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Updates

Airline group sues San Francisco over domestic partner mandate

SAN FRANCISCO—An airline trade group is suing the City of San Francisco to prevent enforcement of the city's domestic partner benefits mandate on city contractors.

The suit, brought by the Air Transport Assn., an industry group consisting of 22 major U.S. airlines, claims the measure violates federal law and the U.S. Constitution. The ordinance, scheduled to go into effect June 1, requires all companies that contract with the city to provide benefits to registered domestic partners of their employees

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Tennessee to liquidate Congress Re

By DOUGLAS McLEOD

NASHVILLE, Tenn.—Tennessee regulators are moving to liquidate an insurance holding company whose financial statements include more than $100 million in questionable assets and whose officers and business associates comprise a virtual club of convicted felons and securities law violators.

More than a year after launching an investigation, state regulators earlier this month obtained a liquidation order against Genesis International Financial Services Inc., the publicly traded parent of Congress Re-Insurance Corp., an unlicensed surety underwriter.

Genesis had issued a stream of press releases in recent months touting its rising earnings. Regulators, however, found that the company had virtually no income and was surviving on the proceeds of possibly illegal sales of unregistered Genesis stock.

Tennessee Department of Commerce and Insurance officials say they will close the company's Chattanooga office by May 30 and go ahead with an immediate liquidation unless Genesis officials come up with cash to maintain the company under state conservatorship during any appeal of the liquidation order.

A hearing on the order is scheduled for Thursday in Chancery Court for Davidson County in Nashville.

Genesis is unrelated to a General Re Corp. unit with a similar name.

Meanwhile, a federal grand jury in Chattanooga is investigating Genesis' operations, as is the Securities and Exchange Commission, which suspended trading of Genesis stock May 1. Federal prosecutors and the SEC earlier this month subpoenaed Genesis documents from the Tennessee department, court filings show.



Mr. Zayed

Paul Jennings, a Murfreesboro, Tenn., lawyer representing Genesis, said the company has not decided on how to respond to the liquidation order. He declined to comment on regulators' allegations.

Mohamed K.M. Zayed II, Genesis' 33-year-old president and chief executive officer, and Michael W. Rehtorik, its director of investor relations, could not be reached.

Mr. Zayed is no stranger to trouble: He was convicted in the early 1980s of conspiring to manufacture amphetamines

See **Genesis** *on page 49*

Employers face suits over loss of benefits

By JERRY GEISEL

WASHINGTON—The Supreme Court is opening the door to lawsuits against employers by fired or laid-off employees who charge that their dismissal was motivated to prevent them from receiving health care and other employee benefits.

The justices ruled that a section in the Employee Retirement Income Security Act that bars employers from discharging or discriminating against employees to prevent them from receiving benefits applies to all types of employee benefit plans.

The unanimous decision overturned a 9th U.S. Circuit Court of Appeals ruling that held the intent of Section 510 of ERISA was only limited to pension plans in which participant's benefits vest after a certain number of years of service.

"Had Congress intended to confine Section 510's protection to 'vested' rights, it could have easily substituted the term 'pension plan' for 'plan' or the term 'non-forfeitable' right for 'any right.' But Section 510 draws no distinction between those rights that 'vest' under ERISA and those that do not," wrote Justice Sandra Day O'Connor for the Supreme Court's reversal.

The decision involved employees of a railway unit who lost their jobs when their parent company terminated a labor agreement and opened up to competitive bidding the jobs the employees performed. The company that won the bidding offered lower pension and welfare benefits to workers.

The Supreme Court decision now returns the case to a lower court to determine if the company's action was illegal in light of the court's opinion.

Benefit experts agree that the high court's decision clarifies the

See **ERISA** *on page 45*

New CGL endorsements limit pollution exclusion

By DAVE LENCKUS

Expanded pollution coverage soon will be available through three new endorsements to the absolute pollution exclusion in general liability insurance policies, but the endorsements will stop far short of solving policyholders' pollution coverage needs, brokers and attorneys say.

Most notably, the endorsements, which the New York-based Insurance Services Office Inc. drafted, do not cover pollution cleanup costs. The expanded coverage is restricted to third-party property damage and bodily injury claims caused by pollutants.

The endorsements also do not narrow the pollution exclusion's broad definition of substances insurers consider pollutants.

As a result, policyholders who obtain the endorsements likely will continue to have pollution coverage gaps unless they purchase environmental impairment liability insurance, brokers and policyholder attorneys warn.

"The three new endorsements solve only a very minuscule problem with the pollution exclusion," said policyholder attorney John A. MacDonald, a partner with Anderson Kill & Olick P.C. in New York.

But, Mr. MacDonald and others agree that any expanded pollution coverage under the commercial general liability insurance policy is a positive development for policyholders.

See **Exclusion** *on page 50*

Exclusive remedy doctrine attacked on several fronts

By MEG FLETCHER

The integrity of the exclusive remedy doctrine, the shield built into the workers compensation system to protect employers from being sued for excessive damages by injured workers, is facing new threats.

That shield is at risk from a growing tide of litigation in state courts in which workers allege they are discriminated against in the workplace after suffering a workplace injury.

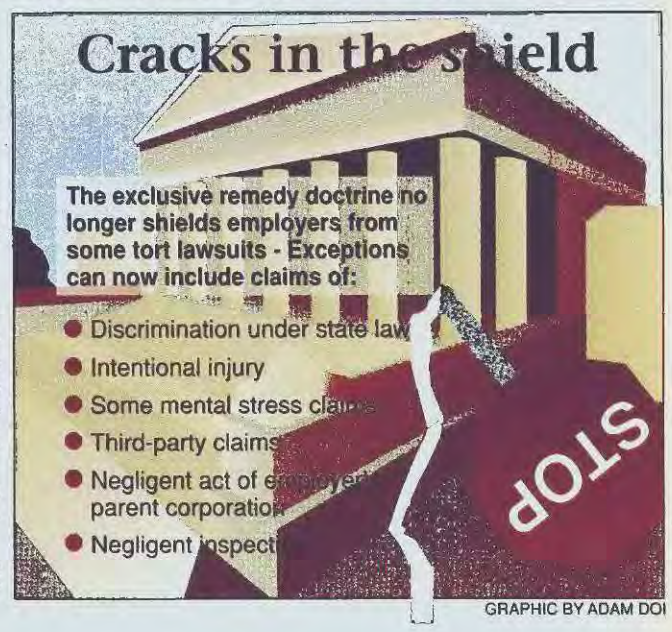
Employers turn to state lawmakers for relief. . . . .page 48

Workers also are succeeding in bringing suits for damages in cases where state workers comp laws limit or bar benefits for certain claims, such as stress-related ailments.

Employers and workers comp insurers are in a constant battle with those and other efforts to circumvent the exclusive remedy doctrine.

"Periodically there are inroads on exclusive

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GRAPHIC BY ADAM DOI

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Updates

Benefits ordinance sparks suit

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equal to those offered to spouses of employees (*BI*, Nov. 11, 1996).

The suit seeks a temporary restraining order to stop the ordinance's enforcement, alleging that it is pre-empted by three federal laws: the Airline Deregulation Act, The Railway Labor Act and the Employee Retirement Income Security Act.

"Airlines have always been governed by federal, not local, laws because it would be impossible to operate in hundreds of communities with different and possibly contradictory, local ordinances," Carol Hallet, the president and chief executive officer of ATA, said in a statement. "A national transportation system requires one regulatory master, and that is the federal government."

One ATA member, Elk Grove Township, Ill.-based United Airlines, previously balked at the ordinance. The airline earlier this year objected to complying with the order but later signed an agreement with the city allowing it to lease property at the city-owned San Francisco International Airport for two years without providing the benefits (*BI*, Feb. 17).

Geoff Kors, the drafter of the ordinance and legislative aide to its cosponsor, Councilwoman Leslie Katz, said its purpose is to eliminate discrimination by establishing standards for the city's business partners. "The city has the right to decide who they lease their property to," he said.

Though the law is primarily designed to provide benefits to employees' gay and lesbian partners, the suit says it is "not based on moral or philosophical considerations regarding the personal relations of airline employees."

Mr. Kors disagreed, saying none of the airlines in the ATA provides its employees with domestic partner benefits.

A similar proposal to San Francisco's law is being drafted by lawyers for the New York City Council. The proposal's sponsor, Councilman Tom Duane, said the suit will not deter him from introducing the bill.

Pollution exclusion bill vetoed

INDIANAPOLIS—Insurers in Indiana have failed to unequivocally exclude pollution coverage from future commercial liability policies.

A bill that would have incorporated a pollution exclusion into the Indiana Insurance Code was passed by the Legislature last month but unexpectedly vetoed by Gov. Frank O'Bannon last week.

The bill's definition of pollution was too broad, Gov. O'Bannon said in his veto message. The bill sought legislative backing to exclude environmental coverage in policies that contained the absolute pollution exclusion or "substantially similar" language, he said.

"I believe that the definition of 'pollutants' in this bill may increase the risk that insurers could deny coverage for claims having nothing to do with pollution in the ordinary sense of the word," Gov. O'Bannon said in the message. Businesses in the state opposed the bill, and no other state has enacted similar legislation, his message added.

"The insurance industry can address the problem by drafting a clear and unambiguous contractual pollution exclusion," he said.

The bill was a response to *American States Insurance Co. vs. Kiger*, in which the Indiana high court stepped away from decisions in most other states and ruled the 1986 pollution exclusion was ambiguous. The bill would have excluded environmental coverage from CGL policies issued after June 30, 1997.

The veto will discourage insurers from covering liability risks in Indiana, said Robert J. Hurns, associate counsel at the National Assn. of Independent Insurers in Des Plaines, Ill. "If they know now that they have an exclusion in the insurance contract that won't be honored, what kind of incentive is that for them to write the coverage?" he asked.

Insurers likely will seek an override, said Fred McGarvey, vp in the Skokie, Ill., office of the American Insurance Assn.

Aircraft maker to fight award

TUCSON, Ariz.—Raytheon Aircraft Co. plans to ask a federal trial court judge to set aside the $60 million judgment a jury awarded the families of two experienced pilots killed in 1991 when their twin-engine plane went into a flat spin and crashed.

The federal court jury in Tucson on May 2 found that a design defect in an airplane series the company manufactured causes flat spins. During a flat spin, an airplane is at no more than a 45-degree angle to the ground, and recovering from that predicament is difficult.

The judgment is the largest-ever compensatory award in Arizona, said Tucson attorney Dale Haralson, who represented the plane's owner.

Dr. Paul Dempsey, a 43-year-old plastic surgeon who had just bought the 10-year-old plane, was killed in the March 27, 1991, crash southeast of Tucson. Dr. Dempsey was survived by a wife and three children. Also killed was flight instructor Brian Smith, 29, of Fargo, N.D. Mr. Smith was survived by a wife and two children.

The pilots were flying a Beechcraft Baron 58P, which Beech Aircraft Corp. manufactured. Raytheon Co. of Lexington, Mass., bought Beech in 1980 and merged it with its Raytheon Aircraft subsidiary in 1984. Mr. Smith was familiarizing Dr. Dempsey with the pressurized airplane, and the two were performing routine maneuvers when the plane crashed. The jury did not assign any fault to the pilots.

Since the 1970s, there have been 35 flat-spin crashes involving Baron twin-engine airplanes, said attorney John Howie of Howie & Sweeney L.L.P. in Dallas, who represented the Smith family. That is the worst incident rate among makers of similar aircraft, he said.

Only two pilots are known to have recovered from flat spins in Beech airplanes, but both used maneuvers that are not detailed in Beech pilot operating handbooks, the plaintiffs attorneys said.

Raytheon Aircraft witnesses testified that the aftermarket vortex generators installed on Dr. Dempsey's plane to decrease the risk of flat spins actually increased the risk. The equipment, which is manufactured by another company, is installed on about 600 Beechcraft planes, but neither Raytheon nor the Federal Aviation Administration has notified airplane owners of the alleged risk, the plaintiffs attorneys said.

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Insurers fault bad faith ruling

Court rejects citing policyholder conduct in insurer defense

By JUDY GREENWALD

SAN FRANCISCO—A policyholder's own bad faith can't be used as a defense by insurers that are sued for bad faith, a California appellate court said in a decision that could encourage insurers to settle claims within policy limits more quickly.

Insurers complain that they will lose an important legal defense in bad faith cases if the May 7 decision is upheld by the state Supreme Court.

The appellate court in San Francisco ruled in *Kransco et al. vs. American Empire Surplus Lines Insurance Co.* that policyholders' bad faith cannot be used by insurers as a separate defense in bad faith cases. Juries, however, still would be able to consider evidence of policyholders' behavior in evaluating bad faith cases brought against insurers.

Policyholder attorneys hailed the decision.

"It means that insurance companies cannot avoid their obligation to settle within policy limits by pointing the finger at something the insured did wrong during the lawsuit," said Stuart Parsons, a policyholder attorney with Milwaukee-based Quarles & Brady who represented San Francisco-based Kransco in the case.

Insurer attorneys say it heightens the risks for their clients.

Robert N. Schiff, an insurer attorney with San Francisco-based Fisher & Hurst, said: "I think as long as it stays on the books, it takes away a defense that insurers have, namely the claimant's own conduct, own unreasonable be-

See **Bad faith** *on page 49*

Airlines use creativity to reduce smaller claims

By STACY SHAPIRO

TAMPA, Fla.—U.S. airlines are keeping a close eye on their small passenger claims to improve their service and reduce losses.

American Airlines is taking this approach one step further, however.

The airline is now self-insuring its "attritional" passenger claims, which American defines as any single claim less than $1 million. This covers more than 98% of the airline's passenger claims, said Christa Meyer Hinckley, managing director of insurance and risk manager for American in Dallas. American Airlines is owned by AMR Corp.



"We carry approximately 94 million people per year, and unfortunately, a few of them will not come through their travels unscathed," said Ms. Hinckley. "These day-to-day losses, which the business calls attritional, should be dealt with by the airline like any other cost of doing business."

These claims might hurt the airline's cash flow, but that will inspire personnel to find out why these losses are happening, she said. American has 14 licensed claims adjusters to deal with problems and notifies its insurers of major claims even though it is

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Riscorp aims to improve weak ratings from Best

By MARK A. HOFMANN

SARASOTA, Fla.—Riscorp Inc. is "actively working to address" concerns that led A.M. Best Co. to give two of Riscorp's affiliates "weak" initial ratings.

In addition, a committee of Riscorp's board of directors last week announced that it is considering the sale or complete recapitalization of the Sarasota, Fla.-based workers compensation insurer.

The board's strategic alternative committee was created late last year to evaluate options for the company, which was hit by a series of shareholder lawsuits after the insurance company's April 1996 initial public offering (*BI*, Feb. 3).

The continuing stockholder litigation, an ongoing audit by the Florida Insurance Department and a delay in filing a 10-K form with the Securities and Exchange Commission were among the reasons that Oldwick, N.J.-based A.M. Best assigned Riscorp Insurance Co. and Riscorp Property & Casualty Insurance Co. initial

See **Riscorp** *on page 39*

AAHP offers guidance on doctors' roles in networks

Getting a second opinion

By ROBERT KAZEL

WASHINGTON—The nation's leading association of managed care plans hopes that new guidelines calling for more physician involvement in health plan decisions will stem recent criticism of managed care decision-making.

The Washington-based American Assn. of Health Plans, in several quality-improvement directives to its membership of more than 1,000 health maintenance organizations and other managed care companies, said that the new policies are a model for physician involvement based on what many networks already are doing.

"This is a real clear, straightforward responsibility to codify what is going on in the health care world," said Karen Ignagni, AAHP president and chief executive officer. "We're raising the bar here, and we're very excited about that."

The directives, which she said will be ratified by the association's board at its national conference in Seattle next month, are:

- Managed care plans should allow physicians to direct quality assessment and improvement programs and to be involved in their design and imple-

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Inside

- Employers should not fear new liability as a result of the Supreme Court's ruling on ERISA Section 510, this week's editorial says. **PAGE 8**
- A report from Munich Reinsurance Co. says the number and costs of natural catastrophes worldwide continue to increase. **PAGE 41**

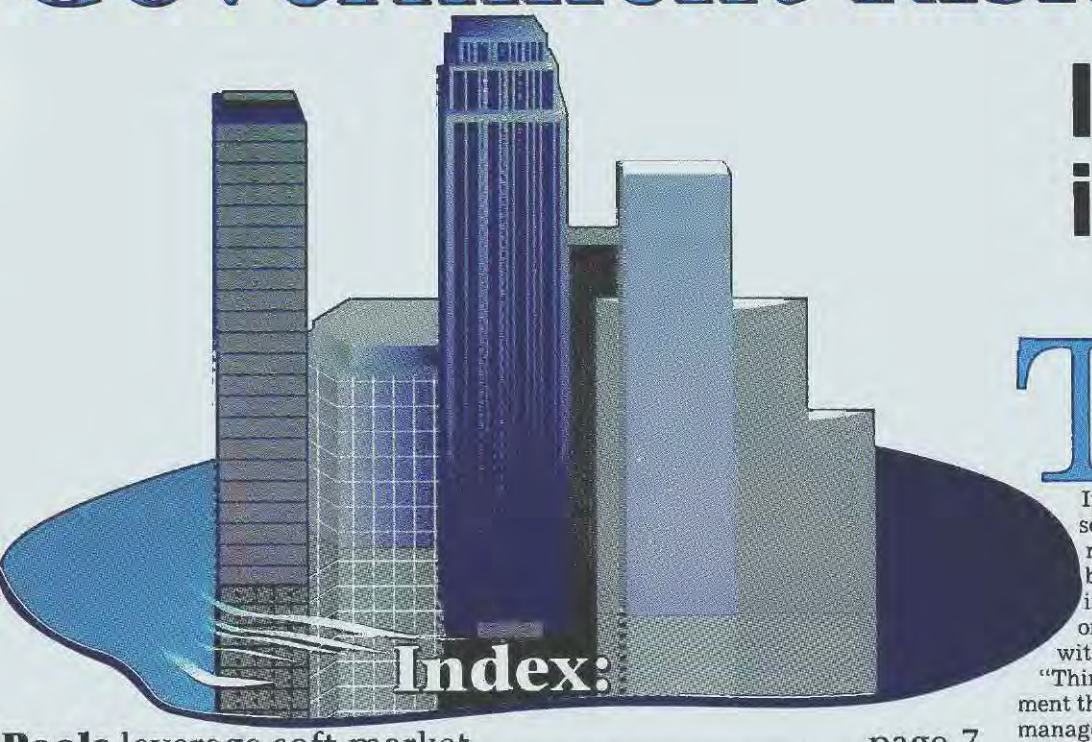
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Insurers trying to dive into pool marketplace

By RODD ZOLKOS

The municipal insurance market continues to grow ever more competitive, with public entities enjoying lower prices, new coverage options and an expanded choice of insurers.

Insurance companies that have been serving the public sector are becoming more aggressive in seeking municipal business, and new players are entering the market. Low premiums are one of the chief ways insurers compete with municipal pools for business.

"Things are pretty happy in risk management these days," said Daniel J. Pliszka, risk manager for Charlotte/Mecklenburg County, N.C. As in other municipalities, recent renewals gave Charlotte-area officials much to be happy about, the risk manager said.

The city and county are largely self-insured, buying excess coverage above a $2 million retention on automobile liability/general liability. "We have just renewed our casualty coverage. . .and we just got a 7% reduction in premium, so you can't complain about that," Mr. Pliszka said.

Property coverage, meanwhile, was renewed at no increase in premium, Mr. Pliszka said.

Glenn K. Sugiyama, risk manager of Redmond, Wash., said: "The availability and the rates have been great. It's kind of nice to be able to negotiate."

Redmond self-insures its primary layers of coverages. The only difficulty Mr. Sugiyama has faced in placing Redmond's coverages is in finding catastrophe insurance, a problem shared by his private sector counterparts in Seattle and elsewhere along the West Coast.

"The excess cover on the earthquake and flood, the catastrophe, is pretty difficult," he said. To obtain the $16 million coverage the city sought for one site, it needed to structure coverage in two layers, a $10 million layer and an excess $6 million layer.

"But everything else, the general liability, auto, errors and omissions, has been pretty easy," Mr. Sugiyama said. "The basic property rates aren't bad either."

"That's the impression I get from the pools, too," he said. "I haven't heard anybody complain at any of the meetings I've been to."

According to Dennis Crosby, vp of public sector services at the St. Paul Fire & Marine Insurance Co., this year's municipal market is even more competitive than last year's, with the roots of that competition much the same as in the insurance market overall.

"It's the same thing," Mr. Crosby said. "There is additional capacity through additional competition chasing the same book of business."

Some characteristics of the government market make it a target for insurers looking for new business opportunities.

"As people look for a potential niche focus, public entities sort of separate them-

See **Municipal** *on next page*

School officials study their Internet liability

By MICHAEL PRINCE

The best part about linking schools to the Internet is providing students with unlimited access to a world of information.

That's also the worst part.

Many schools are struggling with how to walk the fine line between providing students with access while protecting them from the potential dangers that lurk in cyberspace. If they make a misstep, the schools risk being sued for negligence.

A policy on Internet usage and strict enforcement are key to a school district's risk management, attorneys and consultants say.



The goal is "maximum access with minimum risks," said Elizabeth Puddington, executive director of the New Hampshire School Boards Insurance Trust in Manchester, N.H. She said educators want their students using the Internet but are concerned about possible risks to students and to the school districts.

Because of a limited number of court opinions available to guide schools on their potential liability exposures, they are plunging into the unknown every day, said Doug Mann, an attorney with the Tulsa, Okla., law firm of Rosenstein, Fist & Ringold, which represents numerous school districts.

"Schools are concerned about protecting students from inappropriate material," he said. "I think its fair to say schools have to feel their way along with this thing."

And the Internet provides plenty of inappropriate material to keep school officials and students' parents awake at night.

"There is available on the Internet a lot of pretty awful stuff," said Eugene Anderson, a partner with New York's Anderson Kill & Olick. It runs from sexually explicit sites to ones that detail how to make a bomb in a chemistry lab, to ones that illustrate how to commit suicide, he said.

And the potential for exposure is growing, with the growing use of the Internet. Earlier this month, the Federal Communications Commission decided to provide $2.25 billion a year, starting Jan. 1, 1998, in discounts on phone services to allow public schools to access the Internet.

What primarily concerns schools is having their students access sites that are inappropriate for them. When parents subsequently hear what their children have been exposed to at school, they could sue the school alleging negligent supervision.

For example, if a group of students accessed a World Wide Web site for a cult and some of those students then joined the cult, which later committed mass suicide, "the parents would have a claim against the school administration for those deaths," Mr. Anderson said.

A few months ago, such a scenario might have sounded far-fetched, but after the recent suicide deaths of the Heaven's Gate cult members, who used an Internet home page, such a scenario seems more plausible.

Another risk occurs if students were to harm others based on information obtained via unrestricted access to the Internet at

See **Internet** *on page 12*

Public entities often labor to reduce comp costs

By MICHAEL BRADFORD

Risk managers at public entities face challenges in holding down workers compensation costs that many of their counterparts in private industry don't see.

Issues such as lack of funding, inadequate claims tracking and bureaucratic processes may cause flak at some private companies, but they can easily rattle a public entity.

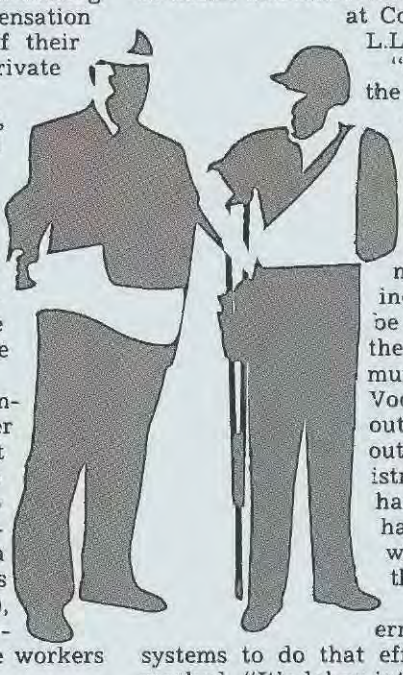
That doesn't mean all public entities are unsuccessful in managing workers comp costs. Some are seeing results with innovative and dogged efforts.

The city of Pittsburgh, for example, is watching costs fall after structuring a unique arrangement that lets a local hospital manage the city's entire workers comp program. And Miami, which appeared to be sinking under a mountain of workers comp claims in recent years (*BI*, Dec. 23, 1996), is slowly digging out after a comprehensive campaign to educate workers and stop abuse of the system.

Public entity risk managers often find themselves tangled in government bureaucracy that snarls their efforts to contain workers comp costs.

While most corporate entities don't typically have to justify operating expenditures, such as those involved in managing workers comp, many public entities are hamstrung by political concerns.

"Some of the bureaucracy that you generally see in government administration and some of the local legal constraints very often get in the way" of effectively managing workers comp, said Beth Voorhees, director of claims and risk management consulting at Coopers & Lybrand L.L.P. in Chicago.



"Clearing some of the existing bureaucracy, in a perfect world, would be a good thing," she added.

For example, some city governments require that indemnity payments be made directly to the employee by the municipality, Ms. Voor-hees pointed out. Therefore, an outside claims administrator or insurer handling the claim has to pay the city, which in turn pays the injured worker.

"Most city governments don't have systems to do that efficiently," she remarked. "It's labor-intensive and causes delays."

"In a lot of entities, it can be tough to track a claim," said Susan M. Sauer, senior vp at J&H Marsh & McLennan Inc. in Chicago.

Budget constraints can mean public entities can't afford to buy the best systems or hire top-notch personnel to gather claims data, she added. Lacking that information, municipalities aren't able to tell how much

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Municipal

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selves out a little bit," Mr. Crosby said. "It's easy to identify. Governments aren't going away."

Said Lisa Chanzit, a principal at Tillinghast-Towers Perrin in Boston: "If anything, the competition (in the municipal market) has just gotten more intense and probably more widespread. Even a lot of what you think of as the traditional insurers have gotten into the alternative market business or the niche business in a big way."

In part, insurers see aggressive marketing to the government niche as "a way to regain some of the business they lost to alternative entities in the 1980s."

"I think governmental entities are seen as more attractive risks than they were 10 years ago or 20 years ago," Ms. Chanzit said. They're perceived as more sophisticated about risk management. Also, some tort reforms enacted over the past 10 years, such as caps on awards against public entities, are proving effective at keeping down the size of municipal losses, providing an additional attraction to insurers.

Those sorts of caps are in place in more than 75% of the states, Ms. Chanzit said, "and you don't have any equivalent of that in the private sector, or at least not to the same degree."

Favorable rates are a key component of insurers' competition for municipal business. "They're doing it mostly through pricing, but they have some other ways of doing it, too," Ms. Chanzit said. "Price isn't the only tool they're using to compete, but it's the main one."

"It's not clear that there's any rational basis for insurers' pricing," she said. "It just looks like they're buying back business."

'It's not clear that there's any rational basis for insurers' pricing, ' says Lisa Chanzit of Tillinghast-Towers Perrin. 'It just looks like they're buying back business.'

Remarked Dick Thomas, president of the Public Entities Division of American International Group Inc.: "Quite frankly, I've had some public sector people tell me that because the market's so competitive, they can buy insurance at lower rates than it would cost them to self-insure it."

The savings those low rates afford can be a significant factor in choosing insurance over a pool, given the budget pressures public entities face.

"Government is still getting squeezed," said the St. Paul's Mr. Crosby. "They're always looking for places to cut budgets. Insurance is one."

Another factor, Mr. Thomas said, is the opportunity to budget a set premium rather than facing the uncertainty that can be associated with self-insuring losses.

"What we're offering to our customers today is price certainty," he said. The public entity can budget that premium, "and whatever happens over the course of the year, that's all they have to pay." By comparison, from a financial standpoint, self-insurance is "more volatile than many of them really want to cope with."

Not only are governments seeing favorable rates, the competitive market also is providing them unaccustomed choice in crafting their risk financing programs.

"I think the customer now is seeing more alternatives than they have in the last 15 years," said Mr. Thomas.

Those alternatives include "some new approaches to product," Mr. Thomas said, but more significantly, different ways to approach their overall risk financing.

"With a lot of the new alternative funding arrangements that have been developed over the past four or five years, some of that is starting to appeal to public entities," the AIG executive said.

Mr. Thomas said he's seen public entities beginning to take advantage of products that enable them to transfer older risks off their balance sheets to insurance companies.

Insurers also are more aggressive with some of the "bells and whistles" they're putting in policies, and they're broadening coverages, said Ms. Chanzit. One notable example is the availability of occurrence-based public officials liability coverage from many insurers, "which you never would have even thought about 10 years ago."

St. Paul doesn't offer the occurrence-based public officials coverage, which Mr. Crosby described as "a scary thing," driven by growing public sector concern over employment practices liability.

Employment practices liability is clearly a growing concern among public entities, just as it is in the private sector. Mr. Thomas said he recently made a presentation on the topic to a public entity group. "In the research that we did, we were surprised by how many lawsuits there have been and the relative size of some of the awards against public bodies," he said.

"Even in states where there might be a sovereign immunity damages cap, it's a serious issue because of the body of federal employment practices law, which is leading to many of those suits being filed in federal court to escape the state caps," he said.

In his talks with public sector officials about employment practices liability, Mr. Thomas said he's seeing interest not only in the insurance portion of the product but also in the loss control aspects the insurer offers as well.

AIG is considering a joint venture with a consulting firm to create an EPL product that would be even more focused on public entity liability, he said.

The nature of dealing with civil service employees, political appointments and public sector unions creates some employment practices issues unique to the public sector, Mr. Thomas suggested.

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Which professional services firm has 20,000 people in 100 U.S. cities?

the answer is Deloitte & Touche

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Spotlight report

Municipal

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Expertise is another competitive advantage for insurers, Mr. Thomas said.

"A company such as AIG can afford to hire highly skilled individuals for claims, litigation management and loss management," Mr. Thomas said. A large insurance company can spread the costs of those individuals across its entire domestic operations, something a public entity pool with a more restricted budget can't do.

"I think that the intent of taking one's own risk and managing it and sharpening the focus of the manager on the outcome, which is what self-insurance did for some entities, was somewhat undermined over the years by the inability to keep some of that talent," Mr. Thomas said.

"We have a significant amount of claims expertise and loss control expertise as well," said Bruce Weaver, a vp at CNA Commercial Insurance in Chicago, which recently created its Municipal Insurance Program, aimed at cities and towns with fewer than 50,000 residents, counties with fewer than 100,000 residents and Native American reservations across the country.

"With 38 or 40 branches across the country, we are able to serve the municipalities on an extremely local basis," Mr. Weaver said. For example, he said, a claims adjuster in Pennsylvania who is familiar with the nuances of Pennsylvania law and other local requirements handles Pennsylvania claims, rather than an adjuster half the country away.

But Tillinghast-Towers Perrin's Ms. Chanzit said she's skeptical about whether an insurer can ever provide the same level of service to all municipal clients across the country that those public entities can obtain from pools close to home.

"It's hard for me to imagine how an insurer that has a finite number of branch offices can service small accounts on a local basis as well as some of the intergovernmental pools can," she said. "But they're saying they can, anyway."

And service always has been one of many pools' greatest assets, Redmond's Mr. Sugiyama noted. "The strength of the pools, the better ones, is they've been providing more and more services," he said.

Beyond such services as loss control and claims handling, some pools are adding seminars on topics such as the Americans with Disabilities Act or police pursuit policies to the roster of member benefits they provide.

Mr. Crosby said he thinks the current market offers opportunities for pools to partner with insurance companies, offering members the chance to benefit both from the services the pools provide and the inexpensive coverages traditional insurers are offering.

The St. Paul recently entered into such an arrangement with the Connecticut Interlocal Risk Management Agency, providing property/casualty coverages for that pool's members.

"Traditionally, pools have done very well on the service side, the loss control side," Mr. Crosby said. "I think there are further opportunities for these kinds of relationships as well."

Because of the current competitive market, some pools will lose members to traditional insurers, however, he said. "There's some very strong pools out there, and there's some very weak pools."

"In some states, some of the pools are having some difficulty, and we feel we can capitalize on that," CNA's Mr. Weaver said. "In other states, the pools are doing great."

Because of the competitive market, some pool officials are thinking they need to broaden coverage and offer more products and services, "and that's a very dangerous place to be in this marketplace," Mr. Crosby said. "Right now is a time to focus on what you really do well."

'In some states, some of the pools are having some difficulty, and we feel we can capitalize on that,' says Bruce Weaver of CNA. 'In other states, the pools are doing great.'

"As the competition has heated up, the pools are trying to be proactive and get out ahead of what the traditional insurers are doing," agreed Ms. Chanzit.

But, though pools may be offering more in loss control and risk management services to members, "a lot of times it's not really clear that members are willing to pay for that."

At the same time they're trying to attract municipal business, many insurers are emphasizing the benefits to those public entities of placing all their coverages with a single insurer.

Naturally that benefits the insurer, AIG's Mr. Thomas acknowledged, but it also benefits the customer, he said, because if all the coverages are with the single insurer, "it's highly probable that any claim that is brought is covered by that one carrier. And what you eliminate is any disputes between carriers over coverage."

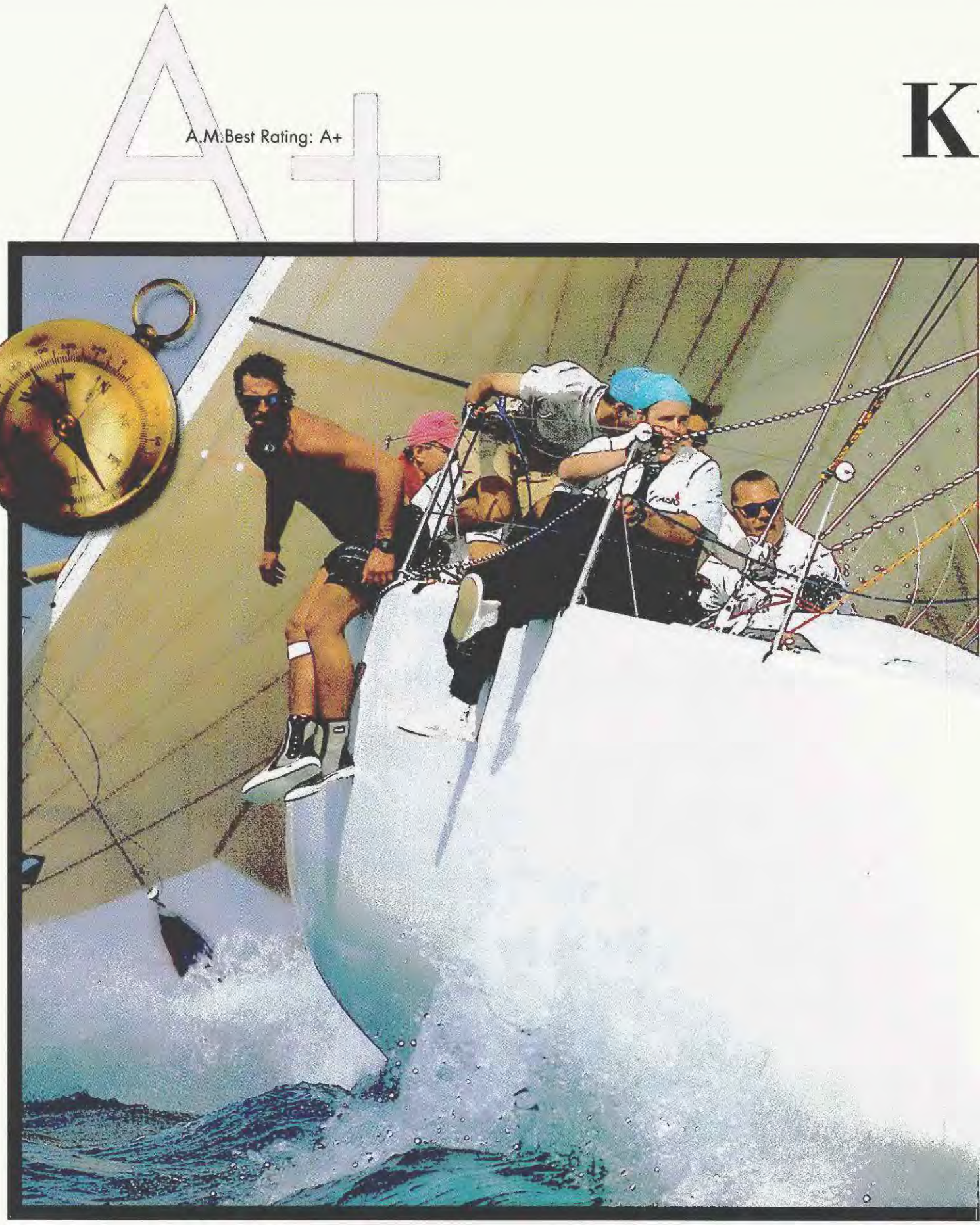
That consolidation also can result in further price breaks for customers, he said.

Mr. Weaver said CNA's Municipal Insurance Program stemmed in large part from that sort of emphasis on a "one-stop shop" approach to municipal insurance.

"We felt that no one company was really offering the full range of services a municipality would want, and we felt CNA had the ability to do that," he said.

At the same time, he said, the program was designed to be flexible, allowing customers to choose the entire package of coverages—which Mr. Weaver said could eliminate gaps in coverage or coverage disputes between insurers—or assemble a customized package a la carte.

Municipal risk managers likely will continue to enjoy the favorable market as insurers continue to see the public sector as an opportunity. "It's a market that will be there," St. Paul's Mr. Crosby said. BI



Pools dip but don't dive into soft market

By JUDY GREENWALD

Public entity pools are eagerly taking advantage of the soft market to improve coverage and rates for their members.

Pools are leveraging the market to their advantage by establishing captives, reducing retentions, forming first-dollar workers compensation pools and setting up reinsurance programs for the first time.

But some observers think at least some pools could be taking even greater advantage of the soft market by buying more excess coverage and reinsurance and by bargaining harder for low rates.

And even those pools that are taking full advantage of the soft market must cope with the threat of insurers luring away their members with even lower rates.

This is a challenge pools are meeting through improved services and their more intimate knowledge of members' risks, observers say.

Meanwhile, many pools are enjoying the advantages of a soft market. "From my own personal experience, and from what I've seen with other pools, what they've been able to do is purchase additional limits as well as broader coverages for less money, while also reducing their self-insured retentions," said Betsy Kutska, executive director of the Wheaton, Ill.-based Park District Risk Management agency, which runs a pool on behalf of 121 Illinois park and recreation agencies.

Her pool is among the five pool participants in the recently created National Public Entity excess program, an excess liability insurance purchasing group (*BI*, Feb. 3).

Among other positive changes, the soft market has enabled the pool to go to a $1 million per-occurrence retention from $3 million, she said. "That's certainly greatly advantageous to our members, both from a cost perspective and limits and coverage perspectives," she said.

But, she added, pools also are aware the current situation is not going to last forever. "A lot of pools are positioning themselves to purchase coverage when conditions are as they are now but fully realizing those probably won't be here forever" and planning accordingly, said Ms. Kutska.

Pools are taking advantage of the soft market, agreed Tom Vance, risk manager for the city of Anaheim, Calif., which is a member of the Authority For California Cities Excess Liability pool.

Some pools, for instance, are now reinsuring layers they had previously retained because "it makes more sense to purchase it commercially than it does to retain the risk," said Mr. Vance.

In other cases, pools have lowered their retention levels. Mr. Vance noted ACCEL has historically retained a $9 million excess of $1 million layer, but for the past couple of years has been able to obtain commercial insurance of $5 million excess of $4 million for that layer. "That's a significant reduction of our exposure, and we've done that based on an actuarial analysis of our exposure in that layer," said Mr. Vance.

Elizabeth E. Puddington, executive director of the New Hampshire School Boards Insurance Trust In Manchester, N.H., said, "We just finished a request for proposals within the last month or so, and we were able to reduce our costs for both property and liability excess, and over the last several years we've received, we would say, dramatically improved services from our two carriers," Arkwright Mutual Insurance Co. and risk retention group School College & University Underwriters Ltd.

"We've been real successful in taking advantage of the market both in hard and soft markets," said Michael Fleming, general manager of the CSAC Excess Insurance Authority based in Rancho Cordova, Calif. The group represents 52 of the 58 California counties. "It's just taking it to another level in the soft market."

Mr. Fleming said the authority is developing a primary workers comp pool as an option for its members. Participants in the pool, set to start running Jan. 1, would go from "dollar one" in coverage to $125,000, at which point the authority's excess program would kick in.

Another California pool that has used the soft market to its advantage is the LaPalma, Calif.-based California Joint Powers Insurance Authority, which has about 80 municipal members in southern and central California.

"We have, for the first time decided to purchase reinsurance for our self-insurance program," which will enable the pool to increase its limits to $25 million from $10 million, said Executive Director Bill Holt. The reinsurer on the three-year program, which becomes effective July 1, is Princeton, N.J.-based American Reinsurance Co.

"We have evaluated reinsurance every year and rejected it until now" because of its price, said Mr. Holt, whose authority also is considering a first-dollar workers comp pool. Right now the pool self-insures the first $500,000 of its workers comp coverage and has excess coverage above that.

"We basically have been fully self-insured for the last 11 years, but the insurance community seems to be in a position to offer us good products at a good price right now, and we are trying to take advantage of it while we can," said Mr. Holt.

In addition, pools associated with state county associations in Texas, Georgia, Missouri, North Carolina and New Mexico expect to file papers later this month or in June creating a Vermont-domiciled captive, County Reinsurance Ltd., that will provide liability, workers comp and property capacity as of July 1, said Jim Jean, business manager for the Texas. Assn. of Counties' self-insurance pools in Austin (*BI*, Feb. 3).

The captive is expected to reinsure a layer of up to $1 million above the pools' own limits, then obtain reinsurance for any capacity above that, said Mr. Jean, who said the group is now negotiating with several reinsurers. A group of about 20 state county associations participated in the captive's feasibility study, and at least some of them are expected to join the captive after its launch, said Mr. Jean.

The soft market "gives us a chance to try to fashion together an insurance program most suitable to pool members," said Mr. Jean.

During a soft market, not only is there coverage available, but the larger reinsurers are willing to work with

See **Pool** *on page 10*

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Opinions

No limit on legal changes

WHAT IF AN EMPLOYER systematically fired its employees just before those employees became vested in their pension benefits? Would such an action be illegal?

Absolutely. Section 510 of the Employee Retirement Income Security Act makes it a crime to discharge or discriminate against employees for the purpose of preventing them from attaining their rights under a benefit plan.

But let's say the facts were slightly different.

Take, for example, an employer that offered a generous health care benefits package and decided to transfer its employees to a new subsidiary that didn't offer any health care benefits. The employer gives the workers a choice of continuing their jobs at the new company—albeit without any benefits—or being let go. Would such an action, while perhaps reprehensible, also be illegal?

Until now, workers had few opportunities to make that case because under some previous interpretations of ERISA, such suits were rejected by the courts.

As we report on page 1 this week, the U.S. Supreme Court, while perhaps not definitively answering our hypothetical question, now at least will let courts consider such cases. The high court unanimously ruled that Section 510's protections against corporate actions, such as dismissals, specifically aimed at preventing employees from earning benefits, applies to welfare as well as pension benefits.

Given what we think is the clear statutory language of Section 510, we don't see how the court could have ruled differently. Section 510, as Justice Sandra Day O'Connor wrote, makes it unlawful to discharge employees for the purpose of denying any right an employee could become entitled to under a plan. Had Congress intended to limit Section 510 protection to pension plans or plans where benefits vest, it would have said so, Justice O'Connor wrote.

No doubt, some employers may panic and interpret the decision as one that will interfere with their ability to make business decisions and benefit choices free from government intervention.



But we believe employers have little to worry about.

The decision does nothing to prevent employers who follow legal procedures, such as giving employees sufficient notice, from reducing or even eliminating their health care benefits.

Nor does the decision bar an employer from taking other actions that yield reduced benefit expenses. For example, an employer could freely outsource corporate functions, such as payroll administration, if it can show it has fundamental business reasons for doing so, such as a desire to focus on its core operations.

What the decision does do, however, is say that corporate actions driven solely by the motivation of denying employees' benefits—be they pension benefits that vest or health care benefits that almost never vest—can be challenged in court.

We think that is only fair and just. Benefits that employees receive through health care plans should be protected from illegal actions to the same extent as the benefits they receive through pension plans.

Letters

Nurses important in primary care

To the editor: Several comments made in the Feb. 17 story, "HMO Nurses As Gatekeepers," call for the perspective of members of the Iowa Nurses' Assn.

For example, the story indicated that "relatively few of the 100,000 nurse practitioners have the experience to step in as primary health care providers." Pediatric nurse practitioners have been providing primary care services in Iowa since the 1970s.

We have a number of maternal and child health clinics providing health care. We have several family nurse practitioners setting up their own clinics in rural Iowa, establishing a collaborative practice with physicians and providing access to health care.

There are areas of the state where, even after 10 years of state investment in attracting physicians, there are still no physicians. Iowa has one of the lower ratios of patient care physicians per 100,000 population in the nation. Nationally, there are 203.7 patient care physicians per 100,000 population, while in Iowa that figure was only 138.8. Our advanced practice nurses have lots of opportunities to step in as primary care providers. Or are your comments only directly at urban HMOs?

The story also states that nurse practitioners "work directly under physicians' supervision." Iowa is one of 26 states where there is no requirement for collaboration or supervision of advanced practice nurses by physicians.

Helen Darling, manager of health care strategy at Stamford, Conn.-based Xerox Corp., was quoted as saying: "I don't think that consumers, at least the consumers I know, are going to be happy with any sort of diminution in the level of expertise that they're able to have available to them on a routine basis. I actually think the average employee would be concerned if there was any perception there was anyone coming between them and their doctor."

From a state with a higher concentration of physicians than other states, it's an easy statement to make. Our state residents would just like access to care. Also, if the HMO or company has employees who desire fixing or curing after the fact, rather than preventing illness, Ms. Darling's statement makes sense. Advanced practice nurses focus their practice on health rather than the physician focus on disease. This comment also misses the choice of some individuals not to bother the doctor with simple questions on their health.

Brian Humphrey, vp and managing executive at Sedgwick Noble Lowndes in St. Louis, was quoted as saying he expected "an increase in liability and ultimately an increase in costs." The article also states his view that the use of nurse practitioners could create a lack of credibility with patients and lead to more use of specialists.

This statement lacks an understanding of using a triage approach to individuals presented with routine health needs, such as earaches, upper respiratory conditions and minor injuries. In Iowa, there are not enough physicians to see patients needing care. With use of advanced practice nurses, they can handle the routine and refer to physicians those patients who need physician expertise. The tone of articles like yours toward advanced practice nursing further encourages comments like Mr. Humphrey's to continue.

While your story tries to be balanced, my perception is that you favor only the physician providing care and cast skepticism about the Oxford plan. Nursing advocates had hoped that HMOs would welcome an increased focus on preventive care.

We hope insurance people like the agent working with our association won't be discouraged. We hope he will continue working with our association in promoting the choice of advanced practice nursing care for primary care services. We also hope that stories won't misinform as to the legal authority of advanced practice nurses throughout the United States.

Linda Goeldner
Executive Director
Iowa Nurses' Assn.
West Des Moines, Iowa

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Pools

Continued from page 7

the group, "and we felt that rather than waiting for a hard market and experiencing possible difficulties, that the numbers were ripe for us to do it at this time," said Mr. Jean.

But at least some pools could be taking even greater advantage of the soft market, believes Jim Smith, president of Austin-based AMGRIP, a consulting firm. "Not many of them are taking advantage of the soft market because they have the philosophy that they believe that there will be another cycle in the industry, and they want to hold the retentions that they currently are holding," he said.

"Now is the time to be reducing retentions and passing those savings on to their members," said Mr. Smith, who described pools' funding of loss layers themselves rather than obtaining reinsurance as an "ingrained philosophy that they have had for the last five years.

"It also gets into an issue of some of the actuarial firms recommending that they fund as opposed to purchasing reinsurance," said Mr. Smith. "In the current situation, they're better off purchasing the reinsurance cheaper and passing those savings on to their members."

There have been two trends the past few years, according to Lisa Chanzit, a principal with Tillinghast in Boston. One is for pools, as they mature and become more financially solid, to take on more risk themselves despite the relatively low cost of excess coverage and reinsurance "just because they have the financial wherewithal" to do so.

"On the other hand, other pools have used the opportunity to actually purchase more and more reinsurance or excess insurance," a tendency that, taken to its extreme, could mean a pool would no longer be financing the risk, though still providing risk management services.

"It really is a case-by-case situation, and it depends on the philosophy of the group," said Gordon DesCombes, vp at Robert F. Driver Associates, the NAPEX program's Newport Beach, Calif.-based broker.

While on the one hand, there "are lots of opportunities" because of the soft market, at the same time "there's a lot of false analyses made out there sometimes where, frankly, maybe people shouldn't be buying insurance. It goes both ways, in my opinion."

Meanwhile, despite its advantages, the soft market can represent a threat to pools as insurers seek to attract members with low rates, say observers. "There has been a downside to the soft market for pools in that some pools have seen a depletion of some of their membership" by those who are using the commercial market instead, said Anaheim's Mr. Vance.

"All pool members need to carefully evaluate their return to the commercial market, because there is no doubt that the commercial market is cyclical, and while it is tempting and perhaps even just good business practice to try to take advantage of the soft market, it is important not to do permanent damage to the intergovernmental pooling structure, because it's most likely those same entities will want to return to pooling when the market tightens," he said.

Tillinghast's Ms. Chanzit said, "The soft market's been a two-edged sword for pools, obviously, because on one hand the competition for their products and services has heated up considerably over the past five to eight years, but on the other hand, pools have been able to obtain reinsurance and excess insurance very reasonably compared to 10 or 12 years ago."

The soft market's impact will vary, said Ms. Chanzit. "I think the pools that are in a very good financial position and have funded conservatively from the beginning do have the financial strength to weather the current competitive environment, but the pools that have been thinly funded are going to have a hard time competing."

One pool that has gained members despite the soft market is the Raleigh, N.C.-based North Carolina League of Municipalities' 298-member property and liability pool, the Interlocal Risk Financing Fund of North Carolina, which had a net gain of 25 members last year. In addition, its workers comp pool, the 430-member North Carolina Interlocal Risk Management Agency, had a net gain of three members, said Bob Haynes, director of risk management services.

Among the reasons for its continued success despite the soft market is "we've been able to provide enhanced services" in areas including loss control and risk management, said Mr. Haynes, who noted the league also has risk management consultants who provide training. In addition, "I think we've been able to demonstrate from a claims standpoint that we are very fair, and we represent the municipal point of view and understand municipal needs" and exposures and can tailor coverage to those needs, he said.

At the same time, he said, "Price is the main driver right now, and I respect the fact that city councils have to balance the budget, and that is not always easy." The league has "tried very hard to stretch the program so we're returning as much money as possible to our membership, and we've also been offering package discounts" to municipalities that use both pools.

The market has forced pools to become more competitive, said Tim Greer, executive director of the Denver-based Colorado Intergovernmental Risk Sharing Agency.

"In 1986, when the market became so hard, they were the only solution, and there are (insurance) companies in the soft market that are targeting particular areas and making operations very difficult for pools." Mr. Greer noted he does not consider the market to be uniformly soft.

However, "Well-operated pools have been able to refine their operations and become extraordinarily competitive," said Mr. Greer.

Pools, though, could be doing a better job obtaining good rates for their members, says Steve Kahn, a principal with consultant ARM Tech Inc. in Lake Forest, Calif. "I don't think over the last couple of years pools have taken adequate advantage of reductions available from reinsurers and excess insurers and first-dollar insurance companies have taken advantage and become more competitive against pools," said Mr. Kahn.

"I think they just haven't worked the excess market as hard as they could," he said.

Stephen Swendiman, managing director of the National Assn. of Counties' Financial Services Center in Washington, said, however, "Many of the pools, are, I think, shifting their strategy, offering more services to members, and doing a lot better job with risk management."

Mr. Swendiman noted that along with Sedgwick Inc., with whom it has a partnership to develop new risk services for counties, the NACo center plans to provide administrative services to County Reinsurance Ltd., the captive now being formed. Also involved in the captive's management will be Burlington, Vt.-based USA Risk Group; the broker is J&H Marsh & McLennan Inc. of Georgia. BI



CNA insured the lives of our nation's astronauts during this 1972 Apollo space flight.

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A Century of Commitment

Comp

Continued from page 3

they are spending and therefore can't implement cost containment programs.

Politics can disrupt management as well, Ms. Voorhees noted. "Very often a risk manager may serve at the pleasure of the current administration. It can be very difficult to get continuity in a program."

Public entities can run into budget problems, sometimes unexpectedly.

"I never thought it would be a problem, but it has been," said Craig S. Macdonald, director of risk management for the Bi-State Development Authority in St. Louis. "It's hard to explain that if you spend $100,000 you can save $500,000. Those kinds of issues are difficult to get through."

The Development Authority, which has about 1,900 workers, was encouraged to increase Mr. Macdonald's funding after workers comp costs dived to less than $2 million from about $3.5 million in the past two years.

Bringing claims handling in-house helped trim costs, and a medical bill review program resulted in more savings. Case management services and a strong emphasis on safety also have helped cut costs.

Mr. Macdonald is a strong believer in modified-duty programs that get workers back on the job as soon as possible. The Development Authority's program has cut lost days in half by instituting such a program, to fewer than 4,000 from about 8,000 in 1991.

A safety incentive program expected to be in place in July should lead to more savings, Mr. Macdonald suggested.

The reward and recognition program each month will honor teams of employees that complete the month with no workplace injuries. Budgeted at $200,000 per year, the program is expected to save $700,000 to $800,000 in its first year, with even greater savings in later years, Mr. Macdonald said.

While some entities can use traditional methods such as safety programs to good effect, others have to take more drastic steps.

The city government in Pittsburgh decided to give up its workers compensation program to control costs. In a unique deal, the city turned over management of its entire workers comp program to Allegheny General Hospital.

"The city of Pittsburgh has had a bad workers comp experience over the years," said Mark Beck, regional director of workers compensation at Allegheny General.

In fact, when the hospital took over the program a year ago, of a workforce of about 4,300, about 950 were receiving workers comp payments. "There are people who have been on comp for 25 years," Mr. Beck said.

In a move that has since sparked interest from other municipalities, the city put management of its workers comp program out to bid among health care providers. Allegheny General was the winner and is paid on a capitated basis to take care of the city's injured workers and management of the program.

By putting the program out to bid, the city immediately saved $1 million in medical expenses through the competitive process, Mr. Beck said.

Allegheny General uses a third-party administrator to handle claims and two area hospitals that could provide emergency room and acute care services to accommodate injured workers in other parts of the city. Workers needing ongoing care are referred back to Allegheny General.

Pittsburgh will see its biggest savings on the indemnity side, Mr. Beck noted, given the number of people receiving workers comp checks. Of the 950 not working, about 450 are over 65 and are unlikely to be back in the city's workforce, he said. They will continue receiving payments.

About 140 jobs are available for the remaining 500, Mr. Beck said, and proper medical treatment and modified duty are getting those employees back to work.

The city does not have enough money to create additional jobs for the others who could return to work, he said. And, the city is meeting resistance from organized labor groups that want all new jobs to be unionized, Mr. Beck said.

In Miami, there are indications that an aggressive effort is succeeding in driving down the number of workers comp claims filed by city employees.

"We've had a marked drop in the number of new claims," said Frank Rollason, director of the city's General Services Administration. "I can't attribute it to anything except a lot of intensity" on the behalf of the city to educate workers about safety and abuse of the workers comp system, he added.

The city's fiscal year begins in October, and for the period Oct. 1, 1996, through April 30, 1997, there were 295 new workers comp claims paid, totaling $350,174. That's a drop from the same period in fiscal 1996, when 422 new claims were logged at a payout of $1.5 million.

Miami is trying to rein in costs that reached $9.3 million during fiscal 1996, up from $7.7 million the year before.

A couple of other factors will help bring down the city's comp costs, Mr. Rollason said. Managed care for workers comp now is mandatory in Florida, and the city expects to have a program in place in January.

The city's four adjusters, who handle about 600 claims apiece, are getting some company. The city's budget includes funds for hiring four other adjusters as well as money to fill a supervisory post and pay an attorney to work on mediation in workers comp cases.

The savings expected from Miami's workers compensation efforts are a component of a five-year city solvency plan. The plan was approved May 12 by a fiscal oversight board that Florida Gov. Lawton Chiles created last year when he declared Miami in a state of financial emergency.

As shown in Miami's experience, the type of work performed by some city employees lends itself to workers comp claims. Of the $9.3 million in claims paid in 1996, Miami shelled out $6.6 million to police and firefighters. Collectors of solid waste were paid $1.4 million.

The nature of police work and firefighting makes injuries hard to prevent, said J&H Marsh & McLennan's Ms. Sauer.

"Stress and anxiety are tough on those individuals," which are additional concerns to the unpredictability of injuries to those workers, she said.

Some municipalities have workers spread across large areas, making it hard to monitor some employees. "It's difficult to find out if they're working or taking time off," Ms. Sauer noted.

Municipalities in that situation have to keep tabs on workers, she said. BI



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Internet

Continued from page 3

school. Take, for example, students that construct a bomb based on instructions provided on a Web site. If the bomb explodes and injures students, "the school administration might have a legal problem," Mr. Anderson said.

Another potential liability is when students use school computers to illegally enter other computer networks. This "hacking" from school property also might expose the school to liability, said Ms. Puddington.

Also, students and teachers taking copyrighted material off the Internet and distributing it to a broad audience could create copyright infringement exposures for the school. A limited distribution is acceptable under copyright law as "fair use," said Mr. Mann, the Tulsa attorney, but distribution to a large group could constitute an infringement of copyright laws.

He recommends that students and faculty adopt the attitude that whatever comes off the Internet is copyrighted to reduce the chances of misappropriating the material.

"Chat rooms" also create potential liability. These areas of the Internet are places to meet other people and exchange messages. But they have been used by adults to meet and prey on children who don't realize the potential dangers, said Maia Hughes, a consultant with Tillinghast-Towers Perrin in Parsippany, N.J.

An increasing number of schools, however, are not in the dark about their potential liabilities and are taking steps to protect themselves.

Many schools have a "heightened awareness of the need to gear up for potential liability from use of the Internet," said Ms. Puddington.

The main protection against liability is having an Internet use policy, those involved with the issue say.

"This needs to be a policy that is drafted by lawyers and has a number of things in it to protect the school district," said Mr. Mann.

The policies generally outline the ground rules for student use of the Internet at school and what types of sites should not be accessed. Also, they state that any student that violates the policy is subject to disciplinary action, including suspension. A policy also should restrict Internet use to educational purposes only, and not for personal use.

The policy is the key to limiting any potential liability, he said. "It's only when they don't have a policy, don't enforce it or are lax on enforcement they will have a problem with liability," he said.

For example, the Concord, N.H., student guide for Internet access states: "The Network is provided for students to conduct research and communicate with others. Independent access to network services is provided to students who agree to act in a considerate and responsible manner. Access is a privilege, not a right. Access entails responsibility."

"Individual users of the district computer networks are responsible for their behavior and communications over those networks. It is presumed that users will comply with district standards and will follow the rules outlined in the Student Handbook."

The guidelines then list some prohibited activities, including: sending or displaying offensive messages or pictures, using obscene language, harassing others, violating copyright laws, or trespassing in others' files.

The school system developed these policies while linking up its schools to the Internet.

Since February 1996, every classroom in the district has had Internet access, for a total of more than 500 access points from 11 schools. Also, the schools are hooked up through a high-speed link, providing faster access than available through a conventional modem, said Mark Denoncour, the school district's technology coordinator.

A key aspect of the district's implementation of its Internet policy was involving the parents. Most parents were unfamiliar with the Internet and the risks involved in providing access to it, Mr. Denoncour said. "All parties must be involved in the process and know of the risks and problems," he said. Parents and students, along with school officials, were involved in drafting the policy.

"Communicating the risks to the parents and the parents communicating it to the kids is how you solve a lot of issues," he said. With the parents knowledgeable of the risks on the Internet, they will be less likely to bring a suit, he added.

But just having an Internet usage policy is not sufficient to minimize the risks.

Pete Ligeros, an attorney in Newport Beach, Calif., who has written on liability on the Internet, said a policy "is a good start" but risk management does not end there.

Mr. Ligeros said that any policy must also be enforced by teachers and school administrators—and the stricter the enforcement the better.

Software that blocks access to certain Web sites, can help. These electronic filters, including such products as Cyber Patrol, Net Nanny or SurfWatch, can help limit what the students see, but they are not foolproof.

"It's helpful, but only so helpful," said Ms. Hughes.

Concord uses electronic filters, "but nothing substitutes an active supervising teacher," Mr. Denoncour said.

"Kids require supervision," he said. Allowing students to use the Internet without supervision is like allowing students unsupervised access to the playground, he said.

If a school were sued for negligent supervision, it's not clear whether a standard CGL policy would apply. Mr. Ligeros, the Newport Beach attorney, said that in the past 10 years, insurers have with greater frequency denied or disputed all types of coverage. Combine that with the uncertainty of new Internet exposures, and he says schools should have insurance coverage that specifically cover their Internet liability risks.

"It's become very complex, because you have to live with technical coverage of policies," he said. "Schools can't just buy a bunch of policies and throw them against the board and say we're covered." BI

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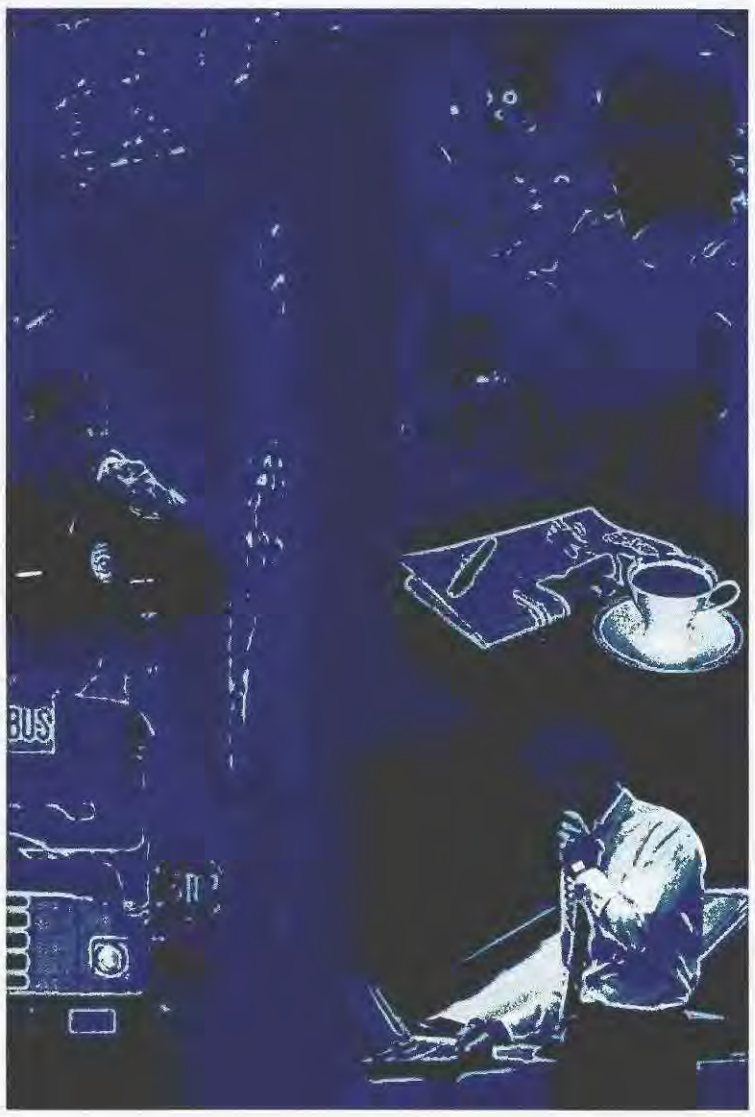
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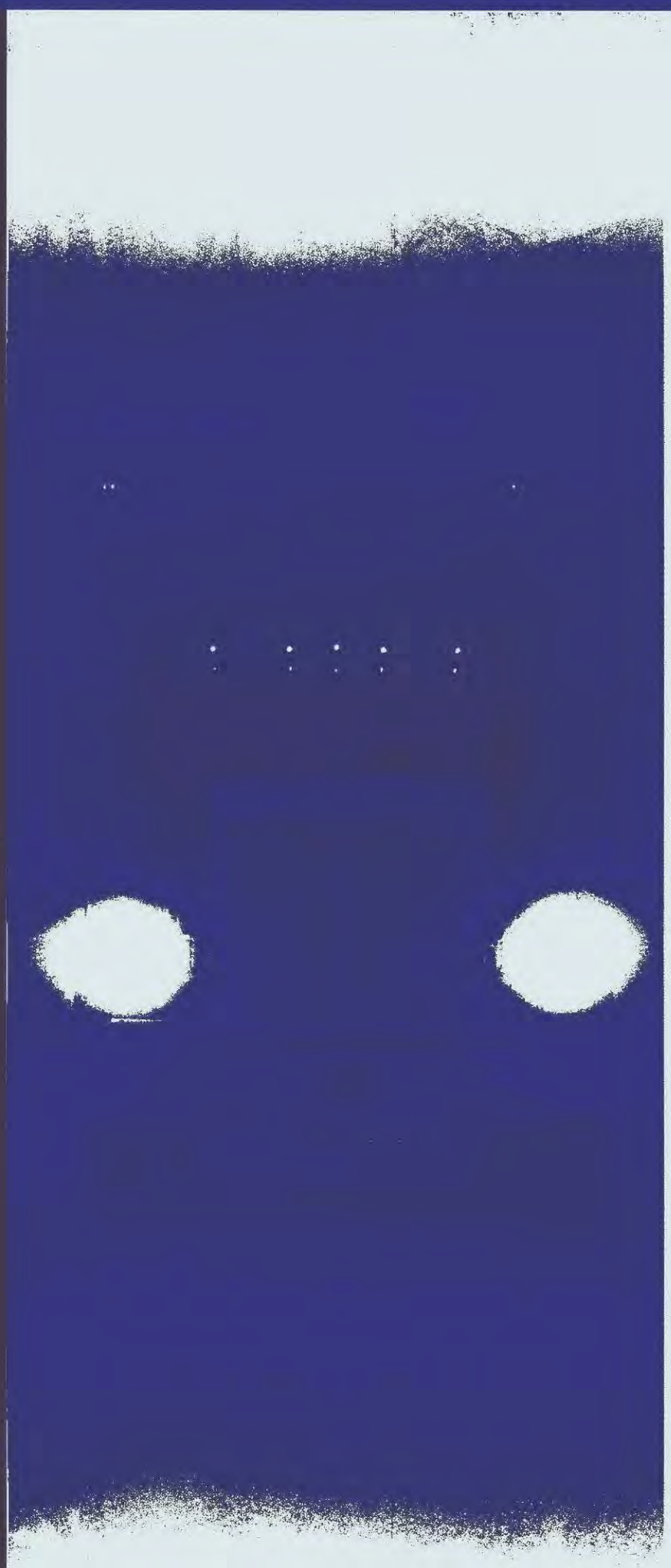
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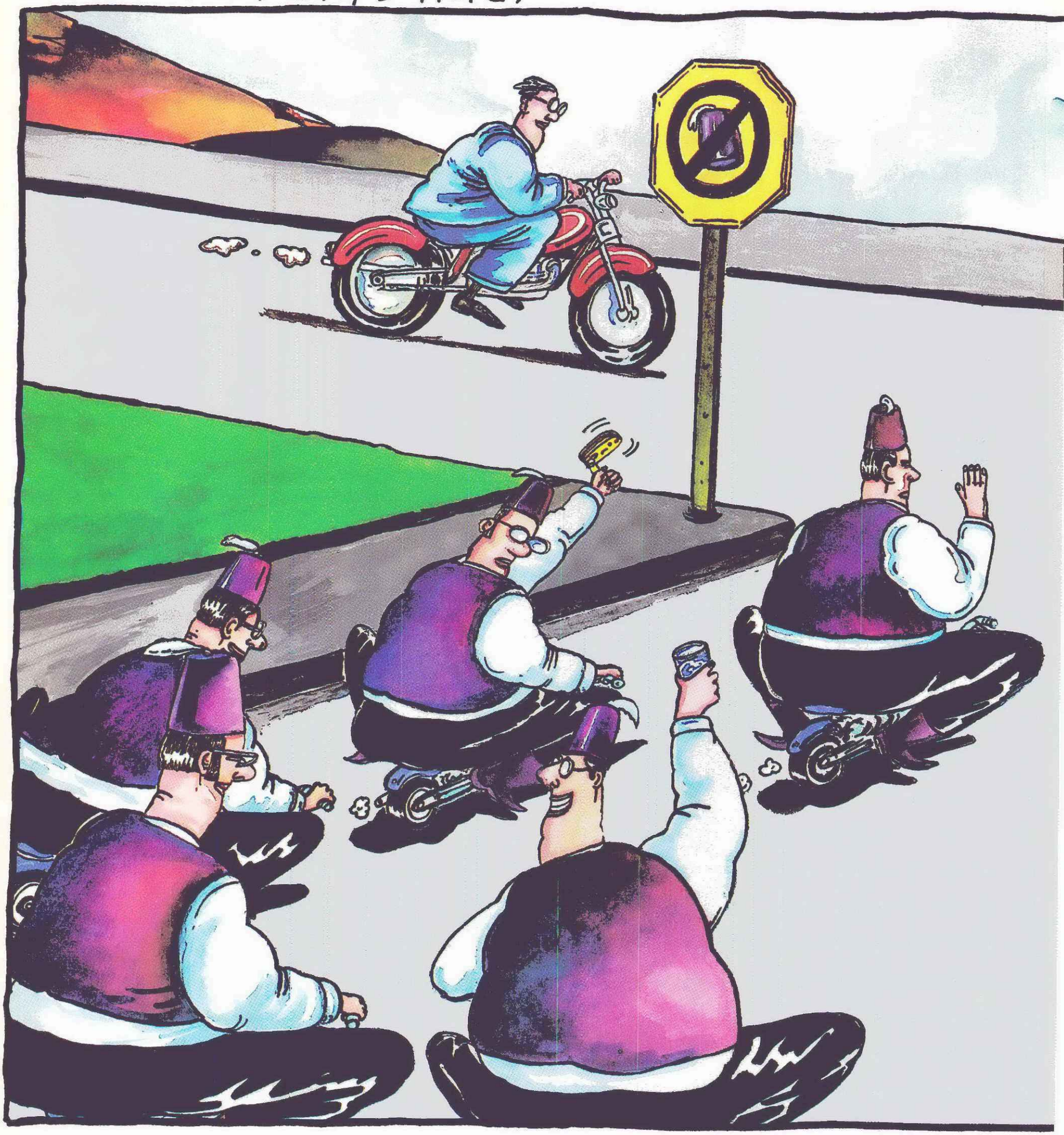
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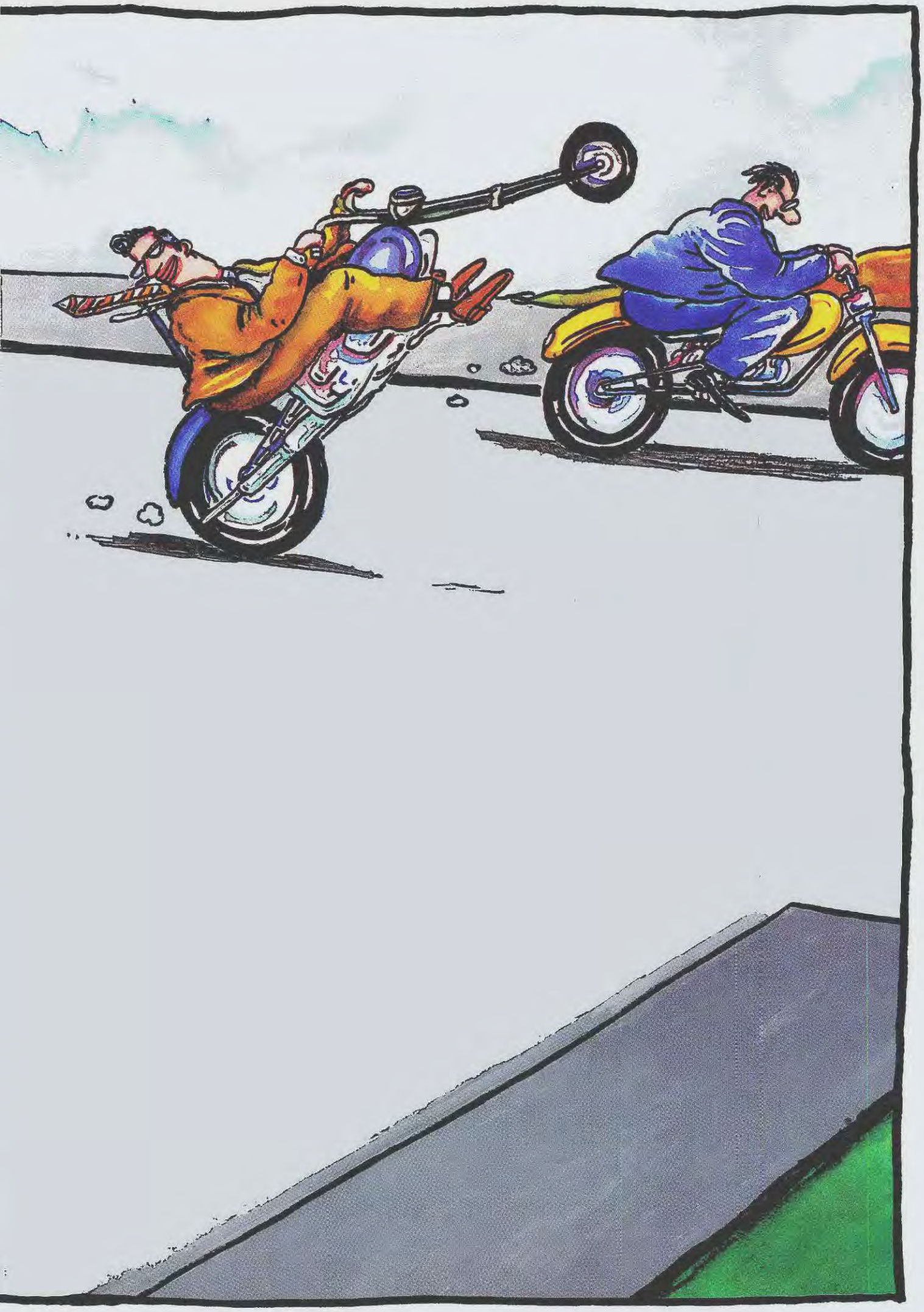
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Public risks often varied, complicated

By DEBORAH SHALOWITZ COWANS

Although some people may view public sector risk managers as less sophisticated than their corporate counterparts, government risk managers often handle risks more complex and more diverse than their private sector colleagues tackle, say public entity insurers, brokers and risk managers.

Furthermore, public entities must provide essential services that have huge liability exposures, such as police and fire protection.

And, public entities often must operate within tighter budgets and other constraints from which private corporations are free.

In the end, experts say public and private sector risk management share more similarities than differences.

Cities with populations of 100,000 or more commonly have full-time risk managers, said Dennis Kirshbaum, executive director of the Public Risk Management Agency in Arlington, Va. If a city does not have a risk manager, often an assistant city manager, the finance department or the personnel department handles risk management.

Several experts noted that one of the most significant differences between risk management in the public and private arenas is that public entities must offer certain services even though they are very risky, while the private sector can decide not to offer a service or product if it is unsafe.

"Risk avoidance is often not an option for risk managers in the public sector," Mr. Kirshbaum said. "That means that public sector risk managers often have to be a bit more creative in coming up with solutions" to risk management challenges.

"A private entity can simply choose not to do something because it's not safe or profitable, whereas the public sector doesn't have that luxury," agreed Carol Zoellner, director of risk management for Florida's Palm Beach County.

The public sector "starts off with the icky jobs that no one wants to do," quipped Mark Ferraro, vp of J&H Marsh & McLennan Inc. in Dallas.

Public entity risk management experts said the risks associated with running a government are much more diverse than those of a private corporation.

"The people I know in the public sector usually have more diversity that they have to deal with" than risk managers in the private sector, stated Sheila Stuckey, risk manager for the New Airport Project in Austin, Texas. Ms. Stuckey previously worked in a safety capacity for Procter & Gamble Co. in Cincinnati.

For example, Austin has 23 departments the risk manager must work with, including police, fire and utilities. "The diversity of what we do forces us to look at more varieties of risks, and the risks that we do have are less controllable," she said.

While government risk managers may have a greater diversity of risks to manage, they often have fewer financial resources to employ.

"By the very nature of public sector budgets, they are more limited in terms of the resources they have available," said Richard Thomas, president of the American International Group Inc.'s public entity division in New York. "The public sector really has to make do with a lot less."

For example, a private company may buy $6,000 articulated arm workstations for employees who use computers all day to prevent carpal tunnel syndrome, whereas a public sector employer would not be able to afford them, Mr. Thomas said.

"There are probably more dollars thrown around" in private sector risk management, agreed David Randall, senior vp in the national public entity division of Sedgwick Inc. in Columbia, S.C.

Another difficulty government risk managers must accept is working in a fish bowl.

Public sector risk managers "have to be very concerned about third-party perceptions," pointed out Steven Kahn, principal of Lake Forest, Calif.-based Advanced Risk Management Techniques Inc., a risk management and actuarial consulting firm.

Requests for proposals must be scrutinized carefully, as must the awarding of contracts. As a result, these activities can take longer and be less efficient in public entities, he said.

Mr. Thomas pointed out that governments often have more investment constraints than private companies.

"Any of the more adventuresome investment strategies are out," particularly after the investment debacles involving Orange County, Calif., and Bridgeport, Conn., he said. Orange County fell into bankruptcy in 1994 after taking large losses on derivative financial instruments, and the city of Bridgeport declared bankruptcy in 1991 following a huge budget gap.

Public entities must "be able to take their financial strategy and explain it on the front page of the paper," Mr. Thomas said.

There are some advantages to public sector risk management over private sector risk management, though.

Government risk managers often have more influence over the operations of other departments in their entities than private sector risk managers have over the operations of other departments in their companies, suggested J&H M&M's Mr. Ferraro.

For example, if a public entity's yard waste collection is causing damage to cars parked along the collection route, the public entity risk manager likely would have an easier time altering the collection route than a corporate risk manager would if the endeavor were a money-making enterprise, Mr. Ferraro said. Operating departments in the private sector—"the ones that make the money—tend to get their way."

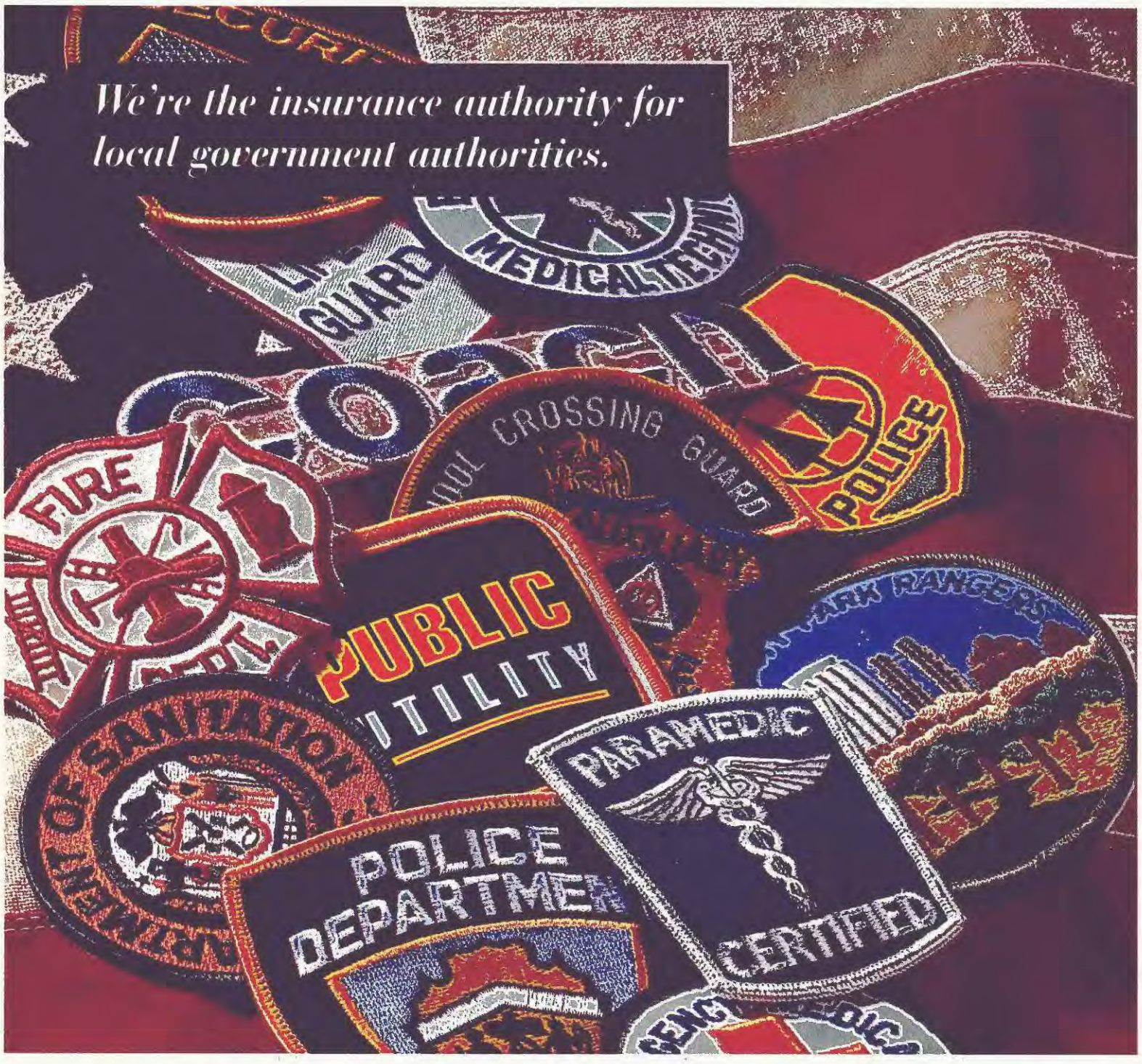
The public sector "has much more opportunity to have a holistic approach" to risk management, Mr. Ferraro concluded.

The public sector also has access to some more advantageous insurance products than the private sector, ARMTech's Mr. Kahn said.

For example, public entities can buy a single occurrence form liability insurance policy covering public officials errors and omissions liability, police professional liability, general liability and automobile liability, he said. "It's a real advantage" to governments dealing with only one insurer for these coverages, he said.

Private sector concerns generally cannot buy this same broad-scope

See **Public** *on page 20*



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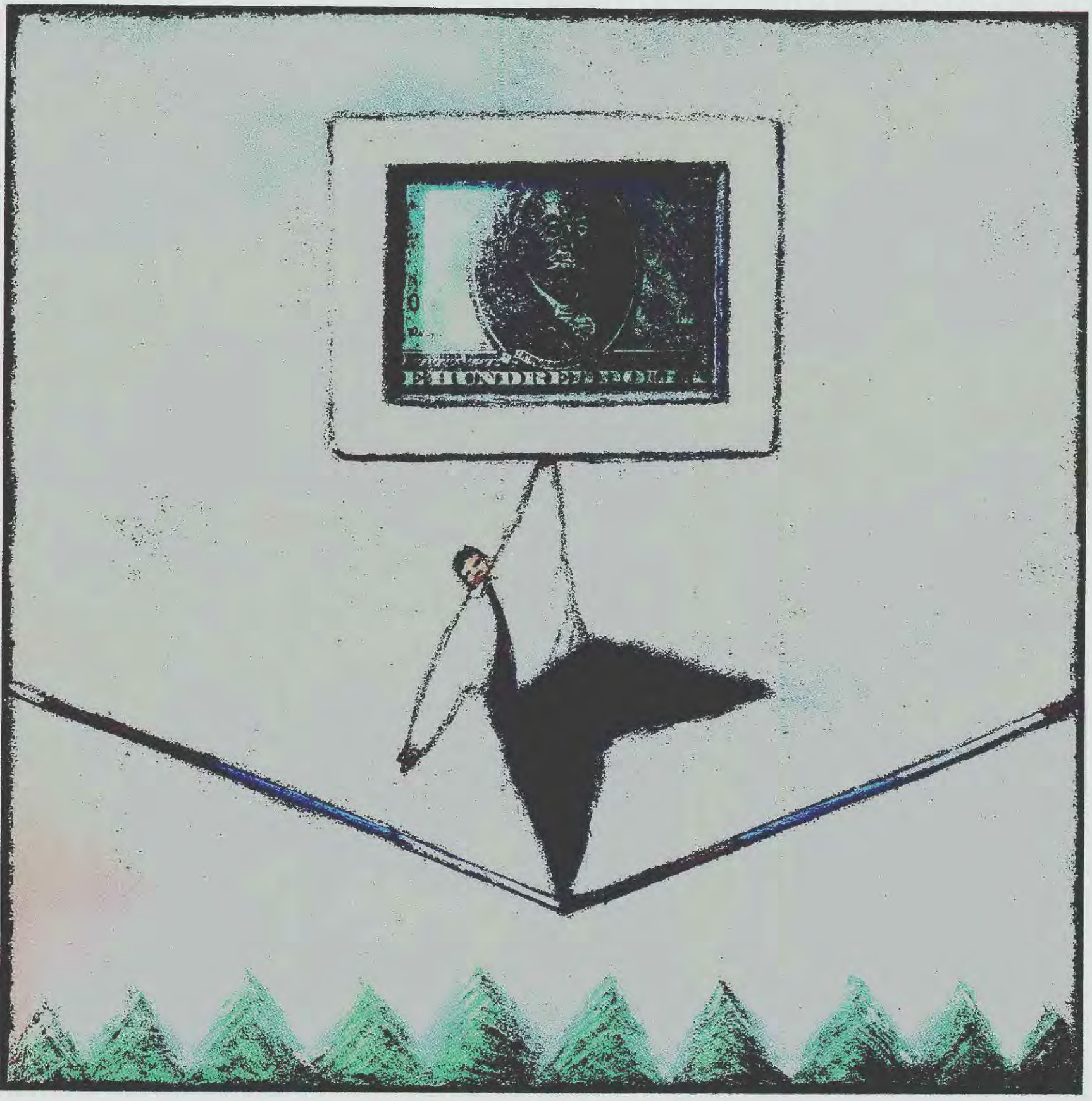
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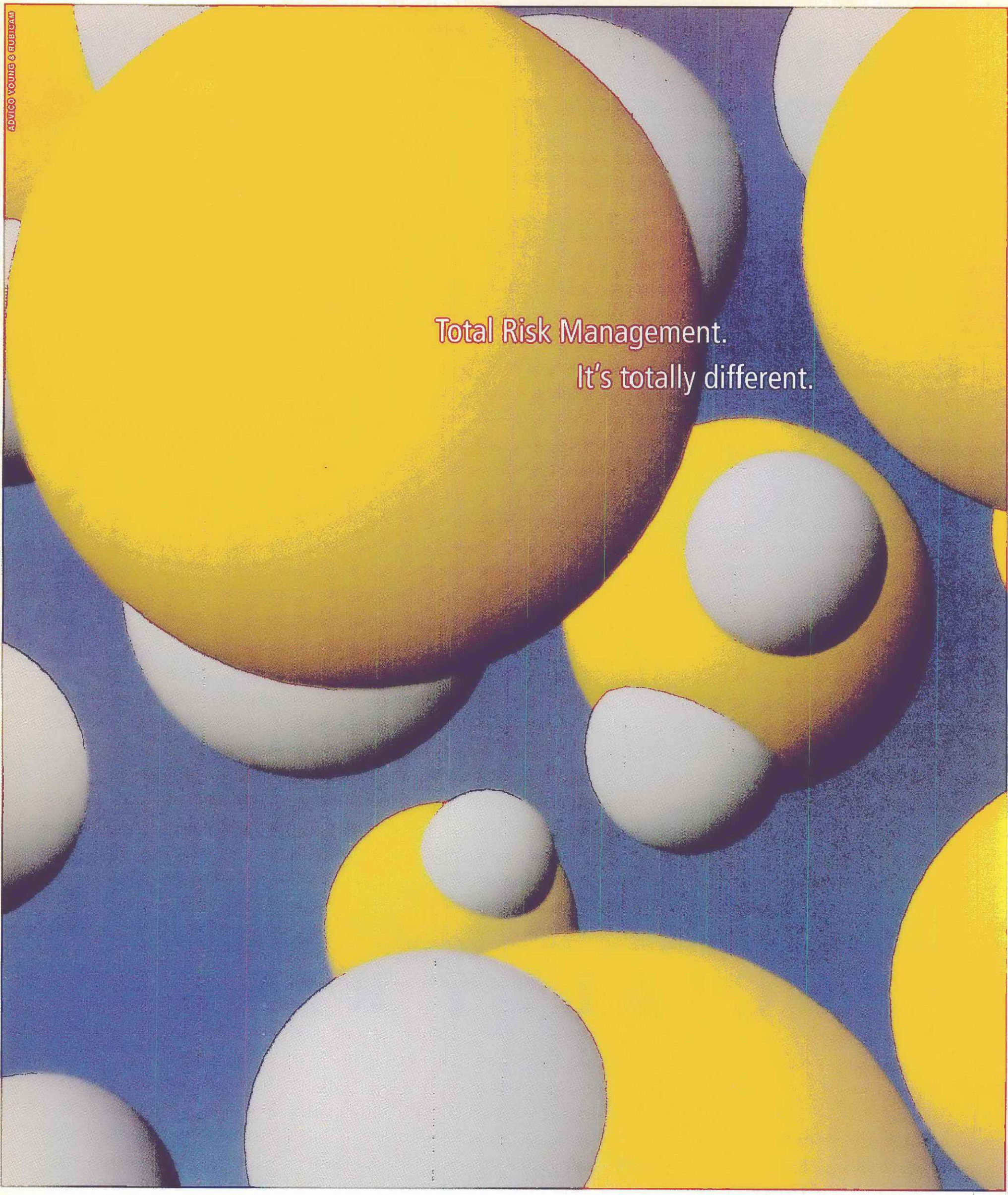
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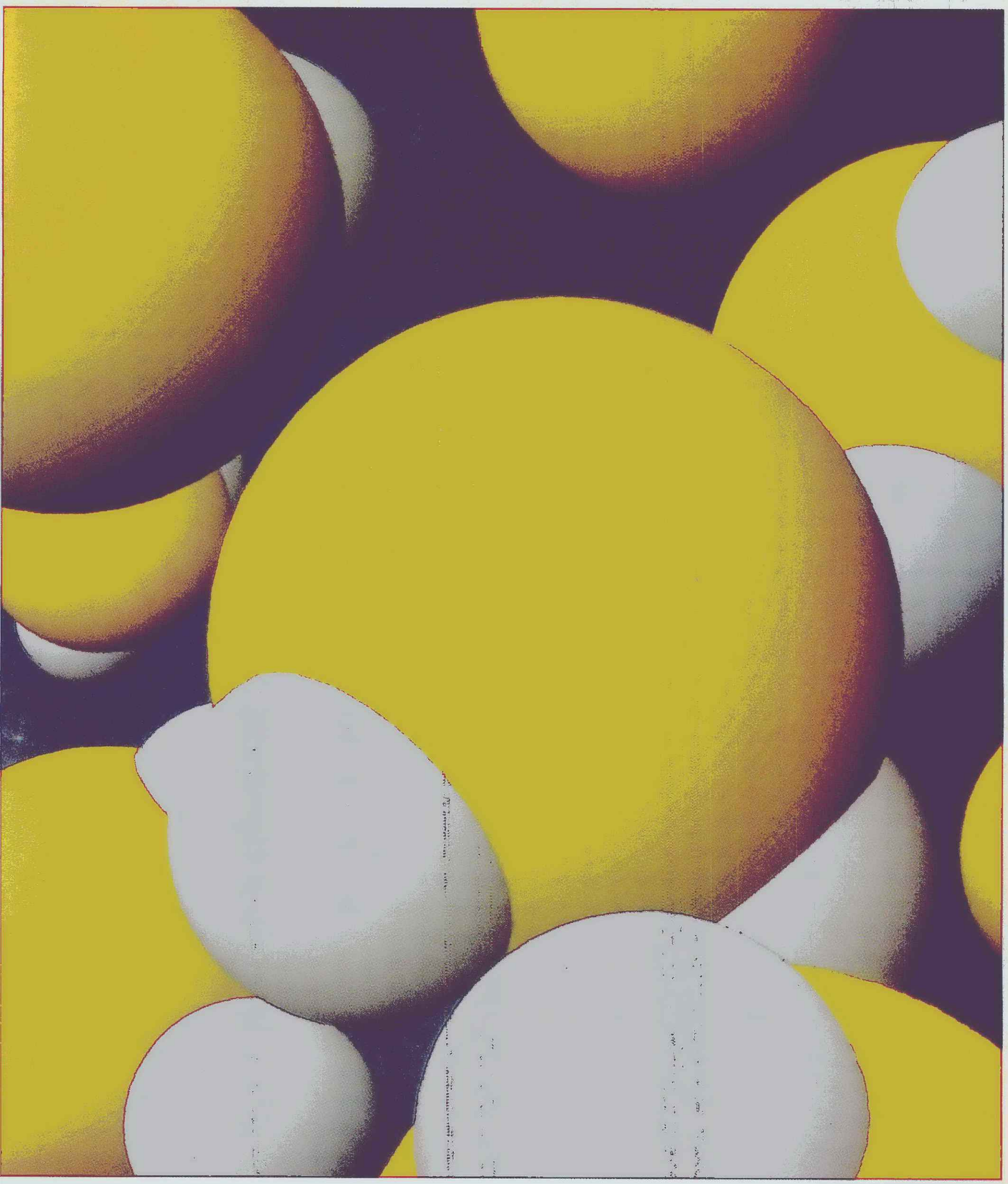
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Employment risks growing: PRIMA chief

By DEBORAH SHALOWITZ COWANS

Increasing employment liability and federal regulation are two of the most pressing issues facing public entity risk managers, according to the new president of the Public Risk Management Assn.

Public entity risk managers also can expect a myriad of new challenges and opportunities associated with increasing technology in the workplace, said Carol Zoellner, director of risk management for Florida's Palm Beach County and PRIMA's incoming president.

PRIMA hopes to help members face these issues with some new educational tools, such as CD-ROMs, the Internet and video conferencing, according to Ms. Zoellner.

"Employment practices liability certainly is a big item at this point for public entity risk managers," Ms. Zoellner stated. "We're seeing more employment-related lawsuits," many of which allege various kinds of discrimination. And, new employment-related risks constantly are surfacing, such as an entity's liability associated with employment references, Ms. Zoellner added.

For example, the California Supreme Court ruled earlier this year that a school district could be held liable for providing "misleading" information in a positive recommendation for a former educator who had faced allegations of sexual misconduct. The educator molested a student at his new school (*BI*, Feb. 3).

Public entity risk managers also "have concerns about increasing regulation about occupational health," Ms. Zoellner said. "There are a lot of issues that risk managers—particularly those in public buildings—have to keep up with," such as workplace air quality and lead exposure. And the federal Occupational Safety and Health Administration continues to consider and issue new regulations affecting public entities, she added.

Also on the horizon for public entity risk managers are "both challenges and opportunities" associated with technology, Ms. Zoellner said.

"More than anything else, technology is an opportunity to extract information and get information from others much more quickly," she stated.

However, "There will be some new exposures with regard to privacy issues," particularly as people use the Internet more and more.

She also mentioned that "there is some concern about what the pressure of the soft insurance market is going to do to pools."

The very existence of some public entity pools is threatened because of low pricing by the insurance industry, Ms. Zoellner said. Although soft commercial insurance prices are attractive, pools can provide loss control services, stability, broader coverage and "control over one's destiny" that insurance companies do not, she said (see story, page 7).

Ms. Zoellner has ample experience on these and other public entity risk management challenges. She has been the director of risk management for Palm Beach County for four years. Palm Beach County has about 1 million residents and includes the cities of West Palm Beach, Palm Beach and Boca Raton. The county's total budget, excluding the school board, is $1.1 billion.



Ms. Zoellner

Ms. Zoellner oversees a staff of 28 people, including a doctor and nurses who work in an occupational health clinic and the counselors for an internal employee assistance program.

Her staff also provides safety and loss control training and administers all property and casualty insurance programs, a self-insured workers compensation program for 8,000 workers and all employee benefits.

"I like coming to work every day," Ms. Zoellner commented. "Every day's a challenge, and that's very good."

While Palm Beach county has not faced any unusual risks recently, the county has been undertaking "a renewed effort to do employee evacuation training," she noted. The evacuation training, which the county started before the Oklahoma City bombing, "is a very time-consuming, very big job."

However, shortly after she began her current job, there was a fire drill that no one took seriously. Ms. Zoellner said she thought employees needed training and education to change their attitude and prepare them in case of an emergency.

The effort has paid off. During a recent bomb threat, the building was evacuated quickly and smoothly. "You could see evidence of the training and the practice."

Ms. Zoellner served for almost eight years as risk manager for the city of Sunrise, Fla., before joining Palm Beach County.

Prior to her work in risk management, she held management jobs in the insurance industry for many years, first at Blue Cross & Blue Shield of Iowa and then at broker Kirke-Van Orsdel Inc. in Des Moines, Iowa. She also taught elementary school. BI

Public

Continued from page 16

coverage, he said.

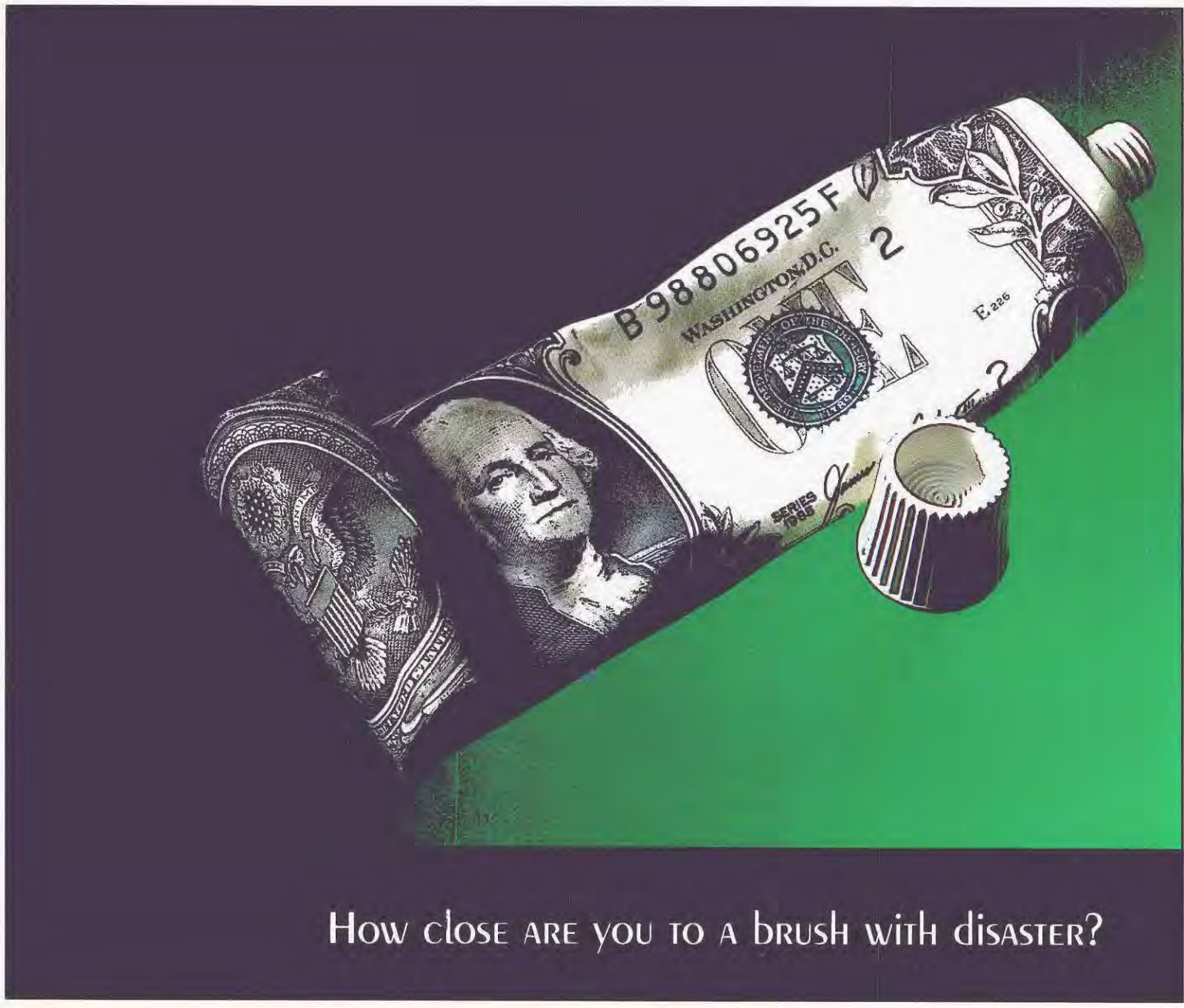
Also, the geographic spread of many large companies can make risk management more difficult; a public entity's much smaller radius of operations also can be advantageous, Mr. Kahn pointed out.

Still another advantage is that some public entities have limited immunity from liability under law.

Despite all these differences, several experts said public sector and private sector risk management are more alike than they are different.

"The basic job responsibilities are pretty consistent," stated Sedgwick's Mr. Randall. He estimated that 80% of a risk manager's tasks are the same, regardless of the kind of organization.

Austin's Ms. Stuckey said the techniques risk managers use to identify, analyze, control and shift risks "would be the same whether you would be in the public sector or the private sector." BI



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1996 premium volume: $33.1 million.
1996 assets: $136.1 million.
1996 capital/surplus: $15.3 million.
Policyholders: 91 in 1996; 100 estimated in 1997.
Membership: Health care providers.
Contact: Jim Jordan.

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Risks: Workers compensation.
Limits: $1 million primary.
Minimum retention: $250,000.
Policy form: Occurrence.
Access: Specific broker.
First policy: 1995.
1996 premium volume: $1 million.
1996 assets: $1.1 million.
1996 capital/surplus: $389,146.
Policyholders: 10 in 1996; 15 estimated in 1997.
Membership: Chemical distributors and manufacturers.
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Affiliated Chemical Insurance Ltd.

CFM Insurance Managers Ltd., Third Floor, 44 Church St., Hamilton, Bermuda; 441-296-1051

Domicile: Bermuda.
Risks: Commercial general liability.
Limits: $1 million primary.
Minimum retention: $250,000.
Policy form: Claims-made.
Access: Specific broker.
First policy: 1977.
1996 premium volume: $5 million.
1996 assets: $16 million.
1996 capital/surplus: $4.6 million.
Policyholders: 28 in 1996; 30 estimated in 1997.
Membership: Chemical distributors and manufacturers.
Contact: Simon Scupham.

Alexander Insurance Managers Non Marine Facility

Alexander Insurance Managers, 346 Shelburne Road, Burlington, Vt. 05401; 802-860-0444

Domicile: Various.
Risks: Property, business interruption.
Limits: $25 million primary.
Policy form: Occurrence.
Access: Specific broker.
First policy: 1974.
1996 premium volume: $22.7 million.
Policyholders: 16 in 1996; 18 estimated in 1997.
Contact: James Murray.

American Assn. of Orthodontists Insurance Co. Risk Retention Group Inc.

Vermont Insurance Management Inc., P.O. Box 306, Montpelier, Vt. 05601; 802-229-5042

Domicile: Vermont.
Risks: Professional and general liability.
Limits: Up to $500,000 per occurrence.
Minimum retention: $150,000.
Policy form: Claims-made, occurrence.
Access: Direct.
First policy: June 1995.
1996 premium volume: $2.9 million.
1996 assets: $5.9 million.
1996 capital/surplus: $1.3 million.
Policyholders: 2,175 in 1996; 2,500 estimated in 1997.
Membership: American Assn. of Orthodontists.
Contact: Andrew Sargeant.

American Safety Risk Retention Group Inc.

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Access: All brokers.
First policy: April 1988.
1996 premium volume: $10.2 million.
1996 assets: $22 million.
1996 capital/surplus: $5.1 million.
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Explanation of terms used in this directory

Listings in the annual *Business Insurance* directory of alternative risk financing facilities begin with the name of the facility and manager and the address of the manager.

Listed next is the domicile of the facility; the risks the facility underwrites; the limits it provides; the minimum retention; the policy form used; how potential policyholders can gain access to the facility; the date the first policy was written; 1996 premium volume and if reported, 1996 deposit premiums (premiums paid in advance for long-term policies); assets as well as capital and surplus at year-end 1996; the number of policyholders in 1996 and an estimate for 1997; and a description of the facility's membership, including any association requirements. Completing the listing is the name of the person to contact for additional information.

The information on each facility was provided by the facility or its manager in response to a *BI* questionnaire. Although every effort has been made to report complete and accurate information, *BI* is unable to verify all the information provided.

To be included in next year's directory, contact Richard Trout, Assistant Directory Editor, *Business Insurance*, 740 N. Rush St., Chicago, Ill. 60611-2590; 312-649-5483; fax: 312-649-7801.

Continued from page 22

Policyholders: 30 in 1996; 29 estimated in 1997.
Membership: Termite, pest control and sanitation consulting firms.
Contact: David Ezekiel.

Casting Manufacturers Insurance Ltd.

J&H Marsh & McLennan (Bermuda) Ltd., P.O. Box HM 1826, Hamilton HM HX, Bermuda; 800-631-1124

Domicile: Bermuda.
Risks: Commercial general liability.
Limits: Up to $5 million primary.
Minimum retention: $750,000.
Policy form: Claims-made.
Access: Direct.
First policy: 1982.
1996 premium volume*: $1.6 million.
1996 assets*: $10 million.
1996 capital/surplus*: $9.5 million.
Policyholders: 38 in 1996; 36 estimated in 1997.
Membership: Tool and die manufacturers.
Contact: Susan Gray.
** Estimate.*

Chesapeake Casualty Insurance Co.

RiskCap, 1571 Race St., Denver, Colo. 80206; 303-388-5688

Domicile: Colorado.
Risks: Professional liability for medical malpractice.
Policy form: Claims-made.
Access: Pure captive.
First policy: 1976.
1996 premium volume: $3.7 million.
1996 assets: $7 million.
1996 capital/surplus: $1 million.
Policyholders: One in 1996; one estimated in 1997.
Membership: Practitioners of medicine, surgery, medical research and medical teaching services.
Contact: Sherlyn Farrell.

College Liability Insurance Co. Ltd., A Risk Retention Group

Sedgwick Management Services (U.S.) Ltd., 111 S.W. Columbia, Portland, Ore. 97201; 503-248-6400

Domicile: Hawaii.
Risks: Employers legal liability, general liability, auto liability.
Limits: $100,000 primary.
Policy form: Claims-made, occurrence.
Access: Direct.
First policy: July 1988.
1996 premium volume: $1.1 million.
1996 assets: $4.2 million.
1996 capital/surplus: $2.3 million.
Policyholders: Seven in 1996; seven estimated in 1997.
Membership: West Coast College Consortium.
Contact: Mike Richmond.

Columbia National Risk Retention Group Inc.

J&H Marsh & McLennan Inc., 7 Burlington Square, Sixth Floor, Burlington, Vt. 05401; 802-864-5599

Domicile: Vermont.
Risks: Home warranty.
Limits: $1 million primary.
Minimum retention: $300,000.
Policy form: Occurrence.
Access: Direct.
Policyholders: Six estimated in 1997.
Membership: Home builders.
Contact: Diane M. Hanson.

Consolidated Catholic Casualty Risk Retention Group

Skandia International Risk Management (Vermont), 110 21st Ave. S., Suite 801, Nashville, Tenn. 37203; 615-327-2274

Domicile: Vermont.
Risks: Excess liability, D&O liability, fiduciary.
Limits: Excess: $50 million excess of self-insured retention. D&O: $20 million primary.
Policy form: Claims-made, occurrence.
Access: Direct.
First policy: July 1987.
1996 premium volume: $9 million.
1996 assets: $75.9 million.
1996 capital/surplus: $35.7 million.
Policyholders: 13 in 1996; 10 estimated in 1997.
Membership: Catholic, multi-institutional health care systems.
Contact: Robert L. Sinclair.



Constance Insurance Co.

RiskCap, 1571 Race St., Denver, Colo. 80206; 303-388-5688

Domicile: Colorado.
Risks: General liability, blanket crime bond, blanket property, business interruption.
Policy form: Occurrence.
Access: Pure captive.
First policy: April 1978.
1996 premium volume: $2.4 million; $1 million in deposit premiums.
1996 assets: $19.8 million.
1996 capital/surplus: $11.8 million.
Policyholders: One in 1996; one estimated in 1997.
Membership: Manufacturers of valves and fittings.
Contact: H. Edward Rohrer.

Consumer Specialties Insurance Co. (Risk Retention Group)

Vermont Insurance Management Inc., P.O. Box 306, Montpelier, Vt. 05601; 802-229-5042

Domicile: Vermont.
Risks: Commercial general liability.
Limits: $5 million per occurrence/$5 million aggregate excess of $5,000 self-insured retention.
Policy form: Claims-made.
Access: All brokers.
First policy: 1987.
1996 premium volume: $1.8 million.
1996 assets: $6.5 million.
1996 capital/surplus: $3.5 million.
Policyholders: 74 in 1996; 80 estimated in 1997.
Membership: Chemical Specialties Manufacturers Assn.
Contact: Andrew Sargeant.

Controlled Risk Insurance Co. of Vermont (A Risk Retention Group)

J&H Marsh & McLennan Inc., Risk Management Foundation of Harvard Medical Institutions, 840 Memorial Drive, Cambridge, Mass. 02139; 617-495-5100

Domicile: Vermont.
Risks: Professional and general liability.
Limits: $5 million per occurrence/$10 million aggregate; $48 million excess of $5 million.
Policy form: Claims-made.
Access: Specific broker.
First policy: April 1995.
1996 premium volume: $36.7 million.
1996 assets: $26.9 million.
1996 capital/surplus: $10.1 million.
Policyholders: 13 in 1996; 13 estimated in 1997.
Membership: Harvard University affiliate.
Contact: Jack McCarthy.

E

Eastern Dentists Insurance Co. (A Dental Society Risk Retention Group)

Willis Corroon Management (Vermont) Ltd., 76 St. Paul St., Burlington, Vt. 05401; 802-658-9466

Domicile: Vermont.
Risks: Professional and general liability.
Limits: $2 million per occurrence/$6 million aggregate.
Policy form: Claims-made, occurrence.
Access: Direct, brokers by invitation.
First policy: September 1992.
1996 premium volume: $4.3 million; $21,501 in deposit premiums.
1996 assets: $14.9 million.
1996 capital/surplus: $3.2 million.
Policyholders: 2,320 in 1996; 2,400 estimated in 1997.
Membership: State dental societies.
Contact: James Girardin.

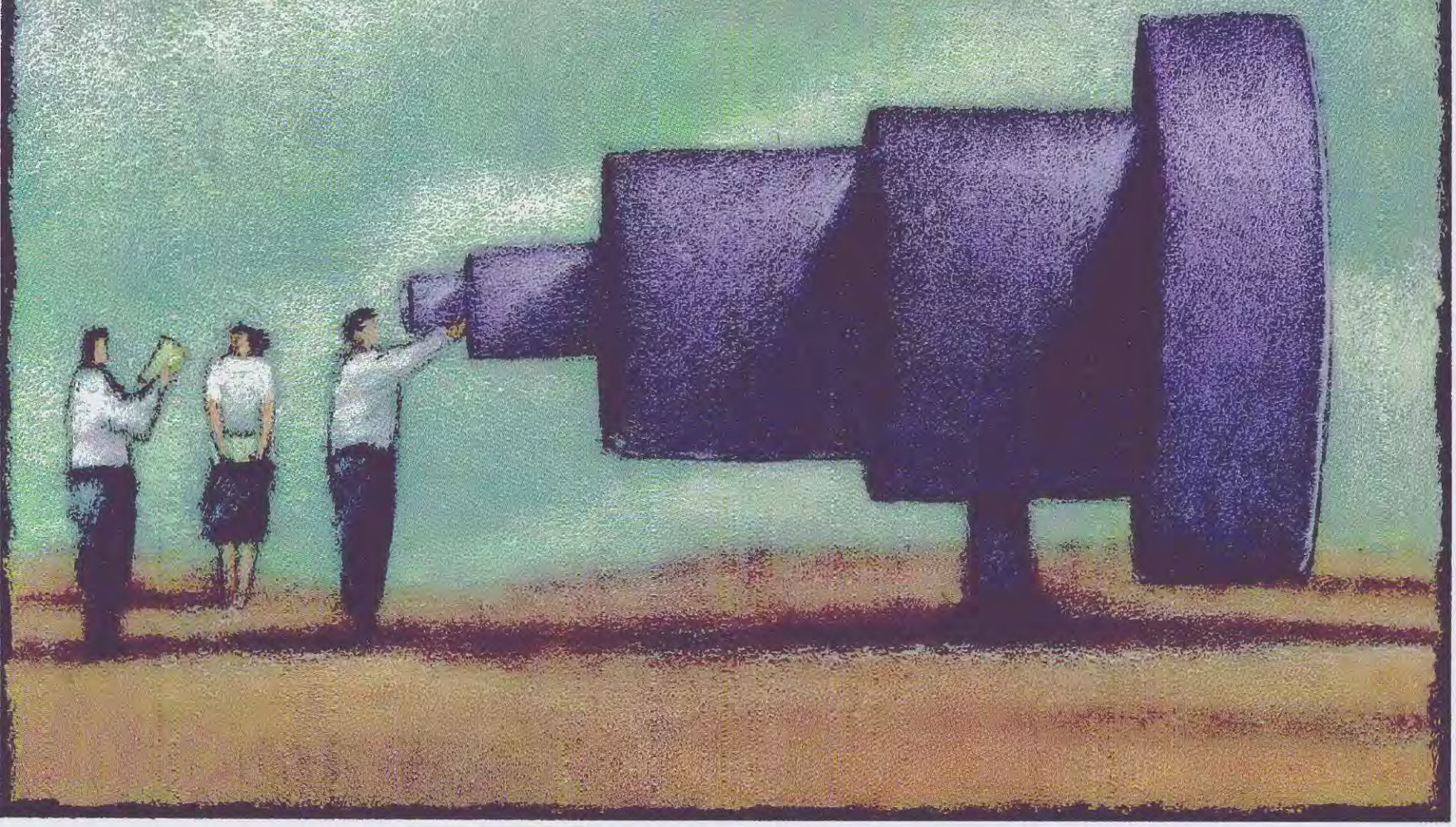
ELSIP (Excess-of-Loss Self-Insurance Pool)

RiskCap, 1571 Race St., Denver, Colo. 80206; 303-388-5688

Domicile: Colorado.
Risks: General liability.
Limits: $1 million per occurrence/$2 million aggregate.
Minimum retention: $150,000.

Continued on page 26

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Jun 2	PRIMA Report	ABT Automation	May 20
Jun 9	Specialty Risks: Environmental & Professional [RS] *Directory: Environmental Risk Management Consultants* *Distribution: NAIC*		May 28
Jun 16		IT Reinsurance Recoveries	Jun 4
Jun 23	Benefits: Balancing Work & Family [RS,SS] *Directory: EAPs & Dependent Care Resources & Referral Services* *Distribution: AAHP; SHRM*		Jun 11
Jun 30			Jun 18
Jul 7	Midyear Market Report: Property/Casualty & Health Care [RS] *Information Resource: Property/Casualty & Health Care*	ABT Advertising & Promotion	Jun 24
Jul 14	*Distribution: IIS*	GLOBAL FOCUS	Jul 2
Jul 21	Agent/Broker Profiles [RS] *Directory: Agents & Brokers*	IT Advertising & Promotion	Jul 9
Jul 28			Jul 16
Aug 4	Benefits: Managed Care Market Report [RS,SS] *Directory: Prescription Benefit Managers* *Information Resource: Benefit Products & Services*	ABT Government Relations	Jul 23
Aug 11	*Distribution: ARTA*		Jul 30
Aug 18	Property Loss Control [RS] *Directory: Property Loss Control Consultants*	IT Government Relations	Aug 6
Aug 25	Ward's 50 Benchmark Results		Aug 13

RS: Reader Service, SS: Starch Study

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Circulation: 965 E. Jefferson Ave., Detroit, MI 48207 ▪ Tel: 800-678-9595 ▪ Fax: 313-446-6777

Continued from page 24

Policy form: Occurrence.
Access: Restricted.
First policy: July 1990.
1996 premium volume: $177,000.
1996 assets: $379,929.
1996 capital/surplus: $314,432.
Policyholders: Three in 1996; three estimated in 1997.
Membership: Colorado school districts.
Contact: Michael Murphy.

Energy Insurance Mutual Ltd.

6200 Courtney Campbell Causeway, Suite 550, Tampa, Fla. 33607; 813-287-2117

Domicile: Barbados.
Self-managed.
Risks: Excess general liability, general partner liability, D&O liability.
Limits: General liability: $100 million excess of $25 million. General partner, D&O liability: $50 million excess of $25 million.
Policy form: Claims-made.
Access: All brokers, direct.
First policy: July 1986.
1996 premium volume: $52.3 million.
1996 assets: $599.6 million.
1996 capital/surplus: $290.6 million.
Policyholders: 153 in 1996.
Membership: Electric and gas utilities.
Contact: David L. Hadler.

Exporters Insurance Co. Ltd.

BF&M Management Ltd., P.O. Box HM 1007, Hamilton HM DX, Bermuda; 441-296-1745

Domicile: Bermuda.
Risks: Export credit and political risk.
Limits: $50 million primary.
Policy form: Occurrence.
Access: All brokers.
First policy: March 1990.
1996 premium volume: $6.7 million.
1996 assets: $39.3 million.
1996 capital/surplus: $27.8 million.
Policyholders: 57 in 1996; 65 estimated in 1997.
Membership: Major exporters and financial institutions.
Contact: Robert Svensk or Mark Reynolds.

F

Financial Institutions Reserve Risk Retention Group Inc.

J&H Marsh & McLennan Inc., 191 Peachtree St. N.E., Atlanta, Ga. 30303; 404-586-8224

Domicile: Vermont.
Risks: D&O liability.
Limits: $20 million primary and/or $20 million excess of any amount.
Minimum retention: $1 million per claim.
Policy form: Claims-made.
Access: Direct.
First policy: July 1988.
1996 premium volume: $283,000.
1996 assets: $118.7 million.
1996 capital/surplus: $63.7 million.
Policyholders: 14 in 1996; 14 estimated in 1997.
Membership: Bank holding companies.
Contact: Glen Bailey.

Forest Insurance Ltd.

International Risk Management (Bermuda) Ltd., Belvedere Building, P.O. Box HM 600, Hamilton HM CX, Bermuda; 441-295-0713

Domicile: Bermuda.
Risks: Umbrella liability.
Limits: Maximum capacity: $10 million per occurrence/$10 million aggregate.
Policy form: Claims-made, occurrence.
Access: Must be captive insurance company-related business.
First policy: January 1980.
1996 premium volume: $1.1 million.
1996 assets: $7.8 million.
1996 capital/surplus: $4.2 million.
Policyholders: Five in 1996; five estimated in 1997.
Membership: Forest products industry.
Contact: John R. English.

G

General Eastern Ski Insurance Risk Retention Group

Vermont Insurance Management Inc., P.O. Box 306, Montpelier, Vt. 05601; 802-229-5042

Domicile: Vermont.
Risks: General liability.
Minimum retention: $250,000.
Policy form: Occurrence.
Access: All brokers.
First policy: April 1988.
1996 premium volume: $887,904.
1996 assets: $5.6 million.
1996 capital/surplus: $2.9 million.
Policyholders: Four in 1996; four estimated in 1997.
Membership: Ski area operations.
Contact: Andrew Sargeant.

Guardrisk Insurance Co. Ltd.

P.O. Box 62018, Marshalltown 2107, South Africa; 27-11-484-4906

Domicile: South Africa.
Self-managed.
Risks: Non-life.
Limits: Various.
Minimum retention: $750,000.
Policy form: Claims-made, occurrence.
Access: All brokers.
First policy: August 1993.
1996 premium volume: $70 million.
1996 assets: $100 million.
1996 capital/surplus: $30 million.
Policyholders: 36 in 1996; 60 estimated in 1997.
Membership: Industrial, commercial, mining, motor, financial.
Contact: R.W. Voysey.

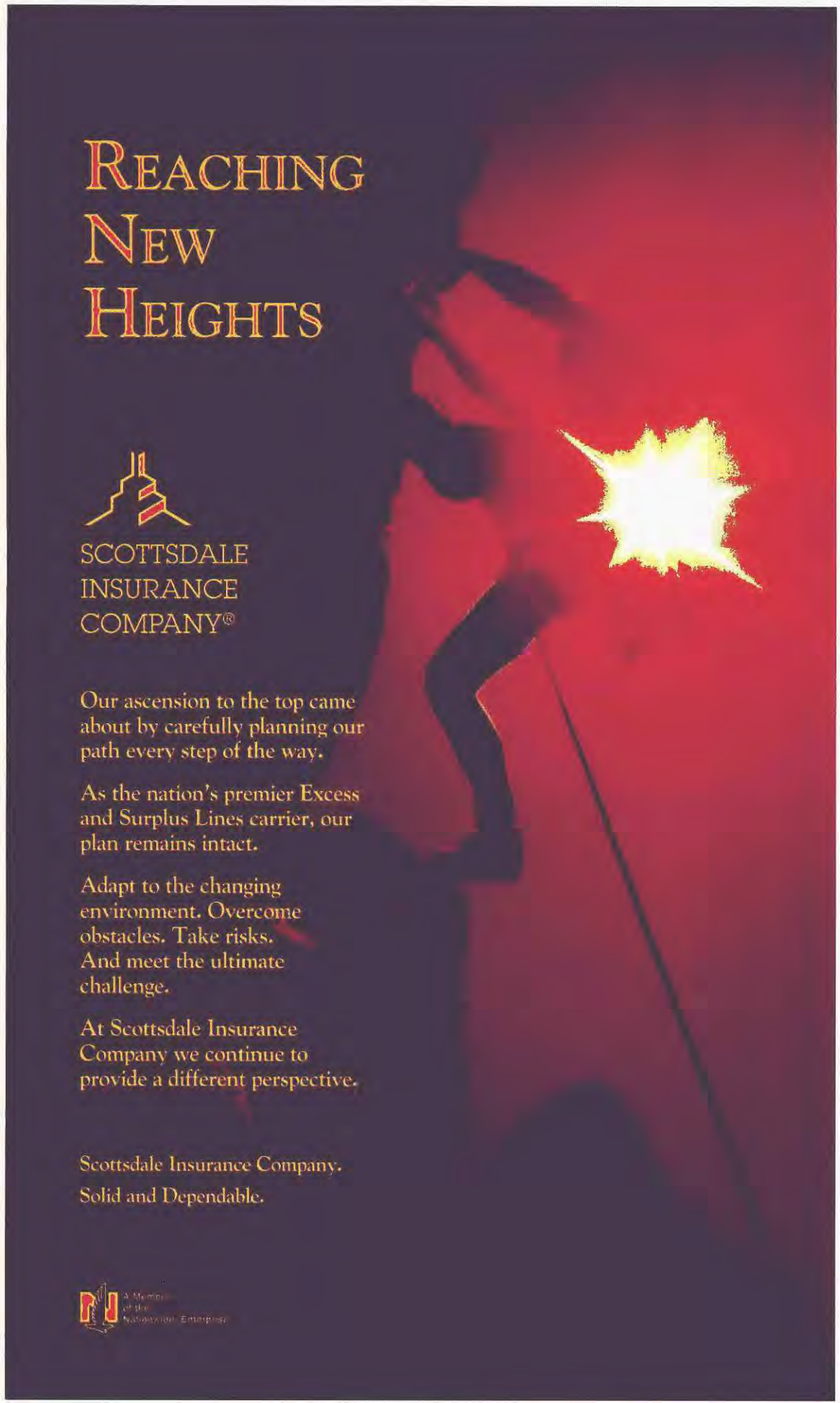
H

Hospital Assurance Co. Ltd.

TRISTAR Risk Management, 6133 Bristol Parkway, Culver City, Calif. 90230; 310-342-0505

Domicile: Cayman Islands.
Risks: Workers compensation, profession-

Continued on page 30



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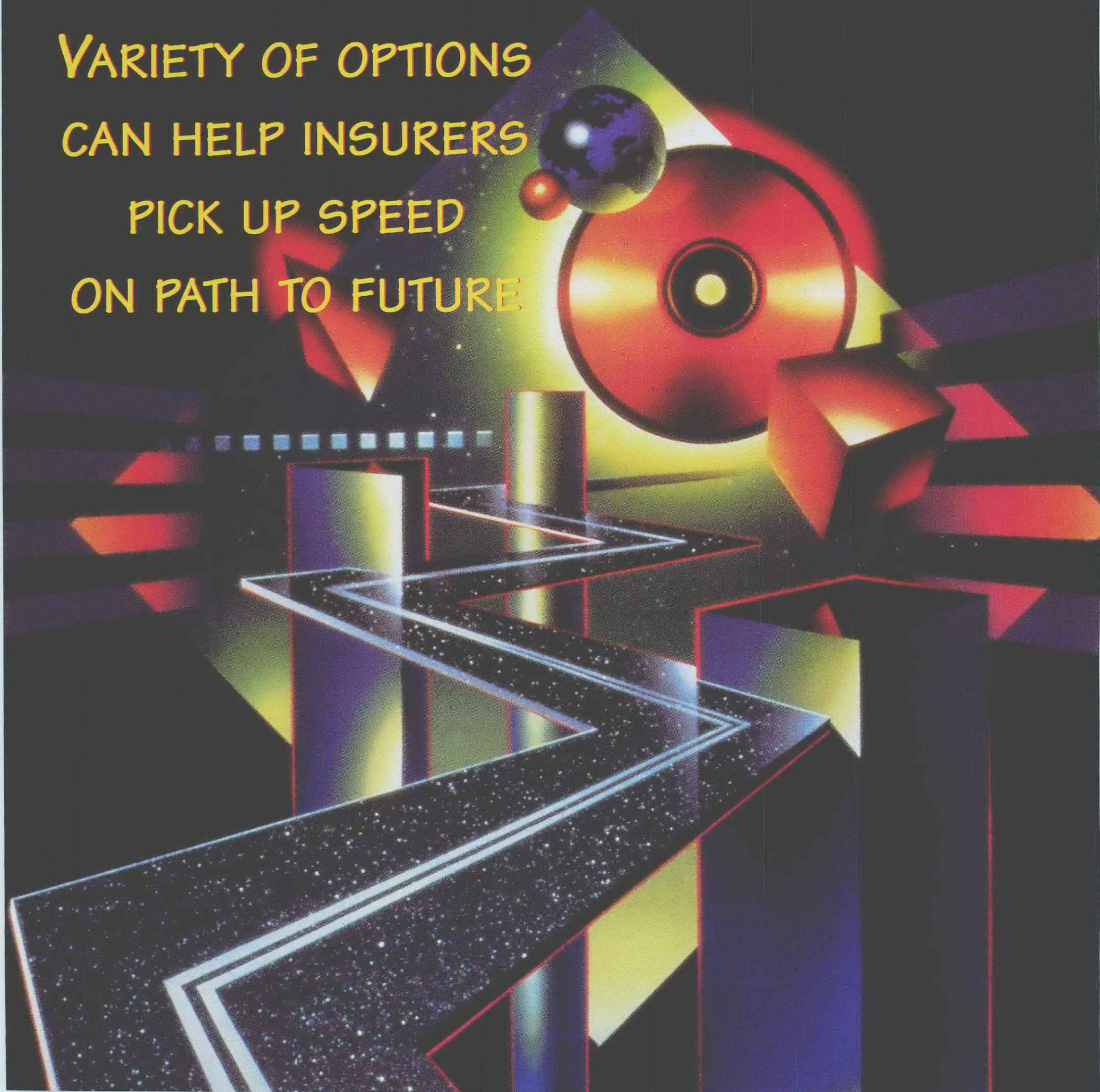
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INFORMATION TECHNOLOGY

VARIETY OF OPTIONS CAN HELP INSURERS PICK UP SPEED ON PATH TO FUTURE



Taking technology beyond Year 2000

Potential computer problem prompts insurers to review their systems

By REGIS COCCIA

As a new millennium approaches, insurance companies are beginning to look closely at their use of technology.

The so-called Year 2000 problem, which is requiring companies to reprogram their computer systems to handle dated material beyond the year 1999, has started insurers thinking about long-term automation concerns, experts say.

One good thing the Year 2000 issue has done, according to William C. Hartnett, is "almost every insurance company has had to deal with the problem."

While estimates of individual companies' cost to reprogram systems vary, with some in the tens of millions of dollars, "insurers are asking, 'What can I do besides fix the problem?' " said Mr. Hartnett, worldwide insurance industry manager at Microsoft Corp. in Redmond, Wash.

"It's an artificial deadline that has also made people think about upgrading their systems," he said.

Charles J. Boodro, president of Allenbrook Inc., a software company in Lowell, Mass., that develops products for the insurance industry, said, "Everybody is kind of focused on surviving that problem."

Insurance companies "all recognize that there is a Year 2000 issue and are taking steps to address it," said Rita Waters, senior vp of Insurance Value Added Network Services in Greenwich, Conn. IVANS provides electronic communication services to insurers, agents and brokers.

However, "agents and brokers aren't as aware of the problem," she said.

It's important for insurers and agencies to start upgrading their computer systems now because the Year 2000 problem already is causing difficulty in processing multiyear policies, Ms. Waters advised.

Vendors of services that can address the Year 2000 problem have a limited number of resources to manage upgrades, she said. These vendors will take clients on a "first-come, first-served basis, so (agents and insurers) have got to get on the list," she said.

"You've got to be planning now to get into delivery cycles to have a vendor support your system," Ms. Waters said.

But, insurers also are realizing that there are "much more serious, long-term issues," said Mr. Boodro.

For a variety of reasons, there will be a tremendous need for technological change in the insurance industry, he said.

Customer demands, market issues, deregulation, competition and the evolution of technology are just a few of the factors that will spur change among insurers, as well as agents and brokers.

"Institutions tend to be change-resistant," Mr. Boodro said. "Insurance companies, by their very nature, they're risk-averse."

But, successful insurers and insurance intermediaries will be those that can adapt their technologies and business processes to be both more efficient and less costly, according to Mr. Boodro.

No more multiplicity

As customer demands increase, the industry will have to revamp its approach to distributing insurance products, Mr. Boodro said.

To compete with the "price-only mentality" of many insurance buyers in the continuing soft market, agents and insurers need to eliminate the duplicative processes, he advised.

"The distribution system is under tremendous stress, and everyone is trying to figure out how to use it most effectively," Mr. Boodro said.

"The independent agency system by its nature is expensive. He who can shake out the costs in that system will have a financial advantage," he said.

"More companies will be required to customize policies for the policyholder," he said. In the future, customers will expect insurers to be able to change their products on the fly, Mr. Boodro said.

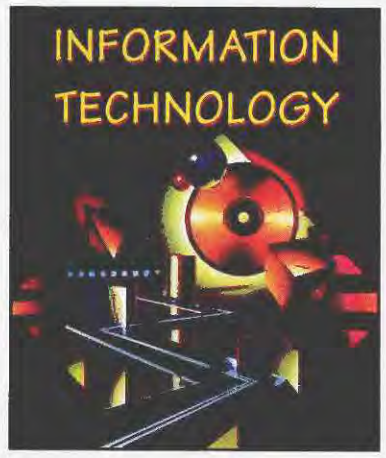
Such a degree of flexibility will call for new uses of technology and new office infrastructure.

For example, it will no longer make economic sense for insurers to have multiple offices performing the same functions, he said.

And it will no longer make sense for agents and brokers to have computer systems different from or incompatible with those that insurers use, he said.

If the industry had to start with a blank piece of paper, technology vendors "would never write separate software programs for an agency then do the same for the insurer," according to Mr. Boodro.

In the next several years, technology will prompt the industry to give agents and brokers more responsibility for underwriting, he predicted.



"Pretend all these investments and processes didn't exist and you had to create a single system. You'd put the service aspects at the agency and put the financial aspects at the insurer," Mr. Boodro suggested.

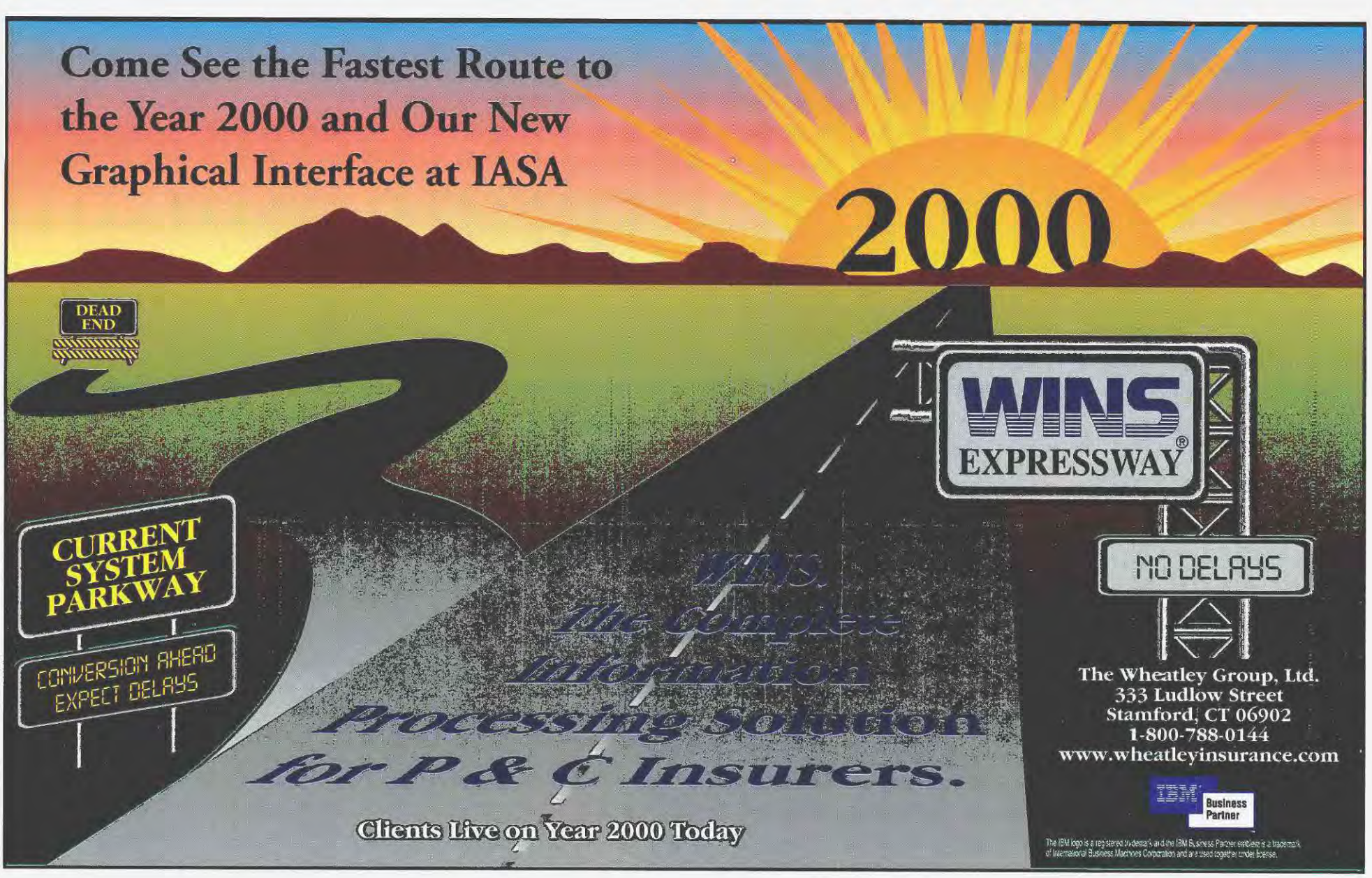
Already, managing general agencies process data like a "self-contained insurance company," he added.

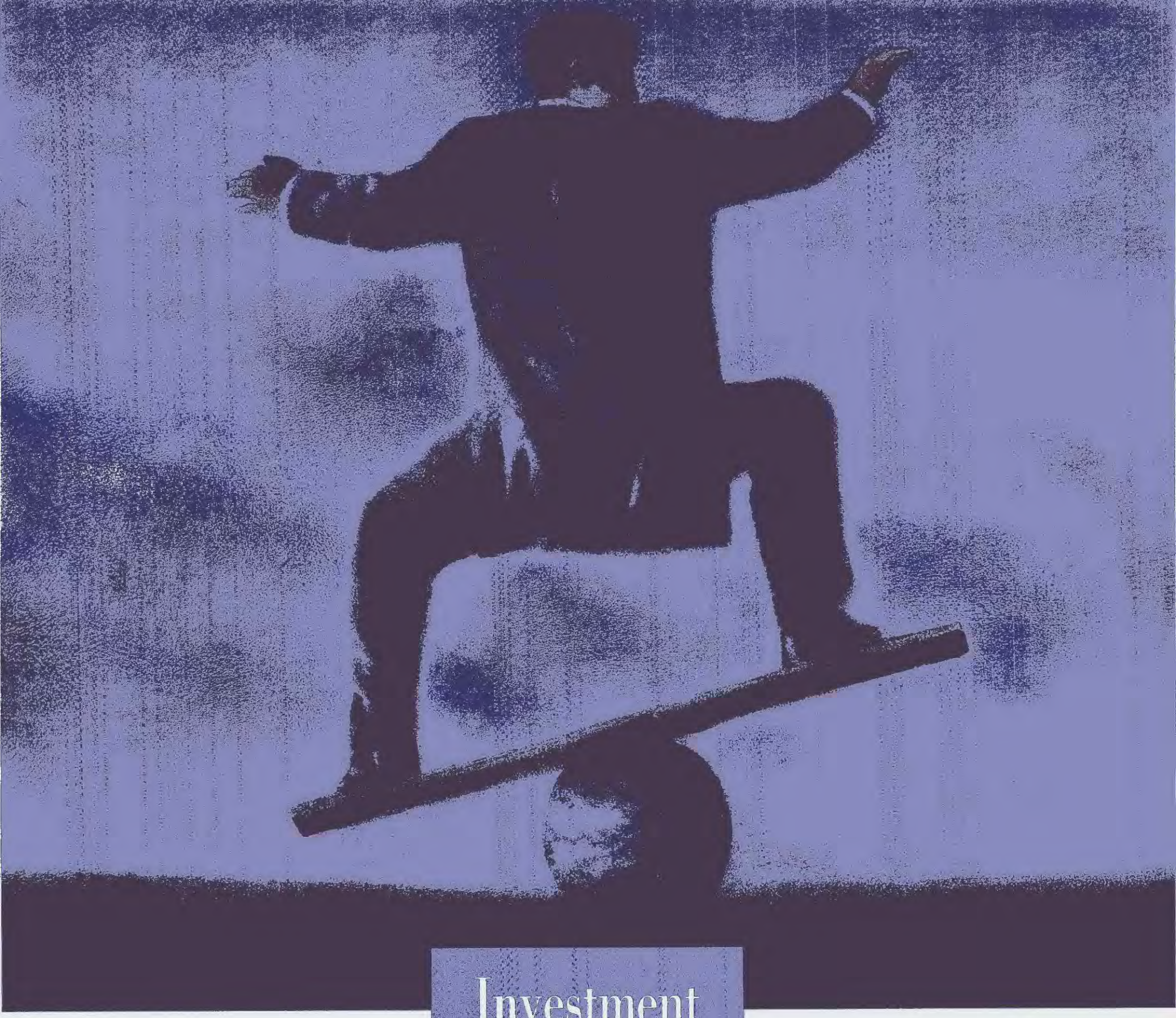
' Agents have to embrace the opportunity to become full-service providers," he said. "For agencies to survive, they have to become little companies."

Making use of the tools

Applying new forms of technology such as the Internet and intranets

See **Technology** *on page 26D*





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Technology

Continued from page 26B

is part of a broad re-engineering effort by insurers and agents, said Microsoft's Mr. Hartnett.

"Companies are asking, 'What are the areas where we can make heads-down task workers into knowledge workers?' " he said.

In claims processing, for example, database technology is enabling back-office staff to have a great deal of information at their fingertips, Mr. Hartnett pointed out.

While insurers still use mainframe computers for storing huge amounts of data, the systems to support more efficient claims processing are client/server arrangements, he noted.

The client/server type of system employs personal computer terminals with access to a central computer, or server. Because it is able to perform multiple applications, this type of system is becoming increasingly popular with companies that formerly relied on costly mainframes programmed to perform a few functions.

The Internet remains an important tool for companies to market themselves, but "one of the most effective uses is on the customer service end," Mr. Hartnett said.

Communication between insurers and their agents via electronic mail is another useful tool, IVANS' Ms. Waters noted.

"We're going to see electronic mail proliferate," she said. "Agents are becoming more aware of the power of electronic mail, and they'll want to have intercompany e-mail connections."

Although insurance buyers have more access than ever to companies via the Internet, Mr. Hartnett does not believe this will diminish intermediaries' role in insurance transactions.

"A lot of these tools are making it easier for agents and brokers to be more effective," he said.

Mr. Hartnett predicts there will be greater need in the future for what he called "cybermediaries," or agents and brokers that sort out and track the wealth of online information available.

"The sheer volume on the Internet is getting to be unmanageable," he said. "People looking for an insurer certainly aren't going to surf around hundreds of sites."

He believes policyholders will want to go to an agent who will know what sites and which companies match up with the customer's needs—and maybe even recommend the best option.

Allenbrook's Mr. Boodro also suggested that while more people will do business by computer, insurance buyers will continue to need the services of an industry expert.

"There's not a tremendous influx of a self-directed insurance policy," he said.

"I'd no more go to a direct writer and create my own policy than I'd go to a dentist and drill my own teeth." BI

Internet potential untapped

Network used more for information than transactions: Study

By REGIS COCCIA

Insurance companies stand to reap enormous competitive advantages from the growth of technology such as the Internet, but many insurers still have not positioned themselves to do so, a report says.

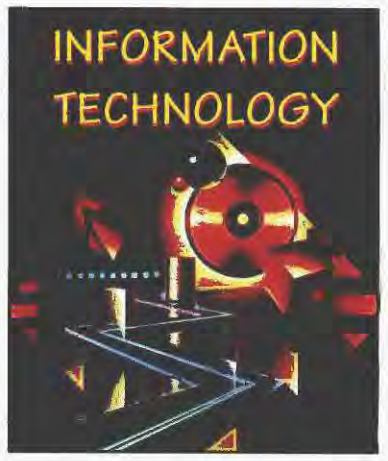
While a majority of insurers use the Internet, a significant percentage have no Internet strategy, according to a recent Conning & Co. study. Fifty-six insurers responded to the survey.

As a result, many insurers are missing out on opportunities to market their products and services, gain access to information on potential customers and establish links with their agents and brokers and other service providers, the Hartford, Conn.-based asset management and insurance research company said in its report.

"Even if they do not actually sell their products over the Internet, insurers need to capitalize on the Internet's business lead generation capabilities," the study said.

Furthermore, insurers should "create cost-effective and powerful internal intranets that present new capabilities for connectivity with organizations and with agents and business partners."

Conning's study focused on electronic commerce in the insurance industry and the Internet's role in that area. The study also



reported on how technology is enabling insurers to outsource more of their internal functions

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Continued on next page
Continued from previous page
to increase efficiency.

According to the study, electronic commerce, broadly defined, "involves the conduct of business using computers over digital networks and includes all intercompany and intracompany electronic functions that enable commerce—involving the transfer of information as well as business transactions."

Electronic commerce encompasses various applications of technology, including agent/sales interface, claims processing, document management, administrative systems and the Internet.

The concept of selling insurance via the Internet's World Wide Web, though widely discussed, so far has been slow to take hold, Conning's study pointed out.

"It is clear that the Internet's current potential for electronic commerce lies more in facilitating sales and marketing—for example, by providing product information, generating prospects, etc.—than in actually closing sales," the study said.

"While transaction activity is likely to evolve, there is currently more searching for information on the Internet than actual selling and buying," according to the report.

"Sixty percent of insurance companies either have their own Web sites or are planning one, and almost one-third either have or are planning to develop intranets," Conning found in the study.

"However, this means 40% of insurers have no Internet plans. Given the relative ease of exploiting this new technology and its power, this is too high a proportion of 'no shows,' " the report stated.

Companies that use intranets for internal communication have increased their efficiency by delivering information electronically and have achieved substantial savings in paper and printing costs, the study said. For example, electronic access to underwriting or marketing information removes the need to store duplicative printed materials.

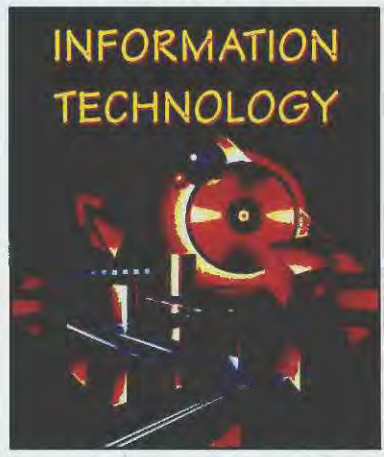
Technology also has spurred the growth of outsourcing among insurers, Conning's study found.

Systems available today permit specialized vendors to take over services such as premium billing and claims administration, freeing the insurer to focus on other key areas of its business, according to the study.

Although technological innovations such as intranets and outsourcing can offer significant benefits, insurance companies must carefully consider their options and approach them strategically, Conning advised.

•

Copies of "Electronic Commerce and the Internet: A Whole New World," are available for $495 each from Conning & Co., CityPlace II, 185 Asylum St., Hartford, Conn. 06103; 203-527-1131.



Standard automation promoted

ALEXANDRIA, Va.—Standardizing agency automation will benefit the independent agency distribution system more than proprietary technology, an Independent Insurance Agents of America executive says.

"It is ridiculous for agents to spend time entering data twice or training new staff on five different company proprietary systems when they could be using that time calling a new prospect or rounding out an existing account," IIAA Executive Vp and General Counsel Jeffrey M. Yates said at a recent conference of the Insurance Value Added Network Services. His comments were reported in a statement issued by the Alexandria, Va.-based agents association.

Insurance companies and vendors should think from the agent's perspective when they make automation decisions, Mr. Yates said.

According to the IIAA statement, he added that the industry needs to begin looking at single-entry, multi-company interface and availability on everyone's desktop.

He said insurance companies should conduct joint planning sessions with agents and discuss what automation changes would make those agents more productive, according to the association's statement.

Mr. Yates said that he is "encouraged" that insurance company executives have shown they are concerned that their approaches may hamper agents' ability to sell.

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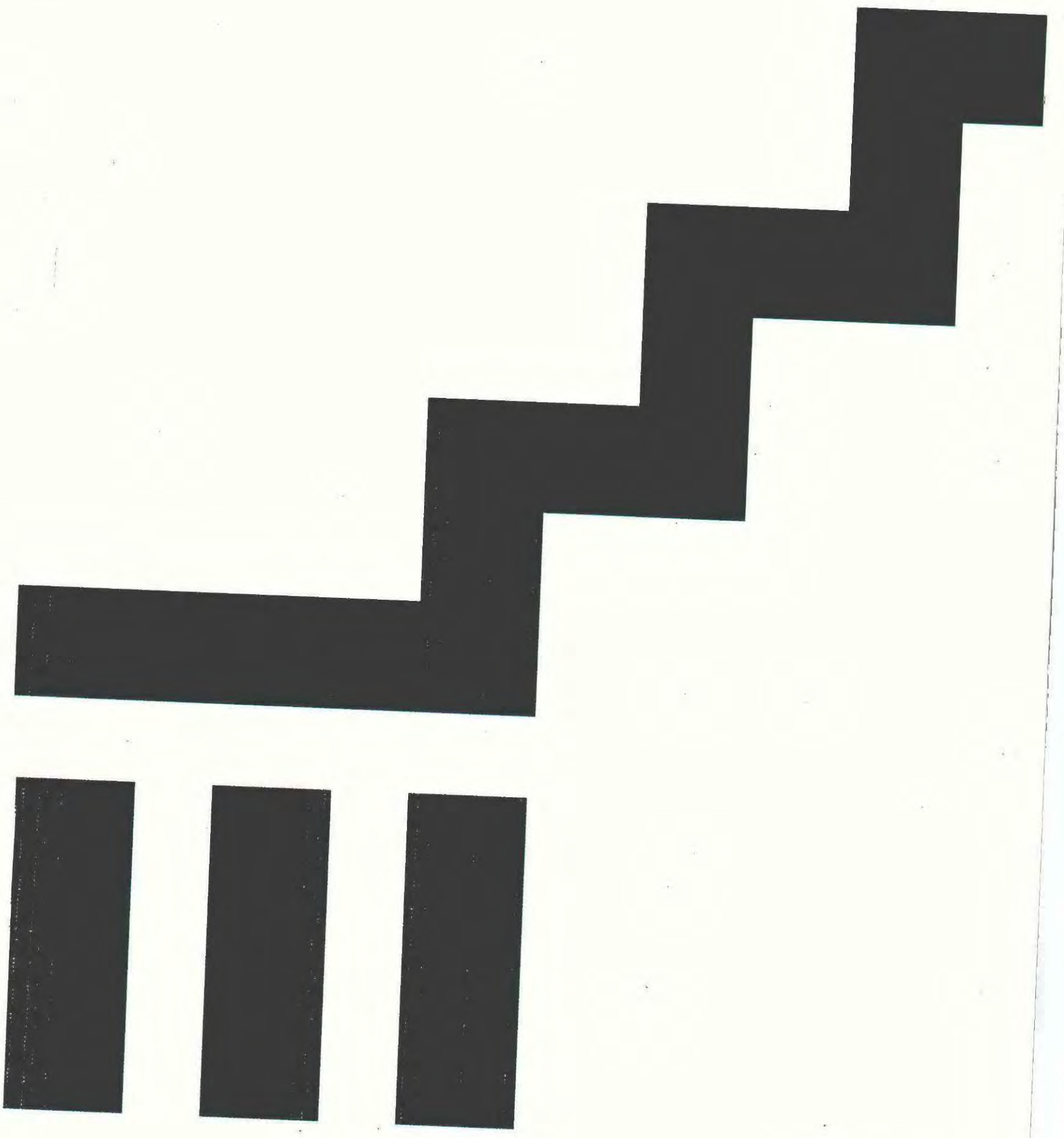
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Reducing producers

TIG cut back but has stronger ties with remaining brokers

By REGIS COCCIA

As competition continues to force insurers to trim costs and streamline operations, many large companies are looking at reducing the number of intermediaries they use to distribute products.

Downsizing among the U.S. property/casualty companies could reduce the number of markets available to small and midsize agents and brokers, said Coletta Kemper, director of industry affairs at the Washington-based Council of Insurance Agents & Brokers.

But intermediaries that have expertise in a niche area likely will find insurers more willing to maintain ties, she said.

If an agent or broker has "niche business or specialty expertise, carriers will recognize that and will keep the relationship going," Ms. Kemper said.

For example, insurers such as TIG Insurance Co. are switching to fewer agents and brokers but are looking to underwrite higher-volume risks, such as program business.

Even though TIG in the past several years slashed the number of commercial lines producers to 175 from more than 3,500, the company says its focus on productivity has strengthened producer relations.

In preparation for an initial public offering in 1993, the Irving, Texas-based insurer took an in-depth look at its business, its producer base and its distribution channels, explained Roger Torneden, TIG's chief marketing officer and senior vp.

TIG found it could reduce the cost of providing products and services by eliminating redundancies and using computer technology to speed up the underwriting process, he said.

At the same time, the company saw an opportunity to maintain premium volume by writing program business, a TIG spokeswoman said.

That meant breaking away from traditional methods of quoting and issuing policies. For example, handling a workers compensation policy "in the traditional mold" meant the insurer had a full-time workers comp underwriter in an office sending out price quotes. The process not only took time, but it also resulted in a low hit ratio—about 10 to 15 policies for every 100 quotes, Mr. Torneden said.

Converting to an automated quotation system that analyzed risk information entered in an electronic questionnaire speeded things up, but not every agent or broker was equipped to handle such transactions, he said.

"We narrowed down the underwriting decision on workers compensation risks to fewer than 10 questions. Essentially, we were able to quote a workers comp policy in a survey," Mr. Torneden said.

"For some producers, that wasn't acceptable. For those producers, we were not a good fit," he said. "We wanted to have data entry in the producers' offices and needed producers who share some of the same vision," he added.

"We looked at our producer base and determined that there was a small number (of producers) that we could efficiently serve with high technology," he said.

In addition, TIG wanted to get a greater flow of business from the agents and brokers with which it worked. "We had literally hundreds of producers that sent us one, two or three pieces of business that we bound in a year," Mr. Torneden said.

"Once we had our business cases pretty well thought out on paper, the question became, 'What do we need on the producer side to make this happen?' " he said.

Rather than deal with thousands of agents on an account-by-account basis, with sometimes spotty results, TIG narrowed down its producer base, Mr. Torneden explained.

"We helped producers to find other markets. It wasn't abrupt," he said. "It was very successful. We explained what we needed to do and why we needed to do it."

It's a path other insurers have followed, particularly after a merger or acquisition, industry observers note.

"It's really a cost issue. It's part of the whole consolidation (trend), getting redundancies out of the distribution system," the Council's Ms. Kemper said.

In TIG's case, internal restructuring not only reduced the number of producers, but it also made the insurer's executives more accessible to them, Mr. Torneden said.

"Hardly a day goes by that a producer doesn't call with a question or concern," Mr. Torneden said. "It makes me feel really good that relationships are strong enough that we get information fed to us from the front lines."

As a result, the insurer has an ongoing dialogue with its agents and brokers to improve relations.

"You need to have a partner mentality to have a successful program," Mr. Torneden said. "We share loss information, expense information, with the objective that we can find ways to cut expenses and improve the product," he explained.

Accessibility is particularly appeal-

Continued on next page

Electronic Co

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Continued from previous page

ing to TIG agent Glenn Clark, president of Rockwood Programs Inc., a managing general agency in Wilmington, Del., and a unit of E.W. Blanch Co.

"I have the access to call in. I don't have to go through the hierarchy," he said. "It makes us partners."

Last September, for example, ease of access and idea-sharing helped Rockwood launch an insurance program with TIG that protects academic institutions against the loss of tuition dollars when an illness or disability forces a student to withdraw, Mr. Clark said.

After sketching out Mr. Clark's vision of the product, Rockwood and TIG were able to create and market the policy within two months, he said.

"How do you take an idea to the marketplace in 60 days? They did an incredible job," Mr. Clark said of working with TIG staff.

Other ways that TIG is strengthening ties with agents include long-term contracts lasting a minimum of five years and profit-sharing agreements, Mr. Torneden said.

"We are looking for very few new producers, and we are looking at making our products stronger and growing these," he said.

"We're not perfect, but we see areas where it's working and it's working well." BI

Software supplier seeks growth

By H. LEE MURPHY
Crain News Service

A leading supplier of automated computer software programs to auto insurers and car repair shops, CCC Information Services Inc., is driving for 20% annual sales growth.

Insurers in all lines, and particularly those writing auto physical damage coverage, are hungry for information technology.

About 12% of all auto policyholders file claims each year; last year, that resulted in 28 million claims worth $75 billion in insurance payouts. The industry spent $6 billion on administering auto damage claims, according to Oldwick, N.J.-based A.M. Best Co.

With its proprietary computer programs, Chicago-based CCC can automate many of the 175 or so separate steps in each claims process, ranging from estimating repair costs to ordering new parts.

The company says that, on average, its products cut in half the time it takes to process claims settlements—to seven days. At the same time, it says it saves insurers $300 per claim, or 15% of the overall cost of settlement.

"The insurance industry has been paper-intensive and thus costly," said Chairman and Chief Executive Officer David M. Phillips at CCC's recent annual meeting. "Our clients recognize they must automate to become more productive."

CCC began in 1980 as Certified Collateral Corp., a specialist in setting the value of losses on vehicles involved in accidents or theft. The company maintained a huge database of car dealers' new and used inventories to keep its valuation system accurate. Soon its service was used to settle more than 80% of total loss claims, with every one of the nation's 50 top insurance companies as subscribers.

In 1989, Mr. Phillips, who owned a direct-mail business, engineered a $60 million leveraged buyout. He then led the company into desktop computing, developing new software for estimating repair costs. Electronic appraisals followed, along with digital imaging systems that allowed mechanics to photograph a car with a digital camera and transmit the image by computer back to an insurance company's claims office.

Seeking capital to fund development costs, Mr. Phillips sold 52% of the company in 1994 to investment firm White River Ventures Inc. in White Plains, N.Y.

To reduce debt and amass more cash for product development, CCC raised $72 million in an August initial public offering. From an $11.50 opening last year, CCC's stock sailed as high as $24 but recently has traded around $13.

Investors may have expected better 1996 results: Revenues rose 13% to $131.0 million, missing the 20% benchmark, though earnings multiplied 11 times to $14.8 million, or 73 cents a share.

CCC in recent months has won big supply contracts with five major insurance companies, bringing its share of the collision-estimating segment to more than 50% and giving it a wide lead over principal rivals Automated Data Processing Inc. of San Ramon, Calif., and the San Diego-based Mitchell International division of Thomson Corp.

In search of new vistas to conquer, Mr. Phillips is now steering CCC into the litigation field, developing software to automate medical and legal claims from accidents.

Such new products are intended to squeeze more revenue out of each customer.

CCC "already sells into over 250 of the largest 400 insurance companies," observed Patrick Burton, an analyst with Lehman Brothers in New York. "Penetration of additional accounts to meet CCC's market share targets will be increasingly difficult." BI

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nswer

Insurer Topics

Insurers not investing to potential: Report

Investment strategy focuses on maintaining liquidity and not maximizing returns

By MICHAEL PRINCE

Investment gurus they're not.

The majority of insurance companies not only fail to produce lavish returns on the billions they invest, but in fact they also deliver only average or below average results on their investment portfolios.

That's the conclusion of a report that analyzes the investment performance of the U.S. insurance industry. The report, by the New York-based consulting firm McKinsey & Co. Inc., states that with better investment strategies, insurers can boost their investment returns by 1%.

Insurers view their investment activities as ancillary to their underwriting activities, the report states. They adopt an investment strategy designed to maintain liquidity to pay claims, rather than maximize returns.

"The asset portfolio is driven almost exclusively by considerations of balance-sheet management rather than by an investment viewpoint," the report states. "If individual investors behaved in this way, they would be castigated as recklessly conservative."

A report by A.M. Best Co. said that in 1995, 13% of the insurance industry's investment was in common stock. Also, according to the Oldwick, N.J., rating agency, only 12% of insurance groups invest more than half their assets in common stocks (*BI*, Jan. 27).

The report also chides insurers for failing to realize they are in the investment business. "Assets managed by insurance companies account for 40% of the assets of the world's top 100 asset managers," the report states. "Insurers are in the investment management business."

But insurers are beginning to focus on their investments more. "Insurers are paying more attention to investment," said Alberto Franceschetti, a consultant in McKinsey's Zurich office and co-author of the study. "In past years, the focus was not on investment management but on claims underwriting or distribution. In the same way, investment management was not in top levels of increasing performance."

Another factor that suppresses returns is the lack of a company-wide investment strategy. Many large insurers consist of numerous smaller subsidiaries that make their own investment moves.

"The sum total of all the individual asset allocation decisions at (the) local level is usually far more conservative and less diversified than an optimal asset allocation for the combined entity would be," the report states. "When each unit makes a set of conservative assumptions and builds in extra safety margins that are aggregated at the enterprise level, a highly inefficient asset mix ensues."

Also, because numerous people end up making investment decisions, some will lack the needed investment skills.

"When a number of investment managers in separate business units are doing essentially the same job, the outcome may be high costs, mediocre skills, or both," the study states.

But all is not lost. Insurers can improve their returns "if they are willing to redesign the investment process and restructure the investment function," the report says.

The report outlines five steps insurers can take to boost returns.

The first step is adopting a strategic asset allocation to investing. This creates an "optimal long-term asset mix" of U.S. stocks, international stocks and bonds, Mr. Franceschetti said.

"It is for big-picture thinking and long-term investment. It's not looking at short-term market movements," he said, but generally longer than one year.

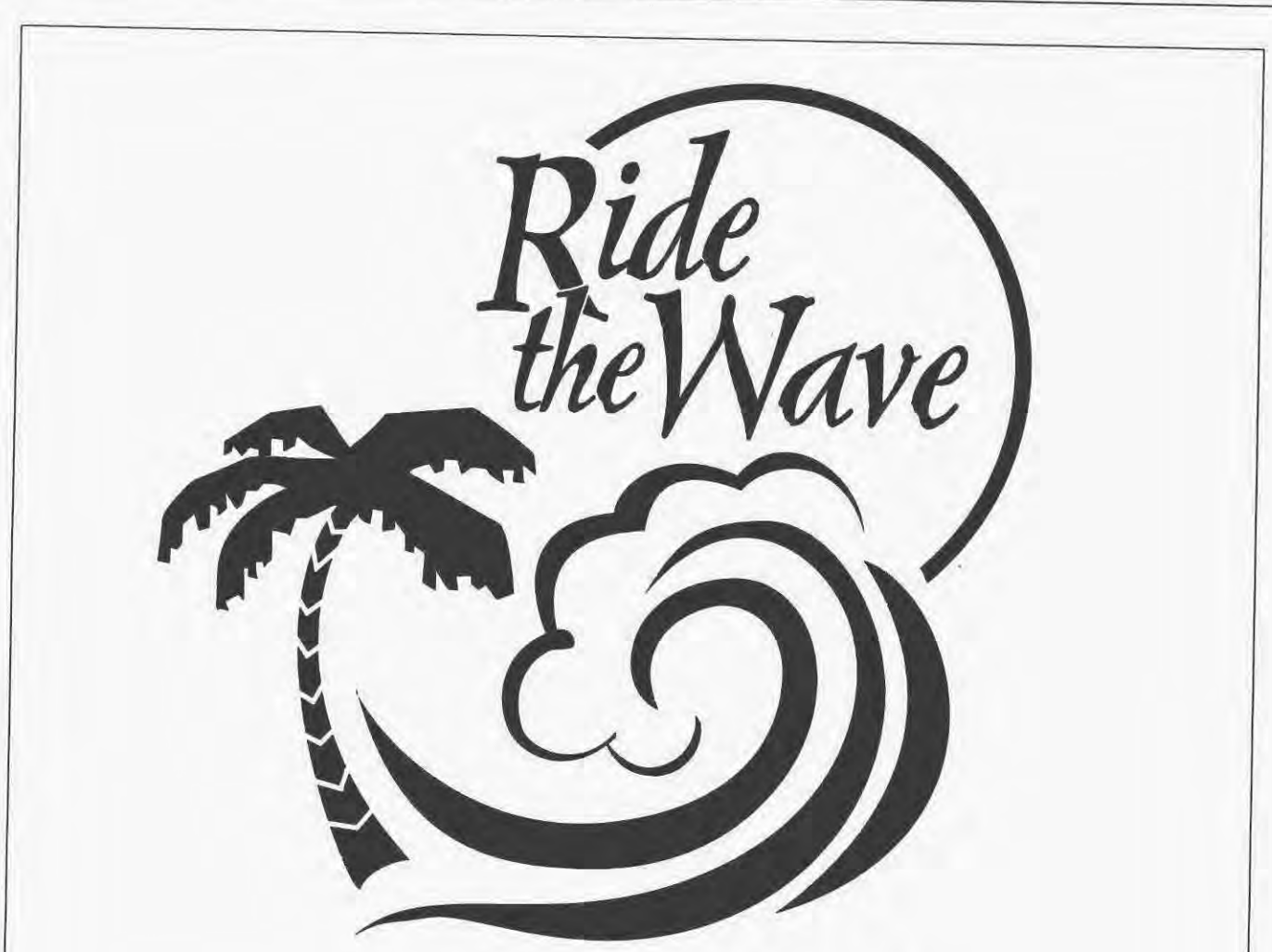
The long-term strategy should incorporate the company's appetite for risk as well as legal and regulatory constraints that restrict the company's ability to invest.

Within the strategic framework, the next step is developing a tactical approach to investment: becoming an active investor utilizing investing skills.

"Between this long-term position the markets are moving up or down," Mr. Franceschetti said. "If you have some skills, you can take a position not in line with the strategic plan and improve the investment's performance." This is done, however, "while still considering the overall constraints you have," he added.

But simply looking at the re-

See **Invest** *on next page*



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IMCA

Texas group focuses on workplace safety

By MICHAEL BRADFORD

Insurers are hoping to assist small businesses in Texas through the efforts of a coalition formed to help design programs that reduce workplace injuries and illnesses.

Project Safe Texas kicked off earlier this year as a volunteer program of insurers, health and safety professionals, government agencies, businesses and others interested in finding new approaches to loss control for small businesses.

The project follows similar efforts in Georgia and Illinois.

"The aim of these projects really is to explore alternatives to public policy issues," explained Keith Lessner, vp-safety and environment at the Alliance of American Insurers in Schaumburg, Ill. "We started with the premise that what has been done in this country to address these issues for small companies has not been very good."

Small companies aren't precisely defined by the project, Mr. Lessner said. "There's no revenue number or cutoff," he said. "We haven't made a big issue of who is eligible."

For purposes of the project, a small company is considered one in which "the operating environment is different from larger companies," Mr. Lessner noted. That usually means, for example, that a company has one person performing safety and loss control functions as in addition to other duties.

He emphasized that membership in the coalition is voluntary, and small businesses are not forced to participate or accept any of the group's suggestions.

The program identifies hazards in specific types of industries—restaurants, for example—then carries out pilot projects to implement suggestions for reducing losses. Ideas that work are kept, and those that don't are abandoned.

The first such project began in Georgia and kicked off with a pilot project aimed at identifying and reducing hazards that small restaurants face.

Project Safe Georgia began in 1991 with a six-month project spearheaded by Bloomington, Ill.-based State Farm Group. Several companies donated safety training services and supplies, such as special work shoes, protective gloves and floor coatings to 12 Atlanta-area Waffle House restaurants. The aim was to look for ways to reduce cuts, slips and falls and injuries from lifting.

The biggest success came in reduc-

See **Safety** *on next page*

Invest

Continued from page 26J

turns on the investment does not accurately reflect the investment skills or whether the investments were wise, the report warns. To judge success, the investment should be compared with the expected returns under the strategic plan.

"In fact, poor tactical decisions can be associated with high-performing asset classes when an overall strategic allocation was sound and the asset class performed well," the report said.

When a tactical approach is selected, insurers then can take the third step of making individual stock selections, or adopt a more passive strategy of investing in stock index funds. This decision, the report recommends, should be based on the confidence the insurer has in its investment skills.

Beyond investment strategy lies the fourth step. Insurers should analyze the degree of risk they will tolerate in their investments. Only by taking the investment's risk into account can you get a complete picture of the investment's success.

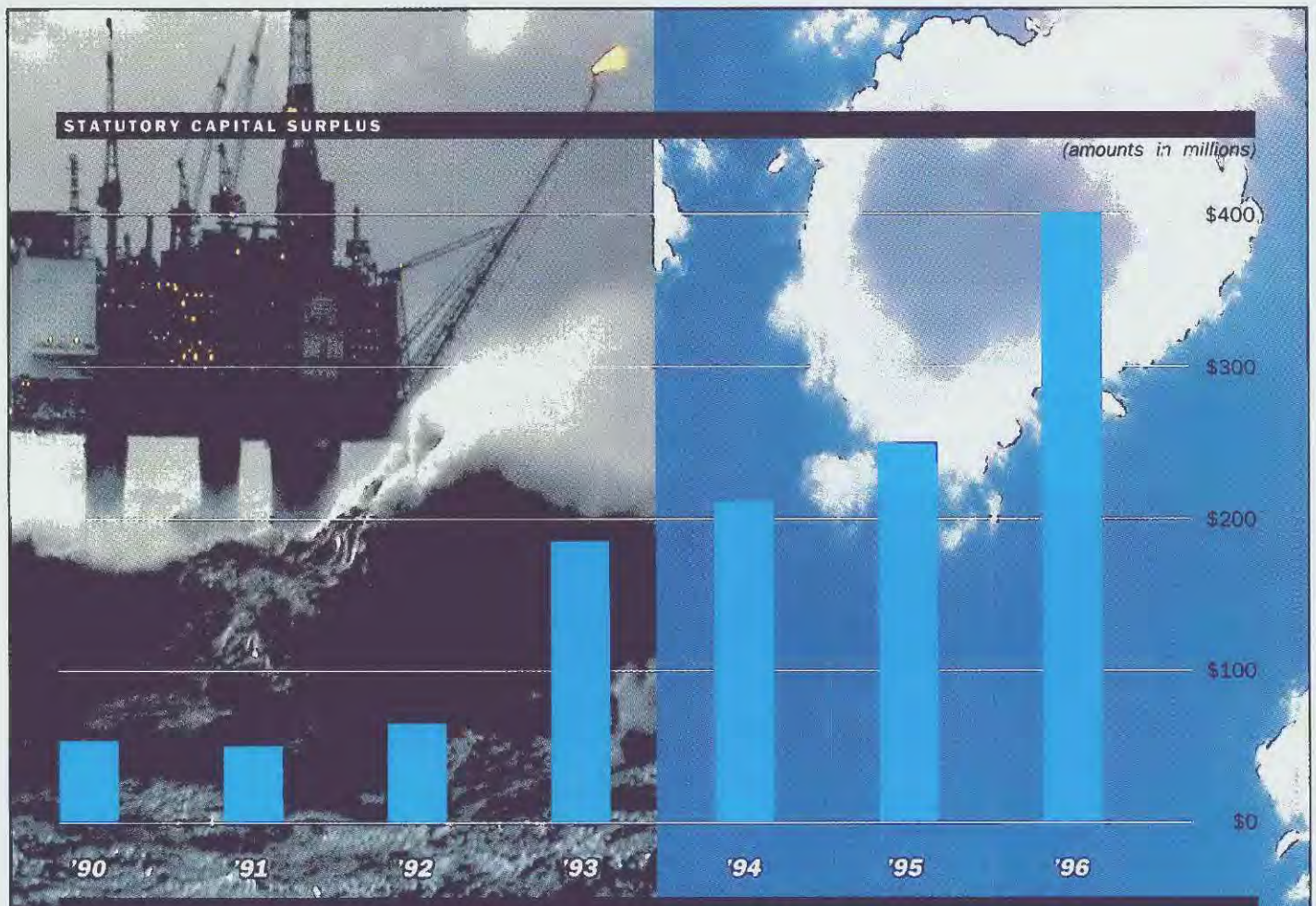
"Overall performance is important, but you always have to calculate the risks in your portfolio," Mr. Franceschetti said.

The final step for investment is efficiency. Good returns can be burned up in management costs or broker fees, so it's important to keep an eye on the bottom line.

Mr. Franceschetti recommends most work be done in-house to reduce costs. But, he added, if a insurer lacks a specific investment skills, such as in European stocks, it should hire an outside expert.

•

The report is not available to the public.



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Insurer Topics

Safety

Continued from previous page

ing cuts, Mr. Lessner said. "The only cut was a stabbing in a holdup" during the period, and Waffle House decided to buy gloves for all its restaurants.

However, the coalition was not as successful in identifying new ways to prevent slips and falls and injuries from lifting, Mr. Lessner pointed out. "What we learned is, we don't have a cost-effective way to address slips and falls."

The program has expanded since the Waffle House project, spawning "a whole stream of projects," Mr. Lessner said.

In Texas, initial efforts are focusing on the nursery industry.

In cooperation with the Texas Assn. of Nurserymen and the Texas Workers Compensation Commission, Florists Mutual Insurance Co. has prepared an outline of options that nurseries can implement in putting together a safety program.

The package will be sent to 150 nurseries that will comment on the options, explained Bob Decker, assistant vp of loss control engineering at Edwardsville, Ill.-based Florists Mutual, a coalition member.

After analyzing feedback from the nurseries, Project Safe Texas will "try to work with that to come up with a consensus of a good program," he said. About 40 nurseries will put that program in place for 12 months.

"Then they will give us their experience and how they evaluate its effectiveness," he said. The program then can be fine-tuned according to what works and what doesn't.

Russ Oliver, chief executive officer of the Texas Workers Compensation Insurance Fund, a coalition member, said in announcing the startup of the Texas project last month that it eventually "will offer a wealth of expertise, ideas and information to the small-business community."

The project was kicked off at the April meeting of the Texas Safety Assn., where TSA President Ann Streetman pointed out that the project "is not a quick fix."

Instead, "it will start with the idea that successful approaches must fit the economic, time and safety skill constraints that small businesses face every day in running their operations. Our objective is to find new and better ways to make small employers aware of available safety services and help them use these services to develop their own safety and health programs," she said.

One reason the projects work is they disregard the notion that small businesses can use the same techniques as big companies to control losses, Mr. Decker explained.

Most attempts to help small companies have taken the "Vega approach," he said, referring to a former General Motors Corp. car that was designed by engineers who "took everything that was in a big car and made it smaller."

"It's been the same with safety," he said. "You take from General Motors or DuPont and scale it down. It doesn't work."

Small companies don't have enough personnel to dedicate staffers solely to safety functions that have been copied from larger businesses, Mr. Decker said. And some of the methods big companies use are either unworkable or not cost-effective at small businesses.

"Generally, we have sat back and said, 'Here's what you guys need to do,' without any feedback from employers and employees who are going to carry it out," he said. BI

Ethics institute launched

NORMAL, Ill.—Illinois State University and ISU's Katie Insurance School have launched a new insurance ethics institute.

Created last month with $300,000 that was part of an Illinois Insurance Department fine of more than $1 million against Metropolitan Life Insurance Co. for questionable sales practices, the Institute for Insurance Ethics will operate as a division of the Katie School and will be based in Normal, Ill. The stipulation and consent order with Met Life was signed in 1994, an Insurance Department spokeswoman said, and the $300,000 was to be used for consumer education.

The institute's mission includes developing programs to educate members of the life insurance industry as well as buyers about ethics, social responsibility and ethical standards in the insurance industry. Programs on ethics will include continuing education courses, seminars and instructional materials, as well as research and public forums.

"The Department of Insurance is pleased to help facilitate the Institute for Insurance Ethics at Illinois State University," Dick Rogers, deputy director of the insurance department, said in a statement.

The College of Business Administration at ISU will oversee the institute, which will be led by a board of advisers whose members will include industry experts on ethics and the director of the Illinois Insurance Department.

Although the institute's initial focus will be ethics in the life insurance industry, a spokesman for the Katie School said the institute eventually will expand its scope to include ethics in the property/casualty industry.

Already planned activities include: a continuing education course on ethics for insurance agents, which is expected to begin this fall; and a symposium on insurance ethics at the annual convention of the American Risk & Insurance Assn. in San Diego Aug. 10-13. The symposium will be jointly sponsored by ISU's Institute for Insurance Ethics and the Malvern, Pa.-based Institute for Applied Ethics.

The Institute for Applied Ethics was launched in 1995 by the Insurance Institute of America and the American Institute of Chartered Property Casualty Underwriters in an effort to further education and awareness of insurance ethics (*A/BT*, Dec. 4, 1995).

For more information on Illinois State University's Institute for Insurance Ethics, contact Charles R. McGuire, chairman of the Department of Finance, Insurance and Law at Illinois State University in Normal, 309-438-8777; or Andrew Nappi, director of the Katie Insurance School, 309-438-3021.

IT Briefs

RAA officers picked

WASHINGTON—SCOR U.S. President and Chief Executive Officer Jerome Karter is the new chairman of the Reinsurance Assn. of America.

Other officers elected at the April 25 annual meeting of members were:

- Vice Chair James E. Gustafson, chairman and CEO of General Reinsurance Co. and president and CEO of General Re Corp.
- Secretary-Treasurer John W. Smithson, chairman and CEO of PMA Reinsurance Corp. and the PMA Group and president of Pennsylvania Manufacturers Corp.

Elected to the Executive Committee for the 1997-1998 administrative year were: Mr. Karter; Kaj Ahlmann, Employers Reinsurance Corp.; John R. Berger, F&G Re Inc.; Mr. Gustafson, General Re Corp.; Heidi Hutter, Swiss Reinsurance America Corp.; John N. Lombardo, Munich American Reinsurance Co.; Steven H. Newman, Underwriters Reinsurance Co.; and Mr. Smithson.

36 pass in Brazil

MALVERN, Pa.—A group of 36 students has passed the first Introduction to Underwriting exam given in Brazil by the Insurance Institute of America.

Exams were written in English and administered in Sao Paolo and Rio de Janeiro. Students responded in Portuguese. Two bilingual graders scored the tests, which were returned to the Insurance Institute of America for grading, the IIA said. In the future, exams will be translated into Portuguese, the IIA said.

The exams were given earlier this year. In October 1996, the IIA and American Institute for CPCU reached an agreement with Brazilian organization Fundacao Escola Nacional de Seguros. Under that agreement, FUNENSEG administers CPCU and IIA exams, sells Institute textbooks and translates study materials into Portuguese, the IIA said.

Another group has registered for a second Introduction to Underwriting class in Sao Paolo, and the IIA also reports interest in the IIA's Introduction to Claims course. BI

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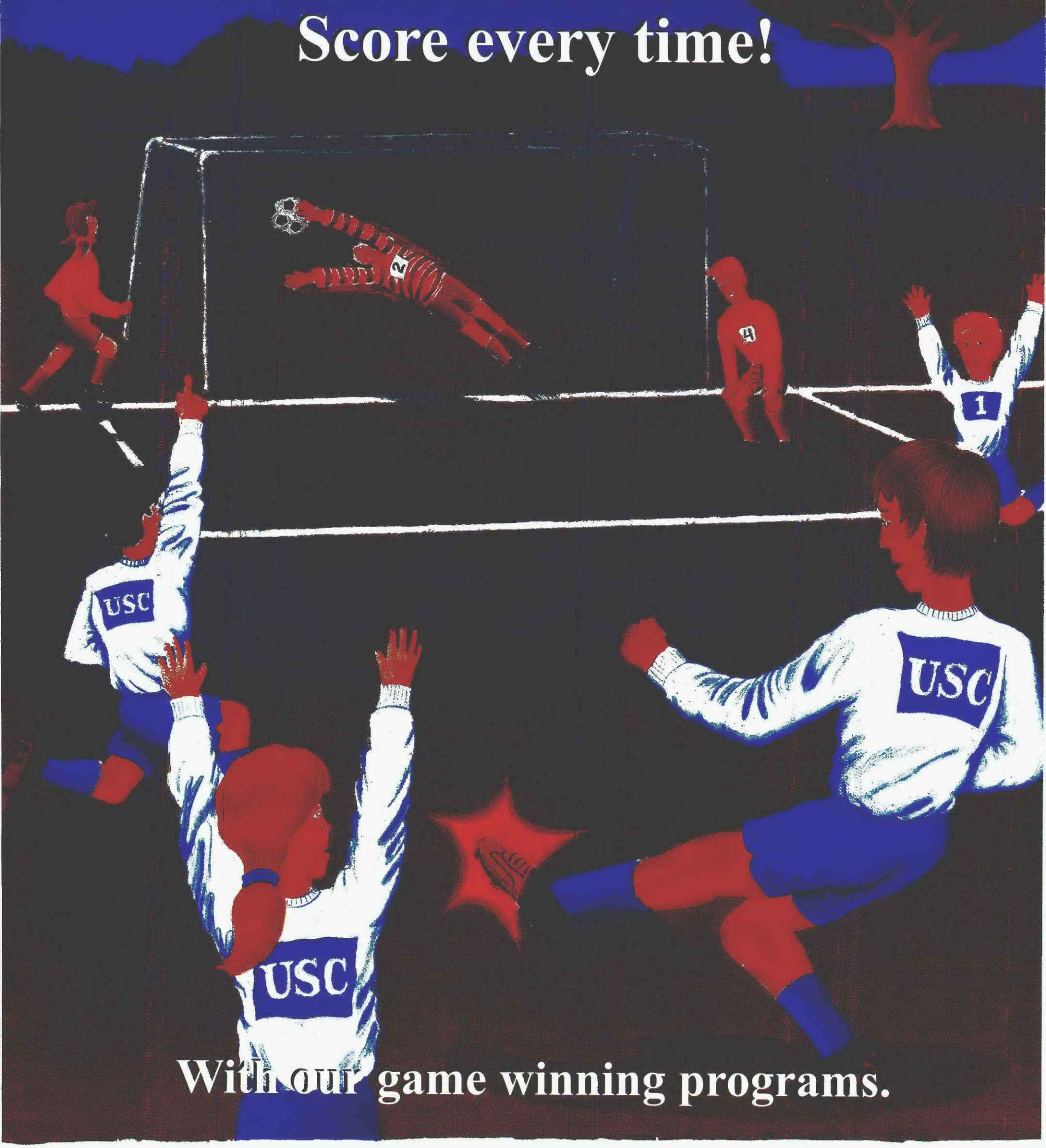
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Risk managers may doubt it's No Contest

"No Contest: Corporate Lawyers and the Perversion of Justice in America"
By Ralph Nader and Wesley J. Smith
Published by Random House, 201 E. 50th St., New York, N.Y. 10022
$25.95

By Kevin M. Quinley

Books & Ideas

Risk managers and the organizations employing them are big buyers of legal talent. By now, we are accustomed to hearing diatribes about personal injury lawyers. Ralph Nader and Wesley Smith try to turn the tables on lawyer-bashing, though, by giving corporate attorneys a taste of the medicine usually reserved for the ambulance-chasers. Is there a thin line separating the personal injury lawyers from the corporate bar? The authors say there is.

Raking more muck than you can shake a stick at, the authors attempt to negate what they see as a corporate-financed propaganda blitz that paints gigantic companies as innocent victims of ordinary Americans bent on suing their way to financial independence. The authors argue that the American legal system has virtually abandoned the ideal of providing all citizens access to justice. Instead, they maintain, courts have largely become the playground of the nation's largest corporations and their hand-picked legal pit bulls.

Mr. Nader, of course, is a consumer advocate with whom we are by now most familiar. Co-author Mr. Smith is an attorney, author and consumer activist. Doubtlessly the trial lawyers association will howl in delight as their counterparts on the other side of the legal fence get their retribution.

"No Contest," has lots of familiar names. In fact, there's a good chance that at least one of the law firms risk managers or their companies use will be in Mr. Nader's gun sights, skewered as a running dog for corporate interests. For Messrs. Nader and Smith truly believe these lawyers and firms—defenders of The Establishment—are the true powers eroding the basic rights of the little guys, who seek truth, justice and $10 million in punitive damages, preferably in small, unmarked bills. The annoying thing about these power lawyers is they get in the way of regular citizens who might otherwise sue their way to riches.

Messrs. Nader and Smith jab at the myths they say underlie much of corporate propaganda about a "tort crisis."

For example, they re-examine the case of Judith Haimes, a Philadelphia soothsayer who was awarded $1 by a jury because a CAT scan damaged her psychic aura. The book points out that, due to an appeal, plaintiff Haimes never received a dime. To his view, these types of anecdotes are untruths paraded out by advocates of not tort reform but tort deform.

Like a magnetic field that polarizes iron shavings on one side or another, "No Contest" is one of those books you will love or hate—no middle ground—depending on whether you view yourself as pro-business or pro-consumer. Most risk and insurance professionals will likely view themselves on the business end of the continuum.

Messrs. Nader and Smith won't find risk managers a sympathetic audience with "No Contest" and clearly didn't have that specialized audience in mind when they undertook this would-be expose. That is not to say, however, that risk and insurance professionals should ignore "No Contest," or trivialize it as the rantings of some tort-happy attorneys. Whether or not you buy into the authors' case, "No Contest" offers a provocative read that may leave you forever viewing differently those in the defense bar who represent corporate interests. BI



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

Late notice negates cover under claims-made policy

Legal Briefs

Under Missouri law, if there is no timely notice to an insurer under a "claims made" professional liability insurance policy, there is no coverage, according to the 8th U.S. Circuit Court of Appeals.

Lexington Insurance Co. issued a professional malpractice liability policy to St. Louis University for claims made during the period July 1, 1990, through July 1, 1991. The policy covered losses that exceeded $2 million. A policy endorsement required claims made in writing against the policyholder during the policy period. The policy also stated that it was a "claims made" policy. On May 20, 1991, Shelly McCormick sued the university for medical malpractice allegedly committed in 1979. The university mistakenly listed Ms. McCormick's claim as a 1979 rather than a 1991 claim on "loss run" reports submitted to Lexington before the policy expired. The insurer denied coverage based on no timely notice. The university sued but lost in the trial court.

The appellate court said that under a "claims made" policy, coverage is provided if the third party's claim is made against the policyholder and brought to the insurer's attention during the term of the policy. The court said the 1991 loss run, a 15-page document reporting more than 500 incidents, did not constitute notice to the insurer of Ms. McCormick's claim. The trial court decision was affirmed.

Lexington Insurance. Co. vs. St. Louis University, 8th U.S. Circuit Court of Appeals, July 8, 1996 (*BI*/03/J.-$10).

Fraud sufficient for property denial

A property insurer was not required to prove reliance to prevail on its claim that a policyholder submitted a fraudulent proof-of-loss, according to the 8th U.S. Circuit Court of Appeals.

Roy Holst filed a $215,000 claim against his insurer, General Casualty Insurance Cos., after his place of business was damaged by a fire. The insurer paid $70,000 on the portions of Mr. Holst's claim that were not in dispute at that time. Later, the insurer denied the claim completely because it believed Mr. Holst failed to cooperate in the investigation of the loss and violated the concealment, misrepresentation or fraud conditions of the insurance policy. The insurer then filed this action to recover the $70,000 it paid Mr. Holst. The insurer had reason to believe arson may have been the cause of the fire. A jury found for the insurer.

On appeal, Mr. Holst argued that the insurer failed to prove that it relied on Mr. Holst's allegedly fraudulent statements. The insurer argued that it only had to prove that Mr. Holst breached a provision of the insurance contract. The court said this case involved a fraudulent proof-of-loss charge rather than a charge of fraud in an application for insurance coverage. According to the court, a fraudulent proof-of-loss does not require proof of reliance as would be the case in a claim of fraud in the inducement to write a policy. The trial court decision was affirmed.

General Cas. Insurance. Companies vs. Holst Radiator Co., 8th U.S. Circuit Court of Appeals, July 10, 1996 (BI/01/F.-$10)

Psychic trauma covered in comp case

The Supreme Court of Georgia ruled that psychic trauma is compensable when it arose out of an accident in which a compensable physical injury contributes to the continuation of the psychic trauma.

While in the scope of his employment as a truck driver, Denver George suffered physical injuries when his tractor-trailer hit a passenger vehicle broadside after the other driver ran a stop sign. The driver of the other vehicle was thrown from the impact, and a female passenger was killed instantly. Mr. George saw her body collide with the grill of his truck. He was placed in the same emergency room with the other driver whose lung had collapsed, whose face was mangled and who was hollering for the deceased passenger.

Two months later, Mr. George was released to return to full duty work by his orthopedist. He continued to be treated by a psychiatrist for post-traumatic stress disorder, which intensified his knee injury. His condition necessitated continuing psychiatric treatment and resulted in his inability to work as a truck driver. Mr. George applied for and was denied compensation for the psychiatric disability. The Court of Appeals reversed and awarded him benefits.

The state Supreme Court said a psychological injury or disability is compensable if it arises naturally and unavoidably from some discernible physical occurrence. The court noted that Mr. George had suffered a discernible physical injury. Thus, the court said Mr. George was entitled to benefits for mental disability and psychiatric treatment which, while not necessarily precipitated by a physical injury, arose out of an accident in which a compensable physical injury was sustained, and that injury contributed to the continuation of the psychic trauma.

Southwire Co. vs. George, Supreme Court of Georgia, June 3, 1996. (BI/02/F.-$10)

OK to limit benefits to nonresident aliens

Nonresident alien parents of a deceased employee could not challenge a state law limiting compensation benefits to them, according to the Supreme Court of Illinois.

Abundia Jarabe McLeod was killed while working as a baggage handler for American Airlines in Illinois. Her parents, Cesar Jarabe, Sr., and Tomasa Isma Jarabe, were nonresident aliens residing in the Philippines. The parents had never resided in the United States. Illinois workers compensation law awarded benefits to dependent parents equal to two-thirds the average weekly wages of a deceased worker unless the parents were nonresident aliens in which case the benefits were reduced to 50% of the average weekly wage. Initially, the parents here were awarded $297.50 per week in death benefits; however, this was reduced pursuant to the nonresident alien formula. The parents challenged the nonresident alien provision as unconstitutional because it violated the due process and equal protection clauses of the U.S. and Illinois constitutions. The trial court agreed.

On appeal, the Industrial Commission argued that the parents could not challenge the law because nonresident aliens cannot avail themselves of these state and federal constitutional protections. The court agreed stating that the protection of the fourteenth amendment is territorial and applies only to those persons within the territorial jurisdiction of the United States. Thus, the court said that the parents, as aliens who have never resided in the U.S., could not invoke the equal protection or due process clause of either the federal or the state constitution in an effort to invalidate the law. The trial court decision was reversed.

Jarabe vs. Industrial Commission, Supreme Court of Illinois, March 28, 1996, *Rehearing Denied* June 3, 1996 (BI/04/F.- $10). BI

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

Continued from page 30

1996 capital/surplus: $3 million.
Policyholders: 60 in 1996; 65 estimated in 1997.
Membership: Oral and maxillofacial surgeons.
Contact: Sherman Hee.

Peoria Area Chamber of Commerce Trust

Risk Management Administrators, 8425 Woodfield Crossing Blvd., Suite 333, Indianapolis, Ind. 46240; 317-469-4440

Domicile: Illinois.
Risks: Workers compensation.
Limits: $1 million primary and/or $2 million excess of $1.4 million.
Minimum retention: $300,000.
Policy form: Occurrence.
Access: All brokers.
First policy: December 1996.
1996 premium volume: $419,560.
1996 assets: $466,459.
1996 capital/surplus: ($11,047).
Policyholders: 34 in 1996; 90 estimated in 1997.
Membership: Peoria Area Chamber of Commerce.
Contact: Sean Murray.

If your facility was not listed in this year's directory and you would like to receive a questionnaire to be listed next year, please call Assistant Directory Editor Richard Trout at 312-649-5483.

Plastics Industry Risk Retention Group

Vermont Insurance Management Inc., P.O. Box 306, Montpelier, Vt. 05601; 802-229-5042

Domicile: Vermont.
Risks: General and product liability.
Limits: Up to $3 million per occurrence.
Minimum retention: $25,000.
Policy form: Claims-made, occurrence.
Access: Direct.
First policy: September 1990.
1996 premium volume: $309,954.
1996 assets: $1.2 million.
1996 capital/surplus: $781,068.
Policyholders: 25 in 1996; 25 estimated in 1997.
Membership: Companies associated with the plastics industry (manufacturing and distribution).
Contact: Andrew Sargeant.

Potomac Indemnity Co.

RiskCap, 1571 Race St., Denver, Colo. 80206; 303-388-5688

Domicile: Cayman Islands.
Risks: Property, general liability, workers compensation.
Limits: $1 million per occurrence/$2 million aggregate excess of $50,000.
Policy form: Occurrence.
Access: All brokers.
First policy: April 1997.
1996 premium volume: $2.8 million
1996 assets: $600,000.
1996 capital/surplus: $600,000.
Policyholders: 1,200 in 1996; 1,200 estimated in 1997.
Membership: Country inns or bed and breakfast inns.
Contact: Michael Murphy.

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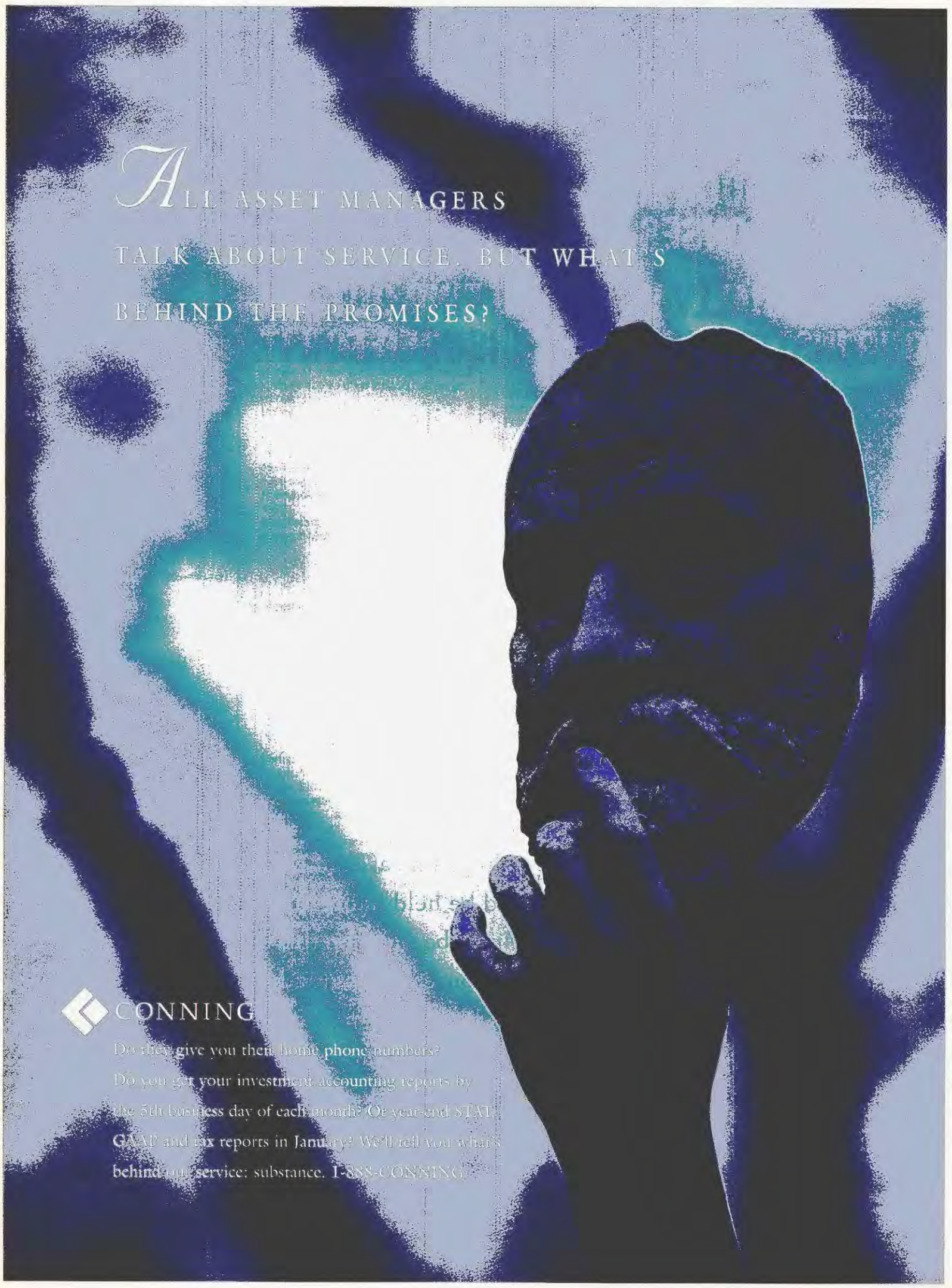
J&H Marsh & McLennan (Barbados) Ltd., P.O. Box 1274, Whitepark House, White Park Road, Bridgetown, Barbados; 246-436-9929

Domicile: Barbados.
Risks: General, auto and employers liability; products and completed operations.
Limits: General liability: $25 million excess of $2 million. Auto liability: $25 million excess of $1 million.
Minimum retention: General liability: $1 million; auto liability: $2 million.
Policy form: Occurrence.
First policy: July 1986.
1996 premium volume: $4.8 million; $2 million in deposit premiums.
1996 assets: $91.3 million.
1996 capital/surplus: $24 million.
Policyholders: 17 in 1996; 17 estimated in 1997.
Membership: Chemical manufacturers and related business.
Contact: Richard Estwick or Kevin Walton.

Professional Business Owners Self Insurers Fund

1800 Second St., Suite 909, Sarasota, Fla. 34236; 941-955-0793

Domicile: Florida.
Self-managed.
Risks: Workers compensation.
Limits: Statutory.
Minimum retention: $400,000.
Policy form: Occurrence.
Access: All brokers.
First policy: March 1990.
1996 premium volume: $18.5 million.
1996 assets: $24.6 million.
1996 capital/surplus: $4.1 million.
Policyholders: 1,592 in 1996; 911 estimated in 1997.
Membership: Professional Business Owners Assn.
Contact: Jeffrey A. Taylor.



The Risk Exchange Assn.

International Risk Management (Bermuda) Ltd., Belvedere Building, P.O. Box HM 600, Hamilton HM CX, Bermuda; 441-295-0713

Domicile: Bermuda.
Risks: Property, casualty, marine.
Limits: Property: $7.5 million primary. Casualty: $10.5 million primary. Marine: $6.5 million primary.
Policy form: Claims-made, occurrence.
Access: All brokers, direct.
First policy: February 1984.
1996 premium volume: $283,000.
1996 assets: $1.5 million.
1996 capital/surplus: $203,000.
Policyholders: Nine in 1996; nine estimated in 1997.
Membership: Captive insurance companies that reinsure each other's parental risk on a facultative basis.
Contact: Anna W. Summers.

Risk & Insurance Management Fund—University of Colorado

Alternative Insurance Management Services Inc., 6021 S. Syracuse Way, Suite 205, Englewood, Colo. 80111; 303-694-9360

Domicile: Colorado.
Risks: Workers compensation, property, auto and general liability.
Limits: Various.
Minimum retention: Various.
Policy form: Occurrence.
Access: All brokers.
First policy: June 1993.
1996 premium volume: $10 million.
1996 assets: $24 million.
1996 capital/surplus: $3 million.
Policyholders: Six in 1996; six estimated in 1997.
Membership: Affiliated with University of Colorado, a governmental entity.
Contact: Richard A. Johnson.

Continued on next page

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Roofers of Illinois Compensation Trust

Risk Management Administrators, 8425 Woodfield Crossing Blvd., Suite 333, Indianapolis, Ind. 46240; 317-469-4440

Domicile: Illinois.
Risks: Workers compensation.
Policy form: Occurrence.
First policy: In formation.
Membership: Roofing contractors.
Contact: Sean Murray.

S

Sargasso Mutual Insurance Co. Ltd.

J&H Marsh & McLennan (Bermuda) Ltd., Victoria Hall, Victoria St., Hamilton, Bermuda; 441-297-9762

Domicile: Bermuda.
Risks: D&O liability.
Limits: $5 million, $10 million or $15 million primary or excess.
Policy form: Claims-made.
Access: Direct.
First policy: 1986.
1996 premium volume*: $804,302.
1996 assets*: $47.1 million.
1996 capital/surplus*: $43.4 million.
Policyholders: 15 in 1996; 16 estimated in 1997.
Membership: Mutual life insurance companies domiciled in the United States or Canada.
Contact: Susan Gray.
** Estimate subject to audit.*

Schools Excess Liability Fund

1531 I St., Suite 300, Sacramento, Calif. 95814; 916-321-5300

Domicile: California.
Self-managed.
Risks: Excess liability, workers compensation.
Policy form: Occurrence.
Access: Direct.
First policy: March 1986.
1996 premium volume: $16.9 million.
1996 assets: $116.5 million.
1996 capital/surplus: $41.7 million.
Policyholders: 1,100 in 1996; 1,000 estimated in 1997.
Membership: California public educational agencies.
Contact: John C. Wilson.

Sporting Activities Insurance Ltd. (SAIL)

International Advisory Services Ltd., P.O. Box HM 1760, Hamilton HM HX, Bermuda; 441-295-3688

Domicile: Bermuda.
Risks: Product liability for firearms manufacturers and importers.
Limits: $2 million primary.
Policy form: Claims-made.
Access: Direct.
First policy: June 1986.
1996 premium volume: $1.5 million.
1996 assets: $6.3 million.
1996 capital/surplus: $4 million.
Policyholders: 30 in 1996; 30 estimated in 1997.
Membership: Sporting arms manufacturers and importers.
Contact: David Pickering.

States Self-Insurers Risk Retention Group Inc.

Berkley Risk Services Inc., 920 Second Ave. S., Suite 700, Minneapolis, Minn. 55402; 800-640-0345

Domicile: Georgia.
Risks: General liability, policy professional, public official E&O, auto liability.
Limits: $10 million excess of $100,000 minimum self-insured retention.
Minimum retention: $100,000.
Policy form: Claims-made, occurrence.
Access: All brokers, direct.
First policy: June 1988.
1996 premium volume: $4.7 million.
1996 assets: $12 million.
1996 capital/surplus: $5.1 million.
Policyholders: 35 in 1996; 40 estimated in 1997.
Membership: Public entities.
Contact: Mark Flaten.

Structural Engineers Insurance Ltd. (SEIL)

International Advisory Services Ltd., P.O. Box HM 1760, Hamilton HM HX, Bermuda; 441-295-3688

Domicile: Bermuda.
Risks: Professional liability.
Limits: Up to $2 million primary excess of self-insured retention.
Minimum retention: $50,000.
Policy form: Claims-made.
Access: Direct.
First policy: 1986.
1996 premium volume: $1.5 million.
1996 assets: $9 million.
1996 capital/surplus: $1.5 million.
Policyholders: 13 in 1996; 14 estimated in 1997.
Membership: Structural engineers with over $1 million in annual billings.
Contact: David Ezekiel or David Lampit.

Subway Owners' Mutual Insurance Co.

AIG Insurance Management Services Inc., 156 College St., P.O. Box 1687, Burlington, Vt. 05401; 802-658-9405

Domicile: Vermont.
Risks: Workers compensation.

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Limits: $250,000 primary.
Policy form: Occurrence.
Access: Specific broker.
First policy: September 1992.
1996 premium volume: $2.6 million.
1996 assets: $5.8 million.
1996 capital/surplus: $1 million.
Policyholders: 2,000 in 1996; 2,400 estimated in 1997.
Membership: Subway sandwich shop franchise owners.
Contact: Ann Wick or David Provost.

T

Terra Insurance Co. (A Risk Retention Group)

Vermont Insurance Management Inc., P.O. Box 306, Montpelier, Vt. 05601; 802-229-5042

Domicile: Vermont.
Risks: Professional liability.
Limits: $1 million per occurrence/$1 million aggregate; $1 million excess of $1 million.
Minimum retention: $25,000 deductible.
Policy form: Claims-made.
Access: Direct.
First policy: April 1988.
1996 premium volume: $6.1 million.
1996 assets: $25.7 million.
1996 capital/surplus: $11.7 million.
Policyholders: 86 in 1996; 85 estimated in 1997.
Membership: Assn. of Soil & Foundation Engineers.
Contact: Andrew Sargeant.

TOPS Insurance Ltd.

Oil Management Services Ltd., Ace Building, 30 Woodbourne Ave., Pembroke, Bermuda HM 08; 441-295-0905

Domicile: Bermuda.
Risks: Total loss property coverage for fixed offshore production facilities.
Limits: $70 million.
Policy form: Occurrence.
Access: Direct.
First policy: January 1993.
1996 premium volume: $7.7 million.
1996 assets: $100.8 million.
1996 capital/surplus: $86.7 million.
Policyholders: 16 in 1996; 16 estimated in 1997.
Membership: Petroleum industry.
Contact: Jon R. King.

Tortuga Casualty Co.

International Risk Management (Cayman) Ltd., British American Tower, P.O. Box 69, Cayman Islands B.W.I.; 345-949-0155

Domicile: Cayman Islands.
Risks: Excess liability.
Limits: $50 million excess of $25 million.
Policy form: Claims-made.
Access: All brokers, Bermuda brokers, direct.
First policy: January 1986.
1996 premium volume: $4.7 million.
1996 assets: $138 million.
1996 capital/surplus: $11.5 million.
Policyholders: 17 in 1996; 18 estimated in 1997.
Membership: Various.
Contact: John R. Lower.

U

United Educators Insurance Risk Retention Group Inc.

United Insurance Management Co., 2 Wisconsin Circle, Suite 1040, Chevy Chase, Md. 20815; 301-907-4908

Domicile: Vermont.
Risks: Educational institutions, museums, foundations and associations.
Limits: $25 million primary.
Minimum retention: $5,000.
Policy form: Claims-made, occurrence.
Access: All brokers.
First policy: June 1987.
1996 premium volume: $39 million.
1996 assets: $112 million.
1996 capital/surplus: $8 million.
Policyholders: 1,029 in 1996; 1,075 estimated in 1997.
Membership: Educational institutions.
Contact: Davison Obenauer.

United Home Insurance Co., a Risk Retention Group

J&H Marsh & McLennan Inc., P.O. Box 530, Burlington, Vt. 05402-0530; 802-864-2751

Domicile: Vermont.
Risks: Homeowner's warranty.
Limits: $1 million primary.
Policy form: Claims-made.
Access: Specific broker.
First policy: Pending.
1996 assets: $1 million.
1996 capital/surplus: $1 million.
Policyholders: Three in 1996; three estimated in 1997.
Membership: Homebuilder's Assn.
Contact: Carol A. Jones.

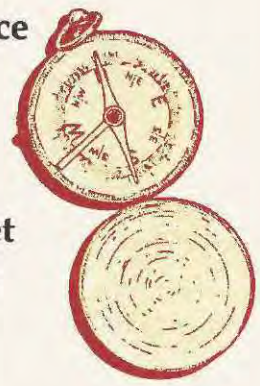
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Continued from previous page

United Insurance Co.

International Risk Management (Cayman) Ltd., British American Tower, P.O. Box 69, Cayman Islands, B.W.I.; 345-949-0155

Domicile: Cayman Islands.
Risks: Property and casualty.
Limits: $1.5 million primary and/or $5 million excess of various attachment points.
Policy form: Claims-made, occurrence.
Access: All brokers, Bermuda brokers, direct.
First policy: January 1976.
1996 premium volume: $40 million.
1996 assets: $114 million.
1996 capital/surplus: $15 million.
Policyholders: 75 in 1996; 75 estimated in 1997.
Membership: Various.
Contact: John R. Lower.

W

Water, Wastewater & Process Equipment Manufacturers Insurance Co. Inc.

AIG Insurance Management Services Inc., 156 College St., Burlington, Vt. 05401; 802-658-9405

Domicile: Hawaii.
Risks: Product liability.
Limits: $200,000 primary.
Minimum retention: $10,000.
Policy form: Occurrence.
Access: Specific broker.
First policy: November 1989.
1996 premium volume: $467,000.
1996 assets: $2.5 million.
1996 capital/surplus: $1.7 million.
Policyholders: 33 in 1996.
Membership: Water & Wastewater Equipment Manufacturers Assn.
Contact: Ann Wick or David Provost.

Western Pacific Mutual Insurance Co., a Risk Retention Group

RiskCap, 1571 Race St., Denver, Colo. 80206; 303-388-5688

Domicile: Colorado.
Risks: New home warranty.
Limits: Home price.
Policy form: Claims-made.
Access: Warranty administrator.
First policy: July 1990.
1996 premium volume: $10.6 million; $20.9 million in deposit premiums.
1996 assets: $40.7 million.
1996 capital/surplus: $13 million.
Membership: Home construction and sales.
Contact: Sherlyn Farrell.

Wrenford Insurance Co. Ltd.

International Risk Management (Bermuda) Ltd., Belvedere Building, P.O. Box HM 600, Hamilton HM CX, Bermuda; 441-295-0713

Domicile: Bermuda.
Risks: Global all-risks property, primarily highly protected risks.
Limits: Unlimited excess of $25,000 deductible for property damage and business interruption losses.
Minimum Retention: $150,000.
Policy form: Occurrence.
Access: Must be captive insurance company related business.
First policy: June 1975.
1996 assets: $2.6 million.
1996 capital/surplus: $660,000.
Policyholders: Three in 1996; three estimated in 1997.
Membership: Metal working, electrical.
Contact: Anna W. Summers.

The information on each alternative risk facility was provided by the facility or its manager in response to a *Business Insurance* questionnaire. Although every effort has been made to report complete and accurate information, *BI* is unable to verify all the information provided.

C

CAMCA Reassurance

Willis Corroon Management (Luxembourg) S.A., 26 Place de la Gare, L-1616 Luxembourg; 352-48-90-20

Domicile: Luxembourg.
Risks: Property/casualty.
Programs: Fully funded, traditional.
Policy form: Claims-made.
Access: All brokers.
Established: October 1992.
Premium volume: $16 million in 1996; $20 million estimated in 1997.
1996 assets: $71.7 million.
1996 capital/surplus: $56.1 million.
Policyholders: 45 in 1996; 50 estimated in 1997.
Contact: M. Serge Pineau.

E

East River Insurance Co. (Bermuda) Ltd.

Continental Risk Services Ltd., Continental Building, 25 Church St., P.O. Box HM 824, Hamilton HM CX, Bermuda; 441-295-6015

Domicile: Bermuda.
Risks: Workers compensation; general, auto and professional liability.
Limits: Negotiable.
Programs: Fully funded, traditional.
Policy form: Claims-made, occurrence.
Access: All brokers, direct.
Established: 1986.
Requirements: $1 million minimum premium.
Fronting insurers: CNA Insurance Cos.
Premium volume: $43 million in 1996; $56 million estimated in 1997.
1996 assets: $770 million.
1996 capital/surplus: $90 million.
Policyholders: Eight in 1996; 14 estimated in 1997.
Membership: Various.
Contact: Thomas R. McMahon.

F

FH Assurance

TRISTAR Risk Management, 6133 Bristol Parkway, Suite 300, Culver City, Calif. 90230; 310-342-0500
Domicile: Cayman Islands.
Risks: Workers compensation, professional liability.
Limits: Workers compensation: statutory. Liability: various.
Programs: Fully funded, traditional.
Policy form: Claims-made, occurrence.
Access: All brokers.
Established: 1995.
Fronting insurers: California Compensation Insurance Co.
Premium volume: $5 million in 1996; $15 million estimated in 1997.
1996 assets: $14 million.
1996 capital/surplus: $4 million.
Policyholders: Two in 1996; 14 estimated in 1997.
Membership: Multiple industries, including health care.
Contact: Tom Veale.

Continued on next page



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McLARENS TOPLIS
INTERNATIONAL ADJUSTERS AND SURVEYORS

Continued from previous page

Fortress Insurance Co. Ltd.
BF&M Management Ltd., P.O. Box HM 1007, Hamilton HM DX, Bermuda; 441-292-6396; fax: 441-292-8682

Domicile: Bermuda.
Risks: All classes.
Limits: Various.
Programs: Fully funded, traditional.
Policy form: Claims-made.
Access: All brokers, direct.
Established: 1977.
1996 assets: $12 million.
1996 capital/surplus: $2.1 million.
Policyholders: Five in 1996; seven estimated in 1997.
Membership: Manufacturing, health, finance.
Contact: Andrew White.

G

General Professional Indemnity Ltd.
Griffiths & Wanklyn Management Ltd., Craig Appin House, 8 Wesley St., Hamilton, Bermuda; 441-295-1639

Domicile: Bermuda.
Risks: All classes, excluding life.
Limits: Various.
Programs: Fully funded, traditional.
Policy form: Claims-made, occurrence.
Access: All brokers, direct.
Established: January 1992.
Premium volume: $1.4 million in 1996; $2 million estimated in 1997.
1996 assets: $3.5 million.
1996 capital/surplus: $500,000.
Policyholders: 20 in 1996; 20 estimated in 1997.
Membership: Various.
Contact: Julian Griffiths.

Gulf Re
International Risk Management (Cayman) Ltd., P.O. Box 69 GT, Cayman Islands, B.W.I.; 345-949-0155; fax: 345-949-0002

Domicile: Cayman Islands.
Risks: Medical specific express, medical aggregate stop loss, term life, dread disease.
Limits: Various.
Programs: Fully funded, traditional.
Policy form: Claims-made, occurrence.
Access: All brokers.
Established: January 1997.
Premium volume: $3 million estimated in 1997.
1996 assets: $150,000.
1996 capital/surplus: $150,000.
Policyholders: 10 estimated in 1997.
Membership: Various.
Contact: John R. Lower.

If your rent-a-captive was not listed in this year's directory and you would like to be included next year, please contact Richard Trout, Assistant Directory Editor, at 312-649-5483

H

Hanseatic Insurance Co. Ltd.
Atlantic Security Ltd., P.O. Box HM 2078, Hamilton, Bermuda; 441-295-5425

Domicile: Bermuda.
Risks: All classes.
Limits: Various.
Programs: Fully funded, traditional.
Policy form: Claims-made.
Access: All brokers.
Established: 1970.
Premium volume: $5.5 million in 1996; $7 million estimated in 1997.
1996 assets: $5 million.
1996 capital/surplus: $300,000.
Policyholders: 10 in 1996; 12 estimated in 1997.
Membership: Various.
Contact: Colin James or Richard Witkowski.

Hartford Insurance Ltd.
Hartford Holdings Ltd. (Fencourt Re), The Hartford, Hartford Plaza T-14, Hartford, Conn. 06115; 860-547-2457

Domicile: Bermuda.
Risks: Workers compensation, general and auto liability, property, livestock.
Limits: Various.
Programs: Fully funded, traditional.
Policy form: Claims-made, occurrence.
Access: All brokers, direct.
Established: December 1996.
Requirements: $500,000 minimum premium (generally).
Fronting insurers: Hartford Fire and affiliates.
Premium volume: $115,000 in 1996; $5 to $10 million estimated in 1997.
1996 assets: $1.4 million.
1996 capital/surplus: $1.3 million.
Policyholders: One in 1996; six estimated in 1997.
Contact: C. Robert Burns Jr.

Continued on next page

Directory terms for listings of rent-a-captives

Listings in the annual *Business Insurance* directory of rent-a-captives begin with the name of the rent-a-captive and manager and the address of the manager.

Listed next is the domicile of the rent-a-captive; the risks the rent-a-captive underwrites; the limits it provides; the minimum retention; the policy form used; how potential policyholders can gain access to the rent-a-captive; the date the first policy was written; 1996 premium volume and estimated 1997 premium volume; assets as well as capital and surplus at year-end 1996; the number of policyholders in 1996 and an estimate for 1997; and a description of the rent-a-captive's membership, including any association requirements. Completing the listing is the name of the person to contact for additional information.

Please refer to page 22 for a brief summary of the total membership and financial data reported in the rent-a-captive directory.

The information on each rent-a-captive was provided by the rent-a-captive or its manager in response to a *Business Insurance* questionnaire. Although every effort has been made to report complete and accurate information, *BI* is unable to verify all the information provided.

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Issue of May 19

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A ❑ Mfg/Svcs B ❑ Association C ❑ Union D ❑ Government E ❑ Educational Inst F ❑ Ins Agent G ❑ Ins Broker H ❑ Ins/Reins Co I ❑ Consultant J ❑ Actry/Attorney K ❑ Adj/Apprs L ❑ TPA M ❑ Health care Inst N ❑ Other_____

2. Number of employees:
1 ❑ 150 or less 2 ❑ 151 - 499 3 ❑ 500 - 999 4 ❑ 1,000 - 4,999 5 ❑ 5,000 or more 6 ❑ Unknown

3. My title is best defined as:
A ❑ Administrative Mgt B ❑ Financial Mgt C ❑ Risk Mgt D ❑ Benefits Mgt E ❑ Loss Prevention Mgt F ❑ Other_____

4. My purchasing involvement for the requested products is to:
1 ❑ recommend only 2 ❑ specify 3 ❑ approve

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A ❑ Yes B ❑ No, so please send subscription info

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Name_____

Title_____

Company_____

Address_____

City_____ State_____ Zip_____

Phone ( )_____

Continued from previous page

Horizon Fire & Marine Insurance Co. Ltd.

Triangle Insurance Management Ltd., The Phoenix Building, 2 Reid St., Hamilton HM 11, Bermuda; 441-292-4364

Domicile: Bermuda.
Risks: Various.
Limits: Various.
Programs: Fully funded, traditional.
Policy form: Claims-made, occurrence.
Requirements: Minimum fee.
Access: All brokers, direct.
1996 assets: $1.2 million.
1996 capital/surplus: $875,000.
Policyholders: Three in 1996; 12 estimated in 1997.
Membership: Various.
Contact: Bruce Fenton or Janice Witkowski.

I

The IPC Cos.*

P.O. Box 2064, Hamilton HM HX, Bermuda; 441-295-5688

Domicile: Various.
Self-managed.
Risks: Various, primarily workers compensation.
Limits: $250,000 per occurrence/$500,000 aggregate (generally).
Programs: Fully funded, traditional.
Policy form: Claims-made, occurrence.
Access: All brokers, direct, Commonwealth Risk Services.
Established: 1979.
Requirements: $750,000 minimum premium (generally).
Fronting insurers: Legion Insurance Co.
Premium volume: $161.8 million in 1996.
1996 assets: $707.3 million.
1996 capital/surplus: $189.4 million.
Policyholders: 450.
Membership: Various, including manufacturing, health care, trucking and sports teams.
Contact: Paul Watson.
** Consolidated, includes Mutual Indemnity Ltd., Mutual Indemnity (Bermuda) Ltd. and Mutual Indemnity (U.S.) Ltd.*

Isosceles Insurance Ltd.

Triangle Insurance Management Ltd., The Phoenix Building, 2 Reid St., Hamilton HM 11, Bermuda; 441-292-4364

Domicile: Bermuda.
Risks: Various.
Limits: Various.
Programs: Fully funded, traditional.
Policy form: Claims-made, occurrence.
Access: All brokers, direct.
Established: In formation.
Requirements: Minimum fee.
Policyholders: 10 estimated in 1997.
Contact: Bruce Fenton or Janice Witkowski.

M

Magna Carta Insurance Company Ltd.

Atlantic Security Ltd., P.O. Box HM 2078, Hamilton, Bermuda; 441-295-5425

Domicile: Bermuda.
Risks: All classes.
Limits: Various.
Programs: Fully funded, traditional.
Policy form: Claims-made.
Access: All brokers.
Established: 1978.
Premium volume: $1.5 million in 1996; $2 million estimated in 1997.
1996 assets: $8.5 million.
1996 capital/surplus: $250,000.
Policyholders: 12 in 1996; 15 estimated in 1997.
Membership: Direct non-controlled foreign corporation.
Contact: Colin James or Richard Witkowski.

Meridian Insurance Co. Ltd.

TRISTAR Risk Management, 6133 Bristol Parkway, Suite 300, Culver City, Calif. 90230; 310-342-0500

Domicile: Cayman Islands.
Risks: Workers compensation, professional and general liability.
Limits: Workers compensation: statutory. Liability: various.
Programs: Fully funded, traditional.
Policy form: Occurrence.
Access: All brokers.
Established: 1981.
Premium volume: $8 million in 1996; $15 million estimated in 1997.
1996 assets: $68 million.
1996 capital/surplus: $28 million.
Policyholders: 12 in 1995; 15 estimated in 1996.
Membership: Health care providers, service organizations, hotel owners.
Contact: Tom Veale.

Mutual Indemnity Ltd.

P.O. Box 2064, Hamilton HM HX, Bermuda; 441-295-5688

Domicile: Bermuda.
Self-managed.
Risks: Various, primarily workers compensation.
Limits: $250,000 per occurrence/$500,000 aggregate (generally).
Programs: Fully funded, traditional.
Policy form: Claims-made, occurrence.
Access: All brokers, direct, Commonwealth Risk Services.
Established: May 1979.
Requirements: $750,000 minimum premium (generally).
Fronting insurers: Legion Insurance Co.
Premium volume: $30.2 million in 1996.
1996 assets: $294.3 million.
1996 capital/surplus: $52.3 million.
Policyholders: 216 in 1996.
Membership: Various, including manufacturing, health care, trucking and sports teams.
Contact: Paul Watson.

Mutual Indemnity (Bermuda) Ltd.

P.O. Box 2064, Hamilton HM HX, Bermuda; 441-295-5688

Domicile: Bermuda.
Self-managed.
Risks: Various, primarily workers compensation.
Limits: $250,000 per occurrence/$500,000 aggregate (generally).
Programs: Fully funded, traditional.
Policy form: Claims-made, occurrence.
Access: All brokers, direct, Commonwealth Risk Services.
Established: May 1993.
Requirements: $750,000 minimum premium (generally).
Fronting insurers: Legion Insurance Co.
Premium volume: $85.1 million in 1996.
1996 assets: $210.9 million.
1996 capital/surplus: $26.4 million.
Policyholders: 240 in 1996.
Membership: Various, including manufacturing, health care, trucking and sports teams.
Contact: Paul Watson.

Mutual Indemnity (U.S.) Ltd.

P.O. Box 2064, Hamilton HM HX, Bermuda; 441-295-5688

Domicile: Delaware.
Self-managed.
Risks: Various, primarily workers compensation.
Limits: $250,000 per occurrence/$500,000 aggregate (generally).
Programs: Fully funded, traditional.
Policy form: Claims-made, occurrence.
Access: All brokers, direct, Commonwealth Risk Services.
Established: January 1989.
Requirements: $750,000 minimum premium (generally).
Fronting insurers: Legion Insurance Co.
Premium volume: $46.1 million in 1996.
1996 assets: $73 million.
1996 capital/surplus: $8.9 million.
Policyholders: 52 in 1996.
Membership: Various, including manufacturing, health care and trucking.
Contact: Paul Watson.

O

OHC Reinsurance Co. Ltd. (OHC Re)

Skandia International Risk Management Ltd./Omega Healthcare Corp., 756 Benedetti Drive, Suite 206, Naperville, Ill. 60563; 630-357-1753 or 630-668-8551

Domicile: Bermuda.
Risks: Health care (medical stop loss, fully insured medical, provider excess).
Limits: Custom.

Continued on next page

Continued from previous page

Programs: Fully funded, traditional.
Policy form: Claims-made, occurrence.
Access: All brokers, direct.
Established: April 1997.
Requirements: $250,000 minimum surplus (client designed and controlled proprietary "private label" programs).
Fronting insurers: Philadelphia Life, other "A" or higher rated carriers.
Premium volume: $4 million estimated in 1997.
Policyholders: Five estimated in 1997.
Membership: Health delivery systems, including major medical center, large PPO, multi-state HMO, integrated hospital network and large IPA/PHO.
Contact: R.G. Coleman or W.J. Hill.

P

Phoenix Guaranty Insurance Ltd.

Captech Management Services (Barbados) Ltd., CGM Building, Collymore Rock, St. Michael, Barbados; 246-436-8296 or 441-295-3974

Domicile: Barbados.
Risks: Workers compensation, general liability, property, reinsurance of rent-a-captive programs.
Limits: $1 million per occurrence/$2 million aggregate.
Programs: Traditional.
Policy form: Claims-made, occurrence.
Access: Qualified agents.
Established: December 1994.
Requirements: $1 million minimum premium.
Fronting insurers: Credit General Insurance Co., Reliance National Insurance Co.
Premium volume: $10 million in 1996; $14 million estimated in 1997.
1996 assets: $9.9 million.
1996 capital/surplus: $1.2 million.
Policyholders: Eight in 1996; 12 estimated in 1997.
Membership: Various.
Contact: Lawrence Dixon.

Platinum Indemnity Ltd.

Powerscourt Management Ltd., P.O. Box HM 2267, Hamilton HM JX, Bermuda; 441-295-8495

Domicile: Bermuda.
Risks: Most property and casualty lines.
Limits: Various.
Programs: Fully funded, traditional.
Policy form: Claims-made, occurrence.
Access: All brokers.
Established: 1995.
1996 assets: $1.1 million.
1996 capital/surplus: $1 million.
Contact: Andrew McComb or Chris Dickson.

R

Richmond Insurance Co. Ltd.

American International Management Services (Bermuda & Barbados), P.O. Box HM 152, Hamilton, Bermuda; 441-295-2121

Domicile: Barbados, Bermuda, Ireland.
Risks: All classes.
Limits: Various.
Programs: Fully funded, traditional.
Policy form: Claims-made, occurrence.
Access: All brokers, direct.
Established: 1986.
Requirements: $1 million minimum premium.
Fronting insurers: National Union (American International Group Inc.).
Premium volume: $136 million in 1996; $150 million estimated in 1997.
1996 assets: $901 million.
1996 capital/surplus: $41.5 million.
Policyholders: 88 in 1996; 95 estimated in 1997.
Membership: Various.
Contact: Ralph Rathjen.

S

Safety National Re

International Risk Management (Cayman) Ltd., P.O. Box 69 GT, Cayman Islands, B.W.I.; 345-949-0155; fax: 345-949-0002

Domicile: Cayman Islands.
Risks: Workers compensation; general, product and auto liability.
Limits: Various.
Programs: Fully funded, traditional.
Policy form: Claims-made, occurrence.
Access: All brokers.
Established: January 1997.
Requirements: $750,000 minimum premium.
Fronting insurers: Safety National Casualty Corp.
Premium volume: $10 million estimated in 1997.
1996 assets: $500,000.
1996 capital/surplus: $500,000.
Policyholders: 10 estimated in 1997.
Membership: Various.
Contact: John R. Lower.

Sinser Insurance Ltd.

Skandia International Risk Management, 16 Church St., P.O. Box HM 1514, Hamilton HM FX, Bermuda; 441-295-2185

Domicile: Bermuda.
Risks: Various.
Limits: Various.
Programs: Fully funded, traditional.
Policy form: Claims-made, occurrence.
Access: All brokers, direct.
Established: 1989.
Premium volume: $21 million in 1996; $35 million estimated in 1997.
1996 assets: $9 million.
1996 capital/surplus: $4 million.
Policyholders: 19 in 1996; 25 estimated in 1997.
Membership: Various.
Contact: Robert Eastham or Nicholas Dove.

U

Universal International Reinsurance Co. Ltd.

Atlantic Security Ltd., P.O. Box HM 2078, Hamilton, Bermuda; 441-295-5425

Domicile: Bermuda.
Risks: All classes.
Limits: Various.
Programs: Fully funded, traditional.
Policy form: Claims-made.
Access: All brokers.
Established: 1992.
Premium volume: $15 million in 1996; $20 million estimated in 1997.
1996 assets: $50,000.
1996 capital/surplus: $250,000.
Policyholders: 15 in 1996; 20 estimated in 1997.
Membership: Various.
Contact: Colin James or Richard Witkowski.

Universal Re-Insurance Co. Ltd.

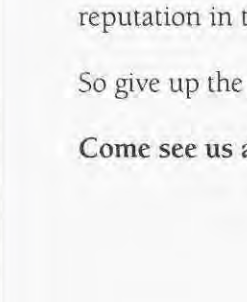
Atlantic Security Ltd., Windsor Place, 18 Queen St., Hamilton HM 11, Bermuda; 441-295-5425

Domicile: Bermuda.
Risks: Property, casualty, benefits.
Limits: Negotiable primary, $1 million excess of $250,000.
Programs: Fully funded, traditional.
Policy form: Claims-made, occurrence.
Access: Bermuda brokers.
Established: 1974.
Requirements: $250,000 direct, $1 million fronted, .
Premium volume: $27 million in 1996; $29 million estimated in 1997.
1996 assets: $55 million.
1996 capital/surplus: $570,000.
Policyholders: 30 in 1996; 35 estimated n 1997.
Membership: Various.
Contact: Hal Forkush, Colin James or Richard Witkowski. BI

Please refer to page 22 for a summary of the information contained in the directory of alternative risk financing facilities and the directory of rent-a-captives. Total figures are given for each directory, including membership, premium volume, assets and capital and surplus.

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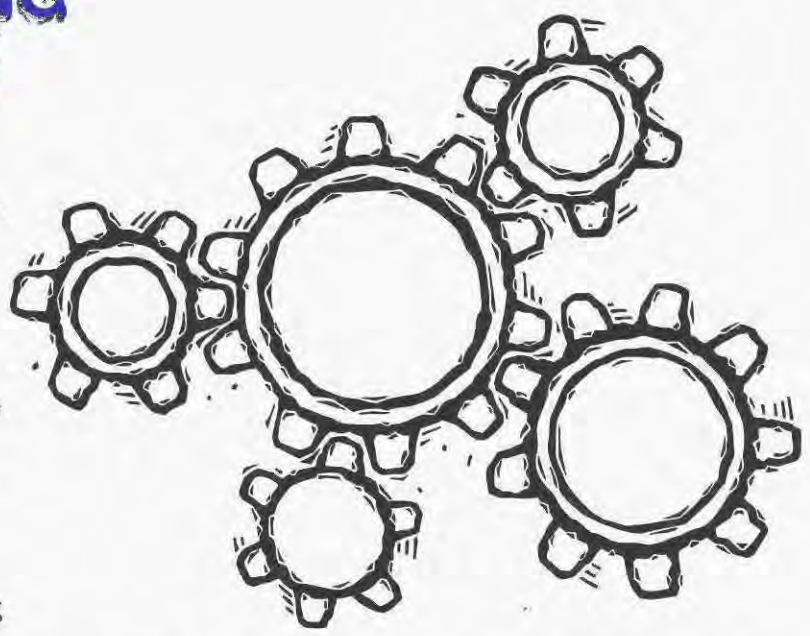


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Medicare reform is needed, Dole says

By JERRY GEISEL

WASHINGTON—The time to overhaul the federal Medicare program to avoid insolvency is now, says the former Senate Majority Leader and the 1996 Republican candidate for the presidency.

"I want to fix Medicare. We want it to be there 10 and 15 years from now," said former Sen. Robert Dole, R-Kan.



'It is shocking that no one is shocked. People don't have a sense of urgency,' Sen. Dole says of Medicare reform.

Speaking earlier this month before the annual Washington meeting of the Assn. of Private Pension & Welfare Plans, a benefits lobbying group, Sen. Dole said

Medicare provisions in a tentative budget outline hammered out by congressional Republicans and Democrats do little to fundamentally reform Medicare, which is projected to go insolvent by 2001.

Referring to the budget agreement, Sen. Dole said, "I don't see much reform when it comes to Medicare."

Broad provisions in the budget pact that would slow the growth of payments to hospitals and physicians do not constitute fundamental reform of the federal program that provides health benefits to about 37 million people, Sen. Dole said.

Sen. Dole, though, did suggest several changes he thinks could help to shore up Medicare. One change, he suggested, would be to require well-to-do retirees to pay a greater share of Part B Medicare, which covers physician services.

Currently, Part B premiums paid by retirees—regardless of their incomes—cover only 25% of the program's costs.

Another Medicare reform Sen. Dole suggests would be to expand the number of health care options available to beneficiaries. About 15% of Medicare beneficiaries are enrolled in health maintenance organizations, with the remainder covered in Medicare's traditional indemnity plan.

Despite the growing crisis facing Medicare, Sen. Dole worries that the public and legislators don't seem inclined to act.

"It is shocking that no one is shocked. People don't have a sense of urgency," he said.

But Sen. Dole said congressional interest in a true Medicare fix may increase once a real budget and tax agreement is reached. Such an agreement could "clear the deck" for consideration of Medicare reform legislation.

Noting the political sensitivity of Medicare changes, Sen. Dole said one way to defuse that sensitivity would be the establishment of a bipartisan commission that would recommend changes.

The commission approach worked successfully in the early 1980s when then-President Reagan set up a blue-ribbon panel to suggest ways to shore up Social Security, which then faced a short-term financial crisis. Congress later adopted many of the panel's recommended reforms. Sen. Dole was a member of that commission.

Sen. Dole warned his employer audience that business has a vital stake in keeping Medicare solvent. Reform proposals, Sen. Dole said, "could pick the pockets of business." BI

Riscorp

Continued from page 2

letter ratings of "C," or "weak," according to a spokesman for Riscorp. The two companies operate together as a pooled entity.

A third Riscorp company, Riscorp National Insurance Co., is not included in the "C" rating and retains Best's NR-2 rating because of limited operating experience.

"We are actively working to address A.M. Best's concerns," according to Tony Malone, Riscorp's president and chief executive officer. The company filed a partial 10-K with the SEC early last week and named Richard B. Franz as its new chief financial officer and senior vp two weeks ago.

'We are actively working to address A.M. Best's concerns,' says Riscorp President and CEO Tony Malone.

Mr. Franz previously was senior vp, treasurer and principal financial officer of Clearwater, Fla.-based Western Reserve Life Assurance Co. of Ohio.

The shareholder suits, which charge Riscorp and its officers with civil racketeering for allegedly falsifying financial statements and concealing other relevant information, recently were consolidated in federal court in Tampa, Fla.

The company spokesman said Riscorp is in the process of filing a response to the consolidated action.

Riscorp, one of Florida's largest workers comp insurers, went public last April in a $128 million IPO. Although the stock had traded over the counter as high as $24.50 a share last year, it stood at $2.63 on May 13, having dropped as low as $1.81. BI



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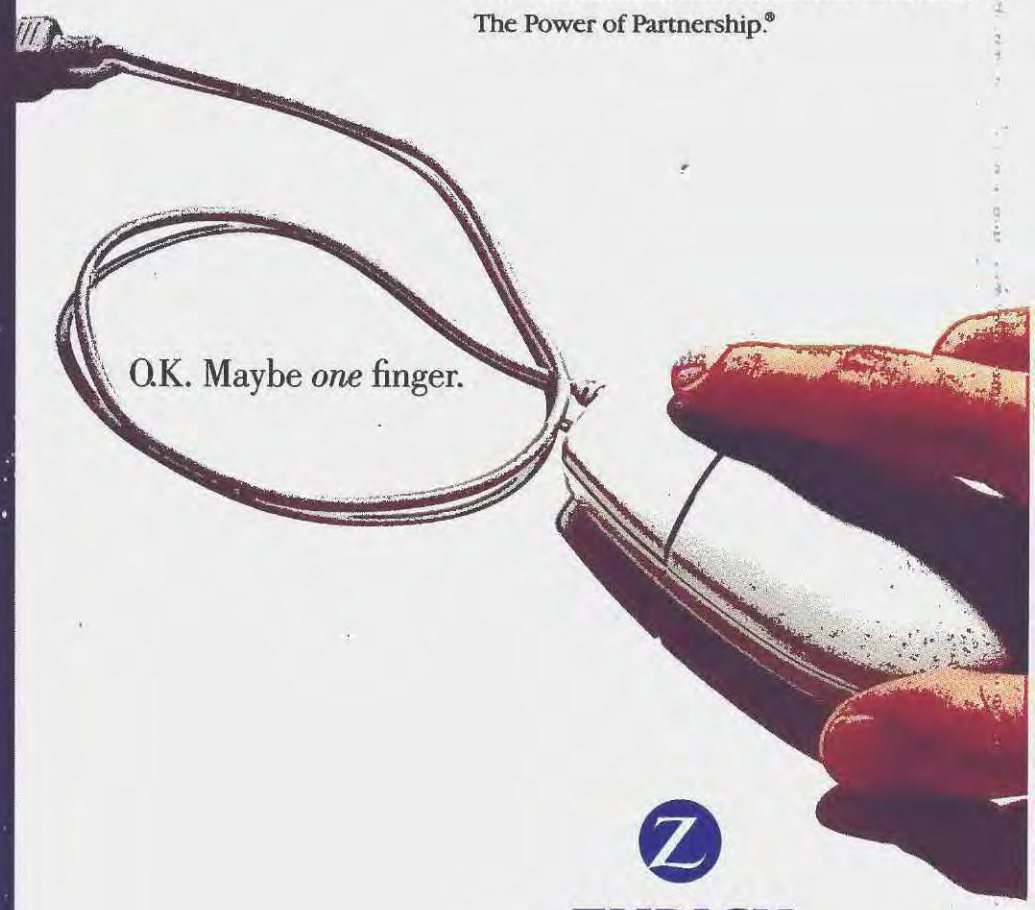
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ZURICH

Global Briefs

The Standard Steamship Owners' Protection & Indemnity Assn. is setting up a Singapore-based subsidiary, Standard Asia, to provide insurance coverages to Asia Pacific shipowners. . . .CIGNA International, the global operating arm of CIGNA Corp., has joined forces with Polish insurers STU S.A. and STU Life S.A. to establish a **Polish joint venture** in Warsaw. It is awaiting regulatory approval. . . .Creditors of the collapsed **KWELM insurance companies** in London will receive a fourth payment under the scheme of arrangement put together by accounting firm Coopers & Lybrand. The latest payment of $158 million brings the total cash pulled together by administrators to just more than $1 billion since the scheme began in late 1993. On average, KWELM creditors will now receive 12% of their losses, which are estimated at $9.2 billion. . . .More than half the stock in Bahrain-based insurer **Arab Insurance Group** is to be sold to private investors by its current owners, the governments of Kuwait, United Arab Emirates and the Central Bank of Libya. ARIG intends to launch a life insurance company next year and plans ultimately to be listed on a Middle East stock exchange. . . .Rating agency Standard & Poor's Corp. has affirmed its A+ claims-paying ability rating of Swedish insurer **Trygg-Hansa Insurance Co Ltd.** S&P cites efficient new management, superior capitalization and a strong business position as factors influencing its decision. . . .Employee benefit consulting firm **Sedgwick Noble Lowndes Ltd.** has opened a second Indian office in Bangalore. Last year, the consultant set up its first Indian operation, Sedgwick Parekh Health Management (Pte) Ltd., based in Mumbai. . . .Sir Richard Southwell has been appointed **president of Lloyd's Appeal Tribunal** at Lloyd's of London. The tribunal hears appeals against decisions made by the Lloyd's Disciplinary Tribunals. . . .Philip Bonner has been named vp of specialty products marketing and underwriting at the London office of **Capital Re Corp.** Mr. Bonner previously was credit and bonds manager with Mercantile & General Reinsurance Co. P.L.C. . . .Swiss insurer **Winterthur Group** has announced a 21% increase in profits to 507 million Swiss francs ($352.7 million) for 1996. Gross premiums rose 16% in 1996, to 26 billion Swiss francs ($18.09 billion), and nonlife premiums topped 15 billion Swiss francs ($10.44 billion) for the first time. . . .Shareholders at French insurers AXA-UAP and Compagnie UAP have formally approved the **merger of Compagnie UAP into AXA-UAP.** All Compagnie UAP assets and liabilities—valued at 36.9 billion French francs ($6.47 billion)—will be transferred into AXA-UAP retrospectively as of Jan. 1, 1997. Compagnie UAP shareholders who did not take up last year's public exchange offer will receive two AXA-UAP shares for five Compagnie UAP shares. More than 11.5 million new shares will be issued, increasing AXA-UAP's share capital by 694.5 million francs ($121.7 million). . . . Nearly half the major claims covered by the **UK P&I Club** result from cargo damage, with dry bulk cargo accounting for half of them. A safety video issued by the club earlier this month shows water causes most damage, particularly from leaking hatch covers, and bulk carriers are more likely to suffer structural failure than other ships.

NAPF applauds pension surplus

By SARAH GODDARD

HARROGATE, England—U.K. employers are being unfairly criticized for recouping surplus assets from occupational pension plans, contends the chairman of an association of pension managers.

"We should be celebrating the surpluses of pension funds" instead of referring to the issue as a problem, said Tom Ross, who as outgoing chairman gave the keynote address at the National Assn. of Pension Funds' annual conference in Harrogate this month.

It has become a problem, he said, as employers and plan participants fight over who is entitled to the surplus funds.

"One or two fundamentals should be remembered when there's a lack of clarity," said Mr. Ross. "Where employers pay the costs of deficiencies, it is not unreasonable they should get the benefit of success."

He added that plan administrators and trustees of defined benefit pension plans should review their plan documents to iron out any areas of uncertainty and lack of clarity over control of surplus assets.

Within the United Kingdom, there is a "strong, vibrant occupational pensions sector which works," said Mr. Ross. And the newly elected Labour government would do well not to "undermine that which has worked well for many years," he warned.

As the new government led by Tony Blair looks to the future, "it is very important that we remind them of the strengths and successes of occupational pensions," and show that "we in occupational pensions are people to be trusted. . .listened to. . .with strong and sound views on the way pension reform goes forward," said Mr. Ross.

Senior members of the government with responsibility for pensions are already familiar with the NAPF, said Ann Robinson, the NAPF's director general, who also addressed the meeting.

"We worked closely with them when they were in opposition," Ms. Robinson explained.

As a result, some of the new government's proposals for pensions show the effects of the NAPF's lobbying, she added.

See **NAPF** *on page 43*

Chile a hot model for U.K. pension reform

By SARAH GODDARD

HARROGATE, England—Chile's private pension system is beneficial for the country's economy and workers alike, according to Jose Pinera, president of the independent International Center for Pension Reform in Santiago.

Mr. Pinera, who spoke at the National Assn. of Pension Funds' annual meeting, said that he had recently met with Frank Field, the United Kingdom's new minister of state for social security. At that meeting and others with him before the U.K. elections, Mr. Field expressed intense interest in Chile's mandatory individual pay-as-you-go pension system, according to Mr. Pinera.

Chile's pension reforms started in 1980, with the introduction of a program for individual pension contributions. Three years later, it became mandatory for Chilean employees to contribute a minimum of 10% of their gross salaries to personal pension plans, with an extra 2% to 3% contribution to cover administration costs and life and health insurance. The pension funds are not managed by the government but rather by third parties or pools of employers that are chosen through public bids.

Chilean pensions currently total about $25 billion, said Mr. Pinera, or 40% of the country's gross national product. The growth of private pensions has created greater investment in the country, boosting the economy to an average 7% growth over the last 12 years, he said.

Not surprisingly, the Chilean model has been the blueprint for a number of countries wishing to convert their state pension programs to a private pension model.

"There is a global pension crisis," said Mr. Pinera, because social security systems around the world are going bankrupt. He blamed this crisis on the erosion of a link between contributions and payments and the link between "effort and reward," which become lost in state social security programs.

In addition, more developed countries are seeing their state pension systems threatened by demographic changes. Advancements in medicine and the quality of life means people are living longer, while birth rates continue to fall. Mr. Pinera illustrated this problem with Japan's experience. Very soon, he said, there will be only two workers to each pensioner in Japan.

By implementing the personal savings account system, Chile has depoliticized the whole issue of pensions and given individuals more control over their own retirement savings, he said.

Each month, Chilean employers deposit 10% of each worker's wages before taxes into a PSA, with no social security taxes on the deposits. "Instead of sending the payroll tax to a social security system—to that black hole—employers send it to the individual pensions account month by month," explained Mr. Pinera.

Workers are able to voluntarily contribute up to an additional 10% to their PSAs for early retirement or higher retirement benefits. This is a tax-deductible contribution.

Each worker selects from among the government approved Administradoras de Fondos de Pensiones—pension fund administrators—to manage the pension contributions. The funds are portable and competition between the AFPs is encouraged.

The secret to the Chilean system's success is the funds' "exponential growth through compound interest," said Mr. Pinera. The funds are invested in "a safe portfolio of bonds and shares," he said, and on retirement are either exchanged for an annuity or kept in the PSA to be withdrawn over time. At this point, the fund distributions are taxed as income.

If an employee's fund falls below a certain level on retirement, the state provides a guaranteed minimum pension.

Employees have been getting a better return from the PSA system than they would under the old state security system, said Mr. Pinera. Over the past 12 years, pension funds have seen a return of 12% above the rate of inflation. It has had a cultural effect too. "It has turned every worker into a capitalist," he said. BI

Cats show no sign of being tamed

By CAROLYN ALDRED

The number of catastrophes and their costs continue to rise, according to the latest annual survey of world disasters published by Munich Reinsurance Co. of Germany.

A comparison of the past 10 years with the 1960s reveals a quadrupling in the number of great natural catastrophes over this period. After allowing for inflation, economic losses were eight times as high, while insured losses were 15 times as high, Munich Re says in its annual review of natural catastrophes.

Moreover, "a reduction in this trend is not to be expected in the foreseeable future," the report predicts.

"On the contrary, its primary causes, in particular the rapid increase in the concentration of populations and values in cities exposed to catastrophes and the growing susceptibility to losses inherent in our modern industrial society suggest that this trend will become even more pronounced in the future," the report notes.

According to Munich Re, the world suffered losses of more than $60 billion from natural catastrophes during 1996, of which $9 billion was insured. There were 12,000 fatalities last year.

Although this compares favorably with the exceptionally bad year of 1995, which set a new record of $180 billion in absolute losses as a result of the Kobe earthquake in Japan (*BI*, Jan. 23, 1995), it still is part of an increasing trend in losses, the report states.

Last year's losses were the first time this decade that insured losses fell below $10 billion, "chiefly due to the low insurance density in the areas worst affected but also due to a fortuitous lack of extreme loss events in 1996," the report explains.

Munich Re registered 594 natural catastrophes in 1996, a similar figure to 1994, when there were 597 and 1995, when there were 579.

Asia was again the most severely affected continent, accounting for 31% of loss events, 80% of casualties and 61% of economic losses.

The United States, however, suffered the

See **Disasters** *on next page*

More fallout from fire

Eurotunnel cited for safety inadequacies

By EDWIN UNSWORTH

LONDON—Eurotunnel P.L.C. must simplify its complex safety procedures and improve staff training for emergencies, according to a report by the Anglo-French Channel Tunnel Safety Authority.

The report, released last week, said that the more than £200 million ($326.7 million) in insured damage caused by last November's fire on a freight train in the Channel Tunnel could have been mitigated.

The Authority blamed Eurotunnel's overly complex emergency procedures and inadequate staff training.

Eurotunnel's lead insurer, Union des Assurances de Paris, declined to comment on the report.

A Eurotunnel spokeswoman said the company accepts "the main thrust of the Safety Authority's report" and added that the bulk of the recommendations re-

See **Tunnel** *on next page*



AP/WIDE WORLD PHOTOS

A new report says that Eurotunnel P.L.C. could have better controlled damage caused by this November 1996 fire.

Eurotunnel

Continued from previous page
late to measures Eurotunnel already has implemented or plans to put in place.

Eurotunnel's own investigation prompted it to issue new policies and procedures (*BI*, April 14).

The Safety Authority report addressed the safety procedures in place before the fire (*BI*, Nov. 25, 1996), not the adequacy of ones Eurotunnel introduced after the fire.

While passenger services resumed shortly after the fire, Eurotunnel is still awaiting permission to resume cargo services, which are operated on special freight-only trains.

However, the Safety Authority decided there were insufficient grounds to require Eurotunnel to stop using the controversial open-sided freight wagons, which some safety experts claim could fan a fire on board a train.

Among the Safety Authority's key recommendations are that Eurotunnel should:

- Improve staff training to cope with emergencies.
- Test all rolling stock that carry truck drivers and train crew to ensure that they are smoke-proof.
- Abandon a policy of driving burning trains out of the tunnel and devise procedures to deal with a fire in the tunnel, protecting those on board a burning train, and minimizing risk to following trains.

The French Judicial Inquiry also is expected to release a study on the cause of the fire. BI

Disasters

Continued from previous page
most insured losses, with 81% of the total.

Windstorm and flood accounted for 62% of all natural catastrophes, 85% of all casualties, 90% of economic losses and 90% of insured losses.

In its 16-page annual report, the German reinsurer highlights the increasing threat to cities from natural catastrophes.

Munich Re claims in the report that an extreme natural catastrophe in one of the world's major metropolises or industrial centers could cause the collapse of entire countries' economic systems and could even bring about the collapse of the world's financial markets.

On the basis of the experiences of the 1995 Kobe earthquake, extrapolations for a similar or more severe earthquake in the greater Tokyo area estimate losses at between $1 trillion and $3 trillion, Munich Re states in the report.

"With losses of these dimensions, it is difficult to predict what global shock waves such a catastrophe would have," the report notes.

'It is in cities that the problems are most serious' and that rapid, effective action is necessary, Munich Re says.

Meanwhile, urbanization is increasing worldwide, according to United Nation figures.

In 1950, about 30% of the world's population—then 2.5 billion—lived in cities; now, about 45% of the world's 5.7 billion people live in cities. This is predicted to increase to more than 60% of a total population of 8.3 billion by 2025.

At the same time, the number of cities with more than 1 million inhabitants has grown to 325 today from 83 in 1950.

Moreover, Munich Re points out that large population centers are spreading into highly exposed areas, such as along rivers exposed to flooding; along coasts exposed to storms; and in areas exposed to landslide, rockfall, avalanche or forest fires.

In addition, city people are more dependent on the infrastructure, such as water supply, electricity, and transport, than more self-reliant rural populations, the report suggests.

"Numerous natural catastrophes of recent years have shown quite emphatically how vulnerable the infrastructures of major cities are to minor breakdowns and how acute shortages in supply can develop within a short time," the report points out, adding that industry "is more than ever dependent on a perfectly working infrastructure."

Munich Re also points out several ways cities can exacerbate the hazards of nature. According to the report, these include:

- Intensification of storm systems due to thermal convection above warm cities.
- Exposure to flooding, as most of the city's area is sealed with concrete and asphalt, leaving much of the rainwater running above the ground.
- An increased loss potential of extreme hailstorms because of the concentration of property.
- An increasingly frequent occurrence of lightening strikes because of towering buildings with masts.

"It is in cities that the problems are most serious and that rapid and effective countermeasures (are) most urgently required," the report concludes.

The report also highlights the increasing evidence of the greenhouse effect.

In 1996, the mean global temperature of the earth's lower atmosphere was 0.21 degrees Celsius higher than the mean value recorded for the climatological standard period from 1951 to 1980, Munich Re states.

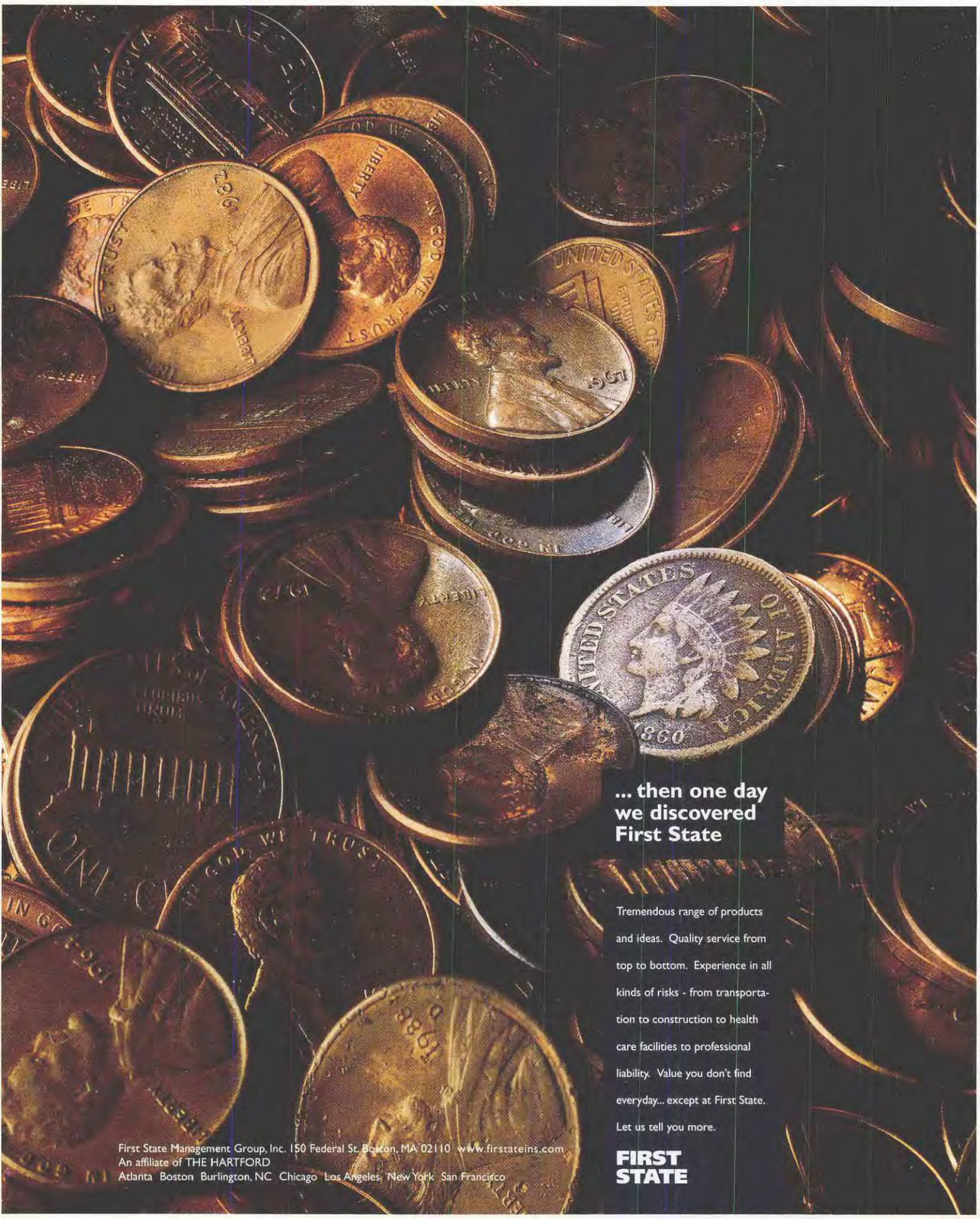
1996 was also one of the warmest years since worldwide meteorological records began about 150 years ago. Indeed, the 10 hottest years have occurred since 1980.

Computer models predict the mean global temperature will increase by a further 1-3.5 degrees Celsius within the next 100 years, resulting in temperatures man has never experienced before, Munich Re warns.

This will mean "we will be confronted with a massive increase in the occurrence of extreme meteorological values that will frequently result in catastrophes because the people in the regions affected have not experienced such conditions and have therefore not been able to take appropriate loss prevention measures," Munich Re predicts in the report.

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For more information, contact Gerhard Berz, Munich Reinsurance Co., D-80791, Munich, Germany; 49 89 389 15291; fax: 49 89 389 15696; or on the World Wide Web, http://www.munichre.com



NAPF

Continued from page 41

"They have stated they have a commitment to funded pensions and support for occupational pensions," said Ms. Robinson.

The NAPF will continue to lobby the government, in particular to provide incentives for more employers to provide occupational pensions.

"Funded pensions either directly provided or facilitated by employers are the most secure and safest form of saving for retirement income," said Ms. Robinson.

The government should support 'pensions rather than subject them to slow strangulation,' says Ann Robinson.

But she warned that pension regulation must not become so onerous it deters employers from providing pension plans.

U.K. pension advisers also have argued that new regulations designed to protect occupational pension plans are so onerous that they will deter the formation of new plans (*BI*, April 14).

"Occupational pensions have been 'strengthened' almost to death as a result of the 1995 Pensions Act," Ms. Robinson observed. "What we need now is a government which will support occupational pensions rather than subject them to slow strangulation."

Incoming NAPF Chairman Peter Murray identified the European Monetary Union and its proposed adoption of a single European currency as the most important event on the horizon for occupational pensions (see related story).

U.K. pension plans will be affected whether the United Kingdom joins the EMU or not, he said, adding that joining EMU looks more likely for Britain with a Labour government.

The NAPF's research committee is looking at the issue and, since the beginning of last year, the association has been advising the Bank of England on pension issues arising from the proposed single European currency.

"Almost certainly the chosen sterling conversion rate will be the key aspect of the single currency for pension funds both in terms of investment returns and in terms of liabilities and will also be an important factor for individual pensioners," said Mr. Murray.

As the new chairman of NAPF, Mr. Murray said he wants to see more employers provide pensions in the United Kingdom.

More than half the working population will have inadequate retirement income, at a time when state benefits are falling and the population is aging, Mr. Murray said.

"This is a timebomb waiting to go off," he warned.

Employers have been increasingly penalized for running occupational plans, particularly though the onerous provisions of the Pensions Act 1995, according to Mr. Murray.

"I think the employer has been the forgotten man in the pensions development that we have had over the last 20 years," Mr. Murray said.

One of NAPF's tasks under Mr. Murray's leadership will be to take a look at regulation and identify areas that turn employers away from offering occupational pension plans. The association's own viewpoint will change from "is this or that in the member's interest" to "what would employers think of that," he said. BI

U.K. pension funds urged to prepare for EMU

HARROGATE, England—U.K. occupational pension funds should prepare to join the European Economic and Monetary Union mechanisms, a Dutch executive says.

Although the U.K. government has not committed to joining the European Monetary Union, the changes in financial markets when the proposed single European currency—dubbed "the Euro"—is introduced in 1999 will affect U.K. pension funds, said Jos van Niekerk, chairman of the combined Dutch Project Group Euro of the Assn. of Industry-wide Pension Funds and the Company Pension Funds Foundation.

Currently, pension plan assets in the United Kingdom total about £650 billion ($1.06 trillion).

If the United Kingdom does decide to join the mechanism, occupational plans must be ready, he said.

Mr. van Niekerk's project group already is in talks with a number of organizations, including the Dutch government, the Dutch Central Bank and commercial banks, the Amsterdam Stock Exchange, other institutional investors, employers' organizations, trade unions and retired employees. Its main aim is to collect and exchange information, as well as identify potential bottlenecks and solutions in the Euro implementation process.

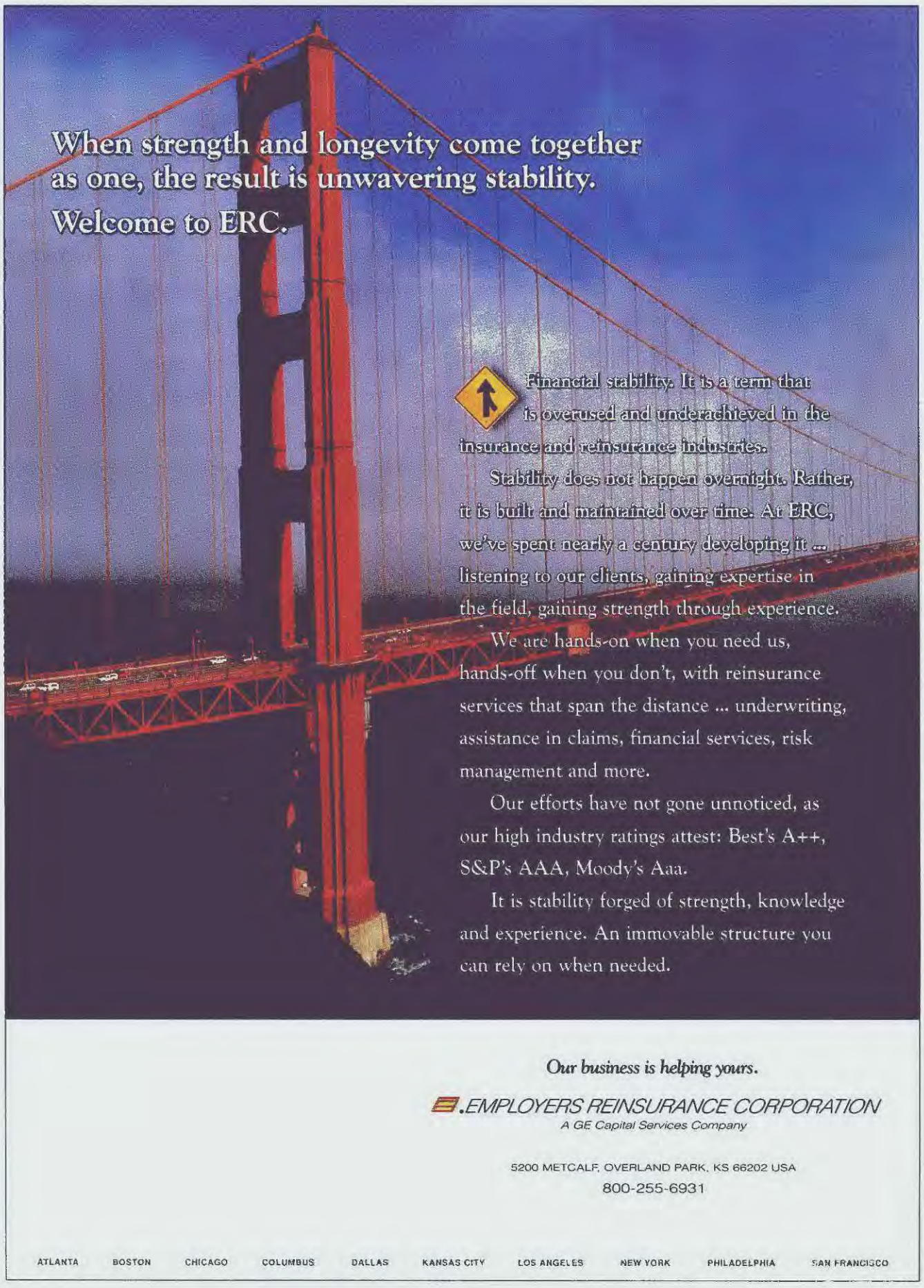
"We do intend to take stock of the risks and costs for the pension funds" in the Netherlands, which have committed to joining EMU, said Mr. van Niekerk. "However, the way in which these risks and costs are handled will be a policy matter for the individual funds or for the umbrella organizations."

As of 1999, pension funds in Europe will be able to buy stocks denominated in Euros, though the Euro will not be introduced as a currency alongside the Dutch guilder for another three years. Nevertheless, beginning in 1999 the Dutch government will issue bonds in Euros, and Mr. van Niekerk predicted Dutch banks likely will offer Euro facilities.

Even though the timetable for implementing EMU is still to be issued, Mr. van Niekerk recommended that all pension funds appoint a Euro coordinator as soon as possible.

"This person will have to act as the point of contact within the fund, collecting the information from the various sources" and "generating ideas about the possible approach to this changeover," he said.

Top management also needs to be involved in the process, particularly because of the "high financial stakes" and "great potential risks," he said.



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Secretaries, Treasurers, controllers and other Financial Personnel	2,973
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	17,043
Sub-total	**30,511**
Associations	290
Government, Unions and Educational Institutions	946
Commercial Consumers	
Sub-total	**31,747**
Insurance Agents and Brokers	8,583
Insurance Companies	7,327
Accountants, Actuaries, Attorneys & Consultants	2,831
Adjusters, Appraisers, TPA's, Captive Managers & Health Care Providers	1,624
Others Allied to the Field	966
Total Qualified	**53,083**
Non-qualified	9
Single Copy Sales	16
TOTAL CIRCULATION	**53,108**

★ *Source Business/Occupational breakdown of qualified circulation, November 25, 1996 Issue, as submitted to BPA for December 1996 BPA Publisher's Statement*

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Guidelines

Continued from page 2

mentation.

- Physician committees consisting of plan doctors and other medical experts should write practice guidelines and change them as needed based on new scientific evidence.
- Utilization management should involve plan physicians and be directed by a doctor, and decisions should be based on medical evidence. An appeals process, in cases when a doctor disagrees with the decision of the health plan, should be directed by an experienced physician.
- Drug formularies should be reviewed and developed by plan doctors; appeals should be overseen by a physician.

The new policies guarantee that patients will have access to doctor-controlled "safety valves," or appeals mechanisms, at various stages in the health care delivery process, Ms. Ignagni said.

During the past year, as managed care has come under increasing scrutiny of the media, public interest groups and state and federal lawmakers, AAHP has issued a series of policy statements intended to set minimal acceptable standards of professionalism for its members. These latest rules were prompted by many Americans' belief that managed health care decisions are made "by folks with green eye shades" and not with objectivity and professional knowledge, Ms. Ignagni said.

Benefit managers have expressed a wish to see these kinds of standards published, she said.

One benefit executive, Helen Darling, manager of international compensation and benefits at Stamford, Conn.-based Xerox Corp., said it is important for the managed care industry to create a floor of expectations below which no network would drop.

A greater role for network physicians in decision-making is appropriate, she said, because only doctors and medical researchers are qualified to bring HMOs up to speed in the adoption of new and emerging medical technology.

Industry self-policing is much preferable to enforcement of similar priorities by government, said Ms. Darling. More than 85% of Xerox's employees are in managed care plans.

The association's newest policies may help alleviate some of the well-known friction that has existed between plan doctors and managed care networks in the past by giving doctors a louder voice in important care decisions, said Robert Doherty, vp of government affairs and public policy of the Washington-based Society of Internal Medicine.

Plan sponsors, he said, can use the AAHP guidelines to judge whether doctors have an adequate role within their network.

"This provides a template that employee benefit managers, physicians, patients and others can use to view a plan," Mr. Doherty said. "Those that are meeting the standards should be rewarded in the system, and those who aren't should be taken a look at."

The Society of Internal Medicine will educate its physician members about the AAHP's new policies and tell them to report HMOs that continue to discount physician input, he said. "If they're not living up to the letter and spirit, we want them to let us know."

AAHP was able to persuade the internal medicine group to support its initiative because the new policies mandate participation of plan physicians in key decisions, not simply the input of doctors employed by the plan itself, he said.

"Certainly, it's important to have physicians on staff," he said. "But that's not adequate from our point of view." BI

ERISA

Continued from page 1

scope of Section 510. The provision has been cited by federal prosecutors and plaintiffs' attorneys in suits charging that employers had fired employees just before the workers would have vested in their pension benefits.

In the wake of the Supreme Court decision, suits charging dismissal or discrimination of employees to prevent them from obtaining benefits would not be "knocked out of the box" just because the actions dealt with benefits that do not vest, noted Fred Rumack, director of taxes and legal services for Buck Consultants Inc. in New York.

"The court is clearly saying that Section 510 applies to welfare plans," adds Pam Scott, a principal with The Kwasha Lipton Group in Fort Lee, N.J.

While the Supreme Court decision clarifies that Section 510's reach goes beyond pension plans, less clear is the type of employer actions that would violate the law.

"Will employers lose every case" where they take actions in which employees lose benefits? asked Seth Tievsky, a partner with Ernst & Young L.L.P. in Washington. "Absolutely not. But we would be kidding ourselves if we didn't think that this decision isn't going to trigger a lot more litigation," he added.

Indeed, Mr. Tievsky predicts that a consequence of the decision will be suits against employers that have aggressively moved to outsource traditional corporate functions.

"Outsourcing could be ripe for litigation where a primary motivation was benefit cost savings," Mr. Tievsky added.

A critical defense—one in fact suggested by the Supreme Court—will be employers' motivations in decisions that result in employees losing benefits.

The protection of Section 510, the court suggests, would not apply when there are "fundamental business decisions" for corporate actions that resulted in employees losing their jobs and their rights to benefits.

For example, under this fundamental business test, an employer could defend its decision to outsource certain jobs on the grounds that it wanted to concentrate on its core business, rather than those job functions, said Henry Saveth, a principal at A. Foster Higgins & Co. Inc. in New York.

"The key question will be: 'Is a change being made to circumvent or prevent the promise of benefits, or is it being made for valid business reasons?' " Mr. Saveth said.

"Courts will look at the purpose of the transaction and decide whether the purpose was to interfere with benefits or whether there was a legitimate business purpose" for the change, concurred Bill Boies, a partner with the law firm of McDermott, Will & Emery in Chicago.

Plaintiffs alleging violations of ERISA, though, are only entitled to recover the amount of benefits lost, not compensatory or punitive damages.

While the decision broadens the scope of Section 510, the ruling in no way prevents employers from reducing or terminating health care and other benefit plans as long as companies follow plan procedures.

Congress' decision in not setting vesting standards for health and other welfare plans was no accident, the Supreme Court noted.

Giving employers the flexibility to amend or terminate non-pension plans "encourages them to offer more generous benefits at the outset since they are free to reduce benefits should economic conditions sour," the Supreme Court said.

The case involved former employees of Santa Fe Terminal Services Inc., a subsidiary of The Atchison, Topeka & Santa Fe Railway Co. that was responsible for transferring cargo between rail cars and trucks at ATSF's Hobart Yard in Los Angeles.

In 1990, ATSF opened the Hobart Yard work to competitive bidding. In-Terminal Services Inc. was the successful bidder, and Santa Fe employees who declined to continue working with ITS, which provided smaller pension and welfare benefits than ATSF, were let go.

The discharged employees sued the three companies and charged that the transfer of work from STSF to In-Terminal Services was done with the express purpose of denying them pension and welfare benefits, to which they were entitled under a collective bargaining agreement.

The 9th Circuit in San Francisco said Section 510 of ERISA gave the dismissed employees the right to sue only for pension benefits, but not for other employee benefits.

•

Inter-Modal Rail Employees Assn. et al. vs. Atchison, Topeka and Santa Fe Railway Co. et al., U.S. Supreme Court, No. 96-491.

Court to clarify rules on multiemployer plans

By JERRY GEISEL

WASHINGTON—The U.S. Supreme Court has agreed to decide how much time multiemployer pension plans have in which to sue employers that withdraw from underfunded plans and fail to pay withdrawal liability claims.

At issue is when the clock starts to tick on a statute of limitations provision in the Multiemployer Pension Plan Amendments Act, the 1980 law that requires employers leaving underfunded plans to pay a share of a plan's promised but unfunded benefits.

The statute of limitations provision says actions must be brought within six years "after the date on which the cause of action arose" or three years after the earliest point at which the plaintiff either knew or should have known that a cause of action existed.

The Supreme Court, in a case involving a San Francisco laundry that withdrew from the Bay Area Laundry and Dry Cleaning Pension Trust Fund, will decide the application of the law's statute of limitations.

The case goes back to March 1985, when Ferbar Corp. withdrew from the multiemployer plan and ceased making pension contributions.

On Dec. 12, 1986, the pension plan informed Ferbar that it owed $45,580 in withdrawal liability. The laundry had the option of meeting its obligation by making a lump-sum payment or through 240 monthly installments of $345.50, the first of which would become due Feb. 1, 1987.

The pension plan told the laundry that it would be held in default if payment were not received within 60 days from the date the first payment was due. On April 14, 1987, plan trustees told the laundry the first payment was overdue. Trustees gave the laundry 60 days to begin payment or be considered in default. Ferbar requested that the plan review the withdrawal liability assessment and requested arbitration, though no proceedings were held.

Ferbar did not make any withdrawal liability payments and on Feb. 9, 1993, the plan's trustees sued Ferbar to collect the money. The suit was filed six years and eight days after the first withdrawal liability payment was due, but within six years of the time Ferbar became delinquent.

The 9th U.S. Circuit Court of Appeals said the multiemployer plan filed too late. The six-year statute of limitations, the appeals court said, started to run when Ferbar withdrew from the pension plan, with the result that time ran out to file suit in March 1991.

The multiemployer plan trustees asked the Supreme Court to decide if the statute of limitations goes back to: when the employer withdrew from the plan; the date payment was not received; the date the payments were delinquent; or another date.

The trustees said various courts have defined differently when the statute of limitations in the law kicks in. "The various interpretations of the statutory limitations period adopted by the circuits yield widely different results on the same facts," the trustees wrote in papers filed with the Supreme Court.

Federal pension regulators say they welcome a Supreme Court resolution on when the statute of limitations begins.

"We are pleased that the Supreme Court has agreed to hear this important issue for multiemployer pension plans. Resolving the conflict between the 9th Circuit Court of Appeals and three other circuit courts will clarify the obligation of plan trustees in withdrawal liability situations," said James Keightley, general counsel of the Pension Benefit Guaranty Corp.

About 2,000 multiemployer pension plans, with about 8.7 million participants, now operate. Most of the plans are fully funded, according to surveys by The Segal Co., a New York-based benefit consulting firm.

•

Board of Trustees, Bay Area Laundry and Dry Cleaning Pension Trust Fund vs. Ferbar Corp. of California Inc., U.S. Supreme Court, No. 96-370.

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The Port Authority of New York & New Jersey is seeking to establish a pool of qualified Third Party Administrators (TPA) in the field of worker's compensation and invites interested parties to request and respond to a Request For Prequalification (RFQP). The TPA will be responsible for all claim management services associated with the operations of a bi-state agency having 7,000 full-time employees. All requirements for prequalification are enumerated in the RFPQ, which may be obtained by calling the documentation request line at (212) 435-3924 and referring to **REQUISITION #51101.**

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REQUEST FOR PROPOSALS

REQUEST FOR PROPOSALS
No. 120
Consultant to Assist in Employee Benefits Program

Metropolitan Dade County, through its Department of General Services Administration, Risk Management Division is seeking the services of a benefits management consulting firm to provide County staff with expertise and consulting assistance, as needed, on a variety of issues relating to a full spectrum of employee benefits. **The Request for Proposal (RFP) document is available from GSA/Procurement Management Division, Bids & Contracts Section,** 111 N.W. 1st Street, Suite 2350, Miami, FL 33128-1989, or by contacting said office at (305) 375 - 1259. A pre-proposal conference is scheduled for Monday, June 2, 1997 at 10:00 a.m. (local time), at 111 N.W. 1 Street, 18th Floor, Conference Room 18-2. Attendance is recommended, but not mandatory. The contact person for this RFP is Paula H. Mandell-Johnson, Procurement Contracting Officer, at (305) 375 - 3903. The deadline for submission of proposals is Friday, June 20, 1997 at 1:00 PM (local time) at the office of the Clerk of the Board of County Commissioners.

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REQUEST FOR PROPOSALS

ADDENDUM TO REQUEST FOR PROPOSAL
GROUP DENTAL PLANS

As announced in the March 31, 1997 issue of *Business Insurance*, the University of California is accepting bids for its indemnity and prepaid dental plans covering a total of approximately 120,000 employees and annuitants.

Companies meeting certain minimum prequalifying criteria were eligible to submit proposals. As a result of an inadvertent error, the criteria dealing with carrier ratings was mis-stated.

The erroneous criteria required an A.M. Best rating of at least "A" (for category size 7 or greater) or Standard & Poor's "AA."

The correct criteria for this bid is an A.M. Best rating of a least "A-" (for category size 7 or greater) or Standard & Poor's "AA-."

Any companies that failed to respond because of the inadvertent error, but who met the correct criteria as of 4/7/97 and wish to submit a bid must request a copy of the RFP by contacting the following no later than May 30, 1997. Proposals must be submitted by 5:00 p.m., June 15, 1997 (PST).

Mr. Bruce Noda
William M. Mercer, Incorporated
(415) 393 - 5299

This Addendum does not re-open the bid to carriers who previously submitted proposals. Please note that commissions or service fees of any kind will not be payable by the University.

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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

In re
LAWRENCE UNITED CORPORATION,
Debtor.

Chapter 11
Case No. 97-11297

NOTICE OF MOTION OF LAWRENCE UNITED CORPORATION
PURSUANT TO 11 U.S.C. §363 FOR AUTHORIZATION TO SELL CERTAIN ASSETS OF DEBTOR'S ESTATE
OUTSIDE THE ORDINARY COURSE OF DEBTOR'S BUSINESS AND FREE AND CLEAR OF LIENS AND OTHER INTERESTS

PLEASE TAKE NOTICE, that Lawrence United Corporation, the debtor in possession herein, (the "Debtor"), by and through its attorneys, Cooper, Erving, Savage, Nolan & Heller, LLP, has moved this court at the James T. Foley Courthouse, 445 Broadway, Suite 327, Albany, NY for an Order pursuant to 11 U.S.C. §363(b) authorizing the sale of certain assets of the Debtor to The Monroe Group, Inc. (hereinafter "Monroe") pursuant to the terms and conditions of the Letter Agreement dated May 5, 1997 between the Debtor and Monroe, and free and clear of all liens and other interests, together with such other and further relief as to this Court may seem just and proper.

PLEASE TAKE FURTHER NOTICE, that the assets to be sold, SUBJECT TO HIGHER AND BETTER OFFERS, are as follows:

1. All insurance policy accounts of the Debtor's Rochester office;
2. All furniture, fixtures, equipment and related personalty located in the Debtor's Rochester office.

FOR MORE INFORMATION CONTACT: MR. JAMES FAUGHNAN ON OR BEFORE MAY 27, 1997 PHONE: (518) 381 - 9000

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

In re
LAWRENCE HEALTHCARE ADMINISTRATIVE
SERVICES, INC.,
Debtor.

Chapter 11
Case No. 97-11304

In re
A.W. LAWRENCE & COMPANY, INC.
Debtor.

Chapter 11
Case No. 97-11300

NOTICE OF MOTION OF LAWRENCE HEALTHCARE ADMINISTRATIVESERVICES, INC. AND
A.W. LAWRENCE & COMPANY, INC. PURSUANT TO 11 U.S.C. §363 FOR AUTHORIZATION TO SELL
CERTAIN ASSETS OF DEBTORS' ESTATES OUTSIDE THE ORDINARY COURSE OF DEBTOR'S
BUSINESS AND FREE AND CLEAR OF LIENS AND OTHER INTERESTS

PLEASE TAKE NOTICE, that Lawrence Healthcare Administrative Services, Inc. ("LHAS") and A.W. Lawrence & Company, Inc. ("AWL"), by and through their attorneys, Cooper, Erving, Savage, Nolan & Heller, LLP, have moved this court at the James T. Foley Courthouse, 445 Broadway, Suite 327, Albany, New York for an Order pursuant to 11 U.S.C. §363(b) authorizing the sale of certain assets of the Debtors to Association Plan Administrators, Inc. (hereinafter "APA") pursuant to the terms and conditions of a certain Letter Agreement between the Debtors and APA, and free and clear of all liens and other interests, together with such other and further relief as to this Court may seem just and proper.

PLEASE TAKE FURTHER NOTICE, that the assets of LHAS to be sold, SUBJECT TO HIGHER AND BETTER OFFERS, are as follows:

All third party administration account relationships of LHAS, including self-insured workers compensation plans.

FOR INFORMATION CONTACT: MR. JAMES FAUGHNAN ON OR BEFORE MAY 27, 1997 PHONE: (518) 381 - 9000

KINGSCROFT INSURANCE COMPANY LIMITED
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and
WALBROOK INSURANCE COMPANY LIMITED
and
EL PASO INSURANCE COMPANY LIMITED
and
LIME STREET INSURANCE COMPANY LIMITED
(formerly Louisville Insurance Company Limited)
and
MUTUAL REINSURANCE COMPANY LIMITED
('the KWELM companies')

Notice is hereby given that the third ANNUAL MEETING of the Scheme Creditors of the KWELM companies convened pursuant to clause 8.1 of the Scheme of Arrangement ('the Arrangement') will be held at 2:30 pm (Eastern Standard Time) on Thursday 26 June 1997 at The Alvin Room, 5th Floor, New York Marriott Marquis, 1535 Broadway, New York, New York 10036, USA. The Scheme Administrators' report on the conduct of the affairs of the KWELM companies for the year to 31 December 1996 shall be laid before the meeting.

Scheme Creditors may attend in person (or, if a corporation, by a duly authorized representative) or they may appoint another person, whether a Scheme Creditor or not, as their representative to attend in their place. Forms of representation for use at the said meeting, copies of the Scheme Administrators' report and the Arrangement document incorporating the terms of the Arrangement are available on request to the Scheme Administrators at the address set out below.

Dated this day 13 May 1997
CJ Hughes and IDB Bond
Scheme Administrators
of the KWELM companies

Address for correspondence:
Plumtree Court
London EC4A 4HT
United Kingdom
Telephone +44 171 583 5000
Fax + 44 171 212 6708

Note
A London meeting of the Scheme Creditors of the KWELM companies will be held at 2:00 pm on Thursday 3 July 1997 at the Coopers & Lybrand Training Centre, 2-3 Bloomsbury Square, London WC1A 2RL, United Kingdom, for creditors unable to travel to New York.

Remedy

Continued from page 1

remedy. When significant, they have been closed by subsequent legislation or decisions of the court," said Eric Oxfeld, president of Washington-based UBA Inc., which analyzes workers comp and unemployment benefit issues.

For the past 86 years, liability protection for employers has been an essential part of the basic trade-off that states adopted to create the workers comp system in the United States.

Under the exclusive remedy doctrine, a worker's ability to recover for a job-related accident or illness in most states still is restricted to medical and wage-loss benefits available from an employer's statutory workers comp coverage. Employers agree to promptly pay for necessary medical treatment and limited wage-loss benefits on a no-fault basis.

In return, those benefits are designed to be a worker's exclusive remedy for occupational injuries and illnesses. Employers are supposed to be shielded from worker lawsuits based on common law theories of personal injury, which could result in high, jury-determined awards.

"Workers comp is not designed to make a person whole; it is designed to prevent hardship," noted Lex Larson of Durham, N.C., a legal expert who publishes a treatise and a newsletter on workers comp issues. Nevertheless, he added, "the exclusive remedy doctrine has always been under attack," by workers who continue to test the limits of the doctrine.

Historically, most state courts have found employers, co-workers and even company officers immune in most situations. That is true even in cases involving "aggravated negligence, breach of safety regulations or failure to correct a hazard after several injuries had occurred," according to Emily Spieler, a professor at West Virginia University College of Law in Morgantown, W.Va. She is a former chief executive officer of the state's exclusive fund.

An employer would almost have to take "a swing at an employee and break his jaw," before an exception for intentional torts could apply, Mr. Larson said.

As a legal doctrine, "exclusive remedy has been almost sacrosanct," agreed Nancy Schroeder, director of workers compensation for the National Assn. of Independent Insurers in Des Plaines, Ill. "Nearly all courts have been very supportive of exclusive remedy—until now."

Workers nationwide continue to file lawsuits seeking court permission to circumvent the doctrine and sue in state courts under tort rules that offer the potential for larger, jury-determined damages.

Depending on the state, workers have been successful in finding nearly a dozen exemptions to exclusive remedy. Those include suits filed by injured workers against:

- Their employer's parent company, alleging independent acts of negligence.
- An insurer, alleging negligent safety inspections.
- Third parties, such as machine manufacturers, alleging product defects. Such third parties, in turn, then typically sue the employer.

Those challenges then spawn "a never-ending cycle" of activity that typically consists of workers obtaining broader recoveries through the courts followed by employers and insurers lobbying legislatures to restrict worker recoveries, said Anne Allen, state legislative counsel for the Risk & Insurance Management Society Inc. in New York.

Currently, new judicial attacks on the exclusive remedy doctrine are coming from state court rulings in discrimination cases.

State courts are beginning to allow injured workers claiming discriminatory treatment after a work-related injury to recover broader benefits under state anti-discrimination statutes, instead of being limited to workers comp benefits for their injury.

A recent computer search of court filings found about 130 cases pending in state courts that deal with employee discrimination claims and exclusive remedy, according to Ms. Spieler of West Virginia University.

Overall, "the outcome of such litigation is mixed, although I think the trend is toward allowing these claims to exist," she said.

The California Supreme Court is among the state courts wrestling with the issue.

"Two important California appellate court cases have created a conflict as to whether California's workers compensation law or California's discrimination statute, the Fair Employment and Housing Act, controls in cases of alleged discrimination after work-related injury," said Duncan MacDonald, an attorney with Gutierrez & Associates in San Francisco. The appellate cases are *City of Moorpark vs. Superior Court of the County of Ventura* and *Cammack vs. GTE*.

"Resolution of this conflict in the courts is of great importance," Mr. MacDonald said.

Resolving such conflicts between workers comp and federal discrimination laws is more difficult.

"Two federal courts have held that the Americans with Disabilities Act of 1990 pre-empts the exclusivity provision of a state workers compensation law," according to Mr. Larson's newsletter.

Those cases were *Mangin vs. Westco* in the U.S. District Court for the Middle District of Florida and *Wood vs. Alameda* in the U.S. District Court for the Northern District of California, according to Mr. Larson.

In cases of sex discrimination, nearly all courts have refused to recognize the exclusive remedy doctrine.

Barring recoveries in such federal cases because of the exclusive remedy doctrine in state workers comp laws "would violate the Supremacy Clause of the U.S. Constitution and seriously diminish the civil rights protection Congress granted to persons with disabilities," the Equal Employment Opportunity Commission, which enforces the ADA, said in a statement.

In addition to new claims in the courts, state lawmakers also may be creating the basis for future attacks on exclusive remedy, experts say.

One reason this happens is because lawmakers adopt or allow compensability rules so tightly drawn that they prevent workers from obtaining any comp benefits for what state judges consider valid job-related injuries.

"I think it will be difficult for employers to argue that they should have blanket immunity if employees are going to find that their injuries are excluded under the comp system," said Ms. Spieler.

For example, "mental-mental" stress claims—in which a mental cause, such as a clerk's emotional distress after a robbery, results in a worker's mental disability—are "the largest growing area and the most difficult to prove and disprove," said Martin Minkowitz, an attorney with Strook & Strook & Lavan in New York.

However, as a result of state legislative reforms, "there is a definitely a trend away from allowing stress claims in workers compensation," Mr. Larson noted.

"Most states that address a mental-mental case limit it by requiring a higher burden of proof and greater evidence of job-related causation," the NAII's Ms. Schroeder said.

For example, the Montana Supreme Court last year allowed two separate claimants to seek recoveries in tort lawsuits because of a lack of coverage under the state's workers comp law.

One case settled earlier this year, *Stratemeyer vs. Lincoln County*, involved a former deputy sheriff who alleged he suffered post-traumatic stress disorder after dealing with a teen-age girl's gunshot suicide. The county settled with the employee for $200,000.

The second case pending in trial court, *Kleinhesselink vs. Chevron U.S.A.*, involves a company safety coordinator who allegedly suffered mental injuries and emotional distress after his employer allegedly disregarded safety suggestions that could have prevented subsequent worker deaths and injuries.

The second way state lawmakers may encourage legal attacks on exclusive remedy is by passing laws that deny or reduce benefits for injuries caused partly by employee fault, such as removing a safety device from a machine or use of drugs or alcohol.

"My concern is that the courts will look at the legislation that brings employee fault into play, then the courts may have less tolerance for an employer's fault," the NAII's Ms. Schroeder said.

For example, 10 states deny benefits to workers injured while failing to use a safety device or follow safety instructions, while a few states reduce benefits, according to statistics gathered by the National Assn. of Independent Insurers.

In addition, 21 states deny benefits to an injured worker if an accident was partially caused by his or her use of drugs or alcohol, while other states reduce such benefits.

A longstanding exception to the exclusive remedy doctrine continues to be intentional torts, in which an employers expressly intended to injure workers.

About half the states provide an exception to exclusive remedy in cases where an employer tries to deliberately hurt an employee beyond mere gross negligence or reckless conduct, said the UBA's Mr. Oxfeld.

The concept has been more liberally interpreted in Florida and a few other states by courts that have accepted the lower standard that an employer should have known with "substantial certainty" that a worker would be injured, said NAII's Ms. Schroeder.

For example, a Florida appeals court in *Myrick vs. Luhrs* used that more liberal definition in recently allowing a worker, who alleged that his employer removed several safety devices, to sue his employer under the intentional tort exception.

An employer's liability in such cases can be substantial.

An Iowa Supreme Court decision in December upheld a $2 million punitive damage award against IBP Inc., a meatpacking conglomerate, after it found that the employer's actions constituted intentional torts.

"This involved a case of a young worker whose injury was intentionally misrepresented by a company nurse so that the plant would not have to record it," according to Jim Ellenberger, assistant director for AFL-CIO's Department of Occupational Safety and Health in Washington.

While employers are generally accepting of the tension that exists over exclusive remedy in workers comp, employees are not.

Workers comp "is a deal that increasingly serves only employers and not employees," said Mr. Ellenberger.

"Anytime there is some type of catastrophic event and an employer is found to act maliciously, there should be a safety valve, out of fairness," RIMS' Ms. Allen said. "The problem is how to draw the line." BI

Employers turn to state legislators for relief

Yet biggest threat to exclusive remedy in federal proposal

By MEG FLETCHER

While employers' exclusive remedy protections may be at risk under proposed federal legislation, they are winning some legislative relief at the state level.

Employers should be wary that a controversial workers comp provision may be resurrected and reinserted into the proposed Product Liability Reform Act of 1997, workers comp experts say.

That may be "the most significant" legislative threat today to most employers, said Eric Oxfeld, president of UBA Inc., a Washington-based organization that analyzes workers comp and unemployment benefit issues. "There is strong indication it is more than an idle fear," he said.

The workers comp provision, which was removed from the latest draft of the product liability bill, provides that in some situations where a product manufacturer proved that the employer's actions substantially contributed to the cause of an accident, the employer or insurer would lose its subrogation lien to recover workers comp payments from any award against the manufacturer.

Proponents of the workers comp provision support the restriction because it would remedy an "unfair" situation in which employers that helped cause a worker's injury can legally shift their workers comp-related costs onto manufacturers, said Jim Mack, vp-government relations for AMT-The Assn. for Manufacturing Technology in Washington. However, he added, the workers comp proposal is not critical to the association's support of the overall product liability bill.

The latest version of the bill was voted out of the Senate Commerce, Science and Transportation Committee on a strict party-line vote earlier this month (*BI*, May 5).

Employers and insurers voiced their opposition to the proposal to restrict subrogation liens when it was first introduced a year ago (*BI*, March 18, 1996). Critics of the provision claim it would enable employees to receive double recovery and would have increased litigation in the traditionally no-fault workers comp system.

In addition, "there is a real concern it could indirectly be interpreted to allow an exception to exclusive remedy in third-party cases," Mr. Oxfeld said.

Once the fault of an employer becomes an element in a workers comp case, the next step becomes attaching liability to the employer's fault. Doing that would take the case out of the workers comp system and eliminate its exclusive remedy shield, he said.

Concern about reaffirming exclusive remedy in the face of third-party lawsuits motivated the New York Legislature last year to finally modify a 1972 ruling by the New York Court of Appeals, the state's highest court, in *Dole vs. Dow Chemical*.

In the original case, the widow of a worker who died of chemical exposure while cleaning a vat sued Dow Chemical, which manufactured the toxic chemical. Dow, in turn, was allowed to sue the employer, claiming the employer had an independent duty to Dow to use its product safely, according to court rulings.

For two dozen years, that ruling set a precedent for New York employers to be sued for negligence by third parties who had been sued by injured workers.

After years of failed attempts, the New York Legislature last year "substantially closed the *Dole vs. Dow* loophole," Mr. Oxfeld said.

It did so by limiting third-party lawsuits to cases involving "grave" injuries, and defined such injuries in the law, said Martin Minkowitz, an attorney with Stroock & Stroock & Lavan in New York.

Concern about reaffirming exclusive remedy in the face of third-party lawsuits motivated the New York Legislature to modify a 1972 ruling, *Dole vs. Dow Chemical*.

However, the reforms are not retroactive and do not apply to cases filed before the law went into effect, a state appeals court ruled recently, Mr. Minkowitz said.

The New York Legislature doesn't want to deal with the topic again this year, so there is no chance that employer protections will be expanded soon, added Anne Allen, state legislative counsel for the Risk & Insurance Management Society Inc. in New York.

A survey of recent state legislative actions found other measures designed primarily to help employers:

- Virginia lawmakers enacted legislation earlier this year that provides workers comp coverage for some carpal tunnel and hearing loss cases, removing such ailments from the realm of potential tort cases in which awards could be much larger.

The legislation was introduced in reaction to some Virginia Supreme Court decisions that denied coverage for such injuries based on a strict interpretation of the statute.

The new law classifies carpal tunnel and hearing loss as "ordinary diseases of life," and still will require strong evidence to prove that such ailments are work-related, according to a spokesman for the American Insurance Assn.

"Employers and insurers supported the new law because they thought it was appropriate that work-related injuries be compensated through the workers compensation system," another AIA spokesman said. They also wanted to avoid tort lawsuits in state courts if such ailments were not compensable.

"I think they were facing huge problems if they continued to deny carpal tunnel-type claims," said Emily Spieler, a professor at the West Virginia University's College of Law in Morgantown, W.Va.

- Louisiana last year established a review process in cases where an employer sues a third party to recover workers comp benefits paid to an injured employee.

In those cases, a "fact finder" will attempt to quantify the fault of the employer, if any, in causing the injury and any recovery against a third party will be reduced by that amount. This reduction is in addition to any reduction in benefits stemming from the negligence of the employee in causing his or her own injury (*BI*, June 17, 1996).

- Oklahoma lawmakers in a conference committee are considering a bill that would exclude mental-mental claims from workers comp coverage.

Some recent legislative sessions provided more gains for workers:

- Colorado Gov. Roy Romer earlier this month vetoed two workers comp bills that would have severely restricted benefits for emotional stress claims (*BI*, May 12).

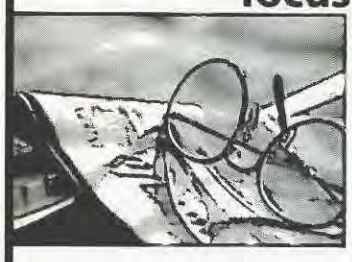
S.B. 140 would have reduced benefits to injured workers with mental impairments by as much as 48%, while S.B. 139 would have prohibited combining a scheduled injury with mental or emotional stress to get a whole-person rating.

Gov. Romer plans to ask the workers comp review group he appointed last year to analyze the proposed changes and develop a more workable solution.

- Connecticut lawmakers last year gave employees of companies that don't carry workers compensation coverage the right to sue their employers as well as having their claims handled by the state's second-injury fund. The second-injury fund would be reimbursed for any benefits paid if the employee's suit is successful (*BI*, June 17, 1996). BI

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Bad faith

Continued from page 2

havior. And to the extent it takes a away a defense, it increases the insurers' exposure to such claims."

American Empire plans to petition the appellate court to reconsider the 2-1 ruling. If that petition is denied, the insurer will ask the California Supreme Court to review the case, said Bertrand L. LeBlanc II, an attorney with San Francisco-based Carroll, Burdick & McDonough who represented American Empire in the case.

Some policyholder attorneys say they are optimistic the case will go no further. But insurer attorneys and some policyholder attorneys say they expect the decision to be either depublished, so that it cannot be used as a precedent, or reviewed by the California Supreme Court.

Reasons making it likely the state's high court would review the decision are that it conflicts with an earlier appellate decision and that there was a dissenting opinion.

Otherwise, it "leaves everybody in doubt as to what the state of the law is," said James Boedecker, an insurer attorney with Haines & Lea in San Francisco.

The complex litigation had its origins in a June 1987 accident, when 35-year-old Michael Hubert jumped head first onto his Wisconsin neighbor's backyard water slide toy, the Kransco-manufactured Slip 'N Slide, and broke his neck, making him a quadriplegic.

Kransco was insured by Cincinnati-based American Empire Surplus Lines Insurance Co., with which it had liability coverage with a $1 million limit above a $100,000 self-insured retention. Additional excess insurance provided Kransco with a total of $5 million in coverage.

AES provided the defense in the case, which was tried in 1991. During that trial, Mr. Hubert offered to settle his suit for $750,000, almost $1 million less than his pretrial demand. But AES rejected the offer and tried unsuccessfully to settle it for $450,000.

The jury subsequently returned a verdict against Kransco for more than $12.3 million, including $2.3 million in compensatory damages and $10 million in punitive damages.

While post-verdict motions were pending, Kransco settled with Mr. Hubert for $7.5 million. The company also agreed to prosecute a bad faith action against AES and to split equally with Mr. Hubert any proceeds from that litigation.

In 1995, a San Francisco jury found that AES had breached its duty of good faith and awarded compensatory damages of more than $14 million. That amount reflected the approximately $12.5 million jury verdict as well as an additional settlement in another case that Kransco had to pay part of because its insurance had been partially exhausted by the *Hubert* case.

However, according to the appellate court decision, the jury also found Kransco itself had breached its duty of good faith and fair dealing in its handling of Hubert's claim before the verdict, and attributed fault for the Hubert verdict at 90% to Kransco and only 10% to AES.

The verdict was in response to AES-requested instructions directing the jury to consider Kransco's comparative bad faith and negligence in the underlying case. The decision notes that AES said the original jury was angry because

'Rejection of comparative bad faith does not leave the insurer without redress for an insured's misconduct,' the court says.

Kransco initially disclaimed knowledge of previous Slip 'N Slide accidents during pretrial discovery in the Wisconsin action.

The San Francisco trial court, however, then reconsidered its acceptance of American Empire's theory of comparative fault and entered a "judgment notwithstanding the verdict" in favor of Kransco for the full amount of damages.

In its decision, which upholds the trial court's action, the appellate court disagrees with American Empire's position that it is not liable for the full amount of the judgment because Kransco's own conduct led to the $10 million punitive damage verdict.

The decision says AES urges that the policyholders' comparative bad faith be used as an affirmative defense, citing in support a 1985 California appellate case, *California Casualty General Insurance Co. vs. Superior Court*.

In disagreeing with the California Casualty decision, the appellate court said: "The doctrine of comparative bad faith is marked by inconsistencies and complexities in application because it is founded on the faulty premise that the obligations of insurer and insured—and thus their bad faith—are comparable. They are not.

"In short, we respectfully disagree with the California Casualty Court's extension of tort comparative fault principles to an insured's contractual breach of the covenant of good faith and fair dealing.

"An insurer may not, as AES did here, fail to settle a case within policy limits when there is a substantial risk of an excess judgment and then later fault an insured's litigation conduct for contributing to the amount of the verdict."

In addition, says the court, an insurer is not shielded from full responsibility for its bad faith failure to settle a case "even if the insured's mishandling of the claim may have inflated the size of the verdict."

The decision notes also that "rejection of comparative bad faith does not leave the insurer without redress for an insured's misconduct." The conduct "can still be used to disprove the insurer's liability for bad faith, or may provide grounds for contractual and equitable defenses."

Turning to the issue of recovery of punitive damages, the decision says the $10 million punitive damages portion of the award is recoverable even though California prohibits punitive damage awards, because Wisconsin law, where the insured event occurs, applies.

In considering the measure of damages, the decision says American Empire argues Kransco will make an "unconscionable profit" if the jury's award is affirmed, because that award totals about $12.5 million, while the actual settlement was for $7.5 million.

This does mean that Kransco "will gain $2.5 million from its half share of the net proceeds of the insurance litigation in addition to recovering the money it actually spent in settling *Hubert*," acknowledges the decision. But this argument has "deceptive force," says the decision, because the settlement also includes the agreement to split proceeds from the bad faith action.

In addition, though Kransco's financial gain from the action is an "unpleasant consequence," says the decision, "a contrary determination would impede settlements and the expeditious compensation of injured parties."

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Kransco, International Insurance Co. et al. vs. American Empire Surplus Lines Insurance Co., First Appellate District in California; No. A070954.

Genesis

Continued from page 1

and later served four years in prison on a 1986 federal counterfeiting and weapons possession conviction (*BI*, March 25, 1996).

He was paroled in 1990, and in a recent Genesis press release described the episodes as a "youthful indiscretion."

Mr. Rehtorik consented to a 1989 SEC order banning him for life from the securities business. The SEC had charged that Mr. Rehtorik—former president of a now-defunct stockbrokerage—defrauded investors of money supposedly being used to buy government securities.



Mr. Rehtorik

In 1994, he also agreed to an injunction barring him from violating securities laws after he allegedly failed to pay for an order of $4.7 million worth of stock in Pantheon Industries Inc. Pantheon was the parent company of Tiberian Insurance Co. Ltd. and Avalon Insurance Co. Ltd., two offshore insurers used by convicted con man Arthur A. Blumeyer III.

Genesis' short history—featuring several other businessmen with records of legal trouble—has been punctuated by repeated corporate name changes and run-ins with regulators.

The company's main operating unit, Congress Re, was incorporated in three states between 1992 and 1995 but was not licensed as an insurance company anywhere.

In a series of 1995 deals, Mr. Zayed acquired control of a publicly traded Florida company, which adopted the name Guardian Insurance & Financial Services Inc. and became the holding company for Congress Re.

Guardian was then hit with a trademark infringement suit by New York-based Guardian Life Insurance Co. of America and changed its name to Genesis Insurance & Financial Services Inc.

General Re quickly filed its own trademark action, and Mr. Zayed's company last year altered its name slightly to Genesis International.

The unlicensed Congress Re began attracting regulatory attention in 1995 and was the subject of cease and desist orders, injunction actions or investigations in several states, including Delaware, Florida, Georgia, Kentucky and Tennessee.

Responding to Delaware regulators, Mr. Zayed claimed that Congress Re did not need an insurance license because it was "not an insurance company but a private holding company with various assets available to be used for additional indemnification for third parties who may wish to accept our company as it is."

Regulators, however, expressed concern about the quality of some of these assets. Most were not actually owned by Congress Re but instead were "assigned" to it under agreements with third parties.

In a 1995 financial statement, for example, Congress Re reported its largest asset as a "yen bond" purportedly issued by the Japanese government in the face amount of $80 million.

Mr. Zayed was assigned rights to this bond by Southeastern Financial Acceptance Corp., a company headed by Crossville, Tenn., lawyer Donald Jake Gamble.

Earlier this month, Mr. Gamble pleaded guilty to an unrelated federal charge that he helped launder stolen money through Southeastern and an Antigua bank account he controlled. Federal prosecutors allege that Mr. Gamble and several others—including a convicted murderer—defrauded several businessmen of $3.4 million by charging advance fees for loans that they never intended to arrange.

Mr. Gamble could not be reached for comment.

Genesis dropped the yen bond in a Sept. 30, 1996, financial statement, but the statement includes several other assets that regulators have questioned. The assets include:

- 192,000 carats of the mineral corundum, which in crystal form can be rubies or sapphires. "Perpetual use" of this asset, valued at $2.3 million, was assigned to Genesis by MYCO Investment Group Inc. of Miami. MYCO and its president, Dario Jaramillo, were convicted in 1994 of running a loan fraud scheme in which federal prosecutors named Mr. Zayed as an unindicted co-conspirator.

Mr. Jaramillo, previously jailed on a cocaine smuggling conviction, is now serving a 188-month prison term. Mr. Zayed has denied wrongdoing in the case.

- $100 million in certificates of deposit issued in Mexico and purportedly backed by the "full faith and credit of the issuing corporations and/or Mexican government agencies."

The "CDs," however, "appear to be nothing more than warehouse receipts" issued by a Mexican company called Dinamica de Almacenaje and reflecting an apparent deposit of deeds to real estate, according to a report by Jeanne Barnes Bryant, Tennessee special deputy insurance commissioner.

The CDs were made in favor of Global Funding Corp.—a company that shared office space in Chattanooga with one of Mr. Zayed's companies—and were assigned to Genesis under a joint venture agreement.

Ms. Bryant said the CDs cannot be considered an asset of Genesis because of their questionable value. Among other things, she noted that BDO Binder S.C., a Mexico City accounting firm hired to review the instruments, found that Dinamica was not authorized to issue CDs and that a purported Mexican government document regarding their validity was a fake.

Robert Washko, an assistant U.S. attorney in Nashville involved in prosecuting Messrs. Jaramillo and Gamble, was more pointed: "It's just paper," Mr. Washko said. "The paper is too rough to be used as toilet paper and isn't absorbent enough to be used as paper towels."

- A "first security" interest in $8.5 million worth of unrefined gold bars obtained from First American Cos. Inc. of Hilton Head, S.C.

First American's corporate charters in Delaware and South Carolina were revoked more than a year ago for failure to make required filings and pay taxes. Last October, the SEC sued First American and two of its officers, charging that they defrauded investors in the sale of $1.2 million of First American debentures purportedly secured by gold.

- $18 million in mining rights on property in the Boise National Forest in Idaho.

"It is believed," Ms. Bryant wrote in her report, "that there is no current activity in this area and. . .that there is no ability or intent on the part of (Genesis) to reopen any mine that may exist."

Shortly before Tennessee regulators took over Genesis on April 28, Mr. Zayed issued a press release announcing that the company had completed a sale of Congress Re to two purported Uruguayan buyers, InterFinance S.A. and Suisse Private Banking Ltd., headed by Nelson Raul G. Xavier de Aquino, according to Ms. Bryant's report.

Mr. Aquino, meanwhile, put out his own press release saying the sale was to take place on the afternoon of April 28.

Tennessee officials, though, found no records concerning the sale at Genesis' office other than correspondence with BDO Binder, which had performed a due diligence review of the $100 million in CDs as part of the deal. In one of these letters, BDO resigned over alleged misrepresentations of its findings in a press release by Mr. Zayed.

Mr. Aquino, a resident of Brazil, was named with Mr. Zayed as an unindicted co-conspirator in the Jaramillo loan fraud case.

Ms. Bryant's report said that Genesis may have violated federal and state securities laws in selling nearly $900,000 in unregistered stock between February and August 1996.

Press releases touting Genesis' earnings and viability "appear to be false," according to the report. While Congress Re took in $902,575 in bond premiums from its inception, it wrote little business last year, and Genesis appears to have operated mainly on funds from its stock sales, the report says.

Genesis documents, for example, show that when the company needed operating funds, it would use a Costa Rican front company to fax stock sale instructions to a broker in Vancouver, British Columbia. The proceeds then would be wired through other companies back to Genesis, the report says, describing the transactions as an effort to avoid federal securities laws.

Genesis stock also was touted in an Internet stock forum, and Messrs. Zayed and Rehtorik last December led a Genesis sales presentation to stock analysts in New York.

Exclusion

Continued from page 1

Indeed, the endorsements provide coverage regardless of whether an accident that involves a pollutant, as defined by the absolute pollution exclusion, has caused environmental damage.

Policyholders long have complained that insurers have abused the exclusion by denying claims for accidents that involved chemicals but did not damage the environment.

According to the Louisiana Insurance Department, which played a vital role in the development of the endorsements, a typical example of the problem is a claim that a municipality faced but its insurer refused to pay after invoking the exclusion. The claim was filed by a swimmer who allegedly suffered an allergic reaction to the chlorine used in a public pool.

All three new endorsements cover third-party property damage and bodily injury claims caused by pollution releases at a policyholder's premises or at an insured contractor's job site.

One new endorsement would cover such losses if the pollution event ended within 48 hours after it began and the policyholder reported it within 14 days. The endorsement would not apply to underground storage tanks.

Another new endorsement would cover the same losses under the same constraints as long as a loss resulted from a named peril. Named perils could include lightning; windstorm; earthquake; and the explosion, implosion, puncture or collision of equipment, as long as equipment deterioration did not trigger the loss.

An additional constraint under that endorsement is the pollution event cannot be identical to or the resumption of another event that occurred within the previous 12 months.

The third new endorsement would provide coverage if losses were caused by a specified pollutant.

That endorsement would not impose either the 48-hour pollution duration limitation or the 14-day reporting requirement found in the other endorsements.

However, it would bar coverage if a loss resulted when a substance was being transported, disposed, treated or stored as waste or if the policyholder had been transporting or storing the substance for another entity.

Regulators in 43 jurisdictions have approved the endorsements. Only regulators in Hawaii, Illinois, Minnesota, New York, Puerto Rico and the District of Columbia have not ruled on them. ISO also has not yet filed the endorsements in California, Texas and Virginia, where regulators are behind in ruling on other policy amendments ISO submitted earlier, an ISO spokeswoman said.

The endorsements will be available for use in most jurisdictions beginning Sept. 1, the spokeswoman said. It's not clear how much or whether insurers will charge for the endorsements.

The Louisiana Insurance Department, which approved the endorsements April 9, became the driving force behind them after problems developed with a stunning policyholder victory in the state's Supreme Court. The court in 1994 ruled the absolute pollution exclusion does not bar coverage for non-environmental claims (*BI*, June 12, 1994).

But, the insurer in the case then raised questions over whether the Insurance Department had approved the use of a pollution exclusion endorsement at issue in the case by the time the policy was issued. The policy began in early 1986, the year most insurers began using the ISO-drafted absolute pollution exclusion.

The court vacated its decision a few months later and remanded the case. The litigating parties now are trying to settle.

Louisiana regulators stepped into the scene when the insurer raised the exclusion endorsement issue. The department determined it would not have approved the endorsement if it had known insurers would use it to deny coverage of non-environmental losses, said C. Noël Wertz, a senior attorney with the department.

The department first shared its concerns with ISO in 1994. After two years of stop-and-go discussion between the department and ISO, ISO last year unveiled endorsements designed to better protect Louisiana policyholders that do not pose pollution risks.

A departmental task force continues to work on a directive designed to ensure both that insurers make the endorsements available to policyholders that pose little pollution risk and that insurers invoke the absolute pollution exclusion properly, Ms. Wertz said.

Louisiana Insurance Commissioner James Brown and his staff "are on the cutting edge in trying to redress the insurance industry's abuse of the absolution pollution exclusion," said Mr. MacDonald, the policyholder attorney.

But, ISO representatives and insurer attorney Laura Foggan, a partner with Wiley Rein & Fielding in Washington, said the endorsements are as much the result of the market's concern about meeting policyholder demand.

"These endorsements are very good options for insurers," said Robert Miller, a vp with ISO in Atlanta, who was involved in the discussions with the Louisiana department. "It permits them to handle pollution exposures in a new and different way in a manner that was not available under the pollution exclusion. It should open up the market."

Policyholders, though, should not rely on the endorsements for broad pollution coverage, brokers and attorneys warn.

"It's better than nothing at all, but you still would have big gaps" in pollution coverage with the endorsements, said Dave Dybdahl, managing director-environmental risk management services at Willis Corroon Group P.L.C.'s operation in Nashville, Tenn.

Brokers will have to make sure policyholders understand what the new endorsements do and do not provide, said John J. Theiss, vp-director of environmental risk management services with Sedgwick of California Inc. in Orange.

Most notably, the endorsements continue to exclude cleanup costs.

"Cleanup costs are where the action is under pollution claims," Mr. Dybdahl observed.

He also is concerned that policyholders will expect too much protection from the named-pollutant endorsement. That could lead to increased errors and omissions claims against brokers who do not advise policyholders about all the substances that insurers can classify as pollutants, he said.

"There will be a lot of mistakes made in this one," he predicted.

The problem is that even the most innocuous substances can be considered pollutants under the pollution exclusion if they are disposed improperly, he noted.

Mr. MacDonald agreed. "All three of these endorsements suffer from the same fundamental defect as the original absolute pollution exclusion and its progeny. The definition of pollution that is the heart of these exclusions is so over-broad that it can be manipulated by insurance companies to exclude insurance coverage for virtually any type of injury" caused by a substance.

The named-pollutant endorsement is particularly grating to Mr. MacDonald, given insurer testimony 12 years ago about how the pollution exclusion was supposed to work. Mr. MacDonald said insurer representatives testified at Texas regulatory hearings in 1985 that insurers should exclude coverage for losses caused by pollutants by adding policy endorsements that specifically identify those pollutants.

"This new version actually reverses that and puts the ball on the other foot. Everything is excluded unless it is mentioned in a specific endorsement," he said.

"What they need to do is start out with a definition that accurately encompasses what they intend to exclude," he said.

The endorsements also continue to exclude coverage for bodily injury and property damage caused by a malfunctioning heating unit.

The ISO spokeswoman said that is because that coverage is available under the CGL policy.

But, Mr. MacDonald said tapping that coverage is difficult. The buyback policy under which the coverage is available will not respond unless the heating unit malfunction results in environmental damage. That rarely occurs, he explained.

The event-duration and claim-reporting requirements in two of the endorsements also pose coverage hurdles not found in the remainder of the policy, Mr. Dybdahl said.

Regardless of the endorsements' limitations, Mr. Dybdahl recommended that risk managers obtain them to broaden their CGL coverage as much as possible, as long as the endorsements are free or are inexpensive. "But don't make that your complete risk management strategy, because there are holes in each one of these endorsements."

Responding to criticisms that the definition of pollutants remains too broad, Ms. Foggan, the insurer attorney, said the new endorsements have to be viewed in a historical context.

Insurers would not have developed the absolute pollution exclusion if policyholder advocates had not persuaded some courts to rule that pre-1986 CGL policies covered policyholders' recurring toxic waste dumping activities because each incident was a separate sudden and accidental event, she said.

In addition, insurers never intended that CGL policies would cover cleanup costs, Ms. Foggan said. "That's what has to be maintained," she said.

"So now, insurers are moving back and creating some pollution coverage. If the criticism is, 'Gee, that's not enough,' you have to look at how we got here," she said.

Pointing to the environmental impairment liability insurance market, Ms. Foggan said, "It's not appropriate for environmental claims to be tossed in with general liability." If they were, CGL coverage would be more expensive for all policyholders, including those without environmental risks, she said.

Some brokers agree that policyholders have to realize that they cannot expect CGL insurers to protect them from environmental pollution exposures, because many are not able to properly underwrite the risk.

"There now exists environmental insurance policies that do buy back the absolute pollution exclusion as well as cover other environmental exposures," Mr. Theiss said.

At least $100 million of EIL insurance limits and 140 different EIL products are available to U.S. risk managers, but less than 1% of operations that would benefit from the coverage purchase it, according to Mr. Dybdahl (*BI*, Nov. 11, 1996). BI

Updates

Aircraft maker to fight award

Continued from page 2

The jury did not assign any blame to the vortex generators, which were not installed on any of the other 34 Beechcraft planes involved in flat-spin crashes, Mr. Howie said.

A Raytheon Aircraft spokesman would not comment on the case.

He said the company has adequate product liability insurance to cover the award. The deductible is covered by Beech's captive insurer, Travel Air Insurance Co., which is self-managed.

Bill would allow suing HMOs

AUSTIN, Texas—A bill passed by the Texas Legislature that would allow managed care patients to sue their health maintenance organizations for malpractice is awaiting action by Republican Gov. George W. Bush, who now has a week to decide to support or veto it.

Under the bill, which legal experts say apparently would be the first in the nation to allow malpractice actions against HMOs, managed care networks would face new civil liability for denying or delaying treatment.

A spokeswoman for the Texas HMO Assn. in Austin expressed "grave concerns with the whole premise of the bill," because she said patients already have legal tools to sue HMOs through breach of contract claims, deceptive trade practices suits and other measures.

But Kim Ross, vp for public policy of the Texas Medical Assn. in Austin, said Texas HMOs often have been treated too leniently by judges and that the law would be a much more effective means for patients to obtain justice.

To the extent that HMOs have been viewed as benefit plans by courts, and thus pre-empted by the Employee Retirement Income Security Act, malpractice suits against them have been thwarted or blocked, said Henry Saveth, a principal at A. Foster Higgins & Co. Inc. in New York. While the Texas bill is an attempt to add a weapon to the plaintiff's arsenal, such efforts may fall short if courts deem the Texas proposal itself to be pre-empted by ERISA, he said.

The net change in cost to plan sponsors, should the legislation pass, is hard to predict, said Robert L. Roth, a principal with the law firm of Michaels, Wishner & Bonner in Washington. HMO expenses would rise as insurance and litigation costs increase, but the law could in turn provide the opportunity for plans to pay physicians less, easing HMOs' cost burden, he said.

J&H/M&M names top managers

NEW YORK—J&H Marsh & McLennan Inc. has named several top managers for the merged U.S. operations created by M&M's takeover of Johnson & Higgins in March.

Robert J. Newhouse III, formerly chairman of M&M's U.S. operations, will fill the same role for the merged companies, overseeing seven U.S. regions.

Regional managers reporting to Mr. Newhouse will be:

- Roger E. Egan, head of the Northeast region based in New York. Mr. Egan filled a similar role at M&M.
- William C. Bauman, a former J&H director now heading the Mid-Atlantic region based in Washington.
- Donald E. Williams, head of the merged Southeast regional operation based in Nashville, Tenn. He formerly held a similar position at M&M.
- Richard E. Valliere, head of the Midwest region based in Detroit. He held a similar position with J&H.
- Lloyd C. Reid, head of the new Southwest regional unit based in Houston. He held a similar position with M&M.
- James W. McElvany, former chairman of J&H California and head of the broker's Los Angeles office. He now heads the merged companies' Los Angeles-based Pacific South region.
- Gerald R. Swanson, former chairman of J&H Washington and Western regional director. He now heads the Seattle-based Pacific North unit of the merged companies.

MSA bill to come to House

WASHINGTON—Legislation expected to be introduced in the U.S. House of Representatives this week would allow midsize and large employers to offer tax-favored medical savings accounts to their employees.

The measure that Rep. Matt Salmon, R-Ariz., will propose would lift the current 50-employee cap on workforce size under the current eligibility rules for MSA plans.

Rep. Salmon's proposal also would remove the 750,000 limit on the number of MSA policies that can be established during a four-year pilot period. Congress set that limit last year as part of broader legislation that gave MSAs, which meet certain federally set standards, their tax-favored status.

Briefly noted

China Southern Airlines is insured with the People's Insurance Co. of China for losses from a Boeing 737-300 jetliner that crashed while trying to land during a thunderstorm in the southern city of Shenzhen earlier this month, killing an estimated 65 passengers and crew. The hull is insured for more than $40 million, and the hull and liability coverage is reinsured by Western reinsurers, led by Lloyd's aviation syndicates managed by Murray Lawrence & Partners Ltd. The coverage is placed in London by Willis Corroon Group P.L.C. and Bowring Aviation Ltd. . . .Twenty-seven **Blue Cross & Blue Shield** plans, which have agreed to work together for the business of large, multistate employers, have signed agreements with Network Management Services and Health Benefits America. NMS and HBA, which are specialists in account administration and computer interfaces, will help the Blues provide "seamless" managed care coverage to companies with at least 5,000 employees. . . .The New Jersey Supreme Court last week ruled that **general liability insurance policyholders** that sue their insurers for a defense and pollution coverage are not entitled to a jury trial.

Airlines

Continued from page 2

self-insured.

The airline deals with all these claims directly and contacts passengers within 24 hours of being notified of a reasonable claim, rather than waiting for loss adjusters to make the call, said Ms. Hinckley.

"We want that passenger back on our airline. Therefore, we work very closely with our human relations department so that we can do things like send ticket vouchers or upgrades for passengers who have had an unfortunate event on our airline."

By self-insuring most passenger claims, American's risk management department can analyze these losses and learn to reduce them, she said. American also can save as much as 30% of each claim on unnecessary administrative costs needed to insure such losses, she said. These saved costs include broker, legal and claims-handling fees.

By dealing with the claims directly, the customer also is more satisfied, she added. "Since we took the initiative (to self-insure), our claims situation has improved," added Ms. Hinckley during an airline risk management panel discussion at the 21st Aviation Insurance Assn. conference earlier this month in Tampa, Fla.

The average per passenger liability claim has decreased 10%, she said. The number of passenger claims litigated has dropped to 7.5% of all claims from 15%, she said. The average passenger settlement to end litigation also has been more than halved, to $16,000 from $35,000.

American will fight all bogus claims, Ms. Hinckley added.

The airline's new approach may help increase insurance capacity for catastrophic risks, stabilize insurance prices and allow for more efficient insurance claims handling when a disaster strikes, she said.

Meanwhile, Continental Airlines Inc. decided three years ago to handle its attritional passenger claims in-house and merge its risk management and ground safety departments.

Continental's risk management department also has visited many of the company's departments, from catering to flight attendants, to make them aware of how to reduce losses.

"Airlines can handle their claims more effectively in-house than any insurance company because of who we are and what people expect," said Adam W. Potter, managing director of risk management and ground safety at Continental in Houston. "These passengers are the best advertising for the airline if the claims are handled well" and the worst advertising if claims are handled badly.

Each of Continental's departments now is allowed to settle small claims for up to $500 in travel vouchers or free tickets, Mr. Potter told AIA delegates.

The best way to reduce turbulence-related losses is to make sure passengers put on their seat belts, the panel of risk managers says.

Larger losses, up to $25,000, are referred to Continental's claims department.

As a result of this new approach, "our results have been astonishing," said Mr. Potter. The number of passengers has increased; claims costs have reduced by 30%, and on average Continental's passenger compensation is three times less than what an insurance company would pay for the same claim.

Within two years, Continental hopes to reduce its annual attritional claims by half, to $2 million. Seven years ago, those claims were at a high of $12 million, said Mr. Potter.

USAirways also has a hands-on approach when it comes to passenger claims, even though the airline has first-dollar coverage, said Rita M. Evans, manager of claims and loss prevention administration for the airline in Arlington, Va.

A person in the airline's customer relations department is in charge of dealing solely with this type of claims. USAirways calls passengers "sometimes even before they arrive home" after an incident, she said. The airline will express its concerns, pay medical bills if possible and/or relevant and offer travel vouchers where appropriate.

"I think the airlines are all pretty responsive now rather than just sending off the claim to the insurance company and letting them handle it. We step in first," said Ms. Evans.

Turbulence and luggage falling out of the overhead compartments are just some of the major causes of passenger injury not related to a disaster, AIA members heard during a question-and-answer session.

American set up a turbulence task force a few years ago to find out how to alleviate these injuries and, as a result, has seen the number of claims from turbulence go down, said Ms. Hinckley, though she couldn't say by how much. The airline continues to track turbulence claims.

All of the panel's risk managers said the best way to reduce turbulence-related losses is to make sure passengers put on their seat belts. "The seat belt sign goes on at the first bump," said Ms. Hinckley.

"We don't get any pilots affected by turbulence, because they are in their seats with their seat belts on," said Mr. Potter.

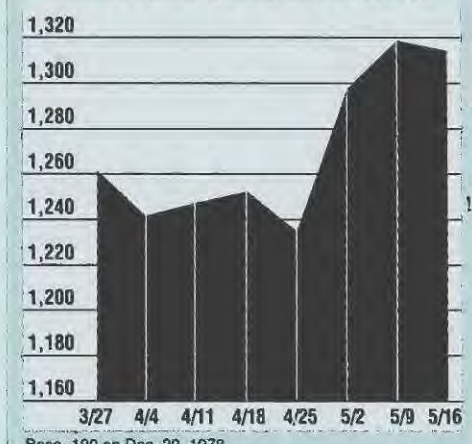
As for overhead bins, American is considering netting in the bins on new aircraft to stop injury, but the airline doesn't think it's cost-effective to install it in old aircraft, said Ms. Hinckley.

Mr. Potter said the netting can make things worse if buttons from coats get stuck in the netting and cause damage.

USAirways' Ms. Evans said she would like to remove overhead bins from aircraft to avoid the problems altogether.

Lisa Savitt, a lawyer at Schnader, Harrison, Segal & Lewis in Philadelphia, moderated the session. BI

BI Insurance Index



Base=100 on Dec. 29, 1978
Source: Nordby International Inc.

PCS catastrophe options

As of May 16

Call spread	Price bid/ask
Eastern September 1997	
40/60	3.0/4.0
80/100	—/2.5
National Annual 1997	
80/100	—/6.0
120/140	—/4.5
June Midwestern 1997	
10/20	.5/1.5
5/15	3.0/—

Call spread	Price bid/ask
California Annual 1997	
60/80	—/1.8
70/90	.5/1.5
Western Annual 1997	
60/80	—/2
70/90	.7/1.6
Southeastern September 1997	
40/60	2.5/3.0
80/100	—/2.0

Total volume: 0 Total open interest: 11,993

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

British Issues

May 16 Companies	Price pence	P/E	Div. pence	Yield %	1 week high—low
Comml Union	734	11.5	30.3	5.2	764—550
Genl Accident	951	6.9	34.3	4.5	978—514
Gdn Royal Exch	301	6.2	10.0	4.2	311—227
Royal & Sun	509	14.8	19.0	4.7	529—357
Brokers					
Bradstock	82	13.3	5.7	8.7	85—54
CE Heath	87	10.5	4.5	6.5	115—74
Lmbt Fenchurch	110	12.8	6.4	9.5	150—101
Lloyd Thmpson	172-	N/A	10.0	7.3	206—167
Nelson Hurst	140	12.8	6.6	7.7	206—121
Sedgwick Grp	128	11.0	8.9	7.0	152—115
Steel Brl Jones	29	9.9	1.5	6.6	46—22
Willis Corroon	147	12.5	6.6	5.7	169—117
Independent	799	10.0	13.3	2.1	800—373

Source: Nordby International Inc.

3 *BI* directory deadlines approaching

Deadlines are approaching for companies to return questionnaires to be listed in three annual *Business Insurance* directories.

The directory of Environmental Risk Management Consultants will be published in the June 9 issue. The extended deadline is May 23.

On June 23, *Business Insurance* will publish its annual directory of Employee Assistance Program Providers as well as a directory of Dependent Care Resource and Referral Services. The extended deadline for companies to return questionnaires for these directories is June 6.

If your company has not received a questionnaire to be listed, please request one immediately by calling Assistant Directory Editor Rich Trout at 312-649-5483.

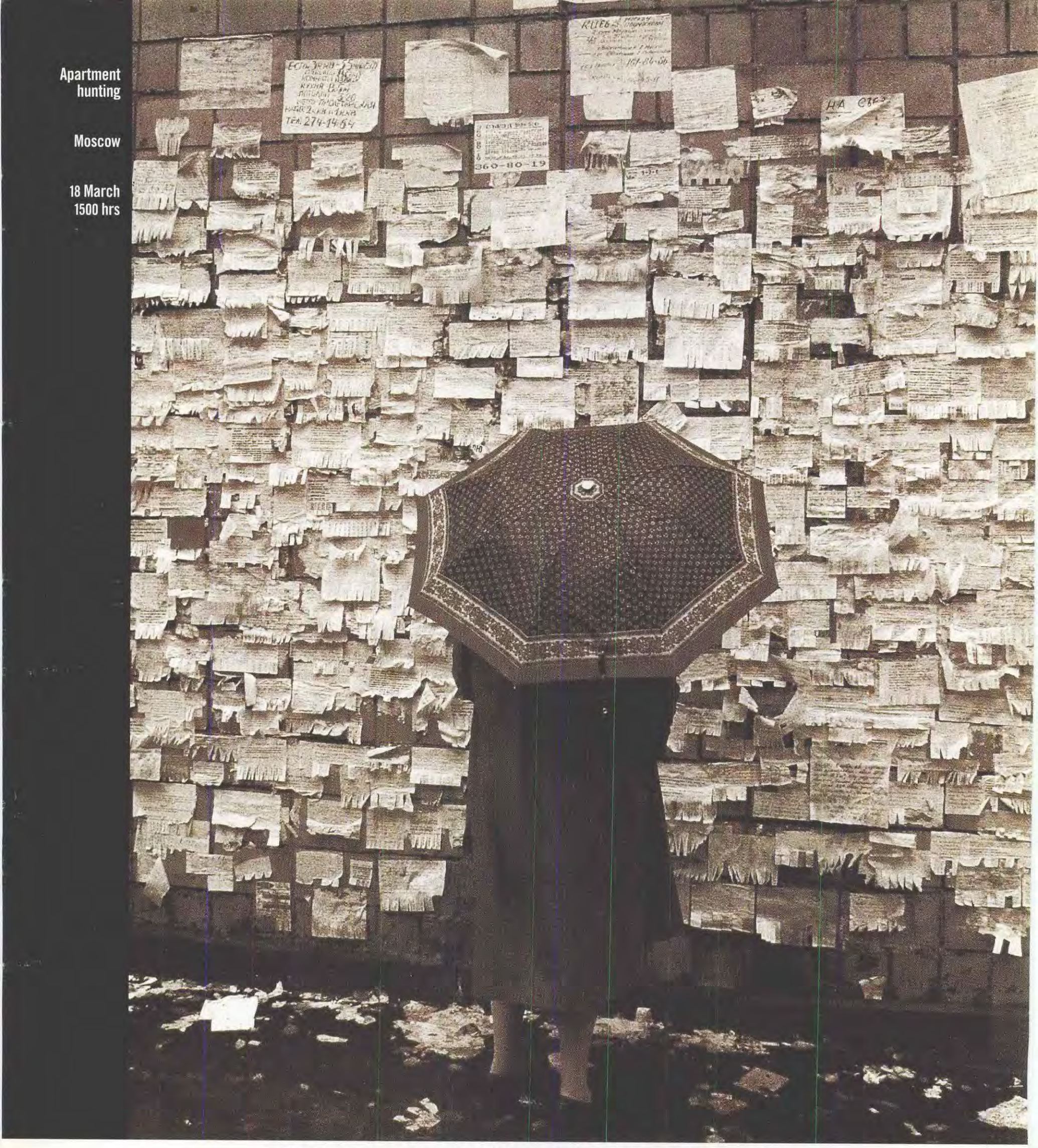
There is no charge to be included in the *BI* directories; the listings are provided as an editorial service. Companies need only fill out and return a questionnaire by the deadline.

BI Industry Stock Report MAY 12, 1997, THROUGH MAY 16, 1997

		Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)
BROKERS							
Acordia Inc.	NYS	32.75	2.75	12.93	33.75	27.25	180
E.W. Blanch Holdings Inc.	NYS	23.13	1.09	14.91	23.50	17.75	109
Gallagher Arthur J. & Co.	NYS	31.75	2.83	2.42	35.00	29.13	244
Hilb, Rogal & Hamilton	NYS	14.00	0.90	5.66	14.38	11.38	35
Kaye Group Inc.	NDQ	4.88	-2.50	-7.14	7.00	4.38	1
Marsh & McLennan	NYS	127.75	4.39	22.84	129.63	88.00	1540
Poe & Brown	NDQ	29.63	6.76	11.79	29.63	23.50	52
BROKERS	AVERAGE		2.32	9.06			
INSURERS/REINSURERS							
ACE Ltd.	NYS	61.13	-1.61	1.66	66.38	40.88	997
Acceptance Insurance Cos.	NYS	19.00	-3.18	-3.80	23.13	15.88	133
AEGON N.V.	NYS	74.63	1.36	17.98	74.63	42.25	131
Aetna Life & Casualty	NYS	94.75	-3.81	18.44	100.38	55.38	2960
AFLAC Inc.	NYS	48.13	8.15	12.57	48.13	28.25	1357
Allied Group Inc.	NYS	36.00	-2.04	10.34	38.75	22.38	53
Allmerica Prop. & Casualty	NYS	31.50	-0.40	3.70	32.25	25.25	174
Allstate Corp.	NYS	68.75	2.61	18.79	69.25	39.00	3995
AMBAC Indemnity Corp.	NYS	71.13	2.15	7.16	74.00	47.00	374
American Bankers Ins.	NDQ	54.25	-0.46	6.11	59.50	38.00	208
American Financial Group	NYS	37.25	1.71	-1.32	38.88	28.63	440
American General	NYS	44.38	0.28	8.56	44.75	33.75	2559
American Heritage Life Ins.	NYS	26.88	4.88	2.38	27.75	19.00	33
American Indemnity/Fin'l	NDQ	12.25	-1.01	19.51	14.00	9.50	3
American International	NYS	130.38	1.07	20.44	136.88	90.13	3415
Aon Corp.	NYS	47.13	0.44	13.78	48.00	31.75	951
Argonaut Group	NDQ	28.50	-2.56	-7.32	34.25	27.25	62
AVEMCO Corp.	NYS	24.38	-3.47	56.00	27.38	11.75	113
Baldwin & Lyons Inc.	NDQ	17.81	-1.04	-3.06	20.75	15.00	27
Berkley W.R. Corp.	NDQ	53.13	5.72	4.68	55.00	40.25	343
Berkshire Hathaway Inc.	NYS	40000.00	1.52	17.30	40000.00	30000.00	1
Capital RE Corporation	NYS	44.13	0.86	-5.36	48.00	32.50	66
CapMac Holdings Ltd.	NYS	29.75	19.60	-10.19	36.88	22.50	342
Capsure Holdings Corp.	NYS	12.13	2.11	5.43	18.88	8.00	82
Chartwell Re	NYS	27.00	1.41	0.93	28.50	20.75	13
Chubb Corp.	NYS	58.25	0.43	8.37	62.75	40.88	2163
CIGNA Corp.	NYS	170.25	0.59	24.61	173.50	105.50	1316
CNA Financial Corp.	NYS	101.00	1.00	-5.61	114.75	95.88	122
EMC Insurance Group Inc.	NDQ	12.00	0.00	0.00	14.50	10.13	136
Enhance Financial Services	NYS	43.13	0.00	18.15	45.00	26.13	123
Everest Reinsurance	NYS	32.63	-0.76	13.48	33.88	22.50	741
Executive Risk Inc.	NYS	49.75	-1.00	34.46	50.63	30.38	95
EXEL Ltd.	NYS	43.88	-0.85	15.84	45.13	31.75	910
Fremont General Corp.	NYS	26.63	1.33	-7.66	32.63	21.50	206
Frontier Insurance Group	NYS	53.38	1.67	39.54	54.88	32.63	198
Gainsco Inc.	NYS	8.38	1.52	-12.99	11.25	8.13	304
GCR Holding Ltd.	NDQ	26.69	-1.73	19.94	27.38	20.25	1783
General RE Corp.	NYS	172.63	1.02	9.43	177.75	139.63	644
Gryphon Holdings	NDQ	14.25	-0.87	0.88	19.25	12.00	28
Guaranty National Corp.	NYS	20.25	-3.57	20.90	21.38	13.50	43
Harleysville Group	NDQ	33.50	1.13	9.84	34.13	24.50	29
Hartford Steam Boiler	NYS	49.00	-1.01	5.66	50.38	42.75	158
HCC Insurance Holdings	NYS	24.75	-3.88	3.13	32.75	19.13	587
IPC Holdings Ltd.	NDQ	24.75	1.02	10.61	26.38	19.13	232
ITT Hartford Group	NYS	75.25	-2.59	11.48	81.00	47.13	1342
LaSalle Re Ltd.	NDQ	28.75	0.88	-1.71	29.50	20.75	658
Lincoln National	NYS	61.13	4.04	16.43	61.63	40.75	1109
MAIC Holdings Inc.	NYS	37.13	1.02	9.59	37.13	28.25	26
Markel Corp.	NDQ	120.50	7.71	33.89	120.50	80.00	35
MBIA Insurance Group	NYS	102.63	0.98	1.36	104.63	71.50	376
Meadowbrook Insur. Group	NYS	21.63	-4.95	2.98	34.13	15.25	17
Mid Ocean Ltd.	NYS	44.63	-1.65	-15.00	55.38	36.75	273
MMI Cos. Inc.	NYS	22.63	2.84	-29.84	33.38	20.75	133
Mutual Risk Mgmt. Ltd.	NYS	37.88	-3.81	2.36	40.00	26.88	186
NAC Re Corp.	NYS	40.50	-1.82	19.56	42.75	30.25	213
Navigators Group	NDQ	17.13	-2.84	-6.16	20.25	15.75	93
Nobel Insurance Ltd.	NDQ	13.13	1.94	4.48	14.00	10.88	11
NYMagic Inc.	NYS	19.13	-3.16	6.25	21.13	17.00	12
Ohio Casualty Corp.	NDQ	42.00	6.33	18.31	42.63	30.00	239
Old Republic Int'l	NYS	28.88	1.76	7.94	29.13	20.63	413
Orion Capital Corp.	NYS	64.38	-1.72	5.32	67.75	44.63	68
Partner Re Ltd.	NYS	32.00	-4.48	-5.88	36.50	25.63	1033
Penn-America Group Inc.	NDQ	14.13	4.63	31.40	14.50	8.63	122
Philadelphia Cons. Holding	NDQ	33.25	9.02	43.01	33.25	16.75	17
PXRE Corp.	NYS	26.63	1.43	7.58	27.00	22.25	362
Reliance Group Holdings	NYS	11.38	-2.15	24.66	12.25	6.50	906
Reliastar Financial Corp.	NYS	62.38	0.60	8.01	65.38	40.00	438
RenaissanceRe Holdings Ltd.	NYS	39.63	4.62	20.08	41.25	26.75	35
Risk Capital Holdings	NDQ	19.38	9.15	0.00	20.75	15.88	304
RLI Corp.	NYS	32.75	-3.32	-1.87	36.63	23.00	32
St. Paul Companies	NYS	73.13	-0.68	24.73	74.50	50.63	1178
SCOR	NYS	42.88	4.26	24.73	42.88	34.00	62
SAFECO Corp.	NDQ	41.88	1.52	6.18	44.00	32.00	1740
Seibels Bruce Group	NDQ	7.63	8.93	-7.58	12.00	5.87	3
Selective Ins. Group	NDQ	43.75	0.57	15.13	45.00	31.00	44
Sphere Drake Holdings	NYS	8.88	2.90	0.00	10.50	8.13	91
TIG Holdings	NYS	28.13	-2.17	-16.97	38.00	26.75	2365
Titan Holdings, Inc.	NYS	17.38	0.72	5.30	17.50	12.75	36
Tokio Marine & Fire	NDQ	60.75	8.72	30.29	66.75	42.00	82
Torchmark Corp.	NYS	64.50	0.00	27.72	66.25	40.25	799
Transatlantic Holdings	NYS	86.63	0.87	7.61	88.25	63.63	143
Travelers Aetna Property	NYS	37.75	1.68	6.71	39.63	23.13	634
Travelers Corp.	NYS	55.25	0.45	21.76	58.38	29.13	6633
Trenwick Group Inc.	NDQ	32.25	0.78	4.59	36.25	30.75	258
Unico American Corp.	NDQ	10.13	0.00	-6.90	11.00	6.75	30
Unionamerica Holdings	NYS	16.00	-4.48	-9.86	20.75	14.75	31
United Fire & Casualty	NDQ	36.75	2.08	4.26	40.00	29.75	8
Unitrin	NDQ	53.00	0.00	-4.93	56.38	44.25	112
UNUM Corp.	NYS	78.50	-0.95	8.65	80.25	56.75	823
US Facilities Corp.	NYS	19.00	2.70	-3.18	20.50	14.88	50
USF&G Corp.	NYS	20.75	0.00	-0.60	23.13	15.00	2808
USLIFE Corp.	NYS	48.38	-0.26	45.49	48.63	28.88	635
Vesta Insurance Co.	NYS	42.38	-2.59	35.06	46.00	24.50	354
Washington National	NYS	28.00	-0.44	1.82	30.75	25.13	158
Zenith National Ins.	NYS	26.13	-0.48	-4.57	28.88	24.88	34
Zurich Reinsurance Centr.	NYS	38.38	-0.32	22.80	38.88	28.38	140
INSURERS/REINSURERS	AVERAGE		0.89	8.71			
HEALTH MAINTENANCE ORGANIZATIONS							
Healthsource Inc.	NYS	21.25	0.00	61.90	25.50	9.75	815
Humana Inc.	NYS	21.25	0.00	11.84	24.25	15.00	2144
Oxford Health Plans	NDQ	63.44	-2.22	8.32	58.88	27.69	5356
Pacificare Health Sys.	NDQ	69.25	-6.42	-14.77	36.25	59.63	2372
Safeguard Health Enter.	NDQ	11.25	-6.25	-35.71	22.50	9.63	21
Sierra Health Services	NYS	29.50	5.36	19.80	35.75	22.38	652
United Healthcare Corp.	NYS	50.88	0.49	13.06	56.25	30.00	4174
Wellpoint Health Networks	NYS	47.38	6.46	37.82	47.38	23.38	976
HMOs	AVERAGE		-0.32	12.78			
ALL COMPANIES	AVERAGE		0.96	10.18			

Top advancing issues: CapMac Holdings Ltd., Risk Capital Holdings, Philadelphia Cons. Holding. Leading decliners: Pacificare Health Sys., Safeguard Health Enter., Meadowbrook Insur. Group. Most active issue: Travelers Corp. The *BI* Index decreased 0.14%; the Dow Jones 30 Industrials gained 0.35%; the S&P 500 increased 0.61% and the NYSE Composite gained 0.75%. Average P/E: Brokers, 17.2; Insurers/reinsurers, 18.6; HMOs, 29.5.

System design: Nordby International Inc.



THE GOOD NEWS IS THERE'S MORE CHOICE THAN EVER IN RUSSIA. THE BAD NEWS IS THERE'S MORE CHOICE THAN EVER IN RUSSIA.

Capitalizing on the pent-up demand for consumer goods and services in emerging economies promises high rewards, but it also carries high risks. Often these markets don't have the communications or distribution infrastructures businesses take for granted. For companies who want to succeed in overseas markets, a partner familiar with the political, business, regulatory and cultural climate of the target country is a necessity.

Fortunately, AIG is uniquely positioned to help companies guard against the many risks entailed in doing business abroad. If you are investing in overseas markets, AIG can help you protect your employees, your operations and your balance sheet on a local, regional and global basis through its unmatched breadth of insurance and financial services. Services like directors and officers coverage, employee benefit plans, foreign exchange management and travel accident coverages. And we've got the top financial ratings to back us up. So your company won't be left wondering which way to turn next.

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