

Business Insurance

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

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P/C rate increases highest at midsize firms: Survey

WASHINGTON—The commercial property/casualty insurance market continues to harden, according to a new survey of commercial insurance brokers.

The Council of Insurance Agents & Brokers' Commercial Insurance Markets Index survey, conducted during the first two weeks of May, was based on the responses of 87 CIAB member firms. The survey found the most significant increases for medium-sized accounts—those generating between \$25,000 and \$100,000 in commissions and fees—with

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Accreditation withdrawal sparks debate

By MEG FLETCHER

OLYMPIA, Wash.—Efforts by Washington state's insurance commissioner to downplay the impact of her department's withdrawal from a national regulatory accreditation program are sparking controversy.

Washington state insurance officials and knowledgeable observers disagree on the possible repercussions for insurers and consumers of the Insurance Department's decision to end its participation in the National Assn. of Insurance Commissioners' voluntary accreditation program.

Washington's elected insurance commissioner, Deborah Senn—who has acknowledged she intends to seek the Democratic U.S. Senate nomination this year—said in a statement that the withdrawal

"will have no adverse effect on insurance consumers" and "does not...reflect on the quality of a state's financial oversight."

Those statements drew strong criticism from some observers, though others generally supported the commissioner's decision.

The department's May 25 announcement was designed to preclude a hearing—scheduled for May 30-31—that Ms. Senn had requested earlier to appeal the NAIC's proposed suspension of Washington's accreditation status, said Chief Deputy Robert Harkins, Ms. Senn's spokesman on the issue.

Late last year, the NAIC's Financial Regulation Standards and Accreditation Committee recommended the

See Status on page 41



Ms. Senn

Aetna in talks to sell non-health care units

By JUDY GREENWALD

HARTFORD, Conn.—Employers that do business with Aetna/U.S. Healthcare likely won't see much of an impact if parent Aetna Inc. sells its international and financial services operations to ING Groep N.V., analysts say.

At the same time, employers with group pension business managed by Aetna's financial services operation may want to keep an eye on the ratings of any eventual purchaser, says one analyst.

Hartford, Conn.-based Aetna said last week it is in talks with Dutch financial services company ING to sell all or part of its financial services and international businesses. According to market reports, the sale price may be in the \$8 billion to \$9 billion range.

Talks have just begun, and Aetna will provide details if and when a definitive agreement is reached, an Aetna spokesman said.

Aetna previously announced plans to separate its glob-



al financial services operations into an independent company, "and this still remains a viable option," Chairman and Chief Executive Officer William H. Donaldson said in a statement.

"There can be no assurances that we will execute a definitive agreement to sell these businesses to ING, or what the terms of such an agreement would be. Any such agreement would be subject to various regulatory and other approvals," Mr. Donaldson said.

"We remain committed to our stated goal of improving Aetna U.S. Healthcare's leadership position, financial performance and relationships with physicians, hospitals and patients," he added.

Earlier this year, Aetna rejected an unsolicited \$10.5 billion takeover bid offered jointly by a U.S. unit of ING and Thousand Oaks, Calif.-based WellPoint Health Net-

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MEWA penalties possible Many employers unaware of new filing rule

By JERRY GEISEL

WASHINGTON—Employers that extend their health insurance plans to more than their own employees could be liable for \$1,000-a-day penalties if they fail to file a new, federally required form by July 1.

As that deadline approaches, however, many employers remain unaware both of the fact that there is an M-1 form—which must be filed with the Department of Labor by companies that maintain multiple employer welfare arrangements—and that the new form may apply to their plans.

By and large, employers also are unaware that the new Form M-1 will be made available to state insurance regulators, who, in turn, could use

the information to shut down such plans, though benefit experts believe that is more of a potential than an actual threat.

Still, benefit lobbying groups are urging the Labor Department to provide additional guidance that would clearly exempt employers that fit certain criteria from having to file the new report. Department officials, informed sources say, are reviewing the concerns that are being raised.

MEWAs are health plans that cover the non-union employees of at least two employers. A typical MEWA is one offered to employers, often small firms, that are members of a trade association.

Employers, however, also could be maintaining what some benefit ex-

perts are calling "stealth" or "inadvertent" MEWAs. These are benefit arrangements that employers never considered to be MEWAs but—in the absence of clarification from the Labor Department—may indeed fit the description.

Examples of situations that could give rise to a stealth or inadvertent MEWA include:

- An employer launches a joint venture with another company and offers its health care plan to employees of the joint venture.
- An employer spins off a unit and, for a transitional period, extends coverage to the employees of the newly spun-off company.
- An employer extends its health

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AXA sues over film finance losses Burned at the box office

By DOUGLAS McLEOD

NEW YORK—AXA Group and several other insurers that saw the movie production finance business as a glamorous money-maker in the 1990s are now starring in the financial equivalent of a disaster film.

After only a few years backing film production loans, these insurers are facing as much as \$1.5 billion in losses and a widening tangle of lawsuits and counterclaims charging betrayal of trust and fraud.

The business is "insurance-backed gap financing," in which insurers agree to repay a movie industry borrower's bank loans if a film's revenues fail to recoup its costs.

Long-simmering troubles with the policies first hit the courts last fall, and several suits have involved Chase Manhattan Bank's financing of a string of box-office

flops, including Barbra Streisand's "The Mirror Has Two Faces."

Since then, the litigation has widened, with new suits drawing in brokers and consultants involved in the placements. It has also turned nasty.

AXA, which may have the largest exposure to losses from the gap financing deals, earlier this month sued Chase, broker Stirling Cooke Brown Holdings Ltd.

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PHOTO: REUTERS

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Updates

CIAB firms see rising P/C rates

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87% of the respondents reporting that rates for such accounts had increased during the previous 90 days. Nearly one-third of the respondents said that the increase was greater than 10%.

Survey respondents also reported increases in the pricing for small and large accounts, but not to the same degree.

The commercial automobile and workers compensation lines appeared to be experiencing the greatest degree of hardening. When asked to describe the market for individual lines of insurance purchased by medium-sized and large accounts compared with that of three months earlier, 74% of the respondents called workers comp "very hard" or "somewhat hard," while 66% used the same terms to describe the commercial auto market. Property and general liability insurance for such accounts also showed signs of firming, while umbrella coverage was largely unchanged.

The CIAB index also showed a continuing increase in the price of group medical insurance for accounts of all sizes. A majority of both the small (56%) and medium-sized (53%) accounts reported increases of more than 10% compared with three months earlier. Nearly four out of 10 large accounts (38%) reported increases of more than 10% for their group medical coverage.

The CIAB launched its index earlier this year (BI, March 6).

SEC targets Ponzi schemes

WASHINGTON—The Securities and Exchange Commission last week filed a barrage of lawsuits against insurance agents and others involved in selling what the SEC charges are fraudulent corporate promissory notes backed by offshore insurers.

The 11 SEC complaints name 22 companies and 38 individuals and stem from more than \$300 million in allegedly bogus note sales, the SEC said in a statement.

The lawsuits follow actions against many of the same companies and individuals by securities and insurance regulators in 28 states. State authorities in recent months have filed 370 administrative or criminal complaints against 332 companies and individuals for promissory note sales to more than 4,600 individual investors, according to the North American Securities Administrators Assn.

In most of the alleged Ponzi schemes, operators used nationwide networks of insurance agents, financial advisers and stockbrokers to sell promissory notes of companies claiming to be in such businesses as golf course development and auto financing.

Operators used proceeds of the note sales to make some interest payments to early investors, but diverted the bulk of the money to themselves and to pay high commissions to sales agents, regulators charge.

The defendants allegedly attracted investors by promising high returns and by claiming that principal and interest payments were guaranteed by insurance policies or bonds issued by various offshore insurers.

One of these insurers, New England International Surety Inc., backed at least six of the promissory note issues targeted in federal and state lawsuits, according to Wisconsin securities regulators.

New England International, a Panama-based insurer with a history of regulatory trouble, had earlier guaranteed \$33 million in bogus notes issued by two companies run by convicted felon Pete J. Buffo.

Hendrik Rienstra, the insurer's Brussels, Belgium-based president, could not be reached.

Other insurers backing note issues included Global Insurance Co. Ltd. of Costa Rica and the defunct insurers Westwood Insurance Co. Ltd. and Tangent Insurance Co. Ltd. of Antigua.

24 N.Y. hospitals sue Aetna

NEW CITY, N.Y.—Twenty-four New York non-profit hospitals are suing Aetna U.S. Healthcare Inc. for \$95 million, alleging that the health insurer fails to pay claims on time and routinely rejects claims it is obliged to pay.

The suit filed in state court charges Aetna with breach of contract and violations of the New York Prompt Payment Law, New York Managed Care Act and state deceptive business practices laws.

The hospitals are seeking \$45 million in compensatory damages and \$50 million in punitive damages.

"Over the last several years, Aetna U.S. Healthcare has embarked on a coordinated plan to breach its contractual obligations to the hospitals," the suit charges. "The purpose of this plan is to delay—or, in many cases, reduce—the amount of reimbursement paid to the hospitals."

Specifically, Aetna U.S. Healthcare failed, among other things, to meet contractual obligations to pay bills within 45 days, routinely and arbitrarily refused to pay for medically necessary treatments, used unauthorized actuarial tables to determine whether a treatment was medically necessary, violated bans on issuing claims denials based on retrospective reviews of treatments, and failed to pay previously agreed rates for treatments, the suit alleges.

In a statement, Aetna U.S. Healthcare said it is still reviewing the charges, "but we strongly object to the allegation that we have intentionally delayed payments in violation of New York Managed Care and Prompt Payment laws."

The insurer is working with the hospitals to develop payment arrangements that meet legal and business requirements, the statement said.

Online D&O coverage auction

ATLANTA—Two former Marsh Inc. executives are launching a new Web site that will eventually allow risk managers to put various property/casualty insurance programs out to bid in what is being described as an online "reverse auction."

Initially, risk managers in the health care industry can log onto www.theinsuranceexchange.com and take their directors and officers liability insurance programs into an auction environment in which participating insurers compete for the business.

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Louisiana seeks to limit exclusions' expanded use

By DAVE LENCKUS

BATON ROUGE, La.—The pollution coverage pendulum would swing back in Louisiana policyholders' favor by year's end under a unique state effort to limit insurers' use of the absolute and total pollution exclusions.

The Louisiana Insurance Department is beginning to draft a regulation that would bar insurers from invoking either pollution exclusion to deny claims under general liability policies for losses that involved contaminants but did not result in any environmental damage.

C. Noel Wertz, a senior attorney with the department, said she expects to complete the first draft of the regulation by the end of June. Various departmental and state legislative reviews of the proposed regulation likely would run until December, when Ms. Wertz said she hopes the regulation would become effective.

If adopted, the regulation would be unique among the states, policyholder and insurer attorneys agree.

The regulation that Ms. Wertz is drafting essentially would formalize a strongly worded advisory that Louisiana Commissioner

James H. Brown issued to insurers in June 1997 (BI, June 9, 1997). In that letter, Mr. Brown discouraged insurers from invoking pollution exclusions to deny coverage when:

- A loss did not involve environmental damage.

- A policyholder is not an "intentional active industrial polluter."

- A loss resulted from a malfunctioning product that had been used properly.

- A loss resulted from exposure to asbestos or lead.

Insurers largely complied with See Exclusion on page 40

Ruling on safety issues

Disabled can't be denied jobs that pose personal risks: Court

By JUDY GREENWALD

SAN FRANCISCO—Employers could find themselves in a dilemma over which laws to obey in light of a federal appellate decision that says a disabled employee cannot be denied a job on the grounds that it may endanger that worker, say attorneys who represent employers.

In its May 23 decision in *Mario Echazabal vs. Chevron U.S.A.*, the 9th U.S. Circuit Court of Appeals in San Francisco ruled that the Americans with Disabilities Act applies to employees seeking jobs that may pose a direct threat to their own health or safety. Many observers say the decision flies in

the face of numerous federal and state safety regulations and could force employers to choose which laws to follow.

It also may lead to a charge in federal guidelines, which permit employers to defend against discrimination charges by saying the job would have represented a threat to the employee.

But some observers fear that even revised federal regulation will not protect employers from subsequent suits by injured workers or from having to pay them workers comp benefits.

The decision forces employers to choose "between the ADA and safety," said Ann Reesman, general counsel for the Washington-

based Equal Employment Advisory Council, an employer group that filed a brief in the case on Chevron's behalf.

"It begins to suggest the employer will be put into a damned-if-you-do and damned-if-you-don't situation," agreed David Weinstein, a partner who heads the labor and employment group at law firm Wildman, Harrold, Allen & Dixon in Chicago.

Employee attorneys, however, say the ruling bars paternalism and that employers should ensure a safe workplace in any event.

Other federal courts will consider the decision, say attorneys some of whom believe the U.S. See ADA on page 41

Regulatory delay criticized

HARRISBURG, Pa.—Pennsylvania Insurance Commissioner M. Diane Koken must stop "stonewalling" American Re-Insurance Co.'s application for regulatory approval to buy surplus lines insurer United National Group, a state judge has ruled.

The commissioner has improperly held up the proposed \$350 million deal, which was due to close in the fourth quarter of 1999, as a means to pressure American Re's parent, Munich Reinsurance Co., into joining the International Commission on Holocaust Era Insurance Claims, the judge ruled.

Ms. Koken must handle American Re's application "forthwith," ruled Judge Joseph T. Doyle, president judge in the Commonwealth Court of Pennsylvania.

Because no law requires insurers to participate in the commission, delaying the processing is improper, he held.

Last August, American Re announced its plan to buy Bala Cynwyd, Pa.-based United National and in September sought regulatory approval.

According to court papers, Pennsylvania Insurance Department officials told American Re's attorney, Constance B. Foster of Saul, Ewing, Remick & Saul L.L.P. in Harrisburg, that approval was being delayed as Munich Re had not joined the Holocaust Commission.

"This court disbelieves the testimony of Deputy Insurance Commissioner Stephen J. Johnson that he does not recollect telling Ms. Foster that the insurance commissioner stated that

she would not proceed" on American Re's regulatory approval filing until Munich Re joined the commission, court papers say.

Munich Re has said that as a reinsurer, it need not be a full member of the commission, which comprises insurers that may have Holocaust-era claims. Munich Re has offered to join as a reinsurer and contribute to a humanitarian fund.

A Pennsylvania Insurance Department spokeswoman said, "The department never required membership of the Holocaust Commission as a requirement for approval of the filing." The department "wanted to see other actions" similar to joining the commission. She would not elaborate.

—By Gavin Souter

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- V.A. Tommy of Oman Insurance Co. writes that full disclosure of contingent commissions might not be in the best interest of buyers. **PAGE 25**

- Standard measures of insurer performance are skewed, says stock analyst Myron M. Picoult. **PAGE 39**

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Government Risk Management

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Spotlight Editor:
Rodd Zolkos

Market for public entity risks showing signs of a turn

By RODD ZOLKOS

Public sector risk managers this year are seeing the signs of a changing insurance market.

While no one is predicting the kind of market hardening they faced in the mid-1980s that drove governmental entities to self-insurance and pooling, the municipal insurance market is seeing some rate increases both by line and by region.

"The market is changing. I think it is in a process of transition right now, particularly in a lot of lines of public entities that have traditionally been very competitively priced," said Gary Martin, chairman of Aon Public Sector Alliance in San Francisco, a unit of Aon Group Inc.

"Probably the most significant

thing that's happening is an overall premium increase throughout the marketplace," said Sandy Middendorf, managing director of the public entity division for Reliance Specialty in King of Prussia, Pa., part of Reliance Group Inc.

"Many insurers, including ourselves, are looking at our portfolios a little more closely and determining where price increases are necessary," Mr. Middendorf said. "Not many coverage enhancements or improvements are happening with much speed these days."

"The market is firming," said Mark Lundegren, director of marketing at Coregis Insurance Co. in Chicago. "The market is clearly firming in workers compensation and in property. It seems to be firming from west to east."

Most dramatic appear to be some of the increases in property insurance premiums governmental entities are facing.

"In the property market right now, we're seeing some big disruptions," Mr. Lundegren said. "Everybody's looking for a home for their property."

The property rate increases are a function of supply and demand, he said. "Reinsurance prices are up and capacity is down," he said. "A couple of years now there has been a lot of aberrant weather conditions."

Mr. Lundegren said he hasn't seen any instances of anyone unable to find property coverage, however.

"We've seen increases from carriers of anywhere from 5% to 25%," Aon's Mr. Martin said of
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PRIMA leader primed for future

Incoming president sets sights on increasing membership

By LEE FLETCHER

Boosting membership, enhancing the skills of members and increasing their interaction with and value to other government officials are among the goals for the new president of the Public Risk Management Assn.

"I have a number of goals. We have a strategic plan that we want to try to focus on making sure we're giving our membership the services they need and want," said Dan Pliszka, who has been serving as acting president of PRIMA since January and formally assumes office at PRIMA's 21st annual conference, held June 4-6 in Charlotte, N.C.

Mr. Pliszka would like to see PRIMA's membership grow.

"We currently have about 2,500 members now and if you think about all the little towns, cities, counties around the country, the potential membership is probably in the tens of thousands, though not every public entity has a specific public risk management position," he said.

The new PRIMA president also would like to make sure public risk managers have the skills they need to succeed and grow.

"It seems like more risk managers are becoming the chief risk officers, meaning they are responsible for many of the functions that the treasurer normally does. I wouldn't doubt that sometime in the relatively near future that it would work itself into the public sector. Risk managers need to understand the cost of capital and investments and be able to stand up and say 'I can do that,'" Mr. Pliszka said.

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Mr. Pliszka

PHOTO: NANCY PIERCE

Public risk managers mark profession's advance

By MARK A. HOFMANN

For public sector risk managers, whose role once consisted mostly of buying insurance, the nature of the job has changed considerably.

Although that focus began to shift in the 1970s, the pace of change dramatically accelerated in the 1980s, as coverage for government entities dried up or became prohibitively expensive.

The individuals charged with risk management had no choice but to become more sophisticated as they struggled to employ new forms of risk financing through self-insurance and pools and to implement new loss prevention and control strategies. Other fac-

tors—including the explosion of information technology and the availability of new educational opportunities—also spurred increased professionalism.

The changed nature of the job was also reflected in the establishment of the Arlington, Va.-based Public Risk Management Assn. in 1978 as a forum for the particular concerns of public sector risk managers.

The challenges faced by public sector risk managers, of course, are constantly evolving. Looking into the new century, issues such as an aging workforce, privatization of traditionally public services and a drive toward greater efficiency in government all loom large as issues that public risk managers will soon have to tackle,

if they are not already confronting them.

Looking backward, there is unanimity that the job has grown more sophisticated and complex since the 1970s and that the impetus for that change came in large part from insurance market dislocations.

"I do think that public sector risk management certainly has matured dramatically over the past 20 to 30 years," said Robert Esenberg, who recently retired as risk manager of Virginia Beach, Va., after serving with the city for 30 years (*BI*, Nov. 15, 1999).

"I believe that the hard market pushed public entities to learn to manage their risks more and to enhance the need for public risk management and enhance the

stature of public sector risk managers," he said.

In the early 1970s, the concept of risk management for a public entity was not clearly defined, said Allen Hyman, managing director and practice leader for the Marsh Public Entity Group in Fort Lauderdale, Fla.

"The roles and responsibilities varied considerably from entity to entity across public sector risk management. Unfortunately, to a substantial degree, that still applies today," he said.

Mr. Hyman said that when he became special facilities manager for the city of Evanston, Ill., in 1973, "people in the public sector did not really know or understand what risk management was in a public sector context."

The creation of the Occupational Safety and Health Administration in 1974 was one factor that prompted increased interest in risk management at public entities, he said. Many local governments became more involved in managing their safety risks to preclude the federal government from expanding OSHA's purview to include city government, he recalled.

Mr. Hyman—whose positions included risk manager of Evanston from 1976 to 1983; risk manager of Corpus Christi, Texas, from 1983 to 1986; and director-insurance services for the Texas Municipal League from 1986 to 1988—said that most early risk management programs among
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Scandals can influence police liability coverage

By ROBERTO CENICEROS

High-profile cases of police misconduct—such as recent scandals in Los Angeles and New York—can influence police liability coverage arrangements nationwide.

The media attention to such incidents can lead to widespread mistrust of police. Such mistrust, in turn, can bias juries hearing liability cases against law enforcement agencies. And underwriters, sensitive to prevailing jury attitudes, may lose their appetite for police liability business, say brokers and risk managers familiar with municipal risks.

In a soft insurance market, isolated

incidents of police misconduct may not result in coverage problems. If rates in the overall property/casualty insurance market firm up, however, the attitude of underwriters could easily change.

For now, insurance remains available and affordable for law enforcement risks, and demand for alternative risk financing arrangements generally has not increased.

One exception is Los Angeles, which is considering alternative methods for financing potential liabilities stemming from an ongoing scandal involving about 70 officers. Those officers, from the city's Rampart Division, are under suspicion for allegedly falsifying evidence, covering up unjustified shootings, and oth-

er crimes.

To avoid similar misconduct claims, many police departments nationwide have adopted creative training procedures and are reinforcing their conduct standards to stem citizen complaints and avoid liability exposures.

Some agencies say that sort of risk management has helped decrease the number of misconduct claims filed against them.

While such measures can reduce a police department's misconduct losses, a department's liability exposure can still be raised by events outside its control, experts say.

Societal and juror attitudes toward police are a significant concern, said Lewis Leigh, executive director of the

Washington Cities Insurance Authority in Renton, Wash. The WCIA insures nearly 100 municipalities, including about 85 that have police departments.

The focus by the media and civil liberty organizations on law enforcement's handling of the World Trade Organization demonstrations in Seattle, for example, influences juror evaluations of police conduct throughout Washington, he said.

Even incidents farther from home, such as racial profiling and police scandals in Los Angeles and New York, influence the way Washington juries view police, Mr. Leigh said.

Municipalities, as a result, must consider more than just having good supporting facts when they weigh ce-

fending themselves against police misconduct allegations. They also must consider factors such as society's prevailing attitude toward specific police practices, Mr. Leigh said.

"You have to be careful what you take to trial now," he explained. "There are two barometers. One barometer is, do you have good facts? Another is the social circumstances."

To defend against police misconduct allegations, "You better have followed your procedures, and your procedures need to be acceptable to society," Mr. Leigh advised.

To minimize its losses, the WCIA spent a year reviewing the conduct policies of all of its member police departments to ensure that those policies are appropriate, Mr. Leigh said.

A high-profile case in one city can put police everywhere under a microscope, agreed Gary Martin, managing director and chairman of Aon Corp.'s Public Sector Alliance unit in San Francisco.

"It basically erodes the credibility of what can be considered defensible police work," he said.

Some underwriters viewing those trends will change their requirements, demanding higher deductibles or rate hikes, Mr. Martin said. Underwriters did just that following the videotaped beating of motorist Rodney King by Los Angeles police officers in 1991, he noted. When the overall market softened, however, insurers' push for firmer pricing dwindled.

Currently, there are no signs of insurers exiting or sharply raising rates across the board for law enforcement liability coverage, said Mr. Martin, who expects such coverage to remain abundant. Accounts with substantial losses, though, may face higher premiums or deductibles.

High-profile police misconduct cases are the exception, not the rule, for most risk managers.

One of the biggest sources of loss for police departments insured by the WCIA is auto collision claims resulting from the growing use of computers in police cars, said Mr. Leigh.

Police more frequently are involved in collisions and other accidents because they are distracted by keying in or looking up data while driving, he explained.

As a result of the increase in collision claims, police liability is now quickly catching up to employment liability as the second greatest loss generator for the WCIA. Until recently, the police losses had been a distant third to employment-related losses.

Meanwhile, police agencies across the nation are employing creative training methods to improve their officers' morale and performance.

"Verbal judo" is one approach now used nationwide. Its proponents teach police to use language to obtain compliance by redirecting hostility, rather than confronting it head-on with potentially lethal force.

"It's the martial art of the mind and mouth," said George J. Thompson, President of the Verbal Judo Institute in Albuquerque, N.M. He has taught his course to more than 170 police departments, including some of the nation's largest.

While the technique can be used in a variety of law enforcement situations, from hostage negotiations to calming domestic disputes, it is also gaining in popularity among other employers, Mr. Thompson said. He has now taught the skills to airline workers and other employees that regularly deal with customer relations in a stressful environment.

One aspect of the training teaches officers to "leave their egos at home."

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Police

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By doing so, they are less likely to take matters personally and lose their temper when someone verbally assaults them or resists instructions, Mr. Thompson explained.

The vast majority of police altercations result from a loss of temper, Mr. Thompson said. His program teaches police to use persuasion and appeal to people's self-interest through, for example, convincing them that certain behaviors will lead to the best

outcome for them.

Verbal judo trains police to do something that is not natural—to remain composed in the face of an insult, said Captain Greg Kyritsis, academy commander for the San Bernardino County Sheriff's Department in California.

The Sheriff's Department tracked citizen complaints over four years and found the program helped reduce such complaints by 60%, Capt. Kyritsis said. Therefore, the program has helped the department's image, he said.

"It works," Capt. Kyritsis said. "It's

a tactic and another one of our tools. You have to remember, any time you put your hands on someone, it's going to look bad to someone else."

Capt. Kyritsis, along with other advocates of verbal judo, successfully lobbied to make the technique part of the training recommended for all of California's police departments by the state's Commission on Peace Officer Standards and Training.

Police agencies now are citing their verbal judo training in court testimony when defending themselves against excessive force lawsuits, Mr. Thompson said.

Other police risk management experts are focusing on improving the performance level of departments. Some departments, for example, are moving away from just preventing or managing liabilities to improving their "organizational climate," said G. Patrick Gallagher, president of The Gallagher Westfall Group Inc., a risk management and leadership development consultant in Indian Valley, Va.

One way to do that, he said, is to create "value-driven" departments, rather than rule-driven organizations. Individuals need to learn val-

ues—such as integrity, courage and respect—to appeal to when making decisions, he said. But merely putting those values in a policy is worthless if they are not constantly reinforced by police leadership and through a variety of department practices, Mr. Westfall said.

Creativity in handling police misconduct is not limited to risk prevention methods.

Los Angeles Mayor Richard Riordan in February proposed financing the risk of future Rampart-related liability claims by issuing a bond. The debt would be paid with Los Angeles' share of settlement money from tobacco manufacturers' settlement with states, including California, for health care costs from treating smoking-related illnesses.

The mayor's proposal assumes that Rampart-related claims will cost the city about \$100 million. But the City Administrative Office has found that the mayor's risk securitization recommendation may not serve the city well. The CAO argued in a March report that relying on the tobacco funding is risky because the exact amount of money available is not yet known.

As an alternative, the CAO recommends using variable-rate judgment obligation bonds with the city setting aside about \$20 million per year during the next several years to pay for any judgments or to fund debt servicing.

The recommendations are still wending their way through the city's political and budget-allocation process. Otherwise, Los Angeles is self-insured for such losses, and exactly what route it will take to pay for Rampart losses remains to be determined.

It is not a given, however, that the city will simply pay all Rampart-related claims, said Victor T. Parker, risk manager for the city of Los Angeles. The city is also preparing to defend itself, he said. **BI**

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• EVENTS •

2000 Employee Benefits Communication Awards

The deadline for submitting entries for *Business Insurance's* annual Employee Benefits Communication Awards competition is fast approaching.

The annual EBC Awards recognize excellence in communicating employee benefit programs. Programs are judged on the effectiveness of the communication effort, not on the value of the benefits offered by a company.

There are no restrictions on the size of company or on the cost involved in the preparation of a communication effort.

All companies in the United States and Canada are eligible to enter their own benefit communication programs. Consulting firms are also invited to submit programs on behalf of their clients. Generic communication programs will not be accepted.

Winning programs will be announced in the Nov. 20 issue of *Business Insurance* and honored at a luncheon in New York.

For a copy of the EBC rules and entry form, go to *BI* Events at www.businessinsurance.com. The deadline for completed entries is June 26.

For more information, contact Business Insurance/ EBC Awards, 711 Third Ave., New York, N.Y. 10017; 212-210-0299; fax: 212-210-0704; e-mail: bobrien@crain.com

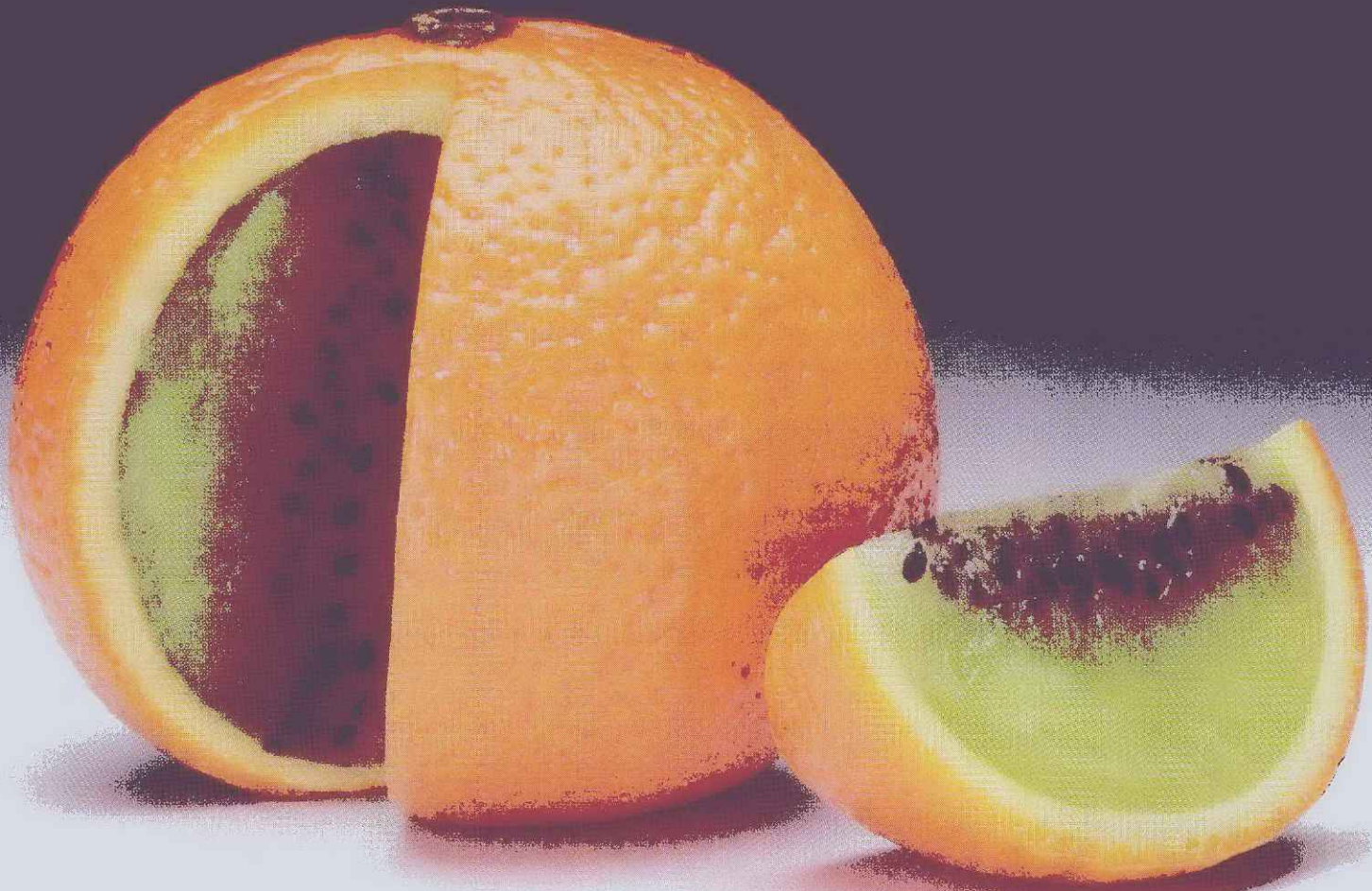
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Opinions

Prudence needed in privacy

The National Assn. of Insurance Commissioners needs to tread very carefully if it is seriously considering applying new federal consumer privacy regulations to workers compensation claimants.

We believe that such a move by state regulators would be overstepping their mandate to develop privacy regulations under the financial services modernization law enacted by Congress last year. Worse, ill-considered restrictions on employer access to information about injured employees could raise costs and hamper employers' efforts to manage treatment and return workers to the job.

Title V of the law, also known as the Gramm-Leach-Bliley Act, requires state and federal banking, insurance and securities regulators to implement rules that would assure the security and confidentiality of consumer information within their respective jurisdictions.

Some regulators, however, are talking about extending the new rules for insurers to also apply to workers comp policies. That strikes us as extending privacy protections considerably further than Congress intended.

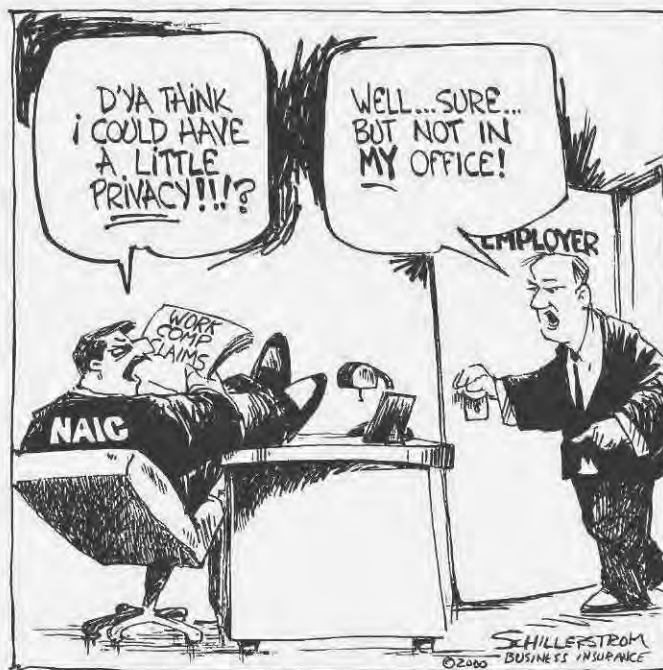
The act's privacy rules are aimed at protecting the privacy of personal—not commercial—financial information. The object is to make sure that consumers know when an institution plans to release certain personal financial information to non-affiliated third parties for marketing purposes, and to give the consumer the right to block release of that information.

Workers comp coverage doesn't fall into the category of financial products associated with personal checking accounts and home loan applications. By definition, it's a commercial insurance transaction.

In addition, Title V's protections apply to insurers' customers. In this case, employers—not the workers comp claimants—are the insurers' customers.

As such, obstacles to employers obtaining information on third-party claimants, as the NAIC is considering, would be improper. Employers are, after all, the ones paying the claimant's medical bills in the first place. They need to make sure those claimants are receiving appropriate treatment and they need to know when return-to-work programs or modified temporary light duty can be instituted. They also need to know when a possible fraud occurs.

Imagine what would happen if claimants were al-



lowed to "opt out" of permitting employers access to information associated with their claim. That could be an open-ended invitation to abuse by less-than-scrupulous claimants and medical providers.

Risk managers and employers already face the real possibility that the federal government will place hurdles of its own between them and workers comp data. The Department of Health and Human Services has been busily working on privacy standards for the electronic transmission of medical records.

No one contends that workers comp claimants don't deserve privacy protections. The protections involved, though, are not the same, because the issues aren't the same as those addressed by the financial services modernization bill.

If workers comp is included among the privacy protections considered by state or federal regulators, it merits its own special treatment guaranteeing that the rights of employers that pay for this care are protected, including preserving their access to necessary information.

State insurance commissioners should focus their attention on making sure that the privacy rights of personal insurance consumers are protected, and resist the temptation to expand their rulemaking authority into the commercial insurance arena.

Not managing risks too costly

IGNORING risk management is not only costly—it can be fatal.

One New York company is learning that the hard way as government officials seek to revoke its operating licenses and shut it down in the wake of an accident that caps a long string of accidents and years of unsafe operations.

On May 22, a New York Apple Tours sightseeing bus struck and killed a pedestrian who was crossing a street in Manhattan. The driver was cited for operating a vehicle he was not licensed to drive and for driving the empty bus outside of an approved route.

It quickly came to light that such disregard for regulations was not an anomaly.

The Associated Press reports that the tour bus operator has been issued hundreds of traffic citations and was involved in 140 traffic accidents in the past three years, and that it has been fined hundreds of thousands of dollars for avoiding federal inspections of its double-decker buses. The New York Times reports that the state found 625 violations of state vehicle laws at the company.

New York state officials last week suspended the registrations of all of the company's buses until a hearing to be held next week, and officials likely will push to permanently close the company.

Given the company's accident record, it's not difficult to see why the state wants to shut it down; it's a public hazard.

New York Apple Tours appears to have ignored or never considered appropriate measures to ensure the safe operation of its vehicles, let alone basic regulations designed to ensure safety. If it had, it likely wouldn't be in the trouble it now finds itself.

For any company to ignore the means to avoid an obvious source of losses is foolish; for a company involved in public transportation and tourism, it is inexcusable.

The tour company now is crying foul, saying that state officials are "rushing to judgment" and claiming it is "shocked" that its vehicle licenses have been revoked.

To anyone in risk management, however, the consequences of ignoring unsafe behavior were neither too swift nor shocking.

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Reporting weekly on corporate risk, employee benefit and managed health care news

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Spotlight report

PRIMA

Continued from page 3

"It's important for PRIMA to be giving our membership a set of skills and training and to help those that want to become a state-of-the-art risk managers with current tools," he said.

Building the visibility of the risk manager within government entities also is a goal.

In his risk management job, Mr. Pliszka, 43, describes himself as an "eternal optimist," which he admits is rare in the risk management business.

"I'm not a doom-and-gloom guy. I look at my job as I'm here because of the departments I serve. The departments aren't here because of me. As a result, if someone calls me and says, they're thinking about doing so and so, I feel my job is to say 'OK, let's find a way so you can do whatever it is,'" he said.

he said.

Mr. Pliszka serves as manager of the Risk Management Division for the City of Charlotte as well as for Mecklenburg County and the Charlotte-Mecklenburg Board of Education in North Carolina.

"Not many places cover all of the entities that I do risk management for. It's one of the bigger jobs and one of the more challenging jobs. It's just the absolute greatest place in the world to work—Charlotte is a cool town," Mr. Pliszka said.

It's also a busy place to work, with a county population of about 750,000 people and budgets for the three major public entities the risk management division serves topping off at about \$1.8 billion.

There are 20 employees in the risk management division. Mr. Pliszka said. In addition, the city, county and school board employ roughly 22,000

people altogether.

"From the standpoint of what we do, we cover just about every risk there is," he said. Those risks include a major airport, the Charlotte/Douglas International Airport, which is operated by a city department.

Mr. Pliszka said that being a good risk manager means understanding that risk management is a "people business."

"A risk manager is fooling himself if he thinks that he can sit in the ivory tower and fix all the risk problems. That doesn't work. You've got to show that you care for the departments and that you understand what they do," he said.

To that end, Mr. Pliszka said, he's ridden along with the garbage collection and police departments and has gone through the sewer treatment plants.

"You've got to understand why they

get into operational problems and what kinds of things they face on a daily basis," he said.

When he arrived in Charlotte in 1994, Mr. Pliszka said he was hired with the expectation that he could lower the division's workers compensation costs.

"The city manager at the time introduced me to the management group as 'the guy who's going to save the city a million dollars this year.'"

In fact, he managed to do much more than that.

Over the past six years, Mr. Pliszka has saved the division almost \$9 million in workers comp costs.

One key to those savings was Mr. Pliszka's examination of an in-house medical clinic that treated county employees' initial injuries.

"I did some analysis and found that about 90% of the cases that went to the nurses (at the clinic) later went to

see a doctor.

"What I ended up saying is, if 90% of these people are referred to the doctor anyway, why not cut out that middle step and go right to the doctor?" Mr. Pliszka said.

Another example of Mr. Pliszka's success is a sharp decline in the number of police department vehicle accidents.

"The fiscal year right before I got here, the police department had 458 vehicle accidents, and, I think, at the time they had about 430 vehicles in the fleet. So, they sometimes had more than one accident for some vehicles in the fleet," Mr. Pliszka said.

Last year, he said, the police department had only 199 vehicle accidents.

"It's not rocket science. One of the main ways that I did it was using the people skills to get the message across to the police chief that he was wrecking way too many cars," Mr. Pliszka said.

According to Mr. Pliszka, the police department started publishing department accident statistics among the different police districts, which created a healthy competition to keep accidents down.

Mr. Pliszka said that during his tenure, someone in the police department came up with a brilliant idea that has also helped reduce the number of accidents.

"They put in a program that if you wreck one of the police vehicles, you are then relegated to one of the oldest cars in the fleet, and you don't move up until somebody else wrecks another car. So when you're driving the old clunker, you're thinking all the time that you're driving this because you wrecked a car," Mr. Pliszka explained.

Prior to coming to Charlotte, Mr. Pliszka served in a wide variety of risk management positions, including safety specialist for Martin Marietta Energy Systems in Oak Ridge, Tenn.; safety manager for the City of Anaheim, Calif.; risk manager for the City of Manhattan Beach, Calif.; and director of risk management and employee benefits for Jefferson County (Birmingham), Ala.

Mr. Pliszka received his formal education at the University of Wisconsin-Stout in Menomonie. He holds a bachelor's degree in business administration and a master's degree in industrial safety and loss control management.

In addition to his job as risk manager, Mr. Pliszka also has served on the faculty at the University of North Carolina-Charlotte for nearly a year as a part-time instructor. Mr. Pliszka said he is "loving every minute of teaching" in the university's insurance/risk management curriculum.

"I'm trying to teach from the practical side, instead of being an academician. I'm able to apply the different experiences that I've had, and I think it makes it a lot more interesting for them. I think if everyone's not getting an 'A,' I'm not doing a good job," Mr. Pliszka said.

Mr. Pliszka said one of his first exposures to PRIMA came at its 1989 national conference in Nashville, Tenn.

"I was really impressed with the information sharing, and I just soaked up a lot. I was also really struck by how personable everyone was. There are still people to this day that I still count as friends that I met at that conference. I got really interested in PRIMA at that point," Mr. Pliszka said.

Once he began working in Charlotte, Mr. Pliszka said he became involved with PRIMA "pretty heavily."

"I pulled together a grass-roots effort to get the conference to come here... This is the first time ever that anyone has been elected and is being installed in their home city," he noted. **BI**

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Managers

Continued from page 3

public entities had only three components: safety, claims and insurance procurement.

"It didn't take a lot of effort to define what those three components required. If a risk management program at that time had the support of top management, and the risk manager had the tools, the likelihood of success in reducing the total cost of risk was very high," he said.

Success also was high because very few entities previously had applied any form of risk management to their losses, he added. Over a five-year period during his tenure, for example, Evanston was able to cut its workers compensation costs by 50%, he said.

In addition to the formation of OSHA, two other developments advanced public entity risk managers' careers, Mr. Hyman said. The creation of PRIMA, for which he served as president from 1984 to 1985, "provided a forum for the sharing of information and experience about the profession of public sector risk management. It was from that point that the true sophistication of this discipline grew."

Probably the most significant jump in sophistication, however, followed the arrival of personal computers, according to Mr. Hyman. "With that came the ability to tailor software needs to specific interests at minimal cost," he said.

With the advent of personal computers, information management became another key component of a public risk manager's job, he said.

The demand for more sophisticated risk management grew immensely in the mid-1980s, when municipalities faced a liability insurance crisis.

Mike Hulsey, now chief of the bureau of risk management for Richmond, Va., was a broker during that crisis. He "saw the shambles that came from coverages just disappearing. A lot of public entities have become a lot more sophisticated because they've had to be."

In response to the insurance crisis, public risk managers instituted "self-insurance programs, larger retentions, risk retention groups and other programs where they can address their risks without having to go through the commercial market," Mr. Hulsey said.

"The awakening came in beginning in 1983-84, when the market started constricting," agreed Mr. Hyman. "Government awoke to discover that its insurance had been canceled or non-renewed or the premiums being requested were hundreds of percentages greater than the year before, which, for purposes of governmental budgeting, were untenable," he said.

"There truly was only one solution at the time that would render immediate results, and that was to initiate an aggressive risk management program. All of a sudden there was a hue and cry across the country for experienced risk managers for public sector positions," Mr. Hyman said.

As a result, he said, "the profession expanded considerably and self-insurance and public sector pooling became a viable alternative to the conventional market."

To this day, self-insurance pools remain a leading approach to risk financing for public entities, despite softening in the traditional property/casualty insurance market that followed the last hard market, continuing to the present day.

Terry Anderson, risk manager for the city of Tucson, Ariz., since 1978, agreed that the hard market of the mid-1980s was the key catalyst to the advancement of the public sector risk management profession.

"There's no question it's much more

sophisticated. Probably the biggest change rises out of the insurance crisis of '85-86," Mr. Anderson said. That hard market for insurance essentially forced public sector risk managers into running their own insurance companies, he said referring to the pools and self-insurance programs that emerged.

"Public risk managers essentially operate a small but not unsophisticated insurance company. It's just like an insurance company except for the fact we have a captive market," he said.

Mr. Anderson said that when he assumed his job in 1973, he spent about 80% of his budget on buying insurance from traditional markets. Now, he spends only about 5% of his budget in the traditional markets.

Risk financing is not the only area in which public risk managers' abilities have grown; access to better risk information also has steadily in-

creased, pointed out Elizabeth D. Puddington, executive director of New Hampshire School Boards Insurance Trust in Manchester, N.H.

"It definitely has become more sophisticated. Probably one example is the recognition of the unique dimensions of public sector risk management," she said.

Ms. Puddington cited as an example the Malvern, Pa.-based Center for the Advancement of Risk Management Education's 1999 decision to offer a course in risk management for public entities. The course builds upon the Associate in Risk Management program.

Ms. Puddington also cited the Public Risk Database Project. The project, which is based in Columbia, Md., seeks to help public entity risk managers better understand, track and control risks associated with public services (see story, page 20).

Now, several recent developments appear likely to shift public sector risk management into new, uncertain territory.

The current state of public risk management is "mixed," said Ms. Puddington. "Certainly the public sector risk managers who have been in their positions for a number of years and have worked with a stable group are increasingly treated as enterprise risk managers and not just insurance purchasers. That said, one of their biggest challenges is the increased pressure on finances and staffing," she said.

Mr. Hulsey said that public sector risk managers face some of the same challenges as their private sector counterparts, which include dealing with a perceived hardening of the market for traditional property/casualty insurance and the new demands of an electronic economy. "Everybody

thinks we need to be into e-commerce. We need to understand what we are doing," he said.

The challenges are not likely to abate anytime soon, but rather become more complex.

Jim Crockett, manager-risk and benefits for the Denver Water Authority, said that public sector risk managers have to deal with questions arising from an aging workforce, which means increased workers comp and disability management problems.

"A lot of jobs in the public sector still involve fairly physical activities," he said, citing police, fire, utilities, road and construction activities.

"With the aging workforce, the number of people who are unable to perform the physical tasks continues to increase. It's difficult to return people to a position they can perform—if you can't fight fires, you can't be a

Continued on next page

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Continued from previous page
firefighter," he said.

Jim Coyle, executive director of PRIMA, said that in the past decade or so, "a lot of cities embraced public/private partnerships and privatization. A lot of cities were acting more like businesses" by providing services almost as the private sector would, such as requiring that swimming pools and golf courses be self-sufficient.

The challenge ahead will involve looking at multijurisdictional issues—including environmental and parks and recreation issues—and devising risk management responses to them, he said.

Mr. Hyman said that in the extremely soft market of the past few years, "the sense of urgency and the sense of demand for risk management in the public sector has been in decline. While we're beginning to see

some tightening in the market, no fire alarms have been rung yet."

In the name of efficiency, some governments are downgrading or eliminating risk manager positions, he said.

In fact, "risk management has been falling to a level in many organizations that limits its potential to effect cost reduction."

Effective risk management programs require one or both of two criteria—senior management commitment and recognition and authority in the organization to effect change, he said. Without one or both of these, "it becomes extremely difficult for a risk manager to see that necessary changes in policies, procedures and operations come about," said Mr. Hyman, adding that risk management may be the only staff function in government that can significantly reduce operating expense without eliminating people or programs. **BI**

Market

Continued from page 3
this year's property market.

And on the earthquake front, Mr. Martin said that while he sees adequate capacity, he would expect public entity buyers to face increases of 5% to 20%. "I think this is the first real sign we've seen in the marketplace of the market changing," he said.

"We definitely had a change in our property insurance renewal at the end of last year," said Lauren Gregory, director of risk and insurance management for the Metropolitan Transportation Authority in New York. "I can definitely say we saw some change upward."

In "liability we haven't seen any change yet, but we are in the process of placing some owner-controlled

policies and the brokers have been telling us to expect some increases," Ms. Gregory said.

Carol Zoellner, director of risk management for Palm Beach County, Fla., said her county is budgeting with an expectation of rate increases in both its property and casualty programs when it renews coverages Oct. 1.

"We're anticipating increases. We've certainly been advised that the market is tightening," Ms. Zoellner said.

On the property side, "Our broker tells us the rate increases depend upon how equitable your current premium is," she said.

"We're also hearing that the liability carriers are looking to adjust rates because they've been hit by some heavy losses," she said. "Not from us—our loss experience has been good in both areas."

"We're hearing that it's getting worse daily," the Palm Beach County risk manager said.

The property picture is further clouded by a proposed change in Federal Emergency Management Agency regulations that would require public entities to purchase property insurance in order to qualify for federal disaster assistance.

"On property we're seeing a lot of rate increases," said Mark Ferraro, senior vp with Marsh Inc.'s Marsh Public Entity Group in San Francisco. "We're also seeing a lot of confusion on the part of the industry on how to respond to the new FEMA proposed regulations."

"One of the problems that we're seeing happen is that nobody can really pin FEMA down on how they would coordinate their program with entities that are self-insured or have large retentions," Mr. Ferraro said.

"The one thing that we don't think has been discussed as fully as it should is what is responsible self-insurance?" agreed Aon's Mr. Martin.

"Aon feels that there's going to be enough capacity in the marketplace to satisfy the requirements that are going to be out there," Mr. Martin said. "The real question is the price that carriers are going to exact to provide the coverage."

The issue will be whether public entities will be willing to pay that price, he said.

"They will probably be asked to pay amounts that they're not paying now," Mr. Martin said. "That will have to play itself out, and I imagine it's going to be fairly political. There's going to be a point where you may have the ability to buy it but you're unable to put up the capital to do it."

On the liability side, things are "spottier," Coregis' Mr. Lundegren said.

"Over the last year we saw the turn in the market first in schools but now munis are well into the turn," he said.

"If you talk about third-party liability coverage, I would describe it as we're bouncing along the bottom," Mr. Ferraro said. "Most incumbent markets would like a rate increase...but there's still a lot of competition."

"There are rumors of companies who are mandating that they won't write smaller entities or they need a certain premium increase, but there are plenty of companies who are willing to step into the void," he said.

"Not every carrier's trying to get price increases, but many are," said Reliance's Mr. Middendorf.

Several insurers have left the municipal market over the past year, Mr. Lundegren said.

"It's a less crowded marketplace this year," he said. "There's fewer general purpose carriers dabbling in the marketplace."

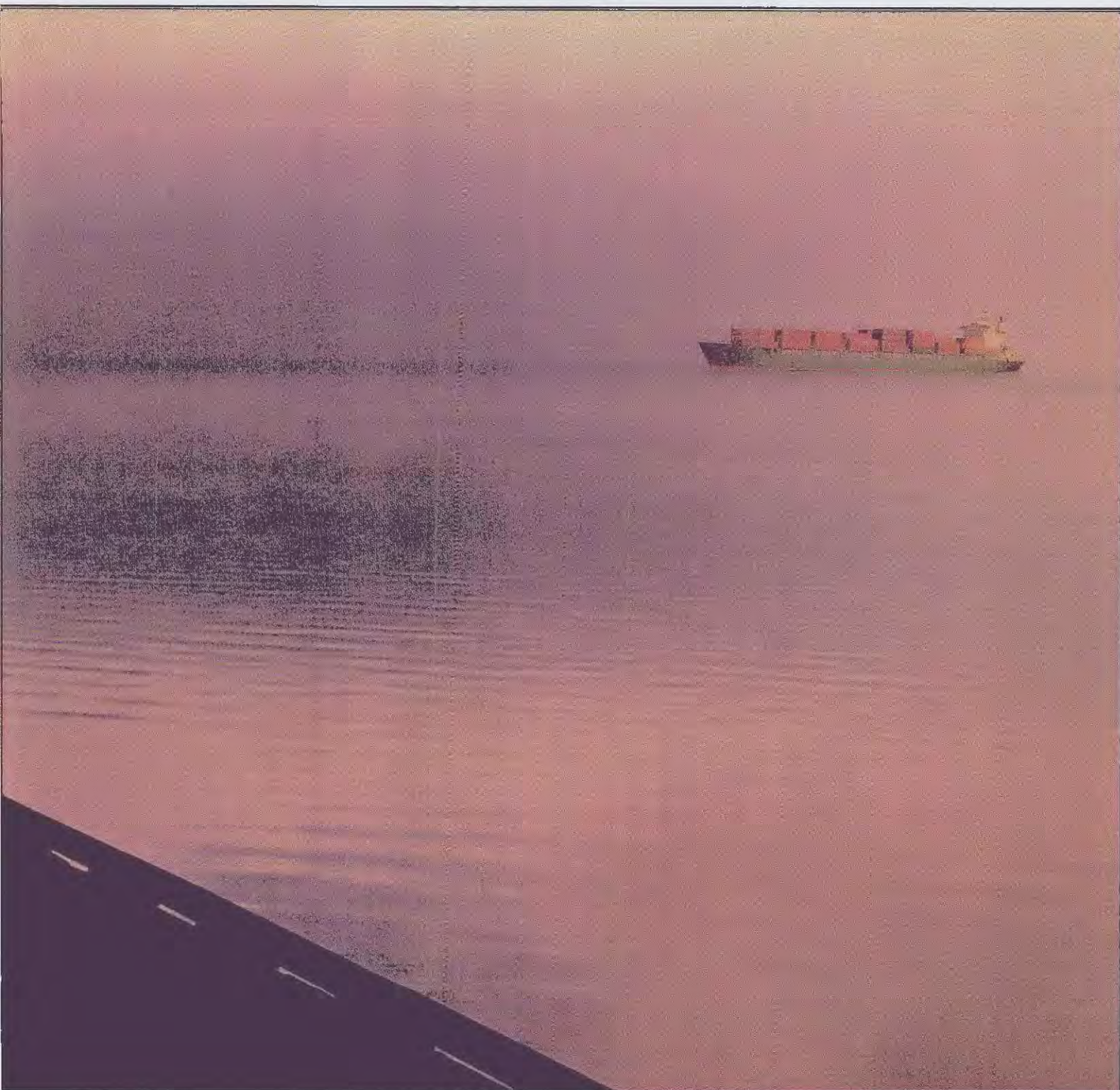
"Things have changed since a year ago," he said. "A year ago there were a lot of Johnny-come-latelys entering the market. Now it's a little late to be walking in."

"From the excess standpoint, we're starting to see the carriers ask for higher attachment points," while some entities are taking higher retentions to maintain their current premium levels, Mr. Martin said.

The general liability market is still competitive, he said, though adding, "We have seen carriers reluctant to offer multiyear proposals as easily as they have in the past."

"I would imagine there have been a lot of underwriting losses in the excess liability area for public entities because the pricing has been so low," Mr. Martin said. "I would say in general that accounts that have been relatively free of losses should see limited price increases, but accounts that

See Market on next page



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Market

Continued from previous page
have been laden with losses will probably see some fairly dramatic increases."

"It's hard to believe what some of these general liability prices have been on an excess basis for the last couple years," he said, adding that could mean excess liability prices could increase dramatically in the next few years, prompting pools and large entities to raise their retention levels.

"It will never reach what it was in the mid-'80s, but it is going to be interesting," Mr. Martin said.

Mr. Middendorf offered a similar view.

"I don't think we're going to see anything like we saw in the mid-'80s when insurance companies drove

prices up so high that self-insurance became the mechanism used by public entities," he said. "There's plenty of market capacity out there, so that's one reason I don't think we're going to see what happened in the mid-'80s."

And the changes in the municipal insurance market aren't prompting any major mid-'80s-like shifts in buyers' behavior, according to Mr. Lundegren.

"We're not seeing any major shift to pooling or self-insurance," he said. "There obviously are a lot of very strong pools out there and in some states they have very strong market share."

And, he noted, "A lot of the pools are probably in the same situation as many of the carriers. They need to spruce up their balance sheets."

While some see the workers compensation market firming, Mr. Ferraro said he sees prices increasing dramatically in California, though those price hikes are still limited.

"Here in California we're seeing dramatic increases in workers comp because it's primarily a first-dollar business," he said. But in other states, where public entities traditionally take large retentions, prices are flat.

For all the reports of firmer pricing, higher premiums don't seem to be a universal phenomenon.

"I haven't seen any significant increases," said Caroline Cogtella, Chicago's risk manager. "And on property we pretty much stayed the same."

Premiums for the city's special events coverage did increase approximately 5% this year, "but we increased our exposure significantly this year," Ms. Cogtella said. "We have a lot of additional activities planned because of millennium events and other special events."

And, as the level of public sector risk management sophistication grows, so apparently does interest in some more sophisticated risk transfer options.

Coregis, for example, recently formed a public entity alternative risk transfer division, and is reporting significant interest in not just such programs as finite risk or loss portfolio transfers, but also programs that would address operational risks, according to Michael Johnston, a Coregis alternative risk transfer product manager in New York.

"We've had public entities express interest in what you might describe as revenue or expense volatility protection," Mr. Johnston said.

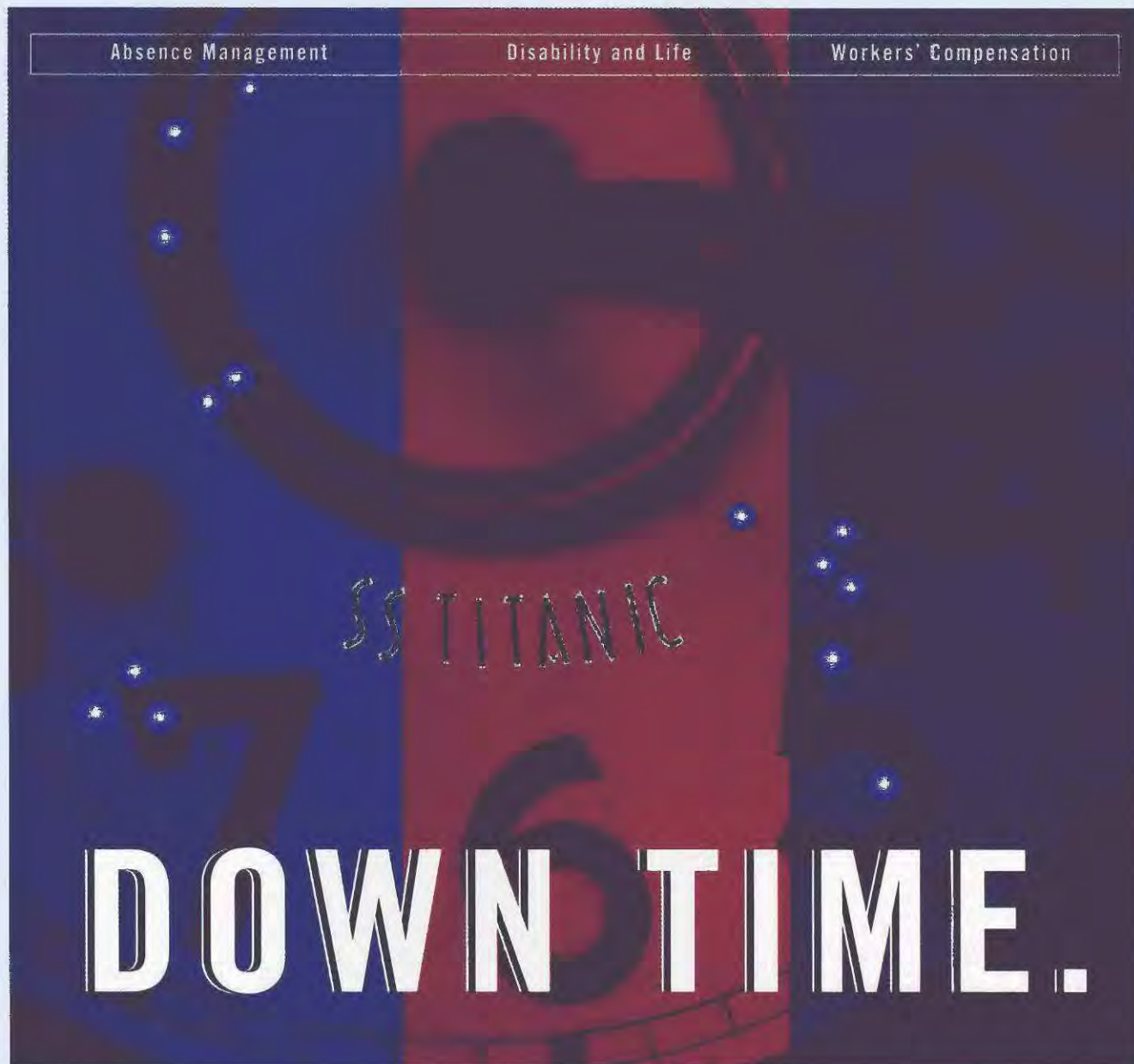
Such programs might include a county that is heavily reliant on sales tax trying to protect itself against a sudden downturn in sales tax revenue or an entity seeking coverage against cost overruns for snow removal.

"One of the big interests in the entities that we've talked to is budget stability," he said.

And the FEMA proposal has prompted "a really significant amount of response from public entities who are looking at non-traditional kinds of ways to manage that kind of risk," Mr. Johnston said.

Matthew Prendergast, another Coregis alternative risk transfer product manager at in New York, said many of the alternative programs will probably be hybrid structures, combining elements of self-insured retention with some kind of finite risk layer and then perhaps some sort of liquidity protection product above that.

"Since we've seen the level of sophistication grow both by the (public) risk manager and the chief financial officer, they deserve to have access to the same kinds of products as the private sector," Mr. Prendergast said. **B**



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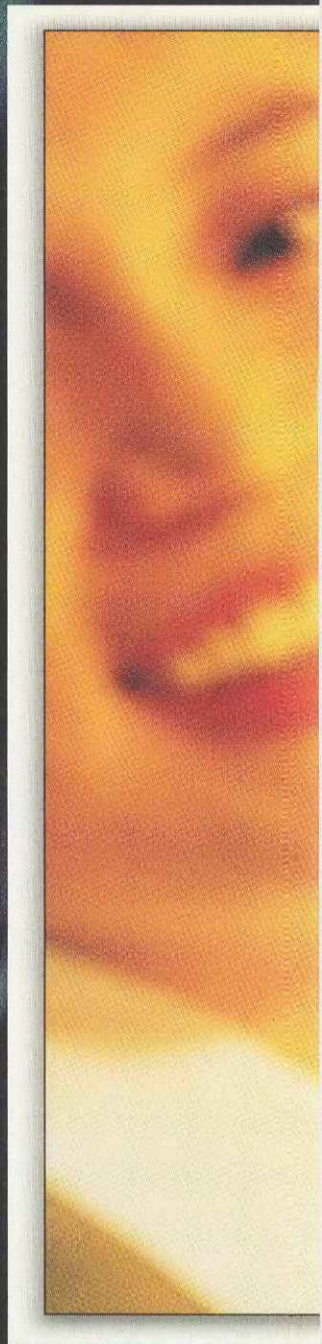
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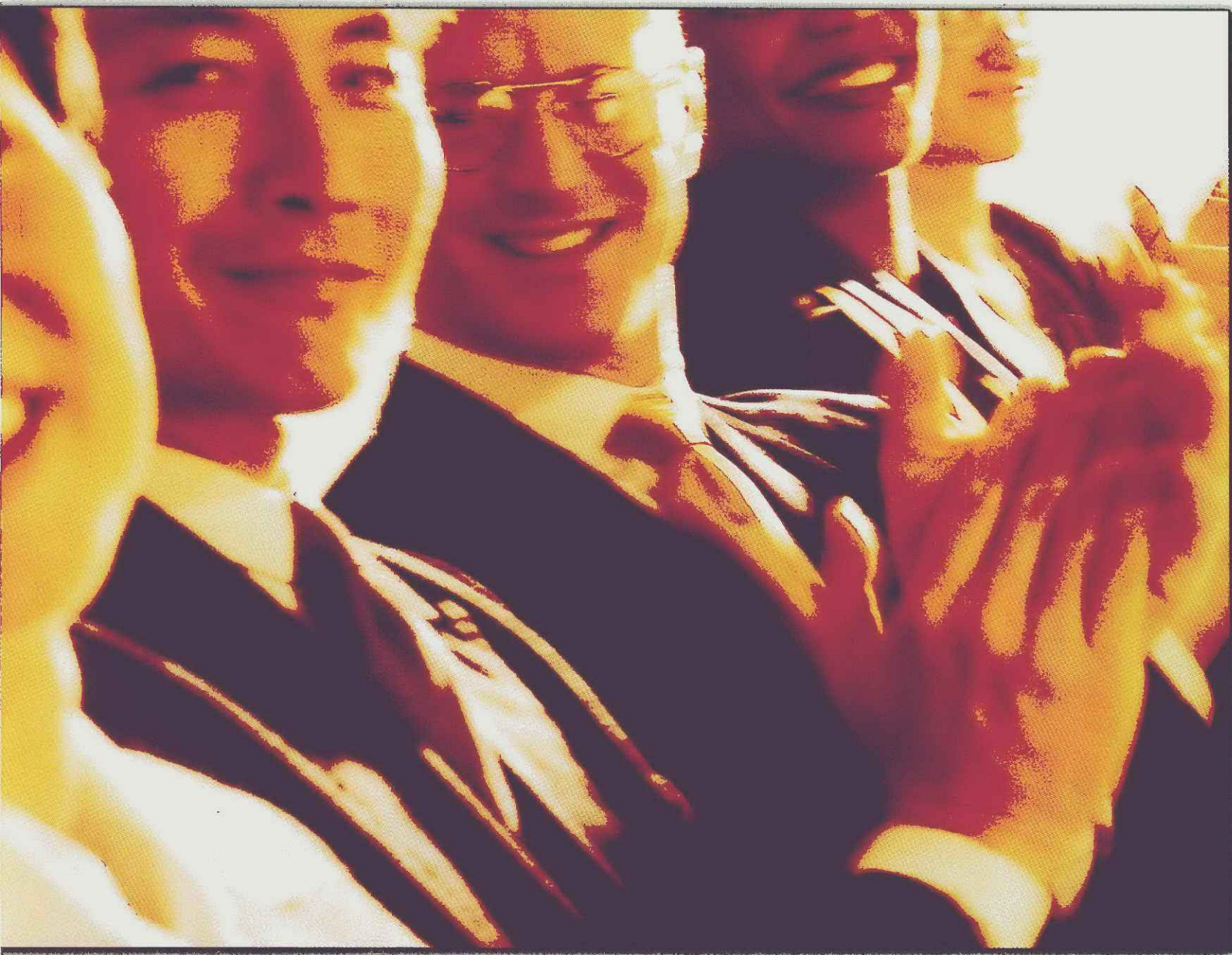
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Public risk managers welcome liability claims data standard

By SALLY ROBERTS

The Public Risk Database Project is looking for a few good public entities and service providers to adopt its new liability claims data standard.

If implemented by public entities, pools, risk management information system vendors and third-party administrators, the liability standard will facilitate the submission of data to the PRDP's much anticipated data warehouse, which is set to begin storing aggregate loss data next month under its new name,

PRDP Data Exchange.

Public entity risk managers hail the PRDP's liability claims standard and data exchange as excellent tools that will help them analyze and benchmark liability claims experience—including information on loss cause and frequency and severity—against similar government entities.

Such comparative information has been hard to obtain in the past, because of differences in the ways public entities defined and collected data.

"Once the data exchange is open, it will be fully functional, but you

can't get reports without data," said Cathy Spain, executive director of the PRDP in Columbia, Md.

Therefore, the PRDP is actively seeking participation from certain public entities, such as pools in California and Texas that have large quantities of data, Ms. Spain said. In return for supplying the data, the PRDP will offer those targeted groups free subscriptions to the data exchange through June 2001.

The PRDP also is offering discounts off of subscription prices for those entities that subscribe to the data exchange and are willing to supply data, Ms. Spain said, noting

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The Public Risk Database Project (PRDP) is a nonprofit organization created to collect, compile, and disseminate liability loss and other information for state and local governments and other entities, including school districts and risk pools. The organization's primary objective is to create a self-supporting national data warehouse to help public officials improve the performance of their risk management programs, make better policy decisions, and control risk financing costs.

Project Overview
PRDP's Data Warehouse will provide public officials with the information they need for benchmarking, financial analysis, actuarial price rates, loss-control studies, and public-policy analysis. The Data Warehouse will make information easily accessible to measure the claims experience of various types and sizes of public entities, including information on the cause, frequency and severity of losses.

In addition to this effort, PRDP has created a Liability Claims Data Standard, which includes PRDP's new system of standardized cause of loss codes. Use of the PRDP data standard will facilitate the submission of claims information by governments to the Data Warehouse.

The PRDP's Web site, www.prdp.org, outlines the project's goals.

that providing data to the exchange is voluntary.

Many public entity risk managers are eager to participate.

"I'm very excited about this pro-

ject," said Elizabeth D. Puddington, executive director of the New Hampshire School Board Insurance Trust in Manchester, N.H.

"From the pool's perspective, this will be enormously helpful because... this tool, for the first time, allows us to share information and identify trends and anomalies," she said. "It's been difficult to identify best practices because there is so little comparable data to compare one entity to another."

Tom Phillips, risk manager for the city of Santa Monica, Calif., said that being able to collect standard liability claims information and perform studies, benchmarking and analyses will go a long way to further enhance the legislative clout of public entities.

"I think (the standard and data exchange) has a lot of potential," he said. "We're very supportive of the standard, and plan to participate."

Although public entity risk management support is there, it is the various service providers that bear the responsibility of implementing the standard and creating the software to convert data from the RMIS over to the PRDP's data exchange.

For this all to work, "RMIS vendors have to buy in, and many don't want to spend their own money to implement it," said Mary Venturini, whose company, Venturini Consulting in Newport Beach, Calif., advises public entities about RMIS selection.

"Everyone is trying to get their Web project out," she said referring to RMIS vendors.

Ms. Venturini predicts, however, that those vendors that hesitate to implement the PRDP standard will end up losing public sector market share as public entity risk managers seek out vendors that use the standard.

Indeed, the PRDP's Ms. Spain said that the success of the data standard hinges on public entity risk managers.

"What has to happen is that risk managers have got to get on the phone with their vendors and say 'I want this to happen,'" Ms. Spain said.

Some public sector risk managers are beginning to do so.

"Our board has adopted a resolution to adopt the standard," said Ms. Puddington of the New Hampshire School Board Insurance Trust.

"We use a TPA that has its own system," she said, noting that the TPA has agreed to pursue the standard and is "quite enthusiastic" about it.

If that does not occur, however, Ms. Puddington said that PRDP's standard will be "one factor to bring claims in-house or contract out with another TPA."

Judith Payne, risk manager for the State of South Dakota and executive director of the South Dakota Public Entity Pool for Liability in Pierre, said that "when the time is right for us to renew our contract with our RMIS vendor, we will

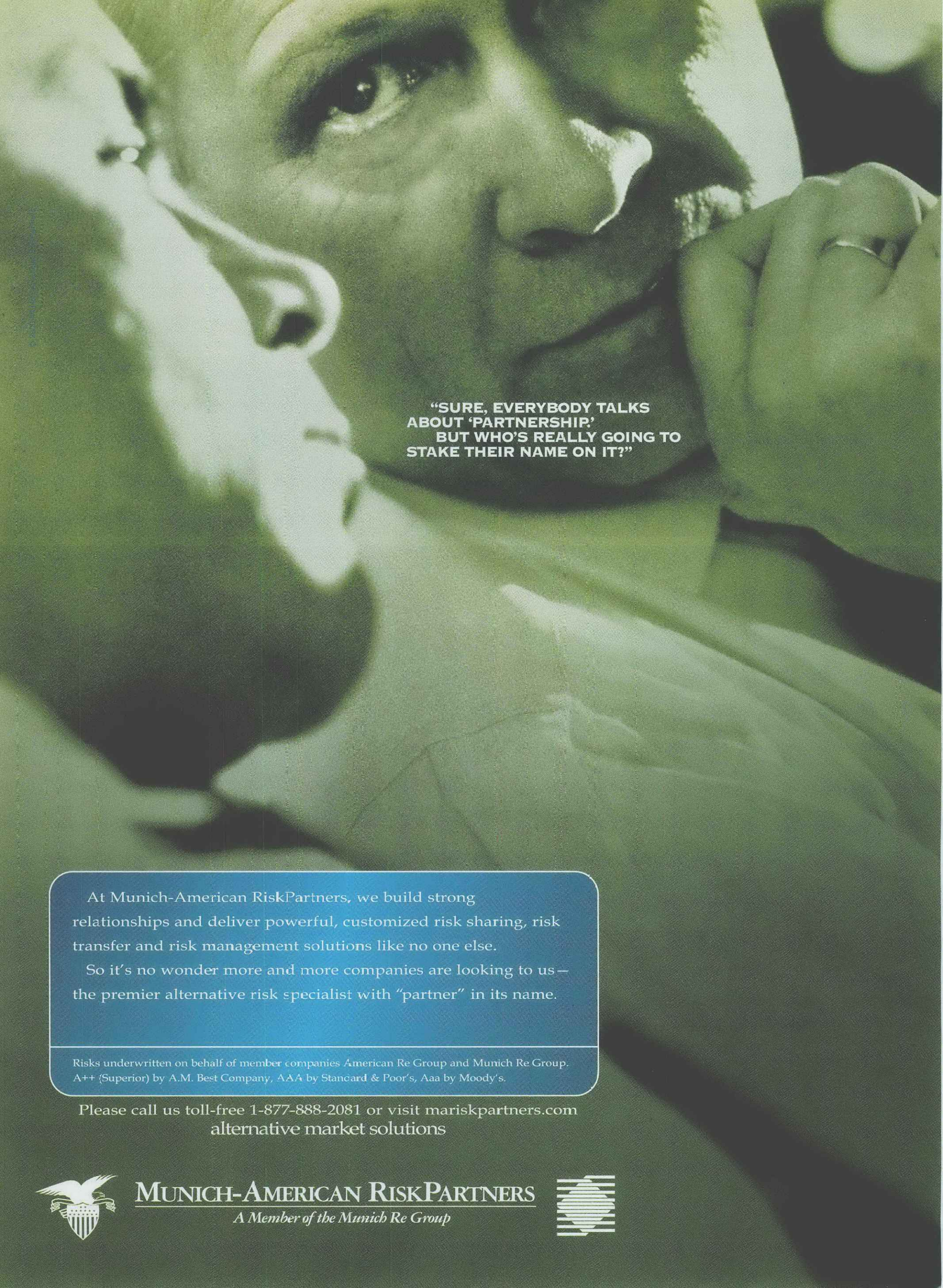
See Data on page 22

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Spotlight report

Data

Continued from page 20

require that the vendor be utilizing the standard."

"I am very excited and very encouraged about the project and, as a risk manager, I think the benefits are multifold," said Ms. Payne who chairs the PRDP's database committee.

Mr. Phillips of the city of Santa Monica said: "We had to change RMIS system last year due to Y2K issues. In our (request for proposal), we spelled out the PRDP standards and our new RMIS vendor is very, very supportive of doing that."

At the same time public entity risk managers are beginning to demand that their vendors implement the standard, the PRDP also is in the process of working with Salt Lake City-based RMIS vendor En-

vision Technology Solutions L.L.C. to implement PRDP's data standard and to convert data over to the PRDP's data exchange.

The implementation is part of a

The data standard 'is a way for us to make our clients happy and to attract other clients,' says Steve Haward.

demonstration project PRDP announced in May.

The purpose of the project "was to get one vendor to participate so there is a system compatible with our standard," Ms. Spain said. The hope is that if one RMIS vendor is offering the standard to customers,

other vendors will follow suit, she said.

Steve Haward, director of data services at ETS, said that the vendor became interested in the project because "we've got clients that are interested."

Implementing the data standard "is a way for us to make our clients happy and to attract other clients," he said.

The PRDP and ETS are currently in the process of mapping ETS data over to the PRDP standard—a process whereby the PRDP standard will recognize and accurately interpret the data from ETS's system, Mr. Haward explained. When that is complete, ETS will then write a "conversion utility" program that extracts data out of the RMIS and electronically sends it over to the PRDP data exchange.

"Every vendor that wants to use

the PRDP standard needs a utility like that," Mr. Haward said. He estimates that writing the utility software takes roughly 120 hours. "The cost to us is paying a programmer for 120 hours of work. It's a basic cost," he said.

As part of the project, two ETS clients that have shown interest in the PRDP standard will "act as test clients" to make sure that the utility software is working properly, Mr. Haward said.

The demonstration project is scheduled to run through August. At that point, the PRDP will then develop an implementation guide that will provide guidance to future ETS clients interested in implementing the PRDP standard. The guide also will provide a blueprint for implementation of the standards for other vendors' systems, said Ms. Venturini, who is overseeing the demonstrator

project for PRDP.

In addition to various RMIS vendors, the PRDP will also work with individual entities, pools and third-party-administrators to implement the standard.

The PRDP is still working out the final details of its subscription prices, but Ms. Spain said that the pricing structure will be different between public entities, pools and private-sector subscribers. In addition, prices will vary depending on which level of access to the data exchange subscribers choose. The PRDP is offering four levels of access and annual subscription prices will range from about \$3,000 to \$18,000, Ms. Spain said.

Although public entities can subscribe and choose not to submit their own data to the exchange, those that do will have the ability to access their own data as well as summary and aggregate information generated from other public entities. As a result, those public entities that contribute will be able to generate detailed queries and reports whose results will include comparisons to their own individual claims detail.

Individual claims data will be kept strictly confidential and will only be accessible to the entity, pool or other organization supplying the data, unless permission is given otherwise. Summary data related to a data supplier will be anonymous, though data suppliers may elect to have their summarized data identified for benchmarking and other reporting purposes.

The data exchange "puts benchmarking at one's fingertips," Ms. Spain said. "It's instantaneous data."

The PRDP is a 5-year-old non-profit corporation funded by part of an out-of-court settlement reached in 1994 between 20 states' attorneys general and the insurance industry. The states' attorneys general had alleged that the insurance industry had broken antitrust laws by collectively raising premiums in the 1970s and 1980s, making traditional coverage and reinsurance cost prohibitive.

PRDP's liability claims data standard can be downloaded free from PRDP's Web site at www.prdp.org. **BI**

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Agent/Broker Topics

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Searching for solutions



Employee Recruiting & Training

Training programs serve multiple goals

By LEE FLETCHER

Brokers increasingly see employee training programs as an excellent way not only to boost employee skills and knowledge, but also to increase loyalty and satisfaction.

Training programs—both online and in-person—also are winning favor with insurers seeking to promote knowledge of their products and build relationships with agents and brokers.

According to Terry Hennen, director of training and communications at Itasca, Ill.-based Arthur J. Gallagher & Co., about 8% of all Gallagher employees have gone through training at the home office's Gallagher Training Center.

"We want everyone to, essentially, be singing off of the same sheet. There's lots of management training programs out there, but we have our own feel for how it should be, and we have a customized program. We need our culture to be considered in what's taught. If everybody was

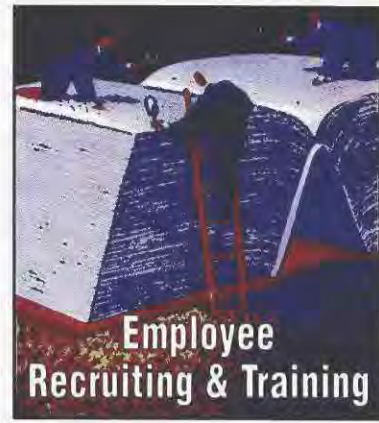
going off in different directions they might be getting good stuff, but it may not be exactly what we wanted. This way, they are all getting the same thing," Mr. Hennen said.

Mr. Hennen said that all Gallagher managers and supervisors are required to participate in the company's two-phase training program. Initially, employees spend about five days at the training center; then, a year or two later, they return for a three-day program.

Kim Windrow, senior vp and director of human resources for Willis

North America Inc., said that most of her company's training takes place through the Willis Institute, a virtual university launched about a year ago.

Ms. Windrow said that Willis offers courses that give an orientation and foundation to individuals who are new to the insurance business, courses for those who are in the middle of their careers and courses for senior management. Yet another program offered through Willis features employee-to-employee mentoring, she said.



"We think that's something that can really help employees who are new to the business or looking at possibly making a change within the business; they can go to a mentor who's not their direct manager," Ms. Windrow said.

Ms. Windrow said that Willis expects its employees to expand their roles within the company. "This not only makes our recruiting job easier but our retaining job easier. If they feel like there are opportunities being offered to them where they can grow into other areas and they don't feel like they're just stuck in one job, they're more likely to stay with the company," she said.

"We feel like the way to really have a competitive edge is to make sure that we're developing our people to the best of their capabilities, and that's one of the reasons for establishing the institute," Ms. Windrow said.

John Roskopf, senior managing director of Aon University in Glenview, Ill., said that the Aon Corp. program tends to focus more on the informational and behavioral side of training, rather than on the technical and production side.

The focus "is on things that will help them manage better, serve the client better and promote a more robust relationship with our clients. The real payback is in those things that support the overall corporate culture," Mr. Roskopf said.

Aon University has been operating since January 1998. Mr. Roskopf said classes typically are held during the workday.

"We're also experimenting with distance learning, where we can provide proprietary information to people in different offices via the Internet, (regarding), for example, a new product or service which can be set up," Mr. Roskopf said.

He said that distance learning seems to work best when teaching technical skills.

Jeff Barton, a regional marketing manager with Chubb Corp. in Cincinnati, said that Chubb annually revises its training curriculum to meet the needs of its highest-producing independent agents.

"An area which continually comes up involves continuing education credits. The reason (independent agents) come to us is that it's free of charge to them, as well as it being a way to build better relationships, therefore retaining renewal. Not only do we hope that we get the return on investment in business, it also gives us an opportunity to familiarize them with our products," Mr. Barton said.

See **Training** on page 22D



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Training

Continued from page 22B

"We try to focus these classes on areas where we want to grow the business or new products or new topics in the industry. So it's not that they're going to a class on something that they've known about for 20 years. It's a cutting-edge topic or a new product or new area of insurance," Mr. Barton said.

Debora Sokolski, vp of the product management division at Hartford, Conn.-based Travelers Property Casualty Corp., said that, for their highest-performing indepen-

dent agents, most education is outsourced, though some Internet and distance learning is available.

"Travelers has an agency marketing division which provides support for agents. For the more high-performing independent agents, Travelers has a program in which they can acquire education vouchers, Ms. Sokolski said. Those vouchers can be redeemed by Travelers' agents for training, primarily for sales and marketing courses.

Mr. Barton said that Chubb has provided formal classes since May 1999. He said that although it is difficult to quantify the success of the training programs, "it's been appreciated and enhanced relationships

between Chubb and our agents."

"You're spending more time together. My theory is that people do business with people they like, people they know and people they trust. The way to hit on all three of those areas is to spend more time with them," Mr. Barton said.

Mr. Hennen said that Gallagher has operated a summer internship program since 1965. He said that of those program participants who have been hired by Gallagher since then, 38% have stayed with the company.

"That's a pretty amazing figure in today's world, when people are job-hopping all over," Mr. Hennen said. ■

Industry laboring to get employees

By SALLY ROBERTS
and RODD ZOLKOS

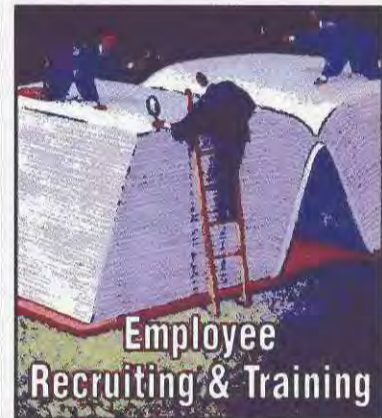
Although insurers and intermediaries have long struggled to draw young talent into the insurance industry, today's tight labor market is forcing many companies to rethink the way they attract

and retain employees.

In some cases, firms are taking steps they would never have considered just a few years ago, insurance consultants say.

Some companies, for instance, are finding themselves paying higher compensation in order to attract people. Others are offering a variety of bonuses to new hires and to current employees who bring in qualified applicants. And some firms are recruiting individuals straight out of college and training them for specific positions.

According to one executive whose recruiting firm has a strong insurance industry focus, the mentality of the insurance industry in the past tended to be "well, we post the jobs, and we hire the best candidates." But "it's changed in the past few years, to where the company can



Employee Recruiting & Training

post the jobs and they may post them again and again, and they may not attract candidates," said Paul Cornell, business unit manager in the financial services division of The Richmond Group, a Richmond, Va.-based affiliate of Management Recruiters International Inc. of Cleveland.

As many insurers and intermediaries adjust their approaches in the current job market, many are turning to a basic human instinct—the desire for money.

"We are seeing upward pressure on entry-level compensation" with insurance companies, said Mr. Cornell. Salaries are up 10% to 15% for new college graduates coming into the industry, he said. And Mr. Cornell noted that there is an "incredible demand" for individuals with information technology or actuarial experience.

The tight labor market "has clearly pushed up compensation for support staff" at insurance agencies, said Timothy J. Cunningham, a principal with Insight Management Consultants in Chicago. "If I were looking to steal someone from somewhere, one way to do it is to offer \$5,000 to \$10,000 more in salary."

There are some compensation levels for support staff that See **Jobs** on page 22F

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Exchange

Continued from previous page
whether the information needs to be translated into a different format.

The system aims to allow insurers to quickly establish links with customers and business partners. In addition, it allows access to and distribution of information through wireless technology.

MaxSol Inc., based in Concord, Mass., introduced its eInsurePlus suite of applications, which allows all partners in an insurance transaction to exchange information from different databases.

Modules in the system facilitate the interchange of information be-

tween agencies and insurers. The system allows real-time quoting, rating, submission, binding and issuing; online queries and reports; and customer access to information on policies, claims and bill status.

"eInsurePlus lets insurance companies use the Internet to support sales, customer service and internal operations," Sam Patterson, general manager of MaxSol, said in a statement. "The result for our customers has been more efficient and effective operations, with increased sales opportunities and customer satisfaction."

TowerStreet, an AMS Services Inc. subsidiary in Nashua, N.H., has developed a conversion utility that translates ACORD forms and AL3

data to the ACORD XML standard.

The utility, available at www.towerstreet.com, provides a tool for converting information to the XML standard for those who are not interested in "rewriting all their systems," explained John Ashenhurst, executive vp at TowerStreet.

He said TowerStreet believes that the XML standard is important "not just to connect insurance agencies to companies," but to "connect the whole value chain."

XML has the potential to tie together insurers, reinsurers, agencies, and managing general agencies—"all the different sources of information that are part of the whole insurance process," Mr. Ashenhurst explained. **BI**

Agents must adapt to e-economy

By Philip J. Edmundson

New Economy companies, those based on Internet-related business, are turning many of the rules of commerce on their head.

Based on their stock performance alone, these firms have been up to the roof and they have been down and almost out in the last few years. While many of the newly minted wonders of the last couple of years will not survive for another 10, the New Economy phenomenon will impact most every company that will survive and prosper in the next decade and beyond.

We all know the fleet-footed successes of the Internet age, such as Yahoo! Inc., Amazon.com Inc., Akamai Technologies Inc., eBay Inc. Also consider, though, all of the other companies that have been turned on their heads by these changes.

Look at the world's most successful manufacturing and service company, General Electric Co. Its CEO, Jack Welch, was recently reported in Fortune to have abandoned his disdain for a personal computer and to have turned his company on its head in order to make it competitive for the Internet Age—and all within the past two years. Every element of GE's strategic and tactical plans have changed to be a part of the New Economy. Five-year plans, anyone?

What does all this mean for service providers in the insurance sector—for insurers, brokers, risk managers, consultants and others who manage and finance risk?

Consider first some of the most important characteristics of companies in the New Economy:

- Extremely fast rates of growth.
- The outsourcing of many non-core functions.
- A need for urgently delivered proactive advice that anticipates the growth stages ahead.
- The use of the Internet for communication and information and the expectation that partners

A/BT Perspective

will do the same:

- Their greatest assets are not just bricks and mortar but also intellectual property and brand name.

Global growth expectations. Insurers, brokers and risk managers need to consider that prior responses to risk management issues were mostly made for static customers and companies. Business models simply did not change very quickly. Products and services have been aimed at market segments: small accounts, middle-market and "risk management" accounts. The focus has been on protecting fixed assets as seen on the balance sheet. And price of services has been king rather than scope of coverage and delivery of service.

Given the immense wealth creation that is taking place in the New Economy, risk management professionals must adapt.

First and foremost, coverage breadth must be king. Coverage needs to respond to the threat of loss of intellectual property and other intangible assets like patents, trademarks and brand name.

Only a few insurers, brokers and risk managers have faced up to the issues surrounding the protection of brand and intellectual property. The power of a brand—whether a global consumer brand such as PepsiCo Inc. or Gillette Co., or within a niche like, well, eBay or Akamai—can be ruined at real-time speed by issues outside the control of the company. These issues must be analyzed, measured and managed like any other risk of loss.

Computer hackers from California to the Philippines threaten our information assets and the ability to deliver them effectively. Patents and trademarks are more valuable than ever, and not just to software and biotechnology companies.

Coverage needs to be broad and to be global because the Internet knows no bounds. It must include coverage for denial of service, network disruption by virus, and other e-commerce risk issues.

Service providers, both insurers and brokers/consultants, must deliver service in an urgent fashion and in anticipation of super fast growth.

The Internet can be used for more than just e-mail. The Internet should provide a means to share information to customers on a 24-by-7 basis. Services must include claims reporting and management, certificates of insurance online, summary plan design benefit statements, and peer group and milestone information. Service from brokers, insurers and consultants for companies that will succeed in the New Economy must be delivered to these companies in the manner that they will demand: over the Internet and in anticipation of rocket-like growth.

Lastly, financial security of the risk-bearing entities is more important than ever in the New Economy as the need to bring deals to actualization must be assured the utmost security. The leaders in the insurance industry that respond to these challenges will ride the wave of the New Economy. **BI**

Philip J. Edmundson is president and chief executive officer of William Gallagher Associates Insurance Brokers Inc. in Boston. He also is a director of the Council of Insurance Agents & Brokers.



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The mystery of broker remuneration

Full disclosure of brokers' contingent commissions might not be in the best interests of buyers

By V.A. Tommy

The issue of contingent commissions has been a matter of contention between brokers and risk managers for the last two years, with insurers watching rather impassively from the sidelines.

The irksome issue had its origin early in 1998, when voices of concern were raised from two prominent risk management associations—the Assn. of Insurance & Risk Managers in London and the Risk & Insurance Management Society Inc. in New York.

While AIRMIC wanted the British government to ban contingent commissions altogether, RIMS was more modest: the group asked only that the fees be disclosed if requested by the policyholder.

It is well known that brokers derive much of their remuneration—brokerage commissions—out of the premium paid by clients, though this compensation flows from the insurer.

What is less known, however is the fact that though commissions are universal—where business is placed through a broker—contingent commissions are negotiated with some insurers in some markets. While the brokerage commission can be known in advance and measured with certainty, contingent commissions—as the name implies—are contingent upon a variety of factors, such as volume of business or loss ratio, and generally are based on a whole book of business, not specific risks.

For these same reasons, contingent commissions generally are not known in advance and are not measurable until the relevant underwriting year is closed. Even then, it is next to impossible to allocate the portion of contingent commissions that are attributable to a particular client or risk.

Call for greater transparency

The furor raised over contingent commissions, or “sweeteners from underwriters” as some critics like to call them, raises several issues.

Most important of these is the concern that these arrangements may lead to conflicts of interest: in primary insurance, brokers are supposed to act for the policyholder and not for the insurers.

Next is the concern of transparency. Insurance buyers have the right to know the details of remuneration their agents earn from underwriters.

There also is a general concern from both insurers and insurance buyers that in a market dominated by several large brokers, such practices could raise the cost of doing business. This concern has, of late, acquired alarming proportions with the consolidation among brokers, thereby concentrating the business supply route to the insurance market in a few hands. With almost 60% of global insurance brokered by the largest two, Marsh Inc. and Aon Corp., these brokers command greater bargaining power—sometimes menacingly large—over underwriters.

Some risk managers also voiced concern that contingent commissions are a practice aimed at derailing competition, as smaller underwriters will not have the financial muscle to reward brokers by means other than standard brokerage commissions.

There have also been mild accusations from some underwriters that brokers are exerting pressure on them to sign contingency fee or profit commission contracts in exchange for access to the business they control.

The response to these concerns from the brokers, in general, has been more of compliance rather than confrontation, mainly because of the code of practice that requires brokers to tell their clients of any benefits received while working for them.

Some of the largest brokers, including Marsh and Aon, have already agreed with the risk manager associations to disclose to their clients the contingency fee received when requested.

Paying for added value

In the midst of this whole debate, what is not appreciated is the quality and quantity of contribution made by the brokers to the clients, insurers and the industry as a whole.

An efficient broker, with his expertise and experience in all facets of insurance, not only subsidizes a major portion of his client's risk management costs, but quite often his claim consultant also provides expertise in claims work that risk managers and policyholders' lawyers do not normally have. Thus, the clients save money in reduced premiums before placement and, post-insurance, are assured of just settlement of claims.

And there are plenty of benefits flowing to the insurers. In fact, a good broker reduces the administrative and marketing overhead of an insurance company.

Over time, brokers have invested heavily in technology and manpower that has benefited underwriters by increasing efficiency. The research and development investment made by the brokers has also resulted in the development of new products that have contributed to the growth of business for insurers in particular and the industry in general.

Brokers vs. middlemen

The modus operandi on rewarding the brokers has not always been a transparent practice in insurance circles, though everyone knows that there is a commission involved.

The practice of underwriters allowing brokers a general commission on a particular book of business, or additional commissions based on the volume of business produced is, however, not known to many of the insurance buyers. A 1998 survey of corporate insurance buyers by AIRMIC showed that fewer than 4% understood the nature of the payments made to brokers by underwriters (*BI*, April 27, 1998).

It is, however, universally understood that brokers have contributed to savings in premium for the clients by their up-to-date knowledge of the markets and efficient placement of risks. It is also a fact that underwriters are, more often than not, happy to deal with brokers rather than directly with clients, because of professional empathy and fewer points of contact.

The calls for unshrouding the mystery surrounding brokers' remuneration must therefore be originating from the disillusionment with the (mal)practices some brokers resort to.

While Lloyds' of London is definitely a broker-regulated market, with its 1988 Code of Practice for Lloyds' Brokers and the 1994 IBRC Code of Conduct for disciplining unscrupulous brokers, the same cannot be claimed as true in many of the world's leading insurance markets, where “agents” or mere middlemen are masquerading as brokers.

“Grossing up” the premium paid without the consent of the client is a malpractice that has been the subject of a significant number of recent investigations by the Lloyds' regulatory division, some of which have resulted in disciplinary proceedings.

In a situation where a broker is quoted a net premium by an underwriter, he cannot simply add what he considers to be the appropriate brokerage

commission and represent that as gross premium; any commission charged in addition to the net premium should be clearly shown as such on any cover note or debit note.

Even in the mode of claim settlement, a few cases of abuse have been reported to regulators, where it is suspected that some brokers have acted unprofessionally, blatantly disregarding their fiduciary obligations to the clients.

In “The Sedgwick Story,” James Bishop's history of Sedgwick Group P.L.C. prior to its 1998 acquisition by Marsh, the author retells an anecdote highlighting the professionalism practiced by brokers in the beginning of the 20th century.

At a time when oil business was just being established and tankers were primitive in construction and underwriters extremely nervous of the risks, Harry B. Sedgwick's syndicate at Lloyd's suffered a severe loss when the Shell Tanker ‘Silverslip’ caught fire. The ship did not sink, and there was no loss of life, but a total loss of £100,000 pounds was agreed upon.

Mr. Sedgwick (founder of the brokerage that bore his name) immediately settled the claim on his personal account after going to see his banker, which advanced the sum until underwriters had settled.

Claim money received from underwriters today, however, is retained by some brokers for at least a few days, if not weeks, before it is released to the client.

A global code of conduct?

Brokers have their roots as intermediaries in a capitalist system and owe their very existence to the free market.

Under the circumstances, the calls being made by some risk managers on lawmakers to ban contingent commissions can only result in increased government involvement in commercial insurance buying, which could hurt risk managers as well as brokers.

Even the “full disclosure” being demanded by some customer associations could be harmful to the industry in the long run. Because there is little buyer loyalty these days, some of the smaller brokers lose business if a buyer can save even \$5 on a policy from some other provider.

If contingent commissions were disclosed in such a business climate, there is a concern that the policyholder could direct his or her business to a retail broker who earns less on a deal, even though the coverage premiums paid by the policyholder is exactly the same.

The logic of “full disclosure” could also be extrapolated to the ridiculous levels of clients asking the insurers to disclose their treaty commissions.

What is required is to evolve a global code of conduct for brokers worldwide and tighten the “rules of entry” for a broker so as to eliminate the unscrupulous middlemen from entering the field.

It could also be debated if levels of remuneration to a broker could be made uniform globally so as to ensure a level playing field for brokers and ensure 100% transparency in how intermediaries are compensated.



V.A. Tommy is a manager in the business development unit of Oman Insurance Co. in Dubai. He was formerly a broker with Sedgwick Forbes Middle East.

Internet can improve health marketplace: Speaker

By MICHAEL PRINCE

NEW YORK—The Internet can pave the way for a better health care marketplace, driving down costs and helping to mitigate employer liability, one health care executive maintains.

The health care system should be revamped and divided into three areas: public health, catastrophic coverage and elective care, contends Dr. David Levy, chairman and chief executive officer of Personal Path Systems Inc. in Upper Saddle River, N.J. Personal Path, formerly Franklin Health Group, specializes in case management for catastrophic care.

Public health would include all government-funded health care services.

Catastrophic coverage, which is intended for unforeseen, high-cost events, would cover all services above a certain threshold, say \$5,000, he said.

And elective care would enable people to purchase additional coverage to fit their needs.

Making the system work would require mandating that all people purchase catastrophic coverage, thus creating a large pool and spreading the risk among healthy and sick people, similar to mandatory auto insurance for car owners, said Dr. Levy, who made his remarks at a conference on the Internet and health care, held in New York last month and sponsored by the New York Business Group on Health.

"The healthy people fund the system for the sick," he said.

After purchasing mandatory catastrophic coverage, individuals would be free to decide whether to purchase additional health care coverage to suit their needs. Such coverage would be used for elective health care services or those that are anticipated, such as treatments for chronic illnesses, Dr. Levy said.

The Internet, he explained, would provide a marketplace for these services, with various elective services packaged together and sold to individuals.

The separation of catastrophic coverage from coverage of elective care, however, is crucial to the proposed health care system's success, Dr. Levy said.

Without such a separation, individuals typically would purchase a single package—offering both catastrophic and elective coverage—based on their immediate anticipated needs, he said.

Shopping around for coverage among the many choice offered online would likely lead to high turnover among policyholders, harming the stability of pools for catastrophic coverage, he said.

For the Internet to improve the current system, it's crucial "to separate benefits shopping and choice from insurance," Dr. Levy stressed.

Separating catastrophic from elective care also would benefit employers, he said, as it would largely allow employers to extricate themselves from the health care system, instead limiting their role to helping finance their employees' coverage purchases.

Removing themselves from the increasingly costly and complex health care system has become a priority for many employers, he said. Given employees' growing discontent with the restrictions of managed care, as well as double-digit cost increases for employers and a growing push for patient-rights laws, many employers would be happy to let their employees navigate the system on their own,

he said. In addition, there is concern about erosion of the employer protections found in the federal Employee Retirement Income Security Act, possibly exposing employers to health care-related liability, Dr. Levy said.

Even without the government action needed to mandate that all people purchase catastrophic insurance, employers could still set up their own catastrophic pools. A few large employers banding together would have sufficient numbers to form stable pools, he said.

Health insurers will be poised to use the Internet to market elective products, including diabetes care, maternity services or physical therapy. These products could be offered over the Internet, creating a large marketplace with a diverse

array of health care options, he said.

In addition, Dr. Levy said the Internet can improve the current health care system. Perhaps most im-



portant, he said, is that the Internet can encourage the creation of a true free market for health care services. In such a market, service providers would compete with each other and consumers would be able to make informed choices. The Internet can be used, for instance, to post prices for doc-

tor services, allowing patients to shop among providers, he said.

This is good news for employers, as it will help improve choice for employees while deploying the forces of the free market to drive down prices. The Internet, which can transmit huge volumes of information at almost no cost, is well-suited to this task, he said.

Beyond transforming the health care system, the Internet can be used to improve what is currently done, he said. In particular, he noted, the Internet can be used to communicate information about health plans and plan coverage to employees. In addition, health plan enrollment can be easily conducted using the Internet.

"Webifying this stuff is a good thing to do," he said.

On the other hand, certain processes should not be conducted by employers via the Internet, he noted. These include health care transactions, such as paying providers. "This is really the domain of intermediaries," such as insurers and third-party administrators, he said.

The Internet can also be used to create mass customization of health plans.

"The Internet finally offers an opportunity for people to understand their choices... and be treated as a market of one," he said.

The Internet can give consumers objective information on health care, with employers directing their employees' access to various Internet sites. By increasing choice, the Internet will also improve patient satisfaction, he said. **BI**



"Around here I'm Marita Tortorelli Marita Tortorelli."

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Better, faster, lower cost: online benefits enrollment

By MICHAEL PRINCE

NEW YORK—Soon, using paper forms to enroll employees into health plans may seem as quaint as driving to work in a horse and buggy.

The Internet can make the delivery of benefits "better, faster and cheaper," said Jim McAloon, a consultant with Hewitt Associates in Bridgewater, N.J.

By creating links to health-information Web sites, employers will enable employees to make better-informed health plan decisions.

It's faster because an individual can sit down in front of a computer and complete the enrollment process in less than 15 minutes. And it saves money that would otherwise be spent on printing and distributing

written materials.

"The Internet is clearly the most cost-effective way to deliver health care administration," Mr. McAloon said at a conference on the Internet and health care that was sponsored by the New York Business Group on Health last month.

Using the Internet offers additional advantages, Mr. McAloon said. The Internet allows for the delivery of information specifically to those who need it. And it permits an employee to do such things as compare a variety of health plans and use on-screen worksheets to calculate the amount of money to put into a flexible spending account.

Furthermore, the Internet lets the employee to do all that without leaving his or her desk, Mr. McAloon said.

The desire to gain these advantages is what drove Merrill Lynch & Co. Inc. to switch from a paper and telephonic enrollment system to a

Web-based system, said John Brence,



vp-corporate benefits with Merrill Lynch in New York. He said that the new method has greatly improved an enrollment process that, for Merrill Lynch, with its 800 U.S. locations, had been a logistical nightmare.

"That was the driving force behind moving to an online enrollment

strategy," Mr. Brence said.

Underlying the change were the goals of creating a paperless enrollment environment and having employees do more of the work. At Merrill Lynch, this is possible because 90% of all employees have access to a computer at work and 95% have a corporate e-mail account.

In 1998, the company started its transition to the Web by putting employees' compensation and benefits portfolios on its intranet. The following year, Merrill Lynch added Web enrollment for its deferred compensation program, in which about 10% of its employees participate. Later that year, the company moved its employee stock purchase plan, its long-term disability and its health insurance enrollment onto the Web.

Using the new technology has cut

the enrollment time from 42 days in 1998 to 20 days in 1999. In addition, 68% of employees have logged onto the company intranet for health care information. Of the company's 52,000 U.S.-based employees, 53% made changes in their plan, compared with 37% the prior year. The remainder of the employees were automatically re-enrolled in their existing plans, he explained.

Mr. Brence outlined several keys to a company's success with online enrollment.

First, it's important to get the support of upper management, he said. Switching to a Web-based benefits enrollment system requires many changes in a corporate culture. These are best accomplished with a strong commitment from upper management, Mr. Brence said.

Next, he said, the site should be simple. A well-designed Web page allows users to navigate the site with ease and properly input required information.

Some ways to simplify a Web site include keeping the amount of text to a minimum, using a lot of blank space on the screen to avoid a cluttered look and limiting the number of options. That way, a user's attention is focused on what's important, Mr. Brence said.

Perhaps more important than how each screen looks is how well all the screens work together, Mr. Brence said. "Navigation and the way you structure your online enrollment ap-

'The Internet is clearly the most cost-effective way to deliver health care administration,' says Hewitt's Jim McAloon.

proach is the most important element," he said.

One way to ensure this is to let strategy drive navigation, Mr. Brence said. For example, when Merrill Lynch wanted to create a database of dependents, it required visitors to its site to enter the relevant information on the second page, guaranteeing that the necessary information was gathered for every employee who used the system. Even such simple items as on-screen navigation buttons help make the site easier to use, especially for those employees who are less Web-savvy, he said.

And the site is designed so that a user can quickly enter, indicate that he or she will make no changes in coverage and sign out, Mr. Brence said.

Yet another key to easy navigation is a summary page, a kind of navigation hub. From this page, employees can venture out and learn more about the various options for health, life and dental insurance and then return to the summary page and continue with the enrollment process.

Once a site is constructed, it is essential to test it before opening it to all employees, Mr. Brence said. This can identify problems with the site and allow them to be fixed before it's widely used.

Mr. Brence advised that employers assist those with poor Web skills. His company provides both online aids and printed instructions about how to navigate the site.

The final key to success cited by Mr. Brence is monitoring the site. That way, he said, an employer can learn both the extent to which a Web page is being visited and the uses to which it is being put. **BI**

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Movies

Continued from page 1

and several others in New York, charging that they fraudulently concealed facts in a placement covering a \$100 million Chase loan facility for a Hollywood producer.

Chase has responded by suing AXA for breach of contract and for allegedly inducing other insurers—including American International Group Inc.'s New Hampshire Insurance Co.—to deny coverage.

AXA, meanwhile, has separately leveled conspiracy and fraud charges in a suit against Heath Group P.L.C. over a little-noticed film called "A Texas Funeral." And, in California, Santa Clara-based Silicon Valley Bank last month filed suit against New Hampshire for repayment under yet another gap financing policy.

The legal battles may only be beginning: Chase is a lender in roughly 40

insurance-backed gap financing deals, and AXA is participating in policies covering more than 100 films that have not yet reached the dates on which lenders may report claims, say sources familiar with the litigation.

In all, the insurance industry is looking at losses totaling \$1.4 billion to \$1.5 billion under gap financing policies, one entertainment industry insurance expert calculates.

An AXA spokeswoman said the insurer's own exposure totals "less than \$600 million."

"It's a big mess, and it's going to get bigger," a source familiar with the litigation predicted.

Gap financing is a tool movie producers had used on a relatively small scale for many years before the practice exploded in the 1990s, observed Lorey Hoffman, managing director of Aon Corp.'s credit enhancement practice group in Chicago.

Before 1990, bank movie production loans were often fully collateral-

ized by pre-sales of films to distributors in the United States and overseas.

In some cases, banks financed small

'The guy who's running the business should have some (stake) in the game,' says Lorey Hoffman.

gaps between a movie's budget and its pre-sales—for example, 20% of a \$5 million picture—but normally for producers with whom they had existing relationships, Mr. Hoffman said.

During the last decade, though, many distributors cut back on pre-buying film rights, and gaps ballooned to as much as 80% or more on large budget pictures that might not even have a U.S. distributor, he ex-

plained.

With banks facing loan requests on films with little or no collateral, insurers stepped into the breach with "contingent extra expense" or "cash flow" policies to secure the deals.

Under these policies, insurers agreed to repay bank loans in a producer's place if a movie failed to earn back its budget within a defined period after its completion.

These deals were rife with big risks for insurers, Mr. Hoffman observed. For one thing, U.S. studios buy only a fraction of the 200 or 300 films made each year, and producers who can't sign up a U.S. distributor have a much tougher time selling a picture to foreign buyers, lengthening the odds the picture will break even, he said.

In at least one large insurance-backed financing, he added, producers had none of their own money at risk in their films.

"The guy who's running the business should have some (stake) in the

game," he noted.

By early 1999, insurers that were briefly the life of the Hollywood financing party began waking up to their exposure, and several pulled out of the business, including AIG and AXA, which fired the Paris-based underwriter handling its business, court papers say.

Among these, AXA has possibly the largest exposure, having written gap financing risks as a direct insurer, as a reinsurer of other participants and through fronting companies. According to court filings, deals in which AXA has participated include:

- \$200 million in financing for Village Roadshow Ltd., an Australian producer and distributor of such films as "The Matrix" and "Analyze This."

- Start-up financing for Destination Film Funding Corp., which completed a \$100 million private placement of debentures through AXA subsidiary Donaldson Lufkin & Jenrette Securities Corp. AXA and several other insurers wrote a \$118 million policy insuring principal and interest payments on the bonds. Destination, whose principals invested none of their own money in the company, has since released a handful of pictures, including "Bats," "Eye of the Beholder" and "Drowning Mona."

- A portfolio of more than \$100 million in production loans by Imperial Bank of Los Angeles.

- Production financing involving Flashpoint, a United Kingdom film finance company whose projects are expected to produce claims totaling \$56 million to \$90 million, according to Chase court filings.

Aggressive in its pursuit of film finance risks, AXA is now the most aggressive of the participating insurers in fighting the resulting claims in U.K. and U.S. courts.

Seven lawsuits are now pending in the U.K., most involving losses from four Chase-financed films: "The Mirror Has Two Faces" and "The People vs. Larry Flynt," produced by Los Angeles-based Phoenix Pictures Inc.; and "The Phantom" and "Beautician and the Beast," produced by Paramount Pictures Corp.

According to AXA court filings, Chase has filed claims amounting to \$21.9 million for "Mirror"; \$16.6 million for "Larry Flynt"; \$8.8 million for "Phantom"; and \$7.7 million for "Beautician."

Some insurers have paid claims on these films: X.L. Insurance Ltd. settled its participation on the Phoenix pictures and is believed to have paid more than \$15 million, according to sources familiar with the deal. An X.L. spokesman could not be reached.

Eight insurers, though, including AXA Colonia Versicherung A.G., filed the first U.K. complaint, suing to rescind coverage on the two Phoenix films and charging that they were misled by Chase and Heath brokers about the risk. Chase itself has filed four lawsuits seeking recovery on each of the films (BI, Jan. 10).

In March, Chase filed a new action in a New York state court against AXA Reinsurance UK P.L.C. and six other insurers to collect a \$4.5 million claim related to "A Texas Funeral," part of a \$175 million, multi-picture financing for London-based producer J&M Entertainment Ltd.

Participants in the "Texas Funeral" loss are AXA with 33.6%; Royal & SunAlliance Insurance P.L.C. with 25.2%; AIG's New Hampshire with 21%; HIH Casualty & General Insurance Ltd. with 8.4%; General Star International Indemnity Ltd. with 6.3%; Odyssey Re (London) Ltd. with 3.1%; and Great Lakes Reinsurance (UK) P.L.C. with 2.4%.

In this case, AXA has not only denied liability but is leveling expansive fraud charges in complaints against Chase, Heath, J&M and London-based ICE Media Ltd., a consultant on the deal.

See Movies on page 30

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Movies

Continued from page 28

AXA alleges that it was duped into insuring the J&M financing in an ongoing conspiracy among Heath, ICE Media and Chase that extended as far back as 1992 and involved deals insuring more than a dozen films by several producers.

According to AXA's complaint, Heath in 1992 placed an insurance program with Lloyd's of London underwriters backing film production loans made by Berliner Bank A.G. By 1996, four of the films had generated claims ranging from \$87,628 to \$1 million, but Heath did not notify insurers and in one case paid the claim itself "to avoid legal action and bad press," according to the suit.

Heath went on to place programs covering Chase loans to Phoenix Pictures for a slate of five films—"Mirror," "Larry Flynt," "Swept from the

Sea," "U-Turn" and "Apt Pupil"—and Paramount for a slate of four films: "Phantom," "Beautician," "In and Out" and "The Truman Show."

By the time they approached AXA in 1998 to join a \$175 million line slip covering eight J&M Entertainment films, Chase, Heath and ICE Media were concealing a variety of facts, AXA charges. They included that:

- The Berliner Bank program generated claims and that large losses were expected on the Phoenix and Paramount programs.

- Lloyd's underwriters withdrew from the Phoenix placement over alleged non-disclosures by Heath, and CNA Financial Corp. withdrew out of concerns about the program's structure. Heath told AXA that Lloyd's withdrew because the program was too much like a financial guaranty, which Lloyd's could not write, and that CNA withdrew because of an political fight between the London and Chicago offices, AXA contends.

If AXA had known of the allegedly concealed facts, it would not have backed J&M's financing, the insurer argues.

'It's very unprofessional, very unbusinesslike and completely outrageous behavior,' says George Litto.

Chase, Heath and ICE Media also specifically misled AXA in various ways about J&M's "Texas Funeral," among other things by grossly inflating the film's projected revenues and understating its losses, AXA says.

Along with Chase's \$4.5 million claim for "Texas Funeral," additional losses have been reported or projected for several other J&M films amount-

ing to more than 80% of the insured limits, AXA says.

As it did in the London actions, Heath flatly denies the insurer's charges: "There is no truth to the matter," said Randy Weston, a director of Heath Insurance & Reinsurance Management in London. Insurers have "no grounds" for trying to void the J&M coverage, he said.

Graham Bradstreet, a principal of ICE Media, declined to comment.

AXA Reassurance S.A., meanwhile, opened a new front in the war last month, charging it was duped in another deal covering a \$100 million, five-picture loan program for Beverly Hills, Calif.-based George Litto Pictures Inc.

The complaint, amending an original suit filed last year in a New York state court, names Chase, broker Stirling Cooke Brown and Litto Pictures.

In the 1996 transaction, AXA agreed to insure parts of three layers of the \$100 million program, adding

up to a \$35 million participation. Chase and Litto reduced the credit line to \$89 million in 1999, with AXA continuing to participate, court papers say.

AXA also agreed in 1997 to insure 100% of a \$6 million working capital loan to Litto, which was increased in 1998 to \$7.5 million.

In its complaint, AXA charges that Stirling Cooke falsely reported that Litto had already developed five "grade A" scripts and that the insurers' actual risk amounted roughly to the premium they received. The broker also concealed its knowledge that previous gap financing deals involving Chase would soon produce huge losses, the complaint said.

AXA also contends that its own underwriter exceeded his authority in agreeing to the terms of the Litto Pictures deal and that Chase and Stirling Cooke knew he was exceeding his authority.

Chase blasted these claims in a filing last month, noting that AXA's film underwriter worked under the supervision of several senior AXA officials and that AXA Re's chief underwriter personally approved a tenfold increase in the film underwriter's authority in 1996 to a maximum \$20 million line per picture from \$2 million.

No claim has been made under the Litto program, the bank points out: Litto Pictures drew down only \$21 million of the credit line before AXA's lawsuit terminated the program. The film financed by the drawdown—"The Crew," starring Burt Reynolds and Richard Dreyfuss—won't be released until August.

AXA has not only breached its contract, Chase charges in its counterclaim, but has also induced other insurers to renege.

For example, AXA has encouraged other participants on the Litto deal to deny liability, and one—General Star International—has cited AXA's charges in reserving its rights to deny coverage, Chase alleges.

AXA has likewise induced AIG's New Hampshire unit to deny coverage under a policy covering another money-losing film, "Looking for an Echo." AXA reinsures nearly 50% of New Hampshire's risk on the policy, according to Chase; the bank filed suit against New Hampshire in New York state court in March to recover on a \$4.2 million claim.

"AXA Reassurance had evidently overextended itself in this class of business and is seeking to reduce its exposure by improper means," Chase contends. "This action is part of that strategy."

Stirling Cook also denies AXA's charges: "We do not see any basis for (the allegations), and we will defend them vigorously," said James Lawless, the broker's general counsel.

Mr. Litto, a longtime Hollywood producer and head of Litto Pictures, was blunt in his reaction to AXA's actions: "It's very unprofessional, very unbusinesslike and completely outrageous behavior," he said. "I can't make four more pictures under that deal because that financing is no longer available."

Mr. Litto said he has begun arbitration proceedings—which AXA is contesting—and is seeking \$225 million in damages for the collapse of his program.

The fighting over insurance-backed gap financing deals is far from over: As more films covered by AXA and other insurers are released and hit their claims reporting dates, more losses are likely to emerge.

"We are in very, very early days on possible litigation," said an insurance industry source familiar with the programs. "Unless something is resolved shortly, which it will not be, it will get bigger and bigger."

"The way things are going," said another source familiar with the litigation, "it's hard to be optimistic." **BI**

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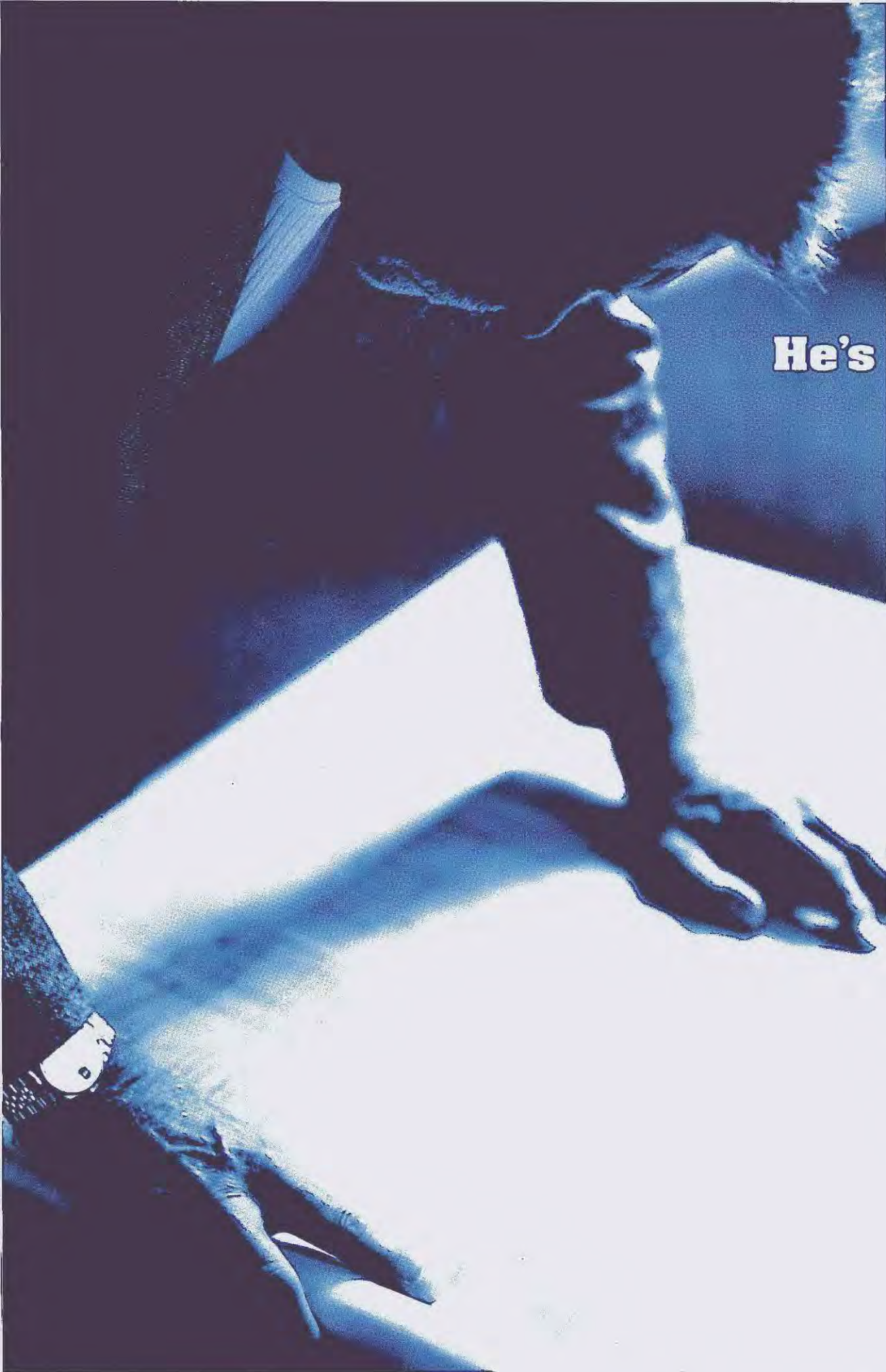
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LEXINGTON INSURANCE COMPANY PIONEERS IN REVOLUTIONARY PROTECTION

AAIS expands contractor liability coverage

WHEATON, Ill.—Insured contractors have a new commercial liability endorsement that will reimburse them or pay to compensate others for property damage no matter who is liable for the damage.

Under the new Voluntary Property Damage Coverage option developed by the American Assn. of Insurance Services for its AAIS Artisans Program, coverage is extended for damage to property of those in the policyholder's care, custody and control. The endorsement also covers claims related to damage to others' property arising from the policyholder's work.

The Artisans Program is a program of forms and manuals used to provide coverage for contractors such as carpenters, electricians and plumbers.

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A distinction between the endorsement and standard liability coverages is that the endorsement applies no matter who is legally responsible for the damage.

The insurer can designate the amount of voluntary damage coverage by entering both per occurrence and aggregate limits on a schedule that accompanies the endorsement.

Other endorsements for the artisans program are:

- Liability coverage for employment-related practices.
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tractors' equipment and tools and coverage for materials, supplies, fixtures and equipment intended to become a permanent part of a structure.

For more information, contact Bob Schnoll, AAIS marketing manager, at 800-564-2247, or visit www.aaisonline.com.

Windstorm option

ATLANTA—Essex Insurance Co. is offering property owners a way to cover deductibles imposed by insurers on primary windstorm policies.

Instead of offering a deductible buy-back policy, Essex allows property owners to buy, at a much lower cost, an option to purchase the policy. The contract is triggered by certain weather conditions, at which

time it allows the property owner to purchase the buy-back policy.

Under the WindCall program, the price of the buy-back policy is based on when the option is exercised. For example, a property owner exercising an option during a tropical storm watch will pay a lower premium than if the option is exercised during a hurricane warning.

The program developed by Orion Consultants Inc. in St. Petersburg, Fla. is marketed by Swett & Crawford Group's Atlanta office. More information is available from Priscilla Brott at Swett & Crawford, 404-240-5200.

Data tracking software

CHICAGO—Risk managers who need help generating reports and

tracking certificates of insurance have available a couple of new products.

Risk management departments without an in-house computer network or database administrators now have access to those services through Envision Technology Solutions.

Envision has introduced an application service provider that gives risk managers "real-time reporting and access to information" even if their departments have no computerized reporting system, Scott Harper, executive vp of Chicago-based Envision, said in a statement announcing the offering.

Envision allows risk managers to connect to the application any time of day and the company handles all database administration and maintenance. The company says upfront costs are lower because service fees are charged rather than licensing fees paid to vendors that supply in-house systems.

Risk managers who don't have the manpower to track certificates of insurance can simplify the task with a new product from Certificate Management Solutions.

The Chicago-based company's CMS Application Service Provider Solution is designed for companies that don't have the personnel to track the certificates or the volume of certificates to justify the cost of outsourcing the function.

A CMS client can use the software that ties into the CMS server to help alleviate the time-consuming task of monitoring certificates from multiple insurers with various policy numbers, expiration dates, endorsements and other details.

Envision also offers a product for third-party administrators.

RiskEnvision/Claims converts historical data into an electronic format and has the ability to deliver the information to insurers, canceled clients or regulatory bodies in required formats. It also handles claims processing and other functions and has the ability to conduct real-time reporting.

For more information on the products offered by Envision and Certificate Management Solutions, contact Michelle Bentley, marketing manager at Envision, at 801-568-1818; michelleb@envision/ts.com.

Computer coverage

IRVINE, Calif.—New insurance coverage is available to protect employers from losses caused by computer hackers, data thieves, computer glitches that destroy information and other e-commerce problems.

Sherwood Insurance Services, a wholesale broker in Irvine, Calif., is offering e-Sher, coverage that provides first- and third-party coverage for nearly any business with a computer network. Limits of \$10 million written by Columbia Casualty Insurance Co. are available for both first-party and third-party risks.

The e-Sher product provides coverage for first-party losses that include corruption of network software, deletion or alteration of employee or financial records, hacker-initiated denial of service attacks on Web or e-mail servers and the shutdown of e-commerce operations.

Third-party losses that are covered include theft of confidential data, the malicious introduction of a virus that is downloaded by customers, infringement of trademark or copyright and others.

More information on e-Sher is available from Phil Pierson, Sherwood's vp of technology products, at 949-477-6646. **BI**

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Global Briefs

Munich Reinsurance Co. expects its profits to grow by about 10% in 2000 and its revenues to increase by 4%, the reinsurer announced Tuesday. Meanwhile, Munich Re and Allianz A.G. Holding will reduce their cross-shareholdings to about 20% from the current 25%, Munich Re said. Munich Re will also sell its minority holdings in Bayerische Versicherungsbank and Frankfurter Versicherung to Allianz. . . Oslo, Norway-based **Assuranceforeningen Skuld**, the protection and indemnity insurer for the Norwegian ferry *Sleipner*, which sank in bad weather last November, will pay a total of 30 million Norwegian kroner (\$3.4 million) plus interest in a settlement with survivors and families of the 16 individuals who died in the accident. . . The U.K. High Court has referred to the European Court of Justice the challenge by the Trades Union Congress to the government's policy on **parental leave** (*BI*, May 29). Attorney Cherie Booth, the wife of U.K. Prime Minister Tony Blair, had argued on behalf of the TUC that the government's decision to limit European Union parental leave rights to parents with children born after December 1999 was unlawful. . . Nationwide Mutual Insurance Co. has completed its acquisition of **Gartmore Investment Management P.L.C.**, one of the United Kingdom's largest pension fund managers. Gartmore, formerly a unit of the Royal Bank of Scotland Group P.L.C., also operates in Germany, Japan and the United States. . . London-based **Groupama Insurances**, the U.K. subsidiary of French mutual Groupama, is forming a Lloyd's syndicate. Broadgate Underwriting will underwrite the group's international and treaty business. A new branch of Groupama's reinsurance subsidiary, **Sorema**, will be opened in London to develop the group's London market business. . . The French government has granted 450 million euros (\$422.0 million) to state-owned reinsurer **Caisse Centrale de Reassurance** to enable it to pay out catastrophe claims stemming from last year's European windstorms. This is the first time that the CCR has been forced to ask the government for extra funds since catastrophe insurance legislation was passed in 1982 to ensure that CCR had adequate equity and reserves. . . Netherlands-based **ING Groep N.V.** has reorganized all of its reinsurance operations under a single management structure. ING Re brings together the group's existing reinsurance operations in Bermuda, Ireland, Japan, the Netherlands and the United States. . . Two French naval officers and a senior government official who were on duty in Brest, France, on the December 1999 weekend that the oil tanker *Erika* broke up and sank have been charged with "willful failure" to take action to prevent the tragedy. The magistrate in charge of the investigation into the *Erika* disaster said he was seeking to establish why action was not taken sooner after the ship's master sent out a distress call. . . **Chubb Executive Risk** has won a bid to provide D&O insurance to the 50,000 members of the London-based Institute of Directors. Chubb created a new product for the IOD that includes a £1 million (\$1.5 million) liability limit and defense cost coverage for allegations of fraud, dishonesty and intentional breach of law anywhere in the European Union. . . Lloyd's-based insurance group **Amlin P.L.C.** has renamed its online credit business. The business, formerly known as **Harvey Bowring Credit Underwriting**, has been renamed Amlin Credit. Chris Ventiroso has been appointed managing director of the group, and John Mumford, formerly divisional underwriter, has been named chairman.

Tainted seed uproar yields new questions on liability

By CAROLYN ALDRED

Hundreds of European farmers face destroying thousands of acres of crops or being unable to sell their harvest following the contamination of oilseed rape by genetically modified Canadian seeds, and it is unclear who will pay the insurance claims that are sure to result from the unusual situation.

The presence of Monsanto genetically modified rape in already-sown rape fields in the United Kingdom, Sweden, France and Germany could result in lengthy and complex litigation as the farmers seek compensation.

On May 17, Dutch-based seed supplier Advanta B.V. announced that some batches of its non-genetically-modified spring varieties of oilseed

rape, which were imported from Canada, had tested positive for a very low-level presence—less than 1%—of Monsanto RT73 genetically modified rape. Rape, also known as canola, produces a cooking oil; its leaves are used as cattle fodder.

The contamination was discovered by German authorities, but most of the batches were sold to British and Swedish farmers, according to an Advanta spokesman.

The incident is generating intense publicity and concern in Europe, where the commercial production of genetically modified crops is largely forbidden.

The Swedish and French governments have ordered farmers to destroy affected crops, while food retailers in

See Crops on next page



PHOTO: AFP

Obeying government orders, a farmer in France destroys crops contaminated by traces of genetically modified oilseed rape.

Australian reforms proposed

By KATE TILLEY

SYDNEY, Australia—The Australian insurance regulator has proposed new standards that would toughen insurers' minimum capital requirements and alter their management of reinsurance strategies.

The new standards proposed by the Australian Prudential Regulation Authority, which licenses insurers and reinsurers operating in Australia, also would partially deregulate onshore captive insurers.

APRA released a policy discussion paper on its proposed reforms in April, and late last month, it followed up with a more-detailed document outlining the rules surrounding reinsurance arrangements.

APRA has asked the industry to prepare comments on the drafts by July 14. Once those comments have been taken into consideration, APRA will recommend reforms of the Insurance Act 1973 to implement its proposals. If the federal government accepts APRA's proposals, they will go before Parliament for final approval.

APRA's proposals call for new prudential standards on capital adequacy, liability valuations, reinsurance and operational risks. The standards aim to prompt insurers to implement internal controls for managing risks that threaten solvency, the discussion paper notes.

According to APRA, the current \$2 million Australian (\$1.2 million) minimum capital requirement is "insufficient."

In particular, APRA notes, companies writing long-tail or reinsurance business ought to be subject to a higher capital-adequacy requirement.

APRA proposes a minimum capital requirement of \$5 million Australian (\$2.9 million), noting that, of 160 authorized general insurers, 106 are near enough to the \$2 million Australian capital level that they are subject to the solvency test.

As a result, APRA notes, the proposed change will "have a substantial impact on many players." But because 90% of the market's total premium volume is written by the top 20 companies, competition will not be hindered, APRA said.

Under the proposal, a new insurer will need a minimum of \$5 million Australian immediately, while current insurers will need to increase their capital to that level within five years.

The proposed capital-adequacy standard will replace the current asset-based standard and will require consideration of asset, liability, catastrophe and off-balance-sheet risks. While

See APRA on page 37

'Holistic' view debated

Few products for transferring broad array of risk

By SARAH VEYSEY

LUXEMBOURG—Taking a "holistic" approach to managing risk has the potential to improve corporate performance, but few companies to date have successfully taken this approach, a brokerage executive says.

In addition, insurers and reinsurers may not be ready to take a holistic view and assume all of the expanded risks transferred under such an approach, he said.

Holistic risk management, also sometimes referred to as strategic risk management, entails taking a broad view of all of

a company's exposures, including those that are traditionally uninsurable, and often involves blending traditional and non-traditional risk financing options.

Holistic risk management makes handling an organization's exposures a comprehensive and integrated activity, said Mike Hammond, director of Marsh Europe S.A. in London. "Risk is quantified to enable informed choices. Risk is not automatically avoided," he said.

Holistic risk management can be used where there is a comprehensive understanding and detailed awareness of exposures, he said. "It can improve decision making, decrease cash flow and earnings volatility and improve share performance."

In practice, though, there have been few examples of successful integration and transfer of these risks under a single program, Mr. Hammond said. "We are only at the immature development stage in our industry," he said.

Mr. Hammond's presentation, "Holistic Risk Transfer/Financing—Feasible Target or Pipe Dream?" was the subject of a debate held at the Luxembourg Rendez-Vous, which took place at the

See Holistic on page 36



PHOTO: COURTESY LUXEMBOURG TOURIST OFFICE, LONDON

Will new options supplant captives?

By SARAH VEYSEY

LUXEMBOURG—Will new risk financing options mean the end of captives?

That is a question posed by Paul Bawcutt, chairman of London-based Risk & Insurance Research Group Ltd., during the recent Luxembourg Rendez-Vous.

Mr. Bawcutt began his arguments by outlining the reasons to set up a captive. Those reasons, he said, include: "To reduce the cost of the insurance program by retaining more risk internally; to gain access to reinsurance markets; to have a self-insurance funding mechanism—to have a sacrosanct fund dedicated to your risk retentions; to have more control over your destiny; and for tax deferral purposes."

Since their inception, he said, captives have helped improve their sponsors' risk retention and loss control motivation, their understanding of the insurance industry and their access to quality unbundled services. In

addition, they have boosted parents' cost efficiency, global insurance structures, access to new products, and ability to insure the uninsurable.

But Mr. Bawcutt pointed out that the captive structure does have certain shortcomings. Frequently, captives' financial results are consolidated with their parents' financials, eliminating the benefits of risk transfer, he said.

"Retention strategies remain lukewarm, capital may be better used elsewhere, off-balance-sheet funding is (often) not achieved, because of the consolidation issue. And the protection of earnings is not achieved, also because of the consolidation issue," he said.

Another looming problem for captives is taxes, Mr. Bawcutt said. "Many countries are against (the use of) captives and have a negative tax environment."

Mr. Bawcutt delineated several alternatives to captives, including "insurance, See Captives on page 35

INTERNATIONAL

Crops

Continued from: previous page

the United Kingdom are refusing to stock products made from the affected oilseed rape.

The British government said last week that farmers won't be able to sell the crop, as there is no marketing license for the genetically modified element. If farmers find they have no market for their product, they will likely turn to Advanta Seeds or the government for compensation, observers note.

"The government recognizes that losses will be incurred by farmers," according to a statement issued by the Ministry of Agriculture, Fisheries and Food. "The government regards this as a matter to be resolved between the farmer and the supplier of the seed."

A spokesman from NFU Mutual, which insures two-thirds of U.K. farmers, said: "There is an awful lot of deliberation going on at the moment as to where liability actually rests. The whole position of (genetic modification) and insurance will have to be reviewed in light of the Advanta seeds situation."

Although the farmers will have no insurance themselves to cover their crop should they be unable to sell it, "everybody through the chain would have product liability insurance," the NFU Mutual spokesman said.

"It is not clear what liabilities there are in this issue and whose they would be, because it is a completely new situation," the spokesman said, noting that "our underwriters are working on it, and the NFU are working on it."

An Advanta spokesman confirmed that the company was keeping close contact with its liability insurer but could not say whether losses from genetically modified contamination would be covered by the company's insurance.

"We are continuously talking to our insurer, but this is new territory," said the spokesman.

The National Farmers Union, which represents most U.K. farmers, "will be taking legal advice over any loss of value to our members' crops caused by this," said an NFU spokeswoman.

"The NFU will take every step possible to ensure that any of our members who have been affected by this do not lose out financially," the spokeswoman said.

"They bought the seed in good faith, and we will be pressing to ensure that they receive fair returns for their product. It must be stressed that any crops grown from this variety of seed were legally planted, and there's no food safety risk. Those farmers, if they wish, must be allowed to continue growing this crop," the NFU spokeswoman said.

The NFU is urging concerned farmers to contact the NFU, "so we can keep them up to date with the latest information on this issue." The union also is talking with the U.K. seed buyers and the government.

Under current U.K. regulations, foodstuffs containing more than 1% of genetically modified ingredients must be labeled.

Advanta claims that since there is less than 1% of genetically modified seed in the affected batches, "regulations have not been breached, that there are no risks for consumers, no consequences for food safety and there is no risk to the environment."

Advanta said it appears that the contamination occurred through cross-pollination, and a company spokesman in Holland said "cross-pollination cannot be controlled 100% in a natural environment. It is unavoidable that this will happen."

But a statement issued by St.

Louis-based agrochemical group Monsanto said: "Advanta is a licensee for the use of the Roundup Ready gene, along with many other seed companies. As the technology provider, we note that seed purity can be impacted at any stage of the seed handling and sorting process—throughout the logistics chain—and not necessarily by cross-pollination."

The environmental group Friends of the Earth wants the crops to be destroyed, claiming it is illegal for genetically modified crops to be commercially grown in the United Kingdom. A spokesman for the group in London called for a strict liability regime for genetically modified production to be included in a forthcoming European Community directive on genetically modified food. Such a liability regime was excluded from the draft directive recently at the request of industry.

The Swedish Board of Agriculture announced late last month that farmers must destroy the contaminated rape crops by no later than July 7.

At the same time, the U.K. government and the British Foods Standard Agency have said the contaminated crops present no risk to public health or the environment.

According to the U.K. government, 22,230 acres of the affected crop were grown last year—and so are already in the food chain—and about 11,609 acres were sown this spring. Meanwhile, "it remains the government's policy that commercial planting of (genetically modified) crops will not be permitted in the U.K." until trials are completed in two years.

"We believe there is no threat to the environment, because the (genetically modified) variety is sterile. It is difficult to see how it could cross-pollinate with other plants," said Agriculture Minister Nick Brown.

"The variety of oilseed rape in question, Monsanto's RT73, was fully assessed for safety by the Advisory Committee on Novel Foods and Processes in 1995 and cleared for food use in 1996. The committee concluded that the oil was as safe for food use as that obtained from conventional crops," said FSA Chairman Sir John Krebs, adding, "the oil was subsequently notified under the E.C. Novel Foods Regulations and drew no objections from member states."

"The oil from the (genetically modified) variety, which is indistinguishable from oil obtained from non-modified oilseed rape, does not require labeling, since neither DNA or protein will be present in the refined oil."

Despite government safety assurances, several U.K. supermarket companies will refuse to sell products known to contain the oil.

"If it becomes clear that any of our suppliers have taken ingredients from any of the affected farms, then we will not sell those products," said a spokeswoman for Leeds, England-based ASDA, a grocery chain owned by Wal-Mart of Bentonville, Ark.

Indeed, most major supermarket chains in the United Kingdom have banned genetically modified ingredients from their store-brand products due to lack of consumer confidence in genetic technology in Europe.

"Customers have told us they don't want (genetically modified) ingredients in their food—that's why we've spent the last year removing it from Tesco-brand products," according to a statement issued by Cheshunt, Hertsfordshire-based Tesco P.L.C., one of the United Kingdom's biggest supermarket chains.

"We continue to monitor ingredients used in Tesco products. If any ingredients contain (genetically modified) components, Tesco will not use them. This policy extends to rapeseed oil," the statement noted. **BI**

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INTERNATIONAL

Captives

Continued from page 33

no insurance, protected-cell captives, finite insurance and the capital markets," he said.

Insurance is expensive, and the industry gives terrible service, Mr. Bawcutt said. There is also credit and litigation risk, he said, "and cover becomes unavailable when risks such as Y2K or pollution loom."

Opting for no insurance is cheap, he argued—it avoids insurance industry markups and really motivates loss control for the self-insured entity. Companies choosing not to insure do not have to deal with brokers, consultants, claims people and adjusters, he said, and their shareholder value may not be affected if a claim occurs. "Uninsured losses do not impact shareholder value. What impacts shareholder value is the inability to recover," he said.

Protected-cell captives replicate many of the benefits of captives, said Mr. Bawcutt. But, he said, they also bring with them reduced control and flexibility. "The jury is out on the tax and accounting implications," he added.

'Captives need to have a very clear time strategy, and revisit that every 18 months or so,' says Stephen Casey.

"Finite insurance can provide off-balance-sheet funding and the opportunity to blend insurable and non-insurable risk," Mr. Bawcutt said. "It converts non-insurable funding (banking) into insurance and tax deductibility—if you are lucky," he added. But finite insurance provides limited risk transfer and no services, he said. It also is "bedeviled by the accounting profession" and can be expensive, he said.

Using the capital markets to transfer risk allows companies to access the converging insurance and financial markets, said Mr. Bawcutt. It is a logical solution to financing specific problems, such as baskets of risks, credit enhancement, residual value, contingent finance and the impact of weather on a company's revenues, said Mr. Bawcutt. But, he noted, companies must be sufficiently large to go to the capital markets.

Mr. Bawcutt concluded that although alternative means of transferring risk may draw some interest, they are unlikely to render captives obsolete.

"Despite all the tax burdens, companies are still forming captives," said Mr. Bawcutt. "Corporates with an aggressive approach to risk financing and a holistic approach to risk management will question the role of the captive and maybe use alternatives," he said. "But they will probably continue to integrate captives with other techniques."

Mr. Bawcutt invited comment on his arguments from a panel of experts.

Callum Beaton, managing director of captive manager SINSEER Guernsey Ltd., responded that captives may have to adapt to fit the new business environment.

"Lots of the things that are around now were around years ago. Fundamentally, the core product is the same; what has changed is the business environment," he said.

"My belief is that the alternatives won't sound a death knell for captives, but they will make captives work better and prompt owners to look more closely at what their captives are doing," said Stephen Casey,

underwriting manager at Willis Management (Dublin) Ltd. "Captives need to have a very clear time strategy and revisit that every 18 months or so," he said.

"A captive is similar to a pickup truck—you usually buy it for a specific reason, but once you have it, you find you have lots of other uses for it," he said. "Though there might be lots of other vehicles on the market that are better suited to your needs, you keep using and adapting your pickup."

Thomas Seidl, manager at Munich-American Risk Partners in Munich, pointed to the fact that the captive market was still growing as evidence that alternative solutions will not spell the end of captives. "Alternative risk transfer will complement captives. But captives must use ART—it should be part of the toolbox of any risk manager." **BI**

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INTERNATIONAL

Holistic

Continued from page 33
Centre European in Luxembourg
May 23-25.

Mr. Hammond said that several factors lie behind increased awareness of the need for holistic risk transfer and financing, among them: increased risk awareness in all business environments; heightened expectations of shareholders; greater transparency and a increased emphasis on corporate governance; surplus capital in traditional and non-traditional insurance markets; perceived better returns for non-traditional structures; and the improved modeling capabilities of capital providers, insurers and reinsurers.

"The emerging risk landscape is more complex, and there is increased volatility. There is a perception that the world is getting riskier," he said. "There are faster business cycles, faster decisions and fewer controls. There is new technology, new competitors and greater threats. Stock market swings are faster and more frequent."

Mr. Hammond added that there was "recognition by many buyers of risk transfer products that current practices and customs are inefficient."

Mr. Hammond said that while there have been many examples of using finite risk solutions for non-traditional risks, these include only limited risk transfer in real terms. There also have been some examples of risk securitization, though these largely have been for individual risks or for short-term exposures, he said.

"Many companies are seeking to aggregate risks internally but are still placing monoline protections in excess of defined retentions," he said.

And though a lot of entities take a holistic view of their risks, they consciously distribute them among separate insurers and reinsurers, banks, the capital markets and their shareholders, he said.

One reason few companies have sought to transfer an integrated array of risks to insurers and reinsurers is that those industries have historically tended to exclude certain exposures, Mr. Hammond said, citing coverage battles over asbestos, the environment, Y2K and silicone implants. "This has implications for how the industry is perceived when it comes to adopting new things," he said.

Despite all this, Mr. Hammond said, the demand for integrated risk financing from corporate clients exists and is growing. "But the archaic systems inherent in the insurance and reinsurance marketplace must be redesigned if insurance and reinsurance is to be seen as a viable alternative to emerging solutions," he warned.

Other panelists debated Mr. Hammond's position.

Deborah Durkin, managing director in the corporate consulting practice of Aon Corp. in London, said she believes that, as corporations begin to consider managing risks across the board, a holistic risk financing approach, in which multiple risks are bundled and transferred to a single partner, will be their aim.

But she said that insurers, instead of trying to encroach on the territory traditionally occupied by capital market players, should seek to identify gaps in companies' risk management strategies and attempt to fill them.

"One of the potential pitfalls is the insurance industry's centuries of selling products rather than solutions," Ms. Durkin warned. "Success in this area lies in providing solutions."

Ian Chapman, senior vp of Zurich

Corporate Solutions in London, pointed to fundamental differences between banks and insurers. "Is holistic the way to go?" he asked. "Look at the way banks control risks. Banks are not risk takers; they pass the risk on virtually the second after it has been taken. Insurers are risk takers, whereas banks just take the margin."

This fundamental difference in the behavior of banks and insurers will make it difficult for them to assume seemingly uncorrelated risks, Mr. Chapman said. "But that is not to say it can't be done," he said.

The only way holistic risk transfer will work is if insurers work with their clients, Mr. Chapman said. "Clients understand risks in their silo compartments. Why should the clients agree to bringing them all together if you don't explain the advantages?" he asked.

Sam Alexander, director of insurance marketing at Swiss Re New Markets in London, said he believes that insurers and reinsurers should play to their strengths. "For example, reinsurers are suppliers of capital, and that role is very well understood in the insurance community," he said.

He also suggested that the very nature of holistic risk transfer might not appeal to clients. "Holistic risk transfer involves derivatives. Insurance itself is a derivative, but many companies don't use derivatives at all or, if they do, they use them very conservatively," he said.

"I'm not sure about the benefit of holistic risk transfer," he said. "It is done at a premium and it dilutes shareholder value—so why do it?" he asked.

"Perhaps a single risk transfer product is the pipe dream," said Aon's Ms. Durkin. "We'd be foolish to try to replace mechanisms that work very well already." **BI**

Debating value of ART
Alternatives may bring new problems

LUXEMBOURG—As companies consider new alternative risk transfer products to meet their needs, they should be aware of new problems the solutions can bring, a reinsurance executive warns.

"ART brings with it its share of witch doctors," said Graham Dimmock, managing director at SAFR Partner Re in Paris. "There is a clash of terminologies—old solutions are sometimes dressed in new clothes. And beware the big myth that capital markets want risk. People in the capital markets want certainty," he said during a broad review of alternative risk transfer programs at the Luxembourg Rendez-Vous, held at the Centre European in Luxembourg from May 23 through 25.

Mr. Dimmock conceded he is skeptical about various ART products. "There is an enormous amount of surplus capacity in the insurance industry seeking a use. Many companies perceive that these new techniques might be the way to use it."

Relying on ART products tends to "intermediate rather than disintermediate," Mr. Dimmock said. "You probably need legal advice, for example; you probably need to set up a special-purpose vehicle."

All of this advice can be very expensive, he said. Mr. Dimmock cited the experience of his own company. "We looked into a securitization and decided not to proceed, but the fees were still about \$1 million," he said.

Mr. Dimmock said the use of ART can create new risks for businesses.

Among these are expense risk. "It costs a lot to put a deal in place—especially a securitization," he said.

There is also a continuity risk. "These techniques tend to cover one event. But what if the same event happens again a week later? You could be left with no cover," he said.

Mr. Dimmock did concede that traditional coverage has some significant shortcomings.

Among the problems posed by traditional coverage is the dearth of reliable historical data, he said. Traditional coverage also is not always capable of addressing the "rapidly changing dynamics of risk," Mr. Dimmock said.

Mr. Dimmock said that traditional risk transfer is inefficient for large organizations with a broad spread of risks.

Traditional risk transfer also can fall victim to potentially volatile pricing, he said.

ART attempts to address some of these problems, Mr. Dimmock said. "ART seeks responses to varying levels of certainty in risk measurement, problems of identification and/or quantification of financial loss, desire for greater certainty in pricing, and the desire for a more efficient or disintermediated process," he said.

In general, traditional risk transfer shuns risks of uncertain frequency or proportion, while ART devices adapt to uncertainty, Mr. Dimmock said. "There is not a price for everything, but there is, perhaps, a device for everything."

—By Sarah Vejsky

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INTERNATIONAL

APRA

Continued from page 33

the current minimum solvency requirement is based on the net account, reinsurance assets will be risk-weighted, based on the arrangements and the reinsurers' ratings.

Under the new guidelines, insurers must use approved valuation actuaries. Actuaries will be required to re-

port to APRA any solvency concerns, and auditors and actuaries will be able to provide full information to APRA without fear of litigation.

Although an insurer will no longer have to routinely submit its reinsurance arrangements to APRA, it will be able to develop a reinsurance management strategy. APRA says the aim is to encourage insurers to develop a risk-based approach and have internal controls over reinsurance place-

ments. APRA originally proposed to deregulate reinsurance but, because of "recent instability in the market," decided against it for the time being.

Australia recently has seen the demise of three Sydney-based reinsurers, GIO Re, a division of GIO Holdings Ltd., now owned by AMP Ltd.; and New Cap Reinsurance Ltd.; and Reinsurance Australia Corp. Ltd.

The draft paper on reinsurance arrangements says that an insurer's di-

rectors and management will be required to implement and regularly review a management strategy that addresses both cessations and retrocessions. APRA will require insurers to take into account aggregations of risk, classes written and staff expertise, as well as the size, business mix and complexity of their operations.

Under the proposed changes, pure captives that do not write third-party business will be partly deregulated

and will not have to comply with the new standards. Such captives, however, will be able to write only motor, marine, aviation, construction and fire/industrial special risks coverage.

Some insurers—such as those authorized by state or territory governments to write statutory workers compensation coverage—will not be deregulated, after insurers argued against the proposal on "competitive neutrality grounds." **BI**

Aetna

Continued from page 1

works Inc. (BI, March 6). Aetna subsequently announced plans to split its health and financial services businesses into two separate, publicly held companies (BI, March 20).

Aetna Financial Services, the bulk of whose business comprises Aetna Life Insurance & Annuity Co., markets retirement and investment products to non-profit organizations, government entities, small businesses and individuals. It had \$227.3 million in operating earnings before Y2K-related costs last year and had \$72.4 billion of assets under management.

Aetna Life is one of the largest group pension underwriters in the country, said Standard & Poor's Corp. Director Jack Reichman in New York.

Aetna International, which mainly sells life insurance, health and retirement products in emerging markets, had \$194.2 million in operating earnings in 1999 before Y2K-related costs.

Investing the proceeds of selling these units in Aetna's health care operation will not necessarily be the company's top priority if it does sell its international and financial services businesses, some analysts say.

If a deal were to come to fruition and Aetna gained \$8 billion or \$9 billion in proceeds, retiring debt and buying back shares likely will be its

chief priorities, said Douglas L. Meyer, an analyst with Fitch IBCA in Chicago. Although Aetna still must work on integrating its various health care acquisitions, the health care operation does not need a significant financial infusion, he said.

"I'm sure the shareholders are going to have some strong opinions" on the use of any proceeds, said Mr. Reich-

man. Aetna must also consider its bondholders and policyholders, he added.

Patrick Finnegan, senior vp with Moody's Investors Service Inc. in New York, said, "Obviously, there's a strong motivation here to return cash to shareholders to improve shareholder value."

Richard Shaw, an analyst with

A.M. Best Co. in Oldwick, N.J., said, "I would think that they would need to invest something into the health care business in order to re-establish (that business), since it is one of the largest health care businesses in the country."

Meanwhile, employers may be concerned about the ratings of the group pension business, should it be sold.

ING has stronger ratings than Aet-

na, "so it wouldn't seem like a bad deal for the policyholders," said Mr. Reichman. But there is no guarantee ING will be the ultimate buyer.

"I think Aetna needs to resolve this fairly quickly, otherwise there could be some business consequences. They need to close the door on other folks (or) to come to a resolution with ING fairly soon," he said. **BI**

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| "Against" the Scheme | 0 | 0 |
| General Scheme Creditors | | |
| "For" the Scheme | 227 | 93,391,323 |
| "Against" the Scheme | 1 | 1 |

The Scheme was sanctioned on 12 April 2000 in the High Court in England with the Scheme becoming effective on 17 April 2000. A permanent injunction under Section 304 US Bankruptcy Code was obtained in the US Bankruptcy Court on 12 April 2000, giving effect to the Scheme in the United States of America.

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NOTICE OF CREDITORS' MEETINGS

IN THE HIGH COURT OF JUSTICE (IN ENGLAND)
 CHANCERY DIVISION
 COMPANIES COURT
 IN THE MATTER OF

No. 2973 of 2000

ENGLISH & AMERICAN INSURANCE COMPANY LIMITED and IN THE MATTER OF THE COMPANIES ACT 1985

NOTICE IS HEREBY GIVEN that, by an order dated 19 May 2000 made in the High Court of Justice in the matter of English & American Insurance Company Limited ("the Company"), separate meetings were ordered to be summoned of Scheme Creditors (as defined in the amending scheme of arrangement hereinafter mentioned) of the Company for the purpose of considering and, if thought fit, agreeing to an amending scheme of arrangement proposed to be made between the Company and its Scheme Creditors (as hereinafter identified) pursuant to section 425 of the Companies Act 1985 ("the Amending Scheme"), amending certain terms and provisions of a scheme of arrangement dated 28 October 1994 and effective 8 February 1995 ("the Original Scheme") between the Company and its Scheme Creditors (as hereinafter identified). The Scheme Creditors referred to herein are:

- (i) Scheme Creditors who are Protected Policyholders (as defined in the Amending Scheme);
- (ii) Scheme Creditors who are 3 July 1980 - 6 October 1983 ILU Policyholders (as defined in the Amending Scheme); and
- (iii) General Scheme Creditors (being Scheme Creditors other than Protected Policyholders or 3 July 1980 - 6 October 1983 ILU Policyholders (as defined in the Amending Scheme).

The meetings will be held on 5 July 2000 at The Ostler Suite, The Insurance Hall, 20 Aldermanbury, London EC2V 7HY, United Kingdom at the times mentioned below, namely:

- (i) in the case of Scheme Creditors who are Protected Policyholders, at 10:30 am (London time);
- (ii) in the case of Scheme Creditors who are 3 July 1980 - 6 October 1983 ILU Policyholders, at 10:50 am (London time) or as soon thereafter as the previous meeting shall have been concluded or been adjourned; and
- (iii) in the case of General Scheme Creditors, at 11:00 am (London time) or as soon thereafter as the previous meeting shall have been concluded or been adjourned.

The chairman of the meetings will address Scheme Creditors generally on the Amending Scheme and on issues relevant to voting at the commencement of the first meeting.

Scheme Creditors may attend and vote at such of the meetings for which they are eligible, either in person or by proxy and are, in any event, requested to complete the appropriate form of proxy and return it to the Scheme Administrators (as defined in the Amending Scheme) of the Company at KPMG, 20 Farringdon Street, London EC4A 4PP, United Kingdom by 5.00 pm on 3 July 2000, although if not so returned, it may be handed in between 9.30 am and 10.30 am on the day of the meetings at the place fixed for them.

Each Scheme Creditor or his proxy will be required to register his attendance at such meetings as he is entitled to attend prior to its commencement. Registration will commence at 9.30 am.

The Amending Scheme is proposed between the Company and its Scheme Creditors (being creditors in respect of any claim arising out of a liability to which the Company is subject at the date of the Original Scheme or to which it may become subject thereafter by reason of an obligation incurred before that date, except any claim which would have been preferential in a liquidation of the Company or a claim in respect of the costs or expenses of the Original Scheme both of which will be payable in full).

Copies of the amending scheme of arrangement, the statement required pursuant to section 426 of the Companies Act 1985 and the forms of proxy for use at the meetings are being sent to Scheme Creditors. If any person entitled to attend the meetings has not received these documents by 7 June 2000, copies can be obtained from the Scheme Administrators of the Company in the United Kingdom at KPMG, 20 Farringdon Street, London EC4A 4PP, or in the United States of America, at KPMG, 345 Park Avenue, New York, New York, 10154-0102.

By the order, the High Court of Justice has appointed Thomas Alexander Riddell or, failing him Anthony James McMahon to act as chairman of the meetings and has directed the chairman to report the results of the meetings to the court.

The scheme of arrangement will be subject to the subsequent sanction of the High Court of Justice.

Queries regarding creditors' claims and the completion of proxy forms should be directed to the helpline on +44 (0) 1452 782600.

Dated 1 June 2000

Anthony James McMahon
 Scheme Administrator
 KPMG
 PO Box 730
 20 Farringdon Street
 London EC4A 4PP
 UNITED KINGDOM

NOTICE OF ANNUAL MEETING OF SCHEME CREDITORS ENGLISH & AMERICAN INSURANCE COMPANY LIMITED

The annual meeting of scheme creditors of English & American Insurance Company Limited ("the Company") has been summoned by the Scheme Administrators pursuant to Clause 8.1 of the Scheme of Arrangement for the purposes of:

1. Receiving a report ("the Report") on the conduct of the affairs of the Company and the operation of the Scheme of Arrangement since 30 April 1999, the date of the last report to scheme creditors; and
2. Considering and, if thought fit, passing the following resolution:

THAT the appointment of Thomas Alexander Riddell, a licensed insolvency practitioner and a partner in the firm of chartered accountants KPMG, 20 Farringdon Street, London EC4A 4PP, as Scheme Administrator of the Company by the Creditors Committee on 22 October 1999, be ratified.

The meeting will be held on 5 July 2000 at The Ostler Suite, The Insurance Hall, 20 Aldermanbury, London EC2V 7HY, United Kingdom at 10.30am (London time). This meeting will immediately follow meetings of scheme creditors to consider and, if thought fit, approve an Amending Scheme of Arrangement between the Company and its scheme creditors. Creditors are being notified of these meetings separately.

The Chairman of the meetings will be Anthony James McMahon, one of the Scheme Administrators. Scheme Creditors may attend and vote at the meeting either in person or by proxy and are, in any event, requested to complete the form of proxy and return it to the Scheme Administrators at the United Kingdom KPMG, 20 Farringdon Street, London EC4A 4PP by 5.00 pm (London time) on 3 July 2000, although if not so returned, they may be handed in between 9.30 am and 10.30 am on the day of the meeting. Each scheme creditor or his proxy will be required to register his attendance at the meeting prior to its commencement. Registration will commence at 9.30 am.

A copy of the Report, a registration form and a form of proxy and poll card for use at the meeting are being sent to scheme creditors. Any person entitled to attend the meetings who has not received these documents by 7 June 2000 can obtain copies of them from the Scheme Administrators of the Company in the United Kingdom at KPMG, 20 Farringdon Street, London EC4A 4PP, or in the United States of America, at KPMG, 345 Park Avenue, New York, New York 10154-0102.

Queries regarding creditors' claims and the completion of proxy forms should be directed to the helpline +44 (0) 1452 782600.

Anthony James McMahon
 Scheme Administrator

Dated 1 June 2000

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| Administrative: | |
|---|---------------|
| CEO's, Presidents, and Owners | 4,281 |
| Vice Presidents, General Managers and Other Administrative Personnel | 4,046 |
| Financial: | |
| Chief Financial Officers and Vice Presidents of Finance | 4,252 |
| Secretaries, Treasurers, controllers and other Financial Personnel | 4,927 |
| Risk/Employee Benefits: | |
| Vice Presidents, Directors, Managers, and other related department personnel of: insurance, risk, employee benefits, personnel, compensation, pension, safety, security, industrial relations, human resources and employee/labor relations | 14,047 |
| Sub-total | 31,553 |
| Associations | 242 |
| Government, Unions and Educational Institutions | 939 |
| Commercial Consumers | |
| Sub-total | 32,734 |
| Insurance Agents and Brokers | 7,636 |
| Insurance Companies | 6,047 |
| Accountants, Actuaries, Attorneys & Consultants | 2,213 |
| Adjusters, Appraisers, TPA's, Captive Managers & Health Care Providers | 1,232 |
| Others Allied to the Field | 1,227 |
| Total Qualified | 51,089 |
| Non-qualified/Paid Subscriptions | 44 |
| Single Copy Sales | 11 |
| TOTAL CIRCULATION | 51,144 |

* Source Business/Occupational breakdown of qualified circulation, November 29, 1999 Issue, as submitted to BPA for December 1999 BPA Publisher's Statement

Standard measure of P/C exposure is flawed

By **MYRON M. PICOULT**
Special to *Business Insurance*

Most industry observers, including us, argue that the property-casualty industry is materially overcapitalized, as is demonstrated by the industry's Dec. 31, 1999 statutory premiums-to-surplus ratio of 0.85-to-1.

The prevailing theory has been that before industry pricing dynamics can really change, some \$100 billion-\$150 billion in capital has to be pulled out of the business. The industry's reported capital figure as of Dec. 31, 1999 was \$336.3 billion.

Our position on the overcapitalization thesis remains intact, though we do not believe that the industry, as a whole, has as much redundant capital as presently perceived by most industry analysts. This stems from the relatively recent dynamics of the stock and bond markets, as well as a very strong belief that industry reserves have been shorted and reinsurance recoverable balances are definitely not sacrosanct.

Before discussing the real or apparent capital cushion, it is important to scrutinize the measurement methodology.

Notwithstanding the blind acceptance of the perfunctory premiums-to-surplus ratio by most industry observers, we think it is the wrong number to use. A better and more incisive measure would be exposures to surplus. We realize this is basically a pipe dream at this juncture, because the necessary database is not readily available. However, we do not agree with simply using premiums as the numerator because it is normally a distorted number.

For example, if a company is following an aggressive pricing structure, which is what many carriers have done for some time, it produces a lower aggregate premium figure, which in turn results in a premium-to-surplus ratio that appears lower than it should.

The quality of the aggregate premium figure can also be called into question by multiple exposures that are not properly recognized in pricing, or by the compromising of other contract terms and conditions that add property or casualty exposures without appropriate compensating rate relief. Finally, aggressive use of rate credits and/or placing the business in a subsidiary/company that permits wider deviations off of "standard prices" further exacerbates the situation.

Now we come to the surplus figure. The industry's record on reserving is clearly checkered. This would be quite evident if insurers had the intestinal fortitude to produce 10-year tables or charts showing their reported and accident year combined ratios. There are numerous individual insurers that have produced relatively consistent records of under-reserving. When the reserve adjustments surface, the build-up of past year's equity and good earnings trends rapidly disappears.

There also is a certain amount of inherent volatility in an insurer's aggregate surplus number that results from the normal ups and downs of the stock and bond markets. In addition, there are several other factors that bring into focus the legitimacy of reported reserves.

Aside from the shortfalls in loss reserves from under-reserving, there may be deficiencies in loss adjustment reserves, which have traditionally been a convenient place to cheat on aggregate reserve levels.



Mr. Picoult

Over the years, there has been a lack of recognition of reinsurance recoverable problems, which we suspect is in the early stages of changing. Finally, there

are prospective surplus adjustments that will emanate from the reclassification of segments of investment portfolios as carriers struggle to generate more taxable income.

Hence, just as the premium figure can be distorted by being too low, so

too can the surplus figure be distorted by being too high. A soft numerator and a high denominator clearly lead to distortions of the premium to surplus ratio.

Taking the surplus of the major personal lines writers out of the industry average would show a higher "industry" ratio and, surely, a higher number for just the commercial purveyors.

In general, capital is inefficiently distributed throughout the industry. In addition, our perspective and that of other industry gurus on what the real premiums-to-surplus figure should be, is not worth a lot as long as managements continue to believe they are healthy and wealthy and have the room and ability to use methodologies that distort

underlying fundamentals.

The pace of positive pricing revisions continues to creep up. More importantly, the pricing dynamic appears to be broadening in terms of the number of purveyors seeking rate relief and the number of business lines/segments that are now involved.

The traditional path as underwriting unravels is to first recognize past misdeeds. Second, action to correct the mistakes must be instituted. Finally, the book of business has to be recycled.

It looks like we are in the "follow the dot phase." The shift in industry pricing dynamics was not related to a diminution in the capital base—at least not yet. It was clearly tied to the fact that the industry went to a

negative cash operating position, which is likely to be sustained for a while. But have no fear; past misdeeds will surely eat into the capital base as the apparition of nirvana disappears. **BI**

Myron M. Picoult is a director and senior insurance analyst at Wasserstein Perella Securities Inc. 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. An archive of Mr. Picoult's columns for Business Insurance can be viewed on the World Wide Web at: <http://www.businessinsurance.com/editorial/commentary.php3>.

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Exclusion

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the commissioner's advisory until January 1999, Ms. Wertz said.

That was when the Louisiana Supreme Court backtracked from a pro-policyholder pollution coverage stand it had taken three years earlier.

In 1994, the high court had ruled that the absolute pollution exclusion did not bar coverage for claims that do not involve environmental contamination. The court, though, later vacated its decision and remanded the case to a lower court, after questions arose over whether the Insurance Department had approved the exclusion at issue in the case.

The litigating parties in the case initiated settlement talks at that point, but by then the case had attracted the attention of Louisiana regulators. Ms. Wertz said at that time that the department would not have approved

the exclusions if regulators had known that insurers intended to use them to deny claims that did not involve environmental contamination.

Both exclusions broadly define what insurers will consider excluded contaminants and irritants. Generally, under the absolute exclusion, insurers allow coverage for certain exposures, including completed products. The total exclusion eliminates those exceptions.

After the state's high court vacated its 1994 decision, insurers continued to invoke their pollution exclusions to bar coverage for claims that did not involve environmental contamination, Ms. Wertz said.

After the department advisory in June 1997, however, Mr. Brown's directives were "pretty much being adhered to" until the high court's January 1999 decision in *Ducote vs. Koch Pipeline Co.*, she said.

In that 4-3 ruling, which overturned the decisions of two lower courts, the

high court decided that the total pollution exclusion barred coverage for any loss involving a contaminant.

"Since *Ducote*, it's just been open season on policyholders" by insurers, Ms. Wertz said.

Ms. Wertz noted that, since the *Ducote* decision, the department has received, on average, two complaints each week from policyholders whose insurers have denied coverage for non-environmental claims by invoking pollution exclusions.

If insurers want to bar coverage for any loss involving a contaminant—including a loss that does not involve environmental damage—"that's fine," Ms. Wertz said. But to do so, insurers first must develop a chemical products exclusion, because the absolute and total pollution exclusions that insurers have used since 1985 are not that sweeping, she said.

Ms. Wertz said that the department intends to consult with insurer representatives on Mr. Brown's pollution exclusion task force before submitting the new regulation for approval.

She said the regulation's benefit for insurers is that it "at least will provide them certainty and clarity" about how they may use pollution exclusions.

Two of those task force members are Mark Skinner, an assistant vp with the American Insurance Assn. in Austin, Texas, and Laura A. Foggan, lead counsel for the Insurance Environmental Litigation Assn. Both declined to discuss how the Louisiana effort could affect insurers until after the department drafts the regulation.

"I certainly do not feel there's a need for regulation," Mr. Skinner said. "I have not been hearing the complaints that Ms. Wertz has."

Ms. Foggan, a partner with Wiley, Rein & Fielding in Washington, questioned how a new regulation could be applied retroactively, which Ms. Wertz said is the department's intention.

Another factor that will complicate the issue is that the regulation would be contrary to the state high court's opinion in *Ducote*, which "governs everyone's action in the state of Louisiana," Ms. Foggan said.

Ms. Wertz responded that insurers consistently have told courts in coverage disputes that regulators—and not the courts—have the authority and responsibility to address how insurers should handle pollution claims.

Policyholder attorney Finley Hareckham applauded the efforts of the Louisiana regulators. "It's just a shame it will be limited in its impact to Louisiana," said Mr. Hareckham, a partner with Anderson, Kill & Olick P.C. of New York.

Mr. Hareckham said he doubts that other regulators will follow Louisiana's lead, because regulators generally have left to courts the responsibility for sorting out pollution exclusion issues.

Mr. Hareckham said that, fortunately for policyholders, courts largely have sided with them on this issue, though there have been some "major exceptions."

The Risk & Insurance Management Society Inc.'s Legislative Affairs Committee has discussed this issue, but RIMS has not taken a position, said Gary Bird, a member of RIMS' External Affairs Team, which oversees environmental issues.

Mr. Bird, though, commended the Louisiana department. Mr. Bird, director of risk management for Phelps Dodge Corp. of Phoenix, said he typically opposes new regulation, "but this is a common-sense issue."

Mr. Bird said insurers increasingly are "offering endorsements that would theoretically cure this problem" but that insurers also are asking for additional premium.

Mr. Bird noted, though, that he negotiated such an endorsement for no additional premium about 18 months ago with one of Phelps Dodge's insurers.



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Commentary

Is it treasure or is it trash?

Our company is moving our Chicago office next year and I am already suffering anxiety attacks.

Although the move is still eight to 10 months away, I'm already being asked to inspect dusty boxes in the building's basement and urged to begin reviewing whether to move what I consider precious files that I have carefully kept since I started working here on Jan. 3, 1977.

Yes, I am a pack rat.

I have, for example, every program of the Risk & Insurance Management Society Inc.'s annual conference going back to 1977. Some day, I am certain, I will need the information contained in one of those.

I also have dozens of conference and seminar workbooks containing gems of wisdom and attendee lists going back to the late 1970s. Who knows when I'll need to refer to the treatise on reinsurance presented at the 1979 Risk Planning Group captive conference by Roger Greiner, who was a director of Prudential Reinsurance? He's recently retired from Genesis Underwriting, so I won't be able to track him down in person if I need this information.

I also have kept copies of every speech I have made since I first stepped up to a podium on behalf of *Business Insurance* in December 1980. As proof that this was not a waste of storage space, just a few months ago someone actually asked me for a copy of that 20-year-old speech.

Dave Haight, who is chairman of a group putting together an archive of RIMS' 50-year history, recalled that in the early 1980s I had spoken to many RIMS chapters on how to deal with the press. From that speech, I developed a handout outlining tips on how to be interviewed by a reporter.

Dave wanted a copy of the speech and the handout to be added to the RIMS archives, and I am pleased that I had them to give to him.

I do occasionally throw some things away.

When our offices were remodeled 13 years ago and everyone was moved around the building, I did—reluctantly—throw away at least 20 boxes full of notes from articles I had written in my first 10 years with *Business Insurance*.

And whenever combing through my files, if I come across old financial statements from companies long since out of business, I pitch them.

I've also recently thrown away an eight-inch stack of business cards that I discovered were close to, but not quite, collectors' items. The logos on the cards: Fred S. James, Sedgwick James, Sedgwick, CIGNA Property/Casualty, Johnson & Higgins, Alexander & Alexander, Rollins Hudig Hall and Chartwell, to name a few.

I was motivated to sort through my stash of old business cards because I've purchased a business card scanner to help me keep track of my sources. But have I thrown away the 262 cards I've so far successfully scanned into my computer? No way. I don't trust that back-ups of my computer files will suffice if my computer should ever be lost, stolen or damaged.

I know, though, that there is a limit to what the company will allow me to move to our new building. I am going to have to throw away old budget files going back to 1980, when I prepared my first editorial budget for *Business Insurance*, as well as stacks of financial statements charting the growth of *BI*. Thankfully, our office manager has agreed that I may at least keep a copy of every December financial statement—at least that's what she said yesterday.

To remind me how serious she is that I clean out my files, she sent me an e-mail this morning asking me when I wanted boxes in my office for documents that need to be shredded. Never, to be honest.

I know my fondness for keeping all this stuff sounds trivial to some of you, especially those who have changed jobs five times in the last 10 years, either because you are on a fast track or you have been the victim of the consolidation craze. Based on the business cards I have thrown away this week, there are a lot of you.

No doubt you've cleaned out many desks and filing cabinets without a care in the world, except perhaps for your next job. So OK, you veterans of moving offices, please send me your best advice on how to part with relics of the past without shedding a tear, and more important, how to know what I really need to keep.

Publisher and Editorial Director Kathryn J. McIntyre's commentary appears fortnightly and on www.businessinsurance.com. She can be reached at kmcintyre@crain.com



Kathryn J. McIntyre

Status

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suspension because of ongoing concerns that the department lacked sufficient financial examiners to review insurers' financial reports and operational procedures (*BI*, Dec. 13, 1999). The Insurance Department, which passed its first-round accreditation review about five years ago, was seeking second-round approval.

In its recent statement, the department said it was forced to drop out of the NAIC's accreditation program after the Legislature, for the second time, denied a budget appropriation. The department, whose budget exceeds \$13 million per year, was seeking \$318,000 to pay financial examiners competitive salaries.

Washington state officials' assertion that withdrawing from the accreditation program would not harm consumers or financial oversight of insurers drew fire from some observers, including a key regulator.

"I think it's a mischaracterization," said Vermont Insurance Commissioner Elizabeth Costle, chair of the NAIC's accreditation oversight committee. "I would challenge" the notion that accreditation doesn't reflect on the quality of a state's financial oversight—"that's the whole point of the program."

The NAIC adopted the program in June 1990 in response to criticism by federal lawmakers about uneven solvency regulation nationwide. The program requires states to adopt uniform standards so that each insurance department has adequate statutory

and administrative authority, including appropriate organizational and personnel staffing and practices.

Mel Sorenson, assistant vp and Northwest regional office manager for the National Assn. of Independent Insurers, also challenged the Washington Insurance Department's statement.

"I would quarrel or disagree with the commissioner's assertion that (loss of accreditation) has no impact on consumers," Mr. Sorenson said. Consumers should care about uniformity



'I would challenge' the contention that accreditation doesn't reflect on the quality of a state's financial oversight. That's the whole point.'

—Elizabeth Costle

and appropriate financial oversight, because it helps keep insurers solvent and able to pay policyholders' claims, he said.

In its defense, Mr. Harkins noted that the department has received high marks in its NAIC reviews for the two remaining criteria reviewers consider—fiscal analysis as well as rules and regulations. He expects the department to continue those oversight activities, which have helped the state avoid any insurer insolvencies during the last 12 years.

The Washington department's statement also downplayed the NAIC accreditation program's significance,

saying that "the program has never included all the states." Nevada was the only U.S. jurisdiction, however, that did not receive first-round accreditation. New York subsequently lost its first-round status after its Legislature failed to adopt a few necessary laws.

Five years after obtaining first-round status, states must seek second-round accreditations, which 36 jurisdictions have obtained thus far. Only Tennessee, Washington state and West Virginia bid for and failed to win second-round approval, but the departments are working to achieve it.

"We think it (accreditation) isn't essential, but important," Mr. Harkins said.

The NAIC program previously barred an accred-

ited state from accepting an unaccredited state's examination unless an examiner from an accredited state signed off on it, Ms. Costle said. Several states apparently adopted that requirement and may still have it on their books, though the NAIC withdrew the requirement several years ago, she said.

Vermont is one of the states that removed the requirement. Ms. Costle was unable to identify other states where it may still be law.

"Even though the New York Insurance Department is acknowledged to be one of the leaders in regulating

See Status on next page

ADA

Continued from page 2

Supreme Court may ultimately review the issue.

Chevron's attorney, Jon P. Kardasakis of Hawkins, Schnabel, Lindahl & Beck in Los Angeles, said the company intends to petition the 9th Circuit to review its decision en banc.

The case involved Mario Echazabal, who was denied a position at Chevron's El Segundo, Calif., oil refinery after a pre-employment physical exam indicated the job could damage his liver.

San Francisco-based Chevron also asked that the maintenance contractor for whom Mr. Echazabal was already working at the plant place him in a position that eliminated his exposure to solvents and chemicals.

As a result, he was no longer permitted to work at the plant, said the three-judge panel in its unanimous decision, which overturned a lower court decision dismissing the case.

Under the ADA, employers can require that employees not pose a significant risk to the health or safety of others in the workplace, according to the court.

But, "it does not permit employers to shut disabled individuals out of jobs on the ground that, by working in the jobs at issue, they may put their own health or safety at risk," says the decision.

The decision points to the language of the ADA itself, which it says specifies threats to other persons, but not to the individual himself in describing defenses that may be appropriately used by employers when they are charged with discrimination. "The fact that the statute consistently defines the direct threat defense to include only threats to others eliminates any possibility that Congress committed a drafting error when it omitted from the defense threats to the disabled individual itself."

The decision also raises the issue of employer liability, stating "state tort law would likely be pre-empted if it interfered with this requirement."

"Chevron's concern over an award

of damages reflects a fear that hiring a disabled individual will cost more than hiring an individual without any disabilities. The extra cost of employing individuals does not in itself provide an affirmative defense to a discriminatory refusal to hire these individuals," the opinion read.

Employer attorneys say the decision not only defies logic but also can cause considerable difficulties for employers.

'A person who can't perform a job without incurring serious injury isn't qualified for the job,' says Ann Reesman.

"In our view, a person who can't perform a job without incurring serious injury isn't qualified for the job," said the Employment Advisory Council's Ms. Reesman. "Under this decision, an employer has to put an at-risk person directly in harm's way if that's where they want to be. This is, I think, very problematic for employers."

Patricia M. Gillette, an employer attorney with Hiller, Herman, White & McAuliffe in San Francisco, said the decision also fails to adequately address issues that could arise should the disabled employee get hurt, including, for instance, whether the employer's workers comp premiums would increase.

But some attorneys do not believe the decision presents employers with a serious dilemma.

Larry Minsky, of Lemaire, Faunce, Pingel & Singer in Cerritos, Calif., who represented Mr. Echazabal, said "what this decision holds is that an employer must allow an employee, or applicant in this case, to perform a job if the employee is fully informed, accepts the risk of a job, and says 'I can do it.'"

"It's a major decision, and I think, one of the most important decisions since the ADA went into effect in

1992," said plaintiff attorney Gary Thelan, with Garrison, Thelan, Levin-Epstein, Chimes & Richardson in New Haven, Conn., and the author of "Disability Discrimination in the Workplace."

Letting employers disqualify workers because a job may represent a threat to them has "really given employers a license to act based on their own fears and stereotypes" and diminished the ADA's effectiveness, he said.

Mr. Thelan disagreed that the decision represents a dilemma for employers forced to choose between obeying the ADA and following safety regulations. "Certain workplaces are unsafe, and if you're going to address those problems, address them for all employees," said Mr. Thelan. "The court is saying a person with a disability should be able to take the same risks that any other person can."

Meanwhile, the Equal Employment Opportunity Commission, which issues regulations on the ADA, may revise its guidelines as a result of this decision, said Peggy Mastroianni, EEOC associate legal counsel. "This is something we have been thinking about, and in light of this decision, which is the first appellate decision that really lays all of this out and gives very strong arguments for its conclusion... we are certainly going to give this whole issue further consideration."

Brent A. Giddens, an employer attorney with Sonnenschein, Nath & Rosenthal in Los Angeles, said the case will have limited applicability because the facts of the Chevron case were unusual.

Anthony Oncidi, an employer attorney with Troop, Steuber, Pasich, Reddick & Tobey in Los Angeles said, "I think employers are still going to be sensitive to potential injuries to employees, and I don't think they're going to willy-nilly open up positions to employees" whom they believe will be subsequently injured.

Mario Echazabal vs. Chevron USA Inc.; 9th U.S. Circuit Court of Appeals; 00 C.D.O.S. 4028

Status

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solvency, the fact that the department is not accredited has resulted in problems for at least two insurers domiciled there," said Phillip Schwartz, vp-financial reporting and associate general counsel for the Washington-based American Insurance Assn.

Regulators in other accredited states have asked for financial examinations from New York's Insurance Department to be overseen by an examiner from an accredited department, he said.

A New York Insurance Department spokeswoman declined to comment.

Washington state regulators and a spokesman for SAFECO Insurance Cos. in Seattle, which underwrites nationally, either were unaware or unconcerned about such problems.

For the short term, the department's lack of accreditation is not "that big a deal," said Ed Southon, SAFECO's assistant general counsel for property casualty companies. The Washington Department could invite an examiner from an accredited state

to oversee the exam process, he said.

Another insurance industry observer, however, warned that being located in a non-accredited state could cause "humongous monetary consequences" for an insurer seeking to write business nationally. Increased costs could stem from other states seeking to do their own exams or needing to bring in examiners from accredited states to participate in exams.

Without such accommodations, an insurer based in an unaccredited state could jeopardize its licenses in other states, the observer said.

In addition, others have noted that higher administrative costs may be passed on to policyholders in the form of higher rates.

"In the long run, though, we do think it is important for Washington State to be accredited," Mr. Southon said.

If the department remains unaccredited, its stature in the eyes of other regulators could fall, creating a barrier that would result in the loss of local insurance industry business, said Basil Badley, a Washington attorney who acts as a lobbyist for several insurer trade associations, in-

cluding the AIA.

If insurers withdraw, competition is reduced, and consumers may have to pay more for coverage, observers have noted.

Most Washington state-based sources, however, are optimistic that the state Legislature will eventually see the need to improve the salaries of financial examiners and specifically appropriate the higher pay, as required by law. The department is expected to then seek reaccreditation.

According to the NAIC's latest figures, Ms. Senn's departmental budget is the 17th largest among jurisdictions tracked by the NAIC and paid full-time equivalent financial examiners between \$30,996 and \$48,300 in 1998. The Washington department said this level was the lowest in the nation.

Some critics, however, argue the commissioner should have been aware of the problem sooner and taken special budgetary steps to remedy it before now. The department disagrees, Mr. Harkins said.

"It is an ongoing problem until the job market changes or the Legislature sees fit to fund these positions," Mr. Harkins said. **BI**

MEWA

Continued from page 1
care plan to the employees of a credit union that is not owned by the company but exclusively serves its workforce.

Many employers are not aware that corporate actions such as participating in a joint venture may have resulted in the creation of a MEWA and the obligation to file the new Form M-1.

"A lot of employers have said, 'Hey, this does not involve us,'" said Sharon Cohen, a consultant with Watson Wyatt Worldwide's Research & Information Center in Bethesda, Md.

"Many employers have been late to see this," said Michael Langan, a technical consultant with Towers Perrin in Valhalla, N.Y.

At least part of the reason why an employer may not be aware that the new reporting requirement applies to it—much less that it has a MEWA—is confusion about whether a health care plan is maintained by a single employer or by multiple employers.

Generally, under government rules, if one company owns at least 80% of another, the two firms are considered part of the same "controlled" group and constitute a single employer. A health plan that covers the employees of the two firms would not be considered a MEWA.

The Labor Department, though, has the statutory authority to issue regulations that drop the ownership percentage as low as 25% to determine if companies are part of the same controlled group for purposes of ascertaining whether a MEWA has been created.

Using a 25% threshold would greatly increase the likelihood that, for example, a health care plan used by an employer to extend coverage to the employees of a joint venture would be considered a MEWA.

So far, though, the Labor Department has not issued regulations that contain the lower threshold. Still, the department is aware of the concerns that have been raised about the 80% controlled group standard.

Filling out and filing the M-1 Form is not difficult, benefit consultants say. But some fear that states could use the information provided in the reports, which will be publicly available, to attempt to shut down self-funded MEWAs.

Under a 1983 federal law, Congress gave the states the authority to regulate both self-funded and insured MEWAs. Under many state laws, self-funded MEWAs are considered

unauthorized insurers, and states can go to court to close them down.

Some experts say the likelihood of that occurring, though, is remote.

"Even if states obtain the filings, it is unlikely that large employers with joint ventures would be the target of state regulators," said Henry Saveth, an attorney with William M. Mercer Inc. in New York.

"My intuition is that states have better things to do with their time. My hope would be that states would be smart enough to realize that plans set up by large employers are not where the problems lie. Still, there could be overzealous regulators," Mr. Saveth said.

In fact, the MEWA reporting requirement has its origins in health care coverage scandals in the 1970s, following the passage of the Employee Retirement Income Security Act.

ERISA exempts employee benefit plans from state regulation. That exemption gave rise to what became known as multiple employer trusts.

These multiple employer trusts, which were often self-insured and often set up by insurance agents and others with insurance sales or marketing backgrounds, were marketed to small employers. The trusts promised substantially lower rates than those charged by commercial insurers.

States alleged that the trusts were illegal insurance operations. But the multiple employer trusts claimed that they were employee benefit plans and that, as a result, ERISA pre-emption barred the states from taking any action against them. At the same time, the federal government didn't set any standards for the plans.

In this regulatory void, many of the multiple employer trusts went bankrupt, because the premiums charged and reinsurance purchased—if any—was not adequate to cover claims. That left tens of thousands of employees stuck without coverage for hundreds of millions of dollars in unpaid medical claims. Meanwhile, the trusts' operators profited because they earned hefty commissions selling coverage to small employers.

As the failure of self-funded multiple employer trusts mushroomed into a national scandal, Congress—somewhat belatedly—took action. Congressional legislation passed in 1983 generally made it clear that the multiple employer trusts, which legislators renamed multiple employer welfare arrangements—could be regulated by states. That gave states the clear authority to shut down self-funded trusts for operating without a license.

Even after the passage of the 1983

legislation, though, states still had problems trying to regulate and close down self-funded MEWAs before they collapsed. One key problem, according to a U.S. General Accounting Office report, was that state regulators often had no idea that MEWAs were operating within their borders.

In response to that report and complaints from state regulators, Congress passed legislation in 1996—now going into effect—that requires MEWAs to file reports with the Labor Department. Those reports would give states a central source of information about MEWAs.

Employer groups say they are not opposed to the reporting requirements. Still, they maintain that Congress intended the reports to be filed by MEWAs that cover many different employers, and not by large employers that inadvertently fall under the definition because they cover a small number of individuals who don't work for the company or who are in joint ventures.

A situation where an employer maintains a significant stake in a joint venture is not one "that the department has historically found to raise concerns in the MEWA area," wrote Paul Dennett, vp-retirement policy with the Washington-based Assn. of Private Pension & Welfare Plans in a letter sent last week to the Labor Department.

Mr. Dennett is urging the department to make clear to employers that they need not file the Form M-1 if they are in those merger or acquisition situations in which coverage is not extended beyond the end of the plan year following the year in which a merger or acquisition occurred.

Meanwhile, the Labor Department has provided some limited relief. While the Form M-1 was due May 1, those employers who applied for it were automatically granted a 60-day filing extension.

In addition, the department, at least for the first year that the reporting requirement is in effect, is not expected to take action against any employer that, on the basis of a good-faith analysis of the law, determined incorrectly that it did not operate a MEWA and so failed to file the report.

Still, some say the prudent course of action to avoid penalties is for employers that may have MEWAs to file the report.

"When in doubt, fill it out," Watson Wyatt's Ms. Cohen said.

Others suggest an employer should submit the report but attach a statement that says that filing the report does not mean that the employer is necessarily operating a MEWA. **BI**

Updates

Online D&O coverage auction

Continued from page 2

Unlike traditional auctions, where an initial price is set and bids increase, at theinsuranceXchange.com, risk managers will see their initial premium prices drop when auctioned, explained Glen Bailey, chief executive officer of the new dot-com company, based in Atlanta. He is a former managing director and regional practice leader for Marsh.

While the Web site eventually will offer all lines of property/casualty insurance, the initial product launch focuses on D&O insurance in the health care industry, Mr. Bailey said. In subsequent weeks, D&O insurance will be available to additional industry groups, he said.

Royal Insurance Co. and Chubb Corp. are currently the only participating insurers, but two other national insurers will soon be joining, Mr. Bailey said. He said he also is in contract negotiations with four other insurers.

In addition to participating in the reverse auction, risk managers accessing the site also will be able to learn about various business insurance products and conduct a risk assessment of their organizations.

Tillinghast-Towers Perrin is providing strategic advice and supporting a variety of development efforts of theinsuranceXchange.com. David Robertson, former senior vp for Marsh, is president and chief operating officer of the new company.

USAA taps capital markets again

SAN ANTONIO—In what has become an annual event, United Services Automobile Assn. has turned to the capital markets for a portion of its catastrophe reinsurance program.

This year's \$200 million deal marks the fourth consecutive year San Antonio-based USAA has used a catastrophe bond deal to reinsure its hurricane exposure in the Atlantic and Gulf coasts.

Like the previous transactions, the deal involved selling the bonds through a Cayman Islands-domiciled special-purpose vehicle, Residential Reinsurance 2000 Ltd., which used the proceeds of the private placement to back a reinsurance contract for USAA.

The one-year contract is triggered if USAA faces policyholder losses in excess of \$1.1 billion resulting from a hurricane of Category 3 or higher striking anywhere in 20 Eastern states or the District of Columbia.

Lehman Brothers Inc. and Merrill Lynch & Co. were co-lead managers for the offering.

CIGNA sheds life reinsurers

PHILADELPHIA—CIGNA Corp. has sold its U.S. life reinsurance business to Life Reassurance Corp. of America for \$170 million in cash.

The units involved are CIGNA's U.S. individual and group life reinsurance business and its U.S. accidental death reinsurance unit. Together, the three units had premium volume of approximately \$100 million in 1999, a CIGNA spokesman said.

Life Reassurance Corp. is a Stamford, Conn.-based unit of Swiss Reinsurance Co.

The sale completes CIGNA's transformation from a multiline insurer to one focused solely on employee benefits. "It's the last remnants of CIGNA's older approach to the market," the spokesman said. CIGNA sold its property/casualty operations to ACE Ltd. in 1999.

The company's remaining reinsurance units—including global accident, domestic health and non-U.S. life and health reinsurance—will be placed in runoff.

CIGNA Reinsurance division President Francine Newman will retire once the transition is under way, the spokesman said.

Briefly noted

A.M. Best Co. downgraded its financial strength rating of **PHICO Group Inc.** to B++ from A-. The PHICO Group consists of PHICO Insurance Co., Independence Indemnity Insurance Co. and Pennsylvania Casualty Co. Also downgraded was PHICO Re Ltd., a wholly owned Bermuda reinsurer. . . . A unanimous U.S. Supreme Court ruled last week that insurers that provide coverage to businesses in **bankruptcy reorganization** don't have the right to demand that other creditors pay unpaid premiums. The case, *Hartford Underwriters Insurance Co. vs. Union Planters National Bank*, involved about \$50,000 in unpaid workers compensation premiums for coverage provided to Hen House Interstate while the company was in reorganization. The reorganization of the restaurant chain failed, and Hartford sought to recover the cost of unpaid premiums from Union Planters, a secured creditor of Hen House. . . . Insurance broker **Hill, Rogal & Hamilton Co.** has formed an alliance with Pittsburgh-based PNC Financial Services Group to sell insurance and employee benefits services to the bank's middle-market customers. . . . California's Senate last week passed a bill that would require employers to notify employees if they **monitor workplace e-mail**. S.B. 1822, sponsored by state Sen. Debra Bowen, D-Marina Del Rey, would require an employer that reads worker e-mails to distribute a workplace privacy policy to employees. . . . **Rich DeSimone** has been named president-global marine at the St. Paul Cos. Inc. Mr. DeSimone previously was a senior vp at Atlantic Mutual Cos. in New York. . . . **American Skandia Inc.**, a Shelton, Conn.-based unit of Skandia Insurance Co. Ltd., has named Wade Dokken as president and chief executive officer. Mr. Dokken previously was chief operating officer and deputy CEO. He succeeds Jan Carendi, who is stepping down from those positions but will remain chairman. . . . Moody's Investors Service Inc. has placed its **ratings of Reliance Group Holdings Inc.** under review for possible downgrade following the announcement that Leucadia National Corp. would buy the ailing insurer. Reliance's flexibility would be limited if the deal collapsed, and Leucadia's commitment to Reliance's creditors is unknown, Moody's noted. Moody's also changed its outlook for Leucadia to negative.



API/WIDE WORLD PHOTOS

DERAILMENT PROMPTS SUITS Residents of a southwestern Louisiana town who were evacuated from their homes May 27 because of the derailment of a cargo train carrying hazardous chemicals are suing Union Pacific Railroad. Two class-action lawsuits were filed May 29 in state court in St. Landry Parish on behalf of residents in Eunice, La., who were ordered to evacuate after 30 of 113 cars in a Union Pacific train left the tracks and sparked several explosions. The suits seek unspecified damages for any losses that may result from the accident. Some of the derailed cars carried flammable gases and liquids, poisons, acids and other hazardous materials. A spokesman for Union Pacific said the railroad's air monitoring equipment showed no toxic materials in the air after the fires were extinguished. Police ordered more than 2,000 people to leave their homes immediately after the accident, most of whom have been allowed to return. The Union Pacific spokesman said the cause of the derailment remains under investigation. There were two minor injuries related to the accident. He said no figures were available on damages to the railroad cars, tracks or bridge that will have to be repaired. The railroad also is paying relocation expenses for evacuees and for environmental cleanup. The railroad is self-insured to an unidentified limit and carries catastrophe insurance above that amount, according to the spokesman.

PROVIDER INSOLVENCY COVER A new insurance product for provider groups aims to help insurers and health maintenance organizations weather the insolvency of such entities. In response to numerous recent insolvencies of independent practice associations and other medical groups nationwide, health plans have begun re-

quiring the groups to maintain collateralized reserves, explained Bill Dyer, chief executive officer of Irvine, Calif.-based HCP National Insurance Services Inc., which developed the coverage. If a group becomes insolvent, the reserves are tapped to cover expenses associated with transferring patients to new provider groups, he said. Provider groups generally must provide evidence of collateral, either through a letter of credit or cash deposited in an escrow account payable to the health plan. But this new insurance product, sold as an endorsement to provider stop-loss coverage, also will satisfy the reserve requirements, according to Mr. Dyer. Currently, limits of up to \$5 million per contract are available, and HCP is working on assembling additional coverage limits. Mr. Dyer declined to name the insurer writing the coverage.

NFL EXPANDS BENEFITS The National Football League has enhanced its defined benefit pension program for assistant coaches. League owners late last month unanimously agreed to provide an immediate enhanced early retirement pension for assistant coaches. Under the old plan, assistant coaches did not qualify for full pensions until reaching age 65; coaches who wanted to take an early pension received a reduced payment. Under the new formula, once an assistant coach reaches age 58, he qualifies for full payments when his or her combined age and years of service equal 75.

ERGONOMICS AWARDS Prudential Insurance Co. and utility Seattle City Light are this year's winners of the Center for Office Technology's annual Outstanding Office Ergonomics Award. The award, given in both private- and public-sector categories, is based on an ergonomics program's breadth, longevity, innovation and demonstrated results. It also recognizes efforts to share the program's approach with other organizations. Formed in 1985 in Alexandria, Va., the Center for Office Technology is an association of employers and manufacturers dedicated to improving the office working environment and promoting informed approaches to safety and health issues associated with computers and office technology.

GEN RE OPERATIONS JOINED General Reinsur-

ance Corp. and Cologne Re are now operating worldwide under a single name, General-Cologne Re. Stamford, Conn.-based General Re Corp., the holding company for both reinsurers and itself a unit of Berkshire Hathaway Corp., last week announced the name change and a new management structure for the two companies. Gen Re's direct treaty property/casualty reinsurance business will operate on a regional basis, with regions divided into local business units. In addition, several global business units will collaborate with the local units. All support

GeneralCologne Re will be organized into global service units. The structure of the life/health reinsurance operations will remain unchanged. Under the new management structure, executives in charge of six treaty regions, the global business units and the global service units will report directly to a member of Gen Re's executive committee, which is made up of General Re Chairman and Chief Executive Officer Ronald P. Ferguson and five executive vps.

AIG CONSOLIDATES P/C BUSINESS American International Group Inc. is realigning its property/casualty operations to consolidate worldwide servicing of its multinational clients. New York-based AIG is combining the North American division of American International Underwriters with its Domestic Brokerage Group to form AIG WorldSource Division. The foreign multinational division of AIG Risk Management Inc. also will become part of AIG WorldSource, which will be based in New York. Gordon Knight has been named president of AIG WorldSource, and Michael Waitkus will serve as executive vp of the new unit.

CNA CAT UNIT CNA Re has formed a Global Catastrophe Unit to coordinate the management of the company's catastrophe reinsurance business worldwide. The new unit, headed by Senior Vp Douglas R. Behnke in Chicago, will ensure the uniform handling of such elements of CNA Re's cat reinsurance business as pricing, expected loss, risk selection, catastrophic loads and aggregate management. The unit's Chicago office will work in affiliation with CNA Re catastrophe reinsurance staff in London and Singapore, Mr. Behnke said. The reinsurer expects

the unit to provide a global "big picture" view of Chicago-based CNA Re's catastrophe-related risk and coordinate the efforts of its multidisciplinary experts. Those benefits should provide for better risk decisions, more-efficient use of the company's capacity and a free flow of CNA Re's capital to those areas of the world offering the best risk-weighted rates of return, the company said in a statement. "It provides us a uniform platform for evaluating and managing our catastrophe business," Mr. Behnke said.

GUARANTEE RATINGS Standard & Poor's Corp. has begun rating multiline insurers' ability and willingness to pay financial guarantees and credit enhancements. The insurance financial enhancement ratings will be based on an insurance company's capital, liquidity and commitment to write the evolving business of credit enhancements and allow investors to assess the insurer's willingness to pay, S&P says.

CDC AWARD Margaret E. O'Kane, president of the National Committee for Quality Assurance, was given the U.S. Centers for Disease Control and Prevention's Champion of Prevention award last week. The award recognizes Ms. O'Kane's work as well as the work of the Washington-based NCQA in promoting the practice of preventive medicine through the NCQA's accreditation and performance-measurement programs, said Dr. Jeffrey R. Harris director of the division of prevention research at the CDC in Atlanta. "We obviously think that prevention measures clearly save lives and performance measurement like HEDIS makes prevention happen. This is an occasional award given only when someone merits it," said Dr. Harris. HEDIS, or Health Plan Employer Data and Information Set, is used by about 90% of the nation's health plans, according to an NCQA release.

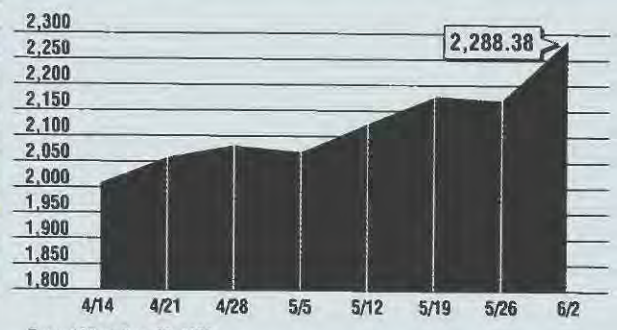
To get breaking news as it occurs, visit Business Insurance's free online Updates at www.businessinsurance.com. All of the material in the For The Record column, as well as other content in this week's issue, is generated from daily news postings that appeared on the Web site in the previous week.

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BI Industry Stock Report MAY 30, 2000, THROUGH JUNE 2, 2000

| BROKERS | | | Year to date | | | Year to date | | | Year to date | | | Year to date | | | | | | | | | | | |
|---------------------------|-----------------|-----------------------|--------------|--------|-----------|--------------|-----------------|--------------------------------|--------------|--------|-----------|--------------|-----------------|-----------------------|-------|----------------------|-----------|-------|-------|--------|-------|-------|------|
| Price | Weekly % change | Year to date % change | High | Low | Vol.(000) | Price | Weekly % change | Year to date % change | High | Low | Vol.(000) | Price | Weekly % change | Year to date % change | High | Low | Vol.(000) | | | | | | |
| Aon Corp. | NYS | 36.56 | 4.46 | -8.59 | 46.41 | 20.69 | 2156 | Harleysville Group | NDO | 16.94 | 3.44 | 18.86 | 20.88 | 11.63 | 54 | Unitrin | NDO | 32.50 | 1.76 | -13.62 | 42.38 | 30.69 | 223 |
| Brown & Brown | NYS | 46.88 | 3.31 | 22.35 | 46.88 | 30.75 | 50 | HSB Group Inc. | NYS | 30.75 | 5.13 | -9.06 | 42.25 | 21.50 | 746 | UNUM Corp. | NYS | 23.94 | 15.02 | -25.34 | 56.88 | 11.94 | 6388 |
| Clark Bards Holdings | NDO | 14.88 | -10.8E | 3.48 | 21.00 | 11.63 | 42 | HCC Insurance Holdings | NYS | 18.38 | 18.55 | 39.34 | 25.13 | 8.00 | 1062 | Vesta Insurance Co. | NYS | 5.94 | 3.26 | 53.23 | 7.88 | 3.44 | 246 |
| E.W. Blanch Holdings Inc. | NYS | 25.69 | 6.4E | -58.06 | 71.75 | 16.56 | 803 | ING Groep N.V. | NYS | 62.06 | 5.19 | 1.74 | 63.94 | 46.81 | 473 | XL Capital Ltd. | NYS | 61.00 | 5.17 | 17.59 | 67.19 | 39.00 | 1743 |
| Gallagher Arthur J. & Co. | NYS | 39.31 | 0.64 | 21.43 | 39.50 | 23.06 | 482 | IPC Holdings Ltd. | NDO | 14.50 | -2.52 | -2.52 | 22.50 | 9.75 | 53 | Zenith National Ins. | NYS | 24.00 | 0.26 | 16.36 | 26.69 | 18.75 | 33 |
| Hibb, Rogal & Hamilton | NYS | 31.94 | 3.44 | 13.05 | 31.94 | 18.25 | 106 | Hartford Financial Services | NYS | 60.00 | 1.48 | 26.65 | 66.44 | 29.38 | 3423 | INSURERS/REINSURERS | AVERAGE | | 3.13 | 2.51 | | | |
| Kaye Group Inc. | NDO | 5.88 | -16.07 | -29.85 | 11.88 | 5.00 | 13 | John Hancock Financial Service | NYS | 23.00 | 2.22 | 35.29 | 23.25 | 13.44 | 3529 | | | | | | | | |
| Marsh & McLennan | NYS | 110.81 | 2.72 | 15.81 | 112.50 | 61.75 | 3872 | LaSalle Re Holdings Ltd. | NYS | 14.50 | 11.54 | -12.12 | 18.63 | 10.88 | 105 | | | | | | | | |
| BROKERS | AVERAGE | | 0.09 | -2.55 | | | | Lincoln National | NYS | 39.00 | 3.48 | -2.50 | 57.50 | 22.63 | 2024 | | | | | | | | |
| | | | | | | | | MAIC Holdings Inc. | NYS | 11.56 | 7.56 | -45.43 | 29.05 | 10.00 | 88 | | | | | | | | |
| | | | | | | | | Market Corp. | NYS | 149.75 | 4.72 | -3.39 | 193.00 | 111.50 | 102 | | | | | | | | |
| | | | | | | | | MBA Insurance Group | NYS | 59.19 | 6.64 | 12.07 | 71.88 | 36.31 | 2124 | | | | | | | | |
| | | | | | | | | Meadowbrook Insur. Group | NYS | 5.25 | 2.44 | -20.00 | 14.13 | 4.75 | 32 | | | | | | | | |
| | | | | | | | | MetLife | NYS | 21.00 | 6.33 | 47.37 | 21.00 | 14.25 | 13103 | | | | | | | | |
| | | | | | | | | MMI Cos. Inc. | NYS | 9.94 | 0.00 | 15.25 | 17.44 | 3.31 | 0 | | | | | | | | |
| | | | | | | | | Mutual Risk Mgmt. Ltd. | NYS | 17.50 | 2.94 | 4.09 | 40.50 | 9.81 | 689 | | | | | | | | |
| | | | | | | | | Navigators Group | NDO | 9.00 | 2.13 | -7.69 | 16.00 | 8.63 | 54 | | | | | | | | |
| | | | | | | | | NYMag Inc. | NYS | 14.19 | 1.79 | 7.58 | 19.50 | 12.00 | 8 | | | | | | | | |
| | | | | | | | | Ohio Casualty Corp. | NDO | 12.19 | -2.99 | -24.12 | 20.25 | 10.75 | 594 | | | | | | | | |
| | | | | | | | | Old Republic Trtl | NYS | 18.38 | 2.80 | 34.86 | 20.69 | 10.63 | 1342 | | | | | | | | |
| | | | | | | | | Partner Re Ltd. | NYS | 37.63 | 0.84 | 15.99 | 41.44 | 28.38 | 296 | | | | | | | | |
| | | | | | | | | Penn-America Group Inc. | NYS | 9.25 | 2.78 | 19.35 | 11.06 | 6.63 | 9 | | | | | | | | |
| | | | | | | | | PMA Capital Corporation | NDO | 18.75 | 1.69 | -5.66 | 21.13 | 15.50 | 255 | | | | | | | | |
| | | | | | | | | Philadelphia Ccns. Holding | NDO | 17.00 | 1.87 | 17.24 | 25.19 | 10.81 | 227 | | | | | | | | |
| | | | | | | | | PXRE Corp. | NYS | 14.81 | 0.42 | 13.94 | 19.56 | 9.94 | 79 | | | | | | | | |
| | | | | | | | | Reliance Group Holdings | NYS | 2.00 | -21.95 | -69.81 | 10.88 | 2.00 | 3256 | | | | | | | | |
| | | | | | | | | ReliaStar Financial Corp. | NYS | 51.44 | -0.12 | 31.26 | 51.88 | 23.75 | 2729 | | | | | | | | |
| | | | | | | | | RenaissanceRe Holdings Ltd. | NYS | 43.00 | 1.18 | 5.20 | 43.56 | 30.88 | 195 | | | | | | | | |
| | | | | | | | | Arch Capital Group Ltd. | NDO | 15.38 | 0.82 | 21.78 | 17.38 | 11.00 | 112 | | | | | | | | |
| | | | | | | | | RLI Corp. | NYS | 37.50 | 7.33 | 10.29 | 38.81 | 26.25 | 52 | | | | | | | | |
| | | | | | | | | St. Paul Cos. | NYS | 39.19 | 5.56 | 16.33 | 39.19 | 21.31 | 3167 | | | | | | | | |
| | | | | | | | | SCOR | NYS | 40.50 | 4.52 | -8.47 | 56.75 | 38.38 | 22 | | | | | | | | |
| | | | | | | | | SAFECO Corp. | NDO | 25.75 | 8.14 | 3.52 | 46.75 | 18.00 | 2797 | | | | | | | | |
| | | | | | | | | SCPIE Holdings Inc. | NYS | 24.06 | 1.58 | -25.10 | 38.94 | 23.06 | NA | | | | | | | | |
| | | | | | | | | Seibels Bruce Group | NDO | 1.56 | 0.00 | -10.71 | 6.25 | 1.25 | 13 | | | | | | | | |
| | | | | | | | | Selective Ins. Group | NDO | 18.81 | -3.53 | 9.45 | 22.50 | 14.63 | 108 | | | | | | | | |
| | | | | | | | | Tokio Marine & Fire | NDO | 55.00 | -1.79 | -6.98 | 67.00 | 45.00 | 50 | | | | | | | | |
| | | | | | | | | Torchmark Corp. | NYS | 27.69 | 5.48 | -4.73 | 38.00 | 18.75 | 1170 | | | | | | | | |
| | | | | | | | | Transatlantic Holdings | NYS | 90.56 | 3.80 | 16.01 | 90.56 | 68.75 | 50 | | | | | | | | |
| | | | | | | | | Travelers Property Casualty | NYS | 42.00 | 0.00 | 22.63 | 42.00 | 27.69 | 0 | | | | | | | | |
| | | | | | | | | Trenwick Group Inc. | NYS | 15.38 | 6.96 | -9.23 | 32.00 | 12.00 | 246 | | | | | | | | |
| | | | | | | | | Unico American Corp. | NDO | 6.00 | -4.00 | -14.29 | 10.75 | 4.50 | 38 | | | | | | | | |
| | | | | | | | | United Fire & Casualty | NDO | 17.44 | 0.36 | -22.93 | 27.25 | 16.00 | 108 | | | | | | | | |

BI Insurance Index



Base=100 on Dec. 29, 1978

Top advancing issues: HCC Insurance Holdings, Pacificare Health Systems, ACE Ltd. Leading decliners: Reliance Group Holdings, Kaye Group Inc., Sierra Health Services. Most active issue: Citigroup. The BI Index increased 5.4%; the Dow Jones 30 Industrials went up 4.8%; the S&P 500 rose 7.2%, and the NYSE Composite increased 4.9%. Average P/E: Brokers, 20.5; Insurers/reinsurers, 17.8; HMOs, 13.1.

Source: CNET Investor (investor.cnet.com) Boulder, Colo.

**Medium-Size Mass Merchandiser.
Company-Wide Computer Intranet.
One Slightly Off-Color Email Joke.**

Your Business. Your Risk. Understood.SM

These days, small corporate mistakes can equate to big insurance risks. That's why you need an insurance partner who knows your business inside and out. One that has walked a mile in your shoes. And one that can provide the best possible coverage, in 130 countries worldwide, for extremely serious matters like employment liability.

ROYAL &

SUNALLIANCE
You Have Our Attention.[®]