trade Indemnity Australia Ltd., said the number of credit insurance claims filed with the insurer more than doubled from 1988 to 1989. Trade Indemnity, a subsidiary of London-based Trade Indemnity P.L.C., controls an estimated 65% to 70% of the Australian credit insurance market.

However, Mr. Jacobs noted, the value of claims rose only 60% to 70%, because most claims in 1989 related to small to medium-sized debtors.

MGICA Ltd.—a wholly owned subsidiary of one of Australia's largest insurers, the Australian Mutual Provident Society—experienced a three-fold increase in claims in 1989 and has incurred "substantial losses," said Peter Bradford, managing director of the Sydney-based credit insurer.

MGICA is receiving at the rate of about $1 million Australian ($767,000) a month, he added.

Commercial credit insurance is a form of casualty insurance for abnormal losses arising from bad debts. It covers losses arising from the failure of a business enterprise to pay the policyholder—typically a manufacturer, wholesaler, advertiser or other service firm. The losses are not related to consumer credit.

In addition, the losses insured are for unexpected losses, not the normal or average credit loss incurred by a business.

Most Australian policies are written for three years, said Trade Indemnity's Mr. Jacob.

Both insurers attribute last year' boom in credit insurance claims to the collapse of smaller companies.

MGICA's Mr. Bradford said insuring credit extended to small bu-

Continued on next page

Open market to benefit E.C. buyers: Study

By CAROLYN ALDRED

LONDON

LONDON—The breakdown of protectionist and restricted insurance markets in the forthcoming single European market will mean more choice and more competitive insurance prices for commercial buyers throughout the European Community, according to a recent study.

"1992: The Single Market in Insurance" was published last month by the Bow Group, an independent research group with strong links to the British Conservative Party. The paper was written by insurance consultant Freddie de Lisle of De Lisle Stephens Ltd.; Marie-Louise Rossi of Sedgwick Group P.L.C.; and Nick Hawkins, group legal adviser to Lloyds Abbey Life P.L.C., with help from several senior European insurance executives.

"At present, the European insurance industry's ability to provide competitive and easily available liability insurance cover is hampered by restrictive practices," the paper says. "Total liberalization of the market will enable not only multinational companies but also smaller concerns and professional and private individuals to find adequate cover.

"The complexity of the multifarious transactions of the modern world has engendered a wide range of new liabilities, and a greater propensity to seek redress for familiar ones," the study says.

"A more efficient insurance sector would also be better able to cope with many of the social and environmental problems facing Europe," according to the study.

Among the social, political and economic changes happening throughout Europe is the breakup of the extensive social welfare, state pension and health service systems that many nations set up after World War II, the study notes.

As the population ages, "the increasing demand for (pension and welfare benefits) and the political, fiscal and economic squeeze on government revenues must make (governments) look toward the private sector to provide these services for, at least, the wealthier sections of society," the report says.

Meanwhile, the insurance industry must also address growing environmental concerns in Europe, the Bow Group warns.

"In Europe, much of the financial responsibility for the cleaning up of environmental disasters and, in particular, long-term pollution problems, has traditionally rested with governments. As stricter regulations are introduced to control pollution, and with them stricter penalties, it is vital that European industry and business find adequate insurance cover," the Bow Group warns.

"If such cover cannot be found, those companies may go bankrupt and governments could then find themselves carrying the burden of the cost of cleaning up the pollution," it adds.

With property insurance, "the monopoly and oligopoly situations which exist in many of the countries in the (European) Community has led to a restriction of choice and the maintenance of artificially high prices" for commercial and personal lines insurance, the report states.

Benefits from a single, free market will include "more competitive pricing and the natural maintenance of this status quo and flexibility of cover, enabling the consumer, both individual and commercial, to enjoy better terms," the Bow Group concludes.

However, creating a single market for insurance will cause changes in the market structure, the report predicts.

For example, the commercial insurance market is "mainly serviced by major international brokers. Indeed, it is probable that we will

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INTERNATIONAL

Credit insurance

Continued from previous page
sinesses is a high risk because they are likely to do businesses with other smaller firms. Smaller firms, in turn, are more likely than larger firms to go out of business in a troubled economy.

Trade Indemnity's Mr. Jacob said most claims were from policyholders with annual revenues of about $7 million Australian to $15 million Australian ($5.4 million to $11.1 million).

Joe Manovella, Trade Indemnity's manager of domestic credit insurance, also attributed the rise in credit insurance claims to high interest rates and, in some cases, bad management of companies.

In many cases, however, a domino effect is responsible for claims, he said.

For example, one company going into receivership creates problems for other companies to which it owes money, he said. This then creates problems for those companies and the effect continues until it hits a company with credit insurance, Mr. Manovella explained.

The collapse of many big companies in Australia has had repercussions for the "second row," the medium-sized companies that formed a large part of Trade Indemnity's market, he said. Smaller companies will be the "third row to fall," and it is likely there will be an increase in the number of small companies going broke, he added.

MGICA's Mr. Bradford said the federal government's "hard-line monetary policy"—which involves, among other things, keeping interest rates high—also was a major factor in the claims increase.

"Evidence (for this) can be found in the majority of our 1989 claims," he said.

Increased claims have contributed to a hardening of credit insurance rates.

Trade Indemnity raised premiums by about 10% this year, said Mr. Manovella. He said, though, that rates differed according to the risk and said there were some companies for which Trade Indemnity would not underwrite credit insurance covering certain creditors.

"The rates are related to the quality of the (debtor) companies," Mr. Manovella said.

'Australia-wide, only 5% to 10% of companies take out credit insurance,' Mr. Manovella says.

Mr. Bradford said MGICA also has raised rates about 10% to 20%.

Mr. Manovella noted that many big Australian companies self-insured their credit risks by putting aside money for bad debts, but he said they were "prolonging the agony" when faced with large, bad debts.

Major corporations appear reluctant to take out catastrophic credit insurance covering, for example, debts exceeding $10 million Australian, although such coverage is available, he said.

"Companies need to look more closely at their risk management and take debtors into consideration as part of that," Mr. Manovella said.

"They need to look at insuring major accounts. Australia-wide, only 5% to 10% of companies take out credit insurance. Without credit insurance, they are leaving a major part of their assets without any cover," he said.

Mr. Manovella said education was a big factor in the lack of credit insurance among many Australian companies. Trade Indemnity has begun a major advertising campaign in financial newspapers, costing more than $250,000 Australian ($191,750), to tout credit insurance.

That campaign has prompted increased inquiries. But Trade Indemnity is cautious about its new business because it does not want to "pick up the garbage end of the market," which could send loss ratios "sky high," Mr. Manovella said.

He said his company will assess each application very carefully before deciding whether to underwrite it.

Aside from a lack of recognition, another problem facing commercial credit insurers is a general lack of detailed financial information on Australian companies, Mr. Jacob said. Extending credit would be far more prudent if more and better information was available on these firms, he said.

Mr. Jacob said that before underwriting a credit insurance risk, Trade Indemnity seeks information from the corporate affairs offices in each state, which are responsible for registering businesses and keeping financial records.

"It is a contentious issue because most companies don't want to disclose more information," he said. "But if it was a general request (made of all Australian companies) then particular companies would not feel as though they were discriminated against."

Mr. Manovella said that in the United Kingdom, for example, companies and insurers have access to a lot more financial data.

More frequent reporting of financial data by Australian companies could help, he said.

Australian companies file annual financial reports in June, which means the information provided is current only up to April. As a result, a credit insurer is usually provided with old information on companies to determine the risk, he said.

Mr. Manovella said Trade Indemnity expects the level of claims to remain high for 12 to 18 months. He said interest rates in Australia are not likely to drop significantly and, therefore, more businesses may go broke if they are overextended.

And MGICA's Mr. Bradford warned that any further slowdown in economic activity in 1990 will take a greater toll on small businesses because they remain subject to the highest level of interest rates and "possibly the lowest level of strength in terms of political lobbying." ■

Amfirst

Continued from previous page
tained by *Business Insurance* says the insurer has written more than $2 million in premiums through Amfirst since its formation in October 1988.

Amfirst's underwriting activities on behalf of Firestone have generated several policyholder complaints about unpaid claims.

One of the largest is a $938,000 Canadian ($794,580 U.S.) claim filed by Medallion Pools Inc., a fiberglass pool manufacturer, after an October 1989 fire destroyed the company's plant in Orangeville, Ontario, according to Howard Hughes, Medallion's president.

Medallion obtained its Firestone policy through Toronto broker Mitchell & Ryerson, which in turn dealt with Amfirst, according to Mr. Hughes, who said he was told by Mitchell & Ryerson employees that the insurer was a unit of Firestone Tire & Rubber Co.

Medallion paid $15,000 Canadian ($12,706 U.S.) for the policy, which insured the plant for $938,000, according to Mr. Hughes. He said the company's total loss from the fire was $1.6 million ($1.36 million U.S.).

Firestone was the company's only property insurer, he said.

That fire forced Medallion out of business, said Mr. Hughes, and the company is suing Mitchell & Ryerson, several of its employees and Firestone in the Supreme Court of Ontario in Kitchener.

Mitchell & Ryerson officials could not be reached.

The Ontario Insurance Superintendent's office also has received complaints against Amfirst and Firestone from Phoenix Biomedical Products Inc. of Toronto, which is owed $500,000 Canadian ($423,550 U.S.) on an unpaid claim; and Waterspring Bed Co. Inc. of Mississauga, which is trying to collect a $116,000 Canadian ($98,264 U.S.) judgment on an unpaid claim.

The Ontario Ministry of Financial Institutions, which includes the Insurance Superintendent's Office, issued a temporary cease and desist order April 5, charging Amfirst with engaging in unfair and deceptive business practices.

Documents attached to the order say Amfirst violated the Ontario Insurance Act by soliciting business, issuing policies, collecting premiums and adjusting claims for Firestone, Anatole and/or Atlas.

"Amfirst has engaged in consistent practices or conduct that have resulted in unreasonable delay or resistance to the fair adjustment and settlement of claims" and has "carried on unfair or deceptive acts or practices in the business of insurance," officials allege.

Amfirst responded by seeking judicial review of the order, charging that the superintendent cannot limit offshore insurers' operations because they are not covered by Ontario insurance law, said Ron Bilyk, manager of licensing and examinations with the superintendent's office.

While Amfirst's application for judicial review is pending, Mr. St. Gelais has agreed that the company will cease its direct insurance business. Under an April 24 consent order, however, Amfirst may still engage in reinsurance business.

That order will remain in effect until Aug. 31 or until Amfirst's request for judicial review is resolved. If the judicial review goes against Amfirst, the company has agreed to cease all insurance and reinsurance activity, documents show.

Meanwhile, federal insurance regulators in Canada have asked the Royal Canadian Mounted Police to investigate the operations of Firestone, according to Robert M. Hammond, deputy superintendent of financial institutions in Ottawa.

Under Canada's Foreign Insurance Companies Act, only foreign insurers registered with the federal government may solicit business, he said.

Firestone is not registered, he said.

Separately, Mr. St. Gelais is being sought by the FBI after he and his father, Jean Marie St. Gelais, were indicted on wire fraud charges in U.S. District Court in Houston last year.

The indictment charges that Denis and Jean Marie St. Gelais defrauded banks in New York and Kansas of $12.1 million on loans to phony oil and gas limited partnerships that had been bonded by Mutual Fire, Marine & Inland Insurance Co., which is in rehabilitation in Pennsylvania (*BI*, Jan. 29).

According to the indictment, the two men submitted fraudulent documents to Mutual Fire to obtain bonds on promissory notes issued by purported investors in the limited partnerships. They then used the bonded promissory notes to obtain loans from two banks.

The limited partnerships often named investors who were not aware they had been included in the partnerships, according to the indictment, which charges the two men with converting the loan proceeds to their own use.

Jean Marie St. Gelais was convicted on six wire fraud counts earlier this year following his arrest at a Miami resort, according to Assistant U.S. Attorney Mitchell B. Lansden.

He is scheduled to be sentenced July 12 and faces a maximum of 30 years in prison. ■

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GLOBAL BRIEFS

Continued from previous page
land ($31.3 million at the year-end exchange rate) in 1989.

—*By Kate McIlwaine*

Nordic market viewed

NEW YORK—The Nordic insurance market is increasingly looking for growth opportunities in overseas markets, according to a recent report prepared by Standard & Poor's Insurance Rating Services.

Insurers in the Nordic market—which includes Denmark, Finland, Norway and Sweden—are using a variety of tactics, including cross-shareholding agreements, joint ventures and corporate restructuring, to enhance and protect their market positions, according to S&P.

The report analyzes the nine leading Nordic insurers that carry claims-paying ability ratings from S&P, as well as 18 other insurers.

Copies of the report are available free from Standard & Poor's Insurance Rating Services, 212-208-1690.

—*By Paul D. Winston*

LONDON

Continued from page 41
continue to see mergers between large brokers, with the result that this market will be dominated by a few very large firms, counterbalanced by the niche activities of small specialist companies," the report said.

Meanwhile, there will be increased demands to cut overhead, the study adds.

"If any current insurance center, such as London, is to remain in the forefront, it will need to be competitive. This means reasonable rents, ease of transport and an available and trained workforce. Development of information technology may well be a threat to the current insurance centers in Europe," the Bow Group warns.

Copies of the study cost 12.50 pounds ($21.16) and are available from the Bow Group, 92 Bishops Bridge Road, London W2 5AB; 071-727 9845.

XL rates up in January

Most excess-of-loss reinsurance rates in the London market began to firm at January renewals, according to a survey.

The London-based Reinsurance Offices Assn. recently published the results of a survey of its members' rate-on-line experience during January renewals. "Rate on line" is the rate used to price excess of loss reinsurance contracts. It is expressed as a percentage of the limits insured.

The ROA examined rates on line for various XL contracts, including:

- Marine excess of loss treaties.

More than half—54%—of marine excess of loss contracts received increased rates on line in January, although that is down sharply from 82% of contracts reporting rate-on-line increases in 1989. This was the only group surveyed to receive significant rate increases during the January renewals.

Sixteen percent of these treaties received lower rates in January, up from 7% in 1989. Rates for 30% of these contracts remained the same during January renewals, compared with 11% that maintained the same rates during January 1989 renewals.

The ROA survey included 6,056 marine excess of loss reinsurance contracts written in January for a gross premium of 51 million pounds ($82.3 million); and 6,426 contracts written in January 1989 for a gross premium of 40 million pounds ($72.4 million).

- London market excess-of-loss reinsurance.

For LMX reinsurance, which is reinsurance for excess-of-loss reinsurers, 53% of contracts renewed with rate-on-line increases last renewal season, up from 48% in January 1989. Fourteen percent renewed at decreased rates in January, down from 18% in 1989.

And, 33% remained unchanged, down slightly from 34% in January 1989.

These results are based on 9,724 contracts written in January for gross premiums of 93.1 million pounds ($150.3 million); and 10,192 contracts written during January 1989 renewals for gross premiums of 77 million pounds ($139.4 million).

- Non-proportional aviation treaties.

Thirty-nine percent of non-proportional aviation treaties experienced rate-on-line increases during January renewals, compared with only 6% during 1988/1989 renewals, the survey said.

Only 26% renewed at decreased rates in January, compared with 79% the previous year.

And, 35% of contracts renewed at the same rate in January, compared with 15% renewing at the same rate in 1988/89.

The ROA survey examined 2,224 aviation non-proportional treaty reinsurance contracts written in January for a gross premium of 20.5 million pounds ($33.1 million at Jan. 1 exchange rate); and 1,904 contracts written in January 1989 for a gross premium of 12.2 million pounds ($22.1 million at Jan. 1, 1989 exchange rate).

- Long-tail liability excess-of-loss treaties.

Rates on line for excess-of-loss treaty business showed signs of hardening with 39% of contracts written at higher rates this renewal season, compared with 31% of contracts with higher rates during January 1989 renewals.

Twenty-six percent of contracts had decreased rates this year, compared with 46% the previous renewal season. And, 35% of contracts had the same rates in January, up from 23% in January 1989 renewals.

The ROA surveyed 7,423 long-tail liability contracts written in January for gross premiums of 197.4 million pounds ($318.6 million); and 7,563 contracts written in January 1989 for gross premiums of 217.7 million pounds ($394 million).

- Short-tail liability excess-of-loss treaties.

Similarly, 39% of short-tail liability excess-of-loss reinsurance contracts saw increased rates in January, compared with 27% in January 1989.

Rates for 38% of short-term liability contracts decreased in January, down from 46% of contracts in January 1989 renewals.

And, 23% stayed the same in January, down from 27% in January 1989.

The survey included 3,115 short-tail liability contracts written in January for gross premiums of 46.4 million pounds ($74.9 million); and 2,779 contracts written in January 1989 for gross premiums of 36.1 million pounds ($65.3 million).

- Property excess-of-loss treaties.

Thirty-one percent of property excess-of-loss treaties renewed at higher rates in January, up from 22% in January 1989 renewals.

Rates decreased in January for 35% of contracts, down sharply from 51% in January 1989.

And, 34% remained the same, up from 27% that remained the same in January 1989.

The results were based on 23,817 property contracts written in January for gross premium revenues of 220.4 million pounds, ($355.7 million); and 24,221 contracts written in January 1989 for gross premium revenues of 201.6 million pounds ($364.9 million).

Comings & goings

Sid Hopkins has succeeded **Peter Dugdale** as chief executive of the Guardian Royal Exchange P.L.C., following Mr. Dugdale's retirement. Mr. Hopkins, who joined the company in 1948, was appointed deputy chief executive last year.

Mark Massie will replace **A.J. (Jimmy) Archer** as underwriter for Lloyd's of London syndicate 868, managed by A.J. Archer Holdings P.L.C. Mr. Massie has been an underwriter for the syndicate for almost 10 years.

Ross L. McKenzie has been appointed a director of Alexander Howden Ltd., the London-based wholesale insurance brokerage subsidiary of Alexander & Alexander Services Inc. He also has been appointed chief executive officer of Alexander Howden Non-Marine, which comprises the North American property and casualty divisions and the international property and casualty division. Mr. McKenzie will continue as chairman of Alexander Howden Asia Pacific. ■

Largest U.S. reinsurers' first quarter 1990 results

Ranked by net reinsurance premium written. All amounts in thousands of dollars.

Reinsurers	Policyholders' surplus (reinsurers only)	Net reinsurance premiums written 1990	Net reinsurance premiums written 1989	Net reinsurance premiums earned	Losses & loss adjustment expenses	Loss ratio	Underwriting expenses	Expense ratio	Combined ratio 1990	Combined ratio 1989
General Re	**$2,679,815**	**$480,676**	$414,663	**$466,634**	**$328,757**	**70.5%**	**$136,982**	**28.5%**	**99.0%**	98.9%
Employers Re	**1,388,566**	**274,291**	272,314	**270,692**	**215,606**	**79.6**	**63,824**	**23.3**	**102.9**	103.6
F&G Re (USF&G)	**N/A**	**255,293**	241,315	**132,304**	**86,765**	**65.6**	**85,692**	**33.6**	**99.2**	94.8
American Re	**641,752**	**207,897**	204,662	**209,592**	**150,401**	**71.8**	**62,795**	**30.2**	**102.0**	103.8
North American/Swiss Re	**561,545**	**180,450**	163,941	**184,932**	**139,946**	**75.7**	**62,374**	**34.6**	**110.2**	104.6
Munich Re	**573,630**	**135,831**	151,729	**132,621**	**106,636**	**80.4**	**45,274**	**33.3**	**113.7**	101.0
Constitution Re	**196,174**	**107,927**	55,545	**76,358**	**58,860**	**77.1**	**30,846**	**28.6**	**105.7**	101.7
Prudential Re	**519,200**	**100,783**	121,151	**103,381**	**85,486**	**82.7**	**34,673**	**34.4**	**117.1**	109.5
St. Paul Re	**N/A**	**84,214**	97,333	**95,253**	**110,862**	**116.4**	**34,377**	**40.8**	**157.2**	103.8
Skandia America Group	**324,047**	**80,399**	66,811	**82,129**	**63,463**	**77.3**	**28,178**	**35.0**	**112.3**	106.5
Transamerica Re	**169,100**	**79,934**	62,901	**74,556**	**57,873**	**77.6**	**23,542**	**29.5**	**107.1**	104.8
Transatlantic Re	**208,889**	**75,510**	85,762	**75,449**	**60,613**	**80.3**	**20,332**	**26.9**	**107.3**	105.9
Kemper Re	**342,645**	**71,835**	82,109	**66,480**	**61,130**	**91.9**	**20,801**	**29.0**	**120.9**	102.2
CIGNA Re	**188,270**	**59,204**	62,295	**44,156**	**37,502**	**84.9**	**14,702**	**24.8**	**109.8**	103.7
National Re	**237,517**	**58,321**	61,268	**57,292**	**44,373**	**77.5**	**14,969**	**25.7**	**103.1**	104.7
NAC Re	**190,475**	**51,222**	46,051	**50,539**	**38,612**	**76.4**	**17,472**	**34.1**	**110.5**	106.5
US Int'l Re	**109,184**	**42,297**	43,512	**44,983**	**38,483**	**85.6**	**14,853**	**35.1**	**120.7**	106.3
PMA Re	**86,809**	**39,126**	42,605	**21,657**	**16,941**	**78.2**	**7,451**	**19.0**	**97.3**	101.5
Continental Re	**127,404**	**36,445**	46,214	**36,968**	**29,404**	**79.5**	**10,586**	**29.0**	**108.6**	103.7
Underwriters Re	**162,060**	**35,853**	34,590	**35,415**	**22,745**	**64.2**	**14,968**	**41.7**	**106.0**	103.4
Totals for top 20	**$8,707,082**	**2,457,508**	**2,356,771**	**2,261,391**	**1,754,458**	**77.6**	**744,691**	**30.3**	**107.9**	**103.6**
Total for all companies	**$11,583,395**	**2,591,147**	**2,454,983**	**2,490,412**	**1,911,301**	**76.7**	**783,091**	**30.2**	**107.0**	**103.3**

Source: Reinsurance Assn. of America and *Business Insurance*

Reinsurer results

Continued from page 1
the surveyed reinsurers rose 5.5% to $2.59 billion from $2.45 billion in the same period last year.

While the reinsurance trade group said this "may signal the reversal of a declining premium trend which began in early 1987," company executives generally disagreed.

"I'm not sure the premium increase in those numbers is reflective of what's really going on," Mr. Mosca said.

Reinsurance officials said the volume increase is difficult to interpret. Some guessed it might be related to rising catastrophe reinsurance premiums, the inclusion of large-volume financial reinsurance transactions or various other factors unrelated to broad-based reinsurance market conditions.

First-quarter net premium volume at Constitution Reinsurance Corp., for example, nearly doubled to $107.9 million from $55.5 million in 1989. But this was largely due to the company's Jan. 1 reassumption of quota-share treaty business that had been ceded to its parent, a unit of Crum & Forster Inc., said Bard E. Bunaes, chairman and chief executive officer.

Without the treaty reassumption, Constitution Re's volume would be unchanged from last year, he said.

Mr. Bunaes said he saw no signs of a turn in the market and observed that "if anything, I think the market has gotten worse."

F&G Re, meanwhile, reported a 5.8% increase in first-quarter volume to $255.3 million in 1990 from $241.3 million last year. However, volume for the full year will probably not reach 1989 levels, according to Mr. Stannard.

"The first quarter turned out to be something of an aberration," he said.

The 67 reinsurers surveyed by the RAA reported losses and loss adjustment expenses of $1.91 billion for the first quarter of 1990 and a loss ratio of 76.7%, compared with losses of $2.1 billion and a loss ratio of 72.7% reported by a similar group of 76 reinsurers for first-quarter 1989.

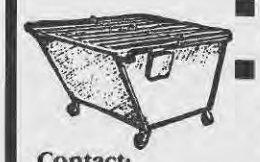
First-quarter underwriting expenses of $783.1 million for surveyed reinsurers brought the expense ratio to 30.2%. This compares with first-quarter underwriting expenses of $925.1 million and an expense ratio of 30.6% for the reinsurers surveyed last year.

The RAA expanded its survey for the first quarter of this year to include several categories of financial data not previously compiled

Continued on next page

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Reinsurer results

Continued from previous page
in its reports.

In the expanded survey, the 67 reinsurers reported an underwriting loss of $204 million and net investment gains of $652.2 million.

After other gains and losses, the reinsurers reported total pretax income of $500.5 million for the first quarter. Federal and foreign income taxes reduced this total by $128.9 million, leaving an aftertax net income of $368 million.

Comparative figures for the first quarter of 1989 were not available.

The 20 largest U.S. reinsurers fared slightly worse than the overall U.S. reinsurance industry.

The 20 largest reinsurance companies, based on premium volume, reported that net first-quarter premiums rose 4.3% to $2.46 billion in 1990 from $2.36 billion a year earlier.

The largest reinsurers reported first-quarter loss ratios rose to an aggregate 77.6% from the 72.5% reported by a similar group of 20 companies in 1989.

The expense ratio for the 20 largest companies fell slightly to 30.3% from the 30.5% reported by the largest reinsurers for the first quarter of 1989.

Overall, the first-quarter combined ratio for the 20 largest companies jumped to 107.9% from 103.0% in 1989.

With scattered exceptions, reinsurance company executives see few reinsurance price hikes and hold out little hope for change in the near future.

Catastrophe reinsurance continues to be somewhat more expensive for insurers hit by Hurricane Hugo, while the catastrophe retrocessional market for reinsurers themselves has become significantly tighter as capacity dries up, reinsurers report.

However, property and casualty treaty pricing is merely holding steady, in most cases, while property facultative pricing is "very competitive" and casualty facultative rates are actually softening after a brief period of stability, according to NAC Re's Mr. Mosca.

Rates on property treaties for petrochemical risks have risen modestly in the wake of the huge Phillips Petroleum Co. plant explosion in Pasadena, Texas, last year, noted Thomas J. Linahan, chief financial officer for Re Capital Reinsurance Corp. in Stamford, Conn.

Otherwise, property treaty rates are "not doing anything positive," he said.

Meanwhile, rates on the working-layer casualty treaty business Re Capital writes—including surplus lines and substandard auto risks—are "leveling off" but not rising, Mr. Linahan said.

Apart from catastrophe reinsurance, 'everything else, in my opinion, is still very competitive,' says James E. Dwane, president of Prudential Reinsurance Co. The market is in an 'unhealthy state of competition,' he adds.

"All we see is that there's not a significant amount of craziness in rate competition," he observed. "Some sanity has returned to the (working layer casualty) area."

Apart from catastrophe reinsurance, "everything else, in my opinion, is still very competitive," said James E. Dwane, president of Prudential Reinsurance Co. in Dover, Del., adding that the market is in an "unhealthy state of competition."

Casualty treaty pricing has not changed since last year, while property treaty business hasn't firmed at all and is actually softening in some cases, added Employers Re's Mr. Fitt.

"This is quite incredible if you consider Hugo and the European storms," he observed.

The weakness in reinsurance pricing has continued despite deteriorating reinsurer financial results, larger federal tax bills and an unprecedented string of catastrophe losses in 1989. Reinsurers still attribute weakness primarily to huge amounts of excess capital in the industry.

Reinsurers surveyed by the RAA were writing at a net premium-to-surplus ratio of 0.9-to-1 last year.

"That means there's a lot of capital and a lot of surplus chasing too few premium dollars," Mr. Dwane observed.

"We have too much money," as one reinsurance executive succinctly put it.

One indication of the abundance of capacity in the casualty treaty market is the ease with which it has absorbed business since the shutdown earlier this year of H.S. Weavers (Underwriting) Agencies Ltd., noted a reinsurance executive who requested anonymity.

"If the market were tightening up at all, there would have been a bigger splash from that," the executive observed.

"There is just one heck of a lot of capacity out there" for short-tail business, as well, Mr. Fitt added.

Many companies are sitting on excess capital waiting for rates to rise, at which point they hope to step in and pick up new business, observed F&G Re's Mr. Stannard, noting that this paradoxically will just lead to a new round of competition.

"The market cannot turn under those circumstances," he said.

Most reinsurers aren't expecting a turn anytime soon.

PMA Re doesn't foresee much change before the January 1991 renewals, according to Mr. Smithson.

"We will watch the primary market, especially with the lower levels of earnings and disappointing results experienced by the primary companies in the first quarter," he said.

NAC Re's Mr. Mosca was more pessimistic.

"I think it will probably be even later than that. I think we are in for another couple of years, at least, and I don't think we'll see a change before 1992," he said.

While the weak market continues, one industry analyst noted some other trends in the RAA results.

The largest reinsurers are gradually picking up market share at the expense of smaller companies, and the business the large companies are getting tends to be better, according to Michael Smith, vp and insurance industry analyst with Shearson Lehman Hutton.

Based on the RAA first-quarter premium volume numbers, Mr. Smith concluded that the 10 largest reinsurers picked up 0.6% in market share between 1989 and 1990, compared with a 0.2% increase for the next five largest companies. The bottom 52 reinsurers, then, lost 0.8% in market share, he found.

At the same time, the 10 largest reinsurers posted an average first-quarter combined ratio of about 105%, compared with about 108% for the next five largest companies and about 112% for the lower 52 reinsurers in the RAA survey.

"Clearly, the better business is going to the large players," Mr. Smith said. ■

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Alleghany

Continued from page 3

state holding company acts that were brought under the commerce clause of the U.S. Constitution.

"We are on very, very strong ground," Mr. Simmons said, which makes regulators feel "very encouraged."

Alleghany's agreement last month with St. Paul now leaves regulators both "disappointed and relieved," Mr. Pomeroy said.

Regulators are disappointed because pending court cases challenging the holding company laws will now be dismissed, eliminating the chance that the U.S. Supreme Court would rule in their favor, he said.

However, state regulators are relieved because the protracted litigation was straining some departments' resources, he added.

St. Paul expected on Friday to pay $260.7 million to purchase Alleghany's 4.4 million shares of St. Paul's common stock, based on the May 23 share price of $59.25.

Alleghany, which bought the shares for $230.7 million between 1987 and 1989, will realize a $30 million pretax gain from the St. Paul-initiated buyback, said Theodore E. Somerville, Alleghany's vp and general counsel. After taxes, the net gain per share will be about $3, he said.

In addition, Alleghany expects to receive the maximum $5 million that St. Paul offered to reimburse it for legal fees and costs—excluding interest—Alleghany incurred in seeking regulatory approval for its stake in St. Paul, said Mr. Somerville.

Both companies agreed to discontinue all legal proceedings.

"We are pleased that after 2½ years of regulatory process and litigation, this issue has been brought to a close," said Douglas W. Leatherdale, St. Paul's chairman and chief executive officer, in a statement. "We will not incur considerable future legal expenses or continue to have our employees distracted from pursuing our business objectives."

St. Paul's repurchase of its stock "would not strain the company's financial capacity and will have a positive impact on earnings," he said.

Although pleased that the deal will "materially" add to its resources for future expansion, Alleghany has no immediate plans to invest in another insurer, Mr. Somerville said.

This deal "is one of the more effective greenmail ploys I've seen recently," said Joanne Morrissey, president and chief operating officer of The Firemark Group Inc., a consulting firm in Parsippany, N.J.

The outcome is also a "clear" indication that hostile takeovers in the insurance industry are "extremely difficult," says Thomas Rosencrants, senior vp and director of research at Interstate/Johnson Lane in Atlanta.

Regulators often hesitate to approve hostile insurer takeovers, fearing new owners will drain reserves—which would imperil the insurer's ability to pay future claims—or make other risky moves, observers say.

Ensuing hearings and litigation cause delays that can make financial backers lose interest. Case in point: Sir James Goldsmith, who in April gave up his bid to acquire B.A.T Industries P.L.C. Under that proposal, officially launched by Hoylake, which is controlled by Sir James, AXA would have acquired Farmers (*BI*, April 30; Jan. 22).

"I think the one thing we learned in the Farmers takeover bid is that a hostile takeover is extremely difficult to do in a short period of time," said an AXA spokesman.

Financing is another difficult hurdle to clear. Insurer takeovers are much harder to finance, because junk bonds are in a year-long slump and are increasingly unpopular with regulators, most sources agree.

Buyouts can only succeed if companies wage proxy fights to alter target company management, says Mr. Rosencrants.

However, Torchmark Corp. unsuccessfully tried to place five new directors on the 15-member board of Houston-based American General Corp., a much larger insurer. Observers say that bid might have succeeded if Torchmark had garnered more support from institutional investors with stakes in American General.

Nevertheless, insurance industry analysts predict more changes in insurer ownership.

American General, for instance, won its proxy fight with Torchmark, but then immediately put itself up for sale.

"Over the next five years, there will have to be a major consolidation" of both property/casualty and life/health insurers because there is too much capital out in the marketplace, said Ms. Morrissey.

With hostile takeovers so difficult, she predicts more negotiated mergers in the insurance industry. Those deals may prove expensive, though, due to the demands of target company managers, she says. ■

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"Your Guide to Retirement Planning" is aimed at helping individuals and families get the most out of retirement. The booklet explores such areas as living arrangements, health, self-identity, financial sources, working after retirement, and where to go for counseling. Free copies are available from The Principal Financial Group, 711 High St., Des Moines, Iowa 50392.

"A Buyer's Guide to Commercial Insurance" is available from the Tennessee Department of Commerce and Insurance. Providing guidance in making decisions about purchasing business insurance, the brochure outlines the types of policies available for business owners. In addition to examining property and liability insurance, the free pamphlet also explains optional coverages available such as commercial auto, professional liability, fidelity and consequential loss coverage. Contact the Tennessee Department of Commerce and Insurance, Information Office, 400 James Robertson Parkway, Nashville, Tenn. 37243-0578; 615-741-1900.

Reprints of a study, **"The Changing Role of Claims Management,"** presented in a recent issue of Betterley Risk Management Commentary are now available. The study, which explores proper claims management and its impact on workers compensation, also examines trends and their implications for claims management, and recommends solutions. Specifics include an evaluation of current claims programs, creating/updating necessary services, and how to select a claims administration firm and other service providers. Copies are $30 each from Betterley Risk Consultants Inc., Department 290, 446 Main St./Worcester Plaza, Worcester, Mass. 01608; 508-754-1704.

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Product liability

Continued from page 2

Prospects for the Kasten bill's passage also could be hurt by the Judiciary Committee's report on the bill, said Melissa Wolford, director of federal affairs at the American Insurance Assn. in Washington, D.C.

For example, an aviation product liability reform bill introduced by Sen. Nancy Kassebaum, R.-Kan., that was reported out of the Judiciary Committee in April 1989 is still awaiting a full Senate vote, Ms. Wolford said.

That bill, which would limit lawsuits against general aviation manufacturers, received an unfavorable report by the Judiciary Committee.

The AIA supports the Kasten legislation but testified at a hearing on S. 1400 that it would not lead to lower insurance rates.

Although not as dramatic as previous hearings on the Kasten bill, the brief Commerce Committee debate on S. 1400 echoed some arguments likely to arise during a full Senate debate.

Sen. John Breaux, D-La., who opposes the bill, argued that passing a federal product liability reform law that pre-empts state laws effectively says that the federal government knows what is best, and that is not necessarily true.

Praising state product liability laws, Sen. Breaux said that overriding those state laws with federal legislation would mean throwing out a whole history of "letting states set tort law. And, I think that is the wrong way to go."

Sen. Larry Pressler, R-S.D., disagreed, saying that some states support a uniform federal product liability law.

Sen. Bob Packwood, R-Ore., characterized the bill as an attempt by manufacturers to get the upper hand in product liability litigation. "They lost in court and now want to win in the Legislature," he said.

He added that he has seen "case after case" where the current product liability system gave poor plaintiffs with legitimate claims their only chance for a day in court.

Another opponent, Sen. Albert Gore Jr., D.-Tenn., called the Kasten bill a "terrible mistake."

Sen. Gore dismissed as "invalid" the contention that federal legislation would bring uniformity to the product liability system.

"The provisions of this bill will be interpreted by 55 different jurisdictions and 13 different circuit courts and will not establish a uniform law," he said.

Sen. Hollings said, "I'd hate to see the (Commerce) Committee report out a bill all in the name of uniformity."

Sen. Ted Stevens, R.-Alaska, said he would support the bill despite his own reservations about what it would accomplish.

"It is not the best bill that we can have, but it is time for trial lawyers to work with us so that we can curtail some of the excesses" in the product liability system, he said.

Sen. Stevens said the Kasten bill recognizes the existence of a problem in the current liability system and is a step toward a solution.

Sen. Pressler agreed, calling the legislation "a first step in doing something to reform the tort system."

Sen. Bob Packwood dismisses the federal product liability reform legislation as an attempt by manufacturers to get the upper hand in product liability litigation. 'They lost in court and now want to win in the Legislature,' he says.

However, Sen. Stevens, who voted to pass the bill out of the Commerce Committee, said he wanted definitive answers to his concerns before he would vote for the bill on the Senate floor. He did not elaborate on those concerns during the committee hearing.

Time, according to corporate lobbyists, may now pose the greatest challenge to the Kasten bill.

"It is not so much the opposition as it is the clock," said the AIA's Ms. Wolford.

The Senate aviation liability bill was referred to the Judiciary Committee for 60 days, she noted.

If S. 1400 were to get a similar referral, "it could hurt its chances of making it to the floor," she said.

Ms. Magarian of the Product Liability Alliance agreed. "We need to get the bill out of Judiciary before the August recess, so we have a chance to get it on the Senate floor," she said.

Other supporters acknowledge the bill's grim future in the 101st Congress, but say they have accomplished a great deal this session and are preparing for the next fight.

"It's nice to get a bill out of a committee when the committee chairman is opposed to it," the Alliance's Mr. O'Day said.

Progress this session will make a "good springboard into the 102nd Congress" and get the bill "off and flying next session," he said.

No product liability reform bill has ever passed either house of Congress, according to Ms. Magarian. "If it passes the Senate, then we're in a much better position for the next Congress."

"This is a high priority for the business community, and they won't stop until it is passed," said Mr. Lefkin of Fireman's Fund.

The Kasten bill would:

- Eliminate joint and several liability for non-economic damages.
- Permit punitive damages only it there is clear and convincing evidence of negligence by the manufacturer or product seller. A defendant also could request that the amount of punitive damages be determined separately at a second trial.
- Encourage attempts at settlement before disputes go to trial.

If a defendant rejects a settlement offer and the subsequent verdict is for an amount greater than the offer, the defendant also would be required to pay the plaintiffs' legal fees.

If the plaintiff rejects an offer and the subsequent verdict is for an amount less than the offer, the defendant's legal fees would be subtracted from the award.

- Shield a manufacturer from liability if the claimant was under the influence of a drug or an alcoholic beverage and that condition was at least 50% responsible for the accident.
- Bar punitive damage awards for injuries involving drugs and medical devices that are approved by the Federal Drug Administration or aircraft that have been certified by the Federal Aviation Administration.
- Reduce the amount of the product liability award by the amount of workers compensation benefits.
- Generally restrict the filing of lawsuits to within two years of the discovery of the injury or its cause.

In addition, the legislation generally would bar product liability suits involving capital goods products that are more than 25 years old.

- Make product sellers responsible only for harm caused by their own negligence. They would be responsible for the manufacturer's negligence only if the manufacturer could not be brought to trial or did not have the funds to pay an award. ■

Panama damage

Continued from page 3

ical loss or damage to the property of the assured, as that term is defined in the policy, from any cause except as expressly excluded."

Philip Morris also argues that Philadelphia-based CIGNA "has knowingly breached the all-risks policy and is in material default thereunder by virtue of its disclaiming coverage and refusal to pay for the above-described loss or damage."

In addition to $2 million, the suit seeks interest plus attorneys fees, other costs Philip Morris has incurred and "such other and further relief as this court deems just and proper."

However, a suit filed the same day in New York federal court by CIGNA Corp. of Philadelphia seeks a judgment declaring "that the war risk exclusion in the issued policy is applicable and that no payment is due under that policy for the losses claimed by defendants."

In its suit, CIGNA points out that the Philip Morris all-risk policy excludes loss or damage resulting from "hostile or warlike action in time of peace or war, including action in hindering, combating, or defending against an actual impending or expected attack: (i) by any government or sovereign power (de jure or de facto) or by any authority maintaining or using military, naval or air forces; (ii) or by military, naval or air forces; (iii) or by any agent of any such government, power, authority, or forces."

The policy's war risk clause 'is not applicable at all,' says an attorney for Philip Morris.

The CIGNA suit goes on to state "that on or about Dec. 20, 1989, the Armed Forces of the United Staes did commence hostile or warlike action against the then-government of Panama and did engage (Panamanian) armed forces, known as the Panama Defense Forces as well as certain other Panamanian armed units in combat or hostilities or warlike action, which did continue for several days thereafter."

However, referring to the language of the war risk clause, Mr. Kill, the attorney for Philip Morris, said, "That's not what happened in Panama. This is looting by civilians. If you read that provision closely, carefully, it's not applicable at all to what occurred."

Mr. Kill noted the war risk exclusion refers to losses or damage caused by a government, military force or governmental agent. "As far as we know, the government was not involved, the military was not involved and no agency of a governmental authority was involved" in looting incidents at the plant.

"We think we have a very strong case," he said.

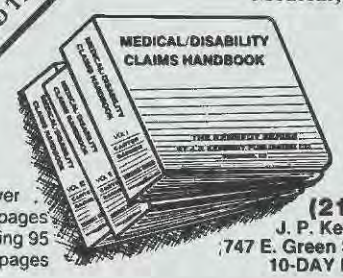
A CIGNA spokesman would not comment on the suit.

Attorneys for the insurer would not comment on the pending litigation. ■

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Aon, BC/BS plan form work comp venture

Chicago-based Aon Corp. and Blue Cross & Blue Shield United in Milwaukee have created a joint venture to combat rising workers compensation medical costs.

The new company, Milwaukee-based United Heartland Inc., will market a variety of workers compensation cost containment products to self-insured employers.

Among other things, United Heartland will set up preferred provider arrangements for self-insured employers, enabling them to steer employees with injuries to low-cost, high-quality physicians and facilities, said Mary Traver, vp and general counsel at BC/BS United of Wisconsin.

United Heartland will offer employers "the PPO and medical cost containment features health insurers have used for a number of years that have been significant money savers," she said. While there will be some overlap with BC/BS preferred providers, United Heartland is negotiating with additional physicians who specialize in occupational medicine, Ms. Traver said.

"The purpose of the joint venture is to provide a solution to the medical component in the workers compensation area," said Michael D. Rice, chairman and president of Rollins Specialty Group Inc. in Chicago, an Aon unit.

The "beauty of this deal is that it brings together" the managed care strengths of BC/BS and the workers compensation administration talents of Aon, Mr. Rice said.

In addition to pinpointing low-cost providers, United Heartland will provide extensive claims review and auditing services to save clients money. For example, the company will review all workers compensation claims to make sure that charges by a non-PPO provider do not exceed "reasonable" rates based on BC/BS's health claims data base, Ms. Traver said.

In addition, United Heartland will perform audits to make certain every billed service billed was actually provided, she said.

Aon Corp. subsidiary, SIS Inc. in Brookfield, Wis., will administer claims, Mr. Rice said, noting that the company has expertise and familiarity with the workers comp marketplace.

For more information, contact John Toi, senior vp at Rollins Burdick Hunter Management Inc., at 312-701-4065; or Mary Traver, vp and general counsel at Blue Cross & Blue Shield United of Wisconsin, at 414-226-6979.

Brokers merge

Two San Francisco Bay area insurance brokers are combining operations to serve clients in the Western States.

Mario L. Basso & Co. of San Francisco and Alburger-de Brosz Inc. of Palo Alto agreed to merge their operations into Alburger Basso de Grosz Insurance Services Inc.

The combined brokerage is expected to generate more than $80 million in gross premiums annually, said Fred De Grosz, chief executive officer of the new company.

The brokerage places property/casualty, life and health insurance and provides risk management and employee benefits consulting services.

Transamerica Corp.'s Transamerica Insurance Co. unit of Woodland Hills, Calif., invested an undisclosed amount of capital in the venture and will have representation on the new company's board.

Transamerica will be a key underwriter for Alburger Basso de Grosz.

"Now, we have the kind of financial backing, systems and efficiencies we need to give us a sustainable competitive advantage," said President Bruce Basso.

The operations of the two brokerages will be combined by the end of the year at a San Francisco Bay area site. About 75 employees will be based at the new headquarters.

Benefit consultant

A new independent consulting practice will specialize in pension and 401(k) plan design and administration, trust fund management and general employee benefits.

The new company, SJP Consulting, is owned by Sandra Parker, formerly corporate benefits manager of Sun Microsystems Inc., a computer company in Mountainview, Calif.

SJP Consulting is located at 1111 W. El Camino, Suite 109-311, Sunnyvale, Calif. 94087; 415-886-1797.

New offices

The **Brownyard Group**, a managing general agent that specializes in insurance to security guards, pest control contractors and private country clubs, moved its headquarters to 21 Maple Ave., Bay Shore, N.Y. 11706; 516-666-5050.

Sorema North America Reinsurance Co. moved its Chicago facultative branch to 225 W. Wacker Drive, Suite 1975, Chicago, Ill. 60606-1229; 312-444-1119.

Broker **Aviation Insurance Holdings Inc.** has opened a new office in Nevada. **Aviation Insurance Services of Nevada Inc.** is located at 4583 W. Flamingo Road, Las Vegas, Nev. 89103; 702-368-1955.

The **Travelers Insurance Co.** has moved its North Carolina benefits department to P.O. Box 77289, Greensboro, N.C. 27417-7289; 919-292-1027.

Transamerica Insurance Co., a holding company of about 14 property/casualty insurance and subsidiary of Transamerica Corp. in San Francisco, has opened a new commercial claims center at: 1560 Valley Center Parkway, Bethle-

Continued on next page

May 11, 1990

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Markets

Continued from previous page
hem, Pa. 18017. Transamerica also moved its workers compensation unit from Burbank, Calif., to Woodland Hills, Calif. The new address is 6300 Canoga Ave., Woodland Hills, Calif. 91367.

Mergers/acquisitions

Hartford Steam Boiler Inspection & Insurance Co. of Hartford, Conn., plans to acquire **Keith-Stevens Inc.**, a privately held company. Keith-Stevens specializes in computerized maintenance management systems and consulting services. The Eden Prairie, Minn.-based company will operate as a division of Diagonal Data Corp., a Hartford Steam Boiler subsidiary in Lakeland, Fla.

Commercial Insurance Planning Co., a benefit consulting firm in Worcester, Mass. and the **Protector Insurance Agency Inc.**, also in Worcester, have merged and will operate as Protector Insurance Agency Inc. The company specializes in employee benefit management and advisory services. In addition, the firm will provide pension consulting and plan administration services for qualified retirement plans and some nonqualified stock purchase plans. Offices will be located at 20 Washington Square, Worcester, Mass. 01604; 508-757-6303.

Celtic Life Insurance Co. of Chicago agreed to acquire a portion of the group life and health business of **Employers Health Insurance Co.** of Green Bay, Wis.

Florida Employers Life Insurance Corp., a Sarasota, Fla.-based subsidiary of Florida Employers Insurance Co. in Sarasota, acquired **National Trust Fire Insurance Co.** for $2.15 million. National Trust, formerly headquartered in Memphis, now operates in Sarasota and sells property/casualty insurance in Arkansas, Georgia, Mississippi and Tennessee.

W.R. Berkley Corp., a Greenwich, Conn.-based insurance holding company, acquired **Rasmussen Agency Inc.** in East Orange, N.J., which specializes in developing and administering self-insured programs for municipalities and other governmental organizations. The company will continue to provide services from its offices in East Orange and Mays Landing, N.J.; Raleigh, N.C.; Broomall, Pa.; Wilmington, Del.; and Richmond, Va. ■

Lenders' liability

Continued from page 1
waste at the Georgia facility.

Swainsboro had filed for bankruptcy court protection in 1979. Instead of foreclosing on the company's property, which had been used to secure a loan from Fleet, Fleet arranged to auction off the company's inventory and equipment to recoup its security interest.

However, during the bankruptcy process, asbestos was released from drums stored at the facility.

Fleet has maintained that it is not liable for the cleanup because it did not own or operate the site and that its actions were covered by the secured lenders exemption in the Superfund Act.

The secured lenders exemption provides that any "person, who, without participating in the management of a. . .facility, holds indicia of ownership primarily to protect his security interest in the. . .facility" will be exempt from liability under Superfund. As a result, lenders that simply held the property as security for loans are not liable for cleanup costs. Only upon foreclosure would a lender become liable for cleanup costs as the owner of the property.

The U.S. District Court for the Southern District of Georgia ruled in December 1988 that Fleet's activities could be sufficient to deny it the secured lenders exemption.

Fleet's activities "might rise to the level of participation in management sufficient to impose liability under CERCLA," the lower court had concluded.

On appeal, the 11th Circuit agreed with this ruling and greatly narrowed the scope of the Superfund secured lenders exemption.

Prior to this decision, a lender had to participate in the day-to-day management of a company with polluted property before it could lose its exemption from liability under Superfund, attorneys say.

But, under the 11th Circuit's decision, a lender that makes any financial decision connected to the polluted property can lose its exemption, attorneys say.

"Under the standard we adopt today, a secured creditor may incur liability without being an operator, but by participating in the financial management of a facility to a degree indicating the capacity to influence the corporation's treatment of hazardous wastes," Judge Phyllis A. Kravitch wrote for the three-judge panel of the 11th Circuit.

"It is not necessary for the secured creditor actually to involve itself in the day-to-day operations of the facility in order to be liable," wrote Judge Kravitch. "Nor is it necessary for the secured creditor to participate in management decisions relating to hazardous waste.

"Rather, a secured creditor will be liable if its involvement with the management of the facility is sufficiently broad to support the inference that it could affect hazardous waste disposal decisions if it so chose," the judge concluded.

"This is a very broad standard," said Joseph C. Berger, an attorney with Solin, Breindel & Berger in Albany, N.Y., who specializes in environmental law.

"This decision expands the liability of lenders under CERCLA," said Mr. Berger. "A lender can provide financial guidance and have nothing to do with the day-to-day operations or hazardous waste activity and still be held liable under this standard."

In fact, "any financial decision which a lender makes could, under this broad definition, be used by the government to prove liability," he said.

Attorney Stephen H. Malato agreed: "Up till now it has been OK for a lender to approach the day of foreclosure" making a variety of financial decisions in an effort to save the loan. The lender could "then back away" from foreclosure "without incurring liability under CERCLA. Now that activity is no longer safe practice."

"Any lender that makes financial decisions (involving the borrower) after a loan is in place is going to be liable under this decision," he said.

"This decision is going to affect a majority of the lenders," said Mr. Malato, who is with Hinshaw, Culbertson, Moelmann, Hoban & Fuller in Chicago.

While the 11th Circuit said it was trying to increase lenders' involvement in monitoring the pollution control activities of borrowers, attorneys predict the decision could have the opposite effect.

"Creditors' awareness that they are potentially liable under CERCLA will encourage them to monitor the hazardous waste treatment systems and policies of their debtors and insist upon compliance with acceptable treatment standards as a prerequisite to continued and future financial support," the court said in the ruling.

However, attorneys predict that expanding lender liability under CERCLA will cause them to walk away from borrowers with property used to secure loans in default, rather than participate in the management of the company.

While the court is saying it wants lenders to get involved safe waste disposal, this ruling is more likely to cause them to avoid any involvement, said Carey Rosemarin, an attorney with Jenner & Block in Chicago.

"What happens to a bank monitoring property that finds something amiss?" asked Mr. Rosemarin. "The lender ends up smack dab in the middle of what it's trying to avoid."

"I believe this ruling is going to have the effect of putting panic through the lending institutions and creating a hands-off attitude," added Mr. Berger.

"The decision will make lenders think twice before getting involved in any manner with debtors who have property that in any way has a risk of pollution," he said, referring to current borrowers.

This ruling also could make lenders leery of working out problem loans, added Mr. Malato. And "right now there are a lot of troubled loans out there."

"This will affect everybody's practice," he asserted.

For example, "any property next to what once was a gas station" will be considered risky, said Fleet attorney Mr. Leland.

"Secured lenders are no doubt going to consider the implications of this opinion when making lending decisions," said Fleet attorney Mr. Good.

Lenders face more liability under this ruling on loans that are five or more years old, added Mr. Leland.

While lenders today conduct comprehensive environmental audits on property securing loans prior to approving loans, "what about the loans already on the books?" he queried.

A spokesman for the American Bankers Assn. said: "The decision further muddies the waters regarding banks' environmental liabilities in lending relationships.

"It's one more reason for the ABA to continue to make lenders liability reform one of its top legislative priorities for this session of Congress and to push for passage of the LaFalce bill," he said.

H.B. 4494, introduced April 4 by U.S. Rep. John J. LaFalce, D-New York, would exclude lenders from Superfund liability in cases where they acquire ownership or control of a property through a security interest or in connection with a lease, the ABA spokesman explained.

The bill has been referred to the House Energy and Commerce Committee. In addition, a hearing is scheduled for Thursday in the House Small Business Committee, which is chaired by Rep. LaFalce.

Under the LaFalce bill, corporate fiduciaries also would be exempted from Superfund liability in situations where they hold legal title for purposes of managing an estate or trust, the spokesman added.

A similar measure was introduced in April by Sen. Jake Garn, R-Utah, ranking Republican on the Senate Banking Committee. The Senate bill currently is before the Environmental and Public Works Committee.

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United States vs. Fleet Factors Corp.; United States Court of Appeals for the 11th Circuit, No. 89-8094.

Update

Ashland to appeal jury award

CHARLESTON, W.Va.—Ashland Oil Inc. says it will appeal a $10.3 million jury award, including $9 million in punitive damages, to four people who claim air pollution from Ashland's Catlettsburg, Ky., refinery caused injuries and property damage.

Punitive damages generally are insurable in West Virginia.

An Ashland spokesman said the company was "confident" it has sufficient liability insurance to cover the awards if they are upheld on appeal. However, he could not elaborate on the coverage.

Ashland had $400 million in liability insurance with a $2.5 million deductible to cover a 1988 Pennsylvania diesel fuel spill (*BI*, Feb. 26; Jan. 11, 1988). The first $150 million was written by Bermuda-based captive Oil Insurance Co. Ltd. An excess-limits endorsement with OIL provided another $150 million in limits and Ashland had a $100 million layer excess of $300 million written by Oil Casualty Insurance Ltd., a sister entity to OIL.

Ashland called the May 31 award "ridiculous" and said it plans "to aggressively pursue an appeal" to the state Supreme Court.

The plaintiffs, residents of Kenova and Ceredo, W.Va., claimed pollution from the nearby refinery caused eye, throat and skin irritation and damaged automobile paint, aluminum siding and other property.

Plaintiffs' attorney Rod Jackson of DiTrapano & Jackson in Charleston said about 500 people near the refinery have sued Ashland.

Manville trust defends record

NEW YORK—In response to an unusual order from two New York judges, the Manville Personal Injury Trust claimed last week that altering Manville Corp.'s landmark reorganization plan to speed up payments to asbestos victims is "not possible as a matter of law."

Judges supervising about 500 asbestos claims ordered the trust to explain why it is running out of money and questioned whether to once again allow asbestos suits against the company—rather than only against the trust—and require the company to increase its trust fund contributions (*BI*, May 28).

But, such actions "would jeopardize the very structure" of the reorganization plan, trust officials said in their response.

Explaining why many victims will not receive any payments until well after the year 2000, trust officials said: "The plan neither explicitly nor implicitly states that funds will always be available to pay settlements and judgments. . . .The trust has begun the first of several anticipated periods in which available cash does not permit the immediate payment of all settled claims."

The Manville reorganization plan called for creation of the $2.5 billion trust. However, larger-than-expected payments quickly depleted the fund's cash and only $100 million may remain to pay claims in 1990 (*BI*, Jan. 22).

Dallas insured for flood loss

DALLAS—The city of Dallas has $10 million of flood insurance to cover damage to municipal buildings from severe flooding caused by heavy rains last month, says the city's risk manager.

Travelers Corp. wrote the flood insurance sublimits as part of property policy, and there is a $250,000 deductible, said Ginny Stephens, the city's risk and insurance administrator.

Travelers confirmed that it has established a $3.3 million reserve to pay claims related to the city's flood damage.

Most of the damage occurred at the city's Southeast Service Center, a 22-building complex. "There was water in virtually all the buildings," Ms. Stephens said. She said total damages incurred by the city as a result of flooding will not be tallied for some time but that the flood insurance will cover damage to the buildings.

Some of the flood-related costs, like street cleanup and police emergency services, are uninsured, Ms. Stephens pointed out.

Millers placed in conservation

CHICAGO—Millers National Insurance Co. and subsidiary Illinois Insurance Co., Chicago-based units of Oil & Gas Insurance Co., have been placed into conservation by the Illinois Insurance Department.

Neither company, both of which are now under the control of Illinois Insurance Director Zack Stamp, can write new business, and a "temporary moratorium" has been placed on claims payments, said Debora Anderson, chief general counsel to the receiver.

Regulators acted because Millers is heavily reinsured by OGICO of Westerville, Ohio, which was placed into rehabilitation by Ohio regulators last month, Ms. Anderson explained (*BI*, May 21). "The possibility of being unable to collect reinsurance is jeopardizing the financial position" of Millers, she said, adding that Millers also reinsured Illinois Insurance Co.

Ms. Anderson did not provide details on Millers' finances.

Meanwhile, "there have been some discussions of prospective purchasers for all the insurers," noted Ms. Anderson, who would not elaborate. The companies are owned by The Group Inc. of Concord, Mass.

Millers, which is licensed in 40 states and Washington, D.C., wrote nearly $9.8 million in net premiums in 1988.

Briefly noted

A British High Court last week appointed Peat Marwick McLintock provisional liquidator of **National Employers Mutual General Insurance Assn. Ltd.** after creditors and officials of the insurer requested a provisional liquidator. Some creditors say the company is insolvent by about 20 million pounds ($33.9 million), excluding reinsurance recoverables. . . .Former Iowa Insurance Commissioner **William Hager** was named president of the National Council on Compensation Insurance, effective June 1. . . . . .London brokers and underwriters who place and write reinsurance for Eastern European state-owned insurers do not expect many claims from the **massive earthquake** that struck Eastern Europe last week because most property there is still largely uninsured. . . .The California Supreme Court on May 31 let stand two state appellate court decisions that two private employers illegally dismissed employees for refusing to submit to **random drug testing.**

LUI administration

Continued from page 2

Additional Underwriting Agencies No. 3 Ltd., which was formed by Lloyd's of London to administer the affairs of syndicates formerly managed by scandal-riddled PCW Underwriting Agencies Ltd.

The appointments follow the resignation of Ronnie Driver as chairman and managing director of Walbrook and as chairman of Weavers.

Meanwhile, Peter Wilson, formerly chief executive of LUI, "has given up all his executive responsibilities and has been retained as a consultant by Weavers to assist with the continuing runoff of London United Investment group's insurance business," the administrators announced.

However, no new chief executive has been named, as the administrators will act in that capacity.

LUI's administrators, Colin Bird and Alan Barrett of accountant Price Waterhouse, also announced last week that Weavers will continue to manage the runoff of LUI's insurance subsidiaries "for an initial period of not less than 12 months."

"A business plan has been developed to handle this first phase of the runoff, which secures continued employment for 122 of Weavers' 173 employees, redundancy notices having already been issued to the other 51 members of Weavers staff," the administrators announced.

"The administrators, in conjunction with the new chairmen and the executives of Weavers and Walbrook, are now working on broad strategies designed to lead to a rescue of the insurance subsidiaries. In addition, talks continue with representatives of the insurance industry," they said.

The administrators would not comment further. Officials at LUI were not available for comment.

A group of brokers and insurers—led by Marsh & McLennan Cos. Inc. and Sedgwick Group P.L.C.—have been trying to put together a "rescue" plan to ensure that LUI's insurance subsidiaries do not go into liquidation (*BI*, May 21).

Well in excess of 100 million pounds ($169 million) is needed for an orderly runoff, according to the Lloyd's of London Insurance Brokers' Committee. Although Weavers is not a Lloyd's underwriting agency, Lloyd's brokers placed substantial business with Weavers.

Meanwhile, the LUI affair is raising concern among British politicians over which policyholders would be entitled to compensation if Walbrook or any other British-based LUI insurance subsidiary is liquidated.

Conservative party Member of Parliament John Redwood, who also is undersecretary of state for corporate affairs, said in a letter to Labor Party politician Margorie Mowlam that "all private policyholders whose policies are U.K. policies are entitled to 90% of their claim if a U.K. insurer goes into liquidation." "Private policyholders" refers to individual, not corporate, policyholders.

The compensation is guaranteed under the Policyholder Protection Act of 1975 and is paid through a fund financed by assessments on all authorized U.K. insurers (*BI*, May 7). In some cases, brokers also can be assessed.

However, Ms. Mowlam said Friday that she had written to Mr. Redwood "seeking clarification" as to whether the act protects individuals as members of a partnership and individuals who are not British residents.

Walbrook, as the leading underwriter on the Weavers slip, wrote extensive amounts of errors and omissions coverage for U.S. professionals, including doctors, lawyers and accountants.

"There is a great deal of concern in the U.S.A. as to whether they will be included or not included" under the act, said Ms. Mowlam.

Keith Loney, deputy chief executive of the Assn. of British Insurers, pointed out that the act is "badly drafted" and has never been tested in court, which could result in lawyers going "'round and round in circles" arguing about the the law's wording.

However, the law likely would apply to any policy issued in the United Kingdom by a U.K. insurer—whatever the nationality of the policyholder—and likely would apply to individuals who are members of partnerships, said Mr. Loney.

As a result, individual U.S. policyholders including professionals—but not corporate policyholders—likely will be compensated should Walbrook or any of the other U.K.-based LUI insurers go into liquidation, he noted.

The Policyholders Protection Board, which sets up and administers compensation under the act, is discussing the matter with LUI's administrators, the ABI and several brokers, said Mr. Loney.

The board cannot assess insurers for funds until a provisional liquidator is appointed for a company, noted Mr. Loney. However, once a provisional liquidator is appointed, the board can assess funds from insurers to prevent the company from going into liquidation if that is considered a more appropriate course of action than liquidation, he added.

A provisional liquidator is not the same as an administrator, since administrators cannot be appointed for insurers under British insolvency regulations.

A provisional liquidator is appointed by a court at the request of the company itself, its creditors or regulators. A provisional liquidator is responsible for protecting the assets of the company until it is decided whether or not to liquidate the company or set up another form of runoff arrangement. ■

LUI units reinsured Crum & Forster

STAMFORD, Conn.—Crum & Forster Inc. at year-end 1989 was owed about $147.1 million in reinsurance recoverables from insurance units of financially troubled London United Investments P.L.C.

LUI recently sought protection from creditors under the British equivalent of Chapter 11 reorganization (see related story).

Brokers in London estimate that in excess of 100 million pounds ($169 million) is needed to ensure the orderly runoff of the insurance companies.

One stock analyst found the amount of reinsurance placed by Crum & Forster with LUI to be unusual for a U.S. insurer. "Given the known problems, it would be surprising that companies would have a large exposure to LUI reinsurance," said Gloria L. Vogel, associate director of Bear Stearns & Co. in New York.

A Crum & Forster unit—The North River Insurance Co.—in the early to mid-1980s underwrote some accounts for broker Johnson & Higgins and reinsured 90% to 95% of the business, substantially with H.S. Weavers (Underwriting) Agencies Ltd., the LUI unit that underwrote on behalf of the LUI companies, *Business Insurance* learned.

Neither Crum & Forster nor J&H would confirm or deny the arrangement.

The former L.W. Biegler Inc., another Crum & Forster unit, underwrote the J&H accounts for North River, *BI* learned. The arrangement was terminated in 1986 or 1987.

After using another licensed U.S. insurer for the business for a year, J&H was unable to find another fronting company and began placing business directly with Weavers, *BI* learned.

Despite questions about their solvency, LUI's insurance units "clearly have some reserves" from which they could pay Crum & Forster's claims, said Alex Henderson, a stock analyst with Prudential Bache Securities Inc. in New York who tracks Xerox Corp., which owns Crum & Forster.

The mere fact that Crum & Forster was reinsured by the LUI units "doesn't imply that it's worthless to the tune of $147 million," said Mr. Henderson, who estimated that possibly 20% to 30% of the amount would be the maximum at risk.

Mr. Henderson, however, predicts that Crum & Forster will need to bolster reserves by as much as $200 million by year-end. He pointed out that, in addition to the possibility of holding unrecoverable reinsurance, Crum & Forster reported a 115.1% combined ratio during the first quarter (*BI*, May 28).

Mr. Henderson's contention that Crum & Forster must increase its loss reserves was the focus of a "Heard on the Street" column last week in The Wall Street Journal.

Xerox, which confirmed that Crum & Forster is carrying $147 million in reinsurance recoverable from LUI companies, disputed Mr. Henderson's analysis of Crum & Forster's reserve adequacy.

"At this time, we believe our reserves at Crum & Forster are adequate," said a spokesman for Stamford, Conn.-based Xerox.

"Since 1985, Crum & Forster has reduced its reliance on reinsurance from 41% of written premium to 22% at the end of last year," the spokesman said.

Some analysts agreed. "If you're asking if they're going to be taking a hit for $150 million or $200 million, the answer is no," said David Nelson, an analyst who tracks Xerox for Shearson Lehman Hutton Inc. in New York.

Xerox acquired Crum & Forster in 1983 in a transaction valued at $1.6 billion.

—By Mark A. Hofmann

2 insurers to remain in Pennsylvania auto market

HARRISBURG, Pa.—Aetna Life & Casualty Co. and Harleysville Mutual Insurance Co. will remain in Pennsylvania's private passenger automobile insurance market and comply with the state's new auto insurance rate rollback law under an agreement with state regulators.

As a result of the agreement, the insurers will rescind non-renewal notices sent to 11,000 private passenger auto policyholders in Pennsylvania and file for 10% rate reductions.

And, the state has dropped Harleysville as a named defendant in its lawsuit in Commonwealth Court that seeks to force seven other insurers to comply with the rollback law, said an Insurance Department spokeswoman.

In addition, Harleysville has agreed to drop a lawsuit it had filed against the state that contends the rollback law was unconstitutional because the law would force insurers to write auto coverage at a loss.

However, the state has not dropped Aetna from its suit.

And, Aetna has not dropped its suit against the state contending that the rollback law is unconstitutional.

The auto insurance rate rollback law requires insurers to roll back rates 10% for all drivers and 12% more for drivers who select optional no-fault coverage (*BI*, Feb. 19).

Despite meeting the state's rate filing requirement, Aetna last week filed for relief from the rate rollbacks under the law's "extraordinary circumstances" provision. That provision grants insurers partial relief from the rate rollback if they can show they would earn less than a 12% return on surplus.

The department has agreed to rule on Aetna's relief request by June 11.

A spokesman said Aetna decided to reinstate those policyholders who had received cancellation notices because "the state promised to take an expeditious look at our extraordinary circumstances claim."

Harleysville filed a request for relief on May 21, but the department's Office of Rate and Policy Regulations denied that request last week.

A Harleysville spokesman said the insurer will request a formal hearing in front of Insurance Commissioner Constance B. Foster.

Meanwhile, SAFECO Corp., which also began sending non-renewal notices to its policyholders last month, has not rescinded those notices and has not filed for the mandatory rate reductions, according to the department spokeswoman.

The department reports that 155 of the state's 223 auto insurers have now filed for the required rate reductions under the rate rollback law.

Last month, two state senators introduced legislation that would bar insurers from writing all forms of commercial and personal property/casualty insurance if they stop writing personal auto insurance (*BI*, May 21).

—By Michael Schachner

PBGC vows to fight latest LTV ruling

By ADRIENNE C. LOCKE

NEW YORK—The Pension Benefit Guaranty Corp. says it will challenge a New York bankruptcy judge's decision that the agency fears could ultimately cause its deficit to balloon.

Judge Burton R. Lifland of the U.S. Bankruptcy Court of the Southern District of New York last month ruled that the PBGC should not be given priority over the unsecured creditors of Dallas-based LTV Corp., which is seeking reorganization under Chapter 11 of the Federal Bankruptcy Act.

If the PBGC loses its bid before the U.S. Supreme Court to restore the company's terminated pension plans, this decision could reduce by up to $1 billion the amount the agency recovers from LTV to partially offset the company's massive pension plan debt, the agency warns.

Limiting that recovery also could further weaken the agency financially. The PBGC reported liabilities of $4.2 billion and assets of $3.2 billion for the year ended Sept. 30, 1989 (*BI*, April 9).

This ruling is subject to approval by a U.S. District Court in New York. But should other courts adopt it as precedent, the agency's ability to recover funds from companies that terminate underfunded pension plans could be seriously impeded, said PBGC Executive Director James B. Lockhart III.

During bankruptcy proceedings, the pension agency regularly recoups funds to at least partially offset the unfunded liabilities of pension plans employers terminate and pass on to the agency.

The bankruptcy court also ruled that the PBGC used an excessive discount rate in calculating its claims against LTV and that the court, rather than the agency, should determine that rate.

The significance of this decision will remain unclear until the Supreme Court decides whether the agency can restore the plans with more than $2 billion in unfunded liabilities that LTV terminated after filing for bankruptcy (*BI*, March 5).

After terminating its pension plans, the PBGC claims, LTV established new plans that were illegal continuations of the old ones.

Three of the four terminated LTV pension plans involved in the bankruptcy court ruling are also involved in the Supreme Court case.

"If allowed to stand, the bankruptcy court's ill-founded ruling will severely undercut our ability to reduce and prevent losses to the pension insurance program" if the high court rules that the PBGC cannot restore the pension plans to LTV, Mr. Lockhart said.

LTV Chairman and Chief Executive Officer Raymond A. Hay called the bankruptcy court's ruling "an important step" in LTV's reorganization because "the end result should be a substantial reduction in the size of the claim asserted by the PBGC."

In addition, even if the Supreme Court allows the PBGC to restore the terminated plans, this precedent "could be used to substantially reduce the recoveries in other cases," Mr. Lockhart said.

The PBGC argued that the agency should have priority over unsecured creditors in LTV's reorganization because the company terminated its pension plans after filing for reorganization. But Judge Lifland denied such preferential treatment, saying the PBGC's claims against LTV are based on the labor of employees before the company filed for bankruptcy.

Judge Lifland also ruled that the bankruptcy court, rather the PBGC, should establish the discount rate used to calculate the PBGC claim against LTV.

The PBGC's $2.23 billion claim against LTV was calculated using a discount rate the agency set. The PBGC argued that the Employee Retirement Income Security Act of 1974 required it to set the rate.

The judge ruled the PBGC's claims must be valued in the same manner as the other claims against LTV using a discount rate chosen by the bankruptcy court.

"The PBGC's suggestion that its calculation of its claims was an agency determination that can only be reviewed by this court. . .is without merit," he said.

If the PBGC were allowed to set its own discount rate, "bankruptcy courts would be required to value all claims for future payment based on whatever discount rate the government agency, or even a private party, might specify by regulation or contract, undermining the bedrock principle of equality of distribution to unsecured creditors," the court said.

Judge Lifland did not say by how much the PBGC claims were overestimated, but he did order them recalculated. ■

Looking for few good apples in crop of bad insurer results

By MYRON M. PICOULT

Special to Business Insurance

TRADITIONALLY IN THE property/casualty insurance business, good earnings would bring about bad earnings and vice versa. Hence, the underwriting cycle appeared to be a self-correcting process.



Mr. Picoult

The thesis wobbles a little when one looks at both the 1975 underwriting peak, when the combined ratio rose to 108.2%, and the 1984 peak, when the combined ratio soared to 120.5%. Not only did the combined ratios hit historically high levels, but the subsequent recoveries, particularly the one in the 1984-1987 period, aborted before the industry returned to a healthy position.

We and other industry observers have postulated that future underwriting cycles would not be as bad as those of the recent past. The theory revolved around the implementation of a new federal tax burden and the belief that insurer managements had learned something from their past mistakes. However, as one reviews the 1990 first-quarter wreckage, it is difficult to give the industry the benefit of the doubt.

Underwriting and operating results were far worse than what was reported in the first quarter, as evidenced by deteriorating reserve levels. Indeed, our screens showed an industry combined ratio of 109.6% for the three months ending March 31, 1990, compared with 107.2% in the comparable period in 1989. It is all too obvious that 1990 is down the tubes and at this juncture it is difficult to see any improvement for 1991 unless pricing is removed from the Twilight Zone into the real world.

It should be noted that neither the 1990 nor 1989 numbers recognize the impact of tax payments. This would add a few points to the combined ratios on an annualized basis.

Industry observers spend much time and effort trying to pinpoint the precise moment when the underwriting cycle is going to turn. The trends ultimately reverse, although the timing is not as precise a process as many purport. The variances of the last two underwriting cycles lead us to believe that the process is no longer as self-correcting as it once was. Put another way, it appears that the changing dynamics of the business demand a level of expertise that may be beyond many existing managements.

Old methodologies of top-line growth and market-share emphasis have hollow rings when viewed in context of poor earnings trends and woefully low returns on equity. It is difficult for managements to do a critical self-appraisal of their companies' strengths and weaknesses. Once done, however, it will show that some insurers should be downsized geographically and/or in terms of business mix. We believe that the compromised condition of many balance sheets argues for such an approach.

"Murphy's Law" states that the worst possible circumstances will prevail at the worst possible moment. This will no doubt be the case in the property/casualty insurance industry. As previously noted, industry underwriting and earnings trends through the 1990 first quarter clearly indicate a level of discomfort. Unfortunately, the pain does not yet appear to be bad enough to make managements cry uncle.

The acceptance of low returns on equity is remarkably placid. If investors accept this modus operandi, there is a very good chance that the turn in this current underwriting climate will not be as stark as previous market turns. Hence the "decycling" of the business.

For better or worse, property/casualty stocks are perceived as interest-sensitive issues. They are viewed as bond surrogates because of insurers' large holdings of bonds. Hence, the stocks have a tendency to trade up when the bond market is strong and trade down when it is weak. While this is not a totally incorrect perception, it is far from being the whole story. There are earnings fundamentals and other balance sheet items that should be recognized.

In the past, the stocks reacted to rising premium growth as evidence that the price of the commodity was rising. This time around, premium growth may not be the best indicator. It would be very useful, both to observers and managements, if data on "risk-adjusted premiums" were provided. It will most likely be one of several indicators, which will include underwriting trends, cash flow, earnings and all the prerequisites, that describe a strong balance sheet.

In some instances, regulatory constraints (direct and indirect) are holding down rate increases. In another vein, some insurers are reluctant to aggressively raise commercial premium rates for fear that the business will either go to another company or find its way into the alternative market.

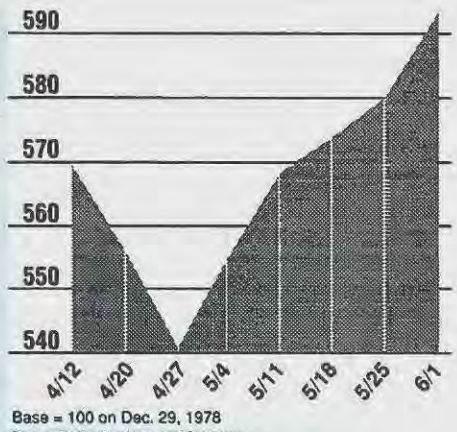
Intermingled in this minefield is the fact that some insurance companies are reducing exposures to some lines of business and are attempting to withdraw from certain geographic areas. We suspect the latter could prove to be a slow process periodically punctuated with considerable legal static.

Given our rather dour fundamental outlook for the property/casualty industry, the obvious question is why be involved with any of the stocks. We fervently believe that there are some exceptionally managed insurance companies with strong balance sheets that are very well-positioned to take advantage of the industry's difficult operating environment. Adversity always creates opportunity. In addition, some of the stocks sell at historically low relative valuations.

Finally, the earnings dynamics of a handful of insurers are expected to look very favorable against a sluggish economic environment. Hence, there is reason to be favorably disposed toward a handful of insurers. On the flip side, however, it is just too soon to go bottom fishing. ■

Myron M. Picoult is senior vp and senior insurance analyst with Oppenheimer & Co. in New York. He is the past president of the Assn. of Insurance & Financial Analysts and a member of the New York Society of Security Analysts.

BI Insurance Index



Base = 100 on Dec. 29, 1978
Source: Nordby International Inc.

Insurance industry stocks shot upward last week, as the *Business Insurance Index* soared 46.9 points to 5903.0 on June 1, from 546.1 on May 25. Advancing issues were led by U.S. Healthcare, up 21.0%; Provident Life Insurance Co., up 15.2%; Safeguard Health Enterprises, up 14.0%. Decliners followed Poe & Associates, down 6.4%; AmBase Corp., down 5.7%; and Re Capital Corp., down 3.5%. The most active issue was Sears, Roebuck & Co. (Allstate) 3.2 million shares traded. The *BI* Index gained 8.6% for the period; the Dow Jones 30 Industrials gained 3.5%; the New York Stock Exchange Composite grew by 3.0%; and the Standard & Poor's 500 was up 2.4%.

British Issues

May 31 Companies	Price pence	P/E	Div. pence	Yield %	1 Week High—Low pence	pence
Comml Union	482	22.2	28.7	7.9	483—466	
Genl Accident	1104	16.9	66.7	6.0	1105—1059	
Gdn Royal Exch	240	21.0	15.3	6.4	243—225	
Royal	473	25.4	34.0	7.2	478—440	
Sun Alliance	319	11.7	16.7	5.2	320—313	
Brokers						
Bradstock	247	17.4	10.0	4.0	249—243	
CE Heath	533	15.0	34.5	6.4	538—526	
Hogg Group	175	11.5	9.7	5.5	175—169	
Lloyd Thompson	288	18.0	9.7	3.4	288—287	
PWS Holdings	73	11.4	3.3	4.5	73—73	
Sedgwick Grp	258	19.4	16.0	6.2	260—253	
Steel Brrl Jones	264	16.1	14.7	5.6	264—263	
Willis Faber	289	18.2	16.0	5.5	289—281	

Source: Philip Olsen, Insurance Industry Specialist London

BI Industry Stock Report

MAY 29, 1990 THROUGH JUNE 1, 1990

		Price	Weekly % change	Year to Date % change	Annual High	Annual Low	Vol.(000)	$ Div.	% Yield	P/E	Book value	Mkt/Bk. value
BROKERS												
Alexander & Alexander	NYS	26.25	5.00	-16.67	34.00	23.25	202	1.00	3.81	21	9.18	2.66
Corroon & Black	NYS	36.50	9.77	-4.58	41.00	28.50	304	1.36	3.73	19	12.73	2.87
Gallagher Arthur J. & Co	NYS	22.38	-0.56	-9.60	26.50	19.50	15	0.60	2.68	17	5.33	4.20
Frank B. Hall	NYS	3.63	0.00	20.83	4.50	2.50	63	0.00	0.00	-2	-2.80	-1.29
Hilb, Rogal & Hamilton	OTC	13.75	-1.79	-26.17	20.63	11.50	113	0.28	2.04	19	4.60	2.99
Marsh & McLennan	NYS	78.63	3.11	0.80	89.75	62.50	422	2.60	3.31	19	10.56	7.45
Poe & Associates	OTC	11.00	-6.38	-16.98	13.00	8.00	1	0.40	3.64	14	1.93	5.70
BROKERS	AVERAGE		1.3	-7.5					2.7	15		
CONGLOMERATES & HOLDING COMPANIES												
Berkley W.R. Corp.	OTC	42.75	3.01	2.70	46.50	30.75	118	0.44	1.03	9	25.06	1.71
Berkshire Hathaway Inc	NYS	7100.00	-1.05	-17.68	8900.00	5675.00	0	0.00	0.00	-23	2869.00	2.47
ITT (Hartford Group)	NYS	58.75	5.15	-1.88	64.50	51.38	1294	1.60	2.72	8	56.33	1.04
Sears (Allstate)	NYS	36.25	0.69	-6.45	47.63	34.75	3154	2.00	5.52	10	37.75	0.96
CONGLOMERATES	AVERAGE		2.0	-5.8					2.3	1		
INSURERS/REINSURERS												
Aetna Life & Casualty	NYS	53.13	2.41	-8.41	62.50	45.25	794	2.76	5.20	9	58.11	0.9
Ambase Corp	NYS	6.25	-5.66	-50.50	16.38	5.75	1008	0.00	0.00	8	29.08	0.2
American General	NYS	48.38	-0.26	47.71	50.63	28.13	2456	3.20	6.61	14	34.68	1.39
American Heritage	NYS	22.50	0.56	-21.05	24.63	19.50	2	1.00	4.44	11	22.60	1.00
American Indemnity/Fin'l	OTC	5.50	-12.00	-31.25	13.00	4.25	2	0.08	1.45	-1	17.38	0.32
American International	NYS	102.75	4.05	-2.61	112.00	81.50	1173	0.48	0.47	12	41.92	2.45
Aon Corp.	NYS	39.50	1.28	-6.78	43.25	33.38	183	1.52	3.85	11	19.62	2.01
Argonaut Group	OTC	75.50	0.00	9.62	76.25	54.25	31	1.60	2.12	9	36.83	2.05
AVEMCO Corp	NYS	25.25	1.51	3.59	27.50	20.38	41	0.40	1.58	17	9.52	2.65
Baldwin & Lyons Inc	OTC	20.50	0.00	-4.65	24.00	17.88	11	0.28	1.37	7	20.80	0.99
Belvedere Corp	ASE	4.00	-3.03	-27.27	5.63	3.88	5	0.04	1.00	-5	8.03	0.50
Chandler Insurance	OTC	9.00	0.00	-23.40	13.25	7.63	85	0.00	0.00	5	9.53	0.94
Chubb Corp.(s)	NYS	48.75	3.04	-49.15	93.38	34.13	445	1.32	2.71	10	55.49	0.88
CIGNA Corp.	NYS	52.75	1.93	-12.45	66.75	45.25	376	3.04	5.76	11	66.64	0.79
CNA Financial Corp.	NYS	76.75	2.33	-23.25	108.75	68.25	105	0.00	0.00	9	54.87	1.40
Continental Corp.	NYS	30.75	1.23	-1.99	38.63	25.75	547	2.60	8.46	12	41.36	0.74
Durham Corp.	OTC	28.00	-3.45	-8.94	34.75	28.00	1	0.92	3.29	13	26.32	1.06
Fireman's Fund	NYS	32.25	1.98	-8.51	40.75	29.50	507	0.68	2.11	48	32.74	0.99
Fremont General Corp.	OTC	16.25	2.36	-19.25	22.50	14.38	248	0.80	4.92	7	19.09	0.85
Frontier Insurance Group	NYS	23.50	2.17	27.03	23.75	15.50	16	0.00	0.00	9	7.29	3.22
General RE Corp	NYS	90.00	3.90	0.00	96.25	64.50	450	1.52	1.69	14	29.04	3.10
Hanover Insurance Co.	OTC	25.75	7.29	-15.57	33.00	22.75	65	0.44	1.71	8	32.03	0.80
Harleysville Group	OTC	24.75	4.21	-10.00	28.75	19.50	25	0.60	2.42	8	18.94	1.31
Hartford Steam Boiler	OTC	57.25	0.88	5.53	60.75	39.75	0	1.60	2.79	15	18.94	3.02
Kansas City Life Ins.	OTC	36.25	0.00	1.05	36.25	34.50	5	1.12	3.09	10	39.22	0.92
Kemper Corp	NYS	41.13	7.52	-12.96	51.88	34.00	697	0.92	2.24	10	29.97	1.37
Lawrence Insurance Group	ASE	8.25	-1.49	15.79	9.13	6.50	2	0.36	4.36	15	4.40	1.88
Liberty Corp.	NYS	50.00	2.04	17.65	50.13	34.50	11	0.92	1.84	17	31.82	1.57
Lincoln National	NYS	54.38	-1.36	-10.86	62.88	49.00	122	2.60	4.78	10	49.19	1.11
NAC Re Corp.	OTC	36.00	5.11	-0.69	41.00	24.38	91	0.20	0.56	16	22.81	1.58
Navigators Group	OTC	31.25	2.88	13.64	31.75	25.25	101	0.00	0.00	11	15.22	2.05
Nobel Insurance LTD.	OTC	3.25	0.00	62.50	3.75	1.50	1	0.00	0.00	-2	7.76	0.42
NWNL Companies	OTC	31.50	5.00	-20.25	44.13	26.50	1008	1.32	4.19	6	37.50	0.84
Ohio Casualty Corp.	OTC	44.00	-0.56	-7.85	52.50	34.75	141	2.32	5.27	12	33.30	1.32
Old Republic Int'l	OTC	24.00	3.23	-6.34	29.00	21.13	30	0.72	3.00	5	30.70	0.78
Orion Capital Corp.	NYS	22.50	9.76	-3.23	28.50	18.38	300	0.92	4.09	7	19.72	1.14
Phoenix RE Corp.	OTC	10.38	7.79	-20.19	15.50	8.75	75	0.20	1.93	-14	12.99	0.80
Protective Life Corp.	OTC	13.13	1.94	-7.89	16.25	10.88	203	0.68	5.18	8	14.54	0.90
Provident Life	OTC	25.63	15.17	-0.97	30.13	19.00	325	0.80	3.12	8	23.24	1.10
Re Capital Corp.	ASE	13.88	-3.48	-4.31	15.25	11.00	3	0.00	0.00	11	14.43	0.96
RLI Insurance Corp.	NYS	12.63	6.32	42.25	12.63	6.88	48	0.40	3.17	7	12.42	1.02
St. Paul Companies	OTC	58.75	0.00	-2.08	63.50	50.25	1849	2.40	4.09	7	43.47	1.35
SAFECO Corp.	OTC	37.63	2.03	-5.35	42.38	29.00	436	1.36	3.61	9	24.87	1.51
SCOR U.S. Corp.	NYS	10.50	0.00	-26.32	14.50	8.25	11	0.20	1.90	13	10.61	0.99
Seibels Bruce Group	OTC	10.25	0.00	-5.75	13.63	8.75	48	0.80	7.80	-2	13.75	0.75
Selective Ins. Group	OTC	17.00	0.00	-11.11	20.25	16.00	64	1.04	6.12	6	15.72	1.08
Statesman Group Inc.	OTC	2.19	0.00	-20.44	3.63	1.88	25	0.16	7.31	4	4.19	0.52
Tokio Marine & Fire	OTC	52.38	-0.24	-30.51	78.13	40.88	7	1.00	1.91	-	70.93	0.74
Torchmark Corp.	NYS	47.13	3.86	-17.69	58.75	37.88	1132	1.40	2.97	12	13.23	3.56
Transamerica	NYS	39.25	1.62	-12.04	48.00	33.75	539	1.92	4.89	9	34.63	1.13
Travelers Corp.	NYS	30.63	2.08	-16.95	45.00	29.25	1332	2.40	7.84	6	44.85	-
Trenwick Group Inc.	OTC	24.50	1.55	0.51	26.88	16.13	92	0.48	1.96	16	16.91	1.45
United Fire & Casualty	OTC	33.50	3.88	1.52	34.50	30.50	2	1.20	3.58	8	22.56	1.48
USF&G Corp.	NYS	28.50	0.00	-3.80	34.00	26.88	724	2.92	10.25	35	22.87	1.25
UNUM Corp.	NYS	48.13	-3.27	0.79	51.38	33.00	231	0.80	1.66	9	31.20	1.54
USLIFE Corp.	NYS	38.25	1.32	-15.47	48.13	34.75	63	1.48	3.87	5	54.34	0.70
Washington National	NYS	21.50	0.58	-23.89	29.13	19.50	111	1.08	5.02	81	32.90	0.65
USLICO Corp.	NYS	21.88	2.34	-7.89	25.38	21.00	15	1.00	4.57	6	27.73	0.79
Zenith National Ins.	NYS	15.63	3.31	-16.67	21.50	13.50	46	0.88	5.63	0	13.81	1.13
INSURERS/REINSURERS	AVERAGE		1.7	-6.8					3.4	10.9		
HEALTH MAINTENANCE ORGANIZATIONS												
FHP International	OTC	18.75	7.14	-11.76	26.38	12.88	533	0.00	0.00	5	3.54	5.30
HMO America Inc.	OTC	6.00	11.63	-22.58	10.63	4.38	206	0.00	0.00	26	1.12	5.36
Pacificare Health Sys.	OTC	22.50	5.88	-13.46	30.38	13.25	233	0.00	0.00	5	6.35	3.54
Safeguard Health Enter.	OTC	6.13	13.95	-27.94	12.50	5.13	150	0.00	0.00	12	2.99	2.05
Sierra Health Services	ASE	7.38	-1.67	-16.90	9.63	4.38	46	0.00	0.00	25	0.62	11.90
United Healthcare Corp.	OTC	15.00	2.56	22.45	15.00	7.88	1466	0.00	0.00	11	0.34	44.12
United Medical Corp.	ASE	9.00	1.41	50.00	9.13	5.50	9	0.20	2.22	32	5.70	1.58
U.S. Healthcare	OTC	18.00	21.01	26.32	16.75	9.63	0	0.28	1.56	0	3.07	5.86
HMOs	AVERAGE		7.7	0.8					0.5	15		
ALL COMPANIES	AVERAGE		2.2	-5.9					2.9	11		

System design: Nordby International Inc.

Some companies wake up earlier than others.

It may not be the eleventh hour. But if you're trying to confront the explosive growth of health care costs, it's getting late.

The problem wasn't created overnight. And it won't be solved overnight. But the earlier you attack it, the sooner you can expect to see positive results.



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We can provide a menu of products and services that can help contain costs, maintain quality care and ensure employee satisfaction. In health care, dental care and life and disability plans, as well.

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See one of our local representatives or fax Bob O'Brien, President, CIGNA Employee Benefits Companies: 215-523-7915.

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