NEWSPAPER

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# Business Insurance®

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## Updates

### Captive may play role in cover for gas pipeline explosion

EDISON, N.J.—A captive owned by Panhandle Eastern Corp., which owns the company that operates a natural gas pipeline that exploded last week in Edison, N.J., may pay some of the liability claims from the blast, which leveled eight apartment buildings, killed one person and left hundreds homeless.

The pipeline, operated by Panhandle subsidiary Texas Eastern Transmission Corp, ruptured in Edison shortly before midnight last Wednesday, making a loud enough

*Continued on next page*

# Narrow victory bodes ill for health reform bill

By JERRY GEISEL

WASHINGTON—Health care reform legislation that squeaked through a House panel last week is probably too radical to pass the Ways and Means Committee, legislators say.

The measure, approved by a scant 6-5 vote by the Ways and Means Health Subcommittee, would mandate that employers pay 80% of the premium for a basic benefit package, open up the federal Medicare program to millions of new beneficiaries and give the government a new role in controlling health care costs (see story, page 21).

The vote came after subcommittee Chairman Pete Stark, D-Calif., and Rep. Sander M. Levin, D-Mich., reached a delicate compromise. They scrapped a general 0.8% payroll tax in favor of a new financing package that includes a 1% payroll tax on employers that self-fund their health care benefits programs.

The bill was passed Wednesday evening in the ornate main hearing room of the Longworth House Office Building, a room rich in legislative history.

But, panel members agreed that the legislation's future is cloudy.

Without major revisions, "I predict the bill will not pass the full (Ways and Means Committee), let alone the full House. It will never reach the president's desk," said Texas Rep. Michael Andrews, the only Democrat to break ranks and vote against the bill.

"We may have lost this particular battle, but we have not lost the war," said Rep. William Thomas, R-Calif., the panel's ranking minority member who spearheaded Republican opposition to the bill.

Even Rep. Stark acknowledged that his bill will not survive as written.

"No doubt, the (subcommittee's) approach will be modified," he said. Panel members said a new effort will be needed to accommodate the views of middle-of-the-road Democrats as well as attract at least some Republican support.

"This bill may pass the subcommittee—barely," Rep. Andrews said, minutes before panel members cast their votes. "But we have to do a better job of moving toward the center."

Rep. Levin, whose refusal to support the general payroll tax triggered an 11th-hour scramble by Rep. Stark to come up with an alternative revenue package, said the full Ways and Means Committee will have to do more to ease the burden of an employer health care mandate on small firms.

Ways and Means Committee Chairman Daniel Rostenkowski, D-Ill., said the subcommittee bill will be revamped when the pro-

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# Insurers' cloudy future

## Reform threatens L/H profits

By RODD ZOLKOS

Life/health insurers by and large enjoyed healthy earnings in 1993, though the anticipation of national health care reform continues to influence their approach to business.

The move toward managed care programs from traditional indemnity plans continues among health insurers.

And, despite strong earnings last year, some industry observers see health care reform looming as a potential cloud on insurers' financial horizon.

For the Blue Cross & Blue Shield plans, 1993 was the fifth straight year of underwriting gains and was the most profitable year since 1985, said Susan Barrish, vp-licensure and financial services for Chicago-based Blue Cross & Blue Shield Assn.

The 69 independent BC/BS plans—down from 72 in 1992 because of mergers—reported combined earnings of $2.6 billion in 1993, up from $1.9 billion in 1992.

"And '94 looks like we should have another profitable year," she said.

A dramatic slowdown in health care cost inflation was certainly one force driving health insurer earnings at the

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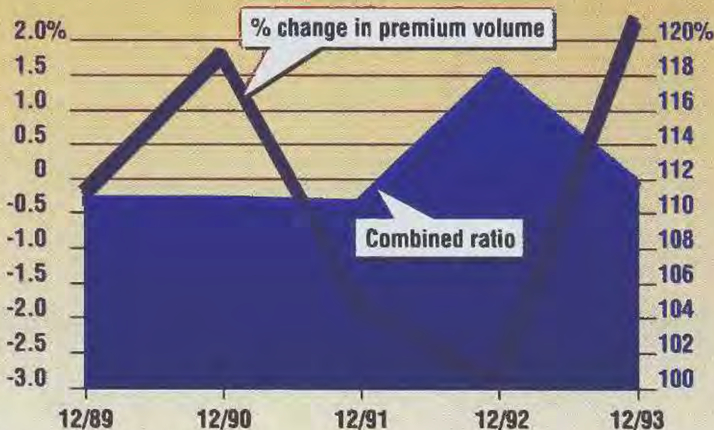


GRAPHIC BY JOHN HALL

## Little ahead to cheer major P/C insurers

By JUDY GREENWALD

Even if the worst is behind commercial property/casualty insurers, and that may not be the case, they have little to look forward to in 1994.

While the insurers' 1993 results were not that bad—at least when compared with those from catastrophe-prone 1992—insured catastrophe losses in the first quarter of 1994 alone are enough to rank as the fifth-worst catastrophe year ever.

"We've got 9½ months and the hurricane season to get through," said James S. Kemper III, executive vp-commercial lines for Kemper National Insurance Cos. in Long Grove, Ill. "We've kind of used up our allotment of catastrophes in the first two months. The potential is there for a pretty bad year."

Despite the catastrophe toll and continued pressure on insurers' investment income, there is still little prospect for any significant rate increases.

"It doesn't seem as though there's going to be much change at all" in the soft commercial casualty lines, said George Yonker, assistant comptroller at SAFECO Corp. in Seattle. "What you see is what you've got. It's kind of a broken record, isn't it?"

"I think '94 is pretty much al-

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# Quake toll may top $5 billion, eclipsing Hugo's destruction

By JUDY GREENWALD and LOUISE KERTESZ

LOS ANGELES—Insured losses from the Los Angeles earthquake could total more than $5 billion—and as much as $7 billion—making it the second-largest catastrophe in U.S. history.

Growing losses from the earthquake are expected to surpass the $4.2 billion in insured losses from Hurricane Hugo in 1989. Hugo was second only to 1992's Hurricane Andrew, which produced $15.5 billion in insured losses.

Initial estimates of insured damage were as low as $1.5 billion. The Property Claim Services division of the American Insurance Services Group Inc., which tallies catastrophe losses for the insurance industry, officially estimates insured losses at $2.5 billion, but that figure is expected to be revised, said a spokeswoman for the Insurance Information Institute in New York.

One reason for the sharp increase in damage estimates is the discovery of extensive structural damage that was not immediately apparent. And, damage from the Jan. 17 quake has been exacerbated by the hundreds of aftershocks in the Los Angeles area.

Bloomington, Ill.-based State Farm Group on Friday said it expects losses to approach $1 billion, up from $600 million, based on inspections that found more severe damage than initially indicated.

Woodland Hills, Calif.-based 20th Century Insurance Co. this month doubled its initial estimate of net losses to $325 million. And, Allstate Insurance Co. has increased its loss estimate to $600 million from $350 million, while many other insurers also have revised their estimates.

Despite the increased estimates,

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# Malpractice coverage in stable condition

By CHRISTINE WOOLSEY

Despite the rapidly changing health care delivery system, the price of medical malpractice and professional liability coverage for health care organizations remains stable and capacity is plentiful.

Most hospitals and health care systems will renew their liability coverages as is in 1994, in part because of a decrease in claims severity and frequency for most health care organizations.

Increased competition also is helping to keep rate increases at bay. More insurers are vying for a bigger piece of the medical malpractice market, and new players appear eager to underwrite coverage that just a decade ago they considered too risky.

Insurers also are introducing new products to keep up with mergers and acquisitions in the

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## Updates

### Burst pipeline's owner insured

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noise to alert 1,500 residents of the Durham Woods Apartment complex in time to evacuate their homes before the gas leak erupted into a massive fireball. The blaze destroyed eight of the complex's 63 buildings and hundreds of cars. About 300 people were left homeless, and one resident died, apparently from a heart attack.

Texas Eastern is providing displaced residents with $1,000 checks and has been paying for the hotel accommodations of about 200 people, a spokesman said.

A portion of Panhandle's liability coverage is written by its Bermuda captive, Bison Insurance Co. Ltd.

Panhandle also buys commercial liability insurance in the U.S. and London markets, placed by Marsh & McLennan Cos. Inc. and M&M's C.T. Bowring & Co. (Insurance) Ltd. unit in London. Among the insurers is Associated Electric & Gas Insurance Services Ltd., a Bermuda-based mutual. AEGIS writes up to $35 million in excess liability cover above a minimum $200,000 retention.

Panhandle declined to provide details of its insurance programs.

### Colorado revamps captive law

DENVER—Legislation designed to make Colorado a more friendly domicile for forming captives passed the state Senate March 18.

The legislation, H.B. 94-1169, completely rewrites the state's 22-year-old captive enabling law. The bill would streamline the formation process, permit captives to underwrite employee benefits coverages and eliminate "industrial insured" captives so that only two types of captives could be formed in Colorado: pure, or single-parent, captives and group, or association, captives. Both types still must have a minimum of $500,000 in initial capitalization.

The legislation also would eliminate the onerous "lockbox" requirement that forced captive owners to keep a portion of their initial capitalization funds in the state under lock and key, said Alan Schmitz, a partner with Denver law firm Hall & Evans who wrote the new bill.

Under the measure, prospective captive owners need only file a business plan, conduct a feasibility study and meet the initial capitalization requirements to be considered for a certificate of authority.

And the definition of "employee benefits coverages" was intentionally left out to permit broad application by regulators, Mr. Schmitz said.

Yet the state's captive law would still meet all the accreditation rules of the National Assn. of Insurance Commissioners, he said.

The bill will take effect in 180 days, or immediately upon Gov. Roy Romer's signature.

### Implant makers sign settlement

MIDLAND, Mich.—The three major silicone breast implant manufacturers last week signed an agreement specifying the terms of a proposed $4.75 billion settlement of thousands of implant suits.

While none of the implant makers said their participation in the settlement would be contingent on receiving payments from insurers, Dow Corning Corp. has assumed insurers would contribute while negotiating the deal with plaintiffs' attorneys. The Midland, Mich.-based company—a joint venture of Dow Chemical Corp. and Corning Inc.—said in its fourth-quarter earnings report that it expected to receive at least $600 million in insurance coverage against a $1.2 billion charge related to implant litigation.

However, all three implant makers are suing their insurers over coverage for the settlement (*BI*, Feb. 21; Oct. 4, 1993; July 12, 1993).

If the settlement is approved by U.S. District Judge Sam Pointer in Birmingham, Ala., Dow Corning will be the largest contributor, paying $2 billion into a fund from which women alleging injury from breast implants could recover up to $2 million apiece.

Bristol-Myers Squibb Co. will pay $1.5 billion, and Baxter Healthcare Corp. will pay $556 million. Negotiations are continuing with other implant makers.

### GOP unveils Superfund plan

WASHINGTON—A new Republican Superfund reform plan would abolish retroactive liability and institute a system of proportional liability for cleanup of polluted sites.

The Comprehensive Superfund Improvement Act of 1994 was unveiled last week by Sen. Bob Smith, R-N.H., and Rep. Bill Zeliff, R-N.H. The proposal also would allow states to administer their own Superfund programs without federal control and to establish community advisory councils to make recommendations to the Environmental Protection Agency regarding cleanup and the future use of sites.

The New Hampshire lawmakers said cleanup has begun at only five of the 17 Superfund sites in their state.

### Lawyer convicted of fraud

PHILADELPHIA—A federal jury has convicted a Pennsylvania lawyer on 124 fraud and money laundering charges for running a bogus group health insurance plan that left more than $5.5 million in unpaid claims.

Craig B. Sokolow, a Strafford, Pa., lawyer, was convicted this

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### Errors & omissions

• Christiania General Insurance Corp. is not being merged into the non-life subsidiary of Norwegian insurer UNI Storebrand A/S, as reported in the March 14 issue. Although ownership of the New York-based insurer will be transferred to the non-life unit, Christiania will continue to operate independently.

# One Meridian Plaza owner settles with contractors

**By MICHAEL SCHACHNER**

PHILADELPHIA—The owners of One Meridian Plaza, the site of the largest office building fire in U.S. history, will receive slightly more than $100 million in a settlement of a massive negligence suit against 15 companies that serviced portions of the building's fire protection system.

However, E/R Associates Inc., which owns the skyscraper, has made no progress in resolving a breach of contract lawsuit filed last year by its property insurance company, Aetna Casualty & Surety Co.

Aetna sued E/R last year in federal Court in New York, claiming the building's owner failed to repair the building within a reasonable time and then thwarted Aetna in its efforts to step in and begin restoring the complex, which is still closed. This conduct constituted a breach of E/R's $1 billion blanket property policy, according to Aetna' suit (*BI*, Feb. 22, 1993).

The 38-floor downtown high rise burned for two days in 1991, killing three firefighters and injuring a dozen others as well as destroying eight of the building's tenant-occupied floors (*BI*, March 4, 1991).

The settlement will be paid by 15 of the 16 defendants that remained in the negligence suit, which originally sought $400 million from 21 companies that manufactured, supplied, installed and inspected standpipe systems, pipe

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# Rulings favor retirees

## Employers barred from forcing union retirees to share costs

**By DAVE LENCKUS**

Two Michigan employers cannot impose health care cost-sharing requirements on about 4,000 retirees covered under collective bargaining agreements, two federal courts have ruled.

Teledyne Industries Inc. and its Los Angeles-based parent, Teledyne Inc., are considering appealing a March 18 verdict from a federal jury in Lansing that prohibits them from imposing medical cost-sharing requirements on 3,300 union retirees from two Muskegon, Mich., plants and their spouses.

A federal judge in Detroit days earlier imposed a preliminary injunction against Kelsey-Hayes Co., which wants 800 to 1,000 union retirees and their spouses to pay monthly premiums and deductibles. A trial in that case is at least a year away.

The plaintiffs and defendants in both cases largely pinned their arguments on the 6th U.S. Circuit Court of Appeals' 1983 decision in *UAW vs. Yard-Man Inc.*

When a collective bargaining agreement does not clearly state whether retiree health benefits are interminable or terminate when the agreement expires, there is an inference that the benefits are interminable, the court said.

But, the court also said other material must be considered as well.

In the Teledyne case, the diverse manufacturing giant in 1990 unilaterally imposed copayment re-

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**California law schools fear exodus of best teachers**

# Retirement offer too appealing

**By JUDY GREENWALD**

OAKLAND, Calif.—Famous for making unprepared students squirm, several senior law school professors taking early retirement may soon do the same thing to their unprepared employer, the University of California.

An early retirement plan designed to cut payroll costs at the University of California may prompt a greater than desired number of staff to retire from the university's four law schools. Law school officials are concerned that retirements taken under the University's Voluntary Early Retirement Incentive Program could disrupt fall classes because of their timing as well as budgetary restraints in replacing the retiring professors.

"It could get to be a really serious problem," said Lujuana Treadwell, assistant dean at the University of California at Berkeley School of Law.

While this is the third year VERIP has been presented, the offer has been enriched this year to help the university cope with its third straight year of state funding cuts.

Under this year's complex formula, University of California early retirees at most campuses will be credited with an additional eight years of age and service credits—compared with five years of service credit in the program's first two years—for calculating their monthly retirement benefits under the university's de-

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# London market consolidation

## Zurich Re to acquire Anglo American

**By ADRIAN LADBURY**

LONDON—Zurich Re (U.K.) Ltd. could dramatically boost its reputation as a leading source of casualty coverage in London for U.S. companies through its planned acquisition of Anglo American Insurance Co. Ltd.

Few details of the acquisition announced last week are available pending the negotiation of terms between Zurich and Anglo American's controlling shareholder, John Head & Partners L.P.

But it is clear that Anglo American would be absorbed by a newly aggressive Zurich Re under the direction of Dennis Purkiss, chief operating officer of the Zurich Insurance Co. subsidiary and ex-managing director of Merrett Underwriting Agency Management Ltd.

The combined operation would account for a big block of U.S. casualty business that formerly was placed in London with the H.S. Weavers (Underwriting) Agencies Ltd. line slip before its dramatic collapse in March 1990 (*BI*, April 2, 1990).

Head & Partners bought Anglo American, which wrote 45% of the Weavers slip, in October 1989 from CalFed Inc. for about $100 million. After the demise of the

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## Inside

• Continued cooperation between insurance companies and PRPs will eventually lead to true Superfund reform, says one editorial this week. In a second editorial, *Business Insurance* thanks risk manager Frank Lubbers for reminding us that employers must get involved in the fight against AIDS. **PAGE 8**

• Demand from buyers has led to new terrorism coverage options in the United Kingdom. **PAGE 15**

• India may privatize its insurance industry, but observers say rate and coverage reform must follow. **PAGE 15**

• Florida's high court has ruled that a teacher who had a brain hemorrhage after arguing with a student deserves workers compensation benefits. **PAGE 19**

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# Sedgwick illegally sold insurer: Suit

By DOUGLAS McLEOD

NASHVILLE, Tenn.—State regulators are charging Sedgwick James Inc. with illegally helping a Utah entrepreneur buy its Southern American Insurance Co. subsidiary in 1988 using the insurer's own money.

Utah regulators had earlier charged the buyer, Victor Borcherds, with subsequently using millions of dollars of Southern American's assets to benefit himself and several Utah resort businesses he controlled.

Southern American was ordered liquidated in 1992 and reported a deficit of more than $400 million as of Sept. 30, 1993.

The Utah and Tennessee insurance departments last week sued Sedgwick James and three of its former officers, charging that the sale of Southern American violated state insurance laws and the insurer's own corporate charter.

The regulators also allege that Sedgwick James breached its fiduciary duties to Southern American policyholders, mainly Fortune 500 clients of The Crump Cos. Inc., a broker acquired by Sedgwick James' parent in 1986.

The suit seeks $11.5 million in compensatory damages, plus an unspecified amount of punitive damages for the defendants' alleged "intentional, fraudulent, malicious or reckless" actions.

In addition to Sedgwick James, the suit names Donald A. Thomas, James M. Power and Sidney A. Stewart Jr., who were officers of Crump and Southern American at the time of the 1988 sale. All are now retired.

Quill O. Healey, chairman and chief executive of Sedgwick James, declined to comment on specifics of the complaint, but said: "We have done absolutely nothing improper whatsoever."

"I'm quite confident, knowing the history of our company, that we acted properly," added Mr. Power, a former Sedgwick James senior executive vp.

Mr. Thomas, former president of Southern American and senior vp of Sedgwick James, and Mr. Stewart, former chairman of Crump and vice chairman of Sedgwick James, could not be reached.

Southern American, formed by Crump in 1934, operated as an exclusive market for Crump brokerage clients until it was put on the block in 1987, the year after Crump was acquired by London-based Sedgwick Group P.L.C. and merged into Sedgwick James.

While several potential buyers looked at the Memphis-based in-

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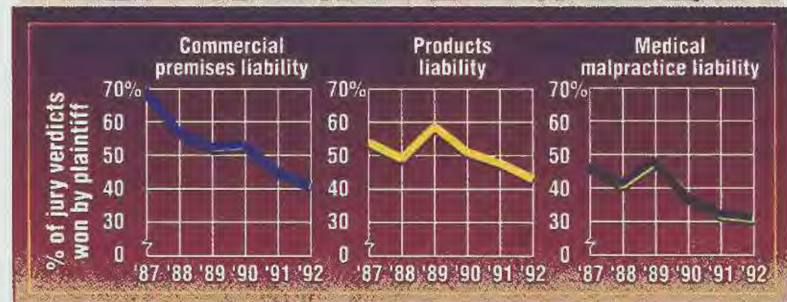
# Plaintiffs winning fewer injury suits: Study

## 12 less angry men




Source: Jury Verdict Research GRAPHIC BY JOHN HALL

By SALLY ROBERTS

Big business groups, which have had a hard time peddling their tort reform ideas in Congress, may have found a more receptive audience in the nation's jury boxes.

Jurors in all types of personal injury cases are far more likely to side with defendants now than they were only five years ago, according to a recent study.

Personal injury plaintiffs recovered in 52% of the trials that went to verdict in 1992, down from 61% in 1987, concluded Jury Verdict Research Group of Horsham, Pa., a firm that analyzed data on about 90,000 jury verdicts nationwide.

That trend was evident across various types of civil suits. Juries ruled on behalf of medical malpractice plaintiffs 31% of the time in 1992, down from 37% two years earlier. In product liability cases, the plaintiff success rate fell to 43% from 51%. And in commercial premises liability cases, the rate fell to 41% from 53%.

Among the factors contributing to that change are increased pretrial settlements, extensive media coverage of multimillion dollar awards, and proliferating advertising and publicity campaigns by business groups.

"Insurance companies and business have engaged in very extensive advertising campaigns saying the liability system is out of control," said Theodore Eisenberg, a professor at Cornell University's Law School in Ithaca, N.Y., who has studied personal injury awards. "It's sunk in."

"I've interviewed lots of jurors for medical malpractice studies and have consistently found jurors thought there was too much litigation, that people were out to get money. . .and that it is wrong," said Neil Vidmar of Duke University Law School in Durham, N.C. The professor has argued that juries in medical malpractice cases do not make large awards simply because the defendants have "deep pockets" (*BI*, Jan. 10).

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# Plans more likely to cover abortions than contraceptives

By SALLY ROBERTS

WASHINGTON—Women are more apt to find that their employer's group health insurance covers abortions and tubal ligation than birth control devices, a recent study finds.

This is not surprising considering that insurance has historically covered surgical care and illnesses as opposed to preventive care, said Rachel Benson Gold, senior public policy associate for The Alan Guttmacher Institute, a Washington-based non-profit organization that conducts reproductive health research, policy analysis and public education.

Large group indemnity plans and preferred provider organizations were the least likely to provide coverage for contraceptive devices. Health maintenance organizations, on the other hand, were more likely to provide coverage owing to a greater emphasis on preventive care, the survey found.

The data reflects that HMOs come from a different tradition, Ms. Gold said. "HMOs historically have offered more comprehensive coverage for preventive care than their fee-for-service counterparts."

Overall, AGI surveyed 189 commercial health insurers, Blue Cross & Blue Shield plans, health maintenance organizations and preferred provider organizations. Its findings were presented at a March 9 hearing by the Senate Labor and Human Resources Subcommittee on Aging on the impact of health reform on women's health care.

Of the health insurance plans responding, approximately two-thirds routinely cover abortions. Specifically, 68% of the large group indemnity and BC/BS plans—those with at least 100 en-

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# Insurer ordered to continue benefits

DALLAS—Fidelity Security Life Insurance Co. must continue to pay medical benefits for a man with AIDS even though his group health insurance policy was canceled, a judge has ruled.

The insurer's master policy stated its right to cancel the group coverage at any time with 60 days' notice, but that information was not in the certificates issued to individual policyholders.

Michael Elder, a former counselor covered under a group policy sponsored by the American Counseling Assn., earlier this year sued Kansas City, Mo.-based Fidelity and Albert H. Wohlers & Co., the agency that administered the policy, to keep about $800,000 in medical benefits. He said he did not know his coverage could be canceled and was counting on $1 million in lifetime benefits.

Fidelity has paid about $180,000 in AIDS-related claims for Mr. Elder since 1990. It canceled the group policy in November, citing high health care claims costs.

In January, Mr. Elder and Parkland Memorial Hospital, as a secondary plaintiff, sued Fidelity. They charged, among other things, breach of contract, deceptive trade and violation of the Texas insurance code. Mr. Elder, who lives in Dallas, also sought a preliminary injunction barring Fidelity from discontinuing payments for his medical treatment until the action was settled.

In his ruling on the injunction March 22, U.S. District Judge Robert Maloney sided with the plaintiffs, saying Texas law requires certificates issued to policyholders to include essential coverage features, including cancellation provisions.

Mr. Elder's certificate contained some information about the policy but did not mention cancellation terms. Mr. Elder's attorney, Cynthia Leiferman, contends Fidelity canceled the policy because he has AIDS. She has sought an expedited trial to resolve the tort allegations and is amending the suit to charge discrimination under the Americans with Disabilities Act.

Judge Maloney ruled that Fidelity should continue to pay the claims because without medical care Mr. Elder may die before the case can go to trial.

Bradley J. Baumgart, an attorney with Shughart, Tomson & Kilroy, the Kansas City, Mo., firm representing the insurer, said the judge ruled for the plaintiffs because of "the substantial emotional factor" in the case.

Fidelity argued the injunction wasn't necessary because Mr. Elder could obtain coverage under a conversion policy with new limits and restrictions or receive treatment paid for by public aid.

The only issue before the court is whether the insurer had a right to cancel the policy according to the master group contract terms, which it clearly did, according to Mr. Baumgart.

—*By Christine Woolsey*

Bankers Trust's emergency child care program has cut employee absenteeism.

# Child care investment yields excellent returns for Wall Street firms

By MICHAEL SCHACHNER

*Sue Adler had just begun working as an executive secretary for Morgan Stanley & Co. Inc. when the regular babysitter for her two children quit without notice.*

*Without a clue where to find another sitter, Ms. Adler turned to a co-worker, who told her of the firm's brand-new emergency care program for employees with dependents. She visited Morgan Stanley's employee benefits department to get information on the program and within 15 minutes arranged to have a licensed caregiver come to her home until she could locate a more permanent sitter.*

*At 7 o'clock the next morning, a representative from Caregivers On Call Inc. arrived at Ms. Adler's house to look after her children until she was able to find a replacement several days later.*

*"If there is ever a time you don't want to rush a decision, it is when you are searching for a person to care for your children, and thanks to Morgan Stanley and Caregivers On Call I was able to take a few days to find the right person," she said.*

Only four or five years ago, the words "work and family" were rarely uttered in the same sentence at most of the large investment banking houses. Long hours and making money were the norm—sensitivity toward balancing work and family responsibilities was not.

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# Sedgwick

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surer, the best offer came from Mr. Borcherds, a self-described bankruptcy expert with no previous insurance experience: He offered to pay $5.75 million for Southern American and, unlike other potential bidders, did not demand that Crump guarantee the insurer's loss reserves. After various complications, including an attempt by Mr. Borcherds to back out of the deal, the Southern American sale was closed in March 1988.

Mr. Borcherds then moved the company to Utah, liquidated more than $20 million of its government bond portfolio and reinvested much of the money in mortgage loans to Utah resort developments he owned with his wife, including a hotel, golf course, water slide park and ski resort (*BI*, April 15, 1991). These investments set the stage for Southern American's failure: Utah regulators objected to the mortgage loans in 1990 and told Mr. Borcherds to replace them with more acceptable assets by year-end 1991.

When he was unable to do so, the Utah department obtained a liquidation order on March 26, 1992. Utah regulators later sued Mr. Borcherds, his wife and other Southern American officers, charging that they channeled millions of dollars out of the insurer for their own benefit (*BI*, Feb. 8, 1993).

Along with loans to the Borcherds' resorts, Southern American paid millions of dollars of compensation and dividends to the couple through a "shareholder advance" account between 1988 and 1992, Utah department court filings alleged. The insurer also paid for many of the Borcherds' personal expenses, including Mr. Borcherds' Rolls-Royce and his wife's Mercedes-Benz, court filings allege.

Regulators have since forced the sale of the Borcherds' resort hotel in Provo, Utah, and expect to receive the bulk of the $6.1 million in proceeds. Sale of the water park and Southern American's Provo headquarters building—a converted dairy barn—should generate another $2.6 million, according to Douglas Monson, a lawyer with Ray, Quinney & Nebeker in Provo, representing the liquidator.

As of last Sept. 30, the Southern American estate reported total assets of $13.3 million—including some proceeds from the hotel sale and receivables from other resort units—and liabilities of $445.4 million. The liabilities, however, include policy-limit claims from numerous former Crump clients with asbestos and pollution exposures; the insurer's ultimate liabilities are expected to be far smaller.

Meanwhile, Mr. Borcherds is separately the subject of an investigation by federal authorities, including the Internal Revenue Service, sources familiar with Southern American say.

Tena Campbell, an assistant U.S. attorney in Salt Lake City, said she could neither confirm nor deny the existence of an investigation.

Mr. Borcherds could not be reached.

The Utah and Tennessee insurance departments filed their suit against Sedgwick James and its former officers last Monday in Davidson County Chancery Court in Nashville.

The complaint alleges that Messrs. Borcherds and Thomas, seeking Tennessee department approval for the sale, told regulators that the $5.75 million purchase price would be funded with a letter of credit from Hill Samuel & Co. Ltd., a large London bank.

Southern American would repay the bank with excess surplus at a rate of $810,000 a year, and Mr. Borcherds told regulators he did not intend to take any additional funds out of the insurer, according to the complaint.

After Tennessee regulators approved the sale, though, Mr. Borcherds tried to back out and was sued by Crump. The two sides settled, but when they finally closed the Southern American sale on March 25, 1988, the financing bore no resemblance to what regulators had approved.

The day before the closing, Mr. Thomas ordered the liquidation of about $7 million in Southern American assets, with the proceeds deposited in the insurer's account at National Bank of Commerce in Memphis, the complaint says.

The next day, the account was debited to purchase three cashier's checks totaling $5.75 million. The checks were made out to Mr. Borcherds, who endorsed them over to Crump to pay for Southern American, the complaint says.

In 1991 interviews, Mr. Thomas and other Crump officials denied knowing that Mr. Borcherds was using Southern American's own funds to buy the insurer.

The regulators' complaint, however, charges that Messrs. Thomas, Power and Stewart knew and approved of the transfer of the $5.75 million to Mr. Borcherds.

The three officials, working with Mr. Borcherds, purported to turn over control of Southern American to him at the closing before receiving payment, allowing Mr. Borcherds to remove the money from Southern American's account, the complaint charges.

Mr. Borcherds offered a similar explanation of the closing in 1991 interviews: Crump officials turned over control of the company without payment and Mr. Borcherds then formed a new board of directors that authorized the issuance of the cashier's checks, he said.

He said the three checks represented:

- A $3 million payment to him to redeem 15,000 of Southern American's 25,000 preferred shares.
- A $2 million payment to acquire the Provo building that later served as the insurer's headquarters. The building, which had been owned by another of Mr. Borcherds' companies, was later appraised at $1.25 million but is expected to bring only $360,000 when it is sold by Utah regulators.
- $750,000 to assume a construction loan that Mr. Borcherds previously made to his waterslide park.

These arrangements were not disclosed to Tennessee regulators before the closing, a violation of state insurance law that renders the Southern American sale "unauthorized, illegal and void," the regulators' complaint charges.

In addition, the $3 million redemption of Southern American preferred stock violated the insurer's own corporate charter, the suit says. The charter forbade such redemptions if the insurer's surplus fell below $12.5 million. Southern American's surplus at year-end 1987 stood at $8.6 million, the suit notes.

Sedgwick James and the three officials also breached their fiduciary duties to Southern American, its policyholders and its creditors by participating with Mr. Borcherds in the unauthorized sale, the suit alleges.

Utah and Tennessee regulators are seeking to recover double the $5.75 million used to finance the acquisition.

Charging that Sedgwick James' acts "were either intentional, fraudulent, malicious or reckless," the suit also seeks an unspecified amount of punitive damages. BI


# This List is Incomplete.

That's because there are more service businesses than you can think of, let alone list. And nearly every one of them has an errors and omissions exposure, meaning that in their everyday line of work, these companies risk getting sued for making mistakes. They may end up having to pay at least attorney's fees, even if they didn't make a mistake!

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# 401(k) investment changes infrequent: Study

**Benefit Beat**

Participants in 401(k) savings plans do not change their investment allocations often, even when they have unlimited transfer rights, according to the preliminary findings of a recent survey.

Over the past 12 months, 54% of 1,100 respondents said they did not make any changes in their 401(k) investments. In addition, 29% more said they made only one or two changes, according to a survey by the Vanguard Group of Investment Cos. of Valley Forge, Pa.

Only 1% of the survey respondents said they made 10 or more changes.

Among the remaining 16% of respondents, 12% made three or four changes, and 4% made between five and nine changes.

They survey also found that most 401(k) plan participants do not like the prospect of making plan investment changes using a telephone voice-response system: 73% said they would prefer a "live" operator's assistance, while the remaining 27% said they would feel comfortable using an automated system to make their changes.

Far more respondents—48%—said they would feel comfortable using an automated system to obtain account balance, price and yield information. Still, more than half—52%—prefer to obtain this information from an operator.

Vanguard expects to release complete survey results within the next few months.

*—By Dave Lenckus*

## CIGNA partnerships

In an effort to improve the health of its 2.8 million members, CIGNA HealthCare, the health maintenance organization owned by Philadelphia-based CIGNA Corp., has forged a partnership with Weight Watchers International and Smoke Stoppers that permits HMO enrollees to join the wellness groups at reduced rates.

Through March 31, CIGNA HealthCare members in all regions except Hawaii, New Hampshire, North Carolina, Oregon and the city of Philadelphia, can join Weight Watchers for $12 as opposed to the normal enrollment fee of $25 to $30. Participants also receive a $1 coupon for a Weight Watchers Smart Ones meal.

The promotion with Smoke Stoppers, a division of the National Center for Health Promotion, allows CIGNA HealthCare members to join a five-week Smoke Stoppers Group program for $145, a discount of $5 to $130, depending on the member's location. Members can also purchase a 26-day smoking cessation kit from the company for $29, a savings of more than $40 off the regular price. There is no time limit on this offer.

"Studies show that problems related to obesity and cardiovascular disease are costing the United States approximately $140 billion annually. These numbers can be dramatically reduced through better eating and exercise. Prevention is the key to keeping health care costs in line," said Dr. Allen Schaffer, national medical director with CIGNA HealthCare.

*—By Michael Schachner*

## Ford shares profits

For the first time in five years, Ford Motor Co.'s 152,000 domestic employees earlier this month received profit-sharing payments averaging $1,350 per worker.

The profit-sharing allocations were based on the Dearborn, Mich.-based automaker's 1993 profits of $2.53 billion.

Since the profit-sharing plan was implemented in 1983, Ford employees have received a total of $2.5 billion, or nearly $14,500 per employee. Prior to this year, the highest average profit-sharing contribution in any given year was $3,700 per person in 1987.

Ford made payments of about $1,025 per worker in 1989, the most recent year in which profit-sharing payments were made.

The profit-sharing plan—which was renegotiated in 1987—is part of a package of benefit and other contract improvements promised to members of the United Auto Workers union in exchange for wage concessions in the early 1980s (*BI*, March 29, 1982).

*—By Judy Greenwald*

## NHL pension ruling

The National Hockey League and its longtime annuity company must pay $45 million Canadian ($32.9 million) to hundreds of retired NHL players, following a ruling earlier this month by a Canadian court.

The ruling stems from a suit brought in 1991 by seven former players, including such stars as Bobby Hull and Gordie Howe, that alleged the league had misused surplus pension assets.

The Ontario Court of Appeal ruled that 21 NHL clubs, the NHL Pension Society and Toronto-based Manufacturers' Life Insurance Co. improperly used surplus pension funds to reduce their contributions to a defined contribution plan instituted in 1986, and to pay for contributions on behalf of players who retired after that date.

The defined contribution plan had replaced a defined benefit plan—a participating group annuity programs written by Manufacturers Life—that was begun in 1947 and by 1986 had produced a surplus due to higher-than-anticipated interest.

The recent decision, which upholds a 1992 lower court ruling (*BI*, Nov. 16, 1992), affirms that provisions in the pre-1986 NHL pension plan required any surpluses to be used for the benefit of retired players and no one else.

As a result of the ruling, which the NHL will not appeal, all of the $45 million Canadian award—the amount the court deemed the league used for post-1986 benefits and plan contributions—will be put back into the pension fund and distributed among hundreds of players who retired before 1986.

Named plaintiffs in the case were Messrs. Howe and Hull, as well as Allan Stanley, Andy Bathgate, Carl Brewer, Leo Reise and Eddie Shack.

*—By Michael Schachner*

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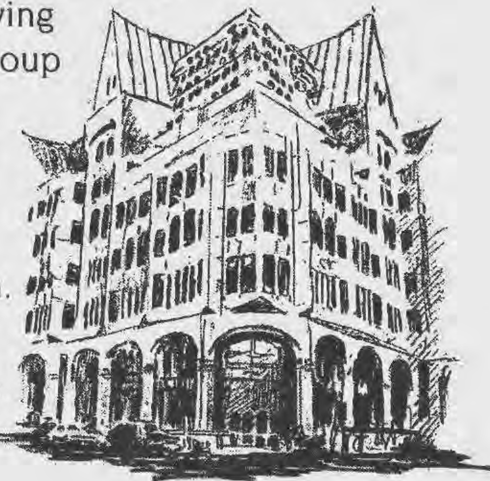

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# Child care

*Continued from page 3*

But as the high-flying 1980s gave way to the family values-oriented 1990s, the attitude that work must take priority over family started to subside at many large corporations.

New York-based Morgan Stanley is an example of a firm that has responded with programs designed to help employees deal with the challenge of juggling work and family.

Bankers Trust Co. is another New York-based financial services giant that has committed substantial time and capital to creating work and family programs that alleviate some of the stress inherent to working and raising a family today.

And, while emergency dependent care is a benefit that is clearly helping Morgan Stanley and Bankers Trust employees cope, the employers also reap benefits in the form of increased productivity, less absenteeism and improved morale among their workforces.

"Today's employees, especially younger people, are asking how they can make it all work. It's our belief that companies that place an importance on the balance between having a competitive edge and a host of employee benefits, including work and family, will be the winners in the long run," said Molly Houghton, vp-corporate human resources with Bankers Trust in New York.

Bankers Trust began exploring emergency child care programs after the firm's benefits, human resources and senior management personnel participated in informal meetings with employees over several months in 1991.

The one thing that came through loud and clear to Bankers Trust executives during those meetings was that employees were desperate for some sort of help in handling their dependent care needs, but wanted to remain committed to their jobs.

The company then surveyed 1,400 employees at Bankers Trust's Harborside Center in Jersey City, N.J., to find out what employees did about emergency child care and what they would prefer.

Among respondents, 59% said they stayed home with their child when regular care fell through. Ninety-three percent said they would use a corporate-sponsored backup facility if one was available. And, maybe most convincing to the company, Bankers Trust employees reported a total of 121 missed days over six months that were attributable to caring for their children.

"It became obvious that people were forced into making excuses for not coming to work," Ms. Houghton said. "It translated into dishonesty on the part of the employees and a significant business loss for the company."

Bankers Trust pondered the idea of giving employees additional "child care sick days" but quickly realized that such a plan wouldn't solve the problem of employees not being at work, she said.

"After looking around, backup child care became the main option. We did some quick benchmarking to see what was being done at the time, and concluded that we could do it cost-effectively."

In April 1992, Bankers Trust began planning an onsite emergency child care facility for its Harborside employees. Immediately, it selected Children First Inc., a Boston-based child care center management firm, to staff and operate the center when it opened.

Over the next five months, Bankers Trust converted the security offices at Harborside into a care center that now handles an average of 4.5 children per day. It is open from 8 a.m. to 6 p.m., Monday through Friday, and as needed on Saturdays. The center's staff includes a director, an assistant director and three teachers.

Beyond the standard complications of getting licenses for the center, meeting the demands of special-interest groups and having security that ensures that children do go home with their parents, operating the facility has posed few problems, said Ms. Houghton.

Even risk management has been relatively headache-free, she added. "We played big brother and had our vendor carry as much liability protection as possible. Our contract with them is structured to put us as far at arm's length as possible from liability without not doing the project at all."

**'People were forced into making excuses for not coming to work,' says Molly Houghton.**

Just six months after Harborside opened, Bankers Trust obtained 3,000 square feet in its downtown Manhattan building with the intention of turning it into an onsite backup child care center that it would share with other Wall Street investment houses.

After talking with about 20 companies, Bankers Trust, Credit Suisse/First Boston Corp., Swiss Bank Corp., J.P. Morgan & Co. Inc. and Salomon Brothers Inc. formed one of New York's first consortium-based child care facilities.

Each firm is a 20% owner and operator in the center, which opened last November and is staffed by Children First. The center has space for 29 children, and so far, it has been a total success, Ms. Houghton said.

Both the Harborside and Manhattan centers require a nominal $10 user fee, "which doesn't affect the bottom line, but is there just to show that it's not one of those freebies that often become out-of-sight-out-of-mind."

As the '90s began, a similar story unfolded at Morgan Stanley & Co. Inc. in New York.

Employees began conveying to management their concerns about emergency child care, which was a new issue for the company, explained Deborah DeCotis, managing director.

"It wasn't until the late 1970s that women began entering the banking field, and at the time their focus was career first and family later. Now, with both men and women working in most cases, there's a different approach. Career to the exclusion of family is not a healthy recipe."

To cover the "universe of demand," Morgan Stanley decided to offer company-paid emergency child care services that provide in-home care for employees' children through Lynbrook, N.Y.-based Caregivers On Call.

And now, Morgan Stanley is in the process of arranging an onsite

*Continued on next page*


HOW KEMPER LOOKS

We think there's more than one way to hammer out a plan.

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# Child care

*Continued from previous page*

or near-site facility for its Midtown Manhattan employees with a consortium of employers. Children First would operate it.

Plans like this "are good business decisions that are well worth the cost," Ms. DeCotis said. "Just the cost of lost time is devastating, and when you consider the stress this program alleviates along with reduced turnover, it's invaluable."

The Caregivers On Call plan is open to employees eligible for benefits and offers up to 80 hours per year of in-home care.

Employees must pre-register for the plan with both Morgan Stanley's benefits department and with Caregivers On Call. Once registered, employees can call the service and have someone assigned within four hours.

Of Morgan Stanley's 4,800 New York-area employees, approximately 150 have registered for the program, but usage has totaled less than 1% of all employees, said Nancy Montgomery, a communications and implementation analyst, who recently returned from the firm's Los Angeles office, where the same program was started for the company's 60-person office there.

"I think programs like these are real acknowledgments of the stress work and family responsibilities can create. It's not uncommon for corporate environments to be such that it's questionable to talk about family concerns. While these plans are big steps forward that are tremendously appreciated, they're not charity. There's a clear business reason behind doing it. They allow people to come to work and be focused," said Karol Rose, a principal with benefit consultant Kwasha Lipton in Fort Lee, N.J. BI

# Accounting for needs

## Ernst & Young offering Saturday child care services

Employees at Ernst & Young who have young children are finding the often taxing time leading up to April 15 a little less stressful this year.

About 30 of the New York-based accounting firm's 100 offices in the United States have set up a Saturday child care program for those employees finding it difficult to balance family responsibilities and the need to put in the extra hours on the weekend during the tax season.

With the help of The Partnership Group, a Lansdale, Pa.-based work/life management firm, Ernst & Young employees can bring their kids to either an on-site or near-site child care facility depending on available space, said Tanya Doughty, diversity manager at Ernst & Young. Most centers are open from 8 a.m. to 6 p.m.

The Saturday child care program has had a "fabulous response" from employees, Ms. Doughty said. Since Jan. 8, about 1,000 children have been cared for and an expected 1,500 will be cared for by April 9, when the program ends.

While no total implementation costs have been determined, "the total cost to the firm is well under $100,000," she said. "We feel we more than recoup the cost."

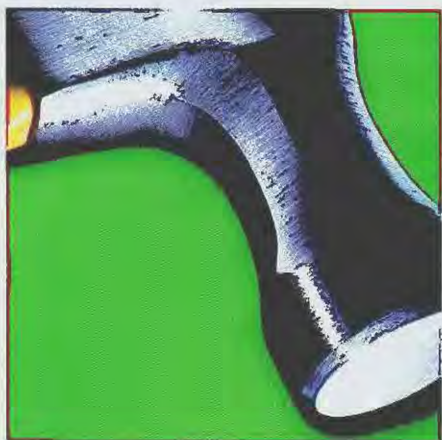
Employees who might not have been able to work all day Saturday before are able to now. It has improved efficiency and decreased stress, Ms. Doughty said.

"We know that the busy (audit and tax) season is a fact of life. We were looking for ways to alleviate stress" for employees, she said.

In 1993, Ernst & Young offered the program as an experiment in six of its offices. Due to the response, 29 offices are now participating in the program.

—*By Sally Roberts*


AT PROPERTY INSURANCE



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# Coverage

*Continued from page 3*

rollees—cover abortion, while 67% of the PPOs and 70% of the HMOs provide the coverage.

Eighty-six percent of the large group health plans, PPOs and HMOs surveyed routinely cover laparoscopic tubal ligation, the study found.

On the other hand, only 33% of the large group health plans surveyed routinely cover oral contraceptives, while 41% of the PPO plans did so. The survey found that 84% of the HMOs provide such coverage.

Intrauterine device insertion is routinely covered by 26% of the large group plans, 25% of the PPOs and 86% of the HMOs. The cost of IUDs themselves are only covered routinely by 18% of the large group plans, 21% of the PPOs and 47% of the HMOs, the survey found.

Twenty-one percent of the large group plans routinely cover diaphragm fittings, while 23% of the PPOs and 81% of the HMOs routinely cover the fittings. However, only 15% of the large group plans cover the cost of diaphragms, while 17% of the PPOs and 52% of the HMOs cover these contraceptives.

Twenty-eight percent of the large group plans cover the insertion of Norplant contraceptive implants, 32% routinely cover Norplant removal and 24% cover the cost of the actual implants.

Of the PPOs surveyed, 29% routinely cover Norplant insertion and 33% routinely cover the removal, while only 17% routinely cover the actual implants. Of the HMOs surveyed, 59% cover Norplant insertion and 58% cover the removal, while 44% routinely cover the actual implants.

Of the large group health plans surveyed, 39% cover injections of Depo-Provera, a synthetic hormone that prevents conception. Thirty-five percent of the PPOs routinely cover the injection, while 74% of the HMOs surveyed provide such coverage.

Of the health plans surveyed, 96% of the HMOs routinely cover contraceptive counseling as opposed to 24% of the PPOs and 22% of the large group indemnity and BC/BS plans. Likewise, 90% of the HMOs surveyed routinely cover preconception risk assessment compared to 42% of the PPOs and 43% of the large group health plans.

•

*Free copies of the study results are available from The Alan Guttmacher Institute by calling 202-296-4021.*

# Opinions

## Superfund pact promising

THE DEBATE over Superfund reform took a promising turn earlier this month when a group of insurers and businesses unveiled a proposal to bring more equity and predictability to the controversial law.

While we're not ready to endorse what remains an outline rather than proposed legislation, the mere fact that insurers and potentially responsible parties could agree on a reform agenda is in itself promising.

The proposal, drafted by the Washington-based Coalition on Superfund, is designed to limit the Superfund-generated insurance coverage litigation that has done nothing to promote the cleanup of hazardous waste sites. It is a significant improvement over the plan put forth by the Clinton administration a few weeks ago. While the coalition proposal would retain the controversial Environmental Insurance Resolution Fund contained in the administration plan, it also would provide safeguards to ensure the fund doesn't simply become an invitation to adverse selection.

As envisioned by both the administration and the coalition, property/casualty insurers would pay a special tax to create the fund. PRPs would submit claims for pre-1986 liabilities to the fund, which would then pay them a portion of the total claim. In return for accepting the disbursement, the PRP would lose the right to sue underwriters. Under both proposals, PRPs that refused the fund's offer, sued in court and subsequently failed to recover at least as much as the fund initially offered would have to pay a portion of the insurers' legal fees.

The coalition's vision of the EIRF is far better than the administration's. Under the coalition's proposal, the fund wouldn't pay out a single cent until 85% of the PRPs announced within a certain, though as yet unspecified, period that they would accept money from the fund in lieu of litigating. If 85% didn't sign on, the fund would dissolve and it would be litigation as usual.

The administration proposal was built upon no such principle. Insurers say the Clinton version of the fund would attract PRPs with weak claims while those with stronger claims would seek more complete compensation in court.

The coalition proposal would also put more teeth in the penalties for PRPs that decline an offer and then lose in court. PRPs that walked and lost would be responsible for as much as 50% of the insurers' legal costs and fees, rather than the 20% under the Clinton plan.

However, the coalition proposal would saddle P/C insurers with potentially heavier taxes to fund the EIRF than the Clinton proposal, without spelling out which insurers would pay the taxes. The administration plan calls for a special surtax lasting five years, with an expected maximum cost of $700 million or so per year after three years. The coalition proposal, based on a worst-case scenario, would extend the tax for up to 10 years, with a maximum in the last year of more than $1 billion.

Because the proposal isn't in legislative language, it's unclear whether the tax, which is described as "basically prospective"—based on current premiums rather than past premium volume—would apply to all insurers, some or only a few. In the main, the tax should fall primarily on those that wrote liability coverages involved in Superfund litigation.

The coalition proposal would also leave the retroactive liability scheme for Superfund site cleanup intact. While junking retroactive liability may be politically impossible, some modification is needed, in fairness to PRPs whose actions were in compliance with existing law before Superfund was enacted in 1980 and that are now burdened with the costs of cleaning up those sites.

The coalition's proposal has shown that insurers and PRPs can find common ground. If that spirit of cooperation can be built upon, the chances for true Superfund reform will be greatly increased.

## AIDS, HIV and employers

WE COMMEND Frank Lubbers for speaking out about the reality of AIDS. The former NationsBank Corp. risk manager has helped all of us put a face on this epidemic sweeping our planet.

We need to recognize all those who are suffering from the human immunodeficiency virus and commemorate them as they succumb to complications arising from acquired immune deficiency syndrome. Those individuals are our friends, neighbors, relatives and, yes, even colleagues.

Employers have a duty to use the opportunity to educate employees about the risks of contracting HIV and the many misconceptions about it. Yet only a handful are meeting this challenge.

Perhaps part of the problem is that homosexuality and sex—two topics strongly associated with contracting the disease—are taboo subjects in the workplace. Yet, it wasn't long ago that drug abuse and work/family problems were also subjects to be avoided during work hours.

Employers are making great strides in recognizing the needs of the changing workforce and in developing programs to handle problems their employees face. Addressing the reality and the risks of AIDS will help identify it as another important issue for working Americans.

After all, employers stand to lose much if the AIDS epidemic continues to indiscriminately claim lives. The disease is robbing Corporate America of its most productive workers. According to the federal Centers for Disease Control and Prevention, AIDS is the leading cause of death among people age 25 to 44. Even worse, as the AIDS epidemic claims adolescents, it threatens to deprive employers of a future workforce.

Education is a powerful weapon to prevent the spread of the disease. It's not difficult, as we've reported, to adopt an education program. Among the best programs are those at Digital Equipment Corp. and Levi Strauss & Co. (*BI*, Oct. 7, 1991).

We thank Mr. Lubbers for telling us about his battle with this deadly disease and for reminding us that it is everyone's responsibility to help stop the spread of AIDS.

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# Malpractice

*Continued from page 1*

health care market, as well as the continued swift movement toward managed care arrangements.

Insurers view medical malpractice, hospital professional liability and related coverages as profitable lines these days, brokers say. In fact, some insurers are looking to increase their malpractice accounts in an attempt to offset meager underwriting results in the commercial property market.

"It is perceived to be a profitable line for big insurers today. It's not uncommon to get 12 or 13 quotes on a piece of business," said Richard Pfeiffer, vp of health care facilities at St. Paul Medical Services, a unit of St. Paul, Minn.-based St. Paul Fire & Marine Insurance Co.

St. Paul is the largest U.S. underwriter of hospital professional liability and medical malpractice, with about $500 million in premiums annually.

"There is more capacity and there are more players than three years ago. It seems like every month a new insurer wants to underwrite" medical liability coverages for health care organizations, Mr. Pfeiffer said.

Commercial insurance companies that exited the medical malpractice arena during the last hard market are interested in selling the coverage again, said Pete Henning, senior vp for PHICO Insurance Co. in Mechanicsburg, Pa. Insurers also are expanding the number of states in which they underwrite medical malpractice and professional liability coverage.

"As long as companies are making profits that exceed the average property/casualty profit line, they'll want to underwrite this coverage," Mr. Henning said.

But not all observers see new insurers entering the market. "In the major commercial market, I don't see that many additional players," said Janice Hackett, managing director of Willis Corroon's Health Care Concepts unit in Nashville. However, she added, insurers and physician-owned mutuals that historically have only written coverage for physicians are now "aggressively" pursuing the hospital market.

Some observers caution that while hospital professional liability losses are stable, physician medical malpractice losses are beginning to rise.

Physician "malpractice claims have begun to rise again after several years of reduced losses," reports rating agency Weiss Research Inc. of West Palm Beach, Fla.

"Physician claims typically show a growth in frequency a few months ahead of hospitals," remarked Judy Hart, deputy national director of Alexander & Alexander Services Inc.'s national health care division in St. Louis. But, she noted, "There has been a little bit of an increase in frequency for hospitals; it had been going down. Severity has remained the same."

It is difficult to get an accurate handle on insured malpractice and related losses because about 60% of all health care losses fall within providers' self-insured retentions, Ms. Hart pointed out.

Buyers are benefiting from the heated competition, yet most are not switching insurers unless there is a service problem, Willis Corroon's Ms. Hackett said. "Buyers appreciate a stable marketplace. But, while the insurance industry considers the pricing very soft, I don't think all the insureds feel their pricing is dirt-cheap."

"Buyers are benefiting, but they are skeptical. They've ridden the cycle before, and some are reluctant to make changes. They worry that new players and start-up operations may not be there if the market turns," said Mr. Pfeiffer of St. Paul.

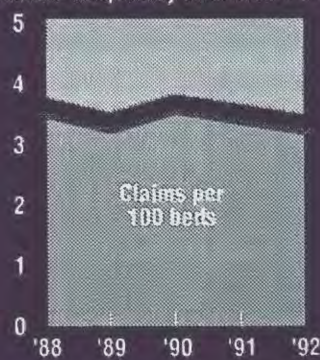
Brokers and insurers are assuming there eventually will be another turn—but probably not as severe as during the mid-1980s. While frequency and severity rates are generally stable now, "we would expect frequency to come up again," especially if injured parties become more aggressive in bringing claims, Mr. Pfeiffer said.

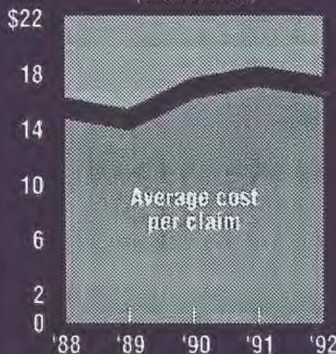
Insurers insist they are achieving rate increases of 3% to 5% this year, but brokers say most risks are renewing at or below 1993 rates.

"I keep hearing talk about upward pressure on pricing, but I haven't seen the first risk where market forces pushed a price upward. If the price of a risk increases, it is because the risk has

*Continued on next page*

## Taking the pulse of hospital liability




Source: St. Paul Fire & Marine Insurance Co.

GRAPHIC BY A.TRANCHITA

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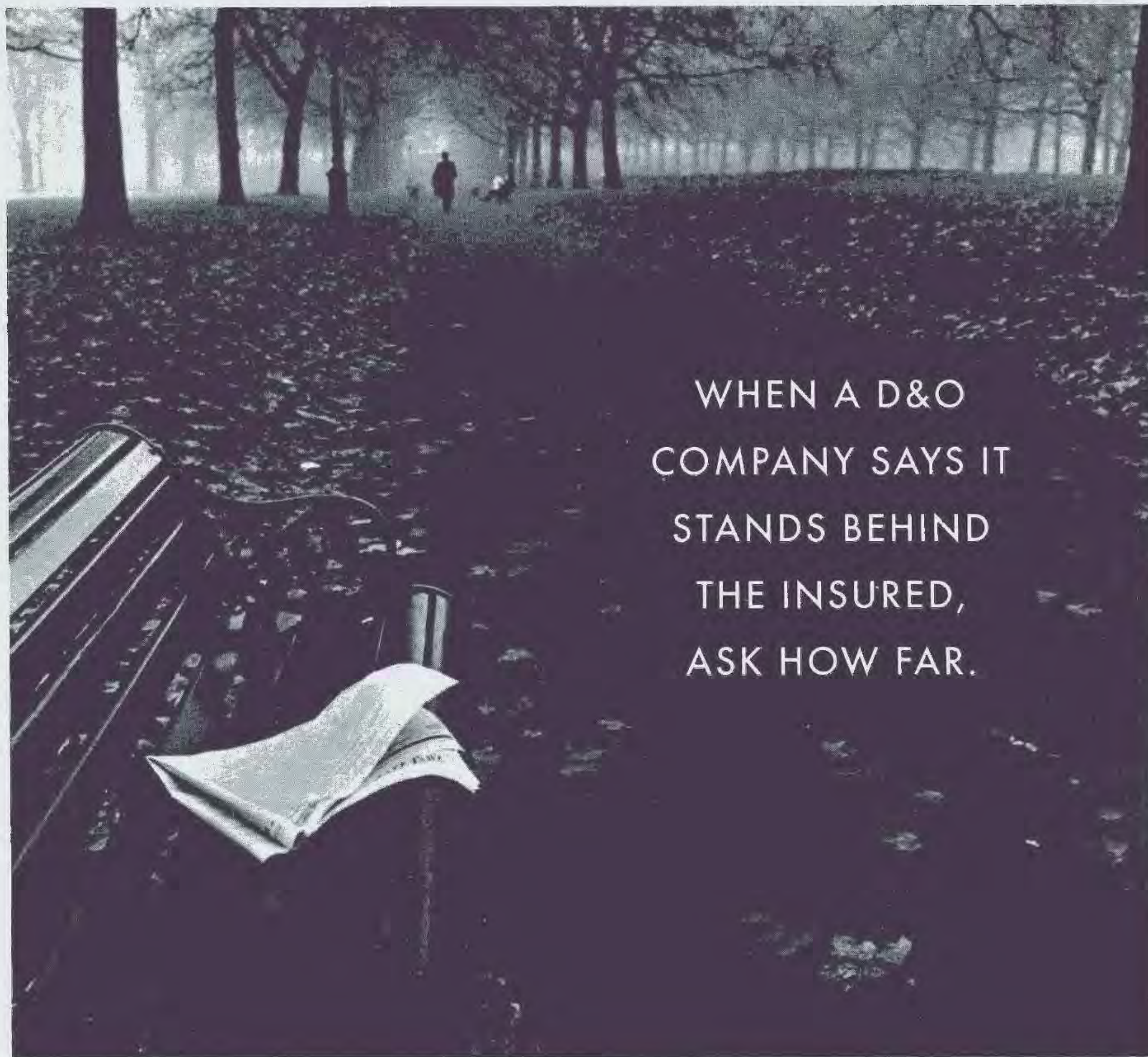


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# Malpractice

*Continued from previous page*

changed, not because the market has changed," Ms. Hackett said.

"Renewals are very stable. I haven't seen any hardenig of the market at all," said Greg Daniels, director and chairman of Sedgwick James North America's national health care group in Nashville, Tenn.

UniHealth America, a health care system based in Burbank, Calif., has been enjoying stable medical liability rates for several years and expects the trend to continue, said Roberta Carroll, vp of risk and insurance management.

"Our rates have been stable, and there are no major indications that they will go sky-high," she said.

UniHealth epitomizes the changing face of the health care delivery system. The health care organization consists of a network of 11 hospitals and six affiliated physician groups. It owns one HMO and 48% of another and is about to buy a workers compensation provider network, Ms. Carroll said.

The organization has self-insured a significant portion of its liability risks since 1989 and currently purchases excess professional and general liability coverage through American HealthCare System, a coalition of hospital systems based in San Diego. Members of AHS use their group purchasing power as leverage in negotiating reasonable rates.

Most hospitals and health care systems are not interested in increasing their coverage limits, though capacity is there to do so, brokers report.

Many took advantage of reasonable rates over the last several years and have increased their limits to a comfortable level. However, many became accustomed to assuming larger self-insured retentions during the hard market, and that trend continues. Some hospitals and health care systems are looking to increase that retention.

"Most large hospitals—those with 300 to 400 beds—self-insure the first primary layer," Ms. Hackett noted. That layer typically consists of $1 million per occurrence/$3 million aggregate or $2 million per occurrence/$4 million aggregate.

"We write about 1,400 hospitals, and maybe 1,000 still buy coverage on a first-dollar basis, while one-third buy coverage excess of SIR," St. Paul's Mr. Pfeiffer said.

Insurers' ability to accommodate the changing exposures that merging and affiliated health care entities face is becoming as important—and sometimes more important—than price, brokers say.

"The integration of health care organizations is creating opportunities for new products," Sedgwick James' Mr. Daniels explained.

Mergers among large health care systems—and among smaller hospitals—are generating new areas of liability.

Insurers say they are ready to underwrite those risks.

For example, some insurers that used to underwrite only physicians' malpractice coverage are gearing up to offer a combination of coverages under one policy to meet new health care entities' needs. It is not uncommon to find coverage for physicians, comprehensive professional liability and managed care errors and omissions coverage on one form.

"The markets definitely want to play. They are busy creating new products, even before there is a need for them," Mr. Daniels observed.

"CNA hasn't historically been in the market for hospital liability coverage. But this year we are introducing a new product to cover hospital and physician professional liability under one policy," said Bob Jones, vp of medical professional liability at CNA Insurance Cos. in Chicago.

CNA will also offer joint defense coverage so if there is a claim, the same law firm can handle the case for both the hospital and the physician. Using one law firm will "significantly" reduce legal expenses associated with malpractice suits, Mr. Jones said.

The company also writes liability coverage for other organizational structures, like affiliations between hospitals and physician groups. The coverage can incorporate affiliated surgical centers, laboratories, rehabilitation centers or any other ancillary service providers, he said.

CNA plans to offer up to $30 million in primary coverage per event under the combined hospital/physician professional liability coverage, he said. In addition, CNA will offer $5 million in medical waste liability coverage on an occurrence or aggregate basis, as well as E&O and directors and officers coverage for managed care organizations.

CNA currently writes about $340 million in medical professional liability premiums. Of that amount, about $115 million is written for individual physicians' professional liability, but Mr. Jones said he expects that volume to decline as the insurer begins to underwrite more liability coverage for hospitals and other health care entities.

PHICO Insurance Co. also is introducing new coverages in 1994, according to Mr. Henning. "We'll have a new product for health maintenance organizations and physician/hospital organizations" this year. So-called physician/hospital organizations—or PHOs—typically involve joint ownership between a facility and a group of physicians.

PHICO will begin underwriting vicarious liability coverage for HMOs and PHOs, which will cover the health care entity or facility for any claims against its physician employees, he said. PHICO also will offer administrative liability coverage, which would cover claims resulting from errors like a hospital discharging a patient prematurely or denying access to specialty physicians.

PHICO will offer various limits, depending on whether a state fund exists to cover such risks, Mr. Henning said. The company plans to offer HMOs and PHOs limits of $1 million per occurrence/$3 million aggregate and will make excess limits available. The company underwrites approximately $143 million in medical malpractice premiums.

Hospitals are making more use of "physician extenders" like surgical assistants and nurse practitioners, pointed out Craig Rowland, a second vp in PHICO's actuarial department. Health care organizations are finding "they can eliminate a doctor's position and have these assistants handle routine medical care, so we are developing a product for them."

Insurers also are interested in underwriting so-called capitation coverage for HMOs and other health care organizations. The coverage typically pays for losses that occur when expenses exceed a capitated payment contract because of underestimated demand for health services or because of catastrophic health care claims.

Capitation coverage, also known as provider excess, usually has a significant deductible and requires the provider to pay along with the insurer on a coinsurance basis, Willis Corroon's Ms. Hackett explained.

Insurers must remain alert to changes in the health care market if they want to continue to be key players, said Mr. Pfeiffer of St. Paul. "Most recognize that with the integration going on in the delivery system, they can no longer be niche players."

"The name of the game is flexibility," agreed Mr. Henning. BI

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# Life/health

*Continued from page 1*

Blues and elsewhere in 1993, as was the realization of reduced costs with the move to managed care.

"We saw trends really drop in '93 and drop much faster than anybody projected," Ms. Barrish said. "We're seeing different trend patterns in different portions of the country and by product line, but we're seeing trends in every product line drop."

Charles T. Bell, senior vp of Aetna Health Plans, a unit of Hartford, Conn.-based Aetna Life & Casualty Co., had a similar view of 1993. "It wasn't that long ago that people were saying, 'Gosh, health care costs are inflating at double-digit rates.'" But across Aetna's health care product lines, rates of inflation declined last year by 8% to 9%, Mr. Bell said, and are now at their lowest levels since 1984.

Aetna reported core earnings of $345 million in its life and health insurance and services segment for 1993, up from $249.7 million in 1992. Of 1993's life and health earnings, about $294 million came from health plans.

The downward trend in health care cost inflation and the continued shift toward managed care are related, said Mr. Bell, adding that their impact is being felt industry-wide.

In 1993, Aetna had 15 million total enrollees, with 5.4 million in managed care plans. Although managed care enrollment was up from 3.5 million a year earlier, the insurer changed its calculation methods last year, so the 1993 total enrollment figure isn't directly comparable with 1992. "An increased percentage of our book of business and also an increased number of our book of business are moving into managed care plans," Mr. Bell said.

Also in 1993, the Department of Defense awarded Aetna the lucrative contract to administer the managed care plan for the CHAMPUS program in California and Hawaii. About 700,000 military personnel and their dependents are covered under the portion of the program that Aetna will administer.

Over the 5-year life of the contract, which took effect in February, the agreement will be worth $3.5 billion, Mr. Bell said.

CIGNA HealthCare Inc., reported $463 million in operating income in 1993, up from $420 million in 1992. And, given that the 1992 figure included $108 million in one-time tax gains, the insurer's performance improved significantly in 1993, according to R. Chris Doerr, senior vp and chief financial officer for CIGNA HealthCare.

On the indemnity side of CIGNA's product line, higher income was driven in large part by the decline in medical cost inflation, while earnings on the HMO side more than doubled to $142 million in 1993 from $68 million in 1992, due largely to "significant growth" in CIGNA's HMO member base. Management of medical costs, lower administrative costs and disciplined pricing also contributed to increased HMO earnings, Mr. Doerr said, adding that quality care also will contribute to future earnings gains.

Travelers Corp.'s 1993 group life and health earnings stood at $122.7 million, compared with a $28.9 million loss in 1992. The 1992 results had been affected by restructuring reserves, additions to real estate reserves and accounting charges.

Hartford, Conn.-based Travelers is engaged in discussions with Metropolitan Life Insurance Co. about the possibility of establishing alliances among their health care operations, though neither company last week would comment further.

New York-based Met Life Insurance Co. posted group life and health earnings of $257 million in 1993, up from $220 million in 1992.

"We think Travelers is trying to sell their health insurance business," said Bob Eicher, a principal with consultant A. Foster Higgins & Co. Inc. in New York. "Travelers still has a lot of large accounts. But the problem is, to stay in business they need to update their claims system and invest more in building their (managed care) networks. I don't think the chairman of Travelers wants to make those investments."

Other observers, though, say it is unlikely Travelers will sell its health insurance business because of its substantial contributions to the company's bottom line.

Compared to their competitors, both Travelers and MetLife are relatively small players in the managed care marketplace. Travelers had 678,000 enrollees in both HMOs and point-of-service plans last year. It could not break out HMO figures alone. MetLife had 300,000 enrollees in HMOs and 1.1 million in POS plans.

Travelers last year also held unsuccessful discussions with New York Life Insurance Co. about a merger of managed care operations.

ITT Hartford Life Insurance Co., on the other hand, is pulling out of the group insurance health market. The insurer said in September that it would transfer its health insurance business to Massachusetts Mutual Life Insurance Co. (*BI*, Sept. 20, 1993). The transfer started this year. As Hartford's health insurance business comes up for renewal it is renewed on Mass Mutual's books, a Hartford spokesman said.

"We were a mid-sized player in the market," he said. "We think that with health care reform, you either need to be a pretty big player or a real niche player in the market."

Boston-based John Hancock Mutual Life Insurance Co. reported an earnings increase last year, with pretax earnings of $20.3 million in its group life and health and long-term care area, compared with $8.2 million in 1992.

The Principal Financial Group reported a decline in operating statutory earnings from 1992. The Des Moines, Iowa-based insurer posted earnings of $78.5 million in group life and health business for 1993, down from $98.5 million in 1992.

"The bulk of the differences are just accounting transactions, basically," said Mark Movic, second vp and actuary for The Principal. "For all practical purposes, our financial performance was a little bit better than last year."

The Principal also is seeing continued movement toward managed care. "We're seeing a constant movement of our traditional fee-for-service customers into managed care plans," Mr. Movic said. "We're hoping to retain as many of those people as we can through our own managed care operations."

The strong 1993 earnings of many insurers and positive projections for 1994 "should not be viewed as a sign of things to come but rather a unique situation in which the cost factors were held under control by a relatively low level of health cost increases," said Timothy W. Clark, a director in the Insurance Rating Services Unit of Standard & Poor's Corp. in New York.

The uncertainty over health care reform has prompted S&P to take a negative outlook on the future of the health insurance industry.

"Insurance companies are being forced to make some pretty significant strategy bets," Mr. Clark said, but they're making those bets without the benefit of complete information on a finished national health care plan.

Mr. Clark said S&P considers two questions in looking at a health insurer in light of where health care reform is heading: Will that insurer continue to have a business, and will that insurer be able to continue to generate reasonable profits on a risk-adjusted basis.

Among the larger insurers, "the investments in managed care have been largely made, and frankly they're in a better position for a reform environment that would include some form of managed competition," he said.

•

*Christine Woolsey also contributed to this story.*

# P/C results

*Continued from page 1*

ready destined to be a tough year," said Peter M. Mahon, senior insurance industry analyst with Piper Jaffray Inc. in Minneapolis.

"The catastrophe events of the first quarter don't seem to be enough at the present time to radically change pricing. I think that companies should view the current environment as the environment they'll have to operate in for some time to come," Mr. Mahon said.

"As long as the economy is stable and the legal system is stable, companies just sort of plod along and only raise their prices on the lines that have bad, bad losses," said Gordon Luce, an analyst with Brown Bros. Harriman & Co. in New York.

Property/casualty insurers' 1993 results look better than 1992, primarily because of reduced catastrophe losses as well as realized capital gains.

Net income for the 23 insurers surveyed by *Business Insurance* that report that information increased 71.3% to $5.82 billion last year, from $3.75 billion in 1992. This compares with a 36.2% increase for 24 insurers in the first nine months of 1993 to $5.12 billion from $3.76 billion in the comparable period of 1992 (*BI*, Nov. 22, 1993).

In 1992, insurers' net income fell 44.2% compared with 1991 levels (*BI*, March 22, 1993).

Other results for the surveyed companies:

• Net written premiums increased 2.3% to $84.76 billion from $82.9 billion in 1992. This compares with a 1.8% increase in the first nine months of 1993, and a 2.9% decline for all of 1992.

• Underwriting losses fell 26.5% to $10.44 billion from $14.2 billion a year earlier. This compares with a 12.1% drop for the first nine months of 1993, and is a far cry from the hefty 66.7% increase in underwriting losses for all of 1992.

• Investment income decreased 4.4% to $13.17 billion from $13.77 billion in 1992. Investment income was down 5.1% in the first nine months of the year to $9.87 billion, while it had increased a slight 0.3% for all of 1992.

• Policyholders surplus for the 27 companies reporting that data increased 10.7% to $58.47 from $52.84 billion. This compares with a 3.8% gain in policyholder surplus during the nine-month period, and a 2.6% increase for all of 1992.

• The aggregate combined ratio improved to 111.8% from 118.2% a year earlier. The ratio had improved to 112.8% in the first nine months of the year.

The 118.2% combined ratio in 1992, which was inflated by Hurricane Andrew, compared with a 110.5% ratio in 1991.

Many analysts said fourth-quarter 1993 insurer results were unremarkable.

"I don't think the fourth quarter really tells you very much from the standpoint of industry dynamics or prospects," said Ron Frank of Smith Barney Shearson in New York. "It was a relatively quiet quarter from the standpoint of cat losses. In that respect, it will be far more interesting to see where the ultimate losses land in terms of first-quarter cats.

"I certainly did not see anything in terms of the renewal season or results that indicated any significant dynamic change in the underwriting cycle (or) the pricing environment," said Mr. Frank.

"Clearly on the casualty side, things seem to be fairly quiet," he noted. "There continues to be a handful of companies that talk about upper single- or even lower double-digit increases in some of their lines of business, but it's not uniform and you don't get the sense it's indicative of any broad-based or sweeping turn of any kind."

Perhaps the most that could be said for many companies' results was that they met their own modest expectations, Piper Jaffray's Mr. Mahon said.

"Even the companies that did have favorable earnings surprises in the fourth quarter met with a level of disinterest by the market, because insurance stocks are not in real favor at the moment."

*Continued on page 14*

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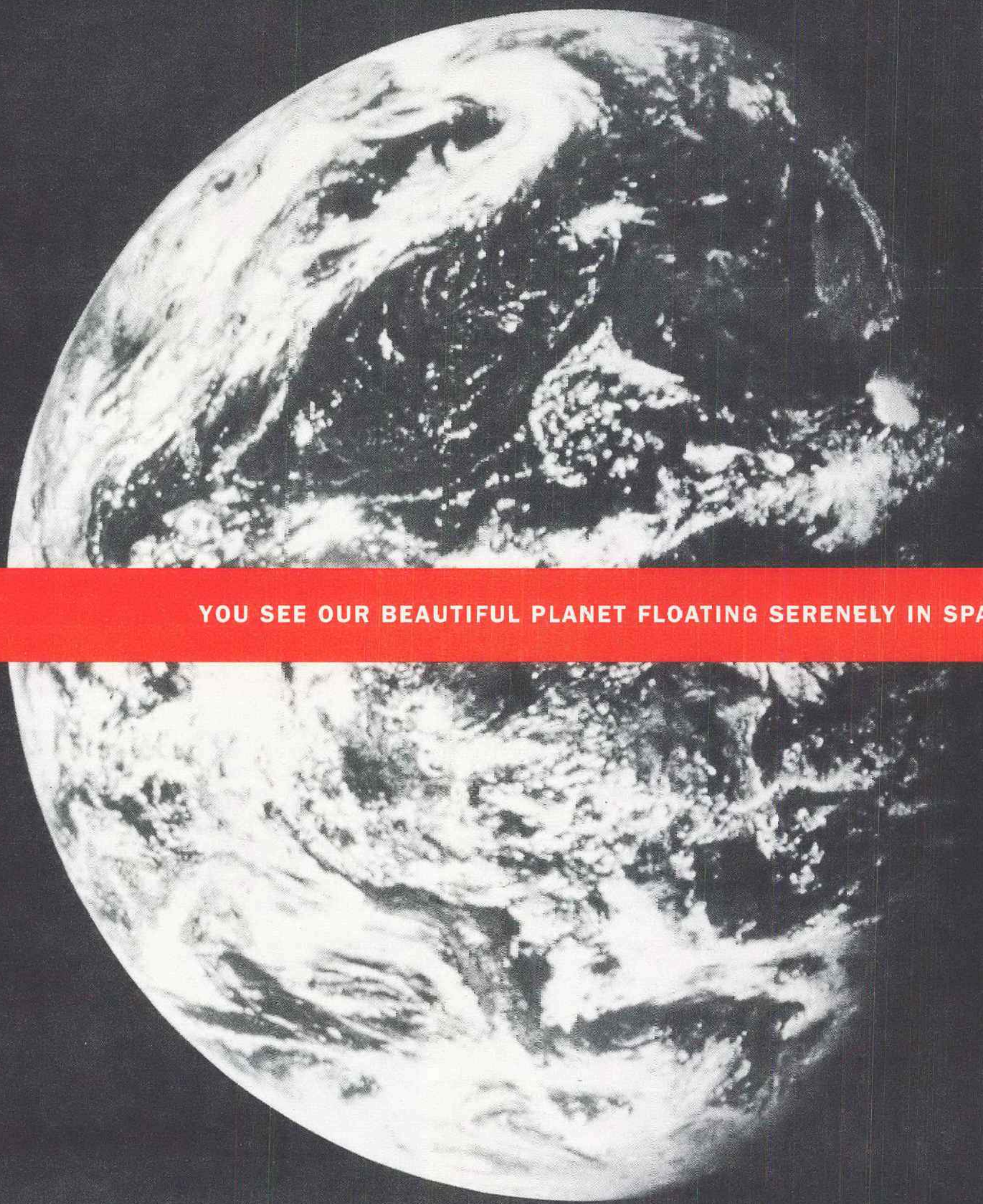

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## Summary of major property/casualty insurers' 1993 results

Ranked by change in net income. All amounts in thousands of dollars.

| Rank 1993 | Corporate: Consolidated revenues 1993 | Corporate: Net income 1993 | Corporate: Percent increase (decline) 1992-1993 | Property/casualty operations: Combined[1] ratio 1993 | Combined[1] ratio 1992 | Net premiums written 1993 | Percent increase (decrease) 1992-1993 | Pretax underwriting income (loss) 1993 | Percent increase (decline) 1992-1993 | Pretax investment income 1993 | Percent increase (decrease) 1992-1993 | Policyholders surplus 1993 | Percent increase (decrease) 1992-1993 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 USF&G Corp. | 3,243,000 | 165,000 | 489.3 | 109.4[2] | 117.2[2] | 2,429,000[2] | 3.7 | (226,000)[2] | 39.2 | 433,000[2] | (8.8) | 1,541,000 | 5.0 |
| 2 The St. Paul Cos. Inc. | 4,460,172 | 427,609 | 374.0 | 104.7[2] | 118.2[2] | 3,178,545 | 1.1 | (150,255) | 73.5 | 646,396 | 0.6 | 1,814,377 | 10.2 |
| 3 Continental Corp. | 5,173,700 | 210,000 | 350.9 | 108.9[2] | 113.6[2] | 4,520,400[2] | 11.9 | (405,400) | 30.3 | 514,300[2] | (8.1) | 1,952,000 | 3.7 |
| 4 Reliance Ins. Co. and subs. | 2,962,819 | 73,525 | 306.2 | 110.8 | 114.1 | 1,770,597 | 14.9 | (175,565) | 19.9 | 226,517 | 13.5 | 902,290 | 5.2 |
| 5 CNA Financial Corp. | 11,010,000 | 267,500 | 180.9 | 126.6[2] | 144.3[2] | 6,370,000[2] | (0.5) | (1,697,000)[2] | 39.9 | 1,038,000[2] | (13.5) | 3,600,000 | 14.6 |
| 6 ITT Hartford Group Inc. | 10,066,000 | 493,000 | 166.3 | 105.1 | 133.3 | 6,401,000 | 7.9 | (345,000) | 62.0 | 703,000 | (15.9) | 3,314,000 | 10.2 |
| 7 Berkshire Hathaway Group | 1,032,287 | 340,561 | 45.2 | 95.4 | 116.4 | 742,702 | 0.4 | 29,960 | 127.5 | 375,946 | 6.7 | 11,529,000 | 10.5 |
| 8 TIG Holdings | 1,879,000 | (127,000) | 38.9 | 126.6[2] | 132.1[2] | 1,583,000 | 1.9 | (417,000) | 19.0 | 240,500 | — | 864,000 | 12.5 |
| 9 SAFECO Corp. | 3,537,818 | 428,778 | 37.7 | 99.5 | 104.1 | 2,000,165 | 9.9 | 9,848 | 113.7 | 277,643 | (1.1) | 1,557,360 | 9.8 |
| 10 American International Group | 20,134,656 | 1,938,773 | 17.0 | 100.1[2] | 102.4[2] | 10,025,903 | 9.7 | 10,391 | 105.3 | 1,340,480 | 7.1 | N/A | N/A |
| 11 General Re Corp. | 3,560,200 | 711,300 | 8.2 | 101.5[2] | 108.4[2] | 2,524,000 | 7.5 | (36,500) | 82.4 | 755,000 | — | 3,835,600 | 11.1 |
| 12 Sentry Insurance Cos.[2] | 1,567,977 | 76,931 | 2.8 | 106.7 | 106.1 | 1,216,139 | (6.0) | (75,033) | 7.3 | 178,531 | 2.5 | 961,012 | 14.6 |
| 13 Old Republic Int'l | 1,736,312 | 175,147 | 0.2 | 106.0 | 108.1 | 876,083[2] | 9.5 | (67,515)[2] | 12.0 | 170,115[2] | (1.9) | 1,180,036 | 11.0 |
| 14 Argonaut Insurance Co. | 390,708 | 91,345 | (1.0) | 99.2[2] | 104.2[2] | 256,363[2] | (10.8) | 7,870[2] | 166.9 | 106,322[2] | (4.4) | 583,124 | 13.8 |
| 15 Lincoln National Corp. | 8,289,800 | 318,900 | (11.2) | 107.5 | 112.7 | 1,766,600 | (11.8) | (133,800) | 49.6 | 250,600 | (12.6) | 1,654,900 | 16.6 |
| 16 Ohio Casualty Corp. | 1,669,775 | 86,985 | (11.7) | 110.3[2] | 108.0[2] | 1,306,038[2] | (13.4) | (147,306) | (12.6) | 190,395 | (2.2) | 713,565 | 5.8 |
| 17 CIGNA Corp. | 18,402,000 | 234,000 | (30.6) | 137.4 | 131.3 | 4,229,000 | (12.2) | (1,631,000) | (1.7) | 667,000 | (14.5) | 1,610,000 | 6.8 |
| 18 Royal Group (U.S. subs.)[2] | N/A | 59,000 | (40.4) | 117.4[3] | 118.5[3] | 1,645,000 | 6.0 | (293,000) | — | 298,000 | (9.2) | 889,000 | 9.3 |
| 19 Fremont General Corp. | 651,405 | 42,710 | (45.7) | 101.2 | 105.4 | 455,667 | 10.0 | (5,356) | 76.1 | 67,441 | 3.6 | 221,857 | 36.3 |
| 20 Chubb Corp. | 5,267,100 | 324,200 | (47.5) | 114.8[2] | 101.1[2] | 3,521,300 | 8.6 | (535,100) | (957.5) | 533,700 | 8.1 | 1,794,100 | 0.4 |
| 21 Hartford Steam Boiler | 636,100 | 9,500 | (76.9) | 107.6 | 99.5 | 344,500 | (1.9) | (26,400) | (1,566.7) | 29,300 | (8.4) | 259,100 | (15.8) |
| 22 Home Insurance Co. | 2,709,000 | (165,000) | (545.9) | 128.1[2] | 115.6[2] | 1,875,000 | 19.3 | (540,000) | (156.0) | 246,000 | (9.9) | 900,000 | (5.4) |
| 23 Aetna Life & Casualty Co. | 17,117,700 | (365,900) | (753.4) | 116.1[2] | 126.2[2] | 4,516,400[2] | (8.1) | (1,069,100) | 20.4 | 829,400 | (4.7) | 2,678,800 | 24.3 |
| — Commercial Union Ins.(U.S.) | N/A | N/A | N/A | 106.8[2] | 108.4[2] | 1,528,400 | 5.5 | (131,500) | 7.1 | 190,100 | 1.6 | 939,700 | 8.8 |
| — Nationwide Mutual Ins. Co.[2] | N/A | N/A | N/A | 107.9 | 112.0 | 7,228,792 | 5.3 | (581,889) | 30.7 | 865,002 | 1.1 | 3,993,105 | 8.3 |
| — Kemper National Ins. Cos.[2] | N/A | N/A | N/A | 109.9 | 112.9 | 3,141,815 | 0.9 | (316,025) | 19.8 | 314,680 | (14.4) | 1,880,771 | 1.6 |
| — Liberty Mutual Ins. Co.[2] | N/A | N/A | N/A | 114.4 | 119.7 | 5,715,888 | (3.3) | (767,709) | 27.0 | 1,009,931 | (6.6) | 3,194,082 | 8.8 |
| — Travelers Insurance Cos. | N/A | N/A | N/A | 119.8 | 127.4 | 3,595,700 | (3.5) | (724,600) | 35.4 | 676,100 | (3.6) | 4,108,792 | 27.0 |
| Cumulative | 125,497,529 | 5,816,864 | 71.3 | 111.8 | 118.2 | 84,763,997 | 2.3 | (10,439,984) | 26.5 | 13,173,399 | (4.4) | 58,471,571 | 10.7 |

[1]After dividends [2]Statutory [3]Before dividends N/A-Company did not provide data

# Results

*Continued from page 11*

Operating results seem to have been fairly healthy with the notable exception of some specific write-offs and charges, said Alan Levin, senior vp with Standard & Poor's Corp. in New York.

"But the industry typically does have a lot of extraordinary write-offs and charges, so this sort of supports our contention that financial results for the industry are not very healthy," said Mr. Levin.

Results did vary widely, though, Mr. Levin said. For instance, American International Group Inc. reports it had a "record year," while Aetna Life & Casualty Co. posted a $365.9 million loss for the year after taking a $1.13 billion charge in the fourth quarter, primarily for additions to reserves (*BI*, Feb. 14).

Still, preliminary data indicate that the overall property/casualty industry posted a 107% combined ratio last year, which is better than the 109% that A.M. Best Co. had projected in December, said Senior Vp John H. Snyder.

That strong showing indicates that the "industry's probably going to continue to be able to tread water at this rate for several more quarters," he said. "Companies for the most part are not in a desperate situation yet, and we need a little desperation to get some meaningful improvement in this industry's profitability."

To John L. Ward, chief executive officer of investment bank Ward Financial Group in Cincinnati, the better-than-expected results "make you wonder what the components of the earnings were, because '93 was really a pretty tough year."

Realized capital gains were one factor, said Mr. Ward. "I think there's no question that a number of the companies were managing earnings through the timing of capital gains in their bond portfolio."

These insurers realized their capital gains at particular times to offset the impact of the prolonged soft market as well as their catastrophe loss problems, said Mr. Ward.

Observers are not particularly optimistic about this year.

"Barring a major exogenous event, such as a catastrophe loss or a major shift on the environmental front, I really don't see it as likely that you're going to see major change in the industry," said Smith Barney's Mr. Frank.

Some companies continue to shrink and pull out of lines of business, "but unfortunately in many cases that simply means there's more capital to be applied to the remaining business," he said. "It doesn't really take capital out of the system."

"The bottom line is you need to have a very certain set of circumstances, I think, to have any real prospect of major change at this point, or even significant change," said Mr. Frank.

"We think things will go from bad to worse," said Best's Mr. Snyder. The industry's first-quarter combined ratio is expected to exceed 116%, while at the same time insurers are discovering additional environmental liabilities, he said.

"The industry's slowly being backed into a corner here," said Mr. Snyder. It has been able to "pull a rabbit out of the hat from time to time thanks to the robust bond markets and equity markets." But now, "It's finally running out of room, and a lot of companies are going to start learning to make money the old-fashioned way, which is by underwriting."

One major factor expected to put pressure on earnings this year is lower investment income.

"Everybody's going to be squeezed to some extent by lower interest rates, and that's really going to be coming through the income statements for most companies this year," said Michael Crall, president of Argonaut Insurance Co. in Menlo Park, Calif.

Furthermore, "as long as the stock and bond markets remain where they are, there's going to be less opportunity for capital gains, so overall, it looks like the industry's going to produce poorer results for 1994 than for 1993," he said.

A moderate spike in interest rates in the first quarter ate away whatever cushion of unrealized capital gains on bonds that insurers carried into 1994, said Mr. Ward.

"What that means is '94 is going to be a lean year for investment income" and capital gains, he said. "If '94 continues to be lean for investment income and lean in terms of pricing, it can be a flat year at best for the industry."

SAFECO's Mr. Yonker countered that the recent rise in interest rates would actually benefit SAFECO.

SAFECO was concerned about the redemption of bonds at low interest rates because, although such a move creates favorable capital gains, SAFECO must pay taxes on the gains and then reinvest the proceeds at lower interest rates.

"We feel that, from the standpoint of investment income, this bond market decline is really benefiting us. We'd just as soon give up some of the unrealized gains we had in our portfolio" in order to "get some better yields on our investment."

Even if interest rates do continue upward, investment income will not grow as rapidly as it once did, noted Gloria Vogel, first vp with Lehman Bros. in New York. Insurers are rolling over portfolios from years ago that had much higher rates, so "you still don't have the cushion of investment income like you once did."

Another factor that could hinder investment gains is National Assn. of Insurance Commissioners' risk-based capital guidelines, which take effect with 1994 results (*BI*, Feb. 14).

Because insurers will need to have more cash available or reserved, less will be available for investments, said Joanne Morrissey, principal with Firemark Consultants in Parsippany, N.J.

What's more, insurers will be in a bind because, at a time of low interest rates, they would ordinarily turn to higher-yield investments like junk bonds. But the risk-based capital guidelines restrict junk bond holdings.

Declining investment income will not cause the market to harden immediately, analysts caution.

"Sooner or later (low interest rates) will result in some positive rate action, but that could still be quite a ways down the road," said Michael Lewis, first vp with Dean Witter Reynolds in New York.

Similarly, Superfund legislation could eventually influence the market cycle.

If changes in Superfund causes insurers to add significantly to environmental reserves, "maybe that could change pricing but that would affect more '95 than '94 the way the legislation is looking," said Adam Klauber, an analyst with rating agency Duff & Phelps in Chicago.

For this year, though, the real wild card may be catastrophes.

"If we can't even predict something that is as rational as the insurance market cycle, I don't think we're very good at predicting the likelihood of natural disasters," said Argonaut's Mr. Crall.

"I don't think it's really relevant whether we'll see more or fewer catastrophes," said Dean Witter's Mr. Lewis. More intriguing, he said, is the industry's exposure to such losses.

If nothing else, the Los Angeles earthquake and Hurricane Andrew "are showing us just what potential exposures exist, and how much industry capital can be eaten up in one major disaster," he observed.

As for whether catastrophes will harden the market, "It certainly is possible that could have some effect, but the industry has resisted" rate hikes fueled by catastrophe losses so far, Mr. Lewis said. "We haven't seen a clear indication that cat losses have led to casualty rate increases."

Barring some "monumental new record-breaking catastrophe," catastrophes will not trigger higher rates this year, said Mr. Ward of Ward Financial Group. "I don't see it happening in a big way until at least '95."

Other analysts also see no immediate turn in the market.

There is unlikely to be any turn in pricing this year, said S&P's Mr. Levin. "There's always the chance it will happen, but there's nothing that we see that implied that it is happening."

"My scenario is that throughout '94 and '95 you'll start to see some improving conditions," but these will be relatively moderate, said Duff & Phelps' Mr. Klauber.

He said he foresees no dramatic turn soon unless "environmental liabilities really get forced on some of the companies."

Different segments of the market will harden moderately at different times, but there will not be the dramatic rate increases of the past two cycles, said Gary Ransom, senior vp at Conning & Co. in Hartford.

There are signs already of rate hardening for small commercial business packages, he said. But rate hikes for larger commercial policies are "probably more than a year away."

"Optimism is hard to come by given that some of the conditions that prevail today have been in place three or four years and nothing's happened so far," said Argonaut's Mr. Crall. BI

# INTERNATIONAL

# U.K. terrorism coverage options increase

**By ADRIAN LADBURY**

LONDON—Two line slips are being launched in the London insurance market to provide much needed coverage for terrorism-related property losses in Britain.

At the same time, Pool Re, the British government-backed reinsurance pool for property losses caused by terrorism, is making its coverage more flexible and sophisticated in response to buyer demands.

Pool Re was created in late 1992 after the Assn. of British Insurers introduced a terrorism exclusion in most commercial property policies for losses in Britain (*BI*, May 17, 1993; Dec. 28, 1992).

Minet Group P.L.C., the London-based brokerage subsidiary of The St. Paul Cos. Inc., is marketing the larger of the new line slips as an alternative to Pool Re. It is aimed at small and midsize buyers that find Pool Re's rates too high and conditions too restrictive, the broker said.

Pool Re calculates its rates based on four geographic zones: The highest rate of 1.44% of the value of the insured property is charged in central London; while urban areas outside central London are charged a rate of .072%; rural areas are charged .018%; and Scotland, Wales, Devon and Cornwall pay .009%.

The policyholder must insure all of its property "to ensure we have a balanced portfolio that doesn't comprise simply just high-risk regions or buildings," said a Pool Re spokesman.

Pool Re offers unlimited coverage.

Minet limits the coverage to a first-loss basis, which enables the buyer to select how much of the risk is covered under the policy. The ability to cover only a certain proportion of a risk makes the coverage more cost-effective, according to Minet.

The coverage is written by Lloyd's and London market underwriters, which will offer up to 5 million pounds in limits ($7.4 million) per primary policy. Excess limits of 15 million to 20 million pounds ($22.3 million to $29.8 million) also are available.

Minet offers international terrorism insurance to its multinational clients that covers several countries. Tony de Boeck, manager in Minet's international department, said that after the disappearance of open-market coverage in the United Kingdom, policyholders asked the broker to develop an alternative to the government-sponsored pool.

"It may not provide sufficient coverage for very big companies, but it certainly is an alternative to Pool Re and offers selectivity of cover which Pool Re cannot give. Buyers can pick and choose which properties they want to cover and at what levels," he explained.

While Minet does not offer unlimited coverage, reinstatements are available, Mr. de Boeck explained.

The other, smaller line slip has been arranged by Lloyd's reinsurance specialty broker Alwen Hough Johnson Ltd. This slip is aimed at insurers and is complementary to the government-backed pool. It offers up to 1 million pounds ($1.5 million) in excess-of-loss reinsurance and is primarily intended to help policyholders manage their accumulation of insured risks. The coverage is led in Lloyd's of London.

"Reinsurers will not seek to influence the appropriate terrorism rate on original business, but rather offer protection for an event involving more than one in-

*Continued on page 16*

# India may open markets

## Insurance buyers hope for rate and coverage flexibility

**By KATE McILWAINE**

BOMBAY, India—International insurers and reinsurers are gearing up to establish joint-venture companies in India, following a report to Parliament favoring the privatization of the insurance industry.

However, some analysts say reforming the Indian insurance market will not satisfy risk managers' needs unless the current rate structure—which does not allow experience rating—is changed, and tight controls on deductibles and other insurance arrangements are removed.

The Indian government last year appointed the former governor of the Reserve Bank of India, R.N. Malhotra, to head the Insurance Reforms Committee and recommend changes to the current insurance system, which was nationalized in 1971.

Mr. Malhotra's recommendations were introduced in Parliament Feb. 28 and so far are supported by Minister of Finance Manmohan Singh, said Som Majumdar, the Sydney, Australia-based manager of the Southeast Asia and Middle East regions for GIO Reinsurance, a division of insurer GIO Australia Ltd.

The committee recommends that:

- India's four regional insurance subsidiaries—National Insurance Co. Ltd. of Calcutta; New India Assurance Co. Ltd. of Bombay; Oriental Insurance Co. Ltd. of New Delhi; and United India Insurance Co. Ltd. of Madras—operate independently from the government-owned General Insurance Corp. of India.
- Foreign insurers be allowed to operate in India if they establish joint ventures with Indian insurers and the Indian companies retain the majority ownership.
- GIC become a reinsurer, and the government ownership of GIC be reduced to 50%. GIO's Mr. Majumdar said 20% of every risk would still be reinsured through GIC if the Malhotra recommendations are accepted.
- The Office of Controller of Insurance operate as the regulatory authority independent from GIC.

Mr. Malhotra's committee fell short of recommending abolition of the premium rate structure.

Even if the Malhotra recommendations were implemented and more independent insurance companies were operating in India, all policyholders would still pay the same rates under the tariff structure, said T. Ramaman, chairman of the Indian Institute of Insurance & Risk Management. "And that's not fair."

However, he welcomed the report, saying increased competition and flexibility in rates, terms and insurance arrangements would be "good for the country."

He believes that after privatization, the tariff structure, set by the Tariff Advisory Committee, eventually would be removed. The TAC controls premium rates and policy wordings.

Mr. Ramaman, who also is group controller-risk management for Bombay-based Hindustan Lever Ltd., which is wholly owned by Unilever Corp., said the current system prevents his company

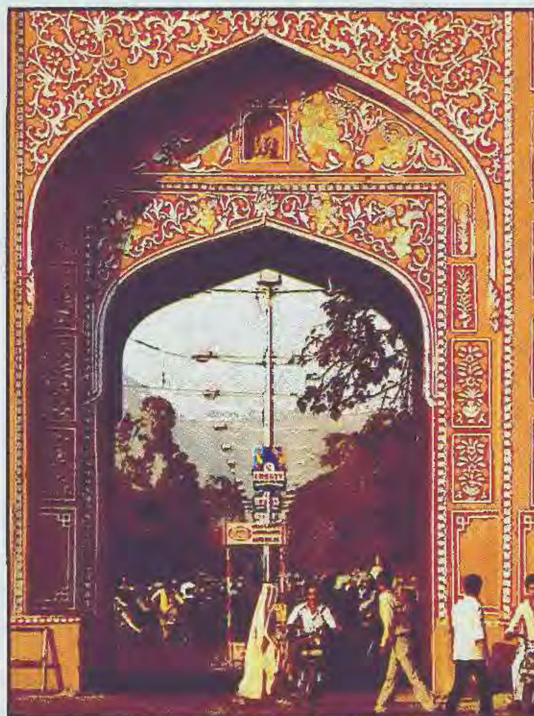

Photo by Peter M. Miller/Image Bank

**With the government encouraging foreign investment in this market of more than 800 million people, insurers await the opportunity to write coverage in India.**

from establishing a captive or assuming the deductible levels it desires. And the Indian company is unable to participate in the global programs placed by its parent.

Furthermore, even though Hindustan Lever has not had "a big claim for 57 years," it has received no premium credits for its good claims record, he said.

After India nationalized the insurance industry in 1971, it established the Bombay-based GIC in 1973 and consolidated 108 insurance companies into the four regional GIC subsidiaries.

GIC acts as reinsurer for its subsidiaries and assists them in investing funds, controlling expenses and other functions.

GIC's non-life gross premium income in fiscal 1993 was $1.2 billion, according to a report that Coopers & Lybrand prepared for Australia's QBE Insurance (International) Ltd.

The Indian market offers great opportunities for insurers and reinsurers, GIO'S Mr. Majumdar said. India's population of more than 800 million, the increasing disposable income of Indian workers, and foreign investment in the country contribute to its attractiveness to foreign insurers. The Indian government is encouraging foreign investment in industries like mining, construction, oil, telecommunications and steel, he said.

GIO Reinsurance established a representative office in Bombay two years ago headed by Paresh R. Majmundar. That office acts as a liaison office

*Continued on page 16*

**Employers still see claims rising**

# Another RSI lawsuit fails in U.K. court

**By ADRIAN LADBURY**

LONDON—A British High Court judge for the second time in six months has rejected an employee's repetitive strain injury claim, but risk managers and insurers do not believe the court decisions will stem the rising number of RSI-related lawsuits.

According to the Assn. of British Insurers, claims related to upper-limb disorders are now the third-largest group of employers' liability claims in the United Kingdom.

The latest available statistics from the U.K. Health and Safety Executive show that 74,000 repetitive strain injury cases attributed to the workplace were reported in England and Wales in 1991. These cases resulted 555,000 lost work days in 1991, with an average of 19 lost days per case.

Last week, High Court Judge David Savill ruled that Susan Bradley, a Volex Group P.L.C. employee whose job involved wrapping wires, was not suffering from tenosynovitis, an inflammation surrounding the tendons. Judge Savill found that Ms. Bradley had suffered no work-related injury.

According to Lace Mawer—the Manchester-based law firm representing Volex Group and its employers liability insurers, Sun Alliance Group P.L.C. and Iron Trades Insurance Co. Ltd.—Judge Savill rejected the argument put forward by Ms. Bradley's lawyers that she has been harmed because she has pain, and she could only have pain if there had been harm.

Like the judge in a similar October 1993 ruling, Judge Savill said this was a "back-to-front argument."

"I have been aware of (such injuries) for 20 years or so, and we have carefully monitored the possibility of it," said Glynn Jones, health and safety manager responsible for 10 plants at Volex. "And all the employees in this particular division are given a letter explaining what to do if they experience aches and pains. If the symptoms persist over a week, they must go to the nurse, who may then refer them to a doctor. . . .The question is, what is RSI? Tenosynovitis does exist, but

*Continued on next page*

# Swiss railway suffers more accident losses

DAENIKEN, Switzerland—A train collision in Daeniken, Switzerland, that killed seven people and seriously injured 14 others March 21 is the second major accident in two weeks for Switzerland's national railway system.

Property damage from the latest collision likely will total between $2 million and $3 million, said Ulrich Rothhard, director of the transport insurance division of Berner Versicherungs A.G. in Bern.

Three train cars were demolished when a 35-ton crane, owned by Switzerland's National Railway System, swerved from a nearby track where switching was being repaired. An investigation is under way to determine what caused the crane to swerve.

Neither human error nor technical defect has been excluded as a potential cause of the swerving of the crane, which was mounted on train wheels but had been idle, a spokesman for the Swiss Railway said.

The railway system has a 50 million Swiss franc ($34.9 million) self-insurance fund for any claims arising from the accident.

On March 8, a train derailed and exploded in Zurich, Switzerland, causing an estimated $21 million dollars in insured property damage. Three people were injured in that accident (*BI*, March 14).

Officials say the Daeniken accident is the worst since Sept. 1, 1984, when six people died and 24 were injured in a two-train collision in Martigny-Bourg.

*—By Don Lewis Kirk*

# Terrorism

*Continued from previous page*

sured (risk). The product is aimed primarily at medium to small portfolios and is applicable to insurers whether they are members of Pool Re or not," said Hugh Price, executive director at Alwen Hough Johnson.

Meanwhile, Pool Re is enhancing the coverage it offers.

Pool Re Chairman Eric Coward explained that it has introduced a form of stop-loss coverage for insurers of residential blocks of apartment buildings. Residential coverage was fiercely criticized as too expensive by the Assn. of Insurance & Risk Managers in Industry & Commerce. The coverage is available excess of 500,000 pounds ($744,000), 1 million pounds, 2.5 million pounds ($3.7 million) or 5 million pounds ($7.4 million).

Mr. Coward also said he is working on simple rate-reduction plans to credit policyholders for loss control efforts.

"We should be able to offer reductions of, say, 10% to take account of simple risk management measures like film on windows, regular surveillance of properties, that sort of thing." The pool is also "tinkering" with its business interruption coverage by considering longer periods of coverage, he said.

Pool Re will announce its 1993 financial results on May 13. BI

# RSI

*Continued from previous page*

the way we monitor it, it gives us a great chance to help the person."

Risk managers reacted as cautiously to last week's High Court decision in Leeds, Yorkshire, as they did to last October's seemingly groundbreaking ruling (*BI*, Nov. 8, 1993).

And insurers insist that reserves for RSI claims will not be reduced as a result of the decisions.

The RSI debate heated up in October when High Court Judge Prosser dismissed a high-profile RSI claim brought by Rafiq Mughal, an ex-Reuters Holdings P.L.C. desk editor.

In that case, the judge said the evidence had not convinced him that Mr. Mughal had suffered from RSI because of alleged negligence by Reuters and that the plaintiff was more likely the victim of mental rather than physical problems.

Employee groups and trade unions were infuriated by the ruling, which appeared to cast doubt on the validity of all RSI-type claims.

But, despite the certainty of the decision, risk managers and insurers said they felt the ruling was extraordinary and would probably not be followed in other courts.

Only three months later, it appeared they were correct after a record 79,000 pound ($117,591) settlement was paid to former Inland Revenue typist Kathleen Harris, who blamed typing injuries for the loss of income for the previous two years. Ms. Harris was represented by her union, the Inland Revenue Staff Federation, which said it had 150 similar cases in the pipeline.

"RSI is a phrase which is misleading and confusing to both the medical and legal profession," said Nigel Roden, senior litigation partner at Lace Mawer. "These two decisions indicate that the judiciary at least are obtaining a better understanding of the condition."

That confusion among professionals and the fact that most of these claims are settled produced the muted response among risk managers and insurers.

"There is a lot of evidence to show that there are a lot of problems in this area, and it would be foolish to ignore the potential. Our members should proceed with great caution," said Alan Fleming, chief executive of the Assn. of Insurance & Risk Managers in Industry & Commerce Ltd.

"Bearing in mind there have been negotiated settlements, such as the Inland Revenue case earlier this year, I do not think reserves will be released," said Victor Rance, manager of the ABI's liability department. "The vast majority of these cases are negotiated (out of court), and as with all legal cases, it depends on the particular circumstances of each case. I suspect insurers will be reluctant to change their practices in general, but I suppose it's a pointer in the opposite direction," Mr. Rance pointed out. BI

# India

*Continued from previous page*

for GIO clients in the area, however, and is not authorized to write business in India.

Although the Malhotra report does not support abolition of the Tariff Advisory Committee, the plan would allow more frequent tariff reviews in light of claims experience, Mr. Majumdar said. The report also said the TAC should include community and insurance industry representatives, and should be controlled by the insurance commissioner instead of the government-owned insurer.

QBE, which had an Indian office until nationalization in 1971, is anxious to re-enter the market as a direct underwriter, said Neil G. Drabsch, company secretary and chief financial officer in Sydney.

QBE's regional development manager in Asia, Dan Carroll, and Ray Hick, general manager of international operations, visited India in January to discuss the report with Mr. Malhotra.

Mr. Drabsch said he expects that any joint venture between QBE and an Indian partner would be a public company, with QBE required to inject $30 million in capital. QBE also would want management control.

QBE's former Indian company had its $1 million Australian ($711,000 at the current exchange rate) worth of assets frozen when the industry was nationalized. Although it was "not a small sum to lose," QBE is confident that the political climate in India has changed sufficiently to diminish the risk of nationalization of assets, he said.

QBE wants to see a market "with no commercial restraints," he said. The Indian government is "moving quicker than we expected" and the Indian market may develop faster than China, Mr. Drabsch said.

Ross Bovill, managing director of Sedgwick Asia Pacific Ltd. in Singapore, said brokers also could operate in the Indian market if the recommendations become law. Currently, brokers in India only operate as consultants on a fee basis. However, reinsurance brokers may operate in the Indian market.

Deregulation is "very exciting for the insurance industry worldwide and for Indian commercial/industrial insurance buyers," Mr. Bovill said. Sedgwick plans to monitor the situation closely.

GIO's Mr. Majumdar said the Malhotra report is now being circulated among the Indian opposition political parties to seek their support.

*Continued on next page*


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## INTERNATIONAL

*Continued from previous page*

In addition to other political parties, formidable opposition also is coming from the All-India Insurance Employees' Assn., a trade union with about 80,000 members. The union opposes the report because the proposals are a risk to its members' employment in the government-owned insurance companies.

There is "a lot of opposition from employees who want to retain the present structure, but I don't think the government will agree," said Mr. Ramaman.

Mr. Bovill said Indian insurers are not permitted to be computerized because of the threat to employment.

In addition to resistance from state workers, other important issues, like compulsory coverage, must be overcome, he said. Indian insurers are required to underwrite policies like flood coverage for farmers, though they lose money on those policies. In addition, they must invest a certain amount of their funds in government securities, though better interest rates are available elsewhere.

It will be at least a year before formal legislation is in place to deregulate the Indian insurance industry, GIO's Mr. Majumdar said. Once that occurs, a regulatory body would have to be established before foreign companies could form their joint ventures with Indian insurers or other Indian-based companies. "We're in the transition stage now."

QBE's Mr. Drabsch expects the Indian government to overcome opposition to the Malhotra report. "There will be internal problems, but we expect those to be resolved. Commercial forces and public pressure mean it is "to everyone's advantage to have diversity of product and lower prices," he said. BI

## For the Record

### No CGL policy cover for pollution claim

SAN DIEGO—The California Court of Appeal dealt policyholders a blow when it ruled that general liability coverage for personal injury does not respond to costs associated with pollution cleanup.

The ruling last month from the 4th Appellate District overturned a trial court ruling in *Titan Corp. vs. Aetna Casualty & Surety Co.* The court rejected Titan's argument that environmental contamination at a New Jersey facility constituted personal injury under the company's 1985 CGL policy.

The court said Titan's policy "unambiguously declared that it would not pay for either bodily injury or property damage when the cause of such injury or damage is pollution." To allow the policyholder to collect on its insurance simply by re-labeling the damages a personal injury, which covers, among other things, "wrongful entry or an invasion of the right of private occupancy," would render the pollution exclusion meaningless, the court said.

San Diego-based Titan has been seeking coverage for state-mandated cleanup costs at the New Jersey facility, where ferrite production produced sludge and solid waste materials.

Laura Foggan, a partner in the Washington law firm Wiley, Rein & Fielding and counsel for the Insurance Environmental Litigation Assn., said the ruling is important for insurers because the question of whether pollution is equivalent to personal injury for the purposes of collecting on a CGL policy is being addressed by courts.

"Consensus continues to build among courts around the country that the pollution exclusions mean what they say. In the face of this rising tide of judicial opinion, the new tactic of industrial policyholders is to attempt to rewrite the personal injury policy language to create environmental coverage. This court's rejection of this tactic confirms the fundamental rule that policyholders are not entitled to coverage for which they have not paid."

### Malpractice insurer enters liquidation

JEFFERSON CITY, Mo.—U.S. Physicians Mutual Risk Retention Group, a Missouri medical malpractice insurer, has entered voluntary liquidation, though Missouri regulators believe it will ultimately be able to pay all claims.

A Jackson County Circuit Court judge signed the liquidation order last month after the risk retention group reported negative policyholders surplus of about $1.1 million as of Dec. 31, 1993.

U.S. Physicians reported total assets of $10.1 million at year-end 1993 and total liabilities of $11.2 million, according to the Missouri Insurance Department.

However, the insurer has a $770,000 reserve for unearned death, disability and retirement insurance premiums that will become fully earned when the policies are canceled or shifted to another insurer, according to the Missouri department.

This, along with discounting of other reserves, will leave U.S. Physicians with zero surplus and should allow it to pay all claims, the Insurance Department says.

U.S. Physicians wrote $5.7 million in premiums on about 446 policies in 20 states last year. The insurer wrote the largest volume of premiums in Texas, New Hampshire, Michigan and Illinois.

### Railroad insured for spill settlement

SACRAMENTO, Calif.—Southern Pacific Transportation Co. is insured for the $32 million it has agreed to pay to settle suits from a 1991 toxic spill in the Sacramento River. A tank car in a Southern Pacific train fell into the river, spilling 19,000 gallons of a weed-killer that destroyed wildlife and dried up tourism along the scenic river (*BI*, July 29, 1991).

In a consent decree in U.S. District Court here earlier this month, the railroad agreed to pay cleanup and restoration costs of $30 million over five years in addition to $2 million it has already paid. The railroad last year agreed to pay $14 million to settle private suits. Southern Pacific is insured for derailment claims after a $10 million retention.

Also in the settlement, GATX Corp., which owned the tank car, will pay $5 million. GATX would not comment on its insurance. AMVAC Chemical Corp., a unit of American Vanguard Corp., the maker of the weedkiller, agreed to pay $2 million. "Most of that is covered by insurance," said James Barry, chief financial officer, in Los Angeles.

J.M. Huber Corp. of Edison, N.J., which leased the car, agreed to pay $1 million, most of which will be insured, according to a spokesman. BI


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# Settlement

*Continued from page 2*

valves, smoke detectors and other firefighting apparatus.

Stephen Cozen of the Philadelphia law firm of Cozen & O'Connor, which represented E/R in its negligence suit, said he believes the $100 million E/R has secured from the service companies should help Aetna and E/R reach a settlement on indemnification for loss of rental income, maintenance costs and a plan for reconstructing the building. Aetna has a subrogation interest in the settlement, up to the amount it has indemnified E/R for its losses.

What "Aetna pays (E/R) is up to them, but with some $100 million on the table, negotiations can only be helped along. I know the parties are anxious to settle," Mr. Cozen said.

Henry Daar, a partner with Kostow & Daar in Chicago, which represents Aetna, said that while "I always hope a case will settle, whether or not that will happen we don't know. At this point we're still in discovery moving toward a trial."

Mr. Daar said E/R and Aetna are not prepared to settle their coverage dispute at this point. "From Day One we've run into questions about environmental cleanup, what can be repaired vs. what cannot, and how much should be paid. There have been no agreements so far."

To date, Aetna has paid E/R about $28.5 million of an original $51 million claim for the cost of stabilizing the building after the fire. Aetna has also paid an unspecified portion of E/R's claim for lost rental income. These payments were made prior to Aetna's lawsuit. No payments have been made since.

Meanwhile, E/R and reinsurance broker Bailis & Co., in whose offices the fire started, have settled all but "about six" of the 53 negligence suits they and other companies were hit with in the aftermath of the blaze. Those suits, including a handful of class-action suits that sought more than $250 million in specified damages as well as $2 billion in punitive damages, were filed primarily by four groups of plaintiffs: the injured firefighters and estates of the three dead firemen; adjacent property owners and their subrogating insurers; tenants and their subrogating insurers; and uninsured parties affected by the fire. Those suits have settled for less than $50 million. Efforts to have the suits certified as a class action were unsuccessful and punitive damages claims were dismissed on summary judgment.

E/R has $100 million in liability insurance, also with Aetna, while Bailis had $200 million in liability coverage from The St. Paul Cos. Inc.

Samuel Pace, an attorney with Labrum & Doak in Philadelphia, which represented one of the contractors, said one of the leading reasons the settlement occurred was that Joseph F.X. Griffin, an unlicensed contractor that improperly stored oily rags in Bailis' office that later ignited causing the fire, was uninsured.

Due to the fact that Pennsylvania has a strict joint and several liability statute, even if Griffin was found 99% liable in court and another defendant was found 1% liable, that other defendant and its insurer could have been on the hook for a verdict as high as $400 million. "The main factor that led to the agreement was that several high-limit insurers were at risk," said Mr. Pace.

All but a couple of the defendants carried commercial liability insurance ranging from as little as $1 million up to more than $300 million.

William H. Champlin of Tyler, Cooper & Alcorn in Hartford, Conn., which acted as defense counsel liaison for the defendants, said no single defendant settled for the full limits of its policies and no single defendant was responsible for more than 25% of the total settlement, which he confirmed was "just more than $100 million."

"While $400 million was the total of Mr. Cozen's claims, we felt that in court they would boil down to something closer to $125 million to $135 million. Still, no one defendant had sufficient coverage to respond to the full value of the claim. What we ended up doing was settling for a value the defendants believed was close to or less than the total value of the claims," Mr. Champlin said.

Of the defendants that were still named in the suit at the time of settlement, only Honeywell Inc. refused to take part in the settlement.

Prior to the settlement, all defendants disclosed their insurance to the court. At the time of the fire, Honeywell carried $301 million of insurance in six layers: A $6 million primary layer written by ITT Hartford Insurance Group Inc.; $5 million excess of $6 million by National Union Fire Insurance Co. of Pittsburgh, Pa., a unit of American International Group Inc.; $5 million excess of $11 million by St. Paul Surplus Lines Insurance Co., $10 million excess of $16 million by AIG; $75 million excess of $26 million by X.L. Insurance Co. Ltd.; and $200 million excess of $101 million by ACE Insurance Co. Ltd.

Other defendants that carried high limits of coverage included Premier Industrial Corp., and its subsidiary, Akron Brass Co.: at least $10 million in first-layer coverage written by Sentry Insurance Co.; $10 excess of at least $10 million by Lexington Insurance Co., an AIG unit; $10 million excess of at least $20 million by Federal Insurance Co.; $15 million excess of at least $30 million by Aetna Casualty & Surety Co.; $10 million excess of at least $45 million also by Federal; and $10 million excess of at least $55 million by Fireman's Fund Insurance Co.

Maris Equipment Co. carried $60 million of excess insurance written in six layers on top of a $1.5 million primary liability policy written by Zurich Insurance Co. National Union had the first $15 million excess layer, Reliance Insurance Co. wrote $10 million excess of $20.5 million, CIGNA Corp. wrote $10 million excess of $30.5 million and Lexington wrote the top layer of $15 million excess of $46.5 million.

Other insurers with sizable layers of other defendants' programs: Industrial Insurance Co. wrote $5 million excess of $2 million and Royal Surplus Lines Insurance Co. wrote $10 million excess of $7 million for American Building Maintenance Co. of New York; Zurich wrote the equivalent of $7.5 million for National Guardian Security Service Corp.; Aetna wrote $6 million of primary and excess coverage for John Ashe & Associates; and First State Insurance Co. wrote $5 million of excess coverage for Halprin Supply Co. and for Sierra Fire Equipment Co.

Mr. Champlin could not say how much each insurer ultimately paid, but reiterated that no policyholder tapped its full excess limits. BI

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| **Risk/Employee Benefits:** | |
| Vice Presidents, Directors, Managers, and other realted department personnel of: insurance, risk employee benefits, personnel, compensation, pension, safety, security, industrial relations, human resources and employee/labor relations | 15,138 |
| **Sub-total** | **27,859** |
| Associations | 371 |
| Government, Unions and Educational Institutions | 986 |
| **Commercial Consumers Sub-total** | **29,216** |
| Insurance Agents and Brokers | 8,607 |
| Insurance Companies | 8,258 |
| Accountants, Actuaries, Attorneys & Consultants | 3,576 |
| Managers & Health Care Providers | 1,941 |
| Others Allied to the Field | 1,351 |
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★ Source Business/Occupational breakdown of qualified circulation, November 29, 1993 Issue, as submitted to BPA for December 1993 BPA Publisher's Statement.

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| **April 11** | ***RIMS Preview*** | **March 29 — noon** |
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# Retirees

Continued from page 2

quirements and deductibles on 3,300 retirees whose benefits had been negotiated under previous collective bargaining agreements with the United Automobile, Aerospace and Agricultural Implement Workers of America. Teledyne also terminated union retirees' life insurance benefit.

Teledyne imposed the same health coverage requirements on active union employees. The company already had established an identical health plan for its non-union employees and retirees.

The union retirees sued in May 1990, alleging that Teledyne violated provisions of the federal Labor Management Relations Act and the Employee Retirement Income Security Act.

A U.S. District Court in Lansing in November 1990 imposed a preliminary injunction against Teledyne, restoring retirees' previous benefit levels pending a jury trial.

Even though courts preclude jury trials in ERISA cases, the Michigan federal court allowed one in this case because the LMRA provides for jury trials.

Teledyne argued, among other things, that insurance agreements under previous collective bargaining agreements contained benefit duration clauses that explicitly stated Teledyne could amend or terminate retiree health coverage subject to proper notice.

It also produced a transcript of a UAW meeting during which a union official, addressing another official's concern, said Teledyne in future collective bargaining negotiations could "tell you they are not going to pay the retirees' insurance anymore."

In addition, other portions of the collective bargaining agreements and the parties' bargaining history indicate that union retirees are entitled to the identical benefits that active union employees receive, the company said.

Teledyne also pointed out that the union in 1986 agreed to a reduction of benefits for active employees and retirees who do not seek treatment from specified health maintenance organizations and preferred provider organizations.

The retirees argued that the retiree benefit duration clauses are ambiguous because they do not state how long the obligation exists.

The inclusion of specific durational limitations in other collective bargaining agreement provisions show, by contrast, that Teledyne intended to provide lifetime retiree health benefits, retirees argued.

They also said that active employees' and retirees' benefits have never been linked. For example, Teledyne did not terminate active employees' life insurance when it terminated the union retirees' plan in 1990, retirees said.

In the Kelsey-Hayes case, the Romulus, Mich.-based subsidiary of Verity Corp. last year notified retirees from several plants it owned and others it had sold that their first-dollar coverage would end in January 1994.

The manufacturer of wheels and brake parts for automobiles and trucks said it was imposing monthly premiums, annual deductibles and copayment requirements.

The Kelsey-Hayes UAW retirees sued in December 1993, alleging violations of the LMRA and ERISA.

U.S. District Judge Paul V. Gadola in Detroit on March 14 ordered Kelsey-Hayes to reinstate the retirees' previous benefit levels, pending a trial. He based his decision on, among other things, the plaintiffs' likelihood of success at trial.

He noted that the collective bargaining agreements at issue do not explicitly allow the company to modify its retiree health plans.

In addition, provisions of the agreements tie retirees' eligibility for health care coverage to their eligibility for lifetime pension benefits.

Also, the company's summary plan descriptions, which take precedent over plan document language in the 6th Circuit, state that retiree health benefits are free for retirees' lives, their spouses' lives and for eligible dependent children.

Judge Gadola also rejected the company's argument that durational clauses in the collective bargaining agreements specifically limit retiree health benefits and are not general clauses that refer to the agreements' expiration. Citing *Yard-Man*, the judge said durational clauses "do not outweigh the implication that retiree health benefits were intended to outlast the life of a particular bargaining agreement."

The judge also restored the benefits because he believed that the retirees could suffer irreparable harm otherwise.

•

*Linda Schalk, representative of the estate of James Schalk, deceased, et al. vs. Teledyne Inc. and Teledyne Industries Inc., U.S. District Court for the Western District of Michigan, Southern Division; No. 1:90-CV-460; and Joseph Golden et al. vs. Kelsey-Hayes Co., U.S. District Court for the Eastern District of Michigan, Southern Division; No. 93-74824.*

# Workers compensation ruling sets new Florida precedent

**By MEG FLETCHER**

TALLAHASSEE, Fla.—In a precedent-setting decision, the Florida Supreme Court ruled earlier this month that a teacher who had a brain hemorrhage shortly after arguing with a student about chewing gum in class deserves workers compensation benefits.

Warren Zundell of Hialeah, Fla., was an algebra teacher at Hialeah Junior High School in January 1988 when he suffered the job-stress injury—a burst blood vessel—that ended his teaching career.

A workers comp judge and a split decision by the state's 1st District Court of Appeals denied him workers comp benefits, relying on earlier Florida rulings that tied the compensability of cardiovascular injuries to the issue of whether a claimant had a history of heart problems or high blood pressure. Since Mr. Zundell had no such history, benefits were denied.

However, the appeals court asked the Florida Supreme Court to review the case because it was "of great public importance."

In its March 10 decision, the high court said, "Absent sufficient evidence of a pre-existing condition, cases involving alleged workplace cardiovascular injuries generally should be analyzed like any other workplace injury. Such injuries often may be essentially no different, for example, than a hernia brought on by routine workplace exertion, in the absence of a pre-existing condition."

To use this precedent, claimants still will be required to prove that no relevant pre-existing condition aggravated a workplace injury.

The court essentially ruled that Mr. Zundell did not need a pre-existing physical condition as a prerequisite to compensation, said Jeffrey Gale, an attorney in the firm of Dunn & Johnson in Miami, which represented Mr. Zundell. The state Supreme Court also held that the precipitating event need not be beyond the scope of his normal duties to qualify for compensation, he said.

Mr. Zundell's personal attorney was on vacation and unavailable for comment.

"It opens the eyes of attorneys" about how the courts will apply different legal precedents and should make attorneys more willing to take on stress-related cases involving cardiovascular problems, Mr. Gale said.

The state Supreme Court remanded the case to the appeals court for further proceedings.

Mr. Zundell is expected to be eligible for benefits, including up to $400 per week retroactive to the 1988 incident, Mr. Dunn said.

•

*Warren Zundell vs. Dade County School Board et al., Supreme Court of Florida; No. 81057.*


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# Retirement

*Continued from page 2*

fined benefit pension plan, as well as a "transition assistance" program equivalent to about three to six months' pay. A slightly different package has been approved for the Berkeley campus.

The university's law schools are expected to lose up to 41 staff members under this year's VERIP.

For example, Berkeley School of Law lost nine out of 47 faculty members during the first two years of the early retirement program and another 17 staff members are eligible this year. At the Los Angeles School of Law, five out of approximately 50 staff are expected to take early retirement.

At the other two law schools in the university system, Davis School of Law has 12 faculty members eligible for early retirement and Hastings College of Law in San Francisco has seven eligible faculty members.

Law school officials say employees have until the end of April to make a final decision, but the schools' fall schedules generally are already in place before then, which puts them in a bind if professors retire. Furthermore, officials note they might not get permission to hire enough staff to replace those who have left.

"That could create huge holes in our curriculum," said Rex R. Perschbacher, an associate dean and law professor at Davis School of Law. For example, he said the eligible retirees include a faculty member who teaches a heavy load of basic courses like civil procedure and evidence.

Officials say the retirement program could mean the sudden loss of valuable, experienced teachers.

Julian N. Eule, associate dean at Los Angeles School of Law, said: "In some schools it might have the potential of getting rid of a lot of dead wood, but we happen to regard our senior faculty as among our very best, so we're going to make every effort to keep them involved and around to the extent that we're able to do so."

There are ways to avoid some of the problems faced by the University of California law schools, said consultant Ethan Kra, managing director and chief actuary-retirement for William M. Mercer Inc. in New York. "One of my clients did design an early retirement program to avoid just that type of situation."

The employer introduced a nonqualified severance pay plan that took a "carrot and stick" approach. Early retirees were paid a certain amount based on a formula if they agreed to leave the company, which was the carrot. As the stick, the company also announced that if it did not get a sufficient number of volunteers, the voluntary program would be followed by an "involuntary" program that might not offer the same generous benefits package.

However, the company also reserved the right to refuse requests to participate in the program to avoid the danger of losing too many people in any particular department, such as may happen to the University of California law schools.

Mercer's client found that not only did a large number of people use the program, thereby meeting its payroll reduction goals, but also that the people they wanted to leave did so. "Others should look at that type of approach" while using outside counsel to be sure it complies with local, state and federal law, Mr. Kra suggested. BI

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# Awards

*Continued from page 3*

"Millions of dollars are spent by business, especially manufacturers and insurance companies, in an attempt to poison the well," said Thomas A. Demetrio, a Chicago lawyer who has represented plaintiffs in more than 100 personal injury jury trials.

Yet "when all is said and done, jurors base their decisions on the facts of the case," contends Mr. Demetrio, who is with Corboy Demetrio Clifford. "Nine out of 10 times, jurors do not pay heed to the very expensive attempt to brainwash them. Jurors do the right thing."

Another reason for the improved defense results in personal injury jury trials is that more and more cases are being settled out of court.

"Where there is a marginal chance of exposure" defendants are settling, said Victor Schwartz, a defense attorney with Crowell & Moring in Washington, and a product liability reform lobbyist. "The cases that are going to a jury are cases where defendants are reasonably certain they are going to win."

Mr. Demetrio agrees. "I can't tell you the number of cases we've discouraged" from going to trial. Most medical negligence cases, for instance, that do go to trial are won by defendants, he said, adding that health care providers win 80% of the medical negligence cases brought in Cook County, Ill.

Not only are juries finding for personal injury plaintiffs less often, but when they do, they are awarding less money, Jury Verdict Research found.

In personal injury verdicts overall, the median compensatory award declined 11% to $62,000 in 1992 from $70,000 in 1989.

This trend was especially notable in medical malpractice verdicts, where the median award fell 17% between 1991 and 1992 to $350,000. More specifically, in cases where the defendants are doctors, the median award fell 30% to $300,000 in 1992. Where hospitals were defendants, the median fell 6.5% to $374,753 and where both were defendants, the median fell less than 1%—to $500,000 from $503,500 in 1991.

For product liability cases, the median verdict fell about 5% to $450,000. The median verdict for consumer product liability cases was $150,000 in 1992 down from $364,000 in 1991, but up from $104,223 in 1990, the study found.

In premises liability cases—where an injured person sued the owner or operator of commercial property for failing to provide a safe and secure environment—the median verdict in 1992 was $74,518, about 16% less than the 1991 median of $89,201.

Some liability experts caution that some of the Jury Verdict Research data comes from newspaper stories and lawyers who phone in details about their own cases, so the study itself is not comprehensive or scientific.

"The data may or may not reflect the true picture," warned Mr. Schwartz.

Indeed, Mr. Demetrio contends that awards are not getting smaller and are instead keeping up with inflation.

Some other personal injury lawyers, though, say juries may be getting stingier.

"There's a lot of truth" to the jury data, contends Lawrence L. Kotin, a veteran Chicago personal injury attorney with his own firm.

He thinks that a "bit of a bashing from Bush" has had some effect on juries. President Bush made some hay in the 1992 campaign by promising to end "these crazy lawsuits" and to "climb into the ring" with trial lawyers.

There is no simple answer to why jury awards might be decreasing, Duke's Mr. Vidmar pointed out. Among the factors that influence awards are alternative dispute resolutions, different lawyers, different cases and settlements, he said.

According to Cornell's Mr. Eisenberg, there is a "natural limit" to jury awards. Product liability awards for example, started in the '60s, boomed in the '80s and now have "less room to expand," he said. "People reach a certain state and then have to turn back." BI

# NAM still opposes reform plan

WASHINGTON—The National Assn. of Manufacturers will not waver in its opposition to the Clinton administration's plan to require employers to pay for the bulk of their employees' health care benefits.

"Imposition of employer mandates is about the worst possible way" to control health care costs, said NAM President Jerry Jasinowski. The Washington-based business trade group has not yet endorsed any alternative health care reform program, however.

"We think it's premature to endorse any proposal because we're at the early stages of the debate," he said.

Mr. Jasinowski made his comments last week as he unveiled a series of health care reform recommendations endorsed by the NAM executive committee.

In addition to opposing employer mandates, the executive committee called for: the continuation of an employment-based health care system; market-driven cost containment whereby employers retain flexibility in plan design and management without government price controls; national uniformity in any reforms so that employers aren't forced to meet a variety of state mandates or participate in single-payer systems; the creation of voluntary, competitive purchasing groups; and insurance reforms and medical malpractice tort reforms.

Mr. Jasinowski also reiterated NAM's opposition to proposals to limit employers' tax deduction for health benefits. Any financing for national health care reform should come from broad-based taxes, he said, adding that the NAM executive committee has not endorsed any specific taxes to achieve that end. He refused to rule out the possibility of subjecting a portion of employer-provided benefits to individual income taxes.

He said the Clinton plan was based "on a lot of overpromising" and unrealistic cost assumptions. If it were passed in its current form, "employers would simply be in the check-writing business" for health care and small-business employment would drop, he predicted.

*— By Mark A. Hofmann*


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# Reform bill

*Continued from page 1*

posal is taken up by his committee after Congress returns from its spring recess next month.

"When we come to financing, we'll begin at the beginning."

In general, Rep. Rostenkowski predicted, a bill that emerges from his committee will be "more conservative" than the proposal approved by the Stark panel.

Other powerful congressional Democrats with jurisdiction over health care reform legislation also indicated they intend to deviate—at least on how universal health care coverage is financed—from the Health Subcommittee.

For example, the staff of Rep. John Dingell, the Michigan Democrat who chairs the House Energy and Commerce Committee, circulated an eight-page proposal last week that would cap small employers' health care costs at as little as 1% of payroll (see related story).

The Health subcommittee bill calls for diverting a portion of revenue from a proposed $1.25 increase in the federal tax on a pack of cigarettes to provide small employer health care cost subsidies. The bill, though, would not place a specific percentage cap on small employers' premium contributions.

And a group of Ways and Means members last week circulated a proposal that does not call for any government price controls, but would cap small employers' premium contributions to as little as 3.5% of payroll depending on their size and average wages.

Taking a more conservative approach will be especially important if health care reform legislation is to have any chance of passing the Energy and Commerce Committee. The committee has a number of Democrats—including Reps. Jim Cooper, D-Tenn., Mike Synar, D-Okla., and Roy Rowland, D-Ga.—who strongly oppose key provisions in the Stark bill, such as an employer mandate and government health care price controls.

By contrast, the Ways and Means Health Subcommittee is dominated by Democrats who believe employers should bear the brunt of financing universal coverage and that government should be given more authority to control health care costs in the private sector, such as by limiting provider charges.

During the two weeks that the Stark panel considered his bill, Republican members often trumpeted their opposition to the measure.

"It is a worse bill than the president's bill. It is a bill without precedent. More people will be in public plans than in private plans. I am glad that I am not part of it," asserted Rep. Nancy Johnson, R-Conn.

Republican members of the Stark subcommittee offered a series of amendments to revamp the proposal. Those proposals included eliminating the employer mandate to pay 80% of employees' health care premiums as well as government cost controls for the private sector.

But those proposals all failed because Republicans, outnumbered 7-4 on the subcommittee, generally were only able to line up support from one Democrat: Rep. Andrews.

On the other hand, an effort by Rep. Jim McDermott to scrap the Stark bill in favor of a single-payer program, a longtime goal of the Washington state Democrat, failed on a 7-4 vote.

"I think the public is suspicious of a system" funded entirely by taxes, "and I think they are right," said Rep. Levin in explaining his opposition to a single-payer system. "I don't want to take a leap" into an unknown financing system.

One of the last issues discussed by the subcommittee was the 1% payroll tax on employers that self-fund their health care benefit plans.

With a new tax that would discourage self-insurance, health care costs would rise because self-funded employers have been the leaders in finding new ways of controlling costs, said Rep. Johnson.

But the tax on self-funded employers is needed so those firms pay their "fair share" of the cost of covering the uninsured, Rep. Stark said. BI

# Employer mandate stays

## Measure would impose 1% payroll tax on self-insurers

WASHINGTON—The key elements of the health reform package approved last week by the House Ways and Means Health Subcommittee include:

• **Employer mandate.**

All employers would be required to pay 80% of the premium for a federally set basic benefit package. This mandate would go into effect Jan. 1, 1996, for employers with more than 100 employees, and on Jan. 1, 1998, for other employers.

The subcommittee estimates that the annual premium for the basic package would be $2,000 for single coverage, $4,000 for two adults, $4,150 for a single adult with children and $6,075 for two adults with children.

A special mechanism would be established to partially offset employers' premium costs for employees with working spouses. A working couple would select which employer would provide coverage for both of them, though the other employer would contribute to the cost of their coverage.

For example, the employer selected to provide coverage for a working couple with two children would pay 80% of the family premium, or $4,860. The other employer would contribute 80% of the individual premium, or $1,600. That $1,600 contribution would be used to offset the premium paid by the employer selected to provide coverage, reducing its net contribution to $3,260.

Premium checks would not actually be funneled from one employer to another. This offset procedure would be handled through the tax system, though the precise procedure has not yet been spelled out, a subcommittee staffer said.

• **Basic benefit package.**

All individuals would be entitled to a basic benefit package, which would be similar to benefits provided through Medicare.

Unlike Medicare, which has significant cost-sharing requirements for hospitalization, the basic benefit package would cover 100% of hospital expenses. For non-hospital care, the annual deductible would be $500 for individual coverage and $750 for family coverage.

In addition, all individuals would be entitled to prescription drug benefits. That benefit would have a separate $500 deductible, a 20% coinsurance requirement and a $1,000 out-of-pocket limit.

Managed care plans would apply different and lower health care cost-sharing requirements.

Under a maintenance of effort provision, employers that currently provide benefits that exceed the basic benefit package would have to offer and pay for those benefits for five years.

• **Early retiree coverage.**

Employers now providing a "portion" of health care coverage for retirees age 55 to 64 would

**All individuals would be entitled to a basic benefit package, similar to Medicare benefits.**

continue to pay 80% of the premium for basic benefit coverage.

While the proposal is somewhat vague, subcommittee staffers say the provision is meant to apply only to retirees who were at least age 55 as of Oct. 1, 1993.

If an employer currently provides early retirees with additional benefits beyond the basic benefit package, it would be required to continue those benefits. The proposal does not spell out when this provision would expire, but sources say it would be in effect for five years.

• **Self-insurance.**

Employers with more than 1,000 employees could opt to self-insure their health care benefits package. In addition, multiemployer plans subject to collective bargaining with more than 1,000 participants also could self-fund. Multiple employer welfare arrangements, by contrast, could not self-insure regardless of size.

Employers with fewer than 1,000 employees would be barred from self-insuring after Dec. 31, 1997.

Employers that do self-insure would be slapped with a 1% payroll tax, which would go into effect Jan. 1, 1998.

• **Purchasing alliances.**

States would have the option to establish voluntary health care alliances through which employers could buy coverage. These alliances would be intended for employers with fewer than 1,000 employees.

Employers with 100 or fewer employees could buy the basic benefit package through the federal Medicare program, which would be expanded. This expanded Medicare program would be known as Medicare Part C.

• **Cost containment.**

For private plans, a national "expenditure target" would be set starting in 1995. Limits would be set on how much spending could increase each year. For example, in 1996 annual growth limits for private plan spending would be the current trend minus two percentage points. Eventually, spending increases, adjusted for population growth and other demographic factors, would be limited to the annual increase in the gross domestic product.

If the targets were breached, the government could limit maximum payments to providers.

A similar procedure would be followed if Medicare spending exceeded certain targets.

• **Miscellany.**

Flexible benefit plans no longer could be used to provide health care benefits. In addition, health insurers generally would have to use community rating rather than base rates on the experience of an individual employer.

Health plans and self-funded employers could not deny coverage to previously insured individuals for pre-existing medical conditions. New insureds with pre-existing conditions would be subject to a six-month exclusion.

In addition, the measure would cap personal injury awards for non-economic damages in medical malpractice suits at $350,000.

*—By Jerry Geisel*

# Dingell joins health care reform debate by proposing subsidies for small firms

WASHINGTON—As members of a House Ways and Means Health subcommittee struggled last week to pass a health care reform bill, other congressional

leaders with jurisdiction over health care began drafting their own reform proposals.

House Energy and Commerce Committee Chairman John Dingell, D-Mich., released a staff draft proposal—so called because it is drawn up by legislative aides—that shares certain elements of the Ways and Means Health subcommittee bill, including an employer mandate, barring employers with fewer than 1,001 employees from self-insuring and slapping a 1% payroll tax on firms that self-insure.

But the Dingell staff draft, unlike the subcommittee bill, includes specific subsidy provisions to ease the burden of health insurance premium costs on small employers.

Under the draft, employers with one to five employees would pay up to 1% of payroll to cover employees. Firms with between six and 10 employees would initially pay up to 1% of payroll and eventually 2%.

Employers with between 11 and 75 employees also would be eligible for special federal subsidies to limit their premiums. The subsidy would be linked to employers' average wages. Firms with the lowest average wages would receive the highest subsidies, which would limit their contributions to 20% of the total premium.

Employers with between 76 and 1,000 employees would pay 80% of the premium, but premiums would be capped at 7.9% of payroll.

Employers with more than 1,000 employees also would have to pay at least 80% of the premium, but would not be eligible for any special subsidies.

The staff draft does not explicitly define the standard benefits package to which all Americans would be entitled, but does propose a $2,500 annual cap on individuals' annual out-of-pocket health care expenses.

*—By Jerry Geisel*

# Acquisition

*Continued from page 2*

slip, Anglo American continued to write U.S. casualty business and pay its share of claims arising from the slip. Since Anglo American was a member of the slip only from 1987 until its collapse, it was not battered by poor underwriting results from the late 1970s and early 1980s that hit other insurers on the slip.

Anglo American negotiated a retrospective and prospective aggregate excess-of-loss reinsurance policy with Centre Reinsurance (Bermuda) Ltd., the finite risk reinsurer owned by Zurich, to cap its Weavers-related losses. That reinsurance is still in force.

Zurich Re itself quickly emerged as another key London market company prepared to fill the void left by the loss of the Weavers slip.

Roughly 90% of Anglo American's business in 1992 was U.S. domiciled, while about 65% of Zurich Re's business came from the United States.

Combined, Anglo American and Zurich Re wrote about $183 million in premiums for U.S. casualty risks in 1992. U.S. property premiums totaled approximately $75 million.

The London branch of American International Group Inc.'s Lexington Insurance Co., which also picked up some of the slack when the Weavers slip collapsed, will be one of Zurich Re's key competitors for the U.S. policyholders' business, as will Lloyd's of London syndicates.

Lexington underwrote about $100 million in gross premiums in the London market in 1992, of which about $57 million was general liability business.

Zurich Re's Mr. Purkiss—who was joined by leading Lloyd's U.S. casualty underwriter Ken Barrett, formerly with Merrett syndicate 1066—denied that the proposed acquisition is an attempt by Zurich to corner the U.S. casualty market in London.

"It certainly makes us the biggest player in the London market and probably the biggest U.S. liability underwriter, but size is not the basis of the strategy. We are not just looking for market share.

If you look at Anglo American's business, there is a great deal of synergy. . . .For the U.S. buyer, we offer a quality lead operation, which is why Zurich employed us and which is why they are carrying out this acquisition," Mr. Purkiss said.

Marcus Brown, managing director of Anglo American, acknowledged that the company's decision not to proceed with a planned $100 million initial public offering in New York last year was instrumental in its decision to seek a merger (*BI*, July 19, 1993).

"We were looking for more cash for expansion and (the IPO) took a long time getting through the SEC. By the time it was completed, we found the market had changed and the board decided it didn't want to raise capital through debt and leave us highly leveraged. So, considering the connection with Centre Re, this seemed the best route" to go forward, he said.

Zurich and John Head & Partners also teamed up last year to form Bermuda catastrophe reinsurer Partner Reinsurance Co. Ltd. BI

# Earthquake

Continued from page 1

reinsurers say that even higher insured quake losses won't have a dramatic impact on their financial results.

Meanwhile, a March 20 aftershock that hit 5.3 on the Richter scale—one of the strongest to follow the original temblor—caused little additional damage and is not expected to generate a significant number of new claims.

Many insurers are treating that aftershock as a second occurrence, citing the "72-hour clause" in contracts, which defines occurrences taking place more than 72 hours after the original event as a second event.

This means commercial and personal lines policyholders likely would have to reach their deductibles a second time before obtaining coverage for any additional damage from the aftershock.

However, some insurers said they do not necessarily expect to insist that policyholders that already suffered damage in the first quake meet a second deductible.

The large aftershock, however, did cause many insurers to reinstate a temporary moratorium on writing new earthquake policies, according to the California Department of Insurance. Under state law, insurers can suspend writing new earthquake coverage for homeowners for up to 60 days after a quake measuring at least 5.0 on the Richter scale. Insurers generally impose the moratorium on commercial policies as well.

More than two months after the January quake, observers agree the original estimates of $1.5 billion to $2.5 billion in insured damage is far too low, but they do not necessarily agree on how high claims will go.

A leading underwriter at Lloyd's of London said last week that Lloyd's catastrophe underwriters expect insured damage to reach about $7 billion.

"My preliminary rough estimate is it will be more than $6 billion," said Ajit Jain, president of the reinsurance division of Berkshire Hathaway Inc. in Stamford, Conn., which writes catastrophe reinsurance.

Others, however, don't expect losses to be that high.

Gerald L. Radke, president and chief executive officer of Phoenix Reinsurance Co. in New York, which writes cat business, said he has heard estimates of between $4 billion and $5.5 million. "We think that it's probably going to be around $5 billion."

James Bryce, senior vp-underwriting for International Property Catastrophe Reinsurance Co. Ltd., one of the Bermuda cat reinsurance facilities formed last year, said, "We're estimating at least $5 billion."

Jack Snyder, senior vp for A.M. Best Co. in Oldwick, N.J., said, "We're into $4 billion," although that includes some preliminary estimates that could rise.

Unseen structural damage was one reason that early estimates were far lower.

Earl Aurelius, vp for San Francisco-based EQE International Inc., an engineering consulting firm, noted that claims are being filed for some steel buildings that nobody realized were damaged. "You've got to take off the fireproofing in walls to see what happens structurally to the buildings," he said.

"The (steel) industry is trying to figure out what went wrong and why," he said. In past earthquakes, steel buildings have performed better than any other type. So the damage to steel buildings "is a big surprise," he said, adding that "it's a combination of inadequate or poor welding and other things."

Part of the problem may have been the type of earthquake that hit Southern California, said Best's Mr. Snyder. The earthquake was an unusual "vertical thrust" fault, which means the ground moved up and down, rather than the more common "slip fault," in which the ground moves sideways, as in the 1989 Loma Prieta that hit the San Francisco Bay area.

Although thrust faults cause more structural damage, they are relatively rare. Many of the recent improvements in earthquake-proof construction have been designed to deal with slip faults, Mr. Snyder said.

Furthermore, because the fault that triggered the Los Angeles quake was considered inactive, few insurers had developed models for it, he said. The result was that immediately following the quake, "most companies were grasping for a good firm number or good estimates for their losses."

The third contributing factor, said Mr. Snyder, was that "a lot of the preliminary estimates were made with adjusters that are capable of doing everything but really assessing hard-core structural damage." They can walk into a house and see stress cracks, but they do not know if the damage is superficial or structural in nature.

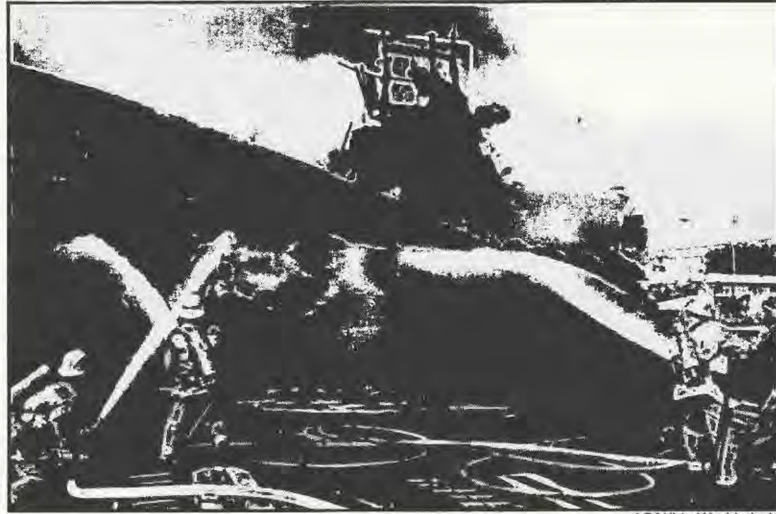
As a result, most companies had to send structural engineers back into the field to more accurately evaluate the damage. "You add it all up, and you have a very difficult earthquake to have estimated from the start," he said.

"Damage costs have grown, yes," said Tom Phillips, risk manager for the city of Santa Monica, which suffered extensive damage in the January quake. Damage to the city's property is now greater than originally estimated largely because of new information from "detailed structural analysis," he said.

"We still believe all our losses will be under our deductible of 5%" of insured value, he added.

Other property owners have not increased their original estimates and say that the March 20 aftershock produced no new damage.

For instance, U.S. Borax Inc., which suffered about $5 million in structural damage to its headquarters in Valencia, "pretty much knew" the size of its loss soon after the quake, said Will Browne, manager of government and public affairs. "We're not finding additional damage," he said, adding that most of the company's loss is insured.



AP/Wide World photo

**A Los Angeles strip mall collapsed and burned following last week's aftershock.**

Similarly, some insurers are sticking with their original estimates, including Farmers Group Inc.

"We were fairly deliberate about waiting to release figures until we felt they could withstand the test of time," said a spokesman for the Los Angeles-based insurer, which did not release its loss estimate of $600 million until a month after the quake. Farmers, Allstate and State Farm dominate California's earthquake insurance market.

Bermuda catastrophe reinsurers do not expect the quake to greatly affect their results. "Between timing and good luck, the loss will be less significant for Bermuda than some of the other markets," said IPC Re's Mr. Bryce.

For most Bermuda reinsurers, including IPC Re, the quake loss will be less than their earned premiums for the first quarter, said Mr. Bryce, who would not disclose IPC Re's losses. In addition to high retentions reducing the cat facilities' potential losses, many of the losses were absorbed by pro rata reinsurance treaties, which are not written in Bermuda, he said.

Bermuda-based Mid Ocean Reinsurance Co. estimates about $37 million in losses from the quake, while Global Capital Reinsurance Co. has an estimated $10 million in losses and Partner Reinsurance Co. Ltd. will face slightly more than $10 million in losses, company officials say.

Lloyd's underwriters are confident that, despite the higher estimates, the quake's impact in London will not be strong.

"This is not a major disaster for Lloyd's. It is more than a pinprick. . .but from a market point of view the 1993 account will easily take a loss like this. It won't even take the icing off the cake," the Lloyd's catastrophe underwriter said.

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*Adrian Ladbury in London contributed to this report.*

# $900,000 settles discrimination suit

NEW YORK—Insurers for a medical center in the Bronx have paid a former researcher $900,000 in an out-of-court settlement for a sex discrimination case.

Heidi S. Weissman brought the case against Montefiore Medical Center and Albert Einstein College of Medicine in 1988, alleging that she had been denied promotion and paid less than male employees in similar jobs.

The medical center admitted no wrongdoing but settled to avoid further legal fees, Montefiore said in a statement.

An attorney for Montefiore said the entire amount will be paid by the hospital's insurers, which he would not identify.

*—By Gavin Souter*

# Updates

## Lawyer convicted of fraud

*Continued from page 2*

month of defrauding members of three organizations he headed: Pennsylvania Independent Business Assn. Inc., National Independent Business Assn. Inc. and American Independent Business Alliance Inc.

Between 1987 and 1989, Mr. Sokolow used the associations to market what he claimed was fully insured group health coverage "backed" by Blue Cross. The plan was not insured, prosecutors charged.

The plan collected more than $34 million in premiums from policyholders in 16 states and victimized more than 4,600 employers, employees and dependents, prosecutors say. Mr. Sokolow took about $3.8 million in salary, fees and payments for personal expenses including real estate, cars and stock.

The jury ordered Mr. Sokolow to forfeit more than $4 million in property and money. He also faces a maximum sentence of 795 years in prison and $35.5 million in fines.

## Political spending questioned

KANSAS CITY, MO.—Insurance regulators from 17 states are urging insurers to pay for political advertising, lobbying and related expenses out of retained earnings, rather than passing those costs on to policyholders through increased rates.

"Insurers are free to express their opinions, but we believe they should not pay for it with consumers' money," said Texas Insurance Commissioner J. Robert Hunter.

The regulators called on the National Assn. of Insurance Commissioners to establish a model reporting requirement for all states so regulators and consumers can monitor these expenditures and be sure they are not included in rates.

In addition to Mr. Hunter, regulators supporting the proposal represent: Alabama, Alaska, California, Colorado, Georgia, Kansas, Louisiana, Maine, Missouri, Montana, Oregon, Pennsylvania, Utah, Vermont, Washington and Wyoming.

## Russian air crash insured

LONDON—A Russian-owned Airbus jet that crashed last week in snowbound Siberia, killing 75 people on board, is insured in Western aviation hull insurance markets.

The Aeroflot Russian International flight from Moscow to Hong Kong crashed without warning four hours into the 10-hour flight.

Aeroflot has $78.7 million in hull coverage for the downed jet and $500 million in liability insurance. The coverage, placed by Willis Corroon Group P.L.C., is led in London by British Aviation Insurance Group. Other insurers on the coverage include Lloyd's of London's Ariel syndicate and La Reunion Aerienne in France.

## Insurance salesman arrested

TALLAHASSEE, Fla.—The head of a self-described employer organization offering a self-funded 24-hour benefit plan was arrested this month by Florida and Georgia law enforcement officials during separate sales presentations.

Lawrence D. Kenemore Jr., who heads the Arlington, Texas-based Assn. of Trust & Guarantee, was charged with selling insurance without a license after his arrest by Florida Insurance Department fraud investigators during a March 22 sales meeting at an Orlando hotel. He was released after posting bail and faces up to five years in prison if convicted, a Florida department spokesman said.

Regulators said that ATG is not licensed in the state and that they "found no evidence that the trust had any financial reserves to pay claims."

Mr. Kenemore also was arrested by Georgia officials during a March 7 training seminar at an Atlanta-area hotel. He was charged with practicing law without a license, a misdemeanor, and was released after posting bail.

Both states had issued cease and desist orders against ATG, which offers health insurance and workers compensation coverage and has run into regulatory problems in several states (*BI*, Dec. 27, 1993).

Mr. Kenemore said he has not yet entered a plea in either case. He argued, though, that ATG is exempt from state regulation under the federal Employee Retirement Income Security Act of 1974.

"We are not shut out of either state," he said, referring to Florida and Georgia. "The only people who are going to make a final decision on this case are the U.S. Supreme Court," he added, saying that ERISA pre-emption is "what the whole issue is here."

## Briefly noted

Standard & Poor's Corp. upgraded its rating of **American Re-Insurance Co.**'s claims-paying ability to AA from AA- last week. . . Insurers' **workers comp residual market underwriting losses** were $1.9 billion in 1992, the lowest since 1988, the Alliance of American Insurers says. . . **Marsh & McLennan Inc.** is laying off between 100 and 150 employees in its 3,500-person risk management division, which handles large accounts. The layoffs, covering a variety of positions, have resulted from an internal reorganization, M&M officials said. . . **Aon Corp.** directors approved a 3-for-2 stock split, payable May 16 to shareholders of record on May 3. . . L. Ben Lytle, president, chairman and chief executive officer of **Acordia Inc.**, has been named chairman of the broker's parent company, Associated Insurance Cos. Inc. Mr. Lytle, who is also president and CEO of Associated, succeeds Lloyd J. Banks, who retired. . . California Insurance Commissioner John Garamendi has chosen **Colin McRae**, former Transamerica Insurance Group general counsel, as new head of the Conservation and Liquidation Division. The unit has come under fire recently for alleged mismanagement of the funds of bankrupt insurers (*BI*, Feb. 28).

**Ticker**

# No turn foreseen in P/C market

## Brokers have resigned themselves to current market conditions

**By LEONARD M. WILSON**

Special to *Business Insurance*

THE COMPETITIVE pricing environment in commercial insurance won't disappear, at least in 1994. This is our reluctant conclusion after polling brokers, analysts and sundry observers of the property/casualty insurance industry. Commission growth for insurance brokers during the fourth quarter of 1993 was anemic and seemingly confirmed the consensus on the outlook for pricing.

Not only is there no apparent turn in liability rates, but it is entirely possible that we are seeing the best of pricing in property coverages. The soft market has persisted so long that only the most venturesome will attempt a forecast.

Even theorizing over the why's of the cycle's duration has become passé. We can't remember the last time someone excoriated insurance company managements for cash flow underwriting or for reckless market share strategies.

Indeed, forecasts of a turn in the market seem almost irrelevant. Insurance brokers have long since concluded that they must manage within the strictures of an insurance market that provides little help to commission growth. Adaptive tactics stress new business, cost control and unbundling the pricing of services to realize fair compensation for value-added activities.

In the course of monitoring the pulse of insurance markets, we are exposed to many underwriters through management meetings and financial reports. These contacts started us thinking about management trends on the underwriting side of the industry and the impact on pricing behavior.

Traditionally, many companies in the property/casualty industry were perceived as undermanaged. The wide swings in underwriting results were adduced as evidence for management shortcomings. The industry's low overall return in capital was another source of frustration with insurance company managements.

Something is changing, though. U.S. industry has embarked on a wave of cost-cutting on a scale unmatched in the past. Financial industries, including banks and, notably, insurance companies, also have caught the bug and are now seeking to raise returns. Property/casualty insurer managements are no longer content to accept subpar operating performance.

The success of low-cost direct writers and aggressively managed regional insurers has spurred cost reduction on the part of numerous personal lines underwriters. In commercial lines, the long soft market has forced companies to scrutinize expense ratios as never before.

Restructuring has come to companies as august as Aetna Life & Casualty Co. and Travelers Corp., initiated by existing management at Aetna and by new top management at Travelers.

Underwriters are also examining profitability across their diverse lines of business. This often means pruning unprofitable lines or classes of business, measures that in the short run are at loggerheads with the sought-after reduction in expense ratios, but in the longer time frame offer potential for lower combined ratios. Strategies include withdrawal from auto and homeowners in personal lines and a greater focus in core areas of established expertise and profitability in commercial lines.

Narrower focus aims squarely at reducing combined ratios. Companies like Chubb Corp. have proven the efficacy of emphasizing core specialty lines. Since many lines of insurance have become commodities with commensurately poorer margins, the sensible course is to seek pockets of differentiation where profit margins are higher.

A third observable phenomenon in the property/casualty industry is the advent of financially oriented managers from outside the industry. Unencumbered by the past, the newcomers perceive opportunity in underperformance. Their goals seem relatively straightforward: Cut costs, raise returns and create shareholder value.

This ferment on three fronts, as we see it, could generate an improving profit outlook for many companies without any change in the premium rate environment. Combined ratios are being wrestled downward through more effective management, rather than rate relief.

Excess capital may be a reasonable explanation for the long soft market. But rationalization of operations could result in a reluctance to employ capital unless it earns an adequate return.

More importantly, if returns can be raised through activist management tactics, the rationale for a turn in premium rates to restore or bolster industry profitability becomes less compelling.

In effect, a tightening in the market may be pushed out yet further in time by the widening focus on achieving improved operating results through better management of the insurance enterprise.

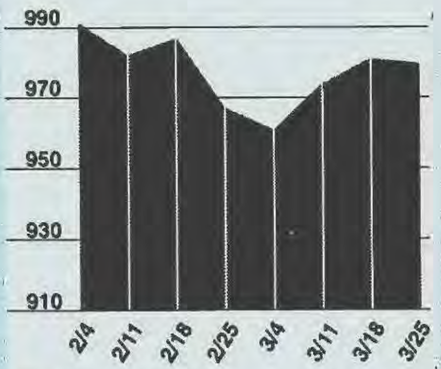
This is not particularly good news for the insurance brokers. We used to believe that a healthy property/casualty industry was constructive for the brokers, since it provided them with adequate capacity at premium levels that produced a satisfactory level of commissions.

But the remedial measures now sweeping the P/C industry, by delaying the turn in premium rates, could indirectly backfire on the brokers to the extent that the soft market is extended.

The soft market is, of course, not a new challenge to the brokers. They have taken steps to eliminate costs and sustain new business. But as long as a sizable portion of brokerage revenues is tied directly to premiums in the form of commissions, the brokers, in our view, face the dilemma of receiving appropriate compensation for their efforts, pending the arrival of a firming insurance market. BI

*Leonard M. Wilson is a senior vp with Lazard Asset Management Inc. He is a member of the New York Society of Security Analysts.*

## BI Insurance Index




Base = 100 on Dec. 29, 1978
Source: Nordby International Inc.

**Insurance stocks fell last week, as the *Business Insurance* Index lost 1.2 points to 979.9 March 25 from 981.1 on March 18. Advancing issues were led by: United Fire & Casualty, up 12.3%; Penn-America Group Inc., up 10.7%; and Frontier Insurance Group, up 9.4%. Declining issues followed: Lawrence Insurance Group, down 17.7%; Seibels Bruce Group, down 9.4%; and Baldwin & Lyons Inc., down 8.1%. The most active issue was Allstate Corp., 5.0 million shares traded. The *BI* Index fell 0.3%; the Dow Jones 30 Industrials lost 3.1%; the NYSE Composite fell 1.9%; and the Standard & Poor's 500 fell 2.2%.**

## British Issues

| March 24 Companies | Price pence | P/E | Div. pence | Yield % | 1 week High—Low pence pence |
|---|---|---|---|---|---|
| Comml Union | 574 | 18.3* | 31.0* | 5.4 | 578—571 |
| Genl Accident | 620 | 12.4* | 34.4* | 5.5 | 623—615 |
| Gdn Royal Exch | 187 | 12.1* | 9.5* | 5.1 | 192—186 |
| Royal | 263 | 11.4* | 9.4* | 3.6 | 271—258 |
| Sun Alliance | 334 | 15.0* | 18.4* | 5.5 | 334—314 |
| **Brokers** | | | | | |
| Bradstock | 140 | 15.7* | 6.9* | 4.9 | 142—139 |
| CE Heath | 379 | 14.6 | 20.5 | 5.4 | 381—378 |
| Hogg Group | 135 | 22.5 | 7.1 | 5.3 | 139—135 |
| JIB Group | 202 | 17.7* | 9.4* | 4.7 | 202—196 |
| Lloyd Thmpson | 296 | 20.0* | 8.4* | 2.8 | 296—295 |
| Lowndes Lmbrt | 437 | 13.7 | 18.8 | 4.3 | 437—435 |
| PWS Holdings | 75 | 11.0* | 5.0* | 6.7 | 78—75 |
| Sedgwick Grp | 203 | 22.6* | 7.5* | 3.7 | 219—203 |
| Steel Brl Jones | 117 | N/M | 11.3 | 9.7 | 117—117 |
| Willis Corroon | 227 | 20.8* | 8.3* | 3.7 | 232—227 |

Source: Philip Olsen, London * 1993 figure; others estimated

## BI Industry Stock Report MARCH 21, 1994, THROUGH MARCH 25, 1994

| | | Price | Weekly % change | Year to date % change | Annual High | Annual Low | Vol.(000) | $ Div. | % Yield | P/E | Book value | Mkt./Bk. value |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **BROKERS** | | | | | | | | | | | | |
| Acordia Inc. | NYS | 27.88 | -0.45 | 13.20 | 28.25 | 18.38 | 113 | 0.60 | 2.15 | 14 | 10.22 | 2.73 |
| Alexander & Alexander | NYS | 18.63 | -3.87 | -6.29 | 28.00 | 17.63 | 357 | 1.00 | 5.37 | 49 | 6.73 | 2.77 |
| E.W. Blanch Holdings Inc. | NYS | 17.50 | 7.69 | 0.72 | 23.50 | 15.75 | 68 | 0.32 | 1.83 | 18 | 4.10 | 4.27 |
| Gallagher Arthur J. & Co. | NYS | 28.63 | -0.43 | -19.93 | 37.38 | 28.50 | 79 | 0.88 | 3.07 | 14 | 7.52 | 3.81 |
| Hilb, Rogal & Hamilton | NYS | 12.38 | 2.06 | -5.71 | 16.75 | 11.13 | 98 | 0.48 | 3.88 | 20 | 4.51 | 2.74 |
| Marsh & McLennan | NYS | 84.38 | 0.00 | 3.69 | 96.00 | 77.00 | 441 | 2.68 | 3.18 | 19 | 16.76 | 5.03 |
| Poe & Brown | OTC | 19.25 | -1.28 | 6.94 | 21.25 | 16.75 | 22 | 0.40 | 2.08 | 20 | 3.02 | 6.37 |
| BROKERS | AVERAGE | | 0.5 | -1.1 | | | | | 3.1 | 22 | | |
| **INSURERS/REINSURERS** | | | | | | | | | | | | |
| ACE Ltd. | NYS | 26.63 | -1.39 | -12.70 | 36.00 | 25.50 | 242 | 0.40 | 1.50 | 5 | 28.74 | 0.93 |
| Acceptance Insurance Cos. | NYS | 11.38 | -2.15 | -2.15 | 15.63 | 11.13 | 24 | 0.00 | 0.00 | 13 | 9.65 | 1.18 |
| AEGON N.V. | NYS | 50.50 | -1.46 | -7.76 | 58.50 | 43.25 | 39 | 1.22 | 2.42 | 10 | 34.71 | 1.45 |
| Aetna Life & Casualty | NYS | 55.00 | -4.35 | -8.71 | 66.25 | 46.13 | 956 | 2.76 | 5.02 | -10 | 71.84 | 0.77 |
| Allied Group Inc. | OTC | 25.25 | -1.94 | 1.00 | 32.75 | 21.34 | 166 | 0.60 | 2.38 | 7 | 10.45 | 2.42 |
| Allmerica Prop. & Casualty | NYS | 17.88 | -2.05 | -17.02 | 22.16 | 17.88 | 1.08 | 0.16 | 0.90 | 4 | 56.97 | 0.31 |
| Allstate Corp. | NYS | 23.25 | -5.10 | -21.85 | 34.25 | 23.25 | 5002 | 0.72 | 3.10 | 8 | 18.43 | 1.26 |
| American General | NYS | 28.00 | -2.61 | -1.75 | 36.50 | 25.50 | 1671 | 1.16 | 4.14 | 24 | 22.09 | 1.27 |
| American Heritage Life Ins. | NYS | 18.25 | -1.35 | -2.01 | 25.34 | 17.25 | 23 | 0.60 | 3.29 | 11 | 12.42 | 1.47 |
| American Indemnity/Fin'l | OTC | 13.00 | 0.00 | 0.00 | 16.25 | 7.75 | 11 | 0.12 | 0.92 | 4 | 16.18 | 0.80 |
| American International | NYS | 83.50 | -1.47 | -5.25 | 100.25 | 78.41 | 2175 | 0.40 | 0.48 | 14 | 45.25 | 1.85 |
| American Re Corp. | NYS | 27.75 | 0.45 | -1.77 | 40.25 | 23.50 | 337 | 0.00 | 0.00 | 13 | 14.80 | 1.88 |
| Aon Corp. | NYS | 50.13 | -1.47 | 3.89 | 58.50 | 45.00 | 181 | 1.92 | 3.83 | 12 | 33.10 | 1.51 |
| Argonaut Group I | OTC | 29.75 | -0.83 | -2.46 | 35.50 | 29.50 | 80 | 1.00 | 3.36 | 9 | 27.65 | 1.06 |
| AVEMCO Corp. | NYS | 16.38 | 0.00 | -12.67 | 23.38 | 14.50 | 22 | 0.44 | 2.69 | 12 | 8.13 | 2.01 |
| Baldwin & Lyons Inc. | OTC | 14.25 | -8.06 | -4.20 | 16.25 | 11.16 | 486 | 0.20 | 1.40 | 9 | 12.59 | 1.13 |
| Berkley W.R. Corp. | OTC | 37.75 | 1.68 | 15.27 | 48.00 | 32.00 | 321 | 0.44 | 1.17 | 13 | 28.12 | 1.34 |
| Berkshire Hathaway Inc. | NYS | 16600.00 | 0.00 | 1.68 | 17800.00 | 11800.00 | 1 | 0.00 | 0.00 | 44 | 8115.28 | 2.05 |
| Capital Re Corp. | NYS | 21.00 | 0.60 | -18.45 | 29.00 | 18.50 | 86 | 0.20 | 0.95 | 9 | 21.66 | 0.97 |
| Capsure Holdings Corp. | NYS | 14.50 | 3.57 | 7.41 | 19.38 | 12.75 | 74 | 0.00 | 0.00 | 13 | 13.08 | 1.11 |
| Chubb Corp. | NYS | 71.88 | -2.87 | -8.59 | 96.38 | 71.88 | 1133 | 1.84 | 2.56 | 18 | 46.59 | 1.54 |
| CIGNA Corp. | NYS | 62.63 | -0.40 | -0.99 | 70.50 | 56.50 | 685 | 3.04 | 4.85 | 19 | 78.23 | 0.80 |
| CNA Financial Corp. | NYS | 65.75 | -2.95 | -16.51 | 100.63 | 65.75 | 312 | 0.00 | 0.00 | 15 | 77.92 | 0.84 |
| Continental Corp. | NYS | 23.38 | -1.06 | -15.38 | 34.63 | 22.75 | 709 | 1.00 | 4.28 | 8 | 38.99 | 0.60 |
| EMC Insurance Group Inc. | OTC | 9.25 | 2.78 | -2.63 | 11.25 | 8.50 | 15 | 0.52 | 5.62 | 13 | N.A. | N.A. |
| EMPHESYS Fin'l Grp Inc. | NYS | 22.63 | 1.69 | NA | 22.75 | 22.00 | 456 | 0.00 | 0.00 | - | N.A. | N.A. |
| EXEL Ltd. | NYS | 41.88 | 1.21 | -6.94 | 52.25 | 40.38 | 627 | 1.20 | 2.87 | 6 | 33.81 | 1.24 |
| Fremont General Corp. | NYS | 22.75 | -1.62 | -5.70 | 28.75 | 21.00 | 81 | 0.72 | 3.16 | 7 | 23.40 | 0.97 |
| Frontier Insurance Group | NYS | 43.75 | 9.38 | -0.28 | 50.00 | 36.72 | 331 | 0.60 | 1.37 | 14 | 16.33 | 2.68 |
| Gainsco Inc. | ASE | 9.38 | -3.85 | 4.17 | 17.16 | 8.25 | 59 | 0.04 | 0.43 | 13 | 3.49 | 2.69 |
| General Re Corp. | NYS | 106.50 | -0.35 | 0.24 | 133.38 | 101.75 | 1033 | 1.92 | 1.80 | 13 | 55.54 | 1.92 |
| Guaranty National Corp. | NYS | 14.75 | -3.28 | -15.71 | 24.75 | 13.75 | 80 | 0.48 | 3.25 | 10 | 11.81 | 1.25 |
| Harleysville Group | OTC | 24.75 | 3.13 | -13.16 | 31.50 | 22.63 | 23 | 0.64 | 2.59 | 10 | 18.35 | 1.35 |
| Hartford Steam Boiler | NYS | 50.63 | -3.80 | 13.76 | 58.00 | 42.63 | 76 | 2.12 | 4.19 | 80 | 15.80 | 3.20 |
| HCC Insurance Holdings | OTC | 25.63 | 3.54 | -15.29 | 35.75 | 18.75 | 29 | 0.00 | 0.00 | 15 | 14.94 | 1.72 |
| Home Holdings Inc. | NYS | 15.25 | 2.52 | -11.59 | 18.50 | 14.63 | 24 | 0.00 | 0.00 | - | 19.96 | 0.76 |
| ITT Hartford Group | NYS | 82.00 | -4.93 | -10.63 | 95.97 | 71.09 | 1145 | 1.96 | 2.39 | 11 | 57.11 | 1.44 |
| Kemper Corp. | NYS | 61.38 | 0.41 | 71.08 | 61.88 | 32.25 | 3013 | 0.92 | 1.50 | -26 | 38.98 | 1.57 |
| Lawrence Insurance Group | ASE | 3.50 | -17.65 | -3.45 | 7.75 | 3.25 | 8 | 0.00 | 0.00 | -8 | 4.26 | 0.82 |
| Lincoln National | NYS | 41.88 | -1.76 | -2.62 | 48.25 | 37.00 | 396 | 1.64 | 3.92 | 10 | 32.53 | 1.29 |
| Markel Corp. | OTC | 42.88 | -0.58 | 11.36 | 44.50 | 32.25 | 55 | 0.00 | 0.00 | 10 | 24.68 | 1.74 |
| Mid Ocean Ltd. | OTC | 27.75 | 1.83 | -1.77 | 34.75 | 25.00 | 1004 | 0.00 | 0.00 | 14 | 20.24 | 1.37 |
| Mutual Risk Mgmt. Ltd. | NYS | 26.00 | 0.48 | -13.33 | 32.75 | 21.16 | 15 | 0.28 | 1.08 | 17 | 5.71 | 4.55 |
| NAC Re Corp. | NYS | 26.38 | -4.09 | -9.44 | 43.25 | 26.25 | 333 | 0.16 | 0.61 | 12 | 19.24 | 1.37 |
| National Re Corp. | NYS | 28.88 | 4.05 | -5.71 | 39.63 | 27.13 | 44 | 0.16 | 0.55 | 8 | 16.89 | 1.71 |
| Navigators Group | OTC | 19.75 | -1.25 | -43.57 | 39.00 | 16.50 | 51 | 0.00 | 0.00 | 11 | 16.99 | 1.16 |
| Nobel Insurance Ltd. | OTC | 8.06 | 0.79 | 5.74 | 8.44 | 6.25 | 43 | 0.00 | 0.00 | 5 | 6.84 | 1.18 |
| NWNL Companies | NYS | 32.00 | 2.81 | -1.54 | 38.75 | 28.50 | 588 | 0.80 | 2.50 | 12 | 23.97 | 1.34 |
| Ohio Casualty Corp. | OTC | 63.50 | -0.20 | -0.78 | 72.00 | 57.63 | 139 | 2.92 | 4.60 | 13 | 47.68 | 1.33 |
| Old Republic Int'l | NYS | 23.63 | -3.08 | 5.00 | 27.63 | 21.50 | 438 | 0.48 | 2.03 | 8 | 23.57 | 1.00 |
| Orion Capital Corp. | NYS | 31.75 | -2.31 | 2.83 | 37.50 | 28.63 | 131 | 0.72 | 2.27 | 8 | 25.56 | 1.24 |
| Penn-America Group Inc. | NYS | 7.75 | 10.71 | 0.81 | 9.50 | 6.50 | 2 | 0.00 | 0.00 | 9 | N.A. | N.A. |
| Phoenix Re Corp. | OTC | 23.38 | -4.59 | -15.00 | 38.25 | 19.75 | 433 | 0.28 | 1.20 | 7 | 19.99 | 1.17 |
| Provident Life | NYS | 27.63 | 0.00 | -12.65 | 31.88 | 25.63 | 252 | 1.04 | 3.76 | -10 | 26.38 | 1.05 |
| Re Capital Corp. | OTC | 13.13 | -6.25 | -3.67 | 15.75 | 13.13 | 18 | 0.32 | 2.44 | 11 | 16.88 | 0.78 |
| Reliance Group Holdings | NYS | 5.88 | -2.08 | -24.19 | 10.38 | 5.63 | 620 | 0.32 | 5.45 | 6 | 4.22 | 1.39 |
| RLI Corp. | NYS | 24.63 | 1.03 | -7.94 | 27.75 | 23.25 | 34 | 0.56 | 2.27 | 10 | 22.91 | 1.07 |
| St. Paul Companies | NYS | 78.13 | -2.50 | -12.95 | 98.00 | 77.25 | 569 | 3.00 | 3.84 | 8 | 57.84 | 1.35 |
| SAFECO Corp. | OTC | 54.88 | -1.79 | 0.46 | 66.75 | 51.88 | 1039 | 1.80 | 3.28 | 10 | 41.59 | 1.32 |
| SCOR U.S. Corp. | NYS | 10.88 | 0.00 | -13.86 | 20.25 | 10.25 | 227 | 0.36 | 3.31 | 8 | 16.08 | 0.68 |
| Seibels Bruce Group | OTC | 1.81 | -9.35 | 3.60 | 2.13 | 0.31 | 82 | 0.00 | 0.00 | -1 | 1.90 | 0.95 |
| Selective Ins. Group | OTC | 28.00 | -0.88 | -7.44 | 31.00 | 20.50 | 36 | 1.12 | 4.00 | 7 | 23.11 | 1.21 |
| Sphere Drake Holdings | NYS | 16.63 | -3.62 | 0.76 | 21.63 | 14.75 | 162 | 0.12 | 0.72 | 7 | 12.17 | 1.37 |
| Statesman Group Inc. | NYS | 12.63 | 0.00 | 1.00 | 15.25 | 9.75 | 228 | 0.10 | 0.79 | 5 | 8.65 | 1.46 |
| TIG Holdings | NYS | 19.75 | -2.47 | -12.71 | 28.00 | 18.88 | 608 | 0.20 | 1.01 | -10 | 18.49 | 1.07 |
| Titan Holdings Inc. | NYS | 10.88 | -3.33 | 0.00 | 13.38 | 9.38 | 150 | 0.24 | 2.21 | 8 | 8.33 | 1.22 |
| Tokio Marine & Fire | OTC | 60.50 | -3.59 | 12.04 | 67.00 | 49.25 | 56 | 0.37 | 0.61 | 40 | 57.72 | 1.05 |
| Torchmark Corp. | NYS | 41.00 | -4.65 | -8.38 | 61.88 | 41.00 | 450 | 1.12 | 2.73 | 11 | 17.35 | 2.36 |
| Transatlantic Holdings | NYS | 48.50 | 3.74 | -9.13 | 61.50 | 45.38 | 64 | 0.36 | 0.74 | 13 | 29.60 | 1.64 |
| Travelers Corp. | NYS | 37.13 | 3.13 | -4.50 | 49.50 | 31.22 | 4355 | 0.48 | 1.29 | 10 | 33.35 | 1.11 |
| Trenwick Group Inc. | OTC | 34.50 | -0.72 | -10.97 | 49.75 | 33.25 | 66 | 1.30 | 2.90 | 10 | 26.00 | 1.33 |
| United Fire & Casualty | OTC | 41.00 | 12.33 | 13.89 | 44.00 | 34.75 | 15 | 1.38 | 2.53 | 11 | 28.96 | 1.42 |
| Unitrin | OTC | 40.00 | -1.84 | -5.88 | 46.75 | 39.00 | 282 | 1.40 | 3.50 | 22 | 38.90 | 1.03 |
| UNUM Corp. | NYS | 55.38 | -1.99 | 5.48 | 60.13 | 47.75 | 972 | 0.80 | 1.44 | 14 | 27.55 | 2.01 |
| US Facilities Corp. | OTC | 9.75 | 8.33 | -17.89 | 14.00 | 8.75 | 537 | 0.00 | 0.00 | 9 | 10.48 | 0.93 |
| USF&G Corp. | NYS | 14.50 | -5.69 | -4.13 | 19.63 | 12.38 | 2072 | 0.20 | 1.38 | 16 | 10.60 | 1.37 |
| USLICO Corp. | NYS | 17.50 | 0.00 | 6.06 | 19.00 | 15.75 | 97 | 0.24 | 1.37 | 6 | 25.22 | 0.69 |
| USLIFE Corp. | NYS | 40.00 | -1.54 | 3.23 | 45.75 | 35.75 | 83 | 1.24 | 3.10 | 9 | 41.73 | 0.96 |
| Washington National | NYS | 24.63 | -1.50 | 1.55 | 27.50 | 21.75 | 33 | 1.08 | 4.39 | 10 | 28.40 | 0.87 |
| Zenith National Ins. | NYS | 22.13 | -0.56 | 0.00 | 29.13 | 21.13 | 14 | 1.00 | 4.52 | 8 | 17.71 | 1.25 |
| Zurich Reinsurance Centr. | NYS | 26.88 | 3.86 | -4.87 | 36.38 | 24.25 | 62 | 0.00 | 0.00 | 35 | 24.41 | 1.10 |
| INSURERS/REINSURERS | AVERAGE | | -0.8 | -3.7 | | | | | 2.2 | 11.7 | | |
| **HEALTH MAINTENANCE ORGANIZATIONS** | | | | | | | | | | | | |
| FHP International | OTC | 26.50 | -4.50 | 1.92 | 30.00 | 18.25 | 1187 | 0.00 | 0.00 | 17 | 11.43 | 2.32 |
| PacifiCare Health Sys. | OTC | 56.00 | 2.99 | 48.34 | 57.25 | 30.50 | 150 | 0.00 | 23 | 11.15 | 5.02 | |
| Safeguard Health Enter. | OTC | 15.50 | 3.33 | 24.00 | 15.50 | 8.00 | 52 | 0.00 | 0.00 | 18 | 5.71 | 2.71 |
| Sierra Health Services | ASE | 29.13 | -0.85 | 30.90 | 30.75 | 11.50 | 162 | 0.00 | 0.00 | 21 | 4.63 | 6.33 |
| TakeCare Inc. | OTC | 74.75 | -1.32 | 37.16 | 76.00 | 32.25 | 430 | 0.00 | 0.00 | 24 | 18.63 | 4.00 |
| United Healthcare Corp. | NYS | 47.00 | 2.45 | 25.75 | 47.50 | 22.75 | 3116 | 0.03 | 0.06 | 38 | 10.64 | 4.42 |
| U.S. Healthcare | OTC | 65.25 | -3.33 | 13.48 | 68.25 | 36.75 | 2629 | 0.80 | 1.23 | 24 | 6.21 | 10.51 |
| Wellpoint Health Networks | NYS | 35.38 | -0.35 | 14.57 | 37.00 | 24.00 | 502 | 0.00 | 0.00 | 19 | 10.94 | 3.23 |
| HMOs | AVERAGE | | -0.2 | 24.5 | | | | | 0.1 | 20 | | |
| ALL COMPANIES | AVERAGE | | -0.1 | 6.6 | | | | | 2.3 | 15 | | |

System design: Nordby International Inc.

*The snowshoe rabbit changes color with the season, adopting a white coat in winter and a brown coat in summer. This change, which is governed by the shortening length of day, enables the rabbit to blend into its background for protection.*

# The Ability To Adapt To The Environment Is Necessary For Survival In Nature. And In Benefits Management.

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