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Business Insurance®

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

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Updates

New group health plan aims to increase enrollee choice

MINNEAPOLIS—A Minneapolis-based health care system is launching a new plan that will allow employees to choose their own physicians and pay providers a monthly fee with pretax dollars contributed by employers.

Under the program, established by Vivius Inc., an employer would fund employees' health care spending accounts. Funds would be withdrawn from the accounts to pay a monthly fee to physicians who are selected by the enrollees. Enrollees would know

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Web worries worsen

Viruses, Web site disruptions sparking interest in coverage

By ROBERTO CENICEROS

The so-called Love Bug virus—along with several Web site disruptions that have grabbed worldwide media attention—is driving buyers to seek new Internet insurance products, brokers, insurers and risk managers report.

While Love Bug-related claims had yet to materialize as of late last week, the publicity surrounding the e-mail-borne virus has made more corporate leaders aware of the business risks associated with the Internet, said Emily Freeman, practice leader for Marsh Inc.'s e-Business Risk Solutions in San Francisco.

Therefore, more risk mangers, either on their own or at the direction of upper management, are shopping for security and risk transfer solutions.

Some, however, may already have coverage appropriate for their risks under their traditional property policies, one insurer said. In some such cases, additional coverage may not be necessary, the insurer said.

Other insurers, meanwhile, say they expect virus and hacker attacks to continue and even to increase in frequency.

Even before the Love Bug attack, 90% of the respondents to a survey on computer crime and security at large corporations and government agencies reported that they had detected security breaches within the last 12 months, with 70% reporting serious security breaches.

Nearly 300 of the respondents, or 42% of all respondents, reported the amount of their losses, which totaled

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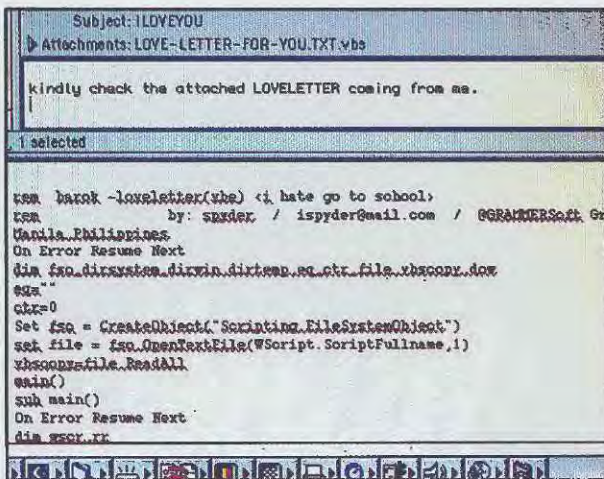

Virus attacks, such as the one involving the so-called Love Bug, are one factor driving interest in cyber-risk management.

D. James Baker, NOAA administrator, presents the forecast for 2000 in Washington.

PHOTOS: NOAA

NOAA forecast released

Storms brewing

By MARK A. HOFMANN

WASHINGTON—Be ready to batten down the hatches: the Atlantic and Gulf coasts face an above-average hurricane season, according to the National Oceanic and Atmospheric Administration.

NOAA's National Weather Service predicted at a Washington press conference last week that the continuation of La Nina conditions in the Pacific means that the eastern United States and the Caribbean will probably have to deal with at least 11 tropical storms. NOAA predicts that at least seven of those storms will grow into hurricanes, and three of the hurricanes will be strong enough to be classified as "major." Major hurricanes pack sustained winds of at least 110 mph.

The average annual number of tropical storms during the period 1950-1999 stands at 9.9. But because of last year's strong La Nina phenomenon, 12 tropical storms formed in 1999, eight of which became hurricanes, including the unusually destructive Hurricane Floyd.

NOAA's predictions of the number of storms, hurricanes and major hurricanes coin-

See **Hurricanes** *on page 48*

California comp market fraught with turmoil

Top California comp insurers

Ranked by 1998 direct written premiums

Company	(in millions)
State Comp. Ins. Fund	$1,215,753
Superior National Ins.	505,738
Liberty Mutual	467,894
Fremont General	362,825
Allianz/Fireman's Fund	246,390

Source: California Workers' Compensation Institute

By DOUGLAS McLEOD

Tumult in the California workers compensation market is likely to continue as years of fierce competition, underreserving and rising claims severity take their toll.

With the March failure of Superior National Insurance Group, the state's second largest workers comp insurer, rating agencies have downgraded or placed under review the ratings of several other insurers with large exposures to California risks.

Standard & Poor's Corp. last week cut the financial strength ratings of Fremont General Corp. units to BBB from A- and said it will review ratings of the State Compensation Insurance Fund—by far the state's largest workers comp insurer—along with

See **Comp** *on page 49*

Record endowment to fund program

Spencer grants $300,000

By LEE FLETCHER

SAN FRANCISCO—Executives, professors and students of risk management and insurance will benefit from the largest monetary endowment ever granted by the Spencer Educational Foundation Inc.

During the Risk & Insurance Management Society's 38th annual conference and exhibition in San Francisco, the foundation's board of directors voted May 1 to endow $300,000 to assist in the creation of the Executive Conference on Enterprise Risk Management at the Terry College of Business at the University of Georgia in Athens.

According to James V. Davis, vice chairman of Willis North America Inc. and a member of the Spencer Foundation's board, "The plan is to have one or more conferences yearly for executives and other individuals who want to improve their

See **Spencer** *on page 48*

Spencer board member James V. Davis discussed the endowment on *BI*'s RIMSTV.

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2000 RIMS Report

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NEWSPAPER

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Updates

Health care accounts unveiled

Continued from previous page

ahead of time the monthly fees charged by physicians.The eligible physicians have signed a participation agreement with Vivius.

Vivius customers also may purchase a wrap-around insurance policy to cover services that physicians they select can't provide or for out-of-town emergencies. Otherwise, such expenses would come out of the enrollee's pocket.

Each month, Vivius will transfer funds electronically from the health care spending account to pay providers selected by employees, as well as to pay the premium for the wrap-around policy.

That feature is different from other insurance programs, says Dr. Lee Newcomer, who formerly was a senior vp with managed health care giant UnitedHealth Group and now is chief medical officer for Vivius.

"The monthly prepayments to health care providers come directly from the customers' health care spending accounts. . .with no middleman or insurance company involved," Dr. Newcomer said.

Vivius intends to use Minneapolis and the metropolitan Kansas City area as test markets starting this fall.

CS First Boston forms captive

HAMILTON, Bermuda—Credit Suisse First Boston has formed a captive in Bermuda to address the investment bank's business risks and to partner with reinsurers on risks in emerging markets.

CSFB's captive, Boston Re, will underwrite risks associated with such transactions as loans and security offerings from businesses and sovereign borrowers, ceding some of the risk to reinsurers.

"This is akin to the sharing of risk with other providers of capital," said Jeremy Bennett, Singapore-based global head of emerging market structuring for Credit Suisse First Boston. "We take a lot of it ourselves and hold a lot of it ourselves, but leverage is the key."

Mr. Bennett said the move is another step in the convergence between banking and insurance.

"It's basically designed to give some top insurers access to the CSFB infrastructure," he said. "We're not really setting the company up to be a stand-alone competitor with other insurers."

"We have been working with the direct insurance market for some time, and that has been very productive for us. And we intend to continue with that area of business," added Alex Dubitsky, a Credit Suisse First Boston vp responsible for emerging markets structured insurance products, who is based in London.

The risks transferred to the captive "could be what are traditionally called political and credit risk," Mr. Dubitsky said.

Willis Management (Bermuda) Ltd. is managing Boston Re.

Bermuda has become a popular domicile for vehicles intended to tap the capital markets. In the past few years, Goldman Sachs & Co. set up Arrow Reinsurance Co. Ltd., and Lehman Brothers formed Lehman Re Ltd. as special-purpose reinsurers.

CSFB sees Boston Re as a more-typical captive that will provide an opportunity to leverage the expertise of its people, its business relationships around the world and its infrastructure.

Mr. Bennett said the reinsurers with which CSFB will look to partner through its captive "are those looking for high risk/returns. . .who are looking for some of the more-creative areas of risk transfer."

Boston Re will be involved in deals where CSFB is an investor, rather than simply as an underwriter passing debt instruments through to investors in the capital markets, Mr. Bennett said.

And with risks from those deals ceded to reinsurers on a pro rata basis, CSFB's interests will be aligned with those of its reinsurance partners because they will have the same risk profile on the deals.

CSFB expects to structure at least $2 billion in treaty reinsurance capacity through the captive this year. "We have already built a substantial book of business," Mr. Dubitsky said.

"The opportunities that we have that come across our desk every day for deals around the world are huge," Mr. Bennett said. "This is going to be a big business for us."

ACE CEO rebuts 'tax loophole'

NEW YORK—U.S. insurers lobbying to close the alleged Bermuda "tax loophole" are supporting their argument with erroneous figures, says the chief executive officer of ACE Ltd.

Brian Duperreault, chairman and CEO of ACE, acknowledged that U.S. insurers are claiming they are unfairly disadvantaged because they have to pay a 35% tax rate on investment income, whereas Bermuda companies that reinsure their U.S. affiliates pay no income tax.

Once tax-sheltered investments such as corporate bonds are taken into consideration, however, the U.S. insurers have an effective tax rate of about 19%, according to Mr. Duperreault.

Mr. Duperreault made his comments in New York last week at the annual International Insurance Day luncheon, which was sponsored by the International Insurance Council.

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Errors & omissions

• Due to an editing error, photographs on pages 28 and 32 of the May 8 issue incorrectly identified the winners of the Quern and Cristy awards. The correct award winners are pictured on page 43.

• Due to a production error, the *BI* Industry Stock Report in the May 8 issue displayed outdated stock information.

Cleanup cover upheld

Groundwater under polluted sites ruled 'insurable interest'

By DAVE LENCKUS

OLYMPIA, Wash.—In what is thought to be the first decision of its kind by a state appellate court, the Washington Supreme Court has ruled that property insurance can cover the cost of cleaning groundwater beneath the property of a policyholder responsible for the contamination.

The 9-0 decision came in a test case of an ongoing coverage dispute pitting Pittsburgh-based Aluminum Co. of America and subsidiary Northwest Alloys Inc. against the companies' 167 all-risk difference-in-conditions property insurers from 1977 through 1984. The U.S. and London market insurers, some of which have settled, provided limits ranging from $50 million to $400 million per loss with no aggregate.

The test case involved three of 35 polluted sites that the ALCOA companies own in North America. Damage at the three test sites alone totals about $850 million.

Washington's Supreme Court on May 4 unanimously upheld a trial court ruling that the ALCOA companies have an insurable interest in their properties' ground water, even though the

See **ALCOA** *on page 49*

IRS repeals restriction on 401(k) asset transfers

By JERRY GEISEL

WASHINGTON—The Internal Revenue Service is removing a key roadblock that has prevented employees from receiving 401(k) account balances when their employer sells the unit or division for which the employees work.

IRS Revenue Ruling 2000-27, issued last week, essentially repeals what has become known as the "same-desk" rule.

"This is very welcome relief," said Frank Roque, a consultant with Hewitt Associates L.L.C. in Lincolnshire, Ill.

Under that decades-old rule, employees who remain at the same job after the sale of their unit to another company were not considered to have separated from service. As a result, employees were not entitled to receive their 401(k) plan assets.

In the view of the IRS, while employees may be working for a new employer, they really hadn't terminated employment and thus were not entitled to their 401(k) account balances.

Federal law generally bars employers—except when dealing with employees who meet certain hardship criteria—from distributing 401(k) assets to employees prior to the employee's termination of employment or retirement.

See **IRS** *on page 50*

Analysts doubt HMOs can sustain momentum

Rates rising. . .for now

By JUDY GREENWALD

Employers are likely to see continued rate hikes for managed care plans through 2001, though some analysts suggest the industry may be unable to sustain higher pricing beyond next year.

Managed care companies' profitable first-quarter results reflect the higher rates health care plans are charging in 2000.

Although managed care executives and industry analysts expect those rates to remain high for at least another year, some are questioning how much longer employers will be willing to accept higher prices.

Managed care officials are pleased with first-quarter earnings.

"I think it was a really solid first quarter," said David Olson, vp-investor relations, for Woodland Hills, Calif.-based Foundation Health Systems Inc. "I think that the outlook is excellent."

John Cygul, vp of investor relations for Thousand Oaks, Calif.-based WellPoint Health Networks Inc., said that while the industry is not homogeneous in

See **HMOs** *on page 48*

Florida OKs uniform building code

By MICHAEL BRADFORD

TALLAHASSEE, Fla.—Florida insurers are celebrating a hard-won legislative victory with a bill that would establish a uniform building code for most of the state.

Legislators passed H.B. 219 just before the 2000 session closed earlier this month. Gov. Jeb Bush is expected to sign the legislation, which would strengthen provisions for protection against wind-borne debris. The bill would take effect July 1, 2001.

The bill incorporates American Society of Civil Engineers standards 7-98 for all of Florida except the Panhandle. Inclusion of the ASCE 7-98 standards were a point of contention between insurers and homebuilders in the long push for code changes in hurricane-prone Florida.

The ASCE 7-98 standards require shutters, impact-resistant glass and other special protections on new construction in coastal areas subject to winds that reach 120 miles per hour or greater.

The Florida Insurance Council, the state's largest insurer trade group, was on the front lines with some of its members in the drive to pass a new code. They were pleased with the outcome.

"It's a very historic and good

See **Florida** *on page 47*

Inside

• The Washington Supreme Court strikes a blow for common sense by limiting efforts by an insurer to expand the absolute pollution exclusion's reach, this week's editorial says. **PAGE 8**

• Interstate compacts deserve more consideration as an alternative to existing proposals for improved insurance regulation, write Jack Manders and James Schacht in Perspectives. **PAGE 29**

• A Dutch soccer player's record $27 million contract with a team in the English Football League may be sidelined by an underwriting requirement. **PAGE 45**

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Defending against hackers

Experts say vigilance is key to maintaining computer security

By JOANNE WOJCIK KOCHANIEC

SAN FRANCISCO—If you really want to know how secure your computer system is, ask a hacker.

Don't trust just any hacker, though. Make sure he's one of the "good guys" who has cut his ties to the world of cyber crime, advises Jeff Fay, a member of the technical staff at iDEFENSE, an Alexandria, Va.-based company that helps clients mitigate or avoid computer network, Internet and information asset attacks.

He also warned risk managers against believing that the most up-to-date firewalls and encryption devices will protect their organizations.

No system is invulnerable, he said. "I can use a program found on the Internet to break passwords in less than 24 hours."

"So forget about changing your passwords every 30 or 60 days," said Mr. Fay during a session at the Risk & Insurance Management

Society Inc.'s 38th annual conference and exhibition, held April 30 through May 5 in San Francisco.

"The only safe system is one from which the hard drive and power supply have been removed and have been sunk to the bottom of the ocean. But, even then, it could probably be broken into," he quipped.

Using his own laptop computer, which was connected to a large screen that allowed the audience to watch, Mr. Fay ran the password decoder software, which identified a password every few minutes.

Fortunately, increased media coverage of hacking and the spread of computer viruses—such as last week's so-called Love Bug epidemic—has actually helped thwart some cyber criminals by "getting the word out about hacking," Mr. Fay said.

Still, "every two weeks, there are new kinds of attacks. It's hard to keep up," he said.

To illustrate the frequency of Internet security breaches, William Boni, director of information protection at Motorola Inc. in

See **Hacking** *on page 16*

Risk manager Q&A

Quality, cooperation stressed

By SALLY ROBERTS

SAN FRANCISCO—When asked what the risk management community can do to improve quality within the insurance industry, Stephen M. Wilder quickly turned the discussion to the recent demise of the Quality Insurance Congress.

"The reason the QIC disbanded . . .was because we couldn't get our members to buy into what we were doing," said Mr. Wilder, who served as the QIC's last president before it disbanded last November. He is vp-risk management at the Walt Disney Co. in Burbank, Calif.

"Risk managers weren't demanding quality," he said. "It's very easy in this environment that we've been in to not demand top-level quality with our service providers because costs have been decreasing."

"We've got a serious problem ahead of us," said Mr. Wilder, referring to what many perceive as a hardening insurance market.

"Each of us has a responsibility

to our companies and to our industry to demand a lot more than we're getting now," he told risk managers attending an interactive session at the Risk & Insurance Management Society Inc. 38th annual conference and exhibition, held April 30 through May 5 in San Francisco.

"I, too, was a part of the QIC, and it's a shame" it disbanded, said Judy Lindenmayer, vp-Fidelity Insurance and risk management at FMR Corp. in Boston.

"Unless we say this is what we want and stick to it, it will be a while before we can say that we have a quality product."

Asked whether brokers are resisting this push, Mr. Wilder said that, "if you really push and are very serious, you can get what you ask for."

"I really think that the industry is listening and is starting to change, but you have to be willing to make some hard decisions," including threatening to withhold fees or move your business, Mr. Wilder said.

Quality was one of many issues discussed during the panel session, which gave audience members an opportunity to ask questions of three former *Business Insurance* Risk Managers of the Year.

One of the first questions posed was to Brian D. Casey, director of risk management and loss preven-

See **Managers** *on page 14*

Managing risks on movie sets

Traditional coverages handled, plus some 'Titanic' challenges

By RODD ZOLKOS

SAN FRANCISCO—Risk management in the motion picture industry may involve "all the usual coverages," but to outsiders, the notion of exposures involving movie stars, stunts and the occasional 775-foot replica of a legendary ocean liner certainly seems different.

"We really don't do anything different in entertainment than you do in your risk management jobs," said Michelle L. Darringer, executive director of risk management for the Beverly Hills, Calif.-based Fox Group. "We handle all the usual coverages."

Ms. Darringer discussed the risk management challenges faced by the motion picture industry, in particular in the case of the making of the film "Titanic," as part of a panel at the Risk & Insurance Management Society Inc.'s 38th annual conference and exhibition, held April 30 through May 5 in San Francisco.

A big part of the job involves dealing with very traditional coverages, such as commercial general liability, automobile, directors and officers, errors and omissions, fiduciary and crime, she said.

But there are some additional nuances.

"One of the things that we do in entertainment is we trick everyone," said Ms. Darringer, who noted that much of what viewers see on the screen is not reality but the result of visual special effects.

In her case, that concept hit home with "Titanic." When Ms. Darringer learned of the project, she naturally assumed she'd be making sure the appropriate marine coverages were in place. "Then they told me how they were going to make the boats," she said.

The manner in which the massive steamship, and its ultimate demise, were created for the screen produced its own risks and challenges, however.

The scope of the undertaking was one of them.

While the original Titanic cost $7.5 million to build in 1912, the motion picture "Titanic" cost $200 million, with another $150 million spent on marketing and other costs.

Much of the movie was shot using mockups of the Titanic situated in massive tanks at Fox Studios Baja in Rosarito, Mexico.

The facility, originally built in 1996 specifically for the film, includes a seven-acre, 17 million-gallon exterior tank situated to allow continuous horizon shots from the tank to the ocean, a stone's throw away.

See **Titanic** *on page 24*

PHOTOS: MICHAEL MARCOTTE

Well-known companies in the insurance and risk management industry were among the many exhibitors with booths in the crowded Moscone Center exhibition hall during the Risk & Insurance Management Society Inc.'s 38th annual conference and exhibition in San Francisco. They included, from top, Liberty Mutual Insurance Co., Marsh Inc., Aon Corp. and Chubb Corp.

Using insurance as capital adds to company's value

By RODD ZOLKOS

SAN FRANCISCO—Viewing insurance as a form of capital and risk management as capital management can open the door to managing risks previously considered uninsurable and new sources of risk financing.

The return on such a perspective can be significant: the enhancement of an enterprise's value.

"Insurance is a form of off-balance sheet capital," said Brian M. Kawamoto, a director at Swiss Re New Markets Corp. in New York, who coordinated a panel on the changing face of risk financing at the 38th annual conference of the Risk & Insurance Management Society Inc. held April 30-May 5 in San Francisco.

FINANCE
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"Think about insurance as a form of financing and how you might be able to use that in your organization going forward," Mr. Kawamoto said.

"Risk management is capital management," he said, adding, "Ultimately, when you begin to think like this there's a payoff."

That payoff can include the ability to transfer non-core risks that may dilute the firm's equity capital. Or it can take the form of recognition of more efficient sources of financing and consequently lower costs of capital.

The payoff also might involve the reshaping of an enterprise's risk profile in the eyes of other stakeholders, such as investors, lenders or clients, Mr. Kawamoto said. Or it can be the opportunity to tap a non-traditional source of capital. "Every CFO likes to diversify financing sources," Mr. Kawamoto said.

The "modern tool kit" used to achieve this sort of risk management includes:

- Structured finance, "Where you're really using insurance in a corporate finance way," Mr. Kawamoto said. These are corporate finance transactions where insurance or reinsurance capital typically is employed to alter an enterprise's risk profile thereby widening investor appetite, he explained.
- Capital relief transactions, which is event-triggered financing to provide either debt or equity capital to the client company. Such transactions provide a way for a company to borrow money if certain events occur, allowing the organization to optimize capital resources, he said.
- Derivatives, which an enterprise can use to optimize its risk profile by trading risks between counterparties using swaps, options or similar instruments.
- Enterprise-wide risk transactions, deals typically driven by strategic concerns to address volatility inherent in an organization's fundamental business. "Often, these types of transactions may result in improving or promoting shareholder value," Mr. Kawamoto said.

In some cases, the result in terms of market capitalization can be dramatic. "When you can create billions of dollars in shareholder value you're really talking about using insurance in an opportunistic way," the Swiss Re New Markets director said.

Two risk managers whose organizations have recently implemented programs displaying that sort of thinking also participated in the panel.

Think about insurance as financing and how you might be able to use that, says Brian M. Kawamoto.

For Winnipeg, Manitoba-based United Grain Growers Ltd., the process of moving to the integrated risk program the company put in place this year (*BI*, Nov. 15, 1999) was an evolution rather than a revolution, according to Michael J. McAndless, the company's corporate risk manager.

UGG already had good policies, defined responsibilities, well-defined position limits, good risk control practices and formal monitoring and reporting procedures, he noted.

What the company sought was improved accountability, better structure of responsibilities, improved internal communication, a focus on and understanding of the costs of principal risks and a risk management system for keying in on the highest risks facing the company, "not just the property and casualty and traditional risks," the risk manager said.

The traditional risk management approach is a defensive posture, Mr. McAndless noted, addressing only pure risk in which the only chance is for a loss. It can be applied only to specified insurable areas.

Enterprise risk management, on the other hand, enables an organization to take an offensive or defensive posture, addressing speculative risks that hold potential for either gains or losses and can be applied to general business applications, he said.

"We wanted to extend the traditional risk management process," Mr. McAndless said.

Ultimately the company crafted an insurance program that included a grain volume trigger to integrate coverage of its core business risk with its traditional insurance program.

The integration of the grain volume coverage with the traditional insurance risks combined leverage from a favorable loss history with the portfolio effect, Mr. McAndless said, reducing the company's average long-term cost of risk and periodic earnings volatility while

See **Capital** *on page 36*

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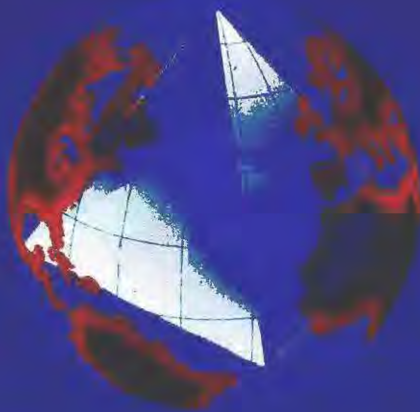

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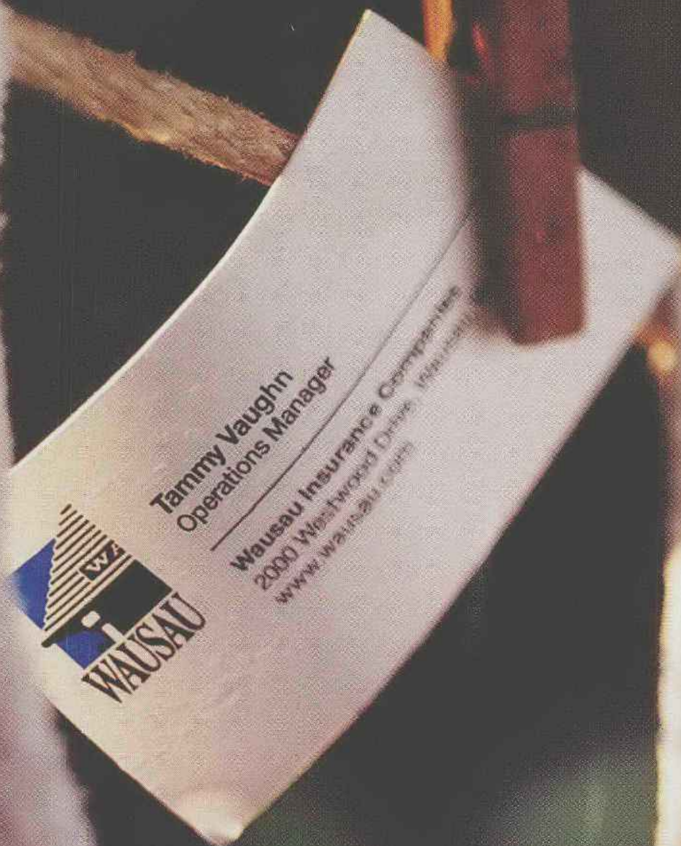

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What can we do to help you?

Ratings only part of the information buyers need

By MICHAEL BRADFORD

SAN FRANCISCO—While insurance buyers have more rating agencies than ever to assess the strength of insurers, there is still a need for more information, a broker contends.

The amount of information available from rating agencies brings "more in-depth analysis" that is valuable to brokers and risk managers who must choose which insurer will write the buyer's account, said Paul F. Sherbine, managing director in the market information group at Marsh USA Inc. in New York.

"We are using ratings as a first step; we think it's an excellent tool," Mr. Sherbine told attendees at an educational session at the Risk & Insurance Management Society Inc.'s 38th annual conference and exhibition, held April 30 through May 5 in San Francisco. Following that first step, he said, the brokerage conducts its own analysis.

But Marsh finds it needs more information for insurers based outside the United States, Mr. Sherbine said. "We need more ratings globally."

In areas such as South America, information on local insurers is scarce, he pointed out. And, in fact, in some places outside the United States, it is nearly impossible to find life and health companies with ratings, he said.

"One of Marsh's big pushes now is personal client services internationally," Mr. Sherbine explained. "So if we're going to place a very large executive life policy, we need that information to make a decision."

To fill that information gap, Marsh has hired four life/health analysts, "where we had none two years ago," he said.

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"There is no doubt about it; there are companies throughout the world that are trying to get into other countries," said Alan M. Levin, managing director, ratings development, insurance ratings with Standard & Poor's Corp. in New York.

Having financial rating information on insurers in other countries is vital, Mr. Levin said during the panel discussion. "If you, as a risk manager, are dealing with your plant in Indonesia or your plant in the Philippines, then you really need to know what's going on with the insurance companies down there. In many countries around the world, you are required to at least place some of the business with a local insurance company."

Mr. Levin said Standard & Poor's offices throughout the world allow the company to provide risk managers with information on insurance company activity in many parts of the globe.

Carol M. Pierce, manager, alternative markets, at A.M. Best Co. in Oldwick, N.J., said the insurance rating service intends to "continue to expand both geographically" and in terms of the ratings coverage it provides, "as market needs dictate."

The ratings service is expanding into global ratings and debt ratings, Ms. Pierce told the session attendees. "That's really due to a lot of the financial convergence that's going on."

A.M. Best operates under a "global structure with local expertise," Ms. Pierce explained, with full-service offices in Oldwick, Toronto, London and Hong Kong. "What the global structure means is that all of the activity for our ratings activity is coordinated through our Oldwick home office in order to ensure that there is parity among all rating issues throughout the world."

Each A.M. Best office, meanwhile, is staffed with "local talent that is very knowledgeable in the areas that they are handling," she said.

Another problem buyers face, Marsh's Mr. Sherbine emphasized, is that ratings that cover an entire insurance group "mean absolutely nothing. We want to see a specific, legal, explicit report between affiliates or we will ignore the rating."

He also warned risk managers that "the European insurers that are writing global programs for you" are using local companies "that are not rated. They could sell those companies tomorrow."

Ms. Pierce said that "just because companies are interrelated doesn't mean that they are going to carry the same rating level" under A.M. Best's process. "We look to see if companies within groups are strategic and core to the operation of that (group). If they are, they will carry whatever rating the group has."

A company is rated separately if it is not a strategic part of the group, is an underperformer, or for some other reason should be regarded individually, Ms. Pierce said.

Ted Collins, managing director, property/casualty insurance, in Moody Investors Service Inc.'s financial institutions group in New York, pointed out that his company's ratings are "intended to provide value to risk managers in the commercial insurance marketplace. . . The risk manager, in our view, is the one whose interest should be paramount."

And, Mr. Collins said during the panel discussion, risk managers are, for the most part, unaware that they can contribute to the rating process.

"My sense, in talking to risk managers. . .is that they all seem to have this sense that ratings are important to look at and understand, but I don't get the sense that they realize how much input they have in determining the rating system or the rating process," Mr. Collins said. "The people who have the most at stake in ratings are the people in this room and the people at this conference, and you are really the only ones who can ensure that the integrity of the process will be upheld."

He urged risk managers to "take an active interest in ratings. Ask questions. Ask us for the analysts who cover the companies that provide your insurance. There's lots of money at stake, and I'm sure you all appreciate the bind you might be in if someday you had a claim that couldn't be paid."

Mr. Sherbine was the session coordinator. It was moderated by David Borkowski, risk manager at Westfarm Foods in Seattle. BI

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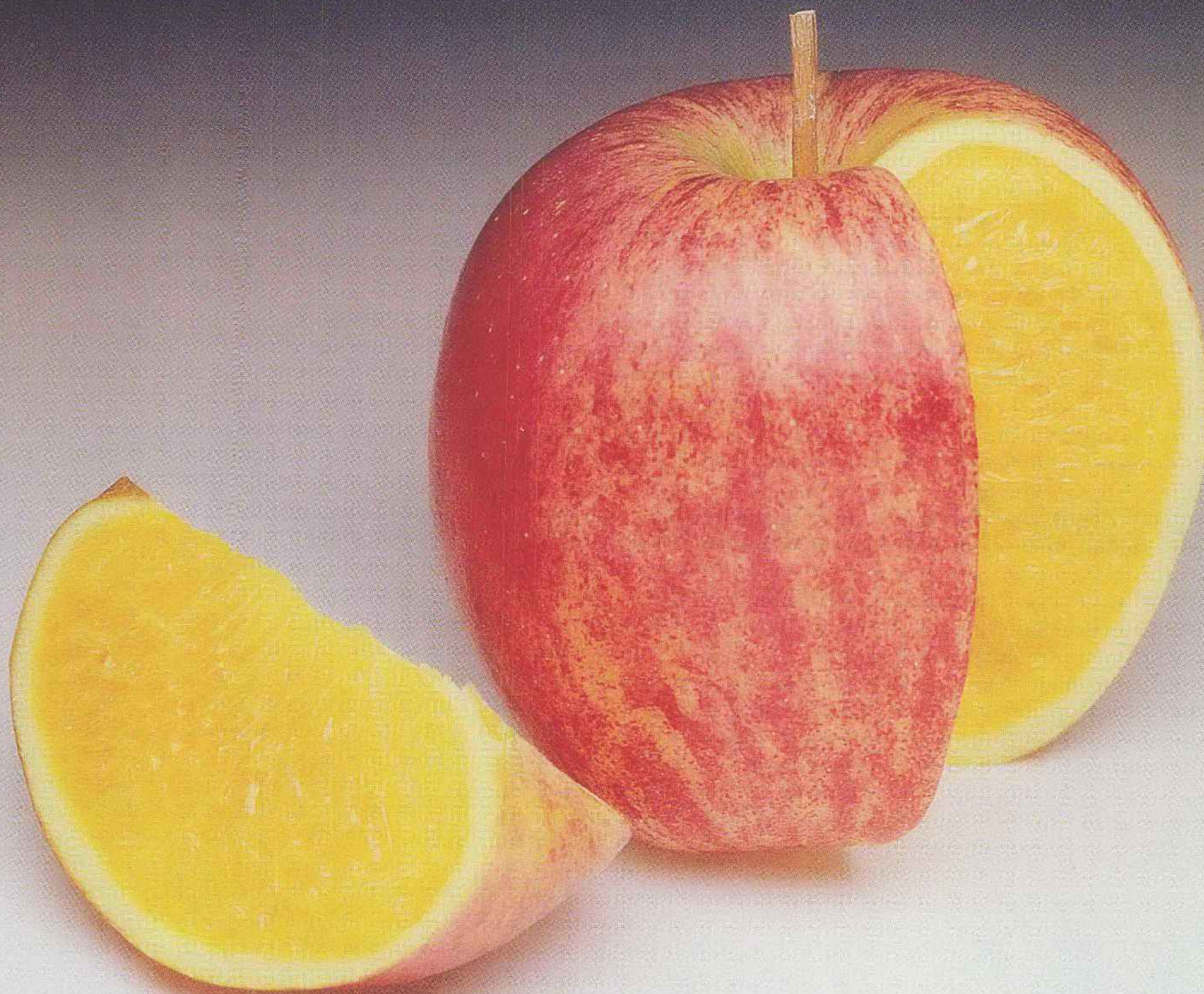

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Opinions

Ruling was common sense

THE WASHINGTON SUPREME COURT has struck a resounding blow for common sense in liability coverage disputes.

The court rejected efforts by the insurance industry to extend the absolute pollution exclusion to encompass not only environmental pollution but also bodily injury claims involving potential pollutants.

This ruling, while limited to one policyholder-friendly state, should encourage risk managers elsewhere to challenge efforts to aggressively expand the meaning of the exclusion. The ruling also should put insurers on notice that such abuses of buyers' reasonable expectations will not be tolerated.

The case before the Washington court arose from Zurich Insurance Co.'s denial of a claim filed by Kent Farms Inc. (*BI*, May 8). Kent had settled a bodily injury action brought by a man who was blasted in the face with diesel fuel because of a faulty valve on Kent equipment. Kent sought coverage of some of its costs of settling the claim, but Zurich refused, arguing that the absolute pollution exclusion barred coverage.

Zurich argued, as insurers have argued in other courts with mixed success, that the exclusion broadly bars coverage of any loss involving a pollutant or contaminant. Insurers hold that the exclusion applies even if the pollutant does not cause environmental damage.

The court rejected this overly broad reading, holding that policyholders have a reasonable expectation that a pollution exclusion would apply only to claims involving environmental contamination.

"To adopt Zurich Insurance's interpretation would unjustly broaden the application of the exclusion far beyond its intended purpose," the court held.

We can appreciate insurers' desire not to weaken an exclusion for coverage of environmental contamination, but to argue that the exclusion applies to any injury arising from a substance that could be a potential pollutant is ludicrous and troubling.

If insurers' intention truly was not only to avoid liability for environmental pollution but also avoid all torts involving a pollutant, then that should have been stated more directly. We are skeptical that was insurers' original intent, however, and believe they simply are denying such claims until a court or regulator tells them to stop.

Indeed, the industry has had ample opportunity to clarify this alleged misunderstanding over the reach of the absolute pollution exclusion in the 15 years since it was adopted. Even after losing previous coverage battles like this one in Washington, it has not done so.

Coverage disputes involving pollutants but not pollution obviously can be avoided with plainer, clearer wording in liability policies and exclusions.

They also can be avoided through better communication between buyers and insurers at the time coverage is negotiated. Risk managers and insurers both should clarify their expectations up front, when a policy is written, to avoid revisionist interpretations and protracted legal battles when a claim arises.

Be prepared for rough weather

THE STORM WARNINGS have been issued. The National Oceanic and Atmospheric Administration's hurricane forecast indicates that this year's hurricane season—which officially begins on June 1 and lasts until the end of November—will look an awful lot like last year's destructive season, and include an above-average number of major storms. That prediction, which NOAA made public last week, tracks exactly with the forecast made earlier this spring by famed hurricane researcher William Gray of Colorado State University.

Fortunately for risk managers, there's adequate time to prepare for the probable rough weather. As Max Mayfield, the new head of NOAA's National Weather Service, told a Washington press conference last week, every business and public entity in hurricane-prone areas needs to have a hurricane response plan in place.

That may seem like Risk Management 101, but it's well worth repeating, and not just for risk managers in hurricane-prone seaside areas. As Mr. Mayfield and others have noted, last year's Hurricane Floyd showed yet again that hurricanes aren't simply a threat for coastal areas. Much of Floyd's destruction occurred far from the North Carolina beach as flooding swamped inland communities and caused billions of dollars in damage.

The NOAA and Gray predictions should be taken as an impetus to review hurricane response and recovery plans and make whatever adjustments necessary to bring them up to date. The warnings have been issued far enough in advance that there's no excuse to be taken unaware when the real storm flags are hoisted.

Letters

Insurers seek increased regulation

To the editor: I have read with great interest the debate over Bermuda taxation. Of particular interest is the April 17 letter to the editor from Chubb: "The object of free trade is to level the playing field among countries by removing artificially imposed elements that favor one country over another."

Aren't these insurers actually asking for the imposition of an artificial element, not the removal? Why not spend this time and energy on reducing regulation and taxation in the United States rather than heaping the scourge of taxation onto competitors? I am not at all served by these actions—not as a purchaser of insurance, nor as a taxpayer. (The writer states, "[the tax loophole] robs U.S. taxpayers." I can tell you with great certainty that an increase in taxation of Bermuda subsidiaries will in no way lessen my individual tax burden.)

Contrary to the writer's opinion, I have no concerns with a market moving offshore to take advantage of tax havens, a free-market approach that doesn't involve the bungling bureaucrats of Washington. As a risk manager, I would gladly trade the cost of U.S. regulations with lower premiums and rely on my professional skills at assessing carriers. I have yet to see evidence that Bermuda poses any greater threat in this regard.

I encourage the industry to strive toward removing regulatory and tax impediments from all companies, not to be party to the designs of Washington expropriators.

Douglas F. Gafner II
Elkhart, Ind.

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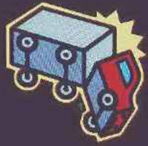

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Increased online activity puts risk managers on alert

By SARAH VEYSEY

SAN FRANCISCO—Companies doing business online must prepare for the risks that will accompany the rapid growth of e-commerce.

E-commerce on the Internet will be worth an estimated $75 billion by 2002, compared with $8 billion in 1998, according to John Fromholtz, vp of global insurance and risk services for Merrill Lynch & Co. Inc. in New York.

He spoke recently at a session on e-commerce risks during the Risk & Insurance Management Society Inc.'s 38th annual conference and exhibition, held April 30 to May 5 in San Francisco.

"E-commerce via the Internet will become a worldwide channel," said Mr. Fromholtz, who coordinated and moderated the session. "How will the Internet and e-commerce change the risk profile of our organizations? Will we develop new ways to manage risks in the brave new world?" he asked.

Michael French, senior consultant-information technology security at IBM Global Services in New York, also spoke during the session. "You would be surprised how many firms have not quantified what it would cost if their brand image was defamed in some way," he said.

"Many companies have spent hundreds of years building up their brand image. Now you are asking executives to expose all of this on the Internet," he said. "You don't know all the risks, but you have to do it. We are trying to assess what is the real vulnerability and then quantify it."

Information technology is no longer contained in a single department in many companies, Mr. French said. "IT is no longer a glass box or fortress. It is increasingly spread out among departments and sites," he said. "How do you control that? We feel you have to identify and quantify the risk."

Mr. French said there has been a shift from private networks to the Internet, which is public and open. "Anybody can be listening—this greatly magnifies the risk," he said.

Every company's employees should be aware of security issues, he suggested. "Traditionally, security policies were something that only the legal department had, but now we recommend that every employee should read them and sign a document to say that they have read them," he said.

IBM frequently has been approached by companies hoping to get some form of official security certification, he said. But "no one will give you a permanent stamp of approval, because security is a continual process," Mr. French said.

He outlined a five-step plan to implement a security and privacy program: determine what needs to be protected; determine relevant privacy concerns; decide how each critical asset should be protected; implement appropriate protection based on business needs; and continuously validate that the selected safeguards are effective and efficient.

Consistency in the approach to security is important, Mr. French said. He cited the case of one company that had very secure systems of its own but then acquired another company. "We found that the traditional old bits of the company were very well protected, but the acquisition was not. You could have got into this company by 'the back door,' " he said.

Companies that collect individually identifiable data on people also must be extra vigilant about protecting privacy, Mr. French warned.

"If you have data which tells you something about a person—their name or their Social Security number, for example—this person could sue for damages if their data is inappropriately handled," he said.

No technology is guaranteed to protect against hacking, either from inside or outside, he noted. "There are no exact technologies. We can make things better, but security is a continuous process. Whatever technology we have today, somebody could find a flaw in it next week," he said.

Risk managers at companies that use contract workers, for example, should restrict the access of those individuals to corporate information and limit the authority given to any one contract worker, Mr. French suggested. "And absolutely provide an audit trail," he said.

Because the Internet profoundly alters the way business is done, a risk managers must examine his or her company's risk profile, said Dominic Davison-Jenkins, a vp of Marsh USA Inc. in New York. "Any involvement with e-commerce or e-business will dramatically alter" a company's risk profile, he said.

The risks of using the Internet include economic loss liability, intellectual property liability, media or content-related liability, crime, property loss, and business interruption, Mr. Davison-Jenkins said.

He explained that economic loss liability could arise from design errors, erroneous advice given over the Web, faulty service, transmission of viruses and the unauthorized release of third-party data.

Intellectual property liability could arise from the use of patents, software, copyright issues or trade secrets, he said.

Mr. Davison-Jenkins also discussed media or content-related liability. He explained that companies must pay attention to their Web sites' content because it could fall under several different categories—advertising, editorial or entertainment—and the lines defining those may be blurred. "If you look at a Web site, is the content information or advertising? You have to assume that it is commercial speech, which has onerous controls on it," he said.

Companies with a Web presence may have to comply with libel laws or publishing laws to which they may not have been exposed previously, he explained. "A Web site presence gives you access to con-

Continued on next page

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Continued from previous page

sumers without the need to go to advertising specialists," said Mr. Davison-Jenkins. "But you are speaking to the world, and you may be less experienced or well equipped to do it than people whose job it is."

Mr. Davison-Jenkins said that property risks in e-commerce include disruption to a company's online infrastructure, which could be damaged or rendered unavailable by viruses or hackers, and to intangible assets.

A company with a Web presence needs to be aware that many of the risks it faces may not be covered by traditional insurance policies, he warned. For example, traditional property coverage may not apply to damage to a company's online infrastructure, he said.

Mr. Davison-Jenkins also highlighted the legal difficulties posed by the Internet. "There is an uncertain legal environment. Some of the European Union laws and the United States laws are at odds with each other," he said.

'There is a need for the sharing of information, best practice and risk control activities,' says Dominic Davison-Jenkins.

This uncertain and ever-changing legal environment creates a need for communication and sharing of information, according to Mr. Davison-Jenkins. "There is a need for cooperation between rival corporations and the sharing of information, best practice and risk control activities," he said.

If a company is transacting e-commerce in more than one jurisdiction—for example in both the United States and the European Union—both jurisdictions' laws must be observed. This is a complicated process, because many of the laws applicable to e-commerce are contradictory. "In the U.S., the emphasis is on self-regulation, whereas in the E.U. it is not—laws are being made at the European level," Mr. Davison-Jenkins said. "My advice to companies is to try to meet the lowest common denominator."

He explained that the jurisdiction that is relevant to companies is the one where the company holds its operational assets. Companies operating in more than one jurisdiction must seek legal advice, he said. "You have to get a team of lawyers on to it if you are present in more than one jurisdiction."

Companies may have to shop around to get appropriate insurance coverage for the new risks they face, said Mr. Davison-Jenkins. "A great number of insurers which provide traditional cover feel very uncomfortable with this new type of risk. You can expand your existing cover, but you need to know what you are buying," he said.

"The first thing a company should do is identify the risk and then decide if they need to extend the existing polices or self-insure or whatever," added Mr. French.

"On the insurance side, you have to make your own decisions as to who is providing the best and most responsive coverage," Mr. Davison-Jenkins told RIMS attendees. "Insurance brokers, risk consultants and insurers do not necessarily have equally good knowledge of these particular types of claims."

Mr. Davison-Jenkins outlined a checklist for risk managers thinking of buying insurance to cover their Internet exposures. He echoed Mr. French's advice that risk identification is key.

First, Mr. Davison-Jenkins said, risk managers should buy insurance only when they actually have the risk they are buying protection against. Second, insurance should be bought only when the level of risk potential justifies the price. Third, insurance should be purchased to replace an uncertain risk volatility with a known cost, he said. "Insurance is never a substitute for good risk management practices," he warned. "Always manage exposure to loss. You have to do risk identification." BI

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Property buyers may be acquiring pollution liabilities

By SARAH VEYSEY

SAN FRANCISCO—As more and more companies look to buy former industrial or military property, their risk managers face a host of legal and insurance problems.

Many former industrial and military sites are contaminated with pollutants, and the new owners will face cleanup responsibilities and liabilities, according to a panel of experts at the annual conference of the Risk & Insurance Management Society Inc., held April 30 through May 5 in San Francisco.

"To understand what liabilities apply, you must first understand who owns the property," explained Lindene Patton, assistant vp, director of risk management and counsel for Zurich U.S. in New York. Ownership must be determined, she said, because, according to the 1988 Base Closure and Realignment Act and the 1987 Comprehensive Environmental Response, Compensation and Liability Act, the requirements of previous owners of the property to fulfill certain cleanup responsibilities vary depending on whether the land was owned privately or by the military.

Purchasers, operators or developers of contaminated land that formerly was privately owned must contend with several exposures, according to Ms. Patton. First, there are remediation costs, particularly those associated with contaminated soil and ground water. Second, there is a potential loss of the fair market value of the property, stemming from either property damage or "pure stigma" said Ms. Patton.

Companies could also experience losses in revenue, bodily injury liability for workers and damage to natural resources.

There also are community issues to consider, said Ms. Patton. "A loss of jobs or tourism could result from the purchase of the property," she said.

Military base purchases present some unique legal concerns, said Ms. Patton. The U.S. government, she noted, "has sovereign immunity. Liability only attaches itself to the sovereign where the government specifically allows it," she said.

While the Federal Facilities Compliance Act, the Federal Tort Claims Act, and Section 120h of CERCLA—which requires the military to contribute funds for cleanup costs for former military sites—all involve some environmental liability for the military, the Base Closure and Realignment Act was set up to eliminate the government's responsibility to continue paying for environmental liabilities on land that has been sold.

There are some legal challenges to the use of insurance by purchasers or developers of contaminated land, said Ms. Patton. First, she said, is that the federal government is self-insured. "It is very difficult for the federal government to purchase insurance," said Ms. Patton. "So there may be procurement restrictions—if you could be considered a government contractor or if there are issues of national security involved, then you will have to think about who really has the authority to do the deal to avoid reformation."

James Meadows is the first executive director of the Presidio Trust, which was set up to preserve the Presidio of San Francisco as a national park after it was decommissioned as a military base in 1994. He offered his experience with the Presidio, which required cleanup of petroleum contamination and removal of a landfill, as a case study for risk managers undertaking similar operations.

Policies should allow new owners to clean up sites and 'then talk about who shot whom afterward,' says James Meadows.

Mr. Meadows procured $100 million from the U.S. Army—which had agreed to work with the Presidio Trust and the federal Department of the Interior—to help fund the cleanup of the site. He also obtained a $100 million insurance policy from Zurich U.S. Specialties. Under the terms of this policy, the Army retained liability for any contamination discovered in the future.

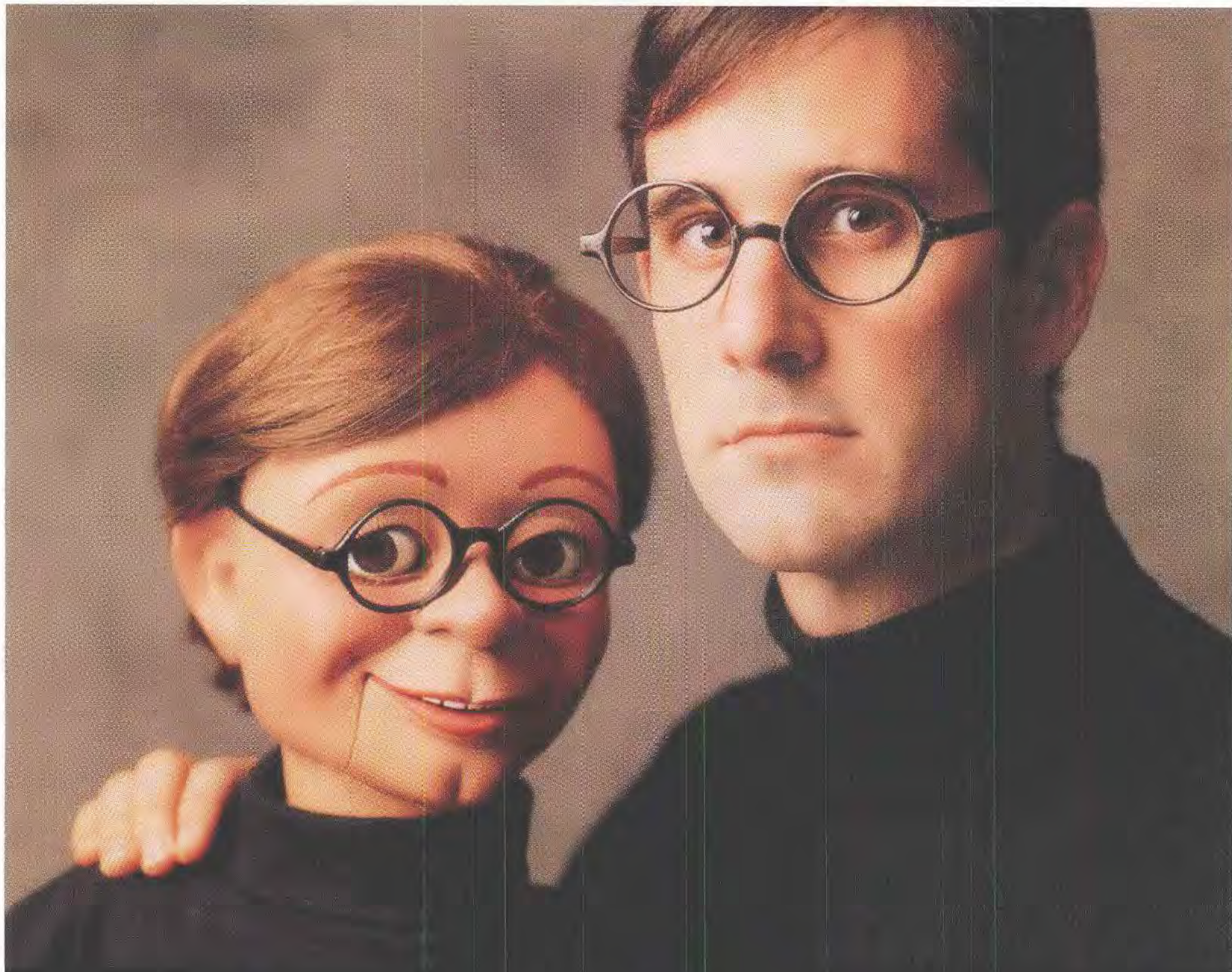
He cited one aspect of the policy as being particularly important: "Although newly found contamination is unknown and the Army is therefore responsible (for cleanup), you are dead in the water if you have to shut down." Mr. Meadows stressed the importance of having a clause written into a policy that allows the new property owner to clean up the site "and then talk about who shot whom afterward."

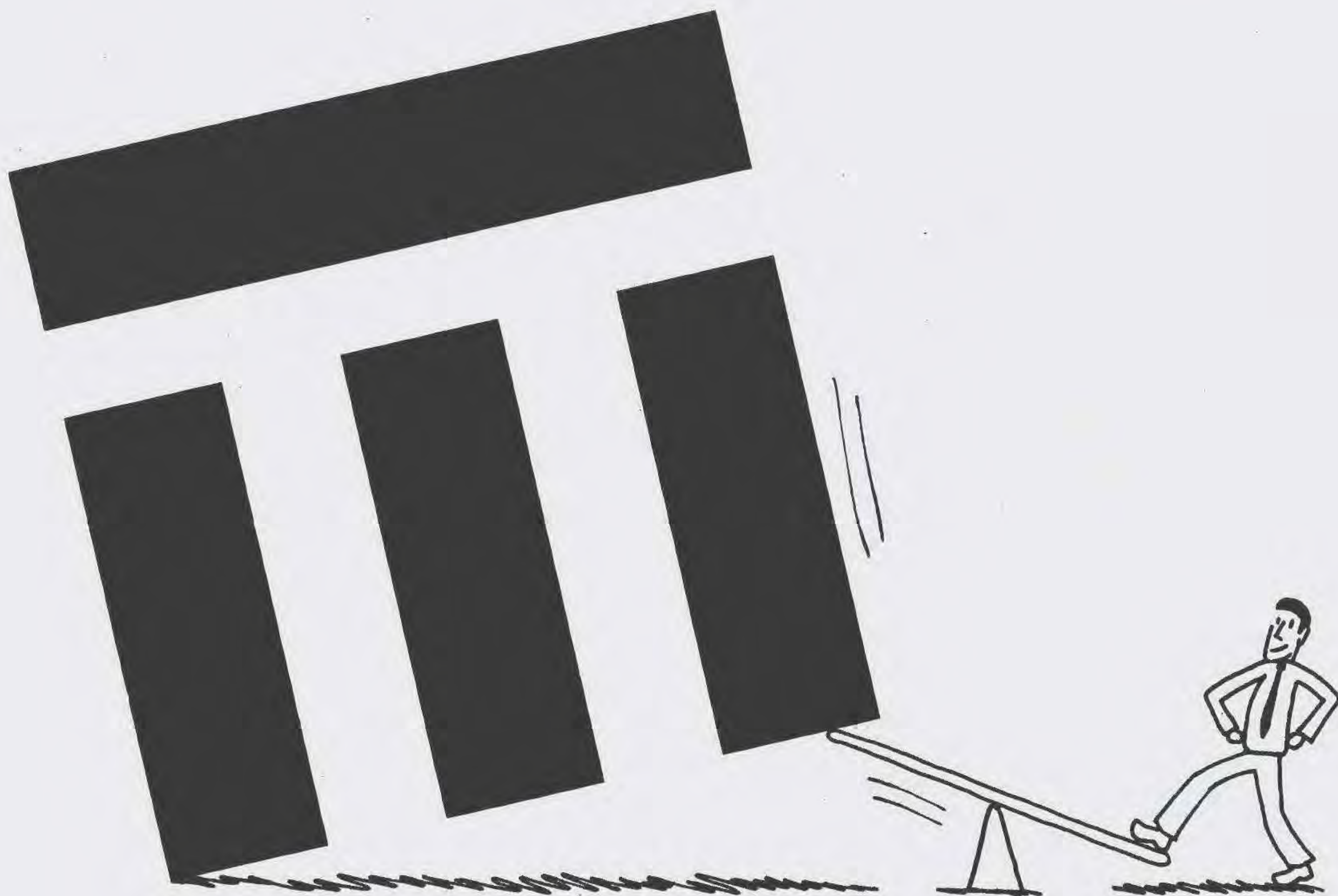
Potential land purchasers and developers should bear in mind, though, that the Army has a policy against cleaning up asbestos and lead-based paint found in any of its former buildings, Mr. Meadows warned. Both asbestos and lead-based paint were present at the Presidio site.

Myla Bobrow is president and chief executive officer of Remediation Financial Inc., a real estate development company based in San Francisco that specializes in the acquisition, restoration and redevelopment of environmentally impaired property. She spoke to delegates about purchasing privately owned property that is environmentally tainted.

"We embrace the liabilities and ask (themselves), 'Can you insure as much a possible?' " she said. "The developer must work with all governmental agencies early on," advised Ms. Bobrow. "These agencies may have jurisdiction to find an acceptable model and standards specific to the (redevelopment) pro-

See **Remediation** *on page 14*





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ject."

"You should chose an insurer by its reputation to pay claims and not just by the one that offers the lowest premium," advised Ms. Bobrow. "You need a major insurer to stand behind the capitalized developer for all known and unknown liabilities."

"One of the consistent themes is that the price of failure in this type of project is extremely high," said William McElroy, vp and project manager for special environmental risks for Zurich U.S. Specialities in New York. "So you have to approach it with your eyes open."

One of the critical elements in such projects is due diligence, said Mr. McElroy. "These projects are very complex, and you have to take a very analytical approach. You have to invest a huge amount of time and energy to understand where the elements of risk might be and the probability of these risks." Risk managers must make sure that they have details on the nature of the project and the cleanup plan.

Cooperation with regulators is vital to the success of such projects, according to Mr. McElroy. "The regulators need to see that the project is good for the community for it to be allowed to go ahead."

Mr. McElroy said that such projects typically were covered by cleanup cost cap policies in conjunction with other EIL policies. "You would always be amazed by the level of legal resources that go into these types of policies. You would be unlikely to see any two policies that are the same. Every one is tailor-made," he said.

Ms. Bobrow confirmed that her organization always uses customized policies to cover its risks. "Everything for us is a blended mix of policies, always customized to the risk," she said. "Always, always blend it."

Coverage for such projects is unlikely to come cheap, warned Mr. McElroy. "These projects are very long term and very complex. This impacts on the price. The cost of capital has to be built into the project, because it could last for 10 years. It is a very complex problem on the financial side, as well as the legal and regulatory side."

The session was coordinated by Betty Schwartz, communications consultant with Zurich U.S. in Chicago. BI

Managers

Continued from page 3

tion at Corning Inc. in Corning, N.Y.. In the mid-1990s, Mr. Casey raised eyebrows when he hand-picked eight brokers from two rival firms—the former Johnson & Higgins and Aon Group Inc.—and asked them to work side by side and assume joint responsibility for Corning's new global property program.

In responding to a question about how that process was working out, Mr. Casey revealed that Corning has gone back to using only one broker.

He said that the original brokerage team was initially able to work together very well, but as they each started to leave their respective companies, the cohesiveness left with them.

"While it did last, it was a positive experience," said Mr. Casey, who was *BI*'s 1996 Risk Manager of the Year.

Mr. Casey's comment led to a follow-up question seeking advice about how the panel of risk managers get their service providers to work together.

Ms. Lindenmayer, *BI*'s 1997 Risk Manager of the Year, said that she uses a team approach.

"We've always worked that way," she said. "And, overall, it's been a very excellent experience."

"Today, with rumblings about what might be a turning of the corner to a harder market, it's extremely important that each of us has built a relationship and a feeling of trust with our business partners," she said.

Panel members were asked if they aspired to be chief risk officers or whether they regarded the much-touted CRO position as simply a passing fad.

"I don't aspire to be the CRO at Fidelity," said Ms. Lindenmayer, who noted that Fidelity has had a CRO position for the last four and one-half years.

The CRO, who reports to the head of the auditing department, determines what is at risk within the company on a global basis, Ms. Lindenmayer said, and that information is then gathered and consolidated.

Amid signs of a market turn, it's important to build 'a feeling of trust' with business partners, says Judy Lindenmayer.

The CRO has "made my job so much easier than before," she noted.

Mr. Casey, on the other hand, said that a CRO position does not exist at Corning.

As a risk manager, Mr. Casey said that, despite wanting to spend more time with each division to help it eliminate risk, he does not "necessarily think that it will mean a new title."

Mr. Wilder, *BI*'s 1990 Risk Manager of the Year, noted that, at the end of the day, Michael Eisner, chairman and chief executive officer of Disney, is the chief risk officer and "I don't aspire to be that."

When asked how much time the panel spent on actual insurance matters, Mr. Wilder said that he spends less than 10% of his time on insurance matters; Mr. Casey said insurance matters take up between 10% and 20% of his time; and Ms. Lindenmayer said she spends between 10% and 15% of her time on those matters.

Some questions resulted in light-hearted responses.

For example, when the panel was asked in what area would they like to spend more time, Ms. Lindenmayer quipped, "Vacation."

When speaking seriously, though, Ms. Lindenmayer said that she would like to spend more time inventing new things. "If I could, I would spend 100% of my time doing that," she said.

Mr. Casey and Mr. Wilder each expressed a desire to spend more time with the individual business units within their respective companies.

Catherine D. Bennett, vp of Cost Control Concepts Inc. in Goodlettsville, Tenn., coordinated the session. BI

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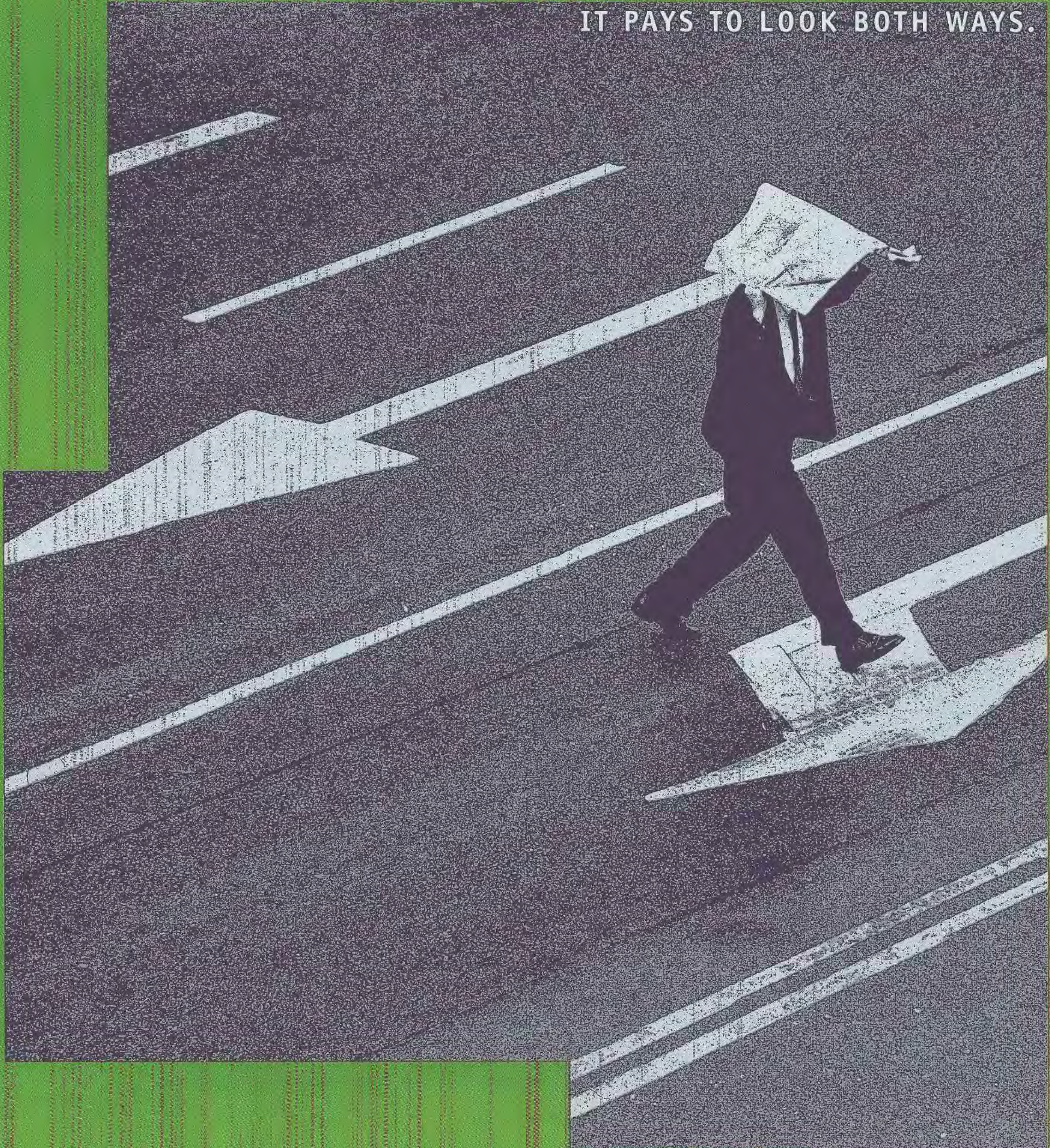

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Hacking

Continued from page 3

Schaumburg, Ill., pointed to recent FBI statistics that 90% of 643 organizations the FBI tracked suffered information security-related incidents in the past year. Of those that experienced such an incident, he said, 74% reported losses, and those losses totaled $265 million.

"I think that's just the beginning of a megatrend," he said.

Mr. Boni provided a short list of "the usual suspects" in cyber crimes:

- The "ethically flexible" employees, which may include short-timers, who are employees that have announced they are leaving the company.
- Business partners.
- Outside contractors/consultants.
- Temporary employees.
- Freelance or mercenary hackers.
- The "reality-challenged."

"These are the people who think that 'The X-Files' is real," Mr. Boni remarked of the last group.

Because of the global reach of the Internet, losses from breaches in cyber security can occur just about anywhere in the world. Consequently, it is important that organizations have comprehensive insurance policies, said Lorelie S. Masters, a coverage attorney at Beveridge & Diamond P.C. in Washington.

"Accidents don't just happen on a local basis anymore," she said. "So you need to make sure that your insurance policies apply to other locations."

Among the exposures the policies should cover are: e-mail; Web page operations; hypertext links; content; "imported risks," such as software brought in by employees; networks, including extranets, intranets, wireless networks and servers; and employees.

"We humans, we do things that create threats," Ms. Masters said.

For example, people have access to an organization's intellectual property.

"A lot of it's in their heads, and when they walk out the door and go to work for someone else, they take that information with them. What protections do you have in place?" she queried.

Indeed, former hacker Mr. Fay said that perhaps the most vulnerable area for a company is its employees.

He described how easy it is for a hacker, pretending to be a system representative, to call a naive, low-level employee and ask him or her to attach to an e-mail some company-sensitive files that could be used to gain access to the company's entire system.

It is because there are so many exposures associated with Internet risks that insurance coverage must be structured appropriately, said David M. Brenner, an attorney at Riddell Williams P.S. in Seattle. Mr. Brenner specializes in cyber risks.

Fortunately, he said, a second generation of Internet insurance policies is emerging, as property and liability insurers begin to grow more comfortable with underwriting Web-related risks.

Early policies were aimed chiefly at eliminating cracks between policies written for old-economy business classifications such as "the business of advertising, publishing, telecasting and broadcasting."

Newer policies, however, are addressing specific Internet risks and are offering more-explicit coverage for the kinds of losses both pure Internet and traditional bricks-and-mortar businesses may soon experience in their operations, Mr. Brenner said.

But even with the new policies, "business activities need to be defined as broadly as possible," he stressed.

It may also be necessary to extend business interruption coverage beyond the actual period of interruption, as there may be lasting effects from a system shutdown, he said.

The session was moderated by William B. Hedrick, senior manager of liability risks at The Boeing Co. in Seattle. **BI**

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CRO role suited to enterprise risk plans

By MICHAEL BRADFORD

SAN FRANCISCO—As interest in enterprise risk management grows, so does the acceptance of the role of chief risk officers to manage such a programs.

Robert E. Hoyt, associate professor at the University of Georgia's Terry College of Business in Athens, Ga., said, "I really see enterprise risk management and the concept of a chief risk officer going hand in hand. By that, I don't mean that you have to have a CRO to do enterprise risk management, but I don't think you can go down either one of those tracks without thinking about some of the issues" raised by the other, he said.

An enterprisewide approach is needed because the traditional approach to managing risk often

is uncoordinated, said Charles R. Lee, principal with Tillinghast-Towers Perrin in Dallas. "There are different people within the organization that are involved in different aspects of the risk and, quite frankly, they don't talk to one another," he explained.

Mr. Lee and Mr. Hoyt were among several panelists in a session at the Risk & Insurance Management Society Inc.'s 38th annual conference and exhibition, held April 30-May 5 in San Francisco. Mr. Lee also moderated and coordinated the session.

In many organizations, there is no sharing of information, "the analysis is done independently and oftentimes does not follow specific criteria of performance measures that are important to the organization," Mr. Lee said. "In my view, there are too many risk managers. . . .There are too many people that have other jobs and one of their jobs is to handle a certain aspect of risk."

See **CRO** *on page 20*

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From left, Theodore G. Jeske, risk manager of Historic Tours of America Inc. and the 2000 Risk Management Honor Roll winner, poses with broker John W. Black Jr. of Willis of Maryland Inc. after receiving his award during a luncheon in San Francisco.

CRO

Continued from page 16

In many cases, a chief executive officer receives information from a manager responsible for one aspect of risk and is then forced to make an isolated decision on how to address that particular risk, Mr. Lee noted.

Organizations would be better served, he argued, if they could "find a way of doing a great job of identifying, analyzing, managing and presenting the entire perspective of risk to senior management in a coordinated way. The CEO can spend less time waking up in the middle of the night worrying about risks and more time on what they like to do about their business, whether it's making products or providing a service."

"So we come to enterprise risk management as a way to do that," Mr. Lee said.

He defined enterprise risk management as a "comprehensive framework for defining, measuring, evaluating, prioritizing, making decisions and communicating about all types of risk." Those risks include business strategy risk, market risk, credit risk, funding/liquidity risk and operational risk, he added.

Such a risk management approach requires a chief risk officer to manage the process who can "see the big picture," get support from senior management and communicate well, according to Mr. Lee.

A CRO should be someone "with a broad knowledge of the business," Mr. Lee suggested. The CRO will be a person who recognizes his or her role as a coordinator—rather than a manager—of risks, he emphasized.

Preparing to become a CRO involves getting an education, in both traditional and unconventional subjects, said Pamela G. Rogers, director, risk management at Sears, Roebuck & Co. in Hoffman Estates, Ill.

"I do believe in every kind of education we can get," Ms. Rogers said. "But I think nothing should substitute for broad knowledge of your business. If you want to be a chief risk officer—and I mean a true chief risk officer—I think you must have" that knowledge, she said.

"This is one reason that I know clearly that I cannot be the chief risk officer of Sears, Roebuck & Co. today. I don't have broad knowledge of my business. I've spent my 18 years in my corporate risk management career at seven different corporations. I've only been at Sears two years. My greatest dream would be for Sears to hire a chief risk officer who would mentor me."

Ms. Rogers said she is working on gaining the broad knowledge that she urges other risk managers to achieve. "I was very fortunate in the past year. I spent two weeks in one of our full-line stores being trained as a store manager," she said. "I've also gone out and ridden for a week. . .with a product service technician. There's nothing like learning about your customers by going into their homes" and talking to them while the technician repairs an appliance, Ms. Rogers remarked.

"Try to get out and learn your business," she said. "I know it's difficult. Many of you have very little staff, if any at all."

Ms. Rogers said a CRO will have to realize his or her role as a coordinator.

"The front-line risk managers of my company are the operational people," she said. "If I can't understand what it takes to work that front-line job or to buy our merchandise. . .how could I ever be a chief risk officer?"

The chief risk officer for PG&E National Energy Group in Houston said she reports to both the corporate chief financial officer and the group's president and CEO.

Leslie McNew said the reporting structure at PG&E "isn't necessarily best practices, but occasionally one works in a company where you are hired for a very specific talent, a talent that obviously is missing at the top. So your reporting relationship may be reflective of that.

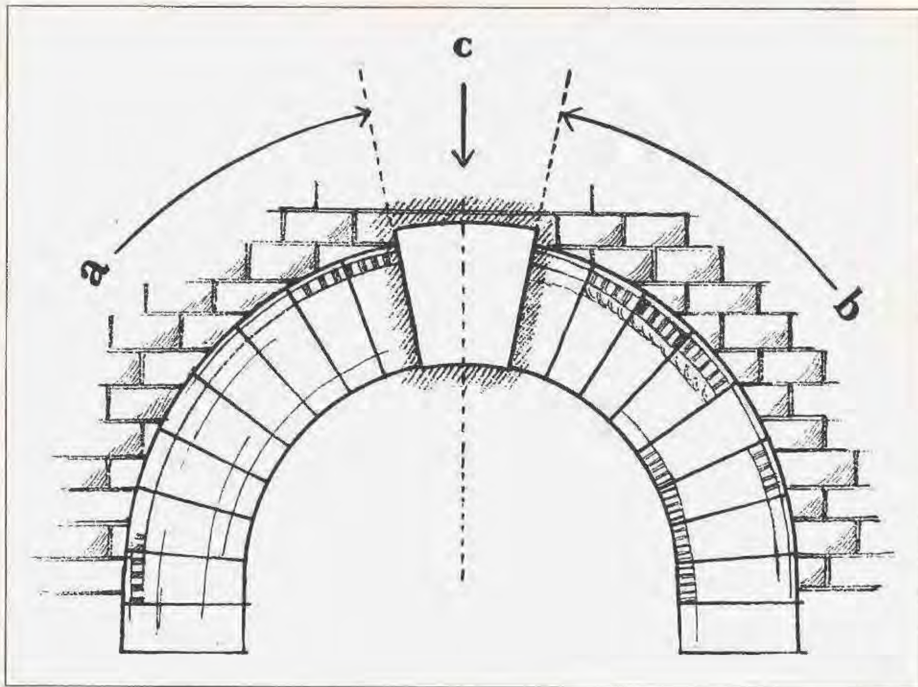
"I don't go through the corporate risk manager," said Ms. McNew. "Not because I think he's an idiot, it's just that his skills don't match mine."

Ms. McNew, who manages financial risks, also reports to the corporate risk management committee and P&G National Energy Group's risk management committee, which she heads.

The University of Georgia's Mr. Hoyt said a study he helped conduct showed that around 6% of companies that responded are using a chief risk officer. The companies were more likely to be small organizations or large ones, as opposed to those in the medium size range, the study indicated. That could be because managers at small companies naturally have more risk-related duties to handle, and at large organizations, there is the opportunity to implement an enterprise risk management program, Mr. Hoyt suggested.

The study, which was published last year in Risk Management and Insurance Review, polled organizations listed in the 1995/1996 *Business Insurance* Directory of Buyers of Insurance, Benefit Plans & Risk Management Services. From a sample of 1,780 companies, 379 questionnaires were returned, for a 21.3% response rate.

The study indicated that financial services firms most commonly implement a CRO structure and energy companies are the next most likely to have such a position. ■BI



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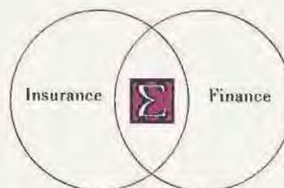

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Telecommuters present unique risks to employers

By MICHAEL PRINCE

SAN FRANCISCO—Out of sight doesn't always mean out of mind.

Risk managers need to remember that although workers at home are not seen, they can still create claims for their employers, a risk manager cautions.

With a growing number of employees who call home their office, managing the risks associated with telecommuters is becoming more important, said Tim East, manager, risk management business process with The Walt Disney Co. in Glendale, Calif. The number of telecommuters could one day include as much as 30% of the work force, up from 6% today, he said.

"This is going to be a growing reality in the workplace," said Mr. East, who spoke at and moderated a session during the Risk & Insurance Management Society Inc.'s 38th annual conference and exhibition, April 30-May 5 in San Francisco.

The risks from telecommuters encompass both well-known risks and some unique to that segment of the work force. An example of the former is that thieves can steal computer equipment from a home office. Telecommuters also may be at greater risk of having corporate information stolen, such as by disclosing valuable information while talking on the phone at home or in public, he added.

"There are conversations I hold in my office that I don't necessarily want to hold at home," Mr. East said.

Risks for corporate information can also occur from document handling at home. Many offices have paper shredders to dispose of sensitive documents, while homes rarely have one, he noted.

The most common risk, however, is that the telecommuting worker may not be productive at home, Mr. East said.

Many managers feel that they can monitor employees' productivity by seeing them in the office. Not only is this an imprecise gauge, he said, but it also is inapplicable to telecommuters. So, a new method of monitoring worker productivity is needed, he said.

To minimize productivity risks, Mr. East recommends that employers look at whether the job and the person are both suitable for telecommuting.

Employees need to be self-starters who have proved they can work independently and still get the job done.

"If a person does not demonstrate time-management skills, I won't let them telecommute," he said.

In addition, the job must be one that can be done without constant face-to-face contact with fellow employees or customers. A job also may be unsuitable if it requires too much special equipment or supplies, making a home office impractical.

It's also important to examine whether the company is right for telecommuting. If the corporate culture would hurt a telecommuter's career, then no one will do it. And if fellow employees will resent the telecommuter, then it ultimately won't succeed, Mr. East said.

Beyond productivity, working from home creates some interesting health and safety risks, said session coordinator Carol Murphy, managing director of Aon Group Inc. in San Francisco.

The best way to address these risks is to create a telecommuting policy before the worker starts working from home. The policy should include input from human resources, the risk manager and legal counsel, she said.

The policy should cover such areas as who owns the equipment, where the office will be located, arrangements for child care and pet care, setting hours when the employee is working and when certain tasks are to be performed, such as leaving home for lunch or sending a package.

"The more precise you can be, within the law, the better you will be at controlling your risk exposures," she said.

The home office work area itself also creates risks. It's best that the telecommuter work from a separate room, using ergonomically correct office furniture, Ms. Murphy noted. Also, the environment should be safe from risks of fire, electric shock and theft as well as equipment falling off makeshift shelves.

There is also a risk that the employee working at home will develop a problem with drugs or alcohol and even food, she said.

Finally, the employer needs to make clear it retains the right to inspect the home office to ensure it complies with its safety standards, Ms. Murphy advised.

Despite the growing number of

See **Workers** *on page 24*

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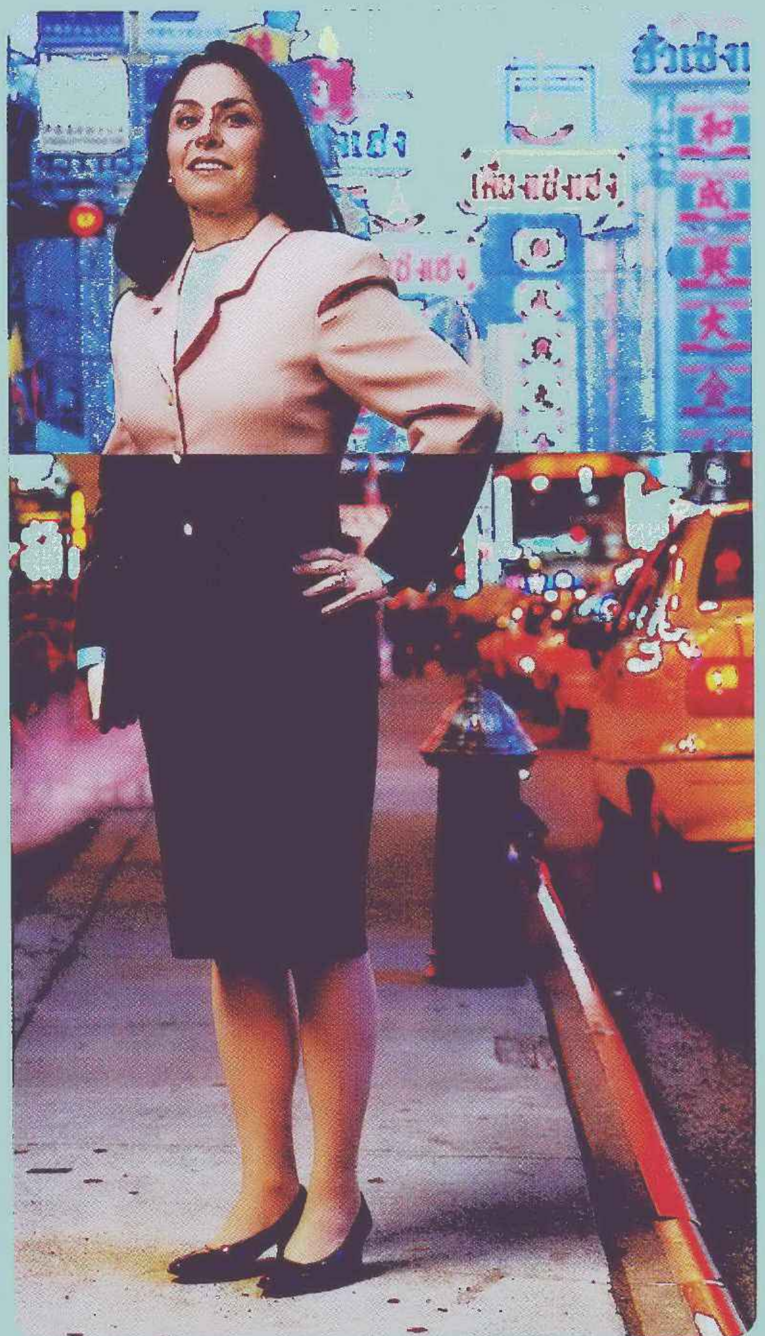

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Workers

Continued from page 22

telecommuters, legal and regulatory guidelines for these workers have not yet solidified, said John Roskopf, senior managing director of Aon Corp. in Glenview, Ill.

"Things are changing and are changing very rapidly," he said.

One area of concern is workers comp claims. Employees qualify for workers comp coverage if an injury occurs while performing work or services for the employer. No coverage exists, though, if the employee is away from work or not performing work for the employer when an injury occurs, he said.

With telecommuters, this creates the situation of deciding when the person is working and when the person is simply "at home," he noted.

To address this issue, Mr. Roskopf recommends that an employer's telecommuter agreement specify exactly when a person is considered at work and which areas of the home are considered work areas. For example, the kitchen can be considered a work area during a specified lunch period. Similarly, driving to the post office can be considered a work function if done at a specified time.

For the most part, there has yet to be a significant problem with excessive workers comp claims from telecommuters, he said. Telecommuters are generally self-motivated people and "they tend not to report the chinks and dents of life," he said.

The most common type of claim involves repetitive stress injuries from telecommuters working without a break or in an improper environment, he said.

Another issue concerns ownership of the home office equipment and who is permitted to operate it. Once again, this should all be spelled out in the telecommuting agreement, he said.

Insurance coverage is another issue that needs to be addressed. For example, a homeowners policy generally won't cover claims arising from a slip and fall by a business visitor to the house, Mr. Roskopf said.

Therefore, the employer should make sure its liability coverage extends to include telecommuters. Similarly, a property policy should cover company-owned equipment used by telecommuters. **BI**

Titanic

Continued from page 3

The Fox Baja facility also includes a five million-gallon interior tank, a 32,000 square-foot sound stage and three traditional stages, along with various support facilities.

With all that water, "one of the challenges on the Titanic was we had a water filtration plant," Ms. Darringer noted.

The centerpiece of the project was a 775-foot, nearly full-size, exterior model of the famed ocean liner, used for many of the exterior shots and in the re-creation of the ship's sinking.

"The biggest challenge for us in that particular film was that we had hydraulic cables that could lift the ship up and down," the Fox risk manager said.

Developing that system involved several departments, "and once each one put its piece on paper, we weren't sure the hydraulic cables would actually work," she said. Then, once the system was actually working, there were safety issues to be addressed.

There also was the matter of securing coverage in case the massive Titanic mockup was sunk for the movie's climactic effect only to find that a problem with the film ruined the shot. Extra expense insurance addressed that concern, providing coverage in the event that the filmmakers had to rebuild the model.

That problem didn't materialize, but others did during the "Titanic" shoot. Coverage carried to replace damaged filmmaking equipment was triggered when "the ship collapsed and we had all kinds of cameras and lights under there," Ms. Darringer said.

Such claims are not uncommon in moviemaking. Another film industry risk manager, the session's coordinator and moderator, Sue Boucke, risk manager for Lucasfilm Ltd. in San Rafael, Calif., said, "I think the most common claims we have are equipment or loss of equipment."

'I think the most common claims we have are equipment or loss of equipment,' says Lucasfilm's Sue Boucke.

Another "Titanic" claim emerged when location shooting in Halifax, Nova Scotia, was stopped one day after 80 cast and crew members became ill from eating chowder laced with the drug PCP.

The culprit was never identified, although a disgruntled former employee is suspected.

"We actually submitted that as a civil authority claim," Ms. Darringer said. Because the PCP's presence wasn't immediately discovered, local health officials shut down the set until the source of the illness could be identified. The claim was paid.

In general, one major challenge a film industry risk manager faces is juggling the interests of the underwriter and those who are actually involved in the film's production, said Stephen L. Leedecke, chief executive officer of Claim Specialists International Ltd. in Orange, Calif.

"There's quite a few challenges to us to insure and to convince the director what an intentional act is," Ms. Darringer said.

She cited the case, in another movie, of a camera damaged when it was mounted in the grille of an old Cadillac that was crashed head-on into a van. The filmmakers wanted to file a damaged-equipment claim.

"One of the most difficult things is trying to convince the underwriter to cover these things," Ms. Darringer said.

And, she noted, the filmmakers of "Titanic" wanted to drop a $4.5 million necklace in the ocean, with divers set to retrieve it, because they were convinced a faux version would appear unrealistic to viewers.

Better risk management judgment won out, however, when Ms. Darringer informed the filmmakers, "I can't explain to the underwriters that some shark came up and ate a $4.5 million necklace." **BI**

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Risks from supply chain also demand attention

By GAVIN SOUTER

SAN FRANCISCO—Risk managers for companies whose business relies heavily on third parties and supply chains require a different perspective, two managers for such companies say.

Instead of focusing on risks within their own companies, risk managers for companies dependent on others also must focus on risks to the various links in their supply chain.

Using traditional risk management approaches, such risks can be identified, mitigated, monitored and, in some cases, transferred through contingent business interruption insurance, the two risk managers contend.

Hewlett-Packard Co.'s business has undergone radical changes over the past 10 years, said Ellen Pfeiffer, business risk manager of the computer equipment company in Palo Alto, Calif.

In 1990, the company fully owned all of the units that produced its equipment. By the mid-1990s, however, HP's computer equipment was produced by a mix of in-house units and third-party suppliers. Today, 95% of the manufacturing is outsourced to third parties she said.

"We are now a research and development, marketing, and supply chain management company," Ms. Pfeiffer said.

Amazon.com Inc. also is heavily dependent on third-party suppliers, said Roberta Martoza, director of risk management at the Seattle-based Internet retailer.

The company deals with more than 1,000 vendors and turns its inventory around in less than 48 hours, she said.

It is critical, therefore, that the e-commerce company have an efficient supply chain to reduce its costs as much as possible, she said.

Ms. Martoza defined a "supply chain" as "the strategy, processes, technology and organization involved in managing the flow of materials, services, information and funds from suppliers to consumers."

According to Ms. Martoza, "Every company is involved in some aspect of the supply chain."

Ms. Martoza outlined some of the key differences between companies heavily dependent on supply chains and more-traditional companies. Supply chain-driven companies, she said, are more dependent on strategic partnerships, are "customization driven," and rely on "just-in-time" delivery operations.

Also, such companies focus on their "core competencies" and tap third parties to provide the other resources needed to produce and deliver their products, she said.

Companies operating this way can more easily expand globally; make better use of their managers by focusing their efforts on essential tasks; and reduce the time between the conception and the sale of a product, Ms. Pfeiffer said.

"It's much more efficient," she said.

Despite the differences between companies that outsource much of their operations and traditional companies, risk managers can still rely on tried-and-trusted techniques to manage the risks, Ms. Pfeiffer said.

She said that supply chain risk management involves "managing the risks to an enterprise presented by outsourcing the supply chain through the utilization of traditional risk management processes."

The first step in that process is to identify the risks, she said.

Some of the main risks are well known but are intensified for supply chain-based companies. One such risk is maintaining the supply and continuous availability of products and the possible domino effect if one part of the organization's supply chain goes down, Ms. Pfeiffer said.

Units and suppliers based overseas also may be subject to political, credit and foreign exchange risks, she said.

Newer risks for a company may include technological risks, such as those stemming from Internet communications and the loss of intellectual property; increased global competition, which gives competitors direct access to a company's products worldwide; the convergence of risks into one key resource, such as the Internet; and cyber-terrorism, Ms. Pfeiffer said.

"We have thousands of vendors and suppliers, so how do we focus?" asked Ms. Martoza. One answer, she said, is to employ risk mapping techniques to supply chain risks.

Consider, for example, a major supplier in Japan with a single location that could be shut down by an earthquake, she said. On a risk map that tracks the impact of losing that supplier in terms of "materiality" of a loss and "volume" of products or services supplied, that Japanese supplier's risk would be plotted in both high materiality and high volume quadrants, Ms. Martoza said.

By contrast, a major supplier with multiple locations would be plotted in high volume and low materiality quadrants, she said.

A risk manager could then focus on the single-location supplier and

See **Chain** *on page 28*

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Insurer Topics

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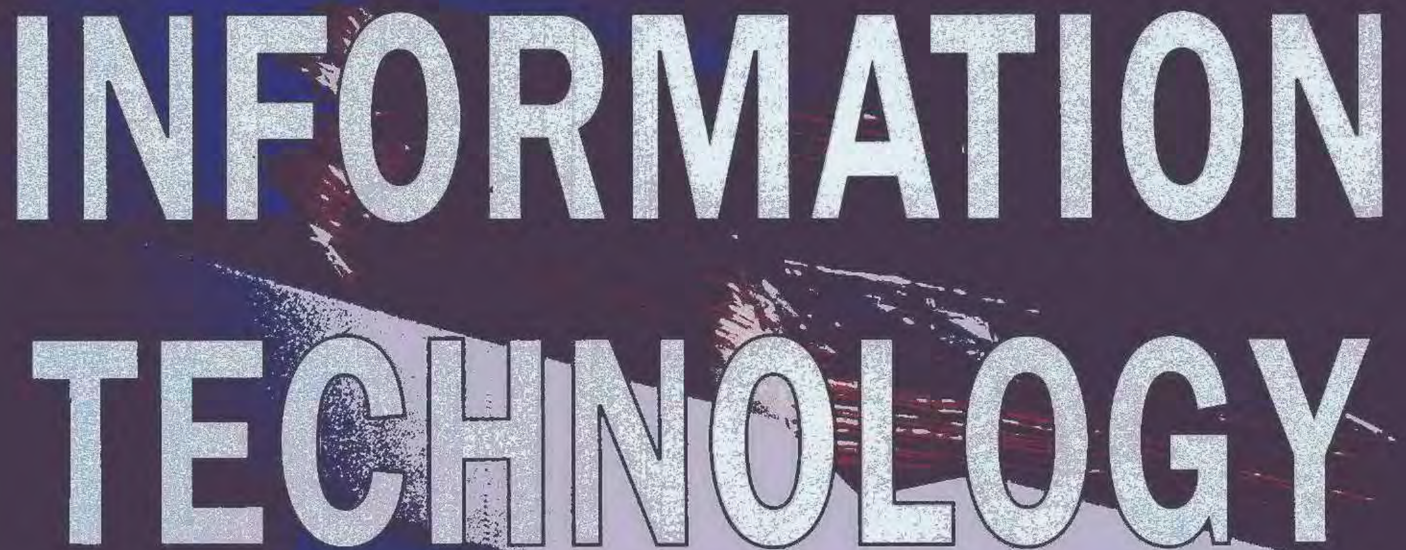

Discovering the advantages of the Internet

Insurance companies finding Web sites an efficient way to generate business

By SALLY ROBERTS

As the online insurance world continues to evolve, one thing remains certain: Independent agents are going to be players in the game.

It wasn't very long ago that insurance intermediaries were being inundated with propaganda maintaining that the Internet was going to eliminate them from the insurance buying process.

What has happened is quite the opposite.

Over the last few months, several online marketplaces have emerged with plans to enable agents to generate leads and obtain quotes from participating insurers—in effect making the traditional buying process more efficient.

Other dot-com strategies include "virtual wholesalers." These sites not only let agents and brokers generate new leads, but also allow them to quote, bind and issue policies via their own Web sites.

"A lot of agents understand that the Internet is here and is not going away, and they are trying to have a presence," noted Mark Trencher, vp-research for Conning & Co. in Hartford, Conn.

Instead of disintermediation, the Meta Group's Jim Kroviak says what is going on in the marketplace is what he terms "reintermediation."

Agents and brokers have not gone away; "they've come back in a different form," said Mr. Kroviak, who is a vp in the marketing research and consulting firm's insurance information strategies group in San Diego.

Agents are "over the initial shock" of the view that they were going to be put out of business because of the Internet, Mr. Kroviak said. "They are now trying to figure out this new reality and where they can play."

"There are a lot of different ways this is being dealt with," he noted.

Although still nascent, most of the Web sites today are online marketplaces or business-to-business exchanges where agents, insurers and buyers all come together to make insurance purchasing more efficient, technology experts say.

For example, WorkComp.Com will give agents qualified workers compensation sales leads from employers and help them find new markets and submit applications online, explained Robert J. Gore, chief executive officer of the San Jose, Calif.-based e-commerce company, which plans a limited launch in June.

WorkComp.Com is a business-to-business exchange platform for employers, insurers, agents and workers comp service providers. Supported with services and information, the exchange facilitates transactions among the involved parties, "but we don't sell the product," Mr. Gore explained.

"The Web exchange model is working very well, and it's exactly that—we bring partners to the table," he said. It may be possible at some time to buy online some workers comp coverage, such as pre-qualified group programs, "but I doubt it will go beyond that," he said.

The Independent Insurance Agents of America Inc. is establishing an online exchange, Big "I" Markets, for its members and participating insurers. The IIAA plans to launch the exchange this month in New Jersey, said Paul Buse, senior vp of IIAA Membership Services Inc., the for-profit operation of the Alexandria, Va.-based IIAA.

Through the association's Web site, independentagent.com, members will be able to gain access to a variety of specialty products, from specialty niches to affinity group products, all endorsed by the IIAA. Chubb Corp., The St. Paul Cos. Inc., and The Hartford Financial Services Group Inc. each have five insurance products that will initially be featured on the Big "I"

See **Online** *on page 26D*

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Online

Continued from page 26B

Markets site.

After obtaining the needed approvals from their state associations, IIAA members will be able to access the site, identify the product they are interested in, submit the information for the application and request a binder if they choose, Mr. Buse said.

This approach will make independent agents more effective and powerful in their communities, Mr. Buse said. "We feel it's absolutely critical to do this as we go forward with in the Internet age."

The IIAA's online exchange is similar to the Internet Wholesale Insurance Exchange, or iwix.net, which launched last month. Iwix.net allows small and midsize agents to place specialty property/casualty coverages with surplus lines insurers online. Through the site, agents can submit specialty risks, obtain quotes from participating insurers and submit requests to bind coverage (*IT*, April 17).

> *Just because companies are selling online, that 'doesn't mean that a consumer doesn't want a local presence if they need it.'*
>
> —Keith Savino

Although the new online exchanges do not allow customers to "click and bind," several "virtual wholesalers" have emerged, connecting agents to products and providing access to buyers.

For example, Insurehelp.com, which plans its full launch later this month, will allow a participating agent to establish a link to Insurehelp.com's products on the agency's Web site. Customers visiting the agency's site can then click and gather information about several specialty coverages, from exhibitor insurance to dental programs to fine-wine collection insurance, explained Keith Savino, founder and CEO of Insurehelp.com L.L.C., a Warwick, N.Y.-based virtual wholesaler.

A buyer can submit an application, receive a quote and bind a policy, all from the agent's Web site, he said, noting that Insurehelp remains invisible to the customer. The agent will receive a commission, which is shared with Insurehelp.com; there is no cost to set up the initial link. Each program sold via Insurehelp has the appropriate binding authority, Mr. Savino said.

In the online insurance world, "it's even more important to keep agents involved," Mr. Savino said. Just because companies are selling online, that "doesn't mean that a consumer doesn't want a local presence if they need it. Who better knows their community? Who is better able to locally serve that community? Independent agents already know how to do this; everyone else is reinventing the wheel," Mr. Savino said.

In addition to agency Web sites, Insurehelp.com distributes its products on co-branded sites, such as an association's Web site, and on corporate intranets. Regardless of the site used, upon completion of an online application or payment, buyers are given a list of local agencies to which they can turn for additional help and services, Mr. Savino explained.

Initial Insurehelp.com test agencies have successfully sold exhibitor and dental insurance programs online, Mr. Savino said.

Insurehelp currently has 200 preregistered agents and has signed up 11 insurers.

In addition, agents can quote and bind auto insurance policies through YouZoom.com, which went live last December.

"We didn't agree with the 'agent is dead' rhetoric" when developing YouZoom Inc., said Kieran Sweeney, chief executive officer of the San Diego-based online wholesaler and an affiliate of Arrowhead General Insurance Agency. "We do see the value of the independent insurance agent in the transaction. The challenge was to equip the agent to do business more efficiently, to enhance their role," he said.

For an annual subscription fee, each participating YouZoom agent will own its own Web site, equipped with comparative rating and customer service applications. Each site is designed, hosted and maintained by YouZoom, Mr. Sweeney said.

The site currently offers auto insurance to consumers in California through Arrowhead General, a managing general agency. It will begin offering homeowners insurance in May and life insurance in June, Mr. Sweeney said. YouZoom will expand into Arizona within the next two months, with plans to move into Texas, Oregon, Washington and Florida sometime later this year.

The company's plan is to build a nationwide network that will offer multiple property/casualty and life products, Mr. Sweeney said.

"Consumers want choices," Mr. Sweeney said. They currently can call or visit the agent's office; "We're now giving those customers a third way to do business," he said.

YouZoom currently has 117 agents with Web sites selling auto insurance in California.

"It's funny to watch the demise of the disintermediation rhetoric," Mr. Sweeney added. "In my opinion, the most successful Web sites will be the independent agents sites, because they will offer a selection of insurance products." BI

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Coregis Web site redesigned to improve customer service

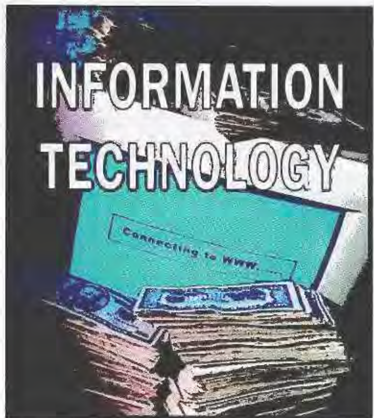
By RODD ZOLKOS

A number of Web site enhancements and monthly disclosure of company performance in key customer service areas are part of Coregis Insurance Co.'s broader plan to better serve its customers and the producers that sell the insurer's products.

The customer service disclosure initiative, known as "Coregis Service Metrics," involves the company using the Internet as a platform for tracking and communicating the insurer's performance in six areas.

The monthly overview, posted on the public entity insurer's Web site, www.coregis.com, includes statistics on three underwriting service measurements:

- Average time from application submission until Coregis contacts an agent or broker regarding quoting.



- Average time between telling an agent or broker Coregis will quote business and the insurer actually providing a quote.
- Average time between when an agent and broker is notified a customer has been underwritten by Coregis and the customer receives the policy.

It also includes service performance data on three claims areas:

- Average time between a claim report and Coregis' acknowledgment of the claim.
- Average time between when a check is warranted and when it is sent to the claimant.
- Average time between the ordering and sending of a loss history.

The insurer expects to add additional performance measures to the list in the near future.

According to Sally Hawk, chief operating officer and quality director at Coregis, the Service Metrics program is an offshoot of a focus on quality at General Electric Co., which is the ultimate parent of the Chicago-based insurer.

The Coregis Web site, relaunched in March, now includes features that track and communicate service quality.

One of the first things G.E. did after acquiring Coregis was seek baseline information on the company's performance, Ms. Hawk said.

What the company learned was "we weren't performing very well" in terms of providing service, she said, but that "nobody else was performing very well either."

Company officials determined they wanted customer service to be a selling point and, to that end, developed its detailed metrics.

To make the process worthwhile, it was important to understand what customers want. That required "outside-in" thinking, Ms. Hawk said, examining the business relationship from the customer's perspective, an approach that has become part of the company's culture.

And that transformation to focusing on the end user will become even more important as the company and the industry move more toward an Internet sales environment, she noted.

The performance metrics Coregis is tracking are geared to both the producer and the end customer, and also provide the insurer a way to evaluate itself and determine where it needs to improve.

"We don't just publish charts to have nice charts," Ms. Hawk said. "We actually sit down to look at points in those charts."

In addition to the Service Metrics, a relaunch of Coregis' Web site in March included adding 24-hour claim status tracking, posting a series of detailed loss prevention guides online and an online public entity risk management newsletter titled RiskTrends@coregis.com.

The site's claim status feature builds upon an existing online claims reporting capacity. It gives customers the ability to track claims 24 hours a day, and allows them to get more detailed information by submitting e-mail queries directly to the claims adjuster.

The loss prevention guide feature enhances the company's Coregis Loss Prevention System by providing customers online access to Coregis' Core Policy Guides.

Six of the online guides will be featured each month, offering step-by-step information on reducing exposures in such areas as emergency preparedness, sexual harassment, storage and control of flammable materials, substance abuse and vehicle use, among others.

The online risk trends newsletter will be published monthly, and will include articles on subjects relevant to public entity risk management.

"We're putting more services in there that really add value for the customers," Ms. Hawk said.

"Our goal is to make Coregis more of a 'go-to' site," said Thomas R. Eisenhart, director of marketing communications and e-business at Coregis.

"It's just a whole way of saying we're going to be an information services company that competes in the insurance industry," said Chan Galbato, president and chief executive officer of Coregis.

With its online enhancements, Coregis hopes that for agents and brokers the Web site will ultimately function as a an online work station, while for the end customer it can be an educational tool.

In addition, providing customers such online tools as the ability to prepare their own loss runs—typically a producer activity—will free up agents' and brokers' time, time they put to use producing business. BI

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Insurer Topics

Industry pushes for uniform e-signature laws

State, federal legislation sought by insurers, intermediaries to streamline Internet business

By LEE FLETCHER

As more insurance business is transacted over the Internet, insurers and intermediaries are pushing hard for uniform legislation regarding electronic signatures.

Both state and federal legislation on the subject exists, and many insurance professionals are supporting whichever they believe can be enacted in the fastest manner.

According to Patrick Watts, assistant vp with the Alliance of American Insurers in Downers Grove, Ill., "There are a lot of things in the insurance business that require a signature by somebody, typically by the applicant or the insured, and if you can't do that electronically, then you can't do business electronically," he said.

Joel Wood, senior vp of government affairs with the Council of Insurance Agents & Brokers in Washington, agreed that quite a bit of material, such as insurance policies and claims information, can be handled electronically.

"Sometimes even the most complicated policies can still be streamlined. The digital signature is a very important part of it," Mr. Wood said.

Robyn Rowen, Washington-based senior counsel for the National Assn. of Independent Insurers, said that Internet transactions will be of benefit to industry professionals as well as consumers by allowing business to be transacted anytime and anywhere. "With the Internet you can cost-compare," she said.

One piece of state legislation circulating is the Uniform Electronic Transactions Act, which gives a Web signature the same legal status as a paper signature and ensures that electronic records are legally as valid as paper records, according to Ms. Rowen. The National Assn. of Insurance Commissioners' Electronic Commerce and Regulation Working Group has endorsed UETA.

> *"In this litigious society, you need to know if you complete a contract online, that that contract is valid. It should not be invalid simply because it's electronic."*
>
> — Robyn Rowen

According to Mr. Watts, UETA would provide some uniformity among state laws. It's a serious matter, he said, when an electronic signature or record that is valid in one state is not accepted in another state. All Internet business runs across state lines.

"We've been supporting UETA in essence because it lends validity to both electronic records and signatures. Most states have some form of electronic signature law, but most of them vary considerably in how they define an electronic signature and the terms under which they are regarded as valid," Mr. Watts said.

Ms. Rowen said that the legislation is crucial "because in this litigious society, you need to know that if you complete a contract online, that that contract is valid. It should not be invalid simply because it's electronic. That's what UETA is doing."

At least 14 states have already enacted UETA. But concern exists that even though states are passing UETA, many are limiting the types of business to which the legislation applies, often prohibiting insurance transactions.

In California and some other states that have passed electronic signature legislation, certain transactions are not allowed, according to Ms. Rowen.

"UETA says that both parties have to consent. The people doing business electronically are the ones that want to, so it doesn't make sense to exempt certain transactions from being done electronically if the person who is doing it is perfectly comfortable and wants to handle it that way," she said.

According to Ms. Rowen, California's restrictions on electronic signatures for some types of business mean the state has a dual system.

"You're going to have people saying they want to conduct business electronically and the insurance company may let them do that for customer relations, but then they're going to have to send a paper backup for certain things. That, obviously, defeats a lot of the purpose and a lot of the cost savings," Ms. Rowen said.

The CIAB's Mr. Wood said that the insurance industry has been woefully behind other segments of the financial services industry in coming online.

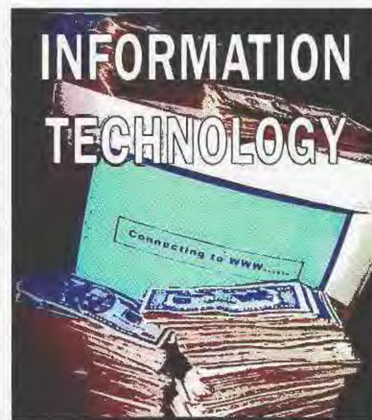
"Agents and brokers recognize that the survivors in the kind of hypercompetitive commercial marketplace today have to ratchet out costs in every stage along the way. Risk managers demand it. If there's any industry that has been burdened by duplicative mounds of paperwork, it is the insurance industry," Mr. Wood said.

> *"Agents and brokers recognize that the survivors in the hypercompetitive commercial marketplace today have to ratchet out costs in every stage along the way."*
>
> — Joel Wood

Two pieces of federal legislation are circulating in Washington, according to Mr. Wood. The Senate bill, S. 761, is known as the Millennium Digital Commerce Act, while the bill in the House of Representatives, H.R. 1714, is the Electronic Signatures and Global and National Commerce Act.

"The House's bill is better with respect to electronic records," he said.

But according to Mr. Wood, some consumer groups are complaining that "the bills exacerbate the digital divide," excluding those without access to Internet technology, and the groups are therefore stalling the legislation.



"What is behind their opposition is just some fear that this is going to force people into a computer world and that it's not going to be as effective or efficient for financial services firms or any firms to transact business the old-fashioned way," he said.

Calling the complaints of the consumer groups "utterly without merit, Mr. Wood said that "there's nothing in this bill that forces anybody to do anything. It just gives legitimacy to the electronic signatures."

The federal legislation has passed both the House and the Senate and is now in conference committee. But, according to Ms. Rowen, questions about privacy are slowing the process. She said, however, that privacy has always been a concern of insurance companies.

"Because of the nature of the information, insurance companies have always had to be cognizant of privacy issues. Doing business online is not that different. It's not like, all of a sudden now, they have to start worrying about privacy," she said.

Mr. Wood said that "there are multiple protections in this legislation to assure that electronic manipulation does not occur and that this doesn't give any kind of undue power to the insurer or to the broker. I think that's why risk managers have been helpful with this."

"I think the privacy issues have been thoroughly addressed in this, because it is strictly transactions that are voluntarily entered into between sellers and buyers," he said.

State-by-state passage of a measure such as UETA is difficult and takes time, according to Ms. Rowen. "A lot of people feel that a federal solution makes more sense," she said.

Ms. Rowen said that while federal legislation may not pass this spring, she expects it to be passed by the fall of 2000.

Mr. Wood said that "there is a strong sentiment on both sides of the aisle. When it happens, it will happen fast. I think it will (pass) before the July recess."

"A bill needs to come out. Anything is better than nothing. Because insurance is the only financial services industry that does not have national regulation, this expressly applies to our industry," Mr. Wood said. BI

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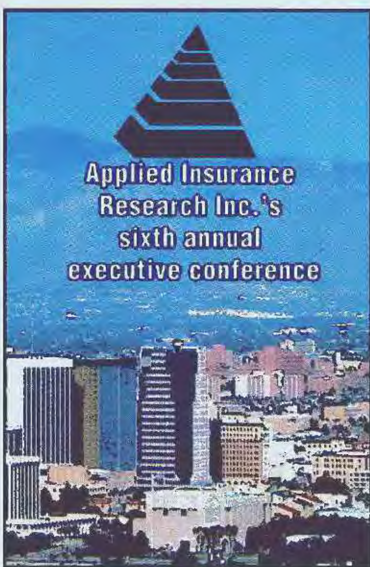
Modeling tool gives USAA broad business picture

By DAVE LENCKUS

Even though it is in its infancy in the property/casualty insurance industry and it can be complex, dynamic financial analysis modeling can help insurers make better financial decisions, two insurance executives say.

Indeed, the benefits that DFA modeling promises make the future "look bright" for the financial modeling technique, according to Jonathan Blake, a financial actuary with United Services Automobile Assn. of San Antonio.



During a session last month at Applied Insurance Research Inc.'s 6th annual executive conference, Mr. Blake and another USAA representative detailed the potential benefits and complexities of DFA modeling and how the tool can be used.

The conference, held in Tucson, Ariz., focused on how capital allocation and modeling technology can increase shareholder value. Boston-based AIR is a leading provider of catastrophe modeling services to insurers, reinsurers and capital markets.

USAA has been using DFA for nearly two years to model various financial scenarios, and it plans eventually to model its enterprise risk using the tool, said Mr. Blake and Susan Evers, a senior vp and senior financial officer for USAA's property/casualty unit.

USAA officials want to use DFA modeling to help the insurer maintain its high ratings with various insurer rating agencies, Ms. Evers explained.

USAA is a 78-year-old financial services company that writes property/casualty business in all 50 states. USAA, which also writes life insurance and offers investment management services, owns and manages $58.9 billion in assets. The insurer reported $8.3 billion in revenue, $5.2 billion in written premium and $624 million in net income in 1999.

While DFA modeling is relatively new in the property/casualty insurance industry, banks have used the tool for many years to model their interest rate risks, Mr. Blake told session attendees. Property/casualty insurers began using the tool just a few years ago, as interest rate risks became increasingly important to them.

The tool is a consistent methodology applied in a holistic company framework, Ms. Evers said.

By integrating information on a wide variety of financial data—including a company's assets and liabilities and capital market factors—DFA can provide insurers with informed evaluations of the reward and risk trade-offs of a wide variety of strategic business decisions in any single area, she said.

The advantage that DFA modeling has over other financial analytical tools is that it delivers a range of results of a business decision, instead of a single static point estimate, Ms. Evers said. "It leaves you better educated on the range of your expected

See **Analysis** on next page

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Analysis

Continued from previous page

performance," she said.

After using the tool, "we still have to make one choice, but we're better informed in making those decisions," Ms. Evers said.

DFA modeling can help insurers make better-informed decisions in a wide variety of areas, she said.

It can aid in strategic planning in such areas as claims management and settlement strategy, reinsurance planning and market strategy.

It can aid an insurer in its capital adequacy and capital allocation decisions, liquidity analysis, asset and liability management and tax planning, Ms. Evers said.

DFA modeling can help executives assess how their company might fare in a range of future economic, competitive and regulatory environments and identify those risks that most threaten a company's solvency.

It can also help determine the value of an insurance company or a block of policies for a potential buyer or seller.

DFA modeling has helped USAA executives evaluate its capital adequacy, Ms. Evers said. It has provided the various scenarios that "we hoped it would, as well as a midpoint range where we thought it would be," she said.

> *After using the tool, 'we still have to make one choice, but we're better informed in making those decisions.'*
>
> — Susan Evers

Mr. Blake compared a DFA model to a vehicle; it is, he said, one mechanism that comprises a multitude of components. Some of the submodules that make up a DFA model are growth potential, loss ratio deviation, economic events, underwriting performance, the impact of catastrophes, and accounting and tax scenarios.

The nuts and bolts of those modules are variable risk drivers, which DFA isolates and models. Those risk drivers include macroeconomic factors, such as changes in interest rates and capital market volatility. Those factors play into the results of a company's investment portfolio.

Other factors are growth rates, loss and expense experience, and catastrophe loss experience.

"With all of these pieces jumping around, how do we put them all together? Picture building a house," Mr. Blake said.

Mr. Blake said that one possible DFA model flow would be to begin with a growth module and a loss-deviation module for non-catastrophic losses. Both would flow into the underwriting module. The growth module also would flow into the catastrophe-loss module, which also would flow into the underwriting module.

An economic-scenario module also could flow into the underwriting module, and both could flow into an accounting/tax module. That module then could flow into a consolidation module.

Mr. Blake explained that several insurers separately perform modeling for individual companies within their organizations and then consolidate those models to form a group picture.

Insurers have three ways to make DFA modeling a part of their financial planning, according to Mr. Blake.

One approach would be to build a DFA model in house. But Mr. Blake advised against a tailor-made model, because "it is not very economical." He said that the insurer would have to struggle through some difficulties needlessly, because someone else "has already figured out the hard part."

In addition, he said, the insurer would have to draw on expertise in many different areas, including modeling and technology, that may not be available within the company.

A second approach would be to purchase an off-the-shelf model. The advantages would be that the model likely would be state of the art and could be implemented quickly, Mr. Blake said. But a generic model may not meet all of a company's needs, and future enhancements of the model may be limited, he noted.

USAA took what it considered a hybrid approach. It worked with an outside firm to modify a developed model to fit USAA's specific needs. The state-of-the-art model took less time to implement than it would had USAA developed a custom-built model, and future enhancements are possible, Mr. Blake said.

In implementing a DFA model, an insurer probably will "hit the wall," much like a marathon runner does around the 20th mile of a race, Mr. Blake said. Some obstacles will be within its control, but others will not, he said.

Some of the challenges include the fact that a property/casualty insurers' risks are tougher to model than are those of a life insurer. Mr. Blake advised session attendees not to overestimate the model's capabilities and to generate management reports that summarize the assumptions fed into the model as well as its output.

Insufficient data also may be a problem, but Mr. Blake suggested that difficulty could be overcome by using outside sources to conduct intense studies.

An insurer also must be "realistic in estimating the amount of technology" it has compared with what it must have to run its model, Mr. Blake warned. BI

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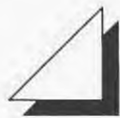

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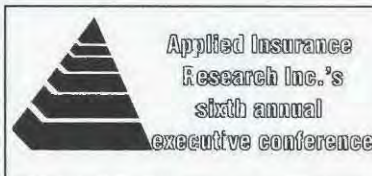
Conference draws 136

Sessions held on cat, financial modeling

Twenty-two sessions on various catastrophe and financial models attracted 136 attendees to Applied Insurance Research Inc.'s sixth annual executive conference.



The Boston-based provider of catastrophe modeling services for insurers, reinsurers and capital markets sponsored the conference in Tucson, Ariz., April 9-12.

The sessions outlined how companies could use dynamic financial analysis, unveiled a new earthquake model, explained improvements in other AIR catastrophe models and analyzed the Eastern European insurance market.

Arrangements for the seventh annual executive conference have not been finalized. For additional information about that conference or any other AIR event, contact Wendy Lavin-Schilling at 425-467-0477 or at wlavinschilling@ airworldwide.com.

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New earthquake model improves on MMI

By DAVE LENCKUS

A new catastrophe model that accounts for the ability of buildings and their components to withstand earthquakes is designed to provide insurers with a more realistic picture of the building damage that an earthquake likely will cause in an affected region.

The model also allows insurers to analyze how much damage a single building would sustain during an earthquake of a specified intensity.

Engineers for catastrophe modeling service provider Applied Insurance Research Inc. of Boston explained the firm's new model during a session at AIR's 6th annual executive conference, held in Tucson, Ariz., last month.

AIR introduced the model, called the Advanced Component Method for Earthquake Vulnerability Assessment, to its clients earlier this month in an upgrade of its previous model.

A basic assumption of older earthquake modeling has been that ground movement during an earthquake is the single most-important factor in how badly buildings in the affected region would be damaged, explained Nozar G. Kishi, manager of engineering research at AIR.

"But we can see by observation that is not the case," he said, pointing to a slide of an earthquake-damaged area in Japan in which one building stood undamaged next to a neighboring structure that had crumbled during a temblor.

> 'In our model, there is room for buildings not to get damaged. MMI is blind to the flexibility of a building.'
>
> — Nozar G. Kishi

After the session, Mr. Kishi explained that the traditional earthquake model, known as the Modified Mercalli Intensity Model, is based on the results of a survey of 60 engineers with expertise in assessing earthquake damage. For a particular type of building, a handful of those engineers estimated—based on their experience—the amount of damage that an earthquake of a specified magnitude likely would cause.

"No engineering is involved" in that model, Mr. Kishi said. "It's just based on their experience."

Conversely, the ACM model considers building flexibility during an earthquake to more accurately model expected damage, Mr. Kishi said.

The ACM model accomplishes that by factoring in a range of reasonably expected damage to various building components, explained Ugur Kadakal, senior research engineer for AIR.

This analysis is significantly different from the analysis conducted under the conventional method, Mr. Kishi stressed. "Our method, for the first time, is dissecting a building into a manageable size to analyze the deformation of each part in this building," Mr. Kishi said.

"In our model, there is room for buildings not to get damaged. MMI is blind to the flexibility of a building," he said.

Mr. Kadakal explained that AIR turned to component damage analysis because the conventional modeling methodology considers a building as a whole. Therefore, with conventional modeling, "the results are highly subjective," he said. "We'd like to approach it objectively."

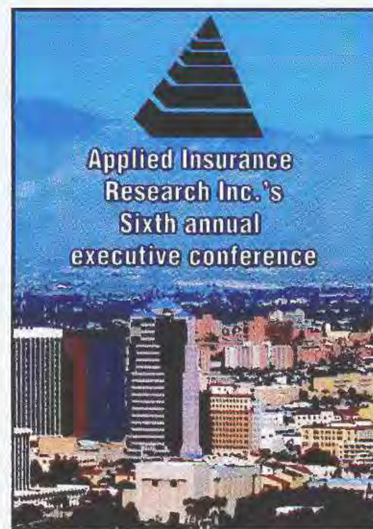
Both the MMI and the ACM models provide a single damage estimate for a specific type of building during an earthquake of a specified magnitude, Mr. Kishi explained.

But the similarities between the models end there.

In the ACM model, for each level of earthquake intensity, AIR conducts 1 million damage simulations for each type of building in a modeled region. Mr. Kishi defined "earthquake intensity" as the combination of the earthquake's magnitude and the affected region's distance from the earthquake's epicenter.

Each simulation considers a different combination of reasonably expected damage levels to building components, based on the building's resistance to an earthquake. Also factored in are varying repair costs for each component, including columns, beams and partition walls.

The numerous simulations incorporate a damage variability factor for buildings of a similar design as well as the variability of repair costs.



Combining the results of all the simulations for a single building type is not a simple process, Mr. Kadakal noted. He pointed out that building damage could vary widely, depending on where in the building a component fails. For example, "if a first-floor column fails, the whole building comes down," he said. But if a fifth-floor column failed, the building would survive.

After all of the results for a building type are combined, the model produces a mean average loss and repair cost estimates and indicates the variabilities on those estimates.

"Our method allows us to address small portfolios and single buildings," Mr. Kishi said. "This is impossible with MMI."

He noted that AIR has a database to draw on to perform portfolio analyses for insurers, so insurers do not have to furnish AIR with such data.

Insurers, however, would have to provide AIR with data about any individual building they would want modeled. BI

Workers comp returns below industry average: NCCI

By MEG FLETCHER

Excess capacity is driving competition among workers compensation insurers and keeping their average return on equity significantly lower than that of other lines of insurance or industries, according to the National Council on Compensation Insurance.

Return on equity for publicly owned companies last year was 7.6% for insurers specializing in workers comp, which is well below the 10.5% return for insurers writing other property/casualty lines and the 11% return for life insurers, according to Bill Schrempf, president and chief executive officer of the Boca Raton, Fla.-based NCCI.

Companies in some industries had substantially higher returns on their equity, including drug manufacturers, 30.5%; large auto manufacturers, 21.3%; large banks, 17%; and retail companies, 16.5%.

Other recent trends in the workers comp marketplace identified by the NCCI include increases in surplus, greater foreign ownership, as well as consolidation among the largest 15 insurers, which as a group have increased their market share to 57.3% for workers comp, compared with a 54.9% share of the total property/casualty market held by the 15 largest P/C insurers. Those percentages are based on 1999 calendar-year net written premiums.

Mr. Schrempf teamed up with

Robert F. Blanco, an NCCI vp and actuary, to analyze insurer performance during the recent annual issues symposium sponsored by the NCCI in Orlando.

The two made several predictions at that meeting, including estimating that two key combined ratios for workers comp insurers will increase several percentage points for 1999. The accident-year combined ratio is predicted to climb five percentage points to a record 130%, while the calendar-year combined ratio is expected to climb seven percentage points to 115%, according to the NCCI (*BI*, May 1).

These statistics appear to present a pattern of accelerating deterioration, Mr. Blanco said. That trend has been exacerbated by several factors, he said, including rapid growth in large-deductible plans, which intensify the decline in risk premium, and an increase in average approved rates or loss-cost changes, following six years of reductions. In addition, there has been growth in scheduled discounts, reserve deficiencies and use of reinsurance, he said.

Also affecting the workers comp market is the fact that "while claim costs are rising steadily, (claim) frequency may be leveling off," Mr. Blanco said. "Estimating frequency is essential to determining how quickly loss costs will jump," he said.

Despite this shifting marketplace, it is possible to outline "success drivers" for a workers comp insurer in the future, Mr. Schrempf said. These include:

- Low premium-to-surplus ratios, which indicate adequate capital for the long haul and a higher break-even point needed to be profitable.
- Good investment performance—a point of higher investment yield is about 3.7 times more valuable than a lower loss ratio to a company's bottom line.
- A lower cost of capital, which raises the break-even point for profitability.
- Low effective tax rates, which improve returns for the same premium and capital base.
- International companies may benefit from increased leverage that improves returns dramatically for any given profitability level.

There are several other factors that may affect an insurer's success, Mr. Schrempf said. For example, publicly traded U.S. insurance companies tend to have higher costs of capital than do mutual, foreign or state-fund companies. It is important to remember, though, that foreign-owned companies and some state funds may receive a much more favorable tax treatment than their U.S. stock competitors, he added.

In addition, foreign companies may be able to achieve greater leverage on their global surplus, he added.

"Lower-performing companies appear to have more equity in their portfolios, lower investment returns, poorer underwriting outcomes, much greater exposure to reinsurance collectibles and less surplus than average," Mr. Schrempf said in his presentation.

California's workers compensation marketplace is a good one to analyze because its experience may be a few years ahead of national trends, Mr. Schrempf said.

Currently, loss costs are rising dramatically in the state, discounting has increased in recent years and accident-year results are among the worst in the nation—estimated at 143% for 1999 in California.

California insurers' prospects are also dimmed by the fact that "large" workers comp benefit increases have been proposed in the Legislature and there also is pressure to roll back key cost control reforms, he said.

How decision makers in California react to this pressure is "a critical question," Mr. Schrempf said. BI

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Chain

Continued from page 26

see whether there are other suppliers that could substitute for it in the event of a major catastrophe, Ms. Martoza said.

Once the supply chain risks are identified, they can be mitigated, said Ms. Pfeiffer.

To start the mitigation process, risk managers first should turn to other managers within their own companies and help them construct business continuity and security plans, she said.

Intellectual property risks that arise from relying on third parties to supply a product or service can often be mitigated by ensuring that a network linking the partners is as secure as possible, Ms. Martoza said. Risk managers, she said, should check their own systems and then check the systems of outside suppliers.

"Your networks are not secure if their networks are not secure," Ms. Martoza said.

In addition, all of the parties involved in a supply chain should sign non-disclosure agreements before they start doing business together, she said.

And when a company's intellectual property is used by others, it must be aggressive and take legal action to stop the problem, Ms. Martoza advised.

Finally, to help mitigate risks, risk managers should conduct regular qualitative and quantitative reviews of the exposures facing all the other companies they rely on, Ms. Pfeiffer said. Targets and plans for improvement then should be put in place, she said.

'Your networks are not secure if (outside suppliers') networks are not secure,' says Roberta Martoza.

Once the suppliers have commitments to reduce risk in place, risk managers can monitor the risks they face throughout their supply chains, said Ms. Martoza.

"And you may have changing business environments, so go back and review your plans and the plans of your partners," Ms. Martoza said.

Risk managers should strive to act collaboratively with the third parties rather than make demands, Ms. Martoza said. Otherwise, any increased costs to the suppliers will simply be passed up the chain. As a result, risk managers need to take time to understand the business processes of their third-party suppliers, she advised.

"Don't just network with other risk management professionals. Go out and network with supply chain managers," Ms. Pfeiffer added.

Once the supplier's risks are understood and mitigated, risk managers can turn to insurance coverage to transfer risk, said Ms. Martoza.

All of the contracts that Amazon signs with third parties include insurance requirements, she said.

Also, Amazon buys contingent business interruption insurance to cover losses that may result from a third-party loss disrupting Amazon's supply chain, Ms. Martoza said.

The session was coordinated and moderated by Greg Phipps, risk manager at Alza Corp. in Palo Alto, Calif. BI

Giving testimony requires preparation and listening skills

By SALLY ROBERTS

SAN FRANCISCO—In today's litigious society, it is almost inevitable that a corporate risk manager will be involved in the legal process, whether testifying at a deposition or a trial.

It is therefore imperative that risk managers prepare for that eventuality, said Andy Wilson, managing director of Wilson & Turner Inc., an investigative consulting firm in Memphis, Tenn.

When witnesses get notice that they must testify, three typical responses are: "I don't need any assistance; getting help is too expensive; and I didn't do anything wrong," Mr. Wilson said.

"You do need help," he said. "You are walking into a strange and unnatural environment. Almost always there is a great deal at stake for you and your company. You cannot win without help," Mr. Wilson said.

With regard to the expense of legal assistance, Mr. Wilson acknowledged that fees indeed are costly. "As with anything, the cost is relative," he said. Being a witness without counsel can be three to 10 times more expensive in the long run in terms of money, time and headaches, he said.

And regarding a witness' response that he or she did nothing wrong, Mr. Wilson simply answered: "So what?"

Risk managers attending a session at the Risk & Insurance Management Society Inc.'s 38th annual conference and exhibition in San Francisco were given Mr. Wilson's "10 rules for success" when giving testimony.

The first five are what Mr. Wilson called the "listen rules," and the others are what he termed the "don't try too hard rules."

"If you leave here with anything, leave with these two principles: listen, listen, listen and don't try too hard," Mr. Wilson said.

The following are Mr. Wilson's top-10 rules for success when giving testimony:

- First, "take your time," he advised.

Mr. Wilson recommends counting to five before answering each question, which allows a witness to establish a rhythm and gain control of the process.

Remaining in control keeps the witness from being rushed, and it gives him or her time to listen. In addition, the pause gives the witness time to thoughtfully consider the answer, and it allows the attorney to object, he explained.

- Remember that a record is being made.

"This is a formal process," Mr. Wilson said. A court reporter will be taking word-for-word documentation, or there may be an audio or video tape during the testimony, he said.

Because it is a formal process, be careful of humor or sarcasm, Mr. Wilson said. Something spoken during a deposition, for example, could look different in writing, he noted.

- Tell the truth.

"Lying is a crime and it's foolish," he said.

Echoing a quote from Mark Twain, Mr. Wilson told attendees: "Always tell the truth: It makes it easier to remember what you said the first time."

- Be polite, "even when it hurts," Mr. Wilson said.

Remain cool, calm and "relentlessly polite" and "do your job," which is to tell the truth and to speak clearly, he said. "Don't play games."

Prior statements and testimony 'have magical powers that can come back to haunt' witnesses, says Andy Wilson.

- "Do not answer questions that you don't understand," Mr. Wilson said.
- "If you don't remember say so," Mr. Wilson said. "Memories fade quickly," he noted.
- Don't guess.
- Keep it simple. To that end, do not volunteer to answer a question, and always speak in plain English, Mr. Wilson advised.
- Be careful of documents and prior statements.

Be careful of prior statements and testimony given, Mr. Wilson said. "They have magical powers that can come back to haunt you," he said.

Before answering a question regarding a document, always ask to see it, Mr. Wilson recommended. Be sure to review and understand the whole document before answering, and do not volunteer the existence of a document.

If viewing a document does not stir up any recollection, "simply say that it doesn't help you," Mr. Wilson said. Let past statements made be the record, he said.

If recollection is refreshed after viewing the document, answer the question based on what is remembered now, he said.

- Use counsel.

Eric J. Sinrod, a partner in the law firm of Duane, Morris & Heckscher L.L.P. in San Francisco also spoke during the session. William M. Wainscott, director of risk management for ServiceMaster Consumer Services in Memphis, moderated the session. Mr. Wilson coordinated the session.

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Compact could be regulatory solution

By Jack Manders and James Schacht

Business Insurance Editor Paul Winston's April 3 Commentary expressed an interest in seeing what alternatives are available besides a state system or a new and inexperienced federal option for regulating aspects of the insurance industry. This invitation was one we could not let pass, because we started searching for alternatives 10 years ago. We agreed then—and still agree—that an interstate compact, as authorized by the U.S. Constitution, can be the solution to attaining the centralized and uniform regulatory structure that everyone seems to want but somehow is unable to achieve under the present system.

While the U.S. insurance industry has seen phenomenal growth—particularly after World War II—under the current state regulatory structure, times have changed. The expectations of shareholders, company managers and customers, along with the globalization of the marketplace, demand a system that is not only better but faster than the current one.

In the context of this article, "better" means regulation that is uniform at every level. With that will come a faster system of delivery in such areas as company and agency licensing and policy form approval.

The state insurance regulatory regime must soon change dramatically, or it will be sucked up into a new federal bureaucracy by public policymakers seeking to please their various constituents. A new federal solution will come with great fanfare and expectations, but with little or no experience and, likely, with no improvement. Unfortunately, once that happens, the states will not be able to recapture the regulation of insurance even if the industry and consumers are not well served by a federal system.

In order to demonstrate how a compact could improve the present situation and deliver the much-needed consistently uniform regulation, it is important to have some background information about how a compact generally functions. That will be followed by a brief description of an existing interstate compact governing insurance receiverships that can serve as a model. Finally, we will discuss how a compact could be structured to meet several of the objectives set out in the National Assn. of Insurance Commissioners' Statement of Intent—The Future of Insurance—namely, bringing insurance products to market quicker and getting insurance companies authorized to do business in more places faster.

What is an interstate compact? Simply put, it is an interstate arrangement that is sanctioned under the U.S. Constitution. It is a legal mechanism whereby states can deal with interstate matters as if they were one authority. The nature of the interstate compact is one of a contractual and statutory relationship between two or more states. The requirements for a valid interstate compact are the same as for any legal contract and statute.

The objectives of a compact, as well as its procedural terms and conditions, are generally established by some appropriate state official or officials. They are then formulated into a statutory proposal that, when duly passed by the state legislature, becomes both enabling legislation for a compact in that state and an "offer" to other interested states. Depending on the terms of the compact, it becomes operative when another state, or a designated number of states, adopts by statute the same terms and conditions, which then constitutes an "acceptance." Through this relatively simple process, the states are now bound in a contract and have an arrangement for dealing with interstate activity on a singular basis.

Normally, the terms of the compact call for the appointment of an administrative board, consisting of members from each compacting state. Through this board, the compact can issue specific rules and regulations relative to the objectives established in the enabling legislation for all compacting states to follow.

Any disputes between compacting states would be submitted to binding arbitration. Additionally, the compact as a contract is protected from inconsistent state laws by the "contract clause" in the U.S. Constitution, thereby prohibiting unilateral state amendment or repeal. Any amendments to the compact or withdrawal by states would have to be in accordance with the terms of the compact itself. Through this process, uniformity of regulation is both created and maintained.

Critics are quick to point out that the compact clause in the Constitution requires congressional approval of all compacts. While it is so stated in the Constitution, the Supreme Court does not read the requirement literally. In the 1978 case *U.S. Steel vs. Multistate Tax Commission*, the high court held that congressional approval of an interstate compact is not required, first, if the compact does not authorize member states to exercise political power they would not have in the absence of the compact and, second, if the states do not delegate their sovereign power to the compact board or commission.

With S. 900—the Gramm-Leach-Bliley Financial Services Modernization Act—specifically providing that the McCarran-Ferguson Act is to remain the law of the land, it seems safe to say that state insurance regulatory compacts would not violate the first condition of the *Multistate Tax Commission* case concerning the exercise of power. As to the second requirement, concerning the delegation of sovereign power to a board or commission administering the compact, in 1951 the Supreme Court held, in *West Virginia et al. vs. Sims*, that a state may delegate both rulemaking and adjudicative authority to an agency or commission created by a compact, just as it could to an agency established by that state alone.

An interstate compact may provide the centralized, uniform regulation everyone seems to want but somehow is unable to achieve.

We do not believe congressional approval for an interstate insurance regulatory compact is needed. But to acquire it should not be difficult, given the current disposition of Congress, as displayed in both the functional regulation approach and the restatement of the validity of McCarran-Ferguson in the Financial Services Modernization Act of 1999.

In 1991, the National Conference of Insurance Legislators began pioneering work on interstate compacts for the purposes of insurance regulation. This work went through a number of creative modifications before the conference reached a prototype. In April 1993, the insurance commissioners in the Midwest zone of the NAIC picked up on the NCOIL project and concluded that an interstate compact could address the deficiencies they observed in the insurance receivership system. Ultimately, the NCOIL created the first interstate compact governing an aspect of insurance regulation. To date, Illinois, Michigan and Nebraska are members of this compact. No doubt, the slow growth of this compact results from the fortunate circumstance that no large multistate insurer has failed recently, as well as the fact that improving the administration of insurance insolvencies has generally not been a high-priority issue for most.

The construction and design of the insurance receivership compact was relatively simple and straightforward. The compact created a commission that executes the various duties and responsibilities stated. The members of the commission are the insurance commissioners of the compacting states.

Since the Midwest zone commissioners observed two significant deficiencies in the current system—a lack of uniformity and a lack of oversight—they established a compact that would set standards and oversee the conduct of state insurance receiverships. The standard-setting role is executed by creating a uniform receivership law and other rules and operating procedures to be followed by the states when administering insurance receiverships. The state legislature must adopt the uniform receivership law but, once enacted, all changes to it become law in each compacting state when adopted by the commission. This procedure not only creates uniformity but maintains it, two objectives never totally solved by state regulation through the process of NAIC model laws and regulation.

The Insurance Receivership Commission functions as a quasi-legislative, administrative and judicial governmental body. It is subject to the standards of behavior characteristic of a governmental entity—openness, accountability and due process. Its funding comes from two sources—state government and an assessment on the insurance industry. If a state concludes that the compact is not serving its interest and that of its citizens, it can withdraw from the compact.

The current company licensing process is plagued by numerous problems— staffing that is inadequate to review filings promptly, a lack of uniformity regarding what documentation needs to be filed, varying standards for admission and a host of other barriers. It may take several years for even a well-capitalized, established company to get licensed in all states, and it may be impossible for a new entrant until it establishes an operational history. The NAIC has recently attempted to bring uniformity to what documentation needs to be provided with the license application, but not all states have adopted their suggestions. Some states that have adopted these suggestions have encountered new problems, because they lack the staff resources to review all the paper the NAIC requires. It is also interesting to note that the inability of regulators to license qualified companies more quickly has resulted in the increasing use of practices such as "fronting," which has necessitated a regulatory response. A compact could rectify this situation.

The first decision that must be made with respect to designing a compact to improve the insurance company licensing process and to attain uniform national treatment is to determine the scope and extent of the activities to be undertaken. For example, one option is that the compact could create a commission that would establish standards for licensing and determine if an applying company met those standards; if so, then the commission could either grant the company the authority to do business in all of the compacting states or certify to the compacting states that the company had qualified for a certificate of authority that would be automatically issued by one or more states.

Another option is that the compact commission would merely establish the standards for licensing, allowing any compacting state to determine if a particular company met those standards. If the requirements were satisfied, the company would be authorized to transact business in all compacting states upon the approval of one of the compacting states.

The result under either process is that a qualifying insurance company could be licensed where it sought to do business by making just one filing and satisfying just one set of requirements.

The procedures and options previously described for company licensing could also be applied to the approval of policy forms and rate filings. The compacting states would agree on the standards and requirements; the authorizing authority could be either one of the compacting states or a commission created by the compact.

The lack of uniformity in the current system also causes delays and duplication for agent and broker multistate licensing and for meeting continuing education requirements. A decade of efforts at the NAIC level has produced only modest simplification of these procedures.

While many states have adopted the NAIC uniform agents application for resident or non-resident licensing, most have also added state-specific material to the back of the uniform application, thereby complicating the application process and, to a great extent, defeating the uniform approach.

See **Compact** *on next page*

Compact

Continued from previous page

As was the case several years back in the area of multistate receivership, the NAIC's Midwestern zone commissioners established a set of guidelines for use by the 13 zone states that introduced uniformity in agent licensing and continuing education standards and procedures and reciprocity for multistate licensing. Several states outside the zone are seeking to join the Midwestern zone commissioners' agreement, which highlights the apparent intractability of these problems in some regions of the country.

In essence, the Midwestern zone approach is on the verge of becoming a compact, even though the zone's commissioners may not know it. All they need to maintain the uniformity they have agreed upon is a commission to administer the compact for all its member states.

If, within three years of the date of the enactment of S. 900, a majority of states have not adopted uniform provisions for agent and broker licensing and for reciprocity for multistate license holders, Section V of S. 900 mandates the creation of the National Assn. of Registered Agents and Brokers. Insurance agents will be able to join NARAB to get streamlined multistate licensing benefits.

The states have precious little time to get their act together, and it takes a while to create an interstate compact. But once a compact is in place, any number of states may join by a simple act of their legislature. Two states, such as Illinois and Iowa, could create the compact, and enough other states could join subsequently to meet the S.900 requirement, thus making NARAB unnecessary.

While the compact is a proven vehicle for solving multistate difficulties, insurance regulators need to understand the concept better and recognize that it holds the solution for the problems they now face.

The views expressed in this article are solely those of the authors and not necessarily those of Drake University or PricewaterhouseCoopers L.L.P. BI

Mr. Schacht

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Risks of modern communications are no joke

"E-Policy: How To Develop Computer, E-mail and Internet Guidelines to Protect Your Company and Its Assets"
By Michael R. Overly
Published by AMACOM Books,
1601 Broadway,
New York, N.Y., 10019;
212-903-8315
$16.95

Book Review

By Kevin M. Quinley

Have you heard the latest off-color joke circulating through the office—maybe something about the risk manager and the farmer's daughter?

If so, you probably got it via the most popular form of modern communication available: quick, easy, irresistible e-mail. In fact, e-mail is so widely used that one large U.S. company estimates 1 million messages zip across its network every day—and not all of them are strictly business.

Therein lies the problem. For while e-mail can be efficient and fun, it can also cause lots of trouble. That dubious joke circulating on the company network could be the impetus for a nasty sexual harassment suit.

Furthermore, employees may be wasting countless work hours carousing on the Web. And trade secrets stored on computers may be compromised by employees, while searches of computer networks routinely uncover pornographic material and pirated software. In short, employee misuse—and outright abuse—of computers, e-mail and the Internet is costing companies a bundle in litigation, settlements, theft and squandered resources.

A new book, "E-Policy: How to Develop Computer, E-Mail and Internet Guidelines to Protect Your Company and Its Assets," can help risk managers determine how organizations can safeguard themselves while sustaining the vitality of these essential communication technologies. In "E-Policy," author Michael Overly suggests that the single most important step is to develop clear, legally sound policies that explicitly define employees' rights and obligations.

Mr. Overly is a practicing attorney with Foley & Lardner in Los Angeles. An expert in multimedia and online law, he is special counsel to the information technology department at that firm.

"E-Policy" is one of the most practical books yet produced on the topic of writing policies for computer, e-mail and Internet use. Mr. Overly clearly and concisely explains many of the legal, employee relations and security considerations involved. He offers step-by-step guidelines for preparing policy statements, including dozens of sample clauses and pre-written, ready-to-go policies.

Mr. Overly also includes real-life horror stories that illustrate the extent of the problem.

Consider this risk management nightmare: Chevron Corp. was recently sued by a group of female employees when offensive messages were transmitted on its internal e-mail system. With no formal written policy to protect itself, Chevron was ordered to pay a whopping $2.2 million in damages.

The bottom line is that companies are responsible for what passes across their computer networks. While it's unrealistic—and probably undesirable—to police every nook and cranny of one's network, it's easy and effective to develop professional computer, e-mail and Internet policies. An up-to-date, well-written policy can mean the difference between being liable for damages and protected from risk.

With the clear, hands-on instructions to be found in "E-Policy," risk managers can develop policies that are as current as their computer systems—thus minimizing their exposure to needless litigation and ensuring that computer resources are used efficiently, economically and professionally. BI

Kevin M. Quinley is senior vp of risk services for MEDMARC Insurance Co. Inc. and subsidiary Hamilton Resources Corp., both of Fairfax, Va. He holds the Chartered Property & Casualty Underwriter and Associate in Risk Management designations.

Crop-duster's free flyover was 'occupational' activity

Legal Briefs

A beneficiary under a group health insurance policy governed by the Employee Retirement Income and Security Act was properly denied coverage for injuries sustained while he was engaged in "occupational" activity, according to the 8th U.S. Circuit Court of Appeals.

Larry Melvin was covered under a group health insurance policy issued to his wife as an employee of Yale Industrial Products. The policy covered necessary expenses as a result of an injury. Injury was defined as a non-occupational condition caused by accidental means.

Mr. Melvin owned a crop-dusting service and was hired to treat three fields. He was forced to interrupt his flight because of rain after dusting only two fields. When the rain subsided, Mr. Melvin returned to the air and completed the dusting of the third field.

Rather than returning directly to the landing strip, Mr. Melvin detoured over his son's farm and began applying "leftover" chemicals. Mr. Melvin's plane crashed moments later and he was seriously injured. He made a claim under the group medical insurance plan for his medical expenses. His claim was denied. Mr. Melvin sued but lost in the trial court.

On appeal, Mr. Melvin argued that his injuries were "non-occupational" because he was not strictly engaged in earning a living when he sprayed his son's field. But the appellate court disagreed. "Utilizing the ordinary meaning of 'occupation'...we do not doubt that Melvin was practicing his occupation when he dusted his son's field for free," the court said. The court emphasized that Mr. Melvin's actions on the day of the accident were directly related to his occupation as a crop-duster. The trial court decision was affirmed.

Melvin vs. Yale Industrial Products, Inc., U.S. 8th Circuit Court of Appeals, Nov. 26, 1999 (BI/01/May-$10)

Medication reaction merits workers comp

An adverse reaction to a medication was an extension of a work injury and, thus, occurred in the course and scope of an employee's job, making compensation under the Workers' Compensation Act her exclusive remedy, according to the Court of Appeals of Texas.

In August 1992, Janis Ann Payne, a nurse, injured her back while assisting a patient at the hospital. Her physician prescribed a non-steroidal anti-inflammatory drug. Ms. Payne obtained her prescription refills at the hospital pharmacy. Ms. Payne was awarded workers compensation benefits for her injuries.

Ms. Payne took the prescription drug for four and one half months and then experienced a severe reaction to its prolonged use. She is now a chronic pain patient, is totally and permanently disabled, and is confined to a wheelchair for the rest of her life. Ms. Payne asserted that the hospital never warned her that the drug was for limited use; instead, they refilled the prescription without question.

Ms. Payne also received workers compensation for the additional consequences of the drug reaction. She then sued the hospital, claiming it was negligent in dispensing the drug. The trial court ruled that her exclusive remedy was through workers comp and not through a negligence suit against the hospital.

The appellate court concluded that Ms. Payne's second injury, suffered during her treatment of a job-related injury, was work-related. Thus, the court said, her exclusive remedy for her work-related injuries was through workers compensation. The court emphasized that, with but one exception, the Texas Workers' Compensation Act exempts employers from common law liability based on negligence or gross negligence. The trial court decision was affirmed.

Payne vs. Galen Hospital Corp., Court of Appeals of Texas, Aug. 26, 1999 (BI/02/May - $10) BI

These abstracts were prepared by Mayo H. Stiegler. Copies of the decisions are available, at a cost of $10 each. Send checks, payable to Mayo H. Stiegler, to Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. Provide the listed number for each decision requested.

Exhibition booths at conference run the gamut

By JOANNE WOJCIK KOCHANIEC

SAN FRANCISCO—The risk management exhibits at the Risk & Insurance Management Society Inc.'s 38th annual conference and exhibition in San Francisco ranged from newfangled "real time" Internet gadgetry to low-tech relationship-building "face time."

Among the more than 400 exhibitors were emerging "dot-coms," many of which have developed Internet-based software to help risk managers do everything from manage claims, determine exposures and even settle suits with as little effort as a finger's click on a mouse.

And, for the first time, several law firms, many of which have become household names in helping policyholders litigate coverage issues, made their presence known in what they have dubbed "The Hall of Promises."

Eugene Anderson, senior partner at New York-based Anderson Kill & Olick P.C., gave that name to the RIMS exhibit hall after years of gathering pamphlets from insurers' booths to use later at trial.

This year, however, Anderson Kill had a booth of its own, promoting its policyholder consulting service practice beside the numerous insurers that have in years past been among the firm's greatest adversaries.

Washington-based dotRisk Ltd. became an exhibitor when at the last minute a space opened in the crowded RIMS exhibit hall floor. The Internet-based commercial lines insurance-buying service quickly put together a booth showing its product, which could replace brokers in the insurance transaction.

"It's principal to principal, the buyer and the end-seller," described Sunil Bala, dotRisk's executive vp and chief information officer. "Brokers have a valuable role in that they provide all the consulting, the risk evaluation, the risk mitigation. They can still provide those services.

"All we're saying is, as a buyer, if you want to reach an insurance company directly," the buyer can post its risks on the Internet and insurers can "bid" on those risks, in a manner similar to the popular Internet auction site, eBay.com, he explained.

dotRisk takes a small commission for this service, which is significantly less than usual broker commissions, according to Mr. Bala.

Besides the online insurance placement function, dotRisk also allows policyholders to sell, or assign, their uncollected claims online, also eBay style.

"Let's say I'm a small regional utility with maybe $15 million in revenue. The last thing I want to do is chase my insurance company. I think I have a claim for $20 million against my insurance company. I don't have the time or the energy or the resources to fight the insurance company, so I put it up for sale here," Mr. Bala said.

"Maybe there's somebody like me who will buy that claim and appoint a group of lawyers and consultants to revalue the claim and pursue it against the insurer," Mr. Bala said. He explained that such a buyer might give the utility, for example, $10 million for the right to pursue the insurance claim, and would then be able to pocket the difference on any eventual recovery.

Also seeking to stand out among the plethora of high-tech exhibitors at this year's RIMS was CAP Index Inc., a company that uses software programs to assess the likelihood of crime in any given location.

Besides giving away free risk evaluations detailing the likelihood of burglary, assault, car theft, rape and murder at conference-goers' home or business locations, CAP posted a map at its booth plotting the crime index for the area surrounding San Francisco's Moscone Center.

"We plotted the location using the latitude and longitude," explained David Ingegneri, national account executive at Exton, Pa.-based CAP.

The contents of the CAP index are taken from a two-year study by the Federal Bureau of Investigation and the U.S. Department of Justice comparing the social characteristics of a given neighborhood with the types of crimes committed there.

In addition to these statistics, CAP incorporates into its index information from interviews with criminals and projections from law enforcement agencies, according to Mr. Ingegneri.

CAP Index data also can be accessed on the Internet via APBNews.com, a Web site that tracks crime across the country.

Risk managers who would like CAP Index maps for their locations must contact the company directly at the moment, but by year end the information will be accessible via the Internet, Mr. Ingegneri said.

First-time RIMS exhibitor Comdisco has been in the disaster recovery business for some time, helping companies retrieve lost data after disasters such as fires and earthquakes.

But at this year's conference, Victoria Patten, senior manager in software marketing and integrated technology services at the Englewood, Colo.-based company, was emphasizing the availability of the company's "hot sites" and "cold sites" to protect sensitive data.

Hot sites are locations with computers already in place, where a company that has just experienced a catastrophic event, such as a fire or earthquake, can move to continue to operate.

Cold sites are "empty rooms" into which companies can transfer their data-processing equipment, if it is still intact. Cold sites are usually used in situations such as extended power failures, Ms. Patten explained.

"We also have consulting services which help you determine where your areas of focus are that you need to plan. They'll help you write a plan and help you assess what kind of subscription you might need—a hot site or a cold site," she said.

Comdisco also provides software tools, ranging in price from $1,000 to $25,000, to help risk managers determine which business functions are most critical to their organization and help develop a customized disaster recovery plan.

EHSmanager.com L.L.C. uses its Internet-based "Worksafe System" to help risk managers comply with regulations from the Occupational Safety and Health Administration.

The system allows employers to "inventory their chemicals, provide online hazard communication training to their employees, it allows them to fill out their first report of injury forms, create OSHA 200 logs and then take all that information and provides them with roll-up reports on accident, injury and illness statistics," explained Richard Detrick, vp-content development.

Subscriptions to the service are as low as $29.95 per month.

"For the first time small companies can have access to the same knowledge of environmental and safety information that big companies have enjoyed for years," said Jeff Stull, vp-business development for Overland Park, Kan.-based EHS. "Just because a company's a small company doesn't mean that those workers don't have the same knowledge base and focus on safety that big companies have."

The program, which has been available on the Internet since October, was launched publicly at this year's RIMS conference.

clickNsettle.com is the newest service to be offered by 8-year-old NAM Corp. of Great Neck, N.Y., a provider of arbitration and mediation services, explained Roy Israel, president and chief executive officer.

"A couple of years ago, we came up with the 'fabulous' idea for clickNsettle.com, which in essence is a blind bid negotiation over the Internet," he explained.

It creates an alternative to real-life negotiation, which he describes as the phenomenon where "one party wants $100,000 but says he wants $300,000 so that three years later they can actually get their $100,000," Mr. Israel said.

Rather than haggling back and forth for days, months or even years, with clickNsettle.com, negotiations can be done in a matter of hours, he said.

"clickNsettle.com allows you to enter a figure which you would legitimately like to settle for into a black box. Your adversary enters a figure into that black box. If the figures are within 30% of each other, the case will settle at midpoint," he described. "If it doesn't, you've never seen what your adversary has put in."

Both parties to the negotiation also enter into the "black box" their absolute highest offer or lowest acceptable settlement amount so that bidding never gets out of those parameters, Mr. Israel explained.

"It's the only site like this on the Web that allows parties to negotiate back and forth with an unlimited number of bids," he said. "When you finally reach your limit, you simply input 'final bid' and your adversary can hit against that."

If no settlement is reached online, however, clickNsettle.com refers participants to NAM Corp. mediators.

clickNsettle.com is relatively inexpensive to use. "It's $15 to submit a case, that's it," Mr. Israel said. "That entitles you to your first bid, then we set up a 60-day negotiating period. That 60 days is broken up into 20-day cycles. During the first 20 days, every bid is just $10. During the second 20 days, every bid is $15, and during the last 20 days, every bid is $20."

"If a case settles and it's under $10,000, it's $100 per party. If it's more than $10,000, it's $200 per party," he said.

In any case, it can be a lot cheaper than hiring a lawyer. "What you're really talking about is negotiating, and if you're unsuccessful, paying maybe $50 or $60. And if you're successful, a couple of hundred dollars," Mr. Israel said.

The preponderance of high-tech settlement tools did little to deter the legal professionals who also were seeking to attract risk managers' business at this year's RIMS conference.

The Harmonie Group, a network of U.S. insurance defense law firms, was sandwiched between two longstanding fixtures—INSUROLAW, a consortium of European law firms, and the Canadian Litigation Counsel.

The three groups have worked together in the past on complex insurance litigation that spanned the two continents and decided to exhibit together to demonstrate their collective strength, explained Dave Larson, an attorney at Lewis D'Amato, Brisbois & Bisgaard L.L.P. in San Francisco, and a founding member of the Harmonie Group.

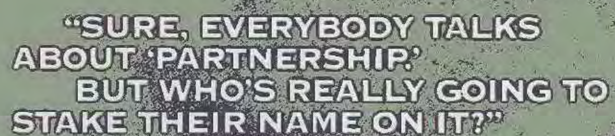
"It's a sign of the times that lawyers are having to get their name out," he said, acknowledging all of the competition in the insurance litigation field.

Across the exhibit hall, at Anderson Kill's booth, partner Joshua Gold referred to founding partner Eugene Anderson's reference at trial to RIMS' "Hall of Promises."

"This is the other side of the insurance transaction. We're here to make sure insurers live up to their billing," Mr. Gold assured. BI

PHOTOS: MICHAEL MARCOTTE

More than 400 exhibitors displayed their wares at the Moscone Center in San Francisco during the 38th RIMS annual conference and exhibition. Among this year's newer vendors were law firms from throughout the world and Internet companies offering all manner of insurance-related software and services.



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Avoiding reduced coverage from expanded exclusion

By DAVE LENCKUS

SAN FRANCISCO—Risk managers can take several measures to improve the chances that general liability insurance policies will respond to losses that involve contaminants but do not result in environmental contamination, according to a panel of pollution exclusion experts.

Improving the odds for coverage of such losses will take some effort at the time that risk managers purchase general liability coverage as well as right after a loss occurs and during litigation, the panelists say.

Even after losing a claim in court, risk managers still may be able to win coverage, one panelist noted during a session at the Risk & Insurance Management Society Inc.'s 38th annual conference and exhibition, held April 30-May 5 in San Francisco.

Panelists at the session explained the evolution of the absolute pollution exclusion in current commercial general liability insurance policies.

Insurers contend that the exclusion bars coverage for any loss that involves a contaminant or substance that can be an irritant to an individual or cause property damage. The exclusion applies even if those losses did not result in environmental contamination, insurers say.

Policyholders argue that such an interpretation negates the CGL policy, because almost any substance can be considered an irritant or cause property damage under certain conditions.

Securing coverage for a loss involving a contaminant or irritant begins before a risk manager agrees to purchase general liability coverage, agreed the session's moderator and its coordinator.

Denis A. Julien, who most recently was the director of insurance for PCS Nitrogen Inc. of Memphis and the session's moderator, advised risk managers to work with their brokers before buying coverage to work out exactly what the policy will cover.

In addition, he said, risk managers should meet with the insurers' claims adjusters and underwriters to dispel any erroneous preconceptions that claims adjusters in particular may have about the risk manager as a member of the risk management community.

Mr. Julien said that claims adjusters tend to regard policyholders as dishonest. Adjusters look upon policyholders as likely to try to obtain something they do not deserve and to conceal information to that end, he said.

Meeting with an insurer's underwriters and claims adjusters before buying coverage can "dispel the notion that you're crooked," Mr. Julien said.

The meeting with underwriters, however, should involve more than good public relations, according to policyholder attorney Finley Harckham, who coordinated the session.

Risk managers should obtain from underwriters a letter explaining how the pollution exclusion would respond to different types of claims that do not involve environmental contamination, advised Mr. Harckham, a partner with Anderson, Kill & Olick P.C. in New York.

When a loss involving a contaminant—but not environmental pollution—occurs, risk managers should understand what is weighing on the typical adjuster's mind, Mr. Julien said. Insurers have drummed into adjusters that the adjusters are responsible for protecting insurers and their assets, he said.

That perception and their typical mistrust of policyholders combine with other factors to make claims adjusters feel as though they are at a disadvantage in dealing with risk managers, Mr. Julien said. Some of the other factors include tremendously heavy caseloads, a preoccupation with avoiding crossing their supervisors and, in many cases, an inadequate education for the job, he said.

In addition, "The problem with adjusters is they haven't read the policies," he said. Many policies, he noted, "just aren't the same."

To overcome their perceived disadvantage, claims adjusters turn to the pollution exclusion to rationalize a claim denial, Mr. Julien said.

Mr. Julien noted that after his company suffered a loss, he would read its insurance policy, go over the details of the loss with operations personnel and then review the policy again to fully understand how insurance should respond to the loss.

Risk managers need a strong broker and corporate claims manager to help them work with the claims adjuster to understand the loss and the company's coverage, Mr. Julien said.

If a coverage dispute for a loss involving a contaminant goes to court, policyholders have some strong arguments in their favor, and courts increasingly are agreeing with them, Mr. Harckham said.

Most recently, he noted, the Washington Supreme Court ruled that the absolute pollution exclusion does not apply to bodily injury claims that do not involve environmental contamination (*BI*, May 8).

Mr. Harckham said that one strong argument favoring policyholders is that the "buyback" pollution coverage that insurers said would be available to cover policyholders' excluded risks applied only to losses involving environmental contamination.

Referring to the exclusion and the "buyback" coverage, Mr. Harckham said: "One mirrors the other."

Mr. Harckham said that another piece of evidence backing policyholders is a letter that CIGNA Corp. wrote to the New York Insurance Department in 1993. In the letter, CIGNA assured New York regulators that the absolute pollution exclusion, like the predecessor sudden-and-accidental exclusion, was meant to bar coverage only of losses resulting in pollution releases into the land, water and atmosphere, Mr. Harckham said.

Admonishing insurers, C. Noel Wertz of the Louisiana Insurance Department said that insurers never have made the pollution buyback coverage available to policyholders. Indeed, insurers' failure to offer the buyback coverage was the basis for one of the charges in the massive antitrust lawsuit that 19 state attorneys general filed against the insurance industry in the late 1980s, which was settled in 1994, said Ms. Wertz, the senior attorney for the Louisiana department.

A problem for policyholders is that many courts "don't care about real life," Mr. Harckham said. They refuse to hear evidence about how insurers, when seeking approval of the pollution exclusion, told regulators that the provision would apply only in cases involving environmental damage and that the exclusion only clarified existing exclusionary language, he said. Those courts also would not consider a coverage explanation letter that he recommended buyers obtain from underwriters before purchasing coverage.

Instead, those courts consider only the language in the exclusion, which insurers have conceded is overly broad, to ensure that courts do not grant coverage for gradual pollution losses, Mr. Harckham said.

Insurer attorney Laura A. Foggan, however, maintained that policyholders' own actions brought about the absolute pollution exclusion.

The sudden-and-accidental exclusion was designed to bar coverage for losses stemming from gradual pollution, said Ms. Foggan, a partner with Wiley, Rein & Fielding in Washington and the lead counsel for the Insurance Environmental Litigation Assn.

Even though the National Assn. of Insurance Commissioners agreed with that view of the insurance industry, however, policyholders have insisted that insurers provide coverage for gradual pollution, Ms. Foggan said.

When the disputes were litigated, the courts ruled inconsistently, which led insurers to develop the absolute pollution exclusion, she explained.

Even if a court sides with an insurer in a coverage dispute over the absolute pollution exclusion, though, a policyholder still has a chance of securing coverage for a non-environmental damage loss caused by a contaminant, Ms. Wertz noted.

She advised risk managers to take their underwriters' coverage explanation letter to their state regulators. With that evidence, the regulator may decide to discipline the insurer by suspending its certificate of authority for a few months, she said. That penalty could be more expensive for the insurer than paying the claim, Ms. Wertz said.

Policyholders and insurers, however, have a strong opportunity in today's market to avoid pollution coverage disputes, Ms. Foggan said.

"The good news is that the market acts as a pendulum and is coming back to the middle with a new batch of forms" that restore coverage for sudden and accidental pollution, she said.

This time, however, insurers are defining "sudden" to mean an incident that occurs abruptly and lasts a limited time, like 72 hours, she noted.

"So maybe we've all gotten smarter," Ms. Foggan said. BI

Many factors to consider when it comes to TPAs

By MICHAEL PRINCE

SAN FRANCISCO—To TPA or not to TPA: that is the question.

Whether 'tis nobler to maintain control every step of the way, or release the grip over claims and let another trespass in the fields of administration.

Alas, it all depends on an organization's goals and desires, three speakers said at a session at the 38th Risk & Insurance Management Society Inc. Annual Conference and Exhibition, held April 30 through May 5 in San Francisco.

The ideal situation is to have all claims work done in-house, said David Tweedy, national insurance principal for IBM Global Services in Barrington, R.I. But, he noted, it's not always possible to create an in-house organization or to keep track of all the legal changes that might affect claims administration.

Therefore, each organization needs to make an individual evaluation as to whether it's better to retain claims administration or farm it out to a third-party administrator, he said. "You need to understand your organization before you go either way."

What approach an organization chooses will depend on its capabilities and what it wants from claims administration. Also, the type and volume of claims is an important factor in the decision, he said.

For example, an organization with many claims of low severity would benefit from self-administration. On the other hand, an organization that has many complex claims would benefit from outsourcing, as would an organization with geographically dispersed operations, Mr. Tweedy said.

But these are only rough guidelines, and a thorough analysis that weighs each factor in importance is needed.

"There is no stock solution to anyone's problems," said Frank Giannattasio, assistant director at the Bureau of Risk Management for the state of New Jersey in Trenton.

Several factors must be considered in deciding whether to self-administer claims, Mr. Tweedy said, including constraints on the company's budget, staffing limitations, time constraints for management, the level of commitment to self-administration, and the level of support from senior management.

And each factor should be evaluated based on its importance to the organization, Mr. Tweedy noted.

A self-administered program has many benefits, said Mr. Giannattasio, but perhaps the paramount advantage is "control, control, control," he said.

Self-administration, he said,

enables a company to customize the program to meet its needs.

"You design it, you run it, you pick the philosophy," he said.

One important consideration, Mr. Giannattasio said, is that there won't be an outside party to blame should things go wrong.

"It will be your name on the product now," he said.

Part of running such a program is choosing an attorney to handle claims litigation. That step is particularly important, as a strong relationship with this attorney is critical to ensuring a smooth-running organization, said Mr. Giannattasio. He recommends that managers get input from corporate counsel in selecting the attorney.

It's also important to create career paths for the claims personnel, he said. Once the program is running at peak efficiency, its important to retain the claims staff. Mr. Giannattasio recommends creating different job levels to allow promotions for the staff members.

Another benefit of self-administration is the control it affords over settlements and litigation, he noted.

Self-administration does have a downside, though, Mr. Giannattasio noted. Establishing the infrastructure requires a great deal of time and resources as well as a commitment to see the project through, despite the setbacks that inevitably will occur.

He said that when taking all of this into consideration, one rule should stand out: "You only get what you pay for."

Mr. Giannattasio offered a number of pointers for making a self-administration program successful. First, it's important to identify the program's mission, including whether it will handle all claims, or only certain types. He advises leaving "esoteric" claims to an outside TPA and focusing on the everyday ones, such as workers compensation or auto claims.

Next, putting together the staff is critical, he said, and that effort must consider both the quality and quantity of the staff.

Also, he said, it's important to identify all the problems that existed with service providers, such as TPAs and insurers, and to try to eliminate them.

Should an organization decide to go the other route and outsource its claims administration, it is important to communicate with the TPA, said Cathy Barna, manager-risk finance, insurance and claims for MediaOne Group in Englewood, Colo.

"Tell them exactly what it is you expect them to do for you," she said.

And if problems do arise, they should be addressed immediately, she advised.

Ms. Barna recommends drafting a detailed instruction manual for the TPA that would include how it will be paid and which services will cost extra money.

But hiring a TPA doesn't mean you can forget about claims altogether. The TPA still must be monitored on a regular basis, she said.

"You really can't just say give the TPA a contract and walk away from it."

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Capital

Continued from page 4
making it possible to increase financial leverage.

Judith M. Lindenmayer, vp-Fidelity insurance and risk management at Boston-based FMR Corp., better known as Fidelity Investments, said her company's enterprise risk program stemmed from the company chairman's desire for coverage for "anything bad that could happen, anywhere in the world."

Late last year, the company took the next step in that approach, putting in place a new three-year catastrophe program that includes coverage for operational risks the company faces (*BI*, Nov. 8, 1999).

The current program represents an evolution of a prior three-year program that combined conventional and finite risk insurance to blend financial risks facing the company with traditional risks.

Among the lessons she learned along the way was the fact that "It takes longer than you think," said Ms. Lindenmayer, who also served as the session's moderator.

"It took us 18 months to put together the first $150 million program," she said. "But at the end of that process we had a policy that could cover anything bad that could happen anywhere in the world."

Mr. McAndless agreed that the process is an extensive one, and requires the commitment of the very top officials of an organization. "You don't just go and buy one of these things off the shelf and say, 'I want one of those integrated risk financing products,'" he said.

The UGG risk manager noted, however, that in crafting an integrated program it's not necessary to look to transfer or intensely quantify all a company's exposures; some areas of risk are better handled by internal management controls or even avoidance.

"Our business is commodities," he said. "We don't want to transfer that risk, we want to take it. So you don't want to give up everything."

Ms. Lindenmayer offered a similar view.

"If we sat down to do total risk mapping of everything it would probably be my grandchildren who would finish the process," she said.

But, the Fidelity risk manager said, a business should never assume that a solution simply does not exist for addressing a particular exposure. "You're only limited by your imagination and your ability to craft something that an underwriter is willing to underwrite," she said. BI

Shifting balance sheet liabilities

Loss portfolio transfers provide companies with added flexibility

By RODD ZOLKOS

SAN FRANCISCO—Risk management tools that allow businesses to move a variety of liabilities off their balance sheets can reduce costs while enhancing a company's appearance on Wall Street.

Examining some of the ways risk managers can collaborate with chief financial officers to stabilize earnings and cash flows, a panel at the Risk & Insurance Management Society Inc.'s 38th annual conference and exhibition discussed the potential benefits of loss portfolio transfer instruments.

"LPTs have been around for years, and they're essentially there to help a firm manage liabilities or transfer legacy liabilities off the balance sheet," said A. Todd Cunningham, associate manager, corporate risk options at Hartford Specialty Co. in New York, who coordinated the session.

And, said Michael S. Kelly, a senior vp at Marsh Risk & Insurance Services in San Francisco, the use of claims buyout products to transfer those liabilities tells Wall Street that some exposure "is not something that is going to affect the viability of this deal while I'm holding the debt instrument."

Mr. Cunningham noted that in loss portfolio transfers, the buyer pays a one-time premium on a net present value basis.

The benefits of using loss portfolio transfers include mitigating uncertainty, removing volatility, improving asset management, reducing administrative costs and freeing up debt capacity and the company's cash flow.

Real risk transfer in the transaction provides additional protection for the buyer as well as potential tax benefits, panelists noted.

LPTs, Mr. Cunningham said, "offer you a lot of different options, depending on what your goals and objectives are."

LPT buyers must be aware of key considerations before entering the transactions, however, including their claims payout patterns and their reserving practices.

Each claims portfolio is different, Mr. Cunningham noted. And, depending on the company's reserving practices, "there may be an opportunity to reap some of that cash back."

The company's exposure base is another key concern. "With the era of mergers and acquisitions, exposure bases have changed quite a bit in corporate America," Mr. Cunningham said.

The claims management approach—such as whether the company self-administers claims or relies on a third-party administrator—is another consideration, as are the company's internal rate of return targets and its tax rate and debt-to-equity mix.

Mr. Kelly said that one of the most active areas he sees for loss portfolio transfer is environmental risk. "In about 90% of the deals we've looked at. . .environmental issues are becoming more and more important to getting the deals closed," he said.

Loss portfolio transfers offer a company many options, depending on the company's goals, says A. Todd Cunningham.

Invested-risk contracts, a generic term for environmental liability contracts designed to remove pollution liabilities from a company's balance sheet, provide a way to address environmental uncertainties, Mr. Cunningham said.

In addition to covering liability and cleanup costs, the contracts typically can be written to include potential regulatory liabilities, Mr. Cunningham said.

Products such as terminal funding contracts are available to help companies remove liabilities on the benefits side of the business as well.

"Essentially (terminal funding) is a life product," Mr. Cunningham said, that "allows you to terminate your defined benefit or pension plan liabilities."

By using the group fixed annuity contracts to terminate defined benefit pension plans, companies can retire long-term pension liabilities from their books.

The approach also can reduce plan administrative expenses. "One of the benefits that we see is reducing the plan expenses," Mr. Cunningham said.

And if a pension plan is overfunded, "You can terminate a plan and end up with surplus cash," he said.

Another panelist, Larry Y. Bush, department manager in risk management and administration at Pace, the Arlington Heights, Ill.-based suburban Chicago bus system, noted that his agency used a loss portfolio transfer approach to apply soft market insurance rates to older self-insured liabilities.

From 1996 to 1998, instead of purchasing auto liability or workers compensation coverage, Pace participated in a regional pool, Mr. Bush said. But when it decided to implement a loss portfolio transfer approach to minimize liabilities on its balance sheet, Pace was able to transfer claims it valued at $7.2 million for $5.4 million.

"For Pace, doing a loss portfolio transfer has worked out very well," Mr. Bush said.

Among the factors to consider when looking at such products are premiums, coverage and claims handling issues, Mr. Bush said.

In addition, Pace's losses are fully reserved, and company officials had to weigh the impact of losing the potential investment earnings on those reserves.

"I would very strongly urge you to use an actuary to help evaluate a premium," Mr. Bush said.

There are numerous accounting considerations to be aware of as well, especially when a merger or acquisition is involved, noted Colleen A. Sayther, financial vp at AT&T Corp. in Basking Ridge, N.J.

"Always check with outside auditors with respect to these transactions, particularly in the M&A area," Ms. Sayther said.

In a nutshell, she said, the net impact to entities transferring risks through LPTs is that there is no offsetting the liability on the balance sheet unless there has been genuine risk transfer.

Also, gains from retroactive contracts cannot be recognized up front, but instead must be amortized over the remaining settlement years, Ms. Sayther said. Finally, the nature of the contracts and associated credit risks must be disclosed.

Bruce M. Helberg, risk manager at HCR ManorCare in Toledo, Ohio, moderated the session. BI

Snap-on benefits from its captive

By SALLY ROBERTS

SAN FRANCISCO—Developing a for-profit captive is an excellent way to bring in additional revenues, but risk managers must be aware of the regulatory considerations involved, according to a risk manager.

When Lombard, Ill.-based tool manufacturer Snap-on Inc. was sued over its "dealer inventory coverage program," the issue of regulatory compliance was brought to the surface, said Dan Kugler, director of corporate risk management for Snap-on.

Since 1950, Snap-on has offered its dealers the indemnity program, which covers them for inventory losses on the tool trucks they are driving.

Although a fronting insurer issued the policies, Snap-on handled the claims and received premium income. The plaintiff, who brought suit after Snap-on denied a claim, alleged that Snap-on was not in compliance with regulatory requirements because it was not a licensed insurer in all states where it provided coverage. Although Mr. Kugler said that the company felt it was acting legally, a position supported by its attorneys, Snap-on recently settled the suit.

During the process, however, Mr. Kugler saw an opportunity to move the company's dealer inventory program to a for-profit captive that Snap-on was already developing to sell credit insurance to dealers.

In order to avoid any regulatory issues that might arise from offering such coverage, Snap-on formed its own insurance agency, Snap-on Secure Corp. Inc., which is licensed in every state, Mr. Kugler said. The Bermuda-based captive, Snap-on Secure Insurance Co. Ltd., now acts as the reinsurer for the risk, and all claims handling is done by the captive, he said. The actual policies are still issued by a fronting insurer.

By moving the program to a for-profit captive, "we took care of any regulatory issues," Mr. Kugler said in a follow-up interview after speaking at a session at the Risk & Insurance Management Society Inc.'s annual conference, held in San Francisco April 30 through May 5.

He noted that while for-profit captives are "very worthwhile," one needs to be vigilant about not running afoul of regulatory requirements.

Ensuring such compliance was not the only reason Snap-on moved its dealer inventory program into the captive.

"We wanted to maintain control" of the dealer inventory coverage program and continue to use Snap-on's own policy form, Mr. Kugler said.

In addition, it was very important for the company to maintain the program for its dealers, which Snap-on considers its clients, because it is broader and less expensive than any other program available in the standard market, Mr. Kugler said.

The program strengthens the relationship between Snap-on and its dealers, he said. "I only have 3,330 dealers. If I tick them off, I have no one else to sell to."

At the same time, the program directly contributes to Snap-on's financial results.

"We are supporting the top-line business efforts, because we're getting the dealers back on the streets selling tools quickly," he said.

Ninety-nine percent of Snap-on's dealers buy the coverage, which generates roughly $3 million in premiums for the captive annually, he noted.

In addition to the inventory program, Snap-on offers dealers a "lease-property insurance plan" through its captive, Mr. Kugler said.

When dealers lease equipment from Snap-on, lease contracts require the dealers to carry property insurance on that equipment, Mr. Kugler explained.

The captive's leased property insurance program generates $800,000 in annual premiums.

And later this year, the tool manufacturer plans to roll its dealer general liability program into the captive. Mr. Kugler said that the decision to add the GL program, which has a loss ratio below 10%, was made after an insurer declined the business.

Also in 2000, Snap-on plans to unveil its credit insurance program. Under that program, dealers can purchase credit life, disability and property replacement coverage.

"That program will be bigger than anything else," Mr. Kugler said. Research has shown that the most common buyers of credit insurance are men between the ages of 22 and 42, which fits Snap-on's dealer profile.

Snap-on also plans to offer dealers in the United Kingdom a "mechanic tool insurance program" which indemnifies the dealers for the loss of their tools.

Including other insurance programs Snap-on offers its dealers, the company annually earns $2.5 million on $7 million in premiums.

Profits aside, there are other benefits to developing a for-profit captive, Mr. Kugler said.

One is that the risk management department gains a higher visibility within the company and is seen as a major contributor to the company's bottom line, Mr. Kugler said.

"Never have I had the (chief financial officer) in my office before," he said, noting that the risk management department now earns more money than many of the company's other business units.

As a result, Snap-on's risk management department has increased to 15 people from three since the captive was established, he said.

Karl J. Zimmel, senior director of risk management for Hub Group Inc. in Lombard, Ill., moderated the session. Thomas C. Kendall, senior vp for Marsh USA Inc. in Charlotte, N.C., spoke and coordinated the session. BI

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Risk managers advised to join forces with CFOs

By MICHAEL BRADFORD

SAN FRANCISCO—A risk manager can get a chief financial officer's attention in many ways, but the best might be the direct approach.

"You want to get to the CFO? Go there," said David Mair, associate director of risk management with the United States Olympic Committee in Colorado Springs, Colo. "Go to the land of the CFO, go down to the office with the glass doors and sit down and talk."

Mr. Mair was speaking as a panelist and co-coordinator of a session at the Risk & Insurance Management Society Inc.'s 38th annual conference and exhibition, April 30-May 5 in San Francisco. The panelists discussed ways to communicate with company CFOs, to whom many risk managers report.

Mr. Mair, who reports to the U.S. Olympic Committee's CFO, advised risk managers to learn their CFOs' schedules and to wisely choose times to hold discussions. "I know, for example, that my CFO does not leave the office any day before 5:45. He simply does not go. I also know that from 5:00 to 5:45, I can get some time every day."

At the same time, "I know that you don't go bother him at lunch," Mr. Mair said. "He works through the lunch hour because that's his concentrating time—while everybody else is at lunch and he's not being bothered."

Michael R. Vogler, a principal with PricewaterhouseCoopers in Atlanta, pointed out that the best way to approach a company's CFO depends on its culture.

In his previous job in risk management with RJR Nabisco Inc., Mr. Vogler said it was necessary to make an appointment, sometimes several weeks ahead of time, to meet with the CFO. That lasted until the company suffered a large loss. After that, getting on the boss's calendar was not as difficult, he told the session attendees.

In a similar position he held with a restaurant company—a smaller organization than RJR Nabisco—"it was a matter of just walking up and knocking on the door," Mr. Vogler recalled.

But whatever the approach, it is important that once the meeting takes place, both sides understand the language used, Mr. Vogler stressed. Not only should the risk manager use terms understood by the CFO, but he or she also should understand what the CFO is saying.

As a consultant, Mr. Vogler said he has attended client meetings at which upper management did not want to invite the risk manager because of a perception that the risk manager would not understand what was being discussed. Mr. Vogler said he encouraged the participation of the risk manager despite those misgivings.

"When they get off on accounting issues and start talking about FASBs" and other financial terms, "you better know what they're talking about," Mr. Vogler told risk managers.

Mr. Mair, for his part, urged risk managers to "speak English"

in discussions. The CFO, he said "doesn't care about deductibles, retentions or what the exclusions are. What he wants to know is: Is it covered? Is it not covered? Is it insured at all? Or, what could be the impact to the bottom line?"

One of the "principal reasons that risk managers and CFOs have problems is that they don't share a common language," said Diane Askwyth, senior consultant with PricewaterhouseCoopers in Florham Park, N.J., and co-coordinator and moderator of the discussion.

Paul F. Buckley, treasury director-risk management at Lucent Technologies Inc., based in Murray Hill, N.J., agreed. Sometimes, he said, the risk manager and CFO have a "fly-by" in which "you think you said something the CFO understood and he understood completely different. We both had good intentions but flew straight by each other."

And if there is a miscommunication, "you're the one in trouble, not him," he said.

Mr. Mair encouraged risk managers to "ask questions. . .At the end of the day, we are, fundamentally, problem solvers. The CFO has problems. Let's go in and listen and see where we can help."

He also said it is important to "know the CFO's people. There will be some days when you simply won't be able to get to the senior person in finance or treasury. But know the people that you can get to. Know the controller, know the accountant."

Mr Buckley emphasized that a risk manager who is not versed in the financial aspects of business can find his or her credibility damaged.

He referred to one case in which a risk manager touted a move he made as having saved his company $60 million. Financial managers at the company calculated that the savings were closer to $12 million and that the risk manager had misunderstood some of the accounting aspects of the move.

"And that really hurt that risk manager," Mr. Buckley said. "He did a great thing, but he just didn't understand how to communicate about it to the CFO."

Ms. Askwyth of PricewaterhouseCoopers said she had a chance to review a report presented by a risk manager who had been fired from a large company.

Ms. Askwyth said she was astonished at the number of finance-related mistakes in the report. Without considering such fundamentals as "the time value of money and how long it would take losses to come home to roost," the risk manager recommended a guaranteed-cost insurance program for the employer, she said.

Mr. Buckley said such a mistake is an example of "that loss of credibility" an unprepared risk manager can suffer, the consequences of which can be disastrous. "Once you've lost it, it's time to move on." BI

Targeting behavioral risks key to improved loss control

By JUDY GREENWALD

SAN FRANCISCO—An approach that emphasizes employee behavior over the traditional focus on working conditions can result in dramatically improved loss control, says one risk manager.

St. Louis-based Earthgrains Co., for instance, reduced its injury rates by 50% the first year after it introduced its behavioral risk improvement program, said Kevin Coyne, director, risk management for Earthgrains, the nation's second-largest producer of baked breads.

Mr. Coyne was one of the speakers at a discussion of BRI during a session at the Risk & Insurance Management Society Inc.'s 38th annual conference, held April 30 through May 5 in San Francisco.

Robert D. Schneller, vp-risk control strategies at Marsh Risk Consulting in Houston, said one of the fundamentals of BRI is focusing on employees' work activities.

In contrast, most companies' safety programs focus on workplace conditions, despite studies that show that as many as 80% to 90% of all accidents are caused by workers engaging in risky behaviors, Mr. Schneller said.

And typical attempts at solutions, such as worker punishment and education, are comparatively ineffective, he said. "We see people perform at risk" even after these types of efforts are made, he said.

But "a strong culture will influence what people" do and can encourage them to do things the appropriate way, he said.

Observing that behavior, culture and attitude are all interrelated, Mr. Schneller said it is much easier to start with behavior, rather than culture, in encouraging safe practices.

As a way of demonstrating how behavior can be changed, Mr. Schneller observed that most drivers today automatically click on their safety belts, which was not the case 25 years ago. After a few weeks, such behavior "becomes automatic," he said.

Behavior-based approaches, Mr. Schneller said, use positive reinforcement measures "to improve

the way that we do our work and continue to excel."

Discussing the experiences of Earthgrains, which began to introduce BRI at its 700-worker plant in Paris, Texas, in 1998, Mr. Coyne said that "BRI, for us, has been a gradual process." Although such programs can't be introduced in a day, "it's something that will really help over time," he said.

For example, Mr. Coyne said, feedback to employees on their behavior initially was supplied in solely in writing. Only now, he said, is the company beginning to provide direct verbal feedback. "We are beginning that part of the process," he said.

"Dramatic improvements are possible," said Mr. Coyne. He noted that Earthgrains is now expanding its observations by supervisors—a key element in the BRI approach—to other of its facilities.

But for now, the company plans to introduce the program only at facilities that employ at least 250 workers. Mr. Coyne said he is not sure how successful BRI would be at Earthgrains' smaller facilities, in part because the program requires a lot of administrative support.

Among the advice he offered to others considering implementing BRI was:

- Be sure facilities are prepared to administer the program. "The people and the plant have to be ready to be involved in that process," said Mr. Coyne.
- "Be sure you're prepared to make this an ongoing program," not just a "flavor of the month," he said. "That just doesn't work."
- Use consultants to guide your program.
- Bring the union into the process early on. "You can't skip the union piece," warned Mr. Coyne. If you don't get the union's cooperation up front, you won't get a consistent effort, he said.
- Implement the process step by step. "That's a very important part of the process," Mr. Coyne said.

William F. Taylor, director, risk management at Glendale, Calif.-based Nestle USA Inc., also spoke at the session. The session coordinator was Becky Graeber, vp at Marsh Risk Services in Charlotte, N.C. BI

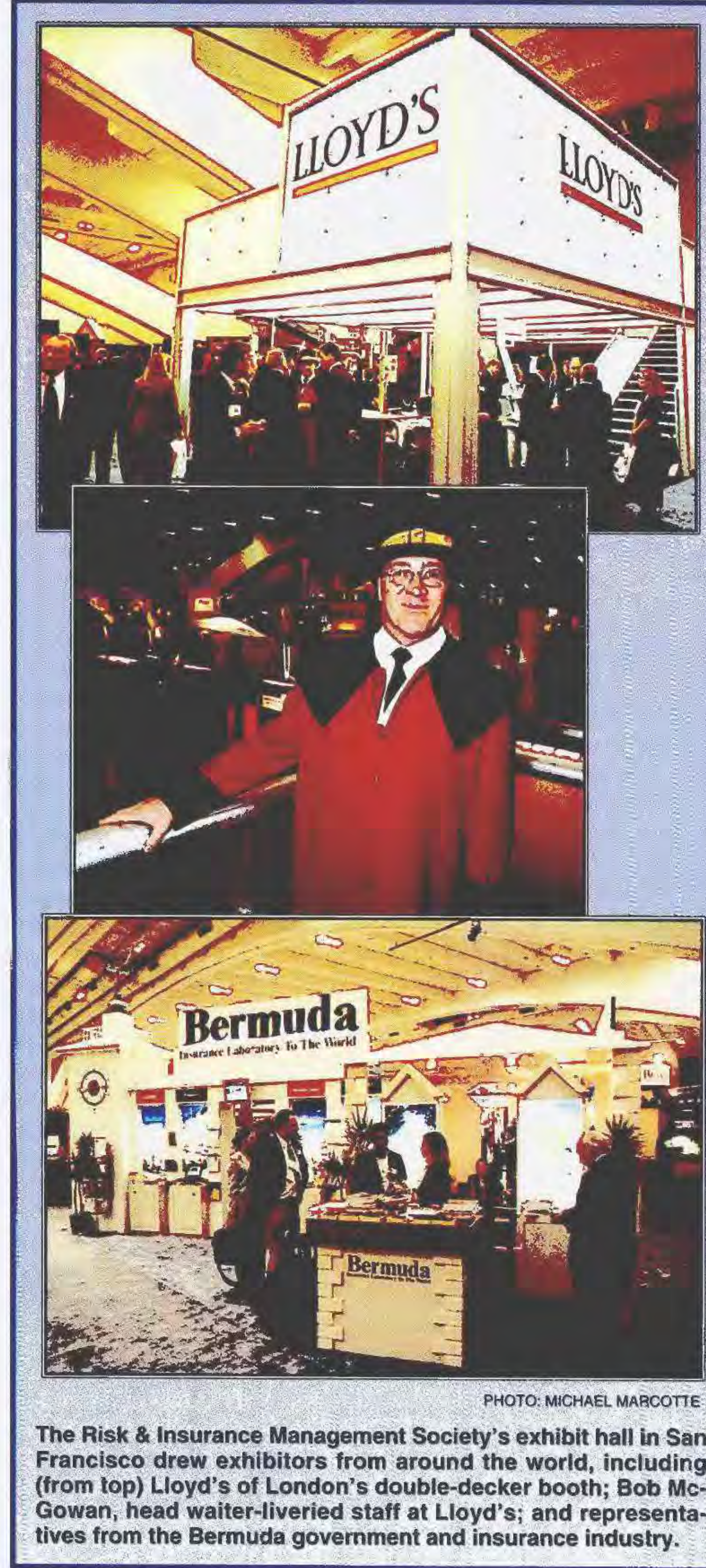

PHOTO: MICHAEL MARCOTTE

The Risk & Insurance Management Society's exhibit hall in San Francisco drew exhibitors from around the world, including (from top) Lloyd's of London's double-decker booth; Bob McGowan, head waiter-liveried staff at Lloyd's; and representatives from the Bermuda government and insurance industry.

Special events mean special risks to consider

By JOANNE WOJCIK KOCHANIEC

SAN FRANCISCO—Risk managers at organizations putting on special events must understand the events to determine the risks involved and to try to transfer as much liability as possible, experts advise.

Unfortunately, this can be difficult to do, especially because risk managers are often the last to learn of such events, said Pamela Britt, manager of global insurance and risk management at Avon Products Inc. in New York.

In fact, she first learned of Avon's plans in 1998 to host a string of special fund-raising events for breast cancer awareness and research through the company's newsletter. Ms. Britt was a speaker at a session titled "Special Events: Help! What Do I Need to Know?" at the 38th Risk & Insurance Management Society Inc. annual conference and exhibition, held April 30-May 5 in San Francisco.

Getting all the details nailed down can be especially difficult in the entertainment arena, where contracts often aren't signed until just before the event occurs, pointed out A. LeConte Moore, managing director and entertainment and media practice leader at Marsh USA Inc. in New York.

"Sometimes you have to stand backstage to get performers to sign the contract," he said.

But an underwriter can tap the risk manager's brain and use the contract—even before it is signed—to determine the scope of risks and provide coverage, said Cindy Broschart, senior vp in the entertainment and sports division of Gulf Insurance Group in Irving, Texas.

Just don't wait until the last minute, or the underwriter may choose to walk, she warned.

"Last-minute requests connote poor business practices," she said. "We might choose to pass."

Too often, risk managers don't understand their company's role in a special event, said Mr. Moore, who provided definitions delineating the roles of promoter, sponsor, and presenter or co-promoter.

"A promoter usually means more liability than a sponsor," he said.

By definition, a promoter takes a very active role in setting up and/or running the event, which typically means signing agreements, hiring people and bringing in subcontractors, he explained.

By contrast, a sponsor takes a

passive role, meaning that the company or its subcontractors are not involved other than through name brand association.

For example, if a company merely posts a banner at the finish line of a race, it's acting as a sponsor and not a promoter, Mr. Moore explained.

Companies that serve as presenters and/or co-promoters may have either an active or passive role, so it's important for risk managers to understand their organization's involvement, he stressed.

"How do you find out your company's role?" he queried. "Look at the contract and talk to the marketing department," he said. "What was presumed or intended?"

Once the risk manager knows the organization's role, he or she should identify the event's inherent risks, Mr. Moore advised.

And the approach should be just as diligent for small events as for large ones, said Ms. Broschart, recounting a story about a tragic event that soured a company picnic in Los Angeles.

The company had provided inflatable play equipment to entertain employees' children during the event. Unfortunately, one of the devices was located too close to a 15-foot embankment, and the land beneath the equipment gave way, injuring the children who were inside it.

"It's important to us that you know exactly what you're doing," said Ms. Broschart. "The goal is to move risk downward and insulate yourself from any liability."

Fortunately, the market for special events coverage is still pretty soft, with one-day policies for small events available for as little as $1,500, according to Mr. Moore.

He said he's never seen a situation where an organization couldn't obtain coverage, "but it may cost you more than you expected."

But while special events coverage is readily available, it contains numerous exclusions, and risk managers should closely examine their policies to make sure they aren't assuming more risk than they intended, Mr. Moore warned.

Among the typical exclusions are those for: liquor, fireworks, auto racing and motorized events, stage collapse, injury to or from animals, amusement rides, third-party property damage and stunts.

Because there are so many exclusions, risk managers should make sure subcontractors, such as equipment providers, have their own insurance, Ms. Broschart urged.

And participants should sign liability waivers, suggested Ms. Britt.

But even if subcontractors do provide certificates of insurance, "you also want to cover yourself anyway," Mr. Moore said. "This is not redundant. This is risk management."

He also said risk managers should work with their legal departments to closely review contracts. "Contracts often pass liability to you that you shouldn't have to assume," he said. "Review them before the event. They can be modified. Know what you're prepared to live with."

He said to focus specifically on the indemnity and insurance sections.

"Ask for changes. All they can do is say no. But it doesn't hurt to ask."

Claims stemming from special events are mostly for slips and falls, but there also may be claims for bug bites, food poisoning or even heat exhaustion.

And claims usually don't come in right after the event. They can take weeks and sometimes even months to be filed, according to Ms. Broschart.

That's why analyzing loss events is so important, she said.

Gary A. Nesbit, director of risk management and benefits at Buffets Inc. in Eagan, Minn., moderated the session. BI

Qualities of a risk manager

Experts say variety of skills are needed to be successful

By LEE FLETCHER

SAN FRANCISCO—Finding success as a risk manager obviously involves many qualities, but according to two industry experts, one must be a true generalist with the ability to take on many roles and be a strong proponent of teamwork and communication.

During the Risk & Insurance Management Society Inc.'s 38th annual conference and exhibition in San Francisco, a session titled "Skill Sets for a Successful Risk Management Career" provided a base of information for those considering a risk management career, those already in a risk management career and those looking to move on.

"There is nothing different about building a career in risk management than from building a successful management career in any other industry," according to Pamela G. Rogers, director of risk management for Sears, Roebuck & Co. in Hoffman Estates, Ill.

Ms. Rogers emphasized the need to have excellent rapport and communication skills with all types of employees.

"Don't alienate the gatekeeper (secretary or administrative assistant)—be able to talk to anyone at any level," she said.

It is important that a risk manager be able to admit that he or she doesn't know everything, and even more important to know how to find out who does, according to Ms. Rogers.

She said it's a good idea to get out and circulate with all levels of employees to learn what they do on a daily basis. "Rolling up your sleeves" and joining others onsite can provide a world of information, she added.

She also emphasized that others are often extremely eager to help.

"Let other people teach you, especially young people. Speak with recruiters; they are invaluable resources. Learn about the skills they look for," Ms. Rogers said.

Tim East, manager of the risk management business process for The Walt Disney Co. based in Glendale, Calif., also emphasized that successful risk managers be able to communicate well. He said communicating well is the ability to communicate face-to-face and in terms that others can understand.

Mr. East said that people call him when they have a claim—after the fact and not before. He emphasized aiming to reverse that order.

"Build the relationships before we need them, otherwise it's difficult to get honest answers," Mr. East said.

He said that focusing on win/win situations is an important way to

work with other employees: for example, delivering good news and avoiding conflict with other staff or operating units.

Through the development of relationships, a risk manager can observe how others do their jobs. According to Mr. East, risk management is accomplished by others, not by oneself.

Risk managers, according to Ms. Rogers, are other employees too, and "if they're not good at their jobs, there will be no risk management position."

Almost all risk managers work with some other company departments, for example, risk management (both domestic and international), insurance management (both domestic and international), claims management, risk management information systems, safety and loss control and human resources, according to Ms. Rogers.

She emphasized the importance of prioritizing and delegating tasks to others who are involved.

Mr. East said that sometimes change may be necessary for improvement, but warned his audience to pick battles cautiously. He said the best way to create change is to provide the information in such a manner that everyone comes to the same "logical" conclusion.

Both Mr. East and Ms. Rogers said that part of a risk management career, like any career, may involve moving on to a different job. When considering a move, Mr. East said to consider relations with one's boss and staff, relations with other departments and the amount of room for professional growth. Additionally, evaluate if any major errors or mistakes have been blamed on you and ask these questions: Do you have management's trust; is there freedom and flexibility in your working environment; and most importantly, are you happy and satisfied.

If a number of questions are answered in the negative, Mr. East suggested either making a commitment to improve one's present situation or moving on.

Prior to joining The Walt Disney Co., Mr. East served in a variety of risk management positions at The Disneyland Resort in Anaheim, Calif. He supervised the workers compensation claims department, implemented its first limited work program and supported the opening of Tokyo Disneyland.

Ms. Rogers, prior to joining Sears, served in various risk management positions with six other major corporations, including General Motors, Nestle, NCR and Chiquita Brands International Inc.

Moderating and coordinating the session was Ben Schull, senior vp, risk management and consulting services with Chicago-based Near North Insurance Brokerage Inc., a member of the Near North National Group. BI

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Broker commission disclosure urged

By SALLY ROBERTS

SAN FRANCISCO—In order to effectively negotiate brokerage service agreements, risk managers need to require full disclosure from their brokers, including whether the brokers receive contingent commissions or profit-sharing arrangements from insurers, a consultant and risk manager advised.

By knowing whether contingent commissions—often used by insurers to reward brokers for the volume of business placed—are being provided, "you can decide if a conflict of interest exists," said Cindy P. Robinett. Ms. Robinett recently left her position as a senior consultant at PricewaterhouseCoopers L.L.P. to join broker Palmer & Cay Inc. in Atlanta as a vp and health care practice leader.

"Risk managers expect to know what is being earned from their account," said Michael Eremchuk, director of the risk management department for First Data Corp. in Atlanta.

But many brokers say they are unable to calculate exactly how much of a contingent commission they have earned on a particular account, because the commission is based on an entire book of business placed with the insurer, Mr. Eremchuk said.

"Part of the problem is that the calculation is done on a senior level and is not being disseminated," Mr. Eremchuk said. "So when brokers say they can't get it, they haven't tried or pressed hard enough to get it."

He noted, however, that until brokers develop the systems to gather that information, "we won't get accurate results."

Mr. Eremchuk suggested that when a risk manager does obtain information about the amount of a contingent commission earned, he or she should negotiate an offset of the broker fee or ask for a portion of the contingent commission back.

A broker sitting in the audience of the session conducted at the Risk & Insurance Management Society Inc.'s 38th annual convention and exhibition, held April 30 through May 5 in San Francisco, then asked Mr. Eremchuk if it was fair to charge a specific customer for the loss of a contingent commission if it was that customer's bad loss experience that resulted in the lack of a commission.

Mr. Eremchuk said the customer should not be charged, because the broker "is not going to take a loss; (the broker) just is not getting added income."

Ms. Robinett said that risk managers should be aware that contingent commissions exist, that brokers should provide full disclosure, and that if a conflict of interest exists, the decision to offset the broker's compensation "should be made on an individual basis."

Ms. Robinett outlined other key points that a risk manager should address in a broker service agreement in addition to the disclosure of any conflict of interest. These points include the compensation method and amount, the term of the engagement, termination criteria, confidentiality rules, the length of runoff services after a termination, minimum service requirements, the timing of stewardship and renewal meetings, and a listing of the designated service team.

In considering compensation structures, risk managers have a right to know exactly what they are paying for, Ms. Robinett said. And risk managers do not have to pay for all of the services available. She warned that if there is an additional service that a risk manager does not want, "be sure to find out whether it is included within the charge."

Discussing whether to compensate brokers on a fee or a commission basis, Ms. Robinett said that "if you're sophisticated enough to have a risk manager that can manage the risk, you can look at a fee approach."

This may include compensating a broker with a flat amount or a retainer for specific services, she said. It may be based on a hourly rate paid to the broker, including expenses. Or a fee arrangement may be negotiated whereby the broker is paid for specific tasks.

One of the more-popular fee-based methods of compensation in use today is performance- or incentive-based compensation, Ms. Robinett said. Under this arrangement, a company pays a flat fee, and if the broker achieves certain goals, it can earn more money, she explained.

In developing an incentive compensation program, risk managers need to outline specific, measurable goals, Ms. Robinett said.

For example, a broker may earn a certain percentage if there is a specific reduction in the cost of risk or in fixed costs, or if a loss ratio is maintained below a certain amount, she explained.

At the same time, "incentive compensation should reward brokers for exceeding client expectations," Ms. Robinett said. She suggests paying an additional fee or rewarding individual team members.

But many brokers in the audience voiced concerns over clients paying extra bonuses to individual team members.

Mr. Eremchuk answered that he "would hope consideration would be given that, if a firm gets a hefty bonus, those individuals will get recognized for the work they did."

Ms. Robinett warned audience members of a few traps to avoid when negotiating broker compensation and setting broker expectations.

"Never use an off-the-shelf broker service agreement," she stressed. "Every company is unique."

Watch out for agreements that call for fees to be fully earned at inception, Ms. Robinett cautioned, urging that fees be spread out over time.

Also, watch out for additional fees tacked on for managing runoff after a separation, she said. "Oftentimes, brokers feel no obligation" to provide services on accounts after the customers and brokers go their separate ways, Ms. Robinett said. She suggests that, in the broker service contract, there should be a provision specifying a minimum of three to five years of runoff services.

"The provision within the contract is binding," she noted.

Ms. Robinett also warned risk managers to watch out for "bait and switch" practices with regard to the broker service team.

"Know who's involved and the role they are playing," she said. Don't let the broker present a "beauty show" and then allow a whole new team to take over the account.

In addition to speaking, Ms. Robinett coordinated the session and Mr. Eremchuk moderated the session. BI

PHOTO: MICHAEL MARCOTTE

The city of San Francisco hosted attendees and exhibitors at the Risk & Insurance Management Society Inc.'s 38th annual conference and exhibition.

Securitization can respond where insurers balk: Speaker

By GAVIN SOUTER

SAN FRANCISCO—Joseph E. Seagram & Sons Inc. might not have run into claims problems following the Northridge earthquake if securitized insurance products had been available in 1994, its risk manager says.

If it had had securitized coverage backed by a guaranteed pool of funds linked to a loss-index trigger, Seagram would have been compensated promptly for its $65 million combined property and business interruption loss, said Wayne Cramer, vp-global risk management at the New York-based company.

Instead, the company's insurer paid for the property loss but denied $25 million of a business interruption claim for a theme park, Universal Studios Hollywood, saying that the decline in attendance was caused by damage to the surrounding area and not by damage to the park itself, Mr. Cramer said.

The claim is still being litigated, and millions of dollars in legal expenses have already accrued, he said at a session on securitization at the Risk & Insurance Management Society Inc.'s 38th annual conference and exhibition, April 30 through May 5 in San Francisco.

"At the time, securitization wasn't available, but I'd look at it now," Mr. Cramer said in an interview after the session.

Guaranteed payment is just one of the benefits of securitization, said other experts at the session.

Securitization also provides increased capacity, and it diversifies a risk management program, they said. In addition, it is useful for covering business interruption risks and risks that the traditional markets shun, they said. And in the nearly four years since the first securitized deals were sealed, the costs of the transactions have gone down dramatically.

Risk managers that buy securitized insurance coverage can get several benefits, said Dennis E. Kuzak, vp at EQEcat, a unit of EQE International Inc. Co., a risk management consulting and risk modeling firm in Oakland, Calif.

Ticking off the advantages, Mr. Kuzak noted that capacity is not limited during hard insurance markets, business interruption coverage is easily secured, multiyear deals can easily be set up and settlement practices can be clearly defined, he said. "We do a deal, you have a loss and it's paid off. ...It's particularly good for business interruption, where settling a claim can be very difficult," Mr. Kuzak said.

But there are differences between conventional insurance and securitized coverage, he said.

Traditional insurance for catastrophes provides excess insurance coverage and indemnity for a certain loss. It is a relationship-based contract that provides an insurance policy, and the payment is a premium, he said.

By contrast, Mr. Kuzak said, securitized coverage is an option, it's based on a basis risk, it's a financial transaction, the documentation is an offering circular, and the payment is based on the London Interbank Offered Rate, or LIBOR, plus a spread.

Securitized coverage is well suited for risks concentrated in one area, such those experienced by amusement parks and manufacturers that are located close to their suppliers, Mr. Kuzak said. Also, electrical utilities that sometimes find it difficult to secure traditional coverage might benefit from securitized coverage, he said.

Another benefit of securitization is the diversification of the sources of protection, said Andrew J. Kaiser, a managing director at Goldman, Sachs & Co. in New York. Also, such deals provide a fully funded source of protection, so there is no credit risk to consider, he said.

Capital markets can also often provide coverage for longer durations than can be found in the traditional insurance market, Mr. Kaiser said. "We've done some deals for 10 years," he said.

And losses under the contracts are clearly defined and claims are paid promptly after a loss-triggering event, Mr. Kaiser said. They also provide flexible facilities that are tailored to specific requirements, he said. Finally, companies that use securitized coverage for some of their risks are often able to negotiate better terms for their conventional insurance coverage with insurers, Mr. Kaiser said.

Since their introduction in 1996, securitized insurance deals have provided a financial framework for non-financial risks. In the intervening years, Mr. Kaiser said, 115 capital markets investors have bought catastrophe linked securities; 21% of those investors are reinsurers or reinsurance intermediaries.

When the securitized products were first introduced, they were widely viewed as being more expensive than traditional insurance and reinsurance, but the costs have been sharply reduced, Mr. Kaiser said. The first deals had a spread of 373 basis points, whereas in 1999, the spread had been reduced to 138 basis points, he said. "So the pricing has become much more efficient," Mr. Kaiser said.

And the cost of structuring the deals has also dropped, he said. In 1997, Goldman Sachs structured a $400 million deal, and the expenses were about $4 million. In 1999 it structured a similar deal for about 15% of that cost, Mr. Kaiser said.

The session was moderated by Mr. Cramer. It was coordinated by Henri Koza, vp at EQE in Irvine, Calif. BI

Economic changes pose new threats to balance sheets

By SARAH VEYSEY

SAN FRANCISCO—The global economy is becoming a reality, and companies must be on guard to protect against the effects this could have on their balance sheets, according to David Hale, global chief economist at Zurich Financial Services Group Inc.

Mr. Hale, who spoke at a session during the Risk & Insurance Management Society Inc.'s 38th annual conference and exhibition in San Francisco, said that he usually talked on the subject of the global economy to portfolio managers. He said the RIMS conference marked the first occasion that he had ever tried to address the topic from the perspective of risk managers and insurance professionals. Nevertheless, he said, there are many similarities in the issues that confront portfolio managers and corporate risk managers.

"But I do think there are qualitative differences in the sense that corporate risk managers typically have a much longer-term point of view," he said. "They are usually examining risk from the standpoint of a corporate decision-making process that extends over many years, whereas portfolio managers are more obsessed with quarterly or monthly performance figures."

Mr. Hale said he thought the risks to balance sheets could be broadly broken down into three areas: traditional business cycle risks, or the short-term volatility of the economy; structural economic risks, such as technological or regulatory developments; and policy or political risks.

Business cycle volatility has declined since the 1980s, according to Mr. Hale. "Since the 1980s there has been quite a profound change in cyclical behavior," he said. "We did have in 1990 a brief recession, but it was very much linked to the Iraqi occupation of Kuwait and a rise in oil prices which made everybody cautious about investment decisions. But I believe that in the absence of that Gulf War shock, there would not have been a formal recession and an official business cycle downturn in 1990."

Mr. Hale said that if this assumption is taken to be correct, there has not been a meaningful recession in the United States for 18 years. This, he said, begs the question, is the business cycle dead, or are we in a new stage of history where we can escape volatility?

"The answer, of course, is we don't know," said Mr. Hale. "We are finding out as we go along what the parameters of the business cycle will be in this new environment."

Mr. Hale said he thought it was very clear, however, that there would be no recession in 2000 and that there was little risk of one in 2001.

Several factors have contributed to this profound structural change, said Mr. Hale. They include the diminishing volatility in the inventory cycle; a change in the role of capital spending in the economy, caused in part by the rise of the role of information technology; and a reduction in the volatility of the inflation rate.

"If you are looking for the major business cycle risk that still looms on the horizon, it is a stock market crash," said Mr. Hale. "If we had a major crash in the stock market, there would be a meaningful downturn in the U.S. economy," he said. "It is not my forecast for the next 12 months, but if over two or three years the inflation rates keep building, there is no doubt that you should begin to build this risk into your forecasting model. I think the most likely time for this scenario, if we have it at all, is 2002, 2003. I can't see the inflation rate getting so high

in 2000 that we are going to have to have interest rates going to 10% and a hard landing. But over three years we cannot fully rule out this scenario."

One of the most fundamental components of structural risks, according to Mr. Hale, is the role of technology. "Technology has been a driving force in world economic history since the British industrial revolution of the 1850s," he said. "We now have a global market economy. Technology has played a huge role in accelerating this process." Technology has sped up international capital flows, according to Mr. Hale.

The East Asian economic crisis of 1997 and 1998 was a prime example of the new form of risk posed by the global economy, said Mr. Hale. Institutions such as the International Monetary Fund have been set up to try to cope with economic shocks, but their resources are limited compared with those of the world economy, he explained. "Technology has opened the door to a profoundly different marketplace," he said.

The impact of government regulation can present risks to a company's balance sheet, said Mr. Hale. "A change in regulation can produce a major shock to the economy," he said. "We do not yet know the full implications of the breakdown of the Glass-Steagall Act. It could produce a more efficient system, but it could promote reckless behavior and create a shock."

Mr. Hale said that mergers between banks and insurers could pose new challenges for risk managers and said that he could foresee opportunities for fraud or abuse of the new regulations.

As for political risks arising from the globalization of the economy, Mr. Hale said that taxation is one of the most central areas of risk.

"Taxation changes can have a profound effect on the economy," he said. "Major changes in corporate taxation have an effect on investment spending and how firms allocate their capital spending," he said.

Mr. Hale said that a change to the Social Security program in the United States could also have a profound effect on the economy. "Social Security is open to debate. Many members of Congress would like to see a fundamental change to Social Security—to invest some funds in the stock market or to give some back to consumers in the form of a 401(k)-type pension."

Trade policy is another important area for risk managers to observe, said Mr. Hale. He said that there are some protectionist forces in Congress that would like to see a move away from the liberalization of the economy. "Watch this very carefully over the next year—especially in the congressional elections," he said.

The aging population poses a huge economic and balance-sheet risk, said Mr. Hale.

"Two-thirds of all the people who have ever lived to the age of 65 are alive today," he said. "This presents an unprecedented challenge. We simply don't know how we are going to finance this tremendous increase in retirement costs."

This problem affects countries the world over, and Mr. Hale said that we are already starting to see a revolution in the introduction of pension funds. "The next generation will see a tremendous revolution in retirement savings, and this will have a profound effect for stock markets," he said.

D. Theodore Flores Jr., corporate risk manager for Griffith Laboratories International Inc. in Alsip, Ill., moderated the session. BI

To succeed, avoid faux pas

An understanding of customs is key to doing business globally

By SARAH VEYSEY

SAN FRANCISCO—Never show a Kuwaiti the bottom of your foot, do not stand with your hands in your pockets in Russia, and don't pat a Thai on the head.

These are among the words of advice for risk managers doing business globally offered by a panel of three experts during a session at the Risk & Insurance Management Society Inc.'s 38th annual conference and exhibition, held April 30 through May 5 in San Francisco.

The three speakers offered risk managers advice on avoiding faux pas while doing business with European, Middle Eastern, Latin American and Asian business partners.

Steven Norton, director of PricewaterhouseCoopers L.L.P.-Insurance Risk Management Solutions in Atlanta, warned attendees hoping to do business in the United Kingdom to be mindful of differences in English and American slang.

The word "cowboy," for example, can mean a sloppy or shoddy worker to a British person, he said.

Mr. Norton, who coordinated the session, said he spent three years working for PwC in London and traveled extensively in Continental Europe and the Middle East during that time.

The consultant also advised U.S. risk managers to be aware that job titles may have different significance in other countries. For example, the chief financial officer of a U.K. company may be known as the finance director, which Americans may interpret to be a less-senior role, he said.

Risk managers considering do-

ing business in France should not make appointments during the vacation months of July and August, he warned. "The French are serious vacationers, and you are unlikely to be taken seriously if you have an appointment in July or August," he said.

Mr. Norton also advised attendees not to send gifts bearing company logos and never to include their business cards with any gifts to French counterparts.

He also told the audience that appointments in Spain should be made well in advance and confirmed in writing. "Personal contacts in Spain are critical for successful business—select your local representative well," he said. "It is very important to get to know your Spanish counterparts as individuals."

In Spain, lunch is the best time to talk business, he said, but he warned delegates not to begin business discussions until after the meal is over.

In Italy, it is inappropriate to exchange business cards at social occasions, said Mr. Norton. Appointments should be planned between 10 a.m. and 11 a.m. or after 3 p.m., he said, though he added that office hours may vary from region to region.

"Punctuality is more important in Germany than anywhere else in the world," said Mr. Norton. He warned delegates that tardiness of just a few minutes could be construed as an insult by a German. Mr. Norton said that while many Germans speak English, some prefer to do business in German, and he advised delegates to inquire in advance and arrange a translator, if required.

"If you are not a drinker and you go to Russia, you will probably learn it pretty quick," said Mr. Norton. "Once opened, expect the group to finish a bottle of vodka in one sitting. Many vodka bottles do not even have resealable caps."

Mr. Norton advised risk managers visiting Russia and Eastern Europe not to stand with their hands in their pockets, and not to

See **Customs** *on page 43*

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Re: Superior National Insurance Company, Superior Pacific Casualty Company, California Compensation Insurance Company, and Combined Benefits Insurance Company

Chuck Quackenbush, Insurance Commissioner of the State of California, in his capacity as Conservator of the above captioned insurance companies (the "Companies") has issued a Request for Proposals for participation in a Rehabilitation Plan for the Companies. Those persons or entities interested in obtaining a copy of the Request for Proposals may do so by contacting Richard Krenz, Deputy Conservator in care of the Commissioner's financial advisor, Marsh & McLennan Securities Corporation, 114 W. 47th Street, New York, NY 10036 or calling Geoffrey Sweitzer at 212-345-2785. All proposals should be submitted pursuant to the terms of the Request for Proposals and must be received by the Deputy Conservator on or before June 1, 2000.

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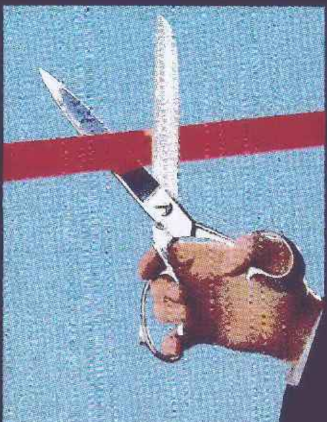

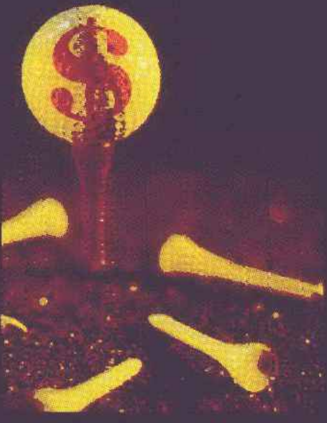

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Issue Date	Editorial Feature	Demographic Section	Ad Closing
Mar 27			Mar 15
Apr 3	Risk Management Services *Directory: Risk Management Consultants*	ABT Agency/Insurer Relations	Mar 22
Apr 10			Mar 29
Apr 17	RIMS Preview *Distribution: NMHCC*	IT Insurer/Agency Relations	Apr 5
Apr 24			Apr 12
May 1	Captives/Risk Manager of the Year *Directory: Captive Managers* *Distribution: RIMS*	ABT Information Technology *Distribution: ACORD*	Apr 19
May 8	RIMS Report: Employee Benefits & Workers Comp *Distribution: AAMGA*		Apr 26
May 15	RIMS Report: Risk Management	IT Information Technology *Distribution: IASA*	May 3
May 22	Benefits: Pensions/Retirement Plans *Directory: 401(k) Plan Administrators* *Distribution: ACORD; Luxembourg Rendez-Vous*		May 10
May 29			May 17
Jun 5	Government Risk Management *Distribution: AAHP; AIRMIC; IASA; PRIMA*	ABT Employee Recruiting & Training	May 24
Jun 12	*Distribution: NAIC*		May 31
Jun 19	PRIMA Report	IT Employee Recruiting & Training	Jun 7
Jun 26	Benefits: Balancing Work & Life *Directory: EAPs & Dependent Care Resource & Referral Services* *Distribution: IMCA; SHRM*		Jun 14

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John Sacco, center, senior manager of risk management at Cable & Wireless, is congratulated by RIMS President Roger L. Andrews and 1999-2000 President Susan R. Meltzer on winning the Cristy Award for the highest cumulative average on the three exams for the Associate in Risk Management designation.

PHOTOS: MICHAEL MARCOTTE

Mr. Andrews and Ms. Meltzer also congratulate Joey Page, center, risk manager of the City of Plano, Texas. The city's risk management department received the Arthur Quern Quality Award in recognition of its safety and accident prevention program.

Customs

Continued from page 41

wear or hold onto their coats past the cloakroom. Both are considered extremely rude, he said.

In Kuwait and Saudi Arabia, business is governed by the principles of Islam, Mr. Norton explained. "Islam does not believe in the principle of interest or even of insurance, though there are ways to get around this," he noted.

Friday is the Muslim holy day, and no business is conducted. The working week is normally Saturday to Wednesday, he said. "Also, be prepared to have your meetings interrupted by the call to prayer."

Mr. Norton warned delegates to eat with their right hand only in Kuwait and Saudi Arabia, because the left hand is considered unclean. The bottom of the foot is considered offensive, and the thumbs-up sign is a vulgar gesture, he said.

Egypt, too, is governed by Islamic law, said Mr. Norton. "Appointments are rarely private in Egypt, and other people may walk in and out," he said. He also advised attendees that paperwork should carry both Western and Arabic dates. Visitors to Egypt also should be prepared to remove their shoes before entering buildings, he said.

Dean Jobko, manager of international risk and insurance at the Atlanta-based electricity utility The Southern Co., provided insights into doing business in Latin America.

"There are lots of similarities between Central and South American countries," said Mr. Jobko, who was the session's moderator. "Decisions are based on what is best for the family. . . .Relationships are key; do not expect to do any business until you have built up relationships," he said.

The Chinese are still very superstitious, and even a senior executive might wait until a lucky day to make a decision.

Image is very important to Latin American businesspeople, said Mr. Jobko. "It is very important in these cultures to be seen to be doing business with the best counterparts possible."

He advised delegates visiting Latin American countries to dress conservatively, stay at upscale hotels and entertain at nice restaurants.

Tardiness is a trait, explained Mr. Jobko, but he advised risk managers to be on time for business meetings. "Social occasions are different—being on time would be impolite—but how late to be varies from country to country," he said.

Victorio Valledor, president of Alexander Forbes Philippines Risk Services in Manilla, highlighted the many differences between cultures and the way to do business in Asian countries.

For example, he said, in China, names are traditionally written with the last name first, then the middle name, then the first name. Many Singaporeans, on the other hand, do not have a surname; instead, they take their father's name.

The Chinese are still very superstitious, said Mr. Valledor. Even a senior executive might wait until a lucky day to make a decision, he said.

Although English is the language of business in Malaysia, official correspondence with government officials must be in the official language, Bahasa Malaysian, he said.

In the Philippines, the business climate is conducive to multinational commerce, because the country is very Westernized, said Mr. Valledor.

It is crucial not to underestimate the importance of a contact's secretary, he said. "In the Philippines, nothing goes to or from the boss without passing through the secretary. The secretary is very important," Mr. Valledor said. Decisionmaking, however, is confined to the top, he noted.

"In Thailand, it is a serious transgression to pat someone on the head," said Mr. Valledor. "The Thai people believe this is where their spirits reside."

In Japan, "saving face is paramount," according to Mr. Valledor. "The Japanese are very punctual. If you are late, apologize profusely, even if it is not your fault," he recommended.

"India is different from the rest of Asia," said Mr. Jobka. "Religion and the caste system are very influential in the way decisions are made."

In India, there are numerous religious holidays, and their dates vary. It is important to check the dates of the holidays before making appointments, Mr. Jobko said.

The three speakers stressed that the key to success was understanding a little about the culture of the country where one seeks to do business.

The speakers recommended four books that might help businesspeople to better understand the cultures of their global business partners. They are "Do's and Taboos Around the World," edited by Roger Axtell and published by John Wiley & Sons Inc.; "Kiss, Bow or Shake Hands," by Terri Morrison, Wayne A. Conway and George A. Boren, published by Adams Media Corp.; "Rules of the Game—Global Business Protocol," by Nan Leaprott, published by Thomson Executive Press; and "The Asian Mind Game," by Chin-ning Chu, published by Rawson Assn./Macmillan Publishing Co. BI

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Implementing health, safety rules across borders

By GAVIN SOUTER

SAN FRANCISCO—Risk managers of multinational companies face the challenge of addressing a diverse array of health and safety regulations.

While many of the rules in various countries share common themes, the implementation and enforcement of regulations varies widely. These local rules must be considered in the establishment of a global health and safety program, experts say.

Once a global policy is implemented, risk managers should secure backing from senior management—to ensure that the policy is taken seriously companywide—and from local managers—to make sure the policy is put into action, the experts said during a session on global loss control at the Risk & Insurance Management Society Inc.'s 38th annual conference and exhibition, held April 30-May 5 in San Francisco.

Many companies in the United States are establishing new overseas operations for a wide variety of business reasons, said Kathy Seabrook, president of Global Solutions Inc., a safety consultant in Mendham, N.J.

Expanding free trade zones and the development of emerging markets, for example, are creating more business opportunities. U.S. businesses also seek new markets for their products, and labor costs are lower in other countries, she noted.

As U.S. companies expand across borders, their risk managers need to identify and quantify the work-related risks that they face, she said.

To begin, risk managers should search for available information on accident and health statistics and health and safety regulations for the countries where they newly have workers, said John H. Kanouse, vp-risk control strategies at Marsh Risk Consulting, a Morristown N.J.-based unit of Marsh Inc.

The wide availability of accident statistics for many countries shows that safety is an issue that is taken seriously worldwide, he said. Anomalies found in some of those statistics, however, should prompt risk managers to dig beneath the surface of the statistics to get a true image of safety issues, Mr. Kanouse said.

The key issue is to strategically position health and safety within your organization, says Kathy Seabrook.

For example, he said, according to Thailand government statistics, the country had 230,376 workplace accidents in 1997, the latest year for which figures are available, while India, which has a far larger population, only had 71,676 accidents in 1995 the latest figures it has released.

"That seems a little bit strange to me," Mr. Kanouse said, and should invite closer scrutiny.

Similarly, the United States reported 6,026 workplace fatalities in 1998, while China, which has a population six times the size of the U.S. population, reported 17,588 fatalities in 1997, the latest years for which figures are available.

"There are lots of inconsistencies and that brings up the question of what is an accident," Mr. Kanouse said.

A survey of health and safety regulations in a variety of countries also shows that governments throughout the world are concerned with the issue, he said.

For example, in India the 1948 Factories Act and subsequent legislation require that employers manage occupational illness and supply first aid; a safety officer must be onsite; a safety committee must be established; employees must be educated about health and safety issues; a fire and emergency plan should be in place; and government officials are permitted to inspect the facilities, Mr. Kanouse said.

Singapore has a variety of safety regulations, he said, including regulations on the operations of cranes, noise regulations, safety officer regulations, first aid regulations, medical exam regulations, and safety committee regulations among other things.

New Zealand has regulations on first aid for employees, safety officers, safety committees, safety education, the handling of dangerous goods, the operation of pressure equipment and cranes, and spray coatings, among other things, he said.

Similar regulations have also been implemented in many other countries, Mr. Kanouse said.

Despite similar regulatory approaches to safety, the various countries have different methods and appetites for enforcing the legislation, the consultant said.

"There are consistencies in the overall approach, but there are a lot of differences in how they are implemented and how they are enforced," Mr. Kanouse said.

Risk managers should also be aware of other global employment trends that could affect health and safety issues, he said.

These include, for example, such factors as: longer working hours; an aging work force; more home-based work; an increase in female employment; more shift work and night work; greater use of subcontracting and outsourcing; more temporary and part-time employment; and, in many countries, social security funding problems, Mr. Kanouse said.

To address global health and safety issues risk managers must seek to place health and safety as a key concern of their organizations, said Ms. Seabrook of Global Solutions.

"The key issue is to strategically position health and safety within your organization," she said.

To achieve that, risk managers need to win senior management's commitment to the issue and have the health and safety management system aligned with the company's business management system, Ms. Seabrook said.

Risk managers should then seek to allocate financial and human resources to health and safety and clarify health and safety performance indicators with senior management, she said.

Once a global model for health and safety best practices has been developed, it needs to be implemented at the local level, Ms. Seabrook said.

Risk managers must allow for cultural differences and technological differences, she said.

Some of those local differences may include literacy levels, Ms. Seabrook noted.

For example, in countries with low literacy levels or multilingual populations, written warning signs and safety handbooks may not be a good way of communicating safety issues, she said.

"Language leaders" who communicate with the work force in their own dialects need to be appointed, Ms. Seabrook said.

Illiterate workers who learn about safe use of equipment through practical instruction need to be carefully trained when there are any changes to the processes they are involved in or if any equipment is moved, she added.

Also, universally recognized symbols may be used in place of written safety instructions, Ms. Seabrook said.

Englehard Corp. of Iselin, N.J., focuses on best safety practices rather than local regulations in its global loss prevention efforts, said Richard W. Sarnie, director, risk management, insurance and security.

"We are in 29 countries so we want to set one standard and that's the best practice," he said.

The purpose of the best practice is to protect people, property, equipment and inventory, Mr. Sarnie said.

"We will do what's right to protect our assets," he said.

To achieve that goal, the company views its insurers and loss prevention experts as "consulting partners not inspectors," Mr. Sarnie said.

The session was coordinated by Mr. Kanouse and moderated by Mr. Sarnie. BI

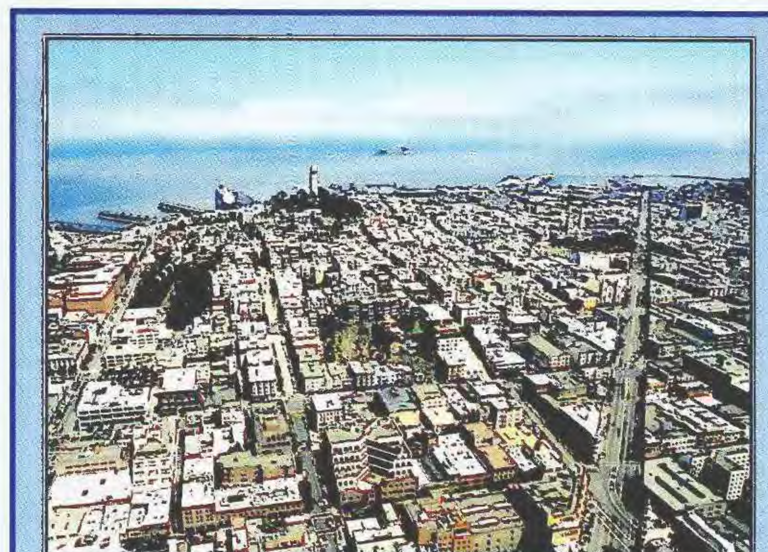

PHOTO: MICHAEL MARCOTTE
San Francisco was host city for the 38th Risk & Insurance Management Society Inc. annual conference and exhibition.

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Global Briefs

London-based **CGU P.L.C.**, which is set to merge with Norwich Union Life Insurance Society at the end of this month, reported that 10 companies have expressed interest in buying its U.S. property/casualty operations. CGU is asking $3.16 billion for the U.S. P/C operation, which Chief Executive Officer Bob Scott said he hoped to sell by the end of the year. . . A French appeals court has ruled that managers of a shipyard failed to take adequate measures to protect its employees from asbestos. The appeals court in Aix-en-Provence ruled that Constructions Navales et Industrielles de la Mediterranee and Chantiers du Nord de la Mediterranee, which bought the yard from CNIM in 1982, failed to take action to protect employees from **harmful asbestos dust.** The court awarded between 50,000 francs ($6,910) and 150,000 francs ($20,730) to the dependents of four employees who died from lung cancer and ordered medical examinations to assess the injury to five other workers suffering from asbestosis. . . . **Kiln P.L.C.** Chairman David Gilchrist said that Kiln has no plans to merge with any other Lloyd's of London businesses, despite its announcement of a pre-tax loss of £6.7 million ($10.2 million) for 1999. Mr. Gilchrist's comments came amid a merger battle among LIMIT P.L.C., Wellington Underwriting P.L.C. and Australian insurer QBE Insurance Group Ltd. LIMIT and Wellington's friendly merger proposal has been jeopardized by a hostile bid for LIMIT from QBE. . . A new U.K.-based organization for the rehabilitation of injured people has been launched. **The Bodily Injury Claims Management Assn.** aims to improve the United Kingdom's record of rehabilitating individuals, which the organization's president, Nick Cottington, described as "unacceptably poor." . . **Lloyd's syndicate 609**, managed by M.E. Denby & Others, has launched an interactive Web site that will allow the online purchase of total-loss-only reinsurance by marine hull insurers. The site, www.tlo-online.com, was designed in association with Benfield Greig Interactive Ltd., a unit of broker Benfield Greig Group P.L.C. Capacity of up to 50% of hull values is available. . . . U.K. life insurer **Friends Provident Life Office** has announced its intention to demutualize. The Dorking, England-based company will seek a stock market listing next year, the company said. . . The Confederation of British Industry has written to the U.K. Department of Trade and Industry to urge governmental reform of the **employment tribunal system.** The CBI said a "compensation culture" was growing in the United Kingdom and that some litigants were making "unjustified legal claims" against employers. The number of legal actions against employers rose 32% last year, to 164,000 claims, the CBI said. . . Insurers are **using the Internet** to enhance customer service and support existing distribution strategies, but they do not view the Internet as an alternative distribution channel, according to a survey by Tillinghast-Towers Perrin. More than 80% of the companies surveyed used their Web sites to provide product information and develop brand awareness, the survey found. . . Lloyd's expects to call one of its high-profile witnesses in the *Jaffray vs. Lloyd's* fraud trial this week. **Murray Lawrence**, alleged author of the so-called Murray Lawrence letter—which is an important part of the Jaffray names' case—is expected to take the stand at the Chichester Rents Courtroom today. The names claim that Mr. Lawrence wrote a letter outlining the seriousness of the asbestosis problem in the Lloyd's market but that the letter was never circulated to them. The names allege that Lloyd's knew the true extent of the asbestosis crisis, which nearly destroyed the market in the early 1990s, but kept information from the names and even falsely and fraudulently recruited some of them.

Taylor sees signs of recovery

Rate corrections emerging in key segments

By SARAH VEYSEY

LONDON—There are signs of recovery in the Lloyd's of London market, says Chairman Max Taylor.

Although there has been no across-the-board rate increase, a correction in pricing is beginning to emerge, Mr. Taylor said last week in addressing a meeting of market investors. He was presenting Lloyd's Global Results 1999, which reports the market's results for 1997, the most recent year to close under Lloyd's three-year accounting system.

"While the recovery may be slow and patchy, rates are tending to bounce higher. At the very least, the steep price declines that characterized the market over recent years are no longer occurring," he said.

Energy is one sector showing signs of a correction, Mr. Taylor said.

A sharp rise in oil prices since 1996 has led to new opportunities for energy underwriters in writing contracts for exploration and construction projects, he noted. And recent months have seen a withdrawal of capacity in the direct marine and energy market.

"As capacity has been withdrawn, some underwriters are speaking of the need to act cautiously when re-rating business on those accounts which have demonstrated loyalty," said Mr. Taylor. "We expect momentum to build during 2000."

In addition, withdrawals of capacity from the non-marine market and a reduction in available capacity in the wake of 1999's string of catastrophes will spur rate increases, said Mr. Taylor.

Mr. Taylor

Many underwriters last year were hit hard by losses from the earthquake in Turkey, Typhoon Bart, and the December windstorms in Northern Europe. Although there were signs of rate increases in early 2000, full evidence of a recovery will not be seen until 2001 renewals, Mr. Taylor said.

Although rate improvements had been seen in Lloyd's automobile insurance busi-

See **Lloyd's** *on page 47*

PHOTO: REUTERS

The October 1999 collision of two trains near London's Paddington station killed 31 people and injured more than 100.

Conviction prospects poor

Railtrack not charged

LONDON—No corporate manslaughter charges will be filed against Railtrack P.L.C. in connection with the Paddington rail crash of Oct. 5, 1999, in which 31 people died.

The Crown Prosecution Service, the state legal body responsible for prosecuting criminal cases, said there was insufficient evidence to provide a realistic chance of convicting Railtrack, which owns and operates the tracks where the accident occurred.

To file a corporate manslaughter charge, prosecutors must prove that a "controlling mind" of the company—a director or board member—was responsible for the deaths. Prosecutors had alleged that Railtrack failed to implement a safety system that adequately warned trains of approaching red warning signals, and that Railtrack had not acted on complaints about signals in the area.

The news came the day before the start of a public inquiry in London into the crash. The board probing the crash so far has learned that the driver of a Thames Trains Ltd. train involved in the crash—which ran a red signal and collided with a Great Western Trains Co. Ltd. train—was newly qualified and had not been trained on the Ladbroke Grove route, where the crash occurred.

St. Paul International Insurance Ltd. was the liability insurer for both Thames Trains and Great Western.

—By Sarah Veysey

U.K. safety in the spotlight

Several efforts target workplace risks

By CAROLYN ALDRED

LONDON—Risk managers in the United Kingdom could face the glare of the spotlight this year as several organizations target health and safety issues.

The Health and Safety Executive, the U.K. agency responsible for workplace health and safety, is being urged to take a tougher stance on employers that flout health and safety laws.

In addition, Frances McCarthy, the incoming president of the Assn. of Personal Injury Lawyers, announced that workplace health and safety claims will be APIL's "top priority" for the coming year.

The lawyers association is not the only body likely to raise the profile of workplace risk management during the coming year.

The government will soon announce the outcome of its "strategic appraisal of health and safety," according to Lord Whitty, the minister in the Department of Environment, Transport and the Regions who is responsible for health and safety matters.

The aim of the DETR initiative, called "Revitalizing Health and Safety," is to promote better working environments, reduce the level of work-related injuries and ill health, and motivate employers to improve their current health and safety performance, Lord Whitty told safety experts at a recent conference organized by the HSE in London.

A consultative document published by the DETR last May asked employers and employees, safety experts, insurers and other interested parties for their views on improving health and safety. The suggestions in the document included requiring each company to name a board director to be responsible for health and safety matters, and getting companies to publish details of their health and safety performance in their annual reports.

The results of the consultation should be published "within a month," said a DETR spokesman.

Meanwhile the Trades Union Congress—which represents trade unions in the United Kingdom—also is launching several initiatives to address health and safety.

During May, the TUC is co-sponsoring three regional conferences with St. Paul Insurance & Risk Management, the HSE and government ministers. The goal of the conferences is to encourage the

See **Safety** *on next page*

Insurer's query stalls soccer trade

By SARAH VEYSEY

LONDON—An underwriting requirement may have sidelined the most expensive contract transfer in British soccer.

Manchester United, newly crowned champions of the English Football League, had been set to sign Dutch striker Ruud van Nistelrooy for a record £18.25 million ($27.6 million) from Dutch club PSV Eindhoven.

One of Manchester United's insurers, however, is reported to have demanded that Mr. van Nistelrooy undergo exploratory surgery on his injured right knee. He expressed reluctance to undergo the procedure, known as "keyhole surgery," and the club's deal now hangs in the balance.

Insurance industry sources would not comment on the underwriter or coverage details.

Mr. van Nistelrooy said he was concerned that the surgery would leave him unable to play for the Netherlands in the upcoming European football championships, Euro 2000, to be held in France this summer.

Manchester United, the United Kingdom's richest soccer club, with £111 million ($167.6 million) in revenue last year, had hoped to sign Mr.

See **Football** *on page 47*

PHOTO: REUTERS

Ruud van Nistelrooy, in orange, playing for the Dutch national team in a 1999 match with the Czech Republic.

Safety

Continued from previous page

development of return-to-work programs.

Every year, 25,000 people leave the labor market permanently due to injuries or illnesses such as repetitive strain injury, back strain or work-related stress, at a cost to the government and employers of £5 billion ($7.7 billion) annually, the TUC said in a statement issued at a conference in London last week.

The TUC said a new legal duty should be placed on employers to develop back-to-work policies to deal with workplace injuries or illnesses that lead to prolonged sick leave.

Meanwhile, the TUC launched a major campaign last month to improve the health and safety of young workers, generally defined as those up through age 25. According to the TUC, 10 young workers are seriously injured at work every week in the U.K.

"Proper health and safety training is crucial to protect young workers," said TUC General Secretary John Monks in a statement.

The TUC is calling for the HSE to "run inspection blitzes in Britain to protect young people," according to a statement accompanying the launch of the campaign.

An HSE spokesman welcomed the TUC's campaign for improving the safety at work of young people, but he said that "blitzes were not the way to do it." Instead, the spokesman said, the HSE is concentrating its resources on educating employers and young people on the need for protection and risk assessment.

Young people in the workplace are covered by the Health and Safety at Work (Young Persons) Regulations 1997, which implement the European Commission's Young Workers Directive, according to the HSE spokesman. These regulations set forth "specific requirements for safeguarding young workers," said the spokesman.

Under the act, an employer is required to:

- Carry out risk assessments on young people in the workplace;
- Take into account the physical and psychological immaturity of young people.
- Provide adequate protection and training for young people.

Employers that fail to adhere to the regulations could be prosecuted, said the spokesman.

But a report on the Health and Safety Executive, published earlier this year by the government Select Committee on Environment, Transport and Regional Affairs, criticized the HSE for the "low levels" of investigation and prosecution it undertook. The Select Committee agreed that, while the focus of the HSE's work should mainly be in preventing injuries, the levels of investigation and prosecution of companies failing to adhere to safety standards should be increased.

This view is shared by both the Assn. of Personal Injury Lawyers and the TUC.

"Nearly every time we sue an employer for a work-related accident, we expose a breach of regulations. It should not be up to us, as lawyers acting for victims, to enforce health and safety by highlighting breaches," said APIL's Ms. McCarthy.

"There are few things worse than seeing the same accident happening time and time again. Insurers must play their part, and employers must do better. But the Health and Safety Executive has to be reformed—it is supposed to police the regulations, yet it desperately needs more resources if it is to function properly," she said.

Setting out the agenda for her year in office as president of APIL, Ms. McCarthy highlighted health and safety as a top priority.

"Safety at work is one of the matters I most want to concentrate on—people should be able to go to work and return unharmed," she said.

In their report, the members of Parliament "have made it clear that they want to see more inspections, more prosecutions of negligent employers and more corporate responsibility for deaths at work," said TUC General Secretary John Monks.

To that end, the Select Committee recommended the introduction of legislation to create a new criminal offense, corporate killing, as soon as possible. In making its recommendation, the committee adopted a proposal by the Law Commission, a government-funded legal body that examines possible changes in U.K. law.

Currently, prosecutors who seek to hold a corporation criminally responsible must file charges of corporate manslaughter, which requires proof that a "controlling mind" of the company—a director or board member—was responsible for the deaths. The corporate killing offense would allow the state to hold a company criminally responsible for a death without the need to prove that an individual in the company was personally responsible.

In testifying in favor of adoption of the proposed law, David Calvert-Smith, the director of public prosecutions, said he believed the current law was "insufficient to deal with what is culpable conduct."

Other recommendations suggested by the Select Committee include:

- Supporting the HSE's proposal for a 3% increase in the investigation of reported injuries over the next three years, with additional resources made available, if necessary.
- Providing HSE inspectors with greater access to legal expertise in the preparation of prosecution cases.
- Legislation, "at the earliest opportunity, to increase the level of fines available to the courts for health and safety offenses."
- The publication of the names of companies and individuals convicted of health and safety offenses and increased publicity surrounding prosecutions.
- The establishment by the HSE of a "hall of fame" for companies that implement good practices in health and safety.
- The government and the HSE encouraging insurers to adjust premiums and insurance conditions to reflect good practices in health and safety.
- Financial assistance from the government to assist small firms seeking the advice of consultants on health and safety issues.
- The establishment of an advisory network to foster greater understanding of occupational injuries and illnesses among primary health care providers. BI

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Lloyd's

Continued from page 45

ness, that market's recovery will be drawn out over time, the report said. Rates in the auto market improved by about 15% in 1999, he said, but this was insufficient to bring the market back into profitability. Mr. Taylor said that he did not expect Lloyd's auto market to be profitable before the end of 2000.

Competition in the aviation market likely will not relent until the end of 2000, when the majority of multiyear reinsurance contracts in the sector expire, said the report. A resultant rise in reinsurance prices might boost rates in the aviation sector, the report notes.

Mr. Taylor predicted that 1998 and 1999 marked the bottom of an extremely severe loss cycle for the non-life industry as a whole. Lloyd's reported a loss of £176 million ($284.3 million) for 1997, including the release of £244 million ($394.1 million) in prior years' reserves. Mr. Taylor predicts a loss of £725 million ($1.17 billion) for 1998. No prediction has yet been made for the 1999 accounting period, but Mr. Taylor said that "the continued poor rating environment and heightened loss activity in 1999 suggest that the losses in this year will be of the same order of magnitude as 1998."

John Young says his board introduced steps to improve quality among Lloyd's market companies.

John Young, Lloyd's regulatory board chairman, said in the report that the board in 1999 introduced steps to improve quality among Lloyd's market companies. "We have started a process whereby swift action can be taken in respect of agents and syndicates who don't meet the high standards expected," he said.

The role of the board has become that of an internal market supervisor, as the Financial Services Authority, the regulator of the U.K. financial services industry, became Lloyd's external regulator in April.

"Our aim is to keep the market on track, supervising the conduct of business by agents to ensure the high standards that Lloyd's wishes to maintain in its market are met across the board," said Mr. Young.

Mr. Taylor welcomed the work of the joint forum set up by Lloyd's and the International Underwriting Assn. The joint forum aims to streamline the London market by merging its back-office operations and introducing a single London market slip, among other things.

"Research among insurance and reinsurance buyers shows that customers' priorities are certainty of claims payments, speed of policy production and products that meet their changing risk requirements," said Mr. Taylor. He said that the work of the Lloyd's/IUA joint forum would help to speed up processes and make the market more competitive. BI

Soccer

Continued from page 45

van Nistelrooy in April.

Sir Alex Ferguson, manager of Manchester United, said he was still interested in signing Mr. van Nistelrooy—Europe's most prolific striker, with 33 goals this season—and hoped to find a way to resolve the insurance problems. But in late April, Mr. van Nistelrooy collapsed in training and traveled home to the Netherlands to recuperate.

The record fee that Manchester United was set to pay for the Dutch striker has highlighted the vast sums of money generated by soccer in the United Kingdom and Europe, where it is the national sport of most countries.

Mr. van Nistelrooy would have been paid about £40,000 ($60,400) per week had he transferred to Manchester United. That salary would exceed that of the club's most famous player, David Beckham, husband of Spice Girl Victoria Adams, though it would have been shy of Roy Keane's £50,000 pounds ($75,500) per week salary.

The £18.25 million that Manchester United was set to pay for Mr. Van Nistelrooy would have topped the previous British transfer record of £15 million ($22.7 million), arranged when striker Alan Shearer was signed to Newcastle United from Blackburn Rovers in 1996. The deal, however, lags far behind the £31 million ($46.9 million) deal struck in 1999 by Italian club Inter Milan for Italian international Christian Vieri.

"Over the last decade, football in the U.K. and Europe has grown up rapidly in commercial terms. Today's clubs have many of the characteristics of major businesses, and that means having to keep as close an eye on the balance sheet as the league table," Max Taylor, chairman of Lloyd's of London, said in a statement. "Stock exchange listings for some teams have brought shareholders and investment managers into the picture. Sponsorship deals can also bring financial pressures. In these circumstances, clubs and players have got to start taking their insurance decisions very carefully."

A huge increase in player wages is putting even more pressure on clubs to choose the right coverage. A recent Deloitte & Touche report states that while the combined revenue of the English Premier League clubs—England's top 20 clubs—rose by 18% to a record £670 million ($1.01 billion) in the 1998-1999 season, players' wages have grown by 31%, to £397 million ($599.5 million) in 1998-1999.

"Lloyd's has been involved with football teams since organized coverage developed in the 1970s in the U.K.," said Mr. Taylor. "Today, our insurers are providing protection for players and teams across the world, including Germany, Holland, Spain, Italy and Argentina. And as the financial pressures increase, our underwriters are constantly looking for new ways of minimizing the risks faced by clubs, their sponsors, the television companies relying on games for content, and the players themselves."

One area in which insurance is becoming increasingly important for soccer players and their clubs is player injury.

Brazilian international striker Ronaldo, perhaps the game's most famous player now, is suffering from a ruptured kneecap. His club, Inter Milan, is insured by Winterthur Swiss Insurance Co. for injuries in which a player is unable to return to full fitness. If Ronaldo is permanently sidelined, Winterthur stands to pay out 90 billion Italian lire ($42.2 million) to Inter Milan.

'Clubs have many of the characteristics of major businesses, and that means having to keep as close an eye on the balance sheet as the league tables,' says Max Taylor.

Underwriter Roland Fox at the Lloyd's operation of Gerling Group A.G. estimated that 40 to 70 players are forced to retire from the English League alone every year because of serious injury. "Disability is very common. Injuries to the knees tend to be the usual cause of permanent disability," said Mr. Fox. Gerling provides 24-hour coverage for soccer players and, according to Mr. Fox, "the value of these policies is certainly rising as players themselves rise in value."

Lloyd's-based insurer Alder Life has begun to provide coverage for players and their clubs against death by natural causes. "Three to four years ago, we spotted a gap in the market. Although players were protected against accident, they had no cover against death by natural causes, and there are a number of young, fit men who die through natural causes each year," said Kim Rowley, underwriter at Alder Life. "Now we are insuring players in Spain, Italy, Holland and the U.K., and the business is still increasing."

Many soccer clubs are now looking into buying coverage for specific events. London-based Chelsea Football Club announced in April that it was considering buying an insurance policy to protect against the risk of failing to qualify for the European Champions League.

"Situations can arise that have a serious impact on a club's finances. For example, relegation (to a lower division in the league) could result in the cancellation of sponsorship deals and television contracts, along with a fall in attendance," said Mark Filipek, underwriter at Lloyd's insurer Brockbank Group.

English soccer consists of four divisions—the Premier League, and the Football Assn.'s First, Second and Third divisions, with the Premier league being the highest—and teams are assigned to a division based upon their performance.

In addition to covering loss of revenue caused by relegation or failure to be promoted, insurers also will offer coverage against revenue loss from postponement of a match. "Bad weather can cause a waterlogged pitch and a postponed match, costing a club hundreds of thousands of pounds," said Mr. Filipek.

Soccer has become such big business that it is not just the clubs or players themselves who are at risk if things go wrong. Danny Burns, underwriter on the Goshawk syndicate at Lloyd's, is involved in third-party contingency coverage. "In today's football business, it's not just the clubs themselves who have to deal with risk. A number of third parties are also heavily involved," he said. "A TV company may negotiate the right to broadcast a club's games for three years at a guaranteed rate. But if the club is demoted during that period, the value of that TV coverage to advertisers will fall."

TV companies can purchase insurance to protect themselves against a loss of revenue if a club is relegated and advertising revenue falls. BI

Florida

Continued from page 2

statewide code," said Sam Miller, vp of the FIC.

"It's a strong code." The exemption of Panhandle counties from the code is a disappointment but one the council can live with, he said.

The uniform code replaces several hundred local building codes that governed construction in the state.

Cecil Pearce, president of the FIC, said in a statement that the code is "totally appropriate for our state, which faces the most severe threat from hurricanes in the United States."

The National Assn. of Mutual Insurance Cos. urged Gov. Bush to sign the legislation.

Roger Schmelzer, vp-regulatory affairs at NAMIC, wrote in a letter to Gov. Bush that the code "will save lives and reduce property loss for the residents of Florida."

Mr. Schmelzer wrote that he believes Florida's passage of a uniform code will encourage other states to follow.

"Conventional wisdom had it that passage of building code legislation in Florida was too complex to achieve," he wrote. "That it has been accomplished in the face of strongly-held opinions on all sides will send a message to other states."

The code 'will save lives and reduce property loss for the residents of Florida,' says Roger Schmelzer.

The code went through a few drafts before the Florida Building Commission submitted the final version to the Legislature early this year. The building commission eventually decided by a one-vote margin to include the ASCE 7-98 standards in the code's final draft.

South Florida counties were involved in early controversy surrounding a proposed uniform building code (*BI*, Aug. 16, 1999). Dade, Broward, Palm Beach and Monroe counties fought for and won some changes to a first draft of the code in order to keep strong building requirements already in place in their regions.

The FIC said insurers encountered strong resistance from homebuilders on the ASCE 7-98 standards until the building commission's vote earlier this year to include the standards.

An official with the Florida Homebuilders Assn. could not be reached for comment late last week.

Mr. Miller pointed out that the uniform code not only will provide increased protection against wind-borne debris, but also calls for stricter plumbing and electrical standards in the state.

"Some of these counties haven't updated their codes since 1988 and they're going to have a shock," Mr. Miller said, while other counties have modernized their requirements over time and the changes won't be as drastic to their codes.

California clarifies rules for HMOs firing doctors

SAN FRANCISCO—A doctor who is dropped from a managed care company's preferred provider list is entitled to a fair termination procedure if the move significantly hampers the doctor's ability to practice medicine, says the California Supreme Court.

In a 4-3 decision delivered Monday in *Louis E. Potvin vs. Metropolitan Life Insurance Co.*, the court ruled that a provider must be given the grounds for the dismissal and have the opportunity to appeal when "the insurer possesses power so substantial that the removal significantly impairs the ability of an ordinary, competent physician to practice medicine" in a particular geographical area.

Even if the dismissal would hinder the doctor's ability to practice, however, an insurer still could make the move "without regard to its financial effect," as long as the decision is rational and procedurally fair, according to the decision. The court's decision affirms an appellate court decision, which had reversed a trial court's grant of summary judgment for MetLife.

The case involves Dr. Louis E. Potvin, an obstetrician and gynecologist, who was informed by Metropolitan Life Insurance Co. in 1992 that he was being dropped from MetLife's preferred provider lists. Dr. Potvin has since died, and the case is being handled by his estate.

MetLife's attorney, Harry W. Chamberlain II, of Stephan, Oringher, Richman & Theodora in Los Angeles, noted MetLife had a tiny market share in California when the suit was filed.

As a result, "I think that the standard that the court has set would make MetLife well positioned to get the same (summary) judgment that it did before," said Mr. Chamberlain.

"The court imposed a rather high hurdle for a physician complaining about wrongful termination," he added.

—*By Judy Greenwald*

Spencer

Continued from page 1

knowledge."

Mr. Davis said that the university's proposal piqued the board's interest because the project is a "very applied material conference."

"With the faculty participating in a conference of this sort with executives in the industry, then this will translate back to what the faculty will do in teaching and research," Mr. Davis said.

Dick Heydinger, director, risk management services for Hallmark Cards Inc. in Kansas City, Mo., and newly elected chairman of the foundation, said Spencer started putting money aside a couple of years ago to be able to fund projects like the conference.

"The goal is to help the traditional practitioners evolve into the enterprise arena—into a broader array of risk responsibility. There are so many concepts out there right now. We think these conferences are much more applied in nature," Mr. Heydinger said.

The Spencer Foundation is trying to expand the discipline of risk management to encompass enterprise risks, according to Mr. Heydinger.

"It's a natural evolution," he said.

Additionally, Mr. Heydinger said that the foundation is very pleased to be working with the staff at the University of Georgia.

"Because it's a Georgia program, we know it's high quality. We've had enough experience with them in the past that we know there's no real risk," Mr. Heydinger said.

According to Mr. Davis, the foundation is giving another grant of just under $9,000 to two professors at the University of South Carolina's Darla Moore School of Business.

With the money, professors Scott Herrigton and Greg Niehaus will embark on a case study in enterprise risk management with a firm in western Canada.

"United Grain Growers Ltd. recently executed one of the true enterprise risk management programs that has been done. The professors will write a case study to present to their classrooms and they will write an article on what they learned," Mr. Davis said.

According to Mr. Heydinger, the foundation's assets currently exceed $4 million.

"We have the ability to take on these projects," he said, noting that such initiatives must fit the foundation's mission and strategic plans.

The Spencer Foundation also awarded over $92,000 in scholarships at the meeting.

Undergraduate students receiving $5,000 scholarships were: Donna Diebert, Terhi Lyytikainen and Kirk Locker, all students at Temple University in Philadelphia; Paul Houchens of Ball State University in Muncie, Ind.; Mark Kaye at the Wharton School of Business at the University of Pennsylvania in Philadelphia; Kimberly Kruse-Nicholson at Illinois Wesleyan University in Bloomington, Ill.; Scott Stayer at Indiana State University in Terre Haute; Lauren Tawney at Baylor University in Waco, Texas; and Susan Whitman at the University of Georgia in Athens. A half-year award also was presented to Michael Wister at Temple University.

Undergraduate Jeanna Dunn at Indiana State University received the $8,000 Joseph P. Holwerda award.

Masters students receiving $10,000 scholarships were Michael Healy and Gino Smith of the College of Insurance in New York, and Fenhua Liu at the University of Hartford in Hartford, Conn. Masters student Melissa Olsen at the University of Wisconsin at Madison received a $10,000 scholarship in memory of Anita Benedetti.

The sporting events held in conjunction with the RIMS annual conference to benefit the Spencer Foundation raised $117,300 this year.

The Spencer/Gallagher Golf Tournament raised $100,000. The Spencer Logic Tennis Tournament raised $10,000 and the Spencer/Aon Run/Walk raised $4,000. The "Spencer Cup" hockey game raised $3,300.

A "Blues Brokers" concert held in Atlanta in March to benefit the Spencer Foundation raised about $30,000. BI

Hurricanes

Continued from page 1

cided exactly with those made earlier this year by William Gray, a nationally recognized hurricane expert who teaches at Colorado State University, although Mr. Gray terms the largest hurricanes "intense" (*BI*, April 10).

"The forecast is very similar to last year's," said NOAA Director D. James Baker. He said that NOAA will update its prediction in August to reflect changes, if any, in oceanic conditions that could cut the number of hurricanes expected this season. He cautioned, however, that hurricanes will probably have "another major economic impact on the United States" this year.

Hurricane season begins on June 1 and lasts until Nov. 30. According to NOAA's written "2000 Atlantic Hurricane Outlook" distributed at the press conference, most of the hurricane activity in an above-average year is likely to occur between August and October. "Overall activity is very high," in a typical above-average hurricane year, notes the outlook. "Overall activity includes measures of storm duration and intensity as well as storm numbers (and) hurricane numbers."

NOAA cautioned, however, that "no outlook can given certainty as to whether a particular locality will be impacted by a tropical storm or hurricane in any given year."

James Lee Witt, director of the Federal Emergency Management Agency, stressed that even residents and businesses located outside traditional hurricane-strike zones need to prepare for the onslaught of the summer storms. He pointed out that much of the damage and loss of life caused by last year's Hurricane Floyd occurred in inland North Carolina. He also pointed out that a recent poll conducted for FEMA among residents of the Atlantic and Gulf Coast states indicated that half the people polled either incorrectly believed that homeowners' insurance would cover flood damage or didn't know.

The new director of the National Weather Service's National Hurricane Center in Miami also made his first public appearance in his new job at the press conference. Max Mayfield, who has been acting director of the center since longtime director Jerry Jarell retired last December, called upon businesses, local governments and families to have hurricane plans in place. NWS warnings "mean nothing" if people are not prepared to act, he said.

He noted that most people who have died in recent hurricanes have died from inland flooding. "We keep making some of the same mistakes over and over again," said Mr. Mayfield, who officially assumed the director's duties on May 10.

HMOs

Continued from page 2

terms of performance, the outlook is favorable for companies, including WellPoint, that have reported good results. "Prices have firmed and costs are higher than last year, but under control," he said.

Susan Berkle, vp of finance and assistant controller at Santa Ana, Calif.-based PacifiCare Health Systems Inc., said, "We've raised our expectations for 2000."

PacifiCare expects its earnings per share in 2000 to be 25% higher than the $6.23 it reported in 1999, Ms. Berkle said.

Stock analysts say that if HMOs are ever going to be profitable, this is the year to do it, given the rate hikes already seen.

"The year started out very strongly, and the prospects were great for the rest of the year," said Rob Mains, an analyst with Advest Inc. in Albany, N.Y., who tracks Minneapolis-based UnitedHealth Group and Trumbull, Conn.-based Oxford Health Plans Inc.

"It's a favorable rate environment and, assuming that one doesn't have excess exposure to Medicare or to a few hospital markets that it's tough in, this is a time when HMOs should be doing well," he said.

"A lot of the commercial product gets priced on Jan. 1, and if you're doing anything right, barring anything really unforeseen creeping up later in the year on the expense side, that should mean that the year does well," said Mr. Mains.

"Results were very strong right across the board," said Todd Richter, managing director at Banc of America Securities L.L.C. in New York.

HMOs will continue to raise prices aggressively, "so I don't think there's much earnings risk. I would expect to see very strong results" in the future as well, Mr. Richter said.

"Fundamentally, things are very solid," said Gary Frazier, an analyst with Deutsche Bank Alex. Brown in New York. For most of the HMOs, "pricing on the commercial side of the business remained firm," while medical cost trends appeared to stay in check, he said.

"In total, the results have been strong, quite strong," said Gregg Crawford, an analyst with Fox-Pitt Kelton Inc. in New York. "The premium rate increases that have been pushed through appear to be ahead of medical cost trends," while they also have helped leverage administrative costs.

"In total, people were pleased with the first-quarter results and cautiously optimistic that the balance of the year would be solid," said Mr. Crawford.

Some analysts, though, see signs of stratification in the market.

"My stance all along has been the ones that have been producing solid results will continue to produce solid results," while those that have been struggling will continue to do so, said Mark Jamilkowski, an analyst with Hartford, Conn.-based Conning & Co.

"I see the stratification of the market continuing," he added. Companies that are struggling to improve profits, in spite of higher rates, are likely to face greater problems once the market turns soft again in 18 or 24 months, he said. "If not now, when?" he said of the prospects for profitability.

"There's a real split that is occurring here," agreed Joel Ray, an analyst with First Union Securities Inc. in Richmond, Va. "There is no longer a homogeneous group where everyone does well, or everyone does poorly."

Companies that are "still stumbling," are those that have been active on the acquisition front and are trying to consolidate operations and systems, said Mr. Ray.

Among the first-quarter results reported by HMOs were:

- Oxford Health Plans Inc. reported net income of $28.8 million in the first quarter, up 800% from the same period a year ago.
- Kaiser Foundation Health Plan Inc. reported $142 million in net income, up 131% from 1999's first quarter, which included a $28 million charge for an accounting change.
- RightCHOICE Managed Care Inc. reported net income of $7.5 million, up 59.6% from the first quarter of 1999.
- Aetna U.S. Healthcare reported $131.8 million in operating earnings, up 24.1% from 1999's first quarter. Aetna U.S. Healthcare, which comprises the managed care, indemnity and group insurance operations of Aetna Inc., does not report net income.
- UnitedHealth Group reported $160 million in net income, a 21.2% increase from 1999's first quarter.
- CIGNA Corp.'s employee health care, life and disability benefits business segment, which includes its HMO and indemnity operations, reported $175 million in operating income, a 14.4% increase from a year earlier.
- WellPoint Health Networks Inc. reported $79.6 million in net income, a 12% increase from 1999's first quarter, excluding a one-time $20.6 million aftertax accounting charge last year.
- PacifiCare Health Systems Inc. reported $157 million in operating income before depreciation and amortization expenses, an 8.3% increase over 1999's first quarter.
- Foundation Health Systems Inc. reported $34.1 million in net income, an 18.8% decline from 1999's first quarter, which had included $13.4 million in gains from the sale of businesses, restructuring and other one-time items related to several divestitures.
- Humana Inc. reported $21 million in net income, down 36.4% from 1999's first quarter, which excludes certain charges and credits against earnings.

The strength of the managed care market's generally good results has not been reflected in its stock prices, however.

Through May 5, the seven HMOs tracked by the *BI* Industry Stock Report advanced just 0.75% for the year.

The confluence of legal issues the industry faces is affecting managed care companies' stock market performance at this point, said Mr. Frazier of Deutsche Bank Alex. Brown, referring to proposed state and federal patient-protection legislation and class-action litigation against HMOs.

Although WellPoint has not been named in any of the class-action lawsuits filed against managed care companies, "in terms of investor perceptions of the industry, it certainly has a dampening effect," agreed Mr. Cygul of WellPoint.

Another factor dampening investor enthusiasm, said Fox-Pitt's Mr. Crawford, is that "the sector has been very volatile in the past, and there are plenty of people who are willing to sit on the sidelines for a while."

HMOs that are able to report decent earnings will do reasonably well in stock trading, said Mr. Ray of First Union. There is "still an upside to these stocks," he said.

One question in the minds of some analysts is how much longer employers will be willing to accept rate hikes.

The HMO industry must be vigilant in monitoring "the break-point price at which employers say 'no more,'" said Conning's Mr. Jamilkowski. "Everyone right now is talking about how employers are running scared about losing employees," and will pay higher rates to continue offering competitive benefit plans, he said. At some point, however, employers will refuse to accept a 10% or 20% increase and will shop the business around, or they will do whatever is needed to avoid that price increase, Mr. Jamilkowski said.

"I think it's going to be more difficult next year" for HMOs to introduce rate hikes, said Douglas L. Meyer, an analyst with Duff & Phelps Credit Rating Co. in Chicago. He said he suspects next year's increases will be less severe than those for 2000.

"I think the issue is, how long can these companies raise prices," said Mr. Richter of Banc of America Securities. "I think they have to continue them for the next couple of years," with the economy's strength a factor in sustaining rating levels, he said.

Although the situation may change if the economy weakens, "Right now I would expect you're going to see stiff increases in 2001 on insurance premiums again," said First Union's Mr. Ray. At present, "There don't appear to be many alternatives," he said.

Fox-Pitt's Mr. Crawford said that HMOs' pricing power "is grounded in real economic forces. . . .It wouldn't appear to change simply because employers would like them to."

FHS' Mr. Olson said, "I think the outlook going forward is a question of value and less a question of price.

"I think if employers believe they're getting value" they will be willing to pay for quality service and products, he said. BI

Commentary

Looking for love in wrong places

By now, almost everyone on the seven continents has heard of the mayhem wrought by the "I Love You" e-mail virus earlier this month. Many of you may have even received this ornery little valentine.

I have to admit to feeling slight pangs of jealousy that I was not among the gazillions of people who received the "I Love You" e-mail. All I got was about a half-dozen messages from our sysop with an urgent warning not to open any mail that says "I Love You" (Mom, now you know why I never return your messages).

The less emotional side of my brain knows that not getting the love bug means I avoided having my hard drive damaged, my computer's collection of ABBA pictures and music files wiped into oblivion, not to mention sparing all the folks in my e-mail address book from suffering a similar fate as the bug migrated.

Still, the romantic side of me thought it would have been nice to get an anonymous expression of affection from a secret admirer, even if it turned out to be a surly Filipino computer school dropout whose intentions were not pure.

No doubt, many people who received the e-mail felt a small thrill at receiving a message titled "I Love You" and opened it out of curiosity or hope, only to have their gesture of interest spurned.

Even folks who should know better than to open e-mail from unknown sources and never to launch attached ".exe" files of unknown origin were probably caught off guard by this virus' message of affection. It's human nature.

Paul D. Winston

Computer security experts probably never figured they had to tell legions of computer users not to get suckered by such a simple ploy. We all know to avoid e-mail at the office promoting get-rich-quick scams, pictures of Pamela Anderson Lee, the frog in a blender video and mail that is labeled "Re: Re: Re: Re: Re: Re: Re: A funny joke."

But who would have listened when the tech guy showed up to provide advice like: "When you get e-mail from someone telling you they love you, don't believe it. They don't really love you. They'll just use you and move on. Ignore it. Delete it."

As a consequence of undergoing the cyber equivalent of being jilted, many of those people will now grow cynical and jaded about opening e-mail with seemingly harmless messages.

Hackers and crackers may now find it hard—though far from impossible—to find new messages that will entice people to open their destructive little missives.

The next e-mail virus will have to find an even more tempting message to play with our emotions and hook our interest, messages like "I saw what you did," "About your test results...," "World's best fruitcake recipe" and "The truth about Rudy Giuliani."

We're doomed.

In Chicago, a local radio station last week was musing about more realistic e-mail messages than a simple "I Love You." They suggested such gems as "I love you, but I love your best friend more," "I love you, but I don't want to marry you," and a personal favorite, "I love you but I'm not in love with you."

Mail from unknown sources is an occupational hazard for me. I get about two dozen a day from people I've never heard of before. And, like the people who wanted to believe they suddenly had a secret admirer, I tend to open most of these in the unrequited hope they will contain news or letters for publication. Alas, most of them contain misguided pronouncements about developments in the personal lines realm, generic press releases on legislative developments in Wyoming, or information on the latest insurance portal to proclaim itself one of a kind.

But hope, like love, springs eternal, so I keep clicking away. Thankfully, only a couple of these unsolicited e-mails have spawned viruses on my computer, none of which approached the destructive power of the "I Love You" virus.

Despite the losses wrought by this nasty little virus, which are estimated by some claims alchemists at around $10 billion (where in the world do people come up with numbers for something like this?), the general buzz in the world of hackers and cyberterrorists is that this was a shoddy piece of work. It was inelegant, it was poorly written, it was obvious. In a word, tacky.

It's very hard to be reassured by these sneering comments, when even an allegedly inferior virus can cause so much damage.

If love causes so many problems, I shudder to think what will happen when we open the e-mail that's labeled, "I hate you."

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

Comp

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those of Zenith National Insurance Corp. and Argonaut Insurance Co.

A.M. Best Co. had earlier cut Fremont's rating to B++ from A- and downgraded ratings of two smaller insurers, PAULA Insurance Co. and Western Growers Insurance Co.

The rating actions come amid concerns about severe reserve deficiencies and rapidly rising loss costs in the state. The Workers Compensation Insurance Rating Bureau of California, for example, recently concluded that insurers' collective reserve shortfall had widened to $4.7 billion at year-end 1999 from $3.2 billion in 1998.

California employers are feeling the results, with rate increases reaching as high as 40% this year. By themselves, though, price hikes are not likely to relieve the financial pressure on insurers, some observers say.

"Business in California, even with the rate increases, is not at a level that would suggest profitable operation going forward," said Matthew Mosher, assistant vp with A.M. Best in Oldwick, N.J.

"The market is clearly in the soup," noted Michael Smith, an analyst with Bear, Stearns & Co. in New York.

Along with the concerns over reserving and claims severity, insurers also face the threat of increasing claim frequency that could accompany the low unemployment in California's booming economy, observers note.

"It's absolutely the worst combination of circumstances in my 30 years" in the industry, said Edward C. Woodward, president of the California Workers' Compensation Institute in Oakland, Calif.

Even if it produces no further insolvencies, the turmoil will likely trigger a "flight to quality" among employers and could lead to further consolidation among workers comp insurers, some experts predict.

Workers comp business has hardly been a stellar performer for insurers anywhere in the United States, but California, for a variety of reasons, has produced the worst results.

The 1999 accident-year combined ratio for California workers comp business hit 143%, compared with 127% for the United States excluding California, according to Bill Schrempf, president and chief executive officer of the National Council on Compensation Insurance in Boca Raton, Fla.

Including California in the U.S. figure pushes the nationwide combined ratio to 130% from 127%, Mr. Schrempf said.

While workers comp loss costs have been relatively stable in the rest of the country, California has seen an "absolutely astounding" increase over the last five years, the CWCI's Mr. Woodward noted.

The cost per claim in California ballooned to more than $30,000 in 1999 from $17,000 in 1994 as medical and indemnity costs rose in double digits annually, he said.

Loss costs in California have grown about 10% a year, compared with increases of 3% to 5% per year in the rest of the country, Best's Mr. Mosher agreed.

The state's problems are rooted in several causes, some of them common to the workers comp market nationally and some specific to California.

The jump in claims severity, for example, can be traced in part to early 1990s reforms in California workers comp law: One change created a legal presumption that a worker's treating physician is correct, effectively doing away with second opinions, Mr. Woodward explained.

Courts subsequently applied this presumption not just to the initial assessment of a worker's disability, but also to the entire course of treatment, he said. "What we have seen (as a result) is a tremendous increase in the cost of medical care."

At the same time, California employers until recently were enjoying plummeting workers comp rates that followed the state's switch to open rating in 1995.

"While losses are increasing dramatically, premiums are not," Mr. Woodward observed.

Competitive market conditions aren't unique to California. In 1998, workers comp insurers nationally provided scheduled discounts from filed rates averaging 22%, according to Mr. Schrempf.

Tremendous overcapacity in the market "has created an extremely competitive pricing environment across the board in all lines, not just workers comp," he said.

Nowhere has this been more true than in California, though.

"This is a specific problem in California" since open rating was introduced, said Robert Partridge, a director with S&P in New York. "It's been building up in the reserves until this time."

Excessive optimism may have worsened the reserving situation, Mr. Schrempf suggested.

Workers comp insurers nationally—estimated to be underreserved for workers comp losses by a total of roughly $16 billion—have nevertheless released a total of $8 billion from reserves over the last five years, concluding that their loss experience would allow such moves, he said.

In any case, analysts agree that the combination of years of falling rates and rising loss costs has left insurers severely underreserved for California business.

Both Best and S&P cited reserve adequacy concerns in downgrading the Fremont General units, and S&P cited the WCIRB's estimate of a $4.7 billion statewide reserve shortfall in placing ratings of the State Fund, Zenith and Argonaut under review with negative implications.

Since January, employers have seen an upswing in workers comp rates. The California Insurance Department last year recommended an 18.4% rate hike, and most California insurers have followed that lead, market experts say.

Best's Mr. Mosher said he has seen insurers imposing increases of between 25% and 40%, with an average increase amounting to about 30%.

Several observers expressed doubt, though, that the rate hikes by themselves will solve California insurers' problems.

"The one concern is the increasing loss severity that's been in place for a few years," said Mr. Mosher, who added that the "physician presumption" in California law "seems to be the driving force behind loss severity."

Loss costs probably will not improve dramatically unless the physician presumption is revised, Mr. Mosher and others say.

Observers also worry that claims frequency—which has fallen throughout the United States—could begin to rise as new employees enter the workforce in an improved California economy.

"Generally, that tends to drive frequency up," Mr. Mosher said. "It really is a fear that a lot of analysts have."

How workers comp insurers will fare in coming months remains uncertain, though the most strongly capitalized companies are in the best position to weather the market trends and take advantage of rising rates, Mr. Mosher observed.

"There are certainly companies that have little margin for error," he said. "There obviously are some companies that have significant reserving issues that need to be dealt with."

S&P is not anticipating more regulatory takeovers like that of Superior National, but further rating downgrades may be in the cards, given the reviews now under way, Mr. Partridge observed.

If business begins moving to the highest-rated, best-capitalized insurers, further consolidation among insurers will likely follow, some market observers predict. BI

ALCOA

Continued from page 2

companies do not own that natural resource. Interpreting Pennsylvania law, the high court agreed that groundwater is an insurable interest when its existence produces an economic benefit and its destruction would cause a pecuniary loss for a policyholder.

Pennsylvania law was applied because ALCOA's headquarters are there and the company placed its coverage with several Pennsylvania-based brokers. The case was litigated in Washington because no other state has as many polluted ALCOA sites—five.

Noting that relatively few property insurance policyholders file suit seeking coverage for contaminated groun water, ALCOA attorney Thomas M. Reiter, a partner with Kirkpatrick & Lockhart L.L.P. of Pittsburgh, said: "The decision sends a signal that all-risk or DIC property insurance policies may be a significant source of recovery for environmental and other latent damage claims."

A federal district court in Connecticut, however, ruled for insurers on that issue in 1997 (*BI*, April 14, 1997).

The Washington Supreme Court, overturning the trial court, also handed the ALCOA companies victories on two other significant issues.

The high court ruled that the companies' coverage would apply to all damages, including those that occurred before policy inception.

In addition, the high court ruled that the insurers, not the ALCOA companies, should shoulder the burden of proving whether the policyholders expected that their waste-disposal methods would harm the environment.

The high court, however, ruled against the ALCOA companies in determining that their expectations should be held to an objective standard—or what a reasonable person would have expected—instead of a subjective standard, or what the companies did expect.

In another ruling against the ALCOA companies, the high court ruled that provisions in the policies that set the time limit the companies have to file a coverage lawsuit begin to toll when the insured loss occurs, not when the policyholders know that a loss could trigger coverage.

The court also upheld the trial court's ruling that the sudden and accidental pollution exclusions in the ALCOA companies' general liability policies bar coverage for third-party claims against the companies. The high court agreed that the term "sudden" refers to environmental contamination that occurs abruptly.

Ultimately, the high court's rulings against ALCOA should "prove to be beneficial" to insurers when the case returns to the trial court, said insurer attorney Lawrence D. Mason of Daar Fisher, Kanaris & Vanek P.C. in Chicago. Mr. Mason represents 10 of the insurers.

The trial court will have to apply the high court's rulings after resolving some questions of fact in the case.

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Aluminum Co. of America et al. vs. Accident & Casualty Insurance Co. et al., Washington State Supreme Court, No. 67340-3, May 4, 2000.

Virus

Continued from page 1

nearly $266 million.

The survey by the San Francisco-based Computer Security Institute, which was released in March, was conducted with the help of the Federal Bureau of Investigation.

As for the Love Bug, it spread rapidly May 4, crippling e-mail systems around the world and destroying some computer files. Investigators tracked the source of the virus to the Philippines.

Published estimates have placed potential Love Bug losses as high as $10 billion. Several insurers say, however, that it is impossible to verify such a number or determine the exact extent of losses.

For one reason, they note, many companies may prefer to keep the size of their losses hidden to protect their customer base and stock market valuations.

Insured losses from the Love Bug virus are expected to be minimal. Relatively few of the new breed of insurance policies for Internet risks have been sold to date that would cover such losses, experts say.

In addition, claims under traditional property insurance policies with business interruption endorsements for viruses also are likely to be minimal, said Michael Donovan, a partner at Hancock Rothert & Bunshoft L.L.P. in San Francisco who has served as an adviser to insurers developing Internet products.

Mr. Donovan said he believes that most companies did not suffer business disruptions long enough to meet the time criteria for coverage under the business interruption components of their property policies.

The Love Bug "seems to be just a major nuisance for IS departments," he said. Most losses generated are likely the soft costs associated with restarting companies' e-mail systems. Those costs are hard to quantify, and neither traditional property policies nor some of the new Internet products will cover such costs, he explained.

The news generated by the virus and its effects, however, is spreading interest in the new policies among insurance buyers.

"The Love Bug has definitely increased submissions and increased the desire of applicants to close the deal," said Ty R. Sagalow, executive vp and chief operating officer for AIG Global e-Business Solutions in New York.

AIG is receiving five to 10 submissions a week for its new Internet-related coverage, Mr. Sagalow said. To date, it has sold about a dozen of the new policies.

After denial-of-service attacks struck many well-known e-commerce sites in February, the percentage of policy shoppers turned buyers climbed to 25% from 5%, said Brad Gow, assistant vp-information and technology products group for ACE USA Inc. in Philadelphia. Since the Love Bug virus surfaced, the number has climbed to 30% and could shoot up to 50% by year's end, he predicted.

"Definitely, risk managers have a big concern about these exposures, especially in light of the 'I love you' virus," said Karen Banks, director of risk management for Shaklee Corp. in Pleasanton, Calif. Ms. Banks noted that sessions on Internet risks were among the most heavily attended at the recent Risk & Insurance Management Society Inc. conference, held in San Francisco.

'Definitely, risk managers have a big concern about these exposures,' says Karen Banks.

Interest in minimizing Internet-related risks is not limited to e-commerce companies. Most coverage submissions are coming from traditional companies whose core business is not conducted on the Internet, insurers and brokers say.

Many risk managers are just learning the extent of their Internet exposures and are exploring measures to address them, said Eugene F. Kiernan, director of risk management and insurance for National Semiconductor Corp. in Sunnyvale, Calif.

Because National Semiconductor is a manufacturer, Mr. Kiernan said he previously believed it had few Internet exposures, especially compared with companies that conduct all their business online.

That view changed, however, after the risk manager teamed up with his information technology department to assess its Internet risks. The joint risk assessment found that National Semiconductor's Internet exposure is much more varied than he had earlier assumed.

Through this process, as Mr. Kiernan is learning more about his company's Internet risks, National Semiconductor's IT experts are grappling for the first time with insurance concepts.

Mr. Kiernan said one IT professional told him, "'I thought my rental contract was complicated until I read these Internet policies.'"

National Semiconductor's broker is helping to audit the company's Internet exposures before recommending whether insurance coverage is desirable and, if so, which products would best fit its needs, Mr. Kiernan said.

As risk managers become more involved in such issues, they are likely to find themselves interacting with a host of new vendors.

There is going to be exponential growth in demand from risk managers, predicted June Felix, president and chief executive officer of CertCo Inc., a New York-based company that provides security and risk management consulting for on-line business-to-business transactions. CertCo is currently a partner with AIG in its new Internet coverage offerings.

According to AIG's Mr. Sagalow, one complaint now being heard from risk managers is that the coverage available under emerging Internet insurance policies varies widely, causing confusion over exactly what they cover.

Some of the products likely will not be adequate to cover all the risks a company faces, he said.

For some policyholder, however, traditional property insurance may respond to losses caused by an Internet e-mail virus, one insurer says.

The array of new insurance products may not even be necessary, because coverage for viruses could be available under some traditional property policies, said Thomas R. Cornwell, vp of the Technology Insurance Group for Chubb & Son Inc. in Warren, N.J.

If a property insurance policy includes media or data coverage with vandalism as a peril and the policy has a business interruption component, then coverage could be available for virus exposures, Mr. Cornwell explained.

In fact, some new Internet products exclude coverage for viruses if the risk is already covered under such a property policy, he added.

Risk managers need to assess just how much Internet-related business risk a company can withstand and the potential impact on its balance sheet if such losses are uninsured, Marsh's Ms. Freeman said.

A company needs risk control, in the form of security measures, she said. But those measures can have limitations, locking hackers and security experts in a constant battle to one up each other, she said. Therefore, Ms. Freeman advises that risk transfer also be considered. BI

IRS

Continued from page 2

But as the ERISA Industry Committee, a Washington-based benefits lobbying group, put it, the same-desk rule seemed incomprehensible to employees.

Under the rule, even though an employee was working for a new company and thus was separated from his former employer, the employee could not receive his or her account balance. Essentially, the account was frozen, with employees unable to make new contributions to their accounts and employers not allowed to make matching contributions.

Apparently, the rule no longer made sense to the IRS, either. In last week's Revenue Ruling, the IRS said a 401(k) plan that allowed transferred employees to receive distributions would not be in violation of federal rules.

The Revenue Ruling is a victory for employers and employees, benefit experts say. For employers selling units or a division, such as a hotel chain selling off a few sites to another chain, they no longer have to incur the expense of running a 401(k) plan for employees who no longer work for them.

"Sellers don't want to continue to administer accounts for employees that they no longer employ," said Valerie Grace, a retirement attorney with William M. Mercer Inc. in Washington.

Instead, employers simply can—at the request of employees—directly transfer the account balance to a 401(k) plan sponsored by an employee's new company or transfer the funds to an employee's individual retirement account.

Alternatively, the employee could take the funds in cash. If the employee was less than age 59½, however, he or she would be slapped with a big tax hit. Employees do have the right, though, to keep their account balances in their former employers' 401(k) plan if the amount exceeds $5,000.

The IRS Revenue Ruling also will be welcomed by employees who will be able—so long as their new employer allows it—to transfer account balances to their new company's 401(k) plan.

That will end situations in which employees involved in a corporate spinoff must keep track of account balances in two different 401(k) plans.

"I say hallelujah. It is about time," said William Miner, a retirement practice leader with Watson Wyatt Worldwide in Chicago.

"This has been a problem people have complained about for years," added Joseph Walshe, a principal with PricewaterhouseCoopers L.L.P. in McLean, Va.

Welcome as the ruling will be to employers and employees, not all employee transfer situations are addressed. For example, the ruling offers no guidance for employers sponsoring 403(b) plans, the tax-exempt world's rough equivalent of 401(k) plans.

While employers have until Sept. 1 to follow the new revenue ruling, they can, if they so choose, abide by it immediately. BI

Updates

ACE CEO rebuts 'tax loophole'

Continued from page 2

It is ironic, he said, that U.S. units of ACE have become far more profitable under its ownership and have a higher effective tax rate than any of the insurers backing the bill.

Also, the $7 billion figure that has sometimes been quoted as the potential loss to the U.S. Treasury if the entire U.S. property/casualty industry moved offshore is wrong, Mr. Duperreault said. Last year, the U.S. P/C industry paid $5 billion in taxes.

In addition, the notion that the entire U.S. insurance industry would move offshore is "fanciful and utterly ridiculous," he said.

A handful of U.S. insurers are lobbying for passage of H.R. 4192, which was introduced last month to increase taxes on companies that reinsure U.S. business with Bermuda-based affiliates (*BI*, April 10). The four principal supporters are Chubb Corp., the Hartford Financial Services Group Inc., Liberty Mutual Insurance Co. and Kemper Insurance Cos.

Dingell defends patient rights

WASHINGTON—Enactment of managed care reform legislation that includes granting participants the right to sue health plans that improperly deny treatment will not cause a flood of lawsuits, says the co-sponsor of a patients rights bill that passed the U.S. House of Representatives.

The right-to-sue provision in the House bill is modeled on similar provisions in state law, said Rep. John Dingell, D-Mich., during an address last week at the International Foundation of Employee Benefit Plans' Washington Legislative Update.

Rep. Dingell joined Rep. Charlie Norwood, R-Ga., in drafting the Consensus Managed Care Improvement Act, which passed the chamber by an overwhelming majority last year (*BI*, Oct. 11, 1999). House-Senate negotiators are struggling to forge a compromise patient bill of rights package out of the Norwood-Dingell bill and a much narrower measure that won Senate approval last summer. Among other things, the Senate bill would not grant any new right to sue.

Rep. Dingell said fewer than 10 lawsuits alleging improper denial of treatment have been filed in Texas since that state passed its patients bill of rights act.

"There has been a great deal of misinformation spread" about the House bill, said Rep. Dingell. He specifically denied critics' charges that the House bill would open employers to new liability for the acts of health care plans they sponsor.

Rep. Dingell declined, however, to predict that Congress would pass a patient's bill of rights this year, though he said that he hoped "very much" that a good bill could be passed.

The chairman of the House-Senate conference committee dealing with the competing health care reform measures warned those attending the IFEBP meeting that time was running out. "The closer we get to the conventions and the elections, the less probable it is" that a suitable bill will be passed, said Sen. Don Nickles, R-Okla. Sen. Nickles, an outspoken critic of expanded health care liability, also said that while he wanted to get "a good bill of rights" passed, he believes "no bill is better than a bad bill."

Settlement review enacted

ANNAPOLIS, Md.—Maryland Gov. Parris Glendening last week signed into law legislation to protect recipients of structured settlements by requiring court authorization of any agreement in which a recipient sells his or her right to future multiyear payouts in return for a lump-sum payout.

Supporters of the measure point out that structured settlement recipients are typically injury victims who are likely to need the financial security of smaller multiple payments over several years, rather than one lump sum.

The Maryland Legislature unanimously approved H.B. 357, which garnered widespread support from legal and disability advocates. The advocates say the measure will protect Maryland residents from unscrupulous financial services companies that may try to take advantage of recipients' desire for immediate cash, often providing significantly less than the face value of the original settlements.

Maryland is now the 13th state to enact such consumer protections, according to the Washington-based National Structured Settlements Trade Assn. The other states are California, Connecticut, Georgia, Illinois, Kentucky, Maine, Minnesota, Missouri, North Carolina, Pennsylvania, Virginia and West Virginia.

In addition, similar legislation is "moving rapidly" in the Ohio and Tennessee legislatures, according to the association.

Alamo to appeal jury verdict

MIAMI—Alamo Rent A Car Inc. will appeal a $5.2 million award a Florida jury says it must pay for not warning a Dutch tourist about a bad neighborhood.

The Florida state court jury granted the award to the spouse of a woman who was killed in 1996 in Liberty City, a Miami neighborhood. The woman was murdered when her husband stopped to ask directions.

The plaintiff's attorney argued that Alamo ignored police recommendations that the rental car company advise its customers to be careful in the Liberty City area.

A spokeswoman for Fort Lauderdale, Fla.-based Alamo pointed out that the driver was lost and that a warning would not have prevented him from driving into the area. She said the company had complied with state laws to remove distinguishing marks from its rental cars so that they would not become targets for criminals.

"The implications of it are enormous," the spokeswoman said of the award, citing the possibilities of redlining neighborhoods and expanded liability for all companies in the travel industry.

FTR FOR THE RECORD

Excerpts from *BI*'s Daily Online Updates, MAY 8-MAY 12, 2000

AETNA BROADENS DOCS' OPTIONS In an attempt to improve its relationship with physicians, Aetna U.S. Healthcare has announced it will give physicians in Connecticut new options in dealing with the company. The company will now allow Connecticut physicians to opt out of Aetna's all-products policy. This policy requires participating physicians to belong to all of Aetna's preferred provider organization and health maintenance organization plans. In addition, those primary care physicians with fewer than 100 Aetna HMO members will be paid on a fee-for-service basis, and not on a capitated basis. Aetna said it plans to implement the changes as of Jan. 1, 2001.

ALBERTA PASSES HEALTH BILL Controversial legislation that permits the outsourcing of some medical procedures to private clinics was passed by the Alberta government last week. Alberta Premier Ralph Klein lauded the passage of Bill 11, saying that the legislation will ease the pressure on Alberta's government-run health system and that the language of the bill would guard against a two-tiered health system. The legislation provides regional health authorities with the option to contract out minor medical procedures to government-approved private clinics. Critics of the bill blasted it as a partial privatization of Canada's single-payer public health system, saying that it will lead to better health care for those who can afford to pay extra fees to the private clinics. Mr. Klein said that the legislation contained steps, including fines, to prevent its abuse.

CNA 1Q INCOME JUMP CNA Financial Corp. has reported a 200% increase in operating income for the first quarter of 2000 compared with the same period last year. The Chicago-based company announced operating income of $84 million during the first three months of the year, compared with $28 million during the first quarter of 1999. Bernard L. Hengesbaugh, CNA's chairman and chief executive officer, said in a statement that the first-quarter results "reflect management's commitment to improved underwriting discipline and expense reduction—two essential components of CNA's turnaround plan."

HIKES DRIVE XL PROFITS Increases in property rates helped propel Hamilton, Bermuda-based XL Capital Ltd.'s first-quarter profits to $223.8 million, up 6.7% from the same period in 1999. The insurer achieved increased rates for property insurance business during the quarter, said Brian M. O'Hara, president and chief executive officer. XL had thought, however, that rates in all lines would have hardened more substantially by now, Mr. O'Hara added. XL's gross premiums written increased to $918.9 million in the first quarter, a 25.5% increase over the same period last year. In addition to new business growth, XL made several acquisitions last year and increased its participation in its Lloyd's of London syndicates.

MEDICARE+CHOICE PLAN Aon Corp. unit Sterling Life Insurance Co. has received approval from the Health Care Financing Administration to offer the first Medicare+ Choice private fee-for-service plan to retirees as an alternative to Medicare health maintenance organizations. The plan, known as Sterling Option 1, is being made available this month to the general market as well as to employers that fund their retirees' Medicare supplements, a spokeswoman for Chicago-based Aon said. The plan is an alternative to Medicare HMOs, giving participants their choice of providers without gatekeeper involvement, the spokeswoman explained. It is also about half the cost of other Medicare supplemental insurance policies, she said. Private fee-for-service plans were authorized under the Balanced Budget Act of 1997. Olympic Health Management Services Inc., based in Bellingham, Wash., will handle the administration and medical management functions of the Sterling product line, which also includes Medicare Supplement and Medicare Select.

RELIANCE OPERATING LOSS Reliance Group Holdings Inc. of New York has posted an operating loss of $36.5 million for the first quarter of 2000, a sharp decline from its $11.4 million operating profit for the same period in 1999. The results include a $40 million loss from business now in runoff, a Reliance statement said. Net income actually increased in the first quarter to $145.5 million from a loss of $15.5 million in the same period last year. That gain was due to the sale of investments, the company said. The worst-performing unit was Reliance's large commercial property and casualty insurer, Reliance National Insurance Co., which had a combined ratio of 121.8% for the quarter. Gross premiums for the first quarter of 2000 fell to $1.30 billion from $1.68 billion for the same period in 1999.

CIGNA BUY FUELS ACE GAINS Hamilton, Bermuda-based ACE Ltd. reported net income of $174.5 million in the first quarter of 1999, which is a 35.3% increase over the same period last year. Gross premiums written increased more than fourfold, to $2 billion, due to the acquisition of the property/casualty and international operations of CIGNA Corp. in July 1999. Of ACE's individual units, ACE USA Inc.—which includes most of the units acquired from CIGNA—saw the biggest increase in gross premiums, which grew to $738.9 million from $50.9 million in the first quarter of 1999. At ACE Bermuda Insurance Ltd., gross premiums increased 32.5% to $173.1 million. ACE's reinsurance operations, however, saw an 8.5% decrease in gross premiums to $104.9 million.

GEN RE KEEPING UNIT General Re Corp. will not sell its derivatives operation as was expected, the Stamford, Conn.-based reinsurer announced last week. After completing a "strategic review," Gen Re decided that it would retain General Re Financial Products and continue to offer derivative and financial structuring services to its clients, which include a substantial number of insurers, said Mark J. Byrne, president and chief executive officer of GRFP in London. The fate of GRFP was put into question in 1998 when General Re was bought by Berkshire Hathaway Inc., Mr. Byrne said. The initial decision was to sell the unit to an undisclosed buyer, Mr. Byrne said. But that deal fell apart as a result of the collapse of a much larger deal earlier this year upon which the GRFP sale was contingent, he said. GRFP also was plagued by rumors earlier this year that it had made substantial losses in 1999. Those rumors were unfounded, Mr. Byrne said.

HINES SYMPOSIUM This year's Harold H. Hines Jr. Memorial Symposium, focusing on e-commerce issues, will be held May 23 at the Union League Club in Chicago. To preregister for the free symposium, please contact the Insurance School of Chicago, 330 S. Wells St., Suite 300, Chicago, Ill. 60606; 312-427-2520.

BRIEFLY NOTED German authorities holding accused swindler **Martin R. Frankel** say they will prosecute him for traveling with a false passport and smuggling diamonds, which were found when he was arrested in a Hamburg hotel last year. The German charges are expected to delay Mr. Frankel's extradition to the United States to face charges that he siphoned more than $200 million from a group of life insurers he controlled from an estate in Greenwich, Conn. . . .**Crum & Forster** has appointed Nikolas Antonopoulos as president. Mr. Antonopoulos joined the insurer last year as executive vp. . . .New York insurance regulators have approved a plan to dissolve the **Medical Malpractice Insurance Assn.** and transfer old liabilities to the Medical Liability Mutual Insurance Co. The Insurance Department also is reviewing proposals for transferring current MMIA business to other medical malpractice insurers. . . .**Folksamerica Reinsurance Co.** has completed its acquisition of substantially all the reinsurance operations of Risk Capital Reinsurance Co. Meanwhile, Risk Capital Holdings announced that its name is being changed to Arch Capital Group Ltd. and that Peter A. Appel, who had been executive vp and chief operating officer, has become president and CEO. He replaces Mark D. Mosca, who will continue as a director. . . .The San Francisco-based **Pacific Business Group on Health** has named Peter V. Lee president and CEO. BI

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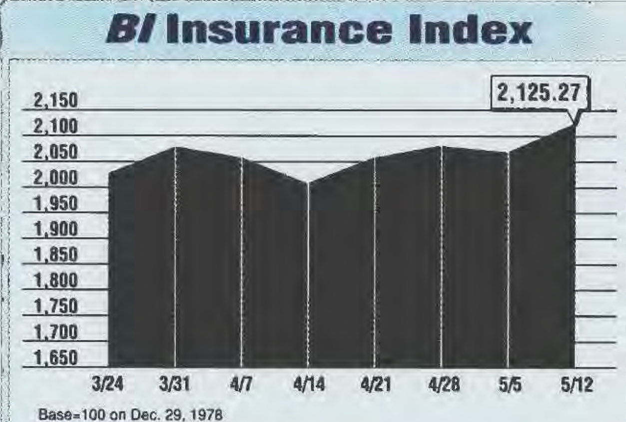
BI Industry Stock Report MAY 8, 2000, THROUGH MAY 12, 2000

Company	Exchange	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)
BROKERS							
Aon Corp.	NYS	32.56	10.15	-18.59	46.41	20.69	3978
Clark Bardes Holdings	NDQ	14.50	0.00	0.87	21.00	11.63	44
E.W. Blanch Holdings Inc.	NYS	21.56	-0.58	-64.80	71.75	16.56	507
Gallagher Arthur J. & Co.	NYS	36.19	0.52	11.78	37.25	23.06	617
Hilb, Rogal & Hamilton	NYS	28.50	-0.65	0.88	29.13	18.25	93
Kaye Group Inc.	NDQ	7.00	-11.81	-16.42	11.88	5.00	6
Marsh & McLennan	NYS	95.94	-2.42	0.26	110.69	61.75	2601
Brown & Brown	NYS	40.63	0.78	6.04	41.94	30.75	50
BROKERS	AVERAGE		-2.36	-10.38			
INSURERS/REINSURERS							
ACE Ltd.	NYS	26.06	5.04	56.18	35.25	14.06	7029
Accel International Corp.	NDQ	0.75	0.00	-25.00	2.56	0.50	7
Acceptance Insurance Cos.	NYS	4.13	4.76	-28.26	15.94	2.75	205
AEGON N.V.	NYS	73.13	3.36	-23.43	98.25	63.00	368
Aetna Life & Casualty	NYS	58.75	4.21	5.26	99.88	38.50	3070
AFLAC Inc.	NYS	47.75	4.95	1.19	54.69	33.56	3160
Allmerica Financial Corp.	NYS	55.56	3.49	-0.11	64.81	35.06	943
Allstate Corp.	NYS	25.50	11.48	5.97	40.75	17.19	12978
Ambac Financial Group	NYS	47.38	0.53	-9.22	63.00	38.88	1653
American Financial Group	NYS	26.63	2.90	0.95	36.81	18.38	270
American General	NYS	56.63	4.86	-25.37	82.19	45.63	3984
American Intl Group	NYS	114.88	2.97	6.24	119.25	78.56	12924
American Safety Insurance	NYS	4.38	-12.50	-32.69	10.00	4.25	41
Argonaut Group	NDQ	18.38	-2.00	-7.55	27.94	16.56	85
AXA-UAP Group	NYS	71.94	3.32	1.32	79.94	53.75	360
Baldwin & Lyons Inc.	NDQ	17.44	-4.45	-21.19	24.05	16.25	12
Berkley W.R. Corp.	NDQ	22.00	-0.56	5.39	28.00	14.00	245
Berkshire Hathaway Inc.	NYS	55000.00	-1.79	-1.96	78200.00	40800.00	2
Capitol Transamerica Corp.	NAS	12.00	7.87	19.25	15.25	9.38	46
Chubb Corp.	NYS	63.31	4.33	12.43	76.38	43.25	2028
CIGNA Corp.	NYS	78.94	3.95	-2.02	98.63	60.75	3548
Cincinnati Financial Corp.	NYS	39.38	-1.41	23.53	43.31	26.19	1646
Citigroup	NYS	60.13	0.94	7.97	65.44	40.13	41057
CNA Financial Corp.	NYS	31.75	8.09	-18.46	45.31	24.56	683
CNA Surety	NYS	14.75	1.72	13.46	15.56	9.75	162
EMC Insurance Group Inc.	NDQ	7.50	-6.25	-17.81	13.38	6.81	12
ESG Re Limited	NDQ	4.22	8.87	-39.19	20.06	3.19	102
Enhance Financial Services	NYS	12.88	9.57	-20.77	22.63	8.63	680
Everest Reinsurance	NYS	31.19	-2.73	39.78	35.69	20.50	960
Fremont General Corp.	NYS	4.69	-21.05	-36.44	21.44	4.69	1050
Frontier Insurance Group	NYS	0.69	-26.67	-80.00	17.25	0.63	1456
Gainsco Inc.	NYS	5.75	-2.13	6.98	6.94	3.94	281
Harleysville Group	NDQ	16.06	0.78	12.72	20.88	11.63	486
HSB Group Inc.	NYS	28.06	0.67	-17.01	42.25	21.50	392
HCC Insurance Holdings	NYS	13.56	16.04	2.84	25.13	8.00	354
ING Groep N.V.	NYS	56.19	3.81	-7.89	63.94	46.81	319
IPC Holdings Ltd.	NDQ	14.13	5.61	-5.04	22.50	9.75	140
Hartford Financial Services	NYS	53.25	3.52	12.40	66.44	29.38	2619
John Hancock Financial Service	NYS	21.19	5.94	24.63	21.50	13.44	7051
LaSalle Re Holdings Ltd.	NYS	12.81	-2.38	-22.35	18.63	10.88	106
Lincoln National	NYS	35.25	5.22	-11.88	57.50	22.63	3189
MAIC Holdings Inc.	NYS	11.00	-9.74	-48.08	29.05	11.00	543
Markel Corp.	NYS	138.13	-1.12	-10.89	193.00	111.50	62
MBIA Insurance Group	NYS	50.75	2.53	-3.91	71.88	36.31	1534
Meadowbrook Insur. Group	NYS	5.63	11.11	-14.29	14.13	4.75	27
MetLife	NYS	18.44	4.98	29.39	18.56	14.25	15340
MMI Cos. Inc.	NYS	9.94	0.00	15.25	17.44	3.31	0
Mutual Risk Mgmt. Ltd.	NYS	14.44	3.59	-14.13	40.50	9.81	1177
Navigators Group	NDQ	9.88	1.28	1.28	16.00	8.75	18
NYMagic Inc.	NYS	15.25	1.24	15.64	19.50	12.00	85
Ohio Casualty Corp.	NDQ	13.75	-8.71	-14.40	20.25	10.75	4714
Old Republic Int'l	NYS	17.38	2.21	27.52	20.69	10.63	2697
Partner Re Ltd.	NYS	36.63	-3.30	12.91	41.44	28.38	189
Penn-America Group Inc.	NYS	8.50	-4.23	9.68	11.06	6.63	5
PMA Capital Corporation	NDQ	18.00	2.86	-9.43	21.13	15.50	99
Philadelphia Cons. Holding	NDQ	15.94	2.00	9.91	25.19	10.81	154
PXRE Corp.	NYS	14.69	-1.26	12.98	19.56	9.94	24
Reliance Group Holdings	NYS	2.25	-20.00	-66.04	10.88	2.25	2405
ReliaStar Financial Corp.	NYS	51.06	0.49	30.30	51.75	23.75	4383
RenaissanceRe Holdings Ltd.	NYS	40.25	6.62	-1.53	43.19	30.88	289
Risk Capital Holdings	NDQ	15.69	-1.95	24.26	17.38	11.00	9
RLI Corp.	NYS	34.00	4.62	0.00	38.81	26.25	89
St. Paul Cos.	NYS	35.50	5.38	5.38	37.06	21.31	3023
SCOR	NYS	44.63	4.08	0.85	56.75	40.00	13
SAFECO Corp.	NDQ	21.13	5.96	-15.08	46.75	18.00	6038
SCPIE Holdings Inc.	NYS	24.25	0.26	-24.51	36.94	23.06	NA
Seibels Bruce Group	NDQ	1.81	3.57	3.57	6.25	1.25	138
Selective Ins. Group	NDQ	19.00	2.36	10.55	22.50	14.63	256
Tokio Marine & Fire	NDQ	54.25	7.96	-8.25	67.00	45.00	67
Torchmark Corp.	NYS	24.19	2.11	-16.77	38.00	18.75	2359
Transatlantic Holdings	NYS	83.81	1.51	7.37	87.00	68.75	40
Travelers Property Casualty	NYS	42.00	0.00	22.63	42.00	27.69	0
Trenwick Group Inc.	NYS	13.75	-1.35	-18.82	32.00	12.00	73
Unico American Corp.	NDQ	6.56	-0.94	-6.25	10.75	4.50	54
United Fire & Casualty	NDQ	16.25	-3.35	-28.18	27.25	16.00	75
Unitrin	NDQ	32.84	0.10	-12.71	42.38	30.69	373
UNUM Corp.	NYS	19.06	2.69	-40.55	56.88	11.94	4918
Vesta Insurance Co.	NYS	5.00	-13.04	29.03	7.88	3.44	130
XL Capital Ltd.	NYS	48.56	-3.36	-6.39	67.19	39.00	3084
Zenith National Ins.	NYS	24.56	-0.76	19.09	26.69	18.75	154
INSURERS/REINSURERS	AVERAGE		0.67	-3.21			
HEALTH MAINTENANCE ORGANIZATIONS							
Foundation Health Systems Inc.	NYS	9.06	-7.64	-8.81	20.06	6.25	1464
Humana Inc.	NYS	6.25	-5.66	-23.66	15.19	5.88	2798
Oxford Health Plans	NDQ	20.25	6.58	59.61	21.56	9.75	6460
Pacificare Health Sys.	NDQ	57.56	-3.05	8.61	98.13	31.13	1333
Sierra Health Services	NYS	3.31	3.92	-50.47	16.25	2.75	726
United HealthGroup	NYS	71.38	13.18	34.35	71.38	39.38	6291
Wellpoint Health Networks	NYS	72.63	3.66	10.14	97.00	48.25	1044
HMOs	AVERAGE		1.57	4.25			
ALL COMPANIES	AVERAGE		-0.04	-3.11			

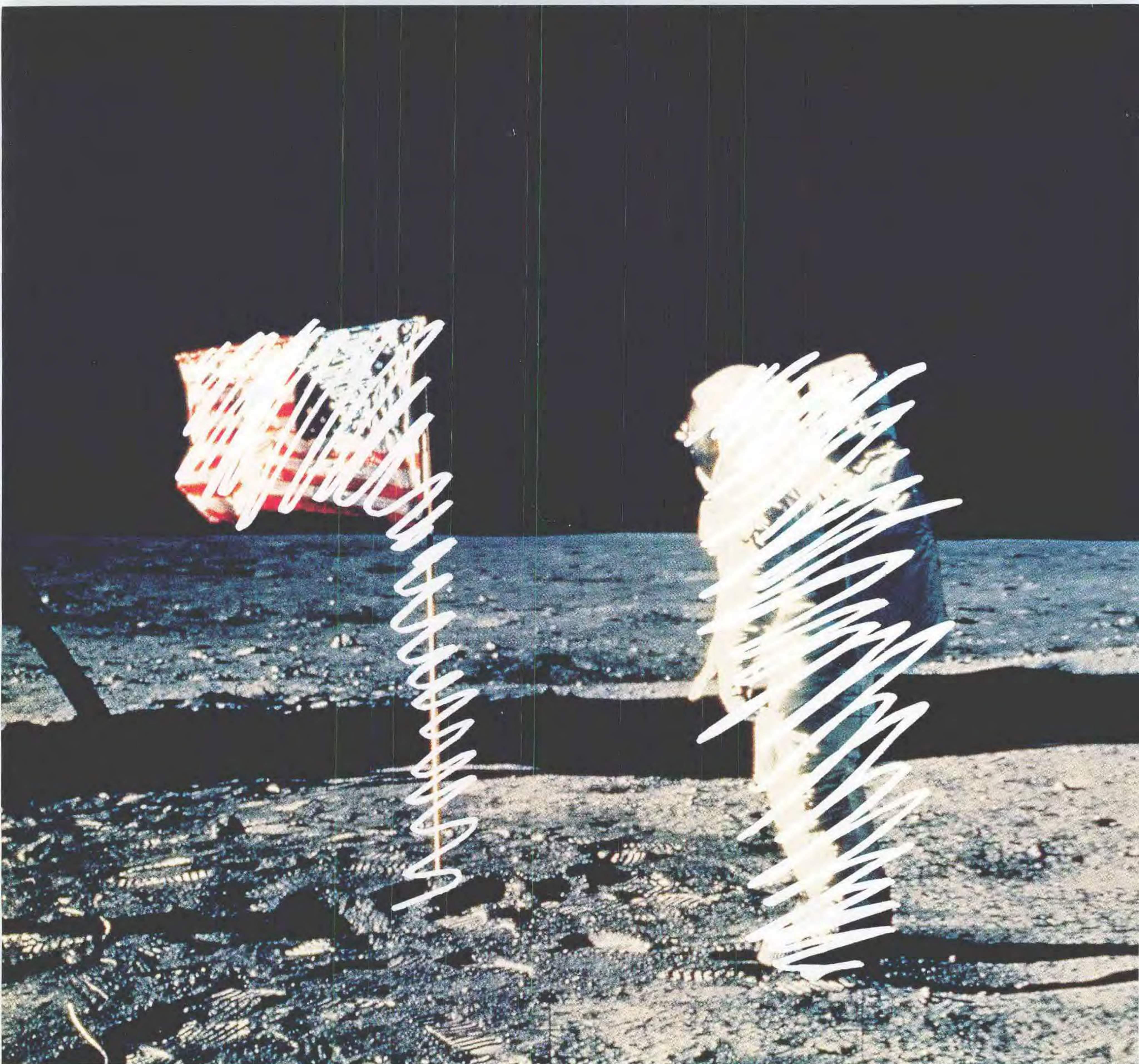
BI Insurance Index



Base=100 on Dec. 29, 1978

Top advancing issues: HCC Insurance Holdings, United HealthGroup, Allstate Corp. Leading decliners: Frontier Insurance Group, Fremont General Corp., Reliance Group Holdings. Most active issue: Citigroup. The *BI* Index increased 2.7%; the Dow Jones 30 Industrials went up 0.3%; the S&P 500 decreased 0.8%, and the NYSE Composite rose 0.7%. Average P/E: Brokers, 18.5; Insurers/reinsurers, 16.1; HMOs, 11.8

Source: *CNET Investor* (investor.cnet.com) Boulder, Colo.



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