

# Business Insurance

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## National Union to pay majority of \$48.5 million D&O settlement

HICKSVILLE, N.Y.—The Long Island Lighting Co.'s directors and officers insurer will pay the bulk of a tentative \$48.5 million agreement to settle litigation brought by shareholders over cost overruns at one of the utility's nuclear power plants, according to a plaintiffs' attorney.

Under the settlement, which is still subject to court approval, National Union Fire Insurance Co. of Pittsburgh, Pa., a unit of American International

*Continued on next page*

# State of the market

## Competition heats up for renewals

By LINDA J. COLLINS

Competition in the commercial property/casualty insurance marketplace continues to heat up and shows no signs of lessening before 1989.

Risk managers, brokers and insurers say that buyers renewing their property/casualty programs this spring are seeing greater coverage availability, better terms and conditions and/or rate reductions of anywhere from 10% to 40% on most lines of property/casualty business.

And, unlike the last soft market of the early 1980s, competition is being driven by insurers rather than reinsurers.

While reinsurance brokers, reinsurers and insurers agree that reinsurers are more willing to write business than they have been in the past three years and are offering some coverage concessions and rate reductions, reinsurers are not yet engaging in widespread rate cutting.

But, increasing competition is the order of the day among primary insurers.

"It's a continuation of the conditions that existed in January. The market is still heading down in pricing and up in availability," said Charles L. Ruoff, senior vp and director of broker Fred S. James & Co. Inc. in New York.

"We are still seeing continued aggressive competition,

generally across the board," agreed Larry Sorensen, senior vp and director of marketing for broker Rollins Burdick Hunter Co. in Chicago.

"God knows where this is all going. If the market continues to soften at the rate it has been, it will hit us hard on the way back up, too," observed George B. Netherton, director of corporate risk management for The Coca-Cola Co. in Atlanta.

One insurer concurred. "Rates have gone down" and, in some instances, "pricing is through the floor," said Ed Golaszewski, regional vp-special risks for Zurich-American Insurance Co. in Schaumburg, Ill. He said that Zurich-American in some cases is simply refraining from writing business because of the intensity of competition.

Thorough underwriting has not been abandoned, brokers stress. Insurers continue to request detailed information when writing both property or casualty risks.

However, while insurers are "really trying to underwrite, at the end of the day if it takes a certain price to get or retain business, then they will do it. It's not uncommon that, in order to go after an attractive risk, insurers will take business at a loss," said Donald J. Krutek, chairman and chief executive officer of Frank B. Hall & Co. of Illinois in

*Continued on page 53*

**'The market is still heading down in pricing and up in availability,' says Charles L. Ruoff, senior vp of broker Fred S. James & Co. Inc.**

## Risk managers stick with alternatives

By ALISON KITTRELL

Despite signs of a softening market for property/casualty insurance, risk managers are not rushing back to commercial insurers, according to a *Business Insurance* survey.

The *BI* Risk Management Board survey reveals that, for most risk managers, commercial property and casualty insurance rates are dropping, limits are increasing and some policy restrictions are being eased. But, the risk managers remain wary of the U.S. commercial insurance marketplace, and they are not being lured away from alternatives such as self-insurance or the London market.

The personnel and risk manager of a public agency with \$150 million in annual revenues explained why his agency has not abandoned its self-insurance program to buy coverage in the commercial market: "It has been demonstrated that the cycle is starting again, and we are pleased that we are retaining a significant self-insured retention to provide less fluctuation in the future."

"It's time to get off the roller coaster, assuming you have done your homework with a sound actuarial study."

Most of the 47 members of the *BI* Risk Management

*Continued on page 49*

**BI survey**

## House panel probes collapse of Mission

By DOUGLAS McLEOD

WASHINGTON—A congressional subcommittee is collecting information on the 1987 collapse of Mission Insurance Group Inc. as part of an investigation of the adequacy of state insurance regulation.

The Subcommittee on Oversight and Investigations of the House Energy and Commerce Committee last month launched an investigation into the estimated \$900 million Mission insolvency and may expand the inquiry to other insurer failures, confirmed John B. Chesson, counsel to the subcommittee.

The House panel, headed by Rep. John D. Dingell, D-Mich., is not yet considering proposals for changing the system of state insurance regulation or financial reporting by insurers, Mr. Chesson said, explaining that this would be "putting the cart before the horse."

"For now, the inquiry is intended only to gather information on Mission, which he described as 'a good case study' of an insurer failure.

The subcommittee is interested in Mission, he said, because it is the largest insurer insolvency in U.S. history, it was a publicly traded company and the collapse spawned allegations of fraud.

"It's kind of like going into a cave," Mr. Chesson said of the in-

*Continued on page 54*

## Employers' COBRA costs exceed premiums charged

By JERRY GEISEL

WASHINGTON—Many employers are spending far more on COBRA health care claims than they are collecting in premiums even though only a small percentage of eligible people are opting for COBRA coverage.

While legislators intended COBRA coverage to be self-supporting with the premiums paid by beneficiaries covering employer costs, some employers say they are paying out more than \$2 in claims for each dollar of premium paid by former workers and spouses who purchase COBRA coverage.

As benefit managers and consultants had predicted when the health care continuation provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985 were winding through Congress, COBRA beneficiaries often are those people who know they will require health care services, resulting in adverse selection.

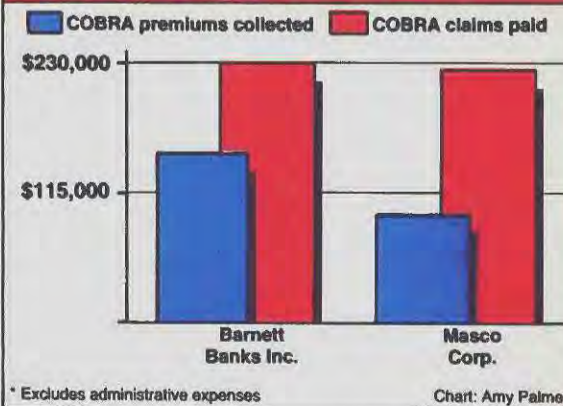
"There is almost no way that COBRA premiums will cover claims," said Catherine Corse, assistant vp-employee benefits at Barnett Banks Inc. in Jacksonville, Fla.

COBRA coverage "is a prime example of adverse selection," said Kevin Gill, director of compensation and benefits at Springs Industries Inc. in Fort Mill, S.C.

Although the COBRA premiums collected often fall short of covering claims costs, extending health care coverage has not proven to be a major benefit expense item for most employers.

Even at companies where adverse selection is extensive, COBRA expenditures amount to a small percentage—often less than 1%—of employers' total health care costs.

### Two employers' COBRA experience in 1987\*



For instance, Springs Industries paid \$140,000 in COBRA claims in 1987 that exceeded beneficiaries' premiums out of total health care expenditures of about \$30 million.

While the cost of COBRA is relatively small compared with overall health care expenses, "tell me one thing that is fair about having to pay for the cost of people who are gone," said Fred Hamacher, vp of compensation and benefits at Dayton-Hudson Corp. in Minneapolis.

Employers also report that relatively few eligible

*Continued on page 48*

**Regulator charges fraud in collapse of Integrity**  
Page 3

**Update**

**LILCO settlement insured**

*Continued from previous page*

Group Inc., will pay \$30 million, said Pat Hines, an attorney with Milberg, Weiss, Bershad, Specthrie & Lerner in New York.

LILCO shareholders brought two suits against the utility's directors and officers: One was on behalf of themselves and the other was a derivative suit. The suits had been litigated together.

LILCO also agreed to pay up to \$2.25 million in attorneys' fees, Ms. Hines said.

**Laventhol settlement insured**

SACRAMENTO, Calif.—Professional liability insurers for Philadelphia-based Laventhol & Horwath will cover all of the accounting firm's \$15 million settlement of racketeering charges stemming from a tax shelter fraud scheme.

The May 6 settlement, which is still subject to court approval, would be paid by Laventhol's liability insurers, which include Lloyd's of London syndicates and other London market insurers, a Laventhol spokesman confirmed.

Laventhol was one of several defendants named in a class-action suit filed in 1983 on behalf of 2,850 investors who poured roughly \$20 million into a supposed tax-sheltered limited partnership scheme involving cattle breeding.

A jury in U.S. District Court in Sacramento found on Feb. 2 that Laventhol, the nation's ninth-largest accounting firm, violated the federal Racketeer Influenced Corrupt Organizations Act in its audits of the scheme between 1979 and 1981. The jury said Laventhol deliberately aided and abetted securities law violations by the scheme's promoter, Vern S. Bennett.

Mr. Bennett has acknowledged his liability in a settlement agreement, but claims he has no assets with which to cover damages, according to J. Thomas Hannan, a lawyer with Lovitt & Hannan in San Francisco, which represented the plaintiffs.

Before the trial, the now-defunct San Francisco law firm of Niesar, Moody, Hill, Massey & Kregstein agreed to pay about \$2.7 million. That settlement was covered by the firm's liability insurer, General Accident Insurance Group, Mr. Hannan said.

**Mentor liquidators sue auditor**

HAMILTON, Bermuda—The liquidators of Mentor Insurance Co. Ltd. are suing Peat Marwick Main & Co., whose Bermuda affiliate audited Mentor prior to its collapse in June 1985.

The negligence suit, brought earlier this year in a New York state court, names as defendants Peat Marwick's New York practice, as well as its Bermuda affiliate, which is run by the partners of local accountant Butterfield & Steinhoff.

Michael Arnold, one of Mentor's joint liquidators, refused to discuss the action.

Greg Haycock, a Peat Marwick partner in Bermuda, said in a statement that the firm is seeking the suit's dismissal. "Peat Marwick believes that this suit is totally without merit and that the Mentor liquidators have no legitimate claim against Peat Marwick with respect to the work it carried out as auditors of Mentor Insurance."

Mr. Haycock described the action as "merely another in a series of such suits brought by the Mentor liquidators in the United States," referring to a suit filed by the liquidators in a Louisiana federal court against Mentor's parent, Ocean Drilling & Exploration Co., its directors and Pinnacle. The Louisiana court last month dismissed that suit on the grounds that Bermuda would be a more convenient forum (BI, April 25).

**Hospital sues BC/BS over PPO**

TOLEDO, Ohio—Toledo Hospital is suing Blue Cross/Blue Shield Assn. of Northern Ohio for \$20 million, charging the association with fraud and antitrust violations because it excluded the hospital from a new preferred provider organization.

The hospital signed "a universal contract" with the Blue Cross group in October that should have automatically made it a provider in Super Blue, a PPO first offered this spring, said Clifton Johnson, general counsel for Toledo Hospital. Toledo Hospital, with 814 beds, is the largest in the Toledo area.

"Our response to that is 'nuts,'" said a BC/BS spokesman. Nine hospitals in the Toledo area were invited to bid for the new program last fall, but Toledo Hospital did not respond, he said.

However, Mr. Johnson claims the hospital did respond, stating its contention that its contract made it a participant in all future products marketed by the association.

The BC/BS spokesman said the association has not decided how it will respond to the lawsuit.

**Jet crew blamed for crash**

WASHINGTON—Flight crew error caused the crash of a Northwest Airlines jet in Detroit last August, concludes a report issued by the National Transportation Safety Board last week.

The crew of Northwest Flight 255 failed to complete a safety checklist before takeoff, leaving the jet's flaps and slats improperly set, which caused the crash, the report says.

The crash, the second worst in U.S. aviation history, killed 156 people.

The report also said that an automatic alarm system failed to alert the crew that they had not properly extended the flaps and slats. Although the alarm's failure was a contributing factor to the crash, it was not as critical as the crew's failure to complete its checklist, said an NTSB spokesman.

A Northwest spokesman declined to comment on the report. St. Paul, Minn.-based Northwest had \$700 million in aviation liability insurance and maximum hull limits of \$120 million when the crash occurred, sources said (BI, Aug. 24, 1987).

*Continued on page 53*

**Excess insurer delays liability for injury claims**

By STACY ADLER

SANTA CLARA, Calif.—An excess insurer does not have to drop down and pay claims in a long-latent injury case until all of the policyholder's primary insurers that wrote coverage during other policy periods have exhausted their limits, a California state court says.

In a decision that breaks new ground in insurance law, California Superior Court Judge James A. Wright ruled that Associated International Insurance Co. of Los Angeles did not have to drop down and pay claims even though the underlying primary insurer and first-level excess insurer on the risk during the same policy period had exhausted their limits.

The other primary insurers must exhaust their limits by paying claims—even those that fall outside their policy periods—before Associated has to begin paying claims, the judge ruled.

The ruling in the Associated case is one of the first in

the nation on the obligations of an excess insurer in a long-latent disease case, said attorney Stephen Newton of Newton, Kastner & Rempel in Mountain View, Calif., who represented Associated.

"This case breaks new ground," said Mr. Newton, who explained that there are no similar California decisions and only one or two other similar decisions nationwide.

The underlying case involved product liability claims against E.D. Bullard Co. of Saussalito, Calif., which manufactures

industrial safety equipment, including masks worn by construction workers to prevent the inhalation of sandblasting debris.

Hundreds of construction workers are suing Bullard, claiming the masks did not protect them from inhaling microscopic particles of crystalline-free silica. As a result of inhaling the silica, the construction workers allege they have developed silicosis, a respiratory disease that is similar in its development to asbestosis.

*Continued on page 12*

**All primary insurers must exhaust their limits by paying claims—even those that fall outside their policy periods—before Associated has to begin paying, Judge Wright ruled.**

**Nuclear industry captives receive Delaware licenses**

By ROGER SCOTTON

HAMILTON, Bermuda—Two Bermuda-based captive insurers that write property insurance for nuclear utilities are moving some operations onshore by establishing affiliates in Delaware.

Bermuda-based Nuclear Mutual Ltd. and Nuclear Electric Insurance Ltd. were licensed late last week by the Delaware Department of Insurance. However, non-U.S. business, which is a small portion of their business, still will be handled through the two insurers' Bermuda facilities.

Quentin Jackson, president of both Bermuda-based insurers, said that the companies' decision to seek onshore status was due to tax considerations and to write more U.S. business.

Recent Delaware legislation, H.B. 406, signed into law April 8 allows captives incorporated in other jurisdictions, including offshore, to operate in Delaware as a Delaware-chartered captive (BI, April 18).

"We are not sure what new business we will be looking for at this stage but it was felt that this objective could be more easily accomplished by having branches in the U.S.," he said.

"Tax considerations also played a part in the decision," Mr. Jackson said. "Under the 1986 Tax Reform Act, we have elected to be treated as domestic insurers for tax purposes so far as our U.S. risks were concerned. This has effectively removed the tax disadvantage of operating onshore," he explained.

The captives' applications to relocate in Delaware were filed in mid-April.

"The relocation of these two offshore captive insurance companies to Delaware will hopefully set a precedent and other quality multiparent captives will follow," said Delaware Insurance Commissioner David N.

Levinson.

Although NML and NEIL are separate entities, they both serve similar, though not identical, policyholders. NML is a primary property and builders risk insurer, providing coverage for 21 utility companies operating 31 nuclear power plants. NEIL provides 69 utilities operating 108 plants with excess property coverage, as well as replacement power insurance (for the loss or interruption of business by a power facility) and decontamination liability coverage.

The companies also plan to increase their legal and loss prevention engineering staff following the move to Delaware, he said. "We'd be looking to have about 15-20 staff in Delaware and expand our nuclear site engineers, which would be difficult to do from Bermuda," he said.

Mr. Jackson said that though non-U.S. risks would continue to be handled by the insurers' Bermuda headquarters, the onshore business would be "doing in Delaware just about everything we do in Bermuda."

And, he stressed that the insurers—which two years ago considered a move to Barbados to take advantage of the U.S. tax treaty with that domicile—have no intention of withdrawing from Bermuda.

Delaware was selected because its captive statute is similar to Vermont's, while the state has a more attractive geographic location than Vermont, he said.

"We are pleased that after an in-depth analysis of all the jurisdictions that these two companies could have moved to, Delaware was selected as the best location," Delaware's Mr. Levinson said.

The two companies generate premiums of about \$250 million a year, Mr. Jackson said.

For the year ending Dec. 31, 1987, NEIL had capital and surplus of more than \$1 billion, while NML's capital and surplus stood at \$493 million.

**Inside**

- ✓ Benefit managers who complain about federal mandates but do not fight them deserve what they get. **PAGE 8**
- ✓ A recent Supreme Court ruling is a mixed bag for directors and officers. **PAGE 19**
- ✓ More insurance capacity and more choices will be available in Europe at the end of 1992. **PAGE 22**
- ✓ In Speaking Out, Peter H. Bickford warns of the fallout from the demise of the New York Insurance Exchange. **PAGE 31**
- ✓ In Perspectives, Lawrence H. Curtis explains the benefits of a reversionary medical trust in settling deadlocked personal injury cases. **PAGE 18**
- ✓ The Prudential Insurance Co. is suing a bank over a building sold to the insurer containing asbestos. **PAGE 37**
- ✓ Five socio-economic trends will put increased pressure on corporate employee benefit officials. **PAGE 38**
- ✓ Insurance brokers' first-quarter results were quite creditable, reports analyst Leonard Wilson. **PAGE 55**

**Departments**

Around the states.....	16
Benefit beat.....	6
Classifieds.....	50
Comings & goings: buyers.....	49
Comings & goings: industry.....	42
Insurance services guide.....	54
Letters.....	8
London.....	39
Markets.....	34
Opinions.....	8
Perspectives.....	31
RMS commentary.....	33
Speaking out.....	31
Ticker.....	55
Worldwide.....	27

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# Fire losses

## Big property limits cover Los Angeles skyscraper

By DONNA DiBLASE

LOS ANGELES—Insurers worldwide will cover claims from the fire-damaged First Interstate Bankcorp skyscraper under a multiple-layer property insurance program.

"We're confident that our coverages are ample. There are scores of policies involved, as I understand," said a spokesman for New York-based Equitable Life Assurance Society of the United States, which co-owns the building with Los Angeles-based First Interstate.

But the property and liability coverage for the Pacific Engineering & Production Co. rocket fuel plant that exploded May 4 in Henderson, Nev., the same day as the First Interstate building was ablaze, is much more limited.

New York-based American International Group Inc. confirms that it wrote the bulk of the property/casualty coverage that will respond to the explosion damages, which included the destruction of a neighboring candy factory.

While AIG declined to disclose limits, liability limits could be as low as \$25 million since Pacific Engineering did not tap the major excess liability insurance facilities.

Final damage estimates for both the Los Angeles and Henderson disasters probably will not be available for several weeks, according to fire officials. Early reports placed damage to property surrounding the Pacific Engineering plant at \$100 million.

Many details of the First Interstate coverage remained sketchy late last week because a final damage estimate is unavailable and so many insurers wrote a portion of the coverage.

The Equitable spokesman declined to reveal details of insurance coverage for the building.

While noting that the fire that raged through five floors of the 62-story First Interstate Bank building substantially damaged the structure, fire officials say an early damage estimate of \$450 million was far too high (BI, May 9).

Continued on page 4



Photo: AP/Wide World

The fire that ravaged the First Interstate Bank building destroyed nearly all contents of floors 12 through 15.

# Many firms not ready for right-to-know

By DEBORAH SHALOWITZ

WASHINGTON—Many employers will not be in compliance with a new federal hazard communication standard that takes effect next week partly because the rule covers substances typically not considered hazardous, observers say.

Among the substances for which employers in all industries must develop hazard communication programs by May 23 are copy machine toner and household cleaners packaged for industry, observers point out.

Many employers will not be in compliance with the standard by next week's deadline, predicted John Garis, manager of industrial hygiene for National Loss Control Service Corp., a Long Grove-Ill.-based safety and loss control consultant and a Kemper Group affiliate.

Mr. Garis explained that he hears "only from people when they need help," and employers still are asking his firm for hazard communication-related services. If employers already had complied with the rule, they would not be asking for NATLSCO's services, he concluded.

Many employers next week will be "absolutely woefully out of compliance" with the standard, agreed Richard Hunt, president of Total Loss Control Inc., an Easton, Pa., consultant.

Mr. Hunt pointed out that many manufacturers, which have been subject to the hazard communication standard since May 1986, still have not fully complied with the rule. Non-manufacturers will be "even less in compliance," he predicted.

The federal worker right-to-know rule, which was developed by the Occupational Safety and Health Administration, requires employers in all industries to:

- Label containers of potentially hazardous materials with appropriate warnings.
- Have a material safety data sheet (MSDS) for each of these substances. The MSDS details the substance's properties and the nature of the hazard.

Continued on page 36

# New Jersey regulator sues Integrity officials for fraud

By DOUGLAS McLEOD

HACKENSACK, N.J.—Integrity Insurance Co.'s former management put the insurer on the road to financial ruin and fraudulently concealed its deteriorating condition for several years before the company was ordered liquidated in 1987, a New Jersey Insurance Department lawsuit charges.

Insurance Commissioner Kenneth D. Merin filed a \$300 million suit in Bergen County Superior Court on May 4 charging Integrity's management with allowing the unbridled expansion of managing general agency programs that led to the insurer's collapse, and with failing to maintain adequate reinsurance protection.

The suit, alleging violations of a state anti-racketeering law, also charges that the defendants filed false financial statements between 1981 and 1985, fraudulently diverted Integrity assets and engineered fraudulent intercompany transactions designed to conceal the insurer's poor financial health.

The suit's \$300 million compensatory damage de-

mand could be trebled to \$900 million under the anti-racketeering law.

Integrity, ordered liquidated in March 1987, is insolvent by more than \$300 million and faces total liabilities that will exceed \$1 billion, the lawsuit says.

Among the named defendants is Christian C. Yegen, Integrity's former chairman, president and chief executive.

The suit also names:

- The Integrity Financial Group Inc., which owned 100% of Integrity.
- Yegen Holdings Corp., which owned about 80% of TIFGI after a 1981 public offering of TIFGI stock. A majority interest in Yegen Holdings was owned by members of the Yegen family, with the remaining stock held in an employee stock ownership plan, Mr. Howard said.
- Twenty-four other directors and officers of Integrity, TIFGI or Yegen Holdings.
- New York-based accounting firm Touche Ross &

Continued on page 45

## Fraud not disclosed, insurers argue

# Johnson Matthey claims disputed

By CAROLYN ALDRED

LONDON—Nearly 200 insurers and reinsurers in the London and U.S. market are disputing liability for tens of millions of dollars in claims filed by a British conglomerate whose former banking activities are being investigated by the London police fraud squad.

Two units of American International Group Inc. are refusing to pay at least 20 million pounds (\$37.6 million) in claims filed by British industrial conglomerate Johnson Matthey P.L.C. and its former banking subsidiary. The AIG units say they will not pay because Johnson Matthey did not disclose details of fraud in its former banking subsidiary, Johnson Matthey Bankers Ltd., when the policies were written.

The insurers also are questioning 22 million pounds (\$41.4 million) of claims that JM's banking subsidiary has filed, but about which it has refused to give further details, as well as more than \$7 million of claims filed by Johnson Matthey's U.S. subsidiaries.

In addition, about 180 retrocessionaires of Johnson Matthey's Bermuda-based captive—which retroceded

part of the Johnson Matthey risks that the AIG companies ceded to it—are refusing to indemnify the captive, alleging non-disclosure.

The retrocessionaires also are involved in litigation with the AIG units, which claim they are named as cedants on the retrocession contract (see story, page 46).

The two AIG companies and the retrocessionaires also claim that some of the losses filed by Johnson Matthey and its former banking unit were not covered.

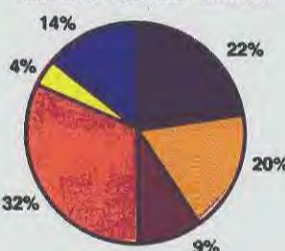
The insurance and reinsurance disputes, which are in litigation in British and U.S. courts, involve a series of marine package and fire and consequential loss insurance policies. They were written by the London office of Manchester, N.H.-based New Hampshire Insurance Co. and New York-based National Union Fire Insurance Co. of Pittsburgh, Pa., both of which are AIG units, covering Johnson Matthey subsidiaries from Jan. 1, 1981 to March 31, 1985, court papers say.

New Hampshire insured JM's U.K.-based subsidiaries while National Union insured JM's U.S. subsidiaries

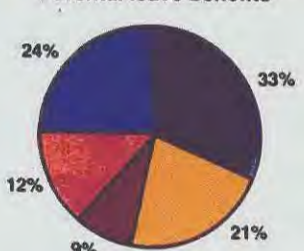
Continued on page 46

## How benefit proposals will affect employers' costs

Mandated health benefits



Parental leave benefits



Legend for both charts:

- Substantially increase (Dark Blue)
- Moderately increase (Dark Red)
- Slightly increase (Orange)
- Decrease (Yellow)
- Unknown effect (Dark Purple)
- No effect (Red)

Source: Buck Consultants Inc. survey

Chart: Amy Palmer

# Employers blast benefit mandates

By ALISON KITTRELL

A majority of U.S. employers oppose pending congressional proposals that would require employers to offer health care benefits and to grant unpaid leave to workers caring for newborn and adopted children, an ill parent or child or their own illness.

If Congress passes the measures, virtually all the employers would have to amend their benefit plans, and benefit costs for most employers would increase, according to the survey of 262 employers nationwide by New York-based Buck Consultants Inc. (see chart).

However, most of the survey respondents expect the two measures to be enacted. And, surprisingly, few are taking any concrete action to oppose passage, according to the "Survey on Federally Mandated Health Care and Parental Leave Benefits."

"One reason employers aren't expressing concern about the issue of mandated benefits is because they are still grappling with the effects of COBRA, the changes required by the Tax Reform Act of 1986 and other recent legislation, which required changes in benefit plans," said Larry Lenahan, associate benefit consultant at Buck.

"Employers have trimmed back home office staff and just don't have the people available to keep an eye on what's going on in Congress," Mr. Lenahan added.

In general, employers oppose federal benefits mandates. Some 68% of the respondents said benefit mandates would hurt the United States competitively, 65% said they would cause more companies to manufacture products abroad and 38% said they would hurt their own company's ability to compete.

Continued on page 47

## Fire coverage

Continued from page 3

The estimate was "grossly, grossly exaggerated," said the Equitable spokesman.

The fire department is working on a revised damage report to be released later with its full investigative conclusions, a spokesman for the Los Angeles Fire Department said.

Nearly all contents of the building's 12th through 15th floors were destroyed by the fire. Walls, windows and metal skirting on the building exterior also were severely damaged. The building is closed indefinitely.

The primary property insurance layer covering the skyscraper has limits of \$50 million. Insurance Co. of North America, a CIGNA Corp. unit, writes \$35 million of the layer, *BI* learned.

Ten percent of this layer is underwritten by the London insurance market, led by Lloyd's of

London syndicates managed by Sturge Holdings P.L.C., according to sources.

AIG also participated on the primary layer, according to an AIG spokeswoman.

In addition, The Home Group Inc. of New York wrote a small portion of this layer, sources said.

The London market also wrote \$15 million of the \$100 million excess of \$50 million layer. Scores of other insurers each wrote between \$1.5 million and \$2 million of the layer, sources said.

For example, Los Angeles-based Allianz of America Inc. wrote a small portion of the \$100 million excess layer, according to an Allianz spokesman.

AIG also participated on this layer, according to the AIG spokeswoman.

Hartford, Conn.-based First State Insurance Co., a unit of the Hartford Insurance Group, also wrote a small portion of the \$100 million excess layer, sources said.

However, First State would neither confirm nor deny that it participated on the risk.

In addition, Arkwright Mutual Insurance Co. of Waltham, Mass., a member of the Factory Mutual System, wrote a portion of the layer, sources said. A company spokesman could not be reached for comment.

Several layers of coverage were written excess of \$150 million, sources said. A spokesman for Wausau Underwriters Insurance Co. in Wausau, Wis., confirmed that the insurer "participated on the third and fourth layers of coverage."

Kemper Group property/casualty companies wrote a layer of \$350 million excess of \$400 million on the building. A Kemper spokesman said earlier this month the insurer does not expect the damages to reach its layer.

Kemper also wrote personal contents coverage of \$50 million excess of \$250 million for First Inter-

state.

Los Angeles fire department officials say they may never pinpoint the cause of the fire. Intense heat, which may have reached 2,000 degrees, destroyed traces of the source of the fire, a fire department spokesman said.

An investigation by the fire department and the federal Bureau of Alcohol, Tobacco and Firearms failed to uncover any evidence of arson, the fire department spokesman said.

The inquiry instead has focused on possible electrical problems in the 12th-floor computer center, where the fire started, the spokesman said.

Fire officials also are investigating a possible delay in reporting the blaze to the fire department, he said.

The first alarms were turned into the fire department by people in other buildings who saw flames in the First Interstate building.

Early evidence indicates that

building maintenance workers may have assumed the internal alarms were false and tried to handle the situation on their own before notifying the department, the spokesman said.

Alexander Handy, 24, a maintenance worker at the bank building died when he rode an elevator to the flame-engulfed 12th floor. He was the only fatality, but 40 other people, including several firefighters, were injured.

Tenants of the building were allowed to re-enter their offices for the first time last week but only for supervised 20-minute visits to retrieve documents.

First Interstate Bank and its parent company had occupied the fire-ravaged 12th through 16th floors and several lower floors that suffered serious water damage from the firefighting effort.

First Interstate and subsidiaries occupied 60% of the structure. Tenants, including numerous small banks and law firms, occupied the rest of the space.

Generally, the 20th through the 62nd floors sustained only smoke damage, the Equitable spokesman said.

A cleaning crew of more than 800 was awaiting approval from city officials to enter the building late last week to start restoring the upper offices, he said.

It may take several weeks to clean the offices and replace carpets and curtains, he said. It may be "many, many months" before First Interstate can return to its offices on the fire and water-damaged floors.

Meanwhile, insurance industry sources are beginning to speculate that Pacific Engineering was underinsured for the explosion at its Henderson facility.

Officials of Pacific Engineering reported soon after the blast that the plant was insured for \$29 million and referred all calls to Las Vegas-based broker, Lane & Associates.

The broker did not return repeated phone calls.

While details on the amount of Pacific Engineering's liability coverage were not available, some sources said the company probably had minimal liability coverage.

Noting that neither X.L. Insurance Co. Ltd. nor A.C.E. Insurance Co. Ltd. provided coverage, A.C.E. Chairman John R. Cox estimated that other liability insurance capacity for the facility was probably only about \$25 million.

"It wouldn't surprise me if they're underinsured," he said.

As a result, "I suspect that the plaintiffs will reach out to nail the deep pockets of other suppliers," Mr. Cox said.


X.L. and A.C.E. have both received a precautionary notice of claim from one policyholder that had business dealings with Pacific Engineering, though the policyholder believes it has no liability for the loss.

X.L. is concerned because it insures a great number of defense contractors that may have some involvement with Pacific Engineering, Mr. O'Hara said.

To illustrate the likelihood that plaintiffs could attempt to recover damages from companies doing business with Pacific Engineering, Mr. Cox pointed out that four A.C.E. policyholders have filed notices of claims related to the fire at the Dupont Plaza Hotel in San Juan more than a year ago.

Two of the notices were filed by manufacturers of fabrics used in the hotel, one was filed by an elevator company and one was filed by the former owner of the hotel, he said. Sheraton Hotels Corp. was the former owner.

Also contributing to this report were Associate Editor Glenn Untley in Los Angeles and International Editor Stacy Shapiro in London.



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## How Wausau strengthens Hawaii's man of steel.

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## Opinions

# Join the fight

**E**Mployee BENEFIT managers and other corporate executives who complain about federal benefit mandates but do nothing to fight them deserve what they get: more federal benefit mandates.

For years we have coaxed, cajoled and chided employee benefit managers to speak out on federal legislation affecting employee benefits. Our two-person bureau in Washington regularly reports news of federally mandated benefit proposals, not only because it is news but also because benefit managers need to be aware of the legislative process. And while many of our Washington reports have raised storms of protest against certain federal proposals governing benefit plans, clearly many readers prefer to grouse about legislation rather than expend the effort to try to change it.

We've known this for years from observing the legislative process in Washington and from our conversations with readers.

Now, a new survey by Buck Consultants Inc. confirms our worst suspicions.

While employers overwhelmingly oppose a federal mandate that employers provide employees with group health care coverage, few of the employers are doing much to make their position on the proposal known, according to the survey (see story, page 3).

Only 26% of the respondents said they have made either their opposition to or support of federally mandated health care benefits known through their participation in industry associations, and 23% said they plan such participation in the near future. But, 51% said they have not taken or planned any such action.

Even fewer—12%—of the employers surveyed said they have taken action to influence legislators directly on the issue, and an additional 17% said they plan to take such action in the near future. But, 71% said they have not done anything to influence legislators, and they plan no such action.

Only 4% said they have encouraged employees to act on the issue, and 6% said they plan to encourage employee action in the near future. But 89% said they have not encouraged employees to act and have no plans to do so.

And, when asked what they are doing in response to legislation that would force employers to grant so-called parental leaves, only 23% of the employers already are participating in industry associa-



tions, and an additional 26% expect to participate. But, 51% have taken no such action.

Nine percent are working to influence legislators directly, and 15% plan to do so soon, but 76% have no such plans. And, 3% have urged employees to act on the issue and 7% plan to encourage employee action. But, 90% have not done so and have no plans to do so.

These statistics reveal an appalling apathy among benefit managers toward influencing the legislative process.

Employee benefit managers can't contend that when they raise their voices they won't be heard. When benefit managers flooded the Internal Revenue Service with complaints about the onerous penalties for violating the health care continuation provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, the IRS turned to Congress and asked legislators to frame more reasonable penalties. Unfortunately, those new penalties are still pending, caught up in the larger congressional debate over the federal deficit.

Joining and supporting the efforts of employee benefits lobbying groups, writing letters to congressmen and federal agencies and meeting with congressional staffers can make a difference in the final shape of federal benefit laws and regulations. Quit complaining. Get involved.

## Letters

### Regulation study relies on 'hidden assumptions'

To the editor: The recent National Assn. of Professional Insurance Agents-Consumer Insurance Interest Group survey (BI, May 2) is well-intentioned and does a good job of gathering facts about insurance department staff levels and budgets. Unfortunately, it uses that data to make some unsupported, broad and negative statements about state regulation.

While all knowledgeable industry observers would applaud increasing funding for state departments, not all would agree that regulation is now inadequate or that regulatory staff is lacking in terms of overall numbers or in terms of

the talent and motivation of the existing staff.

The study makes several hidden assumptions that have no foundation in the data gathered but that represent the opinions and bias of the surveyors. For example, the study concludes that greater compensation is needed to motivate existing staff and attract future employees. No data was gathered to support the position that more money equals more motivation or competence. Completely overlooked was the basic fact that employees are more motivated by a sense of responsibility than they are by salary. Insurance department employees have this sense of self-fulfillment and I submit that the vast majority of them, despite lower pay, are equally or more motivated than their higher-paid industry counterparts.

The study further states that funds appear to be lacking to properly regulate insurers, to provide effective consumer redress and to offer consumers adequate information.

The casual reader of the trade press publicity about this survey would infer that the survey established that regula-

tion was lacking or that consumer complaints were not adequately handled, yet the survey made absolutely no effort to do so. It obtained a count of complaints, budget and staff numbers and then concludes that budgets and staff are inadequate. No historical trends were measured, either quantitatively (e.g., are budgets improving) or qualitatively (e.g., are regulators improving their operations). No attempt was made to establish standards or benchmarks of what would constitute an effective budget or effective regulation.

The survey was well-intentioned and will probably prove helpful by leading to further evaluation of regulatory budgets. It is regrettable that its sponsors saw fit to use the survey to make highly negative statements about the quality of state regulation—statements that were in no way supported statistically by the data gathered.

**Karl W. Koch**  
President  
Savers Property & Casualty  
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Overland Park, Kan.

*Business Insurance welcomes letters from its readers. Please keep your comments as brief as possible. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters. Send your comments to Letters to the Editor, Business Insurance, 740 N. Rush St., Chicago, Ill., 60611.*

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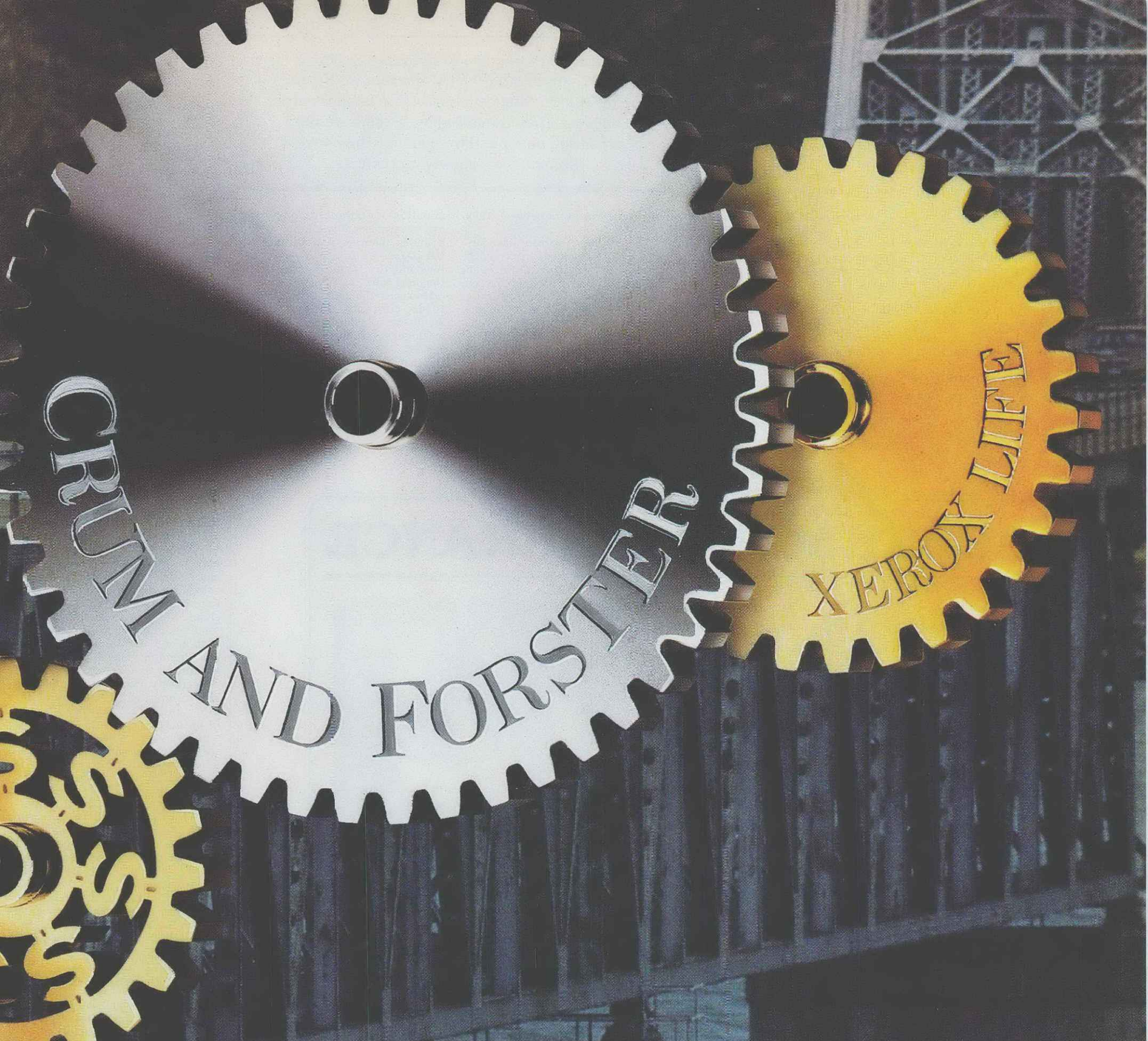


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## Excess ruling

Continued from page 2

The Associated policy for the period from Oct. 1, 1978, to Oct. 1, 1979, contained limits of \$3 million excess of the \$500,000 in underlying coverage underwritten by National Union Fire Insurance Co. of Pittsburgh, Pa., an American International Group Inc. unit, and Motor Vehicle Casualty Co. of Elmhurst, Ill. National Union wrote \$100,000 in primary product liability coverage, while Motor Vehicle wrote \$400,000 in first-layer excess product liability coverage.

As a result of a non-silicosis product liability claim against Bullard, which was settled for \$1 million, both National Union and Motor Vehicle exhausted their limits.

Associated also contributed

\$500,000 to that settlement.

Because this claim exhausted National Union's and Motor Vehicle's limits, the insurers are not paying any of the silicosis claims relating to the 1978-1979 policy period.

Hartford Accident & Indemnity Co., which wrote primary liability insurance for Bullard from 1952 to 1970, argued in its brief that Associated was obligated to drop down and pay these claims because the insurers specifically named in the excess policy as "underlying insurers" had exhausted their limits.

Hartford said that if Associated did not drop down, Bullard would be forced to pay those claims since primary insurers that wrote coverage in other policy periods would not respond.

Bullard was insured by 11 differ-

**'The court said primary insurers would be better able to foresee losses. That is backwards,' says attorney Steve Dollar. 'Excess carriers are in the best position because they have a schedule of underlying policies.'**

ent primary insurers between 1952 and 1986.

"The primary insurers have arranged with Bullard to pay each claimant in proportion to the span of time their policy periods covered the total span of time (during which) each claimant suffered injurious exposure to Bullard's products and therefore suffered bodily injury," explained Hartford in its brief.

"The 'injurious exposure' deter-

mination of each insurer's liability has been reasonably chosen by the primary insurers and Bullard as the proper insurance coverage allocation to claimant's injuries," the brief said.

However, the court denied Hartford's contention that Bullard would have to pay for settlements arising from silicosis claims during the 1978-79 policy period, because the primary and first-layer excess coverage was exhausted.

Rather, the court agreed with Associated that the remaining primary insurers must pay these claims, even if the claims fall outside their policy periods, until they have exhausted their limits.

Associated argued in its brief: "If other primary carriers were able to shift their responsibilities to excess carriers without paying their full limits, then the amount of total available insurance to the insured would be diminished to the extent of the shifting which took place.

"Rather, all of the primary insurance should be fully exhausted since that is what the insured paid for. Then, and only then, should excess policies come into play," Associated said.

Furthermore, Associated noted that its policy stipulated that excess insurance indemnified the insured for "ultimate net loss," which the insurer defined as losses exceeding all existing primary insurance.

Judge Wright concurred in his March 21 decision: "The plaintiff's insurance policy limits its liability to the 'ultimate net loss in excess of the insured retained limits'—which are defined as the liability limits of listed primary policies."

Judge Wright also stated: "Since 'occurrences' in a silicosis case may be difficult to pinpoint" because silicosis develops slowly like asbestosis, "carriers who undertake both defense and indemnity should foresee a clear risk in defending against claims which arise both in and out of their policy periods. Premiums may be adjusted accordingly. An excess carrier may consciously choose to avoid this risk in limiting its contractual liability and in formulating the cost of the excess."

He went on to say that because the Associated policy did not include a specific drop-down provision and because the excess policy specifically excluded defense costs, there was no contractual obligation for Associated to take the place of the exhausted primary and first-level excess insurance until all other primary policies, including those for other policy periods, were exhausted.

Steve Dollar, an attorney with Erickson, Arbuthnot, Paynter & Brown Inc. in San Jose, Calif., who represented primary insurer General Accident Insurance Co., criticized the judge's ruling.

"The court said primary insurers would be better able to foresee losses. That is backwards. Excess carriers are in the best position because they have a schedule of underlying policies. Primary carriers don't have that luxury," Mr. Dollar said.

"No other court has required carriers to pay for losses outside of their policy periods," said Mr. Dollar.

Royal Oakes, an attorney with Barger & Wolen in Los Angeles, noted that the ruling breaks new ground.

However, Mr. Oakes, who represents several insurers in coverage litigation, also criticized the ruling: "The reasoning contradicts the spirit of California law when it comes to equitable responsibilities of excess insurers."

He said California law supports the general idea that excess insurers have an equitable duty to defend and indemnify policyholders when primary insurers have exhausted their limits.

"This is an area of extreme interest to both primary and excess insurers," said Mr. Newton, Associated's attorney, because "as the definition of an occurrence continues to be expanded, everyone is looking for help from one another."

Mr. Newton also said the Associated case is significant because it brings "definition and clarity" to a new and emerging area of the law.

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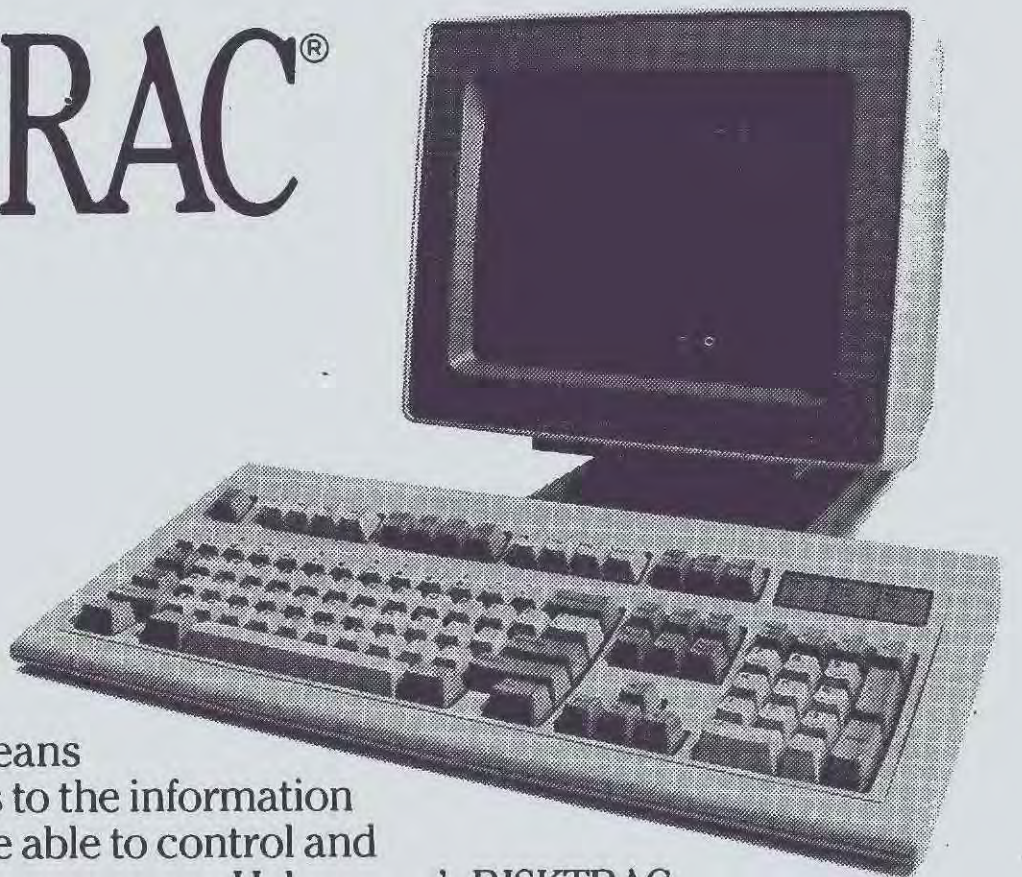
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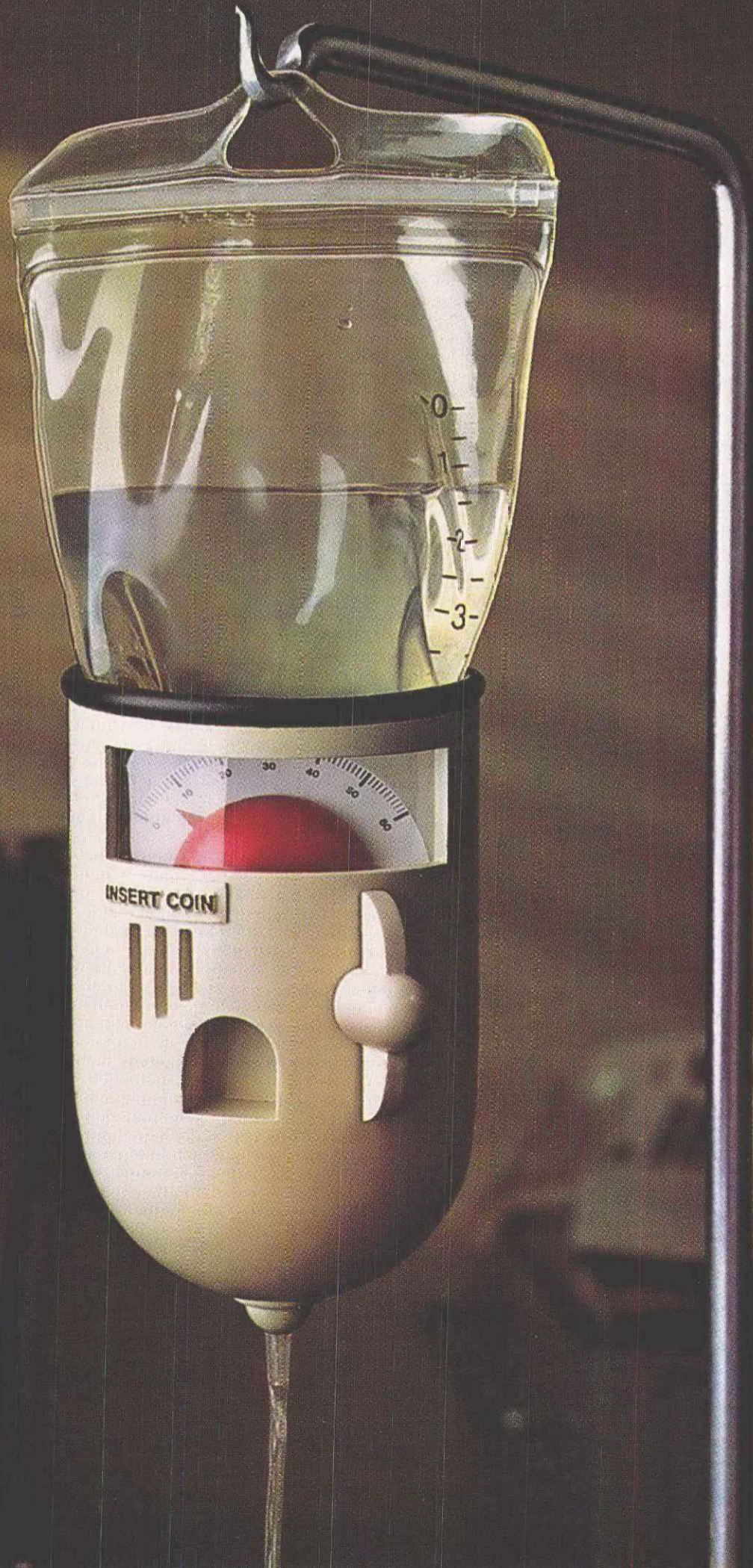
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## D&O ruling

Continued from previous page  
 tion suits may have several practical effects on directors and officers, Mr. Bailey said. Plaintiffs' attorneys will have greater leverage in settling class-action suits, because the ruling makes it easier to certify a class, he said.

And, corporations probably will find it more expensive to settle such suits.

In addition, the ruling will "dilute the effect of recent state statutes granting some protection to directors and officers," Mr. Bailey said. Several state laws, notably those of Ohio, Indiana and Wisconsin, limit the liability of directors under certain circumstances.

"This ruling just makes the holes in those statutes bigger," Mr. Bailey said. Plaintiffs will bring more D&O cases under federal rather than state laws, he predicted.

The Supreme Court ruling also "may encourage carriers to delay

further their recognition of state D&O statutes" in setting premiums, Mr. Bailey said.

A.C.E.'s Mr. Cox agreed, pointing out that insurers have been slow to respond favorably to state statutes limiting D&O liability.

He added that future rulings by state and federal courts on the scope of state D&O statutes probably will have a greater impact on the D&O marketplace than the recent Supreme Court decision.

Wyatt's Mr. Wollner predicted that the impact of the ruling will differ by industry. "It's going to exacerbate the problems of emerging industries or anyone trying to go public," he said.

In addition, utilities, which are required by law to make extensive public disclosure, may also find themselves facing greater D&O exposures, he said.

Despite the court's ruling, the D&O insurance market will not be notably affected, experts predict.

"Honestly, I do not think it's

going to lead insurers to write new exclusions regarding merger and acquisitions into D&O policies. I think there's just too much pressure on the underwriters to expand terms and conditions rather than reduce them. They may change price for it, but I just don't see new language being introduced," Mr. Cox said.

"I don't think the decision will have an effect on pricing, which is not to say that it shouldn't. I think there are other forces that will overwhelm this ruling," said Mr. Perry of Chicago Underwriting, citing enhanced reinsurance capacity as a key factor in current D&O coverage pricing.

"I don't see the D&O carriers making any overt restrictive moves," agreed Daniel N. Milazzo, vp-national underwriting for Los Angeles-based Harbor Insurance Co., a subsidiary of New York-based Continental Corp.

However, "this kind of concern puts an emphasis on not switching

carriers," Mr. Milazzo said, explaining that the long-tail exposures directors and officers face could lead to coverage disputes if companies change D&O insurers frequently.

Mr. Sills of Executive Risk Management also said he does not believe the ruling will have a great impact on rates. He also downplayed the notion that the ruling could lead to new exclusions within D&O policies.

"Any policy that has a total exclusion for mergers and acquisitions isn't worth the money you pay for it," he said.

Wyatt's Mr. Wollner shared that assessment.

"I don't think it will trigger any pure new exclusions. What it will do is reinforce the use of exclusions relating to mergers, acquisitions, tender offers and other areas closely associated with improper disclosure claims," he said.

Chicago Underwriting's Mr. Perry concurred, saying that while

one or two insurers might try to add new exclusions, most would not because of the increasingly competitive market.

Risk management consultants said the ruling should lead risk managers to urge senior corporate managers to exercise a considerable degree of care during merger talks.

"The decision should continue to encourage risk managers to tell senior management to follow the directions given to them by their legal counsel and investment bankers, to protect themselves against such suits," explained Richard S. Betterley, president of Betterley Risk Consultants in Worcester, Mass.

Mr. Bailey of Arter & Hadden said the Supreme Court's action should prompt risk managers to take another look at how their companies are prepared to disseminate merger negotiation information.

"The decision is significant in the importance that is placed on strategic planning from a loss-prevention standpoint. Many merger situations are thrust upon a corporation without much prior notice," he said.

"Unless a corporation has clear-cut rules about communicating, there's a much higher probability of stumbling on these complicated rules. Identify how public statements are going to be handled and who is going to handle them," Mr. Bailey advised.

For example, a journalist might contact an official who is not involved in the merger talks. The official might innocently give an off-the-cuff comment that later could be held to be actionable.

To avoid such problems, Mr. Bailey urged corporations to appoint a specific spokesman or spokesmen to make public pronouncements regarding mergers. Because merger talks can move at a fast clip, spokesmen should consult with the corporate counsel on a daily basis to determine what information should and should not be released, Mr. Bailey said.

Terry Van Gilder, senior vp with Chubb & Son Inc. of Warren, N.J., also stressed the importance of spokesmen keeping in regular contact with counsel.

Insurers hope that covered directors "seek the advice of competent, and I'd like to underline competent, counsel" before deciding what should be said, he said.

Mr. Van Gilder called the ruling "one more added uncertainty when you get involved on any kind of discussion about a major corporate change."

Wyatt's Mr. Wollner concurred that a corporate media policy takes on increased importance as a risk management tool during merger negotiations. "One good thing about this ruling is that it's going to emphasize proper risk management in regard to press relations."

Indeed, the sophistication of a corporation's strategy for controlling information could become an important D&O underwriting criteria, Mr. Wollner said. "I think underwriters may begin to inquire as to whether the corporation has a press policy. A corporation that takes care in its public relations should receive favorable underwriting consideration."

Chief Justice William Rehnquist and Associate Justices Anthony Kennedy and Antonin Scalia did not participate in the ruling. Justice Rehnquist cited a possible conflict of interest, Justice Kennedy had not been on the court when the case was first heard and Justice Scalia gave no reason for his abstention.

Justices Byron White and Sandra O'Connor dissented in the second portion of the opinion. They held that plaintiffs should be required to prove that they had relied on misleading information in making their investment decisions. ■

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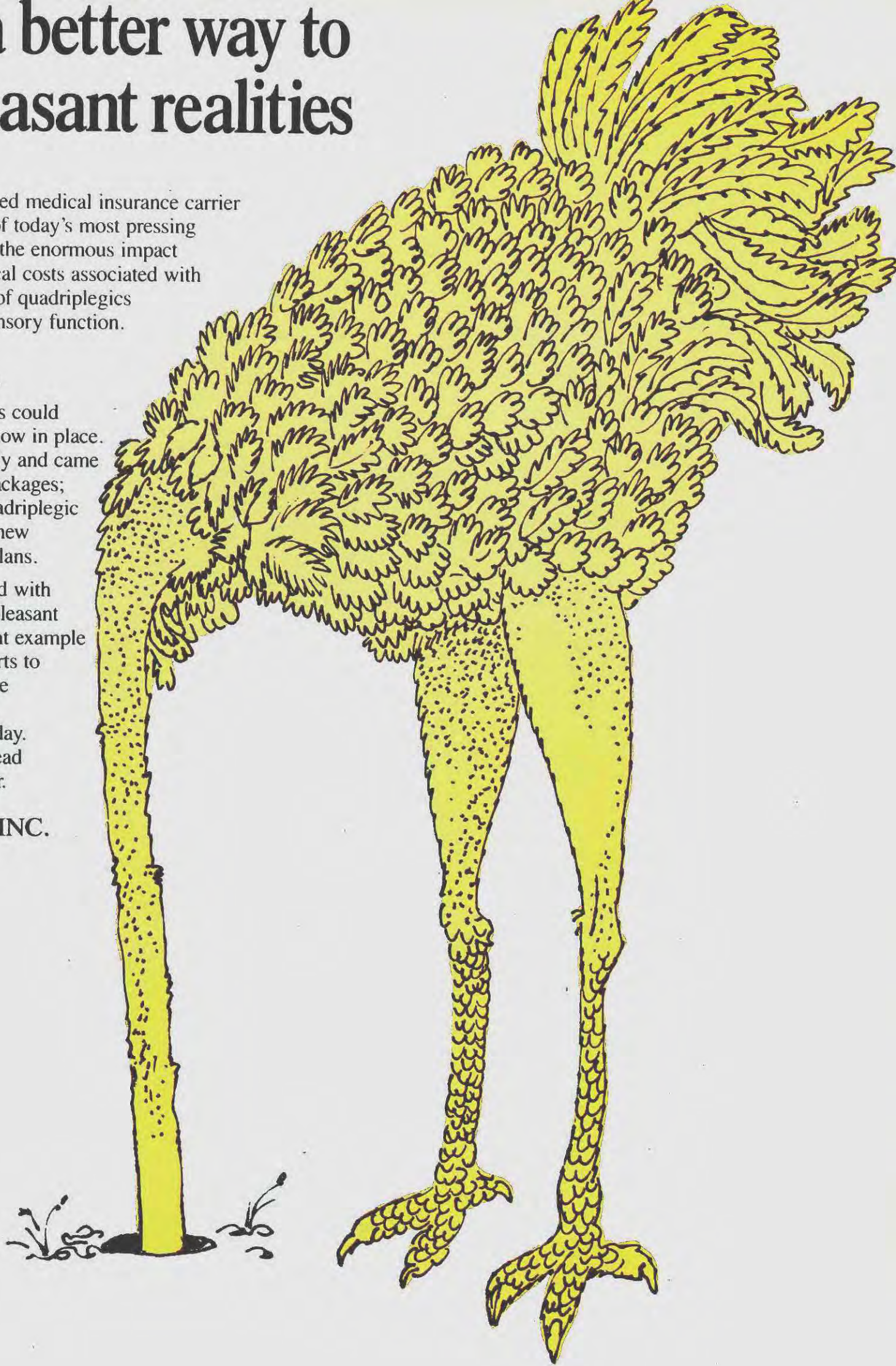
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# Europe preparing for changes in 1992

By STACY SHAPIRO

LONDON—More insurance capacity and more choices will be available to European risk managers at the end of 1992 when trade barriers fall and cross-border insurance placements are allowed in all 12 European Community nations, brokers, underwriters and risk managers agree.

The Single European Act of 1985, enabling legislation whose objectives are scheduled to be fully effective in 1992, will allow risk managers at companies in Common Market nations to buy coverage from insurers in other EC nations for the first time without worrying about many national restrictions.

EC risk managers also will be able to purchase one insurance policy to cover all of their European operations instead of separate admitted policies in each EC country as is current practice.

Excited by this prospect, brokers and insurers already are gearing up for 1992. Brokerage networks like those in which Johnson & Higgins, Marsh & McLennan Cos. Inc. and Frank B. Hall & Co. Inc. participate already are planning for a unified European market.

And, large insurers like American International Group Inc. and Lloyd's of London underwriters are positioning themselves for the expanded market.

However, risk managers of major European corporations do not think that much will change in the European market despite all the innovations expected in 1992. They believe they will place their insurance programs in much the same manner as they do now.

"Please be careful not to make 1992 an illusion," said Francois Settembrino, director of Tabacofina S.A. in Edegam, Belgium. "Everybody is using 1992 as a myth, that everybody will be free to do everything. But it is not the right answer."

"There won't be so very much happening come 1992 that hasn't happened before" in business sectors like insurance, said Wolfram Rohde-Liebanau, executive director of insurance for Siemens A.G. in Munich, West Germany.

"Companies exporting to other countries will still use their home insurers abroad. . . I don't think expansion of taking out insurance cover by way of freedom of services will be appreciable," Mr. Rohde-Liebanau explained.

"As an international organization, we already have our insurance programs in place," added one British risk manager. "Our carriers already have licensed representatives in every country anyway. So, in that way, it won't alter business."

A unified European market was the intent of The Single European Act, which was signed by EC nations in 1985. The enabling legislation set new objectives for the completion of the internal market by 1992 and the strengthening of economic and social cohesion.

In accordance with the act, the European Commission's White Paper of June 1985 written by Lord Cockfield, vp of the commission, gave a detailed timetable to achieve a European market without internal barriers by Dec. 31, 1992.

When EC legislation is completed, there will be a package of some 300 proposed laws designed to free the movement of goods and capital among the 12 EC member countries.

Some of these new laws will impose new or more complicated risks on corporations in Europe, risk managers predict.

For example, among these laws is the EC directive on product lia-

bility that imposes strict liability on manufacturers and distributors of goods. Product liability insurance rates in Europe may increase an average of 15% because of the EC directive, which must be adopted by all member states in national legislation by July 30 (BI, Dec. 14, 1987; Aug. 5, 1985).

European risk managers also will have to tackle other laws imposing new regulations on industry in such areas as the use of toxic chemicals and the transportation of goods, they say.

In fact, there is so much new legislation that "there is a fear that additional regulation on top of present regulation will make (risk management) unmanageable," said Mr. Settembrino, who represents the Assn. Europeenne des Assures de l'Industrie, the European risk

management association, in the International Federation of Risk & Insurance Management Assns.

All of the regulations "are confusing," he said. "If 1992 is adding additional rules, no one will be able to follow them. . . We expect a lot of problems."

However, other proposed EC laws on insurance could make the placement of these new risks easier.

In particular, the European Parliament is reviewing a draft directive on freedom of service in non-life insurance that will allow insurers in one EC nation to cover large corporate risks based in another EC country. Up until now, only the United Kingdom and the Netherlands have allowed such cross-border insurance placements.

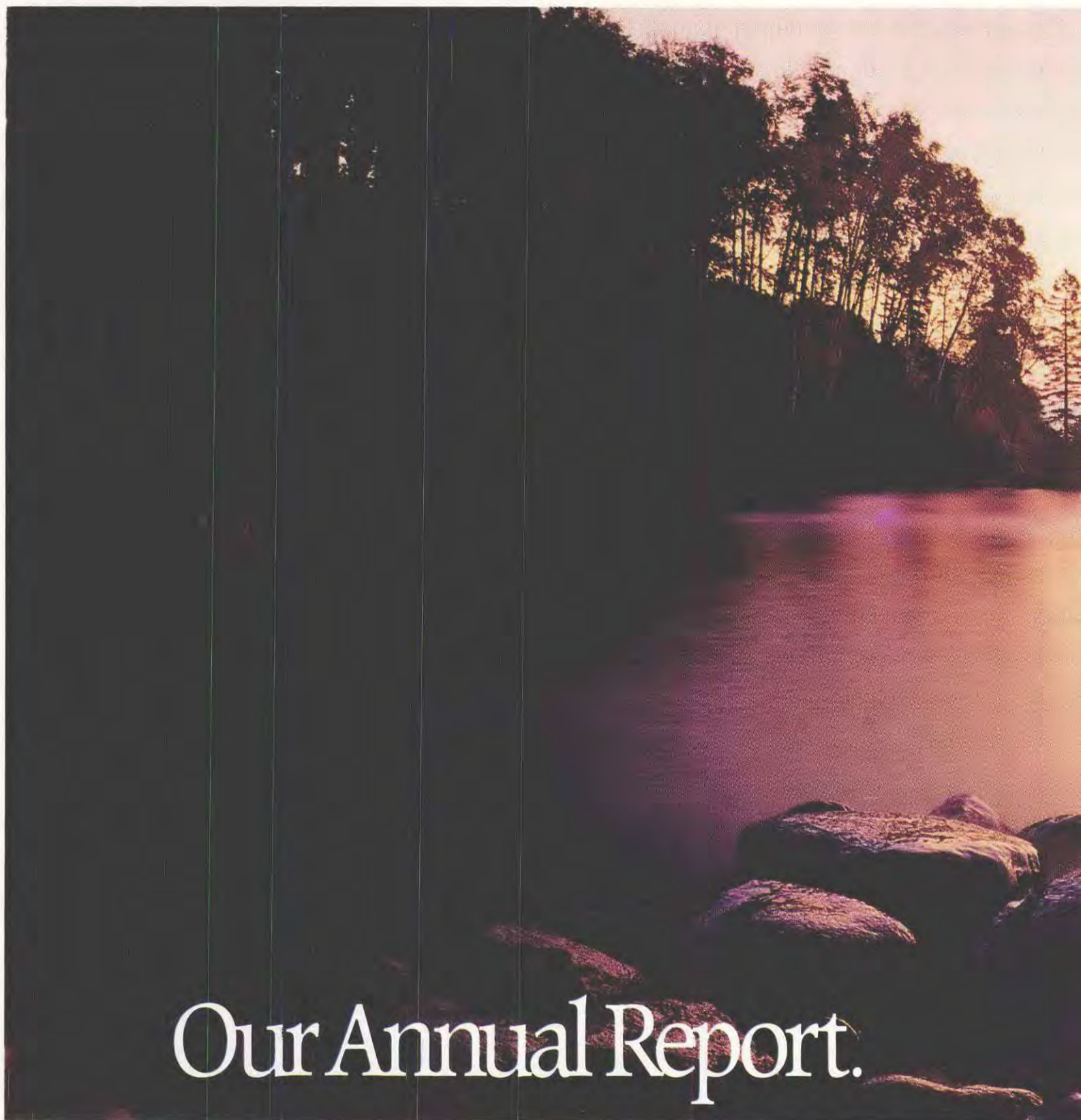
The directive, which was passed by the European Commission on Dec. 18, 1987, is expected to affect 70% to 80% of all non-life premiums currently written in EC member nations. The directive allows large corporate risks to be covered by any insurer in the European Community no matter what country he is in as long as the policyholder meets three criteria:

- Employs 500 people now, or 250 people at the start of 1993.
- Generates annual revenues of 24 million European Currently Units now (\$29.7 million), which will drop to 12.4 million ECUs (\$15.3 million at current exchange rate) in 1993.
- Shows balance sheet assets of 12.4 million ECUs (\$15.3 million) now or 6.2 million ECUs (\$7.7 million) in 1993 (BI, Dec. 28, 1987).

Because the directive may be passed by the European Parliament soon, liberalized insurance rules could come earlier for the insurance and brokerage industry, said Dietrich Schauff, manager of the international division of West Germany's largest reinsurance brokerage, Jauch & Hubener. "As early as 1990 (insurance) activities can start. But, by 1992 it is a must."

To prepare for 1992, most major insurers are examining how to expand into the Continental European market and synchronize their offices across borders to provide coordinated coverages for their clients.

"Everyone's looking at Europe and every insurance company will have a 1992 working party," *Continued on facing page*



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Continued from facing page  
said Chris Pountain, stock analyst with Wood Mackenzie in Edinburgh, Scotland.

"Europe is receiving high priority and insurers are looking for acquisitions," he said.

"I would say that the main strategic aim of most of these insurance companies is to get big in Europe," added Peter Rice, director of stockbroker County National Westminster, of which Wood Mackenzie is an affiliate. "The potential growth is more obvious in the life area with 320 million people; but non-life shows quite good growth potential."

Among the British insurers looking at expanding in continental Europe are the Guardian Royal Exchange Assurance Co. P.L.C., which already has a great presence in Europe particularly in West Germany, and Commercial Union Assurance Co. P.L.C., which has offices in the Netherlands, France, Spain and Italy.

Continental European insurers including Europe's largest insurance group, Allianz A.G. of West Germany, are actively making plans, analysts say.

In fact, a battle is taking place in France that shows the depths of "1992 fever" in the insurance industry. Compagnie du Midi—the diversified financial group that includes France's largest private insurer, Assurances Groupe de Paris, and recent U.K. acquisition Equity & Law Life Assurance Society P.L.C.—is merging with Axa Group, a confederation of mutual insurance companies.

The merger would create the second-largest French insurance company with combined annual premium income of approximately 36 billion French francs (\$6.31 billion).

It is believed, however, that Compagnie du Midi plans to merge with the Axa Group to avoid a takeover from Italy's largest insurer, Assicurazioni Generali,

which has a 13.6% stake in Midi. Midi, however, would not comment.

Lloyd's of London also is quite active in "getting on the ground" in Europe, noted Mr. Pountain. Only last month, Lloyd's announced that it would attempt to become authorized to write insurance in West Germany (see story, page 39).

Lloyd's also has representatives in France, Belgium, the Netherlands, Italy and Ireland, and will be interested in being licensed in Portugal and Spain, said Tony O'Dowd, assistant manager of Lloyd's legislation department.

Lloyd's hopes that 1992 and the new directives will provide access to Lloyd's syndicates across Europe, he said.

U.S. insurers are preparing for a unified European market, particularly AIG. Late last year, American International Underwriters Corp.—an AIG unit that acts as foreign manager for AIG insurers—de-

ecided that by the end of 1988 all AIU European subsidiaries will be united under one French-licensed company called UNAT S.A.

The AIG subsidiaries also will change their names to reflect that UNAT banner, and all AIU offices in Europe will become branch offices of UNAT (BI, Oct. 19, 1987).

UNAT management is now centered in Paris and headed by President and Chief Executive Officer Steve Schleisman, who relocated last year from New York.

Centralizing the AIU companies into UNAT "was not so much for 1992 as much as because of our perception of a change in Europe," said Mr. Schleisman. "Insurance is only a reflection of the society it is in, and we see 1992 as a politically led issue."

Nevertheless, there currently are cross-border mergers and discussions about providing one industrial product across Europe instead of many products in each country, he said.

Risk managers have inter-European risks that must be addressed, according to Mr. Schleisman. For example, a Swiss risk manager talked to UNAT about the interdependency his company's plants have across European borders and the insurance it needs, he said. Also, a few clients are now asking for insurance policies in European Currency Units instead of local currencies, he said. UNAT has not yet issued ECU policies but is examining the idea.

"For the large international risk manager, his role won't change" as a result of the changes in Europe, Mr. Schleisman admits. But, smaller European companies will need to take a new trans-border position on coverages, he said. "We think there will be more risk managers who want to put together worldwide or European programs," he said.

All this activity in the European insurance industry will mean more competition, Mr. Schleisman added.

Insurance brokers also are optimistic about their growth opportunities after 1992, although they admit that growth depends on the expansion of their clients across international borders and competition from foreign brokers for national business.

"Additional business is dependent on our clients," said Walther Kiep, vp of Grandmann & Holler in Munich, West Germany. "More companies will invest in European countries than in the past (such as) in Spain and Portugal. Where they go, we will follow. In that way we will see an expansion of our business."

"We welcome very much the opening of the insurance markets," said Maarten J.F. Hudig, director in charge of international activities for the largest Dutch insurance brokerage, Hudig-Langeveldt Group in Rotterdam. "It is a recent development for industry to use independent brokers in Europe, so there are still opportunities for the future."

"You will see more link-ups with corporations merging across borders. And, they will need brokers because they will think about the liabilities and call in professional brokers. It is always a client-driven service," Mr. Hudig said.

However, he added, "There will clearly be more choices, but the client may choose his local (insurers). So, the broker must show him the choices."

"There is an opportunity for brokers who are in (European insurance) broking networks," said Vianney Bollier, general manager of France's largest insurance broker, Faugere & Jutheau in Paris, who added, "France could be considered a hunting territory for hunting predators, because it is a big market and is not as united as is necessary."

Since the end of last year, brokers that already belong to major European brokerage networks have started to tackle the 1992 changes.

Late last year, Marsh & McLennan—which has a network of European subsidiaries and affiliates that total 6,000 employees and generate annual brokerage revenues of \$400 million—decided to reorganize its insurance brokerage operations globally into three units including Marsh & McLennan Bowring, which controls all M&M units outside the Western Hemisphere. The move was partly to take advantage of the changes in Europe after 1992, said Philip Wroughton, chairman of Lloyd's broker C.T. Bowring & Co. Ltd. and chairman of M&M Bowring in London.

Also, the UNISON network—a leading group of exclusive correspondent brokers that employs more than 15,000 people world-

Continued on next page



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## European market

Continued from previous page  
wide—was scheduled to discuss 1992 changes during its 25th annual meeting in West Germany last week, said Ken Seward, senior vp and director of international business at Johnson & Higgins, UNISON's U.S. member broker.

"We will be talking about a broad strategic plan as well as specifics" to tackle the new brokering opportunities a united Europe has to offer he said.

In addition, Frank B. Hall units and affiliates in Europe have discussed how 1992 changes will affect Hall in each country, commented Graham T. Lewis, senior vp of Frank B. Hall & Co. Overseas Inc. in London.

However, corporate risk managers are not so

sure that 1992 and the changes in Europe's insurance market will make much difference to them.

"In 1992, when we have freedom of services, the greatest likelihood is that companies exporting to other European countries will use their home insurers abroad," said Mr. Eohde-Liebenau of Siemens in West Germany.

"Otherwise, the German company would have to find a broker to find an insurer in another country as in, say, France. That is why I consider the fear by German insurers that they might lose clients as unfounded.

"I wonder whether brokers will offer better coverage across frontiers. If they do, clients would be interested," he said. "But, take a shoe exporter in Germany. He won't buy a British insurance policy from a German broker for an

export to France."

For a multinational corporation with centralized operations, the 1992 changes will matter, added a British risk manager. Instead of being obliged to have property insurance written by an admitted insurer in each EC country, the company will be able to purchase one insurance policy in his home country that will cover all EC locations, he explained.

However, 1992 "won't matter" to a decentralized company, he said, because all policies can stay as they are.

Adds Mr. Settembrino: "There are two sides to 1992. On one side we wonder what kind of risk we will be confronted with, and on the other side we wonder what kind of tools we will be able to use to handle the risks. . . Nobody has an idea of the final landscape" ■

## Japan pushes for presence in EC market

By CAROLYN ALDRED

LONDON—Japanese insurers are planning a gradual assault on the European insurance market in the years leading up to 1992, when trade barriers tumble among members of the European Economic Community, some observers say.

Already, the major Japanese insurers are increasing their presence outside their country as Japanese manufacturers continue to establish operations throughout the world.

However, observers in London believe that several of the Japanese insurers have targeted European nations, in particular, for major expansion efforts.

In recent weeks, at least two Japanese insurance companies have opened additional offices in Europe and others are looking closely at the European market.

The attraction of the European market is twofold, Japanese insurance executives point out.

First, many Japanese manufacturers already have established manufacturing, service and distribution operations in Europe and that trend is bound to increase as trade barriers disappear, they agree.

Secondly, the implementation of a proposed directive liberalizing the sale of commercial property/casualty insurance in the European Community will create a massive single market for insurers licensed to operate in any one EC country (BI, Dec. 18, 1987).

In a speech about the European market at the annual conference of the Assn. of Insurance & Risk Managers in Industry & Commerce in March, a leading London broker predicted that the Japanese insurers would be heading for Europe.

"We have a situation where two dominant insurance industries have the potential to dominate the future," said Alan Routledge, managing director of Bain Clarkson Ltd.'s City Region,

referring to American brokers and underwriters, as well as Japanese insurers.

"And, we must remember that if a Japanese insurer establishes a subsidiary in London or any other EC country, it then has access to the total market," Mr. Routledge said.

"The Japanese insurers are enormous and, although they do not have a viable and independent international brokerage operation supporting them, they certainly have the money to acquire one," he added.

Yasuda Fire & Marine Insurance Co. Ltd., one of Japan's largest insurance companies, is embarking on European expansion plans. For instance, the insurer in March received authorization to underwrite insurance in France.

"The new branch office in Paris will be operated through an underwriting and management agreement with Groupe des Assurances Nationales," said a statement from the company.

Yasuda currently writes about 65 million pounds (\$120.9 million) in premiums in Europe, 50 million pounds (\$93 million) of which is reinsurance 15 million pounds (\$27.9 million) of which is direct insurance premiums from Japanese multinational clients, said Brian Pearce, general manager and director of Yasuda Europe.

The company currently is negotiating expansion into other European countries, he confirmed.

For example, on April 1, Yasuda opened an office in Barcelona, Spain.

Continued on page 26

1987 Results

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1986 — \$53,063  
1987 — \$57,245

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1983 — 94.9  
1984 — 97.0  
1985 — 99.7  
1986 — 84.1  
1987 — 84.2

5 YEAR  
COMBINED RATIO: 89.8  
(1983-1987)

#### ASSETS (000 Omitted)

1983 — \$ 35,156  
1984 — \$ 48,719  
1985 — \$105,993  
1986 — \$159,563  
1987 — \$168,859

#### LOSS RESERVES (000 Omitted)

1983 — \$ 4,985  
1984 — \$ 9,150  
1985 — \$22,784  
1986 — \$46,245  
1987 — \$59,712

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## Japanese plans

Continued from page 24

"Our strategy is to meet the liberalization of the market in 1992 in support of our Japanese clients worldwide," said Mr. Pearce.

Initially, Yasuda plans to write coverage for its existing Japanese policyholders in France and other European countries, but Mr. Pearce does not rule out the possibility of Yasuda writing business in Europe for local companies.

Other Japanese companies likely will follow, said Mr. Pearce.

"Japanese industry and commerce is expanding overseas and the Japanese insurance industry will follow their domestic manufacturers," he said, pointing out that Japanese companies "have a tendency to move in a similar way."

Already, Sumitomo Marine & Fire Insurance Co. (Europe) Ltd. is expanding its European operations.

On April 12, the company opened an office in Madrid, Spain, under a cooperation agreement with Mapfre Group, one of Spain's largest insurance companies. Under the agreement, Mapfre will provide technical support and services for Sumitomo.

Sumitomo already has offices in Paris and Dusseldorf, West Germany. However, the company hopes to expand its German business through a cooperation agreement signed in March with Gerling-Konzern Allgemeine Versicherungs A.G., said T. Nakazawa, Sumitomo's chief representative in London.

Currently "our business is mainly from Japanese clients who are expanding in Europe because of favorable economic factors and fewer trade restrictions," Mr. Nakazawa noted.

However, the company also hopes to expand its European business, particularly reinsurance, he said.

**'I think we will see an expansion in Europe, but a lot depends on our clients,' says Lee Brandon of Nippon.**

"We expect a 15% increase in the volume of business we write in Europe this year," he said.

The Japanese company is cautiously increasing its reinsurance capacity following the Japanese industry's disastrous losses on U.S. casualty business in recent years, said Mr. Nakazawa.

"We Japanese reinsurers suffered from big losses in recent years as a result of using underwriting agencies to write U.S. casualty business. Our losses have since reduced substantially and we hope to increase our involvement again," he explained.

Dai-Tokyo Fire & Marine Insurance Co. Ltd. plans to expand its business in Europe to serve its Japanese clients and to attract domestic European clients, said a London spokesman.

The company currently has a London subsidiary that works closely with Sphere Drake Underwriting Management Ltd., as well as agency agreements in Greece and the Netherlands. The company also has business cooperation agreements with Zurich Insurance Group of Switzerland and Societe Commerciale de Reassurance of Paris, said the spokesman.

In addition, Dai-Tokyo holds more than a 20% share of London-based Sphere Drake Insurance Group P.L.C.

Dai-Tokyo plans to "seek authorization (in) the major European countries with 1992 in mind," he added.

Dai-Tokyo currently writes gross premiums of about 10 billion yen (\$80.2 million) in Europe, he esti-

mated.

Another Japanese insurer looking closely at Europe is the Nippon Fire & Marine Insurance Co. (U.K.) Ltd., said London-based Director Lee Brandon.

"I think we will see an expansion in Europe, but a lot depends on our clients," said Mr. Brandon.

Nippon (U.K.) currently has representatives in Hamburg, Dusseldorf and Frankfurt, West Germany, and an agency agreement in Belgium. Its Japanese parent company has agency agreements in Paris and in the Netherlands.

Nippon (U.K.)'s gross premium income is about 20 million pounds (\$37.2 million), with 80% written in the London market mainly through English & American Insurance Group P.L.C., said Mr. Brandon.

Tokio Marine & Fire Insurance Co. Ltd. also is reviewing the situation in Europe, although it has no definite plans to expand, said London-based representative T. Ota.

The company already has widespread representation throughout Europe, said Mr. Ota.

For example, the company's London subsidiary, which has an agency agreement with Willis Faber Underwriting Management Ltd., has offices in Copenhagen, Denmark; Oslo, Norway; Hamburg, West Germany; and Milan, Italy; while its Japanese parent has branches in France, the Netherlands, Belgium and Greece, said Mr. Ota.

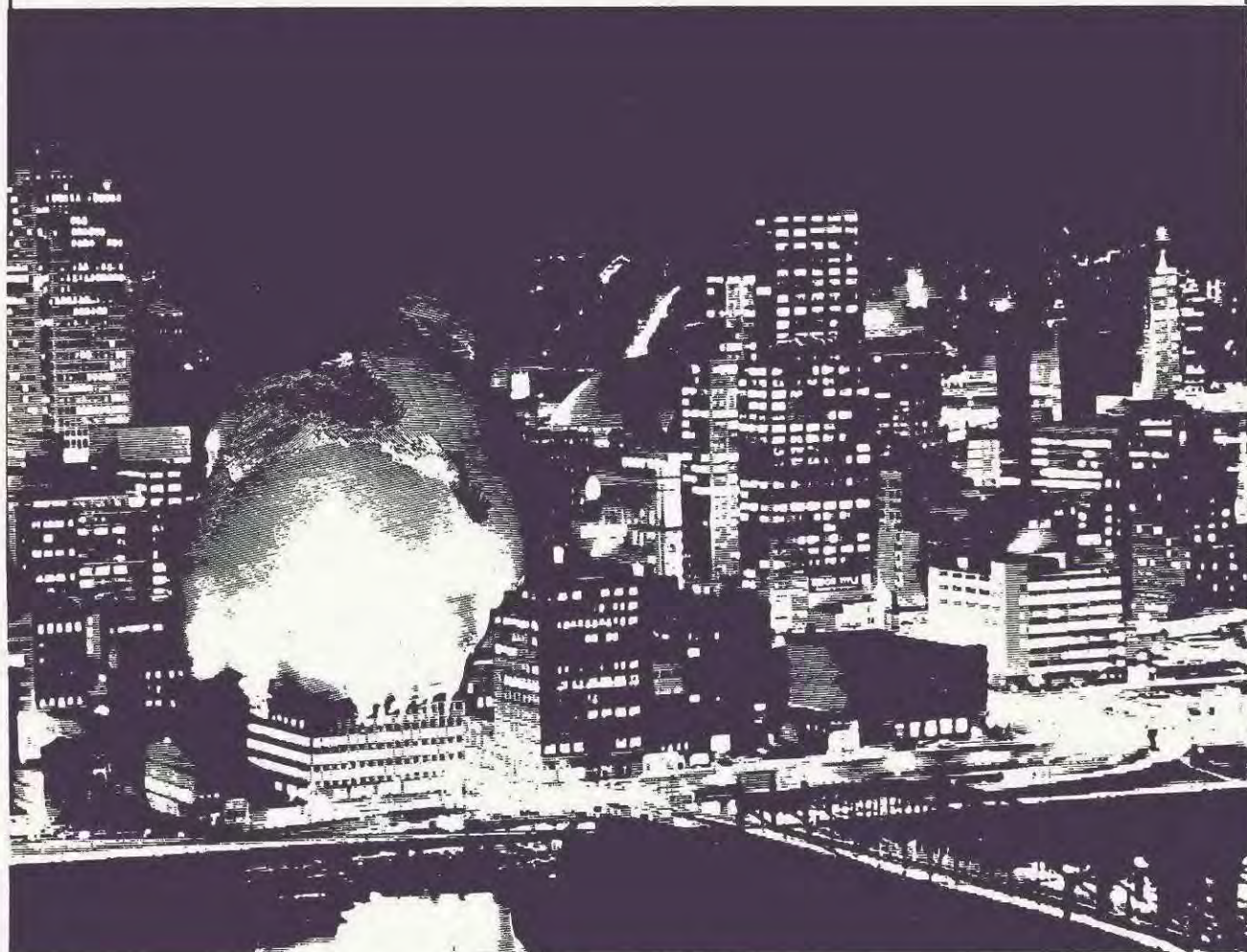
Tokio Marine currently writes a total of about 3.5 billion yen (\$28.1 million) in premiums in Europe, Mr. Ota estimates.

"We have no plans to change our European operations at the moment but it is always under study," he said.

Y. Kawanami, chief representative of Taisho Marine & Fire Insurance Co. Ltd., which also has an underwriting agreement with Willis Faber Underwriting Management Ltd., confirmed that Taisho was also reviewing the European market.

"We are looking at the situation very carefully although we have no definite plans yet," he said. ■

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## Comp benefits rise 16% in '85

SAN FRANCISCO—The nation's 10 largest states in terms of workers compensation payments saw increases in benefit payments ranging from 6.7% to 25.1% in 1985, compared with 1984, California researchers say.

The average increase for all 50 states was 16%, according to the most recent data released by the California Workers' Compensation Institute.

Aggregate payments exceeded \$19.8 billion in 1985, up from \$17 billion in 1984.

However, if benefits paid by federal programs—including "black lung" disease compensation payments—are added, the total soars to \$22.5 billion.

The increases in the leading 10 states were:

- Michigan, up 6.7% to \$782 million.
- Illinois, up 10.5% to \$912 million.
- Massachusetts, up 12.9% to \$510 million.
- Pennsylvania, up 14.2% to \$998 million.
- Ohio, up 14.4% to \$1.44 billion.
- New York, up 14.8% to \$985 million.
- Florida, up 18.9% to \$815 million.
- Texas, up 20.9% to \$1.6 billion.
- California, up 22.1% to \$3.24 billion.
- Washington, up 25.1% to \$785 million.

—By Meg Fletcher

# Insurance Corp. of Ireland reports '87 loss

DUBLIN, Ireland—The Insurance Corp. of Ireland, which was rescued by the Irish government in 1985, reported a 15.2 million Irish pound (\$24.2 million) after-tax loss for 1987, due partly to an increase in provisions for the runoff of discontinued operations.

The loss follows ICI's 1986 after-tax profits of 6.8 million Irish pounds (\$10.8 million).

ICI was taken over by the Irish government in 1985 when ICI's parent company, Allied Irish Banks Inc., discovered "major losses" for 1984 (BI, March 25, 1985).

Most of the losses stemmed from North American risks written by ICI's London office.

The government appointed W.M. McCann as administrator of the company on March 15, 1985. ICI stopped reporting results until June 1986 when it released figures for the two years ending Dec. 31, 1985.

That report showed that the company posted a loss of 225.9 million Irish pounds (\$316.3 million) at year-end 1985 exchange rates).

An advance from the Irish government's Insurance Compensation Fund of 100 million pounds reduced the group's overall loss in 1985 to 125.9 million Irish pounds (\$175 million) (BI, April 20, 1987; June 23, 1986).

In 1987, pretax profits from ICI's continuing operations increased 25% to 12.5 million Irish pounds (\$19.9 million) from 10 million Irish pounds (\$15.9 million), according to ICI's 1987 annual report.

ICI continues to write more than 90% of its premium income in Ireland following the government takeover, according to Mr. McCann. ICI's profit was enhanced by the absence of any major catastrophe loss during 1987 and by settling claims for less than the amount of reserves established in earlier years.

Also, ICI last year launched several new personal lines products, according to ICI's report.

However, ICI had to increase provisions for discontinued operations by 13.6 million Irish pounds (\$21.6 million) last year, compared with less than 1 million Irish pounds (\$1.59 million) in 1986.

In addition, ICI had to take a charge of 14.4 million Irish pounds (\$22.9 million) for funding costs, about half of which was related to early settlements with reinsurers of ICI.

During the past year, ICI has had "considerable success" in its collections from reinsurers, said Mr. McCann in the report.

ICI chief executive Andrew Banks will not say how much ICI recovered in reinsurance, but, he noted, "The funding charge would have been less if we thought they weren't going to pay early."

There are still "large amounts" of reinsurance to be paid to ICI "and we hope to come to some agreements early this year," he said.

—By Stacy Shapiro

## Commercial Union

MILAN, Italy—London-based insurer Commercial Union Assurance Co. P.L.C. is coordinating its Italian operations as part of its expansion into continental Europe.

The company has established a wholly owned Italian subsidiary, Commercial Union Italia S.p.A., to coordinate all the existing and future Italian activities.

CU also plans to establish a non-life insurance company, Commercial Union Danni S.p.A., to manage all of its non-life Italian business, subject to approval by Italian reg-

ulatory authorities. CU Danni will take over the CU portfolio currently managed by Bevington Assicurazioni of Milan and The Norther Assurance Co., another CU subsidiary.

In addition, CU is proposing to enter the Italian life insurance market following the establishment of Commercial Union Vita S.p.A.

—By Stacy Shapiro

## Skandia results

STOCKHOLM, Sweden—Skandia International Insurance Corp., while still losing money on its insurance operations, posted improved operating results in 1987 primarily because of investment income, the company announced.

However, the October 1987 stock

## Worldwide

market crash and rising interest rates contributed to a 15% fall in the company's cash surplus to 5.22 billion Swedish krona (\$887.4 million) from 6.14 billion krona (\$1.04 billion), the company said in its operating report.

Skandia's directors are proposing a 25% increase in dividends to 2.5 krona (43 cents) from 2 krona at the annual meeting scheduled for June 2.

The statement said Skandia's major investment in Danish Insurance Cos., KGL Brand (The Royal Chartered General Fire Insurance Co. Ltd.) and Copenhagen Reinsurance Co. have strengthened Skandia's position both in the Nordic

countries and in the European Community.

Gross premium volume for Skandia International fell 1% to 9.06 billion Swedish krona (\$1.54 billion) in 1987 from 9.15 million krona (\$1.55 million) the previous year, while overall underwriting results improved to a 235 million krona (\$39.9 million) loss last year from an underwriting loss of 475 million krona (\$80.75 million) in 1986.

Underwriting results, the company said, were affected by significant losses from credit insurance and runoff of the U.S. liability business from previous years, which required strengthening of reserves in 1987.

While investment income declined 27.4% to 652 million krona (\$110.8 million) in 1987 from 898

million krona (\$152.6 million) in 1986 as a result of the stock market crash and low interest rates, the market value of Skandia International's investments as a whole increased by 3.3% over the year, still well down from the 18% increase recorded the previous year.

For 1988, the company said "there are good possibilities for an improved insurance (underwriting) result. The trend of the stock market and in interest rates has meant that some of last year's unrealized losses have been recovered."

"If the present stock price and interest rate levels continue for the rest of the year, the investment result will improve and overall the outlook is good for an improved operating result and an increased surplus in 1988."

—By John Parry

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# NEW YORK EXCHANGE

NYIE's demise to affect industry, consumers for numerous years

By Peter H. Bickford

A YEAR AGO A dying star appeared in the Southern sky: a supernova visible to the naked eye where the day before there was nothing. For astronomers, this was a marvelous event of great scientific interest. To others it was a curiosity and to most it had little or no meaning whatsoever. It certainly was no tragedy.

Many people have observed the death of the New York Insurance Exchange in much the same way: a curious but distant and indifferent event of no real importance. In truth, however, the collapse of the exchange cannot simply be measured in terms of a singular failure. It is not only a tragedy, it is a series of tragedies that will impart their consequences on the insurance industry and the business insurance consumer for many years to come.

Before you dismiss that as melodramatic dribble, consider some facts:

- In seven years of existence, New York exchange syndicates had gross written premiums of more than \$1.6 billion and in excess of \$1 billion in net premiums.
- The average reported loss ratio of all NYIE syndicates during this period was in excess of 100% and over 120% in the catastrophic underwriting years 1982 through 1984.
- The actuarial estimates of the ultimate loss ratio on the business written on the New York exchange by all of its syndicates ranges from 140% to 190%.
- The total reported assets of all New York exchange syndicates at June 30, 1987, was less than \$700 million.
- The security fund of the New York exchange has assets of approximately \$40 million.
- The potential shortfall—ultimate losses less available assets—for the entire New York exchange book of business is estimated to be from \$900 million to \$1.5 billion!

Many reasons have been proffered for the fast rise and faster fall of the New York Insurance Exchange: unreasonable expectations; bad timing; an unbridled marketplace; mismanagement; inadequate controls and overregulation; or some of all of the above. Whatever the reasons, however, the fact is that if the exchange had been an insurance company, a collapse of its magnitude would have sent shock waves throughout the marketplace.

Perhaps the fragmented structure of an insurance exchange, with multiple syndicates writing for their own account, and the seemingly farcical nature of events surrounding the demise of the New York exchange have made it difficult to view the size and importance of that death as a single event. Ultimately, however, the tragedies arising from the collapse of the New York exchange will not be ignored—they are too pervasive.

The first and most obvious tragedy of the New York exchange's collapse is that the extraordinary shortfall, whatever the amount, will have to be absorbed substantially by the insurance industry—primarily the companies that sponsored and invested in syndicates, or the more than 600 companies that ceded business to New York exchange syndicates—and the large business insurance consumer.

Practically every significant property/casualty insurer and reinsurer active in the United States has been or will be touched—directly or through companies it reinsures—by the demise of the New York Insurance Exchange. Yet, many of these companies have taken an indifferent or even amused attitude toward the collapse. The "soap opera" nature of the events leading to the collapse—such as the fiasco over the actuarial report on the "market plans," the sudden and



inexplicably narrow re-opening of the withdrawal window causing a stampede of withdrawals and the abrupt closing of the trading floor—probably helped nurture this bemused attitude, as did a narrow focus on individual syndicates rather than the whole exchange market.

Major business insurance consumers are also affected by the exchange collapse. In fact, many more direct policyholders—mostly "sophisticated" business buyers—have been affected by the New York exchange's demise than they know or are willing to admit.

Although primarily a reinsurance market, the New York exchange was significantly increasing its surplus lines business at a far greater pace than the reinsurance business. For the last full year of operations—1986—New York exchange syndicates wrote more than \$34 million in surplus lines premiums, or almost 13% of the exchange's total gross written premiums of \$263 million for the year. By comparison, for 1985, surplus lines represented only 5% of the exchange's total premium volume.

A growing and increasingly significant surplus lines market in a jurisdiction not generally noted for its support of surplus lines has now been lost to the business insurance consumer. Such a loss should not be taken lightly, particularly since after exhaustion of the finite exchange security fund, unpaid claims on surplus lines business written on the exchange are not covered by any state guaranty funds. Furthermore, even where not directly insured by exchange syndicates, consumers may be affected by the exchange's collapse through the loss of a competitive market and the weakening of their insurer's reinsurance.

The syndicates' investors, of course, are the initial group to suffer the consequences of the exchange's shortfall. It is their capital that is eroded away by the mounting losses—capital that is no longer available to the industry. Most of the losses were quietly absorbed into parent or related entities. Several exchange syndicates, however, did not have the affiliations available for such soft landings. These syndicates—which probably wrote no better or worse business than the exchange market in general—were faced with the problem of seeking outside assistance in solving their shortfall. But they had no one to bail them out, not even the "central marketplace" to which they belonged. The result was the second big tragedy of the New York exchange.

The exchange founders had developed a thoughtful and progressive regulatory and disciplinary setting for

exchange operations. Two principles were central to this scheme: the establishment of a board of governors with broad and substantial authority over its members to ensure the safe and orderly conduct of business and a common security fund under which all syndicates would have a stake in the survival of all other syndicates.

The whole was greater than the sum of its parts! You did not have to be an industry giant to participate in such a market—through close regulation and a common security fund, the exchange would truly become a paragon of synergism.

Yet when faced with the opportunity to demonstrate its ability to meet the challenges of adversity and ensure the health and vitality of the market, the exchange failed miserably. The board shunned its powers and responsibilities in favor of the all-too-familiar ostrich approach to management. Its response to those financially troubled syndicates without independent resources was to require an impossible solution—more money—and, failing that, to transfer the problem to someone else by petitioning the New York superintendent of insurance to liquidate them. This was done without any significant attempt by the board to use its powers as they were designed to be used: to regulate, audit, control, conserve or rehabilitate.

The result of the exchange's failures at self-management was to leave those syndicates least able to help themselves—and their creditors—at the mercy of the traditional regulatory machine. It is interesting that the only significant efforts made to restore the financial visibility of any of these "poor relative" syndicates has been made by the syndicates themselves after abandonment by the exchange. Although some lip service was given to a "market solution" in mid-1987, this effort was too little too late and was overshadowed by the legal brouhaha over an actuarial study, which led to the security fund drawdown, which led to the mass exodus from the exchange, which led to the suspension of all business on the exchange and its ultimate closing.

Continued on page 33

**Speaking out**



Peter H. Bickford is counsel to the New York law firm of Calinoff & Katz. He was formerly vp, general counsel and secretary of the New York Insurance Exchange. Mr. Bickford is the author of "Exchange: A Guide to the Alternative Market."

# EPA chemical report requirement begins July 1

By DEBORAH SHALOWITZ

WASHINGTON—Chemical manufacturers will be subject to a costly new federal rule on July 1 that requires them to annually report chemical inventories, waste treatment programs and chemical emissions into the environment.

The rule, developed by the U.S. Environmental Protection Agency, will cost employers about \$500 million in 1988 and as much as \$300 million annually thereafter, the agency estimates. Approximately 30,000 facilities will be subject to the rule, according to the EPA.

Furthermore, the EPA estimates it could take up to 400 hours to fill out each form. Employers willfully disregarding the rule can be fined up to \$25,000.

The rule requires manufacturers with 10 or more full-time employees that use more than 10,000 pounds of any of more than 300 chemicals to report the amount of the chemicals in the workplace, the amount released into the environment and how the chemicals are processed into waste.

These manufacturers must submit forms covering 1987 chemical use by July 1. Also, facilities that in 1987 made or processed more than 75,000 pounds of any of the specified chemicals must meet the same deadline.

However, those threshold amounts for chemical producers and processors will drop over the next two years. Facilities that make or process more than 50,000 pounds of these chemicals in 1988 must submit the reports in 1989, and facilities

that make or process more than 25,000 pounds of these chemicals in 1989 and thereafter must submit annual reports.

A form for each chemical must include data such as:

- The company's name, location and type of business.
- Certification by a senior official of the company that the report is complete and accurate.
- Whether the chemical is manufactured or processed and how it is used.
- Estimates of the maximum amounts of the chemical present at any time during the preceding year.
- Waste treatment and disposal methods for dealing with the chemical and the efficiency of each method.
- The quantity of the chemical entering the environment.

If an application is improperly filled out, the EPA will give the company 30 days to correct it without penalty.

However, the EPA may levy a fine of up to \$25,000 for "intentional non-compliance," said an EPA spokeswoman.

The new rules will be "extremely burdensome" to small companies, according to Leslie Aubin, a legislative representative for the National Federation of Independent Business in Washington.

Most small companies "don't have an in-house person who can really take care of this for them," she said.

The rule "can be pretty onerous for companies in the chemical industry," agreed Jill Gilbert, an associate with Pilko & Associates Inc., a Houston-based business, environmental and real estate consultant.

She noted that "the July 1 deadline is sneaking up on people" and "for some of the larger companies it could take several man-months of work" to fill out the forms.

Marion Herz, manager of health, safety and chemical regulations for the Chemical Manufacturers Assn. in Washington, said the rule will be "more difficult for some companies than for others," depending on how many people work for the firm and can take the time to fill out the forms.

Ms. Herz pointed out that the rule does not require chemical companies to process materials differently, just collect information. However, she emphasized that pulling together all the information requested is very time-consuming.

But, the information requested is "pretty fair for the most part," she said.

The reports will allow the EPA to compile a data base on the normal ongoing release of toxic chemicals into the environment, the agency explained.

An EPA spokeswoman added that "we want to make sure that people aren't exceeding annual (emissions) limits."

The EPA was charged with this mandate by a section of the Superfund Amendments and Reauthorization Act of 1986 called Title III—The Emergency Planning and Community Right-To-Know Act of 1986.

A complete list of the chemicals covered by the rule is available from the Emergency Planning and Community Right-To-Know Information Hotline, 401 M St. S.W., WH-562A, Washington, D.C., 20460. ■

## Hazard standard

Continued from page 3

• Make the MSDS available to employees.

• Have written and oral training programs for employees on how to deal with potentially hazardous substances.

The range of substances that could be called hazardous for purposes of the standard includes toxins, corrosives, irritants, flammables, combustibles, carcinogens, teratogens and mutagens, said George Schuschereba, president of EnviroSite Systems Inc., a safety and loss control consultant in Champaign, Ill.

OSHA says the standard will

cover about 32 million workers at 3.5 million worksites. The agency estimates compliance with the expanded rule will cost employers \$687.2 million this year (BI, Aug. 24, 1987).

One of the major problems with the expanded rule is that it covers many products not typically thought of as hazardous, consultants and employer contend.

Frank Toti, a legislative representative for the National Federation of Independent Business in Washington, pointed out that many employers might incorrectly reason that since they do not use chemicals, they do not have to comply

with the expanded hazard communication standard.

However, many commonly used materials—such as paint, window cleaners, copy machine toner powder, lawn and garden sprays, air conditioning gases and swimming pool chemicals—contain hazardous substances, so employers using these products must comply with the rule.

Although the hazard communication rule exempts "consumer products," employers are subject to the hazard communication standard if they buy consumer products packaged for industrial use, the experts explain.

This means that employers must have material safety data sheets for products such as window and floor cleaners and must train employees how to use those substances, Mr. Schuschereba said.

There is no threshold amount or concentration strength at which a consumer product becomes an industrial product and is covered by the standard.

The difference between a consumer product exempt from the rule and an industrial product covered by the rule is mainly in the packaging of the product, not in the product itself, said Steven Simon, an industrial hygienist in OSHA's office of health compliance assistance.

If a product is packaged for industrial use, it is covered by the standard, he said.

"Almost anything you buy in bulk" is covered by the standard, said David Mettler, director of risk management for the Hillhaven Corp., a nursing home chain based in Tacoma, Wash.

In nursing homes, for example, products such as cleaning materials and laundry detergent fall under the hazard communication standard, according to Mr. Mettler.

Mr. Schuschereba of EnviroSite noted that even a fluorescent light tube could be covered by the standard because some types of tubes contain beryllium, a highly toxic substance.

Occupational health experts point out that in addition to the confusion generated by ambiguities in the standard itself, employers must deal with the new paperwork burden the standard imposes.

Distributors—which must make sure they receive material safety data sheets from manufacturers for all the products they carry and then transmit the MSDS to their downstream buyers—are "going through a mountain of paperwork," said James A. Anderson Jr., senior director of government relations for the National Assn. of Wholesaler-Distributors in Washington.

Mr. Anderson explained that some manufacturers are sending material safety data sheets for all the products they make to all the distributors with whom they do business, regardless of whether the distributor carries all of the manufacturer's products.

"Warehouses are going crazy" because their stock changes every day, said Total Loss Control's Mr. Hunt.

Another concern for employers is potential confusion among workers because MSDS and container labels are not uniform from manufacturer to manufacturer. OSHA does not require that MSDS and

container labels be uniform—only that certain information be included in the MSDS and on the labels.

Employers can just accept all MSDS and labels as they are received, the consultants said.

"Some plant managers are saying, 'We'll accept what comes in the back door,'" Mr. Garis said.

"Other companies with a large variety of chemicals and a good safety program are relabeling containers," he said.

Employers with a particularly sophisticated safety department may convert the MSDS to their own form for the sake of uniformity, he added.

There are a few exceptions to the general provisions in the hazard communication rule.

Employers whose workers handle only sealed containers of chemicals will not have to maintain written hazard communication programs.

However, they must keep labels on incoming containers, provide access to MSDS while the material is in the workplace and train employees to protect themselves in case of leaks or breakage.

Drugs regulated by the U.S. Food and Drug Administration currently are exempt from the rule; OSHA plans to conduct hearings and propose a new rule for this category of substances.

OSHA also plans to investigate and propose a rule to deal with how the hazard communication standard should be enforced on a construction site at which many employers are involved.

OSHA's hazard communication standard pre-empts state and local right-to-know laws in those states without OSHA-approved state job safety and health programs. State laws are pre-empted by the federal standard regardless of whether the state laws conflict with, complement or supplement the federal standard, according to OSHA.

The only state or local worker right-to-know laws the federal standard will not pre-empt are those in states or jurisdictions that have OSHA-approved job safety and health programs. But, the state laws must be at least as stringent as the federal standard.

These states and jurisdictions are: Alaska, Arizona, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virgin Islands, Virginia, Washington and Wyoming.

In Connecticut and New York, the federal rule will pre-empt all right-to-know laws except those for state and local employees. ■

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# Building's asbestos content concealed: Suit

By MICHAEL BRADFORD

DALLAS—The Prudential Insurance Co. of America is suing First RepublicBank Corp. in Dallas for \$135 million, charging that bank officials concealed test results that showed a building First Republic sold to the insurer in 1984 contained asbestos.

In a lawsuit filed late last month in U.S. District Court in Dallas, the Newark, N.J.-based insurer also claims that all future third-party claims related to the asbestos in Dallas' Renaissance Tower be paid by First RepublicBank.

Prudential alleges that bank officials were aware in August 1984 that tests performed by the Environmental Protection Agency in June of that year revealed asbestos-containing materials were present throughout the building, in which Prudential already held a half-interest.

But Prudential claims it was unaware of the EPA tests in September 1984, when it paid InterFirst Bank Corp.—one of the bank-holding companies that merged last year to form First RepublicBank—and subsidiaries \$67.7 million for the remaining 50% interest in the 56-story downtown building.

Prudential is seeking the \$35 million that the insurer estimates it will cost for removal and abatement of the asbestos, plus \$100 million in punitive damages. The suit also requests a jury trial.

Prudential would not comment on the suit because the insurer is involved as a defendant in other asbestos-related lawsuits, a company spokesman said.

In keeping with this low profile, the insurer also has instructed its outside counsel not to comment on the suit, said Kent Adams, an attorney with Liddell, Sapp, Zivley, Hill & Laboon in Dallas, which is representing Prudential.

Prudential asserts in court papers that it will suffer damages

as a direct result of "intentional, willful and wanton acts of fraudulent concealment, misrepresentation, securities fraud, breach of fiduciary duty, breach of contract and civil conspiracy" by the defendants, referring to the alleged concealment of the test results.

To induce Prudential to purchase the remaining 50% interest in the building, the defendants made "express warranties regarding the absence of material defects and significant adverse conditions in Renaissance Tower," the suit charges.

A First RepublicBank spokesman said the bank would not comment on the allegations contained in the suit.

According to the court papers, the Renaissance Tower was tested for asbestos as part of a program

implemented by the deputy EPA administrator in May 1984 to survey all buildings occupied by the EPA for asbestos.

In June 1984, the EPA, which was a Renaissance Tower tenant, requested permission from all of the building's owners except Prudential to perform the asbestos screening, the court papers state.

"Without disclosing the EPA request to Prudential and with the intent to conceal such request from Prudential, (the defendants) granted the EPA permission to perform such tests, provided the tests were conducted discreetly," the suit states.

Although she would not comment on specifics of the litigation, an EPA spokeswoman in Dallas said she was not aware of any EPA regulation that requires the agency

**Asbestos-containing 'material is present throughout a large part of' the building, court papers say.**

to inform all owners of a building that tests for asbestos are being conducted.

The EPA tests involved collecting samples of construction materials from ceilings, walls, ceiling and floor tiles, pipe wrappings and fireproofing sprayed on the structural steel of the building.

The test results released to the defendants in August 1984 disclosed "a material defect and sig-

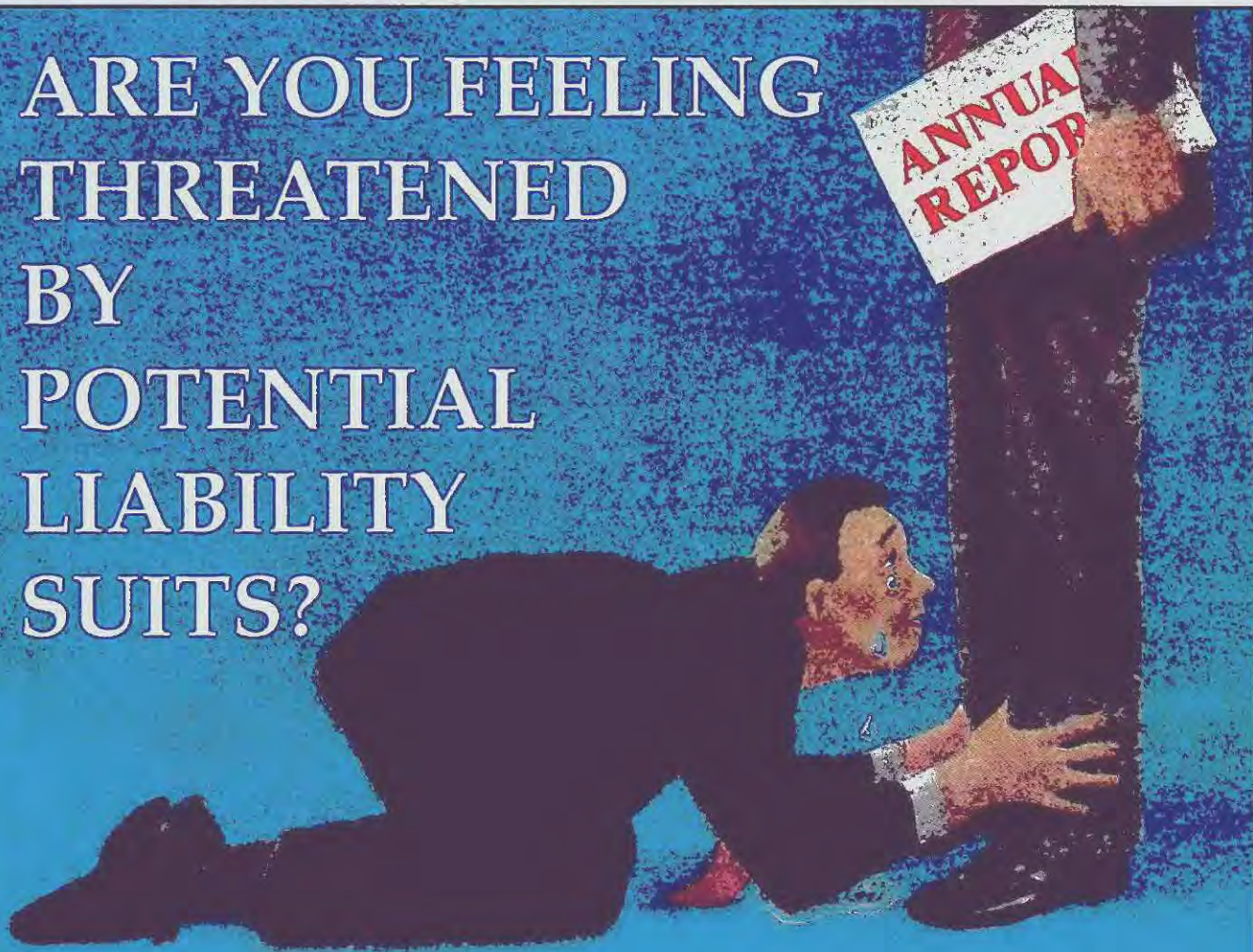
nificant adverse condition" in the building, according to court papers. "The report showed that (asbestos-containing material) is present throughout a large part of Renaissance Tower.

Among other things, the report said "that the sprayed-on fireproofing material used to insulate the steel structure of Renaissance Tower was found to contain friable asbestos," the suit adds.

However, without knowledge of the EPA tests and relying on the defendants' contentions that the building was free of material defects, Prudential purchased the remaining interest in the building, the insurer alleges in its suit.

Prudential only became aware of the EPA findings after the purchase was completed, the suit states.

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# Socioeconomic trends to impact benefits

By MARK A. HOFMANN

CHICAGO—Five socio-economic trends will put increased pressure on corporate employee benefit and human resource officials during the next few years, says an employee benefits expert.

Robert E. Lindgren, managing director of the Central region for William M. Mercer-Meidinger-Hansen Inc. in Chicago, told benefit managers attending the benefit consulting firm's spring planning conference in Chicago last month that:

- The American economy will continue to evolve into a services- and information-based economy as it competes globally.

- Improving productivity will be a primary focus of public policy and of human resource management.

- The rate of growth of the workforce will continue to slow, and an increasing proportion of first-time workers will be women, minorities or immigrants.

- An aging population and workforce will exacerbate human resource problems.

- Legislation and litigation concerning the relationship between employer and employee will intensify.

These trends will cause benefit managers to focus on benefits like child care and educational benefits as workforce demographics change, Mr. Lindgren said.

In addition, with the graying of the workforce, new pressures will

be put on employers to offer retiree health care and long-term care benefit programs, he remarked.

Mr. Lindgren said the United States is not alone in the movement to a services/information-based economy from a manufacturing-based economy; this thrust toward services marks all advanced economies, he said. But, the two types of economies have significant differences that affect the benefit manager's job, he said.

The shift to services from manufacturing means that corporations will become less hierarchical and increasingly decentralized in their management structures, he said. According to Mr. Lindgren, service industries will be "more project- and task-oriented" than manufacturing, which relies on the constant repetition of a process.

Because of this change, there will be more part-time workers—and compensation and benefit programs will have to change to meet their needs.

Also, increasing numbers of retirees will re-enter the workforce, either for their old employer or a new one, presenting new employee benefit problems.

The shift toward a service economy also will bring a change in employers' attitudes about productivity, Mr. Lindgren said.

In a manufacturing-based economy, the high wages paid to employees make managers constantly on the lookout for ways to enhance productivity, through automation and other means.

**Mr. Lindgren notes that only 12% of women with children under the age of 6 were in the workforce in 1950. By 1985, that percentage had risen to 52%. 'More and more employers will find themselves in the child-care business.'**

But the mix of the service economy's workforce differs considerably from that of the manufacturing economy and, thus, presents different productivity challenges, he said.

The search for increasing productivity will include a growing emphasis on making the compensation system more efficient and containing the cost of benefits, Mr. Lindgren said. Of particular importance to benefit managers will be holding the line on health care costs and experimenting with variable compensation systems, he said.

The slow growth of the workforce will be accompanied by a change in the sexual and ethnic composition of the workforce: People entering the workforce will be far more likely to be women, native-born minorities or immigrants, he said.

In fact, more than 40% of first-time job seekers during the period 1985-2000 will be women, nearly a quarter will be immigrants, a fifth will be native-born members of a minority group and only 15% will be native-born white males, he

said, citing U.S. Department of Labor statistics.

As an example of the impact of the increase in women workers, Mr. Lindgren noted that only 12% of women with children under the age of 6 were in the workforce in 1950. By 1985, that percentage had risen to 52%.

"More and more employers will find themselves in the child-care business," financing both on-site and off-site care, Mr. Lindgren predicted.

The growth of minority first-time employees means that affirmative action will "become a matter of economic survival," he said. At the same time, companies will have to invest more resources in education and training. And some of that education will have to be very basic, such as helping immigrants learn English and cope with the other demands of life in their new country, Mr. Lindgren added.

Dealing with this changing workforce presents benefit managers a "communications challenge of the first rank," he said.

The general aging of the workforce also will present new challenges to managers, Mr. Lindgren said. In 1985, 50% of the workforce was under the age of 35, 37% was between 35 and 54, and 13% was 55 or older, he said. But, by the year 2000, only 38% of the workforce will be younger than 35, while 51% will be between 35 and 54, and 11% will be 55 or older, he said.

At first glance, an older workforce might look like a good thing, Mr. Lindgren said, because older workers should have more experience. But, he said, their experience might not mean anything. "Newly created jobs require new skills, and how well can a middle-aged or aging workforce adapt?" he asked.

Because skills will become obsolete, companies will have to insti-

tute ongoing retraining programs. This will affect more than assembly line workers, Mr. Lindgren said: "This applies to all of us; there are no longer skills that might not be obsolete in three or four years."

An aging workforce also will put new pressure on health care costs, he said. And, the fact that active employees and retirees are living longer will make the question of benefits for long-term care a major issue of the next century, he predicted.

But, long-term care will be only one of a swarm of major legislative and legal questions bedeviling benefits personnel in the coming decades, Mr. Lindgren said.

In the past, legislation dealing with the employer/employee relationship focused on such matters as the vesting of benefits, restrictions on special benefits for highly compensated employees and age- and sex discrimination, he said.

But, the focus of legislation and litigation will become much broader as the 21st century nears, Mr. Lindgren predicted. For example, he predicted that the very notion of employment at will, whereby employers can fire workers as they please, "will be archaic."

Employee rights will become focal points of controversy as disputes arise over polygraph and AIDS testing. There also will be a greater emphasis on work conditions, mandatory benefits and questions of pay equity, Mr. Lindgren said.

The new directions in legislation and litigation will add to the administrative burdens of benefit managers, he said.

Stephen C. Carlson, principal in Mercer's Chicago office, offered a few short-term legislative predictions.

Mr. Carlson said Congress probably will attempt to further restrict or even repeal 401(k) plans during the next few years. He also predicted that Congress will pass some kind of mandatory catastrophic health care plan, and that some general revenue will be earmarked to defray the cost of the further aggravating the federal deficit.

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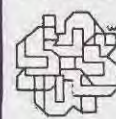
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# Lloyd's releases management proposals

By CAROLYN ALDRED and STACY SHAPIRO

London

LONDON—Lloyd's of London is asking its more than 30,000 members to comment on proposed changes in the way their affairs are managed.

A preliminary document sent to members describes proposed changes in underwriting agency agreements and members' agency agreements.

The document was drawn up by a Lloyd's working group in response to the government inquiry headed by Sir Patrick Neill into self-regulation and investor protection at Lloyd's.

The document proposes "a radical revision of existing underwriting agency agreements," the Lloyd's statement says. The document refers to two types of agreements: the one between managing agencies, which manage Lloyd's syndicates, and members; and the other between members' agencies, which look after the affairs of Lloyd's members, and members.

Lloyd's members must file their comments on the proposals by July 29.

The report already has been criticized by the Assn. of Lloyd's Members for failing to implement one of the recommendations in the Neill report, which was issued in January 1987.

"Neill put a very succinct point forward when he said that the remuneration of managing agents, and perhaps also members' agents, should reflect the total result rather than the profitable segments" of a member's account, explained ALM Chairman Antony Haynes.

Currently, most agents are paid commissions based on the profitability of syndicates, but there are no standard provisions in agency agreements to aggregate the results of all of a member's syndicates either over a number of years—which is known as a vertical deficit clause—or in a single year over some or all of the syndicates in which the member participates—which is known as a horizontal deficit clause.

The Neill report recommended that a "fair and efficient form of deficit clause should be made mandatory" in agency agreement.

However, the Lloyd's document did not specify what form the deficit clause should take.

In its document, the Lloyd's working party, under the chairmanship of London lawyer Edward Walker-Arnott, rejects the mandatory introduction of a vertical deficit clause by managing agents.

The ALM says that such a clause should be imposed because it would force managing agents to share in the losses as well as the profits of syndicates they manage.

However, the working party argues that the introduction of a "mandatory vertical deficit clause would involve an unwise and imprudent step."

The document notes that managing agents have argued that the clause would have an adverse effect on operations in the Lloyd's marketplace for two reasons: First, "there would be strong commercial pressures on a managing agent to close down a syndicate once it had incurred a substantial loss" and second, "managing agents may well be much less ready to commit syndicates to accept high-risk business and long-term liability business."

The working party proposes that, rather than making the vertical deficit clause mandatory, managing agents and names can agree to use such a clause if they wish to do so.

"The market can then be tested,

and in due course there can be a review. We are clear that this is preferable to the risks involved in an outright and immediate imposition of the vertical deficit clause," the document says.

However, the document recommends that members' agencies should offer members a "horizontal deficit clause, whereby profit commission would be charged on net profits in any year, with losses on any syndicates deducted from profits on others in the same year."

The ALM also criticized the stand taken by the Walker-Arnott document on the "pay now, sue later" provision in the agency agreement, under which a name

must pay any cash call before he can bring any action against his agent for negligence or breach of contract. This provision is designed to safeguard the policyholder.

The Neill report had suggested that if a name has a strong legal case the Lloyd's Central Fund should be used to pay the claim until the case is decided.

But, the Lloyd's document rejects this suggestion.

"Although most of the document is excellent and very well-written, we are disappointed about the working party's rejection of two issues so fundamental to names," responded the ALM's Mr. Haynes.

Mr. Haynes says he will write to all 6,500 members of the ALM to obtain their reaction to the document.

The other major proposals contained in the Lloyd's document include:

- A member should have a direct contractual relationship with the members' agency and all his managing agents.

- The functions of the types of agencies offering services to members should be clearly delineated in the agency agreements.

- The managing agent alone should have a contractual responsibility for underwriting and managing the member's insurance business.

- Members' agents should draw up the contract between members and the managing agent.

- Members using more than one members' agent should be required to appoint a coordinating agent.

- Members' agents and managing agents should be compensated separately for the services they provide.

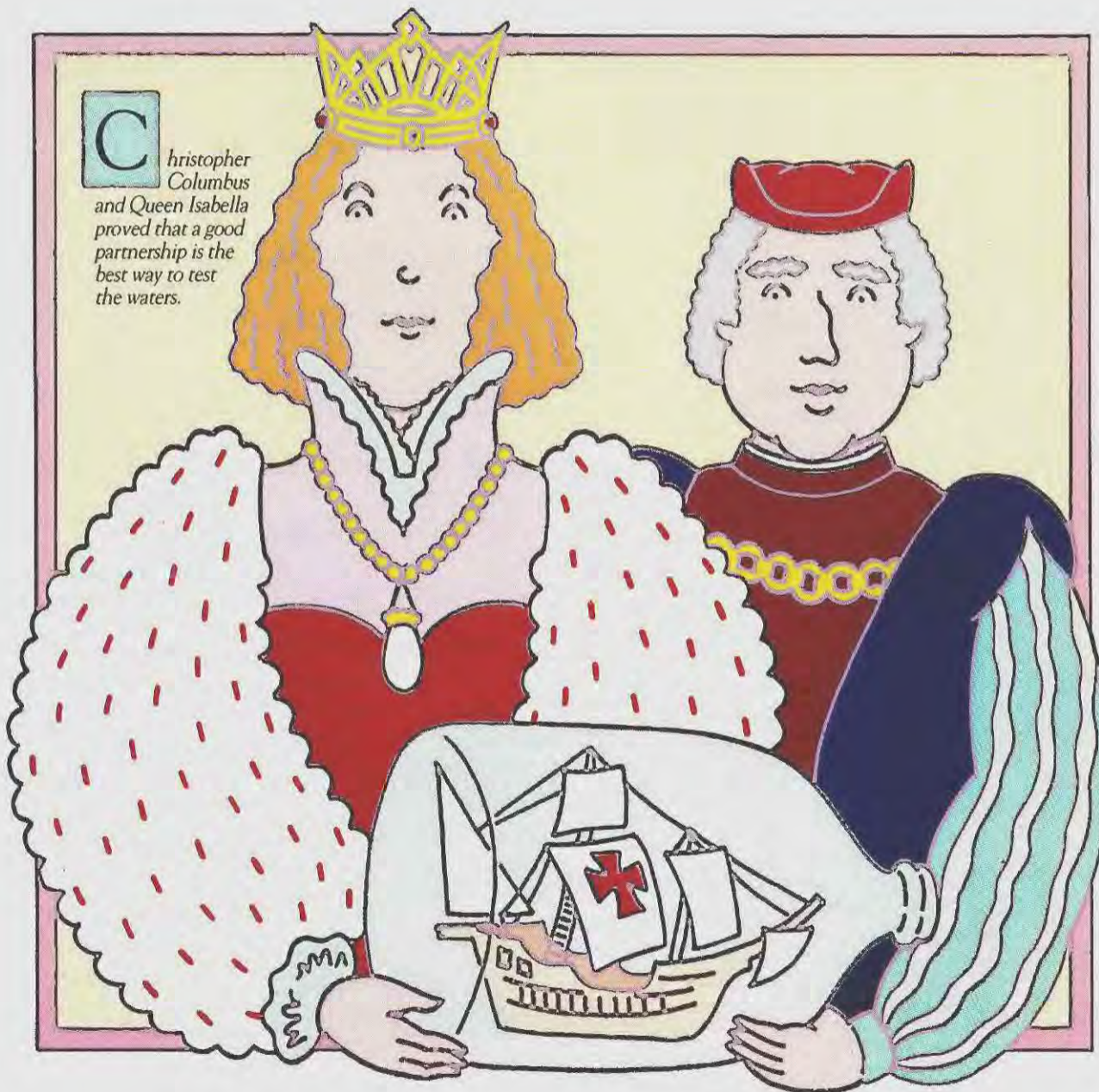
- An auditor's report should be made available before a Lloyd's member is required to pay a cash call.

## Jewelers block

Lloyd's of London broker Bain Clarkson Ltd. is forming a surety and specie division to broker business like jewelers' block insurance and coverage for fine art and other exhibitions.

The division will include three directors who joined Bain Clarkson  
*Continued on next page*

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## London

Continued from previous page  
this month from Lloyd's broker Cayzer Steel Bowater International Ltd.

The directors—David Beer, Robin Eltringham and Rod Spencer—will work with Nigel Howard-Jones, who has been appointed chairman of the new division.

Mr. Howard-Jones also is chairman of Bain Clarkson's non-marine overseas division.

### London United

The strengthening of insurance company loss reserves related to disputed U.S. claims caused pretax profits for London United Investments P.L.C. to drop 41% to 8.8 million pounds (\$16.6 million at year-end 1987 exchange rates) in 1987 from 14.9 million pounds

(\$22.1 million at year-end 1986 exchange rates) in the previous year.

London United announced that an "exceptional claims provision" of 8.5 million pounds (\$16.1 million) had been established for its insurance company affiliates "in view of the problems facing the international insurance market, which has been subjected, during the latter part of 1987, to a considerable number of legal actions being brought by United States insureds against their insurers, which the insurers maintain are excluded."

Many of these are asbestos property damage claims in which the date of loss is being disputed, according to Peter Wilson, deputy chairman of London United and managing director of H.S. Weavers (Underwriting) Agencies Ltd.

The disputed losses are on policies issued before 1985, Mr. Wilson said.

London United's insurance company subsidiaries include Walbrook Insurance Co. Ltd., which now is one of only two insurers on Weavers' U.S. excess liability insurance line slip. Walbrook now writes 55% of each risk written on the Weavers slip following the removal of four insurers from the slip last month.

Anglo-American Insurance Co. Ltd., owned by Los-Angeles-based Calfed Inc., writes the other 45% of the risks on the slip (BI, April 18).

Despite the decline in profits, London United said in a statement that "following its strong performance in recent years and despite the unforeseen setback during 1987, London United is a soundly based insurance group, committed to maintain its rate of growth and prosperity in the years ahead."

### Pine Top judgment

Pan Atlantic Insurance Co. Ltd. and Republic Insurance Co. which sued Pine Top Insurance Co. Ltd. on behalf of 35 insurance companies, have been awarded about \$500,000 plus interest by a High Court judge in London.

In addition, Pine Top has been ordered by the High Court to put up letters of credit for \$745,000 in outstanding losses under disputed reinsurance contracts.

The High Court ruled that British and U.S. companies on the excess-of-loss reinsurance contracts were entitled to recover from their reinsurers, including Pine Top.

Pine Top, while not challenging any of the figures, argued that Pan Atlantic and Republic could not sue on behalf of all 35 insurance companies because Pan Atlantic and Republic were in dispute with 17 of the companies.

However, Pan Atlantic and Re-

public claimed that all the companies on the contracts had an interest in the litigation and all of them had a common grievance against Pine Top.

The judge agreed with Pan Atlantic and Republic. In his judgment late last month, he said that Pine Top had paid its entire portion of all reinsured losses under both contracts up to and including the first quarter of 1985, but stopped making payments after that date.

Meanwhile, all other reinsurers on both contracts had paid their portion of the reinsured losses in full.

Also, the judge said that of the 17 companies with which Pan Atlantic and Republic had disputes, all but two of the companies had settled.

### Reinsurance rates

Property/casualty reinsurance rates in Europe are holding steady as buyers remain concerned with security as much as price, says John Lock, general manager of London-based Mercantile & General Reinsurance Company P.L.C.

"There is no clear evidence of a down cycle in reinsurance pricing and we are reasonably happy with the state of the reinsurance market," Mr. Lock said at a press conference earlier this month to announce the company's 1987 results.

M&G, the reinsurance unit of Prudential Corp. P.L.C., reported pretax profits of 67.5 million pounds (\$127.6 million) in 1987, up 22.7% from 55 million pounds (\$81.6 million) in 1986. Net premium income fell 24.6% to 603.4 million pounds (\$1.14 billion) last year from 799.8 million pounds in 1986 (\$1.19 billion).

Last year "despite extra capacity coming to the market, trading conditions remained generally firm and favorable for reinsurers, helped no doubt by the timely remainder of risk by the European October storm," according to a company statement.

The October storm, which swept across southeast England, western France, Portugal and Norway, cost M&G 6 million pounds (\$11.3 million) in net losses, according to Mr. Lock.

Another large loss to the M&G during 1987 was a 3 million pound (\$5.7 million) loss from the massive explosion at the Hoechst Celanese Corp. chemical plant in Pampa, Texas.

M&G was one of the retrocessionaires of Hopewell International Insurance Ltd., a Bermuda property reinsurance pool that reinsured Celanese's Bermuda-based captive, Elwood Insurance Co. Ltd., for the estimated \$320 million loss (BI, April 18).

Meanwhile, M&G is making additional reserves of 9.2 million pounds (\$17.4 million) "to meet future possible asbestos losses" arising from business written in previous years.

An additional 45 million pound provision (\$85.1 million) also is being made for future AIDS losses. Further provisions are likely to be made in future years, said Mr. Lock.

Recent reports published by the British Institute of Actuaries and the AIDS Task Force of the Society of Actuaries in the United States indicate that "deaths from AIDS over the next 20 years will be much higher than projected 12 months ago," according to M&G's annual report.

### Agency cash call

Lloyd's of London underwriting agency John Poland & Co. Ltd. is asking members of non-marine syndicate 105 to pay about 4 million pounds (\$7.4 million) by the

Continued on facing page

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Continued from facing page  
end of June.

The cash call is to help pay underwriting losses of more than 9 million pounds (\$13.1 million at year-end 1985 exchange rates) for 1985, the year just closing under Lloyd's three-year accounting system.

Meanwhile, the 1985 underwriting year will be kept open and the remaining loss will be uncalled for until "the present uncertainty about pollution" becomes clearer, said Poland Managing Director Michael Brecknell.

Syndicate 105 had a total premium income of 24 million pounds (\$34.8 million) in 1985.

The final results of the syndicate's 1985 account will depend very much on the progress of pollution litigation in the United States, according to Mr. Brecknell.

**Underwriter resigns**

"A serious breach of Lloyd's (of London) regulations" led to last month's resignation of Lloyd's of London underwriter Graham Potter, according to a memorandum sent to Lloyd's members' agencies by Aragorn Agencies Ltd.

"I have just discovered what I and the rest of the agency board consider to be a serious breach of Lloyd's regulations," according to the memo signed by Aragorn Chairman Alistair Wallace.

Mr. Potter resigned from syndicate 384, managed by Aragorn, last month.

The syndicate is expected to make a cash call for about 2 million pounds (\$3.7 million) shortly for its 1985 underwriting account, the year just closing under Lloyd's three-year accounting system (BI, May 2).

According to the memo, the alleged breach surrounds a retrocessional contract covering the liability account of syndicate 553, whose underwriter was Cyril Warrilow.

Mr. Warrilow resigned from syndicate 553 last year following the discovery of huge U.S. liability losses for the 1984 underwriting year (BI, June 29, 1987).

Although the retrocession cover for syndicate 553 was bound in January 1984, the premium was too large to incorporate into syndicate 384's 1984 accounts, so Mr. Potter instructed the broker to "withhold the slip for signature until 1985," Mr. Wallace said in the memo.

The retrocessional contract was effective from March 1984 although the "premium was paid by special settlement" in 1985.

The frequency of reported claims arising from the Warrilow retrocession "accelerated violently" last year, said Mr. Wallace, adding that claims currently total about \$2 million.

"When discussing the situation on April 6, Mr. Potter made a chance remark that he hoped the broker's file contained no evidence of the instructions to sign the risk into 1985," Mr. Wallace noted in the memo.

"My instant reply was to the effect that if that was so, we would be subject possibly to lawsuits," Mr. Wallace said, adding that the following day "Mr. Potter's employment as underwriter of syndicate 384 was terminated and he resigned as chairman and director of the agency."

**Lloyd's expansion**

Lloyd's of London is awaiting West German government authorization later this year to write business in that country for the first time.

When approval is granted, Lloyd's also will appoint a full-time representative in the market. A 1973 European Community directive on the freedom of estab-

lishment allowed Lloyd's and other insurers from every EC member nation to set up offices in other member countries.

However, "it took a while for Germany to alter their law to adhere to the directive," explained Tony O'Dowd, assistant manager of Lloyd's legislation department.

Lloyd's also decided to hold off to see if the EC's new freedom of services directive would allow it to write business in EC nations without being represented in them, he said.

But the freedom of services directive—which is currently under review in the European Parliament and could be passed this year—will only allow cross-border trading for large industrial, marine and aviation risks and not for all Lloyd's business.

Therefore, Lloyd's plans to be authorized in most EC countries except Denmark and Luxembourg, according to Mr. O'Dowd.

Already, Lloyd's has representatives in France, Belgium, the Netherlands, Italy and Ireland and has had preliminary discussions with Greece. Lloyd's does not have representatives in Portugal or Spain, which have not yet changed their laws to adhere to the directive.

**Broker acquisition**

Windsor Securities (Holdings) P.L.C. plans to acquire Surrey-based broker Burns, Burr & Co. Ltd. for about 1.2 million pounds (\$2.2 million).

A large part of Burns, Burr's business includes professional liability insurance brokerage for consulting engineers, solicitors, surveyors and accountants.

Burns, Burr's pretax profit for the year ended Jan. 31 totaled 142,000 pounds (\$264,000) on insurance brokerage commissions and interest receivable of 697,000 pounds (\$1.3 million).

**Comings & goings**

Dennis King and Kevin Fisher have joined Heath Fielding LMX Ltd. as a director and assistant director, respectively.

Mr. King has also been appointed a director of Heath Fielding Reinsurance Broking Ltd. Both men were formerly with J.H. Minet & Co. Ltd.

Anthony Aubrey has been promoted to deputy managing director of C.E. Heath (Aviation) Ltd. Peter Boyes has been named deputy managing director of C.E. Heath (Aviation Reinsurance Broking) Ltd.

Jonathan Bloom was appointed director of C.E. Heath (North America) Ltd.

Francis Sanders and Brian Emmerson have been named associate directors of Heath Fielding Insurance Broking Ltd. Robert Rose and David Webber have been appointed associate directors of Heath Fielding Reinsurance

Ltd. Chris Frost has joined Minet International Professional Indemnity Ltd. as senior regional director, where he will develop engineering and construction industry business. Mr. Frost previously was an associate partner of Griffiths & Armour.

Ian R. Flack has been appointed chairman and chief executive officer of the aviation and aerospace division of Alexander Howden Ltd. Tony Ashby will become chief operating officer of the division.

Other recent appointments at Alexander Howden Ltd. include P. Michael Box as director of the non-marine casualty division; Richard K.G. Keeley as director of the non-marine property division; Jeremy C.P. Swan as director of the non-marine international division; Miles R.J. Trotter as director of Holmes Johnson Lessiter Ltd. and Tim Fillingham as director of the marine and energy division.



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# Hartford names property/casualty chief

**Dale R. Comey** has been named president and chief operating officer of Hartford Insurance Group's property/casualty operations in Hartford, Conn.

Mr. Comey, 47, served most recently as executive vp of property/casualty operations. He joined Hartford in 1965 as an assistant actuary and was promoted to actuary in 1972. After holding several executive positions, he became vp of actuarial research operations in 1976 and senior vp and director of field operations in 1979.



Mr. Comey

Mr. Comey succeeds **Donald R.**

## Comings & goings: industry

**Frahm**, who was named chairman and chief executive officer at Hartford Fire Insurance Co., another unit of ITT Corp. Mr. Frahm will succeed **De Roy C. Thomas**, who has been named president and chief operating officer of ITT Corp. in New York. Besides his positions at Hartford, Mr. Thomas also was ITT's vice chairman and chief operating officer of ITT's diversified services companies.



Mr. Frahm

### In other insurer changes:

**J. Truet Richardson** named president and chief executive officer of Transport Life Insurance Co., a Primerica Corp. subsidiary in Greenwich, Conn. Most recently, he was senior vp of individual marketing.

**Robert G. Schatz** named president and chief executive officer of North East Insurance Co., a property/casualty insurer in Portland, Maine. Mr. Schatz had been president of Chesapeake Consulting Group Inc., an independent consulting firm.

At Edison Insurance Co. of Matteson, Ill.: **Robert Dols** joined as vp-transportation products and

**Howard Nathans** joined as vp-government and industry. Previously, Mr. Dols was market manager-commercial auto for Northland Insurance Co. in St. Paul, Minn., while Mr. Nathans was vp-legal counsel for Meritor Life Insurance Co. in Philadelphia.

**Dr. Brian S. Gould** promoted to senior vp for Blue Cross of California in Woodland Hills. He had been vp of the medical standards and services division. Also at the company, **Patricia D. Johnson** promoted to senior vp of government services.

**Barbara Hardman** promoted to vp of risk management at Argonaut Insurance Co. in Menlo Park, Calif., a subsidiary of Argonaut Group Inc. Ms. Hardman previously was director of finance and administration for Argonaut Group.

**James Karkus** and **Lawrence E. Bacon** appointed senior vps at The Travelers Cos. in Hartford, Conn. Mr. Karkus had been vp of property/casualty commercial lines. Mr. Bacon was head of data processing and telecommunications.

**Bryan S. Reid III** named executive vp of Harbor Insurance Co. in Los Angeles and its subsidiary, Pacific Insurance Co. Mr. Reid will continue as president and chief executive officer of East River Insurance Co.

**William T. McCaffrey** named chief administrative officer of The Equitable Life Assurance Society of the United States in New York. Mr. McCaffrey will retain his position as executive vp of corporate operations.

**Anthony C. Delauney** appointed vp at Firemen's Insurance Co. of Washington, D.C., a property/casualty unit of W.R. Berkley Corp. Most recently, he was regional director of The Home Insurance Co.'s special property operations in Philadelphia.

**Industrial Indemnity Co.**, a Crum & Forster Inc. subsidiary, announced the following promotions to vp from assistant vp in its San Francisco office: **Jay J. Chase**, **Scott H. Keller**, **Joseph G. Mohorovich**, **Jon K. Nicholas** and **Patricia J. Smith**.

Other Industrial Indemnity Co. promotions to vp include: **J. Wayne Rose** in Orange County, Calif., from division manager intern; **Dean Lee Middour** in San Jose, Calif., from division manager; **Nancy E. Dungan** in Stockton, Calif., from division manager; **Robert P. White** in San Diego from division manager; and **James F. Bily** in Portland, Ore., from manager.

**Stanley J. Couvillon** named vp-loss prevention of Industrial Risk Insurers in Hartford, Conn. Previously, he was director-loss prevention.

**Martha Branch** named vp of operations for AIM Insurance Co. in Anaheim, Calif. Previously, Ms. Branch was operations manager.

**Carolyn M. Nightingale**, **Ronald B. Colby** and **Dr. Robert A. Gormley** named vps of Lincoln National Life and Lincoln National Administrative Services Corp. in Fort Wayne, Ind. Ms. Nightingale is director of employee benefits; Mr. Colby is director of group products services; and Dr. Gormley is medical director for the employee benefits division.

**William F. Healy** named president and chief executive officer of Whitehall Financial Group's Bradford National Life Insurance Co. in Lexington, Ky. Mr. Healy most recently had been president of three American International Group Inc. units: American International Life Assurance Co. of New York, AIG Life Insurance Co. and Delaware American Life Insurance Co.

**Harold C. McCarthy** was named president and director of Vernon Fire & Casualty Insurance Co., an Indianapolis-based subsidiary of Meridian Insurance Co. Inc.

**John B. Gould** joined Hermitage Group in New Canaan, Conn., as senior vp with corporate responsibility for claims, marketing and underwriting. Mr. Gould previously was an underwriting officer with General Star Insurance Co.



Mr. Couvillon

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### Agents/brokers

**William H. Steele** named president and chief executive officer of Alexander & Alexander of Michigan  
Continued on facing page

Continued from facing page  
gan Inc. in Detroit. Most recently, Mr. Steele was managing vp of A&A in Indianapolis.

Also at A&A, **Francis B. Denis** joined the Atlanta office as vp of the international division. Previously, he was manager of international operations for the Northeast at Frank B. Hall Co. Inc.

**Chris Conrad** joined A&A's Dallas office as vp of the international division. Most recently, Mr. Conrad was on the risk management staff at NCR Corp. in Dayton, Ohio.

**David G. Hampson** joined Kendall Insurance Inc. in Rochester, N.H., as vp of property and casualty, insurance operations. Previously, Mr. Hampson was president of Hampson Consulting Inc.

**Robert Lustberg** promoted to vp of group benefits at Walter Kaye Associates Inc. in New York. He has been with the company since 1984.

**Jack Allyn** joined Johnson & Higgins of Texas in Houston as vp.

**Rick Prentice** promoted to executive vp of the Santa Clara, Calif., office of Jardine Emett & Chandler Inc. Previously, he was senior vp.

**Scott M. Taylor** named president of The Teare Group, a broker and consultant in Liberty Corner, N.J.

**Ernest M. Seubert** appointed executive vp of Campbell Brokerage Corp. in New York. Most recently Mr. Seubert, who joined the company in 1981, was vp.

**Roger E. Knowles** promoted to chief executive officer of Corroon & Black Corp. of Dallas. Mr. Knowles continues to serve as president. He has been with Corroon & Black since 1968.

Also, **Gary R. Griffith** promoted to president and chief executive officer of Corroon & Black's San Francisco office. Mr. Griffith had been president of C&B of Illinois Inc. in Chicago.

At C&B in San Jose, Calif., **James H. Levine** promoted to president and chief executive officer. Mr. Levine replaces **Jan W. Passmore**, who will become chairman. Most recently, Mr. Levine was a director and senior vp for C&B Brokerage Services Group.

**W. Scott Hull** joined Corroon & Black of the Carolinas in Greenville, S.C., as vp and surety manager of the Carolinas. Previously, he was regional surety manager for SAFECO Insurance Co.'s Southern region in Atlanta.

**Frank J. Cella** appointed president and chief operating officer of Albert H. Wohlers & Co., a brokerage in Park Ridge, Ill. Also, **James R. Malik** promoted to executive vp, **P.J. Anderson** promoted to senior vp and **Terence B. Bernier** and **Kenneth B. Lock** promoted to vps.

**Dean H. Greiner**, **Charles G. Carson** and **John Moreno Jr.** promoted to senior vps of Rollins Burdick Hunter of Oregon Inc. in Portland. Mr. Greiner is an account executive, Mr. Carson is manager of claims and Mr. Moreno is manager of employee benefits.

**Jeffrey W. Fernhoff** promoted to vp at Marsh & McLennan Inc. in St. Louis, Mo. Mr. Fernhoff was an assistant vp.



Mr. Mackay

**Donald F. Mackay** joined Richard N. Goldman & Co., a brokerage in San Francisco, as vp and manager of loss control engineering. Most recently, Mr. Mackay was vp and assistant manager of engineering for Alexander & Alexander of California Inc. in San Francisco.

**J. Keith Simmons** joined Carlson, Luebbehusen & Burk Inc. as vp of the Houston office. Previously, Mr. Simmons was vp of Alexander

& Alexander Inc.

**David B. Mandel** joined the Coral Gables, Fla., office of Frank B. Hall Consulting Co. as vp and group actuary. Previously, Mr. Mandel was with Partners National Health Plans.

**Richard J. Anthony** appointed vp of health and welfare for Thomson Financial Services in Lansdale, Pa., a member of The Thomson Group, which operates insurance agencies in the mid-Atlantic region.

### Reinsurance

**William P. Slattery** named president and chief executive officer of Cologne Reinsurance Co. of America in Stamford, Conn. He

succeeds Eric M. Maynard, who continues as a Cologne Re director. Mr. Slattery was executive vp of Munich American Reinsurance Co. before joining Cologne Re earlier this year.

**David Rich** appointed vp of corporate reinsurance for Fireman's Fund Insurance Cos. in Novato, Calif. Most recently, Mr. Rich was assistant vp for corporate reinsurance.

General Reinsurance Corp. announced the following promotions to vps: **Dan Dooley** in Kansas City, Kan., **Scott P. Doyle** in Chicago, **Thomas J. Elmer** in Philadelphia, **Philip A. Poynter** in Columbus, Ohio, and **Leroy A. Stock Jr.** in Hartford, Conn.

Promotions at Prudential Reinsurance Co. in Newark, N.J., include: **Joel N. Sobo** to vp-systems and administrative services, **Paul A. Giacobbe** to vp-treaty underwriting, and **James A. Wilsterman** to vp-surety.

**Enzo D'Agresta** named vp of Constitution Reinsurance Corp. in New York. Mr. D'Agresta will continue to manage the company's Brussels, Belgium, office.

Intere Intermediaries Inc named the following vps: **Curtis V. Carlson** in Minneapolis, **Lynn M. Lamb** in Chicago and **Francis Michael McGlinn** in New York.

Skandia America Group named the following to vps/branch managers: **Jack H. Butlin Jr.** in San

Francisco, **Albert E. Ruhlmann** in New York and **Max H. Foley** in Atlanta. Also, Skandia named the following to vps/property managers: **Paul H. Myers** in San Francisco and **Bernard J. Mone** in New York.

### HMO/PPO

**Burt Bundgus** joined Emerald Health Network, a preferred provider organization in Cleveland, as president and chief executive officer. Previously, Mr. Bundgus was chief executive officer of Primary Provider Management Co. in San Diego.

**Dr. Saul Feldman** appointed  
Continued on next page

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## Comings & goings: industry

Continued from previous page  
 chairman of U.S. Behavioral Health, a mental health managed care firm in Emeryville, Calif. Dr. Feldman previously directed the community mental health program at the National Institute of Mental Health.

### Excess/surplus

**Lawrence A. Willoughby** elected president and chief executive officer of Surplus Underwriters Casualty Insurance Co. in Houston. Mr. Willoughby, who was a vp, succeeds Myron F. Steves Sr., who continues as chairman of the board of Surplus Underwriters Casualty.

**C. Richard Cleveland** promoted to vp of Crump London Underwriters, a Memphis, Tenn.-based excess/surplus lines bro-

kerage. Mr. Cleveland is a broker in the casualty insurance department.

**David Wetzel** named president of Global Special Risks Inc. of Houston, a specialty insurance broker firm in Houston.

**Edmund G. Langhorne** named president of Markel Service Inc., the Richmond, Va.-based surplus lines brokerage subsidiary of Markel Corp. Most recently, Mr. Langhorne was president of National Claims Service Inc., Markel Corp.'s claims administrator subsidiary.

Also at Markel Service, **James W. Chapman** named senior vp.



Mr. Wetzel

**Jacquelyn S. Ash** named senior vp of Essex Insurance Co. and Markel American Insurance Co. in Richmond, Va., the insurance underwriting subsidiaries of Markel Corp.

At NAS Ltd. in Chicago: **Thomas Cath** named chairman, **Steven A. Johnson** named president and **John T. Bogart** named executive vp. Mr. Cath had been NAS' president, Mr. Johnson had been executive vp and Mr. Bogart had been vp.

**Allen T. Hildebrand** promoted to vp and manager of the property/energy division of RISC Inc., an excess and surplus lines insurance brokerage in Dallas.

### Other suppliers

**Geoffrey A. Hunt** appointed deputy managing director of Alexander Insurance Managers Ltd. in Bermuda, a subsidiary of Alexander & Alexander Services Inc. Previously, Mr. Hunt was a director of HJF International Ltd.

Promotions at Herget Risk Man-

agement Inc. in Baltimore include: **Bruce D. Cornbrooks** to senior vp and **Harry F. Englehart** to vp.

**Gerald P. Becknel** promoted to vp of national accounts-property and casualty at Equifax Services Inc. in Atlanta, which provides information for evaluating risks and making business decisions. Most recently, Mr. Becknel was assistant vp-property and casualty market center.

**Richard P. Marshall** appointed vp of special program development for Corporate Risk Consultants, a Southfield, Mich.-based division of Meadowbrook Insurance Group.

**William B. Powers** joined Associated Risk Managers of Texas Inc. in Austin as executive director. The company is a marketing organization affiliated with Associated Risk Managers International Inc. Most recently, Mr. Powers was director of operations and research for the Academy of Producer Insurance Studies.

The FPE Group, the Lafayette, Calif.-based fire protection engineering unit of Fred S. James & Co. Inc., announced the following appointments: **Bob Lapidus**, **Jerry Perstein**, **Joe Talbert**, **Ed Vining** and **Tom Walker** appointed to the executive committee; **Dan Cox**, **Basil Holcomb**, **Gary Piermattei**, **Mike Waite** and **Keith Weibel** named vps; and **Tom Breton** appointed head of the group's New York office.

**Ralph M. Wilson** named Western division vp of Alexis Inc., the Chicago-based claims management and risk management services unit of Alexander & Alexander Inc. Mr. Wilson had been president and chief executive officer of Self-Insurers Service Inc., a subsidiary of Rollins Burdick Hunter.

**John Kessock Jr.** named president of Mutual Group Ltd. in Philadelphia, the U.S. holding company for Mutual Risk Management Ltd. of Hamilton, Bermuda. Mr. Kessock previously was president of IPC Group of America Ltd.

**James Southall Stone** named senior vp of North American Claims Management Co., a Richmond, Va.-based investigator for a variety of insurance claims. Most recently, Mr. Stone was a branch manager and claims manager of National Claims Service Inc.

**Linda Tortu** promoted to vp of operations at National Pension Service Inc., an independent consulting and administrative firm for

qualified pension and profit-sharing plans in White Plains, N.Y. Ms. Tortu was a plan designer.

Employee benefit consultant Martin E. Segal Co. announced the following promotions to senior vp: **Daniel L. Imming** in Denver; **Gary F. Jenkins** in San Francisco; **James Laws** in Boston; and **Susan Lee** in New York.

The following were appointed vps at Segal: **J. Tim Biddle** and **Henry V. Munson** in San Francisco and **Jody Osterweil** in Seattle in the Northwest region; **John Corsaro**, **Sheila K. Donath**, **Susan Wallace** and **Joyce Wesolowski** in New York and **Stephen A. Meskin** and **Stephen N. Whisenunt** in Washington, D.C., in the Mid-Atlantic region; **J. A. Siewart** in Atlanta in the Southeast region; and **R. Bruce Evans** in Edmonton, Alberta, in the Canadian region.

Also, **Michael J. Karlin** appointed senior vp and **William H. Dearth Jr.** appointed vp of Segal Associates in New York.

**William G. Drane** promoted to senior vp-regional manager of Crawford & Co. in Atlanta. Mr. Drane is in charge of the Western region. Also, **Frank J. Semancik** promoted to executive vp of claims services in Atlanta.

**Robert F. Deger** joined Industrial Insurance Management Corp. in Charlotte, N.C., an independent risk and insurance management consulting firm. Mr. Deger was previously vp of the American Mutual Insurance Cos. in Wakefield, Mass.

**William D. Lamb** joined Coopers & Lybrand's Actuarial, Benefits & Compensation Group in New York as a partner and national director of its flexible benefits practice.

**William E. Brand Jr.** in St. Louis and **John G. Rittenburg** in Atlanta named senior vps of National Claims Service Inc. Mr. Brand previously was associate vp and Mr. Rittenburg was vp.

**Margaret P. Berton** named vp-workers compensation at Underwriters Adjusting Co. in Piscataway, N.J. Previously, Ms. Berton was assistant vp-claims operations in UAC's Livingston, N.J., Eastern regional office.



Mr. Drane

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## Integrity sued

Continued from page 3

Co., which is accused of negligently failing to uncover Integrity's problems in audits conducted between 1981 and 1986.

Mr. Yegen could not be reached for comment on the suit.

Robert W. Mannix, associate general counsel for Touche Ross, said, "We are completely confident that our audits were conducted in accordance with generally accepted auditing standards."

Mr. Mannix added that much of Integrity's financial trouble related to uncollectible reinsurance, and that Touche Ross had qualified its audit of the insurer's 1985 financial statement—and retroactively qualified the 1984 and 1983 audits—based on the instability of some of Integrity's reinsurers.

The Insurance Department examined Integrity in 1981 and 1985, he noted. "If they found or knew something as a result of their own exams that we did not know of, they sure didn't tell us."

The New Jersey department has forwarded a copy of its complaint to National Union Fire Insurance Co. of Pittsburgh, Pa., a unit of American International Group Inc. that wrote D&O liability coverage for Integrity's directors and officers, according to Steven S. Radin, an attorney representing the Insurance Department.

National Union wrote two claims-made D&O policies: a three-year policy with a \$20 million limit covering the period from 1983 to 1986; and a one-year policy with a \$10 million limit that expired in 1987. The Oct. 30, 1987, expiration of the second policy was extended to Dec. 31, 1987.

Integrity first notified National Union of events that could give rise to D&O claims about the time it was placed in rehabilitation in December 1986, according to Mr. Radin, a partner with the Newark law firm of Sills, Cummis, Zuckerman, Radin, Tischman, Epstein & Gross.

One of the open questions concerning the D&O coverage is whether one or both policies could be tapped in this case, noted Davis Howard, another attorney with Sills, Cummis.

Integrity, based in Paramus, N.J., entered voluntary rehabilitation after failing to correct a \$50 million impairment to its capital and surplus (*BI*, Jan. 5, 1987).

One of the insurer's biggest problems, Insurance Department officials said at the time, was a large volume of unrecoverable reinsurance from Mission Insurance Co., which itself was ordered liquidated in February 1987.

Integrity's uncollectible reinsurance with Mission was estimated at \$25 million at the time Integrity entered rehabilitation, though this number now is significantly higher, according to Mr. Radin.

A Bergen County Superior Court judge ordered Integrity liquidated in March 1987, and the Insurance Department subsequently increased its estimate of the size of the insolvency to more than \$300 million, making Integrity the third-largest U.S. insurance company insolvency behind Mission and Transit Casualty Co. (*BI*, March 2, 1987; Dec. 14, 1987).

Last month, two law firms filed a motion with the court to establish a policyholders committee to represent all Integrity policyholders in the liquidation proceeding.

In 1985, Integrity reported gross written premiums of \$223 million, including \$183.8 million of direct insurance premiums and \$39.4 million of assumed reinsurance premiums. Net written premiums totaled \$111.3 million, and Integrity reported policyholders surplus of \$20.5 million at year-end 1985.

According to the suit, the defendants developed a plan before 1980 to expand Integrity's business by

building a network of MGAs. The expansion was intended to increase Integrity's marketability in anticipation of selling the insurer or making a public offering of TIFGI stock, the complaint alleges.

In the course of this expansion, Integrity signed contracts with roughly 80 MGAs, the suit says. However, Integrity lacked the staff and computer systems needed to monitor and control the MGAs, causing the insurer's controls to be "overwhelmed," the suit says.

The defendants failed to correct these problems as well as abuses and breaches of contract by several MGAs, the complaint says.

The defendants also failed to ensure that the MGAs were placing adequate reinsurance to cover Integrity and failed to adequately evaluate the financial stability of the reinsurers it had, the Insurance Department charges.

Integrity's internal controls were so poor that the insurer sometimes paid reinsurers before collecting

its own premiums and in some cases never billed reinsurers for losses on various contracts.

Meanwhile, Integrity also assumed reinsurance through Pasadena, Calif.-based Continuity Re Management Corp., a reinsurance management company created with a \$500,000 loan from Integrity, the suit says.

Continuity Re's principals were Ronald C. Bengston and Robert L. Marsh, former executives of the Pacific Reinsurance Management Corp. unit of Mission Insurance Group, Mr. Howard said (*BI*, June 22, 1987).

The defendants again failed to supervise the activities of Continuity Re, which violated its management agreement in several ways, including binding Integrity to a larger retention on some risks than allowed under the contract.

On several occasions, risks ceded by Integrity were retroceded back to the insurer through Continuity Re, significantly increasing Integ-

rity's retention while causing it to pay additional management fees on the business, the suit charges.

Continuity Re also made "material misrepresentations" to some of Integrity's retrocessionaires, leading some of them to deny Integrity claims, the suit says.

Despite the fact that Integrity was actually statutorily insolvent by 1981 or 1982, the defendants caused the insurer to pay dividends to TIFGI totaling \$12.9 million between 1981 and 1985. The dividends were illegal and increased the magnitude of the insolvency, the Insurance Department alleges.

To conceal Integrity's mounting financial problems, the defendants "negligently and/or intentionally" misrepresented the insurer's condition the suit charges.

As these problems worsened, the defendants in December 1984 executed a series of fraudulent inter-company transactions "designed to create the illusion of an infusion of funds into" Integrity, the Insur-

ance Department alleges.

These transactions, the suit says, included the following:

- TIFGI borrowed \$5 million from a bank and loaned the money to Integrity, which treated it as a capital contribution. Three months later, Integrity declared a \$5 million dividend to TIFGI, which used the dividend to repay the loan.

- TIFGI transferred its Integrity Credit Corp. subsidiary, valued at \$13.7 million, to Integrity, which reported the amount as an increase in capital and surplus. However, the unit was actually worth far less than the amount claimed.

- Integrity sold furniture and equipment—considered non-admitted assets in determining an insurer's capital and surplus—to the credit unit for \$1.7 million, then leased the same furniture and equipment back from the subsidiary. Credit Corp. then recorded the transaction as a lease receivable, which was reported as an admitted asset by Integrity. ■

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# AIG units face retrocession coverage denials

By CAROLYN ALDRED

LONDON—About 180 Lloyd's of London underwriters and insurance companies worldwide are denying coverage to two American International Group Inc. units under retrocessional coverage written for the captive of British industrial conglomerate Johnson Matthey P.L.C.

The two AIG companies, which were Johnson Matthey's primary insurers, already are disputing at least 20 million pounds (\$37.6 million) of claims filed by Johnson Matthey subsidiaries because of alleged non-disclosure by the conglomerate's former banking subsidiary, Johnson Matthey Bankers Ltd. (see story, page 1).

JMB was taken over by the Bank of England in 1984.

According to court papers, Johnson Matthey and its subsidiaries were insured by AIG units New Hampshire Insurance Co. of London and National Union Fire Insurance Co. of Pittsburgh, Pa.

The retrocessionaires claim the two AIG companies ceded more than 90% of the risks they wrote for the Johnson Matthey subsidiaries to the conglomerate's Bermuda captive, Argent Insurance Co. Ltd., which retroceded part of the risk to the retrocessionaires.

The retrocessionaires are refusing to pay claims filed by Argent, claiming material non-disclosure by Argent and that some of the claims fall outside the insurance contract, according to attorney David McIntosh of the London law firm Davies Arnold & Cooper who represents the retrocessionaires.

But, in a lawsuit filed last year in the U.S. District Court in New York, the AIG companies claim they also are included on the retrocession contract as cedants and that if they are found liable to pay the underlying claims, they should be indemnified directly by the retrocessionaires.

The AIG suit also seeks a declaration by the retrocessionaires that such reinsurance is not affected by any dispute between the retrocessionaires and Argent.

National Union's lawsuit says the reinsurance slips provided reinsurance and retrocession coverage "in respect of liabilities of The Argent Insurance Co. Ltd. and/or American International Companies."

The AIG companies claim that both National Union and New Hampshire come under the term "American International Companies" and that the reinsurance contract provided "separate and distinct coverage" for Argent and the AIG companies.

The retrocessionaires' "reservation of their rights under the reinsurance is based solely on factors and defenses which pertain to alleged acts, omissions and conduct of Argent," the lawsuit says.

But, the retrocessionaires claim in a lawsuit filed against the AIG companies in London's Commercial Court in March that they "are under no liability to indemnify" the AIG companies directly under the retrocessional contracts.

Lloyd's underwriter Jimmy Archer confirms in a March 22 affidavit that the retrocessionaires provided Argent with reinsurance of 100 million pounds (\$188 million) excess of 250,000 pounds (\$470,000) aggregate for every loss.

However, "the Lloyd's syndicates subscribing to the Argent slip never entered into any contractual arrangement with (National Union). . . Rather, the Lloyd's syndicates contract was solely with Argent, a Bermudan company," Mr. Archer adds.

The retrocessionaires also plan to file responses soon in the London court to two lawsuits brought by Argent against the retrocessionaires last December, Mr. McIntosh said.

In those lawsuits, Argent is seeking payment of claims already filed with retrocessionaires and a declaration that the retrocessional contracts are valid.

## Johnson Matthey

Continued from page 3

New Hampshire wrote a primary marine package insurance policy with a limit of 300,000 pounds (\$564,000), plus an excess policy for 10 million pounds (\$18.8 million) for each and every loss, except for infidelity risks and forgery risks, in which case the limit was 30 million pounds (\$56.4 million) for each and every loss, according to a lawsuit filed in London's Commercial Court by Johnson Matthey's former banking subsidiary against New Hampshire.

Court papers do not detail National Union's coverage.

About 20 million pounds (\$37.6 million) of claims are being sought in separate litigation filed in London by 10 Johnson Matthey subsidiaries and its former banking subsidiary against New Hampshire.

A lawsuit filed in December 1985 in London's Commercial Court by

10 Johnson Matthey subsidiaries against New Hampshire says the marine package policies covered loss by burglary, theft and physical damage.

The policies also covered "losses . . . sustained . . . through any act or acts of fraud, dishonesty, robbery or theft by any servant or servants in the employ of the (policyholder)," and losses Johnson Matthey Bankers sustains "by reason of these companies acting upon forged instructions or fraudulent written instructions."

The same policies covered "metals of every description . . . whilst in the course of transit." The fire and consequential loss policies covered damage to property and business interruption.

About 10 million pounds (\$18.3 million) of property damage resulting from various fires and explosions has been claimed under the property policies by the 10 JM

subsidiaries plus an unspecified amount of business interruption losses, lawyers confirm.

Another 10 million pounds of claims for fraud and theft of precious metals, including gold, have been filed under the marine package policies by JM's former banking subsidiary, now known as Minorities Finance Ltd., lawyers say.

Johnson Matthey Bankers also have notified the AIG insurers about an additional 22 million pounds (\$41.4 million) of claims, although details of the losses have not been filed yet with the underwriters, lawyers say.

In addition, Johnson Matthey Investments Inc., a former U.S. subsidiary of Johnson Matthey, and various U.S. manufacturing affiliates have filed a summons in a Pennsylvania state court and are expected to make a detailed claim shortly against National Union for failing to pay \$7.4 million for fraud and fidelity losses sustained between June and December 1983, said Stuart Cotton, a partner in the New York law firm of Mound, Cotton & Wollan, who represents AIG, and court papers filed in London.

At least two of the U.S. subsidiaries also have filed property damage and business interruption claims resulting from an explosion and a fire. But, court papers do not provide details of these events.

The insurers are investigating those claims because "Johnson Matthey has not provided full and comprehensive records that have been requested," Mr. Cotton said.

The litigation surrounding the primary insurance coverage in the United Kingdom is scheduled for trial in London in April 1989, court papers say.

The AIG units say they are refusing to pay claims filed by Johnson Matthey's current and former

subsidiaries because Johnson Matthey did not provide them with information about fraudulent activity at Johnson Matthey Bankers Ltd. when coverage for all of the subsidiaries was written.

JMB was taken over by the Bank of England in October 1984 after it raised concerns about JMB's commercial lending practices between 1980 and 1984. And, "police investigations are continuing" into JMB's lending business before October 1984, a Bank of England spokesman said.

Most of JMB's business was sold in 1986 to Australian banking group Westpac Banking Corp.

But, the Bank of England set up a separate subsidiary—Minorities Finance Ltd.—to handle the remainder of JMB's business and to attempt to reclaim loans made by JMB, according to a spokesman for the bank.

In its counterclaim to the Johnson Matthey subsidiaries' suit filed in London's Commercial Court, New Hampshire alleges Johnson Matthey and JMB failed to disclose material circumstances when renewing the insurance policies.

For example, in May 1984, JMB notified New Hampshire of a claim stemming from loans made to Kayson Factors Ltd., a confirming house in England owned by Gualbrai & Sons Ltd., a company registered in the British Virgin Islands and owned by Prakesh Daswani. A confirming house is an agent in one country for a buyer in another country that assists in the payment and shipment of goods purchased by the buyer.

The loans, the amount of which are not specified in New Hampshire's counterclaim, were made to finance the purchase of jewelry by International Confirmers & Financiers Inc. Mr. Daswani was the major shareholder and president of International Confirmers, according to the lawsuit.

New Hampshire alleges JMB knew before the insurance policy was renewed on April 1, 1984, that:

- The invoices against which the loans had been made were false.
- A fraud had been committed against the bank.

There was likely to be a claim under the policy as a result.

New Hampshire "will rely (on a) letter dated March 21, 1984, to JMB from its U.S. attorneys in which the attorneys reported that the bank had been defrauded by Mr. Daswani and his brokers," the lawsuit notes.

New Hampshire also details other allegations of non-disclosures, including that JMB failed to notify the insurer before the insurance policies were renewed that:

- Its commercial lending activities since 1980 had been and were continuing to be expanded in an uncontrolled fashion.

Its controls and systems relating to its commercial lending activities were inadequate.

The organization and management of the commercial banking and credit monitoring activities had serious shortcomings.

It had entered into several large exposures, each of which was equivalent to more than 10% of its capital base.

Security was not required from borrowers contrary to normal banking practice.

New Hampshire also alleges that in other insurance claims filed by the bank, JMB "has refused to give full or proper details . . . in that it has refused to identify the companies and individuals involved in the events which are alleged to have given rise to the claims, beyond referring to them by reference to letters in the alphabet; for example, company 'B' and individual 'Y.'" Lawyers involved in the case say the "coded claims," for which recovery has not been sought in the litigation, amount to about 22 million pounds (\$41.4 million).

Because of these and other alleged failures of disclosure New Hampshire may void the insurance policies for the period Jan. 1, 1981, to March 31, 1985, the insurer's counterclaim contends.

New Hampshire also alleges it has suffered unspecified losses and damages in the sum of insurance claims already paid and the cost of surveyor's, loss adjuster's and lawyer's fees.

John Tissington, a director of AIU (U.K.) Ltd., New Hampshire's London-based general agency, confirmed that the insurer will not pay claims on Johnson Matthey's insurance policies "for non-disclosure."

Meanwhile, Minorities Finance Ltd., formerly JMB, Johnson Matthey Commodities Ltd., and Johnson Matthey Commodities Inc., filed another suit last year against New Hampshire seeking recovery for damages and losses suffered because of a breach of contract. The suit also seeks a declaration that the insurance contracts are valid.

Also, in January 1987, seven Johnson Matthey subsidiaries plus Johnson Matthey P.L.C. filed a lawsuit in London's Commercial court against Minorities for breach of an implied contract "arising out of the arrangement of insurance cover for the Johnson Matthey Group of Companies."

Court papers do not describe the basis on which the Johnson Matthey units are bringing the action against Minorities.

Lloyd's underwriter Jimmy Archer, who led some of the retrocession contracts; Paul Brock, Johnson Matthey's risk manager; and directors of Minorities Finance all refused to comment.

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## Benefits survey

Continued from page 3

The survey suggests that most employers would feel significant effects from the passage of the two major mandated benefit bills now under consideration in Congress: proposals calling for minimum health care benefits and parental leave.

The survey examined the effect of mandated health care legislation introduced by Sen. Edward M. Kennedy, D-Mass. (BI, Feb. 22). The survey was conducted in late 1987 and, although the bill has been amended since then—most notably to include mental health benefits—the major components of the bill in 1987 would have a significant impact on employers in several areas, including:

- **Coverage eligibility.** In general, the bill would require employers to provide a minimum level of health insurance coverage for all employees working at least 17.5 hours per week and for the dependents of those employees.

All of the employers surveyed provide medical coverage to their full-time employees.

However, only 47% provide coverage to part-time employees, and not all of those employers would meet the requirements of the bill: The average time an employee must work in order to be eligible for coverage as a part-time employee is 19.5 hours per week, according to the survey.

- **Waiting periods.** The bill would require employers to provide the coverage for workers employed more than 30 days.

While some 76% of the survey respondents have a waiting period for medical care eligibility of four weeks or less, with an average of 3.9 weeks, only 17% of retail organizations surveyed have a waiting period of four weeks or less.

- **Pre-existing conditions.** The bill would require coverage for all medically necessary hospital care, physician care, diagnostic testing and prenatal and well-baby care, with no exclusions for health status or pre-existing conditions.

However, 35% of the employers surveyed—and 52% of the employers in the South—currently exclude employees from coverage because of health status or pre-existing conditions.

- **Premiums.** The bill would require employers in most cases to pay at least 80% of the premium for employee and dependent coverage.

Currently, 87% of the surveyed employers pay at least 80% of the cost of employee premiums, with the average percentage of premium paid by employers at 93.2%.

However, only 50% of retail companies and 76% of commercial banks surveyed contribute at least 80% of the cost of employee coverage.

And, only 72% of all the employers surveyed contribute 80% or more of the cost of dependent coverage.

- **Employee out-of-pocket maximums.** The bill generally would limit a family's annual out-of-pocket costs to \$3,000 a year or to an amount not to exceed 10% of the family's wages.

Ninety-three percent of the respondents currently limit employees' out-of-pocket costs to \$3,000 per family or less.

- **Coinurance.** In general, the bill would limit the employee co-payments to 20% of the cost of any service.

Virtually all—98%—of the survey respondents currently limit employee coinsurance to 20% or less.

- **Deductibles.** The mandated benefit bill would limit deductibles to \$250 per person and \$500 per family per year.

Currently, 96% of respondents have individual deductibles of \$250 or less, and 86% of respon-

dents have family deductibles of \$500 or less.

The survey found that a majority of the employers believe that, if they have to make the changes mandated by the bill, they will have to pay more for their health care plans.

For example, 20% of the respondents said the changes would slightly increase their benefit costs, while 22% said the increase would be moderate, and 14% of the respondents said their benefit costs would increase substantially if the bill were passed.

Only 3% said the effect of the bill would be to slightly decrease their benefit costs, and 1% said they would experience a moderate decrease in benefit costs under the bill.

Thirty-two percent of the respondents said the passage of the bill would have no effect on their benefit costs, and 9% of the respondents said they did not know what the effect would be.

Not surprisingly, 57% of the respondents said they oppose passage of the minimum health care benefit bill, and only 10% of the respondents favor its passage.

The remainder of those surveyed said they had no position or did not know what their position was.

Most of the employers expect federally mandated health care to become law, though. Some 57% of the respondents said such legislation probably would be passed in the next two years, and 74% said it would be passed in the next 10 years.

And, few of the employers apparently are doing much to make their position on the proposal known.

Twenty-six percent of the respondents said they have made either their opposition to or support for federally mandated health care benefits known through their participation in industry associations, and 23% of the respondents said they plan such participation in the near future. But, 51% said they have not taken or planned any such action.

Even fewer—12%—of the employers surveyed said they already have taken action to influence legislators directly on the issue. An additional 17% of the respondents said they plan to take such action in the near future. But, 71% said they have not done anything to influence legislators, and they plan no such action.

Only 4% of the respondents said they have encouraged employees to act on the issue, and 6% said they plan to encourage employee action in the near future.

However, 89% of the respondents said they have not encouraged employees to act and have no plans to do so.

Similar trends are revealed by the survey in regard to the proposed Family and Medical Leave Act, which was approved by the House Education and Labor Committee in November.

The bill is designed to provide unpaid leave for mothers and fathers upon the birth or adoption of a child and to guarantee their job upon return, as well as to allow leave for caring for an ill child or parent or for the worker's own illness (BI, June 15, 1987; Nov. 23, 1987).

And, like the minimum health care measure, the parental leave proposal would force employers to make changes in several parts of their benefit programs, including:

- **Maternity leave.** In general, the bill would require employers to provide up to 10 weeks of unpaid maternity leave over any 24-month period and up to 15 weeks of unpaid disability leave over any 12-month period.

The bill would also require an employer to assure the same or an equivalent position for the return-

ing employee.

Most employers—76%—currently have a formal maternity leave policy, the survey notes. An additional 8% have an informal maternity leave policy, and 15% have no policy.

But, the survey authors note, "Those employers with an informal policy or no policy presumably treat maternity as a disability and make no distinction between maternity and other disabilities."

Most of the employers surveyed said that the length of their maternity leave depended on a number of factors, including physician recommendations and the amount of sick time or vacation pay for which an individual employee was eligible.

However, 76% of the survey respondents said they provide the same or an equivalent job for female employees returning from maternity leave.

- **Paternity leave.** The bill also would require employers to provide up to 10 weeks unpaid leave during any 24-month period for new fathers.

However, 75% of the employers surveyed said they currently

have no policy for paternity leave.

- **Ill child leave.** The proposal would require employers to provide up to 10 weeks unpaid parental leave during any 24-month period in the event of a serious illness of a child.

Currently, only 16% of the employers surveyed have a policy granting leave for the parents of sick children.

- **Ill parent leave.** Under the proposal, employers would be required to provide up to 10 weeks unpaid leave during a 24-month period for employees to care for a seriously ill parent.

Only 14% of the employers surveyed currently have such a policy.

Employers say that the passage of the parental leave measure would have a significant impact on their benefit costs. Some 21% say it would increase costs slightly, 33% say it would increase costs moderately, and 24% said it would bring a substantial increase in costs.

No survey respondents said passage of the bill would decrease their benefit costs, and only 12% of those surveyed said it would

**Thirty-six percent of those surveyed by Buck Consultants expect federal legislation mandating parental leaves to be passed within the next two years, and 58% of the respondents predict passage within the next 10 years.**

have no effect on their costs. Nine percent of the respondents said they did not know what the effect would be.

Sixty-four percent of the employers surveyed said they oppose passage of a parental leave legislation, and only 3% of the respondents favor such legislation. The rest said they took no position on the issue or did not know what their position was.

But, as is the case with minimum health care, many employers expect parental leave to become law. And, despite their opposition to such a measure, relatively few employers are making their views known.

Twenty-three percent already are participating in industry associations' efforts to oppose the bill, and an additional 26% expect to participate.

However, 51% have taken no such action.

Nine percent are working to influence legislators directly, and 15% plan to do so soon, but 76% have no such plans.

And, 3% of the respondents have encouraged employees to act on the issue and 7% plan to encourage employee action.

However, 90% have not done so and have no plans to do so.

Copies of the "Survey on Federally Mandated Health Care and Parental Leave Benefits" are available for \$50 each from Carolee Martin, Manager of Marketing, Buck Consultants Inc., 500 Plaza Drive, Secaucus, N.J. 07094; 201-902-2555.



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# COBRA packs big penalties for violations

WASHINGTON—Signed by President Reagan on April 7, 1986, COBRA—the Consolidated Omnibus Budget Reconciliation Act of 1985—requires nearly all companies with more than 20 employees to open up their group health care programs to millions of people.

Under COBRA, companies must extend health care continuation coverage for up to three years to employees' widowed, divorced or separated spouses and dependent children.

In addition, except when fired for gross misconduct, former employees have the right to obtain continuation coverage for up to 18 months after employment ends.

For this coverage, employers can charge COBRA beneficiaries a premium equal to 102% of the employer's average

cost per employee.

For example, if an employer's health care costs equaled \$100 a month for individual coverage and \$200 for family coverage, it could charge a monthly COBRA premium of \$102 for individual coverage and \$204 for family coverage.

Companies also generally must give beneficiaries the right to buy COBRA coverage for core benefits—hospital and medical coverage—as well as for ancillary benefits, such as dental and vision care.

Under proposed Internal Revenue Service regulations to guide employers in complying with COBRA, an employer that fails to properly offer coverage can lose its annual tax deduction for health care expenses for a full year (BI, June 22, 1987).

This penalty applies regardless of whether the violation was intentional or was inadvertent and immediately corrected.

In addition, a COBRA violation can result in having the cost of employer-provided health care expenses being added to the taxable income of a company's highly compensated employees.

Legislators, though, are expected in the coming weeks to consider revamped penalties now being drafted, that would tie the amount of the COBRA penalty to the length and severity of the COBRA violation.

For most employers, COBRA went into effect on Jan. 1, 1987.

—By Jerry Geisel

## COBRA costs

Continued from page 1

beneficiaries are opting for the extended coverage.

Typically, only between 5% and 15% of those eligible for COBRA coverage actually purchase the coverage, employers say.

"There probably is a need for a law like COBRA, but the need is a lot less than had been thought," said Sally Bullen, director of compensation and benefits at Kemper Group in Long Grove, Ill.

In addition, beneficiaries are terminating COBRA coverage after relatively short periods of time, with benefit managers reporting that COBRA beneficiaries often drop the coverage after three to six months.

The principal reasons cited for dropping coverage:

- The beneficiary has found another job and now participates in his or her new employer's health care plan.

- The waiting period before the worker is eligible for coverage under the new employer's health care plan has expired.

Despite low participation, employers are finding that even limited COBRA use is resulting in claims expenses that often far outstrip the premiums paid by beneficiaries.

For example:

- At Masco Corp., a diversified manufacturer in Taylor, Mich., just 8% of eligible beneficiaries—in a

sample of health plans covering 10,000 employees—accepted COBRA coverage during 1987.

But incurred and paid claims totaled \$225,000, while COBRA premiums amounted to \$90,000, resulting in a deficit of \$135,000. And, that deficit understates what Masco ultimately will have to pay for COBRA claims.

When payments are recorded for claims incurred at the end of the year, payments for 1987 COBRA claims could shoot up an additional 30% to 50%, estimates Kathryn Cillick, Masco's manager of group insurance.

In addition, these costs do not include administration costs.

- At Barnett Banks, about 10% of those eligible for COBRA purchased the coverage in 1987.

Claims payments totaled \$229,868, while premiums amounted to \$147,756, a shortfall of \$82,112.

"We had some jumbo-sized claims," Ms. Corse said, rapidly ticking off several five-digit claims.

- At Springs Industries, about 9% of those eligible for COBRA accepted coverage in 1987.

Payments for COBRA claims totaled \$225,000, while premiums paid by beneficiaries amounted to only \$85,000.

And, this year, Springs Industries' COBRA claims continue to far outpace premiums. During the first three months of 1988, Springs Industries collected about \$39,000

in COBRA premiums, but already has paid out \$148,000 in claims, said Mr. Gill.

Benefit managers and consultants all agree that adverse selection is the reason why COBRA claims are exceeding premiums.

Since the beneficiary has to pay the premium—equal to 102% of an employer's group health care premium for an active employee—those selecting COBRA coverage typically are those who already are heavy users of medical care services or those who anticipate health care claims, such as for a maternity claim.

"A person isn't going to pay a hefty COBRA premium unless they have had a history of needing medical care or need coverage for expected, substantial expenses," said Kevin Meehan, an attorney and consultant in the Washington office of The Wyatt Co.

Former employees opting for COBRA coverage "have no incentive to use health care wisely," pointed out Kathy Dupree, risk and benefits manager at MetroVision Inc. in Atlanta.

"There is a very sophisticated understanding of COBRA," said Linda Havlin, a consultant with Hewitt Associates in Lincolnshire, Ill. Beneficiaries know that because they are paying a group rate, they are getting far better coverage at a lower price than if they purchased conversion or individual policies, she explained.

Some employers have been socked with huge individual COBRA claims. For example, Masco has paid \$175,000 in claims for one beneficiary with a series of health problems, while Ameritech, the Chicago-based telecommunications company, paid a \$200,000 COBRA claim for a premature baby.

While benefit managers say they understand the social policy considerations on why a former employee or a widowed spouse shouldn't be exposed to such huge claims, they also say an employer should be able to recover a greater share of its costs.

Congress should stop engaging in the fantasy that the current 102% COBRA premium covers costs and allow companies to charge a premium that more closely reflects the experience of their COBRA beneficiaries, benefit managers say.

"If the administrative requirements were less and premiums were experience-rated, we could live with COBRA. As it now is, the employer and employees carry the risk. The more COBRA costs, there are fewer benefit dollars available for employees. Congressmen and their staffs tend to forget that," said Dayton Hudson's Mr. Hamacher.

Not all employers, though, are losing money on COBRA.

For example, Dayton-Hudson, MetroVision and NCR Corp. in Dayton, Ohio, all report that COBRA premiums collected are roughly running on a par with claims filed.

But that good experience could change. For example, MetroVision's Ms. Dupree says an incurred-but-unpaid maternity claim soon will push its COBRA experience into the red.

While statistics are not available on what the ratio of claims payments to COBRA premiums is for employers nationwide, consultants like Hewitt Associates' Ms. Havlin estimate that employers may be paying an average of as much as \$1.60 in claims for every \$1 they are collecting in premiums.

"The premiums paid typically will be inadequate," Ms. Havlin said.

These estimates also do not include the costs that employers incur to administer COBRA. While it is difficult to estimate the cost of administration, benefit managers say it is substantial.

Hewlett-Packard Co. of Palo Alto, Calif., for example, has allocated 1½ staff positions to handle COBRA compliance.

"Keeping track of who is eligible for coverage, answering questions and collecting premiums is a major task. More work is involved with COBRA beneficiaries because they are no longer working for you," said Art Young, Hewlett-Packard's benefit manager.

While employers are only now digesting their first year of COBRA experience data, benefit experts caution that it is far too early to assess the ultimate demand for and use of COBRA health care coverage.

"It could be years before we know the impact of COBRA," said Richard Johnson, a principal in the Chicago office of William M. Mercer-Meidinger-Hansen Inc.

One reason is that the current booming economy is a poor barometer for measuring how extensively COBRA coverage could ultimately be used.

Indeed, while COBRA wasn't enacted until early 1986, the concept of requiring employers to extend their group health care programs to former employees and their widowed and divorced spouses goes back to the early 1980s when the unemployment rate topped 10% of the workforce.

By contrast, the Labor Department's Bureau of Labor Statistics reported that the nation's unemployment rate had dipped in April to a 14-year low of 5.4%.

With former employees usually able to find new jobs—and employer-provided health care coverage—quickly, it is not surprising that COBRA currently is being tapped by only a small percentage of eligible beneficiaries.

"It is a transition benefit for middle-class Americans that bridges gaps in coverage while people are between jobs," observed John Hickey, a partner with benefit consultant Kwasha Lipton in Fort Lee, N.J.

The passage of COBRA has forced many companies to purchase software products designed to automate their recordkeeping.

For example, Travis Software Corp. in Houston has sold some 1,300 copies of its COBRA software program since it was introduced in late 1986, while other vendors like Alexander & Alexander Consulting Group, Wyatt and Coopers & Lybrand each have sold several hundred copies of their COBRA products.

The passage of time has not eased benefit managers' anger over the massive penalties that can result if an employer violates COBRA. A single mistake—even if inadvertent and quickly corrected—can result in a company losing its tax deduction for health care expenses and highly compensated employees being taxed on the value of company-provided health care benefits for a full year.

"There is the fear of the unknown. Just one mistake and you can lose the tax deduction. You have to pay more attention to former employees than current employees. That's not right. That is out of balance," said Springs Industries' Mr. Gill.

In view of the relatively small number of people currently opting for COBRA coverage—and the paperwork burden it has produced for employers—some wonder if Congress could have taken a different approach to extending health care coverage.

MetroVision's Ms. Dupree, for example, suggests that legislators should have given tax breaks to insurers so they could offer short-term individual health insurance policies at a lower cost.

No one believes, though, that COBRA is the last step Congress will take to expand access to health care coverage.

Congressional staffers already are informally discussing expansion of COBRA so that those who retire under a company's early retirement program could collect COBRA benefits until they qualified for Medicare. COBRA benefits for former employees now stop after 18 months of coverage.

In addition, there are discussions of requiring employers to charge reduced COBRA premiums for lower-paid employees.

"COBRA is only a first step toward more access to health care," predicts Hewitt Associates' Ms. Havlin.

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### Comings & goings: buyers

## Florida schools name Weston risk manager

Stuart A. Weston, 41, has been named director of risk management at the Pinellas County Public Schools in Clearwater, Fla. In this position, he oversees property/casualty insurance, as well as workers compensation and benefits administration, for the school district's more than 12,000 employees and their dependents. He replaces Art Pulver, who left the school district, and reports to Lasse Johansen, the district's executive assistant superintendent for business services. Prior to joining the Pinellas County Public Schools, Mr. Weston served as director of human resources and risk management for Northside Centers Inc., a community mental health organization in Tampa, Fla. He received a bachelor of business administration degree from Eastern Michigan University in Ypsilanti; a master of business administration degree from Indiana University-Northwest in Gary; and a doctor of law degree from the Detroit College of Law. He is a member of the American Bar Assn., the American College of Health Care Executives, the Bay Area Risk Management Society and the National Health Lawyers Assn.

F. Randal Wilson, 41, has been appointed assistant risk manager at Valhi Inc. in Dallas. In this position, he is responsible for claims management, coordination of safety and loss prevention programs, the risk management information system, premium allocations and cost of risk analysis. He replaces W. Mark Bravard, who left Valhi to join Trinity Industries Inc., and reports to Marlin H. Henning, risk and insurance manager. Prior to joining Valhi—a multinational manufacturing conglomerate—Mr. Wilson served as manager of property and group insurance for Jim Walter Corp. in Tampa, Fla. He holds a bachelor's degree from Florida State University in Tallahassee and a master's degree in management from the Crummer School of Business at Rollins College in Winter Park, Fla. He is a deputy member of the Risk & Insurance Management Society and is working toward his Associate in Risk Management designation.

Michael Rubenstein, 30, has been named director-risk financing at American Express Co. in New York. In this newly created position he handles all aspects of insurance coverages, while reviewing risk financing options for the financial services company. He reports to Marilyn Davis, vp-risk financing. Prior to joining American Express, Mr. Rubenstein served in the risk management casualty division of the Tillinghast division of Towers, Perrin, Forster & Crosby Inc. in New York. He holds a bachelor of science degree in economics from Princeton University in Princeton, N.J., and a master of business administration degree from the Wharton School of Business at the University of Pennsylvania in Philadelphia.

We'd like to report on staff changes in your company's risk management, safety and employee benefits departments. Contact Paul Winston, copy editor, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590, or call 312-649-5442.

## Market cycle survey

Continued from page 1  
Board who responded to the survey probably would agree with that risk manager.

Also, many respondents had harsh things to say about the recurring market cycles (see story, page 51). Their attitudes were not tempered by the fact that most of them have experienced lower rates and higher limits from their insurers.

The rate decreases were evident across virtually all lines of coverage, including:

- Primary general liability. Some 53% of the respondents said their primary general liability insurance rates decreased at their most-recent renewal. For 84% of those respondents, the decrease was in the range of 1% to 20%, while for 12% the decrease ranged from 21% to 40%, and for 4% the decrease was much higher—between 61% and 80%.

- Only 19% of the respondents said their primary general liability insurance rates had increased at their most-recent renewal and 89% of those said the increase was 20% or less. Eleven percent said the hike was between 21% and 40%.

Six percent of the respondents had experi-

enced no change in primary general liability insurance rates, and 21% said the question did not apply—usually because they self-insure these exposures—or declined to answer.

- Excess/umbrella liability. An even higher percentage of respondents—70%—said their rates for excess/umbrella liability insurance had declined at their most recent renewal. Most of those—73%—said the decrease was relatively small, at 20% or less. But 21% said the decrease ranged from 21% to 40%, while 3% said the range was 41% to 60%, and 3% said it was 61% to 80%.

- Thirteen percent of the respondents said their excess/umbrella liability insurance rates had increased at their last renewal; 83% said the increase was 20% or less, and the remaining 17% said the increase was between 41% and 60%.

- Four percent said their excess/umbrella insurance rates were unchanged at their most recent renewal, and 13% said the question did not apply or declined to answer.

- Directors and officers liability. Thirty-two percent of the respondents reported lower rates for D&O liability insurance coverage at their most recent renewal.

The rate decreases were 20% or less for 53% of those respondents, 21% to 40% for 27% of those

**"The market has not softened sufficiently to abandon plans to pursue alternative risk-financing programs," one risk manager says.**

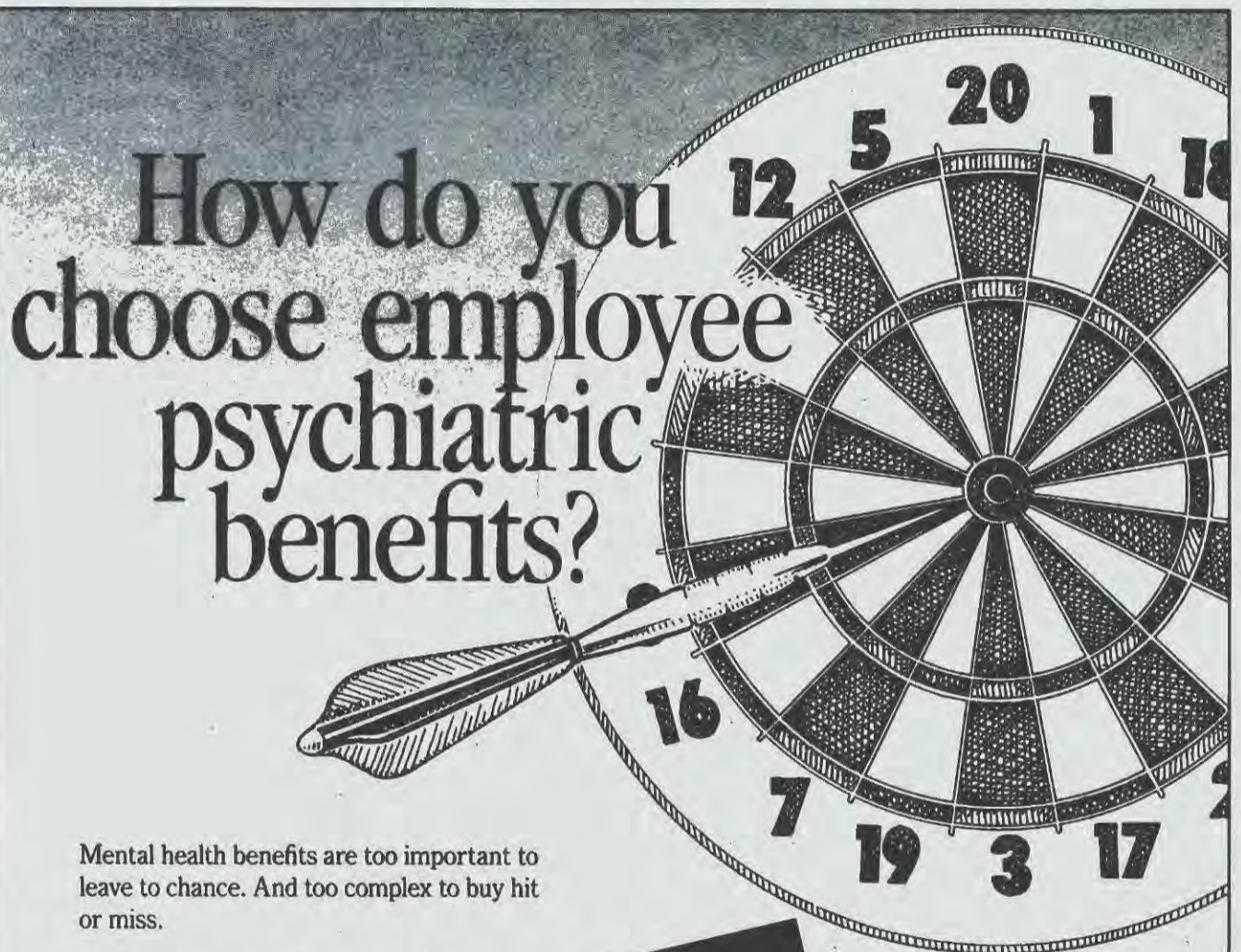
respondents, 41% to 60% for 7% of those risk managers, 61% to 80% for 7%, and 7% of the respondents who reported lower D&O liability insurance rates did not say how much the rates had decreased.

Thirteen percent of the total respondents said D&O liability insurance rates had increased. Thirty-three percent of those said the increase was 20% or less, but 33% also said the hike was 81% to 100%.

Some 17% said the increases ranged from 21% to 40%, and 17% said their D&O liability insurance rates had increased but declined to say by how much.

In addition, 9% said their D&O liability insurance rates had stayed the same, and 47% said

Continued on page 51



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### Business Insurance Circulation Breakdown\* Commercial Consumers

Administrative:	
CEO's Presidents and Owners	2,779
Vice-Presidents, General Managers and Other Administrative Personnel	3,155
Financial:	
Chief Financial Officers and Vice-presidents of Finance	2,732
Secretaries, Treasurers, controllers and other Financial Personnel	5,585
Risk/Employee Benefits:	
Vice-presidents, directors, managers, and other related department personnel of: insurance, risk, employee benefits, personnel, compensation, pension, safety, security, industrial relations, human resources and employee/labor relations	10,021
<b>Sub-total</b>	<b>24,272</b>
Associations	481
Government, Unions and Educational Institutions	972
Commercial Consumers	
<b>Sub-total</b>	<b>25,725</b>
Insurance Agents and Brokers	10,697
Insurance Companies	7,344
Actuaries, Attorneys, Adjusters, Appraisers and Consultants	4,311
Others Allied to the Field	1,982
<b>TOTAL</b>	<b>50,059</b>

\* Source Business/Occupational breakdown of qualified circulation, Nov. 30, 1987 issue, as submitted to BPA for Dec. 1987 BPA Publisher's Statement.

## Market cycle survey

Continued from page 49  
the question did not apply or declined to answer.

• Property. Some 72% of the respondents said their property coverage rates had decreased at their most recent renewal.

In addition, although 71% of those respondents said the decrease was 20% or less, 18% said the decrease was between 21% and 40%, 3% said the decrease was between 41% and 60%, and 6% said the decrease was between 61% and 80%. Three percent did not say how much their property rates had decreased.

Eleven percent of the respondents said their property rates had gone up at their most recent renewal, but the vast majority—60%, or three of the five respondents who reported property rate increases—said the increase was 20% or less.

One respondent said the increase ranged from 41% to 60%, and one put the increase at between 61% and 80%.

Thirteen percent of the respondents said their property rates were unchanged, and 4% said the question did not apply or declined to answer.

In addition to decreasing rates, many of the survey respondents reported being able to buy increased limits of coverage from their insurers.

For example, 43% of the respondents said their insurers increased limits for excess/umbrella liability coverage, and no respondents said their limits had been cut.

Sixty-five percent of the respondents who reported increased excess/umbrella liability limits said the increases had been at least \$10 million.

Some of the increases reported included: to \$100 million from \$25 million, to \$100 million from \$55 million, to \$50 million from \$25 million, to \$50 million from \$10 million, to \$50 million from nothing and to \$40 million from \$25 million.

One respondent noted that, although his company's limits had been increased to \$10 million from \$5 million, the limits had been \$50 million three years ago.

Fifty-one percent of the respondents said they purchase California earthquake insurance, and 46% of those said they had been able to purchase higher limits of coverage at their most recent renewal.

Some insurers also are easing policy restrictions, according to the members of the *BI* Risk Management Board.

For example, 26% of the survey respondents said their insurers had eased restrictions on their liability coverage.

Most of these respondents said the restrictions that had been eased applied to pollution liability coverages; however, respondents also mentioned excess/umbrella coverage, directors and officers liability coverage and product and professional liability coverages.

Twenty-eight percent of the respondents said their insurers had eased restrictions on their property coverage at their most recent renewal.

The type of coverage mentioned most often

**'We feel that when the insurance industry wakes up as to what happened with the stock market crash and what is happening with new tax laws, the market will flip-flop again,' remarked the risk manager for a resort hotel company with \$60 million in annual sales.**

by survey respondents was flood and earthquake coverage, but respondents also said restrictions had been eased on pollution, computer, builders risk, fine arts, business interruption, extra expense and difference-in-conditions coverages.

A majority—55%—of the respondents said there was no line of coverage that they had tried and been unable to place in the commercial market, while 43% said they had been unable to buy a coverage they wanted, and 2% declined to answer.

The most-often mentioned coverage that respondents were unable to place was pollution coverage, cited by half the respondents who were unable to find a type of commercial insurance.

Twenty-five percent said they had been unable to place their errors and omissions coverage.

Other lines of coverage respondents said they could not place included employee discrimination, public officials liability, school board liability, excess medical professional liability, professional liability for a psychiatric clinic, excess D&O, business interruption, product liability on an occurrence form and umbrella coverage.

Finally, 23% of the total respondents said they recently had found a market for a line of coverage they previously had been unable to place in the commercial market.

Examples of these lines of coverage include excess professional liability, excess product liability, increased D&O limits, police professional liability, sudden and accidental pollution, engineering E&O and general liability coverage for foreclosed or repossessed properties.

The relative easing of the commercial property/casualty insurance market is not causing risk managers to rush back to the commercial marketplace, the survey reveals.

For example, only 4% of the respondents said that market changes had led them to abandon their plans for self-insurance or alternative risk financing, while 87% of the respondents said they were not abandoning their plans, and 9% declined to answer or said the question did not apply.

In addition, only 4% said market changes had caused them to consider decreasing the amount of their self-insured retention, while 74% said they were not planning to decrease their self-insured retention and 21% said the question did not apply or declined to answer.

And one of the two respondents considering decreasing their SIRs said his company was doing so only because it had assumed more risk than it wanted to in the previous hard market.

The respondents appear to agree with the

chief of risk and insurance for a county government with a \$164 million budget, who said, "The market has not softened sufficiently to abandon plans to pursue alternative risk-financing programs."

The risk manager for a resort hotel company with \$60 million in annual sales added, "We feel that when the insurance industry wakes up as to what happened with the stock market crash and what is happening with new tax laws, the market will flip-flop again."

Buyers also are not leaving the London market to place their business with U.S. insurers. In fact, only three of the 24 respondents who use the London market said they are pulling business back to the United States.

One risk manager said he moved his company's helicopter coverage when it became available at lower rates, one said he moved flood/earthquake coverage when it became available as part of a package, and one said he moved all his coverage out of London because of "sloppy, shoddy, unethical and unprofessional claims service."

Forty-seven percent of the respondents said that insurer competition for market share was the primary cause of the current market softening, while 32% said the main factor was increasing insurer profits. Nine percent said the main factor was pressure from business, consumers and regulators, and 6% said there is no market softening.

In addition, one respondent said the property/casualty insurance market is softening because primary insurers are retaining a larger share of risks, and one respondent said the main factor in the market softening was "insurer stupidity."

Twenty-eight percent of the respondents said that the fall in value of the stock market would serve to restrain insurer competition and hold the line on price cuts, while 23% said competition would be restrained by higher taxes for insurers under tort reform, and 13% said a major factor would be uncollectible reinsurance.

Seventeen percent said some other factor would restrain competition and hold down price cuts.

And 11% agreed with the risk and insurance manager for a state government with a \$7 billion budget, who said, "I believe nothing will 'hold the line' on rate decreases once they really start competing."

*Risk managers are invited to become members of the Business Insurance Risk Management Board. Send your business card with a note asking to be added to the board to: Kathryn J. McIntyre, Associate Publisher/Editor, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590.*

## Industry hurt by cycles, survey says

By ALISON KITTRELL

Although risk managers now may be saving their companies money as the commercial property/casualty insurance market enters a "soft" cycle, most believe that, in the long run, the commercial market's endless cycles are bad for business, according to the *Business Insurance* Risk Management Board survey.

In fact, 72% of the 47 Risk Management Board members who responded to the *BI* survey said that market cycles are bad for commercial buyers of insurance.

Seventeen percent said the cycles are good for buyers, 6% said they are both good and bad or neither good nor bad, and 4% declined to answer.

The *BI* Risk Management Board is composed of risk managers who have volunteered to respond to periodic surveys on risk management questions.

Many of the risk managers who said cycles are bad complained that the constantly changing commercial property/casualty insurance market wreaks havoc at budget time.

"It just makes a mess of things when one can't reasonably predict insurance costs," said the vp of a financial institution.

"The yo-yo effect is difficult to budget," agreed the manager of corporate insurance services for a chemicals, wood and aggregates company with \$1.7 billion in annual sales.

The risk manager for a cable television company with \$400 million in annual sales said that the market's cycles cause "difficulty in planning for programs and costs (and a) loss of confidence in the insurer's ability to run his business."

The director of risk management for a manufacturing company with \$725 million in sales agreed that the market's cycles hurt buyers' confidence in commercial insurers: "The pricing extremes erode confidence in the ability of the insurance industry to manage its business well."

The vp for a manufacturer of packaging products with \$4.5 billion in sales said: "I simply am

*Continued on next page*

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## Cycle survey

Continued from previous page  
amazed that the cycle is starting again as soon as it has. Rates were obviously too high, but with the present rate-cutting, the underwriters affirm that they were 'gouging' buyers."

And, that vp also noted that, in addition to giving an unfavorable impression of insurers, the market cycles can make risk managers look less competent. "We strive for consistency in budgeting insurance costs; cycles only create uncertainty. When the cycle hardens, usually in excess of our expectations, we look 'bad' and appear to be unknowledgeable about our business," he said.

Several respondents agreed that the market cycles make it difficult for risk managers to convince their managers that they know what they're doing.

For example, the director of risk management for a forest products

company with \$3.9 billion in sales said, "It's hard to explain to senior management why insurers continue to do this."

The director of risk management for a fast food and restaurant company with \$781.8 million in annual sales agreed, saying, "Senior management does not understand the cycles, no matter how you explain them, which therefore causes bad feelings on their part."

And, the director of corporate risk management for a consumer electronics and lighting company with \$5 billion in annual sales said, "It does not help the profession of risk management if we have to continually explain dramatic swings in the pricing/coverage cycles to our management."

A few respondents said that cycles tend to focus attention away from the real problem with the market. "The softening market has defused the crisis for tort reform," said the corporate risk manager for a real estate development company

**We strive for consistency in budgeting insurance costs; cycles only create uncertainty. When the cycle hardens, usually in excess of our expectations, we look "bad" and appear to be unknowledgeable,' a risk manager says.**

with \$1 billion in sales. "Consequently, much-needed solutions are not being sought in earnest, and the crisis will eventually return."

And, the risk manager for a manufacturer with \$2 billion in sales agreed that cycles "cause the insurance industry to be 'bad guys' when the civil justice system is the underlying cause."

Some of the respondents expressed anger and frustration at the insurance industry. For example, the insurance manager for a public university said, "Until the insurance industry begins under-

writing risks instead of simply reacting to the greed and panic of 'money managers,' it will remain a poorly run, inefficient and slovenly industry."

The director of risk management for a financial services and specialty retailing company with \$4.2 billion in sales said that market cycles "indicate a lack of maturity on behalf of underwriters."

Some of the risk managers were philosophical, such as the director of risk management for a pharmaceutical manufacturer with \$1 billion in annual sales, who said, "I believe under our system of insur-

ance, cycles are inevitable."

And several risk managers noted that they would be able to live quite comfortably with more-moderate market cycles.

"Moderate cycles are OK," said the vp for a diversified consumer services company with \$2.1 billion in annual sales. "But major swings reduce a risk manager's ability to continue with an effective safety management program."

"The swings are too unstable and volatile," agreed the director of risk management for a financial services company with \$4 billion in sales. "The 'soft' period should be less soft so the hard time could be mitigated as well."

The vp of a commercial banking company with assets of \$9.1 billion said, "A more-tempered series of up and down cycles would benefit business, (instead of) the tremendous up and down cycles we have experienced in the 1980s."

And, the risk manager of an electric utility with about \$2 billion in sales said the market "swings are too wide." But, he advised other risk managers, as the market softens, "Enjoy it while it lasts."

Not everyone feels that market cycles are bad for buyers, however. In fact, almost one-fifth of the respondents said the ups and downs are good news.

The cycles "keep people tuned into the marketplace. People maintain a competitive edge, and it makes the risk manager's job that much more interesting," said the risk manager for a publishing company with \$450 million in sales.

The director of risk management for a state university with an \$850 million budget said that the market cycles "keep everyone sharp and on their toes."

"Tight markets keep you from getting complacent," agreed the director of insurance coverage for a state government. "They also generate creative, new concepts for insurance and loss-prevention programs."

And, some of the risk managers said that the market cycles indicate a healthy competition at work in the insurance industry.

"They're good if they're not too volatile and not marked by significant swings, since cycles signify there is competition in the marketplace," explained the director of risk management for a health care company with \$250 million in sales.

"Competition will always keep most cost-efficient cycles at a minimal fluctuation," added the risk manager for a pest control and alarm company with \$380 million in sales.

The director of risk management for a tire and automotive supply company with \$1.2 billion in sales said, "Cycles merely reflect supply and demand—the free enterprise system at work. Risk managers need to maximize the impact of competitive cycles and minimize the impact of hard market cycles. Those that do will benefit from cycles in the long run."

And, the risk manager for a governmental entity had a particular reason for liking the market cycles. He said, "When we were unable to purchase liability, police professional or D&O (coverage), we self-insured, (and that was) the best thing that could have happened."

Regardless of how they feel about the market cycles, however, most of the risk managers expect the current softening to be around for a while. Forty-seven percent of the respondents predict the current competitive market will last from one to two years, while 15% expect it to last 7 to 12 months, and 17% expect it to last two to three years.

Two percent think it will last only four to six months, and 6% expect it to last more than three years. Fifteen percent of the respondents either did not answer or said they did not know. ■

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The disaster occurred at a time when the small town was experiencing new growth. Population was increasing. New businesses were moving in. A town-sponsored industrial park was half full. Now, 190 people are out of work, perhaps permanently, and the consequential economic loss—greater than the actual destruction of the building and its contents—may approach \$50 million.

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## Spring renewals

Continued from page 1

Chicago, a subsidiary of Frank B. Hall & Co. Inc.

Many insurers or their representatives are actively pursuing desirable prospective clients, a risk manager noted.

"A lot of major brokers" have been calling on Kohler Co. to solicit its business and "all of them had (an insurer) in their pocket," said Harold Lang, director of insurance and risk management for the Kohler, Wis.-based plumbing fixture manufacturer.

But some insurers are trying to project a different message to the industry, one broker observed.

"Even today, the managements of some major companies say that they are not playing in this soft market and they have the necessary controls in place. Well, somebody is creating this havoc today and we'd better find out who it is," stressed Richard A. Maxwell, senior vp-professional standards and marketing at Corroon & Black Corp. in New York.

While corporate managements may be taking a hard-line approach to rate reductions, their branch offices—under pressure to maintain production levels amidst local competitive forces—may feel compelled to make concessions to hold on to or gain business, he explained.

And although risk managers are happy to see rates drop, some say the magnitude of the competition is alarming, given the severity of the last market cycle.

"We are relieved that prices are going down, but—knowing the insurance industry—it seems insurance companies are shooting themselves in the foot again," observed John G. Pinner, assistant treasurer of toy manufacturer Mattel Inc. in Hawthorne, Calif.

"I'd much rather see a stability in rates rather than seeing them free-falling. An ability to budget insurance rates would be a big plus for risk managers," said Mr. Pinner.

"Some companies are still acting irrationally by either not writing business at all or giving it away. The market is not stable," stressed Coca-Cola's Mr. Netherton. "I'd like to see more stability in the market."

"The cycles seem to keep getting shorter and more severe," agreed Karen K. Banks, corporate risk manager for Shaklee Corp., a vitamin and toiletry product manufacturer in San Francisco.

In the property marketplace, rate reductions and increased capacity started surfacing early in 1987, and many buyers have now seen their second round of rate reductions.

In the property arena, "coverage is not so much the battleground as price. On an average, prices are 12% to 20% lower than last year," said R. Keith Like, executive vp-commercial lines for Long Grove, Ill.-based Kemper Group's property/casualty companies.

The marketplace currently is "property-intensive," with the "first-level competition on larger accounts. There's a hunger in the marketplace for larger risks, and that's where we have to sharpen our pencils," said James S. Carey, senior vp-marketing for the commercial lines division at Fireman's Fund Insurance Cos. in Novato, Calif. He estimated average rate reductions in the 5% to 25% range.

John E. Boyne, manager of commercial lines sales for Nationwide Insurance Cos. in Columbus, Ohio, said that while "there are still those types of property business that are not readily sought after, for those accounts that we all want we are actively banging heads with each other."

Individual insurers are decreasing property rates from 10% to 25% on top of industry rating bureaus' suggested decreases of 4% to 10%, he said. And, in many cases "earthquake is being built into basic coverages, as opposed to being stand-alone."

If a policyholder did not "get major reductions last year, they would get them this year" for property risks, said John F. O'Sullivan, managing director of Marsh & McLennan Cos. Inc. in New York. And he added that "there has recently been a significant increase in capacity" for earthquake risks.

"This is a very fluid competitive point in the market for property. We are back to the pre-hard market period," agreed RBH's Mr. Sorensen, noting that it is now possible to purchase more than \$100 million in coverage for California earthquake exposures.

Shaklee's Ms. Banks said rates for her property coverage, which renewed May 1, dropped 15%. But the more dramatic reduction occurred in Shaklee's difference-in-conditions policy covering earthquake exposures.

Ms. Banks was able to secure—for about the same premium—more than twice the limits of earthquake coverage for the San Francisco-based company in 1987 compared with 1986, even though property values rose and Shaklee acquired another company. Then, this May, Ms. Banks' premium fell 28% even though limits were increased another \$5 million.

Although "we were basically already at a very low rate" in a highly protected risk classification, Mattel's Mr. Pinner said a mutual insurer cut the cost of his domestic property coverage by about 20% on an apples-to-apples basis.

Coca-Cola's Mr. Netherton did not see a significant rate reduction when his property coverage renewed this spring, but his insurers added "a lot of additional coverages, like California earthquake, threw in additional limits" and removed some restrictions.

While sources say nearly all insurers are competing

for property business, several pointed out that many direct writers are targeting small to medium-sized property accounts and national stock companies are fighting it out to write the medium-sized to large accounts.

For example, "for apartment, motel or Main Street business, in most places we run into State Farm (Group of Bloomington, Ill.)," said Nationwide's Mr. Boyne.

Competition for small business is strongest from State Farm, Allstate Insurance Group of Northbrook, Ill., and Nationwide, said Kemper's Mr. Like.

All three insurers confirmed that they actively compete in these lines.

For medium-sized to large accounts, "CNA (Insurance Cos. of Chicago) is very competitive in the Midwest," he said, adding that Chubb Group of Warren, N.J., and Liberty Mutual Insurance Cos. of Boston are competitive particularly for large property accounts.

"The direct writer we've come up most often against is Liberty Mutual," said Kevin McGill, vp-casualty division at Alexander & Alexander of New York Inc., a subsidiary of Alexander & Alexander Services Inc. of New York.

A spokesman for CNA was not available for comment.

Although Chubb "is being somewhat protective of our renewals... we do not have a program to increase our market share or to write someone else's business or to renew our own business at some reduced percentage," said Thomas Cornwell, assistant vp, specializing in the electronics industry.

However, a Liberty Mutual spokesman confirmed that "for profitable business like property insurance, we are being aggressive." He indicated that Liberty Mutual would continue to take an aggressive stance in the property insurance market for the foreseeable future.

London and European markets also are competing for property business, although fewer buyers need to look abroad for coverage with so much capacity available domestically.

The competition for property business "reflects the fact that there have been no major property catastrophes in recent years," and loss experience has been good, M&M's Mr. O'Sullivan explained.

Some insurers, however, point to the three major property losses last week with hopes that these disasters will curb competition for property risks.

Conditions are similarly competitive in the casualty insurance market: rates are falling, higher limits are available and the restrictive terms introduced in the hard market are being relaxed.

"The casualty market has loosened across the board," said Corroon & Black's Mr. Maxwell. For casualty risks without a long-tail exposure, "I would say reductions as a norm are around 25%. Long-tail exposures are seeing more coverage availability and higher limits."

Nationwide's Mr. Boyne estimated that insurers "are cutting rates 20% to 25%" for some lines of casualty business.

"Companies are reducing standard premiums in general liability and commercial auto, and reducing maximums in the retro area. Availability of coverage is there," said Zurich-American's Mr. Golaszewski, adding that "you could see reductions from 30% to 70%."

Excess liability insurers "are looking to keep their accounts, and reductions in the excess marketplace can be dramatic to stave off competition from other insurers," Mr. Golaszewski added.

Insurers are "most aggressive in writing excess coverage over their own primary and are using that as a competitive advantage to write the account," said Kemper's Mr. Like.

"Liberty (Mutual) is by far the leading competitor on larger casualty business, followed by CNA," said Mr. Like.

In the excess area, "USF&G (United States Fidelity & Guaranty Co. of Baltimore) and Aetna (Life & Casualty Co. of Hartford, Conn.) are mentioned rather often," he added, "although I'm not sure that's the case."

While Aetna confirmed that they are actively competing for this business, a USF&G spokesman was not available for comment.

However, London and Europe are not as competitive for casualty business because they're not offering the occurrence form, sources say.

"The London market is not looking aggressively at excess casualty business," said Rod Quill, managing director of M&M in London. "There is a market for exotic coverages and some capacity in the marine market for occurrence excess casualty, but there aren't many players."

But businesses whose casualty risks "don't have long-tail exposures are being aggressively competed for—perhaps more aggressively than property. Property moved more quickly in 1987, but we're still seeing this movement casualty-wise," said RBH's Mr. Sorensen.

Buyers also report rate reductions for liability risks during spring renewals.

General liability premiums for Kenosha, Wis.-based Jockey International Inc. fell 27% in April even though limits were hiked by 25%, said Jerold Mullane, director of corporate insurance.

In addition, by switching directors and officers liability insurers, "I got better terms and conditions,

Continued on next page

## Update

### Court upholds fraud award

CHICAGO—The 7th U.S. Circuit Court of Appeals has upheld a \$5 million fraud award against an insurer that allegedly deceived a claimant about his rights in a workers compensation case.

The case involved a worker who fell from a scaffold and was left a paraplegic. A Decatur, Ill., branch manager of Western Casualty & Surety Co. of Indianapolis, the work comp insurer for the injured worker's employer, convinced the worker he had no remedy other than workers compensation. However, the Illinois Structural Work Act allows an injured worker to bring a claim against the owner, contractor, architect or subcontractor of a building if a scaffold fails to give safe support.

"Western engaged in conduct to prevent (the employee) from retaining an attorney and bringing a Structural Work Act suit," Judge Kenneth Ripple ruled.

The court also ruled that the \$5 million award, which includes \$2 million in punitive damages, should be reduced by the amount of workers compensation benefits that Western Casualty will pay.

### Skandia backs out of Vesta buy

LONDON—Norwegian insurer Vesta General Insurance Co. was forced to raise approximately \$80 million in a rights offering guaranteed by Norwegian banks last week after Skandia Insurance Group Ltd. and Skandia International Holding A.B. dropped out of negotiations to purchase 50% of the insurer.

Vesta, the second-largest Norwegian insurer and a leading underwriter of offshore oil rig insurance, has reported losses of more than \$153 million in each of the last two years.

The Skandia companies dropped out of negotiations because the Norwegian government would not permit a minority investment in Vesta, said Karlof Hannarkvist, senior vp of Skandia International. The Skandia companies would have paid 1.1 billion Swedish krona (\$187 million) for the proposed 50% share.

The Skandia companies are considering whether to buy more than 51% of Vesta and become controlling shareholders, he said.

### Robins reorganization opposed

RICHMOND, Va.—A coalition representing Dalkon Shield victims opposes A.H. Robins Co.'s reorganization plan, saying it does not pay claimants enough money.

Under the reorganization plan, Robins—manufacturer of the Dalkon Shield intrauterine device—would be acquired by American Home Products Corp. for \$700 million. Dalkon Shield claimants would receive either a single cash payment of \$2.3 billion on the effective date of the reorganization plan or \$2.5 billion within a year of the effective date of the plan.

The reorganization plan must be approved by two-thirds of some 194,000 Dalkon Shield claimants.

Ralph D. Pittle, general counsel for the International Dalkon Shield Victims Education Assn., said his coalition is coordinating several groups of claimants and represents 40,000.

"No other plan in this case has provided, or is likely to provide, as much money for claimants, with as little risk, as the current one," said a spokesman from Robins.

### Illinois Bell insured for fire loss

HINSDALE, Ill.—Illinois Bell Telephone Co. is insured for losses stemming from a May 8 fire at one of its switching stations that caused "the most severe service disruption" in the company's history, a utility spokesman said.

The fire at a switching station in a Chicago suburb, one of five major switching points in the metropolitan area, and the water used to fight it destroyed some of the fiber optic equipment that handled an average of 3.5 million calls daily, the spokesman said. Equipment was also damaged by smoke and high humidity.

Illinois Bell's property coverage, obtained through parent company American Information Technologies Corp., was written by Arkwright Mutual Insurance Co. of Waltham, Mass., a member of the Factory Mutual System. Ameritech and Arkwright would not disclose details of the coverage.

A portion of Ameritech's excess liability coverage is placed in London. London underwriters, led by H.S. Weavers (Underwriting Agencies Ltd.), participate on a layer of at least \$15 million excess of \$10 million. The account is brokered by Alexander & Alexander Inc. in Chicago and placed in London by Alexander Howden Ltd.

Business customers, especially those with computer link-ups, faced service outages lasting from a few days to a week or more, the spokesman said. Hardest hit are about 35,000 residents of six communities, who may be without service for three to seven weeks.

### Briefly noted

The House Energy and Commerce Committee will resume consideration Wednesday of **federal product liability legislation**, H.R. 1115. . . **Gaston Caperton**, chairman of McDonough Caperton Insurance Group in Charleston, W.Va., won the state's Democratic nomination for governor. He will face three-term Republican Gov. Arch A. Moore Jr. in the November general election. . . **Saul B. Ackerman**, 100, founder of New York-based S.B. Ackerman Associates, one of the first risk management consultant firms, died May 7. . . The Occupational Safety and Health Administration has proposed more than \$3.1 million in fines against meatpacker **IBP Inc.** of Dakota City, Neb., for not preventing cumulative trauma disorders, including carpal tunnel syndrome. . . **David Walker**, new chairman of the Securities and Investments Board in London, will replace former SIB Chairman Sir Kenneth Berrill as one of the three nominated members on Lloyd's of London's Council. . . Lloyd's of London is conducting the defense and providing indemnification to **former Lloyd's Chairman Peter Miller** in the U.S. attorneys general's antitrust suits in which Mr. Miller is a defendant in his capacity as Lloyd's chairman.

## Spring renewals

Continued from previous page  
 a lower retention and a 15% reduction in premium," Mr. Mullane explained.

Kohler's Mr. Lang said: "My worldwide commercial umbrella premium (which renewed April 1) came down 22%, but my revenues are way up, and I was able to get higher limits and additional coverages previously not included in the coverage."

"This company found pricing down, capacity up and insurers willing to negotiate in a reasonable manner," Mr. Lang added.

Mr. Pinner was able to switch his excess coverage back to an occurrence form from a claims-made form when Mattel's liability coverage renewed Feb. 1. "Occurrence was readily available," he said. Even with the switch to occurrence, premiums for a first-layer excess premium—above \$1 million in primary coverage insured through Mattel's Bermuda captive—"was reduced by about 30%." That follows a 22% reduction in the first-excess layer in 1987, he noted.

However, one line of casualty business where market conditions have not improved significantly is pollution liability coverage.

"Our clients still have very distinct and uniform problems in acquiring environmental protection," James' Mr. Ruoff acknowledged.

"Any account with a pollution

exposure is still" seeing rate increases, agreed Fireman's Fund's Mr. Carey.

Brokers and insurers noted that most buyers are retaining the self-insured retentions they assumed during the hard market after finding that they can do so comfortably. But some policyholders that were forced to assume uncomfortably high retentions are now buying more insurance.

"Some insureds are taking advantage of the lower retentions available and some are retaining their current ones," said Corroon & Black's Mr. Maxwell.

"They're not leaving them much, but are occasionally. Corporations are more inclined to leave them be," said Richard W. Wratten, president of the commercial lines division of Transamerica Insurance Co. in Los Angeles.

And, there is not much movement away from captives or the use of alternative high-level excess liability insurance facilities formed during the hard market.

"For the most part, they're sticking with them," said A&A's Mr. McGill.

Some clients are restructuring coverage attachment points or are purchasing reinsurance for their captives or self-insurance programs, he said, but since businesses set up these mechanisms to stabilize costs they generally are not abandoning them altogether.

Insurers still are writing the larger net lines that they assumed

**'By any historical measure, there's more supply of reinsurance than there's demand for it,' which is causing 'significant market pressures across the board,' says John W. Smithson, president and chief operating officer of PMA Reinsurance Corp.**

in the hard market, observers say. Most have found their results profitable in the past couple of years and, in light of current premium rate reductions they find higher net retentions to be one way to maintain growth.

"A lot of insurer department heads have budgets to meet, and when they see premium rates down, they search for ways to keep their volume up. One of those is to assume more net retention," said Ronald J. Taylor, president and chief executive officer of reinsurance broker G.L. Hodson & Son Inc. in New Hyde Park, N.Y.

This is stirring competition in the reinsurance market, particularly among facultative reinsurers.

Insurers are ceding less business to facultative reinsurers because of their higher net retentions. And, because treaty reinsurers are more willing to write business, insurers are using facultative markets less and less for their reinsurance needs, reinsurers and reinsurance brokers point out.

"Insurers are keeping their business net or ceding to treaty reinsurers," said Willis T. King Jr., chairman and chief executive officer of Willcox Inc. Reinsurance Intermediaries in New York. "This is eating facultative reinsurers alive."

"By any historical measure, there's more supply of reinsurance than there's demand for it," which is causing "significant market pressures across the board," said John W. Smithson, president and chief operating officer of Philadelphia-based PMA Reinsurance Corp. "The reinsurers are out visiting reinsurance intermediaries and looking for business now," he said, observing that reinsurers have a "natural desire to grow."

But while reinsurers are more willing to write business than they were in the past three years, they are still behaving much more cautiously than primary insurers when it comes to implementing rate reductions, say reinsurers, reinsurance brokers and insurers.

"There is talk that reinsurers may soon be fighting for business, but that hasn't been translated into action quite yet," said Kemper's Mr. Like.

"I think reinsurers have done a far better job this time" of maintaining pricing integrity than they

did in the last soft market, said Michael E. Rothpletz, executive vp and chief operating officer of G.L. Hodson.

The reinsurance market is softening, but at a barely perceptible rate, like the movement of the hour hand on a clock, said Mark W. Hinkley, executive vp of Trenwick America Reinsurance Corp. in Westport, Conn.

"It's not dramatic, but clearly there is fluctuation in price and in terms and conditions," Mr. Hinkley said, adding that more capacity and higher limits are available. But he characterized the reinsurance market as "a competent, competitive marketplace," with no notable examples of undisciplined underwriting.

Rate reductions and competition are more prevalent for property risks in the reinsurance marketplace because of the unusually good property loss experience in the past few years, reinsurance brokers and reinsurers note.

The property reinsurance market shows a "strong element of competition, but "we haven't seen any widespread instances of what could be called cutthroat competition," said Charles E. Erickson, executive vp of Signet Reinsurance Co. in Convent Station, N.J.

Competition is less intensive for casualty business than it is for property lines, especially for professional liability and other "more exotic" classes, agreed Frank Haftl, president and chief executive officer of Metropolitan Reinsurance Co. in New York.

"My guess is that, in general, the (reinsurance) market will continue to soften at a relatively slow rate, that competitive pressures will increase somewhat over the next several months. I don't see any evidence of that trend reversing," said Mark Mosca, vp and manager of the treaty department at NAC Re Corp. in Greenwich, Conn.

"It's just a continuation of a market where terms are improving in favor of the ceding company," said Patrick R. Nash, vp at American Union Insurance Co. of New York, an Indianapolis-based unit of Lincoln National Corp.

Mario Leo, chief executive officer-reinsurance for TPF&C Reinsurance in Philadelphia, a division of Towers, Perrin, Forster & Crosby Inc., agreed that terms are

improving for ceding companies. "Sunset clauses are out domestically and aggregate caps in working layers are being lowered or eliminated," he explained.

"There is a lifting of some of the more restrictive terms—loss layer caps, sunset clauses and things like that. Renegotiated terms are more liberal for insurers. . . and the market isn't as tight" for reinsurance in general, added J. Michael Garrity, senior vp of Reinsurance Agency Inc. in Chicago.

Rate competition is likely through 1988 for both insurers and reinsurers, most observers predict.

However, some say that as insurers and reinsurers realize the extent of the new tax liabilities they will incur as a result of the Tax Reform Act of 1986, and as losses on business written this year start coming in, competition may begin to wane in 1989.

"My personal thought is that we will see competition throughout the rest of the year. I think some combined ratios may go up this year and some sanity may return" to the marketplace, said Zurich-American's Mr. Golaszewski, forecasting that rate competition "may slow down by the first quarter of next year."

While competition will probably not decrease in 1988, "sometime next year we would expect the marketplace to gain stability and come back. There isn't that much more to give back in the marketplace before returns are unacceptable," said Fireman's Fund's Mr. Carey. He added that most insurers will not fully recognize the higher taxes they will pay under the new tax law until year-end 1988.

A lot has been said about the impact of the tax law on insurers, "but it took tax time coming around for people to begin to understand that impact. There may even be some rate adjustments before the end of this year, because people are starting to do their own (tax) computations on their books of business," said Transamerica's Mr. Wratten.

Because taxes will be higher on long-tail liability business, for which insurers must maintain reserves longer, that area may be "affected more quickly than other casualty business," he said.

In brokers' negotiations with insurance company underwriters, "normally we will get a comment about possible tax ramifications, but I don't really see any impact" on rates, said A&A's Mr. McGill. He predicted markets will remain competitive "through the balance of the year."

Associate Editor Judy Greenwald in New York contributed to this story.

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## Mission investigation

Continued from page 1  
 vestigation. "You never know what you're going to find."

Rep. Dingell last month wrote to Elliott M. Kroll, a lawyer with the New York firm of Kroll & Tract, to request the firm's cooperation with the subcommittee investigation of Mission.

Kroll & Tract represents Ohio Reinsurance Corp. and several other reinsurers that are contesting liability on business assumed through Mission's Pacific Reinsurance Management Corp. unit.

Mr. Kroll confirmed receiving the letter and said his clients have instructed the firm to cooperate with the subcommittee's request for documents and other material related to the Mission collapse.

Mr. Chesson declined to comment on whether anyone besides Mr. Kroll has been contacted so far, and also declined to name other parties the subcommittee plans to contact.

Separately, a U.S. District Court judge in Los Angeles is scheduled to hear arguments today on a motion filed by Kroll & Tract for a limited stay of the arbitration proceedings between PRMC and several of its reinsurers, including Ohio Re.

Among other things, the reinsurers object to the ar-

bitration panel's proposal that they establish a trust fund to guarantee collectibility of any final award against them.

The reinsurers argue that PRMC is not entitled to recover reinsurance proceeds on behalf of Mission Insurance Co. and that the issue in the arbitration is rescission of the reinsurance contracts, not collection of reinsurance proceeds.

The reinsurers also maintain that the arbitration exposes them to a form of double jeopardy, since they were among 47 reinsurers named in a declaratory judgment action filed last month by the liquidator of Mission (BI,

May 2.)

However, Mission's liquidator had offered to exclude the Kroll firm's clients from the declaratory judgment action if they would agree to be bound by the arbitration panel's decision, an offer Mr. Kroll refused, according to Karl L. Rubinstein, California special deputy insurance commissioner.

PRMC, meanwhile, has filed a motion for sanctions against Kroll & Tract, which has lost three previous motions for stays of the arbitration, according to Jonathan F. Bank, a partner with Buchalter, Nemer, Fields & Younger in Los Angeles, which represents PRMC.

**The committee's Mr. Chesson described Mission as 'a good case study' of an insurer failure.**

# Brokers' earnings in line with industry projections

By **LEONARD M. WILSON**  
Special to *Business Insurance*

**T**HE PUBLICLY OWNED insurance brokers have weighed in with first-quarter earnings results. They were quite creditable and by and large in line with expectations. Nonetheless, the quarter was marked by a number of cross-currents that require a degree of dissection to get at a better idea of underlying performance.

Moreover, premium rates were soft enough to slow material gains in revenues and earnings.

Contingent commissions, for example, helped comparisons for domestic brokerage. Even though contingent commissions are a modest proportion of total revenues, their large percentage gains can have a meaningful impact on percentage growth year over year for total commissions. Excluding estimated contingents, we think that domestic commissions probably rose an average of 4%-5% for the public brokers, although there was a considerable variation around that average.

Premium rates, across the full book of business, most likely were down around 10%, based upon our analysis of commission growth. Price cutting has broadened out, but anecdotal examples of horrific reductions still are fairly sparse.

We believe that the premium rate environment was moderately more competitive in the quarter as compared with the second half of last year. We also increasingly encounter a sense of resignation to the possibility that pricing will remain soft into 1989.

New business was strong for almost all of the public brokers. The flow of new business has not abated and seems consistent with performance registered in 1987.

We are frankly impressed with the momentum of production in the face of the soft market. Some of the brokers are putting on more new business than others, but net new business, which subtracts lost volume, seems to be fairly consistent within the group. Lost

**We are frankly impressed with the momentum of production in the face of the soft market. Some of the brokers are putting on more new business than others, but net new business seems to be fairly consistent within the group. Lost volume seemingly has escalated for some of the brokers.**

volume seemingly has escalated for some of the brokers. This rise in account defections is related, we believe, to prolific production over the past few years and diminished seasoning of the account base, which manifests itself in higher client turnover.

Shopping for price is also a factor, we suspect. It remains to be seen whether close attention to keeping existing accounts will pay off through less lost business.

Reinsurance brokerage is still feeling the effects of higher retentions on the part of ceding companies. Softer premium rates are a secondary factor as yet. Profit margins on London-based reinsurance brokerage are narrowing due to the effects of currency exchange, which squeezed margins on dollar-denominated business. Reinsurance brokerage is not driven particularly by new business, and thus, ceding strategies and premiums rates will dominate the outlook.

Good news comes from the cost front. In general, expenses increases were well down into the single-digit territory.

In our view, the publicly owned brokers have reacted more quickly to the deteriorating market in this cycle. A lower inflation rate is working in their favor, though. Head counts are not moving up much, with selective additions mostly in the production area.

Notwithstanding success in restraining expense growth, costs did advance by a greater percentage than revenues, with the exception of Arthur J. Gallagher & Co. This resultant negative spread between the rise in revenues and expenses translates into narrower profit margins. Inevitably, brokerage profit margins will rise and fall. The challenge is to contain the erosion in profit margins during the soft market.

With respect to specific cross currents, Marsh & McLennan Cos. Inc. was burdened by the adverse impact of currency. A material drop in expense growth was partially masked by the effect of currency. The company's expense controls seemed effective in the face of decelerating revenue growth that

encompassed almost all activities.

Benefits consulting again rose strongly, reflecting a leadership position that is providing at least some degree of offset to property/casualty cyclicality.

Alexander & Alexander Services Inc.' revenue comparisons were distorted by the divestiture of surplus lines operations late last year. As a consequence, growth was somewhat better than the reported 4.3% rise in commissions for insurance brokerage services. A program of cost reduction implemented around the midpoint of last year is having an impact as well.

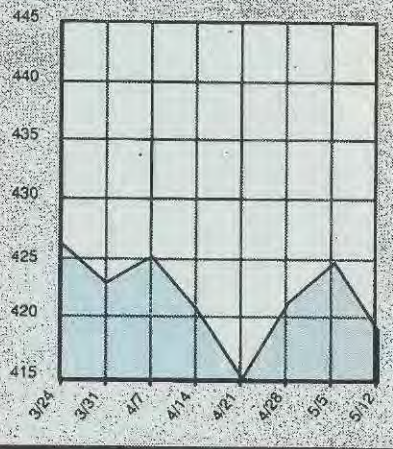
Corroon & Black Corp. included the gain from the sale of its interest in Minet Holdings Ltd. in the quarter, which massively inflated earnings. On an operating basis, results were flattish, a solid result in a difficult environment. The best gainers for the company were benefits and specialty products.

Arthur J. Gallagher posted the strongest advance in insurance commissions among the reporting brokers. Gallagher's aggressive new business production appears to be responsible for the good showing. Self-insurance services fees, advancing 18.6%, are proving thus far to offer an antidote to the slowdown in brokerage growth.

The retrenchment program of Frank B. Hall & Co. seems to be taking hold, as reflected in a slight operating profit for the quarter. Hall's expenses were virtually unchanged year over year during the first quarter.

First-quarter results should give investors some degree of comfort that the brokers know what they are about in the critical area of cost-restraint. But, the unfolding soft market is likely to persist, and therefore, vigilance on the cost front will have to be sustained. We have dwelt on this issue repeatedly in the past because it represents the key to sustaining earning power in 1988 and likely in 1989. Prospects for premium rates are likely to persist as the dominant influence on the price action of brokers' stock. ■

## BI Insurance Index



Insurance industry stocks faltered last week as the *Business Insurance* stock index dropped 5.5 points to 419.2 on May 12 from 224.7 on May 5. Advancing issues were led by SCOR U.S. Corp. up 9.1%; Arthur J. Gallagher & Co., up 6.5%; Continental Corp., up 4.3%; Orion Capital Corp., up 4.0%; and Business Men's Assurance Co., up 3.7%. The largest declines were posted by Lawrence Insurance Group Inc., down 11.1%; Nobel Insurance Ltd. down 9.3%; Frank B. Hall & Co. Inc., down 8.2%; Phoenix Re Corp., down 6.5%; and W.F. Berkley Corp., down 5.7%. The most active stocks tracked by *Business Insurance* were Farmers Group Inc., 2.5 million shares traded; Aetna Life & Casualty Co., 2.0 million shares traded and Sears Roebuck & Co. (Allstate Insurance Group), 2.0 million shares traded. The *Business Insurance* index fell 1.3% last week which was a smaller decline than those posted by the major market indicators: The NYSE Composite fell 2.7%; the Dow Jones 30 Industrials declined 2.6% and the Standard & Poor's 500 Index dropped 2.0%.

## British Issues

May 12 Companies	Price	P/E	Div. pence	Yield %	1 Week High-Low pence
Comml Union	350	13.3	21.9	6.1	351-342
Genl Accident	917	10.6	47.9	5.1	917-909
Gnl Royal Exch	887	13.2	55.2	6.2	889-872
Royal	397	10.5	26.4	6.5	434-399
Sun Alliance	915	14.9	43.1	4.5	921-910

Brokers	Price	P/E	Div. pence	Yield %	1 Week High-Low pence
Bradstock	229	12.6	6.8	2.9	230-229
CE Heath	398	14.7	34.5	8.4	399-390
Hogg Robinson	147	11.8	9.6	6.3	148-145
Lloyd Thompson	163	14.2	6.8	4.1	165-163
PWS Holdings	185	7.8	14.4	7.6	192-185
Sedgwick Grp	225	14.0	16.4	7.1	228-223
Steel Brl Jones	197	12.2	13.7	6.8	205-193
Wills Faber	230	12.0	15.4	6.7	230-223

Source: Philip Olsen/Alan Clifton, Insurance Industry Specialists Kiteat & Aitken Stockbrokers, London

## BI Industry Stock Report

MAY 12, 1988

5/6/88 THRU 5/12/88

### BROKERS

	Price	Weekly % change	Year to Date % change	Annual High	Annual Low	Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk. value	
Alexander & Alexander Svcs	NYSE	21.63	-2.3	21.9	24.50	17.75	109	1.00	4.6	13.7	3.40	6.36
Baldwin & Lyons Inc.	OTC	15.00	0.0	25.0	15.50	12.00	1	0.20	1.3	5.8	18.66	0.80
Corroon & Black Corp.	NYSE	31.50	-0.4	11.5	34.75	28.00	99	1.08	3.4	4.8	5.43	5.80
Gallagher Arthur J. & Co.	NYSE	16.38	6.5	2.4	18.00	13.88	7	0.48	2.9	10.8	5.16	3.17
Hall Frank B. & Co.	NYSE	4.13	-8.2	43.4	5.50	2.88	100	0.00	0.0	10.8	0.00	N/A
Hibb, Rogal & Hamilton	OTC	11.75	-4.1	20.6	12.75	9.75	94	0.00	0.0	10.8	0.00	N/A
Lawrence Ins. Group	AMEX	14.00	-11.1	107.4	15.88	6.88	12	0.32	2.3	14.3	4.10	3.41
Marsh & McLennan Cos. Inc.	NYSE	50.00	-1.5	1.0	55.63	45.25	393	2.40	4.8	12.2	6.74	7.42
Poe & Assoc. Inc.	OTC	9.25	0.0	32.1	9.25	6.75	0	0.40	4.3	9.0	0.57	16.23
<b>BROKERS AVERAGE</b>			-2.3	29.5					2.6	10.0		

### CONGLOMERATES & HOLDING COMPANIES

	Price	Weekly % change	Year to Date % change	Annual High	Annual Low	Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk. value	
Berkley W.R. Corp.	OTC	25.00	-5.7	4.2	29.00	23.50	177	0.36	1.4	6.1	17.63	1.42
Berkshire Hathaway Inc. DEL	OTC	3700.00	-0.7	25.4	3825.00	2755.00	162	0.00	0.0	18.0	69.38	10.02
CIGNA Corp.	NYSE	43.38	-0.3	-1.1	51.88	42.88	843	2.96	6.8	5.9	49.19	0.88
CNA Fin'l Corp.	NYSE	55.25	-1.6	-0.7	64.25	51.00	210	0.00	0.0	8.0	46.40	1.19
General Re Corp.	NYSE	49.75	1.5	-11.0	56.38	45.50	743	1.20	2.4	9.9	26.60	1.87
ITT (Hartford Group)	NYSE	46.38	-3.9	3.1	49.25	43.25	1209	1.25	2.7	5.9	52.23	0.89
Sears Roebuck & Co. (Allstate)	NYSE	34.75	-1.4	3.3	39.88	32.25	1964	2.00	5.8	8.5	34.74	1.00
Transamerica Corp.	NYSE	31.38	-3.8	5.5	36.75	29.75	354	1.84	5.9	6.3	24.94	1.26
<b>CONGLOMERATES AVERAGE</b>			-2.0	3.6					3.1	8.5		

### INSURERS

	Price	Weekly % change	Year to Date % change	Annual High	Annual Low	Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk. value	
Aetna Life & Cas Co.	NYSE	40.13	-2.7	-11.3	49.88	39.50	1970	2.76	6.9	5.7	53.56	0.75
American General Corp.	NYSE	28.75	1.3	-9.4	36.38	28.00	974	1.40	4.9	7.8	27.99	1.03
Amer Heritage Life Inv't	NYSE	25.00	-2.9	3.1	26.00	24.00	1	1.08	4.3	11.3	21.70	1.15
Amer Ind'y Fin'l Corp.	OTC	11.63	3.4	29.2	11.75	8.25	28	0.56	4.8	11.3	20.30	0.57
American Int'l Group	NYSE	52.50	0.0	-12.5	65.38	49.00	948	0.30	0.6	8.6	33.56	1.56
Aneco Reins Ltd.	OTC	3.13	-3.7	-7.4	4.00	3.13	16	0.00	0.0	4.3	2.51	1.25
Aon Corp.	NYSE	23.38	0.6	2.2	27.00	21.88	193	1.28	5.5	8.1	15.13	1.55
Argonaut Group	OTC	45.00	-3.7	51.3	49.00	29.50	232	0.00	0.0	7.3	29.19	1.54
AVEMCO Corp.	NYSE	24.50	2.1	24.8	25.25	17.88	39	0.34	1.4	11.9	7.74	3.17
Belvedere Corp.	AMEX	4.75	-5.0	8.4	6.00	4.38	3	0.04	0.8	6.9	7.87	0.60
Business Mens Assum Co.	OTC	35.00	3.7	30.8	36.00	25.50	121	1.20	3.4	63.6	27.39	1.28
Chubb Corp.	NYSE	52.38	-1.9	-6.3	63.38	51.25	379	2.16	4.1	6.0	46.13	1.14
Continental Corp.	NYSE	36.25	4.3	-6.5	41.63	34.75	858	2.60	7.2	6.9	42.10	0.86

	Price	Weekly % change	Year to Date % change	Annual High	Annual Low	Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk. value	
Durham Corp.	OTC	26.25	0.0	22.1	28.00	21.50	10	0.92	3.5	27.1	26.00	1.01
Farmers Group Inc.	OTC	59.88	-1.4	48.8	65.75	40.50	2585	1.44	2.4	14.6	22.15	2.70
Fremont Gen Corp.	NYSE	26.88	-4.8	3.4	31.00	25.75	354	0.50	1.9	448.0	26.17	1.03
Fremont Gen Corp.	OTC	9.38	-3.8	-2.6	13.50	8.75	210	0.60	6.4	448.0	16.75	0.56
Home Group Inc.	NYSE	11.63	-2.1	-2.1	14.38	11.50	220	0.20	1.7	2.5	17.65	0.66
Hartford Steam Boiler Insp	OTC	21.50	-1.7	-7.5	26.25	20.63	89	0.36	1.7	4.8	25.10	0.86
Harleysville Group Inc.	OTC	15.38	-0.8	17.2	16.38	13.38	11	0.40	2.6	6.8	16.18	0.95
Kans City Life Ins	OTC	26.00	-5.5	13.0	29.25	22.50	77	1.20	4.6	9.7	10.65	2.44
Kemper Corp.	OTC	30.75	0.8	17.1	30.75	25.25	0	0.00	0.0	9.7	0.00	N/A
Liberty Corp. S.C.	NYSE	23.00	2.2	12.2	25.25	20.75	975	0.72	3.1	7.2	27.11	0.85
Lincoln Nat'l Corp.	NYSE	43.25	-1.1	21.8	47.25	34.50	4	0.80	1.8	16.0	17.40	2.49
NAC Re Corp.	OTC	42.38	-2.3	5.6	48.75	40.25	332	2.36	5.6	8.2	36.62	1.16
Nobel Ins Ltd.	OTC	22.00	2.3	23.9	24.50	18.50	23	0.00	0.0	12.8	19.92	1.10
Northwestern Nat'l Life	OTC	4.88	-9.3	-44.2	9.50	4.50	27	0.40	8.2	23.2	9.37	0.52
Ohio Gas Corp.	OTC	26.50	1.0	15.8	29.25	22.63	84	1.12	4.2	7.2	35.05	0.76
Old Rep Int'l Corp.	OTC	33.25	-3.6	-8.3	38.25	33.25	145	1.88	5.7	7.9	27.86	1.19
Orion Cap Corp.	NYSE	21.88	-3.3	9.4	24.63	19.13	174	0.74	3.4	5.1	27.82	0.79
Phoenix Re Corp.	NYSE	16.38	4.0	21.3	17.25	13.13	21	0.76	4.6	5.2	9.34	1.75
Protective Life Corp.	OTC	7.25	-6.5	11.5	8.75	6.75	64	0.00	0.0	5.2	11.08	0.65
Provident Life & Acc Ins Co.	OTC	12.88	2.0	5.1	15.13	12.25	60	0.70	5.4	12.3	17.25	0.75
St. Paul Cos. Inc.	OTC	19.63	0.0	25.6	21.88	15.63	116	0.84	4.3	151.0	27.45	0.72
SAFECO Corp.	OTC	40.75	-2.4	-11.4	51.00	38.25	1078	2.00	4.9	5.8	36.34	1.12
SCOR US Corp.	OTC	23.50	-2.1	-15.3	30.00	23.00	1008	1.08	4.6	7.5	21.39	1.10
Seibels Bruce Group Inc.	OTC	9.00	9.1	-2.7	9.25	7.25	107	0.00	0.0	6.5	9.20	0.98
Selective Ins Group Inc.	OTC	12.50	-3.8	11.1	14.25	11.00	73	0.80	6.4	8.1	12.51	1.00
Statesman Group Inc.	OTC	23.25	-2.1	22.4	23.75	19.25	74	1.24	5.3	5.3	19.52	1.19
Tokio Marine & Fire Ins	OTC	4.13	-2.8	-11.9	5.50	3.75	26	0.06	1.5	5.3	3.83	1.08
Torchmark Corp.	NYSE	82.50	-3.8	25.2	85.88	63.25	12	1.09	0.2	73.7	0.00	N/A
Travelers Corp.	NYSE	30.13	-2.4	23.0	31.25	24.50	514	1.00	3.3	9.7	12.24	2.46
Trenwick Group Inc.	NYSE	33.50	-1.8	-4.6	40.00	33.25	1091	2.40	7.2	8.6	45.28	0.74
United Fire & Cas Co.	OTC	11.75	-1.1	14.6	12.50	9.75	10	1.16	1.4	10.1	15.41	0.76
United States Fd & Gly	NYSE	25.88	-1.4	-0.5	27.00	24.00	6	0.96	3.7	5.0	21.64	1.2

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