

Business Insurance

MARCH 10, 1997

Updates

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

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ACE, X.L, Risk Capital Re to write political risk coverage

HAMILTON, Bermuda—ACE Insurance Co., X.L. Insurance Co. and Risk Capital Reinsurance Co. are forming a managing general agency to write political risk insurance.

Sovereign Risk Insurance Ltd., based in Bermuda, offers limits up to \$50 million per project and \$100 million per country. Its per country limit is expected to grow to \$500 million within five years.

Most policies will have a seven-year, non-cancelable term, but some will be for up to 10 years.

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CIGNA to fight new round of hearings

By DAVE LENCKUS

HARRISBURG, Pa.—CIGNA Corp. will appeal a Pennsylvania appellate court ruling that vacates the state insurance commissioner's approval of CIGNA's reorganization, orders a trial-like hearing in the case for CIGNA policyholders and unshrouds a closely guarded actuarial report on the company.

But, CIGNA and the commissioner's office maintain the order does not nullify the reorganization. That position promises to muddle CIGNA's coverage litigation with policyholders in which the insurer argues policyholders must seek coverage from CIGNA's new runoff operation and not the

CIGNA company that originally wrote the coverage.

Attorneys for CIGNA policyholders call the insurer's and department's interpretation of the Pennsylvania Commonwealth Court's March 5 decision "ludicrous."

Without regulatory approval, CIGNA could not have reorganized into an active operation for in-force business and a separately capitalized runoff facility for most of its liabilities, including 80% of the insurer's asbestos and environmental liabilities, they said.

At the same time, insurers—including American International Group Inc. and The St. Paul Cos. Inc.—that have opposed the re-

structuring are considering appealing the decision because the court found they have no legal standing in the case.

The insurers opposed the restructuring because of its potential ramifications on their financial interests in business deals with CIGNA.

The only portion of the 5-1 ruling that all sides agree on is that, because of her previous approval of the transaction, Insurance Commissioner Linda S. Kaiser is banned from presiding over new trial-like hearings.

The fallout of the decision for CIGNA on other regulatory and business fronts is mixed.

The decision means CIGNA has

See CIGNA on page 23

Rocky road to reorganization

October 1995: CIGNA Corp. announces plan to reorganize into an active operation and a runoff facility.

November 1995: A group of policyholders and insurers protests the plan.

November/December 1995: Pennsylvania Insurance Department holds three public hearings, limiting testimony to prepared statements.

February 1996: Pennsylvania Insurance Commissioner Linda S. Kaiser approves the plan. Critics appeal to a state court.

March 1996: Judge orders the Pennsylvania Department to turn over the Tillinghast actuarial report on the runoff facility, then reverses himself.

August 1996: Judge allows Pennsylvania regulators to keep the Tillinghast report secret, but regulators cannot rely on it to defend CIGNA's reorganization.

December 1996: A Pennsylvania appeals court hears arguments on whether CIGNA policyholders and others are entitled to trial-like hearings on the plan.

March 1997: The court vacates Ms. Kaiser's decision, removes her from the case and orders trial-like hearings.

GRAPHIC BY JOHN HALL

Massachusetts may oversee EMLICO runoff

By DOUGLAS McLEOD

BOSTON—The Massachusetts Insurance Division may become ancillary receiver of the defunct Electric Mutual Liability Insurance Co. under a proposed agreement that would keep EMLICO's liquidation in Bermuda.

Under a deal still being negotiated last week, EMLICO claim settlements with sole policyholder General Electric Co. would be subject to Massachusetts regulatory and court approval. The Massachusetts division also would "aid in the collection and transfer of assets to the joint liquidators" in Bermuda, sources familiar with the talks confirm.

The division also likely would drop an investigation into charges that GE and EMLICO conspired to mislead regulators into approving the insurer's move to Bermuda, where it later declared itself insolvent by more than \$500 million, sources say.

EMLICO's liquidators and GE representatives would not provide details of the proposal. Insurance Division officials declined to comment.

While waiting for an announcement of the plan's specifics, though, EMLICO reinsurers and some Massachusetts legislators last week were already voicing doubts about the deal, which one state senator complained was being "done behind closed doors."

It is unclear, for example, what impact the plan would have on claims against the reinsurers, several of which have charged that GE and EMLICO planned the Bermuda move specifically to take advantage of Bermuda liquidation laws that would accelerate reinsurance payouts.

Reinsurers and state lawmakers also objected to any abandonment of the inquiry into alleged fraud by GE and EMLICO and questioned how much control the Massachusetts division would

See EMLICO on page 25

The Home in supervision

New Hampshire steps in as insurer's surplus falls to \$55 million

By GAVIN SOUTER

NEW YORK—Worse-than-expected losses helped put The Home Insurance Co. under formal state supervision after it fell nearly \$552 million short of its authorized risk-based capital requirements.

The move last week by the New Hampshire Insurance Department comes less than two years after the department approved a controversial deal under which the poor-performing business of The Home was placed into runoff while Zurich Insurance Group took over the better business in return for a \$1.3 billion reinsurance contract (BI, June 5, 1995).

Higher claims costs have hurt the results of The Home, say officials at New York-based Risk Enterprise Management Inc., the Zurich-owned company running off The Home.

The New Hampshire department has allowed The Home to improve its financial results by discounting its reserves, which lets the company account for future interest income on the reserves.

Still, with the discounted reserves and The Home's recoverable reinsurance accounted for, the company has only a \$55 million surplus, which observers and REM officials say is a slim margin for error.

See The Home on page 24

Storms rip through states

But insured commercial damage expected to be light

By MARK A. HOFMANN, SALLY ROBERTS and MICHAEL PRINCE

In the aftermath of tornadoes that twisted small businesses into piles of rubble and floods that inundated whole towns, the first comprehensive estimates of insured damage from the weather events in the opening days of March may be available this week.

The commercial damage numbers, however, aren't likely to be staggering, because most of the losses were away from major metropolitan areas.

As of late last week, major commercial insurers—including American International Group Inc., Kemper Insurance Cos., Liberty Mutual Group and Royal Insurance Group—received very few if any claims from the storms that ravaged the midsection of the country from Texas to West Virginia

March 1-7, causing at least 56 deaths.

State Farm Insurance Group anticipates it eventually will get \$14 million in claims, the overwhelming majority involving homeowners insurance, from the Arkansas tornadoes. The Bloomington, Ill.-based insurer

had received 1,156 tornado-related claims as of Friday morning.

A preliminary estimate from Nationwide Insurance Group projects that the Columbus, Ohio-based insurer will receive

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AP/WIDE WORLD PHOTOS

Recent flooding of the Ohio River hit Aurora, Ind., (left) and downtown Cincinnati.

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Updates

Political risk agency formed

Continued from previous page

The three founding companies will jointly underwrite the policies, with ACE and X.L. each underwriting 45% of a risk and Risk Capital Re underwriting 10%.

Price Lowenstein, formerly a vp with San Francisco-based Guy Carpenter & Co. Inc.'s international specialty group and director of Guy Carpenter & Co. Asia Ltd., has been named president and CEO. Two other underwriters will join him. Sovereign will begin operations May 1.

"We felt that with foreign investment growing at a rapid pace, a new private entrant into the field was warranted," Mr. Lowenstein said.

"It is a natural area for both of us," said Brian Duperreault, chairman and CEO of ACE. "It's a product demanded by our existing client base and it's a way to expand our relationship with them."

Another political risk underwriter, American International Group Inc., has increased the limits to \$120 million per risk from \$85 million for its AIG Global Trade & Political Risk Insurance Co., while increasing the policy term to 10 years from seven years. In 1996, the term was raised to seven years from three years.

The extended term is the critical improvement, said AIG Global President John Salinger.

"There are a lot of developments where the underlying need is significantly more than three years," he said. "Banks have been asked to provide lines of finance for five, seven, 10 years or longer."

Appeals court to hear RRG case

NEW ORLEANS—The 5th U.S. Circuit Court of Appeals will hear oral arguments April 28 on a 1996 federal court ruling that struck down a Louisiana law on risk retention groups.

U.S. District Court Judge John Parker ruled last year that the federal Risk Retention Act pre-empted the 1995 Louisiana law that required RRGs licensed in other states to maintain at least \$5 million in capital and surplus, post a \$100,000 bond or cash deposit and pay a \$1,000 fee before they could operate in Louisiana (BI, June 10, 1996). In his ruling, Judge Parker wrote that the Risk Retention Act "expressly pre-empted regulation of risk retention groups by any state other than the one which chartered the group."

Risk retention group advocates hailed Judge Parker's ruling. They warned if the Louisiana law had been allowed to stand, other states would have taken a similar step, destroying the centerpiece of the Risk Retention Act: allowing RRGs to operate nationwide after meeting the licensing requirements of one state.

But the Louisiana Department of Insurance, which is appealing Judge Parker's ruling, earlier said if the ruling is allowed to stand it would mean that other states would be "unduly dependent" on the regulation of the RRG's chartering state.

Syndicates leave 1994 open

LONDON—At least 10 Lloyd's of London syndicates are expected to be left open for the 1994 year of account, even though most of the long-tail liabilities and uncertain losses prior to 1993 have been closed into runoff reinsurer Equitas Ltd.

Most of these syndicates are considered "orphan" in that members agents have decided to no longer support them, and there is no successor syndicate for them to close into under Lloyd's three-year accounting, underwriting agents say.

However, at least one non-marine syndicate will not be closing because of unquantifiable underwriting losses. That is non-marine syndicate 657, underwritten by David Lowe and managed by Archer Group Holdings P.L.C. Capital providers have known since Mr. Lowe left late last year that the syndicate would be left open. Last week, it was revealed that the syndicate has underwriting losses mainly from U.K. employers liability coverages of at least £21 million (\$33.9 million). The syndicate is trying to buy a runoff reinsurance contract to halve the bottom-line losses, Lloyd's sources agreed.

Underwriters are leaving syndicates open because "people are being cautious about what they can and cannot do," said an Archer spokeswoman.

The concern, underwriters say, is that members will have grounds for lawsuits similar to those filed in the past. Members litigation prompted Lloyd's to come up with a reconstruction and renewal plan.

David Gittings, director of Lloyd's regulatory division, would not comment on whether the Archer agency would be disciplined. However, he said, "we have met frequently with Archer and have kept abreast of everything that's been going on."

Ceridian to settle age suits

MINNEAPOLIS—Ceridian Corp. will pay up to \$24 million to settle age discrimination lawsuits that 313 former employees brought against the company.

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Errors & omissions

• A chart on types of claims in Richard Sherman's Feb. 24 Ask a Casualty Actuary column was misleading. The colors in Figure 1 were reversed.

• Due to an editing error, these were omitted from the Feb. 17 directory of claims specialists: Harrington Services Corp.; Hewitt, Coleman & Associates Inc.; Mack & Parker Inc.; Peter J. McBreen & Associates Inc.; McGee Risk Management Services; McLarens Toplis North America Inc.; and Meadowbrook Claims Service. Complete listings for those companies appear on page 10.

• POMCO (Maurice W. Pomfroy & Associates Ltd.) was listed in the wrong section of the directory of claims specialists. It should have been among the claims administrators, adjusters and auditors that specialize in both benefits and property/casualty insurance.

Indiana bill reinforces CGL pollution exclusion

By GAVIN SOUTER

INDIANAPOLIS—Insurers in Indiana soon may have legislative backing to exclude all environmental exposures from commercial general liability policies issued in the state.

Over the past two weeks, legislation was passed in response to an Indiana Supreme Court ruling last May that said the 1985 absolute pollution exclusion was am-

biguous.

Indiana is the only state in the country that has found the 1985 absolute pollution exclusion to be ambiguous, said Laura Foggan, a partner at Wiley Rein & Fielding in Washington, who provided technical advice for the Indiana Institute.

But policyholder lawyers say the legislation, which would amend the Indiana Insurance Code, is a backhanded way of

rewriting the exclusion and excludes far more than was originally intended.

Both chambers of the Indiana Legislature have passed similar bills proposing changes to the Indiana insurance law. The bills are now being amended, and a single version will go forward that insurers expect will become law.

The legislation would eradicate environmental coverage from
See Indiana on page 24

Clinton administration advocates starting over

Superfund reform bill shunned

By MARK A. HOFMANN

WASHINGTON—The Clinton administration remains opposed to comprehensive Superfund liability reform.

Environmental Protection Agency Administrator Carol Browner made that clear during a 90-minute appearance before the Senate Environmental and Public Works Committee's Subcommittee on Superfund, Waste Control & Risk Assessment last week.

The panel's chairman—Sen. Robert Smith, R-N.H.—had called the hearing to consider testimony on the Senate Republican leadership's Superfund Cleanup Acceleration Act of 1997, or S.8.

S.8, part of a package of 10 legislative priorities introduced early in the 105th Congress, stops short of

completely repealing Superfund's imposition of retroactive liability (BI, Feb. 10).

Retroactive liability repeal has been long sought by risk managers and insurers, who say it is unfair to subject parties to retroactive liability for dumping done legally when it occurred.

Although Sen. Smith said again during last week's hearing that he favors repealing Superfund's retroactive liability, S.8 calls instead for more modest reforms, such as removing certain co-disposal sites, such as municipal landfills, from Superfund's liability regime.

S.8 also would determine liability for cleaning up multi-user sites through a system of binding allocation rather than the current system of joint and sev-

See Superfund on page 27

Efficiency vs. fewer options

Benefits of CIGNA HealthCare, Healthsource deal debated

By JUDY GREENWALD

PHILADELPHIA—The combination of CIGNA HealthCare and Healthsource Inc. will offer employers service in more geographic areas, cost efficiencies and stronger negotiating power with providers, many consultants say.

But at the same time, some benefit consultants warn the consolidation represents yet another reduction in the number of health plan options available to employers.

Under terms of a definitive agreement reached last month, CIGNA Corp. agreed to pay \$21.75 per share in cash for all outstanding Healthsource shares. The deal will be financed from cash on hand and short- and long-term debt, said a CIGNA spokesman.

CIGNA HealthCare, a division of CIGNA Corp., offers a wide range of group medical, dental, disability and life insurance products in all 50 states. It operates managed care networks in 43

states, including health maintenance organizations in 24 states and Washington, D.C.

About 15 million people receive health benefits from CIGNA HealthCare, including 4.5 million enrolled in HMOs and 1.2 million enrolled in preferred provider organizations.

Healthsource, which has about 870,600 HMO members, operates in 15 states, primarily in the Northeast, the Midwest and the South. Its operations include the

See Health on page 26

Proposed U.K. amendment limits guaranty protection for professionals

By STACY SHAPIRO

LONDON—Proposed amendments to a 1975 U.K. law might prevent North American professionals from recovering 90% of their claims if their U.K.-based insurers become insolvent.

The British government is expected soon to pass into law amendments to the Policyhold-

ers Protection Act 1975. The amendments would close loopholes that allow North American professionals to get their claims paid almost in full from a guaranty fund when British insurers fail.

The amendments to restrict the geographical scope of the act for future claimants were first announced in October 1995 by

Ian Lang, president of the Board of Trade. The changes would not be retroactive and would pertain only to policies written after the amendments become law.

The Policyholders Protection Bill incorporating the amendments was introduced in the House of Commons in December, but it already has gone through
See Protection on page 21

Inside

• New York officials are confident that surcharges on various health care bills in the state will survive court tests. **PAGE 6**

• Congressional proponents of Superfund reform should not have to start over, one of this week's editorials says. **PAGE 8**

• France's \$3.46 billion bailout of GAN will help pave the way for privatization of the company. **PAGE 19**

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Business Insurance (ISSN 0007-6864) Vol. 31, No. 8, is published weekly by Crain Communications Inc., 740 N. Rush St., Chicago, Ill. 60611-2590. Periodicals postage is paid at Chicago and at additional mailing offices. POSTMASTER: Send address changes to Business Insurance, Circulation Department, 965 E. Jefferson Ave., Detroit, Mich. 48207. \$4 a copy and \$87 a year in U.S. \$105 in Canada and Mexico (includes GST). All other countries \$205 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 0293512, GST No. 136760444. Printed in U.S.A. Copyright 1997 by Crain Communications Inc.

ADR helps contain costs

By SALLY ROBERTS

Integrating alternative dispute resolution procedures into a larger workplace anti-discrimination and harassment program further decreases the chance of workplace disputes exploding into giant jury awards or settlements.

Such courtroom alternatives as arbitration, which uses an impartial third party to make a final and binding determination, and mediation, which uses an impartial third party to assist the parties in reaching a settlement, are quicker, more private and less expensive ways for employers to solve

employee grievances, observers say.

Moreover, such internal ADR programs as internal mediation and open-door policies, which encourage employees to meet with supervisors to discuss workplace disputes, are a way employers can intervene early and potentially solve problems before they escalate to the point requiring formal mediation or arbitration.

Together, these ADR procedures should be integrated into an employer's overall anti-harassment and anti-discrimination program, which should be based largely on training and education (*BI*, Dec. 23/30, 1996), consultants advise.

"The trend to integrate the internal with the external into a comprehensive plan...that's the cutting edge," said Karl Slaikeu, president of Chorda Conflict Management Inc., an Austin, Texas-based consulting group that works with risk managers to implement alternative dispute programs.

Many employers make the mistake by having their "main emphasis on outside mediation," Mr. Slaikeu said. "It's early intervention and prevention through training that helps" employers avoid large public discrimination and harassment cases.

Risk managers "realize how high the See Arbitrate on page 25

Doing justice to ADR

An employment alternative dispute resolution program should include:

- A fair method of ADR cost-sharing between the employer and employee
- An explanation of the nature of claims covered under ADR
- Notice of an employee's right of representation
- Information on the qualifications and number of arbitrators
- All the remedies and relief available through the courts
- Clear statement that employee can still file a complaint with a federal, state or other governmental administrative agency

Source: The American Arbitration Association's Resolving Employment Disputes: A Practical Guide

GRAPHIC BY ADAM DOI

Hospital study's data challenged

Michigan employers stymied in attempt to compare quality

By ROBERT KAZEL

LANSING, Mich.—When benefit managers representing the three largest employers in the Lansing, Mich., area set out to compare local hospitals nearly two years ago, few could have suspected that it would spark a controversy that still is smoldering.

The three benefit plan sponsors—General Motors Corp., the State of Michigan and Michigan State University—had hoped that analyzing the cost and quality of health care would help the region's employers make informed health care decisions and help deflate their health care budgets.

But sometimes the best-laid plans lead to loggerheads. The hospitals under scrutiny and the employers that paid for the study have stopped discussing a proposed second study.

The debate over the "hospital performance profile" commissioned by the three large employers centered on data. Because it was the source of information most easily available to them, the employers pooled their own Blue Cross & Blue Shield of Michigan claims-payable data and hired a consultant to analyze it for six area hospitals. The employers forged ahead knowing it wasn't a perfect approach.

"We wanted better data, (but) frankly, getting good data is almost impossible," said Keith Groty, assistant vp for human resources of Michigan

State and chairman of the Capital Area Health Alliance. The Okemos, Mich.-based buyers coalition helped the three leading employers plan the study.

"I think all three of us felt it was a good study," said Kevin D. Anderson, director of health care initiatives at Detroit-based GM. "If the goal is to have perfect information, it will never exist."

In March 1996, when the employers provided the hospitals the results of the study, some of the hospitals were displeased. In particular, the largest facility, Sparrow Hospital, argued that the findings should be withheld from the public because they are useless. Sparrow ranked as the second-best value based on quality and cost, behind its chief competitor, Michigan Capital Medical Center.

"We asked for a second study, one that was not as severely flawed," said Howard Campbell, director of health information management for Sparrow.

The other hospitals involved in the study did not either strongly oppose or support it, except for Michigan Capital, which wanted the study released.

Sparrow executives argued that relying on claims data tends to overlook differences in case severity, socioeconomic factors and underlying medical conditions. In this case, it also excluded all patient data

See Hospitals on page 25

Syndicate failures lead IIE to seek help from regulators

By MEG FLETCHER

CHICAGO—The Illinois Insurance Exchange is looking to the state Legislature for help in restoring its credibility and stability after a third syndicate insolvency in the past eight months.

The Chicago-based exchange is asking the Legislature to increase the Illinois Insurance Department's oversight, which means modifying 1979 enabling legislation that has allowed the exchange to operate largely independently since it began in 1981.

It remains to be seen, though, whether the IIE's willingness to trim its own wings will encourage

brokers and buyers to seek coverage there.

"The (proposed) regulation seems like it could only be a positive step," said Scott Weicholz, the Coral Gables, Fla.-based chief operating officer of both Britamco Underwriters Inc., an IIE syndicate, and Preferred National Insurance Co.

However, he asked, "You can have all the regulation in the world, but if you don't have the business coming in, what good is it? The IIE's future is contingent on its ability to attract major syndicate members, which will allow it to resume writing in California and Texas," which are important

surplus lines markets.

Mr. Weicholz's companies write about \$60 million in gross premiums year for commercial multi-peril and other liability risks.

Executives there decided to accede to the repeated requests of independent agents and write all new business beginning March 1 through Preferred National rather than through the IIE syndicate Britamco. At the same time Britamco also voluntarily withdrew from writing new or renewal business in California.

However, the company does plan to continue as an IIE member and service Britamco policies

See Resure on page 21

Buyers find growing need for alternative solutions

Market changes aiding Bermuda

By PAUL D. WINSTON

SOUTHAMPTON, Bermuda—Bermuda is well-positioned to take advantage of changes taking place in the commercial insurance industry, a panel of experts agrees.

Those changes, which affect the competitiveness of all insurers, include consolidation, securitization, regulatory reform and more complex risk financing needs of buyers.

"Bermuda offers freedom and expertise and customer focus to deliver specialized products that other markets can't," said Dennis Chookaszian, chairman and chief executive officer of CNA Insurance Cos. of Chicago.

"We have a major commitment

to Bermuda, from both Aon and A&A, to place insurance, reinsurance and finite risk products," said Patrick Ryan, chairman and CEO of Aon Group Inc. of Chicago, which in December made a deal to acquire Alexander & Alexander Services Inc. (*BI*, Dec. 16, 1996). "We bring \$500 million of premium to the Bermuda marketplace," he said, noting that Bermuda offers good underwriters and capital unfettered by excessive regulations and the past problems of the industry.

"The ability of the Bermuda market to react quickly—and with fewer bureaucratic hurdles—offers advantages," Mr. Ryan said. "The ability to be creative is what's fun, and the Bermuda market enables this more than heavily

regulated markets."

Buyers also like Bermuda because it supports the ability to devise their own solutions, said Geoff Saunders, chairman and CEO of Strategic Risk Management Ltd. in Windsor, England. Bermuda's Centre Reinsurance Co. has a majority stake in SRM and helped in the recent launch of Mining Insurance Ltd., a mutual insurer in Bermuda designed to meet the specialized needs of the mining industry worldwide (*BI*, March 3). Mr. Saunders previously was risk manager for mining company RTZ Corp. P.L.C.

The three discussed the trends affecting Bermuda and the insurance industry in general during a session at the Bermuda Insurance Symposium III, held Feb. 18-21 in Southampton, Bermuda.

One development in which

See Bermuda on page 11

Structural shifts boost capital demand

Markets' role to increase, exec says

By PAUL D. WINSTON

SOUTHAMPTON, Bermuda—Capital markets will play an increasing role in risk financing as structural changes in the insurance market create demand for more capital than the insurance industry can provide, forecasts an innovator in financial futures.

"One of the conditions that generally happens to cause a market to be born...is some ma-

major structural change.

"That structural change occurs and you take a look at the capital of a business and ask if that structural change can be accommodated by the existing capital," said Richard L. Sandor, chairman and chief executive officer of Centre Financial Products Ltd., an affiliate of Centre Reinsurance Co. that has accepted an offer to be acquired by CNA Financial Corp. (*BI*, Jan. 20).

The structural changes affecting the insurance industry, he said, include a shift in demographics as the population migrates to the nation's coastal areas, especially California, Florida and Texas.

This shift has led to increased property values in these areas.

As a result, tens of trillions of dollars of property values and gross domestic product are pro-

tected by "a couple hundred billion dollars" of insurance capacity, Mr. Sandor said.

"Is that enough?" he asked.

Another structural change is an apparent increase in the frequency and severity of natural catastrophes.

"I've been studying this market for 10 years, and in the last 10 years, every year I've seen and am told there's been a one-in-

100-year event," he said. "We had the 'storm of the century' a couple years ago in New York, and last year we had a bigger storm of the century."

As a result of these changes, the "value at risk" in the industry is much greater today than in the past, according to Mr. Sandor, who spoke during a session at the Bermuda Insurance Symposium III, held Feb. 18-21 in Southampton, Bermuda.

There are several efforts under way to bridge the gap

See Capital on page 12

Bermuda Insurance Symposium III

Bermuda Insurance Symposium III

Benefit managers adopting new roles

Increased use of technology reshaping benefit departments

By MICHAEL PRINCE

Benefit managers who want to advance—or simply remain—in their current roles must learn to focus on business strategy rather than mere administrative functions.

Increased use of technology has changed the role of the benefit manager, and in many cases eliminated many of the traditional functions and jobs performed by corporate benefit departments.

"It's not only changing the role of benefit administrators and benefit managers, but at times also eliminating the job," said John McGlone, di-

rector of participant services for Buck Consultants Inc. in Secaucus, N.J.

To what degree technology affects benefit administrators depends on their position in the department. For those whose job is related to benefit management, "clearly technology will have an impact on their job," said Mark Maselli, principal with The Kwasha Lipton Group of Coopers & Lybrand HRA in Fort Lee, N.J.

Among mid- to high-level benefit executives, "the role of the manager changes fundamentally," added Dennis Steckler, technology initiative leader for Tillinghast/Towers Perrin in Chicago. "They have to become

aware of the technology and have to become more strategic in their thinking."

Those who primarily perform administrative functions may have their jobs eliminated. "To the extent that all they do is answer questions and collect forms, they will have to find something else to do," he said, adding, though, that only a small percentage of benefit professionals are in this situation.

"The transaction side of the benefit house is what's being affected the most," agreed Don Duckworth, president and managing director of Johnson Smith & Knisley, an executive recruiter in Atlanta.

Senior management is driving the changes, experts said. Companies are "looking for ways to leverage technology to perform the same job with

fewer people and more efficiency," Mr. McGlone said. Companies want their benefits departments to cut costs and evolve from a money-draining area to one that adds value to the company's overall strategy.

Changing the function of benefit departments is part of many companies' plans to enlist every business unit in meeting their strategic goals.

"Human resources is going to be focused on value-added functions rather than providing administration to run programs," said Don Bobo, vp and managing director of MetSource, a division of Metropolitan Life Insurance Co. in Southfield, Mich. "Benefits people are being asked to come to the business strategy table now, rather than just administer the programs," he said.

"If it's not a strategic piece of their

business focus, it's subject to being re-engineered in order to lower costs," added Tillinghast/Towers Perrin's Mr. Steckler.

Companies are using a variety of new types of technology to take over benefit administration tasks. Perhaps the most common are call centers that let employees dial a toll-free number and, using push-buttons, get questions answered or perform numerous benefit functions. A 1996 survey by Buck Consultants shows that 76% of 401(k) plan sponsors in 1996 used a call system for plan administration, up from 35% in 1993.

One of the older technologies is document imaging, which permits benefit documents to be scanned into computers. In the computer, the forms can be routed to the proper people and accessed by whomever needs them.

Kiosks are another type of technology. They are a station at the company with a direct computer link to outside benefits suppliers and allow employees to transact numerous functions concerning their benefits.

The newest and maybe fastest-growing technology is the Internet and intranets—computer networks only accessible by a company's employees and other designated people. And while employers have just recently started to use them, they are growing rapidly. In essence, it's similar to the call system but with a screen for viewing documents, making it easier to use. It can be used to answer employees' questions and to perform benefit functions, such as changing 401(k) plans or altering the number of dependents enrolled in the health insurance plan.

In a survey released last month by Watson Wyatt Worldwide, 27% of 323 companies surveyed have implemented an Internet or intranet system. Also, 57% said they plan to use intranets for human resource purposes next year. Of those companies that currently use intranets, 60% said they plan to add additional applications within six months (BI, Feb. 24).

The survey also shows that using an intranet changes the role of the benefits department. "Many organizations are now on their way to successfully achieving the vision of

See Benefits on page 6

SOME RISKS CAN ONLY BE HANDLED BY AN EXPERT. THAT'S WHY YOU NEED A HORSE OF A DIFFERENT COLOR.



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Captive directory deadline approaching

Business Insurance will publish its annual directory of captive insurance company management companies in the April 14 issue, which also will contain a Spotlight report on domestic and foreign captive domiciles.

To be listed, organizations must complete a questionnaire that includes a section for being listed in the directory of alternative risk financing facilities and the directory of rent-a-captives. These directories will be published in the May 19 issue.

If your company provides captive insurance company management services, manages an alternative risk financing facility or offers rent-a-captives, and you have not yet received a questionnaire, please request one from Assistant Directory Editor Rich Trout at 312-649-5483.

March 19 is the extended deadline for returning questionnaires.

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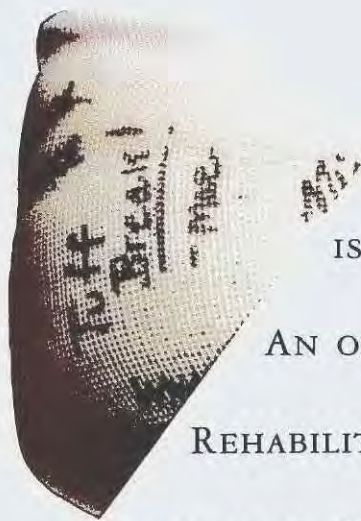
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Benefits

Continued from page 4

Virtual HR—paperless, self-service human resources—that allows HR to focus less on administration and more on recruiting and retaining the best people, and on making employers more productive,” the survey concluded.

The high costs of buying and maintaining these systems leads to outsourcing of benefit functions. Rather than devoting money to buy and upgrade the sophisticated technology, companies turn to outsourcing firms to run parts of their benefit operation. Outsourcing firms use the latest technology and use it cost-effectively because the costs are spread over many clients.

Through outsourcing, companies can reduce costs, focus the benefits department on strategic thinking and use the outsourcing firm's technology

and expertise, said Mr. Bobo of Met-Source.

Outsourcing has led to staff reductions for benefit departments. A 1996 Buck Consultants survey shows that “the average number of human resource staff reported prior to outsourcing was 29. After the implementation of outsourcing, the average dropped to 16.” For benefit departments, the number dropped to six from nine after outsourcing.

Despite the rapid changes, all is not hopeless for benefit managers. With the elimination of administrative functions, those who remain must adopt strategic thinking, the experts said. After all, that was the main purpose of using the new technology: to free the benefit administrators from mundane administrative work so they could think about strategy.

“Benefit managers today must design, develop and deliver benefits to employees in a way that furthers the business goals of the company,” Mr.

Bobo said.

“Being a businessperson first and a benefits person second is the key to survival,” he adds.

And even if many functions are outsourced, “someone needs to manage the whole process,” said Mr. Maselli of Kwasha Lipton.

Because of the new role of benefit managers, companies are looking for people with broader skills than just benefit administration, Mr. Duckworth said.

The new candidates “do not reflect the transactional mind-set of the past,” he said. “They reflect a skill set and a number of functions outside of benefits” that include accounting, law, finance and taxes.

Opportunities exist for benefit administrators with outsourcing firms and with companies that are creating the next generation of technology. Because of many skills benefit managers have—including interpersonal and listening skills, oral and written com-

munication skills and problem-solving ability—they can easily be redeployed to a different department in a company.

But to make the transition successfully, whether it's becoming a benefit administrator with a different company or changing departments within the same one, benefit managers need to take command of their careers and make preparations for a switch, said Mr. Steckler.

“For those who take that turn, they can become very successful,” he said. “For those who actually take it on, they grow.”

Preparing both personally and professionally, he said, is the best way to make the transition. This includes accepting the pain that comes with change and also learning new skills to become marketable.

Those who do not adapt to their new environment or find new jobs “are dinosaurs,” Mr. Duckworth said. “They are quietly going away.” **BI**

N.Y. thinks surcharges will stand

WASHINGTON—New York officials think the state's controversial 1996 law that imposes large surcharges on hospital and other medical care bills will survive court challenges.

The New York law, which applies to group health care plans nationwide, already is the target of two suits that say the law violates an Employee Retirement Income Security Act provision that pre-empts state laws and regulations that relate to employee benefit plans.

But Richard Pellegrini, director of the New York Department of Health in Albany, thinks the law will pass court muster because it is no different from an earlier New York surcharge law that the U.S. Supreme Court ruled ERISA did not pre-empt.

“The state believes it has a strong case,” Mr. Pellegrini said in Washington last month at a conference sponsored by the Self-Insurance Institute of America.

“We believe (the 1996 law) is no different than *Travelers*,” Mr. Pellegrini said, referring to the 1995 Supreme Court decision rejecting a challenge—on ERISA pre-emption grounds—to the earlier New York law that imposed a 13% surcharge on hospital rates but exempted Blue Cross & Blue Shield plans from the surcharge.

The new law, which went into effect Jan. 1, dismantled the old system under which the state set hospital rates. Employers and insurers are free to negotiate rates directly with hospitals.

In place of the prior 13% surcharge is a new system of surcharges and fees.

The basic surcharge is 8.18% for those plans that agree to directly pay the surcharge to a state health care pool administrator; employers with workers living in New York are liable for an additional assessment, with the amounts varying by where in New York their employees live.

Employers that missed a Dec. 2 deadline to elect to pay the surcharges directly to the pool administrator have been liable since Jan. 1 for surcharges that can be as much as 57.27% of hospital and laboratory bills their employees incur in New York.

Employers that missed the deadline and wanted to qualify for the lower surcharge rates had until March 3 to file the necessary application agreeing to pay the lower surcharges directly to the pool administrator. The next filing deadline is June 2 and would apply for bills incurred on or after July 1.

About 30,000 employers, insurers and other health care payers have filed applications to pay surcharges directly to the pool administrator, Mr. Pellegrini said. About 19,000 of those applications have been validated with the names of those payers now listed on the Department of Health's World Wide Web site.

Mr. Pellegrini said the state has tried to be “magnanimous” in dealing with employers and insurers in trying to correct mistakes on applications so their plans can qualify for the Jan. 1 deadline for the lower surcharge.

—By Jerry Geisel

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Opinions

Square one not the answer

HERE WE GO AGAIN.

There has been one hearing on the chief Senate Superfund reform bill, and the Clinton administration already is digging in its heels and is refusing to support even modest liability reform, let alone repeal of the controversial environmental cleanup program's imposition of retroactive liability.

Instead, the administration wants reformers to go back to square one.

Environmental Protection Agency Administrator Carol Browner said as much last week during an appearance before the Senate panel charged with drafting Superfund reauthorization. She asked the senators to "get everyone together, pull out a blank sheet of paper and draft a Superfund reform bill that recognizes the progress that we've made, addresses the remaining problems and sets the program on the right course for the future."

That's exactly the wrong course for reform.

Reformers have been forced to go back to square one too many times as the last two Congresses proved unable to pass any sort of Superfund reauthorization bill.

Pro-reform forces repeatedly have proved willing to compromise in order to reach consensus with the administration, only to have the administration trot out its tired jibe that liability reform is little more than "letting polluters off the hook." We can certainly sympathize with Sen. John Chafee's polite request that Ms. Browner take that phrase, "bottle it and throw it away."

The idea that it's time to grab a blank piece of paper and draft a brand-new Superfund bill also ought to be thrown out as quickly as possible. Congress has wres-



tled with Superfund for far too long as it is. To start all over again would guarantee nothing except an even longer wait for reauthorization and reform.

Instead of reaching for the blank sheet of paper, supporters of reform ought to make clear that the Senate bill embodies the *minimum* degree of liability reform they will accept. Further reforms can and should be incorporated as the reform effort passes to square two, three and beyond. That offers the only possible chance that the next Congress won't be debating the same tired issues and listening to the same tired phrases come 1999.

Put pension reform in fast lane

NEARLY EIGHT YEARS AGO, the Assn. of Private Pension & Welfare Plans, an employer lobbying group, began the drive for pension simplification with a public policy paper recommending many changes to end what the group described as pension gridlock.

After numerous setbacks, many of the group's pension simplification recommendations were incorporated as part of broader legislation Congress passed in 1996.

Those changes, including an easier way to run the basic 401(k) plan non-discrimination tests, are only a first installment in making pension rules fairer and more logical, the APPWP says.

We couldn't agree more. Even after the passage of last year's simplification package, pension rules remain far too complicated and, in many cases, illogical.

The APPWP's new simplification package, which the group released last month (*BI*, Feb. 24), certainly is a step in the direction of common sense.

Take, for example, the group's recommendation to allow employees at least 50 years old to make an additional \$5,000 in annual contributions above the current \$9,500 limit to 401(k) or other salary-reduction plans.

It would be nice if younger employees—those in their 20s and 30s—could make large contributions to 401(k) plans so the contributions could earn interest over an extended period of time.

But the fact is many younger employees simply

don't make enough money or have too many other financial responsibilities, such as paying off loans for their education, to contribute very much to their savings plans.

But, by the time employees reach 50, they often are at their maximum earning power. That is when they may have extra cash and are better able to make higher contributions to their 401(k) plans and ultimately have more savings for their retirement.

The APPWP also recommends that federal rules be amended so that employers can take advantage of technological leaps and be allowed to distribute certain pension plan documents, such as summary plan descriptions, electronically when there is ready access to those technological tools.

That makes perfect sense to us. Paper documents always should be available to those requesting them. But why should employers spend tens of thousands, if not hundreds of thousands of dollars, on paper booklets if employees have immediate access to those kinds of documents through online networks, such as corporate intranets? We'd much rather see companies use dollars on improving benefits than spend a small fortune printing benefit booklets for all employees when alternative—but just as accessible—means of distributing the information are available.

These and other APPWP recommendations will continue the drive for simpler, more logical pension rules. We hope this time, though, it doesn't take Congress seven years to enact them.

Letters to the editor

Business Insurance welcomes letters to the editor. The section is intended to be a forum for readers' opinions and comments. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters. Please send your letters to Letters to the Editor, *Business Insurance*, 740 N. Rush St., Chicago, Ill. 60611; fax: 312-280-3174; e-mail: pwinston@crain.com

BI editorials on the Web

Business Insurance is expanding its online content with the inclusion of our weekly editorial opinions. Beginning this week, readers will find the same opinions appearing on this page before their issues arrive. Look to www.businessinsurance.com/opinions/ for BI's editorials on hot issues in risk management and employee benefits. New editorials will be posted after business hours every Thursday.

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SUBSCRIPTIONS: Detroit: 800-678-9595

Business Insurance is published by Crain Communications Inc.

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Published weekly at 740 Rush St., Chicago, Ill. 60611-2590, Fax 312-280-3174, E-Mail 76735.3045@CompuServe.com, Cable CRAINCOM. Offices: 220 E. 42nd St., New York, N.Y. 10017-5806, Fax 212-210-0704, CRAIN COM NYK; Suite 114, 8950 N. Central Expressway, Dallas, Texas 75231; Fax 214-696-1936; Suite 814, National Press Building, Washington, D.C. 20045-1801; Fax 202-638-3155; 6500 Wilshire Blvd., Suite 2300 Los Angeles, Calif. 90048-4947; Fax 213-655-8157; 967 Bermuda Court, Sunnyvale, Calif. 94086-6750, Fax 408-774-1155; New Garden House, 78 Halton Garden, London EC1N 8JQ England, Fax 171-457-1440; 8157 N. Torrey Way, Tucson, Ariz. 85743, Fax 520-579-3476. \$4 a copy and \$87 a year in U.S. \$105 in Canada and Mexico (includes GST). All other countries \$205 a year (includes expedited air delivery). DAVE KELLEY, circulation manager. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, *Business Insurance*, 965 E. Jefferson Ave., Detroit, Mich., 48207-3185, or phone 800-678-9595 or 313-446-0450. Fax 313-446-6777. Microfilm copies are available from University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48103. Microfiche copies available: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For information and rates to reproduce in general circulation media, contact: JOSEPH P. HANLEY, Crain News Service, 220 E. 42nd St., New York, N.Y. 10017-5806, 212-254-0890. For reprints or reprint permission contact: KAREN BROWN TUCKER, *Business Insurance*, 740 N. Rush St., Chicago, Ill. 60611-2590, 312-649-5319, Fax 312-280-3174.

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Updates

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

RIMS gears up to push liability reform in 1997

By MARK A. HOFMANN

NEW YORK—The Risk & Insurance Management Society (RIMS) plans to push for broad-ranging liability reforms at both the state and federal level after Congress and state legislatures convene later this month.

But in addition to pursuing such traditional goals, the risk management group also plans to give emphasis to certain issues not usually prominent on RIMS' agenda, such as health care and pension reform.

Issues that retain their longstanding spots at the top of RIMS' agenda this year include reform of Superfund's polluter cleanup liability system, creating uniform standards for product liability and reforming the operations of the Occupational Safety and Health Administration.

"I don't see any big change in RIMS' wish list," said Louis J. Drapeau, RIMS president. "The same kinds of things we've been working on for the past several years will keep plugging away at it," said Mr. Drapeau, who is also managing insurance and risk management for The Budd Co., a Troy, Mich.-based automotive parts supplier.

"Obviously, we're going to Superfund reform and attention of the leadership of the members," said Louis J. Drapeau, RIMS' director of government relations. "And we still have a lot of work to do on the pollution cleanup liability system, creating uniform standards for product liability and reforming the operations of the Occupational Safety and Health Administration."

Mellon Bank

By ROBERT KAZEL

NEW YORK—Ending months of speculation, Bankers Trust Corp. has agreed to be acquired by Pittsburgh-based Mellon Bank Corp., marking the first time a financial services company has bought a major bank since Citicorp's purchase of First City Bancorp in 1995.

The purchase is expected to create a major financial services company, with a combined assets of \$1.2 trillion. The deal is expected to close in the next few weeks.

AT&T is the largest shareholder in Bankers Trust, which has a market value of \$1.2 billion. Mellon Bank has a market value of \$1.2 billion.

RIMS state watch

Among the issues that are being tracked by RIMS are:

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Make contact *before* the gathering begins as these executives turn to our RIMS Preview issue for an advance look at the meeting's hottest topics — and the best Atlanta has to offer. Network *during* the conference as they browse through our Directory of Captive Managers and peruse the accomplishments of the 1997 Risk Manager of the Year. Follow up *after* RIMS when our post-conference Reports on Employee Benefits/Workers Comp and Risk Management sessions are widely-read.

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RIMS Preview

Publishing: April 7 ■ Closing: March 26

Captives/Risk Manager of the Year

Directory: Captive Managers
Publishing: April 14 ■ Closing: April 2
Distribution: NMHCC, RIMS

RIMS Report: Employee Benefits & Workers Comp

Publishing: April 21 ■ Closing: April 9

RIMS Report: Risk Management

Publishing: April 28 ■ Closing: April 16

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Listings omitted from directory of TPAs

The following companies were omitted from the Feb. 17 directory of third-party administrators specializing in both property/casualty and benefit claims:



Harrington Services Corp.
3401 Morse Crossing, Columbus, Ohio 43219; 614-470-7000; fax: 614-470-7086

1996 revenues	
Total	\$302,000,000
Claims revenue	\$100,015,000
Claims administration	80%
Claims auditing	20%
Claims business by type	
Disability	1%
Flexible benefits	3%
Health insurance	86%
Life	1%
Pensions	4%
Workers compensation	5%
Claims business by volume	
Administration claims paid	\$2,001,000,000

Clients	
Total	924
Association plans	10
Corporations	622
Multiemployer plans	188
MEWAs	4
Public/government entities	95
Union-sponsored plans	5
Staff	
Total	1,450
Claims services	1,160

Claims services since: 1954.
Parent: Health Plan Services.
Service area: Nationwide.
Branch offices: Administrative offices in El Monte, Calif.; Tampa, Fla.; Framingham, Mass. Sales offices in San Bernardino, Calif.; Marlborough, Conn.; Atlanta; Chicago; Shreveport, La.; Joplin, Mo.; Dayton and Youngstown, Ohio; Oklahoma City; Memphis, Tenn.; Irving, Texas.
Subsidiaries: American Benefit Plan Administration; Consolidated Benefit Services, Third Party Claims Management.
PPO access.
Officers: William Bennet, chairman-Health Plan Services; Robert Parker, chairman-Harrington Services Corp.; Ned Lucco, president/COO-Harrington Services Corp.; Ken DiBella, president/CEO-Harrington Benefit Services Group.
Contact: Caryl Cubertson, vp-sales/marketing.

Hewitt, Coleman & Associates Inc.
P.O. Box 5500, Greenville, S.C. 29606-5500; 864-240-5800; fax: 864-232-8824

1996 revenues	
Total	\$6,750,000
Claims revenue	\$5,300,000
Claims administration	100%
Claims business by type	
Automobile	5%
General liability	5%
Health insurance	15%
Workers compensation	75%
Claims business by volume	
Administration claims paid	\$48,300,000
Clients	
Total	245
Association plans	3
Corporations	225
Public/government entities	17
Staff	
Total	73
Claims services	73

Claims services since: 1923.
Service area: Nationwide.
Branch offices: Administrative offices in Birmingham, Ala.; Little Rock, Ark.; Orlando, Fla.; Norcross, Ga.; Indianapolis; Jackson, Miss.; St. Louis; Greensboro and Raleigh, N.C.; Nashville, Tenn. Sales office in Lucerne, Ky.
PPO access.
Officers: Charles R. Warne, president; Mitzi Helton, vp-finance; Richard Hurley, vp.
Contact: Charles Warne.

The following were omitted from the directory of TPAs specializing in property/casualty claims:



Mack & Parker Inc.
55 E. Jackson Blvd., Chicago, Ill. 60604; 312-922-5000; fax: 312-922-5358

1996 revenues	
Total	\$10,101,000
Claims revenue	\$1,000,000
Claims administration	99%
Claims auditing	1%
Claims business by type	
General liability	20%
Professional liability	5%
Property damage	5%
Workers compensation	70%
Claims business by volume	
Administration claims paid	\$3,000,000
Auditing projects conducted	1
Clients	
Total	4
Association plans	2
Public/government entities	2
Staff	
Total	100
Claims services	8

Claims services since: 1995.
Service area: Nationwide.
Branch offices: Administrative office in Albuquerque, N.M.
PPO access.
Officers: Edward E. Mack III, chairman; Martin P. Hughes, president; Veronica E. Campbell, CFO.
Contact: Martin P. Hughes; Jay Odice, Fred Mederwaldt, vps.

Peter J. McBreen Associates Inc.
20 N. Wacker Drive, Suite 2520, Chicago, Ill. 60606; 312-332-4307; fax: 312-332-2657

1996 revenues	
Total	\$2,500,000
Claims revenue	\$1,650,000
Claims administration	45%
Claims adjusting	45%
Claims auditing	10%
Claims business by type	
General liability	50%
Property damage	20%
Other	30%
Claims business by volume	
Administration claims paid	\$10,000,000
Auditing projects conducted	2
Clients	
Total	60
Corporations	30
Public/government entities	30
Staff	
Total	35

McLarens Toplis North America Inc.
233 S. Wacker Drive, Suite 2420, Chicago, Ill. 60606-6308; 312-648-1300; fax: 312-454-1588

1996 revenues	
Total	\$28,000,000
Claims revenue	\$9,000,000
Claims administration	35%
Claims adjusting	60%
Claims auditing	5%
Claims business by type	
Automobile	10%
General liability	40%
Inland marine	10%
Professional liability	10%
Property damage	15%
Workers compensation	5%
Other	10%
Claims business by volume	
Administration claims paid	\$150,000,000
Auditing projects conducted	60
Clients	
Total	202
Corporations	85
Public/government entities	117

Claims services since: 1918.
Service area: Nationwide.
Branch offices: Administrative offices in Los Angeles; Atlanta; New York.
Subsidiaries: Henry Eagleton Marine Claims; McLarens Toplis Inc.
Officers: Ian Winchester, chairman; F.D. Raddcliff, vice chairman; James V. Ebel, president/CEO; Joseph Dotoli, COO; Nigel Griffey, CFO.
Contact: Richard E. Gray, 800-880-2219.

Meadowbrook Claims Service
26600 Telegraph Road, Southfield, Mich. 48034-2438; 810-358-1100; fax: 810-358-3251

1996 revenues	
Total	\$10,000,000
Claims revenue	\$8,000,000
Claims administration	100%
Claims business by type	
Automobile	2%
Bonds	2%
General liability	35%
Inland marine	2%
Professional liability	4%
Property damage	5%
Workers compensation	50%
Claims business by volume	
Administration claims paid	\$110,000,000
Clients	
Total	68
Association plans	42
Corporations	17
Public/government entities	9
Staff	
Total	150
Claims services	103

Claims services since: 1980.
Parent: Meadowbrook Insurance Group.
Service area: Nationwide.
Branch offices: Administrative and sales offices in Montgomery, Ala.; Overland Park, Kan.; Grand Rapids, Mich.; Bloomington, Minn. Administrative office in San Jose, Calif.
PPO access.
Officers: Don Fisher, executive vp; Robert Cubbin, senior vp/general counsel; Thomas Tucker, senior vp; Melanie Elias, vp; Mike Cascone, vp-loss control.
Contact: Don Fisher, 810-204-8091.

CAPTIVES:



"and they said we wouldn't last."

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Contact: Paul J. McBreen, Chicago, 312-332-4307; Brian McBreen, Los Angeles, 310-410-0933; Charles M. Bowman, New Jersey, 201-377-8834; Joseph S. Kiesowski, Kansas, 913-681-8730.

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P.O. Box 419013, Kansas City, Mo. 64141-6013; 800-423-9044; fax: 816-472-5018

1996 revenues	
Total	\$2,500,000
Claims revenue	\$2,500,000
Claims administration	98%
Claims adjusting	1%
Claims auditing	1%
Claims business by type	
Automobile	5%
General liability	15%
Inland marine	2%
Professional liability	4%
Property damage	1%
Workers compensation	73%
Claims business by volume	
Administration claims paid	\$8,500,000
Auditing projects conducted	2
Clients	
Total	475
Association plans	12
Corporations	401
Public/government entities	62
Staff	
Total	85
Claims services	22

Claims services since: 1987.
Service area: Midwest.
PPO access.
Officers: Larry Kaminsky, Charlie Kaufmann, Eugene Klein, Jerry Reardon.
Contact: Ed Treadwell.

McLarens Toplis North America Inc.
233 S. Wacker Drive, Suite 2420, Chicago, Ill. 60606-6308; 312-648-1300; fax: 312-454-1588

1996 revenues	
Total	\$28,000,000
Claims revenue	\$9,000,000
Claims administration	35%
Claims adjusting	60%
Claims auditing	5%
Claims business by type	
Automobile	10%
General liability	40%
Inland marine	10%
Professional liability	10%
Property damage	15%
Workers compensation	5%
Other	10%
Claims business by volume	
Administration claims paid	\$150,000,000
Auditing projects conducted	60
Clients	
Total	202
Corporations	85
Public/government entities	117

Claims services since: 1918.
Service area: Nationwide.
Branch offices: Administrative offices in Los Angeles; Atlanta; New York.
Subsidiaries: Henry Eagleton Marine Claims; McLarens Toplis Inc.
Officers: Ian Winchester, chairman; F.D. Raddcliff, vice chairman; James V. Ebel, president/CEO; Joseph Dotoli, COO; Nigel Griffey, CFO.
Contact: Richard E. Gray, 800-880-2219.

Meadowbrook Claims Service
26600 Telegraph Road, Southfield, Mich. 48034-2438; 810-358-1100; fax: 810-358-3251

1996 revenues	
Total	\$10,000,000
Claims revenue	\$8,000,000
Claims administration	100%
Claims business by type	
Automobile	2%
Bonds	2%
General liability	35%
Inland marine	2%
Professional liability	4%
Property damage	5%
Workers compensation	50%
Claims business by volume	
Administration claims paid	\$110,000,000
Clients	
Total	68
Association plans	42
Corporations	17
Public/government entities	9
Staff	
Total	150
Claims services	103

Claims services since: 1980.
Parent: Meadowbrook Insurance Group.
Service area: Nationwide.
Branch offices: Administrative and sales offices in Montgomery, Ala.; Overland Park, Kan.; Grand Rapids, Mich.; Bloomington, Minn. Administrative office in San Jose, Calif.
PPO access.
Officers: Don Fisher, executive vp; Robert Cubbin, senior vp/general counsel; Thomas Tucker, senior vp; Melanie Elias, vp; Mike Cascone, vp-loss control.
Contact: Don Fisher, 810-204-8091.

Claims services since: 1958.
Service area: Nationwide.
Charges: Administration/adjusting/auditing: \$60 to \$95 per hour.
Branch offices: Administrative offices in Los Angeles; Fort Lauderdale, Fla.; Kansas City, Kan.; Madison, N.J.
Officers: Geoffrey P. McBreen, executive vp; Brian T. McBreen, vp; Hugh G. McBreen, secretary; Paul J. McBreen, assistant secretary.
Contact: Paul J. McBreen, Chicago, 312-332-4307; Brian McBreen, Los Angeles, 310-410-0933; Charles M. Bowman, New Jersey, 201-377-8834; Joseph S. Kiesowski, Kansas, 913-681-8730.

Bermuda

Continued from page 3

Bermuda has played a role in the revitalization of Lloyd's of London. Bermuda companies not only have established a competitive presence through branches in the London market but also have invested in several Lloyd's managing agencies, bringing new capital into the market.

"We've invested in Lloyd's because it has enormous talent and needs capital support," said Mr. Ryan. That underwriting talent supports Aon's clients, he noted.

The only potential downside, he said, "is that with so much capital now, I hope they don't start buying market share with our investment."

Competition and market consolidation is on the minds of all players.

"Consolidation makes the market more competitive with more efficiency and greater resources," said Mr. Ryan.

From the underwriter's perspective, there is likely to be an increase in competition for companies that are stronger and more focused, said Mr. Chookaszian. The top 20 insurers in the United States have seen significant consolidation, and more consolidation is likely among the larger companies, as occurred with recent mergers between Travelers Corp.'s and Aetna Casualty & Surety Co.'s property/casualty operations and also between CNA and Continental Corp., he said.

Smaller insurers will fare well in this environment, Mr. Chookaszian predicted.

"Little firms will be flexible and competitive because of specialization," he said. "Medium-sized firms will be challenged and face more consolidation."

"The buyer will welcome specialization. We welcome the ability of global players to concentrate and focus on the needs of the buyers," said Mr. Saunders.

The industry closely watches securitization, which has the potential to deliver even more capital to insurers.

"Hedge Financial demonstrates our own interest in securitization," said Mr. Chookaszian, referring to CNA's pending acquisition of Centre Financial Products, which will be renamed Hedge Financial Products Inc.

"The concept of securitization will change our industry over the next 20 years. We'll see a robust market in insurance-backed securities, much as we've seen the growth of interest rate instruments," he predicted. "But it takes time to form a robust market in intangibles, at least 15 years."

CNA plans for Hedge Financial to take the approximately 30 lines of business the insurer is in and, over the next two years, develop securitized products for each of those groups, he said. "We're going to try and see where it all fits; many won't," he said.

"We're one of the last multiline insurers, which makes CNA a good lab to test these products," Mr. Chookaszian said. CNA also plans to use Hedge Financial to develop instruments that will provide an alternative to reinsurance to create additional capacity, he noted.

The prospect of greater capital markets involvement in the insurance industry does not pose a threat for current players, Mr. Ryan said.

"We don't expect disintermediation or to be replaced by securitization," he said.

"We believe investment banks, not insurers, will lead the move to transfer risk via the capital mar-

the industry is risk managers' expanding view of risk.

Mr. Chookaszian said insurers

'The concept of securitization will change our industry over the next 20 years. We'll see a robust market in insurance-backed securities,' predicts Dennis Chookaszian.

kets," he added.

"It's early and we're seeing a lot of smoke and mirrors, but the smoke is clearing," Mr. Ryan said of securitization of insurance.

Another area of opportunity for

already are positioned to meet the resulting demand for new types of protection.

"Insurers are already in areas such as residual value insurance for automobiles, financial guaran-

tees and sureties," he noted. "As companies put the risk manager in the role to oversee these risks, it's a natural that insurers will respond," he said.

"We use 'risk management' in our vernacular as the exclusive province of our industry. But many commercial banks' definition of risk management is far broader, covering funding risk, currencies, etc.," said Mr. Ryan.

"There is convergence between the two, and if insurers are not prepared to participate, they'll have a limited future," he said.

The panel agreed banks will play a role in insurance, though it may be a limited one.

"One has only to look to Europe and bancassurance to see what's happening," said Mr. Ryan. "It

will be much more competitive, particularly for life insurers," he said.

"I doubt that banks will be an effective market to underwrite property/casualty and pure life insurance products, such as term life. They will be more effective in annuity-type products," said Mr. Chookaszian. He added that he would welcome banks attempting to enter other insurance lines, though, as it would make insurers more competitive in comparison.

A more likely development is mergers among banks and insurers, he said. "They'll buy us; we'll buy them."

Peter Rackley, chairman and CEO of Western International Financial Group of Hamilton, Bermuda, moderated the session. **BI**

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Capital

Continued from page 3

between financial and insurance markets and provide additional capital for that risk.

Mr. Sandor said one example is the Chicago Board of Trade's catastrophe options, launched in 1992 after Hurricane Andrew caused \$15.5 billion of insured damage.

"Like most inventions, you don't get it right the first time," said Mr. Sandor, who helped create the CBOT contracts.

The contract was changed a year ago from one linked to an Insurance

Services Office Inc. loss ratio to one based on an index of cat losses by the Property Claim Services division of the American Insurance Services Group. In addition, contracts were developed based on cat losses in a variety of geographic regions.

In response to the changes, "what was a dormant contract has just reached record open interest this month," he said. With nearly 11,000 contracts, the market for CBOT catastrophe options is "now 50% bigger than pork bellies," he quipped.

Another financial development is the launch of the California Earth-

quake Authority, which Mr. Sandor said he sees as "a bridge between a

Risk-indexed securities are 'understood easily and can be grasped by the capital markets,' says Richard L. Sandor.

commodity trade and a security trade and a move toward a convergence of insurance markets and capital markets."

Mr. Sandor said he disagrees with many observers who view the CEA's decision to purchase \$1.5 billion of reinsurance from Berkshire Hathaway Inc. rather than finance the risk with a bond issue as a failure for securitization of insurance.

In exchange for assuming that portion of the CEA's risk, Berkshire Hathaway's Warren Buffett is likely to more than cover his exposure by investing the premium, according to Mr. Sandor.

He noted that under the CEA program, Berkshire provided \$1.5 billion of capacity for a reported \$590 million of premium. The at-

tachment point is above \$7 billion in homeowners claims for quake damage, and the coverage term is four years.

Looking at the deal from Berkshire's point of view, "you get paid roughly \$600 million, you have the use of the money for four years. And remember: That goes to offset your risk, which is only \$900 million," Mr. Sandor said.

"If you take a look at recent advancements in Berkshire Hathaway stock, in fact, you more than double your premium over a four- or five-year period at a 15% to 20% rate of return," he said.

Indeed, the day after Berkshire Hathaway announced the deal, the company's stock rose, Mr. Sandor added.

In response to a later question from the audience, he acknowledged that his analysis did not address the role underwriting plays in assessing whether to assume such a risk, which he said is a critical component.

Mr. Sandor said that if the Berkshire Hathaway deal were structured as a catastrophe futures trade, it would have represented a million and a half contracts, or open interest three times greater than the current market for the U.S. long-term government bond market, "just to put it in perspective why all these Wall Street muggers are hanging around your business."

But futures are not the ideal structure for many investors that are not in the professional market, due to certain regulatory restrictions and problems of understanding, Mr. Sandor said. Many investors would prefer more convenient instruments, such as fixed-income securities, he said.

As a result, investment banks and insurers are working to develop securities such as equities or bonds that will be attractive not only to other insurers but also to professional money managers.

"How can you translate catastrophe risk into a bond or a security? You adjust either the principal or the interest rate, that's all you really can do. Or you can adjust the duration," he said.

By doing so, the financial markets ultimately "can morph an insurance liability into a capital market instrument and tap into that \$20 to \$30 trillion of capital market instruments," he added.

In searching for where securitization of insurance is likely to lead, Mr. Sandor predicted that some form of risk-indexed securities is where the market is headed. That is because "they are summarized easily, understood easily and can be grasped by the capital markets," he said.

Ultimately, though, it may take years of trial and error before viable insurance securities are widely traded, said Mr. Sandor, who noted it took about 20 years before mortgage-backed securities took off.

"I think these are tremendously exciting times for the insurance business," he said. "I believe that if all of us continue to look at these problems, we will generate more profitability for the industry, and we will be able to efficiently transfer the risk in the same way that foreign exchange risk, interest rate risk, stock index risk has been transferred in other markets."

Mr. Sandor urged the insurance industry not to let securitization and the complex jargon that accompanies it be intimidating.

"The nerds of the world will give you all kinds of fluffy things about this device and that device, but it's real simple: Standardize it, change the interest rate, change the principal, and that's the wonderful world of derivatives," he said. **BI**

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Teamwork key in handling mass torts

By PAUL D. WINSTON

SOUTHAMPTON, Bermuda—Acknowledging a potential exposure and putting risk management in action is critical to reducing a company's ultimate liability in a mass tort scenario.

Companies that "put their head in the sand" when confronted with a potential mass tort are risking larger awards, potential loss of coverage and bad publicity, a panel of risk management and legal experts says.

Donald J. Sullivan, vp-risk management for Baxter International Inc. of Deerfield, Ill., said there are several keys to surviving a potential corporate disaster from mass torts:

- Early detection. "If it's out there, it's not going to go away if you don't manage the process," he said.

- Choose partners wisely, including members of an in-house response team, insurers and outside counsel.

"For risk managers, choose your employer wisely and make sure you have an employer that will allow you to do your job, because if you can't do your job you're going to be butting your head against a wall," he added.

- Risk managers must be involved in the process.

- Share information within the organization. "You need to share information with everyone so that everyone can do their job to manage the loss. You even need to share information outside the organization with your insurance carriers so they have an understanding of the loss and can do the right thing," he said.

Having the right team of people in

place to review the potential threat, gather information and communicate with involved parties is an important start, said Mr. Sullivan.

Once that team is in place, "the first thing I think you absolutely must do is find out what the problem is and what are the facts. Once you have the facts, then you can move forward," he said. To do otherwise, a company runs the risk, for example, of its representatives making inaccurate or conflicting comments to the press, he said.

In assembling a team to help in-house counsel and the risk manager respond to claims, a company should include a trial attorney, separate settlement counsel, public relations representatives and legislative relations representatives, said Anna S. Richo, associate general counsel for Baxter.

The two were at the center of a panel discussion on how to avoid a corporate disaster, held during the Bermuda Insurance Symposium III in Southampton, Bermuda, Feb. 18-21. Baxter, a health care products manufacturer, has been named in silicone breast implant litigation as a result of a company it acquired, as well as litigation over HIV-contaminated blood products for hemophiliacs.

A team-based approach has worked well for Baxter, Ms. Richo said, because the company culture empowers employees "to do what it is that they do best. In the context of mass torts, you cannot have a hierarchical structure. It just won't respond fast enough to the types of decisions that need to be made."

"In order to manage this thing, you have to move quickly, you have to be

on your feet, and you have to get involved to the extent that you can get involved, and the right people have to be brought in," agreed Mr. Sullivan, who added that teams should include corporate communications and the business unit whose product or service is involved in the claim.

Sometimes, however, a company may find that there are internal conflicts or times when business profit centers are in denial that a potential liability exposure exists or will bloom into a mass tort, observed David McManus, president of Arthur J. Gallagher & Co. (Bermuda) Ltd., who served as panel moderator.

"Internal conflicts are deadly. You can't be fighting internally at the same time you are fighting claims," said Mr. Sullivan.

That can be reduced when members of an industry share their views and problems for educational purposes, said defense attorney Thorn Rosenthal, a partner with Cahill Gordon & Reindel in New York.

"It also helps a lot when an industry puts together a coordinated response and they don't undercut each other, because if one member of the industry gets a bad verdict, it's going to hurt them more than the others, but the others are not going to escape scot-free," Mr. Rosenthal said.

In addition to potential co-defendants, insurers also want to be brought into the process early on.

"Denial is a big problem we've seen all along in the development of mass torts. You have product people fighting... because they don't want to admit they have a problem," said Brian O'Hara, chairman and chief executive officer of X.L. Insurance Co. Ltd. Denial in some cases has allowed policyholders to extend coverage or get it renewed at favorable terms, he added.

"We want to be brought in as quickly as possible" to help manage the potential liability, said Brian

Duperreault, chairman, president and CEO of ACE Ltd.

One impediment to good insurer relationships, however, can arise early in the process, warned Mr. Sullivan.

"Thirty-page reservation-of-rights letters don't always help us," he noted. "We sometimes have to disclose that in 10-K's, I have to disclose that to my board of directors, my senior management," he said, which can create misunderstandings or conflict. The risk manager's key role there is to communicate to managers why an insurer sends a reservation-of-rights

letter, and to respond to the letter and find out what the insurer's true concerns are.

"If management doesn't understand the process, it can be a very difficult situation."

Indeed, it also may prompt outside counsel to initiate coverage litigation against the insurers, said Ms. Richo.

"In-house counsel need to be strong enough to manage and put your outside attorneys in check, because a lot of their initial reaction is to litigate," she said. In-house attorneys' roles are to prevent that from happening and to see the bigger picture, including that the company may want to get insurance coverage in the future from its insurers, Ms. Richo said.

Mr. Sullivan said the risk manager also needs to work with outside coverage counsel on nearly a day-to-day basis. "Certainly, if it gets to litigation, our litigation team would be involved, but through the negotiation process our relationship with the insurance company needs to be managed by the risk management department, not by the law department," he said.

Baxter is in litigation with some of its insurers over its losses, noted Mr. Sullivan, though he said it has been

able to negotiate settlements with the vast majority of its insurers. "Don't let the coverage counsel make that decision. That decision should be yours with the advice of both in-house and outside counsel," he said.

Mr. O'Hara said that how a company approaches its insurers can dictate whether the claims process is amicable or combative.

"We have other insureds who show up with plaintiffs attorneys representing them in negotiations with us, and I can see we're going to have a problem," he said. "We're going to meet people the way they come to us. Baxter came to us as businessmen and said let's sit down, keep the lawyers out and find a solution to this."

"We all want to deal with the problem," Mr. Duperreault said. "We sell coverage to ultimately pay, and we have certainly written a lot of checks at ACE since it was formed," he said.

In addition to managing the insurance claims process, public and media relations are another key component of managing the mass tort exposure.

"There's no question that bad public relations exacerbates the legal exposure several-fold. It ranges from coloring management's attitude to prejudicing the potential juror pool," said Mr. Rosenthal.

"My chief recurring nightmare is having Mike Wallace walk in the door," quipped Mr. O'Hara.

"From my experience, as awful as 'no comment' sounds, it is better to have no comment until you know what your story is than to come out early with something that you later on have to retract," said Ms. Richo.

"It's essential that there's control of the company's presentations to the public and the press. We've seen plenty of disasters where one guy is saying one thing, the plant manager's saying something else, everybody's speaking to the press and nobody knows what's going on," said Mr. Duperreault.

"You almost have to pre-plan that and have all of this set up in advance, so that there is a designated spokesperson and a coordinated response," he said.

Insurers' two masters: Policyholders, investors

By GAVIN SOUTER

SOUTHAMPTON, Bermuda—Well-capitalized insurers and reinsurers provide comfort for policyholders seeking security, but they can cause discomfort to investors seeking high returns on equity.

As a result of the differing interests, executives at the insurers and reinsurers have to perform a difficult balancing act between attracting policyholders and satisfying investors, a panel of insurance experts says.

The movement by insurers and reinsurers to increase in size is being driven by policyholders, brokers, regulators and rating agencies, said Brian Duperreault, chairman, president and chief executive officer of ACE Ltd. in Bermuda.

Policyholders, in particular, are seeking long-term relationships with well-capitalized insurers who will be able to pay losses when claims arise, he said.

Policyholders are increasingly reviewing how their risk management programs are constructed and how they will respond to a catastrophe loss, agreed Jean Kennedy, director of risk management at Medtronic Inc. in Minneapolis.

"There is always a doubt about what you buy and whether you'll be able to collect on it," she said. Contrasting with the buyers' desire for well-capitalized insurers and reinsurers is the concern of investors over excess capital in the insurance market, said Donald Kramer, president and CEO of

Tempest Reinsurance Co. Ltd. and vice chairman of ACE.

"The biggest problem in the reinsurance industry today is unemployment. That is, the unemployment of capital," he said.

In Bermuda, for example, many of the catastrophe reinsurers have share buy-back and other programs to reward shareholders in a market where reinsurance rates are falling, Mr. Kramer said.

Insurers and reinsurers are also seeking to put their capital to use in other areas where their returns may be higher, said Steven Gluckstern, chairman of Zurich Reinsurance Centre Holdings.

But then they run the risk of making poor underwriting decisions because they do not have the necessary expertise to write the new business, he said.

"People form a company and say 'I'm really good at one thing,' and they are good and they build more capital. Then they branch out into areas which they don't understand as well," Mr. Gluckstern said.

However, if an insurer follows a careful diversification strategy it can become a stronger company, said Mr. Duperreault of ACE.

By writing a variety of coverages, an insurer can soften the blow to its profits when one area of its business suffers a downturn, he said.

"The buyer should look for companies that manage their capital well," Mr. Duperreault said.

John Cox, former chairman of ACE, moderated the session.

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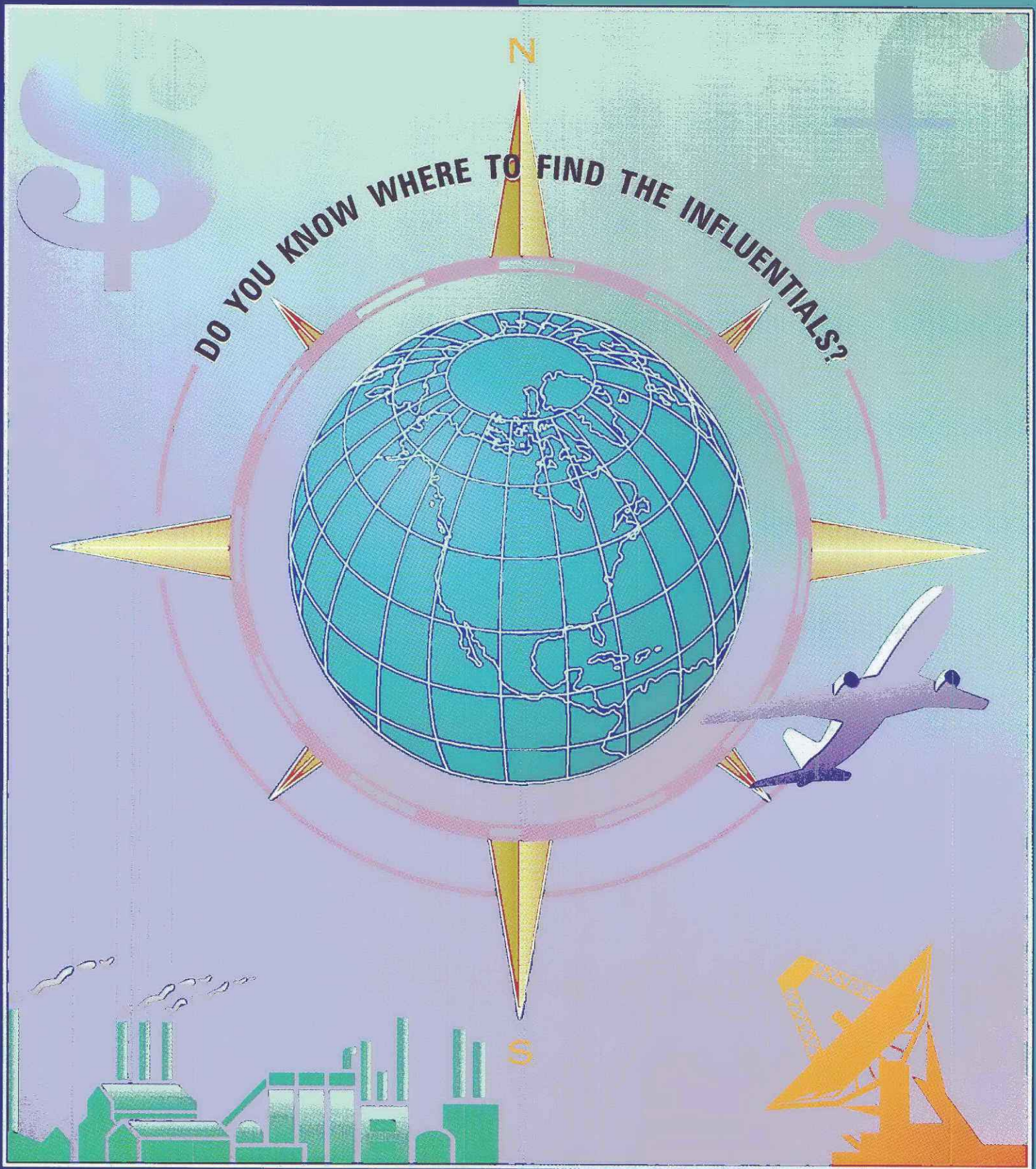
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**Business
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Risk managers' knowledge of financial markets leading to convergence with traditional cover

By GAVIN SOUTER

SOUTHAMPTON, Bermuda—The increasing sophistication of risk managers is driving the increasing sophistication of the insurance market, a panel of financial risk insurers says.

With the convergence of financial and insurance markets, risk managers are turning to their insurers to provide solutions to numerous financial risks previously not covered by insurance, they say.

To meet the challenge, insurers are creating innovative new coverages, such as products similar to commodities futures contracts or products that link traditional insured risks to the movement of financial markets, they say.

Risk managers are taking a much more sophisticated approach to risk financing than they have traditionally, said David Kaplon, senior vp at X.L. Reinsurance Co. Ltd. in Bermuda.

"Risk managers are now demanding integrated solutions from insurance companies," he said at Bermuda Insurance Symposium III, which was held Feb. 18-21 in Southampton, Bermuda.

This movement is largely due to a trend toward recruiting risk managers with financial backgrounds and the integration of risk management departments with corporate treasury departments, Mr. Kaplon said.

This new breed of risk manager is asking insurers to develop insurance products to manage earnings and control revenue growth volatility, he said.

Finite risk reinsurers that have to offer innovative products to thrive in the currently soft traditional insurance market are leading the drive to develop these types of products, said Michael J. Cascio, vp at Stockton Reinsurance Ltd. in Bermuda.

Some products being offered address the needs of the commodities market, he said.

For example, insurance can be used to hedge against commodity price fluctuations, Mr. Cascio said. A commodity deal could be set up with an agreed price of \$20, and an insurance product could be established to cover any fall in the market price of the commodity below, say, \$16, to a minimum price of \$10.

By using insurance rather than derivative products, the buyer of the contract may be able to obtain added tax and accounting advantages, he said.

The product would be similar to stop-loss insurance contracts, Mr. Cascio said.

One of the obstacles to the development of such products is the difficulty in obtaining sufficient data to make reasonable predictions, he said.

However, if insurers establish relationships with experts in the com-

modities field, this difficulty can be overcome, Mr. Cascio said.

Another issue might be the possible Securities and Exchange Commission regulation of the products, he said.

"We have to be careful that we are not actually dealing in these types of markets," Mr. Cascio said.

Another obstacle is the efficiency of the derivative hedge vehicles the commodity markets use.

"It is difficult for us to compete in areas where financial markets are well-established, large and liquid," he said.

Insurance products will only have a chance to compete in markets such as the oil market for public utilities that are not yet dominated by derivative traders, he said.

Dual-trigger policies are another innovative product that could be used to address the traditional risk concerns and financial risk concerns of risk managers, said Graham C. Pewter, president and CEO of Commercial Risk Partners Ltd. in Bermuda.

These policies protect companies from the effect of a major traditional insurance loss in the same year as a major change in financial markets that affects their financial holdings,

according to Mr. Pewter.

"Normally, the two functions are separately managed, but the corporation has one balance sheet and one set of earnings," he said.

By uniting the two problems under one insurance coverage, corporations can maintain large retentions but still have catastrophic coverage in place should a physical event and a financial event hit, he said.

The need for such products has grown as companies retain more risk, Mr. Pewter said.

For example, a company in California may be comfortable with a \$50 million earthquake retention, and it may be prepared to take a \$50 million loss on financial markets, "but what they don't want is for both to happen in the same financial period," he said.

By offering a dual-trigger insurance product that pays after two events occur, the insurance industry can address this problem, Mr. Pewter said.

"There is a great opportunity for insurance companies to try and devise products that respond to these issues,"

Mr. Pewter said.

However, with the new territory comes new challenges, Mr. Pewter cautioned.

Dual-trigger policies combined with the existing move toward larger retentions will erode premium volume for insurers even further, he said.

Also, a limited number of buyers would be interested in dual-trigger products. And few insurers have sufficient expertise to analyze financial issues such as interest rate movements, Mr. Pewter said.

The two events also could be linked so a dual-trigger policy designed to cover two separate events is in fact triggered by one event, he said.

For example, a blowout on an offshore oil rig could cause a fluctuation in oil prices and produce massive physical damage, he said.

Also, insurers will find little retrocessional capacity for such products, and the cost of laying off the risk into financial markets may be prohibitive, Mr. Pewter said.

"The trick is to find something that is attractive to the buyer and seller, and it's very, very difficult," Mr. Pewter said.

Steven Gluckstern, chairman of Zurich Reinsurance Centre Inc. in New York, moderated the session at the symposium. **BI**



Understanding ratings criteria essential for buyers, analyst says

By PAUL D. WINSTON

SOUTHAMPTON, Bermuda—Buyers that turn to rating agencies to ascertain the financial strength of insurers they deal with first need to know how those agencies arrive at their conclusions.

Several agencies rate the claims-paying ability and solvency of insurance companies, and each approaches the business in slightly different fashion and produces different types of ratings.

"We think that ratings are important because buyers deal with a lot of companies, and it's fair to know what's on our minds," said Alan Levin, managing director of Standard & Poor's Corp.'s Insurance Ratings Group in New York.

Risk managers need to ensure that the companies they deal with are secure, and one way to do that is to look at ratings, he said during a session at the Bermuda Insurance Symposium III, Feb. 18-21 in Southampton, Bermuda.

"Your chartered responsibility is making sure that you do not pay premiums, or fees, to these people and find out 10 years later that you have an uncollectible balance," he said.

Mr. Levin said that of the approximately 2,000 companies that S&P reviews, 63% are in the "secure" rating categories of BBB to AAA, with 14% in the AAA and AA categories and 49% carrying ratings of A to BBB.

The remainder are in lower rating categories.

However, even those companies in the "vulnerable" categories with less than BBB ratings are not

necessarily at high risk of defaulting on claims, he said.

When we look at the history, "companies with a BB rating have a default rate that is twice as bad or twice as high as the default rate of BBB securities," Mr. Levin said. "But still, the default rate of BB securities is in the high teens, 16% to 17% after about eight or 10 years. Clearly that means that more than 80% of the BB securities that we consider vulner-

able, or non-investment grade, will pay off, will not default and in insurance terms will be there to meet their obligations," he said.

Mr. Levin noted that many insurance market observers have focused in recent years on industry competitiveness, reduced profit margins and poor returns as indicative of weakness among insurers. But S&P in 1996 issued nearly twice as many upgrades as downgrades, he said.

In analyzing why, S&P found that the companies that earned a ratings upgrade focused on a narrow niche, either in product or geographic terms, that gives them a competitive advantage, he said. By contrast, companies with downgrades have little or no competitive advantages in the marketplace, significant expense issues or inadequate loss reserves.

Risk managers can look at several factors that rating agencies examine to determine the strength of their insurers, Mr. Levin said. Those include quantitative factors such as profitability, capital adequacy and loss reserves.

"Loss reserves are the great lever in the industry. Companies need to be able to demonstrate

that they can reserve their losses adequately," he said.

In addition, there are qualitative measures that are really the keys to determining the financial security of insurers, he said. Those include a company's cost control structure, whether it has competitive advantages in any area and how much control it has over its distribution system.

Keith Buckley, group vp of Duff & Phelps Credit Rating Co. in Chicago, assessed the strengths and weaknesses of the industry.

"The industry is generally well-capitalized, managements are generally knowledgeable about their books of business, we see good investment quality and liquidity in the industry, and the industry historically has been profitable," he said.

Among the weaknesses, according to Mr. Buckley, are that the industry is highly competitive, which is the root of a lot of current problems.

"The industry is also grappling with a number of tough risks, including catastrophes and the A&E issue," he said.

Other weaknesses are a moderate return on equity, and challenges to efficient distribution of their product, he said.

John H. Snyder, senior vp of A.M. Best Co. of Oldwick, N.J., reviewed how insurers are grappling with more persistent catastrophe exposures and how it affects the marketplace.

The rating agency views cat exposures as one of the most important factors in rating insurers, behind their asbestos and environmental exposures, he said.

John L. Ward, CEO of Ward Financial Group of Cincinnati, moderated the session. **BI**

Number of captives writing third-party business increases in Bermuda

By GAVIN SOUTER

SOUTHAMPTON, Bermuda—A desire to write more third-party business is fueling a surge in the establishment of better-capitalized captives in Bermuda, says the island's insurance regulator.

As captive owners seek tax and commercial advantages from writing third-party business, the number of new captives writing mainly parent company risks is falling, while the number of captives formed to write broader risks is growing, said Kymn Astwood, the Bermuda registrar of companies.

The trend may be one way captive owners could avoid an increase in captive taxation that the Clinton administration has proposed (BI, Feb. 10), a captive manager added.

Bermuda continued to show strong growth, with 97 new captive formations, but many of the new captives registered as Class 3 rather than Class 1, in which most single-parent captives register.

The minimum capital for Class 1 insurers is \$120,000; the minimum capital for Class 3 insurers is \$1 million. Class 3 insurers also have more stringent reporting requirements.

Despite the more onerous requirements, the number of Class 3 insurers outpaced Class 1 insurers in 1996. Of the 97 new insurers, only 23 were Class 1, compared with 30 Class 3 insurers. Class 2 and Class 3 insurers comprised the other 44 formations.

"This is partly due to companies deciding to obtain Class 3 licenses...to write third-party business for some tax advantages," said Mr. Astwood.

The third-party business is often related to the captive parent—for example, insurance coverage for franchisees or extended warranty coverage, said Roger Gillett, senior vp at Johnson & Higgins (Bermuda) Ltd.

This is part of a drive to make captives more profitable, but many captive owners likely will pursue this strategy if the Clinton administration's captive tax proposals are introduced, he said.

Under the proposals, captive owners will be unable to deduct premiums paid to captives if more than 50% of premiums are attributable to the risks of the captive's parent, he said.

"The Clinton bill is a threat to us, but I think we shall come up with solutions," Mr. Gillett said.

As well as writing more third-party business, companies may pool more risks, he said.

The comments were made at a session at the Bermuda Insurance Symposium III, held in Southampton, Bermuda, Feb. 18-21.

More than 400 delegates attended the symposium at the Southampton Princess, and a total of nearly 600 attended, including speakers and guests.

The sessions covered a broad range of insurance topics, many of which related to the Bermuda market. A hot topic was the securitization of insurance risk. Two sessions were dedicated to securitization and accessing the capital markets, and the subject cropped up in many discussions inside and outside the formal sessions.

The symposium also marked the third public performance of Rock 'n Roll Re, a band of reinsurance and insurance executives-cum-rock musicians. This year's gig had the added attraction of the Captivettes, a female trio from the Bermuda insurance community who supplied backing vocals and a dance routine.

The next Bermuda Insurance Symposium will be in February 1999. For more information, contact: Suzie McKeegan, Bermuda Insurance Symposium, The Whitfield Building, 61 Front St., Hamilton, Bermuda; 441-292-6386, fax: 441-292-6990.



Risk managers not the only customers

By Elise Farnham

WHO IS THE CUSTOMER?

This is a question I recently posed to a group of risk managers and insurance/finance professionals.

They were attending a Risk & Insurance Management Society Inc.-sponsored course in San Diego on workers compensation management. The group was varied and represented diverse industries. Their experience level ranged from considerable to new in the industry.

On the first day of the class, I asked them who they thought their customer was. We were discussing benchmarking and how to arrive at objective performance indicators. To decide which performance indicators to use, you must first decide who your customer is and how that customer will perceive value for the services you offer. They agreed with the "value-added" equation, but there was some active discussion about the definition of the customer. The final answer was nearly unanimous. From a third-party administrator's perspective, they thought the customer was the risk manager, and secondarily—though just as importantly—the local plant manager or local contact for the TPA.

They did not think the employee or injured worker was a customer, and their reasoning was as follows: The risk manager's work in putting together a viable program benefits the employee. Injured workers have no choice but to participate in the program as selected by the risk manager and, therefore, they cannot be considered a customer, as they aren't a buyer.

Frankly, I was surprised and disappointed by this answer. I had been giving it a lot of thought over the past few months and had come to the conclusion that the employee is indeed a customer. In fact, the employee may be more important in terms of outcomes than the risk manager.

Certainly, as the decisionmaker, the risk manager is

a primary customer, but he or she cannot be involved in every aspect of the program on a day-to-day basis, and, in fact, may have very little contact with the TPA except on large or catastrophic losses.

On a very large program, it is difficult—perhaps even impossible—for the risk manager to get to know every adjuster, claims specialist, nurse or vocational consultant who may be involved with claims administration. The risk manager is a customer from a purchasing standpoint, but not from point of service.

You may argue that plant managers or the local contact for the TPA are the point-of-service customers.

But are they really? Do they get involved in every claim? I would guess not. After all, they already have jobs to do, and coordination with the TPA is only one small part of that job. They are involved in reporting new cases, coordinating return-to-work programs with the adjusters and consultants and answering questions should an injured worker call with a query or problem. Because most workers comp claims are handled entirely by the TPA, contact on non-problematic cases can be quite minimal. I'd venture to say the local plant manager would prefer not to get involved in the claim process and is content to leave claims activity to the professionals whenever possible.

So, who is the customer? Who but the injured worker sees every aspect of the claim process? Who but the injured worker knows if actions and tasks are carried out on a timely basis? Who but the injured worker knows if the adjuster treats him or her with respect, empathy and with a goal to return to work? Who but the injured worker knows if the nurse coordinates medical treatment for quick healing, questions the doctors as to treatment methods and provides the doctors with accurate work requirements? Isn't the injured employee, then, the true point-of-service customer?

In fact, this is the conclusion the RIMS group drew the next day. We had had discussions about return-to-

work programs, Americans with Disabilities Act issues, managed care and the claims administration process during the course of that day and the morning of the next. The discussion included everyone's "secret" for managing outcomes.

These secrets included:

- Supervisor involvement is important to make injured workers feel like they're part of the work team.
- Injured workers need to know that the objective is to return them to work as soon as possible.
- Reported injuries increase at plants that have morale problems.
- The adjuster/nurse/vocational consultant need to establish a relationship of trust with the claimant.
- The adversarial relationship must be defused to have the best outcomes.
- Attorney involvement is reduced if employees feel they are being treated fairly.
- The best people to ask about workplace modifications that may be necessary are the workers themselves.

After listening to these comments, and after only one "I told you so" from me, the opinion of the group changed.

Give this some thought. To maximize the outcomes of the program you have instituted, consider the customer you serve. **B**



Elise Farnham is assistant vp for Crawford & Co. and assists in the creation of new initiatives with its business process management group. She is vp of the National Assn. of Insurance Women.

Futuristic book strategic, not tactical

"Future Perfect"

By Stan Davis

Published by Addison Wesley, 1 Jacob Way, Reading, Mass. 01867; 617-944-3700
\$24 hardcover

By Kevin M. Quinley

READY FOR THE FUTURE yet? With the year 2000 approaching and the coming of the new millennium, expect to see more and more books on futurology. When Stan Davis' first version of "Future Perfect" was published 10 years ago, Tom Peters—now a one-man industry himself—touted it as "the book of the decade." Business leaders aside from Mr. Peters were impressed by Mr. Davis' prescience and were inspired by his advice for a rapidly changing economy. Even if few risk managers at the time took notice, the book, which illuminated a revolutionary path to success, was an instant classic.

In an updated, 10th anniversary edition of "Future Perfect," Mr. Davis addresses a new generation of business leaders and risk managers who are weary of the parade of buzzwords that make headlines and fade before the ink is dry. Instead, Mr. Davis pursues a radically different course. He applies timeless, universal dimensions to the economy, using "time," "space" and "mass" to keep businesses competitive in an ever-changing marketplace.

Ten years later, sporting a new introduction and notes, the fundamental concepts of "Future Perfect" have taken root. Further, its once-quirky phrases have entered the mainstream business lexicon.

Mr. Davis is a former Harvard Business School instructor who now consults with major corporations about strategy, management and organization.

Books & Ideas

The book is not, nor does it intend to be, a practical risk management guidebook. Risk managers won't find anything in here that lets them knock 10% off their next renewal premium. To many risk practitioners, "Future Perfect" may seem abstract and ethereal.

Sparkling creativity with a new frame of reference, however, "Future Perfect" helps risk managers shift their thinking in radical ways. Mr. Davis explains, for example:

- How companies can learn to view impediments as resources.
- How added value increasingly will flow from what Mr. Davis calls "no matter" intangibles. Mr. Davis sees the economy shifting from creating tangible products—food, cars, houses—to intangible products—investments—and services, such as personal shoppers, health, education.
- Why organizations must merge the economic rules of the marketplace with the social, psychological and political rules of the workplace.
- How to customize the mass market. When Mr. Davis coined the phrase "mass customization," few managers understood it. Today, the concept sweeps the globe as companies reinvent themselves in this model.

For some risk managers, this may seem too nebulous, and to them the author may seem to have both feet planted firmly in the clouds.

Nevertheless, Mr. Davis is able to link abstract truths to contemporary business applications. He details the challenges many companies face. He offers

concrete examples to illustrate his points: how Federal Express Corp. manages time, space and "no matter" the same way that it manages people, technology and capital. He traces how Fuji eclipsed Kodak in a highly competitive market by viewing no-matter as a resource. He illustrates how businesses fail because they confuse economic reality with psychic mentality.

To thrive in today's emerging economy, Stan Davis challenges risk managers—and all readers—to learn to manage the consequences of events that have not yet occurred, what he calls "managing in the future perfect tense." Sounds like an apt definition of risk management. Aspiring to teach readers to use the fundamental dimensions of time, space and no-matter as resources rather than roadblocks, "Future Perfect" offers provocative strategies and models, just on the cusp of the new millennium.

For insurance professionals rooted in the present tense who are seeking a practical guidebook they can put to use in the office starting Monday morning, "Future Perfect" is not their book. For risk managers seeking a "macro" view of business trends and wanting to expand their horizons, however, "Future Perfect" is a worthwhile investment of time. **B**



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

INTERNATIONAL

France hoping \$3.46 billion sets GAN on road to recovery

By MARIA KIELMAS

PARIS—France's \$3.46 billion rescue package for insurer Groupe des Assurances Nationales will recapitalize the company, guarantee against future real estate losses and pave the way for privatization sometime this year.

The 20 billion franc bailout will cover insurance losses arising from GAN's aggressive premium-cutting strategy to gain market share in the 1980s, as well as investment and lending losses from the ongoing slump in the French real estate market. Ac-

ording to French Finance Minister Jean Arthuis, GAN has accumulated losses from its insurance activities and from real estate amounting to 35 billion francs (\$6.06 billion) since 1992.

Receipts from the future privatization will return to the French government in repayment for the recapitalization expenditure. But insurance market analysts are unsure at the moment if the company will be sold for as much as 20 billion francs.

If the selling price is less, "the difference will be met by the taxpayer," says Jean-Christian Huard, insurance analyst at Paris-based stockbroker

Societe Generale Equities & Derivatives.

The rescue plan has to be approved by the French Parliament and the European Commission in Brussels, Belgium. E.C. sources say they cannot comment on the situation until they receive the full details of the new GAN bailout plan. Meanwhile, discussions with government officials and financiers will get under way.

The French government recapitalized GAN with 2.5 billion francs (\$432.5 million) in 1995, a rescue which also required the approval of the European Commission. The Euro-

pean Commission formally approved that recapitalization in September 1996. The current GAN rescue package is the second-largest bailout of a French financial institution in two years. The bank Credit Lyonnais has received two state-backed rescue packages totaling about 50 billion francs (\$8.65 billion).

Just as the government announced its plans to recapitalize GAN, the company announced a restructuring plan which separates its insurance activities from its real estate and investment divisions. This means that

See GAN on next page

Stress rates attention

By CAROLYN ALDRED

FERNHURST, England—British employers increasingly are recognizing stress as an occupational hazard and taking steps to help employees and protect the company from the risk of lawsuits.

Fernhurst-based Zeneca Agrochemicals, a unit of the international chemical company Zeneca P.L.C., formulated a workplace stress-management program last year. According to Dr. Clive Campbell, the unit's occupational physician, the company had been "aware of the importance of dealing with workplace stress for some time."

A company survey found that 19% of responding employees expressed some form of depression or anxiety. Since then, the company has introduced workplace counselors and implemented stress-awareness training, said Dr. Campbell.

The company decided to turn its stress management awareness into an actual program after indications that its insurance company was becoming more concerned with occupational stress, said Dr. Campbell.

"We received a general memo saying what we should and shouldn't do about getting sued," he said.

Dr. Campbell thinks a high-profile court case in which a social worker successfully sued his employer for compensation as a result of work-related stress (*BI*, Dec. 5, 1994), as well as increased awareness of stress, had prompted the insurer's concern.

Statutory liability for workplace stress, both civil and criminal, has increased over past few years with the Management of Health and Safety at Work regulations and legislation on unfair dismissal and discrimination.

Partly as a result of the

See Zeneca on next page

Pension privatization proposed

U.K. government mulls an overhaul of state pension plans

By EDWIN UNSWORTH

LONDON—Business and pensions groups widely welcome U.K. proposals to privatize the state pension system, though employers are concerned about the extra costs they may face.

In a surprise move last Wednesday, Prime Minister John Major disclosed that anyone beginning work once the proposals become law will not receive a state pension but instead will have to take out a personal pension.

However, the state will adjust private pension contributions for the lower-paid to ensure they receive at least the equivalent of the basic state pension entitlement.

The proposals will not affect those currently working. On retirement they will continue to be paid a basic state pension as well as payments from the existing state earnings-related pension

schemes, or SERPS.

The proposals are aimed at enabling the state, over a generation, to switch the financing of state pensions to savings and investment, funded from reductions in national insurance contribu-

The pension proposals are likely to cost employers in terms of the extra administrative work involved.

tions, rather than higher taxes. It will cut public spending by about £40 billion (\$64.57 billion) a year.

Social Security Secretary Peter Lilley said the average person should be able to build up a fund of £130,000 (\$209,859), enough to

provide a weekly pension of £175 (\$282.50) at present prices, compared with the current single person's weekly pension of £61.15 (\$98.72) and a married couple's £97.75 (\$157.80).

Under the proposals, new entrants to the workforce would receive a rebate of around £9 a week on their National Insurance contributions which would have to be invested in their own pension fund.

While they would not be entitled to SERPS, they would receive a 5% rebate on earnings to finance a second tier earnings-related pension. While the proposed changes will present extra business opportunities for private pensions providers, they are likely to cost employers in terms of the extra administrative work involved. For existing employees, pension contributions will remain

See SERPS on next page

Hike in U.K. property claims blamed on bad weather

By EDWIN UNSWORTH

LONDON—Bad weather at the start of last year was the major factor in U.K. insurers paying out 17% more in property claims in 1996 than in 1995.

However, property insurers can draw some solace from the fact that severe winter weather at the end of last month appears unlikely to raise the number of claims above normal levels for this time of year.

Insurance companies paid out more than £2.70 billion (\$4.37 billion) in property claims in 1996, compared with some £2.25 billion (\$3.64 billion) in 1995, according to figures from the Assn. of British Insurers.

Mark Boleat, ABI director general, said a 19% increase last year in domestic property claims, reflecting increased fire- and weather-related payments, is a "worrying" figure. He warned that this would lead to pressure from underwriters for premium rate increases.

The main contribution to the

increase came from a more than doubling of weather-related claims to £727 million (\$1.18 billion) from £361 million in 1995 (\$583.8 million), mainly because of the severe winter weather at the end of 1995 and the start of 1996. Of these claims, weather-related commercial property claims rose 115% to £202 million (\$326.7 million).

However, insurance companies got something of a reprieve this winter after the February gales, which received a high profile because they caused 11 deaths in traffic accidents, turned out to have less effect on property than expected.

A spokeswoman for the ABI said of the anticipated level of claims, "I don't think its going to be too much more than normal" for that time of year. She credited a publicity campaign undertaken by insurers after the last severe storms to inform property owners on how to prepare for bad weather.

The Chartered Institute of Loss Adjusters said a survey of

its members revealed only a slight increase in the number of claims as a result of the February storms and that most of these were for relatively minor damage, such as roof tiles shifted out of place.

The ABI's property claims figures for 1996 show theft claims actually fell 3% last year to £745 million (\$1.20 billion). This made it the fifth consecutive year the total number and value of theft claims decreased, though the average claim size has been rising over the same period.

Claims from fire damage rose 3% to £717 million (\$1.16 billion) in 1996, with both commercial and residential claims showing small increases.

Business interruption payments rose 18% last year to £206 million (\$333.2 million), with claims arising from weather damage more than doubling to £27 million (\$43.7 million).

Subsidence claims increased by £5 million (\$8.1 million) in 1996 to £331 million (\$535.3 million).

Global Briefs

B.A.T Industries P.L.C. has said that it and other tobacco companies are willing to listen to "any sensible proposals" for an industrywide settlement of U.S. legal actions brought against them on behalf of smokers. In a reversal of the group's previous insistence that it would not settle, B.A.T Chief Executive Martin Broughton said he and the U.S. tobacco industry would consider proposals from plaintiffs lawyers and state attorneys general. . . . Bermuda-based **Sphere Drake Holdings Ltd.** reported 1996 net income of \$26.5 million, sharply up from a \$17.9 million net loss the company reported in 1995. Sphere Drake attributed the turnaround to an ongoing strategic restructuring to concentrate on lines offering a better return, even though this resulted in \$8.6 million in restructuring costs last year and \$14.2 million of losses from discontinued marine insurance operations. . . . Alexis Russet has been appointed chairman of **Sorema**, the reinsurance affiliate of Paris-based Groupama, and chief executive officer of Sorema International, the reinsurance holding company. Mr. Russet currently serves as chairman and chief executive officer of France's state-owned reinsurer, Caisse Centrale de Reassurance. Groupama also has reorganized the management of its reinsurance arm, with Sorema International owning 100% of Sorema, which in turn will own 100% of Sorema (UK) and 90% of Sorema North America. . . . London-based broker **JIB Group P.L.C.** reported a 29% rise in its 1996 pretax profits to £27.5 million (\$44.4 million) on operating revenue, mainly from insurance and reinsurance brokering, which was up 10% at £198.4 million (\$320.3 million). . . . Insurer **Terra Nova (Bermuda) Holdings Ltd.** reported 1996 net income up 41.7% to \$64.9 million on gross premiums written, which were 19.3% higher at \$361 million. Aftertax operating income rose 45.5% to \$57.2 million. The improvement reflected expanding business and the added capital resources developed over the year. . . . Specialist London-based casualty insurer **Union-america Insurance Co. Ltd.**, which underwrites 86% of its business in the United States, achieved a 38% improvement in 1996 pretax profit to \$32.5 million. While the insurer's gross written premium volume slipped 7.3% to \$145.9 million, this was partly attributed to attrition in more competitive property business. . . . An **Australian employment practices liability insurance policy** has been designed by Brisbane-based Specialist Underwriting Agencies Pty. Ltd. and is underwritten by Sydney-based Lumley General Insurance Ltd. The EPL policy covers claims arising from employees, former employees and job applicants' allegations of sexual or racial discrimination, wrongful termination or wrongful refusal to employ, wrongful failure to promote, defamation and invasion of privacy. Employment practices liability coverage currently is not widely available in Australia.

INTERNATIONAL

GAN

Continued from previous page
policyholders will not be affected by any further deterioration in real estate-related losses and all insurance claims will be met in full, a company spokeswoman said. The company said in a statement that it has changed its accounting procedures, a move that will give a clearer picture of its finances.

The size of the GAN bailout pack-

age did not come as any surprise to insurance market analysts, even though in public statements GAN management has never quoted loss figures as large as 20 billion francs (\$3.46 billion). Mr. Arthuis said that the responsibility for this loss is shared by the company's management, the insurance industry regulators, and the French government, which owns 80.4% of the company.

Some insurance market analysts wonder whether there is more bad news on the horizon. "I guess that the

past managements (of GAN) underestimated the potential losses. They wanted to have a smooth management of the situation," said Mr. Huard.

A GAN spokeswoman said that the previous chairman of the company, Jean-Jacques Bonnaud, had requested a state-backed cash injection of 10 billion francs (\$1.73 billion) last October but was turned down (BI, Dec. 23, 1996). At the time, the government wanted to privatize GAN's retail banking affiliate, Credit Industriel et Commercial. Mr. Bonnaud objected to this, claiming that the sale of CIC would undermine the asset value of GAN unless the state stepped in to compensate.

The privatization of CIC was called off for lack of a high enough bidder. Mr. Bonnaud was dismissed by Finance Minister Arthuis over the CIC disagreement.

The French government's rescue package proposes a two-part plan:

- An 11 billion franc (\$1.90 billion) cash injection in 1997 to recapitalize the real estate lender Union Industrielle du Credit. The sum will also be directed to "give the group's insurance companies a proper financial structure with respect to statutory requirements," a GAN statement said.

A company spokeswoman said she did not know if this meant that GAN's life and non-life companies are under-reserved. "If the technical reserves are not sufficient, they will be increased at the end of the (accounting year)

1996," she said. GAN will publish its year-end results for 1996 in late April.

Company management, insurance regulators and the French government are responsible for this loss, Jean Arthuis says.

- The state will commit to cover losses amounting to 9 billion francs (\$1.56 billion) incurred by the GAN holding company for loans made by Baticredit-Finance, the defeasance structure—a program set up in 1995 to group and sell GAN's underperforming real estate assets.

In addition, the state has pledged to enable the GAN holding company to satisfy all possible future equity needs of UIC.

Under the restructuring plan, GAN's insurance, real estate and banking divisions will be separated completely. The holding company will be named Societe Generale du GAN. This will have three divisions:

- Insurance under the subsidiary GAN S.A.
- Retail banking under Compagnie Financiere de CIC et de l'Union Europeenne.
- UIC and the defeasance structure.

Thus the insurance business and the retail bank CIC will not be exposed to

the real estate losses. The insurance division GAN S.A. will maintain a 48% share in CIC. The 10-year agreement between GAN and CIC for the bank to sell GAN insurance products, signed in 1995, will remain.

The GAN spokeswoman said that it is still unclear how the company would be privatized, whether sold as a whole or whether separate sales would be held for each division.

The future of GAN's foreign operations is equally unclear. This is up to the government to decide, she said.

Mr. Huard speculated that French insurers would not be interested in the whole of GAN's business, which represents a 5% share of the total life and non-life market. For example, Assurances Generales de France has been speculated to be a potential bidder for GAN. But AGF's core business is in transport, credit, health and industrial insurance lines, which does not correspond with GAN's portfolio. An AGF spokesman said he did not know whether the company is currently interested in GAN.

Mr. Huard said French insurers may want to invest in the company to prevent takeover by a foreign buyer. But the markets are still confused about the company's value. "It is not clear what is a fair value for the stock," he said.

As a result of the state support, the GAN group's consolidated losses for 1996 should amount to 5 billion francs (\$865 million), the company said. **BI**

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

IN RE:

Petition of Gareth Howard Hughes, Nigel James Hamilton and Jacqueline Barbara Stephenson, as Joint Provisional Liquidators of Municipal General Insurance, Limited

CASE NO. 94-B-41329 (CB)

Debtor in Foreign Proceedings

PRELIMINARY INJUNCTION ORDER

This matter has come before the Court on the above Petitioners' request for a Preliminary Injunction Order pursuant to Bankruptcy Rule 7065 and Federal Rule of Civil Procedure 65(b). The Court (a) has considered and reviewed the Petition filed in this case, the Affidavit of Ronald DeKoven, Petitioners' former counsel, the Declaration of Gabriel Moss, Q.C., the Declaration of Gareth Howard Hughes, the Affidavits of Jacqueline Barbara Stephenson, one of the Petitioners herein, and the Memorandum of Law in support of the application, and any responses filed thereto, and (b) the Court has further considered and reviewed the Limited Objection of Michigan Municipal Risk Management Authority to Continuation of Preliminary Injunction Order dated November 17, 1996, the Supplement to Limited Objection of Michigan Municipal Risk Management Authority to Continuation of Preliminary Injunction Order dated January 30, 1996 and all other pleadings or other materials filed or submitted in this case; and the Court has held hearings and heard arguments by counsel on the 29th day of March, 1994, the 27th day of July, 1994, the 8th day of December, 1994, the 11th day of April, 1995, the 31st day of January, 1996 and the 31st day of January, 1997, and based on the foregoing, the Court finds and concludes as follows:

1. Petitioners have demonstrated a substantial likelihood of success or have raised serious questions on the merits of the contentions that: (a) Municipal General Insurance Limited ("MGI") is subject to "foreign proceedings" within the meaning of Sections 101(23) and 304(a) of the United States Bankruptcy Code (the "Bankruptcy Code"), 11 U.S.C. §§101 et seq. (b) Petitioners are the "foreign representatives" of MGI within the meaning of Sections 101(24) and 304(a) of the Bankruptcy Code; (c) (i) the commencement or continuation of any judicial, administrative or regulatory action or proceeding against MGI, any of its property in the United States, or any proceeds thereof, (ii) the enforcement of any judicial, administrative or regulatory judgment, assessment or order, and the commencement or continuation of any judicial, administrative or regulatory action or proceeding, to create, perfect or enforce any lien, set-off or other claim against MGI, any of its property in the United States, or any proceeds thereof, and (iii) the drawing down of any letters of credit established by MGI in excess of what is expressly authorized by the terms of the contracts and any related trust or other agreements pursuant to which such letters of credit have been established, should be enjoined pursuant to Section 304(b) of the Bankruptcy Code to permit the expeditious and economical administration of the foreign estate in the pending proceedings brought under foreign law (except as otherwise expressly provided in the decretal paragraphs of this Order); and (d) the relief provided herein will not cause hardships to parties that are not outweighed by the benefits.

2. Unless an injunction is issued, it appears to this Court that one or more parties in interest will transfer, relinquish or dispose of assets of MGI in the United States, or proceeds thereof, commence or continue the prosecution of judicial, administrative or regulatory actions against MGI, its assets, or proceeds thereof, or draw upon letters of credit established by MGI in excess of the amount to which such parties are contractually entitled, thereby interfering with, and causing harm to, the Petitioners' efforts to administer the MGI estate pursuant to the foreign proceedings, and that, as a result, the Petitioners will suffer immediate and irreparable injury for which they will have no adequate remedy at law (except that the authority granted by this Court to continue certain litigation only as set forth in the decretal paragraphs below will not cause such harm).

3. Unless the injunction (to the extent provided below) is issued, Petitioners will be unable to acquire sufficient information about pending and potential litigation against, and U.S. assets of, MGI to properly protect the interests of MGI in the United States, resulting in the further depletion of MGI's limited assets.

4. The interest of the public will be served by this Court's grant of the relief provided herein.

5. Venue is proper in this district pursuant to 23 U.S.C. § 1410.

NOW, THEREFORE, IT IS:

ORDERED that all persons (except as provided in the New York Superintendent Order) are hereby enjoined and restrained from:

(1) transferring, relinquishing or disposing of any property of MGI in the United States, or any proceeds thereof, to any persons or entities other than Petitioners;

(2) commencing or continuing any judicial, administrative or regulatory action or proceeding against MGI, any of its property in the United States, or any proceeds thereof;

(3) enforcing any judicial, administrative or regulatory judgment, assessment or order, or commencing or continuing any act or any judicial, administrative or regulatory action or proceeding, to create, perfect or enforce any lien, set-off or other claim, against MGI, any of its property in the United States, or any proceeds thereof; and

(4) drawing down any letters of credit established by MGI in excess of what is expressly authorized by the terms of the contracts and any related trust or other agreements pursuant to which such letters of credit have been established; and it is further

ORDERED that nothing in this Preliminary Injunction Order shall in any respect prevent the continuance or commencement of proceedings against or involving other London Market insurers or any other insurance company defendant; and it is further

ORDERED that, pursuant to Bankruptcy Rule 7065, the security provisions of Fed.R.Civ.P. 65(c) be, and the same hereby are, waived; and it is further

ORDERED that, notwithstanding any other term of this Order, the action entitled *Michigan Municipal Risk Management Authority v. Municipal General Insurance Company*, Wayne County Circuit Court Case No. 94-400330-CK, is permitted to proceed, but this provision shall not be construed to permit enforcement of any judgment obtained by Michigan Municipal Risk Management Authority ("MMRMA") in the immediately above referenced Michigan action against MGI or any of MGI's property located in the United States, and it is further

ORDERED that this Order shall be served (A) by hand delivery or U.S. mail, first class postage prepaid, on or before February 21, 1997 upon the parties in interest appearing in this case (or their counsel, where known); (B) by publication of a summary of this Order in *Business Insurance Magazine* on or before March 21, 1997; and that service pursuant to this paragraph shall be deemed good and sufficient service and adequate notice; and it is further

ORDERED that the time to answer or move with respect to the Petition is extended sine die, but that parties wishing to move for modification of or relief from this Preliminary Injunction Order or otherwise may do so in accordance with the schedule set forth by the Court herein and in any subsequent Scheduling Order entered by the Court in this case; provided, however, that, notwithstanding any other provision of this Order, MMRMA shall have the right to a hearing on a motion to this Court for modification of or relief from this Preliminary Injunction Order on ten (10) days' notice to the MGI attorney specified in the last decretal paragraph hereof; and it is further

ORDERED that this injunction shall remain in effect pending further order of the Court after a hearing to consider whether the injunction shall be continued, which hearing is scheduled to be held in Room 601 of the Alexander Hamilton Custom House, One Bowring Green, New York, New York on January 30, 1998 at 2:00 p.m.; and it is further

ORDERED that all papers submitted for the purpose of controverting the Petition or opposing continuation of the relief provided for in this Preliminary Injunction Order shall be filed with the Court with a copy to Chambers and delivered by overnight mail or so as to be received by Peabody & Arnold, 50 Rowes Wharf, Boston, MA 02110 (attention: Deborah S. Griffin or William M. Cowan), Attorneys for Petitioners, on or before January 14, 1998 at 5:00 p.m.

Dated: New York, New York
January 31, 1997

CORNELIUS BLACKSHEAR
United States Bankruptcy Judge

"Petitioners' request for relief, and the terms of this Order, are subject to the provisions of any temporary restraining order or order of conservation obtained by the New York Superintendent of Insurance (the "New York Superintendent Order")."

Zeneca

Continued from previous page
insurer's interest, Dr. Campbell received full management cooperation for implementing a stress program. The program is, however, confined to the U.K. subsidiary, as continental Europeans "don't perceive stress to be a problem" and its U.S.-based company "talks about mental illness, not stress," explained Dr. Campbell.

The company runs two programs, one aimed at factory workers and operators and the other at executives. Overall, the programs include instructional sessions and written materials that attempt to teach employees how to recognize stress and how it is prevented and treated. Counseling is offered to all employees, whether the cause of the stress is work-related or

personal, such as bereavement or financial or health problems.

Under the program, managers are responsible for good communication, proper training and development of staff, effective time management and the ability to detect early signs of stress.

The employee's role is to help in early detection of stress in colleagues and to provide support, discuss stress-related issues with managers or other staff and to recognize the employee's own job-training needs.

Occupational health staff members are responsible for providing expert advice on stress management and referrals to specialized agencies if required.

Human resource staff members, meanwhile, are responsible for appropriate job selection with input from the occupational health staff, and

provision of training and support.

As a result of the company's measures, "a lot of people have felt able to talk over issues, and a lot of people have benefited substantially," said Dr. Campbell.

Also, the introduction of stress training throughout the company "sent out a very important message that we are interested in everyone and stress was not deemed as just a province of senior management," he noted.

Dr. Campbell thinks stress is increasing as the pace of life, in and out of work, becomes faster. As a result, more companies are facing the fact that some of their employees will suffer stress at one time or another, whether work-related or not.

"A lot of companies, particularly big companies, are developing stress policies to manage stress," he said. **BI**

SERPS

Continued from previous page
tax-free and pensions will be taxed, while for new employees, contributions will be taxed income, but pensions will not.

A spokeswoman for the National Assn. of Pension Funds said operating two fundamentally different tax regimes simultaneously will be administratively complex and costly for employers.

Secondly, she said, the £9 (\$14.50) a week rebates the government will give each new employee in order to ensure a personal pension paying at least as much as the basic state pension are likely to have to go into a separate plan. For employers offering a final salary pension plan, this means they will have to operate the two alongside each other. This too will be "more costly and extremely complex" for employers, she added.

NAPF Chairman Tim Ross, while otherwise welcoming the proposals, said they need to give more encouragement to employers to set up company pension plans, which are "already a proven vehicle for funded second-tier pension arrangements," and that employees should be required to join these plans.

Mark Boleat, director general of the Assn. of British Insurers, said in a statement that while the proposals appear to have "considerable merit," they leave many important issues unresolved. He, too, was worried about the "administrative complexity" and the tax implications. The ABI said many important questions remain, including whether the government would promise not to tax benefits on retirement in the future. Taxing contributions might also reduce incentives to save money via a pension fund, Mr. Boleat warned.

The Institute of Directors, which represents more than 45,000 senior company directors and recently recommended a system of compulsory pensions, hailed the proposals as "a step in the right direction."

Tim Melville-Ross, IOD director general, said he welcomed the relatively low contribution level, the system of rebates and help for low earners. He added that proposals along these lines are needed, given an aging U.K. population and the need to control state social security spending.

The U.K. employers' group, the Confederation of British Industry, is expected to complete a review of the pension provision this fall. Howev-

er, it said, "There is a strong prima facie case that some sort of compulsory defined contribution scheme will be part of the solution."

The government has been accused by opposition politicians of lifting elements of its proposals from the Labour Party, which has proposed shifting some of the state pension role to the private sector.

However, Mr. Major said the measures are aimed at averting a crisis in the middle of the next century, when there will be too few people working to fund state pensions for the growing number of retirees.

The Conservative government has been trying for more than a decade to reduce the state's role in providing pensions. In 1986, it gave employees the right to opt out of SERPS by allowing equivalent contributions to go instead into their personal pensions.

The latest proposals cannot be passed until after the spring general election. If Mr. Major's Conservative Party retains power, it will issue a discussion paper allowing all interested parties to comment on the proposals.

Reforms along similar lines have already taken place or are planned in Chile, Mexico and a number of other Latin American countries. **BI**

INTERNATIONAL

Allianz posts year-end profit, plans expansion of coverage

MUNICH, Germany—Allianz A.G. Holding's commercial property business turned a profit in 1996, and the company plans to introduce new products and expanded coverage for the more selective business it writes.

Despite a premium volume drop of 11% to 652 million DM (\$380.4 million), Allianz posted a profit of 70 million DM (\$40.8 million) last year compared with a loss of 100 million DM (\$58.3 million) in 1995.

Manfred Illner, a member of Allianz's executive board, attributes the shift to selective underwriting.

"The drop in volume is partly due to the soft market, but more than half of the reduction came from our giving up unprofitable business," he said, referring to commercial property and casualty business, especially for companies unwilling to adjust their risk management to meet Allianz' new, stricter criteria.

Allianz has a 16.4% market share of the commercial property insurance sector in Germany, down from 17.1% in 1995, reflecting business lost to non-German insurers.

Last year, Allianz revised its com-

mercial property rates—they were raised in some cases and lowered in others—and introduced stricter criteria for risk evaluation. The changes affected 4,500 clients, which altered their policies as a result, Mr. Illner said.

The changes were made at year-end renewals; other policies will also be changed when they come up for renewal.

Commercial property rates for the remainder of its 13,000 industrial clients will be changed in 1997 to continue to benefit companies that implement high risk management standards.

Changes will take place beginning with midyear renewals.

As of April 1, Allianz plans to expand coverage limits within "certain bounds," Mr. Illner said, declining to elaborate. Coverage will be extended to include cleanup costs and other employee property losses, he said. An example is employee cars damaged by emissions.

While such coverage was available in the past, it required a separate policy and premium. Mr. Illner de-

clined to comment on the extent of rate reductions for buyers.

German insurers last year announced they would cut property rates in an effort to keep more German business in the domestic insurance market (BI, Sept. 23, 1996).

Allianz also will introduce a new all-risk product to commercial buyers. The "building-block system" will allow each company to put together coverage it needs under one policy, Mr. Illner said. Endorsements will be available on all-risk policies that will let companies customize insurance as their needs change.

On another front, he said industrial casualty business brought Allianz a slight underwriting loss but a 3% increase of premium volume to 324 million DM (\$189 million).

Mr. Illner expects an end to the soft market relatively soon, despite growing capacity in the reinsurance industry. "It just can't continue to drop," he says. "In every sector, we can expect some consolidation" in pricing.

—By Don Lewis Kirk

Ruling may increase German D&O liability

KARLSRUHE, Germany—A recent German Supreme Court ruling on employers' benefit obligations may increase German companies' directors and officers liability exposure, legal experts say.

The court ruled last week that employers in financial trouble must make provisions for payment of social insurance premiums—including health insurance, pension benefits, workers compensation benefits, unemployment benefits and long-term nursing care benefits—before any other debts. Failure to do so could result in liability and criminal charges for company officials.

In its ruling, the Bundesgerichtshof in Karlsruhe, Germany, found that employers must make capital provisions to ensure that payments for social insurance premiums for employees have priority over other debts. Should employers pay

other debts first and then go bankrupt, employers are liable for damages and may face criminal charges.

In 1993, a managing director of a failing company, which was not identified in the case, used 1.7 million DM (\$991,780) of company funds to pay corporate debts without reserving for further payment of social insurance premiums.

On the due date for the social insurance premiums, the company paid employees their net wages but could not pay the premiums.

When the company filed for bankruptcy, the German sickness fund Allgemeine Ortskrankenkasse sued the manager for damages.

Legal experts say the decision sets a precedent that likely will increase the demand for directors and officers liability insurance in Germany.

—By Don Lewis Kirk

Protection

Continued from page 2

the process of readings and committee stages in the Commons and House of Lords with virtually no opposition. The bill is expected to clear the last hurdles in the House of Lords in the very near future.

Whether the amendments in the bill have shut some doors but opened others through which North American professionals could qualify for recovery remains to be seen.

British insurers have been seeking amendments to the Policyholders Protection Act since a 1993 House of Lords decision required the Policyholders Protection Board-administered fund to pay 90% of professional liability losses of North American doctors, lawyers, accountants and other individual professionals insured by the defunct H.S. Weavers (Underwriting) Agencies Ltd. (BI, Nov. 29, 1993).

An annual levy of up to 1% of net non-life premium income finances the fund. To date, the Policyholders Pro-

tection Board has collected £340 million (\$548.7 million) in levies from British insurers and has paid out £203 million (\$327.6 million), said Derek Wright, secretary to the board. Most of the funds are paid to policyholders of the KWELM companies, which underwrote on the Weavers stamp.

British insurers always have maintained that the Policyholders Protection Act was designed to protect U.K.-based individuals who bought policies in the United Kingdom.

However, in the 1993 decision in *Scher vs. the Policyholders Protection Board*, the House of Lords ruled that a "U.K. policy" as defined by the act was one that was issued by an authorized insurer in the United Kingdom, regardless of where the obligation under the policy is located.

The Lords also ruled that a "U.K. policyholder" as defined under the act included partnerships, provided that none of the individual partners is incorporated.

The amendments to the Policyholders Protection Act in the latest bill would not affect the protection of partnerships.

"From the general U.K. insurance industry perspective, they will be disappointed because partnerships remain protected," said Andrew Wilkinson, partner in the insurance group of London-based law firm Clifford Chance. "There was a lot of lobbying that went on to remove them (from protection), but the protection remains."

However, the bill does redefine the "boundaries of protection" to exclude risks and "commitments" outside the European Economic Area, the Isle of Man and the Channel Islands, according to an explanatory memorandum to the Policyholders Protection Bill.

The EEA consists principally of European Union member states, Norway and Switzerland.

The new law, therefore, would "now protect policyholders on the basis of the location of the risk or commitment," Richard Spiller, partner with law firm D.J. Freeman, stated in a recent in-house newsletter.

The intention is to "exclude primarily North American policyholders from future protection," said Roger Enock, a Freshfields law firm partner

who represented some of the plaintiffs in the Lords' decision.

Mr. Enock thinks it's a "shame" that the government has decided to change the law. "It is a reaction to an exceptional circumstance—the collapse of Weavers. . . Will it be repeated? Who knows?"

"U.S. situs risks are no longer protected," which is a plus for the U.K. insurance market since these were the more "grievous" claims, said Mr. Wilkinson.

Rules for determining the location of risks and commitments are incorporated in the amendments to the act, said Mr. Spiller. A property risk will be located where the property is situated, and an auto risk will be located where the vehicle is registered, for example.

In other cases, the risk or commitment is deemed to be located where an individual has his habitual residence or where the risk or commitment is situated at the date the policy comes into effect.

"In the case of international commercial risks, there may be difficulty in some cases in determining where

the risk or commitment is situated," noted Mr. Spiller. "For example, if an international accountancy firm is instructed to conduct worldwide due diligence for a merger, where is the risk or commitment situated?"

It is a novel idea to offer protection for insolvent insurers based on the location of the risk, especially when the act offered protection based on the location of the insurer, added Mr. Enock. The act as it stands "made sense to me. But to go out looking at where the risk and the policyholder is located doesn't to us make sense."

The amendments also change the way relevant insurance companies pay levies in order to fund any losses to be paid by the Policyholders Protection Board.

The maximum annual levy on insurance companies will be no more than 0.8% of gross non-life premium income instead of the current 1% on net premium income. "This change could adversely affect insurers with significant reinsurance protection, such as smaller insurers and London market companies," said Mr. Spiller. **BI**

Resure

Continued from page 3

he said. Since the IIE began, about 18 IIE syndicates wrote more than \$2.5 billion in gross written premium, including a record \$294.7 million in 1994.

Over the years, several of those syndicates have combined or withdrawn, with the most recent withdrawals Transco Syndicate #1 Ltd. and First Mercury Syndicate Inc. Comprehensive Ensurers Market Syndicate Inc. is litigating over withdrawal arrangements. Now, the number of syndicates actively writing risks is down to a handful.

In addition, the IIE's latest financial figures show syndicates wrote \$89 million in gross premiums through the third quarter of 1996, compared with \$108 million for the same period a year earlier.

The latest syndicate liquidation was ordered Feb. 27 by a Cook County Circuit Court judge, who found Resure Syndicate Inc. insolvent by at least \$3.5 million (BI, March 3).

Resure's insolvency heightened the exchange's concern with the pending legislative bill, which "is going to give the Illinois (Insurance) Department a more specific, direct role pertaining to the financial solvency. . . of the existing and future syndicates of the exchange," said James E. Tait, IIE president and chief executive officer.

The eight-page bill sponsored by Sen. Robert Madigan, R-Lincoln, requires state insurance regulators to regularly examine the IIE's financial records, to impose stricter financial reporting requirements and to reject any new or modified IIE operating rules that regulators consider threatening to policyholders.

However, the bill proposes that IIE rules adopted before the bill's proposed Jan. 1, 1998, effective date will be considered approved.

"We believe, at this state, that the bill will be, in most respects, non-controversial and will be viewed as being in the best interest of all the parties that are impacted by it," the IIE's Mr. Tait said.

However, exchange officials have some more talking to do to fully convince state insurance regulators that

the bill goes far enough.

Regulators want to subject syndicates to greater solvency standards and greater departmental authority, said Chief Deputy Director Arnold L. Dutcher. However, he declined to discuss specifics because of the ongoing negotiations.

Those negotiations are expected to end soon so the Senate's Insurance and Pensions Committee can review an updated version of the bill before the March 14 deadline for senate committees to report bills.

Resure Syndicate, a wholly owned subsidiary of Talon Re Holdings Inc., a Nevada holding company based in Las Vegas, reported in its most recent annual statement that it wrote \$13 million in gross premium in 1995, making it the sixth-largest of 10 syndicates then on the exchange (BI, Sept. 16, 1996). However, Resure had not been actively writing new business since December 1996.

When the Insurance Department stepped in, Resure had \$2.2 million in unpaid claims and loss adjustment expense and did not meet the IIE's minimum solvency margin of \$3.5 million.

Most of Resure's claims stem from contractors' legal liability coverage a managing general agent wrote in California from 1990 to 1994, said syndicate President and Treasurer Wolfgang D. Daniel.

Application of the continuous trigger theory of liability coverage to building defect cases has created a major headache and substantial legal defense liability for the syndicate, Mr. Daniel said (BI, Feb. 10). The continuous trigger theory, which the California Supreme Court let stand in 1995, stems from the case of *Montrose Chemical Corp. of America vs. Admiral Insurance Co.* In that case, an appellate court ruled that a policyholder facing pollution-related claims can tap all of its CGL policies from the time pollution begins until the liability is known.

The syndicate recently asked Illinois regulators for protection from lawsuits that would have consumed assets for legal fees rather than the runoff of valid claims, but the department considered that plan unworkable, he said.

The Illinois liquidator will notify policyholders that coverage is can-

celed effective 12:01 a.m. March 30, unless it expires or is terminated earlier.

Resure participates in the IIE's \$35 million guaranty fund, which is designed to provide up to \$300,000 per claimant with an aggregate cap of \$15 million per insolvency to cover policyholder claims.

"However, due to the number and complexity of claims against Resure, it is not known when or to what degree those funds will be available," said Richard Darling, chief operating officer of the department's Office of Special Deputy.

The two prior syndicate insolvencies are expected to partially drain that fund, although officials have not yet decided whether to exercise an option under exchange rules that would combine them under a single \$15 million cap, according to IIE President Mr. Tait. That option would allow two insolvencies that occur within a short span of time to be considered as one.

However, the liquidator has not taken a position on whether it is appropriate to combine those insolvencies, Mr. Darling said.

The Professional Marketplace

REQUEST FOR PROPOSALS

NEW YORK CITY HOUSING AUTHORITY PUBLIC NOTICE

—INVITATION FOR BID— Primary/Excess General Liability Insurance

The New York City Housing Authority ("NYCHA") requests Proposals from qualified **INSURANCE CARRIERS** for Primary/Excess General Liability Insurance coverages.

Coverages are to become effective **June 1, 1997**.

Proposals shall be made in the format included in the Invitation For Bid packet containing instructions, specifications, and detailed submission requirements. Packets may only be obtained by calling NYCHA's Insurance Consultant Sedgwick James, Inc., 1285 Avenue of the Americas, 37th Floor, New York, NY 10019, at (212) 830-1189. In order to be eligible, completed bid proposals must be received by **4:30 PM on April 4, 1997**.

All inquiries for additional information regarding the Invitation For Bid are to be directed in writing, to **Robert Mazzaro, Vice President, Sedgwick James, Inc.**, at the aforementioned address/phone.

NYCHA IS NOT SOLICITING QUOTES FROM BROKERS

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REQUEST FOR PROPOSALS

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\$66,622 (Min) - \$83,283 (Midpt)/Yr
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Executive oppty to develop and administer Risk Mgmt. division. Requires Bach Deg in Business/Public Admin, Risk Mgmt, Finance, Law or related & 8 years exp including 5 yrs in a supvy capacity. Master's Degree in a related field may substitute for 1 year of experience.

Access additional job information and **REQUIRED** application form at <http://www.manicopa.gov> or contact HR Dept at FAX# 602-506-3313 or call 602-506-3755, TT: 602-506-1908 by 3-21-97.

Final date for receipt of **REQUIRED** application: 3-28-97 at 5 PM. EOE.

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Requirements include: technical knowledge of AS 400, COBOL & data conversion; general knowledge of LAN admin; excellent user & general communication skills; 10+ years of technical experience plus a minimum of 5 yrs. in MIS mgmt.; BA/BS or equivalent. Occasional travel required.

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Human Resource Dept.
Conservation & Liquidation Office
P.O. Box 26894
San Francisco, CA 94126
EOE

REQUEST FOR PROPOSALS

REQUEST FOR PROPOSALS

REQUEST FOR PROPOSALS

It is the intent of The University of Texas System to issue the following request for proposals on **March 12, 1997** for the employee group health plan:

1. An insured vision plan to provide service for all employees and retirees of The University of Texas System who elect coverage.
2. Administration of a self-insured, free standing HMO type plan to provide service to the El Paso, Texas area.
3. A self-insured prescription drug program which will include both retail and mail order or other bulk purchasing arrangements.

The University also intends to issue the following request for proposals on **March 19, 1997**:

4. Administration of a self-insured dual option plan (HMO and out of network) to provide services for the Galvestor and Houston, Texas areas.
5. Administration of a self-insured dual option plan (HMO and out of network) to provide services for the Austin, Texas area.
6. Administration of a self-funded PPO plan to provide services for the Galveston, Texas area.
7. Administration of a self-funded PPO plan to provide services for the Houston, Texas area.
8. An insured long term disability plan to provide service for all employees of The University of Texas System who elect coverage.

The deadline for submission of proposals will be at 4PM on the 30th day following the issuance of the RFP. The University of Texas System includes over 65,000 employees and retirees at both academic and health care components located at fifteen campuses throughout the state. For more information or to request an RFP, contact:

Employee Group Insurance
The University of Texas System • 702 Colorado Street, #6.600 • Austin, TX 78701
Telephone (512) 499 - 4616 • Fax (512) 499 - 4620

HELP WANTED

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Fax (303) 384-5511
EOE

HELP WANTED

HELP WANTED

HELP WANTED

HPR COMMERCIAL PROPERTY PROFESSIONALS

Protection Mutual Insurance Company, a parent company of the Factory Mutual System, is internationally recognized as a leader in the field of highly protected risk commercial property insurance. Our clients rank among the most influential companies in the world. Due to recent growth and expansion, a number of opportunities for experienced HPR professionals exist at our offices throughout North America:

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Your primary responsibility will be to develop new business, both direct and in conjunction with brokerage firms, as well as service existing accounts. In addition to a substantial base salary, this position also receives incentive compensation based on production.

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In addition to evaluating the risk of prospective accounts, you will participate in the servicing of existing accounts to upgrade the quality of the risk and modify coverages when appropriate. You must be analytical, innovative, possess strong communication skills and be a team player.

We offer excellent salaries, superior benefits and the opportunity to advance within an environment that offers challenge and decision-making authority. For confidential consideration, please fax or mail your resume, including salary history to:

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FAX: 847-825-5403
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CIGNA

Continued from page 1

30 days to either make a special as-yet unspecified deposit with Michigan insurance regulators to cover the liabilities of Michigan policyholders transferred to the runoff facility or challenge the order in federal court, said Michigan Insurance Commissioner D. Joseph Olson (BI, June 24, 1996).

The decision also will not deter two North Carolina agencies from their efforts to force CIGNA to allow North Carolina policyholders to decide whether they want their liabilities moved to the runoff facility, said Peter A. Kolbe, general counsel for the state's Insurance Department (BI, March 3).

A.M. Best Co., though, will not reconsider the active operation's A-rating based on the ruling, unless regulatory action is taken to force CIGNA to nullify its restructuring, said John Snyder, a senior vp in Best's property/casualty division. CIGNA restructured largely to obtain that rating so its active operation could attract quality business.

Standard & Poor's Corp. also will not review its BBB rating for CIGNA's domestic property/casualty insurance business at this time. The rating already reflects S&P's conclusion that there is no significant economic split between CIGNA's active and runoff operations because of the reinsurance coverage the active operation provides the runoff facility, said Alan Levin, managing director of S&P's Insurance Rating Service.

The ruling, written by Judge Dan Pellegrini, gives a group of CIGNA policyholders what they have been seeking since shortly after CIGNA announced its restructuring in October 1995: trial-like hearings at which the policyholders may cross-examine CIGNA officials and actuaries.

Perhaps even more important, the ruling also gives the policyholders access to the coveted Tillinghast actuarial report on the strength of the runoff facility's reserves.

CIGNA and the department assert that the report clearly shows that the facility could easily meet its liabilities, even under the most severe of 162 "stress tests" conducted on the facility's reserves and reinsurance agreements with the active operation.

But, they have refused to release the report, contending that it contains proprietary information about CIGNA and that it is part of the confidential materials the department generated during a financial examination of CIGNA.

Policyholders, though, suspect the report contains caveats about the financial strength of the runoff facility's reserves.

The court left the policyholders' most fundamental objection to the restructuring up to the new hearing officer to address. The policyholders contend the transaction constitutes a novation—which insurance regulations nationwide prohibit—because their policies were transferred from the insurer that originally wrote their coverage to two other companies without their permission.

CIGNA contends the policies were moved into the runoff facility through a series of mergers among subsidiaries, which does not require policyholder approval.

In the reorganization, CIGNA used a unique Pennsylvania corporate division law to split its Insurance Co. of North America subsidiary in two. CIGNA then allocated most of INA's liabilities to one segment and merged it and some other small CIGNA units to form a new company, which policyholders

and some regulators have maintained was not a licensed insurance company. CIGNA then merged that new company into an existing licensed company in the runoff operation.

The other segment of the divided INA retained the company's 204-year-old name and remained in the active operation.

CIGNA maintains the runoff facility can cover its liabilities three times over. However, there is no

'I can foresee challenges to the person (Linda Kaiser) selects,' policyholder attorney John N. Ellison said. 'It can't be anyone intimately involved with what has happened.'

parental financial guarantee to keep the runoff facility solvent if the facility's liabilities exhaust that financial protection.

Ms. Kaiser held three public hearings on the reorganization, but she allowed only 15 minutes of prepared testimony from each witness. She did not permit cross-examinations of witnesses. And, though various documents relating to the reorganization were made available to the plan's critics, the Tillinghast report was kept secret.

On appeal, the critics argued that Ms. Kaiser violated the state's Administrative Agency Law by not conducting trial-like hearings and not releasing the Tillinghast report. They also argued she should have recused herself from the case because she is a former senior counsel for CIGNA.

CIGNA and the department argued that the reorganization's critics have no legal standing to appeal Ms. Kaiser's order approving the reorganization. They argued that the order did not pose any immediate harm to the critics, and any future harm was purely speculative. As a result, the order was not an adjudication for the critics. Only parties to an adjudication can appeal it.

CIGNA and the department also maintained that amendments to the corporate division law do not require the department to hold trial-like hearings.

The court largely rejected CIGNA's and the department's arguments.

It ruled that the policyholders do not have to suffer an actual injury to gain legal standing to appeal the commissioner's ruling. That standing was created because the commissioner's order affected the policyholder's financial interests, the court ruled.

"This interest was created because policyholders have a particular interest in assuring that any division of the company with whom they originally obtained insurance will be able to carry out the responsibilities under the policies," Judge Pellegrini wrote.

Because the Insurance Department's decision is an adjudication for the policyholders, the department should have held trial-like hearings, the court ruled. It also should have made the Tillinghast report and other information supporting CIGNA's case available to the policyholders for that hearing, the court ruled.

The court also spelled out how the Insurance Department should have structured the hearing process. It said the department could have conducted public hearings to gather information that a deputy commissioner then could have used to render an initial determination on CIGNA's plan. That decision

then could have been appealed to the commissioner, who should have issued a final ruling only after holding a trial-like hearing, the court said.

Without explanation, though, an Insurance Department spokeswoman said the decision "affirmed the appropriateness of the commissioner's substantive review of the transaction."

Indeed, she said the department is "fairly happy" with the order.

But, "because of the impact this decision may have on other cases, we are exploring the basis for an appeal."

For the trial-like hearing the court ordered, Ms. Kaiser will have to appoint another adjudicator. The court did not directly address the conflict-of-interest issue created by Ms. Kaiser's previous employment with CIGNA. Instead, the court ruled that because of her earlier approval of CIGNA's reorganization, she "could be considered to have prejudged the matter," making her unsuitable to preside over the new hearings.

In a footnote, though, the court reviewed when adjudicators should recuse themselves from cases to avoid the appearance of impropriety.

Still, the department spokeswoman emphasized that the court did not adopt the CIGNA critics' argument that Ms. Kaiser should have recused herself.

CIGNA's critics will scrutinize the appointment Ms. Kaiser makes.

"I can foresee challenges to the

person she selects," said CIGNA policyholder attorney John N. Ellison, a partner with Anderson Kill & Olick P.C. in Philadelphia. "It can't be anyone intimately involved with what has happened."

"The court's opinion was measured but very clear on what constitutes a fair hearing, and the department is as capable of reading those words as we are," said Florence Davis, vp and general counsel for AIG.

But, CIGNA's insurer opponents, which the court classified as reinsurers, do not have standing to appeal Ms. Kaiser's order because they are neither policyholders nor creditors, the court ruled. However, if INA's division harms their contractual rights, the reinsurers could challenge the reorganization in a separate court action, it said.

The insurers, though, say the order gives them an opportunity to jump back into the case because, in many instances, they participated with CIGNA on excess coverages or themselves were reinsured by CIGNA.

The court ordered the new adjudicator to determine whether each critic is a policyholder or a reinsurer.

"I think we're still in the game, but more critically, the policyholders are," Ms. Davis said.

Policyholders likely will not see changes in the company's property/casualty insurance structure anytime soon, which could spark additional litigation.

While the decision is appealed, "its business as usual," a CIGNA spokesman said. "We'll continue to operate as duly authorized."

He said CIGNA maintains that authority because "what was overturned was the (commissioner's plan approval) order, not the restructuring."

"The court did not order CIGNA to reverse the transaction," the department spokeswoman agreed.

Policyholder attorneys said the ruling clearly reverses CIGNA's re-

organization.

"What it vacated was the department's approval of the restructuring application. Without that approval, there is no restructuring," Mr. Ellison said. "This is not like Calculus III. This is like elementary algebra."

For policyholders, the court order "means we're right back to where we were before" CIGNA reorganized, with all policyholders having access to both the active and the runoff operations' assets, said Lawrence T. Hoyle Jr. of Hoyle, Morris & Kerr of Philadelphia. In addition to some CIGNA policyholders, Mr. Hoyle represents some insurers that oppose the restructuring.

The significance of that position will be played out in CIGNA's coverage litigation with policyholders across the country, said CIGNA policyholder attorney Robert L. Byer, a partner with Kirkpatrick & Lockhart L.L.P. in Pittsburgh. "I don't see how INA can get out of any case it was a defendant in" by arguing it has transferred its liabilities to the runoff operation, Mr. Byer said.

"In a coverage matter, I'd continue to go after the company that issued the policy," Mr. Ellison concurred.

Stock analysts in New York were not troubled by the decision.

Merrill Lynch & Co. Senior Vp Michael Frinquelli does not think CIGNA's reorganization will be rejected. Even if it is, CIGNA's improved financial performance over the past year likely would avert a Best downgrade, he said.

At least one broker executive, though, thinks some risk managers may be jittery about placing business with CIGNA if they have any concerns about the decision's potential impact on the company's future ratings. "I have a suspicion it will hurt them to a degree," said Robert Hilb Sr., chairman and chief executive officer of Hilb, Rogal & Hamilton Co. of Glen Allen, Va. **BI**

Services Guide

Business Insurance

Circulation Breakdown Commercial Consumers

Administrative:
CEO's, Presidents, and Owners,2,200
Vice Presidents, General Managers and
Other Administrative Personnel5,129

Financial:
Chief Financial Officers and Vice Presidents
of Finance3,166
Secretaries, Treasurers, controllers and
other Financial Personnel2,973

Risk/Employee Benefits:
Vice Presidents, Directors, Managers, and other
related department personnel of: insurance, risk, em-
ployee benefits, personnel, compensation,
pension, safety, security, industrial relations,
human resources and employee/
labor relations17,043

Sub-total30,511
Associations290
Government, Unions and
Educational Institutions946

Commercial Consumers
Sub-total31,747
Insurance Agents and Brokers8,588
Insurance Companies7,327
Accountants, Actuaries,
Attorneys & Consultants2,831
Adjusters, Appraisers, TPA's, Captive Managers
& Health Care Providers1,624
Others Allied to the Field966

Total Qualified53,083
Non-qualified9
Single Copy Sales16
TOTAL CIRCULATION53,108

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Indiana

Continued from page 2

CGL policies issued in Indiana after June 30, 1997, and would list in detail what could be deemed pollutants.

For example, the House bill names petroleum as a pollutant and says an environmental loss could arise from, among other things, "inhalation, ingestion or absorption of an irritant."

The amendments are a reaction to a state high court ruling last year that was unfavorable to insurers, said Fred McGarvey, vp in the Skokie, Ill., office of the American Insurance Assn.

He helped formulate the bills with the Insurance Institute of Indiana, an association of insurers.

In *American States Insurance Co. vs. Kiger*, the court ruled that the 1985 Insurance Services Offices absolute pollution exclusion was ambiguous when it was applied to a gasoline leak from an underground storage tank at a gas station.

The court ruled that the term "pollutant" did not obviously include gasoline and that as gasoline leakage was the major liability of the policyholder, denying coverage under the pollution exclusion would negate coverage for most of the policyholder's liabilities.

The insurance industry and the Indiana legislature reacted by formulating the bills that would provide statutory support to insurers seeking to refrain from covering environmental risks in general liability policies, said Mr. McGarvey of the AIA.

"The policymakers have spoken to say that, at least from the (effective) date of the act forward, CGL policies can absolutely exclude pollutants and it gives us the ability to say that we don't want to cover pollutants," he said.

The legislative action brings Indiana back into line with other states, said Ms. Foggan.

"The *Kiger* decision pushed Indiana away from the national trend, so this will rectify what could be seen as a division in the general understanding of the absolute pollution exclusion," she said.

But policyholder lawyers charge that the law was formulated as a way to amend the absolute pollution exclusion without actually rewriting the policy language.

"Rather than the industry amending the exclusion because of *Kiger*, they are having the legislature tell you that there's more than there really is in the exclusion," said Edward M. Joyce, a partner at Anderson, Kill & Olick P.C. in New York.

Insurers are likely wary of altering the exclusion itself, as that could be construed as an admission that it does not exclude all pollution claims, he said.

"They are using the Legislature in a backhanded way to protect themselves," Mr. Joyce said.

The bills are "gross overkill," said William Greany, a partner at Covington & Burling in Washington who represents policyholders.

The *Kiger* decision determined only that the 1985 exclusion was ambiguous in regard to some cases, and an amendment of the state insurance law is an overreaction, he said.

Also, the language in the bills is so far-reaching that it seems legislative action also may be an attempt to extend pollution exclusions to other liabilities, such as lead paint and asbestos, said Mr. Joyce.

In particular, the reference to the exclusion of "pollution inhaled, ingested or absorbed" may be an attempt to exclude those liabilities, he said.

However, coverage for those liabilities usually is sought under older policies, which will not be affected by the proposed bills, said Stephen Williams, president of the Insurance Institute of Indiana.

The legislation simply will confirm the intent of insurers not to cover pollution under general liability policies, he said.

"What we are seeking to do is codify the absolute pollution exclusion so that (insurers) can have some comfort going forward," Mr. Williams said.

The 1985 absolute pollution exclusion was added to policies after courts held insurers liable for environmental claims that insurers say they never intended to cover. **BI**

The Home

Continued from page 1

The New Hampshire department placed The Home under formal supervision last Tuesday after its 1996 annual financial statement revealed it had a capital deficit of \$226.6 million, before discounting its loss reserves. The insurer has an authorized risk-based capital requirement of \$325.1 million under National Assn. of Insurance Commissioners requirements.

The New Hampshire department is authorized under NAIC rules to take The Home under supervision because it failed to meet the required risk-based capital level.

Formal supervision is less severe than rehabilitation or liquidation. The Home under supervision can still be run off by its own managers, but it must seek the department's approval:

- To pay any single claim of more than \$1 million.
- Make any payment to creditors more than \$500,000.
- Make any single payment to cedents or reinsurers in excess of \$250,000.
- Release any obligation or collateral in excess of \$500,000.
- Materially change any contracts—not only insurance and reinsurance—worth more than \$500,000.

The New Hampshire department also will review the budget of The Home and will supervise an intensified review of The Home's books.

The New Hampshire department commissioned a new actuarial review of The Home last year after it was clear the insurer was suffering a greater-than-expected erosion of assets (*BI*, July 15, 1996).

At the time the Zurich deal was approved, actuaries assessed that under a possible worst-case scenario, The Home's loss reserves could fall short by \$1.9 billion. But The Home's reinsurance contracts and its assets were expected to cover that deficiency.

The new actuarial report is still pending, but it seems clear that The Home's loss reserves are deteriorating at a faster-than-expected rate for several reasons, said David Nichols, the examiner appointed by the New Hampshire Insurance Department to oversee the runoff of The Home.

In particular, new analysis of asbestos and environmental claims liabilities is revealing loss information and estimates not available when the Zurich deal was approved, he said.

Also, the original actuarial analysis assumed that The Home would be in runoff from the beginning of 1995, whereas the insurer ran as an ongoing insurer for the first half of 1995 and had to pay higher expenses than had been forecast by the actuaries.

For The Home's 1996 financial filings, the insurer was allowed to dis-

count its reserves at 7%, which generates \$469.4 million. However, the department recognizes only 60% of that gain, giving The Home an accounting surplus of \$55 million.

"That's not a large margin of error," conceded Mark Davidowitz, assistant controller and investment relations manager at REM.

The Home has a \$1.3 billion stop-loss reinsurance contract supplied under the Zurich deal as well as \$1.78 billion in paid and collectible reinsurance under other contracts.

Also, the Zurich reinsurance program will pay an additional \$290 million if The Home is allowed to make dividend payments to the holding company, Home Holdings Inc., earmarked for Home bond holders and the money is needed to pay claims.

After publication of the financial results Standard & Poor's Corp. lowered its rating of Home Holdings' debt security to CC from B-, and Moody's lowered its rating to Ca from B3.

The rapid deterioration in The Home's financial results is largely due to a higher loss development than originally expected, Mr. Davidowitz said. Possible mitigation of further loss development by commuting claims will be up to the New Hampshire department, which will have to approve the settlements, he said.

The Home added \$440 million to pollution and environmental loss reserves last year, bringing its total net loss reserves to \$2.1 billion.

The 1996 results show The Home would find it difficult to withstand any further deterioration of its financial position, said Eric M. Simpson, vp at A.M. Best Co. in Oldwick N.J. "With the discounting of the reserves taken into account, they won't have any net contributions going forward, so the \$55 million surplus will have to withstand any surprises," he said.

The Home's efforts to negotiate settlements early reflects the trend in the insurance industry as a whole, said Alan Levin, managing director at S&P's Insurance Rating Service. "The Home's losses have been a little higher than expected, and they may be paying the losses a little earlier, but its position is not materially more gloomy than it was last year," he said.

The runoff status of The Home has also highlighted its reserve deficiencies, said Ted Collins, vp at Moody's Investors Services. "In the case of a runoff company, you tend to be able to focus on the reserves somewhat better than you do when you have an ongoing business operation, which is generating new business and the problems of the past can be borne over time and offset against current income," he said.

The Zurich offer usurped an earlier, more conventional takeover of The Home by an investor group led by John J. Byrne, who was credited with turning around GEICO Corp. in the 1970s and Fireman's Fund in 1980s.

Under the Byrne proposal The Home would have received \$630 million in new funds and been run as an ongoing concern. However, The Home's major shareholder, Trygg Hansa SPP Holding A.B., favored the less orthodox Zurich proposal.

The controversial deal was opposed by other insurers that said Zurich should be made to accept all of The Home's liabilities if it wanted to take over its good business.

However, after a heated public hearing on the proposal, New Hampshire Insurance Commissioner Sylvio L. Dupuis approved the Zurich deal.

Mr. Nichols of the New Hampshire department said the data provided to the actuaries at the time of the deal was not as complete as they wanted.

The approval process would have had to have lasted substantially longer than the six months it took to provide the actuaries with all of the possible data, he said. "If that had happened, there may not have been a transaction," Mr. Nichols said. **BI**

The Home surrenders to supervision

November 1994:

- The Home announces plan to raise \$250 million after adding \$175 million to loss reserves earlier in 1994

December 1994:

- An investor group proposes a takeover that would inject \$630 million into The Home

December 1994:

- Zurich Insurance Group announces its proposal to assume The Home's profitable business and place the unprofitable business in runoff

Zurich will reinsure the non-renewed business but assume no liability for it

January 1995:

- Investor group improves its offer, but the Zurich bid is still more favorable to The Home's majority shareholder, Trygg-Hansa SPP Holding A.B.

February 1995:

- Zurich proposes a \$1 billion reinsurance contract to cover the old The Home policies

April 1995:

- Zurich increases its reinsurance offer to \$1.29 billion

May 1995:

- Zurich increases the reinsurance to \$1.59 billion

June 1995:

- Regulators approve the deal

July 1996:

- Regulators order a new actuarial report when it appears that the The Home's assets are being eroded more quickly than anticipated

March 4, 1997:

- The New Hampshire Insurance Department places The Home under formal supervision

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Hospitals

Continued from page 3

except Blue Cross patients. Actual patient charts, not claims data, should be used for such studies, because they represent a much richer vein of information, Mr. Campbell said.

The study indicated Blue Cross was paying about 20% more for comparable care at Sparrow than it was at Michigan Capital, Mr. Groty said. Blue Cross has since reduced the rates it pays Sparrow by an undisclosed amount.

Kathy Kendall, director of managed care contracting at Michigan Capital, said, "We agree that the patient record is always more accurate than claims data." Nonetheless, she praised the study for symbolizing a growing awareness among buyers. "The employers are finally standing up and saying we have to be accountable—the physicians have to be accountable; the hospitals have to be accountable," she said.

Sparrow and Michigan Capital viewed the contents of the study cautiously, considering delicate market conditions, sources said. Sparrow was in discussions last year to merge with a third local hospital, St. Lawrence Hospital and Health Care Systems. It has

since agreed to the merger, which is expected to be completed this year. Moreover, Michigan Capital is in discussion with Nashville-based Columbia/HCA Healthcare Corp. to be acquired.

Primarily due to objections from Sparrow last spring, the employer coalition kept the report from the public's view for most of 1996. The employers agreed to shelve the study and embark on a second at-

'The employers are finally standing up and saying we have to be accountable,' says Kathy Kendall.

tempt, incorporating more reliable patient chart data, but months of haggling over details and delays ensued.

In December, a local newspaper, the Lansing State Journal, requested the study under the Freedom of Information Act, which allows the media access to documents of public interest. The paper splashed the study's findings across the front page, the headline declaring Michigan Capital "offers (the) best deal."

A lesson employer coalitions can

learn from Lansing is that hospital studies, to be accurate enough to satisfy everyone, must involve the full cooperation of the hospitals involved, said Michigan State's Mr. Groty. This can create a Catch-22 situation, because hospitals are by nature selfish about their data, he said.

"Simply saying data is good and people have a right to data doesn't mean (hospitals) will open their doors to you," he said. "It's really a power issue."

Hospitals will resist the release of a comparative study about them "until they know exactly what it represents and that they can put their spin on it," he said.

A different lesson, Ms. Kendall said, is that coalitions should consult hospitals on their research plans early in the process.

The employers, which reportedly spent more than \$75,000 on the first study, are willing to fund a second study using chart data, but sore feelings between them and the hospitals continue. An agreement on a second study has not been reached, and the two sides have not been able to schedule a meeting, said Frank Webster, executive director of the Capital Area Health Alliance.

"At this point, I would probably say stalemate is a good word," Sparrow's Mr. Campbell said. ■

Arbitrate

Continued from page 3

stakes are," he continued. They know an employment case can lead to a potential boycott of the company.

Consumer groups announced boycotts against Texaco Inc. and Mitsubishi Motor Manufacturing Co. of America after allegations of race discrimination and sexual harassment charges, respectively, late last year.

Solving employment-related disputes with ADR procedures "is the wave of the future," said Karen Ludington, a labor attorney now with her own employment consulting firm, The Ludington Co. Inc., based in Holden, Mass. ADR procedures should "be one piece of a whole complex system" to reduce exposure to discrimination and harassment suits.

Indeed, a full range of internal and external ADR procedures is becoming more common in employment contracts, personnel manuals and employee handbooks, according to the American Arbitration Assn.

"The level of interest is just tremendous," noted Robert E. Meade, national vp-program development for the New York-based non-profit dispute resolution organization.

"I've worked with 300 companies in designing programs that are in effect now. That covers 3.5 million people. And in the last 14 months, I've worked with 200 more companies that have programs on the drawing board."

The American Arbitration Assn. recently issued a new guide to help employers effectively design an employment dispute resolution plan as well as descriptions of internal and external ADR options (see chart, page 1).

One of the advantages coming out of ADR programs is the ability to act as a risk prevention tool for employers.

Employers that have integrated ADR programs say they can effectively track patterns of employment-related grievances over time—much like workers compensation claims—and can then address potential problems before

they escalate into larger, possible multiparty complaints.

One such company is Brown & Root Inc.

Beginning in 1993, the Houston-based engineering and construction firm required all of its 30,000 employees, as a condition of employment, to resolve all legal claims against the company through an internal program. The company offers employees four alternative dispute options: an internal open-door program; an internal ombudsman program, where a neutral third party confidentially investigates and proposes a settlement; an outside mediation program; and an outside binding arbitration program (BI, May 15, 1995).

Brown & Root not only has saved 50% on its legal fees since the ADR program's inception four years ago, but the program "allows the company to effectively understand what's going on in the workforce," said Bill Bedman, assistant general counsel of human resources.

By tracking patterns of complaints, the company has a handle on the number and types of grievances employees bring and from which operating unit they arise. This gives the company time to make decisions to solve a potential problem before "it gets too far down the pipeline," he said.

"So if there is an abnormal number of sexual harassment cases, one can do something about that," he said, adding the company has changed some of its policies and moved management around as a result of problems that were tracked.

This is not to say Brown & Root does not have employment claims. "We're not perfect," Mr. Bedman said. "But, we have management control we would not have otherwise. We tend to have a general idea of what is going on so we don't wake up in the morning and ask how we got someplace."

Employers interested in drafting an ADR program can turn to the American Arbitration Assn.'s new "Resolving Employment Disputes: A Practical Guide" for some help. The new guide serves as a companion to the association's "National Rules for the Resolution of

Employment Disputes," which was released last year (BI, June 3, 1996).

The new guide includes a checklist of considerations for employers and descriptions of the full range of legally available ADR options.

The guide "is a collection of issues, questions and information that I've been hearing time after time after time," Mr. Meade said.

Among the considerations listed:

- Employers need to include a fair method of cost-sharing between the employer and employee to ensure affordable access to the ADR system for all employees. Some ADR plans allow employees to pay only a small portion of the initial filing fee of the arbitration or a percentage of the filing fee based on the employee's salary, the guide explains.

- Employers need to specify the nature of the claims to be covered under the ADR program. Some employers may want the ADR provision to be as broad as possible, while others may choose to exclude certain types of claims.

- Employers need to give employees clear notice of their right of representation. The plans also may provide information about institutions that provide assistance to people who cannot afford representation. Employers also may consider providing a method of reimbursement of at least a portion of their legal fees.

- Employers need to allow for the same remedies and relief that would have been available to the parties had the matter been heard in court. This authority includes the right to award compensatory and punitive damages, attorney's fees and other remedies available under applicable law in court.

- The plan needs to state clearly that it does not preclude an employee from filing a complaint with a federal, state or other governmental administrative agency.

Copies of "Resolving Employment Disputes: A Practical Guide" can be obtained from the American Arbitration Assn.'s World Wide Web site at <http://www.adr.org> or by contacting the customer service department at 212-484-4000.

EMLICO

Continued from page 1

have over massive GE pollution and asbestos claims settled by EMLICO's Bermuda liquidators.

In a letter to the state senator last week, Insurance Commissioner Linda Ruthardt said, "I am aware of concerns which have been expressed by EMLICO's reinsurers and anticipate that any settlement will materially address those concerns."

She also noted that any settlement will be subject to Massachusetts court approval.

The settlement talks are the latest twist in the complex saga of EMLICO, a longtime GE general liability insurer that reorganized in 1995, spinning off its non-GE business into a former affiliate, Electric Insurance Co., and moving to Bermuda. A few months after the move, EMLICO declared itself hugely underinsured for GE pollution and asbestos claims and insolvent by more than \$500 million.

In subsequent court fights in Massachusetts and Bermuda, EMLICO reinsurers charged that EMLICO knew it was insolvent before the move and concealed the fact from regulators in a conspiracy with GE to take advantage of creditor-friendly Bermuda liquidation laws.

The charges have prompted an investigation by a Boston-based federal grand jury. Last week, the state's Supreme Judicial Court heard arguments over whether EMLICO reinsurer Kemper Reinsurance Co. may comply with a grand jury subpoena for documents that show EMLICO was considering runoff in Bermuda several months before the move.

A lower court ruled last year that Kemper Re may not turn over the documents, which earlier had been sealed at EMLICO's request (BI, Oct. 7, 1996).

Faced with the allegations, Ms. Ruthardt last year considered reopening the EMLICO redomestication but decided instead to pursue the fraud charges as part of an examination of Massachusetts-based Electric Insurance, headed by several former EMLICO officers.

As part of this investigation, the Insurance Division subpoenaed EMLICO-related records from several consultants, including Tillinghast-Towers Perrin.

The settlement talks between regulators, GE and EMLICO were disclosed last month when the parties jointly sought to delay a court action to enforce the Tillinghast subpoena (BI, March 3).

Sources familiar with the talks last week confirmed a Boston Globe report that the deal calls for the Massachusetts division to become ancillary receiver for EMLICO with oversight of GE environmental and asbestos claims settlements.

Under the proposed deal, EMLICO liquidators with Coopers & Lybrand would negotiate claim settlements with GE and then submit the settlement packages to Massachusetts regulators for approval, the sources say.

"Large" claims would also be subject to additional review by a special master appointed by the state Supreme Judicial Court, according to one source, who could not say how "large claims" will be defined. Reinsurers would have "ample opportunity" to air objections to these settlements in the court approval process, the source said.

If Massachusetts authorities rejected a settlement, it would return to Bermuda for renegotiation.

Massachusetts law would apply to the GE claims and to issues related to reinsurance coverage, according to the sources.

As part of the deal, the Massachusetts division also would reaffirm its approval of EMLICO's reorganization and is expected to drop its investigation of alleged fraud by GE and EMLICO, the sources say.

Reinsurers and legislators have already objected to this reported provision.

"The issue of fraud on a public agency is being swept under the rug," charged Joseph T. McCollough IV, a lawyer with Lovell White Durrant in Chicago, representing Kemper Re.

"I am concerned that the questions raised concerning the process utilized by the division in the course of the EMLICO hearings

A state senator questions 'why other people, including reinsurers, were not asked to participate.'

and the adequacy of the financial information provided to the division in this regard remain unanswered," State Rep. John P. Slatery said in a letter to Ms. Ruthardt.

"I respectfully urge you to incorporate into any agreement... a provision requiring full and complete disclosure of EMLICO's financial position as of the date of entry of the redomestication order."

State Sen. Michael W. Morrissey also questioned "why other people, including reinsurers, were not asked to participate, and the intent of having this deal done behind closed doors rather than through a public hearing process as it should have."

Reinsurers also raised several questions about the deal that remain unanswerable in the absence of specifics on how the agreement would work.

It is unclear, for example, whether EMLICO's liquidators might still argue that reinsurers are subject to Bermuda liquidation law, which allows the liquidators to estimate future claims and attempt to collect immediately from reinsurers, reinsurer lawyers say.

Also unclear is how the deal would affect the insolvency clause in reinsurers' contracts, which allows them to interpose defenses to GE claims against EMLICO. Reinsurer lawyers wonder, for example, whether Bermuda liquidators would be allowed to settle claims with GE with no argument from reinsurers.

Reinsurers also questioned whether Massachusetts authorities really will have much control over GE claims if the settlements are reached in Bermuda and presented to regulators as done deals.

"GE's claims against EMLICO will continue to be handled by GE's handpicked liquidators, with GE acting as the puppeteer," Mr. McCollough charged in a statement.

Negotiators for the Insurance Division, EMLICO's liquidators and GE were meeting Friday afternoon to work on the deal, and sources familiar with the talks said they were unsure when an agreement might be finalized.

Health

Continued from page 2

group health care, HMO and third-party administration business of Chattanooga, Tenn.-based Provident Life & Accident Insurance Co. of America Inc., which it acquired in 1995 (BI, June 5, 1995; Dec. 26, 1994).

Combined, CIGNA HealthCare would operate HMOs with 5.3 million members, maintaining its No. 2 ranking behind Kaiser Permanente (BI, Dec. 27, 1996).

CIGNA's medical indemnity business after the acquisition would cover 7 million lives, including CIGNA's 4.5 million lives and Healthsource's 2.5 million. CIGNA is expected to make every effort to encourage these members to switch into its managed care operations.

The combined operation will have strong dental plan operations. CIGNA now has 2.5 million managed dental care members and 8 million indemnity dental lives. Healthsource services 2.6 million lives, including 313,000 who are part of its managed care operation and 2.3 million who use its

self-insured product.

Healthsource will give CIGNA HMO members in six states where it currently has none: Arkansas, Indiana, Kentucky, South Carolina, New Hampshire and Maine. CIGNA's membership is now concentrated most heavily in California, Arizona and Florida.

The acquisition is "especially appealing and important to multistate employers who look to a national company like CIGNA to be able to serve their employees throughout the country," the CIGNA spokesman said. The deal will "enhance our efforts to negotiate appropriate contracts with providers that help to keep costs down for employers," he added.

Consultants agree that wider geographic spread and improved cost efficiencies are the two primary benefits of the acquisition.

The deal means a wider variety of managed care products available in more geographic areas, said Bob Eicher, a principal with A. Foster Higgins & Co. Inc. in New York.

The principal advantage is "they're better able to negotiate better deals with the health care providers," as

well as reduce expenses, because there will be certain redundancies within the two operations, said Jack Doerr, group benefits practice leader for Sedgwick Noble Lowndes in Chicago.

But some observers worry the acquisition means fewer options for employers. "It's going to make it a bit more of a challenge for employers, because they may have fewer plans from which to choose," which could reduce their bargaining power, said Tom Billet, the Stamford, Conn.-based national practice leader for the MED-STAT Group, a Minneapolis health care information and consulting firm.

"I think what it does is remove one significant regional player in the Northeast and parts of the Southeast and just gives (employers) one less option," said Rich Sinni, principal and director of health care management for Buck Consultants Inc. in Secaucus, N.J.

Sedgwick's Mr. Doerr said that while eventually the reduced number of choices will become a negative, "I don't think we're terribly close to that point." While there now may be fewer choices available in the market, they are stronger than before, he said. **BI**

Storms

Continued from page 1

2,400 claims from the affected area totaling \$11.6 million. The Arkansas tornadoes are expected to account for \$2 million of that total, most of the rest of which will come from Kentucky, Ohio and West Virginia.

Allstate Insurance Group received more than 2,500 storm-related claims by late last week, though the Northbrook, Ill.-based insurer does not release damage estimates.

The Property Claim Services division of the American Insurance Services Group expects to issue a preliminary insured property loss estimate this week. Much of the flood damage, if insured at all, will be covered by the National Flood Insurance Program rather than commercial insurance.

Residents and businesses now are left to pick up the pieces from the violent storms, which slashed across the country from northeast Texas through parts of Arkansas, Mississippi, Tennessee, Kentucky, West Virginia, Ohio and Indiana.

In Arkansas, as many as 20 tornadoes cut a 260-mile swath of destruction beginning in the southwest part of the state and ending in the northeast. In all, 24 people were killed, more than 200 were injured, and 21 counties were damaged and waiting for disaster assistance.

Hardest hit by the twisters was Arkadelphia, Ark., a town of some 10,000 people about 60 miles southwest of Little Rock. The deadly tornado there was reportedly three-quarters of a mile wide and is estimated to have stayed on the ground as long as 18 minutes, destroying the commercial downtown area, killing six people and injuring more than 80.

The Arkansas Insurance Department "conservatively" estimates total insured damage in the state to be \$100 million, said Ronald Sheffield, deputy director of the department. Most of the damage hit rural and residential areas, but in Arkadelphia, damage was equal between commercial and personal property, he said.

President Clinton declared Arkansas a disaster area on March 2, and the Federal Emergency Management Agency has since designated 13 counties as qualifying for federal assistance. On March 4, President Clinton declared Ohio and Kentucky disaster areas, and FEMA designated 24 counties in Kentucky and 16 counties in Ohio as qualifying for assistance. No other states had been declared disaster areas as of the end of last week.

Dozens of locally owned businesses in Arkadelphia, including a flower

shop, a bank, a restaurant and an accounting firm, were destroyed, added Robert Sikes, the state's risk manager. Employers in other parts of the state fared better.

Mr. Sikes estimates state property suffered between \$360,000 and \$690,000 in insured damages. "The state escaped, it really did."

"The tornado just missed a \$100 million campus," he said, referring to Henderson State University in Arkadelphia. A \$123,000 educational television tower in the town, however, was destroyed, as were three small office buildings the state was leasing.

The Piggly Wiggly supermarket in downtown Arkadelphia also was spared major damage. The store suffered about \$25,000 in damages, owner Andy Riethmaier said.

The majority of the damage—about \$15,000—was product loss, he estimates. "When you lose power, you can't save meats and produce."

In addition to the devastation in Arkansas, tornadoes and flash flooding struck parts of northeast Mississippi, killing one and injuring 18 others. Pontotoc and Union counties were the hardest hit by the storm, which destroyed and damaged about 85 homes.

The Mississippi Insurance Department estimates that insured personal property damage in the state totaled \$1 million.

Six tornadoes touched down in western Tennessee, hitting McNairy and Carroll counties the hardest. The same storm system produced torrential rains and flooding in the western and central parts of the state.

Five deaths are blamed on the storm, which produced damage in as many as 35 counties, said Cecil Whaley, director of natural hazards for the Tennessee Emergency Management Center in Nashville. He estimates the storm will cost insurers between \$20 million and \$25 million, the majority of it in personal lines. Most of the commercial damage—estimated at between \$2 million and \$4 million—is attributable to small "mom and pop" stores, he said.

Flash floods in the western part of West Virginia killed one person, while hundreds of others were evacuated. In all, 9,000 homes and 1,000 businesses were damaged. Initial damage estimates exceeded \$200 million.

In Kentucky, Louisville suffered some damage from the city's worst flood in three decades, said its risk manager, Kevin O'Donnell. The largest loss for the city was 45 city-owned vehicles, he said.

Mr. O'Donnell estimates the city will exceed its \$100,000 deductible for the lost vehicles. Also, he estimates the

damage to computers at \$50,000, well in excess of the \$10,000 deductible.

Fireman's Fund Insurance Co. insures the vehicles and computers.

Flooding damaged hundreds of new cars parked outside a Ford Motor Co. assembly plant in Louisville. Andy Welmers, the company's manager of corporate insurance, said it was too soon to assess the dollar amount of the damage. The flooding forced the plant to close for one shift.

The company has property and business interruption coverage placed by Marsh & McLennan Cos. Inc. with multiple insurers. Mr. Welmers did not know whether the loss would exceed the company's high deductible, which he would not disclose.

The Kentucky Emergency Operations Center reports that total damage in the state was \$232 million but will increase with further investigation after the flooding. As of last week, 14 people had died from the flooding in Kentucky.

Across the Ohio River in southern Indiana, a Hudson Foods Inc. poultry processing plant suffered damage from flooding. The plant, located in Corydon, was flooded with about an inch of water, said Bill Faulkner, corporate claims manager. Some construction at the plant was damaged, causing the largest loss, he said. The company has a \$250,000 deductible for both property damage and business interruption, with Genesis Insurance Co., a unit of General Reinsurance Group in Stamford, Conn., but Mr. Faulkner doubts that will be reached.

The state of Indiana does not compile official dollar damage estimates from catastrophes.

In Ohio, flood waters from the Ohio River lapped up against Cincinnati's Cinergy Field, formerly Riverfront Stadium. Damage was limited to the parking lot as pumps and storm gates prevented the water from infiltrating inside the stadium. The main concern of stadium officials is the newly installed \$2 million artificial turf, but unless the pumps fail, the turf will be spared, said Suzanne Burck, stadium coordinator for Hamilton County, the stadium's owner.

The largest costs will be for cleanup after the waters recede and for replacing equipment from the parking garage. All the costs will be borne by the county, which has no flood insurance for the stadium, according to Ms. Burck.

The Ohio Emergency Operations Center reports that total damages in Ohio are expected to exceed \$100 million. Damages cannot be completely assessed until the flood waters recede, so that figure likely will increase. **BI**

Updates

Ceridian to settle age suits

Continued from page 2

The lawsuits stemmed from the downsizing of Ceridian's predecessor, Control Data Corp., in the late 1980s.

Arden Hills, Mich.-based Control Data Systems Inc. will pay an additional \$4.5 million. Control Data Systems once was part of Control Data Corp. but separated from Minneapolis-based Ceridian when the former parent was restructured.

The suits, filed in U.S. District Court in Minneapolis, originally were filed in 1989. Company officials denied any wrongdoing but said they decided to settle to avoid the uncertainty of a trial's outcome and the defense costs associated with a lengthy trial.

Ceridian said the settlement will be paid out of earnings and is expected to reduce its first-quarter earnings by about 15 cents per share.

Control Data said that because it had already reserved against a potential settlement, its earnings would not be affected.

Viacom stands by report

NEW YORK—Charges by environmental groups that Viacom Inc. might have failed to fully disclose its potential liability for environmental cleanup in its annual report are inaccurate, the company said.

In a recent letter to Nancy M. Smith, director of Security and Exchange Commission's office of investor relations, the three groups—Citizen Action, Friends of the Earth and the Sierra Club—charged that Viacom had understated its potential Superfund liability by saying the liabilities will not have a seriously negative impact on its finances.

The groups estimated Viacom faces at least \$270 million in cleanup costs at six sites alone. Much of this alleged liability stems from Viacom's merger with Paramount Communications three years ago. Paramount was a successor corporation to Gulf + Western, which contributed to numerous Superfund sites.

Viacom calls the alleged liabilities "grossly overstated," adding that in the past decade it and its predecessors have spent "tens of millions of dollars on cleanup, principally related to the operations of Gulf + Western."

New York-based Viacom added in a statement that the "\$270 million costs that they attribute to six sites bears no relationship to reality. . . Our overall environmental liability has been appropriately reserved for on our balance sheet and is an extremely small fraction of Viacom's capitalization."

Viacom declined to give an estimate of its environmental liabilities but said they would not have a significant negative effect on the company's results.

Execs fired over harassment

CHICAGO—Two male senior executives of CNA Life have resigned following two female employees' charges that one of the men made "offensive comments" to the women.

A spokesman for CNA Life, a unit of Chicago-based CNA Financial Corp., said no legal charges have been brought against the company or filed with the U.S. Equal Employment Opportunity Commission.

The two executives, former CNA Life President Jack Kettler and former Chief Administrative Officer Robert Teske, resigned from the company effective March 1.

The company "has provided support for the affected employees and has thanked them for coming forward to report this behavior," according to a statement.

The spokesman said the employees received time off with pay during the company's inquiry. They have not asked for a monetary settlement.

Mr. Kettler allegedly made offensive comments, and Mr. Teske allegedly tried to prevent the employees' efforts to remedy the situation, according to a statement.

CNA has not filled the two vacant positions yet.

Briefly noted

Aetna Inc. last week named **Joseph T. Sebastianelli** its new president. Previously co-president of Aetna-U.S. Healthcare and Aetna executive vp, Mr. Sebastianelli is credited with successfully implementing the marriage of U.S. Healthcare and Aetna that began in July 1996. . . The New York Senate and Assembly passed bills last week that will allow women at least **24 hours of hospital care** after undergoing a mastectomy and ensure that insurers pay for reconstructive surgery. . . The Senate Commerce Committee held its first hearing of the year on **product liability reform** last week even though a final product liability reform bill has not been drafted. . . The Washington-based **College Construction Loan Insurance Assn.**, better known as Connie Lee, completed its privatization last week. Connie Lee, which had been owned in part by the federal government, had been restricted to insuring obligations of education and health-care related issues. Now the financial guarantee insurer plans to launch a program to insure bonds in all municipal market sectors. . . Reliance Insurance Co., MTS Insurance Services and Lowndes Lambert US Holdings Inc., a unit of London-based Lambert Fenchurch Group P.L.C., have formed a U.S. insurance broker and managing general agent, **New Century**, which will be headquartered in Dallas and capitalized initially at \$9.5 million, will offer property and casualty products nationwide. New York-based Reliance and LFG each will have a 40% stake in the venture, and Chatsworth, Ca.-based MTS will own 20%. . . A U.S. District Court jury in Columbia, S.C., on Friday found Arlington, Va.-based USAir negligent in a July 1994 plane crash near Charlotte, N.C. that killed 37 people (BI, July 11, 1994). A separate proceeding to determine damages against USAir, now US Airways Inc., will begin this week. . . Woodland Hills, Calif.-based **WellPoint Health Networks Inc.** has completed its acquisition of the group health and related life businesses of John Hancock Mutual Life Insurance Co. for about \$86.7 million. The deal was completed after WellPoint permitted Hancock to continue to service a contract with Troy, Mich.-based SelectCare Inc., which had sued to keep the deal from proceeding, said Candy Waldie, Wellpoint vp and assistant general counsel.

Securitization of risks remains far off

By MYRON M. PICOULT
Special to Business Insurance

THE SECURITIZATION OF insurance risks involves the transfer of a finite segment of future underwriting risk to the capital markets.

The capital markets have grown accustomed to providing debt capital secured by a designated pool of assets. Examples are mortgage-backed securities and asset-backed securities that are secured by receivables from credit cards and automobile loans.

The inability of some primary insurance companies to secure high layers of catastrophe reinsurance covers at what they deemed to be reasonable prices has spurred interest in the securitization of catastrophe risks.

It would be naive not to believe there ultimately will be some melding of the insurance and capital markets. However, effective utilization of the concept could be years away.

Indeed, recent failed attempts to sell "act of God" bonds and the decision by the California Earthquake Authority to use traditional reinsurance vs. \$1.5 billion of earthquake risk bonds (BI, Nov. 25, 1996) underscores the initial difficulties the purveyors of risk securitization face.

At this juncture, there may well be a disconnect. "Wall Street purveyors" may not fully understand the concept of insurance risk diversification. Care must be taken to ensure that a securitized product does not shake investors' confi-

dence after the first loss event. Somewhere along the line, some purveyor's ox is likely to be gored, and we suspect much time and effort is being expended on protecting some oxen.

Structure is critical. Does the instrument result in a sharing of the risk of a loss, or is it more strictly defined to cover a specific event? Assuming the latter, who or what determines the event and the time frame involved? The instrument should be liquid and have hedging facets.

Investor education also is critical in terms of the aforementioned structures. Furthermore, the right type of investors must be sought and their expectations for returns and time frames appropriately addressed. An index or benchmark also will be needed, at least initially, to enable the buyer to ascertain the relative value of the transaction vs. alternatives.

The continuation of a soft pricing environment in the property/casualty industry could delay the implementation of a securitized issue of any substance. The CEA bonds are a case in point.

Furthermore, questions related to rating agency perspectives, tax issues and how the regulators will handle the instruments must be addressed. Also, to what extent will the use of these tools that spread risk to the capital markets make government backstops less important?

Finally, accounting issues have to be addressed. Will the accounting basis mirror that which is applied to insurance derivatives? Will the accounting method be basis accrual, historical cost, pure mark-to-market or a modified

mark-to-market method? Whatever the accounting methodology employed, the key at the end of the day will be disclosure.

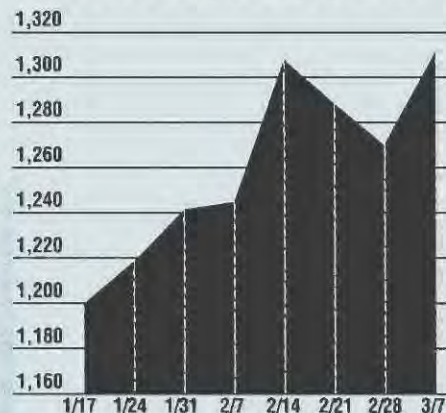
The obvious question is, what is the potential impact on the reinsurance industry? A reinsurance company could be involved in the process by being an originator, it could help to standardize the insurance contact features, and it also could be part of the distribution process. Underwriting expertise to measure the insurance risk component clearly must be in the loop. A strong balance sheet also is a must for the participating reinsurer.

After all is said and done, however, we believe the intermingling of the capital markets will result in some margin deterioration, which lends itself to further consolidation in the reinsurance industry. We also should note that securitization need not be confined to catastrophe risks or to the reinsurance industry. **BI**



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BI Insurance Index



Base=100 on Dec. 29, 1978
Source: Nordby International Inc.

PCS catastrophe options

As of March 7		Call spread	Price bid/ask	Call spread	Price bid/ask
Eastern September 1997					
40/60	3.1/3.9				
60/80	2.4/3.5				
80/100	2/2.5				
California Annual 1997					
40/60	-3/9				
80/100	-1/8				
National Annual 1997					
80/100	4/6.5				
120/140	2.5/4.2				
Western Annual 1997					
40/60	2.3/3.5				
80/100	1.3/2				
June Midwestern 1997					
10/20	1.4/1.7				

Total volume: 46 Total open interest: 11,835

For information on PCS cat options, call the Chicago Board of Trade at 312-435-3674.
Source: Chicago Board of Trade

Superfund

Continued from page 2

eral liability under most circumstances. Generators of small amounts of waste would be exempt from liability, and other dumpers that agreed to abide by the independent allocator's apportionment of liability would be free of having to pay for cleanup up more than their share.

Those that refused to accept the allocator's division and subsequently were found responsible for at least that portion of the cleanup costs would be subject to joint and several liability for cleaning up pollutants for which no financially solvent responsible party could be found.

However, Ms. Browner held that the measure goes too far to be acceptable as a consensus Superfund reauthorization bill.

"S.8's numerous liability exemptions and limits basically reject the notion that the largest

polluters themselves pay their fair share of the costs of cleanup. We believe that is not something that American taxpayers will tolerate—nor should they be expected to," said Ms. Browner.

After detailing other problems the administration has with S.8, Ms. Browner asked the subcommittee: "Why don't we get everyone together, pull out a blank sheet of paper and draft a Superfund reform bill that recognizes the progress that we've made, addresses the remaining problems and sets the program on the right course for the future—with an ultimate goal of ridding our nation of hazardous waste sites and protecting the public health?"

Several senators noted during the hearing that S.8 represents the third time since 1993 that Congress has attempted to reauthorize the Superfund program.

Sen. John Chafee, R-R.I., and chief co-sponsor with Sen. Smith of S.8, pointed out that even when the Democratic Party controlled the

White House and both chambers of Congress in 1994, attempts to reauthorize the program failed.

Sen. Chafee also asked Ms. Browner to reconsider her accusations that suggested liability reforms in general and those of S.8 in particular violate the principle of "polluter pays."

The administration already has violated that principle by advocating that contributors of small waste amounts be exempt from cleanup liability, he said.

"You've taken it upon yourself" to exempt certain parties, said Sen. Chafee to Ms. Browner. The senator said that he and other S.8 supporters have "also removed some, and you don't like it."

Ms. Browner replied that, "We all agree that the largest polluters should pay their fair share and the little people" should be exempt. The question is where to draw the line in the middle when determining which polluters should be let off the hook, she said. **BI**

British Issues

March 7	Price	P/E	Div.	Yield	52 week
Companies					
Comml Union	730	12.0	29.0	5.1	759-550
Genl Accident	852	9.3	31.7	4.6	876-612
Gdn Royal Exch	287	4.8	9.3	3.9	301-218
Independent	691	12.4	12.0	2.2	697-373
Royal & Sun	488	9.0	19.0	4.8	515-349
Brokers					
Bradstock	66	12.0	5.7	9.7	81-54
Fenchurch	66	NA	5.5	10.9	142-46
CE Health	105	12.6	4.5	5.4	115-74
JIB Group	160	NA	9.8	6.3	160-98
Lloyd Thompson	202	NA	10.0	6.3	206-167
Lowndes Lmbt	104	12.1	8.4	10.0	150-102
Nelson Hurst	144	9.5	8.1	7.1	206-143
Sedgwick Grp	130	10.9	9.8	7.9	152-115
Steel Bri Jones	28	7.5	3.8	14.6	48-28
Wills Corroon	154	10.9	6.6	6.3	169-117

Source: Nordby International Inc.

BI Industry Stock Report MARCH 3, 1997, THROUGH MARCH 7, 1997

BROKERS							INSURERS/REINSURERS							HEALTH MAINTENANCE ORGANIZATIONS													
Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)		Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)									
Accordia Inc.	NYS	32.50	1.56	12.07	33.75	27.25	42	Everest Reinsurance	NYS	31.63	0.40	10.00	32.75	21.38	798	St. Paul Companies	NYS	70.25	4.07	19.83	71.75	50.13	861				
E.W. Blanch Holdings Inc.	NYS	23.00	1.10	14.29	25.50	17.75	37	Executive Risk Inc.	NYS	47.50	-1.30	28.38	49.00	29.25	102	SAFECO Corp.	NDO	41.00	-1.80	3.96	44.00	30.88	2527				
Gallagher Arthur J. & Co.	NYS	31.88	3.66	2.82	38.50	28.13	146	EXEL Ltd.	NYS	42.88	-2.83	15.20	45.13	31.75	1263	Selbels Bruce Group	NDO	1.81	-9.38	-12.12	3.13	1.81	139				
Hilb, Rogal & Hamilton	NYS	13.38	0.00	0.94	14.00	11.38	175	Fremont General Corp.	NYS	30.00	3.90	-3.23	31.63	21.50	325	Selective Ins. Group	NDO	41.38	-1.49	8.83	43.50	31.00	217				
Kaye Group Inc.	NDO	5.13	2.50	-2.38	7.63	4.63	0	Frontier Insurance Group	NYS	43.50	0.58	13.73	43.50	30.13	112	Sphere Drake Holdings	NYS	9.75	2.63	9.83	11.75	8.13	1201				
Marsh & McLennan	NYS	120.38	2.88	15.75	123.00	88.00	959	Gainco Inc.	NYS	9.50	4.11	-1.30	11.75	8.75	200	TIG Holdings	NYS	36.00	0.70	6.27	38.00	27.00	715				
Poe & Brown	NDO	26.50	-2.75	0.00	27.50	22.75	19	GCR Holding Ltd.	NDO	24.38	2.09	9.55	27.25	21.50	343	Titan Holdings, Inc.	NYS	17.00	5.43	3.03	17.88	12.50	63				
BROKERS AVERAGE							INSURERS/REINSURERS AVERAGE							HEALTH MAINTENANCE ORGANIZATIONS AVERAGE													
1.28							6.21							1.89							7.25						


WITH OUR POLICY-OLDERS WE ARE ENGAGED IN A GREAT MUTUAL ENTERPRISE. IT IS GREAT BECAUSE IT SEEKS TO PREVENT CRIPPLING INJURIES AND DEATH BY REMOVING "THE CAUSES OF HOME, HIGHWAY" AND "WORK ACCIDENTS. IT IS GREAT BECAUSE IT DEALS IN THE RELIEF OF PAIN AND SORROW AND FEAR AND LOSS. IT IS GREAT BECAUSE IT WORKS TO PRESERVE AND PROTECT THE THINGS PEOPLE EARN AND BUILD AND OWN AND CHERISH. ITS TRUE GREATNESS WILL BE MEASURED BY OUR POWER TO HELP PEOPLE LIVE SAFER, MORE SECURE LIVES.



*We taught shipping clerk Joe Mattingly
the safest ways to lift packages.
[Especially one that's quite a handful.]*

Liberty Mutual is committed to reducing the impact of low back pain, so someone like Joe won't miss work, or the occasional piggyback ride with daughter Lisa. At our research center we analyze how variations in bending habits can affect the risk of low back pain. Our research has led to innovative products like Computask™, a software program we use to evaluate workplace tasks and help recommend ways to ensure that Joe and daughter Lisa live safer, more secure lives.

➤ *There's more information we'd like to share. So please call John Ryan
at (617) 574-5842 or visit our website at <http://www.libertymutual.com>*

**LIBERTY
MUTUAL.** 
The freedom of Liberty

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