

Business Insurance

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

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Court rules ERISA pre-empts state any willing provider law

NEW ORLEANS—ERISA pre-empts a Louisiana any willing provider statute, the 5th U.S. Circuit Court of Appeals has ruled.

Affirming a U.S. District Court, a three-judge panel ruled last week that a 1992 state law that prohibited preferred provider organizations from excluding any physician that met certain state standards "related to" benefit plans and was therefore pre-empted by ERISA.

The ruling applies directly only to Louisiana, Texas and Mississippi. Nationally, See Updates on next page

Liability reform vetoed

MARK A. HOFMANN

WASHINGTON—Republicans and business groups will try to turn President Clinton's veto of product liability legislation to their advantage in the fall campaigns.

An override of the veto is considered highly unlikely because the bill was narrowly approved in both houses.

Even before the president vetoed the bill in a White House ceremony last week, Republicans were putting his expected move to political use.

Override unlikely, backers looking to fall elections

The president is abandoning the "hard-working American consumers" who foot the bill for large verdicts in favor of "smooth-talking, get-rich-quick trial lawyers who have turned the pursuit of justice into a big-dollar game of search and destroy," said Sen. Robert J. Dole, R-Kan., the presumptive Republican presidential nominee.

"With today's veto, the president will be confirming what we already suspected: It is the trial lawyers who are calling the shots at the White House," he said.

Mr. Clinton, of course, used the veto of H.R. 556, the Common Sense Product Liability Legal Reform Act, for other purposes.

Flanked by several people whose family members had been killed by allegedly defective products, the president was asked if his veto was a payback for plaintiff's lawyers' support, as Republicans have charged.

"I think you should...ask (the Republicans) how they could justify depriving Americans who are just like these people of

the right recover for their injuries," he said. "And ask them if they really believe that our economy is so fragile that we have to strip from these people the right to be made whole in order to continue to make our economy go forward."

The president appeared to hold an olive branch of sorts to bill supporters.

"I am eager to sign legislation to make our legal system work better at less cost in a fair way. But this bill would hurt families without truly improving our legal system," said President Clinton.

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'This bill would hurt families without truly improving our legal system.'

President Clinton



'It is the trial lawyers who are calling the shots at the White House.'

Sen. Robert Dole



Royal, Sun merger rocks U.K.

Overseas expansion plans, anticipated savings lie behind surprise deal

By EDWIN UNSWORTH

LONDON—The merger of two of Britain's major multiline insurers, Royal Insurance Holdings P.L.C. and Sun Alliance Group P.L.C., will create the largest insurance company in the United Kingdom and the ninth largest multiline insurer in the world, according to company officials.

Officials of the two insurers, who announced the deal on Friday to a surprised market, said the merger provides them greater capacity for overseas expansion.

The new company, Royal Sun Alliance P.L.C., will be "strongly placed to take advantage of the opportunities in the changing financial services sector both in the U.K. and internationally," according to a

statement released at a press conference.

Sun Alliance is slightly larger than Royal Insurance in terms of capitalization, annual premiums and profit. Royal Sun Alliance will have the largest capitalization of any U.K. insurance company at £5.4 billion (\$3.06 billion). Last year, each company had non-life net premiums written of £3.5 billion (\$5.44 billion). Royal's 1995 operating profit was £439 million (\$681.8 million), while Sun Alliance's was £480 million (\$745.4 million).

The companies hope to complete the merger in early August, pending approval of both sets of shareholders, the U.K. High Court, the U.K. Department of Trade & Industry, the European Commission and other regulatory authorities in the United States

and other jurisdictions.

U.K. insurance industry analysts said the anticipated cost savings would be good for shareholders. The analysts also forecast further consolidation in the U.K. insurance sector. Investors apparently agree. Royal shares rose 17.8% to close Friday at 436 pence in London Stock Exchange trading; Sun Alliance shares were up 14.7% to 412 pence.

Given overcapacity and competition in many lines of insurance, one analyst characterized the merger "the best thing to happen in the U.K. insurance market in 20 years."

Royal had been one of the U.K. insurers subject to takeover speculation last year, See Royal Sun on page 69

Labor defends OSHA's funding

By MEG FLETCHER

WASHINGTON—Marking the Occupational Safety and Health Administration's first 25 years is a bittersweet experience for organized labor, which fears that progress at making workplaces safer is threatened by government cutbacks.

A new AFL-CIO report contends that workplace injuries and illnesses—particularly ergonomic injuries—will proliferate without stronger oversight from an agency that many in the Republican-controlled Congress are trying to scale back.

Outside the labor movement, though, some experts think that may be overstating the agency's role. They point out that some businesses have voluntarily adopted safety programs to increase productivity and cut costs.

Symbolizing the other extreme in business behavior is a gift that OSHA made last week to the Smithsonian Institution's See OSHA on page 61

Head quits board of U.K. insurer

Sphere Drake chairman disputes allegations

By GAVIN SOUTER

HAMILTON, Bermuda—John C. Head, the largest shareholder in Sphere Drake Holdings Ltd., resigned last week from the board of the tormented insurer after a run-in with other directors.

Mr. Head cites "a serious disagreement" with other board members over undisclosed transactions at the insurer as his reason for resigning.

But other directors contend the resignation follows unsuccessful attempts by Mr. Head to gain greater control of Sphere Drake.

Analysts say more developments may follow, perhaps including the sale of Mr. Head's shares in the company.

The boardroom fracas comes during a troubled few months for Sphere Drake.

In December, Ian Dean resigned suddenly as president and chief executive officer of Sphere Drake and was replaced by Michael Watson (BI, Jan. 1). And in January, the insurer took a \$45 million charge to strengthen its reserves (BI, Jan. 22). Then in April, Standard & Poor's Corp. downgraded Sphere Drake to BBB from BBB-plus because the reserve strengthening led to an \$18 million net loss (BI April 8).

Mr. Head, who owns 6.9% of Sphere Drake's stock, which is worth about \$13 million, announced his resignation last Monday, the same day as Sphere Drake's annual general meeting.

"Within the past months there has come to light a pattern of undisclosed related-party transactions involving one or more members of management of the company, which resulted in the resignation in December 1995 of Ian H. Dean as chief executive officer of the company," his resignation letter says.

Mr. Dean resigned over differences with other board members over how to deal with the revelations, Mr. Head said.

The latest of those transactions to come to light were two lease guarantees totaling £120,000 pounds (\$179,100) made in 1990 and 1991 for a See Sphere on page 70



Mr. Head



Solution sharing Microsoft Corp.'s Scott K. Lange led one of several solution sharing sessions during the 34th annual Risk & Insurance Management Society Inc. conference, held April 21-26 in Toronto. Coverage of this new session, and many other risk management sessions at RIMS, begins on page 3.

Updates

ERISA pre-empts provider law

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though, 24 states have some sort of any willing provider requirements on their books.

The Louisiana law encroached "on legal terrain that Congress has properly deemed pre-empted," the court said. The law meets two key tests of pre-emption by the Employee Retirement Income Security Act, the court ruled: It refers to ERISA plans, and it is connected to them.

The law "prohibits those ERISA plans which elect to use PPOs from selecting a PPO that does not include any willing licensed providers. As such, the statute connects with ERISA plans," the court said. Direct interference with benefit plan structures, due to state rules on providers, is enough to prove such a connection, the court ruled.

The law was challenged by Metairie, La.-based CIGNA HealthPlan of Louisiana Inc. and Bloomfield, Conn.-based Connecticut General Life Insurance Inc., which operate managed care systems in Louisiana.

Under the statute, no licensed provider who meets the requirements of the state's 1984 Health Care Cost Control Act, which enabled preferred provider organizations to be created, can be denied inclusion in a PPO. The two CIGNA Corp. units sought a declaratory judgment so that they would not be required to accept unwanted physicians into their networks or be subject to suits by rejected providers.

GE's captive plans stalled

BOSTON—The Massachusetts Division of Insurance has indefinitely postponed a scheduled May 7 hearing on General Electric Co.'s proposed acquisition of Electric Insurance Co., a former unit of GE's insolvent Electric Mutual Liability Insurance Co. of Bermuda.

Several EMLICO reinsurers had requested the delay while they pursue charges in Massachusetts and Bermuda courts that the GE acquisition and earlier redomestication of EMLICO to Bermuda are part of an "elaborate scheme" to deceive regulators and saddle reinsurers with huge GE-related pollution and asbestos losses (BI, April 29; April 22).

Reinsurers are seeking to reverse the reorganization, in which EMLICO spun off Electric Insurance and moved to Bermuda, where it filed for winding up last October under Bermuda's creditor-friendly liquidation law.

"At present, there is a great deal of evidence that this acquisition involves fraudulent conduct and abuse of process on the part of GE and EMLICO," Lloyd's of London underwriters charged in an April 30 filing. "The pending application for transfer of EIC stock to GE (should) be adjourned... until a final determination is made as to whether the various steps in the GE/EMLICO scheme should be rescinded."

In a separate filing, Kemper Reinsurance Co. offers new details supporting its charge that EMLICO knew it was insolvent before it sought regulatory approval for its move.

In reinsurance commutation talks with Hannover Ruckversicherungs A.G. and Allstate Insurance Co., EMLICO and GE revealed that GE's pollution losses were far higher than previously disclosed, Richard J. Marcus, chief underwriting and claims counsel at Kemper Re, says in an affidavit.

The Allstate talks occurred in February 1993 and September 1994, while the Hannover talks occurred in February 1995, all long before EMLICO sought regulatory approval for its move, the affidavit says.

Since the Hannover talks were going on at about the time EMLICO was preparing its 1994 financial statements, "it appears that EMLICO may have deliberately understated its alleged liabilities in that statement and in its financial statements for the first two quarters of 1995 in an effort to avoid insolvency proceedings in Massachusetts," Lloyd's underwriters charge.

Filing false material information in such statements may violate federal criminal laws, Lloyd's underwriters allege.

Mr. Marcus also states in his affidavit that an official of Bates Turner Inc., a reinsurance brokerage unit of GE, told a Kemper Re official in November 1995 that EMLICO's move was "sneaky" and the work of "some clever lawyers."

The Bates Turner official also said that he believed the move was "unethical" but that he had been told to "keep silent."

Representatives of EMLICO and GE could not be reached.

Quake facility imperiled

SACRAMENTO, Calif.—A move by the Internal Revenue Service to rescind the tax-exempt status of the California Earthquake Authority could be a fatal setback for the proposed facility.

In a two-sentence letter, the IRS told the California Insurance Department last week that it was withdrawing the tax exemption granted in a February private letter ruling "pending further review."

The IRS offered no explanation for its action, which caught regulators, state legislators and others by surprise.

"We are totally perplexed. We can't even speculate intelligently" on the reasons for the move, said Richard Wiebe, deputy insurance commissioner.

Several sources familiar with the CEA, however, said the move may have been prompted by changes to the original CEA structure proposed in bills now before a state legislative conference committee. Bills passed by the state Assembly and Senate would significantly alter the structure originally approved by the IRS.

Regulators are trying to find out what the IRS's objections are, Mr. Wiebe said. They hope to address the problems in the pending CEA legislation and go back to the IRS for a new ruling, he said.

It was unclear last week, though, whether the conference committee will even go ahead with a scheduled Wednesday hearing in the wake of the IRS decision.

"This is a serious setback. There is no way to put a positive spin on it," Mr. Wiebe conceded. "It's not a fatal blow, but it's certainly pretty close."

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CIGNA deposit ordered

By DAVE LENCKUS

PHILADELPHIA—Michigan regulators have set a May 21 deadline for two CIGNA Corp. units to make a \$165.3 million special deposit "to secure the rights" of Michigan policyholders that CIGNA moved into its new runoff operation when it reorganized in February.

In issuing the order last week, Michigan Insurance Commissioner D. Joseph Olson rejected an offer by CIGNA to give up a large portion of its property/casualty insurance business in the state in lieu of making the deposit. Under the offer, Insurance Co. of North America would have stopped writing new business and would not have renewed business in the state.

A spokesman for Philadelphia-

Michigan sets May 21 deadline for compliance

based CIGNA would not comment on whether the two CIGNA units subject to the order—INA and Century Indemnity Insurance Co., CIGNA's lead runoff company—would make the deposit.

He said CIGNA will continue working with the commissioner, describing the regulator's concerns as being "limited to the division of INA" into two companies during CIGNA's reorganization into active and runoff operations. The segment of INA that retained most of the company's liabilities was merged into the runoff operation.

The CIGNA spokesman added,

"We have no wish to stop writing business in any state."

In a letter accompanying his April 30 order, Mr. Olson said he is not challenging INA's division. Rather, he said he objected to INA moving all but its in-force business to the runoff facility without obtaining policyholder consent.

John Schoonmaker, director of legal resources for the Michigan bureau, would not say how Michigan regulators would respond if the CIGNA units do not comply.

Under CIGNA's reorganization, which several policyholders and rival insurers are challenging in a Pennsylvania appellate court, the company isolated 80% of its asbestos and environmental liabilities in a new, separately capitalized runoff operation.

CIGNA reorganized to recog- See CIGNA on page 69

Most brokers report gains in first quarter

By MICHAEL BRADFORD

In the soft commercial insurance market, brokers are scrambling for new business and containing costs to offset lagging fees and commissions, as is evidenced by the first-quarter results of the publicly held U.S. brokers.

BROKER RESULTS 1st Qtr.

Brokers that benefited from rising investment income a year ago weren't able to duplicate those yields in the first three months of 1996 and instead relied on acquisitions and whatever new business they could find to help raise revenue.

Yet, all the publicly traded brokers except Alexander & Alexander Services Inc. showed increases in revenue and net income for this year's first quarter. New York-based A&A's revenues fell 3% to \$314.3 million from \$324.2 million the year before and net income dove 68.5% to \$13.1 million from \$41.7 million in 1995. A&A attributes much of the decrease to its sale in 1995 of its claims management subsidiary, Alexsis Inc.

A&A is hoping acquisitions already made in Australia and others expected in the future will boost revenues.

The largest percentage gain in first-quarter net income was recorded by Arthur J. Gallagher & Co.: 22.3%, to \$8.2 million from \$6.7 million a year ago.

Revenues at Gallagher were up See Brokers on page 62

Picking HMO stocks Investors advised to be choosy

By JUDY GREENWALD

Selectivity is the key to investing in HMO stocks in today's jittery market.

In a market in which the bigger HMOs' growth rates are slowing because the companies have already become so large, while some smaller HMOs are stumbling with earnings problems, "you have to be selective, you can't love them all," said Thomas Snow, an HMO analyst with Buckingham Research Group in New York.

Meanwhile, rumors are circulating that Aetna Life & Casualty Co. is still interested in making a West Coast HMO acquisition. A spokeswoman said the company does not respond to rumors, however, and observers say that while another acquisition is possible, it is unlikely to happen soon in light of Aetna's recently announced \$8.9 billion

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Some employers skeptical of rosy report on FMLA

By MARK A. HOFMANN

WASHINGTON—A few businesses are not buying a federal commission's conclusion that the Family and Medical Leave Act is a boon for employee and employer.

"The real problem with the FMLA is it's a good concept for companies that didn't have anything for their employees," said Libby Sartain, vp-people at Southwest Airlines Co. in Dallas. "Where it became a problem for us is where we had a myriad of benefits and took care of employees."

After the 1994 law, the airline had to "reprogram" its payroll system and train supervisors and

managers in the law's complexities. Production also has suffered as more employees—more than 700 at a time—take leave, said Ms. Sartain, chairwoman of the benefits and compensation committee of the Alexandria, Va.-based Society for Human Resource Management.

No such skepticism was evident in a report and survey that the Family and Medical Leave Commission issued last week.

The act—which requires businesses with at least 50 employees to grant up to 12 weeks' unpaid leave to care for a new child, for one's own health or to care for ill parents, children or spouses—

See FMLA on page 67

Inside

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- U.K. sports associations are examining their coverage after a liability ruling on a rugby match. **PAGE 63**
- Men are collecting twice as much as women in wrongful termination awards, a study finds. **PAGE 68**

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Outsourcing pitfalls prove staff necessity

By MICHAEL BRADFORD

TORONTO—Many companies don't realize how badly they need a risk manager even though service providers might appear to be doing a fine job at managing the companies' risks.

That was the consensus reached during a solution sharing session at the 34th annual Risk & Insurance Management Society Inc. conference, held last month in Toronto.

The solution sharing sessions, held for the first time this year, were open discussions among audience members and panels of experts and were intended to address the still-unanswered questions of people who had been in meetings for the week.

In the session that focused on risk management, the discussion turned to whether a staff risk manager is really needed or if outsourcing the function might work just as well.

An audience member who described herself as a former risk management consultant pointed out that many of her former firm's clients are making the mistake of relying on someone outside the company to provide risk management services.

Brokers often fill the role of the risk manager and that can be a disservice to companies, she said, because the broker often must deal with people in the company who don't understand risk management or exposures the company faces.

And the broker may not always have the client's best interest in mind, one of the panelists pointed out.

"When the broker is in that role, there's a tendency for compromise between the carrier and the insured, whether it's negotiating a retro or trying to settle a claim," said Brian D. Casey, director of risk management and loss prevention at Corning Inc. in Corning, N.Y.

"If they're doing it on my behalf, I don't want a negotiator. I want somebody who's going to be a hundred percent for me," he said.

It's scary to think that top management at some companies may be thinking of getting rid of risk managers as a way to save money, said Scott Lange, director of risk management at

Microsoft Corp. in Redmond, Wash., who moderated the session.

"There are a lot of us in this room that are a little concerned about this," Mr. Lange said, referring to downsizing in corporations. What if "our management is actually thinking, 'Hmm, we can replace these guys. That's a lot of money being spent over in the risk management department, and we can just bring in our broker, they know all about insurance, they know how to do all this stuff.'"

Mr. Casey said, "I don't think there's anybody that can represent your company better to the market than somebody in the company." Brokers more often than not "don't have a sense of where the actual exposures are and what the nuts and bolts are."

See *Outsource* on next page



MICHAEL A. MARCOTTE



MICHAEL A. MARCOTTE



MICHAEL A. MARCOTTE

Soggy weather outside the convention center, bottom, made it difficult for attendees of the 34th annual Risk & Insurance Management Society Inc. conference to take in sights like Toronto's New City Hall, middle. But, exhibits like Arkwright Mutual Insurance Co.'s robot, top, gave conference attendees plenty to see indoors.

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Fresh approach to benchmarking

By SALLY ROBERTS

TORONTO—One chapter of RIMS may have the solutions risk managers are looking for to improve the quality of their work processes.

The Pittsburgh chapter spent the past year identifying the "best practices" and benchmarks for a variety of risk management tasks and shared its findings at a standing-room-only session at the 34th annual Risk & Insurance Management Society Inc. conference, held last month in Toronto.

"Networking is often not enough. Newsletters often do not provide all the information risk managers need, and advice from brokers and consultants can be single di-

Year of risk managers' research offers useful tips

mensional and not always to the point," said Gerald L. Belgiglio, corporate risk manager for Blue Cross of Western Pennsylvania in Pittsburgh, who coordinated the session.

Through the best practice project, "we can offer suggestions and best practices to new risk managers in need of guidance and also offer benchmarks to risk managers who need a fresh approach," said Sherry L. Pilz, claims and loss control specialist for J.C. Penney Co. Inc. in Pittsburgh.

Ms. Pilz and Mr. Belgiglio participated in

the steering committee on the risk management best practices project.

After sending questionnaires to more than 300 individuals soliciting suggestions on which risk management tasks need benchmarking and which tasks they would like to learn more about, the chapter selected five topics as a starting point to help risk managers improve the quality of their work processes, Mr. Belgiglio explained. The five resulting reports, which are now available through the chapter for \$5 each or \$23 for the set, include: safety program assessments, the broker selection process, choosing a risk management information system, cost allocation and communicating

See *Benchmark* on page 12

New risk financing tools imminent

By RODD ZOLKOS

TORONTO—While no one is quite sure just how Wall Street and the capital markets will ultimately be involved in risk financing and hedging operational risk, a panel of industry experts says it's inevitable that they will have a role.

Risk managers who overlook the development of the new tools will do so at their own peril, the panelists said during a session at the Risk & Insurance Management Society Inc.'s 34th annual conference, held last month in Toronto.

The move to embrace the use of financial instruments is a natural development in the course of risk financing, the panel suggested. It follows the course that saw risk managers move from buying insurance to making use of self-insurance and cash flow

programs, forming captives and using financial insurance and reinsurance.

However, as the capital markets' role develops, brokers and insurers are likely to still have a place—brokers as dealmakers and consultants, and insurers to cover risks that the capital markets are unwilling to tackle.

"We're still early on the curve in using financial management in risk financing and hedging of operational risk," said Douglas G. Hoffman, managing director of New York-based Bankers Trust New York Corp. "But we're not too early."

"To be oblivious to the capital markets, you're doing yourself a disservice," said Martin H. Scherzer, senior vp at Johnson & Higgins Inc. in New York, who moderated the panel on the capital markets' role in risk financing. "Whether you know it or

not, the capital markets have already insidiously woven their way into your insurance placements."

Insufficient capacity in the commercial insurance markets, a more holistic view of risk and a widening mismatch between the views of insurers and buyers are some of the main factors promoting the involvement of the capital markets.

Bryan Bowers, managing director at Centre Trading Holdings Ltd. in New York, said the numbers speak for themselves in arguing for the capacity the capital markets can provide.

While reinsurers' policyholder surplus was estimated at \$39 billion in 1995, the average daily volume on the New York Stock Exchange was \$13 billion last year, while the average daily volume in Treasury bond

See *Capital* on page 6

Outsource

Continued from previous page
bolts of it are," according to Mr. Casey.

Nevertheless, he noted, there are companies that don't want to spend the money to hire a risk manager or in some cases are in such shaky financial condition that they cannot afford to spend it.

Still, risk managers shouldn't ignore the benefits of outsourcing, the panelists warned, despite the fears

But when outsourcing was given a name, "people got very shook up about something you've been effectively doing all your careers," Mr. Hackenburg said. "It's your responsibility to manage and control what it is that your organization does. Outsourcing is a function that you've got to control."

Mr. Lange pointed out that it is important for the risk manager "to retain the strategic aspect of the function—the management part and the vision part. Just look at outsourcing as an extension of your capabilities

and contact the decision-maker, she advised. "Bring to their attention some of the issues and the exposures you may see in going through all the financials, such as moving into new emerging nations, directors and officers liability concerns" and other areas that might leave the company exposed.

Mr. Hackenburg agreed that a company's decision-makers can be convinced to hire a risk manager or assign one full-time from within the company.

"Try to get to the people who have the interest or desire to at least evaluate the process, whether they be the CEOs, the finance people, the operations people or whatever," said Mr. Hackenburg.

Help them develop a mission statement as to what the risk management function ought to be, he suggested. "Share some of the vision that you have with those people, and then try to demonstrate the benefits that can be achieved by installing this kind of system."

That tactic can be persuasive, Mr. Hackenburg pointed out, because "we're all in business to make money," whether it's from reducing operating costs or increasing revenues.

Assuming there is a risk manager, panelists were asked where a risk manager fits within the corporation and to whom the risk manager reports.

Ms. Harrington, who reports to her company's finance department, did

Nearly all risk managers are outsourcing by using risk management information systems vendors, TPAs or other service providers, says P. Richard Hackenburg.

some have about vendors taking their jobs.

Nearly all risk managers are outsourcing by using risk management information systems vendors, third-party administrators or other service providers, said P. Richard Hackenburg, president and chief operating officer of the risk management services division of Willis Corroon Corp. in Nashville.

"So you've been outsourcing, literally, for your entire careers," Mr. Hackenburg said.

ties to execute at the tactical level. That's the way we've looked at it at Microsoft, and we've gotten a lot of horsepower out of taking that sort of a view of the process."

If a risk manager wants to convince a company that it needs him or her as a risk manager, there are ways to do it, according to Carol Harrington, a panelist and director of risk management at Sun Microsystems Inc. in Mountain View, Calif.

Research the company, know its

Business Insurance Editor Paul D. Winston, top right, presents plaques recognizing the achievements of the 1996 Risk Management Honor Roll members. Pictured with Mr. Winston are Craig S. Macdonald, at top, risk manager at the Bi-State Development Agency in St. Louis, and Michael Tawney, below, vp-risk management/loss control at Loomis Armored Inc. in Houston.



MICHAEL A. MARCOTTE

an informal survey of around a dozen high-tech companies and found that risk managers at most of them were responsible to the treasurer or chief financial officer. One reported to the audit department and a few to their companies' legal departments.

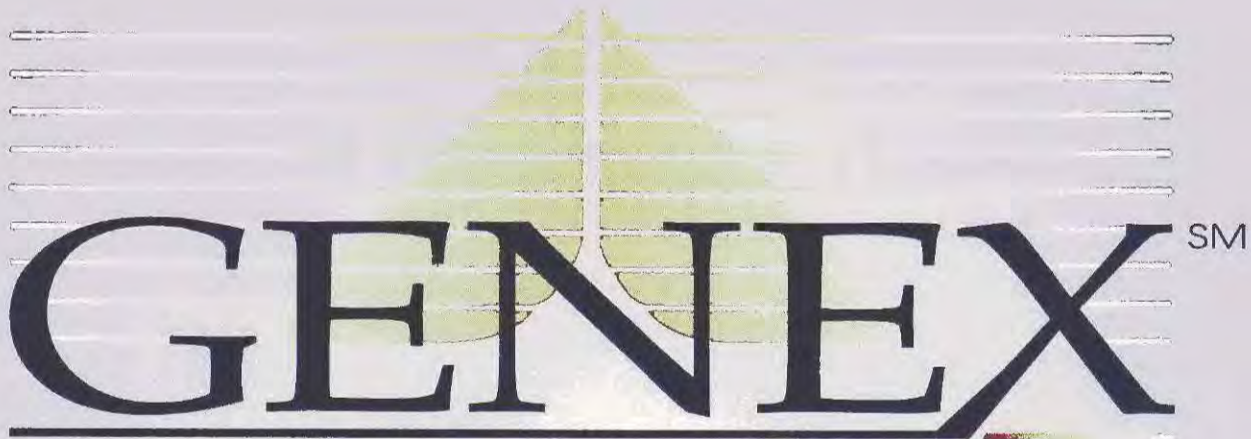
Risk managers at companies that defend a lot of liability claims are likely to report to the legal department, she said.

Mr. Lange reports to Microsoft's treasurer, and he said that "is an excellent place for risk management."

Risk managers have to cross over into a lot of areas within a company, and because there is some kind of "monetary element"—whether it be revenue, budgets or financial reporting—associated with every department, risk managers who are tied into the finance department may have an easier time working with those other areas, Mr. Lange explained.

"If you figure out how to use that finance connection to your advantage, it's a very powerful connection," he said. **BI**

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Call back in about a week." "I'll get back to you."
We'll run it past the home office." "I'll have to
take a look at it for a while." "Let me show it to the big
guys." "We'll run it through channels." "Looks good,
let's see what happens." "I'll do what I can for you."
I'll bump it upstairs and we'll keep our fingers
crossed." "It's out of my hands." "I'll do whatever
it takes to keep you moving." "I fully expected to
have an answer by now." "One way or another I thought
something by now." "I haven't heard anything but
I don't know but
it doesn't look like that says 'No.'"
but it doesn't really say "No" as to why." "I
wonder if I could tell you that but I just don't
know." "I tell you, our home phone
and I'll call as soon as I get an answer." "You know
if it were up to me we'd be doing business already."
I should have heard something by now." "What
can I tell you, I'm just as confused as you are." "I'll
make another run at the brass upstairs." "I think
we have to just sit back now and adopt a wait-and-
see attitude." "I think there's some computer
problem, but we'll get on it right away." "Call back

**HOW HARD
SHOULD IT BE TO
TALK TO SOMEONE
WHO CAN SAY
"YES"?**

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RISK MANAGEMENT SERVICES

Capital

Continued from page 3

futures was \$34 billion and the daily turnover of swap contracts in the global markets was \$1.23 trillion.

"The capital markets are where investors hold financial assets," Mr. Bowers said. "Is insurance a financial asset? I sure think so."

It's important, though, he said, to import some of the capital markets' price setting mechanisms into the insurance markets and remove some of the friction that currently exists in insurance transactions.

What the new approach to risk financing should underscore, Mr. Hoffman said, is that "in the mind of the CFO, risk has no boundaries."

From a buyer's perspective, there's nothing dramatically different in looking to the capital markets to cover risk, Mr. Hoffman added.

He suggested that the risk man-

ager needs to take a more "holistic" view of risk, looking at managing the organization's exposures across its entire spectrum of risks, not just the traditional insurable ones.

The capital markets can play a part in managing some exposures, such as foreign exchange risk, commodity price risk or possibly even such exposures as reputational risk for which coverage isn't available in the traditional insurance market.

"When financial risk managers think about managing risks, they put all of them in a basket," Mr. Hoffman said. "The idea is to pick and choose which ones to hedge. Insurance can be a hedge."

Meanwhile, the "insurance confrontation" has "added fuel to the fire," of a search for capital market solutions, Mr. Hoffman said.

He defined that confrontation as a situation in which reduced capacity and poor performance by insurers has caused an unwillingness to pay

claims, causing a mismatch between events and recoveries that has led some companies to conclude it would be easier to self-insure or go to the capital markets.

And the capital markets are having a more direct impact on the insurance industry, as well, said J&H's Mr. Scherzer. The capital markets' insistence on healthy returns is forcing industry consolidation, which is "concentrating more financial power in fewer hands," he said.

"Just as there's been concentration in the marketplace, there's also been new capital formation," he said, pointing to the new money flowing into Bermuda as an example.

One of the most important developments of the capital markets' involvement is competition, he said. Risk managers shouldn't just look to insurers to address their risk financing needs, but also to reinsurers, investment banks, commercial banks and capital market consultants.

Mr. Scherzer noted that J&H is working with clients to develop an "option policy." In that coverage, a client might retain \$20 million instead of \$10 million, but purchase an option to buy down that retention later if some factor, such as interest rates or business performance, doesn't develop as planned.

That approach might be new to the insurance markets, but options are obviously a well-known hedging tool in the capital markets, Mr. Scherzer noted.

Another development is the two-tiered coverage trigger. For example, he said, a soft-drink maker might buy property coverage on a facility that would be triggered only in the event of both a fire and an increase in sugar prices. Such a two-tiered approach is an attempt to link a company's business objectives with its insurance program in exchange for lower premiums, he said.

As for where such developments

might lead, Mr. Scherzer described a scenario in which a risk manager with a windstorm approaching a Florida plant could price and purchase "windstorm units" via computer, figuring the price of those units would rise if the storm hit, giving the company a hedge against possible losses.

If, however, the storm blows out to sea, the risk manager would sell the units, again over the computer, possibly taking a loss but without having to maintain the coverage once the threat no longer exists.

"This is not happening tomorrow. I can't even tell you that it will happen," Mr. Scherzer said. "But what does it for me is that if it does happen this is going to be so big you can't afford to ignore it."

Existing capital market tools—like cat bonds, catastrophe insurance futures on the Chicago Board of Trade, industry loss warranties and standby surplus notes—"are all really trying to achieve the same thing: new ways to transfer risk," Centre Trading's Mr. Bowers said.

The capital markets provide some obvious attractions, offering opportunities for getting nearly instant coverage that the insurance markets can't offer, he said, in addition to providing more capital.

However, for the capital markets to really play an insurance role, more attention must be paid to meeting the needs of the investors who will be taking on these risks, he said.

Attempts to involve the capital markets in risk financing have developed slowly so far because the existing instruments haven't given investors "enough reason to take on the other side of these trades," he said.

"Wall Street investors are all used to making investments where return varies, but few are used to betting their principal," Mr. Bowers said.

They're also used to investments with known "if/then" risks, that spell out clearly what the investment's outcome will be if a certain event occurs. Risk financing instruments must be developed, then, that would tell them exactly what their return would be if a 7.0 earthquake occurred in California, instead of structures that would tell them their return only at some point well down the road, once losses from the quake were sorted out and paid.

Giving investors that sort of assurance would obviously leave some risk on the table and "this is where the insurance companies are going to play," Mr. Bowers said.

By covering a portion of the risk and passing the remainder to the capital markets, insurers will be able to provide customers better products at a lower price, he said.

The insurance industry also will have a role covering the unknown, unpredictable risks that won't find a market on Wall Street, he said.

Although capital market applications for property risks like California quake seem close at hand, transferring liability risk to Wall Street might be a longer-term process.

"I think today and tomorrow we won't be able to do anything about liability," Mr. Bowers said. "Wall Street likes things they can read in the paper—'There was an earthquake in California,' 'There was a hurricane in Florida.' They don't like, 'There's creeping pollution in New Jersey.'"

J&H's Mr. Scherzer said he expects brokers' role to change after the involvement of the capital markets. "I think we brokers will have to provide a lot more analysis" and make better use of technology and be global in reach, both geographically and on a product basis.

"The capital markets don't live and die between the East River and the Hudson River," he said. "There's capital all over the world and it goes to where it's treated best." **BI**

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Opinions



Set standards, stop debate

SHOULD the risk management community embrace the development of standards for how the function is performed?

We say yes—as long as the standards are voluntary and remain open to periodic review and change.

As we report in this week's issue, the need for risk management standards is still hotly debated among risk management professionals (see story, page 43). To date, risk management standards have been adopted for public entities in Australia and New Zealand and are in draft form in Canada.

We agree with supporters of the standards, who say they would:

- Set a basic level of quality for certain risk management functions.
- Provide a framework for the novice or part-time risk manager to follow.
- Give more experienced risk managers a departure point from which they can develop sophisticated and innovative programs.

Many risk managers fear such standards—particularly those promulgated by outside organizations unfamiliar with the profession. They worry that such standards would expose them to liability for deviating from a specific performance of their jobs.

We think that concern is overblown. If it were true, the thousands of service and manufacturing organizations that are striving to achieve certification of quality by meeting various standards would be deluged with lawsuits. That is not the case. But, even if it were, there are risks in all activities. And, as any risk manager knows, risks can be managed.

Another concern voiced about risk management standards is that they would not be drafted well and

could bind the profession to duties or goals that are flawed or outdated.

To that we say risk managers have no one to blame but themselves if that becomes the case. If such standards prove inadequate or too rigid, it would largely be because risk managers have failed to offer real-world input and critical advice.

The Risk & Insurance Management Society Inc., for example, declined an invitation by a Canadian standards organization to be involved in the development of standards there. Thankfully, several individual risk managers and Canadian RIMS chapters did get involved.

In Australia and New Zealand, risk manager involvement was critical to the development of practical and well thought-out standards, according to consultant Felix Kloman.

In short, we think the benefits of such standards outweigh the risks voiced by risk managers.

The development of standards should be seen as an opportunity to set a new benchmark for quality in the profession.

Indeed, the development of risk management standards would be a natural offshoot of the current effort to develop a new designation, Fellow in Risk Management. This new designation, the goal of which is to encourage risk managers to broaden their education beyond the Associate in Risk Management courses, will entail a vigorous examination. Elements of that examination could be the foundation of risk management standards.

Risk management standards have been debated for years. It's time for risk managers to quit debating and lead the way in their development.

Letters

CICA conference and captive coverage praised

To the editor: Thank you for your excellent coverage of the 23rd Annual CICA Conference held in March in Phoenix (BI, April 1).

We actually had the honor of hosting captive owners and service providers from all over the globe, including Bermuda, British Virgin Islands, Canada, Cayman Islands, England, Ireland, Japan, Philippines, Switzerland and the U.S. Virgin Islands.

This, of course, is in addition to repre-

sentatives from just about every state in the United States.

On behalf of the entire captive industry, we appreciate your continued interest in our progress and the issues which affect this significant segment of the insurance market.

Julie C. Haines
President
Captive Insurance
Companies Assn. Inc.
Minneapolis

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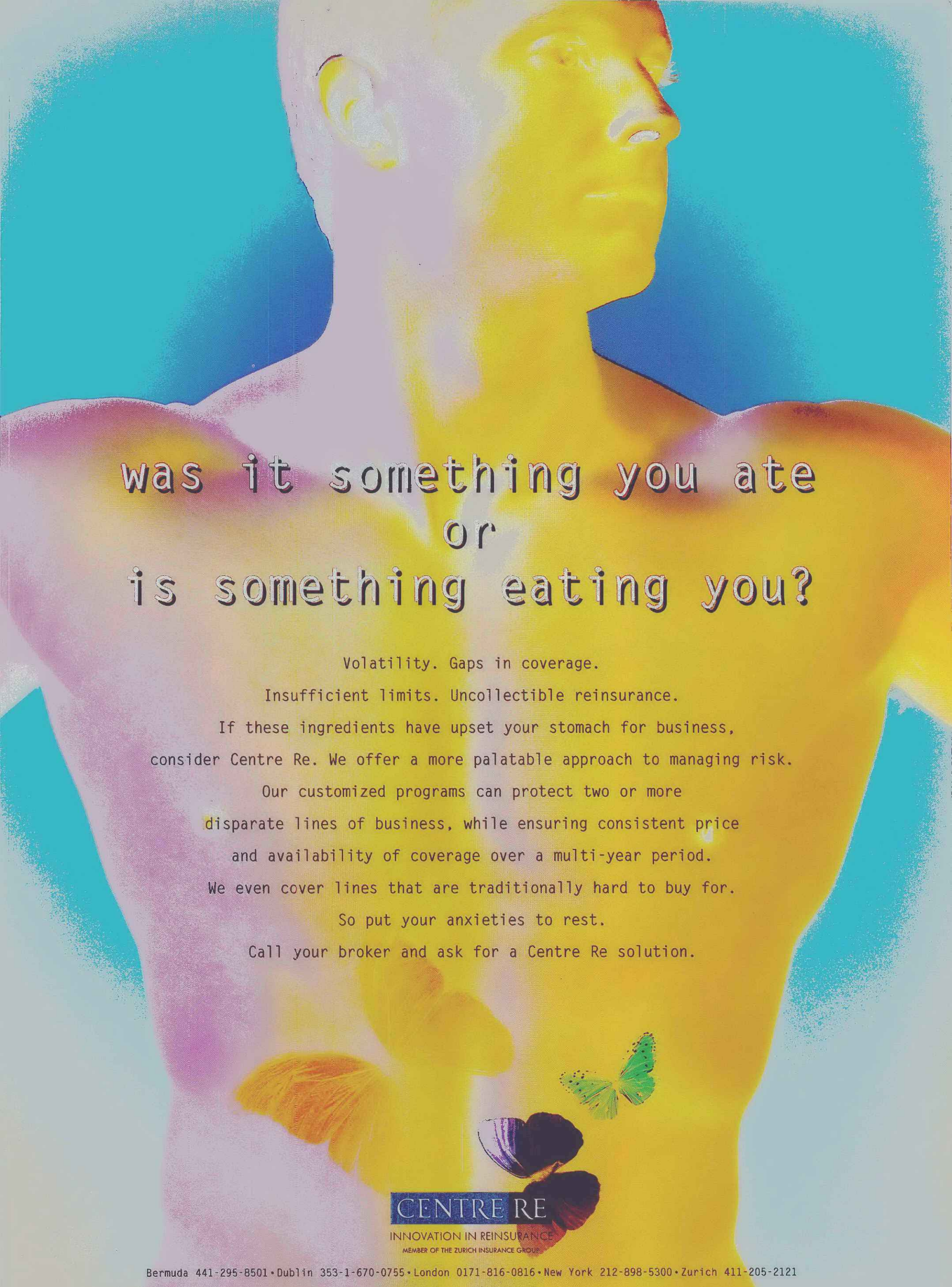
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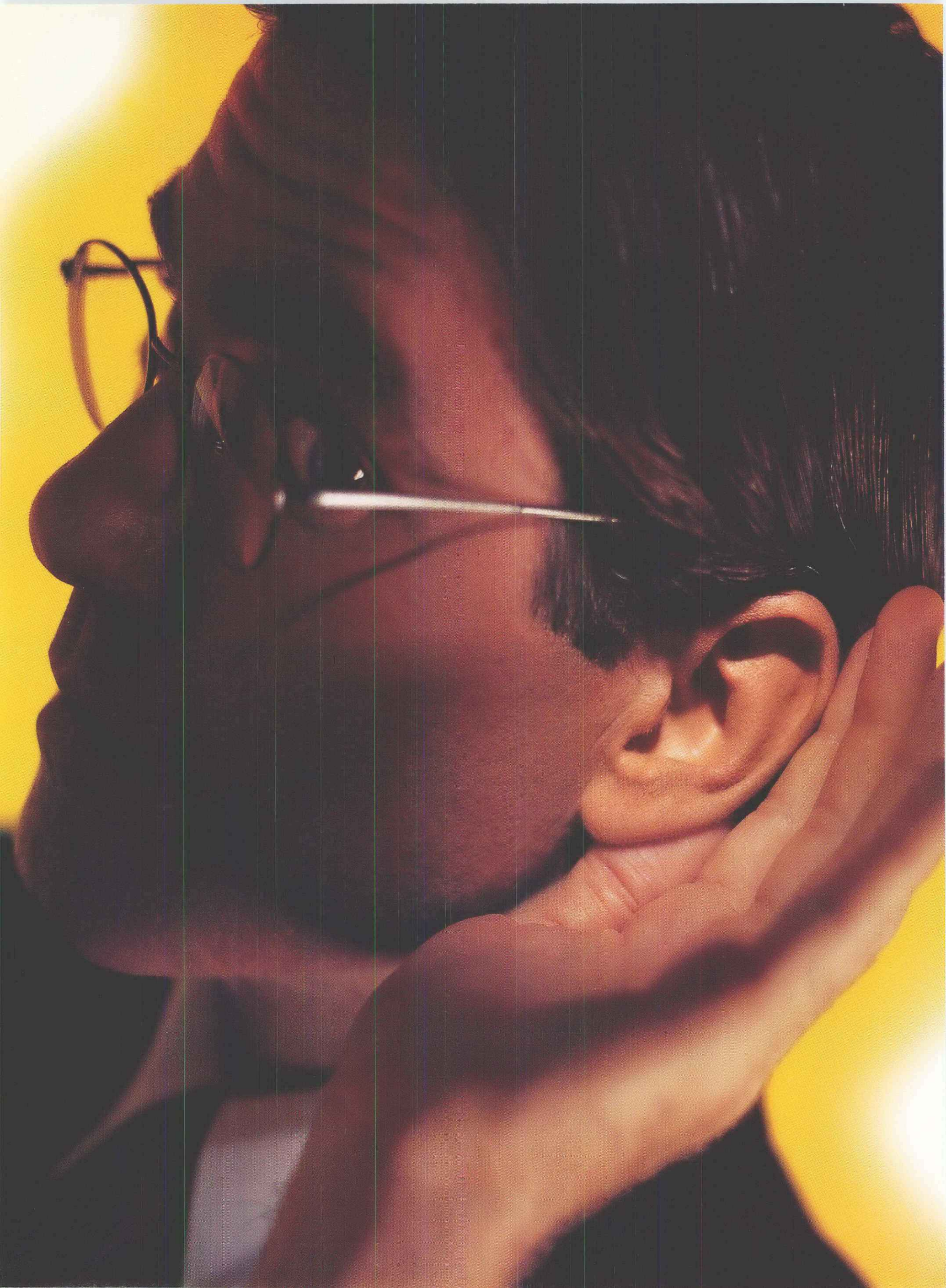
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Benchmark

Continued from page 2
the risk management message.

Mr. Belfiglio said the second-round topics—variable broker compensation, disaster recovery, the risk management library and natural disaster analysis and evaluation—will be available soon.

In the meantime, the chapter is expanding its questionnaire scope and has posted a question on the Internet. Risk managers can access RISKNet through the RISKWeb World Wide Web site at <http://www.RISKWeb.com> and provide feedback to the Pittsburgh chapter on the topic of variable broker compensation.

The aim of the best practices project is three-fold, Ms. Pilz said. First is to understand the systemic flow of specific risk management work processes that consistently produce quality results. Second is to provide knowledge to others who desire to improve work processes, and third is to create common understanding of how work processes can be improved to produce quality results.

The chapter's research shows that the "best practices" for assessing a company's safety program include taking a closer look at the safety culture, safety program resources, exposures, post incident procedures, safety training program and emergency response plan, Ms. Pilz said.

While the individual reports give

greater details as to the best practices of each assessment, Ms. Pilz did give attendees a list of some of the results.

For example, when assessing the company's safety culture, a risk manager should: survey the perceptions of the program participants; determine the methods of measuring accountability, and the level and method of communication; and identify safety's role in the company's mission statement.

When assessing the safety program resources, risk managers need to review: the department and director's scope of duties, safety staffing, safety budget, the effectiveness of the safety committee, and external resources.

When assessing the company's exposures, risk managers need to: review the company's operations, the historical trending data and the safety program already in place; assess the standards and regulations that apply and the emerging issues.

In addition to safety assessment, Ms. Pilz also revealed the results of the chapter's best practice findings for selecting a broker.

The team in charge of this report found the best practices for selecting a broker are a needs analysis, a broker service analysis and then the selection process, Ms. Pilz said.

As part of the best practices, risk managers are advised to develop a broker questionnaire and matrix, Ms. Pilz said. The matrix should include such categories as the account

executive's qualifications, major markets used by the broker, international service capabilities, exposure identification services, risk and loss control services, claims handling and others. Risk managers should then detail each broker as it pertains to each category. This allows all the brokers "to go head-to-head," Ms. Pilz said.

Ethics played a big role in the broker selection process, according to the best practice report, she said. Previously, no formal standard of ethics existed within the industry.

Risk managers "need to give fair and even consideration to all parties involved," Ms. Pilz said.

Among the best ethical practices when selecting a broker, risk managers should never: let friendship affect their broker consideration, accept material gratuitous gifts, share quotes or broker-to-broker information, use the selection process as a means to replace an incumbent broker, or use the selection process as a means to ratify a decision that has already been made.

The best practices for assessing a company's cost allocation system also were revealed during the session.

"There is no best system," said David Brauer, senior vp at Marsh & McLennan Inc. in Pittsburgh, who also participated in the best practices project. A risk allocation system "is a process that identifies and attributes a company's cost of risk among various accounting units."

Therefore, risk managers need to focus on the design of the cost allocation system and make sure "it fits into the overall culture of the organization," he said.

To do this, six factors need to be considered. These are the organization's: size, sophistication, ownership, risk management expertise, geographic location and exposures to loss, he said.

Additionally, in order for the cost allocation system to function properly, a company needs an internal risk management information system to support it, Mr. Brauer said. This would include reporting timely and accurate data.

The best practice report also found such costs as insurance premiums, retained losses, loss adjustment expenses, administrative overhead and accruals for catastrophic losses should be allocated under the system.

Mr. Brauer also revealed the results of the best practices for choosing a risk management information system during the session.

The committee in charge of this report acknowledged that many books have been written on the process involved in purchasing an RIMS, and that it is not attempting to rewrite the books. Instead, the committee highlighted the texts and identified the steps of the process to provide a framework for purchasing an RIMS, Mr. Brauer said.

The best practice framework includes defining the needs of the com-

pany, conducting a market analysis of the possibilities, developing a request for proposal, reviewing and comparing the options available, negotiating and selecting a system and maintaining the system.

Communicating the risk management message was also discussed.

Risk managers need to make sure their communications have a purpose and are free of typos and errors, he said, admitting that some of this information is "Communications 101."

"How often do you see proposals from brokers with typos? And how many of you look and focus on those errors and think this is not a quality broker?" Mr. Brauer asked the audience. Risk managers need to make sure their communications efforts are error free, he said.

Some risk managers do not communicate beyond how something affects the budget, but "If you don't do it, who will?" Mr. Brauer asked.

By practicing good communications, risk managers improve their job security, he said. "If no one knows what you're doing, how will they know how successful you are?"

Effective communication also allows risk managers to be tied to corporate success and helps risk managers "sell" change within the company, Mr. Brauer said.

For a copy of one of the first five best practice reports or for the set of reports, write Mr. Belfiglio at 120 Fifth Ave., Suite 1092, Pittsburgh, Pa. 15222. **EI**

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A verdict on friendship

Relationships can't preclude prudence in transactions

By SARAH GODDARD

TORONTO—Citing trust in a personal friend won't allow a company to recover damages after an acquisition goes sour.

That was the verdict reached by an informal jury of risk managers in a mock trial at the 34th annual Risk & Insurance Management Society Inc. conference, held last month in Toronto. The trial pitted the fictitious Megachemicals Corp., with a "squeaky clean reputation," against the fictitious Northern Holdings, from which it had purchased Canadian chemical manufacturer Blackfly Solutions.

Megachemicals' president, Joe Mutt Moleculi, and Northern's chief, Sella Gain, had enjoyed a friendly relationship for several years before the purchase. After the purchase, Megachemicals was forced to spend more than \$1 million to clean up the damage from underground storage tanks and

of the city of Kitchener, Ontario) checked with the Ministry of the Environment that it was content with the site's status. She completed a satisfactory site inspection with Blackfly plant manager Pete Moss, who answered all her questions and gave her full access to the plant's documentation. But she ignored internal correspondence.

However, after the deal had been concluded, a memorandum from Mr. Moss to Ms. Gain came to light, expressing concern at above-normal shrinkage in chemical inventory, possibly due to a leak in tanks or lines. If she had seen the memo before the deal had gone ahead, she certainly would have inspected the underground tanks, Ms. Findit said.

Northern's Ms. Gain (consultant Heather Pearson of Pearson Enterprises in Thornhill, Ontario) testified that she had offered Blackfly to Mr. Moleculi on an "as is" basis for "a fantastically cheap price."

Ms. Gain's reply to Mr. Moss's memo stated that production appeared unaffected, although she asked to be kept informed if the position deteriorated. Since she had not heard otherwise, she assured everything was under control.

Both memos were available to the purchaser during the due diligence operation and were not concealed.

In his closing argument, plaintiff lawyer Mr. Dahme emphasized the trusting relationship between Mr. Moleculi and Ms. Gain. "He pro-

ceeded in good faith to rely on his friendship with Ms. Gain," said Mr. Dahme, "to conduct this transaction in a way which recognized the friendship and which had attached to it an expectation that there would be full disclosure, that there would be honesty and integrity."

The leakage had already been identified, but Ms. Gain was solely concerned with production and took advantage of Mr. Moleculi's trust, he argued.

Mr. Madras, the defense lawyer, reiterated that the jury was being asked to charge a fair commercial deal that had been struck between two experienced parties. The absence of environmental guarantees and warranties was reflected in the purchase price, but now the purchaser was asking the jury to write in an environmental indemnity. What's more, Megachemicals had been given an opportunity to carry out a full due diligence assessment.

The jury was unanimous that Megachemicals had purchased Blackfly on an "as is" basis and had to accept the consequences of not doing a full due diligence assessment. Deliberate concealment had not taken place, the jury decided, noting Megachemicals was responsible for asking the right questions.

Under Canadian law, a deal can be revoked if a vendor has failed to disclose information on a latent defect if requested, but the vendor is not liable if it is not aware that the defect exists.

Only one juror thought the friendship between the two company executives should have made any difference to the transaction.

According to mock trial judge David Esterin, also of Gowling, Strathy & Henderson, "You have to ask the right questions and do your own investigations and have auditors with good professional liability cover." **BI**

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pipelines that had been leaking, and its reputation was damaged. Megachemicals was seeking both remediation costs and compensation for its lost reputation.

There were three issues to be considered, said plaintiff's lawyer Harry Dahme of Toronto law firm Gowling, Strathy & Henderson. First, had Northern known about the problem and concealed it from Megachemicals? Second, had Megachemicals undertaken a sufficient due diligence procedure before the purchase? If not, should Mr. Moleculi have trusted the information he received from Ms. Gain as a result of their friendship?

Megachemicals was asking the jury to rewrite the original contract, countered defense lawyer Mark Madras, also of Gowling, Strathy & Henderson. When Megachemicals bought Blackfly, it had been denied environmental representations or warranties and was given 60 days to complete a due diligence investigation, with full access to Blackfly's records and plant.

Mr. Moleculi (who was played by Richard Saylor, insurance and risk manager at Coca-Cola Beverages Ltd. in Toronto) testified that because of their "long and trusting relationship" and the fact that he and Ms. Gain "shared the same view" of business, he had believed that he could rely on her. So when he sent a team led by his risk manager, Ivana Findit, to the Blackfly site, he told Ms. Findit she could be "more relaxed" than usual.

The Megachemicals due diligence team performed an environmental phase one audit, but relied on the phase two audit provided by Northern, despite Ms. Findit's recommendation that Megachemicals carry out its own phase two audit and the proviso on the phase two audit that it was solely for Northern's use.

Mr. Moleculi confirmed that he was aware that there would have been a premium on the purchase price if it had been accompanied by environmental representations and warranties, but said he thought he didn't need them.

Megachemicals' risk manager, Ms. Findit (Nancy Chambers, risk manager in the finance department



Disputes over bad faith a matter of perspective

Buyers see broken promise, insurers see excessive costs

By JOANNE WOJCIK

TORONTO—It's no wonder that policyholders expect more from an insurance company than from any other party to a contract, a lawyer contends.

The images that insurers' marketing campaigns conjure up give policyholders the impression that "they'll be there for you," observed Bob Horkovich, a partner with Anderson Kill Olick & Oshinsky in New York.

Some insurer advertisements imply that "an insurance contract isn't

just a contract; it's a moral obligation," he said.

"So they set up an expectation that they will be there for you," he told risk managers attending a session titled, "Bagging the Bad Boys: Prosecuting a Bad Faith Action against Insurance Abuses" at the 34th annual Risk & Insurance Management Society Inc. conference, held last month in Toronto.

But, Evan H. Krinick, an insurer attorney with Rivkin, Radler & Kremer in Uniondale, N.Y., warned risk managers that their companies should be just as diligent about how

they present claims to insurers to avoid the possibility of a reverse bad-faith suit.

"The covenant of good faith and fair dealing is a two-way street," he said.

As a result, Mr. Krinick said, a company that manages its own claims within a large deductible or self-insured retention may find itself "on the wrong side of a bad faith action."

Policyholders should be as hard-nosed about settling claims as Mr. Horkovich accuses insurers of being, Mr. Krinick asserted.

And in cases where fraudulent first-party claims are filed by policyholders against their own coverage, insurers may seek to recoup their investigation costs.

"Insurance companies will no longer sit back and break even," Mr.



Krinick warned. "They may sue for damages."

While few, if any, actual "reverse bad faith" lawsuits have been filed, he predicted this will be a growing area of coverage litigation in the next decade. "It's a very new and emerging area," he said.

Mr. Horkovich did not offer specif-

ics during his presentation, instead offering to provide risk managers in attendance a comprehensive guidebook to bringing bad faith actions.

Insurers' "intent is really to take your money and hold on to it as long as possible at your expense," Mr. Horkovich asserted.

According to a recent report by the Santa Monica, Calif.-based Rand Corp., the U.S. insurance industry collectively spend a half-billion dollars fighting policyholders' claims each year.

Insurers also realize that because 98% of bad faith suits never go to trial, they can collect interest on the money paid in premiums, Mr. Horkovich said.

"They hold on to it, earning interest. That's bad faith," he charged.

He said that, in effect, insurers are gambling that "you might back out or they might win."

But, "you can make insurance companies honor the promises they are making, folks," he said, while piling up on the podium plastic bags stuffed with brochures he collected from the RIMS exhibit hall.

"This will be valuable evidence," he said, explaining that every year he collects the marketing materials in what he labeled the "Hall of Promises" just to have exhibits to use when a bad faith suit arises against a particular insurer.

Unfortunately for policyholders, the venue in which a bad faith suit is brought has a lot of influence over which side wins, Mr. Horkovich pointed out.

Because insurance transactions are regulated by the states, "bad faith is determined state by state," he explained.

For example, the California standard is the most liberal, finding for the policyholder when an insurer's activity is deemed "objectively unreasonable," he said.

By contrast, Arkansas courts require that policyholders prove that an insurer had an "evil mind" when it denied a claim, according to Mr. Horkovich.

The most common standard for determining bad faith is "reckless disregard of policyholders' rights or lack of reasonable grounds" for denying a claim.

In some jurisdictions, policyholders can apply a separate tort or cause of action, which could increase recoveries.

"This means policy limits don't matter," Mr. Horkovich said. For example, California permits policyholders to seek additional damages beyond policy limits under the state's Unfair Claims Practices Act.

Insurers are likely to deny a claim if it reaches the \$1 million threshold, he said.

"If a claim is seven digits or more, they have a greater chance of being denied," he said, adding that "if a claim is over \$1 million, the claims people are not handling it; they're using counsel."

Mr. Horkovich also suggested that insurers sometimes destroy old policies prematurely—in less than 10 years—so that they cannot be used as evidence against them in bad faith suits.

But, Mr. Krinick disagreed. "They don't have the space to keep them," he said.

However, insurers increasingly are turning to electronic methods of storing data, *Business Insurance* has reported.

He then asked a risk manager in the audience how long his company kept personnel records.

"From 1972," the man replied.

"That's a good company," Mr. Krinick acknowledged. "But think about all the millions of policies that insurers have."

Thomas Lawrence, director of insurance for New York University, moderated the session.

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MICHAEL A. MARCOTTE

Many exhibitor booths at the 34th annual Risk & Insurance Management Society Inc. conference were big, bells-and-whistles productions. But at least one was a work in progress.

Internet features no benefit if they aren't regularly used

Training as important as hardware to profit from Internet access

TORONTO—Risk managers and benefit managers considering whether to jump into the Internet frenzy first need to make sure their desktop computers are capable of Web browsing, technology experts say.

"When you buy a PC, it doesn't matter how many features it has," said Brian J. Devine, risk analyst for SULZERmedica USA Inc., a medical device manufacturer based in Angleton, Texas.

"You get a big list of all the features the computer has. But how much do you understand of it?

Probably about 20%," Mr. Devine said.

"But what's really important about the computer is what benefits it will provide to you," Mr. Devine told those attending a session titled "Surf's up on the Internet: Are You on Board?" at the 34th annual Risk & Insurance Management Society Inc. conference, held last month in Toronto.

To surf the Internet, a computer must have a 486 or faster processor; a modem of at least 14,400 baud; an online service provider, such as America Online or Com-

puServe; and Web browser software.

Risk and benefit managers also have to commit to using the computer.

"If it's got every feature in the world but it's just going to sit on your desk and not be turned on, there's no benefit to that," said Mr. Devine.

Companies that provide their employees with Internet access also should invest in training, advised Kevin Quinley, senior vp of risk services at Hamilton Resource Corp. in Fairfax, Va.

"If your company's idea of Internet training is buying a copy of 'Internet for Dummies,' it's not enough," he said.

"You don't get much with hardware if you don't invest in people-ware as well."

Risk and benefit managers should perform a cost-benefit analysis before deciding whether

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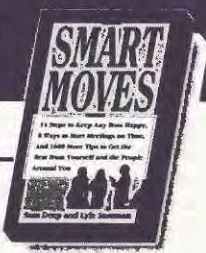
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and how they will use the Internet, according to Mr. Devine.

"There are tons of features on the Internet, but what you really need to look at are the benefits," he said.

"You need to ask yourself if this time adds value to your time managing risk," Mr. Quinley suggested.

Among the services available to risk and benefit managers on the Internet are:

- Access to the World Wide Web, which is less daunting than the Internet itself because it uses graphics, visuals, text and sound to communicate with users.

For example, Mr. Devine noted that risk managers can easily monitor potential hurricane and windstorm exposures via World Wide Weather, located at <http://www.weatherins.com/>.

- Online discussion groups, or "chat rooms," where risk managers and benefit managers can talk to peers and advisers who are online at the same time.

For the most part, "corporate America hasn't taken advantage of this capability," Mr. Devine said.

"You can do the online equivalent of a conference call at a much lower cost," he said of the discussions.

- Electronic mail, which can transport documents or other files anywhere around the world in a few moments.

"This saves time, especially internationally," he pointed out. In addition, there is no additional charge to send any amount of e-mail anywhere in the world over the Internet.

"The Internet brings the entire world together in a single local phone call," agreed Ann Deering, president of Environmental Technology & Telecommunications in New York.

The session was moderated by Laurie Rutson, assistant risk manager at Nike Inc. in Beaverton, Ore.

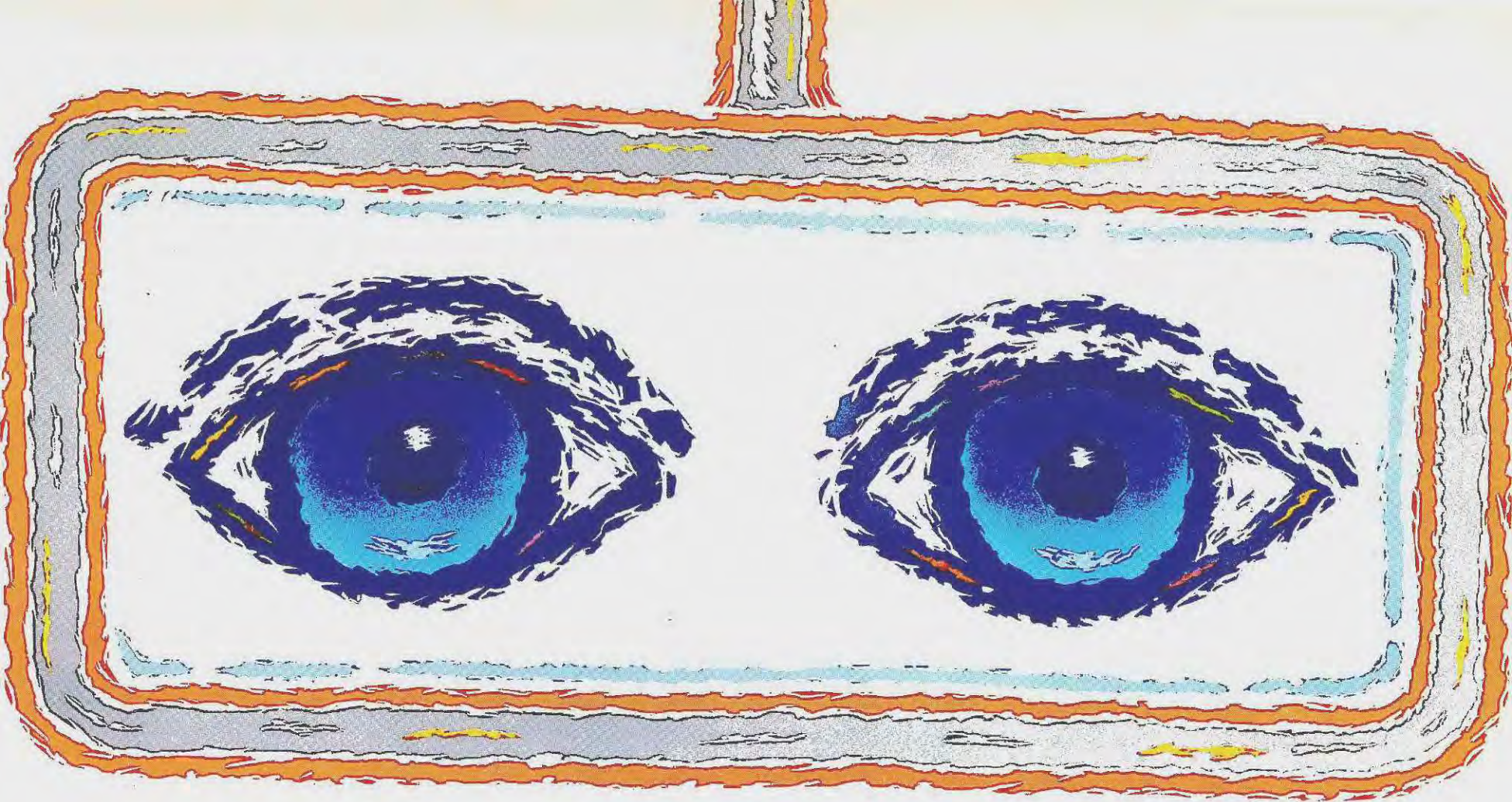
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Walk in workers' shoes to gain trust, visibility

By ROBERTO CENICEROS

TORONTO—The way Gary E. Bird, director of risk management for Phelps Dodge Corp. in Phoenix, sees it, his department has two sets of customers: the corporate heads upstairs and the personnel who operate the corporation's mines, factories and other businesses.

He told colleagues attending a session at the 34th annual Risk & Insurance Management Society Inc. conference, held last month in Toronto, that he has to serve both sets of customers equally well. He has to get their respect and recognition, which can be a challenge when risk

managers often are viewed as meddling overhead.

"I don't care if it's good or bad, but I want you to know who I am," he said.

One way to get positive recognition is to go far beyond submitting department annual reports for the corporation's board of directors.

But a quarterly risk management report, printed for all department heads, can gain even more exposure. Those reports can contain information about significant loss events, new risk management programs, corporate reserves, loss control, security and other current topics. They can even create a claims reduction

competition between departments if they contain performance data.

"Find any vehicle that you can to help do that, and a quarterly report—something consistent, something they can see from one period to the next—will help you to do that," Mr. Bird said.

Such reports can be limited to general summaries so they don't divulge proprietary information about particular claims, Mr. Bird said in response to one audience member's concern.

Delivering personal presentations to the operations personnel about the company's property and casualty programs also can boost the coopera-

tion the risk management department receives.

"If you allocate your costs, let them know what that is, how you do that, what is the basis for that," Mr. Bird said.

Learn the problems faced by facilities managers and commiserate with them, he advised. And, develop your own personality tools, such as perseverance and consistency.

Perseverance is called for when people want to remind you every time you meet with them that risk managers are merely company overhead. That is fine, let them have their words, then get your message across, Mr. Bird said. That and a few favors can eventually win their cooperation.

"But you have to hang in there," he advised.

Consistency is also necessary because many times people don't like the risk management message.

"Be consistent," Mr. Bird said. "If

they know the same thing is going to be told to them the next time they ask, they are going to trust you because they know they are going to get the same answer. But, if you are wrong, tell them you are wrong."

Risk managers should be an information source for their customers and make sure they get answers.

"You have to know their operations," Mr. Bird said. You have to be able to walk around and be able to identify a particular piece of machinery, a particular process. I have gone to the extent of driving a 240-ton haul truck just so (I can say), 'Hey I've done it, I've been there.' It helps. You have to show genuine concern. You have to feel the things they feel and you have to be genuinely concerned with the problems they have. If you are not, no credibility. (You get), 'Go away, you can't help us.'"

Risk managers also must be responsive, and that can include traveling to Montana when it is 40 degrees below zero and a facility operator has requested help. That shows you are willing to undergo the same rigors that they endure, he said.

"You have to understand that there are certain things in your organization that other people are not willing to do," Mr. Bird said. "If you are willing to step up and do something that may be a little different to help one of those operations or one of the people upstairs, you are going to gain visibility and credibility, and the game in our operation is trust. We have to know our people. We have to know our product. We have to know what we do, and they have to know what we do and how we can help."

Mr. Bird was joined on the panel by Joe R. Taylor, executive director-risk management in Phoenix for Cir-

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cle K Stores Inc., and Chris Weeks, vp-risk management in Bradenton, Fla., for SL Staff Leasing. Mr. Taylor moderated the session, and Gregory Louvier, senior vp for Johnson & Higgins in Phoenix, coordinated.

Mr. Taylor advised his colleagues not to be perceived as insurance buyers.

"Frankly, the insurance-driven solutions to me are the sexiest part of the business," he said. "I love doing deals, as many of you may. But when I reflect on my own career and what I have been recognized for, it hasn't been those deals. It has been non-insurance-driven solutions."

As an example, Mr. Taylor said that in 1992 Circle K had \$46 million in workers compensation expenses. Those expenses are now less than \$20 million because of a redesign of the claim and case management processes. That was based on cultural change and a decision to treat claimants more like customers.

"Just recognize that you can leverage your own capability to change your organization and push it forward by accepting ideas from the field, brokers and carriers and other consultants," Mr. Taylor said.

"Perception can be reality," added SL Staff Leasing's Mr. Weeks. "Our sales force has a very negative image of my workers comp underwriting group. They view us as a hindrance to sales. So what I have done is I changed the name. Now they are the Client Risk Assessment Group. It's a little less threatening."

Mr. Weeks' department also has started an education program for the sales force so they can learn of ways the Assessment Group can help them.

Carnival atmosphere prevails in exhibit hall

By MICHAEL BRADFORD

TORONTO—It may seem like a circus at times during the hectic week of the Risk & Insurance Management Society Inc. conference, but there is always a carnival going on in the exhibit hall.

Insurers and brokers and other service firms were at the 34th annual conference in Toronto last month with the usual mixture of silliness and seriousness. Exhibitors aiming to rope in risk managers were there in greater numbers and with a little more extravagance than those looking to lasso benefit managers (*BI*, April 29).

Along with the ever-present popcorn machine, there were miniature golf courses to navigate, basketball shots to take and photo opportunities with celebrity look-alikes.

Some exhibitors were on hand for the first time, for legal and other reasons.

X.L. Insurance Co. Ltd. was at its first-ever RIMS conference. Had it gone to previous gatherings in the United States, the insurer would be subject to U.S. tax laws. The insurer came to Canada laden with information on its products and drew visitors to its booth with logo-embellished giveaways that included mousepads, pre-paid telephone cards and compact disks that described the company's X.L. Interactive service.

X.L. Interactive is used by brokers, insurance buyers and prospective customers who want more information about X.L. products. One section includes all of X.L.'s applications and policy forms as well as the 1995 annual report and first quarter 1996 earnings report. A second section contains text, slideshows, graphics and sound in a presentation on products and services.

Creative Options was another first-timer in Toronto. The Waterloo, Ontario-based firm was in town to show risk managers its safety and loss control educational materials.

"We develop totally customized health, safety and loss prevention communication packages," explained Dan Hess, Creative Options' communications representative for Canada.

The company develops talks on different topics that employers can deliver to employees and also provides customized artwork for the job site. Photos of workplace areas that are designated for some type of at-

Games, look-alikes mix with business

tention are redrawn by Creative Options artists and made into posters. Employees are involved in a lighter side of safety by answering safety questions on scratch-cards that can be signed as entry forms in prize drawings.

The Network, a 14-year-old Norcross, Ga.-based company, takes a similar approach to safety and loss control by providing customized programs.

The company helps employers by gathering information that insurers and third-party administrators typically don't collect, explained Kevin E. Lynch, national sales director.

That information might include details like whether a worker who hurt her foot was wearing steel-toed shoes. Employers use the informa-



tion "to help them manage their business better," said Mr. Lynch.

The Network also uses a poster program to promote workplace safety and gives managers a guidebook listing monthly loss prevention topics to be covered with workers.

Hiring the right employee can reduce the likelihood of some claims and Avert Inc. in Fort Collins, Colo., was at the RIMS conference to show how its background services can take some of the guesswork out of those choices.

Avert performs seven background checks, including checking whether an employee who has been offered a job has filed a workers compensation claim at a previous job.

Other checks will show whether an applicant has a criminal record, produce driving records, credit reports, educational and credential information, reference checks and any "identity variables" like duplicate names or addresses linked to a single Social Security number.

Avert says that as many as 10% of the individuals it checks have criminal records, while 30% of job applicants lie about degrees or other edu-

cational accomplishments and around 5% of work references are bogus.

Employers that need to settle casualty claims can turn to Philadelphia-based Jurist Inc., a Philadelphia firm that lowers its fees the longer it takes to settle a claim.

When a claim can't be settled by an employer's adjuster or examiner and is earmarked for outside counsel, an employer can turn to Jurist with the aim of settling quickly and cheaply. The company's fee is \$1,000 if a claim is settled in the first 30 days, \$800 if it takes up to 60 days and \$600 if a case continues longer than 60 days. The company says it settles 85% of its cases in the first 30 days.

"We're trying to introduce common sense back into cost containment," said Michael E. Weisberg, director of case intervention services at Jurist Inc. "It makes sense not to profit by the inability to settle a claim."

Alcohol Sensors International Ltd. of Islandia, N.Y., was touting its Sens-O-Lock device as a way to keep drunk drivers off the road. For companies that use drivers, the device was promoted as a way to decrease exposure to liability from accidents.

The device resembles a car phone that drivers must blow into in order to start the ignition.

Sometimes employees get in a bind in a faraway place. Worldwide Assistance Services Inc. in Washington is set up to help out when that happens.

The company can call on any of 200,000 people in 200 countries for services ranging from evacuating patients in a medical emergency to tracking down lost baggage.

In medical cases, Worldwide Assistance can help with such tasks as repatriating remains, arranging for visits by relatives or friends, providing emergency medical payments and providing medical personnel with prescription information.

The company also investigates medical claims and coordinates payment of benefits among insurers.

If disaster strikes a plant, risk managers turn to exhibitors like Relectronic-Remech Inc. of Waterloo, Ontario, to clean up the mess.

Whether fire, flood, or fire extinguisher powder actually does the damage, the company can clean and restore electronic and mechanical equipment, said President Jay L. Sutherland.

Getting companies up and running quickly can reduce the costs of business interruption, retraining and reclaiming marketshare, Mr. Sutherland said.

Rosco Document Restoration Inc. relies on freeze-drying to save books, records or other paperwork damaged in floods or fires.

The Montreal-based company freezes documents as fast as possible after a disaster in specially designed crates to stop the growth of mold or mildew and prevent deterioration. The documents then are dried through a process that takes up to two weeks and involves turning the solid water molecules into vapor.

Insurers were among the most innovative and shameless companies in

Exhibitors at the Risk & Insurance Management Society's conference offered enough eye-catching attractions and diversions, including a miniature golf course, to keep the tourists away from the convention center's neighboring Sky-Dome.



MICHAEL A. MARCOTTE



MICHAEL A. MARCOTTE

Liberty Mutual enticed visitors to its booth with a chance to be photographed alongside Lady Liberty and a Canadian Mountie.



MICHAEL A. MARCOTTE

the exhibit hall this year.

Probably the most popular promotion was the talking, multi-colored robot that moved around the area staked out by Arkwright Mutual Insurance Co. The chatty metal man was even seen dancing with a Madonna look-alike from a neighboring booth.

Arkwright used the robot's draw to promote several of its products and services.

Nat Cat is a weather alert service. "It covers every location we insure," said Jonathan W. Hall, vp and manager of southern operations in Atlanta. When windstorms threaten an area, loss prevention steps are faxed to customers ahead of time, he said. Red Flag is a service that notifies engineers at policyholder companies, as well as Arkwright's own engineers, about changes in exposures due to new processes, use of new materials, plant expansion or other factors.

ArkRisk is a risk management information system that allows risk managers to generate a number of customized reports and complete tasks like currency conversion or premium allocations.

The popular Arkwright exhibit was flanked by others that got a lot of attention.

The Madonna impersonator was joined by an Elvis and a Marilyn Monroe clone alongside a popcorn machine. They were next to a marquee that listed The Travelers Indemnity Co. and The Aetna Casualty & Surety Co.

The current features of the now-combined insurers were touted in a playbill handed to passers-by. Star players for the new company were listed inside along with information on the strategy and products offered by the insurer.

A Canadian Mountie joined a Miss Liberty, who was painted the sickly green of the statue in New York, to pose for photos with attendees.

Nearby, Liberty Mutual promoted its "Borderless Risk Management" services in an expansive area that was sectioned off to provide information on TPA services, loss prevention, global solutions to risk management problems and other topics offered through its operating companies.

Long a large presence in the RIMS exhibit hall, CIGNA Corp. was on hand this year to show off products and services that included software designed to integrate the management of disability and workers comp claims. The system allows employees with disability or workers comp claims to call a single toll-free number.

Claims information is gathered, reports are issued to employers and government agencies and return-to-work plans are developed.

The objective is not simply to issue checks quickly, but also to "return the employee to work as quickly and safely as possible," said John Thomson, senior vp, managed disability consulting for CIGNA's group insurance division.

Online service options spreading on the Web

More Internet sites target risk manager

By JOANNE WOJCIK

TORONTO—Risk management and insurance industry service providers are gearing up to merge with the traffic on the information superhighway.

Several vendors demonstrated their new online wares during the 34th annual conference of the Risk & Insurance Management Society Inc., held last month in Toronto.

While many displays in the conference's exhibit hall featured a new element—World Wide Web "home page" addresses—only a few industry service providers are actually offering services over the Internet.

Among the more advanced services is the Risk & Insurance Management Society Inc.'s own RIM-

SNET site, which features easy Internet access to the same services that had previously been available to subscribers only with a direct modem connection.

While access to the RIMS home page—<http://www.rims.org/>—is free to all Internet users, RIMS members also can subscribe to RIMSNET to obtain additional information and resources via the Web site for \$19.95 a month.

The expanded service includes access to news, bulletins, events and developments affecting risk managers worldwide. Subscribers also can read RIMS publications online, apply for scholarships, grants or posted job openings via electronic mail, connect to hundreds of other risk man-

See Exhibit on next page

Exhibit

Continued from previous page
agement and insurance sites on the Web or even sign up to attend next year's RIMS conference in Atlanta.

The site, which was developed by Information Inc. of Bethesda, Md., is continuously evolving, including plans to eventually include a floor plan of the exhibit hall at the 1997 conference with hypertext links from numbered booths to exhibitors' home pages.

Also under development is an on-line conferencing center, which will allow RIMSNET subscribers to communicate with each other in "real-time" from anywhere in the world with Internet access.

The system will work much like the online "chat" rooms hosted by such information services as America Online, CompuServe or the Microsoft Network.

Another Internet service unveiled at this year's RIMS conference is a site created by Insurance USA, a joint-venture of RIMS, Sun Microsystems Inc., The College of Insurance, Aon Risk Services Inc., the Electric Power Research Institute, the Disaster Recovery Business Alliance and software developer and systems integrator IMONICS.

The new Web site, unveiled April 21, provides worldwide weather forecasts and maps and hundreds of pages of content on insurance and risk management topics, as well as hypertext links to sponsors' home pages. Insurance USA can be found on the Web at <http://insuranceusa.iconet.net/>.

Unlike many other Web sites, Insurance USA is not intended to be a sales or marketing platform, according to Ann Deering and Patrick Vice, strategic partners with Sun Microsystems' insurance team.

Ms. Deering and Mr. Vice will

jointly manage the site.

Insurance USA will serve as a centralized information source, organizing original content and other Internet resources to make it easier for professionals in risk management and insurance to find the information they need as quickly as possible.

"As the site grows, we expect it will be the first stop on the information superhighway for visitors and sponsors alike," Ms. Deering said.

Regular features of Insurance USA will include: The Technology Corner, providing updates on software and hardware, electronic commerce, risk assessment products and research; Virtual Insurance Reporter, providing exclusive weekly news, interviews, executive appointments; Disasters du Jour, developed primarily by the University of Delaware's Disaster Research Center; Legal Liaison, contributed by the Defense Research Institute and other sources; as well as a Conference Calendar.

"Insurance USA gives RIMS another presence on the Internet," explained Louis J. Drapeau, president of RIMS. The two Web sites can be accessed from one another via hypertext links.

"We think of it as an insurance plaza," said Mr. Drapeau, who is also manager-insurance and risk management of The Budd Co. in Troy, Mich.

"Our own proprietary system, RIMSNET, will now be available on the Internet," and "Insurance USA will be a billboard to part-time and full-time risk managers in need of support and services," he said.

Other new services featured at RIMS that will come online in the coming months include:

- Access A&A, which will be available to Alexander & Alexander Services Inc.'s clients via the World Wide Web beginning on June 21.

Through Access A&A, clients will be able to access their insurance

portfolios, industry information, proprietary A&A research, insurance products and alternative solutions on a real-time basis. The service also will provide electronic links to A&A account service teams (BI, April 15).

"We've harnessed the potential of the Internet and demystified it by organizing vast information pools into an easy-to-use format," said Mia Shernoff, Access A&A program director in New York.

A&A clients will be able to access the site via their own risk management department home pages, which also will be created by the broker.

- Sedgwick James Inc., Chubb & Son Inc. and Sun Microsystems announced completion of a "proof of concept" for an Internet-based venture that would allow policyholders, brokers, consultants and insurers to exchange information via the Internet.

Among other things, the system will allow access to generic insurance information to satisfy routine requests for certificates of insurance. Also in development are online directories of offices and contacts; loss run data; policy data; loss control information; and electronic mail interconnection.

Because the site is still under development, its Web address is not yet available.

- Near North Insurance Brokerage Inc. announced the planned launch of "World Link," which will provide Internet access to insurance regulations and information on political and social conditions and social security issues in more than 180 countries. The service, intended primarily for the Chicago-based broker's clients, will be launched sometime in June.

Besides the unveiling of these new information services, several other vendors at the RIMS conference announced strategic partnerships to develop similar Internet information sites for risk management and insurance professionals.

For example, RiskINFO and RMISWeb announced that they are joining forces to provide risk management professionals with a greater depth of information content and services.

"RMISWeb is pleased to be the risk management information systems resource within the RiskINFO site," said Mike Turner, creator of RMISWeb and president of InfoTech Consulting Inc., an Internet consulting company based in Ann Arbor, Mich.

The collaboration will provide "tremendous opportunities to publishers as well as to providers of risk management services to harness the benefits of this important new medium," he said.

Besides assisting the insurance industry in developing leading-edge Internet software applications, RiskINFO of Larkspur, Calif., also features several industry publications on its Web site, including: "Practical Risk Management," "The Warren Report," and "Smart's Insurance Bulletin," among others.

RiskINFO's Web site can be accessed at <http://www.riskinfo.com/>.

RMISWEB's address is: <http://www.rmisweb.com/>.

Not to be upstaged in the online arena, CIGNA Property & Casualty, a division of CIGNA Corp., hosted an online chat on America Online during the week that offered tips for "Defensive Driving on the Information Superhighway."

The 45-minute "chat" featured John Ingram, technical director of loss control services for CIGNA P&C, and Butler Lampson, systems architect with Microsoft Corp.

The two Internet security experts also spoke at a RIMS session covering security issues related to all business uses of technology (see story, page 41).

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Improving claims handling

Teamwork seen as key to effectively managing claims

By DAVE LENCKUS

TORONTO—Claims management programs will be far more effective if risk managers heed some advice they first heard as children, according to a panel of experts.

Stressing that an effective claims management program is founded on a bedrock of risk management's coordination with the company's safety and engineering, legal and medical disciplines and senior management, New York attorney John G. O'Brien observed, "You've got to play well with others."

"It's important to make attorneys and other experts a part of your team," agreed insurer attorney Richard P. Maggi of McDermott & McGee in Millburn, N.J. "They know where to go, whom to interview."

Those experts also will tell the risk manager "things you don't want to hear" but will help you defend against a claim, Mr. Maggi said.

The successful coordination of these elements will lead to more effective general liability and



workers compensation claims management programs that not only will lower claims cost but also will improve the company's public image, according to Mr. O'Brien. That will be "a great way" to generate new business, he said.

Messrs. O'Brien and Maggi were part of a panel that reviewed effective claims management during a session at the 34th annual Risk & Insurance Management Society Inc. conference, held last month in Toronto.

Mr. O'Brien, of Atkins & O'Brien L.L.P. in New York, stressed the importance of risk management coordinating with safety and engineering, which he called "the first line of defense" against claims and high claims costs.

Safety personnel can inform the risk manager about problems that have arisen and keep the risk manager up to date on various government regulations, Mr. O'Brien said.

"But the best part about safety is they're very good consultants on claims," he said.

Safety also can guide the risk manager to various experts who can help the company investigate a claim, he said.

The key to taking advantage of safety's expertise in these areas is for the risk manager to consult safety immediately after a claim is filed, he said.

Risk managers also should advocate calling in forensic engineers before a new product is marketed, suggested Mr. Maggi, the insurer attorney.

"You may not see the potential uses and misuses of a product and where your deficiencies exist," but a forensic engineer can, he said.

The engineer also may know of a feasible alternative technology used by other industries that the company should incorporate into

its product design.

That single design change can help a company defend against future claims that question whether the design was state of the art, he said.

Even if a machine with moving parts is designed with guards, the manufacturer may not be able to defend its design if operators can circumvent guards easily, said a forensic engineering consultant.

An equipment manufacturer can attach the guards with non-standard screws or special fastening systems that only a machine mechanic would know how to get past, said the consultant, Theodore J. Guis of Guis & Associates in Montville, N.J.

Mr. Guis also suggested engraving, casting or stamping into a machine's framework a warning that states an operating manual exists and explains how it can be obtained.

The equipment manufacturer cannot do much to ensure the operator will obtain and read the manual, he said. However, the warning at least will help the manufacturer defend against claims that it did not provide information on how to operate the equipment safely.

In the event of a slip-and-fall accident involving a third party, employees who take claim reports have to be meticulous information gatherers, stressed Mr. Guis, who

also is a private investigator.

"Usually, I don't get called into a case until several years after the fact. It's very difficult to work at that point," he said.

And often when an insurer calls him into a case, he gets little cooperation from risk management, he said. "They hired you, you take care of it," is the attitude many risk managers take, he said.

"But, early intervention by the risk manager and others on the scene can make my job much easier," he said.

Mr. Guis explained how quantitative observations at an accident scene can minimize claim costs, while qualitative observations are "of little use."

A qualitative observation at the scene where a customer fell on a company's sidewalk might be that a tree root raised a slab in the walkway.

A quantitative observation

would identify the street location of the slab, how far it is from the corner and how much it was raised at various points.

"If you don't document it at the time of the accident, you're giving the plaintiff a wide open arena," Mr. Guis said. At a later time, the plaintiff could claim he tripped over "the worst slab in the sidewalk," he said.

The company also has to interview witnesses immediately after an accident. "You can't wait two or three weeks. Memories diminish too fast," Mr. Maggi said.

And, in some cases, witnesses—including employees—drop out of sight, he warned. But companies can give themselves a good chance of always being able to track witnesses by immediately obtaining their names, phone numbers, addresses, date of birth, Social Security numbers and drivers li-

See Claims on next page

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Claims

Continued from previous page
cense numbers, he said.

"Without that information, it will cost more to locate one witness than it will to take the information on 100 of them," he said.

Mr. Guis also recommended tagging, bagging and storing all evidence collected at the scene.

Photos of the accident comprise another valuable information resource. "You can't take too many," he said. Mr. Guis recommended using only 35 mm film so the pictures of the scene will not fade and can be enlarged clearly later, he said.

The photographer should begin with an overall view of the accident scene and work up to very tight shots, all the while incorporating a yardstick, ruler, pen or some measuring standard to provide a later viewer a point of reference, he said.



RIMS TV helped to bring interviews and discussion to the attention of a larger audience.

A forensic engineer or an insurance adjuster can provide this early information-gathering service, but an employee can be trained to conduct this work, he said.

If a company opts to assign some employees to this task, the employer should have an accident reporting kit onsite and ready for use, Mr. Guis said. The kit should include a

floor plan, a 35 mm camera with flash, a 1-inch-wide and 25-foot long measuring tape, a brightly colored yardstick with large numbers, a small tape recorder, a clipboard with paper and a drag sled, which is a small device designed to measure a surface's slickness.

Mr. Guis further cautioned risk managers not to be intimidated if a plaintiffs attorney argues that their company's product or premises violates a safety code or standard. There often is no statutory basis for those standards, he said.

Noting that more companies are assuming a greater percentage of their risk through large self-insured retentions and deductibles and retrospectively rated programs, Mr. O'Brien urged risk managers to press their insurers for the right to select the attorney who will defend their companies against claims.

"If you're assuming more of the risk, you have a bigger interest in

whom you pick as your lawyer," he said. A risk manager wants an attorney who is loyal to the risk manager, not to the claims adjuster to whom the attorney will be looking for his or her next case, Mr. O'Brien said.

Selecting the attorney gives the risk manager more control over legal counsel and how the company approaches each claim, he said.

Another benefit of selecting an attorney is that the counsel, if retained over the long term, will have a much better sense of the company's history, products, industry, strengths and weaknesses than would attorneys that the company's insurers would select, Mr. O'Brien said.

"But, remember, it's not the law firm you hire—it's the attorney," Mr. O'Brien cautioned risk managers. "Every time you change a lawyer, you start over."

He also advised risk managers to never select a lawyer based on his or her fees. The selection should be based on whether the lawyer will "do what you want him to do."

Risk managers' role in the partnership includes making documents available to legal counsel so lawyers do not have to spend a lot of time—at the company's expense—hunting for that material.

Risk managers should have a records management program to make that process efficient, he said.

Good records can be a "double-edged sword" because in some cases they will help a plaintiff's case, Mr. Maggi acknowledged.

Still, "even if it goes against you, then you know what you're facing," he said. "Then you can focus on the settlement and keeping costs down."

Mr. Maggi warned, though, that companies have to keep records in some prescribed manner as a regular course of business. If they do not, material that could help the company prove its case may be inadmissible in court, he said.

In the workplace safety area, this documentation should include training manuals signed by employees to attest they received proper instructions to operate machinery.

Companies also should document their mandated safety procedures.

To guard against product liability claims, records should show that the company used only good material and discarded defective material. For component parts used in production, a company should maintain serial numbers, warranties, information on applications of the components and manufacturers' recommendations regarding use of the components.

"At least you can show, by keeping records, that you did everything right before (the product) left your hands," Mr. Maggi said.

That same level of control over an insurer's claims administration arm is equally important for risk managers, he said.

Jonathan Lawlor, corporate risk manager for Louis Dreyfus Holding Co. Inc. of Hartford, Conn., recommended ascertaining whether a third-party administrator is overworked. Depending on the types of claims, a claim workload in excess of 800 to 1,400, a desk overflowing with paperwork and a history of not returning phone calls promptly indicate the TPA may have more than he can handle, Mr. Lawlor said.

Keeping senior management apprised of the number, severity and settlement of claims also is paramount, Mr. O'Brien noted.

"No program is ever going to succeed without top management support," he said. "If you never talk to them, they'll never have any faith in what your program" is all about.

Dr. Bertram M. Kummel of Morristown, N.J., listed attributes that companies and risk managers should seek in medical providers.

Mr. O'Brien moderated the session, which Mr. Maggi coordinated. **BI**

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Improved coverage there for the asking

Panel details no-cost policy changes that significantly broaden coverage

By GAVIN SOUTER

TORONTO—Risk managers can greatly enhance their insurance coverage for little or no cost “just by asking,” experts say.

Insurers often are willing to make minor policy changes that can add up to significant increased coverage, and especially in the current soft market, a panel of experts said at the 34th annual Risk & Insurance Management Society Inc. conference held last month in Tor-

onto.

The coverage improvements that can be obtained for free make it easier to amend and broaden coverage, said David J. Undis, principal and senior vp at Johnson & Higgins of Tennessee Inc. in Nashville.

Several general improvements are available for most insurance policies, he said at a session at the RIMS conference.

For example, rather than simply covering a parent company, policyholders can obtain coverage for subsidiaries, partnerships, joint ventures and other controlled entities by using a “broad form named insured” clause.

Another general improvement is amending the disclosure clause. Ordinarily, this clause voids coverage if policyholders fail to make accurate and complete disclosure of relevant facts, but insurers usually will amend it so that unintentional failures to disclose will not

RIMS Report

Risk Management

void coverage, said Mr. Undis, who coordinated the session.

Requirements that losses be reported as soon as they are known also can be modified.

“You can have problems with this. For example, you have an incident that doesn’t appear to be a big deal and the only person that knows about it is the night watchman and then two months later you find out about it,” Mr. Undis said.

He advised amending the policy so that the duty to report the loss is only triggered when a risk manager learns of a loss.

Specific coverages also can be improved through amendments to policy wordings.

For example, workers compensation coverage can be extended to cover employees not covered by statutes, such as domestics and farm laborers, and U.S. citizens working overseas, said Marilyn K. Wojcik, underwriting specialist in the umbrella and excess department at Zurich-American Insurance Group in Nashville, Tenn.

“You may not anticipate needing the coverages, but you can add them anyway for no cost,” she said.

Workers comp coverage also can be extended to cover the cost of bringing deceased or disabled employees home from overseas, Ms. Wojcik said. Most insurers will add coverage up to at least \$25,000 for repatriation.

Free general liability enhancements, she said, include amending the absolute pollution exclusion to provide coverage for “hostile fire”—fires in places where fire is not intended—and completed operations.

And employee-related coverages also can be improved for little or no cost, she said.

For example, coverage for errors and omissions in the administration of employee benefit programs; the definition of an employee for

See Just ask on page 28



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Just ask

Continued from page 26

all coverages can be amended to include temporary workers; exclusions that remove coverage for damages from discrimination can be amended to apply only to employment-related claims.

Other general liability improvements include: amending the general aggregate to apply per project or location; increasing fire legal liability limits to \$100,000 from the usual \$50,000; and coverage territory definitions can be amended to worldwide for all activities and products, Ms. Wojcik said.

Auto liability policies can be improved for free. For example, policyholders can add "drive other car coverage," which applies only to employees who have company cars but do not own and insure other cars. "You might have an employee that has a company car over weekends but he borrows a truck to pick something up (and doesn't) have personal auto coverage because he

Umbrella and other excess policies often are overlooked by policyholders but they, too, can offer opportunities to improve coverage, Ms. Wojcik said.

"I'm often surprised by people that spend a lot of time on their primary program and then when they go to the umbrella they just look at the price. Every underwriter has their own form," she said.

Coverages that might not be included in an umbrella policy unless they are specifically asked for include: liquor liability; garage keepers legal liability; pollution; contractual liability; uninsured motorists; and aircraft liability.

Property policies should be checked for possible free improvements, said Gerald F. McCabe, director in the risk management department at Burlington Industries Inc. in Greensboro, N.C.

For example, check for debris removal coverage.

Coverage is generally subject to 25% of the amount of loss or a specific dollar amount, whichever is the greater. Make sure the percentage is

rapid accumulation or runoff from surface waters from any source, Mr. McCabe said.

Policyholders with separate insurers for property risks and boiler and machinery risks should ensure that each policy contains a joint loss agreement, he said.

"This agreement defines how a loss will be paid when there is a dispute over which policy should respond to the loss," Mr. McCabe said.

Property coverage can be amended to protect the brand or trademark of a company, he said.

This coverage proved very useful to Burlington several years ago when it had a warehouse collapse that caused a \$8 million loss. Included in the damage were rugs housed in the building.

"Our problem was that we thought a lot of them were salable and they would be sold for \$3 or \$4 a rug when we would be selling the same thing down the road for \$8," Mr. McCabe said.

Fortunately, Burlington's policy had previously been amended to give the company full salvage rights so it was able to buy the merchandise back from its insurer, Industrial Risk Insurers, he said.

Directors and officers liability contracts, which come with a variety of wordings, can be enhanced free of charge, said Kirk L. Jensen, senior vp at Johnson & Higgins in New York. Risk managers should start by checking three definitions.

First, any reference to "negligent" should be deleted from the definition of a wrongful act, Mr. Jensen said.

When D&O coverage was first constructed decades ago, "no thought was given to a director or officer being sued for an action that was not negligent," he said. Despite

the changing environment for litigation, some policies still contain the term negligent, Mr. Jensen said.

Second, the definition of a director or officer should be extended to include specified non-officer positions and foreign titles. For example, the managing director of a subsidiary in England, where the term

to 20% of consolidated assets of the policyholder, Mr. Jensen said.

"There is no reason for you to have an uninsured loss just because no one told you that you have just acquired a small company in Spain," he said.

The first way to take advantage of crime coverage is to buy it in the

'There is no reason for you to have an uninsured loss just because no one told you that you have just acquired a small company in Spain,' says Kirk L. Jensen of J&H.

"officer" is not generally used, should be covered, he said.

Thirdly, the definition of the company or organization covered should be extended to include subsidiaries, partnerships or any other related companies, Mr. Jensen said. "Ensure that your program matches your exposures."

Certain exclusions should be adjusted or deleted, Mr. Jensen said.

For example, the exclusion that removes coverage for suits brought against the company by directors and officers should include an exception for employment practices claims, he said.

Exclusions that should be deleted include: failure to maintain insurance; commissions and illegal payments; and outside positions when serving in a non-profit capacity, Mr. Jensen said.

Other coverages should be added to D&O programs, he said.

For example, coverage for newly created or acquired assets should be automatic up to a threshold of 10%

first place, Mr. Jensen said.

"Get it and get a lot of it—it's cheap," he said. And several free amendments can make it even more of a bargain.

First, the definition of the insured should be modified to include associations, societies and clubs of employees, he said.

Then, if the definition of money orders and counterfeit currency refers only to dollars, it should be amended to include any currency.

And the definition of a messenger in the policy should be extended to include any person who might deliver something, Mr. Jensen said.

Finally, the definition of an employee in a crime policy should be amended to include: all non-compensated officers; all directors and trustees performing duties of an employee; any member of any committee elected to examine or audit; retired employees retained as consultants on a contingent or part-time basis; and temporary personnel from agencies, Mr. Jensen said. ■

Employees that use their own cars for company business can usually be added to a corporate policy, says Marilyn K. Wojcik of Zurich American.

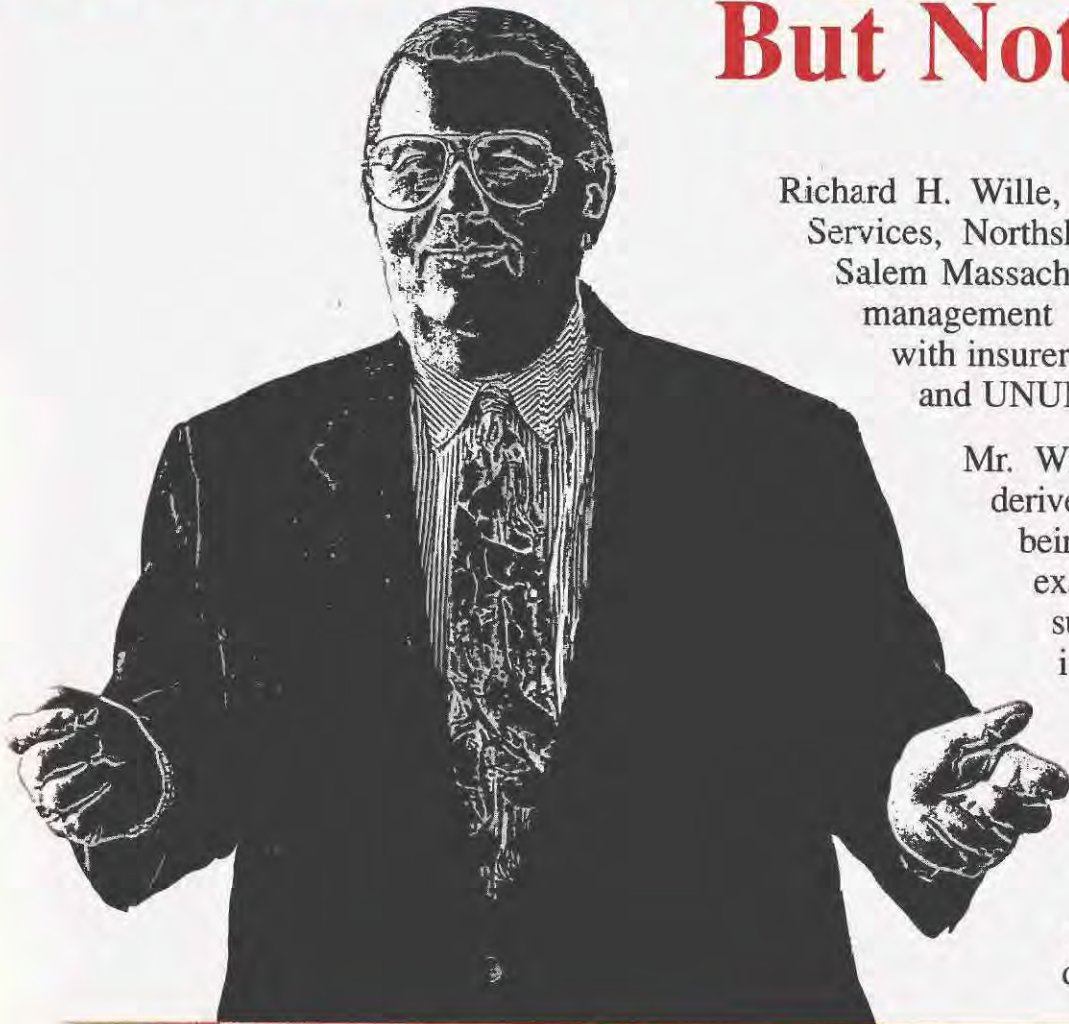
has a company car. So you should add this coverage to your program," Ms. Wojcik said.

Similarly, employees that use their own cars for company business can usually be added to a corporate policy, she said.

applied to your physical damage and time element loss, before deduction for any deductibles," said Mr. McCabe, who moderated the session.

Flood coverage can be modified to include coverage for unusual and

Surveillance Disappoints Some People, But Not This Guy



Richard H. Wille, National Director of Disability Management Services, Northshore International Insurance Services Inc. of Salem Massachusetts, has been actively involved in disability management for over thirty years. He has been affiliated with insurers and employers alike, including CNA, Allstate and UNUM.

Mr. Wille lectures on the many benefits which are derived from surveillance, one of the major benefits being the millions of dollars his clients have saved on exaggerated disability claims. He feels as though surveillance is essential in many cases and InPhoto is the only company he could recommend.

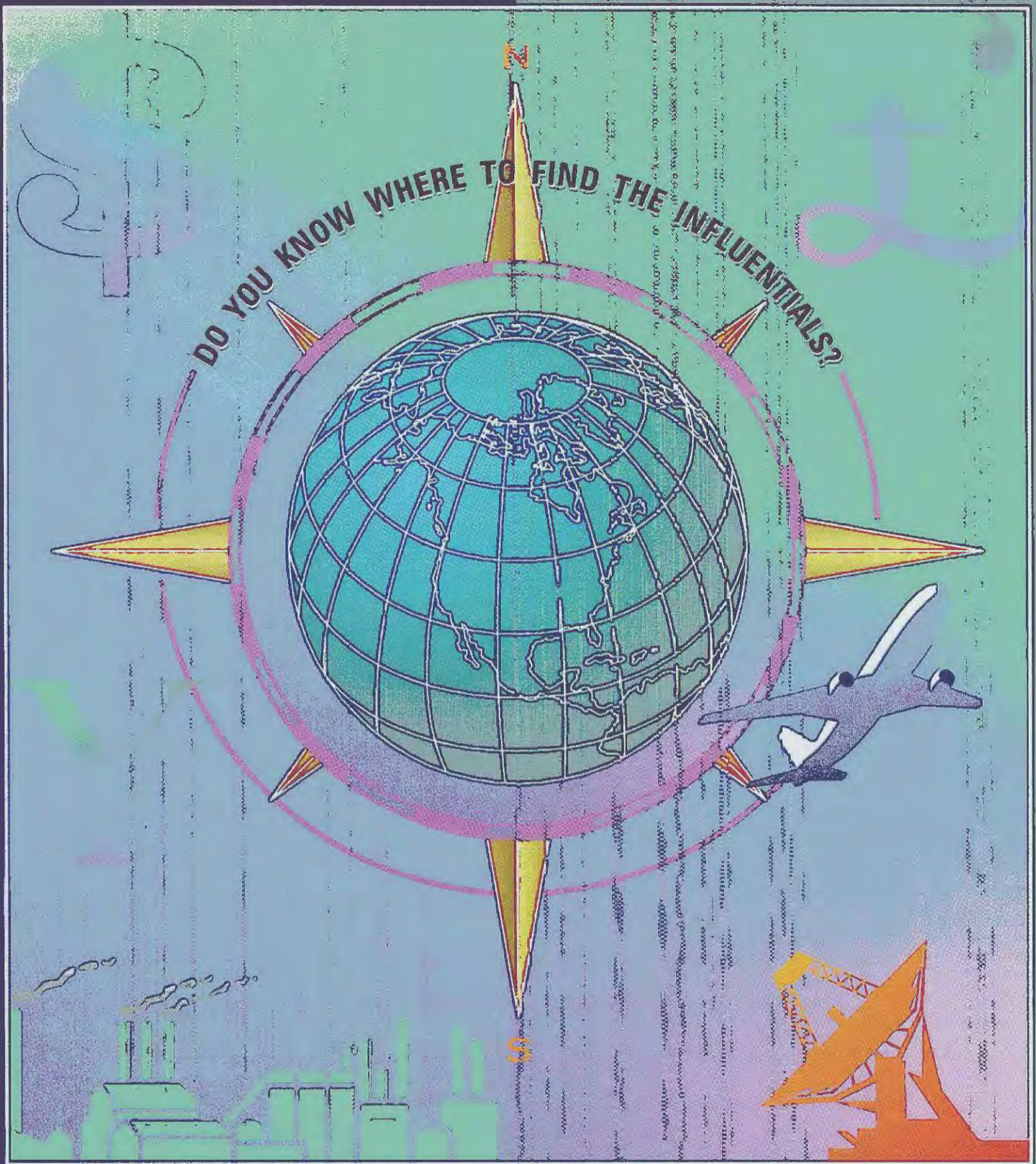
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Environmental risks may be job enhancing

Helping solve thorny problem can raise stature in firm

By MICHAEL SCHACHNER

TORONTO—Environmental liability is so crucial a corporate exposure that it provides risk managers with an opportunity to get into the board room and enhance their careers, according to a broker.

Until recently, managing environmental exposures was more the job of corporate legal and operations personnel than that of the risk manager. And, the way they typically managed it was for the legal department to stifle information and for operations people to say everything was under control.

But the risk manager's role in dealing with environmental issues is more important now than ever before, said David Dybdahl, managing director-environmental risk management with Willis Corroon Corp. in Nashville, Tenn.

Speaking at a session on preemptive environmental risk management strategies at the 34th annual Risk & Insurance Management Society Inc. conference, held last month in Toronto, Mr. Dybdahl said companies have finally realized that they can no longer

rely solely on lawyers and engineers to identify, control and manage the growing environmental liability exposure.

rely solely on lawyers and engineers to identify, control and manage the growing environmental liability exposure.

"Science is a big part of this risk, as is law. But you can't go into corporate meetings relying on corporate legal or operations because they don't understand how insurance works. So, you can really get some teaming going," he said.

Anthony J. Burlando, vp-risk management with the Hillman Co. in Pittsburgh, agreed that the importance of the risk manager's job at most large corporations is evolving, largely due to risk managers taking on responsibility for handling environmental liability.

"Risk managers always just managed natural disasters. But then came along man-made disasters. We could deal with all the fires and floods, but it's these artificial risks that are new, and they are new. (The Resource Conservation and Recovery Act) was only passed in 1976. Superfund followed in 1980. We still don't know what the impact will be from these environmental statutes on the bottom line of the companies we work for," he said.

Messrs. Dybdahl and Burlando offered their opinions on various environmental risk management subjects in response to questions from session moderator Cheri Hawkins, assistant treasurer and director of insurance with Weyerhaeuser Co. in Tacoma, Wash.

When asked what skill sets risk managers need to develop on a continuing basis to deal with growing environmental liability, Mr. Burlando said the area is far more scientific than other areas of risk management, thus, "If I was starting out in this field, I'd take a chemistry or a physics course, or I'd at least attend a class or two to familiarize myself with the lan-

guage." Mr. Dybdahl, meanwhile, suggested that risk managers work on their comfort level before the corporations' upper management team. "You can ride environmental risk management right into the board room. If your company is considering a \$200 million acquisition of land or another company and the risk manager is not involved, that's a big mistake."

Ms. Hawkins reiterated that in today's corporate culture, the barriers between different departments have been broken down and opportunities for risk managers to step up have improved. Thus, she asked the two speakers to assess how "teaming" between

once separate departments is benefiting risk managers.

"No one knows less about insurance than attorneys," said Mr. Burlando. "These broken down barriers are really serendipity for risk managers. (Other departments) really need you. I don't think there's any limit in what you can get involved in. These days it's, 'Put me in, Coach, I can do it.'"

With this more aggressive attitude, however, comes conquering any fear of failure a risk manager may have. "But that's something that should be overcome," he added.

Mr. Hawkins asked whether the perception that environmental

risks are hard to manage was created by a growing number of regulations, i.e. Superfund, or a lack of knowledge among those that are charged with tackling environmental risk management.

"Behind workers compensation and health care, environmental is the highest-ranking risk in terms of perceived difficulty. A big problem is getting information. There are more environmental laws than tax codes, so in a stripped-down corporate environment, like many are today, it's hard to go after," said Mr. Dybdahl.

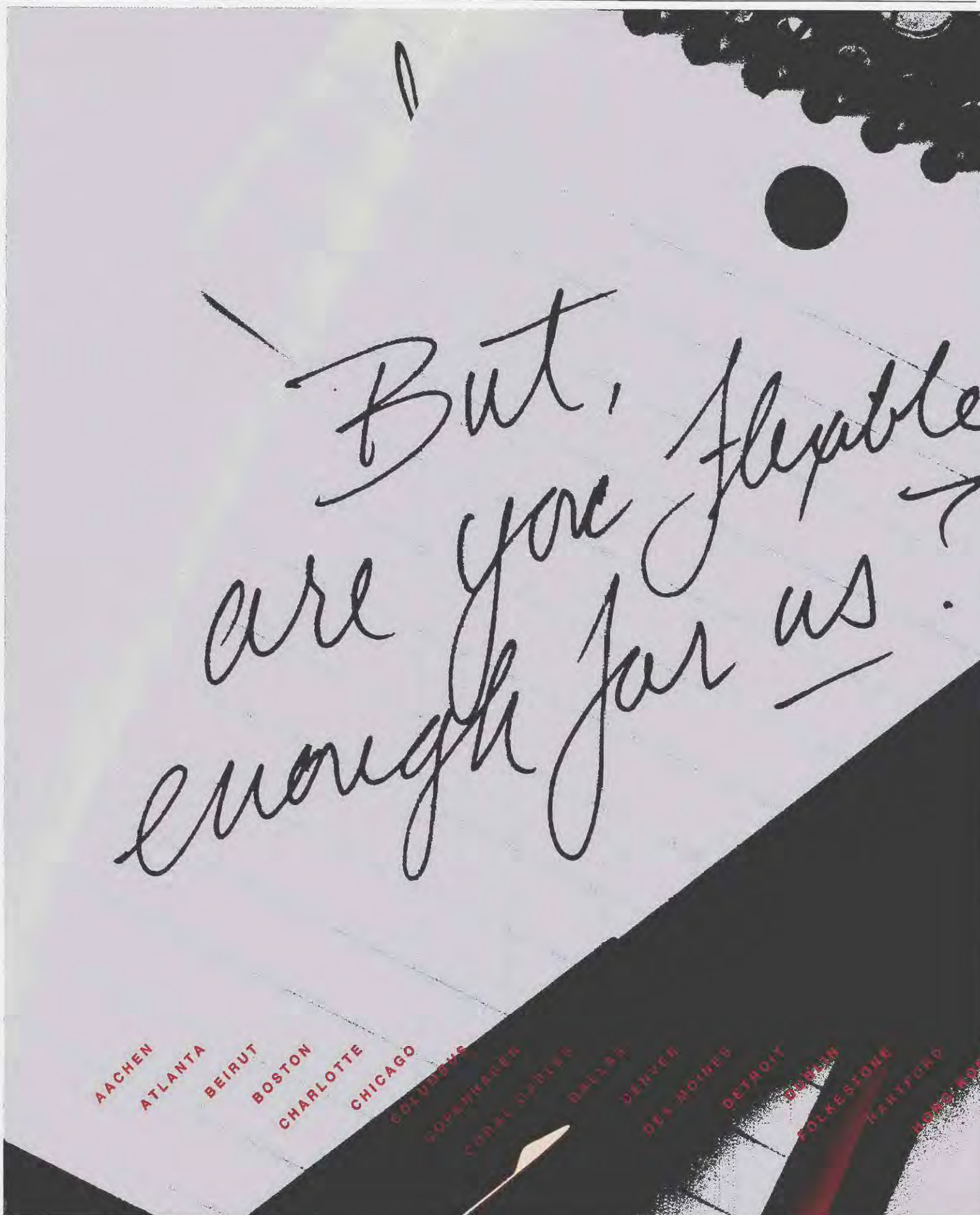
As to why environmental risk is perceived as hard to manage, Mr. Dybdahl said lawsuits, common law rulings and added regulation are fueling the fire of mispercep-

tion. "A paper company in Georgia is now being sued by 13,000 people for pouring PCBs into a river in 1954, but did anyone get hurt? Is there any cause and effect between PCBs in 1954 and injuries? But because of this, damage potential increases every day."

Furthermore, Mr. Dybdahl said certain states permitting joint and several liability and the fact that insurance companies deny most claims at first, and litigate many to the bitter end, also have helped paint the picture of environmental risk being a tough one to manage.

Mr. Burlando, meanwhile, was more blunt. "The reason for this perception: They are!" he said. In addition, retroactive liability and asset conversion without due process "are both devious and must have been written by a very mean, Cro-Magnon lawyer."

When asked how traditional
Continued on next page



Continued from previous page
 risk management tools apply to the prevention and control of environmental risks, both panelists said the conventional approach of identifying, controlling, managing and preventing more of the risk doesn't really work.

"The old process is linear and doesn't really lend itself to environmental," said Mr. Burlando. "So, you really need to investigate and keep your eyes, ears and noses open all the time. You're the interpreter for the team we talked about and it sure helps to know a little chemistry and to be able to identify the uncertainties. Basically, it's the five I's: investigate, interpret, inform, influence and integrate. Risk managers can't do it all. The plant manager must be taught spill control, for example."

Mr. Burlando emphasized that the old days of test and clean up are gone. "It's more risk assess-

ment and measurement today."

Mr. Dybdahl did not disagree. "Prevention and control in the linear model actually work, but it's the identification that's hard. Just look at contracts closely. That's where the greatest exposure is and that's basic."

'Basically, it's the five I's: investigate, interpret, inform, influence and integrate,' says Anthony J. Burlando.

Lastly, Ms. Hawkins asked what risk financing options are there for environmental exposures other than avoiding it altogether in contracts.

"There are new products being

offered that are real insurance. The premiums are reasonable as are the terms," said Mr. Burlando. "It's like HPR today. If you learn about the products, it'll enhance your career."

Mr. Dybdahl also said the insurance market is responding to a historical lack of comprehensive environmental coverage.

"Due to exclusions or vanilla markets, there have been gaps in coverage. Now, there are more than 100 insurance products out there that respond directly to EIL, although I'm not saying there are 100 different policies. And even with a known prior acts exclusion, which is common, you can still collect a lot easier under a pollution policy than general liability," he said.

David Kuhnke, executive vp with the Merit Group Inc. in Hartford, Conn., coordinated the session. **BI**



MICHAEL A. MARCOTTE

The Risk & Insurance Management Society Inc. used its annual conference to unveil its new home page on the World Wide Web. For more information, see story on page 21.

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Managing new product liability exposures

No relief likely from federal lawmakers

By DAVE LENCKUS

TORONTO—Changes that manufacturers are making in the way they conduct business potentially create new product liability issues for risk managers, a consultant says.

Although federal product liability reform legislation is going nowhere, new legal issues "are coming along at a pretty fast clip," observed Kathryn Turck Rose, a senior risk

management consultant with Coopers & Lybrand L.L.P. in New York.

From starting up a company to outsourcing various elements of production to selling products globally, risk managers will face numerous product liability risks with which they have not dealt previously, Ms. Rose said during a session at the 34th annual Risk & Insurance Management Society Inc. conference in

Toronto last month.

The session was held a week before Congress sent the product liability reform legislation to President Clinton, who was expected to quickly veto it (*BI*, April 1).

The reform legislation, if it survived, would have addressed several longtime concerns of business. Among other things, the measure would have:

- Limited punitive damages in most product liability cases to the greater of \$250,000 or twice com-

pensatory damages.

- Required plaintiffs to present a stronger case to obtain punitive damages. It would have raised the standard of evidence to clear and convincing from the current preponderance of evidence standard. It also would have required plaintiffs to show that defendants acted with a conscious and flagrant indifference to the safety of others.

- Eliminated joint liability for non-economic damages and allowed states to determine whether to re-

tain joint liability for economic damages.

- Barred product liability lawsuits over capital goods and work-place durable goods that have been in use more than 15 years.

- Reduced an award by the percentage of blame for an injury that is attributable to the plaintiff's misuse or alteration of the product.

Regardless of the failure to enact federal reforms, risk managers still have to negotiate a continuously evolving product liability landscape, according to Ms. Rose.

Even in a soft market, some startup companies, which do not have a product liability track record, will have trouble finding affordable coverage, Ms. Rose said. Many underwriters will seek premiums equal to the startup company's expected profits, she said.

However, other insurers may look at the experience that the startup company's management had at other companies, she said.

Long-established companies also face new product liability issues.

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RIMS Report

Risk Management

Among them is the trend toward outsourcing some production steps. Chances for product failure increase as the number of people and companies involved in making a product grows, she said.

As a result, risk managers must make greater efforts to control that increased risk, she said.

Claims arising from some types of failed products may not even be covered by product liability insurance in the future, Ms. Rose mused. The consultant said that software producers eventually may find that they will need errors and omissions insurance rather than product liability insurance to cover claims for losses that are attributable to faulty software programs.

Globalization also poses risks, while offering potential financial rewards. Risk managers have to be aware of the product safety standards and the legal system in each foreign region in which the company operates, Ms. Rose said. "Things can get complicated."

Product liability risks pose a unique challenge for risk managers, said Anita DiGiulio, risk and insurance manager for The Hartz Group Inc. of Secaucus, N.J. "Product liability gives you an opportunity to use everything you know about risk management."

To get an early read on potential product liability problems, risk managers should keep in touch with consumer relations staff, Ms. DiGiulio advised. They are the company's first line of defense against claims, and they can point out an unusual number of claims involving certain products, she said.

If nothing else, consumer relations can provide a risk manager some comic relief, according to Ms. DiGiulio. For example, she recounted a complaint filed with a Hartz consumer relations representative about the company's canary seed. The consumer grumbled that she planted the seed but a canary never grew.

The conference session was moderated by Ms. DiGiulio and was coordinated by Ms. Rose.

Anne B. Allen, legislative counsel for RIMS in New York, also spoke on the panel.





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International trade demands global insurance programs

Canadian companies at the forefront of using global programs

By GAVIN SOUTER

TORONTO—The pivotal role that international trade plays in the Canadian economy often makes a global insurance program a similarly crucial part of a Canadian risk management program, risk managers say.

Canadian risk managers can gain far better control over their companies' far-flung exposures if they take steps to centralize insurance buying, regardless of whether their corporate culture itself is centralized, they say.

By using a global insurance program the risk manager can gain better leverage with insurers, ensure high safety standards are applied throughout the company, gain more capacity for catastrophe coverage and increase the profile of risk management with

high-frequency/low-severity risks and only buying insurance for low-frequency/high-severity risks, Mr. Catudal said.

Also, Alcan seeks to maintain highly protected risk standards throughout the company's locations worldwide. Currently about 70% of its locations are protected to HPR standards, he said.

"You have to have standards that are that same," Mr. Catudal said.

And it is not just loss prevention engineering standards that have to be uniform: access to policy

limits, access to the risk management department and access to insurers has to be granted to all operating units on the same basis, he said.

This uniformity also should appear in the insurance program, said Mr. Catudal, explaining that the global spread of insured assets should be matched by the global spread of insurers.

For example, if 40% of a corporation's assets are based in Europe, then 40% of the insurance capacity should be obtained from European insurers, he said.

"This helps the European subsidiaries accept the fact that the program is global and not just North American HPR-driven," he said.

Implementing loss prevention engineering standards unique to the company also can help obtain subsidiaries' acceptance of a global insurance program, Mr. Catudal said.

For example, Alcan's HPR standards are a combination of Factory Mutual standards and European engineering standards, he said.

To successfully implement a global insurance program risk managers have to select their insurers carefully, according to Mr. Catudal.

The insurers must be prepared to enter a long-term relationship with the policyholder, he said.

"They must look at loss experience over a 10- to 15-year term,

and if they are making money they are happy, and we can amortize the premiums over the period, and we can get a better deal," Mr. Catudal said.

Also, global programs are more effective if they are layered rather than purchased from a few insurers, he said.

Layering coverage can increase the available capacity for tough lines, Mr. Catudal said.

For example, one insurer's net capacity may only include \$40 million or \$50 million in earthquake coverage. However, by using several insurers, the net earthquake capacity available from all of them might total hundreds of millions of dollars, he said.

The policies themselves should be manuscripted for a global program to meet all the needs of a policyholder, Mr. Catudal said.

In exchange for prompt report-

Continued on next page



senior management.

But the implementation of a global program is not always simple or straightforward. International diplomacy is a necessary aspect to any global insurance program, risk managers say.

The international nature of the Canadian economy drives Canadian risk managers to the forefront of global risk management, according to Pierre Catudal, director of risk management and insurance at Alcan Aluminium Ltd. in Montreal.

While Canada has a population whose size only ranks somewhere between Morocco and Colombia, its economy is the seventh-largest in the world and it is the No. 1 trading partner of the United States, he said.

"As our domestic economy grows, but our market population remains small, we have to chase business outside of Canada," Mr. Catudal said.

Consequently, Canadian risk managers often face international risks not presented to similarly sized companies in the United States, he said.

"Often, we have a smaller sales and asset base in Canada than we do outside of Canada, so it's logical that we have a global insurance program," Mr. Catudal said.

And global programs can be set up for centralized or decentralized companies, he said.

"We used to be a decentralized company, but now we are centralized and we have the same global insurance program," Mr. Catudal said.

What is needed for a global insurance program to work effectively is uniformity, he said.

First, there must be a consistent corporate philosophy regarding risk, Mr. Catudal said.

"You are going to act as a missionary and preach the gospel according to the head office, and if they do not have the same philosophy about risk, you will find that your job as a missionary is very difficult," he said.

Alcan's risk philosophy starts with its policy of self-insuring

Protect

Factory Mutual System

Continued from previous page
ing of losses, we want to have a broad wording so that all of our assets are covered," he said, adding: "All of the forms that are provided by insurers are there to protect insurers."

Finally, risk managers need to be unconventional when they are buying a global insurance program, Mr. Catudal said.

For example, in many countries convention dictates that a certain percentage of a risk should be ceded to state reinsurers, but there may be no law mandating such conventions, he said.

"If you want to be state of the art, be willing to be unconventional," he advised.

Bombardier Inc. was seeking to bring more coherence to its insurance coverage when it set up its global insurance program in 1989, said Marc Darby, director of risk management and insurance at the

Montreal-based transportation equipment manufacturer.

Problems arose from rapid expansion of the company, often achieved through acquisitions. Over the past 10 years, he said, the company's income has grown to \$7.1 billion Canadian (\$5.21 billion at current exchange rates) from \$405 million Canadian (\$297.3 million at current exchange rates), and the number of employees has grown nearly five-fold to 32,000 from 7,000.

The risk management department was faced with a growing number of new divisions, each with different insurance coverages in place, Mr. Darby said.

Mr. Darby said he wanted to replace it with a single global program that would bring central control of risk financing to the risk management department.

A key part of the global insurance program is the captive insurer that Bombardier established in Barbacos

in 1989, he said.

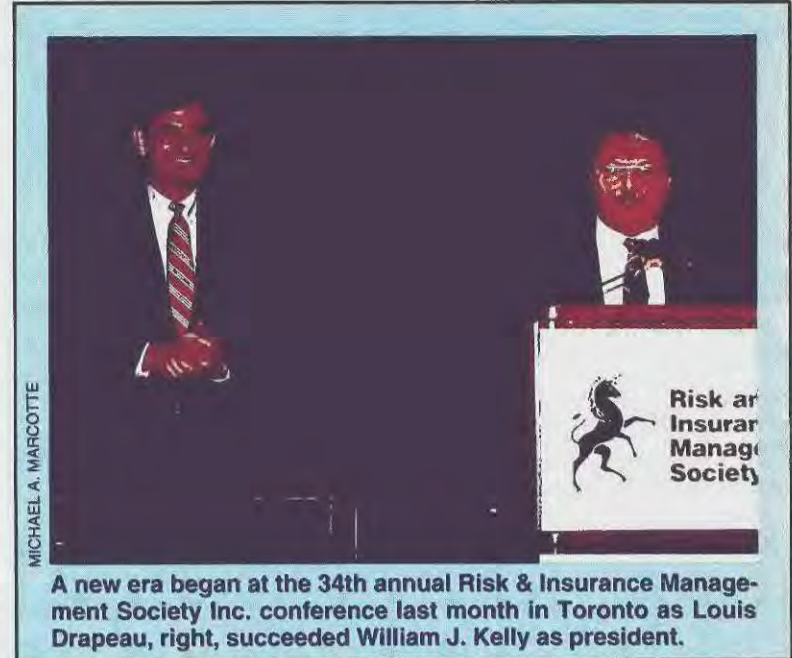
The captive allowed Bombardier to "make a buck" and enabled the company to wrest control of the company's insurance from its insurers, he said.

Currently, the captive covers mainly property exposures but it will likely be expanded to cover additional risks, he said.

The captive helped provide uniformity of coverage and rates for all of the locations, he said.

"And it is easy for us to add new locations to the program," Mr. Darby said.

The session was moderated by Maurice J. Smith, director of risk management and corporate real estate at CCL Industries Inc., a personal care products manufacturer in Willowdale, Ontario. It was coordinated by Peter Cleyn, senior vp and manager of the risk management division at Johnson & Higgins Ltd. in Toronto. **BI**



A new era began at the 34th annual Risk & Insurance Management Society Inc. conference last month in Toronto as Louis Drapeau, right, succeeded William J. Kelly as president.

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Agent/Broker Topics

Agents and insurers in a love/hate affair

By MICHAEL BRADFORD

Insurance companies and agents are either getting along fabulously or they're at each other's throats.

The point of view regarding the tricky relationships between underwriters and the agencies that provide them with business depends, in many cases, on which side of the commission you're on.

Some agents feel like unloved stepchildren when asking for ser-

Two sides tend to see same relationship from very different perspectives

vices they need, while many insurers believe they are trying hard to keep the love alive.

Some small, independent agents, in particular, are feeling rejected while larger intermediaries are a little cozier with underwriters.

Agents concede that insurers in many cases would like to meet their needs, but simple economics means some agents are not

getting the attention they want no matter how they yell.

"It isn't that they aren't trying to keep the agent in mind, but I don't think one agent or a small group of agents is going to get listened to" by insurers, said Kelsey Wood, president of Gordon Wood Insurance Agency in Roseburg, Ore.

"I've never had an insurance company listen to one specific

thing and then change it for me," he noted. "I do know some agencies with enough clout or some that scream loud enough" to force changes from insurers, "but it's just not normal."

"Somewhere between comatose and the crematorium" is how Hartwig Moss, president of Hartwig Moss Insurance Agency Ltd. in New Orleans, characterized insurer/agency relations.

"The number of agencies is dwindling drastically and largely because of economics and the

actions insurance companies have taken," said Mr. Moss. "Things have not exactly been rosy for agents."

The general business climate has led many insurers in recent years to be more selective in the number of agencies they use and to cut expenses by scaling back on services, agents noted.

Insurers "are trying to rationalize their operations," he said. "Some do it better than others. Some can do it without tearing up agency relationships."

Within the changes are the "seeds for a lot of conflict," he added. Some insurers will work harder than others to keep agency relations smooth. "A lot depends on the leadership out there and the vision people have on the company side."

"We are very affected by what they do and don't do," said Mr.

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GRAPHIC BY KYLE LOCKWOOD

Moss. "Agents are getting less. Less loss control services, underwriting service, commissions, you name it."

Insurers agree that business conditions and economics are molding the relationships between the entities.

"The reality of life is that the smaller agents are finding it tougher and tougher to have a variety of markets," said Fred Hyer, executive vp in charge of worldwide marketing at Chubb Corp. in Warren, N.J. "The days of the \$2 million agent having seven or eight companies have gone the way of the dodo bird."

Larger brokers are probably OK, he noted, because they can supply enough premium volume to keep markets interested. "Their future relations with the industry will probably be fine. The smaller guy's got a problem. That's a trend that's been going on for years and years."

"The independents are struggling because of increasing volume demands," agreed James Emert, vp-agency sales at Nationwide Insurance Group in Columbus, Ohio. "What I'm hearing is that even though they are independents, it's gotten to the point where they have to have so much volume with one company that they're almost an exclusive agency."

Insurers say they realize agents are the lifeblood of their business and are working to keep
See **Relationship** on page 36D

prevention manager for Alcan Aluminium Ltd. of Montreal. **BI**

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Agent/Broker Topics

Relationship

Continued from page 36B
agents happy.

"We know who the most important person in the business is—the agent," said Erwin Cheldin, chairman of Crusader Insurance Co. in Woodland Hills, Calif. "Our job is to supply the agent, who is the one in the trenches fighting the battles."

He said he doesn't think most insurers respond to agents quickly enough. That's why his company offers quotes over the telephone and policy issuance in two or three days. "A big issue

with agents is fast service, fast quotes and policy delivery."

Others say intermediaries and underwriters just don't talk to each other as often as they should.

"One of the things that we hear pretty frequently is the continued need to communicate on what we are doing as a company," according to Michael Mahoney, assistant vp-agency support for Travelers/Aetna Property Casualty Corp. in Hartford, Conn.

"And more importantly," he added, "what we are going to do with regard to business strategies. We hear that request time

and time again."

"There's always room for smoother relations," said Mr. Mahoney. "But I would describe our overall relations as pretty solid. Both (Aetna and Travelers) have done a pretty good job of communicating what we do and why we are doing it."

Nationwide's Mr. Emert said, "Our relationships are as strong as they have ever been. But that certainly doesn't mean we don't have challenges."

He agreed communication is the key element in keeping a harmonious relationship. Nationwide produces regular publications and special bulletins as

needed to inform its agents of product offerings, changes at the company and other news.

Nationwide agents can suggest to the insurer ways to improve delivery systems, enhance products or other ideas to help them become more efficient.

Agents frequently request training support, Mr. Emert said, and he suspects this is true even of intermediaries that don't do business with Nationwide. The insurer provides help with teaching agency staff the ins and outs of various products, sales techniques and computer processes.

"We are an exclusive agency company," he said. "Our agents

have taken us where we have gotten so far and they will take us where we are going in the future."

"In general, our agency relationships are pretty good," said Chubb's Mr. Hyer.

"We work hard at it." Mr. Hyer said he and other executives meet frequently with agents and gather feedback on their needs.

Generally, agents tell the insurer they are pleased with the service they receive from Chubb but wish the insurer would write more kinds of business so they could place more there, Mr. Hyer said.

CNA also is pleased with its relationship with agents.

"We're proud of the relationships we have. We've always worked closely with our agency partners," said Dale Hart, executive vp-chief distribution officer for the commercial lines group at the Chicago-based insurer.



CNA communicates with agents through its PACER program, originally named the Professional Agents Council of the Eastern Region when it was formed in 1967. Although its scope has broadened, the insurer has kept the acronym. The program is conducted through a series of meetings with intermediaries in the spring and summer.

"We've been real comfortable that PACER has served us well to make sure there is open dialogue at all levels with agents and we've truly gotten grass-roots feedback," Mr. Hart said.

Agents agree that frequent dialogue helps agents and insurers discover each other's needs and how to meet them.

Chandler-Frutes & Reitz, a Tulsa, Okla.-based agency, holds meetings annually with insurers to build new partnerships and work on existing ones, said Chuck Taylor, chief marketing officer.

There's lots of open dialogue at those meetings with underwriters, claims handlers and other personnel from the insurance companies, he said.

The agency prepares a report card that grades how insurers are doing and they get one from the insurers.

Some meetings involve regional vice presidents and in those discussions strategic alliances may be formed, said Mr. Taylor.

"We don't view our relationships as adversarial," he said. "We view them as partnerships in the true sense of the word."

Others agree and say insurers' efforts are paying off.

See **Relationship** on page 36F



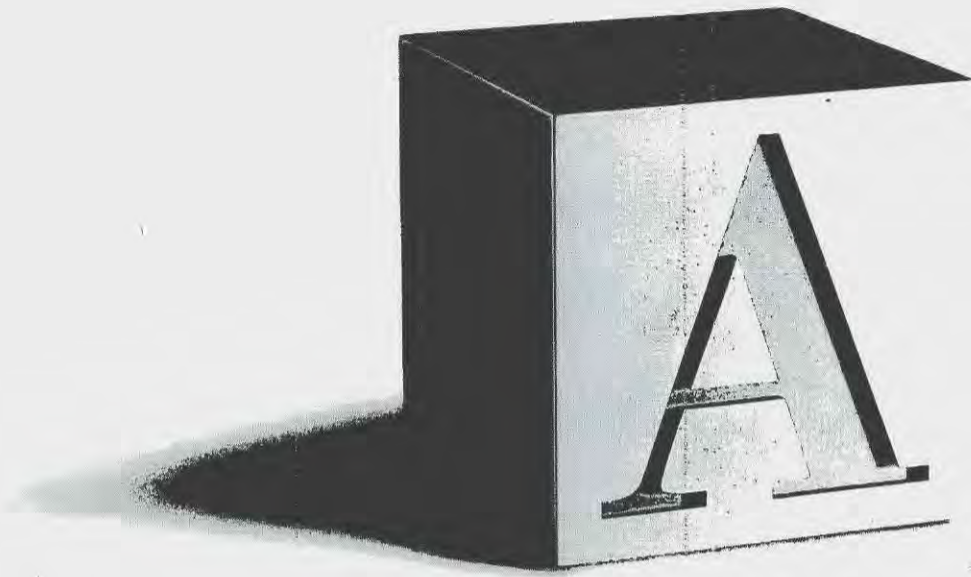
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Relationship

Continued from page 36D

"We see the markets as making a real large effort currently to be certain that they have open communications and that they know what we need and what they need to be for the clients," said John T. Lockton, chairman and chief executive officer of the Lockton Cos. in Prairie Village, Kan.

"A lot of companies have done their re-engineering," Mr. Lockton added, and now that they are in good shape they are looking for business. That means

they will be eager to have good working relationships with the agencies that will bring them that business.

Mr. Lockton said most insurers could stand to improve on their claims-handling but all in all they are trying hard to maintain a high standard of service.

Market conditions that have kept rates down also may have contributed to a certain sweetness on the part of insurers, he speculated. "Let's face it, the market is soft and relationships have a lot to do with where business ends up. They want to make sure they have good relationships." **BI**

Working together with technology

Distribution system, customer service expected to change with time

By REGIS COCCIA

Agents and insurers will conduct business differently in the future, but they are expected to continue working together closely.

As the industry's use of technology grows, customers continue to demand better service; and banks enter the insurance market, the distribution system

in the future will have a new look.

"Technology and joint planning will allow agents and (insurance) companies to form more customized relationships—and thus more profit," pointed out Jeff Yates, executive vp of the Independent Insurance Agents of America Inc. in Alexandria, Va.

Insurers "are going to grow one way or another, or they're going to find other distribution

systems," Mr. Yates said.

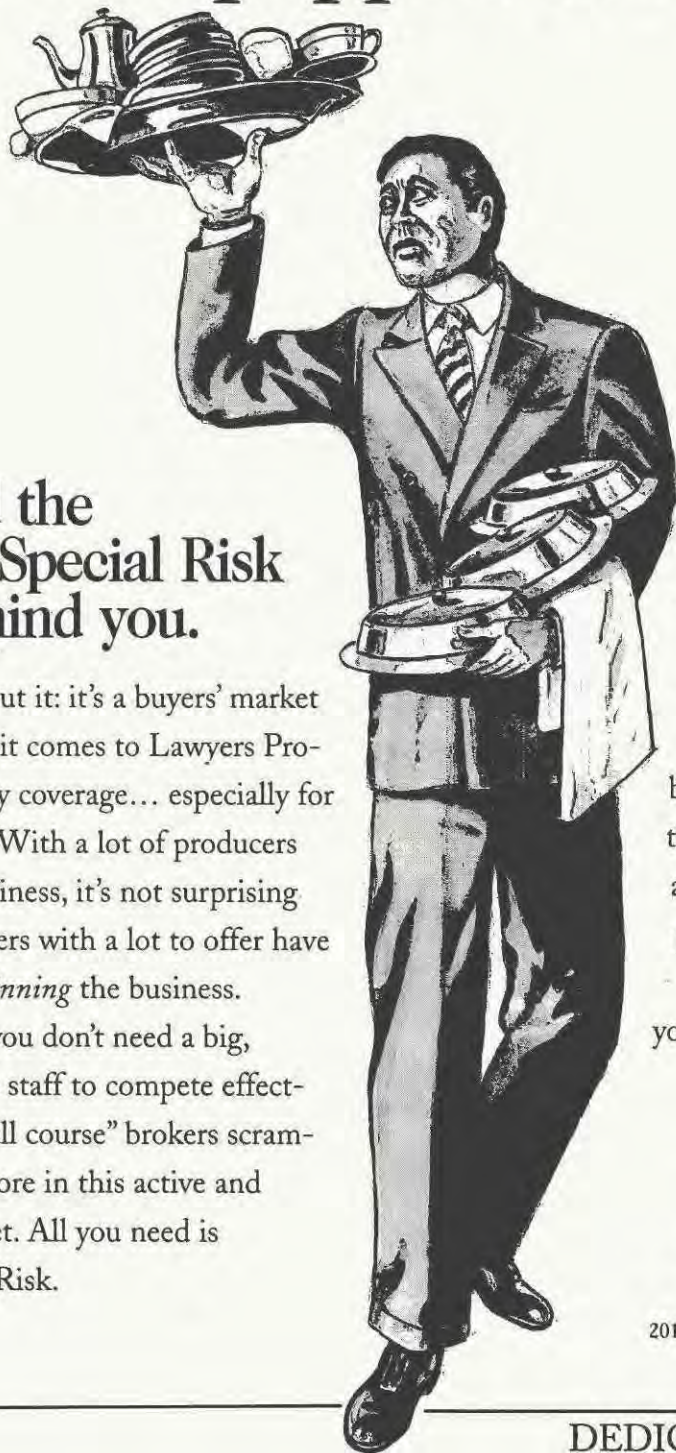
"We will never get rid of the independent agent in any line of business, as far as I can see," said Rodger Lawson, president of the Schaumburg, Ill.-based Alliance of American Insurers.

"There will always be segments of the market that want to deal with an agent because they add value. The question will be, 'How much am I willing to pay for that?'" he said.

Mr. Lawson predicts little change in the way agents and insurers deal with each other over the next two years, but the longer term is unclear. The "big question mark" on the future of the distribution system is what role technology will play, he

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said.

"There will be continued pressure to hold down the cost of policy acquisition," and insurers are likely to put pressure on agents either to reduce commissions or cut costs, he said.

Ron Smith, president of Rochester, Ind.-based agency Smith Sawyer Smith Inc., and IIAA president-elect, predicts many insurers will experiment with new ways to sell their products but will continue to depend on independent agents.

"A blending of distribution systems" has taken place over the past few years, Mr. Smith said, adding that some insurers known for their exclusive agency force now are working with independent agents.

Los Angeles-based Farmers Insurance Group, which sells its products mainly through about 15,000 exclusive agents, recently began using independent agents in underserved urban areas in California where the insurer doesn't currently have its own agents, a spokeswoman said.

The program, called Farmers Action for Communities of Tomorrow, or FACT, aims to help the insurer underwrite business in urban areas designated as "underserved" by the California Department of Insurance, the spokeswoman said. Farmers may expand this program to other states, she added.

"Using independent agents in this way is a new thing for us. We are going to continue using these agents," the spokeswoman said.

"Everything we're doing now is committed to strengthening our agency force," which in-

Continued on next page

Continued from previous page
cludes using computer technology to speed up policy processing and "family account marketing" to help agents sell more personal lines policies per household, she said.



Mr. Yates

Farmers Insurance Group has strong ties to agents but is open to alternative distributions systems, too, she explained. "Where we don't have an agency force, if we can sell policies in a way that's profitable, then of course we'd like to explore that," she said.

"You'll never lose in a product like this the importance of a one-on-one, someone who can explain this (insurance) to me in plain English," she said.

At Cincinnati Insurance Cos., "we have no other delivery system and are not contemplating any other delivery system. We don't spend 5 cents hedging our bet that the independent agency system will fail," said J. Frank Scherer, senior vp-sales and marketing at the Fairfield, Ohio-based insurer.

"Given the option, the public will choose to do business with somebody they can look at and explain insurance to them," he said. "We have every confidence in the world" that independent agents will continue to play a role in the industry.

The U.S. Supreme Court's decision in late March allowing national banks to sell insurance will add another facet to the insurance distribution system.

With the high court's ruling in *Barnett Bank of Marion County N.A. vs. Nelson, Florida Insurance Commissioner*, "you're going to have an increase in banks' involvement," said the IIAA's Mr. Yates. But, "long-term impact is uncertain at the current time."

"Banks will become more and more a player in the agency system," Mr. Scherer predicted. Although Cincinnati Insurance Cos. may do business with a bank-owned or broker-owned insurance agency, "our preference is to do business with locally owned agencies," he said.

Over the long term, "banks presumably will be able to sell insurance products," the Alliance's Mr. Lawson said, "and that clearly is going to nibble away at agents' role."

The distribution system will start to involve banks, Mr. Smith said. "In my opinion, several insurers will contract with banks to sell insurance. And several banks will buy an established insurance agency," he said.

"What I think this means for independent agents is agents are going to have to understand better

what an insurance company wants," said Mr. Smith, who regularly visits insurers with which his agency does business.

"Almost without exception, (insurance) companies want more business," he said.

The IIAA's Mr. Yates agreed. "Insurers' major concern is they want more growth from agents. They're pleased with profitability but want to see more growth."

As a result, agents will have to become better sales people. Agents in the future will need to market themselves and their products more, Mr. Smith said. Generalist agents "have to sell it twice—to the customer and then sell it to the

company."

Insurance companies "will expand the power of agents; they can't afford to have field representatives in every area," he said.

Companies also will rely more on their agents' expertise and hold them more accountable for profits, Mr. Smith said. He foresees a return to the days when an independent agent could talk to an insurer about specific accounts and why it should underwrite the business.

Agency/insurance company planning is an important area for independent agents, and the IIAA last year unveiled a tool to help its members focus on planning, said Mr. Yates.

'Given the option, the public will choose to do business with somebody they can look at and explain insurance to them,' says J. Frank Scherer of Cincinnati Insurance Cos.

"We're pushing effective joint agency/company planning, which has a lot of promise for relations," he said.

The planning tool, part of the IIAA's annual "Best Practices" study, is designed to help agents and insurers conduct more frequent meetings to find out how

they can make their business relationship more productive, Mr. Yates said.

"As agents start to see with this the input agents have with companies, it will be increasingly popular," he said. "If this planning concept takes hold, (agents and in-

See **Distribution** on next page

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Mr. Lawson

Distribution

Continued from previous page
surers) will be working more closely in the future."

But, Ken Crerar, executive vp of the Council of Insurance Agents & Brokers in Washington, which represents mainly large, commercial lines-oriented agencies and brokerages, paints a different picture.

Agency/insurer relations will grow more tense as industry consolidation, competition and the need to cut costs increases, he said. "The customer doesn't care how we deliver the product, they just want it delivered" quickly and without errors.



Mr. Crerar

"The distribution system we see today is going to change very dramatically," he said. In middle-market commercial lines business, customers

need the services of a broker. That's something customers value, Mr. Crerar said.

In larger commercial markets, though, he foresees more direct transactions between underwriters and sophisticated buyers.

"If you please the customer, it benefits everybody"—the agent as well as the insurer, Mr. Crerar said.

Although many insurers and agents are developing a presence on the World Wide Web and using computer technology, online insurance sales are "down the road," Mr. Crerar said.

"Technology isn't going to save the independent insurance agency," he said, stressing that attention to customer service will remain a key to agents' and brokers' success.

"Agencies who do well with technology are those who use it to free themselves up to be in front of their clients," Cincinnati Insurance Cos. Mr. Scherer agreed. For example, agents should use computer automation to streamline administrative tasks so they have more time for personal meetings with customers, he said.

The proliferation of technology permitting online sales of insurance is "an ominous sign" for agents, the Alliance's Mr. Lawson believes.

"In the next year or two, it'll be business as usual, with little increments of advantage from technology," like speeding up quotes and the claims process, he said.

But, "as time goes by and use of technology becomes prevalent, there's a reasonable chance it will provide greater competition for the independent agent," Mr. Lawson said.

"If you're adding value to the transaction, you'll be in the game," Mr. Crerar said. "If you're incidental to the transaction, ultimately you'll be moved aside." ■

Solid finances and growth plan key for agents

By REGIS COCCIA

What do insurance companies look for in agencies they're considering doing business with?

Although the answers vary depending on the insurer, most companies say they seek agencies with sound finances and a plan for growth that meshes with the insurer's.

What follows is a look at a few

Insurers tell what they look for in producers

insurer companies' wish lists:

Strong people, plans in marketing

Cincinnati Insurance Cos., a Fairfield, Ohio-based insurer that was founded by independent agents 46 years ago, has a short list: sales, staff, a strong financial footing and service.

"We look for an agency that has a marketing plan" that shows the agency is sales-oriented, said J.

Frank Scherer, senior vp-sales and marketing at Cincinnati Insurance Cos. The property/casualty company distributes products through about 1,000 independent agents in the Midwest and Southeastern United States (A/BT, May 2, 1994).

"We look for an agency that has the people to carry (the marketing plan) out," said Mr. Scherer. He added that the insurer also looks at whether the agency has attracted young people to its ranks.

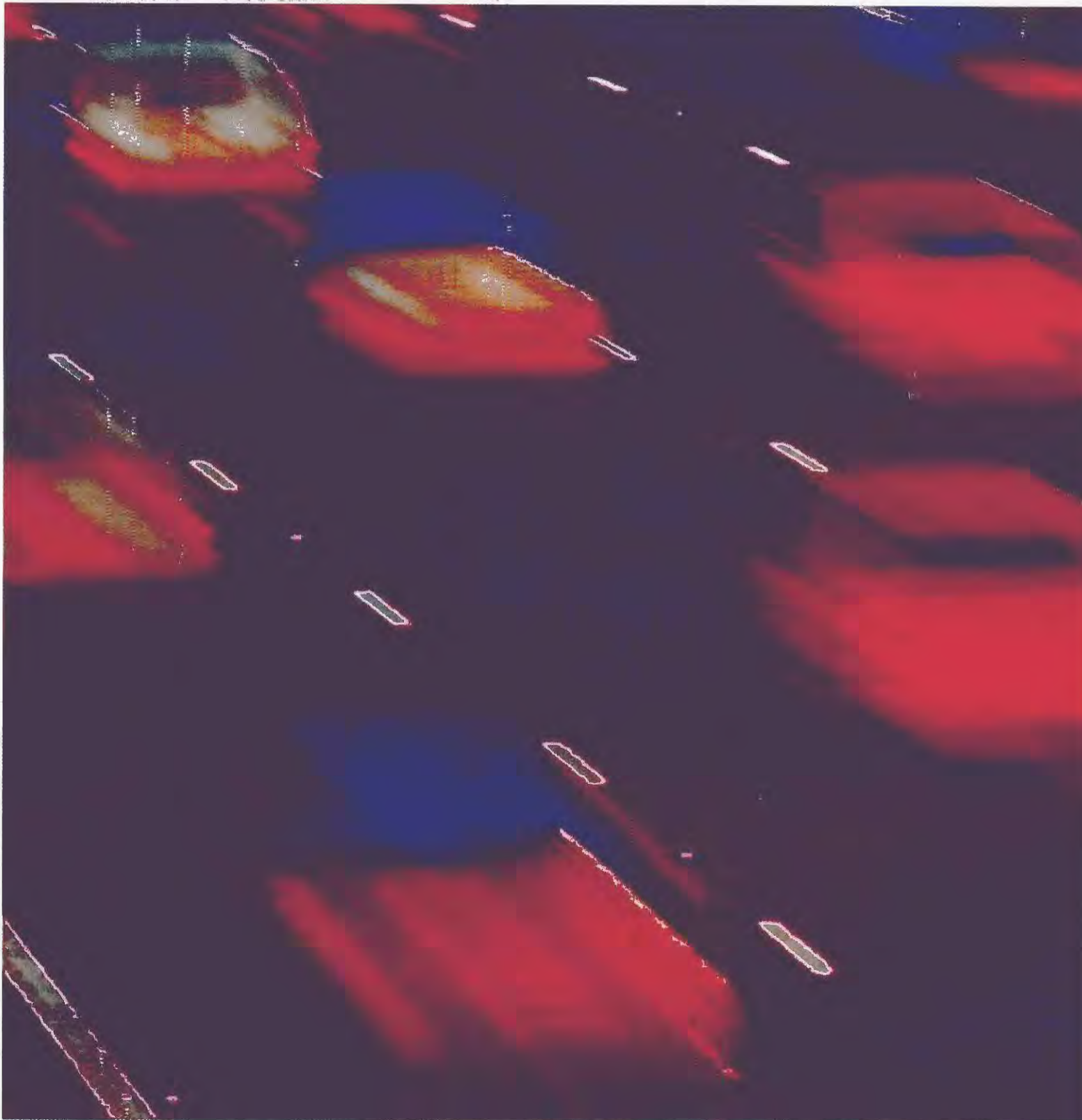
Recruiting agency staff is an im-

portant consideration for the insurer. "From a company perspective, we still do not believe enough young people are coming into the industry," he said.

To help remedy that problem, Cincinnati Insurance Cos. offers its agents consulting and financial help in attracting new talent, he said. But first, the agency must "get its house in order," he said.

"Many agencies think they need a new producer to get sales going, so they bring in a new person without insurance experience

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Continued from previous page
and tell this person, 'Do what I say, not what I do'" Mr. Scherer said, citing agencies whose principals helped build the business but no longer are generating new accounts.

"If you don't see (commitment to sales) in practice, it's tough to pull that off," he said. "Before you risk the \$75,000 to \$100,000 it takes to train a new producer, get your house in order" by returning to what made the agency successful in the first place, Mr. Scherer recommended.

Cincinnati Insurance Cos. also looks for financial discipline in the agencies with which it does busi-

ness, Mr. Scherer said. "Does the agency have a balance sheet that their banker would love?" he asked. Before contracting with an agency, the insurer requests and examines detailed financial statements.

The insurance company currently deals mainly with agencies in the "upper echelon," those in the top 25% of the industry in revenues, Mr. Scherer said.

Lastly, the insurer looks for agencies that are 'organized to add value to the transaction.' It's important for an agency to be able to communicate to its customers what value it brings to the table, he said.

Chemistry and solid relationships also are important to Cincinnati In-

surance Cos., which seeks a good fit with all of its agents, he said.

"In the short term, shrinking agency revenues are causing agen-



cies to make a decision to sell" or try to keep it going, he said.

As a result, there has been a "weeding out" of agency operators

within the last five to 10 years, which Mr. Scherer expects to continue. Some agencies have merged, and others have been acquired by brokers or even banks, he said.

"Over the last 10 years, the fudge factor is not there anymore; you really have to run your business," he said. "You can't let it run you."

Sound finances and a close bond

Long Grove, Ill.-based Kemper National Insurance Cos. also looks for agencies that have marketing plans, are financially sound and can maintain a close relationship with the insurer, said Bruce Fritz,

vp in charge of commercial lines.

That generally means agencies that have been in business for at least five years and have between \$5 million and \$10 million in premium volume, he said.

"This is our general philosophy as to where we go with our agency appointments," Mr. Fritz said. However, the insurer will be flexible when it comes to agency size if, for example, an agency specializes in a line of business, he said.

Kemper's distribution system includes about 1,000 independent agents across the United States, as well as the offices of larger brokers like the so-called alphabet houses, Mr. Fritz said.

"We're looking to grow, but our interest is not in numbers per se," he said. "When we develop marketing plans with agents each year, we always try to get behind what the agent's needs are." Kemper offers financial assistance to agencies to help recruit producers or upgrade computer equipment, for example, Mr. Fritz said.

Looking for key role in agency's growth

Worcester, Mass.-based Hanover Insurance Co. looks for agencies

An agency must be able to communicate to its customers what value it adds, says J. Frank Scherer.

whose book of business and operating philosophy "match" its own, said Vp Barry May, who is responsible for the insurer's New England and Mid-Atlantic operations.

"It's an expensive process for a company to appoint an agent, just as it's expensive for an agent to take on a new account," he said. "It takes 12-18 months before you start seeing a flow of business."

As a result, Hanover likes to form longer-term relationships with its agents, which are normally appointed by the insurer's local offices. The insurer currently deals with about 2,800 independent agents across the country.

An important question for Hanover is "what's the real opportunity and what's the real match" at an agency. "Are we going to be an important player in that agency? Not necessarily No. 1, but are we going to be viewed in that agency as part of their long-term growth plan?" Mr. May asked.

Agency size is not as important, though Hanover does hope to grow the business it gets from its agencies, he said.

"We're looking to grow. We'd certainly like to reach a point where, if not \$1 million (in premium) at every agency we're in, we'd like to balance between a respectable premium size and respectable position within the agency," Mr. May said.

"Regardless of the numbers, you want to be well-positioned within the agency."



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Showtime for Insurance Broadcast System

By MICHAEL SCHACHNER

The long-awaited Insurance Broadcast System taped its first two issues-oriented programs in New York recently and the specialized, subscriber-only insurance network was expected to begin broadcasting soon.

With 28 subscribers already committed, IBS, the nation's only all-insurance broadcasting company, last month was in the final stages of preparations to go on the air.

Los Angeles-based IBS, which has been in the works for the past couple of years, will offer at least 90 minutes of original programming each weekday, which will be rerun over the course of the workday, said Chief Executive Dennis Richard.

Programming will include insurance news, issues-oriented interviews, training and educational programs and telecourses for underwriters, executives, brokers and agents.

In March, IBS taped a pair of 30-minute programs dealing with new directions in health care and state vs. federal insurance regulation.

The health care piece is moder-



From left, Herbert E. Goodfriend, David Farmer, Susan Van Gelder and Larry G. Mayeski participate in a recent IBS taping in New York.

ated by Herbert Goodfriend, a partner with KPMG Peat Marwick L.L.P. Guests are David Farmer, senior vp-federal affairs with the Alliance of American Insurers, Susan Van Gelder, vp with the Health Insurance Assn. of America and Larry Mayeski, senior vp-life and health division of A.M. Best Co.

The show on regulation is moderated by Joe Decaminada, formerly of the Atlantic Mutual Cos. Guests are Franklin Nutter, president of the Reinsurance Assn. of America, and Rodger Lawson, president of the Alliance of American Insurers.

Shows will be taped in the near

future in New York and Los Angeles on subjects ranging from public policy issues in insurance to loss control to risk management, Mr. Richard said.

Monthly specials on reinsurance, the business elements of insurance, medical fraud, human resources and alternative dispute resolution are also scheduled.

Subscriptions to IBS are currently \$400 per month, per site, for two years, or \$500 per month, per site, for one year. There is a \$1,200 satellite installation fee as well.

For more information, call the Insurance Broadcast System at 310-820-3303; fax: 310-826-2023. **BI**

Good meetings start with good planning

By MARK A. HOFMANN

A n agenda, objectives and clear goals form "the holy grail" for making the most of meetings, a meeting planner says.

If you don't have that, says David Kliman, then you just have logistics like making sure there are enough coffee cups for the attendees.

Mr. Kliman, a 16-year veteran of the meetings industry, is director-travel management and corporate events for Fireman's Fund Insurance Co. in Novato, Calif.

He also is president of Meeting Professionals International. The Dallas-based trade group is the world's largest association of meeting planners, consultants and suppliers of meeting-related services, with nearly 14,000 members in more than 50 countries.

Half of its members are buyers, ranging from corporate and association representatives to independent professionals who plan meetings for third parties. The other half consists of hotels, airlines and other companies that serve the meetings industry.

Mr. Kliman said the most common problems associated with meetings are establishing goals and objectives for the gatherings and then documenting the return on investment afterward. Sometimes returns are fairly straightforward, such as for an insurer-sponsored gathering of agents. "You can say, 'We've spent X dollars on having a wonderful incentive but we've written X times 100 more premium,'" Mr. Kliman said.

But, without a clear vision of what the meeting is supposed to achieve, the meeting will not succeed, he said.

This is true of elaborate, multiday events as well as of "down and dirty, in and out of O'Hare" in the same day meetings. "If there's a

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A/BT Briefs

Classifying agencies

ALEXANDRIA, Va.—In an attempt to create a clearer way to measure independent agencies, the Independent Insurance Agents of America Inc. has formed a Standard Agency Classification System.

The new system categorizes

agencies by revenue, location/marketing area and mix of business, such as "small, urban, commercial lines," "medium, rural, personal lines" or "jumbo, suburban, balanced personal and commercial lines."

Agency size is determined by the following revenue classes: small, \$150,000 or less in total

annual revenue; medium, \$150,001 to \$750,000; large, \$750,001 to \$2.5 million; and jumbo, over \$2.5 million.

The association defines total revenue as all insurance product-based income, including commissions, contingency income, fees and interest earned on premiums.

Location/marketing areas are defined as: "urban," mainly an inner-city or densely populated

area defined as a "central city" by the U.S. Office of Management and Budget; "suburban/medium city," an area adjacent to urban area or medium-size city; "small town," a community or county with population of less than 50,000 that is not within a Metropolitan Statistical Area as defined by the Office of Management and Budget; and "rural," an area with a population of 5,000 or less and not oth-

erwise classified as part of a Metropolitan Statistical Area.

Business mix is classified as "personal lines" or "commercial lines" if at least 70% of an agency's revenue is derived from either of those accounts.

An insurance agency may be classified as "balanced personal and commercial lines" if both personal lines and commercial lines accounts generate less

See A/BT Briefs on next page

Continued from previous page
lack of clear vision, that will be brutally apparent from the get-go," Mr. Kliman said.

To prevent this from happening, he said there must be a physically printed agenda "that says this is what we're going to talk about" and specifies the time periods.

"As a meeting professional, it's my responsibility to work with the meeting sponsor to make sure they know with a gut clarity that the spotlight will be on them" and they must have their business preparation done, Mr. Kliman said. This doesn't mean the sponsor will read a 20-page speech verbatim; some people can run a very successful meeting without notes. But "they can't just wing it," he said.

Even brainstorming agendas have to be wrapped around something else, he said. "This is not a group therapy session where you just come in and start talking stream of consciousness, this is a business session."

A meeting's purpose will help determine how it's run, he noted.

For example, there is no hard and fast rule about holding events throughout the day during a multi-day conference or leaving mornings free for golf. Instead, there are common-sense rules such as not keeping people in a dark room for hours at a time.

Although there are guidelines for how many days a conference should last, there can be diminishing returns after four days.

"People have lives outside of meetings and they're going to start concentrating on their outside world, whether it's their family or their business," he said.

One thing that is certain is that large insurance industry organizations spend a good deal of time and money on meetings, Mr. Kliman said.

Meeting planners who 10 years ago did little more than make sure the temperature was right and the coffee cups were ready today are involved in making sure the meetings run effectively, he said.

There's another certain thing, too, he said.

Even though teleconferencing and other technological advances can in some cases eliminate the need for an executive to fly to and from a distant city to make a 20-minute speech, meetings are not heading to the corporate museum anytime soon.

"I don't think you will ever replace the need to press the flesh and getting to know people," said Mr. Kliman. ■

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Agent/Broker Topics

A/BT Briefs

Continued from previous page
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The IIAA is the nation's largest association of independent insurance agents, representing more than 280,000 agents.

NCIM chairman

AUSTIN, Texas—The National Council for Insurance Marketing has named its first chairman and

established a scholarship program.

The NCIM is an arm of the Austin, Texas-based Academy of Producer Insurance Studies, a research and development organization that promotes insurance and risk management information.

Thomas G. Williams, chairman and chief executive of InterWest Corp., a Sacramento, Calif.-based agency with more than \$150 million in property/casualty premium volume, is the new NCIM chairman. His insurance sales concepts form the basis for the council's Dynamics of Selling program, an

agency sales training program.

To honor Mr. Williams, the NCIM established 10 Thomas G. Williams Scholarships for its Dynamics of Selling program.

For more information on the scholarship program, contact the National Council for Insurance Marketing, P.O. Box 27027, Austin, Texas 78755; 512-346-7050; or e-mail at alliance@scic.com.

Chair endowed

BRYN MAWR, Pa.—An endowed chair in memory of a late insurance executive has been established at The American College in Bryn Mawr, Pa.

The Charles J. Zimmerman Endowed Chair in Life Insurance honors the late Mr. Zimmerman, who

was chairman and chief executive officer of Connecticut Mutual Life Insurance Co. during a 50-year insurance career before passing away in 1994.

The chair was set up earlier this year with \$1.2 million in funds from Mr. Zimmerman's estate, contributions raised by the Connecticut Mutual Fundraising Steering Committee and a matching gift from Connecticut Mutual Life Insurance Co.

The American College, founded in 1927, offers various professional designations and courses in life insurance and financial services.

Information in brief

The Michigan Insurance Hall of Fame, based at Olivet College

in Olivet, Mich., is accepting nominations for new inductees until May 31. An induction ceremony will take place Oct. 23. For more information or to nominate professionals who have made significant contributions to insurance or risk management in Michigan, contact Michael R. Hubbel, administrator of the Michigan Hall of Fame, at 616-749-7626. . . . A revised edition of the "Insurance Designations Handbook" is available from the Society of Insurance Trainers & Educators, 2120 Market St., Suite 108, San Francisco, Calif. 94114; 415-621-2830. Copies of the revised handbook, which lists more than 70 designations as well as their requirements and sponsoring organizations, are \$5 each for SITE members, \$6 for non-members. ■

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Texas agents to put fingers in ink

Fingerprinting program aims to keep criminals out of industry

By MICHAEL BRADFORD

New Texas insurance agents must file their fingerprints with the state Insurance Department as part of a fraud-fighting program adopted by the state.

If a criminal background check turns up a record, prospective agents may be denied a license under the rule adopted recently by Texas Insurance Commissioner Elton Bomer (*BI*, April 15).

The requirement also applies to risk management consultants, adjusters, reinsurance intermediaries, title company escrow officers, solicitors who perform certain functions for property/casualty agents and life insurance counselors.

Under the rule, agents are re-

quired to submit to fingerprinting when taking license examinations conducted by Insurance Testing Corp. at locations throughout the state. The prints will be forwarded to the Texas Department of Insurance and background checks will be conducted using the databases of the National Crime Information Center and the Texas Crime Information Center.

The license of an applicant identified as having a criminal record will have to be approved by the commissioner.

There are no state laws that bar someone with a conviction from getting a license, but there is a statute that allows denial or revocation of a license if an agent has been convicted of a felony.

"The commissioner can grant a license to someone with a record, but in the few cases that that has

happened the conviction has been quite a ways in the past and the applicant had tons of evidence that indicated he was rehabilitated," explained a spokesman for the Texas Department of Insurance in Austin.

The rule also will apply to agents already operating in the state if they apply for a license to market additional types of coverage.

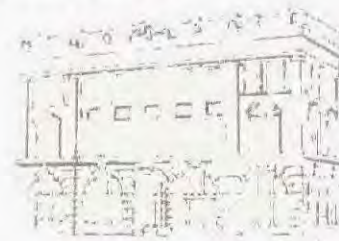
Agents support the rule change.

"We started off feeling like it was going to be a relatively time-consuming procedure to follow," said Don Morriss, president of the Texas Assn. of Insurance Agents.

But, after studying the proposal, the association decided it was in favor of the effort to screen applicants for criminal activity. "We don't want to subject our clients and the general public to anyone with a criminal record," said Mr. Morriss. ■

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Insurance firms require fraud oversight

Employment practices now come under federal scrutiny—and include federal penalties

By W. Neil Eggleston
and Dimitri J. Nionakis

PICTURE THIS SCENARIO: An agent from the Federal Bureau of Investigation has just called the general counsel of a large insurance broker or company and informed him that the FBI was investigating violations of federal criminal law relating to the company's employment practices.

Both the director of human resources and the general counsel had held their jobs for a long time and did their best to follow the typical issues and new developments in employment law.

But, what they did not know is that the Violent Crime Control and Law Enforcement Act of 1994 enacted new provisions that make insurance-related matters federal offenses for the first time.

These laws affect both the company and its individual employees, from the entry-level secretary to the general counsel and the chief executive officer. Most importantly, the legislation all but mandates that any company engaged in the business of insurance or reinsurance—including agents and brokers—implement a compliance program in its employment practices to ensure that it is not exposed to federal criminal liability.

This legislation resulted from Congress' conclusion that there is a need for federal law addressing the insurance industry.

For more than three years, the House Energy and Commerce Subcommittee on Oversight and Investigations conducted hearings on this subject. The panel concluded that the patchwork of state enforcement of insurance laws and regulations was ineffective (*BI*, Feb. 29, 1990).

First, the subcommittee examined the failures of four major insurers: Mission Insurance Co., Integrity Insurance Co., Transit Casualty Co. and Anglo-American Insurance Co. The subcommittee also studied the near-failures of Omaha Indemnity Co. and the Insurance Co. of Ireland. The panel concluded that the states were inadequate in investigating and taking legal action against insurance fraud. The subcommittee also concluded that the existing state statutory penalties and remedies were not in accord with "the realities of today's insurance market and the interstate and international nature of the business of insurance in today's marketplace."

In particular, the subcommittee found that

individuals involved in insurance fraud often escape investigation and even continue their unlawful behavior in the insurance industry.

Second, the subcommittee found that federal criminal enforcement of insurance fraud had been restricted for two reasons: defrauding or embezzling from an insurance company was not a federal crime; and even though the federal government could

prosecute insurance fraud by enforcing mail and wire fraud laws, the provisions have only a five-year statute of limitations, which often expired before criminal investigations could be completed.

Congress rectified the latter problem by extending the statute of limitations for prosecuting mail or wire fraud to 10 years.

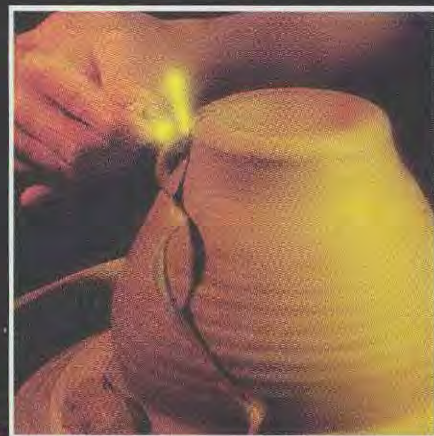
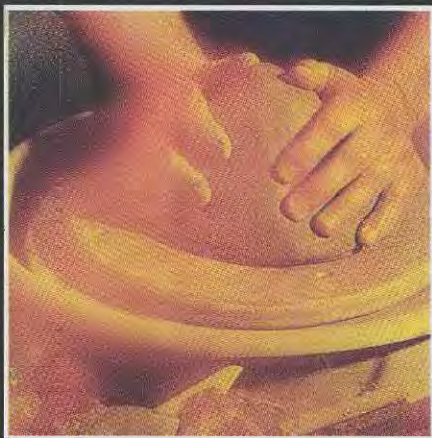
The new legislation appears in the U.S. Code in Sections 1033

and 1034 of Title 18. Section 1033 applies to persons "engaged in the business of insurance whose activities affect interstate commerce." The law defines the "business of insurance" as "the writing of insurance, or the reinsuring of risks by an insurance company, including all acts necessary or incidental to such writing or reinsuring and the activities of persons who act as, or are, officers, directors, agents or

employees of insurers or who are other persons authorized to act on behalf of such persons." Under the statute's definition, most insurance business unquestionably affects interstate commerce.

Section 1033 punishes any person who: "knowingly, with the intent to deceive, files a false statement with or willfully and materially overvalues any land to an insurance regulator for the purpose of influencing the actions of that insurance regulator; willfully embezzles or misappropriates funds of an insurance company; knowingly

See **Fraud** on next page



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Agent/Broker Topics

Fraud

Continued from previous page makes false entries or statements regarding the financial solvency of an insurance company with the intent to deceive any individual or regulator regarding the financial solvency of that company; and obstructs the investigations of insurance regulators."

The maximum punishments for these offenses include substantial fines and/or imprisonment ranging from 10 to 15 years.

Section 1033 also criminalizes one aspect of an insurance

The anti-fraud law essentially requires that companies react immediately to the new requirements to avoid any sanctions against their employees.

company's employment practices.

Section 1033(e)(1) has reciprocal provisions that bar certain types of felons from the insurance industry and, more significantly for the companies, bar insurers and brokers from employing such felons.

These requirements will have immediate impact on the insurance industry and essentially require that companies react immediately to the new requirements to avoid any sanctions against their employees.

The new section prohibits any individual who has been

"convicted of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under (Section 1033)" from willfully engaging in the business of insurance or participating in such business, unless he or she obtains the written consent of any insurance regulator authorized to regulate the insurer. The maximum punishment for this violation is a fine and/or imprisonment for a maximum of five years.

The reciprocal section imposes a restriction on an insurance organization's employment practices. Subsection

1033(e)(1)(B) prohibits an individual engaged in the business of insurance from "willfully permitting" an individual convicted of the crimes described in subsection 1033(e)(1)(A) to engage in the business of insurance.

Under the federal criminal code, an "individual" is a human being. Thus, the statute does not impose direct criminal liability on the company. The statutory limitation to individuals, however, may or may not preclude the possibility of an insurer or broker being accused of aiding and abetting the commission of this offense.

The maximum punishment on an individual for this offense is a fine and/or imprisonment for up to five years.

Finally, Section 1034 authorizes the U.S. attorney general to bring a civil action for monetary damages and injunctive relief against any "person" who has violated Section 1033. "Person" in this context usually includes a company. Consequently, this section may directly impact an insurance company or broker because it permits the attorney general to seek monetary damages in addition to the fines imposed under Section 1033.

Any monetary damages awarded under this section for a violation that contributed to an insurance company's being placed in receivership will be sent back to the appropriate state regulator for the benefit of that insurer's policyholders, claimants and creditors.

More importantly, Section 1034 lets the attorney general seek an injunction against the company, which could be as drastic as enjoining the company from further engaging in insurance.

For any insurance organization, Subsection 1033(e)(1)(B) is likely the most important provision and requires immediate attention. The apparent purpose of this provision is to prevent the recurrence of these types of white-collar crimes by the same individuals. Notably, the provision does not forever bar convicted felons from participating in the insurance business. Rather, such an individual may return to the insurance industry if he or she obtains written consent from an authorized regulator.

A careful reader may have noticed that Subsection 1033(e)(1)(B) punishes only "willful" violations of the employment restrictions.

This generally means that to impose liability, the government must prove the individual knew the particular employee had a qualifying prior felony. Reliance on this loophole—without any compliance program—would be perilous.

The government may very well conclude that an insurance organization's failure to determine whether its

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**Business
Insurance**

Agent/Broker Topics

Fraud

Continued from page 36N
employees had a disqualifying felony was evidence of willful blindness to the possibility that its employees could have such a felony.

Therefore, any company involved in the business of insurance must ensure that it and its employees are not employing individuals who have prior convictions for violating Section 1033 or who have been convicted of a felony involving dishonesty or a breach of trust.

While the direct criminal liability of insurer, agent or broker for such a violation may be debatable, the company may still be subject to monetary penalties and injunctions under Section 1034.

How should an insurance company or broker begin thinking about a compliance program that will help it avoid liability under the new statute?

First, the insurer or broker must determine which positions within the company entail engaging or participating in the business of insurance.

There are generally two ways of interpreting this language.

The company could narrowly view the statute as applying only

to individuals directly engaged in writing insurance or reinsuring risks.

For example, this would include underwriters and real estate appraisers.

However, this approach is probably insufficient for two reasons.

First, though the definition of "business of insurance" describes two broad but well-defined categories, it also includes "all acts necessary and incidental to such writing or reinsuring and the activities of persons who act as, or are, officers, directors, agents or employees of insurers or who are other persons authorized to act on behalf of such persons."

This language, especially the term "employees of insurers," seemingly broadens the definition. Second, Subsection 1033(e)(1)(A)'s use of the word "participating" may mean it applies to individuals other than those directly engaged in the insurance business as defined by the statute.

Therefore, the safer approach is to include even those individuals who are indirectly involved in the business of insurance but could still engage in the type of unlawful behavior the statute is designed to prevent. This would include individuals who hold

supervisory, support or advisory positions, e.g. officers, directors, accountants, advisers and secretaries. Companies also should consider including clerical support staff and administration personnel.

The next problem is identifying

employees may participate in the insurance business even though an entire entity does not.

Insurers and brokers need to determine which entities employ individuals in positions that the insurer has concluded fall within the definition of the "business of

of length of employment, who have a disqualifying felony.

To be safe, insurers and brokers should institute regular procedures to stay in compliance with Section 1033. **BI**

The insurer or broker must determine which positions within the company entail engaging or participating in the business of insurance.

which discrete entities or subsidiaries of the insurance organization must comply with this statute.

This can become a difficult question, especially for companies that have several units but not all of them specifically engaged in the insurance business as defined in the statute. It is insufficient simply to check the entity's business purpose because some

insurance." Then, entities that employ such individuals can apply necessary compliance procedures.

It is worth noting the law does not apply just to those recently hired.

A longtime, perhaps highly trusted, employee might have a conviction that falls within the provisions of Section 1033.

Companies must ensure they identify all employees, regardless

W. Neil Eggleston is a partner at Howrey & Simon in Washington and is co-chairman of the firm's white-collar criminal defense practice area. He was associate White House counsel to President Clinton in 1993-1994.

Dimitri J. Nionakis is an associate at Howrey & Simon in the white-collar criminal defense and commercial and antitrust litigation practice areas.

Errors & omissions

Due to an editing error, the name and location of a broker appearing in an article in the April 1 *Agent/Broker Topics* section, "Look Beyond Bottom Line, Experts Say," were misspelled. AMT Inc. is a Worcester, Mass.-based insurance brokerage.

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Managed care discontent growing

By Brent J. Graber

THE FORTUNES OF MANAGED care are increasingly jeopardized by its own astonishing success. Managed care has far and away met its mandate to drive down health care costs, but there is a growing concern that the tradeoff is ever-diminishing access to health care. It is increasingly clear that consumers demand more of a balance between the cost and availability of health care, and that legislatures, courts and juries will move to strike that balance if managed care organizations fail to do so.

Lest we forget, managed care has done exactly what was asked of it. The annual increase in health insurance rates had been intolerable, far exceeding the Consumer Price Index, with double digit increases each year between 1988-1992. Managed care first slowed the annual rate of increase, and then amazingly reversed it.

Studies by A. Foster Higgins & Co. Inc. found that group health care costs declined 1.1% in 1994 and were virtually flat in 1995 (*BI*, Jan. 29).

How did managed care do it? Partly through negotiation of lower prices for health care; e.g., by providing greater patient volume to health care providers in return for reduced compensation. However, such price reduction in and of itself could not substantially reduce, much less reverse, years of increases in health care costs. Rather, the principal tool managed care organizations have used to reduce health care costs has been utilization review.

Health care consumers have initially been quite satisfied with managed care. While consumers do not like limitations on their selection of health care providers, they do like reduced health care costs,

While consumers do not like limitations on their selection of health care providers, they do like reduced health care costs.

particularly since they frequently pay at least a portion of the premium.

However, a recent survey conducted by Sachs Group, a health care market research firm based in Evanston, Ill., reveals that consumers are growing less satisfied with managed care. A drop off in satisfaction among Chicago-area consumers was reported with respect to the quality of the physicians and hospitals in their network, the range of services covered, access to emergency care and the handling of claims.

That growing consumer discontent is manifesting itself in several ways. One way is the push for legislation requiring the provision of certain minimum care. For example, at least 10 states—Maryland, New Jersey, North Carolina, New Mexico, New York, Massachusetts, Virginia, Indiana, Kentucky and Illinois—have enacted legislation requiring insurers to pay for a 48-hour minimum of inpatient care for maternity patients and their babies following delivery. That legislation was enacted to prohibit managed care organizations from requiring discharge of such patients within 24 hours, so-called “drive through” deliveries. Similar legislation has been introduced in the U.S. House of Representatives.

Legislation is also pending in 31 jurisdictions—and has already been enacted in Arkansas, Louisiana and Virginia—that would set standards for access to emergency care. That legislation typically would prohibit managed care plans from requiring prior authorization for emergency care and defines what constitutes such care. For example, the bill introduced in the Illinois House states that it is intended “to promote access to emergency medical care by establishing a uniform description of emergency medical condition that is based on the average knowledge of the prudent layperson, and requiring

Cost reduction successful but consumers now press to retain wide access to care

insurance plans to cover and pay for such services without restrictions that may impede or discourage access to such care.” Similar legislation is also pending before the U.S. House Ways and Means Committee.

An even broader effort seeking more fundamental change in managed care is underway in California. Consumer advocates have joined with the California Nurses Assn. to petition to put an initiative on the November ballot that would restrict the ability of a managed care organization to deny treatment recommended by the health care professional treating the patient, prohibit financial incentives for physicians to limit care, and release physicians from any “gag rules” contained in their contracts with managed care organizations.

Many other states are also considering, and Massachusetts has already enacted, “gag rule” legislation prohibiting managed care organizations from restricting physicians from advising patients about treatment options which may not be covered by the managed care plan.

Such legislation is designed to counteract contract provisions forbidding physicians from speaking “disparagingly” about the health plan or from making any communication that “could undermine the confidence of enrollees, potential enrollees, their employers, their unions or the public in (the managed care organization) or the quality of (its) coverage,” because such provisions could have a chilling effect on communications about treatment options and costs. Some states are also considering legislation that would require managed care organizations to disclose the terms of their physician contracts to members and prospective members of their health plans.

In addition to legislation mandating the provision of certain care, courts are increasingly allowing suits involving the quality of care to proceed against managed care organizations despite the ERISA pre-emption to which they arguably are entitled. ERISA, or the Employee Retirement Income Security Act of 1974, is the federal statute that regulates benefit plans sponsored by private employers, and it pre-empts state laws that “relate to” those plans. As a consequence, a plaintiff seeking recovery for injuries resulting from benefits received under an employee benefit plan is essentially limited to seeking recovery of those benefits under ERISA. Recovery can not be obtained under a state’s tort law for compensatory damages such as pain and suffering, disability or disfigurement, nor for punitive damages. That can lead to situations where an injured patient has little or no meaningful remedy, which has not gone unrecognized by the courts. For example, in *Corcoran vs. United Health Care Inc.*, 965 F.2d 1321 (1992), the 5th U.S. Circuit Court of Appeals applied the ERISA pre-emption but made a point of observing that “we are not unmindful of the fact that our interpretation of the pre-emption clause leaves a gap in remedies with a statute intended to protect participants in employee benefit plans.”

Because of that inequity, courts are now increasingly ruling that some state law causes of action do not sufficiently “relate to” employee benefit plans, and so may proceed. The most notable example of that are causes of action based on medical malpractice, i.e., causes of action against managed care organizations seeking recovery for injuries allegedly resulting from negligent care by a health care provider who is alleged to be the actual or apparent agent of the managed care organization. While many of the initial decisions, such as *Corcoran*, held that malpractice actions are pre-empted, the weight of recent decisions is that such causes of action are not pre-empted. In that regard, three different federal appeals courts have ruled to that effect during

the past year: *Dukes vs. U.S. Health Care Inc.*, 57 F.3d 350 (3rd Cir. June 19, 1995), *Pacificare of Oklahoma Inc. vs. Burrage*, 59 F.3d 151 (10th Cir. July 11, 1995) and *Rice vs. Panchal*, 65 F.3d 637 (7th Cir. Nov. 6, 1995).

Causes of action seeking recovery based on denial of benefits under a managed care plan continue to be held to be pre-empted. However, even with such causes of actions, one must still determine whether the managed care plan is subject to ERISA. For example, ERISA does not apply to health benefit plans established for the employees of a governmental agency.

When ERISA does not apply, plaintiffs can proceed with tort law causes of action alleging wrongful denial of benefits, and when juries get those cases the results can be staggering. The most infamous example remains *Fox vs. Health Net Inc.*, a 1992 case in which a California jury awarded \$77 million in punitive damages and \$12 million in compensatory damages to the family of a 38-year-old mother who ultimately died from breast cancer after the HMO denied coverage for a bone marrow transplant. The HMO maintained that the procedure, which was the only treatment which remained medically available to the patient, was not covered because it was

Courts are increasingly allowing suits involving the quality of care to proceed against managed care organizations.

“experimental/investigational.” The plaintiff’s attorney argued that the HMO’s definition of “investigational” procedures was so ambiguous that it could include virtually any medical procedure. In addition, evidence was introduced that the HMO allegedly utilized financial incentives to encourage its claims examiners to deny coverage for costly procedures.

Last year, an arbitration panel awarded \$1 million against the parent company of that same California HMO for another claim in which the HMO similarly denied treatment for a cancer patient on the grounds that it was “experimental/investigational.” The arbitration panel found that the treatment was not experimental because it was being increasingly used in cancer cases with some clinical success, and the arbitrators found the term “investigational” too ambiguous to be used as a basis for denying coverage. The arbitrators furthermore found that the HMO had sought to interfere in the physician-patient relationship by pressuring the patient’s physician to reverse his support for the treatment. The arbitrators concluded that the actions of the HMO constituted “extreme and outrageous behavior exceeding all bounds usually tolerated in a civilized society.”

Among the top 10 monetary verdicts of 1995 was a \$40 million verdict in Fulton County, Ga., against Kaiser Permanente, the largest HMO in the country. The family of a 6-month-old boy with a rare blood clotting disease alleged that he lost both hands and legs following a cardio-respiratory arrest during the trip to the hospital. The HMO had directed the family to a hospital 42 miles from his home, where the HMO received a 15% discount, despite the fact that the child had a 104-degree temperature.

In October 1995, a Cook County, Ill., jury awarded approximately \$9.7 million on behalf of a newborn suffering mental retardation against the mother’s primary care physician, a family practitioner, who acted as the HMO’s “gatekeeper” for referrals to specialists. That primary care physician appropriately referred the mother to an OB/GYN upon the diagnosis of pregnancy, and she did not provide any of the prenatal care. However, the primary care physician

See *Managed care on next page*

ASK A BENEFIT ACTUARY

Q

Why is our pension plan underfunded?

A

This question comes from a chief financial officer who just learned that the Pension Benefit Guaranty Corp. views his company's pension plan as underfunded. The CFO was informed that the plan has more than \$50 million in unfunded vested benefit liabilities. This is a

surprising result, since the most recent pension valuation showed that plan assets were approximately equal to the plan's current liability.

Because of this underfunded status, the plan sponsor will have to make an informational filing with the PBGC. The PBGC recently extended the deadline for this filing to May 31, 1996, for calendar-year plans.

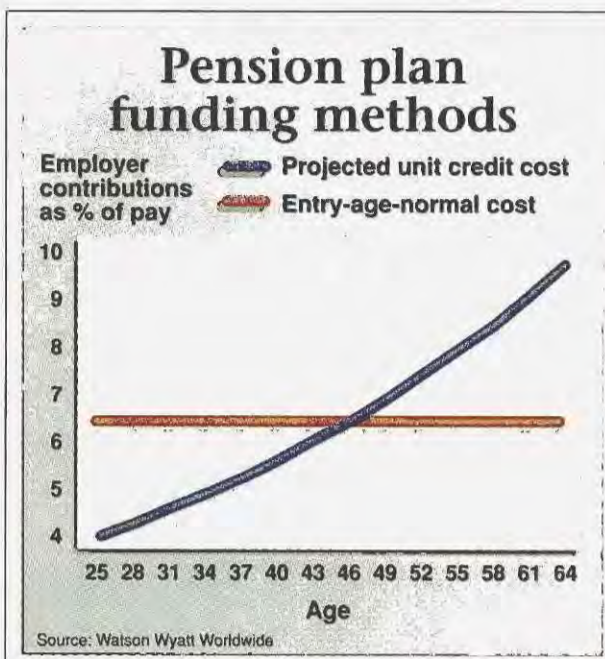
This anomaly was created by the General Agreement on Tariffs and Trade legislation enacted in December 1994. If a pension plan sponsor funds the plan at the target prescribed by law—the plan's current liability—then the PBGC still may consider the plan to be underfunded and require information from the plan sponsor to monitor both the plan and the sponsor's financial condition. The irony of this requirement is that the PBGC had a heavy hand in the GATT legislation, which set the current liability funding target and established the filing requirement for underfunded plans.

The anomaly is created by the use of different interest rates for setting the funding target and for determining whether the PBGC filing is required. The funding target is based on a plan's current liability. The current liability is the present value of benefits that have been earned to date under the plan. The present value is determined using an interest rate that is based on a four-year weighted average of yields on 30-year Treasury bonds. For calendar-year plans, this interest rate for 1995 (the sponsor's most recent valuation year) was required to fall within a range of 6.55% to 7.93%.

However, the determination of whether a plan has \$50 million in unfunded vested benefit liabilities is determined based on the yield on 30-year Treasury bonds on a single date—the first day of the plan year—rather than on an average over four years. The interest rate that must be used for 1996 is no greater than 6.06% and may be less. This difference in interest rates is the immediate cause of the plan's underfunded status.

Many plan sponsors are receiving similar news not only because of this anomaly in the law, but also

Differing interest rates can result in 'underfunding' in corporate pension plans



GRAPHIC BY KYLE LOCKWOOD

because of a general decline in funding status in this decade. Watson Wyatt Worldwide's "1995 Survey of Actuarial Assumptions and Funding" indicates a definite downward trend in plan funding status during the 1990s. For example, 76% of plans in the survey had assets sufficient to cover current liability in 1995, while 85% of plans were in this position in 1990.

The median funded ratio—the ratio of plan assets to current liability—for plans has also trended downward in the 1990s. In 1990, the median funded ratio for plans basing benefits on final average pay was 154%; in 1995, it was 124%. Even more remarkably, the median funded ratio for plans that provide benefits unrelated to pay was below 100% for the first time ever in the Watson Wyatt surveys. It was at 95% in 1995, as compared to 111% in 1990.

One reason for the trend toward less well-funded plans is the decrease in the current liability interest rates in this decade. As interest rates decline, pension liabilities increase. The survey shows that the average current liability interest rate declined from 8.4% in 1990 to 7.8% in 1995.

A second reason for this trend toward declining funding status is the dramatic shift to the projected unit credit cost method for funding pension plans. The Watson Wyatt survey shows that in 1995, 63% of pension plans basing benefits on final average pay used the projected unit credit cost method. This

compares to 25% of the plans in 1985. Similarly, only 25% of the plans used the entry-age-normal cost method in 1995, as compared to 43% in 1985.

This pronounced shift from the entry-age-normal cost method to the projected unit credit cost method is the result of a change in pension accounting rules that caused plan sponsors to change their actuarial cost method. In 1985, the Financial Accounting Standards Board issued rules requiring that companies accrue for pension benefits using the projected unit credit cost method. This requirement was only applicable to the company's financial statements and did not require a change in the plan funding. Under this method, pension costs gradually increase as a percentage of pay throughout a worker's career. By comparison, under the entry-age-normal cost method, contribution rates are kept uniform across a worker's entire career (see chart).

Plan sponsors observed that the projected unit credit cost method reduced their pension costs for financial accounting purposes. With this recognition, many also reduced their pension contributions by adopting this method for funding. But, by doing so, plan sponsors have effectively deferred the funding of many baby boomers' retirement benefits from the first half of their careers to the second half.

The bottom line of this decline in plan funding status is that many plan sponsors will have tough choices in the near term regarding their pension plans. They will have to either reduce future benefit accruals or increase returns on pension assets. If neither of these actions is taken, it seems likely that pension contributions will be increasing. **BI**

Would you like advice from an experienced colleague on a risk management, benefits management or actuarial problem? Four quarterly features in the Perspective section of Business Insurance can give you some answers. Ask A Casualty Actuary, Ask A Benefit Actuary, Ask A Benefit Manager and Ask A Risk Manager answer written questions from readers on risk and benefits management issues and actuarial problems.

This month's column on actuarial issues in the benefits field is written by William J. Miner, an actuary with Watson Wyatt Worldwide in Chicago. Richard E. Sherman, president of Richard E. Sherman & Associates Inc. in Ashland, Ore., answers actuarial questions in the casualty field. Susan M. Werner, director of risk management at Hardee's Food Systems Inc. in Rocky Mount, N.C., answers risk management questions. Dennis J.

Nirtaut, managing director of compensation and benefits for Arthur Andersen & Co. S.C. in Chicago, answers questions on employee benefit plans.

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.



Managed care

Continued from previous page

received, initialed and forwarded to the obstetrician the results of blood sugar tests that revealed that the mother had gestational diabetes. The obstetrician apparently failed to review those results (and settled out of the case for his policy limits).

The primary care physician argued that she should not be held liable for failing to review and act upon the laboratory results, because she had referred the patient to a specialist for further care. The jury, however, refused to absolve the primary care physician of continued responsibility for the overall coordination and supervision of the patient's care.

In December 1995, a Portland, Ore., HMO decided not to take its chances with a jury, and settled a member's wrongful denial of benefits claim for \$1 million. In that case, *Thomas vs. Sisters of Providence Good Health Plan of Oregon Inc.* (Oregon Circuit Court, Multnomah County), the plaintiff's neurosurgeon rec-

ommended surgery for a compressed nerve root, but the HMO denied the request and recommended physical therapy. The patient's primary care physician appealed that denial and, seven months later, the HMO approved the surgery. However, permanent nerve damage had occurred by that time.

The clear message that the public, legislators, judges and juries are sending is that there are boundaries to the extent to which managed care organizations can limit access to health care.

The success of managed care organizations in reducing health care costs will not protect them from this backlash. However, health care consumers will accept limitations on their access to health care in return for a reduced price, so long as those limitations are reasonable and spelled out up-front. In that regard, managed care organizations can reduce their extracontractual claim exposure if they tighten up the wording of their health plans, and their marketing communications, to unambiguously state what care is—and is not—provided.

Likewise, employers contracting with managed care

organizations should be careful to meet their employees' reasonable expectations and to candidly advise their employees what care is available under the health care plan.

While employers have rarely been named as defendants in suits arising out of managed care claims, they are provided no immunity from such claims outside of the possible ERISA pre-emption. At a minimum, employers should investigate the scope and clarity of the plan language, the makeup of the network of health care providers, the financial stability of the managed care organization and its claims handling. **BI**



Brent J. Graber is a partner at the Chicago law firm Blatt, Hammesfahr & Eaton.

Avoiding challenge to claim

Accountants can back up business interruption claims

By ROBERTO CENICEROS

TORONTO—Policyholders must hire their own accountants or adjusters to prepare and settle business interruption claims if they are to get a fair shake from insurers, a risk manager says.

Expert advice is needed because standard business interruption policy language leaves plenty of room for interpretation by insurers, two accountants say.

More often than not, the insurer and policyholder will disagree on the size of business interruption losses, said Jonathan A.A. Russell, manager-risk and insurance for Placer Dome Inc., a mining company in Vancouver, British Columbia.

"The (insurer's) accountants invariably take a very aggressive position. They discount our claim by 50% or, if we are extremely fortunate, by 60%," he said facetiously. "It's all very frustrating. How can two recognized firms of accountants, supposedly professionals, come up with widely disparaging numbers? Surely one is mistaken—or, worse, unprofessional and trying to mislead the opposition. Seemingly, utmost good faith is a one-way street."

Mr. Russell moderated a session on business interruption at the 34th annual Risk & Insurance Management Society Inc. conference, held last month in Toronto. He was joined on the panel by two of Placer Dome's accountants: Peter Weldon, a principal in the Vancouver office of Lindquist Avey Macdonald Baskerville Inc.; and Ian Ratner, an associate in Atlanta with the same accounting firm.

When settling business interruption claims, due diligence is

one area that can become a subject of dispute, according to Mr. Weldon, who also moderated the session. In particular, he said, there are different due diligence requirements depending on whether the company is covered by a "gross earnings" business interruption policy form or a "gross profits" form, which is more prevalent in Canada and the United Kingdom than the United States. However, use of gross profit forms is increasing in the United States, Mr. Weldon said.

Gross profit forms typically state that: "The insured shall with due diligence do and concur in doing and permit to be done all things which may be reasonably practicable to minimize or check any interruption of or interference with the business or to avoid or to diminish the loss."

"The onus is very clearly on the insured," Mr. Weldon pointed out. "If you are under a profits form, the insurers are going to be saying, 'Well, could you have done anything which would have reduced the period of time for which you were down? Or reduced the impact of the interruption event, like using temporary facilities, etc.'"

The insurance adjuster and its accountants typically have hindsight on their side in deciding whether the policyholder acted "reasonably" or could have done something more to minimize losses, said Mr. Weldon.

In addition, he said, they are not always willing to provide advice to the policyholder on how to calculate business interruption claims, which could help avoid a dispute.

"In my experience—and I have

worked on both sides of the fence—the insurance adjuster does not normally say, 'Yes, I agree what you are doing is reasonable,'" said Mr. Weldon. "Sometimes they do, but in most cases, they say, 'You must do what you think is right and we are not here to advise you.'"

It would be more helpful to get them to agree that a policyholder's plan of action is reasonable before it is submitted, because it would take the sting out of any rejection after a claim is filed, Mr. Weldon said.

For risk managers, the main defense to an insurer's rejection of



the reasonableness of a business interruption claim will be: "Whatever you did appeared to be reasonable and you took advantage of whatever advice was available and seemed reasonable at the time," according to Mr. Weldon.

"I think that is a difficult thing for anyone to argue with," he added. "If you were doing something which was reasonable at the time, and it turned out there was something you could have done that was better, I don't think you are necessarily in trouble."

In contrast to the emphasis placed on the policyholder by the gross profit policy form, gross earnings forms also call for due diligence, but do not limit it to the

policyholder or any other single party, which can generate disputes over who was responsible.

"The general interpretation of that appears to say that it is not just you, the insured, who has to be diligent," Mr. Weldon explained. "It is everyone else in the world who has to be diligent. When it comes to getting permits, or when it comes to construction, the architects (or) the placement of equipment by manufacturers, the insurer, I believe, is entitled to look to all of those people for diligence."

"And, of course, it is open season when it comes to deciding who should have done what and in what length of time," Mr. Weldon added. "It does become an issue in a number of losses and it is something to be aware of. It is one of the serious disadvantages, I think, to the gross earnings form."

Insurers have constructed the gross earnings form in an attempt to determine what the policyholder's probable maximum loss will be, Mr. Weldon explained. To do so, they have tried to assess such factors as what reasonable length of time will be required for repairs following a property loss. They also consider such factors as spare part availability and how long repairs or replacements should take.

Business interruption claims disputes are particularly likely to arise for businesses working out of rented facilities. For example, losses may grow for the renter if the property owner doesn't quickly decide whether to replace a damaged building. Insurers typically will argue that they won't pay for business interruption losses incurred as a result of the building owner's indecision.

Yet fighting an insurer every step of the way is not the best route to resolving business interruption claims, said Mr. Ratner, of Lindquist Avey Macdonald Bask-

erville's Atlanta office. In some instances, he said, compromise is a better solution.

"If you take an extreme position on one of the various issues, whether it's your costs or your continuing expenses... I think it is just going to leave (insurers) open to picking through every part of your claim for diligence," he said. "Certainly there is a range of acceptable amounts and I think if you take the most aggressive points of view on one of those issues (insurers) are going to look at the other ones where you fit within that range and try to put you back on the bottom. You are forcing them to do that."

Placer Dome's Mr. Russell closed the session by saying that a problem he typically encounters is that underwriters take a "simplistic and naive approach" to calculating, or helping him calculate, business interruption losses.

He advised fellow risk managers to prepare their own business interruption calculations for variable and fixed costs and not rely on insurers for that.

"We used the underwriter's own form in calculating these business interruption values and nobody really helps us to determine what is fixed vs. what is variable," he said. "So we basically ripped up anything the insurers gave us and prepared our own BI evaluations. It's taken a while to streamline these things and it takes some education for the accountants in our various mines to get their minds around this concept."

"That is something I think we should protect ourselves with because... underwriters tend to seek to refute liability. We are working within a very adversarial system and it is very frustrating for the non-accountants among us to understand these diametrically opposed positions the accountants take. We really do need good accountants to help us." **BI**

Don't overlook data security

Technology a powerful tool, but exposure to hackers can prove costly

By JOANNE WOJCIK

TORONTO—The same technological advances that help make workers more productive could also lead to a company's demise if adequate security measures aren't taken, experts say.

"Information is power, and your information in someone else's hands is really powerful to them, but devastating to you," warned



John Ingram, technical director of loss control services for CIGNA Property & Casualty in Philadelphia.

While Internet security is a hot issue these days, many people are overlooking other potentially vulnerable risks, such as the telephone, fax machines, photocopiers and even individual computers themselves, Mr. Ingram pointed out.

He made his remarks during a session titled "Defensive Driving on the Information Superhighway" at the 34th Annual Risk & Insurance Management Society Inc. conference, held last month in Toronto.

"Espionage can occur on your

phone, on your fax or in your copier," he said.

"The number and complexity of information attacks are increasing. And, as more data is shared over telephone and networks, the opportunities increase for unauthorized access," Mr. Ingram said.

For example, using the same access code to enter private voice mail systems, automated teller machines or Internet accounts can be dangerous, according to Mr. Ingram.

"If someone hacks you, they have access to your entire life," he said.

He recommends using different passwords or personal information numbers for each electronic device.

And don't put these access codes on stick-ems posted on your computer, Mr. Ingram admonished. That makes it even easier for unauthorized users to breach security.

"Don't use them," he said. Instead, "try to use your head. Remember things that no one but you will recall."

Mr. Ingram also advised companies to destroy documents—including bad photocopies or faxes—that may contain trade secrets.

"CIGNA does a lot of recycling, but every piece of paper is shredded before it leaves the building," Mr. Ingram said, referring to his employer.

"Group faxes are also danger-

ous," he warned.

To make sure a fax reaches its intended party, Mr. Ingram recommended that the fax machine be kept in a secured area and that senders call to confirm receipt of their faxes.

Companies also should make sure the hard drives in old computers are erased before the machines are passed on or thrown out.

"You don't want to just take an old computer and give it to somebody," he said, using as an example a charity that received a number of PCs from Bell Atlantic Corp., the telecommunications company.

"Their ad came up when the PC was turned on," he said. "Fortunately, they just left the ad, not the data."

Unfortunately, when it comes to the Internet, "security is an oxymoron," Mr. Ingram said.

"There's no physical security," agreed Butler Lampson, a systems architect with Microsoft Corp. in Cambridge, Mass.

"People from all over the world can attack you. It's hard to track them down. Things happen very fast," Mr. Lampson said.

As a result, "there is the potential for large catastrophic losses on the net," he said.

He likened the levels of Internet security to that exercised by residents of a big city vs. those of a small town.

"If you live in Manhattan, you

probably have two locks and bars on the ground-floor windows," he said.

"But, if you live outside Boise, you probably don't even lock your door," Mr. Lampson said.

"The difficulty is evaluating the

Internet security is a hot issue, but many people are overlooking potential weak spots like phones, fax machines and even individual computers, says John Ingram.

threats," he said.

While so-called "firewalls" can help protect company information by not allowing outside access, "some information has to pass through the firewall. Otherwise, why be connected to the Internet?" Mr. Lampson asked, rhetorically.

And current firewall technology does little to protect company computers from being infected with viruses, according to Mr. Lampson.

"Viruses can be packaged in files that look innocent," he said.

For example, viruses can be embedded in spreadsheet and word processing files, as well as in electronic mail passing through the Internet.

Viruses also can copy themselves to other documents or com-

puters, Mr. Lampson said.

One way to protect company computer systems from viruses is to only use software made by a reliable source, he suggested.

This summer, digitally signed software designed to be virus-protected will be made available by vendors, he added.

And a method called "sandboxing" can be used protect systems from viruses by keeping the soft-

ware separate from stored files.

"But it's hard to make the sandbox perfect," Mr. Lampson said. "And every time a solution is found, hackers figure out how to breach it."

In some cases the solution to Internet security can be as simple as allowing only individual computers to access it—not all systems attached to the entire local- or wide-area network.

Such a two-tiered system "keeps the barrier between things that are critical and those that aren't," Mr. Lampson explained.

The session was moderated by Michael D. Phillipus, casualty risk manager for Pennzoil Co. in Houston. Tom Irvin, vp of the special risk facilities division of CIGNA Property & Casualty in Philadelphia, was the coordinator. **BI**

Offering environmental peace

EPA's volunteer programs promote pollution cleanup and industry savings

By DAVE LENCKUS

TORONTO—U.S. environmental regulators are lowering their sticks and instead are extending carrots to prompt polluters to devise and implement prevention programs that are both effective and efficient.

The U.S. Environmental Protection Agency offers several voluntary programs and plans to unveil more that could help industry as well as the environment, an agency official said.

The effort not only could forestall further costly regulatory burdens on industry, it also could lead to reduced regulations, said Chen H. Wen, manager-insurance and risk management program in the Office of Prevention, Pesticides and Toxic Substances at the U.S. EPA in Washington.

It also could mean greater profits for industry, he said.

Noting that the EPA has been looking into how to promote pollution prevention efforts for 2½ years, Mr. Wen told a group of risk managers, "The good news is

tors to reduce pollution at the source, he noted. If that's not possible, the waste should be recycled. If that is not feasible, it must be treated. Environmentally safe disposal is the last option when other measures are not possible.

Mr. Wen said he is encouraged by information from academicians that industry is beginning to view pollution prevention programs as more than an environmental issue.

"It's seen as a survival and competitive issue," Mr. Wen said.

Academicians are finding that more businesses are beginning to see that effective pollution programs not only reduce their environmental liability but also mini-

mize wasted material in the manufacturing process, improve productivity, meet the requirements of key customers and improve their corporate image, he said.

"We want to try to capitalize on that," he said.

To that end, the EPA has developed several programs, Mr. Wen explained.

"The most exciting and challenging thing we're doing" is Project XL, Mr. Wen said. In that project, the EPA will waive various environmental protection regulations for a company that has a less expensive way of meeting or exceeding requirements set by those regulations.

For example, in a project the

EPA has accepted, the agency will work with Intel Corp. to develop a system that measures the overall impact of the company's operations on the environment on a continuous basis.

The EPA normally must review and approve each new product's environmental impact before a company can begin production, noted Jon Kessler, director of the EPA's Emerging Sector and Strategies division.

The problem for Intel is that the normal lifespans of its products are less than the time the EPA needs to approve a new production process, said Mr. Kessler, who did not attend the session.

The EPA also is considering a

project in which it would waive the Clean Air Act's air emissions monitoring requirements for a company that wants to use a computer program to control the emissions of its boiler as well as monitor the emissions through a computer modeling program, said Robert Mellinger, an associate in Fairfax, Va., with ICF Inc. ICF provides the EPA with administration and technical support.

The modeling program could allow the company to predict its emissions more accurately than it could measure them, Mr. Kessler said.

Without the EPA waiver, the company could not afford to install the computer system, said Mr. Mellinger, who also did not attend the session.

The EPA is looking for companies nationwide to contact the agency with their ideas for deal-

Continued on next page



we are not thinking about regulating you."

With tongue firmly planted in cheek, he added, "The bad news is we are the government, and we are here to help you."

But, Mr. Wen's message for risk managers attending the 34th annual Risk & Insurance Management Society Inc. conference in Toronto last month clearly was that regulators support an industry-developed approach to handling waste materials in an environmentally safe manner.

David B. Kuhnke, executive vp of Merit Group Inc. of Farmington, Conn., a financial and risk strategies consultant for health care providers, also urged risk managers to review their companies' existing pollution prevention programs more closely. Many may not meet the EPA's definition, he said. That also means the company is wasting materials, he said.

Mr. Kuhnke referred to two U.S. pollution laws in underscoring the importance of risk managers ensuring their companies have effective pollution prevention programs in place.

The Toxic Release Inventory System requires manufacturers that use or process any of 350 toxic chemicals to report annually their transfers of waste materials and how much of those substances they released into the environment.

The Resource Conservation Recovery Act mandates that waste handlers carry a certification that their waste generator clients have active pollution prevention programs.

A show-of-hands survey at the session on pollution prevention showed that the EPA had not audited any of the attendees' companies' pollution prevention programs. "Luckily, no one has audited you, because there's a real good chance you don't have one" that complies with EPA requirements, Mr. Kuhnke said.

The EPA wants waste genera-

It's terrific on salads,
great on pasta,
and makes one heck
of a fire.



Continued from previous page
ing with their pollution issues.

The EPA has accepted 15 of 40 companies that have approached the agency, which is looking for 35 more projects by year's end, Mr. Wen said.

In its Common Sense Initiative, the EPA is trying to forge close links with companies in about eight industries, including auto-making and electroplating, on how they can best prevent pollution.

The Green Chemistry Challenge, a research partnership with business, is charged with identifying chemicals that can replace more harmful chemicals currently used in manufacturing without compromising product quality.

In an effort to promote pollution prevention programs at companies with inadequate programs, the EPA created the Insurance and Risk Management Project.

To support that project, the agency has developed accounting software that shows how the accounting procedures at companies without pollution prevention programs typically do not truly re-

In an effort to promote pollution prevention . . . the EPA created the Insurance and Risk Management Project.

fect those companies' environmental costs.

For example, current accounting systems may not reflect the cost of wasted material or the cost of workers compensation claims by employees who may not be injured if their companies had effec-

tive pollution prevention programs.

Small and medium-sized companies in some parts of the country also can take advantage of new environmental financing program that will loan them money to implement pollution prevention programs.

The EPA also is involved in a few projects that it hopes may indirectly prompt more companies to implement effective pollution prevention programs.

In California, the EPA is in the process of lining up at least four insurers to write environmental liability insurance for metal finishers and printers, which are required under state law to buy the coverage.

Mr. Wen said the agency hopes that those insurers also would help their policyholders establish strong pollution prevention programs.

One insurer, whom Mr. Wen would not identify, has agreed to write the coverage.

The agency also is working with the International Standards Organization to develop a voluntary environmental management certification program.

The standard, ISO 14000, could be a useful marketing tool, for example, for a company that wants to sell its products in Europe, according to Mr. Kuhnke.

Some companies have used so-called "green audits," a voluntary examination of how a company's operations affect the environment, to improve their corporate image in Europe.

Gaylord L. Bridegan, the Greensboro, N.C.-based risk management director for Guilford County, N.C., moderated the session.

Mr. Kuhnke coordinated the session. **BI**

Setting a new standard

Risk execs urged to get off sidelines

By MICHAEL BRADFORD

TORONTO—Risk management professionals are divided over whether the still-developing field needs standards for guidance.

Most agree, however, that a standardization of risk management is on the horizon and risk managers should be involved in efforts to develop such standards.

There is "a considerable range of opinion among people as to whether or not at this stage in the development of risk management . . . we require some form of standardization," said Felix Kloman, editor and publisher of newsletter Risk Management Reports in Lyme, Conn.

But, he added, "whether we want



standards or not, we're going to get them. It's inherent in human nature to try to create some kind of platform that will enable us to expand and improve in the future."

Mr. Kloman, a proponent of standardization, said there is a practical utility that standards can provide for "those who are coming into this discipline fresh," whether they arrive from a university or from another area in their company. "It gets you up and running a lot faster."

Mr. Kloman was a panelist in a discussion of the standardization of risk management at the Risk & Insurance Management Society Inc.'s 34th annual conference, held last month in Toronto.

While there are benefits to standardization, there is also a risk that standards can become too rigid, another panelist argued.

"Standards, by definition, can be a very rigid thing to live with," said Susan R. Meltzer, director-risk management and insurance at Bell Canada in Toronto.

"While I agree with Felix on the development of guidelines, I have serious concerns about them being called standards and eventually becoming more regulatory in their effect than guidelines," she added.

The danger is apparent, Ms. Meltzer pointed out, in the Canadian Standards Assn.'s draft of proposals that appear to be evolving into risk management regulations. "When a standard becomes a regulation, you have a problem."

The CSA is a non-profit organization that certifies products and creates standards. While the CSA does not have legislative powers, its risk management standards could become public policy, with government agencies demanding compliance by private companies that supply them with goods and services.

Ms. Meltzer also has concerns with the Dey Report, which was drafted in 1994 by the Toronto Stock Exchange to ensure that boards of directors of publicly held companies understand risks affecting their companies and that

See Standards on next page

At Allendale Insurance, we believe that most property loss can be prevented. But that means asking some very tough questions, and looking for risk in some unlikely places. For example, take vegetable oil in plastic bottles. Conventional wisdom has been that warehousing this very high flashpoint liquid presented no more of a hazard than storing ordinary combustibles. Yet tests conducted through our ownership of Factory Mutual Research revealed that even sprinkler systems arranged for high hazard commodities could not control fires of this type. Further tests revealed that this was no ordinary combustible. Once heated by the fire in their cardboard packaging, the plastic bottles leaked and the preheated vegetable oil burned with the intensity of a flammable liquid. And once the fire spread from the cardboard to the



liquid, the fire was uncontrollable. This led to the development of a strategy aimed at replacing conventional in-rack sprinklers with the quick response model, and spacing them closer together. As a result the fire is suppressed in its earliest stages when it's limited to the cardboard. This solution is easy to implement and uses the sprinkler piping and water supplies normally in place in grocery warehouses. Plus, it doesn't interfere with normal warehouse materials handling. The truth is, this is but one example of how we never stop looking at commodities and the hazards they pose. In fact, for over a century and a half, we've never stopped asking the kind of difficult questions that lead to the cost-effective solutions our clients need to minimize risk. Even if that means looking in places as surprising as, yes, a salad.



Standards

Continued from previous page
management is addressing those risks.

What started out as guidelines in both the Dey Report and the CSA effort "went beyond standards," she noted.

For example, the Dey Report proposes that the chairman, chief executive officer and president be separate persons in a corporation, said Ms. Meltzer. "There's been lots of discussion as to whether that is an appropriate thing to do. At my company, as at many oth-

ers, the chairman and the CEO are the same person," she said.

Splitting the job wouldn't necessarily make Bell Canada a better-managed organization, she suggested. "But I can rest assured that if there was ever a shareholder suit against my organization" the plaintiffs would argue that "here's why you screwed up: You didn't follow all 14 of the guidelines." The danger of documents like the Dey Report and the CSA proposal is they may cross the line from guidelines to requirements, she said.

Ms. Meltzer complained that the CSA document "can be described

as a how-to document."

Instead of "describing the process for you and helping establish a decision-making model" like the highly touted "Public Sector Risk Management Guidelines" developed for entities in Australia and New Zealand, the Canadian proposal "actually goes so far as to tell you how to manage risk, not just what the model is, but what types of decisions to make within each part of the process."

The Australia and New Zealand standards formed a framework for analyzing, assessing and managing risk in public entities (*BI*, Nov. 6, 1995).

Despite concerns about the standards, few Canadian risk managers have been on the front line to help develop more acceptable standards.

While some of the proposed Canadian standards could be helpful—like those emphasizing communications and media skills—Ms. Meltzer pointed to others that drew laughs from the audience. "The dangerous part

about this is it also made two conclusions about risk management.

"One of the conclusions was that no organization that follows the risk management process need buy insurance," she said. "Its other conclusion was that once you go through the risk management process, you need never do it again. You've done it, you've identified everything, you've figured out what you're going to do about it, it's over."

Despite concerns about the standards, few Canadian risk managers have been on the front line to help develop more acceptable standards.

Ms. Meltzer said RIMS turned down an invitation by the Canadian Standards Assn. to participate in the development of standards. "They turned down the invitation because they didn't believe standards should be developed," Ms. Meltzer said.

RIMS also worried that if the organization expressed concerns about a standard but was overruled and the standard was adopted anyway, "it would look automatically like we agreed with the standard," she explained.

Ms. Meltzer said she believes risk managers should take the lead in developing standards, but RIMS declined to participate in the type of forum the Canadian Standards Assn. offered because RIMS members would have had little influence in shaping the standards. Although RIMS wasn't involved, individual risk managers did participate in drafting the proposed standards, she pointed out. And the Canadian RIMS chapters did offer suggested modifications to the proposed standards after the CSA released them last year.

General principles could be developed within RIMS that would make any guidelines put out by groups like the standards association irrelevant, Ms. Meltzer remarked. "That's what I would like to see."

Mr. Kloman said he believes RIMS members in Canada "made a serious error in not participating in the Canadian standards development."

"To the contrary, the Australian and New Zealand risk management organizations were key players in the development of standards for Australia and New Zealand. And, to the extent that that standard is more workable, I think it's a reflection of the effort of practicing risk managers," he said.

Leadership in developing standards should come from risk managers, organizations like the Society for Risk Analysis, RIMS and other similar groups worldwide, Mr. Kloman said.

Those individuals and groups should decide on standards, possibly using the Australian-New Zealand document as an example, rather than waiting on governments or regulators to inevitably come up with their own rigid standards, said Mr. Kloman. "Let's take the leadership rather than letting someone else tell how to run our businesses."

The session moderator was Richard H. Saylor, insurance risk manager at Coca-Cola Beverages Ltd. in Toronto.

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Question of coverage liable to plague buyers

Gauging liability limits a tough task, risk manager says

By MICHAEL SCHACHNER

TORONTO—Risk managers would love a simple answer to the question: How much liability insurance is enough to sufficiently protect their company?

Unfortunately, there are no clear-cut, uniform guidelines to help determine how much coverage is appropriate, a risk manager says.

Because each company's risks are unpredictable and case law is changing, risk managers must decide what their level of comfort is when buying commercial liability insurance, said Richard Heydinger, director of risk management services with Hallmark Cards Inc. in Kansas City, Mo.

"In my 30 years in the risk man-

agement practice, I've seen a lot of court awards that have skyrocketed in recent years are making evaluating proper limits a daunting task.

"Contrary to popular belief, trial rates are flat. The case mix isn't changing, either. But what is happening is plaintiffs are winning, and they're winning some very celebrated cases," noted Stan Long, president of AIG Claims Services Inc., a unit of American International Group Inc. in New York.

This just makes the limit evaluation process tougher, he said. "Plaintiffs are winning about 56% of the time, and when a life or body part is

harmed, it jumps to 60% to 70%. With products liability, it's about 40% for the plaintiff but about 60% in New York City.

"And, what do you win? Median awards are increasing dramatically. The median life/limb case in Illinois is now about \$100,000, up from \$30,000 in 1984. In Manhattan, it's about \$384,000 for an injury, and almost \$3 million if the injury was caused by products," Mr. Long said.

"The courthouse is not a friendly place, and it's not getting more friendly. Historically, large verdicts for injuries were justified based on

future medical costs. But, even with wrongful death cases, where there's no medical component, many cases are seeing millions of dollars" in damages, Mr. Long added.

Environmental and toxic tort exposure is also difficult to measure, said Gerri Prusko, senior vp-policyholder services with CIGNA Property & Casualty Insurance Co. in Philadelphia. "With Superfund, the average cleanup costs are \$30 million to \$35 million," she said.

Far less tangible are a growing number of claims for injuries sustained from electromagnetic field radiation. "While toxic substance cases involve something tangible, electromagnetic field radiation can't even be touched. It's being touted as the next asbestos, but there's no scientific evidence to back that up...Then again, it could be the next big tort exposure," she said.

Class actions are another difficult-to-measure exposure.

"Class actions aren't really part of the law. They're posing a big problem for companies and they have developed their own momentum," said Mr. Booher. "They sweep over many years and many layers of coverage, so there's never really enough insurance for class actions, and some class actions are so huge, there may not even be enough coverage for defense costs."

Mr. Booher admitted class actions might make sense in theory—because they consolidate mass tort litigation—but "there's a lot of junk science involved," he said, citing class actions against manufacturers of silicone breast implants; claims against E.I. du Pont de Nemours & Co. Inc. stemming from its Benlate fungicide; and litigation over the 1991 fire at One Meridian Plaza in Philadelphia.

Lawrence L. Drake, managing director with M&M in New York, coordinated the session. Mr. Heydinger was the moderator. **BI**



agement practice, I've seen a lot of mysteries solved, but this isn't one of them. It's one of the most difficult questions to deal with," Mr. Heydinger said during a session at the 34th annual Risk & Insurance Management Society Inc. conference, held last month in Toronto.

The question is difficult to answer because of the number of exposures risk managers are dealing with today, most of which can create big losses for a company under the worst circumstances. Included in the potential large-loss producing category are life and limb claims, environmental and toxic tort cases, class actions, employment-related claims and product claims.

"Risk and exposure are really unpredictable. Case law is by no means a fixed environment, and looking back at history has only limited value. Sometimes, even having a good name and good will in the community works against you. You can be held to a higher standard. And, ultimately, there's no protection from when the roulette wheel stops on you," said Mr. Heydinger.

He suggested that while exact coverage levels are impossible to determine by formula, a few parties always must be protected. "You have got to protect shareholders and you have to protect stakeholders, including employees, directors, customers, suppliers and lenders. Their fortunes are tied to yours."

But, buying massive limits that would keep everyone well protected may not be rational, either. "There is certainly pressure to drive down costs. You can't appear to be wasteful, irrational or too conservative. It's all part of the cost/benefit analysis we all do," he said.

Ultimately, "you can't risk a lot to save little. You're better off having a safety margin than trying to slip by on limits," Mr. Heydinger said.

One way of at least getting a ballpark idea of what coverage limits are appropriate is to benchmark against other companies.

"Within your industry, there are other respected companies to look at. There are also due diligence checkpoints to follow," said Bob Booher, managing director-U.S. claims operations with Marsh & McLennan Cos. Inc. in New York.

Other speakers at this RIMS session commented that unpredictable

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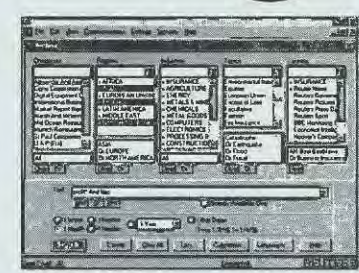
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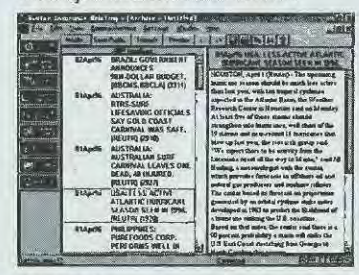
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The price of better loss control

By GAVIN SOUTER

TORONTO—Risk managers receive many benefits through buying property coverage from highly protected risk insurers, but low rates is not one of them.

Policyholders that invest in the stringent loss prevention measures necessary to buy insurance from HPR insurers can no longer look forward to lower premiums in return for that investment, concedes James W. Black, executive vp and chief operating officer at Protection Mutual Insurance Co., in Park Ridge, Ill.

Instead, he said, risk managers should view HPR insurance as a value added product that warrants higher premiums.

And along with higher premiums, risk managers should expect more

HPR property coverage costs more—and it's worth it, insurer exec says

meticulous analysis of their exposures, added an executive with another HPR insurer during a session at the 34th annual Risk & Insurance Management Society Inc. conference, held last month in Toronto.

Insurers are suffering far higher than expected losses on properties that have been undervalued in the past, and reinsurers are pressuring HPR insurers to obtain better information, he said.

Risk managers will also have to become more meticulous themselves in their analysis of HPR insurers as more companies enter the HPR market, a risk manager said.

Even with more companies in the

market, conventional property insurers may offer lower rates than HPR companies. Average rates have been reduced by 40% over the past 10 years, but conventional property insurers have reduced their rates by even more, Mr. Black said. "Now the risk manager who buys HPR coverage has to be willing to pay for the engineering service," he said.

Last year many HPR insurers insisted on significant rate increases for many clients (BI, May 22, 1995).

But still, rates are too low, Mr. Black said. "There is nothing built into the rates for natural catastrophes," he said.

HPR insurers are also imposing

larger deductibles, Mr. Black said.

In 1991, only 7% of HPR policyholders had deductibles of over \$5 million. Now nearly 20% have deductibles that large, he said.

But the accounts themselves are changing, and many of the newer accounts warrant a larger deductible under any circumstances Mr. Black said. "We are writing fewer, but larger accounts," he said.

As well as increased rates and higher deductibles, risk managers can expect more questions from HPR insurers about the values of their insured properties, he said.

"You are going to be hearing a lot more about values not because we want to get more dollars in premium but because we want to be able to accurately determine our loss exposures," he said.

If a property valuation is 10% off, that can add up to hundreds of millions of dollars for large risks, Mr. Black said.

Recently, HPR insurers have been hit by large losses where damages to properties have far exceeded their originally reported value, said William E. Simmons, president of American Protection Insurance Co., a unit of Kemper National Insurance Cos. in Long Grove, Ill.

There have been at least three losses in excess of \$100 million in the past 18 months where the reported values were less than 50% of the actual loss, he said.

Pressure to obtain adequate valuations is also being exerted by reinsurers, Mr. Simmons said.

Reinsurers are leery of some risks because they have suffered far larger losses than they had anticipated. They are now reducing their capacity for some HPR risks, he said.

"That means that we have more problems placing reinsurance for high value risks," Mr. Simmons said.

Much of the reinsurers' concerns are due to cat exposures, he said.

Reinsurers have been concerned about earthquake exposures in California and windstorm exposures on the East Coast for several years but now they are more thoroughly exam-

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ining their exposures in other areas as well, Mr. Simmons said.

For example, reinsurers are asking more questions about properties located near the New Madrid fault in the Midwest and properties in earthquake zones in Italy, he said.

Rating agencies are also pressuring HPR insurers for more information on exposures, he said.

"They all want a computer analysis of your earthquake and windstorm exposures," he said.

But HPR insurers cannot easily provide the analyses since the computer models that are used to determine those exposures are designed to quantify homeowner risks, not industrial risks, Mr. Simmons said.

HPR insurers are not the only people in the HPR market that are being required to analyze more information, said Gary A. Baxter, director of insurance at Weyerhaeuser Co. in Tacoma, Wash.

Risk managers now have a greater selection of HPR insurers to choose from, Mr. Baxter said.

"The number of HPR carriers used to be a very limited few, but recently it's been increasing," he said.

However, risk managers should be wary of some of the new insurers in the HPR market, he said.

"These companies may be able to add capacity but they are not substitutes for HPR carriers and who knows what their commitment will be," Mr. Baxter said.

The new insurers often do not have the engineering services that are offered by the established HPR insurers, he said.

And risk managers should not be tempted to buy their insurance from one of the new insurers and engineering services from another provider, said Mr. Baxter, who moderated the session.

Equivalent engineering services are hard to obtain and the service providers do not have the same shared interest in reducing losses as an HPR insurer, he said.

Joseph H. Talbert, property/HPR segment manager of risk engineering at Zurich Services Corp. in Schaumburg, Ill., coordinated the session.

Benchmarking risks can offset benefits for some companies

Others should follow guidelines

By DAVE LENCKUS

TORONTO—Not all risk managers think the potential benefits of benchmarking outweigh its risks.

If a risk manager does not conduct a meticulous benchmarking survey, the survey results can be misleading or erroneous, cautioned Rich Sadler, risk manager-worldwide for Microsoft Corp. of Redmond, Wash.

Mr. Sadler qualified his remarks during a session at the 34th annual Risk & Insurance Management Society Inc. conference, held last month in Toronto, by noting that he is not a benchmarking expert. He also acknowledged that he has par-

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icipated in and probably will participate in more benchmarking projects initiated by other risk managers.

But, he said, he is not a strong advocate of the concept.

In benchmarking, one company measures either its metrics—or various financial results, including cost of risk and policy limits—or the various processes it performs that generate those financial results against other companies that are recognized as having the best practices in those areas.

The company that initiates the survey applies what it learns—sometimes from competitors and at other times from companies outside its industry—to its own operations. The surveying company also shares its survey results with its benchmarking partners, though it typically provides the results on an aggregated basis so that it does not disclose any information about a particular benchmarking partner to other partners.

Companies can benchmark internally as well by measuring various divisions against each other or by analyzing a specific program or division over the course of a few years.

"Benchmarking can be a very time-consuming process. To be cost-effective, it needs a firm commitment from senior management" so the risk manager does not wind up with misleading or erroneous information, he said.

"You simply cannot allow this to occur," he emphasized.

But even that commitment does not guarantee a benchmarking project's success, according to Mr. Sadler.

He quoted a 1993 survey by The Conference Board that found that two-thirds of the 225 companies it surveyed had benchmarked and that three-quarters of them considered the projects successful.

Those results point out that at least 25% of the survey's respondents—and possibly more if the respondents were not candid—did not consider benchmarking a useful endeavor, Mr. Sadler observed.

Mr. Sadler pointed out several potential pitfalls of the concept.

"Benchmarking may cause you to focus on the wrong direction" for your company, he said.

For example, if one of the country's three largest automakers in the late 1970s had engaged in an automobile design benchmarking project with the other two large manufacturers, it would have found support for its plans to build large, powerful vehicles, he said.

See **Benchmark** on next page

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MICHAEL A. MARCOTTE

RIMS kicked off its annual conference with awards to individuals and chapters. The San Diego chapter stood out as a winner in five categories of the Chapter Recognition Program (BI, April 29).

Benchmark

Continued from previous page

However, Japanese automakers, with their smaller and more fuel-efficient models, soon would become the chief nemesis for U.S. automakers, Mr. Sadler said.

So, while the surveying company's findings would have been accurate, they would have misled the company about consumer demand, he said.

The duration of a benchmarking project, which can extend to two or three years, can be another major drawback, Mr. Sadler said. At its conclusion, "you end up with a very good idea of where you were two to three years ago."

Microsoft's business moves so fast that the software maker has to look to the future in risk management rather than the past, he said.

Another very serious risk in

benchmarking is that the surveying company unknowingly may obtain erroneous information and rely on it in formulating strategic decisions, he said. "The results could be very damaging and costly to correct."

If risk managers still want to benchmark, they should follow the suggestions outlined by the session's other speakers, he said.

"All of you can benchmark," said Robyn M. Perchik-Feinman, a national accounts manager at Hartford Specialty Co., a subsidiary of IIT Hartford Group Inc. in Glendale, Calif.

Success is based more on commitment than having a special talent for benchmarking, she said.

Ms. Perchik-Feinman outlined five critical steps in a successful internal benchmarking project:

- Decide what to compare. Options could be claim size over time, claim frequency by division, lag time in claim reporting and litiga-

tion analysis.

- Define the project's parameters based on what will be benchmarked.

- Chart the data and analyze for trends.

But, the risk manager has to guard against introducing biases and other problems into the analysis of collected data, she warned.

For example, risk managers should examine raw loss information on a triangulated basis if the data has not been trended, she said. That means risk managers should not compare one year's losses that are nine months old with another year's losses that are 60 months old.

- Set goals based on what was learned from past successes.

The most important part of internal benchmarking is setting goals, Ms. Perchik-Feinman said. No matter how good a metric or process looks, "keep looking at it," she advised. "There's always room for improvement."

- Implement changes and monitor them at realistic intervals.

"If you think internal benchmarking is an exhausting process, external benchmarking is not for the faint of heart," Ms. Perchik-Feinman cautioned. She suggested obtaining help from a broker or industry group to conduct an external project.

Brenda M. Olson, vp with Johnson & Higgins of Washington Inc. in Seattle, outlined six critical steps in an external benchmarking project, in which a risk manager compares a portion of his or her program against a peer group.

- Determine what to benchmark.
- Form a benchmarking team of data collectors and analysts, project support staff and benchmarking partners with best practices.

Identifying companies with best practices is the most difficult part of the benchmarking project, Ms. Olson said. The best way to find them is through literature checks and word of mouth and by huddling with brokers and risk management consultants.

Antitrust issues should not be a concern when benchmarking with competitors if the project does not touch on competitive pricing issues, noted Nathaniel Lord, risk manager for Bergen Brunswig Corp. of Orange, Calif., who moderated the session.

- Measure your own performance.
- Measure the performance of companies with best practices.

- Compare your own and others' performances.

- Take action.

Ms. Olson advised risk managers to ultimately benchmark processes, rather than settling for a comparison of metrics.

For example, rather than comparing one's liability limits with the limits for a peer company, a risk manager should look at the steps the peer company took to determine the limits it needed, Ms. Olson said.

Those limits may be average for the industry but inadequate for a risk manager's company, she warned.

Microsoft's Mr. Sadler also warned against trying to measure too many metrics or processes in a single benchmarking project. "You're setting yourself up for failure" by being too comprehensive.

Such an ambitious project will not allow risk managers enough time to either focus on clearing up data they obtain from benchmarking partners or ensure that all partners define terms identically so that the benchmarking partners can compare data on an apples-to-apples basis.

James Johnson, vp and manager-liability risk management services for Johnson & Higgins of New York, coordinated the session. **BI**

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Taking a lesson from Willy Loman

By SALLY ROBERTS

TORONTO—In Arthur Miller's 1949 play, "Death of a Salesman," down-and-out salesman Willy Loman succumbs to his fate without realizing he could have broken free of the role he had molded.

Insurance brokers, too, will succumb to their fate if they do not break free of their sales role and become more of a consultant and partner to risk managers, say two brokers and a risk manager.

"It's the end of one era and the start of another," said Susan Seilbach, vp and regional manager for Personal Lines Insurance Brokerage Inc. in San Francisco. "Risk managers want partners, not observers."

Many brokers today are too preoccupied with a recent merger, rumors of a merger or new technology than actually listening to their clients' needs, said Ms. Seilbach. "This is a people business. All the technology in the world cannot replace true relationships."

"In many regards, the broker salesman is dead," agreed Edward Kiessling, national practice leader-

Brokers must move beyond sales to satisfy risk manager demands

minister policy placement as well as for insurance company intermediation, contract consulting, engineering consulting and program audits.

"I don't need an intermediary or a consultant," she said. "I need a partner who will sit and tell me what and where things could be better applied."

"The primary thing I look for in a broker is the value added," Ms. Labrador said. Value added to Intel includes the broker's expertise on the insurance market insurance products and risk financing alternatives and the broker's objectivity, she said.

It is a supply-and-demand business, she said. "But, in order to be

successful, brokers need to understand the client's business," she said.

"Brokers very often throw a hat on someone and say he is an expert when he really has no expertise," said Ms. Labrador. She said she would rather have a broker that is willing to team up and merge with another service provider, like an investment banker to deliver the insurance program she is looking for.

Overall, a broker needs to contribute to its client's success, she said. "If a broker gives value added to me and we're successful, then we've got a good relationship that will last."

Ms. Labrador noted that the relationship with her property and

global risk broker has lasted five years, while her casualty broker relationship has lasted 15 years.

"We used to have a selection process every seven years where we put all the alphabet houses together and had a beauty contest," she said. Now, the company reviews each broker's value added on an annual basis. While Intel currently compensates its brokers on a fee basis, it is in the process of structuring pay-for-performance compensation based on the broker meeting Intel's value-added objectives, she said.

Indeed, linking broker compensation to meeting certain performance goals is one of the "action items" that A&A's Mr. Kiessling recommends for brokers to become more consultative and less sales-oriented.

Other things Mr. Kiessling advises

brokers to do include:

- Learning how to communicate the value of broker services.

- Taking part of the responsibility to provide education and information to the risk management community.

- Earning the risk manager's trust to form a better partnership.

"Our ability to move to consulting is dependent on what evolves with the risk management function," he said. "We are in this together."

Among his advice to risk managers, Mr. Kiessling said:

- Develop broader skills than called for in the "traditional" risk management agenda.

- Focus on how their risk management choices will affect the company's financial statement.

- Learn to "partner" with brokers instead of "use" brokers, assuming they can earn their client's trust.

Ms. Seilbach coordinated the session. ■

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risk management for Alexander & Alexander Inc. in Pasadena, Calif. "If the brokerage industry doesn't meet the need (of risk managers), someone else will come in and meet it," he said.

The two spoke on a panel during the 34th annual conference of the Risk & Insurance Management Society Inc., held last month in Toronto.

Also on the panel, Diane R. Labrador, assistant treasurer-risk and insurance for Santa Clara, Calif.-based Intel Corp., described how her use of brokers has evolved as the company's risks have changed.

Over the past five years, Intel's revenues have grown to \$16 billion from \$4 billion. In 1995, Intel employed more than 40,000 people, up sharply from 25,000 in 1990.

As a result of this growth, the company's risk management department continues to take on new and expanding roles, she said.

When Ms. Labrador began her job in the risk management department 14 years ago, her role included insurance purchasing, insurance administration, relocation management and automobile claims management, she said.

Today, "my role includes several different functions." While "insurance purchasing remains a major function, we dropped off what was not considered a value-added" function, she said, referring to the company's in-house claims management for automobile liability coverage and relocation management.

Also, Intel has moved over the years to much higher self-insured retentions and has set up two captive insurance companies—one in Barbados and one in the Cayman Islands, she said.

"What do I use a broker for today?" Ms. Labrador asked rhetorically.

"Insurance purchasing still plays a major part in what I do, but it now is slotted in under the role of risk financing, which also includes risk retention, risk funding and other alternative methods," she said.

In addition to identifying markets and negotiating coverages, Ms. Labrador depends on brokers to ad-



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Accountants, risk managers disagree on claims reserves

By **RODD ZOLKOS**

TORONTO—Although proper loss reserving offers numerous benefits, including allowing an organization to budget more efficiently, the accounting department's recognition of claims reserves is often incorrect, a broker says.

"Any program design that is in any fashion loss-sensitive has a reserve implication," said Scott M. Sanderson, a vp with Johnson & Higgins Inc. in Minneapolis.

That includes self-insured programs, entities with self-insured retentions, losses included under deductibles, paid retrospectively rated programs and incurred retrospectively rated programs he said.

But in viewing those programs at many entities, "it became painfully obvious there was a disconnect between risk managers and accounting managers in 'What the heck do you do about reserves?'" said Mr. Sanderson.

Mr. Sanderson coordinated a panel on the financial impact of reserving during the 34th annual conference of the Risk & Insurance Management Society Inc., held last month in Toronto.

Sound loss reserving provides the basis for better understanding between an organization's financial and risk management departments, Mr. Sanderson said, noting, "You don't want to be in the position of changing next year's earnings be-

cause of what you did last year."

Proper recognition of claims also allocates costs to the proper year and avoids the need to adjust future earnings because of inaccurate claim recognition. It's also required under generally accepted accounting principles, Mr. Sanderson noted.

Both the Financial Accounting Standards Board and the Governmental Accounting Standards Board have guidelines related to accounting for claims reserves.

J. Howard Stecker, a partner and national tax director insurance services at Deloitte & Touche L.L.P. in New York, who participated on the panel, noted that for an accrual to take place for financial accounting purposes there must be the probabil-

ity that an asset will be impaired or a liability incurred. Also, one must be able to reasonably estimate the amount of the loss, he said.

Dale Schultz, vp-risk management at Samaritan Health System in Phoenix, who moderated the session, noted that in operating a chain of hospitals in Arizona and California, Samaritan has considerable dealings with claim reserves arising from its medical malpractice and workers comp exposures.

Among the factors Samaritan considers in establishing reserves, he said, are: out-of-pocket expenses; the severity of injury; the hospital's level of negligence; the injured person's age; whether the injured person is supporting anyone; the injured person's level of education; the injured person's income level; and where the injured person resides.

"We look at whether or not there is a possibility to involve our insurance program," Mr. Schultz added.

Samaritan also assesses the possibility of co-defendants to the claim and looks at the quality of witnesses.

And, the risk manager said, while the company always believes its counsel is best, it looks at the quality of the opposing counsel, a factor that has caused Samaritan to increase reserves in some cases.

"We look at damages first, we then look at our liability and we look at it from several perspectives," the risk manager said.

Samaritan currently faces just less than \$25 million in annual losses, about \$21 million of that in medical professional liability and \$3.5 million in workers compensation, Mr. Schultz said.

Once Samaritan has established a formal reserve for a claim, it's reviewed every 90 days so that actuaries can be given the best possible information.

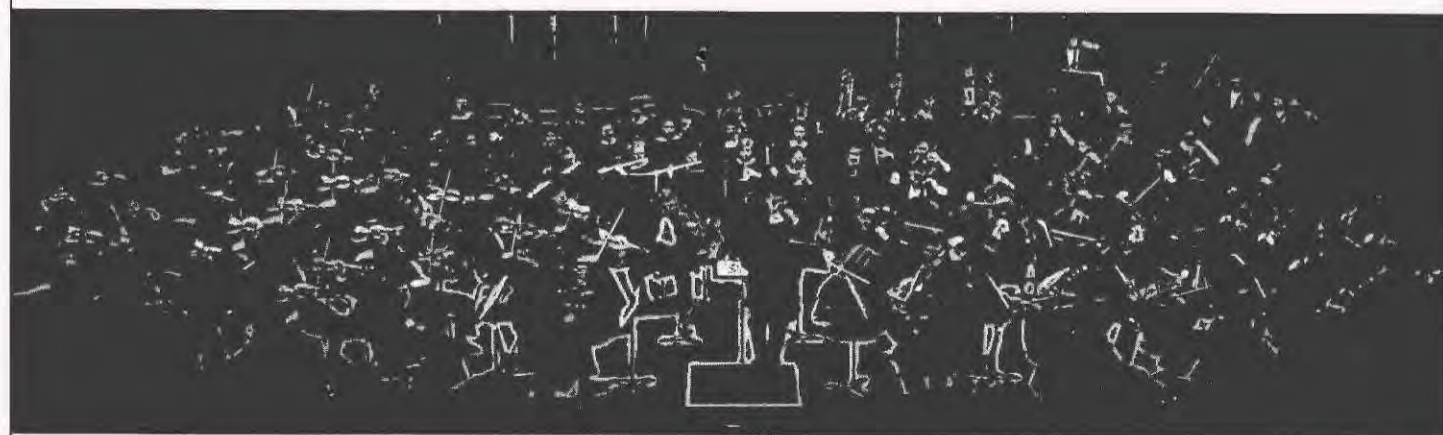
"Above all, we emphasize that we want them to reserve as conservatively as possible," Mr. Schultz said. That doesn't mean reserve levels are always high, he said, but rather that those setting Samaritan's reserves take as true a look as possible at the actual exposure at that point in time.

If a future review determines that the exposure has changed, then the

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reserve will be adjusted.

And always, Mr. Schultz said, he seeks consistency in the way Samaritan's reserves are set.

"What we do isn't terribly sophisticated. It isn't terribly precise. We are very rarely right," he said. But, he added, "We are almost always consistent. What I look at is to see that it is consistent."

Another speaker on the panel, Mary Frances Miller, a senior vp and chief actuary at Sedgwick James Inc. in Nashville, examined the differences between actuarial reserves and the case reserves established by adjusters.

Case reserves represent the expected future payments for reported claims, she noted, while actuarial reserves represent expected future payments for all claims incurred as of a given date.

"Are the adjusters' case reserves the proper reserves for a self-insurer's balance sheet?" she asked. "Generally the answer is no. If you just put the case reserves on your balance sheet, you've got a gap."

Actuarial reserves are determined by examining prior experience and assuming "the future will repeat the past," Ms. Miller said. Also, actuaries generally do not concern themselves with individual claims, looking only at aggregate data.

"Case reserve is almost always less than actuarial reserve," she said, noting that this is because the actuary expects there will be more claims than what the adjuster is currently examining. The difference includes incurred-but-not-reported claims, claims for which there are inadequate case reserves and reopened claims.

True IBNR losses result from a lag between the occurrence and the reporting of a claim and is greatest for long-tail lines, she said.

"Professional liability has a very long tail because it sometimes takes a long time for the claimant to realize there's been a loss," Ms. Miller said.

Meanwhile, workers comp claims have the greatest propensity for being reopened, she said, with reopened claims often more severe than the original ones. **BI**

Employment law knowledge key to avoiding litigation

By MICHAEL SCHACHNER

TORONTO—To control the financial and public relations damage from an employment practices lawsuit, the entire organization must understand the major laws that regulate employment practices and what can happen when companies violate them, a defense lawyer says.

A myriad of things govern employment practices, and "you need to cover the full gamut with employees,

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and that includes from interviews through employment" to termination, said Robert M. Gault, an attorney with Mintz, Levin, Cohn, Ferris, Glovsky & Popeo in Boston.

Speaking at a session at the 34th annual Risk & Insurance Management Society Inc. conference, held last month in Toronto, he said the first step for any risk manager should be to explain to all supervisors the employment laws and the perils of non-compliance. "The No. 1 question you must ask yourself is, 'Does my organization understand what compliance with the law is and what the consequences of non-compliance are?'"

Naysayers should simply look at the \$7 million 1994 sexual harassment verdict against the law firm of Baker & McKenzie, he said. Although most of that award was in punitive damages, which were later greatly reduced (BI, Feb. 6, 1995), "this was a verdict against a major law firm that should have known better, and there have been a lot more less glamorous cases, too."

And breaking the law opens the door to "huge potential damages, from both a financial and a public relations standpoint," he said.

With several federal employment practices statutes governing employers, including newer laws like the Americans with Disabilities Act, the Family and Medical Leave Act and the 1991 Civil Rights Act, as well as longstanding laws like Title VII of the Civil Rights Act of 1964, "employers can avoid the maze to some extent by taking proactive approaches to compliance," said Mr. Gault. "I'll tell you, I make a lot more money defending reactive companies than counseling companies on how to be proactive. People are still feeling their way through the ADA and FMLA, but they can cause liability in a hurry."

He summarized key elements of what he considers the most important employment practices statutes:

- The 1990 ADA prohibits discrimination on the basis of physical or mental impairment that limits one or more major life activities, including working. The ADA applies to companies with 15 or more employees.

"It's the most comprehensive civil rights statute ever enacted," said Mr. Gault. "It's a tremendous source of concern for employers and a great source of business for lawyers. It applies to applicants and current employees, and you should know that it's rare that I see a job application that doesn't ask at least one question that could violate the ADA."

To avoid ADA-related liability, he said, don't ask disability-related questions and don't subject someone to a medical evaluation without

making a conditional job offer.

- The FMLA of 1993 applies to companies with 50 or more employees, and it provides for up to 12 weeks of unpaid leave annually for the care of a newborn or adopted child, a seriously sick or injured relative or for an employee's own illness.

"One of the most important things to know about this is you have only two days (after leave has begun) to tell an employee you're designating their leave as FMLA. Otherwise, the clock doesn't start ticking until you've told them," said Mr. Gault.

- Title VII and the Civil Rights Act of 1991 are the two big ones for sexual harassment. Harassment can be either subjecting someone to a hos-

tile work environment or treating sex as a quid pro quo for employment changes. Suits can be brought alleging intimidation that created a hostile environment. This includes joking, threats and comments construed to be lewd. Quid pro quo "usually occurs when a rejection or submission to someone's advances leads to changes in employment," he said.

"It's usually women against men, but it's also men against men, women vs. women and men vs. women. The rules apply to all folks," he said. "There's tremendous potential liability. A company can be held liable for a supervisor's actions, so it's important to educate all employ-

ees and let it be known that you invite complaints and you will quickly to eradicate problems."

Once corporate-wide education has occurred, a company is then ready to consider buying employment practices liability insurance.

Christine Veator, senior vp with Aon Risk Services of Massachusetts Inc. in Boston, said the number of insurers offering quality, well-priced EPL coverage is growing daily.

"When this was introduced, it was pricey, and that's an understatement," Ms. Veator said. "Now the pricing is better despite recent claims activity, and so are limits. Carriers are more comfortable underwriting it because they've developed some predictability with claims management and underwriting."

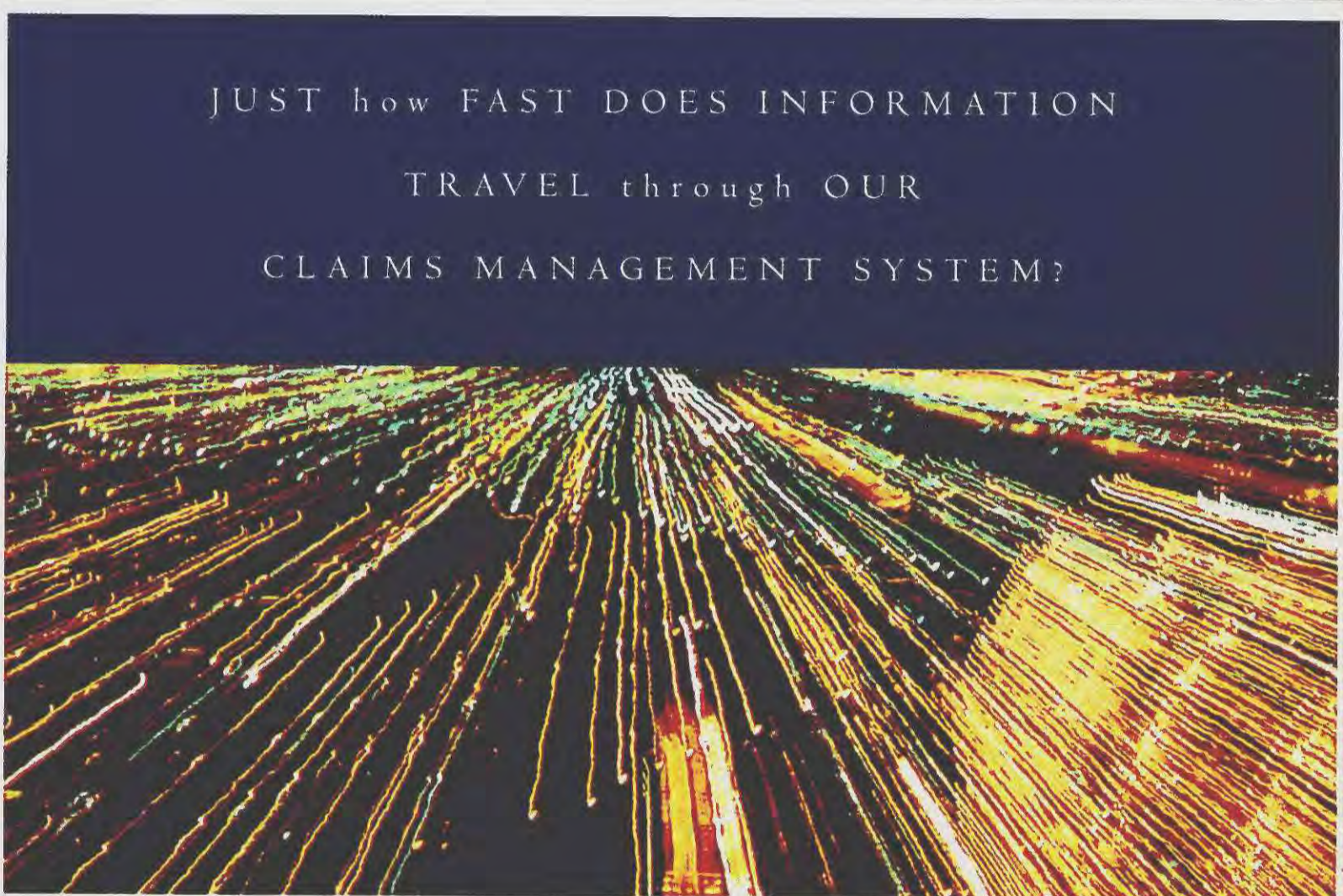
Ms. Veator described the EPL market as a "buyer's market" that is being fueled by daily entrants into the field. "If you're thinking about buying EPL, act now. Prices are

down and carriers are willing to negotiate. They're eager to write it."

Her coverage checklist consists of finding out who is insured, whether there is any corporate entity coverage, whether directors and officers are protected and if the policy applies to past events.

After that, buyers should find out what triggers coverage. "Is it simply an allegation or must a formal claim be filed? And, are defense costs insured? If not, you could spend a lot before it's triggered," said Ms. Veator. "And, one of the biggest issues is choice of defense counsel. It's good to know what you're getting before that first claim. Being with your firm at the start and then transferring it to an insurer-appointed firm could be inefficient."

Ms. Veator coordinated the session, and Marge Fitch, assistant vp-risk management with Hills Department Store Co. in Canton, Mass., was moderator. **BI**



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Taking loss control to intellectual level

Tips for protecting intellectual property

By **RODD ZOLKOS**

TORONTO—Protecting a company's intellectual property from the various exposures it faces is best done through loss control techniques that are a natural extension of the tasks risk managers already perform.

That's especially true as the risk manager's role expands to take in a broader array of an organization's risks, said panelists discussing intellectual property exposures and liabilities at the 34th annual Risk & Insurance Management Society Inc. conference, held last month in Toronto.

Kay Millonzi, risk manager of the Middleton, Wis.-based Pleasant Co., suggested intellectual property is a company's most valuable asset. She said her company's most valuable asset is the "American Girl" name on the products the direct-mail retailer markets.



"We can all work on getting insurance for our buildings and getting liability insurance and putting sprinklers every place, and I can have a warehouse full of dolls to sell, but if I no longer have the American Girl name I just have a warehouse full of dolls," said Ms. Millonzi, who coordinated the session.

She divided intellectual property into four categories:

- Trademark and trade dress—words, symbols, logos, designs, slogans or an overall look that identifies goods or services as coming from a specific source.
- Copyright—the protection of original works of authorship giving the creator exclusive right to reproduce, display and perform the work publicly and to authorize others to do so.
- Trade secret—information known to one company but not to others, giving that company an advantage.
- Patent—a legal right for a limited number of years to exclude others from using, selling or making an invention or discovery.

One way to protect intellectual property is through registration with the U.S. Department of Commerce's Patent and Trademark Office, which gives notice of ownership and provides the owner with the right to sue over improper use.

"It deters competition because (competitors) see that you're staking your claim to this," Ms. Millonzi said. "It also gives you some bargaining position."

A company can file a trademark application if it's already using the trademark or if it simply intends to use it. The latter provides a certain measure of protection while a company's product is still in the planning stage.

Ms. Millonzi noted, though, that if a company wants to protect its trademark it has to be committed to defending it against challenges. "If you're going to defend your mark, you have to be willing to spend the money to do it," she said.

And she noted, "even if you have registration, you still have to do more." Companies need to have

strong intellectual property policies and procedures, which include training employees on the issue and guidelines for use of the company's trademarks by others "to help the rest of the world use your mark correctly."

"In addition to having your people trained on how to use your mark properly, you also have to have them trained on how to watch for others," Ms. Millonzi said. "At least with trademarks, if you don't protect your mark you will lose the rights to it."

In addition to protecting their own intellectual property, companies need to guard against misusing others' intellectual property, she said.

"A successful infringement claim can mean large damage awards," Ms. Millonzi said. "As a risk manager, you're going to be the one who buys the (general liability) policy to protect you in some of these cases, so it behooves you to learn a little bit more about it."

One way to avoid liability is to search for other companies' registrations before using the material in question. "There're all kinds of databases out there now to help you search trademarks, copyrights, patents," she said. "You get this information back and then you have to do some weighing of the risk."

Another method is to obtain permission and give credit. She noted, however, that "there's a great mindset out there" that simply giving credit is adequate protection against claims for improperly using copyrighted material. In fact, permission also must be sought and granted before the credited material is used.

Companies also should take advantage of legal advisers with intellectual property knowledge, Ms. Millonzi said, and should also include in their policies and procedures details on proper handling of other companies' marks, how to deal with unsolicited ideas and guidelines on copying software.

When risk managers do find themselves facing an intellectual property claim, "one thing you want to consider is the availability of insurance," said panelist William G. Passannante, a partner with Anderson Kill Olick & Oshinsky in New York.

"Advertising injury" provisions included in many general liability policies may provide coverage for liabilities stemming from copyright violations, trademark infringement and patent infringement or "piracy," among other coverages.

"It's probably included in the general liability insurance policies that you have in your files right now," Mr. Passannante said.

The coverage would provide payment of defense costs and indemnification for judgments or settlements.

In some intellectual property cases, "defense costs can be absolutely enormous" and insurance companies should be put on notice when one occurs, Mr. Passannante said.

If confronted with an intellectual property claim, Mr. Passannante advised risk managers to take advantage of the assistance their brokers can provide.

"Use your broker. They can be your best ally," he said. "If you have several policies, ask your broker to review them and put the insurer on notice."

Thomas W. Robinson Jr., property and liability manager in the Wisconsin Bureau of State Risk Management in Madison, Wis., moderated the session. **EI**

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The industry at the millenium

By MARK A. HOFMANN

Lloyd's uncertainties, consolidation and risk sophistication all on horizon

TORONTO—Risk managers with no coverage disputes on Lloyd's of London policies need not rush to settle their claims with proposed runoff reinsurer Equitas Ltd.

They can wait to get 100 cents on the dollar, said Dennis H. Chookaszian, chairman and chief executive office of Chicago-based CNA Insurance Cos. "If Equitas has a problem, it won't happen for 10 years," because of the entity's initial funding, likely interest earnings and slow payout, he said.

But those with question-plagued claims ought to settle quickly for what they can get, he said. Mr. Chookaszian offered that advice during a discussion of the insurance industry in the year 2000 at the Risk & Insurance Management Society's annual conference, held last month in Toronto.

"None of us has enough infor-

mation to know" exactly how to approach Equitas, said John T. Sinnott, chairman and CEO of Marsh & McLennan Cos. Inc. in New York. He said that he does not like runoff situations or dealing with an entity that has no tie-in with an ongoing business. "I would prefer to settle quickly," he said.

American International Group Inc. began reducing its reinsurance—including from Lloyd's—across the board about three years ago and "probably won't change that position" anytime soon, said William D. Smith, a senior vp with the New York-based insurer.

AIG has reduced its reinsurance exposure to Lloyd's by about two-thirds over that period. Most of that exposure had been in first-party business, he said. "There was never any coverage

question on it because the bulk of that actually had to do with the bond business, where you have far less history (and far fewer) disputes."

Besides Lloyd's, members of the panel turned their attention to the role of the risk manager four years hence.

"How do you compete for the future?" asked Dennis P. Kane, president of the special risk facilities division at CIGNA Corp. in Philadelphia. Risk managers will have to "evolve to a much higher level" of identifying and categorizing risk.

"We will have to step back and look at our skill set," said Pamela G. Rogers, director-corporate risk management for Nestle U.S.A. in Glendale, Calif., and co-moderator of the session.

"Risk management is not a department, it is a way of doing business," she said.

Risk management is evolving into "balance sheet protection and earnings per share protection," said CNA's Mr. Chookaszian.

And rather than bypassing risk managers to deal directly with top executives, as Ms. Rogers said some brokers are doing, brokers will have to be brought into this more sophisticated process by risk managers, she said.

Another possibility in future years is that investment banks will get brokerage licenses and compete for business. For his part,

though, Mr. Chookaszian downplayed that prospect, saying that investment banking firms lacked insurance expertise.

When asked what advice they would give risk managers who look to thrive in the year 2000, the panelists all stressed knowledge and professionalism.

"Probably the most important issue is the expansion of knowledge" about broader risk, said Mr. Chookaszian.

Mr. Kane said risk managers should improve the quality of their knowledge, focus on staff quality, challenge their brokers and underwriters to be more creative, think globally and align themselves with fewer suppliers.

Mr. Sinnott urged risk managers to become more professional while creating the most efficient work environment possible.

"Step back and say if risk is risk, I need to analyze every type

move toward walling off prior liabilities from current operations, as CIGNA is trying to do?"

"I'm not sure we'd see a large scale move toward restructuring," replied Mr. Kane. Even if there were, though, risk managers should not be overly concerned, so long as the deals are done well, he said.

If CIGNA's approach works, shareholders of other insurance companies are expected to press for similar arrangements, though CNA's Mr. Chookaszian said it was too early to tell whether it would be an industry trend.

"Should risk managers be concerned (about restructurings generally), I'd say absolutely yes," said Mr. Chookaszian.

CIGNA shareholders loved its reorganization plan, noted Mr. Smith of AIG, which has been one of the most active and vocal opponents of the plan.

Though the Home and CIGNA restructurings have been staggered in time, the claims may not be. If the claims cannot be met, said Mr. Smith, "Our great concern is that the credibility of the industry as a result could be severely damaged."

Come the year 2000, shareholders will be pressuring property/casualty insurers to improve their return on equity while policyholders seek high-quality products and services. As a result, "We will be a smaller, stronger industry," Mr. Smith said. Risk managers are willing to pay for things that work well, and AIG will specialize in things it does well and will be willing to invest in them.

Mr. Chookaszian said that he is concerned about some of the capital that is flowing into the industry because investors demand a quick return. That emphasis spurs efficiencies, he said, but also discourages long-term investment.

A long-term and longtime feature of the industry—industry-wide market cycles—may be a quaint relic in the next century.

"The hard market is gone forever," said CIGNA's Mr. Kane. Insurers moved in lockstep for decades, with markets hardening and softening based on the actions of generalist underwriters. But in the recent past, when generalists have said they will raise rates, specialist underwriters have moved in to provide coverage.

Mr. Chookaszian said that the influx of capital to finance fortuitous risks will have no impact on the market cycle. Both he and Mr. Kane said that while "subcycles" impacting individual lines will continue to occur, marketwide hardenings are very unlikely.

Something that is likely is that exposures to natural catastrophes will get worse, said Mr. Kane. There are increasing concentrations of property in earthquake-prone and coastal areas because of demographic shifts. Because technology has made people increasingly mobile and able to live and work from desirable places like the beach, "the problem as we know it today is going to get more severe," he said.

Larry Drake, managing director of Marsh & McLennan in New York, coordinated the session.

During brief interviews after the session, Messrs. Chookaszian and Kane focused on a more immediate problem: Superfund reform. Mr. Chookaszian said that while he is not optimistic that the current Congress will resolve the Superfund issue, he believes it will be taken care of in the "next couple of years."

Mr. Kane said "absolutely" reforms to the program will be made by 2000. **BI**



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RIMS Report

Risk Management

of risk the company faces. Not being able to use the knowledge that's out there today will make you a cripple," said AIG's Mr. Smith.

Industry consolidation was another fertile topic for discussion.

Kathryn J. McIntyre, publisher and editorial director of *Business Insurance* and co-moderator of the session, noted that three major consolidations have occurred in the past 16 months: CNA's acquisition of Continental Insurance Co., Zurich Insurance Co.'s acquisition of much of The Home Insurance Co.'s book of business and Travelers Corp.'s purchase of Aetna Life & Casualty Co.'s property/casualty operations, which resulted in the creation of Travelers/Aetna Property Casualty Co.

When asked whether the current pace of consolidation would continue, Mr. Chookaszian said no: He predicted only one to three consolidations among the top 20 companies by the end of the century, though the pace among smaller insurers could accelerate.

"I don't think it will rapidly consolidate into a handful of companies," he said. He said risk managers should focus on who they want to do business with over the long term.

"In the risk management area, I don't have any concern that there will be too few choices," said M&M's Mr. Sinnott. But he cautioned risk managers to pay attention to the financial strength of the remaining companies.

"You've seen nothing yet in terms of the upheaval" that will occur within the surviving insurers, said AIG's Mr. Smith. Insurance delivery remains very inefficient and, to succeed in the near future, companies will rapidly have to become far more efficient.

Another serious question rising out of consolidation will be reinsurance, said CIGNA's Mr. Kane. If two companies that have purchased the maximum amount of reinsurance available to them in the marketplace merge, reinsurers back away, he said. "Sometimes 2 plus 2 equals 2.5," when it comes to reinsurance capacity, he said.

CIGNA Corp. itself was the basis for another industry-in-the-year-2000 question: Will insurers

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T E N Y E A R S O F E X C E L L E N C E

Who needs insurance, anyway?

By SARAH GODDARD

TORONTO—Did you hear the one about the insurance broker who said that corporate insurance is unnecessary?

Several risk managers were more than a little surprised to find that Stephen Hawkes, director of Johnson & Higgins' global risk management consulting practice in London, had no punch line to this question.

In fact, it wasn't a joke but a serious proposition he presented at a session during the 34th annual Risk & Insurance Management Society Inc. conference, held last month in Toronto.

Mr. Hawkes disparaged traditional risk financing patterns: a primary retention level to encourage risk management for high frequency, low severity claims; a secondary retention level for medium frequency and low-to-medium severity claims, effectively mutualizing risk across operating divisions; a third risk retention level for low frequency, medium-to-high risk claims that could cause financial discomfort to the corporation; and a final level for catastrophic risks that could put the company out of business.

"This is the sort of discussion forced upon you by an industry that has pre-defined products to sell," said Mr. Hawkes.

Conventional insurance companies do not offer true "all risks" coverage, protecting earnings per share or equity growth, he said. Yet, "it is this protection of earnings per share that surely is the sole objective of any risk manager."

To get to the heart of an organization's risks, he advised risk managers to start with a strategic risk profile. This process identifies both those risks perceived by the insurance industry as insurable and those which it labels as business risks and excludes from coverage, such as exchange rate fluctuations.

Understanding where a corporation's risks lie can result in several benefits:

- The development of alternative ways of funding catastrophe risks.
- Risk-adjusted cost accounting and profitability analyses.
- Planning to reduce the impact of potential catastrophes.
- Shifting risks in contracts to third parties.

Far too great a task for one person, this job requires a team of no more than eight drawn from different disciplines within the corporation, like law, finance and risk management, complemented by external specialists in disciplines like actuarial analysis, engineering and underwriting. At least one member should be a generalist "who can cross lines of expertise so as to avoid tunnel vision and to help build consensus."

The next stage is research, using both internal and external sources.

"A thorough review of external sources will provide clues on where to uncover areas of risk internally," said Mr. Hawkes. For example, independent data bases can reveal losses that have occurred in similar businesses and may pose a threat to the corporation. And stock analysts' reports often identify factors that may affect future earnings and share value.

Internal information about past losses coupled with other companies' loss experiences can identify exposures and threats to future value.

Of paramount importance at this stage is discovering the corporation's attitude towards risk, Mr. Hawkes said. That will help it determine what sort of losses can be sustained before shareholders will be hurt.

Conventional coverages don't always make sense: Broker

Once the team has identified the risks, they can be classified into: liability, natural hazard, operational, financial and employment-related risks.

Each category can be rated according to frequency and severity, and further subdivisions, looking at the impact on subsidiaries, are possible.

"This helps focus management on the risks that can be left within the subsidiaries as a risk management incentive and those that must be financed centrally," explained Mr. Hawkes.

By plotting the risk information on a "risk radar" grid, with frequency along the x-axis and severity up the y-axis, the spectrum of risks con-



fronting the organization becomes clearly identifiable. What's more, the graph "will readily highlight those risks requiring further attention," he pointed out.

The risk-profiling exercise achieves four objectives, he said: adopting a method to identify and quantify risk, thoroughly analyzing how risk is financed, providing a mechanism for pricing risk into the

corporation's products, and measuring profitability incorporating risk into the measurement.

"The risk profile will endeavor to raise awareness to the whole spectrum of risk, not just those that emanate from an act of God and are therefore, on the whole, insurable," said Mr. Hawkes. This knowledge will allow individuals within the organization to factor risk into decision-making and also help the corporation turn a profit.

Shareholders generally are portfolio investors employing equity analysts to assess stock potential, he said. And equity analysts are most interested in the people behind the organization, and an assessment of factors like revenue streams, mar-

gins, trends, dividend per share and dividend growth.

"But you will notice that nowhere in this whole process is any actual assessment of risk management practices in the insurance sense," he pointed out.

Analysts assume that corporations apply best practices when handling risk. The risk profile Mr. Hawkes advocates demonstrates just that, he said.

"So we now have a quality risk assessment and management program and are able to continue to demonstrate best practices to the analysts. Therefore, our decisions on insurance should not be the thing that affects share volatility," he said.

If a corporation has quantified and is able to manage its corporate risk, and shareholders pay little attention to the presence or absence of insurance, "why spend the money?" asked Mr. Hawkes, who coordinated the session. **BI**



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GLOBAL CLAIMS MANAGEMENT

Becoming partners on crime

By GAVIN SOUTER

TORONTO—Insurance fraud continues to break new ground as scar: artists explore additional ways to make bogus claims.

As quickly as one type of fraud is blocked, another will emerge, according to insurance and risk management professionals.

To combat fraud, insurers and risk managers should work together to aggressively investigate and contest suspect claims, they say.

Two cases discussed at the Risk & Insurance Management Society Inc.'s

RIMS Report

Risk Management

34th annual conference last month in Toronto illustrate how such a team approach successfully fought a bogus workers compensation claim and a case of overbilling by lawyers.

Insurance fraud has evolved over the years to the point that when insurers clamp down on one type of fraud another type appears to take its place, said Charles O'Connor, product manager-litigation management at Liberty Mutual Insurance Co. in Boston.

In the 1970s, the most favored form of insurance fraud was arson, he said. In the 1980s, it was automobile physical damage claims, and in

Reduce fraud by teaming up with insurers

the 1990s it is personal injury claims and litigation fraud, he said.

But already new trends are emerging as insurers and risk managers come to grips with personal injury fraud, said Susan M. Fortin, director of risk management at Shaw's Supermarkets Inc. of Brockton, Mass.

"As workers comp reforms are starting to take place, we are seeing a shift from comp fraud to employment-related claims like harassment" or fraudulent claims alleging violations of the Americans with Disabilities Act, she said.

Two instances at Shaw's show how an aggressive approach can help detect and eliminate payment of fraudulent claims. In the first case, a temporary worker filed a claim, saying she injured her lower back and a knee after tripping on the job.

The injury reportedly occurred at 8:30 p.m. at the end of her shift. She did not mention it to her supervisor at the time. When she reported the injury to Ms. Fortin the next day—Aug. 27, 1994—the claimant had not received any medical treatment but said she had been up all night because of the pain.

Ms. Fortin reported the claim to Liberty Mutual and when Mr. O'Connor looked into the claim he saw several warning signs.

"We found that she was 20 years old and she was due to return to

school on Sept. 4," he said, which suggested she may have been looking to return to school with more money in her pocket. And, "she was not in her designated area at the time of the injury," and no one witnessed it, he said. "She did not report it to anyone on that day," as an injured worker usually would, he said. "We spoke to the assistant site manager, who saw her leaving the site carrying packages. She had medical treatment two days later, but it was not with her regular doctor."

One week after the alleged injury took place, Shaw's received a letter of representation from a lawyer for the employee seeking workers comp benefits, which is unusually early for a worker to hire a lawyer.

Mr. O'Connor referred the case to the National Insurance Crime Bureau for further investigation.

The NICB is sponsored by more than 1,000 insurers and has a database of more than 350 million records, including claims, said Michael L. Powell, vp for the Western region of the NICB in Glendora, Calif., who also appeared on the panel.

When the NICB ran a check, it found Shaw's temporary employee had filed an identical claim with another employer's insurer, that she had changed the spelling of her name and her Social Security number, and that her listed address was a P.O. box, Mr. Powell said.

In addition, the NICB found that her medical provider and lawyer each had a history of handling questionable claims, he said.

Based on its information, the NICB suspected that the lawyer and doctor were involved with the claimant in the fraudulent claim. Typically, in such cases, the lawyer refers the case to the doctor in return for about 30% of the medical fees and then the provider inflates the medical service fees by overbilling the insurer, Mr. Powell said.

The claim was contested by Shaw's and Liberty Mutual. The employee was awarded benefits at the workers comp claims hearing, despite the evidence of potential fraud, but that decision was overturned on appeal, Ms. Fortin said.

In a second fraud case, Shaw's

was overbilled by attorneys.

In one year, a law firm representing Shaw's in a case presented the company with four bills. The first was for \$19,349, the second was \$62,250, the third was \$48,500 and the fourth was for \$122,000, for a total of \$252,099.

The first three were paid but Shaw's withheld payment for the fourth and largest bill, suspecting that fraudulent overbilling was behind the sizable increase in the amount, Ms. Fortin said.

There was no documentation to support some of the fees, she added.

"We thought there was a problem with our lawyers, so we hired a legal auditor," Ms. Fortin said.

The auditors had audited the law firm previously and soon found instances of overbilling on Shaw's business, said Harry J. Maue, chairman and managing director of Stuart, Maue, Mitchell & James, legal auditors based in St. Louis.

For example, some tasks performed for the client were computer-generated but they were billed at attorney's rates, he said.

In one instance, an attorney working on a case billed Shaw's for a 48.2-hour day, Mr. Maue said.

"When we questioned him about it, he said it was a clerical error. We get that quite a bit," he said.

That was the most egregious example, but other attorneys at the firm claimed for 28-hour days and 33-hour days, Mr. Maue said. "You would have to cross the dateline for some of these billing hours."

The law firm's bills also included charges for such things as operating air conditioners in the law firm's offices when work needed to be done over weekends, Mr. Maue said.

Also, the firm submitted a bill for the upkeep of an apartment it said was needed to house lawyers giving out-of-town depositions. Included in the bill was a \$4,000 security deposit that the firm pocketed when the apartment was vacated, he said.

On another occasion, one of the firm's partners took in a Cleveland Cavaliers vs. Orlando Magic basketball game and billed Shaw's for the tickets, Mr. Maue said.

The total overcharging by the law firm was \$75,000, or 30% of the total bill submitted to Shaw's, he said.

The fee for the legal audit was 5% of the total attorneys' fees audited.

Shaw's then hired another attorney to represent it in its billing dispute with the law firm.

"My first reaction was don't pay your fourth bill. There appears to be some overbilling and the question is whether it was intentional or unintentional," said John Shea Pierce, a partner at Barger & Wolen L.L.P. in San Francisco.

While some of the overbilling may seem to be due to bookkeeping errors, there were so many that it seemed intentional, he said.

In addition, an internal memo was found by the auditors in which a partner of the law firm encouraged an associate to obfuscate his bills to disguise overbilling, Mr. Pierce said.

Clients that are faced with overbilling by attorneys have to decide whether to mediate, arbitrate, go to trial or to take the case to the state bar association, he said.

"My preference is not to go to the bar association because in my experience the state bar does not have a lot of teeth," Mr. Pierce said.

Often, the very law firms that are overbilling may be represented on the state bar or have influence with other representatives, he said.

If the client decides to litigate, it should not pay the bills and wait for the law firm to sue for non-payment, Mr. Pierce advised. "The last thing you want to do is fill their coffers and, no matter how carefully you word a complaint, if you sue them they will get coverage from their malpractice insurer," he said.

The Shaw's billing dispute was settled out of court after the grocer refused to pay the bills and presented the law firm with the proof of overbilling uncovered by the audit.

To prevent litigation fraud, insurers and policyholders should set standards by which the fees attorneys submit will be measured, said Liberty Mutual's Mr. O'Connor.

"We audit law firms for compliance with our standards and 81% of law firms that we deal with have some variation from our billing standards," he said.

The average variation is an extra 9.35%, which adds up to an annual \$28 million to \$29 million in overbilling for Liberty Mutual, he said.

The session was moderated by Ms. Fortin and coordinated by Beth Myers-West, project manager at Liberty Mutual in Boston. **BI**

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Public relations risks grow in media-saturated world

Keeping quiet can backfire into bigger story for the press

By JOANNE WOJCIK

TORONTO—In this information-saturated world where what companies don't say can hurt them and what they do say can fast become a headline, a good public relations program is an increasingly important form of risk management, a communications expert says.

Companies shouldn't run and hide when the media come knocking on their doors after a workplace accident, a jury verdict or in any other kind of crisis.

Often, not talking can be more harmful to a company's image than telling the truth, said Jeff Ansell, president of Jeff Ansell & Associates Inc., a communications consulting firm in Thornhill, Ontario.

Companies should select a high-level official to speak to the press, with the selection based on the gravity of the situation, he told those attending a session during the 34th annual Risk & Insurance Management Society Inc. conference, held last month in Toronto.

In one incident, clothing manufacturer Eddie Bauer was sued by a black teen-ager who had been accused of stealing a shirt from a Tor-

tannica," he said. "Don't use long, detailed quotes. Your responses must be short, snappy, like the phrase coined by the lawyer representing the black teenager in the Eddie Bauer incident, 'consumer racism.'"

Still, many corporate spokespeople complain that it is becoming increasingly difficult to get complicated messages across to the media.

"Many newsmakers are upset with how they appear in print, but they say too much with too many words," Mr. Ansell explained. "If they (the media) use a quote, they're not going to use the five sentences

that led up to it. They're going to use a quote in isolation."

To prevent being "taken out of context," Mr. Ansell advised corporate spokespeople to "develop the ability to see every sentence that comes out of your mouth as a headline."

Mr. Ansell also offered this advice: Don't go off on tangents that can confuse the reporter, and don't repeat negatives.

"There is a different way to admit negatives," Mr. Ansell said.

"Don't use negative words in your answer" and "try to appear forthcoming and honest as you drive

home your point," he said.

Tom Witlatch, a risk management consultant in Memphis, Tenn., for Becher & Carlson Cos., advised companies to develop relationships with the media before a crisis develops. Company spokespeople should also have on hand any background information on the company that the press may need to complete their reports, he said.

And, when the press comes knocking, "be ready in an hour, not a day or more," Mr. Witlatch said. "Remember, they have deadlines."

He also advised companies to designate a spokesman or spokeswoman and an alternate in advance so that the media can easily reach an appropriate company contact as soon as possible.

And "be sure they speak well," he said.

If an on-camera interview is required, Mr. Witlatch advised companies to avoid showing the company

logo. "Don't get it in the public's eye," he warned.

Companies that speak to the press also should keep records of what is released to the media.

"There's no such thing as 'off the record,'" Mr. Witlatch said.

"Anything you say before or after an interview is fair game," agreed Mr. Ansell.

Mr. Witlatch also advised companies to tell their employees not to talk to the media. And all employees should know who their media spokesperson is so they can refer inquiries to that person.

That is precisely why companies should make an effort to respond to media calls, Mr. Ansell told the audience. "Because if they don't get it from you, they'll get the information from other sources."

Carol Bowker, risk manager for the Boston Market Inc. restaurant chain, based in Golden, Colo., moderated the session. **B**

RIMS Report

Risk Management

onto outlet store.

The teen-ager had bought the shirt from the outlet, but when he returned to the store the next day, a security guard accused him of stealing it, Mr. Ansell recounted. "He left the store wearing only a T-shirt and jacket."

A midlevel public relations person at the apparel manufacturer labeled it a minor incident, but the family filed an \$80 million lawsuit, charging "consumer racism."

The company spokesperson selected to address the media should be at a level commensurate with the crisis. The bigger the catastrophe, the higher up the corporate ladder the spokesperson should be, said Mr. Ansell.

To settle the Eddie Bauer case, "the company president had to grovel," Mr. Ansell said. "A simple apology coupled with an announcement that the company was to undergo diversity training would have been sufficient to prevent the lawsuit and resulting negative publicity," he suggested.

"These days, more than ever, we've got to get touchy-feely," he stressed. "You must demonstrate concern for the well-being of the people affected, and you must couple that concern with action: Here's what we're doing about it."

"If you don't know what to say, try the truth," he suggested, adding that the spokesman should be careful not to admit any liability.

Mr. Ansell also advised companies to "manage the edit."

"If you don't have an agenda when you talk to the media, then all you can do is react," he said.

People interviewed by the press often complain that their comments are taken out of context. But they have to understand the need for brevity, Mr. Ansell said.

When a reporter asks a question, "don't give him Encyclopedia Bri-

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Dialogue with regulators helpful

By ROBERTO CENICEROS

TORONTO—State and local safety and environmental regulations cause more headaches than federal standards, risk managers say.

Dealing with these local issues successfully involves communicating with regulators and getting local personnel involved with those regulators, risk managers advise.

One key is to establish communication with local enforcement and regulation personnel before problems arise, said Troy J. Meyer, director of environmental health and safety for Insilco Corp. in Dublin, Ohio.

"I know that in the past, industry had a hard time trusting agency personnel, letting them in and getting their input," Ms. Meyer said during a solutions sharing session on loss control at the Risk & Insurance Management Society Inc. conference, held last month in Toronto.

"But I really think in the long run companies are better served by inviting regulators in—before they are forced to have them in—to discuss programs and issues," she said.

Many local regulations are created hastily as a result of one-time incidents in a community, she said.

If a relationship has been established, regulators may seek a risk manager's input before drafting legislation based on a one-time incident, said Ms. Meyer. "At that point you will have an ability to influence, as well as when they come in for an inspection, (because) they will understand your good faith efforts and programs you are trying to develop and they will work with you."

Compliance with state and municipal regulations falls on Insilco's local facilities, scattered across several states and jurisdictions, Ms. Meyer said. But when she audits her company's facilities, she invariably spends 15% of her time dealing with federal issues and the remainder on

local regulations and state interpretations of the federal laws.

Encouraging local facility personnel to get involved not only helps smooth relations with local regulators, it also helps create a broader network of contacts struggling with the same issues, Ms. Meyer added.

For example, managers charged with compliance at one of Insilco's plants are more likely to form relationships with colleagues at other companies in the same jurisdiction. There is a likelihood that some of them have already developed safety



or compliance manuals for the local regulations.

Borrow from their work and give credit where it is due, she said. But, "There is no law that says you have to be the original author of every single program."

Ms. Meyer was one of the panelists at the solutions sharing session. She was joined by John A. Edgar, associate director of risk management and insurance at Bell Canada in Toronto, and Thomas J. Soles Jr., group director-insurance and safety at Sheet Metal & Air Conditioning Contractors' National Assn. Inc. in Chantilly, Va.

Mark A. DeLillo, vp of risk management services at Jim Walter Corp. in Tampa, Fla., was moderator.

At Jim Walter Corp., which has 28 manufacturing sites, the local facilities also are charged with compliance for health, safety and environmental issues, Mr. DeLillo said. Yet

the corporation provides guidelines and technical expertise.

"We ask (our local personnel) to foster relationships with the local regulatory people," he said. "Our challenge is it varies from location to location, the expertise and ability of the people. So that is something we have had to ride herd on and provide them with technical support and assistance where necessary."

One risk manager in the audience said he hosts breakfasts or lunches with his company's local representatives and regulators so their first meeting is non-confrontational.

Mr. Soles said he believes the Occupational Safety and Health Administration's mandate to be more employer-friendly could ease the burden of complying with U.S. standards from region to region. But he also agreed it is a tough task to change the direction of a large bureaucracy, such as OSHA. Its regulators' willingness to change could vary by region.

"In construction, the industry that I represent, we have been basically given a choice" to either cooperate or return to the traditional OSHA role, which in our industry has always been confrontational, he said.

"Our experience has been there are still parts of the country where you have administrators (who are reluctant) to change. But for the most part our experience has been very favorable."

Bell Canada's Mr. Edgar pointed out that Canadian risk managers have fewer compliance headaches than their U.S. counterparts.

"I think in Canada we are a little more fortunate," he said. Canadian risk managers care about safety, loss control, workers compensation and the other issues discussed at RIMS, but "we certainly are not under the same pressure in Canada. We are not seeing the same amount of litigation." ■

Working out employment liability risks

Dialogue with human resources important in reducing exposure

By MARK A. HOFMANN

TORONTO—Better communication between risk managers and human resources departments is critical if corporations are to better manage their growing human resources liability exposures.

Training human resources professionals to minimize such exposures is also crucial, said Michael R. Levin, senior manager in the actuarial, benefits and compensation consulting practice at Deloitte & Touche L.L.P. in Chicago.

The question facing risk managers is "how to manage the risk in its totality," said Margy McKenna, director of risk and benefits for Jones Intercable Inc. in Englewood, Colo. Human resource departments tend to view employees as assets while risk managers "might think of them more as liabilities," she said.

"Our employees are in fact both assets and liabilities," said Ms. McKenna, moderating a session during the 34th annual Risk & Insurance Management Society Inc. conference, held last month in Toronto.

Questions from the audience illustrated the range of human resources-related exposures, including: pre-employment testing; the interaction among the Americans with Disabilities Act, workers compensation laws and the Family and Medical Leave Act; what employers should do when immigration regulations conflict with confidentiality rules; and what to do when the human resources department is not properly doing its job.

"The human resource department is a source of liability that is growing and changing," said Mr. Levin, who was also session coordinator.

A variety of legal and social changes have altered traditional personnel departments, where liability issues arose only rarely in the past. For one, courts have been busy redefining employment contracts, finding them in "all sorts of interesting places" where they never had before, he said.

The whole landscape of human resources has also undergone seismic changes. Issues involved include: downsizing, more complicated workplace relationships, general changes in societal values and heightened sensitivities that accompany them, and a general sense of litigiousness as "individuals are acting on those sensitivities," he said.

Jennifer L. Dennison, a manager at Deloitte & Touche in Chicago, also walked through a series of human resources issues that pose liability problems. These included such tort exposures as invasion of privacy related employee drug testing, sexual harassment and misrepresentation. Myriad laws, such as the Civil Rights Act, the Age Discrimination in Employment Act, "whistle blower" laws and state and local employment laws also create statutory exposures, she said.

Controlling human resources exposures involves a variety of strategies, noted Ms. Dennison.

For example, job applications must be very carefully worded to avoid any hint of discrimination or any sense that the application could be construed as an implied contract, she said. Employee handbooks, spelling out policy in clear, concise language are also valuable tools, she said.

Ms. Dennison cautioned, however, that any information given in a handout or other employee communication must be consistent with that in the handbook to mitigate exposure to employment-related liability.

Termination is also a particularly fertile field for employment liability exposures. There should be a complete paper trail and investigation of misconduct, said Ms. Dennison.

"If you're going to terminate an individual, they should never be surprised," she said.

Ms. Dennison also advised companies that are making massive layoffs to take great care to ensure that the burdens will not unduly fall upon members of "protected classes"—which would include members of racial minorities and people aged 40 and over. If they will, companies should "revisit" how the layoffs will be handled.

Mitigating human resources exposures will require better communication between risk managers and the human resources department, said Ms. Dennison and Ms. McKenna.

Also needed is better training to ensure that human resources department staffers do not inadvertently expose employers to liability.

As companies get bigger and more decentralized, relatively low level human resource employees become increasingly important, explained Mr. Levin.

If they give out misleading or incorrect information regarding benefits, they increase their employers' exposure. Thus, training them to be careful and consistent is a key strategy, according to Mr. Levin.

"Since you can't control them, and you can't monitor every word that they say, you have to train them very well," Mr. Levin said.

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large insurers that oppose the IRB monopoly, said the risk manager, and are pushing for a free reinsurance market.

It is possible to get reinsurance premiums out of Brazil via the IRB, said one participant. "But it's a lot of work, and you need a broker who knows his way around."

—By Sarah Goddard

OSHA

Continued from page 1

National Museum of American History.

It is a battered exit door from an Imperial Food Products Co. chicken processing plant that was ravaged by fire in 1991. On one side are footprints of workers who tried futilely to kick in the door, which was locked from the outside. Trapped, 25 workers died and 55 were injured (*BI*, Sept. 9, 1991). A state agency OSHA had been charged with monitoring had never visited the plant.

Overall, OSHA "has played an important role" in reducing job fatalities and injuries, particularly in the construction and mining industries where governmental enforcement of safety standards have been focused, the AFL-CIO's report said. For example, workplace fatalities have fallen 72% to five per 100,000 workers in 1994 from 18 in 1970, the year before OSHA began.

"Even with this progress, significant injury and illness problems remain. In 1994—the latest data available—6,588 workers were killed on the job by traumatic injuries, more than 6.8 million were injured and an estimated 50,000 workers died of occupational disease," the report said.

The most significant workplace safety and health problems are ergonomic hazards like poor job design and repetitious work, the AFL-CIO says.

"Overexertion and repetitive motion are responsible for one-third of all serious workplace injuries," the report says. Repetitive trauma disorders have risen sharply recently (see chart).

Other major safety concerns, the AFL-CIO said, include: poor indoor air quality; overuse of video display terminals; job stress; and workplace violence.

Workers, employers and society should care about these problems because fatalities and illnesses impose "tremendous costs on workers, employers and society," including \$120 billion from job injuries alone and 125 million lost workdays in 1994, the AFL-CIO said.

Compared with other nations, though, the United States ranks in the bottom quartile on government expenditures for job safety, according to the report.

OSHA's budget was cut 2% to \$304.9 million for the year ending Sept. 30. And, budget bill provisions restrict OSHA from issuing ergonomics rules or guidelines during that fiscal year.

That is being interpreted as allowing OSHA to continue its research, though "the reality is OSHA is not doing anything—or very little—on ergonomics problems," said Keith Mestrich, the AFL-CIO's occupational safety and health specialist in Washington.

For now, OSHA's mission remains uncertain. Business groups advocate more education and consultation and less rigorous enforcement.

Committees in the House and Senate have passed bills that would require OSHA to give greater weight to the potential costs of regulations and restrict its enforcement activities in favor of consultation (*BI*, April 15).

OSHA itself has moved to streamline its operations in response to some of businesses' and lawmakers' complaints (*BI*, Oct. 9, 1995).

The Clinton administration, though, opposes some aspects of the bills now before Congress.

Other experts caution that OSHA is given too much credit—and business too little—for safety advances.

The decline in many job-related accidents and illnesses began in the mid-1950s and did not markedly ac-

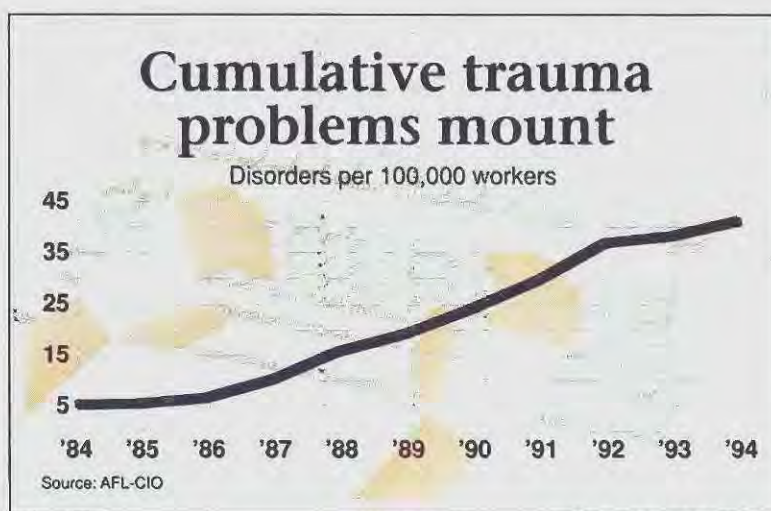
celerate after OSHA began operating in 1971, contends June D'Zurilla, associate director of employee relations for the National Assn. of Manufacturers in Washington.

"OSHA hasn't appreciably altered the downward trend," concurred Richard J. Butler, an insurance professor at the University of Minnesota in Minneapolis.

Most employers have other incentives besides regulatory pressures to provide safe workplaces, including financial ones. For example, employers with fewer workers comp claims pay lower premiums due to an improved experience rating. And, employers with safe workplaces avoid the costs associated with replacing skilled workers who become injured.

"I think the market works, while the AFL-CIO wants to be more paternalistic and interventionist," said Mr. Butler.

"Safety really pays, regardless of the industry that you are in," be-



GRAPHIC BY TONY BUCCINI

cause safer businesses are more efficient, agreed Thomas J. Soles, group director of insurance and safety for the Sheet Metal & Air Conditioning Contractors' National Assn., a trade

group in Chantilly, Va.

Promoting a safe workplace also fulfills an employer's moral and ethical obligations to workers while helping it develop a reputation as a

quality organization, added Mr. Soles, who chairs the Risk & Insurance Management Society Inc.'s Health and Safety Committee.

These experts also downplayed the importance of ergonomic problems.

Such problems often are subjective and unsubstantiated by scientific evidence, said Ms. D'Zurilla. NAM, though, encourages companies to use industry-specific ergonomic programs, if they find the programs help prevent injuries.

Reports of some repetitive stress injuries may be inflated by outside factors, contends Mr. Butler. For example, the availability of workers comp benefits may make employees more inclined to file claims.

A copy of "Safe Jobs: Promises Kept, Promises Broken" costs \$7.50 and is available from Keith Mestrich at 202-637-5000 or by writing the AFL-CIO at 815 16th St. N.W., Washington, D.C. 20008.

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Brokers

Continued from page 1

only 4.1% to \$100.7 million from \$96.7 million in the first quarter of 1995, lower than hoped for because of competitive pricing, particularly in the workers compensation insurance market.

Acordia Inc. of Indianapolis logged the largest percentage gain in revenue for the quarter, posting a 24.2% increase to \$164.7 million from \$132.6 million in 1995. Net income, however, nudged up only 1.3% to \$7.3 from \$7.2 million.

Marsh & McLennan Inc., the world's largest brokerage, generated a 11.6% increase in revenues and posted \$1.1 billion for the first quarter, up from \$959.3 million in 1995. Much of the gain was unrelated to insurance.

M&M's investment management subsidiary, Boston-based The Putnam Cos., saw its revenues rise 45% to \$238.3 million from \$164.2 million. Most of the increase was related to new sales in mutual funds managed by the company.

New York-based M&M's first-quarter net income was up 14.7% to \$143 million from \$125 million in 1995. That was the second-largest increase among the brokers.

Brokers had better get used to scrambling for every dollar they can get, said Michael A. Smith, an analyst at Salomon Bros. Inc. in New York.

"As a snapshot of the first quarter, earnings were okay, pretty much in line" with Wall Street projections, said Mr. Smith. "Marsh & McLennan was ahead of the street's expectations, but not because of insurance. Alexander & Alexander came in well below estimates."

"Overall, the environment remains very competitive," agreed David O. Lewis, an analyst with The Robinson-Humphrey Co. in Atlanta. "We still have pricing deterioration in casualty lines as well in the workers comp area, that's caused revenues to be lower than brokers would like to see."

Mergers and acquisitions likely will continue with small companies being bought by larger ones trying to expand their market share, Mr. Lewis suggested.

The outlook for brokers for the rest of 1996 is "not too cheery," Mr. Smith noted. "Brokers have no control over their destiny. Underwriters have all the control."

Underwriters, he added, are "determined to price themselves into oblivion, and they are going to bring the brokers with them."

If brokers are going to show earnings growth, they will have to continue with strict expense controls, he said, because there is no letup in competitive insurance pricing in sight.

Low insurance prices hit brokers with a double whammy, said Mr. Smith, because not only are commissions reduced but fees earned for alternative risk transfer services also are disappearing as buyers opt for cheap coverage in the traditional market.

A&A has "run into a wall in the competitive market," Mr. Smith said. "Revenues are slower than anybody expected. It will be interesting to see how A&A's chairman responds."

He pointed out that Frank G. Zarb, chairman and chief executive officer at A&A, has expressed a desire to make the brokerage the best in the business. "When one looks at A&A it's in better shape, but it's in a horrible market."

Individual results for the publicly held brokerages follow

Marsh & McLennan

Revenues at Marsh & McLennan Cos. Inc. jumped 11.6% to \$1.1 billion during the first quarter from \$959.3 million in 1995. Net income grew 15% to \$143.1 million compared with \$124.8 million last year.

M&M's investment management subsidiary, Boston-based The Putnam Cos., was responsible for much of the increase. Its revenues soared 45% to \$238.3 million from \$164.2 million.

"The star was Putnam," said J. Michael Bischoff, vp-corporate development at M&M in New York. Putnam finished the quarter with \$136 billion in assets under management, up \$10 billion from the end of the year, he added.

Revenues from consulting services grew 1% to \$276.9 million from \$249.6 million in first quar-

Brokers' first-quarter results

(Figures in millions)

Broker	Gross revenues	% change	Net income	% change
Marsh & McLennan	\$1,000.1	12.0%	\$143.1	14.7%
Aon Group ^{1,2}	485.0	9.8	85.2	11.4
Alexander & Alexander	314.3	(3.0)	13.1	(68.5)
Acordia	164.7	24.2	7.3	1.3
Arthur J. Gallagher	100.7	4.1	8.2	22.3
Hilb, Rogal & Hamilton	43.0	9.2	5.2	4.7
Poe & Brown	30.7	12.4	4.4	4.5

¹ Pretax ² 1995 figures are restated
Source: Company reports

GRAPHIC BY KIM ROME

ter 1995.

For the second straight year, insurance services sector revenues grew only slightly in the first quarter, rising 3% to \$555.5 million from \$541.4 million in 1995.

M&M plans this quarter to finalize the sale of Frizzell Financial Services, its insurance pro-

'Brokers have no control over their destiny,' says Michael Smith. 'Underwriters have all the control.'

gram manager unit in Britain, according to Mr. Bischoff.

Aon Group

First-quarter revenues at Aon Group rose 9.8% to \$485 million from \$441.9 million in 1995. Pre-tax net income was up 11.4% to \$85.2 million from \$76.5 million.

The first-quarter revenue figure includes wholesale, retail and reinsurance brokerage business as well as consulting services.

Aon Group's results were in line with expectations, according to Patrick G. Ryan, chairman and CEO of Aon Corp., the brokerage's parent company.

Insurance brokerage revenues were up despite the competitive property/casualty market and growing consulting business led to

strong revenue and earnings growth, said Mr. Ryan.

Alexander & Alexander

A&A's first-quarter numbers are bleak. Revenues are down 3% to \$314.3 million from last year's \$324.2 million and net income is off a staggering 68.5% to \$13.1 million from \$41.7 million in 1995.

Most of the decline comes from last year's sale of Alessis Inc., an A&A spokesman said. "The balance is primarily related to the effect of acquisitions and seasonal variations, plus pricing conditions in North American retail business and global specialty and reinsurance business."

A&A expects acquisitions to begin paying off. Late last year, A&A acquired the U.S. offices of Jardine Insurance Brokers and in the first quarter of 1996 picked up Australian retail brokerage AIBA Holdings Pty. Ltd. Another acquisition Down Under in the first quarter was Robert M.C. Brown & Partners, a benefit consulting firm.

"We've made no secret we're looking for acquisitions to fill practical, strategic niches," the A&A spokesman noted. "We're going to be looking for opportunities."

A&A "continues to make good progress on its long-term objectives," said Mr. Zarb in a statement. "Productivity and service improvements from technology initiatives, our market segmentation strategy, other expense reductions and acquisition activity will enable A&A to improve operating results and achieve market leadership."

Acordia

Acordia's revenues were a first-quarter record \$164.7 million, a 24.2% jump from \$132.6 million in the 1995 quarter. Net income moved up a slight 1.3% to \$7.3 million from \$7.2 million.

The first-quarter 1996 result reverses the trend of the previous two of falling net income. Acordia believes it is on track to reach its earnings goal of \$2.05 to \$2.15 per share, said Patrick M. Sheridan, executive vp and CFO.

The first-quarter net income amounted to earnings per share of 51 cents.

If Acordia is to reach its earnings goal for the year, "we needed a good first quarter, and we had one," said Mr. Sheridan. "We were very pleased, obviously."

Earnings are rebounding after the decline Acordia said was related to the reorganization of its Indiana operations and a weak California market, specifically in workers compensation and construction lines (BI, Oct. 16, 1995).

Around half the 24.2% revenue gain came from acquisitions, Mr. Sheridan explained, and Acordia will be examining other acquisition opportunities this year. The remainder of the increase came from internal growth and new business.

In the first quarter, Acordia acquired Reager-Harris Inc. in Louis-

ville, Ken.; Potts, Davis & Co. in Salem, Ore.; Northwest Agencies Inc. in Portland, Ore.; and Chamberlin & Flowers Inc. in Clarksburg, W.Va.

Arthur J. Gallagher

First-quarter revenues at Arthur J. Gallagher & Co. reached \$100.7 million, a 4.1% rise from 1995's \$96.7 million. Net income for the quarter rose to \$8.2 million, a 22.3% increase from \$6.7 million in 1995.

"There's the good and the bad news," said Michael J. Cloherty, executive vp at Gallagher. "We're extremely pleased with the 22% increase, but the top line result shows the continuing effect of the competitive market."

Gallagher will "stick to basics" for the remainder of the year, making sure costs don't get out of hand, Mr. Cloherty said. But he doesn't expect changes in the competitive insurance market. "Revenues I think will continue to be under pressure."

Gallagher acquired Los Angeles-based retailer Levitt Kristan & Co. during the first quarter.

Mr. Cloherty was named executive vp at the brokerage last month. Formerly vp-finance, he has been with Gallagher since 1981.

David M. McGum has been appointed vp-international and specialty marketing. He joined the company in 1979 and served most recently as president of International Special Risk Services Inc., Gallagher's in-house wholesale brokerage facility.

Hilb, Rogal & Hamilton

Revenues at Glen Allen, Va.-based Hilb, Rogal & Hamilton Co. were up 9.2% to \$43 million in the first quarter from \$39.4 million the year before.

Net income was up 4.7% to \$5.2 million from \$4.9 million.

HRH is benefitting from internal growth as it ties regional offices together to allow them to share resources, explained Robert H. Hilb, chairman and CEO.

Not all offices have the ability to provide loss control, risk management and other services and the current "regionalization of our company is improving our revenue" as those services become available to more clients, Mr. Hilb explained.

"We got a healthy blip up in new business," he said. "We see some awfully good things on the horizon in our ability to deliver more to the middle America client that needs services the major players aren't willing to provide."

Poe & Brown

New business and acquisitions are fueling growth at Poe & Brown Inc.

Revenues rose 12.4% to \$30.7 million in the first quarter from \$27.3 million in the 1995 quarter. The Tampa-based broker reported net income up 4.5% to \$4.4 million from \$4.3 million a year ago.

"We feel very, very good about the first quarter," said James A. Orchard, treasurer. "We had solid top line growth and earnings per share growth. The first quarter had record levels of new business."

Mr. Orchard said about half the revenue growth came from 1995 acquisitions. In this year's first quarter, Poe & Brown acquired Miami-based broker Florida Intracoastal Underwriters Inc. Another acquisition in April was Boger, Reid & Flournoy, an Atlanta-based broker.

Poe & Brown recently formed a new automotive department as part of its National Programs Division to offer six specialty insurance programs to automobile dealers, auto transport companies, school bus operators, auto repair businesses and automotive after-market parts companies.

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INTERNATIONAL

Court tackles referee, opens liability question

By CAROLYN ALDRED

LONDON—While hoping that they will not be the next defendants, professional and amateur sporting associations are examining their own insurance programs after a High Court found a referee liable for injuries that crippled a young rugby player.

The judgment is believed to be the first on the liability of referees in the courts of the United Kingdom, Australia, New Zealand, Ireland or South Africa, Mr. Justice Curtis said in his April 19 judgment.

Although the judge stressed that the judgment is limited to one particular game of Colts rugby, a special form of the game for junior players, the judgment could have far reaching implications for other sports referees, said Philip Tracey, a lawyer with London law firm Davies Arnold Cooper.

Mr. Tracey represented Michael Nolan, on Tamworth, Staffordshire, a rugby union referee who was sued by Ben Smoldon for injuries he sustained in a Colts game in 1991.

The rugby player, who was paralyzed when a scrum collapsed,

Sport associations examine coverage after rugby ruling

won the case after Mr. Justice Curtis ruled that the referee "failed to exercise reasonable care and skill" in preventing scrum collapses. A scrum is a rugby football formation in which eight players from each side interlock and struggle for the ball in their midst.

Damages have yet to be determined, but one source said they could exceed 1 million pounds (\$1.5 million).

London-based Rugby Football Union, the association governing amateur rugby in England, has insurance for all referees overseeing Rugby Union matches in the country. Its insurer, Sun Alliance P.L.C., intends to appeal, though a spokeswoman said "grounds for the appeal were still being discussed."

Sun Alliance also insures referees for other sports, although the spokeswoman would not identify the other sports. The company noted that it was too early to com-

ment on the case, especially with a forthcoming appeal.

Damages will not be assessed until after any appeal of the liability ruling, said Mr. Tracey.

Since the judgment, other sporting bodies have consulted with their insurers and lawyers to determine the implications of the case for them. Most believe they are safe from similar rulings.

Insurers for the Rugby Football League, a professional league based in Leeds, said "that there is no change" to its coverage following the judgment, said Greg McCallum, RFL's referee coaching director. The RFL's 250 U.K. registered referees are covered as employees under the RFL's employers liability insurance program, said Mr. McCallum.

Professional leagues may not be affected, because their rules, especially on scrums, differ from those used in amateur games, said Mr. McCallum.

Scrum rules have been changed in Rugby League to make a scrum less competitive and dangerous, he said. In addition, the Rugby League scrum formation involves only six players from each team

See Rugby on next page



A liability ruling could leave U.K. referees in as tough a spot as this New Zealand player.

GA, Sedgwick target Germany

Both to expand presence there

By EDWIN UNSWORTH

LONDON—General Accident P.L.C. and Sedgwick Group P.L.C. are expanding their separate operations in Germany.

Perth, Scotland-based General Accident is acquiring UAP International Allgemeine and UAP International Lebensversicherung for 140 million DM (\$91.1 million) from Union des Assurances de Paris of France.

Both insurance companies will trade under the General Accident name.

UAP Allgemeine concentrates on small, domestic commercial and personal lines businesses. The insurer reported gross premiums in 1995 of 273 million DM (\$190 million).

UAP Leben is a life insurance company and reported 1995 premiums amounting to 38 million DM (\$26.5 million).

Bob Scott, chief executive of General Accident, said the acquisition is of considerable strategic importance to the Scottish insurance company, giving it "a solid base which will enable further profitable expansion in the coming years."

Mr. Scott said General Accident's interest was largely in the German company's agency network in order to expand GA's existing German life business.

UAP Chairman Jacques Friedmann said the sale of the German units "is part of our strategy to rationalize and refocus UAP's European network and to reduce group debt."

Meanwhile, Sedgwick, through its Sedgwick Deutschland subsidiary, has paid 8.2 million DM (\$5.3 million) for Wiesbaden, Germany-based broker Kurt Hamm und Sohn Versicherungsmakler GmbH. A further minimum payment of 1.8 million DM (\$1.17 million) will be made by Sedgwick Deutschland subject to the level of net retained brokerage of Kurt Hamm in 1996 and 1997.

Commenting on the takeover, Mike Cooper-Mitchell, director of Sedgwick Europe Risk Services, said Sedgwick desires to have a strong presence in Germany because it is the largest insurance market in continental Europe.

Mr. Cooper-Mitchell added that Kurt Hamm's offices in Wiesbaden, Dusseldorf, Idar-Oberstein and Pforzheim give Sedgwick, which already has offices in nine German cities, additional regional offices in the important Rhine/Main area.

Wanted: Help handling risk worldwide

Risk managers seek insurer partners for global programs, survey says

By ROBERTO CENICEROS

Risk managers are increasingly concerned about global exposures, according to a recent Liberty Mutual Insurance Co. survey in which two-thirds of the respondents reported that their company's international business has increased in the past two years.

The survey found that risk managers want a comprehensive insurance partner to oversee their worldwide insurance programs.

More than 25% of the 108 risk managers for large U.S. corporations who responded to the survey said their company's international business had increased more than 50%, while 67% said the increase was greater than 15%.

About 30% of them said their employers had acquired a company outside the United States within the past two years. More than 60% said their employers had started an overseas company or opened an office outside the United States.

"American businesses are showing a dramatic increase in business overseas," said John Ryan, vp of commercial marketing for Boston-based Liberty Mutual.

"For risk managers, it means the international arena is one that they need to address. Even if today their company is not overseas, they probably will be shortly," he said.

Survey respondents said they are most concerned about: global coordination of insurance programs or coordination with their primary coverage and local programs, so that gaps are eliminated; cross-border communications between their offices and providers; and foreign laws and regulations.

Risk managers also are concerned about transit and warehousing coverage and the quality of service they receive from insurers.

Those five issues can serve as a work list for other risk managers embarking on international business, Mr. Ryan said. They are issues for risk managers to discuss with their brokers and insurers, he added.

The survey results also show risk managers want the insurance industry's best practices—like safety and loss control programs—applied to overseas operations, Mr. Ryan said.

Yet those efforts are lagging. About two-thirds of responding companies do not have written loss control plans for each country they operate in, nor

do they have regular reviews of their loss control practices.

The risk managers surveyed cited property, earthquake, workers compensation and political risk as the most difficult international insurance coverages to purchase.

Survey respondents listed Asia, Europe, Mexico, the Pacific Rim and South America as high-activity regions for starting up a company or opening an office. Canada and the Middle East were considered medium-activity regions.

As for acquiring companies, Europe is the high-activity region, with Asia, Mexico, the Pacific Rim and South America medium-activity areas.

The survey was released April 23, during the 34th Annual Risk & Insurance Management Society Inc. conference in Toronto. Liberty Mutual distributed questionnaires in March and April and the risk managers responded via fax.

Copies of the survey are available from John Ryan at Liberty Mutual Insurance Co., Communication/Marketing Department, 175 Berkeley St., P.O. Box 140, Boston, Mass. 02117-0140; 617-357-9500, ext. 44171.

U.K. safety code violators land in jail

By CAROLYN ALDRED

BRADFORD, England—Two former directors of a carpet manufacturer were jailed last week for breaking health and safety regulations imposed after an employee lost his arm.

The successful prosecution of the case by the U.K. Health and Safety Executive is only the second conviction to result in jail time for a breach of U.K. safety regulations. A demolition worker was sentenced to three months in prison earlier this year (BI, April 15).

Until this year, prosecutions of safety violations resulted in fines and suspended custodial sentences—in which the convicted defendant does not serve jail sentences unless he or she commits another similar offense—but not jail terms.

Colin Barker, former managing director of carpet maker Calder Felts Ltd. of Sowerby Bridge, Yorkshire, and Know Kerr, the company's former production director, were each sentenced to four months imprisonment.

The sentences were handed down at Bradford Crown Court on April 23.

The convictions stem from an accident two years ago in which 21-year-old Michael Pollard had his left arm torn off while cleaning machinery at the company.

Immediately after the accident, safety inspectors prohibited the company from using the machine before safety defects had been corrected. On a subsequent visit, seven months later, the inspectors found the machinery still in use without having been made safer.

The company closed down in March 1995.

INTERNATIONAL

German health reforms faulted

Proposal would shift some costs away from employers

By DON LEWIS KIRK

German health insurance companies are criticizing a government reform package aimed at stimulating the economy by slimming down the social security system.

Hans Juergen Ahrens, chairman of the association of the nonprofit, state-regulated German sickness funds that provide health care coverage to 90% of German citizens, said government proposals unveiled April 26 would increase the burden on sickness funds and are "unrealistic" and "socially irresponsible."

German sickness funds are financed through equal employer and employee contributions that combined total an average of 13.5% of employees'

'Adding insult to injury, (policyholders) now see their benefits cut,' says Hans Juergen Ahrens.

gross salary or wages. A government spokesman said a major goal of reform is to reduce total employer contributions for all social insurance benefits to below 40% of salaries. Currently companies pay social insurance taxes for employee pensions, unemployment compensation and health insurance.

The Bonn government's "Program for More Growth and Jobs" includes better insurance benefits for 3 million social security recipients and will boost the costs needed to modernize or maintain hospital facilities.

Should it go into effect, Mr. Ahrens of the Federation of German Sickness Funds, known as the AOK, says health insurance companies together would face additional total costs in the first year of reform amounting to 5 billion DM (\$3.27 billion) starting in 1997.

The sickness funds generated revenues of 220 billion DM in 1995 (\$153.1 billion).

In a 1994 reform, the government limited the sickness fund contributions of pensioners and the unemployed, which also reduced sickness fund income (*BI*, July 11, 1994; March 14, 1994).

"Our policyholders had to pay for this through higher premiums," Mr. Ahrens said in a radio interview. "Adding insult to injury, they now see their benefits cut."

Instead of fiscal changes, Mr. Ahrens said lawmakers need to get at the root of the problem by changing the cost structure through steps such as increasing outpatient care over hospital care, and putting some costly medication on a "black list."

Mr. Ahrens also attacked a government plan that would cut employee sick pay for the first day off work.

In addition, the government plans to reduce funds for preventive care, which would undermine efforts to head off chronic illness, said Mr. Ahrens.

The government hopes to move ahead on a third reform of the German health system, which would focus on cutting hospital costs, but also reduce sick pay from health insurers by 10%.

It will also introduce expanded insurance benefits and increase contributions for nursing care insurance, which was introduced in Germany last year. The government said these measures will help create jobs in the health care industry.

Other social insurance reform proposals include reducing pensions for ethnic Germans returning from Eastern European countries and for those unable to work for health reasons. It also plans to cut payments for health spas and raise the pension age for women.

In addition, the government plans to reform Germany's accident insurance system and support laws, the system through which workers are compensated for job-related injury or illness. The changes would change entitlement to unemployment benefits and cut benefit levels.

Overall government cuts totaling about 50 billion DM (\$32.66 billion) are planned in 1997, with more than 20 billion DM (\$13.06 billion) in the social security sector.

Reinsurer pact bolsters Lloyd's

200 companies to pay Lioncover claims

By SARAH GODDARD

LONDON—Lloyd's of London's Central Fund could be in a stronger position now that nearly 200 London market reinsurers have agreed to pay reinsurance claims filed by Lioncover Insurance Co. Ltd.

The reinsurers reached an agreement with Syndicate Underwriting Management Ltd., the substitute managing agency for the PCW syndicates, to start paying reinsurance recoveries to Li-

would have threatened Lloyd's solvency position. Lioncover's 1995 accounts, to be published this week as part of the Corporation of Lloyd's report and accounts, show uncollected reinsurance recoveries of £150 million (\$223.9 million), with an estimated £220 million (\$328.4 million) of future reinsurance claims.

SUM did not release details on the agreement, which it said were confidential. However, Managing Director Alan Pollard did admit that a number of the retrocession-

The agreement ends concern that the Central Fund could be exhausted by its exposure to PCW liabilities, primarily asbestos-related.

oncover, but the exact amount is unknown.

Lioncover was set up by Lloyd's in 1987 as reinsurer of the syndicates previously managed by PCW Underwriting Agencies Ltd. after the agency collapsed in 1982 with huge exposures, particularly asbestos. Lioncover is guaranteed by the Lloyd's Central Fund, which could have had to pay out funds to Lioncover absent the reinsurance agreement.

The PCW retrocessionaires had argued that they were not liable for claims from the syndicates because of fraudulent trading by PCW. But, earlier this year, a judicial committee of the House of Lords refused to allow the reinsurers to appeal a U.K. Court of Appeal decision last July that found in favor of the syndicates collecting on the reinsurance. Since that date, SUM and the reinsurers have been working out the settlement, which was finalized late last month.

The agreement clears concern that the Central Fund could be bankrupted by its exposure to PCW liabilities, which in turn

aires were in runoff. In fact, most of the Lloyd's syndicates involved in the agreement are in runoff, he said, so they will be reinsured into Equitas Ltd., the Lloyd's runoff reinsurer, if the reconstruction and renewal plan goes ahead.

Lloyd's also is planning to reinsure Lioncover into Equitas though some names and their advisers oppose this proposal. An assessment of the R&R plan last month by law firm Slaughter & May suggested that Lioncover remain with the ongoing Lloyd's market (*BI*, April 8).

SUM also will be absorbed into Equitas after the R&R plan is completed.

Also, "a significant proportion" of the London market companies are in runoff, said Mr. Pollard. But he did not foresee any great problems resulting from reinsurers' attempts to collect retrocessions before paying out cedants' claims, a strategy that may or may not be upheld in the courts later this year (*BI*, July 17, 1995).

"It can work in both directions, since Lioncover is both a reinsurer and reinsured." **BI**

Rugby

Continued from previous page rather than eight.

British Boxing Board of Control General Secretary John Morris said he believes the judgment likely will be confined to a "one-off" incident in a rugby game. Nonetheless, the BBBC, its insurers and lawyers "will examine the judgment carefully. There is no room for complacency," he said.

One of the issues that will be discussed by the board in the light of the judgment is whether boxing referees should be required to carry insurance. The BBBC, which is responsible for most professional boxing matches in the United Kingdom, currently has no separate coverage for referees, Mr. Morris said.

A spokesman for the Football Assn., which oversees soccer played in the United Kingdom, said FA-appointed referees, responsible for most professional matches in England and Wales, are covered as employees under

the FA's own insurance program.

The association is examining the insurance for referees for amateur football games, about 30% of whom have no coverage, he said.

However, the spokesman noted that the judgment is unlikely to affect soccer, which is a "very dif-

'There is no room for complacency,' says John Morris, a high-ranking British boxing regulator.

ferent game to rugby," referring to the less dangerous nature of soccer.

The Hockey Assn., which offers a non-compulsory insurance program for field hockey umpires, is also reviewing its coverage, confirmed a spokeswoman, who would not comment further on insurance matters. **BI**

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MAY

MAY 13-14. Annual Statement Changes Seminar in Chicago, sponsored by the National Assn. of Insurance Companies; \$275 for state insurance department staff, \$475 for others. Also **June 17-18** in Kansas City, Mo.; **Aug. 26-27** in Boston; **Sept. 5-6** in San Francisco. NAIC, Education and Training Department, 120 W. 12th Street, Suite 1100, Kansas City, Mo. 64105-1925; 816-374-7192.

MAY 13-14. Health Care Antitrust Forum in Chicago, sponsored by Health Care Antitrust Forum; \$750. Health Care Antitrust Forum, Address Program Director, 3 First National Plaza, Suite 1400, Chicago, Ill. 60602; 312-214-3299.

MAY 14. Contingency Planning for Equipment & Machinery in St. Louis, sponsored by Factory Mutual Engineering and Research; \$495. Also **May 16** in St. Nashville; **July 30** in Pittsburgh; **Aug. 1** in Ft. Mitchell, Ky.; **Aug. 28** in Atlantic City, N.J.; **Sept. 4** in Norwood, Mass.; **Nov. 5** in Norcross, Ga. and **Nov. 7** in Charlotte, N.C. FME&R's Insured Education, 1151 Boston-Providence Turnpike, P.O. Box 9102, Norwood, Mass. 02062; 617-255-4606.

MAY 14. The 1996 Employee Benefit Communication Seminars in Chicago, sponsored by The Conference Board; \$550 for Conference Board Associates, \$680 for non-associates. Also **May 16** in New York and **May 21** in San Francisco. The Conference Board, 845 Third Ave., New York, N.Y. 10022-6679; 212-759-0900.

MAY 14-16. Intensive Workers' Compensation Training Program in Glastonbury, Conn., sponsored by Aon Management Institute; \$1,900. Aon Management Institute, 628 Hebron Ave., Corporate Center II, Glastonbury, Conn. 06033; 860-659-6780.

MAY 14-16. ABA Section of Litigation Insurance Coverage Litigation Annual Midyear Meeting in Tucson, sponsored by the Insurance Coverage Litigation Committee; \$300 for litigation section member, \$325 for ABA, non-litigation members, \$350 for non-ABA members. Allison Goldman, ABA Section of Litigation, 750 N. Lake Shore Drive, Chicago, Ill. 60611; 312-988-6245.

MAY 15. Environmental Exposures in Construction: Building Your Contractor Book conference in Exton, Pa., sponsored by The Center for Environmental Risk Management; \$195. The Center for Environmental Risk Management, Jacque Kakareka, 520 Eagleview Blvd., P.O. Box 636, Exton, Pa. 19341; 800-ECS-1414.

MAY 15. The Second Annual Insuring the Children Insurance Industry Forum in Yorba Linda, Calif., sponsored by Insuring the Children; \$195. P.O. Box 28882, Santa Ana, Calif. 92799-8882; 714-756-3495.

MAY 16-17. Negotiating Environmental Agreements executive program in Cambridge, Mass., sponsored by Massachusetts Institute of Technology; \$1,175. Carol Sloane, Center for Management Research, MIT, 55 William St., Wellesley, Mass. 02181; 617-239-1111.

MAY 17. Treatment Guidelines & Utilization Management in Workers' Compensation seminar in San Francisco, sponsored by California Workers' Compensation Institute; \$160 for CWCI members, \$210 for non-members. Also **May 20** in Long Beach, Calif. Barbara Davis, CWCI, 120 Montgomery St., Suite 1300, San Francisco, Calif. 94104; 415-981-2107.

MAY 18-24. 1996 American Industrial Hygiene Conference & Exposition in Washington, sponsored by the American Industrial Hygiene Assn. and American Conference of Governmental Industrial Hygienists; \$360 for members, \$460 for non-members. AIHA, 2700 Prosperity Ave., Suite 250, Fairfax, Va. 22031; 703-849-8888.

MAY 19-21. 28th Annual Midwest Claim Conference in Arlington Hts., Ill., sponsored by Chicago Claim Assn.; \$115 for one day, \$175 for two days. Midwest Claim Conference, C/O Russell Bardin, US Life Credit Life, One Woodfield Lake, Schaumburg, Ill. 60173; 847-517-5961.

MAY 20-21. The 8th Annual Corporate Benefits Conference in Las Vegas, sponsored by International Foundation of Employee Benefit Plans; \$510 for members, \$570 for non-members. IFEBP, P.O. Box 69, Brookfield,

Datebook

Wis. 53008-0069; 414-786-6710, ext. 8257.

MAY 22. The 1996 Harold H. Hines Jr. Memorial Symposium in Chicago, sponsored by Chicago and Northeastern Illinois chapters or Risk & Insurance Management Society Inc., the Insurance School of Chicago and *Business Insurance*; free for invited guests. The Insurance School of Chicago, 175 W. Jackson Blvd., Suite 2200, Chicago, Ill. 60604; 312-427-2550.

MAY 22-23. Disaster Planning and Preparedness seminar in Chicago, sponsored by Factory Mutual Engineering and Research; \$495. Also **July 23-24** in Toronto; **July 25-26** in Montreal; **Sept. 10-11** in Baltimore; **Sept. 12-13** in New York; **Dec. 3-4** in Norwood, Mass. FME&R's Insured Education, 1151 Boston-Providence Turnpike, P.O. Box 9102, Norwood, Mass. 02062; 617-255-4606.

MAY 23. Integrating the Interventions

that **Promote Good Health** seminar in Chicago, sponsored by The Wellness Planning Coalition; \$100 for members, \$125 for non-member. Midwest Business Group on Health, 8303 W. Higgins Rd., Suite 200, Chicago, Ill. 60631; 312-380-9090.

MAY 23. 401(k) Plans From A to Z workshop in Syracuse, N.Y., sponsored by Corbel. \$235. Education Services, Corbel, P.O. Box 47720, Jacksonville, Fla. 800-326-7235.

MAY 24. Medical Malpractice seminar in New York, sponsored by the College of Insurance; \$95. The College of Insurance Center for Professional Education; 101 Murray St., Room 426, New York, N.Y. 10007; 212-815-9201.

MAY 24. Professional Liability: Errors and Omissions Insurance seminar in New York, sponsored by the College of Insurance; \$95. The College of Insurance Center for Professional Education; 101 Mur-

ray St., Room 426, New York, N.Y. 10007; 212-815-9201.

MAY 29. The Second Annual Educational Outreach Program in Association with the U.S. Department of Labor in Seattle, sponsored by the International Foundation of Employee Benefit Plans; \$125. Also **May 30** in San Francisco, **May 31** in Los Angeles, **June 3** in Kansas City, **June 5** in St. Paul, Minn. **June 6** in Chicago. IFEBP, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6710.

JUNE

JUNE 2-5. The New Hampshire Advantage: Strategies for Systematic Change conference in Nashua, New Hampshire, sponsored by the Eastern Assn. of Workers' Compensation Boards and Commissions; \$200 for International Workers' Compensation Foundation members, \$225 for associate members, \$250 for non-members. IWCF, P.O. Box 3515, Concord, N.H. 03302; 904-252-2915.

JUNE 5. New England Employee Benefits Council Spring Conference and Trade Show in Boston, sponsored by NEEBC; \$175 for members, \$250 for non-mem-

bers. NEEBC, 62 Walnut St., Wellesley, Mass. 02181; 617-239-1767.

JUNE 5-7. Capitation and At-Risk Contracting program in Cherry Hills, N.J., sponsored by the Institute for Behavioral Healthcare and CentralLink; \$795. Also **July 10-12** in Portland, Oregon. CentralLink, 4370 Alpine Road, Suite 108, Portola Valley, Calif. 94028; 415-851-8411.

JUNE 9-11. The 12th Annual Western Claim Conference in Indian Wells, Calif.; \$200. Francesca Archilla, c/o UNUM, 101 N. Brand Blvd., Suite 800, Glendale, Calif. 91203; 818-956-2624.

The Datebook is compiled from notices sent to Business Insurance. Notices should be sent at least eight weeks in advance to Datebook, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. Please include the cost, if any, to attend the meeting and information on registration for interested readers. Business Insurance reserves the right to select meetings of most interest to its readers and cannot guarantee that notices will be printed.

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ACCREDITATION
 International Business Forum has applied with the California Insurance Board as a course provider for CEU credits

Stocks

Continued from page 2

purchase of Blue Bell, Pa.-based U.S. Healthcare Inc. (BI, April 8).

For health maintenance organizations overall, "I think it's fair to say the performance in the group this year has been somewhat mixed," said Todd Richter, an analyst with Dean Witter Reynolds in New York.

"The group is about a market performer. Some names have performed exceptionally well and are considerably ahead of the market, and some names are somewhat behind the market. The group is coming off an extremely strong year, though, last year," he said.

"A bit of perverse logic" has been at work, said Mr. Richter. Because of profit-taking on the part of investors, last year's best-performing stocks are doing worse this year.

Other factors influencing the stock prices in addition to the profit-taking—which followed a dramatic increase in prices between last September and December—include investor rotation from growth sectors to more cyclical stock sectors as well as some lowered HMO earnings estimates, said Gary Frazier, managing director and managed health care analyst at Bear, Stearns & Co. in New York.

"I assume it's primarily disap-

pointing, or rather lower, earnings," said Doug Sherlock, president of the Gwynedd, Pa.-based Sherlock Co. and an HMO analyst, who notes that over the past month the stocks have been lagging the market.

"On average, operating profits are up by about 4% and it was well into the double digits last year at the same time," said Mr. Sherlock.

Many companies, Mr. Sherlock explained, are now electing to forgo putting pressure on their doctors and hospitals to reduce their prices, to encourage more of them to join their networks.

The market is jittery, said Mark Jamilkowski, an HMO analyst with insurance research and investment firm Conning & Co. in Hartford, Conn.

"I think you have a situation where everybody's very antsy about what's going to happen with core earnings," Mr. Jamilkowski said. People are concerned about a resurgence in health care trend factors, and that pricing pressures will force margins down, he said.

However, the outlook is still positive, say analysts.

For the past three years, HMO stocks have done better in August and September, because many of the rate announcements have already been made and there has been an initial glimpse of the upcoming year's enrollment trends, said Bear

Stearns' Mr. Frazier.

"That gives investors... a comfort factor," said Mr. Frazier, who expects the same to occur this year as well.

Furthermore, the Washington-based American Assn. of Retired Persons announced last week that it plans to begin licensing its name to health maintenance organizations. The group would evaluate plans on financial stability, price, commitment to quality and their popularity with AARP members. It would in turn receive royalties from the plans it endorses.

The AARP's endorsements will stimulate the HMO market's growth enormously and "is going to have a profound effect on the stocks," according to Michael LeConey, an HMO analyst with Coleman & Co. in New York.

"I think the HMOs will follow the general, broader market in that there are going to be trading opportunities," Conning's Mr. Jamilkowski said. During fourth-quarter 1995, he noted, the stocks were trading at price/earnings multiples of 25 times 1996 estimates.

This year, through the first quarter, HMO stocks have been trading at only 19 times 1996 estimates, "so you can see they were more highly valued as a group in the fourth quarter than they are now. But they were at 25 times at one point. Why not get

there again?" Mr. Jamilkowski asked.

Meanwhile, selectivity is now called for in stock picks, say analysts, who most often cite Cypress, Calif.-based **PacifiCare Health Systems**, followed by Norwalk, Conn.-based **Oxford Health Care**, as their favorites.

"I think selective HMO stocks still make a great deal of sense," said Mr. Frazier, who recommends PacifiCare as well as **United HealthCare Corp.** of Minnetonka, Minn., and Hooksett, N.H.-based **Healthsource Inc.**

Each of these companies will be able to get through the current shake-up in the industry and still be able to deliver decent earnings growth, said Mr. Frazier.

In addition, each of these HMOs has dominant market shares in parts of the country in which they focus, they have well-developed computer systems and management capabilities, and they have unsurpassed medical networks, Mr. Frazier said.

Ellie Kearns, an analyst with Alex. Brown & Sons Inc. in Baltimore, said she also recommends PacifiCare, United HealthCare and Healthsource as well as Oxford because of their good market share in important markets, good management teams, geographic diversification and broad product offerings with opt-out features.

Other analysts point to the poten-

tial growth in the Medicare HMO market as a factor in their choices. Oxford and PacifiCare are two very strong companies that are likely to be selected by the AARP, said Mr. LeConey.

HMOs with strong Medicare products, as well as those with strong product lines beyond the Medicare area, will do well, said Mr. Richter. PacifiCare and United HealthCare both fit these criteria and have valuations that "are still very attractive."

As to other types of managed care companies, Randall Huyser, an analyst with Furman Selz Inc. in San Francisco, recommends Downers Grove, Ill.-based **HealthCare COM-PARE Corp.**, which he described as the largest independent preferred provider organization company.

"The main thrust of the story is that their base business is growing at about a 20% rate, and we think that they're going to be able to leverage their existing base by getting into the insurance and HMO business, and that could increase their growth rate by at least five percentage points over the next three years," said Mr. Huyser.

Mr. Huyser noted that he has no stock recommendations among physician practice management companies right now because of a combination of high valuations as well as "too many of the companies reporting disappointing earnings." **■**

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FMLA

Continued from page 2

"has been good for business" with "little or no effect on productivity," said Sen. Christopher Dodd, D-Conn., the group's chairman.

The group used U.S. Census and other data to supplement two national family leave surveys. In one, Rockville, Md.-based Westat Inc. interviewed employers at 1,206 work sites last summer. In the other, researchers at the University of Michigan's Institute for Social Research interviewed people in 2,352 households that contained employees who are covered by the act.

"The utilization rate has been relatively low," observed Sen. Dodd.

According to the employer survey, 3.6 of every 100 eligible employees at private sector worksites took family leave between Jan. 1, 1994, and the time of the interview. By contrast, the employee survey found that about two of every 100 eligible employees took leave in that period.

The discrepancy stems from "employees in covered firms who, while not eligible for one reason or another, were allowed to take leave under the act; or employees in covered firms who, whether eligible or not, were given leave under the FMLA and did not know it."

Overall, costs of implementing family leave policies also have been relatively low for businesses.

Administrative costs did not increase at all or only a small amount at nearly nine of 10 surveyed employers. Only 10.8% reported large or moderate increases. Benefits costs were similarly stable: 93.9% reported no or only small increases; the rest reported large or moderate ones.

Among companies with 1,000 or more workers, 41.7% reported moderate or large increases in administrative costs and 28.9% reported such increases in benefit costs.

Very few companies said the FMLA had either helped or hurt their productivity. Some 86.4% reported no impact from the law, while 7.3% said it had hurt and 6.4% said it had helped. Asked about profits, the companies told a similar story: 92.5% reported no impact from the law, while 6.3% said it hurt and 1.2% said it helped.

More than one out of 10 employers—12.6%—said employee productivity had improved because of the FMLA. Only 4.7% reported a drop and 82.7% reported no effect. Nearly nine out of 10 said the act had no impact on employee absences.

"Organizations that have had unpaid leave policies in place in the past have had much less problem dealing with FMLA. Larger employers don't have quite as much problems in developing the policies dealing with the FMLA," said Michelle Mears, principal with Buck Consultants Inc. in Houston.

Employers are having difficulty responding to the FMLA while trying to meet the demands of the workforce with programs like flex time.

The commission failed to take a balanced approach, and instead "sought to put a good face on a troublesome law," contended Paul Huard, senior vp for the National Assn. of Manufacturers.

"While we recognize the need for flexible leave policies, it is important that such a policy be well defined so it is not open to flagrant abuse," he said. "The act (gives) some workers an excuse to have many unexplained absences."

Free copies of the report are available from: The Women's Bureau, U.S. Labor Department, 200 Constitution Ave. N.W., Suite S-3002, Washington, D.C. 20210; 202-219-6611.

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NAII actions threaten state regulation: Hunter

By MEG FLETCHER

State regulation of insurance is being undermined by the National Assn. of Independent Insurers, contends a report by the Consumer Federation of America.

The NAII's "thinly veiled call for its members to boycott payment of (database) fees to the National Assn. of Insurance Commissioners" is a prime example of the threat to effective state regulation, said J. Robert Hunter, the consumer group's director of insurance and a former Texas insurance commissioner.

"The NAII seeks to return the NAIC to the old days when the industry called every shot; the boycott is intended to bring (the) NAIC into line with the NAII's wishes," Mr. Hunter charged in a statement released with the report last month.

The NAII has "a vested interest" in blocking this database of insurer financial information, the report says. The NAII is a licensed statistical agent—an organization that prepares statistical studies used to formulate rates—for the very states it is lobbying, according to the report.

"This is a conflict of interest for the NAII, particularly if the attack on the database by calling on its members to withhold fees is coupled with a potential privatization of that very database," the CFA report says.

One of the NAII's prime targets is the NAIC's programs to coordinate solvency regulation to create a state-based national solvency system, Mr. Hunter said.

The 19-page CFA study traces the progress that state regulation has

made since 1979 when the U.S. General Accounting Office did its most recent comprehensive review of the effectiveness of state regulation.

The CFA research shows that "the progress of state regulation has been substantial, but more needs to be done to protect consumers," said Stephen Brobeck, CFA's executive director. That work will likely continue, since major elements of the insurance industry have not supported the NAII's efforts, he added.

The CFA executives urged in a letter to all state insurance commissioners that they "resist the political pressure of the NAII to undo the progress that state regulation has made over the past 20 years (and to) continue to support an independent NAIC that unites the efforts of the individual states into a cohesive national approach needed to address the issues raised by a multi-trillion dollar, multi-national insurance industry."

In response, NAII President-elect Jack Ramirez denied that a boycott was in effect, though he said some individual insurers are questioning why some companies are paying database fees when others are not.

The NAII also "strongly supports" state regulation, as well as an exploration of the NAIC's proper role, which should be "to assist state regulation, not supplant it," Mr. Ramirez said.

Copies of the CFA's report are available for \$10 each by contacting the Consumer Federation of America, 1424 16th St. N.W. Suite 604, Washington, D.C. 20036.

Wrongful termination verdicts higher for men than women

By SALLY ROBERTS

Men who win wrongful termination verdicts are recovering more than twice the amount victorious women plaintiffs are recovering, according to a new study.

Between 1988 and 1995, the median compensatory award recovered by men in wrongful termination cases was \$151,800, while the median award recovered by women was \$75,000, a new study by Horsham, Pa.-based Jury Verdict Research said.

"Across the board, these awards are very closely correlated to salaries" and "men generally make more money than women," explained Marie Reubi, managing editor for Jury Verdict Research.

Indeed, according to the study, which surveyed 1,700 verdicts, the median wage loss claim made by men was \$162,015, compared with \$73,000 claimed by women.

The correlation between awards and wage loss claims may also explain why executives winning wrongful termination verdicts recover more than double what other occupations recover, the study said.

The median compensatory award executive managers recovered in wrongful termination suits between 1988 and 1995 was \$312,500.

The next highest median award was \$153,950, recovered by middle managers, followed by \$120,000 by salespeople, \$105,000 by professionals and para-professionals and \$56,000 by general laborers.

The study also reported that the overall median compensatory award in wrongful termination cases has sharply increased since 1994. In 1995, the median award in wrongful

termination cases was \$204,310, a 55.8% increase over 1994's median award of \$131,140.

The study also indicated that the number of wrongful termination cases has increased 56% between 1988 and 1995. Ms. Reubi said the increase in the number of claims can be attributed to the rise in age discrimination suits.

"It has a lot to do with the downsizing we're seeing in Corporate America," she said.

"Middle management tends to be the victims in downsizing," and those affected middle managers in their 50s and 60s are turning to the courts alleging age discrimination, she said.

According to the study, plaintiffs alleging age as the factor behind their termination won 54% of the verdicts between 1988 and 1995. Of those verdicts, the average compensatory award was \$219,000—the highest among the types of discrimination studied.

The study also showed:

- Plaintiffs alleging pregnancy discrimination won 65% of the cases, and the median compensatory award was \$87,500.

- Forty-eight percent of the plaintiffs alleging sexual discrimination recovered, with a median compensatory award of \$106,728.

- Forty-seven percent of the plaintiffs alleging race discrimination recovered. The median compensatory award was \$147,799.

Copies of Jury Verdict's "Tips To Tackle Wrongful Termination" are available for \$24.45 through LRP Publications, 747 Dresher Road, P.O. Box 980, Horsham, Pa. 19044-0980; 800-341-7874, ext. 274.

CIGNA

Continued from page 2

nize those liabilities and obtain an A- rating for its ongoing operation from A.M. Best Co. That rating is crucial for the active operation to attract quality risks, CIGNA has said.

CIGNA created the runoff operation by taking advantage of a unique Pennsylvania law that allowed it to split INA in two. INA was the unit with the greatest amount of long-tail liabilities before the reorganization.

The portion of INA that retained those liabilities, along with a few other CIGNA units, was folded into Century Indemnity, an existing CIGNA unit. The other portion of INA retained only the company's ongoing business and the INA name. It is part of CIGNA's active operation.

CIGNA officials say the insurer has fully funded its environmental and asbestos liabilities three times over by backing the runoff operation with a sizable addition to reserves, capital contributions and reinsurance protection written by the active operation.

Mr. Olson still questioned the runoff operation's financial strength (*BI*, Jan. 22). He also wanted the "thousands" of CIGNA policyholders in Michigan to be able to decide whether their coverage would be moved into the runoff facility.

Mr. Olson originally sought a special deposit of \$344.9 million from CIGNA to further safeguard Michigan policyholders that were moved into the runoff facility.

The Michigan bureau based its request on unpaid losses, adjustments for asbestos and environmental reserves and unpaid loss adjustment expenses for all of CIGNA's Michigan-licensed property/casualty companies.

In an April 25 letter to the bureau, CIGNA attorney John D. Pirich of Honigman Miller Schwartz & Cohn in Lansing, Mich., said the states of domicile for those companies would not let them post a special deposit for only Michigan policyholders.

In lieu of a deposit, Mr. Pirich proposed that INA stop selling insurance and renewing coverage in the state. He noted that the bureau has said it would have recognized INA's merger with Century Indemnity if all of INA had been placed in runoff.

Most significantly, Mr. Olson noted in his order, Mr. Pirich did not address the policyholder-choice issue.

Another concern is that policyholders in the state would not be covered by the Michigan Property & Casualty Guaranty Assn. if the runoff facility were to fail, Mr. Olson's order noted. The guaranty fund has preliminarily determined it could not respond as long as INA remains solvent, he explained.

But, Mr. Olson cut the amount he originally sought by more than half, to \$165.3 million, or less than 1.4% of the \$12.68 billion of 1995 year-end assets for INA and its property/casualty affiliates. Mr. Olson arrived at the new deposit figure by holding only INA and Century Indemnity subject to the deposit, since CIGNA did not move policyholders from any of its other Michigan-licensed companies into the runoff facility.

The bureau based its computation on INA's 1994 results, because INA's 1995 annual report does not reflect its liabilities on the business that was moved to the runoff facility, Mr. Olson's order explained.

Before making the deposit, CIGNA would have to obtain the Pennsylvania department's approval, a department spokeswoman said.

That department is convinced that Century Indemnity already is adequately capitalized and that "no escrow account is necessary for individual state's policyholders," she

said. But, that does not mean the department already has determined how it would respond if CIGNA seeks approval for the deposit, she stressed.

CIGNA's offer to stop writing business in Michigan through INA is a typical tactic that insurers take in negotiations with regulators, former regulators said.

Such a suggestion not only does not impress regulators, but it also sometimes fortifies their resolve to show an insurer who is regulating the industry, observed former New York Deputy Superintendent Martin Minkowitz, who now is an attorney in New York with Stroock & Stroock & Lavan.

John L. Ward, chief executive officer of Ward Financial Group, a Cincinnati-based management consulting firm, supports Michigan's demand for a special deposit. But, he said Michigan's order "seems a little bit demanding" because it requires the CIGNA units to ante up "today's dollars" to cover losses that "may happen down the road."

He said the deposit could be structured "with less pain to CIGNA" by allowing the insurer to provide a "paper guarantee."

A guarantee would be a bad idea, said David Walsh, a former Alaska commissioner and now general counsel of domestic brokerage for American International Group Inc. of New York. AIG is one of the rivals seeking to reverse CIGNA's reorganization into active and runoff operations.

No company can guarantee that it will be around to honor that commitment in 30 years or whenever that special deposit may have to be tapped, he said.

An insurer consultant questioned how Michigan can force CIGNA to submit to the order.

The state has little leverage over CIGNA for two reasons, observed Gary Ransom, a senior vp with insurer consultant Conning & Co. of Hartford, Conn. The state is a small market for CIGNA, with INA and its affiliates writing only about 2% of the direct property/casualty premiums in the state in 1994, and INA offered to stop writing business there already.

Mr. Ransom also questioned the wisdom of opposing CIGNA's reorganization. Referring to the runoff operation, he said, "If it's going to go under with all of that reinsurance and cash, people have to ask whether (CIGNA) would have survived as it was before." The reorganization ensures that more money will be available to pay claims, he said.

Mr. Walsh "very much" disagreed with the notion that Michigan has no leverage with CIGNA. If the CIGNA units do not comply, they will "set off a cascade of regulatory interest that will not be favorable to CIGNA," he predicted.

CIGNA also could face regulatory action on other fronts soon.

Regulators in Oregon already are seeking a policyholder-choice agreement from CIGNA similar to the one that Missouri regulators say they have negotiated with the company. CIGNA maintains that the Missouri agreement only establishes how it will notify policyholders about its reorganization (*BI*, March 11, Feb. 19).

North Carolina regulators continue to assess their "legal remedies," said Deputy Commissioner Ray Martinez. A special deposit or a policyholder-choice agreement would be viable solutions, he said.

Colorado regulators expect to decide by mid-May whether to ask CIGNA for greater policyholder protection, said Deputy Commissioner Maryellen Waggoner. If they do seek such protection, they probably would prefer a policyholder-choice agreement, she said. **BI**

Royal Sun

Continued from page 1

though its vulnerability to long-tail U.S. liability risks like asbestos and pollution

claims was seen as likely to put off interested parties.

However, Roger Taylor, Sun Alliance's group chief executive, said that independent actuarial consultants' reports on Royal's U.S. reserves did not deter the merger. A spokesman for Royal U.S. said that as of year-end 1995, reserves for environmental and asbestos losses totaled \$303 million, or 9% of Royal U.S.'s total reserves.

In the United States, "the benefit to our policyholders and producers is not just increased financial security but access to a stronger worldwide insurance base," said Robert V. Mendelsohn, chief executive officer of Royal's U.S. operations in Charlotte, N.C.

"The main impact is we are introducing a new international product called World Assurance, which will provide overseas exposures of U.S. companies with property and liability coverage. So access to the combined Royal Sun Alliance International network will afford a greater scope of coverage and enhanced services to U.S. policyholders," he said.

The product is currently available in New York, Atlanta and Cincinnati, with a national rollout to begin this year.

Officials from the two companies also said the merger should lead to reduced reinsurance costs. They said that the stronger balance sheet of the merged company should allow the insurer to buy less reinsurance and at lower rates.

The main potential for Royal Sun Alliance's development will

be overseas, where existing operations of the two insurers complement one another, according to Richard Gamble, Royal group chief executive, who will hold the same position at Royal Sun Alliance. Mr. Gamble said Royal's strong North American presence will be balanced by Sun Alliance's

U.S. policyholders will have 'access to a stronger worldwide insurance base,' says Robert V. Mendelsohn.

position in Europe.

"This will add significantly to our ratings in the United States and expand our opportunities there," Mr. Gamble said.

In Europe there will be consolidation in Italy, Spain and Ireland, "giving us a much greater share in all of those markets," added Mr. Gamble.

The combined resources of the two insurers also likely will benefit the companies in areas overseas where the two insurers are eager to expand, notably India and China, said Mr. Taylor.

Mr. Gamble said by year end, the insurers hope to do business in India and obtain a Chinese license. The two insurers also have complementary operations in Latin America.

Of the 5,000 jobs to be cut over the next two years from the combined Royal and Sun Alliance global labor force of 22,000, some 4,000 will be in the United Kingdom, including senior management positions.

This will be the main factor contributing to estimated annual cost savings of at least £175 mil-

lion (\$262.5 million) a year by 1998. Other intended savings are from combining head offices in London, in administration and claims processing, and information technology development.

"We don't anticipate significant difficulties in consolidating U.S. operations, as the Sun Alliance has a comparatively small U.S. presence. There would be no impact on the Charlotte operations, and it is highly likely that the Sun people would continue to operate in their present geographic locations," Royal's Mr. Mendelsohn said.

The merger will strengthen the enlarged company's position in the U.K. insurance market—it will have a 20% to 25% share of homeowners' business and 20% of the automobile market. Fifty percent of Royal Sun Alliance's U.K. non-life premiums will be generated from commercial lines. The deal also is intended particularly to strengthen its distribution channels.

Royal Sun Alliance will select a non-executive chairman from outside the current boards of the merging companies. Until that appointment, Sir Christopher Benson, Sun Alliance chairman, will be the new company's chairman, after which he will retire. Alan Gormley, Royal's chairman, will be the new company's non-executive deputy chairman. Roger Taylor, Sun Alliance's group chief executive, will be executive deputy chairman.

Upon the merger becoming effective, Sun Alliance shareholders will hold about 53.6% and Royal Insurance shareholders will hold about 46.4% of the issued ordinary share capital of Royal Sun Alliance.

Mark A. Hofmann contributed to this report.

For the Record

Tennessee work comp reform awaits signature

NASHVILLE, Tenn.—A major workers compensation reform bill is awaiting the expected signature of Tennessee Gov. Don Sundquist after legislators passed the measure late last month.

"It's a first step to the kind of law employers want," said Bob Gaskill, vp of the Tennessee Assn. of Business, a Nashville-based group with more than 1,700 members.

The measure, which insurers and labor representatives generally supported after two years of concentrated effort, would require insurers to use loss-cost rates rather than fully developed rates—which take into account losses as well as other expenses—streamline the rate-approval process, make employers with poor loss experience pay higher residual market premiums and require benefit review conferences in some cases. It also would enhance safety and tighten fraud rules for all participants in the system (*BI*, March 11).

However, "there were some annoying changes by labor and trial lawyers," Mr. Gaskill said. For example, the standard of evidence a substance-abusing worker must meet to prove his work-related accident was not caused by drug or alcohol use was lowered to "preponderance" from the proposed "clear and convincing." In addition, employers could not cut benefits to an injured worker until 60 days after he or she reached

maximum medical improvement, rather than the proposed 30-day requirement.

Employers and insurers also favor streamlining "the most stringent rating law in the country," which required three state officials—the insurance commissioner, secretary of state and governor—to give prior approval to fully developed rates, said Joseph DiGiovanni, vp-state programs of the American Insurance Assn. in Washington. Under the new law, the commissioner of commerce and insurance would decide on advisory prospective loss costs, which should inject some competition into the market, he said.

The legislation would also improve checks and balances in the system and create a joint legislative committee to provide ongoing review and updating of the system, said Steve Millikan, vp-workers compensation for the Alliance of American Insurers in Schaumburg, Ill. The legislation also reconstitutes a Workers Compensation Advisory Council, consisting of all interest groups in the workers comp system, including employers, workers and insurers.

Overall, the legislation should also improve market conditions by making coverage more available and affordable, he said.

In addition, several insurer and employer groups participated in a broad-based workers comp reform coalition, which developed several goals for reforming the current system. The goals were presented to the study committee over a six-month period, and most were included in the committee's

recommendations that served as the basis for the bill.

The legislation's sponsors were State Sen. Bud Gilbert, R-Knoxville, and Rep. Matthew Kisber, D-Jackson.

Comp insurer relies on managing claims

CHICAGO—Illinois employers now can purchase workers compensation coverage from Third Coast Insurance Co. in Rosemont, a new Illinois-domiciled insurer owned equally by Blue Cross & Blue Shield of Illinois and Riscorp Inc. of Sarasota, Fla.

The insurer began selling policies April 1 to employers of all sizes.

Third Coast is committed to quickly managing employees' workers comp claims by emphasizing telephone reporting of injuries, prompt referral to treating specialists and early return to work, said Paul F. DiFrancesco, Riscorp's vp-market development.

Executives from Riscorp and the Blues plan acknowledged that Illinois law, which allows an employee to choose a provider, could hinder their efforts. But, they hope that offering prompt, convenient treatment will encourage employees to allow insurer-directed care.

Third Coast plans to use BC/BS provider networks initially, though the insurer plans to develop its own network in the next 18 months, said Richard L. Schleier, BC/BS of Illinois' vp-allied health products.

BC/BS sees this arrangement as "a natural addition to its portfolio of products," which include life and health insurance products for employers, he added. **BI**

Long-term care may benefit

Congressional committee considers provisions for tax breaks

By JERRY GEISEL

WASHINGTON—A "sleeper" provision in health care reform legislation to curb pre-existing medical condition exclusions also could give a new boost to the group and individual long-term insurance market.

Reform bills passed by the House and Senate, which are now before a congressional conference committee, contain virtually identical provisions to give tax-favored status to long-term care policies.

The long-term care provisions have been largely overlooked as public attention has centered on other highly controversial parts of the bills, such as a provision in the House bill that would give new tax breaks to medical savings accounts and a provision of the Senate bill that would require medical plans to provide the same coverage for mental health ailments as physical conditions.

Insurers, which back the new tax breaks for LTC coverage, are anxiously waiting for congressional conferees to iron out differences in the health care reform bills.

The fate of the LTC provisions, noted Carolyn Boyer, Washington counsel for the Health Insurance Assn. of America, "rises and falls with the rest" of the health care reform legislation.

"We feel we are at the finish line again," Ms. Boyer said, referring to budget legislation Congress passed last year that also included LTC provisions. President Clinton vetoed the budget measure, though, for reasons unrelated to the LTC provisions.

Under the two health care reform bills, LTC policies would receive several new tax breaks. Those breaks include the following:

- LTC premiums paid by employers would not be added—within certain limits—to employees' taxable income. Premiums would not be added to taxable income as long as they did not exceed certain amounts, which would be age-related.

For example, employer-paid premiums of up to \$200 a year for employees and their dependents

employees, insurers say.

"It makes LTC much more attractive for employers to offer," said David Brenerman, director of government relations at UNUM Corp. in Portland, Maine, who spoke last week in Washington at an HIAA briefing.

And, if more employers offered LTC policies, more employees say they would consider obtaining coverage, according to a new survey conducted for John Hancock Mutual Life Insurance Co. and the National Council on the Aging.

The telephone survey of 1,000 individuals by Washington research firm Mathew Greenwald & Associates found that 29% of respondents would be very interested in acquiring an LTC policy if offered by their employers.

Employer interest in providing LTC coverage, though, has slowed markedly in recent years. In 1994, the last year for which information is available, 1,028 employers offered such coverage, a 6% increase from 1993, when 968 employers sponsored LTC programs, according to an HIAA survey released last week.

By contrast, employer sponsorship of LTC programs increased by 75% to 100% annually between 1990 and 1993.

Employer and individual interest in LTC programs, though, began to cool in 1993 when the Clinton administration pushed for enactment of comprehensive health care reform legislation.

"Talk of reform made potential buyers of LTC insurance postpone their purchases" because of anticipation that a reform package would include LTC benefits, the HIAA said. **BI**

New tax breaks make LTC much more attractive for employers to offer, says David Brenerman.

under age 40 would be tax-free. The tax-free amount would increase to: \$375 for individuals between age 40 and 50; \$750 for those older than 50 but not more than 60; \$2,000 for those over 60 but not older than 70; and \$2,500 for individuals more than 70 years old. The maximum daily tax-free LTC benefit that could be provided would be \$175.

- LTC premiums paid by individuals would be tax-deductible to the extent that those premiums, along with medical care costs, exceeded 7.5% of adjusted gross income.

These new tax breaks likely would boost employer interest in offering LTC programs to their

fusal to accede to your demands for additional power and control at Sphere Drake," Mr. Stoddart's letter says.

The lease guarantees were made prior to Sphere Drake becoming a public company and were considered by independent auditors to be too immaterial to be included in the insurer's financial statements, Mr. Stoddart said in the letter.

"We regret that your ill-advised efforts may impede the progress of the company against the interests of its shareholders," the letter concludes.

Sphere Drake would not elaborate on how Mr. Head tried to gain more control over the company. Some speculate the managers feared Mr. Head wanted to run the company "by committee" and take on the position of deputy chairman.

Mr. Head said he "offered to give more help," but no formal discussions had taken place. He did not want to take control of the company, he said.

"I think that Mike Watson is a good guy, and I have no desire to manage an insurance company," Mr. Head said.

He would not comment on whether he will sell his holding in the company.

Mr. Head first became associated with Sphere Drake in 1987 when he arranged the \$60.6 million purchase of the company and established his name as an investment banker specializing in taking over troubled insurers.

The company had a troubled history. It was part of the 1982 purchase by Alexander & Alexander Services Inc. of Alexander Howden Group P.L.C. Soon after the transaction, A&A discovered that \$50

million had been misappropriated from Alexander Howden.

In addition, A&A was forced to increase Sphere Drake's loss reserves, and by 1987, A&A was anxious to sell Sphere Drake.

After Mr. Head set up the purchase, he stood by Mr. Dean and the rest of the then management team. In 1993, Sphere Drake raised \$136.7 million in an initial public offering. The stock was sold at \$21 but has since slumped to about \$10.

Analysts were circumspect about the public announcements surrounding the resignation of Mr. Head.

Privately, some speculated that the decision was a forerunner to Mr. Head exiting Sphere Drake, whose strategy of being up front and reserving for long-tail losses was affecting the short-term stock price of the company.

Others speculated that Mr. Head may be distancing himself from the company, fearing more poor financial results.

"No one really knows what is going on, but I think there is more to come from this," said David Seifer, vp at Donaldson, Lufkin & Jenrette Inc. in New York, noting that Mr. Head had chosen a very minor issue to trigger his resignation.

Mr. Head resigned over a "minus-cule" matter, said Selina Man, senior financial analyst at A.M. Best Co. in Oldwick, N.J.

Best had previously affirmed its B++ rating of Sphere Drake after the reserve strengthening was announced.

"It is a very substantive management, and I think the reserve strengthening was in the long-term interests of the company," Ms. Man said. **BI**

Updates

Voluntary cleanup ruling

TRENTON, N.J.—A rare state court ruling granting liability coverage for voluntary cleanup of pollution may be less encompassing than originally thought.

In a revised ruling, issued April 26, a New Jersey appeals court leaves intact its public policy justification for finding commercial general liability coverage—that denying coverage in these cases would discourage companies from voluntarily cleaning up pollution.

But the appeals court did remand the case to a trial court to determine whether particular excess and umbrella liability insurance policies provide coverage as broad as the primary policies. The primary policies provide coverage for any sums that the policyholder is "legally obligated to pay"; some of the other policies promise to indemnify for a policyholder's "ultimate net loss," which is defined in part as sums paid as damages to settle a claim or "in satisfaction of a judgment for which (the policyholder) is legally liable."

Policyholder and insurer attorneys agree that the public policy argument is the most important aspect of *Metex Corp. vs. Federal Insurance Co. et al.* (BI, April 1).

Federal, a Chubb Corp. unit, and other liability insurers had denied coverage to Metex because the New Jersey Department of Environmental Protection never initiated enforcement proceedings against the company. Nor were there any third-party claims filed against Metex for bodily injury or property damage.

The March 23 decision was the first time a New Jersey appellate court had ruled on whether CGL policies cover voluntary cleanups.

To date, only two state high courts have ruled on the voluntary cleanup coverage question. Most recently, the Washington high court allowed coverage in 1994 (BI, May 30, 1994).

New threat to Lloyd's R&R plan

LONDON—Names at Lloyd's who have paid their losses and continued to underwrite are suddenly objecting to the settlement offer under Lloyd's reconstruction and renewal plan.

Their opposition ultimately could force Lloyd's into runoff.

In just one week since its formation, more than 2,000 of up to 14,798 names have joined the new Paying Name's Action Group. The group is threatening to ask the High Court to review the R&R plan for its fairness to all names unless Lloyd's changes its settlement offer to give the paying names credit for the losses they have paid and lets them keep their profits since 1993 rather than allocating the profits to Equitas.

Under the current offer, all names will have to pay a maximum of £100,000 (\$150,000) in addition to the assets they have lodged to back their underwriting at Lloyd's and a portion of profits since 1993 to close their prior years' liabilities. However, due to decreasing estimates of loss reserves needed, the cash payment may be lowered to as little as \$50,000 (\$75,000).

A judicial review of the settlement offer would delay the R&R plan and the launch of runoff reinsurer Equitas Ltd. Such delays could result in Lloyd's failing its solvency test in August, forcing the U.K. Department of Trade and Industry to put Lloyd's into runoff.

CalPERS to get HMO rate cuts

SACRAMENTO, Calif.—Several of the health maintenance organizations that contract with the California Public Employees Retirement System will reduce their rates, an arrangement CalPERS has negotiated for the fourth consecutive year.

Rate reductions averaged 1.4% for 14 HMOs included among 20 plans whose rates will take effect Jan. 1, 1997. Nine contracting HMOs will maintain their current rates, while five plans will provide premium reductions.

The five plans are Blue Shield HMO, FHP Health Care, Foundation Health, Kaiser Permanente-Northern California and Kaiser Permanente-Southern California.

While either cutting rates or keeping them stable, some HMOs are improving benefits. For example, seven of the HMOs are adding chiropractic coverage and two plans will add eye exams.

Briefly noted

California Insurance Commissioner Chuck Quackenbush cannot legally intervene in a dispute between state securities regulators and Lloyd's of London, a federal judge in Los Angeles has ruled. The regulator had tried to intervene in an action in which the California Department of Corporations is seeking to prevent Lloyd's from drawing down on members' letters of credit and to freeze the \$10 billion in Lloyd's American trust funds (BI, April 1). . . Lloyd's of London will post profits of more than £1 billion for its 1993 year of account, two research firms say. Chatset Ltd. projects £1.05 billion (\$1.58 billion) and syndicate analysts at Oakwood Underwriting Agencies Ltd. expect the total to be £1.08 billion (\$1.62 billion). . . Cecilia E. Norat, executive director of the New York State Insurance Fund, was named Insurance Woman of the Year by the Assn. of Professional Insurance Women. She will be honored at an award presentation in New York on June 4. . . The New York State Senate last month passed S.B. 5972, which would require all health insurers to cover unlimited chiropractic services. The state Assembly will now vote on an identical bill, which is opposed by business groups and insurers. . . A California Assembly bill, A.B. 3340, which would have restricted an array of alternative risk funding mechanisms in an attempt to bar physicians from procuring malpractice coverage from non-admitted California insurers, died in committee late last month. . . Orange County, Calif., has secured insurance from MBIA Insurance Corp. for a planned issue of about \$800 million of "recovery certificates of participation" designed to let the county emerge from bankruptcy. . . After 37 years with New York-based Atlantic Mutual Insurance Co., Executive Vp Joseph P. Decaminada, 60, is retiring June 1.

Resign

Continued from page 1

small London insurance broker, Deboise Holdings Ltd. Five of the other six Sphere Drake directors have an interest in Deboise.

The lease guarantees surfaced when the broker asked Sphere Drake to continue the guarantees if the broker sublet the space.

Other transactions disputed by Mr. Head included selling company cars at below market value to Sphere Drake directors.

The company cars incident and other undisclosed transactions were resolved last year by the board and culminated in Mr. Dean stepping down, Mr. Head said in an interview.

"That was a decision reached by the board as a whole," he said, referring to Mr. Dean's resignation.

But, after the recent revelation of the lease guarantee, which was approved by Mr. Dean, an independent investigation by outside counsel should be started, Mr. Head said.

"It is a publicly traded, SEC-regulated company, and I have a fiduciary duty to other stockholders. . . Once you have more than one of these things happening, you should have an independent investigation," he said.

Sphere Drake disputed Mr. Head's version of the events. A return letter from Chairman Michael Stoddart says Mr. Head resigned after he failed to gain more control over the company's affairs.

"It is entirely clear to us that your resignation from the board and your attempts to publicly embarrass and vilify the board of Sphere Drake are directly related to the board's re-

Veto

Continued from page 1

Despite saying the system needs fixing, the president appeared to leave little room for working out a product liability bill that he could sign anytime soon.

He attacked the bill's 15-year time limit on liability suits over workplace capital goods, argued that the bill would "bail out a gun dealer, for example, who knowingly sells a felon a gun or a bar owner who sells a drunk another beer before he or she hits the road," and "would arbitrarily cap punitive damages which are paid by a corporation that has engaged in egregious conduct."

He also blasted the bill as a means of circumventing the rights of states. Business lobbyists contend that he misread the bill in critical ways.

"The veto statement itself was replete with errors and that was very unfortunate," said Victor Schwartz, counsel to the Product Liability Coordinating Committee.

He faulted the president's conclusion that punitive damages under the bill would be capped for corporations that engage in egregious conduct. Under the bill, if a jury finds a defendant's conduct "egregious" and a judge agrees, the jury may award punitive damages higher than the cap.

"It's very clear that there was no relief for vicarious liability for a bar owner who sells drinks to drunks," said Tom O'Day, associate vp of the Alliance of American Insurers in Washington.

Mr. O'Day said that the only impact the bill would have on a bar owner would be relieving that person of seller's liability in some cases if the bar owner unknowingly sold a patron contaminated whiskey that the seller had not tampered with.

Among other things, H.R. 956 would have capped punitive damages in product liability cases to the greater of \$250,000 or twice compensatory damages but would have permitted judges to allow jury awards greater than those provided by the formula if a defendant engaged in egregious conduct. It also would have provided some immunity for companies that supply raw materials for medical devices.

"I'm sure the fight isn't over," said Louis Drapeau, president of the Risk & Insurance Management Society and manager-insurance and risk management of the Troy, Mich.-based

Budd Co. "We're disappointed that he did that but not really surprised given all the hype over the past few weeks. Everybody knows that the plaintiffs' lawyers are one of his largest contributors."

"Certainly RIMS will be standing there taking names" if it comes to an override vote, said Mr. Drapeau.

"Based on what I saw on the veto message, it doesn't look like there's an awful lot of room to maneuver. It's somebody else's call if there's going to be an override," said James Anderson, vp-government relations for the National Assn. of Wholesaler-Distributors in Washington. He said he would urge NAW members to lobby their senators and representatives if there is a vote.

"It's easy for the president to stand up there and say, 'I'm kind of hoping they'll send me a bill that I can sign but this isn't it.' It's quite another thing to participate in an effort to arrive at a product liability bill that he described as limited but meaningful," said Mr. Anderson.

Limited but meaningful is the sort of reform bill the president has said he could support.

"This president had an opportunity to stand up for small business and he stood up for lining the trial bar's pockets. Who do you want calling the shots?" asked Mr. Anderson.

"We do know that lawyers rank low on people's popularity poll, so clearly that's not the side to be seen with," observed the Alliance's Mr. O'Day.

"I don't think he's necessarily on the winning side," he said.

In other quarters, the president's veto was very well received.

"The president should be commended for standing by consumers and vetoing the bill. The bill is very anti-consumer, anti-worker and as a result anti-family," said Rich Vuernick, legal policy director of Citizen Action in Washington.

"When this issue is explained to the average consumer, they immediately have the same reaction as the president, which is that these proposals do nothing to hold manufacturers of defective products accountable," said Mr. Vuernick, noting that most people don't have daily experience with product liability questions.

Mr. Vuernick also objected to the perception of product liability reform being a battle between business and the trial bar.

"This is the most basic consumer issue, and that is where the media has lost this debate. The media has turned this into a special interest debate, and it's not—it's a consumer issue," he said.

Company to pay surge deductibles

By JUDY GREENWALD

BOISE, Idaho—The Idaho Power Co. is not waiting to see if it is sued in connection with a power surge that destroyed appliances in about 50 customers' homes in Pocatello on March 2.

For the sake of customer relations, the utility will pay the deductibles on the affected customers' homeowners policies, says a spokesman for the Boise-based self-insured utility. He said it is unclear how much this will cost.

On March 2, for a still-unknown reason, a mechanical splice separated and dropped a 136,000 volt power transmission line onto a 12,500 volt distribution line, causing a power surge comparable to hooking a garden hose onto a fire hydrant, said the spokesman.

The surge destroyed appliances including garage door openers and microwaves. Computers, though, were apparently spared,

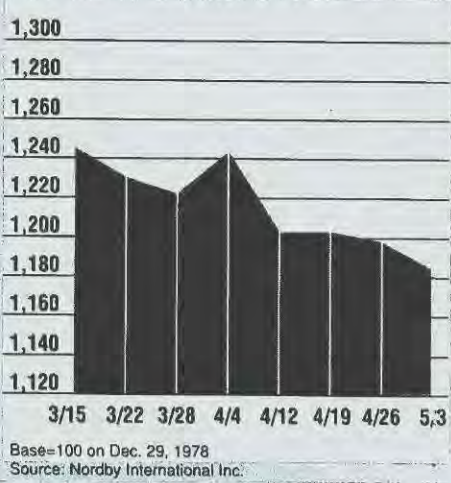
probably because people tend to install surge protectors for them, said the spokesman.

The utility has no liability in connection with the incident, he said, adding that no maintenance or program could have prevented the incident. He said the splice was returned to the manufacturer, who found no defect, and the incident is still under investigation.

"Because we had no liability, our initial reaction was to deny any claim," he said. But the decision later was made to pay the deductibles "because these people are our customers, and it's a situation where if we had gone to court, someone would have won and someone lost, and there would have been negative feelings."

The spokesman noted that at an initial meeting with the affected customers an Idaho Power official who spoke was greeted with applause. "I think it's a very positive story for our company," he said.

BI Insurance Index



PCS catastrophe options

As of May 3		Call spread		Price bid/ask	
Eastern September 1996		40/60	5.3/5.5	40/60	1.5/2.5
		50/70	4/5.5	80/100	8/1.5
		80/100	2.5/4	100/120	—/1.1
Northeast Sept. 1996		40/60	1.7/2	5/15	1.5/2.8

Total volume: 62 Total open interest: 2,772
For information on PCS cat options, call 312-435-3674.
Source: Chicago Board of Trade

British Issues

May 2 Companies	Price pence	P/E	Div. %	Yield %	1 week high—low
Commi Union	590	11.3	35.3	6.0	590—577
Genl Accident	622	9.4	38.8	6.2	634—622
Gdn Royal Exch	233	8.6	11.3	4.8	233—224
Independent	490	9.1	14.1	2.9	492—490
Royal	370	7.0	20.0	5.4	370—364
Sun Alliance	359	8.2	21.6	6.0	359—355

Brokers

Company	Price	P/E	Div. %	Yield %	1 week high—low
Bradstock	73	12.2	7.1	9.7	74—73
Fenchurch	117	7.9	10.6	9.1	117—117
CE Heath	97	21.6	6.3	6.5	97—97
JIB Group	116	11.5	9.4	8.1	116—115
Lloyd Thompson	169	10.4	11.3	6.7	170—169
Lowndes Lmbrt	144	7.8	11.0	7.6	144—144
Nelson Hurst	196	12.0	9.8	5.0	196—196
Sedgwick Grp	142	11.1	8.1	5.7	142—140
Steel Bri Jones	44	5.7	5.6	12.7	44—42
Willis Corroon	154	13.9	8.3	5.4	155—154

Source: Philip Olsen, London *Estimated. Others actual.

BI Industry Stock Report APRIL 29, 1996, THROUGH MAY 3, 1996

BROKERS	Price	Weekly % change	Year to date % change	Annual		Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk. value	Price	Weekly % change	Year to date % change	Annual		Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk. value		
				High	Low										High	Low								
ACE Ltd.	NYS	43.75	0.00	10.06	50.38	24.38	616	0	0.00	-	22.45	1.95	31.75	-3.05	-11.81	39.00	28.50	417	0.2	0.63	8	18.23	1.74	
Alexander & Alexander	NYS	19	0.66	0.00	26.44	17.88	217	0.1	0.53	24	19.17	0.99	35.25	-1.40	-7.24	38.13	29.88	54	0.2	0.57	11	17.05	2.07	
E.W. Blanch Holdings Inc.	NYS	20.875	1.83	-10.70	25.50	16.50	48	0.4	1.92	16	4.93	4.23	18.5	-5.13	-4.96	20.25	12.75	28	0	0.00	12	10.21	1.81	
Gallagher Arthur J. & Co.	NYS	33.25	-0.37	-10.74	39.50	32.13	272	1.16	3.49	13	6.48	5.13	11.25	-1.10	-1.10	12.75	9.38	63	0.2	1.78	11	6.84	1.64	
Hilb, Rogal & Hamilton	NYS	13.5	2.86	0.93	14.38	11.50	126	0.6	4.44	16	1.21	11.16	34.25	0.00	-11.61	40.00	29.25	366	1.6	4.67	14	23.64	1.45	
Kaye Group Inc.	NDQ	7.25	1.75	-9.38	10.50	6.75	11	0.1	1.39	10	NA	NA	22	3.94	-7.04	24.38	16.63	982	0.35	1.59	9	25.79	0.85	
Marsh & McLennan	NYS	93.375	0.54	5.21	101.63	76.13	891	3.2	3.43	16	19.95	4.68	44	-0.56	1.44	47.75	35.38	183	1	2.27	9	26.00	1.69	
Poe & Brown	NDQ	24.5	1.03	-1.51	25.50	22.75	138	0.48	1.96	14	5.15	4.76	29.125	4.95	5.91	31.75	22.25	846	0	0.00	-	20.37	1.43	
BROKERS AVERAGE			1.2	-2.2					2.8	18														

Top advancing issues: Titan Holdings, Inc., American Indemnity/Fin'l, Pacificare Health Sys. Leading decliners: Gainsco Inc., SAFECO Corp., Travelers Corp. Most active issue: Oxford Health Plans. The BI Index fell 1.2%; the Dow Jones 30 Industrials declined 1.6%; the S&P 500 decreased 1.6% and the NYSE Composite declined 1.5%. Book values are updated annually by Nordby International Inc.

YOU HAVE OUR
ATTENTION

You may have heard about our new approach to business.

How our locally empowered teams give you immediate responses.

And how we can provide international reach to over 135 countries.

All because we listen.

