

Business Insurance

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

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Arthur Andersen will appeal judgment for DeLorean work

NEW YORK—Arthur Andersen L.L.P. will appeal a jury award that the accounting firm is liable for as much as \$111.2 million to investors and creditors of John Z. DeLorean's failed car business.

A state court jury in New York last week decided Arthur Andersen should pay \$46.2 million in damages and possibly up to \$65 million in interest because in 1979 it approved DeLorean Motor Co.'s financial statements even though there were indications of fraud.

If the award is upheld, the court will calculate the interest.
See Updates on next page

More mutuals changing structures

By RODD ZOLKOS

Although the growing number of mutual insurance companies exploring demutualization is under attack from consumer advocates, commercial insurance buyers are voicing little opposition to the conversions.

For many mutual insurers that have taken steps to demutualize, the access to capital provided by the ability to sell stock is cited as a necessity if they are to compete on an even playing field with their shareholder-owned counterparts.

But consumer advocates who have opposed demutualization—which to date has been largely confined to life/health companies and personal lines insurers—contend there's a potential conflict in a restructured company between the interests of the policyholders, who were the company's owners under the mutual framework, and those of the new stockholders.

"If you look at the standpoint of where the mutual insurance companies are right now, I will say most of them, the major ones anyway, are looking at doing something," said Richard C. Clemens, a partner with the Sidley & Austin law firm in Chicago. "And that's motivated by the desire to have an acquisition currency, i.e., stock."

The need to deal with a changing business environment was what Newport Beach, Calif.-based Pacific Mutual Life Insurance Co. offered as the reason behind its conversion to a mutual holding company structure last September.

According to Thomas C. Sutton, Pacific Mutual's chairman and chief executive officer, the move provides the company with "additional structural and fiscal flexibility during a period of time in which everyone agrees there is considerable change in the insurance industry."

Recent announcements by such giants as the Prudential Insurance Co. of America and Principal Mutual Life Insurance Co. that they would pursue demutualization.
See Mutuals on page 21

Some notable demutualizations

1992 - Equitable Life Assurance Society of the U.S.

1995 - State Mutual Life Assurance Co.

1996 - Farm Family Mutual Insurance Co.

1996 - American Mutual Life Insurance Co.

1997 - Old Guard Mutual Insurance Co.

1997 - Pacific Mutual Life Insurance Co.

Pending demutualizations

Mutual Life Insurance Co. of New York

Principal Mutual Life Insurance Co.

Prudential Insurance Co. of America

Standard Insurance Co.

A healthy acquisition?

Competition, integration concerns surround Aetna-NYLCare reports

By JUDY GREENWALD

Aetna Inc.'s possible acquisition of New York Life Insurance Co.'s group health business would be a decidedly mixed blessing for employers, analysts and others believe.

Responding to reports that the two companies are negotiating a deal, some experts say a larger Aetna could benefit plan sponsors with the greater leverage it could bring to health care provider negotiations and with an ability to operate more efficiently. It also would provide large employers more opportunity for one-stop shopping.

But other observers are concerned about the diminishing number of managed care firms. They note that employers' ability to play one managed care firm off another to get the

best deal would be hurt by the removal of New York Life's NYLCare Health Plans Inc. operation as a competitor.

In addition, the transition period after such a deal likely would bring at least temporary disruptions in service, say some observers.

Some also question whether Aetna really is ready to consider another deal in light of its somewhat bumpy integration of U.S. Healthcare Inc., though others believe it could benefit from that experience.

Neither Aetna nor New York Life would comment on recently published reports that the two are negotiating a possible \$1 billion sale.

It is not necessarily a done deal, said John Ward, chief executive officer of Aetna.
See Aetna on page 22

At a glance:



NYLCare Health Plans Inc.

1997 revenues: \$3 billion.

1997 participants: 2.5 million.

Service area: All 50 states and District of Columbia.

History: New York Life Insurance Co. in 1987 acquires Sanus Corp. Health Systems. In 1996, Sanus is merged with New York Life's group health department, creating NYLCare Health Plans Inc.

Source: NYLCare Health Plans Inc.

GRAPHIC BY JOHN HALL

Superfund reform falters

Negotiations fail to erase Clinton administration opposition

By MARK A. HOFMANN

WASHINGTON—The chances for even modest Superfund reform this year appeared to dim last week as the Clinton administration announced it "strongly opposes" business- and labor-backed legislation that would leave retroactive liability intact.

The administration's thumbs-down came as the House Transportation and Infrastructure Committee's Subcommittee on Water Resources and the Environment prepared to debate H.R. 2727—also known as the Superfund Acceleration, Fairness and Efficiency, or SAFE, Act—last Wednesday morning. After several hours of opening statements, sometimes heated exchanges and debate, the bill's chief sponsor, Rep. Sherwood Boehlert, R-

N.Y., who is also the subcommittee chairman, postponed the markup until this week.

The debate came after about 18 hours of negotiations among Rep. Boehlert, congressional Democrats and Environmental Protection Agency Administrator Carol Browner in an attempt to iron out differences.

The effort failed to satisfy the White House. Vice President Albert Gore Jr. issued a statement that read in part, "despite the best efforts of Chairman Boehlert, Ranking Member (Robert) Borski (D-Pa.) and Administrator Browner late into last night, negotiations to develop reasonable Superfund reform legislation have been unsuccessful. As a result, a subcommittee of the House Transportation and Infrastructure Committee is poised to mark

up a bill that the administration strongly opposes."

According to Vice President Gore's statement, "our efforts to develop common-sense reforms continue to be stymied by extreme proposals advanced by a small army of special-interest lobbyists." H.R. 2727, the vice president charged, "would weaken vital protections of public health, the environment and natural resources."

Meanwhile, the House Commerce Committee held hearings on another Superfund reform bill sponsored by Rep. Mike Oxley, R-Ohio, and the Senate continued to hold off marking up its reform legislation—drafted by Sens. John Chafee, R-R.I., and Bob Smith, R-N.H.—as senators debated a complex transportation bill.
See Superfund on page 16

New York unions pushing for more child care help

By MICHAEL PRINCE

NEW YORK—An organized labor initiative in New York to increase public and private support for child care benefits reflects the growing demand nationwide.

A coalition of 10 New York City unions is pushing the state and employers to fund more child care services and paid maternity leaves. Organized labor hopes the New York initiative will succeed and encourage similar efforts nationwide.

"If we can get the model to work here, we can get it to work in the state

and (throughout) the country," said Donna Dolan, director, work and family issues for the New York-based Communications Workers of America, District 1, one of the coalition members.

The New York City Labor Coalition for Child Care, the AFL-CIO and another union organization, the New York City Central Labor Council, propose the state spend \$200 million from its budget surplus to fund additional child care slots throughout New York City, which would be available to union and non-union employees.

In addition, the coalition is research-

ing the feasibility of creating two types of child care funds for union members from money obtained through collective bargaining agreements with employers. One would be solely for each individual union with that union's members deciding how to spend the money. The other fund would be used to establish AFL-CIO day care centers in New York City for its members. Coalition officials did not disclose the amounts they would seek from employers for these funds.

The unions also are pushing for legislation that would make New York a "child care friendly" state.
See Child care on page 11

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Updates

Andersen to appeal jury award

Continued from previous page

late the interest. The damage award could be reduced, though, by offsets from earlier settlements.

Plaintiffs argued that Mr. DeLorean set up a shell company to funnel money to his accounts in Swiss and Dutch banks, a scheme the accountants should have recognized, according to Michael D. Hess, an attorney with Chadbourne & Parke in New York representing the bankruptcy trustee in the case.

Fraud did occur, but it was the role of the company's directors and officers, not the accounting firm, to uncover it, an Arthur Andersen spokesman said.

He said if the award is upheld on appeal, "the net cost is substantially covered by insurance." He would not give details on the firm's coverage.

Mr. Hess said he thinks Arthur Andersen has \$100 million in coverage that would apply, but a portion of that could have been used to pay an earlier \$35 million settlement to the British government, one of DeLorean's investors.

Sprinkler maker to fight recall

LANSDALE, Pa.—Central Sprinkler Co. will fight an effort by the U.S. Consumer Product Safety Commission to force a nationwide recall of 10 million Omega sprinklers the company manufactured.

The CPSC announced last week that it filed a complaint with a federal administrative law judge in Washington seeking the recall. The complaint alleges the sprinklers are defective and are likely to fail in a fire.

The CPSC said it took the action after discussions with Central Sprinkler failed to result in an acceptable voluntary recall and replacement plan.

Central Sprinkler already faces legal action brought by Los Angeles-area building owners that have the sprinklers (*BI*, Nov. 17, 1997).

The manufacturer disagrees, however, with the CPSC's conclusions about the performance of Omega sprinklers and will go to court to stop any recall attempts, said a spokeswoman for the Lansdale, Pa.-based company. Since learning of concerns about Omega sprinklers, Central Sprinkler has spent \$5 million to examine more than 1,800 buildings, established a toll-free number for anyone wanting assistance and has provided appropriate remedies, she said.

"We are especially disappointed that our technical team has not been given the opportunity to meet with the commission's technical experts to discuss CPSC data, its specific concerns, and its conclusions," said a statement from Central Sprinkler.

Liability limit proposal criticized

LONDON—A U.K. government proposal to raise employers' minimum liability insurance requirements to £5 million (\$8.2 million) from its current level of £2 million (\$3.3 million) is inadequate, risk managers say.

The Assn. of Insurance & Risk Managers said in a statement issued Friday that the requirement should be increased to £10 million (\$16.5 million). The association said most employers have at least that much now.

U.K. employers' minimum liability insurance requirement has stood at £2 million since 1972.

AIRMIC's statement came in response to the release of a draft government proposal to raise the minimum liability limits required to £5 million.

AIRMIC Executive Director Ina Barker said the proposed increase is insufficient because, since 1972, the U.K. retail price index has increased about 70% while the value of claims settlements has risen by at least the same factor and "probably more."

Another reason Ms. Barker cited in support of a higher minimum limit is a recent study showing that the life expectancy of the seriously injured has increased dramatically over the past 10 years, leading to higher "life support" claims in personal injury claims filed against employers.

AIRMIC said it believes that in most cases the insurance market "will have no difficulty" providing U.K. employers with at least £10 million of employer's liability coverage.

The main exception would be offshore oil and gas rigs, where AIRMIC says up to 100 subcontractors may be operating and an accident on a single rig could absorb £1 billion (\$1.65 billion) of market capacity.

Insurers allege Caremark fraud

CHICAGO—Twenty-two health insurers last week sued Caremark Inc. and parent Caremark International Inc., alleging they submitted false claims, which included the cost of kickbacks to See *Updates on page 22*

Errors & omissions

- Due to an editing error, Cost Care Inc. was incorrectly ranked as No. 6 in a Feb. 2 chart of the top-10 general service utilization management firms. Based on 1997 acute care inpatient admissions, Cost Care Inc. was the eighth-largest firm. Health Risk Management Inc. and CareAdvantage Health Systems Inc. are the sixth- and seventh-largest, respectively.

- Due to an editing error, the merger of General Accident P.L.C. and Commercial Union P.L.C. was incorrectly identified as GCU in a chart in the March 2 issue. The name of the new company will be CGU P.L.C.

Watson Wyatt sells unit

Tillinghast to acquire risk management consulting operation

By MICHAEL PRINCE

BETHESDA, Md.—Watson Wyatt & Co., continuing its strategy of repositioning the company, is selling its risk management consulting unit to competitor Tillinghast-Towers Perrin.

The deal will make Tillinghast the largest risk management consultant in the United States, with combined 1997 revenues on a pro forma basis of \$46.3 million, according to figures submitted to *Business Insurance* for the annual ranking of the nation's largest risk management consultants.

The companies declined to disclose a purchase price. The proposed purchase is subject to nego-

tiation of definitive terms.

"The decision to sell our Risk and Insurance Services practice is part of our strategy to focus on our core consulting services," Pete Smith president and chief executive officer of Bethesda, Md.-based Watson Wyatt & Co., said in a written statement.

Last month, Watson Wyatt pulled out of a benefit outsourcing joint venture with State Street Globa. Advisors called Wellspring Resources L.L.C. Watson, which plans to write off its nearly \$59 million investment in Wellspring, also cited its strategic refocusing as the reason for that move (*BI*, March 2).

A Watson Wyatt spokesman said

the company now will focus on its core business of benefit plan design and strategy, human resource consulting, actuarial work and design of benefit call centers. He added the company has no plans to sell other units.

Also at play in this transaction is the strategy of Tillinghast. John Tierney, Boston-based managing principal-worldwide property/casualty practice at Tillinghast Towers-Perrin, said the purchase advances its strategic objectives of enhancing the range of services it offers and enabling it to pursue more large Fortune 500 companies as clients.

"We felt the skill sets were very See *Wyatt on page 7*

Reinsurance claims rejected

Line slip wording prevents aggregation of claims: U.K. court

By SARAH GODDARD

LONDON—Reinsurers are likely to more closely scrutinize some London market claims in the wake of a U.K. ruling that certain policy wording prevents ceding companies from aggregating their losses to more easily trigger reinsurance coverage.

The ruling could create delays in the settlement of some reinsurance claims, as reinsurers review whether claims were incurred on

policies with wording similar to the coverage in the cases before the U.K. Court of Appeal. The policy wording at issue was discontinued in the late 1980s, attorneys say, which means the ruling will primarily influence reinsurance for long-tail claims, such as asbestos and pollution claims.

Ruling simultaneously on two cases, Lord Justice Hobhouse clarified that certain policy wording—in particular the aggregate-extension clause—contained in certain

liability insurance policies prevented insurers from aggregating their losses when seeking reinsurance coverage.

The ruling focused on two participants on the so-called "MIPI" professional liability line slip placed by London broker J.H. Minet & Co. Ltd., now part of Aon Corp. The MIPI line slip provided professional liability coverage for various professionals, including the Big Six accounting firms, and incurred See *Wording on page 19*

Same-sex harassment liability unlikely to rise

By MARK A. HOFMANN and MICHAEL PRINCE

WASHINGTON—Employers face only slightly broader employment liability exposure as a result of a unanimous Supreme Court ruling



last week that same-sex sexual harassment does indeed violate the Civil Rights Act of 1964.

The justices also ruled last week that lawsuits consolidated before one federal judge for speedy pre-trial discovery cannot be tried by that judge, and limited the right of outside groups to sue companies for vi-

olating federal right-to-know laws. In addition, the high court agreed to review whether unionized employees can sue their employers for violations of employment laws if the union contracts require that such disputes undergo mandatory arbitration.

The same-sex sexual-harassment case, *Joseph Oncale vs. Sundowner Offshore Services Inc.*, involved the right of Mr. Oncale, a former oil-rig roustabout, to sue his Houston-based employer for sexual harassment he suffered at the hands of two male supervisors and another male employee while working on a drilling platform off the Louisiana coast (*BI*, Feb. 16). Mr. Oncale said he was subjected to a variety of sexually related actions—including the threat of homosexual rape—while working for Sundowner.

Mr. Oncale sued Sundowner under the Civil Rights Act's Title VII, which makes it illegal for an employer "to discriminate against any individual with respect to his

See *Court on page 10*

Captive listing deadline

Business Insurance will publish its annual Directory of Captive Managers in the April 27 issue.

The directory is published as an editorial service, and there is no charge to be included. Companies must simply submit a completed questionnaire by the extended deadline of March 27.

If your company provides captive insurance management services, manages an alternative risk financing facility or offers rent-a-captives and has not yet received a questionnaire, please request one by calling Assistant Directory Editor Matt Scroggins at 312-649-5483.

The Directory of Alternative Risk Financing Facilities will appear in the June 8 issue.

Inside

- Employers should thoroughly evaluate their options before outsourcing benefits administration functions, this week's editorial says. **PAGE 8**

- Two employers will appeal a U.K. ruling in favor of two women fired after illness delayed their return from maternity leave. **PAGE 17**

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Suit against film producer insured under E&O policy

By ROBERTO CENICEROS

LOS ANGELES—A lawsuit filed against the producer of the Academy Award-nominated film "The Full Monty" exposes the need for specialized insurance coverage and risk management procedures for film productions.

To minimize the exposure to lawsuits, Hollywood script vetters, attorneys and insurers engage in an underwriting process unique to film production. Some of these film risk management specialists work independently, hiring out to producers and insurers; others work for major film studios.

Their role has grown more important as defense and settlement costs from lawsuits have kept pace with increases in film budgets.

Legal assaults against film productions are constant and some get more media attention than others.

Director Steven Spielberg, for example, recently settled a suit alleging plagiarism in his film "Amistad" for an undisclosed amount.

In the complaint filed last week in federal court in Los Angeles, two New Zealand playwrights allege that the idea and key elements behind "The Full Monty" were plagiarized from their modestly successful stage pro-

duction. Fox Searchlight Pictures, a unit of 20th Century Fox that produced the film, is insured for any damages.

The film, which has garnered several Academy nominations—including best picture, best director, and best screenplay—also has been a financial triumph. It cost \$3.5 million to produce and so far has grossed more than \$200 million at the box office. The film is expected to generate millions of dollars more when it is released on video. The playwrights' lawsuit seeks all of Fox's profits from the film.

There seems to be a correlation
Continued on next page



PHOTO: COURTESY OF FOX SEARCHLIGHT/TOM HILTON

Two playwrights allege that the idea and key parts of 'The Full Monty' were plagiarized from their stage production. They are suing for all Fox Searchlight Pictures' profits from the movie.

AIG raises offer Cendant's bid for ABI is matched

NEW YORK—The bidding war for American Bankers Insurance Group is escalating, as American International Group Inc. last week raised its offer to match a \$58 per share bid by Cendant Corp.

The increased offer—made amid an acrimonious bidding war between the insurer and Cendant—amounts to \$2.7 billion, a substantial increase from AIG's initial offer of \$2.2 billion in December 1997 in what was supposed to be a friendly takeover.

Other changes in the bid included the abandonment of a controversial provision in the original offer that prohibited ABI from talking to other bidders for 120 days.

When Cendant made its bid for ABIG in January, it filed a suit charging that ABI and AIG had conspired to load their deal with restrictions that shut out competing bids (BI, Feb. 2).

Other changes in the AIG bid

include an increase in the termination fee for AIG to \$81.5 million from \$66 million if its offer fails.

Shareholder meetings to vote on the merger have been postponed to March 25 and March 27. They were due to take place last week.

In a statement, R. Kirk Landon, chairman of ABI said: "The ABI board of directors strongly affirms its belief that this merger agreement with AIG is the superior alternative for ABI. . . AIG is a strong, experienced, well-capitalized and well-positioned industry partner for us."

Cendant President and Chief Executive Officer Henry R. Silverman said the increased offer shows that AIG recognizes that Cendant is as qualified as the insurer to own ABI.

"We remain committed to the acquisition of ABI and we are evaluating all our options," he said in a statement.

—By Gavin Souter

Study touts cooperation

Health care partnerships seen as way to boost quality, cut costs

By ROBERT KAZEL

Employers and providers will become trapped in a cycle of mutual suspicion and ever-rising health care expenses unless they form long-term "partnerships" to elevate quality and stabilize prices over several years, according to a new survey.

The Third Annual Survey on Purchasing Value in Health Care, conducted jointly by Bethesda, Md.-based Watson Wyatt Worldwide and the Washington Business Group on Health, found that plan sponsors are mostly pessimistic about the future of health care costs, with 86% believing that costs will rise an average of 7.5% in each of the next two to three years.

Far from being fatalistic, however, the survey reflects employers' hopes that the negative effects of rising prices can be minimized

through close, rational cooperation with—and more demanding expectations upon—health care providers.

Contracts with managed care companies can be designed so "employers can put the service providers' feet to the fire," said Randall Abbott, regional practice leader of health care consulting in Watson Wyatt's Little Falls, N.J., office. That means employers would hold providers more accountable, requiring systematic reductions in administrative costs and improvements in quality of care. Performance goals can be established and penalties implemented if they are not met.

Providers often will welcome a long-term contract, even if they are more closely supervised, because it assures them a more stable patient base and time to develop preventive medicine and wellness goals, the survey said.

Employers gain from long-term partnerships, too, because they get more control over quality standards and receive stable health care coverage without the trouble of changing providers, the report said.

Attitudes of employers already in partnerships with their providers differed from employers not in partnerships with providers.

Substantially more partnering employers said that health care benefits are very important to the attraction, retention and productivity of workers than the non-partnering employers. In addition, 71% of partnering employers were optimistic that providers can deliver quality care next year at the same or lower cost, while 61% of the non-partnering employers predicted this could happen.

According to the survey, large
See Study on page 22

Diversification will help insurers compete: Panel

By JOANNE WOJCIK

SAN FRANCISCO—Insurers are finding it necessary to redefine themselves to stand out in today's competitive marketplace, industry leaders say.

Companies also are cracking down on overhead and expenses to meet buyers' demands for low prices, especially in such hotly competitive

lines as California workers compensation and medical professional liability.

"The commercial buyer is particularly sensitive to price," observed John Pasqualetto, president of specialty workers compensation for American Home Assurance Co., a unit of American International Group Inc. based in New York. "Workers compensa-

tion is a commodity market. All the consumer cares about is what they pay for."

But "insureds also want coverages that meet their needs, risk management tools, financial security and long-term commitment," added Anthony F. Markel, president and chief operating officer of the Glen Allen, Va.-based Markel Corp.

To meet buyers' demands, insurers must diversify geographically and by line of coverage, according to Mr. Pasqualetto.

"The days are gone when you could write in a single state and a single line," he told a roomful of insurance company executives attending the 10th annual Russell Miller National Insurance Symposium Leadership Conference earlier this month in San Francisco.

"Diversity and balance by line of business and geography are needed to succeed," said Mr. Pasqualetto. Such diversification also provides cross-selling opportunities in which buyers can
See Russell on page 6

J&H Marsh defends centers, compensation

By GAVIN SOUTER

NEW YORK—J&H Marsh & McLennan Inc.'s Global Broking Centers will benefit policyholders rather than limit their options, as some buyers fear, say the brokerage's senior executives.

The regional centers create efficiencies and provide clients better service, the executives said during a recent discussion broadcast by satellite to clients nationwide.

The contingent compensation that is a feature of the Global Broking Center placements is justified due to the extra clout J&H Marsh & McLennan has with the market and the services it provides insurers, the executives said.

Global Broking and contingent compensation were among subjects senior J&H Marsh & McLennan executives discussed during the Feb. 26 broadcast. The executives discussed the issues in New York, and the conversations were broadcast live to movie theaters across the country where J&H Marsh & McLennan clients and prospective clients had convened.

Included in the broadcast was a panel session in which the executives fielded questions from Stephen M. Wilder, vp-risk management at The Walt Disney Co. in Burbank, Calif., and president of the Risk & Insurance Management Society Inc.; Mark DeLillo, vp-risk management at Celotex Corp. in Tampa, Fla., and first vp of RIMS; and Janice Reals Ellig, senior vp, marketing and business development at AMBAC Indemnity Corp. in New York, where she oversees employee benefits for the financial guarantee insurers.

Marsh & McLennan Inc. established the Global



PHOTO COURTESY OF J&H MARSH & MCLENNAN INC.

Clients of J&H Marsh & McLennan listen to executives of the broker discuss its operations.

Broking Centers in 1995. The network includes six offices in the United States and offices in London, Bermuda, and Zurich, Switzerland. The centers are linked by computer with insurers. Local brokerage office account managers deal with brokers at the centers. The insurance is placed by those brokers with insurers connected with the center, rather than the transaction being handled through the local offices of J&H Marsh & McLennan and the insurers.

Last year, several risk managers voiced concerns over the centers after an internal J&H Marsh & McLennan memo detailed how brokers would be penalized for not channeling middle-
See J&H M&M on page 10



Russell Miller Inc.

Diversify

Continued from page 3

obtain more than one line of coverage from one insurer, he added.

Insurers need to "spend more time talking to customers," he advised, so they know what products and services they seek and are willing to pay for.

Some insurers, such as American Home, have a distinct advantage because of their size, Mr. Pasqualetto pointed out.

For example, "if you can develop your own loss data, that could provide opportunities to increase profits," he said.

Instead, insurers for years have been feeding data to rating agencies, such as the National Council on Compensation Insurance in Boca Raton, Fla., and they "they sold it back to us after analyzing it to tell us what it means," he said.

"If you can do this in-house, you wouldn't need third-party involvement," Mr. Pasqualetto said.

But workers compensation insurers are not the only ones finding it necessary to diversify to stay competitive today.

SCPIE Holdings Inc., which began underwriting during the professional liability crisis of 1975 as a medical malpractice reciprocal in California, went public last year to raise money to expand out of state and to provide new coverages to the changing health care delivery system.

"The change in the health care delivery system, particularly the growth of managed care, changed the medical malpractice exposure," explained Donald J. Zuk, president and chief executive officer of Beverly Hills, Calif.-based SCPIE.

For example, "we needed to add D&O and E&O for groups of doctors forming clinics, hospital groups, etc.," he said.

Competition from major insurers like The St. Paul Cos. Inc., Fireman's Fund Insurance Cos., Travelers Corp. and AIG entering the medical malpractice market also put pressure on so-called "bedpan mutuals" like SCPIE, he added.

"If you're going to survive, you have to make changes," he said. "So mutuals needed a stronger capital base and the ability to go out of state."

SCPIE, which is licensed in 46 states as a primary insurer, also is entering the assumed reinsurance business, writing excess-of-loss coverage for policyholders with large self-insured retentions.

"We're also offering risk management and claims-handling services on an unbundled basis," Mr. Zuk said.

Still, SCPIE faces a number of challenges, especially from large commercial insurers that often are pricing the business below loss costs to capture market share—a situation not unlike the California workers compensation market.

"The large commercial carriers are trying to break SCPIE," Mr. Zuk said.

As an example, he described a situation in which a large commercial insurer offered coverage to a SCPIE policyholder at half the premium it had been paying.

"They can't make money at that level," he said, anticipating the premium will eventually go up to more realistically reflect the risk being underwritten.

"We need to educate buyers—especially doctors—that it's in their best interest to support a specialized medical malpractice market like SCPIE," he said.

This will ensure stability and prevent another professional liability insurance crisis like the one that led to the creation of the SCPIE in the first place, he pointed out. **BI**

Competition imperils 24-hour cover

Low workers compensation rates mean some programs dissolving: Insurer

By JOANNE WOJCIK

SAN FRANCISCO—A competitive workers compensation market means diminished demand for once-popular programs that combined workers comp and health care coverages, leading to the dismantling of those programs in California, an industry expert says.

"The 24-hour concept still has value, but when we went into it there was a lot of pricing competition" in workers comp, which made the product too expensive to be attractive to employers, explained John Pasqualetto, president of specialty workers compensation for American Home Assur-

ance Co., a unit of New York-based American International Group Inc. American Home was one of the first entries in the 24-hour coverage market in California.

Mr. Pasqualetto, who was a major proponent of the 24-hour concept, admitted he was a bit embarrassed by the unfortunate timing.

But with the repeal of the workers compensation minimum rate law coming when competition for health care market share was so fierce, it was impossible for insurers offering 24-hour products to compete effectively, he said.

"If the market hardens and we can combine some coverages in

comp, then maybe we could give buyers a price break and offer the combined product more competi-



tively," Mr. Pasqualetto told a group of industry executives attending a session at the 10th Annual Russell Miller Insurance Symposium Leadership Conference in San Francisco last week.

However, Mr. Pasqualetto said he doubts health care underwriters—especially health mainte-

nance organizations—would return to the workers compensation arena.

"The management on the HMO side didn't understand the concept of risk," especially when they learned how long the tail was for workers compensation claims, he said.

In fact, HMOs already are bailing out of the California comp market, he said, pointing as examples to Pacificare Health System's decision to pull Great States Insurance Co. from the state and Foundation Health Systems Inc.'s announcement that it was looking for a buyer for California Compensation Insurance Co. (BI, Feb. 9; Feb. 16). **BI**

General Accident Insurance

Execs told to make waves for surfers

SAN FRANCISCO—Not everyone under 40 is sold on the use of the Internet to sell insurance.

Michael McGraw, the 32-year-old chief operating officer of the McGraw Group of Affiliated Cos., is a skeptic, especially after the company's initial foray into high-tech insurance sales fell flat.

However, Mr. McGraw's experience may be an anomaly, according to other insurance industry executives attending the 10th Annual Russell Miller Insurance Symposium and National Leadership Conference March 1-3 in San Francisco.

After spending more than \$150,000 on print ads to support its home page on the World Wide Web that also was accessible via hypertext links from numerous related sites, McGraw only sold 12 watercraft and jet ski insurance policies in

six months, according to Mr. McGraw.

This compares with 15,000 policies that are usually sold in the "traditional way"—i.e., using agents and brokers—during that time period.

Why did McGraw's Internet marketing experiment fail?

"Consumers think insurance is boring and a necessary evil, and the Internet isn't going to change consumer behavior," Mr. McGraw said.

Mr. McGraw believes that instead of being a transactional system, the Internet and World Wide Web are more likely to serve as an information source, helping educate insurance consumers that still will want to use agents and brokers.

"Our biggest challenge is trying to maintain the intimacy of customer service," he said.

But others attending the symposium

said the McGraw experiment may have failed for other reasons, not the least of which was inadequate market research.



TIG Insurance Co. in Irving, Texas, during a luncheon after Mr. McGraw's address.

Or, perhaps the buyers of watercraft and jet skis are not avid Internet users, he suggested.

Contrary to Mr. McGraw's experi-

ence, Mr. Torneden said he thinks the Internet presents significant opportunities for insurers, especially in cross-selling and reaching new markets.

In fact, he said TIG is working closely with a large national credit-card company in developing an Internet-based insurance marketing program.

Insurers must be careful they don't end up like the legendary Rip Van Winkle and sleep during the technological revolution, asserted Ian M. Rolland, chairman and chief executive officer of Fort Wayne, Ind.-based Lincoln National Corp.

To survive, insurers must meet consumers' demand for products when they want them and how they want them delivered, he said during a session.

"More than 6 million people pur-

chased products on the Internet last year," he said, adding that more than 60 million people will have some Internet connections by year-end 1998.

"Technology will create more opportunities to connect with customers," he said.

And only through technology will insurers be able to "meet the customer's agenda for interaction," he asserted.

—By Joanne Wojcik

Wyatt

Continued from page 2
complimentary," Mr. Tierney said.

"It gives us more critical mass in more locations throughout the country," he added.

Watson Wyatt's risk management consulting unit has 11 U.S. locations. Risk management consulting employees at eight of those locations will move to the Tillinghast offices in those cities. Employees at the three remaining offices will remain with Watson Wyatt in other consulting areas. Mr. Tierney said no job losses are expected as its objective is to have a "bigger, broader operation."

Mr. Tierney said no date has been set for closing the deal, but both companies want it to happen quickly. Negotiations have proceeded smoothly since starting at the beginning of the year, he added.

As part of Tillinghast's growth strategy, Mr. Tierney said it might pursue more acquisitions if they make the same strategic sense and add strong people to the firm.

Some competing risk management consultants have perceived a diminishing Wyatt presence in some cities.

Michael Rodman, executive vp with J.H. Albert International Insurance Advisors Inc. of Needham Heights, Mass., said he believes both Watson Wyatt and Tillinghast have reduced their risk management consulting presence in the Boston area the past few years.

Steven Coombs, president of Risk Resources in Elmhurst, Ill., a risk management consultant, similarly said he believes Watson Wyatt's risk management consulting presence in Chicago has dropped in the past few years.

A general perception is that the two firms have a similar profile, focusing on larger corporate clients and performing actuarial work for insurers, risk management consultants say.

"We tend to put Tillinghast and Watson Wyatt in the same box," Mr. Rodman said.

Another similarity in the two firms has been declining revenues. According to the *BI* annual ranking of risk management consultants, Tillinghast slipped from the top position based on 1995 revenue to the second slot for 1996, though revenue increased 14.7% (*BI*, March 17, 1997). 1997 revenue declined 9.8% to \$27.5 million from 1996, according to figures provided to *BI*.

As for Watson Wyatt, its 1996 ranking dropped to the fifth slot, from No. 3 based on 1995 revenues. This drop followed a 15.5% decline in revenue.

For 1997, revenues inched up 1% to \$18.8 million.

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Opinions

Beware outsourcing pitfalls

UNTIL RECENTLY, the powerful combination of consultants and computer technology appeared to be the panacea for employers' benefit administration woes.

The drive to turn over total administration of benefit plans to consultants is one of the hottest trends in employee benefits.

For employers, the concept is appealing for several reasons. By turning over to a third party the day-to-day administration of pension and welfare plans, corporate benefit departments can be slimmed down, and benefit managers can devote more of their time to strategic planning and less on mundane administrative issues.

Outsourcing also means a third party—i.e., the outsourcing vendor, not the employer—makes the large investments needed to take advantage of new technology that can lower administrative costs.

Of course, outsourcing benefit plan administration also allows employers to focus on their core operations, such as manufacturing or sales, rather than functions that are not directly related to revenue generation.

Consultants have responded to the surge of corporate demand for outsourcing services by building hugely expensive call centers where specially trained staffers, equipped with powerful computers, now administer benefit plans offered by hundreds of employers, including some of the nation's largest companies.

But evidence is growing that the road to outsourcing—both for consultants and employers—is anything but smooth.

William M. Mercer Inc., after years of problems, last year largely moved out of total outsourcing, turning over its call centers and defined contribution plan and health and welfare plan administration to Automatic Data Processing Inc.

Earlier, Buck Consultants Inc., wanting to be a bigger player in the outsourcing market but also aware of the heavy capital investments outsourcing demands, agreed to be purchased by Mellon Bank Corp., a big financial services company.

And just last month, Watson Wyatt & Co., which has lost millions of dollars in developing and running a total benefit outsourcing venture—Wellspring Resources L.L.C.—that it launched with State Street Global Advisors in 1996, said it is pulling out of Wellspring and writing off its investment. Wellspring will continue to operate, albeit on a smaller scale.

While impossible to measure, the difficulties that benefit consultants have faced in developing their outsourcing operations unquestionably affect employers,



with the greatest impact felt in delays in implementing outsourcing projects.

For employers, we think there are several lessons to be learned from the problems some consultants have had in developing outsourcing operations.

The first lesson is that employers, especially those with very complex benefit plans, should be skeptical of overly optimistic promises of vendors that say they can quickly and smoothly take over administration of their benefit plans. Clearly, some vendors have been plagued by bugs in their systems, which hinders their ability to cost-effectively administer plans.

Second, employers should carefully evaluate other options besides the polar extremes of either keeping administration in-house or embracing total outsourcing.

For example, allowing employees to obtain benefit plan information or conduct transactions through corporate intranets or the Internet may be faster and more cost-effective than total benefit outsourcing.

In addition, the largest employers may find that developing their own call centers—staffed by their own employees—may cost less than the fees they pay to outsourcing vendors.

Finally, employers of all sizes may take another look at trying to simplify some of their benefit plans, especially their defined benefit pension plans. Complex benefit plans increase the chances of administrative problems, no matter who is responsible for the day-to-day operation of the plans.

Letters

Rhulen remembered for work, warmth, humor

To the editor: I went to work for Walter Rhulen in 1981 as Frontier's first underwriting manager. If memory serves, the company had about \$900,000 in written premiums, and Walter's marching orders to me were: "Bob, let's write things everyone else isn't, and let's show them we can make money at it."

When I left Frontier six short years later, Walter's vision had come to pass and, in the years since, his company's

notable successes attest to the wisdom and the foresight of this industry trailblazer.

Those early years at Frontier were tremendously exciting, but most rewarding of all was the privilege of working side-by-side with Walter. . . watching, listening, learning and marveling at his thoroughness, astuteness and aplomb. How luck I was to have had that one-on-one opportunity!

What I'll remember most about Walter Rhulen was his ability to inspire confidence, his determination and hard work, his unique sense of humor, and, of course, his warmth and honesty. He'll be fondly remembered and sorely missed.

Robert L. Wasserman
President
Technical Insurance Services
Jeffersonville, N.Y.

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Centers

Continued from page 3

market business placed with one insurer through the centers (BI, Oct. 13, 1997). Risk managers feared that memo indicated that the world's largest brokerage would dictate how their insurance coverages are placed.

The memo later was discussed at the RIMS Executive Council, and RIMS established liaisons with brokerages to discuss buyers' concerns over consolidation in the insurance brokerage industry. The concerns will be the subject of the Tuesday luncheon meeting at the annual RIMS conference and exhibition April 26-May 1 in San Diego.

The concerns over the centers resulted from a misunderstanding among policyholders that Global Broking separated policyholders from the underwriters, said Norman Barham, a vice chairman of J&H Marsh & McLennan.

"This is just not true," he said.

J&H Marsh & McLennan encourages policyholders to meet with underwriters, Mr. Barham said.

The Global Broking Centers have several advantages for policyholders, he said, which are:

- They help provide more information about issues such as pricing and information on specialized coverages.
- They provide better market access, as the centers have a clearer idea of which insurers are interested in particular types of business.
- The centers allow brokers to operate better as a team. The insurance

industry is now so complex that one local broker cannot have the expertise to deal with all risks, and the centers provide access to a team of people, Mr. Barham said.

• The overall process is a more efficient way of placing business, Mr. Barham said.

However, risk managers have voiced concerns that the Global Broking Centers were primarily a means for J&H Marsh & McLennan to obtain larger contingent compensation for bulk business placed with insurers. Contingent compensation is a mechanism used by many brokers and agents and usually is linked to the volume and profitability of business placed with individual insurers.

Mr. Wilder of Walt Disney and Mr. DeLillo of Celotex questioned the justification for contingent compensation when brokers already have negotiated a fee for services with policyholders.

The contingent compensation is justified by the services brokers provide insurers, said John Sinnott, chief executive officer of J&H Marsh & McLennan.

About 95% of the compensation brokers receive is linked to the fee or commission clients pay, and about 5% relates to contingent compensation, which underwriters pay brokerages.

The contingent compensation is justified for several reasons, including the brokers "influence" on the market, Mr. Sinnott said later in an interview.

"We could have more influence and more knowledge. That is a bene-

fit that we bring to our clients, and it is one of the reasons why a client selects a broker," he said.

Contingent compensation also is justified by the knowledge about risk managers' needs that brokers provide to insurers, technological links, product development and the distribution network itself, Mr. Sinnott said.

"Underwriters say that they believe in broker distribution networks, and if they didn't think that that was the best way to do business, they would go direct. And if they did that, they would have to go out and set up their own distribution network," he said.

Other aspects of the 1997 merger of J&H with Marsh & McLennan Inc. also will lead to benefits for risk managers, Mr. Sinnott said in the interview.

Risk managers are unlikely to see a reduction in fees or commissions as a result of the expense savings achieved through the merger, as overall expenses were only reduced by about 5% due to the merger, but risk managers should get more for the money they pay, he said.

The material benefits to risk managers should be achieved through better technology, as J&H was a leader in establishing links with policyholders and M&M had been a leader in establishing links with insurers, Mr. Sinnott said. Also, the two firms have combined their influence in the marketplace, and that also will benefit risk managers, he said.

The merger itself is now largely complete. Only some of the offices of

the two brokerages are yet to be combined, Mr. Sinnott said. Generally, the merger was a successful unification of the best practices of the two brokers, he said.

However, there were some marked differences between the brokers' cultures, according to Ms. Reals Ellig of AMBAC. For example, J&H was more "clubby" and profit center-driven, whereas, as a public company, M&M focused very much on the bottom line. Also, incentive pay made up a larger proportion of J&H brokers' compensation than at M&M.

"There were differences," acknowledged Robert J. Newhouse III, executive vp and chairman of U.S. operations at J&H Marsh & McLennan.

"I can't say it was a pleasant experience," he said, but the end result of the merger has resulted in a stronger company, he said.

That stronger brokerage is now able to take advantage of an extremely soft insurance market, said Christine LaSala, a managing director and head of the global practices group at J&H Marsh & McLennan.

"The most telling message was that 1997 was the most profitable year in insurance industry history," Ms. LaSala said, noting 1997 had the lowest level of catastrophe losses since 1988.

Although there have been several El Nino-related storms in the United States and Latin America, they have not generated sufficient losses to drive up prices, Ms. LaSala said.

As a result of the lack of losses and the buoyant investment market, the

policyholder surplus of the insurance industry has jumped 52% over the past three years and stands at \$300 billion.

Given the financial position of the insurance industry, it could absorb a \$50 billion loss without any long-term affects, Ms. LaSala said.

Risk managers should take advantage of the buyers' market for insurance, she said.

"Look at the structure of programs and take advantage of the innovation and creativity that the industry is displaying," Ms. LaSala said.

In its Review and Forecast for 1998, J&H Marsh & McLennan says at least two of these developments would have to occur before the insurance market hardens:

- A significant downturn in financial markets.
- A significant upturn in catastrophic losses.
- Substantial additions to loss reserves.
- The emergence of a costly new tort liability.
- An influx of costly claims related to the Year 2000 issue.

"Any one of these factors occurring alone would probably not result in substantial reduction in industry surplus, and the chances of more than one occurring are incalculable. Therefore, in 1998, insurance buyers can expect to continue benefiting from an insurance marketplace glutted with capital," the report says.

The full report is available on J&H Marsh & McLennan's home page, at www.jhmarshmc.com.

Court

Continued from page 2

compensation, terms, conditions, or privileges of employment, because of such individual's race, color, sex, or national origin." But both the U.S. District Court for the Eastern District of Louisiana and the 5th U.S. Circuit Court of Appeals rejected Mr. Oncale's claim that he had recourse under the Civil Rights Act.

The Supreme Court disagreed.

"We see no justification in the statutory language or our precedents for a categorical rule excluding same-sex harassment claims from the coverage of Title VII. As some courts have observed, male-on-male sexual harassment in the workplace was assuredly not the principal evil Congress was concerned with when it enacted Title VII. But statutory prohibitions often go beyond the principal evil to cover reasonably comparable evils, and it is ultimately the provisions of our laws rather than the principal concerns of our legislators by which we are governed," wrote Justice Antonin Scalia

for the court in an unusually short opinion.

Justice Scalia added, however, that Title VII is not a "general civility code. . . the statute does not reach genuine but innocuous differences in the ways men and women routinely interact with members of the same sex and of the opposite sex. The prohibition of harassment on the basis of sex requires neither asexuality nor androgyny in the workplace; it forbids only behavior so objectively offensive as to alter the 'conditions' of the victim's employment."

The court remanded the case to the lower court for trial.

Employer groups don't view the decision as greatly expanding their members' liability.

"I don't see it as creating major new liabilities at all," said Stephen A. Bokart, executive vp of the Washington-based National Chamber Litigation Center Inc., which handles litigation for the U.S. Chamber of Commerce.

"This case involves an area of sexual harassment that has not been particularly problematic. It happens; there are cases out there, but that's

not where the majority of claims against employers have arisen," he said. He noted that Justice Scalia had emphasized that the law is meant not to cover routine interaction in the workplace but rather "the more repeated egregious cases."

"I don't think it's going to impose a tremendous additional burden in terms of the compliance programs companies have," observed Quentin Riegel, deputy general counsel for the National Assn. of Manufacturers in Washington.

But Mr. Riegel acknowledges that same-sex sexual harassment could be a problem if companies don't attend to complaints. "I do see a significant amount of additional litigation if the employer doesn't respond to the plaintiff's satisfaction," he said.

Mr. Bokart and Mr. Riegel emphasized that employers have much more at stake in how the Supreme Court rules in *Beth Ann Faragher vs. the City of Boca Raton, Fla.*, a case that will help spell out an employer's liability for the sexually harassing actions of its supervisory personnel when the plaintiff does not notify the employer (BI, Feb. 16). The court

will hear oral arguments in the case later this month.

In another case of interest to employers, the high court ruled last week that lawsuits consolidated before one federal judge for speedy pretrial discovery cannot be tried by that judge but must be returned to their original courts.

The opinion, written by Justice David Souter, states that under the federal law authorizing the consolidation, once pretrial discovery ends, the cases must be sent back to their original courts. His opinion overturns a decision by the 9th U.S. Circuit Court of Appeals.

Frequently, judges assigned by a judicial panel to oversee pretrial discovery transfer the cases to themselves for trial. In his opinion, Justice Souter says this occurred 279 times through Sept. 30, 1995.

But the court has now ruled this improper. In his opinion, Justice Souter states the law "obligates the Panel to remand any pending case to its originating court when, at the latest, those pretrial proceedings have run their course."

Consolidating cases has increased in recent years. A panel created by the law, the Judicial Panel on Multi-district Litigation, has pooled numerous federal suits involving diet pills before Judge Louis C. Bechtel in Philadelphia. The consolidation process also was used in the silicone breast implant litigation against Dow Corning Corp. and in the Norplant contraceptive cases against Wyeth-Ayerst Laboratories (BI, Sept. 29, 1997).

The case before the Supreme Court originally arose out of the collapse of Lincoln Savings & Loan in Phoenix. Lexecon Inc., a law and economics consulting firm, brought suit in federal court in Chicago against two law firms representing plaintiffs who were suing Lincoln and its officers. Lexecon had worked for the defendants. The case was consolidated with the other Lincoln litigation in 1993.

Lexecon requested that the case be transferred from the Arizona federal judge back to the U.S. District Court for the Northern District of Illinois.

In response, the law firms requested the Arizona court to assign the cases to itself. That request was granted.

After losing at trial, Lexecon appealed, arguing the consolidation law prohibited the judge from assigning himself the case. The Supreme Court's decision grants Lexecon a new trial, this time in Illinois.

Employers won a victory in a third high-court decision this week. In *The Steel Co. vs. Citizens for a Better Environment*, the justices ruled that a Chicago-area environmental group had no legal standing to sue a company for failing to file reports required under the federal Emergency Planning and Community Right-to-Know Act. In the opinion, written by Justice Scalia, the court ruled that the Constitution requires that in order to sue, a plaintiff must have an injury, show that the defendant's conduct caused the injury and demonstrate that the relief sought will redress the injury. The environmental group failed to meet all the criteria, he wrote.

In other risk management and benefits matters, the justices let stand a Michigan ruling that the Employee Retirement Income Security Act does not pre-empt a state preferred-provider law, and the high court declined to review a Georgia case regarding the constitutionality of a five-year statute of repose in medical-malpractice cases.

The justices did agree, however, to review whether workers covered by collective-bargaining agreements can sue their employers under the Americans With Disabilities Act, even if their contracts require mandatory arbitration of such cases.

Joseph Oncale vs. Sundowner Offshore Services Inc., U.S. Supreme Court, No. 96-568, decided March 4, 1998.

Lexecon Inc. et al. vs. Milberg Weiss Bershad Hynes & Lerach, U.S. Supreme Court, No. 96-1482, decided March 3, 1998.

The Steel Co. vs. Citizens for a Better Environment, U.S. Supreme Court, No. 96-643, decided March 4, 1998.

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Child care

Continued from page 1
York the first state to mandate paid maternity leaves.

While few—if any—U.S. employers offer paid maternity leaves, a growing number of companies already offer child care benefits, and the federal government is considering legislation that would provide tax incentives for even more companies to do so.

A recent Coopers & Lybrand L.L.P. study found that 43% of employers offered child care benefits last year, an increase from 30% in 1996 (*BI*, Jan. 19).

The study of 171 employers also showed that 73% of larger employers—those with \$1 billion or more in revenue—offered benefits, compared with 18% of those companies with revenues under \$10 million.

"It's definitely a growing trend," said Karol Rose, principal and leader of the work/life effectiveness practice for The Kwasha Lipton Group of Coopers & Lybrand in Fort Lee, N.J.

Ms. Rose said she endorses the approach the New York unions are taking because a multiemployer effort is better than a single-employer approach. "Solutions cannot be done one company at a time. It's too complex for any one employer to solve," she said. "This is certainly a progressive position they are taking. I think it's bold."

Karen Nussbaum, director of the AFL-CIO's working women's department in Washington, said a recent AFL-CIO survey of working women indicated child care is among their chief concerns. "We made child care one of the two key issues to focus on in the coming years," she said.

New York-area employers that provide child care benefits praise them as a way of building a loyal work force.

Marilyn Timbers, life cycle program manager for Xerox Corp. in Stamford, Conn., said the child care benefits program the company initiated in the late 1980s has "been a great benefit to the company."

"When we can relieve some of the pressures employees are feeling

in their personal lives, it helps them to focus on work," she explained.

Xerox provides each employee a lifetime fund of \$10,000, allowing withdrawals up to \$2,000 each year for specific reasons, one of which is child care expenses.

not have more specific details about this proposal.

"It's about time that some state steps forward in order to have paid family and medical leave," said Ms. Dolan of the CWA.

Ms. Dolan called this initiative an opportunity for New York Gov.

'Benefits like child care have a strong appeal. And from a competitive standpoint, it's a very valuable benefit to offer employees,' says Elizabeth Terry.

Ms. Timbers also agrees with the union approach of pooling people from different employers. "It makes sense to leverage numbers, and you get a better result," she said.

New York-based AT&T has been offering child care benefits since 1989, when the communications workers union requested it during contract bargaining, a company spokesman said. The bargaining led to providing the benefit to the entire workforce.

The benefits offered include flexible hours, work at home and millions of dollars spent each year to expand the hours of day care centers and summer camps and upgrade their facilities and quality of workers.

"It's made our workplace more difficult to manage but made our workforce more satisfied with their jobs," the spokesman said.

"It has the workforce more satisfied with the style of AT&T's management," he added.

Few, if any, employers, however, offer paid maternity leave, which is another goal of the New York labor coalition.

The proposal for the paid leave calls for the money to come from the state's temporary disability insurance system. The coalition did

George E. Pataki to "take the leadership in being the first governor in the country to come out in favor of paid family and medical leave."

A spokesman for Gov. Pataki said the governor's office will look at the proposal's specifics before commenting on them. He added that the governor has proposed in the latest budget an increase in the number of subsidized child care slots in New York by 49,000 over the next two years, bring the total subsidized by the state to 125,000.

The union coalition also is seeking additional money from the state to help train welfare recipients to become day care providers and to provide more day care slots for parents in the welfare-to-work program.

Ms. Nussbaum of the AFL-CIO said the unions' child care initiative in New York "is a fabulous model for cities and states to look at to increase bargaining on child care issues."

But one benefits analyst disagreed, saying such an initiative might work in New York but won't spread to many other states.

Ken McDonnell, a research analyst with the Employee Benefit Research Institute in Washington, said New York's combination of strong unions and activist govern-

ment is not duplicated in many other states. He cited California, New Jersey and some New England states as possible candidates for future success in expanding child care benefits.

Outside of the union coalition's effort, there are other several proposals to provide more money to help working parents deal with child care issues.

President Clinton has put forward his own proposal, which would carry a price tag of \$22 billion over five years, said Elizabeth Terry, research consultant for Hewitt Associates L.L.C. in Washington.

Perhaps the part of the president's child care initiative that is gaining the most support is a proposed tax credit for businesses that provide money for child care. The proposal would grant employers a tax credit of the lesser of 25% of qualified costs or \$150,000 for providing child care services for employees or contributing to building, operating or expanding child care facilities (*BI*, Jan. 12).

Ms. Terry said more companies are offering child care services to attract and retain employees in the tight labor market.

"Benefits like child care have a strong appeal," she said. "And from a competitive standpoint, it's a very valuable benefit to offer employees."

But EBRI's Mr. McDonnell said caution is required. He said that when the economy slows, employers might be hard-pressed to pay for the benefits employees want.

"It's easy to give a benefit, but it's difficult to take it away," he said.

It's important for employers to choose the benefit their workers want, Ms. Rose of Kwasha Lipton said. Companies can survey their workers to determine what problems exist with child care and tailor a benefit to solve that problem. "It just isn't something you enter into lightly," she said.

Loss of Blues name not hurting Ohio plan

By MARY CHRIS JAKLEVIC
Crain News Service

CLEVELAND—Despite predictions to the contrary, losing the Blue Cross & Blue Shield name apparently hasn't hurt Cleveland's largest health plan.

Medical Mutual of Ohio, which initiated a nine-month court fight to block its ouster by the national Blue Cross & Blue Shield Assn., now is questioning the value of a Blues affiliation.

The former Blue Cross & Blue Shield of Ohio said its enrollment barely dipped after it left the Blues last spring.

Moreover, the Ohio Department of Insurance expects to lift its supervision of the plan in March, saying managerial and financial problems have been put to rest.

The plan expects to report a \$60 million profit for 1997, including \$45 million from selling assets, on revenues of \$922 million. That's compared with a 1996 loss of \$95 million on revenues of \$1 billion.

"The loss of the (Blues) trademarks seemed to have little significance for the company relative to its enrollment," said an Insurance Department spokeswoman. "If you talk to the subscribers and policyholders, as long as they were receiving their services, I'm not sure it meant much to them whether they were Blue Cross policyholders or not."

The national Blues ousted the plan last spring because of its controversial attempt to sell its assets to for-profit Columbia/HCA Healthcare Corp. Regulators blocked the deal in March 1997.

The Cleveland plan was the first to be terminated from the Blues for non-financial reasons.

As a result, the plan lost 92,000 of its 1.4 million enrollees—most of whom were covered by national Blues contracts.

But the plan says it quickly regained 90,000 new enrollees after an aggressive sales effort last summer in which top company officials paid personal vis-

its to employers.

Medical Mutual's enrollment is down from 1.5 million when the deal was announced in 1996.

Its biggest customer, the Cleveland-based Council of Smaller Enterprises, which buys insurance for 13,000 small businesses, recently signed a new three-year pact with the insurer after evaluating as many as 20 other plans. The deal represents about 200,000 covered lives.

"They had to prove to us that they had their house in order," said COSE Senior Director Scott Lyon. The expiration of the council's contract with Medical Mutual on July 1 was seen as an opportunity for other insurers to capture new business.

Employers "are looking for value," said Kent Clapp, Medical Mutual's chairman, president and chief executive officer. "The cross and shield has never meant anything anyway."

A spokesman for the Blues association said firms representing 17,000 enrollees voluntarily switched to Ohio's only remaining Blues plan, Cincinnati-based Anthem Blue Cross & Blue Shield.

"Maybe the Blue Cross & Blue Shield name means nothing to Kent Clapp, but it certainly means something to those 17,000 subscribers that decided to stay Blue," the spokesman said.

However, Anthem said its total enrollment in northeastern Ohio hasn't changed since April 1997, when it stood at 309,000. The plan did enjoy a 10% jump between December 1996 and April 1997.

Anthem, which has 1.7 million enrollees in Ohio, or about 15% of the market, said it expects to expand its Cleveland presence gradually.

"The (Blues) marks have very, very significant value to the senior market (and) baby boomers—more at the member level maybe than the employer level," said Jim Barone, Anthem's regional vp for sales in Ohio.

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El Nino brings wave of risk issues

Dual-trigger policies addressing phenomenon respond to weather and business events

By Michael Hudson and Craig Holmes

El Nino presents unique risks that go beyond the normal losses associated with destructive weather. Businesses can incur losses from the El Nino effects, even if they don't incur physical damage to their property, the normal trigger for insurance claims, including those related to business interruption. These risks need to be analyzed from global and local perspectives.

For risk managers, whose responsibility will include protecting their employers from adverse effects of El Nino, risk transfer and risk mitigation are crucial.

Insuring El Nino exposures

Because it can cause an economic loss in several ways, El Nino poses unique challenges from a risk transfer standpoint. This goes beyond the physical damage that adverse weather can cause and that most property insurance contracts cover.

For instance, consider:

- Poor attendance at outdoor venues or events, such as sporting events.
- Blockage of access to facilities or delayed delivery of materials due to snow.
- Unsuitable ground conditions due to excessive moisture, such as at construction sites.

In each case, a business disruption may occur after one or more storms and could result in a significant economic loss over an entire season. Abnormal weather may result in increased operating or maintenance costs that fall under a company's direct-damage deductible and don't result in a measurable business interruption loss. For example:

- A municipality's increased road repair and mudslide removal expenses above expected amounts.
- A utility's increased expenses to repair transmission and distribution lines and to reconnect customers—above costs normally expected.
- The increased expense of treating and handling storm sewer runoff and of removing excessive snow.

The normal costs for these situations are fairly predictable from year to year—and budgeted accordingly. A significant increase in one year will hurt a company's bottom line or cause a reduction in funds budgeted for other services.

Several risk transfer approaches can help address these issues. Property damage losses and resulting business interruption and extra expense losses may be recoverable under a standard property insurance policy, provided the deductible is met. Because El Nino's effects may be felt during the entire season, a policyholder may need to reduce the policy deductible or obtain some form of aggregate deductible.

Coverage for business interruption losses or cost/expense overruns due to adverse weather—and not caused by physical damage—may be available under new weather or El Nino insurance policies. These products don't require the typical physical damage trigger, but have two triggers—one is a function of the weather, and the other is a function of the business. Both triggers would be set above the normal expectation.

For example, an outdoor amusement park in Northern California might expect its attendance to be affected by the normal amounts of rainfall for that area in the winter. On a rainy day—or when rainfall exceeds a given amount—the park may expect attendance to decrease. In making annual revenue projections and budget, a park typically would account for some attendance drop-off based on a meteorological estimate of the number of days of rainfall in a season.

The new insurance policies would respond if there were more rainy days than normal and revenues had decreased more than expected due to the additional rain days.

For the coverage to be written, the triggers must be

clearly defined. The U.S. National Weather Service can provide accurate information on expected rainfall over a given period expressed in total inches of precipitation or days of measurable rainfall. The policy's weather trigger typically would be some function of one or both of these measurements.

The economic loss trigger would be above the normal expectation or budgeted amount for a given period and would consider the business's actual experience during that period vs. the budget.

The pricing of these new policies is a function of the deductible—i.e., how far above the normal expectation are the triggers set—limit desired and susceptibility to loss.

So far, the premium quoted by underwriters has been attractive only to a handful of buyers: Underwriters are being cautious primarily due to a lack of quantifiable experience.

Risk control measures

A lack of predictable local outcomes makes it difficult to measure potential risk from El Nino. There are no detailed El Nino exposure maps or large databases of event results from flooding or landslide; existing data is insufficient for development of local

With credible information, El Niño exposure can be analyzed by determining what properties are in areas expected to be hit hard.

damage prediction models.

Nonetheless, two measures that risk managers can take are to:

- Understand the phenomenon and the exposure it represents.
- Identify strategic mitigation and impact reduction measures.

To improve understanding of El Nino, identify Internet sites that address particular geographic, meteorological or natural hazards, such as the Federal Emergency Management Agency site and related El Nino links.

When credible information sources are located, a company's exposure to El Nino can be analyzed by examining how its portfolio of properties intersects with areas expected to exhibit severe or abnormal weather patterns. Thus, risk managers can identify geographic problem areas and begin mounting plans to address them.

Many companies must deal with exposures represented by outside suppliers of goods and services. Just-in-time inventory systems and single-source suppliers make El Nino a global issue for companies that must evaluate and mitigate outage potential in critical supply chains, information processing and distribution.

Where supply chain exposures are critical, suppliers can be requested to provide evidence of business continuation and other plans that will ensure the continuous flow of goods and services. This process should be approached as a partnership, with both parties sharing information on how to maximize the surety of the supply chain. Sharing of hazard data, production scheduling and production forecast data with critical suppliers is an important first step to raise awareness of supply chain issues.

Assessing exposure

With all the impacts attributed to El Nino, risk managers need to focus on the effects of El Nino-

related hazards, including:

- Excessive rainfall, leading to flooding in some cases where flood exposures traditionally are low.
- Slope erosion and landslide potential caused by excessive rainfall.
- Drought conditions.
- More intense cold periods and excess precipitation, including excessive snowfall.
- Transportation systems that may be disrupted or destroyed by excessive rain or snowfall.
- Reduced precipitation that may affect winter sporting venues such as ski resorts.

Rainfall could affect a resort's occupancy rates, snowfall could block transportation routes, and flooding or ice storms could cause regional utility outages for a company and its suppliers—all of which occurred in this El Nino event.

Reducing impact

The World Bank made its first-ever loan to Peru for mitigation related to El Nino—a \$430 million award, as well as \$30 million in loans to fund programs to help the country address its risks from El Nino and future flooding exposures. Programs also are planned for Ecuador, Bolivia and other Central American countries.

Businesses can apply this approach to their own El Nino-related mitigation efforts by:

- Identifying key exposure areas.
- Identifying critical facilities in those areas.
- Implementing focused hazard mitigation programs.

At a corporate and facility level, key initiatives include crisis management and emergency response planning. These plans enable companies to respond to an incident locally and manage it from a corporate perspective. For example, a flood response plan should be part of the facility's overall business continuity plan and should address physical resistance to flooding as well as effective response and facility stabilization.

Companies should consider human resource factors and may choose to develop employee disaster preparedness programs and telecommuting protocols.

Pre-incident discussions should be held with property, casualty and health insurers to make certain claims procedures are agreed upon and emergency conditions are considered. The key to getting a handle on the El Nino exposure is a systematic review of location exposures. This review would be used to determine mitigation opportunities and communicate priorities to a company's locations.

While El Nino has added some wrinkles to the risk spectrum, it has given risk and financial managers a reason to re-examine their property insurance programs and contingency plans. A positive outcome of El Nino may be the development of new property insurance programs. Without the threat of El Nino, the premium to protect an entity's revenue or expense budget against an unexpected bad weather year may be both affordable and attractive, and this may eventually lead to an expansion of the scope of property insurance. BI



Mr. Hudson



Mr. Holmes

Michael Hudson is a Los Angeles-based managing director at J&H Marsh & McLennan Inc. Craig Holmes is a Charlotte, N.C., based vp for the company.

Distribution to undergo major changes

By Dennis Chookaszian

Change has been the defining characteristic of the insurance industry over the past several years. The major trends of consolidation, specialization and globalization will continue and even accelerate. However, as we look to the next few years, it is in insurance distribution where change will have its most profound impact.

Several major transactions in 1997 are indicative of the powerful forces at work in insurance distribution.

The Travelers' acquisition of Salomon Brothers creates an investment powerhouse, shifting The Travelers more toward investment than insurance. The pending Zurich acquisition of B.A.T Industries P.L.C.'s insurance operations, including the Farmers Group, adds a new distribution system to an already powerful global insurance organization. Finally, the merger of Credit Suisse and Winterthur Insurance Co. is really the first major attempt at integrating the banking system and the insurance distribution systems.

A common thread through all three transactions: a major impact on distribution. In one case, the impact relates to distribution of banking and insurance products and services. In the others, it's a case of multiple distribution systems coming together.

Taking a closer look at strategic directions in insurance distribution, we see three major trends: flexible distribution, joint ventures and alliances, and new distribution ideas.

Flexible distribution

Insurance companies are moving toward flexible distribution strategies and away from the purely monolithic distribution systems that were dominant in the past. Going back five or 10 years, most companies had one primary distribution system for each major set of products. Then companies started moving toward distribution alternatives.

A few successful examples led the way, such as The Hartford's personal lines program with the American Assn. of Retired Persons alongside The Hartford's traditional agency distribution for personal lines.

Initially, the alternative systems met with a great deal of criticism from independent agents. But gradually, everyone began to realize that distribution systems could coexist. Today, virtually every property/casualty company is starting to consider multiple distribution systems.

The trend has unfolded in a major way in life insurance. Twenty years ago, career agents were the primary distribution channel for the leading companies. Today, these companies have a broker channel right alongside their career distribution mechanism. Direct distribution channels are being explored as well.

Looking to the future, flexible distribution will be even more widespread. Customers will choose how they want to access insurance products. To be responsive, companies will need a range of distribution channels. The line between agency companies and direct distributors will continue to blur. Customers will get to companies in different ways, and multiple distribution channels accommodate them.

As a result, we'll see some significant changes in the market shares controlled by different distribution systems.

In commercial lines, agency distribution controls more than two-thirds of the market. This system is likely to remain dominant because it is an efficient, effective method of delivering risk management products and services.

In personal insurance, however, agency distribution has gone from more than 50% market share in the 1970s to less than 30% today. In 20 years, market share for pure independent agency companies may be down to 15% or less.

This change in market share has important implications for independent agents and their companies. Agents will succeed by delivering services much more efficiently through improved technology and closer relationships with their companies. They will also grow their business through alliances with banks and other entities.

Joint ventures, alliances

The second major direction in insurance distribution is joint ventures and alliances. Five or 10 years ago, most insurers preferred to own and control 100% of their operations. Tax consolidation, which requires 80%

ownership of subsidiaries, was a major consideration. We saw relatively few partial spinoffs.

Today, our industry is more dynamic and entrepreneurial. As a result, companies are coming together not just through consolidation but also closer alliances and linkages of distribution systems.

Relationships that would have been unthinkable 10 years ago are becoming commonplace; for example: alliances between banks and insurers, discussions among career agency life companies and property/casualty companies to blend their distribution systems, and closer relationships among insurance and securities distribution systems.

The trend toward joint ventures and alliances will become even more powerful as changes in regulation give mutual insurers greater access to capital. Mutual holding company laws, for example, will lead to the formation of more downstream entities, opening the door to changes in product offerings and alternate distribution channels.

New distribution models

The third major direction in distribution is the emergence of ideas likely to gain significant market share. Three of the most important: banks in insurance, electronic commerce and the Internet, and professional employer organizations.

• **Banks in insurance.** In banks in insurance, we have seen several important alliances in recent months. First Chicago NBD and The Hartford are working to sell personal insurance as well as small commercial accounts. Meanwhile, First Chicago is working with CNA and its agents to serve larger commercial accounts. At the same time, banks are buying agencies and partnering with distributors—for example, the recent alliance between Chase Manhattan Corp. and USI Holdings Corp. to distribute insurance products.

The impact of banks on insurance distribution will be significant. We see banks entering insurance with a long-term objective of producing 20% to 30% of total profits from insurance products. Moreover, few banks intend to build underwriting organizations. Instead, their strategy is to partner with established underwriters and produce their profits on the distribution side of the business.

As a result, banks in insurance will reinforce the trend toward consolidation of insurance agencies and brokerage firms. The strong agents and brokers will get stronger as banks invest in and pursue alliances with well-managed distributors in attractive markets.

In addition, banks' primary impact will be on the retail side of insurance distribution, not the brokerage side. Retail business provides the higher transaction volumes that are needed to produce distribution profits.

Finally, the growing presence of banks in insurance will result in new financial arrangements for distributors, but not in the formation of entirely new distribution systems. It's difficult and expensive to build distribution from scratch. As a consequence, banks will tend to acquire or partner with existing distribution networks for the purpose of marketing to bank customers. Banks' customer databases could provide the foundation for a very efficient approach to marketing banking and insurance products.

• **Electronic commerce.** The second new distribution idea is electronic commerce and the Internet. An estimated 50% to 60% of working households now have Internet access, and 10% to 15% of these households have purchased something on the Internet. Because most purchasers give high satisfaction ratings to Internet shopping, people are likely to be buying many more things on the Internet relatively soon.

In insurance, electronic commerce will become a major way in which simplified insurance products are sold. Automobile, homeowners and term life insurance are three areas where the Internet and e-commerce will work most effectively. For more complex products, electronic commerce will facilitate the transaction, but it is not likely to be used in the actual sale.

We already are seeing two basic shapes of insurance distribution via electronic commerce. There is the comparative approach, which for example includes electronic "malls" where the customer can compare the offerings of multiple providers. This idea has been around for a long time in the form of toll-free telephone quote

services for term life insurance. With the Internet version, however, it's easier for the customer to use and obtain more information. Comparison shopping will become even easier as the insurance sites pick up on the user-friendly software already available among the electronic booksellers.

The other major e-commerce distribution approach is closer to direct distribution. For example, there will be insurance links from the sites of banks, financial service firms and other entities. Consumers will click on insurance icons, which will lead them to more details on a particular company's offerings. From there, they will be directed to an agent or deal directly with the insurer. This will be a non-comparative purchasing alternative. If consumers like the products presented, they will buy.

How quickly will e-commerce become a major distribution channel? If the forecasts on e-commerce are correct, as much as 90% of the population will have an Internet link in the next three to five years, and half of them will be buying some things on the Internet. With that kind of growth, it is conceivable that 10% of the population will be buying some type of insurance via the Internet in the near future.

• **Professional employer organizations.** A third new distribution idea is professional employer organizations. PEOs handle the administrative functions of employment: payroll, employee benefits, tax filing, etc.

PEOs bring advantages to small and midsize employers. First, significant administrative burdens are eliminated because the employer doesn't have to worry about human resources and related administrative matters. The employer basically outsources these activities while retaining core management responsibilities such as assignment of worksite tasks and functions.

Another advantage is cost-effective purchasing. For example, the PEO's aggregate purchasing power makes it possible for small and midsize employers to provide benefits once available mainly to employees of large corporations.

For these and other reasons, PEOs are an increasingly popular idea. PEOs have 2.5 million employees under contract, and the number is skyrocketing. PEOs have a huge target market to develop. The heart of this market—companies with fewer than 500 employees—represents roughly 50 million workers, or half of all private-sector employees.

The PEO industry comprises about 2,200 companies, mainly smaller, entrepreneurial, locally oriented firms. In the past few years, however, we've seen larger companies getting into the business—payroll companies, temporary help firms, insurers and others. Last year, CNA became the first major insurance organization to enter the PEO business in a big way.

These developments are the early signs of a larger, more professional PEO industry. As this change occurs, PEOs will become an increasingly significant channel for employers and employees to obtain workers compensation, employee benefits and other insurance-related products and services.

In summary, change in insurance distribution is being driven by a shift toward more flexible systems, a greater reliance on joint ventures and alliances, and the emergence of new distribution ideas. Together, these factors are altering current distribution channels and adding new ones at the same time. As a consequence, the next five or 10 years will probably see a more radical change in distribution than has occurred in the prior 20 to 30 years. This will be a period of dramatic restructuring of market share, with winners and losers on the distribution and underwriting sides of the business. In the long run, however, these changes will bring about a sounder, more resilient industry, but not without a lot of turmoil along the way. **BI**



Mr. Chookaszian

Dennis Chookaszian is chairman and chief executive officer of CNA Insurance Cos. in Chicago. This article is based on a presentation by Mr. Chookaszian on Dec. 2, 1997, at the Coopers & Lybrand L.L.P. Executive Conference on the Property-Casualty Industry.

Superfund

Continued from page 1

The delays in moving legislation have begun making reform supporters worry that the Superfund issue will not see action in the current Congress.

"With elections coming up, it's getting less and less likely anything will move," said David R. Haight, vp-environmental for the Risk & Insurance Management Society Inc. in New York and director-risk management for CF Industries of Long Grove, Ill. Mr. Haight said delay could put resolution of the Superfund reauthorization, which has been going on since 1993, off until next year at the earliest.

"This is a good-faith effort, and if there's a two- or three-day delay to get a bill that can quickly move through Congress, then the delay is worth it. But I would add that we are quickly approaching a drop-dead date where it is just not feasible chronologically to enact legislation," said Taylor Caswell, director of congressional affairs for the Alliance of American Insurers in Washington. Mr. Caswell added that he did not

have a specific day in mind.

"The delay has potential risks and rewards for Chairman Boehlert. On the risk side, weakening the bill further may cost him Republican and/or stakeholder support. But on the reward side, it's probably the only way to move a bill," said Francis Bouchard, director-federal affairs for the Reinsurance Assn. of America.

"I think that actually Boehlert exhibited the ultimate in brinkmanship. There he was in all-day negotiations the day before from 7:30 in the morning until 2:30 the next morning in an attempt to reach consensus, and that didn't work, so he went ahead with the markup, and at the last minute, he postponed again to give it one last try for a deal," said John Arlington, assistant vp-federal affairs for the American Insurance Assn. in Washington.

"It is very unusual in my experience for the vice president of the United States to weigh in on a house subcommittee markup, and I think everybody is trying to figure out just what that means," added AIA's Mr. Arlington.

The Alliance's Mr. Caswell downplayed the significance of the Gore letter.

"I think that the vice president's

letter was kind of out of touch with the status of negotiations. We're not that concerned about the vice president's letter at this point, because if the majority in Congress continues to work in a bipartisan fashion, we will eventually get a bill that the president can sign," said Mr. Caswell.

But the "letter signals that there is a high level of politicization going on in the vice president's office, and that was a marked departure from the attitude of the Democrats on Mr. Boehlert's subcommittee," Mr. Caswell said.

Rep. Boehlert repeatedly emphasized that time is of the essence if reform is to pass this year. But the reform contained in the bill stops far short of implementing the repeal of retroactive liability long sought by reform advocates, and Rep. Boehlert pointed out as much during a news conference concerning the bill a day before last week's markup.

He said that a few years ago, Republican lawmakers always said "repeal retroactive liability" when asked how to reform Superfund. That is no longer the case, he said.

Instead, the bill focuses its liability relief on small parties. Small businesses—defined as those with 75 or

fewer employees and annual gross revenues of \$3 million or less—would be exempted from liability for wastes they generated or transported to a Superfund site under many circumstances.

The bill would provide liability relief for waste stemming from certain recycling activities as well. Municipalities also would receive some liability relief, and the program's current system of joint and several liability would be replaced by a system of proportional liability, with the liability of each party determined by a neutral allocator. Parties that refused to accept the allocation could face additional liability costs.

Despite the bill's backing away from long-sought comprehensive retroactive liability, it has received widespread support.

"Basically, anything that moves the process along we're going to support, and we think Chairman Boehlert has made a good-faith effort to reach consensus," said the Alliance's Mr. Caswell.

"The liability reforms that it contains remove a substantial number of parties, and anytime you talk about removing that number of parties, you're talking about greater efficiency

and greater cost-effectiveness, and we support that. Chairman Boehlert is the one who has to make the ultimate political decision of what can pass and what can't," he said.

"The bill is progress," agreed RIMS' Mr. Haight. "Just the thought that they are trying to limit or eliminate liability for certain parties confirms the need for reform of Superfund liability," he said.

Julie Gackebach, director of government relations for the National Assn. of Independent Insurers in Washington, said, "We have not specifically signed on to a particular bill, because at this point there are three viable reform bills (the Boehlert, Oxley and Smith-Chafee bills)."

She emphasized, however, that the NAI is "very supportive of H.R. 2727. We think it's moving us in the right direction. The small business exemption will get a significant number of parties and their lawyers out of the system, which will move us to our goal of reducing litigation costs and speeding up clean up."

"While it's a long way from where we started, it represents a moderate compromise that's an improvement on current law," said RAA's Mr. Bouchard. **BI**

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MARCH 14-18. The National Assn. of Insurance Commissioners Spring National Meeting in Salt Lake City, sponsored by the NAIC; \$500. NAIC Meetings Department, P.O. Box 263, Department 108, Kansas City, Mo. 64193-0108; 816-889-4400.

MARCH 15-18. 1998 International Alternative Insurance Symposium in Indian Wells, Calif., sponsored by Captive Insurance Cos. Assn. Inc. and The National Risk Retention Assn.; \$795 for members, \$995 for non-members. International Alternative Insurance Symposium, c/o The Harrington Co., 4248 Park Glen Road, Minneapolis, Minn. 55416-9514; 612-928-4665.

MARCH 15-19. Health Plan Marketing and Customer Service conference in San Francisco, sponsored by the American Assn. of Health Plans; \$900 for AAHP members for one conference, \$1,100 for non-members. Contact AAHP for more pricing information. AAHP, Dept. No. 0612, Washington, D.C. 20073-0612. 202-778-3269.

MARCH 16-17. Marine Insurance 1998 conference in London, sponsored by IBC UK Conferences Ltd.; £699 (\$1,154) for the conference only, £799 (\$1,320) for the conference and half day workshop on Mar. 18. IBC UK Conferences Ltd., Gilmoora House, 57-61 Mortimer St., London W1N 9JX, U.K.; Tel: 171-453-2107 or fax: 171-453-2117.

MARCH 16-20. Comprehensive Industrial Hygiene Review course in Boston, sponsored by the Harvard School of Public Health Center for

Continuing Professional Education; \$1,095. Harvard School of Public Health Center for Continuing Professional Education, 677 Huntington Ave. LL-23, Boston, Mass. 02115-6096; 617-432-1171.

MARCH 17. Financial Reinsurance course in New York, sponsored by The College of Insurance; \$375. The College of Insurance Center for Professional Education, 101 Murray St., New York, NY 10007; 212-815-9201.

MARCH 17-18. Introduction to Derivative Products course in New York, sponsored by The College of Insurance; \$375. The College of Insurance Center for Professional Education, 101 Murray St., New York, NY 10007; 212-815-9201.

MARCH 18. An Interpretation of Brokers Fees and When to Charge Them and Managing Trust Accounts seminars in Sacramento, Calif., sponsored by the Professional Insurance Agents of California and Nevada and the California Department of Insurance; \$30 for members and \$40 for non-members. PIA of CA/NV, Attn: Meetings Dept., 1315 I St., Suite 200, Sacramento, Calif. 95814; 800-553-4221.

MARCH 18-20. D&O Liability Management conference in New York City, sponsored by the Institute for International Research; \$2,195 for main conference and seminars, contact IIR for other rates. Customer Service Manager IIR, P.O. Box 102914, Atlanta, Ga. 30368-2914; 888-670-8200.

MARCH 18-20. The 19th Annual Petroleum Insurance & Environmental Conference in Houston, sponsored

by the Professional Development Institute, University of North Texas; \$695. Mary Ann Crow, Conference Coordinator, Professional Development Institute, University of North Texas, P.O. Box 310769, Denton, Texas 76203-0769; 800-433-5676 or 940-565-2483.

MARCH 18-20. Integrating Risk Management Through Multiline, Multiyear Insurance conference in New York, presented by the International Quality & Productivity Center; \$1,395. IQPC, 150 Clove Road, P.O. Box 401, Little Falls, N.J. 07424-0401; 800-882-8684 or 973-256-0211.

MARCH 19-20. Workers' Compensation Managed Care Reform: Evaluating the Outcomes symposium in Tampa, Fla., sponsored by Humana Workers' Compensation Services; \$895. Michael Alexander, Sunshine Educational Resource Center, Univ. of South Florida Health Services Center, MDC #60, 12901 Bruce B. Downs Blvd., Tampa, Fla. 33612-4799; 813-974-4559.

MARCH 20. Environmental Liabilities: Statutes and Case Law Shaping Pollution and Emerging Tort Exposures seminar, in San Francisco, sponsored by the CPCU Society; \$65. John Kelly, CPCU Society, 720 Providence Rd., P.O. Box 3009, Malvern, Pa. 19355-0709; 800-932-2728.

MARCH 20. The Future of Lloyd's and the London Insurance Market seminar in New York City, sponsored by the Practising Law Institute. \$1,095. PLI, 810 Seventh Ave., New York, N.Y. 10019; 800-260-4PLI.

MARCH 23-24. Mutual Insurance Companies seminar in Philadelphia, sponsored by the Fells Road Group/Michael Conn Associates; \$1,000. Fells Road Group Inc., 271 Route 46 West, Building D, Suite 207, Fairfield, N.J., 07004; 973-227-5955.

MARCH 23-25. Funding Catastrophe Protection conference in New York City, sponsored by the Insurance Advisory Council; \$2095 for conference plus two workshops, \$1,795 for conference plus one workshop, \$1,395 for conference only. International Quality and Productivity Center, 150 Clove Road, P.O. Box 401, Little Falls, N.J. 07424-0401; 800-882-8684.

MARCH 23-27. Fundamentals of Industrial Hygiene course in Boston, sponsored by the Harvard School of Public Health Center for Continuing Professional Education; \$1,095. Harvard School of Public Health Center for Continuing Professional Education, 677 Huntington Ave. LL-23, Boston, Mass. 02115-6096; 617-432-1171.

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 cost, if any, to attend 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. Datebook listings also are available on the World Wide Web at www.businessinsurance.com. **BI**

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INTERNATIONAL

Ruling clarifies maternity leave

By MATTHEW MacDERMOTT

LONDON—Two U.K. employers are appealing a Court of Appeal ruling that two employees were unfairly dismissed because they were too sick to return to work when their maternity leave ended.

The Feb. 27 ruling has been called a landmark by trade unions, but the decision is still subject to further appeal to the House of Lords.

U.K. attorneys say the country's maternity laws are very complex, creating much uncertainty among employers and employees. They agree that statutory clarification in the House of Lords, the United Kingdom's highest court, is required to provide a definitive ruling.

It could be up to a year before the appeal is heard in the House of Lords, though. In the meantime, the ruling by the Court of Appeal in London will stand as a precedent.

Janet Greaves was dismissed from her job with London-based retailer Kwik Save Stores Ltd. in November 1994, after she returned to work to deliver a medical excuse for her absence. Ms. Greaves had been on a standard 14-week maternity leave, after which she took an extended four-week maternity leave. Ms.

Greaves then gave notice that, due to illness, she would be unable to return to work on the scheduled day of her return. Kwik Save claimed Ms. Greaves had automatically terminated her contract because she had not been ready for work on the first day after her maternity leave.

The judges found that, by giving their employers notice of their sickness, Ms. Greaves and Ms. Crees had fully exercised their right to return to work.

Heather Crees received the same treatment from the Royal London Mutual Insurance Society Ltd., based in Colchester, England. She was dismissed in May 1995 when she sent a written note saying she was unable to return to work after the expiration of her extended maternity leave because of illness.

The two employers argued that when Ms.

Greaves and Ms. Crees were unable to return to work on their scheduled date of return, the women's contracts of employment automatically came to an end. Kwik Save and Royal London maintained that they did not dismiss the women; rather they terminated themselves by not returning to work.

The two women, backed by their trade unions, filed a joint legal action against the employers.

Lord Woolf, the Court of Appeal Master of the Rolls, and two other senior judges ruled that the two women had been unfairly dismissed. The judges found that, by giving their employers notice of their sickness, Ms. Greaves and Ms. Crees had fully exercised their right to return to work. The court decided that the two women did not have to physically return to work on their scheduled date of return. The judges ruled that U.K. employment laws were not intended to allow an employer to take advantage of the temporary illness of a female employee by denying her the statutory right to return to work.

The ruling late last month overturned a previous decision by the Employment Appeal Tribunal.

See **Maternity** on page 19

Global Briefs

Japanese insurer **Tokyo Marine & Fire Insurance Co. Ltd.** has set up a representative office in Chengdu, China. This is Tokyo Marine & Fire's eighth representative or branch office in China since it entered the market in 1980. . . Lloyd's of London investment trust **LIMIT P.L.C.** has acquired the remaining shares it did not already own in managing agency Janson Green Ltd. and Bankside Insurance Holdings, which is an integrated managing agency and corporate investor, for a £14.1 million (\$23.3 million) and £40 million (\$66 million) respectively. . . **Reliance National Insurance Co. (Europe) Ltd.** has opened a new office in Zurich, Switzerland, heralding its entry into the Swiss market. The office will be headed up by Daniel Hess, who has been appointed general manager. Mr. Hess previously was operations manager of LRO Insurance Services in California and a consultant to Lloyd's of London. . . Bernard Myers has been named the next non-executive chairman of broker **Lambert Fenchurch Group P.L.C.**, effective from the company's annual general meeting July 28. Also, Peter Barton has been named a non-executive director of the broker. . . The **Chinese insurance market** grew almost 40% to 108 billion yuan (\$13 billion) in premiums for 1997, according to figures issued by the State Statistics Bureau. Property insurance business represented 44.4% of the total premiums. . . South African broker **Price Forbes**, the brokerage subsidiary of financial services organization Forbes Group Ltd., has bought Namibian broker Lumley Namibia for more than 20 million rand (\$4.1 million). Price Forbes will merge Lumley Namibia with its existing Namibian operation, Namibia Risk Managers & Insurance Brokers. Ingo Rix will be managing director of the merged firm. . . The Chinese government is experimenting with a new **privatized pension system** to ease the burden of providing retirement benefits to the country's civil servants. The trial system will assume responsibility for a proportion of retirement benefits from the government and requires the 11 million civil servants and their local "work units" to contribute alongside the government, which is responsible for housing, medical care, education and retirement benefits for its employees. . . Swiss Re Group will become the majority shareholder in Amsterdam, Netherlands-based credit insurer **NCM Group**. . . Rating agency Standard & Poor's Corp. has placed German reinsurer **Gothaer Ruckversicherung A.G.** on CreditWatch with positive implications in response to Kolnische Ruckversicherungs Gesellschaft A.G.'s purchase of 27% of Gothaer Re. Gothaer Re currently has a BBB-rating from S&P. . . Norwegian insurance company **Storebrand ASA** has said it will continue to restructure in the face of falling profits. Net profits for 1997 fell 19.2% to 1.01 billion kroner, (\$137.2 million) while non-life profits fell 34.2% to 684 million crowns (\$92.9 million). . . Stefan Knecht has been appointed **Lloyd's General Representative** in Switzerland.

Latin America a hot market

Consolidation is being driven by multinational insurers

By GAVIN SOUTER

NEW YORK—International insurers are playing a bigger and bigger role in Latin America.

The consolidation of the insurance industry in the region is being driven largely by foreign companies anxious to buy their way into what they see as a potentially lucrative market.

And the new and established insurers in the region are able to grow with the support of cheap and widely available reinsurance.

But while the big picture of a vibrant and increasingly free in-

surance market is attracting outside interest, trade barriers in the region still are hindering integration of the markets and likely will do so for several years.

These were a few of the observations at the 1998 Roundtable on Insurance Conditions in Latin America, sponsored by the International Insurance Council in New York late last month.

The Latin American insurance market continued to consolidate during 1997 as the various markets continued to enjoy more liberal regulations compared with a few years ago, said Keith Shroyer,

senior vp and chief underwriting officer at Latin American Reinsurance Co. in Bermuda.

In 1997, there were 48 mergers and acquisitions among insurers in the region, and 80% of those deals involved foreign capital, he said.

"Multinational insurers are the ones that are involved in this process, and they are upfront in saying that they want to be more global and they want market share," Mr. Shroyer said.

The increase in foreign investors in the region is most clearly seen

See **Mergers** on page 19

LIMNET seeking compatibility

By EDWIN UNSWORTH

LONDON—The London Insurance Market Network no longer can embrace a proprietary computer platform if the electronic network is to gain wider use, executives say.

Until now, LIMNET has embraced its own electronic trading network with an expectation that it might become a benchmark other insurance networks would follow.

LIMNET Chairman Dieter Losse said late last month, however, that "the market has no option but to adapt to changes in client needs and new technologies."

LIMNET was launched in 1987 with the goal of creating an electronic placement system for the London market that would speed up and reduce the costs of insurance transactions among brokers, insurers and reinsurers.

LIMNET is sponsored by Lloyd's of London, the Lloyd's Insurance Brokers Committee, the Institute of London Underwriters and the London Insurance & Reinsurance Market Assn.

The LIMNET board intends

to compile a formal plan by early April for achieving compatibility with other electronic networks in use around the world. Upon ratification by LIMNET's board, pilot tests of a new system could be performed in the

'The market has no option but to adapt to...client needs and new technologies,' says Dieter Losse.

market later this year.

Kevin Ashby, LIMNET's chief executive, said the success of these trials will determine how soon international compatibility will be achieved.

Admitting to LIMNET's past mistakes and disappointments, Mr. Losse said at a briefing for London market executives late last month that "in future, LIMNET will focus on facilitating new technologies and supporting the whole of the business process rather than a particular transaction, such as

See **LIMNET** on page 19

Aetna buying stake in Venezuelan insurer

Region has strong growth prospects

By MARIA KIELMAS

CARACAS, Venezuela—Potential growth in life, pensions and health insurance in Latin America has spurred Aetna Inc. to buy a 49% stake in Venezuelan insurer Seguros Mercantil for about \$30 million.

An Aetna spokeswoman confirmed late last month that Hartford, Conn.-based Aetna expects to complete due diligence sometime in the first quarter. The companies signed a letter of intent for the deal Jan. 15.

Aetna is the second-largest foreign investor in the Latin American insurance market. The largest is Spain's Corporacion Mapfre.

Caracas, Venezuela-based Seguros Mercantil, a multiline insurer, reported profits of 5.5 billion bolivars (\$10.6 million) on gross premiums of 28.8 billion bolivars (\$55.8 million) last year. This year the company expects profits of up to 6 billion bolivars (\$11.6 million) on premiums of 37 billion bolivars (\$71.6 million).

Until April 1997, Seguros Mercantil was 100% owned by Venezuela's second-largest bank, Banco Mercantil S.A. A new holding company, Mercantil Servicios Financieros, was created in April



International Insurance Council Latin American Roundtable

1997. It is owned jointly by the Banco Mercantil, Seguros Mercantil and other financial companies belonging to the group, including Merinvest and Mercantil International Holdings.

According to Rafael Cubillan, executive president of Seguros Mercantil, the proposed Aetna move is the latest in a spate of investment activity by foreign insurers over the past few years.

"Seven out of the top 10 Venezuelan insurers are now controlled by foreign companies," he said. Mostly European insurers control the Venezuelan insurers.

Growth prospects in life, pensions and health insurance markets throughout Latin America are the impetus behind the foreign acquisition. A new framework law to reform the social security system is being debated in Venezuela's Congress. The major features of the law open up the way for private pension schemes.

"We are following the same pattern as in Chile, Mexico and Colombia. This will change the whole insurance business," Mr. Cubillan said. "We are very small in health and life/pensions business. We hope to develop this with Aetna."

See **Venezuela** on page 19

The Professional Marketplace

RATES AND CLOSING TIME:

Rates: Display classified is \$171.00 per column inch, minimum of one inch. Straight classified is \$15.50 per line, minimum of 5 lines. Count 34 characters per line (include each space and punctuation as a character). Additional \$25.00 charge for all blind box ads. Only those responses which fit into a business size envelope will be forwarded. Responses are forwarded daily.

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REQUEST FOR PROPOSALS

NEW YORK CITY HOUSING AUTHORITY PUBLIC NOTICE - INVITATION FOR BID

PRIMARY/EXCESS GENERAL LIABILITY INSURANCE

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

Coverages are to become effective June 1, 1998. Proposals shall be made in the format included in the Invitation For Bid package containing instructions, specifications, and detailed submission requirements. Packets may only be obtained by calling NYCHA's Insurance Consultant: Sedgwick Inc., 1285 Avenue of the Americas, 37th floor, New York, NY 10019 at (212) 830-1357. In order to be eligible, completed bid proposals must be received by 4:30 p.m. on April 7, 1998.

All inquiries for additional information regarding the Invitation For Bid are to be directed in writing to Lawrence Giambalvo, Senior Vice President, Sedgwick, Inc. at the aforementioned address/phone.

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The position requires an individual with a high level of analytical skills and an advanced level of interpersonal skills in order to develop and implement the mission of the division.

Minimum qualifications: Seven (7) to ten (10) years of progressively complex and responsible related work experience that should include three (3) to four (4) years of managerial experience. Graduation from an accredited College or University with a Bachelor's Degree in Business or Public Administration, (Master's Degree preferred) is required.

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Vice Presidents, Directors, Managers, and other related department personnel of insurance, risk, employee benefits, personnel, compensation, pension, safety, security, industrial relations, human resources and employee/labor relations	14,748
Sub-total	32,154
Associations	286
Government, Unions and Educational Institutions	1,019
Commercial Consumers	
Sub-total	33,459
Insurance Agents and Brokers	8,083
Insurance Companies	6,933
Accountants, Actuaries, Attorneys & Consultants	2,705
Adjusters, Appraisers, TPA's, Captive Managers & Health Care Providers	1,578
Others Allied to the Field	757
Total Qualified	53,515
Non-qualified/Paid Subscriptions	14
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TOTAL CIRCULATION	53,556
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Mergers

Continued from page 17
in Chile, where international insurers control 75% to 80% of the market's premium volume.

The stimulus for foreign investment in Latin America is the \$31 billion in annual insurance premiums in the region and the prospect of that increasing substantially as workers compensation, health insurance and pensions are moved away from state control into the private sector, Mr. Shroyer said.

Premiums are expected to grow to \$90 billion in less than 10 years, said Peter Garza-Zavaleta, executive vp for Latin American operations at CNA International in Chicago.

"In general, market penetration for insurance is low, with few individuals and businesses insured and those who are insured, underinsured," he said.

The insurers in Latin America, like elsewhere, are experiencing an extremely soft reinsurance market, Mr. Shroyer said.

Under proportional reinsurance contracts, ceding companies are obtaining increases in ceding commissions on their programs, Mr. Shroyer said.

"And what's more worrisome is that there were increases on ceding commissions which pertain to catastrophe perils, and that shows that things have gotten really soft," he said.

The excess-of-loss market is seeing reductions in rates. In Mexico, catastrophe excess-of-loss rates on line are now about 1%, whereas three to four years ago they were between 5.5% and 7%, Mr. Shroyer said.

In Puerto Rico over the same time frame, rates on line have dropped to 2% to 2.5% from 7% to 9%, and in Colombia, rates have dropped to 1.2%

from 4%, he said.

Although in the 1980s insurers enjoyed lower rates than they do today, other factors make today's reinsurance even cheaper by comparison, Mr. Shroyer said.

In particular, exposure mapping techniques enable insurers to more accurately ascertain their exposures, and as a result, they are able to pinpoint their coverage needs, which enables them to buy less coverage, he said.

"I don't see any particular end to this scenario in sight," Mr. Shroyer said.

One insurance scenario changing in Latin America is the integration of markets in the countries that signed the Mercosur trade agreement, said Helio Oliveira Portocarrero de Castro, superintendent of insurance for Brazil in Rio de Janeiro.

And many difficult changes are set to take place over a relatively short

period, he said.

The Mercosur agreement links Argentina, Brazil, Paraguay and Uruguay with the intention of creating a single market similar to the European Union. In December, the financial services committee of Mercosur stated that financial services in the Mercosur countries should be integrated within 10 years, Mr. Portocarrero said.

"When you have to reform so many things, 10 years is not so long," he said.

The differences in the insurance markets between the two largest countries in the group, Brazil and Argentina, are vast, he said.

For example, Argentina ended its state reinsurance monopoly in 1992, when the still-state reinsurer was in financial difficulties, whereas Brazil is working on the privatization of its state reinsurer, which still is running as a viable company, Mr. Portocarrero

said.

Also, in Argentina social security reforms are following the private sector-based models of Chile and Colombia, whereas Brazil is reforming its system to resemble the more centralized systems in the United States and European countries, he said.

Workers compensation systems are also different. In Brazil it is a nationalized system, and the government intends to keep it nationalized for several years, whereas Argentina now has a privatized workers comp system, Mr. Portocarrero said.

Argentinian trade negotiators seem to place less emphasis on insurance than their Brazilian counterparts, he said.

"For example, two days ago we received a memo from the Argentinian negotiators which was supposed to be a complete agenda for financial services, and it did not mention insurance," Mr. Portocarrero said. **BI**

Venezuela

Continued from page 17

As in the rest of Latin America, the Venezuelan insurance market is very soft. "We are facing a very, very competitive market. Premiums are at a very low level. These are non-technical premiums, especially in fire and industrial risks, because of the high level of competition. I see additional premium reductions in 1998," said Mr. Cubillan.

A change in the Venezuelan insurance legislation two years ago allows foreign investors to buy 100% of local insurers. But the law did not free up policy conditions and tariffs, which the government still sets.

Legislation to free up the remainder of the market is pending in Venezuela's Congress, where the deliberation process is very

slow, said Mr. Cubillan. As a result, the government essentially is allowing a free market in practice to develop until the legislation catches up.

"What we have is an underhand free market," he said.

Although Venezuela is the focus of much foreign investment in the oil and energy sectors, this will not result in an immediate windfall for domestic insurers, Mr. Cubillan said.

"There is little chance to handle these (energy) premiums, as the capacity is too small. Since the oil industry was nationalized (in 1976), 99.99% of those premiums have been placed on the London market," he explained.

But there will be a "cascade effect" from the foreign oil investments as local service contractors to the multinationals seek coverage specific to themselves, Mr. Cubillan said. **BI**

Maternity

Continued from page 17

bunal and restored the judgment of the industrial tribunal that originally heard the case.

Both Kwik Save and Royal London applied for leave to appeal to the House of Lords. In granting leave to appeal, Lord Woolf said he recognized the widespread implications of the case and the need for further clarification of U.K. maternity leave laws.

Sue Nickson, head of employment law at the Manchester, England, office of the London-based law firm of Hammond Suddards, said the fact that Ms. Greaves and Ms. Crees' case has "dragged on" for nearly three years with different rulings demonstrates the need for legal

clarification.

U.K. maternity-leave laws are a "total muddle," Ms. Nickson said. "Both employers and employees don't know where they stand," she said.

Ms. Nickson welcomed the House of Lords hearing, which she said should provide the certainty of a final ruling.

Robert McCreath, an employment-law specialist with London-based law firm Eversheds, said maternity leave is a difficult legal area and a "major area of concern for employers." "Maternity-leave conditions are incredibly complicated, and it is important for employers and employees that they are clarified," he said.

A Royal London statement said the company was "naturally disappointed" at the outcome of the Court of Appeal case. "In dealing with Heather Crees, Royal Lon-

don implemented the law as it has been implied by employers over the last 20 years," the statement said.

A spokeswoman for the Confederation of British Industry said the Court of Appeal ruling could actually add further uncertainty to the area of maternity leave.

"It [the case] is still going through the processes, but the real problem is the very complexities of the law. Employers don't want to break the law, but they don't know exactly where they stand," the spokeswoman said.

Helena Davies, an employment-law specialist with London-based law firm Lovell White Durrant, said the Court of Appeal ruling "may give some guidance" to interpreting the complexities of maternity-leave law. But it is not, she said, "the final word."

LIMNET

Continued from page 17

electronic placing support."

One way of achieving this, he said, is through work LIMNET is undertaking jointly with International Business Machines Corp. to also provide members access to other electronic services, such as claims assistance and settlement.

Mr. Ashby said LIMNET wants to develop an insurance network for the London insurance community based on the cable television concept of a single cable operator giving subscribers access to a number of television networks. The additional services could include providing LIMNET members with access to other electronic insurance networks, such as the World Insurance Network, RINET and CATEX, he said.

Mr. Ashby said the London market needs to eliminate differences with other markets, improve efficiency and response times, reduce the cost of closing contracts and take advantage of existing information technology.

LIMNET's plan to achieve international compatibility will aim to convert "closing, accounting and settlement procedures to international standards," Mr. Ashby added.

The plan amounts to an admission that its Electronic Placing Support system, or EPS, that was launched by LIMNET in the early 1990s, still has not met the London insurance market's expectations or needs.

LIMNET admits that the EPS system has "failed to win the hearts and minds of market participants." From its start, the EPS met with

criticism over its degree of effectiveness, and the four London organizations that sponsored it had no timetable for its widespread implementation (BI, Oct. 14, 1996).

The EPS has since come up against competition from other electronic systems, such as the broker-led WIN.

Mr. Ashby said LIMNET will continue to provide support for current EPS users, though it recognizes EPS is too "prescriptive" in that it requires its users to perform functions in a specific way.

The globalization of client needs means the London market's solutions and processes must be global, says Max Taylor.

"What is needed now is something more enabling which allows people to take steps" in any direction they wish to go, and this means moving it to an internationally accepted standard, he added.

Max Taylor, chairman of Lloyd's of London and a LIMNET board member, said the globalization of client needs means the London market's solutions and processes also must be global. This means using "common standards, common applications and a sensible degree of transparency about how we operate," Mr. Taylor said.

In achieving this, electronic commerce is critical, and this includes employing truly international processes and systems, he added. **BI**

Wording

Continued from page 2

substantial losses, particularly because of E&O claims stemming from the U.S. savings-and-loan crisis.

The two underwriters—the "Denby" syndicates at Lloyd's of London and Yasuda Fire & Marine Insurance Co. of Europe Ltd.—had aggregated their losses from the line slip in each policy year, which increased the size of the claims that they, in turn, filed with their own excess-of-loss reinsurers.

Lord Justice Hobhouse ruled that under policy wording of the MIPI line slip, aggregating the losses was impermissible.

Instead, the MIPI claims must be considered on an "each-and-every-loss" basis under the insurance contracts, ruled Lord Justice Hobhouse, whose decision was supported by Lord Justices Brooke and Chadwick.

The Court of Appeal ruling means that many of the claims incurred by the two underwriters on the MIPI line slip will have to be resubmitted to reinsurers. Individually, some claims might not be large enough to trigger their excess-of-loss coverage.

The plaintiffs in the two cases, *Mark Edmund Denby vs. English & Scottish Maritime Insurance Co. Ltd. and others*, and *Yasuda Fire & Marine Insurance Co. of Europe Ltd. vs. Lloyd's underwriting syndicates nos. 229, 356, 462, 571, 661 and 961*, were not given leave to appeal to the House of Lords but are expected to petition the House of Lords to allow them to do so.

A spokesman for Aon, which continues to administer MIPI claims, declined to comment on the judgment.

Although this particular decision pertained only to the policy wording of the MIPI line slip, the aggregate-extension clause was a common wording in the London market until the end of the 1980s, and the ruling most likely will affect other liability insurance and reinsurance contracts written prior to this decade.

A spokesman for Equitas Ltd., the runoff reinsurer that assumed Lloyd's of London's pre-1993 liabilities, said, "We are not able to assess whether these rulings will have a positive or a negative effect on Equitas, in that aggregate extension clauses affect both our inwards and outwards business."

Nevertheless, insurance lawyers say they expect the ruling to influence the way that London market reinsurers review and settle long-tail claims that might contain the policy wording.

"The overall implications are, from a Lloyd's market point of view, that this is one of a number of cases where (the judge) is saying, 'Read the words of the contract,'" said Alan Weir, a partner at London law firm Ince & Co. The decision will be felt mainly on runoff operations, said Mr. Weir, because the aggregate extension clause had largely fallen out of use by the late 1980s. Runoff operations generally will see losses under these sorts of policies reduced to smaller individual losses rather than large aggregate ones, keeping things, Mr. Weir said, "at bite-size level."

Tim Brentnall, a partner at London law firm Elbourne Mitchell, pointed out that the aggregate-extension clause was commonly used in liability coverages that have been tapped for asbestos and pollution losses. Depending on the wording used, claims for these sorts of losses may have to

be dis-aggregated. As a result, the claims likely will fall on different reinsurers, if large enough to trigger reinsurance at all.

The London market's exposure to asbestos-related liabilities, for example, remains unquantified, but awards in U.K. courts currently are on the increase, and actuarial studies suggest claims still could be coming in to London market insurers in 2040.

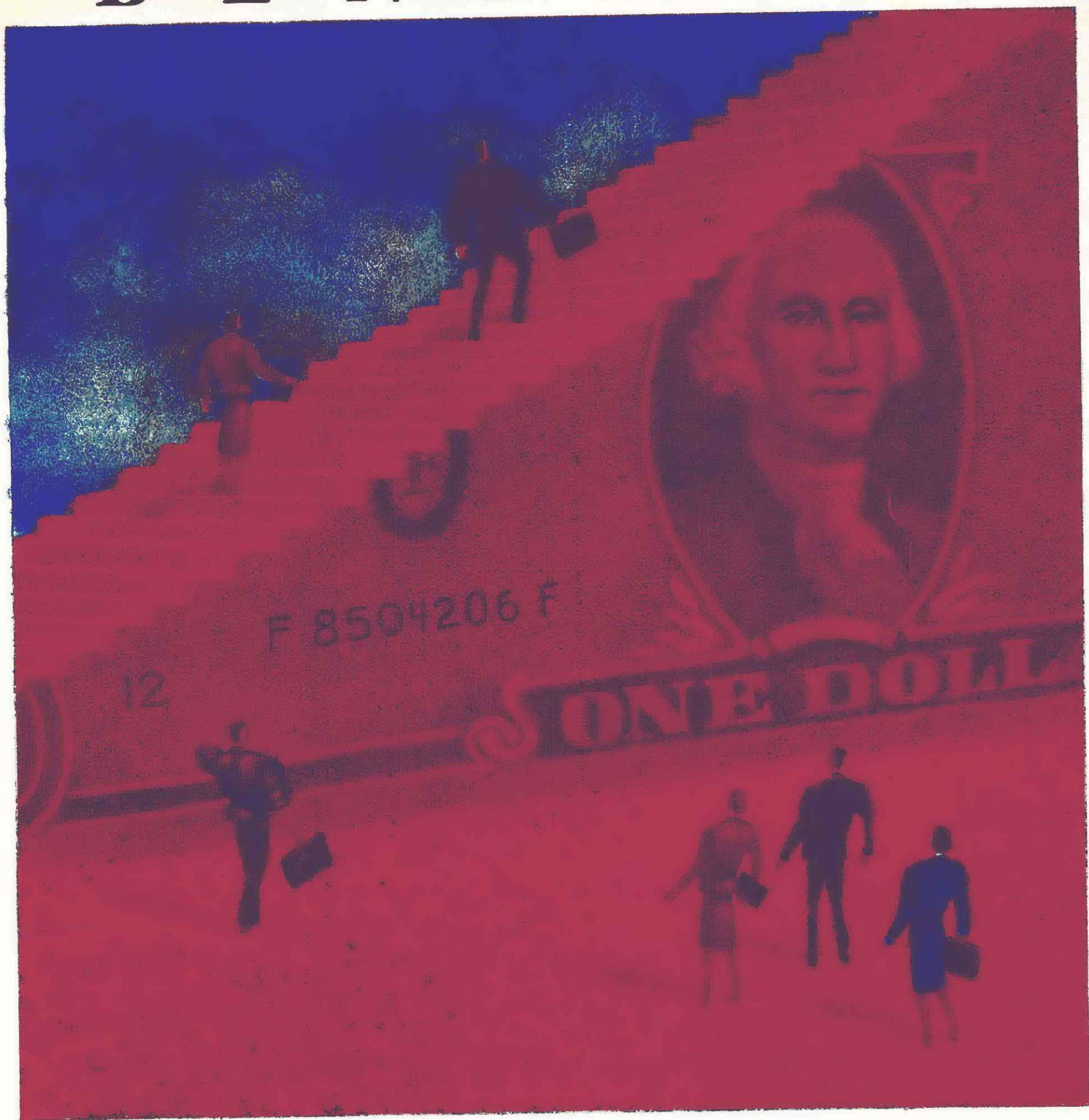
As a result of the Court of Appeal judgment, London market reinsurers will need to check all policy wordings underlying liability policies to see if the aggregate-extension clause will be invoked, said John Powell, a partner at London law firm Lovell White Durrant. "They are going to have to look at the underlying policies to see if there are per-excess or per-claims limits," to find out whether the claims will be aggregated, he explained. **BI**

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Commentary

Make Internet a place to do, not just see

The Internet is on everyone's tongues and computer monitors these days.

Almost anything can be found online for the casual and serious seeker of information. Home pages abound offering herbal remedies, used cars, golf clubs, books, stock recommendations, sound bites from TV shows, computer parts, software and, yes, insurance.

The Internet offers a great medium for businesses to connect with a huge consumer base, but then what? Entertain them? Inform them? Sell something and take their money?

Some insurance companies and service providers are asking these very questions. While some are out there looking to push the technology's envelope, most companies are only slowly realizing there may be more to the Internet than a means to provide marketing information and key phone numbers. Too many companies are using the Net to erect online billboards for their companies. Unlike driving past a billboard on a well-traveled route, though, one typically has to take the initiative and search for these Internet billboards. It's all the more frustrating, therefore, to find at the end of this search only promotional information about the company, little interactivity and no real service.

Rather than let insurers continue to use the Internet only as a high-tech vehicle for old-fashioned marketing, I think insurance consumers should more aggressively demand new ways of doing business. Assuming everyone still has a functioning computer after Dec. 31, 1999, the greater efficiencies to be gained by taking advantage of this medium are bound to reduce transactional costs.

Some opportunities I foresee include:

- Selling insurance online. It may sound obvious, but whenever this subject is raised, it typically is pooh-poohed as only viable for personal lines risks. Why should auto and homeowners markets have all the fun?

I believe commercial insurance companies that shake off this limited thinking and apply the resources to make such transactions a reality will find a receptive audience of buyers.

- Allow regulatory filings online. Why not have companies make a single electronic filing with the National Assn. of Insurance Commissioners that regulators in multiple jurisdictions could access, rather than the current system of requiring multiple filings with multiple regulators? Again, it keeps costs down, which benefits the buyer and seller (not to mention the taxpayer).

- Market risks online. Already some brokers are helping clients use the Internet and computer technology to market their risks to insurers. Not only will this high-tech road show save time, but it also is capable of reaching a wider audience and delivering more information.

What if commercial buyers directly put their risks online for bid, seeking quotes for various limits of coverage for whatever risks they have? Brokers could help manage this process, or savvy buyers could solicit bids directly. Edward Lloyd's Coffee House could greet the 21st Century as a cyber cafe that serves as an online clearinghouse.

- Paying premiums and claims online.

Electronic submission of premiums and claims payments should be as easy as paying the monthly utility bills online, which is increasingly common. It also allows the buyers to hang on to their cash and earn interest a bit longer, rather than have an intermediary handle that cash and accrue the investment income.

- Providing detailed information about coverages and policy forms online. Insurance companies can provide more than marketing information that touts the benefits of a policy in vague, promotional terms and instead provide actual policy information and language online.

This also could serve to cut down in regulatory filings, with regulators in file-and-use states being directed to a central site to review rate and form information.

Of course, not all buyers will be willing to do their shopping online, but for those that are, the process can offer buyers and sellers immense savings in time, ease of transaction and ultimately lower costs.

Editor Paul D. Winston and Publisher and Editorial Director Kathryn J. McIntyre write columns on alternating weeks.



Paul D. Winston

Mutuals

Continued from page 21

tualization have drawn even greater attention to the trend.

"Prudential's demutualization is a milestone in the history of insurance," said David Schiff, editor of Schiff's Insurance Observer in New York. Mr. Schiff, who recently made an unsuccessful outsider bid for a seat on the board of Allied Mutual Insurance Co. (BI, Oct. 6, 1997), calls demutualization "the biggest issue in the insurance industry."

Paula Isola, executive director of the Cambridge, Mass.-based Center for Insurance Research, which has challenged several insurers' demutualization efforts, said she sees no reason to think demutualization activity will remain confined to life/health insurers.

"It probably will spill over into property/casualty insurance, although we haven't seen that yet," Ms. Isola said. Consolidation of insurance and banking industries "is going to be the next major trend... and I don't think (mutual) property/casualty companies are going to want to be left out in the cold," she said.

Not all insurance consumers see expansion of the demutualization trend as a bad thing, however.

"Generally I think it is a good trend, and the reason I say that is that anything that can serve to make companies more efficient is good," said Thomas M. Regan, director of corporate risk management at Becton Dickinson & Co. in Franklin Lakes, N.J. He thinks demutualization could benefit policyholders such as his company.

"Demutualization forces companies to address shareholder needs, and I think that's good," Mr. Regan said. "I'd like to see more of it."

Barbara Stewart, president of insurance analyst Stewart Economics in Atlanta, said she isn't convinced, though, that demutualization will make the leap from the personal lines market into commercial lines.

In the commercial arena, in fact, much the opposite is occurring, she suggests.

"Even though we're seeing a lot of demutualizations in the personal lines... in the commercial lines I think we're seeing a resurgence of the mutual idea," Ms. Stewart said. "It's going in just the opposite direction."

"If you look at all the smaller companies, captives, risk retention groups, etc., the trend has been for likes to get together to solve their own problems like the mutuals did 70 or 80 years ago," she said. "You see all over the scene in the commercial area today a lot of these association captives doing the same thing."

Essentially, demutualizations to date have taken three forms, depending on the laws of the state where the company is based.

Under a standard or "full" demutualization, the company makes a complete conversion from a mutual company to a stock company, with policyholders compensated in stock or cash. Their policies remain in effect.

Another option is a "subscription rights demutualization," under which policyholders only have the right to purchase stock in the reorganized company before it is offered to the public, with no other compensation.

The constitutionality of the first subscription right demutualization effort, that of Old Guard Mutual Insurance Co. last year in Pennsylvania, is the subject of a federal court challenge by the Center for Insurance Research, Ms. Isola noted.

The third option, and one that seems to be gaining in popularity, is the mutual holding company form, which sees the mutual company creating a holding company owned by policyholders. That mutual holding company then retains a majority stake in a subsidiary stockholder-owned company.

Already, 15 states and the District of Columbia have laws permitting the formation of mutual holding companies, with many other states considering them. More than two-thirds of the states also have some sort of demutualization provision, according to Ms. Isola.

Prudential has indicated it plans to do a full demutualization, con-

stock companies.

Consumer advocates might not recognize the differences between modern mutuals and the companies as they originally were formed, she said. Although she says their opposition is difficult to understand, they do have a valid argument where there has been management enrichment. "Those are things that should not happen," she said.

According to Mr. Clemens, most of the demutualization deals that have been done or are being considered are attempting to address policyholder concerns. For example, they might include requirements that the directors of the policyholder-owned holding company be different from those of the subsidiary stock company.

Another technique is a "closed block," in which an actuarially determined block of assets is set aside to back up the policies of policyholders when the conversion occurs. "The closed block is a protection that exists as long as one of those policies exists," he said.

Opposition to mutual holding company laws hasn't been limited to consumer advocates. Earlier this year, a group of 10 stock-owned insurance companies banded together as the Companies for Demutualization Fairness to lobby against new mutual holding company laws. They argue that companies owned 51% or more by policyholders are largely immune to takeovers, giving them an unfair advantage in the marketplace.

They also have argued that such a structure is unfair to policyholders. While it has yet to take a formal position on demutualization, the National Assn. of Mutual Insurance Cos. is addressing the issue in various ways, including plans to announce a task force on mutual company structures.

The mutual insurer organization has taken the position, however, that mutual insurance companies should be able to adopt a mutual holding company structure because that may be the only way they can remain competitive if anticipated federal legislation promotes greater integration of banking and insurance, said Charles M. Chamness, NAMIC's vp of public affairs.

A similar interest in maintaining flexibility is expressed by mutual insurers themselves, even ones that have no immediate plans to demutualize.

"In general we support the concept of demutualization because it gives mutual insurers greater flexibility to access capital," a spokesman for Boston-based Liberty Mutual Group said. "This access is increasingly important as the financial services industry evolves. We do not have any plans at this time to demutualize."

Ms. Stewart said she doubts that even the demutualization of large property/casualty companies, such as Liberty Mutual, would make much difference to commercial insurance buyers.

However, Mr. Regan of Becton Dickinson said the very involvement of stockholders in the process may make demutualization a move with more potential benefits to buyers than liabilities.

"Capital markets are a very efficient system of sending messages to managers, and they do it by means of stock volatility," he said. "Policyholders can't do that in mutual firms."

'Whether you're a stock company or a mutual, you're still trying to get customers and keep customers happy,' says Richard C. Clemens of Sidley & Austin.

verting completely to a shareholder-owned company, though New Jersey legislators first must pass the needed legislation to allow such conversions. Such a measure is expected to be introduced in the next few weeks, largely at Prudential's urging.

Iowa is among the states with a mutual holding company law; a holding company is the direction the Principal has indicated it plans to pursue.

Of the three forms, Ms. Isola said her organization prefers full demutualization, because "the other two don't recognize policyholder rights to ownership."

"If shareholders are introduced and policyholders are not compensated, the bundle of rights they had before are now diminished," she said.

In any demutualization scenario, some policyholder advocates suggest, the interests of policyholders could take a back seat to those of the shareholders.

"One advantage of a pure mutual, you could argue, is that it's dedicated at least in theory to serving only the needs of its policyholders," Mr. Schiff said. "All things being equal... a mutual might be more likely to be there in a hard market."

Losing mutuals, some demutualization opponents suggest, could raise policyholder costs or possibly reduce the coverage available.

"One of the sort of general reactions made to that argument is that companies that are pure stock companies have people that buy life insurance as well and nobody raises that issue," Mr. Clemens said. "Whether you're a stock company or a mutual, you're still trying to get customers and keep customers happy."

"Policyholder interests are not necessarily separate from stockholder interests," added risk manager Mr. Regan. "And one way to satisfy shareholder interests is to be customer-focused."

Ms. Stewart suggested that many of the larger mutual insurance companies have come a long way from the days when they focused solely on a small group of very similar insurance buyers and already "think and act" in many ways like

Aetna

Continued from page 1

ficer of the Cincinnati-based Ward Financial Group. "I would think (NYLCare) would attract potential suitors other than Aetna to the table now that it's fairly public that they have plans to divest that operation," he said.

Both NYLCare and Aetna Inc. unit Aetna U.S. Healthcare are national operations, and both offer a full spectrum of managed care and indemnity products.

Aetna U.S. Healthcare reported \$12.76 billion in 1997 revenues and \$383.9 million in operating earnings. As of September, its total health care plan membership was 13.7 million, including 4.2 million in its commercial health maintenance organizations. Its 1996 deal for U.S. Healthcare made it the nation's second-largest HMO (BI, April 8, 1996).

New York Life, which had about \$3 billion in 1997 revenues, has 2.5 million people in its plans, according to a spokesman. The company entered the managed care field with its 1987 acquisition of Sanus Corp. Health Systems and merged the operation with its group health department about two years ago (BI, Jan. 15, 1996).

Observers say a deal would enhance Aetna's operations in several markets, including the tri-state New York area, the Washington, D.C.-Baltimore area, St. Louis, Houston, Dallas and others.

"From a strategic standpoint, it clearly makes sense," said Larry Mayewski, senior vp at Oldwick, N.J.-based A.M. Best Co. "It gives them greater scale and size in certain markets," he said.

"You have a pretty good fit," agreed Richard J. Sinni, New York practice leader of Watson Wyatt Worldwide. He said NYLCare's strongest locations are in Texas, St. Louis and Washington, D.C., where it has "very good, strong, mature, historically profitable, well-run" networks.

Mr. Sinni said Aetna "is not strong in any of these marketplaces." Therefore, a deal, he says, "will give them a great ability to expand their market share for their existing clients, who have thought about looking at other vendors in those areas. Now it gives those clients more of the ability to do one-stop shopping."

The deal also would make strategic sense for New York Life, which is seeking to focus on its core individual life and asset accumulation businesses, said Douglas L. Mayer, an analyst with Duff & Phelps Credit Rating Co. in Chicago.

"It looks like more and more of the insurance companies are continuing to devote their resources towards those businesses which they view as core. The potential divestiture of New York Life's health business would be consistent with that trend and from that point of view isn't much of a surprise," Mr. Mayer said.

However, some observers question the deal in light of Aetna's U.S. Healthcare integration. Aetna's lower-than-expected third-quarter earn-

ings were attributed to the acquisition and the problems inherent in digesting the operation (BI, Nov. 17, 1997).

Barry Barnett, a principal in Fort Lee, N.J., at The Kwasha Lipton Group unit of Coopers & Lybrand L.L.P., said, "Aetna's having enough problems right now integrating with U.S. Healthcare, and the addition of NYLCare on top of that may create more administrative nightmares than they have right now."

"So I wonder, really, if it's in the best interests of Aetna to move forward on this," Mr. Barnett said. "I just think it might be a bit of overload."

Tom Billett, vp and national practice leader for the Stamford, Conn.-based MEDSTAT Group, a health care information and consulting firm, said, "I was a little surprised that in fact they were entertaining this as a possibility, given their own problems associated with absorbing U.S. Healthcare and the amount of management time and effort that's taken."

In addition, Mr. Billett said, "the recent mergers and acquisitions in this industry have not paid the dividends that people thought they would pay." "That's not to say they won't," Mr. Billett said, "but at least to date, they haven't."

Arun N. Kumar, a director at Standard & Poor's Corp. in New York, which after reports of a possible deal last week put Aetna Inc. and its various units on its CreditWatch, with negative implications, said: "We believe this acquisition has strategic merit but could pose financial and operating risk to Aetna, primarily because of its problems integrating U.S. Healthcare. And the same problems could exist if this transaction is consummated."

But some observers think Aetna would benefit from its U.S. Healthcare experience if it bought NYLCare. Aetna "has learned from the previous integration—at least one would hope they have learned," said Mr. Sinni.

Aetna's consideration of this deal "is a sign that Aetna feels fairly confident that it's overcoming some of these difficulties," said Doug Sherlock, an analyst with the Gwynedd, Pa.-based Sherlock Co.

"But the New York Life health plans that Aetna would acquire are well managed in their own right," he added. "There's some very capable managers that could be brought under the umbrella without a whole lot of changes."

Integration with NYLCare "may be an easy transition, given that they've done a pretty big one already," said Aldy Duffield, benefits manager for Redwood Shores, Calif.-based Oracle Corp., an Aetna client.

But concern persists that an Aetna-NYLCare deal would reduce competition. Chris O'Flynn, manager of global benefits at Mobil Corp. in Fairfax, Va., which uses Aetna and NYLCare, said, given its size, a combined operation should eventually be more efficient. However, Mr. O'Flynn said, "when a provider becomes large enough to dictate to

even the largest companies, and there are not too many alternatives, there is a concern about keeping their price in line with the value they bring to the equation."

"I think it's another step, really, in industry consolidation and reducing the choices that are available to employers," said MEDSTAT's Mr. Billett.

"For the past several years, many employers have forced plans to compete against each other in markets. They've used that competitive strategy to get the best in terms of quality and price. Now, because of the wave of consolidation that's taken over the industry, there are fewer competitors out there, so I think that strategy will probably be less successful in the future," he said.

Paul Bonsee, a vp in Sedgwick Noble Lowndes' Roseland, N.J., office, said, "I think clients are going to miss the fact that there's going to be one less market to go to in a market-renewal situation."

Pointing to the New York-New Jersey market in particular, Mr. Bonsee said it "is probably one of the broadest remaining ones in the U.S., and this is one more shrinkage that we're going to see occurring in New York, as you've seen it elsewhere."

Unlike other markets, where few managed care companies remain, "I think New York-New Jersey clients and employers were perhaps a little spoiled," said Mr. Bonsee.

Mike Sass, a principal with William M. Mercer Inc. in New York, said, "U.S. Healthcare is a great HMO...but they're not the most employee-friendly HMO out there, and they continue to dominate the marketplace. People are really losing options."

But some observers believe these concerns may be premature. "I think the bottom line is there's still a significant amount of competition out here, and I don't think this, in and of itself, is going to dramatically change the competitive landscape," said Best's Mr. Mayewski. The market is still far from the point where one or two companies control it, he added.

Another issue is the potential for at least short-term service deterioration. "There are clearly a lot of service issues they're having with existing clients because they moved to mega claims centers, and lost a lot of people through the merger," said Mr. Barnett of The Kwasha Lipton Group.

Another acquisition could result in a further deterioration in service. "Or those who are starting to see it making an improvement may see it taking a step backwards," Mr. Barnett warned.

"I don't expect a debacle, but I don't think it will be seamless either," said Sedgwick's Mr. Bonsee.

But Oracle's Ms. Duffield said she does not anticipate an acquisition would have a major impact on Oracle. "Mergers are happening all the time. You have to accept that in the industry," she said. "We continue to plug along." ■

Study

Continued from page 3

employers that partner with providers are predicting cost increases of 5.5% during the next two to three years, while non-partnering employers expect cost increases of 6.3%.

Without long-term, cooperative partnerships, employers and providers tend to engage in shortsighted strategies that ultimately drive up prices for the whole market, Mr. Abbott said. Employers may change providers, shift costs to employees or reduce health benefits. Providers, in contrast, tend to raise

prices, shift costs to plan sponsors or reduce services, the report said.

"Both parties think they can stick it to the other," Mr. Abbott said. "But it's a zero-sum game."

Benefit managers are telling Watson Wyatt that health maintenance organization rates are expected to increase by an average of 8% for 1999 renewals, Mr. Abbott said. If so, benefit managers need to protect their companies by negotiating early on to establish long-term partnerships with providers, he said.

"Both parties need each other," Mr. Abbott said. "There's a pressing need for both parties to be talking to each other." ■

The survey covered 527 plan sponsors contracting with health plans covering 10 million employees and dependents. Employers of all size were included. For the first time, a separate survey of 1,286 health care organizations was completed. These included hospitals, ambulatory care facilities and managed care networks.

Copies of the survey, "Partnership or One-Time Purchase: The Third Annual Washington Business Group on Health/Watson Wyatt Worldwide Survey on Value in Health Care," are available from Watson Wyatt, 800-243-1349. The cost is \$100. ■

Updates

Insurers allege Caremark fraud

Continued from page 2

health care providers who referred patients to its home infusion service between 1986 and 1995.

The insurers, which include several Blue Cross & Blue Shield plans, say they paid \$800 million to \$1.1 billion to Northbrook, Ill.-based Caremark and those who provided the referrals during that period.

"The scheme included numerous acts of fraud, acts of fraudulent concealment, and acts of fraudulent non-disclosure," charges the suit, filed last week in federal court in Chicago.

Caremark was acquired by Birmingham, Ala.-based MedPartners Inc. in 1996. MedPartners said in a statement the suit is without merit and it plans to "vigorously defend" it. MedPartners said it does not believe the case will result in "material liability" to the company.

In 1995, Caremark admitted its employees paid kickbacks to get doctors to refer Medicare and Medicaid patients to its home infusion business and said it would pay \$161 million in criminal fines and civil payments to close a health care fraud investigation by the U.S. Justice Department and numerous federal and state agencies (BI, June 19, 1995).

In 1996, Caremark reached a settlement agreement and paid another \$65.6 million to "non-governmental health care payers" to settle disputes in connection with the issue (BI, March 25, 1996).

LTC company penalized again

YREKA, Calif.—For the second time in less than four months, Beverly Enterprises Inc. will appeal a huge punitive damage award in a case involving allegations of understaffing at a long-term care facility.

A Siskiyou County Superior Court jury in Yreka, Calif., last week ordered Beverly, subsidiary Beverly Health & Rehabilitative Services Inc. and the facility's administrator to pay \$94.7 million in punitive damages and \$365,580 of compensatory damages to Reba Gregory, 67. In January 1995, Ms. Gregory's right shoulder and hip were broken when a Beverly Health nursing assistant dropped the 160-pound patient while trying to move her from a urine-soaked bed to a shower chair without assistance.

The assistant said she could not find any other staff to help with the move, said Ms. Gregory's attorney, Michael D. Thamer of Yreka. About 18 months earlier, many of the facility's employees complained to Beverly Enterprises' chief executive officer that the facility was routinely understaffed, Mr. Thamer said.

A Beverly spokesman said the award was "totally out of line with reality" because Ms. Gregory's injuries cost \$24,000 to treat. He said the state's health care administration found the facility was adequately staffed at the time of Ms. Gregory's fall. He also noted that Ms. Gregory remains a patient at the facility.

Punitive damages are uninsurable in California.

In late November, a family that argued understaffing at a Beverly facility in Texas led to the death of an 84-year-old resident was awarded \$54 million in damages (BI, Dec. 15, 1997).

Latex maker insured for award

MILWAUKEE—U.K. pharmaceutical company Smith & Nephew P.L.C. is considering whether to appeal a \$1 million jury award to a Wisconsin hospital employee who said she developed severe allergies to latex gloves produced by a U.S. subsidiary.

Linda Green alleged in a lawsuit filed in a Wisconsin state court that she was forced to quit her job because of her severe allergic reaction to the latex gloves. The case is seen as an important test for similar pending cases involving latex.

Mark Young, a partner in Habush, Habush, Davis & Rottier S.C., the Milwaukee law firm that represented Ms. Green, said it has 34 latex glove cases pending, some of which are against Smith & Nephew AHP Inc., the U.S. subsidiary of Smith & Nephew.

Smith & Nephew said in a statement that the company is fully insured for the judgment rendered by a Milwaukee County, Wis., jury and the company's legal costs. A spokesman declined to provide any additional details of the company's insurance coverage.

The company also said, "We continue to believe the company acted responsibly as a manufacturer of natural latex gloves for the medical community, and should not be found liable because some people are allergic to latex." It added that the company is reviewing its options, including the possibility of appeal.

Briefly noted

A confirmation hearing for the proposed Chapter 11 bankruptcy of Home Holdings Inc. will be held on April 3 in the U.S. Bankruptcy Court for the Southern District of New York. The bankruptcy plan is part of a reorganization of Home that will enable its bondholders to secure partial payment of their bonds. Regulators say the plan should not be detrimental to policyholders of The Home Insurance Co., the operating subsidiary of Home Holdings (BI, Jan. 19). . . . The California Court of Appeal for the 6th District has upheld a 1996 superior court ruling that denies coverage to Chicago-based FMC Corp. for a pollution cleanup claim of more than \$250 million. The court agreed with Lloyd's of London underwriters that FMC had expected groundwater contamination from its use of unlined waste disposal ponds during the 1960s. . . . Reliance National Insurance Co., Lambert Fenchurch Group P.L.C. and MTS Insurance Services have formed a joint venture insurance brokerage and managing general agent called New Century. The brokerage, which will be capitalized at \$9.5 million, will be based in New York and its specialties will include energy, entertainment, health care and property. ■

For the Record

Government seeks COBRA rule reversal

WASHINGTON—Employees covered by another employer's health plan at the time they lose their own jobs are entitled to COBRA coverage from their former employer, the Clinton administration says.

In a brief filed with the Supreme Court, which is considering a COBRA coverage case, the Justice Department, on the advice of the Internal Revenue Service, is taking a position on COBRA coverage that is the opposite of what the IRS proposed in 1987.

Those regulations said that if an employee had other group coverage—such as through a spouse—before the employee had a right to opt for COBRA, the worker's employer did not have to make COBRA available.

In a policy reversal, the government now believes "that the better interpretation of the statute is that a plan is not permitted to cease making COBRA coverage available merely because of other COBRA (or entitlement to Medicare benefits) that began before the date of the election for COBRA coverage," the IRS said.

The case before the Supreme Court involves a man, James Geissal, who had health care coverage from both his own employer and from his spouse's employer. Mr. Geissal, who had cancer, later lost his job and kept coverage through his spouse and also obtained COBRA coverage from his company (BI, Feb. 2).

Several months later, his employer terminated the COBRA coverage when it found out Mr. Geissal had coverage through his wife's employer.

Securities law fails to limit suits: Expert

WASHINGTON—An increase last year in the number of companies sued in federal court over alleged securities violations suggests that a 1995 law meant to reduce such litigation is not succeeding, a law professor says.

In 1997, 175 companies faced securities class-action suits, up 67% from 105 companies in 1996, according to figures released by the Securities and Exchange Commission. In 1995, 158 companies were sued, the SEC said.

The Private Securities Litigation Reform Act, passed in 1995 over President Clinton's

veto, is designed to reduce frivolous securities litigation by narrowing the grounds for such suits and giving companies new protections for their public statements.

One effect of the law has been an increased number of suits filed in state court since the law was passed. State suits are not bound by all of the new federal law's restrictions.

Of the 175 companies sued, 20 also faced parallel state court actions, the SEC said. In 1996, 31 companies faced parallel state court suits.

Before 1996, virtually no such actions were filed in state courts, said Michael Perino, a lecturer at Stanford University Law School in Palo Alto, Calif.

A study Mr. Perino co-authored last year showed the law essentially did not change the number of suits filed in 1996 (BI, March 24, 1997).

His near-final calculations for 1997 also show a marked increase over 1996. The rate for 1997, he said, nearly equals the average level of suits from 1992 through 1995. The law "doesn't appear to have affected the rate of security class-action litigation," he said.

Monsanto paying for crop yield losses

ST. LOUIS—The Monsanto Co. has begun paying farmers whose cotton crops grown from the company's genetically altered seeds were damaged.

The payments are going to a group of farmers in a small region of the Mississippi Delta who used the seed, called Roundup Ready, that is designed to withstand spraying with a Monsanto weed killer. Monsanto did not directly sell the seed but licensed the gene to a seed company.

The amounts of the payments are based on examining the difference in crops from last year with the five prior years, a company spokeswoman said. She declined to say how many farmers were offered payments, though she said less than 1% of the 800,000 acres planted with Roundup Ready seeds is involved. Some of the farmers had entered into arbitration with Monsanto over the matter.

The lower yield may have been the result of strange weather conditions or a combination of the weather and the Roundup Ready seeds, the spokeswoman said.

"If we believe it contributed to a yield loss, then we will talk to them about some compensation," she said.

The spokeswoman declined to provide in-

formation about whether the company is insured for the settlements.

Factor restoration in claims: Mayor

NATCHEZ, Miss.—A Mississippi mayor is asking insurers to consider the cost of restoring the historical features of businesses damaged by tornadoes last month when adjusting claims.

"We're asking insurance adjusters and business owners to consider the historical significance" of the buildings and the additional costs required to hire artisans and find materials to restore those structures, said Natchez Mayor Butch Brown.

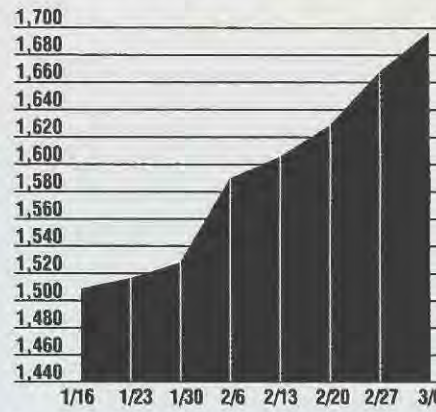
The tornadoes left Natchez with at least \$30 million in damages, according to Mr. Brown. The storms heavily damaged two downtown historic districts that cover about 50 city blocks and raked through residential areas. The same storm system hit parts of Louisiana.

Mr. Brown said Natchez has a "small cadre" of artisans and craftsmen who can help restore the historical buildings, but "not enough to go around for this kind of catastrophe."

Information in brief

Morgan Stanley, Dean Witter, Discover & Co. agreed to confidentially settle a lawsuit brought by two black employees who alleged they suffered retaliation, denial of promotion and a hostile work environment after they complained about racist jokes sent via electronic mail at the firm's predecessor Morgan Stanley & Co. . . The Supreme Court asked the U.S. Department of Justice last month for its opinion on which Superfund cost-recouping provision applies in a complex Arizona controversy. The case, *Pinal Creek Group vs. Neuman Mining*, centers around whether a provision of the original Superfund law allowing parties with no legal responsibility for cleaning up to sue companies for allegedly polluting a site also applies to parties legally responsible for cleaning up a site or whether a different cost-recouping provision with a different deadline applies. . . The United States has concluded a **market opening agreement with Taiwan** as a prelude to Taiwan's intended accession to the World Trade Organization. "This comprehensive agreement will dramatically open Taiwan's markets to U.S. agricultural products, services, and industrial goods," U.S. Trade Representative Charlene Barshefsky said in a statement. **BI**

BI Insurance Index



Base=100 on Dec. 29, 1978
Source: Nordby International Inc. (nordby.com) Boulder, Colo.

PCS catastrophe options

As of March 6		Call spread		Price bid/ask	
National Annual 1998		40/60	9.5/—		
		60/80	7.0/7.5		
		80/100	5.0/6.0		
Eastern September 1998		20/40	3.5/5.5		
		40/60	3.1/3.4		
Southeastern September 1998		40/60	2.5/3.3		
Northwestern September 1998		100/150	.9/1.4		
Total volume: 100		Total open interest: 18,521			

Call spread		Price bid/ask	
California Annual 1998		40/60	1.5/2.3
		150C	1.8/3.0
Western Annual 1998		40/60	1.5/2.5
		80/100	1.0/1.9
		150C	2.0/3.0
Florida September 1998		40/60	1.4/2.4

For information on PCS cat options, call the Chicago Board of Trade at 312-435-3674.
Source: Chicago Board of Trade

British Issues

Companies	Price pence	P/E	Div. pence	Yield %	52-week high-low
Comm Union	1086	20.3	32.5	3.1	1170-630
Genl Accident	1330	9.1	37.5	3.6	1540-772
Gdn Royal Exch	420	6.3	11.5	2.8	495-257
Legal & Gen	646	16.4	11.6	2.3	775-377
Royal & Sun	747	18.3	22.8	3.1	800-429

Brokers

Company	Price	P/E	Div.	Yield	52-week high-low
Lmbt Fenchurch	98	7.1	8.4	10.4	138-98
Lloyd Thompson	154	12.7	10.8	8.8	205-151
Sedgwick Grp	154	12.3	7.0	4.5	171-115
Willis Corroon	146	11.8	6.6	5.7	165-116

Note: Prices are March 6 closings; other numbers from March 5.

Source: Nordby International Inc. (nordby.com) Boulder, Colo.

BI Industry Stock Report MARCH 2, 1998, THROUGH MARCH 6, 1998

BROKERS

Company	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Year to date Vol.(000)
Aon Corp.	61.25	2.40	4.48	61.25	40.25	1318
E.W. Blanch Holdings Inc.	36.38	1.22	5.63	37.13	21.25	119
Gallagher Arthur J. & Co.	42.44	2.72	23.23	43.00	30.38	302
Hilt, Rogal & Hamilton	19.00	1.67	-1.62	19.63	13.13	68
Kaye Group Inc.	7.31	-0.85	10.38	9.00	4.38	2
Marsh & McLennan	86.44	-0.29	15.93	87.50	56.50	1299
Poe & Brown	38.00	8.96	27.73	38.50	17.00	109
Sedgwick Group PLC	13.13	4.48	6.60	13.25	9.38	39
Willis Corroon Corp.	12.19	3.72	-1.02	13.50	9.75	299
BROKERS AVERAGE		2.70	10.86			

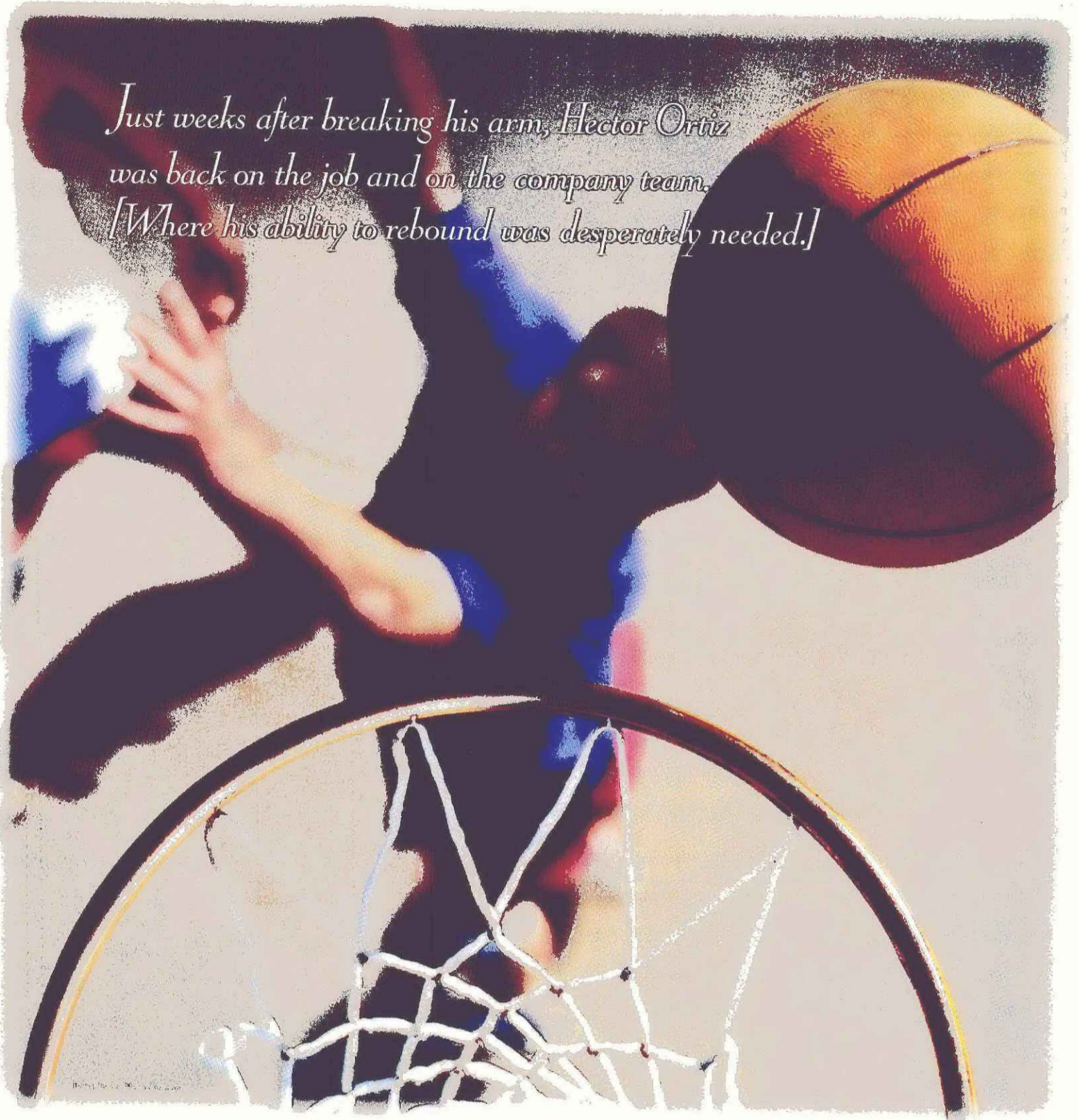
INSURERS/REINSURERS

Company	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Year to date Vol.(000)
ACE Ltd.	32.88	-0.25	2.20	34.63	19.19	1263
Acceptance Insurance Cos.	24.19	-0.51	0.00	28.63	17.75	185
AEGON N.V.	117.25	4.16	30.82	120.19	63.88	258
Aetna Life & Casualty	83.25	-4.72	17.98	118.13	66.31	3868
AFLAC Inc.	62.50	1.73	22.25	62.63	37.50	575
American General	32.75	3.97	14.41	35.75	22.44	309
Allstate Corp.	93.31	0.07	3.11	94.88	58.63	4930
AMBAC Indemnity Corp.	55.13	3.52	19.84	55.13	31.00	794
American Bankers Ins.	62.13	10.44	35.24	62.38	24.38	4230
American Financial Group	41.38	2.32	2.64	49.25	32.38	619
American General	60.31	3.76	11.56	60.31	36.50	2113
American Heritage Life Ins.	21.50	6.01	19.44	21.50	11.75	80
American International/Fin'l	11.63	12.05	-16.22	15.50	9.50	10
American International	121.25	0.88	11.49	122.19	75.13	3118
Argonaut Group	36.00	0.00	6.27	38.13	26.75	68
AXA-UAP Group	48.63	0.52	24.68	49.88	29.25	308
Baldwin & Lyons Inc.	22.25	-7.29	-7.77	28.75	17.38	9
Berkley W.R. Corp.	45.13	-1.10	2.85	46.38	31.19	491
Berkshire Hathaway Inc.	59000.00	5.73	28.26	59000.00	30000.00	1
Capital RE Corporation	64.13	3.53	3.32	65.75	38.75	166
Capital Transamerica Corp.	20.25	-2.41	-4.99	28.13	19.25	134
Centris Group Inc.	12.00	-4.48	7.56	12.94	8.94	395
Chantwell Re	30.25	-1.22	-10.37	36.25	24.50	134
Chubb Corp.	80.19	0.47	6.03	80.81	51.13	1409
CIGNA Corp.	190.88	-0.07	10.73	200.75	136.94	1382
CNA Financial Corp.	147.75	2.65	15.66	147.75	96.38	182
CNA Surety	16.00	1.59	3.64	16.50	12.88	144
EMC Insurance Group Inc.	13.50	2.86	1.89	15.00	10.75	19

Company	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Year to date Vol.(000)
ESG Re Limited	26.25	-0.94	11.70	28.88	20.88	540
Enhance Financial Services	62.50	0.70	5.04	62.69	34.75	280
Everest Reinsurance	37.56	1.86	-8.94	43.00	26.75	2246
Executive Risk Inc.	70.25	3.02	0.63	75.75	43.25	498
EXEL Ltd.	70.13	5.95	10.65	70.13	39.00	794
Fremont General Corp.	58.94	3.43	7.65	60.25	26.38	268
Fremont Insurance Group	25.06	5.37	9.56	39.25	20.00	1217
Gainco Inc.	8.06	-1.53	-5.15	10.19	7.88	286
General RE Corp.	214.06	0.50	0.97	221.25	151.50	905
Gryphon Holdings	15.56	1.22	-7.09	17.75	13.88	111
Harleysville Group	25.13	3.08	4.69	27.50	15.13	125
Hartford Steam Boiler	64.00	1.39	15.97	64.25	44.00	199
HCC Insurance Holdings	21.31	3.96	0.29	32.69	15.63	943
ING Groep N.V.	54.00	1.53	27.62	54.89	38.88	376
IPC Holdings Ltd.	30.50	-1.21	-5.24	32.88	22.38	160
Hartford Financial Services	99.94	1.72	5.81	100.88	68.13	2359
LaSalle Re Holdings Ltd.	37.00	8.82	4.59	37.00	27.25	216
Life Re Corp.	65.56	3.05	-3.58	67.63	37.38	180
Lincoln National	81.88	-2.53	4.80	84.50	49.00	893
MAIC Holdings Inc.	29.25	0.43	9.20	30.38	15.06	108
Markel Corp.	170.69	-1.90	9.33	177.50	102.50	18
MBIA Insurance Group	72.69	-0.68	8.79	73.81	45.44	906
Meadowbrook Insur. Group	30.00	-0.83	15.11	31.25	21.50	20
Mid Ocean Ltd.	60.75	-0.92	11.98	66.75	44.13	413
MMI Cos. Inc.	23.69	-0.26	-5.72	27.88	20.75	269
Mutual Risk Mgmt. Ltd.	32.50	1.56	8.56	32.50	16.75	293
NAC Re Corp.	50.44	-1.94	3.33	53.81	35.38	558
Navigator Group	17.75	2.16	-5.49	22.50	15.75	22
Nobel Insurance Ltd.	13.13	-0.94	0.00	15.38	12.00	25
NYMagic Inc.	29.81	-0.63	8.16	30.06	18.38	16
Ohio Casualty Corp.	47.00	0.53	5.32	51.00	35.50	233
Old Republic Int'l	43.19	2.22	16.13	44.00	24.63	652
Orion Capital Corp.	51.13	4.74	10.09	51.13	30.88	258
Partner Re Ltd.	47.88	-1.79	3.23	50.25	30.75	360
Penn-America Group Inc.	21.94	-4.10	7.01	23.00	11.25	155
Pennsylvania Manufacturer's Co NDO	19.13	3.38	14.18	19.13	16.25	110
Philadelphia Cons. Holding	19.50	-3.70	9.86	23.25	14.00	62
PXRE Corp.	30.81	-0.60	-7.16	35.25	24.75	35
Reliance Group Holdings	17.31	1.84	22.57	17.38	10.13	1026
Reliastar Financial Corp.	46.25	-3.01	12.29	48.25	28.63	916

Company	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Year to date Vol.(000)
RenaissanceRe Holdings Ltd.	44.00	1.44	-0.28	50.00	34.13	67
Risk Capital Holdings	23.88	2.14	7.30	24.00	16.00	75
RLI Corp.	52.75	1.20	5.90	53.00	30.50	110
St. Paul Companies	89.31	0.78	8.83	89.31	63.00	1201
SCOR	51.06	-1.80	6.94	53.50	38.25	14
SAFECO Corp.	52.03	-0.77	6.73	55.38	38.50	2073
SCPIE Holdings Inc.	29.00	-1.28	0.22	32.25	19.13	NA
Seibels Bruce Group	7.50	0.00	0.00	8.94	5.88	79
Selective Ins. Group	26.94	-1.82	-0.23	28.63	19.75	220
Tera Nova Insurance Co. Ltd.	28.50	-0.22	8.57	30.00	18.00	287
TIG Holdings	26.94	1.41	-18.83	36.56	24.56	621
Tokio Marine & Fire	57.50	0.88	-0.43	66.00	41.25	136
Torchmark Corp.	45.94	-1.74	8.89	47.56	26.25	2188
Transatlantic Holdings	75.94	0.41	6.21	77.38	53.38	122
Travelers Property	41.19	0.46	-6.39	46.06	31.38	1823
Travelers Corp.	55.75	0.45	3.48	57.38	30.88	10917
Trenwick Group Inc.	35.88	-1.71	-4.65	39.63	31.88	61
Unico American Corp.	16.50	26.92	34.69	16.50	9.63	511


WITH OUR POLICYHOLDERS WE ARE ENGAGED IN A GREAT MUTUAL ENTERPRISE. IT IS GREAT BECAUSE IT SEEKS TO PREVENT CRIPPLING INJURIES AND DEATH BY REMOVING THE CAUSES OF HOME, HIGHWAY AND WORK ACCIDENTS. IT IS GREAT BECAUSE IT DEALS IN THE RELIEF OF PAIN AND SORROW AND FEAR AND LOSS. IT IS GREAT BECAUSE IT WORKS TO PRESERVE AND PROTECT THE THINGS PEOPLE EARN AND BUILD AND OWN AND CHERISH. ITS TRUE GREATNESS WILL BE MEASURED BY OUR POWER TO HELP PEOPLE LIVE SAFER, MORE SECURE LIVES.



Just weeks after breaking his arm, Hector Ortiz was back on the job and on the company team. [Where his ability to rebound was desperately needed.]

Liberty Mutual's managed care is as fast as Hector's fast break. After his accident, Hector's employer called our 24-hour claims service hotline. We found the right doctor to treat him, at the right price. A rehabilitation nurse coordinated a return-to-work plan. And through our on-site rehabilitation program, a therapist worked to help Hector properly do his job and avoid reinjury, so today Hector is back on the job (and on the boards) leading a safer, more secure life.

➤ *There's more information we'd like to share. So please call John Ryan at (617) 574-5842 or visit our website at <http://www.libertymutual.com>*

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The freedom of Liberty