

Business Insurance

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

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Mental benefits restricted to comply with parity law: GAO

WASHINGTON—A 1996 federal law barring group health care plans from offering discriminatory annual and lifetime dollar limits for mental health benefits has resulted in employers placing new restrictions on such benefits, the U.S. General Accounting Office reports.

The Mental Health Parity Act, which went into effect in 1997, bars group health care plans from offering lower annual and lifetime dollar limits for mental health benefits than for other medical and surgical benefits.

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Internet privacy liability growing

By ROBERTO CENICEROS

"The right to be left alone—the most comprehensive of rights and the right most valued by a free people."

—Justice Louis Brandeis.

Recent lawsuits alleging invasion of privacy by Yahoo! Inc., DoubleClick Inc. and other Internet notables represent the beginning of a litigation wave that has insurers plenty worried.

Insurers are concerned they will have to pay for potentially massive torts they didn't anticipate.

The lawsuits—several seeking

class-action status—will define the legal standards for other areas of emerging Internet liabilities and how insurers will respond to them, insurers and attorneys say.

Insurers say they are concerned because they never intended for commercial general liability policies to cover claims for violations of Internet privacy, just as they never anticipated the magnitude of pollution liability or employment liability exposures.

"If it's not the next really big issue, it's one of the next big issues where we can expect a lot of litigation," said Thomas R. Cornwell, vp of the

technology insurance group for Chubb & Son Inc. in Warren, N.J.

"It's certainly going to be one of the biggest issues the insurance industry has to address," agreed Peter R. Taffae, vp-financial services division for surplus lines broker Brown & Riding Insurance Services Inc. in Los Angeles. "It is a major concern."

Plaintiffs' attorneys are honing their skills and preparing for a boom in such lawsuits.

"Just as the Internet itself is a growth area, Internet law is being recognized as a growth area within the legal profession," said David Sobel, general counsel for the Electron-

ic Privacy Information Center in Washington. The non-profit organization supports plaintiff lawsuits on Internet privacy.

Some of those lawsuits allege that Internet advertising companies and retailers are collecting detailed information on unsuspecting consumers, tracking their time spent on the World Wide Web, including which sites they visit and for how long.

The data collection involves files known as

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State assessment equity in question

Self-insurers' share at issue

By MEG FLETCHER

Changes in workers compensation buying habits as well as new accounting rules are raising questions about the fairness and adequacy of assessments that states levy to finance their workers comp systems.

The growth of large-deductible policies, in particular, has some self-insured employers and state program administrators calling for a review of the system. That is because, while some states base assessments from insurers on premiums paid net of the deductibles, self-insurers ultimately are assessed based on their total losses paid.

Insurers, for their part, also seek changes, especially in light of new accounting rules that require them to accrue estimated future liabilities for insurance assessments based on paid losses, which is how many states set their levies for second-injury funds.

As such questions proliferate, both self-insurers and state administrators may separately draft proposals for uniform funding approaches that all states could adopt.

"I don't think the issue will go away," said Bruno R. Czyrka, co-chairman of the self-insurance

committee of the International Assn. of Industrial Accident Boards & Commissions in Lawrence, Kan. Mr. Czyrka is deputy director of the Michigan Bureau of Workers' Disability Compensation in Lansing, Mich.

States have typically required self-insured employers and insurers to pay annual assessments—often subject to state-specific caps—to pay the operating costs of their workers comp systems. The assessments cover the costs of individual states' administrative funds, which operate the systems as a whole, and, often, one or more special funds, including second-injury or occupational disease funds.

This funding approach faced little opposition in the past, even though many states varied in how they determined their assessments, according to a study of the funding system commissioned by the National Council of Self-Insurers.

The study, conducted by Richard A. Hofmann, president of SIGMA Consulting Group Inc. in Chesterfield, Mo., found that most states financed their workers comp administrative funds through assessments on premiums. The study also found that the

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Vivius connects docs, patients

Cutting complexity

By JERRY GEISEL

MINNEAPOLIS—A new health care purchasing system to be launched this fall will allow employees to set up their own customized network of providers and let providers set their own fees, while limiting employers' financial obligation to pay for health care to a fixed amount.

The new system would be a radical break from most managed care systems, in which employees have no say in the providers who are in the network, as well as traditional indemnity systems in

which patients have no idea what provider charges will be until after services are delivered.

The new system, which its organizer, Minneapolis-based Vivius Inc., is calling a Personalized Health System, does borrow elements from both managed care and traditional indemnity-based systems, however.

As in a health maintenance organization, providers will provide services to enrollees for a fixed monthly fee. Employees would not have to submit any claims forms. Unlike managed care, though, providers who agree to participate in the program would—without

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Employees call shots

HealthCare shifts purchasing control

By JOANNE WOJCIK KOCHANIEC

MINNEAPOLIS—A start-up company is aiming to make it easier for employers to hand over the health care purchasing reins to their employees.

The program, developed by Minneapolis-based HealthCare, is based on the idea of giving employees control over how their health care dollars are spent—the so-called consumer-driven model. Under the program, employers would deposit pre-tax dollars into "personal care accounts." Funds that are not used for health care-related expenses in a given year would be carried over to be used

for such expenses in future years.

Some benefit experts question the legality of the carry-over component, but a HealthCare executive says a section of the Tax Code permits it. Interestingly, the program's approach all but abandons the traditional components of health maintenance organization-style managed care—such as gatekeepers and utilization review—relying instead on discounted-provider arrangements and consumer education to control health care costs.

"Recent studies have shown consumers want to take more control over their health care," said

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Spotlight on:

Pensions/Retirement Plans

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Updates

Mental benefits restricted: GAO

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In eliminating discriminatory dollar caps, however, employers have added other restrictions, a move benefit experts predicted at the time the mental health care legislation was approved by Congress.

The GAO, Congress' investigative arm, found that 65% of employers that eliminated discriminatory annual and lifetime dollar caps changed at least one other mental health care design feature to make coverage more restrictive compared with other medical and surgical benefits.

In all, 87% of the nearly 900 group health care plans the GAO reviewed contained at least one provision more restrictive for mental health benefits than for other medical benefits. For example, while nearly two-thirds of group plans place limits on the number of covered days and office visits for mental health care, fewer than 10% impose any numerical limit on office visits or days in the hospital for other medical problems.

The release of the GAO report comes at a time when legislators are beginning to examine if the 1996 law should be expanded to mandate complete parity between mental health benefits and other medical and surgical benefits. In the absence of congressional action, the mental health care law will expire on Sept. 30, 2001.

HMO can be liable: Court

SPRINGFIELD, Ill.—A health maintenance organization can be liable when its procedures contribute to medical malpractice by one of its physicians, according to the Illinois Supreme Court.

In its ruling Thursday, the Supreme Court became the first state high court to hold an HMO liable under the theory of institutional negligence. The court ruled that Chicago HMO, now part of UnitedHealthcare of Illinois Inc., can be held liable by assigning too many patients to one network physician, who then failed to diagnose a child with a serious disease.

"Because HMOs undertake an expansive role in arranging for and providing health care services to their members, they have corresponding corporate responsibilities as well," wrote Justice Michael Bilandic.

The decision marks a milestone, because now "an HMO patient can proceed directly against the HMO for its own negligence," said attorney A. Denison Weaver, who represented the plaintiff.

But Joshua Vincent, a partner with Hinshaw & Culbertson in Chicago who represented the HMO, noted the decision involved a Medicaid HMO, not an employer-sponsored plan, and is therefore not covered by the federal Employee Retirement Income Security Act.

The case arose in January 1991, when Sheila Jones' Chicago HMO network physician, Dr. Robert Jordan, advised her to give her ill 3-month-old daughter castor oil. When the child's health did not improve, Ms. Jones took her to an emergency room, where the baby was diagnosed with bacterial meningitis. The girl is now permanently disabled.

Ms. Jones sued Dr. Jordan for medical malpractice and the HMO for assigning Dr. Jordan an excessive number of patients. According to court papers, Dr. Jordan had more than 6,000 patients, exceeding the 3,500 limit established by federal guidelines and adopted by the HMO.

Michael Cardillo to retire

HARTFORD, Conn.—Michael Cardillo, president of Aetna U.S. Healthcare, has retired from the company.

Mr. Cardillo, 57, joined the Aetna Inc. unit from U.S. Healthcare, which was purchased by Aetna in 1996. At U.S. Healthcare, he served as co-president, running the company with Joseph Sebastianelli. Both men became co-presidents of Aetna U.S. Healthcare after the purchase.

An Aetna spokeswoman said Mr. Cardillo has not indicated what plans, if any, he has after leaving the company. The retirement is effective immediately, the spokeswoman said.

Northridge claims bill advances

SACRAMENTO, Calif.—A bill that would lift the one-year statute of limitations on filing insurance claims for damage from the 1994 Northridge earthquake was approved by the California Senate Judiciary Committee last week.

S.B. 1899—introduced by Sen. John Burton, D-San Francisco—would permit damages claims arising out of the Northridge earthquake to proceed, provided they are filed within one year of the bill's enactment.

Sam Sorich, vp and western regional manager for the National Assn. of Independent Insurers in Sacramento, Calif., testified against the bill at a judicial committee hearing held last week.

"Granted, there are some people who are not happy with the way claims have been handled," Mr. Sorich said. But, he added, "we think this is the wrong remedy for those relatively few complaints."

Second asbestos claim OK'd

SAN FRANCISCO—In a decision that could lead to increased asbestos litigation, the California Supreme Court said a worker who contracts a new disease from the same asbestos exposure can file a second claim against a company.

The court's unanimous May 15 ruling in *Linda Hamilton vs. Asbestos Corp.* overturned an appellate decision and concluded that a special statute of limitations for injury or illness caused by asbestos exposure is inapplicable, and, therefore, a second action is not "time-barred."

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Errors & omissions

- Due to a production error, a May 15 chart listing California's largest workers compensation insurers incorrectly labeled the amount of direct written premiums. The dollar figures should have been listed in thousands.

- Due to an editing error, a parent company was listed for Independent Management Group Ltd. in the May 1 Directory of Captive Managers. IMG, an independent company, has no parent.

Cat pricing curiosity

Study suggests catastrophe securities may be overpriced

By **RODD ZOLKOS**

NEW YORK—A new study examining the pricing of catastrophe risk suggests that the current pricing of cat-linked securities is unjustifiably high, given the probabilities of the underlying events.

In fact, say the authors of the report prepared for Marsh & McLennan Securities Corp. and published by Guy Carpenter & Co. Inc., pricing on cat securities likely will decline as the capital markets learn they can profitably

underbid reinsurers for the risks.

The only reason pricing for those instruments exceeds actuarially fair levels, the authors contend, is that reinsurers currently determine the prices for catastrophe risks and do so with an eye to their own portfolios.

But some in the reinsurance industry suggest that there are fundamental differences between a reinsurer's view of pricing risk and that of a capital markets investor.

And, they argue, many of the

completed cat bond placements were possible only because reinsurers, who saw the securities' pricing as adequate, participated as investors.

The current process of pricing catastrophe security risk is inefficient, the study's authors say, because reinsurers—though possessing the same actuarial information as firms modeling risks for cat bond deals—hold large, undiversified risk positions that are benchmarked against absolute re-

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Tort reformer advocates 'sunshine' laws

Going public on counsel

By **MARK A. HOFMANN**

WASHINGTON—If state attorneys general are going to hire outside counsel to pursue large tort actions, they should do so on the basis of competitive bidding, according to a prominent tort reform advocate.

Three states—Kansas, North Dakota and Texas—have already enacted their own laws governing "the personal injury lawyer/public official nexus," said Victor E. Schwartz during a panel discussion about states' use of private attorneys at the Washington Legal Foundation last week.

Mr. Schwartz, a senior partner in the Washington law firm Crowell & Moring and general counsel to the American Tort Reform Assn., said so-called sunshine laws are necessary to prevent abuse and fraud in such public/private combinations.



PHOTO: DAVID HITTLE

Mr. Schwartz

Mr. Schwartz stressed that he does not oppose awarding private attorneys contingency fees in such cases, adding that his proposed reform would apply only in cases where more than \$1 million was at stake. This would prevent school boards and other small governmental entities that rely on outside counsel from needing to conduct a time-

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MGAs bracing for market turn

By **MICHAEL BRADFORD**

ORLANDO, Fla.—Managing general agents are preparing for changes in a slowly tightening insurance marketplace.

"I think we are headed into a little more difficult market," in terms of pricing, said James A. Roe, immediate past president of the American Assn. of Managing General Agents. "Prices are going up," he pointed out, "and it's getting tougher for some classes to be written."

As that happens, risks that are being abandoned by the admitted market are flowing to surplus lines insurers and, therefore, to the managing general agents who have the binding authority to cover those exposures.

In a press briefing at AAMGA's annual meeting in Orlando earlier this month, Mr. Roe, who is president of Arlington/Roe & Co. Inc. in Indianapolis, and two other association officers shared their opinions about how high prices might go and what effect the changing marketplace will have on the assoc-

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Inside

- Deals between state attorneys general and private law firms handling public business are, for the most part, kept secret. It's time to let the sun shine in, this week's editorial says. **PAGE 8**

- A ruling by the European Court of Justice could cost businesses in the United Kingdom billions of pounds to pay for pensions for part-time workers. **PAGE 27**

- Insurers are expecting to face losses from an explosion at a fireworks factory in the Netherlands. **PAGE 27**

- The Jaffray case hinges on what Lloyd's leaders knew and when they knew it, writes Kathryn J. McIntyre. **PAGE 33**

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Aviation rates set to take off

By **DAVE LENCKUS**

WASHINGTON—Commercial airlines and air frame manufacturers should prepare for dramatic insurance rate hikes later this year, says a top executive for a U.S. aviation underwriting group.

A leading underwriting executive in the London market agrees that the airline and aviation market cannot survive if claims continue to far outpace premium volume, as has been the case for most of the last decade.

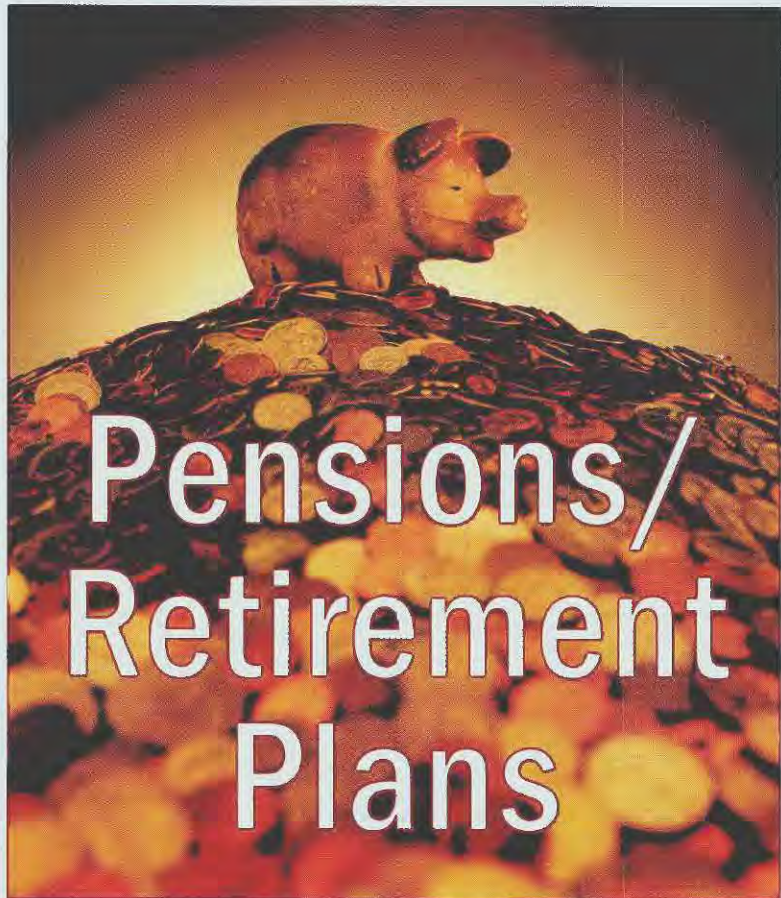
And as underwriters try to push up rates, they will have to address several other market problems, including how to expand the market and replenish a depleted talent pool, said the executives during a session at the Aviation Insurance Assn.'s 24th Annual Educational Conference. The AIA held the conference in Washington earlier this month.

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Pensions/ Retirement Plans

New plans aim at retaining workers

By MICHAEL PRINCE

As workers become more scarce, employers have been experimenting with changes to their retirement plans to keep the employees they have on the job longer and to entice other retirees back into the work force.

Over the past decade or so, many employees have seen significant appreciation of their retirement portfolios, and they feel more financially comfortable retiring at earlier ages. But currently fewer workers are entering the workforce than are leaving. This demographic disparity is forcing employers to seek ways to retain their older workers, pension consultants say.

There aren't enough workers today, "and the worker shortage is projected to get worse over the next five to 10 years," said Julie Gebauer, a principal in the New York office of Towers Perrin.

On the other hand, Ms. Gebauer said, a recent survey shows that only 20% of workers expect to retire by age 65. The rest plan to continue working, on either a full- or part-time basis. This means both that workers want to keep working and employers want to keep their workers.

"So it's a nice match," Ms. Gebauer said.

Part of the shortage results from the structure of the typical defined benefit pension plan. With many defined benefit plans, when an employee with 10 or more

years of service reaches age 55, he or she can retire with a sizable pension.

"There is a big subsidy that you earn that increases the value of your benefit" when you hit 55, explained William Miner, retirement practice leader for Watson Wyatt Worldwide in Chicago. In pension jargon, this increase is called a "cliff."

The boost in the value of their pensions gives employees an incentive to stay only until they reach the specified age. And since these retiring employees often want to continue to work, Mr. Miner explained, they frequently join other organizations, collecting both pensions and salaries.

In response, over the past five years or so, employers have been moving away from plans that have this cliff, said Anna Rappaport, a principal with William M. Mercer Inc. in Chicago.

"The cliff was viewed as a problem," Ms. Rappaport said.

A variety of strategies have been adopted by employers to eliminate incentives to retire early and to provide inducements for older workers to remain at their jobs longer.

A popular method has been for employers to reduce this early retirement subsidy. "This is the place where the action has been," Ms. Rappaport said.

One way to do this is to credit employees with an equal amount of money for each year of service. This means there is no advantage to attaining any particular age in regard to pension benefits, "so the employees don't go leaping at the

See Benefits on next page

Automatic 401(k) enrollment expected to gain popularity

By JERRY GEISEL

The numbers are striking. At Allergan Inc., 96% of new employees participate in the Irvine, Calif.-based prescription drug manufacturer's 401(k) plan.

The secret to Allergan's stellar participation rate is the company's decision, implemented last year, to automatically enroll all new employees in the company's 401(k) plan, unless they object in writing.

Allergan is one of a small but growing number of employers that have added an automatic enrollment feature to their 401(k) plans since the

Internal Revenue Service gave its blessing to such programs about two years ago. Such programs, the IRS said in a revenue ruling, pass muster provided they are explained to employees and employees have the opportunity to opt out.

While only a small percentage of employers offer automatic enrollment programs, that percentage has grown since the IRS first permitted the practice.

For example, a recent study by Hewitt Associates L.L.C. of nearly 500 employers found that 7% of them last year offered automatic enrollment, up from 4% in 1997.

Benefit experts say that more-rapid growth may be just around the corner.

"We have a lot of clients looking at it right now. You are going to see a lot more employers jumping on the automatic enrollment bandwagon," said Tom Foster,

first vp and ERISA counsel with John Hancock Funds in Boston.

"While I don't think automatic enrollment ever will be a majority practice, a lot more employers will be offering it in the years ahead," said Joe Hesselthaler, a principal in the Philadelphia office of Towers Perrin.

"I just don't see any downsides to it," said Michael Sternklar, a principal with PwC Kwasha in Teaneck, N.J.

The move to automatic enrollment is being driven by a basic but frustrating fact: In spite of good communications and investment education programs, as well as generous company matching programs, a significant percentage of employees—often as high as 20%—do not participate in corporate 401(k) plans.

In many such cases, the employees haven't actually rejected

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Few employers volunteering

Flaws seen in voluntary fiduciary correction program

By SALLY ROBERTS

A new Department of Labor program that grants some immunity to employers that self-correct and report certain fiduciary breaches is unlikely to see widespread use, consultants say.

Similar to the Internal Revenue Service's voluntary correction program, the DOL's Pension and Welfare Benefits Administration has adopted a new voluntary fiduciary correction program, which went into effect April 14.

Under the program, if an employee benefit plan sponsor has violated any of the 13 transactions outlined, such as making delinquent participant contributions to a pension plan, it can undertake procedures to self-correct the violation. These procedures, outlined by the PWBA, include calculating and restoring any losses and profits with interest and distributing any supplemental benefits, as well as notifying all participants and beneficiaries of the violation.

If the plan sponsor fully complies with all of the terms and procedures, it will receive a "no action letter" from the PWBA, which has the authority to bring civil enforcement actions and assess monetary penalties for such violations of the Employment Retirement Income Securities Act.

According to the PWBA and several benefit consultants, plan sponsors that have possibly breached their fiduciary responsibility have shied away from working with the PWBA to correct the problems, fearing possible investigations and civil penalties.

Benefit consultants say that though the PWBA's voluntary correction program is a step in the right direction, it falls short in several areas, and most employers likely won't take advantage of the program in its current form.

The program, consultants say, is limited with respect to the types of transactions that can be self-corrected. In addition, they note, it involves certain deterrents for those employers that may wish to comply.

"I describe it as well-intentioned, but, ultimately, fairly flawed," said Kyle Brown, retirement counsel with Watson Wyatt Worldwide in Bethesda, Md.

"The DOL's heart is absolutely in the right place, but I don't think it's going to work all that well," he said.

Employers are concerned that the VFC program provides no guarantee that other government agencies will not get involved when violations are reported, consultants say.

Indeed, the PWBA clearly states in its program description that "full correction under the VFC Program does not preclude any other governmental agency, including the Internal Revenue Service, from exercising any rights it may have with

respect to the transactions that are the subject of the application."

"There are still financial disincentives for coming clean," said Frank Roque, a legal consultant with Hewitt Associates L.L.C. in Lincolnshire, Ill.

Employers may hesitate to use the program because "there is no guarantee that the IRS won't get involved," Mr. Roque said.

Under the VFC program, the IRS could impose an excise tax if it finds tax abuse or a plan qualification failure within the violation or correction, consultants say.

Neil Trautwein, director of employment policy for the Washington-based National Assn. of Manufacturers, said that "until employers can be sure that they will not inadvertently trigger an IRS review and buy more problems, the program will probably not have as much impact as it could and should."

Not only are plan sponsors that take advantage of the VFC program still open to review from other government agencies, but they also may not even be fully off the hook with the PWBA.

The PWBA says that it reserves the right to conduct investigations to determine compliance with the VFC program and to verify that corrective

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Inside: Survey searches for facts on cash balance pension plans page 10

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Spotlight Editor: Jerry Geisel

Benefits

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 docu," Mr. Miner said. "It encourages folks to stick around longer."

Many employers have also been moving from defined benefit plans to defined contribution plans.

Another means of retaining workers that has become very popular in recent years is to shift from defined benefit plans to either cash balance or pension equity plans. Like defined contribution plans, these don't specify cliff years, so employees don't have incentives to retire early.

But the law has prevented some innovations. Employees are not permitted to both take a pension before the regular retirement age and remain with that employer, pension experts say. So a worker

will often retire early, take his or her pension and join another organization.

A bill is now pending in Congress that would address this situation, but it's still far from passage and its future is unclear.

while still on the job. This is legal if the employee is older than 59 and one-half years of age, explained Tom Murphy, principal with PricewaterhouseCoopers Kwaska HR Solutions in Teaneck, N.J.

ment. This innovation has advantages for both the employer and the employee. The employer keeps an experienced worker on the job, and the employee has some of the advantages of retirement—such as more free time—while still earning money and retaining health care benefits.

"If organizations can address the desire of flexibility and ease the concern of health care, I think you have a winner," Ms. Gebauer said.

Such programs are rare in the United States, though. According to a survey conducted in 1999 by Watson Wyatt Worldwide, only 16% of employers offered formal phased retirement programs. An additional 28% of employers surveyed, however, indicated they were interested in establishing such programs within three years.

'If organizations can address the desire of flexibility and ease the concern of health care, I think you have a winner,' says Julie Gebauer of Towers Perrin.

So employers are working within the current law.

Some have started to allow employees to withdraw money from their defined contribution plans

Another approach is to create a phased retirement program for employees, allowing an employee a transitional period between full-time work and full-time retire-

But current laws might hinder the growth of such programs, Mr. Rich said. Tax laws and Department of Labor regulations "have an unintentional effect of discouraging this type of retirement," he said.

Still, creative thinking can help. Ms. Gebauer cites the example of one company that had a group of employees on the verge of reaching age 55, when they would become eligible to receive large pensions if they left the company. The company, though, badly wanted these people to stay. So it lowered the normal retirement age from 65 to 55. This allowed these workers to start receiving their pensions while still working at their jobs and receiving salaries. Without this move, many of the workers were going to take early retirement, go to work for other companies "and create their own concept of phased retirement," Ms. Gebauer said.

Employers are also looking at ways to be on the receiving end of this worker transfer. The key to attracting older employees is to provide them with flexibility, consultants said. This gives an employee the free time many want in retirement while still getting an income, health benefits and the ability to join a new retirement plan.

"Lots of companies are doing that on a selective basis, more than having big programs to do that," Ms. Rappaport said.

And some employers trying to lure retired workers from other organizations are offering non-benefit incentives, such as bonuses and stock options, that don't vest for a few years.

Educating employees on the need for retirement savings also helps keep some on the job, said Joel Rich, senior vp with The Segal Co. in New York. Many workers have not saved enough money to retire, he said, and many don't fully understand how much they will need to save. Employees might think twice about retiring if they realize how much money they will need to retire comfortably, Mr. Rich said.

"They have to work because they can't afford to retire," he said.

But some employers have not even started thinking about the matter. Typically, smaller employers have yet to look at ways to hold onto their older workers, said Douglas Ley, director of compensations and benefits division for Willis North America Inc. in Milwaukee. This pattern follows other benefit trends that often start with larger employers and then work their way to smaller ones, Mr. Ley said. **BI**



Ask Bev

Is now the right time to review your company's pension plan?

"It's tough to compete in today's marketplace. There are mergers and acquisitions and an ongoing war for talent. Employers are beginning to realize that their employees don't value their pension benefits. As a result, many companies are meeting the challenge by taking a closer look at their pension plan. If these issues sound familiar to you, now is the time to look at your pension plan and make sure it's working to meet your company's goals."

Bev Landstrom knows the value of a well-designed pension plan. She is one of the nation's leading experts on pension benefits, and has consulted for some of the world's largest and most prestigious companies. Bev and her team of actuaries and consultants make ASA the fastest growing employee benefits consulting firm. Bev knows what it takes to help make your pension plan work harder. Just ask her. Contact Bev at askbev@asabenefits.com or call her at 732 302 2105.

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401(k)

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participation in the 401(k) plans; rather, they simply haven't made a decision either way.

"You can lead the horse to water, but sometimes you can't get the horse to drink. There is that inertia," said Tom Rossi, a consultant in the New York office of Watson Wyatt Worldwide.

That inertia has serious consequences for employers, as well as for both the employees who do and who don't participate in 401(k) plans.

For employers, if a significant percentage of rank-and-file employees don't contribute to the 401(k) plan, that increases the likelihood that the plan will not pass annual IRS non-discrimination

tests. Those tests are used to compare contributions by so-called highly compensated employees—those earning at least \$85,000 annually—with those by rank-and-file employees.

Generally, the average aggregate contributions by highly compensated employees cannot exceed by more than two percentage points the average aggregate contributions made by rank-and-file employees.

If that happens, an employer must cut back on the contributions it lets highly compensated employees make to the plan. Or, if it is late in the plan year, the employer may have to return contributions already made by its higher-paid employees, a messy administrative task.

And, to be sure, rank-and-file employees who don't contribute to

401(k) plans can suffer devastating economic consequences. The failure of younger employees to contribute to 401(k) plans can cost

terminated defined benefit plans—leaving the 401(k) plan as their sole retirement plan—the failure of employees to contribute to the

'We thought some employees might be angry that contributions were made, but many said, "Thanks for doing it,"' says Kevin Wilcox, Allergan's director of corporate benefits.

them tens of thousands of dollars in interest that would have accumulated for years in which they could have invested, said Jacques Mohs, director of pension services at The Principal Financial Group in Des Moines.

In addition, as more employers

plans has an even greater economic impact.

"There are employers that worry about employees having adequate retirement income," said Lori Lucas, a Hewitt Associates consultant in Lincolnshire, Ill.

Indeed, at Lear Corp., a South-

field, Mich.-based manufacturer of automotive interiors, corporate executives were concerned that employees were not taking advantage of the company's 401(k) plan.

"We provide a very good plan, yet employees were forgetting to enroll," said Lisa Stocke, Lear's benefit specialist. Last year, under the automatic enrollment program, the company's 401(k) participation rate was about 90%.

At Allergan, the primary reason the company moved to automatic enrollment was to enable its 401(k) plan to pass the IRS non-discrimination test.

Secondarily, though, Allergan wanted to make it easier for employees to enroll in the plan. Employee focus groups had complained about the "phone maze" they had to navigate to enroll, said Kevin Wilcox, director of corporate benefits.

Employers adopting automatic enrollment for 401(k) plans report virtually no employee backlash. "We thought some employees might be angry that contributions were made, but many said, 'Thanks for doing it,'" Mr. Wilcox said.

Still, automatic enrollment is not for every employer.

Some employers maintain that it is up to the individual employee to decide which benefit plans he or she should participate in. The company, they say, should not be making that decision for them.

"Employers may feel, 'We will give you opportunities to save, but we are not going to try to force you to do it,'" said Towers Perrin's Mr. Hessenthaler.

Indeed, automatic enrollment "may be too paternalistic for some companies," said David Wray, president of The Profit Sharing/401(k) Council of America in Chicago.

In addition, the approach may simply be unnecessary for those employers that already have high participation rates in their 401(k) plans and that easily pass non-discrimination tests.

"If the employee participation rate is in the 90s, an employer may say, 'Why bother?'" said Gary Blank, a consultant with William M. Mercer Inc. in San Francisco.

Finally, some employers may worry that adopting automatic enrollment programs may expose them to liability, should the investments that are made with employees' salary deferrals decrease in value.

For that reason, employers with automatic enrollment plans tend to invest deferrals in conservative funds, such as money market or balanced funds, in which the holdings are a mix of equity and fixed-income investments.

In addition, the percentage of salary deferral that goes into the plan—unless the employee says otherwise—tends to be low, typically 2% to 3% of pay. At Lear, the deferral is 5%; Allergan's is 3%.

Paramount, though, in adopting automatic enrollment plans is communicating to employees. "There has to be regular notification process," said Ms. Lucas of Hewitt Associates.

In fact, benefit experts advise notifying employees when they are first hired about how their automatic enrollment programs operate. Then, shortly before deferrals begin, employers should inform employees that the program is about to commence.

"You can't communicate too much," said Ms. Stocke of Lear Corp. **BI**

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Opinions

Reveal contracts to public

LET THE SUNSHINE IN.

As state governments increasingly turn to private law firms to pursue mass tort claims against various product manufacturers, taxpayers have a right to know the terms of those contracts. Currently, these alliances between state attorneys general and their legal hired guns are kept hidden from public scrutiny.

The deals cut between the states and private attorneys are often quite generous, sometimes with contingency fees running as high as 35% of the award for a few lucky law firms. With the taxpayer not only financing such actions, but also the beneficiary of their success, the states have a duty to subject these contracts to greater public scrutiny.

We, therefore, support a proposal outlined in this week's issue that contracts between state governments and the private attorneys they hire to represent them in mass tort cases be awarded on the basis of competitive bidding.

There's much to recommend this approach, advocated by longtime tort reform advocate Victor Schwartz. After all, competitive, open bidding is the way states do business with other outside contractors and vendors. Everything is out in the open and when it's not, it's called bid-rigging and that's a crime.

When state attorneys general began to farm out the legal work associated with mass tort suits against tobacco companies, this was admittedly uncharted territory for the states and there wasn't any bidding involved.

As states have embraced this legal approach for other mass tort targets, these legal services need to be subject to some oversight.

The tobacco suits were initially considered to be unique litigation because of the nature of tobacco. Now, however, states and the federal government are teaming up with private law firms to sue other industries in the name of recovering public health care expenditures. Gun manufacturers have already been targeted. Former manufacturers of lead paint have been sued by Rhode Island and that state is also considering bringing action against the makers of latex gloves because some people are allergic to them.

One doesn't have to be paranoid to envision an explosion of state-sponsored suits against brewers, distillers, makers and marketers of violent video games, maybe



even carmakers and purveyors of high-cholesterol fast food.

If states are going to follow this route with the help of the private trial bar, then citizens have a right to know who's going to represent the state and how much they're going to be paid up front—just as is the case when a state wants to build a highway.

The current system invites abuse, as state officials could face the temptation of awarding potentially lucrative contracts to political supporters with no public scrutiny. The public deserves to know the terms and conditions being offered the legal hired help before any settlements are reached or awards paid out. Subjecting a state's legal outside contractors to the same bidding and oversight process as any other contractors is the best and fairest way to achieve this disclosure.

Three states—Kansas, North Dakota and Texas—have already enacted the type of sunshine laws advocated by Mr. Schwartz.

In the name of simple fairness and good governance, it's high time for others to follow suit and let the sun shine in by opening the process to the public's scrutiny.

Don't extend filing limitations

CALIFORNIA lawmakers are opening Pandora's Box.

Legislators are considering a measure that would allow policyholders to file new insurance claims for property damage from the 1994 Northridge earthquake—five years after a one-year time limit on claims expired. The impetus for the measure is allegations of improper claims handling by insurance companies, as well as inadequate regulatory oversight of the process.

The damage wrought by the Northridge earthquake clearly caught both property owners and insurance companies by surprise. Not only were buildings and materials considered quake-resistant found to be inadequate to the task, but much quake damage was not discovered until well after the quake. The industry's initial estimates of insured damage after the quake were far exceeded as actual claims came in, and today Northridge ranks as one of the largest insured losses ever, at more than \$13 billion in claims paid.

Even so, a legislative trampling of the statute of limitations for filing a claim and rewriting of the contract of insurance is inappropriate.

Setting time limits for property payments is a reasonable practice, designed to encourage policyholders to promptly assess and remedy damage, as well as en-

able insurers to keep their exposures from becoming open-ended.

The majority of policyholders with Northridge claims either filed claims or put insurers on notice within the period proscribed in their contracts. Rather than clearing a path for a handful of claims that were not discovered and filed in time, this legislation instead would invite a far larger amount of fraudulent claims for property damage.

There is nothing in the legislation to prevent unscrupulous property owners from falsely claiming damage to their property was caused by Northridge. In many cases, it will be difficult for insurers to prove these claims false and they will be forced to pay. In other cases, it will cost insurers plenty to challenge questionable claims. Both responses will drive up their costs, which will be passed on to all policyholders.

Insurers probably have a pretty good idea which policyholders still have valid claims outstanding for damage from the Northridge quake, regardless of when it was discovered. We would suggest they deal with those claimants in good faith now, ending the need for this legislation, or risk facing a far larger tide of claimants—some valid, others not—if this bill becomes law.

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Survey aims to find facts about cash balance plans

By JERRY GEISEL

Most employers converting their traditional defined benefit pension plans to cash balance plans expect overall retirement benefit costs to meet or exceed their current costs, according to a new survey.

Seventy percent of employers surveyed by PricewaterhouseCoopers L.L.P. said their costs after converting to cash balance plans would be comparable to or even higher than before the conversion.

The survey, which its authors say is an effort to substitute "facts for impressions," also found:

- Most employers converting to cash balance plans use the same or similar interest rate assumption in calculating the value of employees' opening account balances as they do when employees later leave and take their account balances as a lump sum.

That finding is contrary to cash balance plan critics who say that employers are using excessively high interest rate assumptions in determining opening account values. As a result, employees can work for years and not earn additional credits in the cash balance plan during that time, a situation known as "wear-away."

- Just over 80% of employers provide grandfathering or transition

credits to all or some of their current vested employees when they convert their traditional plans to cash balance plans.

may be just shy of earning significant benefits in the old plans but they won't be in the new plan long enough to earn meaningful benefits.

Cash balance plan critics said converting traditional plans to cash balance plans was a way for employers to mask cuts in the pension benefits they were providing.

Such credits are needed to prevent big benefit cutbacks for longer-service employees. Those employees

The PricewaterhouseCoopers survey is based on responses by 95 employers that have converted 100 tra-

ditional plans to cash balance plans since the mid-1980s, when the first plans were set up.

Initially, cash balance plans reaped favorable publicity. Proponents said the plans combined the best features of defined benefit and defined contribution plans. Like defined benefit plans, cash balance plans offer a guaranteed benefit, regardless of investment fluctuations.

But like defined contribution plans, the promised benefit is expressed as a lump sum rather than a monthly annuity payable in the distant future. Benefit formulas also are relatively easy to understand. Typically, employees receive pay credits each year equal to a percentage of pay, with the credits earning a guaranteed interest rate, such as the one-year Treasury bill. Cash balance plans are career average plans, in which benefits accrue evenly throughout an employee's years of service. By contrast, in traditional final average pay plans, most benefits are earned during an employee's final years of service.

Employers that converted to cash balance plans said they did so because employees didn't understand or appreciate traditional plans. Employers also said the design of traditional plans—in which significant benefits were earned after many years of service—no longer made sense for a more mobile workforce that likely never would stay long enough to qualify for the benefits.

But, beginning in late 1998, cash balance plan critics took the offensive. They said converting traditional plans to cash balance plans really was a way employers were using to mask cuts in the pension benefits they were providing.

Those critics found allies in Congress who introduced bills that, among other things, would mandate that employers converting to cash balance plans give vested employees—regardless of age—the choice of the two plans. Those measures, while generating much discussion, have not been acted on by legislators.

Amid that criticism, PricewaterhouseCoopers launched its survey last year to develop what Larry Sher, a PwC principal in Teaneck, N.J., describes as "credible" information about the plans.

The survey finding most directly at odds with the charges leveled by plan critics is that employers converting traditional plans to cash balance plans typically are doing so to cut retirement plan costs.

According to the survey, 70% of employers that converted traditional plans to cash balance plans expect their overall retirement plan costs to be about the same as or even higher than before the conversion.

"It is not a widespread phenomenon that employers are saving money when they put in these plans," Mr. Sher said.

While cash balance plans may cost less than the plans they replace, many employers converting to cash balance plans also make—simultaneously with the cash balance plan conversion—changes to other plans with the result that overall benefits remain about the same.

Indeed, about 31% of surveyed employers said they expected defined benefit plan costs to decline after the conversion to cash balance plans, but they expected overall retirement plan costs to be essentially unchanged as employers have simultaneously sweetened other plans, such as 401(k) plans.

"You have to dig deeper to look
See Survey on page 12

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Survey

Continued from page 10

at the entire retirement program put in place. While there may be savings as a result of conversions, the savings are often spent somewhere else, such as a company beefing up a 401(k) plan or adding a stock options plan," Mr. Sher said.

To be sure, employers converting to cash balance plans often eliminate rich and costly features, such as subsidized early retirement benefits. But, as the survey notes, many employers—at a time of labor shortages—would get rid of those rich benefits even without converting to cash balance plans.

The survey also found:

- When employers convert em-

ployees' accrued benefits in the traditional plan to a lump sum in the cash balance plan, they typically use an interest rate assumption no higher than the prevailing 30-year Treasury bond rates.

Cash balance critics have charged that employers use much higher rates, which can understate opening account balances.

- Most employers—81%—converting traditional plans to cash balance plans provided some type of transition benefits to employees.

Free single copies of "Cash Balance Plan Conversion" are available from Mary Seaman, PricewaterhouseCoopers L.L.P., 500 Frank W. Burr Blvd., Glenpointe Centre West, Teaneck, N.J. 07666; 201-530-2026; fax: 201-530-2999; mary.seaman@us.pwcglobal.com

Voluntary

Continued from page 3
actions have been taken.

"What's most troubling about (the VFC program) is that the window for correction is defined so narrowly," said Craig J. Davidson, e-business leader for Willis North America Inc. in Milwaukee, who specializes in employee benefits.

If the Labor Department suspects "any misrepresentation in an employer's depiction of a violation, all bets are off, and the DOL will take a look at it," he said.

"It's a scary program for employers. It's not user friendly," Mr. Davidson said.

Watson Wyatt's Mr. Brown expressed concern about the VFC's requirement that plan sponsors notify all participants and beneficia-

ries of any violation that is reported through the program.

Although Mr. Brown said that he advocates good communication with employees, having "to notify everyone in the plan will create more confusion than anything else."

"That will be a major reason why employers will not participate in the plan," he contends.

Other concerns involve the limitations on the types of transactions that plan sponsors can self-correct.

In addition to delinquent participant contributions, other violations outlined in the program include various improper loans; incorrect valuations of plan assets; payments of duplicate, excessive and unnecessary compensation; and payment of dual compensation to plan fiduciaries.

"The issue we're seeing is that it

is limited to certain transactions that employers can use to get a correction," said Mr. Roque of Hewitt. The Labor Department "needs to expand it, because there are other issues."

Mr. Roque goes as far as suggesting there should be no government involvement in fiduciary self-correction.

"If an employer makes a common mistake that is easily corrected and needs no government intervention, then create a program with no government intervention," Mr. Roque said.

This is "a trial balloon," he added. Broadening the array of transactions that can be self-corrected and eliminating government involvement "will improve this thing," he said.

Overall, benefit consultants say that although fiduciary violations do occur, they are infrequent and generally inadvertent.

"It's really not a big program. We rarely see it," said Joe Walshe, principal for PricewaterhouseCoopers in Tysons Corner, Va.

Watson Wyatt's Mr. Brown agreed. "An overwhelming majority of 401(k) plans are administered

What's most troubling about the program is that the window for correction is so narrow, says Craig Davidson.

with no violations."

The Labor Department projects that officials from approximately 700 plans will apply for and use the VFC program, and that those plan officials will save about \$5.4 million in civil penalties by self-correcting through the program.

"I haven't seen much interest yet from employers," said Mr. Walshe, noting that he doesn't think that there will be a "great groundswell" of employers taking advantage of the program.

"I think what is going to happen is that we'll have two camps of employers," Willis' Mr. Davidson said. There will be those plan sponsors with "squeaky clean plans" that will take advantage of the program when they, "for the slightest reason," believe they have a problem.

On the other hand, those plan sponsors that have allowed their plans to become lax and might have some skeletons in the closet—"and there are many of them out there"—will not use of the program, Mr. Davidson said. "And in doing so, they risk an audit from the DOL."

Benefit consultants point out that when the IRS introduced its voluntary correction program, which allows plan sponsors to self-correct operational errors in qualified retirement plans, it was not well received.

Employers were "just a little nervous" about what they were getting themselves into and whether they were just triggering an IRS audit, explained Mr. Walsh from PricewaterhouseCoopers.

"They soon found out that that was not the case," Mr. Walshe said.

Watson Wyatt's Mr. Brown added that since the IRS program was adopted, "it's evolved, grown and has been modified" over the years. "What we've got now is pretty darn good," he said.

The Labor Department has "entered the dance. If this were the final word, I'd be pretty unhappy, but it's the first word," said Mr. Brown. **BI**

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Clients 30
Total 30
Receiving unbundled services 30

Software: written and maintained in-house, accommodates 7 investment funds and 7 types of contributions.

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Staff 70
Total 65
Clients 65
Total 1,548
Receiving unbundled services 145

Receiving bundled services 1,203
Average participants/plan 474
Minimum participants/plan 100*
1999 revenues
Total \$6,500,000
401(k) plan administration \$6,300,000

Services began: 1982.
Software: written and maintained in-house, accommodates 99 investment funds and 30 types of contributions.

Administration: cash, unit-value, full-share accounting; accommodates loan provisions.

Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; consults on legal issues, compliance issues, employee communications; nondiscrimination testing; 5500s.

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Staff 28
Total 4
Clients 50

Total 50
Receiving unbundled services 36
Receiving bundled services 14
Average participants/plan 42
Minimum participants/plan 1
Maximum participants/plan 1,000

1999 revenues
Total \$227,000
401(k) plan administration \$-9,000

Parent: CAI Insurance Agency Inc.
Software: written and maintained in-house.

Administration: cash, unit-value, full-share accounting; accommodates loan provisions.

Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access;

communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications.

Service area: Midwest.

Charges: determined by number of participants, complexity of plan, time and expense, frequency of valuations.

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Staff 17
Total 12
Clients 600

Total 600
Receiving unbundled services 600
Average participants/plan 45
Minimum participants/plan 1
Maximum participants/plan 5,000

1999 revenues
Total \$1,200,000
401(k) plan administration \$750,000

Services began: 1981.
Software: purchased from outside vendor.

Administration: cash, unit-value, full-share accounting; accommodates loan provisions.

Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications.

Service area: nationwide; principally in Arkansas, New Mexico, Oklahoma and Texas.

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Staff 110
Total 60
Clients 250

Total 250
Receiving unbundled services 210
Receiving bundled services 40
Average participants/plan 1,000

Services began: 1982.
Software: written and maintained in-house, accommodates 80 investment funds and 20 types of contributions.

Administration: cash, unit-value, full-share accounting; accommodates loan provisions.

Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; projection letters; retirement planning software; data management; flexible spending accounts; participants statements; actuarial services.

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Charges: determined by number of participants, complexity of plan, assets under management, time and expense, frequency of valuations.

Officers: John Salajka, CEO; David Goldenberg, CFO.

Contact: Mark Tucker, director-new business development; mtucker@amgusa.com.

Administrative Management Group

Ameritas Life Insurance Corp.

5900 "O" St.,
Lincoln, Neb. 68510-1889;
402-467-1122; fax: 402-467-7952
www.ameritas.com

Staff 1,102
Total 35
Clients 288

Total 288
Receiving unbundled services 23
Receiving bundled services 265
Average participants/plan 31
Minimum participants/plan 1

1999 revenues
Total \$1,251,970,000
401(k) plan administration \$225,604

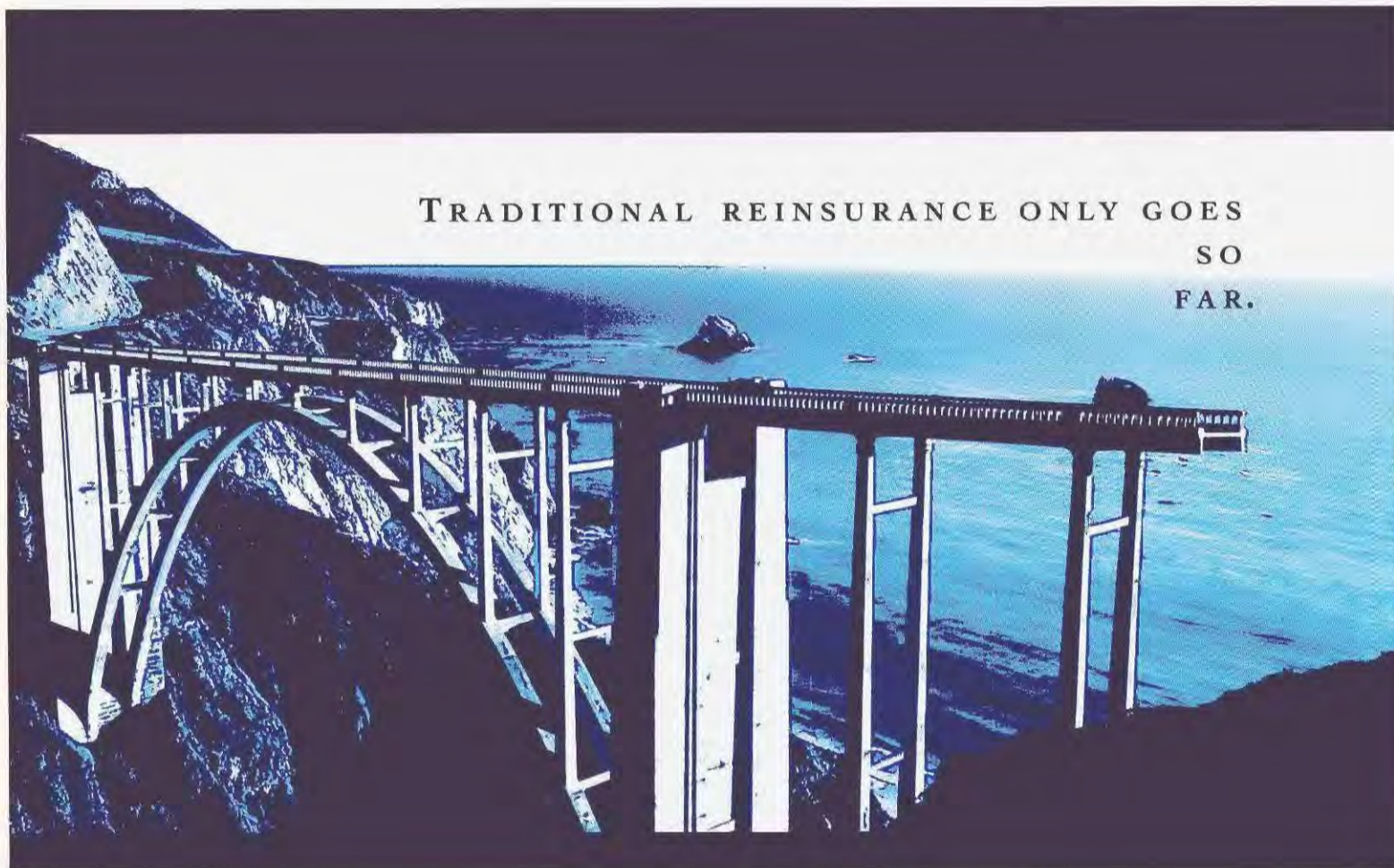
Parent: AmeritasAcacia Mutual Holding Co.
Services began: 1985.

Software: purchased from outside vendor, accommodates 400 investment funds and 400 types of contributions.

Administration: cash, unit-value, full-share accounting; accommodates loan provisions.

Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access;

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Continued from page 14

communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; manages investment of 401(k) plan funds.

Service area: nationwide.
Charges: determined by number of participants, assets under management, time and expense, frequency of valuations.
Officers: Larry Arth, chairman/CEO; Ken Louis, president/COO; Joann Martin, senior vp/controller/CFO.
Contact: Jessie Ellen Walker, 800-745-9395.



Benefit Administration Corp.

770 E. Shaw Ave., Suite 200,
 Fresno, Calif. 93710;
 559-225-3030; fax: 559-225-6837

Staff	
Total	33
Involved in 401(k) plan services	3
Clients	
Total	150
Receiving unbundled services	150
Average participants/plan	30

Minimum participants/plan	1
Maximum participants/plan	5,000
1999 revenues	
Total	\$350,000

Parent: BMS Services Inc.
Services began: 1997.
Software: leased from outside vendor, accommodates 24 investment funds and 8 types of contributions.
Administration: cash, unit-value, full-share accounting; accommodates loan provisions.
Client services: toll-free service to request account activity; communication of plan features to employees; consults on plan design issues, compliance issues, employee communications.
Service area: Western United States.
Charges: determined by number of participants, time and expense, frequency of valuations.
Contact: R. Buresh, president; rburesh@benefitadministration.com.

Benefit Dynamics Inc.

8 Ranoldo Terrace, Suite 200,
 Cherry Hill, N.J. 08034;
 856-616-1400; fax: 856-616-1401
 www.benefitdynamics.com

Staff	
Total	20

Involved in 401(k) plan services	17
Clients	
Total	150
Receiving unbundled services	115
Receiving bundled services	35
Average participants/plan	125
Minimum participants/plan	20
Maximum participants/plan	25,000
1999 revenues	
Total	\$1,990,000
401(k) plan administration	\$450,000

Services began: 1982.
Software: purchased from outside vendor, accommodates 25 investment funds and 12 types of contributions.
Administration: cash, unit-value, full-share accounting; accommodates loan provisions.
Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; voice response system; electronic enrollment; internet access to participant accounts.
Service area: nationwide.
Charges: determined by number of participants, complexity of plan, time and expense, frequency of valuations.
Officers: Jo-Ann Massanova, president; Carmen Laverghetta, executive vp.
Contact: Mark E. Moran, vp.

Benefit Equity Plans Inc.

1971 E. Fourth St., Suite 100,
 Santa Ana, Calif. 92705;
 714-430-1364; fax: 714-480-1365
 www.benefitequity.com

Staff	
Total	30
Involved in 401(k) plan services	20
Clients	
Total	610
Receiving unbundled services	600
Receiving bundled services	10
Average participants/plan	80
Minimum participants/plan	10
Maximum participants/plan	5,000

Services began: 1989.
Software: leased from outside vendor, accommodates 8 types of contributions.
Administration: cash, unit-value, full-share accounting; accommodates loan provisions.
Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on plan design issues, compliance issues, employee communications.
Service area: nationwide.
Locations: administrative/consulting offices in: Beverly Hills, San Diego and Santa Ana, Calif.
Charges: determined by number of partici-

pants, complexity of plan.
Officers: Robert H. Gorelick, president; Michael Gorelick, vp.
Contact: Michael Gorelick.

Benefits Connection Group (BCG)

1130 Connecticut Ave. N.W., Suite 1000,
 Washington, D.C. 20036;
 202-828-7186; fax: 202-828-7105
 www.bcg-dc.com

Staff	
Total	10
Involved in 401(k) plan services	4
Clients	
Total	71
Receiving unbundled services	71
Average participants/plan	50
Minimum participants/plan	10

Parent: American Insurance Assn.
Services began: 1984.
Software: recordkeeping is provided by an outside third party.
Administration: cash accounting; accommodates loan provisions.
Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications.
Service area: nationwide.
Charges: determined by number of participants, assets under management.
Officers: David S. Lauer, COO.
Contact: David C. Popper, director-marketing; 202-828-7148; dpopper@bcg-dc.com.

Continued on page 18



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Directory terms explained

The 11th annual directory of 401(k) plan administrators contains information on companies that provide such services as enrollment recordkeeping, daily maintenance of participants' accounts and handling of account activity. To be listed, a company must offer these services independently of any investment services; it may or may not offer investment management services in addition to plan administration services.

Each listing begins with the company's name, address, telephone and fax numbers, as well as its Web site address, if available. Listings continue with information on staff, including total staff and the number involved with 401(k) plan services. Information on clients is also provided, including a breakout of the number receiving 401(k) plan administration services on an unbundled vs. a bundled basis. 1999 revenues and revenues from 401(k) plan administration services are also included, if provided by the company. Next, the parent company (if any) and the year that the company began offering 401(k) plan administration services are provided.

Listed next are the software used and administration services provided, including the accounting methods the company uses and whether it has the ability to accommodate loan provisions for clients. Client services are the various support services provided.

In addition, the service area and locations of administrative/consulting offices are given. How the company charges for services is also noted. The names and titles of principal officers and a contact person complete each listing.

The directory is published as an editorial service; there is no charge for companies to be included. Information reported is based on each company's responses to a Business Insurance questionnaire. Although every effort is made to print complete and accurate listings, BI is unable to verify all information provided by companies.

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Continued from page 16

Benefits + PPA Services Inc.

5435 Corporate Drive, Suite 150,
Troy, Mich. 48098;
248-641-7525; fax: 248-641-7530
www.benefitsppa.com

Staff	
Total.....	45
Involved in 401(k) plan services.....	22
Clients	
Total.....	242
Receiving unbundled services.....	240
Receiving bundled services.....	2
Average participants/plan.....	55
1999 revenues	
Total.....	\$2,710,659
401(k) plan administration.....	\$874,876

Services began: 1983.
Software: purchased from outside vendor.
Administration: cash, unit-value, full-share accounting; accommodates loan provisions.
Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; manages investment of 401(k) plan funds; investment advisory; co-fiduciary compliance; personal financial planning.
Service area: nationwide.

Charges: determined by number of participants, assets under management.
Officers: Mark Wayne, CEO.
Contact: Wendy Yearwood, marketing coordinator; 248-641-7525, ext. 1127.

Boetger & Associates Inc.

410 Cranberry St., Suite 210,
Erie, Pa. 16507;
814-455-4550; fax: 814-455-4798

Staff	
Total.....	24
Involved in 401(k) plan services.....	17
Clients	
Total.....	320
Receiving unbundled services.....	320
Average participants/plan.....	75
Minimum participants/plan.....	25
Maximum participants/plan.....	3,500

Services began: 1990.
Software: leased from outside vendor, accommodates 20 investment funds and 20 types of contributions.
Administration: cash, unit-value, full-share accounting; accommodates loan provisions.
Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; communication of plan features to employees; consults on plan design issues, compliance issues, employee communications; prototype documents; ongoing

consulting; annual filings.
Service area: Western Pennsylvania, Eastern Ohio.
Locations: administrative/consulting offices in: Pittsburgh.
Charges: determined by number of participants, complexity of plan, time and expense, frequency of valuations.
Officers: Don J. Boetger, president; Cynthia A. Marzka, senior consulting actuary; Robert Cmjarich, principal-Pittsburgh office.

Boyce & Associates Inc.

7098 E. Cochise Road, Suite 200,
Scottsdale, Ariz. 85253;
480-948-8879; fax: 480-948-0448

Staff	
Total.....	14
Involved in 401(k) plan services.....	8
Clients	
Total.....	200
Receiving unbundled services.....	200
Average participants/plan.....	30
Minimum participants/plan.....	1
1999 revenues	
Total.....	\$1,150,000
401(k) plan administration.....	\$750,000

Services began: 1990.
Software: leased from outside vendor, accommodates 200 investment funds and 10 types of contributions.

Administration: cash, full-share accounting; accommodates loan provisions.
Client services: consults on plan design issues, compliance issues, employee communications.
Service area: nationwide.
Charges: determined by number of participants, complexity of plan, time and expense, frequency of valuations.
Officers: Kerry M. Boyce, CEO.
Contact: Kerry M. Boyce, Bill Wichrowski, Josh Pital.

Business Benefits Corp.

9801 Westheimer Road, Suite 1070,
Houston, Texas 77042;
713-781-9242; fax: 713-781-7330

Staff	
Total.....	6
Clients	
Total.....	89
Receiving unbundled services.....	89
Average participants/plan.....	50
Minimum participants/plan.....	2
Maximum participants/plan.....	500
1999 revenues	
Total.....	\$592,845
401(k) plan administration.....	\$215,000*

Services began: 1989.
Software: leased from outside vendor.
Administration: cash, unit-value, full-share

accounting.
Client services: communication of plan features to employees; consults on plan design issues, compliance issues, employee communications.
Service area: nationwide.
Charges: determined by number of participants, complexity of plan, time and expense, frequency of valuations.
Officers: James W. Smith, president/CEO.
Contact: Tom Townsend, vp-marketing.
*Estimated



CBIZ Retirement Services Inc.

6800 Jericho Turnpike, Suite 206-E,
Syosset, N.Y. 11791;
516-622-9100; fax: 516-822-8692
www.smartplan.com

Staff	
Total.....	5,100
Involved in 401(k) plan services.....	266
Clients	
Total.....	6,049
Receiving unbundled services.....	1,300
Receiving bundled services.....	4,749
Average participants/plan.....	70
1999 revenues	
Total.....	\$29,220,000
401(k) plan administration.....	\$18,635,000

Parent: Century Business Services Inc.
Services began: 1981.
Software: purchased from outside vendor, accommodates 20 investment funds and 20 types of contributions.
Administration: cash, unit-value, full-share accounting; accommodates loan provisions.
Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; manages investment of 401(k) plan funds; online education and individual specific advice.
Service area: nationwide.

Locations: administrative/consulting offices in: 32 offices nationwide.
Charges: determined by number of participants, complexity of plan, assets under management, time and expense, frequency of valuations.
Officers: Robert O'Byrne, senior vp-Century Business Services Inc.; James S. Vitalie, president-Century Retirement & Wealth Management Services; J. Michael Meador, national marketing director-Century Retirement & Wealth Management Services.
Contact: James S. Vitalie, 216-442-9000, jvitalie@cbiz.com; J. Michael Meador, 704-556-1160, mmeador@centurypayroll.com.

CNA Trust

3000 S. Bristol St., Second Floor,
Costa Mesa, Calif. 92626;
714-437-1012; fax: 714-437-4084
www.cnatrust.com

Staff	
Total.....	200
Involved in 401(k) plan services.....	120
Clients	
Total.....	1,700
Receiving unbundled services.....	365
Receiving bundled services.....	1,335
Average participants/plan.....	100
Minimum participants/plan.....	1

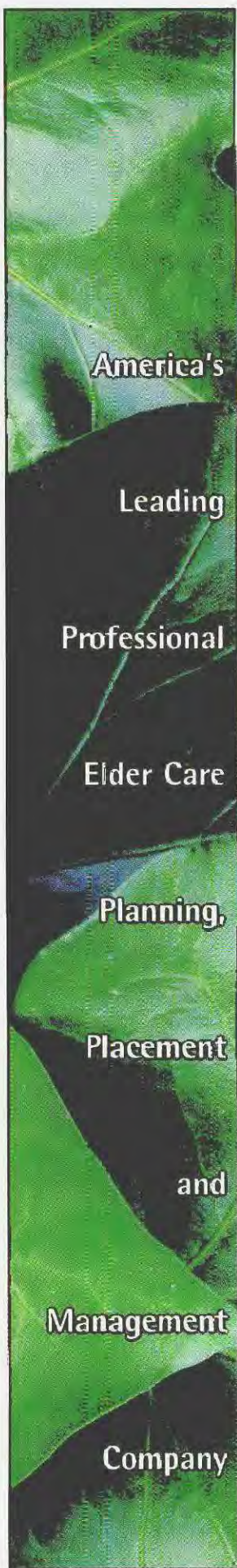
Parent: CNA Financial Corp.
Services began: 1985.
Software: purchased from outside vendor, accommodates 20 investment funds and 8 types of contributions.
Administration: cash, unit-value, full-share accounting; accommodates loan provisions.
Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; trust and consulting services.
Service area: nationwide.

Locations: administrative/consulting offices in: Costa Mesa and San Francisco, Calif; Chicago; New York.
Charges: determined by number of participants, complexity of plan, assets under management, time and expense, frequency of valuations.
Officers: Renate Renfro, president; John Brown, Alfred Antigrolo, senior vps.
Contact: Fran Schoenfeld; 714-437-4005; franschoenfeld@cnatrust.com.
*Estimated.

Carlson, Quinn & Associates

2000 Powell St., Suite 1600,
Emeryville, Calif. 94608;
510-420-9020; fax: 510-420-9021

Staff	
Total.....	16
Involved in 401(k) plan services.....	16
Clients	
Total.....	250
Receiving unbundled services.....	250
Average participants/plan.....	175
Minimum participants/plan.....	10
Maximum participants/plan.....	5,000



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ASK A RISK MANAGER

Q

Some people are predicting substantial increases in workers compensation rates in the near term. How can risk managers best prepare for such a possibility?

A

Whether substantial market hardening in the workers compensation line will occur remains to be seen. As with most lines of property and casualty insurance, however, such eventualities are hard to predict and harder still to plan for. Nevertheless,

there are plenty of strategies available to risk managers to mitigate the potential effects of dramatic rate increases, especially for this line of coverage.

First, while it is more of a long-term strategy, most mid-sized to large entities can benefit from evolving toward higher and higher retentions. This can be done either through qualified self-insurance—which can be a state-by-state regulatory gauntlet—or through various alternative programs, such as fronted captives.

The first step in properly approaching this shift is to determine the risk-bearing philosophy of your firm. Don't make the mistake of assuming that this is your exclusive purview.

Your best "personal" risk management strategy is to present your assessment of what that philosophy ought to be and why and get the appropriate concurrence from the right decision-makers.

While many individual managers are risk averse, collective senior teams and boards, recognizing their fiduciary responsibility to stakeholders, will often support different, more risk-assumptive views. In general, an evolution toward greater risk assumption is appropriate and most economically efficient for most entities. There are, of course, special considerations for many firms that would modify this view, such as current yet temporary financial or market stresses, a lack of effective loss prevention and control programs and the like.

Obviously, assuming more risk through increased retentions puts more distance between you and the insurance markets that determine large portions of your cost of risk through their rating decisions. At its purest level, total risk retention insulates you completely from these market forces. After all, the more risk you retain, the less risk you will need to place elsewhere and, thus, the less effect potentially negative market forces will have on your program costs.

There are lots of opinions about what are the most important considerations in risk retention, but here are a few not to be overlooked. And many of these apply to the matter of preparing for a hard market in workers comp as well. I'll elaborate on some these later in this column. Meanwhile, ask yourself these questions:

- Do I have at least five years—or, better yet, 10 or more years—of accurate loss data that clearly show my trends in this line of risk?
- Do I have a comprehensive understanding of the types of exposures that my workforce represents?
- Are there unusual exposures or past loss trends that could produce unusually large or frequent mid-size losses that could result in substantial variability in loss results?
- Do I have a cost of risk and loss allocation program that facilitates management accountability for operational safety?
- Do I have effective management and employee incentives in place to promote a safety-oriented culture?
- Do I have effective loss prevention and control programs in place to minimize expected losses?
- Have I educated management on the relevant exposures and their controllability?
- Can I support a particular level of risk assumption such that management will be reasonably confident that key performance indicators will be unlikely to be negatively affected by increased risk retention?

Getting answers to all of these questions is critical to successfully preparing a program of increased risk assumption or for getting ready for a hardening market for traditional workers comp insurance. I suggest you make use of all available resources, particularly knowledgeable actuaries, to help identify the right answer.

Having briefly covered the question of how much risk to retain, we can now turn to the equally important area of loss prevention and control programs critical to taking on more risk in any area of exposure.

In the workers comp realm, there are a few key loss prevention and controls that are used widely, though with varying degrees of success. But when constructed correctly and used effectively, they can have a dramatic impact on both the frequency and severity of loss. These include:

- A customized safety program focused on minimizing both the frequency and severity of accidents and injuries.
- A mandate for timely loss reporting.
- A policy of transitional or modified work.
- A comprehensive managed care program to control medical costs.
- A comprehensive employee communications program.
- A good source of data to measure key performance indicators.

A few comments about each will help you understand their potential.

First, a comprehensive safety program focused both on the areas of loss that are the most frequent and on those that can be the most costly, can be effective only in a culture that makes safety a priority.

Thus, this one starts at the top. Get senior management cooperation and regular, visible support for your program and the front line will practice what you've preached. The first priority for getting operations management attention is to ensure some element of financial accountability at the front line profit and loss level. Make sure it is viewed as fair and easy to understand and administer. Ideally, it will include both incentive and punitive elements, with the emphasis on the former.

Next, it sounds trite, but numerous studies have shown that the earlier and more accurately losses are reported, the less likely injured workers will be to retain attorneys—who run up the cost of claims—and the less each claim will cost, on average, over time. It's a simple fact that quick reporting allows for quick intervention, whether by claim adjusters, medical providers or supervisors. In fact, each has an important role to play in successful workers comp programs.

Another effort with proven benefits is related to providing light or modified duty jobs for employees during their recuperation. This requires thorough job evaluations and good communications with those treating physicians who make the calls as to whether employees can work at all before full recovery.

The importance of this cannot be overstated. The greater the length of disability, the more likely it will be that the employee will lose the motivation to return as soon as he or she may be able. If it is commonly known that modified jobs are available, most employees will then expect to return earlier rather than later and adopt an attitude that fosters that result.

Since medical costs can often constitute the majority of claim costs, it's critical to get out in front of them. A comprehensive managed care program includes several components, including:

- A preferred provider arrangement, if not a comprehensive network that either directs or suggests, depending on state law, where employees can be treated most quickly and cost effectively.
- A nurse-based oversight mechanism employable in select cases where special intervention may be warranted.
- A solid partnership between your adjustment and managed care providers allowing for joint and cooperative management of the total claim.
- A bill review protocol allowing for the appropriate scrutiny of most medical bills for the application of fee

schedules.

- A field-based nurse/case manager mechanism allowing for one-on-one intervention in the most severe cases.
- A second opinion process to ensure accurate diagnoses and to selectively verify the appropriateness of treatment.
- Good controls over expenses associated with these services.

Communicating with employees both before and after losses occur is another critical part of a successful workers comp program. The premise is simple—the better the relationship between employee and employer, the less likely the employee will exploit or manipulate the program. Thus, it starts long before losses occur, when you're building and reinforcing a safety culture. At that point, the approach is educational and reveals management's concern.

Once a loss occurs, the attitude should not be just "we want you back soon" but should include a focus on the effect of the absence on the team—on friends and co-workers—as well as on the life of the disabled worker. And the common thread must be a sincere concern for the individual and his or her family.

Finally, good reliable data is as important here as in most lines of risk. Whether it is knowing the average length of disability by injury type or the average cost of medical care by injury code, being able to measure impacts and outcomes affects your ability to prevent and control the frequency and severity of losses. It can also make the difference in a successful proposal to management about a new intervention or program you may want to try.

Good data also allows you to make comparisons among your own divisions as well as with competitors, enabling you to define more accurately what success is for your program. There are plenty of risk management information systems to pick from, but a careful assessment of your needs and the provider's track record is a must. And don't forget to review the portability and cross-functional use of data and the ability of the system to grow as your needs expand.

Employing these strategies will allow you to be more prepared for both a hardening workers compensation market and increasingly complex and more hazardous workplace exposures. And when the Occupational Safety and Health Administration comes knocking, you'll be able to sleep at night as well. **BI**

Would you like advice from an experienced colleague on a risk management, benefits management or actuarial problem? Four quarterly features in the Perspective section of Business Insurance can give you some answers.

Ask A Risk Manager, Ask A Benefits Manager, Ask A Benefit Actuary and Ask A Casualty Actuary answer written questions from readers on risk and benefits management issues and actuarial problems.

This month's column on risk management issues is written by Christopher E. Mandel, director of global risk management at Tricon Global Restaurants Inc. in Louisville, Ky. and vp-member and chapter services, Risk and Insurance Management Society Inc.'s Executive Council.

Dennis J. Nirtaut, managing director of compensation and benefits for Arthur Andersen L.L.P. in Chicago, answers questions on employee benefit plans. William J. Miner, an actuary with Watson Wyatt Worldwide in Chicago, answers actuarial questions on benefits issues. And Richard E. Sherman, president of Richard E. Sherman & Associates Inc. in Ashland, Ore., answers actuarial questions in the casualty field.

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



Mr. Mandel

Continued from page 18

1999 revenues
 Total..... \$2,500,000
 401(k) plan administration..... \$1,500,000
Services began: 1994.
Software: purchased from outside vendor, accommodates 99 types of contributions.
Administration: cash, unit-value, full-share accounting; accommodates loan provisions.
Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; service provider evaluations; ESOP design and administration; non-qualified plans.
Service area: nationwide.
Charges: determined by number of participants, complexity of plan, time and expense, frequency of valuations.
Officers: Brian P. Quinn, Leif T. Carlson, principals.
Contact: Brian P. Quinn; bquinn@carlson-quinn.com.

Ceridian Retirement Plan Services

3201 34th St. S.,
 St. Petersburg, Fla. 33711-3828;
 877-677-7401; fax: 888-202-3894
 www.ceridian-benefits.com

Staff
 Total..... 350
 Involved in 401(k) plan services..... 270
Clients
 Total..... 3,500
 Receiving unbundled services..... 1,150
 Receiving bundled services..... 2,350
 Average participants/plan..... 500
 Minimum participants/plan..... 10
 Maximum participants/plan..... 50,000

Parent: Ceridian Inc.
Services began: 1984.
Software: purchased from outside vendor, leased from outside vendor.
Administration: cash, unit-value, full-share accounting; accommodates loan provisions.
Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; manages investment of 401(k) plan funds; defined benefit plans; profit sharing; actuarial services; QDRO's.
Service area: nationwide.
Locations: administrative/consulting offices in: Phoenix; San Francisco; Denver; Tampa, Fla.; Atlanta; Chicago; Cleveland; Richmond, Va.; Madison, Wis.
Charges: determined by number of participants, complexity of plan, assets under manage-

ment, time and expense.
Officers: James O'Drobinak, CEO; Glenn Dial, vp-sales and marketing; Steve Syrkin, senior vp-operations.
Contact: Glenn Dial, glenn.dial@ceridian.com.

The Chicago Trust Co.

171 N. Clark St.,
 Chicago, Ill. 60601;
 312-223-2300; fax: 312-223-5731
 www.chicago-trust.com

Staff
 Total..... 300
 Involved in 401(k) plan services..... 100
Clients
 Total..... 330
 Receiving unbundled services..... 30
 Receiving bundled services..... 300
 Average participants/plan..... 500
 Minimum participants/plan..... 50
 Maximum participants/plan..... 15,000
1999 revenues
 Total..... \$54,000,000,000
 401(k) plan administration..... \$15,000,000

Parent: Alleghany Corp.
Services began: 1983.
Software: purchased from outside vendor, accommodates 50 investment funds and 15 types of contributions.
Administration: cash, unit-value, full-share accounting; accommodates loan provisions.
Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; manages investment of 401(k) plan funds; recordkeeping; trust services.
Service area: nationwide.
Locations: administrative/consulting offices in: Atlanta; St. Louis; West Orange, N.J.
Charges: determined by number of participants, complexity of plan, assets under management.
Officers: Stuart Bilton, president; Bob Boyles, COO; Terry Zirkle, senior vp.

E

Employee Benefit Consultants L.L.C.

Franklin House, 250 State St.,
 North Haven, Conn. 06473;
 203-248-5787; fax: 203-248-7996

Staff
 Total..... 5
 Involved in 401(k) plan services..... 5

Clients
 Total..... 100
 Receiving unbundled services..... 100
 Average participants/plan..... 10
 Minimum participants/plan..... 1
 Maximum participants/plan..... 1,000

Services began: 1981.
Software: purchased from outside vendor, accommodates 24 investment funds and 9 types of contributions.
Administration: cash, unit-value accounting; accommodates loan provisions.
Client services: toll-free service for account balance inquiries; toll-free service to request account activity; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; full-service administration for all types of qualified and non-qualified retirement programs including the ability to design, implement, qualify, administer and terminate all types of retirement plans.
Service area: nationwide.
Charges: determined by number of participants, complexity of plan, time and expense, frequency of valuations.
Officers: D. Richard DeSarbo, managing member; Teresa J. Reichert, Robert T. Gradovilla, members.
Contact: drg.abc@juno.com.

The Epler Co.

450 B St., Suite 750,
 San Diego, Calif. 92101;
 619-239-0831; fax: 619-239-0807
 www.eplercompany.com

Staff
 Total..... 17
 Involved in 401(k) plan services..... 4
Clients
 Total..... 10
 Receiving unbundled services..... 10
 Average participants/plan..... 200
 Minimum participants/plan..... 1

Services began: 1981.
Software: leased from outside vendor, accommodates 99 investment funds.
Administration: cash accounting; accommodates loan provisions.
Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; communication of plan features to employees; consults on plan design issues, compliance issues, employee communications.
Service area: Southern California.
Locations: administrative/consulting offices in: Newport Beach and San Diego, Calif.
Charges: determined by number of participants, complexity of plan, time and expense, frequency of valuations.
Officers: Jane Barry, president/CEO; Lou Filiger, Lin Ball, vps.
Contact: consultants@eplercompany.com.

F

Findley Davies Inc.

300 Madison Ave., Suite 1000,
 Toledo, Ohio 43604;
 419-255-1360; fax: 419-259-5685
 www.findleydavies.com

Staff
 Total..... 90
 Involved in 401(k) plan services..... 22
Clients
 Total..... 185
 Receiving unbundled services..... 185
 Average participants/plan..... 250
 Minimum participants/plan..... 1
 Maximum participants/plan..... 10,000

Services began: 1984.
Software: purchased from outside vendor, accommodates 20 investment funds and 15 types of contributions.
Administration: full-share accounting; accommodates loan provisions.
Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications.
Service area: nationwide.
Charges: time and expense, frequency of valuations.
Officers: Robert Rogers, president; Marc Stockwell, Brian Hubbell, vps.
Contact: John Weber; 419-327-4154; jweber@findleydavies.com.

First Lexington Trust Co.

2353 Alexandria Drive, Suite 100,
 Lexington, Ky. 40504;
 859-296-4407; fax: 859-296-0880
 www.fltc.com

Staff
 Total..... 26
 Involved in 401(k) plan services..... 13
Clients
 Total..... 150
 Receiving unbundled services..... 5
 Receiving bundled services..... 145
 Average participants/plan..... 30
 Minimum participants/plan..... 5
 Maximum participants/plan..... 5,000

Parent: Unified Financial Services.
Services began: 1994.
Software: purchased from outside vendor, accommodates 25 investment funds and 3 types of contributions.
Administration: cash, unit-value, full-share accounting; accommodates loan provisions.
Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; manages investment of 401(k) plan funds.
Service area: nationwide.
Charges: determined by number of participants, complexity of plan, assets under management, time and expense, frequency of valuations.
Officers: Gregory W. Kasten, president/CEO; William Presson, executive vp.

G

Gallagher Benefit Services of Michigan Inc.*

1050 Wilshire Drive, Suite 250,
 Troy, Mich. 48084;
 248-649-1990; fax: 248-649-4978
 www.gallagher-abow.com

Staff
 Total..... 30
 Involved in 401(k) plan services..... 30
Clients
 Total..... 325
 Receiving unbundled services..... 175
 Receiving bundled services..... 150

Parent: Arthur J. Gallagher & Co.
Services began: 1981.
Software: purchased from outside vendor.
Administration: cash, unit-value, full-share accounting; accommodates loan provisions.
Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; manages investment of 401(k) plan funds; compliance testing; government form filing; document preparation; business plan objectives analysis.
Service area: nationwide.
Charges: determined by number of participants, complexity of plan, assets under management, time and expense, frequency of valuations.
Officers: A. Peter Knoop Jr., area president; Craig C. Arnold, area vp.
**Formerly Gallagher Abow Inc.*

The directory begins on page 14. An explanation of terms appears on page 76.

H

HPL&S Inc.

125 S. Wilke Road, Suite 300,
 Arlington Heights, Ill. 60005;
 847-392-2999; fax: 847-392-1053

Staff
 Total..... 35
 Involved in 401(k) plan services..... 23
Clients
 Total..... 300
 Receiving unbundled services..... 200
 Receiving bundled services..... 100
 Average participants/plan..... 50
 Minimum participants/plan..... 1
 Maximum participants/plan..... 5,000

1999 revenues
 Total..... \$3,860,000
 401(k) plan administration..... \$1,700,000
Services began: 1983.
Software: purchased from outside vendor, accommodates 20 investment funds and 7 types of contributions.
Administration: cash, unit-value, full-share accounting; accommodates loan provisions.
Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; manages investment of 401(k) plan funds; administration of and/or coordination with other retirement plans maintained by the sponsor.
Service area: nationwide; principally Chicago metropolitan area.
Charges: determined by number of participants, complexity of plan, assets under management, time and expense, frequency of valuations.
Officers: Ira A. Post, president; George F. Castillo, vp; William C. Ludwig, treasurer.
Contact: Thomas J. Doherty, vp.

Hewitt Associates L.L.C.

100 Half Day Road,
 Lincolnshire, Ill. 60069;
 847-295-5000; fax: 847-883-9019
 www.hewitt.com

Staff
 Total..... 10,000
 Involved in 401(k) plan services..... 1,700
Clients
 Total..... 150
 Receiving unbundled services..... 150
 Average participants/plan..... 25,000
 Minimum participants/plan..... 5000
1999 revenues
 Total..... \$1,000,000,000
 401(k) plan administration..... \$200,000,000

Services began: 1981.
Software: written and maintained in-house.
Administration: cash, unit-value, full-share accounting; accommodates loan provisions.
Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; manages investment of 401(k) plan funds*; investment consulting; rollover IRAs.
Service area: nationwide.
Locations: administrative/consulting offices in: Newport Beach, Calif.; Norwalk, Conn.; Atlanta; Lincolnshire, Ill.; Bridgewater, N.J.; The Woodlands, Texas.
Charges: determined by number of participants, complexity of plan.
Officers: Dale Gifford, CEO; Tom Schmitz, director-benefit delivery; Scott Peterson, director-defined contribution services.
Contact: Tim Murphy; tim.murphy@hewitt.com.
** Investment management services provided through outside firms.*

M

Merrill Lynch Benefits & Investment Solutions*

800 Scudders Mill Road,
 Plainsboro, N.J. 08536;
 609-282-2664; fax: 609-282-0344
 www.plan.ml.com

Staff
 Total..... 1,975
 Involved in 401(k) plan services..... 1,700
Clients
 Total..... 6,345
 Receiving unbundled services..... 125
 Receiving bundled services..... 6,220
 Average participants/plan..... 361

Parent: Merrill Lynch & Co. Inc.
Services began: 1983.
Software: purchased from outside vendor.
Administration: cash, unit-value, full-share accounting; accommodates loan provisions.
Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on legal issues, plan design issues,

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 SERVICE

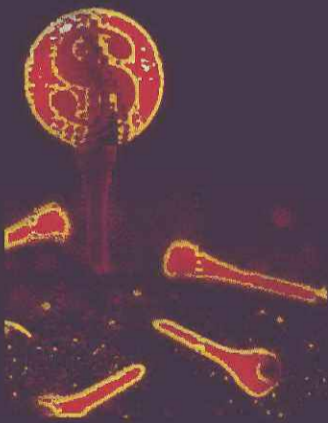
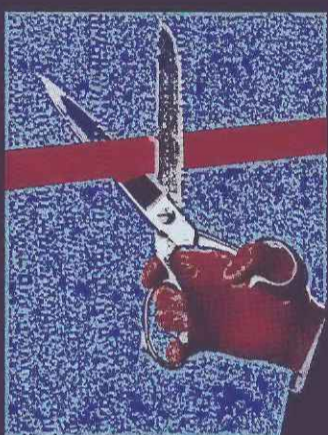
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Issue Date	Editorial Feature	Demographic Section	Ad Closing
Mar 27			Mar 15
Apr 3	Risk Management Services <i>Directory: Risk Management Consultants</i>	ABT Agency/Insurer Relations	Mar 22
Apr 10			Mar 29
Apr 17	RIMS Preview <i>Distribution: NMHCC</i>	IT Insurer/Agency Relations	Apr 5
Apr 24			Apr 12
May 1	Captives/Risk Manager of the Year <i>Directory: Captive Managers</i> <i>Distribution: RIMS</i>	ABT Information Technology <i>Distribution: ACORD</i>	Apr 19
May 8	RIMS Report: Employee Benefits & Workers Comp <i>Distribution: AAMGA</i>		Apr 26
May 15	RIMS Report: Risk Management	IT Information Technology <i>Distribution: IASA</i>	May 3
May 22	Benefits: Pensions/Retirement Plans <i>Directory: 401(k) Plan Administrators</i> <i>Distribution: ACORD, Luxembourg Rendez-Vous</i>		May 10
May 29			May 17
Jun 5	Government Risk Management <i>Distribution: AAHP; AIRM'G; IASA; PRIMA</i>	ABT Employee Recruiting & Training	May 24
Jun 12	<i>Distribution: NAIC</i>		May 31
Jun 19	PRIMA Report	IT Employee Recruiting & Training	Jun 7
Jun 26	Benefits: Balancing Work & Life <i>Directory: EAPs & Dependent Care Resource & Referral Services</i> <i>Distribution: IMCA; SHRM</i>		Jun 14

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**Business
Insurance**
www.businessinsurance.com

Continued from page 22

compliance issues, employee communications; manages investment of 401(k) plan funds; trust services; investment services; financial planning; benefits consulting.

Service area: nationwide.
Locations: administrative/consulting offices in: Englewood, Colo.; Jacksonville, Fla.; Plainsboro and Somerset, N.J.

Charges: determined by number of participants, complexity of plan, assets under management, time and expense, frequency of valuations.

Officers: Howard Johnson, vice chairman-benefits and investment solutions; Patrick J. Walsh, senior vp/director-benefits and investment solutions; Alan J. Kizor, Kevin O'Hanlon, William B. Stanton, first vps/senior directors-benefits and investment solutions.

*Formerly Merrill Lynch Group Employee Services.

Milliman & Robertson Inc.

1301 Fifth Ave., Suite 3800,
Seattle, Wash. 98101-2605;
206-624-7940; fax: 800-863-6716
www.milliman.com

Staff

Total	1,300
Involved in 401(k) plan services	300

Clients

Total	1,275
Receiving unbundled services	850
Receiving bundled services	425
Average participants/plan	420
Minimum participants/plan	10
Maximum participants/plan	50,000

Services began: 1982.
Software: written and maintained in-house, leased from outside vendor.

Administration: cash, unit-value, full-share accounting.

Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; manages investment of 401(k) plan funds.

Service area: nationwide.
Locations: administrative/consulting offices in: Denver, Indianapolis; Minneapolis; Omaha, Neb.; West Peterson, N.J.; Albany and New York, N.Y.; Portland, Ore.; Dallas; Houston; Seattle.

Charges: determined by number of participants, complexity of plan, assets under management, time and expense.

Contact: Mark Trieb; 9400 N. Central Expressway, Suite 9400; Dallas, Texas 75321; 214-863-5515; mark.trieb@milliman.com.

Minnesota Life Insurance Co.

400 Robert St. N.,
St. Paul, Minn. 55101;
651-665-4701; fax: 651-665-6327
www.minnesotamutual.com

Staff

Total	300
Involved in 401(k) plan services	265

Clients

Total	1,700
Receiving unbundled services	475
Receiving bundled services	1,225
Average participants/plan	75
Minimum participants/plan	20

Services began: 1984.
Software: purchased from outside vendor.
Administration: cash, unit-value, accounting; accommodates loan provisions.

Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; manages investment of 401(k) plan funds; investment advice; enrollment meetings and communications.

vice to request account activity; online access; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; interactive self-service Web site for participants; Web-based retirement plan management tool for employers; online enrollment; foreign language capabilities; customer service representatives.

Service area: nationwide.
Locations: administrative/consulting offices in: Los Angeles; San Francisco; Atlanta; Chicago; Detroit; Minneapolis and St. Paul, Minn.; St. Louis; Charlotte, N.C.; Cleveland; Philadelphia; Memphis and Nashville, Tenn.; Houston; Richmond, Va.; Seattle.

Charges: determined by number of participants, complexity of plan, assets under management, time and expense.

Officers: Randy Wallake, senior vp-pension division; Richard Manke, vp-retirement plan services; Jenean Cordon, second vp/actuary.

Contact: Terri McNamara, pension marketing and field development coordinator; teresa.mcnamara@minnesotamutual.com.



National Benefit Consultants Inc.

28800 Orchard Lake Road, Suite 210,
Farmington Hills, Mich. 48334;
248-539-4000; fax: 248-539-4012

Staff

Total	14
Involved in 401(k) plan services	8

Clients

Total	79
Receiving unbundled services	11
Receiving bundled services	68
Average participants/plan	73
Maximum participants/plan	200

Services began: 1981.
Software: written and maintained in-house, accommodates 99 investment funds and 99 types of contributions.

Administration: cash, unit-value, full-share accounting; accommodates loan provisions.

Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; manages investment of 401(k) plan funds; investment advice; enrollment meetings and communications.

Service area: Midwest.
Locations: administrative/consulting offices in: Denver, Indianapolis; Minneapolis; Omaha, Neb.; West Peterson, N.J.; Albany and New York, N.Y.; Portland, Ore.; Dallas; Houston; Seattle.

Charges: determined by number of participants, complexity of plan, assets under management, time and expense, frequency of valuations.

Officers: Harold H. Lambert, president; Michael T. Stacey, vp/CFO; Brian V. Stevens, secretary/treasurer.

Northern Trust Retirement Consulting L.L.C.

400 Perimeter Center Terrace, Suite 850,
Atlanta, Ga. 30346;
770-395-9880; fax: 770-512-6417
www.ntrs.com

Staff

Total	7,550
Involved in 401(k) plan services	450

Clients

Total	195
Receiving unbundled services	161
Receiving bundled services	34
Average participants/plan	6,750
Minimum participants/plan	1000

Parent: The Northern Trust Co.
Services began: 1981.

Software: written and maintained in-house.
Administration: cash, unit-value, full-share accounting; accommodates loan provisions.

Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; manages investment of 401(k) plan funds; participant internet access; strategic consulting; actuarial; pension calculation systems; defined benefit administration; benefit statements; retirement modeling; trust services.

Service area: nationwide.
Locations: administrative/consulting offices in: Atlanta; Bothell, Wash.

Charges: determined by number of participants, complexity of plan, assets under management, time and expense.

Officers: Connie F. Magnuson, chairman; Dennis F. Sain, CEO; Andy Adams, director-new business.

Contact: Andy Adams; andrew_a_adams@ntrs.com.

The Nyhart Co. Inc.

9320 Priority Way W. Drive,
Indianapolis, Ind. 46240-1468;
317-803-7700; fax: 317-803-7895

Staff

Total	140
Involved in 401(k) plan services	12

Clients

Total	95
Receiving unbundled services	95
Average participants/plan	500

1999 revenues

Total	\$9,400,000
401(k) plan administration	\$580,000

Services began: 1981.
Software: purchased from outside vendor, accommodates 20 investment funds and 15 types of contributions.

Administration: cash, unit-value, full-share accounting; accommodates loan provisions.

Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications.

Service area: nationwide.

Locations: administrative/consulting offices in: Evansville and Indianapolis, Ind.

Charges: determined by number of participants, complexity of plan, assets under management, time and expense, frequency of valuations.

Officers: Daryl J. Dean, president/CEO; Gary Chattin, Jeff Line, senior vps.

Contact: Gary Chattin; garyc@nyhartco.com.



PFPC

400 Bellevue Parkway,
Wilmington, Del. 19809;
302-791-2000; fax: 302-791-1570
www.pfpc.com

Staff

Total	650
Involved in 401(k) plan services	550

Clients

Total	5,482
-------	-------

Receiving unbundled services 5,482
Average participants/plan 30C

Parent: PNC Financial Services Group Inc.
Services began: 1981.

Software: written and maintained in-house.
Administration: cash, unit-value, full-share accounting; accommodates loan provisions.

Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on plan design issues, compliance issues, employee communications; trading platform for more than 1,600 mutual funds trust; trust downloads.

Service area: nationwide.
Locations: administrative/consulting offices in: Seal Beach, Calif.; Tampa, Fla.; Westborough, Mass.; Bloomington, Minn.; Charlotte, N.C.; Richmond, Va.

Charges: determined by number of participants, complexity of plan, assets under management, time and expense, frequency of valuations.

Officers: J. Richard Carnall, chairman/CEO; Robert W. Guillocheau, executive vp-retirement services; Clayton H. Burton, executive vp.

Contact: information@pfpc.com.

TR Paul Inc.

14 Commerce Road,
Newtown, Conn. 06470;
203-426-8161; fax: 203-270-0927
www.trpaul.com

Staff

Total	15
Involved in 401(k) plan services	10

Clients

Total	150
Receiving unbundled services	120
Receiving bundled services	30
Average participants/plan	50
Minimum participants/plan	5
Maximum participants/plan	5,000

1999 revenues

Total	\$2,000,000
401(k) plan administration	\$1,000,000

Services began: 1981.
Software: leased from outside vendor, accommodates 99 investment funds.

Administration: cash, unit-value, full-share accounting; accommodates loan provisions.

Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; manages investment of 401(k) plan funds.

Service area: nationwide.

Locations: administrative/consulting offices in: Evansville and Indianapolis, Ind.

Charges: determined by number of participants, complexity of plan, assets under management, time and expense, frequency of valuations.

Officers: Robert L. Levy, president; Mary Griffin, vp; George Romer, vp/CFO.

Contact: George Romer, gwr@trpaul.com.

Pension Investors Corp.

3939 Hollywood Blvd.,
Hollywood, Fla. 33021;
954-986-8688; fax: 954-989-9686
www.pensioninvestors.com

Staff

Total	36
Involved in 401(k) plan services	9

Clients

Total	312
Receiving unbundled services	182
Receiving bundled services	130
Average participants/plan	60
Minimum participants/plan	15
Maximum participants/plan	5,000

1999 revenues

Total	\$3,300,000
401(k) plan administration	\$90,000

Services began: 1981.
Software: purchased from outside vendor, accommodates 20 investment funds and 8 types of contributions.

Administration: cash accounting; accommodates loan provisions.

Client services: communication of plan features to employees; consults on plan design issues, compliance issues, employee communications; manages investment of 401(k) plan funds; comparability profit sharing allocations; employee retirement planning; enrollment meetings.

Service area: Florida.
Locations: administrative/consulting offices in: Orlando, Fla.

Charges: determined by number of participants, complexity of plan, frequency of valuations.

Officers: Lawrence Wiener, chairman; Donna Teat, president; Kevin Glueck, vp-administration.

Contact: Lawrence Wiener, lwclw@pensioninvestors.com; Donna Teat, dteat@pensioninvestors.com.

Pentad

950 Winter St., Suite 1400,
Waltham, Mass. 02451-1232;
781-684-8400; fax: 781-684-8440

Staff

Total	85
Involved in 401(k) plan services	45

Clients

Total	480
Receiving unbundled services	460

Receiving bundled services 20
Average participants/plan 200
Minimum participants/plan 5
Maximum participants/plan 10,000
1999 revenues*
Total \$1,000,000
401(k) plan administration \$1,000,000

Parent: Walker Alliance Inc.
Services began: 1981.

Software: purchased from outside vendor, accommodates 15 investment funds and 15 types of contributions.

Administration: cash, unit-value, full-share accounting; accommodates loan provisions.

Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on plan design issues, compliance issues, employee communications; manages investment of 401(k) plan funds.

Service area: nationwide.
Locations: administrative/consulting offices in: Portland, Maine; Waltham, Mass.

Charges: determined by number of participants, complexity of plan, time and expense, frequency of valuations.

Officers: A.J. Walker, president.

Contact: Edward M. Proulx; eproulx@pentad-corp.com.

*Estimated.

PricewaterhouseCoopers Kwasha HR Solutions

2100 N. Central Road,
Fort Lee, N.J. 07024;
201-592-1300; fax: 201-592-9075
www.pwcglobal.com

Staff

Total	2,400
Involved in 401(k) plan services	800

Clients

Total	140
Receiving unbundled services	140
Average participants/plan	10,000
Minimum participants/plan	5,000

Services began: 1973.
Software: written and maintained in-house, accommodates 99 investment funds.

Administration: cash, unit-value, full-share accounting; accommodates loan provisions.

Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; defined benefit administration; health and welfare administration; strategic HR outsourcing.

Service area: nationwide.
Locations: administrative/consulting offices in: San Francisco; Chicago; Fort Lee, N.J.

Charges: determined by number of participants, complexity of plan, time and expense, frequency of valuations.

Officers: Iris Goldfein, Americas theaters leader; Robert Byrne, human resources outsourcing sector leader; Michael Stemklar, Americas leader-human resources outsourcing.

Contact: Alisa Plazonja, director-benefits outsourcing business development; alisa.plazonja@us.pwcglobal.com.

Prudential Retirement Services

3 Gateway Center,
100 Mulberry St., 11th Floor,
Newark, N.J. 07102-4077;
800-353-2847; fax: 800-545-3123
www.prudential.com

Staff

Total	1,489
Involved in 401(k) plan services	1,000

Clients

Total	4,024
Receiving unbundled services	1
Receiving bundled services	4,023
Average participants/plan	391
Minimum participants/plan	25

1999 revenues

Total	\$635,000,000
401(k) plan administration	\$41,000,000

Services began: 1985.
Software: written and maintained in-house, accommodates 400 investment funds and 35 types of contributions.

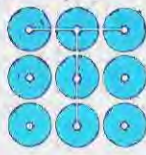
Administration: cash, unit-value, full-share accounting; accommodates loan provisions.

Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; manages investment of 401(k) plan funds; trustee services; investment management; recordkeeping and administration.


Service area: nationwide.
Locations: administrative/consulting offices in: Phoenix; Woodbridge, N.J.; Scranton, Pa.

Charges: determined by number of participants, complexity of plan, assets under management, time and expense.

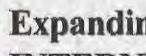
Officers: Ken Montgomery, president-retirement services; Tim Murray, senior vp-operations and systems; Kerry Gile, senior vp-sales.




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**Business
Insurance**
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Continued from page 24



Retirement Plan Administrative Service Ltd.

1503 Santa Rosa Road, Suite 120,
Richmond, Va. 23229;
804-288-8782; fax: 804-288-8786
www.rpasltd.com

Staff	
Total	14
Involved in 401(k) plan services	7
Clients	
Total	101
Receiving unbundled services	46
Receiving bundled services	55
Average participants/plan	35
Minimum participants/plan	1
1999 revenues	
Total	\$1,100,000
401(k) plan administration	\$500,000

Services began: 1981.
Software: leased from outside vendor, accommodates 999 investment funds and 14 types of contributions.

Administration: cash accounting.
Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications.

Service area: District of Columbia, Maryland, North Carolina and Virginia.

Charges: determined by number of participants, complexity of plan, frequency of valuations.

Officers: Burt V. Bachman, president; Barbara H. Smith, vp.

Retirement Resources Inc.

1983 Marcus Ave., Suite 260,
Lake Success, N.Y. 11042;
516-358-3858; fax: 516-488-1081

Clients	
Total	60
Receiving unbundled services	55
Receiving bundled services	5
Average participants/plan	71
Minimum participants/plan	10

Services began: 1981.
Software: written and maintained in-house.

Administration: cash accounting, accommodates loan provisions.

Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; manages investment of 401(k) plan funds.

Service area: Connecticut, New Jersey, New York and Pennsylvania.

Charges: determined by number of participants, complexity of plan, assets under management, time and expense, frequency of valuations.

Officers: Steven L. Roemer, president.



Sansima Consulting Group Inc.

404 Towne Centre Drive,
Somerville, N.J. 08876-4698;
908-904-0412; fax: 908-904-0812
www.sansima.com

Staff	
Total	4
Involved in 401(k) plan services	4
Clients	
Total	18
Receiving unbundled services	15
Receiving bundled services	3
Average participants/plan	1,500
Minimum participants/plan	100
Maximum participants/plan	20,000

Services began: 1997.
Software: purchased from outside vendor.

Administration: cash, unit-value, full-share accounting; accommodates loan provisions.

Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; investment advisory services investment advisors; trust and custodial services through alliances with outside vendors.

Service area: nationwide.

Charges: determined by number of participants, complexity of plan, assets under management, time and expense, frequency of valuations.

Officers: Gus J. Sanchez, president/CEO; Susan J. Schutzman, vp/COO.

Contact: Gus J. Sanchez; sanchez@sansima.com.

Schloss & Co.

1400 Old Country Road,
Westbury, N.Y. 11590;
516-333-2800; fax: 516-333-2889
www.schlossco.com

Staff	
Total	60
Involved in 401(k) plan services	15
Clients	
Total	400
Receiving unbundled services	400
Average participants/plan	75
Minimum participants/plan	25

Services began: 1985.
Software: purchased from outside vendor, accommodates 20 investment funds and 15 types of contributions.

Administration: cash, unit-value, full-share accounting; accommodates loan provisions.

Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications.

Service area: nationwide.

Charges: determined by number of participants, complexity of plan, assets under management, time and expense, frequency of valuations.

Officers: Eugene Schloss, president; David Dorfman, Alan Pfeiffer, vps.

Contact: Eugene Schloss; eschloss@schlossco.com.

Schwab Retirement Plan Services

101 Montgomery St.,
San Francisco, Calif. 94104;
877-456-0777; fax: 330-664-0401
www.schwab.com

Staff	
Total	500*
Involved in 401(k) plan services	375
Clients	
Total	1,332
Receiving unbundled services	811
Receiving bundled services	521

Parent: Charles Schwab & Co. Inc.
Services began: 1994.

Software: written and maintained in-house, accommodates 20 investment funds and 15 types of contributions.

Administration: unit-value, full-share accounting; accommodates loan provisions.

Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; manages investment of 401(k) plan funds; trustee services; self-directed brokerage accounts; Internet access and transaction capabilities for plan sponsors and participants; toll-free voice response system and participant service representatives.

Service area: nationwide.

Locations: administrative/consulting offices in: San Francisco; Akron, Ohio.

Charges: determined by number of participants, complexity of plan, assets under management, time and expense.

Officers: Walt Bettinger, COO; Ben Brigeman senior vp; Tom Berry, vp.

Contact: Chris Blair, vp; chris.blair@schwab.com.

*Estimated.

Sentinel Benefits Group Inc.

107 Audubon Road, Building 2, Suite 201,
Wakefield, Mass. 01880;
781-406-7200; fax: 781-246-9054
www.sentinelbenefits.com

Staff	
Total	65
Involved in 401(k) plan services	41
Clients	
Total	450
Receiving unbundled services	50
Receiving bundled services	400
Average participants/plan	50
Minimum participants/plan	5

Software: purchased from outside vendor, accommodates 999 investment funds and 999 types of contributions.

Administration: cash, unit-value, full-share accounting; accommodates loan provisions.

Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; manages investment of 401(k) plan funds; qualified and non-qualified retirement plan administration.

Service area: nationwide.

Charges: determined by number of participants, complexity of plan, assets under management, time and expense, frequency of valuations.

Officers: John Carnevale, president; Joshua Meltzer, vp-pension administration; James Carnevale, vp-sales and marketing.

Contact: Paul Kraunelis; info@sentinelbenefits.com.

SilverStone Group Inc.

11516 Miracle Hills Drive, Suite 102,
Omaha, Neb. 68154;
402-964-5400; fax: 402-964-5454
www.silverstonegroup.com

Staff	
Total	180
Involved in 401(k) plan services	13
Clients	
Total	275
Receiving unbundled services	275

Average participants/plan	120
Minimum participants/plan	25
1999 revenues	
Total	\$16,000,000
401(k) plan administration	\$1,150,000

Parent: Mammel & Associates Inc.
Services began: 1983.

Software: purchased from outside vendor, accommodates 36 investment funds and 20 types of contributions.

Administration: cash, unit-value, full-share accounting; accommodates loan provisions.

Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; manages investment of 401(k) plan funds; 401(k) safe harbor plan design with on-going contributions; allocation calculations and recordkeeping; ESOPs; non-qualified companion plan design and administration.

Service area: nationwide.

Charges: determined by number of participants, complexity of plan, time and expense, frequency of valuations.

Officers: Lewis E. Trowbridge, president; Anthony J. Sorrentino, COO/executive president.

Contact: Carol Gonzalez; cgonzalez@ssgi.com.

Summit Bank*

14 Commerce Drive,
Cranford, N.J. 07016;
908-272-8100; fax: 908-272-4878

Staff	
Total	8
Involved in 401(k) plan services	8
Clients	
Total	150
Receiving unbundled services	15
Receiving bundled services	135
Average participants/plan	100
Minimum participants/plan	25
Maximum participants/plan	10,000

1999 revenues

Total	\$1,160,000
401(k) plan administration	\$302,000

Software: leased from outside vendor.

Administration: cash, unit-value, full-share accounting; accommodates loan provisions.

Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; manages investment of 401(k) plan funds; discontinuation testing and consulting.

Service area: nationwide.

Locations: administrative/consulting offices in: Cranford, Hackensack and Princeton, N.J.

Charges: determined by number of participants.

Officers: Richard Mansfield, senior vp-investment services; Linda Ferrari, vp/manager-retirement services; Gerard Desmond, director.

*Formerly Meeker Sharkey Benefit Consultants.

Swerdlin & Co.

5901 Peachtree Dunwoody Road, Building B, Suite 170,
Atlanta, Ga. 30328;
770-396-6601; fax: 770-698-9335
www.swerdlin.net

Staff	
Total	46
Involved in 401(k) plan services	36
Clients	
Total	600
Receiving unbundled services	600
Average participants/plan	250
Minimum participants/plan	100
Maximum participants/plan	10,000

1999 revenues

Total	\$4,200,000
401(k) plan administration	\$3,000,000

Services began: 1983.

Software: purchased from outside vendor.

Administration: cash, unit-value, full-share

accounting; accommodates loan provisions.

Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications.

Service area: nationwide.

Charges: determined by number of participants, complexity of plan, time and expense, frequency of valuations.

Officers: Dorn Swerdlin, president/CEO; Joanne H. Swerdlin, executive vp/director-marketing; Anthony J. Brizzolara, executive vp/COO



Towers Perrin

1500 Market St.,
Philadelphia, Pa. 19102;
215-246-6000; fax: 215-248-4189
www.towers.com

Staff	
Total	8,278
Involved in 401(k) plan services	1,500
Clients	
Total	86
Receiving unbundled services	86
Average participants/plan	11,000
Minimum participants/plan	2000

1999 revenues

Total	\$1,270,000,000
401(k) plan administration	\$220,000,000

Services began: 1984.

Software: written and maintained in-house, accommodates 30 investment funds and 30 types of contributions.

Administration: cash, unit-value, full-share accounting; accommodates loan provisions.

Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; web based inquiry and transaction capabilities; web based savings and investment planning; self-directed accounts.

Service area: nationwide.

Locations: administrative/consulting offices in: Voorhees, N.J.; Philadelphia, Pa.; Chesapeake, Va.

Charges: determined by number of participants, complexity of plan, time and expense, frequency of valuations.

Officers: John Lynch, CEO; Alan D'Jgan, Marv Greene, managing directors.

Contact: Sharon Sherman; 215-246-7044.

*Administrative services are only available in the United States.

Trustar Retirement Services

1013 Centre Road,
Wilmington, Del. 19805;
800-332-4015; fax: 302-995-6013
www.trustar-rs.com

Staff	
Total	500
Involved in 401(k) plan services	320
Clients	
Total	3,303
Receiving unbundled services	3,303
Average participants/plan	60
Minimum participants/plan	5
Maximum participants/plan	3,000

Parent: Principal Financial Group.

Services began: 1981.

Software: written and maintained in-house, accommodates 8 investment funds.

Administration: cash, unit-value, full-share accounting; accommodates loan provisions.

Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on plan design issues, compliance issues, employee communications; trustee services.

Service area: nationwide.

Locations: administrative/consulting offices

in: Glendale and San Mateo, Calif; Boston.

Charges: determined by number of participants, complexity of plan, time and expense.

Officers: Ron Danilson, CEO; Ned Burmeister, president/COO.

*Standard package



USI Consulting Group

95 Glastonbury Blvd.,
Glastonbury, Conn. 06033;
860-633-5283; fax: 860-368-2110
www.usicg.com

Staff	
Total	300
Involved in 401(k) plan services	120
Clients	
Total	650
Receiving unbundled services	450
Receiving bundled services	200
Average participants/plan	500
Minimum participants/plan	20
Maximum participants/plan	30,000

1999 revenues

Total	\$50,000,000
401(k) plan administration	\$16,700,000

Parent: USI Insurance Services Corp.

Services began: 1982.

Software: written and maintained in-house, accommodates 1,700 investment funds and 99 types of contributions.

Administration: cash, unit-value, full-share accounting; accommodates loan provisions.

Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, employee communications; manages investment of 401(k) plan funds; company stock administration; cost studies of various contribution allocation designs; retirement planning software.

Service area: nationwide.

Locations: administrative/consulting offices in: Los Angeles; San Francisco; Chicago; Boston; Manchester, N.H.; New York; Cincinnati; Philadelphia; Knoxville, Tenn.; Houston; Norfolk, Va.

Charges: determined by number of participants, complexity of plan, assets under management, time and expense, frequency of valuations.

Officers: Douglas J. Rubinstein, president/CEO; David Hess, CFO; Christopher Martin, senior vp-defined contribution practice head.

Contact: Bill Husic, senior vp.

Universal Pensions Inc.

P.O. Box 349,
Brainerd, Minn. 56401;
800-411-6970; fax: 218-855-6010
www.universalpensions.com

Staff	
Total	400
Involved in 401(k) plan services	250
Clients	
Total	3,500
Receiving unbundled services	3,500
Average participants/plan	100
Minimum participants/plan	1
Maximum participants/plan	17,000

Services began: 1994.

Software: written and maintained in-house.

Administration: unit-value, accounting; accommodates loan provisions.

Client services: daily valuations; toll-free service for account balance inquiries; toll-free service to request account activity; online access; communication of plan features to employees; consults on legal issues, plan design issues, compliance issues, technology solutions; consulting, forms and documents.

Service area: nationwide.

Charges: determined by number of participants, complexity of plan.

Contact: Steve Schaitberger, business development manager; 800-346-3860, option 3; busdev@universalpensions.com.

Employee assistance program and dependent care resource and referral services directories upcoming

CHICAGO—Business Insurance will publish both its annual directories of employee assistance programs and its directory of dependent care resource and referral services on June 26.

INTERNATIONAL

Global Briefs

The outlook for European reinsurers is bleak in the wake of record losses from catastrophes in 1999, inadequate rates and retrocessional recovery troubles, according to Standard & Poor's Corp. In an unpublished survey of European reinsurers' 1999 results, S&P estimates that the average combined ratio for European reinsurers' worldwide results reached 131% last year, compared with 109% in 1998. The reinsurers' results in 2000 are expected to suffer from continued rate inadequacy and late reported claims from the December 1999 storms, S&P said. As a result, the rating agency maintains a negative outlook on the European reinsurance industry in general, meaning that it could lower ratings on a number of reinsurers in the medium term. . . . Stockholm, Sweden-based **If Property & Casualty Insurance Ltd.**, which was formed at the end of 1999, announced it will remain in business despite the planned withdrawal of one of its three founding companies, Pohjola Group Insurance Co. of Helsinki, Finland. Although Pohjola's board supported participation in the venture, its shareholders rejected the plan. If is a non-life joint venture formed by Pohjola with Sweden's Skandia Insurance Co. Ltd. and Norway's UNI Storebrand ASA. The two other insurers have said they will seek compensation from Pohjola for backing out. . . . **Bob Hewes** is leaving his job as finance director of Lloyd's of London to pursue other interests. Mr. Hewes joined Lloyd's in 1988 and is credited with being one of the architects of its reconstruction and renewal plan implemented in 1996. He will stay at Lloyd's until a replacement is found. . . . Standard & Poor's has lowered its long-term counterparty credit and insurer financial strength ratings on Bahrain-based **Arig Reinsurance Co. B.S.C.** to A- from A, with a negative outlook. The rating agency, however, affirmed its BBB long-term counterparty credit and insurer financial strength ratings on Arig Insurance Co. Ltd. (U.K.). The actions are in response to Arig's weakened operating performance and the "significant" decrease of reinsurance premium volume, largely as a result of the cessation of underwriting activities at Arig U.K., said S&P. . . . Accounting and consulting firm Ernst & Young L.L.P. and insurance software provider The Innovation Group say they have devised a **claims handling program** called ICM—Innovative Claims Management solution—that can reduce general insurers' claims handling costs by up to 20% and benefit customers by "dramatically" reducing claims settlement times. ICM covers the entire claims process, from notice of loss, through all back-office functions to business intelligence information systems. . . . A new Web site, **www.rapidinsure.co.uk**, went live last week to provide a range of professional indemnity policies. The coverage is provided by Hiscox P.L.C. via underwriters at Lloyd's of London. According to Hiscox, the comprehensive, competitively priced coverage can be arranged through the Web site in less than three minutes. Initially the coverage will be available for information technology consultants, media/marketing consultants, and business and management consultants, but later will be made available to surveyors, accountants, health and safety advisers, recruitment consultants, architects, engineers and brokers.

Ruling favors part timers

Pension decision may cost U.K. companies billions

By SARAH VEYSEY

LUXEMBOURG—A landmark ruling on pension eligibility for U.K. part-time workers could ultimately cost British employers billions of pounds and create a significant administrative burden.

The European Court of Justice in Luxembourg ruled last week that about 60,000 part-time workers are entitled to claim pensions benefits going back as far as 1976. As a result of the ruling, thousands more part-time workers also could be eligible to receive backdated pension payments. The U.K. Press Assn. has estimated that the total cost to U.K. employers of paying retroactive benefits could reach £17 billion (\$25.41 billion).

"What particularly worries me is that it is so retrospective. We could be talking about billions of pounds. How can employers plan when they don't know what their liabilities are?" said a spokeswoman for the Institute of Directors, a London-based association representing company executives.

The European Court's ruling is the culmination of a six-year campaign by female workers from six trade unions: UNISON, the largest union of public service workers; UNIFI, a union of banking and finance workers; the Assn. of Teachers & Lecturers; the National Assn. of Teachers in Further & Higher Education; The National Assn. of Schoolmasters & Union of Women Teachers; and the National Union

of Teachers.

In 1994, the 60,000-strong group of part-time workers sought pension benefits in a hearing before the House of Lords. The House of Lords ruled that excluding part-time workers—who in the United Kingdom are mainly women—from occupational pension plans was discriminatory and was a breach of European law on equal pay. Employers were then forced to allow part-time workers to join pension plans, but uncertainty remained as to whether—and to what extent—the ruling applied retroactively.

Under the U.K. Equal Pay Act of 1970, employers were required to pay pension contributions backdated for up to two years. *See Pension on page 29*

Murray Lawrence rebuts Jaffray claims

By SARAH VEYSEY

LONDON—Claims that Lloyd's of London insiders fraudulently concealed knowledge of burgeoning asbestos liabilities from names are "ridiculous" and false, contends former Lloyd's Chairman Walter Nicholas "Murray" Lawrence, who took the stand last week in the *Jaffray vs. Lloyd's* fraud case.

Mr. Lawrence was a member of the Committee of Lloyd's from 1979 until 1991, with the exception of 1983. In addition, he was deputy chairman of Lloyd's in 1982 and from 1984 to 1987, and he served as chairman from 1988 until 1990.

In a deposition, Mr. Lawrence described as "ridiculous and totally without foundation" charges made by a group of names—individual investors at Lloyd's—that

senior figures at Lloyd's had concealed the extent of asbestos-related losses and had fraudulently recruited names in an effort to bolster capacity. Many names, who joined the market on an unlimited-liability basis, went bankrupt when the asbestos-related claims hit.



Mr. Lawrence

The litigating names refused to join Lloyd's 1996 reconstruction and renewal program, designed to rescue the market from the crippling losses of the late 1980s and early 1990s, estimated at about \$100 billion (BI, March 6).

If Lloyd's prevails in the case, it will be able to pursue the estimated £51 million (\$80.5 million) owed it by names in asbestos-related debts. If the names win, however, that would pave the way for them to sue Lloyd's to recover money. *See Lloyd's on next page*

Cell phone health concerns

Warnings issued

By CAROLYN ALDRED

LONDON—In a move that likely will reopen the debate on the safety of mobile telephones, the U.K. government has advised that a "precautionary approach" be taken to cellular phone use and announced it will expand its research into the health effects of cellular phones.

In a separate development, the Japanese government has announced plans to enforce international electromagnetic emission guidelines. Japan is telling mobile phone makers to follow international standards, but the government plans to make these currently voluntary guidelines enforceable and require manufacturers to submit data on each handset model to the Japanese Ministry of Posts and Telecommunications next year. The guidelines call for electromagnetic emissions of no more than 2 watts for each kilogram of a user's weight.

The move follows growing concern worldwide about the safety of mobile phones, as their use increases dramatically. Usage is expected to continue to grow as Internet technology develops parallel to cellular phone technology.

U.K. government recommendations include monitoring employees who are occupationally exposed to the radio frequency radiation emitted by mobile phones and discouraging the non-essential use of mobile phones by children.

The government's response follows the publication of a report this month by the Independent Expert Group on Mobile Phones and *See Cellular on page 29*

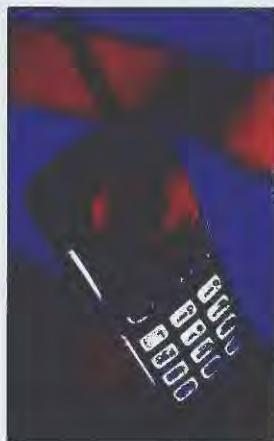


PHOTO: AFP

Smoke billows from the site of the May 12 explosion.

Explosion losses are insured

Extent of damage still being tallied

ENSCHDEDE, Netherlands—Dutch insurers are still tallying the losses from the May 12 explosion at a fireworks factory in Enschede, Netherlands, but they say insured damages will likely reach into the hundreds of millions of guilders, or at least tens of millions of dollars.

In releasing this estimate last week, Dutch insurer association Verbond van Verzekeraars stressed that it is only preliminary and could change considerably once emergency services personnel allow greater access to the disaster site.

A spokesman for the association said that "all material damage will be covered by insurance policies."

The blast occurred in a warehouse owned by S.E. Fireworks. The warehouse was located in a mainly residential area, though a nearby Grolsch N.V. brewery also caught fire, damaging the brewery and releasing asbestos from its roof. Local residents were advised to remain indoors and not disturb any dust.

A statement from Grolsch said it would be several weeks before the Enschede brewery is operational, but that the company is "sufficiently insured" against financial losses from the fire.

By last Wednesday, the death toll was estimated at around 20, while some 650 people were reported injured. In addition, hundreds of individuals remained unaccounted for.

Claims manager Crawford & Co. said it planned to enter Enschede last Thursday, the first day emergency services allowed access.

Crawford is sending in a team that includes recovery experts, technical engineers, architects, insurance experts and accountants. Crawford said that apart from handling the property claim for the S.E. Fireworks factory itself, it is handling claims in connection with the brewery, a supermarket, a shopping mall and various other factories affected by the blast. It said the blast also destroyed or damaged over 1,500 homes in the center of Enschede.

Dutch Prime Minister Wim Kok has ordered an investigation into how the fireworks factory was allowed to operate in a built-up area, and he promised government aid to help rebuild the shattered suburb.

—Edwin Unsworth

INTERNATIONAL

Lloyd's

Continued from previous page
they have already paid for asbestos-related losses.

Mr. Lawrence said that it was untrue that Lloyd's had, as a matter of policy, tried to recruit new names to absorb asbestos-related losses. Mr. Lawrence maintained that he had, in fact, tried at all times to safeguard the interests of names.

"There was never any attempt to conceal information from names or to suppress discussion or debate on the issue of asbestos," Mr. Lawrence said in his deposition.

Mr. Lawrence was the author of the so-called Murray Lawrence letter, written to the Committee of Lloyd's in March 1982, which names allege spelled out the seriousness of the asbestos-related claims that crippled the market in the late 1980s and early 1990s. In the letter, then-deputy chairman

Mr. Lawrence suggested that asbestos-related claims should be reserved and accounted for separately from the market's other business.

Attorney Simon Goldblatt, who is representing the more than 200 names, questioned Mr. Lawrence, asking whether Mr. Lawrence had followed up on this suggestion to account for asbestos-related claims separately. Mr. Lawrence said that he did not know whether the figures for asbestos-related claims had been accounted for separately to Lloyd's. Mr. Goldblatt asked Mr. Lawrence whether he had inquired as to whether his suggestion was going to be acted upon. "No I did not. I did not see that as part of our duty," Mr. Lawrence replied.

The names allege that the Murray Lawrence letter should have been circulated to them but was instead suppressed.

Mr. Goldblatt asked Mr. Lawrence to comment on the wording used in a report, signed by Mr. Lawrence and other Lloyd's insid-

ers in the autumn of 1982, in which asbestos-related losses were described as "catastrophic and disastrous (in size)." Mr. Lawrence said that the report had been written because senior figures at Lloyd's were concerned that U.K. insurers

'There was never any attempt to conceal information from names,' says Murray Lawrence.

that were reinsured at Lloyd's for casualty business in the United States would report large asbestos-related losses.

Mr. Lawrence said that the word "catastrophic" was used in the report because cumulative losses were beginning to reach the catastrophic level on some policies. The

word "disastrous," he said, was used because Travelers Insurance Co., one of the companies that had begun to be hit by asbestos-related claims, had used it in expressing concerns with syndicate 360, on which Mr. Lawrence was the senior underwriter.

Mr. Lawrence said that while he could see now, with the benefit of hindsight, that Lloyd's was under-reserved to meet the asbestos claims crisis that hit the market in the early 1990s, during the 1970s he believed the market to be adequately reserved. "I can assure you that, at the time, it was set up very well," he said.

Mr. Lawrence said that "the vital import of reinsurance to close" should have been conveyed to names, but said that it was the responsibility of the members' agents, and not the Committee of Lloyd's, to stress to names the importance—and potential risk—of this practice.

When Lloyd's pre-1993 liabilities

were reinsured into Equitas Ltd., some syndicates were able to release funds from reserves. Other syndicates, though, had to pay additional premiums to Equitas for reinsurance to close, or runoff reinsurance.

Mr. Goldblatt asked Mr. Lawrence about the extent of his knowledge of the looming crisis from asbestos-related losses during the 1970s and 1980s, citing a 1985 article in The New Yorker that discussed asbestos-related court settlements between 1971 and 1978. "By 1985, there had been lots of scary stories around and this (article) is one," said Mr. Lawrence.

Mr. Lawrence said that in order to assess the potential impact of asbestos-related verdicts on the Lloyd's market, underwriters at Lloyd's would have needed to know the areas in which the claimants worked and whether they were insured.

The trial is expected to continue until July. **BI**

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Cellular

Continued from page 27

Health, commissioned by the Department of Health in April 1999. The report, known as the Stewart Report, is named after the chairman of the independent group, Sir William Stewart, chairman of Tayside University Hospital's NHS Trust.

After reviewing existing research conducted and published worldwide, the expert group, which included a dozen scientists, concluded that the "evidence to date does not suggest that emissions from mobile phones and base stations put the health of the U.K. population at risk."

But, the report said, "there is now some preliminary scientific evidence that exposures to radio frequency radiation may cause subtle effects on biological functions, including those of the brain." These include possible subcellular and cellular tissue changes, which could be particularly hazardous for children, whose nervous systems are still developing.

Children also are at risk because of the great absorption of energy into tissues of the head and a longer lifetime of exposure, according to the report. As a result, the group recommends that "a precautionary approach to the use of the mobile phone technologies be adopted until more detailed and scientifically robust information becomes available."

The report was described by the government minister for public health, Yvette Cooper, as the "world's most comprehensive review of the possible health effects of mobile telecommunications."

Although the report "does not suggest that mobile phone technologies are a risk to health," said Ms. Cooper, it does state that "currently there are gaps in scientific knowledge."

The government and the mobile telephone industry have a responsibility to fund research "to seek answers to these gaps," she said, adding that the government will "rapidly expand the research program into the effects of mobile phone use."

"We have asked the National

Health Service director of research and development, Prof. Sir John Pattinson, and the chief medical officer, Prof. Liam Donaldson, to prepare a comprehensive, multimillion-pound research program spanning several years," Ms. Cooper said.

This is the most significant independent report ever issued on the subject, says Vodafone.

In the meantime, she said, the government accepts the Stewart Group's risk assessment. As a result, the government recommends that:

- The widespread use of mobile phones by children for non-essential calls be discouraged. The Chief Medical Officer of Great Britain will be discussing with the group how best to make parents aware of the recommendations.

- Shielding devices and hands-free kits for cellular phones be independently tested.

- Further consultation take place as to whether to introduce a requirement for full planning permission for all new telecommunication antennae, to allow the public to have their say in

the siting of the antennae.

- The auditing of base station emissions near schools and other sensitive sites receive priority.

- A register of occupationally exposed workers be established. A three-year study is currently assessing the feasibility of conducting an industry-wide epidemiological study to investigate any relationship between radio frequency and the risk of injury to human health. One aim is to develop a protocol to estimate total radio frequency exposure during employment. The government will consult with the Health and Safety Commission and others on this.

- The National Radiological Protection Board, a government-funded agency based in Oxfordshire, keep all further research—national and international—under review and report back in three years or when significant information becomes available.

- Public information on mobile phone technology be more widely available.

- Mobile telephones not be used in hospitals, because of likely interference with hospital equipment.

Newbury, Berkshire-based Vodafone Group P.L.C., one of the biggest U.K. cellular phone manufacturers, welcomed the report. Vodafone said it is "the most significant independent report ever issued on this subject."

The company particularly welcomed the report's confirmation that

"the balance of evidence does not suggest mobile phone technologies put the health of the general population at risk."

Meanwhile, "along with the rest of the U.K. mobile phone industry, Vodafone will play a full part in working with government and others to study the detail of the 500-page report and put together plans to address the matters raised by the report," according to a company statement.

The Federation of the Electronics Industry, which represents British cellular phone manufacturers and operators on mobile phone health issues, stated that "the health and safety of the public, our customers and employees is and always will be of prime importance to the industry. We believe the report is comprehensive and balanced, and we welcome it."

An FEI spokesman said some employers, mainly local authorities, had contacted the FEI for advice in minimizing employees' exposure to radio wave energy from mobile phones should it ever be shown that exposure causes ill health.

"However, in light of the fact that there's no evidence to suggest that there is a problem, it is not easy" to formulate a risk management policy, the spokesman said.

The FEI has advised that employers take precautions to minimize employee exposure, such as using hands-free kits and headsets or earpieces. **BI**

Pension

Continued from page 27

years for employees unfairly denied pension benefits. The group of trade unions claimed, however, that part-time employees should be allowed to receive backdated payments from as far back as 1976, the year of a significant ruling on pension eligibility. In that case, *Defrenne vs. Sabina Airlines*, the European Court of Justice ruled that the airline had discriminated against a part-time female flight attendant in denying her pension benefits. Because of that ruling, the unions argued, employers should have been aware that denying pension benefits to part-time workers was discriminatory.

The House of Lords referred the case to the European Court of Justice to rule on the backdating issue. The House of Lords also asked the European Court to consider the validity of time limits established by the Equal Pay Act with regard to the backdating of pension payments. The Equal Pay Act states that employees seeking payment must make their claim within six months after the end of their employment.

Under European Union law, member states make their own laws, but these laws must comply with two principles. First, laws cannot conflict with European Union law—the so-called principle of effectiveness. Second, they must not be less favorable than rules governing similar claims in the member state—the so-called principle of equivalence.

The European Court ruled that the two-year rule violated the principle of effectiveness, as it conflicted with the European Union's 1976 ruling on pension benefits. Thus, the court ruled, an employee could receive backdated payments up to 1976 or the later year in which he or she should have become eligible for the employer's pension plan.

The court ruled, however, that the six-month rule did not necessarily violate the principle of equivalence, provided the rule was not less favorable than the U.K. rules for similar claims. The European Court has provided the House of Lords with guidelines to use in deciding this issue. Lawyers might argue, for example that the claims were comparable to sexual or racial discrimination claims, said Joy Drummond, a partner at

Lawfords Solicitors in London, who represented private-sector employees in the case.

"Those who did not lodge their claims within six months of leaving their employment may still be able to pursue a claim," said Ms. Drummond. "Whether or not they are able to do so will depend on what the U.K. courts decide are other comparable claims and whether they consider the rules under the Equal Pay Act less favorable than the rules in comparable claims."

In addition to the 60,000 workers involved in the ruling, there could potentially be thousands of other part-time workers who may now seek pension benefits.

"There may be lots of other people out there who haven't lodged claims yet. There are bound to be a lot more," said Ms. Drummond.

Employers have expressed concern about the ruling.

The Confederation of British Industry described it as "disappointing, if not entirely a surprise."

Because of the possibility of additional claims, the total cost to employers will not be known for some time. "It will be a significant cost to industry, although it would be hard to put a figure on it," the CBI said in a statement.

"The major concern is the huge administrative burden it will put on business. Companies could have major problems working out employee entitlements going back so far," the CBI statement continued. "In many cases the record will simply no longer exist. It could be an administrative nightmare."

The National Assn. of Pension Funds said it welcomed clarification of the situation regarding part-time workers but also expressed concern about the administrative burden companies would now face. "Although the requirement on part-timers to have made a claim within six months of the end of their contract will limit the extra costs and administrative difficulties employers will face, these will be substantial," said Geof Pearson, vice chairman of the NAPF.

The House of Lords will now consider how to enact the European Court ruling and what action to take on the six-month rule. If it decides that the six-month rule is discriminatory, the cost and administrative burden on U.K. business could be substantially increased.

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Aviation

Continued from page 2

Opinions vary on whether the airline and aviation market is hardening, observed Daniel M. Izard, president and chief executive officer of Short Hills, N.J.-based Associated Aviation Underwriters, a consortium of U.S. underwriters.

Mr. Izard said that he hears from brokers that the market is too over-capitalized to turn, but he quickly pointed out that they have noticed a greater underwriting discipline among insurers.

"Most people recognize the time is at hand" for a market turn, Mr. Izard said.

Rates have been rising for the past six months, though the increases have not been sufficient, Mr. Izard said. Indeed, underwriters "didn't get the job done during the fourth quarter," he said.

But during spring renewals—a far less busy renewal season for underwriters than the peak fall renewal season—rate hikes continued, Mr. Izard said.

Rates increased 15% to 20% for those few airlines that renewed their hull and liability insurance this spring, he said. Manufacturers' insurance rates rose by single digits up to 9%, he said.

"Underwriters appear to have drawn a line in the sand," Mr. Izard said.

For the remainder of the year, he

said he expects to see rate hikes "on every class of business" that AAU writes, largely due to the higher reinsurance rates that underwriters are facing.

By the time fall renewals come along, "30% to 40% increases are not going to be uncommon," he predicted.

"We have some very definite changes in rates coming," Mr. Izard warned.

Mr. Izard and London market underwriting executive Graham A. Nichols said a hardened market is critical to maintain the market's viability after nearly a decade of underwriting losses.

For example, premium volume for the London airline and aviation insurance market during the 1990s exceeded claims in only two calendar years, noted Mr. Nichols, citing figures produced by the London Processing Centre. The LPC is the paper and electronic-processing unit of the International Underwriting Assn. of London.

And in both years, 1995 and 1996, premiums exceeded claims only marginally. But during the first four years of the decade and in 1998, claims exceeded premiums by between 25% and 75%.

"I don't understand how a market can trade on that set of figures for that length of time," said Mr. Nichols, chief executive and chief underwriter for Westminster Insurance Agencies Ltd., which under-

writes on behalf of two French companies in the London market.

"It's a pretty dire scene," he said. Pointing to the U.S. airline and aviation market's 120% combined ratio in 1999, Mr. Izard described the market as "extremely volatile" for investors.

'The only way it is going to work is if we make money using other people's money,' says Daniel M. Izard.

There are probably some emotional reasons to invest in the market right now "but not too many good business reasons," he observed. "Nobody can make money on investment income when we have a level of returns like that."

Mr. Nichols noted that the market does not have a capacity problem. "Whether we can deal with pricing is another question," he said.

"We have a huge responsibility" to the marketplace, Mr. Izard told airline and aviation underwriters. "The only way it is going to work is if we make money using other people's money."

Mr. Nichols said that the market does not want a rating correction that is forced on policyholders and

underwriters because of a capacity shortfall resulting from investors abandoning the market.

"We don't want to see that happen to our customers," he said.

The consolidation of airlines and air frame manufacturers over the years has compounded the premium volume problem for underwriters, Mr. Nichols noted. Combined risks do not generate as much premium volume for underwriters.

In addition, bigger risks have much greater ability to retain losses or manage them differently using other financial markets, Mr. Nichols said. Such risk financing decisions could pull even more premium out of the market, he said.

"The fact that's not happening now might say something about the price of our product," Mr. Nichols observed.

But in addition to raising rates, airline and aviation insurers should take several other steps to improve their underwriting results and their investors' returns, Mr. Izard said.

U.S. underwriters in particular need to expand their market reach globally, he said. European insurers have been better about looking for growth beyond their borders because of the small size of their local markets, he said.

"We have to get aggressive or get left behind," Mr. Izard maintained.

Just as important, he said, is that "we have to provide more than the traditional insurance products."

With the convergence of financial services, "people are looking for non-traditional services for financial products," he said.

Outdated technology is another customer service problem for the market, according to Mr. Izard.

"The Internet has changed the world—has changed how we perceive the world," Mr. Izard observed.

"We have to back away from the traditional way" of dealing with customers, he said. Insurers have to enhance their product, "and the Internet is a big part of that."

But to take advantage of that opportunity, a much bigger investment in technology by insurers will be required, he said.

"Insurers need to catch up quickly" to the technology investments other industries already have made, he said.

At the same time, the airline and aviation insurance market faces some "severe problems" in attracting and keeping talent, Mr. Izard noted. "We need to find ways to lure people into the business."

For example, he said, the U.S. market lacks international expertise. "We're a very provincial country, but we need to think more globally."

Mr. Izard said that all of the issues the market faces have important implications. Unless those matters are addressed, airline and aviation insurers face becoming takeover targets or having a tough time raising capital, he said. **BI**

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OF

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CASE NO. 99-B-42545 (BRL)

NOTICE IS HEREBY GIVEN THAT ON MAY 3, 2000, THE BANKRUPTCY COURT ENTERED AN ORDER (THE "ORDER") CONTINUING THE PRELIMINARY INJUNCTION ORDER PURSUANT TO 11 U.S.C. § 304 ORIGINALLY ENTERED IN THIS CASE ON MAY 5, 1999. THE ORDER SHALL REMAIN IN EFFECT PENDING A HEARING TO CONSIDER WHETHER IT SHALL BE CONTINUED, WHICH HEARING IS SCHEDULED TO BE HELD ON NOVEMBER 15, 2000 AT 10:00 A.M. (THE "RETURN DATE") BEFORE THE HONORABLE BURTON R. LIFLAND, IN ROOM 623 OF THE ALEXANDER HAMILTON CUSTOM HOUSE, ONE BOWLING GREEN, NEW YORK, NEW YORK. ALL PAPERS SUBMITTED FOR THE PURPOSE OF OPPOSING CONTINUATION OF THE ORDER AFTER THE RETURN DATE SHALL BE FILED WITH THE COURT, WITH A COPY TO THE CHAMBERS OF THE HONORABLE BURTON R. LIFLAND AND SERVED ON COUNSEL FOR THE PETITIONERS LISTED BELOW, SO AS TO BE RECEIVED AT LEAST FOURTEEN (14) DAYS PRIOR TO THE RETURN DATE. ANY PERSON WISHING TO OBTAIN A COPY OF THE ORDER SHOULD CONTACT COUNSEL TO THE PETITIONERS.

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Finding common ground after crash

Tips to speed settlement

By DAVE LENCKUS

WASHINGTON—After a passenger jet crash, some claims-handling measures by the airline's insurers and plaintiffs attorneys delay the quick claims settlement that both sides want.

Much of the delay results from a lack of information early on, according to a panel of crash settlement experts.

Many other factors, though, can also drive up settlement costs, the panelists said during a session at the Aviation Insurance Assn.'s 24th Annual Educational Conference, held in Washington May 6-9.

An insurer claims-handling executive reviewed how each side slows the claims-settlement process.

The insurer's claims-handling department is "the most important link between the plaintiff attorney and the claimant," said Sharon M. Holahan, senior vp-director of national accounts for Associated Aviation Underwriters, a Short Hills, N.J.-based insurer consortium.

"It's really us who decide when to settle a case," she said, referring to insurers' claims departments.

Insurers' claims handlers can get the settlement process moving sooner by contacting and getting to know the plaintiffs attorneys who represent crash victims' families, Ms. Holahan said.

She added, however, that "We can't be friends with the plaintiffs attorneys. It ruins your reputation. They think you're soft."

Some airlines delay early settlement of claims, contending they should pay only if they were "really, really at fault," Ms. Holahan noted. "And some think they shouldn't pay if they didn't really mean to do it."

Even if a crash was not an airline's fault, however, the claim will have to be defended before six to 12 people who "think planes shouldn't crash in the first place," she observed.

Insurers' recommendations to settle early, however, often "are not well received" by airlines and their brokers, Ms. Holahan said.

Brokers "want to know if you're tough enough for the job," even when you have an "I told you so" file full of statistics on the disadvantages of litigating claims, she said.

In addition, she said, "you can't underestimate the resources and creativity of the plaintiffs bar,

another thing people don't want us to tell them about."

Meanwhile, foot-dragging by plaintiffs attorneys also slows the settlement process, Ms. Holahan asserted. She questioned why plaintiffs attorneys take a year or so to go through the discovery phase of litigation to establish damages. Ms. Holahan suggested that determining damages should take much less time.

Those delays by plaintiffs attorneys also complicate insurers' reserving efforts, Ms. Holahan said.

Plaintiff attorney Arthur Alan Wolk told insurers in the audience that he and other plaintiffs attorneys "have as many problems in resolving cases in an effective way as you have in evaluating them."

"You have to understand what we're dealing with. It's not a client but a person who can't comprehend the loss of a loved one," said Mr. Wolk, a partner with Wolk & Genter of Philadelphia.

"Death is death and loss is loss. But somehow when death comes in aviation, it somehow is a more unspeakable loss," Mr. Wolk said.

Mr. Wolk described the several stages a family member goes through after losing a loved one in an airplane crash.

In the first stage, family members are in shock and are edgy. "They have utter disbelief. They just don't believe their loved one isn't coming home," he said.

Then denial sets in a few days later if crash recovery teams have not found a victim's body. When the crash recovery team finds personal effects, then reality sets in for family members.

To help them get through their next stage—anger—the victims' families call upon plaintiffs attorneys. The families are angry at the airline, at the Federal Aviation Administration for not detecting the problem with the plane and at the National Transportation Safety Board for not providing crash investigation results soon enough.

Mr. Wolk described the next stage as post-traumatic stress. Family members begin fearing that they will be unable to live their lives without their loved ones. They do not know how they will pay the mortgage or rear their children by themselves.

So regarding Ms. Holahan's comment on the amount of time plaintiffs attorneys take to prepare their demand for damages, Mr. Wolk said: "How am I going to get information from a widow who's crying all day long? She's trying to explain to her kids that daddy's not coming home. How do I get her tax records?"

He agreed that the insurer needs that information. "But it's more important for me to get the



Tim Bonnell (left), president of the Aviation Insurance Assn.'s board of directors, presents the first Certified Aviation Insurance Professional designations to (from left): James B. Aldeman, reinsurance manager at Farm Bureau Mutual Insurance Co. in West Des Moines, Iowa; John J. Danilov, executive underwriter-aerospace at ACE USA Inc. in Chicago; Beverly J. Fant, account manager-aviation at Acordia Inc. in Kennesaw, Ga.; and J. Jeffrey Rasmussen, account executive at Mortenson, Matzelle & Meldrum Inc. in Madison, Wis.

client through this hard time," Mr. Wolk said.

Establishing damages for the death of a child is especially difficult, Mr. Wolk said. Parents do not want to hear about \$100,000 or \$200,000 of damages when they feel that their children were "worth a gazillion dollars."

"It's a problem for the insurer and it's a problem for us, because it's tough to tell parents what they need to hear" about damages, he said.

Mr. Wolk offered airlines and insurers several suggestions on how they can hold down settlement costs:

- Do not send families sterile form letters that list the personal effects recovered from a crash site and that ask the families to check off which items belonged to their loved ones. Those letters infuriate families, Mr. Wolk said.

- Do not instruct airline employees not to speak with plaintiffs attorneys.

- Meet early with the attorneys who "you know will carry the case to the end" and offer a fair settlement.

- "You need the president of the company to say how sorry you are," he said. The president also has to promise to help the crash victims' families and to fix any problem with the airline that the crash investigation may uncover.

- If the crash involved an international flight, immediately make the minimum payment required by the Warsaw Convention.

- Follow the example set by Swissair after one of its jets crashed in the Atlantic Ocean off Nova Scotia in September 1998.

Except for the first couple of days after the accident, the airline handled the incident with "the greatest degree of class and dignity," Mr. Wolk said.

It brought crash victims' families "where they needed to go."

When negative information came out, the airline shared it and apologized.

The airline communicated with the victims' families on special stationery in an apologetic tone and sent the plaintiffs' attorneys copies of all information as it became available.

Mr. Wolk noted that he represented a woman who lost a husband and three children in the Swissair crash. He said she was so impressed with Swissair that she harbored no animosity for anyone connected with the airline.

"That's where you want to be," he said. **BI**

AIA meeting draws 520

WASHINGTON—The Aviation Insurance Assn. drew 520 aviation industry attendees to its 24th Annual Educational Conference, held May 6-9 in Washington.

Conference topics included a predicted hardening in airline hull and liability rates this fall, how airlines handle passenger "air rage," and recent case law.

The AIA's 25th Annual Educational Conference is scheduled for May 5-8, 2001, at The Pointe Hilton South Mountain Resort in Phoenix.

Further details about next year's conference are available from the Bloomington, Ind.-based AIA, 812-323-7955; fax: 812-323-7956; www.aiaweb.org.

MGAs

Continued from page 2
iation's membership.

The group's leadership isn't completely in sync about how tight the market will become.

Mr. Roe contrasted the current overcapitalization among insurers with the undercapitalization of the market of the mid-1980s, and he predicted both that prices will not rise as quickly as they did then and that they will stabilize sooner. "Companies are just making corrections based on their own individual stock prices and the losses that they've incurred over the last few years," he said. "So I would say that any change in the marketplace is only going to be about 18 to 24 months, max."

Mr. Roe said he expects that at that time, barring major natural catastrophes, companies will again unleash their capacity and "we're back into a much more competitive market."

Baron Garcia, the AAMGA's president-elect, said he expects price increases, because insurers "have got to find ways to make up some of the diminishing returns on equity."

While some companies have suffered underwriting losses in the recent years of a soft market, their stock portfolios have fared well, said Mr. Garcia, who is president of Oklahoma

General Agency in Oklahoma City. But as returns on equities lag in the current market, insurers will turn to rate hikes to make up some of the shortfall, he suggested.

Leonard T. LoVullo, AAMGA president, said that while he agrees that a market correction will be short, he thinks it will be dramatic. "I think it will be serious. Especially if 2000 is a bad storm year."

A tip-off that the market is turning is the refusal of standard companies to write lines that they have embraced in recent years, Mr. LoVullo pointed out. "Today, I think you're finding a lot of companies beginning to clean house, dropping off classes of business—small ones, but classes of business they've gotten their butts kicked on," he said.

That business is "falling in our laps," Mr. LoVullo said. He cited the example of submissions to write coverage for nursing homes, which, he said, are increasingly showing up at MGA's offices as standard companies abandon the line.

Mr. LoVullo, who is president of LoVullo Associates Inc., an MGA in Buffalo, N.Y., said AAMGA and the National Assn. of Professional Surplus Lines Offices Ltd. have had several meetings in the last six months, and one of the topics has been whether they are seeing increases in business as the market hardens.

"It's up and down completely across the board," he said. Some are seeing increases in submissions and new business written while others report the opposite.

Insurers at the AAMGA meeting agreed that a tightening is occurring.

"From speaking to agents over the last 90 days and from what I'm hearing at this conference, brand name companies are closing offices, increasing prices and restricting underwriting," said John M. DiBiasi, executive vp, underwriting and marketing at Penn-America Group Inc. in Hattboro, Pa.

"If you look at the industry results, there's a lot of blood in the streets," he pointed out. "As a result, boards of directors and stockholders expect changes."

Insurers are reacting by closing offices to cut expenses and raising prices to generate underwriting profits, Mr. DiBiasi said. He noted that Penn-America, which specializes in small-premium accounts, is writing a lot of new business that large insurers are giving up as they cut expenses.

Penn-America, which writes exclusively through MGAs, is seeing an increase in all types of business, Mr. DiBiasi said. "The classes are not that important; it's all types of risks," he said.

George J. Marone, executive vp and chief underwriting officer at Frontier

Insurance Co. in Rock Hill, N.Y., agreed that "a lot of companies are pulling in their arms in a lot of classes."

Rates are going up on selected classes in the small and middle markets, he said. "The increases are definitely beginning to hold."

Commercial automobile rates started increasing last year, and some property exposures are seeing rate hikes, Mr. Marone said. Any products liability risk likely will see an increase in premiums this year, he added.

The market is heating up, Mr. Garcia pointed out, as evidenced by the number of inquiries his office is receiving. "The amount of policies we quote has increased dramatically. Our hit ratio—those that we actually bind—has decreased. We hit about one out of 15 quotes."

That means "there's more activity; there are more people out there shopping prices," Mr. Garcia said. That testing of the waters should continue through this year, he said, and as prices rise, the number of policies his office binds should increase.

While it still is difficult to predict how hard the market will become, one thing is clear, Mr. LoVullo said—those MGAs who aren't aggressive as the market turns are in danger of being left behind.

In many cases, an increase in busi-

ness written will depend on the "mentality of the MGAs," he remarked. "What's their attitude? Are they just sitting back, like in 1985, waiting for the business to come to them, or are they going out pursuing it?"

Successful MGAs are not just waiting for the market to harden, Mr. LoVullo said. Instead, they are busy marketing, selling and training staff, he emphasized. "They're upgrading their systems; they're becoming more efficient. I think that's going to have an effect on how this market turns and who's going to benefit from it."

AAMGA is watching closely to see how regulators react to the tightening insurance market. The association is hoping it can help regulators, many of whom have not experienced a hard cycle, understand why prices must rise until they stabilize.

As an example of how the market is changing, Mr. Roe said his agency is working with an insurer that is not renewing a client's business that the insurer has written since 1952.

"Those kinds of things are going to hit the regulators' desks and phones. We need to be involved to make sure they understand that this is the normal business cycle, as opposed to what happened in the mid-'80s, when we had a hard market and regulators came in and put some maximums on what we could do." **BI**

Vivius

Continued from page 1

the involvement of a third party—set the monthly fee that participants pay.

Vivius executives say the system would remove the restrictions that both employees and providers resent most about managed care.

"Employees don't like managed care plans because their providers are not always in the networks. Now employees select their providers," said Vivius Executive Vp Dr. Lee Newcomer.

At the same time, providers who resent the second-guessing they say they receive from managed care plans would have autonomy to make their own decisions. There would be no precertification or utilization review.

In addition, providers would set their own monthly capitated fees, with employees deciding—by selecting physicians—whether a physician is worth what he or she charges.

"Doctors want their autonomy back," Dr. Newcomer says.

Benefit experts, while far from embracing what Vivius is launching, say

the new system represents an innovative effort to make the health care delivery and financing system more appealing to all its major players.

"What they are trying to do is retool the health care system as it now exists," said Greg Kuhn, a principal in the St. Louis office of PricewaterhouseCoopers L.L.P. "They are trying to get the system more friendly, to allow employees to do the choosing and to reduce the administrative burden on employers and providers."

"I understand the mass appeal here. They are trying to get rid of insurers so that consumers can deal directly with providers," said Richard Ostuw, global health care practice director for Watson Wyatt Worldwide in Stamford, Conn.

But other experts say they see numerous shortcomings in the program. They question whether, for example, a sufficient number of providers will join the program. If not enough physicians join, some experts contend, not only would there be few providers from which employees could choose but there also might not be enough competition to give providers the incentive to hold down their fees.

In addition, benefit experts say, Vivius lacks a customer support system to help employees with problems.

"I think this may be too big a leap. You need some type of support system," said Tom Beauregard, a consultant in the Rowayton, Conn., office of Hewitt Associates L.L.C.

Under the program, employers would contribute pretax dollars to employees' flexible spending accounts. Employees then would access a Vivius Web site listing the names and the monthly capitated fees charged by physicians, hospitals and other providers. Those providers could charge whatever fees they sought but would have to provide all necessary care to plan participants.

From this Web site, an employee first would select a personal care physician then choose providers in more than 20 medical categories. The employee would be able to tell from the Web site whether a particular specialist was recommended by the personal care physician he or she chose.

As the employee makes provider selections, the Vivius Web site automatically calculates the cost of the health care choices made, so the employee

could instantly see how those choices would affect the size of his or her health care spending account.

While employees would have to choose providers in 22 medical specialties, they would be able to select from a variety of copayment levels.

An employee also would be required to purchase—from contributions in his or her spending account—a wraparound insurance policy—to cover out-of-town emergencies and services the personal provider network did not offer. Vivius estimates that about 90% of health care services would be delivered through the provider networks established by employees. Vivius now is negotiating with insurers to obtain wraparound policies, Dr. Newcomer said.

Employees would be free to use any amounts left over in their spending accounts for uncovered health care-related expenses, such as eyeglasses or dental care. Contributions left at the end of the year would be forfeited.

Logistically, Vivius would transfer funds each month from employees' spending accounts to pay physicians' fees, as well as premiums for the wraparound policies. The program

will be test-marketed this fall in Minneapolis and the greater Kansas City metropolitan area. Dr. Newcomer says Vivius would like to have 1,000 providers in its Kansas City network and 2,000 providers in its Minneapolis network.

While PwC's Mr. Kuhn describes Vivius as an "interesting adventure," he questions whether providers will opt in. "Will providers see a positive? Do they want to assume the risk" entailed by limiting themselves to a capitated fee? he asked.

Others question whether giving providers total autonomy to make medical decisions is, in fact, good for the health care system.

"While the journey to managed care has not always been a pleasant one, I would hate to go back to the old world before managed care, when there was a lot of unnecessary surgery. I question if physicians always would practice evidence-based medicine," said Watson Wyatt's Mr. Ostuw.

"Would physicians' judgments be as unbiased as one would hope they would be?" asked Joseph Martingale, a principal with Towers Perrin in New York. **BI**

Purchasing

Continued from page 1

Tony Miller, president and chief executive officer of HealtheCare.

"The ability to spend dollars on health care services of their choosing or, alternatively, to invest money in their personal care account over the years, will give employees increased control over when and where to receive health care and provide finan-

cial incentives to take charge of their personal health," he said.

But while employees want more control over how their health care dollars are spent, they still want employers to control the funding, he said.

"HealtheCare will remain employer-sponsored but consumer-directed," he said.

"I think people are going to move in this direction," said Greg Kuhn, a principal and national practice leader for employer health care at Pricewa-

terhouseCoopers L.L.P. in St. Louis. PwC, a partner in the HealtheCare venture, will provide administrative services for the program.

"People, when given the right information about how to spend their discretionary dollars, will make wise decisions," Mr. Kuhn said. "We do it with every thing else, don't we?"

Employers will contribute to the personal care accounts similar to the way they currently allocate funding for employees' health insurance premiums, explained Corbette Doyle, CEO of Aon Healthcare Alliance in Nashville, Tenn. Aon is both an investor and strategic partner in the HealtheCare venture. The amount deposited will depend upon an employee's marital status and number of dependents.

A portion of the money deposited in a personal care account will automatically be used to purchase basic health insurance coverage. In addition, depending on how the employer decides to structure the plan options, the employee can use additional funds in the account to "buy up or down the level of benefits—all the way to first-dollar coverage," said Mr. Miller.

Employees also can use the funds to buy other health care-related services, such as health club memberships, alternative medical care and prescription drugs, Mr. Miller said.

To assist employees in deciding how to spend their personal care account dollars, HealtheCare will provide comparative information through its Web site, www.healthe-care.com. "We're starting with the

most costly and largest-volume services," Mr. Miller said, and HealtheCare plans to broaden the information available.

Perhaps the most controversial element of the program is the fact that any funds remaining in personal care accounts at year end will accumulate for future health care needs.

This feature is permitted only for employers with 50 or fewer employees. Under a 1996 law, such employers may set up tax-favored medical savings accounts. Employers of any size, however, may set up flexible benefit plans in which employees contribute pretax dollars to pay for health care premiums or uncovered health care-related expenses, such as deductibles or copayments. But any contributions that are not used by year end must be forfeited, under what often is referred to as the government's "use it or lose it" rule.

"We talked to the IRS about getting a private letter ruling," Mr. Miller said, but the agency declined. "But we do have legal opinion favoring what we're doing," he said, declining to elaborate.

Helen Darling, a senior consultant at Watson Wyatt Worldwide in Stamford Conn., said she would "personally be very nervous, if I were an employer, about anything where I expect tax protection or I'm going to be implying tax protection to my employees. The IRS has consistently said you can't carry over to the new year."

Henry Saveth, an attorney with William M. Mercer Inc. in New York, said, "This is an area where the IRS will not issue rulings."

But, Ms. Darling said, "it's nice to see some creativity in the system."

The program is available to employees in both a self-insured and fully insured version, and HealtheCare will arrange for stop-loss coverage for self-funding employers. While the self-insured version is available in all 50 states, the fully insured version must be approved by the states where the employer does business, Mr. Miller said. So far, HealtheCare has received approval to operate in 10 states, including its home state of Minnesota, Mr. Miller noted.

HealtheCare, which initially is targeting self-funded employers, already has at least one large employer signed up and is negotiating with another, Mr. Miller said. He declined, however, to identify either employer until after their employees have been informed of the change.

Large employers whose workforces are concentrated in single locations will likely offer the HealtheCare plan in conjunction with other plans, such as HMOs, Ms. Doyle predicts.

"But in the ancillary locations, it will likely be the only plan offered," she said.

Ms. Doyle thinks the employees most likely to enroll in the new plan will be those to whom choice is important. Employees who are heavy health care users and who have had bad experience with their HMOs also may opt for HealtheCare, she said.

That's because HealtheCare doesn't require employees to sign up for primary care physicians, and they can refer themselves to any provider, either in or out of the network, without going through a gatekeeper or UR nurse.

As more health plans follow HealtheCare's lead, Ms. Doyle predicts, "third-party utilization review is going to die a quick death. It's been ineffective and adversarial."

PwC's Mr. Kuhn said, "HMO-style managed care is not working." At the same time, with the increasing liabilities plans and employers are facing, "employers want to get out of the policymaking side of health care."

HealtheCare "will empower employees to help them navigate" the health care system, he said. "But if you're going to turn them loose on the market, you've got to give them some help," he acknowledged. **BI**



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California Insurance Commissioner Chuck Quackenbush

Announces

Notice of Request for Proposals

Re: Superior National Insurance Company, Superior Pacific Casualty Company, California Compensation Insurance Company, and Combined Benefits Insurance Company

Chuck Quackenbush, Insurance Commissioner of the State of California, in his capacity as Conservator of the above captioned insurance companies (the "Companies") has issued a Request for Proposals for participation in a Rehabilitation Plan for the Companies. Those persons or entities interested in obtaining a copy of the Request for Proposals may do so by contacting Richard Krenz, Deputy Conservator, in care of the Commissioner's financial advisor, Marsh & McLennan Securities Corporation, 114 W. 47th Street, New York, NY 10036 or calling Geoffrey Sweitzer at 212-345-2785. All proposals should be submitted pursuant to the terms of the Request for Proposals and must be received by the Deputy Conservator on or before June 1, 2000.

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Commentary

Lloyd's case echoes history

To paraphrase the famous question asked by Sen. Howard Baker, R-Tenn., during the Watergate hearings: "What did leaders at Lloyd's know and when did they know it?"

That's the question a judge in London is being asked to decide in a suit against Lloyd's by disgruntled names who believe that Lloyd's leaders fraudulently concealed from them the extent of Lloyd's liability for asbestos losses. The names contend that Lloyd's leaders allowed them to be lured into becoming and staying names despite the leaders' knowledge that Lloyd's someday would take their money to pay asbestos claims already mounting in the Lloyd's market (*BI*, March 13).

I've struggled with the question, when it has been asked of me by names who lost a lot of money at Lloyd's and by others just curious about the marketplace. I may be the only person on the planet with any knowledge of Lloyd's operations to not be entirely sure of the answer.

There seems to be only two camps on this issue: Those who think that Lloyd's knew darn well it needed to attract new names and keep current ones aboard to stay afloat in the years ahead and those who think that Lloyd's leadership honestly believed that the market was reasonably reserved for its asbestos losses.

At the risk of insulting those who understand Lloyd's unusual accounting methods, but to put this in perspective for those who don't: Every year Lloyd's syndicates close their books by charging their current names a "reinsurance to close" premium. This premium is based on the syndicates' best estimate of how their books of business will run off in the future. The hitch here is that if the reinsurance-to-close premium charged in one year is too low, names in later years pick up the past liabilities of old names, who may or may not still be names with the syndicate.

The names suing Lloyd's contend that they were lured into the market and stayed names because the leaders who knew that their money would be needed in the future to cover asbestos losses failed to warn them.

It's not hard to paint this picture, with 20/20 hindsight.

Asbestos litigation exploded in the late 1970s. Should Lloyd's have believed the predictions of the asbestos producers that they would not be held liable for the illness of workers caused by asbestos, contending they didn't know how harmful asbestos was?

By March 1980, a Texas jury had handed down a \$2.6 million award to the widow of an insulation worker who had died from lung cancer allegedly caused by exposure to asbestos. Should Lloyd's have foreseen this as just the beginning?

With the litigation and awards came the coverage litigation and the arguments over what occurrence theory should trigger coverage. By October 1981, it was pretty clear that the U.S. courts were going to maximize insurance coverage for asbestos producers.

The following year, the asbestos producers began declaring bankruptcy, citing the avalanche of asbestos claims.

At what point were Lloyd's leaders aware that ultimately asbestos losses would cost the marketplace \$100 billion? The late 1970s? By the early 1980s? The mid-1980s? Or was it not until the Equitas project in the mid-1990s that the market's costs could be reasonably estimated?

I'd like to believe that the chairmen of Lloyd's were and are the honorable men they appeared to be and did not engage in a cover-up.

I'm also inclined to buy into the argument that Lloyd's is a marketplace of not only insurance capacity but also an unlimited capacity for gossip. It's difficult to imagine a situation in which many at Lloyd's privately believed the ultimate cost of asbestos claims would be far worse than they were saying publicly, but were able to keep that concern quiet.

The plaintiffs' attorney, however, addressed this defense in his opening argument. "Lloyd's is a contradiction. It is a gossip shop, but it is also a place at which secrets, at syndicate level, are kept very close to the chest. There are things about which you do talk and things about which you don't talk, things which will damage your business," argued Simon Goldblatt.

If only someone would step up and reveal that the chairmen of Lloyd's over the years secretly taped discussions in their office about asbestos claims—and that he or she knows where the tapes are stored.

Publisher and Editorial Director Kathryn J. McIntyre's commentary appears fortnightly and on www.businessinsurance.com. She can be reached at kmcintyre@crain.com



Kathryn J. McIntyre

Privacy

Continued from page 1

"cookies," which enable target marketing and can boost sales and advertising revenues. Cookies are small files automatically placed on an Internet user's hard drive when the user visits a Web site. The site then can recognize visitors by an identification number the next time the user visits that or other sites.

Several firms that sell advertising banners on the Web are now facing lawsuits for those tracking activities. One such lawsuit that has drawn considerable media attention was filed late in January in a California court against New York-based DoubleClick Inc.

Judnick vs. DoubleClick was brought in Marin County Superior Court by Marin County resident Harriet Judnick. She alleges DoubleClick violated her right to privacy under California's constitution and engaged in deceptive business practices through its use of "cookies," EPIC's Mr. Sobel said.

DoubleClick could not be reached for comment.

In other class-action privacy lawsuits, such as one against Seattle-based RealNetworks Inc., plaintiffs are alleging the defendants violated a federal anti-hacking statute by gaining unauthorized access to users' computers, Mr. Sobel said.

The suit against RealNetworks claims its software, RealJukebox, records music titles played on a user's computer and relays that information to RealNetworks, Mr. Sobel said.

The suit, filed in November, seeks \$500 for each RealJukebox software user. The company says there are 30 million users of the software.

A spokeswoman for RealNetworks said the company has never violated anyone's privacy and has never collected information to identify user listening habits. The company does track, however, how many times a customer uses its software to reach a database operated by a third party, she said. That database provides RealNetwork customers with additional information about music on compact discs a customer has loaded onto their computer.

In the Judnick case against DoubleClick, the plaintiff seeks only injunctive relief and not monetary damages, said her attorney, Ira P. Rothken of The Rothken Law Firm in San Rafael, Calif.

Last week, however, a Marin County Superior Court judge allowed Ms. Judnick's lawsuit to be consolidated with four other similar suits seeking class-action status.

Some of the other plaintiffs are seeking monetary damages, Mr. Rothken said. In addition, there are four or five other privacy suits filed recently against DoubleClick with similar allegations, he added. DoubleClick, an online advertising company, places advertisements in about 1,500 Web sites.

Insurance industry sources say that DoubleClick is insured under a special-

ty Internet policy issued by American International Group Inc. AIG did not respond to requests for comment.

Insurers are concerned that they, too, eventually could be dragged into that case because they provide coverage for other Web sites on which DoubleClick places its advertisements, according to one insurer representative, who asked not to be identified.

In a case filed against Yahoo! last month in U.S. District Court in Los Angeles, the plaintiff claims the Web portal regularly discloses, under subpoena, a user's personal information to third parties without prior notice to the user, said Megan Gray, a partner at Baker & Hostetler L.L.P. in Los Angeles. She represents the plaintiff.

That suit accuses Yahoo! of violating the constitutional and contractual right to privacy of an Ohio man who uses the Web pseudonym of Acquacool-2000.

He lost his job after posting disparaging remarks about his employer on a Yahoo! financial message board. The employer sought the user's identity through a subpoena—a practice critics say is becoming more common as companies seek to identify detractors on the Internet.

Acquacool's suit also names his employer, and seeks unspecified monetary damages and an injunction forcing Yahoo! to warn users before it releases their identities.

A spokeswoman for Yahoo! in Santa Clara, Calif., said the company does not comment on pending litigation. Yahoo! instituted a policy in April, however, before the Acquacool lawsuit was filed, of warning users before releasing their identity, she said.

Ms. Gray said she expects to see more such claims because soon after Acquacool's suit was publicized she received numerous telephone calls from potential plaintiffs with similar concerns.

The field is wide open for attorneys who want to gather plaintiffs with similar complaints for a class-action filing, she added.

"My guess is that now that the blood is in the water there will be a lot of plaintiffs' attorneys sniffing it up," she said.

Ms. Gray said she believes many Internet companies could be leaving themselves open to lawsuits because the privacy policies they post on their sites to warn users may be inadequate.

Those privacy policies frequently are written by a company's marketing department to ease consumer fears about conducting business on the site. They are not written with an eye to the company's legal liabilities, she said.

Additionally, some Web sites have links to other sites, making it unclear whose privacy policy applies, Ms. Gray said. The privacy policies posted on Web sites often do not address that issue, she noted.

Insurers say that practice could also pull more of them into lawsuits. That would happen, they say, as plaintiffs attorneys look for anyone they can hold responsible in future privacy suits in-

volving more than one site.

Whether CGL policies are liable for defense and indemnity costs in such actions is likely to be the subject of expensive coverage disputes.

Several, but not all, new Internet specialty policies would provide coverage for the privacy liability claims, insurers say. Relatively few of those policies have been sold, however, and their underwriters likely carefully weighed liability exposures specific to the Internet and the policyholder before they wrote coverage.

An E-Risk Protection Program offered by The Fidelity & Deposit Cos. purposely does not include coverage for Internet privacy liabilities because the issue is still evolving, said Thomas Beach, senior vp-risk management solutions for F&D's Financial Services Division in Baltimore.

U.S. lawmakers are just now considering the issue and could take their lead from the European Union, which has enacted very stringent laws regarding consumer privacy, he said.

CGL policies have been crafted or issued, though, without thought to the sort of privacy concerns now being generated by the Internet, Mr. Beach and other insurance sources agree.

Internet privacy disputes would trigger coverage under the most recent CGL form issued by the Insurance Services Office Inc. in New York, as well as older CGL forms, contends Kirk A. Pasich, a policyholder attorney and chairman of the insurance coverage group at Troop Steuber Pasich Reddick & Tobey in Los Angeles.

The personal and advertising injury sections of those CGL policies include coverage for oral and written material that violates a person's right to privacy, Mr. Pasich explained.

None of the 10 exclusions in the most current CGL form address Internet or e-commerce risks, he added.

"I think the insurance industry should be worried because I think these things are covered," Mr. Pasich said of Internet privacy lawsuits. "I would not hesitate one second to seek coverage under a CGL policy."

Not everyone agrees, however, that the CGL forms hold insurers responsible. The Internet lawsuits do not contain the traditional elements for privacy violations that CGL policies were intended to cover, said Andre Cronthall, head of the insurance practice for Sheppard Mullin Richter & Hampton in Los Angeles.

He said he expects insurers to fight coverage. At most, he said, they would only provide a defense with a reservation rights to deny indemnity.

Yet that could still end up costing insurers plenty to defend themselves in coverage disputes.

"Insurers are very concerned because it's not their intention (to provide coverage), but they get nailed all the time by things that were not their intention," Brown & Ridding's Mr. Taffae said. "Even to say it's not covered, it could still cost them a lot." **BI**

Tort

Continued from page 2

consuming and expensive bidding process when seeking to recover small amounts of money.

Mr. Schwartz also called for subjecting contingency fees to "objective determination" based on the real work provided by outside law firms, and said that states should not be granted greater rights to sue than private individuals enjoy.

"Their right to sue should not be greater than yours," he said, noting that legislation designed to level the litigation playing field has already been introduced in Congress.

The controversy over state attorneys general hiring private law firms to handle mass litigation arose from the various state suits brought against the tobacco industry in the 1990s. In some

cases, the outside law firms received more than 30% of the awards—which were intended to recoup state Medicaid costs associated with smoking-related illnesses—as their contingency fees.

Mr. Schwartz's call for sunshine laws received qualified support from one of the private attorneys involved in the tobacco litigation. "I don't oppose sunshine laws, provided that the right elements are there in the bidding," said John Coale, partner in the Washington law firm Coale, Cooley, Lietz, McInerney & Broadus. Mr. Coale said simply requiring states to go with the lowest bid would be unacceptable, and factors such as the law firm's degree of experience should be taken into account.

Mr. Coale added that reform should not be imposed on the plaintiffs bar alone, and said that it should not be retroactive, such as attempting to reduce an agreed-upon a contingency fee after the award has been made.

The third participant in the discussion—Jonathan Turley, professor of public interest law at George Washington University in Washington—advocated limiting contingency fees in cases involving very large awards.

"What they are is a windfall," he said. "There has to be some limit—this isn't supposed to be like Vegas where, if you play red long enough, you hit the jackpot."

Mr. Coale said that calling for reform of the state/trial attorney relationship because of the tobacco suits "is really looking backward." When the first states began considering the suits in 1993 and 1994, no one realized that they would ultimately win, he said. For the trial attorneys involved, most of whom were already financially comfortable, the suits represented the ultimate legal challenge, he said.

"We thought it would be the Super Bowl of law," said Mr. Coale. **BI**

Equity

Continued from page 1

majority of states financed second-injury and other special funds by assessing insurers and self-insurers on the basis of prior losses.

In recent years, though, several market and regulatory changes have caused some system participants to ask whether they are paying more than their fair share of system costs.

"Some of our (self-insurer) members are questioning the equity in their states of the method of determining their assessments," said Larry Holt, executive director of the National Council of Self-Insurers in New Providence, N.J., which will review Mr. Hofmann's study at its annual meeting this week.

In particular, self-insurers are concerned that large-deductible policies are allowing insured employers to avoid paying their fair share, Mr. Hofmann said.

Large-deductible policies initially were designed by insurers to reduce the burden of residual market loads. Once markets improved and the residual market was no longer a problem, insurers continued to market the policies to employers as a way to retain risk while paying lower assessments compared with self-insurance.

That advantage stemmed from the fact that many states levy assessments on the relatively small premium insurers actually collect, net of the large deductible portion of the policy. For example, an insurer writing a \$1 million policy with an \$800,000 deductible may be able to report for assessment purposes only the \$200,000 premium the employer actually paid.

In many states, however, self-insurers are still assessed based on "full" or "imputed" premiums, which are derived from the self-insurer's prior losses.

In terms of the NCSI's complaints about the impact of insurers reporting premiums net of the large deductibles, "They don't think it is equitable, and I agree," said Mr. Czyrka of the IAABC.

A major insurer trade association acknowledges the need for equitable assessments.

"The AIA's policy is that assessments should be gross of the deductibles, as it is in most states," said Bruce Wood, assistant general counsel with the American Insurance Assn. in Washington.

Some states, however, have followed a different path. Florida, for example, allowed insurers to report premiums net of both large deductibles and ceded reinsurance, he noted. That practice is "a major reason" that the state's workers compensation funds are chronically under-

funded, he said.

As large-deductible plans have gained in popularity, assessment rates have increased, especially in premium-based states, while statutory caps on assessments have kept a lid on the total funds collected, which has resulted in shortfalls in some states, Mr. Hofmann said.

In addition, some self-insurers "are dropping out of self-insurance and selling off their past liabilities to avoid assessment liability," the IAABC's Mr. Czyrka said.

Another factor influencing state workers comp assessments is an accounting rule change that requires publicly held companies to immediately accrue on their financial statements estimates of future liabilities for all insurance-related assessments based on paid losses (BI, Sept. 6, 1999). Before the rule change, only the assessments of the current year were reported in a company's financial statements.

Since the biggest exposure to assessments based on paid losses comes from second-injury funds, the American Insurance Assn. has been lobbying states to change the basis of the funding mechanism to premiums rather than losses, or to abolish the funds altogether. This could reduce the liability that must be recognized, because the typical one-year duration of an insurance policy is less than the open-ended liability an insurer or self-insurer would face for second-injury claims.

The AIA's efforts to encourage states to switch assessment bases to premiums from losses should not shift any financial liabilities to self-insurers from insurers, if states follow the AIA's recommend approach, Mr. Wood said.

Under that approach, "the assessment for both insurers and self-insurers continues to be based on their proportionate of paid losses," he said.

Shifting the assessment base to premiums, however, does require self-insurers to convert their losses to premiums, which requires difficult and complex calculations that many self-insurers would prefer not to do, he said.

This year, South Carolina's Legislature approved a measure, S.B. 721, that would change the funding mechanism to premiums from paid losses, said the AIA's Mr. Wood. The bill still needs the governor's approval. Discussion about similar reforms are being held in several states, including Illinois, Maryland, Michigan, Nevada and New Hampshire, Mr. Wood said.

The IAABC also is researching the various issues surrounding state workers comp assessments. This week, its self-insurance committee is sending out a 44-question survey all U.S. jurisdictions, said Mr. Czyrka.

"The focus will be the development

of a model assessment method that will be equitable and can be used by all jurisdictions," Mr. Czyrka said in a cover letter that accompanied the survey.

Developing a model assessment method will be particularly challenging because fairness and simplicity are "conflicting goals," observed Mr. Hofmann of SIGMA Consulting.

In addition, any model assessment mechanism must include adequate regulatory oversight of the multiple state agencies involved in collecting necessary data, determining assessments and collecting the money, he said. Failure to do so may create an opportunity for "manipulating the system" by interested parties seeking to avoid their fair share, Mr. Hofmann said.

Getting any model funding mechanism enacted into law also will be a challenge.

"It's a very difficult issue to deal with in state legislatures," Mr. Czyrka said.

That is especially true in Florida, which allows insurers to report premiums net of both large deductibles and ceded reinsurance. Florida's assessment base shrunk by about \$4.5 billion over the last six years due to the growing popularity of large-deductible policies, and by \$25.4 million over the past three years due to net reporting of ceded premiums, according to estimates by the Insurance Services Office Inc.

Florida's problems began in 1997, when it eliminated a clear statutory definition of "net direct written premium" from its assessment rules as part of a rule reduction initiative, said Laura Taylor, policy coordinator for the state's Division of Workers Compensation. Several insurers subsequently decided to exclude from their assessment base premiums for ceded reinsurance, and are now seeking up to \$303 million in refunds either through litigation or pending requests.

In addition, several employers that had been large self-insurers—including the state of Florida itself—decided to purchase large-deductible policies to reduce their assessments, too.

The Florida Legislature recently passed a bill, S.B. 2532, that would rectify most of the problems by closing the loophole for ceded reinsurance, though a partial loophole still exists for large-deductible policies.

"Any jurisdiction asked to make changes is focusing on the crisis down there and then will have some tough soul-searching to do," Mr. Czyrka said.

The timing is right for a national analysis, Mr. Hofmann said. "If we are going to fix these things, now is the time to do it, while the plans are depopulated and profitable, rather than during a crisis," he said. **BI**

Pricing

Continued from page 2

turns rather than the actual performance of aggregate event risks.

"The central thesis is that the pricing is really driven by reinsurers and reinsurers price correctly, given that they have concentrations in their own portfolios," said Christopher McGhee, a managing director at Marsh & McLennan Securities in New York.

For example, Mr. McGhee said, reinsurers tend to charge a marginally higher price to take on Florida windstorm risk than the underlying risk alone would merit, because they already have a high percentage of that risk in their portfolios.

"They'll charge a higher price for a dollar of the same Florida risk than they would for some purely diversifying risk," such as, for example, Chilean earthquake risk, he said.

"So what we're saying in the paper is that cat bonds are being priced as if

they are Florida hurricane risk," Mr. McGhee said. That pricing might not make sense, though, if the risk is being transferred to an investor for whom it might be uncorrelated with other investments, he said.

The report was written by Kenneth A. Froot, who is the Andre R. Jakurski professor of business administration and director of research at Harvard Business School; and Steven Posner, a vp at Goldman Sachs & Co.

The authors allowed that catastrophe risks need to be priced at a rate that covers the chance of loss, the expenses and a profit factor for assuming the risk.

But, noted Mr. McGhee, the consensus is "insurance securitization is expensive relative to conventional reinsurance."

"Said another way, if you're a non-insurance investor, you ask yourself the question, 'Do I want to provide capacity cheaper than the reinsurers are providing capacity?'" he said.

Given that catastrophe and weather

risks tend to be uncorrelated with the returns on other investments in diversified financial portfolios, and that the cat and weather risks underlying the securities are small relative to the risks in financial markets, the answer to that question may be "yes," the report suggests.

"We're building toward that argument that reinsurers charge differently because they need to, because of their concentrations and different elements in their portfolios," Mr. McGhee said.

But reinsurers suggest that in pricing risk, they consider the possibility of the event occurring, setting their price with an eye toward meeting costs and margin even if that happens.

A capital markets investor, on the other hand, may accept a lower price for the risk simply because of the event's probability, reinsurers say. That price, though adequate in years the event doesn't occur, will be far from sufficient if it does occur and the investor loses principal.

Updates

Second asbestos claim OK'd

Continued from page 2

The case involves the late Arthur Mitchell, who worked in various industrial workplaces where he was exposed to asbestos. He developed asbestosis and in 1993 sued defendants including Asbestos Corp. Ltd., a Canadian company based in Thetford Mines, Quebec.

Before the trial, though, he was diagnosed with a malignant peritoneal mesothelioma, a rare and fatal cancer primarily triggered by exposure to asbestos, according to the decision. He then filed another action. A jury subsequently found Asbestos Corp. liable and awarded compensatory damages for both diseases. Mr. Mitchell died in 1997.

"Except for the likelihood that both were initially triggered by Mitchell's occupational exposure to asbestos, the two were unrelated in all respects," said the court in returning the case to the appellate court to resolve other issues in the case.

The decision is "extremely important" in confirming that these second actions can be brought, said attorney Gilbert Purcell with Brayton, Harley & Curtis in Novato, Calif., who now represents Mr. Mitchell's daughters.

Defense attorney James N. Sinunu, with Adams Nye Sinunu Walker in San Francisco, said the decision may lead to increased litigation.

Challenge to CIGNA dismissed

SAN FRANCISCO—A California Superior Court judge has dismissed a lawsuit that two insurers filed against CIGNA Corp. and its former property/casualty operation over the operation's 1996 restructuring.

In the restructuring, CIGNA used a unique Pennsylvania law to split then-subsidiary Insurance Co. of North America in two. INA's ongoing business remained with the company, while most of INA's pre-1996 liabilities were moved to a separately capitalized runoff facility. The restructuring earned INA a higher rating from A.M. Best Co. ACE Ltd. acquired both the ongoing business and the runoff facility in July 1999.

Policyholders—many of which were in coverage disputes with CIGNA—along with several insurer competitors of CIGNA filed suit over the reorganization. The Pennsylvania Supreme Court last July upheld the reorganization.

Two of CIGNA's rival insurers, units of American International Group Inc. and Chubb Corp., continued their legal battle against the reorganization, though, by filing suit in California state court in December 1999. The insurer groups charged that the restructuring violated a California insurance novation statute and that CIGNA misled policyholders whose coverage was moved to the runoff facility by failing to notify them that their guaranty fund protection had been jeopardized.

The California Superior Court ruled that the insurers' complaint does not state a cause of action under California law and that the validity of the reorganization is a regulatory matter. The court also ruled that the insurers have not alleged any current or reasonably foreseeable injury to policyholders.

Representatives for both AIG and Chubb said the insurers were studying the decision and had not decided whether they would appeal.

Briefly noted

China will give seven new licenses to European life and property/casualty insurers as part of a trade agreement between China and the European Union signed last Friday. The agreement eliminates one of the last major obstacles to China joining the World Trade Organization. . . . The Insurance Services Office Inc.'s Property Claim Services unit has declared the **Los Alamos, N.M., wildfires** a catastrophe, meaning that the fires have caused at least \$25 million in insured property damage. . . . **Jeffrey W. Greenberg** was elected chairman of Marsh & McLennan Cos. Inc. at the company's board meeting. He succeeds A.J.C. Smith, who is retiring. . . . The Circuit Court of Cook County in Chicago has given preliminary approval to a settlement in a class-action lawsuit against Sara Lee Corp. involving a 1998 **recall of meat products** linked to the listeria bacteria. Under the settlement, each claimant will receive up to \$50,000, depending on the degree to which he or she was harmed by the contaminated meat. The deadline for potential class members to file claims is Sept. 21. . . . **Texas physicians can join together** to negotiate with insurance plans without violating antitrust rules under final regulations issued by the state attorney general last week.

Catastrophe-linked security pricing won't really sort itself out properly until some significant cat bond losses are suffered, some say.

So far, Marsh & McLennan Securities hasn't heard any comments about the study from reinsurers, Mr. McGhee said. "We obviously know that people are asking for the paper fairly aggressively."

The firm intends to do further research on the subject, Mr. McGhee said. "We think, as a dealer in these securities, we have a responsibility to provide research and insight into the subject of how these things should be priced."

Regarding the fact that Marsh & McLennan Securities, the investment banking arm of Marsh & McLennan Cos. Inc., has released the report in conjunction with Guy Carpenter, Marsh's reinsurance intermediary, Mr. McGhee said he thinks both organizations share similar aims.

"At Marsh Securities, we are looking to find the most efficient mecha-

nism to transfer risk off the balance sheet of our clients, and I know Guy Carpenter is looking to do the same thing for their clients," he said.

If the efficiency of risk securitization could be increased, it could increase overall capacity for risk transfer, benefiting the entire insurance market, Mr. McGhee said.

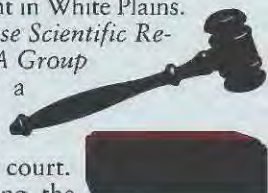
"It's still true that in many cases, insurance companies feel very constrained in the amount of capacity they want to provide their insureds," he said.

For example, Mr. McGhee said, in cases like Florida hurricane or California earthquake, while insurers and reinsurers want to serve customers, "correctly, from a corporate perspective, they are wary of collecting too concentrated a portfolio of risk."

Copies of "Issues in the Pricing of Catastrophe Risk" are available from Guy Carpenter by calling 212-323-1344. The report also may be downloaded from www.guycarp.com.

FTR FOR THE RECORD

► BROKER E&O Insurance brokers are professionals, making malpractice suits brought against them subject to a three-year statute of limitations, according to a ruling last week by the New York Appellate Division, Second Department in *White Plains*. The ruling in *Chase Scientific Research Inc. vs. NIA Group Inc.* contradicts a 1999 decision by the First Department of the same court. In that earlier ruling, the court held that brokers were not professionals and, consequently, disputes involving them were subject to breach-of-contract laws, which have a six-year statute of limitations. Last week's ruling involved a malpractice suit brought by Chase Scientific Research Inc., a precision rotor manufacturer in Hawthorne, N.Y., against its insurance brokerage, NIA Group Inc. of Paramus, N.J. Both cases are among the first to be heard involving insurance brokerages since the New York Legislature amended the state's civil practice laws and rules, broadening the notion of professional malpractice and the number of professions to which the three-year statute of limitations applies. The Chase case will likely be appealed to the state's highest court, said Roger Barton, a partner at Barton & Zasky in New York, who represented Chase.



► FRAUD CHARGES CONTESTED Louisiana Insurance Commissioner Jim Brown and other defendants indicted in an insurance fraud case are asking that some of the charges be dismissed. The defendants were charged on 43 counts of insurance fraud and are accused of helping the owner of defunct Cascade Insurance Co. avoid a \$27 million lawsuit by the state. All of the defendants have pleaded innocent to the charges. Mr. Brown faces an additional 13 counts of making false statements to federal officials. Defense attorneys claimed



Mr. Brown

in the motions filed last week that the government failed to properly outline its allegations that defendants illegally influenced or attempted to influence insurance regulators. Attorneys argued that all but two of the charges against Mr. Brown of making false statements should be dismissed because they fall short of being "separate, distinct and unrelated," as the law requires. A status hearing will be held this week to determine whether the trial, scheduled for June 19, should be postponed.

► NEW TOWERS PERRIN UNIT Benefit consultant Towers Perrin is launching a new business unit, Strategic Benefits Financing, to help employers develop new financing tools to reduce benefit costs and fund benefit programs. Among other things, the unit will aim to help clients reduce the cost of providing benefits to employees working outside the United States and explore ways to tap the value of surpluses in pension plans. "These issues are frequently addressed only as an adjunct of benefits design. We are addressing them head-on from both design and financial implications," said Mitchell Cole, a Towers Perrin principal in New York who will direct the new business unit.

► REGULATOR CHANGES NAME The board of directors of the Insurance Regulatory Information Network recently changed its name to the National Insurance Producer Registry. The name change reflects efforts by the National Assn. of Insurance Commissioners to establish "a streamlined national producer-licensing process," said Glenn Pomeroy, NIPR board president and North Dakota insurance commissioner. Plans are for the NIPR to act as an electronic clearinghouse for the licensing of non-resident producers that are in good standing in their home states, without imposing additional restrictions or qualifications not required of resident producers. The Kansas City, Mo.-based service is expected to become available during the third quarter of this year. Until the NIPR establishes its own Web site, information is available from the IRIN by calling 816-783-8468 or by visiting its Web site at www.irin.org.

► TOBACCO SUITS A Maryland appeals court has ordered a lower court to decertify two

classes as part of a class-action lawsuit filed against the tobacco industry. The state appeals court last week ruled in a 4-3 vote that the Circuit Court for Baltimore City erred in not granting tobacco companies' motion to decertify the classes in the so-called Richardson case were

for serious injury and death claims and claims for nicotine dependence. Plaintiffs filed the suit in 1996 seeking compensatory and punitive damages from tobacco companies for smoking-related illnesses. The appeals court agreed with tobacco companies that plaintiffs failed to meet the requirements for certifying a class, one of which is manageability of a large number of issues. Meanwhile, Judge Robert Kaye in Dade Circuit Court in Miami postponed until May 22 the punitive damages phase in a case that seeks damages for a class of sick smokers in Florida. A jury already ordered tobacco companies to pay \$12.7 million in compensatory damages.

► APIW RECEPTION The Assn. of Professional Insurance Women is sponsoring a cocktail reception on June 6 to honor Teresa L. Pahl, APIW's Insurance Woman of the Year for 2000. The reception will be held at The Marriott World Trade Center's Harvest Room in New York from 5:30 p.m. to 7:30 p.m. Speakers will include Ms. Pahl, executive vp of Aon Group Inc. and a member of the Aon Group board; and Aon Corp. Chairman and Chief Executive Officer Patrick G. Ryan. The cost to attend is \$75 for both members and non-members, and the deadline for registration is June 5. For more information, contact the APIW at 203-321-8660 or visit www.apiw.org.

► DOCTOR ANTITRUST BILL The chief sponsor of a bill that would exempt physicians from federal antitrust laws when they bargain with health care plans is predicting victory when the full House votes on the measure this week. Rep. Tom Campbell, R-Calif., said that 218 members of Congress have joined

him as co-sponsors of the Quality Health Care Coalition Act, more than enough to guarantee passage. Opponents of the measure, including employer and insurer groups, hold that the bill will allow doctors to form cartels to limit competition and thus increase the cost of health care.



► RESEARCH E&O COVER Clinical research organizations can purchase broad new professional liability insurance from The St. Paul Cos. Inc. The insurer is offering up to \$65 million in limits for professional liability and non-medical errors and omissions insurance to research labs that test medical drugs. The professional liability insurance covers a research organization, its nurses, lab technicians and medical doctors. Coverage is available for employed and contracted doctors. The non-medical E&O insurance covers exposures related to record keeping, data transfer and data collection.

► BRIEFLY NOTED Frontier Insurance Group Inc. of Rock Hill, N.Y., will sell its personal lines insurer, Regency Insurance Co., to Tomoka Re Holdings, an affiliate of Tower Hill Insurance Group, for an undisclosed sum. . . Oregon voters last week rejected the insurer-supported Ballot Measure 81, which would have allowed lawmakers to cap awards in personal injury lawsuits. . . The race for Delaware insurance commissioner is heating up, as Democrat Karen Weldin Stewart plans to announce her candidacy May 24. Ms. Stewart, a former deputy with the Insurance Department, is a certified insurance receiver. Incumbent Donna Lee Williams, who was elected commissioner eight years ago, said she expects to be slated for a third four-year term by state Republicans, who were in caucus this weekend. **BI**

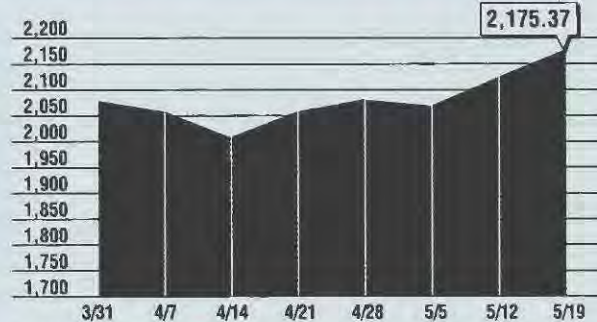
► To get breaking news as it occurs, visit Business Insurance's free online Updates at www.businessinsurance.com. All of the material in the For The Record column, as well as other content in this week's issue, is generated from daily news postings that appeared on the Web site in the previous week.

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BI Industry Stock Report MAY 15, 2000, THROUGH MAY 19, 2000

BROKERS							INSURERS/REINSURERS							HEALTH MAINTENANCE ORGANIZATIONS									
Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)		Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)					
BROKERS							BROKERS							HEALTH MAINTENANCE ORGANIZATIONS									
Aon Corp.	NYS	33.00	1.34	-17.50	46.41	20.69	3713	Gainsco Inc.	NYS	5.38	-6.52	0.00	6.94	3.94	560	United Fire & Casualty	NDO	16.81	3.46	-25.69	27.25	16.00	145
Clark Barde Holdings	NDO	16.00	10.34	11.30	21.00	11.63	67	Harleysville Group	NDO	16.83	3.50	16.67	20.88	11.83	438	Unitrin	NDO	32.13	-2.19	-14.62	42.38	30.69	171
E.W. Blanch Holdings Inc.	NYS	24.75	14.78	-59.59	71.75	16.56	637	HSB Group Inc.	NYS	27.75	-1.11	-17.93	42.25	21.50	362	UNUM Corp.	NYS	20.19	5.90	-37.04	56.88	11.94	6570
Gallagher Arthur J. & Co.	NYS	38.00	5.01	17.37	39.50	23.06	617	HCC Insurance Holdings	NYS	14.88	9.68	12.80	25.13	8.00	467	Vesta Insurance Co.	NYS	5.63	12.50	45.16	7.88	3.44	274
Hilb, Rogaf & Hamilton	NYS	30.25	6.14	7.08	30.25	18.25	249	ING Groep N.V.	NYS	56.50	0.56	-7.38	63.94	46.81	484	XL Capital Ltd.	NYS	52.88	8.88	-1.93	67.19	39.00	2439
Kaye Group Inc.	NDO	7.00	0.00	-16.42	11.88	5.00	N/A	IPC Holdings Ltd.	NDO	14.75	4.42	-0.84	22.50	9.75	385	Zenith National Ins.	NYS	23.94	-2.34	-16.06	26.69	18.75	40
Marsh & McLennan	NYS	104.44	8.86	9.14	110.69	61.75	3940	Hartford Financial Services	NYS	56.38	5.87	19.00	66.44	29.38	3245	INSURERS/REINSURERS	AVERAGE		1.66	-2.33			
Brown & Brown	NYS	43.81	7.85	14.36	44.13	30.75	118	John Hancock Financial Service	NYS	20.50	-3.24	20.59	22.31	13.44	4073	HEALTH MAINTENANCE ORGANIZATIONS							
BROKERS	AVERAGE		7.11	-4.68				LaSalle Re Holdings Ltd.	NYS	13.00	1.46	-21.21	18.63	10.88	136	Foundation Health Systems Inc.	NYS	11.38	25.52	14.47	20.06	6.25	3464
								Lincoln National	NYS	34.00	-3.55	-15.00	57.50	22.63	3201	Humana Inc.	NYS	6.38	2.00	-22.14	15.19	5.88	2571
								MAIC Holdings Inc.	NYS	10.56	-3.98	-50.15	29.05	10.00	326	Oxford Health Plans	NDO	22.44	10.30	76.85	23.00	9.75	17338
								Market Corp.	NYS	139.63	1.09	-9.92	193.00	111.50	86	Pacificare Health Sys.	NDO	57.56	0.00	8.81	98.13	31.13	1455
								MBIA Insurance Group	NYS	51.75	1.97	-2.01	71.88	36.31	1143	Sierra Health Services	NDO	4.56	37.74	-31.78	16.25	2.75	579
								Meadowbrook Insur. Group	NYS	5.38	-4.44	-18.10	14.13	4.75	11	United HealthGroup	NYS	76.38	7.01	43.76	78.56	39.38	7197
								MetLife	NYS	18.19	-1.36	27.63	19.69	14.25	15948	Wellpoint Health Networks	NYS	74.56	2.67	13.08	97.00	48.25	1391
								MMI Cos. Inc.	NYS	9.94	0.00	15.25	17.44	3.31	0	HMOs	AVERAGE		12.25	14.69			
								Mutual Risk Mgmt. Ltd.	NYS	15.00	3.90	-10.78	40.50	9.81	856	ALL COMPANIES	AVERAGE		7.01	2.56			
								Navigators Group	NDO	8.94	-9.49	-8.33	16.00	8.75	124								
								NYMag Inc.	NYS	14.50	-4.92	9.95	19.50	12.00	187								
								Ohio Casualty Corp.	NDO	12.56	-8.64	-21.79	20.25	10.75	2891								
								Old Republic Int'l	NYS	17.63	1.44	29.36	20.69	10.63	2979								
								Partner Re Ltd.	NYS	37.25	1.71	14.84	41.44	28.38	199								
								Penn-America Group Inc.	NYS	8.69	2.21	12.10	11.06	5.63	26								
								PMA Capital Corporation	NDO	18.38	2.08	-7.55	21.13	15.50	62								
								Philadelphia Cons. Holding	NDO	16.13	1.18	11.21	25.19	10.81	322								
								PXRE Corp.	NYS	14.63	-0.43	12.50	19.56	9.94	31								
								Reliance Group Holdings	NYS	2.44	8.33	-63.21	10.88	2.25	1833								
								ReliaStar Financial Corp.	NYS	51.06	0.00	30.30	51.75	23.75	3888								
								RenaissanceRe Holdings Ltd.	NYS	41.44	2.95	1.38	43.19	30.88	190								
								Arch Capital Group Ltd.	NDO	15.25	-2.79	20.79	17.38	11.00	102								
								RLI Corp.	NYS	34.06	0.18	0.18	38.81	26.25	54								
								St. Paul Cos.	NYS	36.38	2.46	7.98	38.13	21.31	5354								
								SCOR	NYS	40.13	-10.08	-9.32	56.75	39.75	8								
								SAFECO Corp.	NDO	22.81	7.99	-8.29	46.75	18.00	3812								
								SCPIE Holdings Inc.	NYS	24.75	2.06	-22.96	36.94	23.06	NA								
								Seibels Bruce Group	NDO	1.34	-25.88	-23.21	6.25	1.25	74								
								Selective Ins. Group	NDO	20.13	5.92	17.09	22.50	14.63	323								
								Tokio Marine & Fire	NDO	55.25	1.84	-6.55	67.00	45.00	69								
								Torchmark Corp.	NYS	25.00	3.36	-13.98	36.00	18.75	1257								
								Transatlantic Holdings	NYS	87.69	4.62	12.33	88.75	68.75	46								
								Travelers Property Casualty	NYS	42.00	0.00	22.63	42.00	27.69	0								
								Trenwick Group Inc.	NYS	13.38	-2.73	-21.03	32.00	12.00	308								
								Unico American Corp.	NDO	6.63	0.95	-5.36	10.75	4.50	38								

BI Insurance Index



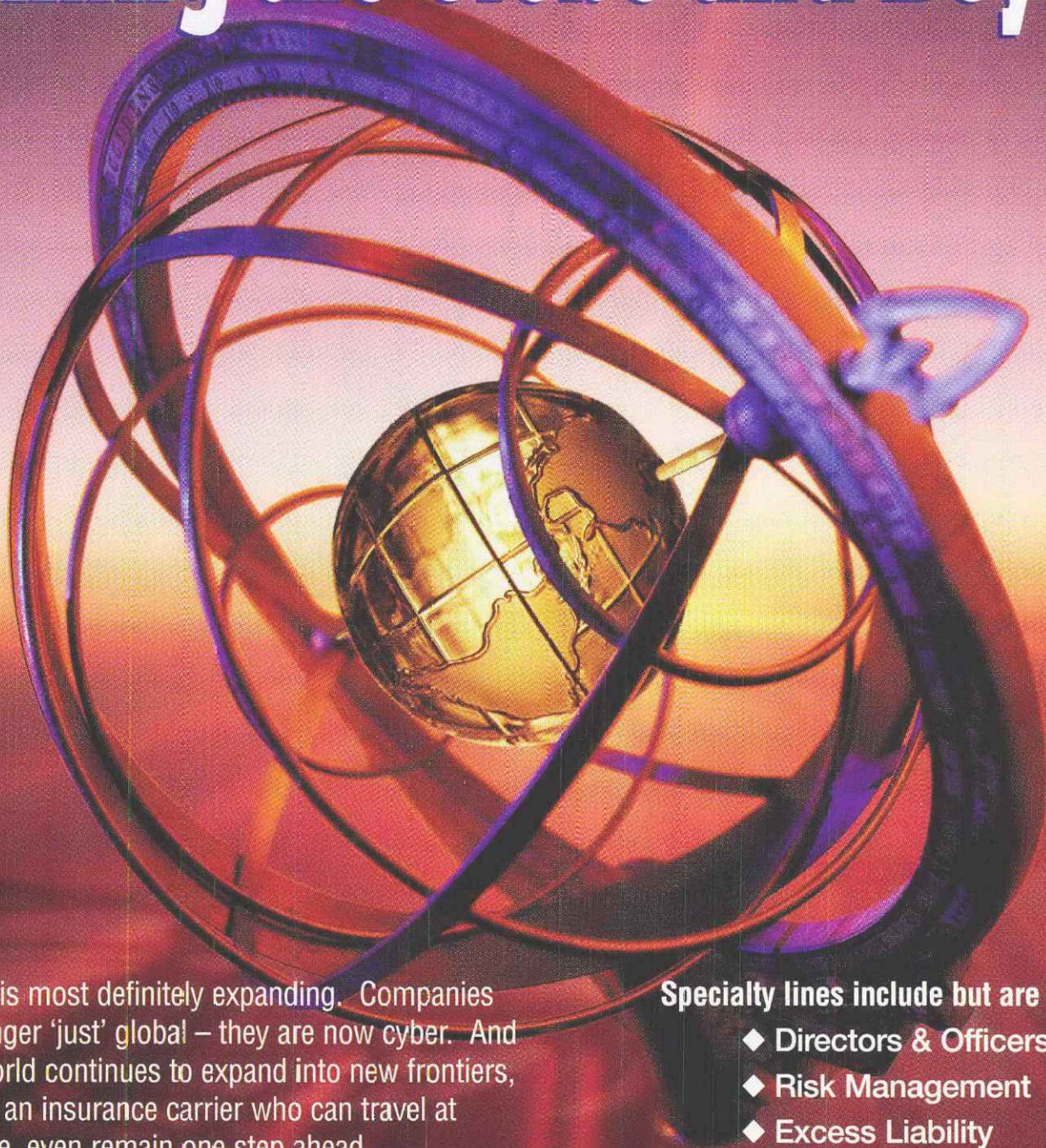
Base=100 on Dec. 29, 1978

Top advancing issues: Frontier Insurance Group, Sierra Health Services, Foundation Health Systems Inc. Leading decliners: Seibels Bruce Group, SCOR, Navigators Group. Most active issue: Citigroup. The BI Index increased 2.4%; the Dow Jones 30 Industrials went up 0.2%; the S&P 500 decreased 1.0%, and the NYSE Composite dropped 0.5%. Average P/E: Brokers, 19.8; Insurers/reinsurers, 17.0; HMOs, 12.7

Source: CNET Investor (investor.cnet.com) Boulder, Colo.

Reliance National

Spanning the Globe and Beyond



The World is most definitely expanding. Companies are no longer 'just' global – they are now cyber. And as this world continues to expand into new frontiers, businesses need an insurance carrier who can travel at technology's pace, even remain one step ahead.

At Reliance National, our product portfolio combined with our reach - both on earth and in cyberspace - does just that...offers client's coverage to safely navigate on earth and over the internet. With offices in the U.S., Canada, Latin America, Europe, Southeast Asia, Africa, and of course, Cyberspace...we allow our insureds to target whatever part of the international business world they desire.

When looking for a comprehensive commercial insurance product portfolio, come to Reliance National...domestic, international or cyber...we reach all the right places.

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Specialty lines include but are not limited to:

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- ◆ Risk Management
- ◆ Excess Liability
- ◆ Professional Liability
- ◆ Healthcare
- ◆ Integrated Benefits
- ◆ Ocean Marine
- ◆ Petrochemical/Energy
- ◆ Property
- ◆ Construction

THE CHOICE



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