

Business Insurance

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

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UNUM to sell reinsurance lines, taking \$101 million charge

PORTLAND, Maine—UNUM Corp. is exiting nearly all of its reinsurance businesses—including selling its Duncanson & Holt Group operations worldwide—after taking a \$101.1 million first-quarter pretax charge.

The charge includes reserve increases for estimated future losses in Lloyd's of London syndicates and certain reinsurance pools, as well as a write-off of goodwill stemming from UNUM's 1992 acquisition of Duncanson & Holt, an accident and health reinsurance company. *See Updates on next page*



AP/WIDE WORLD PHOTOS

Fifteen crosses last week were posted on a hill above Columbine High School in Littleton, Colo., in remembrance of the people killed.

Employers provide support in wake of school tragedy

By JOANNE WOJCIK

DENVER—In the aftermath of the worst school shooting in U.S. history, many Denver-area employers are trying to stem the distress with their employee assistance programs.

Since the April 20 shooting at Columbine High School near suburban Littleton, Colo., both local and national EAPs say they are being inundated with calls from employers seeking onsite "critical incident stress debriefing" sessions. Calls are even coming in from out of state, some EAP vendors say, pointing out that many employees—especially those with school-age children—fear that if it happened in this suburban community, it could happen anywhere.

"On Tuesday, right after the shootings, we tried to identify employers in the Littleton area and offered critical incident stress debriefing," said Patrick Hiester, client services coordinator for Denver-based PRO Behavioral Health EAP.

But the EAP soon found that the impact of the tragedy reached far beyond the Littleton city limits when employers throughout the Denver metropolitan area requested counseling for their employees.

"It's a community event," Mr. Hiester said. "There's a huge cloud over the city. Everything just stopped."

"It affected the entire community," agreed Pat Greer, employee and team services manager for the municipality of Commerce City, Colo. "And by community, I mean everywhere from Fort Collins to Colorado Springs and Pueblo."

Marie Gambon, vp-human resources at Boulder, Colo.-based Celestial Seasonings Inc., concurred.

"This isn't limited to Columbine," she said.

"We've been getting calls from all over the country," said Donna Darland, intake supervisor for United Behavioral Health in San Francisco. Ms. Darland supervises a team of counselors who take calls from EAP members and refer them to the appropriate mental health services.

This week, many of United Behavioral Health's EAP counselors have been taking calls from parents who are concerned that their children may have violent tendencies. "They want to be proactive," Ms. Darland

See Tragedy on page 21

ERISA showdown likely over state stop-loss bill

By JERRY GEISEL

ANNAPOLIS, Md.—Newly passed legislation in Maryland could set the stage for a court decision on how extensively states can regulate the sale of stop-loss insurance to self-funded employers without violating federal law.

The Maryland measure, H.B. 1086, which Gov. Parris Glendening is expected to sign, would bar health insurers from offering employers stop-loss policies with attachment points of less than \$10,000 for specific claims or aggregate attachment points of less than 115% of expected claims.

The Maryland Insurance Administration, which backs the legislation, says it will seek a court

ruling on whether the legislation is pre-empted by the Employee Retirement Income Security Act before enforcing the statute.

Such a ruling could resolve once and for all how extensively states can regulate stop-loss insurance without violating ERISA, which pre-empts state laws that "relate" to employee benefit plans.

According to the Maryland Insurance Administration, at least 17 states now regulate stop-loss insurance in some fashion, with one state, Oklahoma, now considering a bill similar to the Maryland measure.

A court ruling is of vital concern to employers and regulators. By self-funding and purchasing stop-loss insurance, employers have

protection against losses while not having to comply with state benefit mandates, which, they say, drive up costs and restrict their ability to design their own plans.

The Maryland proposal "restricts the way employers fund their health plans," said George Pantos, Washington counsel for the Self Insurance Institute of America.

Others, though, say states only are trying to crack down on abusive funding arrangements in which employers, by purchasing stop-loss insurance with low attachment points, really transfer most of the risk to insurers but avoid state regulations.

"The effect is to convert a stop-loss insurance into a state-regulated plan." *See Stop-loss on page 22*

Formularies reviewed

California regulators target HMOs that cut drugs

By JUDY GREENWALD

SACRAMENTO, Calif.—As momentum grows nationwide for restrictions on health plans' ability to limit coverage of prescription drugs, California regulators are ordering some plans to reinstate drugs that they had planned to drop from their formularies.

The California Department of Corporations, which regulates health maintenance organizations, recently ordered five managed care companies in the state to hold off on cutting certain drugs.

Legislation currently is under consideration in more than a dozen states that would influence how health plans' formularies—lists of medicines approved for coverage—are expanded or reduced (*BI*, Feb. 22).

The California department in December sent a memo to all prepaid health care plans in the state

that cited complaints alleging that managed care plans are making changes in their formularies either after an open enrollment period or in anticipation of legislation taking effect July 1 that will require continued coverage of drugs that are dropped from formularies.

The memo followed a meeting between the department and a consumer group, the Sacramento, Calif.-based Citizens for the Right to Know. Elizabeth Helms, a steering committee member of the consumer group, said it had been hearing complaints from consumers about formulary changes.

Spokesmen for several managed care companies deny the charges, though they say they are fully prepared to comply with the new California law.

Foundation Health Systems selected "the most cost-effective medicines in a given therapeutic category" when it reviewed its extensive formulary and decided to prune certain drugs, said Neil

See California on page 4

Public risk managers take course in leadership

By DAVE LENCKUS

A select group of public entity risk managers is expected to gain new insights and experience in government management, while providing a fresh perspective to other participants in a fellowship program for government executives.

Participating in the Harvard University fellowship program also should boost the visibility of risk management in the eyes of other government officials, says the Public Risk Management

Assn.'s executive director.

Public entity risk managers are not "recognized as the managers they are," said PRIMA's James F. Coyle, who noted that the same was true of fire chiefs before they were invited to the

Harvard program 13 years ago.

For the first time, Harvard's John F. Kennedy School of Government has invited public entity risk managers to participate in its



intensive three-week Senior Executives in State and Local Government Program.

The four risk managers who have been chosen for the fellowship program are:

€Patricia J. Gilbert, assistant director of the Texas state office of

risk management.

€Taud Hoopingarner, deputy general services director of Dakota County in Hastings, Minn.

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Updates

UNUM to exit reinsurance

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and health reinsurance underwriting manager and reinsurance broker.

UNUM's first-quarter 1999 net income was \$15.5 million, including the charge, compared with \$93.5 million for the same period a year earlier. First-quarter gross revenues rose 14% to \$1.30 billion.

A comprehensive review led UNUM to exit its reinsurance businesses, which included reinsurance pool management operations as well as risk assumption through pool participation, direct reinsurance and syndicate participation.

D&H has "minimal" exposure to the financially troubled reinsurance pool operated by Unicover Managers Inc. (BI, March 15), a UNUM spokeswoman said.

UNUM provides about \$350 million capacity to various Lloyd's syndicates, including five managed by its subsidiary, Duncanson & Holt Syndicate Management Ltd. UNUM entered Lloyd's as a corporate capital provider in 1994 and set up its agency operation for the 1996 year of account. About one-third of its 1999 capacity is on non-D&H-managed syndicates, according to agency Managing Director Ralph Sharp. The five D&H syndicates have a total capacity of £147.8 million (\$245 million) this year.

James F. Orr III, UNUM's chairman and chief executive officer, said in a statement, "After some considerable experience in the reinsurance market, we have determined that reinsurance is not a business that capitalizes on UNUM's core skills."

UNUM specializes in group long-term disability, group life, short-term disability, long-term care insurance and payroll-deducted voluntary benefits. It also has reinsurance operations in Japan.

Stirling Cooke mulls options

HAMILTON, Bermuda—Stirling Cooke Brown Holdings Ltd. is hiring a financial adviser "to explore alternatives that could enhance shareholder value," including a possible sale of the company.

Stirling Cooke, parent of several brokerage, underwriting and managing general agency units, is facing a number of lawsuits arising from workers compensation reinsurance business it handled. It has seen its stock price fall from a high of \$29.50 last year to \$4 per share as of last Thursday.

"In light of the recent decline in the market price of our shares, we believe it is prudent to consider all of our alternatives," Chairman and Chief Executive Officer Nicholas Mark Cooke said in a statement.

The company is expected to announce its chosen financial adviser this week.

Stirling Cooke's largest shareholders include its top officers and investment funds managed by Goldman Sachs Group L.P., which also managed Stirling Cooke's 1997 initial public offering.

Stirling Cooke also said it has engaged Arthur Andersen L.L.P. as its auditor, replacing KPMG L.L.P., which withdrew last month. KPMG and Stirling Cooke had no disagreements over accounting or financial disclosure matters, the two companies said.

Separately, Stirling Cooke units last week filed a motion to dismiss a racketeering lawsuit in which Odyssey Re (London) Ltd. charges that it was defrauded by Stirling Cooke and several others in a series of workers comp reinsurance placements (BI, April 5).

The motion argues that Odyssey Re's claims fail to meet pleading requirements of federal racketeering law and fail to show actual damages, complaining only of estimated future losses on the workers comp business. Stirling Cooke also seeks to have the suit, filed in federal court in New York, thrown out on jurisdictional grounds.

Infertility a disability: EEOC

NEW YORK—A publishing company that refused to cover an employee's infertility treatments under a self-insured health benefits plan violated the Americans with Disabilities Act and the 1964 Civil Rights Act, the Equal Employment Opportunity Commission has ruled.

In an April 27 determination letter, the EEOC found that Rochelle Saks, a New York-based employee of Franklin Covey Co. of Salt Lake City, is entitled under the ADA to coverage of medically necessary infertility treatments.

After being diagnosed with a hormonal imbalance, Ms. Saks and her husband tried to conceive through artificial insemination. She later suffered a miscarriage. Franklin Covey's self-insured benefit plan denied all but \$3,025 of the resulting \$20,220 in medical claims, according to the EEOC ruling.

Franklin Covey, a motivational publishing and training company best known for "The Seven Habits of Highly Effective People," argued that its health plan didn't violate federal law because its exclusions equally affected all employees, male or female and disabled or non-disabled. The company also claimed that it provided "substantial infertility-related benefits," according to the ruling.

The EEOC, however, found that infertility qualifies as a disability under the ADA and that Franklin Covey's plan violates both the ADA and Title VII of the Civil Rights Act. The plan's \$3,025 payment also cannot be reasonably described as "substantial," the ruling found.

Under EEOC procedures, the agency will attempt to reach a settlement with Franklin Covey to correct the violations. If no settlement can be reached, the EEOC may sue the company.

"The determination did not surprise us. We feel it is just a restatement of the law." See Updates on page 22

Errors & omissions

• An April 12 Update on Cambridge Integrated Services Group Inc.'s claims services revenues did not reflect all acquisitions made by the TPA in 1999 and was limited to income from services for self-insurers. Including recent acquisitions on a pro forma basis, Cambridge's 1998 revenues would total approximately \$185 million.

FASB plans stricter rule on merger accounting

By JUDY GREENWALD

A proposed U.S. accounting change that could take effect in less than two years is expected to slow the pace of merger and acquisition activity in the property/casualty insurance industry.

But there could well be heightened M&A activity between now and then as companies rush to complete deals before the regulation takes effect, which could be as early as Jan. 1, 2001.

The Norwalk, Conn.-based Fi-

nanacial Accounting Standards Board announced late last month that it plans to eliminate pooling of interests as a method of accounting for mergers. A final standard is expected to be issued in late 2000.

Pooling of interest deals are tax-free, all-stock transactions in which the balance sheets of the two merging companies are simply added together.

Under the alternative method of accounting for mergers, called purchase accounting, the acquired

company is considered an investment. Any premium paid over its assets' market value is treated on the balance sheet as goodwill, which is amortized, or written off the company's income statement, over a period of up to 40 years.

One advantage of pooling over purchase accounting, therefore, is that it does not require a potential hit to the acquiring company's balance sheet.

At the same time, the FASB also is considering changes in its treat-

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Clock running on Y2K legislation

House, Senate still debating bills that would limit liability

By MARK A. HOFMANN

WASHINGTON—Advocates of federal legislation that would limit businesses' liabilities stemming from the Year 2000 computer problem still believe a measure can pass despite a significant setback in the Senate last week.

The Senate failed to limit debate on a bipartisan bill—which President Clinton opposes—last Thursday, forcing another cloture



vote, possibly as early as today.

But, according to observers, the failure to invoke cloture to bring the bill to a vote appeared to have more to do with partisan wrangling than with the merits of S. 96, which is co-sponsored by Sens. John McCain, R-Ariz., and Ron Wyden, D-Ore.

In fact, last week's cloture vote failed after Democrats sought to add unrelated amendments, such as one dealing with the minimum wage, to the liability bill.

"It means to me that the vote was about party loyalty, and it's about issues that are much bigger than the substance of the bill," said Melissa Shelk, assistant vp-federal affairs for the American In-

urance Assn. in Washington. She expressed hope that "the underlying bipartisan support to pass the bill will ultimately eliminate partisan gamesmanship."

Robert Dibblee, senior vp-government relations for the National Assn. of Independent Insurers in Washington, said: "We're extremely disappointed that it continues to be stalled on the Senate floor. We think Congress needs to act now, because without the legislation, the country faces a litigation nightmare. At the same time that we're disappointed, we're also optimistic, based on discussions between senators on both sides of the aisle, to knock this free."

Senators had worked out a compromise version of the bill earlier last week. Among other things, the compromise eliminated punitive damage caps for businesses with more than 50 employees and eliminated personal liability caps for corporate directors and officers. The compromise retained punitive damage caps for small businesses and a system of proportional liability for defendants.

Meanwhile, the House Judiciary Committee plans to continue marking up its Y2K liability bill. The markup began last week but was postponed after the debate grew unusually contentious.

Push expected in California for work comp benefit hikes

By ROBERTO CENICEROS

SACRAMENTO, Calif.—Risk managers in California are concerned about how legislation that might seek \$1.7 billion in workers compensation benefits increases will finally shape up this year.

S.B. 320, authored by Hilda Solis, D-El Monte, is far from taking its final form. But it is the main vehicle through which labor and claimants' attorneys will push for increases in temporary and permanent disability benefits, death benefits and the lifting of a cap on vocational rehabilitation benefits,

several risk managers and their lobbyists said last week during the 1999 Legislative Conference on Workers' Compensation in Sacramento, Calif.

The conference was sponsored by the employer group Californians for Compensation Reform, which sent about 180 conference attendees to lobby their state representatives against adopting S.B. 320 without including measures to reduce employers' rising workers comp costs.

Although the price of workers comp insurance has declined in California, the underlying cost

drivers remain problematic, said Stephen Wilder, chairman of the Sacramento-based CCR and vp-risk management for The Walt Disney Co. in Burbank, Calif. California's workers comp costs are 15% higher than Florida's, the state with the nation's second-highest workers comp costs, Mr. Wilder told the conference.

Self-insured employers have benefited little from 1993 reforms that granted benefits increases for workers and introduced system changes that were supposed to reduce costs for employers, Gregory

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Inside

• Politicians and regulators should leave to the experts decisions about what drugs should be included in health plan formularies, this week's editorial says. **PAGE 8**

• The conflict in the Balkans has halted shipping on the Danube River between Hungary and the Black Sea, causing huge losses for Austrian and Romanian shippers and exporters. **PAGE 15**

• Terrorism threats have resurfaced as significant exposures for U.K. businesses after two bombs exploded in London within the past three weeks. **PAGE 15**

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U.S. airport safety criticized

By MICHAEL BRADFORD

Passengers and workers at U.S. airports are not adequately protected from a host of life-threatening dangers, a recently released report charges.

Airport firefighter and rescue units are not properly staffed, equipped or trained to respond to crashes or other emergencies at the facilities, says the report. Outdated Federal Aviation Administration regulations are to blame, the report contends, saying the FAA should make immediate changes to enhance airport safety.

Titled "Surviving the Crash: The Need to Improve Lifesaving Measures at Our Nation's Airports," the 48-page report was prepared by the Coalition for Airport and Airplane Passenger Safety, a group of labor unions representing firefighters, airline pilots, flight attendants and workers in a number of airline trades. The International Assn. of Fire Fighters, a Washington-based union, coordinated the effort.

"The FAA must strengthen its out-

dated airport safety regulations to enable firefighters to do their job properly and reduce the loss of life in the event of a disaster," Alfred K. Whitehead, general president of the IAFF, said in a written statement released with the report in mid-April.

Not only are airports ill equipped to respond to aviation disasters, the report says, but they also are inadequately prepared for such threats as terrorism, accidents involving hazardous materials, medical emergencies and problems that could result from the heavy concentration of passengers in terminals.

The FAA says its minimum standards for airports provide enough protection for passengers and workers.

"We feel our regulations are fully adequate," a spokeswoman for the agency said. Airports undergo FAA inspections, and those that do not pass "are not allowed to operate," she said.

The spokeswoman said FAA officials would not respond to the report until they had finished studying it.

The report suggests that airports are

understaffed to handle emergencies; it calls for the FAA to make changes immediately that would set the number of rescue and firefighting stations and personnel at levels that would meet reduced response times.

"The staffing issue is critically important," said a spokesman for the IAFF. "There are too many airports that are within the FAA requirements but are just understaffed."

The report says the "tragic consequences of obsolete FAA regulations were clearly exposed" when a United Express flight collided with a general aviation aircraft in November 1996 at Quincy Municipal Airport near Quincy, Ill. The 10 passengers and two crew members aboard the United Express flight and the two aboard the other aircraft all died in the post-impact fire, according to the report.

The report says that witnesses talked with occupants of the aircraft while waiting for rescue personnel from the Quincy Fire Department, who arrived

See Airports on page 11



PHOTO: AFP

A report from the Coalition for Airport and Airplane Passenger Safety says firefighting and rescue units at airports nationwide are inadequate. Above, a FedEx plane flipped and caught fire after landing at New Jersey's Newark International Airport in July 1997.

RRG buys coverage, running off business

PHILADELPHIA—The soft professional liability market has led a not yet 2-year-old Vermont-domiciled risk retention group to obtain coverage in the commercial market and run off the RRG's business.

While there are no plans to dissolve Franklin Casualty Insurance Co. (A Risk Retention Group), its members have struck a multiyear deal with a commercial insurer to obtain the medical professional liability insurance the RRG was created to provide.

FCIC was formed by the University of Pennsylvania in June 1997 to provide primary medical professional liability coverage for the hospitals of the University of Pennsylvania Health System and their employed physicians.

In forming the captive, system executives emphasized the desire to achieve long-term stability in their insurance program even more than cost savings.

But, according to Kenneth Hoffman, FCIC's president, competitive pricing in the commercial market proved so attractive the group had to take advantage of the opportunity, obtaining stability as well as savings through a three-year deal.

"Obviously we still are of the philosophy that an organization of our size and financial state should, long-term, be able to pay its own losses more cost-effectively than by using risk transfer," Mr. Hoffman said.

"But market conditions right now gave us an opportunity to transfer the risk and lock into a long-term arrangement and enter into a partnership with a commercial carrier to do that," he said.

FCIC, which wrote more than \$8.2 million in premium in 1997, began running off its business last year.

At the time the University of Pennsylvania formed the FCIC risk retention group, it formed a Bermuda-domiciled captive, which also is now dormant.

"The captive in Bermuda is basically solely reinsuring the risk retention group, so there's no other coverage in either entity," Mr. Hoffman said.

The risk retention group's president said that the Penn Health System will review the status of the FCIC group and the Bermuda captive, Quaker Insurance Co. Ltd., at some point in the future to determine how they fit into the system's insurance program.

—By Rodd Zolkos

Policy covers patent risks

By AMANDA MILLIGAN

ZURICH, Switzerland—Swiss Re New Markets has developed a new coverage designed to eliminate some of the risks that deter investors from buying patents.

The coverage was developed specifically for The Patent & License Exchange, a new online patent transaction forum. The company is the policyholder, but each investor is named as an additional insured.

The new coverage protects every patent buyer that closes an online transaction on The Patent & License Exchange from financial loss if the patent is later declared invalid by the court system, said William Hoffman, an associate director of SRNM in Zurich, Switzerland.

The program provides basic property coverage of all patent transactions for the purchase price, which

could range from thousands to millions of dollars. In addition, optional protection is available for costs related to producing patented ideas that are later rejected, and is purchased at the buyer's discretion.

The coverage will be sold by a Swiss Re Group unit licensed to do business in the United States, he said.

Coverage would be triggered anytime a court declares a patent invalid.

Availability of the coverage mitigates some investor concerns about patent transactions, said Nir Kossovsky, president and chief executive officer of Pasadena, Calif.-based The Patent & License Exchange.

"The product goes a long way to making buyers and sellers willing to participate in the market, because it transfers one of the major risk elements in the patent sale and licensing," he said.

See Patents on page 10



Insurers hit by blast verdict

PLAQUEMINE, La.—A Louisiana district court jury has ordered insurers to pay a \$158 million award stemming from a 1994 explosion.

The suit against XL Insurance Ltd. and National Union Fire Insurance Co. of Pittsburgh, Pa., an American International Group Inc. unit, was brought directly by two injured workers and the family of a worker killed in the blast.

Louisiana permits insurance of punitive damages and is one of a few states that let plaintiffs bring direct actions against insurers. The award comprised \$38 million in compensatory damages and \$120 million in punitive damages.

The judge will hear coverage issues before the final ruling, however, said Donald W. Price, a partner at Due, Caballero, Price & Guidry in Baton Rouge, La., who

represented one injured worker.

Several complex issues remain, including: limits of coverage; the date of notification of the claim; and the correct jurisdiction to hear disputes with XL, whose policies stipulate that coverage disputes be arbitrated in London.

An XL statement said: "XL is confident that at the conclusion of the judicial proceedings and any necessary appeals, XL will be determined to have no payment obligations." An AIG statement said "National Union intends to vigorously pursue further judicial relief, and we are confident of our legal positions."

The case arose from an explosion at a gas production plant in Plaquemine, La., owned by French company Air Liquide S.A. The plant manager was killed and

two workers were badly burned.

The plaintiffs hold that Air Liquide had a \$1 million retention; a \$4 million umbrella policy written by Industrial Indemnity Co., now part of ACE Ltd.; a \$25 million excess layer written by National Union; a \$70 million excess layer written by XL; and a \$50 million layer written by XL that retroactively covered Air Liquide for several years prior to the accident.

Also still to be argued is whether the plant was covered under the policies as Air Liquide had restructured several units before the explosion, said Mr. Price.

The plaintiffs had previously settled with nine other insurers in the case for \$34.5 million, which is recoverable from the ultimate award, he said.

—By Gavin Souter



Risk managers may look at ship injury law

By EDWIN UNSWORTH

DALLAS—A risk manager task force is being formed to explore reforming a federal law that governs injury claims of workers aboard U.S. ships.

Shipowners would like to see the Jones Act changed, not so much to reduce their benefit costs, but to eliminate much of the litigation the law creates. They want the law to apply like traditional workers compensation does in other industries.

Michael Murley, claims manag-

er for Martin Gas Sales Inc. of Kilgore, Texas, said he raised the matter of changing the law some time ago with the Risk & Insurance Management Society Inc. RIMS' external affairs committee has asked Mr. Murley to head a task force on the matter.

Although he is not sure when it will be formed, Mr. Murley said there was interest in being part of the task force from several individuals at two maritime industry sessions held at RIMS' annual conference and exhibition last month in Dallas. Once estab-

lished, the task force will assess the feasibility of modifying the Jones Act as it applies to injured seamen.

Under the Jones Act, which also covers other maritime issues, an injured seaman has to prove the shipowner was negligent or that the vessel was not seaworthy to collect benefits, whereas under traditional workers comp legislation, proof of negligence is not required to entitle an injured worker to full benefits for work-related injuries.

"In return, the employer cannot

be sued for negligence... and there would certainly be less litigation. That's the most important point," explained Mr. Murley.

He added, "I'm not sure this would result in the employer paying less, but it would be a lot smoother" for the employer and the employee. The injured worker would get more in weekly benefits and would be paid more promptly, he said, regardless of who was at fault.

Plus, Mr. Murley said, an injured worker would receive a dis-

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California

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Higashida, associate vp of pharmacy at the Woodland Hills, Calif., HMO. FHS was told by California regulators to retain 14 drugs, while 58 others it had targeted for removal were approved by the state.

It is FHS' responsibility to offer prescription drugs that balance quality and affordability, said Mr. Higashida of its formulary selections. "These regulations introduce challenges to that responsibility."

Escalating prescription drug costs have been a growing headache for employers, which ultimately bear the burden of managed care companies' higher medical and pharmaceutical costs.

Efforts to control cost hikes may be hampered, though, by legislative initiatives around the country intended to assure coverage of the

drugs consumers need.

Such initiatives generally would require continued coverage of drugs that have been dropped from formularies, require coverage of drugs not previously on a formulary if a member's physician takes mandated steps, or restrict generic substitutions (BI, Feb. 22).

So far this year, Virginia and Georgia have passed legislation in this area, said Susan Laudicina, Washington-based director of state services research for the Blue Cross & Blue Shield Assn.

Ms. Laudicina said the other states still considering such legislation are Alabama, Arizona, Arkansas, Connecticut, Florida, Maryland, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, South Dakota and Utah.

"The main thing to understand here is that managed care plans rely on independent prescription and therapy committees," which are

panels of experts including physicians, pharmacists and others, "to give their collective judgment as to which are the best prescription drugs," said Ms. Laudicina. These recommendations are constantly updated to keep plans abreast of clinical developments, she said.

'The DOC rulings were not quite clear as to their basis for their decision for each medication,' says Neil Higashida.

"I'm just real nervous about legislation that really goes in the direction of micromanaging" drug formularies, said Ms. Laudicina. "It would be difficult to imagine that the government can pass a law more current

and better managed from afar than it would be by the people who are actually in the field," she said.

In California, the memo sent by the Department of Corporations in December asked health plans to describe their past and planned drug formulary changes. That led to letters sent by the department in March to the managed care plans asking them to restore some drugs to their formularies.

Among those contacted was Kaiser Foundation Health Plan, which was asked to restore "respiratory syncytial virus immune globulin," a drug used to prevent serious respiratory illness in premature infants and other patients with compromised immune systems.

A Kaiser spokesman, who said the health maintenance organization will comply with the order, said the HMO had planned to eliminate the drug from its formulary because its manufacturer had introduced another

drug that, while more expensive, was improved and easier to use.

The spokesman said the older drug requires a three-hour intravenous infusion, which, in the case of an infant, essentially requires strapping the child onto a board for that entire period of time. The new drug, Synagis, can be administered with a single injection.

The HMO's spokesman said Kaiser has asked the department for its rationale in keeping the older drug on the formulary, "but we have not had a response from them, other than to say that's what their consultant told them to tell us."

FHS' Mr. Higashida echoed this complaint. "One of our concerns is the fact that the DOC rulings were not quite clear as to their basis for their decision for each medication. We are in the process of asking" for this, which has added to the "confusion of this entire process," he said.

Mr. Higashida said having to keep the 14 drugs on its formulary "will definitely have the potential to cost money," though no financial impact analysis has been done yet.

A spokesman for Ramon, Calif.-based Aetna U.S. Healthcare of California Inc., which was asked to restore seven drugs to its formulary, said: "We weren't trying to hide anything from anybody. We specifically made those changes for our new year. We weren't trying to evade any new regulations.

"We still believe that the changes made to our formulary were appropriate and in line with our plan of ensuring that we have an adequate formulary for our members, but of course we will comply with the DOC," he said.

The spokesman said that the California department's "primary focus seems to be on the deletions, but in actuality, we added a lot more medications to our formulary for the Jan. 1, '99 effective date than we deleted."

He noted also that 91% of Aetna's members in California have an "open" formulary, which means that even if a drug is not on the formulary, it is still available, albeit at a higher copayment.

A spokesman for the Sacramento-based California Assn. of Health Plans, which has 38 members, said that among the factors "pulling on this issue," is that there is a consensus among the governor, Legislature and health insurance industry that oversight of managed care should be moved from the Department of Corporations to a different department or agency that may be better suited to overseeing managed care. The DOC administers the state's franchise investment law, among other duties.

As a result of the potential change in regulators, "everything is a little bit up in the air" at this point, the CAHP spokesman said. "The way this issue has been handled is a symptom of the fact that everyone is waiting for the oversight to be moved," he said.

Gov. Gray Davis, who took office in January, will soon receive recommendations that address a variety of health care issues, including the concern shared by many that the Department of Corporations "has been unable to regulate the industry effectively," said a spokesman for the California Business, Transportation and Housing Agency, which oversees the Department of Corporations.

The recommendations were prepared by that agency's secretary as well by the state Secretary for Health and Human Services after meetings with consumer groups, health care purchasers and health care industry representatives, said the spokesman, who could not offer additional details. Any change would most likely involve some legislative action, he said.

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POSSIBILITY #1

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What can we do to help you?

Pooling

Continued from page 2
ment of goodwill. It had tentatively approved shortening the goodwill amortization period from 40 years to 10 years, or possibly 20 in some cases. That means writing off goodwill would have a bigger, although shorter-term, impact on companies' income statements.

But the FASB is now reconsidering its alternatives, said Project Manager Kim Petrone. These include either shortening the goodwill period or capitalizing goodwill, which means putting it on the balance sheet and not amortizing it. "Every possibility is open for consideration," she said.

FASB Chairman Edmund L. Jenkins said in a statement: "It is hard for investors to make sound decisions about combining companies when two different accounting treatments exist for what is essentially the same

transaction.

"We believe the purchase method of accounting gives investors a better idea of the initial cost of a transaction and the investment's performance over time than does the pooling of interests method," he said. Mr. Jenkins also said the pooling of interests treatment is the exception almost everywhere else in the world.

While the preponderance of recent deals in the property/casualty insurance industry, both in terms of number and in total dollar value, have used purchase accounting, several major transactions have used or plan to use pooling.

If approved, the proposal to eliminate pooling of interests will bring some rationale for the pricing of transactions, "and transactions will get priced more in line with reality in some cases," said Harris Chorney, partner and national industry director of insurance at KPMG L.L.P. in New York.

"It may be good for the companies and the market itself if pooling is eliminated, if insurance companies begin exercising more discipline" by using purchase accounting instead, agreed Ken Zuckerberg, an analyst with Keefe, Bruyette & Woods in New York.

George Yonker, vp-finance at Seattle-based SAFECO Corp., which did its American States Financial Corp. acquisition using the purchase accounting method, said, "We've been a bit frustrated in seeing how some other insurance acquisitions have gone, and the fact that we have to charge earnings for goodwill amortization and other companies don't do that." This proposal to eliminate pooling as an M&A method "makes a little more of a level playing field," he added.

One executive unhappy with the proposal is J. Patrick Gallagher Jr., president and chief executive officer of Itasca, Ill.-based Arthur J. Gallagher & Co. His brokerage has com-

pleted more than 50 deals on a pooling basis over the past 10 to 13 years.

Pooling "has protected our earnings per share from having a lot of goodwill write-offs, and it's kept our balance sheet pristine," said Mr. Gallagher.

If Gallagher has to take on a lot of goodwill, "I think the key will be to get the investor community to focus on our earnings before amortizations," said Mr. Gallagher. Meanwhile, he said, "we're just going to continue to move forward and explain to shareholders what we're doing."

St. Paul Senior Vp and Chief Accounting Officer Tom Bradley said of the proposed change, "I don't mind too much."

Pooling "had its downside in that it greatly restricted the things you could do with your stock in the period before and after you did your transactions." There are certain restrictions, for example, on company stock repurchases. With the FASB proposal, "at

least everybody else has the same constraints in terms of the types of accounting," said Mr. Bradley.

Once the ruling takes effect, though, it is expected to slow the pace of insurance M&A activity, say observers, who point to the negative impact purchase accounting can have on earnings per share because of goodwill.

"At the end of the day, the industry is overcapitalized and crowded, so mergers and acquisitions will probably still be the leading viable growth strategy. But it might shorten the list of viable acquisition targets by virtue of the earnings drag associated with goodwill write-off," said Eric N. Simpson, senior vp at rating agency A.M. Best Co. of Oldwick, N.J.

As far as insurers are concerned, the proposal is "going to change a great deal of people's feelings regarding how transactions are completed," said Bernard H. Mizel, chairman and CEO of San Francisco-based USI Insurance Services Corp. USI uses purchase accounting in its acquisitions.

It could slow up or kill transactions where there is a lot of goodwill that significantly reduces earnings per share, he said.

The impact on earnings per share will "cause prices (for acquisitions) to come down a bit," said Frank J. Borelli, senior vp and chief financial officer of Marsh & McLennan in New York. "I think it's natural, when the pricing may become more difficult to negotiate, that the pace and the number of transactions will probably diminish, as opposed to what they would have been if the rules hadn't changed."

Property/casualty acquisitions already are more difficult to close than in other industries because of the loss reserves issue, said John Modin, controller of New York-based Enterprise Reinsurance Holdings Corp. "I think you may see more loss reserve guarantees as a company may try to mitigate what may be a dilutive merger," he said.

Many believe there will be a rush to get deals done before the expected Jan. 1, 2001, effective date of the change.

Best's Mr. Simpson said, "Clearly, it could act as an accelerator for deals that are in the execution stage or well along."

In the short term, however, "it's not necessarily going to create new marriages from scratch," he added.

Meanwhile, John Bailey, a partner with PricewaterhouseCoopers in Chicago, said he believes that cutting the goodwill period ultimately will be an even bigger issue than eliminating pooling for the industry.

"Particularly with the property/casualty companies, you tend to generate a fair amount of goodwill on these deals," with the preponderance of deals calling for amortization periods toward the high end of the 40-year limit, Mr. Bailey said.

Some observers say that, ideally, deals should be made because of their intrinsic economic value, not because of the availability of a particular accounting method.

"I'd like to think the accounting tail would not wag the dog," said Paul Malvasio, managing director, chief financial officer and treasurer for Greenwich, Conn.-based Risk Capital Reinsurance Co.

"Most acquirers don't use accounting to make or break transactions. Usually, there are more fundamental questions involved," said George Cochran, managing director at Chicago-based Cochran, Caronia & Co., an investment banking firm specializing in the insurance industry.

"I think you're going to continue to see significant premiums paid for good assets" regardless of the accounting method used, said John Wicher, managing director of the San Francisco-based investment firm of Russell Miller Corporate Finance Inc. **B**

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Opinions

Drug costs and common sense

POLITICIANS AND REGULATORS should leave to the experts decisions on what drugs should be included in health plan formularies.

The kind of second-guessing of health care management being done by some states—most notably California—has the potential to significantly raise health plan costs without guaranteeing a corresponding increase in the quality of care provided to plan participants.

More than a dozen states are considering legislation that would restrict the ability of health care plans to alter their own drug formularies. Bills under consideration would variously require continued coverage of drugs that have been dropped from formularies, require coverage of a drug not previously on a formulary if a member's physician takes mandated steps, or restrict generic substitutions for brand-name medicines.

As we report this week, California regulators have gone so far as to order five HMOs to reinstate a handful of medicines that they had planned to drop from their formularies. The regulators gave no explanation as to why those specific drugs must be reinstated and gave the health plans no opportunity to explain their decisions.

We can understand that state officials are sympathetic to the complaints of citizens about the high cost of prescription drugs, especially those that are not covered by private health care plans.

State officials should recognize, however, that private health care plans are under no mandate to provide coverage of prescription drugs. They offer such coverage to be competitive, and the market ultimately will be the best regulator of whether a plan provides adequate coverage of necessary medicines.

If a health plan were to adopt the irresponsible strategy of cutting all but only the lowest-cost drugs from its formularies, we believe employer purchasers would respond by moving to other plans that do a better job of managing costs without compromising quality.



It also is worth noting that simply because a drug does not appear on a health plan's formulary does not mean it is unavailable to a participant. Many health plans continue to provide coverage of drugs that are not on their formularies, albeit at a higher copayment to the plan participant.

Prescription drug costs currently are rising at double-digit rates and are a leading component behind the rising cost of health care coverage. Health plans and benefit managers will surely focus much attention on reining in rising costs through various strategies in the months to come.

If state lawmakers obstruct health plans' ability to balance the medical efficacy of covered medicines with their cost, then the unfortunate result may be no coverage at all. That certainly would not be in their constituents' best interests.

Letters

The cost of not treating mental illness

To the editor: Employers that are experiencing health plan premium increases in 1999 would be smart to look at one of the last unmanaged and uncovered health diseases: severe mental illness.

Studies show that 20% of all families in the United States are affected by severe mental illness, yet most health plans restrict or exclude coverage for severe mental illness.

In the United States, the direct annual cost of unmanaged severe mental illness approaches \$70 billion, and the indirect costs are more than \$200 billion. Employers and their health plans could realize a significant reduction in their total health care costs by covering severe mental illness with appropriate quality care.

Severe mental illness is a small, well-defined group of diseases that includes schizophrenia, extreme depression and bipolar disorder. Statistics for unmanaged severe mental illness indicate a 25% suicide rate, a 50% substance abuse rate, and 90% unemployment. A severe illness begins in adolescence and continues throughout the life of the patient. Recent medical research indicates that severe mental illnesses are genetic, biological diseases, just like heart disease and diabetes. These life-threatening, lifelong physical illnesses can be disabling if not managed.

Current studies show that health plans that treat severe mental illness as they do any other physical illness, with managed but unlimited coverage, can significantly reduce total health care costs. The advent of effective new medications has accelerated this trend. Prior estimates on the high financial costs to manage severe

mental illnesses were based on fee-for-service models that are no longer valid for a market dominated by managed care. It is more cost-effective to pay for \$100-per-day outpatient therapy, coupled with the more effective new drug medications, than to pay for the emergency room visits and the \$2,000-per-day psychiatric hospitalizations that health plans presently cover.

Employers and health plans must begin to monitor the quality of severe mental illness protocols. Quality protocols include early-detection programs in pediatrics and in young-adult medicine; multidisciplinary diagnosis using state-of-the-art neurological tools; medical management; patient compliance with medications; patient-friendly case management; intensive outpatient therapy; rehabilitation; and, if

needed, specialized inpatient programs.

Because health plans are unwilling to cover severe mental illnesses, employers must demand that federal and state laws be enacted; current laws be strengthened; and health plans be required to end the financial waste, the stigma and the discrimination that Americans with severe mental illnesses face.

Managing severe mental illness is more than cost-effective; it is the right thing to do.

William Dodge
Alameda, Calif.

Mr. Dodge has a daughter with schizophrenia and is a member of the California Alliance for the Mentally Ill and the National Alliance for the Mentally Ill.

'Legislating' by U.S. courts is necessary in some cases

To the editor: Mark A. Behren's April 5 letter criticizing the courts for "legislating" is simplistic and flat-out wrong.

Under the Constitution, as he says, the main role of the courts is to interpret, not make law. Yet at times a court has no choice but to legislate.

When? When considering a statute that is internally inconsistent or silent on who has the burden of proof or just what level of evidence is needed, or what to decide in cases Congress never anticipated when enacting the statute.

A senator or representative must meet only one requirement: getting at least one more vote than any opposing candidate in an elec-

tion. A judge must meet many requirements: graduating from law school—often only after receiving a college degree; practicing law, usually for many years; earning the respect, while practicing, of peers and public officials who appoint or nominate judges; and getting confirmed.

Thus, a senator or member of Congress has the luxury of leaving a gap or two in a statute, or of deliberately omitting some needed provision in the face of political gridlock. The judge, however, cannot do so. He or she is always aware of the fact that the role of a judge is to judge.

Nathaniel B. Taft
White Plains, N.Y.

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Patents

Continued from page 3

"The entity that creates the patent and the knowledge basis behind it is not usually the entity that commercializes it," he said.

In patent infringement litigation, defendants typically attack the validity of the plaintiff's patent, say legal and insurance sources. The burden of proof in such litigation rests with the defendant, they add.

"If it's litigated, validity will always be an issue," said Joel S. Goldman, a partner with Troutman Sanders L.L.P. in Atlanta, whose specialties include intellectual property and patent litigation. Mr. Goldman noted that patent litigation is expensive.

However, some disagree that all patents traded are risky.

"The name of the game is to get a patent. Once you have the patent, from a litigator's perspective, the risk is minimized," said Michael Aber-

nathy, a partner with law firm Bell Boyd & Lloyd in Chicago.

However, he stressed that an improperly issued patent could be a risk. The key to getting a good patent is to make sure it is carefully drafted, he

'Fortune 500 companies are aware that intellectual property is becoming their most important asset,' says William Hoffman.

added.

The U.S. Patent and Trademark Office, a division of the Department of Justice, requires three conditions to be met to grant a patent, Mr. Hoffman said. The product must be novel, must have utility and must not be obvious in view of prior innovation, he said.

When a patent is issued, there is a

statutory assumption of validity, said Mr. Hoffman. However, "the PTO doesn't make any promises about a patent," he added. Patents are sold "as is."

Having insurance coverage becomes important when patents are contested, said Peter Gilster, partner with Blackwell Sanders Peper & Martin L.L.P. in St. Louis. The law firm focuses on intellectual property issues.

Likening patents to property, Mr. Gilster said, "Even in the best of circumstances... you don't know what the hidden defects are."

Mr. Hoffman said he expects to see more interest in insuring intellectual property risks.

"Most Fortune 500 companies are aware that intellectual property is becoming their most important asset," said Mr. Hoffman. "And while it's the most important, it's almost completely uninsured."

The Patent & License Exchange will hold its first online patent auction on Sept. 1. **BI**

Jones

Continued from page 3

ability payment based on the degree of disability.

Medical bills would be paid by the employer, "probably on a more timely basis," added Mr. Murley, because there wouldn't be a delay for determining whether the employer was negligent.

Under the Jones Act, until there is a legal settlement, benefits for lost wages can be less than they would be in traditional workers comp insurance, as the shipowner can decide what to pay the injured person while

the case is pending.

Fred Schall, a senior vp with Aon Natural Resources, a division of Aon Risk Services in Houston and a specialist marine broker, is in favor of modifying the Jones Act, but he is skeptical that bringing in the RIMS task force is enough to achieve that.

He said Congress lacks the will to make the changes and it would take at least the backing of a powerful member of Congress—which the proposals lack—to have any chance of success.

Mr. Schall said he agrees that the proposed changes "would reduce legal costs, would make the system a lot more streamlined and efficient... would take a lot of the burden off

vessel operators" and would allow injury cases to be handled "a lot more expeditiously."

Mr. Murley maintains there is a better chance of achieving the desired modifications with RIMS backing than in previous efforts, in which RIMS was not involved. "We're a large organization, and there's power in numbers," he said.

He said previous moves to seek such modifications in how seamen injuries are handled have always gotten lumped together with other proposed amendments to the Jones Act that aren't related to injuries. All the amendments then get defeated as a group, Mr. Murley said. **BI**

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Airports

Continued from page 3
about 14 minutes after the crash from their location around 10 miles away. "By that time," the report says, "both planes were engulfed in flames."

FAA regulations do not require an airport of the size of the Quincy facility to staff airport rescue or firefighting units, the report points out.

Following the accident, the National Transportation Safety Board recommended that the FAA extend its staffing requirements to "all airports serviced by aircraft having 10 or more passenger seats and find ways to fund such protection," the report states. "To date, the FAA has not followed these recommendations."

The Airports Council International North America, an association of airport operators in the United States and Canada, takes issue with the report's call for additional staff and for other changes.

The FAA thoroughly studied the issues of staffing and response time before setting its regulations, said Bonnie Wilson, senior director of airport facilities and services for the Washington-based council. And, she said, "it isn't an issue that has been ignored by the

industry."

Airline crews and airport personnel are trained to respond quickly to emergencies and to meet the FAA standards of response time, Ms. Wilson pointed out. "To discount that was kind of distressing," she said.

Ms. Wilson said the report overstated concerns regarding rescue and firefighting conditions at airports, "which is unfortunate, be-

ing fires inside crashed aircraft. Other changes call for regulations requiring firefighters to respond to structural fires and medical emergencies at airports and to receive training to handle hazardous material releases and terrorist incidents.

The IAFF spokesman said the recommendations should not come as a surprise to the FAA, because firefighting groups and oth-

Alexandria, Va.

For example, many airport firefighters already respond to structural fires and hazardous material incidents, he said.

Mr. Dickerson said he believes the FAA standards "are adequate to address aircraft firefighting and rescue." And "Many airports exceed the FAA standards and requirements," he added.

Airports' readiness varies from facility to facility, according to those responsible for airport safety.

"San Francisco has its own procedures, which far exceed those by the FAA," said Marge Layne, risk manager at San Francisco International Airport.

Many regulations promulgated by the FAA are "obsolete," she said. "Fire and safety is just one issue."

Airport fire and rescue services at the San Francisco airport are provided by the city's fire department, which operates units at the airport. Ms. Layne explained.

In Dallas, concerns have been expressed by Dallas Fire Department Capt. George Freeman that the city's fire station at Love Field airport is understaffed and that personnel are working without the training and equipment that is necessary to save passengers in the event of a crash (BI, March 15).

The city's risk manager has

countered that the city does not share Mr. Freeman's concerns because the airport, which is on the outskirts of downtown, meets FAA standards.

Further outside the city, Dallas/Fort Worth International Airport goes beyond FAA standards and already accomplishes much of what the coalition report calls for, according to Fire Chief Alan Black of the airport's Department of Public Safety.

"I like to say we meet and exceed them," Mr. Black said of the FAA standards.

Regarding the report's recommendations, Mr. Black said firefighters and rescue personnel at the airport are already prepared to respond to structural fires, hazardous material incidents, medical emergencies and acts of terrorism.

A year ago, Mr. Black reorganized the fire and crime units at the airport to have a force of three highly trained fire and rescue personnel available to respond to crashes. According to Mr. Black's plan, the force would be joined by other units that are cross-trained in firefighting and rescue but whose usual responsibilities are to fight crime at the airport.

The coalition report is available on the World Wide Web at www.iaff.org/acrobat/airportsafety.pdf.

The FAA standards 'are adequate to address aircraft firefighting and rescue,' says Spencer Dickerson of the American Assn. of Airport Executives.

cause there is always room to improve."

The report points out. "Current Federal Aviation Administration regulations do not provide for firefighters to rescue passengers or extinguish fires inside an airplane. So, when aviation accidents do occur at airports, the results are more devastating and the loss of life is greater than necessary."

The coalition would like to see airport rescue and firefighting personnel take on some additional duties, including that of suppress-

ers have pressed for them for years.

Copies of the report were sent to members of Congress; the coalition hopes the lawmakers will "put pressure on the FAA to move on some of these issues" if the agency doesn't undertake them on its own, he said.

Rescue and firefighting personnel at many airports already handle some of the responsibilities the report says they should take on, according to Spencer Dickerson, executive vp of the American Assn of Airport Executives in

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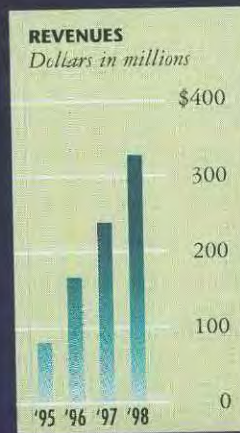
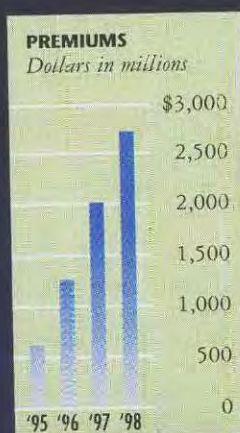
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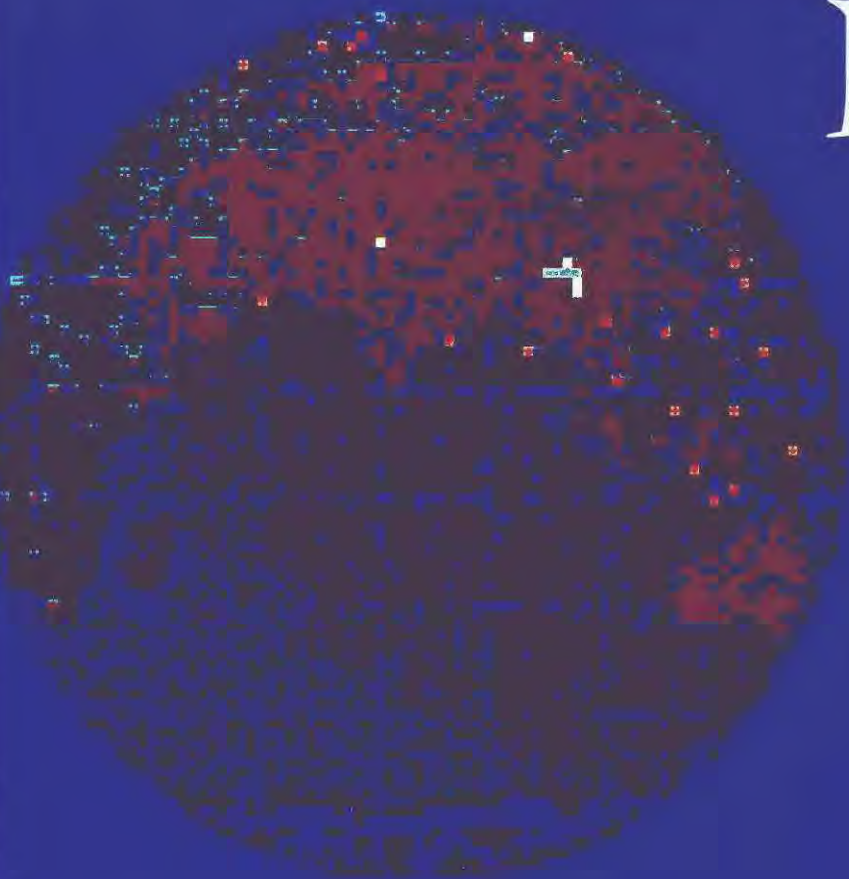
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AGENCY/INSURER

RELATIONS

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that agent/
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create conflict
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Relationships crucial in competitive market

By GAVIN SOUTER

Competitive property/casualty insurance market conditions are shaking up the relationships between agencies and insurers.

On the one hand, because of the soft market insurers are eager to win rivals' business and are prepared to work with agencies to do so. By offering onsite underwriting support, Internet-based underwriting and

marketing support, insurers are striving to help agents thrive and produce more business.

On the other hand, insurers that flit in and out of certain lines and the growing number of insurers seeking to increase business with alternative distribution systems are straining some agent relationships.

Relations between insurers and agents generally are improving—or at least not worsening—according to a recent survey by the Independent Insurance Agents of America.

The survey, released in December

1998, is a qualitative study of 48 state leaders of the IIAA's state associations. It found that 35% of respondents felt that the overall state of their relationships with insurers had improved over the past two years; 33% felt their relationships had stayed the same; and 21% felt their relationships had worsened. In addition, 10% felt that their relationships had improved with regional companies but had deteriorated with national insurers.

Agents who reported improved relations are benefiting from the cur-

rent competitive environment, in which insurers are facing severe difficulties as they seek out more business, said Jeffrey M. Yates, chief executive officer for industry and state relations at the IIAA in Alexandria, Va.

"Some of the most positive things that insurers are doing are when they give hands-on assistance to agents," he said.

For example, insurers are more often sending underwriters on visits to agents, and occasionally underwriters work with agents in the



agents' offices for extended periods, Mr. Yates said.

"I think companies are finding that the best way to develop a strong franchise is to develop good relationships (with agents)," he said.

Other support services that agents currently are receiving from insurers include education and training, marketing, automation, and financial support for acquisitions, Mr. Yates said.

Increased underwriting support is helping to improve relations between insurers and agents, agreed Kimberly Paterson, president of Creative Insurance Marketing, a consultant in Redbank, N.J.

More companies are appointing production underwriters, who are responsible for developing business, she said.

"Companies are putting the underwriters in the agents' offices, and they sit down with the agents and go over expiration dates and renewals and see what they can do to win that business," Ms. Paterson said.

Some insurers also are realizing that the best way to win more business is to offer more coverage under existing policies, said Paul Breen, commercial insurance manager at Metro West Insurance Agency in Needham, Mass., and a director of allMass Group Inc., a network of independent agents.

"The business insurance market is shrinking because independent businesses are being taken over by chains or going away, so insurers can only grow by enhancing their products," he said.

By offering coverage that normally would require an endorsement under a conventional business owners policy, such as glass coverage, insurers can win business from competitors, Mr. Breen said.

Technological improvements also are enhancing relations, said Ms. Paterson.

For example, more and more insurers are offering quotes over the Internet or allowing agents access to insurer systems to obtain underwriting and claims information, she said.

In particular, computerized coverage submissions and policy issuance are helping agents in their jobs, she said.

"In the pre-technology days, they would have to enter all the policy information and then the company would enter it again, and inevitably it would come back with mistakes," Ms. Paterson said.

One computerized program that is making life easier for agents and winning more business for the insurer is Reliance National Insurance Co.'s CyberComp program, said Bob Arowood, vp and principal at Insurance Services Group, an agency in Clinton, Tenn.

See **Relations** on page 12D

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Relations

Continued from page 12B

Agents can use the program to obtain quotes and bind workers compensation coverage through the Internet for small and medium-sized accounts.

CyberComp offers coverage for companies with fewer than 50 employees. The maximum gross premium is \$100,000; the minimum varies by state, but can be as low as \$1,500, said Mark Benson, executive vp of CyberComp in Lawrenceville, N.J., which is a unit of Reliance.

The average premium for risks

placed via CyberComp is \$10,000, Mr. Benson said. As of Dec. 31, 1998, Reliance had bound 8,149 policies and more than \$100 million in gross premiums through the CyberComp program, he said. The first policy was bound in August 1997.

The program greatly simplifies the process of securing workers comp business, said Mr. Arowood, who has been using CyberComp for more than two years.

Under the program, agents can contact the CyberComp Web site, enter responses to a set of underwriting questions, obtain a quote and bind coverage within a few minutes, he said.

Prior to the development of the CyberComp program, the process could take several weeks as agents and insurers submitted information and negotiated price by mail or fax, Mr. Arowood said.

Although there is no way to negotiate under CyberComp, that is more than made up for by the program's increased speed, Mr. Arowood said. Using CyberComp, agents can quickly secure a piece of business that might only generate a small amount of income, and then move on to other business, he explained.

The CyberComp quote is usually not the cheapest in the market, but it is "competitive," Mr.

Arowood said.

"There are other markets that are cheaper, but it is a case of taking the path of least resistance," he said.

And policyholders are prepared to pay a bit more in return for reducing the time it takes to buy compulsory workers comp coverage, Mr. Arowood said.

"Most clients don't want to buy comp insurance anyway, so for them the one that gets the deal done fast is the one they'll take," he said.

The program was designed to speed up the process and enable both Reliance and the independent agents to make more money

from small account business, said Mr. Benson of Reliance.

Reliance plans to launch a similar online program for marketing small business owners policies later this year, he said.

Other insurers already are offering small business owners coverage over the Internet and, again, such programs greatly simplify the process of obtaining coverage, said Mr. Breen of Metro West.

For example, Fitchburg Mutual Insurance Co. in Fitchburg, Ma., issues to agents a CD-ROM of rating information for its business owners policy. The agents can obtain a quote through the program and then submit the coverage request to the insurer over the Internet, he said.

The process works well for small risks, but larger or more complex risks still need to be negotiated, said Mr. Breen.

"It makes things quicker for the agents and less expensive for both of us," said Bob Anderson, vp-marketing at Fitchburg Mutual.

Other efforts by insurers to improve relations with agents include providing marketing support services, said Ms. Paterson of Creative Insurance Marketing.

This might include supplying an agent with marketing material for a trade show or providing other marketing material for an agency to use from its office, she said.

Traditionally, these marketing materials often have included the insurer's name, Ms. Paterson said. Now, however, more agents are requesting materials that promote only the agency, she added.

In response to that issue, The Hartford Financial Services Group Inc. is making available marketing material that does not contain The Hartford's logo, said Mark Lange, senior vp of sales and marketing for agency personal lines in Hartford, Conn.

The package contains newspaper and Yellow Pages advertisements, direct mail materials, press releases and tapes of radio ads, all of which promote independent agents. These materials all can be easily customized to include the name of individual agencies, Mr. Lange said.

"There are a lot of ads out there bashing independent agents and saying that they don't add value, so we decided to come up with ads that agents could use to counter that," Mr. Lange said.

By issuing the ads, The Hartford hopes to strengthen its relationship with independent agents. Although the ads do not contain any references to The Hartford, the insurer still should secure more new business through them, he said.

Despite the number of agents who are seeing improved relations with insurers, there still is a substantial number of agents who say their relations with insurers are deteriorating.

The agents that reported worsening relations with insurers in the IIAA survey often are
See **Relations** on page 12F

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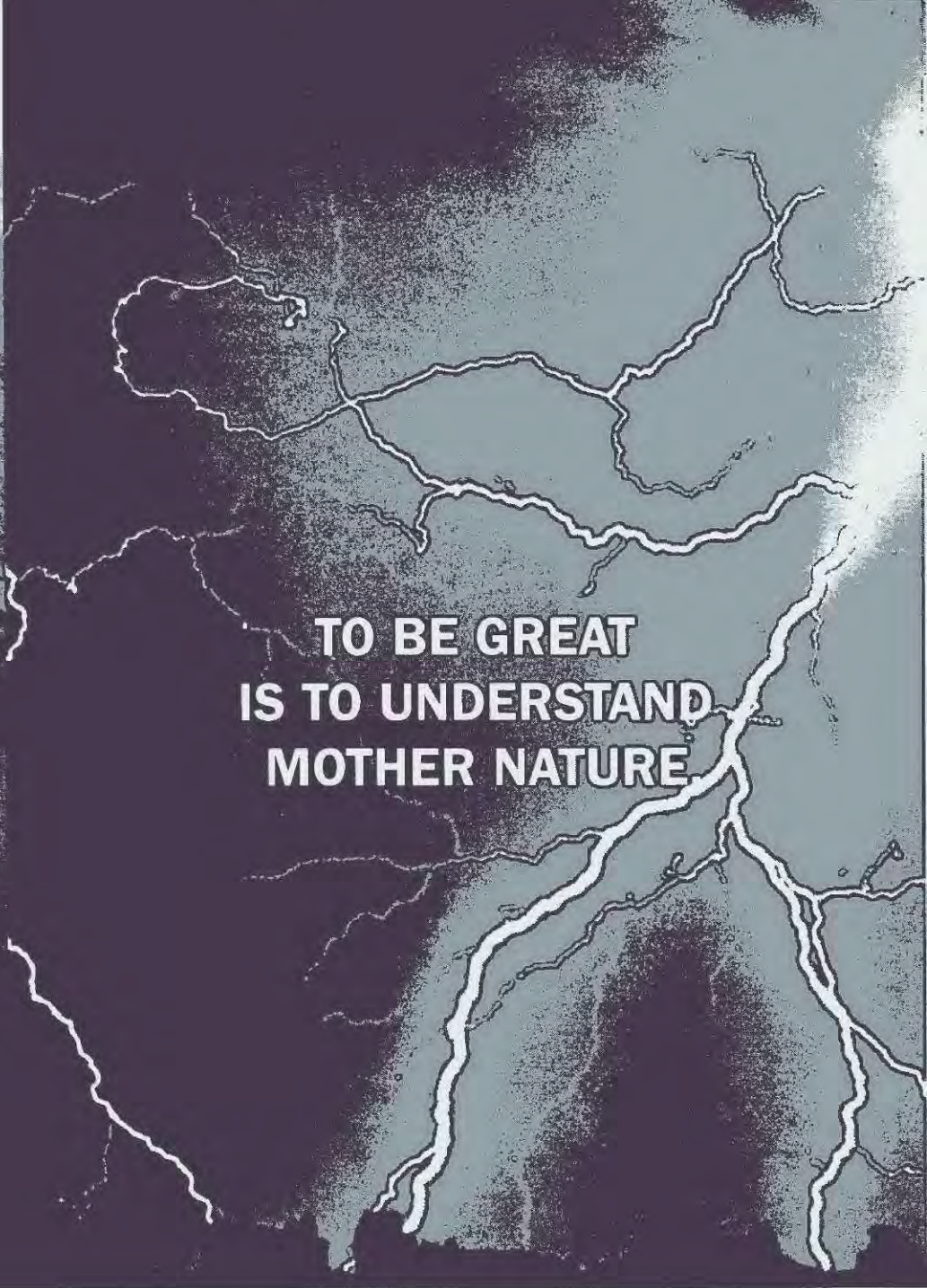
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Relations

Continued from page 12D
concerned about insurers developing multiple distribution systems, such as subsidiaries that engage in direct marketing of insurance via telephone, said Mr. Yates of the IIAA.

Also, some insurers are causing friction by increasing the minimum premium requirements for the appointment of agents or for agents' participation in profit sharing programs, Mr. Yates said.

In addition, mergers and acquisitions among insurers are causing problems for agents, as combined

entities occasionally pull out of lines previously covered by one of the insurers. It also can become unclear after a merger or acquisition which people the agents should be dealing with at the combined company, Mr. Yates said.

Mergers and acquisitions are the primary focus of some insurers, and that focus often leads to worse relations with agents and customers, said Ms. Paterson of Creative Insurance Marketing.

"The focus seems to be 'How can I merge with the next company and get economies of scale or cut expenses?' That is not focusing on the customer," she said.

Publicly traded insurers often have

more trouble maintaining good relationships with agents, said Mr. Arowood of Insurance Services Group.

"There is such pressure on their stock that it is difficult for them to maintain a long-term focus," he said.

Often small- and medium-sized mutual insurers offer more stability to agents than national insurers, Mr. Arowood said. Large insurers are more inclined to move in and out of markets frequently in search of more profitable business to improve their quarterly financial results, he said.

"But when you have a lot of smaller items, what you are looking for is stability in a carrier," he said. **BI**

Companies banking on financial services modernization law

By RODD ZOLKOS

One of the hottest issues shaping insurer-agency relations in recent years—financial modernization

legislation that would allow banks to sell insurance—is heating up once again.

The House Commerce Committee was to begin hearings on the House version of the legislation in late April, while Senate Majority Leader Trent Lott, R-Miss., has indicated passage of a Senate financial modernization bill was high on his list of priorities.

Jockeying between the House and Senate over who should move first on the legislation, along with high-powered criticism of some of its details, threatened to derail action on the measure this spring, however.

Still, as insurers and agents have become increasingly aware, the absence of a new law doesn't mean



progress won't continue toward the integration of banking and insurance.

Last year's \$70 billion megamerger of Citicorp and Travelers Group into Citigroup Inc. was a clear indication: that bank/insurer combinations would move forward without waiting for a new federal law eliminating the Glass-Steagall Act's prohibition on bank, insurance company and securities dealer affiliation.

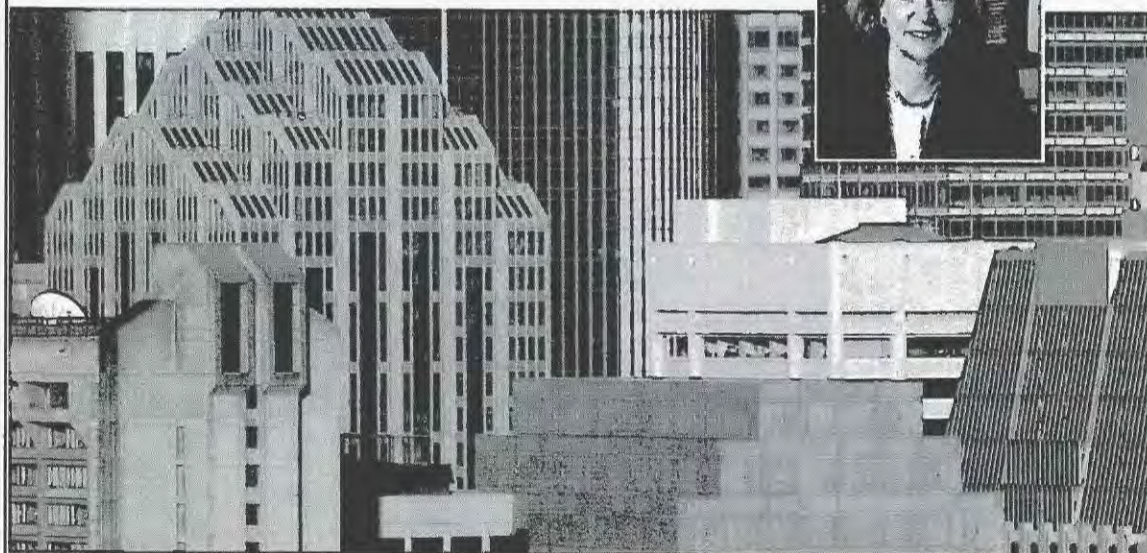
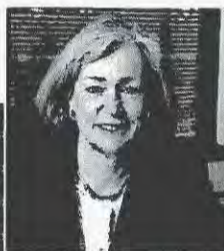
Financial services reform bill H.R. 10 died last year with the end of the 105th Congress. But new legislation was quickly introduced as the 106th Congress began.

See **Banks** on next page

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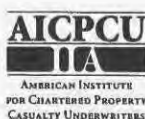
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Banks

Continued from previous page

With those facts in mind, both insurers and agents have been closely studying the new environment and looking for ways to maximize their chances of survival.

Often, that means finding some way to partner with banks that seek to involve themselves in the insurance business.

"Our membership is being affected by this, as is the membership of many other trade associations, in that we have increasing bank involvement by our member firms," said Joel Wood, senior vp-government affairs at the Council of Insurance Agents & Brokers in Washington.

"I would say that nearly every one of our member firms has been considering the benefits or disadvantages of affiliating," Mr. Wood said.

Those affiliations can take various shapes, such as the outright sale of an agency to a bank or a partnership or joint venture between agents and banks. "There are all types of potential relationships out there," he said.

Meanwhile, among insurance companies, "I think every responsible insurance company is looking to banks for opportunities," Mr. Wood said. "This would have been heresy to say five years ago, but it is widely accepted that banks are a viable marketing tool for many insurance products."

James J. Kilbride, chairman and chief executive officer of Portland, Maine-based Morse, Payson & Noyes Insurance agency and co-chair of the Council, said he believes most agents understand insurance companies' interest in examining the distribution possibilities offered by banks.

"The larger agents are not troubled by that," he said. "They recognize that the insurance companies have to use multiple channels of distribution."

"They may not like it, but they certainly understand it," Mr. Kilbride said.

His own agency chose to sell to a bank in 1997, and thus far the move has proved very successful, providing the agency with greater resources than it otherwise would have had, Mr. Kilbride said.

"It's a tremendous opportunity if you can partner with the right bank in the right geographical area," he said.

While partnering with banks is one way to go, some insurance companies are taking a different approach, looking to create their own banks.

The members of the Indianapolis-based National Assn. of Mutual Insurance Cos. have taken that approach with the formation of NAMIC Bank. Maintaining a viable agency system of product distribution was a key factor behind the move.

Through the bank, the organization reasoned, NAMIC could provide agents that distribute members' insurance products a number of financial products for distribution as well, allowing them to compete

with banks getting involved in the insurance business.

"NAMIC as a trade association is interested in preserving the mutual insurance concept as well as the independent agency system as a distribution system," said David T. Fronck, president and CEO of NAMIC Bank.

NAMIC Bank is in the final stages of its federal chartering process; Mr. Fronck said he hopes it will be up and running before the end of the year. Initially its offerings will likely be limited to consumer and real estate loans, though deposit products might be added to the menu later.

"We think that the model has validity to it, and we'll just have to wait

and see," Mr. Fronck said. "There are a number of insurance companies in the process of organizing financial institutions."

The Council's Mr. Wood agrees that there is an interest on the part

'It's not far down the road where banks will actually be able to take a piece of the risk.'

— James J. Kilbride

of some insurers to help agents remain competitive in the face of bank involvement in the insurance business.

"Some companies have chosen to go the route of strengthening their relationships with their existing agency forces at the cost of foregoing opportunities with banks," he said.

More insurers, however, seem to be looking at the opportunities they might have to tap banks as a distribution mechanism, he said.

"I think there are many insurance companies that are deeply concerned with 'What happens if H.R. 10 doesn't pass?'" Mr. Wood said.

In the absence of broad, comprehensive legislation, Mr. Wood said he thinks the federal comptroller of currency will push for banks having some sort of insurance underwriting ability.

"There is a deep concern among many insurance companies that through loopholes involving operating subsidiaries, the comptroller of the currency will allow banks to engage in insurance underwriting activities, putting insurance companies at a deep competitive disadvantage," he said.

"It's not far down the road where banks will actually be able to take a piece of the risk," agreed Mr. Kilbride.

Mark Olson, partner and national director of regulatory relations at Ernst & Young L.L.P. in Washington, agrees that delays in passing financial modernization legislation

See **Banks** on next page

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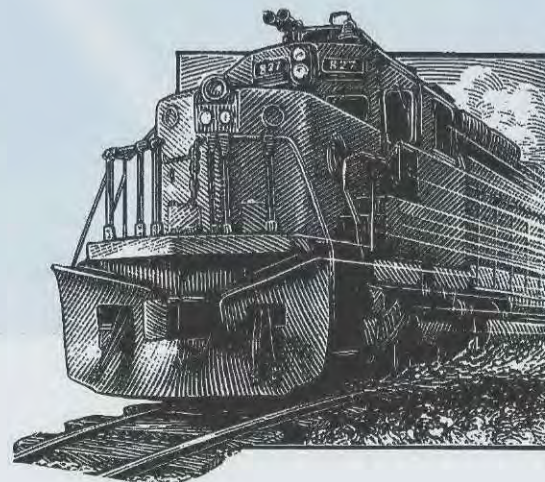
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Banks

Continued from previous page
won't stall integration of banks and insurance—and, in fact, might have the opposite effect.

"Every time we've seen legislation stall, we've seen regulators act in one way or another," Mr. Olson said. "Citicorp-Travelers came when the legislation stalled."

"Anytime the legislative process stalls, what you'll see is regulators acting on applications," he said. "And that's how most of the progress has been made over the past 15 years."

Some regulators, actually, are among those offering the most heated criticism of the current wording of the financial modernization legislation on Capitol Hill.

The Securities and Exchange Commission has weighed in with criticisms, Mr. Olson noted, and the National Assn. of Insurance Commissioners recently submitted its own list of suggested amendments to the legislation to the House Commerce Committee.

"So what we're finding... is that the (parties) most determined to have some input into the bill are the regulatory agencies, even more so than the industries them-

selves," Mr. Olson said. "It's a turf battle."

The NAIC's amendments focus on the issue of insurance regulation, with the insurance regulators contending the legislation as currently worded would erode the existing system of state-based regulation.

That's a concern long voiced by the National Assn. of Independent Insurers, which is backing the NAIC's proposed amendments, according to Robert Dibblee, senior vp in the NAII's Washington office.

"We feel they've come forward with a package of amendments that are consistent with what we want to do," Mr. Dibblee said of the NAIC proposals. "We've been working with the agents as well."

Voicing such concerns is an area where insurance companies and agents and brokers have maintained good relations as financial modernization legislation moves forward, Mr. Dibblee said.

"We've worked together, the two associations, and we are on the NAIC package," he said. "This is a package that was put forward by the regulators, but we're working together in support of it."

The Council's Mr. Wood said there is "tenuous agreement" at present between insurance agent and banking interests over safe

harbors in the financial modernization legislation; those safe harbors would protect state laws governing banks' insurance sales activities from federal pre-emption.

A more significant issue confronting the legislation, however, is over the manner in which banks engage in insurance underwriting, and where in the corporate structure that underwriting would take place, he said.

Currently, the versions of financial modernization legislation in both the House and the Senate involve a framework for creating a financial services holding company, with protections against the activities of one affiliated company under the holding company drawing from the resources of the others, Mr. Wood said.

But there is a question of which activities can be done by an operating subsidiary of a bank vs. what would have to be done by an affiliate company, he said. Under the current versions, insurance underwriting is one of the activities that would have to be done by an affiliate.

"It's an evolving framework," Mr. Wood said, and the "rough consensus" is that insurance underwriting would not be allowed in an operating subsidiary of a national bank. **BI**

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Conflicts arise as distribution channels cross

By SALLY ROBERTS

To broaden their reach in today's highly competitive market, many insurers that historically have used agents and brokers to distribute their products are turning to alternative distribution channels, including a direct sales force, direct marketing, financial planners, the Internet and banks.

Insurers are using as many distribution outlets as possible to satisfy clients' varying preferences for buying insurance.

But what happens when these various distribution systems representing the same insurer begin to compete for the same clients?

It's called channel conflict, and insurers that have multiple distribution channels need to constantly manage it, observers say.

"There is no quicker way to get a distribution system upset" than to add another distribution channel to compete for the same clients using the same insurer, said Mark Puccia, managing director and chief criteria officer at Standard & Poor's Corp. in New York.

Mr. Puccia recently spoke about channel conflict and other distribution issues at S&P's 15th annual insurance symposium, held earlier this year in Phoenix.

Jeff Yates, chief executive officer-industry and state relations at the Independent Insurance Agents of America Inc., said his organization fields more inquiries and concerns regarding the issue of channel conflict and multiple distribution than anything else. "It is a highly emotional issue for agents."

In some situations, Mr. Yates said, insurers will provide "preferred prices" for banks and other alternative distribution channels that have more clout than agents.

Insurers in general are sensitive to channel conflict.

"Multiple distribution systems is not new to us," said Mike Davidson, a vp in charge of the independent agents organization of MetLife Auto & Home in Warwick, R.I., a subsidiary of Metropolitan Life Insurance Co. "We have done a very good job managing this over the last 10 years."

MetLife has five distribution channels: its captive agency force, known as MetLife agents, who sell life, auto and home products; "P/C Specialists," who are captive agents that sell property/casualty products; independent agents; a group distribution system to sell products through company payroll deductions; and direct-response via telephones.

"Every one of these distribution systems is equally important to us," Mr. Davidson said.

At the same time, any one of those distribution channels could have crossover clients, he said. An agent in MetLife's group distribution system could enroll an employer into a payroll deduction plan and one of

its employees could be an existing customer of a MetLife agent, he explained.

Customers decide how they want to buy insurance, Mr. Davidson says. "Some people like to buy from a local business person," he said, referring to independent agents. Others like to buy direct from captive agents, while others would rather have their auto and homeowners insurance deducted from their payroll.

While there have not been many, Mr. Davidson said, when channel conflicts do occur MetLife typically

resolves them through some sort of compensation, he said.

One reason MetLife has been successful at managing channel conflict is good communication, he noted. "You've got to be honest and up front" with the existing distributor. force prior to adding another distribution channel to the mix, he said. An insurer needs to communicate why the company is adding a distribution channel and what value it will bring to the company, he said.

Liberty Mutual Insurance Co. also has managed channel conflict.

Prior to June 1997, the Boston-based insurer had only direct sales agents. But then it shifted its captive agents' focus to middle-market and large commercial accounts from small commercial business, and the insurer soon realized it was missing out on a \$60 billion small-account market, explained Frank Marziano, president of the Commercial Insurance Holdings unit of Liberty.

Liberty Mutual found that the best way to capture a "reasonable share of that marketplace" was to turn to independent agencies, he said.



To avoid channel conflict between its captive agency force and its new independent agency distribution system, Liberty Mutual created strategic business units with clearly defined parameters,

For example, the Commercial Insurance Holdings unit handles accounts up to \$75,000 in annual pre-
See **Conflict** on next page

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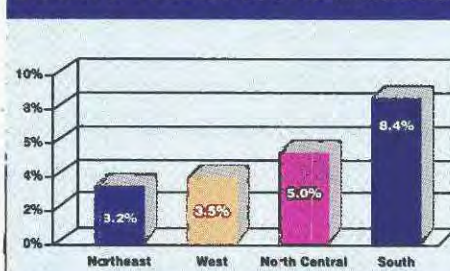
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Conflict

Continued from previous page
mium, and only through the independent agency system. The Business Markets unit handles all middle-market accounts, those with annual premiums of \$75,000 to \$2.5 million, and strictly through Liberty Mutual's direct sales force.

A vast majority of accounts over the \$2.5 million premium range are handled by the direct sales force. The remainder is handled by large national brokers. "There have been no problems" with channel conflict in that segment, Mr. Marziano said.

Independent agents, however, did express concern at the beginning that Liberty Mutual's direct sales force would compete for their business, he said. "We explained to them how we were going to delineate markets through size and distribution source, and as time passed, they were just fine," he said.

"We've had virtually no clashes," Mr. Marziano said. "Once we let them know that we meant what we said" in terms of the strict boundaries, issues were resolved. "We've had no problems in over a year," he said.

Schaumburg, Ill.-based Zurich U.S. also has a variety of distribution channels, including independent agents, captive agents, managing general agents, direct sales and the Internet, explained Tom Hite, executive vp-marketing. "We can sell similar kinds of products to the same customer group and not be in competition with ourselves," he said.

"Customers want to deal with us in certain ways," whether through the Internet, independent agents or direct telephone marketing, he said.

The insurer is committed to a multiple distribution system, and Zurich quickly tries to defuse any conflicts that arise, Mr. Hite said. **BI**

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P/C industry in the midst of its 'pain phase'

Speaker describes how 'cheating phase' of 1998 is causing current market problems

By JUDY GREENWALD

The property/casualty insurance industry has gone from the "cheating phase" to the "pain phase" of the insurance cycle, with the "fear phase" yet ahead, says a securities analyst.

V.J. Dowling, managing partner at Stamford, Conn.-based Dowling & Partners Securities L.L.C., also described how the great expectations from early last year have since diminished. He was speaking at the recent National Insurance Symposium Leadership Conference, held in San Francisco and sponsored by the Russell Miller Cos. and Swiss Re.

Also speaking at a separate session was Terry Broderick, president of Charlotte, N.C.-based Royal & Sun Alliance, who discussed the major opportunities presented to global insurers by globalization, technology, consolidation and capacity utilization.

Mr. Dowling described the insurance industry's situation in January 1998. Property/casualty stocks then were trading at absolute and relative highs, though these prices "made no sense." Stock prices were based on expectations the industry couldn't sustain. "You had new buyers coming in" who expected further consolidation between the insurance and banking industries, he said.

Furthermore, 1997 saw the

lowest level of catastrophe losses in more than a decade, while asbestos and environmental losses accounted for less than one point on the combined ratio. In addition, declining yields were not fully evident in reported results, and takeover speculation was "rampant."

Defining the period as the "cheating phase," Mr. Dowling said it was marked by prior-period reserve releases, aggressive as-

sumptions for accident-year loss ratios, and by a stretch to achieve investment income growth.



Furthermore, said Mr. Dowling, property/casualty insurers bought stop-loss reinsurance "with the design to try and obfuscate what was happening insofar as actual results."

Other characteristics of this

"cheating phase" included negative underwriting cash flow, the use of stock for acquisitions, and stock buybacks at high levels.

"It's amazing," Mr. Dowling said as an aside, that companies bought back shares during this time when today, when stocks are selling at much lower levels, companies claim they do not have the money to buy back shares "in order to take advantage of 'mysterious' opportuni-

ties." Reality stepped in with last year's results, which were marked by a higher level of catastrophes and lower investment yields. Companies in 1998 also failed to meet projected earnings, and there was "absolute stock market carnage out there" as stock prices declined.

This phase, the "pain phase," has been characterized by missed earnings projections and reductions in estimates, the loss of investors' interest, the beginning of reserve charges, big premiums paid for unique franchises—such as Chubb Corp.'s recent acquisition. See **Phase** on next page.

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Phase

Continued from previous page
tion of Executive Risk Inc. (BI, Feb. 15)—and talk of the end of the cycle, among other factors, said Mr. Dowling.

During the next phase—"fear"—executives start to lose their jobs, and there will be a pickup in merger and acquisition activity, said Mr. Dowling. Layoffs also accelerate, he said. "The industry still has too many bodies," he said.

There also will be special reserve charges related to more recent accident years and cuts in dividends, and stock prices will bottom out, said Mr. Dowling. In addition, the reinsurance market will disappear, and the alternative market will expand, he said.

Speaking at a different session, Mr. Broderick said the great companies are excited by all the opportunities in today's market, while it is only the "not-so-great, the unfocused, the strategically unclear" that are fearful.

Speaking about globalization, Mr. Broderick said not every policyholder needs global capabilities and that each is poised at a different point along the developmental curve in this respect. However, a growing segment of clients who are mid-sized to larger will require global capabilities, he said.

'Insurers must do much better' with technology and become much more technologically adept.

— Terry Broderick

Mr. Broderick remarked that even global companies still must get "the job done on a local basis."

Discussing technology, Mr. Broderick said a key question is whether e-commerce will replace or duplicate the role of the intermediary. While this is a possibility for certain products, a substantial segment of the business will still want the consultation

and advice of an agent or broker, he said.

Research indicates, said Mr. Broderick, that while price is the single most important factor in making insurance-buying decisions, it remains the most important but becomes much less important when taking into account the advice, counsel and product knowledge of the independent agent or broker.

Mr. Broderick also said "insurers must do much better" with technology and become much more technologically adept, using technology to access information.

He noted that Royal & Sun Alliance's claims operations can use the World Wide Web to find expert witnesses, gain access to university libraries and gather information about Y2K litigation, among other uses. Royal & Sun also has begun preliminary use of "Cybersettle" software, which allows plaintiffs and defendants in liability disputes to submit settlement offers via the Internet.

Mr. Broderick said insurers have not invested more heavily in technology because it is "hard to make the case" when the benefit is information access, rather than quantifiable savings. The industry is going to have to

make a "leap of faith," said Mr. Broderick.

Turning to insurer consolidation, he noted that Oldwick, N.J.-based A.M. Best Co. has predicted that one-third of the property/casualty groups existing today will relinquish their independence within five years.

Porting to the failure of many deals, however, Mr. Broderick said more attention will be paid in the future to the "cultural fit of the merging organizations."

Mr. Broderick also said he does not believe broker consolidation has played out yet. "J&H/ Marsh/Sedgwick," Aon Corp. and Willis Corroon Group Ltd. account for two-thirds of the just under \$10 billion in revenue generated by the top 100 brokers, and it is "hard to believe" that all the other 97 brokers will remain independent, said Mr. Broderick.

He said while Royal does business with the major players, regional and mid-sized to large independents are "critically important" to the insurer as well.

"We must ensure their success, not just their survival," he said, adding that brokers have many of the same capital requirements as insurers and that while Royal is not interested in broad owner-

ship of its distribution capability, the insurer is inclined to provide capital.

Mr. Broderick also discussed capacity utilization and said the "level of competition is not likely to change in any material way." No "broad-based shifts are likely," he added. The industry's excess capital is manifesting itself in different ways, including helping to explain the drive to find new products, Mr. Broderick said.

Also speaking at the same session as Mr. Broderick was Brian O'Hara, president and chief executive officer of Bermuda-based XL Capital Ltd. **BI**

Errors & omissions

Comments by Brian Duperreault, chairman, president and chief executive officer of ACE Ltd., as quoted in the April 5 Agent/Broker Topics were incorrectly directed at the independent agency system when he was discussing middle-market business. ACE's strategic vision has not encompassed middle-market business but that is not to say ACE dismisses the independent agency system.

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ASK A BENEFIT MANAGER

Q

What are some of the key items that benefit professionals need to focus on during 1999??

A

There will be many areas that will require our attention during 1999. The general areas of focus in the current year can be categorized as legislative, health care, retirement planning/financial education, technology and strategy.

Let's examine the key issues pertaining to each:

Legislative issues

As usual, it is very difficult to predict exactly what will happen in Washington that will impact the employee benefits community.

As a result of the distraction of the impeachment proceedings and the continuing crisis in Kosovo, there may be strong political needs to pass legislation to demonstrate to voters that Congress is again focused on what needs to be done.

The new speaker of the House has outlined four key priorities upon which he wants Congress to focus. One of those major priorities includes retirement and health security, which would include review of Social Security and Medicare programs.

The "Patients' Bill of Rights" for health care plans was not passed in the last Congress, and there may be a renewed emphasis in this area. In addition, President Clinton has suggested additional tax breaks for long-term care coverage. Also, health care costs are rising for federal employees, and Congress may take action to control those costs.

There are a few technical items upon which we need to focus during 1999. One such item is the notice to health plan enrollees under the Women's Health and Cancer Rights Act of 1998. Under this act, by Jan. 1, 1999, plans had to inform enrollees of coverage for reconstructive surgery after mastectomies. Plans also had to provide such notice upon enrollment for post-1998 enrollees, and there must be an annual notice in all future years.

Also, by July 29, 1999, the summary of material modifications or updated summary plan descriptions must be furnished to participants and beneficiaries who enrolled after Nov. 11, 1998, describing the requirements for maternity or newborn infant hospital coverage under the Newborns' and Mothers' Health Protection Act of 1996. Finally, there is the Dec. 31, 1999, deadline for adopting plan amendments that comply with pre-1999 provisions of the Taxpayer Relief Act of 1997, Small Business Job Protection Act, General Agreement on Tariffs and Trade and the Uniformed Services Employment and Re-Employment Rights Act.

Health care

After several years of moderate increases in health care costs, we saw a spike upward in health care costs in 1998 and a larger spike in 1999. One major reason for this is that, over the past several years, we were able to control our health care cost by shifting employees into managed care. However, the majority of our employees now are in some form of managed care.

Therefore, we will see little or no further shifting into managed care. This will place additional pressure on benefits professionals to find other ways to control health care costs. We will need to work closely with the health care plans to ensure that they are providing top quality health care at a reasonable cost.

Health care plans no longer are lowering their prices to obtain additional market share, and they now are taking hard stances on their rates. Prior to 1998, many health care plans were buying business with lower rates, which could not generate profits. As profitability of some of the health

care plans was affected, their stock prices declined. The CEOs and CFOs of the health care plans will not allow this to continue.

We also are seeing some backlash against managed care. Many employees who feel that they were forced into managed care are resisting some its practices, and legislatures are taking up the cause of "patients' rights." When I say that people were forced into managed care, they may have been forced through pricing—the cost of the indemnity plan may have been so high that it was not acceptable.

Some employers have opted to cease offering anything other than a managed care plan. In any case, we are seeing state legislatures passing patient rights legislation, and there has been considerable discussion about the subject in Congress.

One element that is adding significantly to the cost of health care is prescription drugs. Many plans are experiencing significant cost increases in prescription drugs—in some cases, increases are in the 20% to 30% range. As the baby boomers age, they are consuming more prescription drugs. There also has been an increase in the number of new drugs, which often are replacing lower-priced drugs.

Advertising is contributing to employees' interest in these new, higher-priced drugs. The pharmaceutical industry is spending more than \$1 billion on advertising annually, and patients are requesting specific drugs that they have seen advertised. If you have not done so, you may want to consider implementing a managed prescription drug plan.

Retirement planning/investment education

Six of the top 10 benefit issues identified by the International Society of Certified Employee Benefit Specialists focused on the area of retirement planning and investment education. As more money flows into our defined contribution plans, it is increasingly important that employees, who are responsible for investing those funds, understand how to invest.

Over time, the number of investment funds our plans offer has increased significantly. The average number of investment funds in defined contribution plans has increased from three or four funds per plan to more than eight, with many plans offering more than 10 funds. With increased choices of investment funds, employees need to understand these funds and how they should be investing.

According to a recent survey by William M. Mercer Inc., 71% of organizations now offer some form of investment education. This compares to 10% in 1996.

While the stock market has provided significant rates of return, we also have seen increased volatility. My concern is that employees will be frightened by market fluctuation and will move out of equities at the wrong time.

As with any training or communication to employees, it is important that we continue to provide employees the investment information that they need. I have seen too many organizations implement a training program or a communication campaign and then stop. We need to understand that learning needs to be a continual process. Ongoing training and education is critical. This is especially true because our employees are sorting through the communication they receive on a daily basis.

We cannot simply assume that employees read the materials we send them. We need to come back to them repeatedly to ensure we have truly communicated.

In the area of retirement plans, one area in which you may have an interest is cash balance plans. A national group of cash balance practitioners is requesting guidance from the IRS on cash balance plans. As you may know, there currently is very limited guidance on such plans.

There has been a significant increase in the number of these plans, and there appears to be increased concern about the lack of IRS guidance. Also, there has been increasingly negative press about cash balance plans.

Technology

Use of the Internet is critical to employee benefits. The Internet and/or corporate intranets are a very effective

way to communicate to our employees, and also are very cost-effective. More employers are introducing Web sites for their benefit plans, and employees can access these sites to check on their specific accounts and process transactions.

At Arthur Andersen, we implemented a Web site for our employees for the profit sharing/401(k) plan during the past year. Employees appreciated having the site. In fact, I do not remember receiving such positive comments from employees about any other single benefits initiative in my career.

Previously, employees could access their accounts via interactive voice response systems that allowed them to hear their account balances. It is much more effective for employees to see their account balances, either on screen or by printing a copy of their account.

In addition to facilitating account and transaction inquiries, Web sites can be very effective for communication. Providing information about the benefit plans is a natural function of the Web site. This would include any updates on the benefit plans, plus providing basics, such as summary plan descriptions.

One area to watch during 1999 are proposed regulations on paperless administration of tax-qualified retirement plans. Issued in December 1998, these regulations will provide guidance as to what we can and cannot do on our Web sites.

Strategy

Due to the nature of benefits, I see many benefit managers focusing on the administration of benefits and losing sight of why we offer benefit programs to our employees. Very simply, we offer benefit programs to attract and retain employees needed in our business.

We need continually to monitor whether our benefit program is doing a good job of achieving this goal. In the current market, we need to take every possible step to ensure our programs are meeting our needs.

We should be checking with our line managers and recruiters to determine whether there are any problems with our benefits programs.

We need to determine whether we are falling short of the competition in any areas, or if employees are not happy with any of our plans.

We need to ensure that our benefit plans are helping our organization meet its goals.

Materials in this article do not constitute accounting, tax, legal or business advice. You should review your specific situation with professional advisers.

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

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



Mr. Nirtaut

This month's column on employee benefit management issues is written by Dennis J. Nirtaut, managing director of compensation and benefits for Arthur Andersen L.L.P. in Chicago. Christopher E. Mandel, director-risk management at Tricon Global Restaurants Inc. in Louisville, Ky., answers questions on risk management issues. William J. Miner, an actuary with Watson Wyatt Worldwide in Chicago, answers actuarial questions on benefits

issues. And, Richard E. Sherman, president of Richard E. Sherman & Associates Inc. in Ashland, Ore., answers actuarial questions in the casualty field.

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

Danube

Continued from previous page
vessels are stranded on the Danube because of blockages. Of these, 42 are stranded in Romania at the border between Romania and Serbia, 15 on the border between Hungary and Serbia, and a further 14 in Germany, Mr. Petsnig said.

He said war insurance is available, but he said he has not bought any because "the premiums are too high."

Alternative transit by rail or road will be necessary even if the war ends soon. "You will need another half-year to locate and remove the damaged bridges," he said.

On average, rail and road freight rates in Southeastern Europe have been up to two and seven times higher, respectively, than river barge rates, Mr. Petsnig said. "But we are hoping just to pay between 40% and 50% more."

Mr. Petsnig said he does not expect any compensation from the Austrian government. That's in contrast to Romanian and Ukraine river shippers, which generally are subsidized by their respective states.

German river shippers are not fac-

ing the same problems, as they trade mostly on the Rhine and Danube rivers only as far as Budapest, Hungary. Reports of German shipping losses in the international press have been exaggerated, said Gerhard von Haus, managing director of the Duisberg, Germany-based association of German barge shippers Bundesverband der Deutsche Schifffahrt.

Of their total annual shipment of 10 million metric tons (11 million tons) of freight, German barge shippers move only 100,000 metric tons (110,000 tons) downstream through Yugoslavia on the Danube, said Mr. von Haus. "This is not a serious problem for us," he said, adding that he knows of no potential insurance claims to date.

The London insurance market is beginning to get notice of some potential claims within Serbia.

Bernie de Haldevang, war and political risk underwriter at Lloyd's managing agent Wellington P.L.C., said the market has received notice of potential losses of civilian equipment insured by foreign companies that have invested in Serbia. Pollution claims, he said, will not be a matter of war coverage, though it isn't known yet how the claims will be handled.

Joe Blenkinsopp, sales and develop-

ment director in the credit and political risk department of broker Marsh Inc. in London, said individual trade-related claims in the Balkan region could range between \$1 million and \$10 million. "I could guess that there could be a total of \$50 million of problems out there," Mr. Blenkinsopp said.

Insurers say they do not expect any expropriation claims from Serbia or Montenegro.

London-based credit insurer Trade Indemnity P.L.C. is still offering short-term export credit insurance to the former Yugoslav republics of Croatia, Macedonia and Slovenia, but it is taking a cautious view of all business. There has not been too much interest shown in such coverage by exporters, said Marit Kairento, a risk analyst for Eastern Europe. No claims have been registered yet.

Short-term—up to 180 days' coverage—credit insurance is still available for Bulgaria and Romania on a case-by-case basis. "But this depends on any exporter's whole turnover and portfolio," Ms. Kairento said.

Outside the former Yugoslavia, Romania is considered the riskiest country economically, because the country could default on foreign debt payments, she said.

State-sponsored export credit and political risk insurance is not being offered to Serbia and Montenegro because of United Nations sanctions against Federal Yugoslavia. Private-sector export credit insurance to Federal Yugoslavia was suspended last fall, when the country failed to reach an agreement with the International Monetary Fund about debt payments, said a spokeswoman for French political risk insurer Coface in Paris.

Hermes Kreditversicherungs A.G. of Hamburg, Germany, is offering state-sponsored political risk insurance coverage to Bulgaria to an aggregate ceiling of 100 million deutsche marks (\$54.5 million) and a maximum 10 million deutsche marks (\$5.5 million) per occurrence, with the provision of a bank guarantee. The ceiling to Romania is 300 million deutsche marks (\$163.6 million) with a maximum of 30 million deutsche marks (\$16.4 million) per occurrence, plus bank guarantee. Hermes is offering coverage to Croatia to an aggregate ceiling of 200 million deutsche marks (\$109.1 million) and a maximum per occurrence of 20 million deutsche marks (\$10.9 million). Although Hermes does not offer coverage to Macedonia on a medium- or long-term ba-

sis, it is prepared to cover short-term export credit risks, but always with a bank guarantee, the spokesman said.

Political risk underwriter Ben Garston of Lloyd's agent Wellington P.L.C. said the group has received a large number of inquiries from Danube River shippers for insurance but would not talk about potential rates. Coverage will be available for transit through the Serbian stretch of the river Danube.

"I suppose the Serbs will be clearing away the debris from the Danube. They have all the necessary vessels," Mr. Garston said.

Lloyd's managing agent Hiscox P.L.C. is offering a similar war insurance package for the Balkan region due to client demand. Coverage is available for cargo, marine, hull, personal accident, aviation, physical damage to foreign-owned assets, and kidnap and ransom, Hiscox said in a statement.

Most inquiries for Hiscox's war coverage have come from neighboring countries, including Danube barge owners and property owners fearing they may be hit by misdirected NATO bombs or missiles, said Geoffrey Lynch, head of political risk at Hiscox P.L.C. **BI**

Terrorism

Continued from previous page
Organization in the Former Yugoslavia. Wellington recently developed a coverage for retaliatory bombings in London, New York and the capitals of other NATO countries (BI, March 29), and there has been media

speculation that the London bombings and the murder last week of a prominent British television personality may be linked to Serbian nationalists. A police spokeswoman said the force is "keeping an open mind" about the source of the attacks.

So far, several right-wing extremist groups have claimed responsibility for the two recent bombings in London.

These include Combat 18, an offshoot of the British National Party with links to European neo-Nazi groups.

Brixton, an area in south London, was the site of the first explosion. It has a large Afro-Caribbean population. Only one insurance claim has reached the London market, from Iceland Frozen Foods P.L.C., headquartered in Deeside in Wales. The bomb, containing between six and 10 pounds of nails, exploded directly outside its Brixton-based store, shattering a plate-glass window. A spokeswoman for Iceland declined to comment on its security measures, but she said, "It is an appalling act, and our feelings are with those who are injured and their families." Almost 40 people were injured in the attack.

A week later, an almost identical

device exploded in Brick Lane in the East End of London. The area is well known as a center for London's Bangladeshi community and is particularly famous for its restaurants. Although several buildings and two cars were severely damaged, the fact that most businesses in the area are small, family-run operations means that claims most likely will be low.

Currently, the Metropolitan Police is treating the two bombings as racially motivated. This means that any claims will fall under fire policies rather than specific terrorism coverages, unless the attacks are recategorized as terrorist-linked.

Terrorism coverage has been excluded from standard fire policies since the IRA bombing of London's financial district in April 1992. As a re-

sult, Pool Reinsurance Co. Ltd. was set up as a government-backed reinsurer of last resort. Pool Re Chief Executive Leslie Lucas said the two recent London events are highly unlikely to affect the pool; its policies have a standard deductible of £100,000 (\$161,450) per class of coverage.

Late last year, Pool Re announced an 85% premium discount as a result of low claims incidents in recent years. The alternative terrorism market—including Wellington and Hiscox—has reduced its rates in line with Pool Re's, though several marine syndicates at Lloyd's decided to stop writing the coverage following the reduction, said Hiscox's Mr. Perry.

"The market has reduced in capacity, but the demand is still there," he said. **BI**

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Report

Continued from previous page

Further, the report blamed local and national government officials for underestimating the danger to the surrounding area. The inquiry commission also faulted the Health Care Inspectorate for failing to conduct physical examinations of resident and emergency care workers.

The report criticized the government of Prime Minister Win Kok for ignoring public protests over the dis-

aster. The inquiry commission concluded "the number of times that the lower house of Parliament was given unclear, incomplete, tardy or inaccurate information is too high, especially given the lengthy aftermath of the disaster."

Singled out for special criticism were Health Minister Els Borst and Annemarie Jorritsma, who was the minister of transportation at the time of the crash and is now minister of economic affairs. Both have said they will resign if the Parliament finds they were negligent in their duties.

The Israeli government also was criticized. "Given the public disquiet in the Netherlands in the last six and one-half years, the request for cooperation at the senior diplomatic level,

and the friendly relations between the Netherlands and Israel, the commission finds it incomprehensible that more cooperation was not provided sooner in bringing documents to light. The cooperation by El Al in the final weeks of the commission's inquiry takes nothing away from this finding," the report said.

Zeev Regev, insurance and fuel manager at El Al in Israel, said the airline has not altered its practices as a result of the crash or the report, which he said El Al has not seen.

"We all take very seriously any relevant comment they might have," Mr. Regev said. "But this report is still a mystery, because it has not been translated into Hebrew or English." **BI**

ADVERTISER

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Reinsurer

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"no option" but to place the Australian business into voluntary administration.

The administrator, John Gibbons of the accounting firm of Ernst & Young in Sydney, was appointed by New Cap Re in consultation with the Sydney-based regulator, the Australian Prudential Regulation Authority, which regulates Australian financial services companies.

The administrator now has one month to determine the fate of the Australian business, with options including liquidation or a whole or partial selloff.

Bob Mebus, managing director of

Standard & Poor's Corp.'s New York-based global ratings team, said it will take some time for the Australian reinsurance market to restore its credibility in the wake of New Cap Re's problems.

He said three-year-old New Cap Re had a "nice run with no bad news, but then got hit—and hit huge."

Mr. Mebus, speaking about the Australian insurance market, said New Cap Re's financial troubles "may be confirming fears" of the international insurance industry that Australia does not have a good market position in reinsurance.

Australian reinsurers have had to "chase business" in North America and London, he said, but they may now have to rethink their underwriting strategy. **BI**



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UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

IN THE PETITION OF ANTHONY JAMES MCMAHON AND PHILIP WEDGWOD WALLACE, AS JOINT PROVISIONAL LIQUIDATORS OF SOVEREIGN MARINE & GENERAL INSURANCE COMPANY LIMITED, Case No. 97-B-44652 (CB)

NOTICE IS HEREBY GIVEN that on April 21, 1999, the Bankruptcy Court entered an order (the "Order") continuing the Preliminary Injunction Order pursuant to 11 U.S.C. §§ 105 and 304(b) originally entered in this case on July 31, 1997. The Order shall remain in effect pending a hearing scheduled for October 13, 1999 at 2:00 p.m. before the Honorable Cornelius Blackshear, United States Bankruptcy Judge, in the Alexander Hamilton Custom House, One Bowling Green, New York, New York. Any person wishing to obtain a copy of the Order should contact Mary Ann Elliot (202) 862-2342.

CADWALADER, WICKERSHAM & TAFT
100 Maiden Lane
New York, New York 10038
Tel: (212) 504-6000
Fax: (212) 504-6666
Attention: Kenneth P. Coleman, Esq.
Stephen Doody, Esq.

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UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

IN RE PETITION OF DAN YORAM SCHWARZMANN AND COLIN GRAHAM BIRD, AS JOINT PROVISIONAL LIQUIDATORS OF BLACK SEA AND BALTIC GENERAL INSURANCE COMPANY LIMITED, CASE NO. 98-B-46759 (CB)

NOTICE IS HEREBY GIVEN THAT ON APRIL 21, 1999, THE BANKRUPTCY COURT ENTERED AN ORDER (THE "ORDER") CONTINUING THE PRELIMINARY INJUNCTION ORDER PURSUANT TO 11 U.S.C. § 304 ORIGINALLY ENTERED IN THIS CASE ON OCTOBER 5, 1998. THE ORDER SHALL REMAIN IN EFFECT PENDING A HEARING TO CONSIDER WHETHER IT SHALL BE CONTINUED, WHICH HEARING IS SCHEDULED TO BE HELD ON OCTOBER 12, 1999 AT 2:00 P.M. (THE "RETURN DATE") BEFORE THE HONORABLE CORNELIUS BLACKSHEAR, IN ROOM 601 OF THE ALEXANDER HAMILTON CUSTOM HOUSE, ONE BOWLING GREEN, NEW YORK, NEW YORK. ALL PAPERS SUBMITTED FOR THE PURPOSE OF OPPOSING CONTINUATION OF THE ORDER AFTER THE RETURN DATE SHALL BE FILED WITH THE COURT, WITH A COPY TO THE CHAMBERS OF THE HONORABLE CORNELIUS BLACKSHEAR AND SERVED ON COUNSEL FOR THE PETITIONERS LISTED BELOW, SO AS TO BE RECEIVED AT LEAST FOURTEEN (14) DAYS PRIOR TO THE RETURN DATE. ANY PERSON WISHING TO OBTAIN A COPY OF THE ORDER SHOULD CONTACT COUNSEL TO THE PETITIONERS.

CHADBOURNE & PARKE LLP
ATTORNEYS FOR THE PETITIONERS
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UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

IN RE PETITION OF GARETH HOWARD HUGHES, CHRISTOPHER JOHN WILKINSON HILL AND PAUL CLARKE, AS JOINT PROVISIONAL LIQUIDATORS OF OCEAN MARINE MUTUAL INSURANCE ASSOCIATION LIMITED, CASE NO. 99-B-42545 (BRL)

NOTICE IS HEREBY GIVEN THAT, PURSUANT TO AN ORDER OF THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK (THE "BANKRUPTCY COURT") DATED APRIL 26, 1999, IN CONNECTION WITH THE PETITION FILED PURSUANT TO SECTION 304 OF THE BANKRUPTCY CODE WITH RESPECT TO OCEAN MARINE MUTUAL INSURANCE ASSOCIATION LIMITED (THE "COMPANY"), THE TEMPORARY RESTRAINING ORDER ISSUED ON APRIL 20, 1999 IS CONTINUED:

1. ENJOINING AND RESTRAINING ALL PERSONS AND ENTITIES FROM: (A) TRANSFERRING, RELINQUISHING OR DISPOSING OF ANY PROPERTY OF THE COMPANY IN THE UNITED STATES, OR THE PROCEEDS OF SUCH PROPERTY, TO THIRD PARTIES; (B) COMMENCING OR CONTINUING ANY ACTION OR OTHER LEGAL PROCEEDING (INCLUDING, WITHOUT LIMITATION, ARBITRATION, OR ANY JUDICIAL, QUASI-JUDICIAL, ADMINISTRATIVE OR REGULATORY ACTION, PROCEEDING OR PROCESS WHATSOEVER), INCLUDING BY WAY OF COUNTERCLAIM, AGAINST THE COMPANY, OR ANY PROPERTY IN THE UNITED STATES INVOLVED IN THE FOREIGN PROCEEDING, OR ANY PROCEEDS THEREOF, AND SEEKING DISCOVERY OF ANY NATURE AGAINST THE COMPANY; AND (C) ENFORCING ANY JUDICIAL, QUASI-JUDICIAL, ADMINISTRATIVE OR REGULATORY JUDGMENT, ASSESSMENT OR ORDER OR ARBITRATION AWARD AGAINST THE COMPANY, AND COMMENCING OR CONTINUING ANY ACT OR ACTION OR OTHER LEGAL PROCEEDING (INCLUDING, WITHOUT LIMITATION, ARBITRATION, OR ANY JUDICIAL, QUASI-JUDICIAL, ADMINISTRATIVE OR REGULATORY ACTION, PROCEEDING OR PROCESS WHATSOEVER), TO CREATE, PERFECT OR ENFORCE ANY LIEN, ATTACHMENT, GARNISHMENT, SETOFF OR OTHER CLAIM AGAINST THE COMPANY, OR ANY OF ITS PROPERTY IN THE UNITED STATES, OR ANY PROCEEDS THEREOF, INCLUDING WITHOUT LIMITATION, RIGHTS UNDER REINSURANCE CONTRACTS; AND

2. PROVIDING THAT NOTHING IN THE ORDER SHALL IN ANY RESPECT PREVENT THE CONTINUATION OR COMMENCEMENT OF PROCEEDINGS AGAINST ANY PERSON OR ENTITY OTHER THAN THE COMPANY; PROVIDED, HOWEVER, THAT IF ANY THIRD PARTY SHALL REACH A SETTLEMENT WITH, OR OBTAIN A JUDGMENT AGAINST, ANY PERSON OR ENTITY OTHER THAN THE COMPANY, SUCH SETTLEMENT OR JUDGMENT SHALL NOT BE BINDING ON OR ENFORCEABLE AGAINST THE COMPANY OR ITS PROPERTY.

THE TEMPORARY RESTRAINING ORDER IS IN EFFECT PENDING A HEARING, WHICH WILL BE HELD ON MAY 5, 1999 AT 10:00 O'CLOCK A.M., BEFORE THE HONORABLE BURTON R. LIFLAND IN ROOM 623 OF THE BANKRUPTCY COURT, ONE BOWLING GREEN, NEW YORK, NEW YORK (THE "HEARING"), TO CONSIDER THE PETITIONERS' REQUEST FOR A PRELIMINARY INJUNCTION ON THE SAME TERMS AS THE TEMPORARY RESTRAINING ORDER AND THE ADDITIONAL TERMS SET FORTH BELOW:

1. REQUIRING ALL PERSONS AND ENTITIES IN POSSESSION, CUSTODY OR CONTROL OF PROPERTY OF THE COMPANY IN THE UNITED STATES, OR THE PROCEEDS THEREOF, TO TURN OVER AND ACCOUNT FOR SUCH PROPERTY OR ITS PROCEEDS TO THE PETITIONERS;

2. REQUIRING EVERY PERSON AND ENTITY THAT HAS A CLAIM OF ANY NATURE OR SOURCE AGAINST THE COMPANY AND THAT IS A PARTY TO ANY ACTION OR OTHER LEGAL PROCEEDING (INCLUDING, WITHOUT LIMITATION, ARBITRATION, OR ANY JUDICIAL, QUASI-JUDICIAL, ADMINISTRATIVE OR REGULATORY ACTION, PROCEEDING OR PROCESS WHATSOEVER) IN WHICH THE COMPANY IS OR WAS NAMED AS A PARTY, OR AS A RESULT OF WHICH A LIABILITY OF THE COMPANY MAY BE ESTABLISHED, TO PLACE THE PETITIONERS' UNITED STATES COUNSEL ON THE MASTER SERVICE LIST OF ANY SUCH ACTION OR OTHER LEGAL PROCEEDING AND TO TAKE SUCH OTHER STEPS AS MAY BE NECESSARY TO ENSURE THAT SUCH COUNSEL RECEIVES (A) COPIES OF ANY AND ALL DOCUMENTS SERVED BY THE PARTIES TO SUCH ACTION OR OTHER LEGAL PROCEEDING OR ISSUED BY THE COURT, ARBITRATOR, ADMINISTRATOR, REGULATOR OR SIMILAR OFFICIAL HAVING JURISDICTION OVER SUCH ACTION OR LEGAL PROCEEDING, AND (B) ANY AND ALL CORRESPONDENCE, OR OTHER DOCUMENTS CIRCULATED TO PARTIES NAMED IN THE MASTER SERVICE LIST; AND

3. PROVIDING, WITH RESPECT TO ANY PARTY-IN-INTEREST, CLAIM, ACTION, ARBITRATION OR OTHER PROCEEDING WHICH MAY BE COMMENCED OR BECOME KNOWN TO PETITIONERS IN THE FUTURE (EACH A "SUBSEQUENT CLAIM"), THAT:

(A) WHEN INFORMED OF A SUBSEQUENT CLAIM, COUNSEL FOR THE PETITIONERS SHALL SERVE UPON THE HOLDER OF SUCH CLAIM A COPY OF THE SUMMONS, THE PETITION, AND THE MOST RECENT INJUNCTION ORDER ENTERED BY THE COURT;

(B) THE HOLDER OF A SUBSEQUENT CLAIM WILL HAVE TWENTY (20) DAYS FROM SERVICE OF THE SUMMONS IN WHICH TO FILE AN ANSWER OR MOTION WITH RESPECT TO THE PETITION; AND

(C) ON NOT LESS THAN TWO (2) DAYS NOTICE TO COUNSEL FOR THE PETITIONERS, THE HOLDER OF A SUBSEQUENT CLAIM MAY FILE A MOTION SEEKING AN ORDER OF THE COURT VACATING OR MODIFYING WITH RESPECT TO SUCH SUBSEQUENT CLAIM THE INJUNCTION ENTERED IN THIS PROCEEDING. SUCH REQUEST SHALL BE THE SUBJECT MATTER OF A HEARING AS SCHEDULED BY THE COURT. OTHERWISE, THE HOLDER OF A SUBSEQUENT CLAIM MAY FILE OBJECTIONS AND BE HEARD BY THE COURT IN ACCORDANCE WITH THE TERMS OF ANY ORDER OF THE COURT PROVIDING FOR A HEARING IN THE FUTURE ON THE RELIEF SOUGHT BY THE PETITIONERS IN THIS PROCEEDING.

ALL PARTIES-IN-INTEREST OPPOSED TO THE PETITIONERS' REQUEST FOR A PRELIMINARY INJUNCTION MUST APPEAR AT THE HEARING AT THE TIME AND PLACE SET FORTH HEREIN, OR AT ANY SUCH ADJOURNED HEARING ON THE PRELIMINARY INJUNCTION. ALL PAPERS SUBMITTED FOR THE PURPOSE OF OPPOSING THE PETITIONERS' REQUEST FOR A PRELIMINARY INJUNCTION SHALL BE FILED WITH THE COURT WITH A COPY TO THE CHAMBERS OF THE HONORABLE BURTON R. LIFLAND AND SERVED ON CHADBOURNE & PARKE LLP (ATTN: HOWARD SEIFE) SO AS TO BE RECEIVED ON OR BEFORE MAY 3, 1999 AT 12:00 NOON NEW YORK TIME. THE ORDER, DATED APRIL 26, 1999 AND SUPPORTING PAPERS WILL BE MADE AVAILABLE UPON REQUEST AT THE OFFICES OF THE PETITIONERS' UNITED STATES COUNSEL AT THE ADDRESS BELOW:

CHADBOURNE & PARKE LLP
ATTORNEYS FOR THE PETITIONERS
30 ROCKEFELLER PLAZA
NEW YORK, NEW YORK 10112
(212) 408-5100

ATTN: HOWARD SEIFE, ESQ.
LISA DORR, ESQ.

* As used herein, "United States" is defined to include the fifty states, and all U.S. territories and possessions.

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

IN RE PETITIONS OF JOHN C. MCKENNA, AS PROVISIONAL LIQUIDATOR OF NEW CAP REINSURANCE CORPORATION (BERMUDA) LIMITED, AND JOHN GIBBONS, AS ADMINISTRATOR OF NEW CAP REINSURANCE CORPORATION LIMITED, CASE NOS. 99-B-42745 (CB) AND 99-B-42752

NOTICE IS HEREBY GIVEN THAT, IN CONNECTION WITH THE PETITIONS FILED PURSUANT TO SECTION 304 OF THE BANKRUPTCY CODE FOR NEW CAP REINSURANCE CORPORATION (BERMUDA) LIMITED AND NEW CAP REINSURANCE CORPORATION LIMITED (EACH A "COMPANY" AND TOGETHER THE "COMPANIES"), PURSUANT TO ORDERS OF THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK (THE "BANKRUPTCY COURT") DATED APRIL 27, 1999 AND APRIL 28, 1999, A TEMPORARY RESTRAINING ORDER IS IN EFFECT WITH RESPECT TO EACH COMPANY:

1. ENJOINING AND RESTRAINING ALL PERSONS AND ENTITIES FROM: (A) TRANSFERRING, RELINQUISHING OR DISPOSING OF ANY PROPERTY OF THE COMPANY IN THE UNITED STATES, OR THE PROCEEDS OF SUCH PROPERTY, TO THIRD PARTIES; (B) COMMENCING OR CONTINUING ANY ACTION OR OTHER LEGAL PROCEEDING (INCLUDING, WITHOUT LIMITATION, ARBITRATION, OR ANY JUDICIAL, QUASI-JUDICIAL, ADMINISTRATIVE OR REGULATORY ACTION, PROCEEDING OR PROCESS WHATSOEVER), INCLUDING BY WAY OF COUNTERCLAIM, AGAINST THE COMPANY, OR ANY PROPERTY IN THE UNITED STATES THAT IS INVOLVED IN THE FOREIGN PROCEEDING, OR ANY PROCEEDS THEREOF, AND SEEKING DISCOVERY OF ANY NATURE AGAINST THE COMPANY; (C) ENFORCING ANY JUDICIAL, QUASI-JUDICIAL, ADMINISTRATIVE OR REGULATORY JUDGMENT, ASSESSMENT OR ORDER OR ARBITRATION AWARD AGAINST THE COMPANY, AND COMMENCING OR CONTINUING ANY ACT OR ACTION OR OTHER LEGAL PROCEEDING (INCLUDING, WITHOUT LIMITATION, ARBITRATION, OR ANY JUDICIAL, QUASI-JUDICIAL, ADMINISTRATIVE OR REGULATORY ACTION, PROCEEDING OR PROCESS WHATSOEVER) OR ANY COUNTERCLAIM TO CREATE, PERFECT OR ENFORCE ANY LIEN, SETOFF, ATTACHMENT, GARNISHMENT, OR OTHER CLAIM AGAINST THE COMPANY, OR ANY OF ITS PROPERTY IN THE UNITED STATES, OR ANY PROCEEDS THEREOF, INCLUDING, WITHOUT LIMITATION, RIGHTS UNDER REINSURANCE AND RETROCESSION CONTRACTS; (D) DRAWING DOWN ANY LETTER OF CREDIT ESTABLISHED BY OR AT THE REQUEST OF THE COMPANY IN EXCESS OF AMOUNTS EXPRESSLY AUTHORIZED BY THE TERMS OF THE CONTRACT OR OTHER AGREEMENT PURSUANT TO WHICH SUCH LETTER OF CREDIT HAS BEEN ESTABLISHED; AND (E) WITHDRAWING FROM, SETTING OFF AGAINST, OR OTHERWISE APPLYING PROPERTY THAT IS THE SUBJECT OF ANY TRUST OR ESCROW AGREEMENT OR SIMILAR ARRANGEMENT IN WHICH THE COMPANY HAS AN INTEREST IN EXCESS OF AMOUNTS EXPRESSLY AUTHORIZED BY THE TERMS OF THE TRUST, ESCROW OR SIMILAR ARRANGEMENT; AND

2. PROVIDING THAT NOTHING IN THE ORDER SHALL IN ANY RESPECT PREVENT THE CONTINUATION OR COMMENCEMENT OF PROCEEDINGS AGAINST ANY PERSON OR ENTITY OTHER THAN THE COMPANY; PROVIDED, HOWEVER, THAT IF ANY THIRD PARTY SHALL REACH A SETTLEMENT WITH, OR OBTAIN A JUDGMENT AGAINST, ANY PERSON OR ENTITY OTHER THAN THE COMPANY, SUCH SETTLEMENT OR JUDGMENT SHALL NOT BE BINDING ON OR ENFORCEABLE AGAINST THE COMPANY OR ITS PROPERTY.

THE TEMPORARY RESTRAINING ORDERS ARE IN EFFECT PENDING A HEARING, WHICH WILL BE HELD ON MAY 5, 1999 AT 2:00 O'CLOCK P.M., BEFORE THE HONORABLE CORNELIUS BLACKSHEAR IN ROOM 601 OF THE BANKRUPTCY COURT, ONE BOWLING GREEN, NEW YORK, NEW YORK (THE "HEARING"), TO CONSIDER THE PETITIONERS' REQUEST FOR A PRELIMINARY INJUNCTION ON THE SAME TERMS AS THE TEMPORARY RESTRAINING ORDER AND THE ADDITIONAL TERMS SET FORTH BELOW:

1. REQUIRING ALL PERSONS AND ENTITIES IN POSSESSION, CUSTODY OR CONTROL OF PROPERTY OF THE COMPANY IN THE UNITED STATES, OR THE PROCEEDS THEREOF, TO TURN OVER AND ACCOUNT FOR SUCH PROPERTY OR ITS PROCEEDS TO THE PETITIONERS;

2. REQUIRING EVERY PERSON AND ENTITY THAT HAS A CLAIM OF ANY NATURE OR SOURCE AGAINST THE COMPANY AND THAT IS A PARTY TO ANY ACTION OR OTHER LEGAL PROCEEDING (INCLUDING, WITHOUT LIMITATION, ARBITRATION, OR ANY JUDICIAL, QUASI-JUDICIAL, ADMINISTRATIVE OR REGULATORY ACTION, PROCEEDING OR PROCESS WHATSOEVER) IN WHICH THE COMPANY IS OR WAS NAMED AS A PARTY, OR AS A RESULT OF WHICH A LIABILITY OF THE COMPANY MAY BE ESTABLISHED, TO PLACE THE PETITIONERS' UNITED STATES COUNSEL ON THE MASTER SERVICE LIST OF ANY SUCH ACTION OR OTHER LEGAL PROCEEDING AND TO TAKE SUCH OTHER STEPS AS MAY BE NECESSARY TO ENSURE THAT SUCH COUNSEL RECEIVES (A) COPIES OF ANY AND ALL DOCUMENTS SERVED BY THE PARTIES TO SUCH ACTION OR OTHER LEGAL PROCEEDING OR ISSUED BY THE COURT, ARBITRATOR, ADMINISTRATOR, REGULATOR OR SIMILAR OFFICIAL HAVING JURISDICTION OVER SUCH ACTION OR LEGAL PROCEEDING, AND (B) ANY AND ALL CORRESPONDENCE, OR OTHER DOCUMENTS CIRCULATED TO PARTIES NAMED IN THE MASTER SERVICE LIST; AND

3. PROVIDING, WITH RESPECT TO ANY PARTY-IN-INTEREST, CLAIM, ACTION, ARBITRATION OR OTHER PROCEEDING WHICH MAY BE COMMENCED OR BECOME KNOWN TO PETITIONERS IN THE FUTURE (EACH A "SUBSEQUENT CLAIM"), THAT:

(A) WHEN INFORMED OF A SUBSEQUENT CLAIM, COUNSEL FOR THE PETITIONERS SHALL SERVE UPON THE HOLDER OF SUCH CLAIM A COPY OF THE SUMMONS, THE PETITION, AND THE MOST RECENT INJUNCTION ORDER ENTERED BY THE COURT;

(B) THE HOLDER OF A SUBSEQUENT CLAIM WILL HAVE TWENTY (20) DAYS FROM SERVICE OF THE SUMMONS IN WHICH TO FILE AN ANSWER OR MOTION WITH RESPECT TO THE PETITION; AND

(C) ON NOT LESS THAN TWO (2) DAYS NOTICE TO COUNSEL FOR THE PETITIONERS, THE HOLDER OF A SUBSEQUENT CLAIM MAY FILE A MOTION SEEKING AN ORDER OF THE COURT VACATING OR MODIFYING WITH RESPECT TO SUCH SUBSEQUENT CLAIM THE INJUNCTION ENTERED IN THIS PROCEEDING. SUCH REQUEST SHALL BE THE SUBJECT MATTER OF A HEARING AS SCHEDULED BY THE COURT. OTHERWISE, THE HOLDER OF A SUBSEQUENT CLAIM MAY FILE OBJECTIONS AND BE HEARD BY THE COURT IN ACCORDANCE WITH THE TERMS OF ANY ORDER OF THE COURT PROVIDING FOR A HEARING IN THE FUTURE ON THE RELIEF SOUGHT BY THE PETITIONERS IN THIS PROCEEDING.

ALL PARTIES-IN-INTEREST OPPOSED TO THE PETITIONERS' REQUEST FOR A PRELIMINARY INJUNCTION MUST APPEAR AT THE HEARING AT THE TIME AND PLACE SET FORTH HEREIN, OR AT ANY SUCH ADJOURNED HEARING ON THE PRELIMINARY INJUNCTION. ALL PAPERS SUBMITTED FOR THE PURPOSE OF OPPOSING THE PETITIONERS' REQUEST FOR A PRELIMINARY INJUNCTION SHALL BE FILED WITH THE COURT WITH A COPY TO THE CHAMBERS OF THE HONORABLE CORNELIUS BLACKSHEAR AND SERVED ON CHADBOURNE & PARKE LLP (ATTN: HOWARD SEIFE) SO AS TO BE RECEIVED ON OR BEFORE MAY 4, 1999 AT 12:00 NOON NEW YORK TIME. THE ORDERS DATED APRIL 27, 1999 AND APRIL 28, 1999 AND SUPPORTING PAPERS WILL BE MADE AVAILABLE UPON REQUEST AT THE OFFICES OF THE PETITIONERS' UNITED STATES COUNSEL AT THE ADDRESS BELOW.

CHADBOURNE & PARKE LLP
ATTORNEYS FOR THE PETITIONERS
30 ROCKEFELLER PLAZA
NEW YORK, NEW YORK 10112
(212) 408-5100

ATTN: HOWARD SEIFE, ESQ.
LISA DORR, ESQ.

Stop-loss

Continued from page 1

loss policy from an excess policy to a primary policy. The employer really is not taking on any risk," said Bryson Popham, a lawyer in the Annapolis office of Funk & Bolton, which represents the Maryland State Assn. of Life Underwriters, a trade group of about 2,000 agents and brokers in the state.

And, according to health care experts, some insurers selling stop-loss policies in Maryland with very

Maryland's stop-loss legislation 'would limit a small employer's choice of plans,' says SIIA's George Pantos.

low attachment points really are trying to circumvent a 1993 state law that requires insurers selling fully insured plans to small employers to abide by certain requirements, including guaranteeing renewability and providing mandated benefit packages.

"Those insurers want to abide by different rules," said Fran Doherty, vp-government affairs with Care-First BlueCross BlueShield in Owings Mills, Md.

Maryland Insurance Commissioner Steven Larsen describes stop-loss policies with low attachment points as "sham" arrangements because, as he told Maryland legislators earlier this year, there is no meaningful self-insurance by the employer.

The Maryland legislation comes in the wake of federal court rulings striking down a 1995 Maryland Insurance Administration regulation that imposed—in a somewhat different way—curbs on stop-loss

policies.

The earlier regulation said stop-loss insurance policies must have at least a \$10,000 attachment point and an aggregate limit of at least 115% of expected claims. Under the regulation, insurance policies below those levels were considered health insurance and would have to abide by state requirements.

But that regulation was struck down in 1996 by a federal court, which found that the regulation imposed significant restrictions on employee benefit plans and thus was pre-empted by ERISA (BI, March 4, 1996).

The court found that the effect of the regulation was to force a small employer either to take on more risk by purchasing a stop-loss policy with a higher attachment point or abandon self-funding and purchase a traditional health insurance policy, which would include state-mandated benefits.

The state unsuccessfully appealed the decision all the way to the U.S. Supreme Court, which declined to review an appeals court decision that upheld the lower court ruling.

The MIA says the legislation should—unlike its earlier regulations—pass court muster.

"We studied the decision and drafted language to avoid the pitfalls" of the regulation, said Insurance Commissioner Mr. Larsen. The legislation is solely directed at insurers and their activities, which, Mr. Larsen said, is not pre-empted by ERISA.

Supporters of the legislation also expect a favorable court ruling. "Care has been taken to regulate only the stop-loss policy and not the health benefit plan," said Mr. Popham.

Opponents disagree. "The law will not stand up to a legal challenge," said Jim Perry, director of state affairs for The Council for Affordable Health Insurance, an Alexandria, Va.-based trade group.

Others, though, say the extent of ERISA pre-emption is a gray issue. "It is a close question. On the one hand, states have the right to regulate insurance. On the other hand, is this really an indirect way of regulating self-funding employee benefit plans, which ERISA clearly pre-empt?" asked Henry Saveth, an attorney with William M. Mercer Inc. in New York.

The immediate impact of the Maryland legislation will be on small employers that buy stop-loss policies with attachment points below those set by the measure.

That is because most larger self-funded employers use much higher attachment points. Employers with at least 500 employees often buy aggregate stop-loss policies attaching at between 115% and 125% of expected claims and specific stop-loss policies that cover claims starting between \$25,000 and \$100,000. Larger employers' attachment points for aggregate cover often start at 125% of expected claims while specific stop-loss policies will cover claims of at least \$100,000 and often \$200,000, benefit consultants say.

But in Maryland, small self-funded employers using stop-loss policies would be affected by the legislation.

"This is a matter of concern to small employers. This would limit a small employer's choice of plans," Mr. Pantos said.

Ultimately, though, larger employers could be affected. If the Maryland legislation passes court muster, that could give a signal to other states to propose higher limits on attachment points for stop-loss insurance policies.

In fact, a National Assn. of Insurance Commissioners model law calls for a minimum attachment point of \$20,000 for specific coverage. Policies with lower attachment points would be considered health insurance and subject to state regulations. **BI**

Comp

Continued from page 2

Vach, director of workers compensation for Interstate Brands Corp. in San Diego, said in an interview. Mr. Vach also is a former commissioner on the state advisory board, the California Commission on Health and Safety and Workers' Compensation.

For employees working in Northern California, Interstate Brands' claims costs increased 65% from 1993 to 1998, said Mr. Vach, who did not address the conference. However, the increases were somewhat less severe in Southern California, where the 1993 reforms did help stem costs associated with stress-related claims, Mr. Vach said.

Apart from the conference, an April 23 report from California's Workers' Compensation Insurance Rating Bureau states that the average cost of a 1998 indemnity claim is 45% higher than in 1994 and 9% higher than the costs of a claim in 1997.

Labor and attorney representatives have cited a decline in California's total workers comp costs to \$9 billion in 1997 from \$12 billion in 1993 and a decline in claims frequency as among reasons that a \$1.7 billion benefits increase is due. They also have cited a 1997 Rand Corp. report that found that California's system fares poorly in compensating injured workers for lost wages (BI, Nov. 24, 1997).

Employers are facing plenty of political pressure in Sacramento and recognize that they will have to give in to a benefits increase,

said Joe Markey, association manager for the Sacramento-based California Self-Insurers Assn.

But in return for any increase, employers say they want system changes that include:

- Basing a determination of permanent disability benefits on objective medical criteria rather than subjective doctor opinions.
- A streamlining of benefit notices and other forms.
- A fair application of penalties

To date, California's bill does not mention specific workers comp benefit increases or system changes.

so that employers are not fined for a late payment of benefits when the delay is not their fault.

To date, S.B. 320 does not mention specific benefit increases or system changes, and negotiations between competing parties have yet to begin over exactly what the bill will contain.

Once under way, that debate is likely to continue into the last hours of this year's legislative session in September, Stephen Smith, California's recently appointed director of the Department of Industrial Relations, told the conference. In the end, Gov. Gray Davis will want a consensus bill that will meet the needs of all interest groups, he added.

For employers, one of the remaining questions is where in-

surers will line up when negotiations begin over the bill, said Dan Walters, a Sacramento Bee political columnist who watches the insurance industry.

Mr. Walters reminded the CCR conference that in 1981, during negotiations over a previous workers comp benefits increase, insurance companies sided with applicants' attorneys rather than employers.

Insurers can gain from a benefits increase if they can use it to justify higher premiums, Mr. Markey told *Business Insurance*.

With a \$1.7 billion benefits increase at stake, "there is some element of concern" that insurers could be tempted to gain from it. But insurers have assured him that they are not likely to abandon employers, he added.

Also apart from the conference, Sacramento representatives for the American Insurance Assn. and the Assn. of California Insurance Cos. said they would not support the magnitude of benefit increases sought by labor and claimants' attorneys without system improvements similar to those sought by employers.

In the existing competitive market, premiums are falling short of covering insurers' costs. And in such an environment, it would be impossible for insurers to raise premiums to cover benefit increases, they said.

"We would find it extraordinarily unlikely that we would sign off on something that employers would not sign off on," said Mark Webb, vp-state affairs for the American Insurance Assn. in Sacramento. **BI**

Updates

Infertility a disability: EEOC

Continued from page 2

ment of the EEOC's position and a position that has been known for many years," said Tamara Donavon, director of legal services for Franklin Covey. The company has not decided how to respond to the ruling and will discuss it with the EEOC, Ms. Donavon said.

The ruling follows the U.S. Supreme Court's decision last June that an HIV-infected woman should be considered disabled under the ADA because she is unable to bear children. The high court's ruling in that case, *Randon Bragdon et al. vs. Sidney Abbott et al.*, was expected to bolster employee claims that denial of infertility benefits is discriminatory (BI, June 29, 1998).

ALM eyes Lloyd's profitability

LONDON—Lloyd's of London syndicates owned by corporate investors may bear the brunt of the market's future losses, according to a study by the Assn. of Lloyd's members.

The ALM's "Lloyd's Market Results Summary 1999" states that names whose capacity was spread across a portfolio of syndicates had a return of 7.76% on capacity for the 1996 year of account, compared with a 5.22% return for publicly traded corporate investors. Both returns are net of members' personal expenses.

As for return on capital, names are enjoying a 25.9% return for 1996, while corporate investors are receiving a 10.4% return, the ALM says. This gap is so wide because individual names were required to post funds totaling 30% of their underwriting commitment in 1996, while corporate investors generally were required to put up about half of their premium limit.

The ALM expects a wider gap for return on capacity for the 1997 account, which will be reported next year under Lloyd's three-year accounting system. Traditional names will make a 3.32% return on capacity, whereas the corporate investors are looking at a 1.45% return, predicts the ALM.

Corporate investors not using a members agent are showing even worse returns, with a 1.02% loss on capacity for 1996, and a predicted 0.5% loss in 1997.

"The implication is that the move toward (integrated Lloyd's vehicles) may have serious consequences in terms of profitability for their shareholders," said ALM Chairman Michael Deeny.

Integrated Lloyd's vehicles own underwriting agencies and provide all the capacity to their syndicates, effectively operating as Lloyd's-based insurance companies. Mr. Deeny said the lack of spread in ILVs' portfolios, compared with that of traditional names who have capacity on a number of syndicates, means that any losses become concentrated in the ILV.

'97 workplace deaths up slightly

WASHINGTON—More than 6,200 workers died from job-related injuries in 1997, according to a report from the AFL-CIO.

The figure of 6,218 deaths in 1997 is up from 6,202 in 1996, the report said, citing the latest data from the Bureau of Labor Statistics.

The report, "Death on the Job: The Toll of Neglect," also reported that the national injury rate decreased slightly, falling in 1997 to 7.1 per 100,000 workers from 7.4 in 1996. Also, the incidence of disorders associated with repeated trauma dropped—for the third time since 1982—to 275,200 in 1997 from 281,000 in 1996, according to the report, the labor organization's eighth annual report on the status of health and safety protections for workers in the United States.

Alaska, Wyoming and Montana had the highest job fatality rates, while Connecticut, Rhode Island and Massachusetts had the lowest.

In terms of workers compensation benefits for disabling injuries, Iowa, Vermont and New Hampshire provide the highest benefits, while Georgia and New York had the lowest, according to analysis.

Workers met in more than 100 communities last week to observe Workers' Memorial Day and remember colleagues who were killed or injured in job-related accidents.

The workers also emphasized the need for stronger health and safety protections, especially a national ergonomics standard, according to an AFL-CIO statement.

Briefly noted

The Associated Press reported Friday that **Antoine Bernheim** was fired as chairman of Italian insurer Assicurazioni Generali S.p.A. Mr. Bernheim was fired at a board meeting, the AP said. It said Alfonso Desiata, chairman of life insurer Alleanza Assicurazioni S.p.A., was named his replacement; Generali owns 54% of the life insurer. The news service said Mr. Bernheim's firing was related to the takeover battle for one of Italy's largest banks. . . . The Senate Health, Education, Labor and Pensions Committee approved the SAFE Act, S. 385, sponsored by Sen. Mike Enzi, R-Wyo., last Thursday on a strict party line vote. The measure would allow employers to use **third-party auditors** to help bring workplaces into compliance with safety standards set by the Occupational Safety and Health Administration. . . . The Indiana Legislature last week approved a **commercial lines deregulation measure**, and the bill is now before Gov. Frank O'Bannon for his signature. The bill adopts rate and form filing deregulation for policyholders meeting a definition of exempt commercial policyholder. . . . Missouri legislators are continuing to consider a **commercial lines deregulation bill**. Members of the full House approved it recently, while members of the Senate Insurance Committee approved it last week. . . . Daytona Beach, Fla.-based broker Poe & Brown Inc. officially changed its name to **Brown & Brown Inc.** at its annual shareholders meeting last week. The change is a return to the original name of the broker that combined with Poe & Associates Inc. in 1993 to form Poe & Brown.

OSHA agrees to meet with state boards

IAIABC says proposed ergonomics standards infringe on state decisions

By MICHAEL PRINCE

Leaders from state workers comp boards are scheduled to meet with federal officials in a few months to discuss the controversial proposed ergonomics standards released earlier this year.

In response to a letter from the International Assn. of Industrial Accident Boards & Commissions objecting to aspects of the controversial standards, officials of the Occupational Safety and Health Administration last month contacted the IAIABC and agreed to meet with its executive committee.

The IAIABC, an association of state workers comp administrators, released in March a letter detailing its opposition to OSHA's proposed ergonomics standards.

The primary objection, according to IAIABC President Joyce Sewell, is that the standards "infringe on the workers comp administrators' decisions of whether an employee injury or illness is work-related."

This infringement on states' ability to

make such decisions is contrary to the Occupational Safety and Health Act, the objection letter states.

The IAIABC's goal, Ms. Sewell said, is to open a dialogue with OSHA to modify

'The proposed standard does not in any way...inhibit or interfere with' a state workers comp agency's operations, says James Ellenberger.

the proposed standards so states retain the decision-making authority.

Ms. Sewell added that she thinks the aspects of the standards the IAIABC considers problematic were not designed to undermine states' authority, but rather were "an unintended result of the proposed regulations."

OSHA's proposed ergonomic standards have received repeated criticism since

they became public in February. The standards would cover all worksites involving manufacturing and manual handling, as well as any worksite where a single work-related musculoskeletal disorder is reported. Such worksites would be required to adopt programs to identify, analyze and train workers to prevent worker injuries. Employer and insurer groups have criticized the program as too burdensome and an overreaction.

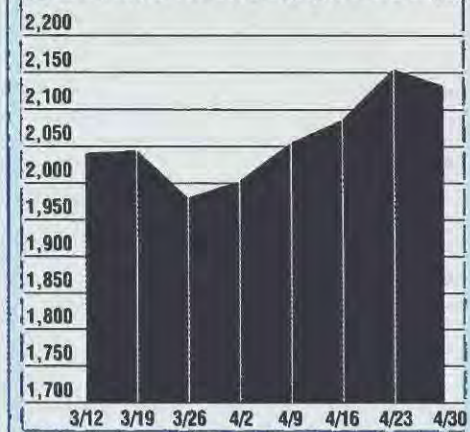
IAIABC Executive Director Jamie Beletz said he is excited about talking directly with OSHA and that the IAIABC letter has achieved its goal of opening dialogue.

The objections themselves, however, have come under attack.

"I think the IAIABC flew off the handle on this," said James Ellenberger, assistant director for the AFL-CIO's department of occupational safety and health in Washington.

"The proposed standard does not in any way, shape or form inhibit or interfere with" a state workers comp agency's operations, he said.

BI Insurance Index



Base=100 on Dec. 29, 1978
Source: Nordby International Inc. (nordby.com) Boulder, Colo.

PCS catastrophe options

As of April 30		Call spread		Price bid/ask	
National Annual 1999					
40/60	13.0/18.0				
60/80	6.0/12.0				
80/100	5.0/—				
150C	5.3/8.0				
200/250	3.6/6.0				
Western Annual 1999					
80/100	0.8/2.2				
Midwest June 1999					
10/20	1.2/—				
Florida Sept./Dec. 1999					
100/150	2.6/—				
Southeastern September 1999					
40/60	2.8/—				
60/80	2.3/3.0				
80/100	2.0/2.4				
Eastern September 1999					
40/60	3.3/—				
Total volume: 1		Total open interest: 10,682			

For information on PCS cat options, call the Chicago Board of Trade at 312-435-3674.

Source: Chicago Board of Trade

Hines symposium to address millennium

CHICAGO—This year's Harold H. Hines Jr. Memorial Symposium will offer a futurist's view of what the new millennium holds for business and society, along with expert analysis of what it means for risk management and commercial insurance.

Titled "Journey into the Next Millennium," the symposium will be held May 18 at the Union League Club of Chicago.

The program, designed to help attendees prepare themselves to maximize the opportunities and minimize the risks associated with coming events and changes, will begin with futurist Edward D. Barlow Jr. offering his predictions for the economy, business and social trends in the new century. Mr. Barlow is a member of the graduate school faculty at the University of San Francisco with executive-level experience in business,

health care and education. Following Mr. Barlow's presentation, a panel of risk management and insurance industry experts will offer their views on what the predictions mean for risk managers and the commercial insurance business.

Among the panelists will be James V. Davis, chairman and chief executive officer of the Advanced Risk Management Services Division of Willis Corroon in Nashville; and William J. Kelly, managing director of J.P. Morgan in New York and chief operating officer of the company's Corporate Services Group.

Also on the panel will be Dan R. Anderson, the Leslie P. Schultz Professor of Risk Management and Insurance in the department of actuarial science, risk management and insurance

in the school of business of the University of Wisconsin-Madison; and William D. Smith, president and chief operating officer of Long Grove, Ill.-based Kemper Insurance Cos. and a member of Kemper's board of directors.

The event honors the late Harold H. Hines Jr., former president and chief executive officer of Rollins Burdick Hunter Co., now Aon Group Inc. It is presented by the Chicago and Chicago Suburban chapters of the Risk & Insurance Management Society Inc., the Insurance School of Chicago and *Business Insurance*.

Registration for the event will begin at 3:15 p.m., with the program beginning at 3:30 p.m. and a reception following immediately at 5:30 p.m.

There is no charge to attend. For an invitation, contact The Insurance School of Chicago, 175 W. Jackson Blvd., Suite 2200, Chicago, Ill. 60604; 312-427-2520; fax: 312-427-8528.



British Issues

Companies	Price pence	P/E	Div. pence	Yield %	52-week high-low
Gdn Royal Exch	380	5.8	10.0	3.3	396-331
Legal & Gen	181	22.0	3.6	2.6	237-168
Royal & Sun	536	17.9	23.0	5.6	633-455

Brokers

Company	Price	P/E	Div. pence	Yield %	52-week high-low
Lmbert Fenchurch	90	7.3	5.7	8.0	91-58
JLT	221	10.1	12.0	6.7	242-166

Note: Prices are April 30 closings; other numbers from April 29.

Source: Nordby International Inc. (nordby.com) Boulder, Colo.

BI Industry Stock Report APRIL 26, 1999, THROUGH APRIL 30, 1999

BROKERS							INSURERS/REINSURERS							HEALTH MAINTENANCE ORGANIZATIONS									
Company	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)	Company	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)	Company	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)			
Aon Corp.	NYS	68.50	3.01	22.19	75.56	48.25	2343	CNA Surety	NYS	13.50	3.85	-9.62	16.75	10.19	90	St. Paul Companies	NYS	28.69	-5.56	-18.04	45.44	28.06	4536
E.W. Blanch Holdings Inc.	NYS	58.88	-4.56	26.10	62.00	34.88	255	EMC Insurance Group Inc.	NDO	11.38	10.64	-10.78	15.88	9.00	73	SCOR	NYS	51.25	1.61	-21.15	72.75	49.06	88
Gallagher Arthur J. & Co.	NYS	47.50	-1.30	8.57	50.63	34.88	125	ESG Re Limited	NDO	17.00	-2.16	-14.20	26.00	12.75	173	SAFECO Corp.	NDO	39.75	-0.16	-6.47	50.38	36.69	3967
Hilb, Rogal & Hamilton	NYS	18.63	-2.61	0.00	19.88	15.38	18	Enhance Financial Services	NYS	20.69	-2.93	-31.61	37.31	17.31	610	SCPIE Holdings Inc.	NYS	24.00	-3.03	-20.17	38.38	23.88	NA
Kays Group Inc.	NDO	7.00	3.70	-3.45	8.08	5.13	45	Everest Reinsurance	NYS	30.31	-5.83	-17.38	43.50	28.75	1944	Seibels Bruce Group	NDO	4.13	13.79	17.86	8.25	2.69	28
Marsh & McLennan	NYS	76.56	-3.62	29.49	81.13	43.38	3241	Executive Risk Inc.	NYS	71.75	0.79	33.18	75.00	35.50	243	Selective Ins. Group	NDO	19.38	7.08	-4.32	28.50	16.69	419
Brown & Brown	NYS	32.69	-6.44	-6.44	42.50	29.31	43	EXEL Ltd.	NYS	60.69	2.64	-15.20	83.25	54.50	1471	Terra Nova Ins Co. Ltd.	NYS	22.44	0.00	-7.95	35.00	21.25	128
AVERAGE			-2.47	9.05				Fremont General Corp.	NYS	20.00	0.31	-17.10	30.06	16.50	1119	Tokio Marine & Fire	NDO	59.13	0.42	0.42	62.88	39.00	55
								Frontier Insurance Group	NYS	13.81	-4.74	10.50	24.69	10.88	590	Torchmark Corp.	NYS	34.19	-5.20	-1.62	47.19	30.69	1816
								Gainsco Inc.	NYS	4.75	4.11	-24.75	9.13	4.25	181	Transatlantic Holdings	NYS	76.88	1.07	1.65	94.50	73.63	168
								Harleysville Group	NDO	18.63	-2.61	-26.96	27.50	17.00	485	Travelers Property Casualty	NYS	34.50	-1.60	12.65	45.75	24.13	896
								Hartford Steam Boiler	NYS	37.88	-3.04	-5.75	59.56	34.75	226	Trenwick Group Inc.	NDO	28.00	4.67	-11.46	40.50	25.50	27
								HCC Insurance Holdings	NYS	21.13	3.05	24.72	23.19	16.00	418	Unico American Corp.	NDO	10.13	-0.61	-12.20	16.25	8.63	95
								ING Groep N.V.	NYS	61.38	2.40	0.61	76.75	36.06	303	United Fire & Casualty	NDO	26.50	1.92	-20.38	42.75	22.75	17
								IPC Holdings Ltd.	NDO	17.63	-6.62	-22.53	33.25	17.38	1188	Unilin	NDO	34.63	-1.07	-2.29	38.00	27.88	570
								Hartford Financial Services	NYS	58.94	-1.77	5.60	61.69	37.63	2974	UNUM Corp.	NYS	54.63	17.00	-8.86	62.50	41.75	5006
								LaSalle Re Holdings Ltd.	NYS	14.69	1.29	-28.79	39.63	11.63	172	Vesta Insurance Co.	NYS	5.06	8.00	-11.96	57.69	3.38	421
								Lincoln National	NYS	96.06	-1.98	15.91	100.50	67.00	1820	Zenith National Ins.	NYS	23.75	5.56	2.70	29.19	20.31	104
								MAIC Holdings Inc.	NYS	27.50	-1.79	-14.06	33.13	23.25	220	AVERAGE			0.70	-4.90			
								Markel Corp.	NYS	186.50	2.68	3.47	187.00	132.00	23								
								MBIA Insurance Group	NYS	67.25	2.28	1.41	80.13	46.06	1665								
								Meadowbrook Insur Group	NYS	13.56	-8.05	-16.86	32.88	13.56	23								
								MMI Cos. Inc.	NYS	15.50	-3.13	-7.12	24.13	13.75	127								
								Mutual Risk Mgmt. Ltd.	NYS	38.88	-0.32	2.47	43.25	25.38	380								
								NAAC Re Corp.	NYS	54.50	2.95	16.73	55.88	43.69	487								
								Navigator Group	NDO	14.13	-0.88	-7.38	19.50	13.25	62								
								NYMAGIC Inc.	NYS	14.94	0.84	-28.44	34.25	12.38	29								
								Ohio Casualty Corp.	NDO	37.16	0.25	-9.65	51.75	33.75	183								
								Old Republic Int'l	NYS	19.56	-3.40	-8.75	31.25	17.94	1474								
								Orion Capital Corp.	NYS	29.44	6.08	-24.88	59.25	25.56	622								
								Partner Re Ltd.	NYS	41.25	4.43	-8.71	52.50	33.63	553								
								Penn-America Group Inc.	NYS	10.50	-2.33	13.51	20.63	8.13	65								
								PMA Capital Corporation	NDO	20.25	0.00	3.51	23.75	16.63	240								
								Philadelphia Cons. Holding	NDO	24.69	-0.25	16.18	25.50	18.63	224								
								PXRE Corp.	NYS	19.00	-1.94	-24.75	32.88	18.00	20								
								Reliance Group Holdings	NYS	7.50	0.00	-42.03	19.81	7.31	1864								
								ReliaStar Financial Corp.	NYS	36.75	-10.50	-17.88	52.44	29.00	4697								
								Renaissance Re Holdings Ltd.	NYS	31.19	-4.77	-13.67	49.06	30.00	162								
								Risk Capital Holdings	NDO	14.50	-6.45	-31.36	25.50	12.00	60								
								RLI Corp.	NYS	31.81	2.62	-4.68	45.63	27.88	62								

Top advancing issues: Chartwell Re, UNUM Corp., Seibels Bruce Group. Leading decliners: ReliaStar Financial Corp., American Intl. Group, Meadowbrook Insurance Group. Most active issue: Citigroup. The BI Index decreased 1.2%; the Dow Jones 30 Industrials gained 0.9%; the S&P 500 fell 1.6% and the NYSE Composite declined 0.8%. Average P/E: Brokers, 17.8; Insurers/reinsurers, 18.1; HMOs, 17.0.

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