

MAY 23, 1994

Updates

Business Insurance

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Insurer sues Massachusetts over large deductible rules

BOSTON—Several Liberty Mutual Insurance Co. units filed suit last week challenging Massachusetts insurance regulations that remove some of the cost advantages of large-deductible workers comp policies.

Liberty Mutual says the regulations illegally impose various taxes and assessments on insurers that write—and employers that purchase—such policies, according to court papers filed in the Supreme Judicial Court of Massachusetts in Boston.

In most states, employers with a large-
Continued on next page

Dingell reduces regulatory proposal's scope

By MARK A. HOFMANN

WASHINGTON—Rep. John Dingell, D-Mich., is not winning many converts to his latest plan for creating a system of federal regulation for certain insurers and reinsurers.

The House Energy and Commerce Committee chairman unveiled the outlines of his new, stripped-down version of H.R. 1290, the federal solvency regulation bill, during an address to the Bureau International des Producteurs d'Assurances & de Reassurances, an international brokerage organization, in Washington last week.

The proposal would create a federal regulatory system for foreign insurers and reinsurers that do business in the United States, allow federal licensing for some U.S. commercial lines insurers, and give captives and risk retention groups the right to seek a federal license. All other insurers would remain subject to state oversight.

The plan won plaudits from groups that previously have supported a federal role in insurance solvency oversight, like the American Insurance Assn., the Council of Insurance Agents & Brokers, the National Assn. of Insurance Brokers, the Reinsurance Assn. of America and the Risk & Insurance Management Society Inc.

Even the National Assn. of Insurance Commissioners offered guarded praise for the proposal. NAIC President David Walsh said the group was "cautiously encouraged" that Rep. Dingell had slimmed down his bill.

Mr. Walsh added that the new proposal "in some way" resembles an NAIC proposal that would give the NAIC the authority to act as "gatekeeper" for non-U.S. underwriters. He urged Rep. Dingell to adopt the NAIC approach.

But some insurance groups—including the Alliance of American Insurers, the National Assn. of Independent Insurers and the National Assn. of Mutual Insurance Companies—remain adamantly opposed.

Many observers perceive Rep.
Continued on page 4

Lloyd's can't escape its past

Reserve additions for old claims trigger \$3 billion loss in 1991

By STACY SHAPIRO

LONDON—The ghost of liabilities past continues to haunt Lloyd's of London, which last week reported a global loss of 2.05 billion pounds (\$3.03 billion) for the 1991 underwriting year.

Although that is 11.6% lower than a restated 1990 global loss of 2.32 billion pounds (\$3.51 billion), it still brings the market's cumulative losses over the past four years to 6.74 billion pounds (\$10.11 billion). And, another loss of about 1 billion pounds (\$1.51 billion) is expected for 1992, after which the market may return to profitability.

Lloyd's has restated its 1989 and 1990 global losses to eliminate "double counting" from its results. Double counting occurs when members who have incurred losses make claims against other policies written by Lloyd's syndi-

cates, like personal stop-loss coverage or errors and omissions insurance, to cover those losses.

Without the new accounting, Lloyd's would have posted a 2.58 billion pound (\$3.82 billion) loss for 1991, compared with losses of 2.92 billion pounds (\$4.42 billion) in 1990, and a 2.06 billion pound (\$3.85 billion) loss in 1989.

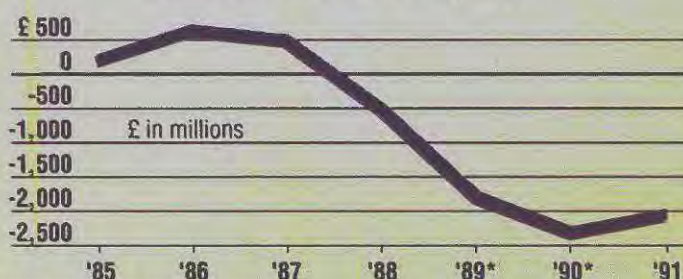
Despite the recent losses, Lloyd's is forecasting a brighter future, due in part to continuing efforts to reinvent the market. Lloyd's executives last week also stressed that the market remains solvent in spite of the large losses and that the market has a future (see story, page 29).

In addition, the pure underwriting loss for 1991 of 615 million pounds (\$909.9 million), which excludes additions to reserves and members' expenses, is 34% lower than 1990's pure-year loss of

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The worst may be over

Lloyd's has posted global losses totaling more than 6 billion pounds over several years...



... though losses would swell to more than 8 billion pounds if double counting were not eliminated.



GRAPHIC BY JOHN HALL

Health reform on snail's pace

Committees making little progress

By JERRY GEISEL

WASHINGTON—If Congress is going to pass major health care reform legislation this year, legislators will have to pick up speed.

While both the Senate Labor and Human Resources and House Ways and Means committees last week began formal consideration of reform proposals, both panels were proceeding at a snail's pace.

Members of the Labor and Human Resources Committee, which is considering a proposal advanced by Chairman Sen. Edward Kennedy, D-Mass., debated more than seven hours before voting on its first amendment to the package.

That amendment, introduced by Sen. Dan Coats, R-Ind., would require the Congressional Budget Office to provide cost estimates of the Kennedy measure before the committee could vote on the bill. The Coats amendment was defeated on a 10-7 straight party-line vote.

While the pace picked up a bit later, the committee considered only five amendments during the first two days of action and passed just one substantive proposal.

That proposal, by Sen. Jeff Bingaman, D-N.M., would allow a new national health board to recommend changes to Congress on ways to scale back the basic benefit package if the costs resulted in previously unprojected increases in the federal budget deficit. Congress could not alter the recommendations, but would have to accept or reject the entire package. That procedure is modeled after one that legislators set up in 1990 to review a commission's recommendations on which military bases should be closed.

But the Bingaman amendment, which was unanimously approved by the panel, is just one of about 100 amendments already before the Labor and Human Resources Committee, with many more certain to follow.

If the committee's current leisurely pace continues, it could be weeks before it completes final action—known as the chairman's mark—on the Kennedy measure.

Sen. Kennedy earlier said he wanted to approve the bill, which is based on the Clinton administration's health care reform proposal, by Memorial Day.

Indeed, committee member Sen.
Continued on page 31

Record cat losses not seen as having big market impact

By JUDY GREENWALD

Do not expect dramatic changes in the property/casualty insurance market this year despite insurers' lousy first quarter.

Although insurers were hit with record catastrophe losses in the first three months of 1994, overall market conditions apparently are not bad enough to cause rates to rise dramatically.

"We have not seen any real strong evidence of any strengthening in price adequacy," said Alan Levin, director at Standard & Poor's Corp. in New York.

"There are certain small pockets which seem to be holding up well, but any real improvement does not seem to be in evidence at this point."

"We're very negative on the outlook. We think that the industry is continuing to underprice its product," said Mr. Levin.

"I don't see anything that would lead me to think that there's been any changes that would cause a turn" in the market, said George P. Yonker, vp-finance at SAFECO Corp. in Seattle.

Michael Crall, president of Argonaut Insurance Co. in Menlo Park, Calif., agreed. "Results were pretty ugly, but I would say I haven't seen any evidence that it's impacting the end of the market that we operate in, which is the liability and workers comp area."

Others point out that market conditions are not as bad as they appear on the surface, reducing the need for big price hikes.

"If you look at the first quarter, excluding catastrophe losses, both this year and last, companies in general had between a two and three point improvement in their underwriting results. We think that this is because of continued, very favorable underlying

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1st QUARTER
Property/Casualty Insurers

Updates

Liberty Mutual fights new rules

Continued from previous page
deductible program usually pay nearly all their own losses. As a result, premiums for catastrophic coverage are very small, as are premium-based taxes and residual market assessments.

Since Jan. 1, though, Massachusetts regulations provide that any deductible payments or reimbursements made by insured employers shall be considered "premium" for all tax and assessment purposes. In addition, deductible payments made by insured employers are considered part of an insurer's net workers comp premiums written for purposes of determining an insurer's assigned risk pool responsibilities.

This approach raises the cost of doing business in the state, where Liberty Mutual sells a workers comp policy with a \$100,000 per-claim deductible, a spokesman for the Boston-based insurer said.

Liberty Mutual seeks both preliminary and permanent injunctions to halt application of the regulations as well as rulings that Insurance Commissioner Linda Ruthardt exceeded her authority and violated the company's constitutional rights.

An Insurance Division spokesman declined to comment.

Willis Corroon profits down

LONDON—Willis Corroon Group P.L.C.'s stock price fell 22% last week after the announcement of a 10% drop in first-quarter profits.

The broker's stock dropped to 1.83 pounds (\$2.76) per share Friday from 2.35 pounds (\$3.55) earlier in the week after it reported that its first-quarter pretax profits fell to 42.2 million pounds (\$62.9 million) from 47.1 million pounds (\$69.7 million) a year earlier.

Stock analysts had predicted year-end profits would hit 90 million to 100 million pounds (\$135.9 million to \$151 million) for 1994, but now are revising those estimates downward.

Analysts say Willis Corroon's U.S. operations are hurting from continued softness in the casualty insurance market and the retail brokerage business in general. In addition, the brokerage has incurred expenses in replacing a team of 70 construction brokers that left Willis Corroon last year to join Aon Corp. (BI, Sept. 6, 1993).

"These results are disappointing," admitted Willis Corroon Chairman Roger Elliott. "We are having some problems in our U.S. (retail) broking operations. The rate of production of new business by Willis Corroon Americas remains good, but attritional losses have been running at too high a rate. Management is taking steps to correct this."

Meanwhile, Sedgwick Group P.L.C. last week reported first-quarter profits of 43.6 million pounds (\$65 million), unchanged from a restated profit of 43.6 million pounds a year earlier, which was in line with analysts' forecasts. Sedgwick's stock fell to 1.91 pence (\$2.88) per share Friday from 1.94 pence (\$2.93) on Monday.

Ex-Gooda underwriter testifies

LONDON—Former Gooda Walker Ltd. underwriter Anthony Willard admitted in court last week that he quit the agency in 1989 because he was told to keep quiet rather than disclose serious losses on his syndicate 299 and syndicate 298.

Before breaking down in court, he nervously explained during cross-examination, "I had a horrendous time at Gooda Walker, having told the truth about (syndicate 299's) estimated loss. I was taking considerable stick from some fellow directors who suggested that, instead of telling the truth, I should be keeping quiet, putting my head down and writing more business."

In particular, Mr. Willard said that former Chairman Anthony Gooda asked him to rewrite a letter to members telling them about the troubled state of the market after the Piper Alpha oil platform explosion in 1988. "He wanted me to write a more optimistic letter, it does not have to be the truth. I refused—sorry, I did not refuse, I just walked away and did not do anything about it," Mr. Willard said.

Mr. Willard is one of the key witnesses for the 71 members agents being sued by 3,095 Gooda Walker members who are trying to recover more than 670 million pounds (\$1.03 billion) of their syndicates' losses (BI, May 2). Former Gooda Walker underwriter Derek Walker is expected to take the stand for the defense later this week.

Asbestos coverage ruling

NEW YORK—Former asbestos manufacturers facing property damage claims can only tap insurance that was in place at the time asbestos was installed, the 2nd U.S. Circuit Court of Appeals has ruled for the second time in nine months.

Last week's ruling, which stemmed from a rehearing of a decision issued last September involving W.R. Grace & Co. (BI, Sept. 6, 1993), greatly reduces the amount of coverage available to defendant companies. Far less coverage was purchased in the 1940s and 1950s, when asbestos commonly was installed, than in the 1970s and 1980s, when it was discovered and removed by building owners.

As a result of the ruling, Boca Raton, Fla.-based Grace reinstituted a \$200 million aftertax charge, the portion of a \$300 million aftertax charge that had been rescinded when the rehearing was granted.

Grace said it will appeal the ruling. "We continue to believe that this decision is contrary to the weight of authority nationally," said Brian J. Smith, chief financial officer.

Railroad wreck self-insured

SMITHFIELD, N.C.—Liability and property losses stemming from a train wreck involving an Amtrak passenger train and a CSX Transportation Inc. freight train last week in central North Carolina will fall within the railroads' self-insured retentions.

Washington-based Amtrak and Jacksonville, Fla.-based CSX, a CSX Corp. unit, will retain responsibility for their own losses under a

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Superfund bill advances

But measure still must clear several panels in Congress

By MARK A. HOFMANN

WASHINGTON—The Clinton administration's Superfund reform proposal still faces significant legislative hurdles despite winning the unanimous approval of the House Energy and Commerce Committee last week.

The committee voted 44-0 last Wednesday in favor of H.R. 3800 after spending less than two hours discussing it and adding a half-dozen non-controversial amendments. A key subcommittee unanimously passed the compromise

legislation a week earlier (BI, May 16).

But the Energy and Commerce Committee was only one of several stops in a long legislative process. With little actual time left in the 1994 legislation session, the longer this process takes the greater the chances that Superfund reform could effectively die.

Because the bill contains a provision calling for a special tax on property/casualty insurers to pay for a new Environmental Insurance Response Fund, the measure must also be approved by the

House Ways and Means Committee.

The proposed EIRF is designed to cut down on transaction costs by providing policyholders with a portion of their cleanup costs in return for their agreement to forego suing their insurers for the whole amount.

However, the Ways and Means Committee has scheduled no hearings on the tax portion of the measure, which has bitterly divided the insurance industry. The Ways and Means Committee only

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Technical corrections measure would simplify pension rules

By JERRY GEISEL

WASHINGTON—Legislation that begins to cut through the layers of rules that have made pension plan administration complex and expensive is one step closer to passage.

The House last week approved by voice vote a so-called technical corrections bill that would ease 401(k) plan non-discrimination testing, simplify the definition of "highly compensated employee" and allow rounding of cost-of-liv-

ing adjustments in pension programs.

H.R. 3419 also would increase some employers' and employees' costs by requiring multiemployer pension plans to adopt the same vesting schedules as single-employer plans and by eliminating five-year forward averaging. Plan participants now can use averaging to reduce taxes on lump-sum pension distributions.

And, in a non-pension-related provision, the bill would increase taxes on offshore captive insur-

ance companies owned by not-for-profit entities.

Many of the pension simplification provisions were included in two tax bills Congress passed in 1992 but were later vetoed by President Bush.

The prospects for the current bill aren't clear yet. A companion bill has not been introduced in the Senate. Because of the tight congressional calendar, each day that goes by decreases the likelihood that legislation will win final

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Winston to succeed Burcke as editor of BI on July 1

CHICAGO—Paul D. Winston, managing editor of *Business Insurance*, will be promoted to editor effective July 1, Publisher and Editorial Director Kathryn J. McIntyre announced.

Mr. Winston succeeds James M. Burcke, who is leaving *BI* on June 30 after a 13-year career with the magazine to move to London.

Succeeding Mr. Winston as managing editor will be Timothy Stanton, now assistant managing editor-news for the magazine.

Mr. Winston, 31, joined *BI* in 1985 and has served as a copy editor, copy desk chief and, since January 1992, as managing editor. He has overseen the day-to-day management of the newsroom and production of the magazine, reporting to Mr. Burcke.

"Paul is a seasoned manager and editor with a firm grounding of the issues important to *Business Insurance* readers," said Ms. McIntyre. "He has worked side-by-side with Jim Burcke in developing the best editorial product for our readership. I have great respect for Paul's judgment and talent."

Mr. Winston received a bachelor of arts degree in English composition from DePauw University in Greencastle, Ind.

Mr. Stanton, 29, joined *BI* in 1989 as a copy editor.

He was promoted to assistant managing editor-news, in January 1992.

"Tim has worked closely with reporters and Jim and Paul in managing reporters' priorities for news gathering each week. His management skills and

knowledge of issues important to our readers will be great assets," Ms. McIntyre said.

Mr. Stanton earned a bachelor of arts degree in political science and journalism from the University of Wisconsin at Madison and a juris doctorate degree from Loyola University in Chicago.

"We have very much valued the contributions that Jim Burcke has made to *Business Insurance*," Ms. McIntyre said. "In addition to his leadership, insights and dedication, he has developed a team that will continue to bring the readers of *Business Insurance* the most professional, thorough and accurate reporting of events in their business each week. I personally will miss Jim and at the same time look forward to working with Paul and Tim in the years ahead."



Mr. Burcke



Mr. Winston



Mr. Stanton

Inside

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Derivative losses beginning to hit some benefit plans

By RODD ZOLKOS

Some employee benefit plans are starting to feel the heat from the risky, high-tech financial derivatives that are scorching corporate bottom lines.

Atlantic Richfield Co. earlier this month announced that an employee investment fund had lost \$22 million—or about 5% of its assets—in derivatives deals.

What's more, those losses were racked up by what was supposed to be a relatively low-risk fund that held 401(k) and other savings plan assets. The fund was managed internally.

Los Angeles-based ARCO says it intends to make participants whole and is currently in the early stages of talks with the Internal Revenue Service over the tax treatment of any further company contributions.

Benefit and investment experts say it is unusual, though not unheard of, for employee investment plans to invest in derivatives. Many 401(k) plan sponsors have shied away from complex investments like derivatives that are po-

tentially messy and difficult to explain to plan participants.

At ARCO, the losses were sustained by a \$400 million "Money Market Plus" fund that was one of four investment options in a \$1.5 billion program managed by the ARCO Investment Management Co.

Included in the fund were assets from 401(k) and other employee savings plans.

"A company spokesman described the instruments that caused the losses as "corporate notes and bank CDs with principal risks."

Experts say employee savings plans rarely are invested in derivatives—largely unregulated investments that "derive" their value from underlying assets like securities or from movements in indicators like interest rates or stock indexes.

"I would say that it's really rather unusual," said Martin Levenson, senior vp and actuary for Segal Advisors in New York. "I've not seen many 401(k)-type plans or other employee contribution

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PRIMA proposes new information facility

Possible antitrust recoveries sparked idea

By DEBORAH SHALOWITZ COWANS

DENVER—Any money recovered by state governments from the massive insurance industry antitrust litigation should be used to help launch a facility that would collect standardized loss information from public entities nationwide, the Public Risk Management Assn. proposes.

"We've gotten a very positive response that this is a viable alternative" from some of the state attorneys general that PRIMA has contacted, Executive Director Dennis Kirshbaum said in an interview at the organization's annual meeting in Denver last week.

PRIMA members have already met with representatives of the attorneys general of California, Maryland, Ohio and Washington to discuss the proposal, he said.

"The attorneys general, particu-

larly, need to be able to say, 'Here's a benefit of the litigation,' " Mr. Kirshbaum said.

At least some of the attorneys general responded favorably.

"They have an extremely provocative and interesting idea. I think if we can actually reach a settlement, it might be a useful way of returning value to the class members represented by the states," said Tom Greene, California's assistant attorney general.

He added, though, that there are no settlement talks right now.

The creation of this kind of information center is "the only solution that has more than a statewide impact," added Elizabeth Puddington, outgoing president of PRIMA and executive director of the New Hampshire School Boards Insurance Trust.

Arlington, Va.-based PRIMA proposes converting a now-dor-

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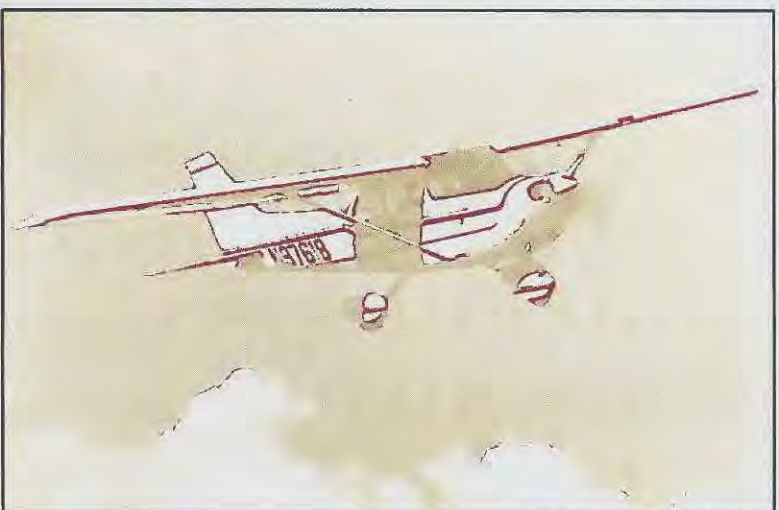


Photo courtesy of Cessna Aircraft Co.

Light aircraft manufacturers believe the product liability bill could lead to reduced litigation if passed. If it becomes law, Cessna plans to add 1,500 jobs.

Insurers' biggest error

Companies treat clients better than themselves: Byrne

By DOUGLAS McLEOD

NEW YORK—The insurance business has been good for just about everyone but the owners of insurance companies, according to John J. Byrne, the voluble chairman of Fund American Enterprises Holdings Inc. and a 50-year industry veteran.

With few exceptions, "we have been a pretty mediocre business for the owners," producing relatively low return on equity, Mr. Byrne acknowledged in a lecture delivered this month at The College of Insurance in New York.

Describing the lecture as his farewell from public speaking, he offered other observations and recalled high points of a long career.

Mr. Byrne has seen the industry from many vantage points since beginning his tenure at age 12, when he went to work at his father's New Jersey agency and remained there until college.

He has worked for 13 life and property/casualty companies during his career, including: Massachusetts Life Insurance Co.; The Travelers Insurance Co.; Government Employees Insurance Co., which he helped turn around as chairman; and Fireman's Fund Insurance Cos., where he was chairman until Fund American sold it to Allianz A.G. Holding in 1990.

"It makes me tired as hell just to look at it," he said of a slide that listed his former employers, ending with the word "Whew!"

But with that vast perspective, he offered his assessment of who has benefited from the business.

The insurance industry has provided a good living for agents and brokers, though agents have repeatedly faced problems maintaining relation-



Photo by Jane Hoffer

'We are the lubricant that allows the business world to function.'

ships with insurers through underwriting cycles and changes of insurance company management, he observed.

It's also been good for insurer management, though he acknowledged the industry has trouble attracting the best people.

"Our brightest, youngest people often went over and worked their way up on the agency side of the business," Mr. Byrne noted, suggesting that they may have seen greater rewards for initiative there. "Initiative was not applauded as much as it should have been, but there was a lot of room for it."

"It (has been) a great business for the customers," he added. "For one thing, the customers (have not been) paying nearly as much as they should have been paying" for coverage in competi-

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Coverage ruling triggers criticism by attorneys

By JOANNE WOJCIC

NEW YORK—The personal injury endorsement in commercial general liability policies does not cover pollution-related property damage, the New York Court of Appeals has ruled in a setback for policyholders.

Although New York's high court was the highest court yet to consider this question, policyholder attorneys say the decision is unlikely to have much influence outside New York.

State and federal courts nationwide are divided over the issue of whether CGL personal injury coverage responds to pollution-related property damage claims.

One often-cited case is *Pipefitters Welfare Education Fund vs. Westchester Fire Insurance Co.*, a 1992 ruling in which the 7th U.S. Circuit Court of Appeals found

Policyholders can't sue insurers under unfair claims practice law. Page 9.

personal injury coverage. The issue is also currently before the Wisconsin Supreme Court.

"This is just another skirmish in a very long war," said policyholder attorney Stanley M. Spracker in assessing the impact of the May 12 decision in *County of Columbia vs. Continental Insurance Co.*

He added that the decision is not

all that surprising given that New York courts have traditionally favored insurers in pollution coverage disputes.

"The law is resolved in New York, but then New York has not been very sympathetic to policyholders," said Mr. Spracker, of Weil, Gotshal & Manges in Washington.

"I think it's unfortunate that the court decided there was no coverage under the personal injury portion of the policy, which does not have a pollution exclusion," pointed out Irene Warshawer, a partner at Anderson, Kill, Olick & Oshinsky in New York who represents policyholders in coverage

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Liability bill offers hope

But insurers disagree with aircraft builders on its effectiveness

By STACY SHAPIRO

ATLANTA—The beleaguered U.S. light aircraft industry could receive a welcome shot in the arm from a product liability bill now before Congress.

The bill has cleared the Senate and could arrive on the House floor next month. If it becomes law, light aircraft manufacturers believe they will benefit from a reduction in litigation and lower insurance costs.

But, insurers are worried that the bill's current wording could frustrate its intended effect and



actually increase litigation. Since its heyday in the 1970s, the U.S. light aircraft industry has been in a tailspin.

Cessna Aircraft Co., which had 20,000 employees in the 1970s, now employs only 5,700 people.

"Product liability cost thousands and thousands of jobs," said a spokesman for the Wichita, Kan.-based company.

If the bill is enacted, Cessna expects to add at least 1,500 employees and resume building three of

its most popular single-piston engine aircraft, production of which was halted in 1986 amid growing product liability costs.

Piper Aircraft Corp. was forced into Chapter 11 reorganization in July 1991, partly because of 60 product liability claims it faced.

For several years before its reorganization, Vero Beach, Fla.-based Piper self-insured its product liability exposure because of the high cost of insurance for general aviation manufacturers (BI, May 24, 1993).

At the height of production in

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Dingell

Continued from page 1
Dingell's announcement as more of a symbolic gesture.

The new bill has not been put into legislative language, and a spokesman for Rep. Dingell said that no date has been set for completing such language. And the legislative clock is rapidly running out for the current Congress.

"Obviously, time is short and the chairman has bigger fish to fry—such as health care reform," said Andrew S. Wright, vp-federal affairs at the AIA.

The new plan "focuses primarily on the segments of the insurance industry that our investigations have shown pose the greatest potential for solvency problems in the future," like foreign insurers and reinsurers and certain domestic commercial underwriters doing business on an in-

terstate basis, Mr. Wright said.

Rep. Dingell said he had "heard the message" that previous versions of his solvency regulation bill were too ambitious. He introduced his first version of H.R. 1290 more than two years ago (BI, April 13, 1992).

The most recent proposal contains five basic provisions:

- Foreign insurers and reinsurers would be required to obtain a federal license if they provided insurance in the United States. The license would be a "single, pre-emptive federal license" and would eliminate the need for multiple state licenses.

- Domestic insurers and reinsurers could obtain the same federal licenses, if they provided "only the same types of insurance that foreign insurers provide."

- The types of insurance a federally licensed insurer could offer would be limited to surplus lines, "industrial insured insurance," rein-

surance or any combination of the three.

Rep. Dingell's spokesman said industrial insured insurance refers to commercial lines of coverage purchased from multistate insurers by policyholders with multistate locations.

- Insurers seeking to meet the financial requirements for obtaining a federal license could obtain it on a corporate basis, a trust fund or full funding of all U.S. liabilities.

- Captive insurers and risk retention groups, "which exist primarily to provide insurance on an interstate basis and now face conflicting state regulatory requirements," could also seek a federal license.

A new Federal Insurance Solvency Commission would set financial standards and "ensure that these standards are met," said Rep. Dingell.

Federally licensed underwriters would "be free from duplicative,

overlapping, inconsistent and expensive state laws and regulations," he said.

"Because a single federal agency will be responsible for regulating these insurers throughout the U.S., my proposal will stop the shell game now played by the bad actors we found in our investigations—insurers who move from state to state, one step ahead of the state regulators."

Rep. Dingell said his new proposal comes in response to "some of the valid concerns" raised by insurers that support federal regulation. The concerns arose from the possibility of dual regulation, particularly problems likely to arise if states retained ratemaking authority while federal regulators oversaw solvency.

Referring to the objections of regional and small insurers that a federal licensing system would give an unfair advantage to larger underwriters, he said his new H.R. 1290 spells out that personal lines and

small business coverages could not be written under federal license.

Rep. Dingell added that his new proposal does not currently address the issue of a federal standard for the licensing of agents and brokers. The previous version of H.R. 1290 would have created a National Assn. of Registered Agents & Brokers to set, as far as possible, a common standard for producers. He said he is interested in producers' views about including such a mechanism in the current proposal.

NAIB members "are very, very committed to having national standards," said Barbara Haugen, NAIB's director-federal affairs. In all, NAIB is "pleased" with the proposal, she said, adding that "obviously we've got to see legislative language."

The Council likewise "welcomes Chairman Dingell's bill," said Joel Wood, vp-government affairs. Like Ms. Haugen, he stressed that Council members, who represent brokers and large agencies, would like to see national standards for licensing.

The RAA also favors the proposal, at least as it would affect reinsurance. "While we take no position on a federal regulatory role over primary insurers, we believe that the international character of the reinsurance market necessitates a regulatory regime at the federal level," said RAA President Franklin W. Nutter.

"RIMS continues to support the concept of a federal regulatory role in the insurance industry. We look forward to seeing the proposal, and we also look forward to working with Chairman Dingell in developing his proposal further," said Paul Brown, general counsel of RIMS.

Although the AIA has not endorsed H.R. 1290 in any of the bill's incarnations, Mr. Wright called the latest proposal "very positive," because it attempts to address the question of dual state/federal regulation. Concerns over potential dual regulation had been a key reason that AIA has not endorsed the measure, he said.

The Alliance views the proposal in a vastly different light.

"In no way do we agree that he's avoided dual regulation," said Dick Hefferan, the group's general counsel. The Alliance remains "very much opposed" to the Dingell bill.

"It's an intolerable situation if Rep. Dingell is saying that the same insurer could be regulated for different lines of business by the state and the federal government," said Mr. Hefferan, who predicted a "whole new wave of problems for regulation" if the proposal becomes law.

The NAII was equally critical. The proposal contains "fatal flaws" and would establish a new federal bureaucracy, charged NAII President Lowell Beck.

"It is clear that this new proposal will lead to a dual regulatory system. The lines of insurance targeted by this proposal are directly or indirectly regulated by the current framework of state regulation. Since primary insurers and reinsurers are inherently intertwined in their contractual relationships, it may be impossible to separate them with reinsurers regulated at the federal level and primary insurers regulated at the state level."

But what also looks impossible to most observers is any action on the measure this year.

"I don't even think that's speculation—in absence of a major string of unexpected insolvencies, I'm convinced there won't be any effort to move this legislation this year," said the Council's Mr. Wood.

The NAIB's Ms. Haugen agreed: "I don't think there will be any action this year. I think the chairman was signaling that he remains interested in creating a federal regulatory agency."

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Workplace actions louder than words

By JOANNE WOJCIC

Written policies not enough to shield employers from sexual harassment claims

LOS ANGELES—Employers cannot reduce their exposure to liability for sexual harassment simply by giving their employees a written policy for handling sexual harassment claims.

Employers must teach their employees what sexual harassment is in a way that all employees understand, regardless of whether they have a doctorate or an eighth-grade education, experts say.

Simply reading a company policy doesn't help people understand what sexual harassment is, according to Monica Ballard, president of Parallax Education, a sexual harassment prevention training firm in Los Angeles.

"I read eight books on the subject, and it made me more confused than ever," she told a group of employers attending a recent seminar on sexual harassment sponsored by the Los Angeles office of Johnson & Higgins of California.

Instead, employees need concrete examples to help them understand the issues involved. For example, to persuade a black foreman to understand what his female co-workers were feeling while he read Playboy magazine at work, Ms. Ballard asked him how he would feel if one of his co-workers insisted on reading a white supremacist magazine.

An employer's best defense is to train supervisory personnel to prevent sexual harassment from occurring, asserted Ms. Ballard.

"Perhaps we could train employees to be their own censors," she suggested. "Men and women tend to see sexually related speech differently, which explains why much of what most women find sexually suggestive and demeaning, many men deem playful and harmless flattery."

That's why "skills taught to the employees and human resources professionals that allow mediation of the problem, an understanding of the different points of view involved and open lines of communication for future con-

cerns or retaliation would be the most effective resolution of the situation," she said.

Sexual harassment litigation has become a big business nationwide, but particularly in California since the state started cracking down on workers compensation fraud, according to Beth Schroeder, a partner with Silver & Freedman in Los Angeles who specializes in labor law.

"The majority of new litigation cases against employers are sexual harassment," she said. The rise in sexual harassment lawsuits is partly attributable to workers comp reform legislation, she noted. Since it is more difficult for claimants to litigate their work-related injury claims, they are more apt to file sexual harassment suits, Ms. Schroeder explained.

Also contributing to the explosion in sexual harassment claims nationwide were the 1991 confirmation hearings for Supreme Court Justice Clarence Thomas, during which Anita Hill accused him of making sexual advances, according to Ms. Schroeder.

After the hearings, the percentage of women claiming sexual harassment in the workplace rose significantly, "but the law didn't change during that period," she said.

Since then, "a lot of attorneys have been educating themselves on sexual harassment on your dime," Ms. Schroeder told the employers. In fact, "in the last two days, I got seven calls from seven clients asking sexual harassment questions ranging from a supervisor asking an employee on a date to rape."

Sexual harassment comes in two forms, she explained.

"Quid pro quo" sexual harassment occurs when a superior seeks sexual favors from an employee as a condition of employment, she explained.

"But we see very little of these types of cases being filed," she said. "What we do see are the hostile-environment claims."

Hostile-environment claims, the second type of sexual harassment claim, can be filed if the work environment is so pervasively hostile that it materially affects an employee's work, she explained, paraphrasing the recent decision by the U.S. Supreme Court in *Harris vs. Forklift Systems Inc* (BI, Oct. 18, 1993).

Unlike most states, in which employers only face sexual harassment claims under Title 7 of the federal Civil Rights Act, California employers can face sexual harassment claims in both federal and state courts.

it outside" when the supervisor noticed that the discussion was embarrassing a nearby receptionist.

"Not only wasn't that enough, but it got the employer in even more trouble," she said, explaining that the response indicated that the supervisor was aware of the offending behavior and did nothing to stop it from recurring.

Fortunately for employers, most sexual harassment cases never go to trial, according to Ms. Schroeder. Nevertheless, the cost of defending such suits up until settlement still can be substantial.

C. Mahone, senior vp of J&H of California.

And, in D&O policies, "be careful there isn't an insured vs. insured exclusion, because this won't protect one officer from another," he explained. "Negotiate this out of the endorsement."

California employers may find coverage under their workers comp policies following a California appellate court decision in *La Jolla Beach & Tennis Club vs. Industrial Indemnity* (BI, Oct. 18, 1993).

As a result of that decision, "if there's any possibility of finding coverage under the policy, then the insurers will provide a defense," Mr. Mahone explained.

However, another state appellate court ruled in a separate case that it is against public policy for insurers to pay the costs of defending and settling sexual harassment claims against employers, pointed out Ms. Ballard.

Mr. Mahone said most CGL policies exclude coverage for sexual harassment claims using the same wording as that used for pollution coverage: Was it an expected or intended event?

A CGL policy is "not a place to go for coverage," he said.

And while a company sexual harassment policy written in simple, clear terms is a good starting point, an employer's actions speak louder than any printed words.

"Training managers to deal with sexual harassment claims in a constructive, positive way is a challenge companies will have to meet in order to avoid litigation," Ms. Ballard said.

In fact, "harassment tends to be less prevalent in workplaces where employees are treated with dignity and feel loyalty to the company and to each other because of that treatment," she observed.

The seminar was moderated by Andrew Zehnder, manager of J&H of California's Insurance Services Department's account management and sales unit. **BI**

Employers can be held liable for an employee's acts 'if you knew or should have known about that employee's conduct,' warns Beth Schroeder, an attorney with Silver & Freedman in Los Angeles who specializes in labor law.

California employees alleging sexual harassment also may file claims under the state's Fair Employment and Housing Act, Ms. Schroeder explained.

And, since FEHA doesn't limit damages, most sexual harassment claims in California are filed in state court, she said. "The sky's the limit in California. Juries can award back wages, emotional distress damages, punitive damages, attorneys fees. Even if the employer wins, it's unlikely he'll get his attorneys fees paid."

And even if an employer is unaware of potentially incriminating behavior committed by one of the company's supervisors, "you are automatically liable," she warned. Employers can be held liable for an employee's acts "if you knew or should have known about that employee's conduct."

Parallax Education's Ms. Ballard cited as an example a case in which a supervisor suggested two employees gossiping about their weekend sexual escapades "take

"Attorneys fees can easily run \$100,000 or more," she estimated.

As a result, employers increasingly are turning to their insurers to help them defend sexual harassment claims, according to Edward Robin, executive vp of NAS Insurance Services Inc., a Los Angeles-based surplus lines broker.

NAS brokers policies written by Lloyd's of London syndicates.

But, because most employment practices liability insurance policies only pay to defend wrongful termination allegations, many employers are finding they do not have coverage for sexual harassment claims that do not accompany a wrongful termination, Mr. Robin said.

Employers should examine their various insurance policies—including employment practices liability, directors and officers liability, commercial general liability and workers compensation policies—to make sure they are somehow covered for sexual harassment claims, advised Duncan

Blues plans' salaries spark probe

OLYMPIA, Wash.—Washington Insurance Commissioner Deborah Senn says a special examination of King County Medical Blue Shield, the state's largest health insurer, found executive salaries were "clearly excessive."

Ms. Senn began studying the Seattle-based insurer last September after questions were raised about Blues executives' salaries and company practices nationwide.

"At a time when thousands of consumers cannot afford health insurance and premiums are continuing to climb, we found executive salaries at King County Medical far out of line for a not-for-profit company," the commissioner said.

In addition, the investigation found that "expenses turned in by King County executives were not fully documented. Some expense reporting was so scanty that it was impossible to determine the appropriateness of the expense," she said.

The report showed that King County Medical President Winlock Pickering's total compensation for 1992 of \$420,771 exceeded what other Blues plans paid to similar executives, Ms. Senn said.

A 1992 executive compensation

survey compiled by the Chicago-based Blue Cross & Blue Shield Assn. shows the total compensation for the CEO of a comparable-sized Blues organization to be \$309,000, she said.

King County Medical, which covered more than 1 million lives in 1993, countered in a statement that "the fact that KCM is a not-for-profit corporation does not mean that it does not need to be well-managed" and compensate its executives competitively.

Two consulting companies reviewed King County Medical executive salaries in 1993 and found that "compensation for most KCM senior management positions was below the national average and not highly competitive. . . Each showed that our management salary structure should be adjusted in order to remain competitive," the insurer said.

King County Medical has retained one of the consultants to advise its compensation committee.

While the insurer is "confident that there was no abuse" of certain informal policies on reimbursement for travel and business entertainment expenses, it said it is "reframing those policies" in re-

sponse to the Washington commissioner's report.

King County Medical said it will comply with the commissioner's order to respond to her report in writing within 90 days, outlining corrective actions.

Meanwhile, a separate investigation found that executive salaries of Blue Cross of Washington & Alaska were among the highest in the nation for a Blue Cross plan, according to Ms. Senn.

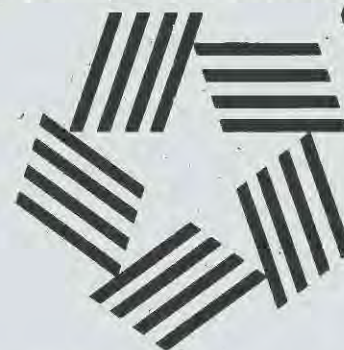
For example, Donald Lockwood, the former president and CEO of the Seattle-based Blue Cross plan, received total compensation of \$584,133 in 1992, Ms. Senn said. But, she said a review of company expenses revealed no abuses.

"While we are a not-for-profit company, we must compete with for-profit companies in maintaining and attracting top level executives," said Larry Pinnt, chairman of the board of Blue Cross of Washington & Alaska, defending the plans' executive salaries.

The commissioner's investigation of the Blues plans is continuing and will now focus on "company practices and overall finances," an Insurance Department spokesman said.

—By Louise Kertesz

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Lockheed unit quits cold turkey to cut costs

MARIETTA, Ga.—Lockheed Aeronautical Systems Co.'s new policy to refuse to hire smokers is part of an overall focus on employee health as a way of cutting health care costs.

"It's part of a number of things we're doing here to improve worker health and to lower our costs," he said. "The bottom line is (that) a healthy workforce doesn't cost you a lot in health care costs."

In the future, applications for

Benefit Beat

employment at the Marietta, Ga.-based subsidiary of Lockheed Corp. will ask whether an applicant smokes. "If the applicant says 'yes,' then he would not be considered for an open position."

The company also is making it tougher on current employees who smoke. After July 2, smokers on the Lockheed Aeronautical pay-

roll will be allowed to smoke only during two scheduled breaks daily and on the lunch hour, and then only outdoors.

Current policy essentially allows Lockheed Aeronautical employees to smoke when and where they please, though some indoor areas and factory areas are smoke free, and smoking is not allowed around aircraft.

Lockheed Aeronautical workers' reaction to the new policy seems mixed, according to the

spokesman. Some are unhappy with the new rules, while others have suggested it will give them an incentive to stop smoking.

Beyond restricting smoking, the company also has installed on-site exercise facilities for employees to encourage better health.

The new smoking policy probably won't have much of an impact on hiring in the near term because Lockheed Aeronautical isn't currently hiring. Instead, the company is laying off workers, with

plans to reduce its 11,000-member workforce by 2,000 employees over the next 18 months.

—By Rodd Zolkos

Ohio leave policy

COLUMBUS, Ohio—The state of Ohio recently reached an agreement with its largest union to institute a new policy on birth/adoption leave.

The policy, which Ohio expects to extend to all 60,000 full-time state employees, establishes specific leave benefits for mothers and extends benefits for the first time to fathers and adoptive parents, retroactive to April 1.

Previously, the state offered no specific maternity leave, though new mothers usually took either an unpaid leave or one granted under the state's disability program.

Under the new policy, state employees who work more than 30 hours a week will be eligible for six weeks of leave beginning the day of birth or placement of the child in an adoptive home. As with disability leave, the first two weeks are unpaid, while the last four weeks are paid at 70% of regular pay.

However, employees could supplement the childbirth/adoption leave with sick leave, personal leave and vacation or compensatory time, all of which would be fully paid leave.

"This new benefit supports parents and recognizes the adjustments families make as they welcome a new child into their lives," said Gov. George V. Voinovich, a strong supporter of the plan.

The leave policy will cost Ohio an estimated \$1.7 million.

The agreement was negotiated with the Ohio Civil Service Employees Assn./American Federation of State, County & Municipal Employees Local 11.

—By Meg Fletcher

Prescription study

Prescriptions filled under managed care programs outnumbered uninsured prescriptions or those covered under indemnity programs during the fourth quarter of 1993, according to a recent study.

The results cap a three-year trend in which retail prescriptions covered under managed care programs have increasingly usurped market share.

IMS America, a unit of Dun & Bradstreet Corp., found that 51.2% of all prescriptions in the fourth quarter were dispensed through retail outlets affiliated with some form of managed care plan. For the entire year, 49.5% of nearly 2 billion prescriptions were dispensed by pharmacies tied to managed care plans.

The study defined managed care prescriptions as those originating from a health maintenance organization or from other managed care plans, primarily Medicaid.

Cash prescriptions included reimbursements under traditional indemnity plans, uninsured prescriptions and cash outlays by Medicare recipients, who do not have drug benefit coverage.

"The rapid rise of (managed care) prescriptions last year compared to previous years is especially significant because it illustrates that both employers and employees are seeking cost containment by switching to HMOs and other managed care solu-

Continued on next page

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Continued from previous page
tions," said Mark Gianforaro, marketing director with IMS in Philadelphia.

For the entire year, prescriptions written by managed care physicians totaled \$680.4 million, while Medicaid prescriptions totaled \$291.3 million and cash prescriptions totaled \$989.7 million.

For information on data base access to the prescription drug study or other studies, call Mark Gianforaro at IMS America at 215-834-6565.

—By Michael Schachner

Kids' benefits urged

NEW YORK—The Family and Medical Leave Act of 1993 should be expanded to include employers with fewer than 50 employees and

allow leave with partial wage replacement for four to six months, recommends a task force on how to improve young children's lives.

Furthermore, "the business community and all employers should consider adopting family-friendly policies such as flexible work schedules, job sharing, child care resource and referral assistance, onsite or nearby child care and child care for sick children," advises the task force, which is sponsored by the Carnegie Corp. of New York.

In a 132-page book, "Starting Points—Meeting the Needs of Our Youngest Children," the task force also calls for federal and state government, community, media and parental support for a variety of measures designed to improve the lives of children from

pre-birth through 3 years old.

For example, the task force recommends that a minimum health care reform package should include: pre-conception, prenatal and postpartum health services; primary and preventive health care for children also should be included.

The task force also recommends increased parent education and more extensive training of child care providers.

"Across the United States, we are beginning to hear the rumblings of a quiet crisis," the book says. "Our nation's children under the age of 3 and their families are in trouble, and their plight worsens every day..." This crisis, "though quiet, threatens to undermine our nation's economic strength and competitiveness."

Copies of the report are available for \$10 from The Carnegie Corp. of New York, P.O. Box 753, Waldorf, Md. 20604. Checks should be made payable to The Carnegie Corp. of New York.

—By Deborah Shalowitz Cowans

Generous state benefits

As employers, many states are quite generous with health insurance and other benefits, a new study says.

Twenty-four states pay the full cost of health insurance for employees who elect individual coverage; eight of those states also pay completely for family coverage, according to the study conducted by Workplace Economics Inc., a Washington consulting

firm.

And, 15 states pay completely for health insurance for retirees. The remaining 35 states offer retiree health insurance but require some cost-sharing.

State employers offer an array of other benefits as well.

For example, 46 states offer dental insurance to employees; in 20 of those states, the cost of employee-only coverage is absorbed by the state. Thirty-two states offer employees vision benefits.

Thirty-eight states offer pre-tax dependent care spending accounts that employees may use to pay for child care. And, 21 states offer on-site child care facilities at some locations. Eight states subsidize offsite child care.

—By Deborah Shalowitz Cowans

Court upholds insurer's 'super escape' clause

By DOUGLAS McLEOD

BOSTON—A so-called "super-escape" clause in a liability policy takes priority over "other insurance" clauses in other policies, making the policy with the super-escape clause excess over all other insurance, the Supreme Judicial Court of Massachusetts has ruled.

Earlier this month, the state's high court overturned a lower court ruling that Baltimore-based United States Fidelity & Guaranty Co. and Worcester, Mass.-based Hanover Insurance Co. should each pay half of a \$100,000 automobile accident settlement.

Instead, the five-judge Supreme

Court panel found that a super-escape clause in the Hanover policy makes USF&G liable for the whole settlement, despite a provision in the USF&G policy that its coverage is excess over other available insurance.

The litigation stemmed from a 1988 accident in which Brian D. Mulvagh struck a telephone pole while test-driving a car owned by a Springfield, Mass., auto dealer. A passenger in the car was seriously injured.

Springfield Auto Sales-East Inc. had a garagekeepers policy with Hanover that included \$100,000 in optional bodily injury coverage. In exchange for reduced premium, though, the bodily in-

jury coverage was limited to apply only when "no other valid and collectible automobile liability insurance, either primary or excess," is available, court papers note.

Mr. Mulvagh, meanwhile, was covered under a USF&G auto policy issued to his wife.

The USF&G policy provided that "if someone covered under this (policy) is using an auto he or she does not own at the time of the accident, the owner's auto insurance must pay its limits before we pay."

USF&G nevertheless paid its \$100,000 policy limit to settle claims brought by the injured passenger and then sued Hanover for a ruling that Hanover must pay all or part of the settlement.

A Massachusetts Superior Court judge concluded that the limiting clauses in the two policies were mutually repugnant, or inconsistent, and that each insurer should pay \$50,000 of the settlement.

In a May 3 ruling, though, the state Supreme Court reversed that decision, finding USF&G responsible for the entire settlement.

The state high court had previously ruled that where two policies each contain an excess clause, the clauses are mutually repug-

nant and the two insurers should each contribute to a loss.

The excess clause might take priority over a basic escape clause, because excess insurance has not been considered "other collectible (or available) insurance" for purposes of interpreting the basic escape clause, the court noted.

This case, however, involves a conflict between the USF&G policy's excess clause and the Hanover policy's super-escape clause, which makes the policy excess over any other primary or excess insurance.

"A super-escape clause, specifying that even other insurance that labels itself 'excess' will be primary... (renders) the excess policy as one providing primary coverage," the court found. "We conclude... that the explicit and comprehensive language of the Hanover super-escape clause brings into effect the excess coverage provided by USF&G, making the latter solely responsible for the loss."

The court also rejected several arguments offered by USF&G.

For example, USF&G contended that its policy language was mandated by state regulators while Hanover drafted the terms

of its own policy, so any ambiguity in the two clauses should thus be held against Hanover.

However, the court said it found nothing ambiguous about the Hanover super-escape clause, and to rule in USF&G's favor would give virtually no meaning to the words "either primary or excess" in the Hanover clause.

USF&G also argued unsuccessfully that favoring the super-escape clause violates public policy interests in protecting auto accident victims.

"No legislative purpose is subverted by preferring the Hanover super-escape clause, since coverage is afforded under some policy in an amount at least equal (in fact, well beyond) to what is required by the motor vehicle financial responsibility law," the court wrote.

Massachusetts law, the court added, "requires insurers to offer optional bodily injury coverage in specified minimum amounts, but is silent as to an insurer's limiting or conditioning such coverage on the existence of other insurance."

United States Fidelity & Guaranty Co. vs. Hanover Insurance Co., Supreme Judicial Court of Massachusetts, Hd-6374.

Superfund

Continued from page 2
recently began debating health-care reform, a process that is expected to take several weeks—if not months—to complete. In addition, Ways and Means Chairman Dan Rostenkowski, D-Ill., last week faced potential indictment from an investigation into his finances, raising the question of whether he would have to resign his post as chairman.

The House Public Works and Transportation Committee will also have to pass judgment on the bill, though it first must mark up the Clean Water Act. And the Judiciary Committee may exert jurisdiction over the liability portions of the bill.

The Senate Environment and Public Works Committee's Subcommittee on Superfund, Recycling and Solid Waste Management began consideration of its version of the bill last Thursday and is expected to begin markup of the bill this week.

The Senate Finance Committee, which like Ways and Means currently has its hands full with health care reform, will have jurisdiction over the tax portions of the bill.

If both chambers of Congress manage to approve their own versions of the legislation before the current Congress adjourns early this fall, the bills will go to a conference committee to resolve differences.

Rep. Al Swift, D-Wash. and chairman of the House Transportation and Hazardous Waste Subcommittee, noted during last week's Energy and Commerce markup that the conference committee dealing with the 1986 Superfund reauthorization took months to complete its work.

He added, however, that he re-

mained "optimistic" that a bill would be passed before Congress adjourns.

Meanwhile, groups opposed to the administration's bill, including the broad-based Alliance for a Superfund Action Partnership, have scheduled press a conference for today to discuss their concerns over the bill.

Opponents of the administration proposal, including ASAP, are working on an alternative measure. **BI**

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Opinions

Lloyd's not out of woods yet

NOWHERE ELSE but in the increasingly strange world of property/casualty insurance could a \$3 billion annual loss be greeted as good news.

However, Lloyd's of London officials say that the 1991 global loss reported by Lloyd's last week is another indication that the marketplace is putting its problems behind it. While Lloyd's Chairman David Rowland stressed that he was not attempting to put "gloss" on what would ordinarily be a terrible result, he pointed out that Lloyd's surviving four years of terrible losses demonstrates the strength and resiliency of the market.

We couldn't agree more: Lloyd's indeed is resilient, but the market still faces serious problems.

Indeed, it is heartening to know that Lloyd's pure underwriting loss for 1991 was significantly smaller than in 1990. It's definitely a plus that Lloyd's officials predict that the market will at last rebound into the black when 1993 results are announced two years from now. And, yes, it's good to know that Lloyd's management believes the market is still solvent—since the alternative is unimaginable.

However, none of these pronouncements ensures that Lloyd's will survive.

Lloyd's fate depends on how it can manage—and ultimately finance—the massive pollution, asbestos and other long-tail liabilities incurred by Lloyd's syndicates years ago through its proposed runoff reinsurer, NewCo. Sure, a profit in the future will go a long way to build confidence in the marketplace—but not if members and policyholders are unsure of how the debts of the past will be paid.

We're certainly not suggesting that Mr. Rowland and Lloyd's Chief Executive Peter Middleton must come up with a sure-fire answer today. The amazing progress Lloyd's has made to overcome its problems is in large part due to the patience of the market's current leadership, which prefers to take a long-term, pragmatic approach to Lloyd's underlying problems rather than react in a knee-jerk fashion to the latest turmoil.

While Lloyd's is plotting its future course, there are several things it can do to ensure that both members and policyholders continue to have confidence in the market:

- Provide as much information as possible to policyholders and members about Lloyd's plans. While



we salute Lloyd's current leadership for being open and honest, too much news about Lloyd's is received via the rumor mill rather than straight from the chairman's office.

- Demonstrate that Lloyd's officials, especially underwriters, are more concerned about current and future business than the problems of the past. The business plan released by Lloyd's last year stressed business development at Lloyd's. However, sometimes it appears that more time is spent plugging holes in the proverbial dike rather than strengthening its walls.

- Remember that Lloyd's cannot survive without its policyholders. It is very difficult for Lloyd's not to focus on the problems faced by its members—its source of capital—especially at a time when thousands of members are litigating against members and managing agencies to avoid paying some of their massive losses. Still, Lloyd's must do a better job of convincing its policyholders—especially its U.S. customers—that Lloyd's remains a secure market.

If anything positive can be interpreted from Lloyd's latest results, so be it. Lloyd's has made remarkable progress in the past two years, but it isn't out of the woods by a long shot.

Letters

U.S. health care problems exist, but no crisis

To the editor: Donald Reutershan in his April 25 letter evokes the pseudo-crisis argument that seems to be infesting the health care debate. Indeed, the April 25 issue of *Business Insurance* is replete with articles supporting the socialized approach to solving what is actually a health care problem, not a health care crisis.

As an insurance professional—and one not affiliated with the health insurance industry—I must take issue with your minority opinion of how to remedy these problems.

First, Mr. Reutershan fails to distinguish between the 85% of Americans

who have and are content with their health insurance and the other 15%, most of whom have voluntarily elected to not be covered. Rather, he makes a generalized conclusion that our inability to provide for this 15% constitutes an "uneven playing field."

Further, he refutes the obvious assertion that our health care is the best in the world, yet makes no mention of which system is better. In fact, another article in this issue champions the Canadian system.

I ask both *Business Insurance* and Mr. Reutershan to research where Canadian medical professionals go to obtain what they believe is the highest-quality health care. You may find these Canadians at your favorite American clinic or hospital.

Another, almost laughable conclusion in his letter is that we, the insurance industry, can reduce opportunities for fraud through universal health coverage. Quite the contrary, a non-market-generated demand and supply for any commodity inevitably results in abuse, unnecessary requests for treatments

and, accordingly, higher costs for everyone. It's axiomatic.

As with the misguided and soon-to-be dismembered Clinton health care proposal, Mr. Reutershan demonizes employers and demands that they foot the bill. How many times must it be pointed out that mandated health care coverage on employers is, pure and simple, a tax that reduces the employers' bottom line, thus resulting in workforce reduction?

Mr. Reutershan is partially correct in stating that "the public pays for all claims..." Undoubtedly, the necessary health benefits that already exist for these newly unemployed citizens will be picked up by the taxpayer. This is not a zero-sum game. To provide for the have-nots, his plan would take from the haves, resulting in reduced quality for all.

I strongly encourage the health industry to continue to point out the obvious flaws in the solutions, superficial as they are, offered by President and Mrs. Clinton, Mr. Reutershan and *Business Insurance*.

Continued on next page

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Letters

Continued from previous page

Rather, let's initiate the long-overdue dialogue on the subjects these people are ideologically opposed to, such as medical malpractice, tort reform and health insurance savings accounts for all employers. The time for all the hand-wringing and outcome-based remedies should end.

Timothy P. Farley
Consultant
Advanced Risk Management
Techniques Inc.
Lake Forest, Calif.

Independent actuaries might support reforms

To the editor: A group of insurance industry actuaries gets together and decides that the Clinton health plan will add \$100 billion to the federal deficit (BI, April 25).

Why are we not surprised? Could we have expected anything different from actuaries representing Aetna, Continental, the Home and Blue Cross & Blue Shield, among others?

We'd be interested in knowing what a group of independent actuaries would find in reviewing the same information.

J. Robert Hunter
Texas Insurance Commissioner
Austin, Texas
Amy Johnson
Public Counsel
Office of Public Insurance
Counsel
Austin, Texas

Code of morals more important than ethics code

To the editor: Having been a corporate risk manager, I had mixed emotions on reading your May 2 article on the Oregon Chapter of RIMS' survey on ethics. "Ethics of a Decision Often Too Subjective to be Clear."

Surprise? Dismay? At least shock. The finding that up to 27% of risk managers had no reservations about acting in an unethical manner in certain situations is a disgrace.

A code of ethics doesn't mean much, even if it looks good. Liars will lie. The need is really for a code of morals.

In the meantime, the most cynical opinion of some underwriters has been confirmed. That's a shame, isn't it?

Stan Brock
The Lukes-Brock Co.
Risk Management Consultants
Milwaukee

NAII urges NAIC to slow adoption of new standards

To the editor: The call by the Illinois Insurance Department's James W. Schacht for a "return to basics" by the National Assn. of Insurance Commissioners regarding state accreditation is directly on target.

The National Assn. of Independent Insurers is in full support of his comments in the May 11 Perspective article, "NAIC Should Return to Basics."

The substantial benefits to consumers of state regulation of insurance are the diversity, flexibility

and innovative approaches that such a system allows and encourages. As Mr. Schacht says, the NAIC's accreditation program never was intended to create a rigid scheme that allowed the states no latitude to tailor regulations to meet the individual needs of their citizens.

But indeed, as Mr. Schacht also states, the emphasis now has shifted from national minimums to national optimums, and the program is inching toward establishing the NAIC as the national agency for insurance regulation.

The NAII endorses the NAIC's goal of strengthening state regulation of the insurance industry. Because of the complexities involved and the wide variety of local conditions and public needs, however, we urge that any additions to the accreditation requirements be adopted over a reasonable time span.

We also would urge that any such new requirements be discussed in open-door meetings, allowing input from all parties affected.

Failure to follow that procedure could well result in a revolt by state legislators and the insurance industry that would jeopardize both the NAIC's accreditation program and state regulation of insurance itself.

Members of the National Council of Insurance Legislators are elected by the people, and therefore their views must be given due weight. NCOIL and the NAIC must work closely together if the state accreditation program is to work.

And the accreditation program must work in order to preserve state regulation of insurance, which is the goal of NCOIL, the NAIC, the NAII and many others. The success of that program also is clearly in the best interest of all consumers.

Robert L. Zeman
Assistant Vp
and General Counsel
National Assn.
of Independent Insurers
Des Plaines, Ill.

Insurers win N.Y. ruling

Policyholders cannot sue insurers under unfair settlement law

By **DOUGLAS McLEOD**

ALBANY, N.Y.—Policyholders cannot sue their insurers for violating a section of the state insurance code forbidding unfair claims settlement practices, New York's highest court has ruled.

In a ruling that broadly defines when a policyholder can seek punitive damages against an insurer, the New York Court of Appeals found that policyholders can still press common law claims for punitive damages but cannot sue under the unfair claims settlement statute.

The decision overturned lower court rulings in two separate cases, throwing out lawsuits against The Equitable Life Assurance Society of the United States and American International Underwriters Inc., a unit of American International Group Inc.

Insurer trade groups, including the American Council of Life Insurance and the American Insurance Assn., had argued that permitting punitive damages under the claims settlement law could generate a flood of litigation.

"The insurance industry was concerned that this would open up New York courts to a whole host of punitive damage claims that would be very burdensome, very difficult to litigate and very costly to litigate," observed Sidney S. Rosdeitcher, a lawyer with Paul, Weiss, Rifkind, Wharton & Garrison, representing Equitable.

The Court of Appeals ruling, however, places fairly strict limits on what standards policyholders have to meet in punitive damage claims against insurers in first-party cases, according to Mr. Rosdeitcher.

The unanimous May 10 ruling dealt with two unrelated cases.

In one case, Mark Rocanova sued Equitable after it denied his disability claim for a condition known as "dry eye syndrome." Mr. Rocanova filed the claim a month after increasing his coverage under the Equitable policy;

Equitable rescinded the policy, charging that he was already disabled before the increased coverage became effective and that he had misrepresented his income in applying for the policy.

The suit sought \$250,000 in compensatory damages and \$450 million in punitive damages. A trial court dismissed several of the charges it made, but left standing charges that Equitable was guilty of illegal evasion of claims and violations of New York Insurance Law 2601, which prohibits unfair claims practices. The court also allowed Mr. Rocanova to seek punitive damages.

An appellate court agreed, finding that an appellate ruling in a previous case—*Belco Petroleum Corp. vs. AIG Oil Rig Inc.*—supported the conclusion that a policyholder can sue for punitive damages under Insurance Law 2601 (BI, Feb. 4, 1991).

The Court of Appeals reversed, though, finding that the statute—which the state may cite in regulatory actions—cannot be used as a private right of action against insurers.

The lower court misinterpreted the Belco ruling, which found only that Insurance Law 2601 does not pre-empt a policyholder's common law right to sue an insurer for punitive damages, the high court noted.

To make a common law case for punitive damages, the policyholder would have to show that it had been damaged by an insurer's tortious conduct and that the insurer was guilty of a pattern of similar conduct directed at the

public generally, the court noted.

In seeking punitive damages for illegal claims evasion, however, Mr. Rocanova only argued that Equitable was guilty of a pattern of tortious conduct and failed to state a claim that he was a victim of the same conduct, the court noted, dismissing the lawsuit.

The second suit was filed by Marsel Mirror & Glass Products Inc. over a disputed claim under a credit risk policy issued by National Union Fire Insurance Co. of Pittsburgh, Pa., an AIG unit.

Marsel had filed a \$1.8 million claim with AIU and National Union after one of its customers, Ames Department Stores, filed for bankruptcy. Marsel was told the claim would not be paid until about two years into the bankruptcy process, and Marsel instead accepted a \$1.5 million settlement, releasing National Union from any further liability.

Marsel later decided to sue AIU and National Union, leveling a number of charges including fraudulent inducement into the settlement and unfair claims practices. The suit sought \$304,342 in compensatory and \$3 million in punitive damages.

Trial and appellate courts threw out most of the allegations but allowed the unfair claims settlement charges, noting that Insurance Law 2601 permits such suits for punitive damages.

Reversing both rulings, the state high court found that Marsel was bound by the release it gave AIU and National Union as part of the settlement.

Since Marsel had failed to state a claim of its own, it also could not make a common law case for punitive damages, the court ruled, dismissing the lawsuit.

Mark Rocanova vs. The Equitable Life Assurance Society of the United States; Marsel Mirror & Glass Products Inc. vs. American International Underwriters Inc. et al.; New York Court of Appeals, Nos. 79 and 80.

The ruling places strict limits on standards policyholders must meet, says Sidney Rosdeitcher.

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For the Record

Man seeks penalties for rehab refusal

SAN FRANCISCO—A Los Angeles man who was awarded more than \$1 million in a stress-related claim against the California State Compensation Insurance Fund is seeking more in penalties.

In one of the state's largest workers comp awards, State Workers Compensation Appeals Board referee Barbara Burke last month awarded John McGregor about \$1.17 million in compensation, interest and fines against SCIF. She ruled that SCIF, among other things, "unreasonably" withheld vocational rehabilitation payments, said a spokesman for California's Department of Industrial Relations. The penalties Mr. McGregor is seeking have not yet been calculated.

He filed a stress claim in 1983, when he was 61, saying he had developed psychiatric, vocal and cardiovascular problems after allegedly being pressured to quit his job at the South Coast Air Quality Management District. He settled with SCIF in 1986 for \$36,500 in medical costs and lost wages.

As part of rehabilitation, he sought voice retraining to become a real estate agent. An independent medical evaluator and another doctor deemed the training unnecessary, a SCIF spokesman said.

In 1986, SCIF asked the state Vocational Rehabilitation Bureau to resolve the dispute and began to pay Mr. McGregor rehabilitation benefits, which exceeded \$300,000. But, he refused to enroll in any rehabilitation programs until he could take voice retraining, so SCIF ended the benefits in 1987, the spokesman said.

"In 1992, the Rehab Bureau notified us that voice training was OK," and the WCAB award followed, the spokesman said.

California's new workers comp laws, which are designed to limit vocational rehabilitation payments and programs as well as stress claims, also limit the size of awards, the spokesman said (BI, Jan. 17).

Owens-Corning to appeal court's no-show penalty

TOLEDO, Ohio—Owens-Corning Fiberglas Corp. plans to appeal what it argues is an unfair penalty for disobeying a judge's order that four company executives testify at a 1992 asbestos personal injury trial.

Earlier this month, a unanimous Illinois appeals court let stand a \$10 million verdict against the manufacturer. The court ruled that Madison County Circuit Court Judge George Moran Jr. acted legally when he stripped Owens-Corning of its defense and found it liable for failing to produce four executives to testify at trial in Edwardsville, Ill.

The jury decided only the amount of damages that four former asbestos workers would receive. Three-fourths of the award was punitive damages.

Judge Moran ruled that the workers had a right to information the officials could produce. The appeals court faulted the company's "unwarranted disregard of the court's authority."

Owens-Corning said it will ask the appeals court to reverse its decision. Failing that, it will appeal to the Illinois Supreme Court.

State liquidation unit still needs work: Audit

SACRAMENTO, Calif.—Continued corrective action is needed in

overseeing "poor management practices" at the California Department of Insurance's Conservation and Liquidation Division, according to the state auditor.

This audit report echoes findings in an earlier audit by another state agency that resulted in the removal of two top CLD officials (BI, Oct. 11, 1993). The Insurance Department responded to the earlier audit by making "significant changes" in the oversight of the CLD, which manages the assets of conserved insurers, State Auditor Kurt R. Sjoberg said in an interview. But, he said, "Most changes in policies have come about in 1993-1994, and it is still too soon to see if they are being followed in practice."

Corrective actions taken include new procedures for: accounting, hir-

ing of attorneys and outside consultants, sale of estate property, and reporting of conflicts of interest, according to the department.

He has recommended another audit of the CLD in one year.

Among the weaknesses cited in this and the previous audit are the lack of a "strategic plan" for each conserved estate, which can lead to lengthy delays in payment of funds to policyholders and creditors, Mr. Sjoberg said. "If an estate is to be rehabilitated, then it should be so; if not, it should be liquidated as rapidly as possible."

Other problems found by the audits include unauthorized overtime payments, severance payments for employees who were still on the job and double payments to consultants, Mr. Sjoberg said.

"We concur with these findings," said a department spokesman, who added: "There is no criticism of the steps we have taken since we em-

barked on reforms."

Insurer duty to defend seen in toxic tort case

SAN FRANCISCO—A primary insurer in a massive toxic tort case must provide a defense of underlying actions until its policy limits are exhausted, a California appellate court has ruled.

Rejecting Hartford Accident & Indemnity Co.'s appeal of a trial court decision requiring it to continue defending actions brought by more than 2,500 alleged victims of dioxin contamination, the California 1st District Court of Appeal ruled unanimously April 8 that the insurer erred in withdrawing defense coverage without a declaration that its policy limits had been exhausted.

"The duty to defend begins when a potential for coverage arises, and the duty continues until the insurer

proves otherwise," the court said, citing another appellate court's 1993 decision in *Montrose Chemical Corp. vs. Superior Court*.

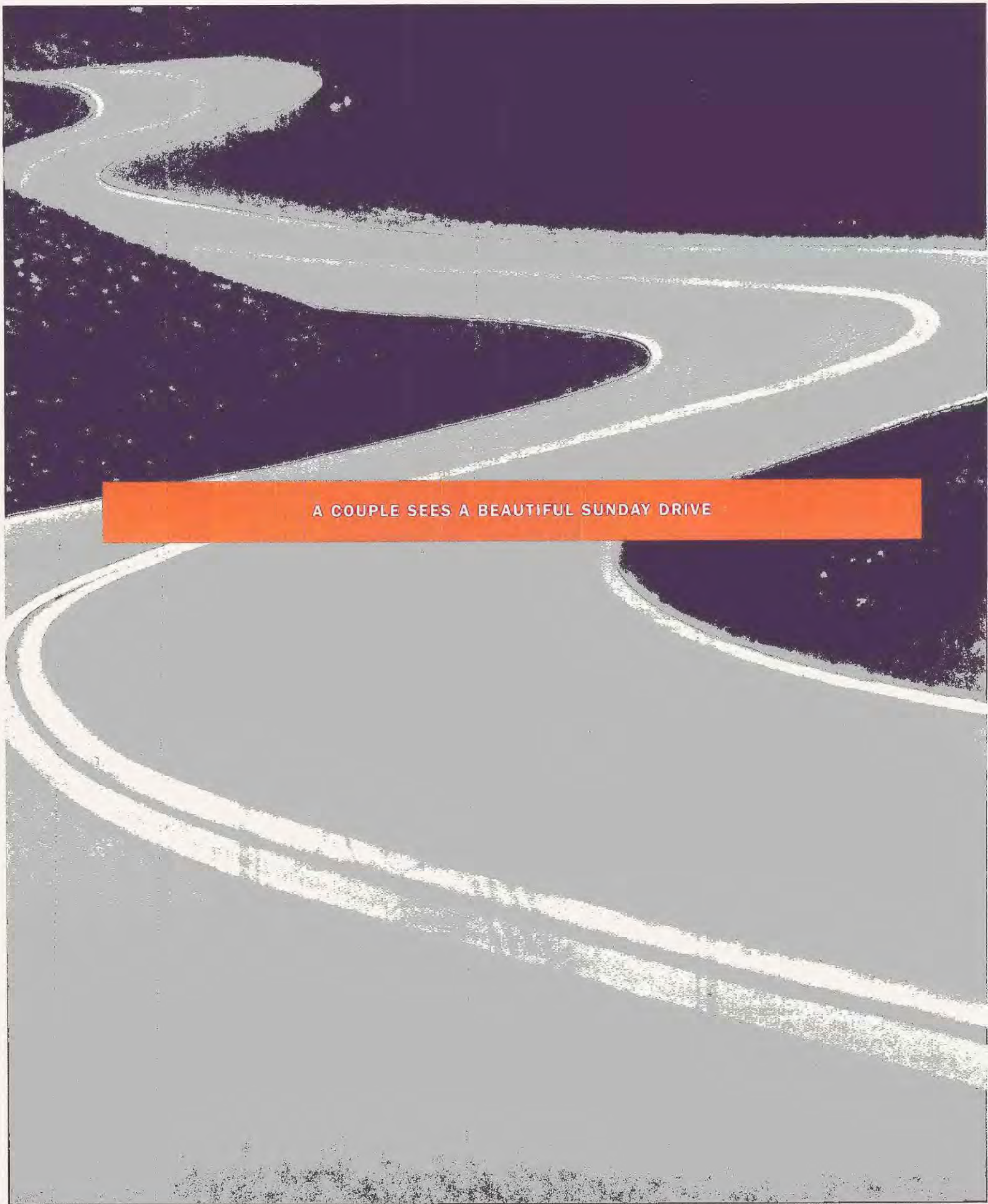
Hartford, the primary insurer for Syntex Inc., Syntex Laboratories Inc. and Syntex Agribusiness Inc. from 1970 to 1976, withdrew defense of the dioxin-related bodily injury and property damage claims in 1988, after paying defense costs and settlements of \$4.1 million.

In the underlying cases, plaintiffs had accused Syntex of deliberately distributing dioxins on dirt roads and horse arenas in Missouri.

Syntex asked its excess insurers to take over the defense and indemnity of the dioxin cases, but they refused because Hartford had not exhausted its policy limits.

The San Francisco Superior Court granted Syntex's motion for summary judgment that Hartford prematurely withdrew the defense, and

Continued on next page



A COUPLE SEES A BEAUTIFUL SUNDAY DRIVE

Continued from previous page
Hartford appealed.

Six of the seven Hartford primary policies involved had a \$300,000 per occurrence limit but no aggregate limit for bodily injury payments.

Hartford Accident & Indemnity Co. vs. California Superior Court, April 8, 1994; No. A062833.

Rehabilitation yields big savings: Study

MINNEAPOLIS—Every dollar spent on rehabilitating workers who become disabled while on or off the job can save employers at least \$35, a new study says.

Savings jump to \$96 when employers can return a disabled employee to the same job, a study by Minneapolis-based Northwestern National Life Insurance Co. found.

The insurer made these conclusions after studying 9,747 long-term

disability claims it incurred from January 1987 to December 1993.

The average rehabilitation expense per disability claim was \$1,642, with the average reserve savings per claim totaling \$78,279.

"When disability reserves are reduced, employers who self-fund their benefit plan save money directly. Employers with insured plans can benefit indirectly because reserve savings for the long-term disability insurer may affect their disability premium rates."

Companies can slash disability costs by helping employees return to work despite their physical limitations.

Most worksite accommodations are cost-effective; 80% cost less than \$500, says the Job Accommodations Network, which was mentioned in the study. And, case management by professional rehabilitation coordinators can help many impaired individuals return to work.

According to the study, return-to-work success rates were: 61% for workers disabled by back or spine disorders; 60% for musculoskeletal disorders; 49% for neurological conditions; 43% for mental illness; 38% for circulatory disease; and 33% for cardiac conditions.

Free copies of the report, "Back to Work: Managing Disability, Recovery and Re-employment," are available from Northwestern National Life Insurance Co., P.O. Box 20, Route 6528, Minneapolis, Minn. 55440; 612-372-5432.

Information in brief

Judicial Arbitration & Mediation Services Inc. and Endispute will merge to form a **nationwide alternative dispute resolution company** with offices in 25 cities. JAMS offices are mainly on the West Coast. Endispute's offices are primarily in the East and Midwest. **BI**

Byrne

Continued from page 3
tive markets.

The nation as a whole also has benefited, he said: "We are the lubricant that allows the business world to function."

The only people who haven't done so well are insurance company owners, said Mr. Byrne.

Insurers' return on equity has long compared poorly with other industries, and this in turn has led to low valuation of insurance companies by the stock market.

"That's why so many of our finest companies sell for well below book value," he said.

One element of the industry's poor performance is undisciplined balance sheet accounting, long a pet peeve of Mr. Byrne's.

Insurance would be a much better business, he suggested, if com-

panies had to record assets at their actual economic value rather than at the acquisition cost. Claims liability should be set 5% above what companies believe they will ultimately have to pay, he said.

Undisciplined accounting practices were part of what led Rep. John D. Dingell, D-Mich., to propose a federal takeover of solvency regulation from the states, an idea Mr. Byrne said he did not entirely oppose (see story, page 1).

"There were a few of us who said maybe a little federal regulation would help," he remarked, explaining that federal oversight of insurer balance sheets might "stop us before we kill again."

The threat of federal intervention prodded the National Assn. of Insurance Commissioners to improve its own solvency regulation, though NAIC actions are still watered down by political dealmaking, Mr. Byrne charged.

In the NAIC's fight over risk-based capital rules, for example, "all the teeth got pulled" from tough model bills in last-minute compromises, he said.

New York, for example, still sets its own tough standards regardless of what the NAIC prescribes, he added. "Believe me, the NAIC needs the New York Insurance Department a lot more than the New York Insurance Department needs the NAIC," he said, referring to

**Insurance companies
'are the lubricant that
allows the business
world to function,'
says John J. Byrne.**

the accreditation dispute between New York and the NAIC

Asking rhetorically what he had learned in five decades in the industry, he reflected, "Some may say the answer is 'not very much.'"

Nevertheless, Mr. Byrne offered several pointers for running an insurance company, including:

- Make underwriting the company's priority rather than market share or other concerns.
- Invest assets for total return rather than for reported earnings or other considerations.
- Never allow the chairman to set reserves. Instead, company officials should agree on reserve levels in open meetings, where peer pressure will encourage a realistic assessment of liabilities. Outside actuaries should also review the figures every couple of years, he said.

Looking back on his various career moves and whether he would have done anything differently, Mr. Byrne asked himself if he would have sold Fireman's Fund again to Allianz.

"You betcha," he answered, after a pause.

He quoted his friend, Warren Buffett, chairman of Berkshire Hathaway Inc., as telling him, "You turned a lackluster business into a wonderful business by selling it to someone who thought it was a wonderful business."

"That was the sale of the century," Mr. Byrne said. "I always want to deal with a strategic buyer."

Mr. Byrne's speech was the latest in the yearly William J. Parkinson Distinguished Lecture series at The College of Insurance.

While describing it as his farewell address, Mr. Byrne later joked that though it was his last speech, it may not be the last time he delivers it. **BI**

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Tort reform

Continued from page 3

1979, U.S. light aircraft manufacturers delivered a total of 18,000 single-engine airplanes. By 1992, that number was down to 900, "the smallest figure in any year since the 1920s," said George Petkoff, managing partner of Petkoff & Lancaster in Memphis, who specializes in aviation product liability defense.

Non-U.S. manufacturers now dominate light aircraft building.

"The main obstacles to higher (U.S.) sales are product liability laws that contribute thousands of dollars to the price of each new private aircraft and a continuing supply of older planes," Mr. Petkoff said earlier this month at the 18th Annual Aviation Insurance Assn. Conference.

For example, about 120,000 Cessnas are still operable and their average age is 27 years, a company spokesman confirmed.

For the past eight years, light aircraft manufacturers have been pushing for a federal product law to protect them from suits.

Finally, in March, the Senate passed the General Aviation Revitalization Act of 1994 by a 91-8 vote (BI, March 21). Sponsored by Sen. Nancy Kassebaum, R-Kan., the bill, S. 1458, would forbid civil actions for damages against manufacturers for death or injury arising out of an accident involving light aircraft that seat fewer than 20 passengers and are at least 18 years old.

This 18-year statute of repose would run from the date the aircraft is delivered from the manufacturer.

The bill also provides an 18-year statute of repose on component manufacturers like engine or instrument makers. However, the period runs from the date that each component is installed in the aircraft. So, if a 19-year old plane had a new engine installed, the plane's manufacturer would be protected by the bill, but the engine manufacturer could be sued.

The original House version of the bill—H.R. 3087, sponsored by Rep. Dan Glickman, D-Kan., with 290 co-sponsors—would set a 15-year statute of repose.

However, the House Public Works and Transportation Committee has replaced the language of H.R. 3087, with that of the Senate bill.

To get a law passed, "We would be willing to accept the changes in the Senate bill," said a spokesman for Rep. Glickman.

The measure now goes to the House Judiciary Committee. However, Judiciary Chairman Jack Brooks, D-Texas, has suggested that the statute of repose should start from the date the law is enacted, rather than be applied retroactively, which would limit the legislation's impact.

If the committee does not approve the more generous Senate version of the bill, its sponsors in the House may find enough representatives to sign a discharge petition after Memorial Day recess, which would get it out of committee and onto the floor for a vote. Once a bill is approved by Congress, President Clinton could sign it into law by autumn.

"Passage of the bill would help reduce escalating premiums for liability insurance on large fleets of existing aircraft manufactured as far back as the early 1930s due primarily to expenses incurred in defending frivolous product liability lawsuits," said Mr. Petkoff, the aviation attorney.

"Since most of the general aviation fleet is older (than 18 years) you're going to be taking manufacturers' residual losses right out of the equation," added C.H. "Corky"

Nason, president of Nason Associates Inc. brokerage in Overland Park, Kan. "It will also be a big mental change. We've gone from a huge exporter of general aviation to a net importer and destroyed the industry. So if it's passed it will be a huge boost."

"The passage would result in 25,000 to 30,000 jobs in five years industrywide," a Cessna spokesman said. The law would also give Congress the impetus to look at broader reform of product liability lawsuits, which are "a plague" on all American manufacturers, he said.

Cessna has promised that once the bill becomes law it will immediately take steps to resume building three of its more popular single-piston engine models, he said. It would re-employ 1,500 people and, after an 18- to 24-month startup time, would produce 2,000 single-engine aircraft in the first full year of production, he said.

The Senate version of the legislation would shield Cessna from liability for about 100,000 aircraft that it built prior to 1976, the spokesman noted.

"We strongly support the act, and we'd like to see it passed," added Glenn Parr, general counsel of Piper in Vero Beach, Fla. "It's not a panacea, but it would bring in some type of predictability" and with any luck insurability, and with that financial support, he said.

Piper, which is still in Chapter 11, plans to auction off its assets this summer as part of its reorganization plan (BI, Feb. 14).

"The specter of the law has added interest to the sale of Piper (because) it gives an added level of comfort to the bidders," said Mr. Parr.

Piper has built between 120,000 and 130,000 light aircraft, of which probably 40,000 to 60,000 are still used in the United States, he specu-

lated. Although it's in Chapter 11, Piper probably is still the largest U.S. manufacturer of single-engine planes, producing about 100 single-engine planes out of 130 total aircraft produced last year. "There was a time when we built 17 a day in the 1970s, but that's long gone" and probably won't return, he said.

Insurers generally support the reform measure but warn that the measure could simply re-focus litigation on manufacturers of newer components in the old aircraft.

"The bill is certainly great for an airplane manufacturer and will stimulate some activity there, but it will not really shelter the component manufacturers and could make their position worse," said one underwriter at the AIA conference.

When there is a crash, someone will seek to find a deep pocket, he added. "Somebody else (besides the pilot) is going to be found at fault. And the problem is if you shift that

by statute of repose away from manufacturers, you may encourage them to build more airplanes, but in the end those losses will be paid by someone else on the component end."

Ray Olsen, second vp-aviation and marine for Employers Reinsurance Corp. in Overland Park, Kan., said, "I think once we get a bill passed in the House and Senate and it gets signed, the feeling (in Congress) is that they can fix the mistakes in the bill."

He cautioned, though, that the way the bill currently is worded "means greater log-keeping (of the aircraft's components and maintenance), a lot more legal activity and litigation as to who's responsible for the plane after the manufacturer is no longer responsible for a fault in the airframe. So it increases opportunities for litigation. Therefore, defense costs for the insurers are going to be much higher." **BI**



Reliance Re underwrites through Reliance Insurance Company

Aviation insurer fortunes tied to airline profits: Delta exec

By STACY SHAPIRO

ATLANTA—Aviation insurers' fortunes depend on the U.S. airline industry returning to profitability, an airline executive says.

"So much of your success depends on evaluating risk and properly setting premiums," Fred Elsberry, director of consumer affairs for Atlanta-based Delta Air Lines Inc., told attendees of the Aviation Insurance Assn. conference earlier this month. "Our success is tied to that. And as we become profitable in the long run, so are we going to stabilize the risk that you have."

U.S. airlines have suffered record operating losses of more than

\$10 billion in the last three years, he noted.

Delta alone has lost \$1.5 billion during this period, he added. It suffered a net loss of \$1 billion in 1993, on top of a \$506.3 million loss in 1992.

"Plagued with these losses, there's an intense and urgent pressure to make fundamental change in the airline industry," said Mr. Elsberry. "Many of these changes are under way... Survival is the very issue that we face."

Some of the changes Delta is considering include: competing in short-haul markets and its recently announced sharing of reservation codes on certain flights with British-based Virgin Atlantic to provide global service, he said.

During a tour of Delta's Technical Flight Operations at Atlanta International Airport, AIA attendees learned that the airline has launched a new expense reduction program to reduce its overhead to 7.5 cents per passenger mile from the current 9 cents.

Among other things, the program entails cutting 12,000 to 15,000 jobs by 1997 from its current workforce of 73,533.

Delta also manufactures and repairs many of its own parts to reduce costs. For example, replacing wing flaps previously cost \$28,000 per unit if purchased from an outside manufacturer, but now costs \$4,000 in-house. And, cabin wall panels, which previously cost \$48,000 apiece, now cost \$500 in-house.

Insurance is a big cost for the

airline industry, but premiums are not declining, Mr. Elsberry said. The five largest U.S. carriers—Delta, United Airlines, American Airlines Inc., Northwest Airlines Inc. and USAir Inc.—saw their hull and liability insurance premiums soar 125% to \$282 million during last year's renewals from \$121 million in 1991, according to Mr. Elsberry.

"The insurance industry's stake in this restructuring is clear. You want a stable industry financially capable of sustaining growth both (for) aircraft facilities and sustaining profitability. You want a safe industry with relatively predictable risk and few losses," Mr. Elsberry said. "I can assure you that our industry wants exactly the same thing."

He called on insurers to support

airline industry reforms proposed last summer by the National Commission to Ensure a Strong and Competitive Airlines Industry, a government-appointed panel.

The commission's report calls for: a satellite-based navigation system to modernize the country's air traffic control system; the Federal Aviation Administration to become a financially independent government organization; a cost/benefit analysis of federal airline regulation; and a presidentially appointed advisory committee to explore how to improve the ailing airline industry's finances. **BI**

AIA considers professional designation

ATLANTA—The Aviation Insurance Assn. is looking at several ways to improve the professionalism of the aviation insurance market.

The AIA's executive committee this year will explore establishing an "Aviation Insurance Professional" designation, similar to the Chartered Property & Casualty Underwriter designation, John Hoff, outgoing president of the association, said at its 18th annual conference in Atlanta May 1-4. Mr. Hoff is senior partner at the Law Offices of John Scott Hoff P.C. in Chicago.

The Aviation Insurance Professional designation program, which may include correspondence work, could be set up as early as next year, he said.

Currently, the AIA's conference offers several sessions that agents and brokers can use to satisfy the continuing education requirements of many states.

In other business at the meeting:

- The AIA agent/broker committee conducted an informal survey of its members to see which aviation insurers performed best and why. The survey results will be distributed to the relevant aviation insurance companies.

- The AIA was asked by Robert Collins of the Aviation Crime Prevention Institute to set up a register of light aircraft to prevent fraud. With no such register, it is difficult to track stolen aircraft.

This year, the conference drew a record 502 attendees.

The organization and the conference focus on the general aviation industry, which accounts for more than 97% of U.S. registered aircraft; nearly 700,000 pilots; and 17,490 U.S. civilian airports, including the 680 U.S. airports served by major air carriers.

General aviation contributes more than \$38 billion to the U.S. economy and provides more than 530,000 jobs, according to the AIA.

Next year's conference will take place in San Diego April 30-May 2. The 1996 conference will be in Colorado Springs, Colo.

—By Stacy Shapiro

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Aviation rates not expected to take off

By STACY SHAPIRO

ATLANTA—Insurance rate hikes are leveling off for all segments of the aviation industry, from major airlines to crop dusters.

Rate increases in 1993 averaged about 60% for airline hull and liability insurance, but descended to about 10% to 15% in the first quarter of this year (BI, May 2; Nov. 29, 1993).

Rates likely will rise gradually this year, unlike the sharp increases during the last hard aviation market in 1984-1987, underwriters and brokers agreed at the 18th Annual Aviation Insurance Assn. Conference, held earlier this



month in Atlanta.

Conference attendees mainly focused on the state of the general aviation insurance market, which accounts for about one-third of the world's aviation insurance premiums. The general aviation industry includes a wide array of risks, including light aircraft, hot air balloons, helicopters, small commuter airlines and airports.

But, insurers and reinsurers also met informally to discuss the insurance market for major airlines, which accounts for another third of the world's aviation insurance premiums, and aviation products liability coverage, which accounts for the remainder.

"We're getting rate increases on everything in aviation, including general aviation," said C.H.

"Corky" Nason, president of aviation broker Nason Associates Inc. in Overland Park, Kan.

Rates for general aviation physical damage and liability coverage have gradually been rising about 5% to 8% at renewals over the past 16 months, said Mr. Nason. "All of the underwriters come in saying 10%, but you can negotiate."

On the airline side, though, brokers are seeing "dramatic" rate increases, he said. Indeed, steep rate hikes resulted in a 82% increase in hull and liability premiums for one U.S. airline.

Aviation products manufacturers liability coverage, however, remains flat. "They haven't been affected very much" by the hardening aviation market, Mr. Nason

said.

Unlike the hardening aviation market of the 1980s, current rate increases are "orderly," Mr. Nason said. "The fortunate thing about this (hardening market) over the last one in 1984, where they jumped the rates up like crazy, was that we are seeing a gradual increase in rates. That's the way it ought to be."

"Premium levels have increased across a broad spectrum of accounts over the past three years," agreed Martin Belcher, managing director and chief underwriter for Polygon Insurance Co. Ltd. in Guernsey, an aviation insurer owned by several European airlines.

In fact, airline premiums totaled \$1.5 billion in 1993, while losses

totaled \$950 million. That marks this first time since 1987 that premiums have outstripped losses, he said.

However, the aviation insurance industry is still recovering from a \$2.3 billion deficit between 1980 and last year, Mr. Belcher said. "As an insurance market, we've got a long way to go before we can demonstrate anything like a reasonable return on capital to our shareholders, let alone establishing and building up catastrophe reserves."

While airline premiums are increasing, they aren't increasing "substantially" because there continues to be excess capacity in the market, Mr. Belcher said.

Underwriters are still competing to be on the accounts of the world's largest airlines, so the capacity for these risks is twice what is needed. "But this capacity is very price-sensitive, and a very small difference in rates can reduce the available capacity from well over 200% to under 100%," he warned.

Even though there is overcapacity, price hikes remain because "disillusioned shareholders, Lloyd's names and managements" want a return on their capital, he said. "In my view, that will continue to go on until some of this underwriting deficit since 1980 is paid back to underwriters."

Although the aviation insurance industry has fewer players now, underwriters are larger than before, Mr. Belcher noted.

For example, the number of insurers needed to place coverage for the KSSAF insurance program, which the Guernsey-based captive insurer leads, has dropped to 49 currently from 101 companies 10 years ago. At the same time, hull limits have increased to \$175 million from \$115 million, while liability limits have increased to \$1.25 billion from \$600 million.

The KSSAF program consists of 46 airlines including Polygon's main shareholders KLM Royal Dutch Airlines, Scandinavian Airlines System and Swissair.

Consolidation also is taking place in the Lloyd's aviation market.

Last week, syndicate 97, managed by Wellington Underwriting Agencies Ltd., with about 30 million pounds (\$44.4 million) in capacity, merged with four syndicates underwritten by Lloyd's aviation underwriter Tony Medniuk that have total capacity of about 100 million pounds (\$147.9 million).

From an aviation reinsurer's point of view, though, the state of the aviation insurance market is "frustrating," said Ray Olsen, second vp-aviation and marine for Employers Reinsurance Corp. in Overland Park, Kan.

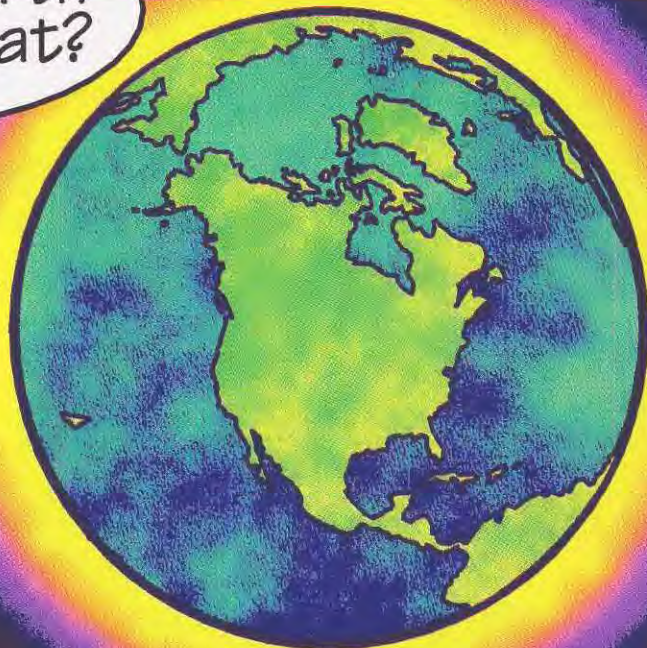
"The advent of new markets, I think, has caused a pause in the steady increase we were seeing in rates," he said. "If you look at general aviation, there were steady increases in the rates and those have slowed down considerably. New business still gets increases, but everyone's attacking renewals. That has caused a slowdown (in rate hikes) at a time when we can't afford it."

There are still rate increases in some areas of general aviation like helicopters, where "we're lucky to eke out 5%, where a year ago we could get 15%," Mr. Olsen said. "It's just not the way we want it to go."

During the AIA conference, in-

Continued on next page

Where on earth
can I find that?



1993 DIRECTORIES

Issue Date	Directory
January 25	Third-Party Administrators
February 15	Utilization Review Providers
March 8	Risk Management Consultants
March 29	Employee Benefits Information Systems
April 26	Captive Managers
June 7	Property Loss Control Consultants
June 21	EAPs & Mental Health Networks
July 5	Agents & Brokers
July 19	Alternative Risk Financing Facilities
August 2	Benefit Communication Systems
August 16	Surplus Lines Insurers & Wholesalers
August 30	Leading Reinsurers Worldwide
September 6	401(k) Plan Administrators
October 4	International Insurers & Benefit Networks
October 18	Safety Consultants & Rehabilitation Services
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August 15	Benefit Communication Systems
August 29	Leading Reinsurers Worldwide
September 5	401(k) Plan Administrators
September 26	Surplus Lines Insurers & Wholesalers
October 17	Safety Consultants & Rehabilitation Services
October 31	Reinsurance Brokers
November 21	Environmental Risk Management Consultants
December 5	International Insurers & Benefit Networks
December 19	Employee Benefit Consultants
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Continued from previous page
surers, reinsurers and brokers discussed some of the new markets and ideas opening up in the aviation insurance world.

Talk focused on a new aviation insurance company being set up in London by David Peachey, former Lloyd's of London aviation underwriter for syndicates managed by Janson Green Ltd.; and Stuart Peel, former aviation underwriter for Orion Insurance Co. P.L.C., which is in runoff.

AIA members—and market sources in London—heard that the two underwriters plan to start underwriting July 1 for a pool of French and Japanese insurers, offering up to 5% of airline hull and liability insurance programs. This may be increased to 10% participation on Jan. 1, 1995.

Mr. Peachey and officials at French aviation insurer La Reunion Aérienne did not return calls.

Some reinsurers are unimpressed by the developments in London's aviation market. One reinsurer at the AIA meeting said there is enough capacity in the world elsewhere to avoid London altogether when placing an airline risk.

However, for the first time in many years, a major airline last year moved its claims lead to London.

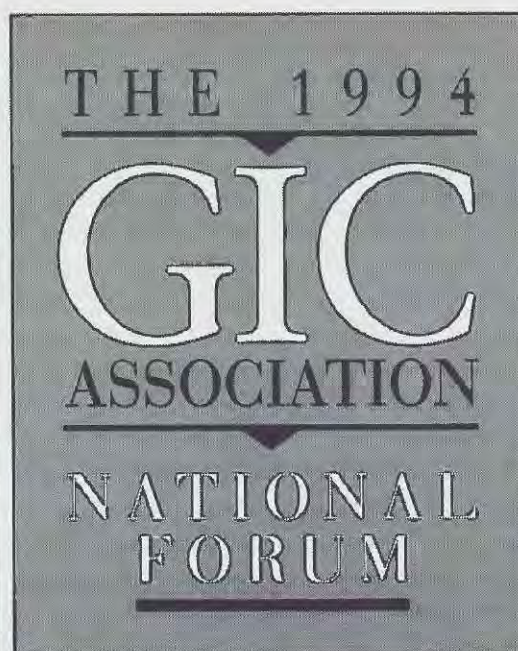
Last October, American Airlines moved its claims lead to British Aviation Insurance Group in London from the U.S. Aviation Insurance Group in New York. American uses former USAIG claims manager Robert Alpert and his company, New York-based In-

ternational Claims & Litigation Management Group Inc., to administer claims in the United States.

Meanwhile, Swiss Reinsurance Co. is changing the way aviation coverage is written by offering a five-year, long-term reinsurance "agreement," confirmed Carol Franklin Engler, head of aviation for Swiss Re in Zurich.

The coverage, offered as reinsurance of an airline's captive or through a local insurer or Swiss Re insurance affiliate, is based on experience rating and an average "burning cost," or break-even point between premiums and losses. This approach takes rating away from the ups and downs of the aviation capacity cycle, she said.

This is a much more technical way of underwriting than changing rates because of the supply of capacity, she added. **BI**



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Oregon's SAIF anti-fraud effort recovers millions

SALEM, Ore.—An anti-fraud program has recovered more than \$2 million for SAIF Corp. since the Oregon workers comp fund introduced the program in 1989.

The recoveries represent money recovered through judgments against individuals convicted of criminal activity or settlements in civil suits involving workers comp fraud.

Of the amount recovered, 57% came from medical providers, 22% came from workers, 10% came from employers, and 11% came from miscellaneous sources, according to a recent statement from the Salem-based company.

Since it was established, SAIF's anti-fraud program has:

- Referred 327 cases of suspected workers comp claims fraud to local district attorneys' offices and obtained 116 convictions, five compromises to drop criminal charges in exchange for payment and 69 payments on demand. Six other cases were referred to regulators.
- Referred 82 cases involving fraud by medical providers to local district attorneys' offices or regulatory boards and obtained six criminal convictions and 25 judgments against providers in civil actions.

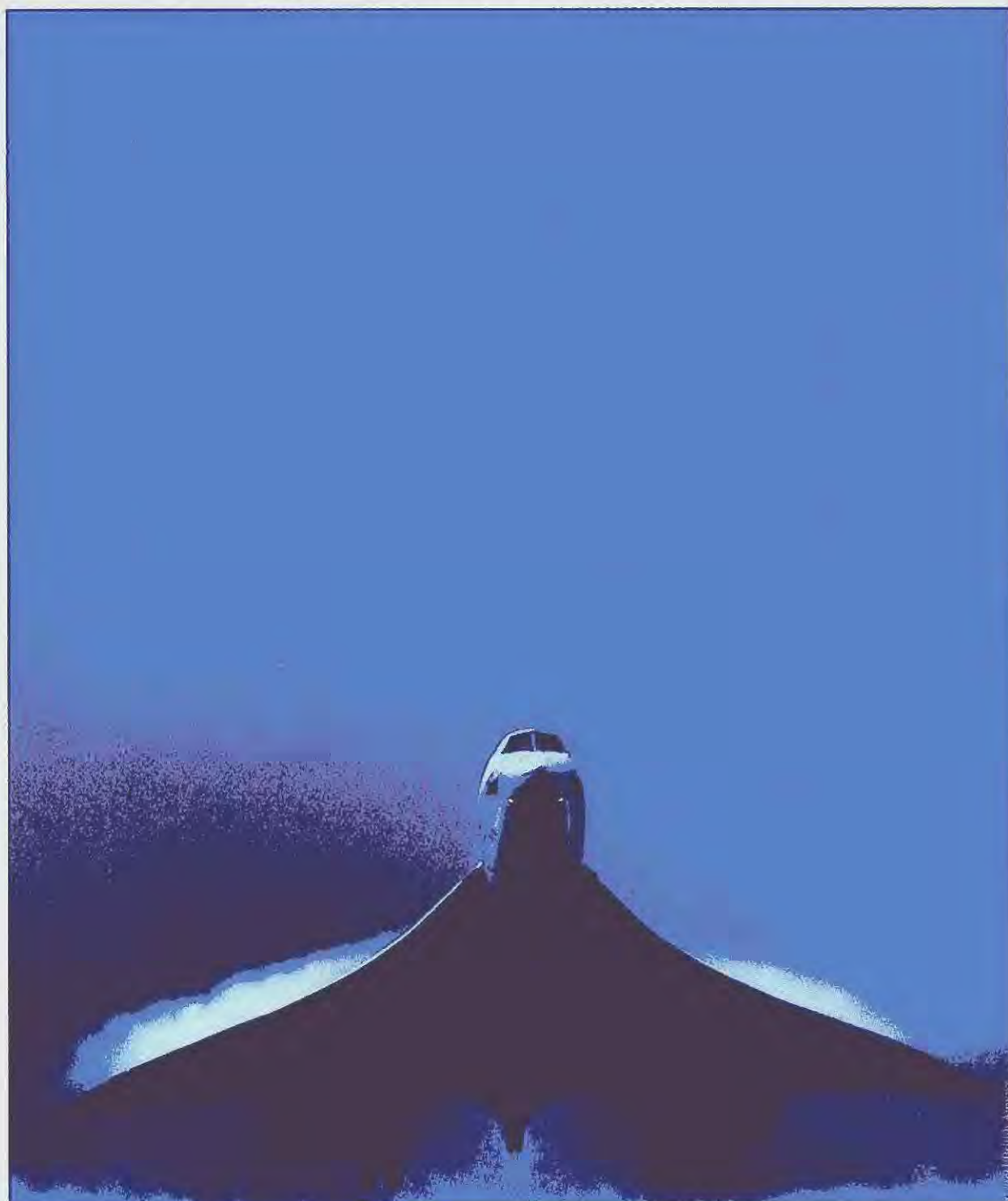
The program's claims oversight also has saved about \$23 million since 1990 in claims found to be unjustified, SAIF said.

Awareness of the program is high and has been a great deterrent, said Peter Kepfer, director of SAIF's fraud and investigations division.

SAIF maintains a toll-free number that the public may use to report fraud confidentially.

—By Louise Kertesz

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Responding to terrorism

By Robert K. Meyers
and James A. Maguire

IN THE UNITED KINGDOM, politics and the insurance industry have been brought together by a rash of violent bombings in England. The terrorist bombing campaign carried out in the past year by the Irish Republican Army on British soil, while not without precedent, is certainly of a scale never before experienced in the United Kingdom. For the U.K. business community—and in particular the insurance industry—the IRA's terrorist acts have led to a linkage of politics and commerce that has had an international impact.

On Jan. 1, 1993, major European reinsurers decided to exclude terrorism coverage in the United Kingdom because of their limited knowledge of the risk potential in the United Kingdom in general and in central London specifically. Without reinsurance protection, the direct primary insurance market was forced to follow suit.

The U.K. government's response to this shortage was the formation of Pool Re, a mutual reinsurance company. The operation of Pool Re has led to much debate, though, over the issue of terrorism cover in the United Kingdom, and the risk management, insurance and brokerage communities now await possible revisions of the current schedule of rates as well as changes in terms following Pool Re's annual meeting earlier this month.

A quick review of the U.K. provisions for terrorism coverage can help us to better understand this issue and define solutions for the insurance buyer.

In the fall of 1992, insurers, reinsurers and the U.K. government were compelled to evaluate the extent of cover they could afford to provide against increasing acts of terrorism in the United Kingdom and the consequential cost in property damage. The result of these discussions was that, as of Jan. 1, 1993, the U.K. insurance market restricted cover for commercial risks to 100,000 pounds (\$150,280) per premises for these coverages: buildings and completed structures; other property, including contents, engineering, contractors and computers; business interruption; and book debts.

The U.K. government agreed that it would act as the reinsurer of last resort for damage from terrorism activity. This agreement, confirmed by an act of Parliament, provided the basis to establish Pool Re. The act provides policyholders a facility to purchase full coverage excess of 100,000 pounds (\$150,000). Coverage up to 100,000 pounds is provided by the primary insurer.

Most importantly, Pool Re has the ultimate support of the U.K. government if the pool's funds become exhausted. Since the summer of 1993, on any new or renewable policies, the 100,000 pound limit has applied per policy with no facility for automatic reinstatement.

London is the focus of much of the publicity and concern regarding terrorist incidents. However, there have been incidents in northern England involving terrorist bombs and it appears that terrorists will hit targets throughout the United Kingdom. There is no discernible pattern and the consensus is only that the bombs are targeted for maximum disruption and publicity. To date, the major U.K. losses are the April 10, 1992, St. Mary's Axe explosion with an economic loss of approximately 350 million pounds (\$525.9 million), which is down from original estimates of close to 800 million pounds (\$1.2 billion), and the Bishopsgate bomb on April 24, 1993, with an economic loss of about 600 million pounds (\$901.7 million) (*BI*, May 3, 1993; April 20, 1992). These bombings present startling proof that terrorism losses may reach the scale of natural catastrophes in terms of potential losses.

How Pool Re works

For terrorism exposures, the primary insurer provides a quotation for terrorism coverage from the

Pool Re may issue rate, term changes for U.K. terrorism reinsurance

International Issues

rates supplied by Pool Re, which are not negotiable and are broken down according to location. The insured value of a property is multiplied by the following rates:

- Zone A—central London, 0.144%.
- Zone B—inner London and other central business districts, 0.072%.
- Zone C—rest of England, 0.018%
- Zone D—rest of Great Britain, 0.009%

In the event of a loss, the primary insurer is responsible for paying the entire terrorism claim. Once payment is made to the policyholder, the insurance company then seeks reimbursement from Pool Re. Upon confirmation from the member company that the claim has been paid to the policyholder, Pool Re indemnifies the payment under request.

If Pool Re's fund is exhausted, the facility's primary insurer members also may face a "call" of up to 10% of their premium contribution to Pool Re. The call refers to members' total premium contribution to Pool Re, not their participation on a specific program. Again, the normal retention by the primary insurer is 100,000 pounds, with anything in excess of this limit ceded to Pool Re. If necessary, Pool Re can use a rolling sterling agreement with the Bank of England of 500 million pounds (\$751.4 million) to meet its liabilities. In the event of a loss, a credit transfer would be provided to the primary insurer from the Pool Re fund after the policyholder's claim was settled. Pool Re is, therefore, as secure as the U.K. government.

There are limited options regarding alternative markets for U.K. terrorism coverage. Pool Re members are not permitted to provide terrorism cover at rates other than those stipulated. To date, other markets, like continental Europe, have been unwilling to provide alternative capacity. It appears that some Lloyd's syndicates can provide capacity, but this is also fairly limited, probably now no more than \$20 million to \$30 million, and expensive.

London market capacity for terrorism cover, however, appears to be more flexible than Pool Re with loss limits and selective coverage options available to the insurance buyer.

American International Group Inc., which has a worldwide terrorism insurance facility in New York, at one time offered \$30 million in capacity worldwide, except London, which had sublimits of \$10 million. However, it no longer offers property terrorism and sabotage coverage in the United Kingdom and is not expected to in the foreseeable future.

Insurance protection from terrorism is addressed in other countries primarily via state mechanisms. Two examples are worth mentioning.

In South Africa, a very real threat from terrorist acts to commerce and business has existed for more than a decade. In 1976, the insurance market canceled coverage due to the insurers' inability to cover this exposure. Following negotiations between insurers and the government, a compromise was reached whereby 15 of the largest direct insurers contributed on a proportional basis to the capitalization of a pool, South Africa Special Risk Insurance Assn.

In the SASRIA structure, the government acts as the insurer of last resort for the pool. Payments to any one

client are limited annually to 250 million rand (\$68.2 million). This mechanism apparently has been satisfactory due to the smaller size of most businesses operating in South Africa and, therefore, the reduced possibility of catastrophic losses depleting the fund.

Spain's "Consorcio," a government-financed entity, includes terrorism cover along with catastrophe perils. Premiums are derived from statutory rates applied to property values. The Consorcio arrangement provides cover for perils such as flood and earthquake but does not include business interruption coverage. Private Spanish insurers are not prohibited from providing these covers, but the levy or contribution to the Consorcio is obligatory.

Defining principles

Even though Pool Re is an adequate facility for U.K. terrorism cover, questions about the entity still have not been fully resolved.

For instance, in the risk management community, the perceived inflexibility of Pool Re has been strongly criticized. To best understand Pool Re, it is important to look at the principles laid out by the British government for the provision of U.K. terrorism cover. These are:

- ✓ To ensure that all industry and commerce continue to be able to purchase cover against the risk of losses as a result of attacks by terrorists, and to avoid disrupting commerce and industry by the lack of insurance for terrorism.
- ✓ To enable the insurance market to function normally so that the need for government intervention will become increasingly remote over time and government involvement can be discontinued.
- ✓ To incur zero cost to government over a period of years.
- ✓ Not to expose insurers to undue risk that might threaten their solvency.

Pool Re was an immediate and political response to the threatened exclusion of terrorism cover by reinsurers and the adverse impact this would have on direct U.K. insurers. It is important to remember that in the fall of 1992, major European reinsurers decided to exclude terrorism in the United Kingdom from 1993 treaties and the U.K. government was compelled to create a solution, in a matter of days, to the possible disruption of U.K. commerce because of that decision. Pool Re is essentially the creation of the U.K. Department of Trade and Industry.

The DTI determines policy, rules and ratings of the Pool Re facility, not Pool Re itself. While the intransigence of Pool Re regarding the rating schedule, deductible discounts and other coverage issues has been much debated, this is not because of the pool members' inflexibility, but due to the DTI adhering to the previously mentioned governmental principles in establishing the pool.

To understand Pool Re's structure better, several points are worth highlighting. Pool Re has a highly streamlined administration. There is presently one reinsurance underwriter responsible for technical underwriting.

The DTI views Pool Re as a strict retrocession agreement between the government and the Pool Re membership. What does this mean for the insurance buyer? To date, there has not been much room for negotiation of terms and conditions as there might be in a primary insurance arrangement. The DTI determines the scope of the rules and ratings, and during the past year has closely adhered to the pool's original principles.

In addition to the reinsurance underwriter, Pool Re has a managing director—a new managing director from the reinsurance market was reportedly named at the general meeting—and nine support staff members. Pool Re's limited administrative/underwriting staff allows little time for case-by-case review of alternative proposals. Over time, however, brokers and insurers may have greater success in negotiating with Pool Re because of the pool's increased

Continued on next page

Terrorism

Continued from previous page
familiarity with the DTI requirements and goals as well as increased personnel.

Rating credits

Pool Re was a U.K. solution set up for U.K. companies. There was little recognition of the impact of the tariff on Fortune 500 or multinational companies with exposures in the United Kingdom. The assumption of large deductibles, self-insured retentions for meaningful premium discounts, credits for loss control or security implementation, or negotiation of rates based on geographical location have not been accepted as they might have been in direct insurance underwriting negotiations. To a large extent, the risk management and brokerage community has assumed Pool Re is the final arbiter, when that is actually the role of the DTI.

The rigidity of the DTI rules regarding the rating structure and credits available to policyholders for taking higher retentions or improving loss control/security arrangements may be weakening. Pool Re's position has been that discounts for security precautions are useless because of the "shock wave" that can result from a terrorist bomb. In the two downtown London blasts, experts were surprised at the path taken by the shock wave, which was funneled between outer walls from one street to the next. Ironically, due to the irregular and non-rectangular layout of the streets, the shock wave virtually came full circle, hitting some streets twice while leaving other, closer sites untouched. The use of video cameras or extensive security personnel, therefore, would not be worth much if a large bomb were set at another site causing unpredictable peripheral damage.

However, Pool Re recently announced that it will allow rating discounts for loss reduction and prevention measures. Pool Re is formulating a schedule that could allow a maximum of 12.5% credit for loss control but only for the property damage premium. The credit will apply depending on the type of security system—video cameras, increased personnel, etc.—in place.

For now, the rating credits will not apply to business interruption coverage. Pool Re has indicated, however, that though a contingency plan for catastrophic losses will not yield any rating credit for business interruption losses, it will be viewed very positively and will serve as a key element in attaining the property damage discount. It is hoped that the property damage discount will be available by June or July.

The amendment of current rates and/or deductible discounts could be announced at any time but is most likely by June or July. Once the new rates are announced, Pool Re members have 45 days in which to register their views with Pool Re. The original rates promulgated in January 1993 were revised in April 1993 soon after the Bishopsgate incident.

Outside suggestions

Following the Bishopsgate blast, the DTI appointed an independent consultant, Bacon & Woodrow, to review the rate procedures. Their report highlighted the need to adjust rates to achieve the desired 500 million pound (\$751.4 million) benchmark. Bacon & Woodrow reported their findings in May 1993 to the DTI, which then instructed Pool Re to implement rate changes as of June

1993 that increased premiums by an average of 300% in higher-risk areas like central London.

It has been estimated that the U.K. terrorism premium paid to Pool Re in 1993 was 190 million pounds (\$285.5 million); claims paid for the period are estimated at 45 million pounds (\$67.6 million), with 235 million pounds (\$353.2 million) outstanding. These reserves refer primarily to the Bishopsgate loss.

The pool has said that "rating will be done on an annual basis and that no changes in the deductible discount structure will occur until mid-1994 (June 1993 is the only change to date) or prior to July."

All signs point to the disclosure of the new rates within the next month.

The Bacon & Woodrow report included the following recommendations:

- Simplification of zones and rates.
- Removal of the 100,000 pound "free" cover.
- Removal of the 10% "call" on insurers.
- Remuneration for brokers and insurers.
- Simplification of the business interruption rating.
- Improved administration.
- Risk improvement rebates for cameras, extra security, etc.

The Bacon & Woodrow report has been reviewed by several groups, including Pool Re's underwriting committee, brokers, insurers and Lloyd's syndicates. It remains to be seen how Pool Re and/or the DTI will treat the above points or other recommendations from outside reviews.

It is generally felt that the best manner to address the U.K. terrorism issue is via the implementation of a solution like that in Northern Ireland, where payment for loss is based on 100% indemnity by the government for terrorist damage. This solution, however, is politically untenable in the Britain.

Another idea put forth in 1993 by several groups was a levy on policyholders. Initially, a premium tax was considered politically impractical because the U.K. government did not want to appear to be suggesting a tax or public-sector transfer of the terrorism problem.

However, in November 1993, the DTI announced that a 3% tax on net insurance premiums would go into effect Oct. 1, 1994, and apply to all policies covering U.K. risks with the exception of cargo, credit or reinsurance. The insurance premium tax has now been revised to a 2.5% tax on the gross premium. According to the government, the insurance premium tax was levied to bring the United Kingdom into line with other European countries, but there is speculation that the shortfall in Pool Re funds has, in part, influenced the government's decision to implement this new tax. It should be emphasized that it is unclear whether any portion of the premium tax revenues will be used to supplement the Pool Re fund but it seems a possibility. If an official announcement contradicting this position were made, it could be argued that Pool Re's rates would likely increase to cover the present shortfall. It was estimated that the 3% levy would yield 750 million pounds (\$1.13 billion) in revenues to the government and the 2.5% tax should yield a similar revenue figure.

It is unclear whether the premium tax will apply to terrorism premiums. The U.K. government's customs and excise department has advised that Pool Re's cover is reinsurance, so those premiums will be exempt. However, the primary insurance against terrorism, being general insurance, is taxable. Whether the tax is due on

premiums collected by insurers is, therefore, still unclear.

Ironically, with the recent peace overtures, some policyholders are opting not to purchase terrorism insurance with Pool Re, thereby reducing premium flow into the fund. This leaves a Catch-22 situation for the government: Peace diminishes the incentive to buy terrorism cover, but in the event of another incident, Pool Re is insufficiently funded and the U.K. government and taxpayers are placed squarely in the middle for paying losses due to terrorist acts for those who have purchased coverage.

The cost of administering terrorism cover can run as high as 500,000 pounds annually for insurers and brokers. U.K. underwriters can spend as much as 50% of their time on terrorism issues, with support staff occupied virtually full-time in processing paperwork.

One proposed solution for the remuneration of insurers is the elimination of the 10% call; so far, it is unclear if Pool Re (or the DTI) will act on this suggestion. The next month will present the interested parties (policyholders, brokers, and insurers) with the new Pool Re guidelines. Some commentators feel that the U.K. government is no longer as interested in reaching the 500 million pound benchmark, nor in improving terms or getting more policyholders in Pool Re. In light of the recent premium tax and the expected revenue flow, it is likely that some of these funds will be earmarked to supplement Pool Re. A lowering of current rates could induce policyholders to remain within the Pool Re structure, as opposed to seeking alternative options in the London market. The fact remains that options are narrowing for the policyholder and a further escalation in rates may force some to opt out of the pool.

Last year's terrorist acts in Britain, and subsequent killings in Northern Ireland, forced both Irish and British politicians into virgin territory. Peace talks raised concepts such as "de facto recognition" of the IRA and "total cessation of violence" by the IRA. However, the spirit of discussion among the various parties, including a visit to the United States by the head of the IRA's political wing, has not yielded the hoped-for solutions to the problem.

The mortar attacks on Heathrow Airport in March will certainly slow down any easy reconciliation of the differences separating the two sides.

U.K. terrorism coverage will continue to be an important issue for the insurance buyer. There are few options outside the Pool Re structure and little room for negotiation within the parameters of the pool's rules.

Forthcoming announcements by the Pool Re directors should help guide the insurance buyer in terms of how best to provide coverage for this sensitive exposure. In the best-case scenario, Pool Re will be rendered obsolete by successful completion of the peace process between British and Irish diplomats. Until then, the uneasy alliance between politics and industry that Pool Re represents will remain the primary mechanism for the provision of coverage against terrorist acts in the United Kingdom. **BI**

Robert K. Meyers is senior vp and manager of the International Department of Johnson & Higgins in New York. James A. Maguire is assistant vp of J&H's International Department. He is also J&H's U.K. terrorism liaison.

Non-resident aliens not entitled to workers comp benefits in Georgia

The Supreme Court of Georgia denied workers compensation benefits to non-resident aliens holding that the state equal protection clause did not extend to non-resident aliens.

Jose Morales was employed as a construction worker for Barge-Wagener Construction Co. when he fell to his death from a building on which he was working. His wife and two minor children survived him. They were citizens of Mexico and resided in that nation.

The Georgia workers compensation law provided death benefits, including burial expenses, not to exceed \$5,000,

Legal Briefs

except that dependents who were not citizens of the United States or Canada at the time of the accident were limited to benefits of \$1,000.

Mr. Morales' widow and minor children were granted benefits of \$1,000. They appealed maintaining that the Georgia law violated the equal protection clause of the state constitution. The trial court agreed and found the law unconstitutional.

The state Supreme Court acknowledged that the Georgia law clearly discriminated between U.S. and

Canadian citizens and residents on one hand and all other non-resident aliens on the other. However, the court said that such discrimination was not unlawful because the equal protection clause did not extend to non-resident aliens. "Aliens outside the borders of the United States are subject to their own nation's laws," the court said, "and cannot invoke the protections reserved for citizens and residents of the United States."

But, the court said the state could not deny burial expenses to the estate of Mr. Morales as such expenses were the property of his estate. Since Mr. Morales was within the jurisdiction of

the United States, the court said the equal protection clause extended to those benefits. The trial court decision was reversed.

Barge-Wagener Construction Co. vs. Morales, Supreme Court of Georgia, May 24, 1993, *Reconsideration Denied* June 18, 1993 (BI/01/A.-\$10). **BI**

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

Derivatives

Continued from page 3
plans using derivatives."

"From my experience, it's very uncommon," added James Hotvet, retirement practice leader for Alexander & Alexander Consulting Group in Pasadena, Calif. "If they are, they're a well-kept secret."

"I have never before seen derivatives used in anything called money market or stable value fund," he said. "ARCO's big mistake was them calling this a 'Money Market Plus' fund; all of us think you're never supposed to lose money in a money market fund."

Yet, derivative investments may be more common than most people think.

Consultant Greenwich Associates last year surveyed 1,603 large tax-exempt investment funds and found that 13% used financial derivatives. Among funds of more than \$1 billion in assets, that figure was 38%.

About two-thirds of those funds were corporate-sponsored plans, including pension funds and 401(k) plans. Also included in the overall category were endowments and public pension funds.

The most common derivative instrument offered by these funds was stock index futures. These contracts, which combined the features of traditional commodities futures trading with securities trading using composite stock indexes, are generally well-understood by investors. Stock index futures were used by 15% of all the funds surveyed and by 34% of those with more than \$1 billion in assets.

More exotic derivative instruments, though, were not unheard of. Six percent of all funds and 17% of those with \$1 billion in assets reported using derivative-based structured investments—products structured around derivatives and customized to meet the particular cash-flow needs of the buyer.

The survey did not indicate the extent of the funds' investment in derivatives, however.

"I would suspect that a lot of people who are doing derivatives are going to re-examine that practice and they're either going to let people know what they're doing or get out," said Mr. Hotvet.

Many companies never got into that market. BankAmerica Corp. in San Francisco, for instance, does not invest employee retirement and savings plan funds in derivatives.

"I think a lot of firms had investment experts look into derivatives for their potential upside," said Norman Snell, senior vp and director of compensation and benefits. "I know we had a discussion about derivatives some time ago and decided that they were too volatile for our particular purposes."

Volatility is only one factor; another is employees' lack of investment savvy. Even after the ARCO announcement May 13, employees at BankAmerica have not been asking whether their own savings might be tied up in derivatives, Mr. Snell said.

"Most firms typically do not divulge what their investment mix is in the pension portfolio," he said, adding that participants do occasionally inquire as to asset mix and volatility, "but not to any great detail."

In fact, it is participants' general lack of detailed knowledge that keeps plan sponsors from using complex investments.

"One of the primary goals of a

401(k)-type program is that you want the participants to be able to understand the program that they're putting money into," said Segal's Mr. Levenson. "You want them to be able to make a reasonable, informed decision as to how the various options that they've been given will allow them to meet their individual wealth goals."

At ARCO, the Money Market Plus offers two investment options. One is a traditional money market fund and the other, where the losses were reported, is designed to produce higher returns.

Participants were aware of the potential risks inherent in such a program, the spokesman said, though the letter to participants indicated the company was "disappointed" by the loss.

Given the fund's positive results over the past five years, "some participants might not have expected the possibility of a decline

in this type of fund," the spokesman said.

In contrast to ARCO's more aggressive tactics, many other companies are fairly conservative in the degree of risk that participants may take. Another way companies

'All of us think you're never supposed to lose money in a money market fund,' says James Hotvet.

try to avoid liability for losses is to educate employees about investing and to offer more investment options (BI, July 5, 1993).

BankAmerica, for example, is now looking at expanding its "risk frontiers," according to Mr. Snell.

New investment options are to be offered beginning Jan. 1, 1995.

However, BankAmerica will first provide an extensive two-year investment education program for employees before expanding the higher-return, higher-risk options.

"We've gone through an educational program to educate employees on investment theory," Mr. Snell said. "We gave them the tools."

ARCO plans to make the 17,000 plan participants whole for the \$22 million loss they sustained because of the derivatives trading, though first the company must clear the way with the IRS.

"It's certainly our intent to restore the amount of the loss with interest in the plan," the spokesman said. "There are some tax aspects to this...that we are currently negotiating with the IRS."

If its contribution were to vio-

late the non-discrimination rules that govern 401(k) plans, ARCO could theoretically have its plan disqualified, which would cost it the tax deduction ordinarily afforded to plan contributions. Any contributions would then be considered taxable income to employees, too.

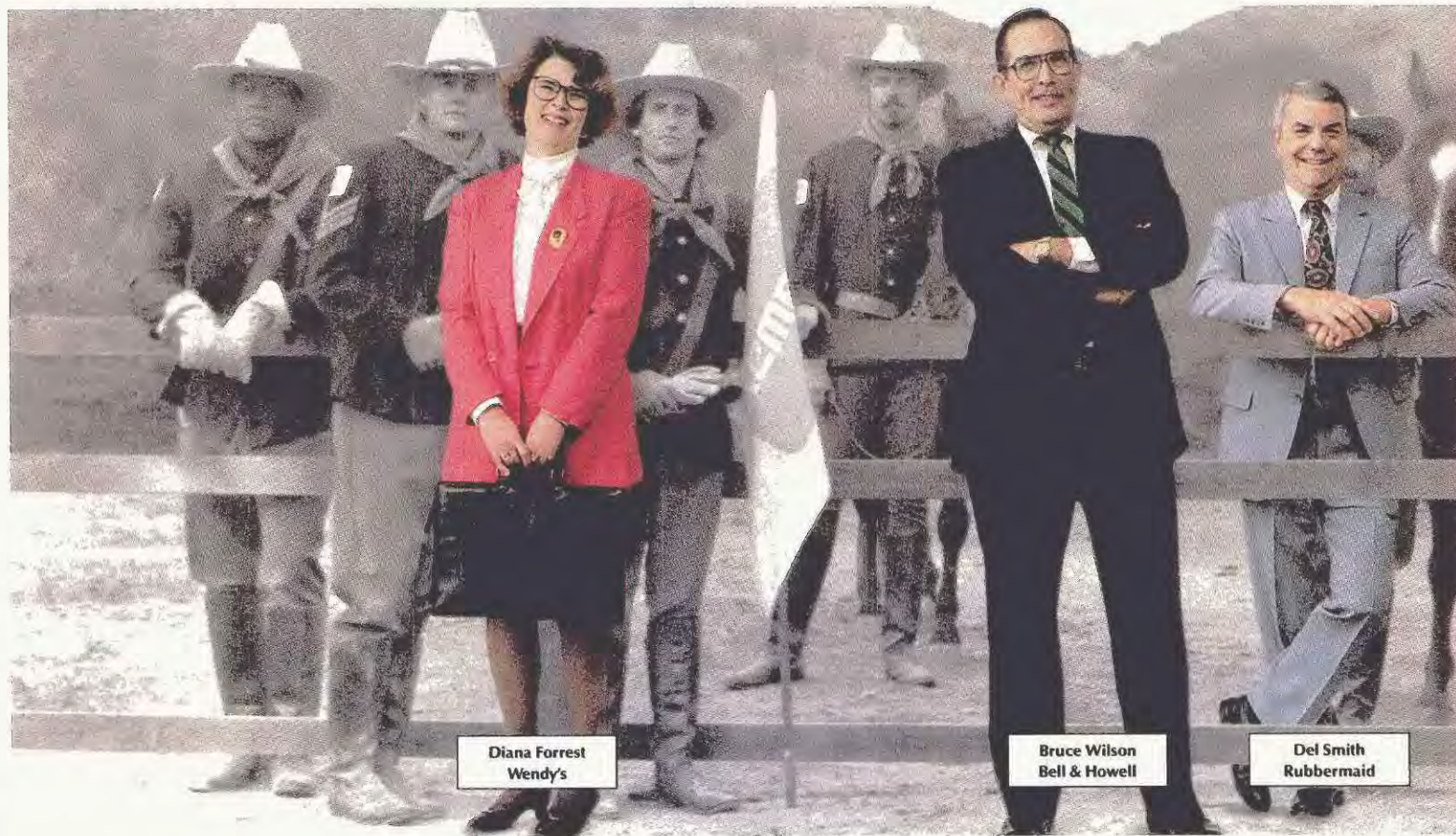
Negotiations with the IRS are in the "early stages" and are expected to take several months, the company spokesman said.

Increasing derivatives losses at many companies are expected to generate shareholder suits and directors and officers liability claims (BI, May 9).

ARCO's spokesman, though, said he knew of no lawsuits against the company related to the \$22 million loss.

"As to whether we're concerned about it, in today's day and age we're aware that it's certainly a possibility." **BI**

IF YOU WANT TO SAVE MILLIONS LIKE THESE RISK MANAGERS,



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Continued from page 2
approval.

"The House action is the first tangible sign that something might pass, but it is far from a done deal," said Frank McArdle, a consultant with Hewitt Associates in Washington.

The most important pension simplification provisions in the measure would ease 401(k) non-discrimination testing procedures in two ways.

Under the first provision, employers would be able to compare salary deferrals made by lower-paid employees during the previous year with those made by highly paid employees during the current year.

Employers now have to compare current-year contributions for both groups, which requires constant monitoring of all 401(k) contributions. If lower-paid employees defer

less than expected, employers during the plan year may have to cut back deferrals by highly paid employees or return excess contributions to them, a difficult administrative task.

By allowing the previous-year comparisons, employers would know at the beginning of a plan year how much highly paid employees could contribute during that year without the plan failing the non-discrimination tests.

In addition, the bill would allow employers to avoid 401(k) plan non-discrimination testing if they boosted plan contributions to qualify for two new safe harbors.

Under one safe harbor, an employer would have to match 100% of employees' elective contributions, up to 3% of employee compensation.

It also would have to provide matching contributions equal to 50% of employee contributions be-

tween 3% and 5% of compensation.

Under the other safe harbor, an employer would have to make contributions equal to at least 3% of employee compensation, regardless of whether an employee actually contributed to the plan.

Either safe harbor, however, would require a substantial increase in employer contributions for most plans. Many employers now only match 50% of employee deferrals, up to 6% of employee compensation.

Other provisions in the bill would:

- Simplify the definition of "highly compensated employee" for pension plan non-discrimination testing purposes.

Highly compensated employees would be those who own at least 5% of a company or earn at least \$66,000 per year, which would be increased annually with inflation and rounded to the nearest \$1,000.

Current law contains numerous

definitions of "highly compensated."

- Require rounding of cost-of-living adjustments.

The Internal Revenue Service would have to round up to the nearest \$1,000 or \$100, respectively, annual cost-of-living adjustments for the maximum amount of benefits that could be funded through a defined benefit plan or deferred to a 401(k) plan.

- Require more advance notice of cost-of-living adjustment increases.

The IRS would be required to publish the new defined benefit plan funding limit and the maximum 401(k) plan deferral limit before the end of the year.

By contrast, under current law, the IRS does not publish the annual adjustments to the maximum benefits and deferral limits until mid-January.

That is often after employees decide how much they plan to defer that year.

Meanwhile, the legislation would hit non-profit organizations that are shareholders of offshore captive insurers with new taxes on captive earnings and dividends.

The bill would require a tax-exempt shareholder controlling 10% or more of the voting power in a foreign corporation to treat underwriting and investment earnings and dividends paid to the parent as taxable unrelated business income, to the extent that the income would have been taxable if earned directly by the shareholder.

Tax-exempt entities currently pay taxes on business income unrelated to their charitable purpose, though the IRS has generally excluded captive earnings and dividends from this tax.

Those affected by the proposal would include non-profit hospitals and other tax-exempt shareholders of offshore captives (*BI*, Nov. 15, 1993).

Four California managed care systems unite

LOS ANGELES—California's competitive managed care marketplace is consolidating further. Four leading hospital-based managed care delivery systems have joined to form a single statewide network to pursue contracts with large employers.

Called California Health Network, the network is a joint venture of: California Healthcare System of San Francisco; Sharp HealthCare of San Diego; Sutter Health of Sacramento; and Adventist Health System/West and Loma Linda University Medical Center, which serves the greater Los Angeles County and Inland Empire regions.

Together, the four hospital-based managed care delivery systems provide prepaid medical services to about 1.23 million enrollees.

While the health systems will share ownership of the network, the move is not considered a merger.

The network is designed to attract large-employer groups that want to cut costs by streamlining the management of their employee health plan offerings, said Peter K. Ellsworth, Sharp HealthCare's chief executive officer.

By serving as the general contractor for each of the four health care systems and implementing standardized claims processing and quality control programs, the network will produce administrative cost efficiencies that can be passed on to employers, he explained.

"Many of California's largest private employers want to limit the number of health plans with which they must contract in order to streamline the process and reduce the costs of providing coverage for their entire employee populations," Mr. Ellsworth said.

The network also will market its services to insurers, health maintenance organizations and other managed care delivery systems that are "looking for strategic relationships with provider networks and/or fully integrated health care systems to contract with on a statewide basis."

"Forming California Health Network puts our organizations at the head of the next generation of consolidated health delivery systems that are sure to result from legislative reform and cost reduction management approaches," said Frank F. Dupper, president of Adventist Health System/West.

Both state and federal health reform proposals, especially President Clinton's plan, call for the creation of regional health care purchasing alliances.

—By Joanne Wojcik



KEEP COMPANY WITH KEMPER.

Many Fortune 500 risk managers are saving their companies millions of dollars in medical benefits this year because they have Kemper workers' compensation insurance.

Kemper's special cost containment programs have saved up to 40 percent for companies like Bell & Howell, British Airways, Frito-Lay, Pepsi-Cola, Rubbermaid, Sears and Wendy's — without sacrificing quality health care.

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Study reveals lessons from '89 quake

By MARK A. HOFMANN

Businesses and other organizations in earthquake-prone areas should conduct periodic drills to sharpen their communications and emergency response skills, a study says.

That recommendation is one of 39 contained in a detailed study by the Washington-based National Research Council, which is the operating arm of the National Academy of Science and the National Academy of Engineering. The study, "Practical Lessons from the Loma Prieta Earthquake," examines what happened when a devastating earthquake hit the San Francisco Bay area on Oct. 17, 1989, causing 63 deaths and nearly \$1 billion in insured property damage.

In addition to analyzing the Loma Prieta quake, the study suggests how

quake exposures can be mitigated. These recommendations stem from a 1993 symposium sponsored by the council's geotechnical and natural disasters boards.

In a statement accompanying the report, the chairman of the symposium said the January earthquake in Los Angeles is evidence of the need to implement the recommendations.

"One of the most jarring lessons from these quakes may be that earthquake professionals have long known many of the things that could have been done to reduce the devastation. The aftermaths of these earthquakes should make clear the need to close the gap between what scientists know about earthquake mitigation and what is used by governments and individuals," said Lloyd S. Cluff, manager of geosciences at Pacific Gas & Electric

Co. in San Francisco.

The report notes that "good emergency response and recovery plans are essential to facilitate coordination and to enable quick response and full recovery following even a moderate earthquake."

It recommends that local governments tap the expertise of state and federal agencies, utilities and other organizations to "develop realistic earthquake scenarios to evaluate" how vulnerable they are to quakes and to test communications and response links. Businesses should conduct response exercises and use the results "to implement realistic, priority-driven earthquake risk reduction and risk management programs."

The Loma Prieta quake also underscored the vulnerability of unreinforced masonry buildings, not only to their occupants but to people in

their vicinity who had to dodge falling debris, the NRC report says. It recommends that local governments create mandatory procedures or programs to minimize this exposure.

Similarly, it recommends that local governments in earthquake-prone regions "insist on adequate inspection and enforcement of construction regulations and standards." In addition, "regulators need to demand attention to detail as well as procedures that result in construction quality," and design professionals should conduct the inspections.

The report notes that some people were shocked when the structures they owned were badly damaged even though they had complied with relevant codes. It stresses that codes are designed to protect life, not to make buildings earthquake-proof.

The report points out that, in some cases, structures that had been retrofitted to provide better protection against earthquakes actually suf-

fered more damage than buildings and bridges that hadn't been upgraded. This means "professionals and researchers need to focus efforts to correlate actual response with predicted response," which requires putting instruments on structures to measure quake effects.

"Appropriate state and local government agencies should take the lead in encouraging the instrumentation of critical bridges and buildings in metropolitan areas that are close to sources of likely future large earthquakes, such as Seattle, Portland, San Francisco, Los Angeles, San Diego, Charleston (S.C.), the Wasatch front region in Utah and the New Madrid seismic zone in Missouri," the report says.

"Practical Lessons from the Loma Prieta Earthquake" is available for \$39 plus \$4 shipping. For more information, call the publisher at 202-334-3313 or 1-800-624-6242.

PRIMA

Continued from page 3

mant arm of the organization, the Center for Risk Management, into a non-profit entity that would gather loss statistics from public entities, Mr. Kirshbaum explained.

A technical plan for the center currently is being developed by PRIMA and Lake Forest, Calif.-based risk management consultant Advanced Risk Management Techniques Inc.

The center would collect liability and workers compensation loss information from all public entities nationwide. This information would include the causes of losses, dollar amounts of settlements and jury verdicts and defense costs.

Currently, there is "very little information available on public entities as an underwriting group," Ms. Puddington noted.

This data would be especially helpful to intergovernmental risk pools and self-insured entities, Mr. Kirshbaum said. Users would be charged a fee to get data or specialized reports from the center.

Although PRIMA has not asked the states that brought the antitrust litigation for a specific amount of money, it estimates that it would cost \$5 million to \$10 million initially to fund the center. The center should be self-sustaining within three to four years, she said.

However, "the creation of the center is not contingent on the result of the suit."

The center also could be established as a joint venture with a computer software or consulting company, she said.

The timetable for creating the center is very uncertain, Mr. Kirshbaum admitted, noting that a settlement of the antitrust litigation "could be tomorrow" or "could be five years" from now.

The antitrust litigation began in 1988, when 20 state attorneys general alleged that the defendants—including major U.S. insurers and reinsurers, the Insurance Services Office Inc., the Reinsurance Assn. of America and several London underwriters—engaged in a boycott to force changes in ISO's commercial general liability insurance policy form to manipulate the U.S. liability insurance market (*BI*, March 28, 1988).

The attorneys general alleged, among other things, that the defendants' actions restricted the ability of government entities to purchase liability insurance.

After years of litigation over whether the states had grounds to sue, the case is in preparation for trial in U.S. District Court in San Francisco (*BI*, April 4).

Employee Benefits Scrutiny

It's nearly time for midyear renewals and many decision-makers will be re-examining their employee benefits contracts — as well as their companies' needs. Take advantage of this intense inspection by putting your services on the table in the **Benefits Midyear Market Report**, publishing in the June 27 issue of *Business Insurance*.

Corporate executives, including administrative and financial officers as well as benefits managers, will scrutinize the reports in this issue. When surveyed, 79% of these executives reported spending \$1 million or more on their employee benefits programs. That's why they represent the operations you want to reach.

This issue also features the annual **Directory of Employee Assistance Programs**. And with 59% of our corporate readers directly responsible for employee benefits—including purchasing decisions for employee assistance counseling and rehabilitation services—there's no need for a second opinion on the advertising value of this issue.

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Preventing D&O cover disputes

By GAVIN SOUTER

Allocation of coverage should be addressed in advance

NEW YORK—Allocation disputes in directors and officers liability suits are often caused by policyholders' ignorance about the extent of their D&O coverage, a lawyer contends.

But it is not just the fault of buyers. Allocation is often a gray area in D&O coverage and insurers and policyholders should discuss it soon after a claim arises to avoid costly litigation, she said.

Another way some risk managers handle the problem is to extend their coverage to include all economic losses in shareholder disputes.

"There is a lot of confusion among purchasers of D&O insurance, particularly in the context of

allocation of loss between a corporation and its individual directors and officers," Cathy A. Simon, a partner at Ross, Dixon & Masback in Washington, said at a recent seminar sponsored by broker Alexander & Alexander Inc.

Most D&O policies only pay the liabilities attributable to individual named directors and officers; corporations are not covered. But often, especially in shareholder suits, both the corporation and the directors and officers are found liable. Consequently, the degree of liability covered by the policy must be determined.

"The confusion arises because the corporation buys the coverage and is named in the policy, but the pol-

icy only covers the directors and officers and the corporation when it indemnifies the directors and officers for their liabilities," Ms. Simon said.

Corporations often mistakenly think they are covered by D&O policies when shareholder suits name both them and the directors and officers, she said.

Further clouding the problem is the idiosyncratic nature of many D&O claims.

"Each claim presents its own unique factual and legal issues," she said. For example, when companies make initial public offerings, they often assume any liability for the action of the investment bank underwriting the offering. That lia-

bility would not be covered.

There are no rules to determine how much liability should be allocated to the corporation and how much to its directors and officers, Ms. Simon said.

Making the situation more nebulous, in cases involving investment bank underwriters, directors and officers sometimes defend their actions under due diligence, saying that they relied on the information and expertise of investment bankers correctly. The liability for the actions of the bankers would then fall on the corporation, which cannot make a due diligence defense.

Leveraged buyouts also often lead to allocation disputes, Ms. Si-

mon said. "You have to look at the context of the case because if the D's and O's are buying out public shareholders, they are not being sued as directors and officers (because they are prospective shareholders)."

To avoid lengthy and costly litigation, insurers and policyholders should have frank discussions from the outset, Ms. Simon said.

Policyholders with little experience in shareholder suits should seek advice from their insurers that handle numerous D&O claims based on shareholder disputes, she said.

An example of an allocation dispute, Ms. Simon said, is a 1985 lawsuit by PepsiCo Inc. against her client, Chicago-based CNA Insurance Cos. (BI, July 14, 1986).

PepsiCo sued for reimbursement of the \$22.1 million the beverage manufacturer agreed to pay to settle a shareholder suit and also for \$5.7 million in defense costs it had paid on behalf of its directors and officers. CNA was not involved in settling the shareholder suit. After determining at what point the insurer's liability to directors and officers attached under the policy's loss provisions, the judge ruled that the insurer had the right to allocate the lump-sum settlement among the directors and officers, which it did insure, and PepsiCo and an accountant, which it did not insure.

PepsiCo and the insurer ultimately settled the suit. Terms were not disclosed, though a large portion of the settlement amount was eaten up by legal fees, said Ms. Simon.

Two insurers now offer D&O liability policy endorsements that indemnify all of a corporation's losses, regardless of whether the corporation or its directors and officers are liable, said Charles D'Andrea, senior vp at A&A.

In 1993, National Union Fire Insurance Co. of Pittsburgh, Pa., introduced an endorsement that covers a corporation for a portion of its liability and defense costs in judgments and settlements of open-market securities claims.

The price is based on the proportion of coinsurance a policyholder is prepared to take, said Ty R. Sagalow, vp and chief underwriting officer-management liability division at the American International Group Inc. unit.

The endorsement pays for between 50% and 95% of the corporation's own liability and defense costs, depending on the option selected by the policyholder.

For 5% coinsurance, the extra premium is 80% of the original D&O premium; for 25% coinsurance, the extra premium is 45%; and for 50% coinsurance the extra premium is 5%. The endorsement has been criticized as too expensive, however (BI, Dec. 27, 1993).

Chubb & Son Inc. is trying to hold down the price of an endorsement it recently began selling by offering less coverage than the National Union endorsement, said A. Quentin Orza, vp at Chubb in Warren, N.J.

The Chubb endorsement covers 100% of defense costs and a predetermined amount of coverage for settlements and judgments ranging from 50% to 90%, said Mr. Orza.

"A securities suit against a board and its corporation is a cataclysmic event in the life of the parties. The last thing they need is to be concerned over how much of that suit is covered. This endorsement allows customers to preset the allocation," he said.

An additional premium of between 10% and 50% of the original premium is charged depending on the level of coverage, Mr. Orza said.

r examinations?



Property/Casualty Analysis

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PINE TOP INSURANCE COMPANY LIMITED NOTICE OF TEMPORARY RESTRAINING ORDER

You are hereby notified that on May 10, 1994, the United States Bankruptcy Court for the Southern District of New York granted the Joint Provisional Liquidators' of Pine Top Insurance Company Limited ("Pine Top"), case no. 94b-41928 (JLG), Application for a temporary restraining order ("TRO") enjoining and restraining all persons, except (1) The parties to Pine Top Ins. Co. Ltd V. Alexander & Alexander Services, Inc., 85 CIV. 9860 (S.D.N.Y.) and certain related persons, (2) Citibank, N.A. for purposes of certain letters of credit and collateral therefor, and (3) The Superintendent of Insurance of the State of New York for purposes of petitioning and conserving Pine Top's Trust Fund, from:

(1) Relinquishing or disposing of any property of Pine Top in the United States, or the proceeds of such property, to third parties;

(2) Insofar as it relates to Pine Top, commencing or continuing any judicial, administrative or regulatory action or proceeding or any arbitration proceeding involving Pine Top or any of its property in the United States;

(3) Enforcing any judicial, administrative, or regulatory judgment, assessment or order or any arbitration award or decision and commencing or continuing any act or any judicial, administrative, arbitration or regulatory proceeding to create, perfect or enforce any lien, set-off or other claim against Pine Top or any of its property in the United States; and

(4) Requiring any entity in possession, custody or control of property of Pine Top in the United States to turn over and account for such property to petitioners.

A copy of the TRO may be obtained by delivering a written request to David B. Stratton, Pepper Hamilton & Scheetz, 1201 Market Street, Suite 1401, Wilmington, Delaware 19801, (302) 656-8865 (Fax).

Coverage

Continued from page 3

disputes. "I think the court was misreading the policy language."

But insurer attorney Thomas W. Brunner called attempts to secure coverage under the personal injury part of the CGL policy "desperate."

"The New York high court confirmed what other lower courts have previously held—that personal injury coverage is simply not meant to cover environmental property damage," said Mr. Brunner of Wiley, Rein & Fielding, counsel to the Insurance Environmental Litigation Assn., which filed an amicus brief in the case. "The New York high court's rejection of this stratagem confirms the fundamental rule that you get what you pay for. Policyholders simply are not entitled to liability insurance coverage for pollution liabilities that are plainly excluded from coverage under their insurance contracts," he said.

Policyholder attorneys say the New York court's reasoning is contradictory.

One the one hand, the court acknowledged that the pollution exclusion in the property damage portion of the CGL policy precludes coverage if a release is not "sudden" or "accidental," said Mark Rosenberg of Sullivan & Cromwell in New York. Yet the court also said the personal injury endorsement provides cover only for "purposeful acts undertaken by the insured or its agents."

"If the pollution exclusion applied to both personal injury and property damage (endorsements), then the insurers should have said so in the policy, as some do," he said.

The reasoning was "cockeyed," said Donald W. Brown, a partner

with Brobeck, Phleger & Harrison in San Francisco. "What's most disturbing is the fact that the court contorted coverage provisions in the endorsements to make them consistent with the exclusions, but that's really the tail wagging the dog."

Instead, exclusions should be interpreted in the context of the overall coverage, Mr. Brown said.

Marc Mayerson, a policyholder attorney with Covington & Burling in Washington, said the court "seemed overly influenced by the fact that the personal injury coverage was added by way of endorsement."

But "personal injury coverage was meant to apply to injuries to possessory interests which are vindicated under the legal rubric of trespass and nuisance," he said.

The case stemmed from a 1989 suit filed by H.K.S. Hunt Club Inc. against Columbia County, N.Y., alleging that pollutants from an adjacent solid waste management facility had leached onto its property.

The county then sought coverage for the damage from its CGL insurers, Aetna Casualty & Surety Co. of Hartford, Conn., Fireman's Insurance Co. of Newark, N.J., and Continental Insurance Co. of New York.

Aetna insured Columbia County from June 1, 1986, through June 1, 1987, while Fireman's and Continental provided similar coverage from June 1, 1986, through June 1, 1990.

The policies excluded coverage for pollution-related bodily injury and property damage. But they also contained a personal injury and advertising injury liability endorsement, under which the insurers agreed to "pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages because of personal injury."

"Personal injury" was defined to

include injury from "wrongful entry or eviction or other invasion of the right of private occupancy."

The county admitted in a consent order with the New York State Department of Environmental Conservation that it violated state regulations by discharging leachate into the groundwater.

After being served with the Hunt Club suit, the county filed a claim with its liability insurers, which denied coverage. The county filed a coverage action, which was dismissed at the trial court level. The court found that the pollution exclusion precluded coverage for intentionally deposited waste and that the complaint did not allege a claim of "wrongful entry or eviction or other invasion of the right of private occupancy," as was required for the personal injury endorsement to respond.

The Appellate Division affirmed and the New York Court of Appeals, the state's highest court, ruled unanimously in the insurers' favor, finding that awarding personal injury coverage for pollution-generated property damage would render other parts of the policies meaningless.

"Those pollution-related claims that are eliminated from coverage by the pollution exclusion would nevertheless be included in the personal injury endorsement," it wrote.

"However, such construction does not give full force and effect to the words in the policy. . . . It would be illogical to conclude that the claims fail because of the pollution exclusion while also concluding that the insurer wrote a personal injury endorsement to cover the same eventuality."

County of Columbia vs. Continental Insurance Co., New York Court of Appeals; No. 59, May 12, 1994.

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GLOBAL FOCUS

Global Focus will appear for the first time as a regular section in 1994. Published quarterly, this section will be distributed exclusively to non-U.S. subscribers.

PUBLISHING DATES AD CLOSING DATES

February 14 February 2

June 13 June 1

August 22 August 10

November 14 November 2

INTERNATIONAL

Venturing into the 'new South Africa'

Businesses explore opportunity amid potential risks

By MARIA KIELMAS

JOHANNESBURG, South Africa—The peaceful conclusion of South Africa's first multiracial April and the inauguration of African National Congress leader Nelson Mandela as president has prompted both hopes and fears for the future among insurers and business executives.

The "new South Africa," as all sides in the country tend to dub it, has been welcomed enthusiastically by U.S. businesses as a new and exciting emerging market.

South Africa has become a fashionable market for U.S. investors, said a spokeswoman for the Washington-based Overseas Private Investment Corp., a government agency that writes political risk coverage.

OPIC signed a bilateral agreement with South Africa last November and is already providing political risk and export credit insurance for two minority owned U.S. ventures.

BMI International and Quick-

wash-Dryclean U.S.A. plan to open 100 cleaning establishments in South Africa, according to the OPIC spokeswoman. JBN Technology Services in Durban and CADscan, based in Santa Monica, Calif. is the other joint venture that has obtained coverage from OPIC.

For fiscal 1994, OPIC has allocated \$50 million in political risk insurance capacity for new long-term U.S. investments in South Africa and this could increase if additional projects are identified.

The spokeswoman said that there has been a considerable interest in South Africa on the part of medium-sized U.S. companies, especially those that are minority-owned.

However, European insurers and investors, especially in Britain and Germany—which have been South Africa's main trading partners for more than a century—are less exuberant about the future. They are adopting a wait-and-see attitude about whether to increase their existing invest-

ments.

Still, state political risk insurers from Britain and Germany are as open for business to South Africa as they have ever been.

A spokeswoman for the Export Credit Guarantee Department in London said that exposure to South Africa was 1.5 billion pounds (\$410.2 million), with South Africa representing the insurer's fourth-largest developing country market.

A spokeswoman from Hermes Kreditversicherungs, the German state political risk insurer, said that her agency had no ceilings on exposure to South Africa and no plans to alter its current policy, which has a limit of 50 million deutsche marks (\$29.9 million) per risk.

But the bottom line, to quote one analyst, is that South Africa is "a big unknown" for businesses. Corporations here face risks ranging from political violence to the cost of AIDS, as well as financial risks.

"Everyone is being positive, but companies should look at their



AP/Wide World Photo

U.S. and European businesses hope that Nelson Mandela's government will foster a healthy business climate.

whole range of exposure in South Africa, from non-payment of public-sector debt to confiscation of equity investment. Companies should say to themselves that their balance sheet should be able to stand any loss in South Africa," said Dennis Parker, a director with London broker Hogg Group

P.L.C.

One positive signal is boosting the business community. President Mandela has maintained two cabinet officials that had gained the confidence of foreign investors: Finance Minister Derek Keys and Central Bank Governor Chris

Continued on next page

UNI Storebrand announces sudden change at the helm

OSLO, Norway—The sudden announcement earlier this month that UNI Storebrand A/S Chief Executive Per Terje Vold has resigned came as the company reported disappointing first-quarter results and decided to sell its U.S. affiliate.

Aage Korsvold, formerly deputy chairman, will replace Mr. Terje Vold. No reason was given for Mr. Terje Vold's resignation, through UNI Storebrand said in a statement that he will continue to play a role in the company.

UNI Storebrand's first-quarter profit fell 3.2% to 998 million Norwegian kroner (\$137.6 million) from 1.03 billion Norwegian kroner (\$137.1 million) in the same period last year.

The company attributed the weaker results to the general rise in interest rates, which reduced investment income.

Shortly before its April report of a record profit for 1993, UNI Storebrand had announced its decisions to wind up its international subsidiary, pull out of reinsurance and concentrate on its home market (BI, March 14).

When last year's results were announced, analysts forecasted that earnings would fall because of an increasingly competitive underwriting climate and the company's lingering image problem caused by the aborted 1991 takeover bid for Sweden's Skandia Insurance Co. Ltd. (BI, April 11).

The non-life unit, UNI Storebrand Skadeforsikring, reported first-quarter profit of 81 million kroner (\$11.2 million), down 20.6% from the 102 million kroner (\$13.6 million) profit in the same period last year. The non-life unit's first-quarter underwriting losses were 194 million kroner (\$26.7 million), a 13% improvement over the 223 million kroner (\$29.7 million) loss in the same period last year.

UNI Storebrand's reinsurance unit, UNI Storebrand International, reported an operating loss of 119 million kroner (\$16.4 million). UNI Storebrand International's results can't be compared to the first-quarter 1992 results because so many lines were transferred out of it. Losses of \$15 million from the Los Angeles earthquake were allocated to the Christiania Re Corp.

Profit for the life insurance subsidiary was 84 million kroner (\$11.6 million) in the first quarter, 44% less than the 150 million kroner (\$20 million) a year earlier.

Meanwhile, according to Christiania Re Chief Executive Officer Lloyd Briggs, a letter of intent for the sale of the company has been signed with a group of U.S. investors. The sale would involve 100% of the company's stock. Further details, such as whether UNI Storebrand will be able to sell the liabilities of Christiania Re or whether the parent company will be forced to retain them, have not been made available.

Mr. Briggs countered press reports that the announcement of the prospective sale was a "surprise."

"When the market for IPOs collapsed, we looked for other alternatives," he said. "We are looking more to a new ownership which will provide flexibility geographically and remove the uncertainty in the market... following the UNI Storebrand statement to pull out of international business."

Mr. Briggs said he believes that the deal under negotiation is a "positive" one and will become clear within two months.

—By Maria Kielmas

Japanese insurers seek rate hikes

TOKYO, JAPAN—The Fire & Marine Insurance Assn. of Japan is seeking approval from Japan's Ministry of Finance for property insurance rate changes.

"Fire insurance" covers Japanese commercial properties for risks other than earthquakes. An extension is required for earthquake, with the sum insured limited to about 15 million yen (\$144,930).

The association's application, filed with the Ministry of Finance May 10, sought an average 7.74% increase for a class known as general risks, which includes commercial properties like offices and shops, said Nobuaki Yamanami, manager, corporate planning department.

The association also requested an average 9.06% decrease for

warehouses.

Mr. Yamanami said it was the first time an increase had been sought for fire policies since the rating association was established on Nov. 1, 1948.

"The loss experience has been very favorable for this line of business in the past, due to a lack of huge fire losses and improvement of building constructions over this period," he said.

Mr. Yamanami said the rate hikes were requested "because of the adverse business experiences during the past two consecutive years, caused by natural disasters, particularly wind damage."

The final rates of increases and decreases, and the dates from which any changed ratings may take effect, will depend on the Ministry of Finance, which Mr.

Yamanami said would conduct "an independent inspection of the application."

The Japanese insurance market is heavily regulated and insurance companies are unable to change premium rates without approval from the Finance Ministry.

Stephen Roder, a partner at the Tokyo office of KPMG Peat Marwick, said at the recent Australasian Insurance Forum meeting in Hong Kong that competition is through sales effort alone in the regulated tariff market. Policies are standardized, so insurers cannot gain market share through coverage innovation.

Mr. Roder said there are 57 non-life insurers in the Japanese market, including 34 foreign insurers.

—By Kate McIlwaine

Allianz launches share offering

'War chest' will be used to expand

nities in the liberalized European insurance market, the company explained.

An Allianz spokesman said the insurer will seek European acquisitions and mergers now that the insurer's "war chest" has been filled by the stock offering.

Last year, Allianz's gross premium volume rose 20% to 65.5 billion deutsche marks (\$37.72 billion) from 54.7 billion (\$33.79 billion) in 1992. That increase was attributed to growth outside Germany, and international business is likely to generate double-digit growth in premium volume again this year, the spokesman said. The growth in premium volume also reflects the consolidation of the results of Deutsche Krankenversicherung, Allianz's health care insurance subsidiary.

Allianz also said net income increased substantially last year and expects even higher earnings 1994, despite losses of 140 million deutsche marks (\$83.7 million)

from the Los Angeles earthquake.

Allianz, which will release its 1993 results later this year, said it is too early to offer an estimate of its 1993 profit. But analysts suggest net earnings will exceed 1 billion deutsche marks (\$575.9 million), up 16.6% from a profit of 858 million deutsche marks (\$530 million) in 1992.

Underwriting losses are also expected to fall in 1993, which Allianz attributes to higher premium rates in the industrial sector and reduced losses at Deutsche Versicherungs A.G., the former state-owned insurance monopoly in eastern Germany, which Allianz acquired in 1990.

"Allianz made some good decisions in the last decade," the spokesman said. "Now interest is focused on (acquiring) good middle-sized and small insurance companies (that lack a) strategy for how to cope with Europe."

—By Don Lewis Kirk and Joanne Wojcik

INTERNATIONAL

South Africa

Continued from previous page

Staals. This move demonstrates that the country is likely to continue to develop a market-oriented economy, business executives say.

But South Africa's urgent needs for health, education and housing for the black population will put pressure on the economy. Both investors and insurers may be obliged to divert capital into so-called "providential investment" funds for social welfare projects, said an insurer executive. Those funds may provide lower rates of return than other investments.

The threat of the political riot and malicious damage risk is a contentious issue.

The government has acted as insurer of last resort for political riot coverage since 1979, when South African insurers quit writing riot and commotion coverage because of the 1976 Soweto riots. The state-run South African Special Risks Insurance Assn., SASRIA, has a total capacity of up to 4 bil-

lion rand (\$1.09 billion). It provides coverage for material damage and other expenses accruing from riots up to a limit of 250 million rand (\$66.4 million).

The demand for extra riot coverage for net profits and liabilities, which is basically business interruption coverage, rose as the elections neared, and the South African domestic market stepped in to provide per-risk capacity of 10 million rand (\$2.7 million) in excess of the 250 million rand (\$66.4 million) in coverage provided by SASRIA. However, this coverage included 14-day cancellation clauses and various exclusions.

Riots in the former homeland of Bophuthatswana in March generated an insurance loss of about 500 million rand (\$136.7 million). The London market covered 80 million rand (\$21.9 million) of that loss. This was South Africa's largest political violence loss since the 1970s, when militant members of the African National Congress blew up two installations belonging to coal and chemical company Sasol Ltd.

When the Bophuthatswana riots

took place, the local insurers imposed the 14-day cancellation clauses, explains Chris Sandersen, group insurance adviser for Anglo-American Corp., the mining conglomerate that includes the De Beers diamond enterprise. "Then the (reinsurance) capacity for this cover was exclusively at Lloyd's. When the demand went up, the price went up," he said.

Even though the elections were peaceful, fears of losses related to a possible escalation in political violence persist in the London market.

London reinsurers and South African insurance buyers disagree over the rates for political riot coverage. The South Africans charge that since the political transition was peaceful, the cost of this coverage should fall. But the London market is not so sure.

"Everybody is delighted that there was a peaceful transition (to democracy), but the (South African) administration is only 2 weeks old. Underwriters are saying, 'Let's give it more time,'" said Mr. Parker of Hogg Group.

The London market has been

criticized by some South African insurance and reinsurance buyers for not cutting rates on wrap-around political risk coverage.

"The South African risks on offer today are of better quality than liability insurance or hurricane/typhoon cover in the U.S.," said one insurance executive. "When it comes to the risk of violence here, we think that they (the London market) is seeing ghosts."

Before March, corporate policyholders were paying an additional charge of 2.5% of their current premiums to cover war and political riot risks. This charge rose to 10% after the riots.

Some insurance executives acknowledge that it would be fair to reduce this surcharge to 5%. Meetings between risk managers and Lloyd's underwriters have been taking place throughout May to reach some kind of compromise.

"We need to meet and discuss costs," said Mr. Sandersen, stressing that he is speaking in a personal capacity.

But Des Vernon, group risk and insurance manager for mining and

finance conglomerate Barlow Ltd., says that he can understand the London market's skeptical view.

"The local market let us down; it was the South African market which gave notice of cancellation. The London market has stayed with us during all of this period. We need a bit of stability, and we are not expecting any rebates right now. But over the long term, insurance rates must come down. If the euphoria lasts, then people will question the value of cover."

By comparison with other countries in Africa, Asia and South America where there is endemic violence, the rates charged in South Africa are very high, he said.

Some industries, particularly mining, have addressed foreign investors' concerns over the risk of political violence. Andrew Smith, a gold market analyst at the London branch of the Union Bank of Switzerland who has received detailed information on such security arrangements, says that political violence will pose little material threat. Security in South Africa

Continued on next page

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LEGAL NOTICE

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT
CHANCERY DIVISION
IN THE MATTER OF THE LIQUIDATION OF MILLERS NATIONAL INSURANCE COMPANY
NO. 90 CH 4851
NOTICE

PLEASE TAKE NOTICE that on May 11, 1993, the Circuit Court of Cook County, Illinois (the "Court") entered an Order of Liquidation with a finding of insolvency against Millers National Insurance Company ("Millers"). James W. Schacht, Acting Director of Insurance of the State of Illinois, is the statutory and court-appointed liquidator (the "Liquidator") and Special Deputy Receiver of Millers. The Liquidator has taken control of the property, business and affairs of Millers and is in the process of liquidating them pursuant to the provisions of Article XIII of the Illinois Insurance Code.

TAKE FURTHER NOTICE that Millers has not written any new business since it was placed into conservation in 1990, and its certificates of authority ("licenses") to transact business have either (i) been revoked, (ii) temporarily lapsed or (iii) been suspended pending reinstatement.

TAKE FURTHER NOTICE that the Liquidator proposes to sell Millers to Petrosurance Casualty Company, a Texas insurer ("PCC"), for up to \$350,000 (the "Sale"). If approved by the Court, the sale would be facilitated by cancellation of Millers' common stock and issuance of new shares in favor of the Liquidator for sale to PCC. It is presently anticipated that the purchase price payable by PCC to the Liquidator would be apportioned among certain of Millers' licenses upon their reactivation; for example, \$200,000 may be paid for Miller's Illinois and Louisiana licenses, \$75,000 for the New Mexico license, \$25,000 for the Colorado license, and \$10,000 per license for up to five additional licenses from other states. Reactivation of the Illinois and Louisiana licenses would be conditions precedent to closing; thus, there is no guaranty the Liquidator would receive any sum in excess of \$200,000 for the sale of Millers. PCC will assume the concomitant expenses of the Liquidator, the Special Deputy Receiver, and their counsel, up to the additional amount of \$150,000. The proceeds from the sale will be used to augment the Millers estate available for distribution to Millers' claimants.

LEGAL NOTICE, CON'T

TAKE FURTHER NOTICE that if the Sale is approved, the Liquidator will transfer all of the proceeds from the Sale, along with all of the other assets of Millers, into a liquidating trust (the "Liquidating Trust"). The Liquidating Trust would assume all of the liabilities and other obligations of Millers, including all existing or potential liability arising under policies of insurance issued by Millers. The Liquidator would assume the position of Trustee of the Liquidating Trust, and the assets out of the Liquidating Trust would be administered in this proceeding pursuant to the provisions of the Insurance Code of the State of Illinois under the general jurisdiction of the Court.

TAKE FURTHER NOTICE that a hearing to approve the Sale will be held before the Honorable John N. Hourhane, or any judge sitting in his stead, in Room 2402 of the Richard J. Daley Center, Chicago, Illinois, at 10:00 a.m. on June 20, 1994. All objections to the Sale must be written and filed with the Court on or before June 13, 1994. Copies of the Petition to Approve the Sale will be available after June 1, 1994 and may be obtained via overnight courier or telecopy facsimile by writing to James W. Schacht, Special Deputy Liquidator of Millers, at the address set forth below, accompanied by a check made payable to his order in the amount of \$15.00. All objections must state the nature of the claim or interest asserted, the nature of the objection of the Sale, and the legal and factual basis for the objection. No person who fails to file and serve a timely objection will be permitted to object or otherwise appear at the hearing on the Sale absent a showing of good cause for such failure.

TAKE FURTHER NOTICE that, upon the entry of the Court's order approving the Sale, Millers will be removed from liquidation proceedings under the jurisdiction of the Court and will become a wholly-owned subsidiary of PCC. Your claim, to the extent it may be approved by the Liquidator and allowed by the Court, will survive as a claim only against the Liquidating Trust. **UPON ENTRY OF THE ORDER APPROVING THE SALE, EACH CLAIMANT OF MILLERS SHALL BE FOREVER BARRED AND PERMANENTLY ENJOINED FROM COMMENCING OR FURTHER PROSECUTING ANY CLAIM AGAINST MILLERS.**

TAKE FURTHER NOTICE that any changes in the deadlines or dates described above will be published in this space prior to the June 20, 1994 hearing. Otherwise, the Liquidator will proceed to act according to the terms described in this notice.

JAMES W. SCHACHT, SPECIAL DEPUTY LIQUIDATOR, OFFICE OF THE SPECIAL DEPUTY RECEIVER, 222 MERCHANDISE MART PLAZA, SUITE 1450, CHICAGO, ILLINOIS 60654. (312) 836-9500 FAX: (312) 836-1944.

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Sub-total	27,859
Associations	371
Government, Unions and Educational Institutions	986
Commercial Consumers	
Sub-total	29,216
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Insurance Companies	8,258
Accountants, Actuaries, Attorneys & Consultants	3,576
Managers & Health Care	1,941
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TOTAL	52,949

★ Source Business/Occupational breakdown of qualified circulation, November 29, 1993 Issue, as submitted to BPA for December 1993 BPA Publisher's Statement.

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INTERNATIONAL

Continued from previous page
mines is highly organized.

"Mining companies employ private armies (which) have all the equipment and hardware ranging from tanks to armored vehicles in company livery, to tear gas, rubber bullets, barbed wire fences and so on," he said.

Mining installations, including the mines themselves, smelters and refineries, are geographically dispersed to avoid concentration of risk in one location and the danger of sabotage, adds Mr. Smith.

Even when fears of political risk can be quelled, a problem exists in the way outsiders perceive the future of the South African economy and the welfare of its population. Echoing the feelings of the London insurance market, Mr. Smith said that the problem is that "South Africa has no track record," whether it's with dealing with foreign investors or in its ability to compete.

In his view, the best analogy to South Africa is Russia. "They are economies which depend on the export of primary materials, they are both big arms suppliers, they are both underborrowed economies—

South Africa because it was excluded from the world financial system because of apartheid, and Russia because it chose not to borrow," Mr. Smith said.

"Both countries are low-wage economies, but do not want to be sweat-shop economies, as in Asia, in order to survive. It's going to be tough."

South African executives acknowledge that on-the-job training for black employees will be a crucial factor in company employment policy in the future. One executive noted that companies have to increase the proportion of black employees at all levels. "The insurance industry is dominated by the whites, and there are not enough blacks in higher positions. Industry will have to retrain blacks so that the employees reflect demography."

The insurance industry, which is an open market, is dominated by joint ventures between European and British insurers and domestic companies. Non-life premium volume in South Africa for 1993 was 8 billion rand (\$2.187 billion). Life premium volume was 38 billion rand (\$10.39 billion).

Some executives say many South African companies have ongoing training programs aimed at bringing more and more blacks into higher corporate positions. Johannesburg-based South African Breweries, with 80,000 employees,

has a code of conduct which stipulates that it is company policy to "reinforce enlightened employment practices, eliminate discrimination, recognize employees' inalienable right to organize themselves and to negotiate their conditions of employment, and to promote training and development of skills."

SAB's group risk manager, Mike Redgate, says that 50% of cash flow goes toward employee compensation and benefits. "Traditionally SAB has been one of the most liberal employers and provides a provident fund, medical aid scheme for employees and dependents."

For the last 15 years, most major companies in South Africa have been providing health benefits and pension plans, among other employee welfare programs.

Health benefits, however, could present a huge exposure for South African employers. The incidence of AIDS is a major concern.

Business executives speaking on the issue, all of whom requested that they not be identified, disagree on the severity of the problem. Some say that it has been deliberately understated in South Africa for political reasons, while others say that South Africa's more developed economy means that the incidence of AIDS will be less than in neighboring countries like Zambia and Zimbabwe. Most large employers have been providing condoms

and advice on birth control for their employees for some years.

The AIDS problem is most closely addressed in mining companies, which have a long and labor-intensive production process conducted in remote areas. "If you're exploring and producing minerals, you have to think of the long term, 20 or 30 years hence," said one mining executive. He said that his company had done pre-employment AIDS tests on prospective employees in its operations in Zimbabwe and found that one in three individuals tested had the disease.

An executive from another mining company confirmed this figure for Zimbabwe and said that the situation in Zambia was even worse. The mining executive said that a company has to consider what the impact of the AIDS explosion will be on its staffing levels.

Pre-employment AIDS screening in South Africa is illegal, though AIDS tests have become compulsory for anyone buying life insurance or a pension program.

Business executives say that AIDS has not been discussed in South Africa as it has been in the Northern Hemisphere. He explained that there are no reliable statistics for AIDS in South Africa. The mining companies only say that AIDS is more prevalent in Natal and Kwazulu, because these regions lie on established transcontinental

routes between the port of Durban and roads north to Mozambique.

"This is a political hot potato, but the politicians do not want to highlight the fact," one executive said.

The related effects of a high incidence of AIDS also are worrying employers that fear AIDS-infected employees will be tempted into "do or die" stunts, like embezzlement and theft.

"Fidelity-type losses may increase, as will the general level of criminalization because of people's desperation. But this will be a worldwide phenomenon, we don't know what will happen," said one executive.

The financial policies of the new government are another unknown. The new government's first budget will be presented by Mr. Keys July 6. Potential foreign investors are worrying that in the future, the government will tighten credit controls or that new limits on profit repatriation will be imposed.

Mr. Vernon said that he is afraid that South Africa might follow the practice established by Namibia after its independence and oblige insurers to buy more coverage in the domestic market though the creation of state-owned insurers. The result is that the coverage is more expensive and that companies' costs rise, he said. But ultimately, South Africa's economy depends on the direct investment in industry. **BI**

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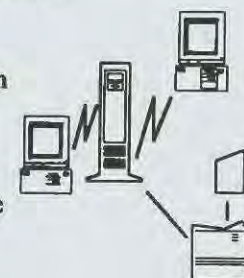


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Lloyd's

Continued from page 1

937.4 million pounds (\$1.42 billion), said Lloyd's Chief Executive Peter Middleton.

"This trend gained momentum and though 1992 is now expected to show a modest overall loss, it is likely to be much less severe than those of the previous three years," he said. "By 1993, rating and other improvements should produce a good profit."

However, while underwriting losses declined, reserve additions for old-year syndicate accounts in runoff grew by 68% to 1.14 billion pounds (\$1.69 billion) in 1991 from 677.8 million pounds (\$1.03 billion) in 1990, fueled by additional provisions for long-tail U.S. liabilities like pollution and asbestos claims.

Also, the number of syndicates that have left their accounts open doubled to 316 in 1991, compared with 157 a year earlier, said Mr. Middleton.

This deterioration "is a matter which concerns us," said Lloyd's Chairman David Rowland. How-

ever, he added, there are "encouraging signs" that U.S. lawmakers are willing to tackle some of the consequences of pollution liabilities and are looking to reform Superfund, which would benefit the entire insurance industry (see story, page 2).

"There is no gloss being put on anything," Mr. Rowland said last week when announcing the market's 1991 global loss. "I've expressed to you the fact that (1991) is a very serious loss and I've drawn what comfort there is to be drawn. I believe that what is remarkable is that Lloyd's has had terrible losses for the past four years but (its survival) demonstrates the strength of the Lloyd's system. . . . It has indeed been very painful for our members. But we will trade forward as certainly tomorrow as we have for the last 300-odd years."

Lloyd's members once again will be hit by large cash calls to cover syndicate losses. Mr. Rowland projected that 1.6 billion to 1.7 billion pounds (\$2.4 billion to \$2.55 billion) in cash calls will be made this summer on Lloyd's members to

cover the shortfall in 1991 and previous years.

To help ease the blow, members will be able to borrow against anticipated dividends from 1994 premium capacity, he said. Up to 279 million pounds (\$412.8 million) will be available, representing 3% of individual members' 1994 capacity (BI, May 16).

In addition, by releasing the results six weeks earlier than last year, Lloyd's members will be able to accelerate their tax recoveries in the United Kingdom, where losses offset taxable income, often producing income tax refunds.

Members' personal expenses increased 3% to 471.6 million pounds (\$697.9 million) from 456.9 million pounds (\$689.8 million) in 1990. These expenses include annual subscriptions and levies, agency fees and profit commissions. They also include members' contributions to a special Central Fund levy made in 1992 that equaled 5% of members' premium income spread over three years.

The scope of Lloyd's troubles became apparent in June 1991, when the market announced a then-record global loss of 509.7 million pounds (\$983.7 million) for 1988. That loss sharply contrasted profits of 509.2 million pounds (\$821.8 million) in 1987.

Since then, Lloyd's results have gone from bad to worse.

Most of the pure-year losses from 1988 to 1991 stem from now-defunct syndicates specializing in London market excess-of-loss reinsurance. There also has been continuing deterioration in old-year liabilities. Total additions to reserves for old-year losses, which primarily are U.S. liabilities, were approximately 4 billion pounds (\$5.92 billion) between 1989 and 1991.

To limit the ongoing impact of these losses, Lloyd's by 1996 plans to set up a reinsurance company, known as NewCo, to run off old accounts.

A total of 550 syndicate accounts will be run off into NewCo, said Mr. Middleton.

The launch of NewCo will coincide with Lloyd's release of 1993 results, said Mr. Rowland, who noted that the payment of runoff reinsurance premiums could affect results for that year.

"I am confident the reserves we have already match the best in the industry," said Mr. Middleton.

"We say sometimes that we believe that we are the best reserved. We can't prove it fully until (NewCo is set up). But, outside commentators looking at the U.S. insurance industry and Lloyd's believe the U.S. insurance industry

will long have exhausted their reserves at the present rate while Lloyd's will still have a lot there," added Mr. Rowland.

Despite the optimistic outlook, the huge losses have taken their toll on the market.

The number of individual members at Lloyd's stands at 17,526 this year, down 34% from 26,539 members in 1991.

Gross capacity in the market plummeted to a low of 8.88 billion pounds (\$13.4 billion) in 1993, from a high of 11.38 billion pounds (\$21.96 billion) in 1991. Capacity recovered somewhat in 1994 to 10.97 billion pounds (\$16.23 billion) after the market introduced limited liability corporate capital to increase its capital base. There are now 25 corporate members in the market.

The number of syndicates has been halved to 178 today, compared with 349 syndicates in 1991. Of 111 active syndicates in 1991, which together made a profit of 205 million pounds (\$303.3 million), 96 are trading today and account for 63% of 1994 capacity, Mr. Middleton noted.

However, Lloyd's executives suggest that the worst may be over.

"If you look back at 1991, you'll discover that the world's insurance industry was going through very much the same problems that Lloyd's was going through," said Mr. Rowland. "If you look forward

to 1993, you see a very different picture."

Although consolidation among syndicates "has been harsh and sometimes disruptive in its effects within the marketplace, it has resulted in a much leaner, fitter generation of surviving underwriters."

There are only 178 syndicates today, but they manage more efficiently the same amount of capacity as 400-odd syndicates did in 1989, added Mr. Middleton. Expenses also have been reduced as the number of people employed by underwriting agencies decreased 18.3% to 9,800 this year from 12,000 in 1989.

Even fewer people will be needed in the market in the future when electronic trading is introduced, he said. "By the end of 1995, (electronic trading) is going to be the most significant transformation in this market because all the information exchange in conducting insurance business will be electronic."

This electronic trading also will give underwriters more current information. "We will be able to see right away if there is any development that is occurring in the underwriting market that makes us nervous. And that will put an end to any possibility of an LMX spiral or any such thing without people realizing it. That's the big transformation in terms of efficiency and control," Mr. Middleton said. **BI**

Marine market on the upswing

LONDON—Lloyd's of London's 1991 global results may not be pretty—but the market saw a few silver linings among the clouds.

Lloyd's marine market showed signs of recovery in 1991, though conditions worsened in other market segments.

Lloyd's marine market's total pure loss in 1991 was 452 million pounds (\$669 million) before members' personal expenses, a 49% improvement from a loss of 892.9 million pounds (\$1.35 billion) in 1990. Net premiums fell, however, to 1.44 billion pounds (\$2.13 billion) from 1.7 billion pounds (\$2.57 billion).

Marine rates only just started to recover from a very low ebb in 1991, said Lloyd's Chief Executive Peter Middleton. However, reductions in worldwide insurance capacity for marine business took place in 1992 and 1993, "fueling a further improvement in rating conditions," he said. Marine results should improve in 1992 and Lloyd's 1993 marine account should post a profit, he predicted.

The non-marine market posted a modest pure loss in 1991 of 62.3 million pounds (\$92.2 million), but it was still three times worse than the sector's loss of 20.4 million pounds (\$30.8 million) in 1990.

Non-marine business now accounts for the vast majority of Lloyd's business, with 3.39 billion pounds (\$5.02 billion) in premiums in 1991 compared with 2.62 billion pounds (\$3.96 billion) in 1990.

Non-marine rates in 1991 were inadequate worldwide, which was a year filled with catastrophes like Typhoon Mireille in Japan, said Mr. Middleton. This sector's rates began to firm in 1992, with further and steeper rate increases in 1993, particularly outside the United States, he said. "In general, these conditions remain resilient in the first part of 1994, consolidating the progress of the last two years."

He noted, however, that 1992 contained the largest natural catastrophe ever experienced by the insurance industry, namely Hurricane Andrew. But its impact on Lloyd's should be less severe than the impact of Hurricane Hugo in

1989, "largely due to underwriters' insistence on higher retentions by reinsured companies," said Mr. Middleton. "But (Andrew) is likely to be one of the contributory factors to the Lloyd's non-marine market, viewed as a whole, producing a further modest loss before the profit that is confidently expected in 1993."

Lloyd's aviation market, which accounts for 30% of the world's aviation insurance business, saw a massive loss in 1991 of 106.6 million pounds (\$157.8 million), compared with a loss of only 14 million pounds (\$21.1 million) in 1990, said Mr. Middleton. Aviation rates began to rise in 1991 and continue to this day, which should lead to good profits in 1993, he added.

Meanwhile, Lloyd's motor market produced a small profit in 1991 of 5.9 million pounds (\$8.7 million), a threefold improvement from its small loss of 10.1 million pounds (\$15.3 million) in 1990.

—By Stacy Shapiro

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION

NO 002540 of 1994

IN THE MATTER OF
CHANCELLOR INSURANCE COMPANY LIMITED
- and -
IN THE MATTER OF THE COMPANIES ACT 1985

NOTICE IS HEREBY GIVEN that by an Order dated the 29th day of April 1994 made in the above matter the Court has directed separate Meetings of the Scheme Creditors (as defined in the Scheme of Arrangement hereinafter mentioned) of the above-named Company (hereinafter called "the Company") to be convened for the purpose of considering and, if thought fit, approving (with or without modification) a Scheme of Arrangement proposed to be made between the Company and its Scheme Creditors, and of considering who should be the first members of the Creditors' Committee (as defined in Scheme of Arrangement) and that such Meetings will be held at The Chartered Insurance Institute, 20 Aldermanbury, London EC2V 7HJ on the 15th day of July 1994 at the respective times mentioned below namely:

- (1) the Meeting of Scheme Creditors other than Eligible American Policyholders (but including American Policyholders with Scheme Liabilities other than Eligible Claims) at 10.30 a.m., and
- (2) the Meeting of eligible American Policyholders at 10.35 a.m. or as soon thereafter as the preceding meeting shall have concluded or been adjourned

at which place and time all the aforesaid Scheme Creditors are requested to attend.

Any person who is or believes that he may be entitled to attend the said Meetings or either of them can obtain copies of the Scheme of Arrangement, the Explanatory Statement required to be furnished pursuant to Section 426 of the above-mentioned Act and Forms of Proxy from the Company at 40 Lime Street, London EC3M 5BS, England (telephone: 071 481 0827) or at Touche Ross PO Box 810, Cedric House, 8-9 Harding Street, London EC4A 3AS (telephone: 071 936 3600) or if outside the United Kingdom at Deloitte & Touche 2000-1055 Dunsmuir Street, 4 Bentall Centre, Vancouver, British Columbia B7X 1P4 (telephone: 604-669 4466 during usual business hours on any day (other than a Saturday, Sunday or a public holiday) prior to the day appointed for the said Meetings.

Scheme Creditors may vote in person at such of the said Meetings as they are entitled to attend or they may appoint another person, whether a Scheme Creditor of the Company or not, as their proxy to attend and vote in their stead.

It is requested that forms appointing proxies be lodged with the Provisional Liquidators, Chancellor Insurance Company Limited, 40 Lime Street, London EC3M 5BS, England and fax no: 071 929 2081 not less than 48 hours before the time appointed for the said Meetings but if forms are not so lodged they may be handed to the Chairman at the Meetings at which they are to be used. A faxed copy of the form of proxy will be accepted subject to receipt of the original within 14 days after the relevant meeting.

By the said Order the Court has appointed David Llewellyn Morgan or failing him Nicholas Roger Lyle to act as Chairman of each of the said Meetings and has directed the Chairman to report the results thereof to the Court.

The said Scheme of Arrangement will be subject to the subsequent approval of the High Court of Justice.

Dated this 19th day of May 1994.

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Lloyd's turns to Europe

Litigious nature of U.S. seen as detrimental to insurance

By STACY SHAPIRO

LONDON—Lloyd's of London may increasingly look to Europe rather than the United States for business growth in the future.

Lloyd's also may cut its exclusive links with Lloyd's brokers to open up more avenues for business to enter the market.

"The more I visit America, the more I realize... that some risks are not going to be accepted by insurers in the future unless there is a reversal of a cultural development" that is detrimental to the insurance industry, Lloyd's Chief Executive Peter Middleton said at a DYP Group conference on Lloyd's last week.

This cultural development is the trend of U.S. citizens blaming everybody but themselves for injuries or property damage and seeking "the deepest purse" for com-

pensation, he said.

If that trend continues, then prudent liability underwriters increasingly are going to say, "No. Sorry. That is not a risk in that environment which I am willing to take because I cannot foresee what the possible consequences are of underwriting that risk," said Mr. Middleton. "The nature of life in the United States is now such that nobody can actually predict what (the losses will be when) underwriting a policy."

In the future, "I am not sure that we will want to be known as the institution that is prepared to underwrite risks that other people will not take," he added.

Instead, over the next two years, Lloyd's will increasingly turn to business coming from continental Europe, said Mr. Middleton. Until now, Lloyd's presence in Europe has been fragmented, but there is

"quite a significant opportunity" to expand in this region when the Single Insurance Market fully becomes a reality after July 1, he said.

In particular, Mr. Middleton sees opportunities in personal lines coverage in Europe as governments scale back social security and health care programs.

In the meantime, Lloyd's this year will examine whether the market should deal directly with clients, said Mr. Middleton, suggesting a widening of access to the market now limited to Lloyd's brokers.

"At the moment, the corporate relationship with the insured is in the hands of the broker," said Mr. Middleton. "What Lloyd's will be looking at this year, certainly by next year, is whether that strategy really suits Lloyd's... Shouldn't we at Lloyd's be developing a corporate relationship (directly) with our customers and not with the brokers? Shouldn't we be sitting down with a major company and saying: 'What is the totality of your insurance needs, because we've got a market here with high-quality underwriters that can put together a package? We have the skills which would be able to assemble an innovative package that would be able to meet the whole range of your insurance needs.'"

In the meantime, Anthony Cooper, chief executive of underwriting agency group Wellington Underwriting Agencies Ltd., made predictions of the size of the Lloyd's market in the near future. Mr. Cooper acknowledged being a longtime critic of Lloyd's, but said he is a staunch supporter of many recent changes made in the market, such as the introduction of corporate capital.

He projected at the DYP Group conference that Lloyd's overall premium income capacity will fall about 8% to 10 billion pounds (\$15 billion) for 1995 from 10.9 billion pounds (\$16.13 billion) this year. But, as more corporate capital enters the market, capacity will rise to 10.5 billion pounds (\$15.75 billion) in 1996 and 11 billion pounds (\$16.5 billion) in 1997, he predicted.

Mr. Cooper said the market could attract 1.25 billion pounds (\$1.88 billion) in corporate capital in 1995, which would translate into 2.5 billion pounds (\$3.75 billion) of capacity, or 25% of total capacity.

In 1996, corporate capital could increase to 2 billion pounds (\$3 billion) producing 4 billion pounds (\$6 billion) of capacity, or 38% of the market, he said. By 1997, corporate capital could increase to 3 billion pounds (\$4.5 billion), producing 6 billion pounds (\$9 billion) in capacity or 55% of the market, he added.

However, Michael Hesketh, director of U.K. equities at stockbroker BZW Ltd., doubts very much that financial markets can attract this kind of money to invest in Lloyd's at a time when the overall insurance industry likely will see a rates decline.

Mr. Cooper also forecast that the total number of individual members at Lloyd's could fall 68.6% to 5,500 by 1997 from 17,500 this year.

In addition, he predicted the number of syndicates at Lloyd's will continue to decline, falling 35% to 115 by 1997 from 178 this year.

—By Stacy Shapiro

Lloyd's will continue paying 'all valid claims'

LONDON—Lloyd's of London believes it is solvent and better reserved than many U.S. insurance companies for long-tail liabilities.

Lloyd's surplus showed a "modest strengthening" at the end of last year to 6.31 billion pounds (\$9.32 billion), from 6.09 billion pounds (\$9.22 billion) in 1992, Lloyd's Chairman David Rowland noted last week.

"This is one sign of the ability of Lloyd's to go on doing what it has always done and will continue to do—pay all valid claims," he said. "Another sign is that we will pass all necessary regulatory tests that come later in the year. We are absolutely confident we will be able to pass those tests and to continue trading forward."

Lloyd's executives stress that the market is better reserved for U.S. long-tail liabilities than any U.S. insurer (see story, page 1).

"We believe that the reserving standard for the Lloyd's market in relation to asbestos and pollution risks compares very favorably with reserving standards of the U.S. insurance industry," said Heidi Hutter, project director for old and open years at Lloyd's. She is overseeing the establishment of Lloyd's proposed runoff reinsurance company, NewCo.

Looking at predictions from A.M. Best Co. earlier this year, "U.S. insurers on average would exhaust their current reserves for pollution and asbestos claims in around seven years at the current rates of payout. Lloyd's reserves for those risks would last more than twice as long at the current rate of payout," Ms. Hutter said at the DYP Group's annual conference on Lloyd's last week.

"Pollution claims settlements could even double or triple, and Lloyd's reserving position would still be more robust than U.S. insurance companies," she said.

Lloyd's global results announced last week charted the "total net resources of the Society of Lloyd's" at the end of 1993, which gives an indication of the security behind the Lloyd's policy.

Lloyd's says it had total resources of 27.3 billion pounds (\$40.39 billion), up from 24.4 billion pounds (\$36.95 billion) in 1992. Liabilities totaled nearly 21 billion pounds (\$31.07 billion), up

from 18.35 billion pounds (\$27.79 billion) in 1992. This gives the market net resources of 6.31 billion pounds, up from 6.09 billion pounds in 1992.

The concern many have, however, is that Lloyd's net resources are already committed to paying past liabilities and that Lloyd's cannot get its hands on some members' assets that are reported as "resources."

A total of 19.65 billion pounds (\$29.07 billion) in net resources were credited mainly to Lloyd's premium trust funds in the United Kingdom, the United States and Canada at the end of 1993, up from 16.66 billion pounds (\$25.23 billion) in 1992. Lloyd's has excluded from the trust funds a total of 440 million pounds (\$651 million) used to help members pay losses after Lloyd's allowed members to borrow 5% of their 1993 premium income.

The money in the premium trust funds belongs to the membership, but names must first fulfill their duties—like paying valid claims—before they can withdraw the money, unless the Lloyd's Council makes an exception.

A total of 6.47 billion pounds (\$9.57 billion) of net resources comes from "members' means." Most of this is tied up in deposits and personal reserves at Lloyd's, which can be readily accessed to pay claims. However, 1.75 billion pounds (\$2.59 billion) in "other assets" includes assets that members say they have to pay losses—including their homes and farms. If members refuse to pay their losses, Lloyd's must go to court to force them to pay and these assets would have to be liquidated.

Lloyd's resources also include 904 million pounds (\$1.34 billion) from the Central Fund, which is tapped only if members cannot pay or refuse to pay losses. Of this, 661.6 million pounds (\$978.8 million) is already earmarked to pay already-unrecovered losses, leaving the fund with only 242.4 million pounds (\$358.6 million) remaining to pay other losses.

Lloyd's resources also include 252 million pounds (\$372.8 million) in net assets of the corporation. This includes the value of the Lloyd's building in London.

Updates

Railroad wreck self-insured

Continued from page 2

no-fault operating agreement between the railroads. CSX owns both sets of tracks on which the accident occurred.

An assistant engineer on Amtrak's Silver Meteor was killed, and 73 passengers and two Amtrak employees were injured in the May 16 accident in Smithfield, near Raleigh. Amtrak estimates its train sustained \$3.6 million of damage. CSX estimates it suffered \$180,000 of track, equipment and signal-system damage.

Railroad officials say the Silver Meteor derailed after it slammed into a truck trailer that had become unsecured and swung away from a CSX flatbed car as it approached the Amtrak train on a parallel track. CSX employees had secured the cat litter-filled trailer on the flatbed car in Florida.

Both railroads have \$25 million self-insured retentions for liability losses, and each purchases a total of \$75 million of excess liability insurance from Bermuda-based captive insurers Transportation & Railroad Assurance Co. Ltd. and Railroad Assn. Insurance Ltd.

Amtrak has a \$10 million self-insured retention for rolling stock losses, said Rod Schraven, manager-risk management. Arkwright Insurance Co. writes Amtrak's excess property coverage, he said. CSX carries a \$25 million retention for property losses. Domestic insurers write CSX's excess property coverage, a spokesman said.

Injured and killed railroad employees are covered by the tort-based Federal Employers Liability Act.

OGICO funds transfer improper

COLUMBUS, Ohio—A premium-finance unit of defunct Forum Re Group Inc. improperly transferred \$215,461 from Oil & Gas Insurance Co., another Forum affiliate now being liquidated in Ohio, the Ohio Supreme Court has ruled.

Prompt Finance Inc. forwarded the money it was holding for OGICO to Phorum Re Investment Corp., also a Forum affiliate. That transfer violated a 1990 supervision order requiring Ohio Insurance Department approval of transactions involving OGICO funds, the court ruled in a suit brought by OGICO liquidators.

The May 11 decision overturns a lower court ruling that the department could not charge that a violation had occurred unless it showed that Prompt had knowledge of the supervision order's terms.

Forum was headed by Mark Hardy, who declared bankruptcy in the United Kingdom last year after the liquidators of Focus Insurance Co. Ltd., another insolvent Bermuda-based insurer he controlled, won a \$19.7 million default judgment against him (BI, Nov. 8, 1993).

Eljer denies Shell charges

PLANO, Texas—Eljer Industries Inc. denies charges in a Shell Oil Co. lawsuit that an Eljer unit breached a pact with Shell to respond to liability claims against companies that made components of defective plumbing systems.

Houston-based Shell filed the suit in a New Jersey state court against Plano, Texas-based Eljer; its former parent, Household International Inc.; Eljer unit U.S. Brass Corp.; and another subsidiary. The suit alleges that U.S. Brass breached its obligations under a sharing agreement for handling claims alleging defective polybutylene plumbing systems (BI, Sept. 20, 1993; April 26, 1993).

Separately, a federal magistrate has recommended that a U.S. District Court in Illinois dismiss on jurisdictional grounds a suit Eljer filed against its insurers for defense and indemnification for lawsuits alleging faulty plumbing systems.

Briefly noted

Citing "enhanced capitalization and excellent underwriting results," A.M. Best Co. raised its rating of **Phoenix Reinsurance Co.** to A from A-. Separately, Best affirmed its A rating of **Navigators Group**. Navigators was placed under review after it lost \$20 million to \$25 million from the Los Angeles earthquake... The board of directors of **US Facilities Corp.** last week unanimously rejected a call by Irvine, Calif.-based suitor Fidelity National Financial Inc. to sell the company (BI, April 9). The board also authorized its financial adviser, Morgan Stanley & Co. Inc., to meet with Fidelity National regarding its offer... Flush with about \$6 billion in cash and record profits, **Chrysler Corp.** said last week it will fully fund its pension program by the end of the year. At the end of 1993, Chrysler's unfunded pension liabilities stood at \$2.3 billion, down from \$3.9 billion in 1992... California women injured by the **Dalkon Shield** intrauterine device would have 15 years from the time they discovered their injury was caused by the device to file a product liability suit under legislation approved last week by the state Senate Judiciary Committee. The new statute of limitations would be limited to women who filed claims with the Dalkon Shield Claimants' Trust before Jan. 1, 1990, but have not yet settled. The measure now moves to the Senate floor... **Frontier Insurance Group Inc.** declared a 3-for-2 stock split, payable June 24 to shareholders of record June 6. Frontier also effectively increased its stock dividend by 20%... Harold J. Clark, president of **U.S. Aviation Underwriters Inc.**, underwriting manager of United States Aircraft Insurance Group, will become chairman and CEO of the company July 1, succeeding John V. Brennan, who is retiring. Mr. Clark also will remain president... The Equal Employment Opportunity Commission last week issued new guidelines about how disability-related inquiries and medical examinations can comply with the **Americans with Disabilities Act**... **The Texas Workers Compensation Insurance Facility** will rebate approximately \$200 million to its member companies... Streamlining multistate receiverships is the goal of an interstate compact proposal released last week by the Midwest Zone of the National Assn. of Insurance Commissioners. Regulators expect to discuss it at the NAIC's quarterly meeting June 11-15 in Baltimore.

Summary of major property/casualty insurers' first-quarter results

Ranked by change in net income. All amounts in thousands of dollars.

Rank 1994	Corporate					Property/casualty operations								
	Consolidated revenues 1994	Net income 1994	Percent increase (decline) 1993-1994	Combined ¹ ratio 1994	Combined ¹ ratio 1993	Net premiums written 1994	Percent increase (decrease) 1993-1994	Pretax underwriting income (loss) 1994	Percent increase (decline) 1993-1994	Pretax investment income 1994	Percent increase (decrease) 1993-1994	Policyholders surplus 1994	Percent increase (decrease) 1993-1994	
1	Lincoln National Corp.	2,006,900	151,000	651.1	111.6	113.8	432,200	(6.8)	(47,400)	22.7	59,900	(7.4)	1,522,600	3.7
2	CIGNA Corp.	4,531,000	114,000	147.8	132.5	132.4	971,000	(9.5)	(317,000)	7.3	169,000	(0.6)	1,540,000	(1.5)
3	TIG Holdings	425,500	(2,900)	93.5	120.0 ²	149.1 ²	410,500	8.3	(73,000)	60.8	65,000	4.3	834,000	(3.5)
4	Fremont General Corp.	156,058	13,487	46.2	100.2	102.6	116,979	(2.5)	(205)	92.6	16,198	8.5	227,872	33.3
5	ITT Hartford Group Inc.	2,602,000	136,000	32.0	104.0	107.3	1,700,000	6.4	(84,000)	32.8	162,000	(5.3)	3,084,000	1.0
6	Sentry Insurance Cos. ²	365,786	19,585	32.0	105.2	105.3	298,123	(10.8)	(16,445)	23.6	43,763	(1.6)	973,977	13.3
7	Argonaut Insurance Co.	84,469	22,300	8.5	104.3 ²	100.0 ²	59,068 ²	(13.9)	(2,685) ²	(240.7)	24,993 ²	(0.5)	589,311	13.2
8	American International Group	5,225,830	505,618	2.0	100.7 ²	99.6 ²	2,621,305	7.3	(4,668)	(122.1)	354,129	7.1	N/A	N/A
9	Old Republic Int'l	438,029	34,096	(15.1)	106.2	108.5	210,171 ²	4.7	(15,688)	10.1	42,715 ²	0.4	1,171,517	4.8
10	Berkshire Hathaway Group	273,086	43,813	(19.3)	144.8	124.9	497,393	102.2	(74,036)	(123.2)	108,016	24.1	N/A	N/A
11	SAFECO Corp.	903,827	56,026	(25.7)	112.5	108.2	484,595	4.7	(59,525)	(57.8)	70,170	1.1	1,452,046	1.7
12	The St. Paul Cos. Inc.	1,163,775	64,437	(26.8)	110.2 ²	108.9 ²	804,571	5.7	(83,057)	(1.4)	164,525	1.7	1,756,295	(2.6)
13	Hartford Steam Boiler	150,600	11,900	(33.1)	96.6	90.4	77,100	(10.3)	2,900	(65.5)	6,500	(13.3)	324,400	5.5
14	Chubb Corp.	1,396,000	73,200	(41.8)	109.9 ²	99.8 ²	913,000	11.7	(93,600)	(2,919.4)	137,000	6.3	1,724,400	(6.3)
15	General Re Corp.	1,023,700	97,900	(44.8)	113.9 ²	106.6 ²	819,900	24.5	(77,100)	(116.6)	181,700	(0.7)	3,711,300	4.4
16	Ohio Casualty Corp.	394,558	9,340	(52.9)	116.9 ²	111.0 ²	324,404 ²	(2.6)	(52,448)	(40.7)	46,331	(7.3)	686,351	(1.9)
17	USF&G Corp.	761,000	23,000	(62.3)	111.2 ²	110.5 ²	550,000 ²	(19.9)	(62,000) ²	8.8	100,000 ²	(9.1)	1,552,000	2.2
18	Royal Group (U.S. subs.) ²	N/A	(11,800)	(66.2)	134.2 ²	123.4 ²	368,300	(13.8)	(126,100)	(20.7)	72,800	(2.6)	811,900	0.5
19	Aetna Life & Casualty Co.	4,313,600	45,700	(88.4)	130.7 ²	118.3 ²	1,086,900 ²	(5.6)	(331,200)	(64.2)	187,400	(12.8)	2,509,000	10.2
20	Home Insurance Co.	572,800	400	(94.7)	114.8 ²	110.3 ²	422,700	(16.1)	(59,000)	(14.1)	58,700	(8.9)	898,200	(5.0)
21	Reliance Ins. Co. and subs.	782,962	(5,649)	(120.0)	109.1	112.2	496,358	7.8	(44,363)	(0.5)	56,040	(5.8)	869,961	(0.6)
22	CNA Financial Corp.	2,600,000	(78,100)	(124.9)	119.9 ²	111.1 ²	1,700,000 ²	(13.3)	(345,900) ²	(8.5)	274,900 ²	(0.6)	3,410,000	(5.3)
23	Continental Corp.	1,280,000	(89,900)	(471.5)	122.2 ²	109.4 ²	1,089,000 ²	2.8	(240,000)	(137.6)	119,000 ²	(7.0)	1,740,000	(12.5)
—	Travelers Insurance Cos.	1,202,200	59,600	N/A	110.5	N/A	1,075,800	N/A	N/A	N/A	N/A	N/A	N/A	N/A
—	Nationwide Mutual Ins. Co. ²	N/A	N/A	N/A	111.7	106.2	1,817,634	4.6	(217,866)	(41.3)	211,101	(2.5)	4,391,756	18.2
—	Commercial Union Ins. (U.S.)	N/A	N/A	N/A	113.1 ²	108.4 ²	434,200	4.6	(57,000)	(52.4)	48,500	0.2	908,200	1.6
—	Liberty Mutual Ins. Co. ²	N/A	N/A	N/A	117.4	116.9	1,440,156	(4.9)	(232,547)	6.5	250,074	(1.3)	3,148,863	8.0
—	Kemper National Ins. Cos. ²	N/A	N/A	N/A	118.4	111.1	819,967	(12.5)	(156,168)	(28.0)	73,094	(15.5)	1,807,327	(1.3)
	Cumulative	32,653,680	1,293,053	(39.5)	114.4	110.9	22,041,324	2.7	(2,870,101)	(20.4)	3,103,549	(1.4)	41,645,276	2.5

¹After dividends ²Statutory ³Before dividends N/A-Company did not provide data

Results

Continued from page 1

trends in claims growth, coupled with selected upward momentum in pricing," said Weston Hicks, an analyst with Sanford Bernstein & Co. in New York. He noted, though, that this "momentum" is modest.

"I think the year will be a poor year because of the catastrophe losses that have already occurred. But, assuming more typical catastrophe experience for the rest of the year, I think the second, third and fourth quarters should be reasonably good," he said.

Still, it's difficult to ignore the impact of the first-quarter catastrophe losses. Catastrophes, including the Los Angeles earthquake and severe winter storms, caused an estimated \$6.48 billion in insured damage in the first three months of 1994, a total that likely will rise as insurers increase their quake loss estimates. That compares with \$2.93 billion of cat losses in last year's first quarter and \$5.62 billion in all of 1993.

Largely due to the record cat losses, net income for 23 insurers surveyed by *Business Insurance* plunged 39.5% to \$1.23 billion from \$2.04 billion for the comparable period a year ago. In addition, 15 of these 23 companies reported a loss for the quarter.

By comparison, these companies reported that net income rose 71.3% to \$5.82 billion in 1993 compared with 1992. Only three of the 23 companies reported a net loss for the year (*BI*, March 28).

Other first-quarter results for the surveyed companies include:

- Net written premiums continued to grow at a modest pace, increasing 2.7% to \$20.97 billion from \$20.42 billion in the first quarter of 1993. This data does not include premiums written by Travelers Insurance Cos., which did not provide comparable 1993 numbers.

The 2.7% increase in premium volume in the first quarter is comparable to the 2.3% increase reported by

the companies in 1993.

- Underwriting losses increased 20.4% to \$2.87 billion from \$2.38 billion. This compares with a 26.5% decrease in underwriting losses in 1993.

- With interest rates still low, albeit increasing, investment income decreased 1.4% to \$3.1 billion from \$3.15 billion. This is an improvement, however, from the 4.4% decline the insurers reported in 1993.

- Policyholder surplus increased 2.5% to \$41.65 billion from \$40.62 billion. This compares with a 10.7% increase in 1993.

- The aggregate combined ratio for the companies surveyed jumped to 114.4% from 110.9% in the first quarter of 1993. The same insurers reported a 111.8% combined ratio for all of 1993.

Catastrophes were the dominant factor in first-quarter results.

"I'd say that the earnings were mixed, depending on the companies' lines of business and whether they were exposed in the first quarter to the extraordinarily high levels of catastrophe claims," said Peter M. Mahon, senior insurance industry analyst with Piper Jaffray Inc. in Minneapolis. "Property writers who were not exposed did fairly well. Commercial lines writers are continuing to experience difficult pricing conditions and mediocre profits."

"I think catastrophe losses in general were in line with what the companies previously announced," said Ron Frank, an analyst with Smith Barney Shearson in New York, noting that some had feared surprises after Allstate Insurance Co. and State Farm Group revised their earthquake loss estimates upward a number of times.

While the possibility of a spillover effect into the second quarter from higher quake loss estimates still cannot be ruled out, Mr. Frank said he doesn't expect "anything dramatic" from individual companies.

"The continued catastrophe problems are nagging the industry once again," said John L. Ward, chief executive officer of investment bank

Ward Financial Group in Cincinnati. "Furthermore, companies' bond portfolios were also hurt by the increase in interest rates."

This was "unlike what we saw happening in '93, when capital gains could be taken to mask some of the catastrophe losses. Those unrealized capital gains are just not there in fixed-income portfolios to do that with anymore," Mr. Ward said.

At the same time, pricing remains soft, he noted. "In short, I think the challenges for the P/C industry continue, all of which are in the backdrop of the new requirements brought in by risk-based capital."

Insurers, he added, are now focusing on expenses, which is the "only thing they can control."

Despite the catastrophe losses and other problems, many observers believe the market will not harden in the near future.

"I don't see a lot of pressure for a turn in the cycle at this point," said Gordon Luce, an analyst with Brown Bros. Harriman & Co. in New York. "I think it's going to be very property line- and geographic-specific, with just some slow premium increases to reflect the squeeze in operating margins from lower investment income."

"I don't see it improving in a big way for at least the next 12 months, except in certain coastal areas where catastrophes have firmed up the pricing," said Mr. Ward. "Reinsurance prices are hardening considerably, which further adds to the squeeze on the primary company."

Some analysts note that the portents for a change are there, even if that change has yet to materialize.

The combination of the catastrophe losses and diminished capital gains "certainly increases the chances for some rate firming in the not-too-distant future," said Michael Lewis, first vp with Dean Witter Reynolds in New York. "However, this is more of a hope at this point than anything we feel is solidly likely, and I guess we have to wait and to see how the rest of the year works out regarding additional ca-

tastrophe activity and what happens with interest rates."

Carol D. Manning, vp at Prudential Securities in New York, agreed. "There's obviously several preconditions that are being met for a change in the pricing cycle, but it doesn't look like they're sufficient to be affecting the companies yet," she said, pointing to the cat losses, decreasing bond prices and stronger reinsurance volume. "Management's still not frightened enough, and capital still looks too strong" for a sudden turn to occur, she explained.

Some observers believe there may be indications of a market turn by the end of the year.

"We probably wouldn't see any evidence of it until July at the earliest, and possibly not until later in the year. And it's not likely to be the kind of dramatic turn we've seen more recently, unless we see a lot more catastrophes or bond losses," said Gloria Vogel, first vp with Lehman Bros. in New York.

"By the end of the year, you'll have such poor results on a total return basis that companies are going to have to come back to the issue of rate adequacy," said John H. Snyder, senior vp at A.M. Best Co. in Oldwick, N.J. "You'll see some of these companies that just haven't been generating adequate returns finally taking some stiffer rate action."

Adam Klauber, an analyst with Duff & Phelps in Chicago, agreed rate hardening is ahead. "What I'm looking for is just a general stabilization and maybe a real slow turn later this year and into 1995."

One cause of optimism among those hoping for higher prices is the 18% increase in first-quarter domestic premium volume reported by General Reinsurance Corp., which excludes the North Star Reinsurance Corp. operation sold last year. That overall increase included about an 18% growth in casualty facultative premiums.

Jay Cohen, an analyst with Salomon Bros. Inc. in New York, said: "Our hope is that this increased demand activity translates into

higher premium rates for the reinsurers, and then hopefully spills over into the primary market and that there'll be some hardening."

However, Smith Barney's Mr. Frank said despite the increase, "there's utterly no confirmation of improved casualty market conditions in the brokered reinsurance or the primary market. By all appearances, notwithstanding the heavy first-quarter catastrophes, the primary industry is overcapitalized, so it's hard to say at this point whether or not the casualty facultative increase is the beginning of a trend."

Observers also disagree over the impact of Financial Accounting Standard 115, issued by the Financial Accounting Standards Board last year (*BI*, April 11).

FAS 115, which affects only accounting on a generally accepted accounting principle basis, requires property/casualty and life/health insurers to report at market value most of the fixed-income securities they own, beginning with this year's first-quarter results. Interest rates are now rising, which generally depressed the market value of insurers' bonds and could diminish their book value.

Some observers said they do not anticipate FAS 115 will have a dramatic impact because it does not affect insurers' statutory surplus.

"I don't see FAS 115 as a major factor from a pricing standpoint," said Mr. Hicks.

"It could have some implications for stock prices to the extent investors overreact to markdowns and book value declines, but until FAS 115 is applied to statutory accounting, it doesn't really affect regulatory capacity," he said.

Others, however, said publicly held companies will be concerned about FAS 115 because of its possible impact on their investors. Further declines in insurers' GAAP book value will affect how investors value a company, so one "can't just excuse it away. It's something that has to be watched," Mr. Lewis observed.

Committees

Continued from page 1

Howard Metzenbaum, D-Ohio, said if the committee didn't accelerate its deliberations, it would take six months to pass legislation.

"We are never going to get through this bill without a time limit" on discussion, said Sen. Barbara Mikulski, D-Md.

Even some committee Republicans chafed at the pace.

"I'm very anxious to get a vote on something," said Sen. David Durenberger, R-Minn.

But Sen. Kennedy, at least for the moment, declined to limit debate on amendments. He insisted, despite the grinding pace, that "real progress" was being made.

In the House, the pace was even slower. In the Ways and Means Committee, staffers were laboriously "walking through" for panel members provisions of a health care reform bill approved in March by the Ways and Means Health Subcommittee (BI, March 28).

Between explanations, committee members frequently took pot shots at one another.

Rep. Fortney "Pete" Stark, D-Calif., who chairs the health subcommittee, said health care reform has been "frustrated by Republican administrations for 12 years." He added sarcastically that it was time for "rich, suburban Republican congressmen" to now join the reform effort.

Rep. William Thomas, R-Calif., who often jousts with Rep. Stark when the health subcommittee was considering reform legislation, replied: "I'm sick and tired of that kind of behavior."

Ways and Means Chairman Daniel Rostenkowski, D-Ill., said he hoped the committee could reach a bipartisan agreement on health care reform legislation after members return in June from the Memorial Day break.

But Rep. Rostenkowski, alluding to his well-known penchant for striking deals to get bills passed, warned that if an agreement isn't reached in time, "I will do what I need to do to get 20 votes in this committee."

The rhetoric also was pretty thick in the Labor and Human Resources Committee. In opening remarks, Sen. Orrin Hatch, R-Utah, described the Kennedy bill as a "pas-

teurized version of Clinton's blueprint for socialized medicine."

But at least the two committees were talking and considering health care reform legislation—albeit slowly.

By contrast, two other key congressional panels with jurisdiction over health care reform legislation—the Senate Finance and the House Energy and Commerce Committees—have yet to take up health care reform proposals.

Still, some members of Congress are trying to get things moving. Last week, for example, Sen. John Breaux, D-La., who, as a middle-of-the-road Democrat will be a key vote when the Finance Committee takes up health care reform legislation, floated a new proposal.

Under his plan, employers with fewer than 11 employees would be exempt from a federal mandate to offer a health care plan and pay for most of its cost. Employers with between 11 and 20 employees would have the choice of offering a health care plan or paying a new tax. The assessment would be 1% of payroll for companies with between 11 and 15 employees and 2% for firms with 16 to 20 employees.

Employers with between 21 and 1,000 employees would be subject to an unspecified mandate. Companies with more than 1,000 employees would not only have to offer coverage but be subject to a 1% payroll tax.

Sen. Breaux, who previously favored requiring employers to offer employees health care coverage but not to pay for it, said the "clock is ticking" and an agreement must soon be reached on an employer mandate if health care reform legislation is to be enacted this year.

Small business, despite the bone thrown to it, said it could not support the Breaux proposal.

"Mandates and government domination of the health care system are not the answer, nor are new taxes on those who provide benefits. If the health care proposal is so onerous to small businesses of 10 or fewer employees, then it is onerous to all business," said Jeffrey Joseph, vp of domestic policy at the U.S. Chamber of Commerce in Washington.

Much of the Labor and Human Resources Committee's debate centered on whether Congress should lay out the basic benefits package to which all Americans would be entitled or whether the scope of the benefits package should be decided later, perhaps by

a national commission.

Sen. Kennedy—whose proposal lays out, in great detail, the basic benefits package—said the package has to be spelled out now for several reasons.

Without defining the benefits package, it would be impossible to estimate the cost of providing coverage, he said. In addition, the American people would want to know what is covered and what is not.

But Sen. Coats said Congress lacks the expertise necessary to determine what should be in a benefits package and what should not.

And, because of political pressures, legislators would constantly enrich the benefits package, he said.

"We will end up with everything. We will break the bank. A year after we pass legislation, there will be 100 interest groups lined up before our doors," asking to expand benefits, Sen. Coats said.

At some time, vague language in the Kennedy proposal would make it difficult, if not impossible, to estimate the cost of the basic benefits package.

For example, the measure refers to coverage for "space maintenance," Sen. Coats said. What, he asked, is space maintenance? If it is orthodontia benefits, that alone "would cost an arm and a leg."

Republicans also complained that the committee was being asked to consider legislation before the Congressional Budget Office provided an estimate of its cost.

"We are playing poker without knowing the value of the chips," said Sen. Judd Gregg, R-N.H.

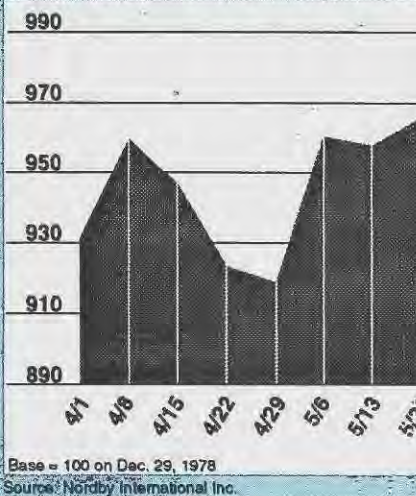
The CBO would provide a cost estimate before the full Senate votes on the measure, Sen. Kennedy said.

The Labor and Human Resources Committee still must tackle a slew of controversial issues. For example, this week Republicans will offer amendments to kill the employer mandate.

The Kennedy proposal, like the Clinton bill, would require most employers to pay 80% of health care premiums. Very small, low-wage employers, though, only would be subject to a 2% payroll tax.

In addition, amendments are expected to strip a controversial provision—first proposed by the administration—that would require the government to pay 80% of health care premiums for those workers who retire before they are eligible for Medicare.

BI Insurance Index



Insurance stocks rose last week, as the *Business Insurance Index* gained 7.5 points to 965.8 May 20 from 958.3 on May 13. Advancing issues for the week were led by: Seibels Bruce Group, up 26.1%; HCC Insurance Holdings, up 14.1%; and Guaranty National Corp., up 12.0%. Declining issues for the week followed: NWNL Cos., down 6.2%; EMC Insurance Group Inc., down 5.6%; and US Facilities Corp., down 5.0%. The most active issue was U.S. Healthcare, 9.2 million shares traded. The *BI Index* rose 0.8%; the Dow Jones 30 Industrials gained 2.9%; the NYSE Composite rose 2.4%; and the Standard & Poor's 500 rose 2.4%.

British Issues

May 19 Companies		Price	P/E	Div. %	Yield %	High-Low
		pence		pence		pence pence
Comml Union		559	17.8	31.0	5.5	568-559
Genl Accident		579	11.6	34.4	5.9	583-568
Gdn Royal Exch		176	11.4	9.5	5.4	77-76
Royal		267	11.6	9.4	3.5	267-257
Sun Alliance		327	14.6	18.4	5.6	330-327

Brokers		Price	P/E	Div. %	Yield %	High-Low
		pence		pence		pence pence
Bradstock		121	13.6	6.9	5.7	121-121
CE Heath		385	14.8	20.5	5.3	389-382
Hogg Group		255	N/M	7.1	2.8	255-255
JIB Group		187	16.4	9.4	5.0	190-187
Lloyd Thompson		240	16.2	8.4	3.5	243-240
Lowndes Lmbt		414	12.9	18.8	4.5	414-414
PWS Holdings		60	8.8	2.5	4.2	60-53
Sedgwick Grp		194	21.5	7.5	3.9	203-194
Steel Bri Jones		138	N/M	11.3	8.2	143-138
Willis Corroon		191	17.5	8.3	4.3	239-191

Source: Philip Olsen, London* Estimated; others actual 1993

BI Industry Stock Report MAY 16, 1994, THROUGH MAY 20, 1994

BROKERS													INSURERS/REINSURERS													HEALTH MAINTENANCE ORGANIZATIONS												
		Price	% change	Year to date % change	Annual High	Annual Low	Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt./Bk. value			Price	% change	Year to date % change	Annual High	Annual Low	Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt./Bk. value			Price	% change	Year to date % change	Annual High	Annual Low	Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt./Bk. value
Aceordia Inc.	NYS	28.38	0.00	15.23	28.50	18.38	11	0.60	2.11	14	10.22	2.78	Mutual Risk Mgmt. Ltd.	NYS	23.75	4.97	-20.83	32.75	21.16	91	0.28	1.18	14	5.71	-1.16			23.75	4.97	-20.83	32.75	21.16	91	0.28	1.18	14	5.71	-1.16
Alexander & Alexander	NYS	14.38	0.88	-27.67	28.00	14.00	1113	1.00	6.96	160	6.73	2.14	NAC Re Corp.	OTC	30.63	2.94	5.15	38.25	24.00	253	0.16	0.52	14	19.24	.59			30.63	2.94	5.15	38.25	24.00	253	0.16	0.52	14	19.24	.59
E.W. Blanch Holdings Inc.	NYS	20.38	2.52	17.27	23.50	15.75	58	0.32	1.57	20	4.10	4.97	National Re Corp.	NYS	30.75	4.24	0.41	37.13	26.88	718	0.16	0.50	10	17.51	.82			30.75	4.24	0.41	37.13	26.88	718	0.16	0.50	10	17.51	.82
Gallagher Arthur J. & Co.	NYS	32.00	-0.39	-10.49	37.13	28.13	37	0.88	2.75	15	7.52	4.26	Navigators Group	OTC	18.25	-3.95	-4.86	39.00	16.50	9	0.00	0.00	-11	16.99	.07			18.25	-3.95	-4.86	39.00	16.50	9	0.00	0.00	-11	16.99	.07
Hilt, Rogal & Hamilton	NYS	12.88	1.98	-1.90	15.13	11.13	22	0.48	3.73	20	4.51	2.85	Nobel Insurance Ltd.	OTC	8.25	-1.49	8.20	8.44	6.38	115	0.20	2.42	5	6.64	.21			8.25	-1.49	8.20	8.44	6.38	115	0.20	2.42	5	6.64	.21
Marsh & McLennan	NYS	87.00	1.16	6.91	91.88	77.00	848	2.68	3.08	18	16.76	5.19	NWNL Companies	NYS	30.38	-6.18	-6.54	38.75	26.63	1285	0.88	2.90	11	23.57	.27			30.38	-6.18	-6.54	38.75	26.63	1285	0.88	2.90	11	23.57	.27
Poe & Brown	OTC	20.00	3.56	11.11	20.25	16.88	64	0.40	2.00	16	3.02	6.62	Ohio Casualty Corp.	OTC	28.75	0.00	-9.80	36.00	27.25	200	1.44	5.01	13	47.68	3.89			28.75	0.00	-9.80	36.00	27.25	200	1.44	5.01	13	47.68	3.89
BROKERS AVERAGE			1.4	1.5					3.2	38			Old Republic Int'l	NYS	22.25	1.14	-1.11	27.63	21.50	252	0.48	2.16	8	23.57	3.94			22.25	1.14	-1.11	27.63	21.50	252	0.48	2.16	8	23.57	3.94
													Orion Capital Corp.	NYS	32.63	1.95	5.67	37.50	28.63	25	0.22	2.21	9	27.43	1.19			32.63	1.95	5.67	37.50	28.63	25	0.22	2.21	9	27.43	1.19
													Penn-America Group Inc.	OTC	6.50	-2.81	-15.45	9.50	6.50	12	0.00	0.00	8	6.11	1.05			6.50	-2.81	-15.45	9.50	6.50	12	0.00	0.00	8	6.11	1.05
ACE Ltd.	NYS	28.50	3.17	-6.56	36.00	24.50	218	0.44	1.54	6	28.74	0.99	Phoenix Re Corp.	OTC	27.75	6.22	0.91	38.25	18.50	290	0.28	1.01	9	19.99	1.39			27.75	6.22	0.91	38.25	18.50	290	0.28	1.01	9	19.99	1.39
Acceptance Insurance Cos.	NYS	12.38	1.02	6.45	15.63	11.13	8	0.00	0.00	15	9.55	1.28	Provident Life	NYS	25.25	2.02	-20.16	31.88	24.38	117	1.04	4.12	-13	26.18	3.96			25.25	2.02	-20.16	31.88	24.38	117	1.04	4.12	-13	26.18	3.96
AEGON N.V.	NYS	54.63	4.80	-0.23	58.50	43.25	24	2.94	5.38	10	34.71	1.57	Re Capital Corp.	OTC	12.83	-4.72	-7.34	15.50	12.63	73	0.32	2.53	11	16.18	3.75			12.83	-4.72	-7.34	15.50	12.63	73	0.32	2.53	11	16.18	3.75
Aetna Life & Casualty	NYS	55.13	3.04	-8.51	66.25	49.75	975	2.76	5.01	-9	71.94	0.77	Reliance Group Holdings	NYS	5.63	-4.26	-27.42	10.38	5.00	602	0.32	5.69	8	4.42	4.33			5.63	-4.26	-27.42	10.38	5.00	602	0.32	5.69	8	4.42	4.33
Allied Group Inc.	OTC	24.75	-1.98	-1.00	32.75	21.34	99	0.60	2.42	7	10.45	2.37	RLI Corp.	NYS	22.00	0.00	-17.76	27.75	21.63	21	0.56	2.55	-36	22.61	3.96			22.00	0.00	-17.76	27.75	21.63	21	0.56	2.55	-36	22.61	3.96
Allmerica Prop. & Casualty	NYS	16.13	4.03	-25.15	22.16	15.00	85	0.16	0.99	8	56.97	0.28	St. Paul Companies	NYS	77.63	2.48	-13.51	98.00	75.38	630	3.00	3.86	8	57.14	1.34			77.63	2.48	-13.51	98.00	75.38	630	3.00	3.86	8	57.14	1.34
Allstate Corp.	NYS	24.75	1.54	-16.81	34.25	22.63	984	0.72	2.91	15	18.43	1.34	SAFECO Corp.	OTC	55.63	2.77	1.83	65.75	48.50	1458	1.96	3.52	10	41.49	4.34			55.63	2.77	1.83	65.75	48.50	1458	1.96	3.52	10	41.49	4.34
American General	NYS	26.00	-0.95	-8.77	36.50	24.88	1290	1.16	4.46	21	22.09	1.18	SCOR U.S. Corp.	NYS	11.13	-2.20	-11.88	17.88	10.13	14	0.36	3.24	62	16.48	2.69			11.13	-2.20	-11.88	17.88	10.13	14	0.36	3.24	62	16.48	2.69
American Heritage Life Ins.	NYS	17.25	0.00	-7.38	25.13	16.75	25	0.60	3.48	11	12.42	1.39	Seibels Bruce Group	OTC	1.81	26.08	3.60	2.13	0.31	55	0.00	0.00	-2	1.90	3.95			1.81	26.08	3.60	2.13	0.31	55	0.00	0.00	-2	1.90	3.95
American Indemnity/Fin'l	OTC	12.00	0.00	-7.69	16.25	11.25	20	0.24	2.00	4	16.18	0.74	Selective Ins. Group	OTC	26.00	-0.95	-14.05	31.00	22.75	65	1.12	4.31	13	23.1	1.13			26.00	-0.95	-14.05	31.00	22.75	65	1.12	4.31	13	23.1	1.13
American International	NYS	92.38	6.03	4.82	100.25	81.75	4826	0.40	0.43	15	45.25	2.04	Sphere Drake Holdings	NYS	16.00	-3.03	-3.03	21.63	14.63	22	0.12	0.75	7	12.7	1.31			16.00	-3.03	-3.03	21.63	14.63	22	0.12	0.75	7	12.7	1.31
American Re Corp.	NYS	33.00	2.33	16.81	37.50	23.50	572	0.00	0.00	17	14.80	2.23	Statesman Group Inc.	NYS	14.75	-1.67	18.00	15.25	10.00	579	0.10	0.68	6	8.35	1.71			14.75	-1.67	18.00	15.25	10.00	579	0.10	0.68	6	8.35	1.71
Aon Corp.	NYS	34.00	6.81	5.70	39.00	30.00	396	1.28	3.76	13	33.10	1.03	TIG Holdings	NYS	20.38	4.49	-9.94	28.00	17.25	572	0.20	0.98	-15	18.49	1.10			20.38	4.49	-9.94	28.00	17.25	572	0.20	0.98	-15	18.49	1.10
Argonaut Group	OTC	27.25	0.00	-10.66	35.50	26.25	130	1.16	4.26	8	27.65	0.99	Titan Holdings, Inc.	NYS	9.25	1.37	-14.94	13.38	5.00	59	0.24	2.59	7	8.33	1.01			9.25	1.37	-14.94	13.38	5.00	59	0.24	2.59	7	8.33	1.01
AVEMCO Corp.	NYS	15.88	2.42	-15.33	22.00	14.50	29	0.44	2.77	13	8.13	1.95	Tokio Marine & Fire	OTC	64.50	-0.39	19.44	67.00	45.25	5	0.37	0.57		57.72	1.12			64.50	-0.39	19.44	67.00	45.25	5	0.37	0.57		57.72	1.12
Baldwin & Lyons Inc.	OTC	14.00	0.90	-5.88	16.25	12.34	3	0.24	1.71	9	12.59	1.11	Torchmark Corp.	NYS	40.38	3.19	-9.78	59.75	36.75	712	1.12	2.77	10	17.35	2.33			40.38	3.19	-9.78	59.75	36.75	712	1.12	2.77	10	17.35	2.33
Berkley W.R. Corp.	OTC	38.50	0.98	17.56	48.00	32.00	179	0.44	1.14	16	28.12	1.37	Transatlantic Holdings	NYS	54.50	4.81	2.11	61.50	45.38	95	0.36	0.66	14	29.50	1.84			54.50	4.81	2.11	61.50	45.38	95	0.36	0.66	14	29.50	1.84
Berkshire Hathaway Inc.	NYS	164.00	0.00	0.46	178.00	135.00	0	0.00	0.00	24	8115.28	2.02	Travelers Corp.	NYS	35.38	0.82	-9.00	49.50	32.13	3289	0.60	1.70	9	33.35	1.06			35.38	0.82	-9.00	49.50	32.13	3289	0.60	1.70	9	33.35	1.06
Capital Re Corporation	NYS	20.00	-2.44	-22.33	28.50	18.50	174	0.20	1.00	8	21.66	0.92	Trenwick Group Inc.	OTC	40.75	3.16	5.16	47.75	33.25	93	1.00	2.45	15	26.30	1.57			40.75	3.16	5.16	47.75	33.25	93	1.00	2.45	15	26.30	1.57
Capsure Holdings Corp.	NYS	14.88	2.59	-10.19	19.38	12.75	14	0.00	0.00	14	13.08	1.14	United Fire & Casualty	OTC	39.75	0.00	10.42	44.00	34.75	4	1.08	2.72	10	28.36	1.37			39.75	0.00	10.42	44.00	34.75	4	1.08	2.72	10	28.36	1.37
Chubb Corp.	NYS	80.63	3.04	2.54	93.38	70.75	1381	1.84	2.28	26	46.59	1.73	Unitrin	OTC	39.75	0.63	-6.47	46.75	38.50	322	1.40	3.52	25	38.30	1.02			39.75	0.63	-6.47	46.75	38.50	322	1.40	3.52	25	38.30	1.02
CIGNA Corp.	NYS	67.13	3.67	6.13	70.50	56.50	888	3.04	4.53	16	78.23	0.86	UNUM Corp.	NYS	46.50	3.91	-11.43	60.13	44.50	1474	0.96	2.06	12	27.55	1.69			46.50	3.91	-11.43	60.13	44.50	1474	0.96	2.06	12	27.55	1.69
CNA Financial Corp.	NYS	66.25	5.58	-15.87	96.75	62.50	155	0.00	0.00	-32	77.92	0.85	US Facilities Corp.	OTC	13.06	-5.00	10.00	14.13	8.25	474	0.00	0.00	14	10.48	1.25			13.06	-5.00	10.00	14.13	8.25	474	0.00	0.00	14	10.48	1.25
Continental Corp.	NYS	18.38	4.26	-33.48	34.63	16.88	1084	1.00	5.44	21	38.99	0.47	USF&G Corp.	NYS	12.50	-0.99	-17.36	19.63	11.69	1768	0.20	1.60	13	10.30	1.18			12.50	-0.99	-17.36	19.63	11.69	1768	0.20	1.60	13	10.30	1.18
EMC Insurance Group Inc.	OTC	8.50	-5.56	-10.53	10.50	8.50	3	0.52	6.12	12	N.A.	N.A.	USLICCO Corp.	NYS	17.25	1.47	4.55	19.00	15.75	43	0.24	1.39	8	25.22	-0.88			17.25	1.47	4.55	19.00	15.75	43	0.24	1.39	8	25.22	-0.88
Emphesys Financial Gr. Inc.	NYS	27.00	-2.26	N.A.	28.25	21.25	386	0.60	2.22	6	N.A.	N.A.	USLIFE Corp.	NYS	36.13	-2.03	-6.77	45.75	36.13	205	1.24	3.43	8	41.73	-0.87			36.13	-2.03	-6.77	45.75	36.13	205	1.24	3.43	8	41.73	-0.87</



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