

# Business Insurance

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## Judge strikes down Texas tax on self-funded benefit plans

AUSTIN, Texas—The state of Texas plans to file an appeal of a federal judge's order that struck down a state tax on self-funded employee benefit plans.

In addition to striking down the tax, U.S. District Judge James R. Nowlin ruled last week that the state must refund taxes collected since the Administrative Services Tax Act took effect in September 1987. The state has collected approximately \$130 million, according

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## Section 89

### Call for repeal could lead to benefit taxes: Legislator

By JERRY GEISEL

WASHINGTON—The drive to repeal Section 89's non-discrimination rules for welfare plans could backfire on employers and possibly lead to new taxes on employee benefits, warns the chairman of the House Ways and Means Committee.

In a series of speeches last month, Rep. Dan Rostenkowski, D-Ill., delivered a clear message to employers: Repeal of Section 89 will put taxation of employee benefits back on the congressional agenda.

"Bring up repeal (and) you also put the possibility of taxing fringe benefits on the table. So, those people that are urging this, I caution you... you might be doing this at your peril," Rep. Rostenkowski said last month during a luncheon at the National Press Club in Washington, D.C.

And last week, in a speech before the annual HMO policy conference in Washington sponsored by the Group Health Assn. of America, a Rostenkowski aide was even more direct on the consequences of a Section

89 repeal.

If Section 89 is repealed, "it is a reason to introduce legislation to tax benefits," said Rosina Barker, a Rostenkowski aide and a professional staff member of the Ways and Means Committee.



Rep. Rostenkowski

However, in the absence of a Section 89 repeal, it's unlikely that legislation to tax benefits will be considered anytime soon, Ms. Barker added.

These warnings by Rep. Rostenkowski and his staff come at a time

when business groups, led by the small-employer lobby, are mounting the charge for Section 89 repeal.

The lobbying effort for repeal is picking up

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### IRS rules allow employers to meet standards gradually

By JERRY GEISEL

WASHINGTON—Sweeping Internal Revenue Service regulations will temporarily ease Section 89 compliance burdens for employers, but companies still face massive administrative and practical difficulties in complying with the non-discrimination rules for welfare benefit plans.

The regulations, to be published Tuesday in the Federal Register, delay certain reporting requirements and give employers a temporary alternative to using the so-called "75% average benefits test," considered the most difficult-to-administer Section 89 test.

The rules also make clear that employers this year need not achieve 100% compliance with the immensely complicated benefit statute as long as they make a "good-faith and reasonable" compliance effort in 1989.

"The IRS is sending a clear signal. Do the best you can, but you need not comply in a precise, ultra-technical manner in 1989," said Harry Conaway, a principal in the Washington, D.C., office of consultant Wil-

liam M. Mercer Meidinger Hansen Inc.

"The regulations contain provisions that will ease the compliance burden for some employers," added Denise Georgemiller, a consultant with Hewitt Associates in Lincolnshire, Ill.

Meanwhile, the IRS—as expected—also proposed rules that could force employers with flexible spending accounts to cover employee health care expenditures that they never intended to pay (BI, Jan. 30).

While the IRS rules offer employers some Section 89 relief, some critics of the law are not mollified.

"According to the information we have received, the IRS has not simplified the rules. In fact, they've added tests and made the law even more complicated," said John Sloan, president of the National Federation of Independent Business, a Washington, D.C.-based small-business lobby that is seeking repeal of Section 89 (see related story).

"The IRS rules prove that Section 89 is a

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## RIMS assails Proposition 103, similar proposals

By KARI BERMAN

NEW YORK—After months of silence, the New York based-Risk & Insurance Management Society Inc. is publicly opposing California's controversial Proposition 103 and similar legislation initiated in other states.

In a statement released Wednesday, RIMS, the largest organization of corporate and institutional insurance buyers, firmly objects to Proposition 103's insurance industry reform initiatives and calls its ratification "a devastating blow to the ability of insurers to write coverage."

In an interview, RIMS President Richard C. Heydinger characterized RIMS' previous decision to remain neutral on Proposition 103 as a "calculated absence" based on RIMS' initial evaluation of the law as an insurance industry battle over a voter-initiated state issue that involved personal insurance lines.

However, with the Proposition 103 epidemic rapidly spreading across the country, RIMS reversed its neutral role. At least 14 states are targeted by consumer groups for legislation imitating Proposition 103 (BI, Jan. 16).

"In retrospect, we did not foresee what a victory would do to some of the (Proposition 103) proponents and how they would go national with the fire in the belly that they have," Mr. Heydinger said. "We now see it as a national issue and are gearing up to deal with it."

He added: "The ramifications of Prop. 103 go well beyond California and has the makings of having a tremendous impact on the

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## Risk managers criticize no-fault cleanup plan

By DEBORAH SHALOWITZ

WASHINGTON—A new proposal by the president of American International Group Inc. to finance hazardous waste cleanups would force policyholders to unfairly bear the lion's share of the costs, risk managers say.

However, risk managers do concede that the proposal would reduce litigation, which now consumes about half of all money devoted to waste cleanups.

Insurers, on the other hand, generally support the proposal by AIG President and Chief Executive Officer Maurice R. Greenberg under which all commercial property/casualty insurance policyholders would be assessed a flat fee equal to 2% of premiums to finance hazardous waste site cleanups.

Self-insured companies would be assessed "an equivalent amount" determined on an as-yet undecided basis.

Under the proposal, "insurance companies would bear their share of the cost" by paying the same 2% of premiums—or an equivalent amount if they are self-insured—as other corporations would be assessed, Mr. Greenberg said.

The fees—which would generate about \$3 billion annually—would be collected by insurance companies and turned over to the U.S. Environmental Protection Agency, which would use the funds to pay for government-mandated hazardous waste site cleanups.

However, the funds would not be used to pay for pollution-related third-party bodily injury and property damage claims.

The proposal, dubbed the National Environmental Trust Fund, was outlined Thursday by Mr. Greenberg at a Washington, D.C., press conference.

"The pollution damage of today is the residue of progress made in a past era," Mr. Greenberg said. "Viewed in this perspective, it is reasonable to conclude that since society as a whole benefited from our prior progress, society as a whole should assume the burden of cleaning up the byproduct of that progress."

Under the no-fault framework of the NETF, litigation costs

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**'Large amounts of energy and money have gone into complex litigation and the job of fixing the environment has largely stalled.'**

—Maurice R. Greenberg

**New rehab plan proposed for Mutual Fire, Marine**  
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## Update

## Texas benefit tax struck down

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to an Insurance Department spokesman.

The act levies a 2.5% administrative services tax on service fees and "all claims and benefits paid to or on behalf of employers, multiple employers, employees, unions, beneficiaries, trusts, members, spouses, dependents or other persons" by self-insured employee benefit plans.

Judge Nowlin ruled the tax violates the federal Employee Retirement Income Security Act of 1974, which pre-empts state regulation of self-funded benefit plans.

The state had estimated that the tax, which had been passed by the Legislature in 1987 as part of a larger revenue package, would raise more than \$26 million per year (BI, May 2, 1988).

"It's hard to find a tax imposed that strikes more at the heart of ERISA," said Carl Taylor, an attorney in the Washington, D.C., office of Johnson & Swanson, who represented corporations in the case. Had the tax been upheld, other states might have sought to impose similar taxes since self-funded benefit plans reduce the revenues generated by state premium taxes, he said.

"I think the immediate impact will be pretty substantial in financial terms," said attorney W. Carl Jordan, with Vinson & Elkins of Houston, who represented trustees and fiduciaries of benefit plans.

## Refinery explosion settlement

CHICAGO—Los Angeles-based Unocal Corp.—formerly Union Oil of California—and 11 other companies have agreed to pay \$29.9 million to settle claims stemming from the deaths or injuries of 27 people in a 1984 oil refinery explosion.

Under the settlement, defendants will contribute to a trust fund that will pay claims stemming from the July 23, 1984, explosion in Romeoville, Ill. (BI, Sept. 3, 1984). The amount of each defendant's contribution is confidential.

The defendants were involved in the design, construction, functioning and inspection of a portion of the oil refinery that leaked and thus triggered the explosion.

All but one of the defendants are insured for their part of the settlement, said defense attorney Lloyd E. Williams of Williams & Montgomery in Chicago. The remaining defendant, Bethlehem Steel Corp., is self-insured, he said.

The defendants' insurers have agreed to cover their policyholders for their portions of the settlement, said Mr. Williams.

Insurers that will pay the settlement include: Allianz Insurance Co.; Employers Insurance Co. of Wausau; Evanston Insurance Co.; Republic Insurance Co.; and Continental Insurance Co.

## California rate freeze bill fails

SACRAMENTO, Calif.—California Assembly members rejected legislation that would freeze insurance premiums while the state Supreme Court reviews legal challenges to Proposition 103.

A.B. 121, sponsored by Assemblyman Patrick Johnston, D-Stockton, would have froze premiums, effective Nov. 8, 1988, until the court rules on the constitutionality of Proposition 103 (BI, Jan. 30).

Proposition 103 mandates a rollback of most property/casualty insurance "charges" to 20% below November 1987 levels (BI, Nov. 14, 1988).

However, the state Supreme Court stayed the rollback when insurers challenged the constitutionality of Proposition 103. The court will hear oral arguments in the case Tuesday (BI, Feb. 20).

Meanwhile, an Assembly committee has approved S.B. 103, which would penalize insurers for arbitrary cancellation of or refusal to renew private passenger auto insurance policies.

The bill would impose fines equal to half of the premiums charged in the preceding year for canceled policies. Insurers also could be required to refund higher premiums paid by former policyholders who obtained coverage elsewhere.

S.B. 103 must be approved by the Assembly Ways and Means Committee before it is considered by the full legislative body.

## Health insurers in receivership

PORTLAND, Ore.—Two Oregon-based group life and health insurers have been put into receivership after suffering losses attributed to soaring health care costs.

The Oregon Insurance Department has been appointed receiver for the National Hospital Assn. and First Farwest Life Insurance Co., both units of Portland-based First Farwest Corp., said Jack Sangler, an examiner for the department.

In annual statements filed with the department, National Hospital reported a loss of \$4 million in 1988, while First Farwest Life lost \$14.7 million. The companies attribute the losses to an inability to adjust premiums fast enough or high enough to match rising health care costs.

National Hospital wrote \$20 million in group health insurance premiums in 1988, while First Farwest Life wrote \$170 million in group health premiums and \$10 million in group life premiums.

In addition, Farwest American Assurance Co., a wholly owned subsidiary of First Farwest Life, wrote \$17 million in group health premiums and \$1 million in group life premiums last year.

The insurers wrote most of their business in California, Oregon and Washington.

First Farwest Life, the only one of the three insurers listed by A.M. Best Co., has received a rating of "C" for the years 1983 through 1987.

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## Errors &amp; omissions

• Due to a production error, paragraphs were dropped from the article "Prenatal Care Gives Birth to Reduced Costs" (BI, Feb. 20). The text of the omitted paragraphs, discussing utilization review for maternity care, are printed on page 15.

## Insurer regulation bill draws ire of industry

By DEBORAH SHALOWITZ

WASHINGTON—A new congressional proposal that would expose insurers to huge federal fines and prohibit them from sharing loss development information is worthless, say insurance industry representatives.

However, industry observers agree there is little chance the proposal—introduced by Rep. James Florio, D-N.J.—will be passed.

Insurer representatives called the bill a ploy to further Rep. Florio's own political ambitions, with one insurance industry official labeling the bill a "New Jersey political document."

Rep. Florio introduced the proposal, H.R. 1093, as an amendment to the Risk Retention Act, not as an amendment to the McCarran-Ferguson Act. Observers speculate Rep. Florio followed this strategy so that his consumer protection and competitiveness subcommittee would have jurisdiction over the bill.

Rep. Florio said in a statement that enacting a new law addressing how insurers conduct business makes more sense than amending or repealing the McCarran-Ferguson Act.

"I see no reason to get caught up in" the McCarran-Ferguson debate, Rep. Florio said. "I don't want the states to give up power to Washington, but I do want the states to be backed up by the power of a tough, clear law as they try to protect their residents. In addition, insurers would have the benefit of knowing exactly what they can and cannot do."

## New York cracking down on insurers, managements

By DOUGLAS MCLEOD

NEW YORK—The New York Insurance Department is intensifying inquiries into the market conduct of property/casualty insurers and is warning insurance company directors, officers and managers that they may be held personally responsible for violations of flex-rating and other laws.

In announcing its stepped-up enforcement, the department also said it has fined nine property/casualty insurance companies a total of \$446,700 for flex-rating violations and other improper conduct.

Flex-rating, in effect in New York since 1986, allows insurers to adjust rates upward or downward only within defined percentages without seeking prior Insurance Department approval.

In a Feb. 21 letter to property/casualty insurers, the Insurance Department outlined new procedures for market conduct exams, including:

- A 45-day deadline for an insurer found in violation of the law to admit to the violations and agree to a settlement. If no such agreement is reached, an expedited public hearing will be held.

• Identification of insurance company officers, directors and managers responsible for causing, tolerating or failing to prevent violations. Individuals found responsible for violations will be subject to sanctions, including fines.

An insurer's producers—including managing general agents—will also be subject to market conduct scrutiny.

• Greater publicity of the results of market conduct exams.

In a statement accompanying the letter—known as Circular Letter No. 5—Insurance Superintendent James P. Corcoran noted that the flex-rating system "ensures that insurance rates are based on sound underwriting principles, not simply the vicissitudes of a capricious marketplace."

"The industry is hereby put on notice that the department will not

The bill, introduced Feb. 23, would:

• Prohibit insurers engaged in interstate commerce from selling insurance "if such insurer has taken any action to impair the availability or affordability of insurance." These actions are not defined in the bill.

• Prohibit insurers from sharing any information that is used to set premiums or to decide whether to sell insurance in a particular geographic location.

According to a congressional subcommittee staff aide, this would include loss development and trend data. However, insurers could continue to share historical loss data, the aide said.

• Prohibit insurers from tying the sale of insurance to any unrelated insurance product or service.

• Permit the secretary of commerce to fine an insurer up to \$10,000 for each person adversely affected by violations of the legislation.

• Permit an individual convicted of violating the legislation to be fined up to \$250,000 and sentenced to up to three years in prison. An organization convicted of violating the legislation could be fined up to \$1 million.

• Permit people injured by violations of the legislation to bring civil lawsuits against insurers within four years of the injury and be eligible to receive damages three times the amount of the actual damages.

• Permit governmental entities injured by violations of the legislation to bring civil lawsuits against insurers within four years of the injury and be eligible to

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tolerate cash-flow underwriting, unfair practices or anti-competitive abuses," the statement said.

A New York department spokesman added that the department has become concerned that "monetary penalties against a company may not be enough" to enforce the law.

Bad publicity and fines against insurance company officials are expected to be a greater deterrent, the spokesman said.

The new market conduct guidelines already are drawing criticism from some insurer representatives.

"Clearly, the department has the mandate to enforce the law, which they are doing," noted Donald Gabay, a lawyer with the New York firm of Stroock & Stroock & Lavan, which represents insurers in market conduct hearings before the New York department.

However, the 45-day deadline period may be too short in cases where insurers must gather evidence to dispute the results of

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✓ Architects & Engineers Insurance Co. expects to nearly double its premiums and add as many as 17 new shareholders this year. **PAGE 24**

✓ The number of multiemployer pension plans that are fully funded is slipping, but most plans remain well-funded, according to a new survey. **PAGE 25**

✓ A well-conceived loss control program translates into lower insurance costs says Douglas N. Smith of Johnson & Higgins in International Issues. **PAGE 27**

✓ Two associations are joining to draft a proposal calling for a blue ribbon commission to address insurance industry issues. **PAGE 39**

✓ The California Supreme Court is being asked to decertify an appellate court decision that, in effect, transforms a claims-made policy into an occurrence form. **PAGE 43**

✓ Shell Oil Co. is asking a state judge to override a jury verdict that Shell is not entitled to coverage for its share of hazardous waste cleanup costs. **PAGE 43**

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# New Mutual Fire rehab plan proposed

By DOUGLAS McLEOD

HARRISBURG, Pa.—The Pennsylvania Insurance Department is asking a state judge to approve a newly revised rehabilitation plan for Mutual Fire, Marine & Inland Insurance Co. that would prorate payment of all direct insurance policyholder claims exceeding \$5,000.

The new plan, filed by the Insurance Department with the Commonwealth Court of Pennsylvania in Harrisburg, differs from a rehabilitation plan approved in June 1987 in several respects.

For instance, the previous plan had envisioned full payment of direct claims. However, the Pennsylvania department concluded in May 1988 that Mutual Fire, Marine would not have enough assets to make this plan work.

A financial statement prepared by the Insurance Department shows Mutual Fire, Marine to be insolvent by \$441.5 million as of Dec. 31, or 52.1% more than the \$290.1 million deficit reported at year-end 1987.

The year-end 1988 deficit would make Mutual Fire, Marine the fourth-largest U.S. insurer insolvency behind Mission Insurance Group and Transit Casualty Co., each insolvent by an estimated \$1.5 billion, and American Mutual Liability Insurance Co. and American Mutual Insurance Co. of Boston, together insolvent by \$469 million.

The revised rehabilitation plan also changes the method by which Mutual Fire, Marine's reinsurance recoverables—which account for the bulk of its assets—will be divided among three major creditor groups.

While the revised plan provides a procedural framework for the rehabilitation, it includes no projections of what percentage of claims the various categories of creditors may ultimately recover.

Recoveries by policyholders and other

creditors will depend on a variety of factors attorneys point out, including the rehabilitator's success in collecting reinsurance recoverables; the accuracy of Mutual Fire, Marine's own case reserves and incurred-but-not-reported loss reserves; and the ongoing

loss development on the insurer's business, particularly its assumed reinsurance business.

"The plan is simply providing a hypothetical benefit to policyholders until there are sufficient assets collected to allow substantial distributions,"

said Richard A. Brown, an attorney with the Washington, D.C., law firm of Spiegel & McDiarmid, representing a committee of direct policyholders.

"The plan will be meaningless to creditors unless the rehabilitator can collect assets that appear to be collectible," he said.

However, Mr. Brown added that the plan is generally a good one for policyholders and that "the policyholders committee will support the plan in its primary features but may ask the court to consider some modifications."

Among other things, the policyholders committee will oppose a provision of the plan that would dissolve the committee, established by court order over the objections of the Pennsylvania department in January 1987 (BI, Feb. 2, 1987).

Without the committee, "there isn't any one to monitor the progress of the rehabilitation on behalf of the policyholder class," Mr. Brown observed.

Creditor groups and the Pennsylvania department have been discussing provisions of the plan since last fall, lawyers for the groups say. While some sections of the plan reflect compromise between creditors and the rehabilitator lawyers for creditor groups all expressed reservations about the proposal last week.

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**Policyholders 'will support the plan in its primary features,' but may seek 'some modifications,' says attorney Richard Brown.**

## DRG program boosting costs in New York

By MICHAEL SCHACHNER

ALBANY, N.Y.—A New York state program that established a uniform hospital reimbursement system for all health care payers based on diagnosis-related groups is driving up hospital costs dramatically, payers say.

Critics of the system, which went into effect on Jan. 1, 1988, maintain that the rates that the state allows each hospital to charge based on a patient's DRG have been set too high and are leading to unexpected cost increases.

For example, many health maintenance organizations say their hospital costs have increased as much as 30% since the DRG system was instituted, and commercial health insurers say their hospital costs jumped as much as 20%. During the same time, the medical care component of the Consumer Price Index rose only 6.9%.

Employers that self-insure their health care plans face similar increases in hospital costs, according to Edward Fox, an associate benefits consultant with Buck Consultants Inc. in Secaucus, N.J.

An analysis of a sample of claims filed against a large self-insured financial services company in New York shows that hospital costs were 17% higher than under the previous billing system, said Ted Nussbaum, a partner with Coopers & Lybrand's Actuarial, Benefits and Consulting Group in New York.

New York's DRG system is one of only four such case-payment plans in the country where all payers—except Medicare—compensate hospitals based on DRG

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## Johnson Matthey claims settled

By CAROLYN ALDRED

LONDON—Some 180 insurers and reinsurers are paying about 10.5 million pounds (\$18.3 million) to settle litigation involving tens of millions of dollars of claims filed by a British industrial conglomerate and a banking subsidiary that collapsed in 1984.

Under the settlement, two American International Group Inc. units and about 180 reinsurers will pay 9 million pounds (\$15.7 million) to Johnson Matthey P.L.C. to settle about 15 million pounds (\$26.2 million) of claims filed mainly on property insurance policies by JM subsidiaries in the United States and Britain.

The insurers and reinsurers also are paying about 1.5 million pounds (\$2.6 million) to settle between 6 million to 8 million pounds (\$10.5 million to \$14 million) of fraud and theft claims filed against marine insurance policies by Minorities Finance Ltd., formerly Johnson Matthey Bankers Ltd.,

JM's former banking subsidiary that collapsed in the fall of 1984.

Meanwhile, as part of the settlement, Minorities Finance will not pursue a further 22 million pounds (\$38.4 million) of claims that were not part of the litigation. Minorities Finance had notified underwriters of these claims—which were dubbed "coiled claims" by insurers—but refused to provide full details about the claims.

The out-of-court settlement signed Feb. 24 settles litigation encompassing the AIG units, Manchester, N.H.-based New Hampshire Insurance Co. and New York-based National Union Fire Insurance Co. of Pittsburgh, Pa.; Johnson Matthey P.L.C.; Minorities Finance; JM's Bermuda-based captive insurer, Argent Insurance Co. Ltd.; and about 180 of Argent's reinsurers.

The AIG units initially refused to pay claims filed by Johnson Matthey and its former banking subsidiary, alleging that

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## Cities face new training liability

By JUDY GREENWALD

WASHINGTON—Municipalities that inadequately train their employees can be held liable for violating the rights of individuals, but only if the failure to train reflects a "deliberate indifference" to individuals' rights, the U.S. Supreme Court ruled last week.

Such a standard will be difficult to prove, observers say.

As a result, the ruling is not expected to significantly boost damage awards against municipalities, though more cases may be brought against them as plaintiffs' attorneys seek to test the ruling's parameters.

The case, *City of Canton vs. Harris*,

involved the 1978 failure of a police shift commander in Canton, Ohio, who had only first-aid training, to summon medical care for a woman who collapsed after she was arrested. The woman, Geraldine Harris, subsequently was hospitalized.

The high court returned the case to the 6th Circuit Court of Appeals in Cincinnati to determine whether the plaintiff should have the opportunity to prove her case under the deliberate indifference rule.

In the 9-0 decision, Justice Byron White noted the danger of an explosion in litigation against public entities. Referring to the standard of deliberate indifference, the opinion states that "to

adopt lesser standards of fault and causation would open municipalities to unprecedented liability" under civil rights law.

"It would also engage the federal courts in an endless exercise of second-guessing municipal employee-training programs. This is an exercise we believe the federal courts are ill-suited to undertake, as well as one that would implicate serious questions of federalism."

"I think it's a largely favorable decision for us," commented Berna Ruth Solomon, chief counsel at the State & Local Legal Center in Washington, D.C., referring to the difficulty of providing

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# RIMS conference to explore EC changes

By MICHAEL SCHACHNER

The relaxation of European trade barriers in 1992 and its influence on risk management is generating interest among risk managers as they register for the 27th annual conference of the Risk & Insurance Management Society Inc.

That topic is among 105 technical seminars to be offered on property/casualty insurance and employee benefit issues scheduled during the April 9-14 conference in Atlanta.

The conference also will feature sessions on worker and community right-to-know regulations, outdoor and indoor environmental pollution, the antitrust litigation pending against industry defendants as well as a debate over state vs. federal regulation of insurance featuring consumer advocate Ralph Nader.

So far, 3,100 risk managers and employee benefit managers have registered for the six-day conference, according to Barbara Parker, assistant conference director for RIMS.

And, 188 registrants have signed up for 'Europe Without Borders by 1992—Impact on Multinational Risk Managers' making it one of the most popular conference sessions.

The session will focus on Europe's free trade directive for 1992, which is expected to make a measurable mark on the commercial insurance industry in the United Kingdom and throughout the Common Market (BI, Nov. 21, 1988; May 16, 1988).

"RIMS expressed a desire for an international discussion," said the session's coordinator, W. Lee Carter, director of research and development for Alexander & Alexander Services Inc. in Dallas.

"With upcoming drastic changes, risk managers in the U.S. who operate in the U.K. and on the continent are bound to feel an effect that should change all their relationships," he added.

"We've tried to get together a diverse group of risk managers and insurers who represent both the U.K. and Europe," said Mr. Carter.

The panel of speakers for S 71 includes Brady Young, a consultant with the Tillinghast division of Towers, Perrin, Forster & Crosby Inc. in London. Mr. Young will talk about mergers and acquisitions within the insurance industry as well as cover numerous facets of captives either ser-

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Photo: Atlanta Convention and Visitors Bureau

Atlanta will play host to the annual RIMS conference, to be held April 9-14.



## Florio proposal

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receive actual damages.

• Give the secretary of commerce authority over implementation of and compliance with the bill and direct him to submit to Congress within two years after enactment a report summarizing the effects of the legislation on the availability and affordability of insurance.

The legislation would be effective one year after its enactment.

Insurance industry representatives blasted the bill.

This is "a very bad bill" that is "extremely poorly drafted," said David Pratt, vp of federal affairs for the American Insurance Assn. in Washington, D.C.

"It's an outrageous piece of legislation," said Tom O'Day, associate vp in the Washington, D.C., office of the Alliance of American Insurers.

Particularly objectionable are the bill's penalties, experts noted.

"The penalties are out of propor-

tion to the crime and the crime itself appears to be activities that promote competition in the marketplace," said Peter Lefkin, assistant vp and director of federal relations in the Washington, D.C., office of the Fireman's Fund Insurance Cos. "It's crazy."

As stated in the bill, the purpose of the legislation is "to protect insurance consumers, to make insurance available and affordable and to safeguard insurer solvency."

However, the bill "in fact probably would exacerbate any (availability or affordability) problem that does exist," Mr. Lefkin said.

The bill "doesn't speak to its purposes at all," agreed Mr. O'Day. In fact, "it does just the opposite."

For example, smaller insurers would be particularly hard hit by the prohibition against sharing information because they lack the resources to perform some of the data-analysis activities that the bill would prohibit, experts said.

Property/casualty actuaries ana-

lyze past losses and other economic and social factors to project future losses and establish rates.

If smaller insurers cannot participate in the same markets as larger insurers, insurance is not going to be either more affordable or more available, Mr. O'Day noted.

Mr. Lefkin pointed out that this provision of the bill would prohibit insurers from operating insurance pools, such as those that insure the nuclear industry.

Furthermore, the legislation's prohibition against allowing any insurer to do business that "has taken any action to impair the availability or affordability of insurance" is "such a broad charge that almost any insurer could be guilty," Mr. O'Day said.

This provision would "make companies too cautious" about lowering and raising rates, Mr. Lefkin said.

This provision is so vague that "if I was an insurance company, I'd be frozen into inertia," commented Jon Harkavy, director of governmental affairs for the Risk & Insurance Man-

agement Society Inc.

The subcommittee staff aide declined to explain this provision of the bill, noting only that an example of such an action would include insurers jointly deciding to pull out of a specific market or location.

While insurance industry representatives were quick to criticize the proposal, they also said it is unlikely to be approved.

The chances for passage "can't be good" because it is a "very, very confused and strange document," said Mr. Pratt. It is "not a credible bill."

Observers are quick to point out that the bill is drafted as an amendment to the federal Risk Retention Act, not as an amendment to the McCarran-Ferguson Act.

The House Energy and Commerce Committee has jurisdiction over the Risk Retention Act, while the House Judiciary Committee has jurisdiction over the McCarran-Ferguson Act.

Experts speculate that Rep. Florio, who is chairman of the House Energy and Commerce Subcommittee on

Commerce, Consumer Protection and Competitiveness, probably drafted the bill as an amendment to the Risk Retention Act so that his subcommittee would have jurisdiction it.

"It's a clever legislative effort by Mr. Florio to secure a role in the debate over amending the McCarran-Ferguson Act," stated Michael Mullen, an attorney with Crowell & Moring in Washington, D.C., which represents the Park Ridge, Ill.-based National Risk Retention Assn.

"It's just an artifice" to have the bill drafted as an amendment to the Risk Retention Act so that Rep. Florio's subcommittee will have jurisdiction over the legislation, commented Mr. Pratt of the AIA.

The bill probably was drafted in this way so Rep. Florio could "have jurisdiction over the much larger insurance issue," speculated Mr. Harkavy.

However, "we'd hate to see (the Risk Retention Act) used as a political football by either side" of the insurance debate, he added.

Several experts also speculated that Rep. Florio introduced the legislation as a political ploy.

They explained that although Rep. Florio has not formally announced he is running for governor of New Jersey, his intentions are widely known. Insurance is a hot issue in New Jersey, where auto insurance rates are among the highest in the nation.

"This (bill) should be read more as a New Jersey political document" than a federal proposal, said Mr. Pratt.

Rep. Florio's bill does not have any co-sponsors. There is no companion Senate legislation.

While Rep. Florio's proposal does not directly threaten McCarran-Ferguson, a bill introduced last week by another New Jersey congressman does to a limited degree.

Rep. Jim Courter, R-N.J., introduced legislation Feb. 28 that would amend the McCarran-Ferguson Act to eliminate the insurance industry's antitrust exemption only for personal automobile insurance business.

However, under the bill, H.R. 1144, insurers still would be allowed to share a significant amount of data, including rating data. However, insurers would be prohibited from jointly establishing final rates for personal auto insurance.

Insurers also would be allowed to share historical loss data if the data is made available to state regulators. Insurers would also be allowed to develop statistical plans, including territorial and class definitions, and could jointly develop policy forms and endorsements.

The Florio and Courter bills are two more in a series of challenges to the insurance industry that has erupted on Capitol Hill in the past two years.

For example, a House Judiciary subcommittee last year passed a bill that would have virtually stripped insurers of their current limited exemption from federal antitrust law (*BI*, June 27, 1988; June 20, 1988).

That bill would have amended the McCarran-Ferguson Act and made subject to antitrust law:

- Insurance price fixing or the development and publication of recommended rates and the sharing of data regarding expenses and profits.
- Tying the sale of insurance to any unrelated insurance product.
- Allocating specific markets or customers among competing insurers.
- Activities that would force competitors out of specific markets.

The bill was never acted upon by the full House Judiciary Committee.

However, Sen. Howard Metzenbaum, D-Ohio, and Rep. Don Edwards, D-Calif., are drafting legislation that would repeal or sharply modify the McCarran-Ferguson Act (*BI*, Jan. 30).

In addition, congressional critics of McCarran-Ferguson are expected to use the American Bar Assn.'s recommendation that the law be repealed as ammunition in their battle (*BI*, Feb. 13).



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# County increases health care cost sharing

By MICHAEL SCHACHNER

Fairfax County, Va., employees will make larger contributions to their health care coverage under the county's self-insured indemnity plan beginning July 1.

In addition, a new formula will be used to determine the county's premium contributions for employees enrolled in health maintenance organizations.

The changes, which were approved by the Fairfax County Board of Supervisors, affect approximately 4,700 employees enrolled in the county's indemnity plan and more than 3,000 employees covered by the five HMOs with which the county contracts, said Bev Scott, assistant personnel director for Fairfax County.

County officials said they were forced to increase employee contributions to meet skyrocketing health care costs. Claims for fiscal 1988, which ended June 30, 1988, totaled \$12.2 million, while revenues produced by the county's health care trust fund amounted to just \$10.8 million.

As a result, employee contributions to individual indemnity plan coverage will increase 50% to \$21.30 a month from \$14.20 a month for individuals employed outside the school system. School employees have a separate health insurance plan that is unaffected by the changes, Mr. Scott said.

In addition to the rate increase, employees covered by the county indemnity plan will be subject to a \$100 hospital admission deductible for the first time. And, the major medical deductible will increase to \$200 from \$100 per covered individual.

For HMO members, the county has capped its premium contributions at 85% of the respective HMO's individual premium, and at 75% of the respective HMO's premium for family coverage.

In addition, the county's dollar contribution to an HMO premium will not exceed its indemnity plan contribution, Mr. Scott said. Previously, the county had contributed the same amount toward HMO premiums as it did toward the indemnity plan, he explained.

Blue Cross/Blue Shield of the National Capital Area administers the county's self-insured indemnity plan. Under the arrangement, BC/BS pays claims on behalf of the county, and the county reimburses BC/BS weekly based on claims paid during the previous week.

Fairfax County pays BC/BS an administrative fee equal to 5.8% of claims paid, according to Mr. Scott.

## Ford profit-sharing

Approximately 156,000 eligible hourly and low-level salaried employees of Ford Motor Co. will receive profit-sharing checks March 7 averaging more than \$2,800 each, the Dearborn, Mich.-based automaker has announced.

The profit-sharing benefits for the company's 5,000 bonus-level employees, which include higher-level executives and management, have not yet been disclosed.

The profit-sharing distributions to hourly and low-level salaried employees are 24.3% lower than last year when the average was \$3,700 per employee—the highest payment by Ford since it began sharing profits with its workers in 1983.

A Ford spokesman attributed the decrease to a 9.1% decline in profits at Ford's U.S. operations. As a result, Ford reported that the profit-sharing pool for 1988 totaled \$460 million, down 27.6% from \$635 million in 1987.

Despite the reduced profit-sharing contributions, United Auto Workers Vp Stephen P. Yokich said: "Ford's current track record of immense

## Benefit beat

profitability gives the company unique opportunities. Profits should also be used to strive for better quality, better health and safety, and better working environments in the plants."

Ford's profit-sharing contributions are derived from total U.S. earnings, excluding those from wholly owned subsidiaries Ford Aerospace Corp., First Nationwide Financial Corp. and Rouge Steel Co., the spokesman explained.

If profits exceed 1.8% of U.S. sales, employees with at least one year of service prior to Dec. 1, 1988, are eligible for profit-sharing benefits. Profit-sharing distributions increase on a graduated scale beyond the 1.8%

threshold.

Based on this formula, an employee who has been with the company since 1983 would have accrued an average of \$12,000 in profit-sharing payments, according to the spokesman.

Ford employees have received a profit-sharing check every year since 1983.

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

General Motors Corp. announced last month that its 470,000 eligible employees would receive average

profit-sharing payments of about \$254 (BI, Feb. 27), and Chrysler Corp. has already announced that profit-sharing payment will average about \$750 per employee.

## Early retirement offer

Unisys Corp. will offer early retirement to about 1,000 employees who are 58 years old or older and have worked for the Blue Bell, Pa.-based computer manufacturer for at least 15 years, the company announced last month.

The move is part of an extensive plan to eliminate up to 2,500 jobs from its 93,000-person workforce to offset what the company described as a disappointing fourth quarter in 1988.

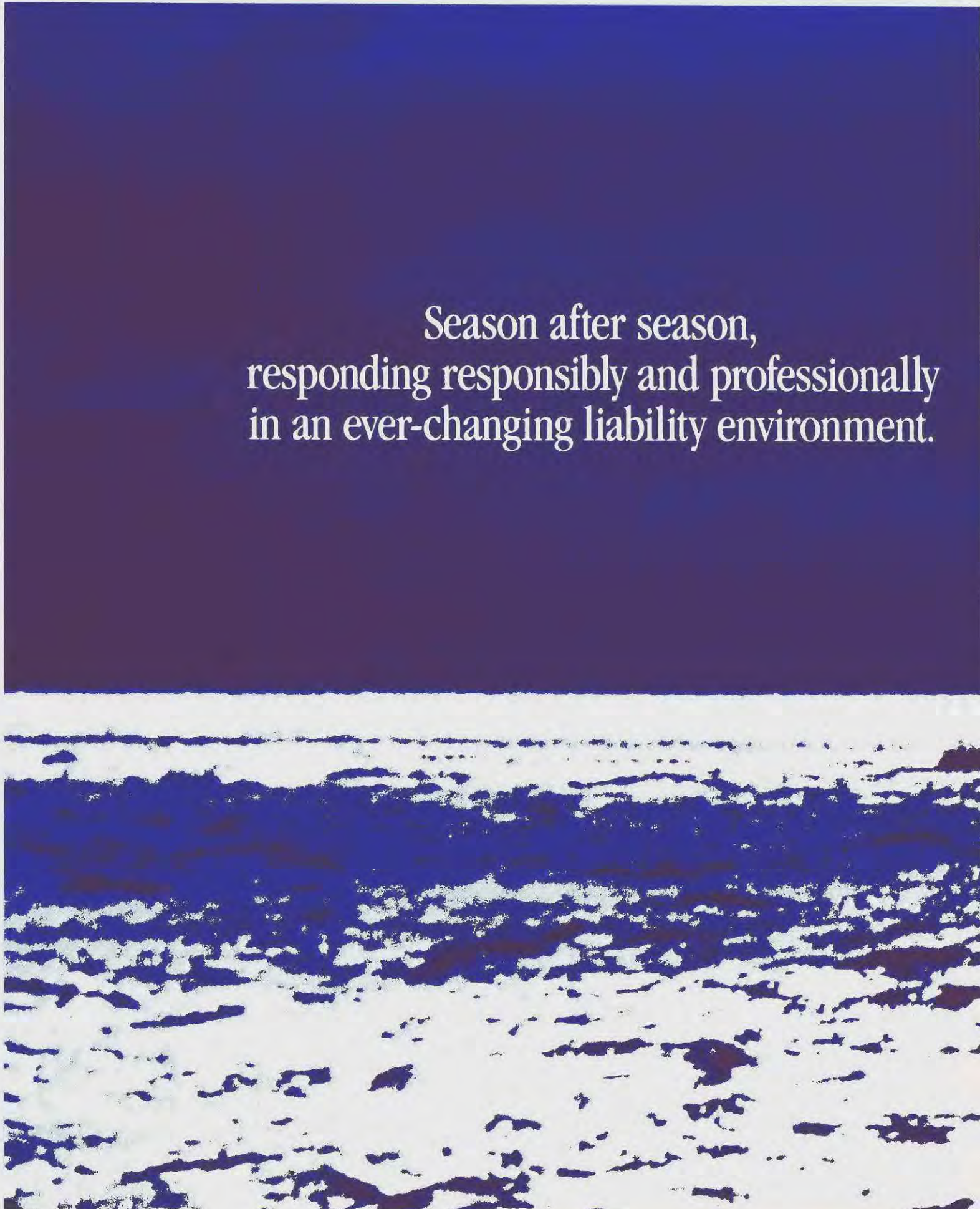
Unisys' fourth-quarter net income amounted to \$218 million.

Workers who meet the minimum age and service requirements for the program will be credited with an additional two years of age and service to enhance their retirement benefits, said a Unisys spokesman.

For example, a 58-year-old worker with 15 years of service would be eligible for benefits as if he or she were 60 years old with 17 years of service.

In addition to the early retirement benefits, employees under age 62 will receive an additional \$500 per month until they are eligible for Social Security benefits at age 62, the spokesman said.

•  
Made any benefit changes? Write Michael Schachner, Associate Editor, Business Insurance, 220 E. 42nd St., New York, N.Y. 10017-5806; 212-210-0143.



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## New York rules

Continued from page 2

market conduct exams, observed Mr. Gabay, a former deputy superintendent of the department.

While Mr. Gabay said he hopes the department might consider extending the deadline in individual cases, he added that the deadline—along with the threat of greater publicity in market conduct cases—“may be perceived as forcing companies to accept stipulations.”

He also questioned the Insurance Department's authority to fine insurer directors and officers, and said the provision may be challenged in court as soon as the department attempts to enforce it.

Explaining that insurance company directors, officers and managers are not individually licensed by the New York department, Mr. Gabay said, “I do not believe (the Insurance Department) has the power to fine non-licensees.”

The provision does not even re-

quire that violations stem from intentional misconduct by insurance company officials, he added.

“That sounds coercive to me,” he said, pointing out that the provision represents another “very powerful tool” in forcing companies to accept stipulations.

Mr. Gabay also noted that the impact of these new procedures may be heightened if the New York state Legislature adopts the budget bill now pending before it. In its present form, the bill includes a provision for a tenfold increase in maximum statutory fines for various insurance law violations.

Responding to these criticisms, the New York department spokesman said that fines against insurance company officials would be based on sections of the insurance law allowing penalties against “any insurer, rate service organization or other person” violating rate regulations.

The spokesman added that extensions of the 45-day deadline

may be granted in some cases.

Separately, the New York department announced fines against several insurers under existing market conduct regulations.

The insurers that were fined for having violated New York state laws and regulations are:

- Federal Insurance Co. and Vigilant Insurance Co., which were fined \$147,000. The Chubb Corp. units violated several regulations by—among other things—failing to charge filed rates, failing to maintain data supporting rates and failing to provide specific reasons for non-renewals.

- National Casualty Co., a Nationwide Corp. unit, which was fined \$63,300. Among other things, the company allegedly failed to charge filed rates and failed to justify rates in excess of manual rates.

- Four Sentry Insurance Group units, which were fined \$62,200. The four are Sentry Insurance, a Mutual Co.; Dairyland Insurance

Co.; Middlesex Insurance Co.; and a fourth unit—Sentry Indemnity Co.—that was sold in 1987.

Among other violations, the four insurers failed to charge filed rates and knowingly used rates that departed from filed schedules.

- Allstate Insurance Co., Northbrook Property & Casualty Insurance Co. and Northbrook National Insurance Co., all units of Sears, Roebuck & Co. They were fined a total of \$47,900.

Allstate incorrectly applied a rating schedule to a risk that did not qualify for the plan, while the two Northbrook companies failed to charge filed rates. Northbrook P&C also used a policy form not approved by the department.

- General Accident Insurance Co. of America, which was fined \$34,600. The insurer failed to charge filed rates, did not obtain approval before raising rates to pass reinsurance costs along to its policyholders and raised rates without giving policyholders con-

ditional renewal notice.

- Northern Insurance Co. of New York and Maryland Casualty Co., which were fined \$37,800. Both are units of American General Corp., which last month agreed to sell the two insurers and several other property/casualty units to Zurich Insurance Co.

Northern and Maryland Casualty failed to use an experience rating plan for certain eligible risks, failed to use filed rates and failed to provide specific reasons for non-renewals.

- Heritage Mutual Insurance Co., which was fined \$21,500. The company failed to use filed rates and did not pursue adequate procedures for preventing the use of improper rates.

- Investors Insurance Co. of America, which was fined \$21,500. The insurer failed to charge filed rates and failed to establish adequate rate verification procedures.

- Greater New York Mutual Insurance Co., which was fined \$10,900. The company failed to file “a” rates, which are judgment rates for liability risks for which no relevant experience exists.

The company also did not charge rates in accordance with its plan and failed to establish adequate rate verification procedures. ■

## NEXIS adds BI articles to data base

DAYTON, Ohio—Mead Data Central Inc. has added *Business Insurance* to its NEXIS news retrieval service.

The complete texts of articles from *Business Insurance* are now accessible via computer on the NEXIS data base, which contains the complete text of about 350 newspapers, magazines, newsletters and wire services. Issues of *BI* will be available within 14 days of publication, with NEXIS coverage of *BI* beginning with the Jan. 4, 1988, issue.

“*Business Insurance* complements the extensive files of insurance information already on-line in Mead Data Central's LEXIS legal research services,” said Richard C. Anderson Jr., vp of corporate information services for Mead Data Central in Dayton, Ohio.

The LEXIS legal research system provides the full text of insurance case law, attorney general opinions, state insurance codes and regulations, a periodicals index of articles on insurance law and the complete text of the National Assn. of Insurance Commissioners proceedings dating back to 1949.

The cost of searching any of the issues of *Business Insurance* is \$6 per search.

For more information, contact Mead Data Central Inc., P.O. Box 933, Dayton, Ohio 45401; 800-227-4908.

In addition, *Business Insurance* offers an Editorial Index Service that provides complete alphabetical and chronological listings by company, individual, topic and geographic location for all news reports and feature articles that appear in the magazine.

The service provides three quarterly reports and a cumulative annual volume. In addition, article citations between publication of quarterly reports are available from *BI*'s information centers in New York and Chicago.

The full annual *BI* index service for 1989 costs \$100, with 1986-1988 softcover annual indexes available for \$100 each, and 1981-1985 hardcover annual indexes available for \$150.

For more information about *BI*'s Editorial Index Service contact Connie Mele, *Business Insurance*, 220 E. 42nd St., New York, N.Y. 10017-5806; 212-210-0137. ■



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## Opinions

## Heed Rostenkowski's advice

**B**USINESS GROUPS are kidding themselves if they think Congress will repeal Section 89's non-discrimination rules for welfare plans without exacting an even higher price.

As we report in this week's issue, business groups, led by the small employer lobby, are clamoring for Congress to strip Section 89 from the Internal Revenue Code.

Clearly, the cries for repeal are being heard. More than 175 congressmen have signed on as co-sponsors of a Section 89 repeal bill introduced by House Small Business Committee Chairman John LaFalce, D-N.Y.

But Rep. Daniel Rostenkowski, D-Ill., the chairman of the House Ways and Means Committee, is not amused by the effort to repeal Section 89.

In no uncertain terms, Rep. Rostenkowski and his staff have warned that if Section 89 is repealed it will bring back on the table previously discarded proposals to directly tax group health and other benefits.

In fact, Rep. Rostenkowski points out that legislators agreed, in enacting the 1986 tax reform legislation, to scrap benefit tax proposals in favor of non-discrimination rules.

If that compromise, through a Section 89 repeal, comes unglued, we have no doubt that Rep. Rostenkowski and other members would follow through on their pledge to put benefit taxation back on the congressional front burner.

Repealing Section 89 would be just the excuse some congressmen could seize upon to impose new benefit taxes to garner additional revenues.

However bad Section 89 is, directly taxing employee benefits would be even worse. Direct taxes, such as a tax on health care benefits exceeding a predetermined value, would present many of the same administrative difficulties posed by Section 89 while having a much broader impact on a larger group of employees.

Instead of launching what could turn out to be a counterproductive effort to repeal Section 89, the far wiser course of action for employers is to accept an invitation offered by Rep. Rostenkowski to work with him and his staff to amend Section 89 to reduce administrative burdens.

This time around, employers are likely to find a congressional staff that is far more willing to listen to suggestions from the employee benefit community on how to craft a non-discrimination statute that meets social policy objectives of ensuring that benefits are available to a broad cross-section of the workforce without imposing an unreasonable and irrational administrative burden.

One of the beneficial side effects of the uproar against Section 89 is that congressional staffers



are willing to admit that there is much that they can learn from employers on how benefit programs operate.

The arrogance of congressional staffers who, without a single day of practical experience, thought they could write a sweeping benefit statute without input from employers, appears to be gone or at least reduced.

That change in attitude bodes well for the prospects of Section 89 reform.

And, we're encouraged that the Internal Revenue Service, which issued Section 89 regulations last week, is providing transitional rules that will ease initial compliance burdens and delay certain burdensome reporting requirements.

While we applaud Rep. Rostenkowski for his willingness to consider proposals to simplify Section 89, we do believe that the Illinois Democrat has been attempting to rewrite a bit of history.

In a letter published last month in *The Wall Street Journal*, Rep. Rostenkowski wrote that Section 89 was not "slipped into" the Tax Reform Act of 1986, but was included after two years of "extensive public discussion."

We take issue with that statement. Neither we nor benefit lobbyists can recall any congressional hearings devoted to non-discrimination rules in the months before they were enacted.

However, the business community, as we have said, bears part of the blame for enactment of Section 89 because it failed to lobby while the legislation was under consideration (*BI*, Feb. 13).

With true public discussion this time, a workable set of non-discrimination rules is possible.

## Letters

## 1966 CGL policy defines 'damages'

To the editor: This concerns the article by Stacy Adler entitled "Aerojet Appellate Panel Seeks to Define 'Damages' in Cleanups" (*BI*, Feb. 20).

In explaining that the term "damages" of liability policies is limited to coverage

of traditional tort damages, attorney Richard L. Seabolt was quoted as saying in part that "the (legal) rules require us to give meaning to each and every word of the policy." If Mr. Seabolt were to read carefully the four corners of the 1973 comprehensive general liability policy, he would find his opinion to be in error.

The products recall exclusion of the 1973 and 1966 CGL policies refers in part to "damages" claimed for the withdrawal, inspection, repair, replacement or loss of use of the named policyholder's products.

When this exclusion was first introduced by ISO in 1966, it was explained that the costs of withdrawing such products may be a direct expense to the policyholder or liability to others. Both such costs (referred to as damages) are to be excluded.

If "damages" represent expenses in-

curring by the policyholder to recall its products, then "damages" should also mean expenses incurred by the policyholder to remove its pollutants. The only difference is that the latter exposure, unlike that dealing with products recall, is not specifically excluded.

Donald S. Malecki  
President  
Donald S. Malecki & Associates Inc.  
Cincinnati

## Company clarifies mistaken identity

To the editor: You reported in your Feb. 13 issue that New York Life Insurance Co. was canceling a group health insurance association program. The association program, American Consumers  
Continued on page 10

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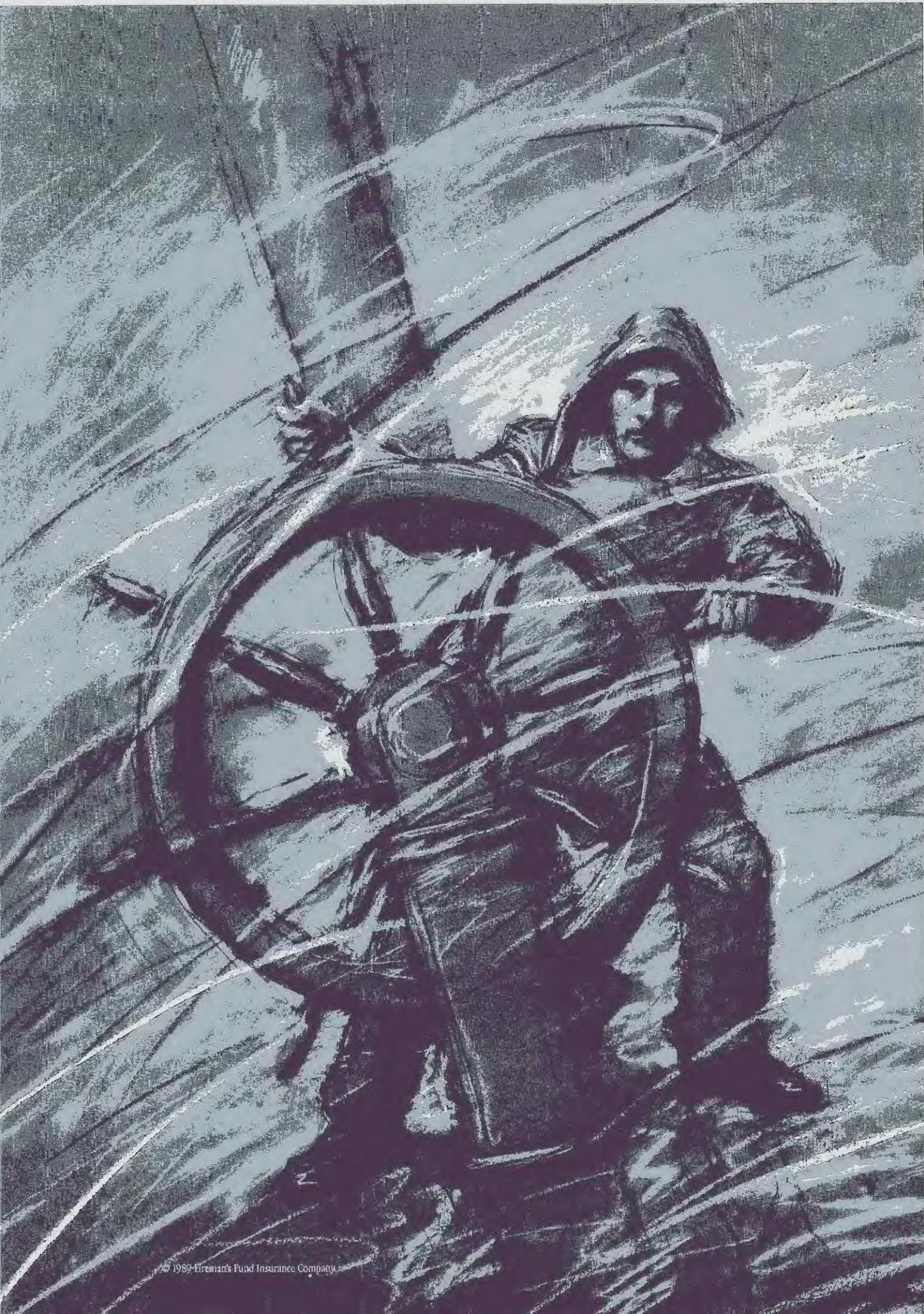
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## Letters

Continued from page 8

Assn. Program, was identified to be administered by "Great American Insurance Administrators of Irvine, Calif." Please be advised that the proper administrator is Great America Plan Insurance Administrators Inc. Great America Plan Insurance Administrators Inc. has no relationship to Great American Insurance Co.

This incident of actual confusion between Great American Insurance Co. and Great America Plan Insurance Administrators is among others we have experienced. We have brought suit in federal court in Orlando, Fla., to prevent future instances of confusion.

**Karen Holley Horrell**  
Senior Vp, General Counsel  
and Secretary  
Great American Insurance Co.  
Cincinnati

### Risk Retention Act needs clarification

To the editor: Thank you for your excellent editorial, "Fix the Risk Retention Act" (BI, Feb. 20).

Since the enactment of the Liability Risk Retention Act of 1986, some 60 risk retention groups and more than 300 purchasing groups have formed, a clear marketplace demonstration of both the need for and interest in programs authorized by the act among the consumers of commercial liability insurance coverages. The fact that these programs have formed during a relatively "soft" insurance market speaks volumes, a powerful testament to the potential value and promise of the act in averting future affordability and availability crises and easing the sting of problems that do arise.

Unfortunately, the Risk Retention Act will fail to achieve its full potential in the current climate. State regulatory developments and court decisions do, as you so clearly articulated, strike a blow at the very essence of the act. As the Commerce Department stated in its September 1987 implementation report, while "the Liability Risk Retention Act of 1986 provides a needed alternative to the conventional insurance market for many purchasers of liability insurance...the act is not working as well as intended and modification of the act is necessary if it is to serve its purposes more effectively."

Clearly, legislative change is imperative, as your editorial suggests. In addition to the laudable initiative now underway at the Commerce Department to develop a sound legislative proposal, the National Risk Retention Assn. has undertaken a similar project aimed at enhancing the utility of the act to users and, at the same time, address the legitimate concerns of regulators.

Users, service providers, regulators and Congress should take your advice and act now in a measured, thoughtful way, or once again find themselves trying to lock the barn door after the horse has escaped.

**Dirk Van Dongen**  
President  
National Assn. of Wholesaler-Distributors  
Washington, D.C.

To the editor: Thank you for lending the collective voice of *Business Insurance* (and its readership) to the call for needed clarifications in the Risk Retention Act (BI, Feb. 20).

Commercial insurance buyers are, at present, "whistling past the cemetery." Intense competition in liability insurance pricing has lulled corporate risk managers and the owners of small businesses into a false sense of security. The market will turn, prices will rise, and

unavailability and unaffordability problems will reappear by next year just as sure as Ralph Nader will remain a critic of the industry!

The federal pre-emptions embodied in the 1981 and 1986 versions of risk retention legislation are needed to facilitate the development of alternative risk sharing mechanisms. In a perfect world where there is consistent price, broad availability of coverage and a stable marketplace, there would never be a need for the Risk Retention Act. Such a scenario has not existed for many decades and is unlikely to appear in the foreseeable future. Corporate buyers of insurance need a coherent, usable Risk Retention Act.

**Robert L. Larsen**  
President  
National Risk Retention Assn.  
Washington, D.C.

### Attack on St. Paul is misguided

To the editor: How easy it all seems to be to distort a series of studies and to condemn a well-known and well-respected insurer (BI, Feb. 27). How nice it is that The St. Paul Cos. Inc. is around to defend itself!

Perhaps we should spend some time remembering all of the underpriced and underfunded medical and hospital professional liability insurers that couldn't underwrite to a profit and therefore disappeared. The list goes on and on. They are not here to be investigated. Regulators, auditors, investors and staff who helped them to fail are unavailable for comment.

We can also remember all of the thousands of insurers that either never wrote medical professional

liability insurance or withdrew from the line for their own altruistic (read selfish) reasons. The tent is rather small, but it does house some respectable underwriters, and St. Paul is one of them.

Even assuming that Minnesota Commissioner Michael A. Hatch had only good, honest, unselfish goals, what lesson has he taught?

Those inside the tent are motivated to serve policyholders and stockholders (St. Paul, CNA Financial Corp., American International Group Inc., Reliance Group Inc., etc.) or to serve members (medical society-sponsored "bedpan" companies). If they conservatively price their product they will be around to pay claims. If they are profit-making they will attract new capital (or surplus), thereby increasing underwriting capacity and enhancing their appeal to reinsurers.

What did St. Paul do? It worked hard to underwrite a volatile line of business to a profit. It stayed around for the benefit of its stockholders and its policyholders. The sins of the American Way: How sad that there are so few such sinners.

Where are all of those regulators of JUA's and bankrupt insurers? Why aren't they defending St. Paul? Is it merely politically expedient to attack one of the finest insurers in the United States?

Let's get back to basics. Thank you, Commissioner Hatch, for giving me the opportunity to speak up for and to praise the leading underwriter of health care providers' professional liability insurance. Hooray for St. Paul, its stockholders, employees, reinsurers, producers and policyholders. Hooray for the American Way.

**I. David Gordon**  
New York



## At issue

## Should health maintenance organizations be covered by guaranty funds?



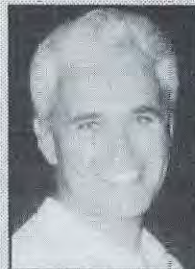
**Roger Sims**  
director-  
employee  
benefits  
**New York  
State Department of Civil  
Service,**  
Albany, N.Y.

I don't think so. The burden should be on the employer to monitor the financial status of HMOs periodically. A guaranty fund would charge employers that did a good job of monitoring and reviewing and penalize those that wouldn't offer a risky or insolvent HMO anyway.



**Roy Leet**  
director-  
benefits  
**Ameritech  
Inc.,**  
Chicago

Guaranty funds should not be established to protect providers from poor business judgments or inadequate attention to plan contracting. They should be the final part of a strategy to deal with financially troubled plans, to assure care for members in an HMO or allow an orderly transition to a new plan.



**Vincent  
Sweeney**  
director-  
employee  
benefits  
**Union Camp  
Corp.,**  
Wayne, N.J.

No. HMOs should not be covered by a third-party guaranty fund unless, of course, the HMO elects to purchase such coverage for itself. Any program that would guarantee solvency in the event of mismanagement is counterproductive to a competitive marketplace. Over time, well-managed HMOs will survive based on their competitive positions.



**Maureen  
Brookbank**  
director-  
employee  
benefits  
**Holiday Corp.,**  
Memphis, Tenn.

Yes, in view of the many HMO failures, guaranty funds are necessary to protect HMO participants from insolvent organizations.

Compiled by Christine Woolsey

## RIMS conference

Continued from page 3  
vicing Europe or domiciled there.

In addition, Mr. Young will offer information on which domiciles provide the best risk financing advantages and what types of risk financing alternatives are being considered for Europe's future.

Also speaking during the seminar are: Ron W. Forrest, managing director of global business development for A&A in New York; Edward J. Hester, assistant manager for Zurich Insurance Co.'s U.K. and Ireland operations in London; Malcolm J. Finney, head of international tax for Grant Thornton House in London; David Oviden, group insurance manager for The Wellcome Foundation Ltd. in London; and Pierre C. Sonigo, director of risk and insurance for La Compagnie de St. Gobain in Paris.

Hugo Hines, corporate risk manager for Texas Instruments Inc. in Dallas, will moderate the sessions, which are scheduled from 10 a.m. to 12:30 p.m. on Monday, April 10, and from 2:30 to 5 p.m. on Wednesday, April 12.

Risk managers attending S 89, "Community Right to Know vs. Worker Right to Know—Is There a Difference and How Do We Comply?" will learn how to implement federal right-to-know programs

**Environmental  
hazards in offices will  
be discussed at this  
year's RIMS  
conference.**

and differentiate between Environmental Protection Agency and Occupational Safety and Health Administration regulations.

The session will provide vital information on safety, health and loss control, according to its coordinator, Rick Cumming, loss control manager for San Diego County Schools JPA.

"We felt that loss control line-ups were lacking at RIMS in the past. People need to know more about this," said Mr. Cumming.

Mr. Cumming will speak on OSHA law 19101200, which requires manufacturers of chemicals and hazardous materials to set up programs to ensure that their employees are aware of the risks and safety rules involved in their work. The law has been in effect since 1982 in California and took effect nationally last year.

Adela Anderson, safety administrator for Pacific Bell Telephone Co. in San Diego, will discuss the EPA's Superfund Amendment Reauthorization Act, which requires manufacturers to inform the surrounding community about its products. The law calls for community planning for disasters and requires that material safety data sheets be made available to the public at designated administrative offices.

S 89 will be held from 2:30 to 5 p.m. on Monday, April 10 and will be repeated from 9 to 11:30 a.m. on Thursday, April 13.

Other environmental hazards are found right in risk managers' offices, and these, too, will be discussed at this year's RIMS conference.

"Air quality indoors is often worse than it is outdoors, and this has become an emerging environmental concern," said Jaswant Singh, senior vp and technical director for Novi, Mich.-based Clayton Environmental Consultants, and coordinator of S 96, "Indoor Air Quality—Is Your Building Sick?"

Recent studies show air quality in buildings can be so poor that it

Continued on next page

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## RIMS conference

Continued from previous page  
has led to workers becoming sick or uncomfortable to the point that productivity is reduced.

This session—which will be held from 10 a.m. to 12:30 p.m. Monday, April 10 and from 2:30 to 5 p.m. on Wednesday, April 12—is designed to explore what factors create "sick buildings" and offer preventive measures and clues about how to recognize the potential risks and liabilities resulting from unsafe air.

Phillip Morey, an indoor air specialist with Clayton in Wayne, Pa., will give an overview of indoor air quality and the effect it has on workers. Mr. Morey also will discuss ventilation, thermal comfort and diseases caused by poor indoor air.

Douglas A. Shattuck, senior engineering ventilation specialist with Clayton in Edison, N.J., has been added to the program to

**'The EPA has spent almost all its time on air quality outdoors. But not enough money and research has been spent on air quality indoors. And we're starting to see the beginning of litigation over it,' says Jaswant Singh.**

speak specifically about ventilation, periodic air changes and the impact of air quality on the work environment.

Another speaker added to the roster, Dr. James C. Feeley, president of Pathogen Control Assn., a biological laboratory in Tucker, Ga., will focus on Legionnaire's disease and how indoor environments contribute to its outbreak.

"The EPA has spent almost all its time on air quality outdoors," said Mr. Singh. "But not enough money and research has been spent on air quality indoors. And we're starting to see the beginning of litigation over it."

gation over it."

John J. Bott, corporate risk manager for McGraw-Hill Inc. in New York, will moderate the sessions.

On the legal and legislative front, two lawyers, an assistant state attorney general and a risk manager will discuss the possible outcomes and ramifications of the antitrust lawsuits filed by 19 state attorneys general against dozens of insurance companies and other industry defendants (*BI*, Jan. 9; Sept. 12, 1988; March 28, 1988).

S 77, "Insurance Industry Antitrust Litigation," will be held from 10 to 12:30 p.m. on Monday, April

10, and from 2:30 p.m. to 5 p.m. on Wednesday, April 12.

The session has two coordinators: George Griffin, managing director with Marsh & McLennan Inc. in Seattle, and Mark Edlund, account executive with M&M in Seattle.

"We've told participants that we want an issues-oriented discussion," said Mr. Edlund. He said the discussion will take on a free-forum format. "You never know where these things are going to go, and there's absolutely no reason for not discussing specific issues."

Topics expected to be touched on include background on state vs. federal antitrust laws and a summary of the McCarran-Ferguson Act.

Newly added panelists include: Lucille A. Gallagher, vp-risk management for Greeley, Colo.-based Monfort Inc.; and Michael Brockmeyer, the assistant attorney general and chief of antitrust for the state of Maryland.

Other scheduled speakers include Ron McKinstry, an expert antitrust attorney with the Seattle law firm of Bogle & Gates; and John Swensen, a defense attorney with Gibson, Dunn & Crutcher in Los Angeles, who represents Aetna Casualty & Surety Co. in the litigation.

The seminar will be moderated by Samuel Y. Fisher Jr., risk manager with Hamilton Brothers Oil Corp. in Denver.

Other RIMS seminars this year will address benefits issues, including retiree health care, managing outpatient health care utilization costs and mental health management care for the coming decade.

Some topics in the workers compensation area include an overview of workers comp in the 1990s, a behind-the-scenes look at workers comp claims and a look at legal trends surrounding the system.

In addition, two special sessions open to all conference participants will be held in the ballroom on the convention level at the Marriott Marquis Hotel on Wednesday, April 12: "State vs. Federal Regulation of Insurance—Should All Roads Lead to Washington?" and "Employee Benefits Issues—The Next Four Years."

In the first, scheduled from 9 to 10:30 a.m., Mr. Nader will debate Washington insurance attorney George Bernstein on whether the McCarran-Ferguson Act should be retained or repealed. The special session will be moderated by Bill Monroe, former TV anchorman and executive producer of "Meet the Press."

Speakers currently scheduled for a panel discussion on employee benefits include Frank McArdle, manager of the Washington office of Hewitt Associates, and David Walker, assistant secretary of labor in the U.S. Labor Department. The moderator will be Judy Lindenmayer, director of risk management for FMR Corp. of Boston.

Conference luncheons will be held at the Hilton Hotel from 12:45 to 1:45 p.m. on Monday, April 10, and from 12:30 to 1:45 p.m. on Wednesday, April 12.

Tuesday's luncheon at the Marriott Marquis will run from 12:30 p.m. to 2:15 p.m. and will feature Jack Anderson, a Pulitzer Prize-winning journalist and Washington lobbyist, as a speaker.

Thursday's luncheon, also at the Marriott, will run from 12:30 p.m. to 2:15 p.m. and will feature Michael H. Mescon, dean of the College of Business Administration at Georgia State University in Atlanta.

More than 400 booths will make up the 1989 exhibition to be held at the Atlanta Merchandise Mart at 240 Peachtree St. N.W., which is located downtown near the RIMS hotel area. The exhibition will be open from Sunday, April 9, through Thursday, April 13.

Registration fees for the RIMS conference are \$595 for RIMS members and \$695 for non-members. Fees for a partial week are \$475 for members and \$575 for non-members. One-day registrants pay \$195.

Because attendance is limited, RIMS suggests participants register early. The registration deadline through RIMS is March 17. After that, attendees must register at the conference.

Late registrants are advised to call one of the eight RIMS hotels directly to reserve rooms at the special conference rates. The hotels are: Atlanta Hilton & Towers; Holiday Inn Downtown; Hyatt Regency Atlanta; Atlanta Marriott Marquis; Pierremont Plaza Hotel; Quality Inn-Habersham; Radisson Hotel Atlanta; and Westin Peachtree Plaza.

For more information, contact the RIMS Conference Department, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292. ■

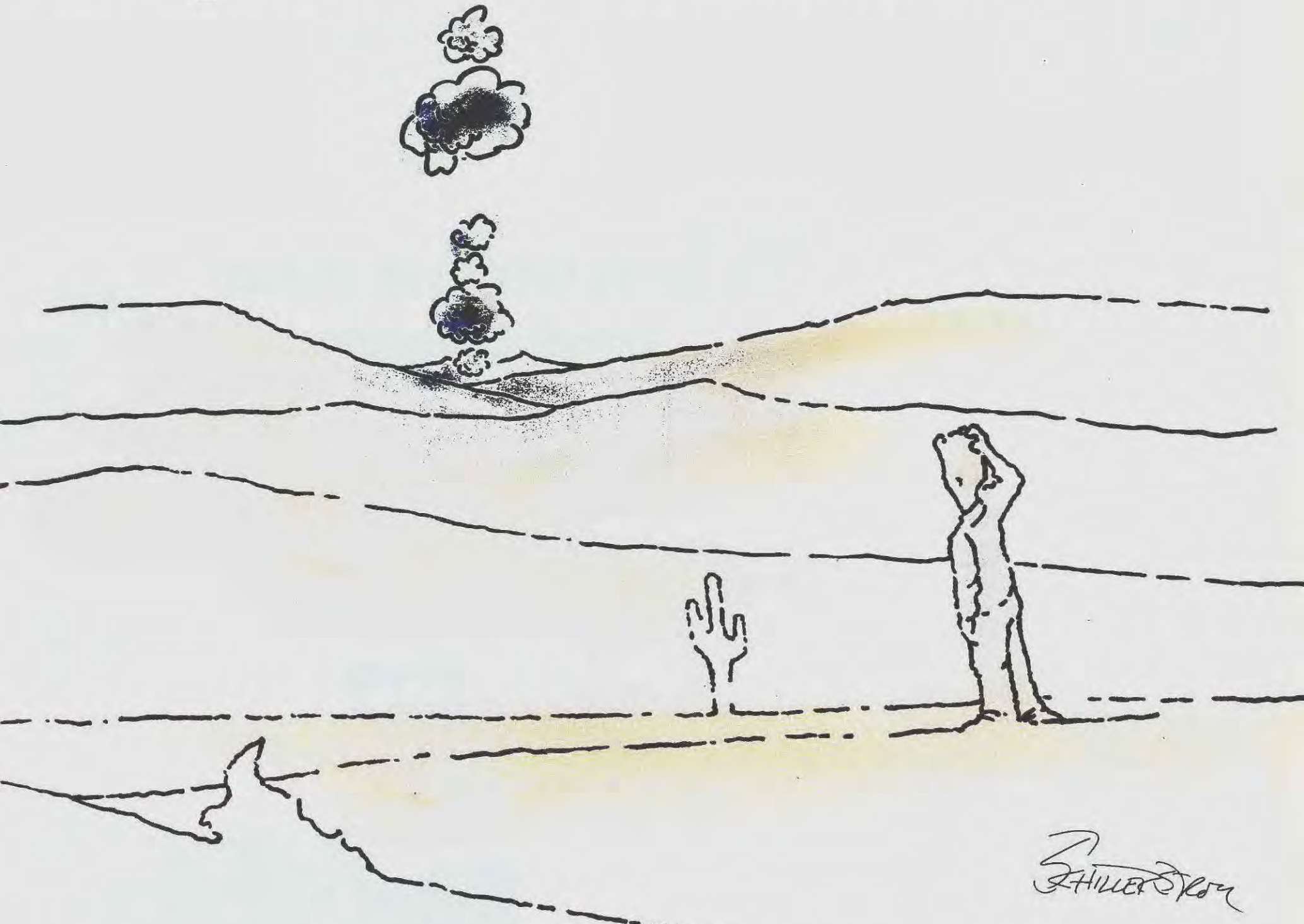
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# Kelly promoted to senior vp at Morgan

**William J. Kelly**, 39, promoted to senior vp of Morgan Guaranty Trust Co., the principal subsidiary of J.P. Morgan & Co. Inc., in New York. In this newly created position he oversees global risk management for J.P. Morgan, as well as corporate insurance, contingency planning, corporate policy, records

management and micrographics. Mr. Kelly, who joined J.P. Morgan three years ago, most recently served as vp. Prior to joining the financial services firm, he was director of insurance and risk management for Merrill Lynch & Co. Inc. in New York. He previously was a vp of Bankers Trust Co. in New York. Mr. Kelly holds a bachelor of arts degree in English from Fordham University in Bronx, N.Y., and a master of business administration degree from Fordham University Graduate School of Business. He has taught financial institution insurance at the American Institute of Banking and is a member of the insurance subcommittee of the American Bankers Assn.

\*\*\*  
**Douglas G. Hoffman**, 33, named senior vp of Bankers Trust Co. in New York. In this newly created position he is responsible for the risk management department and oversees the development of strategic opportunities for the bank in the insurance business. He reports to Charles H. Nobs, senior vp. Prior to joining Bankers Trust, Mr. Hoffman was principal and manager of the Stamford, Conn., office of the Tillinghast division of Towers, Perrin, Forster & Crosby Inc. In addition, he was editor of Tillinghast's Bank Risk periodical. Mr. Hoffman holds a bachelor of business administration degree in risk management and a master of business administration degree in risk management, both from the University of Georgia at Athens. In addition, he holds the Chartered Property & Casualty Underwriter and Associate in Risk Management designations.

\*\*\*  
**Barbara J. Rado**, 34, promoted to vp of special risks and business development in the risk management group of Citicorp in New York. In this newly created position she oversees risk management of special areas such as leasing and project financing, as well as developing new business for Citicorp's captives and brokerage subsidiaries. Ms. Rado reports to Raymond C. Olsen, vp-corporate insurance and risk management. Prior to joining Citicorp in 1986, Ms. Rado held various brokerage positions with Alexander & Alexander Services Inc. in New York and Detroit. She holds a bachelor of arts degree in liberal arts and a master of business administration degree, both from Temple University in Philadelphia. She also holds an advanced professional certificate in finance from New York University. In addition, Ms. Rado is a deputy member of the Risk & Insurance Management Society.

\*\*\*  
**Philip F. Urso** named senior insurance administrator at Grace Specialty Chemicals Co. in New York, a subsidiary of W.R. Grace & Co. In this position he is responsible for handling all insurance matters for Grace Specialty Chemicals and Grace Specialty Business, another W.R. Grace unit. He replaces **Philip C. Rorty**, who joined W.R. Grace as casualty risk manager. Mr. Urso reports to Leslie A. Scher, risk manager. Prior to joining Grace Specialty Chemicals, Mr. Urso was a

## Comings & goings: buyers

claims supervisor for CIGNA Insurance Co. in New York. He holds a bachelor of arts degree from Queen's College in Flushing, N.Y., and is working toward the Associate in Risk Management designation.

Also at Grace Specialty Chemicals: **Kevin W. O'Connell** named manager-loss control engineering. In this position he oversees all property loss control activities for Grace

Specialty Chemicals and Grace Specialty Business. He replaces **Wayne A. Griffiths**, who left the company, and reports to Leslie A. Scher, risk manager. Mr. O'Connell joined parent W.R. Grace in 1983 and most recently served as loss prevention director. Prior to that, he was a staff engineer at Arkwright Insurance Co. in Greenwich, Conn. Mr. O'Connell holds a bachelor of science de-

gree in civil engineering from Worcester Polytechnic Institute in Worcester, Mass., and a master of science degree in civil engineering from Polytechnic University in Brooklyn, N.Y. In addition, he is a registered Professional Engineer and holds the Associate in Risk Management designation.

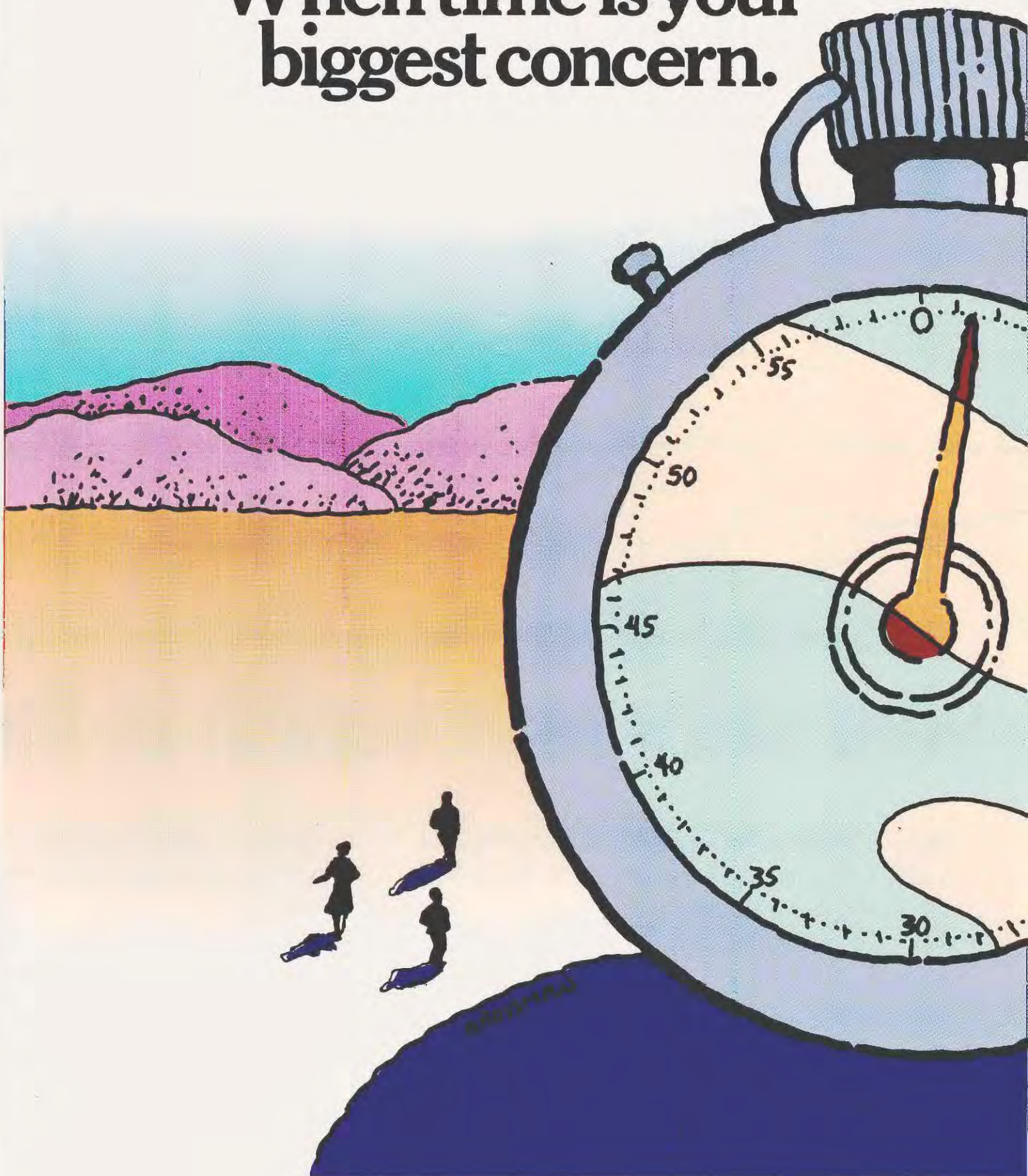
\*\*\*  
**Carla Bingham**, 27, promoted to risk management officer at Barnett Banks Inc. in Jacksonville, Fla. In this newly created position she is responsible for the administration

and coordination of Barnett's master risk management programs as well as the administration of workers compensation, property and liability claims. She reports to James M. Dineen, vp-risk management. Ms. Bingham, who joined the bank in 1984, most recently served as risk management analyst. She holds a bachelor of science degree in risk management from Florida State University in Tallahassee.

\*\*\*  
**Bart Canon Jr.**, 34, promoted to

*Continued on next page*

# When time is your biggest concern.



Continued from previous page  
director-risk management at Fleming Cos. Inc. in Oklahoma City. In this newly created position Mr. Canon oversees all risk management activities related to corporate insurance, which includes the procurement of property/casualty, workers compensation, truck and vehicle, directors and officers liability and all other corporate coverages. Mr. Canon reports to Roy Vickrey, vp-risk management, and Robert



Mr. Canon

Dolan, senior vp-ISD and risk management. Mr. Canon joined Fleming Cos., which is a wholesale food distributor with retail affiliates in 33 states, in 1987. In his most recent position with Fleming Cos., Mr. Canon served as risk manager. Prior to his joining Fleming Cos., Mr. Canon was insurance products manager at First Republic Bank Corp. in Dallas. Mr. Canon holds a bachelor of business administration degree in finance from Texas A&M University in College Station. In addition, Mr. Canon is a Certified Public Accountant.

\*\*\*  
**Mark D. Morrisett**, 30, promoted to vp of risk management at Thrifty Rent-A-Car System Inc. in Tulsa,

Okla. In this newly created position, Mr. Morrisett is responsible for the negotiation, coordination and implementation of all insurance programs for the worldwide car rental company. Mr. Morrisett reports to Bill Lobeck, president. Since joining Thrifty Rent-A-Car in 1984, Mr. Morrisett has held the post of director of risk management.



Mr. Morrisett

Mr. Morrisett holds a bachelor of business administration degree in finance from the University of Okla-

homa in Norman and a doctor of law degree from the University of Tulsa College of Law. Additionally, Mr. Morrisett serves on the board of directors of Motor Club of America in Newark, N.J., the parent company of MCA Insurance Co. In addition, Mr. Morrisett is a deputy member of the Risk & Insurance Management Society.

Also at Thrifty Rent-A-Car Systems: **Jim Milburn**, 44, and **Bob Sorrells**, 47, named claims managers. In these newly created positions, both men are responsible for claims handling between Thrifty's claims administrator and its insurers. Both Mr. Milburn and Mr. Sorrells report to Mr. Morrisett, vp-risk management. Mr. Milburn, in his

most previous position, served as risk manager for OTASCO Inc. in Tulsa, Okla. Prior to that he was risk manager for NICOR Drilling Inc. of Tulsa. Mr. Milburn holds a bachelor of business administration degree from the University of Tulsa. In addition, Mr. Milburn is an officer of the Tulsa chapter of the Risk & Insurance Management Society Inc. Mr. Sorrells, in his most previous position, was an assistant manager with Crawford & Co. in Tulsa. Mr. Sorrells holds a bachelor of science degree in marketing from Oklahoma State University in Stillwater. In addition, Mr. Sorrells is a member of the Tulsa Claims Assn. and holds the Associate in Claims designation.

We'd like to report on staff changes in your company's risk management, safety and employee benefits departments. Just drop a note to Paul Winston, Copy Editor, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590, or call 312-649-5442. Please be sure to include a photograph, too.

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## Prenatal care article addition

Due to a production error, paragraphs were dropped from page 76 of the article "Prenatal Care Gives Birth to Reduced Costs" (BI, Feb. 20). The omitted text, discussing utilization review for maternity care, follows:

One of the problems is that while the cost impact of a utilization review program, for example, "is readily evident, a wellness program's effectiveness is not as readily apparent," explained Dr. Joel Kavet, a principal of William M. Mercer Meidinger Hansen Inc. in New York.

Another problem is that "there's concern among employers about the appropriate way to communicate the issue of maternity," since dealing with a person's unborn child is a sensitive issue, stressed James R. Bennette, senior consultant with Corroon & Black Consulting Group in St. Louis.

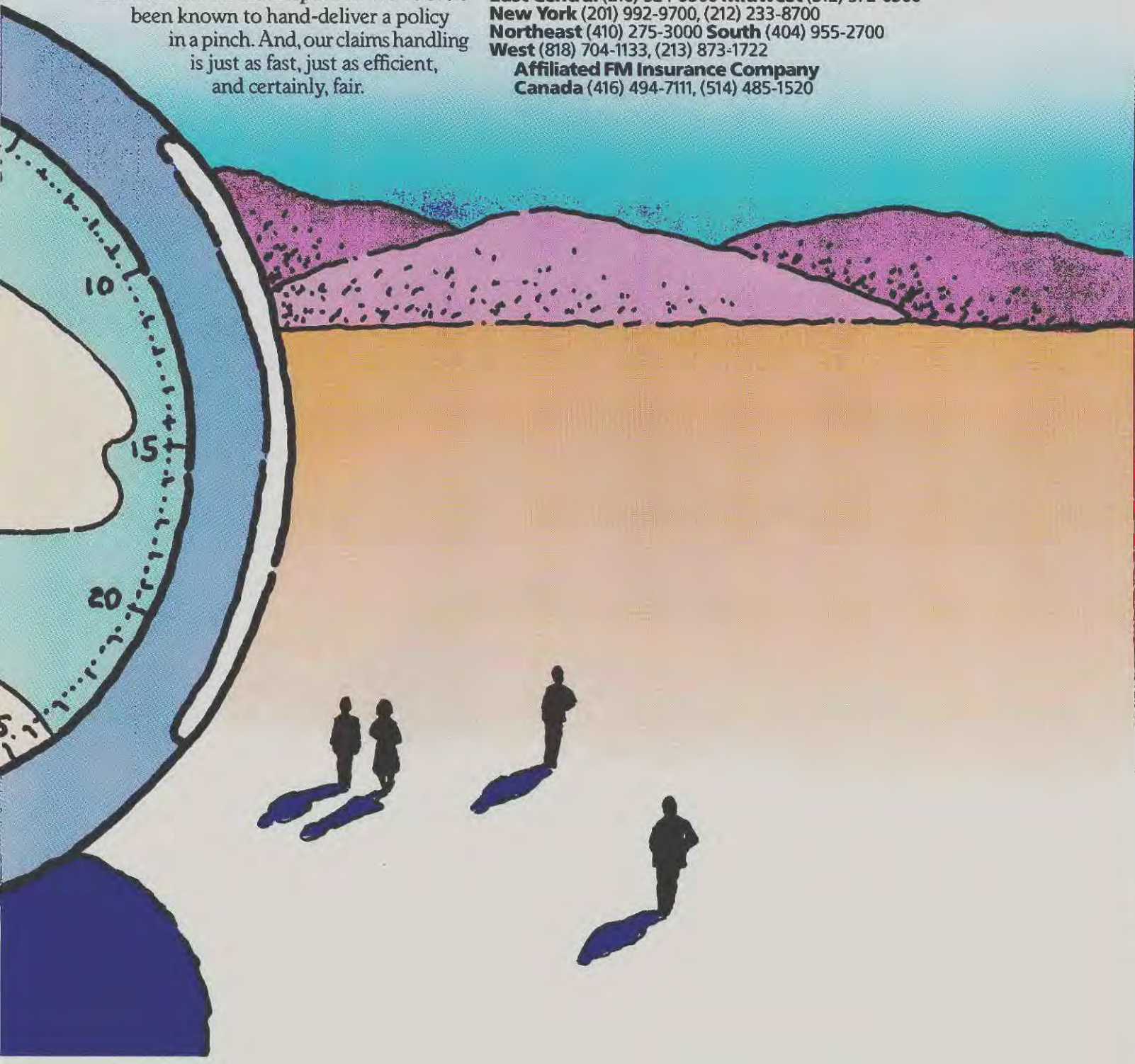
But there needs to "be a commitment within the organization" to demonstrate to employees that this is a serious issue," Dr. Kavet stressed.

An economist agreed. "If I were an employer, I would be very paternalistic in forcefully encouraging all of my pregnant employees and pregnant spouses of my employees to have adequate prenatal care and I would see to it that my insurance policy paid for that care," said Emily Friedman, an independent Chicago-based health policy analyst.

Burlington Industries Inc. of Greensboro, N.C., took this approach in a program it launched last October. According to Robert E. Garren, manager of group benefits, Burlington will waive \$100 of the deductible under its medical plan if a newly pregnant employee or dependant calls a toll-free number to speak to a nurse who works for its insurer, Provident Life & Accident Co. in Chattanooga, Tenn.

The nurse, who is available to provide answers to questions an expectant mother might have at any point in the pregnancy, will immediately send a packet of educational material describing the company's maternity program and providing information on pregnancy-related issues, Mr. Garren said.

And, if the woman does not already have a physician, Burlington will refer her to one. After a physician is located, the company sends the doctor a check directly each month to pay for her prenatal visits so that the woman does not have to bother with filing claims or paying for care upfront.



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## Info

• "Recordkeeping and Administration: Determining 1988's Highly Compensated Employees," a reprint that details the rules for identifying highly compensated employees in connection with the section 401(k) and 401(m) non-discrimination tests, is available from Kwasha Lipton. Among the tests discussed are the calendar-year calculation method and the special transitional method. For a free copy, write Barbara Hubert, Kwasha Lipton, P.O. Box 1400, Fort Lee, N.J. 07024.

• "AIDS Status and Future" is a booklet published by the Alliance of American Insurers discussing the reliability of current testing procedures for the disease, the status of state laws pertaining to AIDS and how property/casualty and life/health insurers are re-

sponding to the crisis. The publication is part of the Alliance's loss control series. Copies of Inventory No. LC DOL 1-1188 are available for \$8 each from the Order Department, Alliance of American Insurers, 1501 Woodfield Road, Schaumburg, Ill. 60173-4980; 312-330-8587.

• The Hartford Steam Boiler Inspection & Insurance Co. has published its "1989 Codes and Standards Training Catalog." Full course descriptions, dates, locations and fees are listed for all classes. Free copies are available from the company's engineering services division, 1 State St., Hartford, Conn. 06102; 800-243-0090.

• "Looking at Flexible Benefits Differently" offers tips to smaller and medium-sized employers—those with 200 to 2,000 employees—on setting up flex plans. The booklet, published by Northwestern National Life Insurance Co., also describes why employers are adopting flexible benefit plans and the importance of communicating with employees about benefit changes. The free booklet is available from NWNL Group, P.O. Box 20, Route 6525, Minneapolis, Minn. 55440; 612-342-7137.

• A new book to help employers combat drug use in the workplace is available from the U.S. Chamber of Commerce. "Drug Abuse in the Workplace: An Employer's Guide For Prevention," includes prevention programs for employers, a sample company policy regarding drug abuse and a supervisor's checklist on how to react to a workplace drug incident. The 121-page paperback costs \$20 for Chamber members and \$33 for non-members. Publication No. 6972 can be ordered by writing the U.S. Chamber of Commerce, Publications Fulfillment, 1615 H St. N.W., Washington, D.C., 20062.

• The International Foundation of Employee Benefit Plans offers a catalog of cassettes from 12 benefit conferences and institutes sponsored by the foundation and the International Society of Certified Employee Benefit Specialists in 1987. Topics available include fiduciary responsibility, health plans, pensions, benefit communications and public employee plans. Individual cassette tapes are \$8 for foundation members and \$10 for non-members. Discounts are available for multiple tape orders. The catalog is available free from Audiovisual Services, International Foundation of Employee Benefit Plans, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

• "Museums' and Galleries' Guide to Property Loss Control" is available from the Inland Marine Underwriters Assn. The report discusses the problems of valuing art pieces for insurance purposes and the risks that gallery managers face in the form of fire, water damage, temperature and humidity fluctuations, earthquake, ultraviolet light, insects and vermin, theft and vandalism. The free report is available from IMUA, 14 Wall St., New York, N.Y. 10005; 212-233-7959.

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**Participants include Vice President Dan Quayle  
and Ronald A. Pearlman, Joint Committee on Taxation**

**March 16-17, 1989**

**Omni Shoreham Hotel, Washington, D.C.**

## Wednesday, March 15

6:00 p.m. **Registration**  
6:00-7:00 **Welcoming Reception**

## Thursday, March 16

7:30 a.m. **Registration**  
7:30-8:30 **Coffee**  
8:30-8:45 **Welcome:**  
"Why Are We Here?"  
Richard S. Schweiker  
President  
American Council of Life Insurance

8:45-9:15 **Keynote Address:**  
Honorable Elizabeth H. Dole (Invited)  
Secretary of Labor

9:15-9:30 **Retirement Income Adequacy and Security: Challenges**  
Niels Christiansen  
Director of Research  
American Council of Life Insurance

9:30-10:30 **Retirement Income Adequacy and Security: Meeting the Challenges**  
Moderator:  
G. David Hurd  
President and CEO  
The Principal Financial Group

Panelists:  
Roger J. Thomas  
Partner  
Bell, Boyd & Lloyd  
Robert Walker  
Legislative Counsel  
American Association of Retired Persons  
G. Lawrence Atkins  
Minority Staff Director  
Senate Special Committee on Aging

10:30-10:45 **Questions and Answers**  
10:45-12:00 noon **Coffee Break**  
**Social Security, Private Retirement Savings and Capital Formation**  
Moderator:  
Bert Seidman  
Director, Department of Occupational Safety, Health and Social Security, AFL-CIO

Panelists:  
Michael C. Carozza  
Deputy Commissioner for Policy and External Affairs  
Social Security Administration  
Robert Ball  
Former Commissioner of Social Security  
Michael Boskin (Invited)  
Chairman  
Council of Economic Advisors  
Laurence J. Kotlikoff  
Professor of Economics  
Boston University

**Questions and Answers**

12:00 noon-1:45 p.m. **Luncheon and Address:**  
Senator John Heinz (R. PA)  
(Invited)  
Ranking Minority Member,  
Senate Special Committee on Aging; Senate Finance Subcommittee on Private Retirement Plans and Oversight of the IRS

2:00-3:15 **Budget Deficit and Impact on the Private Pension System**  
Moderator:  
Kevin P. Flatley  
Vice-President, Employee Benefits American Express

Panelists:  
Ronald A. Pearlman  
Chief of Staff  
Joint Congressional Committee on Taxation  
Barry Bosworth  
Senior Fellow  
Brookings Institution  
Rudolph Penner  
Senior Fellow  
Urban Institute

**Questions and Answers**

3:15-3:45 **Address**  
Congressman William L. Clay  
(D. MO)  
Chairman, Subcommittee on Labor-Management Relations  
House Committee on Education and Labor

3:45-4:00 **Coffee Break**  
4:00-5:15 **Closing the Coverage Gap**  
Moderator:  
John J. Fleming  
Administrative Director  
International Health Benefits and Pension Fund  
Bakery and Confectionery Union and Industry

Panelists:  
Emily Andrews  
Director of Research  
Employee Benefits Research Institute  
Frank Swain  
Chief Counsel for Advocacy  
U.S. Small Business Administration  
Judith F. Mazo  
Consultant  
National Coordinating Committee on Multi-Employer Plans

**Questions and Answers**

5:30-6:30 **Reception**  
6:45 p.m. **Dinner**  
Address: "The Wit and Wisdom of Mark Shields"  
Mark Shields  
Political Commentator  
Nationally Syndicated Columnist

## Friday, March 17

8:00 a.m. **Registration**  
8:00-8:30 **Coffee**  
8:30-8:45 **Welcome**  
Robert D. Krinsky  
President  
Martin E. Segal Company  
Chairman, Association of Private Pension and Welfare Plans

8:45-9:15 **Address**  
John T. Joyce  
President, International Union of Bricklayers and Allied Craftsmen  
Vice President, AFL-CIO

9:15-10:15 **Labor/Management Perspectives Regarding Retirement Income Policy**  
Moderator:  
Scott Spencer  
Senior Vice-President, Pension Financial Management Group  
Equitable Society;  
Chairman, ACLI Pension Committee

Panelists:  
David Marshall  
Vice-President, Employee Benefits  
RJR Nabisco  
Meredith Miller  
Employee Benefits Specialist  
AFL-CIO

**Questions and Answers**

10:15-10:45 **Address**  
Vice President Dan Quayle

10:45-12:00 noon **Pension Assets in the American Economy**  
Moderator:  
David M. Walker  
Assistant Secretary, Pension & Welfare Benefits  
U.S. Department of Labor

Panelists:  
Sarah Teslik  
Executive Director  
Council of Institutional Investors  
Robert E. Schultz  
Member, Executive Committee  
Committee on Investment of Employee Benefit Plan Assets  
Gary McAdams  
Director of Economic Collective Bargaining Services  
Department  
International Union of Electrical Workers

12:00 noon-12:30 **Conference Perspectives**  
Howard Weizmann  
Executive Director  
Association of Private Pension and Welfare Plans

12:30 **Adjournment**

**To register, call the ACLI Meetings Department at (202) 624-2407. Cost of the Forum is \$390, non-refundable. Hotel reservations should be made directly with the Omni Shoreham Hotel, Washington D.C. (202) 234-0700.**

# California to assess insurers \$130 million

LOS ANGELES—The California Insurance Guarantee Assn. will have to raise about \$130 million from insurers this year to pay claims against insolvent insurers, according to Executive Director John Gates.

The insolvent insurers are Van Nuys, Calif.-based Coastal Insurance Co., which wrote personal auto insurance and was declared insolvent last month; Des Moines, Iowa-based American Excel Insurance Co., which also wrote mainly personal auto insurance and became insolvent in 1988; Great Falls Insurance Co. of San Francisco, which wrote specialty lines like physical damage for automobile dealers and became insolvent last year; and Reliable Insurance Co. of Cleveland, which also wrote personal auto insurance and became insolvent last year. Reliable had stopped writing in California three years ago, he noted.

Total claims for Coastal amount to between \$80 million and \$100 million, while total claims for all of the other insolvent insurers amount to about \$30 million, Mr. Gates said.

The maximum allowable assessment per insurer under state law is 1% of total annual premium, he said. However, he could not estimate what the assessments would be for 1989, adding that these figures will not be available until September.

The fund assesses insurers in three classes: automobile, workers compensation and insurers of all other types of coverage. Currently, 525 insurers participate in the guaranty fund.

Since the creation of CIGA in 1969 until 1985, the fund typically assessed insurers an average of 0.1% of total annual premium.

However, after the 1987 insolvency of Mission Insurance Co. of Los Angeles, the fund assessed workers comp insurers and insurers of all other types of coverage a total of \$230 million for 1987, which was equal to 1% of total annual premium written by the insurers. The same classes of insurers paid a total of about \$150 million in guaranty fund assessments in 1988, he said.

Assessments were not imposed on auto insurers during those years, he said.

CIGA currently has enough funding to pay \$700 million in claims.

"We can handle what we need to pay now. But, we must do something about insurer insolvencies. We have to beef up the examinations of insurers," Mr. Gates warned.

—By Donna DiBlase

## Med mal surcharge

HARRISBURG, Pa.—The Pennsylvania Insurance Department and the Pennsylvania Medical Society have settled on a surcharge health care providers in the state must pay on their primary malpractice premiums to finance a catastrophic loss fund.

The 1989 surcharge has been set at 59.5%, which is 1.5 percentage points less than the 1988 rate of 61%, and 6.5 percentage points less than the 66% surcharge originally sought by the Insurance Department.

The settlement came after the Pennsylvania Medical Society challenged the Insurance Department's original 66% proposal.

Visiting Judge William W. Lipsitt ruled that the surcharge should be reduced in 1989 because of a surplus in the fund, and directed the state Insurance Department to establish another surcharge rate.

The 59.5% surcharge was approved Jan. 12 by the state's Com-

## Around the states

monwealth Court.

The Pennsylvania Medical Professional Liability Catastrophe Loss Fund provides \$600,000 excess of \$200,000 in per occurrence limits for doctors and \$800,000 excess of \$200,000 for hospitals.

All Pennsylvania health-care providers defined by the fund must have a \$200,000 per-occurrence primary layer of medical malpractice coverage, unless self-insurance is approved. A self-insurer also is assessed the surcharge, based on what the insurance premium would have been.

The 1976 law creating the fund requires that a \$15 million reserve be maintained.

Elizabeth Metz, assistant general counsel for the Pennsylvania Medical Society in Harrisburg, said the dispute arose because "the balance (in the fund) was over \$52 million, so there was a \$37 million surplus and they should've used the full \$57 million to reduce the 1989 surcharge."

The 59.5% rate takes effect immediately and applies to all primary policies effective on or after Jan. 1, said an Insurance Department spokeswoman.

According to Insurance Department calculations, the new surcharge will generate about \$147 million for the catastrophe fund. At 66%, the fund would have col-

lected approximately \$163 million.

—By Christine Woolsey

## Non-competitive lines

RICHMOND, Va.—The State Corporation Commission has identified 14 lines of commercial liability insurance as "potentially non-competitive" in its 1988 report to the Virginia General Assembly.

This is the second annual report filed by the commission in compliance with insurance legislation adopted during the 1987 session, bringing to 31 the total number of lines identified as non-competitive in the state.

Virginia insurers writing the lines and subclassifications designated as potentially non-competitive are required to file supplemental reports by May 1, including

premium and loss information and data indicating the degree of rate variance within the designated classifications.

The commission will examine the information to determine whether competition is effectively regulating insurance rates in the 14 lines of liability insurance.

In a hearing to be held before Sept. 30 the commission will indicate which lines still appear to be potentially non-competitive. Insurers writing those lines will be required to file any rate changes 60 days prior to implementation.

The Virginia General Assembly passed the 1987 law in response to the unavailability of certain lines of commercial liability insurance.

"This really puts up a yellow flag, starts the process of the SCC

Continued on next page



Continued from previous page looking at these lines more closely and determining whether competition is in fact working in those lines in Virginia," said Ken Schrad, assistant director at the SCC.

Insurers that missed the May 1 filing deadline last year were fined \$500 for every two weeks their supplemental reports were overdue, he said.

"We expect insurance companies to do a much better job of meeting the filing date because they took a lot of heat from the General Assembly and the SCC last year," Mr. Schrad added.

Reaction from insurance industry groups to the Virginia law is generally favorable, despite the added burden of filing supplemental forms.

James Roberts, counsel for the American Insurance Assn. in Richmond, Va., said providing more information to the commission will give insurers an opportunity show

their critics that the industry is competitive and does not need more regulation.

The 14 lines and subclassifications recently designated as potentially non-competitive are:

- Asbestos abatement contractors liability.
- Dams (existence hazard) liability.
- Private detective or investigative agencies liability.
- Gas companies liability.
- Landfill liability.
- Public officials errors and omissions liability.
- Rental stores machinery and equipment liability.
- School board errors and omissions liability.
- Security and alarm systems installation liability.
- Security guards liability.
- Sewage treatment plants liability.
- Underground storage tanks liability.
- Volunteer fire departments

and rescue squads liability.

- Water treatment plants liability.

—By Christine Woolsey

## Surety bond program

NEW YORK—The New York Insurance Department, in conjunction with the Surety Assn. of America, has developed a review program designed to help qualified minority and women contractors obtain surety bonds.

Under the program, administered by the association and monitored by the Insurance Department, surety underwriters will conduct a speedy review—at no charge to the contractor—of any bond application the contractor believes has been unfairly rejected.

Working directly with the contractor, a surety expert will provide specific advice, evaluate the reasons for the rejection and, in appropriate cases, seek reconsideration of the application from the

surety company.

"Minority contractors have a tough time obtaining bonds," often a prerequisite for entry into the construction industry mainstream, especially public works, said Richard Hsia, deputy superintendent of insurance for New York.

"The number of small contractors that have been denied in the past are quite high according to concerned observers," Mr. Hsia said, attributing the problem partly to limited understanding on the contractor's part of the elaborate underwriting process.

Through the program, qualified small contractors should be able to obtain payment and performance bonds, while those not yet qualified will gain better guidance and understanding of qualification standards, Superintendent of Insurance James P. Corcoran said in a statement. However, he emphasized that the program "can only help those willing to bring their particular situations" to the de-

partment's attention.

Minority or women contractors who encounter difficulty in obtaining surety bonds should contact Senior Insurance Examiner John Treiller in the Casualty and Insurance Bureau of the Insurance Department at 160 W. Broadway, New York, N.Y. 10013; 212-602-0541 within New York City; or 800-522-4370 outside New York City.

—By Collin Nash

## Regulators named

JEFFERSON CITY, Mo.—The state Senate approved the appointment of William A. Bennett as director of the Missouri Insurance Division late last month.

Prior to his appointment, Mr. Bennett worked 26 years in Aetna Life Insurance Co.'s employee benefits operations. Since 1980, he was assistant manager in the company's St. Louis office.

Mr. Bennett, 49, holds a bachelor's degree from Westminster College in Fulton, Mo., and is a member of the American College of Life Underwriters.

He succeeds Lewis Crist, who resigned last fall (BI, Nov. 14, 1988).

Larry Call, who served as acting director in the interim, has resumed his post as the division's deputy director of operations.

In other state regulator changes:

- Hanley Clark, 38, has been named commissioner of the West Virginia Insurance Department.

Mr. Clark served as acting commissioner since last July, after the resignation of Commissioner Fred Wright (BI, Aug. 1, 1988). He has worked for the Insurance Department since 1981, holding the posts of assistant to the commissioner and deputy insurance commissioner.

Mr. Clark holds a master's degree in history from West Virginia University in Morgantown, W. Va.

- Bettye Foy, chief deputy commissioner of the Indiana Department of Insurance, was recently named acting commissioner of the department after Commissioner Harry Eakin resigned.

Ms. Foy joined the department 10 years ago as a consultant in the consumer services section. Before that, she worked for more than 10 years in the Indianapolis claims department of the Formost Group of Insurance Cos. of Niles, Mich.

—By Meg Fletcher

## AIDS regulations

ALBANY, N.Y.—Life and health insurers in New York must obtain signed authorizations and informed consent forms before seeking confidential AIDS-related information or requiring HIV-related tests from policy applicants, the New York Insurance Department has announced.

In a recent letter to insurers, the New York department advised that state law outlines specific conditions and requirements for obtaining information relating to acquired immune deficiency syndrome and the human-immunodeficiency-virus infection.

Under Chapter 584 of the state's Laws of 1988, effective Feb. 1, insurers cannot request or require an individual seeking insurance coverage to be subjected to HIV-related tests without first receiving a written consent from the individual and without providing general information about AIDS and the transmission of the HIV infection.

Under another provision of Chapter 584, health care providers are prohibited from releasing confidential HIV-related information obtained in the course of providing any health or social service, except to specified entities. And, insurers must first secure a dated and written authorization from the individual.

—By Collin Nash



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## Products & services

Continued from previous page

The program places into two groups a client's HMO and indemnity participants, he said. Based on the demographics of the employee population in each plan, the program compares expected health care costs of each population with the federal health plan data base.

Garner Consulting will quantify the impact of adverse selection on an employer's health care program and suggest corrective measures for a flat fee of \$1,000 plus expenses.

For more information, contact Garner Consulting, 510 S. Marengo Ave., Pasadena, Calif. 91101; 818-440-0969.

### Long-term care

CNA Financial Corp. is offering a new group long-term care pro-

gram.

CNA offers the program to employer groups as small as 1,000 and to younger participants with benefits starting as early as age 55, said Richard W. Garner, vp of CNA's health care and pension product management division.

The program also is available to employees' spouses and parents as well as to retirees and their spouses, Mr. Garner said.

Depending upon the employer's location, it may be eligible to choose from up to three indemnity options that CNA offers in that particular region. The indemnity options of each region vary according to health care costs.

If the employer is given more than one indemnity option, it may choose which option its employees receive or leave the choice up to each policyholder.

The lifetime maximum, which is determined by the employer, applies to each policyholder in the group.

Benefits are paid for care provided at home, in a nursing facility or by an adult day care center.

To guard against inflation, an automatic benefit increase provision is available. The provision increases the original daily indemnity reimbursement by 5% each year for 10 years, regardless of the actual increase in the Consumer Price Index. The lifetime maximum benefit also increases proportionately.

Premiums for the program vary based on the age of the employee, according to Mr. Garner. For example, a typical plan would cost a 45-year-old employee about \$20-\$30 a month, while the premium for a parent or retiree might be \$150-\$200 a month, he explained.

For more information contact Lynn Clark, Special Risk Division, CNA Financial Corp., CNA Plaza,

Chicago, Ill. 60685; 312-822-2005.

### Pet groomers cover

A property and liability insurance program designed to meet the needs of pet groomers is now available through The Travelers Insurance Co.

Available in all states except Texas, Hawaii and Alaska, the PET GROOMERS insurance plan offers protection for pet groomers' equipment, supplies, business papers and records in the event of damage, destruction or theft.

In addition, the policy includes professional liability coverage for injury to an animal caused by rendering or failing to render a service and an animal liability protection that covers damage to or the escape of animals in a groomer's care or custody.

The newest addition to The Travelers' series of small business multiperil policies, the PET GROOMERS policy also offers

property and liability coverages for groomers' facilities. The property coverage for example, insures buildings in case of fire, windstorm, sonic boom or sprinkler leakage, while the liability portion protects groomers faced with lawsuits or claims that they may be legally obligated to pay.

With property and liability limits up to \$1 million, the policy covers full replacement costs of building contents and loss of income for one year, with minimum deductibles of \$250 for theft and \$100 for all other claims.

For more information contact Rosanne M. Hennessey, Business and Public Relations, The Travelers Corp., 1 Tower Square, Hartford, Conn. 06183-1060; 203-277-9101.

### Books and videos

A **medical legal issues** workbook is being offered by the Accreditation Assn. for Ambulatory Health Care. Topics covered in the 300-page manual include risk management, federal legislation, regulations affecting ambulatory care, quality assurance and utilization review and antitrust. Contributors to the manual include physicians, health care executives, lawyers, government representatives and other health care experts. The workbook is \$75. Only prepaid orders are accepted and can be sent to the Accreditation Assn. for Ambulatory Health Care Inc., 9933 N. Lawler Ave., Skokie, Ill. 60077-3702.

The seventh edition of "**Dangerous Properties of Industrial Materials**" has been released. The three-volume set is a guide to hazardous substances—what they are, how to handle them safely and what to do in case of emergency. The books, which contain more than 3,500 entries, cost \$375 plus local sales tax. To order, write to Van Nostrand Reinhold, Mail Order Department, P.O. Box 668, Florence, Ken. 41022-9979.

The ASFE Loss Prevention Test Kit, a 60-page publication designed to help firms **assess the loss prevention knowledge of prospective employees or new hires**, has been published by the ASFE/Assn. of Engineering Firms Practicing in the Geosciences. The kit is particularly suited for civil engineering firms, as well as those specializing in various disciplines associated with the applied geosciences. To order, send \$50 to ASFE, 8811 Colesville Road, Suite G106, Silver Spring, Md., 20910; 201-565-2733.

The American Bar Assn.'s Section of Tort & Insurance Practice has published "**Law and Practice of International Insurance Collections and Insolvency**," a collection of 21 papers about what has become a multibillion-dollar problem for the insurance industry—the **collection of reinsurance payments and the insolvency of reinsurers in the United States and abroad**. The book focuses on the law in the United States, England and Bermuda. The book is available for \$89.95, plus \$2.50 per order for handling. Practice section members can purchase the book for \$79.95, plus the handling charge. To order, contact the ABA, Order Fulfillment 519, 750 N. Lake Shore Drive, Chicago, Ill. 60611.

"Setting Up a Risk Management Program," and "What Every Supervisor Needs to Know About Risk Management," two 30-minute training videos, have been produced by PRIMA VISION, the videotape division of the Public Risk Management Assn. Both videos are presented by Peter E. Potemkin, manager of safety services for the Texas Municipal League Self Insurance Funds. Both tapes are available from PRIMA, 1120 G St. N.W., Suite 400, Washington, D.C. 20005; 202-626-4650 for \$50, plus \$2 handling.

# SPEAKING OF NORTHLAND



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# Risk Retention Act 'war stories' sought

By DEBORAH SHALOWITZ

## Washington

WASHINGTON—Have state regulators tried to unfairly or unlawfully interfere with your risk retention group or risk purchasing group?

If so, the Commerce Department wants to know.

In a notice published Feb. 24 in the Federal Register, the department said it wants to know the extent to which risk retention groups and risk purchasing groups have been discriminated against under state laws, practices and procedures that are contrary to the federal Risk Retention Act.

Those comments will be incorporated in a September report the department is preparing on the implementation of the 1986 amendments to the Risk Retention Act.

The report will be the second the Commerce Department will make to Congress about the Risk Retention Act.

In its first report, which was submitted to Congress in 1987, the Commerce Department said the Risk Retention Act should be amended to clarify that only one state has the authority to impose its insurance laws and requirements on insurers of nationwide risk purchasing groups (BI, Oct. 5, 1987).

The new Commerce Department report also will report on:

- The extent to which the Risk Retention Act has resolved the problems of unavailability and unaffordability of liability insurance.
- The extent to which the public is protected from unsound financial practices and other abuses involving risk retention groups and risk purchasing groups.
- The causes of any financial difficulties of risk retention groups and risk purchasing groups.

Comments should be sent by June 1 to Edward T. Barrett II or Jane W. Molloy, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Room 4858, Washington, D.C. 20230; 202-377-2101 or 202-377-5926.

### Punitive damages brief

The Supreme Court should reverse an appellate court decision

upholding a \$6 million punitive damage award against a waste disposal company because of a constitutional prohibition against excessive fines, argues a brief submitted to the high court by attorneys for the company.

The brief was filed by attorneys in the Washington, D.C., office of Mayer, Brown & Platt for petitioners in the case of *Browning-Ferris Industries of Vermont Inc. and Browning-Ferris Industries Inc. vs. Kelco Disposal Inc. and Joseph Kelley*.

At issue in the case is whether a \$6 million punitive damage award against Browning-Ferris for allegedly attempting to monopolize the

waste disposal market in Burlington, Vt., violated the 8th amendment's excessive fines clause (BI, Dec. 12, 1988).

The \$6 million in punitive damages is more than 100 times the \$51,146 in compensatory damages awarded by a federal court jury in 1987.

"It is impermissible to uphold a punitive damages award solely or substantially on the basis of a corporate defendant's size, as the court of appeals did here," the brief states. "To begin with, it is incorrect to assume that size-based awards are reasonably necessary to achieve appropriate levels of deterrence or punishment.

"But more important, as this case shows, exclusive focus on the amount of the defendant's income or net worth serves merely to encourage appeals to prejudice, provincialism and caprice on the part of the jury and leads to preposterous windfalls for plaintiffs," the brief continues.

"It is no mystery why the modern-day process of awarding punitive damages produces exorbitant sanctions," the brief says. "None of the checks that ordinarily guard against arbitrary and irrational governmental decision-making are present."

For example, "for all practical purposes, juries are given no standards to follow in making their determinations," the brief states. And juries do not have to explain the amounts they choose to award,

the brief notes.

Thus "juries are given essentially plenary power to determine whether and in what amount to mulct a defendant in punitive damages: the only upper limit is, literally, the jury's imagination," the brief states.

"In no other context does the law countenance such an arbitrary exercise of governmental power," the brief concludes.

A group of business associations, including the Risk & Insurance Management Society Inc., filed an amicus curiae brief in support of Browning-Ferris several weeks ago (BI, Feb. 13).

### New APPWP board

Four new members are joining  
*Continued on next page*



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# Architects' risk group predicts growth

NORTHBROOK, Ill.—Architects & Engineers Insurance Co. expects to nearly double its premiums and add as many as 17 new shareholders this year.

The Delaware-domiciled risk retention group's growth has been dampened somewhat by the soft commercial insurance market, said C. Roy Vince, a vp of AEIC. "There was a softening of the market and we have not followed the market down," he said.

AEIC currently has 28 architectural and engineering firm shareholders that purchase up to \$5 million in professional liability insurance. In 1988, those firms paid a total of \$4.7 million for the coverage.

"Up until the time we saw the marketplace butt heads once more in the rush for lower premiums, we were predicting 60 firms," Mr. Vince said of AEIC's membership. "We're looking more realistically at \$7.5 million in surplus by 45 firms, with \$7 million to \$8 million in premiums."

## Risk retention roundup

AEIC currently has a surplus of \$4.6 million.

The risk retention group, which wrote its first policy in January 1988, writes the coverage on a quota-share basis with Progressive Casualty Co. of Cleveland. AEIC and Progressive each take 50% of the first \$3 million of limits. Progressive writes up to \$2 million in coverage above \$3 million. All policies are written by Progressive (BI, Sept. 7, 1987).

Two firms have purchased \$5 million limits, another has a \$3 million limit and the remainder have \$2 million in limits.

Policyholders assume deductibles according to firm size. The minimum deductible is \$25,000 and the maximum is \$3 million.

Mr. Vince said reserves of \$80,200 have been set aside for 1988 losses and AEIC's portion of that reserve is \$45,982.

Participation in AEIC requires firms to show they meet loss control and safety requirements established by the insurer and monitored by industry veterans.

"We take the gray beards from the construction industry and bring them into the member firms," he explained. "They analyze the management structure, qualifications of personnel, their compensation package" and other areas, he said.

Firms seeking membership must improve on any areas targeted by AEIC and must show a responsibility for loss prevention, he added.

A loss prevention manual written by the American Society of Civil Engineers is provided to members with the suggestion that it be used as a source for developing safety and loss control guidelines.

—By Michael Bradford

## Washington

Continued from previous page  
the board of the Assn. of Private Pension and Welfare Plans.

The APPWP represents more than 400 companies, banks and insurers as well as law, accounting, consulting and actuarial firms.

Jon S. Brightman, senior vp of Harris Trust & Savings Bank in Chicago, replaces John Cooper of the Harris Bank, who has retired.

Mr. Brightman heads the institutional trust group at the Harris Bank and is responsible for trust services to pension and profit sharing clients.

Mr. Brightman previously has served as a consultant for William M. Mercer Meidinger Hansen Inc.; manager of the retirement department of the Air Line Pilots Assn.; and portfolio manager of the investment department of the Travelers Insurance Co. He is a graduate of Bowdoin College.

Susan Koralik, a partner with Hewitt Associates in Lincolnshire, Ill., replaces Robert Ready of Hewitt on the APPWP board.

Ms. Koralik consults on the design of total compensation programs, especially flexible compensation. Previously she served as manager of Hewitt's New York regional office. She is a graduate of Miami University and holds a master of business administration degree from Northwestern University.

Michael Mahoney, a consulting actuary with Milliman & Robertson in New York, replaces Frederic T. Lhamon of Milliman & Robertson on the board. His primary area of expertise is pensions. He is a graduate of St. John's University.

Ann Watson, western region director for Fred S. James & Co. in San Francisco, replaces Richard Seiden on the APPWP board.

Ms. Watson serves as the chief legal advisor on employee benefits law to James operations in the western United States. Previously, she was general counsel, assistant vp and secretary of Crump Cos. Inc. of Memphis, Tenn., and as a senior associate with Rosenfield, Borod & Kremer of Memphis.

Ms. Watson holds a doctor of law degree from Memphis State University.

## OPIC has record year

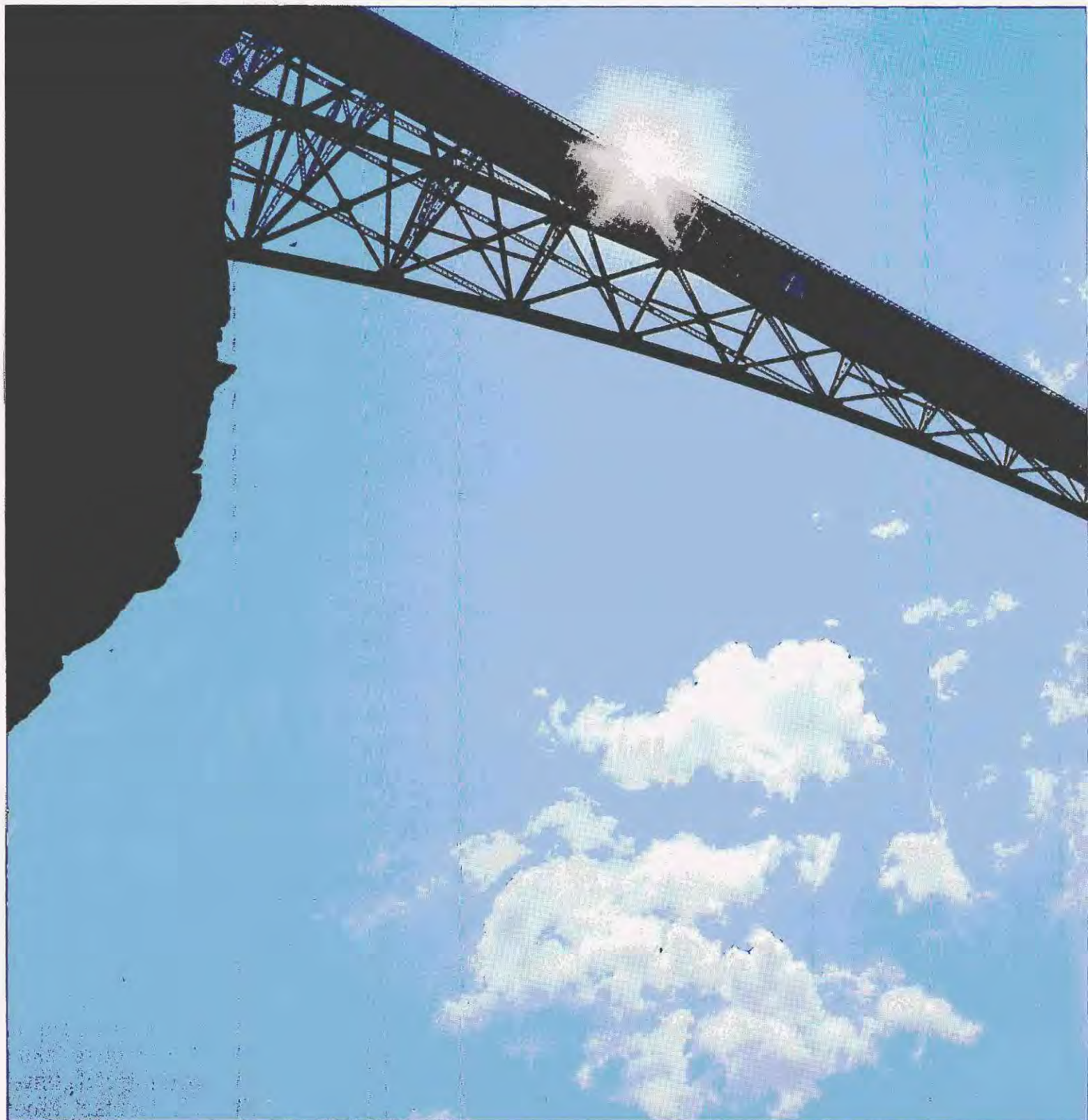
The Overseas Private Investment Corp. had another record year in fiscal 1988, which ended Sept. 30.

OPIC, the federal agency that provides political risk insurance and finance services to U.S. companies investing in developing countries, reported a record \$112.3 million in net income for fiscal 1988, up 10% from \$102 million in fiscal 1987.

Capital and reserves hit a record \$1.3 billion in fiscal 1988, up 8.3% from the previous year's record of \$1.2 billion.

Premiums, however, fell 3.5% to \$30.7 million in fiscal 1988 from \$31.8 million in fiscal 1987. ■

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# Multiemployer pension funding slips

By LAURA MALT

NEW YORK—The number of multiemployer pension plans that are fully funded is slipping, but most plans remain well-funded, according to a new survey.

Seventy-eight percent of the 483 multiemployer pension plans surveyed in 1988 by New York-based benefit consultant Martin E. Segal Co. were fully funded, down from 82% in 1987.

A pension plan is fully funded when it has sufficient assets to pay benefits promised to vested work-

ers and retirees.

Segal executives say many factors account for the slight decline in the number of fully funded multiemployer pension plans, including the effect of the October 1987 stock market crash, declining interest rates, the terminations or mergers of several fully funded plans and benefit improvements.

For example, 50% of surveyed plans had sweetened pension benefits since the 1987 Segal survey.

While the percentage of fully funded plans dipped, the average ratio of assets to vested pension

benefits remained steady between 1987 and 1988 at 96%. In 1983, the ratio was 90%.

And, just 1.4% of plans were less than 50% funded for vested benefits last year, a slight improvement from 1.6% in 1987 and a significant drop from 5.2% in 1983.

The 483 multiemployer plans surveyed represent about 25% of the nation's 2,000 multiemployer plans.

The surveyed plans, all Segal clients, range in size from less than \$1 million in assets to more than \$1 billion in assets.

The plans surveyed have aggregate assets of \$44 billion, up from \$38 billion in 1987, and provide coverage to almost 3 million participants.

Some plans had fewer than 100 participants, while others had more than 100,000 participants.

Under a multiemployer pension plan, many employers and a labor union within a particular industry take joint responsibility for one pension plan.

For employers, multiemployer pension plans are attractive because they are a means to provide a

uniform benefit schedule in a competitive industry.

For workers, a multiemployer pension plan allows them to remain in a single plan while moving from one company to another within the same industry.

The funding levels of these plans are of vital importance to employers that contribute to the programs. Under the Multiemployer Pension Plan Amendments Act of 1980, employers that leave underfunded multiemployer pension plans are liable for a share of the plans' promised but unfunded benefits—known as withdrawal liability.

As in past years, the Segal survey showed a general reverse correlation between plan size and funded levels, with the larger plans generally not as well-funded as smaller plans.

"Larger plans often have multiple benefit levels and allow participants to move freely to a higher one. If the higher benefit level is applied to all service, as it frequently is, liabilities increase immediately, but it takes some time for the increased contributions to accumulate matching assets," the survey noted.

The survey shows that 90% of the 99 plans with fewer than 500 participants were at least 100% funded, while just 34, or 64%, of 53 plans with more than 10,000 participants were at least 100% funded.

Similarly, just one plan with fewer than 500 participants was less than 50% funded, while four plans with more than 10,000 participants were less than 50% funded.

A total of seven plans were less than 50% funded.

Among plans with between \$5 million and \$10 million in assets—the second-smallest category tracked—55, or 90%, of 61 plans were fully funded in 1988. But, 48, or 72%, of 67 plans with assets between \$50 million and \$100 million—the second-largest asset bracket—were fully funded in 1988.

About 76% of both the largest plans—those with more than \$100 million in assets—and the smallest plans—those with less than \$5 million in assets—were at least fully funded last year, according to the survey.

Among individual industries surveyed, the lowest funding level was found in the transportation industry. The average funded ratio, or ratio of assets to vested benefits, for multiemployer pension plans in the transportation industry last year was 89.1%, down from 93.2% in 1987.

At the other end of the spectrum, all of the surveyed multiemployer plans in the entertainment industry were fully funded in 1988, unchanged from 1987.

The funded ratios of surveyed multiemployer pension plans in other industries include:

- 97.3% in 1988 for construction industry plans, down from 97.5% in 1987.

- 96.3% for manufacturing industry plans, unchanged from 1987.

- 96.8% for retail trade industry plans, down from 96.9% in 1987.

- 96.6% for services industry plans, down from 97.4% in 1987.

Plans not grouped by specific industrial category reported a 90.2% funded ratio in 1988, up from 88% in 1987.

Free single copies of the 1988 "Survey of the Funded Position of Multiemployer Plans" are available from Mary Feldman, director of public affairs, Martin E. Segal Co., 730 Fifth Ave., New York, N.Y. 10019; 212-586-5600.

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**CIGNA**

# Fighting fires

## Loss control for multinationals begins at home

By Douglas N. Smith

IT'S NO SECRET that U.S.-owned foreign assets are going up in smoke every day. And, just as fires adversely affect corporate property insurance programs, personnel accidents and liability suits regularly afflict the casualty loss ratios of many U.S. multinationals.

When U.S. multinationals rely solely on commercial insurance to protect personnel and property against losses, they inevitably find that poor or eroding loss experience is matched by restricted market capacity, higher premiums and increased retention levels.

But such results can be avoided. A well-conceived loss control program can achieve an acceptable level of personnel and asset conservation, which in turn will translate directly into lower insurance costs.

Obviously, no corporate loss control program can succeed without the ongoing support of top management. In turn, this support must cascade down to the lowest levels of the organization.

How can management develop employee commitment to safety?

First, corporate loss control policy and objectives should be fully stated, in writing, to provide commonly accepted standards for both management and employees. This alerts everyone to the idea that continuity of operations is a corporate priority, as well as an individual responsibility. After all, the loss of or serious damage to a facility directly translates into temporary or long-term unemployment.

Next, local employees need to participate actively in implementing corporate policy—a role that requires little capital expense. Good housekeeping, effective maintenance and control of smoking and welding operations are all dependent on the human element and can only be controlled at the employee level. Lack of interest or lack of control in workplace discipline often results in catastrophic loss.

Employee interest also is vital in plant fire brigade organizations. These in-house fire fighting emergency teams provide the first line of

protection before a professional fire department arrives. Fire brigade members are expected to act promptly and effectively in all emergency situations including those arising from fire, explosion, flood, earthquake and windstorm.

Although U.S. legislation requires that fire brigade members be physically qualified and properly trained in the use of available fire equipment, foreign training requirements vary from non-existent to quasi-military. In fact, in many foreign countries fire brigades are viewed simply as a means to reduce local tariff fire rates. But managers committed to loss control take fire brigade training seriously.

Plant self-inspections are another way to involve employees in loss prevention. Employees should make regular, formalized audits of fire safety equipment to ensure that sprinkler valves are open, water is available and extinguishers are properly located and serviced. They should tag any damaged fire protection equipment until it is fixed and advise the plant safety manager of the damage.

Self-inspection also helps to identify new hazardous situations such as poor housekeeping, unsafe handling of flammable liquids, poorly maintained electrical equipment and fire doors that are damaged by marauding forklift trucks.

Another loss control policy relating to personnel might include confining smoking to safe, designated

### International issues

areas within the plant premises.

It takes money to make money but the modest investment needed to institute a loss control program based on personnel usually pays off.

For example, U.S. risk managers often find that a good local attitude toward personnel loss control means less opposition to major capital expenditures for risk reduction. As those charged with protecting corporate assets know, local managers often resist investing in loss control because tariff premium savings are insignificant vis-a-vis the required capital expenditures.

For example, in tariff-rated countries like Japan, Brazil and Mexico, the return on investment for fire protection is geared to local standards. Thus, the financial incentive is usually eliminated when U.S. standards are applied.

U.S. multinationals also find that the financial incentive is reduced when fire protection equipment and components are not manufactured locally. This is the case in most developing countries where the added cost of imported equipment discourages investment in fire protection systems.

Ironically, sprinkler protection, which historically has provided the most effective form of property loss control, is very important in developing countries because public fire services often are inadequate.

In general, sprinklers rank far above other protection systems from the standpoint of efficiency and economics. The immediate, automatic response of a sprinkler system makes it the most efficient way to deliver water to a fire.

Now, you're thinking that if you install sprinklers backed by a suitable water supply losses will disappear or shrink to insignificance, right? Wrong.

Complying with local regulations can be complicated.

The rules are relatively straightforward when talking about sprinklers in the United States, but each foreign country has its own rules and regulations. Whereas American risk managers and insurers generally prefer National Fire Protection Assn. (NFPA) standards, most foreign countries recognize some form of the British Fire Offices Committee (FOC) standards.

A comparison of the two standards reveals a number of conceptual differences in approach. FOC standards are oriented toward the desired result—that is, the amount of water over a given area—but they give little guidance on how to achieve the desired results. Yet, while FOC sprinkler design is left to a number of insurer-approved contractors, risks sprinklered to FOC specifications enjoy tariff rate credits.

Conversely, NFPA standards take a more comprehensive approach—they are based on a consensus of diverse disciplines such as insurance, government, sprinkler contractors, private consultants, engineer architects and fire services.

NFPA codes provide a minimum requirement that can be interpreted conservatively or expanded to suit the comfort level of insurers/risk bearers. Unfortunately, the interpretive quality of NFPA standards puts off foreign insurers that follow rules by the book.

On the whole, however, the physical difference in

sprinkler design is less important than the fact that they mollify insurers. FOC standards suit most foreign insurers who apply normal tariff conditions to meet the risk involved.

Conversely, NFPA codes are based on highly protected risk standards that were developed through extensive full-scale fire testing. As a result, U.S. underwriters will grant broader coverage and more competitive rates when protection is designed to NFPA standards.

When building new facilities, the cost of state-of-the-art fire protection is often accepted as part of the construction cost. In the design stage, trade-offs are possible between less costly construction and a well-designed sprinkler system. So, think loss control as soon as planning for a new facility begins.

Like property loss control, casualty loss control is best sold on its merits rather than on its potential for achieving premium loss reductions. Casualty loss control is easier to sell, however, because most managers have had experience in dealing with personnel injuries and accidents.

In many foreign countries, workers compensation losses are the subject of direct government regulation. In countries where compensation for work-related injuries is part of the social security system, effective loss control programs rarely result in lower contributions. But casualty loss control programs are becoming increasingly important in countries like Belgium, Hong Kong, Ireland and the United Kingdom, where workers compensation is written by the private sector.

Indeed, workplace safety standards, inspired by the U.S. Occupational Safety and Health Administration, are being voluntarily applied in some foreign countries. Other countries have legislated OSHA-type regulations: Canada's Workplace Hazardous Materials Information System standards and the United Kingdom's recent Control of Substances Hazardous to Health regulations are two notable examples.

Liability laws in many foreign countries hold management or an individual responsible if a third party is injured through professional negligence. Also, highly publicized catastrophic events tend to raise corporate sensitivities about the need for effective foreign loss control measures.

Regardless of current trends, U.S. multinationals should develop safety policies that comply with local laws. To some extent, local insurance costs can be mitigated through corporate insurance programs that allocate costs by rewarding good loss control and punishing loss leaders. Moreover, many U.S. multinationals find that allocations allow fairness in the cost-bearing process by challenging their foreign subsidiaries to improve their loss control programs and to accept larger deductibles. Also, this approach is generally well-received by overseas managers who are otherwise sensitive to arbitrary treatment by their "foreign" home office.

In summary, a highly competitive approach to loss control can go a long way toward achieving a successful risk management program. Top management commitment, adequate training programs and regular enforcement through inspections and audits are important tools for increasing the sense of personal safety and awareness on the part of all worldwide employees.

Douglas N. Smith is vp and manager of the International Department of Johnson & Higgins in New York. His column appears the first Monday of every month.

**Employees should make regular audits of fire safety equipment to ensure that sprinkler valves are open and water is available.**

**Corporate loss control policy and objectives should be fully stated in writing to provide standards.**

# ASK A CASUALTY ACTUARY

## Deciding when, and how much, to self-insure

**Q**

Can you offer any general guidelines as to how large a risk should be before it makes sense to self-insure? How would you go

about advising a client on what SIR to choose?

**A**

General guidelines on whether or not to self-insure are difficult to formulate. It usually is necessary to perform a feasibility study to get a good

handle on this question. However, it should be realized that a feasibility study that merely makes a cost comparison between insurance and self-insurance will typically conclude that self-insurance is feasible. This type of limited analysis may be very misleading because a cost-comparison is only the first step in the decision-making process. The other key element that should also be considered in such an analysis is the degree of risk being assumed. This is often a difficult thing to define and measure. Because of this, it is often passed over when it should be given significant attention.

Let's start first on a general level to consider this concept. In Table 1 we show six different sizes of risk, ranked according to the size of their annual premium. The smallest risk might represent you as an individual purchasing automobile insurance, with an annual premium of \$500. On average, you will have a claim every 10 years, or 0.1 claims per year. Over the long run, assuming that you are an average driver, you would save \$200 a year by not buying automobile insurance.

This savings of 40% represents insurance company overhead, commissions and taxes that you won't have to pay. All you are covering is the cost of claims. Given an anticipated savings of 40%, why would anyone buy auto insurance—unless state law requires it? The reality is that not buying auto insurance is normally a very foolish decision because of the extent to which your personal assets are exposed if you have a major loss. You are probably risking about \$200,000 of your own capital in order to save, on the average, \$200 a year. That works out to a rate of return (on the capital you are risking) of 0.1% per year. That's a poor investment by anyone's measure!

The concept of rate of return on capital at risk is a useful one in approaching this whole question of whether or not to self-insure. If this rate of return is less than what you can earn by investing in other ways involving a reasonable level of risk, then you should buy insurance. An exception to this might be based on the argument that

**Table 1: Is self insurance feasible?**

Annual premium	1 Expected number of claims per year	2 Expected savings from self-insurance	3 Capital at risk	4 Rate of return (2)÷(3)
\$500	0.1	\$200	\$200,000	0.1%
25,000	10	8,000	400,000	2
100,000	40	30,000	600,000	5
250,000	100	75,000	750,000	10
1,000,000	400	250,000	1,000,000	25
10,000,000	4,000	1,000,000	3,000,000	33

**Table 2: Rates of return for various SIRs**  
 (In thousands of dollars)

Proposed SIR	1 Expected retained losses and expenses	2 Cost of excess insurance	3 Expected cost of self-insurance program (1)+(2)	4 Expected savings \$2,800-(3)	5 Capital at risk	6 Expected rate of return (4)÷(5)
\$100	\$1,000	\$1,500	\$2,500	\$300	\$1,520	20%
200	1,230	1,120	2,350	450	1,800	25
300	1,400	850	2,250	550	2,540	22
500	1,630	600	2,230	570	3,460	16

self-insurance might result in greater efforts to cut claim costs and exercise good loss control.

Let's look at some other examples from Table 1. The remaining cases might represent workers compensation claims. As we move down the table to larger risks, several things happen.

- The expected savings from self-insurance drops from 40% of premium down to 10%. This drop is largely due to greater efficiencies that insurers can exercise in servicing larger accounts. It is also due to the greater competitive pressures that insurance companies face in serving larger accounts. Their greatest competition in this regard is often self-insurance itself.
- The capital at risk, as a percentage of the annual premium, drops dramatically. In these cases, we have defined capital at risk by determining what annual aggregate losses are at the 99th percentile confidence level and subtracting the insurance premium.

By 99th percentile confidence level we mean that in only one year out of 100 would total losses exceed the indicated amount. If we were at the 95th percentile confidence level, then total losses would exceed that amount only once every 20 years. The reason the capital at risk (as a percentage of annual premium) drops quickly is that the viability of total losses improves significantly when there is a larger volume of claims.

- The rate of return on capital at risk improves dramatically as the size of risk increases. In many situations, this rate of return becomes attractive when the risk is of a size that it is paying annual premiums in the range of \$150,000-\$300,000 for workers comp or other coverages with similar loss potential. Perhaps this is the kind of statement you were looking for, but let me emphasize that every situation is unique and there are no infallible rules of thumb.

Your second question focuses on the decision-making process in selecting the best SIR. From a practical standpoint, your options are limited by whatever is available in the market in terms of excess coverage over an SIR. In recent years, this has meant that the minimum

SIR possible is \$100,000 or more. If this minimum level of retention presents an unacceptable level of risk to your organization, then you may be limited to various deductibles of smaller size. Even if this is the case, the type of analysis described below would still be helpful in selecting the best deductible.

There is a fair amount of literature on factors to weigh in this decision from a general risk management perspective. So I will confine my remarks to describing a quantitative approach to this problem that can be used in conjunction with more subjective criteria.

In a nutshell, the best SIR is the one that will result in the highest rate of return on your capital at risk. Table 2 illustrates some sample calculations.

In constructing Table 2, an actuarial analysis was performed of recent loss experience in order to estimate expected retained losses at each of several SIRs. For each of these SIRs, a simulation analysis was conducted to estimate total losses at the 99th percentile confidence level. The capital at risk was then estimated as the amount by which this exceeded the cost of insurance.

In this example, the rate of return rises from 20% at an SIR of \$100,000 to 25% at an SIR of \$200,000, and then declines with each successively higher SIR. Thus, this analysis indicates, all other concerns being satisfied, that \$200,000 is the SIR that should be chosen.

There are two reasons why the rate of return for SIRs above \$200,000 continues to decline. First, the amount of capital at risk grows very rapidly as the SIR increases. This is due to the rapidly increasing exposure to very large claims. Second, the expected savings from successively higher layers of retention grow at a relatively slow rate—because the cost of excess insurance above the SIR tends not to decline as rapidly as it would if it were solely based on expected losses above the retention. This is due to an excess insurer's need to collect a basic premium to cover fixed operating expenses and in part to the fact that, as the SIR rises, the excess insurer is faced with longer and longer "payback" periods if a major loss is incurred.

Another way to look at this is to say that the higher the SIR, the higher the risk assumed by the excess insurer, relative to the premium it collects. Because of this higher degree of risk, the excess insurer must seek a higher profit margin on this business to induce it to accept that risk. That leaves less of the premium available to cover losses.

Several comments should be made about this type of retention analysis:

- First, it does lead to a definite recommendation and this can be very helpful in an area where it might seem that all decisions are necessarily subjective or even arbitrary.
- Second, using a different confidence level, such as 90% or 95% instead of 99%, will obviously change all the indicated rates of return. However, it most likely will not change the key result of the analysis—the SIR that will result in the highest rate for return.

• Third, quotations for excess insurance are a critical input to this analysis. When market rates for excess insurance change significantly, the best SIR should also change significantly. A prudent self-insured should be carrying relatively lower SIRs during a soft market—like today's—and relatively higher ones during a hard market.

As with any analysis, the findings are only as good as the quality of the loss information and the accuracy of the assumptions upon which it is based. Despite some shortcomings, computer simulation of the potential degree of variability in loss experience can yield a proper appreciation of the degree of risk a self-insured is assuming and provide a reasonable guide to key decisions on the best SIR for any given situation.

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**Mr. Sherman**

*This month's column on actuarial issues in the casualty field is written by Richard E. Sherman, a principal with Coopers & Lybrand in San Francisco. William J. Miner, an actuary with The Wyatt Co. in Chicago, answers actuarial questions in the benefits field. Susan*

*M. Werner, director of risk management at Hardee's Food Systems Inc. in Rocky Mount, N.C., answers risk management questions. And, Joseph W. Duva, director of employee benefits at Allied-Signal Inc. in Morristown, N.J., answers benefits management questions.*

*Mr. Sherman's and Mr. Miner's columns appear alternately on the first Monday of each month. Ms. Werner's and Mr. Duva's columns appear alternately on the second Monday of each month. Mr. Sherman's next column will appear in May.*

*Address your questions to ASK, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. Please give us your name, title and employer; however, Business Insurance will consider unsigned letters.*

**Worldwide**

# Cologne Re predicts 25% boost in profits

BONN, West Germany—West German reinsurer Cologne Reinsurance Co. predicts a 25% increase in aftertax profits for 1988 primarily because the company was not hit by any of the major catastrophes that plagued world markets last year.

In a preliminary statement before its results are published in November, Cologne Re announced at the end of last month that after-tax profits were likely to rise to 20 million deutsche marks (\$11.3 million at year-end 1988 rates) from 16 million deutsche marks in 1987 (\$10.2 million at year-end 1987 rates).

Juergen Zech, the company's chief executive, also forecast a 14% growth in gross premium income to 1.9 billion deutsche marks (\$1.1 billion) from 1.7 billion deutsche marks (\$1.1 billion). Including Cologne Re's subsidiaries, a premium income of 2.3 billion deutsche marks (\$1.3 billion) is expected, up 16% from 1987.

Mr. Zech attributed the increase in profits to Cologne Re's minor losses in the \$1.4 billion Piper Alpha North Sea oil platform disaster and from Hurricane Gilbert. In contrast, in 1987, the company suffered from very large claims on such disasters as the October 1987 European windstorm and a New Zealand earthquake.

Improved results from Cologne Re's overseas business and higher investment returns also helped to lift profits in 1988, according to the company.

In 1987, Cologne Re's investment profits had been badly dented by the stock market crash.

—By Herbert Fromme

## Grand Union

HONG KONG—Hong Kong-based insurance company Grand Union Insurance Co. Ltd. is no longer writing direct insurance business in Hong Kong.

A notice from the Registrar General of the Hong Kong Insurance Authority in the Hong Kong Gazette in January requires Grand Union Insurance "not to effect any new contracts of insurance or to renew any existing contracts of insurance other than contracts of reinsurance, in or from Hong Kong with effect from 14 January 1989."

A spokesman for Grand Union in London said the company has "opted not to write local direct insurance business and informed the Hong Kong Registrar accordingly," which resulted in the notice in the Hong Kong Gazette.

It has been a policy of Grand Union since the 1980s "to write only a minimum of local direct business and concentrate on reinsurance business because of the keen competition for local business by more than 300 insurance companies in Hong Kong, which often resulted in abnormal rate cutting," said a Grand Union statement.

The company, now part of the Malaysian conglomerate Pengkalen Holdings, recently announced plans to expand its worldwide operations, particularly in Europe (BI, Nov. 21, 1988).

Meanwhile, Grand Union Insurance is defending several lawsuits filed both in London's High Court and the Supreme Court of Hong Kong by ceding companies seeking payment of claims on insurance and reinsurance policies placed with Grand Union in the late 1970s and early 1980s (BI, April 4, 1988).

—By Carolyn Aldred

## Skandia sells interest

STOCKHOLM—Swedish insurance group Skandia International Holding A.B. has sold its interest in subsidiaries of West German insurance company Nurnberger Versicherungen for an undisclosed amount, the company announced.

Skandia's 12.5% share in Nurnberger Leben (Nurnberg Life) was sold to the Italian insurer Istituto Nazionale delle Assicurazioni, a Skandia spokesman confirmed.

Also, the company's 2.5% stake in Nurnberger Allgemeine, the

*Continued on next page*

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## Worldwide

Continued from previous page

other branch of the Nurnberg Group, was sold to a group of private investors.

Neither sale price was announced.

Skandia International will remain as one of the leading reinsurers of the Nurnberg Group, however, the Skandia spokesman said.

Hans Dalborg, president and chief executive officer of Skandia International, said he was "very satisfied" with the deal.

"We released cash which can be channelled into expanding areas such as non-life and unit-linked life insurance," said Mr. Dalborg, who added that he was pleased Skandia would remain on good reinsurance terms with the Nurnberg Group.

Meanwhile, Skandia moved

nearer to its acquisition of Vesta General Insurance Co., Norway's second-largest insurance group, when the Vesta board approved Skandia's 800 million Norwegian kroner (\$119.6 million) bid Jan. 12.

Skandia's spokesman said the next step is for the Norwegian government to exempt Skandia from a law limiting foreign ownership to 10% of the shares of Norwegian life insurance companies.

Skandia, which is trying to build a Pan-Scandinavian network, has pledged to sell Vesta's life subsidiary known as Hygea to a Norwegian company to assure compliance with this law.

A previous Skandia attempt to buy a 50% stake in Vesta in 1988 foundered when the authorities refused to grant the waiver (BI, May 16, 1988). Vesta controls 18% of the Norwegian non-life insurance

market.

Also, Skandia said ALM Brand A.F., which bought Skandia's 51% stake in Copenhagen Reinsurance Co. at the end of the year, has not yet made a formal offer to the shareholders who hold the other 49%, but is expected to do so shortly.

—By John Parry

### Hull mutual

GOTHENBURG, Sweden—The Swedish Club, a hull mutual insurer, reported last year's underwriting losses before expenses were unchanged at 30 million Swedish krona (\$4.9 million at year-end 1988 rates), but profits from investments rose 6 million Swedish krona to 80 million Swedish krona (\$13.1 million at year-end 1988 rates).

The Gothenburg-based club's 1988 annual report is not due until April, but Claes Lindh, head of underwriting, said gross premium in-

come was "slightly weaker" than the 403 million Swedish krona (\$70.1 million at year-end 1987 rates) in 1987.

Mr. Lindh blamed a "very soft market and heavy competition" for a reduction in premium income. Pressure on rates was only partly offset by progress in loss prevention.

Growth was mainly provided by the Far East, while the number of vessels from European markets remains stable.

Mr. Lindh said hull rates were generally too low. He expects ship repair costs to rise, as shipyards have more shipbuilding orders and are no longer willing to offer repairs at low prices just to keep the yards occupied.

The fleet insured by the club remains largely unchanged. On Jan. 1, 1989, the Swedish Club had 488 vessels with a gross tonnage of 12 million tons on its hull insurance books, down from 516 ships weighing 13.3 million tons last year and

605 ships weighing 15 million tons in 1987.

But in terms of insurance values, the fleet rose to 35 billion Swedish krona (\$5.7 billion at year-end 1988 rates) from 29.5 billion Swedish krona (\$5.1 billion at year-end 1987 rates), according to the club. Of that, 33 billion Swedish krona (\$5.3 billion) was insured with the Swedish Club, compared with 27.6 billion Swedish krona (\$4.4 billion) the previous year.

The Swedish Club also did not see any major changes in renewals for protection and indemnity coverage. On Jan. 1, the club had 332 ships weighing 5.1 million gross tons as P&I members, compared with 327 ships weighing 5.3 million tons on Feb. 20, 1988.

For war risk insurance, the club covers 331 ships with an insured value of 23 billion Swedish krona (\$3.7 billion) as of Jan. 1, compared with 351 vessels insured at the same value last year.

—By Herbert Fromme

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**Employers Reinsurance Corporation**

### Australian insurer

SYDNEY, Australia—The price of stock in Australia's largest publicly owned general insurance company, FAI Insurances Ltd., has declined 39% since the death of its founder and chairman late last year.

In the three months since Larry Adler's death, FAI stock has slipped to \$2.67 Australian (\$2.13) per share from a high of \$5.20 Australian (\$4.14) per share 12 months earlier. The company's uncertain future under the new leadership of Mr. Adler's son, Rodney Adler, has contributed to its underperformance, observers note.

While Rodney Adler has accepted responsibility for the day-to-day running of the company as chief executive, he has declined the dual role of company chairman and chief executive officer. Instead, John Landerer is acting as FAI's executive director and Bruce Corlett is now deputy chairman.

Rodney Adler, an accountant with a master's degree in economics, joined his father's company in 1984 as investment manager and was appointed a director in January 1988. He had previously worked in London with Lloyd's of London broker Stewart Wrightson Holdings Ltd. and stockbroker Laing Cruickshank.

He recently said FAI was Australia's largest professional indemnity underwriter and had recorded underwriting profits every year for the past five years, but he wants to see an expansion in the non-life and life insurance market.

His father, a prominent figure in the Australian market, came to Australia from his native Hungary in 1950. He worked for 10 years as a taxi driver and railway clerk before founding Fire & All-Risks Insurance with only \$56,000 Australia (\$44,576) in capital at the age of 29 in 1960.

His astute investing saw FAI weather the October 1987 stock market crash and post a record 75% rise in aftertax profits for the six months ended Dec. 31, 1987.

FAI's year-end 1988 profits jumped to \$172 million Australian (\$146.9 million at year-end 1988 rates), mainly from his clever investment strategy rather than from insurance underwriting.

Before his death at the age of 57, Larry Adler had launched legal action against the Australian Commonwealth Government's National Companies and Securities Commission over its comments on the purchase by an FAI subsidiary of shares in the failed Ariadne Australia group.

However, his son said the case was not being actively pursued at present because he wanted to concentrate on building up the business without any "major problems."

—By Kate McIlwaine

# St. Paul Cos. promotes Leatherdale

**Douglas W. Leatherdale** has been named president and chief operating officer of The St. Paul Cos. Inc. of St. Paul, Minn., and subsidiary St. Paul Fire & Marine Insurance Co.



Mr. Leatherdale

Mr. Leatherdale succeeds Robert J. Haugh, who will remain chairman and chief executive officer.

Mr. Leatherdale had been executive vp and chief financial officer since 1982 and was named a director of the company in 1981.

Also, **Kenneth F. Goldstein** named executive vp of The St. Paul Cos. and St. Paul Fire & Marine.

**In other insurer changes:**

**Robert W. Bruce III** named president of Fireman's Fund Corp. of Novato, Calif. Mr. Bruce, who also will retain his position as chief investment officer, succeeds William M. McCormick. Mr. McCormick remains chairman and chief executive officer of Fireman's Fund Corp. and subsidiary Fireman's Fund Insurance Co.

In addition, **Robert T. Marto** named chief financial officer at Fireman's Fund Corp.

And, at Fireman's Fund Insurance Co., **Joseph W. Brown Jr.** named chief operating officer and **Raymond Barrette** named chief financial officer.

**William P. Link** named president-group operations of The Prudential Insurance Co. of America of Holmdel, N.J. Mr. Link succeeds Lesley L. Ralson, who is retiring.

**Bill Wong** appointed senior vp-claims, and **Alan Young** appointed senior vp-technical claims for Argonaut Insurance Co. of Menlo Park, Calif.

**Paul J. Longo** promoted to vp-product development at United Community Insurance Co. in Latham, N.Y., a subsidiary of Lawrence Group Inc.

**Donald F. Wurster** named president of National Indemnity Co. and National Fire & Marine Insurance Co. of Omaha, Neb.

**James G. Cohen** appointed resident vp of Peerless Insurance Co. of Keene, N.H., and resident president of Excelsior Insurance Co. of Syracuse, N.Y., units of Nationale-Nederlanden U.S. Property & Casualty Holdings Inc. of Keene, N.H. Mr. Cohen previously was branch underwriting manager with CNA Financial Corp.

**Kenneth G.T. Drysdale** named chairman of Wm. H. McGee & Co. Inc. of New York, a previously vacant position. Mr. Drysdale also is chief executive officer.

Additionally, **Robert E. Howe** named president, succeeding Mr. Drysdale, and chief operating officer.

**Ralph C. Folz** appointed vp-managed care services group of Metropolitan Life Insurance Co. of New York.

**Larry R. Plum** named president of The Cincinnati Casualty Co. of Cincinnati. Mr. Plum succeeds retiring Hayden D. Davis Jr. Mr. Plum also is senior vp of parent company The Cincinnati Insurance Co. and director-personal lines for the company and Cincinnati Ca-

## Comings & goings: industry

sualty and The Cincinnati Indemnity Co., all units of Cincinnati Financial Corp.

**Edward J. Charlton** named vp at Reliance Insurance Co. of Philadelphia.

**David W. Ryan** appointed manager-Eastern region for Harbor Insurance Co. of Los Angeles and subsidiary Pacific Insurance Co. Mr. Ryan, who is a vp of the companies, is based in New York.

**Douglas H. Patterson** joined Pinnacle Insurance Co. of Carrollton, Ga., as vp and claims manager. Most recently, Mr. Patterson was vp-claims for Dependable Insurance Co.

Associated Mutual Insurance Co. of Woodridge, N.Y., has appointed **Benjamin Posner** chairman; **Samuel K. Cohen** vice chairman; **Wallace M. Berkowitz** president; and **Zane A. Morganstein** senior vp.

**Wayne M. Geurink** appointed vp-Milwaukee region of Wausau Service Corp. of Wausau, Wis.

**Richard V. Nunes** named president and chief operating officer of UniCARE Insurance Co. of Irvine, Calif. Mr. Nunes succeeds E.T. Banning, who was named vice chairman.

### Agents/brokers

**D. Michael Enfield** joined Frank B. Hall/San Francisco, a division of Frank B. Hall & Co. of California, as chairman and chief executive officer. Previously, he was a managing director with Marsh & McLennan Inc.

**Johnson & Higgins Vp Douglas N. Smith** named manager of the broker's New York international department.

In the Boston office of Fred S. James, Vp **John H. Harrington** named manager-national accounts and **Patricia L. Collins** joined as vp and manager-commercial. Most recently, Ms. Collins was director-risk management for EG&G Inc.

**Raymond E. Brooks** joined Fred S. James' Detroit profit center as vp and manager-aviation. Mr. Brooks was previously vp and treasurer with Transcon Insurance Ltd., a subsidiary of Ford Motor Co. Also, **Robert E. Pullan** appointed vp in the Detroit office.

**Gary E. Lasko** named senior vp and director-management information systems at Fred S. James in New York.

The international division of Alexander & Alexander Inc. of New York announced the following appointments: **Thomas J. Drag** to senior vp in New York; **Douglas B. Fay** to vp and regional international sales executive for the greater New York region; and **Charles J. Reilly** to vp and regional international sales executive for the Northeast region in Boston.

Also, **Paul A. Marzec** joined A&A's international division as vp and regional international sales executive for the Midwest region in Chicago. Previously, he was an assistant vp with RBH of Illinois in Chicago.

**Gary K. Brown** appointed managing vp in the Baltimore office of A&A.

**John D. Howard** named managing vp in the Houston office of A&A.

Alexander & Alexander of Arizona Inc. announced the following appointments to vp-commercial production unit: **Kay Salmon**, **Phillip Marsh**, **Jay Yeomans**, **Michael Ketcham** and **William Charles**.

Also, **Peggy Schley** joined the firm as vp/marketing manager. Ms.

Schley previously was branch manager for Reliance/United Pacific Insurance Co.'s Phoenix, Ariz., office.

**Hideo Ishii** named vp and head of the new Atlanta office of Kadowaki Associates International Corp., a subsidiary of A&A Inc. Mr. Ishii previously was manager of the Georgia Department of Industry and Trade.

**Karen Geldner** named senior vp of Shannon & Luchs Insurance Agency Inc. of Washington, D.C.

**Jim Bussio**, vice chairman and executive vp of Jardine Emmett & Chandler Inc. Los Angeles, named senior vp of the parent company, Jardine Emmett & Chandler Inc. of San Francisco.

**Alan S. Klein** promoted to executive vp and **Robert Feldman** promoted to vp at NIA Profession Plans Inc. in Paramus, N.J.

**Karlton F. Gempler** named president of A.M. Myers of Minneapolis.

**Stanley Shreve** named vp of Wallace, Welch & Willingham Inc. of Tampa Bay, Fla.

**Marsha B. Todd** promoted to regional vp for Roanoke Interna-

tional Insurance Agency Inc. in Timonium, Md., a subsidiary of Roanoke Agency Inc. of Schaumburg, Ill.

Also, **Jack J. Moran** appointed vp of Roanoke International Agency Inc. in New York, another subsidiary of Roanoke Agency Inc.

**Benisch & Co. of Orange, N.J.**, announced the following appointments: **Abner Benisch**, formerly president, to chairman; **Myles H. Adelman** to president; and **Joel M. Benisch** to executive vp.

**Charles H. Jennisch** promoted to vp-claims for Kirke-Van Orsdel Inc. of Des Moines, Iowa.

*Continued on next page*

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## Comings & goings: industry

Continued from previous page

### Reinsurance

**Gary Meck** named vp of intermediary Sullivan Payne Co. of Seattle. Mr. Meck is based in the Dallas office.

**Roy M. Wesley** promoted to vp-account services in the facultative division of Princeton, N.J.-based American Re-Insurance Co.



Mr. Wesley

**David C. Benson** joined intermediary Cooper Gay Steele & Co. Ltd. as vp. In his most recent position, Mr. Benson was president of Benson Consultants Inc.

**Michael G. Flagiello** and **Michael J. Nicholas** named vps of Facultative ReSources Inc. of Greenwich, Conn.

**William H. Sampson** appointed vp and manager-treaty casualty underwriting at North American Reinsurance Corp. of New York.

Scor Reinsurance Co. of New York announced the following promotions: **Nolan Asch** to senior vp/actuary, **Larry Bachel** to senior vp-facultative property and **Lou Adanio** to assistant vp-facultative property/New York branch manager.

**Mark W. Hinkley** named senior vp and director-marketing at Skandia America Group of New York. Also at Skandia, **Ronald L. Wilson** named vp and chief actuary.

### Excess/surplus

**James D. Knupp Jr.** named vp of Crum & Forster Managers Corp. and International Surplus Lines Insurance Co. in Chicago.

**Donna Senger** promoted to vp of Burns & Wilcox Ltd. in St. Louis.

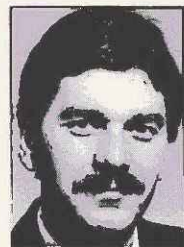
### HMOs/PPOs

**Max L. Powell III** named chief executive officer of South Portland, Maine-based WellCare of New England Inc. Mr. Powell is based in Dedham, Mass.

**Donald B. Nystrom** joined Blue Cross & Blue Shield of South Carolina as senior vp-major group marketing. Previously, Mr. Nystrom was vp-group marketing for Allstate Life Insurance Co.

### Other suppliers

**Gregory J. Wiber** joined Buck Consultants Inc. of New York as a benefit consultant. In his most recent position, Mr. Wiber was a principal with A. Foster Higgins & Co. Inc.



Mr. Wiber

**Dennis Aaron** promoted to vp-product design for Risk Sciences Group based in Corte Madera, Calif., a subsidiary of Atlanta-based Crawford & Co.

**Elizabeth S. Trainer** named a principal of Yaffe & Co. Inc. of Baltimore.

Additionally, **Stephen W. Kadlubowski** joined the company as a group benefits consultant. In his previous position, Mr. Kadlubowski was a senior underwriter with Blue Cross/Blue Shield of Maryland.

And, **Terri Mrozinski** joined Yaffe as a pension actuary. Ms. Mrozinski, in her most recent position, was a senior pension administrator at Pollard & Associates.

**William M. Mercer Meidinger Hansen Inc.** of New York named the following as principals in the company's Detroit office: **David R. Fletcher**, **Laurence M. Gelman**, **Lawrence R. Smith** and **Timothy L. Williams**.

**Hubert L. Valdemoro** joined Mercer's Dallas office as a consultant. Previously, Mr. Valdemoro was a vp with Johnson & Higgins of New York.

**Charles W. Soucy** named senior consultant of J.H. Albert International Insurance Advisors Inc. of Needham Heights, Mass.

**Linda Hill** named vp-operations of Recovery Unlimited Inc. and **James R. Gabel** named vp-operations/special risk division of Adjusting Services Unlimited Inc. Both companies are subsidiaries of Michigan Claim Service Inc. of Okemos, Mich.

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# Wyatt launches aviation consulting unit

The Wyatt Co., one of the nation's largest actuarial and risk management consulting firms, is expanding its consulting services to include aviation risk management with the recruitment of a new consultant.

The new aviation division, based in Wyatt's Philadelphia office, is led by Jay Lavenson, a new Wyatt consultant responsible for designing and heading the aviation risk management division.

Before joining Wyatt to launch its new aviation risk management unit, Mr. Lavenson was the president of Reading, Pa.-based Aviation Insurance Center Inc., a general aviation insurance broker.

Prior to that, he was executive vp of AOPA Service Corp., serving as director of insurance for the world's largest civil aviation association. But his longest association was as an aviation insurance broker with Bayly, Martin & Fay Inc. in Philadelphia, from 1969 to 1983.

At Wyatt, Mr. Lavenson is specializing in consulting to businesses directly related to the general aviation industry, excluding the major airlines.

These types of businesses include:

- Airports.
- Private and corporate aircraft owners.
- Airplane component and avionics manufacturers.
- General aviation centers that rent, repair, charter and sell aircraft or provide flight instruction.
- Aircraft leasing companies.
- Hospital and other facilities where air transportation is used in emergency situations.

"We will provide a range of consulting services to companies involved with the aviation industry, ranging from helping them understand their insurance policy and liabilities to administering workers compensation programs and re-designing employee benefit packages," explained Mr. Lavenson.

Wyatt's aviation risk management consulting venture is the first of its kind in the United States.

"Our services are special because we are the first company in the U.S. acting as consultants for the aviation industry, representing their interests to insurance brokers and helping them get the most coverage for their money," Mr. Lavenson explained.

Expertise and resources from other specialized divisions of Wyatt's international network will be available to meet specific aviation industry needs, he added.

"We can pull from one office that specializes in employee benefits, another for workers compensation and another for actuarial needs."

For more information contact Mr. Lavenson, Consultant-Aviation Risk, The Wyatt Co., 1700 One Penn Center, Philadelphia, Pa. 19103; 215-569-4665.

## Forum Re regroups

Under a new restructuring plan, Forum Re Group Inc. will merge with its Forum Re Group (Bermuda) Ltd. unit to form a single, U.S.-based company.

Under the proposed reorganization—which is subject to shareholder and regulatory approval—stock in Forum Re Group (Bermuda) no longer will be publicly traded.

Forum Re Group was known as Aneco Reinsurance Ltd. before Forum acquired a controlling stake in the company in April 1988.

In exchange for their stock in the Bermuda company, shareholders will receive newly issued shares of Concord, Mass.-based Forum Re Group Inc. The number of shares in the new company to be issued has

## Markets

not been determined.

"We have taken this action because the boards and management of both companies believe that the consolidation of the two companies will result in a more synergistic business relationship, enhance the long-term financial viability of the companies and significantly improve shareholder value," explained Mark G. Hardy, chairman and chief executive officer of both companies.

Mr. Hardy said the new reorganization plan is an improvement over restructuring plans announced last October (*BI*, Nov. 7, 1988). Under that arrangement, Forum Re Group (Bermuda) Ltd. was to become the group's flagship company.

"With all the regulatory filings involved, it's much easier for a U.S. company to own a Bermuda company than the other way around. And all the filings had been completed for the U.S. entities," he said.

Forum Re Group Inc. is a holding company for several property/casualty insurance company and reinsurance brokerage subsidiaries, including: Millers National Insurance Co. and Illinois Insurance Co., both of Chicago; and Petrosurance Inc., Oil & Gas Insurance Co. and Petrosurance Casualty Co., all of Columbus, Ohio.

Forum Re Group (Bermuda)'s key subsidiaries are Aneco Reinsurance Underwriting Ltd. and Forum Reinsurance Co. Ltd., a financial reinsurer.

With the exception of oil and gas business, underwriting production for the group will remain with Aneco Reinsurance Underwriting, headed by President and Chief Executive Officer Jonathan Crawley, according to Mr. Hardy.

Forum Re Group has boosted Aneco Re's capital by \$10 million to about \$23 million, he noted.

Following completion of the merger—expected by June 30—the entire Forum Re Group will have a combined underwriting capital of about \$80 million, Mr. Hardy predicted.

In addition, Mr. Crawley and Forum Re Group's Clive Becker-Jones will join the board of Forum Re Group Inc.

## Captive consulting

Robert M. Hunt, formerly senior vp of underwriting/marketing at San Francisco-based Beaver Insurance Co., has opened a financial risk management consulting firm.

The new company, R.M. Hunt Associates, based in San Carlos, Calif., offers consulting for captive insurance and reinsurance programs and other risk funding alternatives.

For more information, contact Robert Hunt, R.M. Hunt Associates, 655 Skyway Road, Suite 110, San Carlos, Calif. 94070; 415-637-1290.

## Drug management

United Healthcare Corp., a Minneapolis-based health care cost management company, has formed a new subsidiary that will specialize in prescription drug cost management.

Diversified Pharmaceutical Services Inc. is offering United's prescription drug management and utilization review services to insured and self-insured employers as an unbundled product.

Diversified Pharmaceutical Services provides drug interaction monitoring, claims processing and preferred purchasing arrange-

ments.

For more information, contact Joan Darling, Marketing Director, 9900 Bren Road E., P.O. Box 1459, Minneapolis, Minn. 55440-8001; 612-936-3693.

## Reinsurance unit

North American Reinsurance Corp. has formed a reinsurance brokerage subsidiary designed to help its treaty customers find reinsurance capacity for hard to place non-traditional property/casualty lines.

The broker, New York-based J.K. Battershill Reinsurance Intermediaries Inc., will be headed by President Peter F. Malloy. Mr. Malloy also will retain his position as senior vp of marketing with New York-based North American Re, a subsidiary of Swiss Reinsurance Co. of Zurich, Switzerland.

For more information contact Mr. Malloy at J.K. Battershill Reinsurance Intermediaries Inc., 237 Park Ave., New York, N.Y. 10017; 212-907-8716.

## New claims manager

Newly formed Professional Liability Claim Managers will provide specialty claims service to legal, medical and professional liability insurance policyholders.

Some of the specialty services offered by PLCM include claims management, statistical report production and loss reserve monitoring.

PLCM is an arm of Rollins Technical Services Co., a Chicago-based subsidiary of Rollins Burdick Hunter Co. that specializes in technical service support for clients. RBH is a unit of Chicago-based Aon Corp.

William P. Vit has been named managing director of PLCM and will retain his title as senior vp of Rollins Technical Services.

For more information, contact Mr. Vit at Rollins Technical Services Co., 111 E. Wacker Drive, Suite 2914, Chicago, Ill. 60601; 312-819-5100.

## Preferred provider

New York-based United States Life Insurance Co., a subsidiary of USLIFE Corp., and Medical Network Inc. of Portland, Maine, have combined facilities to open a pre-

ferred provider network in Maine.

The newly formed USLIFE CARE/MedNet PPO currently has 160 physicians and three hospitals in its provider network.

The plan pays 90% of eligible charges if a patient uses a participating physician. Utilization review services also are included in the PPO package.

For more information contact J. Hugh Bailey, senior vp-group marketing, The United States Life Insurance Co., 3600 Route 66, Neptune, N.J. 07754; 201-922-7525.

## Insurance consultants

Five former senior officers of Hartford, Conn.—based Conning & Co. have formed a new consulting and investment banking firm.

Concord Partners Inc. in Far-

*Continued on next page*

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## Markets

Continued from previous page  
Farmington, Conn., opened for business Feb. 8, the day after the five officers resigned from their positions due to differences with Conning's strategic direction.

The firm will specialize in the insurance industry, focusing on institutional research, corporate finance consulting and investment banking. The firm will offer research and advice on insurance stock options and consult on insurance mergers and acquisitions.

"We believe that our combined knowledge of the insurance industry,

creativity and commitment to in-depth investment research analysis will successfully serve insurance industry investors," said James Ramenda, a managing director at Concord Partners and formerly a Conning senior vp-life insurance consulting and research.

Thomas B. Leonardi is president and chief executive officer of Concord. He formerly was senior vp of Conning's venture capital and corporate finance areas.

Douglas G. Russell, formerly a vp in Conning's venture capital and corporate finance department,

was named a partner and senior vp at Concord Partners.

Managing directors of Concord Partners are Alice L. Cornish, formerly senior vp and director of institutional research at Conning, and Joe L. Grochmal, previously vp-property/casualty insurance research and corporate finance.

For more information contact Mr. Leonardi at Concord Partners Inc., Farmington Commons, 790 Farmington Ave., Building 2F, Farmington, Conn. 06032; 203-678-5681.

### Travelers PPO expands

Travelers Corp. of Hartford, Conn., has expanded its preferred

provider organization, adding a new operation in Hartford, Conn.

Six hospitals and more than 550 physicians are in the Travelers Preferred-Connecticut provider network.

The PPO includes Travelers' Patient Advocate utilization review program and the Taking Care wellness program.

For more information, contact Kathleen Tower, Health Plan Manager, 1 Tower Square, 2 State House Square, Hartford, Conn. 06183; 203-954-2387.

### EQUICOR PPO grows

Los Angeles-based EQUICOR Inc. is expanding its preferred pro-

vider organization network to Cleveland and Akron, Ohio.

The newly formed network, which is scheduled to begin operations in the spring, currently has 21 hospitals and about 500 physicians in its provider network.

Equicor includes utilization review and case management programs in its PPO package.

For more information contact Chris Young, Divisional Sales Manager, 100 Erieview Plaza, Suite 1920, Cleveland, Ohio 49114; 216-694-4700.

### Name changes

First Security Insurance Corp. of Buffalo, N.Y., has changed its name to NOVA Casualty Co.

Donald F. Smith & Associates Inc. of Pennington, N.J., has changed its name to Smith Insurance Services.

### Mergers/acquisitions

Northern Insuring Agency Inc. of Plattsburgh, N.Y., has acquired Watertown, N.Y.-based MacDonald Associates Inc.

Poe & Associates Inc. in Tampa, Fla., has purchased Dean S. Davidson Insurance Agency Inc. of Phoenix, Ariz.

Tyler, Texas-based Lindsey & Newsom Claim Services Inc. has purchased Claims Administration Systems Inc. of Stanton, Calif.

Allegiance Capital Partners of Stamford, Conn., has acquired London-based Financial Insurance Group Ltd. from American Bankers Insurance Group of Miami.

New York-based Skandia America Group, a subsidiary of Skandia International of Stockholm, Sweden, has announced its intent to acquire Albany, Ore.-based Valley Insurance Co. and Valley Pacific Inc. from Beaver Insurance Co. and Beaver Pacific Inc., both units of Nationwide Insurance Group.

August International Corp., an Orange County, Calif., health care management company, has acquired Coordinated Benefits Systems Inc. of Dallas.

Rollins Burdick Hunter Co. of Chicago has purchased Charlotte, N.C.-based Leak-Mann-Patrick & Associates Inc.

Manfred H. Meyer Inc. has merged with the New York-based Frenkel & Co. Inc.

Toplis & Harding Inc. and Lee McAndrews Inc., both headquartered in New York, have reached an agreement in principle to merge in 1989.

### New offices

The Wyatt Co. has opened a new office at 3945 Freedom Circle, Suite 670, Santa Clara, Calif. 95054; 408-988-8553.

Ellis Insurance Services NW Inc. has opened a new office at 150 Nickerson, Suite 201, Seattle, Wash. 98109; 206-283-0212.

Tyler, Texas-based Lindsey & Newsom Inc. Claims Services has opened a new office at 2301 N. Hullen St., Suite 100, Metairie, La. 70001; 504-837-1836.

Poe & Associates Inc.'s Broderick-Babb division has moved to 5900 N. Andrews Ave., Fort Lauderdale, Fla. 33309; 305-776-2222.

ISU/Cassady Neeser & Bras-seur Inc. has opened a new office at 1 South 450 Summit Ave., Suite 165, Oakbrook Terrace, Ill. 60181; 312-932-1400.

ENSR Consulting & Engineering Corp. has opened a new office at 655 Winding Brook Drive, Glastonbury, Conn. 06033; 203-657-8910.

Fred S. James & Co. of Illinois has opened a facility at 3030 Warrenville Road, Suite 560, Lisle, Ill. 60532; 312-505-1515. ■

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# Datebook

**MARCH 7-9. The 10th Annual Petroleum Insurance and Environmental Protection Conference** in Dallas, co-sponsored by the Professional Development Institute and Self-Insurance Resource Inc.; \$495. Professional Development Institute, P.O. Box 13288, North Texas State University, Denton, Texas 76203; 800-433-5676; 817-565-2483 within Texas.

**MARCH 7-9. The Oregon Governor's Occupational Safety and Health Conference—Accident Prevention: A Key to Oregon's Future** in Portland, Ore., co-sponsored by the Accident Prevention Division of the Department of Insurance and Finance and the Columbia-Willamette Chapter of the American Society of Safety Engineers; \$50. Dianne Mekkers, Accident Prevention Division, Department of Insurance and Finance, 503-378-3272.

**MARCH 8. Retiree Medical Benefits** seminar in Chicago, sponsored by The Wyatt Co.; no charge for first three registrants per company. Andrea Sullivan, The Wyatt Co., 303 W. Madison St., Chicago, Ill. 60606-3308; 312-704-2530.

**MARCH 8-10. Insurance Insolvency and Liquidation** course in Honolulu, sponsored by The College of Insurance; \$895 for College sponsors; \$995 for non-sponsors. Also **July 10-12** in Chicago. Professional Programs, The College of Insurance, 101 Murray St., New York, N.Y. 10007-2132; 212-962-4111.

**MARCH 8-10. Fire Protection for Safety Professionals** course in Long Grove, Ill., sponsored by the National Loss Control Service Corp.; \$495. Also **April 26-28**. Professional Education Center, NATLSCO, K-3, Long Grove, Ill. 60049-0075; 312-540-2400.

**MARCH 9. Strategies for Managing the Foreign Exchange Risk in Insurance** conference in London, sponsored by the Insurance & Reinsurance Research Group Ltd.; 210 pounds (\$365.40) plus VAT. Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

**MARCH 9-10. Occupational Health Nursing Principles and Certification Review** course in Cambridge, Mass., sponsored by Fireman's Fund Risk Management Services Inc.'s Occupational Health Consulting & Ergonomics division; \$295. Also **March 30-31** in Arlington, Va. Annette B. Haag, Occupational Health Consulting, Fireman's Fund Risk Management Services Inc., P.O. Box 777, Novato, Calif. 94998-9002; 415-899-2423.

**MARCH 9-10. Third Annual Employee Benefits in Bankruptcy and Lending Transactions** course in Washington, D.C., sponsored by the American Bar Assn. Division of Professional Education; \$400 for Section members; \$425 for ABA members; \$450 for non-members. ABA Division for Professional Education, Department N1525, 750 N. Lake Shore Drive, Chicago, Ill. 60611; 312-988-6200.

**MARCH 9-11. Self-Insurance-Foreign/Domestic Captives** course in Bermuda, sponsored by the American Law Institute-American Bar Assn. Committee on Continuing Professional Education; \$400. Registrar, American Law Institute-American Bar Assn, 4025 Chestnut St., Philadelphia, Pa. 19104; 800-253-6397; 215-243-1861.

**MARCH 10. Risk Management Winter Seminar** in Tampa, Fla., sponsored by Insurance Software Packages Inc.; \$75. Also **March 24**. Patti Mahaffey, Insurance Software Packages Inc., 5118 N. 56th St., Tampa, Fla. 33610; 800-237-8133; 813-621-6069.

**MARCH 13. 1989 All-Industry Insurance Day: Focus On The Future** in Bethesda, Md., sponsored by Hamilton Resources Corp.; \$30. Kevin Quinley, Hamilton Resources Corp., 3975 University Drive, Suite 410, Fairfax, Va. 22030; 703-273-1995.

**MARCH 12-15. Quality Assurance and Customer Satisfaction Through Claims Prevention and Recovery** conference and exhibition in Tampa, Fla., sponsored by Shippers National Freight Claim Council Inc.; \$325 for SNFCC members; \$380 for non-members; \$130 for spouses. SNFCC Inc., 120 Main St., Box Z, Huntington, N.Y. 11743; 516-549-8984.

**MARCH 13-15. Industrial Hygiene Sampling Strategies** course in Los Angeles, sponsored by the University of Southern California's Institute of Safety and Systems Management; \$460. University of Southern California, Institute of Safety and Systems Management, Office of Extension and In-Service Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-6383.

**MARCH 13-15. Techniques of Risk Management** course in Montreal, sponsored by the Risk & Insurance Management Society Inc.; \$540 for RIMS members; \$640 for non-members. Educational Department, RIMS, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

**MARCH 13-15. International Health Care Management Conference: Diagnosing and Treating the Issues** conference in Chicago, sponsored by the International Foundation of Employee Benefit Plans; \$615 for IFEBP members; \$690 for non-members. Also **May 1-5** in Brookfield, Wis. Registration Department, IFEBP, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

**MARCH 13-16. Fundamentals of Public Sector Benefits Management** seminar in Brookfield, Wis., sponsored by the International Foundation of Employee Benefit Plans; \$800 for IFEBP members; \$900 for non-members. Registration Department, IFEBP, P.O. Box 69,

Brookfield, Wis. 53008; 414-786-6700.

**MARCH 13-17. Fundamentals of Industrial Hygiene Monitoring** course in Long Grove, Ill., sponsored by the National Loss Control Service Corp. \$750. John Garis, NATLSCO, K-3, Long Grove, Ill. 60049-0075; 312-540-2026.

**MARCH 14. Pollution Liability: The Law and Available Insurance** workshop in Sioux Falls, S.D., sponsored by The Society of Chartered Property & Casualty Underwriters; \$90 for Society of CPCU members; \$110 for non-members. Mari Jennings, Society of CPCU, Kahler Hall, 720 Providence Road, CB#9, Malvern, Pa. 19357; 215-251-2741.

**MARCH 14. CAOHC Recertification Course**

in Occupational Hearing Conservation in Kansas City, Mo., sponsored by Impact Hearing Conservation Inc.; \$150. Impact Hearing Conservation Inc., 406 W. 34th St., Suite 400, Kansas City, Mo. 64111; 800-346-2139.

**MARCH 14-15. Advanced Reinsurance Seminar** in Dallas, sponsored by the University of Dallas' Reinsurance Management Institute; \$750 (includes meals). Bruce Evans, Reinsurance Management Institute, University of Dallas Graduate School of Management, 1845 E. Northgate Drive, Irving, Texas 75062-4799; 214-721-5360.

**MARCH 14-17. 13th International Captive Insurance and Reinsurance Forum** in Bermuda, sponsored by the Tillinghast division of Towers, Perrin Forster & Crosby Inc.; \$900; \$750 for additional registrants from the same company. Conference Director, Tillinghast/TPF&C, 695 E. Main St., Stamford, Conn. 06901; 203-326-5400.

**MARCH 15. AIDS in the Workplace** seminar in Columbus, Ohio, sponsored by the Ohio Manufacturers' Assn.; \$105 for OMA members; \$140 for non-members. Ohio Manufacturers Assn., 33 N. High St., Columbus, Ohio. 43215.

**MARCH 15-16. Dynamic Company Exposed: A Practical Forum on Insuring and Managing Exposure** in Chicago, co-sponsored by the Risk Management, Underwriting, Claims, Agency Administration, Reinsurance, International Insurance and E/S/SL Sections of the Society of Chartered Property & Casualty Underwriters; \$175 for section members; \$185 for Society of CPCU members; \$225 for non-members. Mari Jennings, Society of CPCU, 720 Providence Road, Malvern, Pa. 19355; 215-251-2734.

**MARCH 15-16. Fourth IRRG Airline Insurance Conference** in London, sponsored by the Insurance & Reinsurance Research Group Ltd.; 395 pounds (\$687.30) plus VAT. Judith Hobday, Insurance & Reinsurance Research Group Ltd.,

Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

**MARCH 15-17. 1989 Casualty Actuarial Society Ratemaking Seminar** in Dallas, sponsored by the American Academy of Actuaries and the Canadian Institute of Actuaries; \$200 for CAS members; \$300 for non-members. ACA, 1720 I St. N.W., Seventh Floor, Washington, D.C. 20006; 202-223-8196.

**MARCH 15-17. The Florida Symposium on Workers Compensation** in Daytona Beach, Fla., sponsored by the National Symposium on Workers Compensation; \$350. The Collyer Co., 716 S. Beach St., Ormond Beach, Fla. 32074; 904-672-4584.

**MARCH 15-17. Reinsurance Accounting & Auditing** course in Hamilton, Bermuda, sponsored by The College of Insurance; \$795.

*Continued on next page*

## 1988 Results **RLI** Even Stronger

### Consolidated Statutory Financial Information

#### RLI Insurance Company and Mt. Hawley Insurance Company

STATUTORY SURPLUS <i>(000 Omitted)</i>	COMBINED RATIO
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1983 = \$12,238	1983 = 94.9
1984 = \$16,739	1984 = 97.0
1985 = \$37,037	1985 = 99.7
1986 = \$53,063	1986 = 84.1
1987 = \$57,243	1987 = 84.2
*1988 = \$64,951	*1988 = 93.9

5 YEAR  
COMBINED RATIO: 89.8  
*(1983-1987)*

#### ASSETS *(000 Omitted)*

1983 = \$ 35,156
1984 = \$ 48,719
1985 = \$105,993
1986 = \$159,568
1987 = \$168,859
*1988 = \$173,861

#### LOSS RESERVES *(000 Omitted)*

1983 = \$ 4,985
1984 = \$ 9,150
1985 = \$22,784
1986 = \$46,243
1987 = \$59,712
*1988 = \$63,544

\*Six months results ended June 30, 1988

# SOLID.

To Protect Policyholders • To Honor Obligations

## RLI Corp.

9025 North Lindbergh Drive  
Peoria, IL 61615

### Underwriting Branch Offices

Atlanta • Chicago • Hartford • Kansas City • Los Angeles  
San Francisco • St. Paul

RLI Insurance Co. — Mt. Hawley Insurance Co. — American Capacity Insurance Co.  
For Specialty Insurance Coverages

# Datebook

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College sponsors; \$895 for non-sponsors. **Also May 1-3** in Boston, **June 26-28** in Kansas City, Mo., **Sept. 25-27** in Chicago and **Nov. 1-3** in San Francisco. Professional Programs, The College of Insurance, 101 Murray St., New York, N.Y. 10007-2132; 212-962-4111.

**MARCH 15-17. Financial Analysis for Risk Management** course in Dallas, sponsored by The College of Insurance; \$595 for College sponsors; \$695 for non-sponsors. Professional Programs, The College of Insurance, 101 Murray St., New York, N.Y. 10007-2132; 212-962-4111.

**MARCH 15-17. CAOHC Certification Training Course in Occupational Hearing Conservation** in Kansas City, Mo., sponsored by Impact Hearing Conservation Inc.; \$325. Impact Hearing Conservation Inc., 406 W. 34th St., Suite 400, Kansas City, Mo. 64111; 800-346-2139.

**MARCH 16-17. Brief Reinsurance** course in New York City, sponsored by The College of Insurance; \$195 for College sponsors; \$245 for non-sponsors. Professional Programs, The College of Insurance, 101 Murray St., New York, N.Y. 10007-2132; 212-962-4111.

**MARCH 16-17. Directors and Officers Liability-Strategies for the 1990s** symposium in New Orleans, sponsored by The Wyatt Co.; \$725; \$625 per additional registrant from same company. Mary Fontana, 303 W. Madison St., Suite 2400, Chicago, Ill. 60606-3308.

**MARCH 16-17. National Retirement Income Policy** forum in Washington, D.C., co-sponsored by the American Council of Life Insurance, the Assn. of Private Pension & Welfare Plans, the AFL-CIO and the U.S. Department of Labor; \$395; Georgiana Smith, American Council of Life Insurance, 1001 Pennsylvania Ave. N.W., Washington, D.C. 20004; 202-624-2433.

**MARCH 16-17. Managing Intergovernmental Pools** workshop in Charleston, S.C., sponsored by the Pooling Section of the Public Risk Management Assn.; \$175 for first registrant from a pool; \$150 for each additional registrant. PRIMA Pooling Seminar, 1120 G St. N.W., Suite 400, Washington, D.C. 20005; 800-433-1790.

**MARCH 16-17. Developing and Managing a Medical Surveillance Program** course in Los Angeles, sponsored by the University of Southern California's Institute of Safety and Systems Management; \$300. University of Southern California, Institute of Safety and Systems Management, Office of Extension and In-Service Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-6383.

**MARCH 20-21. Transportation of Hazardous Materials/Waste** course in Sacramento, Calif., sponsored by the University of Southern California's Institute of Safety and Systems Management; \$100. **Also June 12-13** in Sacramento, Calif., and **July 10** in Los Angeles. University of Southern California, Institute of Safety and Systems Management, Office of Extension and In-Service Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-6383.

**MARCH 20-21. Reinsurance Accounting Workshop** in London, sponsored by the Insurance & Reinsurance Research Group Ltd.; 380 pounds (\$661.20) plus VAT. Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

**MARCH 20-22. Fundamentals of Insurance** course in Scottsdale, Ariz., sponsored by the Risk & Insurance Management Society Inc.; \$495 for RIMS members; \$595 for non-members. Education Department, RIMS, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

**MARCH 21-23. Hazard Communication for the Industrial Hygienist** seminar in Atlanta, co-sponsored by the National Center for Hazard Communication, the University of Maryland's Center for Professional Development and the American Industrial Hygiene Assn.; \$595. **Also April 4-6** in College Park, Md., **April 18-20** in Chicago, **May 2-4** in Denver, **June 13-15** in Boston and **June 27-29** in Los Angeles. Registration Clerk, University of Maryland Center for Professional Development, University Boulevard at Adelphi Road, College Park, Md. 20742.

**MARCH 23. Family Issues and the Future of Employee Benefits** breakfast meeting in Lisle, Ill., sponsored by the West Suburban Chicago Chapter of WEB; \$10 for WEB members; \$20 for non-members. L. Zoeller, 200 W. Adams, Suite 2015, Chicago, Ill. 60606; 312-558-4585.

**MARCH 28. Right to Know Laws: Maintaining Compliance** seminar in Columbus, Ohio, sponsored by the Ohio Manufacturers' Assn.; \$105 for OMA members; \$140 for non-members. Ohio Manufacturers Assn., 33 N. High St., Columbus, Ohio. 43215.

**MARCH 28. Maximizing Coverage, Minimizing Costs** workshop in Akron, Ohio, sponsored by the Society of Chartered Property & Casualty Underwriters; \$150 for Society of CPCU members; \$180 for non-members. Mari Jennings, Society of CPCU, 720 Providence Road, CB#9, Malvern, Pa. 19355; 215-251-2735.

**MARCH 28-29. Negotiating Skills for the Claim Professional** workshop in Los Angeles, sponsored by the American Educational Institute; \$495. **Also April 11-12** in Philadelphia and **May 9-10** in Cincinnati. The American Educational Institute, 170 Mount Airy Road, P.O. Box 356, Basking Ridge, N.J. 07920-0356; 800-631-8183 within New Jersey; 210-766-0909 elsewhere.

**MARCH 28-30. Advanced Safety Management** course in Long Grove, Ill., sponsored by

the National Loss Control Service Corp.; \$600. Professional Education Center, NATLSCO, K-3, Long Grove, Ill. 60049-0075; 312-540-2400.

**MARCH 28-30. Flex Comes of Age** conference in Washington, D.C., sponsored by the Employers Council on Flexible Compensation; \$595 for ECFC members; \$645 for non-members. ECFC Conference, Department 5063, Washington, D.C. 20061-5063; 202-659-4300.

**MARCH 29-30. Quantitative Techniques for Risk Management** seminar in Atlanta, sponsored by the Tillinghast division of Towers, Perrin, Forster & Crosby Inc.; \$750. **Also May 17-18** in Boston. Conference Director, Tillinghast/TPF&C, 695 E. Main St., Suite 600, Stamford, Conn. 06901; 203-326-5400.

**MARCH 29-30. Reinsurance Management** course in New Orleans, sponsored by The College of Insurance; \$595 for College sponsors; \$695 for non-sponsors. **Also Oct. 18-19** in Scottsdale, Ariz. Professional Programs, The College of Insurance, 101 Murray St., New York, N.Y. 10007-2132; 212-962-4111.

**MARCH 29-31. Pension, Profit-Sharing and Other Deferred Compensation Plans** course in San Francisco, sponsored by the American Law Institute-American Bar Assn. Committee on Continuing Professional Education; \$500. Registrar, American Law Institute-American Bar Assn, 4025 Chestnut St., Philadelphia, Pa. 19104; 800-253-6397; 215-243-1681.

**MARCH 30. Litigation Management for the Claim Professional** seminar in Los Angeles, sponsored by the American Educational Institute; \$225. **Also April 13** in Philadelphia and **May 11** in Cincinnati. The American Educational Institute, 170 Mount Airy Road, P.O. Box 356, Basking Ridge, N.J. 07920-0356; 800-631-8183; 201-766-0909.

**MARCH 30-31. Forging a New Partnership for Employee Benefits with the 101st Congress and Bush Administration** meeting in San Diego, sponsored by the National Employee Benefits Institute; no charge of NEBI members; \$350 for non-members. Terri Hoile, NEBI, 2445 M St., Suite 400, Washington, D.C. 20037; 800-538-7258.

**MARCH 30-31. Managing Risk Communications** seminar in Houston, sponsored by E.I. du Pont de Nemours & Co.; \$925; \$795 each for two or more registrants from same company. **Also April 26-27** in Philadelphia. Du Pont, Room X51430, P.O. Box 4500, Greenville, Del. 19807; 800-532-7233; 302-999-6982 within Delaware.

**MARCH 31-APRIL 1. Casualty Actuarial IV** course in New York City, sponsored by The College of Insurance; \$395 for College sponsors; \$445 for non-sponsors; \$100 discount for second registrant from same organization. **Also April 7-8.** The College of Insurance, Professional Programs, 101 Murray St., New York, N.Y. 10007; 212-962-4111.

**APRIL 3-4. Emerging Opportunities in Reinsurance** conference in New York City, sponsored by Executive Enterprises Inc.; \$990. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

**APRIL 3-5. Inspecting Buildings for Asbestos-Containing Materials** course in Los Angeles, sponsored by the University of Southern California's Institute of Safety and Systems Management; \$490. University of Southern California, Institute of Safety and Systems Management, Office of Extension and In-Service Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-6383.

**APRIL 4. Maximizing Coverage; Minimizing Costs** workshop in White Plains, N.Y., co-sponsored by the Westchester and Lehigh Valley Chapters of The Society of Chartered Property & Casualty Underwriters; \$135 for Society of CPCU members; \$165 for non-members. **Also May 17** in Allentown, Pa. Bonnie Kinsley, The Society of CPCU, 720 Providence Road, CB#9, Malvern, Pa. 19355; 215-251-2735.

**APRIL 4-5. Reinsurance Systems** course in New York City, sponsored by The College of Insurance; \$595 for College sponsors; \$695 for non-sponsors. **Also June 13-14** in Boston and **Oct. 24-25** in Chicago. Professional Programs, The College of Insurance, 101 Murray St., New York, N.Y. 10007-2132; 212-962-4111.

**APRIL 4-7. AIRMIC Conference 1989: The Rise or Fall of Risk Management-The Present Dilemma** in Cambridge, England, sponsored by The Assn. of Insurance & Risk Managers in Industry and Commerce; 500 pounds (\$870). AIRMIC, 6 Lloyds Ave., London, England EC3N 3AX; 01-480-7610.

**APRIL 5-6. Issues Symposium and Annual Meeting of the National Council on Compensation Insurance** in Boca Raton, Fla.; no charge for NCCI members; \$150 for non-members. Michelle Smith, National Council on Compensation Insurance, 1 Penn Plaza, New York, N.Y. 10119; 212-560-1026.

**APRIL 6-7. Management Planning for Asbestos** course in Los Angeles, sponsored by the University of Southern California's Institute of Safety and Systems Management; \$300. University of Southern California, Institute of Safety and Systems Management, Office of Extension and In-Service Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-6383.

**APRIL 6-7. The Future of Data Reporting** seminar in Washington, D.C., sponsored by the Insurance Data Management Assn.; \$250 for IDMA members; \$300 for non-members. Ri-

chard L. Penberthy, IDMA, 85 John St., New York, N.Y. 10038; 212-669-0496.

**APRIL 6-7. ERISA, Bad Faith and AIDS** seminar in Washington, D.C., sponsored by the Defense Research Institute; \$345 for DRI members; \$370 for non-members. DRI, 750 N. Lake Shore Drive, Suite 500, Chicago, Ill. 60611; 312-944-0575.

**APRIL 9-11. Health Policy Conference** in Washington, D.C., sponsored by the American Medical Care and Review Assn.; \$395 for AMCR members; \$500 for non-members. AMCR, 5410 Grosvenor Lane, Suite 210, Bethesda, Md. 20814; 301-493-9552.

**APRIL 9-14. 27th Annual Risk Management and Employee Benefits Conference** in Atlanta, sponsored by the Risk & Insurance Management Society Inc.; full week: \$695 for members, \$795 for non-members; partial week: \$575 for members, \$675 for non-members; one-day registration: \$195 for members and non-members. RIMS Conference Department/Registration, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

**APRIL 10-12. Mock Court Trial: Practical Approach to Benefit Issues** seminar in San Francisco, sponsored by the International Foundation of Employee Benefit Plans; \$525 for IFEBP members; \$600 for non-members. Registration Department, IFEBP, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

**APRIL 10-12. Effective Management & Direction of Malpractice Insurers & Trusts** seminar in Chicago, sponsored by the Tillinghast division of Towers, Perrin, Forster & Crosby Inc.; \$750; \$700 for each additional registrant from the same organization. Conference Director, Tillinghast/TPF&C, 695 E. Main St., Suite 600, Stamford, Conn. 06901; 404-365-1642.

**APRIL 11. Workers' Compensation—Issues Into the '90s** workshop in Rockford, Ill., co-

sponsored by Rock Valley and North Florida chapters of the Society of Chartered Property & Casualty Underwriters; \$125 for Society of CPCU members; \$155 for non-members. **Also April 18** in Jacksonville, Fla. Bonnie Kinsley, Society of CPCU, 720 Providence Road, CB#9, Malvern, Pa. 19355; 215-251-2735.

**APRIL 13-14. ERISA Basics: A Primer on ERISA Issues** conference in New York City, co-sponsored by the American Bar Assn. sections on Business Law, Labor & Employment Law, Real Property, Probate & Trust Law, Taxation, and Tort & Insurance Practice, and the ABA Division for Professional Education; \$400 for ABA members; \$375 for members of sponsoring ABA sections; \$425 for others. Division for Professional Education, American Bar Assn., 750 N. Lake Shore Drive, Chicago, Ill. 60611; 312-988-6200.

**APRIL 13-14. Information Technology for the London Insurance Market** conference in London, sponsored by International Business Communications Ltd.; 540.5 pounds (\$940.50). International Business Communications Ltd., IBC House, Canada Road, Byfleet, Surrey KT14 7JL; 01-236-4090.

**APRIL 20-21. Captive Forum '89** in Guernsey, Channel Islands, co-sponsored by Guernsey Financial Services Commission Insurance Division and Guernsey Insurance Company Managers' Assn.; 50 pounds (\$87). Captive Forum Coordinating Center, Second Floor, Weighbridge House, Lower Pollet, St. Peter Port, Guernsey, C.I.; 0481-712801.

**APRIL 23-26. Annual National Council of Self-Insurers** meeting in Laguna Niguel, Calif., sponsored by the National Council of Self-Insurers; \$250 for NCSI members; \$300 for non-members. National Council of Self-Insurers, 10 S. Riverside Plaza, Suite 1530, Chicago, Ill. 60606; 312-454-5110.

**APRIL 24-26. Understanding Property and**

**Casualty Reinsurance** conference in New York City, sponsored by Executive Enterprises Inc.; \$990. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

**APRIL 25-27. Understanding Property-Casualty Statutory Financial Statements** conference in Hamilton, Bermuda, sponsored by Executive Enterprises Inc.; \$990. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

**APRIL 25-27. National Managed Health Care Congress '89** in Boston, sponsored by Cambridge Marketing Inc.; before April 14: \$345; after April 14: \$395. Cambridge Marketing Inc., 1 Forbes Road, Lexington, Mass. 02173; 617-860-7100.

**APRIL 26. Structured Settlement For Injury Claims-Will It Help** conference in London, sponsored by the Insurance & Reinsurance Research Group Ltd.; 210 pounds (\$365.40) plus VAT. Caroline Atkinson, Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

**APRIL 26-27. Insurance and Reinsurance Taxation** course in Chicago, sponsored by The College of Insurance; \$595 for College sponsors; \$695 for non-sponsors. **Also Nov. 16-17** in Honolulu. Professional Programs, The College of Insurance, 101 Murray St., New York, N.Y. 10007-2132; 212-962-4111.

The Datebook is compiled from notices sent to Business Insurance. Notices should be sent at least eight weeks in advance to Datebook, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. Please include the price, if any, of the meeting and information on registration for interested readers. Business Insurance reserves the right to select meetings of most interest to its readers and cannot guarantee that notices will be printed.

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To obtain free information on the products and services advertised, turn to our post-paid Reader Service Reply Card bound in this issue, or complete the coupon below and mail to:

**BUSINESS INSURANCE**  
P.O. BOX 1649  
RIVERTON, NJ 08077-7249

# Business Insurance

READER SERVICE CARD

Issue Date: MARCH 6, 1989  
Card Expiration: APRIL 28, 1989

All questions must be answered in order to have your inquiry processed.

Please check one item for each category:

1. My organization is best described as:
- Mfg/Svcs
  - Association
  - Union
  - Government
  - Educational Inst
  - Ins Agent
  - Ins Broker
  - Ins/Reins Co
  - Actry/Const
  - Attorney
  - Adj/Apprs
  - TPA
  - Healthcare Inst
  - Other

2. Number of employees:
- 150 or less
  - 1,000 - 4,999
  - 151 - 499
  - 5,000 or more
  - 500 - 999
  - Unknown

3. My title is best defined as:
- Administrative Mgt
  - Financial Mgt
  - Risk Mgt
  - Benefits Mgt
  - Loss prevention Mgt
  - Other

4. My purchasing involvement for the requested products is to:
- recommend only
  - specify
  - approve

5. Do you now receive a personally addressed copy of Business Insurance?
- Yes
  - No

Circle the numbers below that correspond to the companies listed on our Advertiser Index for the March 6, 1989 issue. Cards with more than 20 items circled will not be processed. This card expires April 28, 1989.

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# Agent/Broker Topics

A monthly editorial section sent exclusively to agents and brokers

## For members only

### Are preferred producer programs rewarding or discriminatory?

By LAURA MAZZUCA

Top Brass. Excel. MVP. Elite. These words all connote VIPs: "very important producers".

Indeed, members of insurers' preferred agent programs are singled out and rewarded by insurers for producing large and profitable books of business and for exhibiting a high degree of professionalism.

But, while these exclusive clubs have grown in size and importance over the last decade, preferred agent programs concern some agents—including those who belong to them.

Some agents complain that the arrangements are available only to large producers, leaving small agencies that cannot meet the minimum premium volume production requirements in the cold.

Others believe preferred producer programs can make insurers and agents beholden to each other, which may compromise the "independence" of independent agents.

Yet, preferred agent programs are flourishing, both because they have been instrumental in helping agencies and insurers grow and because they provide a system for providing incentives and rewards for prolific producers.

The programs' popularity is expected to continue to grow despite recent moves by insurers to thin the ranks of their appointed producers.

The advantages agents and brokers gain from preferred status include higher commissions, preferred underwriting services, financial assistance with automation and perpetuation, low guaranteed loans and an array of consultant services.

In return, agents and brokers that accept those privileges take on the responsibility of promising the insurer a larger volume of business, a crack at the agency's best accounts and one of the top three slots among the agency's insurers.

If handled correctly, preferred agent arrangements can provide both financial and personal benefits for producers and insurers, said Don Himes, managing vp-retail division of Poe & Associates, a Tampa, Fla.-based insurance brokerage.

"By the very nature of what's put together (in a preferred agency contract), it's a more personal relationship," said Mr. Himes. "It's a chance to build those people-to-people bridges that make a relationship."

Jerry W. Haug, vp of marketing for The St. Paul Cos. Inc. in St. Paul, Minn., agrees.

"Like many companies, we discovered a limited number of agents had a lot to do with our results, and we wanted to recognize that," he said, referring to St. Paul's "Top Brass" program.

"I think there's a place for them," agreed Robert H. Hilb, president of Richmond, Va.-based broker Hilb,

Rogal & Hamilton Co.

"It makes good business sense in efficiency and in terms of sales and underwriting results," concurred R. Keith Like, executive vp-commercial lines group for Kemper Group of Long Grove, Ill.

An agent who has preferred status can get faster quote turnaround and more responsive underwriting, even on "a questionable piece of business," which can mean the difference between success and failure in a tight market, said Bruce C. Dunbar, president and chief executive officer of broker McGriff, Seibels & Williams Inc. in Birmingham, Ala.

For example, because of McGriff, Seibels' affiliation with St. Paul's Top Brass program, it placed "a ton" of business with St. Paul during the last hard market, said Mr. Dunbar.

Indeed, "the proof of the pudding" on whether preferred programs work lies only in a hard market, where insurers can prove themselves by continuing to write business for their preferred agents and brokers, said Conrad Foa, president of Foa & Son, a New York brokerage.

"In a soft market, their importance fades. In the hard market it's the entry that makes the difference of survival or finding a reasonable market," he said.

For instance, during the last hard market, "the only people open were us," said Robert Nicosia, president of Pilgrim Insurance Agency in Nutley, N.J. The agency has a preferred agency contract as part of Crum & Forster Inc.'s "Custom Agency" program for commercial lines.

"I'm convinced it works, and it works best in a hard market," he said. "I've seen it happen."

And, even some risk managers see the programs as a plus for insurance buyers.

"It's more of an advantage to have that (guaranteed) market," said Marge P. Layne, risk manager for the California & Hawaiian Sugar Co. in Concord, Calif. "I think, as a buyer, it's a benefit to me unless it's abused to the point where it's very obvious," she added.

"The consumer could benefit from the solid relationship between producer and insurer," agreed Jon Harkavy, director of government affairs for the Risk & Insurance Management Society Inc. in New York.

But while many view preferred producer arrangements as beneficial, others believe "preferred" is merely a euphemism for "discriminatory," and that insurers are using the programs not simply to reward good producers, but to winnow out the deadwood among their agents.

That strategy presents an ironic Catch-22 for  
*Continued on next page*



SCHILLER STON

## Agent/broker topics

## Preferred producers

Continued from previous page

smaller, less profitable agencies that cannot meet the premium requirements set for the programs but which can benefit from them the most.

"The industry is headed toward an era where you have to be a big producer to get the attention of the insurers. . . If I were a little agent, I'd be upset," said Mr. Hilb of Hilb, Rogal & Hamilton.

"Preferred agency contracts are a smoke screen to the real issue that the smaller agent is in a real squeeze," said Mr. Himes of Poe & Associates. "Insurers can't afford to focus on the little guys when they (insurers) can do it in big chunks."

Although he believes that a preferred producer program is "a good thing for the industry because it recognizes what is necessary for distribution," these programs hurt "the lower 50% of the agency system"—small agencies that can't qualify for preferred agent status, said Gene McCrory, president of Northern American Insurance Agency in Oklahoma City. Mr. McCrory also serves as chairman of the IAA's agency contracts committee.

"Preferred agent programs? I haven't even been able to talk to an insurer about them in four or five years," said Randy Blaine, owner of Multi-Line Insurance Agency, a one-man operation in Gillette, Wyo.

Most national insurers require an agency to place at least \$300,000 in premium volume with them to qualify for preferred status, said Mr. Blaine. Since his agency produces less than \$1 million in premiums per year, it is difficult to place that much business with just one insurer.

But smaller agents like Mr. Blaine look in other directions for the capacity they need. Mr. Blaine's agency represents many regional insurers, which he noted can offer him "all the advantages of a preferred agent program," without the small print. His insurers have helped his agency with increased profit-sharing, computer installation and service.

"When I need help with this or that, I go to my companies for individual deals," Mr. Blaine added. And, regionals "don't jump from agent to agent like they do in the big city," he added (see story, page 36D).

For owners of agencies like Mr. Blaine's who want preferred status, "the options are fairly limited," agreed Mr. Roth. One option is for the small agency to merge, acquire smaller agencies or cluster, he said.

"When you talk to people and ask why they merged, they all say 'market problems. . . I've got to get big or get out,'" said Jerry T. Hargrove, chief executive officer of Northside Insurance Services, an \$8 million Atlanta-based agency, and national education chairman for the PIA.

In addition to freezing out the little guy, some industry observers believe preferred producer programs compromise the relationship between insurers and producers.

With a preferred producer arrangement, it can become too easy for an agency to rely predominantly on the lead insurer, said Lyle Roth, vp of Koelbel & Co., a Denver brokerage, and chairman of the National Assn. of Professional Insurance Agents' company relations committee. "In a relatively short span of time, an independent agent can become not-so-independent," he added.

"I don't think they serve the best overall interest of independent agents," said A. William Bailey, president of Bailey Insurance & Financial Services in Waco, Texas. Mr. Bailey is also a senior vp for the New York-based Independent Insurance Agents of America.

"I don't think it's right for a company to give insureds better pricing from one agency or another," said Mr. Bailey. "It's discriminatory against the customer," he said, noting that a client's selection of an agency will be based solely on price "if there's no demonstration of greater professionalism from one agency to another."

The issue has even gone to court. Last March, a small California broker sued CIGNA Corp. claiming that his lack of preferred status caused his company to lose its largest property/casualty account to an agent that belonged to CIGNA's COMPAR preferred agent program (BI, March 21, 1988). A CIGNA spokesman and an attorney for the plaintiff, Stone Insurance Brokers of Pasadena, would not comment because of ongoing settlement negotiations.

But RIMS' Mr. Harkavy points out that "the possibility that a policyholder could be compromised by a producer-insurer relationship exists generically," so preferred status doesn't imply an additional threat.

It's highly unlikely that a knowledgeable risk manager would be taken in by a producer deliberately steering business to an inappropriate insurer, because risk managers know the market and the going commission rates, commented Ms. Layne of C&H.

Still others theorize that preferred agent programs can drive up insurance rates.

For example, if preferred agents are continually paid higher commissions, insurers may eventually have to compensate by passing the expenses to the consumer through rate increases, said J. Robert Hunter, president of the National Insurance Consumer Organization of Alexandria, Va.

If the existence of preferred status programs has affected the marketplace, the marketplace has also affected the programs.

At first, early in the 1980s when many of the programs were introduced, preferred agent perks were centered around profit-sharing and higher commissions, noted Martin P.



Mr. McCrory

Agency, a one-man operation in Gillette, Wyo.

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Mr. Bailey

# Insurers custom design preferred agent programs

By LAURA MAZZUCA

Each insurer structures its preferred agent program differently, and most are willing to work closely with agents and brokers to further customize the arrangement.

"Every one of our programs is custom-designed, agency by agency, by branch managers," explained Jim Carey, senior vp-commercial insurance, underwriting and product management for Fireman's Fund Insurance Cos. of Novato, Calif., referring to the insurer's "MVP" commercial lines preferred agent program.

While most insurers require similar commitments from their preferred agents—such as a minimum premium volume, sound profit history, regional compatibility and that the insurer is one of the agent's top three markets—what an insurer offers its preferred agents depends mainly on what the insurer wants from those producers.

For example, if an insurer is concerned about the perpetuation of the agencies that represent it, it will offer consultation and financing to its preferred agents. Or, if marketing is a big consideration, the insurer could offer marketing assistance.

However, there is a standard "laundry list" of perks generally offered to insurance agents with "preferred" status, including: educational programs and seminars, low-interest guaranteed loans, advertising assistance, higher commission levels, bonuses and underwriting authority.

While many insurers require a preferred agent to maintain a minimum premium volume, others are more concerned with the agency's growth potential or financial stability.

Kemper Group, for example, generally targets established agencies for its preferred agent program but has no minimum premium volume requirement, said R. Keith Like, executive vp-commercial lines group for the Long Grove, Ill.-based insurer.

"We simply want enough volume to make it efficient," he said.

Agents in Kemper's "Excel" personal lines program and the "Partner Producer Program" for commercial lines agents are issued a standard Kemper agency contract, said Mr. Like.

However, preferred agents are required to institute a

custom-made marketing program, which is annually negotiated by Kemper and the agency, Mr. Like said. They also must establish a perpetuation plan and install automation systems, he added.

If needed, Kemper will loan an agency funds for automation upgrades, perpetuation planning or the addition of producers.

The emphasis of Continental Corp.'s "Circle" program also is on formulating an annual agency marketing plan and that's one of the major benefits an agency realizes from the program, said Walter Tarver, vp-marketing for the New York-based insurer.

In fact, the Circle program, which was launched in January 1981, was specifically developed for long-term marketing distribution, "not as a reward for last year's performance," he stressed.

Of Continental's 3,500 agents nationwide, about 1,500 currently are Circle agents.

After the insurer targets an agency for preferred status, the local Continental office dispatches a team of Continental marketing, sales and service personnel to help the agency develop a marketing plan by line of business based on premium volume and number of policies sold, said Mr. Tarver.

This plan sometimes calls for reduced emphasis on or elimination of some lines of business, he added.

"We're not always seeking to address new business," Mr. Tarver said.

Aetna Life & Casualty Co.'s "Elite" commercial lines program was initiated in 1984 to assist its agents in creating an annual business plan and to develop long-range planning, including automation and perpetuation advice, said Ken May, marketing director-commercial insurance division for the Hartford, Conn.-based insurer.

The insurer initially targeted agents already in the field, "people who had proven over time that they had the same market appetite" as the Aetna home office, said Mr. May.

Today, the basic criteria for joining the program are the same, but Aetna now seeks preferred agencies that generate high revenues per employee and per producer. An Elite agency can produce from \$250,000 to \$10 million in annual premium volume; no minimums are set because "we look for potential," he added.

Continued on next page

Hughes, executive vp at Mack & Parker Inc., a Chicago brokerage. But as the market softened in the last two years and insurers were forced to cut costs, the emphasis shifted to perks like consulting services and "management enhancements," though the financial considerations are still important.

"The companies are desperately trying to reduce expense ratios, and make themselves and their agents more efficient," said Mr. Hughes. "Paying more commission isn't the answer."

"Increased commission is the least significant aspect that makes it attractive," said Mr. Nicosia of Pilgrim Insurance Agency. Instead, the most attractive element of preferred agent programs is "how fast they can move" on underwriting, policy processing and other essential services.

Other perks may not be essential but can certainly enhance an agency's luster.

The preferred agent programs that Davies & Association in Murray Hill, N.J., has joined offer financial assistance for advertising, automation, marketing and consulting services, said James H. Davies, president of the \$10 million agency.

Davies & Associates has already financed a new producer and a computer system with the assistance of such programs. "If you ask them, and they won't foot the bill for all of it, they will for part of it," he added.

While there are admitted pitfalls involved in preferred agent programs, most producers agree that, like it or not, such programs are a permanent part of the industry landscape.

"It's an unavoidable fact that not all agencies are created equal. . . The old days of business as usual when we all got the same and did the same are gone," said Mr. Nicosia of the Pilgrim Insurance Agency. "We're talking about entrepreneurial business here, not socialism."

And, although preferred agent programs have developed over the last 10 years as formalized ways of giving top producers extra privileges, the reward concept is not new, said Mr. McCrory of Northern American Insurance Agency.

Agents were instrumental in promoting reward programs in order to be formally recognized by insurers for their achievements, he added.

And, for their part, insurers "wanted to make sure the agents that represented them were going to be there," said Mr. McCrory, whose own agency represents "seven or eight" insurers through preferred agent programs.

According to a June 1988 national survey conducted by The Merritt Co., an insurance publishing company in Santa Monica, Calif., 60% of the agents polled have a preferred contract with at least one insurer.

A similar survey conducted last year by the Independent

Insurance Agents of Texas indicates that of the 750 Texas agents responding, 30% were members of at least one preferred agent program.

The programs also seem to be appreciated by those who have them and are coveted by those who don't.

The Texas survey indicated that nearly 75% of the 358 agents who said they have never belonged to a preferred agent plan said they would like one, and 83% of those who have lost preferred agent agreements said they are actively seeking a new one.

In fact, one of the ironies about preferred contracts is that even those agents and brokers who are theoretically opposed to them usually have one or two.

For example, Bailey Insurance & Financial Services agency has been a preferred agent for the past three years.

"We have not specifically asked for them, but there are some perks we felt we should take advantage of," he said. These include profit-sharing, advertising (campaign funding or cooperative advertising) and loans to hire a new producer.

Some agents may be attracted to preferred agent programs because they may be the best way to retain contacts with insurers.

In an informal survey conducted last October, insurance industry consultant Watson Associates of Hartford, Conn., observed that insurers had reduced their overall agency force by as much as 40% compared with 1986 as they pared down expenses, battled for market share and identified loyal agents.

While the cutbacks have "stabilized" since the Watson survey was taken, there are no indications that insurers will be adding producers soon, a Watson spokesman said.

Most insurers readily admit that preferred programs are part of their strategy to reduce expenses by concentrating efforts and finances on the most productive agents.

"Like many companies, we discovered a limited number of agents had a lot to do with our results, and we wanted to recognize that," said St. Paul's Mr. Haug, referring to the Top Brass program.

"There's no question that they (preferred programs) discriminate, but that's the very thing that agents have told us we need to do."

Not surprisingly, larger agencies are more likely to have preferred agent agreements.

Only 10% of the respondents to the Texas survey with less than \$1 million in annual premium volume had one or more preferred contracts, compared with 35% of those in the \$1 million to \$3 million category; 70% of those in the \$3 million to \$5 million category; 78% of those in the \$5 million to \$10 million category; and 90% in the \$10 million and over category.

Continued from previous page

Aetna's 49 field offices control the preferred agency contracts and manage the program, said Mr. May.

The Elite agreement is a stand-alone and doesn't change the agency's standard contract with Aetna, he said. "It's a relationship-driven contract rather than a contract-driven relationship."

Some insurers' programs stress other concerns.

For example, when The St. Paul Cos. Inc. started its "Top Brass" program in 1984, most of the principals of its candidate agencies were ready for retirement, said Jerry W. Haug, vp of marketing for St. Paul in St. Paul, Minn.

As a result, a formal perpetuation plan became a prerequisite for admittance into the preferred producer program.

To this end, St. Paul consultants help to identify future agency leaders within the company and work with the targeted preferred agency to develop a financial plan.

In addition, the insurer even offers guaranteed loans to buy out the preferred agency if perpetuation isn't feasible, added Mr. Haug.

The agency also must follow a formal marketing plan that requires that it place 30% of its eligible business with St. Paul over the next five years.

Other insurers also want both agency commitment as well as minimum premium volume.

For example, Hartford Insurance Co.'s "VIP" program for personal and standard commercial lines business requires agents to produce a minimum premium volume for the insurer, as well as have a five-year strategic plan specifying goals, resources and annual objectives, said F. Herbert Brantlinger, vp of marketing for the Hartford, Conn.-based insurer.

The volume requirement varies depending on the size, location and expertise of the agency, he added.

Continental's Circle agents must count the insurer as one of their top three insurers, as well as place a minimum of \$500,000 in annual premiums with Continental, said Mr. Tarver.

Some smaller, regional insurers also require minimum premium volume standards from their preferred producer program members.

Harleysville Mutual Insurance Co. of Harleysville, Pa., a mid-Atlantic regional insurer, has developed the "Honors" preferred agent program, with criteria similar to that of national insurers, said Roger Murphy, vp-marketing. However, the minimum premium volume requirement—between \$1 million and \$1.5 million—is generally lower than that of the nationals, he added.

While insurers require differing premium commitments from preferred agents, CIGNA Corp.'s COMPAR program has a unique requirement: Under the program's "one-company concept," the agent must show virtually all of its business to CIGNA (see story, page 36A).

"It's an opportunity for us to increase the operating efficiency of an agent" by concentrating efforts and dealing with the agent through automation, said Ray C. Thomas, senior vp-marketing operations for CIGNA Corp. in Philadelphia.

COMPAR, which debuted in 1971, counts 244 agencies as members. These agencies generated \$740 million, or 24% of the insurer's business, at year-end 1988, said Mr. Thomas.

However, "In no way do we view our COMPAR agents in any other way than independent," he added, since the agents can place some specialty lines with other insurers.

Premium volume requirements are not as important to some insurers as an indication of strong fi-

nancial performance and a solid book of business.

For example, under Fireman's Fund's MVP program, the insurer does not require agencies to produce a minimum premium volume, but instead expects agencies to have outperformed the insurer's branch office in that region in terms of profit margin over a three-year period, said Mr. Carey. The insurer also looks for a quality book of business as well as formal business and perpetuation plans.

Under Continental's Circle program, the agency candidate must have represented Continental for at least three years and have shown a profit for at least that long, said Mr. Tarver.

And, Aetna's Elite program requires the successful candidate to show three to five years' profit and growth and be operating in a favorable economic and regulatory

climate, said Mr. May. "Eventually, an Elite agency is one that will outperform Aetna," he added.

Kemper looks for agencies that are "growth-oriented," rather than simply existing on the current book of business, said Mr. Like. The agency also must be large enough to commit a large book of business "to make it worth our while."

Location is another important consideration when an insurer is appointing a preferred agency.

"We don't want them tripping over other Kemper agents for a piece of the business," said Mr. Like. Rather than saturate a given region with preferred agents, Kemper wants to keep them spread out, he explained.

"You will find us looking a lot more critically at regulation and profitability on where we place our preferred agents," said Mr.

Thomas of CIGNA. "It's our job to be on point to determine who's going to sift out and be a winner."

Since Hartford traditionally has concentrated on the East Coast and needs to expand its market penetration, the insurer has targeted the Midwest and Southeast as regions for growth, and plans to add about 25 new VIP agents this year, said Mr. Brantlinger.

But, unlike some insurers, Hartford wants to keep the preferred target small: Of the insurer's 6,500 agents, only 154 are VIP agents.

"Our goal is not to have a large number of agents in this program," he said. Instead, Hartford will enroll no more than 300 VIP agents.

For insurers with preferred programs, the rewards can be great.

For example, Harleysville's 181 Honors agents produced 45.3% of its 1988 written premium, said Mr. Murphy. The company has a total

of 1,100 agents.

While Elite agencies comprised only 8% of Aetna's total agency force in 1988, they generated almost 33% of the insurer's total commercial lines and bond volume, said Mr. May. Aetna hopes to increase this percentage to as high as 50% in the next five years by adding more Elite agencies.

And, while Mr. Haug concedes that there have been "some disappointments" with St. Paul's Top Brass program—the insurer had to eliminate a handful of preferred agencies because of "operational conflicts"—the results have been satisfactory.

The 217 Top Brass agents generated 22% of the insurer's volume in 1988, a figure St. Paul wants to eventually increase to 35%, he said. Top Brass agencies constitute 4.3% of St. Paul's 5,000 agencies. ■



# SEVEN OUT OF TEN AGENTS ARE GUILTY OF NOT TAKING THEIR OWN ADVICE.

How often have you recommended a client go for the policy that offers the best coverage? Cautioned against sacrificing important protection to get the cheapest price? Or stressed the importance of comparing apples to apples when it comes to comparison shopping? Odds are, frequently. Yet all too often, agents are so wrapped up in advising their clients, they fail to apply this same good sense when it comes to purchasing their own errors & omissions coverage.

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## Agent/broker topics

# Small agencies look to regional insurers

By LAURA MAZZUCA

Small insurance agencies—which large national insurers seldom court for preferred agent programs—get the special attention they need from regional insurers.

Small agents can have the best of both worlds by signing contracts with regional insurers, which tout stability, and maintaining ties with national companies for the capacity they offer.

Regional insurers typically are committed to their geographic home base, which frequently is not the case among large national companies, according to Patricia A. Borowski, vp of government and industry affairs for the Alexandria,

Va.-based National Assn. of Professional Insurance Agents.

"What we provide agents with mainly is stability; they know where they're at with us," said Bob J. Smith, vp of marketing for Farmers Alliance Mutual Insurance Co., a 100-year-old multiline mutual based in McPherson, Kan. "We don't get involved in pricing wars," he noted.

"I'm only a small show here," observed Tom Roby, owner of The Roby Agency, a \$1 million agency in Watertown, S.D. "We need the nationals for big accounts, but we need our regionals too, because they stand by us."

In addition, regionals often do not burden small producers with

minimum premium volume limits and offer a high degree of personal service, producers report.

Generally, regional insurers fall into one of two categories: large regionals that operate in most states and offer almost the same product lines that nationals do; and "second tier" regionals, which market specialized products in a limited number of states, Ms. Borowski explained.

Regional insurers vary greatly in

size and specialty—from small, rural farm mutuals to subsidiaries of large national insurers that specialize regionally.

Often, regional insurers operate in areas with small populations that might not get much attention from national insurers.

And, rather than seeking out agencies with large premium volumes as preferred producers, most regionals want to work with smaller agents.

"Many large nationals believe that small agencies are not cost-effective; we don't think this is true," explained Robert A. Anker, president and chief operating officer of American States Insurance Co., an Indianapolis-based regional that

wrote \$796 million in net premiums in 1987.

"While we have the capacity and ability to write the large stuff, we don't seek it out because we have the distinction of being able to write small business and make money out of it," Mr. Anker said.

And, unlike many national insurers, regional insurance companies generally do not set minimum premium volume requirements for producers.

For small, rural agencies—especially those with less than \$3 million in annual premium volume that operate in sparsely populated areas—regional insurers were "significant lifesavers" in the last hard market and continue to offer stable support, pointed out Lyle Roth, vp of Koelbel & Co. of Denver and chairman of the company relations committee for the PIA.

"Their organizational structure makes them better able to react in these situations. They don't have to be all things to all people," said Herbert G. Treweek, executive vp of the Florida Independent Insurance Agents Assn. and chairman and chief executive officer of Cannon-Treweek Agency Inc. in Gainesville, Fla.

"The impression gained by our members is that they could communicate with the regionals," Mr. Treweek pointed out.

Regionals as a rule do not offer preferred-agent programs.

But, preferential treatment for many agents is the market stability regional insurers provide.

"By their very decision of geographic limitation, they are committed to a particular area," and are more selective of their agents to begin with, said Ms. Borowski of the PIA.

For example, when the Florida Legislature passed a law in 1986 that called for rate freezes and premium refunds in 1986 and rate rollbacks in 1987, almost 20 national insurance companies cut back their business base in the state, Mr. Treweek observed (*BI*, June 16, 1986).

But as nationals canceled agency contracts and cut back new appointments, regional insurers carried the agents through the crisis, he said.

Thomas C. Mare, president of Tom Mare Insurance Agency—a \$1.7 million premium volume agency in Fort Myers, Fla., that specializes in mobile home coverage—praises regional insurers for their commitment to markets.

Although he lost contracts with five large insurers during the hard market, his arrangement with regional insurer American Federation Insurance Co. of Grand Rapids, Mich., has "pretty much doubled the book" of business his agency writes in the four years since the contract took effect, he said.

Another regional insurer singled out for its commitment to the Florida market is American States, which operates in 37 states with 6,400 independent agents.

"We're proud of the fact that we didn't close down anywhere in the country in the last hard market," said Mr. Anker of American States.

"We focus heavily on keeping our underwriting integrity so when the market gets hard, we don't have to throw off bad business, cancel agents and clean house," he said.

Agencies in economically unsta-

Continued on next page



Mr. Roby

number of states, Ms. Borowski explained.

Regional insurers vary greatly in



Mr. Roth

While we have the capacity and ability to write the large stuff, we don't seek it out because we have the distinction of being able to write small business and make money out of it," Mr. Anker said.

"The impression gained by our members is that they could communicate with the regionals," Mr. Treweek pointed out.

Regionals as a rule do not offer preferred-agent programs.

But, preferential treatment for many agents is the market stability regional insurers provide.

"By their very decision of geographic limitation, they are committed to a particular area," and are more selective of their agents to begin with, said Ms. Borowski of the PIA.

For example, when the Florida Legislature passed a law in 1986 that called for rate freezes and premium refunds in 1986 and rate rollbacks in 1987, almost 20 national insurance companies cut back their business base in the state, Mr. Treweek observed (*BI*, June 16, 1986).

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Agencies in economically unsta-

Continued on next page



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NAI

Continued from previous page  
ble regions—such as sparsely populated rural areas or economically depressed areas—are frequently subject to the vagaries of large insurers that might no longer find them profitable.

"There is a lot of pulling back" by national insurers in the economically depressed rural areas of states such as Georgia, Louisiana and Texas that are victims of the farming and oil crises, said Jerry T. Hargrove, chief executive officer of Northside Insurance Services in Atlanta.

"It's just another way of saying that big is better," he observed. "If it wasn't for the regionals, most of our agents in rural Georgia would be in big trouble."

In rural regions, national insurers often either will stop writing a line of coverage that may be an agency's lifeblood—such as farm and livestock coverage—or "place such high (premium volume) requirements that small rural agents could never reach that goal," said Darla L. Lyon, deputy director of the South Dakota Division of Insurance in Pierre, S.D.

"It's a constant battle of keeping enough companies to do business with, and then keeping enough volume with them," observed John Badgley, president of Key Insurance Agency, a \$1 million multiline agency in Mobridge, S.D., a town with a population of about 4,200.

But not all national insurers have erased rural agencies from their marketing picture.

"We don't have a problem with small agencies, only with small agencies that don't want to get bigger," explained Ken May, marketing director of the commercial insurance division of Hartford, Conn.-based Aetna Life & Casualty Co.

"In fact, if a smaller rural agency gives results, it would be eligible for an Elite appointment," he said, referring to Aetna's preferred agency program.

And Philadelphia-based CIGNA Corp. did not abandon the Florida market during the recent hard market, pointed out Ray C. Thomas, senior vp of marketing operations. "Our precedent in this has been very, very excellent," he said. "If there is any type of window (of opportunity) in which we can protect our agents, we will."

"There are all levels of professionalism in our agency plant," said F. Herbert Brantlinger, vp-marketing of Hartford Insurance Group of Hartford, Conn., which appointed 100 new agents of all sizes last year and expects to add "that or more" in 1989.

But most regional insurers generally impose lower premium volume requirements than national insurers do when appointing an agency.

For example, American Concept Insurance Co. of Rapid City, S.D., is especially geared to servicing small, rural agencies producing between \$30,000 and \$40,000 in annual premiums for the insurer, said Paul Goyette, vp of marketing.

American Concept, a subsidiary of Providence Washington Insurance Co. of Providence, R.I., writes personal lines business in the Dakotas and Utah. The insurer is represented by about 300 agencies in the three states.

"Most (national insurers) don't want to spend the time with small agencies like these. But, put them all together, and it's good volume," Mr. Goyette said.

However, a willingness to use smaller agencies does not mean regionals are not selective in their agency appointments.

For instance, Farmers Alliance requires a minimum written premium volume of only \$50,000 from new appointments to qualify for

contingency payments, if the agency's book of business produces a good loss ratio, Mr. Smith said.

However, the insurer requires its agents to: have a fully funded perpetuation plan, demonstrate that clients need the insurer's products and be professional in all aspects of operations, Mr. Smith said.

Farmers Alliance, which operates in 11 states, mainly in the Midwest, is represented by 864 agents operating mostly in suburban areas and in a region's largest cities. An average agency's annual premium volume is about \$500,000, Mr. Smith said.

Milbank Insurance Co. of Milbank, S.D., a popular alternative to the national companies in South Dakota, does not impose a minimum premium volume for its rural and suburban agencies. It is more interested in market penetration.

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# Agents, insurers improve communications

By LAURA MAZZUCA

Relationships that agents and insurers have nurtured since the end of the hard property/casualty insurance are bearing fruit.

Producers and insurers concede that some major problems still must be ironed out. But, both groups now say they at least are communicating with each other.

Producers and insurers are attempting to galvanize their relationships through better communication efforts, including:

- To facilitate an exchange of ideas for improving business and sharing market perspectives, insurers are focusing on company-sponsored producer councils to address agents' concerns.

Producers are working on their own to keep in constant touch with the insurers they represent.

- Producer associations have established programs in which association officials meet with insurance company executives regularly.

Relationships between producers and insurers had reached a low two years ago as the property/casualty insurance market began pulling out of the industry's arguably worst hard cycle in history.

Agents and brokers felt that insurers had abandoned them when the market hardened in the mid-1980s. And, insurers felt that many producers had severed long-standing relationships during the prior competitive market to gain the lowest rates for clients or to take advantage of more attractive incentives from other companies (A/BT, March 2, 1987).

That problem now is moot because a year ago insurers ended the "culling process" they began during the last hard market to cut agency forces, said Jeffrey M. Yates, executive vp and general counsel of the Independent Insurance Agents of America.

"Generally, companies are appointing the same number or slightly fewer agents," he said. When they do appoint agencies, "they're being a lot more careful than in the soft market."

Movement by agents to differentiate insurers also has stabilized, according to Mr. Yates.

"External forces are making us realize that we have to sleep together, whether we like it or not," said Lyle Roth, vp of Koelbel & Co., a Denver agency, referring to the softening property/casualty insurance market.

Recent efforts have resulted in vastly improved relationships and the highest level of communication in recent years, agents report.

"Communication with the major carriers has never been better," said George G. Heine, vp-industry relations of the New York Chapter of the IIAA.

James Ross, assistant executive vp of the IIAA of New Jersey, said that in meetings between insurance company executives and IIAA officers there have been "very frank and open discussions—very productive."

"The main thing is constant communication; the worst thing is when you both lose sight of what the other party wants," said Richard A. Maxwell, senior vp, director of marketing and professional standards for Corroon & Black Corp. in New York, the fifth-largest U.S. broker based on 1987 revenues.

But, although the level of producer/insurer communication is at its highest level in years, problems remain.

For example, some small producers claim they are shut out of insurer's producer councils, and others say some insurer representatives only pay lip service to their concerns during council meetings.

In addition, some producers fear that Proposition 103-type legislation—particularly legislation that would eliminate insurers' protection from state antitrust laws—and the accompanying consumer backlash against the insurance industry could have a chilling effect on producer/insurer relationships.

However, producers say they are extremely hopeful of improving their day-to-day relationship with insurers through their heightened communication efforts. The day-to-day element of a producer/insurer relationship is the most critical and where improvement is still needed most, they say.

For example, communication breakdowns in day-to-day relationships lead to problems such as poor service, a lack of skilled personnel on the local level and breakdowns in automation systems, producers note.

In a recent survey conducted by The Merritt Co. of Santa Monica, Calif., 55% of the responding agents rated company underwriters and management "somewhat" helpful.

And, while 47% rated insurer marketing representatives as "somewhat" helpful, 36% of the respondents rated their marketing representatives as "not very" helpful.

"Normally, the company is behind the agency (in seeing market changes) because they're not on the

front line," said James H. Davies, president of Davies & Associates, a large agency in Murray Hill, N.J.

Producers also report discrepancies in market perception between insurers' home and regional offices.

"Sometimes home office people tend to be in an ivory tower," said Donald G. Weber, chairman and chief executive officer of Financial Guardian Group Inc., the 17th-largest U.S. broker.

The solution seems to be more direct communication—preferably face to face, observers say.

For example, in response to the Merritt survey, a large Atlanta agency related that it resolved its misunderstandings with an insurer by having several staff members visit the insurer's local office.

"It's a whole new ball game with that company today," the respondent wrote.

In an effort to establish better relationships with their producers as well as get feedback on market conditions, most large national and regional insurers send representatives to meet regularly with producer councils. National councils usually meet annually or biannually, with some branch councils meeting as frequently as every quarter, noted Patricia A. Borowski, vp of government and industry affairs for the Alexandria, Va.-based National Assn. of Professional Insurance Agents.

While these councils have existed

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## Regional insurers

*Continued from previous page*

"If the Aetnas and the others pull out of these towns, we'd like to jump into that vacuum," explained Russel Fischer, branch manager.

Milbank Insurance was acquired by a unit of Royal Group Inc. of Charlotte, N.C., in 1982, which sought to penetrate the South Dakota market and get into personal lines.

Milbank now specializes in personal lines. Milbank agents' commercial business is written by other Royal units.

There has, however, been a shift in the type of agency targeted since Royal took over, Mr. Fischer said.

Milbank is appointing more agents in their regions' largest cities, such as Sioux Falls, S.D., and Fargo, N.D.

As a result, the average Milbank agency premium volume has increased to \$100,000 from \$40,000, Mr. Fischer said.

But, Milbank continues to service its "aggressive rural agency plant,"

Mr. Fischer said, noting these agents generally deliver renewal business with good loss ratios.

Some larger insurers also recognize that small agents can produce profitable business.

An example is Ohio Casualty Insurance Co., which wrote \$1.36 billion as a group in net premiums in 1987, according to A.M. Best Co., and is one of the 50 largest property/casualty insurers in the United States.

Ohio Casualty does not require a large premium volume of an agent before paying contingency commissions, said Robert M. Gillespie, agency research and development/marketing for the Hamilton, Ohio-based insurer.

While many national insurers require producers to generate at least \$200,000 in premium volume to qualify for contingency commissions, Ohio Casualty's minimum premium volume requirement is \$2,500, he said.

The average annual written premium volume of an Ohio Casualty Insurance Co. agency is \$250,000, Mr. Gillespie noted.

Regional insurers also deal with fewer producers than national companies do, so producers feel they receive more personal service from regional companies.

For example, Davies & Associates—a \$10 million agency in Murray Hill, N.J.—has no problem meeting minimum premium volume requirements for national contracts, noted James H. Davies, president. However, instead of dealing with national insurers' "bureaucratic mumbo-jumbo," Mr. Davies prefers the "very personal and forthright" relationships that regional insurers offer.

And, like the national companies, many regionals also are able to offer their agencies computer interface.

"Service" at Harleysville Mutual Insurance Co., a regional based in Harleysville, Pa., means enabling its agents to interface, said Roger Murphy, vp-marketing for the insurer.

American Federation also offers many of the service perks of large national insurers, such as interfacing with agencies to provide underwriting and other services through the insurer's computer system, Mr. Mare said.

One danger with regional insurers, however, is they may seek to expand too quickly or diversify, risking their financial health and therefore their stability as a market.

In recent years, some regional insurance companies "went too far from their regional home base and found they could not compete with national companies," said Ronald I. Knause, vp of marketing for Pennsylvania Millers Mutual Group of Wilkes-Barre, Pa.

These regionals expanded "like the Roman army, too far from their supply sites," and diluted their strength, Mr. Knause said.

Pennsylvania Millers, which operates predominantly on the East Coast but also as far south as Georgia and Tennessee, has concentrated on working with small and medium-sized agencies in the region, he noted.

Diversification didn't work, for example, at Shelby Insurance Co. of Shelby, Ohio. The regional insurer lost \$10.8 million in 1986 after investing in real estate and other outside interests in which it had no experience, said a Shelby spokesman.

However, after its 1986 purchase by Allegheny Corp., a New York-based holding company, Shelby again focused on insurance.

By consolidating branch claims offices into regional service centers and streamlining its underwriting department, the insurer reported net operating income of \$3.5 million in 1987, according to A.M. Best Co.'s Insurance Reports.

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isted "since many companies began," their popularity has waxed and waned over the years, according to Ms. Borowski.

But insurers brought those councils to the forefront in 1987 and 1988 as insurers again began to focus on growth and preferred agent programs, she explained.

Topics of discussion during council meetings depend on the insurer, according to Ms. Borowski. For example, some focus on how the insurer can improve services for its agencies and discuss branch office operations and specific products.

Other councils are designed to improve agency efficiency. They focus on programs like sales education, she said.

Information and suggestions that insurer representatives gather at council meetings usually are passed up the corporate organizational structure and finally to corporate headquarters, explained Corroon & Black's Mr. Maxwell.

Hartford Insurance Co. has established a large network of council meetings: a "locally driven" producer's panel, a regional council and a national panel, all of which meet with Hartford representatives ranging from local marketing staff to corporate officers.

"We really work hard at the local level to keep the lines of communication open," said F. Herbert Brantlinger, vp of marketing at the Hartford, Conn.-based insurer. "If I said they had contact daily, I wouldn't be overstating it."

"They really are very good about that," agreed Martin P. Hughes, executive vp of Mack & Parker Inc., a large Chicago insurance brokerage that represents Hartford.

Mr. Hughes also is involved in several other insurers' producer councils and he says these insurers are very responsive.

Top-level management at insurers' home offices hold regular phone conferences with Mack & Parker officers, as well as formal meetings with the broker, he pointed out.

Mr. Hughes said CIGNA Corp. has a particularly good council, because it uses the biannual meetings as a forum for producers.

For instance, if the insurer plans changes affecting agencies, "they bounce those ideas off the producer council" in what can be called a true "working session," he said.

However, some producers say that regional insurers are better than large insurers in keeping open the lines of communications.

Harleysville Mutual Insurance Co., a regional based in Harleysville, Pa., has about eight meetings per year throughout the country at which the insurer's preferred agents meet with Harleysville's president to discuss issues of importance, said Roger Murphy, vp of marketing for Harleysville.

One of Harleysville's agents, Mr. Davies, backs up the insurer's claims. "They communicate well to their agents," he said.

But, not all councils are effective, agents charge.

For example, some insurance company branch level personnel will not pass along criticism from producers for fear of losing face, pointed out Conrad Foa, president of Foa & Son, a New York broker.

"I'm not sure that management that could do something even sees the minutes" of these meetings, he added.

"They could be very valuable but, unfortunately, what happens is a great deal of lip service being paid to what the producer says," he concluded.

In addition, some insurers use these councils as "guinea pigs" for trying out new software, special underwriters and new programs, according to Mr. Foa.

Another problem with the councils is that they generally comprise insurers' most productive agents, pointed out PIA's Mr. Roth. This means that insurance companies are "not hearing the total story," he said.

"Some work well; others are nothing more than a means of taking your best agents out and showing them a good time," observed Mr. Hughes of Mack & Parker.

Agent associations also act as goodwill ambassadors between producers and insurers. These organizations help promote good relations between agents and insurers by "looking at the industry as a whole rather

than what's just beneficial to agents," according to Mr. Hughes of Mack & Parker.

For example, the PIA has established an insurance company advisory council that serves as the primary liaison between insurers and PIA members, Mr. Roth said.

In the council's annual focus groups, agents and insurer executives meet to discuss industry issues. For example, at last year's meeting, topics included a discussion of what insurers and agents expect from each other (see stories, page 36H).

Mr. Roth also chairs the PIA's company relations committee. The group of PIA members meets three times a year with personnel of insurers that PIA members represent in an effort to enhance relationships.

However, producer councils and association-sponsored meetings with insurers is only part of the communications picture.

Especially on the local level, producers must sometimes take the initiative in setting up business and social events with their insurers' representatives.

For instance, Financial Guardian—which represents 75 insurers, including excess/surplus lines companies—tries to coordinate meetings with top-level executives from each insurer's home office at least once a year, said Mr. Weber.

Financial Guardian's ties to insurers' regional offices are closer, Mr. Weber said.

"We need to continue to get to know the people, at lunches and periodic get-togethers after meetings," said Mr. Weber.

"We try to make sure (insurers) know what to expect from us," said Charles A. Ferguson, vp and manager of the middle market department for the Parsippany, N.J., branch of Johnson & Higgins, the nation's third-largest broker. "You have to get to know their business and know your client's business."

But, insurer attention to smaller producers sometimes hinges on an insurer's marketing scheme.

For example, the principal of a small agency in Wyoming observed that many national insurers have recently set up claims and underwriting offices in the state because

of the overall low loss ratio in the state.

In the past, "this was almost unheard-of in Wyoming," because the state generates "the least amount of premium in the country," said Randy Blaine, owner of Multi-Line Insurance Agency, a one-person agency in Gillette, Wyo. "But you can look at 50 years of loss experience. . . and they've made a ton of money here year in and year out."

Probably the biggest fly in the ointment for improved producer/insurer relationships is the Proposition 103-type legislation under consideration in states across the country.

Because of a provision in California's Proposition 103 that eliminates insurers' exemption from state antitrust law, "many insurers won't even talk to agents for fear it will be called collusion," said James V. Swanson, president of the California/Nevada Professional Insurance Agents and owner of Swanson Insurance Agency in El Caho, Calif.

Mr. Swanson reports some insurer representatives have even said they will not participate at the next PIA convention.

And, pointing to insurers' attempts to pull out of the state because of Proposition 103 provisions that mandate insurers to roll back "charges" for most types of property/casualty insurance and prohibit them from canceling or failing to renew policies, Mr. Swanson said: "They are doing what they have to for their own survival, many times without any thought whatsoever for the professional insurance agent and his interests."

"The worst thing that can happen to us is to find out that a company we believe we had an open relationship with suddenly undertakes a unilateral action in the marketplace, and we find out about it through an irate agent calling up," said PIA's Ms. Borowski.

However, a PIA spokesman said producer councils in California have not been affected by the Proposition 103 controversy.

While the dust still has not settled on the Proposition 103 issue, Ms. Borowski believes that both sides will continue to approach mutual problems with a higher level of sophistication than in years past.

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# Agents look to insurers for stability

By LAURA MAZZUCA

Market stability tops the list of basic services most agents seek from insurers.

Producers also are concerned about competitive rates, good service and solid underwriting.

Indeed, with their experience with insurers during the hard market still fresh in their minds, agents are not jumping at offers insurers are making.

Among agents who were cut by insurers during hard market cycles "there's a lot of wariness" about dedication to agencies, said Lyle Roth, vp of Koelbel & Co., a Denver agency.

"A lot of agents have been hurt" in the hard market cycles, when insurers purged smaller agencies from their agency ranks, said Mr. Roth, who also is chairman of the company relations committee of the National Assn. of Professional Insurance Agents.

Mr. Roth noted that while many of those insurers have tried to woo back the agents in the softer market, he is "not sure all the (agency) doors are as open as they can be."

Many producers harbor "pent-up resentments" against insurers because they feel the insurers have "dissipated their credibility," explained Charles A. Ferguson Jr., vp and manager of the middle market accounts department at Johnson & Higgins' Parsippany, N.J., branch office.

"If I were an insurance company, I would be greatly worried about that," Mr. Ferguson said, noting that producers "want to get back what was taken away from them in the hard market."

Most agents and brokers say they are representing fewer insurers for the sake of economy—"definitely less today than eight or 10 years ago," pointed out Mr. Roth.

But, insurers have continued to court producers—especially in the last six months—in states where the regulatory climate seems stable, he said.

"There's a constant stream of company people coming into our offices, because they're wooing the business," said Samuel Alcorn, senior vp of operations at Bayly, Martin & Fay International Inc. of Fort Worth, Texas, which ranked as the 10th-largest U.S. broker based on 1987 revenues.

"The companies are coming after me," concurred Robert L. Sanford, president of Smyth, Sanford & Gerard Inc., a New York brokerage. "When the market's soft, they buy me lunch;

when it's hard, I buy them lunch."

Producers want "stable and responsible" markets, said Martin P. Hughes, executive vp at Mack & Parker Inc., a Chicago brokerage.

In fact, most agents and brokers note that movement of business between producers and insurers is now at a minimum, mainly because "it costs the carrier and agent a lot of money to switch," said James H. Davies, president of Davies & Associates in Murray Hill, N.J.

New York-based Fred S. James & Co. Inc. works closely with insurers to guarantee this, said Sidney A. Stewart Jr., vice chairman of the nation's fourth-largest brokerage. "We need consistency so we'll be able to understand the type of business insurers want," he added.

"I expect (insurers) to provide me with coverage and response when my insureds have losses," said Thomas C. Mare, president of Tom Mare Insurance Agency in Fort Myers, Fla.

Another primary way to an agent's heart is through "competitive rates," according to a recent agent survey conducted by The Merritt Co., an insurance industry publishing company in Santa Monica, Calif.

Of the agents responding to the survey, 31% ranked low rates first in a list of 14 insurer attributes.

And, insurers are delivering.

"It's pretty much a competitive market," though rate reductions are not as substantial as they were a year ago, pointed out Donald G. Weber, chairman and chief executive officer of Financial Guardian Group Inc. in Kansas City, Mo., the nation's 17th largest broker.

Although most agents and brokers see premium rates stabilizing, some cited incidences of extreme rate-cutting.

For example, Mr. Hughes of Mack & Parker noted that he had observed premiums for some risks being written at 30% to 40% less than last year by some large national insurers. He declined to name the lines or the insurers.

The agents surveyed by Merritt ranked service second in importance. Fourteen percent of those agents viewed "30-day service," or paperwork processing within 30 days, as most important.

In addition, 23% cited "poor service" as their primary gripe with their insurers, followed by "erratic service," at 18%.

Indeed, a segment of agents and brokers value service more highly than low premiums.

"We expect our insurers to run a good, tight ship, including

doing things in a timely manner," said John Badgley, president of Key Insurance Agency in Mobridge, S.D. This means promptly mailing out policies and endorsements, processing claims and answering customer questions, he explained.

When insurers do not promptly issue policies and process claims, the agents take the heat from clients, Mr. Badgley pointed out.

"Agents can't fight the whole battle," he said. "We have to produce good products in a timely manner."

Respondents to the Merritt survey as well as agents and brokers in general also list good underwriting practices as a valuable insurer service.

"Underwriters are still requiring good underwriting information," said Richard Maxwell, senior vp and director of marketing for Corroon & Black Corp. of New York, the nation's fifth-largest broker. "In the last soft market, a number of insurers were lenient with that. Today, they may cut the price, but they want to understand the exposure."

In the last hard market, "you couldn't get an underwriter to talk to you," said Mr. Alcorn of Bayly, Martin & Fay. "Now it's a more controlled situation because carriers are adhering to basic underwriting guidelines. I don't see it slipping by—going into classes they wouldn't ordinarily go into."

However, most respondents to the Merritt survey rated company underwriters as only "somewhat" helpful, a complaint that some brokers felt was justified.

Mr. Weber of Financial Guardian said he receives frequent complaints from his producers about the lack of good insurance company underwriters, which he attributes to personnel cuts made earlier in the decade.

But agents and brokers have to provide their underwriters with complete information on their applications to help underwriters maintain high standards, noted Corroon & Black's Mr. Maxwell.

This information should include loss experience, type of risk, type of product produced, losses from the product for an extended period of years and any new acquisitions the client has made, he said.

"What bothers an underwriter is what they don't know," Mr. Maxwell said. Underwriters will give "a defensive quote" rather than a competitive quote, he said. And, if a broker holds back information, underwriters "probably won't quote at all," he observed.

# Insurers seek professionalism in agents

By LAURA MAZZUCA

While good loss ratios and high premium volume predictably top the list of what insurers look for in an agent, professionalism in areas like education, automation and technical ability is growing in importance.

"We look for agents, trite as it sounds, with a high degree of professionalism," said R. Keith Like, executive vp-commercial lines for Kemper Group in Long Grove, Ill. This includes a commitment to continuing education, a business plan, an agency perpetuation plan "and a pure reputation in the community," he added.

"We look for an agency that is forward-thinking, professional, has a sales plan and is an efficient, productive member of the community," said F. Herbert Brantlinger, vp of marketing for Hartford Insurance Group of Hartford, Conn.

Insurers say that an agency can exhibit "professionalism" through solid, formal business plans, which many insurers require as a prerequisite for agency appointment, according to a recent survey of insurers by the agency/company relations committee of the National Assn. of Professional Insurance Agents.

The survey by the Alexandria, Va.-based association will be published later this year.

The 31 insurance company respondents to the survey also said characteristics of professionalism include strong management skills; a commitment to encouraging or requiring employees to obtain professional insurance designations; providing technical training; good business retention; and minimizing errors and omissions.

To succeed, insurers must examine more than just premium dollars, "which can be skewed be-

cause of premium/pricing cycles. Rather, companies must see genuine growth in their policy count and their percentage position in the overall marketplace," the survey says.

However, low loss ratios, high premium volume and financial stability continue to be prerequisites for an agency contract, with loss ratio being the main factor in determining whether an insurer will contract with an agency, according to the PIA study.

Twenty-six of the 31 insurers surveyed rated "displays a commitment to volume requirements" and "demonstrates ability to meet growth goals" as very important for their appointed agencies.

Most insurers also want to be among the top three insurers the agency represents in terms of premium volume. While 15 of the insurers responding to the PIA survey have a stipulated minimum premium volume requirement, 24 of them ranked commitment to "top three status" as very important.

One insurer noted that its minimum premium volume requirement depends on the size of the agency. "We feel we should be treated fairly, with a fair share of the business," said Joe I. Kirk, vp of field operations for the western division of United States Fidelity & Guaranty Co. in Baltimore. If an agency's volume is \$300,000, "\$100,000 is fair enough," he said.

Once the agency's financial performance is established, insurers look for an agency with a "good fit," as evidenced in an agency's ability to present the insurer with an internal business strategy, the survey shows.

Representatives of individual insurers agree.

Walter Tarver, vp of marketing at Continental Corp. in New York,

observed that Continental attempts to tap the different talents displayed by different agencies.

"We try to be flexible in our approach" and acknowledge the strengths of various agencies, said Mr. Tarver.

All agents appointed by Hartford, Conn.-based Aetna Life & Casualty Co. must have a formal business plan, said Ken May, marketing director in Aetna's commercial insurance division.

Insurers also want their agencies to have business plans that look beyond a year; a formal, fully funded perpetuation plan; and the ability to be "culturally compatible" with Aetna's local representatives, Mr. May added.

Insurers also consider an external marketing and sales program important.

"An agency with a structured marketing program allows the insurer to better assess, when an agency is being considered for appointment, if the relationship will be compatible relative to the carrier's own goals for that marketing area," the PIA survey notes.

Insurers also cited automation as another important aspect of an agency's professionalism. According to the survey, insurers want agencies that can and will interface with their own automated systems and that are willing to automate their internal functions as much as possible.

Twelve of the 31 insurers responding to the PIA survey said that it was very important that an appointed agency "use the computer for more than just rating."

Aetna's Mr. May agreed. Agencies appointed by Aetna are expected to automate all agency functions, particularly marketing, he explained.

Not only is it important for an insurer to find an agency that ini-

tially meets its criteria for professionalism; it is also vital to continue to assess the agency's performance through periodic formal evaluations, the survey indicates.

All 31 respondents periodically evaluate their appointed agencies. Of those, 58% perform annual evaluations of their agencies; 25% per-

form semiannual reviews; and the balance perform quarterly evaluations.

The 31 respondents were nearly equally divided between 14 national insurers and 17 regional insurers. Twenty-three of the respondents were from home office and eight were from regional/branch offices.

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**Business Insurance**

# RIMS, NAIB eye panel to study issues

By KARI BERMAN

In light of the current legislative climate surrounding the intensiveness of U.S. companies in today's global economy.

Business Insurance, March 6, 1989 / 37

## Section 89

Continued from page 1  
support on Capitol Hill. Some 175 congressmen in recent weeks have signed on to co-sponsor legislation introduced by House Small Business Committee Chairman Rep. John LaFalce, D-N.Y., that would scrap Section 89.

Despite the warnings from Rep. Rostenkowski, small-employer lobbyists intend to press on in their repeal campaign.

"We have heard the message point-blank from Rep. Rostenkowski, but it will not deter us from seeking repeal," said a spokesman for the National Federation of Independent Business in Washington, D.C.

"Repeal is extremely important to small business. We feel we don't have any choice" but to seek repeal, he said.

"We could back off from repeal, but I don't think that would be in the best interest of small business," said John Paul Galles, executive vp of the National Small Business United, a Washington, D.C.-based trade group. "Until it can be shown that Section 89 can be amended in such a way as to make it more reasonable, we will continue to work toward repeal."

But trade groups that represent larger employers and other employee benefit observers aren't joining the repeal movement. They say it is politically naive to believe that a repeal drive has much chance of passage and that if it did succeed, something worse—as Rep. Rostenkowski warns—would take the place of Section 89: broad benefit taxation.

"We have not called for the repeal of Section 89. We are realists," said Howard Weizmann, executive director of the Assn. of Private Pension & Welfare Plans in Washington, D.C.

"There would be tremendous political fallout from a Section 89 repeal. To assume that nothing would be put in its place is naive," Mr. Weizmann said.

"Those seeking a repeal are spinning their wheels. It just isn't in the cards," adds Stuart Brahs, vp-federal government relations in the Washington, D.C., office of The Principal Financial Group, a Des Moines, Iowa-based diversified financial services organization.

"You won't get off scot-free. You will have to pay a price," said Edward J. Davey, a principal with consultant A. Foster Higgins & Co. Inc. in New York.

But small-employer groups, while vehemently opposed to taxing employee benefits, doubt that a Section 89 repeal would directly lead to consideration and passage of new taxes on benefits.

"Taxation of employee benefits is a separate issue and would be considered separately," said Mr. Galles of National Small Business United.

But Rep. Rostenkowski has said that the fate of Section 89 and proposals to tax benefits are linked, noting that non-discrimination rules were included in the 1986 tax reform legislation as part of a compromise in which proposals to tax employees on the value of their benefits were dropped.

For example, in passing tax reform legislation in late 1985, the Ways and Means Committee rejected staff proposals that would have partially taxed employees on employer-provided health care benefits and instead approved non-discrimination rules for welfare plans (BI, Dec. 2, 1985).

Those rules and somewhat different non-discrimination proposals later approved by the Senate were later rewritten during a House-Senate tax reform conference committee in 1986 and emerged as the now infamous Section 89—arguably the most administratively complex benefit statute ever passed by Congress.

**'We could back off from repeal, but I don't think that would be in the best interest of small business,' says John Paul Galles, executive vp of the National Small Business United, a Washington, D.C.-based trade group.**

Yet, as onerous as Section 89 is—under the law, a large employer with numerous benefit options would have hundreds of different benefit plans subject to complicated non-discrimination tests—business lobbyists and consultants say directly taxing employee benefits could be a bigger headache.

For example, taxing a portion of employer-provided health care benefits, an idea that surfaced in a tax reform proposal made by the Treasury Department in late 1984, would present its own set of complications.

Under that proposal, which still

is frequently discussed on Capitol Hill, employer-provided health care coverage whose cost exceeds \$175 a month for family coverage and \$70 a month for individual coverage would have been included as taxable income to employees (BI, Dec. 3, 1984).

Benefit observers had feared that, for example, young, healthy employees might decide to reject coverage or take vastly reduced benefits rather than pay taxes on benefits they believe they might never use.

On the other hand, those anticipating substantial medical ex-

penses would opt for the most generous coverage, resulting in adverse risk selection.

In addition, calculating the cost of health care coverage—for purposes of determining the amount of taxes an employee would owe—would pose its own set of administrative challenges for self-funded employers.

For example, it never was made clear whether such ancillary costs as a benefit manager's salary or a benefit consultant's fee would be counted when a company computes its health care costs for tax purposes.

"There would be a lot of figuring to determine if you would be under a health care tax cap," said Gerald Uslander, a principal in the Louisville, Ky., office of William M. Mercer Meidinger Hansen Inc.

No one knows for sure if Congress would actually pass a health care tax cap in the event Section 89 was repealed.

But benefit lobbyists and consul-

ants aren't eager to find out.

They warn that Rep. Rostenkowski is a congressman of enormous power who, if possible, should not be crossed.

"A warning from Rep. Rostenkowski is one of considerable magnitude. When the chairman of the Ways and Means Committee speaks, one should take heed," said Frank McArdle, a consultant in the Washington, D.C., office of Hewitt Associates.

Indeed, Rep. Rostenkowski last year almost single-handedly derailed a fast-moving long-term health care bill introduced by Rep. Claude Pepper, D-Fla., that seemed headed for House passage (BI, June 13, 1988).

And Rep. Rostenkowski on several occasions in 1985 and 1986 saved tax reform legislation when it seemed doomed to defeat.

Rather than take on Rep. Rostenkowski, big employer groups are working to draft legislation

Continued on next page

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# Business Insurance

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## Diagnosis-related groups

Continued from page 3

rates established by the state.

New Jersey, Maryland and Connecticut report mixed results from their plans (see related story).

The New York DRG system requires all payers except Medicare—which reimburses hospitals under its own national DRG system—to reimburse hospitals based on 525 different diagnosis-related groups.

Under a complex formula, a DRG rate for each of 525 medical conditions is calculated for each of the state's 263 hospitals. The formula does not take into account the cost of treating Medicare recipients, but it does reflect the cost of treating Medicaid recipients.

Before the DRG system was introduced last year, hospitals billed all health care payers—except Medicaid and the state's six Blue Cross & Blue Shield plans—on an itemized basis for each procedure or service performed.

Medicaid and the Blues—which pay about 50% of hospital costs in the state—had been billed on a length-of-stay, or per diem, basis.

Children's hospitals, psychiatric centers, rehabilitation centers, 12 AIDS centers and specified disease research centers are exempt from the DRG system. These medical centers still bill on a per diem or itemized basis.

Critics of the DRG system contend that there are several flaws in the system that are forcing the state to set the DRG-based rates charged by hospitals higher than expected.

For example, they point out that DRG rates take into account the cost of providing care to Medicaid recipients, which typically is much higher than the cost of care for patients covered by group health care plans.

Critics also oppose the fact that Medicaid and the BC/BS plans pay 13% less under the system than other payers.

Because of the DRG rate structure, hospitals are not being fully reimbursed for the cost of care they are providing—particularly because of the cost for caring for the state's poor, critics explain.

Compounding hospitals' financial woes is the state's nursing shortage, which is preventing hospitals from admitting more patients insured under employer group health care plans to make up for the cost of caring for Medicaid recipients.

Still, many hospitals are being forced to cut staff because of shrinking revenues, partly attributable to the DRG system. For example, 10 hospitals statewide in the last 14 months have been forced to lay off 1,000 employees because of diverse financial problems, including squeezed revenues under the state's DRG program. And, the 1,300-bed Columbia-Presbyterian Medical Center in Manhattan plans to lay off 300 of its 6,200 employees.

To recoup some of those costs, hospitals sometimes bill health care payers for a more serious DRG than is warranted, critics of the DRG system charge.

New York decided to implement the DRG system for two primary reasons, according to Robert Barnett, director of health economics at the state Office of Health Systems Management, which developed the program:

- To create an equitable hospital reimbursement system for all payers.

Mr. Barnett pointed out that Medicare went to a DRG reimbursement system in January 1986 and the state felt it was important that all payers be under the same reimbursement system.

- To give hospitals an incentive to reduce lengths of stay by charging a set amount for each illness.

However, lengths of stay under the DRG system have increased 10%, according to OHSM.

"We've certainly achieved the first goal, and although lengths of stays have risen, the reason why they have risen is beyond the DRG system," Mr. Barnett said.

"DRGs haven't changed the status of the health care system for two reasons: One, because labor is short, particularly nursing and, two, because of the increased lengths of stay among 'social morbidity' categories like AIDS, drugs, alcohol and psychiatric care," said OHSM Director Ray Sweeney.

Continued on next page

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## 3 states report success with DRG reimbursement

By MICHAEL SCHACHNER

Mandatory hospital reimbursement based on diagnosis-related groups is receiving higher marks in Maryland, New Jersey, and to a lesser degree in Connecticut, than in New York.

The DRG systems in these states—the only other states with such programs—are similar to New York's in concept: They are designed to create equity among all payers and promote reduced lengths of stay through the elimination of per-diem or itemized-charge reimbursement.

Observers say the Maryland, New Jersey and Connecticut systems are more successful than the New York system primarily because of the astronomical amount of uncompensated indigent care provided by New York hospitals. For example, one New York City metropolitan hospital provided about \$8 million in uncompensated care last year.

Also contributing to the slow start of New York's DRG system is the state's high level of Medicaid and Blue Cross/Blue Shield admissions, for which hospitals receive 13% less revenues than from commercial insurers.

In addition, New York's severe nursing shortage has prevented hospitals from obtaining maximum occupancy (see story, page 3).

**Observers say the Maryland, New Jersey and Connecticut systems are more successful than the New York system primarily because of the astronomical amount of uncompensated indigent care provided by New York hospitals.**

The systems in all four states are "all-payer" systems. Thus, all payers including self-insured employers, commercial insurers, BC/BS plans and Medicaid pay DRG rates, except in Connecticut where Medicaid has its own payment system.

John Colmers, executive director of the Health Services Cost Review Commission in Baltimore, said the Maryland DRG system, which took effect July 1, 1977, has succeeded for three basic reasons.

Mr. Colmers cited cooperation from the outset among the state's regulators, payers and hospitals. "There has been no contentiousness nor litigiousness in Maryland," he said.

The commission made it clear that hospital rates would be set based on inflation, plus the increase in case-mix intensity, plus an additional 1%, Mr. Colmers said.

"Therefore, there was a built-in incentive for hospitals to be cost-

efficient and make money."

Finally, Mr. Colmers said the all-payer system included provisions in each hospital's rates for uncompensated care. He said the provisions totaled \$213 million in 1988, or 7.4% of hospital revenues.

Molly Coye, commissioner of health for New Jersey, said the biggest factor contributing to New Jersey's relative low increase in hospital costs is that all hospitals add on 12.5% to DRG rates to form a trust fund pool set up in 1986 to pay for indigent and bad debt care. "All indigent and bad debt care provided by hospitals is 100% paid for through the pool," explained Ms. Coye.

The New Jersey DRG system was established in 1980 (BI, Feb. 13, 1983).

She added that New Jersey hospitals do not have an incentive to pass on the cost of uncompensated care as New York hospitals might.

Hospital costs in New Jersey have risen 51%—or about 10% a year—since the state began collecting data in 1983, said Assistant Health Commissioner Pamela Dixon. During the same period, the average hospital length of stay has declined to 7.8 days from 8.3 days.

In Connecticut, the DRG program, which went into effect Oct. 1, 1986, has experienced some of the same problems as in New York, including increased hospital-related costs of 14% in 1988.

However, Marcia Schonberger, administrative officer for the state Commission on Hospitals and Health Care in Hartford, said the DRG system in Connecticut is "faring well."

Ms. Schonberger attributed much of the increase in hospital costs last year to discretionary price increases added by the state for low nursing salaries and universal precautions for AIDS.

The jury is still out as to whether the system will be continued as is, she said. "I can't say whether the state will keep it."

An independent evaluator concluded last fall that the DRG system had merit, but that serious improvements were needed in the areas of DRG coding, data averaging and data collection, she said. ■

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this much attention. As a result of the momentum that is building, Congress is looking to revise the statute to make it simpler and workable. It is like a fire that is slow to light, but once it gets going it is hard to put it out," Mr. Weizmann said.

And some benefit lobbyists say there is an upside to all the grief Section 89 has caused employers.

The next time congressional staffers draft benefit legislation, congressmen are much more likely to pay attention to be sure that the legislation does not cause big administrative problems for employers, some observers say. ■

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Continued from previous page

Critics of the DRG system agree costs are rising.

"The experience in New York is, in almost all cases, a worse situation" than under the former hospital billing system, said Richard Landen, associate director for the Health Insurance Assn. of America in Washington, D.C.

Mr. Landen said that on the high end, one insurer reported case-payment charges that were 50% greater on average than under the previous hospital billing system.

Mr. Landen said other HIAA members have reported 7% to 20% increases.

DRGs have increased hospital costs for Newark, N.J.-based Prudential Insurance Co. of America by an estimated 15% or more, according to William J. Marino, vp-northeastern group operations.

And, additional hospital billings stemming from retroactive DRG rate increases approved by the state last October may force Prudential and other commercial health insurers to remit an additional 4% to 5% on top of what they have already paid.

"In essence, we have to build up a reserve," Mr. Marino said, referring to the additional costs due to retroactive billing. "Then costs get passed on to the public."

Frank Keenan, an actuary with Metropolitan Life Insurance Co. in New York, said he believed that DRGs, including the retroactive rate increases, have increased the insurer's 1988 hospital costs 10%.

David W. Olikier, president and executive director of Mohawk Valley Physicians' Health Plan Inc. in Schenectady, an HMO that contracts with 29 hospitals in six upstate communities, complained that DRG rates do not take into account the fact that HMO patients traditionally have shorter hospital stays than non-HMO patients.

As a result, Mohawk Valley has experienced a 36% increase in hospital-related costs over the past year, which has forced the HMO to increase rates 35% since January 1987, Mr. Olikier said.

"I'd like to have the opportunity to negotiate rates with hospitals like before," he said. But, "now hospitals don't have to negotiate. The DRG rate is fine with them."

The DRG system is an "unofficial tax," said Dr. Michael Stocker, senior vp and general manager for U.S. Healthcare Inc.'s HMO operations in New York, New Jersey and Connecticut.

Blue Bell, Pa.-based U.S. Healthcare, which has 85,000 subscribers in New York and 350,000 in New Jersey, experienced a 30% increase in New York hospital costs in 1988, according to Dr. Stocker. That hike was the primary reason the HMO implemented a 33% rate increase in New York effective Jan. 1, 1989.

DRG system critics say that one reason hospital rates have risen under the system is because the state-calculated DRG rates take into account the higher cost of Medicaid recipient treatment.

"Because the DRG system affects all payers, the key item is Medicaid," said Donna Lynne, director of employee benefits for the New York City Office of Municipal Labor Relations. "Medicaid patients are usually more costly because they often do not have access to the same preventive care that the healthier population has. . . . So, Medicaid saves money with DRGs while others get hurt."

Critics also question why DRG rates are 13% lower for Medicaid recipients and patients covered by BC/BS.

Mr. Barnett said that Medicaid pays 13% less under the system because it is a social program responsible for paying for the financially indigent population.

BC/BS pays 13% less than other payers under the DRG system because traditionally per-diem rates

charged by hospitals were about 13% lower than itemized charges paid by other payers, he said.

However, the differential between what Medicaid and BC/BS plans pay and what other payers are charged is "a big issue," said Mr. Keenan. "Independent carriers don't do as much business in New York because of it."

"Whether a 13% differential is appropriate is still an outstanding issue that is being studied by both the executive and legislative branch," said Mr. Barnett.

Critics of the DRG system also complain that because of inadequate reimbursement from Medicaid and the BC/BS plans hospitals are attempting to shift costs to group health plans by assigning patients to a higher-cost DRG than their condition warrants.

"The inadequate payments. . . means cost shifting by hospitals to other payers," charged Prudential's Mr. Marino.

"We had been optimistic that the

system would work," said HIAA's Mr. Landen. "But we have been disappointed because of cost shifting."

Anna Azzara, a consultant who audits claims payments for insured and self-insured clients of New York-based Buck Consultants, said clients are concerned that the charge for DRG treatments far exceed charges based on the former billing system.

For example, in one case, a hospital bill totaled nearly \$30,000 under the DRG system, while itemized charges for the actual procedures performed amounted to only \$9,000, Ms. Azzara said.

"Insurance companies cannot question the bills because they don't have the means to verify DRG charges," she said.

Mr. Nussbaum of Coopers & Lybrand agreed that trouble surrounds billing verification. "There is a systematic problem where carriers and claims administrators do not have procedures in place to

identify when the DRG is coded properly and when rate assignments to DRGs are made inappropriately," he said.

Mr. Nussbaum noted that an audit of 7,050 Medicare cases between October 1984 and March 1985 at 239 hospitals nationwide concluded that 20.8% of DRG billings were in error, and 61.7% of these coding errors favored the hospitals, Mr. Nussbaum said.

But, utilization review vendors such as Intracorp of Wayne, Pa., and Westport Management Services of Westport, Conn., are now offering payers DRG audit services. Those audits typically show 5% overcharges, Ms. Azzara said.

The OHSM reports that the case-mix intensity—or the severity of the cases that hospitals treat—was up 3% to 4% in 1988. However, the rise in case-mix intensity may very well be attributed to hospitals assigning more severe DRG codes than patients warrant in an effort to increase revenues, DRG system

critics say.

However, the law establishing the DRG system allows for only a 1% increase in case-mix intensity based on studies of the Medicare DRG system, said OHSM's Mr. Sweeney.

Because the "DRG creep" exceeds the limit established by state law, the state has the authority to recoup from the hospitals the extra revenues produced by the increase in case-mix intensity in excess of the allotted 1% and refund them to payers, OHSM's Mr. Barnett said.

But, OHSM may not approve the DRG case-mix rate adjustment if future hospital audits show that the DRG creep was justified, he noted. He added that OHSM is still collecting information to determine whether the program has been a success.

However, HIAA's Mr. Landen observed: "Not enough time has passed to say the system is a failure, but enough time has passed to say it isn't a success." ■

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The disaster occurred at a time when the small town was experiencing new growth. Population was increasing. New businesses were moving in. A town-sponsored industrial park was half full. Now, 190 people are out of work, perhaps permanently, and the consequential economic loss—greater than the actual destruction of the building and its contents—may approach \$50 million.

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 Send your detailed resume, including salary requirement and have the opportunity to grow with us!  
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**P.O. Box 35700**  
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 Paramus, NJ based insurance group is creating a new Bond Division. We seek a Head Underwriting Officer. Must have minimum 5 years solid bond experience. Send resume with salary requirements to:  
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 Our Client is a Southwest-based Risk Management/Insurance consulting firm seeking to expand nationwide through acquisition of majority interest in established R.M. Consulting firms, no agencies or brokerages. Please provide profile info. about your company to:  
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 Scottsdale, AZ 85253

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**Excess Workers' Compensation**  
 Self-insurance services company requires specialist in the placement of excess workers' compensation insurance. Surety bond experience helpful. Five years experience, appropriate licenses, and college degree required. Send resume and salary history to:  
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**Hewitt, Coleman & Associates**  
**P.O. Box 3665**  
**Greenville, SC 29608**

**CLAIMS MANAGER**  
 The University of Maryland Medical Service System Self Insurance Trust is seeking an experienced Claims Manager with a minimum of 3 years experience handling professional liability claims. Individual must possess an in-depth knowledge of reserving practices, & claims & litigation management techniques. Basic knowledge of statistics & database management required. Must possess in-depth knowledge of the legal process, have excellent communication, negotiation, analytical & organizational skills. Recent managerial experience preferred. Interested applicants may submit an application in confidence to:  
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**11 S. Paca St., Suite 200**  
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 Commercial Lines P&C Agency located in Monmouth County NJ looking for inside underwriting "nuts & bolts" type technician experienced in workers comp exp mod & manual rating, surety bonds & the like. Send resume & salary requirements to: **Box 2508, Business Insurance, 740 Rush St., Chicago, IL 60611-2590**

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 • Thorough knowledge of Property, Workers' Compensation, General and Excess Liability and Automobile Claims essential  
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 • Bachelor's Degree in Business Administration or related field, MBA preferred  
 • CPCU and AIC or other professional designations desirable  
 • Legal experience or background a plus  
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 This is an excellent opportunity in a financially strong, growth-oriented company. We offer competitive salary and benefit package which also includes a profit sharing/personal performance oriented bonus program.  
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**Business Insurance**  
**740 Rush St.**  
**Chicago, IL 60611-2590**

**HELP WANTED**  
**BENEFIT SPECIALIST**  
 The District of Columbia Governments' D.C. Office of Personnel is seeking an experienced Employee Benefits Specialist, to assist the D.C. Gov't in establishing a 401(a) retirement program, analyzing comprehensive health and life insurance program options, and monitoring benefit contracts. Salary range: \$36,102-\$55,315 per annum. Please send a completed standard form 171, citing Vacancy Announcement #DCOP-89-04 to: **Mrs. Lumisha Jerry, D.C. Office of Personnel, 613 G Street, N.W., Room 322, Washington, D.C. 20001, (202) 727-6436.** (RESUMES WILL NOT BE ACCEPTED) E.O.E.

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**INVITATION TO BID**  
 The Pioneer Valley Transit Authority, (PVTA), a regional transit authority serving 23 communities in Western Massachusetts, invites interested parties to participate in the procurement of coverages for the insurance program of the PVTA. The coverages are to become effective on July 1, 1989. Prior to issuing the RFP's, the PVTA will be conducting a Pre-Qualification process in order to select participants for the bidding process. For bid information and a copy of the Pre-Qualification form contact: **MacMeekin Consulting, Inc., 1111 Elm Street, West Springfield, MA 01089 (413) 737-0867 on or before 3/15/89.**

**LEGAL NOTICES**  
**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**  
**GEORGE F. GRODE, INSURANCE COMMISSIONER OF THE COMMONWEALTH OF PENNSYLVANIA, Plaintiff vs. THE MUTUAL FIRE, MARINE & INLAND INSURANCE COMPANY, Defendant NO. 3483 C.D. 1986 NOTICE: 1. A Plan of Rehabilitation was filed on January 31, 1989 in the above matter (the "Plan"). The Rehabilitator is seeking the entry of an Order approving and confirming the Plan. A copy of the Plan may be inspected during normal business hours at the Office of the Prothonotary, Commonwealth Court of Pennsylvania, Robert N.C. Nix, Sr. Federal Building, Second Floor, Room 2050, Ninth and Chestnut Streets, Philadelphia, PA 19107 or Sixth Floor, South Office Building, Harrisburg, PA 17120; or at the offices of Adelman Lavine Gold and Levin, outside general counsel to the Rehabilitator, at Suite 1900, Two Penn Center Plaza, Philadelphia, PA 19102; or at the offices of The Mutual Fire, Marine & Inland Insurance Company, 1760 Market Street, 8th Floor, Philadelphia, PA 19103. 2. Any party in interest wishing to obtain a copy of the Plan may do so, free of charge, by making a written request to: Rehabilitator - Code R P c/o The Mutual Fire, Marine & Inland Insurance Company, 1760 Market Street, 8th Floor, Philadelphia, PA 19103. 3. Pursuant to Order of the Commonwealth Court of Pennsylvania, any party in interest may file an answer, objection or other responsive pleading to confirmation and approval of the Plan with the Clerk, Commonwealth Court of Pennsylvania, Sixth Floor, South Office Building, Harrisburg, PA 17120, and serve a copy on outside general counsel whose name and address appears below on or before Monday, April 10, 1989. 4. A Committee of Policyholders ("Committee") was appointed by the Court. Anyone wishing to obtain additional information from the Committee concerning the Plan may do so by contacting the Committee of Policyholders, c/o Richard A. Brown, Esquire, Spiegel & McDiarmid, Counsel to Committee of Policyholders, 1350 New York Avenue, N.W., Washington, DC 20005-4798, (202) 879-4071. 5. A hearing on approval and confirmation of the Plan will be held and the time, date and place will be fixed by the Court. To receive notice of the hearing any party in interest must make a written request to Hilary S. Cornell, Esquire, The Mutual Fire, Marine & Inland Insurance Company, 1760 Market Street, 8th Floor, Philadelphia, PA 19103. 6. In the absence of any of the foregoing answer, objection, or other responsive pleading, counsel shall certify to the Court the absence of such filing and serving. 7. In the absence of any answer, objection or other responsive pleading, the Court will consider the Plan and may grant the relief requested and confirm and approve same. **ADELMAN LAVINE GOLD AND LEVIN, BY: ROBERT H. LEVIN, ESQUIRE, Dated: February 22, 1989, Outside General Counsel to the Rehabilitator: Robert H. Levin, Esquire, Adelman Lavine Gold and Levin, 1900 Two Penn Center Plaza, Philadelphia, PA 19102-1799, (215) 568-7515.****

**MERGERS/ACQUISITIONS**  
 Chicago North Suburban Insurance Agency looking for a merger (not a sale) or acquisition of another agency in the Chicagoland Area. Serious Inquiries Only. Please contact: **Box 2505, Business Insurance, 740 Rush St., Chicago, IL 60611-2590**

**NOTICES**  
**ADVANCE NOTIFICATION OF REQUEST FOR QUALIFICATIONS MASSACHUSETTS WATER RESOURCES AUTHORITY**  
 The Massachusetts Water Resources Authority (the "Authority") intends to issue a Request for Qualifications from firms in connection with the Authority's project for: Professional Liability Wrap Up Insurance for the Boston Harbor project - Deer Island Related Facilities. The project consists of brokerage services to negotiate and place an Errors and Omissions Professional Liability Owner Controlled Wrap-Up Insurance Policy to cover all design professionals associated with the Boston Harbor Project - Deer Island Facilities. THIS IS AN ADVANCE NOTIFICATION ONLY. IT IS NOT AN INVITATION TO RESPOND TO A REQUEST FOR QUALIFICATIONS AND IT IS NOT A NOTICE OF AVAILABILITY OF A REQUEST FOR QUALIFICATIONS. An invitation to respond to a Request for Qualifications will be issued on or about March 8, 1989. The invitation will indicate the location where RFP's may be obtained. **Kevin P. Feeley, Director of Procurement, February 24, 1989.**

**BROKERAGE OPPORTUNITIES**  
**COMMERCIAL PRODUCERS**  
 If you're in the \$40,000 to \$60,000 earnings range but feel your efforts are not being recognized, why not give us a call today. For 16 years, we've assisted commercial producers in virtually every area of the USA and will represent you in a highly confidential and professional manner. Is there a better time than NOW to contact us? **GILBERT - HAFNER & CO., Insurance Staffing Consultants, 6060 N. Central, #470, Dallas, TX 75206 (214) 361-9341**

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 Requires four years of progressively responsible, comprehensive risk management experience, two years of which must have included professional journey-level insurance administration, claims management, or safety and loss prevention program responsibilities. Completion of core courses from an accredited college or university necessary to major in occupational health or safety, public, business, or personnel administration or a closely related field may substitute for up to two years of non-specialized experience on the basis of 30 semester/45 quarter units for one year of experience.  
 We provide an outstanding benefits program and our employees pay no social security. District employees work a 4/10 work schedule. Applications will be accepted until the needs of the District have been met but must be received by March 24, 1989, to be assured of consideration. For an application package and additional information contact the Personnel Division at:  
**SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**  
**9150 Flair Drive**  
**El Monte, CA 91731**  
**(818) 572-2000**  
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**Business Insurance**  
**Circulation Breakdown\***  
**Commercial Consumers**

<b>Administrative:</b>	
CEO's Presidents and Owners	2,431
Vice-Presidents, General Managers and Other Administrative Personnel	3,650
<b>Financial:</b>	
Chief Financial Officers and Vice-presidents of Finance	2,745
Secretaries, Treasurers, controllers and other Financial Personnel	4,446
<b>Risk/Employee Benefits:</b>	
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	10,687
<b>Sub-total</b>	<b>23,959</b>
<b>Associations</b>	<b>548</b>
Government, Unions and Educational Institutions	1,299
<b>Commercial Consumers</b>	
<b>Sub-total</b>	<b>25,806</b>
<b>Insurance Agents and Brokers</b>	<b>10,745</b>
<b>Insurance Companies</b>	<b>7,557</b>
Actuaries, Consultants, Attorneys, Adjusters, Appraisers and Third Party Administrators	3,580
Others Allied to the Field	2,688
<b>TOTAL</b>	<b>50,376</b>

\* Source Business/Occupational breakdown of qualified circulation, November 28, 1988 issue, as submitted to BPA for December 1988 BPA Publisher's Statement.

# Court asked to decertify claims-made ruling

By STACY ADLER

LOS ANGELES—The American Insurance Assn. and eight insurance companies are asking the California Supreme Court to decertify a radical appellate court decision that says a claims-made policy requiring claims to be reported during the policy period is unenforceable because it violates public policy.

The California Court of Appeal 1st Appellate District on Dec. 30 said: "In a claims-made insurance policy for professional liability, a mandatory requirement that the insured report the claim within the policy period is against public policy and unenforceable" (BI, Jan. 16).

The decision marked the second time a California appellate court seemingly rewrote a claims-made policy into an occurrence policy. The earlier decision has since been decertified (BI, Nov. 28, 1988; July 25, 1988).

Now, the AIA and seven insurance companies have sent letters to the California Supreme Court to support Chicago-based International Surplus Lines Insurance Co.'s attempt to have the latest appellate court decision either overturned or decertified.

Decertified decisions cannot be used as precedent in the state.

The California Supreme Court has not yet agreed to review the appellate decision.

The appeal stems from a coverage dispute between ISLIC, a unit of Crum & Forster Inc., and Brown-Spaulding & Associates Inc., a small insurance broker in Carmel, Calif.

ISLIC wrote errors and omissions coverage for the broker from Jan. 1, 1984, to Dec. 31, 1984.

In early 1984, Brown-Spaulding failed to secure a pollution liability policy for one of its clients. However, the broker failed to notify ISLIC of the client's claim until Jan. 21, 1985, after the policy had expired.

ISLIC denied coverage because the claim was not reported during the policy period.

Brown-Spaulding's successive insurer, Employers Reinsurance Corp., which wrote coverage for the broker after the ISLIC policy expired, also denied coverage because the policyholder failed to disclose information about the claim in its application for coverage. A California trial court has since upheld Employer's Re's denial of coverage.

The appellate court, reversing the trial court, said ISLIC must cover Brown-Spaul-

ing because the requirement in the claims-made policy that a claim be reported during the policy period is too stringent.

"A claims-made policy which requires the insurer to be notified during the policy period severely limits the scope of coverage so that the objectively reasonable expectations of the purchaser of professional liability coverage are not met...the reporting requirement effectively precludes coverage for claims-made toward the end of the policy period which cannot reasonably be reported until after expiration," the appellate court ruled.

In its request for Supreme Court review, ISLIC said the appellate court did not have the right to rule on the public policy merits of the reporting provision in the claims-made form since this issue was not raised by any of the parties in the case.

**'The court of appeal decision sends (a message) to the insurance industry: Even unambiguous insurance provisions are subject to judicial nullification based upon a gut feeling of "unfairness." No insurance contract is safe in such an environment,' says Chicago-based ISLIC.**

And, the insurer notes that the policyholder had the option of purchasing tail coverage for an additional premium.

"The court of appeal decision sends (a message) to the insurance industry: Even unambiguous insurance provisions are subject to judicial nullification based upon a gut feeling of 'unfairness.' No insurance contract is safe in such an environment," said ISLIC.

In a Feb. 27 letter to the California Supreme Court, the AIA said: "By declaring against public policy the contract's requirement that a claim made against the insured within the policy period must also be reported to the insurer within the policy period, the court of appeal rewrote one of the central terms of an entire class of insurance contracts.

"The effect of this is to force the insurer to bear risks and costs of claims which it did not bargain to accept when it issued the policy.

"If the Brown-Spaulding opinion remains the law in California, the likely results will be that insurers will increase the costs of

claims-made and reported policies to insureds in order to reflect the increased risk, or that they will stop offering this popular type of policy altogether."

The AIA is a property/casualty insurance trade association consisting of 204 insurance companies doing business in every state and writing every line of property/casualty insurance.

Seven other insurance companies have sent letters to the California Supreme Court in the last few weeks in support of ISLIC's request for decertification.

The Southern California Physicians Insurance Exchange, which provides medical malpractice insurance coverages to 10,000 California doctors, told the California Supreme Court that the appellate court decision "obliterates the differences between occurrence and claims-made insurance."

The Truck Insurance Exchange, a unit of Farmers Group Inc., said the appellate court decision "is unfair, unwise and possibly unconstitutional."

The insurer noted that there is a continuing insurance crisis in California that "can only be fueled by such unpredictable and unbounded decisions as issued by the court of appeal in this case."

Pacific Employers Insurance Co. and Insurance Co. of North America, both units of CIGNA Corp., told the Supreme Court that the appellate court decision is a "piece of blatant judicial legislation."

Mutual Insurance Co. of Arizona, a physician-owned mutual insurance company that writes medical malpractice liability coverages on a claims-made basis, pointed out that more than 80% of the professional liability policies written in the United States are written on some type of a claims-made form.

"The current opinion before the bench would have the effect of changing claims-made insurance into occurrence insurance.

For some professionals, this would force them to go without insurance leaving them and their patients and clients unprotected. For others, it would raise the costs of insurance very substantially. For insurers, it would create an enormous premium shortfall with respect to policies already issued. Recoveries and claims upon state guaranty funds would be likely," the insurer told the California Supreme Court.

The Physician Insurance Assn. of America, which writes medical malpractice insurance for more than 172,000 doctors on claims-made policy forms, also said the appellate court ruling would threaten the financial stability of California insurers if left to stand.

"The fundamental factor upon which companies based their reserves for claims-made policies already issued has been eliminated," the association told the court. "The present reserves of the companies are woefully inadequate to pay these additional 'tail' claims which now must be covered. The court of appeal's decision thus threatens the financial stability of every company that has issued claims-made policies."

The Alliance Insurance Co. Inc. of McPherson, Kan., which writes claims-made liability policies in California, said the appellate court rewrote the policy without allowing insurers to litigate the issues.

In its response to ISLIC's request for Supreme Court review or decertification, attorneys for Brown-Spaulding defended the appellate court decision.

"California courts have required an insurer to show a material and substantial prejudice due to its insured's failure to timely report a claim before allowing the insurer to deny liability on that basis," the policyholder said.

"ISLIC cannot show any prejudice as a result of having received written notice 20 days after the last day of the policy period," said Brown-Spaulding.

In addition, the policyholder notes that other courts "have found that (the notice) provisions (of claims-made policies) do not conform with the reasonable expectations of the insured and violate public policy, which favors compensation for injured victims."

*Brown-Spaulding & Associates Inc. vs. International Surplus Lines Insurance Co.; California Court of Appeal 1st Appellate District Division Three, No. A037042.*

## Johnson Matthey

Continued from page 3

JM did not disclose details of fraud at the banking unit when the policies were written (BI, May, 16, 1988).

In addition, more than 180 of Argent's retrocessionaires refused to pay claims to the JM captive insurance company, alleging non-disclosure of facts by Argent. The retrocessionaires also denied coverage to the two AIG units, which ceded to Argent more than 90% of the coverage they had written for JM.

Johnson Matthey Bankers was rescued by the Bank of England after concerns about its commercial lending practices and huge debts led to its collapse in the fall of 1984.

The JMB "scandal" rocked London's financial center and paved the way for new and stricter British banking legislation.

The City of London police fraud squad still is investigating JMB's affairs.

The Bank of England sold most of JMB's business in 1986 to Australian-based Westpac Banking Corp. and established Minorities Finance to handle the remainder of the business and to attempt to reclaim JMB loans.

"We are very pleased that this settlement brings to a satisfactory conclusion all outstanding litigation affecting Johnson Matthey P.L.C. after the collapse of Johnson Matthey Bankers in September 1984," said JM Chief Executive Eugene Anderson in announcing the insurance settlement.

Earlier in February, errors and omissions liability underwriters for the New York-based accounting firm of Arthur Young & Co. agreed to pay 24.3 million pounds (\$42.4 million) to JM in an out-of-court settlement. JM had sued Arthur Young's London office for negligence in its work as auditor of JMB prior to the bank's collapse (BI, Feb. 20).

Arthur Young's E&O underwriters in the Lon-

don and U.S. markets also paid 25 million pounds (\$43.6 million) to the Bank of England last fall to settle similar claims arising from JMB's collapse.

The latest settlement settles all claims filed under a series of marine package policies and fire and consequential loss insurance policies written by New Hampshire and National Union for JM subsidiaries in the United States and Britain from Jan. 1, 1981, to March 31, 1985.

The two AIG companies ceded more than 90% of the risk to Johnson Matthey's Bermuda captive, Argent, which then retroceded part of the risk to retrocessionaires led by Lloyd's of London underwriter Jimmy Archer.

JM claimed about 15 million pounds (\$26.1 million) in losses principally under the property policies on behalf of about 10 subsidiaries, excluding its former banking subsidiary, according to Gerald O'Mahoney of London law firm Davies Arnold Cooper, representing Argent's reinsurers.

The largest single claim was for April 1984 fire damage at the Matthey Rustenburg Refineries (U.K.) Ltd. facility in Royston, England, said Gordon Thorburn, administration director of Johnson Matthey.

Meanwhile, Minorities Finance filed claims totaling 6 million to 8 million pounds (\$10.4 million-\$13.9 million) under the marine package policies for fraud and theft of precious metals, including gold, at JMB.

Minorities Finance also notified the insurers of an additional 22 million pounds (\$38.3 million) of claims but never provided full details of these claims, Mr. O'Mahoney said.

These claims were never filed because there "was very little substance against which we could have pursued them under the policy," said Patrick Brennan, a director of Minorities Finance.

**'We are very pleased that this settlement brings to a satisfactory conclusion all outstanding litigation,' says JM's Eugene Anderson.**

## Shell seeks reversal of coverage verdict

By STACY ADLER

SAN MATEO, Calif.—Shell Oil Co. is asking a state judge to override a December jury verdict that Shell knew it was polluting the environment and therefore is not entitled to insurance coverage for its share of hazardous waste cleanup costs estimated at \$2 billion to \$4 billion.

Houston-based Shell says the evidence does not support the jury's verdict.

If San Mateo County Superior Court Judge William Lanam is not willing to override the jury's verdict, Shell says it is entitled to a new trial because the jury was asked to render an all-or-nothing verdict.

And, the company says it should be granted a new trial because many of the judge's instructions to the jury as well as many of his evidentiary rulings were erroneous.

If Judge Lanam refuses to override the jury verdict and refuses to grant a new trial, Shell "absolutely" will appeal to a higher court, according to Shell attorney William Trautman of Brobeck, Phleger & Harrison in San Francisco.

Insurers battling with Shell have until March 15 to file responses to Shell's motions. A hearing on the motions will be held later this month.

However, "there is nothing new in either of Shell's motions that the court hasn't already dealt with," said Mary Kay Vyskocil, an attorney for Travelers Insurance Co. of Hartford, Conn., which wrote primary comprehensive general liability insurance coverage for Shell.

"I would be very surprised if Judge Lanam granted Shell the relief it is seeking," said Ms. Vyskocil, who is with Simpson, Thacher & Bartlett in New York.

In 1983, Shell sued more than 260 of its comprehensive general liability insurers for the cost of cleaning up two hazardous waste sites—the Rocky Mountain Arsenal site near Denver and another site in Fullerton, Calif. (BI, Oct. 12, 1987).

The Dec. 19, 1988, jury verdict that Shell knew it was polluting the environment voided coverage for the Rocky Mountain Arsenal, by far the larger of the two sites (BI, Dec. 26, 1988). A separate trial on the insurance coverage for the California site will begin early next year.

Continued on next page

## Shell verdict

Continued from previous page

Shell and the U.S. Army already have agreed to share the costs of cleaning up the Rocky Mountain Arsenal (BI, Feb. 8).

The arsenal was used by the Army to manufacture and store chemical weapons, including nerve gas, between 1942 and 1982.

Shell leased the site from the government and operated a pesticide factory there from 1947 to 1982.

Some estimates place the total cost of the arsenal cleanup as high as \$4 billion. Under its consent decree with the Army, Shell is liable for as much as \$1 billion of the cleanup costs.

In May Judge Lanam issued dozens of rulings interpreting Shell's insurance policies (BI, Aug. 1, 1988; May 30, 1988). These rulings formed the foundation for the jury trial, which began Aug. 30.

**Shell says there was 'a lack of evidence to support the jury's verdict that Shell 'expected or intended' or 'knew or should have known' that damage would result from its actions over the policy years 1952 through 1973.'**

The jury ruled that for each year from 1952 to 1973, Shell "expected or intended" that its operations at the arsenal would result in pollution, and therefore is not entitled to coverage from its liability insurers for the costs of the cleaning up the site.

In support of its request that Judge Lanam overturn the jury's verdict, Shell says there was "a lack of evidence to support the jury's verdict that Shell 'expected or intended' or 'knew or should have known' that damage would result from its actions over the policy years 1952 through 1973."

However, Travelers attorney Ms. Vyskocil says, "There is no question that the jury's verdict came down the way it did because of the evidence."

Shell also says insurers failed to prove many of their defenses against providing coverage to Shell, including allegations that Shell failed to timely notify the insurers and allegations that Shell concealed knowledge of pollution at the Rocky Mountain Arsenal.

In support of its request for a new trial, Shell says the questions that the jury was told by the court to answer in rendering a verdict

resulted in an all-or-nothing verdict for Shell in each policy year and, thus, was improper.

Shell wanted the jury to be asked to answer a set of fact-specific questions rather than answer general questions as to whether there was insurance coverage in given policy years.

"Shell prepared and presented its case to the jury on the well-documented understanding that the jury would decide discrete factual issues and the court would then make a legal declaration of the obligations of the parties under each of the insurance policies at issue," said Shell.

"Yet, on the eve of the submission of the case to the jury and after the evidence had been presented, the court abandoned this approach. . . . Rather than asking the jury specific, factual question, the court submitted a 'who wins' question for each (policy) year."

This approach substantially pre-

judged Shell's ability to garner insurance coverage, the company says.

"The general verdict precluded a declaration that Shell has coverage under some, but not all, policies in a particular year or that Shell had coverage for some, but not all, damage in a particular year," the company argues.

Furthermore, "jurors were encouraged to ignore the actual language of the policies and use their sense of 'rough justice' to determine whether Shell was entitled to coverage," the company says.

Ms. Vyskocil defended the fact that the jury was asked to render an all-or-nothing verdict.

The parties to the litigation worked with the court for the better part of a year and half to develop a set of fact-specific questions to ask the jury, but were not able to come up with questions that were appropriate, Ms. Vyskocil said.

As a result, the jury was simply asked to determine whether Shell expected or intended to pollute the environment in each policy year. This was the "central issue" of the case, according to Ms. Vyskocil.

Shell also says it is entitled to a new trial because many of the jury instructions were erroneous.

Specifically, the company says the jury instructions on the meaning of the "expected or intended" clause and the "care, custody and control" clause of the CGL policies, among others, were in error.

Shell says the court's jury instruction on the "expected or intended" clause "effectively read coverage for negligence out of Shell's policies, in violation of California law."

Many of Shell's CGL policies state there is no coverage for events that are "expected or intended."

Judge Lanam instructed the jury that "expected" denotes "that the actor knew or should have known that there was a substantial probability that certain consequences would result for his or her acts or omissions."

Jurors were told "intended" means Shell "committed an act wherein it should have reasonably been known by Shell that there was a high degree of certainty that damage to the property of another would result from this act."

Shell says these instructions are "contrary to established California law" that says insurers must prove Shell acted intentionally, willfully, maliciously, wrongfully and with a preconceived design to inflict injury to avoid coverage.

Furthermore, the judge failed to alert the jury to the fact that none of Shell's policies prior to 1975 contained the "expected or intended" language, the company says.

Shell also found fault with the jury instruction on the policy clause that damage to property "owned by Shell, or property rented or occupied by Shell, or property in the care, custody or control of Shell" is excluded from insurance coverage.

Shell says the jury should have been told that this exclusion only applies to property under the exclusive possession of Shell, not property like the Rocky Mountain Arsenal that was leased by Shell.

In addition, Shell says that the exclusion does not apply to groundwater beneath the property.

Ms. Vyskocil said: "There was no error of law in the jury instructions at all. None whatsoever."

"If anything, the jury instructions were more conservative than (Judge Lanam's) statement of decision (interpreting the policies)," she added.

*Shell Oil Co. vs. Accident & Casualty Insurance of Winterthur et al.; San Mateo County California Superior Court, No. 278953.*

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## Waste cleanup proposal

Continued from page 1

stemming from protracted battles over who is liable for hazardous waste cleanups would be greatly reduced, leaving more money for actual cleanups, Mr. Greenberg said.

Efforts to clean up hazardous waste sites have "deteriorated into a morass of legal warfare involving industry, government at all levels, environmental groups and insurance companies," he said, noting that between 30% and 60% of the total funds spent since 1980 on environmental matters have been consumed by legal expenses.

Eugene Anderson, a partner with Anderson Russell Kill & Olick P.C. in New York who represents policyholders in pollution coverage litigation, later estimated that legal fees represent 56% of the total amount spent on environmental matters.

Mr. Greenberg observed that "large amounts of energy and money have gone into complex and protracted litigation—and the job of fixing the environment has largely stalled out."

So far, only 27 of the 1,177 Superfund sites that the EPA says need immediate attention have been cleaned up.

Mr. Greenberg predicted that adoption of his proposal "would make more pollution insurance available for American industry," which presumably would indemnify companies for third-party bodily injury and property damage claims that would not be covered by the proposal.

Insurers probably would again write insurance covering environmental impairment liability if the "void of uncertainty" over liability for hazardous waste cleanups was eliminated, Mr. Greenberg said.

New York-based AIG is one of the few U.S. insurers that writes EIL coverage.

Risk managers last week generally criticized Mr. Greenberg's proposal.

"I would object to it on the basis that it is inequitable," said Norman Chanzis, director of risk management for American Standard Inc. in New York.

"It's highly inequitable," agreed Gerald Belfiglio, director of risk management for Allegheny Ludlum Corp. in Pittsburgh. Financing hazardous waste site cleanups "should be tied in some measure to the amount and the toxicity of (a company's) output," he said.

For example, under Mr. Greenberg's proposal, the owner of a skyscraper—which likely pays a significant amount for property/casualty insurance—would pay a substantial amount to the trust fund even though the company's hazardous waste cleanup liability may be small or non-existent, Mr. Belfiglio explained.

"Something to me says that's just not quite kosher," he concluded.

The proposal is "a bit self-serving for the insurance industry," concluded Jon Harkavy, director of governmental affairs for the Risk & Insurance Management Society Inc. in New York.

Although Mr. Greenberg is correct to maintain that "there is going to have to be some broad-based funding to clean up these sites... the insurance industry is going to have to ante up far more than seems to be indicated by the proposal," Mr. Harkavy said.

Insurers' contributions to the fund—2% of the premiums they pay for their own property/casualty insurance policies—would be "a drop in the bucket" compared with "the potential liability facing AIG and any other insurer if nothing is done" to change the status quo, Mr. Harkavy pointed out.

A majority of lower courts and state appellate courts that have considered the subject have ruled that general liability insurance policies cover government-mandated hazardous waste cleanup costs.

However, the two federal appellate courts to rule on the issue—the 8th U.S. Circuit Court of Appeals and the 4th U.S. Circuit Court of Appeals—have held that these costs are not insurable (BI, March 7, 1988; July 27, 1987).

The U.S. Supreme Court refused to review both federal appellate decisions (BI, Oct. 10, 1988).

Meanwhile, a California appellate court now reviewing landmark pollution coverage litigation is grappling to interpret whether the term "damages" in CGL policies encompasses government-ordered hazardous waste cleanups (BI, Feb. 20).

The case, pitting Aerojet General Corp. against 55 of its comprehensive general liability insurers, is being watched closely because the decision will be the first by a California appellate court addressing coverage for government-ordered waste cleanups and is expected to influence courts nationwide.

Insurers, while claiming they are winning the legal battle over coverage for mandated waste cleanups, generally embraced Mr. Greenberg's proposal.

While commenting that "right now things look great for the insurance business," Les Cheek, vp of federal affairs in the Washington, D.C., office of Crum & Forster Inc., noted that the "finite amount of certainty" that the proposal would provide insurers is attractive.

"Anything that is predictable from an insurance perspective is good," Mr. Cheek said.

Peter Lefkin, assistant vp and director of federal relations in the Washington, D.C., office of Fireman's Fund Insurance Cos., said that "in concept, any type of replacement" for the current system of financing hazardous waste cleanups "is an improvement."

And even Mr. Anderson, the policyholder attorney, agreed that "any change over the present situation would be an improvement."

The AIG plan is "at least a step forward in making proposals," Mr. Anderson commented. Eventually, "we're

going to get some kind of a camel invented out of these racehorse proposals."

Tom O'Day, associate vp in the Washington, D.C., office of the Alliance of American Insurers, said the Alliance has not yet formed an opinion on the AIG proposal but that it is "a real intriguing idea."

EPA officials declined to comment because they had not seen the proposal.

Under the Superfund Act the EPA may order property owners or users to clean up a hazardous waste site. Alternatively, the EPA can conduct its own cleanup activities at sites and then sue companies to recover the expense of the cleanup.

The federal government, however, finances the cleanup of waste sites involving unidentifiable or insolvent polluters. The costs for cleanup of the "orphaned" sites for the first five years of the Superfund program were covered by a \$1.6 billion trust fund. But, in October 1986, Congress enacted the Superfund Amendments and Reauthorization Act, which increased the size of the trust fund to \$8.5 billion and reauthorized it for five years. Superfund will require reauthorization again in 1991.

The current \$8.5 billion trust fund is financed primarily through a variety of taxes, including a petroleum tax, a chemical feedstock tax and a tax on imported chemical derivatives, as well as general revenues and recoveries from parties responsible for pollution.

In his speech last week, Mr. Greenberg made the following suggestions for the NETF's operation:

- The trust fund only would finance the cleanup of existing sites created by waste disposal occurring in the past. The trust fund would not finance the cleanup of current or future pollution.

- The trust fund only would finance the cleanup of existing hazardous waste sites where there is no evidence that regulations existing at the time the pollution occurred were violated.

In addition, all existing hazardous waste sites involving "deliberate" pollution would be dealt with on the legal basis of strict liability, though Mr. Greenberg did not define "deliberate" pollution.

- Based on AIG's research, the 2% premium fee assessed on all commercial property/casualty policies purchased in the United States and an equivalent amount from self-insured companies would generate about \$3 billion annually for the trust fund.

Assuming money in the trust fund was invested, the fund after 10 years would be capitalized at \$40 billion, which is enough to pay for the cleanup of approximately 1,000 hazardous waste sites on the EPA's National Priority List. In addition, enough money would be left over to clean up additional priority sites that are expected to be identified over the next 10 years, Mr. Greenberg said.

Mr. Greenberg's proposal differs substantially from a plan suggested in February 1988 by DeRoy Thomas, then chairman of Hartford Insurance Group and currently president and chief operating officer of ITT Corp., Hartford's parent company.

Mr. Thomas proposed establishing a fund—dubbed the Comprehensive Environmental Response Authority—to pay all hazardous waste cleanup costs and related third-party pollution claims. The fund would be financed through annual assessments from companies responsible for pollution incidents, insurers, reinsurers and the federal government (BI, Feb. 29, 1988).

Mr. Thomas did not specify the amount of the assessments or how they would be determined.

The differences between the two insurer-sponsored plans are significant.

For example, Mr. Greenberg's proposal does not cover payment for non-governmental third-party claims, which he said would have to continue to be litigated.

Also, participation in Mr. Thomas' plan would be voluntary, while participation under Mr. Greenberg's proposal would be mandatory.

Under Mr. Thomas' plan, if a policyholder and its insurers participate in CERA, the fund would pay for all cleanup costs, third-party claims and associated legal costs.

CERA would seek reimbursement for its costs to clean up hazardous waste sites and to indemnify property damage and bodily injury claimants from non-members of the facility. The fund would be able to seek damages from non-members on a joint and several basis.

In addition, Mr. Thomas' proposal would require the federal government to contribute to the fund, while Mr. Greenberg's proposal would not.

Mr. Greenberg's proposal also is dramatically different from the Wellington Agreement, which settled insurance coverage disputes between asbestos producers and their insurers and set up the now-defunct Asbestos Claims Facility.

Under the Wellington Agreement, insurers and asbestos producers agreed to settle their coverage disputes by working together to pay asbestos bodily injury claims based on a mutually agreed-upon formula.

Under the agreement, asbestos producers could tap all of their available coverage from policies that were in force at the time claimants were exposed to asbestos through the time the disease manifested itself, including policies in force between exposure and manifestation.

The agreement—which, unlike Mr. Greenberg's proposal, was voluntary—stemmed from hundreds of thousands of bodily injury suits that were filed against asbestos producers that, in turn, sought indemnity from their liability insurers.

Associate Editor Stacy Adler in Chicago contributed to this story.

## Update

### High court to decide comp case

WASHINGTON—The U.S. Supreme Court will decide whether a workers compensation insurer can appeal a state work comp award in federal court.

In the case before the court, South Barrington, Ill.-based Northbrook National Insurance Co. is attempting to appeal in federal court a 1987 award by the Texas Industrial Accident Board, explained Northbrook attorney P. Michael Jung of Strasburger & Price in Dallas.

At issue is a federal statute that says a party cannot bring a direct action against a liability insurer based in another state.

The 5th U.S. Circuit Court of Appeals, in rejecting Northbrook's appeal, said the statute also bars an insurer from filing suit in a federal court against a policyholder in another state, Mr. Jung said. However, in another case, the 6th U.S. Circuit Court of Appeals allowed an insurer to file such a suit.

Mr. Jung said that case is "pretty significant in that, if successful, it will permit a broader class of workers compensation cases to be filed by insurers in federal court."

Insurers often feel they have a better chance of success in federal court than in state court, added Mr. Jung.

### Second attack on Raymark

PHILADELPHIA—Plaintiffs' attorneys have launched a second attack on Raymark Industries Inc. in an effort to force the former asbestos manufacturer into involuntary bankruptcy.

The plaintiffs' first attempt to force Raymark into bankruptcy was dismissed last September (BI, Sept. 26, 1988).

In papers filed Feb. 13 with the U.S. Bankruptcy Court in Philadelphia, the plaintiffs say Raymark has not been paying claims, does not have enough money to pay claims and therefore should be placed into involuntary bankruptcy.

This second group of plaintiffs say they are different from the first group in that they hold unstayed judgments against Raymark.

U.S. Bankruptcy Judge Thomas A. Twardowski denied the first group's request because they held disputed judgments against Raymark and therefore had no standing to force it into bankruptcy.

Raymark contends the second group of plaintiffs' judgments also are in dispute and, therefore, they lack standing.

In a related matter, Raymark has asked the 11th Circuit Court of Appeals to review a lower court ruling that claims against the company cannot be consolidated into a class action (BI, Feb. 20).

### Teale firm settles charges

TALLAHASSEE, Fla.—Eight offshore insurers represented by Alan Teale's International Underwriting Assn. have settled charges brought by Florida regulators of issuing more than a dozen marine hull and liability policies without being licensed or approved as surplus lines insurers in the state.

In a consent order approved by the Florida Insurance Department last month, the eight Turks & Caicos-based insurers agreed to cease any unauthorized transaction of insurance in the state.

Atlanta-based IUA—now known as Independent Administrative Services Inc.—also agreed to pay a \$5,000 administrative penalty.

The department had charged that IUA and the consortium of insurers violated state law by issuing 17 hull and liability policies with total premiums of nearly \$40,000 between December 1987 and May 1988.

IUA and the insurers neither admitted nor denied the allegations, but said that the marine risks were insured "on the advice of underwriters that such risks were not governed by Florida law."

IUA and the insurers also declared in the settlement that they "had no intention of violating Florida law."

Among the eight settling insurers is American Trust Insurance Co. Ltd., which was declared ineligible as a surplus lines insurer in three states last year after regulators were unable to confirm the value of most of its assets (BI, July 25, 1988). One state, Illinois, has since lifted its ban on the insurer. American Trust recently announced termination of an insurance services agreement it had with Fenmar International Insurance Services Ltd., an underwriting management company run by Mr. Teale.

The other insurers named in the consent order are American Atlantic Insurance Co. Ltd., American Marine & General Insurance Co. Ltd., American Transportation Insurance Co. Ltd., American Trade Insurance Co. Ltd., Fidelity American Insurance Group Ltd., Old American Insurance Co. Ltd. and Security Insurance Co. Ltd.

Mr. Teale, IUA chairman and Charlotte C. Rentz, who signed the settlement as IUA's president, could not be reached for comment.

### Briefly noted

Representatives of victims of the 1984 Bhopal poison gas leak are challenging last month's \$470 million settlement between **Union Carbide Corp.** and the Indian government (BI, Feb. 20). Among the questions raised is whether the government has a constitutional right to represent victims. Meanwhile, Union Carbide restated its 1988 earnings to reflect a charge of \$58 million, or 43 cents per share, to cover Bhopal-related claims. . . . The Georgia Insurance Department is asking the state court of appeals to overturn a Superior Court judge's January decision to permit an Indiana University professor and newsletter publisher access to **Insurance Regulatory Information System data** from the National Assn. of Insurance Commissioners (BI, Jan. 23). . . . The House Labor Management Relations Subcommittee last week approved legislation that would require most employers to give employees up to 10 weeks of **unpaid leave** for the birth of a child or to care for a seriously ill child or parent. . . . A total of 237 of the 241 **Malibu homeowners** who sued Los Angeles County and the California Department of Transportation charging the entities created drainage problems that led to a landslide and subsequent property damage have approved a \$96.8 million settlement (BI, Jan. 16). . . . David Thornberry will resign as **Texas State Board of Insurance** member in the midst of ongoing controversy surrounding the agency's handling of an insurer insolvency (BI, Nov. 7, 1988). Another board member, James L. Nelson, will leave the agency as soon as his replacement is named.

## Mutual Fire rehab

Continued from page 3

Objections or other responses to the plan must be filed in Commonwealth court by April 10.

Meanwhile, a state judge officially declared Mutual Fire, Marine insolvent on Feb. 3. Although the insurer was ordered into rehabilitation on Dec. 8, 1986, that order did not include the official finding of insolvency required to trigger state guaranty fund coverage of direct insurance claims.

While the previous rehabilitation plan had aimed at full payment of direct claims without guaranty fund participation, the revised plan provides for guaranty fund payments, and the Feb. 3 insolvency order was intended mainly to trigger guaranty fund coverage.

Mutual Fire, Marine—which stopped underwriting in April 1986—was licensed in Delaware, New York, Pennsylvania and Puerto Rico, and the New York and Pennsylvania guaranty funds are expected to be most heavily affected.

In 1985, Mutual Fire, Marine reported

gross written premiums of \$136.3 million, including direct insurance premiums of \$60.6 million and assumed reinsurance premiums of \$75.7 million, according to figures published by A.M. Best Co.

Net premiums amounted to \$42.7 million in 1985.

About 25% of the insurer's 1985 gross direct premiums were written in New York and about 10% in Pennsylvania.

However, large portions of its book of business consisted of assumed reinsurance and surety bonds written for tax shelter lim-

ited partnerships. Property/casualty guaranty funds generally exclude claims related to reinsurance and financial guarantee coverages.

Besides the four states in which it was licensed, Mutual Fire, Marine operated on a surplus lines basis in 46 states and the District of Columbia.

The Pennsylvania department's revised rehabilitation plan, dated Jan. 31, provides for 10 classes of Mutual Fire, Marine creditors. The creditor groups include:

Continued on next page

## Section 89 regulations

Continued from page 1

bad idea. It will add fuel to the overhaul and repeal fires," added Richard Raskin, a consultant with The Wyatt Co. in New York.

The IRS contends the rules released last week will take the nation's employers and their advisers 9 million hours to digest, an estimate that many believe is conservative.

And, the rules are not complete. The IRS still must publish Section 89 rules dealing with such issues as group term life insurance and multi-employer plans.

Even so, the rules released last week total more than 200 pages, including many test examples.

"There was a conscious effort to make the rules instructive," said Mercer's Mr. Conaway, a former Treasury Department official.

The rules delay the effective dates of certain Section 89 requirements. For example, employers have until July 1—rather than Jan. 1—to give notice to employees of welfare benefit plans that are available.

Most important for employers, the rules give an alternative in 1989 for companies that want to avoid the 75% average benefit test. Under this test, the average "value" of an employer-provided benefit to non-highly compensated employees must be at least 75% of the value of the benefit to the highly compensated (BI, April 18, 1988).

This test poses an administrative challenge because companies, especially decentralized firms, may lack information on who is participating in their program.

In lieu of this test, employers this year can elect to have the top 20% of highly compensated employees taxed on the full value of their health care benefits. In 1990, the 75% test could be avoided if the top 40% of highly compensated employees were taxed on their health care benefits.

In addition, employers taking

this option of avoiding the 75% test would be allowed this year to use a modified version of the "90%/50% test."

Under the modification, known as the "80%/66% test," 80% of non-highly compensated employees must be eligible for a health care plan whose value is at least 66% of the value of the most generous welfare plan available to highly compensated employees.

The alternatives to the 75% test would be attractive, for example, for large companies with a small number of highly compensated employees that want to avoid the big administrative hassles of complying with the 75% test.

"This alternative is targeted at the big employer with the biggest data collection problems," said Mr. Conaway.

In addition, by using the "20% alternative" companies can then use the 80%/66% test. That could ease compliance problems for companies at which 80%—rather than 90%—of non-highly compensated employees are eligible to participate in their health care plans.

In addition, employers with more than 5,000 employees could permanently avoid the 75% and other general non-discrimination tests by using yet another alternative.

But the conditions in that alternative are so stiff—among other things at least 90% of full-time employees must be non-highly compensated, no more than 0.75% of active employees can have compensation exceeding about \$108,000 and 80% of employees eligible to participate in each health plan must be non-highly compensated—that its usefulness is questionable.

It should, though, be attractive to public employers that have few highly compensated employees, experts say.

Simultaneously with the Section 89 rules, the IRS published its proposals for sweeping new rules for flexible benefit plans, especially

FSA's.

The most significant proposal involves putting "at risk" employers that sponsor health care FSA's.

Currently, employers fully reimburse employees participating in FSA's for eligible medical expenses only after the employee contributes enough money to the FSA to cover the expense.

But under the IRS regulations, which would not go into effect until Jan. 1, 1990, companies generally would have to reimburse employees monthly after an employee files an FSA claim, even if there are not sufficient funds in the employee's FSA to cover the reimbursement.

For example, assume an employee agreed to make pretax contributions of \$1,200 to his or her FSA to cover uninsured health care expenses. The FSA contributions are made in \$50 increments twice a month. Thus, after the first month, the FSA would contain \$100 in employee contributions.

Assume the employee incurs a \$1,000 medical care expense in the first month of the plan year, pays the bill and submits the claim to the employer for reimbursement. The employer, under the proposed regulations, would have to reimburse the employee for \$1,000, even though there is only \$100 in the FSA.

If the employee quit his or her job, the company could be stuck with a \$900 loss.

Observers have warned that employees who are planning to quit

their jobs could schedule expensive and predictable treatment, like dental bridgework, early in the year before they contributed large amounts to their FSA's. Then, after receiving full reimbursement from their employer for uninsured expenses, they would quit, leaving employers stuck with big bills.

In support of this rule, which already has triggered anger from employers and benefit consultants, the IRS says that health care FSA's—if they are to receive tax-favored status accorded to regular insurance programs—must have elements of risk shifting.

"Health FSA's must qualify as accident or health plans. This means that, in general, while the health care coverage under the FSA need not be provided through a commercial insurance contract, health FSA's must exhibit the risk-shifting and risk-distribution characteristics of insurance," the IRS rules say.

Such risk-shifting is not present in the current structure of FSA's. If an employee leaves and hasn't spent the full amount he contributed to the FSA, the money is forfeited under the 1984 IRS "use it or lose it" rules. In such an arrangement, there is no risk to the employer.

But, putting employers at risk, as the IRS has proposed, could deter companies from setting up the popular plans and lead some companies to terminate their FSA programs.

"If an employer has high em-

ployee turnover, it won't be too interested in offering an FSA program," said Larry Lenahan, an associate benefit consultant with Buck Consultants Inc. in Secaucus, N.J.

"Employers will have to make a lot of strategic decisions about their FSA's. This is a very significant change," added Ms. George-miller of Hewitt Associates.

But, in a bit of good news for employers, the new rule putting employers at risk will only apply to health care FSA's. There had been debate within the IRS about extending the at risk rule to dependent care FSA's.

The IRS' other FSA and flexible benefit plan rules generally are more technical in nature and are more favorable to employers and employees. Other proposed rules include:

- Employers could return to employees in an equitable manner unused balances in FSA's that now must be forfeited by employees under the "use it or lose it" rule.

- However, the distribution to any individual employee could not be based on the size of his or her individual forfeiture.

- Employees with FSA's who do not use all of their allotted vacation days could receive the value of those unused days as taxable cash.

- Certain taxable benefits, such as accidental death and disability benefits or group term life insurance coverage over \$50,000, could be included in flexible benefit programs.

## Municipal liability ruling

Continued from page 3

ing deliberate indifference to life.

The State & Local Legal Center had argued in a brief that the court should rule municipalities are liable only if their training policies are unconstitutional, Ms. Solomon noted. The Supreme Court's decision, though, is "about as good as it can be short of the unconstitutional policy."

"I'm not horribly concerned about losing cases," said Lee Ruck, general counsel to the National Assn. of Counties in Washington, D.C. While the court validated a new type of municipal liability, it also established a great burden of proof, he said. "They are setting forth broad language, making it a lot harder to prove it."

But Mr. Ruck added that he was concerned that the ruling will increase the number of suits brought against municipalities. The decision will lead to "a lot of creatively pleaded, well-crafted attempts to meet whatever burden the Supreme Court really means," he said.

Stewart Diamond, an attorney with Arcel, Glink, Diamond, Murphy & Cope in Chicago, who represents municipalities, said: "In the long run, I think it will not be a serious expansion of municipal liability because the court has crafted an extremely narrow standard which will be difficult for all but a few plaintiffs to achieve."

"The problem is that until the outlines of that standard are completely tested through decisions of district and circuit courts, I would suppose there are going to be a reasonable number of cases filed by plaintiffs who want to test or expand that rule," he said.

"I'm hopeful that an early series of district court decisions following the extremely narrow scope of the Supreme Court's intent will relatively quickly make plaintiffs' lawyers realize there is a very, very narrow window of opportunity," Mr. Diamond said.

However, it could take as many as 10 years of court decisions by lower courts, plus another two or three year until the Supreme Court rules on these decisions, before case law develops to the point where municipalities know the full extent to which they are liable and must change their employee training practices, Mr.

Ruck said.

The ruling is "going to increase the exposure of municipalities slightly, but in a fairly well-defined area," commented John Powers of Albany, N.Y.-based Powers & Santola, a plaintiffs' attorney.

According to the ruling, a direct relationship between the municipalities' failure to train and the resulting danger to the plaintiff must be demonstrated, Mr. Powers noted.

The expansion of liability will probably be limited to the more serious cases, he said, adding that it is unlikely to open a giant Pandora's box.

Mr. Powers agreed that the ruling will not lead to a significant increase in cases. "I don't expect any great explosion of litigation," he said. "It's not a new area of law, as I see it. It's simply a definition by the Supreme Court as to what the standard is."

Mr. Diamond warned that the decision is applicable to any unit of municipal government, including school districts and fire prevention districts, as well as law enforcement agencies.

Mr. Diamond also noted that in a dissenting opinion, Justice Sandra Day O'Connor agreed with the concept of deliberate indifference, but went one step further and said the

case before the court should be dismissed without being remanded to the 6th Circuit Court of Appeals because there is no evidence the city had met that standard. She was joined in her dissent by Justices Antonin Scalia and Anthony Kennedy.

"Even in this situation, it was not serious enough to create liability," the dissent said.

While most observers did not think the decision would have a huge effect on municipalities, Cynthia Pols, legislative counsel to the National League of Cities in Washington, D.C., was less optimistic.

"We're not happy with the decision," she said. "Obviously it's an expansion of the exposure of liability to cover inadequate training," she said.

While the Supreme Court recognized the problem of increasing liability "that didn't stop it from broadening the exposure," she said.

City of Canton, Ohio, vs. Harris, et al; Supreme Court of the United States; No. 86-1088.

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Continued from previous page

- Secured creditors, including ceding insurers holding letters of credit or trust funds posted by Mutual Fire, Marine. The plan would allow these insurers to draw on the LOCs and trust funds to cover paid losses and loss adjustment expenses approved by the rehabilitator or the court.
- Direct insurance policyholders, who number in the thousands and will receive first priority among unsecured creditors after payment of administrative costs and wage claims by Mutual Fire, Marine employees. Claims paid by state guaranty funds on behalf of the insurer also will fall into this category.
- Surety bond lenders, consisting of financial institutions that held Mutual Fire, Marine surety bonds as part of financing packages for failed oil, gas and real estate tax shelter partnerships.

This class includes about 91 surety bondholders that are owed roughly \$80 million in losses, said David Harbaugh, a lawyer with the Philadelphia firm of Morgan, Lewis & Bockius, representing six bondholders.

The bondholders would not be paid under the plan until after direct policyholder claims are satisfied.

- General unsecured creditors, including ceding insurers without LOC or trust fund protection.

Roughly 343 ceding insurer creditors were owed \$160 million as of March 31, 1986, and that number has probably increased substantially since then, said Marcy D. Tanker, a lawyer with the Philadelphia firm of Fitzpatrick & Tanker, representing 49 ceding companies.

Under the plan, the cedants would not be paid until after direct policyholder and bondholder claims are satisfied.

However, the plan will create a special fund consisting of 25% of all retrocessions collected by Mutual Fire, Marine on its assumed reinsurance book.

This fund will be available to pay ceding insurer claims after all direct policyholder claims have been paid or reserved for under a prorating method described in the rehabilitation plan.

Ms. Tanker said the ceding companies stand a good chance of recovering the money placed in the special fund, but added that Mutual Fire, Marine probably won't have enough assets to pay cedants any more than the amount in the fund.

Other classes of claims, in the order in which they would be paid, are:

- Federal, state and local government claims.
- Late claims.

- Claims by holders of surplus notes.
- Claims by former owners, officers and directors of Mutual Fire, Marine.

Late claims include any direct policyholder claim reported after June 30, 1991. While losses reported before this cutoff date have priority over other unsecured classes of claims, losses reported after that date fall further down the priority list.

No cutoff date is set in the plan for claims by surety bondholders and ceding insurers.

While the Pennsylvania department's earlier rehabilitation plan anticipated full payment of all direct insurance claims, the current plan provides for 100% payment of only those claims amounting to less than \$5,000. Claims of more than \$5,000 would be prorated based on a proportional payment method set out in the plan.

The revised rehabilitation plan also changes the way Mutual Fire, Marine's assets are allocated among major creditors.

Under the previous plan, reinsurance recoverable by Mutual Fire, Marine on its surety bond and assumed reinsurance books would have been set aside to cover the claims of the bondholders and ceding insurers, lawyers for the two creditor groups say.

The new plan, however, calls for nearly all of Mutual Fire, Marine's reinsurance recoveries to go into a single pool of funds from which the various classes of claims would be paid in the order set out in the plan.

The one significant exception to this is the special fund set aside to pay ceding insurer claims.

The cedants succeeded in negotiating this 25% set-aside, according to Ms. Tanker, who said an earlier draft of the current plan included no special fund provision.

The rehabilitation plan also includes a provision that would allow offset of mutual debts and credits. For example, a reinsurer of Mutual Fire, Marine that also ceded business to the defunct insurer would be allowed to offset amounts owed by Mutual, Fire Marine against amounts it owes to the insurer.

Two offset options are included in the plan, with a more liberal option offered to cedant/reinsurers that pay balances owed to Mutual Fire, Marine within 90 days of court approval of the plan.

However, premiums owed to Mutual Fire, Marine could not be used to offset other obligations.

In addition, the maximum allowable offset would be \$25 million, and any amounts exceeding this would be adjusted on a pro rata basis.

The plan also calls for a 10% discount for any reinsurer that pays balances due to Mutual Fire, Marine within 90 days after court

approval of the plan. To qualify for the discount, reinsurers must waive any right to an offset.

Reaction to the revised plan among the major creditor groups is mixed, though most express at least some reservations about various plan provisions.

Besides being concerned about the elimination of the policyholders committee, the committee is also concerned about a "lack of financial accountability" on the part of the rehabilitator, which should provide policyholders with regular, detailed financial reports on Mutual Fire, Marine to allow assessment of the rehabilitation plan's progress, Mr. Brown said.

In addition, the policyholders committee is considering whether to request a later re-examination of the June 30, 1991, cutoff date for claims based on loss experience as the plan progresses, he said.

Mr. Harbaugh, representing several of the surety bondholders, said the plan does not reflect the bondholders' input during earlier discussions with the Pennsylvania department. However, he declined to provide specifics or comment on whether the bondholders will object to the plan in court.

While ceding insurers managed to negotiate the special fund to set aside 25% of Mutual Fire, Marine's retrocessions on the assumed reinsurance book, they are not as happy with this plan as they were with the previous rehabilitation plan, which allotted them all of the retrocessional coverage, Ms. Tanker noted.

However, she said the cedants she represents are still studying the plan and have not decided yet whether to raise objections.

"The problem is deciding if the shortcomings in this plan can ever be addressed by (any) plan," she said.

One of Mutual Fire, Marine's largest cedant/reinsurers, American International Group Inc., is not happy with the plan, according to Patrick Foley, senior vp and general counsel.

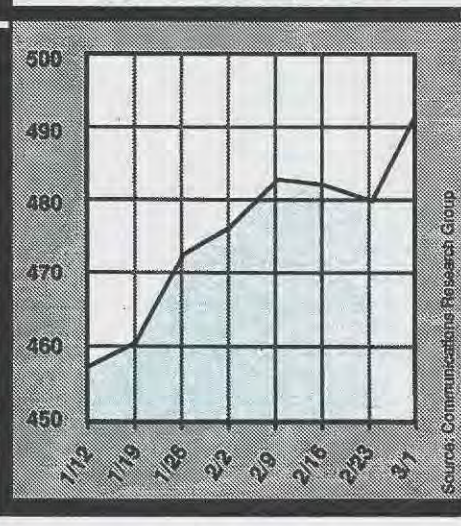
Among other things, AIG is dissatisfied with the offset provisions and with the 25% special fund, which represents an abrogation of AIG's rights under the terms of its reinsurance treaties with Mutual Fire, Marine, he said.

"I don't think the plan is any good," Mr. Foley said.

Despite the objections, though, some creditor representatives are optimistic about the current plans' chances for going forward.

"This plan should stick," Mr. Brown said. "It's not in the interest of the policyholder class to delay getting a final and sound rehabilitation plan in place."

### BI Insurance Index



Insurance industry stocks climbed last week, as the **Business Insurance Index** rose 12 points to 492.3 on March 2, from 480.3 on Feb. 23. Advancing issues were led by Western Health Plans Inc., up 78.6%; Frank B. Hall & Co. Inc., up 47.6%; and FHP International Corp., up 24.3%. Decliners followed Statesman Group Inc., down 9.4%; Tokio Fire & Marine Insurance Co. Ltd., down 5.9%; and Frontier Insurance Group, down 5.6%. The issue showing the most activity during the period was USF&G Corp., with 3.6 million shares traded. The **BI Index** gained 2.5% during the period; the **Dow Jones 30 Industrials** dropped 1%; the **New York Stock Exchange Composite** lost 0.5%; and the **Standard & Poor's 500** fell 0.7%.

### British Issues

March 2 Companies	Price pence	P/E	Div. pence	Yield %	1 Week	
					High	Low
Comm Union	380	13.1	25.3	6.7	386	381
Genl Accident	938	8.7	58.7	6.2	945	923
Gdn Royal Exch	210	11.3	13.1	6.2	211	207
Royal	423	13.2	30.0	6.0	425	423
Sun Alliance	1127	8.6	54.7	4.9	1135	1080

Brokers	Price	P/E	Div. pence	Yield %	1 Week	
					High	Low
Bradstock	237	13.4	9.0	3.8	237	234
CE Heath	465	14.8	34.5	7.4	468	463
Hogg Robinson	153	14.2	8.0	5.2	157	149
Lloyd Thompson	208	16.4	8.0	3.8	208	208
PWS Holdings	82	22.2	4.6	5.7	82	80
Sedgwick Grp	250	20.7	16.0	6.4	254	246
Steel Bri Jones	240	21.4	13.3	5.6	240	240
Wills Faber	240	16.3	15.3	6.4	245	240

Source: Philip Olsen/Alan Clifton, Insurance Industry Specialists Kitcat & Aitken Stockbrokers, London

## BI Industry Stock Report

MARCH 2, 1989

2/24/89 THRU 3/2/89

BROKERS	Price	Weekly % change	Year to Date % change	Annual		Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk. value	Price	Weekly % change	Year to Date % change	Annual		Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk. value		
				High	Low										High	Low								
Alexander & Alexander Svcs	NYSE	23.75	0.5	1.1	28.13	17.75	244	1.00	4.2	15.1	3.71	6.40	35.25	-2.4	-2.1	47.25	33.88	2	0.24	3.0	17.5	2.90	2.72	
Corroon & Black Corp.	NYSE	33.63	2.7	8.0	34.75	28.00	345	1.24	3.7	5.0	12.40	2.71	49.38	-0.7	12.2	53.50	40.25	104	2.48	5.0	12.0	37.11	1.33	
Gallagher Arthur J. & Co.	NYSE	18.13	-0.7	8.2	19.13	13.88	37	0.48	2.6	12.9	5.46	3.32	34.75	0.7	9.4	35.75	18.50	327	0.00	0.0	13.8	22.06	1.58	
Hall Frank B. & Co.	NYSE	4.25	47.6	47.6	5.50	2.50	421	0.00	0.0	-2.4	0.00	N/A	21.25	0.0	6.3	22.00	14.50	6	0.00	0.0	10.3	12.88	1.65	
Hibb, Rogal & Hamilton	OTC	14.50	-3.3	-4.9	15.75	9.75	12	0.00	0.0	12.6	4.60	3.15	4.63	2.9	-2.5	9.50	3.75	5	0.42	9.1	-17.8	7.76	0.60	
Marsh & McLennan Cos. Inc.	NYSE	57.50	-1.3	2.2	60.00	45.25	282	2.50	4.3	14.1	6.48	8.87	30.50	4.7	-2.0	34.50	22.63	260	1.12	3.7	7.6	35.05	0.87	
Poe & Assoc. Inc.	OTC	8.50	3.0	3.0	9.25	6.75	4	0.40	4.7	9.6	0.27	31.48	38.75	-2.5	8.4	45.25	32.25	159	2.08	5.4	5.9	31.53	1.23	
BROKERS AVERAGE			6.9	9.3					2.8	9.5			26.63	0.0	11.0	28.88	19.13	112	0.74	2.8	13.3	27.82	0.96	
Orion Cap Corp.	NYSE	19.50	0.6	26.8	20.88	13.13	26	0.76	3.9	6.6	9.34	2.09	9.75	-2.5	2.6	11.00	6.75	28	0.00	0.0	5.1	12.49	0.78	
Phoenix Re Corp.	OTC	13.38	-0.9	1.0	15.13	12.25	100	0.70	5.2	16.3	17.25	0.78	10.13	3.9	11.0	11.75	7.88	11	0.00	0.0	22.5	11.93	0.85	
Re Capital Corp.	AMEX	10.13	3.9	11.0	11.75	7.88	11	0.00	0.0	22.5	11.93	0.85	21.88	0.6	13.7	25.00	15.63	251	0.68	3.1	12.0	21.96	1.00	
Provident Life & Acc Ins Co.	OTC	47.25	-0.8	8.6	51.00	38.25	1773	2.20	4.7	6.5	30.64	1.54	47.25	-0.5	14.3	30.00	22.75	490	1.08	4.0	7.5	23.94	1.13	
St. Paul Cos. Inc.	NYSE	8.50	4.6	-6.9	9.50	6.63	38	2.00	2.4	6.3	9.38	0.91	11.75	0.0	3.3	14.25	11.00	130	0.80	6.8	7.5	13.42	0.88	
Seibels Bruce Group Inc.	OTC	22.75	0.0	-1.1	26.50	19.25	140	1.24	5.5	5.1	22.33	1.02	3.00	-9.4	-4.2	5.56	2.75	128	0.05	1.7	-300.0	3.48	0.86	
Statesman Group Inc.	OTC	89.13	-5.9	-2.5	98.00	63.25	30	0.22	0.2	54.0	0.00	N/A	31.88	-0.4	4.5	33.50	24.50	344	1.20	3.8	10.4	12.24	2.60	
Torchmark Corp.	NYSE	34.25	1.8	1.1	36.75	29.75	400	1.88	5.5	8.0	27.36	1.25	37.88	0.0	9.0	40.00	33.00	677	2.40	6.3	9.1	45.28	0.84	
Transamerica Corp.	NYSE	14.00	-3.4	-3.4	15.25	9.75	2	0.24	1.7	8.7	16.91	0.83	14.00	-3.4	-3.4	15.25	9.75	2	0.24	1.7	8.7	16.91	0.83	
Travelers Corp.	NYSE	30.00	0.0	-1.6	30.75	24.00	8	1.08	3.6	5.3	22.56	1.33	31.38	0.0	10.1	34.38	28.50	3559	2.80	6.9	8.8	22.15	1.42	
Trenwick Group Inc.	OTC	29.25	1.7	8.3	29.75	17.88	156	0.48	1.6	10.2	30.64	0.95	37.50	1.7	7.5	40.13	28.00	212	1.36	3.6	9.8	46.77	0.80	
United Fire & Cas Co.	NYSE	26.88	-1.8	-0.4	28.75	24.00	59	1.08	4.0	-7.8	32.33	0.83	26.88	1.4	5.0	23.88	15.00	59	0.80	4.4	8.7	13.61	1.35	
United States Fid & Gty	NYSE	29.25	1.7	8.3	29.75	17.88	156	0.48	1.6	10.2	30.64	0.95	31.38	0.0	10.1	34.38	28.50	3559	2.80	6.9	8.8	22.15	1.42	
UNUM Corp.	NYSE	37.50	1.7	7.5	40.13	28.00	212	1.36	3.6	9.8	46.77	0.80	37.50	1.7	7.5	40.13	28.00	212	1.36	3.6	9.8	46.77	0.80	
USLIFE Corp.	NYSE	26.88	-1.8	-0.4	28.75	24.00	59	1.08	4.0	-7.8	32.33	0.83	26.88	1.4	5.0	23.88	15.00	59	0.80	4.4	8.7	13.61	1.35	
Washington Nat'l Corp.	NYSE	18.38	1.4	5.0	18.38	15.00	59	0.80	4.4	8.7	13.61	1.35	INSURERS/REINSURERS AVERAGE							3.1	4.3			
Zenith Nat'l Ins Corp.	NYSE	21.13	24.3	74.2	19.75	6.00	584	0.00	0.0	11.5	3.54	5.97	2.13	10.1	39.4	1.38	0.38	30	0.00	0.0	-2.1	1.12	1.17	
HEALTH MAINTENANCE ORGANIZATIONS																								
FHP International Corp.	OTC	0.63	0.0	-16.0	4.25	0.50	1366	0.00	0.0	0.0	0.00	N/A	0.63	0.0	-16.0	4.25	0.50	1366	0.00	0.0	0.0	0.00	N/A	
HMO America Inc.	OTC	16.38	2.4	33.7	16.75	5.75	202	0.00	0.0	13.1	6.35	2.58	16.38	2.4	33.7	16.75	5.75	202	0.00	0.0	13.1	6.35	2.58	
Maxicare Health Plans	OTC	5.00	0.0	-9.1	8.25	4.00	0	0.00	0.0	10.0	2.75	1.82	5.00	0.0	-9.1	8.25	4.00	0	0.00	0.0	10.0	2.75	1.82	
Mxicare Health Systems	OTC	2.25	0.0	38.0	3.00	1.25	39	0.00	0.0	17.3	1.59	1.42	2.25	0.0	38.0	3.00	1.25	39	0.00	0.0	17.3	1.59	1.42	
Pacificare Health Systems	OTC	6.88	13.1	52.9	3.31	1.75	691	0.00	0.0	3.0	2.59	2.66	6.88	13.1	52.9	3.31	1.75	691	0.00	0.0	3.0	2.59	2.66	
Safeguard Health Ent.	OTC	5.88	-2.0	12.0	6.75	2.50	15	0.00	0.0	11.5	3.91	1.50	5.88	-2.0	12.0	6.75	2.50	15	0.00	0.0	11.5	3.91	1.50	
Sierra Health Services	AMEX	8.13	0.0	39.9	4.44	2.13	1315	0.16	2.0	67.8	2.87	2.83	8.13	0.0	39.9	4.44	2.13	1315	0.16	2.0	67.8	2.87	2.83	
United Health Services	OTC	1.00	78.6	44.9	1.69	0.25	48	0.00	0.0	-0.5	0.82	1.22	1.00	78.6	44.9	1.69	0.25	48	0.00	0.0	-0.5			

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