

# Business Insurance

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

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## Kaiser deal with nurses creates quality-monitoring positions

OAKLAND, Calif.—An agreement reached last week by Kaiser Permanente in Northern California with its nurses union calls for staff nurses to fill 18 part-time "quality liaison" positions.

A union-Kaiser committee will set up the procedure that the nurses will follow to report quality concerns. The liaisons will be nurses who spend 20 hours a week on the quality effort and devote the remaining time to their regular nursing duties.

Other provisions of the proposed contract  
*See Updates on next page*

# Insurers arms of state, appellate court rules

By ROBERTO CENICEROS

PHILADELPHIA—A federal court ruling that insurers are arms of the state could expose insurers and self-insured employers to lawsuits alleging civil rights violations, several lawyers say.

The ruling is part of a declaration in the 3rd U.S. Circuit Court of Appeals opinion that terminating workers comp medical benefits during a state-enacted utilization review process is unconstitutional.

The March 13 decision in *Sullivan*

*vs. Barnett* specifically addressed insurers that provide workers compensation coverage. A self-insured employer, the School District of Philadelphia, was a defendant in the case, but neither a lower court nor the 3rd Circuit ruled regarding self-insurers.

However, under the appeals court's decision, self-insurers and insurers providing other types of coverage will be hard-pressed to argue that they fall outside of the ruling's scope, attorneys for both the plaintiffs and the defendants said.

The lawsuit was brought by 10 employees supported by labor organizations. They are seeking class-action status for workers who have had their medical benefits terminated allegedly without adequate notification as a result of the utilization review process.

Utilization review was a key component of 1993 reforms to Pennsylvania's Workmen's Compensation Act. The plaintiffs claim that 1993 reform amendments to the state's Workers Compensation Act violate their constitutional right to due process under the

*See Ruling on page 27*

## The 3rd Circuit ruling:



- Workers compensation insurers are arms of the state when they suspend payment of medical benefits pending the outcome of utilization review.

- Under a 1993 workers compensation reform act, denial of payment for medical benefits pursuant to utilization review violates an employee's 14th Amendment right to due process.

- Due process requires timely notification prior to the deprivation of medical benefits, a written explanation of the reasons for the termination, an opportunity to respond and information on the procedures available to protest the termination.



# Court hears harassment liability case

By MARK A. HOFMANN

WASHINGTON—The Supreme Court could clarify by early this summer the extent of an employer's liability for sexual harassment by lower-level supervisors when the victim did not pursue her complaint up the chain of command.

The U.S. Department of Justice already has weighed in, with Assistant Solicitor General Irving Gornstein arguing before the high court last week in



Ms. Faragher

AP PHOTO

*Beth Ann Faragher vs. the City of Boca Raton, Fla.* that the employer in this case could be held liable for at least three reasons. But where the justices will come down was far from clear by the questions they asked during oral arguments.

The case is one of several before the high court involving liability for sexual harassment under Title VII of the Civil Rights Act of 1964. For example, only a few weeks ago the high

court ruled in *Joseph Oncale vs. Sundowner Offshore Services Inc.* that the act covers same-sex sexual harassment under certain conditions, an issue on which lower courts had split (*BI*, March 9). Employer groups viewed that decision as both expected and as unlikely to have much impact on liability.

The issue in *Faragher*, however, is broader: Under what circumstances can an employer be held liable

*See Faragher on page 30*

# Report: AIG planning its own credit insurance operation

By DOUGLAS McLEOD

NEW YORK—American International Group Inc. is reportedly planning to start a new credit insurance operation after losing an acrimonious bidding war for American Bankers Insurance Group.

AIG Chairman Maurice R. Greenberg said last week that AIG intends to be in the credit insurance business and could build a competitor equal to American Bankers within five years, the Bloomberg News Service reported.

An AIG spokesman declined to comment further on the company's plans.

Meanwhile, winning bidder Cendant Corp. last week extended its \$67-a-share cash tender offer for 51% of American Bankers stock by one week to April 6. The offer originally was set

to expire last Friday.

Under the terms of its \$3.1 billion deal for American Bankers, Cendant will buy 51% of the insurer's shares for cash and then will acquire the balance of the shares for Cendant stock.

Cendant last Monday announced a definitive agreement to buy American Bankers after AIG waived restrictions in its own earlier merger agreement blocking American Bankers from negotiating with potential rivals (*BI*, March 23).

For agreeing to step out of Cendant's way, AIG will receive a \$100 million termination fee plus \$10 million to cover merger-related costs.

The deal ends a nasty two-month feud that saw the two rivals slinging mud at each other in courts and regulatory filings.

AIG thought it had sewn up a deal for American Bankers last December when it announced it would pay \$2.2 billion, or \$47 a share, to acquire the insurer.

American Bankers—the largest U.S. writer of credit and extended warranty coverages, with \$577.7 million in 1996 net premiums—generally was viewed as a good fit for AIG. The deal would have expanded AIG's presence in a profitable market niche while giving it access to American Bankers' distribution system of banks, financial institutions and retail outlets.

By the end of January, though, Cendant, a travel and real estate services conglomerate, seemingly appeared from nowhere with an unsolicited tender offer of \$58 a share, or \$2.7 billion.

*See AIG on page 29*

# ACE to expand cat book

Bid for CAT Ltd. would give ACE greater U.S. presence

By GAVIN SOUTER

HAMILTON, Bermuda—ACE Ltd. would significantly expand its property catastrophe reinsurance business into new areas with its announced purchase of CAT Ltd. for \$711 million.

The deal will bring enhanced technological systems to ACE and a book of business that will complement rather than duplicate its existing property catastrophe unit, Tempest Reinsurance Co. Ltd., said Brian Duperreault, chairman, president and chief executive officer of ACE.

"Tempest Re has established its underwriting expertise in the more-traditional property cat product lines. CAT is an acknowledged lead-

er in the application of proprietary modeling techniques to the non-traditional lines of business," Mr. Duperreault said in a statement.



Also, regional accounts in the United States make up a large proportion of CAT Ltd.'s business, whereas Tempest concentrates on national accounts.

earlier this month could stem the rate decreases for property catastrophe reinsurance, but the consolidation trend will have to continue for rates to increase, said Willis T. King Jr., vice chairman of Guy Carpenter & Co. in New York.

"The two deals will lead to some reduction in capacity, and when you combine that with the fact that rates on line for property catastrophe business are so very attractive, there will be a lot of activity at the

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**Updates**

**Kaiser, nurses strike deal**

*Continued from previous page*  
with its 7,500-member union include pay hikes totaling 12% through the year 2002 and cost-sharing for future retirees' health coverage.

The contract, which the California Nurses Assn. union has endorsed, will be voted on by the nurses over the next three to four weeks, a Kaiser spokeswoman said. Kaiser has 2.7 million members in Northern California.

The spokeswoman said she does not know if the contract will lead to higher premiums. "What we wanted to do is be sure we could offer the nurses a fair contract and at the same time remain economically viable in the health care field," said the spokeswoman, who added that Kaiser thinks the proposed contract accomplishes this.

The agreement follows a period of contentious labor relations between Kaiser and the union, including several one- and two-day strikes.

**Bermuda eases regulations**

HAMILTON, Bermuda—The Bermuda government has amended its insurance regulations to enable investment in insurance derivatives without investors registering as insurers.

The new regulations, which took effect last week, were made to attract insurance derivative business to Bermuda, said Kymn Astwood, registrar of companies in Bermuda.

"We are hoping to position Bermuda to be the leading market for the convergence of insurance and capital markets," he said.

Previously, Bermuda likely lost several insurance securitization deals to other domiciles as it was not clear whether investors in the vehicles had to register as insurers in Bermuda to participate in the transactions, Mr. Astwood said.

The Insurance Amendment Act 1998 provides for securitization contracts to be classified as "designated investment contracts," and the investors in the contracts will not be deemed to be carrying on insurance business.

The change in the law should not lead to regulatory problems, Mr. Astwood said. "The investors put up 100% of the limits, so it's relatively easy from a regulatory point of view," he said.

**Insurer under investigation**

COLUMBUS, Ohio—Federal authorities are investigating the troubled P-I-E Mutual Insurance Co., which a state court judge ordered liquidated last week.

The Federal Bureau of Investigation recently searched the insurer's operations in Cleveland, an FBI spokesman said. He declined to elaborate.

Meanwhile, Ohio Insurance Department regulators have begun to marshal the assets of the medical malpractice liability insurer after a Franklin County Common Pleas Court judge in Columbus, Ohio, approved liquidating it, an insurance department spokeswoman said. The insurer has an estimated negative surplus of \$275 million, she said.

Ohio regulators also are suing to try to recover \$11.5 million in extra payments allegedly given to the insurer's three former executives without proper approval, the spokeswoman said. The former executives are: Larry E. Rogers, the insurer's former president and chief executive officer; James M. Marietta, the executive vp, treasurer and chief financial officer; and Warren L. Udisky, the senior vp and senior counsel.

However, the money was properly authorized under the board's by-laws, according to Mr. Marietta's attorney, Anthony J. O'Malley of Vorys, Sater, Seymour & Pease L.L.P. in Cleveland.

**Tobacco bill markup delayed**

WASHINGTON—The Senate Commerce Committee has postponed a March 31 markup of legislation to implement the proposed \$368.5 billion settlement between the tobacco industry and 40 state attorneys general.

A draft Commerce Committee bill would make the cigarette makers pay more than the initial proposal. But the tobacco industry already has protested to the White House a proposed \$1.50 per pack price increase on cigarettes, claiming the higher prices and subsequent decline in cigarette sales could bankrupt some companies.

The tobacco industry and the attorneys general reached tentative agreement on a pact last year under which, in return for limits on class-action suits and punitive damages, tobacco companies would pay \$368.5 billion over 25 years to compensate states for tobacco-related Medicaid costs (BI, June 23, 1997).

The Commerce Committee, chaired by Sen. John McCain, R-Ariz., is one of several congressional committees with jurisdiction over portions of the tobacco settlement.

**Prejudgment interest proposed**

ALBANY, N.Y.—Under a plan announced by New York's top judge, defendants in civil suits in that state would pay prejudgment interest if they lose a case.

In a speech last week, Chief Judge Judith S. Kaye of New York's Court of Appeals, the state's highest court, said that in order to reduce delaying tactics of defense attorneys, interest should begin to accrue one year after suit is commenced. Under the current law, interest starts to accrue only when judgment or settlement is reached.

Kaye said she will propose some of the financial profit out of long delays before the state in her annual address on the state of the New York judiciary.

See Updates on page 30

**EMLICO files bankruptcy to block claim dispute**

By DOUGLAS McLEOD

BOSTON—Electric Mutual Liability Insurance Co. has filed for bankruptcy in a Boston federal court, seeking to block a state court dispute with London market reinsurers over EMLICO's 1993 settlement of a General Electric Co. pollution claim.

EMLICO's liquidators filed the petition as an ancillary bankruptcy proceeding to the insurer's Bermuda liquidation. In papers supporting the petition, EMLICO accuses Lloyd's of London underwriters and other London insurers of using state court litigation over the \$4.6 million settlement to en-

gage in "disruptive practices" aimed at defeating EMLICO's Bermuda liquidation.

The petition seeks an injunction stopping further action on the case in Boston's Suffolk County Superior Court.

Reinsurer lawyers, meanwhile, say the bankruptcy filing is merely an attempt to stall discovery of documents related to EMLICO's July 1995 move to Bermuda and its subsequent collapse. Reinsurers have charged that the move was a fraud intended to take advantage of favorable Bermuda liquidation laws at the reinsurers' expense.

"We think (the bankruptcy fil-

ing) is a sham. It's just there to avoid producing documents," said Nick J. DiGiovanni, a lawyer with Lord, Bissell & Brook in Chicago representing the London reinsurers.

EMLICO's liquidators filed the petition only days before a scheduled state court hearing on the reinsurers' motion to compel EMLICO to turn over requested documents. That hearing, scheduled for last Friday, was canceled because of the bankruptcy filing.

The bankruptcy filing stems from a dispute over EMLICO's 1993 settlement with GE of liabilities related to a Lanesborough, Mass. case. See EMLICO on page 31

**Investigating trouble within Hiscox says underwriter went outside his authority**

By MATTHEW MacDERMOTT

LONDON—Hiscox P.L.C., one of Lloyd's of London's largest syndicate managers, is investigating its internal control systems after discovering an underwriter quoted risks and signed business outside his area of authority and expertise.

In January and February of this year, David Edwards, an underwriter at Lloyd's syndicate 33, managed by Hiscox, quoted and bound credit/contract frustration coverage to buyers of ships to be built by Chinese and Korean shipyards.

The insurance covered the default of the Korean Export Import Bank guaranteeing the shipbuilding work. The core risk to the ship buyers is that a shipyard does not produce a vessel in accordance with the contract and, when called upon, the advance pay-

ments that the buyers made to shipbuilders are not refunded. These refunds are guaranteed by the Korean Export Import Bank. Syndicate 33's credit/contract frustration policy, in which it is a specialist, covers the failure of the bank to honor its guarantee.

Mr. Edwards, who had worked at Hiscox for several years, was authorized only to write physical damage coverage for the shipyards. The credit/contract frustration risks should have been underwritten by Hiscox's political risks division.

In addition, Mr. Edwards failed to enter the unauthorized risks into Hiscox's recording system, meaning the risks would not appear in the syndicate's accounts. Although Mr. Edwards' action were not illegal, they did violate Hiscox working practices, said Hiscox Managing Director Bronck Masojada.

See Hiscox on page 29

**Reinsurer results look good for now, but fundamentals lag**

By JUDY GREENWALD

The reinsurance industry is not unlike the optimist who falls from a high roof, says Dennis Zettervall.

"As he's plummeting to earth, he tells himself, 'So far, so good.'"

While reinsurers reported good results for 1997, "the fundamental trends, I think, are downward, and it's hard for me to perceive a soft landing if the fiercely competitive market persists for much longer," said Mr. Zettervall, chief executive officer of the Hartford Re Co. in Hartford, Conn.

Other observers agree that even though U.S. reinsurers posted good results in 1997, the industry's deteriorating fundamentals sooner or later will catch up with it.

For instance, Ted Collins, managing director at rating agency Moody's Investors Service Inc. in St. Louis, Mo., says the industry's fundamentals are weak. See Results on page 27



**Major global reinsurers**

Based on net premiums written from RAA Global Underwriting Report

1. General Reinsurance Corp.	\$5,326,047
2. Employers Reinsurance Corp.	3,493,000
3. SCOR	2,000,341
4. Transatlantic Holdings Inc.	1,294,136
5. AXA Reassurance S.A.	1,078,023
6. Zurich Re North America Inc.	1,066,902
7. Everest Re Holdings Inc.	1,031,142
8. CNA Re	976,291
9. Berkshire Hathaway Insurance Group	955,400
10. Kemper Reinsurance Co.	807,055

Source: Reinsurance Assn. of America and Business Insurance

**Inside**

- New York should work together with other states for central regulation of Lloyd's, this week's editorial says. **PAGE 8**
- An insurer cannot use a policyholder's bankruptcy proceedings to escape liability for third-party bad-faith claims, a judge rules. **PAGE 14**
- Despite London press reports to the contrary, Equitas says it is not in discussions with a buyer. **PAGE 21**

**Departments**

Advertiser Index .....25  
Benefit Beat .....6  
Books & Ideas .....20  
Classifieds .....26

Comings & Goings: Industry .....15  
Commentary .....29  
For the Record .....27  
International .....21  
Legal Briefs .....20  
Markets .....4  
Perspectives .....19  
Ticker .....31

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# Cost increases from parity laws small: Study

By MARK A. HOFMANN

State laws requiring parity between mental health and other medical benefits have not caused significant increases in health insurance premiums, according to a recent study.

In fact, the study estimates that mandating full parity for mental health and substance abuse benefits would increase health insurance premiums by only 3.6% annually, according to the updated actuarial model used in the survey.

The model projected that the amount of increase would vary considerably based on the type of health care plan involved. Fee-for-service and preferred provider organizations would face projected premium increases of about 5% as a result of full benefits parity, while health maintenance organizations "that tightly manage care" would register increased premiums of only 0.6%, the study concluded.

Requiring parity for substance abuse treatment alone would have an impact of

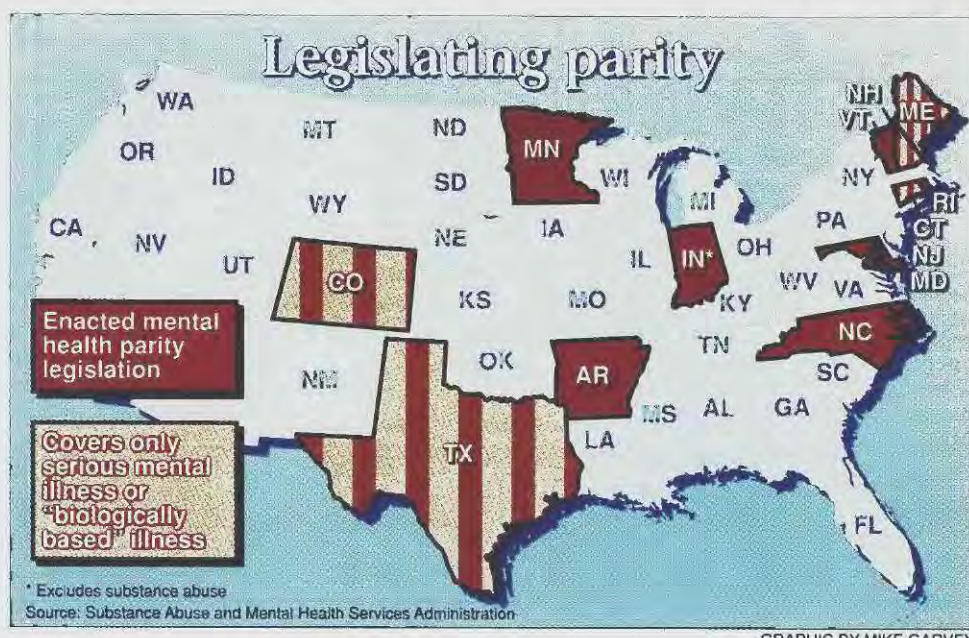
virtually zero on premiums, raising them on average by only 0.2%, according to the survey.

Mathematica Policy Research Inc. prepared "The Cost and Effects of Parity for Mental Health and Substance Abuse Insurance Benefits" for the Substance Abuse and Mental Health Services Administration, a unit of the federal Department of Health and Human Services. The study was released last week.

The study involved four analyses. The first was a comparison of state parity laws, which spell out the extent to which health insurers must cover mental health and substance abuse benefits at the same level as other health care benefits.

The second component was a case study analysis in five states—Maryland, Minnesota, New Hampshire, Rhode Island and Texas—that have parity laws to determine the experiences of various parties involved, including health insurers, employers and trade groups.

See Parity on page 17



## Quality measures faulted

Experts foresee more health plan reporting regs

By MICHAEL PRINCE

NEW YORK—Flaws in health plan quality measurement tools will lead to more regulation of reporting, two managed care experts say.

But while one expert thinks such regulation will improve quality, the other is less certain.

"We are dealing with a primitive science in its infancy," said Dr. Arnold Relman, editor in chief emeritus of the New England Journal of Medicine and professor emeritus of medicine and social medicine at the Harvard Medical School in Cambridge, Mass. "The science of quality measurement is very primitive."

The current system of measuring health care quality is "increasingly chaotic," Dr. Relman said. "The private sector is not doing the job."

For example, even though the leading quality rating organization, the National Committee for Quality Assurance, tries its best, it cannot report objectively because it is funded by managed care plans, according to Dr. Relman.

Also, the leading measuring tool, the Health Plan Employer Data and Information Set, is not sophisticated enough, he contends.

"HEDIS doesn't begin to measure all the things involved with health care," in particular the care for sick people, he said.

Dr. Relman said he has spoken with the leaders of other organizations that measure quality—the Joint Commission on Accreditation of Health Care Organizations and the American Assn. of Ambulatory Health Centers/Utilization Review Accreditation Commission—and found they increasingly encroach into each other's areas of expertise.

"It's moving toward chaos that will force regulation," he said.

A new quality reporting system is required, he said, with a focus on three areas: operational managed care plans, facilities such as hospitals, and individual doctor behavior.

Also, it's important that standards and a uniform system of reporting data exist.

See Reporting on page 30

## Health information privacy raises P/C concerns

NAIC subcommittee studying potential problems

By MEG FLETCHER

SALT LAKE CITY—Battle lines are being drawn over the potential impact of state health information privacy laws on property/casualty coverages, especially workers compensation.

The skirmishes are occurring as a National Assn. of Insurance Commissioners' working group drafts a "Health Information Privacy Model Act," which it discussed at the organization's spring quarterly meeting earlier this month in Salt Lake City.

The purpose of the NAIC act is to set standards to protect health information from unauthorized collection, use and disclosure by requiring insurers to establish procedures for the treatment of all health information.

While state legislatures are dealing with privacy concerns, especially in the context of health insurance, federal legislators also are debating privacy legislation. How any federal laws would interact with state laws has not been determined.

The NAIC model reflects the same concerns about individuals' rights to keep personal medical records confidential that Congress considered last year in privacy hearings and deliberations related to a provision in the Health Insurance Portability and Accountability Act passed in 1996. Under that law, Congress has until August 1999 to enact legislation governing the privacy of medical records. If Congress fails to act, then the secretary of Health and Human Services will promulgate regulations. The Clinton administration's privacy recommendations to Congress did not include workers compensation or other property/casualty insurers. That may change with additional legislation and agency review (BI, Oct. 27, 1997; Sept. 22, 1997).

On one side are employers, insurers and workers comp administrators. They fear the claims-handling problems and litigation that might result if privacy restrictions delay the exchange of information needed to

See Privacy on page 7



## Reforms under siege in workers comp

By ROBERTO CENICEROS

INDIAN WELLS, Calif.—Broad-based attempts to reverse the gains from workers compensation reforms threaten policyholders, insurers and self-insureds, several experts say.

Many states enacted the workers comp reforms during the early part of this decade, resulting in at least \$3.5 billion annually in cost reductions. Now assaults against those reforms are being fueled by a perception that the market outlook is rosy for property/casualty insurers, the experts told the International Alternative Insurance Symposium earlier this month in Indian Wells, Calif.

But in reality, many workers comp insurers are exhausting their reserves, and new pressures on their operating ratios—such as from the dismantling of reforms—could cause an unfavorable market downturn, leading to price increases.

The issue is important to alternative market advocates because traditional insurers currently are offering tempting deals such as guaranteed cost programs at low premiums. Before making a decision to leave the alternative market for tradi-

tional insurance, risk managers need to weigh the implications of a potentially deteriorating insurance market, the experts said.

Self-insured employers also could be impacted if the undermining of workers comp reforms leads to benefit increases or increased benefit costs, they added.

Recent times have been good for workers comp insurers, particularly under certain reporting procedures.

Industrywide, insurers from 1984 to 1993 saw on average an astounding 43-point decline in their operating ratios, to 78.2 from 121.4, said Andrew P. Johnson, a consulting actuary in Wakefield, Mass., for Milliman & Robertson Inc. Operating ratios declined 27 points just between 1990 and 1993, making 1993 a peak year for insurers. The operating ratio equals operating expenses divided by net sales. The smaller the ratio, the greater the organization's ability to generate a profit if revenues decrease.

See Market on page 12



## Idea would let RRGs cover property risks

By ROBERTO CENICEROS

INDIAN WELLS, Calif.—By contractually converting a first-party property exposure into a third-party liability exposure, a risk retention group might be able to provide coverage of these exposures for members, an attorney says.

The federal Risk Retention Act, enacted in 1981 and expanded in 1986, limits an RRG to writing only liability coverages; workers compensation and property risks are not permitted. In addition, it can cover only the risks of its policyholder-owners, not the general public.

Covering an RRG member's liability for damage to the property of others, however, would be within the scope of the federal law, according to Jill B. Berkeley, a partner at Schiff Hardin & Waite in Chicago.

While damage to another's property may seem like a straightforward liability exposure, when a policyholder damages property in its care, custody or control, it

generally is considered a first-party property risk as if it were the policyholder's own property, Ms. Berkeley said.

Using contractual indemnification agreements, a company can covert such a property risk into a liability exposure eligible for coverage by its risk retention group, Ms. Berkeley told an audience at the International Alternative Insurance Symposium in Indian Wells, Calif., earlier this month.

Ms. Berkeley developed the concept along with John H. Howard, a vp at U.S. Re Corp. in New York. It remains theoretical because it has not been submitted to any insurance regulators for approval, though they have been approached by one U.S. domicile interested in the concept, she said.

However, Ms. Berkeley has presented it to several prominent captive attorneys. She said they believe it would be a viable option for RRGs that currently cover liability risks but whose members also need coverage for property exposures.

Some risk retention group members have had to buy or create property insurance units to meet their needs, Mr. Berkeley said.

See Property on page 14

# Gallagher buys three specialty brokers

ITASCA, Ill.—Arthur J. Gallagher & Co. has acquired insurance brokers Martin, Gordon & Jones Inc. of Jackson, Miss.; Employee Benefits of The Carolinas of Charlotte, N.C.; and Gardner Marine Agency Inc. of St. Louis.

Terms of the transactions were not disclosed.

Organized in 1973, Martin, Gordon & Jones specializes in commercial and personal property and casualty insurance, employee benefit packages and risk management and consulting services. The company's employees will be merged with Gallagher's Jackson, Miss., office under the direction of Mitch Brashier, area president.

Employee Benefits of The Carolinas, founded in 1989, specializes in group health insurance throughout the Southeast, han-

dling self-insured and fully insured medical plans and related products. The company and its staff will now operate as Gallagher Benefit Services of the Carolinas Inc. under the direction of David Ziegler, president of Gallagher Benefit Services' Eastern region.

Established in 1990, Gardner Marine specializes in the marketing and servicing of marine insurance for clients throughout the Midwest. Gardner Marine's staff will be merged with Arthur J. Gallagher & Co.'s St. Louis office under the direction of James Agnew, area president.

## Joint venture formed

NEW YORK—Reliance National Insurance Co., Lambert

## Markets

Fenchurch Group P.L.C. and MTS Insurance Services have formed a joint venture insurance brokerage company. The joint venture will be called New Century Global Inc. and will have an initial capitalization of \$9.5 million.

New York-based New Century will operate as a specialty insurance broker and managing general agent, specializing in the energy, entertainment, health care, property and risk management businesses.

Lee A. Orabona has been named the joint venture's president and chief operating officer.

For more information, call 212-208-1429.

## Concentra purchase

BOSTON—Concentra Managed Care Inc. has acquired Naperville, Ill.-based Preferred Payment Systems, bolstering Concentra's retrospective bill review services position in the group health marketplace.

Under the terms of the transaction, approximately 7.7 million shares of Concentra common stock and \$14.7 million in cash were exchanged for the outstanding shares of PPS.

Founded in 1990, PPS provides specialized cost-containment and outsourcing services for health care payers nationwide. Boston-based Concentra provides comprehensive outsourcing for cost-containment and health management in group health care, property and casualty and occupational medicine.

## Financial services

CHICAGO—International actuarial and consulting firm Milliman & Robertson Inc. has established a Chicago-based financial services practice to serve clients worldwide in the insurance, banking and brokerage industries.

James H. Overholt, former president and chief executive officer of the Great Western Financial Securities Corp., will lead the unit as group executive, and Julianne M. Fries, who had been senior vp and director of risk management at Great Western, will be senior associate.

For more information, call 312-726-5225.

## HCCH buys Kachler

HOUSTON—HCC Insurance Holdings Inc. has agreed to acquire all outstanding shares of The Kachler Corp. in exchange for 1.6 million shares of HCCH's common stock accounted for as a pooling of interests, or a combining of the companies' balance sheets.

Kachler is a Houston-based retail insurance agency specializing in life, accident and health insurance for benefit plans of large commercial customers across the country. The company's founder, Larry M. Kachler, will remain CEO of Kachler and join the senior management committee of Houston-based international specialty insurance group HCCH.

## Health care data

ANN ARBOR, Mich.—The MEDSTAT Group and Network Management Services have agreed to jointly offer large employers services to support the collection and analysis of health care data needed to select, evaluate and administer employee health plans.

Ann Arbor, Mich.-based MEDSTAT is a supplier of health care information, analysis and consulting services; Minneapolis-based NMS provides employee benefit administrative services.

Under the agreement, the two companies will combine MEDSTAT's expertise in multivendor claims and eligibility data integration and analysis with NMS's eligibility administration services, including enrollment, electronic eligibility management and financial services. The companies also will combine their expertise in health plan selection, rate negotiation and performance management.

For more information, call NMS at 612-525-2700 or MEDSTAT at 734-663-6993.

## Westfield Life sale

OMAHA, Neb.—The Guarantee Life Cos. Inc. have agreed to purchase Ohio Farmers Insurance Co. subsidiary Westfield Life Insurance Co. for \$100 million. The transaction will be financed with \$90 million in cash, supported primarily by a senior secured term loan facility, and \$10 million in restricted stock, and is expected to close May 31.

The acquisition of Westfield Life, based in Westfield, Ohio, will add nearly 87,000 policies, \$280 million in reserves and \$55 million in revenue to the Guarantee Life's Individual Insurance Business' 208,000 policies, \$950 million in reserves and \$140 million in revenue.

Under an administrative services agreement, Ohio Farmers will provide all services needed to administer the individual life and annuity business previously issued by Westfield Life.

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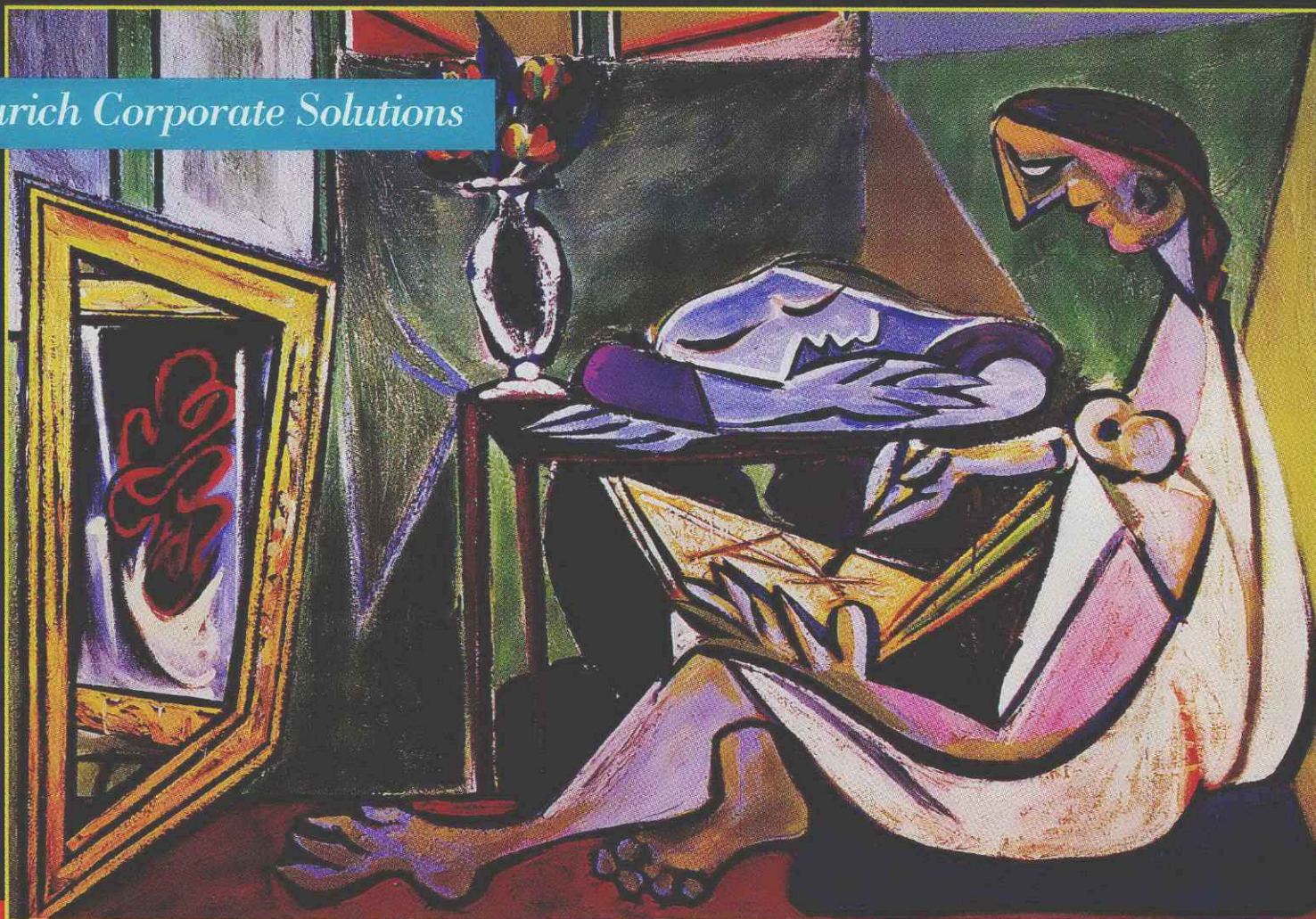
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# Disease management success prompts second program

ASHEVILLE, N.C.—After saving more than \$25,000 in just six months with a pilot disease-management program that targeted diabetes, the city of Asheville, N.C., is launching a program for its employees with asthma.

"Not only did we save some bucks, but the program demonstrated the valuable role pharmacists can play in managing care," said John P. Miall, director of risk management for the city of Asheville.

Because of the success of the diabetes-management pilot, the city has decided to allow it to become a permanent part of its benefit plan and to launch a second program—this one targeting asthma—according to Mr. Miall. That project, launched March 1, will conclude Sept. 1.

The diabetes program, known as the Asheville Project, was conducted jointly by the North Carolina Center for Pharmaceutical Care, a coalition of state pharmacy organizations; Mission+St. Joseph's Health System; and local pharmacies.

Under the program, which took place over a six-month period that began March 1, 1997, each of the city's 60 participating employees was assigned a pharmacist "coach" who was geographically accessible.

After an initial assessment meeting, the employees met with their pharmacist coaches for brief sessions each month to touch base, to discuss any complaints or problems they might be having with their medications, and to go over data from their blood-sugar monitors.

After just three months, "our nurse was noticing that these individuals were taking better care of themselves than they had in years, in terms of diet, sleep, exercise—in every regard," Mr. Miall recounted.

As a result, the city decided to compensate the pharmacists for their time before the program had been completed.

"We were taking the Missouri approach," Mr. Miall explained. "I'm from Missouri, and it's called the 'Show Me' state, so we said we would compensate them only after they gave us results."

The city paid the pharmacists \$75 for each initial assessment, \$45 to \$60 for intermediate assessments of 30 to 45 minutes in length, and \$20 for routine visits. In addition, the city waived the participating employees' copayments for insulin and supplies as an incentive for them to enroll in the program. The city has a drug-card program that requires a \$5 copayment for generic drugs and a \$15 copayment for brand-name medication.

This brought the city's total investment in the diabetes disease-management program to about \$14,000, which Mr. Miall characterized as "a drop in the bucket" when compared to the city's \$4 million an-

nual health care budget.

"If you're preventing one diabetic patient from facing an amputation in the future by improving his care now, you're saving between \$30,000 and \$50,000. For anyone in risk management, this is a no-brainer," Mr. Miall said.

The city's health plan is self-insured and administered by Kanawha Benefit Solutions Inc., a Lancaster, S.C.-based third-party administrator.

The city provides health care coverage to 830 full-time employees and dependents and 200 retired workers.

—Ey Joanne Wojcik

## Long-term care

ST. PAUL, Minn.—Members of the Minnesota Chamber of Com-

## Benefit Beat

merce will be able to get long-term care insurance through a joint partnership between Minnesota Chamber Business Services, a wholly owned subsidiary of the chamber, and Transamerica Occidental Life Insurance.

Less than 3% of Minnesotans have LTC insurance policies. Half of all Americans will need nursing or home care during their lifetimes, and without insurance the cost could be overwhelming, said Sharon Konieczny, vp of marketing for MCBS.

The chamber decided to offer LTC insurance because many of the group's 3,600 member companies have expressed interest in the bene-

fit over the past couple of years.

"The Minnesota chapter, quite frankly, is known for trying to get problems solved through the private sector, and this fits perfectly with that," Ms. Konieczny said. MCBS already negotiates for health and life insurance with vendors on behalf of numerous chamber members.

The long-term care insurance, expected to be ready for purchase in June, will be available to employees and retirees, their spouses, aunts and uncles, grandparents, and anyone residing with any of the above.

Premiums may be paid by employees, employers, or a combination of both, depending on the preference of the plan sponsor, Ms. Konieczny said.

Levels of benefits will be customized according to employees' needs and will range from personal

caregivers in the home to a maximum of \$300 a day in nursing home coverage.

LTC usually covers nursing home stays, skilled home health care, adult day care and sometimes unskilled home health care. It is intended as a supplement to Medicare, which does not pay for these costs.

LTC was first offered in 1987 but was not immediately popular (*BI*, June 2, 1997). A William M. Mercer Inc. survey last year found that at nearly half of the plan sponsors with LTC, less than 5% of employees enrolled in it.

Advocates of LTC hope its presence will increase because the federal Health Insurance Portability and Accountability Act gives employers tax advantages for paying employees' LTC premiums.

—By Robert Kazel

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# Privacy

Continued from page 3

process workers compensation claims. In addition, delay may increase the duration of wage-loss payments and make it more difficult for employers to determine impairment and sometimes eligibility for compensation through a second-injury fund.

On the other side are spokesmen for the AFL-CIO. "Restrictions on the collection, access, use and disclosure of private health information, including private health information of workers, should be strengthened and should apply uniformly to all insurers, including those who underwrite workers compensation," according to a recent letter from James N. Ellenberger, assistant director of the union federation's Department of Occupational Safety and Health.

The federation wants to protect

workers from unauthorized access to workers comp information, which may allow businesses to discriminate against workers because of health conditions and even blacklist them for merely filing workers comp claims.

From a property/casualty claims perspective, the NAIC's Health Information Privacy Model Act poses several problems, sources say.

"The draft language is confusing and could be interpreted in a number of ways," said South Dakota Director Darla Lyon, who chairs the NAIC's Commercial Lines Property/Casualty Committee. A model should not be left up to interpretation, she said.

In addition, "property/casualty insurers don't use health information in the same way or for the same reasons that health insurers do," she said. They need to be able to get information so they can determine up front whether to pursue or drop liti-

gation in the future. "I don't think this model responds to those differences." There should be privacy laws, where appropriate, but "you can't cut these people off at the knees," Ms. Lyon said.

A concern of the International Assn. of Industrial Accident Boards and Commissions is that the model "may in fact harm those designated to be protected by slowing down the delivery of medical treatment and benefits and increasing the amount of litigation over workers compensation claims," according to a March 15 letter sent to the NAIC drafting group by Gloria Gebhard, chair of the IAIABC's Occupational Health and Disability Management Committee.

"If there is delay in the employer getting the necessary records, there is delay in paying medical bills, and more important, delay in paying weekly sustaining benefits to an injured employee," said Douglas

Stevenson, executive director of the National Council of Self-Insurers in Chicago. "Workers compensation benefits should be delivered immediately, at the time when the injured workers needs it most," he said.

The proposed NAIC model also heaps "significant" burdens on property/casualty insurers, because they exchange claim-related information more frequently and in greater detail than do health insurers, said Bruce C. Wood, assistant general counsel for the American Insurance Assn. in Washington. In addition, insurers would be required to keep a log recording disclosure information.

They also face significant penalties for violations, including giving individuals a private right of action, Mr. Wood said. "All it does is set up insurers for the losing end of a game of gotcha," he said.

In response to urging from several regulators and industry representatives, the NAIC working group is es-

tablishing a technical advisory subcommittee to consider property/casualty concerns. The working group plans to complete its work by the organization's summer quarterly meeting June 20-24, said working group chair John Conniff, deputy commissioner of Washington state's Insurance Department.

The subcommittee has an April 30 deadline to report to the working group, which will then circulate a new draft by May 25. Comments must be delivered to the working group by June 10, according to the timetable Mr. Conniff released at a recent meeting.

Other developments at the NAIC's meeting included:

- A new NAIC subgroup studying regulators' responses to a recent survey about the Employee Retirement Income Security Act failed to expand its assignment and was disbanded (*BI*, Feb. 23).

Subgroup chair John Oxendine of Georgia introduced a motion asking the 13-member executive committee to expand the subgroup's duties to include consideration of multiple-employer welfare arrangements. However, he withdrew his motion after NAIC President Glenn Pomeroy and two other commissioners said they would vote against it for a variety of reasons.

The NAIC will continue to monitor ERISA-related issues through a subgroup of its Accident & Health Insurance Committee, which Mr. Oxendine joined in January.

- NAIC members formally approved its codification of a statutory accounting principles project, which is designed to provide greater uniformity in the financial statements of most large insurers.

They also adopted several model acts, including the Investments of Insurers Model Act (Defined Standards Version), which contains criteria for prudent evaluation of investments and requires each insurer to follow a written plan that has been approved by its board of directors. NAIC members also adopted the Unfair Discrimination Against Subjects of Abuse in Property/Casualty Insurance Model Act, which is similar to models for health, life and disability income that they previously adopted. The act is designed to protect a battered individual from discrimination in the purchasing of insurance.

In addition, members adopted several white papers that provide guidance on the marketing of insurance over the Internet, as well as selling "other states" coverage as part of workers compensation policies for employers with multistate exposures (*BI*, Oct. 27, 1997).

- Commissioners heard a report that a Kansas state court judge recently ruled in favor of the National Council on Compensation Insurance in a fee dispute with Insurance Commissioner Kathleen Sebelius over outsiders' access to copies of NCCI work papers.

The court earlier this month threw out a Kansas Insurance Department order that prohibited the NCCI from charging more than \$12 per page for extra copies of an employer's experience rating calculation. The decision, which reflects an earlier state Supreme Court ruling, essentially said that Ms. Sebelius lacks the authority to administratively determine such fees without considering the costs incurred in creating them.

The NCCI already provides free copies of the worksheet to the policyholder and its insurer, said Sally Narey, NCCI senior vp and general counsel. The extra copies were used primarily by agents hoping to obtain business.

The judge ordered that Ms. Sebelius moderate her order and recalculate the fee, which is being done with input from the NCCI, Ms. Narey said.



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# Market

Continued from page 3

The level of profitability that was available to insurers during 1993 is not sustainable under normally competitive market conditions, and it was natural for operating ratios to spring up.

"So we have already seen a turn in the market, and results have begun to deteriorate," Mr. Johnson said. "That has been going on since 1993."

But under "calendar-year accounting methods," insurers have reported healthy earnings for 1995 and 1996 from underwriting profits and investment income, Mr. Johnson said.

Calendar-year accounting—which can reflect reserve decreases that improve results—is the typically accepted method in

which the industry reports its results in financial statements. It also is the easiest data for insurer adversaries, such as labor groups and plaintiffs attorneys, to obtain.

However, a look at "accident year" reporting reveals a different picture.

Accident-year reporting strips out the effect of insurer reserve changes during a given year. Therefore, it is a better match of current premiums to losses. It is a purer measure of profitability and where market is right now, Mr. Johnson explained.

Looking at calendar-year accounting, it appears that 1995 was the best recent year for insurers, Mr. Johnson said.

When one looks at accident year reporting, it becomes obvious that the current good times peaked in 1993.

Since the end of 1996, profit

margins have further eroded due to the current price competition, Mr. Johnson said.

Currently, a good outlook for earnings on investment income is insulating insurers from a deteri-

study that found market observers think prices could continue to decline another 10% to 20%. But for now many insurers are reporting healthy profits through 1996, providing ammunition for labor at-

**A broad series of threats to reform 'will require diligence on all of our parts if we want to hold onto the gains that have been made in the comp market,' Barry L. Llewellyn says.**

oration in their reported results. But with marginal profitability, there are several economic threats, such as more price competition or the dismantling of reforms.

Mr. Johnson cited one recent

torneys or legislators and other political forces aligned to liberalize benefits.

"To the extent that benefits are liberalized and there is no compensation in price, given that we are entering a period of marginal

profitability, I would argue the industry is exposed to poor results," Mr. Johnson said. "We may be entering a situation where it's going to be touch and go. And if you layer on to that price decreases of 10% or 20% going forward, I think we are looking at some unfavorable results."

The perception that the workers comp market is healthy and there is room to increase benefits is false, agreed William E. "Ric" Yocke, western region risk management practice leader for Deloitte & Touche L.L.P. in San Francisco.

One sign of potential problems comes from California. In 1996, insurers operating there had an underwriting loss of 21.5%, compared with 10.8% in 1995, Mr. Yocke said.

Insurers can be their own worst enemies in reporting their results in a favorable fashion, Mr. Yocke said.

Adversaries are looking at insurers' own reporting that currently says, "We are making bundles of money." However, one of the reasons they are making bundles of money is they are cutting into prior reserves.

However, insurer reserves are getting close to depletion, "and there is no more to take," Mr. Yocke said.

"At this point they are sitting at the lower end of their ranges on reserve adequacy, and this is a strong indication that things must turn for the insurance industry," he added. "If the well is dry, even without unreform, this evidence is going to turn to the fact that prices are going up."

The \$3.5 billion in annual savings that resulted from reforms is just the tip of the iceberg, pointed out Barry L. Llewellyn, senior vp and actuary for the National Council on Compensation Insurance Inc. in Hoboken, N.J. The reforms also forced many players in the workers comp arena, such as providers, to change behavior patterns and make the system more efficient. That is all at stake.

"There are a broad series of threats to reform that will require diligence on all of our parts if we want to hold on to the gains that have been made in the comp market," Mr. Llewellyn said.

For example, Mr. Llewellyn noted a Rand Corp. study that found California's permanent partial disability system is inequitable and that benefits need to be increased (*BI*, Nov. 24, 1997).

Mr. Llewellyn also noted that in 1996, labor unions spent \$35 million to bolster their influence with state legislators.

"They have a particular agenda in mind, and I think they will be back with a particular vengeance," he said. "Organized labor is back in the game, and we are not seeing very many proposals to take additional benefits out of the system; they are going the other way."

The threats to workers comp reforms are not limited to challenges from legislators. Traditionally, people have perceived that to be the case, Mr. Llewellyn said. But in the past couple years, attempts to hold the line on workers comp increases have been under attack in the courts and from other arenas, such as from attempts to stifle managed care's cost-cutting gains.

Although workers comp recently has been a very profitable market, "it is not hard to imagine it quickly becoming unprofitable," Mr. Johnson said. **BI**

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# Property

Continued from page 3

Howard explained in an interview. Assuming his and Ms. Berkeley's concept is viable and meets regulatory approval, it would save the RRG shareholders considerable time and expense over maintaining separate property insurance units, he noted.

An example of a type of business that might find it attractive to use an RRG to provide property coverage, Ms. Berkeley said, would be trucking companies that need to cover the risk of loss to cargo or even to drivers' trucks.

The mechanism for converting a first-party property exposure into a third-party liability exposure requires the policyholder to contractually assume liability for any damages to another party's property, Ms. Berkeley explained.

In the case of a trucking operation, an owner/operator could contractually assume liability for damage to a customer's cargo or an independent driver's truck and then insure its liability through an RRG.

Using an Insurance Services Office Inc. format for a commercial general liability policy as a starting point, Ms. Berkeley said, a form could be designed that would cover not only a policyholder's tort liability for damage or injury to another party but also its contractual liability for damage to property in the policyholder's care.

In the example of the trucking company, it would provide its customers with signed indemnity agreements and certificates of insurance stating that the promise to indemnify the customer is insured. The indemnity agreements would have to be tailored to meet varying state laws.

Certificates of insurance from a risk retention group's policy would then be issued naming the RRG member.

The RRG member's customer would not become a policyholder under the policy. But the policy would give that customer a right to benefits if the trucker was not able to fulfill its promise to indemnify the customer for the loss of property.

"You basically take an indemnity agreement which makes one party liable for damage sustained by another party and then you can convert one's own property damage so that it becomes the assumption of liability for damage to property of others," Ms. Berkeley said.

In the case of a building contractor,

it would be similar to taking an indemnity agreement under a CGL policy for claims arising from the performance or failure of performance of a contractor's work. But a contractor would modify that sample agreement and instead assume liability to indemnify damage to the property of the owner, Ms. Berkeley said.

"You will have a typical indemnity agreement with just that simple modification, so that the new indemnity agreement will just simply look like indemnity of the owner for any claims arising out of, or resulting from, damage to the property of the owner," Ms. Berkeley said.

"It's not a big leap; it's not a new risk," she said. In addition to relying on ISO forms, the concept is similar to one now being used by contractors' RRGs in Vermont to provide coverage for homeowner warranty programs and for warranty programs offered by small machinery vendors, Ms. Berkeley said. **B**

# Ruling keeps insurer on hook

By MICHAEL BRADFORD

BOSTON—An insurer cannot escape liability for third-party bad-faith claims through its policyholder's bankruptcy proceedings, a federal judge has ruled.

The ruling earlier this month holds that Travelers Indemnity Co. cannot be released from bad faith claims filed against it by a group of creditors in the bankruptcy of Salem Suede Inc., a Salem, Mass. tannery operator. U.S. Bankruptcy Judge Joan N. Feeney refused to approve a reorganization plan put forth by Salem Suede that would have released the insurer from bad-faith judgments already reached.

"It's a very significant and interesting opinion," said John A. MacDonald, a policyholder attorney with Anderson Kill & Olick P.C. in Philadelphia.

The ruling appears to be the first to address an attempt to nullify third-party liability as part of a policyholder's bankruptcy proceedings, he said.

While the decision is notable because it prevents insurers from using the bankruptcy code to circumvent bad-faith liability, the ruling is also important because it "reaffirms that insurers can be independently liable to third parties for bad faith," he said.

Mr. MacDonald worked on the case as an attorney for United Policyholders, a San Francisco-based non-profit group that promotes policyholders' rights. The group filed an amicus curiae brief arguing against the reorganization plan.

The plan indicated that Travelers would pay the creditors' claims against Salem Suede and, at the same time, be released from the third-party bad-faith claims. Mr. MacDonald

speculated that the arrangement was a "quid pro quo" type of deal between the parties.

Travelers, which provided general liability coverage for Salem Suede, issued a statement emphasizing Salem Suede, not the insurer, proposed and filed the plan. "Travelers was one of many parties, including the Travelers policyholder and the majority of the debtor's creditors, that supported the plan," the statement said.

Attorneys for Salem Suede could not be reached.

Salem Suede filed for bankruptcy in 1996, after its creditors sought to collect personal injury and property damage judgments of \$1.8 million they had obtained in Massachusetts Superior Court.

One of the plaintiffs was the owner of Foreign Car Center Inc., a nearby *Continued on next page*

## Meeting draws 500

INDIAN WELLS, Calif.—For years, the leaders of the Captive Insurance Cos. Assn. Inc. and The National Risk Retention Assn. had talked of combining their resources to sponsor one national conference.

This year, they finally did just that, attracting about 500 attendees to the first joint International Alternative Insurance Symposium. The conference was held at the Hyatt Grand Champions in Indian Wells, Calif., and pulled in about 50 people more than CICA and NRRA typically attracted to their own separate conferences, organizers said. The IAIS also attracted more people from foreign countries than had attended CICA or NRRA conferences in the past.

The 1999 International Alternative Insurance Symposium will be held March 14-17 at the Hyatt Hill Country Resort in San Antonio. For more information, contact the IAIS meeting organizers at 612-928-4665.

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*Continued from previous page*  
 business and a Salem Suede creditor due part of the \$1.8 million. The owner argued that his health problems and damage to vehicles at his location near Salem Suede were due to pollutants the tannery discharged from 1978 through 1981.  
 Separately, creditors lodged numerous bad-faith claims against Travelers. The bankruptcy court dismissed all but one, Travelers said.  
 While no judgment amount was rendered, Judge Feeney said in her recent decision that the bad-faith claims could exceed \$1.5 million.  
 Travelers is appealing the bad-faith ruling to U.S. District Court as well as an earlier ruling that a pollution exclusion in Salem Suede's policy did not preclude coverage for injuries related to the tannery operation.  
 U.S. Bankruptcy Court, District of Massachusetts, Salem Suede Inc., Chapter 11, case no. 96-13184-JNF.

# Mosier to develop Kemper alternative risk unit

**David W. Mosier** joined Kemper Insurance Cos. as vp with responsibilities for developing and managing Kemper Alternative Risks, a newly formed captive management and alternative risk unit in Long Grove, Ill. Mr. Mosier, who most recently was president of Armrisk Corp., also will serve as chief operating officer of Kemper's underwriting participants at Chicago-based INEX, formerly the Illinois Insurance Exchange.  
 Also at Kemper: **Mariann B. Keenan** named vp with responsibilities for creating and implementing strategies to grow the insurer's commercial package line of business; **Christopher M. Millington** named vp-claims systems; and **Judy Maddocks**, chief executive officer of Kemper Canada, named vp.  
**In other insurer changes:**

## Comings & Goings: Industry

**David Kuhn** named vp and district manager for the western United States at Hartford Specialty Co., a unit of The Hartford Financial Services Group Inc. He is located in Glendale, Calif.  
**James J. McIntyre** named executive vp of Wausau Insurance Cos. in Los Angeles.  
**Koong-Kai Tse**, who joined a predecessor company of American International Group Inc. in Shanghai in 1927 and went on to hold senior executive positions with many AIG companies over a 70-year period, died March 9 in New York. He was 91.  
**Frank Mike-Mayer** named man-

aging vp at Reliance National Insurance Co. in New York.  
**Timothy R. Morse** named senior vp at St. Paul Fire & Marine Insurance Co. and president of St. Paul Medical Services in St. Paul, Minn. Mr. Morse assumes leadership at St. Paul Medical from **Joe Nardi**, who was named executive vp of St. Paul Fire & Marine and president of Specialty Commercial.  
**R. Scott Spriggs** joined Guaranty National Cos. in Englewood, Colo., as vp of product management. He was formerly a product manager at Progressive Insurance.  
**Gerald E. Meach** named president of American Community Mutual In-

## Agents/brokers

**John H. Copenhaver** named president of Chicago-based Aon Financial Products Inc., a unit of Aon Capital Markets Inc. Aon Financial Products creates structured investment and financial risk management products.  
 Also at Aon, **Russell Sands** named chairman of Aon Risk Services Inc. of Northern California Insurance Services and **Edward Kiessling** named president of the San Francisco-based operation.  
 Also, **Paul Henriod** named president and **John Bolger** named senior vp of Aon Risk Services Inc. of Colorado in Denver.  
**Peter D. French** named senior vp-sales and marketing at WRIMS Corp./USI, a San Clemente, Calif.-based unit of USI Insurance Services Corp. Mr. French formerly was senior vp of three California offices and western regional manager for construction client services at J&H Marsh & McLennan Inc.  
**Thomas L. Weigand** and **Tim O'Connor** named manager and deputy manager, respectively, of the Minneapolis office of J&H Marsh & McLennan. Mr. Weigand previously held the same position with Johnson & Higgins, and Mr. O'Connor was manager of M&M's Minneapolis office.  
**Sam J. Cunningham** named senior vp and director of employee benefits at Calco Insurance Brokers & Agents Inc. in San Mateo, Calif.  
**Gary P. Pearl** named president and CEO of John P. Pearl & Associates Ltd. in Peoria Heights, Ill., and **Greggory S. Ketay** named executive vp and chief operating officer of the firm.  
**Thomas F. DiGirolamo** named vp of Satellite Agency Network Group Connecticut.

## Excess/surplus lines

**Mark M. Smith** named executive vp and COO of wholesaler Stewart Smith Group Inc. in Nashville, Tenn.  
**James H. Levine** named senior vp and branch manager of the Atlanta office of Swett & Crawford Group.  
**Melodie Bankers** named vp of governmental relations at Kenneth I. Tobey Inc., a Seattle-based managing general agency.  
**Rick Williams** named president of Northern States Agency, a managing general agency in St. Paul, Minn. Mr. Williams, who joined the MGA from Sedgwick Inc., succeeds **Tyson T. Cross**, who has relocated with his family to Olathe, Kan.

## HMOs/PPOs

**John T. Hinton** named chief medical officer of Choice Care/Humana in Cincinnati after the  
*See C&G on page 17*

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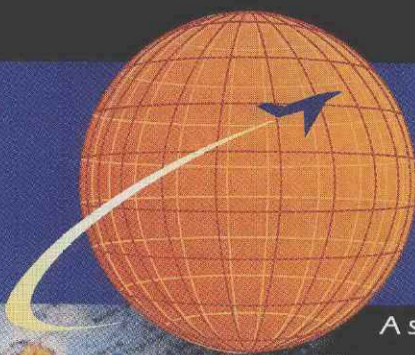
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# Lessons in risk

*Education programs helping develop  
risk management worldwide*

*In this issue:*

**Europe lacks a  
uniform system  
page G2**

**Programs gaining  
profile in U.K.  
page G6**

**Japan to offer  
university course  
page G8**

## No European unity in risk management education

By MARIA KIELMAS

Risk management education in Europe varies widely, but despite the formation of new programs, no moves toward a uniform risk management education system are being taken.

In addition, the European programs largely are modeled after those in the United States and United Kingdom.

For example, the French risk managers association, Assn. pour le Management des Risques et des Assurances de l'Entreprise, sponsors a wholesale French-language version of educational programs developed by the Insurance Institute of America. After passing a three-module program, students receive an internationally recognized qualification, the Associate in Risk Management designation.

"We have imported the ARM program in cooperation with the Insurance Institute of America. It is given in French with exactly the same exams as in the U.S.," said Thierry Van Santen, vp of AMRAE and head of risk management at Paris-based food manufacturer Groupe Danone.

The AMRAE program also has been exported successfully to

French-speaking countries in Europe, such as Belgium and Switzerland.

"We are too small, and our own organization has only 60 members. That is not enough to run an educational program," said Jerome Brizard, risk manager at Geneva-based pharmaceuticals company Ares Sero Group and a board member of the Basel-based Swiss risk management association Schweizerische Vereinigung der Insurance & Risk Management.

So French-speaking risk managers in Europe use AMRAE's ARM course, while other programs are organized with the respective U.S. and U.K. risk management associations, the Risk & Insurance Management Society Inc. and the Assn. of Insurance & Risk Managers.

Some Swiss universities also teach risk management as part of economics and business courses. But the risk management procedures learned in those programs are geared more to financial risk management used in banks and other financial institutions, Mr. Brizard said.

Risk management also forms part of university programs in Belgium, but the country is not large enough to bring together associations to pro-

vide some kind of qualification certificate, said Marie-Gemma Dequae, risk manager at Kortrijk, Belgium-based wire and steel products maker Bekaert B.V.

Ms. Dequae herself teaches a course in insurance management at the University of Leuven, and risk



management forms a part of the class. But, otherwise, the policy for companies has been to import programs such as the AMRAE ARM or others from the United Kingdom.

The real problem in Europe is that the only two countries where risk management has been developed fully are France and the United Kingdom, noted Mr. Van Santen.

Eberhard Knebel, managing director of Bavaria Wirtschaftsagentur GmbH, a Munich, Germany-based captive insurance brokerage unit of Bayerische Motorenwerke A.G., ex-

plained that Germany has a different approach to risk management.

"The notion of a risk manager and risk management is an Anglo-Saxon concept. In Germany, the culture is different. Here we are part of the (company's) finance department. We look after financing risk, and I see myself as a risk-financing person and a risk coordinator," Mr. Knebel said. "We cooperate with the technicians who specialize in loss prevention and so on."

As a result, German corporations mostly conduct risk management training in-house, he said. Additional courses are organized by the federation of German industry or insurance associations.

While attempts to forge a risk management educational program for all of Europe are beginning, the effort is fraught with problems.

"We've now been working for 15 years on a common approach, but nothing has come from Europe. Every country wants to take the lead," said Mr. Van Santen.

"Every European risk management association has a different organization," said Vicente Martin, president of the Spanish risk management association Asociacion Espanola de Gerencia de Resgos y Se-

guros. Mr. Martin also is assistant risk manager at Spain's largest electricity utility, Empresa Nacional de Electricidad S.A.

AEGRS has firm links with its Latin American counterpart, Asociacion Latinoamericana de Gerencia de Riesgos y Seguros and is a member of the International Federation of Risk & Insurance Management Assns. AEGRS also provides various short courses for Spanish risk managers.

Spanish business and academic institutions are developing their own tailor-made educational programs.

Fundacion Mapfre, the education/charity arm of Madrid, Spain-based insurer Grupo Mapfre, has a five-year degree program with the Universidad Pontificia de Comillas in Madrid. In addition, the Spanish subsidiary of Swiss insurer Winterthur Group has developed a similar degree course with the Universidad Pompeu in Barcelona, Spain. Each course takes 40 to 50 students every year, and Mapfre and Winterthur both provide financial support and faculty.

Risk management courses are available in the Netherlands through a joint program supported by the Rotterdam-based insurance education organization, Assurantie Opleideng Centrum, and broker

See **Europe** on page G4

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## Europe

Continued from page G2

Aon Group Inc., which has a large presence in the Netherlands through its predecessor's 1991 acquisition of Dutch broker Hudig Langeveldt Groep B.V.

It is a one-year oral course, though it is not considered equivalent to a university course. "We want to upgrade it to a university-level qualification in cooperation with the risk management department at Erasmus University in Rotterdam," said AOC Director Gerard Agterberg.

But other European countries, including Sweden, do not plan to create university-level risk management courses.

Swedish students can take part in a variety of risk and insurance courses available from different insurance organizations, said Olof Engfeldt, project manager at Stockholm-based IFU Utbildning A.B., an insurance education association. The courses lead to risk management certificates rather than formal degrees, and students are expected to hold a first degree in a subject, such as civil engineering, and acquire risk management qualification alongside work experience, he said.

IFU was owned jointly by all the insurance companies in Sweden. But the five top Swedish insurers, Skandia, Trygg-Hansa, Lansforsakringar, Wasa and Folksam, quit the organization, saying they could no longer justify cooperating in insurance education when they are competing in the marketplace, said Mr. Engfeldt. In a firsthand risk management exercise, IFU General Manager Nils Erik Anderson took up the 80% equity in the company the five insurers left behind. "The manager was willing to take this risk," said Mr. Engfeldt.

IFU provides a five-week course in risk management in cooperation with the University of Linköping. Employees from insurance companies and brokers participate. Other courses in loss prevention and risk management are provided by the Swedish fire institute, Statens Rådningverket, which provides a one-year fire engineer course at Lunds Tekniska Högskola, the Lund technical university, and the employers association, Svensk Arbetsgivares Forening.

Mr. Engfeldt emphasizes these are just limited courses, not in-depth degree programs.

Swedish risk managers usually acquire internationally recognized qualifications from institutions in the United States or United Kingdom. This is a natural development, as Sweden has many multinational corporations relative to its small population, and insurance companies have tended to follow their domestic clients abroad.

"So risk managers have lots of experience abroad. Many have foreign qualifications, and that includes courses from the U.K. or the U.S.," Mr. Engfeldt added.

There is a cultural difference between Swedish risk managers and their counterparts in the United States and other parts of Europe.

"Many of the risk managers in the industry have started as fire engineers in the fire brigade or as risk engineers in insurance companies. As the risk managers are engineers, the focus often is set by them and on technical solutions instead of focusing on the reason for people's risky behavior," Mr. Engfeldt said.

"I don't foresee a market for university programs in risk management. If you could show the politicians that they could save money by employing people working as risk managers within the municipalities there might be a growing need for educated people," added Mr. Engfeldt.

Only a limited number of opportunities exist in Europe for higher education degrees, such as a master's degree, in risk management. Fundacion Mapfre and the Madrid-based industry association Instituto Superior de Se-

guros provide a two-year full-time program for a master's degree in risk management.

Subjects such as loss prevention, risk definition and alternative risk financing are covered, but Mr. Martin acknowledged that alternative risk transfer techniques still are in their infancy in Spain.

But AMRAE in France has taken the initiative of teaching risk finance through courses in financial risk management.

"We have a contract with the French treasurers association to provide presentations and conferences about global risk management and new financial techniques. The financial sector is more following us than we following them," said Mr. Van Santen.

AMRAE together with Bordeaux University's business school, Ecole Supérieure du Commerce des Risques, where students can earn master's degrees in risk management. The European Federation of Risk Management & Insurance endorses this program.

But Mr. Van Santen remains cautious about the burgeoning number of opportunities in risk management education in France. "The main problem with education is that too many schools are developing risk management courses which are purely theoretical, organized by teachers, professors with no contact with industry. Risk management has become very fashionable. Every week there is a new course," he said.

As a result, young people in France, where unemployment—and in particular youth and graduate unemployment—remains very high, are left with great expectations but no jobs.

"In risk management, you can learn something. But in Europe, many young people stay on at university as long as they can. After two or three degrees they might seek a job. All of the universities are encouraging this trend because they make money out of courses," Mr. Van Santen added.

Risk management has become just as fashionable in Spain, but students there take a much more pragmatic approach, said Mr. Martin. "These people will not be working as risk managers immediately but within insurance companies and brokers as well as other industry," he said.

Small and medium-sized enterprises in Spain are unable to afford full-time risk managers because such an appointment would cost too much.

"But now we are seeing the creation of more risk management consultancy companies. Employment opportunities are increasing because there is a greater awareness of risk," Mr. Martin noted.

Sweden's IFU Utbildning has moved some of its education to a lower end of the social spectrum by providing courses for unemployed youths in cooperation with the Swedish government. People come to school for two days a week to learn subjects such as risk management, risk analysis and loss prevention in the context of areas such as local emergency services, health and education services, and municipal planning departments. The remaining three days are spent in work training at police or fire departments, hospitals and nursery schools.

"It teaches people how to work and gives them some idea of loss prevention activities. And we hope they will find a job at the end," said Mr. Engfeldt.

Mr. Engfeldt's role in IFU includes organizing courses in Eastern Europe and the former Soviet Union. But those areas are way behind the risk management education known in the West. "Our normal activities there involve education in such things as solvency. We have courses in marine and aviation insurance, but in all or most of the courses we have to define what is a risk before we teach how to insure it," he added. **B**



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# Risk management moving up in class

Additions, improvements show importance of field for senior managers

By CAROLYN ALDRED

LONDON—Some U.K. universities are beginning to offer post-graduate risk management programs, while others are revamping their programs, as risk management increasingly is recognized as a vital aspect of business education.

Although just a handful of universities in the United Kingdom offer dedicated risk management programs, more management schools are incorporating risk management into their curricula because risk management increasingly is seen as an important tool for today's senior manager.

Southampton University's School of Management, one of England's foremost centers for management education, started a master of science in risk management degree program in October 1996. It is a one-year, full-time program aimed at senior middle managers who want to expand their risk management expertise, said Stephen Ward, senior lecturer at the university.

Risk always has been an important part of Southampton's management teaching, both in terms of how to avoid it and how to harness it positively to benefit a business, according to Mr. Ward.

When the university encouraged the management school to set up new master's of science programs, one in risk management seemed obvious, Mr. Ward said. "Increasing people's awareness of risk management became our pet project," he said.

The program Southampton's School of Management offers is "not focused on any particular area of risk management," said Mr. Ward, pointing out that "risk management can mean different things to different people" and encompasses a wide range of areas, including health and safety, finance, project management and occupational health.

The Southampton course aims to recognize the multidisciplinary nature of risk management, allowing practitioners to better integrate the many aspects of risk management, he said.

The management school has close ties with the Assn. of Project Managers, a professional organization of construction and engineering managers located in London, and helped the association draw up a set of risk management guidelines.

Students taking the course—there are now six—study topics that include systems thinking; strategic planning; decision theory; project risk management; operational risk management, including crisis and continuity risk management; and finance and insurance.

Mr. Ward thinks all senior managers are required to manage risk and that knowledge of risk management issues and techniques should not be confined to professional risk managers.

In today's climate of "increasing change, technology and competition there is a need to manage



uncertainty much more systematically. Risk management now has a very high profile," said Mr. Ward.

"Programs like ours will equip people very well in this environment," he said.

For the more-senior manager, Mr. Ward also is looking at establishing a master of business administration program that is more focused in risk management. Although he recognizes that most MBA programs offer some form of risk management education, he thinks there will be a growing demand for a more specialized risk management MBA.

Nottingham University shares that view. It is launching its own MBA course in insurance and risk management in October 1999.

Nottingham University's School of Management and Finance, a renowned center of insurance learning, is using a £400,000 (\$667,600) donation spread over five years from the Worshipful Company of Insurers, a London-based professional organization, to boost its risk management and insurance post-graduate teaching.

Beginning in 1999, the school will offer a post-graduate master of arts degree in risk management and an MA degree in insurance studies, as well as an MBA in insurance and risk management, said Stephen Diacon, senior lecturer in insurance studies.

Nottingham University now offers classes in risk management, insurance and legal liability as options for its undergraduate management and industrial economics students.

"The new degrees will be helpful for professional development in insurance and risk management. There are very few post-graduate degrees in insurance or risk management," said Mr. Diacon.

The MBA will be "designed for people already in management positions to provide up-to-date developments in all aspects of

management," he said.

London-based City University Business School also offers a post-graduate master of science degree in insurance and risk management; students can attend full-time for one year or part-time for two years.

The course, which began in 1995, currently has 60 students; 35 are studying part-time.

The part-time course, which involves one afternoon and one evening session each week, attracts risk managers whose employers often pay for the classes, said Professor Gerry Dickinson, director of the investment, risk management and insurance department.

The full-time program, meanwhile, attracts students from all over the world, including Europe, Asia and the United States. Most are risk managers or insurance company managers, said Mr. Dickinson.

As the school is based in the Barbican, at the heart of London's financial district, the course prides itself on keeping abreast with state-of-the-art financial developments in risk management, Mr. Dickinson said.

"We draw on the fact we are in London, using a lot of guest speakers from London companies and maintaining close links with finance and corporate treasury departments," he said.

As a result, the course focuses on the financial and strategic aspects of risk management to a greater degree than the technical, loss prevention side, Mr. Dickinson said.

The department likely will split the program for the coming academic year, commencing in October 1998, to provide a master's degree program in insurance and a separate master's program in risk management. It also is looking at starting an MBA in risk management program.

New ways of financing risk and the growth of strategic risk management mean the subject is becoming far more diverse and challenging, according to Mr. Dickinson.

"My personal view is that, in the longer term, risk managers will have to have a general management education and not come exclusively from an insurance background. Risk managers will have to be more aware of financing risk and the whole running of a business to give them the skills to move up into senior management," Mr. Dickinson said.

Glasgow Caledonian University, still the only British university to offer a risk management program for undergraduates, is undergoing an extensive review of its bachelor of arts risk manage-

See Graduate on page G8

# Attitude toward field creates more access

But undergraduate offerings still lacking

By CAROLYN ALDRED

LONDON—While risk management education may be lacking at the undergraduate level in the United Kingdom, it is becoming more accessible at the post-graduate level, as both institutions and professionals recognize the value of having a strong foundation in risk management.

Risk management education is becoming more accessible to professional and managerial employees, as more universities include risk management in

their post-graduate and business administration degrees and professional institutions include risk management requirements among their professional qualifications.

However, basic risk management education remains sorely lacking, and still only one British university offers a bachelor's degree solely in risk management, risk managers point out.

"There is very little by the way of primary risk management education," said Chris Holden, assistant group insurance manager with the London-based chemicals group Couteaulds P.L.C.

Mr. Holden, director of professional standards for the Assn. of Insurance & Risk Managers, pointed out that Glasgow Caledonian University in Scotland remains the only British university to offer an undergraduate program in risk management, despite recent moves by other universities to incorporate risk management into post-graduate courses (see related story.)

As a result, risk managers still largely come from brokering or insurance backgrounds, he observed.

Mark Butterworth, group insurance and risk manager for London-based Prudential Corp. P.L.C., agreed that more primary risk management education is needed at universities.

"More universities should look (to start) risk management degrees. I'm slightly puzzled as to why universities have not developed risk management degrees," said Mr. Butterworth.

Maureen Gibbins, chief executive of the Institute of Risk Management in London, also pointed out that more primary risk management education is

needed.

On the other hand, AIRMIC and private companies such as brokerages, law firms and consulting firms provide very useful briefings, bulletins and seminars to help risk managers' continuing education, agreed Ms. Gibbins, Mr. Butterworth and AIRMIC Executive Director Ina Barker.



Also, post-graduate risk management education provided by universities and professional institutions has

"improved dramatically over the last 12 months," said Ms. Gibbins.

"Risk management education is coming to the fore generally as an important issue" for all sorts of professional sectors, including engineering, surveying, the legal profession, audit and other accounting work, actuarial work and corporate treasury.

Many professional organizations include risk management within their professional qualifications, often coming to the Institute of Risk Managers to help produce and grade examination papers, said Ms. Gibbins.

One professional group trying to increase its members' knowledge of business risk management is the Assn. of Corporate Treasurers.

Although the association has included risk management in its professional qualifications for some time, it is currently "trying to promote awareness of business risk," said a spokeswoman. To launch its risk management awareness campaign, the association recently published a book entitled "The Management of Corporate Risk: A Framework for Directors," by Judith Harris-Jones and Louise Bergen, both directors of the association. It also is holding a conference in London on July 2 entitled Managing Business Risk.

Ms. Barker said professionals from many fields now have risk management incorporated into their professional qualifications.

"I believe it's a good thing that other professionals should have a broad awareness of risk management concepts," said the Prudential's Mr. Butterworth.

See Access on page G8



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## Graduate

Continued from page G6

ment program, said Lynn Drennan, senior risk management and acting assistant head of the Department of Risk and Financial Services.

"We are carrying out a large market research exercise among graduates and prospective and current employers of our graduates and plan to use the feedback in our course planning over the next four to five years," she explained.

Glasgow Caledonian's four-year program is well-supported by the insurance industry and currently has 180 students, including many from overseas. It has traditionally been very focused on the technical and practical aspects of risk management.

"A very important feature of the program is industrial visits, where our students carry out risk surveys," said Ms. Drennan. While the surveys are just classroom exercises undertaken early in the program and are not actually used by the companies visited, they introduce students to important risk management concepts.

To reflect the growth of public-sector risk management in the United Kingdom, 30 students are provided with 10-week paid internships in the risk management departments of municipalities during the program. Students are paid through a sponsorship arrangement with Zurich Municipal—a unit of Zurich Insurance Group that is the United Kingdom's leading insurer of public authorities—to work in municipalities Zurich ensures.

The employment rate among the program's graduates is very

high, with most leaving to join the risk management departments of large industrial and commercial companies or working with consultants or insurance brokers, Ms. Drennan explained.

Future changes in the program likely will reflect "the wider business risk" now faced by companies, she said.

"The risk management course

**'I see risk management as a fundamental business discipline within an organization,' says Lynn Drennan.**

has focused on industrial and process risks" up until now, she said, adding that it will in the future include much more business risk, such as reputation and financial risk management.

"I see risk management as a fundamental business discipline within an organization," she said.

The university also offers a master's degree in risk management, and in a recent development, Glasgow Caledonian has linked up with the Institute of Risk Management, a London-based professional organization, to provide an "open learning" master's program for professionals studying for the institute's fellowship qualifications. The university also runs non-degree risk management courses for senior managers.

"I would like to see all senior people have an understanding of risk management, not just the risk managers. There is a strong relationship between risk management and quality management," said Ms. Drennan.

## Access

Continued from page G6

Mr. Butterworth also emphasized the importance of risk managers themselves broadening their education.

Sponsored by his employer, Mr. Butterworth received an MBA at

**'Risk managers normally are technically well qualified but are often too narrowly focused,' says Mark Butterworth.**

London's City University Business School a few years ago and has found it extremely useful.

"I wanted to give myself a broader awareness of business issues and a greater confidence. A greater awareness of business strategy and corporate management has been immensely helpful to me," he said.

The MBA allowed him to go into greater detail in areas of business such as finance and accounting and provided him with a broader perspective across the whole of a company's operations.

"Risk managers normally are technically well qualified but are often too narrowly focused," he said, pointing out that an MBA allows risk managers to broaden their horizons.

"Given that the whole issue of corporate governance is growing and that risk management is changing to be a corporatewide function, it is increasingly important for a risk manager to be able to understand each area of a company," Mr. Butterworth said.

He also said some of the more specialized risk management MBAs being developed by some universities may not be what risk managers need.

"I would steer clear of an MBA specializing in risk management. That is not necessary," he said, adding that the broader the MBA, the better. **BI**

## Risk is university material in Japan

Course on risk management is offered for the first time

By YVETTE HIGGINS

TOKYO—For the first time, a Japanese university plans to offer a course on risk management, as part of a growing national recognition of the importance of risk management education, policies and planning.

Starting in April 2000, students at Aoyama University at Shibuya, Japan, will be able to enroll in a risk management course that is slated to become the centerpiece of the university's program in management studies, according to Isao Takei, a professor in the university's department of business administration. Mr. Takei said he hopes the school, near Tokyo, will become one of world's leading universities for undergraduate risk management courses.

Those are high aspirations, given that the practice of risk management itself is still in its infancy in Japan, according to Yasuhiko Ushiba, chairman of the Tokyo-based International Risk Management Society of Japan. The IRMSJ is a non-profit organization designed to support risk managers and promote risk management.

Mr. Ushiba said he knows of no Japanese companies that have a full-time risk manager or even a department or section specializing in risk management. "In many companies, responsibility for insurance placement and loss control is divided among two or more departments," he said.

Mr. Takei admitted that risk management studies are not widely recognized by either Japanese government or business, but he expects that situation will change in the next 10 years, as organizations increasingly implement risk management techniques. The 1995 Kobe earthquake (*BI*, Jan. 23, 1995; Jan. 30, 1995) highlighted the need for risk management, Mr. Takei noted.

Additionally, in the last three years, Japan has seen an increase in the frequency of kidnap and ransom cases, terrorist activities and litigation against companies and the government. These developments further highlight the need for corporate and government risk management policies, risk management planning, and education and training, Mr. Takei said.

"Risk management is the 'in thing' in government and financial institutions," he said.

To date, several Japanese risk management organizations, including the Tokyo-based Assn. of Risk Management (Japan), which has a role similar to that of the IRMSJ, have attempted to develop educational programs but with limited success, Mr. Takei said.

Tadashi Maruyama, the executive director of the ARMJ, said his association offers an introductory risk management program by correspondence for people new to risk management.

Mr. Maruyama is also the presi-

dent of the privately owned, Tokyo-based Risk Management Center Co. Ltd., which last year held an eight-day risk financing seminar and will offer a loss forecasting course this year.

And Mr. Maruyama said that some Japanese universities now address risk management subjects, though they limit discussions to risk financing within insurance courses (*BI*, April 10, 1995).

But Mr. Takei said courses need to be broader than just insurance. "Insurance is a part of risk management, but it should not be the whole of risk management," he said.



Mr. Ushi-

ba said the IRMSJ does not offer risk management courses. However, Mr. Ushiba's consulting firm, Tokyo-based Ushiba International Office, has provided risk management lectures and educational programs for the past 10 years. Ushiba International offers courses in risk management techniques, risk measurement and fundamentals, property loss exposures, risk control, financing tools, and exposures such as public liability and professional liability, including directors and officers, Mr. Ushiba said.

But because risk management is relatively new to Japan, few people have the skills to develop or teach risk finance and risk management educational programs, he said.

Mr. Maruyama concurred. He said that Japan is advanced in terms of corporate safety, security and environmental protection, but very few companies know about risk finance, advanced insurance programs, captive insurers or the use of derivatives as risk-financing tools. "The largest problem is that most top management in Japan is still not aware of the necessity of risk management in a borderless new world," Mr. Maruyama said.

Still, some resources are available. Mr. Takei said that more managers are using software to help reduce credit risks within company portfolios. "Software developers have succeeded in developing programs that identify risks and find alternative solutions," he said.

Managers also use checklists and consulting services.

Risk management specialists admit that earthquakes are one major risk that most companies now address and manage well. Mr. Maruyama said that after the Kobe earthquake, many companies reviewed their earthquake contingency plans, including how to supply drinking water and food and implement

emergency and evacuation programs. Others determined whether their factories and offices were earthquake-proof and took precautions if the facilities proved to be inadequate.

Mr. Takei said many companies now consider their responsibilities in an earthquake to extend beyond employees, to their families and the wider community. Other companies are developing earthquake risk management reports that outline strategies for dealing with the media and the government, and for determining company spokespeople.

Mr. Maruyama said emerging risks that companies and the government face include product liability, professional liability and directors and officers liability, as well as potential litigation over intellectual property rights and employment practices. In addition, legal action over environmental damage will increase and new risks will emerge from changing weather patterns, he predicted.

Corporate suicide is another risk that companies must guard against, Mr. Takei said. The suicide rate among company directors, owners and employees has risen in recent years due to increased work pressures and Japan's long recession. More than 100 Japanese people have killed themselves in the last three months because of work-related pressures or business failures, he said.

In a recent, widely publicized case, three businessmen, each of whom was president of a small company, committed suicide together after one of the companies went bankrupt. The three were friends and had previously helped each other financially, he said.

Mr. Takei said that while compensation for families of employees and managers who commit suicide because of work-related stresses is provided by Japan's workers' compensation system, the payments can sometimes be insufficient, causing the families to sue employers for damages. Mr. Maruyama said a court recently ordered Okayama-based Kawasaki Steel Corp. to pay compensation to the family of a man who had worked abnormally long hours and committed suicide because of work pressures.

Because Japanese courts have awarded damages to the families of those who have committed suicide equal to one or two years of the deceased's salary, companies should take steps to minimize risks, Mr. Takei said. Larger employers are implementing counseling and educational programs to help workers manage stress and depression, he noted.

In Japan, a life insurance policy will pay benefits if an insured person commits suicide, but only if the policy has been in force for more than 12 months. Mr. Takei said suicides in the 13th month from policy inception are common. **BI**

## Market changes fuel interest in education

By KAUMUDI MARATHE

BOMBAY, India—The potential for deregulation and foreign investment in the Indian insurance market is prompting greater awareness of the need for quality risk management education in the country.

Although privatization plans suffered a setback last August, the recently elected government is likely to go ahead with deregulation of the insurance sector by year end.

While foreign companies await deregulation, many are gaining a foothold in India by establishing risk management consulting operations.

"India needs a Western input of risk management techniques, software and logical, thorough attitude," said T. Ramanan, chairman of the Bombay-based Indian Institute of Insurance & Risk Management.

A variety of risk management courses is available in India, and the number of professional risk managers and consultants has grown. The IIRRM, a pioneer in creating awareness about risk management in India, has been the primary institute for teaching the subject.

India does not yet offer its own risk management certification, but

through the IIRRM, the London-based U.K. Institute of Risk Management has conducted exams here



since 1992. The degrees, which consist of a two-year associate in risk management or a 2½-year fellowship in risk management, are recognized throughout Europe and Asia.

"Three Indians have even topped the lists of foreign students in Britain," said Mr. Ramanan, who is also group controller of risk management at Hindustan Lever Ltd., one of India's leading corporations.

In addition, one of the required courses both for associate and fellowship status in the Indian Insurance Institute in Bombay is derived from the model of U.K.'s Chartered Insurance Institute in Seven Oaks, Kent. Since its inception in 1992, 102 students have completed the

course in India. While only three graduated the first year, the figure rapidly rose to 32 in 1997.

"Youngsters are enthusiastic," said Mr. Ramanan. "Established managers are also realizing they must learn new tricks."

Meanwhile, the avenues for risk management study are more promising than a decade ago.

"Our education methodologies are borrowed from the West, so they compare quite favorably," said Uttara Vaid, senior deputy general manager at Tata Risk Management Services, a safety, insurance and environmental consulting firm in Bombay. Ms. Vaid was the first Indian to qualify, by exam, for a fellowship in the IIRRM.

A. Rengarajan, deputy general manager of Cholamandalam Hazard Management in Madras, said up-to-date insurance education is available in India at several institutions.

The IIRRM program includes subjects such as business finance, corporate insurance management, risk survey and analysis, insurance, health and safety, and public, product and environmental liability.

Other institutions also offer risk management studies, but these are less intensive than the IIRRM program. The four Indian Institutes of

Technology and the Administrative Staff College of India, located in Hyderabad, conduct short courses. In Maharashtra, the Board of Technical Education offers an advanced diploma course in industrial safety.

India's biggest insurer, the General Insurance Corp., headquartered in Bombay, also has recognized the importance of risk management education. With its auxiliaries, the GIC recently decided to sponsor students for the IIRRM exam as a prelude to making the exam indigenous, an institute representative explained.

Still, most training for GIC employees occurs at the National Insurance Academy in Poona. Risk management is part of the required coursework, but GIC companies do not yet hire risk managers as consultants, an NIA guest faculty member said. The academy also annually hosts three two-week workshops for established managers.

In addition, frequent national and international seminars, conferences and workshops are held by the IIRRM, the NIA, various chamber bodies, and schools such as the Indian Institute of Management in Bangalore and the Jamnalal Bajaj Institute of Management in Bombay. These contribute to increased awareness and interest in risk management.

Arvind B. Modgil, senior vp of works at National Organic Chemical Industries Ltd. in Bombay, said, "In

the post-1990 scenario, risk management has become an integral part of general management, especially in the chemical sector."

Nonetheless, while high-end companies such as HLL and NOCIL have access to risk management information and resources, smaller Indian companies do not. Mr. Ramanan said he thinks these will become increasingly available if Western risk management consulting companies set up shop in India.

"But they seem reluctant," he said. "One reason is that our fees are so low. The second is that India is still relatively safe from fire and explosion hazards, so people have not felt the need for outside help. Only high-risk companies like Hindustan Petroleum Corp. Ltd. have risk management consultants."

Mr. Rengarajan agrees. "In India, risk management is still primitive. Except in high-risk industries, few companies appreciate the need for it." Most companies rely on in-house managers, and risk management is usually paired with safety.

But Ms. Vaid said awareness of risk management is spreading. "When a company is subject to inspections, it will feel the need to benefit from good advice," she said.

The field of risk management in India is still too new to be holistic. It remains more focused on operations

*Continued on next page*

# GLOBAL FOCUS 1998

*Global Focus* will appear six times in 1998 as a regular section distributed exclusively to non-U.S. subscribers. Articles in this special demographic section will address the specific risk management and employee benefits concerns of executives in countries other than the United States.

### ISSUE DATE

### AD CLOSING

February 23

February 11

March 30

March 18

*Distribution: Association of Insurance & Risk Managers*

June 1

May 20

*Distribution: Luxembourg Rendez-Vous*

July 20

July 8

August 31

August 19

*Distribution: Monte Carlo Rendez-Vous*

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## India

*Continued from previous page*  
than strategic planning. Specifically, it tackles industrial and environmental risk, but not financial, and in most cases, certainly not portfolio risk and risk to reputation.

Not even TRM and Cholamandalam, the only two full-time Indian risk management consultants, offer financial risk management services.

"The idea of financial and performance guarantees has still not taken off," explained Mr. Ramanan. Financial risk and corporate governance remain the domain of a corporation's treasury department, which handles commodities, credit and currency risk. The risk management department may be responsible for directors and officers liability.

Insurance expert H.K. Nigam, who teaches at the National Insurance Academy, said several financial companies are now venturing into risk management services in the hope of collaborating with foreign insurers. TRM and Cholamandalam also have recently entered into joint ven-

tures with foreign companies.

TRM was started in the late 1970s as the insurance division of the giant Tata Sons, one of India's top industrial groups. TRM has entered into a public venture with American International Group Inc. that becomes operational April 1. The joint venture will provide consulting for Indian and multinational companies.

The 3-year-old Cholamandalam Hazard, part of the Murugappa Group in Madras, has launched a joint venture with U.K. insurer Guardian Royal Exchange P.L.C.

Many professionals think that while their initial Indian risk management education is more than satisfactory, training for the established risk manager is sub-par. In-house training is rare.

Even at TRM, risk management training is through hands-on experience, Ms. Vaid said. "But employees are encouraged to obtain interdisciplinary qualifications," she noted. "Engineers can study insurance; insurance specialists study law."

TRM does offer other resources for risk managers to stay abreast of technology and techniques. "We try and

obtain the latest software and attend relevant seminars and workshops," Ms. Vaid explained.

At NOCIL, "risk management has been an integral part of the company almost since its inception in 1961, due to its association with the Royal Dutch/Shell Group," Mr. Modgil said. Many senior managers, he said, were exposed to Shell's office and chemical plant design then and used that experience for NOCIL.

Risk management "has the support and commitment of the top management," Mr. Modgil said. It stays current with software and energy management plans, and it has adequate manpower and budgets to educate its employees. NOCIL trains officers and encourages them to attend external courses and workshops. It also conducts a three-day course for officers and managers every quarter on hazard analysis and risk assessment.

So far, 200 employees have received this training. In addition, 25 members of NOCIL's production and engineering staff hold advanced diplomas in industrial safety.

The company policy for hiring

managers also is stringent. Experience is as important as qualifications. "Risk managers cannot be hired from institutes," Mr. Modgil said. "They have to work in a particular industry for at least 10 years before they can become risk managers."

NOCIL's efforts have resulted in a change in national policy. A three-day certification course for drivers of hazardous goods was designed by the company in conjunction with the Loss Prevention Assn., a government body with offices in Bombay and Delhi that disseminates information to industry. The course was approved by India's Central Ministry of Surface Transport.

At HLL, with a 20-year-old risk management division, the benefits are many. They include annual savings in premiums of about 60 million rupees (\$1.5 million) due to proper risk identification and survey, and techniques such as self-insurance and holding high deductibles. The company also has seen a maximization of premium discounts under the Indian tariff system for efficient risk management practices and

a favorable claims and losses record.

Experts agree India's future in risk management is "very bright."

Mr. Ramanan said the IIRIM's efforts have resulted in two important developments recently: "Firstly, the Loss Prevention Assn. has started a risk management consulting cell. Secondly, and more importantly, the Insurance Regulatory Authority has said that as soon as it obtains legal clout, it will form a specialized Risk Management Institute of India under IIRIM's leadership."

Mr. Modgil said the future is promising, especially in light of growing requirements. "The position of risk manager has become as important as that of a production, engineering or marketing person in any elite Indian organization."

While Indian risk managers expect great progress in the next 18 months, they say the change must occur rapidly. Mr. Ramanan said: "We have a very stable market. What we need is expansion of business and products, competition, and increased inputs from Indian-foreign collaborations. Only then can risk management have real force." **BI**

## Making the most of a risk management association

By Ina Barker

**N**O MAN IS AN ISLAND—in the same way, no risk management association is an island. It is there to serve its members; without achieving this, it does not have a purpose and will not survive. In what way do risk management associations such as the Risk & Insurance Management Society Inc., the Assn. of Insurance & Risk Managers and ALARM, the U.K. association of local authority risk managers, provide that service?

There are three primary roles:

- Representing members' interests to governments, other government agencies, professional bodies, the insurance and risk financing industry, and the media.

- Acting as a source of valuable information to enable its members—whether they are risk or insurance managers or from other risk management disciplines, such as finance and treasury, health, safety or environment, etc.—to learn or be made aware of latest developments.

- Providing a forum for networking with peer group members and other risk professionals not only in their own country but worldwide in a non-confrontational or competitive environment.

To be an effective association is a two-way process. As in many things in life, you really get out of it what you put in. As a member, that contribution can range from participating in surveys, which provide valuable information and ammunition with which to lobby, to major participation in a task group developing a new concept or product that will be of real benefit to all the member companies, their risk managers and the risk

management community at large.

With the changing pattern of risk management roles within organizations and the time constraints, it is important for the risk management association to recognize the differing needs of its members. These may range from actively sharing highly sophisticated management and technical developments and tools, with each member who participates enhancing his or her skills and aiding his or her career development, to the more passive member who is happy to receive regular information through newsletters, etc.

Judging whether the risk management association is effective and valuable to its members depends on the success of fulfilling its various roles. In the case of lobbying, it is often difficult to prioritize those issues that are critical to members and worth the energy needed to represent their views. Due to limited human and financial resources, it is necessary to limit lobbying to issues relevant to the majority of members. Here in the United Kingdom, such issues as terrorism insurance, the Year 2000 problem, environment legislation and corporate governance have had top priority.

Networking seems to work extremely successfully (more often perhaps behind the scenes), with members contacting each other to discuss mutual concerns and problems. Increasingly the use of the Internet is proving extremely useful for exchanging messages with members worldwide for problem-solving and sharing information.

Before too long, let's hope a major proportion of the communication to members can

be provided electronically; this has the advantage of speed, being totally up to date and in the longer term more economical.

### Do risk managers use associations effectively?

Active members select which association activities they want to contribute to. Special interest groups, such as the ones AIRMIC sponsors for captives, employee health, integrated risk management and environment, as well as the industry groups, such as retailers, financial institutions and utilities, are all valuable forums for exchanging ideas and pursuing concerns on current risk management topics. Members in these groups probably are obtaining the greatest value from the association because they are focusing on what is of primary interest to them.

The key to these special groups is the trust that members have in each other.

### Do the associations really serve members?

This depends on the range of services provided. In the case of AIRMIC and RIMS there is a continuous stream of activity, from monthly newsletters to seminars and the renowned RIMS annual conference, as well as the area meetings. From a recent survey AIRMIC carried out, members indicated they were satisfied with the services they receive.

Often risk management associations, particularly many of the smaller ones throughout Europe and other parts of the world, are staffed entirely by voluntary support—mainly by

their members. This inevitably limits the service they can provide to their members. This is where a federation or regional organization, such as the Federation of European Risk Management Assns. and the Federation of Asian Pacific & African Risk Management Organizations, can be of benefit. By pooling resources, it should be possible to increase the activity on a targeted and worthwhile basis.

Around the world the drivers for the associations may differ. In the United States and United Kingdom, there is a real shift to integrating risk management into the business process as the risk manager's role continues to grow. Increasingly there is more opportunity to coordinate the activity with financial and auditing professionals. This means there is a demand for risk managers to have not only the technical skills but much greater general management skills in such areas as finance, marketing, strategy and communications. The associations can help provide training in this area. As an example, AIRMIC's London and East Area Convention in October for members only will focus on professional personal development skills.

On the other hand, vital professional education is provided by the Institute of Risk Management, originally set up by AIRMIC and with whom it works closely in the UK and overseas. In the United States, RIMS is developing a curriculum for the Fellow in Risk Management program, which will be implemented in six to eight universities in the United States. There are already excellent risk management education programs in Australia, South Africa,

Singapore and France. Hopefully these will develop further in Europe and South America, which is the desire of the International Federation of Risk & Insurance Management Assns.

More importantly perhaps, the risk management associations should really be promoting the concept of at least a risk management class in all MBA programs if not an MBA in risk management.

An important development, initiated some time ago by the Assn. of Risk & Insurance Managers of Australasia in Australia, was the creation and implementation of risk management standards. Through the networking of the various associations in IFRIMA, it is likely that in due course we shall see some form of risk management guidelines—not prescriptive rules and regulations but based broadly on the Australian design. That is a very positive illustration of the benefits of networking with other risk management associations internationally.

"Never rest on your laurels" is a true statement. To quote Charles Handy in his recent book "The Hungry Spirit," the E factors are needed in abundance. Enthusiasm, energy, effort, excitement and excellence are really what make associations successful. That applies not only to the center of the organization but to every member. In this way everyone believes he or she can benefit from being part of a national body and yet link into the worldwide risk management community. **BI**

*Ina Barker is the executive director of the Assn. of Insurance & Risk Managers in the United Kingdom. She retires at the end of April 1998, and David Gamble will take over.*

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## It's Our Word.



## Comings & Goings: Industry

Continued from page 15

resignation of **Dr. Michael J. Barber**.

**Alexander Labak** named senior vp and chief marketing officer with nationwide responsibility for marketing, sales strategy and implementation for Foundation Health Systems Inc. in Los Angeles.

**Jim McCloud** named vp-information services for Beech Street Corp. in Irvine, Calif.

**Cynthia Hatcher** named vp-Medicare at HealthAmerica Pennsylvania Inc. in Pittsburgh, with responsibilities for directing all aspects of HealthAmerica's Advantra HMO Medicare Risk product.

**Tom Shivers** named vp of sales and marketing for FOCUS Healthcare Management Inc., the Nashville, Tenn.-based workers compensation provider network. Previously, Mr. Shivers was vp of marketing at MedRisk Inc., a Philadelphia-based managed care company.

**Jacqueline Anderson** named vp-strategic projects for UNICARE, the operating unit of WellPoint Health Networks Inc. in Woodland Hills, Calif.

### Other suppliers

**Edward P. Holleran** named executive vp of field operations for Presidium Inc., a San Francisco-based supplier of fully integrated disability management services.

**Hans Danielsson** named managing director-global equities at AIG Global Investment Corp., a member company of American International Group Inc. in New York. Mr. Danielsson, former chief investment officer-international equities at S-E Banken in Sweden, now is responsible for managing AIG's equity investments.

**John M. Liberatore** named senior vp and director of liability for Sedgwick Claims Management Services Inc. in Cleveland. Also at Sedgwick Claims Management, **Mark R. Crasnick** named vp of the Electronic Insurance Co. program in Portland, Maine.

In addition, **John S. O'Connor** joined Sedgwick Claims Management Services Inc. as senior vp and director of integrated disability management services in Tempe, Ariz. Previously, Mr. O'Connor was managing director of the ISC Group.

**David Boomershine** joined the Baltimore office of Buck Consultants Inc. as a principal and consulting actuary. He previously was with William M. Mercer/Foster Higgins.

**Bruce G. Flynn** named director-disability management for the

Washington Business Group on Health.

**John H. Budd**, former senior vp and general counsel at The Paul Revere Insurance Cos., joined the law firm of Mirick, O'Connell, DeMallie & Lougee L.L.P. in Worcester, Mass. He will concentrate on government relations, particularly relating to the insurance industry, and alternative dispute resolution.

**Nicholas F. Potter** joined the law firm of Debevoise & Plimpton in New York, where he will concentrate on insurance industry mergers and acquisitions and other corporate transactions.

**John O'Connor** joined USI Insurance Services Corp. in San Francisco as president of USI Securities Inc., the company's investment services and broker/dealer operation. Previously, Mr. O'Connor was director of operations for MML Investors Services Inc., a subsidiary of Mass Mutual Life in Springfield, Mass. **BI**

## Parity

Continued from page 3

The third and fourth portions of the government's analysis involved review of past actuarial studies and application of a new actuarial model to calculate the cost of requiring parity between mental health and other medical benefits.

A federal law, the Mental Health Parity Act of 1996, took effect Jan. 1. It requires that health plans provide the same annual and lifetime benefits for mental health as they do for other covered benefits. It does not, however, apply to substance abuse benefits.

Twelve states' parity laws require more generous benefits than the federal law, according to the survey.

In addition to finding that state parity laws appear to have relatively little impact on premium levels, the study found that most state laws themselves are limited in scope or ap-

plication. Some exempt small businesses; others apply only to plans covering government employees.

The survey found that employers did not switch from an insured health care plan to self-insurance to avoid the state parity mandates. The survey also reported that employers did not shift to employees any increased costs associated with benefit parity.

However, only six employers—and three associations of small employers—from the five states studied participated in the survey. The rest of the survey's comments came from 18 public agencies, nine insurers, six provider organizations and five consumer and family advocacy groups.

Single copies of "The Cost and Effects of Parity for Mental Health and Substance Abuse Insurance Benefits" are available free by calling 800-729-6636. The study also can be accessed electronically at <http://www.mentalhealth.org>.

## Correction

Due to incorrect information supplied to *Business Insurance*, Helmsman Management Services Inc.'s listing in the Feb. 16 directory of third-party administrators contained errors. A corrected listing appears below.

### Helmsman Management Services Inc.

9 Riverside Road, Weston, Mass. 02193; 617-243-7985; fax: 781-736-0256

#### Property & Casualty

#### 1997 revenues

Total	\$80,106,000
Claims revenue	\$63,011,000
Claims administration	98%
Claims adjusting	1%
Claims auditing	1%

Other services include administration for fully insured clients, loss prevention, risk information services, managed care, actuarial and consulting.

#### Claims business by type

Automobile	20%
General liability	5%
Workers compensation	75%

#### Claims business by volume

Administration claims paid	\$775,088,000
----------------------------	---------------

#### Clients

Total	475
Association plans	5
Corporations	465
Public/government entities	5

#### Staff

Total	720
Claims services	575

Claims services since: 1983.

Parent: Liberty Mutual Group.

Service area: Nationwide.

Charges: Administration: flat fee. Adjusting: per claim. Auditing: time and expense.

Branch offices: Administrative offices in Glendale, Calif.; Gahanna, Ohio. Sales offices in all major metropolitan areas.

PPO access.

Officers: Edmund F. Kelly, president; Amy J. Leddy, vp/manager; Bob Litke, vp; Barry Gilvar, secretary; Elliot Williams, treasurer.

Contact: Amy J. Leddy. **BI**

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Photo courtesy of the National Interagency Fire Center

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# Injury prevention should address several areas

By Raymond P. Bello  
and Susan N. Greenberg

The astronomical rise in workers compensation costs and lost-time injuries over the past decade has prompted U.S. industry to seek new cost-containment strategies. Companies have turned to rehabilitation, engineering and ergonomics for implementation and assistance with injury management and prevention services.

In response to the needs of industry, early-return-to-work programs have arisen. These include aggressive physical therapy, work conditioning and work-hardening services, all of which were designed with the goal of returning the injured worker promptly and safely back to work.

Many rehabilitation providers also have linked their expertise with that of engineering and ergonomics professionals, resulting in multidisciplinary perspectives and knowledge. This team approach is of the utmost benefit to companies that seek to understand the nature of work-related injuries and how they are prompted by the structure of the worksite.

The work, worker and worksite form an interactive triad. Injury management and prevention programs are effective only if they address each of these components and are continuously supported and reinforced by management.

A good prevention program addresses:

- **Employee education:** This entails training in the concept of neutral postures, exercises and appropriate stretch breaks to maintain the body at its optimum level for activities at work and home.

- **Management training:** Educating supervisory personnel in the hows and whys of injury management and prevention is crucial. This should also include train-the-trainer programs to educate management on how to identify improper at-risk behaviors.

- **Functional job analysis:** This analysis should be a detailed investigation of the actual critical demands and functional aspects of the work. This information can identify areas in need of ergonomic interventions such as worksite redesign, job modification and rotation.

- **Functional job description:** These job descriptions differ from the conventional task-oriented ones because they describe how the job is done physically. This information is invaluable to healthcare providers for return-to-work planning. Also, the significant worksite measurements and essential functions identified by the FJD can aid engineers and ergonomists to evaluate areas of potential risk for redesign. Employers can use this information to develop transitional jobs for the early return to work of injured employees.

- **Pre-placement screening:** The critical demands identified in the functional job analysis can easily be

converted into a test that determines the potential employee's physical abilities to perform the job. If the applicant fails this screen, the employer is permitted to rescind the job offer. This screen also can be given to injured employees before they return to work to determine if they may safely do so.

- **Comprehensive case management:** Strong case-management intervention is essential in managing workers compensation costs. By forming partnerships with proactive healthcare providers, companies can save 60% of their indemnity costs, hasten case closures and reduce the possibility of attorney involvement.

- **Development of an ergonomic team:** This group usually is selected from various areas of the company and should include workers, management, union representatives, the human resources and safety departments, medical and rehabilitation providers, ergonomists and/or engineering professionals and insurance company loss control representatives. Because the success of this team is largely dependent on choosing the right individuals, adequate training should be provided and senior management must support their efforts.

Using a hypothetical case study, one can illustrate how one company was able to put together all the pieces of a good prevention program to effectively reduce its work-related injuries and lost-time days.

Company A's main business is refreshment services, provided at various locations nationwide. A pilot program was instituted to focus on ergonomics in the vending-machine division, historically an area of high risk.

The first step in the process was to conduct a functional job analysis. Three cities were selected to be examined due to rising injury rates, loss-run information, locale and other criteria that increased their exposure. The locations were a rural city, a metropolis and a suburban area.

Our first objective was to examine and compare the same jobs being done in each city and to determine the underlying causes of the high injury rates. The second objective was to identify areas of concern and devise no-cost or low-cost ergonomic solutions.

The four jobs involved in the vending-machine operation were route driver; warehouse person; cashier; and vending-machine maintenance, repair and delivery person.

Some of the ergonomic issues were very clear when the cities were compared. For example, the busy metropolitan location, which had the highest injury rates, also had some work practices that exacerbated its problems. While in other cities the warehouse personnel stocked the drivers' trucks, in this location the drivers picked stock and loaded their own trucks upon return from their routes. The extra manual work the fatigued drivers had to do apparently increased their incidence of work-related strains and sprains. In addition, the fact that the trucks all left the warehouse and returned at about the same time made the warehouse very crowded and difficult for maneuvering

loads. The cashiers also were overburdened by all the drivers bringing in their collected monies on the same schedule.

Other risk issues identified included overstocking the trucks, thereby causing excessive handling and rehandling of loads, poor placement of product on the trucks, improper body mechanics, and inefficient warehouse design.

The recommendation of the functional job analysis included staggering the drivers' schedules; maintaining a tight inventory on the trucks; placing the heaviest products on waist-high shelves; rearranging the warehouse; and establishing a "back school" program, along with appropriate workday exercises that could be performed on the trucks between deliveries or by workers in the cash room or warehouse.

In addition to these measures, a functional job description was written and a pre-placement screen designed. All new hires and injured employees were required to take this exam before commencing work. In this way, the company was able to screen out—in a manner in compliance with the American With Disabilities Act—workers who were unable or unsafe to do the job. The screening also helped healthcare providers return injured workers to their previous jobs or transitional ones based on their intact abilities. Lost days were significantly reduced by this new policy.

Local healthcare providers were selected to form a partnership with the company by providing aggressive physical therapy, work conditioning and, for the more chronic claims, work-hardening programs.

Moreover, management was trained to recognize observable behaviors that were site-specific and essential to injury prevention. With this new method of scrutinizing safety, management was able to break down and isolate which improper behaviors still were persistent. These were recorded and tracked.

An ergonomic team was assembled, and a train-the-trainer program was instituted at each location. This group then was able to accurately measure safety performance as a function of observable at-risk behaviors and to develop plans to rectify them accordingly.

Since this comprehensive injury management and prevention program was established in 1996, the company has enjoyed a 41% reduction in injury rates and indemnity costs.

Proactive injury management and prevention programs are becoming increasingly popular as employers experiment with them. Their success is based largely on a multidisciplinary problem-solving approach that must be integrated into the company's culture. **BI**

*Raymond P. Bello and Susan N. Greenberg co-founded Best Associates, a Pelham, N.Y.-based rehabilitation facility with the goal of helping injured workers return to work.*

## Keep outgoing claims service provider on your side

By Joseph P. Rainey

Now that you've fired your claim service provider, how do you manage the remaining casualty claims?

When you leave an insurer or claim service provider and start a new business relationship with another, you have to plan to manage the runoff of workers compensation and liability claims. In most cases, those claims stay with the provider you're letting go; otherwise, you can end up paying twice for a claim. That might happen, for example, if claims are handled on a flat-fee basis, and you would have to pay the new service provider to handle a claim you already paid the outgoing provider to handle. That claim service provider will spend hundreds of thousands of claim dollars without the responsibility of keeping you as a customer.

Before a change in the claim service provider is made, answer these questions: How will the fee structure continue with the current provider? How

will I manage the runoff if I leave the claims with the previous claim service provider? Can I, or should I move the existing claims to the new claim service provider? How will this impact the casualty underwriting program?

In self-insured, high-deductible or fronted cash flow programs, claim service fees are usually time and expense, a loss conversion factor, or a flat fee per claim. A flat fee can be for the life of the contract or for the life of the claim. If the flat fee is for the life of the contract, time and expense charges can begin on all remaining claims the day the business relationship ends. This can add significant unforeseen costs to the administration of the remaining claims. The other fee structures do not significantly increase administration costs at contract termination.

How will I manage the runoff if I leave the claims with the previous claim service provider?

In the best claim service programs, the risk management customer puts the claim service provider's best people and best practices in place. To

continue the success of the previous program, meet with the management of the outgoing claim service provider. Explain what you expect from them, tell them how you will direct the change to the new provider, and give them an incentive to continue their best work.

Manage the outgoing provider's expectations. Tell the provider you expect it continue with the same personnel that currently manage the claims. Let the provider know that you assume its best practices will continue, and tell the provider you're sure it will remain as flexible and cooperative as it has been in the past. Make sure it knows you expect it to follow the claim-handling instructions you have agreed upon in previous years.

Search for every opportunity for compromise to settle the runoff claims. Do not get caught up in trials. If there are good defenses to a claim or insignificant injuries, make these points clear to the claimant and negotiate a settlement that reflects the

*See Claims on next page*

# Book provides porthole into Exxon Valdez case

**"Cleaning Up: The Story Behind the Biggest Legal Bonanza of Our Time"**

By David Lebedoff

Published by The Free Press, a division of Simon & Schuster, 1230 Ave. of the Americas, New York, N.Y. 10020, 212-632-4993

\$25

By Kevin M. Quinley

"Billions and billions" is a catch phrase popularized by the late astronomer Carl Sagan, often parodied by talk-show comedians. While million-dollar jury awards once were newsworthy, we have now become anesthetized to them, especially if you happen to live (or litigate) in Alabama. Risk managers may be more accustomed to thinking of "billions and billions" in the context of galaxies, but not in the realm of risk management or jury awards.

That all changed with the multi-billion dollar jury award in the Exxon Valdez case, which tagged the oil giant with astronomical damages flowing from a massive Alaskan oil spill and resultant environmental harm. A new book, "Cleaning Up: The Story Behind the Greatest Legal Bonanza of Our Time" gives risk managers a fascinating inside view of the Exxon Valdez case and trial, which produced a jury award for billions and billions.

Sometimes truth not only is stranger than fiction, but also is much more absorbing. John Grisham's legal thrillers may pale in comparison to real-life legal dramas.

## Books & Ideas

In the tradition of true-to-life legal thrillers, author David Lebedoff offers "Cleaning Up: The Story Behind the Greatest Legal Bonanza of Our Time." Risk managers who think they have tough exposures to manage may get some needed perspective by reading this recount of the Exxon Valdez environmental debacle and the multi-billion dollar award that followed.

"Cleaning Up" is a suspenseful, absorbing legal narrative of the Exxon Valdez civil lawsuit. Mr. Lebedoff takes risk managers behind the scenes to recount what was whispered in the hallways of the plaintiff attorney's blue-chip Minnesota law firm and what was said behind the closed doors of jury deliberations. Risk managers often are amazed and baffled by jury results. If nothing else, "Cleaning Up" provides a useful keyhole peek into jury behavior that may be illuminating the next time a risk manager ponders taking any case to trial before a jury.

The author is a novelist, political commentator, lawyer and a graduate of Harvard Law School. He is senior vp at Voyageur Asset Management in Minneapolis.

His unparalleled access to the key players—including plaintiff attorney Brian O'Neill and Joe Hazelwood, captain of the Exxon Valdez—produces new revelations about Exxon, its opponent in the legal arena and members of the jury. The book recounts particularly the perspective of Mr.

O'Neill, the young lawyer who assembled an expert legal team and engaged in five years of siege warfare. Eventually, he won the most lucrative civil trial in modern history.

In the wake of this environmental catastrophe, though, other kinds of damage occurred. Careers and marriages were destroyed, a juror contemplated suicide, and Exxon's total tab reached into the billions of dollars.

Comprehensive and engrossing, "Cleaning Up" does more than just summarize this piece of litigation—a fascinating case study in risk and crisis management. Instead, it offers an anatomy of the civil trial that permanently changed the nature of high-stakes damage suits.

Risk managers thus get a two-for-one deal with "Cleaning Up": a page-turning legal thriller coupled with an instructive study in crisis management. After reading it, that "tough" property renewal seems much more manageable by comparison! **BI**



Mr. Quinley

Kevin M. Quinley is senior vp of risk services for MEDMARC Insurance Co. Inc. and subsidiary Hamilton Resources Corp., both of Fairfax, Va.

# Stress related to discipline compensable, court rules

An employee's injury precipitated by stress resulting from a disciplinary action for proper cause fell within the scope of the employee's employment and was compensable under the Workers' Compensation Act, according to the Supreme Court of Hawaii.

Regina M. Mitchell was a sixth-grade teacher. The school used a "team-teaching" method wherein teachers were assigned to teams, which established their own rules regarding teaching and classroom management. One rule of Ms. Mitchell's team was prohibition against the use of rewards to motivate students. Nevertheless, Ms. Mitchell disregarded this rule and rewarded her students for completing their assignments. Although repeatedly warned against the use of rewards, Ms. Mitchell continued the practice. After the principal criticized her for violating the rule, Ms. Mitchell became distressed and developed "flu-like" symptoms. Subsequently, the principal recommended that Ms. Mitchell be suspended for five days without pay for a second incident involving violating the rule against corporal punishment. Ms. Mitchell became feverish, disoriented, confused and left work. She filed for compensation benefits but was denied. Subsequently, the board granted compensation for the first incident (unauthorized rewards) but denied compensation for the second (corporal punishment).

The appellate court said that whether Ms. Mitchell in fact administered corporal punishment was not essential to the determination of compensability

## Legal Briefs

because misconduct, even if willful, does not necessarily preclude workers compensation recovery. The court said Ms. Mitchell sustained a compensable injury because she was acting within the course of her employment at the time of the alleged misconduct (administering corporal punishment).

*Mitchell vs. State Department Of Education, Supreme Court of Hawaii, July 8, 1997 (BI/03/M.-\$10).*

### No coverage for snowstorm-related losses

A commercial insurance policy did not provide coverage for loss of business income due to a snowstorm that prevented the insured's access to its car dealership, according to the Court of Appeals of North Carolina.

Harry's Cadillac-Pontiac-GMC Truck Co. maintained a car dealership in Buncombe County, North Carolina. On March 12 and 13, 1993, a snowstorm struck the area, causing the dealership to be inaccessible for a week. At the time of the storm, the dealership was insured by Motors Insurance Corp. and MIC Property & Casualty Insurance Corp. under a commercial insurance policy that provided basic coverage and also included protection against loss of income resulting from the suspension of business due

to property repairs. The dealership filed a claim to recover profits allegedly lost because of the interruption of its business due to the storm. The trial court ruled for the insurer and dismissed the dealership's suit.

On appeal, the insurer argued that there was no "direct physical loss or damage" that resulted in a loss of business income during a period of restoration so as to come within the business interruption coverage of the policy. The court pointed out that the dealer neither alleged nor offered proof that its lost business income was due to damage or the destruction of the property. According to the court, all the evidence showed that the loss was caused by the dealer's inability to access the dealership due to the storm. The court held that coverage was provided only when loss resulted from suspension of operations due to damage to, or destruction of, the business property by reason of a peril insured against. The trial court decision was affirmed.

*Harry's Cadillac-Pontiac vs. Motors Insurance Corp., Court of Appeals of North Carolina, July 1, 1997 (BI/03/F.-\$10).* **BI**

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

## Claims

Continued from previous page

exposure. Claims cost more as they age, and the runoff program will become difficult and expensive to manage as time goes on.

Conduct periodic performance reviews by auditing the claim files. This will help motivate the former claim service provider and identify settlement opportunities. Make sure the adjusters document clear plans in the claim file, with closure as the ultimate goal.

Find ways to motivate the previous business partner. Use your broker; the broker still has customers with the provider. You may not be a customer any more, but your broker is a valuable source of new business for the claim service provider.

Consider financial incentives as a reward for the former provider's continuing best practices and cooperation. Continue to treat the provider's management and staff as part of the team by including them in strategic planning.

Should you move the remaining claims to the new provider? Not as a matter of routine. If you paid the previous provider a flat fee, you already have paid them to manage the claims. You will now have to pay another to do the same work.

There are costs for the new provider to take over these claims. The claim files may be electronic; adjusters will have to familiarize themselves with the files and input enough information in their electronic files to manage the claims. These claims will lay dormant for a period while the files are transferred and the new adjusters evaluate the new caseload. Windows of opportunity to mitigate or settle claims

may pass during this time.

How will this impact the casualty underwriting program? Before you consider changing your claim service provider, be sure the new candidates are compatible with the underwriting program. Some underwriters cannot work with some unbundled claim service providers. You may not want to change the whole program just to change the claim provider. Evaluate what you might lose with an underwriting change to be sure the overall change is effective.

Try to keep communication open and businesslike with the former claim service provider. Do not let the relationship deteriorate, leaving the provider with no incentive to meet your expectations. **BI**

Joseph P. Rainey is vp and partnership claims manager in Chicago for J&H Marsh & McLennan Inc.

# INTERNATIONAL

## Global Briefs

A group of 10 investors, including European insurance companies and banks, is backing a venture capital fund for investments in **Central and Eastern European insurance markets**. The \$34.3 million fund, New Europe Insurance Ventures, initially will focus on Croatia, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, the Slovak Republic and Slovenia. The fund is collaborating in a joint venture with the European Bank for Reconstruction and Development, making a total of \$45.7 million available for investment. The 10 investors are: German reinsurer Cologne Reinsurance Co.; Italian insurer INA; X.L. Investments Ltd.; Risk Capital Reinsurance Co.; German bank Bank Gesellschaft Berlin; German financial consulting firm DEG; FMO, a Dutch venture capital company; Goergen Foundation Inc., a charitable foundation; German insurer uniVersa Beteiligungs-A.G.; and Wiener Stadtische, an Austrian insurer. . . **J&H Marsh & McLennan Inc.** last week agreed to acquire SAN Sigorta ve Reansurans Brokerligi A.S. in Istanbul, Turkey, which was the Turkish member of the former Johnson & Higgins' UNISON network. Terms were not disclosed. Pending the acquisition, which is expected to be completed in June, the combined operations in Istanbul will be called SAN J&H Marsh & McLennan. . . A report by employee benefits consulting firm Aon Consulting Ltd. in London warns that U.K. employers may face penalties ranging from fines to imprisonment for **late payment of pension plan contributions**. Under the Pensions Act 1995, contributions must be paid into plans within 19 days after being deducted from employees' pay. The act also requires trustees of U.K. pension plans to report late payments. According to Aon Consulting, late payments of both employers' and employees' contributions into pension plans is one of the most common problems reported to the Occupational Pensions Regulatory Authority. . . Following its acquisition by Canadian financial services company Fairfax Financial Holdings Ltd., Sphere Drake's London and Bermuda operations have been renamed **Odyssey Re (London) Ltd.** and **Odyssey Re (Bermuda) Ltd.** . . . London rating agency Standard & Poor's has affirmed its AA- claims-paying ability rating for German insurance company **Gerling Konzern Allgemeine Versicherungs A.G.** According to Standard & Poor's, rating factors included Gerling's "excellent global business position, excellent capitalization and good underwriting performance in a soft domestic market," though these were countered by the "ongoing deterioration" in the German market and strong competition internationally. . . London-based **Reliance National Insurance Co. (Europe) Ltd.** has been assigned an A-, or excellent, rating by rating agency A.M. Best Co. In a statement, Oldwick, N.J.-based Best said the rating was based on Reliance National's "specialist underwriting strategy, geographical diversification, sound financial performance, strong balance sheet and conservative investment strategy," backed by the London operation's association with U.S.-based Reliance Insurance Group. . . **Margaret Gribbin** has been appointed directors and officers liability underwriter for Lloyd's syndicate 190, managed by Liberty Syndicate Management Ltd. Previously, Ms. Gribbin was a directors and officers liability insurance broker with London-based HSBC Gibbs Ltd. . . **Ian Clarke** has been appointed risk engineer responsible for chemical and pharmaceutical industry risk assessment at London-based insurance company Zurich International (UK) Ltd. Mr. Clarke previously worked at Zurich operations in Australia.

# Equitas says it's not in sale talks

By **MATTHEW MacDERMOTT**

LONDON—Equitas Holdings Ltd. says it is not in discussions with any companies about a sale.

A spokesman for Equitas, the reinsurer of Lloyd's of London syndicates' pre-1993 liabilities, said the company has not received any offers to sell, despite reports to the contrary in the London press.

"We have always said we would do whatever is necessary to increase value for our reinsured names," he said. "If someone came along with a great deal, we would be open. But no one has approached us."

London newspaper reports last week speculated that Equitas is in discussions with New-York-based investment bank Goldman Sachs & Co., which allegedly is representing a possible

buyer of the runoff reinsurer.

Speculation centered on London-based Dedalian Investments Ltd. Dedalian was launched late last year by London-based Eastgate Group Ltd., backed by the New York-based private equity fund Greenwich Street Capital Partners Inc., to purchase reinsurance debts (BI, Nov. 10, 1997).

A spokeswoman for Goldman Sachs in London said the company would not comment on the speculation.

A Dedalian spokesman said there is "no truth" in the rumors linking Dedalian to Equitas. "Dedalian is not in the business of buying companies; it exists to buy reinsurance debts," he said.

Michael Deeny, deputy chairman of the Equitas board of trustees, which represents the reinsured names, said no one has approached Equi-

tas with an interest in buying it.

"It (a sale) is not happening at the moment and is not something we (the trustees) are looking for," he said.

Mr. Deeny said the trustees are very happy with the progress of Equitas but would look "carefully and cautiously" at any buyout proposal.

"If a major insurance company or merchant bank came along, it would be our duty to consider," he said. "But we would only be interested in a proposal that actually increased the capital available to meet the obligations of the company."

Mr. Deeny said the sale of Equitas would be a "complex exercise."

"It could not be regarded as a normal takeover or investment, as the names have continuing  
*See Equitas on page 25*

## AXA-UAP looks toward Asia for expansion

By **EDWIN UNSWORTH**

LONDON—France's largest insurer, AXA-UAP Groupe, sees the current economic crisis in Asia not as a drawback but as a window for expansion.

Speaking in London this month when the company reported its 1997 results, AXA-UAP Chairman Claude Bebear said the current economic disarray of Far East countries creates merger and acquisition opportunities that are unlikely to last for long.

He cited Japan and South Korea as two countries where prospects for investment look best, because the high proportion of business-

es there concentrated on their domestic markets means that many companies will need additional capital to refinance themselves.

In a wide-ranging news conference, the chairman of the Paris-based insurer did not go into greater detail about how he plans to position the company to take advantage of such opportunities, though he did say the group also plans to start doing business in China this summer.

He pointed to Latin America as another major geographic area where AXA-UAP, aided by its Spanish partner, Banco Bilbao Vizcaya, has expansion hopes.

*See AXA-UAP on page 25*

## '98 aviation losses mounting quickly

But rates predicted to remain low

By **MATTHEW MacDERMOTT**

LONDON—The 1998 loss picture for international aviation insurers is looking grim so far, with hull losses to date estimated at \$255 million.

That total compares with estimated hull losses of \$600 million for all of 1997, according to the London-based Aviation Insurance Offices' Assn., which represents international aviation insurers operating in London.

Despite the increased loss pattern, the AIOA expects rates to remain low due to continued overcapacity in the aviation market.

AIOA Chairman Keith Selby said increased merger and acquisition activity between insurance companies has increased competition, and the trend has brought additional capacity to aviation lines as large insurers seek to boost their

market share.

However, current pricing levels are unsustainable against the background of current exposure patterns, and no end to the soft market is in sight, Mr. Selby said. In the fourth quarter of 1997, when most major policy renewals were negotiated, prices were cut 15% to 20%.

"The prospect of any further reductions is daunting in the extreme but cannot be excluded in a market still dominated by market share and business-acquisition thinking and motivation," Mr. Selby said the night before the AIOA's annual meeting in London last week. "So long as the extreme overcapacity persists, it is difficult to see where any meaningful reversal of fortunes might occur," he said.

The AIOA's hull loss figure of \$600 million for 1997 is higher than  
*See Aviation on page 25*

## Pension vendors see opportunities

By **MARIA KIELMAS**

LONDON—Pension providers, benefits specialists and asset managers see great new opportunities in Europe as governments in varying degrees embark on pension reform.

But European employers are increasingly nervous that the reforms bring yet more regulation and taxation into a market where payroll taxes are the world's highest and unfunded state pension liabilities mount, noted speakers at a late February conference in London, "The Future of European Pensions," organized by the Royal Institute of International Affairs.

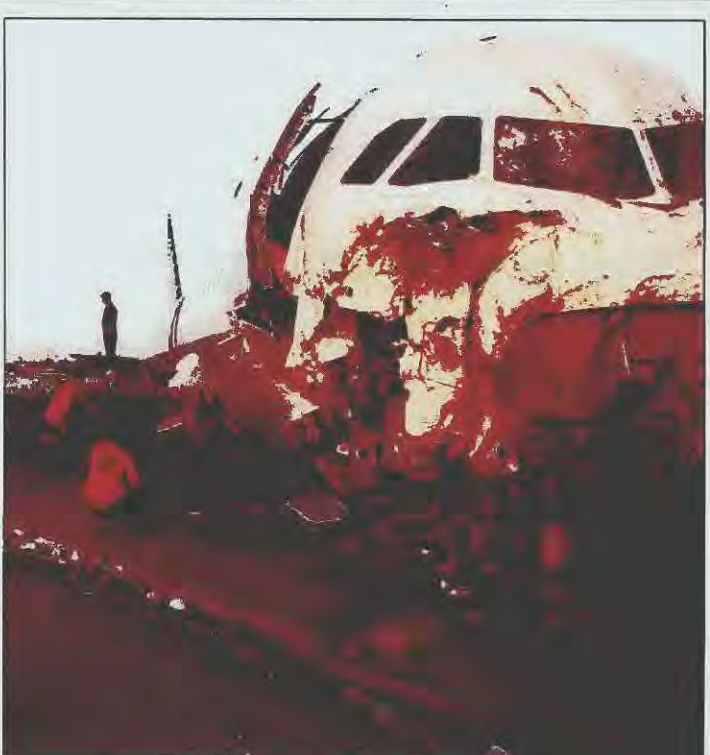
In Britain, the new government has begun a widespread review of pension and welfare provision in which ministers are expected to "think the unthinkable," noted Koen de Ryck, chairman and managing director of Pragma Consulting NV/SA, a Brussels, Belgium-based consulting firm. "What people in Europe are doing is unbelievable, and in France the situation is unsustainable," Mr. De Roek said.

Employers' funded pension provisions in Britain, the most developed European market of its kind, already are being undermined by ambiguous government policies, said Ann Robinson, director general of the National Assn. of Pension Funds. Unlike the pension systems created in continental Europe, in the United Kingdom, the state plays a relatively minor role as a provider but an increasing role as regulator and enabler.

"In spite of the huge success of this model, it is in danger of being undermined by overregulation and a very misguided approach to taxation," Ms. Robinson said.

At the same session, John Denham, parliamentary undersecretary for social security, noted that U.K. occupational pensions are strong. But Ms. Robinson said this movement already has stalled as actions by the new government in the United Kingdom have added to costs and undermined employer commitment to voluntary schemes.

Keith Bedell-Pearce, director at the Prudential Corp. and  
*See Pensions on next page*



**This Philippine Airlines Airbus A320 plane overshot the runway of the Bacolod city airport in central Philippines earlier this month. Three people on the ground died and at least 114 were hurt after the plane plowed into squatter areas, smashing about 20 shanty houses. All 127 passengers and crew survived. The hull loss is part of the \$255 million in hull losses aviation underwriters have suffered so far this year. However, rates are not expected to rise as a result (see related story).**

PHOTO: AFP

# Pensions

Continued from previous page

Scottish Amicable, said employer sponsorship of these plans will continue to decline if the government keeps issuing regulations and reducing funds through tax changes. Such changes last year removed income of £3.5 billion (\$5.74 billion) from corporate and personal pensions.

"Even at its peak, membership of employer-sponsored schemes only reached around 50% of employees, and of course that is a moving population, so very few ever build up to the full pension that would come from long service," Mr. Bedell-Pearce said.

Mr. Denham said part of the U.K. government's new plan is to introduce so-called "stakeholder" pensions. "A central problem in pensions is the need for a new type of pension plan

for those who don't have access to employers' occupational schemes and for whom personal pensions may offer poor value for money," he said.

To be effective, Mr. Denham said the stakeholder pensions will have to be readily accessible to people in their workplaces; offer good value for people on modest incomes; be available to self-employed, contract and agency workers; and not penalize those who change jobs frequently or take breaks from work. He added that the stakeholder pensions should have economies of scale through pooling savings in multimember plans, involve new partnerships among financial service organizations, have trustee boards and have the potential for some sort of regulatory approval.

But Ms. Robinson remained skeptical, noting that a publication of the British government's long-promised review of pensions and welfare has

been postponed several times.

"No model or design has been put forward," she said. It's hard to comment on the stakeholder pension because "no one, perhaps not even the ministers and officials, would recognize one if we saw it."

France also faces the problem of a new government making up its mind about its predecessors' pension reform and delaying matters in the process, said Vincent Vandier, executive director at the French pension funds group Assn. Francaise des Regimes et Fonds de Pension.

In March 1997, the French Parliament passed a new law about employers' pension plans. Enabling legislation was due to be signed the next June, but the general election intervened. "With the election of a new Parliament, the new government has not condemned in principle the pension funds themselves but questioned

the consequences of funded pension schemes on the financing of compulsory basic schemes," Mr. Vandier said.

Pension reform is a hot potato in France. "One of the reasons is that the existing system has been performing quite well. A second reason is that the pension act of 1997 has clashed with the unions and with the opposition to the government," he said.

The pension act, which hasn't been fully implemented, would call for an employer plan offering a life annuity. Setting it up would require a decision from the employer or collective bargaining with the labor unions, either within the individual companies or at industrywide or national levels.

Employees' contributions would be voluntary and variable and matched by employer contributions. These contributions would be tax-deductible when the total contribution from both sides did not exceed certain

thresholds. The contributions also would be partially exempt from social security changes.

These exemptions fueled the political backlash, Mr. Vandier said. "The exemption of the employer contribution from the compulsory retirement contribution is seen as jeopardizing pay-as-you-go schemes at the expense of low-paid employees."

The most likely outcome is that employers will be subject to current social charges, or at least to the unemployment contribution, he predicted.

In addition, he said collective bargaining would remain the rule of the game. "In the setting up of a pension fund, the employer could be compelled in a first round of negotiations to call on employees' representatives before having the right to take a unilateral decision," he said.

Other future necessities include the creation of a pension fund guarantee institution and performance measurement standards, Mr. Vandier added.

The latest phase of social security reform in Germany threatens to increase the short-term costs for employers, said Ulrich Jurgens, managing director of Hamburger Pensionsverwaltung, based in Hamburg, Germany. However, the reform will ease the long-term burden on employers by reducing the contributions they will have to make.

The contribution rate for the social security pension system rose in 1998 to 21% from 20.3%, but the value-added tax was raised to 16% from 15% effective April 1.

Germany has four types of occupational pension systems that face increasing problems with regulation and taxation.

Many German companies carry their pension liabilities as book reserves. These book reserves should not be seen solely as an unfunded balance-sheet risk for companies, though the level of funding of these systems is insufficient because of tax legislation, Mr. Jurgens said.

"Future payments have to be discounted at 6%," he said. "This means that at least 6% should be earned by the company. Neither future salary nor future pension increases may be taken into account when calculating pension reserves—that is, the level of funding. Pension liabilities towards employees who are younger than 30 have to be ignored completely."

The second-most important occupational pension vehicles in Germany are the Pensionskassen, or captive pension assurance companies.

The advantage of these, explained Mr. Jurgens, is employees can make contributions at different levels and maintain their active membership even if they change jobs or take a break from work. Also, because these pension vehicles are controlled by the insurance supervisory authority, they are regarded as safe.

But the government puts considerable reporting and management burdens on the Pensionskassen. There are strict regulations in the investment of assets, especially in equities, which are limited to 30%.

"The real problem for Pensionskassen in Germany is taxation. Pensionskassen are subject to a system of taxing the contributions and letting the pensions be paid tax-free. In concrete terms, an employee's contribution to a Pensionskasse has to be paid out of his net income," he said.

A third vehicle is the support fund, known as the Unterstutzungskassen. This is a separate legal entity. Employers' contributions to these funds do not cause tax disadvantages for the employee, and there is complete investment freedom. "The only problem is that, in general, there isn't much to be invested because the tax legislation in Germany does not allow for sufficient funding," he noted.

Continued on next page

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BI #1

## INTERNATIONAL

Continued from previous page

The result has been that as the support funds are disappearing, reinsured support funds have appeared. These are support funds that have bought pension policies from Pensionskassen or assurance companies to cover their own liabilities. The reinsurance contribution paid by the employer to the support fund is tax-free, but the pension paid out to the employee is taxable. "This is a vehicle which allows for sufficient external funding without creating tax problems for the employees," Mr. Jurgens said.

The introduction of the European single currency, the Euro, next year as an accounting unit and the prospect of European Monetary Union has important consequences for pension provision in Europe. Pension provision is assisted by tax incentives, but because these are linked to the national tax system there is an effective barrier to cross-border provision, said Mr. Bedell-Pearce.

As the demand for cross-border provision rises, he said, so will the call for a harmonization of tax legislation in the European Union. "I believe that (in) five to 10 years in

EMU, there will be a move to create a fiscal harmonization because the flow of Euro funds will be to the most fiscally attractive haven," Mr. Bedell-Pearce said.

The political consequences notwithstanding, business is worried about fiscal harmonization, especially if it involves the introduction of withholding taxes at source. "If EMU commences on time, the political push for additional harmonization taxes at source will start all over again. They should be steadfastly resisted. There is absolutely no place for such 1970-type governmental action in the global

market of today," said John Langton, chief executive and secretary General of the Zurich-based International Securities Market Assn.

"Monetary union must be the crowning jewel of the single market program and not a tool of reactionary forces trying to reimpose state control over the management of private capital," he added.

But speakers feared for increasing regulation at a European level because of Europe's long tradition of state intervention. "We have a long tradition of state involvement in France going back to Louis XIV," said Mr. Vandier. **BI**

## Royal/Dutch Shell revamps its pension plans

By MARIA KIELMAS

LONDON—The changing makeup of its workforce and a corporate restructuring has prompted oil multinational Royal/Dutch Shell Group to revamp its pension plans to offer employees more flexibility and choice.

Competition, technology and new financial requirements are producing a new type of organization and a new type of employee, said Kees van Rees, general manager of the Shell Pensioenfond Beheer B.V., the Shell pension plan. He spoke at a conference in London on "The Future of European Pensions" organized by the Royal Institute of International Affairs.

Companies are shifting away from benefit packages designed for career employees. Rather, as they focus on core businesses, employers are looking for highly versatile and mobile staffers who still can expect development opportunities but not a contract for life, Mr. Van Rees said.

According to Shell, there will not be an extreme shift in pension policy. Collective plans with a strong cooperative content and an emphasis on retention of staff, containment and insurance will not shift to individual plans with a strong competitive element emphasizing attraction of staff, individual negotiation of employment conditions and individual saving.

"A more likely trend is a move toward a plan combining or merging elements of both extremes—that is, a scheme with a basic collective provision based on average career pay and insurance elements based on risk-sharing between the generations on

the one hand and more individual provisions based on available defined contributions and savings elements," Mr. Van Rees added. Retirement age will be geared to individual choice within a permitted range and dependent on individual savings.

Shell says flexibility and choice should not increase its costs.

"The introduction of flexibility and individual choice calls for transparency and simplicity in the design of plans. If you offer staff a choice, you need to do it in a manner that staff understand what the choice is and what the consequences will be, thus ensuring responsible decisions," he continued.

Poor communication has been one of the problems Shell has encountered as it has revamped its pension and benefit programs. At its offices in Holland, a national pensions ombudsman has been present for a year and half, and more than half the questions the office gets concern communication. "This signal has been taken up seriously and, as a matter of cost-consciousness, we try to avoid too-complex new designs demanding even more effort on the communications side than is already demanded in our normal course of affairs," Mr. Van Rees said.

Shell operates 40 pension funds, with assets worth \$45.9 billion at the end of 1996. A major share of these assets are accumulated in the United Kingdom and the Netherlands—\$12.6 billion and \$12.2 billion, respectively.

Defined benefit plans account for 82% and defined contribution plans for 18% of Shell's worldwide pension

assets. Funded defined benefit plans prevail in Shell's major countries: the United Kingdom, with its international headquarters in London, and the Netherlands, with its corporate headquarters at The Hague.

The Shell fund in the Netherlands is administered by a management company that looks after both liabilities and assets. The beneficiaries are more than 18,000 pensioners, more than 12,000 active staff and some 6,000 former employees with deferred rights. Total assets are worth \$12.2 billion. The fund had a return of 22.7% in 1996, received \$160 million in premiums and paid out \$440 million in pensions. The average return over the past five years has been 11.9%.

Shell's fund is the second largest in the Netherlands, which has more than 900 company plans and 80 large industrywide plans. Of those working in the private sector, 85% are covered, and 100% in the public sector are covered. Some 11% of the 16 million population are pensioners. Assets in pension plans total \$350 billion.

The first regulations for pension funds were introduced in 1952, with ensuring plan members rights the main objective, Mr. Van Rees noted.

Apart from tackling the aging issue in pension provision, the Dutch government wants to pay attention to equal-treatment provisions in pension plan design so its plans comply with rulings that may come, such as requiring the same benefits for homosexual partners as for heterosexual spouses.

Any new design or modification of existing plans needs equal-treatment proofing, he said. "It is obvious that

this carries extra cost. It also leads, as has been the case in the Netherlands, to costly additional ambitions in respect of so-called 'repairs of old sores and white spots' in the pension coverage of the past," for example, the backdating of new rules to cover formerly excluded categories," he said.

Shell began its pension revamping three years ago. Among the changes:

- The direct link between the state pension level and the supplementary pension plan was severed, and this process will be followed up during this year. The Dutch state pension system is based on contributions made by people in their home countries. When overseas assignments meant they were unable to make the required contributions to the Dutch government, Shell made up the difference, but because of cost-cutting it no longer will make up the difference. The change was introduced in 1996. "This cut an important risk out of the plan," Mr. Van Rees said.

Various possibilities for personal choice were introduced, such as:

- Variable pension payments. A higher payment could be made on retirement and a lower pension after five or 10 years, or vice versa.
- A possibility to trade in a survivor's pension for an old-age pension or vice versa.
- A partial pension during the last two years of working before normal retirement age and/or a partial pension if an employee continues work after normal retirement age.
- Shell offers facilities for individuals to get an individual pension with a commercial insurance company. **BI**

## East, West face same problems in Europe

LONDON—Transition economies in Eastern Europe face the same problems as Western Europe with pension provisions: aging populations, decreasing salaries and industrial output, and rising unemployment.

"But it is important to note that transition countries do not have the luxury of building up pensions slowly. They have to make the leap from a state monopoly to the private sector," said Michal Rutkowski, Washington, D.C.-based sector leader for Pensions and Labor Market Operations in the Europe and central Asia department at the World Bank.

"We don't have the luxury to wait 50 years," Mr. Rutkowski said at a conference on "The future of European pensions" organized by the London-based Royal Institute of International Affairs. He says these countries need to establish pension funds immediately.

He noted that without reform, spending on state retirement and disability pensions in Poland would be 22% of gross domestic product in the year 2020, compared with 14% as an average in the Or-

ganization for Economic Cooperation and Development countries. This rises to 27% and 13% respectively in the year 2050.

As in Western Europe, the Eastern Europe reforms are looking to a three-pillar financing of the future pension system. The pillars are:

- A compulsory state pension plan to which employers and employees contribute.
- A supplementary state pension plan to which employees and employers contribute. These typically are compulsory but can be voluntary, and they may or may not be combined with an employer's pension plan.
- A voluntary private pension plan, with only employees contributing.

Hungary and Kazakhstan lead the reform process in Eastern Europe, Mr. Rutkowski said.

Hungary was the first country to introduce a multipillar system with a mandatory funded pillar. The existing pay-as-you-go system remains. The second pillar is a separate mandatory funded account at 8% of payroll. Employers make the contribution but get tax and other

credits in return. The third pillar is a voluntary plan like a mutual insurance company, with all benefits going to members.

Kazakhstan is introducing a formula that allows for full recognition of past service in a frozen pay-as-you-go formula. Fully funded accounts paid for by 10% of payroll with a top-up guarantee form the second pillar. Mr. Rutkowski said funding these plans could be problematic and will depend on privatizing state assets to fill the gap.

Poland has the third-most advanced reform in process, but it is stuck in a legislative gridlock. A law providing for reform to a second-pillar pension system takes effect Jan. 1, 1999, but this depends on legislation being passed to reform the current first pillar. General elections and constitutional reform last year held up approval of pension legislation in Poland.

"If this legislation is not approved in the next few months, then there is a danger that it will not happen for many years," Mr. Rutkowski said.

The Polish plan envisions a pay-as-you-go component and the im-

mediate introduction of separate funded accounts for younger workers at 9% of payroll and special tax treatment for voluntary plans.

Polish law also will encourage or subsidize occupational pensions as a substitute for early retirement. One way to do this is through some exemption from social insurance contributions for employers and employees, Mr. Rutkowski said. As formerly state-controlled industries are privatized, more modest pension reforms have been introduced in the Czech Republic, Albania, Latvia and Russia.

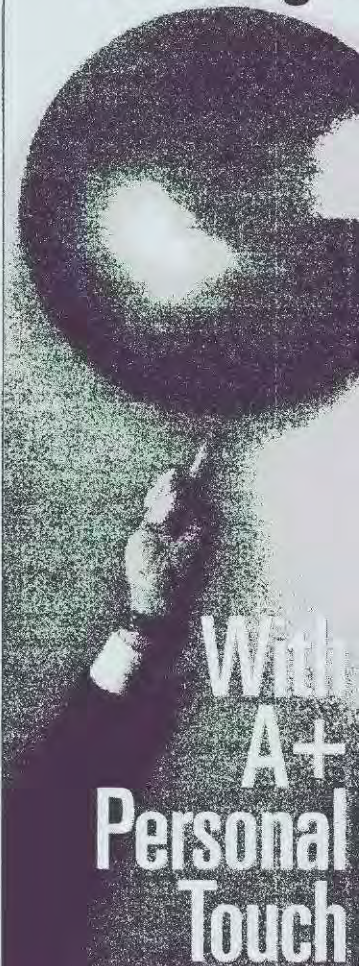
Mr. Rutkowski said candidates for future reform include:

- Slovenia, which is expected to introduce a Hungarian-style reform.
- Croatia, which plans modest reform to a two-pillar system.
- A good reform of the pay-as-you-go system for poorer countries or those where politics interfere, such as Ukraine, Kyrgyzstan and Mongolia.
- Discussions are under way for mandatory funded pillars in Macedonia and Romania.

—By Maria Kielmas

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## INTERNATIONAL

# Beset by claims, lawyers' mutual facing big deficit

LONDON—Legal repercussions from a U.K. real estate market crash in the late 1980s that are still being felt by the Solicitors Indemnity Fund may sink the professional liability insurer.

Fiscal 1997 results of the SIF, a mutual insurer that writes professional liability coverage for lawyers in England and Wales, reveals that claims stemming from massive property losses continue to grow.

For the year ending Aug. 31, 1997, 65% of the value of all claims paid by the lawyers' mutual insurer were related to property or mortgage-related work carried out by lawyers, the SIF's annual report states.

Claims stemming from lawsuits over attorneys' property evaluation and mortgage work represented 64% of the value of claims paid in fiscal 1996, up from 57% in fiscal 1995 and 56% in fiscal 1994.

Under these and other professional liability claims, the mutual insurer projects that, based on current liability estimates, the SIF would face a shortfall of £432.65 million (\$726.5 million). To meet the difference, the SIF would assess its members.

The shortfall for fiscal 1997 alone is £74 million (\$124.3 million), based on estimated claims payable of £325 million (\$545.7 million) and reinsurance premiums and other expenses of £11

million (\$18.5 million) vs. total premiums of £195 million (\$327.4 million) and investment income of £67 million (\$112.5 million).

The latest figures make the SIF's future increasingly uncertain. All registered law firms practicing in England and Wales must buy at least £1 million (\$1.7 million) in limits from the mutual insurer under regulations of the Law Society. However, a recent report by the Law Society examining the viability of the insurer recommended overhauling the fund but retaining a mutual arrangement (BI, Jan. 19).

Many law firms have said they would find more affordable and secure liability coverage from commercial insurers. One leading professional liability broker claims that law firms would save at least 40% of their premiums by scrapping the SIF and buying commercial insurance (see related story).

According to the SIF's annual report, claims brought against lawyers by lenders in failed property deals have been a "major contributing factor to the increased costs of claims over all indemnity years since the property recession."

But, the report notes that "courts are growing increasingly unsympathetic" to lenders' arguments that losses from the property recession are lawyers' fault.

—By Carolyn Aldred

## AXA-UAP

Continued from page 21

Eastern Europe, in particular the Czech Republic and Poland, is another area where the French insurer intends to expand, Mr. Bebear added. The company already is represented in Hungary through its German subsidiary, Cologne-based AXA Colonia.

Mr. Bebear said the mergers of brokers, including the agreed takeover of French broker Le Blanc de Nicolay by Aon Corp. (BI, Feb. 15), and Willis Corroon Group P.L.C.'s acquisition of a one-third stake in Grès Savoye S.A., worry him more than consolidation of other insurance companies.

The creation of megabrokers "can create real problems," particularly in commercial lines, where fewer than 10 major players remain, he said. These enlarged brokers now are so

powerful that it "does not permit us to get insurance business as profitably as is necessary," said Mr. Bebear.

However, Claude Tendil, the group's senior executive vp, added that for a company the size of AXA-UAP, it is easier to work with international brokers on international programs. "We are a global player, and it is natural to have a global partner," he said.

Presenting AXA-UAP's first results since AXA's acquisition of Union des Assurances de Paris last year, the enlarged group reported 1997 net income of 7.92 billion French francs (\$1.32 billion) compared with 3.81 billion French francs (\$734.2 million) for AXA alone in 1996.

Mr. Bebear said it was impossible to give a pro-forma profit figure for 1996 to include UAP because the latter company was consolidated into AXA-UAP using the purchase GAAP accounting method.

However, revenues rose to 365 billion French francs (\$60.92 billion) from a pro forma 325 billion French francs (\$61.78 billion) in 1996 and assets under management increased by 22% to 3.02 trillion French francs (\$502.2 billion).

Life insurance contributed 3.9 billion French francs (\$648.6 million) to AXA-UAP's 1997 net income, compared with a 1.6 billion French franc (\$308.3 million) contribution to AXA S.A.'s income in 1996. The result represented both growth in business and good investment results.

Property and casualty insurance contributed 2.4 billion French francs (\$399.1 million) to AXA-UAP's 1997 net income, against a 525 million French franc (\$101.2 million) contribution to AXA S.A.'s 1996 results, aided by tight control of expenses and favorable investment results in most countries. **BI**

## Broker advocates private legal cover

By CAROLYN ALDRED

LONDON—Law firms should be able to buy primary coverage from the commercial insurance market, in addition to using captive arrangements, rather than be forced into an industry mutual, says London broker Nelson Hurst & Marsh Ltd.

By doing so, most law firms could reduce their premiums by at least 40% and seek coverage more suited to their requirements, the broker said in a report prepared for a group of leading U.K. law firms.

The report likely will provide ammunition for the many law firms calling for scrapping the Solicitors Indemnity Fund, a mutual insurer set up in 1987 to provide the £1 million (\$1.7 million) of professional indemnity coverage required of all law firms operating in England and Wales.

Firms may get additional ammunition from the fund's poor 1997 results. In its annual report, the Solicitors Indemnity Fund said its shortfall for all indemnity years up to 1996-1997 is £432.65 million (\$723 million), despite a 50% hike in premiums levied last year (BI, Jan. 19). The fund is recommending members pay for the shortfall over seven years. Including interest, this would mean an additional £81.7 million (\$136.5 million) must be collected annually from members (see story, page 22).

An Indemnity Insurance Review Group, set up by the Law Society, is exploring possible changes to the current arrangements. In a January report, the group recommended preserving some form of mutual insurance, preferably using multiple insurance funds (BI, Jan. 19).

But the Nelson Hurst report argues that mutuality is unsuitable for professional indemnity insurance, noting that other professional disciplines successfully use commercial insurers to provide primary coverage after experiencing problems with mutual arrangements.

Nelson Hurst, comparing two unnamed but similar size firms, found that an accounting firm insured in the commercial market gets an indemnity limit of £50 million (\$83.6 million) for the same premium that a legal firm pays the SIF for £1 million of coverage. The report also noted that law firms in Ireland and in most U.S. states place primary coverage in the commercial market.

According to Nelson Hurst, the United Kingdom's large international and provincial law firms have quadrupled in size over the past decade and expect to have greater control of their business arrangements, including risk management and insurance. As large law firms begin to expand their legal practices, mutual insurance will become unsuitable, the report claims.

Preliminary inquiries to underwriters indicate that the commercial market is willing to underwrite primary coverage for lawyers at a very competitive rate, said Nelson Hurst Director Trevor Moss. Initial figures suggest savings of at least 40% could be achieved by most law firms, he said. The broker is preparing more detailed figures.

The report noted that previous hard markets generally have affected the capacity to provide higher catastrophe limits rather than making primary coverage unavailable.

Meanwhile, alternative risk mechanisms are playing an increasing part in law firms' insurance arrangements, and Nelson Hurst predicts that a large proportion of the top 100 U.K. law firms will use some form of self-insurance for protecting their primary exposures in the future.

Several of the United Kingdom's leading law firms have already set up offshore captive insurers for insuring their deductibles. Other law firms participate in association captives, while still other firms "have expressed a desire to sign up with a captive to insure their deductibles, pending a decision on the future of the SIF," the report notes.

Nelson Hurst estimates that 800 of the total 8,542 law firms practicing in England and Wales may find it difficult to obtain commercial insurance. It suggests that an assigned risk pool, possibly managed by the SIF, be set up to provide up to two years' coverage for those companies unable to buy commercial insurance. Such an arrangement must include strict risk improvement requirements, eventually allowing law firms to buy commercial coverage, the report says.

Nelson Hurst also suggests that the commercial market may offer a financial solution to the SIF's massive shortfall if given the opportunity to write primary coverage for law firms.

Mr. Moss hopes the broker's report will further the discussion during the consultation period of the Law Society's review group, chaired by attorney John Appleby.

"Some (law) firms consider that the debate has not been well discussed and that reasoned arguments have not been listened to," he said. **BI**

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# Equitas

Continued from page 21  
liability."

Meanwhile, Equitas has announced changes to its processing system to allow the company to focus more on large-value, low-frequency transactions while dealing more efficiently with small-value, high-frequency transactions.

The changes aim to reduce Equitas' operating costs by £30 million (\$50.2 million) annually. Those costs are expected to be about £250 million (\$418.6 million) for the year ended March 1998.

Michael Crall, Equitas chief executive officer, said the changes target the three major factors driving Equitas' costs: processing too many small items, managing too many syndicates, and insufficient quality control.

Of the 390 syndicates under its management, Equitas has identified 150 from which it will collect a total of less than £10 million (\$16.7 million) in reinsurance.

Rather than conducting routine daily processing, Equitas now will review losses attached to these syndicates only annually or every six months, depending on the size of the syndicate and the type of reinsurance program it has.

The change will not delay Equitas' claims paying, but it is aimed at improving the efficiency of its reinsurance collections by effectively placing

small syndicates in "cold storage," so that collection costs are not wasted on small amounts.

This change will accelerate the movement of Equitas' syndicate management from outside managing agents, of which there are about 30, into Equitas. Within six months, Equitas expects all its syndicates to be managed by Equitas or one of its two supporting runoff specialists, Eastgate Syndicate Management Ltd. and Whittington Syndicate Management Ltd., both based in London. This migration was originally not expected to be completed until 2000.

Equitas has introduced similar changes to how it issues collecting notes to reinsurers. Rather than issuing collecting notes for every claim, Equitas will aggregate its individual syndicates' reinsurance claims until they have reached a threshold of \$25,000. Equitas expects the change to reduce the volume of collecting notes processed by 58%.

Again, the change will not delay Equitas' claims paying. It will defer the company's cash flow from reinsurers, but Equitas is confident reductions in operating costs will make up for that.

Equitas also is finalizing plans to create a "front desk" for quality-control purposes. Under the system, all necessary processing information will be captured and validated by Equitas' own system before Equitas adjusters reach reinsurance claims settlements with policyholders' brokers. **BI**

# E.U. rules hampering P&I clubs, group says

By EDWIN UNSWORTH

LONDON—The International Group of P&I Clubs wants another chance to argue that it should be exempt from European Union competition rules.

Last week the International Group, which represents 15 protection and indemnity clubs, told Competition Commissioner Karel van Miert it wants to continue a dialogue "so as to resolve all outstanding issues without delay and to remove uncertainty about the group's arrangements."

At issue is the International Group Arrangement, a rule among the P&I clubs that a shipowner who moves liability coverage from one club to another can do so for the first year only at the rate quoted by the previous club. This is to prevent shipowners moving their liability coverages from one P&I club to another in hopes of getting lower rates than their claims records may warrant.

The International Group has had an exemption since 1985 from E.U. competition rules to operate this system. The clubs say the IGA underpins their mutual system and arrangements for pooling losses above a certain level.

But Mr. van Miert wants more "transparency" put into the P&I system so members can more clearly see how rates are determined, and he thinks that as now implemented, the IGA limits the possibilities for this.

The International Group wants more dialogue, because it believes it has not had a proper opportunity to discuss its transparency proposal, which it put forth last November.

George Greenwood, International Group chairman, said the proposal aims to create "a level playing field" among clubs by having them reveal more about their administrative costs. Each club would publish an expense ratio showing payouts against income. The ratios would be based on a five-year average, calculated on a uniform basis. Publishing such information would clarify for shipowners

what they get for what they pay.

A spokesman for Mr. van Miert's office said the International Group's proposals will be considered and that if these fail to lead to an agreement, there may be an opportunity for talks.

In February, the Competition Directorate rebuffed the International Group's "exploratory suggestions" about publishing the expense ratios for enhancing the transparency of its operations.

In 1985 the International Group got a 10-year exemption from normal competition rules in order to operate the IGA. Since the exemption expired in 1995, however, the director has decided the rule is anti-competitive. **BI**

# Aviation

Continued from page 21

the 1996 total of \$525 million. Twenty-two Western-built jets were total losses in 1997, two fewer than in 1996.

Mr. Selby described 1997 as "a year of two halves." The first half saw an exceptionally low level of major accidents, but the second half was marked by a 12-day period in August with seven major crashes. The most significant was the Korean Air Lines Boeing 747-300 that crashed on the Pacific island of Guam, killing 228 people.

First-quarter 1998 has not been good for aviation underwriters, Mr. Selby said. The most significant losses so far are the China Airlines Airbus A300-600R, which had a hull value of \$71.5 million and crashed in Taiwan in February, and a Manila-based Cebu Pacific Air DC-9 that crashed into a Philippines mountain in early February (BI, Feb. 23).

Tony Medniuk, managing director of the London-based British Aviation Insurance Group Ltd. and a member of the AIOA executive committee, said 1998 has started with a much more recognizable loss pattern, and "as such, we can see the exposures that are out there."

"If we have a year of 20 or 22 jet losses, then it is difficult to see" how pure underwriting profits can be made at current prices, he said.

Mr. Selby said it is hard to generalize about profitability as individual aviation underwriters write business as they see fit. But he said a realistic income base for aviation business will have to be re-established in the not-too-distant future. "The longer the pricing situation prevails, the greater the correction that will ultimately have to be made," he said.

Mr. Selby said changing aviation insurance prices is a gradual process, not something that will happen overnight. He said catastrophic losses

are not the only way market pricing will change, but they may be "a contributing factor."

Mr. Medniuk agreed that there does not necessarily need to be a couple of major catastrophic losses to change pricing. He said a run of smaller losses and external factors, such as wind-storm damage to airfields, can take out extra capacity.

Mr. Selby said aviation is a dynamic industry, averaging 6% to 8% growth in aircraft used per year, but that in itself is a threat to safety. He said that even if the industry maintains its current safety levels, which he said are very good, the number of accidents is going to increase as the number of aircraft increases.

"The challenge that faces the airline industry, and we (insurers) have to be co-risk managers in this situation, is to improve the level of safety beyond what it is at the moment," he said.

Mr. Selby admitted that would be difficult. **BI**

# Coface ceding Chinese risk

PARIS—In an illustration of a new strategy, French political risk insurer Coface has used the private market to reinsure most of its long-term exposure to China.

This transaction, the first of its kind for Paris-based Coface, marks a new management strategy aimed at making use of the large reinsurance capacity available on the international market, a French Finance Ministry statement said.

Coface, which used to be state-owned but has been privatized, writes export credit and political risk insurance on short- to medium-term business. For long-term business, Coface acts as a managing agent for the French government, which provides guarantees for long-term business.

The aggregate amount of treaty

reinsurance is \$100 million over a period of 10 years. Coface retains 20% and reinsures 80% with Bermuda-based specialty political risk insurer Sovereign Risk Insurance Ltd. Sovereign is a joint venture of X.L. Insurance Co. Ltd., ACE Ltd. and Risk Capital Reinsurance Co.

Coface will retain 20% of the risk on the portfolio being reinsured on behalf of the French government, the statement said.

"We had to reduce our exposure to China and would like to take benefit of the capacity in the market," a Coface spokesman said.

The insurer had a disproportionately higher exposure limit in China compared with other countries and so sought to reduce that level through reinsurance, he said.

Nevertheless, even after the reinsurance, China remains Coface's greatest exposure, followed by Algeria and Egypt, the spokesman added. He would not provide figures for the company's long-term exposures.

During the past year, Coface's future was cast in doubt amid competing bids for Assurances Generales de France, which has a controlling interest in Coface. Although German insurer Allianz A.G. Holding ultimately won the battle to buy AGF, the French government has insisted that a French company retain control of Coface. Paris-based SCOR S.A. has expressed an interest in increasing its stake in Coface, though the government has not yet ruled on the matter.

—By Maria Kielmas

## ADVERTISER INDEX

Issue of March 30

ADVERTISER	PAGE #
Allendale Insurance	6-7
Burnham Systems	24
Business Insurance	13,16,22
Carvill America, Inc.	27
Employers Reinsurance Corp.	10-11
Frontier Adjusters	25
General Accident Insurance	14-15
I M G	23
Lockton Companies	4
NCCI	12
Old Republic Risk Management	18
Reliance National	32
Risk Capital Reinsurance Co.	9
SAFECO Insurance Company	17
Zurich-American	5

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The City of Bloomington, Illinois is seeking qualified applicants for the position of Training/Safety Manager to develop and contro the City's safety program. Requires considerable knowledge and skill in coordinating and conducting training in occupational safety, accident investigation, safety inspections and prevention programs. Coordinate and review worker's compensation processing and reports; monitor compliance with federal and state regulation and requirements of work; develop and maintain safety compliance policies, procedures and proposals. Maintenance of appropriate records and reports on vehicles, equipment, methods, materials and testing techniques. Requires a Bachelors degree in Occupational Safety and Health or a related field; or equivalent combination of training and experience. Must have excellent computer skills. Highly desire ASP, CSP, ARM or ALCM Certification. Possession of a valid Driver's License. \$41,218 - \$61,827, plus excellent benefits. Contact Human Resources for required City application at 109 East Olive Street, Bloomington, IL 61701. (309) 434 - 2215. Completed application must be post-marked by April 7, 1998. EOE.

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**ASSOCIATE UNDERWRITER**

Managing General Agent of national durable goods program for a top 20 P&C insurer seeks an underwriter experienced in underwriting the durable goods industry, manufacturing or wholesaling. 2-5 years experience desirable. CPCU helpful. Send resume to American Wholesalers Underwriting, Ltd., 1100 High Ridge Road, Ste. 203, Stamford, CT 06905 or fax to (203) 322-9776.

**LEGAL NOTICE**

**REQUEST FOR PROPOSALS**

The State of Nevada is soliciting proposals from qualified vendors to serve as a Third Party Administrator for the Self-funded Medical Plan and/or Dental Plan from January 1, 1999 through December 31, 2001. The successful vendor shall furnish and manage a state-of-the-art medical and/or dental claim payment program, providing the State's employees with prompt and accurate claims handling and customer service.  
Sealed proposals may be submitted in accordance with Request for Proposal No. 1014, until 2:00 p.m., May 1, 1998. To obtain a copy of the RFP, contact Kathy Pruitt at (702) 684-8676.

**PROPERTY/CASUALTY ACTUARY**

The Alaska Division of Insurance is looking for a P/C actuary to work in the Juneau office. Responsibilities include assisting with the review of complex rate filings, participating in financial examinations, and advising the director in the development of regulations and regulatory policy. Required qualifications: ACAS or near-ACAS and 5 years property/casualty actuarial experience.  
Contact: Director Marianne K. Burke, Alaska Division of Insurance, P.O. Box 110805, Juneau, AK 99811. Phone: (907) 465 - 2515; Fax: (907) 465 - 3422.

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**DIRECTOR RISK FINANCE & INSURANCE**

U S WEST, a leader in the telecommunications industry, has an immediate opening in Denver, Colorado, for a professional who will be responsible for the strategic planning and directing of all risk financing activities for the corporation.  
The successful candidate will have the best combination of the following skills and qualifications, which are reflective of an ideal candidate: Undergraduate degree in business or related Risk Management field and 10-12 years experience or a graduate degree (Finance or MBA) with 8 to 10 years experience. Professional certifications strongly preferred (ARM, CPU). Excellent interpersonal, managerial, organizational, computer, and presentation skills.  
U S WEST is an equal opportunity/affirmative action employer. Any offer of employment is conditional upon satisfactory completion of pre-employment background verification and drug testing. To be considered, resumes must include salary requirements and be received by April 8, 1998. Please send or fax resumes to:  
U S WEST  
Reference: RFI/JMM  
7800 East Orchard Road, Suite 240  
Englewood, CO 80111  
FAX: (303) 793 - 6309

**LEGAL NOTICE**

TO: ALL POTENTIAL CREDITORS OF ROBERT K. LOWRY

PLEASE TAKE NOTICE that on March 16, 1998, the United States Bankruptcy Court in the Central District of California, Case No. SA 98-12113 JR in the Case of *In re Robert K. Lowry*, set a bar date for filing proofs of claim in that bankruptcy case of May 15, 1998. Proofs of claim are to be filed with the Clerk of the Bankruptcy Court by May 15, 1998 at 34 Civic Center Plaza, Room 506, Santa Ana, CA 92701. You are not required to file a Proof of Claim. Any creditor whose claim is not scheduled, or is scheduled as disputed, contingent, or unliquidated, should file a Proof of Claim. Any creditor whose claim is either not scheduled or is scheduled as disputed, contingent or unliquidated, and who does not file a Proof of Claim by May 15, 1998 shall not be treated as a creditor with respect to such claim for the purposes of voting and distribution.  
ROBERT K. LOWRY was an underwriter and investor in LLOYD'S OF LONDON INSURANCE SYNDICATES for the periods of 1977 through 1990. Those syndicates included aviation syndicates, non-marine syndicates, and marine syndicates. Asbestos and pollution were some of the risks insured. Reinsurance was engaged in by the syndicates. ROBERT K. LOWRY was involved in the following insurance syndicates, which are listed by number and year, which insurance syndicates have also been reinsured into Equitas, sometimes known as Equitas Holdings Limited, Equitas Reinsurance or Equitas Retrocession:

0295-1989	0295-1990	0509-1990
1097-1989	1097-1990	0317-1982
0707-1989	0707-1990	0740-1990
0741-1990	0298-1989	0950-1990

ROBERT K. LOWRY was also involved in the following syndicates:

0298-1988	0707-1988	0760-1990
0780-1990	0851-1990	1005-1990

**TURNER AND REYNOLDS**

By: RICHARD J. REYNOLDS  
Attorneys for Debtor ROBERT K. LOWRY

**REQUEST FOR PROPOSALS**

**PUBLIC NOTICE**  
**City of New York**

The City of New York Pre-Tax Benefits Program is soliciting competitive proposals from qualified vendors to provide advisory and administrative services relating to its Section 125, Flexible Spending Account plans with special emphasis on Section 129(a) component plans for City of New York Employees. The City offers employees an elective opportunity to reduce their cash compensation in order to receive an equivalent amount of payment for dependent care assistance and health related uninsured expenses that will be excluded from gross income under Sections 125 and 129(a) of the Internal Revenue Code. The City also offers Medical Spending Conversion that allows health premiums to be deducted from employee compensation on a federal pretax basis. The program allows for the inclusion of some 400,000 public sector employees eligible for benefits. The Request for Proposals is available beginning 4/3/98. Proposals will be due on 5/15/98. To receive a copy of the RFP or if you have any questions, please contact Lou Porpora at (212) 306-7306.  
This notice was prepared and submitted by:  
Lou Porpora  
Pre-Tax Benefits Program  
40 Rector Street, 3rd Floor  
New York, New York 10006  
(212) 306 - 7306

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E-mail: barry.newman@the-synergy-plan.com

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**LEGAL NOTICE**

**UNITED STATES BANKRUPTCY COURT**  
**SOUTHERN DISTRICT OF NEW YORK**

**IN THE PETITION OF ANTHONY JAMES MCMAHON AND PHILIP WEDGWOD WALLACE, AS JOINT PROVISIONAL LIQUIDATORS OF SOVEREIGN MARINE & GENERAL INSURANCE COMPANY LIMITED, Case No. 97-B-44652 (CB)**

NOTICE IS HEREBY GIVEN that on March 23, 1998, the Bankruptcy Court entered an order (the "Order") continuing the Preliminary Injunction Order pursuant to 11 U.S.C. §§ 105 and 304(b) originally entered in this case on July 31, 1997. The Order shall remain in effect pending a hearing scheduled to be held on October 21, 1998 at 10:00 a.m. before the Honorable Cornelius Blackshear, United States Bankruptcy Judge, in the Alexander Hamilton Custom House, One Bowling Green, New York, New York. Any person wishing to obtain a copy of the Order should contact Ivy Kepner at (212) 504 - 6402.

**CADWALADER, WICKERSHAM & TAFT**  
100 Maiden Lane  
New York, New York 10038  
Tel: (212) 504 - 6000  
Fax: (212) 504 - 6666  
Attention: Ken Coleman  
Lisa Dorr

**LEGAL NOTICE**

0295-1989	0295-1990	0509-1990
1097-1989	1097-1990	0317-1982
0707-1989	0707-1990	0740-1990
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ROBERT K. LOWRY was also involved in the following syndicates:

0298-1988	0707-1988	0760-1990
0780-1990	0851-1990	1005-1990

**TURNER AND REYNOLDS**

By: RICHARD J. REYNOLDS  
Attorneys for Debtor ROBERT K. LOWRY

**Business Insurance**  
**Circulation Breakdown**  
*Commercial Consumers*

**Administrative:**  
CEO's, Presidents, and Owners, .....2,710  
Vice Presidents, General Managers and Other Administrative Personnel .....5,122

**Financial:**  
Chief Financial Officers and Vice Presidents of Finance .....5,429  
Secretaries, Treasurers, controllers and other Financial Personnel .....4,145

**Risk/Employee Benefits:**  
Vice Presidents, Directors, Managers, and other related department personnel of: insurance, risk, employee benefits, personnel, compensation, pension, safety, security, industrial relations, human resources and employee/labor relations .....14,748

**Sub-total** .....32,154  
Associations .....286  
Government, Unions and Educational Institutions .....1,019

**Commercial Consumers**  
**Sub-total** .....33,459  
Insurance Agents and Brokers .....8,083  
Insurance Companies .....6,933  
Accountants, Actuaries, Attorneys & Consultants .....2,705  
Adjusters, Appraisers, TPA's, Captive Managers & Health Care Providers .....1,578  
Others Allied to the Field .....757

**Total Qualified** .....53,515  
Non-qualified/Paid Subscriptions .....14  
Single Copy Sales .....27  
**TOTAL CIRCULATION** .....53,556

★ Source Business/Occupational breakdown of qualified circulation, November 24, 1997 Issue, as submitted to BPA for December 1997 BPA Publisher's Statement

# Ruling

Continued from page 1

14th Amendment Section 1983. They argued that the reforms allow employers or insurers to suspend payment of workers comp medical benefits without prior notice and without giving employees the opportunity to be heard, according to court records.

In that way, 70,000 workers have lost their medical benefits since 1993, said Jim Moran, director of the Philadelphia Area Project on Occupational Safety and Health, a labor support group backed by 150 unions. Workers were forced to tap their health insurance policies or dig into their own pockets to receive treatment, Mr. Moran said.

The Circuit Court ruled on the substantive issues but remanded the question of certifying the class, monetary judgment, and whether state officials should be included as defendants to the U.S. District Court for the Eastern District of Pennsylvania, where the case was originally heard.

Several insurers and the American Insurance Assn. said they will appeal the decision to the U.S. Supreme Court and will ask for a stay of the Circuit Court's decision.

"The level of concern is high," said a spokeswoman for Zurich-American Insurance Group, one of the defendants.

Senior Circuit Judge Leonard I. Garth wrote the opinion. He warned that the court's holding, making insurers an arm of the state, is limited to the unique context in which the immediate provisions arose.

But insurers are very concerned because they believe the court's decision ultimately could be applied to many aspects of an insurer's operations and to all forms of insurance regulated by the state, said several attorneys involved in

the case.

"Once you make the assumption that insurers are state actors, then they are acting under color of law when they deny a claim, non-renew a policy, issue a premium increase or reclassify an employer under workers compensation coverage," said Robert E. Kelly, a partner at Duane, Morris & Heckscher in Harrisburg, Pa. "Then the question becomes whether all of those little disputes that arise in the day-to-day business of insurance become civil-rights actions. I don't want to say that is going to happen for sure, but it certainly leads to the possibility."

Mr. Kelly represents Donegal Mutual Insurance Co., a defendant in the case. In addition to Zurich-American and Donegal, other insurers named in the suit include American Manufacturers Mutual Insurance Co., a unit of Kemper Insurance Cos.; CIGNA Corp.; Continental Casualty Co., a unit of CNA Financial Corp.; USF&G Insurance Co.; and Commercial Union Insurance Co.

In January 1996, the lower court ruled that the insurers named in the suit were not state actors. The Circuit Court disagreed, reasoning that in creating an exclusive remedy system, the state created an interwoven web that included the Bureau of Workers' Compensation, employers, employees and insurers.

"Although the insurance companies are private entities, when they act under the construct of the worker's compensation system, they are providing public benefits which honor state entitlements," the court ruled.

"In effect, they become an arm of the state, fulfilling a uniquely governmental obligation under an entirely state-created, self-contained public-benefit system. It is a system which the government alone

administers," according to the court.

The right to stop payments for medical benefits is a power that traditionally was held in the hands of the state, the court noted.

The 1993 reforms to the state's workers comp system gave insurers or employers the ability to withhold medical payments pending review of the medical necessity of treatment. An employer or insurer must pay for medical benefits within 30 days of receipt of medical bills if it does not request utilization review.

Just prior to the reforms, Penn-

sylvania was the only state in which an insurer had to pay for disputed medical treatment, and had no method of recovery for prior expenses if the treatment was later ruled unnecessary, said Bruce C. Wood, assistant general counsel for the American Insurance Assn. in Washington.

"Carriers now under the court-revised statute have to pay for medical treatment within 30 days, period."

"It's going to drive medical costs for the industry, and it's going to drive litigation costs," said Mr. Herdmann, vp of claims for Kemper Insurance Cos.

If an insurance company now wins a disputed case, it will have to apply to a fund for reimbursement of medical payments, Mr. Herdmann said. But Kemper moved quickly to comply with the court's ruling. Insurers and self-insureds contribute to that fund.

However, the cost for her company, which is self-insured, may not be significant, said Anne Winnay, assistant risk manager for Asplundh Tree Expert Co. in Montgomery County, Pa. Ms. Winnay is also president of the Delaware Valley Chapter of the Risk & Insurance Management Society Inc. The chapter represents members in

**'Once you make the assumption that insurers are state actors, then they are acting under the color of law when they deny a claim,' says attorney Robert E. Kelly.**

Delaware, Eastern Pennsylvania and portions of New Jersey.

"There are so few cases that we have a problem with that would apply," she said. "We don't usually find it necessary to stop treatment. It would be good to have the power to do so, but, in our experience, it really hasn't been necessary."

Ms. Winnay and several other observers still are reviewing the portion of the court's ruling making insurers an arm of the state. But she said that liability might fall on the shoulders of her third-party administrator.

The School District of Philadelphia made the same argument that the liability should fall on the third-party administrator, but the court did not weigh that issue. An attorney representing the school district cited the ongoing litigation and declined to comment.

Meanwhile, insurers fear that the Circuit Court's ruling could have an unfavorable impact on workers comp systems in other states. The 3rd Circuit hears cases arising in Delaware, New Jersey and Pennsylvania. However, other circuit courts have held opposite opinions on the issue of insurers becoming arms of the state.

That is why insurers are concerned about reversing the 3rd Circuit's opinion, a defense attorney said. There is no precedent for the ruling.

The court failed to realize that insurers and employers are private citizens that also gave up rights when the exclusive remedy system was created, said William Van Wambeke, group counsel for workers compensation for Baltimore-based USF&G. Further, under Pennsylvania's system, employees can contest the outcome of utilization review before a workers comp administrative law judge.

*Sullivan vs. Barnett*, 3rd U.S. Circuit Court of Appeals, No. 96-2140.

## For the Record

### Northridge settlement

LOS ANGELES—A bad-faith and breach-of-contract suit involving excess insurance on buildings damaged in the 1994 Northridge earthquake was dismissed last week after payment of a \$5.8 million settlement.

The suit was filed on behalf of pension plans that own 10 Los Angeles and San Fernando Valley office buildings, which had the Los Angeles-based Trust Co. of the West acting as trustee.

In addition to a \$10 million primary policy with Aetna Casualty & Surety Co., which was not a party to the litigation, the pension plans also had purchased a series of excess policies with several insurers: Fireman's Fund Insurance Co.; Navigators Insurance Co.; Westchester Surplus Lines Insurance Co.; Homestead Insurance Co.; and RLI Insurance Co.

Steven A. Fox of Los Angeles-based Davis & Fox represented TCW. According to Mr. Fox, the excess insurers had claimed policy language stated that each damaged building must reach its own deductible before insurance payments would be made, while the plaintiffs had contended there was just one deductible.

Also in dispute in the suit, originally filed in January 1995, was whether the excess insurers were liable for the loss of tenant rent, said Mr. Davis.

The settlement was reached in December, though it was not paid until earlier this month.

"We think it's an excellent set-

tlement for our clients, and it's a good settlement for the carriers as well," said Mr. Davis. An attorney for the insurers could not be reached for comment.

### Information in brief

Citing its decision earlier this month in *Oncala vs. Sundowner Offshore Services Inc.*, the Supreme Court has told the 7th U.S. Circuit Court of Appeals to reconsider a **same-sex sexual harassment** case involving two teens who claimed that the city of Belleville, Ill., had violated their rights under Title VII of the Civil Rights Act of 1964 by allowing a hostile work environment. The high court held in *Oncala* that the Civil Rights Act covered same-sex sexual harassment (*BI*, March 9). The high court also let stand an 11th U.S. Circuit Court of Appeals decision allowing a heterosexual male waiter to pursue action under Title VII against a homosexual supervisor who offered him employment benefits in return for sex, which the waiter refused. . . . The California Supreme Court on March 11 denied a rehearing for Sacramento, Calif.-based **Aerojet-General Corp.** That followed the state high court's Dec. 29 ruling against Aerojet, in which the court also found that the expense of investigating a polluted site for environmental cleanup is a defense cost that insurance companies have a duty to pay. Aerojet was seeking insurance coverage and defense costs from 54 insurers (*BI*, Jan. 5). **BI**

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## Reinsurance Intermediary

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# Results

Continued from page 2

New York said although there will be more of the same this year as in 1997, "one trend that may become more pronounced is the realization that a lot of the business that's being written today, and has been written in recent times, is underpriced and perhaps underreserved."

As a result, he said, as losses develop on the business that's been written this year, we may see additional reserve increases in future years.

Pointing to the price competition, Bard E. Bunaes, chairman and CEO of Constitution Reinsurance Corp. in New York said, "It's getting so bad there must be a silver lining, and that's based on experiences from prior turnaround situations, that a firming of the market cannot be that far away."

Still, "the better companies just seem to differentiate themselves no matter what the market conditions are," said Jim Miller, president and chief executive officer of Kemper Reinsurance Cos. in Long Grove, Ill.

The 43 reinsurers surveyed by the Reinsurance Assn. of America reported a 102.3% combined ratio for 1997, compared with the 103.5% combined ratio reported by a similar group of reinsurers in 1996 (BI, March 31, 1997). This compares with the 101.3% combined ratio reported for the first three quarters of 1997 (BI, Dec. 8, 1997).

The 20 largest U.S. reinsurers, based on net premiums written, reported a 102.4% combined ratio vs. 103.2% for 1996. A comparable group of reinsurers had reported a 101.3% combined ratio for 1997's first three quarters. The Top 20 reinsurers include the Berkshire Hathaway Group, which does not participate in the RAA survey.

Premium growth, however, con-

tinued to decline. The 43 reinsurers reported \$19.93 billion in net premiums written, up 5.2% from 1996. This compares with the 6.7% increase in premium growth reported for 1997's first three quarters and the 8% reported in the first half of last year. The Top 20 reinsurers reported \$18.19 billion in premium growth, up 2.4% from \$17.76 billion in 1996.

*Business Insurance* also is reporting, ranked in order of net premiums written, data from the largest reinsurers that participated in the RAA's global underwriting report (see chart, page 2).

Results overall were good, observers say.

"I think that, as everyone has said, being a non-cat year, everybody got the benefit of a good year," said William J. Adamson, chief executive officer of CNA Reinsurance. "In some respects, I'm surprised the numbers are as good as they are," he said, considering it is the 10th or 11th year of the soft market.

"Even if you take the capital gains from the equation, which obviously supports the overall operating income," Mr. Adamson said, "the results are still better than I think a lot of us would have expected."

In addition to low cat losses, liability losses also were relatively low, said Don Watson, director at Standard & Poor's Corp. in New York.

"There were no big product liability cases that came up" last year, Mr. Watson said. The last major issue was medical implants, in 1995, and that didn't amount to a significant liability, he said.

"I think that the results were better than most of the rating agencies and so-called analysts had projected when they did their estimates a year ago," said Kemper Re's Mr. Miller. "It appears as if there were some companies who were able to grow at least domestically even in this rather chal-

lenging environment that we're in, including ourselves, who had a pretty good year."

However, Heidi Hutter, chairman, president and chief executive officer of Swiss Re America Corp. in New York, said, "The industry continues to do well in terms of calendar-year reported results, but it's against the background of softening terms and conditions, which we know is out there," and its premium volume has slowed down.

"It's getting tough to find positives in the numbers, but on the

ry market."

"It seems like the market will continue to be competitive, which we expect, but it seems even the first quarter of '98, except for the Canadian ice storm, seems to be a good quarter for catastrophes as well," said Adrienne W. Reid, senior vp and chief underwriting officer for Zurich Reinsurance (N.A.) Inc. in New York.

Some observers point to Wall Street. "I think the outlook for 1998 is more of the same, provided the stock and bond markets are still kind to us," said Swiss Re's

**'It's getting tough to find positives in the numbers, but on the other hand, I don't think the picture's all that negative, either,' says Michael Smith of Bear, Stearns & Co.**

other hand, I don't think the picture's all that negative, either," said Michael Smith, an analyst with Bear, Stearns & Co. in New York.

"Premium growth is certainly slowing down, but the quality of earnings is generally superior to what we've seen in the primary market." In addition, cash flows are "clearly superior," as illustrated by much stronger investment-income growth, said Mr. Smith.

"I suspect that, in the final analysis, the reinsurers probably still can outlast the primary market's ability to sustain the price competition that we've been seeing," he said.

Meanwhile, no dramatic changes are expected this year, say observers. This year will be "more of the same" said Mr. Smith. While there will be price erosion, he said, "I don't think we're going to see the price erosion that we've seen in the prima-

Ms. Hutter. "A lot of the 1997 results were driven by the gains on Wall Street."

John L. Ward of the Cincinnati-based Ward Financial Group said, "Results will be good for '98, with so much of the financial picture driven by the investment side of the house, (and) with so much extra surplus that just sits there and generates investment income for the companies."

The equities market has already started out strongly this year as well, he pointed out.

However, Gary Ransom, senior vp at Hartford, Conn.-based Conning & Co. said, "Maybe reinsurers aren't going to suffer from increased retentions in '98, but I still think it's going to be tough growing the business."

Competitive pricing remains the key factor for the future, according to observers.

"Globally, it's as soft as it's ever been," said Kaj Ahlmann, chair-

man, president and chief executive officer of Overland Park, Kan.-based Employers Reinsurance Corp.

"I don't know what it takes to make prices go up, but if you look at the world economy in general, prices are down everywhere. It's very competitive in all businesses, and some people are even talking about deflation," said Mr. Ahlmann. "I don't see anything that will change that, unless you get one of these very dramatic things like a big earthquake, but a \$20 billion catastrophe is not going to do it. It has to be a lot bigger than that."

S&P's Mr. Watson said, "Across all lines, you've got premiums declining, and to a certain degree the reinsurance industry's been able to move to the excess-of-loss-type format, particularly in the U.S., which allows them to accept lower premiums yet still accept less risk and have more profitable business."

But, added Mr. Watson, with 1997's low level of catastrophes unlikely to recur, he estimates this year's combined ratio still will deteriorate to 105% or 106%.

Given the continued pressure on rates, "if we have a return to a normal type of catastrophe year, we foresee the combined ratios edging upwards," agreed Neal Schmidt, senior vp-specialty lines for St. Paul Re in New York. "I think, throughout the industry the last few years, companies have been able to draw down on prior year reserves, and some companies out there are going to find they're not going to be able to do that going forward."

As a result, "there'll be less margin for those companies to absorb unfavorable results that might emanate from catastrophe experience," Mr. Schmidt said. "That will have a stronger impact on the bottom line than it might have had just a couple of years ago." **BI**

## Largest domestic reinsurers' 1997 results

Ranked by net reinsurance premiums written. All amounts in thousands of dollars.

Reinsurers	Net reinsurance premiums written 1997	Net reinsurance premiums written 1996	Policyholders surplus (reinsurers only)	Net income 1997	Losses & loss adjustment expenses	Loss ratio	Underwriting expenses	Expense ratio	Combined ratio 1997	Combined ratio 1996
1. General Re	3,057,892	3,315,945	6,308,917	968,682	2,129,470	67.7	949,905	31.1	98.8	98.5
2. American Re	2,491,723	2,625,943	2,301,404	196,336	1,712,953	68.8	877,673	35.2	104.0	98.6
3. Employers Re	1,948,281	1,789,336	4,583,690	580,412	1,269,596	69.2	637,960	32.7	102.0	105.5
4. Transatlantic/Putnam	1,119,366	1,064,701	1,163,856	159,388	811,898	74.5	285,044	25.5	99.9	101.2
5. Zurich Reinsurance (N.A.)	1,066,902	1,073,924	808,825	77,354	775,445	71.9	397,526	37.3	109.2	103.6
6. Everest Re	1,020,097	1,036,340	908,766	193,057	733,385	70.5	328,566	32.2	102.7	102.9
7. Berkshire Hathaway	955,400	715,500	N/A	N/A	675,800	69.9	163,000	16.9	86.8	101.0
8. Swiss Re America	772,624	693,613	1,482,468	261,204	482,513	63.6	304,998	39.5	103.1	103.9
9. St. Paul Re	744,793	760,524	N/A	N/A	527,806	70.9	251,511	33.8	104.7	105.3
10. Hartford Re Co.	687,877	570,616	N/A	N/A	473,248	73.3	201,464	29.3	102.6	102.1
11. SCOR U.S. Group	649,916	477,438	423,616	37,678	473,581	71.7	218,414	33.6	105.3	101.1
12. Kemper Re	641,907	534,714	529,665	52,888	440,691	75.8	198,505	30.9	106.7	164.5
13. NAC Re	541,362	521,876	702,223	70,292	345,069	65.9	201,174	37.2	103.1	101.1
14. TIG Re Co.	515,266	547,948	508,358	(21,569)	513,125	98.4	171,135	33.2	131.6	102.6
15. Constitution Re	438,278	531,352	368,001	18,810	347,362	72.5	146,275	33.4	105.8	103.8
16. F&G Re	412,396	493,817	N/A	N/A	294,690	64.8	109,720	26.6	91.4	90.3
17. Underwriters Re	369,001	334,989	659,354	33,180	248,168	72.4	109,762	29.7	102.2	102.3
18. Signet Star Re	275,072	264,355	271,127	14,959	189,420	71.8	89,144	32.4	104.2	103.5
19. Chartwell Re	248,260	192,251	262,606	25,583	145,610	64.5	91,965	37.0	101.6	107.2
20. Folksamerica Re	232,386	216,351	275,830	34,516	165,642	69.6	77,426	33.3	102.9	107.1
<b>Totals for Top 20</b>	<b>18,188,799</b>	<b>17,761,533</b>	<b>21,558,706</b>	<b>2,702,770</b>	<b>12,755,472</b>	<b>70.5</b>	<b>5,811,167</b>	<b>31.9</b>	<b>102.4</b>	<b>103.2</b>
<b>Totals for all companies</b>	<b>19,931,502</b>	<b>18,947,181</b>	<b>26,262,953</b>	<b>3,216,137</b>	<b>13,661,256</b>	<b>69.6</b>	<b>6,526,871</b>	<b>32.7</b>	<b>102.3</b>	<b>103.5</b>

## By holding back, power company pays

The extended power crisis in the central business district of Auckland, New Zealand, suggests it's time to re-examine the duties of a utility company to provide power to consumers and the responsibilities of insurers to respond to consumers without power for long periods.

In a broader context, it raises once again the question of whether and how public utilities and insurers should work together in response to a major disaster.

The residents and business owners in Auckland's CBD were in the dark for a month, literally and figuratively (BI, March 23; March 2). They were without full power and without information on when they would have full power and who, if anyone, would compensate them for their extra costs of living and doing business, or for their losses if they were shut down.

After a few weeks, the power company, Mercury Energy Ltd., set up a hardship fund to help small businesses. A few weeks later, it offered compensation to all its customers, adding that the offer includes no admission of liability.

Obviously, Mercury Energy finally figured out what the public felt from the beginning: A power company that can't deliver power to its customers owes them something, maybe not under law, but in the name of good business relations.

For some, Mercury Energy's offer may be fair; for others, the compensation may be too little and they will sue Mercury.

One thing is certain: The offers came too late.

The extended power failure and the company's initial stonewalling on compensation has angered nearly everyone in New Zealand. Others throughout the country are questioning whether they can rely on their power sources.

Insurers have been trying to explain why it appears they are not liable for business interruption losses. Needless to say,

deciphering the intricacies of coverage for off-premises power losses is not a top priority of anyone trying to pay the bills when a business is closed or limping on limited power.

Granted, no one knows even yet why the power lines feeding the CBD of Auckland failed. That ultimately will determine which, if any, insurers will pay their policyholders for their losses and whether Mercury Energy's insurers will pay any losses assessed against the power company.

Mercury Energy is telling the public that the combination of forces that conspired to create the power failure to the CBD was beyond its control and that therefore, it should not be liable for anyone's losses. A government inquiry is under way, as is an investigation by insurers who are trying to determine their liability. There will be a lot of second-guessing in these inquiries, and I doubt the findings will satisfy anyone.

One fact already is painfully clear: All systems can fail at once, as many risk managers and insurers know. As a result, it seems to me that power companies should be liable for off-premises power losses regardless of the cause. If they cannot transfer to insurers some of those risks, such as failure due to poor maintenance, they will have to assume it themselves.

Further, insurers should reconsider the provisions of the policies they sold to power-company customers that exclude coverage for off-premises failures due to the negligence of the power company. Insurers would better serve their policyholders if they covered their losses and then subrogated.

If the above sounds naive, so will this: From the beginning of this crisis, Mercury Energy and insurers of homes and companies in Auckland's CBD should have set up a fund to begin immediate compensation of residents and businesses. Of course, it could have been done without admitting liability and with the insurers and Mercury agreeing they would sort out among themselves who should pay what when all the facts are known. Alternatively, the insurers could have volunteered to pay losses, saying they would settle up with Mercury later. It would have been quite a public-relations coup on the insurers' part.

Ironically, in total dollars, the power-crisis damages are not that extensive. The New Zealand Treasury estimates the ultimate cost to the economy of New Zealand will be less than \$100 million New Zealand (\$56 million).

The cost to Mercury Energy's reputation has been far more than that.

*Publisher and Editorial Director Kathryn J. McIntyre and Editor Paul D. Winston write columns on alternate weeks.*



Kathryn J. McIntyre

## AIG

*Continued from page 1*

Simultaneously with the offer, Cendant sued American Bankers and AIG in federal court in Miami, charging that the two insurers conspired to load their merger agreement with restrictions that shut out competing bidders, including a restriction that barred American Bankers from talking to other bidders for 120 days.

The suit inaugurated a bitter exchange of charges in filings in several courts and with insurance regulators in six states. AIG countersued

Cendant in Miami, accusing it of deliberately misleading shareholders about the value of its bid. In a subsequent letter urging state regulators to reject the Cendant bid, AIG charged that Cendant is "highly overleveraged" and that its financial condition presents "grave risks" to American Bankers policyholders.

Cendant, meanwhile, charged that an AIG proxy solicitation of American Bankers shareholders was misleading and separately sued the insurer for canceling Cendant's directors and officers liability coverage, allegedly in retaliation for its American Bankers bid (BI, Feb. 23).

On March 2, AIG matched Cendant's \$58 per share bid, but Cendant raised its offer again two weeks later to \$67 per share, or \$3.1 billion.

American Bankers immediately said it would begin talks with Cendant, and two days later, on March 18, AIG said it would step aside in exchange for the \$100

million fee plus costs.

The Cendant acquisition is expected to close near the end of the second quarter. It is still subject to regulatory approvals and Cendant's receipt of tenders representing 51% of American Bankers' shares. AIG has agreed not to oppose Cendant's regulatory filings.

Cendant says it expects American Bankers to contribute to its 1998 earnings, and analysts say

**'Every company has to make a decision as to what the value of a firm is. AIG obviously thought that American Bankers at that price was expensive,' says S&P's Robert Partridge.**

that synergies with Cendant's other businesses may make the higher price worthwhile. AIG, however, apparently saw the insurer as overpriced at \$67 per share.

"Every company has to make a decision as to what the value of a firm is. AIG obviously thought that American Bankers at that price was expensive," noted Robert Partridge, a director with Standard & Poor's Corp. in New York.

What AIG does next remains to be seen.

Other credit insurers may not be as attractive as takeover candidates as American Bankers was, Mr. Partridge suggested.

"American Bankers is by far the largest (credit insurer). They have the lion's share of that market," he said. "There is no other firm that has such an established and comprehensive distribution system."

Some analysts believe AIG could succeed if it instead goes ahead with the reported plan to

form its own credit insurance operation.

AIG could take its \$100 million termination fee from American Bankers and "simply use that to start a de novo operation to compete directly with American Bankers," said A. Michael Frinquelli, an insurance analyst with Renaissance Fund Advisers in New York.

"For a guy who lost, it's not a bad way to lose," he added of Mr. Greenberg.

Mr. Frinquelli said AIG, which already is selling auto and life insurance products through banks, might take two or three years to build up a network of banks

and merchants to sell credit insurance coverages.

"For AIG, that's not a big deal. It might cost them money for a couple of years, but it won't cost them a lot," he observed.

Separately, American Bankers has paid a \$250,000 fine to the Missouri Insurance Department to settle charges that it violated state insurance laws.

After a market conduct examination last year, the Missouri department alleged that American Bankers:

- Sold credit unemployment policies to retirees and students who, under the terms of the contracts, could never collect benefits. The policies cover debt payments of people who lose their jobs after being employed full time for 12 months before buying the policies.

- Paid illegal commissions as high as 75% to lenders who marketed its credit insurance products. Missouri law forbids commissions higher than 40%. **BI**

## Hiscox

*Continued from page 2*

Mr. Edwards and his immediate supervisor, Paul Hunt, resigned after Mr. Edwards' actions were discovered soon after they occurred.

Mr. Masojada said there have been no claims on the unauthorized sales to date, but he said those companies that signed contracts for the policies will receive coverage. Quotes that had not been accepted have been withdrawn.

He said syndicate 33's net exposure on the unauthorized insurance sales is \$1 million. Reinsurance is in place for exposures exceeding \$1 million, he said.

"The risks are totally acceptable, and we are expert in them," Mr. Masojada said. "In this case, they were underwritten by an underwriter without authority... We discovered the underwriting early, and the extra exposure is within our reinsurance program."

Mr. Masojada said Mr. Edwards' unauthorized dealings were discovered by another Hiscox underwriter who had heard of his actions.

Hiscox now is conducting an internal investigation into the incident. Nicholas Thomas, Hiscox director of underwriting, and Stephen Hall, chairman of Hiscox's audit committee, are leading

the investigation.

Mr. Masojada said the investigation will examine Hiscox's internal procedures, and he hinted there could be changes.

After the investigation, which is expected to take a few weeks, Hiscox will report to Lloyd's regulatory division. "Lloyd's has been informed and is aware of the incident but is letting us get on with it," Mr. Masojada said.

A Lloyd's spokesman said

**'We discovered the underwriting early, and the extra exposure is within our reinsurance program,' says Hiscox P.L.C. Managing Director Bronek Masojada.**

Lloyd's would not comment on the incident until it received Hiscox's internal report.

Mr. Masojada said that while he is unhappy about the incident, he is glad Hiscox discovered and acted on it.

"We have admitted that an underwriter underwrote outside his area of authority, but our management has discovered his misdemeanor and taken rapid action."

Mr. Masojada said no similar incident has ever happened at Hiscox. He is also not aware of it happening at other Lloyd's syndicates.

David Gittings, director of regulation at Lloyd's, said, "the Hiscox agency has done everything it should have done" as far as the situation was concerned. Lloyd's regulators are in touch with the

Hiscox management and "working with them as they work through the situation," he said.

Mr. Gittings added it was too early to say whether an inquiry by Lloyd's will be necessary.

Meanwhile, a report issued by Murray Lawrence (Underwriting Agents) Ltd. has identified four Lloyd's corporate capital investors whose results have been adversely affected by major losses coming through from syndicate 657 (BI, March 23).

Archer Managing Agents Ltd. warned earlier this month that it faces a loss of up to 98.9% of its capacity for the syndicate's 1994 year of account, and fur-

ther large losses are expected for the 1995 and 1996 years. The syndicate, which specialized in U.K. liability business, stopped writing at the end of 1996.

Charles Portsmouth, executive director of corporate capital investor New London Capital P.L.C., said the syndicate's losses will have an impact on NLC's overall results but that better-than-expected results from other syndicates will partly offset the blow. Other corporate investors affected by the syndicate's losses are Delian Lloyd's Investment Trust P.L.C., now part of Angerstein Underwriting Trust P.L.C.; Limit P.L.C.; and HCG Lloyd's Investment Trust P.L.C.

London Bureau Chief Sarah Goddard contributed to this story.

# ACE

Continued from page 1

industry than do most Wall Street investors, said Michael Smith, an analyst at Bear Stearns & Co. Inc. in New York.

Catastrophe reinsurance stocks are today viewed little differently from property reinsurance stocks in 1988, in terms of value, by the stock market, he said.

"Much has changed since 1988 that should justify higher valuations in the marketplace, and it is the astute players that are taking advantage of that," Mr. Smith said.

In particular, catastrophe reinsurers are attaching at much higher layers in reinsurance programs than they were 10 years ago, and the coverage is viewed more as a protection of capital rather than earnings, he said.

"The business is still volatile, but not anywhere near as volatile as it used to be," Mr. Smith said.

The deal also is a further indication of ACE's aggressive growth strategy, and the company will likely continue to make acquisitions, said Alan Levin, a managing director at Stan-

dard & Poor's Corp. in New York.

Consequently, S&P has changed its counterparty rating outlook of ACE to negative from stable, he said.

"It's not that we don't like the strategy, but it's a simple fact of life that there is a certain amount of risk involved," Mr. Levin said.

The deal supersedes a previously announced initial public offering by CAT Ltd. (BI, Jan. 26).

ACE will finance the deal through a public offering of 16.5 million of its shares, which it expects will raise between \$550 million and \$600 million.

The number of shares offered approximately corresponds with the number of shares ACE has repurchased since its acquisition of Tempest in 1996.

As part of the deal, the 60% holding CAT Ltd. has in Enterprise Reinsurance Holdings will be distributed to CAT Ltd.'s current shareholders prior to the acquisition by ACE. Enterprise Re was founded last year with \$100 million in capital to offer finite risk and alternative risk transfer insurance and reinsurance products.

If the deal is completed in April, as expected, CAT Ltd. will be merged with Tempest. In 1997, CAT Ltd. had

net premiums of \$136 million and Tempest had net premiums of \$115.3 million.

Donald Kramer will continue to head Tempest.

Of the eight property catastrophe reinsurers that set up in Bermuda in 1992 and 1993 to take advantage of the soaring rates that came after Hurricane Andrew, CAT Ltd. is the last privately held company. The others have gone public or have been taken over by public companies.

The company set itself apart from most of the Bermuda-based reinsurers by concentrating on customized coverages, including multiyear contracts, variable attachment points, aggregate coverage, profit-sharing agreements and securitization deals.

Paul Hasse, chief executive officer of CAT Ltd., and Charles Kline, its president, will become co-chief executives of ACE Capital Products, a new company that will concentrate on financial products, including securitization and asset management.

ACE attempted to enter the insurance securitization market in 1996 through the launch of a \$25 million to \$30 million catastrophe-linked bond offering, but the issue failed (BI, April 14, 1997). **BI**

# Reporting

Continued from page 3

"That can only be done by government regulation," he said.

Dr. Jeffrey Koplan, president of The Prudential Center for Health Care Research in Atlanta, agreed that more government regulation is coming in the future but said he is not sure it will improve the quality of health care.

For example, he said the recent federal law requiring a minimum 48-hour hospital maternity stay after a normal delivery has not had a positive impact on health.

"I'm happy to have some regulation, but it has to make sense and improve health outcomes and play to a health agenda, not a political agenda," he said.

The speakers presented their views at a conference earlier this month in New York sponsored by IPRO, a Lake Success, N.Y.-based utilization review company.

The current ways of measuring quality cannot continue, because the quality measurement organizations—in particular the NCQA—are supported by the managed care industry, Dr. Relman said. Even though the plans do not exert overt pressure on the NCQA, the organization knows where its funding comes from and won't push the plans too hard, he said.

"No question, we are moving into an era where the public demands and should have reliable information that is free of taint from the market."

But Dr. Koplan disagreed, saying the managed care companies do not influence NCQA or any other quality rating organization. "NCQA is not a managed care organization shell," Dr. Koplan said.

But Dr. Koplan agreed that self-interest in reporting data to these organizations does exist and can lead to inaccurate data.

"All players need to be scrutinized," he said, not just the health-care plans.

A spokesman for the NCQA also took exception with Dr. Relman's characterization. In an interview, the spokesman said he was "surprised

**'I'm happy to have some regulation, but it has to make sense and improve health outcomes,' says Dr. Jeffrey Koplan.**

that Dr. Relman would say that."

He noted that although managed care plans do pay the NCQA to receive accreditation, since 1991 15% have been denied accreditation in their first attempts. Also, he pointed out that only five members of the 23-member board of directors come from managed care plans, and their fees account for less than half the non-profit organization's budget.

Dr. Koplan also criticized employers for talking about quality of care more than practicing it. He hopes employers back up their talk about quality with action when choosing health plans. "When it comes time to give a contract on who will take care of their workers, a few cents here and there sways their decisions," he said.

In general, quality measures are easier to establish for healthy people, both speakers agreed. This includes how many receive checkups or how many children receive immunizations.

Measuring quality for sick people is more difficult but should be the focus of any quality measuring, they agreed.

One common measure of quality is outcomes, but it has flaws, Dr. Relman said.

"This sounds good. It sounds logical," Dr. Relman said. "But if you look at the reality, it's a complicated issue."

One complicating factor is how sick the patient is before receiving medical care. Some facilities treat sicker patients, resulting in a lower grade for their patients' outcomes.

Dr. Relman said the growing interest in quality care in recent years stems from employers wanting to know how their health care dollars are spent.

They "demand to know what they are getting for their money," so providers need to show them numbers to demonstrate their value vs. the competition, he said.

Recently, concern for quality has increased because of the backlash against managed care, Dr. Relman said. Health care providers are angry at managed care plans and believe the care they provide "is being compromised in the name of saving money."

This backlash won't go away, Dr. Relman predicts, and "it will cause a major reform in the managed care landscape."

Consolidation within the managed care industry is continuing, meaning employers have fewer and fewer choices. This will lead to the need for government regulation.

"The industry is doing it to itself," according to Dr. Relman. Managed care is "killing itself, is killing professional autonomy and ruining the relationship between doctors and patients." **BI**

# Bill would curtail Utah fund's plans

SALT LAKE CITY—The Utah Legislature recently reined in the expansionist plans of the Utah State Fund through legislation now being presented to the governor for signature.

The quasi-state agency previously proposed diversifying its operations to include writing more out-of-state coverage, as well as establishing partnerships and joint ventures to offer other lines of insurance, including 24-hour coverage.

The fund's expansionist proposals concerned many commercial workers compensation insurers who complained about the potential of having to compete with such a tax-subsidized entity.

However, the legislature refused to adopt the fund's expansionist plans in a recent bill, H.B. 167. Lawmakers limited the fund's ability to provide workers comp or occupational disease coverage outside the state to Utah employers and their subsidiaries

and affiliates. The fund must also continue to serve as the market of last resort for all Utah employers.

After the scare that fund operators received from the legislature's negative response, they are glad to be able to continue operating, Merwin Stewart, Utah's insurance commissioner, said during the recent quarterly meeting of the National Assn. of Insurance Commissioners in Salt Lake City.

—By Meg Fletcher

# Updates

## Prejudgment interest proposed

Continued from page 2

York courts. "Right now it pays to drag a personal injury case slowly through the courts," she said.

The judge's proposal must pass the Legislature and be signed by Gov. George Pataki before becoming law. Passage is far from certain, however, as business and insurance groups oppose the measure. No bill calling for such a move has been introduced in the Legislature this year.

"We think the line is fine where it is," said Mark Kriss, counsel for the Alliance of American Insurers in Albany, N.Y. He added that the proposal would raise insurance premiums for policyholders.

Business groups disagree with the notion that defendants delay suits and say the proposal would give plaintiffs an advantage in settlement talks.

"Both sides drag things out now," said David Shaffer, president of the Public Policy Institute, the research affiliate of the Business Council of New York State in Albany. "Her proposal puts all of the onus of early settlement on one side."

## SEC chairman endorses bill

WASHINGTON—A bill in Congress to further limit class-action securities lawsuits was endorsed by Arthur Levitt Jr., chairman of the Securities and Exchange Commission.

Mr. Levitt's endorsement came during a hearing before the Senate Banking Committee concerning Mr. Levitt's renomination to his SEC post.

Although admitting the bill was not perfect, Mr. Levitt said it "offers investors basic protections and enables the U.S. capital markets to continue to be the pre-eminent in the world."

The bill is designed to eliminate class-action securities suits in state courts and permit them only in federal courts. This is to curtail the growing practice of bringing suits in state courts, a practice started in response to the Private Securities Litigation Reform Act of 1995, which attempted to reduce frivolous securities lawsuits in federal courts. The new bill has widespread support in both the Senate and House.

Mr. Levitt's support came after the bill was changed to reflect some of his earlier concerns about the legal standards under which corporations can be sued.

## Actuarial firm to appeal award

JEFFERSON CITY, Mo.—A spokesman for Milliman & Robertson Inc. said it plans to appeal an \$11.3 million negligence verdict a federal jury awarded against the actuarial firm last week.

A federal jury in Jefferson City, Mo., awarded the amount to Casualty Indemnity Exchange and its service company for the actuarial firm's negligence in incorrectly reporting the insurer's reserves as inadequate.

The firm was working for Casualty Indemnity of Jefferson City when the actuaries erroneously found that the multiline insurer's year-end surplus went from \$15 million in 1991 to a \$17 million deficit in 1992, according to Dale Doerhoff of Cook, Vetter, Doerhoff & Landwehr in Jefferson City. He was the trial attorney for the insurer's service company.

Those incorrect figures led the insurer to establish excess reserves. When the numbers were reported to state regulators in 1993, Casualty Indemnity voluntarily accepted rehabilitation.

The report also triggered several related lawsuits, during which Milliman & Robertson was hired by the Missouri Insurance Department and testified against Casualty Indemnity on the department's behalf.

In September 1996, a state court judge determined that the reserves were excessive, accepting the insurer's calculation that its \$10 million in assets was adequate to pay \$6.5 million in total runoff claims, Mr. Doerhoff said. An appeals court upheld that finding, and the state Supreme Court declined to review it last week.

As a result, the department had a court dismiss its supervision of the insurer last week. In addition, the state Insurance Department last week asked the federal appeals court to dismiss a Racketeer Influenced and Corrupt Organizations action it had filed against the insurer's management.

Despite the legal disputes, Casualty Indemnity wants to resume operating, Mr. Doerhoff said.

## Briefly noted

A group of about nine large pharmaceutical companies could go on trial in Chicago in an antitrust action as early as September. In allowing an appellate court decision to stand, the U.S. Supreme Court last week cleared a path for the continuation of a suit by 30,000 independent druggists who say they are charged unfairly high prices for prescription drugs compared with health maintenance organizations. . . . Lloyd's of London syndicates and Interstate Fire & Casualty Co. are paying \$4.4 million of a \$7.5 million settlement with three plaintiffs in a sexual abuse case against the Roman Catholic Diocese of Dallas (BI, July 28, 1997; Aug. 11, 1997). The diocese will fund the remaining \$3.1 million from sales of assets that include undeveloped land. . . . The Senate Environment and Public Works Committee voted last week 11-7 to approve S. 8, the Republican Superfund reform bill. The bill, which would not provide comprehensive retroactive liability relief, is opposed by the Clinton administration. . . . A federal jury verdict in compensatory and punitive damages against The Home Depot U.S.A. Inc. in connection with sexual harassment and disabilities discrimination charges. Judge Sandra Brown Armstrong said plaintiff Denise K. Restivo had filed her complaint with the Equal Employment Opportunity Commission, the prerequisite to filing suit, after the statute of limitations had expired. . . . The Pension Benefit Guaranty Corp. announced Friday that it reached agreement with Newton, Mass.-based Stackpole Corp. to add \$12 million to an underfunded pension plan.

# Faragher

Continued from page 1

for supervisors' sexual harassment of employees when the employees do not notify senior managers. The court could decide the case before it ends its current term early this summer.

The case began when Beth Ann Faragher, a municipal lifeguard for Boca Raton, Fla., in the 1980s, became the target of sexually harassing remarks and actions by two lifeguards who supervised her.

William Amlong, a partner in the Fort Lauderdale, Fla., law firm of Amlong & Amlong, represented Ms. Faragher before the high court. He said she was one of eight female employees subjected to such treatment.

Ms. Faragher complained to Robert Gordon, another supervisory lifeguard whom she regarded as a friend. Mr. Gordon listened but did not take her complaints to higher managers. Ms. Faragher failed to press the matter until after she'd left the city's employ because she feared retaliation.

She sued Boca Raton and the two supervisors in U.S. District Court in 1992, claiming she had been sexually harassed in violation of Title VII of the Civil Rights Act because the city had allowed the creation of a hostile work environment.

The district court found all three defendants liable, but the 11th U.S. Circuit Court of Appeals absolved the city of most responsibility, and Ms.

Faragher appealed to the Supreme Court.

Speaking for the government before the court, Mr. Gornstein said Boca Raton could be held liable because it had delegated authority to the supervisors. The city also could be held liable because the supervisor Ms. Faragher complained to had not taken the complaint to a higher authority, he said. In addition, the city had failed to make its 1986 written policy against sexual harassment widely known.

Justice Sandra Day O'Connor did not appear impressed with Mr. Gornstein's argument that

## The city also could be held liable because the supervisor Ms. Faragher complained to had not taken the complaint to a higher authority, says Mr. Gornstein.

the fact the city hadn't publicized its anti-harassment policy should make it liable.

"Don't you think every employee in this country knows that if they are mistreated, they can complain to someone up the ladder?" she asked.

Mr. Gornstein replied that making an effective anti-harassment policy known can eliminate employees' fears associated with complaining about harassment.

When the attorney representing Boca Raton,

Harry Risetto, a partner in the Washington law firm of Morgan, Lewis & Bockius L.L.P., argued that it would be nearly impossible for the city to have been able to try to uncover "sexual harassment of the subtle kind," Justice Ruth Bader Ginsburg asked him exactly what was "subtle" about behavior that included crude sexual remarks and physical contact.

Mr. Risetto also argued that the city should not be held liable for Mr. Gordon's failure to take Ms. Faragher's complaints to upper management; the complaints had been made to Mr. Gordon because he was a friend, not because Mr. Gordon held a higher position.

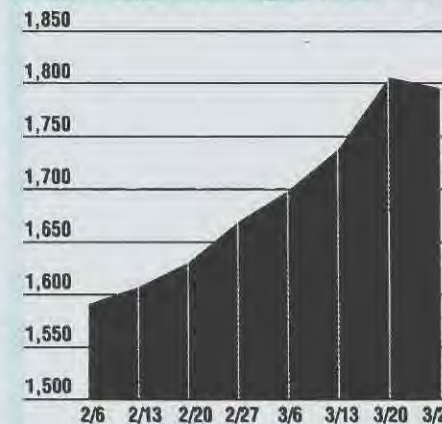
In a four-minute closing statement, Mr. Amlong argued that allowing the appeals court decision to stand would discourage employers from promoting anti-harassment policies and encourage the "ostrich-like behavior" of ignoring possible problems.

"They had a policy. They just didn't tell anybody about it," he said.

In a sidelight to the arguments, Ms. Faragher—now a lawyer in Colorado—was admitted to practice before the Supreme Court minutes before the justices heard her case.

The court heard another employer liability case immediately after the Faragher arguments. That case, *Gebser vs. Lago Vista Independent School District*, requires a determination on whether a Texas school district is liable under Title IX of the 1972 education amendments to the Civil Rights Act for a teacher's sexual affair with an underage student.

## BI Insurance Index



Base=100 on Dec. 29, 1978  
Source: Nordby International Inc. (nordby.com) Boulder, Colo.

## PCS catastrophe options

As of March 27		Call spread		Price bid/ask	
National Annual 1998	40/60	8.0/10.0			
60/80	5.5/7.5				
80/100	3.5/6.0				
Eastern September 1998	20/40	3.5/5.5			
40/60	2.8/3.4				
Southeastern September 1998	40/60	2.5/3.3			
Northeastern September 1998	100/150	.9/1.4			
California Annual 1998	40/60	1.5/2.3			
150C	1.7/3.0				
Western Annual 1998	40/60	1.5/2.5			
80/100	1.0/1.9				
150C	2.0/3.0				
Florida September 1998	40/60	1.4/2.4			

Total volume: 202 Total open interest: 19,060

For information on PCS cat options, call the Chicago Board of Trade at 312-435-3674.  
Source: Chicago Board of Trade

## British Issues

Companies	Spence	P/E	Div. pence	Yield %	52-week high-low
Comm Union	1153	22.3	32.5	2.8	1208-630
Genl Accident	1468	10.0	37.5	3.3	1545-792
Gdn Royal Exch	435	6.7	11.5	2.6	495-257
Legal & Gen	740	18.8	12.7	2.1	785-377
Royal & Sun	772	19.2	22.8	3.0	825-429
Lmbrt Fenchurch	111	8.0	8.4	9.3	138-101
Lloyd Thompson	172	NA	10.0	7.5	196-151
Sedgwick Grp	153	12.4	7.0	4.5	171-115
Willis Corroon	154	12.7	6.6	5.2	166-116

Note: Prices are March 27 closings; other numbers from March 26.  
Source: Nordby International Inc. (nordby.com) Boulder, Colo.

# EMLICO

Continued from page 2

Mass., Superfund site known as the Rose Site.

While Rose Site litigation and related arbitration between EMLICO and the reinsurers was dormant for nearly three years, the reinsurers have recently tried to use the proceedings to "impede...the orderly liquidation of EMLICO," the liquidators charge.

Reinsurers subpoenaed volumes of documents that the liquidators contend are unrelated to the Rose Site case but instead relate to EMLICO's redomestication and insolvency.

Reinsurers argue that the documents relate to a claim for rescission of their EMLICO contracts.

In addition, London reinsurers earlier this month asked the state court to refuse to recognize the Bermuda insurer's lawyers, who are with the Boston firm of Todd & Weld. Pointing to a January Massachusetts Supreme Judicial Court ruling invalidating

EMLICO's redomestication, reinsurers argued that EMLICO remains a Massachusetts company, that the Bermuda company cannot be considered a party to the case, and that therefore the Bermuda company's lawyers should not be recognized.

While EMLICO's bankruptcy filing normally would be handled by a federal bankruptcy judge, it has been assigned to U.S. District Court Judge Douglas Woodlock.

Judge Woodlock already is handling litigation over a receivership petition that the Massachusetts Insurance Division filed against EMLICO after the January Supreme Judicial Court ruling. EMLICO had the petition removed to federal court, and Massachusetts regulators are asking the judge to remand it to state court.

Meanwhile, the Privy Council in London completed hearings last week on whether Kemper Reinsurance Co. will be allowed to appeal a Bermuda court decision that barred it from seeking judicial review of 1995 Bermuda government orders allowing EMLICO into the country.

The Privy Council refused Kemper Re's request to consider the effect of January's Massachusetts high court ruling on the 1995 Bermuda orders.

However, Privy Council members were also sharply critical of a Bermuda court order that EMLICO's liquidators obtained soon after the Massachusetts high court invalidated EMLICO's move. The Jan. 9 order, issued by Bermuda Chief Justice L. Austin Ward without hearing from EMLICO opponents, declared that the Bermuda liquidators remained in control despite the Massachusetts ruling and barred third parties from interfering with the liquidators.

At the Privy Council's urging, EMLICO's liquidators—partners of Coopers & Lybrand—last week agreed they would not rely on Justice Ward's order as a "binding declaration" of their authority.

EMLICO's Massachusetts bankruptcy filing had already cited the order, but EMLICO lawyers wrote to Judge Woodlock last Tuesday reporting that they had agreed not to rely on the order.

# BI Industry Stock Report MARCH 29, 1998, THROUGH MARCH 27, 1998

## BROKERS

Company	Price	Weekly % change	Year to date % change	52-week High	Low	Vol.(000)
Aon Corp.	NYS	65.44	0.10	11.62	66.13	40.25 1231
E.W. Blanch Holdings Inc.	NYS	37.81	-0.49	9.80	38.19	22.00 62
Gallagher Arthur J. & Co.	NYS	44.38	0.28	28.86	46.13	30.38 141
Hilt, Rogal & Hamilton	NYS	18.13	-1.36	-8.15	19.63	13.50 98
Kaye Group Inc.	NDQ	7.50	3.45	13.21	9.00	4.38 12
Marsh & McLennan	NYS	87.56	-3.51	17.44	92.50	56.50 2124
Poe & Brown	NYS	32.56	-14.03	9.45	38.50	17.00 41
Sedgwick Group PLC	NYS	13.56	-5.65	10.15	14.38	9.38 28
Willis Corroon Corp.	NYS	13.66	6.59	10.91	14.50	9.75 544
AVERAGE			-1.84	11.71		

## INSURERS/REINSURERS

Company	Price	Weekly % change	Year to date % change	52-week High	Low	Vol.(000)
ACE Ltd.	NYS	39.44	7.86	22.60	39.44	19.19 2196
Accapance Insurance Cos.	NYS	22.63	-5.48	-6.46	28.63	17.75 81
AEGON N.V.	NYS	123.63	-0.10	37.94	126.50	63.88 193
Aetna Life & Casually	NYS	82.38	-3.30	16.74	118.13	66.31 2528
AFLAC Inc.	NYS	64.44	-1.72	26.04	66.63	37.50 726
Allied Group Inc.	NYS	32.13	-1.91	12.23	35.75	22.63 338
Allstate Corp.	NYS	94.50	-0.26	4.42	98.38	58.63 4327
AMBAC Indemnity Corp.	NYS	57.81	3.47	25.68	58.13	31.00 665
American Bankers Ins.	NDQ	64.38	-0.29	40.14	66.06	24.38 5105
American Financial Group	NYS	43.50	1.75	7.91	49.25	32.38 637
American General	NYS	63.38	2.32	17.23	63.38	36.50 1952
American Heritage Life Ins.	NYS	21.25	1.19	18.06	21.94	11.88 84
American Indemnity/Fin'l	NDQ	12.25	8.89	-11.71	15.50	9.50 21
American International	NYS	123.75	-4.35	13.79	129.94	75.13 4349
Argonaut Group	NDQ	36.38	0.34	7.38	38.13	26.75 130
AXA-UAP Group	NYS	50.94	-3.44	30.61	53.56	29.25 355
Baldwin & Lyons Inc.	NDQ	21.69	4.52	-10.10	28.75	17.38 2
Berkley W.R. Corp.	NDQ	45.38	-0.82	3.42	47.50	31.19 326
Berkshire Hathaway Inc.	NYS	67600.00	-1.74	46.96	69500.00	30000.00 1
Capital RE Corporation	NYS	63.94	-3.49	3.02	66.44	38.75 82
Capitol Transamerica Corp.	NAS	21.13	0.80	-0.88	28.13	19.25 245
Centris Group Inc.	NYS	12.25	1.55	9.80	12.94	8.94 175
Chartwell Re	NYS	33.88	9.05	0.37	36.25	24.50 154
Chubb Corp.	NYS	78.75	-1.56	4.13	81.94	51.13 2256
CIGNA Corp.	NYS	204.25	-1.33	18.49	207.50	136.94 1063
CNA Financial Corp.	NYS	148.38	-0.42	16.14	153.00	96.38 93
CNA Surety	NYS	15.50	1.64	0.40	16.50	12.88 88
EMC Insurance Group Inc.	NDQ	14.38	7.48	8.49	15.00	10.75 23

Company	Price	Weekly % change	Year to date % change	52-week High	Low	Vol.(000)
ESG Re Limited	NDQ	25.88	-0.96	10.11	28.88	20.88 592
Enhance Financial Services	NYS	69.38	0.54	16.60	69.56	37.63 178
Everest Reinsurance	NYS	40.25	-0.46	-2.42	43.00	26.75 502
Executive Risk Inc.	NYS	72.63	-0.34	4.03	75.75	43.25 107
EXEL Ltd.	NYS	74.50	0.17	17.55	75.94	39.00 1553
Fremont General Corp.	NYS	61.00	0.21	11.42	62.13	26.38 383
Frontier Insurance Group	NYS	27.19	2.84	18.85	39.25	20.00 593
Gainco Inc.	NYS	8.06	1.57	-5.15	10.19	7.88 197
General RE Corp.	NYS	221.38	-2.26	4.42	227.00	151.50 1007
Gryphon Holdings	NDQ	16.00	5.79	-4.48	17.75	13.88 242
Harleysville Group	NDQ	26.25	-0.94	9.38	27.50	15.75 84
Hartford Steam Boiler	NYS	65.81	-1.59	19.25	67.31	44.00 135
HCC Insurance Holdings	NYS	23.25	2.20	9.41	32.69	15.63 556
ING Groep N.V.	NYS	58.50	1.74	38.26	59.75	38.88 269
IPC Holdings Ltd.	NDQ	32.50	2.36	0.97	32.88	22.38 379
Hartford Financial Services	NYS	107.88	-0.46	15.30	110.63	68.13 1367
LaSalle Re Holdings Ltd.	NYS	41.50	5.73	17.31	42.38	27.25 181
Life Re Corp.	NYS	74.31	2.06	14.00	74.31	37.38 336
Lincoln National	NYS	84.44	-0.15	8.08	85.50	49.00 1174
MAIC Holdings Inc.	NYS	28.50	-1.08	6.40	30.38	15.06 46
Market Corp.	NYS	172.94	-0.61	10.77	177.50	102.50 13
MBA Insurance Group	NYS	75.38	-2.35	12.82	77.25	45.44 1029
Meadowbrook Insur. Group	NYS	30.88	0.41	18.47	31.25	21.50 13
Mid Ocean Ltd.	NYS	74.25	0.25	38.87	76.38	44.13 1063
MMI Cos. Inc.	NYS	24.19	1.31	-3.73	27.88	20.75 331
Mutual Risk Mgmt. Ltd.	NYS	32.06	-6.56	1.10	35.06	16.75 688
NAC Re Corp.	NYS	52.44	0.38	7.43	53.81	35.38 195
Navigator Group	NDQ	19.13	-1.29	1.83	22.50	15.75 20
Nobel Insurance Ltd.	NDQ	13.06	-0.95	-0.48	15.38	12.13 78
NYMagic Inc.	NYS	29.31	-1.05	6.35	30.06	18.38 6
Ohio Casualty Corp.	NDQ	49.13	1.95	10.08	51.00	35.50 782
Old Republic Int'l	NYS	44.38	0.28	19.33	45.25	24.63 969
Orion Capital Corp.	NYS	51.56	-2.71	11.04	53.94	30.88 242
Partner Re Ltd.	NYS	48.69	2.50	4.99	50.25	30.75 441
Penn-America Group Inc.	NDQ	21.88	1.16	6.71	23.00	11.25 116
Pennsylvania Manufacturer's	NDQ	18.50	-3.27	10.45	19.38	16.25 29
Philadelphia Cons. Holding	NDQ	21.75	3.57	22.54	23.25	14.00 133
PYRE Corp.	NYS	31.50	4.78	-5.08	35.25	24.75 26
Reliance Group Holdings	NYS	17.94	0.35	26.99	18.56	10.13 762
Reliastar Financial Corp.	NYS	46.00	-4.42	11.68	48.75	28.63 1416

Company	Price	Weekly % change	Year to date % change	52-week High	Low	Vol.(000)
RenaissanceRe Holdings Ltd.	NYS	50.06	6.66	13.46	50.06	34.13 199
Risk Capital Holdings	NDQ	23.88	3.24	7.30	24.00	16.00 277
RLI Corp.	NYS	53.88	-1.82	8.16	55.25	30.50 39
St. Paul Companies	NYS	90.06	-2.64	9.75	94.38	63.00 1174
SCOR	NYS	56.13	0.22	17.54	56.50	38.50 4
SAFECO Corp.	NDQ	54.00	-1.82	10.77	55.38	38.50 1428
SCPIE Holdings Inc.	NYS	30.25	-1.02	4.54	32.25	19.13 NA
Seibels Bruce Group	NDQ	7.88	-3.08	5.00	8.94	5.88 47
Selective Ins. Group	NDQ	27.00	-0.46	0.00	28.63	19.75 289
Terra Nova Insurance Co. Ltd	NYS	30.38	2.97	15.71	30.44	18.00 198
TIG Holdings	NYS	26.19	0.24	-21.09	36.56	24.56 1008
Tokio Marine & Fire	NDQ	57.56	3.02	-0.32	66.00	41.25 250
Torchmark Corp.	NYS	46.25	-2.89	9.63	47.81	26.25 1585
Transatlantic Holdings	NYS	75.69	-2.02	5.86	77.94	53.38 91
Travelers Property/Casualty	NYS	43.94	-0.71	-0.14	46.06	31.38 3343
Travelers Corp.	NYS					

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