

Business Insurance

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

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Risk retention group leaves Hawaii for new start in South Carolina

COLUMBIA, S.C.—A risk retention group that has moved to South Carolina from Hawaii transferred operations to its new home effective last Friday, except for a canceled program that was at the heart of a cease-and-desist order from Hawaii regulators.

Heritage Warranty Mutual Insurance RRG Inc. moved to South Carolina because "the company felt it might be better to get a new start somewhere else," said Gary See Updates on next page

Congress votes to rescind OSHA rule

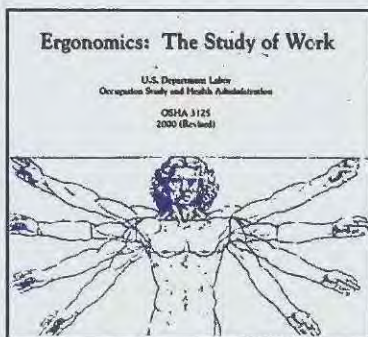
By MARK A. HOFMANN

WASHINGTON—Businesses and insurers say that the issue of a federal ergonomics standard is far from decided, despite an unprecedented congressional action to overturn an ergonomics standard issued in the final days of the Clinton administration.

In fact, Labor Secretary Elaine Chao has not ruled out the possibility of reopening rulemaking on

an ergonomics standard and Sen. John Breaux, D-La., has already drafted a measure that would direct her to do just that.

Those developments are not as troubling to many employers and insurers as might be suspected from their opposition to the ergonomics standard promulgated by the Occupational Safety and Health Administration. They stress that they would not necessarily oppose a renewed effort by



OSHA to draft a different ergonomics standard. Their argument, they contend, was with the specific standard published in the Nov. 14, 2000, Federal Register, not with the idea of a standard itself.

And standard or no standard, employers vow to continue to press for ergonomically sound workplaces.

The ergonomics standard effectively died last week after years of

controversy. Both the House and Senate approved "resolutions of disapproval" as provided under the Congressional Review Act of 1996. The act, which had never been used before, allows Congress to revoke federal regulations with an annual economic impact of at least \$100 million under certain circumstances. Unless the president vetoes the resolution—which is not expected here—the regula-

See Overtake on page 30



Seattle Chocolates' building was destroyed in the Feb. 28 earthquake, after a brick wall collapsed. PHOTO: REUTERS

Insurers dodge big quake loss

By JOANNE WOJCIK and MICHAEL BRADFORD

SEATTLE—Property owners will likely pick up most of the tab for property damage from the Feb. 28 Seattle-area earthquake, with most of the damage falling well within deductibles.

Meanwhile, an initial estimate of \$1 billion in insured damage from the quake made by the three major catastrophe-modeling companies ap-

pears to be holding up. Fortunately for property owners and insurers alike, because of the temblor's depth—33 miles underground—the ground absorbed much of the shaking, limiting property damage to isolated pockets where the soil was soft and to older masonry buildings constructed before more rigorous building codes took effect in 1995.

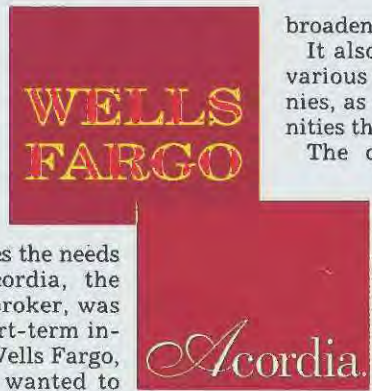
Despite the quake's limited See Quake on page 28

Acordia, Wells Fargo both benefit in deal

By SALLY ROBERTS

CHICAGO—After months of discussions and due diligence, Wells Fargo & Co. agreed late last week to purchase ACO Brokerage Holdings Corp., the parent company of Acordia Inc., for an undisclosed sum.

The deal, expected to be completed during the second quarter, satisfies the needs of both firms. Chicago-based Acordia, the world's seventh-largest insurance broker, was exploring exit strategies for its short-term investors, while San Francisco-based Wells Fargo, the nation's seventh-largest bank, wanted to



broaden its array of financial products.

It also is expected to create synergies for various classes of clients of the two companies, as well as broad cross-selling opportunities that could benefit customers.

The combination of Minneapolis-based Wells Fargo Insurance Inc. and Acordia will create the first bank-owned insurance broker to break into Business Insurance's top 10 rankings of the world's largest insurance brokers.

Wells Fargo Insurance, which ranked as the eighth-largest broker See Merger on page 30

Employers not cutting plans

Survey looks at strategies

By MICHAEL PRINCE

Rising health care costs are not causing employers to alter the design of their health care benefit plans, a new survey indicates.

Relatively few employers—18%—are looking to switch their health plans, and even fewer—14%—say they want to reduce coverage for certain health care services, the survey stated.

"This seems to indicate a feeling of resigned acceptance that the current increases are substantially unavoidable," the survey said.

Employers are responding to the higher costs. According to the Sixth Annual Survey Report on Purchasing Value in Health Care, 71% of employers stated they plan to increase premiums for employees.

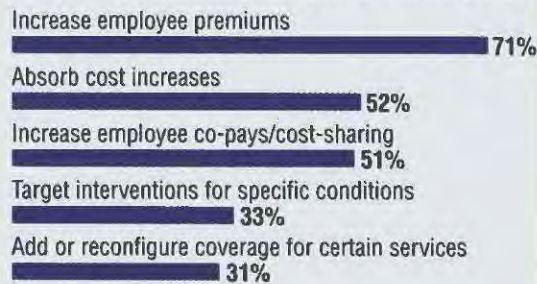
For 2001, health care premiums are rising 10.3% for all types of health plans, employers reported. Health maintenance organizations are leading the way with the highest increases—10.5%—while increases for point-of-service plans and indemnity plans are up 9.6%. Premiums for preferred provider organizations are up 9.1%, according to the survey.

The same survey last year reported a 9.7% increase in premiums for all plans (BI, March 13, 2000).

The survey was conducted jointly by Watson Wyatt Worldwide, the Washington Business Group on Health and the Healthcare Financial Management Assn. The report was based on responses provided late last year by 360 employers, 368 health care

Cost hike solutions

Employers' top responses to rising costs in health plans



Source: Watson Wyatt Worldwide

providers and 99 health plans. Employers ranged in size from companies with 1,000 employees to more than 10,000.

Premium increases in the report were based on comparisons between premiums for policy renewals at January 2001 and those from January 2000. Self-insured employers estimated 2001 claims costs and compared them with 2000 actual claims costs. Despite the growing talk in the past year of employers removing themselves from their traditional role as program manager in the health care system, the survey also shows that few employers plan a significant change.

See Survey on page 22

Risk Financing Options begins on page 3

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UPDATES

RRG relocates to South Carolina

Continued from previous page

Osborne, senior vp at Vermont Insurance Management Inc./USA Risk Group. "The company and the (Hawaii) regulators aren't seeing eye to eye on a lot of issues."

"Hawaii didn't like the way they were doing a reinsurance contract," he said. "Hawaii wouldn't accept the reinsurance situation and South Carolina would."

USA Risk Group, which had managed the RRG in Hawaii through its Hawaii Captive Insurance Management Inc. operation, will manage the group in its new domicile through its Vermont office until the company opens a South Carolina office sometime later this year.

South Carolina regulators approved the group's redomestication in early January "with a couple of conditions," Mr. Osborne said. South Carolina required the group to post a \$1.5 million letter of credit and required six-month actuarial reviews of the underlying reserves of warranty companies owning the risk retention group. The RRG provides coverage to those warranty companies on an excess basis.

"They are licensed, in good standing, capitalized and they should be doing their filings now," said Clayton Ingram, director of business development in the Alternative Risk Transfer Services division of the South Carolina Department of Insurance in Columbia. "They may still be doing some running around with Hawaii, but as far as we're concerned, that's between them. They're in good standing with us."

All of Heritage Warranty's liabilities are being transferred to South Carolina as of March 9 except for those of a spot delivery program—the subject of the cease-and-desist order. Hawaii regulators have withheld some of the group's funds until the issue is resolved to their satisfaction, Mr. Osborne said.

He said the group's owners believed they didn't need regulatory approval for that program because it was fully reinsured. When the RRG's managers learned that regulators had not approved the program, they immediately recommended canceling the program, which was done Jan. 24, he said. The cease-and-desist order was subsequently issued in March. Spot delivery programs cover auto dealers for liabilities related to cars they've sold until the new owner obtains insurance on the car.

Lockton hires team from Aon

KANSAS CITY, Mo.—Lockton Cos. Inc. has added a new presence in Houston with the addition of 20 insurance professionals, a majority of whom came from rival broker Aon Corp.

Mike Frost, Lockton's chief operating officer in Kansas City, Mo., confirmed that Tim Kelly, former head of Aon's non-energy and marine office in Houston, joined Lockton earlier this month. Mr. Kelly is now president of Lockton's Houston office, which will focus on larger general property/casualty accounts, Mr. Frost said.

Aon obtained a temporary restraining order early this month restricting former Aon employees that have joined Lockton from soliciting Aon's clients, he said. The issue of the existence and enforceability of non-competition agreements will eventually end up in court, he added.

Aon officials last week declined to comment.

In 2000, Lockton ranked as the 10th-largest broker of U.S. business, with \$147.4 million in 1999 brokerage revenues, according to *Business Insurance's* annual rankings. Chicago-based Aon is the world's second-largest insurance broker, with 2000 brokerage revenues of \$4.8 billion.

Space station splashdown insured

LONDON—The Russian Aerospace Agency has bought \$200 million of insurance against the possibility that its Mir unmanned space station may cause damage when it splashes down in the Pacific Ocean later this month.

The coverage has been placed in Russia with three insurers—Avicos, Megaruss and Industrial Insurance Co.—and reinsured in the London market. Reinsurance in London was brokered by Heath Lambert Fenchurch Group P.L.C.

Nigel Weyman, managing director of the broker's aviation division, said that the London coverage was placed with Westminster Aviation Insurance Group, a London-based unit of Assurances Generales de France S.A., and with a number of Lloyd's of London syndicates.

Mir, which was launched in 1986, likely will land in the southern Pacific Ocean on March 20. It is expected that the splashdown will occur away from any habitation, about 1,850 miles east of southern New Zealand.

Most of the 137-ton space station is likely to burn up as it enters the earth's atmosphere, but about 20 to 25 tons of unburned fragments are expected to remain. The insurance is meant to pay for any damage inadvertently caused by these fragments.

Briefly noted

Brown & Williamson Tobacco Corp. made a \$1.1 million payment last week that is the first to compensate a smoker suffering from a smoking-related illness, but the cigarette maker said it plans to appeal. The payment represented a \$750,000 Jacksonville, Fla., Circuit Court verdict plus post-trial interest. The Florida Supreme Court upheld the verdict last November. The plaintiff, a longtime smoker who suffered from lung cancer, challenged Brown & Williamson after hearing company officials deny publicly that nicotine is addictive. Rep. John Dingell, D-Mich., is asking the U.S. General Accounting Office to investigate why the National Assn. of Insurance Commissioners accredited Mississippi's Insurance Department. The request by the longtime critic of state insurance regulation comes as Martin Frankel faces criminal fraud charges of looting insurers in Mississippi.

Errors & omissions

• A Feb. 26 story on risks in the Middle East incorrectly identified a London-based underwriter and his company. Jack Gressier is head of marine and specialty lines underwriting at ACE Global Markets Ltd., a unit of ACE Ltd.

Lloyd's steps up lobbying against bankruptcy bill

By GAVIN SOUTER

WASHINGTON—Former Senate Majority Leader Robert Dole will lobby U.S. lawmakers on behalf of Lloyd's of London against a provision in a bankruptcy reform bill that could make it harder for Lloyd's to collect unpaid debts from U.S. investors.

Nick Prettejohn, chief executive of Lloyd's, last week met with members of Congress in an attempt to build opposition to the provision. The House of Representatives earlier this month approved the bill with the provision intact.

The provision would bar enforcement of foreign judgments that involve allegations of fraud

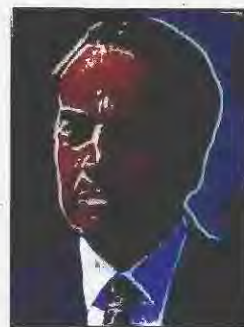
occurring in the United States between 1975 and 1993. Lloyd's contends that the provision specifically targets Lloyd's, with the intent of stopping it from collecting debts in the United States.

Some U.S. names who have suffered large losses at Lloyd's contend that they were fraudulently recruited to the mar-

ket to dilute the effect of asbestos losses that, they contend, Lloyd's insiders knew would hit the market in the 1980s.

If the bankruptcy reform provision is approved, it could threaten the mutual recognition of civil judgments between the United States and other countries, which in turn would damage international trade, a Lloyd's spokesman in New York said.

Mr. Dole, who ran for president in 1996, was expected to meet with members of the Senate to rally opposition to the provision before it is voted on, the spokesman said. As of late last week, the Senate was considering a spate of proposed amendments to the bankruptcy bill. **B**



Mr. Dole

Sound-alike names at issue

Pool operator in hot water

By DOUGLAS McLEOD

LOS ANGELES—The operators of a purported offshore insurance pool are facing mounting legal scrutiny for playing an allegedly fraudulent version of the "name game," selling policies written by pool members whose names are nearly identical to those of licensed, U.S.-based insurers.

Tri-Continental Exchange Ltd., based in St. Vincent and the Grenadines, describes itself as administrator for a "direct purchase" insurance pool, the mem-

bers of which include "Nationwide Insurance," "Globe Indemnity & Casualty" and "Transatlantic International," among others, company documents show.

The names sound familiar, but the companies behind them aren't: Tri-Continental's Nationwide is based in the Caribbean and is unrelated to Nationwide Mutual Insurance Co. of Columbus, Ohio. The pool's Globe Indemnity, likewise, is unrelated to a similarly named Royal & SunAlliance U.S.A. unit, and its Transatlantic is unrelated to American Interna-

tional Group Inc. affiliate Transatlantic Reinsurance Co. of New York.

Nationwide Mutual is now pressing civil racketeering charges against Tri-Continental, its managers and a U.S. broker, and has won an injunction barring their use of the Nationwide name. Royal & SunAlliance also announced that it is investigating the "apparently fraudulent" use of Globe Indemnity's name.

Last month, the California Insurance Department served

See Names on page 25

Hill mulls anti-fraud moves

Info sharing among regulators urged

WASHINGTON—Congress has begun tackling the problem of ensuring that financial services regulators have access to each other's data on fraud so that criminals don't take advantage of financial services modernization to perpetrate fraud more easily.

Two subcommittees of the new House Financial Services Committee held a joint hearing last week to address the issue. Although he was not present physically, Martin Frankel—who was recently extradited to the United States from Germany to face federal charges that he had siphoned \$200 million from life insurers he controlled—was on lawmakers'

minds. As committee Chairman Mike Oxley, R-Ohio, put it, if lawmakers don't "invest now in the anti-fraud systems of our financial regulators," the next Martin Frankel is guaranteed to emerge and do even more damage.

Lawmakers fear that the Gramm-Leach-Bliley Act, which lowered the barriers separating insurance, banking and securities firms, could make it easier for swindlers to move among industries because of the difficulty of sharing fraud data among the three sectors.

In her testimony, Iowa Insurance Commissioner Terri Vaughan, who is also vp of the National

Assn. of Insurance Commissioners, urged lawmakers to link existing databases, rather than create new ones.

Speaking as chairman of the Council of Insurance Agents & Brokers, Thomas J. Rodell, managing director of Aon Risk Consultants Inc., noted that the enhanced market freedom also brings "the increased potential for bad actors" to move among the three sectors, and he called for greater coordination of anti-fraud information.

Last Tuesday's hearings were the first in a series that could result in legislation creating information sharing. No bill has yet been drafted.

—By Mark A. Hofmann

INSIDE

• Opponents of OSHA's ergonomics rule are right to celebrate its demise, but they must now explore other ways to address the problem of musculoskeletal disorders in the workplace, this week's editorial says. **PAGE 8**

• Employers and labor unions are poised to battle again over proposed legislation that would increase workers compensation benefits in California. **PAGE 20**

• A preliminary investigation into the Feb. 28 rail accident in Northern England that killed at least 10 and injured scores concludes that the rail industry was not to blame for the incident. **PAGE 23**

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Risk Financing Options

Risk securitization market sees interest growing

By RODD ZOLKOS

of increased interest in what I will call non-traditional approaches to covering exposure problems," said Edwin Ford, a director at Swiss Re New Markets Corp. in New York.

Mr. Ford said he isn't sure whether the increased interest is directly correlated to rising prices in the traditional market, but added that one could argue that in recent years, the softer market hindered such interest. "Those softer insurance

premiums associated with the traditional side made it difficult sometimes to get some of these alternatives done," he said.

And, he noted, "Obviously, when you're looking at these things in a hardening market, where people aren't just giving away the limits and capacity, it's a little easier to craft solutions."

On the risk-linked securities side, after doing about \$1.2 billion in volume in each of the past three years, the risk securitization market could double in size over the next year, industry insiders say.

"I think that the market has moved sideways during the past year. You can't say there's been much activity," said Morton N.

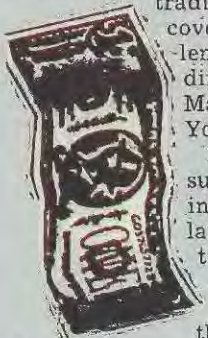
Lane, president of Lane Financial L.L.C. in Kenilworth, Ill.

But, Mr. Lane noted, as this year begins there have already been several significant deals.

One involved \$300 million in risk-linked notes issued by Munich Reinsurance Co. in January to provide coverage for California earthquakes as well as windstorms in Florida, New York and Europe.

And in February, the California Earthquake Authority completed a \$100 million reinsurance deal with Swiss Reinsurance Co., which was in turn backed by a \$97 million catastrophe note deal and \$3 million in

See Market on next page



Efforts being made to streamline market

BMA plans conference, wants to cut red tape

By JUDY GREENWALD

The Bond Market Assn. is launching a two-pronged effort to nurture the growing market for risk-linked securities: trying to expedite secondary market trades and promoting awareness of the instruments at an industrywide conference this month.

Risk-linked securities are debt instruments linked to a broad range of event risks, including catastrophes, weather risk and structured credit risk. Securities firms issue these securities directly, while insurers and reinsurers typically issue them indirectly through special-purpose vehicles.

Observers say a liquid secondary market is critical to the success of a risk-linked securities market, but its development to date has been hampered by the onerous, paper-laden process now required for each transaction. The New York-based Bond Market Assn. is creating recommended policies and procedures that would instead per-

mit the electronic transfer of ownership of such securities through a clearinghouse.

The Bond Market Assn. also is sponsoring a conference, to be held March 22 and 23 in Aventura, Fla., at which representatives of the securities, insurance and reinsurance industries are scheduled to speak about risk-linked securities.

The Bond Market Assn., which represents securities firms and banks that underwrite, trade and sell debt securities both domestically and internationally, formed a risk-linked securities committee last May. The committee's mandate is to strengthen and heighten awareness of the market for these securities.

Members include representatives of Swiss Re New Markets Corp, Aon Capital Markets, Marsh & McLennan Securities and Goldman, Sachs & Co.

A subcommittee currently is setting up policies and procedures that would permit the sale of risk-linked securities to occur electronically through a major

See BMA on page 10



Capital market option not right for everyone

By MICHAEL BRADFORD

It takes the threat of a very nasty surprise to get most risk managers interested in financing their risks in the capital markets.

Because of the cost of putting deals together and the continuing availability of insurance capacity for most risks, businesses generally are content to stick with the traditional market. Nevertheless, a few deals will continue to make the news, and interest will pick up if the insurance market tightens drastically, experts say.

While it is expected that the capital markets will see increasing activity from large, multinational corporations with exposures that exceed the amount that insurers can cover, most risk managers will find it is much easier and less expensive to maintain their relationships with their insurers.

"My observation is that, except for the really, really big Fortune 100-type companies, it is awfully hard to make the frictional costs low enough" to make capital market deals affordable, said Richard S. Betterley, president of Betterley Risk Consultants Inc. in Sterling, Mass. "We've looked at a couple for our clients and just couldn't justify making them work."

Mr. Betterley described the potential deals as "simply replacements for proper-

ty/casualty insurance." The deals, he said, were "pushed more by the seller than there was interest from the buyers."

"I think that the capital markets are an alternative for very high exposures and replace excess programs, which I have not found difficult to arrange," said Susan R. Meltzer, assistant vp-insurance and risk management at Sun Life Assurance Co. of Canada in Toronto. Such alternatives don't make sense for the lower, "working layers," Ms. Meltzer said.

A risk manager working for a large chemical company said that the "market has tightened a little bit, but it's not anywhere near the crisis mode that would get people to the capital markets. The uses for the capital markets have been for individual exposures that the traditional market doesn't respond to at all."

One risk manager said his company approached its banking partners with risk financing ideas and was less than overwhelmed by the reception he received.

"I made a prediction a couple of years ago that we would be moving in that direction," said Jerry Belfiglio, director of risk and insurance management at Armstrong World Industries Inc., a Lancaster, Pa.-based manufacturer of floor and ceiling products. "We had gone to our banking relationships and said, 'What

See Deals on page 14



Europeans increase use of risk-linked securities

By EDWIN UNSWORTH

Although European companies at one time may have lagged behind their U.S. counterparts in embracing risk securitization tools, the past year has seen them making up lost ground.

In January, Munich Reinsurance Co. placed \$300 million of risk-linked securities, hailing the deal as the largest ever such programs to provide protection against multiple types of natural catastrophes. The transaction, which provides the reinsurer with protection against three cat expo-

sures—hurricanes in the United States, earthquakes in California and windstorms in Europe—gives Munich Re an additional risk management tool and fixed conditions for the three-year term of the agreement (BI Jan. 29).

Manfred Seitz, head of the alternative risk transfer division of Munich Re in Munich, Germany, maintains that Europe is every bit as prepared as America to consider risk transfer alternatives from the capital markets.

"I would say, if you look back over the past two years, there certainly is a balance between sponsors from North America and

sponsors from Europe or Japan. I do not think that now, or over the last two years, there was a lesser degree of interest in Europe," Mr. Seitz said.

Still, he noted, the high cost of developing risk securitization solutions has limited their popularity, and such costs have decreased only insignificantly in subsequent deals.

"I think one would have to devise a more-efficient structure and processes in setting up insurance-linked securities," Mr. Seitz said. "It includes the costs of investment banks, legal expenses, modeling expenses and rating expenses. All sides recognize

that problem and are trying to contain transaction costs...but I'm in doubt that there could be a very large reduction in costs."

Mr. Seitz estimates that since capital market risk financing options came into use in 1996, there have been 55 issues worldwide, and that approximately 50% of these have been non-U.S. issues. All the deals outside the United States have involved companies in Europe or Japan, with Europe taking the much larger share, he said.

Steve McGill, deputy group chief executive officer of insurance broker Jardine

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Market

Continued from previous page
preference shares placed by Swiss Re Capital Markets Corp. and Goldman Sachs & Co.

"So all of a sudden you've had a flurry of activity in the past three months, which keeps hope alive for us securitizers," Mr. Lane said. "And, in theory at least, a hardening market should cause increased interest in securitization. So we might see more activity in the year ahead."

"We are seeing an increase in both interest and deal flow, and that is being driven partially by the hardening of the reinsurance market," said Tony Rettino, managing director at Aon Capital Markets in Chicago.

"I would say the second factor

would be a greater willingness on the investor side for people to look at different types of structures and assume more risk or different types of risk," Mr. Rettino said. "The investor base is developing nicely."

"It's really a combination of the two that's driving the interest," Mr. Rettino said. "I think there are still a lot of things where the traditional reinsurance market and traditional reinsurance solutions make sense. But I think in terms of providing a complement or a supplement to what people are trying to do, I think the securitization market is making sense to a lot of people."

Much of the increased use of securitization is being driven by reinsurers, largely in response to increased prices and reduced capacity for retrocessional coverage. "When the market starts to harden, that's the first piece that goes

away," Mr. Rettino said.

"I think the level or the extent of rate changes within the direct reinsurance market, the reinsurers to insurers, probably isn't sufficient to close much of the gap between reinsurance pricing and security pricing," said George F. Rivaz, chief operating officer at Tempest Reinsurance Co. Ltd. in Hamilton, Bermuda. "But the impact is more significant in the retrocessional market."

Price increases for retrocessional coverage have been greater and the reduction in capacity more pronounced, Mr. Rivaz said, and that's likely to continue. "I don't think anybody would be predicting rate decreases in the retrocessional area in the next year or two," he said.

While the interest in risk securitization remains largely among reinsurers, "You are seeing some level

of hardening in the primary insurance market, which is leading to more interest and inquiries at the corporate level," Mr. Rettino said, though adding, "I think at this point the economics are still not there."

"We are seeing more interest there, but I think for the short term you'll see the market continue to be dominated by insurance and reinsurance companies," Mr. Rettino said. And the universe of companies that might bypass insurers to transfer risks directly into the capital markets would probably be limited to the very largest companies.

"The individual companies that would access the market would really be the very large Fortune 100 companies," he said.

While individual companies might not be moving toward transferring risks directly into the capi-

tal markets, they are making greater use of new alternative risk financing opportunities that are being developed.

"There's been a growing interest and I think that interest has come from a gravitation to what treasurers and CFOs have become aware of over the past couple of years, that there are other approaches to solving some of their exposure problems," Swiss Re New Markets Mr. Ford said.

"The CFO is aware that risk is risk," he said. "The stakeholder recognizes that there are certain things that the executive and his managers can actually manage and there are some things that are outside of their control."

One example is the development of programs to address markets for which there previously haven't been risk transfer outlets, such as a company facing a commodity exposure for which there is no established hedging market.

'Credit risk is more and more within the cross hairs of treasurers in today's market,' says Edwin Ford of Swiss Re.

"There certainly is a very good chance we will examine and create an index against which we can set an attachment point and actually underwrite that risk," Mr. Ford said.

"Credit risk is more and more within the cross hairs of treasurers in today's market," Mr. Ford added. "We've done a variety of deals on the credit side where we take a bank portfolio under our wing."

In those deals, the bank's exposure is transferred from its balance sheet to Swiss Re's on a contingent basis. If the bank has a loss in its portfolio, it can receive a prearranged capital infusion from Swiss Re.

"It's a way of leveraging their capital in situations where there could be an adverse development," Mr. Ford said.

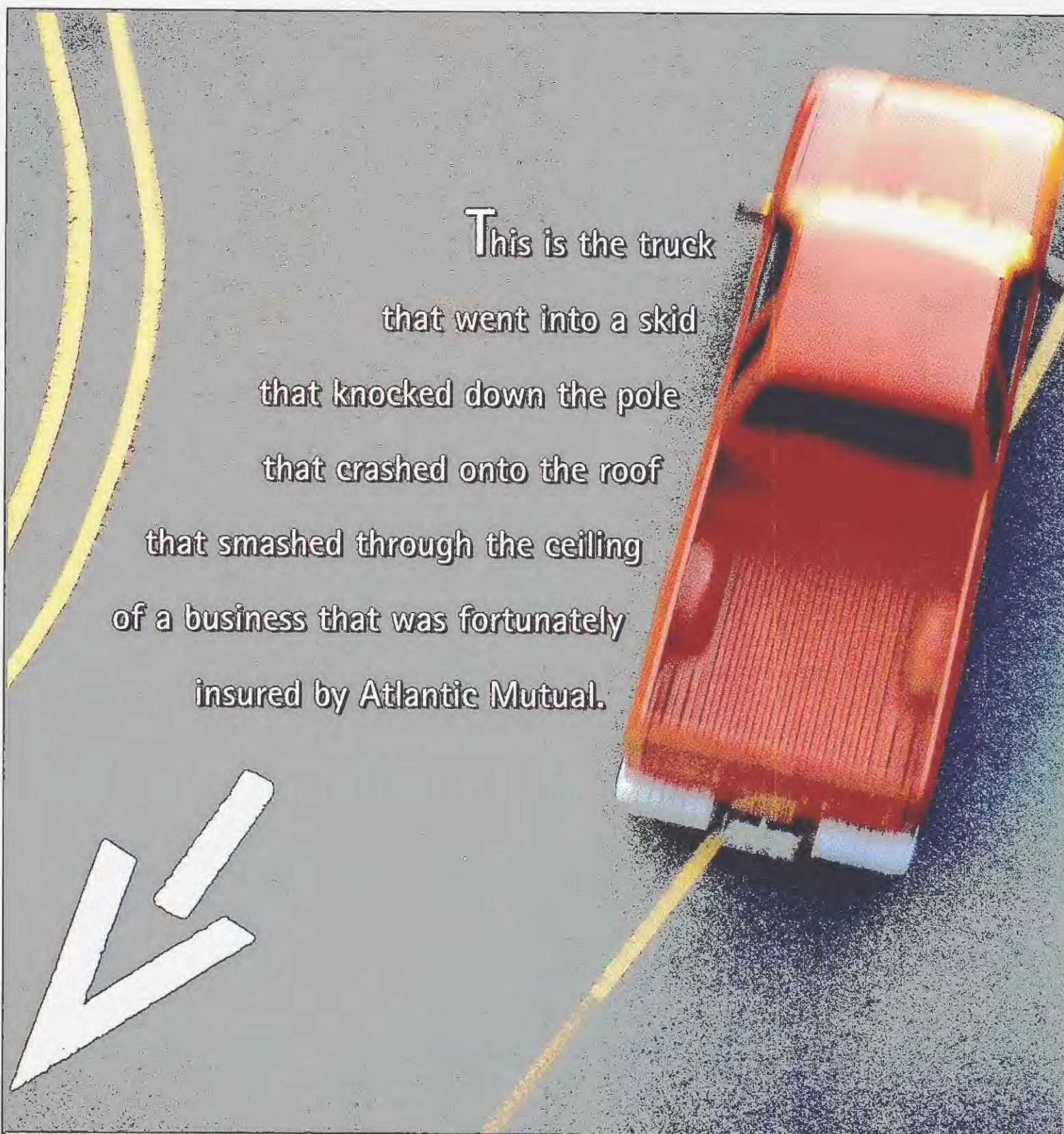
In another use of alternative risk financing, a deal involving Enron North America, a subsidiary of Houston-based natural gas and electricity merchant Enron Corp., and Swiss Re New Markets, provided Enron more affordable financing of natural gas production at a portfolio of sites.

The deal involved transferring future natural gas production risk into the insurance market. Doing so provided bank lenders protection if actual natural gas production from the sites fell below estimates over the life of the \$102 million production loan.

And a deal Swiss Re was involved in late last year represented the flip side of insurance risk securitizations. In that deal, done by New York-based Triarc Cos. Inc., capital markets risk was transferred into the insurance markets (*BI*, Dec. 4, 2000).

The deal involved securitizing intellectual property in the form of franchise royalties and fees from current and future owners of Triarc's Arby's chain of fast-food restaurants in the United States and Canada. A \$290 million note sale used a special purpose vehicle structure, with the notes sold in a private placement through a Delaware-based business trust, Arby's Franchise Trust.

Key to the deal was an insurance
See **Market** on page 6



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and reinsurance platform involving a financial guarantee insurance policy from Ambac Assurance Corp., reinsured on a first-loss basis by Swiss Re Group subsidiary European Reinsurance Co. of Zurich, Bermuda Branch, with Ambac taking an excess-risk position.

"There are a variety of other asset classes that we're looking at that we think do make sense in terms of securitization," Mr. Ford said.

"That's an area where I think we at Swiss Re see an opportunity to do more for customers where exposures don't lend themselves to the risk transfer side of the equation," he said. "How, by using the capital markets, may we retain a small portion of the exposure and then

sell it down," he explained.

In effect, such an approach would be similar to retroceding risk, Mr. Ford said.

At The Goldman Sachs Group Inc., alternative risk financing is being used with a "purposeful strategy," in which the insurance component complements the firm's investment banking activities, said Andrew J. Kaiser, vp at Goldman Sachs in New York.

For example, he said, Goldman has been focusing on applying insurance in merger transactions to address risks that otherwise might affect whether they can be done or in structured financings involving assets that are highly cyclical. As more alternative risk financing deals are completed, they lend momentum to the overall approach, Mr. Ford suggested.

"I think you're starting to see

more of these deals getting done, and as they are getting done, there is a sense that they must be doable," he said. "I think you're starting to see heightened awareness."

'The market is maturing well, and the structures are becoming more standardized,' says Aon's Tony Rettino.

And the fact that the deals involving transferring risks into the capital markets are getting done shows a growing level of investor comfort as well, Mr. Ford said. He conceded, though, that "there are

stories that have to be told. There is some education that is necessary."

"The investor market continues to grow," said Goldman's Mr. Kaiser. To date, he noted, 130 investors have participated in risk-linked securities deals.

Aon Capital Market's Mr. Rettino pointed to the development of dedicated funds to manage risk-linked securities. "And that's becoming a larger part of the investment market," he said.

Such funds give investors who may be interested in risk-linked securities—but who lack the resources to adequately evaluate them—a way to gain the portfolio diversification benefits that risk-linked securities can provide, he explained.

Overall, "the market is maturing well, and the structures are becoming more standardized," Mr. Rettino

no said. That, he said, helps reduce the time to market and the cost of preparing the deals.

There are encouraging signs on the regulatory front, where, among other things, the National Assn. of Insurance Commissioners is moving forward with a model special-purpose reinsurance vehicle law.

The NAIC's Insurance Securitization Working Group recently gave tentative approval to an amended version of a model act, said Steve Broadie, assistant vp of financial legislation at the National Assn. of Independent Insurers in Des Plaines, Ill.

The NAII supports the adoption of the measure, Mr. Broadie said. He added, "We want our companies to have as much access as possible to as many market-driven sources of capital as possible, given proper regulatory oversight."

If the NAIC model is adopted, states interested in becoming domiciles to the special-purpose vehicles commonly used to issue risk-linked securities could move to enact it.

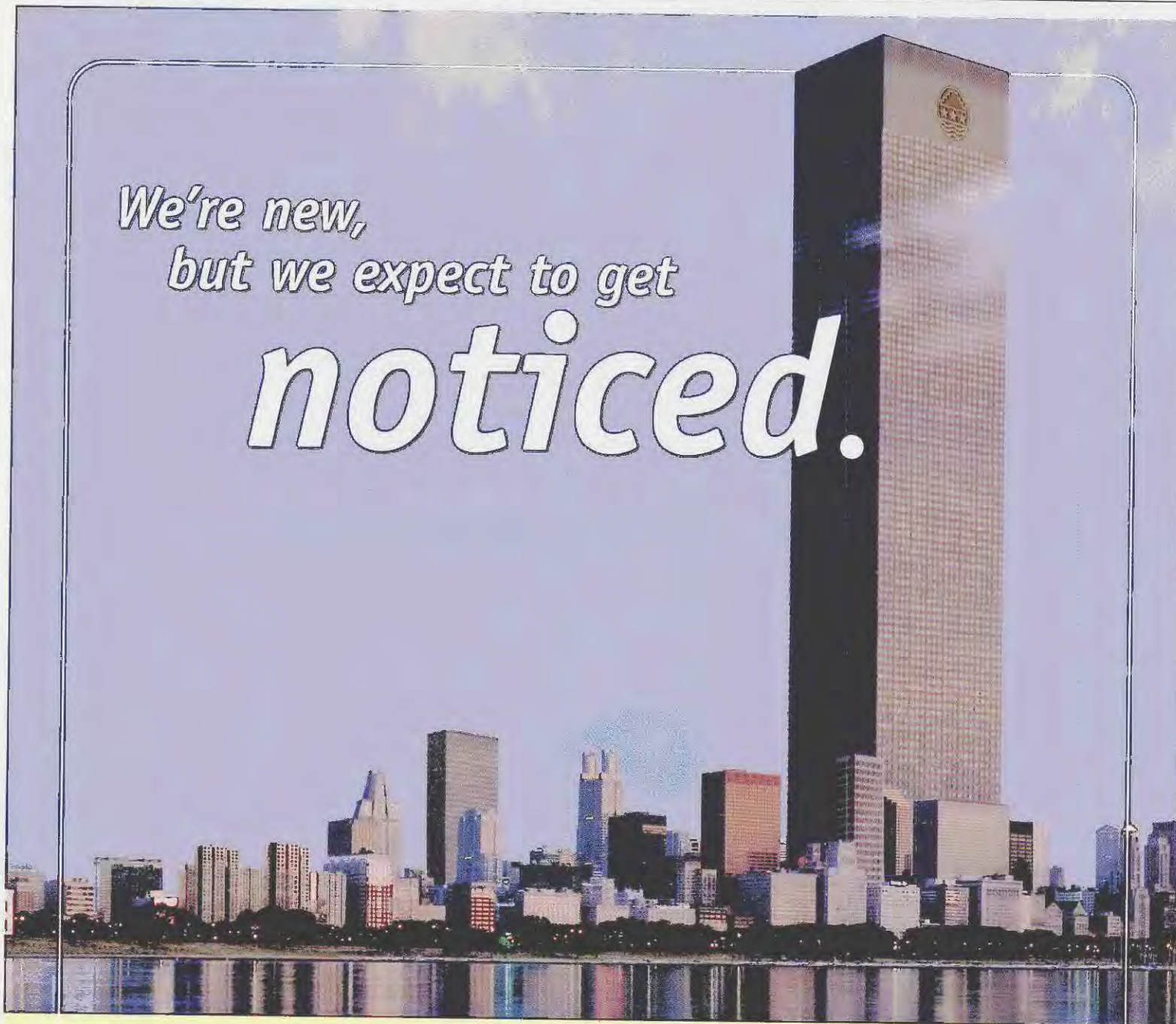
"Because there isn't a model law at this point, or what we consider a proper tax regime...it's more complex and costly to set these things up then we think it should be," Mr. Broadie said.

The NAIC also is considering the treatment of insurance derivatives, Mr. Broadie said.

"One of the things that I think is going to come up in the March meeting is an awful lot of work has been done to create a regime to allow insurers to use derivatives to offset insurance risk...and, in certain cases, get insurance accounting for that," he said.

"All these efforts are positive to the market generally, because it's going to give ceding companies and the markets more choices," Aon's Mr. Rettino said. **BI**

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Now attack RSI problem

OPponents of the Occupational Safety and Health Administration's ergonomics standard are, understandably, declaring victory after the rules were killed by Congress before employers had to be in full compliance with them. And those opponents are right to celebrate, for the final ergonomics rule was the wrong rule at the wrong time, issued in the wrong way.

But employers and their insurers now must demonstrate that their fight to block these rules does not equate to a lack of caring for the well-being of workers or a denial that ergonomics injuries exist.

Lawmakers overturned the ergonomics rule last week, using their power under the Congressional Review Act. Once a standard is disapproved by Congress and the president signs the resolution, the agency that issued the rule is barred from promulgating substantially similar regulations.

OSHA issued its final standard without regard to considerable opposition by business and by Congress itself, which had told the safety regulators to delay issuing rules until the National Academy of Sciences had completed a review of existing research into ergonomics and repetitive motion injuries. But with the outcome of the 2000 presidential election, time ran out for the agency's leadership, and OSHA rushed the rules in the time it had left.

The NAS report, which was completed in January (BI, Jan. 22), concluded that certain musculoskeletal disorders could be attributed to workplace conditions and that well-designed intervention could help reduce such disorders. But it also found that ergonomics programs should be tailored to the individual, not applied universally. And the report ultimately called for more research on the problem.

Such research is crucial, because a key point in employer opposition to the rules is that there is an absence of scientific evidence establishing that work-related activities are solely to blame for repetitive motion disorders. If that indeed is true, then employers should not bear the lion's share of the burden for treating and preventing these ailments.

Other employer problems with the rules were that a standards approach was inflexible, that OSHA did not follow proper procedures for obtaining and considering public comment in its rulemaking, and that the ergonomics standard would be a far more costly remedy than the ills it sought to address.

Part of that enormous cost would come from the new compensation system created for ergonomics injuries—which also drew insurer opposition—that called for benefits that were far richer than for other types of work-related ailments governed by state comp systems. Insurers also bristled at the concept of federal mandates in what is a state-regulated industry.

Lawmakers heard these concerns loud and clear: They rapidly stepped in and decisively killed the rules.

It's not clear what will happen now. The as-yet-unnamed new head of OSHA may decide to reopen the matter and attempt to craft a rule substantially different from that issued last year. The agency may step up its outreach pro-



grams. Or OSHA may do nothing at all.

Regardless of what OSHA eventually does, employers should take decisive steps now to address the problem voluntarily.

Companies should engage federal and state safety officials in a dialogue about a better approach to increasing workplace safety, such as through benchmarking, training programs and state-of-the-art technology.

Employers also can exchange this information and explore best practices through their various trade associations and professional organizations. It's a shame that the Center for Office Technology, an organization devoted to just this sort of effort, quietly closed its doors at the end of 2000.

Employers should push for public and private financing of research into the causes of and remedies for repetitive motion injuries. The NAS study is just a starting point. More knowledge is needed about what causes these injuries.

Insurers also have a role to play. They could provide greater financial incentives, in terms of cost reductions, for employers that voluntarily adopt ergonomics programs. They could also continue the development and refinement of integrated disability benefit plans, which would remove the onus of determining whether an injury was work-related and, instead, would simply treat it.

All of these efforts should have as their goal making workplaces safer, so that employees who may have, or are at risk of developing, repetitive motion injuries are not made vulnerable by their jobs.

Critics of the ergonomics standard have every right to savor a hard-won victory. Now, it's up to them to put that victory to the best possible use by showing that their fight was with OSHA's rule and not with making the workplaces under their control as ergonomically sound as possible.

LETTERS

Better off buying life insurance?

To the editor: In your March 5 article, "Insured Losses May Reach \$1 Billion in

Seattle Quake," you mentioned that few residential policyholders have earthquake coverage. No wonder! For your readers who are not from this area, let me tell you about my homeowners policy.

My 15-year-old four-bedroom frame dwelling (replacement cost value) is insured for \$250,000. My enhanced HO-3 annual premium without earthquake coverage is \$1,066.

The additional premium for earthquake coverage alone is \$768. My earthquake deductible is \$43,750. (Do underwriters really think people can afford to self-fund a \$44K

deductible?)

In addition to the usual exclusions to foundations, driveways, patios, etc., coverage also does not apply to masonry chimneys, glassware, china, porcelain, ceramic items, fine art, or "decorative items."

The more I look at this, the more it seems that my chances of having a covered loss are about zero. I'm paying \$768 for this? As an insurance agent, I guess I'm supposed to set a good example but, honestly, I'd be better off "investing" the \$768 in term life.

Tom Olson
Tacoma, Wash.

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BMA

Continued from page 3

clearinghouse, the New York-based Depository Trust Co.

Trading in the secondary market is now carried out manually. Essentially, that calls for closing documents and the transfer of physical instruments, said Michel de Konkoly Thege, vp and associate general counsel of the Bond Market Assn.

"That is a cumbersome and time-consuming process that can take a long time from the time a trade is actually agreed upon" until conclusion, Mr. de Konkoly Thege said.

"What we are very close to having completed is recommending a set of policies and procedures that would permit the settlement of

these trades through the DTC," he said.

This would reduce the time between trade and settlement "and, thereby, we think, enhance the liquidity in these instruments, putting them on par with other fixed-income instruments" that already settle through the DTC, Mr. de Konkoly Thege said.

It would help initial issuance of these securities as well, he said. "To the degree people know they can trade these instruments readily, that's going to make the initial placement of these securities that much more attractive," Mr. de Konkoly Thege said. He added that the Bond Market Assn. hopes to make an announcement of its progress on the matter at the Florida conference.

Michael Barry, senior director at

the rating agency Fitch IBCA Inc. in New York, said the use of the DTC would "pique investors' interest" for those not already involved in the market and would increase the market's appeal to

out of secondary market transactions, "the more investors will be likely to invest."

It would help the primary market as well, said Mr. Barry. "An investor will have a higher level of

'An investor will have a higher level of confidence. They won't have to hold on to these bonds until maturity,' says Michael Barry of Fitch IBCA Inc.

those who are.

"It's quick and it's simple and it's liquid," Mr. Barry said. "The more they can standardize the marketplace," including using a clearinghouse that takes the risk

confidence. They won't have to hold onto these bonds until maturity" if the bonds' creditworthiness changes or if the bonds no longer fit their investment strategy, he said.

"There's certainly a lot of benefits of an established secondary market," he said.

Not everyone believes the use of a clearinghouse will help the market's growth, though.

David Mocklow, director of Aon Capital Markets in Chicago, said going through a clearinghouse "significantly frees up bankers and lawyers from an extraordinarily large amount of work."

Although using the DTC would "make the market a lot easier to administer" and create fewer headaches for investors, Mr. Mocklow said, "I'm not sure it's going to have a significant benefit in terms of growing the market."

In a related effort, the committee is trying to standardize as many of the primary issuance documents as is possible, including developing a standard "investor awareness" letter that could be used for all cat bond transactions, said Christopher McGhee, managing director at M&M Securities in New York.

This is a required letter that essentially says, "I'm an investor that has the sophistication and financial wherewithal to make an investment in this unusual kind of security," Mr. McGhee said. "If we can get that relatively mundane matter standardized, that's a good thing."

The Florida conference, which will be held at Turnberry Isle Resort & Club, will include representatives of all segments of the risk-linked securities business, including reinsurers, securities brokers and rating agencies.

The organizers "want to appeal both to existing and seasoned investors who know the sector," as well as to attract new investors, Mr. de Konkoly Thege said.

"One of the functions of the committee is actually to raise investor awareness, and the first public manifestation of that is this conference," said Mr. McGhee, who is co-chairman of the conference with Mr. Mocklow.

This conference "is the first evidence that this market, in my opinion, is here to stay," said Fitch's Mr. Barry, who will be among the speakers.

There will be sessions on risk analysis, the role of rating agencies, portfolio and risk management using risk-linked securities, the reinsurers' perspective on the catastrophe risk market, the investors' perspective; new-issue pricing on risk-linked securities and catastrophe risk pricing in the traditional reinsurance market.

There will also be sessions on cat bond pricing issues from an academic perspective; secondary market trading issues; securities and insurance law issues; improvement in secondary trading operations for risk-linked securities; transaction structuring options; the legal and regulatory effects of transaction structuring; and market trends, developments and outlook.

Officials of the San Antonio-based United Services Automobile Assn. and Munich Reinsurance Co. will also discuss their experiences with risk-linked securities.

Joachim Faber, a member of Munich, Germany-based Allianz A.G. Holding's board of management, will deliver the keynote address. William M. Gray, the noted tropical meteorologist at Colorado State University, is also scheduled to be a guest speaker.

For additional information on the conference, contact Mary Garcia at the Bond Market Assn. at 212-440-9429.

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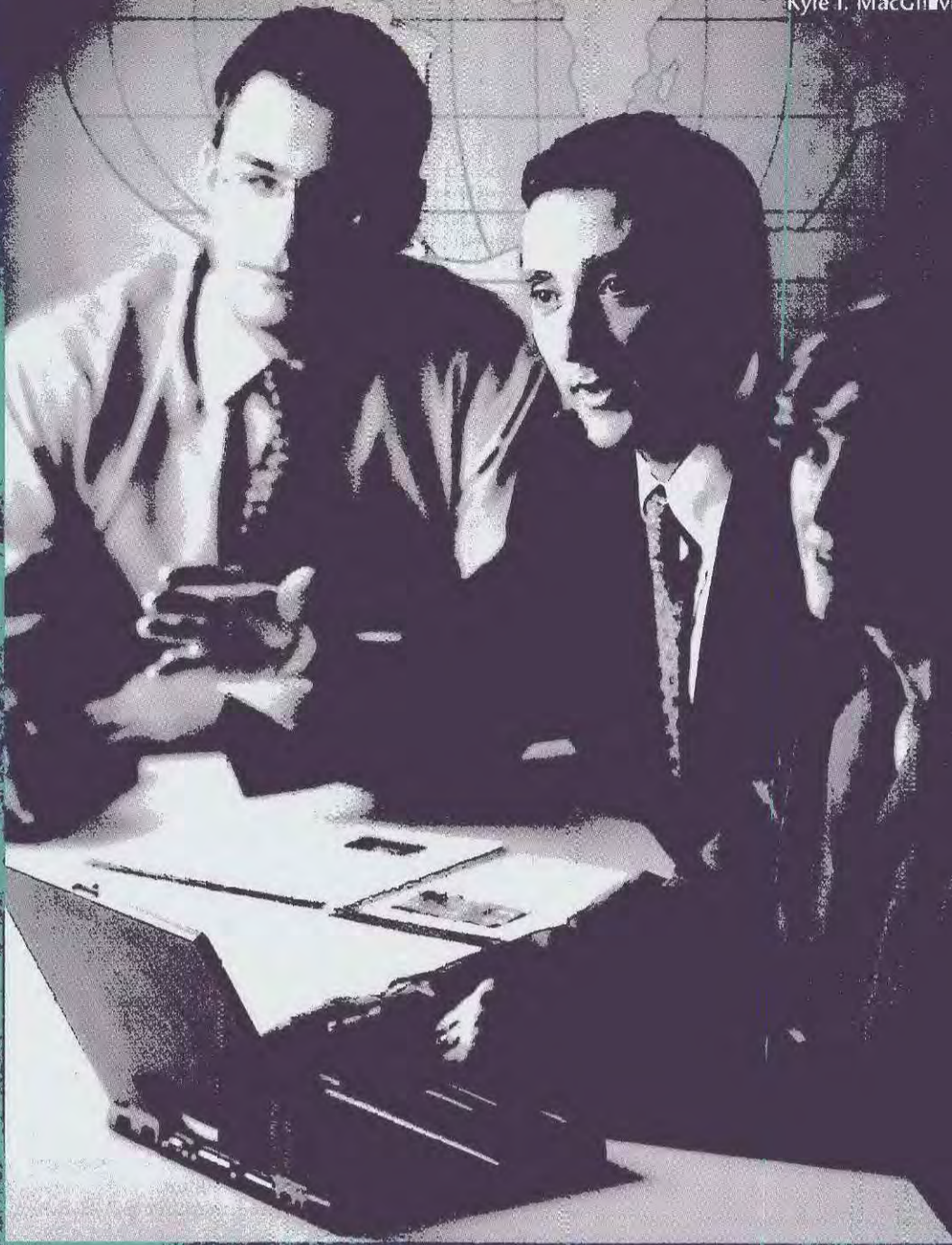
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Europe

Continued from page 3

Lloyd Thompson Group P.L.C. and chief executive of JLT Risk Solutions Ltd., said the use of risk financing alternatives likely will rise in Europe.

"We see this market as continuing to grow, as insurers seek to maximize the returns on their capital by taking risks previously associated with the capital markets," Mr. McGill said.

Like Mr. Seitz, Mr. McGill said that

the market for alternative risk transfer tools currently is "quite limited." He added that the market is led by a small number of large, highly rated insurance groups; new entrants, as a result, must often make big investments in new skills and technology, he said.

Still, he said, "each year sees a number of well-respected insurers entering the ART market. We now have a good core of expert markets which command a market lead position, and we are now much more able to syndicate multimillion-dollar transactions."

In 2000, JLT derived revenues of over £25 million (\$37.3 million) from ART-related business, a 65% increase over 1999 revenues.

Six of the unit's biggest new clients opted for an ART solution, Mr. McGill said. That solution, he explained, involved portfolios of credit default swaps that were insured for a number of very high-profile investment banks.

Mr. Seitz said he believes that the future growth in risk securitization will depend largely on whether the deals remain much more expensive

than traditional products.

"The question is, will the price narrow between the two markets?" he said, noting that capital markets-based products have always been three to four times more expensive than traditional reinsurance. "Now, reinsurance prices are rising. The question is whether this gap will narrow as reinsurance markets rise," he said.

Mr. Seitz estimated that the worldwide ART market will be worth between \$1.2 billion and \$1.5 billion this year, compared with an aggregate value for all issues in 2000 of \$1.1 billion.

In Europe, Mr. McGill said, companies such as JLT can use their expertise to help clients in areas that include project finance; credit enhancement; contingent equity and capital; emerging-market risk; asset, loans and future flow capital/revenues securitization; and regulatory capital arbitrage.

Rolls-Royce P.L.C. is one European company that has made recent use of risk financing options.

In February, the London-based engineering company announced that it had entered into an innovative insurance agreement to reduce its exposure to asset-based customer financing risk in civil aerospace markets.

Paul Heiden, Rolls-Royce's finance director, located in London, said that, in the civil aerospace markets, engine manufacturers will sometimes guarantee a portion of the future value of aircraft powered by their engines. A transaction put together by XL Financial Solutions Ltd., part of Bermuda-based XL Capital Ltd., reduces Rolls-Royce's gross exposure to such guarantees associated with sales of Boeing Co. and Airbus Industrie S.A. aircraft powered by Rolls-Royce engines.

Mr. Heiden called the transaction a "prudent step" that is "consistent with the increasing focus we are placing on operational risk management." He added that the deal "will strengthen the company's capability to provide competitive financing solutions for customers in the future."

Paris-based reinsurer SCOR S.A. also is seeing more demand for alternative risk transfer services. SCOR's ART subsidiary, Bermuda-based Commercial Risk Partners, enjoyed "substantial growth" last year, SCOR Chief Executive Officer Jacques Blondeau said recently. The ART unit was

started from scratch two years ago, and is now doing "very well" in weather derivatives. "At the moment (we are doing them) still only in the U.S., but we hope to expand to Europe this year," he said.

Chubb Corp. also expects growing European demand for risk financing options, as evidenced by its February opening of Chubb Financial Solutions Representatives Services Ltd. in London. The unit will structure and execute credit, equity, weather and energy financial products.

'Each year sees a number of well-respected insurers entering the ART market,' says Steve McGill.

Tobey Russ, president of Chubb Financial Solutions Inc. in New York, said in a statement announcing the opening that the operation will strengthen Chubb's "deep technical expertise" available to European clients "who seek sophisticated solutions to balance-sheet and earnings-related issues."

Another indication of growing interest in risk financing options was the decision this year by Guernsey, Europe's largest captive domicile, to allow the use of protected cell companies for securitization deals and other types of financial services vehicles.

In 1997, Guernsey became the first captive domicile to introduce PCCs. In a PCC—a type of captive insurer that consists of several individual cells—the assets and liabilities of each cell are segregated, shielding the other cells in the company.

PCCs in Guernsey can now be established to issue bonds, notes, loan or other debt securities or instruments in respect of which the repayment of capital and interest is to be funded from the proceeds of the company's investments, including debt or equity securities, royalties, income flows, derivatives, interest rate, currency or other swaps; other credit enhancement arrangements or other financial assets; other credit enhancement arrangements; and other financial assets. **BI**

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Deals

Continued from page 3
about taking a look at this?"

The bankers, he recalled, "didn't understand it or know where to go in their organizations" to put such a deal in motion. Mr. Belfiglio said Armstrong was searching for an arrangement that might replace its traditional property/casualty program.

"We were looking in any place where we needed capacity," Mr. Belfiglio said. "If the story is correct that the capital markets have so much more capital than the insurance industry," he said, Armstrong wanted to tap into some of that capital.

What he found, Mr. Belfiglio said, was a lukewarm reception from bankers and little sophistication in terms of structuring a deal. "We didn't speak the same language," he said.

It was a surprise, Mr. Belfiglio said, because "banks are really looking for new relationships, because their traditional relationships are not making the money they used to."

Still, the banks Armstrong contacted showed little interest in risk financing, he noted.

Mr. Belfiglio said Armstrong likely wouldn't pursue capital market alternatives unless the market tightened considerably.

Felix Kloman, editor of Risk Management Reports in Lyme, Conn., said that while there have been few capital market deals, there remains a role for such arrangements.

Many large corporations are finding that insurers lack the capacity to fund very large exposures, Mr. Kloman said.

"To find a way, they are going to have to create new financial vehicles. That will have to involve the capital

markets," he said.

As companies grow and spread their operations across the globe, their major exposures are "well in excess" of what "any possible combination of insurers" could cover, Mr. Kloman said.

And as the traditional market exits a soft cycle, it remains to be seen whether rising prices will be enough to help some insurers that were battered by competitive pricing, or whether those companies will fail, he said. "If they fail, you are going to see a lot of people turning to the capital markets."

In addition, one company that has tapped the capital markets in the past to cover its own risks is now looking at another way to use those markets to strengthen its balance sheet. Winnipeg, Manitoba-based United Grain Growers Ltd. currently is working with the capital markets to develop a

form of earnings protection coverage that the company could sell to its clients (see related story).

Risk managers involved in deals with capital markets generally find that they must alter their approach. Treasurers, chief financial officers and others who typically are not involved in the buying of insurance usually are involved in developing such deals.

"You have to cross lines," said the chemical company risk manager. "If you are tying in any financial risk, you have to talk to the treasury people."

Ms. Meltzer said that transferring risk, whether to the capital markets or to insurers, "should be seen as an important decision and worthy of the time of the CEO and/or board, if necessary. I would certainly look to this level for authorization. I would also ensure that the finance and legal people were onside and understood what was transferred and what wasn't."

Many senior managers are skeptical of the capital markets approach, Ms. Meltzer said, "particularly as it relates to traditional risks, as they don't see the benefit. Involving senior management in the process makes them more committed and more accepting of the issues."

Mr. Belfiglio said that most risk managers have the necessary financial skills to work on capital market deals. "And most of them are well placed to be able to get to the relationships to do it. In my case, I work for the CFO. I can just walk two doors down and say, 'Which bank do we want to talk to?'"

"There's no question that the CFO and treasurer are better equipped to approach the capital markets in most cases," Mr. Kloman said.

The challenge for corporations, he said, is "to dispense with the turf issues and begin to collaborate for the benefit of the organization." **BI**

ART plan goes with the grain

United Grain Growers Ltd. is looking at how it can parlay its experience with capital markets transactions into a new service for its clients.

United Grain in 1999 arranged an integrated program for most of its property/casualty exposures as well as coverage to protect its revenue in the event of a downturn in the grain business (*BI*, Nov. 15, 1999). Now, the agricultural company is undertaking a new effort to make available income protections to buyers of its products.

"We believe there's an opportunity to develop product offerings for our customers that would allow them to mitigate the risks of commodity pricing and production," said George Prosk, treasurer at Winnipeg, Manitoba-based United Grain. "We deal with farm customers in a lot of products and services. Their obligations to us depend on the crops they grow, and we are focusing on developing products that will enhance their revenue while mitigating the risks," he said.

Mr. Prosk said United Grain is looking to work with the capital markets on a product that would provide farmers with a "minimum revenue guarantee—a minimum price for crops that would be paid regardless of yield."

"Commodity futures can provide good prices for a year or so," Mr. Prosk said, but there remains a need for a consistent, year-to-year guarantee.

In order to provide such a product, "we have to extend the contract over time to smooth out the volatility," he said. "We think there is the opportunity to develop those products over some longer time period."

Mr. Prosk said such a guarantee likely would use a contract that would "embed guarantees in the sale of seeds" and pay according to a specific trigger, much the way some weather-linked derivatives work.

Michael McAndless, United Grain's risk manager, pointed out that farmers have been subject to "monstrous swings in revenue" that, at times, have caused them to rely on government bailouts. A product such as a minimum price guarantee would add some stability to farmers' income.

Mr. McAndless said traditional insurers are just beginning to look at financing arrangements that involve a company's reseller clients. Insurers are beginning to see the potential for such deals, but they have "not been pursued. There's been some interest...but not a great deal," he said.

—By Michael Bradford

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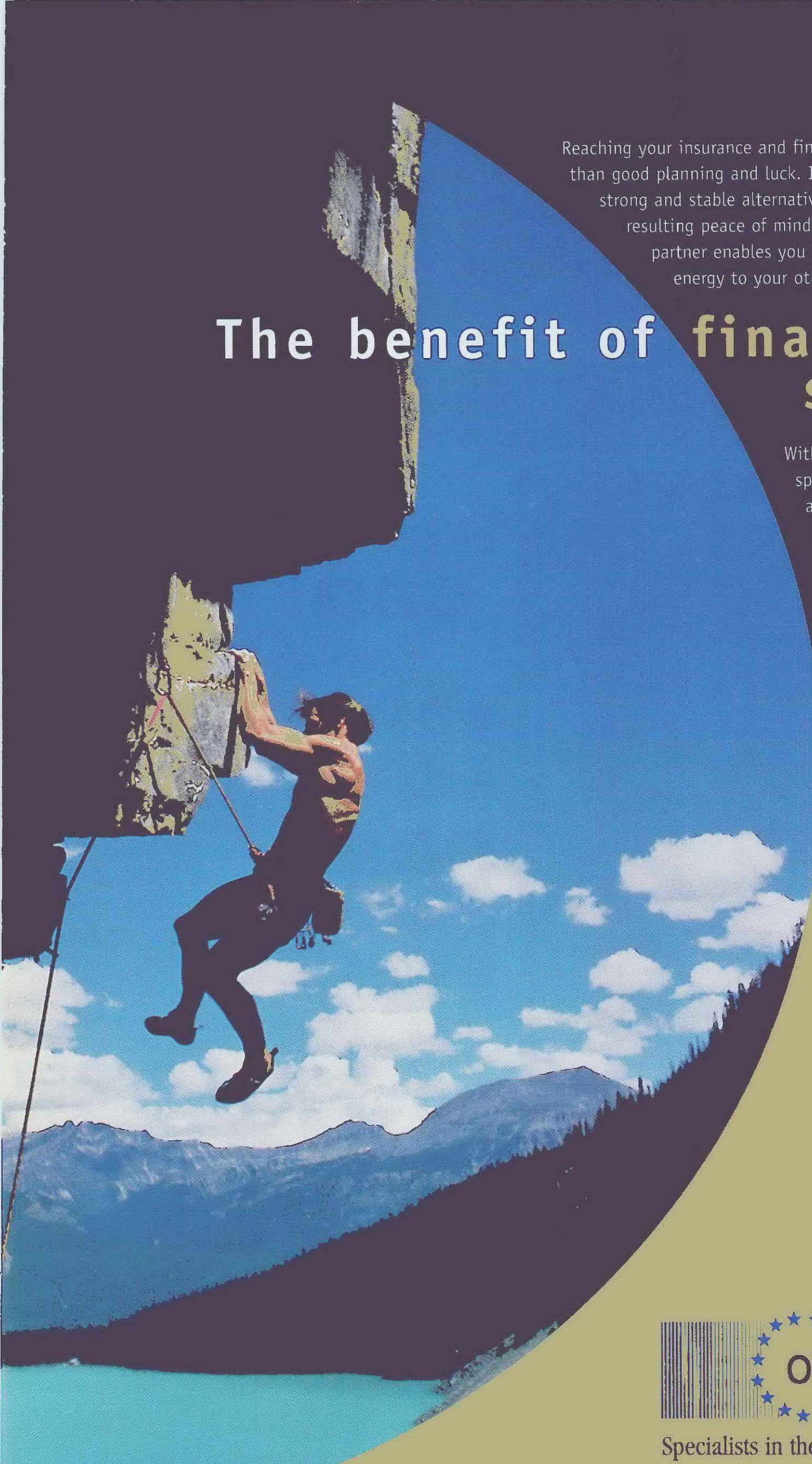
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Specialists in the alternative risk market.

BI directory of risk securitization specialists

A

American Protection Property & Casualty Agency Inc.
 500 W. Madison St., Suite 1100
 Chicago, Ill. 60661;
 312-559-8515; fax: 312-559-8520
Parent: Kemper Insurance Cos.
Risk securitization services began: 1998.
Staff
 Risk securitization professionals 6
Instruments used: catastrophe bonds, swaps.
Services provided: creation of special-purpose vehicles, management of special-purpose vehicles.
Risks: catastrophe, general first-party property.
Officers: Donald W. Mosier, vp.
Contact: Donald W. Mosier, dmosier@kemperinsurance.com; Glenn G. Carlson, ggcarlson@kemperinsurance.com.

American Re Securities Corp.
 555 College Road E.
 Princeton, N.J. 08543;
 609-243-4200; fax: 609-951-8017
 www.amre.com
Parent: Munich Reinsurance Co.
Risk securitization services began: 1999.
Instruments used: catastrophe bonds, swaps, physical event-linked securities, blended/integrated risk programs, index-linked securities.
Services provided: risk securitization design, analytics/risk quantification, underwriting of securities, creation of special-purpose vehicles, analysis of risk financing alternatives, distribution/sale of securities.
Risks: catastrophe.
Officers: Kenneth Bock, Charles W. Kerner, managing directors; Salvatore Levatino Jr., vp/controller.
Contact: Charles W. Kerner; 609-275-2170.

Aon Capital Markets
 123 N. Wacker Drive
 Chicago, Ill. 60606;
 312-701-3461; fax: 312-701-3450
 www.aon.com
Parent: Aon Corp.
Risk securitization services began: 1994.
Services
 Risk securitization consulting 29%
 Underwriting/distribution
 of risk securitization offerings 19%
 Other 52%
Staff*
 Total 30
 Risk securitization professionals 20
Clients
 Total 11
 U.S. clients 90%
 Non-U.S. clients 10%
Securitization deals
 Issues brought to market in 2000 3
 Aggregate volume
 of capacity in 2000 \$117,000,000
 Estimated issues for 2001 6

Estimated aggregate
 volume for 2001 \$600,000,000
Instruments used: catastrophe bonds, catastrophe equity put options, modeled loss securities.
Services provided: risk securitization design, analytics/risk quantification, underwriting of securities, creation of special-purpose vehicles, analysis of risk financing alternatives, actuarial advice, distribution/sale of securities.
Risks: catastrophe, earnings shortfalls, enterprise risks, credit, capital access problems, satellite launch failure.
Officers: Kevin R. Callahan, CEO; Nigel Sedgewick, managing director-Europe and Asia; Anthony A. Rettino, managing director-Americas.
Contact: Anthony A. Rettino; 312-701-3909.
 *Estimated.

Applied Insurance Research Inc.
 101 Huntington Ave.
 Boston, Mass. 02199;
 617-267-6645; fax: 617-267-8284
 www.air-worldwide.com

Risk securitization services began: 1996.
Staff
 Total 100
 Risk securitization professionals 10
Clients
 Total 6
 U.S. clients 85%
 Non-U.S. clients 15%
Securitization deals
 Aggregate volume of
 capacity in 2000 \$430,000,000
Instruments used: catastrophe bonds.
Services provided: analytics/risk quantification.
Risks: catastrophe.
Officers: Karen Clark, president/CEO; Vivek Basrur, senior vp.
Contact: S. Ming Lee; mlee@airworldwide.com.

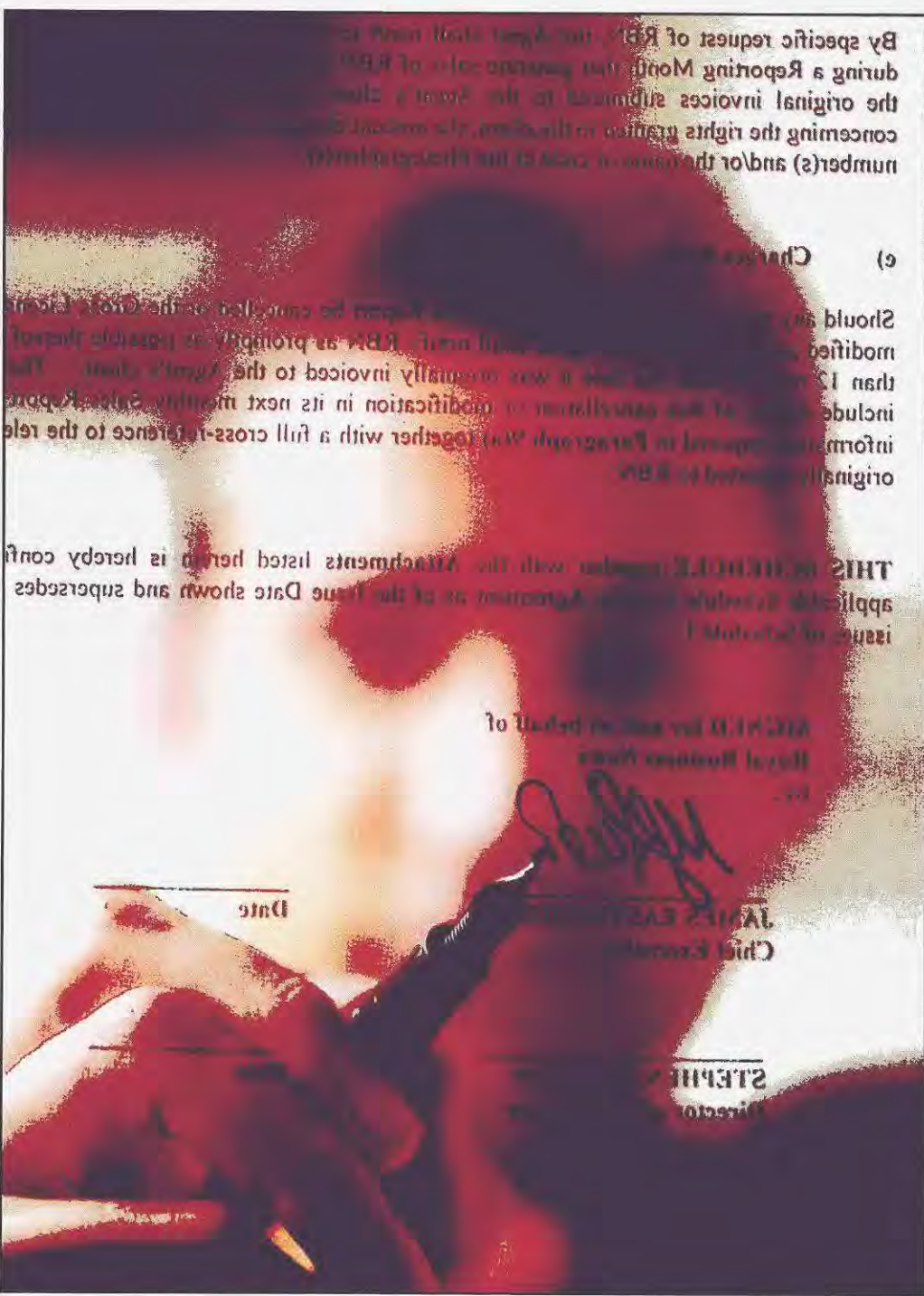
G

Gerling Global Financial Products Inc.
 717 Fifth Ave., 18th Floor
 New York, N.Y. 10022;
 212-745-0700; fax: 212-980-8521
 www.ggfp.com
Parent: Gerling Global Reinsurance Group.
Risk securitization services began: 1997.
Services
 Risk securitization consulting 10%
 Other 90%
Staff
 Total 23
 Risk securitization professionals 2
Services provided: analysis of risk financing alternatives.
Contact: Peter A. Gentile, president/CEO; 212-745-0741.

Goldman Sachs & Co.
 85 Broad St.
 New York, N.Y. 10004;
 212-902-1000; fax: 212-357-0110
 www.gs.com
Risk securitization services began: 1996.
2000 revenues
 Total \$12,000,000,000
Staff
 Total 18,000*
 Risk securitization professionals 24
Clients
 Total 5
 U.S. clients 40%
 Non-U.S. clients 60%
Securitization deals
 Issues brought to market in 2000 5
Instruments used: catastrophe bonds, swaps, physical event-linked securities, index-linked securities.
Services provided: risk securitization design, underwriting of securities, creation of special-purpose vehicles, analysis of risk financing alternatives, distribution/sale of securities, transformation.
Risks: catastrophe, residual value, credit, capital access problems, weather.
Officers: Andrew Kaiser, managing director; Michael Millette, Morgan Sze, vps.
Contact: Andrew Kaiser; andrew.kaiser@gs.com.
 *Estimated.

H

Hannover Re
 Karl-Wiechert-Allee 50
 Hannover, D-30625, Germany;
 49-511-5604-1280; fax: 49-511-5604-1592
 www.hannover-re.com
Parent: HDI Haftpflichtverband der Deutschen Industrie*.
Risk securitization services began: 1994.
Staff
 Risk securitization professionals 2
Clients
 Total 11**
 U.S. clients 45%
 Non-U.S. clients 55%
Securitization deals
 Aggregate volume of
 capacity in 2000 \$100,000,000***
 Estimated aggregate
 volume for 2001 \$150,000,000****
Instruments used: catastrophe bonds, swaps, securitization option triggered in 2000, life securitizations.
Services provided: risk securitization design, analytics/risk quantification, underwriting of securities, analysis of risk financing alternatives, natural hazard modeling/analysis, actuarial advice.
Risks: catastrophe, credit, capital access problems, life reinsurance.
Officers: Wilhelm Zeller, CEO; Herbert Haas,



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Continued from page 16

CFO; Juergen Graeber.
Contact: Eberhard Mueller, managing director; eberhard.mueller@hannover-re.com; regine.kielich@hannover-re.com (life).
 *Majority shareholder. **Three are active, eight are passive. ***\$100 million active (underwritten), \$110 million passive (issued). ****\$150 million active and \$100 million passive.



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Risk securitization services began: 1998.
Services
 Risk securitization consulting 1%
 Underwriting/distribution of
 risk securitization offerings 9%
 Other 90%
2000 revenues
 Total \$1,400,000
 Risk securitization consulting \$14,000

Staff
 Total 5
 Risk securitization professionals 2
Clients
 Total 2
 U.S. clients 100%
Instruments used: catastrophe bonds, physical event-linked securities, index-linked securities.
Services provided: risk securitization design, creation of special-purpose vehicles, regulatory advice.
Risks: catastrophe.
Officers: James E. Tait, chairman; Gerald F. Murray, vp/general counsel.
Contact: Gerald F. Murray; 312-338-3407; murray@theinex.com.



MMC Enterprise Risk*

1166 Ave. of the Americas
 New York, N.Y. 10036;
 212-345-5000; fax: 212-345-7316
 www.mmc.com
Parent: Marsh & McLennan Cos. Inc.
Instruments used: catastrophe bonds,

swaps, blended/integrated risk programs.
Services provided: risk securitization design, analytics/risk quantification, underwriting of securities, creation of special-purpose vehicles, analysis of risk financing alternatives, natural hazard modeling/analysis, actuarial advice, distribution/sale of securities.
Risks: catastrophe, residual value, enterprise risks, general first-party property, credit, capital access problems.
Officers: Bob Khanna, president/CEO.
Contact: Michael W. Elliott, 215-246-1250, michael.w.elliott@marsh.com.
 *Operates offices in: Grand Cayman, Cayman Islands; Dublin 2, Ireland; and Hamilton, Bermuda.

Munich Re

Koeniginstrasse 107
 Munich, 80802, Germany;
 49-89-3891-0; fax: 49-89-3990-56
 www.munichre.com
Risk securitization services began: 1996.
Services provided: risk securitization design, analytics/risk quantification, analysis of risk financing alternatives, natural hazard modeling/analysis.
Risks: catastrophe.

Officers: Manfred Seitz, member of the executive management.



Swiss Re

55 E. 52nd St.
 New York, N.Y. 10055;
 212-317-5400; fax: 212-317-5604
 www.swissre.com
Risk securitization services began: 1995.
Instruments used: catastrophe bonds, swaps, blended/integrated risk programs, index-linked securities, catastrophe equity put options.
Services provided: risk securitization design, underwriting of securities, analysis of risk financing alternatives, natural hazard modeling/analysis, distribution/sale of securities.
Risks: catastrophe, credit.
Officers: Prakash Shimpi, managing principal; James Olivo, principal.
Contact: Gary Sullivan, director-corporate communications.



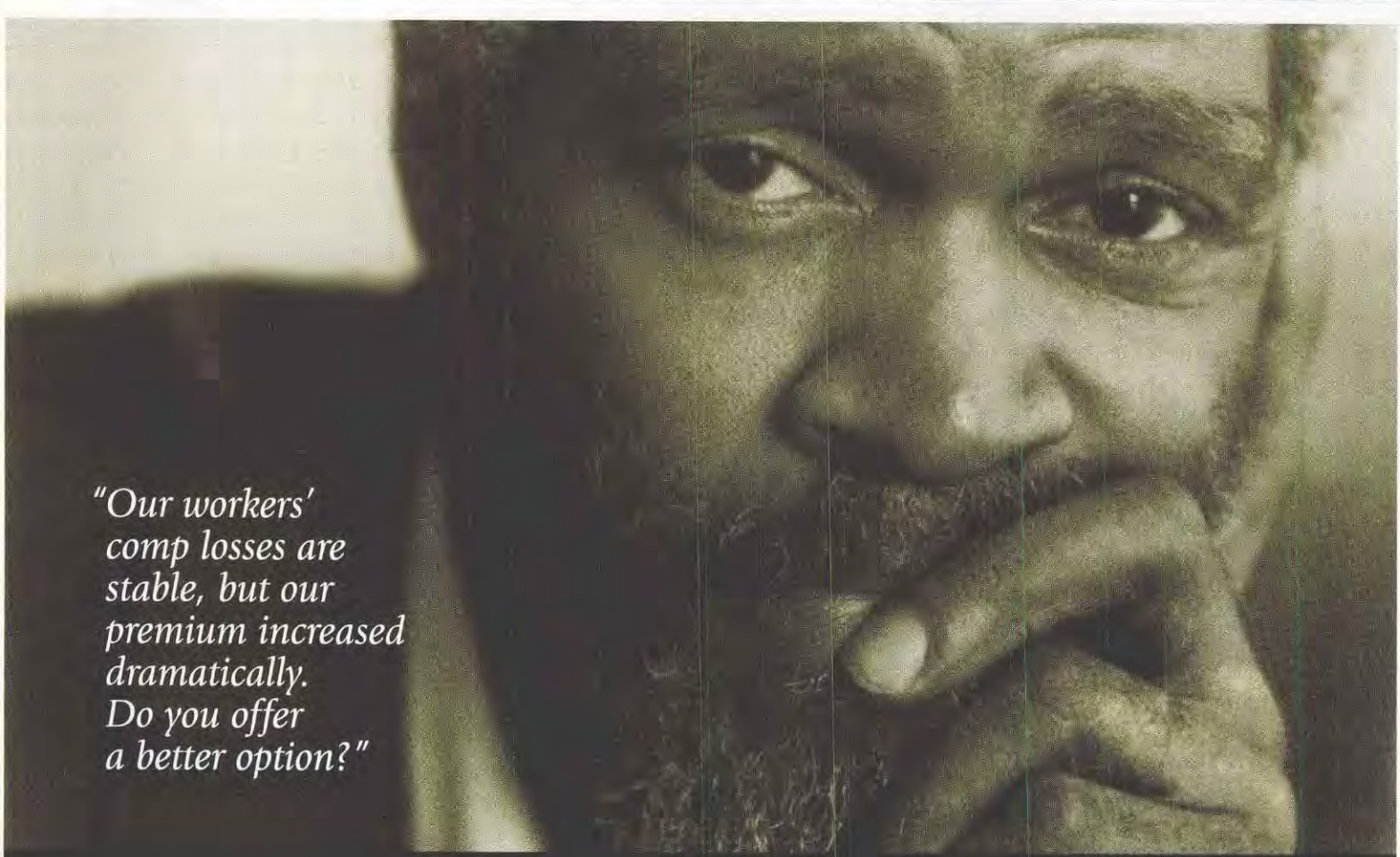
XL Capital Assurance Inc.

250 Park Ave., 19th Floor
 New York, N.Y. 10177;
 646-658-5900; fax: 646-658-5955
 www.xlca.com
Parent: XL Capital Ltd.
Risk securitization services began: 2000.
Staff
 Total 41
 Risk securitization professionals 26
Services provided: financial guarantee insurance.
Risks: consumer and corporate asset based securities, future flow, project finance and public finance transactions.
Officers: David Stevens, president/COO; Edward Hubbard, CFO; Frederick Hnat, general counsel.
Contact: Richard Pfaltzgraff; rpfaltzgraff@xlserve.com.



Zurich Re

General-Guisan-Quai 26
 Zurich, CH-8022, Switzerland;
 41-1-639-9393; fax: 41-1-639-9090
 www.zurichre.com
Parent: Zurich Financial Services Group.
Risk securitization services began: 1999.
Services
 Risk securitization consulting 1%
 Underwriting/distribution of
 risk securitization offerings 1%
 Other 98%
Staff
 Total 760
 Risk securitization professionals 8
Clients
 Total 3
 U.S. clients 67%
 Non-U.S. clients 33%
Securitization deals
 Aggregate volume of
 capacity in 2000 \$150,000,000
 Estimated issues for 2001 5
 Estimated aggregate
 volume for 2001 \$200,000,000
Instruments used: swaps, blended/integrated risk programs, catastrophe equity put options.
Services provided: risk securitization design, analytics/risk quantification, analysis of risk financing alternatives, natural hazard modeling/analysis.
Risks: catastrophe, residual value, earnings shortfalls, asbestos liabilities, credit, capital access problems.
Officers: Dirk Lohmann, CEO; Rich Smith, CEO-Zurich Re (North America); Frank Schaar, CEO-Zurich Re (Cologne). **BI**



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Business Insurance defines risk securitization specialists as companies that provide advice on packaging insurance risk using capital market instruments and/or underwriting and distributing these risk securitization products.

Listings begin with the company address, the name of the **parent company** and the year **risk securitization services began** to be offered.

A percentage breakdown of the **services** provided is followed by total 2000 **revenues** and revenues from risk securitization services.

Information on **staff** follows, with a breakdown of total staff and professional staff assigned to risk securitization. The total number of **clients** is next, followed by the number of U.S.-based clients and non-U.S.-based clients. The **securitization deals** listing includes the number of securitization issues brought to market by the company and the aggregate volume of capacity for 2000 and the estimated aggregate volume of capacity for 2001.

Lists of **instruments used**, **services provided** and **risks** securitized follow. The names and titles of **officers** and a **contact** complete each listing.

The directory is published as an editorial service; there is no charge for companies to be included. The companies listed were required, though, to complete a questionnaire provided by *BI*.

Although every effort is made to publish complete and accurate information, *BI* is unable to verify all data received.

If your company did not receive a questionnaire this year and you would like to be included in next year's directory, please contact the *BI* directory department, at 312-649-5270 or 312-649-5313.



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California may consider boosting comp benefits

By ROBERTO CENICEROS

SAN FRANCISCO—Employers and labor unions are poised to battle again over proposed legislation that would increase workers compensation benefits in California.

Similar legislation to boost workers comp benefits was defeated in 1999 and 2000, but some observers predict this year's measure has a better chance of winning passage and the governor's support.

Workers compensation costs are high in California but have declined over the past decade, said Tom Rankin, president of the California Labor Federation, AFL-CIO. Workers comp costs currently are equal to 2% of the statewide payroll, compared with 3% in 1990, he noted.

Yet for two years in a row, Cali-

fornia employers have defeated legislation that would have increased benefits by arguing that any increase in benefits must be accompanied by cost-saving reforms, Mr. Rankin said.

"Benefits should be adequate. They should not be held hostage to cost savings," Mr. Rankin. "Unfortunately, that (conflict) has become political reality in Sacramento."

Cost controls are needed, though, because workers comp costs again are increasing for employers, and accident frequency is on the rise, an employer representative contends. The increase in accident frequency is occurring in part because California's strong economy is pulling into the workforce more people who lack safety and accident-prevention training, said Jill A. Dulich, regional

director for Marriott International Inc. in Santa Ana, Calif.

Ms. Dulich and Mr. Rankin were participants in the California Forum for Workplace Health and Safety, held Feb. 8-9 in San Francisco and sponsored by the California Department of Industrial Relations and the state Commission on Health Safety and Workers' Compensation.

Mr. Rankin and Ms. Dulich are both CHSWC commissioners. The commission is charged with overseeing California's workers compensation system and recommending improvements to lawmakers and administrators. Workers comp reform legislation introduced in California's Senate is expected eventually to call for a sizable increase in statutory workers comp benefits. In its current form, S.B. 71 does not call

for a benefits increase, but it was introduced early in the session to assure it a spot on lawmakers' agenda and is likely to be subject to many amendments before it comes before a vote.

Sen. John Burton, D-San Francisco, and Assemblyman Tom Calderon, D-Montebello—who is chairman of the Assembly Insurance Committee—introduced the bill. S.B. 71 is regarded as the successor to legislation previously vetoed by Gov. Gray Davis that would have increased benefits.

In 1999, the governor vetoed S.B. 320; in 2000, he declined to sign S.B. 996. Both bills sought more than \$2.5 billion in benefits increases over a five-year period (*BI*, Oct. 9, 2000). In rejecting those bills, the governor said he wanted labor and

employers to reach a consensus on reforms and benefits.

But this year could be different.

The governor wants to sign a benefits increase package this year even if employers and labor cannot reach a consensus about what the legislation should contain, Stephen J. Smith, director of the California Department of Industrial Relations, told a recent Assembly Insurance Committee hearing on workers compensation. Mr. Smith is a member of the governor's cabinet.

Employers attending the CHSWC's forum said in private interviews that they believe the governor is being pressed to give his supporters—which include labor and workers comp attorneys—the benefits increase they have been seeking.

But as a tradeoff for increased benefits, employers are demanding system reforms.

Employers have a responsibility to demand a better system so that more money goes to injured workers rather than to needless administrative burdens or to unnecessary "external providers," Mary Gary, business risk manager for Hewlett-Packard Co. in Palo Alto, Calif., said during the CHSWC forum.

'Benefits should be adequate. They should not be held hostage to cost savings,' says Tom Rankin.

"External providers" can include attorneys, doctors and physical therapists, Ms. Gary explained after addressing the forum.

One cost borne by employers that often goes unnoticed is the expense of training scarce workers to replace employees unable to work because of an injury, Ms. Dulich said. Marriott spends between \$3,000 and \$15,000 to train each replacement worker.

"That is a factor that doesn't even come into play when you talk about work comp costs," she said.

Mr. Rankin said the proposed benefits increase should be viewed in the context of overall cost trends in the state.

"When you look at the big figures in the paper about how many millions of dollars a benefits increase is going to cost, remember the real cost is declining as a percentage of payroll," he said, noting the decline of workers comp costs as a percent of payroll over the past 10 years.

Despite their differences over the proposed legislation, employers and labor representatives agree that they can both help workers and reduce costs by cooperating to prevent workplace injuries.

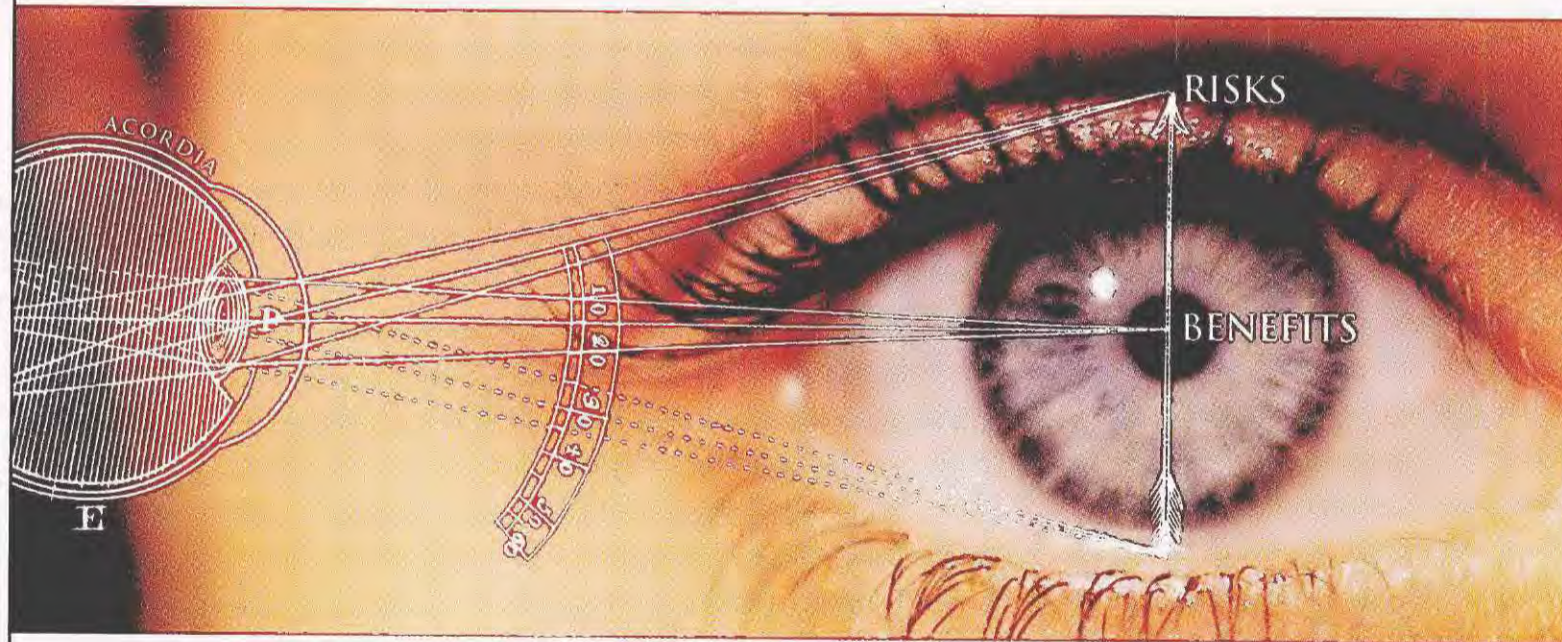
"Labor and management really do need to work together to improve health and safety in the workplace," Ms. Dulich said. "The most important asset business has is workers. This will work toward making California the most competitive and safest workplace in the nation."

There has been a 48% decrease in work-related non-fatal illness and injury in California from 1988 to 1998, Mr. Rankin said.

"But we still have a long way to go," he added. "We still have almost 800,000 non-fatal illnesses and injuries a year in California."

One way to increase labor and management cooperation may be to require large corporations to form safety committees made up of management and labor representatives, Mr. Rankin said. **BI**

EXPERT VISION



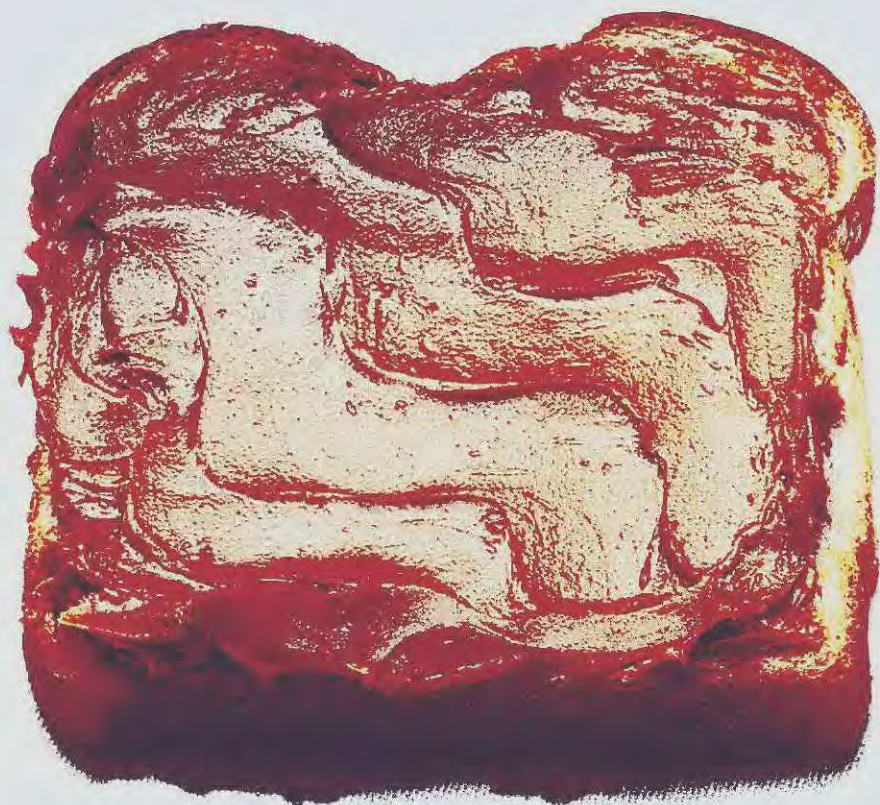
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Survey

Continued from page 1

Employers do plan, however, to help employees become better health care consumers. Four out of five employers—81%—plan to improve employer/employee benefit communication in the next year, while 55% intend to give employees online access to health plan information and the ability to conduct health care transactions.

These moves are part of a push to use the Internet to empower employees to control health care costs and improve quality.

"A new Web-based consumerist model is appearing, which will give employees immediate access to health information and transactions," the survey states.

But employers still plan to maintain a central role in helping employees obtain health care. The survey found 81% expect to remain highly involved in health care plan design, and 76% expect to be involved in choosing a health plan.

"It's a pretty strong statement that large employers do not plan to get out of the business," said Rich Ostuw, global health care practice director for Watson Wyatt in Stamford, Conn.

This year's survey also found premiums are rising much faster than medical cost inflation. Health care providers reported fee increases of between 1.6% and 3.4%. But health plans are receiving three to four times that amount in premium increases, largely due to rising drug costs and increased use of health care services.

While medical costs are rising sharply, drugs prices are rising even faster. Survey respondents report a 14.6% increase in prescription drug

costs for 2001 from last year.

Due to this increase, more employers are turning to a three-tiered copayment system, with 71% considering it the most effective method for controlling drug costs. Other methods employers see as effective include: increasing employee copayments, 59%; educating consumers, 55%; and increasing formulary use, 48%.

When it comes to choosing a health plan, employers and health care providers have differing views.

Access to providers and quality of care are the two most important factors for employers, 88% of which cited those factors. The third most important factor, cited by 76%, was employee satisfaction. Costs came in fourth, cited by 74% of employers.

Most health plans, on the other hand—94%—considered cost a very important factor for employers. Access was cited by 77 percent as very important to employers, and 52% thought employee satisfaction was very important. Just 46% cited quality of care as a very important factor for employers.

"Clearly, employers have been successful in communicating their interest in keeping costs down," the survey states. "More work appears needed, however, in their efforts to sensitize health plans to the importance of other considerations, such as quality of care and plan administration."

There are also differing views on the impact of costs on health care quality. The survey said 41% of employers, but only 9% of health plans, believe cost pressures hurt quality.

Health plans "are in somewhat of a state of denial," Mr. Ostuw said.

Copies of the survey are available for \$20 from Watson Wyatt, 800-388-9868.

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GLOBAL BRIEFS

The minimum funding requirement for U.K. occupational pension plans will be scrapped in the coming months, U.K. Chancellor of the Exchequer Gordon Brown announced in his budget last week. The regulations impose various restrictions on fund management, including requiring that pension funds be invested in safer, lower-performing assets, such as government bonds. The London-based Assn. of British Insurers welcomed the move and said it looks forward to working with the government to refine its proposal for a replacement for the minimum funding requirement....Ratings agency Standard & Poor's Corp. in London announced a stable outlook for the Finnish insurance market. S&P said that the market's high solvency levels and lack of foreign competition contributed to the outlook. S&P warned, however, that the market's medium-term stability could be at risk from a downturn in investment returns in 2000. S&P pointed out that the recent fall in the share price of Finnish telecommunications group Nokia, in which many Finnish insurers have a significant stake, could adversely affect insurers' investment income....Alexander Forbes U.K. P.L.C. has acquired U.K. broker Alfred Blackmore Group Ltd. for £25.3 million (\$37.2 million). London-based Alfred Blackmore is a privately held company that specializes in construction and insurance brokers professional indemnity coverage and affinity group business....S&P announced a negative outlook for the Italian nonlife insurance market. S&P blamed the Italian government's one-year rate freeze on auto liability insurance, which, it said, has "opened a gulf between premium levels and rising injury awards." S&P issued a positive outlook for the Italian life insurance industry....Serge Marle has been appointed chief executive officer of AGF Assurances Financieres, a new subsidiary of Paris-based Assurances Generales de France. Formerly, Mr. Marle was European business leader for the Financial Guaranty Insurance Co., a GE Capital subsidiary. In his new role, Mr. Marle will be responsible for the development of financial guarantee products and other structured financing operations. AGF is a unit of Munich, Germany-based Allianz A.G. Holding....AIG Europe, the London-based subsidiary of American International Group Inc., has launched a new product for mid-sized businesses. The Financial Protector package covers businesses and their directors against exposures to human resources liabilities, management liabilities, reputational risks and fraud. A spokesman for AIG Europe said there are about 1,500 disqualification proceedings each year against U.K. directors. Despite that, he said, just 10% of privately held mid-sized businesses in the United Kingdom currently insure against management liabilities....Three Lloyd's syndicates have launched an online system to sell marine hull war risks coverage. The system, www.warsure.com, is being operated by syndicate 376, managed by Alleghany Underwriting Ltd., and it is supported by syndicates 623 and 609, managed by Beazly Furlong Ltd. and M.E. Denby & Others, respectively. Buyers of war coverage can obtain and bind quotes, make changes to coverage and file claims on the Web site. Capacity of up to \$100 million is available for any one vessel....Hamilton, Bermuda-based Sovereign Risk Insurance Ltd. has completed its second political risk insurance policy for a capital markets transaction. The policy was issued in support of a \$95 million securitization of senior mortgage bonds in Argentina by BACS I Mortgage Trust. The 12-year political risk policy covers up to 15 months of interest payments on the notes against the risk of currency inconvertibility and nontransfer.

Ruling extends E&O claim period

By CAROLYN ALDRED

LONDON—Lawyers and other professionals in the United Kingdom could be exposed to negligence charges by clients far beyond typical time limits for filing such claims, following a recent ruling by the U.K. Court of Appeals.

Such professionals, as a consequence, may need to purchase extended coverage under their claims-made professional indemnity insurance coverage for years after they retire, lawyers say.

More immediately, attorneys say, the Feb. 20 ruling could mean higher liability insurance costs for U.K. law firms. In addition, it could force law firms to reassess their risk management practices, including the length of time they retain certain

client files.

The ruling also could be another factor that drives U.K. law firms and other professionals to abandon their partnership status—which exposes partners to unlimited liability—and instead organize as private corporations. Ironically, the ruling came just two days before the release of a survey of U.K. law firms that showed 73% have seen their professional indemnity insurance rates fall since they were allowed to buy primary coverage on the open market, rather than exclusively through the Solicitors Indemnity Fund, a mutual insurer that is now in runoff.

Ruling on a preliminary issue, the Court of Appeal judges confirmed that Martin William Cave can pursue a claim against the Isle of

Wight-based law firm Robinson Jarvis & Rolf, despite the fact that Mr. Cave initiated his lawsuit 10 years after the alleged negligent act. The judges ruled that Mr. Cave was entitled to rely on the 1980 Limitation Act to extend the time limit for bringing legal action, which normally is six years.

In this case, Mr. Cave charged that RJR failed to secure mooring rights when asked to do so in 1989. As the owner of the land did not challenge Mr. Cave's mooring for the next five years, the plaintiff had no reason to suspect the failure of RJR to secure the rights, according to court records.

In 1994, his right to the mooring was terminated, and Mr. Cave filed his lawsuit in January 1999 against RJR.

Although Mr. Cave's claim is low in value, the law firm's insurer, the SIF, seeks to appeal the case to the House of Lords because of its broad implications, an SIF spokesman said.

"This case has wider implications than merely the £10,000 (\$14,715) claim for loss of mooring rights," said a spokesman for RJR, the defendant law firm.

The House of Lords should examine the case, because "this is a decision with broad implications, which has given rise to considerable concern," said the SIF spokesman.

In reaching their decision, the appellate judges in *Cave* refused to overturn a 1999 U.K. Court of Appeal decision in *James Brocklesby vs. Armitage & Guest*, in which the

See Ruling on next page

Asbestos roils Aussie insurers

By DAMIEN TOMLINSON

Australian insurers are under-reserved for growing asbestos liabilities, a consulting actuary contends.

An insurer executive and an analyst agree with that assessment, but contend the industry is working to address the deficiency and is not in immediate danger of financial difficulty.

Increasing litigation, a greater incidence of asbestos-related lung cancers and a higher-than-expected volume of claims point to larger and more-frequent asbestos liability payouts in Australia, according to Bruce Watson, a consultant with the Sydney-based actuarial firm of Trowbridge Consulting Pty. Ltd.

In light of this exposure, insurers need to review their reserves and ensure they have ade-

quate resources to meet the higher payouts being awarded to compensate victims of asbestos-related disease, Mr. Watson warned.

He said that while some insurers in Australia and the United States have increased reserves for asbestos liabilities, the actuarial models on which those reserves were based are now outdated.

"These estimates were based on reported compensation and medical cases during the 1980s and a variety of expert projections on the rate of future incidence," Mr. Watson said. "A review of asbestos claims experience during the 1990s shows the number of new claims has been worse than even the higher end of the earlier projections."

Before the dangers of asbestos
See Reserves on next page

Lloyd's sued over policy

As the Crowes file

By SARAH VEYSEY

LONDON—The rock group The Black Crowes has filed a lawsuit against several Lloyd's of London syndicates charging breach of contract and bad faith arising after the cancellation of a tour last year.

The Black Crowes, an American band, had been due to perform a

three-leg international tour last year with former Led Zeppelin guitarist Jimmy Page. However, after the first leg of the tour last June and July, Mr. Page fell ill, necessitating the cancellation of most of the second leg and the entire third leg of the tour, the band said in a statement.

Before embarking on the tour, The Black Crowes took out a policy insuring against loss in the event that any part of the concert tour was canceled, the statement said. This policy was underwritten at Lloyd's.

The band alleges that the Lloyd's syndicates involved in underwriting the policy failed to sufficiently compensate The Black Crowes for losses stemming from the cancellation of the tour dates. "Despite Lloyd's willingness to accept the artists' payment of the premium and readily insure the tour dates against cancellation, they have refused to honor (their) own policy of insurance and justly compensate The Black Crowes for their losses," the statement said.

The suit was filed in Los Angeles Superior Court on Feb. 28. A
See Band on next page



PHOTO: REUTERS
Chris Robinson, singer for The Black Crowes, and his band are suing Lloyd's for breach of contract.



PHOTO: AFP

Investigators examine the site of the fatal March 1 train collision in Great Heck, Yorkshire.

Crash probe ongoing
Rail industry not at fault, early report says

By EDWIN UNSWORTH

LONDON—A preliminary investigation into the Feb. 28 rail accident in Northern England that killed at least 10 and injured scores concludes that the rail industry was not to blame for the incident.

An interim report released last week by the Health and Safety Executive's Rail Inspectorate concluded that "there was nothing that the railway industry could reasonably have done to prevent the collisions" involving a passenger train and freight train in Great Heck, Yorkshire.

The Inspectorate said the immediate cause of the collision was a Land Rover leaving a highway just before a bridge over the rail line and ending up on the track. The Great North Eastern Railway passenger train, traveling from Newcastle to London, struck the motor vehicle and then collided head-on with a Freightliner Ltd. freight train carrying coal.

"There is no evidence at this stage to suggest that there were any errors by the railway staff or faults with the signaling, rolling stock or track involved in this collision," said the report.

Fortis, a Belgian/Dutch insurer based in Brussels, Belgium and Utrecht, Netherlands, insures the Land Rover's driver. Fortis issued a press statement last week on the accident, saying that "the cost of the claims that are to be expected will have

a negligible impact" on its finances because Fortis is reinsured against major risks, such as the train accident.

A spokeswoman for the insurer said "it is too early" to determine liability for the accident based on the HSE's preliminary report. She also said "it is too technical" a matter to determine how insurance claims will be met if investigations conclude that the accident was caused by a fault in the design or manufacture of the vehicle or its parts. The Land Rover is made by a division of Ford Motor Co.

A separate report by the Transport Research Laboratory, a government agency that studies transport issues, concluded that the Land Rover left the highway about 55 yards before a crash barrier.

A spokeswoman for the HSE was unable to give a date for the publication of the executive's final report on the accident, mainly because "there is no precedent for this kind of investigation" involving a motor vehicle and two trains.

Other investigations are being conducted by the rail industry and the North Yorkshire police.

GNER, owned by Bermuda-based Sea Containers Ltd., has liability coverage with London-based Independent Insurance Co. Ltd. Its rolling stock is insured with St. Paul International Insurance Co. Ltd., which has said its net exposure from any expected claims is less than \$1 million.

Ruling

Continued from previous page

court held that, under the 1980 Limitation Act, a plaintiff had to plead only the defendant's breach of duty and the existence of circumstances that made it unlikely that the breach would be discovered for some time.

The Limitation Act states that a case can be brought beyond the normal six-year time limit if there has been "deliberate concealment" by the defendant. In *Brocklesby*, the defendant and the SIF argued that "deliberate" suggested intention or awareness, as opposed to mere negligence or inadvertence. The judges ruled, though, that a breach of duty that is unlikely to be discovered for some time amounts to deliberate concealment of the facts, making it unnecessary for the plaintiff to prove deliberate concealment.

The 1999 *Brocklesby* decision had raised concern among lawyers, but many believed the ruling was a poor decision that would not be cited as precedent, said Jonathan Davies, a partner of the London law firm of Reynolds Porter Chamberlain.

By refusing to overturn the *Brocklesby* ruling, the Court of Appeal's

Cave decision has serious implications for all U.K. professionals and many industries where a fault may be discovered many years after a contract period has ended or a service has been provided, Mr. Davies said.

"It's a point of law of general public importance and should go to the House of Lords," said Mr. Davies, who contends the court misinterpreted the Limitation Act.

Since the *Brocklesby* decision, many lawsuits against law firms were put on hold, waiting to see if it would be cited as precedent. Now lawyers and other professional firms could face a "significant number of cases" that otherwise would have been time-barred, Mr. Davies said.

Because of this potential new long-tail exposure, he said U.K. firms should take several risk management precautions, including:

- Reviewing all previous contracts and ceasing the common practice of destroying contracts and client files after six years.

- Retaining extended insurance coverage under claims-made policies for much longer than has been standard practice. Until now, the Law Society has mandated that all law firms should have six years of extended cov-

erage; that time now will have to be increased, Mr. Davies said.

- Reviewing the increased risk of being a sole practitioner or a participant in an unlimited liability partnership, as opposed to practicing as an employee of a limited liability company. This decision will be another factor considered by professionals in determining whether to remain in professional partnerships, Mr. Davies predicted.

He also called upon the Law Commission—a government-funded legal body that advises the government on law reforms—to consider the *Brocklesby* and *Cave* decisions in its current review of time limitations on the initiation of legal actions.

Later this year, the Law Commission intends to give recommendations for simplifying the laws on limitation and a draft bill to the government.

In a consultation paper on the issue published in 1998, the Law Commission claimed that the existing law on time limits was complex, with several different rules currently in place. The commission noted, for example, that:

- For deliberately caused personal injury, the limit is six years from the date of the injury.

- For negligently caused personal injury, the limit is three years from the

date the plaintiff discovered—or ought to have discovered—the injury, but the court can "extend" that time if it finds it just and equitable to do so.

- For negligently caused property damage or economic loss, the limit is three years from the date the plaintiff discovered or ought to have discovered the damage, or six years from the date of the damage, with a "long-stop"—or maximum—limitation period of 15 years from the date of the negligent conduct.

- For the breach of an ordinary contract, the limit is six years from the date of the breach.

- For libel, the limit is one year from the date of the publication, but the court can extend that time if it finds it just to do so.

In its 1998 consultation paper, the Law Commission recommended:

- An initial time limit of three years from the date a plaintiff discovers he or she has a legal claim.

- A long-stop limitation period of 10 years, or 30 years in personal injury cases, from the date of the act or omission by the defendant.

- That the courts would have no discretion to extend or not apply a time limit.

Nicola Pittam, a Law Commission

lawyer working on the recommendations, confirmed that a report would be out "later this year," but refused to disclose its likely contents. Ms. Pittam did say that the Law Commission will be taking the *Cave* and *Brocklesby* cases into consideration in its report.

Meanwhile, a survey published Feb. 22 by Alexander Forbes Professions, a division of Alexander Forbes Risk Services U.K. Ltd. in London, found that law firms are paying less for their professional indemnity insurance coverage after they were no longer required to purchase primary coverage from the SIF beginning in September 2000 (*BI*, July 5, 1999).

Of 150 law firms of all sizes that responded to the survey, 73% said they had paid lower professional indemnity rates buying coverage in the open market compared with the price of SIF coverage. Overall, 28% responded that their savings were more than 40%, and 58% responded that their savings were between 15% and 40%.

The survey showed that, of the 17% that reported paying increased rates, half said their rates rose 40% or more.

Only 8.5% of firms reported having problems obtaining insurance, while 93% said they were able to shop around for competitive quotes. **BI**

Reserves

Continued from previous page

exposure were widely revealed in the late 1970s, the rates used by insurers did not reflect the risk their policyholders faced, Mr. Watson said. This meant insurers have been required to honor claims that in today's dollars are significantly higher than the premiums charged up to 30 years earlier, he said.

Insurance experts generally agree with Mr. Watson's pronouncement.

Raymond Jones, general manager of Sydney-based QBE Australia Ltd., said Australian liability insurers are aware of the growing risks identified by the Trowbridge research.

"Everyone certainly takes (Mr. Watson's comments) seriously," he said.

QBE sold policies with a potential asbestos exposure on a claims-made basis, which required that claims be reported or filed during the policy period, he noted.

Even so, Mr. Jones said QBE has in-

creased its claims reserves by annually injecting additional money into its reserves as needed. He declined to say how much its asbestos reserves have been increased.

"I think (Mr. Watson) is correct: Nobody knew how much of a risk asbestos was until too late, and now we see that many were not well enough prepared," Mr. Jones said.

Ian Thompson, Asia-Pacific managing director of Sydney-based Standard & Poor's Financial Services Rating Company Pty. Ltd., said the belief that insurance companies' reserves are inadequate is widely held.

"It is a very uncertain business, so there is a hysteria that insurance companies never have enough cash in reserve to cover their exposures. Because asbestos claims are usually determined on a case-by-case basis, the uncertainty is multiplied again," he said.

Mr. Thompson said, though, that there is no immediate danger of insurance companies "sinking" under the weight of growing asbestos liabilities, as these would take years to develop.

"Asbestos claims have been trickling in for more than 20 years, and will probably keep trickling in for many

'Insurance companies will have plenty of time to compensate' if reserves are not adequate, says S&P's Ian Thompson.

more years to come. Insurance companies have time on their side. If reserves are not adequate, insurance companies will have plenty of time to compensate before they feel the pressure," Mr. Thompson said.

At least one company is already factoring the Trowbridge report into its calculations for financing its liabilities.

Sydney-based James Hardie Industries Ltd., a major Australian building materials company that had significant asbestos exposure up until the

1970s, removed asbestos liabilities from its ledger in early February by establishing a \$293 million Australian (\$155.1 million) fund to settle current and future asbestos claims.

The fund it created, the Medical Research & Compensation Foundation, is independent of JHIL, said a spokesman for JHIL, adding that the company based the amount invested in the fund on Trowbridge's research.

The foundation's assets include a portfolio of long-term securities; a cash reserve; rent-earning properties; and insurance coverage for various claims, including workers compensation. The spokesman would not name JHIL's insurers.

He said the \$293 million Australian JHIL allowed was "more than sufficient" for expected current and future claims, asserting that JHIL would invest the money to grow it to meet estimated total claims of \$750 million Australian (\$397.1 million).

The spokesman said JHIL had settled 70% of claims received to date before court hearings, and 90% were settled before judgment was passed. JHIL had paid \$130 million Australian (\$68.8 million) in out-of-court and pre-judgment settlements, a portion of which—he wouldn't say how much—was insured.

JHIL set up a separate \$3 million Australian (\$1.5 million) fund for research aimed at finding treatments and cures for asbestos-related diseases. The spokesman said the fund would provide continuing support for medical research now being conducted by JHIL-sponsored organizations.

He said the Perth, Western Australia-based Institute for Medical Research and the Sydney-based Institute of Respiratory Medicine, both of

which JHIL has sponsored, had produced some "groundbreaking results," and scientists were close to developing a method of halting the growth of tumors caused by asbestos.

The researchers "are also working to develop a blood test to determine the likelihood of a person developing the disease genetically, and effective treatments for those found to have a chance," the spokesman said.

Trowbridge's Mr. Watson suggested that private insurers shouldn't shoulder asbestos liabilities alone.

"In the United States, there has been a concerted, but so far unsuccessful, campaign for a legislative solution to the asbestos compensation problem," Mr. Watson said.

Legislation introduced last year in the U.S. Congress, the Fairness in Asbestos Compensation Act, would have created a facility to centrally manage the compensation of asbestos claimants (*BI*, Jan. 8). It wasn't acted on, but may be reintroduced this year.

Mr. Watson said—the Australian government should introduce a statutory compensation system for people suffering illnesses caused by asbestos exposure, or else Australian insurers risk insolvency under the weight of large court awards.

He said it would be a "sensible" and much quicker way of compensating claimants, as illnesses can take many years to manifest, and court hearings can take years to finalize.

"While Australia does not have the extreme problems of the U.S. litigation system, replacing common law actions with statutory benefits might produce a more-humane and equitable way of compensating those suffering from terminal disease," he said. **BI**

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Band

Continued from previous page

spokeswoman for Lloyd's said last week she had neither seen a copy of the writ nor received details about its contents from band representatives.

A Lloyd's broker involved in the placement of the risk said he had not yet received a copy of the writ. He did confirm, however, that the suit had been filed against "several Lloyd's syndicates" and that the dispute centered on "the quantum of the claim" filed by The Black Crowes.

According to the statement issued by The Black Crowes, the suit states that the cancellation of the tour dates "resulted in great financial loss" to

The Black Crowes "in both loss (of) profits and expenses irrevocably incurred in the preparation for the canceled concert dates." The Black Crowes' statement added that the suit states "Lloyd's has embarked on a malicious course of conduct that threatens the interests, rights and livelihoods of The Black Crowes."

The band said it was seeking punitive as well as compensatory damages.

The Lloyd's broker said it remained to be seen where the case would be heard. He pointed out that while The Black Crowes had filed the suit in Los Angeles and clearly hoped that the case would be heard there, he was not sure if such an eventuality had been provided for under the terms of the policy. **BI**

Names

Continued from page 2

search warrants on several insurance brokers to determine how much business Tri-Continental had written in the state. A preliminary investigation found that the pool had issued more than 170 insurance certificates to California taxicab companies and construction contractors, regulators say.

Along with using sound-alike names, Tri-Continental has also engaged in bait-and-switch tactics with policy terms, adding large deductibles and other restrictive conditions after binders are issued, the California department and Nationwide Mutual court filings allege.

In one case last year, Tri-Continental allegedly denied a \$150,000 Canadian (\$97,125) claim from the owner of a small Ontario office building that burned down, citing a policy provision against smoking on the premises. The building owner said he knew nothing of the provision until his claim was denied, according to press reports in Canada.

Tri-Continental representatives flatly deny trying to mislead anyone and insist that the pool insurers pay valid claims.

John Hollis, a Newbury Park, Calif., lawyer representing the St. Vincent company, said "there is no bad-faith litigation that I'm aware of, and they do pay their claims."

Mr. Hollis said he is unfamiliar with the Ontario fire loss.

Robert L. Brown, longtime Tri-Continental managing director and now a consultant to the company, said only four or five of the pool's 30 to 35 members have names resembling those of U.S. insurers.

"I have to believe it's a coincidence," Mr. Brown said of the similar names. "Nothing intentional of that nature was done."

Regulators are far from convinced. "Come on, man," said Mike Bownes, general counsel for the Alabama Insurance Department, responding to Mr. Brown's contention. "I'm just amazed they can make that argument with a straight face."

The Alabama department issued a cease and desist order against Tri-Continental, Mr. Brown and several others last October after charging the company with illegally insuring trucking risks through an Alabama agency.

Tri-Continental has been in business for several years, operating since 1997 from St. Vincent, with offices or mailing addresses at various times in Blaine, Wash.; Henderson, Nev.; and Las Vegas.

The company acts as administrator for a 30-plus member pool of insurers that operates through another St. Vincent corporation, Combined Services Ltd., according to Mr. Hollis, the attorney. Insurance certificates issued on Tri-Continental letterhead typically name one insurer as lead underwriter on behalf of other pool members, or may simply list the insurer as "direct purchase insurance pool," court records and other documents say.

A complete list of pool members isn't available, but in a letter to a marine broker last August, Mr. Brown said the pool includes "Citadel General, Guardian Underwriters, Heritage Mutual, Nationwide Insurance, Transatlantic International, Union Insurance, Vanguard (and) Viking Mutual."

None is related to similarly named U.S.-licensed insurers.

Beyond acknowledging that all pool members are based offshore, Tri-Continental representatives are unable to shed much light on the insurers.

For example, while Mr. Hollis said Tri-Continental's Nationwide Insurance is based in St. Kitts and Nevis, Mr. Brown said he had heard of a company by that name in Nevis but believed that the pool's Nationwide is based in St. Vincent.

Mr. Brown also said that he has no

financial information on any of the pool members and knows nothing about their ownership. He added that even if he had such information, he is barred from disclosing it by St. Vincent secrecy laws.

Mr. Brown, a Barbados resident, referred questions about the pool insurers to Graham Bollers, whom he identified as Tri-Continental's current managing director. Mr. Bollers and Lloyd Thompson, another St. Vincent-based Tri-Continental official, could not be reached.

In recent years, Tri-Continental has written a variety of business in the United States and Canada, including commercial general liability and property coverages, commercial auto, contractors coverages and marine and aviation risks. For much of that time, it has been a target of regulators.

Nevada regulators issued a cease and desist order against Tri-Continental and Mr. Brown in 1995 and followed up with an administrative com-

plaint the next year charging that they were illegally writing business for Armada Assurance Ltd., allegedly a St. Vincent insurer. Nevada fined Tri-Continental and Mr. Brown \$30,000 each and Armada \$20,000, though the fines were never paid, Nationwide Mutual court filings say.

In 1996, the Ontario Insurance Commission ordered Tri-Continental and Mr. Brown to stop selling unauthorized auto insurance in the province, though the offshore company continued to write business through an online barter exchange service, in which insurance buyers traded cash and services for their policies. Ontario Financial Services Superintendent Dina Palozzi issued another cease and desist order last October against the Ottawa-based barter exchange company and to criticize "the total disregard shown by Robert L. Brown (and) Tri-Continental Exchange Ltd. for the cease and desist orders made against them in 1996."

Other regulators taking action have included the Florida Insurance Department, which warned agents in 1998 that they risked losing their licenses if they placed business with unauthorized Tri-Continental insurers; and the Washington and Alabama departments, which issued cease and desist orders in 1998 and 2000, respectively.

Messrs. Brown and Hollis, though, dismiss the actions, claiming that regulators have no jurisdiction over Tri-Continental. Tri-Continental is not soliciting insurance under state law because it sells directly to policyholders who have contacted the company and issues policies from St. Vincent, the two men contend.

While licensed agents have helped produce business for the pool, they have not acted as agents for pool members but instead referred clients directly to Tri-Continental, agents say.

The orders "sound very onerous to someone not in the know about what

cease and desist orders are all about," Mr. Brown commented.

The Alabama department's Mr. Bownes called Tri-Continental's argument that it is not soliciting insurance "absolutely false."

Many states have direct procurement statutes that allow policyholders to buy insurance directly from nonadmitted companies, Mr. Bownes noted. Nevertheless, Alabama law—and that of other states—still requires the nonadmitted insurer to be licensed to sell insurance in its home territory before it can sell in the United States, he said.

Among other problems, Alabama regulators have "no knowledge as to the location, licensure or financial condition" of the Nationwide Insurance that Tri-Continental used to write trucking business, the Insurance Department's order notes.

"There is no argument over direct procurement," Mr. Bownes observed. "They're playing games."

See Names on page 27

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IN THE HIGH COURT OF JUSTICE
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No 6689 of 1999

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THE HAWK INSURANCE COMPANY LIMITED
 and
 IN THE MATTER OF
SECTION 425 OF THE COMPANIES ACT 1985

At a meeting held on 9 December 1999 in London, the Scheme of Arrangement ("the Scheme") between The Hawk Insurance Company Limited ("the Company") and its Scheme Creditors (as defined in the Scheme) was approved by the requisite majority of Scheme Creditors.

On 28 February 2001, an office copy of the Court Order sanctioning the Scheme was delivered to the Registrar of Companies for registration. The Effective Date of the Scheme is therefore 28 February 2001. Philip John Singer and Christopher John Hughes are the Joint Scheme Administrators responsible for implementing the Scheme.

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Names

Continued from page 25

Then there is the issue of pool members' names.

Alabama regulators found that Tri-Continental's use of the Nationwide name "in and of itself will be misleading to the public of this state."

Ohio-based Nationwide Mutual agreed, and last November it filed a massive racketeering complaint, charging that Tri-Continental and its operators had conspired to defraud policyholders by hijacking Nationwide Mutual's trademark.

In addition to naming Tri-Continental and Combined Services, the suit, filed in U.S. District Court in Los Angeles, names:

- Messrs. Brown, Thompson and Boller. The lawsuit also describes Mr. Brown and Mr. Thompson as "John Doe No. 1" and "John Doe No. 2," alleging that "Robert L. Brown" and "Lloyd Thompson" may not be the men's real names. Mr. Brown and Mr. Hollis dismiss this contention as "a joke" and "preposterous."

- Jennings Bryan Shannon, a licensed Brea, Calif., insurance adjuster who has acted as claims administrator for Tri-Continental.

- Northamerican Collections L.L.C. of Phoenix, which manages a Phoenix postal drop box that is registered to "Tri-Continental Agency" and that has been used to forward premiums, the suit charges.

- Schoolar & Associates; its principal, James G. Schoolar; and another Schoolar employee.

The lawsuit cites several cases in which the defendants allegedly claimed to represent Nationwide Mutual and in which they played a bait-and-switch game with policy terms, substituting restrictive conditions for terms negotiated earlier.

Last year, for example, Schoolar & Associates sold Alabama trucking company AWC Carriers Inc. a Tri-Continental policy naming "Nationwide Insurance Co." as the lead underwriter, the suit says. Mr. Schoolar told AWC officials that Nationwide Mutual was the insurer and sang the company's "Nationwide Is On Your Side" jingle, the complaint alleges. To back up another Tri-Continental quote, Schoolar & Associates gave a trucking client an A.M. Best Co. report on Nationwide Mutual, the suit says.

In a third case, Tri-Continental last year issued a policy through a chain of brokers to D.E.L. Development Corp. of Marietta, Ga. In the process, Mr. Brown falsely told D.E.L.'s Georgia agent—who was in fact a Nationwide Mutual agent—that Nationwide Mutual would be insuring the risk, the complaint alleges.

After D.E.L. filed a property loss claim last May, the agent discovered that Nationwide Mutual was not the insurer and that the Tri-Continental policy's terms were not the terms to which he had agreed. For example, the policy provided only "actual cost" rather than the "blanket replacement value" coverage, and the policy's deductible was 10% of the loss with a \$5,000 minimum, instead of the flat \$5,000 deductible the agent negotiated, the suit alleges.

Tri-Continental has refused to honor the terms negotiated by the agent, the suit says. Mr. Brown later blamed the confusion over Nationwide Mutual's involvement on one of the intermediaries in the placement, the suit says.

Along with charges of infringement and counterfeiting of its trademarks, Nationwide Mutual's lawsuit accuses the defendants of carrying out a racketeering conspiracy in which they committed multiple acts of mail fraud, wire fraud and money laundering.

Last December, Nationwide Mutual won a preliminary injunction barring Tri-Continental from using the insurer's name. In January, the court also found Mr. Shannon, Tri-Continental's

claims manager, in contempt for destroying Tri-Continental records that the court had ordered preserved.

Mr. Hollis, who represents Tri-Continental, Tri-Continental officials and Mr. Shannon, labeled the lawsuit's allegations "entirely false."

Mr. Hollis denied that Tri-Continental misrepresented its insurers' identities and suggested that the fault lies with U.S. agents and brokers who brought business to the insurers. "We don't have any control over what they say," Mr. Hollis said. "If somebody made a representation that this Nationwide company in the Caribbean is affiliated with Nationwide Mutual, that's a false representation."

For his part, Mr. Brown also denied wrongdoing: "I never took part in any conspiracy," he said. "I never knew about—nor ever would have participated if I had known about—any kind of infringement."

He also denied confirming for agents and brokers that Tri-Continental's pool members are U.S.-licensed

insurers. "I don't think I ever got that kind of call" from U.S. producers, Mr. Brown said.

Schoolar & Associates contends, though, that it was misled along with its clients about Nationwide's identity.

Stephen C. Jackson, a Birmingham, Ala., lawyer representing Schoolar, said that Mr. Brown sent the agency a memo listing several pool members with sound-alike names and left the impression they were all U.S. insurers.

"Certainly, no one dissuaded (Mr. Schoolar) from his misconception in that regard," Mr. Jackson said, adding that Nationwide Mutual's racketeering charges against his client are "outlandish."

Another U.S. producer not involved in the litigation also says he was misled by Tri-Continental.

William V. Larsen, principal of Garwood, N.J.-based Larsen Global Marine, said Tri-Continental claimed last year that 19 of its 34 pool members

were A.M. Best A-rated companies. When Tri-Continental offered coverage led by Nationwide and Mr. Larsen asked for further identification, he was told the lead would be Nationwide Insurance Co. of America, a Nationwide Mutual affiliate, he said.

Last December, Tri-Continental replaced Nationwide retroactively on Mr. Larsen's business with "Globe Indemnity & Casualty." Asked again for more information, Tri-Continental identified the insurer as Royal & SunAlliance's Globe Indemnity Co., Mr. Larsen said.

In January, Tri-Continental replaced Globe retroactively with "North Star Reinsurance Group Inc.," he said. The new insurer is not related to North Star Reinsurance Corp., a Berkshire Hathaway Inc. unit.

Mr. Larsen said he has since severed his ties with Tri-Continental and moved his business to another insurer.


Meanwhile, in the wake of the Nationwide lawsuit, Tri-Continental is-

sued an unusual disclaimer in which it both disassociated itself from the U.S. insurer and attacked it. The one-page January memo to policyholders devotes most of its length to citing cases in which Nationwide Mutual was found liable for insurance redlining in minority neighborhoods or accused of bad-faith claims settlement practices.

"Such illegal and/or unethical conduct underscores the necessity of avoiding even the possibility of confusion that the direct purchase insurance pool may have any affiliation whatsoever with Nationwide," Tri-Continental wrote. "Please be assured that Tri-Continental, Combined Services Ltd. or any of the individual members of the direct purchase insurance pool absolutely do not condone such practices."

The Caribbean Nationwide is "not and never (has) been associated or affiliated in any manner whatsoever with Nationwide Mutual Insurance Co.," the memo concludes. B1

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Quake

Continued from page 1

impact on insurers, it still is likely to trigger higher rates for earthquake coverage after the 30-day moratorium on purchasing new policies has expired, insurers and industry analysts predict.

"Deductibles are absorbing a lot of the claims," said Robert J. Barnett, property operations leader for McLarens Toplis North America Inc. in Los Angeles. "We have probably looked at close to 200 locations, and my sense is that not 10% will result in claims over the deductible."

Northbrook, Ill.-based Allstate Insurance Co. had about 700 claims as of the middle of last week, but "the severity of these damages has been surprisingly light," said Market Claims Manager Mike Bolts.

State Farm Mutual Insurance Co. had just under 1,600 homeowners

claims, 51 auto claims and fewer than 50 commercial claims at midweek, a spokesman for the Bloomington, Ill.-based insurer said.

As of Friday, SAFECO Insurance Co., Washington state's largest property insurer, was not reporting its claims volume publicly. However, a spokeswoman said that she did not expect sizable losses, especially since the insurer has reduced its earthquake exposure in recent years (see story, page 29).

The insurers to which McLarens Toplis has spoken also said they are seeing fewer claims than expected, noted Mr. Barnett. "Going in, I thought we would have a lot of claims absorbed by the deductible, but I did expect more frequency," he said.

Paul Gauthier, national general adjuster with GAB Robins North America Inc., said that after a week in Seattle, he has noticed that "obvious damage is just not there." Competing adjusters and insurers also are telling

him that "they're just not getting the claims," he added.

The few heavily damaged buildings that appear on television newscasts are "very isolated cases," he said. "There's just nothing catastrophic."

Rigid building codes and retrofitting in the affected areas probably helped contain damage, Mr. Gauthier suggested.

Mr. Barnett said that, surprisingly, very few claims were reported in the Olympia area, which is nearer the epicenter than Seattle, where the bulk of claims are being reported to McLarens Toplis.

Both adjusters said it likely will take some time for all claims to be reported because property owners usually wait to make sure they have uncovered all the damage.

"I think we will find claims dribbling in for some period of time," Mr. Barnett said.

But so far, property owners are finding little major damage.

Losses at Issaquah, Wash.-based Costco Wholesale Corp. will fall within the warehouse shopping company's property deductible, which is 2% of value, said John Matthews, senior vp of human resources and risk management.

No injuries were reported among the 15 Costco outlets in the Puget Sound area where the quake struck, Mr. Matthews said, and structurally the buildings "did beautifully," he noted. "The steel held up real well and all the footings remained in place."

Minor damage was reported in some freezer/cooler areas, and products were spilled in aisles, Mr. Matthews said.

Business interruption losses were not significant enough to file a claim, he said. Eleven of the company's 15 area stores were up and running "within a matter of hours," said Mr. Matthews, and the all stores were back in business the day after the quake.

A pipe broke on the third floor of

State Farm's Seattle office, but there was no structural damage to the building, which was constructed in 1995, when the city's more rigorous building codes took effect, a company spokesman said.

Likewise, none of SAFECO's area offices, all of which meet the new building codes, were damaged, the spokeswoman said. SAFECO's two buildings in Redmond are just 4 years old, she said, and "all of the non-leased buildings have been retrofitted in the last five to 10 years."

Alaska Airlines and The Boeing Co. however, will likely have a business interruption claim, a spokesman for Seattle-based Alaska Airlines said. "We do plan on filing a claim for contingent business interruption and probably for property damage," he said. "We're confident it will exceed deductibles."

And several policyholders of both FM Global and of Industrial Risk Insurers temporarily lost the use of their fire-protection systems as a result of underground water-main breaks.

Most of the systems themselves remained intact, however, and were not set off by the shaking, which is what happened in the 1994 Northridge quake, said Jeff Tenn, operations vp and engineering manager at FM Global Earthquake Services in Los Angeles.

"We are noticing that customers that we have worked with to improve bracing definitely performed better than those that didn't," he said.

"There has been a big push since Northridge to make sure the sprinkler systems are properly braced," concurred Ken Linder, assistant vp of loss prevention technical services at IRI.

But the nature of the Seattle quake, which was much less severe than Northridge, also may be attributed to the better performance of fire protection equipment, he said.

"It's hard to tell whether it was the bracing or the type of quake," he said.

The fact that the epicenter of the quake was so far underground is why property damage was not as severe in Seattle as in Northridge, catastrophe modeling experts say.

"We knew very quickly it was a different type of earthquake" from Northridge, said Peter Yanev, president of San Francisco-based EQE International Inc. "It spread like a ball or a sphere. Within two or three tries, we got a ground-motion picture that looked like the real thing in terms of strength of shaking. The serious damage was very localized."

EQE estimates that while insured damage may total \$1.5 billion to \$1.6 billion, insurers will likely pay out \$600 million to \$900 million after deductibles are met.

Using data on insured property values in the region and shaking intensity provided by the U.S. Geological Sur-

See Quake on next page

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Managing risk in the home

I'm clearly not alone in believing that our society has become obsessed with the blame game and less willing to accept responsibility when things go wrong.

I made that observation a month ago after learning of a 13-year-old Connecticut boy who deliberately set himself on fire, emulating a "human barbecue" stunt performed on the MTV show "Jackass" (BI, Feb. 12). The boy was seriously burned, and his father angrily pointed his finger at the network for his son's injuries and hired a lawyer to explore his legal options, though no lawsuits have been filed (yet). His local lawmaker, Sen. Joseph Lieberman, D-Conn., also weighed in, calling on MTV to yank the "dangerous" show from the air.

Several readers wrote of their agreement with my call for the blame to go no further than the boy and his friends who engaged in this sorry affair. That shouldn't surprise me, as risk and benefit management professionals—be they buyers, sellers or intermediaries—are involved as soon as someone gets the blame for another's injury. Many have no doubt grown cynical after seeing such claims, lawsuits and payments for actions that were just as much the fault of the claimant.

An actuary in Chicago wrote perhaps the most eloquent response I received: "To paraphrase a Time magazine cover story of several years ago, the U.S. has become a nation of wimps, whiners and crybabies whose fragile psyche is incapable of accepting responsibility for even the smallest adverse consequence, real or imagined, of its actions. Had the collective spirit of self-determination and self-reliance so resonant in the hearts and minds of our earliest pioneers been replaced with that of today's 'average' U.S. citizen, I fear that U.S. history may have turned out differently:

"The Jamestown settlement might still be in the blueprint stage—without porters to handle their luggage, and readily available electricity and batteries to power their blow dryers, cell phones, and Walkmans, the Mayflower passengers might never have gotten off the boat. Those who eventually worked up the courage to go ashore might not have reached the Mississippi River until the mid-1990s, their pace of blazing a trail through

the frontier undoubtedly slowed by their inability to locate the 'great western paved prairie path,' and a shortage of leather Reebok walking shoes and designer bottled water—two items no self-respecting pioneer would ever think of leaving his log cabin condo without."

Others echoed the theme that our national character has deteriorated. "I agree with your conclusion and beliefs. I found it refreshing to hear someone else finally take a stance promoting responsibility. For a country that was founded around a core belief of responsibility, we have fallen far from the tree," wrote one reader.

A broker in Little Rock, Ark., agreed and suggested that this problem demands creative underwriting by insurers: "I, too, am deeply troubled by the way we, as a society, are allowing people to cease taking responsibility for their own (idiotic) actions. If only our industry could develop an effective 'Stupidity Exclusion,' perhaps we could combat this problem!"

One reader who wrote to me, though, contends that ignoring teen-age boys' excitability is irresponsible, and calls on adults—as parents and as television programmers—to do be more aware of their influence.

"I remember back to the stupid things I did at that (and other) ages (and there are many examples to choose from), and what strikes me is the quest for adventure. This is what little boys love. My big problem with these shows is that kids, after being impacted by the drama of one of these mindless 'events,' can hardly be blamed for failing to dissociate actual experience from what their mind sees and tells them is real. Somewhere, it has to be up to the adults to show the kids something. I'm afraid we are the idiots when we can't respect the mind of a kid and its need to separate what it sees from its own valuable experience," he wrote.

Several readers said responsibility rests with the parents, not with MTV.

A risk manager wrote: "Kids today are given too much decision-making authority too soon and, even if you believe in evolution, I don't see a dramatic increase in this generation's capacity to make responsible decisions at age 13 without close, daily supervision. Many parents have surrendered their mantle of responsibility, and the result is often 'damaged goods' in the form of their son or daughter."

Another reader also said parents are to blame: "MTV should be able to air anything they want. We, as the viewers, have the power to turn off the set. Let's hope this unfortunate incident shows parents that they need to spend some time once in a while teaching their children about what is right and wrong and trying to help them develop some degree of common sense and responsibility for their actions."

While I still believe that the boy in this case is ultimately responsible for the injuries he sustained, these comments underscore that parents have a responsibility to make their children aware of risk, to identify potential shortcomings in children's judgment and, if need be, to avoid or eliminate the source of risk.

Editor Paul D. Winston's commentary appears fortnightly and on the web at www.businessinsurance.com. He can be reached at pwinston@crain.com.



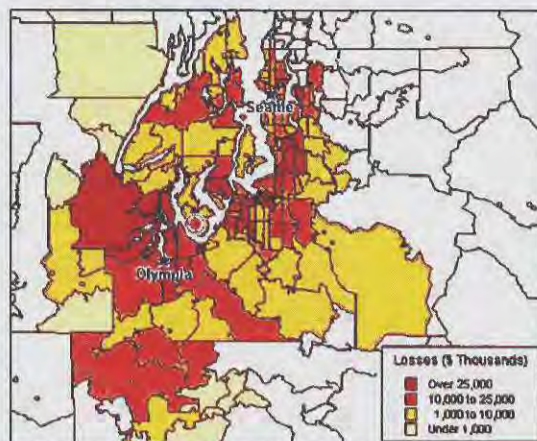
Paul D. Winston

Quake

Continued from previous page

vey, Boston-based Applied Insurance Research Inc. projects that insured damage will hold at \$1 billion, also net of deductibles.

Risk Management Solutions Inc. has issued a prediction of \$700 million to \$1 billion in insured earthquake property damage.



MAP COURTESY OF APPLIED INSURANCE RESEARCH INC.

A map produced by Applied Insurance Research details areas where the Seattle earthquake caused damage.

If the total insured damage remains less than \$1 billion, as expected, reinsurers likely will not see much in the way of claims from the Seattle earthquake.

International Property Catastrophe Reinsurance Co. Ltd. last week had not been advised of any claims, said James P. Bryce, president and chief executive officer of the Bermuda-based reinsurer. Any notices probably wouldn't arrive for a few weeks, he said.

A shift in quake coverage

By JOANNE WOJCIK

SEATTLE—SAFECO Insurance Co., the largest homeowners insurer in Washington state, is unlikely to suffer the same fate as California's 20th Century Insurance Co., which foundered under the weight of claims from the 1994 Northridge quake.

Using a computer model developed by Newark, Calif.-based Risk Management Solutions Inc., SAFECO in 1998 found it had significant quake exposure in the area hardest hit by the Feb. 28 temblor. Seattle-based SAFECO responded by eliminating the standard quake endorsement, which provided extensive coverage to its personal lines policyholders, and replacing it with a quake "minipolicy" with reduced limits and several exclusions.

"We just looked at our exposure and evaluated it and decided to make a smart financial decision," said Claudette Kenmir, Seattle region personal lines business manager for SAFECO.

Unlike the endorsement it replaced, SAFECO's new earthquake policy doesn't cover swimming pools or outbuildings, such as garages and sheds. It also limits the coverage for contents and building code upgrades required by law. "This significantly reduced the number of policyholders buying earthquake coverage," she said.

Now, just 8.3% of SAFECO's 223,000 homeowners policyholders in Washington state buy the earthquake policy. She declined to say what percentage of policyholders had purchased the coverage before the change.

By comparison, though, more than 25% of the homeowners insured by State Farm Mutual Insurance Co. and by Allstate Insurance Co. buy earthquake endorsements. Those companies' endorsements provide essentially the same coverage for earthquakes as for other named perils, such as fire.

But SAFECO isn't the only insurer that in recent years has used computer modeling to assess and adjust its quake exposure in the Pacific Northwest, said Uday Virkud, senior vp of Applied Insurance Research Inc.

Mr. Virkud said that several companies changed their spread of risk after reviewing data provided by the Boston-based catastrophe modeling firm.

Insurers also can use the modeling data in underwriting, to ensure that the risks they do assume are appropriately priced, Mr. Virkud said.

But while SAFECO and other admitted companies may have lost policyholders, coverage didn't exactly dry up in the Seattle area. Other markets quickly became available to provide earthquake coverage, albeit at a premium.

The actions of SAFECO and others opened the door for nonadmitted insurers, such as Lloyd's of London

"If we're looking at a billion-dollar earthquake, there may not be a reinsurance loss," Mr. Bryce said. On that amount of damage, "you're not really looking at a major reinsurance loss," he remarked, adding that it would take several billion dollars in losses to have a large impact on reinsurers.

While the loss of a life and injuries related to the Seattle quake were tragic, property damage appears to be limited, Mr. Bryce said.

"Reports of the initial damage seem surprisingly light for an event like this," agreed James Stanard, chairman, president and chief executive officer of Renaissance Reinsurance Ltd. in Bermuda.

"From a Renaissance perspective, I don't think it is going to affect our quarter," he said of claims that could arise from the quake. "I don't think there will be any unusual losses in our quarterly results."

Because few claims are expected to reach the reinsurance market, it is unlikely that reinsurance rates will be affected, Mr. Stanard confirmed.

Mr. Bryce noted that rates on earthquake risks already are high after being raised because of losses in prior years.

But while reinsurance rates may not be affected, primary insurers already are raising rates in response to the quake.

Lloyd's of London underwriters have raised rates for residential earthquake coverage to 17.5 cents per \$100 in coverage from 15 cents per \$100, said Johanis Sinon, president and treasurer of Superior Underwriters, a managing general agent in Redmond, Wash.

The MGA has received about 16 claims so far, but only two of them are likely to be covered by insurance because they are within the policy deductibles, which range from 5% to 10% of insured property value, he said.

"The industry is in rate-firming mode," industry analyst J. Paul Newsome pointed out in a statement from Lehman Brothers. "If nothing else, this should keep the pressure on for further rate increases."

underwriters, to enter the Seattle-area earthquake market, said Johanis Sinon, president and treasurer of Superior Underwriters, a managing general agent in Redmond, Wash.

Superior Underwriters offers residential earthquake coverage, underwritten by Lloyd's syndicates, with either a 5% or 10% deductible. The policy, which cost property owners approximately 15 cents per \$100 in coverage before the quake, now costs about 17.5 cents per \$100, Mr. Sinon said.

That puts the price of coverage for a \$250,000 home at about \$437, compared with the average earthquake premium of \$391 for homeowners in the region.

But coming up with the proper rates for earthquake coverage isn't easy. "From an insurer's perspective, it's hard to price something that happens so infrequently," said Don Griffin, director of business and personal lines at the National Assn. of Independent Insurers in Des Plaines, Ill. "There just isn't enough data."

And there are serious consequences for insurers that get it wrong.

Mr. Griffin said that, because of what happened to California's 20th Century and several insurance companies in Florida after Hurricane Andrew struck in 1992, insurers started to scale back coverage and introduce so-called "minipolicies" for certain catastrophe risks.

20th Century lost \$900 million in the 1994 Northridge quake and had to be bailed out by American International Group Inc. AIG acquired Woodland Hills-based 20th Century for \$200 million in stock and \$70 million in additional capital and quota share reinsurance in 1994.

Insurers might be able to assume greater earthquake risk if property owners in more geographic areas were to purchase insurance to cover such catastrophes, Mr. Griffin said.

While California law requires insurance agents to offer quake coverage to policyholders at least every other year, no such mandate exists in Washington state, he said. As a result, while as many as 30% of California homeowners policyholders had coverage for Northridge, only about 10% to 20% of the homeowners in Washington are covered for earthquakes, he said. "And if only 10% or 20% buy it, we, as an industry, are being adversely selected against," he said.

Fortunately, computer models are becoming more sophisticated, enabling insurers to better evaluate their earthquake risks, Mr. Griffin said.

"Now, they're not only looking at how much exposure they have but at how much they have in a concentrated area," he said. "So if SAFECO comes out ahead on this, part of it may be because it priced (earthquake coverage) more appropriately and limited the coverage, thus limiting their exposure."

Overturn

Continued from page 1

tion is revoked and the agency issuing it is barred from putting out a "substantially" similar regulation.

The White House has indicated that the president will sign the resolution when he receives it, which sits quite well with employers. They had long complained that OSHA's standard was inflexible, overly expensive and lacking in adequate scientific evidence. Insurers and risk managers found a provision that would have created a federally mandated benefit for ergonomics-related injuries particularly troubling because it infringed on the state-based workers compensation system and provided a benefit far more generous than that available for other injuries.

Congress instructed OSHA to wait until the National Academy of Sciences completed a congressionally mandated and funded study of available research into workplace-related musculoskeletal injuries. But a week after the election, OSHA issued its final standard, which took effect four days before President Bush took office. The timing of the rule's issuance led to a spate of petitions for review by federal courts and, finally, the unprecedented use of the Congressional Review Act to rescind it.

The suits, which were consolidated before the U.S. Circuit Court of Appeals for the District of Columbia, will be one of the first casualties of the congressional action.

"Once the president signs the resolution, that would moot the suit," said Ken Schloman, Washington counsel for the Alliance of American Insurers. "It appears that OSHA will probably go back to the drawing board and try to develop a proposal."

The Alliance will be "trying to work with OSHA to come up with something that's workable, provable and doesn't infringe on state workers comp laws," he said.

"Congress asserted its authority to provide guidance on regulatory rulemaking," said John Savercool, vp-federal affairs for the American

Insurance Assn. in Washington. "We're not going to be seeing it every week, because largely, I think, agencies will be more inclined to follow congressional authority on regulatory issues. It was a good reminder to the executive branch about who works for whom."

"We're extremely pleased; it was a mega-effort on the part of a lot of people" who opposed the standard, said Peter Eide, director of labor law policy for the U.S. Chamber of Commerce in Washington. "We hope this paves the way to a saner approach."

'I think OSHA ought to seize this opportunity to take the lead to being a help to both the business community as well as labor,' says RIMS' Jim Green.

Organized labor, which lobbied hard for the standard, blasted the congressional action.

"A Republican leadership juggernaut in the House resorted to arm twisting and steamroller tactics to assure a majority to crush the ergonomics standard and deliver for their big-business backers," said AFL-CIO President John Sweeney in a written statement released after the House vote. The "voices of injured workers were not heard in the halls of Congress. They were drowned out by the predatory demands of corporate greed," Mr. Sweeney wrote.

Meanwhile, employer groups looked ahead to future dealings with OSHA.

"Obviously, we are pleased that what we saw as the most far-reaching and intrusive governmental regulation that we've ever seen has been set aside by Congress. It doesn't mean business shouldn't continue to focus on ergonomic issues, because the costs of ergonomic injuries are ultimately paid for by the employer. We need to take care of the valuable assets that we have that are our employees," said Jim Green, chairman of the Risk & Insurance Management Society Inc.'s External Affairs Team.

"I think that OSHA should take this opportunity to redirect its focus and its resources to partner with the business community, as well as universities, to conduct some real-world, practical research into the cause—and possible solutions to cause—of the injuries that were the focus of the OSHA ergo standards. I think OSHA ought to seize this opportunity to take the lead to being a help to both the business community as well as labor. It's just a great opportunity for them; it's a win/win deal if they will do that," said Mr. Green, who

for a trend. We need to go in ahead of time. If you have an iron in your house and the wires are frayed, you replace it. We need to be the same in our businesses," said Billie Fuschi, vice chairman of the RIMS External Affairs Team.

"Hopefully, it woke up the employers of the U.S. to say, 'We just dodged a huge bullet. Something may come down later on, but we need to be on task now,'" said Ms. Fuschi, who is also director-workers compensation for Methodist Healthcare in Memphis.

Under Sen. Breaux's proposed legislation, the Department of Labor would have to issue an ergonomics standard within two years of the law's enactment. His bill, though, would contain several caveats.

"Any ergonomics rule should balance the need for worker safety with the efforts to provide such safety at a reasonable cost to the business community," wrote Sen. Breaux, who was one of six Democrats to join the unanimous Senate Republicans in voting to use the CRA.

In addition, any new rule "should take into account the sound science" of the National Academy of Science's report on musculoskeletal disorders before being finalized. That report was released in January (*BI*, Jan. 22).

Any affirmative requirements in the rule would have to be "directly related to reported musculoskeletal disorders in the workplace; and require the agency responsible for enforcing the new rule to provide a mechanism to certify when an employer is in compliance," according to a draft of the bill. Finally, any new rule could not infringe on state workers compensation laws.

"Sen. Breaux would like to instruct the secretary to begin a new rulemaking and issue a new rule. We intend to work with Sen. Breaux on this, but at this point we're not advocating a new rule. But we will still be in the debate with those who think there should be a new rule," said AIA's Mr. Savercool.

"We have not opposed ergonomics rules in general, so we would not necessarily be opposed to another round of rulemaking."

is risk manager for Acme Building Brands Inc. in Fort Worth, Texas.

"You'll probably see our industry rallying behind the new secretary of labor and see where the rules were weak and maybe too abusive in their effort to address the problem and get to work on it," said Robert Diblee, senior vp-government affairs for the National Assn. of Independent Insurers in Washington. The rescinded rule "was too costly, too complicated and too burdensome," he said.

"We would like to very much work with OSHA and share what we learned with our member companies in terms of safety and health," said Jenny Krese, director-employment policy for the National Assn. of Manufacturers in Washington. "We want to find a path that takes us to some kind of ergonomics protection that is far less onerous than the rule that was published in November," she said. Ms. Krese noted that NAM has said in the past that it is not categorically opposed to an OSHA standard.

"I think, under the general duties clause, we, as employers, need to...realize we need to be careful in workplace and listen to our workers and be proactive and not wait

Good ergo is good for our business. It was just this specific rule that we opposed," Mr. Savercool said.

"I think we were obviously interested in what the new secretary of labor said during this whole exercise," the NAI's Mr. Diblee said. He noted Secretary Chao's willingness to revisit the issue in an attempt to mollify employer concerns. He stressed that the insurance industry remains "very opposed" to any regulation that would override state workers comp laws the way the rescinded standard would have. "It prevented insurers from looking at the root causes of some of these injuries," he said.

Looking ahead, the Chamber's Mr. Eide said, "our hope is that the careful analysis of the NAS report is taken into account" as the issue is re-examined. He pointed out that the survey either called for further study or cited nonworkplace-related factors as being involved in ergonomics-related ailments.

Improving workplace ergonomic conditions "clearly is in the forefront" for employers, Mr. Eide said. He cautioned, though, that "care has to be taken with a broader ergonomics program," regardless of whether issued by government or private bodies. Privately devised programs can also be "equally broad, ill-defined and unsubstantiated" as federal mandates, he said.

"The big picture covers a little of everything, but how is it substantiated? The answer is, it's not."

AIA's Mr. Savercool said the insurer association will apply some of the lessons learned in the ergonomics debate to future Capital Hill battles.

"This was an interesting debate because we found that it really did galvanize our member companies, as well as many of their employees, who really turned into a significant lobbying force over the last two days. We found that the more members of Congress knew about workers compensation, the more they supported our position. We hope to build on the foundation of that knowledge among member of the congress by maybe addressing some other issues in the future relating to workers comp, including medical privacy." **BI**

Merger

Continued from page 1

of U.S. business last year, reported roughly \$220 million in 2000 revenues. That figure is made up of its property/casualty agency business and its crop, hail and multiperil agency business, which operates as Rural Community Services Inc. The approximately \$63 million derived from Wells Fargo Insurance's property/casualty business in 2000 will be merged into Acordia, which will maintain its name and leadership under Frank C. Witthun, who signed a three-year contract to serve as Acordia's president. Mr. Witthun will report to Tim King, who remains president of Wells Fargo Insurance. Acordia's headquarters is still under discussion but will most likely move to Minneapolis from Chicago, Mr. King said.

Including Acordia's \$410 million in 2000 brokerage revenues, Wells Fargo Insurance will have \$630 million in corporate revenues. Based on the combined company's brokerage revenues, which excludes investment income and revenue from nonbrokerage activities, the company would most likely place in the No. 5 spot of *BI*'s annual rankings. Acordia ranked as the world's seventh-largest broker last year, based on \$337.2 million in 1999 brokerage

revenues (*BI*, July 17, 2000).

Combined, Wells Fargo Insurance will have 176 offices in 38 states with 5,514 employees. There is very little overlap between offices, and no job eliminations are expected, Mr. King said.

Talks between Wells Fargo and Acordia have been going on for the better part of the last year. Rumors of the potential merger surfaced last October at the Insurance Leadership Forum, held at the Greenbrier resort in White Sulphur Springs, W.Va. (*BI*, Oct. 24, 2000).

In commenting on the length of time it took to complete the deal, Mr. King noted that "it's not unusual for a deal like this to take a year."

Mr. Witthun added: "This is the first time a national bank bought a national broker, so it was something that took an awfully long time. There were lots of meetings, lots of discussions, and a lot of work."

In regard to rumors that a large errors and omissions claim against Acordia was delaying completion of the deal, Mr. Witthun acknowledged that an E&O claim did arise during the discussion period but said Acordia settled the issue. "It wasn't the reason why the deal did not happen or wouldn't have happened. It was just something that came up during the process," he said, declining to elaborate.

Overall, Messrs. King and Wit-

thun said, Wells Fargo and Acordia are a good fit for each other, and they plan to take advantage of the numerous cross-selling opportunities the combination presents.

"There's a culture that Wells Fargo, particularly, has that Acordia

With the trend toward financial convergence and banks becoming players in the insurance industry, "I think this is one of the purest opportunities to test that concept," said Mark Lefenfeld, of Austin, Texas-based Lefenfeld Consulting

The merger 'certainly makes Wells a very important and formidable force in insurance distribution,' says Timothy J. Cunningham of INSIGHT Management Consultants.

also has," Mr. Witthun said. "We're both very focused on the middle market. We both have lots of operations in secondary cities, and we're both very focused on local community customer service," he said.

Mr. King noted that Acordia's specific business niches will marry well with the bank's existing national groups. For example, Acordia is one of the largest insurance producers for the ski resort industry, and Wells Fargo is a top lender for that same industry, Mr. King noted. Other shared expertise is found in the educational and energy industries, he said.

Brokerage observers also are optimistic about the deal and the potential cross-selling opportunities.

Inc. "It will be interesting to see what Wells does with this."

"It certainly makes Wells a very important and formidable force in insurance distribution," said Timothy J. Cunningham, a principal with INSIGHT Management Consultants in Chicago. "Wells' strength lies in the distribution side, from a banking perspective," Mr. Cunningham said. "The challenge will be to cross-pollinate as much as possible between the bank side and insurance side," he said.

The deal marks the end to Acordia's four-year stint as a privately held broker.

In 1997, Acordia's management, together with investment banking groups Knightsbridge Capital

L.L.C. and Wand Partners Inc., bought \$285.9 million of Acordia's brokerage operations for \$310 million from Anthem Inc., an Indianapolis-based mutual insurance company and licensee for various Blue Cross & Blue Shield plans.

In 1998, Knightsbridge sold its stake in Acordia to High Ridge Capital Partners L.P. and Nations-Bank Capital Investors, now affiliated with Bank of America.

Mr. Witthun predicted last summer that, within the following 12 to 18 months, Acordia's equity ownership would likely change. He also noted that another set of pure financial investors was not in Acordia's best interest going forward (*BI*, July 17, 2000).

Terms of the Wells Fargo deal were not disclosed, though Mr. Witthun said that Wells Fargo is purchasing 100% of its shares and will assume about \$200 million in debt.

"For buying a premiere national insurance broker, I think our owners are happy with the way it was purchased and Wells Fargo is happy with the way it was purchased," Mr. Witthun said.

The current breakdown of Acordia's equity ownership is as follows: Wand Partners Inc. owns 36.6%; High Ridge Capital owns 34.8%; Bank of America owns 20.8%; Acordia's management owns 5.8%; and Royal Sun Alliance USA owns 2%. **BI**

FOR THE RECORD

Excerpts from BI's Daily Online Updates, March 5-9, 2001

HMO SUIT CAN PROCEED Physicians must amend their allegations that managed care companies delayed or denied care before a lawsuit filed last year can go forward, a federal judge has ruled. U.S. District Court Judge Federico A. Moreno in Miami has dismissed doctors' claims that eight managed care operations, including those run by Humana Inc., CIGNA Corp. and Aetna Inc., violated the Racketeer Influenced and Corrupt Organizations Act. The judge also dismissed plaintiffs' charges that the insurers violated prompt-pay statutes. However, in allowing the suit to proceed, the judge denied defendants' motions to dismiss claims for breach of contract and unjust enrichment. The insurers had argued that those state law claims should have been barred under exemptions in the Employee Retirement Income Security Act. The California Medical Assn., a plaintiff, said in a statement that it was pleased the suit can proceed. A spokesman for defendant CIGNA called the ruling "good news, in that it rejects plaintiffs' claims regarding the federal prompt-payment issues and points out deficiencies in many other key areas."



HIGH COURT DECLINES ADEA CASE The U.S. Supreme Court last week declined to review a lower court ruling that held federal age discrimination law permits older retirees to sue their former employers if the retirees receive lesser health care benefits than younger retirees. The 3rd U.S. Circuit Court of Appeals last year ruled that the Age Discrimination in Employment Act, which bars employers from discriminating against older workers in benefit offerings, also applies to retiree health plans (BI, Aug. 14, 2000). The ruling involves Erie County, Pa., which offered younger retirees a point-of-service health care plan that allowed them to select providers on a service-by-service basis. By contrast, Medicare-eligible retirees were covered through a health maintenance organization that required them to remain in the

HMO's provider network. A group of Medicare-eligible retirees sued Erie County in U.S. District Court, charging that the county's benefit offerings were discriminatory. Erie County sought a Supreme Court review, arguing that the ADEA was meant to cover benefit disputes involving older workers rather than health care plans offered to different groups of retirees. The case now goes back to the District Court for a trial to determine whether, in fact, Erie County did discriminate against older retirees.

FRONTIER EXECS LEAVE Frontier Insurance Group Inc.'s chief financial officer and two other executives have left the troubled insurer as part of a management restructuring. The CFO, Patrick Kenny, and executive vps Douglas Moat and Richard Seyffarth were all members of Frontier's Executive Management Group. "As a result of the reduced level of insurance business and the closing of our statutory year-end process, it is necessary to streamline the executive team," said Harry Rhulen, president and chief executive officer of the Rock Hill, N.Y.-based insurer, in a statement. Frontier was delisted by the New York Stock Exchange last month after it failed to meet capital requirements and other criteria.

NEW WATSON WYATT SYSTEM Watson Wyatt Worldwide has unveiled its new Internet-based health care benefits administration system. The system, which began operating last week, provides information and services for benefit managers, plan administrators and employees, while leaving in employers' hands the overall direction of health care benefits. For a benefit manager, the system—called eHR/Benefits—provides a list of the health plans available in a given market, along with data on the quality of those health plans and information that allows an employer to compare itself with similar employers in the United States. The system also allows a plan administrator to review the health plan data for each employee and make changes in an em-



ployee's status. Additionally, the system permits an employee to log onto the site, enroll in a health plan, make changes to his or her plan and participate in satisfaction surveys.

CALIFORNIA COMP STUDY National insurers now dominate California's workers compensation market by providing the majority of coverage to the state's employers, according to an analysis released last week by the Oakland-based California Workers' Compensation Institute. National insurers' share of California's workers comp market was 55% at the end of the third quarter of 2000, according to the analysis of direct written premium. Their market share surged to 45% at the end of 1999 from 35% in 1996, the report said. In contrast, the California workers comp specialty insurers' market share tumbled to 23% at the end of the third quarter last year. Their market share fell to 33% at the end of 1999 from a peak of 46% in 1996. Meanwhile, the share of coverage written by the State Compensation Insurance Fund has held fairly steady, between 20% and 22%, from 1996 through the third quarter of 2000. The CWCI conducted its analysis, based on A.M. Best Co. data culled from insurer state filings, to better understand how California's workers comp market evolved during the 1990s. That period included the adoption of open rating in 1995.

ZURICH RESTRUCTURES REGION Zurich Financial Services Group has restructured its North American commercial property/casualty insurance business, announcing that its Zurich U.S., Universal Underwriters Group and Zurich Canada operations will be known collectively as Zurich North America. Constantine Iordanou, formerly chief executive officer of Zurich U.S., has been named CEO of Zurich North America. John Amore, formerly CEO of the specialties business unit of Zurich U.S., will succeed Mr. Iordanou as president and CEO of Zurich U.S. Schaumburg-based Zurich North America also is changing its Web site address to www.zurichna.com from www.zurichus.com. Zurich Canada's Web



ZURICH

address, www.zurich.canada.com, will remain operational until the identity change becomes effective in Canada, at a date to be determined. The North American corporate restructuring is part of a global restructuring begun late last year by Zurich North America's parent, Switzerland-based Zurich Financial Services Group.

BRIEFLY NOTED Federal Railroad Administration auditors have determined that Burlington Northern Santa Fe Railroad Corp. knowingly withheld reports of 15 work-related carpal tunnel syndrome cases that should have been provided to the FRA, an agency spokesman said last week. The railroad now faces up to \$75,000 in fines, but the FRA's general counsel must review the case before any fines are issued...Burkett W. Huey Jr., vp-benefits at PepsiCo Inc. in Purchase, N.Y., has been elected chairman of the Washington-based ERISA Industry Committee, a benefits lobbying organization representing large employers. Mr. Huey succeeds Daniel O'Connell, who retired as corporate director of employee benefits and human resources systems for United Technologies Corp....Fremont General Corp. to report a \$506.3 million net loss for 2000, compared with a net loss of \$65.4 million in 1999. Fremont ended 2000 with a combined ratio of 185.9%, a deterioration from 128.7% the year before... President Bush has nominated Peter S. Watson to be president of the Overseas Private Investment Corp. OPIC writes up to \$200 million in political risk insurance with terms of up to 20 years for U.S. companies doing business in selected developing nations. Mr. Watson, counsel to the law firm Pillsbury Winthrop L.L.P. in Washington, is a former chairman of the U.S. International Trade Commission and was a senior adviser to OPIC and director of Asian Affairs at the National Security Council under President George H.W. Bush.

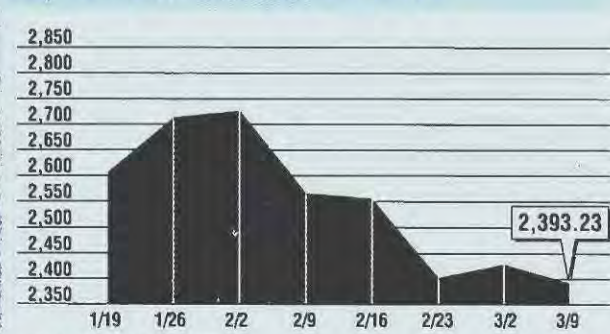
To get breaking news as it occurs, visit Business Insurance's free online Updates at www.businessinsurance.com. All of the material in the For The Record column, as well as other content in this week's issue, is generated from daily news postings that appeared on the Web site in the previous week.

Find daily coverage on Corporate Risk, Employee Benefit and Managed Health Care News at www.businessinsurance.com

BI Industry Stock Report MARCH 5, 2001, THROUGH MARCH 9, 2001

BROKERS				INSURERS/REINSURERS				HEALTH MAINTENANCE ORGANIZATIONS				ALL COMPANIES																			
Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Year to date Vol.(000)	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Year to date Vol.(000)	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Year to date Vol.(000)														
Aon Corp.	NYS	36.47	0.55	6.48	42.31	20.94	3561	HCC Insurance Holdings	NYS	25.12	-3.38	-6.75	27.19	-0.94	1146	Aetna Inc.	NYS	37.15	-0.80	-9.53	42.68	32.94	5940	Health Net Inc.	NYS	19.96	-10.01	-23.78	26.94	7.63	2433
Brown & Brown	NYS	38.95	0.00	11.29	39.92	15.90	131	ING Groep N.V.	NYS	71.30	1.87	-11.01	83.94	-46.81	782	Humana Inc.	NYS	13.10	-3.89	-14.10	15.81	4.75	2556	Oxford Health Plans	NDO	29.25	-9.30	-25.86	42.75	13.50	11467
Clark Bards Holdings	NDO	10.13	-3.57	0.00	17.88	8.50	54	IPC Holdings Ltd.	NDO	22.00	-0.27	9.52	24.50	1.25	156	Pacificare Health Sys.	NDO	27.81	-14.09	85.42	72.31	9.81	4210	Sierra Health Services	NYS	-4.85	-3.00	27.63	6.70	2.44	163
E.W. Blanch Holdings Inc.	NYS	9.80	16.67	-43.80	56.94	7.70	934	Hartford Financial Services	NYS	66.20	1.22	-6.27	80.00	29.38	5258	United HealthGroup	NYS	60.99	0.33	-0.63	64.36	23.19	7679	Westpoint Health Networks	NYS	-00.92	-2.20	-12.43	121.50	56.94	2311
Gallagher Arthur J. & Co.	NYS	29.55	7.42	-7.11	34.25	11.53	1801	John Hancock Financial Services	NYS	35.23	-0.54	-6.37	38.25	3.44	4194	HMOs	AVERAGE		-6.02	5.17											
Hill, Rogal & Hamilton	NYS	36.75	-3.03	-7.84	42.13	26.56	243	LaSalle Re Holdings Ltd.	NYS	16.88	0.00	0.00	19.38	-0.88	0	ALL COMPANIES			-0.91	-0.31											
Kaye Group Inc.	NDO	12.75	-0.49	64.52	12.88	5.00	22	Lincoln National	NYS	43.98	0.41	-7.04	56.38	22.63	3183																
Marsh & McLennan	NYS	99.85	-4.23	-14.66	135.69	70.50	5897	MAIC Holdings Inc.	NYS	14.44	-13.89	-13.47	21.13	-0.00	155																
BROKERS	AVERAGE		3.27	-1.78				Market Corp.	NYS	186.05	2.23	2.79	187.20	11.50	245																
								MBIA Insurance Group	NYS	75.74	2.65	7.58	81.10	36.50	2800																
								Meadowbrook Insur. Group	NYS	4.05	-8.99	-50.15	8.38	3.94	18																
								MatLife	NYS	32.43	1.89	-7.34	36.63	-4.25	5238																
								Mutual Risk Mgmt. Ltd.	NYS	7.49	-27.28	-50.68	23.75	7.49	2627																
								Navigators Group	NDO	12.75	-1.79	3.29	14.38	8.63	4																
								NYMag Inc.	NYS	18.50	0.64	-1.99	19.25	2.25	10																
								Ohio Casualty Corp.	NDO	6.50	-3.55	-15.00	17.88	6.13	885																
								Old Republic Int'l	NYS	26.15	0.11	-12.08	32.06	-0.63	1215																
								Partner Re Ltd.	NYS	52.56	0.02	-13.84	62.50	30.00	344																
								Penn-America Group Inc.	NYS	9.35	0.54	22.62	9.75	6.88	9																
								PWA Capital Corp.	NDO	17.34	-2.29	0.54	19.13	-5.19	42																
								Philadelphia Cons. Holding	NDO	30.81	3.14	-0.20	31.92	-4.13	323																
								PIXRE Corp.	NYS	17.40	-3.87	3.11	20.10	-2.50	19																
								ReliaStar Financial Corp.	NYS	53.94	0.00	0.00	53.94	23.75	0																
								RenaissanceRe Holdings Ltd.	NYS	72.50	-2.82	-7.42	84.19	36.88	1345																
								RLI Corp.	NYS	42.12	0.29	-5.75	46.16	26.25	27																
								St. Paul Cos.	NYS	46.15	-1.91	-15.03	57.00	21.31	4504																
								SCOR	NYS	47.85	-3.04	-4.78	53.75	38.38	31																
								SAFECO Corp.	NDO	25.00	9.59	-23.95	35.88	8.00	5825																
								SCPIE Holdings Inc.	NYS	23.10	-7.64	-2.22	34.63	8.31	NA																
								Seibels Bruce Group	NDO	1.25	25.00	122.22	2.25	0.53	71																
								Selective Ins. Group	NDO	22.81	5.80	-5.93	26.94	-4.88	222																
								Tokio Marine & Fire	NDO	50.56	-1.10	-11.29	61.00	-6.00	99																
								Torchmark Corp.	NYS	36.20	-0.22	-5.82	41.19	8.75	2011																
								Transatlantic Holdings	NYS	102.66	1.63	-2.09	107.06	68.75	35																
								Trenwick Group Inc.	NYS	20.66	-2.27	-16.74	27.13	2.00	1546																
								Unico American Corp.	NDO	5.75	-4.17	-2.13	7.75	4.50	6																
								United Fire & Casualty	NDO	20.63	-1.49	4.43	25.00	-5.50	17																
								Unum	NDO	37.59	-4.07	-7.46	41.94	27.19	272																
								Unum Corp.	NYS	27.48	0.48	2.25	30.44	-1.94	4028																
								Vesta Insurance Co.	NYS	7.28	7.10	45.98	8.39	4.13	219																
								XL Capital Ltd.	NYS	80.15	-0.43	-8.27	89.25	-0.63	2149																
								Zenith National Ins.	NYS	27.30	-2.01	-7.06	30.70	20.00	145																
								INSURERS/REINSURERS	AVERAGE		0.03	-4.30																			

BI Insurance Index



Top advancing issues: Seibels Bruce Group, Gainsco Inc., E.W. Blanch Holdings. Leading decliners: Mutual Risk Management Ltd., Pacificare Health Systems Inc., MAIC Holdings Inc. Most active issue: Citigroup. The BI Index decreased 1.5%, the Dow Jones 30 Industrials increased 1.7%, the S&P 500 dropped 0.1%, and the NYSE Composite went up 0.3%. Average P/E: Brokers, 21.6; Insurers/reinsurers, 31.7; and HMOs, 18.0.

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