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Business Insurance®

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

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Updates

Oregon comp case may erode exclusive remedy in state

SALEM, Oregon—The Oregon Supreme Court will decide a workplace injury lawsuit that could scrap the exclusive remedy provision of the state's workers compensation system.

The justices heard arguments in *Terry L. Smothers vs. Gresham Transfer* last week. At issue is a 1990 workers comp reform requiring that a workplace accident must be at least 51% responsible for an injury before an employee can receive workers compensation benefits, said Lisa Trussell, a lobbyist

See **Updates** *on next page*

HMO stirs debate on reviews

By MICHAEL PRINCE

MINNEAPOLIS—UnitedHealthcare's decision to drop its prior-approval requirement for treatment decisions in its health maintenance organization is sending a lighting bolt through the health care community.

UnitedHealthcare last week announced it is ending its longstanding practice of reviewing physicians' treatment decisions. This move, the first of its kind by an HMO, eliminates at UnitedHealthcare a major component of managed care.

UnitedHealthcare's decision comes after three years of study and was largely based on pilot programs that showed that review did not lower its claims costs, the company said. In fact, the HMO said it was spending more money on the administrative costs of reviewing physicians than it was saving in denying unnecessary treatment.

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Health care experts say that rarely has one company's announcement generated so much attention. The decision was hailed as bold, revolutionary and a milestone; some even say it will usher in a new era of managed care. President Clinton praised the health care company for its move.

At the same time, consultants and employers said they want more details from UnitedHealthcare on the change, while others are waiting to see whether the move will ultimately lead to higher costs for the HMO.

"I think it's the biggest news in the brief history of managed care," said Ken Jacobsen, national health practice leader for The Segal Co. in Atlanta.

"It's created a huge buzz," said the benefits director for a large employer that contracts with UnitedHealthcare.

A spokeswoman for the American Assn. of Health Plans said UnitedHealthcare's decision puts it "at the forefront of a new wave of change."

The announcement by UnitedHealthcare, the HMO unit of Minnetonka, Minn.-based UnitedHealth Group Inc., could force other HMOs to follow suit, as it has scored a huge marketing and public relations bonanza during the open enrollment season.

UnitedHealthcare's move may indicate that the drive to reduce unnecessary medical treatment has been a success, some say.

Reviewing physician treatment decisions has been central to managed care, Mr. Jacobsen said. By eliminating that approach, UnitedHealthcare is moving to the next level: using outcomes data to promote "evidence-based" health care, he said.

UnitedHealthcare said it will now focus on helping physicians practice evidence-based medicine. This involves using outcomes data from millions of patients to determine the best and most cost-effective treatment for a particular individual.

In a press release, the company said it will use "its database of more than 14 million patients to provide its doctors with data and information that compare the

See **Review** *on page 66*

Fees on RRGs triggering concerns

By JERRY GEISEL

WASHINGTON—When Congress passed the Risk Retention Act in the 1980s, it did so to give buyers new lower-cost alternatives to the traditional market.

Now a proliferation of state fees, if unchecked, could threaten the alternatives—risk retention and risk purchasing groups—the federal law created, group advocates say.

The fees, which have been imposed by roughly 30 states, generally consist of initial and annual registration fees. These fees typically are modest, ranging from $100 to $150 in most cases, according to the Risk Retention Reporter, a Pasadena, Calif.-based newsletter. Some states, though, impose much higher fees. Two such states are Nevada, which imposes a $2,450 initial and annual fee on RRGs, and Alaska, which imposes a $1,000 initial and $200 annual fee on RRGs.

And new fees are being added all the time. Hawaii, for example, is requiring the groups to pay an annual $406 fee to help offset the cost of running the state's insurance department, while Oklahoma is demanding that risk retention groups pay a $500 fee to help the department fight insurance fraud (*BI*, Oct. 18). For risk retention and purchasing groups that operate nationally, the ultimate bill for these fees can amount to several thousand dollars per year, a hefty amount for smaller groups.

"They can be a real deterrent to a small group that wants to operate nationally," said Beth Kravetz, a Washington attorney who represents about 50 purchasing groups.

"Fees act as a financial bar to coming into a state where a group has a few members, something the Risk Retention Act

See **Fees** *on page 65*

Another round for reform

Pension proposals may face veto



PHOTO: AFP

The president vetoed earlier provisions.

By JERRY GEISEL

WASHINGTON—Will the third time around be the charm for pension reform legislation?

That is the question benefit lobbyists are asking after Senate approval last week of a bill that would increase the minimum wage and includes a comprehensive pension reform package. The House Ways and Means Committee last week also approved a similar package.

The provisions are largely drawn from a Republican-backed tax cut package that Congress approved this summer, but which President Clinton later vetoed (*BI*, Aug. 2)

The minimum-wage bill—unless major changes are made—appears likely to suffer the same fate, which would again kill a package of pension changes that employer groups heartily endorse.

President Clinton described the minimum wage bill as a "cynical tool to advance special-interest tax breaks," citing the measure's pension provisions, some of which would have the effect of allowing higher-income employees to boost

See **Pension** *on page 66*

30 years in risk management

Sharing lessons learned

By MARK A. HOFMANN

VIRGINIA BEACH, Va.—The biggest lesson Bob Esenberg says he has learned in 30 years of risk management is quite simple: Never take yourself too seriously.

"If you think you're king of the hill, it's a quick trip down," he said.

For Mr. Esenberg, risk management has been a long trip up—from junior accountant to insurance administrator and then risk management administrator of Virginia's largest city, with a term as president of the Risk & Insurance Management Society in 1991-92, as well.

Remarkably, when Mr. Esenberg retires as risk management administrator on Dec. 31, he will have spent his entire 30-year career with one employer: Virginia Beach.

That wasn't exactly the career path Mr. Esenberg, 55, initially set out to follow.

"Like many of my peers in my age group and my predecessors, I ended up in risk management more by accident than design,"

See **Esenberg** *on page 44*



PHOTO: KEVIN ELLIOTT

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NEWSPAPER

Updates

Oregon comp law challenged

Continued from previous page
for the Salem-based Associated Oregon Industries, which has filed an amicus brief in the case.

The reforms eliminated any workers comp remedy for many injured employees by allowing their claims to be denied under an argument that their injuries were predominantly caused by pre-existing conditions that were only exacerbated by a workplace accident, charged attorney Michael A. Gilbertson with Ransom & Gilbertson in Portland.

Mr. Gilbertson represents Terry Smothers, a worker who is suing his employer, Portland-based Gresham Transfer. Mr. Smothers claims he was injured by inhaling fumes from acid used to clean the worksite.

A state workers comp judge and a workers comp appeals court denied Mr. Smothers' claim, citing a pre-existing asthma condition, as did a trial court and a civil appeals court, said Dick O'Brien, director of safety and personnel for Gresham Transfer. The company is insured by Liberty Northwest Insurance Corp., a unit of Liberty Mutual Insurance Co.

The Oregon Supreme Court last week heard arguments on Mr. Smothers' behalf that the state constitution calls for a compensatory remedy when someone is harmed; Gresham, however, argued that the constitution allows only a right to be heard, not a right to compensation.

If the court finds that Mr. Smothers should be allowed to bring suit in civil court, the exclusive remedy of workers compensation will be undermined, Ms. Trussell and other observers said.

Pension surplus proposal

WASHINGTON—Employers should be allowed to transfer tax-free surplus pension assets to Voluntary Employee Beneficiary Assns. to fund retiree health care benefits, a Labor Department task force says.

The 15-member task force was set up to advise the secretary of labor on various benefit issues. It also recommends making permanent a law, set to expire this year, allowing surplus pension assets to be used for current retiree health care expenses—as long as the plan is at least 125% funded.

In the cash balance pension plan arena, the task force recommended enhanced disclosure requirements. Employees working for companies that convert traditional pension plans should be able to obtain information from their employers that will enable them to make a reasonable comparison of the two plans.

ACE selling property options

HAMILTON, Bermuda—In its first major foray into the primary property insurance market, ACE Bermuda Insurance Ltd. is selling three-year options for $200 million in primary property coverage.

ACE Futures could be attractive to both policyholders that face significant catastrophe risks and buyers who fear large rate increases, said Klaus A. Gebhardt, senior vp of the property division at ACE Bermuda.

Through the purchase of an option, a policyholder will be guaranteed the ability to buy up to $200 million in all-risk capacity and $25 million in earthquake capacity at any point in the following three years at an agreed premium, he said. Policyholders could exercise the options when they face difficulty finding reasonably priced coverage, such as after suffering a catastrophe loss, Mr. Gebhardt said.

The price of the options would be a one-time payment of about 2% of the agreed annual premium for low risks or up to 20% for high-risk sites, he said. The premium would be a "fair market value" that would now typically be between 10% and 20% higher than current average premium rates, said Mr. Gebhardt.

Aviation suits settled

CHICAGO—The Boeing Co., US Airways Group Inc. and Parker Hannifin Corp. last week agreed to pay more than $57 million to settle five wrongful death lawsuits filed over the 1994 crash of a USAir jet near Pittsburgh.

The defendants settled one of the lawsuits for $25.2 million, the highest amount ever negotiated in a wrongful death case involving commercial aviation, according to Corboy & Demetrio of Chicago, the plaintiff's attorney in that case. Other law firms settled wrongful death suits against the defendants for $14 million, $11.5 million and $6 million. The defendants settled a fifth suit for an undisclosed sum. The defendants will share liability in the five cases, which were among the last pending against them.

Representatives of US Airways of Arlington, Va., and parts manufacturer Parker Hannifin of Cleveland would not discuss the settlements. A Boeing official could not be contacted.

All 132 passengers and crew were killed when USAir Flight 427 crashed during good weather while maneuvering to land in Pittsburgh. The National Transportation Safety Board in March said the Boeing-made 737-300 probably crashed because of a rudder malfunction. The rudder's design used a Parker Hannifin valve.

Boeing's insurance was led by Associated Aviation Underwriters Inc., a Short Hills, N.J.-based consortium of U.S. underwriters, sources said. A Lloyd's syndicate led the London market's coverage. Aviation underwriters around the world also participated on the risk, sources said. Marsh Inc. places the coverage.

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Errors & omissions

- A federal court in Texas last week approved Toshiba Corp.'s settlement with owners of its laptop computers. The story on page 24 did not include this development at press time.
- A Nov. 8 story on captive National Guaranty Insurance Co. omitted mention that its A- rating from A.M. Best Co. is under review, with developing implications.
- Due to conflicting information supplied to *Business Insurance*, an Oct. 4 profile of Steadfast Insurance Co. incorrectly identified the company's vp and treasurer. Thomas Buess is Steadfast's vp and treasurer.

Supreme Court to hear age discrimination case

By MARK A. HOFMANN

WASHINGTON—Employers hope the Supreme Court will use a Mississippi case to clarify what evidence employees must present to prove that they have been victims of age discrimination.



The justices last week granted review to the age discrimination case *Roger Reeves vs. Sanderson Plumbing Products Inc.* According to Sussan Mahallati Kysela, labor and employment counsel for the National Chamber Litigation Center in Washington, the suit could prove to be the major employment case decided by the justices this year.

The justices also agreed last week to decide a bankruptcy case of interest to insurers. That case—*Hartford Underwriters Insurance Co. vs. Union Planters National Bank, successor to Magna Bank*—involves whether an insurer that underwrote workers compensation insurance for a business that was in bankruptcy proceedings can sue to collect unpaid premiums from another creditor that

See **High court** *on page 15*

Risk management gets closer look

Boards put risks on table

By PAUL D. WINSTON

BERLIN—Growing pressure on boards of directors to improve corporate governance is creating new challenges and opportunities for European risk managers.

Pressure from institutional investors, national rules and laws on corporate governance and a growing awareness of the vast array of risks facing companies today are all pushing boards of directors to pay more attention to risk management, according to a variety of experts who discussed

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Additional coverage on page 50

the issue during several panel discussions at the Federation of European Risk Management Assns.' Risk Management Forum '99, held in Berlin on Oct. 24-27.

"What makes the topic of corporate governance such an issue today?" asked Christopher Lajtha, corporate risk manager of Schlumberger Ltd. in Paris.

One factor is "the rise of shareholder activism, driven by a concentration of shareholdings in mutual funds and corporate

See **Oversight** *on page 50*

Profits still healthy

But some clouds may loom for HMOs

By JUDY GREENWALD

HMO Results

Health maintenance organizations are continuing to enjoy a profitable year, with rising premium rates more than offsetting costs for the first time in several years.

But there are potential clouds on the horizon, including class-action lawsuits that will be filed by attorneys flush from their success with the tobacco industry.

Furthermore, the precise impact on the HMO market of UnitedHealth Group Inc.'s announcement last week that it is returning decision-making power over patient care to physicians is unclear. Some believe, though, that the move may help improve the industry's tattered public image (see story, page 1).

For now, however, the outlook for HMOs generally remains bright.

"Health care is a fundamental necessity that is not going away, and I think you're seeing us and

See **HMOs** *on page 4*

Good times for formations?

Some captive supporters seeing signs of market turn

By ROBERTO CENICEROS

WAILEA, Hawaii—Parents of Hawaii-domiciled captives appear split over whether deteriorating financial conditions for insurers will lead to a hardening of the traditional market.

HAWAII CAPTIVE INSURANCE COUNCIL

The cost of risk transfer is poised to increase; therefore, times are right for weighing captive formations and other self-insurance mechanisms, some captive sponsors say.

Yet the capital markets are awash with funds available for risk transfer, which could keep the overall market—except for certain pockets of hardening rates—soft for many lines, other sponsors say.

Regardless of whether the market hardens, a risk manager needs to look beyond mere cost factors when considering a captive strategy, the captive owners agreed at the 1999 Hawaii Captive Insurance Forum, sponsored by the Hawaii Captive Insurance Council and held in Wailea, Maui, Oct. 26-29.

"Frankly, if your captive has a strategy which is

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Inside

- The increasing number of domiciles for captive insurance companies is good news for U.S. insurance buyers, this week's editorial says. **PAGE 8**
- Autodesk Inc. adjusts its work/life benefits as employee lifestyles change. **PAGE 30**
- Fires in two Austrian discos last month were the result of a lack of risk awareness that seems widespread among owners of small dance clubs. **PAGE 57**
- President Clinton's Council on Year 2000 Conversion reports on preparedness of national systems. **PAGE 66**

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Integrated risk plan to cut volatility, costs

By RODD ZOLKOS

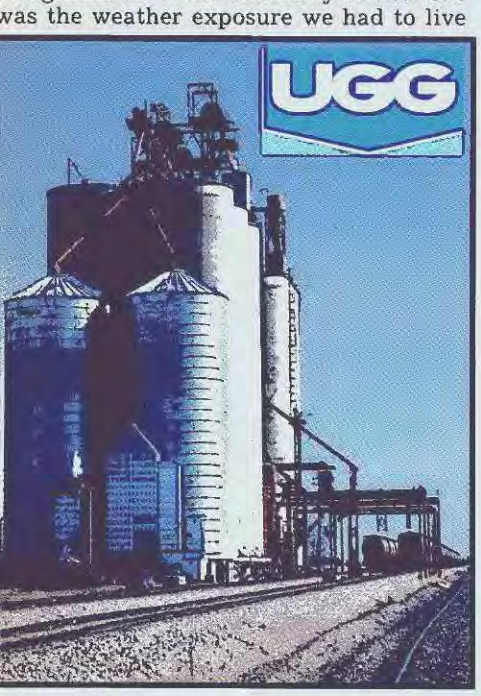
WINNIPEG, Manitoba—By reducing earnings volatility, a Canadian company's new integrated risk program will not only lower the company's cost of risk but will give it greater financial flexibility and potentially increase shareholder value.

The three-year program United Grain Growers Ltd. developed with Swiss Re New Markets Corp. and Willis Advanced Risk Management Services will cover most of the company's property/casualty exposures. Additionally, it will provide coverage for one of UGG's primary operating risks: downturns in its grain-handling business.

The program, which will be put in place at the beginning of next year, is the result of a three-year effort to take a company-wide look at UGG's risks and evaluate the exposures the company faces "on a balanced basis," said Michael J. McAndless, Winnipeg-based UGG's corporate risk manager.

"We began giving the same weight to our enterprise risk areas as we did to our traditional risk areas," Mr. McAndless said.

In examining those risks, the company recognized that "the one really critical one was the weather exposure we had to live with as an organization, and there was nothing we could really do about it but find a way to transfer it off our balance sheet," the risk manager said.



UGG's business falls into four areas: grain handling and marketing, crop production services, livestock services, and farm communications services.

Though the company has been diversifying its business, just under 60% of its total revenues and about 35% of its operating income still come from grain handling, noted Robert Nusslein, a director at Swiss Re New Markets in New York. Mr. Nusslein led the SRNM team that put together the transaction.

"So there is still a concentration there, and weather and other factors still have a great impact on total revenues and operating income," he said.

"Earnings volatility in the grain business has been sort of an inherent problem for the last 100 years," Mr. McAndless said. "Volatility in our earnings was the major driver" behind the program, he added.

"A lower volatility should improve the share prices long term for UGG as they weather certain events better than their competitors," Mr. Nusslein said. "It went well beyond just reducing long-term cost of risk."

Mr. McAndless said the process that ultimately produced the integrated risk program stemmed from a "convergence of ideas about risk management" that developed at UGG about three years ago.

The company had just gone public, the risk manager said, "so we were probably more acutely aware of the corporate governance guidelines of the Toronto Stock Exchange at that time." One of those guidelines is that directors have in place a process for handling their company's risk, he noted.

"The company had just had a treasury audit at that time by one of the accounting firms," Mr. McAndless said. "And the suggestion was made that a process should be put in place for handling risk in treasury as well."

The company assembled a risk management committee headed by Brian Hayward, UGG's chief executive officer, that included Peter G.M. Cox, UGG's chief financial officer, and other top company officials, in addition to Mr.

See **UGG** *on page 63*

Transit agency hopes to cut disability costs

CTA turns to chiropractor network

By JOANNE WOJCIK KOCHANIEC

CHICAGO—The Chicago Transit Authority is negotiating a risk-sharing contract with a local chiropractic network in order to reduce both occupational and non-occupational injury costs.

The CTA also is hoping to slash its disability-related costs by consolidating and outsourcing the administration of employee absences under its workers compensation, short-term disability and Family and Medical Leave Act programs, according to Chuck Andersen, the CTA's general manager of benefit services.

Mr. Andersen estimates the CTA spends $120 million a year in both health care and work-related medical and disability costs, of which lost time contributes between $70 million and $80 million.

"On any given day, we have 10% of our working population off," he said. The CTA has approximately 12,000 employees.

While some of these employee absences are what Mr. Andersen termed "AWOL," the majority are due to illness, injury or the FMLA. "FMLA is a real nightmare to administer," he said.

Besides often requiring medical treatment and disability payments, employee absences also increase the CTA's operating costs by requiring substitute drivers

See **CTA** *on page 48*



Cat coverage rates soft despite losses: Study

By AMANDA MILLIGAN

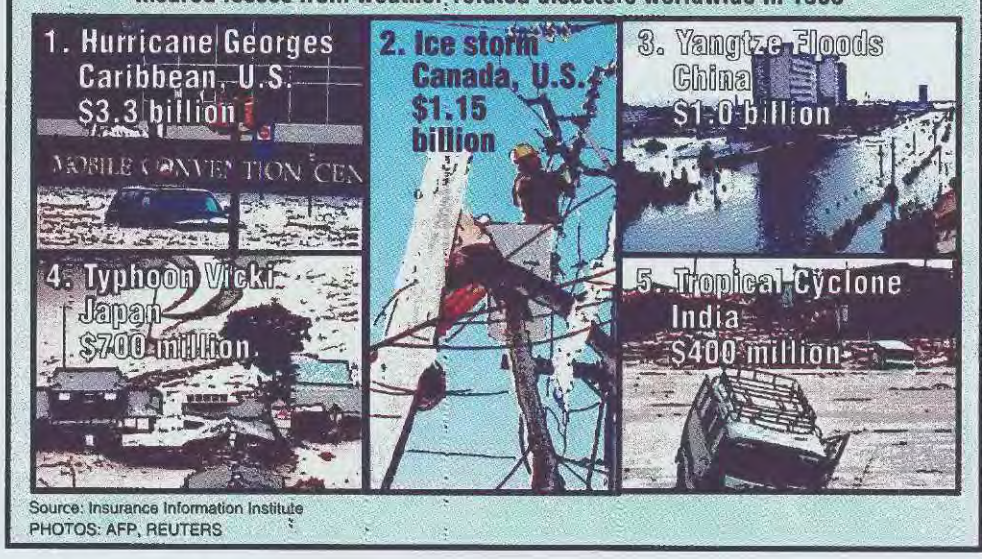
Most buyers of property catastrophe reinsurance in 1999 enjoyed a fifth consecutive year of rate decreases and ample capacity amid continuing soft market conditions, according to a recent study by Guy Carpenter & Co. Inc.

In Japan, for example, reinsurance capacity increased by 30% on average. And despite the crippling Canadian ice storm of 1998, Canadian reinsurance buyers found coverage to be affordable and abundant, according to the study, which was released earlier this month. Certain reinsurance programs in France and Germany, for example, saw rate decreases for 1999 ranging from 10% to 20%, the study reports.

The report examines the state of markets in 15 countries representing 90% of the market for catastrophe reinsurance.

But a slight market change will occur during 2000 renewals, according to the report. This is due to several catastrophic losses in 1999, such as the Australian hail storm, tornadoes and winter storms in the United States, and several earthquakes that struck around the world. The study forecasts that while property reinsurance rates

See **Cat rates** *on page 48*



NAII eyes challenges to come from S. 900

By JUDY GREENWALD

SAN DIEGO—Banks likely already have lists of insurers that are attractive acquisition targets in light of financial services modernization reforms.

But while there may be little insurers can do to avoid becoming acquisition targets, another perceived threat to insurers—federal regulation—may be forestalled if insurers work both together and with state regulators to improve the current system, say insurer executives, who contend that the current state system, with all its faults, is preferable.

Just as Gen. Dwight D. Eisenhower declared after the Normandy invasion that the rest of the war would be a "mop up" action, bank officials are in effect saying the same in light of federal legislation signed into law last week that will permit banks, insurers and securities firms to affiliate with one another, said Darryl D. Hansen, chairman, president and CEO of the West Des Moines, Iowa-based Guidant Insurance Group.

He spoke at a session on enhancing state regulation's effectiveness at the National Assn. of Independent Insurers' 54th annual meeting in San Diego earlier this month.

More conference coverage on page 11

"They have been waiting 20 years for this. . . and they have just taken the high ground," said Mr. Hansen, who formerly was an executive with a financial services company, referring to the proposed legislation, S. 900, which President Clinton signed last Friday.

The banking industry has more excess capital than the entire capital structure of the property/casualty insurance industry, said Mr. Hansen. "The banks will be the buyers," he warned.

Furthermore, banks have the advantage of being experienced with both federal and state regulation, with some 3,000 federally chartered and 6,000 state chartered banks. There is no big deal

See **NAII** *on page 10*

BI makes staff changes

Business Insurance has made two changes to its London editorial staff and one change to its New York marketing team.

Edwin Unsworth has been promoted to London bureau chief, while Carolyn Aldred has been named senior correspondent. Also, Elizabeth Ostow has joined *BI*'s communications services department in New York as promotion manager.



Mr. Unsworth

Mr. Unsworth succeeds Sarah Goddard, who resigned to pursue other opportunities. In his new role, he will manage the magazine's coverage of U.K. and international news.

Mr. Unsworth, 51, worked as a free-lance correspondent for *BI* from 1995 to 1997, when he was hired as an associate editor in London. He served as the London correspondent for the Journal of Commerce from 1974 to 1990. Mr. Unsworth was also London correspondent for VWD Financial News from 1990 to 1992, was promoted to London bureau chief in 1992 and continued in that role for VWD until 1994.

Mr. Unsworth graduated with honors from St. Bonaventure University in Olean, N.Y., with bachelor of arts degrees in English and economics.

He can be reached at 44-207-457-1425.

Ms. Aldred's new title reflects her increased contributions as an exclusive correspondent for *Business Insurance*.

Ms. Aldred, 36, served as an associate editor of *BI* in London from 1986 to 1990. Since then, she has written on a free-lance basis from Germany and the United Kingdom.

Prior to joining *BI*, Ms. Aldred was a news reporter for Packaging Week magazine and a senior reporter for Post Magazine & Insurance Monitor in the United Kingdom.



Ms. Aldred

Ms. Aldred has an honors degree in mechanical engineering from Imperial College of London University.

She can be reached at 44-124-351-2396.

Elizabeth Ostow, 28, succeeds Barbara O'Brien, who left the magazine to pursue other interests and now works on a part-time basis for *BI*, predominantly handling the magazine's trade show activities.

Ms. Ostow previously was a promotion associate at United Media in New York. Her experience also includes television production at Future Entertainment and Good Day New York, a local Fox TV morning show. She also held a position at Grey Advertising in New York, where she worked on the firm's Cover Girl account.



Ms. Ostow

Ms. Ostow received a bachelor's degree in communications and psychology from the University of Michigan in Ann Arbor.

Her responsibilities include the creation of promotional ads and direct mail pieces and preparation for the Risk & Insurance Management Society conference, specializing in RIMSTV.

She can be reached at 212-210-0780. BI

HMOs

Continued from page 2

other of our peers successfully keeping up with health care costs and managing health care cost and pricing products appropriately and successfully," said David K. Erickson, vp of investor relations at PacifiCare Health Systems Inc. in Santa Ana, Calif.

While there may be exceptions, said Mr. Erickson, the outlook for the stronger, well-managed companies "is very optimistic."

Jay M. Gellert, president and chief executive officer at Woodland Hills, Calif.-based Foundation Health Systems Inc., noted that "pricing for next year continues to look strong." Speaking during a press conference announcing FHS's third-quarter results, Mr. Gellert said rates are up by about 7.5% to 8% on the commercial side, while cost trends are in the range of 6.5% to 7%.

"Everybody's setting the stage" for high single-digit to low double-digit price increases next year, said Mark Jamilkowski, an analyst with Hartford, Conn.-based Conning & Co.

"We're firmly within the rebuilding stage of the pricing cycle," said Mr. Jamilkowski. He added that companies that have been doing well should continue to improve, while those that are not yet thriving still have another 12 to 18 months "to get there."

"The HMOs are in recovery mode," agreed Michael LeConey, an analyst with National Securities Corp. in New York. "Finally, you're beginning to see rate increases rise faster than cost increases, which has been the No. 1 problem in the industry. And as this occurs, you're going to see better earnings comparisons."

"I'm very bullish on the fundamentals, because the companies are refocusing on pricing" and on margins, said Geoffrey Harris, head of global health care research at Warburg Dillon Read in New York. "There's less of a market-share war going on," said Mr. Harris.

Among third-quarter results reported by leading HMOs were:

- RightCHOICE Managed Care Inc. of St. Louis reported $4 million in net income, compared with $515,000 for 1998's third quarter.
- Oxford Health Plans Inc. of Norwalk, Conn., reported $28.3 million in net income for the quarter, compared with a $47 million loss.
- FHS reported $35.1 million in third-quarter net income, compared with an $88.6 million loss.
- Maxicare Health Plans Inc. of Los Angeles posted $1.3 million in third-quarter net income, compared with $600,000.
- PacifiCare reported $69.3 million in net income, up 30.1%.
- Aetna U.S. Healthcare, a unit of Hartford, Conn.-based Aetna Inc., reported operating income of $148.7 million before Y2K costs, a 26% increase.
- CIGNA Corp.'s employee health care, life and disability segment, which includes its HMO and indemnity operations, had $182 million in operating income, a 14.5% improvement.
- WellPoint Health Networks Inc. of Thousand Oaks, Calif., reported $76.2 million in net income for the third quarter, up 14.2% from the comparable quarter a year ago. The $76.2 million figure excludes the impact of a favorable Internal Revenue Service ruling that affected last year's results.
- UnitedHealth Group reported operating earnings of $239 million, a 12% increase.
- Louisville, Ky.-based Humana Inc. reported $22 million in net income for the third quarter, down 59.3% from 1998's comparable period.
- Kaiser Permanente reported a net loss of $29 million for the third quarter compared with a net loss of $89 million. Kaiser's third-quarter results reflect operating losses of $30 million in the Northeast and North Carolina regions and a $125 million provision for losses associated with its withdrawal from those regions.

Analysts say third-quarter results were generally as expected. There was "really nothing dramatic," said Conning's Mr. Jamilkowski. "Everybody's doing what they should be doing, and it's business as usual."

See **HMOs** *on page 6*



IT'S NOT JUST
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ANYMORE

Disability management issues are not as clear as they used to be. Nothing's cut and dried anymore. That's why, when it comes to managing care and costs, you need a very savvy partner, one who can read between the lines.

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HMOs

Continued from page 4

Results were "in keeping with what we have seen in the last couple of quarters," said Rob Mains, an HMO analyst with Advest Inc. who is based in Albany, N.Y.

"This was a very strong quarter for HMOs, with several of them beating earnings estimates," said Mr. Mains. "We're seeing a positive dynamic between premium rate increase and medical cost inflation. Premiums are rising faster than costs."

"There were a lot of concerns going into the third quarter that we would see some significant spikes in medical costs trends,' but they did not materialize, said Gary Frazier, an analyst with Deutsche Banc Alex. Brown in New York. "Most of the major companies were able to keep their medical cost trends under control," he said.

"We saw yet another quarter where the vast majority of the public companies met or exceeded earnings expectations. And I think the quality of the earnings, in general, was pretty high, in that many of the companies appeared to build reserves and generated operating cash flows that were well in excess of book income," said Warburg Dillon Read's Mr. Harris.

"That suggests to me that, even though we have had some increase in medical cost trends, premiums on the commercial side of the business are going up more quickly than the costs and are sticking. In other words, employers are absorbing them," said Mr. Harris.

"This really marks, I would argue, probably the sixth quarter in a row now where we've seen improvements and some consistency in earnings, at least among the larger companies," he said.

There were also some surprises on the positive side, with Oxford, RightCHOICE, United, WellPoint, CIGNA and Aetna exceeding expectations, said Mr. Harris. He added that this has been the first year since 1995 when all of the larger HMOs have at least met analysts' expectations.

'The big story...had nothing to do with HMO pricing or medical costs but with the threat of class-action litigation, and that remains kind of foremost in investors' minds,' says Rob Mains.

Not all companies fared well, said Arun Kumar, a director at the rating agency Standard & Poor's Corp. in New York. "Many of the large companies, like CIGNA, United WellPoint and Aetna, turned in strong results," he noted. But many of the regional and smaller companies "continue to struggle."

These include Milwaukee-based United Wisconsin Services Inc., which reported a $4.7 million net loss for the third quarter compared with $3.5 million in net income a year earlier.

Mr. Kumar predicted this dichotomy will continue next year. "We still expect the large companies to do very well, largely as a result of the favorable premium pricing environment, combined with various cost reduction methods, especially on the pharmaceutical side," he said.

But, Mr. Kumar added, "we expect, again, many of the small companies to continue to struggle, because they're unable to pass on higher premium rates to their memberships." He said that the companies' inability to increase rates occurs because they have insufficient clout in their individual markets.

Mr. Kumar said he expects "many of the small companies to be put into play next year" as acquisition targets. "Several large companies are looking for smaller acquisitions to effectively round out their portfolios," he said.

Analysts say one major issue that has been hanging over the HMO industry is the fear of class-action lawsuits amid reports that attorneys who have been successful in pursuing class actions against the tobacco industry are now turning their attention to HMOs. Lawsuits seeking class-action status have already been filed against Humana and Aetna U.S. Healthcare.

An Aetna spokesman said four separate suits seeking class action status have been filed against the company, including two that are national in scope and two applicable only to California residents.

The suits present a range of legal theories, she said. "It is our point of view that the basis for all of them is pretty slim and that the main reason for them is to target the industry for the profits of the attorneys involved and to target the industry also on a philosophical basis," she said. Aetna is being asked to pay "what essentially amounts to ransom payments or extortion payments" to the attorneys that have filed the suits, she said.

Analysts say that concern over the lawsuit threat has helped drive down the stock prices of many HMOs. As of Nov. 5, the eight HMOs tracked by the *Business Insurance* Industry Stock Index are down 20.13% for the year.

In the third quarter, said Advest's Mr. Mains, "the big story...had nothing to do with HMO pricing or medical costs but with the threat of class-action litigation, and that remains kind of foremost in investors' minds at this juncture."

"Even though a rational analysis raises some pretty serious questions about the viability of some of the threatened actions, that doesn't assuage investors, because share prices of these companies are, by and large, lower than they were" when reports of the possibility of lawsuits began to circulate in late September, he said.

S&P's Mr. Kumar said, "Clearly, the investors are panicked and, as a consequence, health care stocks have dropped substantially in the past few weeks. Until the judicial process plays out, we don't know where all this is going to end up."

There are two issues involved here, said Mr. Kumar. "One is the ability to get the lawsuits classified as class action." It is uncertain how successful plaintiff attorneys will be in accomplishing this, he said.

The second issue is whether employer-sponsored health plans will be exempt from being sued under the Employee Retirement Income Security Act of 1974, said Mr. Kumar.

It is too soon to foretell the suit's ultimate outcome, agreed Mr. Frazier of Deutsche Banc Alex. Brown. "My general sense is that HMO suits are harder to certify and harder to keep together than tobacco litigation because, with tobacco, you can rally your plaintiffs around the issue" of lung disease. It is an issue you can "get your arms around," he said.

In contrast, HMO-related litigation involves individuals with different ailments, and it will be difficult for attorneys to pull together one cohesive issue that is "going to hold every plaintiff at the table with them," said Mr. Frazier.

National Securities' Mr. LeConey said the issue of class-action lawsuits is "just part of the larger problem that developed, which was that people regarded managed care as a magic bullet for health care costs, and it wasn't. I just don't see those as going very far."

Douglas L. Meyer, an analyst with Duff & Phelps Credit Rating Co. in Chicago, said, "Whenever these things happen, there are concerns, and it creates uncertainty in the industry, which we don't like to see. Near term, the impact is minimal. Long term, it's just kind of an uncertain issue, but...the ultimate outcome isn't going to be felt for a long time."

A Humana spokesman said the suits' eventual outcome could take years to determine. But if the plaintiffs win, said the spokesman, "it's our contention that, depending on what the settlements are, it would dramatically increase premiums, and we'll find more and more Americans without health care."

Even if the lawsuits are eventually found to be frivolous, it will tie up HMO managements' time and generate expenses, said Richard Shaw, an analyst with Oldwick, N.J.-based A.M. Best Co. "It'll distract management from day-to-day operations," he said.

Mr. Frazier pointed to the United-Health Group's announcement on physician review as a likely factor in how the legal environment develops. If other HMOs follow United's lead, "that would be a pretty dramatic shift in the way managed care companies go about their business," he said.

It is likely to "take a little bit of steam out of the current liability movement in the country," as well as out of criticism that has been levied against the industry, said Mr. Frazier.

The only negative impact from the HMO's shift may be the possibility that, if pre-authorization is not required, doctors will become less-disciplined in the procedures they order and the prescriptions they write, which could ultimately lead to increased medical cost trends, he said.

It is "going to be very interesting" to see how the United policy plays out, said Mr. Meyer of Duff & Phelps. If providers know their actions are being reviewed and scrutinized, it "creates something of a sentinel effect," which has a positive effect on reducing claims, he said. If providers are not scrutinized, said Mr. Meyer, the impact is a "big if."

But Mr. Shaw described the United policy as "a way to get positive press out saying the HMOs are not dictating medical policies, that this is still in the hands of the doctors. I think it's just restating what's already been existing," he said.

"I think it's terrific PR," said Todd Richter, managing director at Banc of America Securities in New York. But if you read the statement issued by United, "they approve 99% of (doctors') decisions anyway," he said. BI

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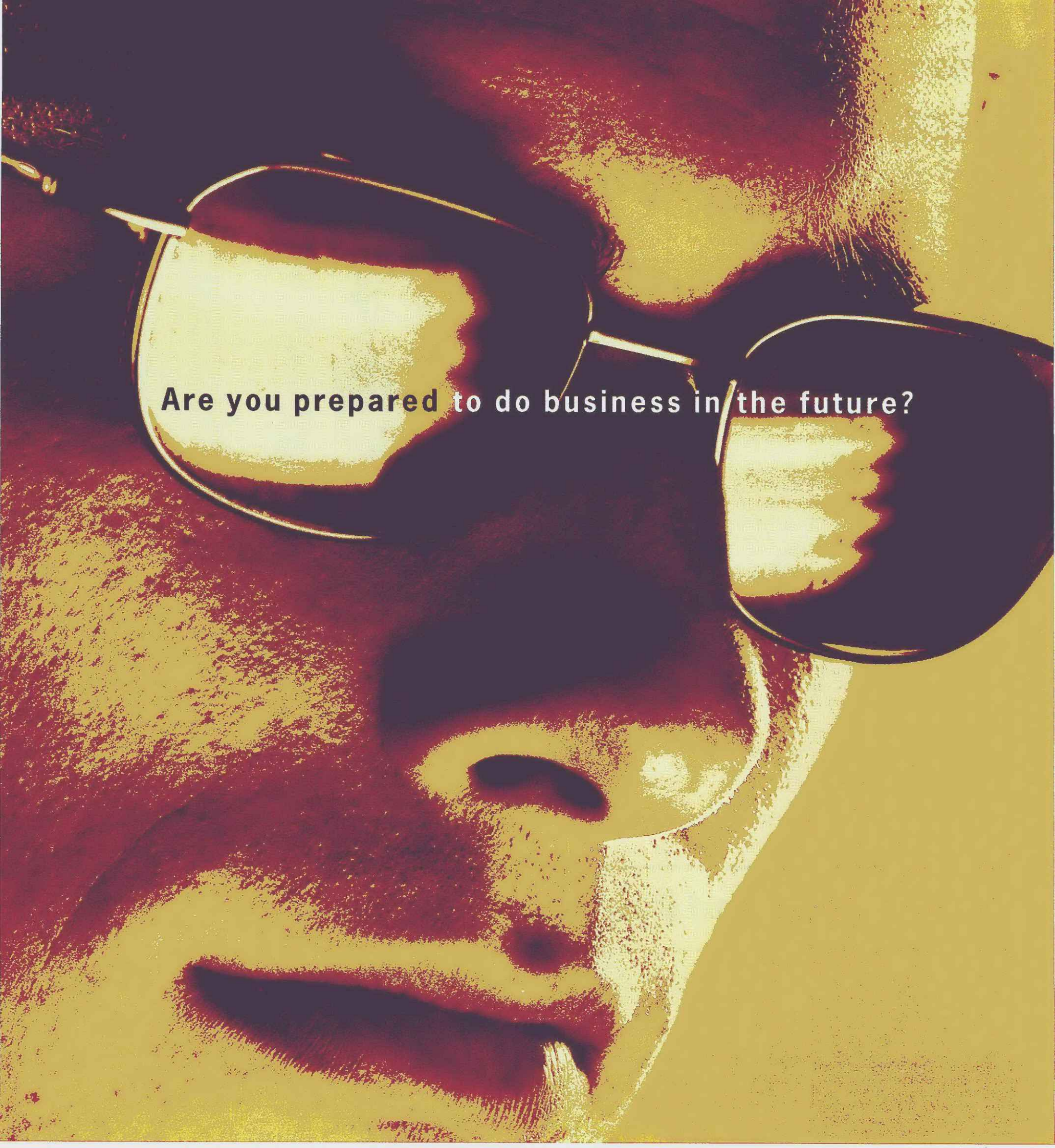
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Opinions

Captive choice expanding

TWENTY-FIVE YEARS AGO, there was only one location—Colorado—for companies seeking to form a captive insurer within the United States.

Today, however, 13 states have statutes that allow companies to form captive insurers, and a handful of other U.S. jurisdictions are considering the matter. The District of Columbia is the latest to consider adding a captive insurance statute, as it seeks to improve its reputation, boost the local economy and capitalize on its wealth of association headquarters (*BI*, Nov. 8).

This growing number of domiciles is good news for U.S. insurance buyers. The more domiciles there are, the more convenient it can be for businesses to set up a captive insurer. The increase in domiciles may even promote more healthy competition among domiciles for captives. Anything that increases the ease of setting up a captive increases the flexibility of risk financing for buyers.

Colorado adopted its captive law in 1972. That was nearly a decade before Vermont, which today is by far the largest U.S. domicile, enacted its captive statute in 1981. Colorado's law even precedes Bermuda's 1978 amendments to its 1975 Insurance Act, although Bermuda was accepting captives long before the Rocky Mountain State made it official, and the island has since become the undisputed leader among captive domiciles.

Having more than a dozen states that allow captives—in addition to the many international domiciles—not only increases the convenience of having domiciles nearby but also may help make this risk financing alternative seem far less exotic to some companies. Bermuda, for example, in spite of its demonstrated excellence as an insurance center, no doubt still raises eyebrows in some boardrooms when risk managers suggest it as a captive domicile.

Making it easier to form a captive also gives buyers the increased flexibility needed to create a viable alternative to traditional insurance. Amid all the rumblings that the soft market may be firming, this is more important than ever.

Not all of the U.S. domiciles are successful, however.



Some, including Colorado, have seen their numbers of captives dwindle, others have yet to obtain a single captive, and some do not actively encourage the formation of captives even though their laws permit them.

This underscores the fact that the selection of a domicile should not be made on the basis of proximity alone. Other factors to be considered include whether a domicile has enjoyed the consistent support of regulators and lawmakers, whether it has a sufficient number of professional service suppliers, and whether it has a reputation as a viable business center and not as a tax haven.

For many buyers, the best choice may not be their home or neighboring state, but a domicile thousands of miles away, such as Bermuda or Guernsey.

The important development, however, is that with more domiciles than ever, risk managers can choose from a wide array of domiciles the one that best meets their needs.

Letters

Changes demand industry response

To the editor: The insurance industry is a service industry and, accordingly, it attracts service-oriented people to work within its ranks. Service-oriented people are good people, people willing to help others and solve problems. Throughout the decades, these service-oriented individuals have built insurance empires on the foundation of their service-oriented style and the relationships they have formed with their clients.

The 1998 and 1999 Quality Scorecards, published by RIMS and The Quality Insurance Congress, found that relationships are a key component to customer loyalty within the property and casualty insurance sector.

But changes in the world are forcing change on the insurance industry. There is an expanding definition of risk and a changing paradigm of enterprise exposures to which the insurance client must respond. This has raised clients' need for industry expertise.

In addition, changes in technology are causing clients to have to compete in a global, electronic marketplace. This has raised clients' need for technologically enabled services from their insurance companies and brokers.

The relationships that formed the foundation of client loyalty in the past must now, more than ever, be shared with industry expertise and technological efficiency.

The implication of these changes for the insurance industry is far greater than it might appear on the surface. The insurance industry is actually a vast system, a type of living machine. Because of the various players or participants involved in any given transaction, the attributes of one player impact the performance of another. This system has obvious defects.

According to research by BancBoston Robertson Stephens Inc. of San Francisco, in the insurance industry there is $54 billion in transactional waste, technological tools that cannot communicate across the systems, and deliverables are rarely produced on time and efficiently.

For example, the process of issuing a policy to a commercial client involves the internal systems of the broker as well as those of the insurer. Inefficiencies or errors committed by either vendor affect the quality that the client receives, the satisfaction the client gains for the transaction, and the insurance industry as a whole.

One of the major insurance brokers conducted an internal study of the process of policy issuance. The results of analyzing 429 policies were eye-opening:

- 85.4% of 41 auto policies were issued with errors.
- 69.2% of 159 package policies had errors.
- 58.7% of 429 policies of all types had errors.
- There were 659 errors in all 429 policies,

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Letters to the editor

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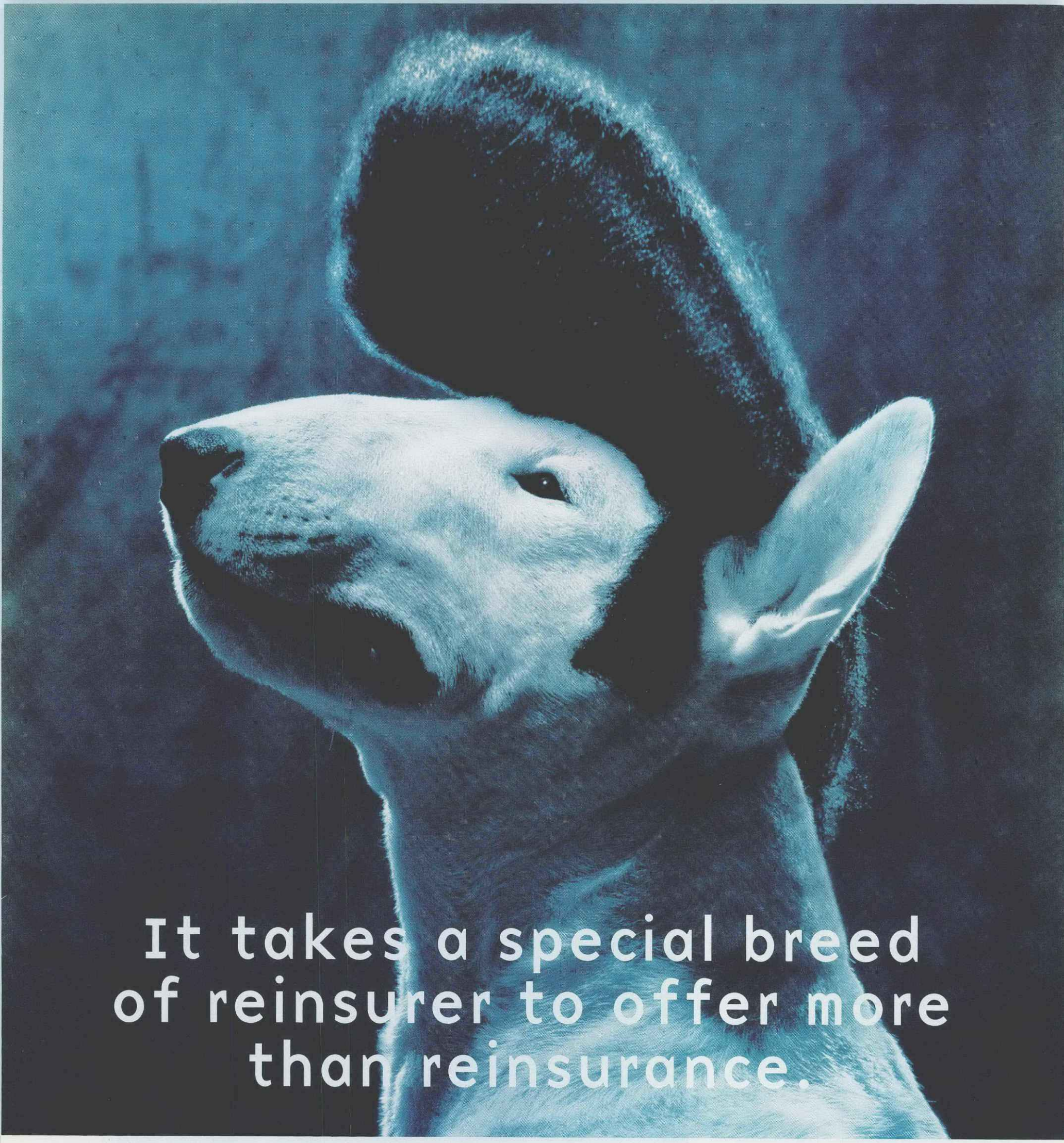
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NAII

Continued from page 3

with state regulation from the bankers' perspective, he said. "They've lived with it for years."

Banks have also successfully made the transition from a regulated to a deregulated environment both in product and in price, said Mr. Hansen. After the Depression, he noted, when solvency was a "key issue," product and price became regulated by the government, and the only way a bank could fail was through poor underwriting of lending risks.

That has changed in recent years, though, as it became clear financial services could be delivered in ways that transcended product and price regulation, Mr. Hansen said.

Furthermore, banks know how to wield influence at both the state and federal levels to their benefit. "They know how to play the game" and have the ability to influence change at the state level "like nothing we've ever seen before in the insurance industry," said Mr. Hansen.

Banks also have the ability to use sophisticated databases to analyze customers, he said. They can use this data to predict the financial products their customers will buy next, he said.

On the other hand, the insurance industry is a "fragmented opponent," he said. He quoted another speaker—Wayne D. Wilson, vp-legislative and regulatory affairs for the Farmers Insurance Group in Los Angeles—who said the California insurance industry has quadrupled the number of its lobbyists to 40 from 10 in 1980.

"We are a fragmented industry," said Mr. Hansen. "We are fragmented with our associations, and we are fragmented with our companies and regulations," he said.

Over the next few years, banks will buy both life and property/casualty insurance companies, Mr. Hansen predicted. "They've probably already started with the courting process," he said.

The banks will quickly integrate common processes to create a "single, unified customer base" among bank and insurer clients, Mr. Hansen predicted, also. It will then sell its products "one product at a time," using multiple distribution channels, including the Internet.

Banks will also seek to reduce price and product regulation, said Mr. Hansen. And if the insurance industry successfully resists this to some degree, bankers will just do an "end run" and work at the federal level, asking for a dual-charter system of federal and state regulation, said Mr. Hansen.

Also speaking at the session was Linda S. Kaiser, senior vp, general counsel and secretary for Philadelphia-based Reliance Insurance Co.

Ms. Kaiser, a former Pennsylvania insurance commissioner, said one way to enhance state regulation would be for insurers and trade associations to provide regulators with information to help them stay current with rapid industry change.

No state regulator "has the luxury of an R&D department," she said. This puts regulators in the position of being reactive, rather than enabling regulators to act in a "well-thought out, prospective manner," she said.

Ms. Kaiser pointed to the unraveling of the Unicover reinsurance pool as an example. Although workers compensation carve-outs by life reinsurers had been common in the industry for nearly 20 years before it became an issue this year, Ms. Kaiser said many state regulators told her privately that "this was not a matter that was on their radar screen." Insurers and the NAII can help state regulators by filling in their "knowledge void," she said.

Another issue that has "not appeared on the regulatory radar screen" was Y2K, said Ms. Kaiser, who noted the NAII has helped state regulators cope with this issue.

State regulators also may be unfamiliar with how to improve insurers' lives, said Ms. Kaiser, who urged insurers to be "aggressive" in this respect.

In addition, insurers can enhance state regulation by challenging inappropriate and outdated regulation, she said.

Ms. Kaiser also described the accreditation process, a designation through which the National Assn. of Insurance Commissioners recognizes state insurance departments that meet a wide range of minimum regulatory standards, as a "big disappointment."

States "don't trust each other any more now" than they did before the process was introduced, and the streamlining process that could have taken hold if accreditation was given more weight has not said Ms. Kaiser.

Insurers should also continue to challenge illogical or poorly conceived public policy, said Ms. Kaiser,

Banks have 'probably already started the courting process' to buy life and P/C companies, says Darryl D. Hansen.

noting that before she left for the NAII conference she had to sign her name dozens of times on documents certifying Reliance's quarterly results to comply with different state regulations. "I can't think of a less productive use of anybody's time," she said.

She also noted that Reliance Group Holdings, which has filed a registration statement with the Securities and Exchange Commission for an initial public offering of up to 20% of the common stock of Reliance Surety Group Inc., was told it could not offer shares in Delaware without first obtaining special permission from the Delaware insurance commissioner, despite having already complied with SEC regulations and state law. The question of whether "that law makes any sense in a global universe" should be asked, said Ms. Kaiser.

The Delaware law might have "made some sense" at one time, Ms. Kaiser said, but right now, she does not view it as legitimate public policy.

Meanwhile, said Ms. Kaiser, "we are very badly off track" on the issue of commercial lines deregulation proposals now before the NAIC. NAIC committees are working on developing a single model law for uniform rate and form filing that would include greater flexibility for commercial insurers.

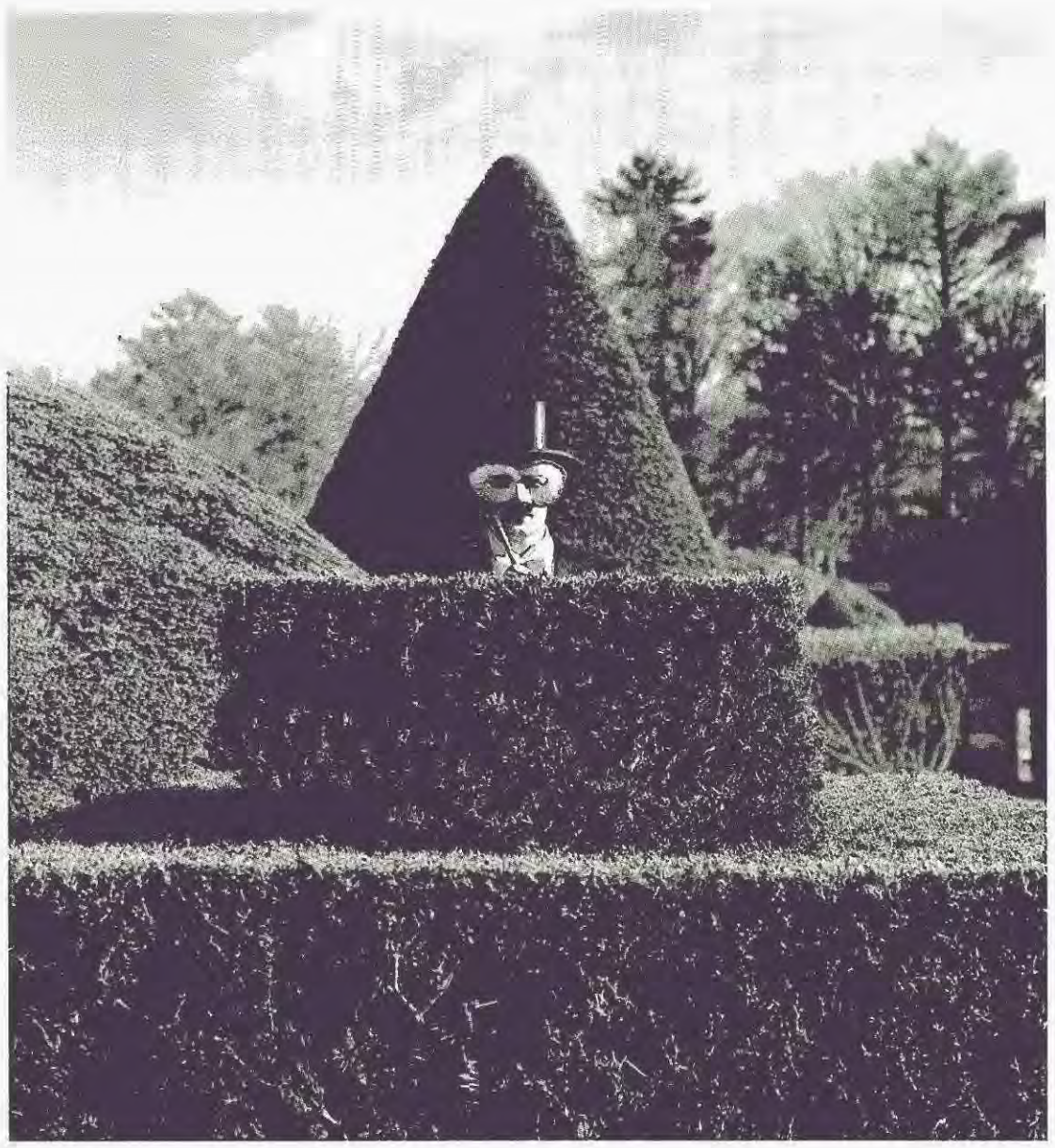
Insurers should also challenge regulatory failures, said Ms. Kaiser, pointing to the scandal involving alleged swindler Martin Frankel, whom the FBI charged with draining hundreds of millions of dollars of assets from a group of life insurers (*BI*, July 5). "We end up paying for those failures," she said.

Insurers should also work against protectionism in both legislation and regulation, said Ms. Kaiser.

Also speaking at the session was Walter Bateman, chairman, president ad CEO of Harleysville, Pa.-based Harleysville Insurance Cos., who said there are "obvious parallels" between state regulation and the local management of Har-

Continued on next page

out of our minds™



Continued from previous page
leysville companies.

Local managers know a lot more about distribution forces and underwriting influences in their own territories than does top management, Mr. Bateman said.

Similarly, when compared with a federal alternative, "state regulation creates an environment of flexibility and hopefully responsiveness," said Mr. Bateman.

State insurance departments have to be more familiar with their domestic companies than the federal government could be, said Mr. Bateman. They can help insurers work out solutions or problems and issues, he said. "I don't know how we would do this at the national level."

State regulation also protects consumers, he said. While the primary regulator is the insurance department in the state of domicile, other insurance departments look over the activities of insurers that operate in their own states as well. "This double layer of oversight only helps us" and the consumer, Mr. Bateman said.

He also agreed with Guidant's Mr. Hansen that the financial services modernization legislation is among the major challenges facing insurers. Mr. Bateman said he fears large insurers and financial services firms will try to get rid of state regulation, which will create a more monopolistic environment.

Another challenge is the "tidal wave" of e-commerce, he said, noting "the Internet doesn't recognize geographic boundaries." If the states do not figure out how to advance the cause of e-commerce, he warned, "then the federal government will."

Also speaking at the session was John R. Graham, executive vp and CEO of the Manhattan, Kans.-based Kansas Farm Bureau Services Inc. State regulators spend a lot of time focusing on minutiae, "and sometimes the big issues get away from us," said Mr. Graham.

Mr. Graham said some believe federal regulation would be a lot easier than dealing with 50 state regulators. But he said there is not an "either/or" situation insofar as state and federal legislation is concerned.

Even if federal regulation is enacted, state regulation, which is well-entrenched, will not go away, Mr. Graham said. "It's going to be dual regulation," which will further complicate the regulatory picture.

Mr. Graham called on insurers to communicate the advantages of state regulation. 'We've got to find ways to reduce the level of politics" in insurance regulation, said Mr. Graham, charging that insurance regulators tend to be more political than regulators of other industries.

"The biggest need," he concluded, though, "is to get away from the minutiae state regulators tend to concentrate on." BI

NAII, Alliance exploring merger

By JUDY GREENWALD

SAN DIEGO—The National Assn. of Independent Insurers and Alliance of American Insurers "nicely complement each other," but there is no guarantee that merger talks between the two groups will be successful, says the NAII's outgoing chairman in his farewell address.

But if the two organizations do merge, NAII members will wield even more influence, say both he and the NAII's president.

Jack R. Pollock, the outgoing chairman, and President Jack Ramirez discussed the possible merger during speeches at the association's 54th annual meeting in San Diego earlier this month.

Mr. Pollock noted that the NAII's board of governors several weeks ago adopted a resolution to enter into good-faith negotiations with the Schaumburg, Ill.-based Alliance on a possible union, and the organizations are now in preliminary stages of negotiations.

"The principal reason for considering a new organization is to create a more powerful, stronger and unified voice on issues of importance to our companies and our industry," said Mr. Pollock, who is also president and chief executive officer of Sun Prairie, Wis.-based General Casualty Cos.

"The Alliance is an excellent organization," said Mr. Pollock. "NAII and the Alliance are philosophically aligned," particularly in their support of state-based regulation of insurance, he said.

But, he added, "I cannot predict the outcome of the negotiations."

The NAII's board will work to create an equitable and mutually beneficial agreement that will "not in any way diminish the standards on which the NAII stands," said Mr. Pollock, who noted that no agreement can be ratified without the full NAII membership's prior approval.

During his address to the association, Mr. Ramirez said: "The NAII has never been stronger, but our companies can have even more influence if they join with others in an even larger organization with more resources and more companies."

Mr. Ramirez said that the four existing property/casualty insurer trade organizations—the NAII, the Alliance, the American Insurance Assn. and the National Assn. of Mutual Insurance Cos.—each conveys its own separate message, and "we spend an inordinate amount of time and resources just trying to reach consensus on every important issue.

"Each organization reaches a slightly different conclusion or position through their policymaker processes," said Mr. Ramirez. This, he said, is akin to giving two chefs the same ingredients and putting them in separate kitchens, which results in two slightly different dishes.

Although the insurance industry might once have had the luxury of supporting many trade associations, "there are too many threats from too many quarters today," said Mr. Ramirez.

And while there are fundamental differences among some of the trade groups that will make it impossible to consolidate into a single industry association, "we can try to bring a greater percentage of the industry together," at least among those companies where there is support for state regulation or a fear of federal or dual regulation, Mr. Ramirez said.

The NAII president also discussed the federal financial services modernization legislation, S. 900, which would permit banks, insurers and securities firms to affiliate with one another.

Although the Glass-Steagall Act, a Depression-era law that separates those industries, "deserves to die," its death has been "messy," said Mr. Ramirez. "Congress did not use a smart bomb to kill it. Carpet-

See **Merger** *on next page*

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Merger

Continued from previous page
bombing might be a better analogy, and there have been some innocent casualties," he said.

Those harmed unnecessarily by this legislation include state insurance regulators and, indirectly, the insurers they regulate, as well as consumers who buy property/casualty insurance, Mr. Ramirez said.

The NAII's support of state regulation is not based on a "cuddly" relationship with state regulators but on a number of realistic business judgments, he said.

State regulation has worked for more than 200 years to help create the most competitive insurance marketplace in the world, he said. Furthermore, regulators in each state are in a better position than any federal regulator to know how to avoid harming the industry and consumers.

Although state regulation does multiply the industry's exposure to the risk of bad regulation, at least that risk is not concentrated in a single federal regulator capable of doing irreparable harm, he said.

"And finally, we know, as a practical matter, that the federal government's creeping encroachment into the regulation of insurance is most likely to result in a mishmash of state and federal regulation—layers of bureaucracy to deal with," said Mr. Ramirez.

Banks, which have heavily lobbied Congress on the issue, fear state regulation of their insurance activities, preferring to have their insurance activities overseen by the federal banking regulator, according to Mr. Ramirez.

This means that S. 900, "which was presumably designed to open the door to competition, has instead created a potential competitive advantage (for banks), an unlevel playing field," he said.

Mr. Ramirez said the bill would pre-empt state insurance regulation in a number of ways, and "we anticipate there could be significant adverse impacts."

Federal encroachment 'is most likely to result in a mishmash of state and federal regulation,' says Jack Ramirez.

Examples cited by Mr. Ramirez include bill language that says insurance regulators cannot "prevent or restrict" banks from exercising their powers under the National Banking Act to engage in the business of insurance. This would limit states' abilities to properly regulate the function of insurance without federal involvement, he said.

Fortunately, there is sure to be a technical corrections bill to remedy defects discovered in this one, said Mr. Ramirez. "We will have another chance," he said.

Moving to another industry concern, Mr. Ramirez said class-action lawsuits are increasing "at an alarming rate."

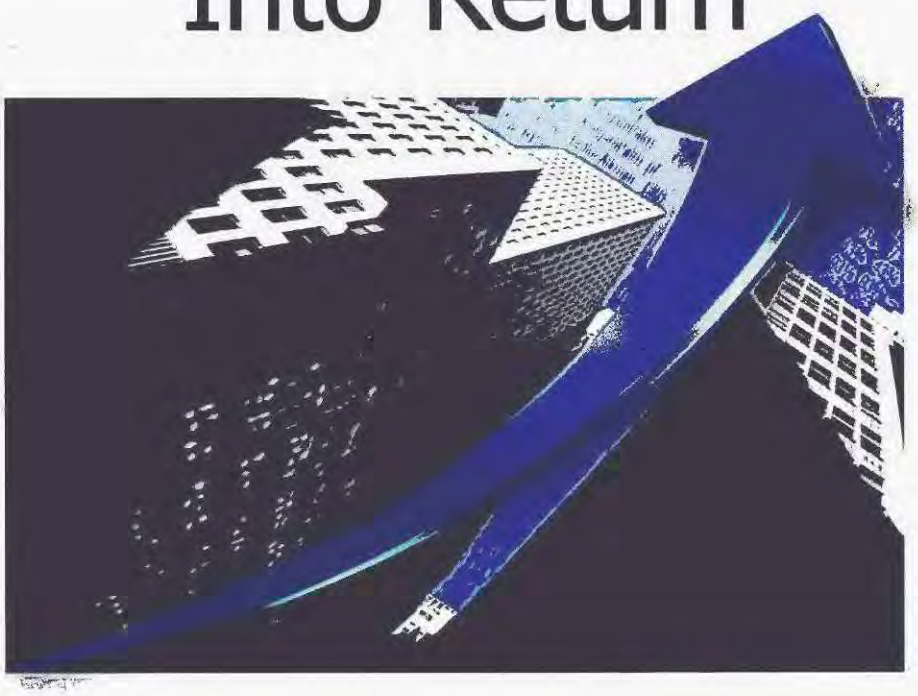
Insurance industry opponents are using the judicial branch to circumvent the power of state governments, legislatures and regulators to determine the rules by which insurance companies must do business, he charged.

The automotive aftermarket parts suit against State Farm Mutual Automobile Insurance Co. is the most publicized recent "horror story," said Mr. Ramirez, referring to the $456 million jury award against the insurer, which was followed by a $600 million punitive damages award levied by the Illinois judge in the case (*BI*, Oct. 18). This issue should be decided by elected officials who have a broad perspective, rather than by a state court, he said.

Trial lawyers are circumventing the legislative and regulatory process "by filing suits before friendly judges who submit these decisions to impressionable juries" that have neither the training nor background to consider the broader ramifications of their actions for consumers across the nation, said Mr. Ramirez.

Although the NAII is working hard on class-action lawsuit reform, trial lawyers are fighting hard in the political arena as well. "Clearly, we need to strengthen our hand here," said Mr. Ramirez, calling for greater unity in the industry. BI

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NAII attracts 1,600

SAN DIEGO—More than 1,600 registrants attended the 54th annual meeting of the National Assn. of Independent Insurers, held Oct. 31 to Nov. 3 in San Diego.

This included 400 member company executives as well as 1,200 other industry representatives and guests. Many of the attendees spent much of their time, when not in sessions, meeting with brokers and reinsurers to conduct year-end renewal negotiations.

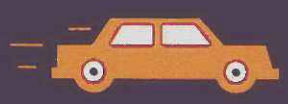
Speakers at the session included Wayne D. Wilson, vp-legislative and regulatory affairs for the Farmers Insurance Group in Los Angeles. Mr. Wilson discussed California's changing demographics, with its growing percentage of foreign-born citizens, and the implications for the insurance industry of having a Democrat-controlled Legislature and Democratic governor.

Other speakers included Leon E. Panetta, a former U.S. representative and former chief of staff to President Clinton; economist Arthur B. Laffer, former chief economist at the Office of Management and Budget who is known as the father of supply-side economics; and futurist James Canton.

In addition, Republican conservative Alan L. Keyes, a candidate for the Republican Party's Presidential nomination, debated liberal commentator Bill Press. Comedian Jimmy Tingle and singer Dionne Warwick entertained the attendees.

During the conference, Gen. Robert T. Herres, who is chairman and CEO of San Antonio-based insurer USAA Group, was elected NAII chairman. Gen. Herres succeeds John R. Pollock, who is president and CEO of Sun Prairie, Wis.-based General Casualty Cos.

Next year's meeting will be held Oct. 22-25 in Orlando, Fla. For more information, contact the NAII at 2600 River Road, Des Plaines, Ill. 60018; 847-297-7800; fax: 847-297-5064; www.naii.org.







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High court

Continued from page 2

holds the bankrupt company's collateral.

The age discrimination case began when Roger Reeves, a 57-year-old employee of Columbus, Miss.-based Sanderson Plumbing, lost his job as supervisor in 1995 after 40 years of service.

The plumbing company claimed that Mr. Reeves had failed to keep accurate time records; the company also fired a 45-year-old manager for the same reason.

Mr. Reeves, noting that Sanderson Plumbing filled his position with workers who were much younger in age, filed suit under the Age Discrimination in Employment Act.

A Mississippi jury ruled in favor of Mr. Reeves, and the U.S. District Court for the Northern District of Mississippi awarded Mr. Reeves a little more than $100,000 in compensatory and other damages.

Sanderson Plumbing appealed, and a panel of the 5th U.S. Circuit Court of Appeals ruled on April 22 this year that Mr. Reeves had not presented enough evidence for a jury to rule that his firing was based on age.

Among other things, Mr. Reeves noted that before his firing, a Sanderson executive had told him he was "too damn old to do the job" and that he was so old that he must have come over on the Mayflower.

Court papers showed that the company had 20 "management people over the age of 50," including one who was 68. Court papers also showed that Sandra Sanderson, the company president who fired Mr. Reeves, was 52 at the time of the firing.

The court of appeals said that Mr. Reeves had not shown that the comments about his age, which were made some months before he was fired and not during the firing process, were enough to prove age discrimination.

The court further noted that the executive who had said the comments was only one of three executives who had recommended that Mr. Reeves be fired for failing to carry out his job duties, and that neither of the other two gave any indication of being motivated by age.

Mr. Reeves' appeal to the Supreme Court held that the appeals court used too high a standard in reversing the lower court's decision.

This so-called pretext-plus standard—which three circuits have upheld—requires that the plaintiff show additional bias to avoid a summary judgment in favor of the defendant. Six other circuits have not required the additional proof of bias for allowing a case to go to a jury.

Employers should watch the Reeves case carefully, according to Gerald L. Maatman Jr., partner in the law firm of Baker & McKenzie in Chicago and chairman of that firm's U.S. labor, employment and employee benefits practice group.

"It's going to hopefully answer for lawyers and employers the quantum and nature of evidence that will permit a jury to find that an employer engaged in illegal employment discrimination. It will hopefully answer the questions left unanswered by *St. Mary's Honor Center vs. Hicks*," he said.

In its 1993 decision in the *Hicks* case, which involved allegations of racial discrimination banned by Title VII of the 1964 Civil Rights Act, a sharply divided high court said the plaintiff not only has to show that the reason given by an employer for a firing or demotion was mere pretext but also must prove that the employer's discriminatory animus influenced its actions.

A ruling upholding the pretext-plus standard would help employers get summary judgment more readily in age discrimination cases, says Gerald L. Maatman Jr.

Mr. Maatman said that if the high court upheld the pretext-plus standard for age discrimination, it would be good news for employers because such a decision will allow them to get summary judgment more readily in age discrimination cases.

The National Chamber Litigation Center's Ms. Kysela also stressed the potential importance of the case.

"I think this case will be very significant for employers because the issue comes up in almost every discrimination case. This case presents the court with an opportunity to expand upon its decision in *St. Mary's Honor Center vs. Hicks*," she said.

She added that given the paucity of employment-related cases accepted thus far this year by the court could make *Reeves vs. Sanderson* the major employment case of the term.

Meanwhile, the bankruptcy case stems from Hartford's agreement to underwrite workers compensation insurance for Hen House Interstate Inc. while Hen House was undergoing reorganization under federal bankruptcy law.

Hen House, which operated service stations and other businesses located in the Midwest, went into bankruptcy liquidation. The insurer then attempted to collect $51,871 in uncollected premiums from collateral held by Magna Bank, which was Hen House's creditor.

The bank, which later merged with Union Planters National Bank, held that Hartford had no right under federal bankruptcy law to try to collect.

A three-judge panel of the 8th U.S. Circuit Court of Appeals decided in Hartford's favor, but the full court ruled en banc against the insurer, holding that only trustees, not other parties, could collect from a secured creditor's collateral.

Hartford appealed to the Supreme Court, saying the law does allow collection of unpaid premiums. The American Insurance Assn., of which Hartford is a member, filed an amicus brief supporting the insurer's position, arguing that insurers would not be the only parties affected by the appeals court's position.

"Essentially, unless the appellate court decision is reversed, creditors who have provided services to a bankrupt company will be stripped of their ability to recover payment," said a spokesman for the AIA in Washington. BI





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Market

Continued from page 2

aligned more strongly with the business operations than with a simple cost factor, then I think it's sustainable," said Dean Reynolds, director of human resources and risk management for Nissan North America Inc. in Gardena, Calif. "If it's only a matter of pricing, then all you need to do is threaten to set up a captive and use that as negotiating leverage and avoid the problem and hassle of sustaining a captive over a long period of time."

Nissan North America uses one of its two Hawaii-domiciled captives as a product liability facility, Mr. Reynolds said. The captive does bring savings compared to purchasing insurance in the traditional market, he said. But, more importantly, the captive is a linchpin for the company's entire product liability defense strategy and its brand image protection decisions, he explained.

Through ownership of the captive, Nissan retains control over decisions about whether to litigate product liability claims, he said. Sometimes the company will vigorously defend a case that, in isolation, may have relatively minor financial implications.

"We may choose to defend that case as part of our business strategy because we know that behind that case are five more cases," Mr. Reynolds said. "Maybe that law firm has five more cases waiting to be filed. So an economic settlement of that first case would open the floodgates. Having a strong position in product liability is really important," he said.

'I cannot think of any other alternative, any other mechanism that formalizes the (risk management) approach more than a captive,' says David Turner.

Brand image is one reason why product liability issues are important to an automaker. Even a 1% market share loss due to an adverse product liability ruling and the accompanying media attention could cost a company greatly, Mr. Reynolds noted.

"Today, a full percentage point of the U.S. auto market is worth $2.5 billion," Mr. Reynolds said. "That is why we pay attention to product liability and we use a captive. It's part of the way to manage the whole cost of litigation, to manage internal resources, to coordinate prevention activity and protect our brand image."

Michael Evans is vp-risk management for Sacramento, Calif.-based Sutter Health, and he serves as president and chief executive officer of Hawaii-domiciled Sutter Insurance Services Corp. Mr. Evans said he just doesn't see the traditional property/casualty market hardening across all lines, though some pockets of hardening rates are likely.

The old insurance cycle has been altered permanently because of the capacity the capital market has brought to the area of risk transfer, he said.

"The capital glut can be considered, at least in my opinion, to be permanent," Mr. Evans said. "It's not going to go away right away. So, as a result of that, I encourage you, when you do consider your captive, either its future or starting one, that you do it in light of what has been called the soft market, because I think it is *the* market."

But others see a need to prepare for a turn.

David Turner, president of Chicago-based Equity Risk Services L.L.C., said his company is in the process of establishing a second captive in Hawaii for liability, workers compensation, auto liability and property coverages.

He has gone back to Hawaii to launch a second captive because of the state's support for the industry, Mr. Turner said.

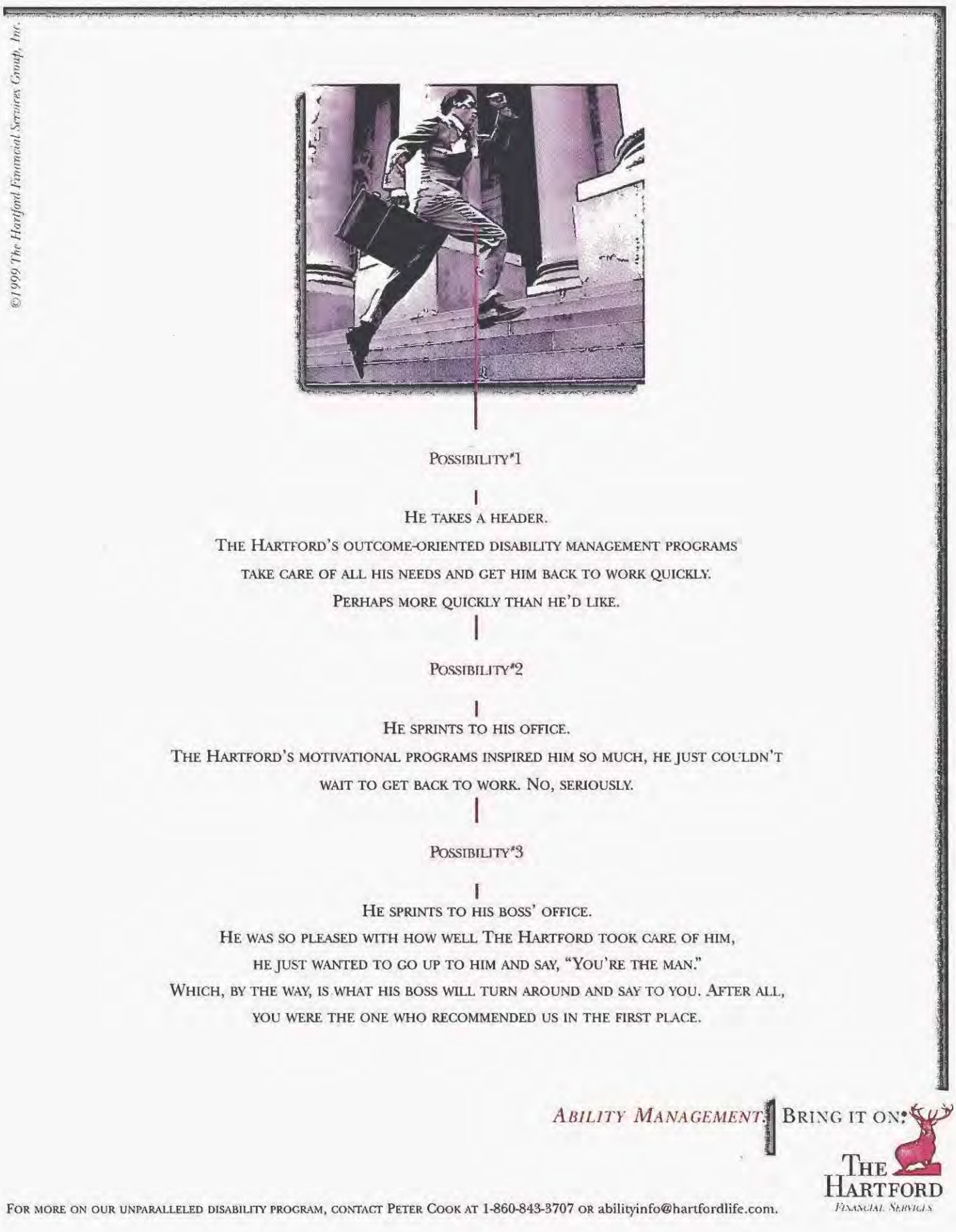
Mr. Turner explained the reasoning behind forming another captive in the soft market. He said he leans toward those who believe that the insurance market is not healthy, and he expects terms and conditions will tighten and prices will increase.

Equity Risk Services wants to be ready to self-insure for catastrophic loss protection, depending on market availability. "We also want a smooth cost of risk over a long period of time with the broadest insurance available," he said.

But there is more to consider than just pricing, Mr. Turner said. His company's captive plays a role in assuring formal, companywide recognition for risk management efforts.

Because company executives sit on the captive's board and make decisions about the risk to be retained within the captive, they receive reports on risk assessment, claims management, loss control, contingency planning and other risk management factors. Their involvement filters down and bolsters broad support for risk management.

"I cannot think of any other alternative, any other mechanism that formalizes the approach more than a captive," Mr. Turner said. "I think that the captive is a formal approach that will work in the soft market. But, more importantly, it will prepare us for the future and will support the risk management approach, whether in the soft or hard market." BI



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Captives say aloha to third-party, program risks

By ROBERTO CENICEROS

WAILEA, Hawaii—Captive owners increasingly are forming facilities with an eye toward writing third-party business as a way to generate revenues, say consultants and actuaries who review captive formation applications for the Hawaii Insurance Division.

Benefits-related coverage is also expected to take off, as are other innovative captive uses, such as banks underwriting mortgage reinsurance, the speakers told attendees of the 1999 Captive Insurance Forum, held Oct. 26-29 in Wailea, Maui. An appetite for program business is creating substantial changes in the infrastructure of captives and in their arrangements with reinsurers and other service providers, said Michael Murphy, president of Denver-based RiskCap Inc., a captive management company.

The alternative market is at a watershed point in its history, Mr. Murphy said. It is shifting from a market created largely to reduce the insurance costs of owners to one in which captive owners are embracing third-party business and the opportunity to use their captives to earn income, he said.

Nationwide, the greatest growth in captive formations is coming from program business, Mr. Murphy said. An independent insurance producer stands to earn a greater profit from forming a captive to write its program business than it would earn on commissions from placing the business with a traditional insurer, Mr. Murphy said.

Program business placed in the alternative market tends to have an average loss ratio of 20% to 40%, Mr. Murphy said. He said he has even seen deals with a loss ratio of less than 10%.

HAWAII CAPTIVE INSURANCE COUNCIL

Program business is one area where property/casualty insurers have made a consistent underwriting profit over the past 30 years, he added.

Hawaii has also seen a spate of captive formations by owners that plan to profit by insuring auto warranty and mortgage guarantee coverages for their customers, Mr. Murphy said. Such arrangements essentially are program deals, he said.

And program business is expected to grow. In 1995, only one domicile permitted captives to write program business, Mr. Murphy said. Within the last year, though, the Cayman Islands has allowed program business and, within the past six months, Hawaii, Nevada, Rhode Island and Vermont have all begun allowing the formation of program business captives.

While no one tracks program business written through captives, Mr. Murphy estimates that it is now worth about $3 billion annually, up from $300 million just a few years ago, he said.

The design of a captive created for program business is "diametrically opposed" to that of a traditional captive created to save on insurance costs, Mr. Murphy said.

While the traditional captive may issue one or a few policies, the program captive may issue thousands. In the traditional captive model, a fronting company issues A-rated paper, which is then reinsured by the captive. But under the program model, the fronting company issues numerous policies.

Reinsurance arrangements and relationships are also dramatically different, Mr. Murphy explained. Where a single-parent captive may have an attachment for reinsurance at $250,000 to $500,000 per occurrence, a program captive will buy down that attachment to $25,000 to $50,000. In addition, a program captive in today's market will purchase an annual aggregate stop-loss policy and may buy quota-share reinsurance.

A recent survey conducted by Watson Wyatt Worldwide found that, of 110 pure captive owners, 22% now assume third-party risk, said Paul Pinckney, principal for Tillinghast-Towers Perrin in Irvine, Calif. A similar number of captive owners are considering assuming third-party risks and expanding their captives' operations and potential to earn profits, the survey found.

The survey also found that 43% of the respondents are considering integrating employee benefit coverages into their captives. Financial officers are very interested in expanding captive insurance to include benefits, Mr. Pinckney said.

Several factors are leading to that practice becoming a reality.

There is a greater inclination among regulators to allow employee benefits in captives, Mr. Pinckney said. He cited the U.S. Department of Labor's recent approval for Danbury, Conn.-based Union Carbide Corp. to use its captive to reinsure its employee supplemental life insurance program (*BI*, Oct. 11).

Additionally, financial executives are focusing more on benefit costs, delivering quality benefits, and consolidating the funding and management of those benefits, along with other company risks, Mr. Pinckney said.

It is already common for companies to self-insure some benefit coverages, such as long-term disability insurance, he said. In addition, captives are insuring benefits for international employees. So senior managers already are very comfortable regarding employee benefit coverages as being outside the traditional insured markets.

The formation of bank-owned captives to reinsure private mortgage guarantee insurance written by third parties is the single biggest category of formations recently reviewed by Milliman & Robertson Inc. for approval in various states, said John Herzfeld, a Milliman & Robertson consulting actuary in Wakefield, Mass.

Other coverages Milliman & Robertson recently has seen placed in captives, he said, include:

- Performance guarantee surety bonds for contractors. Typically, a third party writes the bond, and it is then reinsured through a captive.
- Companies that purchase the homes of relocated employees are insuring the properties through their captives. They are also insuring employees' possessions while they are en route between locations.
- Deductible reimbursement insurance for workers compensation coverages in instances where an employer is prohibited from directly placing workers comp coverage in a captive. One alternative is to buy a large-deductible policy from an insurer and then obtain first-dollar coverage from a captive. BI

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Toshiba settlement could fuel class-action fire: Lawyers

By MICHAEL BRADFORD

TOKYO—A settlement between Toshiba Corp. and owners of its laptop computers could cost the company as much as $1 billion and, attorneys say, could encourage class-action lawsuits based on damages some may consider insignificant.

The settlement, reached late last month, is awaiting final approval from the U.S. District Court in Beaumont, Texas. It would end a suit originally filed in that court earlier this year by two Toshiba laptop owners who charged that the floppy disk drive controllers in the machines are faulty and could cause data to be lost.

"The temptation for people to build class actions. . .is augmented, enhanced and reinforced by this decision" to settle, said Victor Schwartz, a senior partner with the law firm of Crowell & Moring in Washington. Mr. Schwartz also is general counsel of the American Tort Reform Assn. in Washington.

Mr. Schwartz said the suit against Toshiba involved "lots of people with a very tiny amount of damage, which they could ignore; they can still use their laptops." The "net result" was a settlement that will funnel millions of dollars to attorneys and very little to the claimants, he said.

"I think, any time you have a $1 billion settlement, it encourages others to look hard at whether they have claims and should file a class-action suit," agreed Pat Swan, an attorney with Luce, Forward, Hamilton & Scripps L.L.P. in San Diego. "It only takes one plaintiff to file a class-action lawsuit."

The settlement calls for millions of Toshiba laptop owners to receive coupons worth from $100 to $225 to be used toward the purchase of Toshiba products. Some cash refunds also will be made to laptop owners who made recent purchases. The settlement applies to most Toshiba laptop models manufactured after 1987.

A software patch or hardware fix will be offered to customers, depending on the laptop model they own.

A spokeswoman for the computer maker could not provide information on whether insurance would fund any portion of the settlement. The company issued a revised forecast for fiscal year 1999, which ends next March 31. The forecast called the $1 billion settlement an "extraordinary loss" that will be reflected in its financial results.

Toshiba said in a statement that it settled the case rather than risk a large jury award. Toshiba also said it wanted to "continue to ensure that the Toshiba brand name merits (customers') trust." The company did not admit liability or concede that there were problems with the machines.

Mr. Swan said Toshiba's insurance coverage issues could be tangled because the defective parts may have been supplied by a vendor. There may be questions, he said, as to whether the disk drive controller could have been corrupted in the manufacturing or assembling process. BI

Rockwell International names risk management director

Comings & Goings: Buyers

Christopher I. Johnson has joined Rockwell International Corp. in Milwaukee as director-insurance and risk management.

Mr. Johnson, 43, is responsible for implementing global risk management programs and for purchasing and managing the company's property/casualty insurance programs.

He replaces Gordon E. Schick, who joined Brockbank Insurance Services Inc. in Santa Barbara, Calif., as senior vp-underwriting.

Mr. Johnson reports to David H. Brehm, assistant treasurer-domestic at Rockwell.

Before joining Rockwell, Mr. Johnson spent seven years as director-risk management at Campbell Soup Co. in Camden, N.J.

He earned a bachelor of science degree in finance and economics from Babson College in Wellesley, Mass., and holds the Chartered Property & Casualty Underwriter and Associate in Risk Management designations.

* * *

Jorie Munns has been promoted to associate risk analyst at SAS Institute Inc., a software company based in Cary, N.C.

Ms. Munns, 31, is responsible for monitoring property/casualty insurance coverages for the company's worldwide exposures, as well as conducting claims administration, maintaining the risk management database, overseeing the department's Internet site and coordinating loss control programs for the company's 40 domestic offices.

In the newly created position, Ms. Munns reports to Risk Manager Mari-Jo Hill.

Ms. Munns previously worked for three years as risk management assistant at SAS. She holds a bachelor's degree in communications and journalism from East Carolina University in Greenville, N.C.

Ms. Munns earned the Certificate in General Insurance and the Associate in Insurance Services designations from the Insurance Institute of America. She is a deputy member of the Risk & Insurance Management Society Inc.

* * *

Terry D. McNeil has been promoted to vp and director of insurance services at ABM Industries Inc., a San Francisco-based company that provides janitorial, lighting, security and other facility services.

Mr. McNeil, 51, heads ABM's corporate insurance department, which is responsible for risk management, property/casualty and workers compensation insurance.

He reports to Martinn Mandles, chairman and chief administrative officer at ABM.

Mr. McNeil has been with ABM for 11 years and previously was assistant vp and director of insurance services.

He holds a bachelor of science degree in business administration and economics from the University of Wisconsin at Stevens Point and a master of business administration from Seidman Graduate School of Business in Allendale, Mich. Mr. McNeil is a member of the California Insurance Department Fraud Task Force and the Californians for Compensation Reform Advisory Council.

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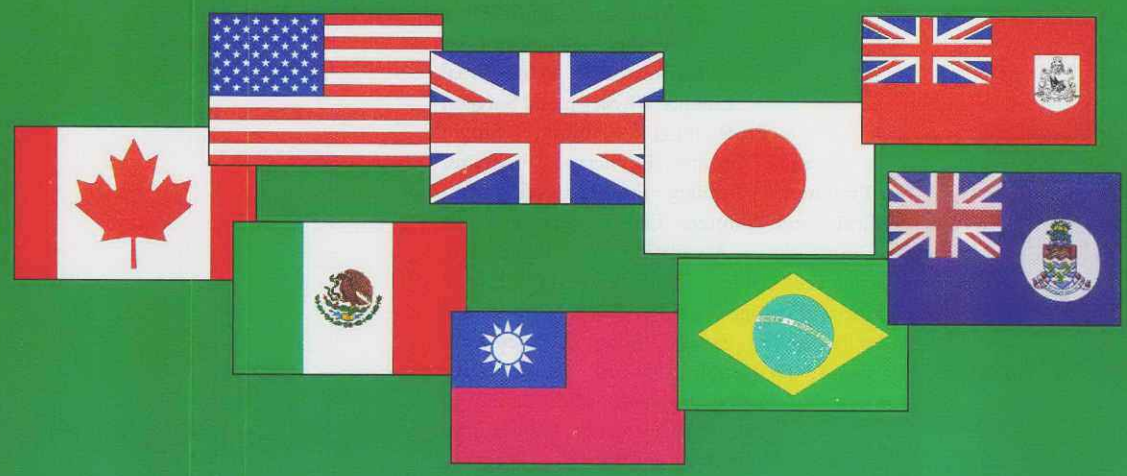
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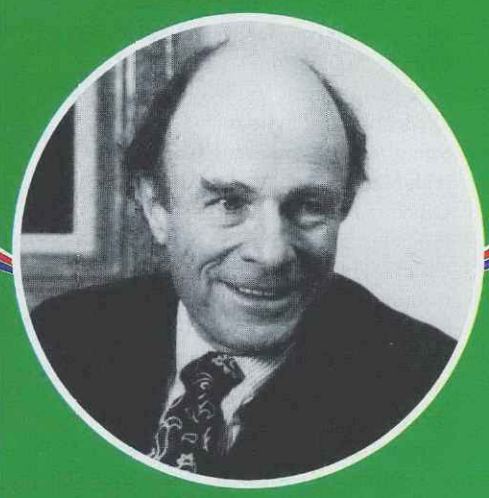
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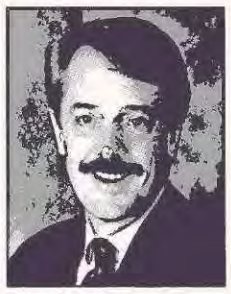
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Evans named COO of Near North unit

Comings & Goings: Industry

Near North National Group has appointed **Thomas W. Evans** chief operating officer of the company's Alternative Marketing Technology Group, which focuses on Internet marketing of insurance and financial products and services. Prior to joining Chicago-based Near North, Mr. Evans was director of U.S. product and segment marketing for Citibank.



Mr. Evans

In other agent/broker changes:

New York-based Kaye Group Inc. has promoted **Marc I. Cohen** to president of three of the company's subsidiaries: Program Brokerage Corp., Old Lyme Insurance Co. of Rhode Island Inc., and Claims Administration Corp. He previously was a senior vp. Mr. Cohen also was named a director of Old Lyme Insurance Co. Ltd., Old Lyme's Bermuda-based subsidiary.

Also at Kaye Group, **Michael P. Sabanos** has been promoted to executive vp from senior vp. He also will continue to serve as chief financial officer and chief administrative officer for the organization. Kaye Group also has restructured its brokerage operations and has made three personnel changes in that area: **Damian R. Testa** has been promoted to executive vp of Kaye Insurance Associates Inc., the company's retail brokerage subsidiary; **Tamara R. Igel** has been promoted to senior vp of Kaye Insurance Associates; and **Jeffrey L. Rubin**, senior vp of Kaye Insurance Associates and Kaye Corp. of Connecticut, will move to that unit's Westport, Conn. office to lead its growth effort in New England.

Reinsurance

Swiss Reinsurance America Corp. in Armonk, N.Y., has named **Nancy L. Oblinger** director of corporate communications for its North American property/casualty operations. She previously was managing director for The Weiser Group.

Old Republic Re Inc., the New York-based reinsurance subsidiary of Old Republic Insurance Co., has promoted **Peter T. Gilhuley** to the new position of executive vp and chief operating officer. Mr. Gilhuley previously was senior vp for the reinsurer.

Insurers

Reliance Insurance Co. in Philadelphia has named **Ted Truitt** a vp in the commercial accounts division. He previously was assistant vp of Reliance's business advocacy group.

Frontier Insurance Group of Rock Hill, N.Y., has appointed **George J. Marone** vp and chief underwriting officer. Prior to joining Frontier, Mr. Marone was executive vp and chief underwriting officer for CNA's commercial insurance division.

Kenneth Branham has joined Meadowbrook Insurance Group Inc. of Southfield, Mich. Mr. Branham, who was named senior vp for business processing and technology, comes to Meadowbrook from Policy Management Systems Corp., where he was senior vp.

Boston's CGU Insurance, part of London-based CGU P.L.C., has appointed two new vps to its Information Technology Services team: **Sharon Waid** is vp of the Project Management Office, and **Silvia Pighin** is vp of Enterprise Technology Services. Ms. Waid previously was with Liberty Mutual Insurance Co. as director and claim systems portfolio manager for the risk services information services department. Ms. Pighin was with International Business Machines Corp. as part of the IBM Consulting Group's enterprise architecture practice.

Other suppliers

OakTree Health Plan, a Philadelphia-based subsidiary of Health Risk Management Inc., has appointed **Gerald L. McNair** president. Mr. McNair previously was president and CEO of Care Partners L.L.C.

Risk Management Solutions of Menlo Park, Calif., has appointed as president **Hemant Shah**, one of the company's co-founders. Former President **Tom Hutton** will serve on the board of RMS. Mr. Shah previously was senior vp of marketing and strategic planning for RMS, director of RMS Europe and director of RMS India.



Mr. McNair

Philadelphia-based Intracorp has hired **Dr. Nancy Wiese** to serve as national medical director, disability management. In addition, **Sandi Schwartz** has been named vp for the disability management operations for Intracorp. Prior to joining Intracorp, Dr. Wiese was department chair for occupational medicine at CIGNA HealthCare of Arizona. Ms. Schwartz previously was senior vp of operations for NovaCare in Denver.

Michael J. Bemi, formerly of Arthur J. Gallagher & Co., has been named president and CEO of The National Catholic Risk Retention Group Inc. At Gallagher, Mr. Bemi was a division executive vp.

Philadelphia-based ESIS Inc., the third-party administration and insurance service subsidiary of ACE USA, has appointed a new management team to oversee the recently restructured organization. **Chris Barnes** has been named president of ESIS; he previously was with CIGNA Corp.'s property/casualty operation, which was acquired by ACE earlier this year. ESIS' Western territory, with headquarters in San Francisco, will be led by **Steve Meyer**. The Southern territory, headquartered in Atlanta, will be managed by **Wes Shiplett**. **Larry Zeiner** will lead the Northeast territory, with headquarters in Hartford, Conn. ESIS' Central territory, which is headquartered in Chicago, is will be headed by **Donald Shiplet**.

Several ESIS home office executives will also serve on the management team. Continuing in his role as vp of risk control services is **Michael Billings**. **Gene Fazzie** will serve as vp and lead the financial unit for ESIS. **John Cummings** has been promoted to senior vp of field operations, and **Karen Ford** has been promoted to vp of integrated services. **Bob Persico** will be vp of product management and technical services, and **Mark Cafaro**, who is rejoining ESIS from Sterling Inc., will be senior vp of sales and marketing. BI



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Benefits program doggedly matures with its workers

By JUDY GREENWALD

SAN FRANCISCO—Autodesk Inc., a software developer known to some as "the dog company" because it lets employees bring their dogs to work, has adjusted its benefits program to reflect its employees' changing lifestyles, says the company's human resources manager.

As a high-tech start-up in the early 1980s, Autodesk's typical employees were young men who worked unconventional hours, so the company permitted them to bring their dogs into work, explained Lynn Fazio, manager of work/life programs for the San Rafael, Calif.-based company.

"Now, those single guys with dogs are turning into husbands and fathers with families," which has changed Autodesk's perspective on the benefits it offers, she said.

She spoke at a seminar on work/life benefits co-sponsored by San Francisco-based One Small Step, a Bay Area employer work and family association, and the Alliance of Work/Life Professionals' Western region.

Ms. Fazio said that 35% of the company's 3,000 employees now telecommute on a regular basis.

As a "virtual corporation" that is not tied to a physical location, this helps support an environment that has an "extreme, high degree of flexibility," said Ms. Fazio.

Autodesk has few work/life policies per se, said Ms. Fazio. Instead, it uses guidelines that are "generally open to discussion in terms of the kinds of change we're willing to make" for employees in their work environment, she said.

Autodesk Inc. offers its employees unlimited sick leave. 'We treat people like adults,' says Lynn Fazio.

Autodesk's "wide variety of employee programs" includes fitness centers, take-out meals and drop-off dry cleaning. It also has a "whole scheme of programs" designed specifically around the needs of working parents, she said.

For example, the company offers child care for low-income parents. In the costly Bay Area, the company defines as "low income" those families with total annual income of less than $75,000.

In addition, Autodesk offers unlimited sick leave. "We treat people like adults," said Ms. Fazio.

At Autodesk, it is "pretty impossible" to be late for work, said Ms. Fazio. The typical work environment, where harried parents feel they have to rush to get to their jobs, "really doesn't exist" at Autodesk, said Ms. Fazio. Few departments have strict schedules, though most employees work certain core hours.

In today's environment, where it is easy to get a job across the street, it is important that employees like their work, she said. "We feel that they can pretty much write their own script in a lot of ways," Ms. Fazio said.

She said the company is still working on a couple of areas, including reducing the amount of time spent in meetings and helping employees to work more effectively, so they don't feel overwhelmed.

Also speaking at the session was Michelle Vollrath, benefits manager at Santa Clara, Calif.-based Scitor Corp., a privately held engineering consulting firm. She said her company tries to keep its employees' lives "as uncomplicat-

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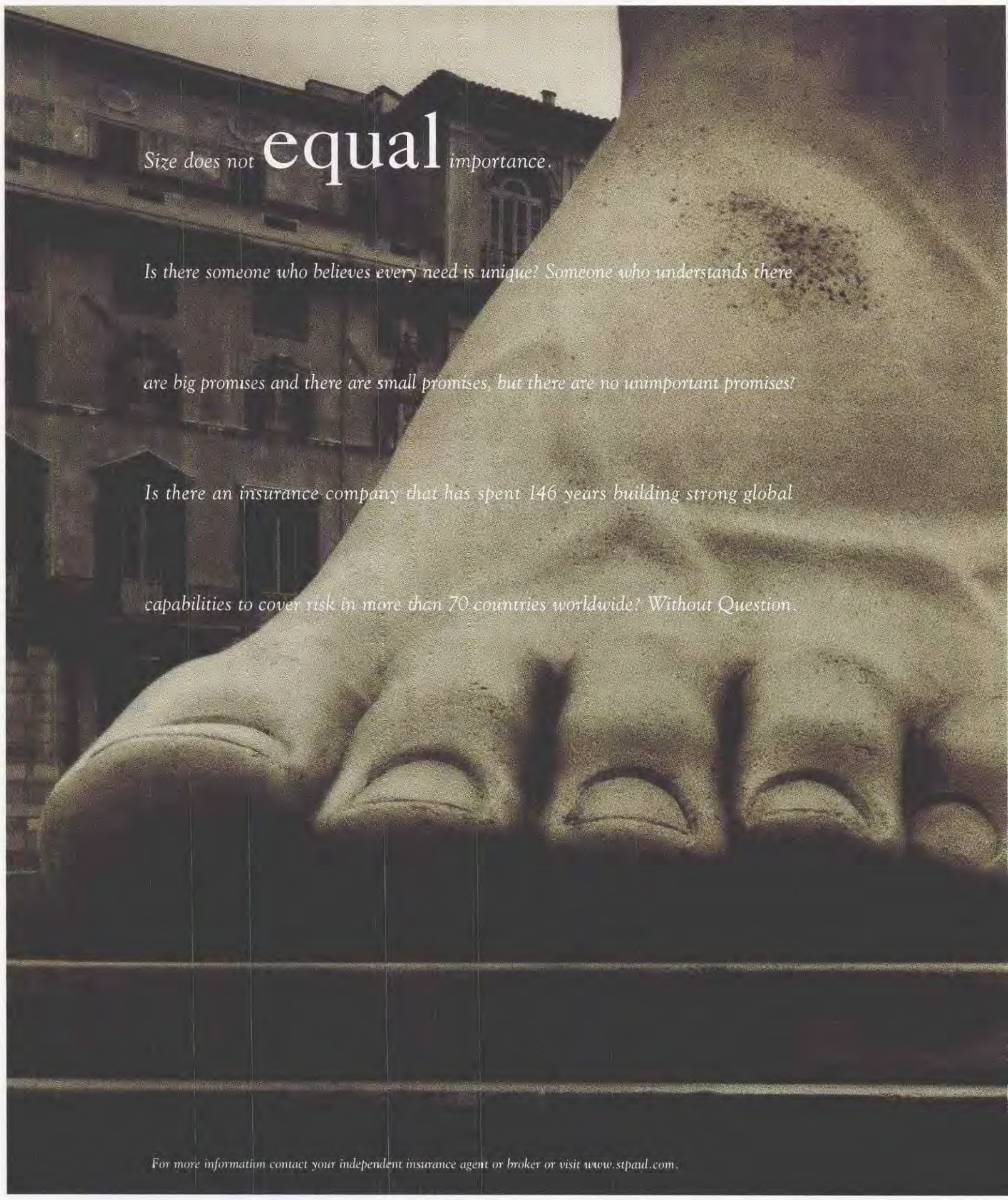
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Continued from previous page

ed as possible," and designs its benefits to give them more comfort and freedom.

The company has a flexible work environment, she said, although she admitted this can be a "double-edged sword," with people working late into the night. But this approach also gives people options, said Ms. Vollrath.

As in Autodesk's case, Scitor grants its employees unlimited sick time, she said. "We trust our employees. They're adults."

Scitor also offers its employees emergency dependent care. Under the employee-paid program, if a day care provider is, for some reason, unavailable, a caregiver is sent to the employee's home, said Ms. Vollrath.

Although this benefit is not heavily used, "the feeling that it's there really goes a long way," she said.

Also speaking at the session was Della Berger, vp-compensation and benefits at Burlingame, Calif.-based Gymboree Corp.

Work/life programs at Gymboree, which sells children's clothing and furniture, include an employees' learning center, in which employees can learn "all the skills they feel they need to be successful at Gymboree," said Ms. Berger.

The company also works with its employees in designing "living developmental plans," in which employees are consulted as to how they would like their careers to progress at the company.

The guest speaker at the seminar was Ellen Galinksy, president of the New York-based Families and Work Institute. Ms. Galinsky discussed her new book, "Ask the Children: What America's Children Really Think About Working Parents." BI

Automaker's initiative helping improve quality of health care

By RON SHINKMAN
Crain News Service

TRAVERSE CITY, Mich.—Having gobs of options isn't the only reason cars are expensive. For every Chrysler minivan or Dodge Intrepid snapped off the showroom floor, about $1,100 of its sticker price can be traced to DaimlerChrysler's health care costs.

The Big Three automaker spent $1.3 billion on health care for its 122,000 U.S. covered lives last year, compared with $979 million in 1995—nearly a 40% increase. It spends more on health care than on all its contracts with parts vendors.

But, unlike many other employers that have had to bear health care cost increases in recent years, DaimlerChrysler's human resources division in Traverse City, Mich., thought last year it had a solution—one so successful that it is affecting virtually every health plan in Michigan.

In 1998, DaimlerChrysler began sending out teams of efficiency experts to its 75 top health care contractors to conduct "continuous-improvement workshops," through which they identified ways to streamline processes to cut costs and increase efficiency.

"What we did is really apply a lot of what we've been doing the past 10 or 15 years with all our other suppliers," said Nancy Rae, vp-compensation and benefits.

One such contractor was Mercy Health Services, a Farmington Hills, Mich.-based network of 31 hospitals. The automaker's senior vp-human resources, Kathy Oswald, sits on one of Mercy's boards.

"We went through a lot of very intense exercises in a weekend workshop with 12-hour days," recalled Michael Markel Jr., executive director for emergency services at the 409-bed facility of St. Joseph Mercy Oakland in Pontiac, Mich., referring to a workshop session that took place in February.

DaimlerChrysler discovered that physicians weren't communicating with one another and that diagnostic test data were grouped for later analysis rather than examined as they became available. The company helped redesign St. Joseph's emergency room setup, reducing patients' waits for triage. The average wait was cut from eight hours to two, and another 30

'There was no reason it should take 60 days for a health plan' to process a referral, says Nancy Rae.

minutes was shaved from the average treatment time.

By March, the receipt of notes by the hospital from patients expressing thanks for expeditious care had increased fivefold, Mr. Markel pointed out.

ER costs were also reduced by about 9%, and the efficiencies are being copied at other Mercy hospitals, Ms. Rae said.

Beginning in July, DaimlerChrysler also persuaded its 12 health plans to use one standardized patient-referral form. "There was no reason it should take 60 days for a health plan" to process a referral, Ms. Rae said.

Denise Christy, director of marketing for SelectCare, the Troy, Mich.-based health maintenance organization that spearheaded the design of the new form, could not immediately provide evidence that referral times were being cut.

But Ms. Christy did note that physicians have been able to submit their paperwork to health plans within days, as opposed to weeks, because confusion over which forms to use has been eliminated. The form's cost—less than a penny—is also dramatically lower than what it costs many health plans to print their own forms.

"In some cases, plans were spending as much as 32 cents to produce just one of their referral forms," Ms. Christy said.

The form has been so well received that the Michigan Assn. of Health Plans, the state's leading HMO lobby, is now promoting the use of the form among all its members.

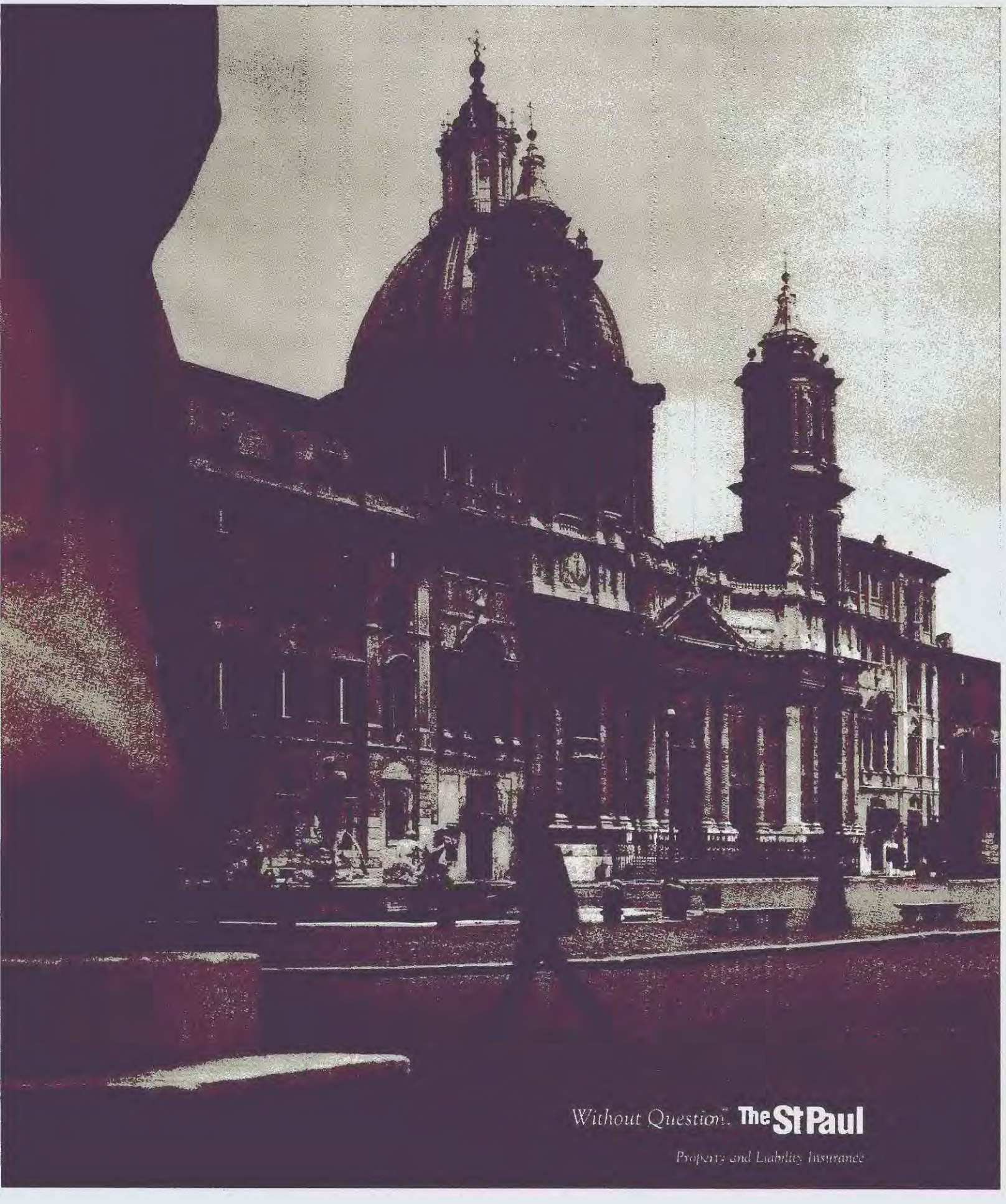
DaimlerChrysler has yet to tabulate the potential savings from the continuous-improvement workshops, but Ms. Rae said she believes they will be significant.

She added that providers probably paid close attention to DaimlerChrysler's opinion because it is such an enormous purchaser.

"If we were a small company, they wouldn't do this," Ms. Rae said.

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Ron Shinkman is a reporter for Modern Healthcare, *a sister publication of* Business Insurance.



Datebook

NOVEMBER

NOV. 30-DEC. 1. Captives Conference, in Grand Cayman, sponsored by IBC Conferences Inc.; $1,599 for conference and workshop. IBC USA Conferences Inc., 225 Turnpike Road, Southborough, Mass. 01772-1749; 508-481-6400.

NOV. 30-DEC. 2. Global Retirement Market Conference, in New York, sponsored by IBC Conferences Inc.; $2,299 for full three-day event. IBC USA Conferences Inc., 225 Turnpike Road, Southborough, Mass. 01772-1749; 508-481-6400.

DECEMBER

DEC. 2. Litigating Insurance Claim Seminar, in Washington, sponsored by McKenna & Cuneo L.L.P.; no fee. Paul DeGeest, McKenna & Cuneo L.L.P., 1900 K St. N.W., Washington, D.C. 20006; 202-496-7500.

DEC. 2-3. Y2K Legal Issues Course, in Washington, sponsored by the American Law Institute-American Bar Assn.; $695. www.ali-aba.org; 800-253-6397.

DEC. 4-8. National Assn. of Insurance Commissioners Winter National Convention, in San Francisco, $450 before Dec. 1. NAIC, 816-842-3600.

DEC. 5-8. Fourth Annual Summit on International Managed Care Trends, in Miami Beach, Fla., sponsored by the American Assn. of Health Plans; $1,395 for delegate registration. AAHP, Dept. No. 0612, Washington, D.C. 20073-0612; 877-291-2247.

DEC. 5-8. Offshore Fund Investment Trends Forum, in the Cayman Islands, sponsored by IBC USA Conferences; $1,599. www.ibcusa.com/ 2378; 508-481-6400.

DEC. 6. Competitive Intelligence in the Insurance & Financial Services Industry conference, in New York, sponsored by Strategic Research Institute; $1,095. Strategic Research Institute, 333 Seventh Ave., Ninth Floor, New York, N.Y. 10001-5004; 800-599-4950.

DEC. 7. Return to Work Issues in Workers Compensation in Illinois, in Chicago, sponsored by Lorman Educational Services; $189. **Also Dec. 14** in Itasca, Ill. Lorman Educational Services, P.O. Box 509, Eau Claire, Wis. 54702-0509.

DEC. 7-9. National Ergonomics Conference and Expo, in Anaheim, Calif., sponsored by the Board of Certification in Professional Ergonomics; $475 before Nov. 30 and $550 thereafter. Continental Exhibitions Inc., 370 Lexington Ave., Suite 1401, New York, N.Y. 10017; 212-370-5005.

DEC. 8-10. P&C Product Management Skills and Techniques Seminar, in Phoenix, sponsored by Dorman Consulting Associates; $995. Dorman Consulting Associates, 1 Haverhill Court, Beachwood, Ohio 44122; 216-464-5678.

DEC. 9. Healthcare Contracting with HMOs and PPOs Seminar, in Scottsdale, Ariz., sponsored by Reden & Anders Ltd. and Evergreen Re; $250. Toni Crofts, Reden & Anders, 1 Front St., Suite 1000, San Francisco, Calif. 94111; 415-288-4718.

DEC. 9-10. Financial Services Integration Symposium, in Atlanta, sponsored by Georgia State University; $450. Anne Shaw, Georgia State University, P.O. Box 4036, Atlanta, Ga. 30302-4036; 404-651-0931.

DEC. 9-10. Insurance Coverage and Practice Seminar, in New York, sponsored by the Defense Research Institute's Insurance Law Committee; $595 for members and $645 for non-members. Defense Research Institute, P.O. Box 72225, Chicago, Ill. 60678-2225; 312-795-1101.

DEC. 10. Workers Compensation in Illinois Seminar, in Springfield, Ill., sponsored by Lorman Educational Services; $179. Lorman Educational Services, P.O. Box 509, Eau Claire, Wis. 54702-0509; 715-833-3959.

DEC. 13-14. Issues and Strategies for Financial Services Companies Conference, in New York, sponsored by IBC USA Conferences; $1,499. IBC USA Conferences Inc., 225 Turnpike Road, Southborough, Mass. 01772-1749; 508-481-6400.

DEC. 13-14. P&C Pricing and Rate Making Seminar, in Phoenix, sponsored by Dorman Consulting Associates; $895. Dorman Consulting Associates, 1 Haverhill Court, Beachwood, Ohio 44122; 216-464-5678.

JANUARY 2000

JAN. 4-7. Overhead Crane Safety & Inspector Program, in Pittsburgh, sponsored by the Crane Institute of America Inc.; $695. craneinstitute@msn.com; 800-832-2726.

JAN. 13-14. Broker-Dealer Regulation Course, in Washington, sponsored by the American Law Institute-American Bar Assn.; $695. www.ali-aba.org; 800-253-6397.

JAN. 16-19. Innovations in Catastrophe Management Conference, in Fort Myers, Fla., sponsored by EQECAT; $750. tlm@eqe.com; 510-817-3100.

JAN. 18-19. E-Insurance Conference, in New Orleans, sponsored by International Quality & Productivity Center; $1,495. International Quality & Productivity Center, 150 Clove Road, P.O. Box 401, Little Falls, N.J. 07424-0401; 800-882-8684.

JAN. 19-21. Products Liability Conference, in Las Vegas, sponsored by the Defense Research Institute; $750 for members and $800 for non-members. Defense Research Institute, P.O. Box 72225, Chicago, Ill. 60678-2225; 312-795-1101.

JAN. 20-21. Atlanta Risk and Insurance Management Society Educational Conference, in Atlanta, sponsored by Atlanta Chapter of RIMS; $150 for members and $175 for non-members. Donna Hobbs, Equifax Inc., 1600 Peachtree St. N.W., Atlanta, Ga. 30309; 404-885-8867.

JAN. 20-21. Using Alternative Dispute Resolution to Avoid Workplace Lawsuits Program, in Orlando, Fla., sponsored by the Society for Human Resource Management; $595. **Also March 14-15** in Chicago. Executive Enterprises, 2 Shaw's Cove, New London, Conn. 06320-4675; 800-831-8333.

FEBRUARY

FEB. 2-4. Advanced Pension Conference, in Orlando, Fla., sponsored by Corbel/PPD; $750 early registration and $775 standard. Lesley Mauldin, www.corbel.com; 800-326-7235, ext. 1237.

FEB. 7. Managing Overhead Crane Safety Program, in Orlando, Fla , sponsored by the Crane Institute of America Inc.; $295. craneinstitute@msn.com; 800-832-2726.

FEB. 8-9. Integrated Risk Management Conference, in New Orleans, sponsored by the International Quality & Productivity Center; $1,495. International Quality & Productivity Center, 150 Clove Road, P.O. Box 401, Little Falls, N.J. 07424-0401; 800-882-8684.

FEB. 9-11. Fundamentals of Qualified Plans Program, in Denver, sponsored by Corbel/PPD; $550 for early registration and $600 standard. www.corbel.com; 800-246-9442, ext. 5114.

FEB. 13-16. American Bankers Assn. Risk Management Conference, in Scottsdale, Ariz., sponsored by ABA; $695 for members and $875 for non-members. Registration Center, American Bankers Assn., P.O. Box 79064, Baltimore, Md. 21279-0064; 800-338-0626.

FEB. 13-16. Insurance Fraud Management Conference, in Las Vegas, sponsored by Insurance Services Office Inc.; $525 until Dec. 14 and $625 thereafter. ddasgupta@iso.com; 212-898-6610.

MARCH

MARCH 8. Ocean Cargo Insuring Importers & Exporters Seminar, in Wethersfield, Conn., sponsored by the Independent Insurance Agents of Connecticut; $55 for members and $80 for non-members. IIAC, 30 Jordan Lane, Wethersfield, Conn. 06109; 800-842-2208.

MARCH 5-8. Benefits Communication and Technology Institute, in Palm Springs, Calif., sponsored by the International Foundation of Employee Benefit Plans; $720 for members and $870 for non-members. IFEBP-Conference, P.O. Box 59546, Milwaukee, Wis. 53259-0546; 888-334-3327, option 2.

MARCH 7. California Long-Term Care Symposium, in Pasadena, Calif., sponsored by the American Assn. for Long-Term Care; $115. www.ltcsales.-com/conference; 805-379-3910.

MARCH 8-10. Dynamics of Disability Seminar, in Fort Myers, Fla., sponsored by John Hewitt & Associates; $825 before Jan. 14 and $950 thereafter. Marcy Updike, 120 Exchange St., Third Floor, Portland, Maine 04101; 207-874-2261.

MARCH 15-17. Competition, Consolidation & Convergence in the Insurance & Financial Services Industry conference, in Scottsdale, Ariz., sponsored by Strategic Research Institute; $1595. Strategic Research Institute, 333 Seventh Ave., Ninth Floor, New York, N.Y. 10001-5004; 800-599-4950.

MARCH 30-APRIL 1. Employers Council on Flexible Compensation, in Arlington Va., sponsored by the ECFC; $1,145 for members and $1,295 for non-members. ECFC Conference Center, Dept. 4008, Washington, D.C. 20042-4008; 301-729-2111.

APRIL

APRIL 2-5. Health Care Coalition and Health Care Cost Management Conferences, in San Francisco, sponsored by the International Foundation of Employee Benefit Plans; $720 for members and $870 for non-members. IFEBP-Conference, P.O. Box 59546, Milwaukee, Wis. 53259-0546; 888-334-3327, option 2.

APRIL 5-7. Forklift Safety & Inspector Program, in Orlando, Fla., sponsored by the Crane Institute of America Inc.; $525. craneinstitute@msn.com; 800-832-2726.

APRIL 11-13. Reinsurance Seminar, in Irving, Texas, sponsored by the Reinsurance Management Institute at the University of Dallas; $795. bdevans@gsm.udallas.edu; 972-721-5360.

APRIL 12-14. P&C Product Management Skills and Techniques Seminar, in Chicago, sponsored by Dorman Consulting Associates; $995. Dorman Consulting Associates, 1 Haverhill Court, Beachwood, Ohio 44122; 216-464-5678.

APRIL 16-19. National Managed Health Care Congress, in Atlanta, sponsored by the NMHCC; $1,595 before March 27 and $1,795 after. NMHCC, P.O. Box 102713, Atlanta, Ga. 30368-2713; 888-882-2500.

APRIL 17-18. P&C Pricing and Rate Making Seminar, in Chicago, sponsored by Dorman Consulting Associates; $895. Dorman Consulting Associates, 1 Haverhill Court, Beachwood, Ohio 44122; 216-464-5678.

APRIL 30-MAY 5. The Risk & Insurance Management Society Inc.'s Annual Conference and Exhibition, in San Francisco, sponsored by RIMS; $745 for members and $1,045 for non-members. www.rims.org; 800-713-7467.

MAY

MAY 1-5. Global Benefits Management Program, in Washington, sponsored by the International Foundation of Employee Benefit Plans; $1499 for members and $1749 for non-members. IFEBP-Conference, Registration Dept., P.O. Box 59546, Milwaukee, Wis. 53259-0546; 888-334-3327.

MAY 3-5. P&C Product Management Skills and Techniques Seminar, in Boston, sponsored by Dorman Consulting Associates; $995. Dorman Consulting Associates, 1 Haverhill Court, Beachwood, Ohio 44122; 216-464-5678.

MAY 8-9. P&C Pricing and Rate Making Seminar, in Boston, sponsored by Dorman Consulting Associates; $895. Dorman Consulting Associates, 1 Haverhill Court, Beachwood, Ohio 44122; 216-464-5678.

MAY 7-11. American Assn. of Managing General Agents Meeting, in Orlando, Fla., sponsored by the American Assn. of Managing General Agents; $525 for members and $675 for associate members. AAMGA, 9140 Ward Parkway, Kansas City, Mo. 64114; 816-444-3500.

JUNE

JUNE 7-9. P&C Product Management Skills and Techniques Seminar, in San Francisco, sponsored by Dorman Consulting Associates; $995. Dorman Consulting Associates, 1 Haverhill Court, Beachwood, Ohio 44122; 216-464-5678.

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JUNE 28-30. Advanced Pension Conference, in Boston, sponsored by Corbel/PPD; $750 early registration and $775 standard. Lesley Mauldin, www.corbel.com; 800-326-7235, ext. 1237.

JULY

JULY 10-12. Benefits Conference for Public Employees, in Monterey, Calif., sponsored by the International Foundation for Employee Benefit Plans; $780 for members and $930 for non-members. IFEBP-Conference, P.O. Box 59546, Milwaukee, Wis. 53259-0546; 888-334-3327, option 2.

AUGUST

AUG. 2-3. Benefit Communication Strategies, in Brookfield, Wis., sponsored by the International Foundation of Employee Benefit Plans; $590 for members and $690 for non-members. IFEBP-Conference, P.O. Box 59546, Milwaukee, Wis. 53259-0546; 888-334-3327, option 2.

SEPTEMBER

SEPT. 13-14. Fraud Institute, in Las Vegas, sponsored by the International Foundation of Employee Benefit Plans; $480 for members and $580 for non-members. IFEBP-Conference P.O. Box 59546, Milwaukee, Wis. 53259-0546; 888-334-3327, option 2.

SEPT. 18-22. Certificate in Global Benefits Management Course, in Brookfield, Wis., sponsored by the International Foundation of Employee Benefit Plans; $1,499 for members and $1,749 for non-members. IFEBP-Conference, P.O. Box 59546, Milwaukee, Wis. 53259-0546; 888-334-3327, option 2.

SEPT. 26-28. Advanced Pension Conference, in Chicago, sponsored by Corbel/PPD; $750 early registration and $775 standard. Lesley Mauldin, www.corbel.com; 800-326-7235, ext. 1237.

OCTOBER

OCT. 12-13. Corporate Benefits Conference, in Atlanta, sponsored by the International Foundation of Employee Benefit Plans; $540 for members and $640 for non-members. IFEBP-Conference, P.O. Box 59546, Milwaukee, Wis. 53259-0546; 888-334-3327.

OCT. 23-25. LIMRA Annual Meeting, in Atlanta, sponsored by LIMRA; $895 for members and $1,790 for non-members. customer.service@limra.com; 800-235-4672.

OCT. 23-27. Global Benefits Management Program, in Brookfield, Wis., sponsored by the International Foundation of Employee Benefit Plans; $1499 for members and $1749 for non-members. IFEBP-Conference, Registration Dept., P.O. Box 59546, Milwaukee, Wis. 53259-0546; 888-334-3327.

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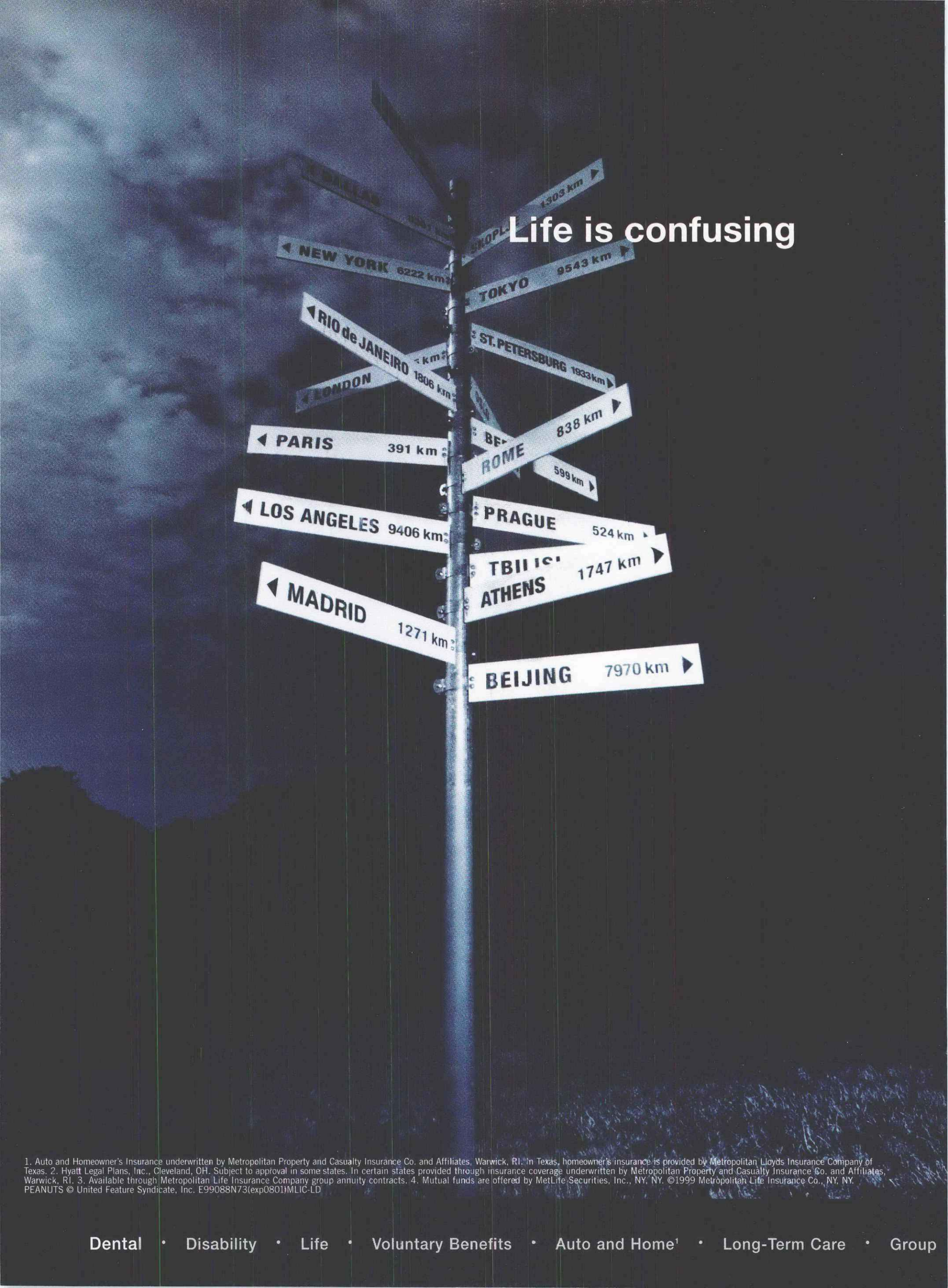
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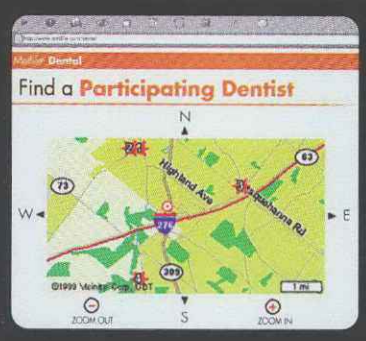
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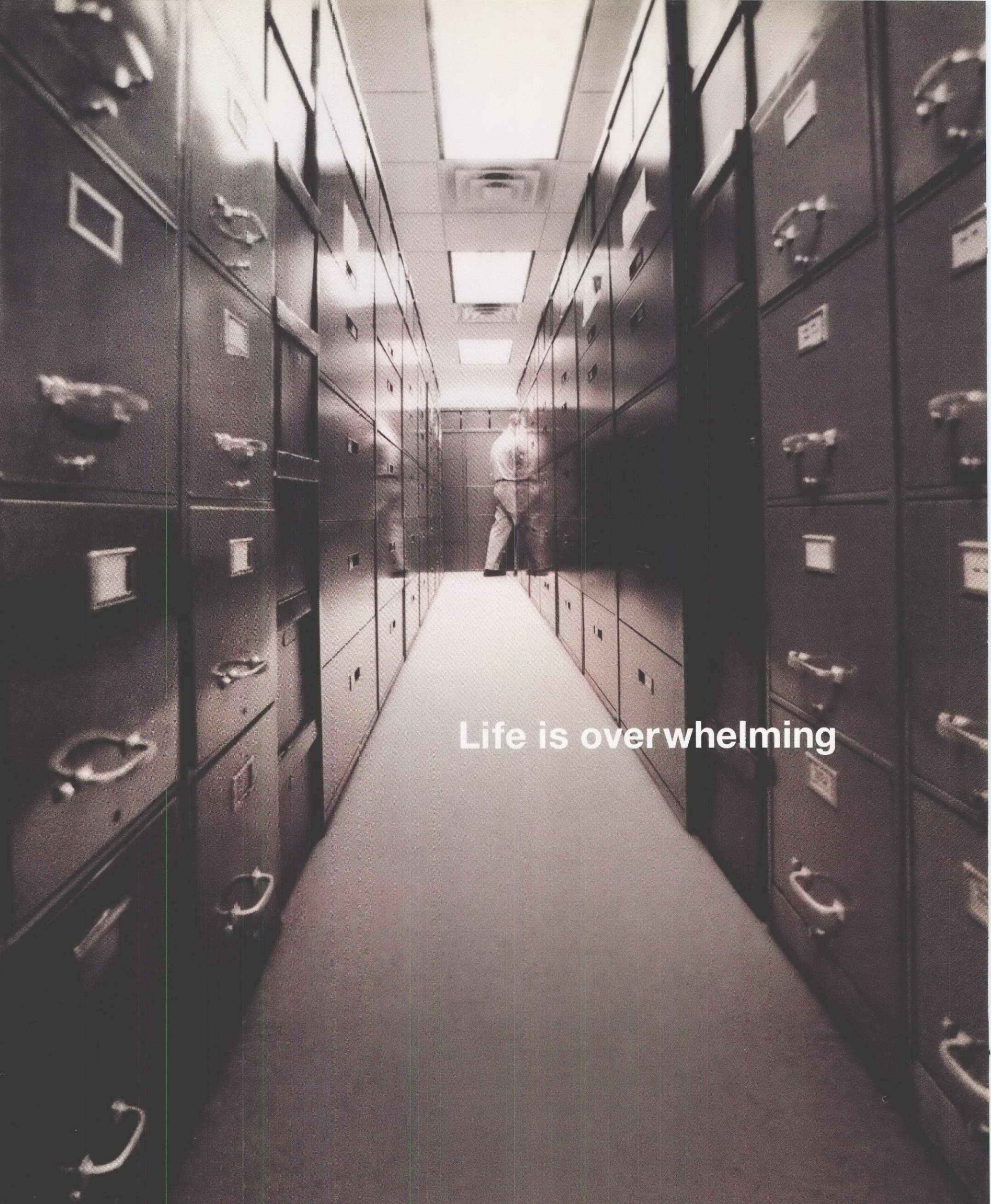


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Not all Internet service providers are equal

Or, how to avoid the vanishing Web site dilemma

By Marcus Covas

When it happened, we joked that the Y2K bug had struck one year too soon. It was Dec. 28, 1998, and suddenly we had no World Wide Web site, no e-mail capabilities and no Internet access. All attempts to log onto our Web site brought back the dreaded message:

"Unable to locate the server www.griffincom.com. Please check the server name and try again."

Our Internet Service Provider had gone bankrupt, shutting down without warning. Until that moment, we had no idea how much we had come to rely on the Internet. Over the next three weeks, we had to use the telephone to communicate with people. To do research, we actually drove to the library and looked through the pages of books, instead of scanning Web pages.

Worst of all, there was a sense of lost identity. If we do not exist in cyberspace, do we really exist? While this may seem a bit extreme, many companies' entire identity is based on their Web presence. For example, what is Amazon without the "dot com"? A large river in South America. And what is eBay without the "e"? It is a place to dock your boat. These companies rely on their Web sites not only to sell products but also to portray an image, an identity that customers have come to respect and trust.

We were lucky to have our Web site vanish when it did. In January, our Web site existed solely as a place for information about our products and services. Since then, it has changed dramatically. We now have e-commerce and Policy Express, a special pay-for-access site. Three weeks of downtime now would translate into lost Web sales and angry customers who are unable to access a service they had paid for. More and more companies use their Web sites, e-mail and Internet connections as central ways of doing business. The following story was a wake-up call for us, and it should be a cautionary tale for all.

In 1997, a small, startup ISP, Flounder Internet (I have, for this article, changed the names of all ISPs), offered us a great Internet package: a T-1 connection, e-mail accounts for the entire company and Web hosting, all for an incredibly low monthly charge. The deal was too good to pass up. Although we were a bit wary, the contract was month to month, so we figured we could switch companies if we ran into any problems. Plus, the guys who came to install the equipment looked professional enough, wearing sharp polo shirts embroidered with the Flounder logo.

After installation, we were all very impressed with the new T-1 connection. It was like switching from a 1974 Gremlin to a 1999 Corvette—it was pure speed. For the first year, Flounder did an excellent job of maintaining our Internet connection. When there was a problem, customer service usually responded within 24 hours, addressing and fixing whatever difficulties we were experiencing.

Then, in December 1998, things started getting strange over at Flounder. Our Internet connection was sporadically interrupted, and it was noticeably slower. Whereas Flounder's technical support people had usually been on top of the situation, they were suddenly very difficult to reach. We thought about switching companies, but other ISPs laughed when we told them the price we were paying for our T-1 connection.

"What is Flounder charging you?!" asked one incredulous salesman at a prominent Internet company. "The lowest we charge is $1,000 per month. No ISP can afford to offer a T-1 connection for that price and stay in business."

It sounded like a salesman's typical ridicule of the competition, but we soon found out that his statement was true. On Dec. 28, 1998, our Web site disappeared. Before going on Christmas hiatus, we left several voice mail messages at Flounder but received no reply. Upon our return, we realized that Flounder had closed shop without a single notification to customers. Their phone was disconnected, so I drove out to their offices to see what was going on. The doors to their offices were locked, the shades were drawn, their sign was gone, and nobody answered either my pounding on the door or my cries of frustration. Our Web site, e-mail accounts and Internet connection had vanished, and we had no backup plan to deal with the situation.

In the weeks that followed, we took an involuntary crash course in Internet 101. Our first priority was to re-establish our Web site as soon as possible. Our in-house Webmaster had backup files of our entire Web site, so it was just a matter of finding a new ISP to host our Web site.

Check the history and financial background of the company to make sure they have the potential to give long-term service.

Obviously, we wanted an ISP that was reputable and well established. At the same time, we did not want one of the super ISPs that are infamous for their poor customer service. Reliable Internet Inc. seemed to fit our needs. With growing ISP competition, they were able to provide us with excellent service at a reasonable price.

Lesson One: Choose a reliable and service-oriented ISP.

- Check the history and financial background of the company to make sure they have the potential to give long-term service.
- Test their customer service and technical support capabilities. If you call and cannot talk to a live person within five minutes, it is likely that their service department is understaffed and overburdened. Go with another company. You may want to ask the company for the names of some clients that have been using the service for over a year. Call these people and find out if service interruptions are common, and if the ISP responds well to customer problems.

Once we decided on the ISP, we had to change our domain name registration information, so that our Internet address—our URL—would point to Reliable instead of Flounder. Internic, controller of all domain names in the world, informed us that this information could be changed only through e-mail correspondence. We found ourselves in a classic Catch-22: To establish our e-mail accounts at Reliable, we needed to change our domain name information; to change our domain name information, we needed an e-mail account to send in our request. After a week of getting the runaround at Internic, they finally told us to fax a letter, signed by the president of our company, confirming our request.

Lesson Two: Keep your domain name information current.

- To check the accuracy of your domain name information, go to www.networksolutions.com and type in your domain name. It will bring back important information about your Web site. Check to see if all of the contact information is correct. Incorrect information will slow the process when you attempt to switch ISPs in the future.
- Have at least one e-mail account in the office that is not tied into the main e-mail accounts associated with your Web site. For example, all of our e-mail accounts here at Griffin Communication Inc. are based upon "griffincom.com," as in "mcovas@griffincom.com." We also have a separate e-mail account, griffcom@ix.netcom.com, just in case our e-mail system goes down.

We finally figured out the Internic system and managed to get our domain name information changed. Now our Webmaster had only to upload our Web site to our new Web host, Reliable, and we would be in business. Yet there was another problem. Our entire office was outfitted for a T-1 connection, which means the wires running to our computers were special T-1 cables, not standard telephone lines. We had to either rewire our entire office with regular telephone cords or purchase a new T-1 connection. And as previously stated, the lowest price we could find for a T-1 connection was $1,000 per month.

Luckily, we were not alone in our predicament. There were other Flounder customers in our building in the same situation. In fact, the landlord of our building was the one who had located Flounder, and he felt somewhat responsible for finding us a new, reasonably priced replacement. The landlord came across Fast Connect Internet, a local ISP that vowed to get us a new T-1 connection within four days, and for a low cost.

The landlord called a meeting between the vp of Fast Connect and the tenants in our building to explain the situation and answer our questions. That salesman's comment from weeks before came immediately to my mind, so I asked, "How can you provide this connection at such a low price without going out of business?" The vp explained that Fast Connect was using new wireless connections via satellites, which cut the costs associated with ground wires.

Although we were wary about going with another startup company, we felt secure knowing that all of our eggs were no longer in one basket. If Fast Connect closes shop, our Web site and e-mail accounts will continue functioning at Reliable. Furthermore, we researched Fast Connect's history and financial background, and they appear to be a company that will be around for years to come.

Lesson Three: segregate your exposures.

- You may want to have one company host your Web site and e-mail accounts, while another handles your Internet connection. That way, if something happens to your Web site and e-mail accounts, you will still have an Internet connection, and if something happens to your Internet connection, you will still have your Web site and e-mail accounts.
- Also, make sure your Webmaster keeps duplicate files of your entire Web site, including all component text and graphic files. If your Webmaster function is outsourced, keep duplicates onsite as well.

After three solid weeks of downtime, we finally got our Web site operating again, as well as new e-mail accounts and a superfast Internet connection. Things are back to normal now. We do most of our communicating through e-mail, we haven't been to the library in months, and we all feel very secure with our identity now that we have a new and improved Web site.



Marcus Covas is the managing editor of riskVu, a monthly online magazine, and The Risk Management Letter, a print journal. For more information, visit the World Wide Web site www.griffincom.com, or e-mail Mr. Covas at mcovas@griffincom.com.

Norwood-Dingell threatens health care

Herculean requirements would produce mountains of paperwork and kill indemnity plans

By Ann Cato

HEALTH REFORM LEGISLATION is one of the hottest topics in 1999 on Capitol Hill. Reps. Charlie Norwood, R-Ga., and John Dingell, D-Mich., recently succeeded in getting such a measure, H.R. 2723, passed in the House.

The Norwood-Dingell Bill is a seriously misunderstood piece of legislation. While it has been characterized by the news media as HMO reform legislation, the truth is Norwood-Dingell goes far beyond health maintenance organization reform.

If any version of Norwood-Dingell ultimately becomes law, Americans can expect to see an explosion in litigation, a gigantic increase in red tape, rapidly rising health insurance costs and a further decline in the number of individuals with health insurance coverage.

Regardless of how it is described on the evening news, Norwood-Dingell applies to all health insurance, not just HMOs. It goes so far as to pull indemnity plans, a k a fee-for-service plans or "regular" health insurance, under its regulatory control. Indemnity plans typically have the following characteristics:

€No gatekeepers or primary care physicians;

€Patients' doctors, not the plan, are custodians of medical records;

€The doctor is not an employee or agent of the plan;

€The plan does not use capitation pricing arrangements; and

€The plan is in no way the provider of health care.

Moreover, indemnity coverage historically has been similar to auto and homeowner insurance in the sense that if a loss is incurred, in the form of, say, a hospital confinement or surgery, the bills are submitted to the insurer. The insurer in turn determines whether the services were covered by the plan and makes payment accordingly.

The point is that, while indemnity plans may have pre-certification requirements and so forth, they are, unlike HMOs, in no sense providers of health care services. This is an important distinction, in that Norwood-Dingell as written more or less presupposes that all Americans are covered by HMO-style coverage. As difficult and costly as it may be for HMOs to comply with Norwood-Dingell, it will be virtually impossible for most indemnity plans to comply.

Ironically, if indemnity plans are successful in complying with Norwood-Dingell, it will be because they begin operating like HMOs.

Wal-Mart Stores Inc. provides a generous indemnity plan to hundreds of thousands of employees and their family members at affordable prices. Wal-Mart has consciously stuck with indemnity health plans in the belief that these plans will ultimately prove more cost effective than HMOs, and recent history has borne out that belief. However, Norwood-Dingell threatens the existence of such indemnity plans.

The following is just a small sampling of some of the seriously flawed provisions in the Norwood-Dingell bill:

Section 101(b) requires that "any utilization review" program, very broadly defined, must use "written clinical review criteria." This will put an incredible burden of proof on health insurers in an unprecedented way. It appears that Norwood-Dingell is attempting to make health plans prove that a procedure is not effective as opposed to putting the burden of proof on the medical community. If a renegade doctor attempts to practice questionable medicine—and what insurance administrator has not seen this over and over?—Norwood-Dingell will force insurers to have contemplated the practice in advance and to have developed written criteria to deal with it. This is impossible at worst, ridiculous at best.

Norwood-Dingell mandates an overabundance of stringent deadlines that group health plans and health insurers must meet to avoid sanctions. These mandates are wildly out of balance and will be impossible for any indemnity plan to comply with. For example, Section 101(d) says that, in certain circumstances, health plans must provide for "prior authorization" within "72 hours after the time of request for prior authorization."

Norwood-Dingell as written more or less presupposes that all Americans are covered by HMO-style coverage.

What's missing is the requirement that the doctor provide the plan the medical records necessary to complete the review at all, let alone within 72 hours. Norwood-Dingell provides no sanctions against a doctor who simply refuses to provide the medical records. If the health plan fails to respond within 72 hours, however, it can be subject to a variety of sanctions, penalties and damage awards. HMOs that actually possess the patient's records may have a prayer of complying with this. But it will be hopeless for indemnity plans unless they require full patient medical records to be submitted with each claim. Anyone for paperwork reduction?

Section 101(f) provides a very broad definition of a claim that includes a request for "eligibility." Regarding eligibility verification as a claim seems fairly benign to people who have never processed claims before. But, if this becomes law, it will be the source of a huge amount of litigation and penalties. Why? Norwood-Dingell permits unlimited punitive damage awards for wrongful claim denials and, therefore, wrongful eligibility denials. The problem is that neither HMOs nor indemnity plans can ever hope to have perfect eligibility information 100% of the time, if for no other reason than the fact that employers don't run daily payroll updates.

Let's look at an example: Assume a company hires a new employee who is eligible for coverage as of the date of hire. The new employee fills out the enrollment form on his or her first day and forwards it to the personnel department, which in turn forwards it to payroll, which in turn provides a biweekly update to the insurer.

In this scenario, the employee is covered by the plan for a period of one or two weeks before it is possible for the insurer to verify eligibility. If during that one- or two-week period the employee sees a doctor who makes a "request for eligibility," the insurer could, depending on state law, be subject to punitive damage awards for making a wrongful denial. Moreover, the bill does not provide the insurer the option of doing only retroactive eligibility verifications. Again, the litigation potential for this is mind boggling, especially to indemnity plans that would much prefer not to provide eligibility information and have the physician render whatever care was needed and check with the plan later. Indemnity plans began providing eligibility verification, flawed though the process may be, only as a courtesy to doctors, and they certainly never intended that courtesy to be a source of punitive damage awards.

Another major mistake in Norwood-Dingell is to allow doctors to have appeal rights against group health plans and health insurance, as spelled out in Section 102. Doctors may arguably have some standing in an HMO. Historically, though, doctors have had no rights or standing in an indemnity plan. Who really believes it will be helpful to bog down health insurance with mountains of frivolous appeals by a small number of unscrupulous health care providers, whether they are M.D.s, chiropractors, podiatrists, naturopaths, psychologists, social workers, etc.?

Section 114 requires health insurers, even indemnity plans, to make referrals to specialists. This also, ironically, will force indemnity plans to operate like HMOs to comply with the bill. From an indemnity plan standpoint, a better law would be to require patients' own doctors to make specialist referrals, instead of the health insurers.

Another example of Norwood-Dingell assuming everyone is enrolled in an HMO involves prescription drug coverage, as detailed in Section 118. This section mandates that any group health plan, even an indemnity plan, that uses a formulary must "ensure participation of participating physicians and pharmacists in the development of the formulary."

How can a wide-open indemnity plan, in which enrollees have equal freedom to utilize any doctor and pharmacy in America, hope to solicit and receive feedback from "participating physicians and pharmacists," whatever that means in an indemnity plan environment? Will indemnity plans be forced to limit access to a relatively small group of doctors and pharmacies to ensure their participation in formulary decisions? What does it mean for doctors and pharmacies to "participate" in decisions regarding formularies? Do they all have to agree? Will there have to be a majority vote?

Section 121 of Norwood-Dingell proposes a whole new set of communication mandates that are mainly redundant. In surveys, many health plan enrollees say they are getting so much information now that they cannot find what they want when they need it.

It also contains provisions that will be next to impossible to comply with. For example, a health insurance plan is required to provide information about "participating" doctors, including whether each doctor is available to accept new patients. This might make sense in a plan such as an HMO that has a very limited selection of doctors. But how can this make any sense in an indemnity plan system? Or in a PPO where, say, more than 80% of the doctors in a state or region participate, such as a Blue Cross PPO? And many doctors in the country open and close their practices to new patients from time to time in an unpredictable way.

Are insurance plans supposed to require all doctors to notify them each time the doctors stop taking new patients or re-open their practice? Talk about a paperwork explosion. The only way plans could be expected to comply with this without adding huge additional red tape and costs would be if doctors were precluded, by law, from opening or closing their practices to new patients except in coordination with the periodic—maybe quarterly—production of a plan's provider directory.

Title III of the Norwood-Dingell bill would open the door to unlimited punitive damage awards in state courts against insurers, HMOs, plan administrators and others. Some proponents of allowing punitive damage awards claim that employers who don't actually participate in

See **Cato** *on page 42*

Think guardian angel.

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Cato

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claims decisions will somehow be protected. The truth is that no one who pays health insurance premiums—whether an employer or employee—will be left untouched by this. After all, insurers and administrators have only one source of revenues to pay for defensive insurance administration and litigation: higher charges to the public.

In reality, every dollar spent on litigation, damage awards, defensive insurance administration, and red tape mandated by Norwood-Dingell will be a dollar that will have to come out of the pockets of individuals.

It is hard to imagine that anyone outside of Washington could truly believe that the "cure" for ailments in health insurance today can be found in unleashing armies of treasure-seeking plaintiffs' attorneys on the American public. Without question, doctors bear the brunt of a huge amount of frivolous litigation, but the way to solve their problem is not by putting health insurers in the same undesirable soup.

What has been addressed here is but a small sampling of the flaws with Norwood-Dingell. Health care transactions have evolved into a three-party system, one involving doctors, patients and "payers." Norwood-Dingell would clearly give a privileged position to doctors at the very great expense—in terms of both direct costs and red-tape mandates—of the other two parties.

Many surveys show that the average individual's biggest concern is the affordability of health insurance, not the right to sue more people. If Congress truly wants to protect citizens, it should look for legislation that will make health insurance more affordable, not more expensive; more available, not more restrictive; and more reliable, not more bureaucratic and bound by red tape. BI



Ann Cato is senior corporate counsel for Wal-Mart Stores Inc.'s Legal Team in Rogers, Ark.

Veteran clears up political risk misconceptions

"Political Risk Insurance Guide"
By Daniel Wagner
Published by International Risk Management Institute, 12222 Merit Drive, Suite 1450, Dallas, Texas 75251-2276; 972-960-7693
$54.40

By Kevin M. Quinley

Tired of office politics? Try global politics, and—tougher still—try managing political risks. Recent headlines have troubling implications for risk managers working for companies with far-flung concerns:

- "Indonesian Rioting Continues"
- "Ecuador Declares Bank Moratorium"
- "Insolvencies Plague Japanese Companies"
- "Third World Countries Unprepared for Millennium"

Managing political risk is a significant and growing issue for a broad cross-section of businesses operating in developing "companies. The risks of expropriation, currency inconvertibility/non-transfer, political violence and a host of related non-commercial risks loom. Left unmanaged, these risks can render even the most promising transaction unprofitable.

In a global business environment controlled by fragile international law, political risks have emerged as a central concern for investors, traders and project financiers operating in the developing world. High-profile cases in countries such as India and Peru have provided not so subtle reminders that the sovereign rights of nations will continue to affect business' commercial rights into the foreseeable future.

As a result, political risk insurance has become an essential tool for managing risk and, therefore, for doing business in the developing world. Demand for the coverage is greater now than at any time in the past. Further, there exists a very real need on the part of insurers, brokers, risk managers, accountants, advisers and—not least of all—investors and traders to know how to buy and use political risk insurance.

The International Risk Management Institute and author Daniel Wagner—formerly of Aon Corp.—have partnered to help risk managers weather these political storms with their new "Political Risk Insurance Guide."

Mr. Wagner is highly qualified to deliver an incisive analysis of political risk insurance. A veteran practitioner, Mr. Wagner is managing director of Marvin Zonis & Associates, a political risk consulting firm in Chicago. His past work at the World Bank's Multilateral Investment Guarantee Agency (MIGA) in Washington, as a political risk underwriter at American International Group Inc. and as a political risk broker provides a broad and diverse foundation of experience that is reflected in his writing.

"I've seen misconceptions about political risks and related coverage destroy companies operating overseas. I've also seen companies survive and even thrive in world arenas based on their understanding of political risk insurance. This book is my contribution to the pursuit of informed decision making about political risks on the part of international businesses," writes the author.

Mr. Wagner packs much into this 120-page book. He divides his approach into main sections, including: Political Risks in a Risky World; An Overview of Investment Insurance; An Overview of Trade Coverages; Underwriters and the Underwriting Process; Comparison of Private and Public Sector Programs; and a separate section about brokers.

In addition, Mr. Wagner provides a case study examining foreign investment in Indonesia, and he rounds out the discussion with a chapter on claims and one on the future of political risk coverage.

The appendices include a listing of major underwriters, Berne Union members and selected resources for underwriting information.

For risk managers working for companies that have only domestic operations, the "Political Risk Insurance Guide" will have little interest or appeal. But for the increasing number of risk managers working for firms that compete on a global playing field, this new book is essential reading. BI



Kevin M. Quinley is senior vp of risk services for MEDMARC Insurance Co. Inc. and subsidiary Hamilton Resources Corp., both of Fairfax, Va. He holds the Chartered Property & Casualty Underwriter and Associate in Risk Management designations.

Suit for discovery considered 'suit seeking damages'

A suit for pretrial discovery was a "suit seeking damages" within the meaning of a commercial general liability insurance policy requiring the insurer to defend suits seeking damages, according to the Court of Appeals of Washington.

In 1992, APA-the Engineered Wood Assn. was issued a CGL policy by Glen Falls Insurance Co.; the policy provided coverage for damages because of "bodily injury" or "property damage."

In August 1992, Hurricane Andrew struck Southern Florida, tearing the roofs off many houses. As a result of the hurricane, Prudential Property & Casualty Co. made substantial payment for property damage to many of its policyholders. Thereafter, Prudential sued APA in Florida seeking the discovery of facts within APA's knowledge and discovery of certain documents essential to aid in an action to be commenced by Prudential against APA. In essence, Prudential alleged that APA was negligent in the manner in which it had constructed plywood sheathing roofs, and that this negligence had led to much of the damage. APA asked its CGL insurer to defend Prudential's suit, but Glen Falls refused, asserting that Prudential's suit was not a suit "seeking damages" within the CGL coverage. APA incurred over $400,000 in attorney's fees arising out of Prudential's discovery suit, although Prudential never proceeded with any further litigation against APA. APA then brought a suit against Glen Falls seeking recovery of the attorney fees. The trial court ruled for the insurer.

The appellate court said that the narrow question here was whether a claimant's suit for discovery, prefatory to seeking damages but not yet doing so, should be characterized as a suit "seeking damages" within the meaning of this CGL policy. The court decided that such a suit should be considered one seeking damages, and it reversed the trial court decision.

APA vs. Glen Falls Ins. Co.,
Court of Appeals of Washington,
March 12, 1999 (*BI*/02/0. - $10)

Legal Briefs

Disability benefits denied to retiree

When an employee voluntarily retired and was not looking for work, he was no longer entitled to disability benefits, according to the District of Columbia Court of Appeals.

George Baliles sustained a back injury while working for the Washington Metropolitan Area Transit Authority in 1993. He received medical treatment and returned to work in late 1993 and worked until March 1994. In March 1994, he experienced severe back pain and was diagnosed with a lumbar disk protrusion. Mr. Baliles received physical therapy rehabilitation.

His doctor recommended that he return to work in December 1994, with one month temporary restriction on lifting in excess of 50 pounds. Mr. Baliles returned to work on Jan. 9, 1995. In mid-January, he learned his position was subjected to reduction in force effective March 17, 1995. He decided to retire and use as much of his sick leave as possible before his actual retirement date. He also wanted to avoid the loss of his health and life insurance. Mr. Baliles went on sick leave Jan. 23, 1995, and retired April 1, 1995. After retiring, he sought temporary total disability benefits from Jan. 23, 1995, to the present and continuing. His petition was denied.

The appellate court said that Mr. Baliles voluntarily limited his income by continuing in sick-leave status when he was able to work, and by deciding to retire after the reduction in force even though he was able to work. Thus, the court found no evidence that he was forced to retire. Also, the court said that there was nothing in the record to suggest that Mr. Baliles' retirement was related to his work injury. Thus, the court said his retirement was traceable to his own economic decisions pertaining to his sick leave, health and life insurance benefits. His request for compensation benefits was denied.

Baliles vs. District of Columbia Department of Employment Services, District of Columbia Court of Appeals, May 6, 1999 (BI/01/D. - $10) BI

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



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Esenberg

Continued from page 1

admits Mr. Esenberg, who has a degree in business administration from Campbell University in Buies Creek, N.C.

Mr. Esenberg was hired in 1969 as a city accountant fresh out of the U.S. Army, in which he served after he graduated from college. The city didn't have a unified insurance program, and after an outside consultant recommended that Virginia Beach centralize its insurance procurement, Mr. Esenberg was charged with implementing the proposal.

In retrospect, being handed the assignment was "probably the best thing that ever happened—at least the luckiest," he said.

Although the city required that all insurance be purchased through one insurance agency, different departments had placed their own coverages, he said. For example, the city's purchasing agent handled property and auto liability, while the finance department handled workers compensation, general liability and employee bonds.

"Everybody else bought whatever they thought they needed," such as inland marine for heavy equipment and contractors equipment, he said. "They were buying all kinds of stuff."

Mr. Esenberg called the process of centralizing coverage "very educational." Because the city was relatively small, "within six months we had all of the insurance policies in one location, we had eliminated a number of policies that were on equipment we no longer had." The departments had continued paying for policies on equipment even after it was gone.

Mr. Esenberg became the only employee authorized to buy insurance, and he ran into no resistance. "I think the purchasing agent was delighted to get rid of the headache of trying to keep track of vehicles and buildings," he said.

Looking back at his first year on the job, Mr. Esenberg said that in 1969, "very, very few people—in fact, nobody I knew—had ever heard of the term 'risk management.' " While risk management existed in the private sector, it did not in the public sector.

His responsibilities at that time consisted basically of insurance procurement, working with auditors and dealing with claims adjusters and safety and loss control people, he said. The job was "basically part-time" as well, said Mr. Esenberg, who was also working on the city budget, annual financial reports and day-to-day accounting at the time.

Flash forward 30 years, and "today, there's very little difference between the level of quality and expertise" between public sector and private sector risk managers, Mr. Esenberg contends. The public sector has taken a lead in some areas, such as managing civil rights risks and regulations dealing with Fair Labor Standards Act, he maintains.

Mr. Esenberg has responsibility for "everything the city does," except risks handled by the board of education. The exposures he handles range from police helicopters to equipment storage sheds and the activities of various boards and commissions.

Virginia Beach today has a $2 million self-insured retention for liability risks and administers its own claims.

The city belongs to States Self-Insurers Risk Retention Group, a Vermont-domiciled RRG that writes Virginia Beach's excess liability program.

It also self-insures its workers compensation program. The city buys excess workers comp coverage from Employers Reinsurance Corp. Trigon Administrators administers the workers comp program.

States Self-Insurers Risk Retention Group was created by risk managers in 1986 in the midst of the liability insurance crisis. Mr. Esenberg said that as the liability crunch of the mid-1980s approached, "we knew the market was going to tighten" and the city began building its reserves "but didn't anticipate that we'd have to increase it to 100% self-insurance. I never saw anything go that bad that fast."

"We couldn't get any insurance, so we look at it as a long-term program" said Mr. Esenberg, noting that he has been involved with the group since its "early stages." "Basically, I run the city's insurance company, because we are self-insured."

That increase in responsibilities was far from predictable in 1969.

It was 1973 before Mr. Esenberg became a full-time insurance administrator. He became risk management administrator in 1976.

"They were going to call me risk manager, but the human resources director, said, 'We really only have one manager and that's the city manager, so we've got to come up with something different.' "

By the beginning of his second decade on the job, Mr. Esenberg said he and others were learning that risk management "could actually produce positive financial results for our employers. It was much, much more than buying insurance effectively; it was really trying to get control of your risks."

Risk managers were joining RIMS and taking advantage of educational opportunities through state and national conferences and seminars, he said.

In addition,"the major brokers realized the benefit of dealing with informed and knowledgeable risk managers," he said. Brokers realized that if risk managers succeeded and had good results, brokers also would have good results.

But the broker/buyer relationship was not without its problems, he said, most significantly a certain lack of trust. Risk managers couldn't talk directly with underwriters without the broker or agent involved, he recalls.

Nevertheless, risk managers' status was improving as they were being viewed as both professionals and managers.

Mr. Esenberg called the degree of change in the profession in the 1980s "phenomenal."

By the end of the decade, "We really were a recognized profession. Our importance in the organization really had changed dramatically. We were viewed by senior management, as well as by our peers in middle management, as being an integral part of the organization," he said. In addition, more colleges began offering degrees in risk management and insurance.

> *'If we have done our jobs, the risk management philosophy has really become an integral part of the fabric of the organization.'*
>
> — Bob Esenberg



PHOTO: KEVIN ELLIOTT

"We were not only expected to be experts in insurance matters but also in all areas of the management discipline. We were really looked at as part of the management team. Senior management looked at us for assurances that there wouldn't be any surprises when things went bump in the night. And we all know that things do go bump in the night. It was extremely difficult at that time to be successful in some cases because the civil justice system was totally out of control. How much insurance do you need for your risks? How much can you buy?"

Soon after that, Mr. Esenberg served as president of RIMS. Giles Dodd—director of finance and assistant city manager of Virginia Beach and the man who had stressed the wisdom of never taking oneself too seriously—had encouraged Mr. Esenberg to get involved with RIMS. Although Mr. Esenberg never aspired to the presidency, he considers becoming president of RIMS his greatest professional accomplishment.

"It's always been a well-run organization and has had the highest standards set for it by its leadership," he said. He credits Ron Judd, who retired as RIMS executive director in 1991, with making RIMS what it is today.

"What a visionary that man was," said Mr. Esenberg.

RIMS has "really taken the lead in developing educational materials" for risk managers and has encouraged them to become increasingly involved in public affairs at the state, provincial and national levels, said Mr. Esenberg.

He credits RIMS with raising the public profile of the profession as well.

"One of its greatest success stories," he maintains, is that "most people who you talk to don't have to ask you what a risk manager is," he said.

"I knew we had made it when" risk management was mentioned on the TV show "Seinfeld," he quipped.

Higher profile, greater professionalism and enhanced prestige mark the profession 30 years after Mr. Esenberg went to work for Virginia Beach.

"If we have done our jobs, the risk management philosophy has really become an integral part of the fabric of the organization. People will not wait until something goes wrong to talk to the risk manager," he said.

Instead, risk managers are consulted during planning. "We're actively involved in every facet of the organization. Nothing is really off-limits, even extremely politically sensitive issues. We're expected to be able to deal with those on a confidential basis."

Risk managers are increasingly seen as being able to produce positive results for the bottom line, he said. "It's a different world. We're not clerks buying insurance and doing something else most of the time. We are technical experts as well as a major part of the management program of the organization," he said.

"Risk management has changed so dramatically over the last 30 years; if it changes as much in the next 30 years, we may be the kings of the world," he said with a laugh.

More seriously, he said he believes that risk management has the opportunity to become even more influential than it is now. "I think the risk manager of today is the chief risk officer of tomorrow," he said. To accomplish this, risk managers will need more education, including the RIMS Fellow in Risk Management program and graduate degrees, he said.

"We're part of the management team. We just have a specialty, and that specialty needs to encompass knowledge of the entire organization," he said.

While a city manager is technically the chief risk officer of the city, as the chief executive officer is the chief risk officer of a corporation, "in reality, the risk manager should be the right-hand man of whoever is at the top," Mr. Esenberg says. "Nobody in the organization should know more about the overall organization than the risk manager, if the risk manager is allowed to do his job and is capable of doing his job and does it right," he maintains.

Looking back at his career, Mr. Esenberg highlights other lessons he has learned:

€"Risk management is risk management. You're a risk manager first, you learn your employer's business and you apply the principles of risk management to that business. I don't see any difference in public sector risk management and private sector risk management. It's a different business, but the philosophy, principles and the management of risk are the same. I learned early on that I could learn from my private sector counterparts."

€"Good risk managers do not deal with generalities. They do their homework. They learn the operations and the organization. They become knowledgeable and inform themselves about issues before they start giving people advice."

€"As a risk manager, you better be the best salesman that you've ever seen. You don't go and tell the police chief or the fire chief or the director of public works what they're going to do and how they're going to do it and how they're going to control their risks. You work with them—they are the experts in their fields. You need to treat them with respect, and then, in turn, hopefully they'll treat you with respect—if you let them know that you're interested in them, their people, their operations, their bottom line, their success, and you're going to help them."

€Don't allow "people to use you to be the reason not to do something."

Mr. Esenberg recalls becoming embroiled in a disagreement between a city agency and a councilman. The councilman wanted the agency to do something, and the agency didn't want to. Mr. Esenberg said he went along with the agency and gave all kinds of reasons against proceeding with the project. "The matter went to city council, and city council said, 'Well, that's fine, but your job is to figure out how to do it.' We learned how to do it."

€Be prompt in responding to questions and requests from the departments.

Mr. Esenberg advises individuals considering risk management as a career to be patient. "There are a lot of entities that have risk managers, but there's only one risk manager for each. You've got to expect that you're going to start slow," he said.

He also urges would-be risk managers to take advantage of continuing education and to "listen—always listen. Network with your peers, and learn what they have learned," he said. "If you can avoid reinventing the wheel, use your networking abilities to do so." He also urges them to take advantage of technology that "makes it so easy for risk managers to communicate."

Finally, and most importantly, "don't ever take yourself too seriously, no matter what you're doing. It's an easy way to get knocked down really hard," he warns.

Although Mr. Esenberg will retire from the city on Dec. 31, he won't be out of work long. On Jan. 1, 2000, he will begin working as vp of Minneapolis-based Berkley Risk Administrators Co. and serving as president of States Self-Insurers Risk Retention Group. He will continue to live in Virginia Beach, where he and his family now have deep roots.

Mr. Esenberg said the risk retention group wants to expand products and services for member owners beyond excess liability and environmental liability policies.

"I speak their language. I've been one of them, and I look forward to the opportunity.

"This is just going to be running an insurance company for a lot of public entities," he said.

Mr. Esenberg has already received his first assignment.

"My new boss told me I needed to do one thing—I needed to play golf better. I hope that's a duty assignment and I can start working on that when the weather gets right." BI

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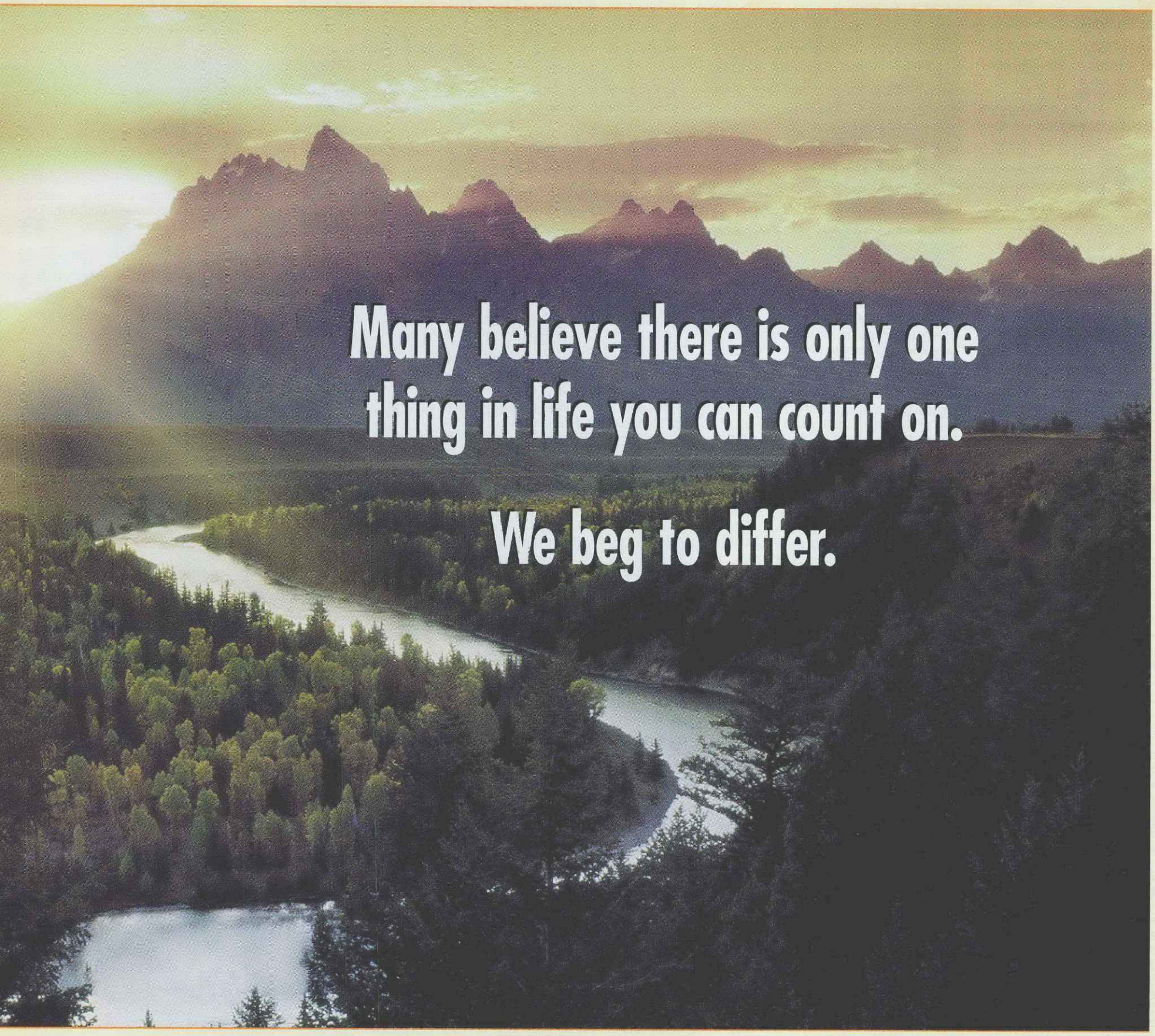




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Oversight

Continued from page 2

pension funds," he said.

Another factor is the growth of information technology and the ability of management to communicate with shareholders, he added.

At a basic level, the aim of corporate governance is to "address inherent conflicts of interest between managers and the owners/shareholders of a company," Mr. Lajtha said.

Strong corporate governance also produces good information for shareholders about corporate activities and performance, he noted. In addition, it also results in boards of directors adhering to a risk management methodology and providing commentary on companies' risks, Mr. Lajtha said.

Mark Butterworth, group insurance risk manager for Prudential Corp. P.L.C. in London, said that new guidelines and laws in several European countries are a catalyst for this new emphasis on risk management.

In the United Kingdom, the so-called combined code that sets out principles of good governance for publicly traded companies calls for a board of directors to be supplied with information on which to base its decisions, including information from risk managers and their advisers, said Mr. Butterworth, who is also chairman of the Assn. of Risk & Insurance Managers.

The Combined Code on Corporate Governance, which consists of the combined recommendations of several public and private working groups on best practices, was published in 1998. Its principles were adopted as requirements for companies listed on the London Stock Exchange (*BI*, Oct. 4).

As the combined code is a set of principles, rather than law, it is more flexible than the rules in some other countries, such as Germany's "KonTraG" law, Mr. Butterworth noted.

The KonTraG law—which was adopted in 1998 and took effect with 1999 reports—requires German companies to have risk management and control systems in place as part of corporate governance and to disclose risk management information to shareholders (*BI*, Sept. 6).

The final piece of the U.K. combined code is the Turnbull report, which was commissioned by the London Stock Exchange and released in September (*BI*, Oct. 4).

The Turnbull report calls for, among other things, "greater disclosure of any potential hazards by a company to its shareholders," according to Mr. Butterworth.

AIRMIC provided input to Nigel Turnbull, who led the working group that bears his name, seeking to offer the group a broader risk management perspective, rather than having solely an auditor view, Mr. Butterworth said.

"The development of this code has been accompanied by greater board awareness of risk management practices," he said.

At the same time, institutional investors are asking boards more questions about their risk management procedures, which, together with Turnbull, could lead to greater communication between risk managers and boards of directors, Mr. Butterworth said.

As directors eventually are held accountable by shareholders for the adequacy of their risk management oversight, their liability exposure will increase, said Karen A. Morris, vp and European executive protection underwriting counsel for Chubb Insurance Co. of Europe S.A. in Paris.

"Companies can no longer say that the board is not responsible for disclosing risks, or describing how it is managing them" to shareholders, she said.

These new corporate governance guidelines don't require directors to be risk management experts, said Mr. Lajtha of Schlumberger. "But they have to know how the system works and be able to gauge and describe its effectiveness," he said.

Implementation of these rules may lead to changes for risk and insurance managers, predicted Mr. Butterworth. "It will require the development of a companywide risk management methodology," he said.

As a result, there may be challenges over "ownership" of the risk management function in an organization, he said. Current risk managers will have to ensure they are included, for example, in any new committees formed to examine companywide risks, Mr. Butterworth advised.

Risk managers likely will still be called on to provide risk financing solutions, and they also can measure how well the company's risk management methodology is working and the value it is receiving from outside advisers, Mr. Butterworth said.

The expansion of corporate governance also will "raise the expectations of institutional shareholders to see this level of reporting even in countries where such regulations. . .are not yet in place," he predicted.

"The legal responsibility of a corporation has not changed, but (risk management practices) must now be reported to auditors," said Harry Daugird, risk management director of ABB Asea Brown Boveri A.G. in Heidelberg, Germany. "Top management may not understand what this entails, especially in years where there were no major losses," he said.

As part of governance, a board's job is to ensure that management is not taking unmanaged risks, says David Pimm.

While this may pose a challenge for risk managers, it also offers them an opportunity to help streamline companies' risk management reporting processes, Mr. Daugird said. "It gives us a chance to raise our profile in the company, to promote our risk mapping expertise," he said.

An executive with one of Europe's largest institutional investors offered his view of risk management's role in corporate governance.

"I use the term 'corporate governance' to describe how management represents the long-term interests of shareholders," said Alastair Ross-Goobey, chief executive of Hermes Pensions Management Ltd., which is the principal investment manager for the £45 billion ($75 billion) British Telecom pension fund, as well as that of the British Post Office.

Minimizing risk to the investor is the goal of encouraging corporate governance that looks to build long-term value, Mr. Ross-Goobey explained. Companies that do not abide by corporate governance rules face increased costs and risks in attracting capital, he said.

The collapse of Barings P.L.C. in 1995, following $1.4 billion in unauthorized trading by Nicholas Leeson, illustrated the dangers of a situation in which a company's board did not question possible fraud, Mr. Ross-Goobey said. In Baring's case, the directors wanted to ignore the risk of fraud, preferring to believe that Mr. Leeson's huge investment gains were real, he said.

In the United Kingdom, the Turnbull report requires U.K. board members to report on the extent of risk control they have over the company, he said. Directors will be "compelled to understand risk management controls and reporting structures. If they do not, they should be held accountable," he said.

The United Kingdom certainly is not alone in setting rules for corporate oversight and control of risks, a risk management consultant says.

In addition to Germany's KonTraG initiative, similar governance rules have been adopted in France and the United States, said David A. Pimm, a director of the Global Risk Management Solutions practice at PricewaterhouseCoopers in London.

Governance is about a board's accountability to stockholders, and also providing direction and control to management, he said.

As part of governance, a board's job is to ensure that management is not taking unmanaged risks, Mr. Pimm said.

Mr. Pimm defined "risk" as an event or uncertainty that may enhance or impede an ability to achieve current or future objectives.

"It's not just about hazards or downsides, but also about uncertainty and opportunity," he said. "It's not only a bad thing, as one does not make money without taking risk," he observed.

Why is corporate governance so involved with risk management today?

Risk management is involved not only because of the scandals of the past, but also because of an effort to respond to rapid change, Mr. Pimm said. Change creates new risks, including rapid growth, new technology, new legislation, changing customer needs, expanding foreign operations, new business lines, new leadership, corporate restructuring and new information systems.

One such example might be the risks to a retailer from the growth of Internet sales, Mr. Pimm said. For the company that can respond to this new competitive challenge, however, there may be new opportunities.

The future of risk management is that it will become more embedded in how business is done, Mr. Pimm predicted. The risk manager will increasingly help other managers in an organization to manage their risks and do their jobs, he said.

Mr. Pimm said that, ultimately, he sees risk management as the duty of line management within an organization, and the risk manager's role is to oversee and support how that is done. Some companies, he noted, are rewarding or recognizing line managers who effectively minimize their risks.

That viewpoint drew a question from a risk manager in the audience, who asked whether there is really any corporate governance of risk if the function is left to line management.

"I mean that line managers should be most aware of risks and potential solutions," Mr. Pimm responded. "There is still a role for a central risk manager function to develop financing programs, develop broader risk management approaches and derive a risk-reporting framework," he said. "But the actual solutions, I see with line management."

An audience member also asked the panelists whether there is a conflict of interest when audit companies, such as PricewaterhouseCoopers, also provide their clients with risk management consulting services.

"I don't have a sense of conflict of interest, but I can see how one might," Mr. Pimm said. He said he sees no such conflict because he is only providing advice to clients, and is not taking responsibility for how well that advice is implemented or how well risks are managed.

Hermes' Mr. Ross-Goobey said investors, too, sometimes wonder whether the non-audit work of auditors should be limited.

"Could it compromise their oversight? It would be very dangerous if all risk control systems were set up by the company auditing it," he remarked. BI

Enterprise, integrated programs expand choices

By RODD ZOLKOS

BERLIN—Integrated risk financing and enterprise risk management programs are not replacements for traditional insurance but rather ways to address previously uncontrollable exposures, according to a panel of risk financing experts.

Speaking at the Federation of European Risk Management Assns.' Risk Management Forum '99 last month in Berlin, James V. Davis, chairman and chief executive officer of Willis Advanced Risk Management Solutions in Nashville, Tenn., noted, "At the end, what we want to do is eliminate or reduce risks that were previously thought to be uncontrollable."

"New approaches to risk and insurance management do not necessarily eliminate or invalidate established methods," added William J. Kelly, a managing director at J.P. Morgan & Co. Inc. in New York.

"To me, the real value of integrated and enterprise risk management is not as radical alternatives to insurance, but rather as additional methodologies focusing on exposures and financial needs never previously addressed, at levels never before attained," Mr. Kelly said.

In considering enterprise risk or integrated risk management options, as well as traditional insurance coverages, each organization must consider what is appropriate for its own needs, Mr. Kelly said.

"There is no one way to perform risk and insurance management, just as there is no one way to design an investment portfolio," he said. "It depends on the nature and goals of the client."

Robert J. Cooney, president and chief executive officer of Max Re Ltd. in Hamilton, Bermuda, noted that a typical insurance program has towers of capacity for various risks spread among different insurers, often with reinsurers standing behind them, with the coverages usually placed on an annual basis.

"I would suggest that while this is a typical look for most organizations, and probably serves some organizations well, it probably isn't the most efficient," Mr. Cooney said.

Multiyear/multiline programs can offer administrative efficiency, he said. The next step, then, is an integrated risk program, "where risk managers and CFOs are starting to think enterprise risk and (ask) 'Is it more cost effective to start packaging event risk with other risks or financial risks?' "

'New approaches to risk management don't necessarily invalidate established methods,' says William J. Kelly.

Combining uncorrelated risks in an integrated program should allow for overall price reductions to the insurance buyer, Mr. Cooney said.

While such savings were the original motivation for integrated risk programs, "I think it's become more of a coverage issue now," he said.

Mr. Davis noted that the traditional insurance approach is transaction-oriented, and is a defensive strategy based on historical factors. Enterprise risk management, on the other hand, is a consultative approach, with the transactional portion just a small part of the overall process.

Enterprise and integrated risk approaches offer several potential advantages, Mr. Davis said. For European risk managers, for example, the role such insurance programs could play in meeting corporate governance requirements can be a reason for considering them.

"As corporate governance takes hold and where a specific implication of corporate governance is that a report will be made to the directors annually of all the risks faced by the organization. . .then somewhere along the line an individual or group of individuals is going to have to step up to prepare that report," he said.

Other reasons Mr. Davis suggested for considering enterprise risk management or integrated risk programs include stock analysts' increasing sensitivity to unfavorable deviations from earnings targets, accounting rule changes that are moving toward increased disclosure of risks and credit rating agencies' use of more sophisticated models to calculate risks.

The notion that taking an enterprise risk approach can create a competitive advantage is another reason for considering such an approach, he said.

Mr. Davis cautioned that "These approaches do involve a heavy use of statistical and econometric modeling, and they can degenerate into black box exercises. But, they don't need to."

And, Mr. Davis noted, one obstacle to integrated risk financing or enterprise risk management is that many CFOs aren't willing to exchange upside financial potential to reduce downside volatility. "But there are a good many CFOs who are willing to do just that," he said.

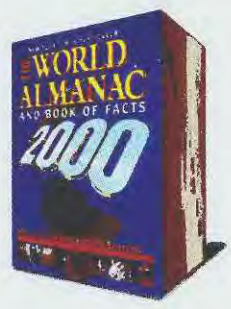
Mr. Kelly suggested several possible concerns with integrated risk financing. Among them, he noted, is that "When introduced, integrated programs were written on a claims-made basis, rather than on an occurrence form. This is a major difference."

See **Integrated** *on page 53*



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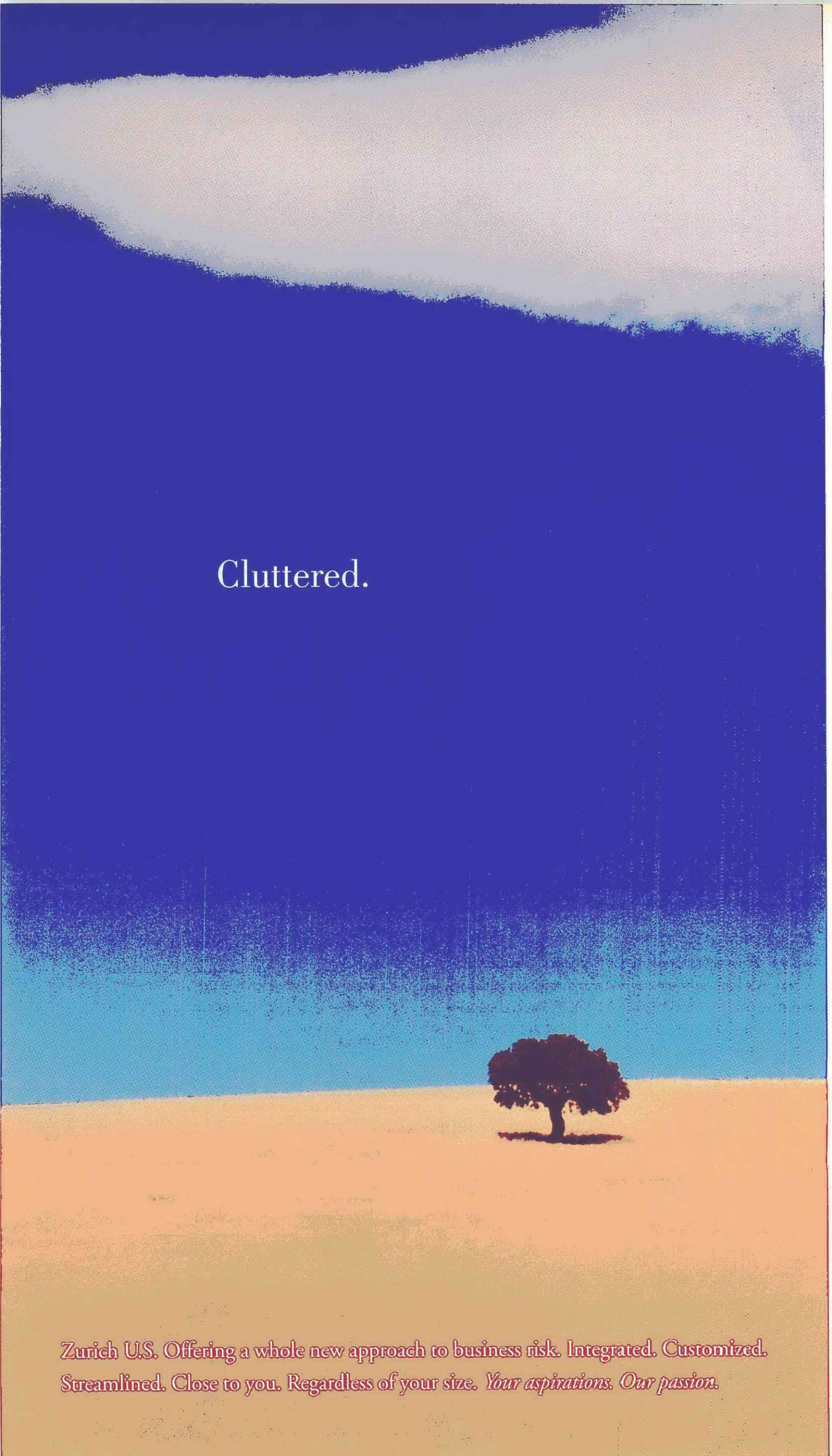
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Insurer Topics

A special editorial section
sent exclusively
to insurers and reinsurers

A look at loss control



55th annual meeting in Boston

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Reliance on hard copy is an obstacle to paperless office page 53F

Excess capital is keeping the market from hardening page 53G

Insurer Topics

Companies can help fight losses stemming from acts of terrorism

Awareness and planning are vital, loss control experts advise

By MICHAEL PRINCE

When it comes to protecting themselves from terrorism, businesses should not depend on the government as their only defense, two security experts say.

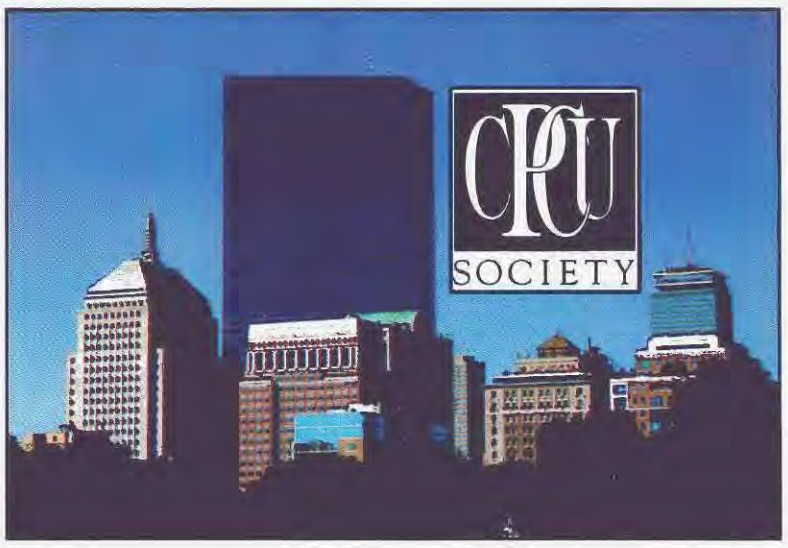
Although law enforcement agencies aggressively investigate terrorist threats, companies still need to take precautions to protect themselves against the rising number of terrorist acts committed in the United States each year, the experts said at a seminar at the CPCU Society's 55th annual meeting, held Oct. 17-19 in Boston.

Terrorists want to shock the public with their acts, said Daniel Hopwood, vp-risk control strategies for Marsh Inc. in La Jolla, Calif. Terrorists try "to grab our attention. To derail processes. To derail governments," Mr. Hopwood said.

Recent years have seen several particularly heinous acts, such as the World Trade Center bombing in 1993, the Oklahoma City bombing in 1995 and the bombing of two U.S. embassies in 1998. But, Mr. Hopwood said, interest in terrorism peaks shortly after an event and, unfortunately, then subsides, as does attention to anti-terrorism efforts.

"The further away we are from an event, the less likely we will be prepared," he said.

This is not wise, though, given the number of terrorist bombings in the United States, most of which don't receive big headlines, said Leonard Cross, director of business development for International Security Systems in Peabody, Mass. From 1991 through 1997, 18,998 bombings occurred in the United States. These caused 369 deaths, 3,500 injuries and $663 million in total property damage, of which $500 million stemmed from the World Trade Center bombing, said Mr. Cross.



A bombing is the most common type of terrorist act, but nuclear, biological or chemical attacks may also occur, said Mr. Hopwood.

And the types of threats are changing. For example, "cyberterror" is a new threat that the FBI and some companies have begun to focus on, he said. Moreover, in the past, a terrorist would commit an act to make a specific statement. Increasingly, though, the acts are performed to create massive destruction and loss of life.

> *A company should ask itself whether it faces any threat from 'a group out there that has a bone to pick.'*
>
> — Daniel Hopwood

To see the future of terrorism, Mr. Cross said, one should look overseas. Terrorists' strategies tend to start in Europe and the Middle East and then migrate to the United States. The large-scale bombings in Oklahoma City and the World Trade Center were the first of that type in the United States, but similar explosions had occurred previously elsewhere, he said.

In trying to protect against a terrorist act, it is important to keep in mind that terrorists are intelligent and know how to cause significant damage using small explosives, he said. "They do their homework," he said.

To illustrate his point, Mr. Cross, a former FBI agent, showed a notebook created by an anti-corporate terrorist group in the early 1980s. The book detailed the location, operations and vulnerable areas of numerous corporate headquarters in the United States. Such details could help a terrorist group infiltrate a building and find a place to detonate an explosive device that would cause maximum damage.

To demonstrate the power contained in a conventional explosive device, Mr. Cross displayed a section of the foot-thick concrete floor from the parking garage under the World Trade Center. The car bomb ripped through a half-dozen such floors. Five people were killed, and about 1,000 were injured, he said.

The terrorists' goal, he said, was to crash one of the center's towers into the other and topple both onto nearby Wall Street.

But companies are not helpless. For a start, Mr. Cross recommended that an organization turn a watchful eye toward its Web site. Many sites contain information, such as floor plans, that is helpful to potential terrorists. A terrorist "can do a lot of preliminary surveillance work" over the Internet, Mr. Cross said. Removing that information may help prevent them from doing so, he said.

"Marketing needs to talk to loss prevention," he said, to eliminate from the Web site information that may be of use to terrorists.

Also, it is vital to be aware of who might pose a threat to an organization. A company that is self-aware has an advantage over others, Mr. Hopwood said.

Each organization must recognize where threats might originate and assess their validity. A company should ask itself whether it faces any threat from "a group out there that has a bone to pick," he said.

Having a plan to safely evacuate a building when a bomb threat has been made is essential, Mr. Cross said. For example, he said that, during one bomb threat, a company's employees were evacuated through the stairwell that contained the bomb. This, of course, should be avoided, he said.

Mr. Cross noted that pre-employment screening is also important to identify potential terrorists. In addition, he said, restricting access to areas of the building to only certain employees is another strategy a company may want to employ. BI

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Technology offering tools to fight fraud—and perpetrate it

By MICHAEL PRINCE

When it comes to combating insurance fraud, technology can be a double-edged sword.

On the one hand, technology can be used to detect and track down fraudulent claims. On the other, new developments in technology such as the Internet have sped up claims processing, which can result in less attention to fraud detection. And new technology is creating new avenues of fraud, experts say.

Fraud "is a growth industry," said Rick Worthington, director of the special investigations unit of SAFECO Property & Casualty Insurance Cos. in Seattle.

The $20 billion paid each year for fraudulent claims by property/casualty insurers means "we have a catastrophe every year in the industry," Mr. Worthington said during a seminar at the CPCU Society's 55th annual meeting held Oct. 17-19 in Boston.

In addition, it is estimated by the industry that 10% of all claims contain some degree of fraud, said Patricia Saporito, senior P/C insurance industry consultant for NCR Corp. in New York.

Partly because of the increasing magnitude of the problem, insurers' attitudes have changed over the years. In the past, fraud was accepted "as the cost of doing business," Mr. Worthington said.

"But those are bankrupt philosophies" today, he said.

To combat fraud, most insurers have created special investigation units. When these units were first developed in the 1970s, they often were staffed by retired police detectives. Today, however, the staffs are usually a mixture of law enforcement officials and insurance claims adjusters. This combination, which draws upon the expertise of both groups, works the best, Mr. Worthington said.

Insurers have also stepped up their anti-fraud efforts. In 1996, the industry spent $650 million on these efforts, three times the amount it spent in 1992, Ms. Saporito said.

Operating a special investigative unit is expensive, but not as costly as doing nothing—for every dollar spent by an SIU, $10 is saved, she said.

"So, obviously, the cost justification is there," she said.

There are two basic categories of fraud, Mr. Worthington said. "Hard fraud" is performed by criminals with the premeditated intention to obtain insurance money. Often, such fraud involves staged accidents or arson and is aimed at certain insurers that the perpetrators know lack strong anti-fraud measures, Mr. Worthington said.

The second category—"soft fraud"—is more pervasive, he said. This type of fraud, which involves claims padding by policyholders, is often committed because many think it's socially acceptable, he noted. He cited one survey revealing that one in four people thinks "it's OK to commit insurance fraud."

But help does exist. Computers and databases can be used to fight fraud, Ms Saporito said.

Still, technology is not a panacea.

Although it offers great assistance in compiling and analyzing data to uncover fraud, it also gives criminals an additional avenue to submit false claims, said Ms. Saporito.

> *Operating a special investigative unit is expensive, but not as costly as doing nothing.*
> — Patricia Saporito

For example, computer-to-computer claims reporting can open the door to fraud by removing the human element—one possible check on fraud—from the equation, she noted.

"The types of fraud are getting more sophisticated," Ms. Saporito said.

But technology allows for the improved storage and analysis of data. By compiling and analyzing data, patterns that indicate fraudulent activity can be detected, the speakers said.

Just having the technology is not enough, however; it must be understood by the people who use it. Also, any fraud detection technology must work within an insurer's existing business practices, Ms. Saporito said.

In addition, an anti-fraud system must be able to grow quickly. She estimates that the capacity needed for data storage doubles every 18 months.

Although such an approach is not common today, the next wave of technology will involve attempts to detect fraud begin-

See **Fraud** *on page 53F*



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Fraud

Continued from page 53C

ning when claims are submitted, Ms. Saporito said. Currently, fraud detection is typically a later part of the process, she noted.

Collecting loss data is important for any computer system designed to fight fraud, said Richard Boehning, president of the American Insurance Services Group in New York, which is part of the Insurance Services Office Inc. Such data should be continually updated as new information arrives, he said. Any system, however, must be secure to prevent unauthorized access to the data, he said.

It is important for insurers to consolidate claims data from multiple sources into one central system, Mr. Boehning said. A strong, centralized system can help identify patterns that suggest the presence of suspicious claims, meaning the other, legitimate claims can be paid faster.

One of the most-sophisticated tools for detecting fraud is a system that was recently created by the Insurance Services Office, Mr. Boehning said.

Two years in the making, ISO ClaimSearch consists of claims for bodily injury submitted by 1,859 insurers, property claims from 1,223 insurers, and auto claims from 1,100 insurers.

Investigators with insurers can tap into the database and see what previous claims an individual has filed. In addition, investigators can analyze data in various ways, such as examining all claims bearing the same address or phone number, for example.

Mr. Boehning said that, in one case, a 15-minute search provided information that would have taken 5 days to unearth using conventional methods.

"It will really make the next millennium tough on those fraudulent people," he said. BI

CPCU Society's annual meeting sees 905 conferments given

BOSTON—About 3,200 people attended the CPCU Society's 55th Annual Meeting and Seminars in Boston Oct. 17-19. One highlight of the meeting was the conferment of 905 new Chartered Property & Casualty Underwriter designations.

Next year's meeting will be held in San Antonio, Oct. 22-24. For more information, call the CPCU Society at 1-800-932-2728 and ask for member services.

Going paperless at the office still a dream in the making

But e-commerce has become a prerequisite to doing business

By MICHAEL PRINCE

What do the Loch Ness Monster, Bigfoot and the paperless office have in common? They all are myths.

The paperless office, however, might one day become a reality.

People—particularly policyholders—are comfortable with paper, said Lynn Walker, vp with Policy Management Systems Corp. in Blythewood, S.C. For policyholders, paper is "the proof of purchase," Ms. Walker said. For that reason, it is not likely to disappear in the future, she said.

That factor "presents the most-difficult obstacle in implementing a paperless office," she said during a seminar at the CPCU Society's 55th annual meeting, held Oct. 17-19 in Boston.

Nevertheless, insurers still should strive for a paperless office, she said, adding that they might find such a change necessary as e-commerce becomes more pervasive.

One advantage of the paperless environment is that it saves office space. One-third to one-half of office space is dedicated to paper storage, Ms. Walker said. In addition, moving to a totally electronic business saves money on paper and improves the work flow, she said.

A number of factors have prevented insurers from converting to a paperless office. Probably the most significant hindrance is that most insurance functions are triggered by paper, from policy applications to claim submissions to billing.

Also, the transformation to a paperless office can't occur unless an insurer has established a fully functional electronic system, Ms. Walker said. "Most carriers do not have systems in place that support electronic work flows," she said.

And, due to certain legal requirements, insurers currently must retain paper versions of policies.

But the rise of e-commerce may force insurers into a less paper-driven world. As more business is transacted over the World Wide Web, insurers will have to keep pace and allow for Internet transactions, such as the processing of coverage applications and the distribution of information to policyholders, Ms. Walker said.

"If we don't become major (Internet) players, someone will come in and take our place," she said.

This shift to the exchange of information with policyholders and agents over the Internet will reduce insurers' reliance on paper. And, internally, paper forms will be replaced with electronic files, "so the information is available to any authorized person at any time," Ms. Walker said.

If you're not on the Internet, "you're going out of business," said Bruce Marlow, president of independent agency markets for Allstate Insurance Co. in Northbrook, Ill.

But changing the work flow can be difficult.

Ms. Walker said that it is important to make sure that all affected employees are trained on the new system and are informed as to why their jobs have changed.

Nevertheless, the benefits will outweigh the problems, she said. Going paperless will eliminate the need to store and keep track of paper files. It also will reduce the number of errors from data entry—as well as the work involved in correcting such errors—and will eliminate redundant data entry, Ms. Walker said.

One major advantage of a paperless work flow is that it increases customer satisfaction,



said Anthony Cioffoletti, president of the Business Technology Alignment Group in Armonk, N.Y.

By improving customer satisfaction, companies can increase their market share and improve profits, he said.

A paperless office allows the sharing of data with " anyone who touches the client," Mr. Cioffoletti said. This lets insurers respond more quickly to questions from clients, improving service and creating happier customers who are less likely to change insurers, he said.

And the Internet is a low-cost way to market and sell insurance, which helps to boost profits, he added.

In fact, paper is no longer much of a necessity, Allstate's Mr. Marlow said. With the exception that paper policies must be retained, "there is no reason you need paper internally," he said.

Insurers, he said, are in the business of making promises. "We're not talking about steel mills," he said. "This is not a service that requires a physical embodiment of things."

Paper has many strong points for data storage, he noted, because it is portable and easy to read and use. But it also can be lost, destroyed and easily altered, and the advantages of electronic data storage outweigh those of paper, he asserted.

Mr. Marlow admitted that converting to a paperless business is not an easy process. Many people will resist such change, he said, primarily because their roles will disappear along with the old methods.

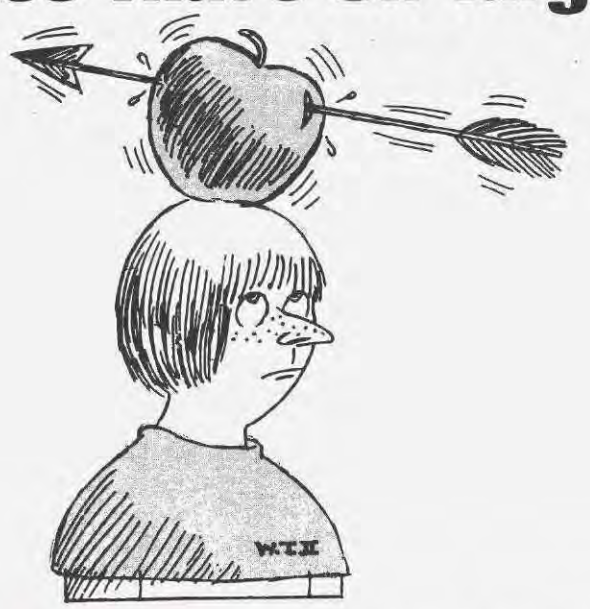
"When you change to a good technological system, lots of jobs go away," he said.

Mr. Marlow recommended making a big transition, doing it all at once, rather than going about the change in piecemeal fashion.

"Tinkering rarely works," he said.

To make the change to a paperless office successful, it's important to understand the work process and what can be eliminated from it. Also, he recommended that top management be involved in choosing the new technology, because, he said, they should be the individuals who determine what the business is capable of doing. BI

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Capital abundance hindering turn: Panel

By RODD ZOLKOS

There are signs that seem to point to a turn in the insurance market, but they remain in the shadows of the industry's overabundance of capital, according to one panel of experts.

"It seems like every company of any size likes to tell investors they have a lot of capital and 'Boy, are they going to make a lot of money when things change,' " said Weston M. Hicks, managing director of J.P. Morgan Securities Inc. in New York. "The problem is, when everybody is in that position, things don't change."

Speaking as part of a panel examining the prospects for a market turn at the Fourth Annual Producers' Forum, sponsored by Commonwealth Risk last month in Philadelphia, Mr. Hicks noted that "the question on investors' minds is 'Are we in a countdown to ecstasy or extinction in the industry?' The stocks are certainly acting like extinction right now."

Mr. Hicks noted that, while the broader stock market has increased in value in recent years, the value of insurance company stocks has trended downward.

"The market is incredibly efficient, and what the market is telling us, I think, right now is there are big problems ahead for the P/C industry," he said.

Investor concerns include insurers' lack of revenue growth, declining returns on equity, deteriorating operating cash flow, poor quality of earnings, rising interest rates and a lack of progress among insurers in managing their capital.

Another panelist, Patrick Sheehy, senior casualty underwriter at the DP Mann syndicate at Lloyd's of London, wondered aloud how there could possibly be an upswing in the market until the excess capacity is removed, and why anyone would remove that capacity if an upturn in pricing were anticipated.

"I think the problem with the insurance industry is that we've been positioning ourselves for that turn for too long," Mr. Sheehy said. "If we constantly cry out, 'Here comes the turn,' I think we'll never see it."

With that in mind, he said, he doesn't expect a widespread market turn, though there will be upticks in certain lines.

> *The problem with the industry is that 'we've been positioning ourselves for that turn for too long.'*
>
> — Patrick Sheehy

Mr. Sheehy said he's beginning to see "some people do some underwriting," adding, "I think, over the next year, the bottom 10% or 20% of people's books won't be fought over."

"So I see gradual improvement, rather than a real turn," he said. "But I do hope I'm wrong."

Nancy E. Carini, a vp at Conning & Co. in Hartford, Conn., noted that a cycle "is something that is very common to all business."

Each business has its own set of circumstances that drive its cycle, she said. In insurance, the cycle is greatly influenced by four types of risk: pricing risk, reserve risk, investment risk and catastrophe risk.

"Perhaps the factor that is most difficult to understand and predict is the psychology of the cycle," Ms. Carini said. Basically, she said, that psychology reflects insurers' optimism or pessimism.

"Even as we see the market tightening, I still would say, as you stand back and look at the market overall, you see a sense of optimism," she said.

Ms. Carini noted that pricing trends show a deceleration of the rate at which prices have been decreasing, but, she noted, "this is occurring with a generally optimistic viewpoint of the market."

And, she said, typically, if insurers see a soft market ending, they want to stay in the market to reap the benefit of higher prices. So, though the commercial market is bottoming, Ms. Carini said, "the point we're not sure of is how long that bottoming will occur."

The question, then, is whether the market will return to another round of price decreases or move to a more traditional cycle.

THE PRODUCERS' FORUM

Among the "wild cards" the industry faces in the year ahead, Mr. Hicks said, is whether the Year 2000 issue will be the next major litigation crisis. "It seems like the liability tide is turning, which is one of the things that has perpetuated the soft market," he said. "There just haven't been any large liability catastrophes."

Declining industry cash flow is one key indicator suggesting that a pricing turn could be near, Mr. Hicks said. "The industry is subsidizing underpricing new business with the release of reserves from prior years," he said. "Simply put, the market will turn when these reserves play themselves out."

Mr. Hicks laid out a P/C industry "road map to recovery," which runs from declining returns to red ink to a major crisis and, ultimately, a cycle turn. He suggested that last year's declining returns are moving to red ink this year, and a major crisis next year will lead to a cycle turn in 2001.

"We think that, if you get some of these wild cards hitting in the next year, such as the Y2K problem or a major catastrophe, we think we can see prices go up in 2001," Mr. Hicks said. BI

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IT Briefs

NAMIC names vp

INDIANAPOLIS—The National Assn. of Mutual Insurance Cos. has named Michael L. Happe vp-member services. Mr. Happe comes to NAMIC from the St. Paul Cos. Inc. in St. Paul, Minn., where he had worked since 1987, most recently as field operations director of corporate sales and marketing.

In addition to his member services responsibilities, Mr. Happe will serve as general manager of the NAMIC Service Corp., where he will have oversight responsibilities for NAMIC Insurance Agency.

Alliance hire

DOWNERS GROVE, Ill.—Travis D. Richardson has joined the Alliance of American Insurers as a government affairs representative. He will be based in the association's Downers Grove, Ill., headquarters.

In his new position, Mr. Richardson will create a new political action program to supplement the Alliance's existing effort, and he will develop the Alliance's grassroots lobbying campaign. In addition, he will monitor and report on insurance-related legislative and regulatory activity in Colorado, Montana, North Dakota, South Dakota and Wyoming.

Internet survey

CLEVELAND—A sizable majority of insurance industry executives responding to a survey indicate that their companies have established formal policies on employees' use of the Internet during office hours.

Of the 263 insurance industry executives surveyed by Cleveland-based Management Recruiters International Inc., 83% said their companies' management-level employees who have personal computers on their desks have access to the Internet. Sixty-eight percent of executives reported that their companies have Internet usage policies in place.

In addition, 42% of those surveyed said their companies have filtering software in place to block employees from visiting certain sites.

Pru renames unit

NEWARK, N.J.—The Prudential Insurance Co. of America has renamed as Group Insurance its business unit that provides group life, disability, long-term care and corporate-owned life insurance products.

Prudential's Group Insurance unit has more than 2,000 employees and posted $2.2 billion in revenue in 1998, according to the company. BI



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Federation of European Risk Management Associations

Integrated

Continued from page 50

And, he said, "One of the chief reasons for the reduction in premium in integrated programs is a radical reduction in available coverage," because so many risks are aggregated under one limit.

Further, "If a major loss occurs under a traditional arrangement, it affects only one program and one insurer relationship," Mr. Kelly said. "Under an integrated program, a major loss, of any type, can place the entire arrangement at risk."

But his own firm, Mr. Kelly said, has applied the integrated risk approach "to achieve a whole new level of protection and also embrace previously uninsurable operational exposures. Leaving all of our primary relationships and programs intact, we syndicated a $400 million catastrophe excess program.

"As excess, the policy attaches in excess of the pre-existing directors and officers liability policy and our crime insurance. As a catastrophe program, it attaches over a $100 million retention providing corporate professional liability coverage and what, in 1997, was the first insurance policy providing coverage for all unauthorized acts, including, without limitation, unauthorized trading."

The J.P. Morgan program "is an example of the integration of risk without any of the potentially negative effects," Mr. Kelly said. "The key reason for this is that the concepts of integrated risk were not applied as an alternative to existing primary programs but as a further enhancement at a higher level, thereby providing a more material level of earnings protection.

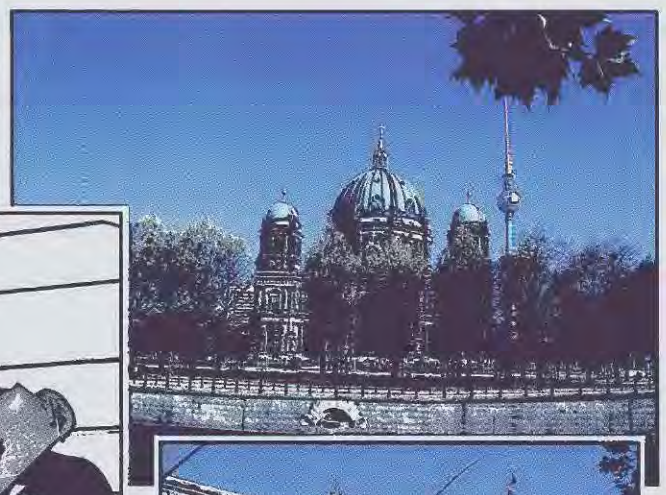
"There is certainly potential for further inventive combinations of risks and there are some very talented people exploring the possibilities," Mr. Kelly said. "But any proposal must be challenged in terms of available alternatives, and it must be determined that combining these risks represents greater value than addressing them separately."

In the area of enterprise risk management, Mr. Kelly said that while there is strategic value in taking a holistic view of risk, from a tactical perspective it's necessary to distinguish among the many types of risk and understand the existing alternatives.

Since their arrival on the scene, enterprise risk management concepts have matured, Mr. Kelly said, now focusing more specifically on operating risks than on a broader spectrum of risks that included several for which hedging mechanisms already existed.

"Operating risk funding proposals, now in their early stages of introduction, no longer characterize themselves as alternatives to insurance but as capital allocation tools and are based on more extensive operating loss experience data," he said. BI

Scenes of East Berlin











The FERMA meeting was held in what formerly was East Berlin, which offered attendees a chance to see (clockwise from left): The remnants of Checkpoint Charlie on Friedrichstrasse; a statue on East Berlin's Unter den Linden; a view of the Berliner Dom with the Alexanderplatz television tower in the background; an open-air arts and crafts market near the Lustgarten park on Unter den Linden; and, in the shadow of a section of the Berlin Wall, the exhibit "Topography of Terror" at the site of partially excavated prison cells located at the former Gestapo headquarters on Prinz-Albrecht-Strasse.

PHOTOS: PAUL D. WINSTON

Creative ART solutions solve challenging risks

By RODD ZOLKOS

BERLIN—Even as they continue to develop and take new shapes, alternative risk transfer techniques are demonstrating they can offer valuable solutions to businesses' risk management problems.

Participating in a panel on alternative risk transfer last month at the Federation of European Risk Management Assns.' Risk Management Forum '99 in Berlin, Erwin Zimmermann, a member of the executive board of Swiss Re and chief executive officer of Swiss Re New Markets Corp. in Zurich, said ART can be "an efficient risk-financing instrument."

"Insurance has never been anything but a capital instrument. It's never been anything else but contingent capital," Mr. Zimmermann said. "The point was, it was never really sold that way. This particular aspect was always undervalued."

He noted that an organization can bear risk through equity, debt or off its balance sheet in the form of insurance or derivatives. "There is a functional equivalency between insurance, debt and equity," Mr. Zimmermann said.

And, in both traditional risk transfer and alternative risk transfer, "underwriting is crucial," he said. "The core process remains, in my mind, completely unchanged."

"ART makes sense when capacity is unavailable, when it is insufficient in quantity or it's just too expensive," added Martin H. Scherzer, a managing director in Marsh Inc.'s Marsh Risk Finance group in New York.

ART techniques also are appropriate for dealing with unique or complex risks, "those risks where a standard traditional product would not apply," Mr. Scherzer said, or can be used to supplement or enhance another transaction.

Mr. Zimmermann noted that, while some would suggest alternative risk transfer "doesn't have a chance right now because of the soft prices in the traditional market," he said such reasoning is flawed because ART techniques can be used in conjunction with traditional products to introduce new solutions and greater flexibility.

"To me, the most important element in the ART arsenal is traditional insurance," he said.

In a later session examining alternative risk financing options, James C. Hooban, deputy managing director at Munich-American Risk Partners in Munich, Germany, said, "It's important to realize that innovation can also mean taking an existing product and using it a new way."

The development of the ART market is "a balancing act," Marsh's Mr. Scherzer said. On the demand side of the equation, businesses are facing new, larger and more complex risks, he said. "From the supply side, more is available to you."

"There are more and innovative solutions available to you, because more and more providers are trying to meet your needs," Mr. Scherzer said. "There is greater competition trying to put together better transactions. And the greater competition also results in lower pricing."

In crafting an ART solution, those on both sides of the process must understand what drives the client company's corporate financial management, Swiss Re's Mr. Zimmermann said.

For example, to assemble an appropriate solution they must understand whether the client company's financial management is driven primarily by capital productivity, earnings stability and growth, regulatory and rating issues or investor perspectives.

It's also important for a risk manager to consider whether a potential ART program provider understands the organization's volatility issues, whether the provider has the appropriate "toolbox" and whether it is capable of providing a sophisticated delivery mechanism, he said.

"I think a supplier in that market needs to have state-of-the-art transfer of risks into the capital markets," Mr. Zimmermann said. "Somebody who wants to be serious in that game needs to have these techniques."

Another important consideration in putting together an alternative risk transfer transaction is the deal's tax treatment.

Peter Pennycard, tax director at KPMG in London, noted that companies often assume anything identified as an insurance contract will be eligible for tax relief. In ART transactions, however, "that is not necessarily going to be the case," he said.

With a few exceptions, the tax treatment of ART transactions will follow their accounting treatment, he said, and it's essential that companies engaging in such transactions understand the economic impact of those accounting details in pricing the transactions.

'It's important to realize that innovation can also mean taking an existing product and using it in a new way,' says James C. Hooban.

Typically, if the risk is moved off the balance sheet, the transaction is insurance, and if it's kept on the balance sheet, it's an investment. It's not that one approach is good and the other bad, Mr. Pennycard said. "What will be will be," he said. "What's important is to plan for the outcome."

Juerg Schaerer, a member of senior management and manager of Industrial Lines Globalfit at Baloise Insurance Group in Basel, Switzerland, stressed the importance of the various participants in ART transactions working closely together to achieve the most beneficial outcome.

"Large and complex projects require that the client, the broker, the reinsurer and the insurer (not only) sit at the same table, but also at the same time," he said.

These transactions increasingly require bringing consultants, tax experts and the like to the table as well, Mr. Schaerer added.

Jay S. Ralph, president and chief executive officer of Allianz Risk Transfer in Zurich, said the way his company approaches its business is driven by an attempt to maximize the potential benefit of an ART program.

"We're not really in the risk financing or banking business," Mr. Ralph said. "Our view is that if all we are providing is a banking solution or a financial solution, it will be treated and accounted for as a financial product."

Georges P. Schorderet, executive vp and chief financial officer of SAirGroup in Zurich, said his company has studied the potential of alternative risk transfer programs as part of a broader effort to create tools to identify and better manage its risks.

"We believe the business risk management process has to be part of the management process within the group," he said.

SAirGroup hasn't yet implemented an ART solution, "mainly because we are new in that business and we need to learn more," Mr. Schorderet said. In addition, the company would like to see more transparency in the ART market, he said, and also thinks that, at this point, ART solutions are still too expensive.

"I believe in order to utilize the new tools you should first know your risk," Mr. Schorderet said. "And that's what we are in the process of doing."

It's also important to get to know the players in the business "because you can't just go into a shop and buy things," he said. "You have to develop them with your partner."

Ultimately, ART techniques are not "the" answer, but rather, "ART is 'an' answer to very complex problems," said Mr. Scherzer of Marsh, adding, "ART is here to stay."

"The main aim is to protect a client's balance sheet," said Mr. Schaerer of Baloise. "It is not a recipe for all situations."

"If it's sold as rocket science, it can be an unnecessary luxury," Mr. Zimmermann said. "But if it's used the right way, it can be a useful and efficient financial instrument." BI

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Federation of European Risk Management Associations

Brand risk management adds value

By PAUL D. WINSTON

BERLIN—As risk managers seek to add value within their organizations, one area that is often overlooked is protecting intangible assets like reputation, brands and intellectual property.

"Reputation is the most visible and valuable asset companies have, but it is not recognized on the balance sheet. It is only recognized when a company is in danger of losing it," said Paolo Rubini, corporate risk and insurance manager of Olivetti S.p.A. of Ivrea, Italy.

Risk managers have to protect intangible assets like reputation just as much as tangible assets like property, he said during a session on managing reputation, brands and intellectual capital during the Federation of European Risk Management Assns.' Risk Management Forum '99.

Mr. Rubini, who moderated the session, cited an analysis done on the companies named to Fortune magazine's list of the most admired companies. Researchers found a correlation between reputation and financial success, he noted.

In particular, both the stock gains and returns on equity of these most admired companies on average outperformed the S&P 500 Index from 1984 to 1996, while the least admired lagged far behind.

"So reputation adds value that helps generate returns," he said.

Companies with strong reputations also are more likely to attract talented employees and win customers, Mr. Rubini added.

Risk managers that focus on reputation risks alone are taking an incomplete approach to managing a company's brand, a consultant says.

"People who manage brands cope with risk and uncertainty on a continual basis," said David Abrahams, a director of Marsh Risk Consulting in London.

In spite of those risks, traditional risk managers typically have no involvement in managing these risks.

"I never met a 'risk manager' when working as a brand manager for companies," he quipped.

Mr. Abrahams told the audience the key to brand risk management is looking at demand, not supply-side risks.

"Brand risk management entails assessing threats to the sustainability of current and future demand," he said.

Mr. King offered a framework for performing a risk analysis of demand for a company's brand. There are three components of brand risk, he said:

€Qualifiers, which are "norms" often taken for granted or assumed by the public, such as safety, trust and competency.

"When you reflect on all the crises of reputation, usually they are in this area," said Mr. Abrahams, citing examples of train derailments, plane crashes or bank embezzlement.

€Macro-market, or non-financial influences. These include such influences on demand as regulatory, social and usage factors, he said. An example might be social attitudes toward drinking alcoholic beverages, he said.

€Brand equity, which encompasses individual differentiators of a company. Mr. Abrahams said brand equity includes those elements of a brand's image that have the ability to shift economic demand for a brand. "They are determinants of consumer choice."

These include the product or service represented by a brand, its authority as a brand, the approval conferred on the consumer of the brand and how the consumer identifies with the brand.

The insurance industry's product/service equity, for example, is poor, so insurance companies have weakened brands as a result, he said.

"Damage to a brand is increased by its link to brand equity elements," Mr. Abrahams said.

For example, he said, the contamination of Perrier with benzene in 1990 was more devastating to the brand than if it had been contaminated with glass during the bottling process, because purity of the water was a key equity of the brand.

This summer's recall of Coca-Cola products in Europe, due to illnesses blamed on defective carbonation and a fungicide used to treat storage pallets at a bottling plant, was not as damaging to the brand because purity is not as much a core brand value to Coke as it is to Perrier, he explained.

"To manage brand risks, you really have to know what *is* the brand, including its brand equity elements," Mr. Abraham advised.

In response to a question from the audience, he said that Marsh currently is exploring risk financing options for such intangibles, but he could not provide specific examples. The solutions will come from the alternative risk transfer market, and not traditional insurance, he said.

One key step to insuring intangible assets is placing a value on them, another consultant on the panel said.

A growing number of companies are trying to place a value on their intangible assets, though many others still do not address this at all, noted Kelvin King, a partner of Valuation Consulting Ltd. in London.

"I would associate risk with where the most value lies," he said. Yet many companies do not even try to determine the value of intellectual property, such as patents and copyrights, so that it can be protected, he said.

It is often these intangible assets that support a company's brand or reputation, Mr. King said.

In a big corporate enterprise, a risk manager cannot look at everything, so he or she has to understand where the most value exists, Mr. King advised.

There are a variety of approaches that valuation consultants employ, but not all are applicable for intangibles.

Relying on a comparison with another item may be impossible as intellectual property is unique, he said.

"Some might look to the historical cost to develop a piece of software, but this also creates problems," Mr. King said.

Take, for example, the computer chip. If one looks at how much it costs to produce a chip it becomes clear that is not relevant to, or in line with, its value as part of a computer, he said.

So valuation consultants instead take an "income-based approach" to valuing intellectual property, he said. This entails looking at expected cash flow, or how much a product or service will earn in the future, he explained. BI

Debating the future of risk

Global expansion, shareholders will challenge managers

By RODD ZOLKOS

BERLIN—The challenges facing risk managers may be growing, but they also are bringing new opportunities, according to a panel of risk managers that discussed the role of the risk manager in the next three to five years.

Speaking last month at the Federation of European Risk Management Assns.' Risk Management Forum '99 in Berlin, Thierry van Santen, director of risk management for Groupe Danone in Paris, said that, in his view, "risk management has a very strong future."

"I think the risk management we have been practicing for years and years is now becoming a really big thing," Mr. van Santen said. "Now it's a big business."

But, he noted, "Internally, the CFO, treasurer, internal audit—everyone thinks he is the key person and the risk manager is the insurance person."

As today's companies change and grow, the challenges before risk managers "often turn into international monsters," suggested Pierre Sonigo, vp-environment and industrial risk management at Pechiney S.A. in Paris.

Pressure to increase shareholder value at companies and continued changes in information technology both create further challenges.

William J. Kelly, a managing director at J.P. Morgan & Co. Inc. in New York, suggested that the evolution of risk management "seems almost like a historical dialectic."

The risk manager went from being the insurance purchaser at an organization to a situation today in which some suggest the risk manager should be an enterprise risk manager, he said.

"I don't think that's going to happen," Mr. Kelly said of the enterprise risk management scenario. "I think the synthesis might be that it's not just insurance, but it's not the monster of enterprise risk. It's really operating risk. I think operating risk will emerge as a dominant focus."

And, he noted, "If the risk manager does not have the ability to rise to the level of operating risk, I think we will be relegated to the band of insurance risk, which is quite narrow."

Mr. van Santen agreed that risk managers will need to prepare themselves if they are to capitalize on opportunities such as managing operating risks. And, he said, many risk managers currently lack the background needed to face these new challenges.

Harry Daugird, risk management director for ABB Asea Brown Boveri A.G. in Heidelberg, Germany, said, "The risk management function can only survive if and when it offers practical solutions."

With that in mind, Mr. Daugird said, "I think the risk management process is a holistic process," suggesting that examining the entire spectrum of a company's risks can give a risk manager a unique perspective.

He added that risk managers must "be able to bridge cultural differences," which is a particularly critical skill as companies expand globally and must deal with multinational groups of managers.

New corporate governance requirements, which call on companies to identify and report risks they face to shareholders, provide risk managers another good opportunity in their organizations, Mr. Daugird said, as risk managers are accustomed to working with a risk-mapping process.

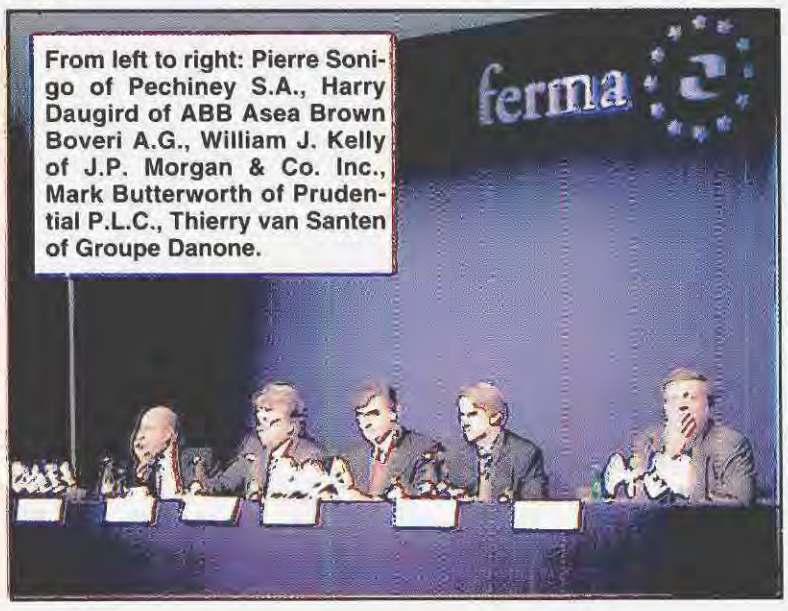
"I think there's a great chance there for us to develop our profession and to gain a greater degree of respectability and responsibility in our organizations," he said.

And risk managers will also find opportunities as they are recognized for their ability to create value for their organizations.

Mark Butterworth, group insurance risk manager at Prudential Corp. P.L.C. in London, discussed his role as risk manager for a rapidly growing and changing organization. Mr. Butterworth also is chairman of the largest U.K. risk management organization, the Assn. of Insurance & Risk Managers.

He noted that his company formed a bank two years ago and had a five-year business plan, subsequently achieving the goals of that plan in six months. As risk manager, his role is not only working with the bank's risk "but also taking a broader role," working with the risks of those with whom the bank is doing business.

"How can I add value? I think it's by asking the right questions," Mr. Butterworth said. "Not to spoil the party. Not to put the brakes on them. But to understand the risks." BI



From left to right: Pierre Sonigo of Pechiney S.A., Harry Daugird of ABB Asea Brown Boveri A.G., William J. Kelly of J.P. Morgan & Co. Inc., Mark Butterworth of Prudential P.L.C., Thierry van Santen of Groupe Danone.

Conference hails several initiatives

BERLIN—The Federation of European Risk Management Assns.' Risk Management Forum '99 in Berlin last month marked the 10th conference of the organization and its 25th year of existence.

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The Oct. 24-27 meeting was held in Berlin, which is the first city other than Monte Carlo, Monaco, to host the group.

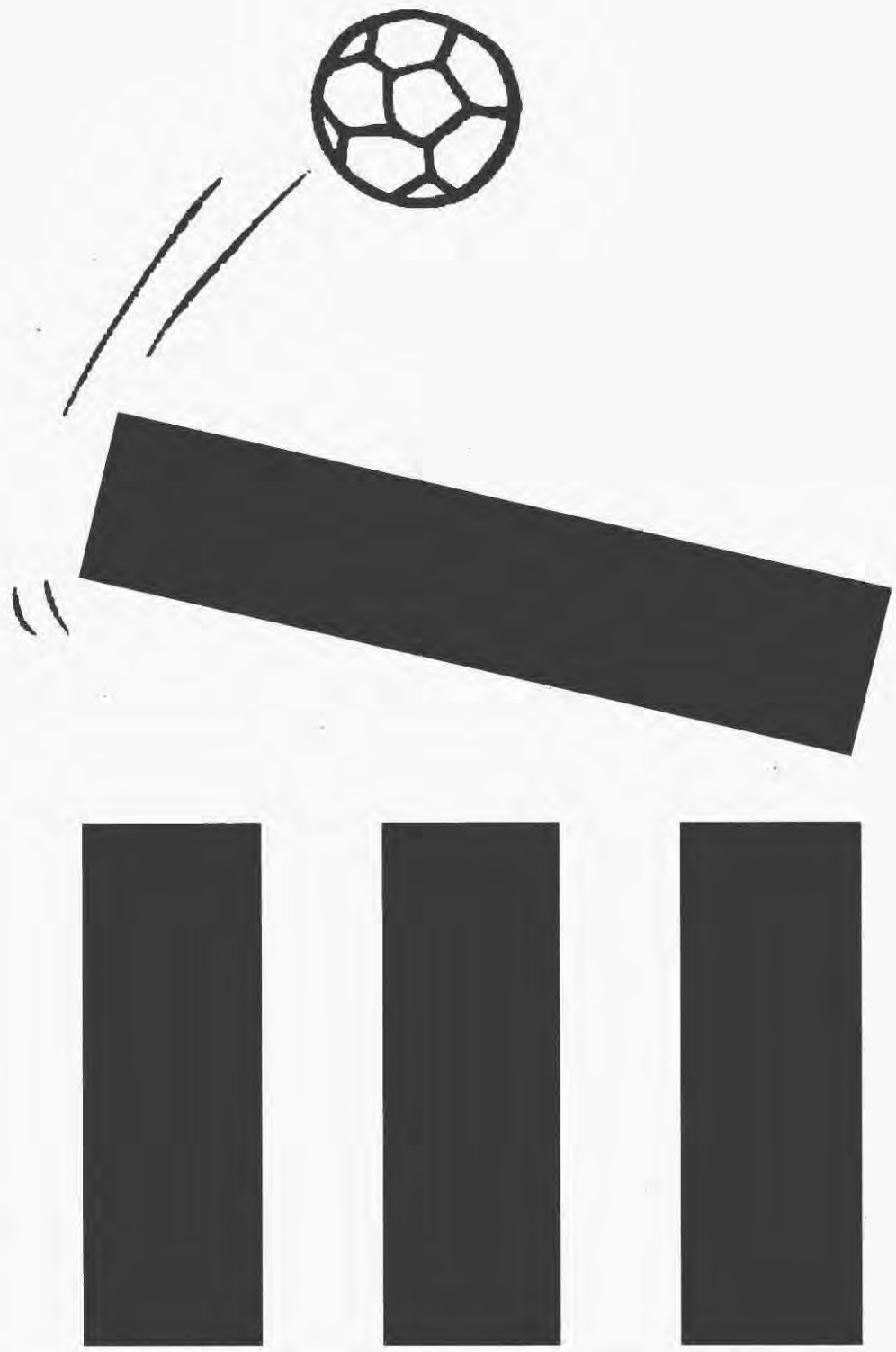
FERMA represents risk management associations in nine European countries, though the meeting also attracted risk managers from the United States, Canada, Australia and South Africa, among other countries.

"FERMA aims to be relevant in a fast-changing world, to spread risk management thinking in Europe and to provide a single risk management body for risk managers and member associations," said Maurizio Castelli, director of risk management in Europe, the Middle East and Africa for Pirelli S.p.A. of Milan, and president of FERMA.

The group recently adopted a new logo; established a formal office in Brussels, Belgium; hired a full-time executive director, Florence Bindelle; and at the meeting voted to launch a Web site.

FERMA meets every two years, but Mr. Castelli said an annual meeting is possible if there is support for it. For now, though, the group's next meeting is slated for 2001 in Barcelona, Spain.

For more information, contact FERMA, Rue de la Presse 4, 1000 Bruxelles, Belgium; 322-227-1144; fax: 322-227-1148; e-mail: ferma@skynet.be



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INTERNATIONAL

Global Briefs

Eureko B.V., the Amsterdam, Netherlands-based alliance of seven European insurance and financial services companies, is acquiring a 30% stake in Polski Zaklad Ubezpieczen, the major state-owned insurer in Poland and the largest insurer in Eastern Europe. The acquisition, which Eureko said is part of its strategy of building a strong position in emerging European markets, is expected to be completed by the end of the year. . . .A recent **change in Russian insurance law** effectively will bar foreign insurance companies from entering the market. The Federation Council, the upper house of Parliament, last week approved a revised version of an insurance bill that had been approved in October by the lower house, the Duma. It requires a foreign insurer to produce a two-year record of work in Russia and to show at least 15 years of existence in its home country. The law retains current rules putting a 49% ceiling on foreign shareholdings in Russian insurers. . . .Dutch insurers and Dutch Jews have agreed to a settlement under which insurers will create a 45 million guilder ($21.3 million) **fund for Jewish victims of World War II**. The Dutch Assn. of Insurers and the Central Jewish Board of the Netherlands last week announced the creation of the fund. About 20 million guilders ($9.5 million) will be set aside for individual claims, and 25 million guilders ($11.8 million) will be distributed according to the wishes of Holocaust victims and their heirs. . . . Munich Reinsurance Co. is expanding its capacity to provide **export credit reinsurance** for private initiatives to set up new export credit insurers in Eastern Europe, Latin America and Asia. At the same time, the reinsurer promised full coverage for credit insurance claims triggered by insolvencies resulting from the Year 2000 date change. . . .The Assn. of Lloyd's Members has appointed **Anthony Young** as its chief executive officer. Mr. Young, who assumes his new post Feb. 1, is currently managing director of Lloyd's Members Agency Services Ltd. He will succeed **Roger Pascall**, who is retiring. . . .Standard & Poor's Corp. has affirmed its BBB+ long-term counterparty credit and insurer financial strength ratings on **Polygon Insurance Co. Ltd.** of Guernsey, Channel Islands, but revised its outlook on the specialist aviation insurer to negative from stable. S&P said the revision of the outlook "reflects the uncertainty surrounding the long-term ownership of Polygon Group following the decision made by its airline shareholders to split into two insurance purchasing groups for the November 1999 policy renewal." . . . Zurich Financial Services Group has raised its stake in Swiss insurance rival **Baloise Holding A.G.** to 23% with the purchase of a 19.9% shareholding from the Swiss investment company Incentive Investment. Rolf Hueppi, ZFSG chairman and CEO, said all options would be explored to enhance the value of the investment, but Mr. Hueppi added that there are presently no plans for a complete takeover of Baloise. . . . Marsh Inc. has arranged the largest insurance placement in Estonia. The coverage is for the state-owned energy company **Eesti Energia A.S.** The placement marks the first time Eesti Energia, the largest company in Estonia, has used a broker, with Marsh structuring a comprehensive international program providing asset and cash-flow protection. . . . **CGU P.L.C.** has entered a bancassurance joint venture in Romania with Societe Generale. CGU said it hopes the venture, its first with the French bank since CGU acquired a stake in Societe Generale this summer, will be one of many such joint ventures in Europe.

Parties spark blazes at 2 discos

By GEORG SZALAI

BAD GOISERN, Austria—Fires on the same night in two Austrian discos last month were the result of a lack of risk awareness, a lack that seems widespread among owners of smaller dance clubs trying hard to attract patrons, according to industry insiders, fire investigators and government officials.

The fires, both of which started during so-called "foam peanut parties," could serve as a warning to disco owners to treat trendy but risky events with more care or to stay away from such events altogether, they said.

South Korean bar owner arrested after fire.....page 62

On Friday, Oct. 22, around midnight, fires broke out at Joy, a dance club in St. Agatha, which is part of the town of Bad Goisern in the province of Upper Austria, and Tobago, a disco in Oberndorf, Salzburg. About 120 patrons were injured in the fires and had to be taken to local hospitals. Most of the people were hurt by poisonous fumes, but several also sustained burns that were serious in some cases.

By some estimates, the total property, casualty and liability damage is at least 7 million Austrian schillings ($527,788), but it could reach about 12 million Austrian schillings ($904,779). The vast majority of this damage was caused in Bad Goisern.

On the night of the fires, both discos had organized foam peanut parties, a form of entertainment that has been popular with Austrian clubgoers since its introduction about three years ago, according to Christof Petter, the owner of Joy. At such parties, which also go under the nicknames of "snow parties" or "glacier parties," large amounts of packing peanuts, resembling snowflakes, are blown onto the dance floor. Patrons end up dancing knee-deep in the packing material, throwing the foam peanuts at each other or just lying down in them, disco owners and investigators explained.

"When you have just opened a disco (like me), you must come up with special events," Mr. Petter said. And, right now, he said, "the trend and demand is for foam peanut parties."

The Austrian club scene, just like the club scenes in other European countries, has gone through several fads over the last few years, some of them as risky as foam peanut parties, according to disco owners and observers.

At "foam parties," for example, soap foam is blown onto the dance floor crowd. At "popcorn parties," patrons dance among piles of popcorn. And at "hay parties," visitors enter-

See **Fires** *on next page*



PHOTO: REUTERS

Firefighters inspect the entrance of the Austrian disco Joy, which caught fire Oct. 22.

Risk control gives an edge: Turnbull

By EDWIN UNSWORTH

LONDON—U.K. companies that embrace risk management will be more effective in dealing with the challenges and opportunities they face than companies that do not, an executive contends.

"Those boards which embrace the exercise of risk management positively will find it is of business benefit to their companies in identifying opportunities as well as pitfalls," said Nigel Turnbull, an executive director of The Rank Group P.L.C., a London-based film and leisure company.

Mr. Turnbull, who spoke at a recent meeting of the Assn. of Insurance & Risk Managers, serves as chairman of a working party that recently issued recommendations for risk management and control to be made integral parts of corporate governance duties.

The so-called Turnbull report, commissioned by the London Stock Exchange, was published last month (*BI*, Oct. 4). The group recommended that every publicly traded company have an "embedded" internal-control system to monitor any risks "significant to the fulfillment of a company's business objectives."

The implementation of systems for managing risk 'is key to a sound system of internal control,' says Nigel Turnbull.

While not legally binding, the Turnbull proposals are being made part of the combined code of corporate governance to which companies listed on the LSE must adhere. Listed companies have until Dec. 23 to show that they have procedures in place for implementing the recommendations, and they must be in full compliance by Dec. 23, 2000.

Mr. Turnbull told AIRMIC members that putting risk management on the agendas of boards of directors of U.K. companies will add shareholder value, eliminate surprises by providing "an early-warning system in vulnerable areas" and increase the likelihood of meeting strategic objectives.

Companies should set up internal-control steering groups that involve top management and represent a spectrum of skills that might include risk management and internal auditors, he said.

The implementation of systems for managing risk "is key to a sound system of internal control," he said.

Mr. Turnbull noted that at The Rank Group, severe storm-related losses in 1987 prompted a

See **Turnbull** *on page 60*

HSE hit on its safety prosecution record

By CAROLYN ALDRED

LONDON—A newly formed U.K. corporate watchdog criticizes the government-funded Health and Safety Executive for failing to prosecute more companies for workplace accidents.

The London-based Centre for Corporate Accountability accuses the HSE of complacency and regional inconsistencies in its prosecution policy in testimony presented this month to the Environment Select Committee, a parliamentary committee responsible for overseeing the HSE's work on an annual basis.

But the HSE defends its record, maintaining that its primary role is to prevent accidents, rather than to prosecute safety violations.

According to CCA Director David Bergman and Gary Slapper, a member of CCA's advisory council and director of law at the Milton Keynes-based Open University, the HSE received 47,802 reports of major workplace injuries between 1996 and 1998, but it investigated only one in 10 incidents.

The CCA accused the HSE of lacking a consistent investigation policy, which has resulted in levels of investigation that vary widely among different industry sectors and geographical areas, said Messrs. Bergman and Slapper.

Where prosecution was pursued, the average fine levied by the HSE against a convicted company following a fatal injury was less than £20,000 ($32,394), the CCA told the parliamentary authority. Furthermore, fines in the London courts were, on average, three times lower than fines in courts in Wales or the west of England, the CCA added.

'Our primary function is preventing accidents before they occur,' says a spokesman for the Health and Safety Executive.

"HSE inaction has led to a law-and-order problem in British boardrooms, which the government has failed to act upon. Companies escape criminal sanctions that would deter them from endangering the lives of workers and the public in the future," the CCA charged.

The recent formation of the CCA, whose management committee includes several leading lawyers, is the latest example of growing pressure in the United Kingdom to increase corporate governance (see story, page 2).

But the main aim of the HSE is preventive, and it is not prosecution-driven, a spokesman for the HSE said.

"We do prosecute companies where we believe that we stand a high chance of getting a conviction," said the spokesman, but "our primary function is preventing accidents before they occur."

"The CCA is calling for a very big shift in the focus of our activities. If they want to see a lot more prosecution being done, it would mean a major change in our organization and funding," said the spokesman.

"Over the past 25 years, we have pursued a fairly consistent line in prosecution," he said.

The HSE will present evidence to the parliamentary committee on Nov. 23.

Jenny Bacon, director general of the HSE, stressed the HSE's preventive role at the launch of the agency's 1998/99 annual report last month.

"The bedrock of our activity is our contacts with employers and workers—to give advice and, where necessary, to take enforcement action, but also to listen, learn and spread good practice which will improve standards of health and safety," said Ms. Bacon.

"But we are victims of our own success in raising awareness of health and safety issues. We receive more queries about working conditions each year, so this year we could only investigate 80% of them. The challenge is a perennial one; how should we best use our resources—information, advice, guidance, inspection, investigation of accidents and complaints, enforcement action, etc.—to make the most-effective intervention," she explained.

According to the annual report,

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Fires

Continued from previous page

tain themselves with dried grass scattered over the dance floor. This is risky business, since smoking is permitted in many Austrian discos.

That is why disco owners should take special risk management measures when organizing such theme parties, said Bilhana Stefanovic, who helps organize events, including foam peanut parties, for Tanzpalast Baden, a popular dance club near Vienna. "We always have a strict non-smoking requirement when we have a foam peanut party," she explained. "And we pay two to four firefighters to be present in case anything does happen."

Before its first foam peanut party, Tanzpalast also made sure the foam material it wanted to use was fire resistant, Ms. Stefanovic said. "We had fire police examine the material, and we got an official report that it is safe to use," she said. "We even had a medical examination done to ensure the material does not pose any medical risks to patrons."

Ms. Stefanovic said Tanzpalast buys the material from a company that produces heat-absorbing and -insulating materials. "What they used in Bad Goisern was just cheap packing material," she said.

Each foam peanut party costs Tanzpalast approximately 100,000 Austrian schillings ($7,561) in total, according to Ms. Stefanovic.

For owners of smaller discos, such extensive measures are too expensive, argued Mr. Petter.

"I didn't have the material tested," he explained. "One can't afford such extra security measures," Mr. Petter said, and he added that he has too many other responsibilities.

"But we fulfilled all the (basic) safety requirements written down in laws," he said.

Austrian law, for example, requires a disco to have a certain number of emergency exits and fire extinguishers depending on the club's size.

Still, Mr. Petter, who also owns about half a dozen bars and gaming arcades, said he will adjust his event planning to better manage the risk involved. He expects to reopen his disco "with a new interior design and new concept" by Christmas. He said he will not organize another foam peanut party and will start "making more-critical examinations before an event," though he provided no further details.

In Bad Goisern, about 120 miles southwest of Vienna, the bigger of the two fires destroyed most of the interior of Joy in what was supposed to have been an inauguration party for the club. Panic broke out among the approximately 200 visitors, half of whom were injured and taken to hospitals.

Most of those who were injured suffered smoke inhalation and were able to leave the hospital quickly. But a handful of patrons suffered burns on as much as 50% of their bodies, according to Reinhard Winterauer, the mayor of Bad Goisern.

As of Nov. 11, only one victim remained hospitalized, Mr. Winterauer said. "No lives are in danger anymore," he said last week.

Mr. Petter said he has full insurance coverage for all damages sustained. The cost of the injuries to his patrons is currently estimated at 5 million to 10 million Austrian schillings ($378,080 to $756,160), all of which would be covered by his liability policy with Allianz Versicherungs-A.G., he said. The Allianz A.G. unit is one of Austria's largest insurers. "The estimated property damage for my disco's interior is 2 million Austrian schillings ($150,810), which would be covered by my fire damage policy," Mr. Petter said. He also has a fire business interruption policy, he said without providing details.

Franz Wondrak, who heads the claims department at Allianz in Vienna, said the liability policy for Joy disco covers damages of up to 10 million Austrian schillings ($756,160) per event. "We are already processing the claims in this case," he said.

Mr. Wondrak added that he does not expect the policy's limits to be exceeded by the total cost of the damages, which will include payments for the patrons' pain and suffering, their property damage and lost wages, and any medical costs not covered by national health insurance.

But the insurer has not started to evaluate the disco's fire damage claim, he said.

"We are waiting for the results of the official investigation," Mr. Wondrak explained. "If the disco owner is found guilty of negligence, we could deny coverage under our fire damage policy. And if the investigators find evidence against the distributor of the packing material or the man who started the fire, we could recover money from them."

Mr. Wondrak said Allianz would evaluate the question of recovery once the fire and criminal investigations are finished, which most people involved expect to take at least several weeks.

The main question is how much the disco owner and the provider of the foam peanuts knew about the dangers of the material.

The question of negligence will be central and will determine whether the insurance company will deny some coverage or recover some of its losses from the distributor of the packing peanuts used or from a young man who started the fire.

A recovery from the 21-year-old Joy patron who has admitted to burning a foam peanut with a lighter and then dropping it, thereby causing the fire, will be difficult, insurance experts and investigators said. Most said the young man probably does not have sufficient funds for recovery.

So the main question is how much Mr. Petter and the provider of the foam peanuts knew about the dangers of the material.

"The material, Styropol, which was used, is easily inflammable, burns fast and creates poisonous gases in the process," said Manfred Huebsch, a local fire expert and investigator who analyzed the material. "This was just plain filling and packing material."

Some say Mr. Petter should have known the risk. "The use of foam peanuts was irresponsible," said Karl Oberndorfer of the local Small Business Administration in Upper Austria. The use of highly inflammable material by business owners is prohibited by Austrian law, he explained. If he didn't know what he was getting into, "the owner should have at least asked us for advice" or made absolutely certain the material was not inflammable, Mr. Oberndorfer said. He added that his office routinely checks materials that business owners are planning to use for their appropriateness and risk potential.

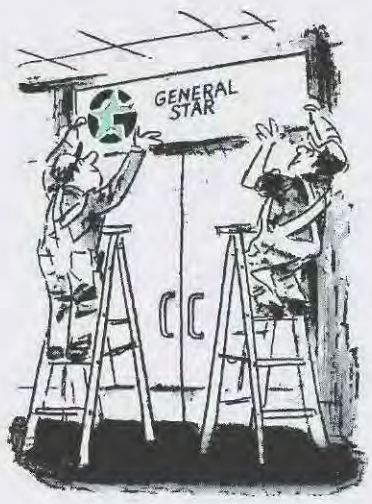
But Mr. Petter said he had been assured by Gigant Verpackungstechnik GesmbH in Vienna, the provider of the foam peanuts to both the discos that sustained fires, that the material was hardly inflammable. "When I ordered it, the distributor told me I needed this specific material because it doesn't burn easily," Mr. Petter ex-

See **Fires** *on page 60*

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Fires

Continued from page 58

plained. "He also sent this stuff to about 10 other discos, and I have three witnesses who heard us talk (about the material) on the phone. I think he will have a hard time in court."

But Wolfgang Fucik, the head of Gigant, defended his firm. "We are headquartered in Vienna. We had no clue what these guys were doing with our material in other parts of the country. Also, we are a packing and filling materials company. How should we know if a material is inflammable? The producers of such materials know much more than the distributors."

The dispute between the disco owner and the foam peanut distributor will be hard to resolve. "Written records for the foam peanut delivery do not exist, with the exception of the delivered volume, which was 30 cubic meters," said Karl Deibl, at the fire damage division of the Upper Austrian police department. So the result of the court case that will follow the current investigations will simply depend on which side the judge finds more credible, Mr. Deibl predicted.

Insurance brokers said Mr. Petter had the right types of insurance policies and coverage for his fire case. "These kinds of policies are pretty much standard offerings in Austria," and they are important said Ernst Kiefhaber, one of the heads of Gradman & Holler & Kiefhaber, an Austrian unit of broker Marsh Inc.

The fire in Oberndorf's Tobago disco raises the same issues as the fire in Bad Goisern, though on a much-smaller scale. "The damage was minor, approximately 10,000 Austrian schillings ($756) for the packaging material used," said Rudolf Liska, the fire expert and investigator in the case. About 10 people were treated for minor health problems, "all caused by fumes rather than the fire itself," he said.

Police investigators said eyewitnesses had not seen anyone playing with an open flame at Tobago. But Mr. Liska said the use of an open flame or a cigarette butt in combination with some spilled alcohol was the most likely cause of the fire.

"The owner was lucky," said Andreas Kinzl, the mayor of Oberndorf. "A couple of patrons happened to be trained firefighters who reacted quickly and helped put out the fire quickly." The disco did not have to be closed.

The owner of Tobago, Thomas Lindinger, could not be reached for comment.

But several sources said they expected him to be fully insured for the damage. None of them was aware of any special risk mitigation measures the disco owner had undertaken.

The two fires happened just a few days before the presentation of a study on safety problems in discos by the Austrian Ministry of Social Affairs. The study found that 71% of the surveyed clubs did not have the safety infrastructure required by law, mainly easily accessible emergency exits and emergency lighting. Similar problems might have aggravated the injuries to patrons in Bad Goisern's Joy club, investigators said.

The Ministry of Social Affairs now plans to educate disco owners on how to reduce risks. "The media reaction to the fires was strong, which helped raise awareness," said Patricia Jenner, who is working on the issue of disco safety for the ministry. "And now we will keep organizing checks and sample studies that will focus on particular regions in Austria."

Such actions are usually welcomed by disco owners as a chance to improve their own safety measures, Ms. Jenner said. One of the first major checks will be conducted in discos in skiing resorts this winter. The ministry has also started to distribute a special safety brochure for disco owners, Ms. Jenner said. BI

Turnbull

Continued from page 57

review of its risk management operations. Resulting changes included the reactivation of a dormant captive insurance company, the implementation of higher deductible levels and the development of embedded companywide risk management policies and procedures. These have since helped to reduce substantially the company's overall cost of risk, said Mr. Turnbull.

The Turnbull report's recommendation were a key focus of discussions at last month's meeting of the Federation of European Risk Management Assns. (see story, page 2), and they also have been strongly endorsed by the International Underwriting Assn. of London.

Marie-Louise Rossi, chief executive officer of the IUA, said in an interview that the Turnbull report raises awareness of risk management by putting it at the center of the boardroom agenda.

"It's what well-managed companies are already doing," Ms. Rossi said.

They are doing it, in part, because shareholders are demanding it. Also, with the management of risk now being placed firmly on the corporate agenda, it becomes a topic routinely examined by analysts as part of their assessment of a company, and so it is plainly laid out for potential investors, said Ms. Rossi.

In addition to bringing a new focus on risk prevention, making risk management part of boardroom responsibilities will also encourage insurers and reinsurers to seek new and innovative risk management solutions, such as the blending of traditional insurance with alternative risk transfer products, Ms. Rossi predicted.

But it is not just in private companies where risk management practices must be embedded.

Rachel Coventry, marketing controller for Zurich Municipal, a Farnborough, England-based unit of Zurich Insurance Co. of Portsmouth, England, that provides risk management services to the public sector, said a risk management culture also must be embedded in local government authorities if losses are to be minimized.

In a speech last week before the South East Insurance Officers Group, a group representing local authority risk managers, Ms. Coventry said, "Risk management professionals should seize the opportunity to present themselves as essential to achieving best value and to embed risk management into the culture of their organization."

At another meeting, Liz Taylor, CEO of the Assn. of Local Authority Risk Managers, urged public risk managers to keep abreast of the changes in corporate governance legislation and guidelines currently underway in the private sector because they likely will lead to changes in the public sector as well.

"Corporate governance change is coming, and risk managers need to get a grasp of it so that they are in control when it arrives," Ms. Taylor warned at an ALARM South East Region meeting in London this month.

She said corporate governance has been evolving as a management discipline over the last nine years, and she urged risk managers to develop their knowledge of corporate governance and the skills needed to be compliant with the stricter regulations that will soon ensue.

Ms. Taylor said ALARM members should review their risk management strategies in light of the recommendations of the Turnbull report and be ready to explain the implications of those recommendations to the chief officers and members of the regional governments where they work.

Risk managers also should be prepared to take a leading role in the framing of corporate governance policies and procedures for local authorities, Ms. Taylor said.

Speaking at the same ALARM meeting, David Gamble, executive director of AIRMIC, reinforced this advice. "Other functions will take over this key role in corporate governance unless risk managers are proactive and undertake the responsibility," Mr. Gamble said. BI

HSE

Continued from page 57

the number of workers fatally injured from April 1998 to April 1999 fell to 257 from 274 for the previous 12-month period.

Meanwhile, a separate report, also published by the HSE last month, shows that workplace accidents and illnesses in 1995/96, the most recent year for which statistics are available, cost society between £14.5 billion ($23.49 billion) and £18.1 billion ($29.32 billion) a year, based on 1995/96 costs.

Employer costs are still dominated by costs stemming from accidents, which make up a total of between £2.3 billion ($3.73 billion) and £5.3 billion ($8.58 billion), the report shows.

"The results of our research indicate that, although on many measures occupational health and safety have improved, there is still a large potential for gains to employers—as well as to individuals and society as a whole—from action to improve standards of health and safety in the workplace," Ms. Bacon said in a statement.

The publication of the two reports was intended to coincide with National Health and Safety Week at the end of last month, a campaign designed to increase awareness of health and safety issues.

As part of the week, the Royal Society for the Prevention of Accidents, or RoSPA, launched a new program designed to promote the involvement of directors at the board level in safety and health management.

The Director Action on Safety and Health, or DASH, "will focus on the key role directors have to play in driving effective health and safety management in their organizations and achieving high levels of corporate health and safety performance," according to a statement from the HSE.

The DASH program links together health and safety projects undertaken by several organizations, including universities, the Trades Union Congress, the Institute of Occupational Safety and Health, RoSPA and the HSE. BI

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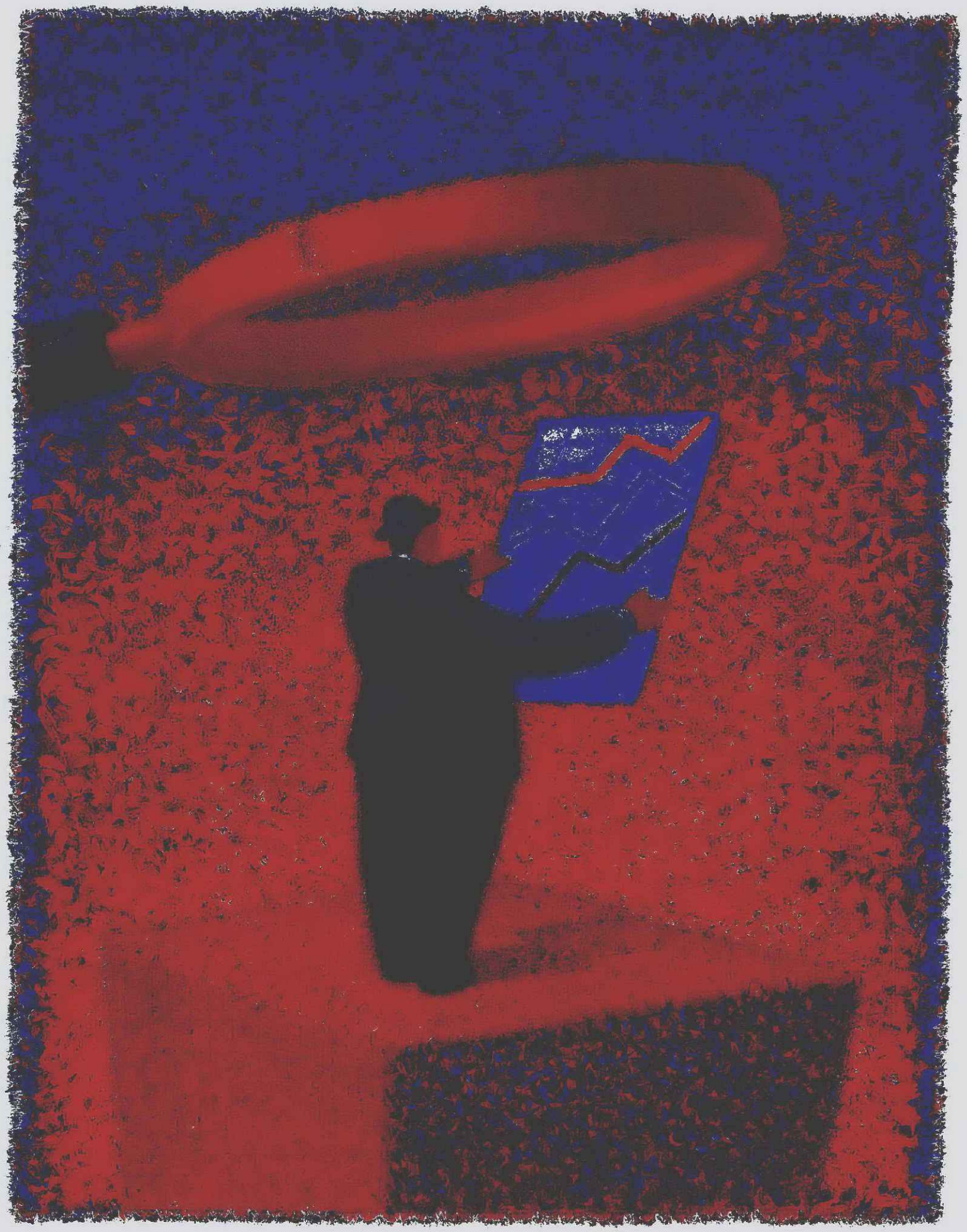
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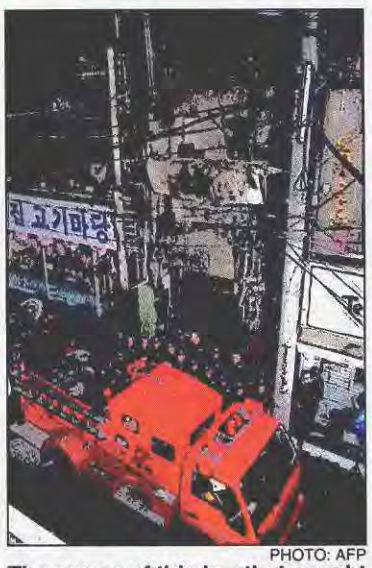


PHOTO: AFP

The owner of this bar that caught fire, killing 55, has been charged with inadequate fire protection.

Site of deadly fire has little insurance

By KATE TILLEY

INCHON, South Korea—South Korean authorities have arrested the owner of a bar after his establishment caught fire late last month, killing 55 people and injuring 80.

Youngsin Kim, aide to the mayor of Inchon City, where the fire occurred, confirmed that the owner, Sung Gap Chung, had been arrested. He would not confirm the charges, saying an investigation was not yet complete.

But Duck Sang Kim, Sedgwick Group liaison officer for Marsh Inc. in Seoul, South Korea, said he understood the charges were failing to have sufficient fire protection in a building and engaging in illegal sales and marketing. According to reports, most of those who died were teen-agers who, under South Korean law, should not have been in a licensed bar.

Sedgwick's Mr. Kim said he understood the building was insured for "simple fire risks" only, not liability, and had an insured value of about $175,000. Mr. Kim said he knew neither the name of the underwriter nor the broker.

"There is no proper cover" for claims stemming from the deaths and injuries, he said.

The owners of larger buildings are required by law to have adequate insurance, but the law does not apply to smaller buildings, such as the one that caught fire, Sedgwick's Mr. Kim noted.

South Korean press reports indicate that the building that caught fire was in the entertainment district of the port city of Inchon, 25 miles west of Seoul. The fire began on Oct. 30 in the basement of a four-story building that houses a karaoke bar, with other bars and restaurants above. Most victims died after inhaling toxic smoke.

Mr. Kim, the mayor's aide, said the Korean National Institute of Scientific Investigation had found that two employees using paint thinner had started the fire. "One employee, identified only as Lim, aged 14, said he and a co-worker, who was killed in the fire, were testing the flammability of paint thinner after spraying it on the floor," he said.

The building was being renovated, and an automatic fire extinguisher system had been disabled during the renovations, reports said.

The building was crowded with teen-agers celebrating school autumn festivals. Reports said the bar had been closed down earlier in the year because it was serving underage students but had since reopened.

Since the fire, the Korean Food and Drug Administration has ordered a crackdown on places that serve alcohol illegally and those with inadequate fire protection. BI

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IN THE MATTER OF
NATIONAL EMPLOYERS' MUTUAL GENERAL INSURANCE ASSOCIATION LIMITED (IN LIQUIDATION) ("NEMGIA")

NOTICE IS HEREBY GIVEN that the liquidators of NEMGIA intend to declare a fourth interim dividend to the creditors of the company within four months of 7 December 1999. Creditors who have not submitted claims to the liquidators of NEMGIA, PO Box 730, 20 Farringdon Street, London EC4A 4PP, England, by 7 December 1999 will be excluded from this dividend. Forms of proof of debt may be obtained from the liquidators or from policyholders' brokers.

Australian creditors who participated in prior dividends and who remain satisfied with the amount their claim is admitted for do not need to take any further action. They will automatically receive the fourth interim dividend when it is declared.

As regards NEMGIA's former branches in Cyprus and Malta, creditors should contact the local liquidator (or similar appointed person) to establish claims. Only to the extent that UK dividends exceed local percentage distributions will creditors be entitled to participate in distributions from UK Funds.

AJ McMahon, Joint Liquidator — 2 November 1999

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE PETITION OF PHILIP JOHN SINGER AND IAN DOUGLAS BARKER BOND, AS JOINT PROVISIONAL LIQUIDATORS OF THE CHARTER REINSURANCE COMPANY LIMITED,
CASE NO. 99-B-44653 (CB)

NOTICE IS HEREBY GIVEN THAT IN CONNECTION WITH THE PETITION FILED PURSUANT TO SECTION 304 OF THE BANKRUPTCY CODE FOR **THE CHARTER REINSURANCE COMPANY LIMITED** (THE "COMPANY"), THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK (THE "BANKRUPTCY COURT") HAS ENTERED A PERMANENT INJUNCTION AND ORDER PURSUANT TO SECTION 304 GIVING EFFECT TO SCHEME OF ARRANGEMENT IN UNITED STATES, DATED NOVEMBER 4, 1999 (THE "ORDER"):

1. Granting the Petition filed on July 27, 1999 (the "Petition") commencing this ancillary case;
2. Providing that the Scheme of Arrangement between the Company and its Scheme Creditors* shall be given full force and effect in the United States and be binding on and enforceable against all Scheme Creditors in the United States;
3. Permanently enjoining all persons and entities from taking any action in contravention of, or inconsistent with, the Scheme;
4. Requiring all persons and entities in possession, custody or control of property of the Company in the United States, or the proceeds thereof, to turn over and account for such property or its proceeds to the Scheme Administrators; and
5. Closing the ancillary proceeding commenced by the filing of the Petition, subject to reopening under section 350(b) of the Bankruptcy Code.

Copies of the Order, Scheme and Petition are available upon written request to the undersigned counsel below.

*Capitalized terms used but not defined herein have the meanings ascribed to them in the Scheme.

CHADBOURNE & PARKE LLP
ATTORNEYS FOR THE PETITIONERS
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ERC to exit media liability market

KANSAS CITY, MO.—Beginning Dec. 1, Media/Professional Insurance Agency Inc. will have first crack at Employers Reinsurance Corp.'s media liability renewal business.

ERC has sold that book of business to Kansas City, Mo.-based Media/Professional for an undisclosed amount. Overland Park, Kan.-based ERC decided earlier this year to exit media liability business, currently underwritten by the reinsurer and its Westport Insurance Corp. subsidiary, and focus on other markets.

"The traditional media liability market has become competitive, and we see greater opportunities in other categories," including World Wide Web publishers and other information technology companies, an ERC spokesman said.

The spokesman would not comment on whether ERC's decision to exit the market was based on poor underwriting results.

Media liability experts say a host of new media liability exposures are popping up in the courts, including claims of the inducement of violence and unethical newsgathering, which could test the protection limits under the First Amendment and the media liability market (*BI*, Aug. 9).

Mudge to move to Internet company

SAN DIEGO—William J. Mudge, president and chief executive officer of San Diego-based Golden Eagle Insurance Corp., will resign Nov. 30 to become president and CEO of ConfirmNet Corp.

ConfirmNet, also headquartered in San Diego, is a business-to-business e-commerce company that will distribute certificates of insurance via the Internet at CertificatesNow.com. CertificatesNow.com will be launched in January.



Mr. Mudge

Among his accomplishments, Mr. Mudge led the turnaround team for Golden Eagle Insurance Corp., a subsidiary of Boston-based Liberty Mutual Insurance Co. that was formed in 1997, after Liberty Mutual assumed the business of Golden Eagle Insurance Co. In 1996, Golden Eagle Insurance Co. was deemed financially unstable and placed under conservatorship by the California Department of Insurance.

"The time is right for me to tackle another mountain," said Mr. Mudge in a statement. "Golden Eagle has a strong team that will very successfully carry on with the implementation of the game plan we originated together."

Mr. Mudge's successor has yet to be named.

OSHA updates blood safety rule

WASHINGTON—The Occupational Safety and Health Administration recently issued an update of its 1992 bloodborne pathogen compliance directive.

The updated directive focuses on annual reviews of an employer's bloodborne pathogens program and emphasizes the use of safer medical devices aimed at reducing injuries, such as needlesticks, that can be caused by sharp implements. It also discusses administrative safeguards, worker protective equipment and basic work practices. Decontamination requirements, post-exposure procedures, training and guidelines on hepatitis vaccinations are also addressed.

The revised directive will serve as a guide for OSHA compliance officers during workplace inspections.

"This directive doesn't place new requirements on employers, but it does recognize and emphasize the advances made in medical technology," Secretary of Labor Alexis M. Herman said in a statement. "It reminds employers that they must use readily available technology in their safety and health programs."

In a statement, Charles N. Jeffress, OSHA administrator, said the agency also will review the 1991 regulation of bloodborne pathogens, which dictates employer responsibility, to see if any revisions are warranted.



PHOTO:AP/ WIDE WORLD

Cal/OSHA probes Tosco refinery fire

WILMINGTON, Calif.—Cal/OSHA, California's workplace safety agency, is investigating a refinery fire last week that closed down a nearby freeway and forced a nearby college to cancel classes.

The fire at the Tosco Corp.-owned refinery south of Los Angeles burned for more than an hour and sent smoke and flames skyward. But it was contained to a storage tank and did not disrupt refinery operations, a spokesman for Stamford, Conn.-based Tosco said. The spokesman declined to discuss the corporation's insurance arrangements.

Last summer, Cal/OSHA levied an $810,000 fine against Tosco and cited the company for 33 alleged violations after a fire killed four refinery workers in Martinez, Calif. At the time, Cal/OSHA officials said it was the largest fine ever assessed against an employer in the state.

Colorado grocers union ups premiums

WHEAT RIDGE, Colo.—Premium contributions will nearly double to a union health fund for retired grocery workers in order to keep the plan solvent.

King Soopers Inc., Safeway Inc., Albertson's Inc. and City Market Inc. collectively contribute $3 million annually to support the fund, known as the Rocky Mountain United Food & Commercial Workers Unions & Employers Health Benefit Plan. In addition, retirees pay $110 a month for both individual and family coverage, according to John Mathewson, a trustee of the Wheat Ridge, Colo.-based Taft-Hartley plan.



But because of rising health care costs and the fact that employer contributions to the fund have not increased since 1993, retiree premiums will climb to $175 a month for individual coverage for Medicare-eligible retirees; $187.50 a month for family coverage if one family member is Medicare-eligible; and $200 a month for family coverage if no family members are Medicare-eligible.

In addition, employers will divert $1.7 million, the equivalent of one month's contribution to the union's pension plan, to the health fund, Mr. Mathewson said.

But that may not be enough, he said. "Our consultants estimate that will give the fund enough money to last for another six to eight months."

As a result, the fund also is changing preferred provider organizations and is instituting a prescription drug card program to help curb rising health care costs, Mr. Mathewson said.

Comings & Goings: Industry

Christopher A. Coelho has been promoted to chief financial officer of Hamilton, Bermuda-based XL Insurance Ltd., part of XL Capital Ltd. He previously was controller.

Information in Brief

Wausau Insurance, a business unit of Liberty Mutual Insurance Co., plans to become one of the first insurers to use the Internet for the **direct sale of workers compensation products**, according to a company statement. The program, which will be offered in conjunction with Rockville, Md.-based atyourbusiness.com, will be geared toward employers with 50 or fewer workers. . . .Liberty Mutual has agreed, in principle, to acquire Waltham, Mass.-based **ALM Services Inc.**, a commercial property insurance subsidiary of Factory Mutual Insurance Co. ALM was created in 1997 through a strategic alliance between Liberty Mutual and the former Arkwright Mutual Insurance Co., which has since been merged into Factory Mutual. Terms of the deal were not disclosed. . . .Lincoln National Health & Casualty Insurance Co. has completed the acquisition of stop-loss provider **Alden Risk Management Services.** Miami-based ARMS was formerly a unit of John Alden Life Insurance Co. . . .**Connecticut Reassurance Corp.** of Hartford, Conn., last month purchased Durham, N.C.-based Investors Consolidated Insurance Co. for $14.5 million. . . .A.M. Best Co. of Oldwick, N.J., has upgraded to A+ (superior) from A its **rating for Zurich Kemper Life** companies Kemper Investors Life Insurance Co.; Federal Kemper Life Assurance Co.; Zurich Life Insurance Co. of America; and Fidelity Life Assn., a Mutual Legal Reserve Co. Long Grove, Ill.-based Zurich Kemper Life is part of the Zurich Financial Services Group. BI

UGG

Continued from page 3

McAndless.

"After some talk, we decided to carry out a sort of 'risk management love-in' in February of '97," Mr. McAndless recalled. The company brought together about 20 divisional managers from all different areas of UGG to "talk about what kept them up at night," he said.

The risk assessment process was driven internally, but the company engaged Willis to facilitate it. "We felt we didn't have the quantitative skills internally to move forward on this thing," the risk manager said.

The group initially identified 47 areas of risk and ranked those areas. It then consolidated the risks into about 25 areas, "and I think we had to go about eight or nine places down the list before we got to a traditional risk," Mr. McAndless said.

Narrowing the list to the top-six risks the company faced, "we had determined we could handle some internally," Mr. McAndless said. The risk of a downturn in UGG's grain-handling business, however, was one the committee felt the company had to try to transfer.

"One thing that really helped us was there was a clear objective UGG had in implementing this program," Swiss Re's Mr. Nusslein said.

In looking to include the grain-handling risk in an integrated program, Mr. Nusslein said it was apparent there were variables other than the weather in Western Canada that affected UGG's grain-handling revenue.

"So we kind of all came to the conclusion at the same time that a volume hedge might be better than a weather hedge," he said.

With that in mind, UGG and Swiss Re based the integrated program's grain-handling trigger on a grain-handling volume index set by a Canadian national commission.

That approach addresses two principal exposures contributing to the volume exposure, Mr. Nusslein said: the impact of Western Canadian weather on grain production and a "macroeconomic price risk component"—the fact that, if grain prices are low, the Canadian Wheat Board might hold back grain shipments, affecting volume levels.

"It's really a comprehensive, integrated program," Mr. Nusslein said of the UGG program, on which Swiss Re will provide all the insurance coverage. "They're basketing these non-correlated exposures and transferring them in a very efficient manner."

The program's structure is typical of an integrated risk approach, Mr. Nusslein said. It includes an integrated retention for the property/casualty and grain-handling volume exposures, with both per occurrence and aggregate levels of retained risk. Above the retention is a large block of integrated limits, above which is an excess layer, which is there largely to cover worst-case property exposures.

The three-year program includes an option to renew for an additional three years.

One of the most significant aspects of the program is that it provides a way for UGG to address an exposure the company was previously unable to hedge, Mr. Nusslein said.

"You're not looking at a different way to hedge foreign exchange, which you previously had the ability to hedge in the capital markets," he said.

And, while the program's ultimate structure might have been fairly typical as integrated risk coverages go, the process that produced it was far from routine, Mr. Nusslein said.

"The evaluation of the exposure and the quantification is an extraordinary process," he said.

"One of the things that differentiated this opportunity for us was that they took a very comprehensive approach to the entire risk management process," the Swiss Re New Markets director said.

Through its risk management committee, UGG took a broad, general look at the company's exposures, rather than "breaking risk down into little cylinders," Mr. Nusslein said.

"We view losses now as color-blind," UGG's Mr. McAndless said. "It doesn't matter where a loss comes from; it has the same effect on our results."

"I think we've crossed the line between traditionally defensive and strategic," the risk manager said. "Whereas we used to retain all the risk on volume before, we still participate in some of that, but on an aggregate basis with our other risks."

In the process, he said, UGG may be increasing the amount it retains on some exposures, but it has reduced its retained risk on grain handling.

UGG's integrated risk program and the development of a mechanism to rein in volatility in the company's grain-handling business clearly stemmed from the risk assessment process that led to it, Mr. McAndless said.

"The ultimate sort of financial solution to this is really the sort of process that has been developing and we have been working on for three years," he said. "You don't wake up one morning and say, 'Gee, I need to go out and buy one of these integrated risk programs.' "

According to Brian M. Kawamoto, a director at Swiss Re New Markets in New York, UGG's process "begins to differentiate why certain transactions haven't occurred."

"Why did this transaction work vs. other failed attempts? It really speaks to some of the factors that impede other enterprise risk transactions," Mr. Kawamoto said. "If there's a lesson learned, it's of both a corporate and an individual commitment to the process. (Mr. McAndless') hosting the risk summit was a brilliant move."

"Many companies tend to have artificial barriers that, for whatever reason, prevent their ability to create a cross-functional team," said John Bugalla, a managing director at Willis Advanced Risk Management Services, who worked with UGG in its risk evaluation.

At a time when UGG is making considerable capital investment in improving its grain-handling facilities, the operating risk hedge that is provided by the integrated risk program will increase both the company's flexibility in funding those projects and its comfort level as it does so, Mr. Kawamoto noted.

"UGG was focused on other things beyond just cost of risk and premium costs," he said. "It's the difference between a trading mentality and a strategic mentality." BI

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Commentary

QIC's *raison d'être* hasn't died with it

I'm disappointed that the Quality Insurance Congress is dead.

I was just elected to its board this summer and was looking forward to bringing an outsider's perspective to its deliberations. And, like many others, I had hoped that the QIC could indeed help the insurance business and its customers improve what they do and how they do it—and ultimately improve their collective public image.

I attended the first Quality Insurance Congress in Nashville in August 1993 and witnessed the birth of the organization. I was caught up in the excitement generated among the brokers, insurers and risk managers attending the meeting. They were committed to forming an organization dedicated to improving the processes, products and services of commercial insurance.

The voice of the customer was going to be heard.

Although I was recruited, I didn't join the Quality Insurance Congress in 1993. I was concerned that membership in the QIC could compromise our reporting on its activities. But just last April, QIC President Steve Wilder convinced me that I should serve on the QIC board; our reporting would not be biased by my participation.

My first QIC board meeting was to be Oct. 21. I did not attend because it was the same day as The College of Insurance trustees' meeting. I assumed, incorrectly, that I would have many more opportunities to attend QIC meetings.


Kathryn J. McIntyre

It was at that Oct. 21 QIC meeting, which failed to attract a quorum, that the executive committee voted to seek the board's approval to dissolve the QIC. Had I known that the future of the QIC would be decided on Oct. 21, I would have sent my regrets to The College of Insurance in order to weigh in on the debate over the QIC's continued existence. I will always regret that I was not at the final QIC meeting.

I'm not so arrogant as to think I could have changed anyone's mind about the future of the QIC, being the new kid on the block. But I sure would have argued against the precipitate decision to send a letter to all members of the board asking if the QIC should be dissolved. I would have suggested that, instead, another meeting of the board be called to discuss how the QIC either could be reorganized and refocused to be more effective or dissolved.

I'm sure that, as an organization committed to quality improvement, the QIC board constantly reviewed ways its work could be improved. But putting the issue in the harsh terms of "How can we change or do we die?" may well have elicited some life-saving responses for the QIC.

The QIC's biggest accomplishments in its six years was the production of two "scorecards" that reported customers' opinions on the quality of service by commercial insurance companies, brokers and third-party administrators. These scorecards were controversial, to say the least. Some companies that received low scores were outraged and challenged the reliability of the survey results.

Those very scorecards may well have killed the QIC. Why should insurers and brokers support research that gave them black eyes?

Ironically, killing the QIC won't kill the scorecard, because the Risk & Insurance Management Society Inc. has pledged to continue the research every other year.

Maybe the scorecard should have been a RIMS project all along. Perhaps the limited resources of the QIC could have been better used to address some of the issues that lead to consumer frustration with the insurance industry. The duplication of efforts by brokers and insurers and the lack of a common data standard to allow customers to properly analyze their claims history from numerous insurers are two that come to mind. Could the QIC have promoted an Internet initiative to tackle these problems?

At the very least, I wish the QIC had continued to exist, if only to be the partner with RIMS in awarding the annual Arthur Quern Quality Award. Perhaps disassociating itself from the scorecard and assuming a more limited focus for a period would have allowed the QIC to later grow in other directions.

Killing the QIC outright simply sends the wrong message to the customer, despite members' assurances that they will continue their individual companies' quality efforts.

The compelling reasons for forming the QIC six years ago still exist today: The insurance business is inefficient, its products and services leave too many customers wanting and, most important, more people complain about the insurance business than sing its praises.

If the insurance business is to thrive, let alone survive, in the face of new competition from other financial services organizations in the 21st century, common sense dictates that the business needs both an individual and a collective commitment to quality.

Publisher and Editorial Director Kathryn J. McIntyre's commentary appears fortnightly. She can be reached at kmcintyr@crain.com

Fees

Continued from page 1

was intended to eliminate," said Phil Olsson, Washington counsel for the National Risk Retention Assn. and a principal with Olsson, Frank & Weeda P.C. in Washington.

The fees, the groups say, violate the spirit if not the actual letter of the Risk Retention Act, the federal law that created risk retention groups and purchasing groups. RRGs are special captives that can issue commercial liability policies—except workers compensation—nationwide for policyholder-owners after meeting the insurance licensing requirements of one state. Purchasing groups are buyers who band together to buy commercial liability policies from insurers on a group basis. Roughly 70 RRGs and 750 purchasing groups now operate, providing coverage to such diverse groups as accountants, lawyers and air-conditioning and heating contractors.

The fee issue is pitting the groups against insurance regulators. Buyers say the Risk Retention Act bars states from imposing rules or regulations—except those, such as premium taxes, specified in the federal law—on RRGs licensed out of state.

"If it isn't specified in the Risk Retention Act, a state can't do it," said Jon Harkavy, vp and general counsel in the Arlington, Va., office of Risk Services L.L.C., a risk retention group and captive management firm.

For purchasing groups, the Risk Retention Act pre-empts state rules or law that discriminate against the groups. Thus, for example, if a state imposes a registration fee on purchasing groups, but not on other insurance buyers, the fee would discriminate against purchasing groups and be pre-empted by the federal statute, Mr. Harkavy said.

This pre-emption of state laws and rules was deliberate congressional intent, said Donald Breakstone, chairman of NRRA's government affairs committee and senior vp and general counsel in Chicago for Vermont-domiciled Attorneys Liability Assurance Inc., a Risk Retention Group.

"Congress wanted to open the market more to the concept of alternative risk transfer. Congress did not want barriers to that market," he said.

"Legislators wanted to give buyers alternatives to the traditional market. They recognized how hard and costly it is to be an admitted insurer and did not want to put that load on" RRGs and purchasing groups, Mr. Harkavy said.

Guidance to regulators from the National Assn. of Insurance Commissioners has changed somewhat over the years.

A 1996 NAIC handbook said the Risk Retention Act does not pre-empt states from charging RRGs and purchasing groups initial, annual or other non-discriminatory fees for filings, "although certain RRGs and PGs dispute the authority of states to levy such fees."

But a new revision to the handbook urges states to have their legal departments review their state law assessment provisions to determine if fees are allowed under the Risk Retention Act.

Risk retention and purchasing groups are resisting some of the fees. For example, NRRA, the trade group that represents many RRGs and purchasing groups, successfully challenged 1995 Louisiana licensing procedures that required RRGs domiciled outside the state to pay a $1,000 fee and maintain at least $5 million in capital and surplus. A U.S. District Court struck down the requirements, noting that the federal law "expressly pre-empted regulation of risk retention groups by any state other than the one which chartered the group."

Other successful efforts include NRRA members helping to convince the Maryland Insurance Administration to drop a $1,000 anti-fraud fee it initially tried to impose on risk retention groups.

And more recently, nearly 70% of purchasing groups that responded to a Year 2000 computer readiness survey conducted for the Indiana Insurance Department have refused to pay a $650 fee that the department has billed them on behalf of the private contractor that analyzed survey data (*BI*, Oct. 25).

"It made no sense. They were asking for a fee to analyze nothing," Ms. Kravetz said, noting that purchasing groups are just a buying mechanism and do not have assets, such as computer hardware or software.

In addition, RRGs and purchasing groups are now contacting the Hawaii Insurance Department to convince regulators to drop the $406 fee it is imposing on the groups.

For example, Ms. Kravetz sent a letter to the department saying that it erred in assessing the fee on purchasing groups. The Hawaii law, said Ms. Kravetz, gives authority to the department to impose fees on "regulated entities." Purchasing groups are not regulated by the state and thus are not subject to the assessment, she said. Ms. Kravetz also informed the department that purchasing groups she represents won't pay the fee.

But it isn't possible or worth it to challenge every state fee, the groups say.

"This is very frustrating because the legal cost of doing what is right—challenging the fees—outweighs the dollar benefit you would gain," Mr. Breakstone said.

"It is a real problem. What do you do when you face a $100, $200 or even $1,000 fee? Are you going to spend five or six-figures in legal costs over a few hundred dollar fee? Groups ask themselves if it is worth to fight" and then give in, said Risk Services Mr. Harkavy.

Ultimately, said Mr. Breakstone, the issue may need congressional intervention.

"Even though we think the law is clear, Congress may have to make it even clearer that fees, other than premium taxes," cannot be imposed on the groups, Mr. Breakstone said.

The last time Congress got involved in the area was 1986, when it expanded the original 1981 Risk Retention Act to allow RRGs and purchasing groups to provide coverage for all commercial liability risks except workers compensation. Under the original law, passed in response to the product liability market crunch of the late 1970s, the groups' role was limited to product liability and completed operations coverage. BI

Y2K study sees areas for concern

By MARK A. HOFMANN

WASHINGTON—"Important national systems" appear likely "to make a successful transition to the Year 2000," according to a report released last week by the President's Council on Year 2000 Conversion.

But, like a previous report released by the Senate Special Committee on the Year 2000 Technology Problem, the presidential panel's survey notes that "concerns" remain about the level of preparedness of certain sectors, including health care.

The special committee's chairman, Sen. Robert Bennett, R-Utah, noted as much in a statement he issued when the presidential panel's report was made public.

Sen. Bennett said that the committee shared President Clinton's "confidence that there will be no major problems in the United States during the century date change." But he added that, as the committee's "100 Day Report" released in late September had pointed out, "we do have lingering concerns that there will be sporadic problems with small business, schools, health care, local services and the international arena, all of which have the potential to cause disruptions that affect the American people."

The presidential report, which called the Y2K preparation effort "perhaps the greatest management challenge the world has faced since World War II," expressed a "high degree of confidence" in the preparedness of six major economic sectors: financial services, electric power, telecommunications, air and rail transport, oil and gas, and the federal government.

For example, the report said that 99.6% of federally insured financial institutions had completed testing of critical systems for Y2K preparedness by Sept. 30. In addition, bulk electric power suppliers reported that more than 99% of mission-critical systems were Y2K-ready by last month. The largest telephone companies—controlling 92% of U.S. access lines—reported a 100% completion rate for remediation efforts.

But five sectors covered in the report did not fare nearly as well. Local governments, health care, education, housing and small business were cited as being areas of concern. The report noted, for example, that only half of the country's 911 emergency call centers had reported being Y2K-compliant as of last month.

The outlook for health care and small business remains unclear because of a lack of up-to-date information. Citing an outside report based on data from July and August, the presidential panel's study said that only 40% of the health care industry was Y2K-ready at that time. The report also cited a survey taken by the National Federation of Independent Business in April, which showed that 28% of small businesses with potential Y2K exposures did not intend to do anything about those exposures. Results from a subsequent NFIB Y2K survey of small businesses should be released next month, according to the White House report.

The presidential panel's report also examined international Y2K preparations. While citing Canada, Mexico and several other significant U.S. trading partners as being well prepared for the date change, the report repeated testimony made by a CIA official before the Senate special committee last month that "some Asian and Eastern European countries, including Russia, the Ukraine, China and Indonesia, are moving slowly toward Y2K readiness and are more likely to experience significant failures" (*BI*, Oct. 25).

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The President's Council on Year 2000 Conversion's "Fourth Summary of Assessment Information: November 1999" can be downloaded from the council's World Wide Web site at www.y2k.gov.

Pension

Continued from page 1

contributions to their plans. He has threatened to veto the minimum-wage package, which itself is part of a broader bankruptcy bill, which the Senate has not yet approved.

Even though the pension reforms appear unlikely to be enacted—barring a major turn of events—some benefit lobbyists are not discouraged.

They say that, even if the minimum-wage package is vetoed, other legislative vehicles could be found for advancing the pension provisions.

"This is not necessarily a negative development. It will not deter us from success down the road," said James Delaplane, vp-retirement policy for the Assn. of Private Pension & Welfare Plans in Washington.

Others, though, are not as optimistic. "How can the momentum be maintained? The chances of something happening seem very slim," said Kyle Brown, an attorney with Watson Wyatt Worldwide in Bethesda, Md.

Still, benefit observers took comfort that the Senate defeated an alternative minimum wage increase package proposed by Sen. Edward Kennedy, D-Mass., that would have banned pension plan conversion approaches that result in "wear-away." Wear-away is a situation in which employees, due to interest rate fluctuations, may for some time not accrue benefits under the new plan.

The Kennedy package—aimed at addressing criticism of cash balance plan conversions—included a provision that would have required employers to disclose more information on how a plan conversion could affect employees' expected pension benefits.

Benefit consultants say the defeat of the Kennedy proposals means that lawmakers will have more time to talk with experts before drafting legislation affecting cash balance plans.

"I'm glad we will have more time to reflect on issues related to cash balance plans," said Larry Sher, a principal with PwC Kwasha in Teaneck, N.J. "We could end up with a bill that is acceptable to employers and still meets the objectives of proponents."

From a benefit perspective, the centerpiece of the Senate bill is a package of provisions that would increase both the contributions that could be made to retirement plans and the benefits that could be funded through those plans. Those provisions would:

- Boost to $15,000 from $10,000 the maximum annual salary deferral an employee could make to a 401(k) plan. An employee age 50 or older could contribute an additional $5,000 per year to a 401(k) or other savings plan.

  This provision is aimed at helping women who return to the workforce after raising families make up for the years in which they were out of the workforce and were not contributing to corporate savings plans.
- Raise to $200,000 from $160,000 employee compensation that can be included to calculate pension benefits.
- Increase to $40,000 from $30,000 the annual per-employee contribution that can be made to defined contribution plans, and raising to $160,000 from $130,000 the maximum annual benefit that can be funded through defined benefit plans.

The legislation also includes provisions that would reduce pension plan overhead. Those provisions would:

- Allow employers to use the same basic non-discrimination test, known as the "200%/2 percentage points test," on savings plans that have pretax and aftertax features. Current law requires employers to use a different test on aftertax contributions.
- Let an employee who moves between the private and non-profit sectors to roll over his or her savings account balance to the new employer's plan. Such transfers between 401(k) and 403(b) plans now are prohibited.
- Exempt from minimum distribution rules the first $100,000 of a retiree's accrued pension benefit. Those rules, which are complex and can be difficult to administer, require a retiree to withdraw benefits, such as an account balance in a 401(k) plan, when he or she reaches age 70½.
- Allow employers to turn over to the Pension Benefit Guaranty Corp. the responsibility for finding missing participants in their defined contribution plans. Currently, the PBGC's missing participant program can be used only by employers that are terminating defined contribution plans.
- Index the pension benefit cash-out limit to inflation.

An employer can terminate a former employee from its pension plan and give him or her a lump sum only if the cash value is $5,000 or less. Many employers prefer such cash-outs because they relieve them of the responsibility and cost of continuing to provide pension plan reports to employees, as well as paying premiums on their behalf to the PBGC. BI

Review

Continued from page 1

treatments they are recommending for their patients against national treatment norms."

Many observers agree that if any managed care company can succeed at using data to promote evidence-based medicine it's UnitedHealthcare.

"If they do that, I think it will be great," said Margaret O'Kane, president of the National Committee for Quality Assurance in Washington, a managed care accreditation organization.

UnitedHealthcare has been "a leader in using research to change delivery systems and plan design," said Helen Darling, practice leader, group benefits and health care for Watson Wyatt Worldwide in Stamford, Conn.

UnitedHealthcare is in essence saying that the best way to change physician behavior is not by monitoring every individual treatment decision, but instead by conducting an annual review and working with physicians on improving treatment decisions where needed, the benefits director said.

Physicians that fail to operate within the company's standards will be eliminated from the network, the HMO said.

"If you do treatment-by-treatment review, you only teach the doctors how to game the system," the benefits director said. A yearly review that educates doctors on ways to become more efficient and improve treatment will have a better chance of actually changing physician behavior, the benefits director said.

Watson Wyatt's Ms. Darling said that if UnitedHealthcare's physician-education effort is a success, it could pave the way for a new era of managed care.

"In the best of all possible worlds, you never have to say 'no' because you have doctors practicing the best possible medicine," she said.

Although she expressed some concern, if UnitedHealthcare's plan does succeed, "we could have a wonderful system five years from now," she said.

The move will create other advantages for UnitedHealthcare. It will improve the relationship between doctors and the HMO, as well as that between doctors and their patients, said Graham Chalfant, a vp with Willis Corroon Corp. in Charlotte, N.C.

He also noted that employers currently are conducting open enrollment, and the publicity surrounding the move could sway employees into selecting UnitedHealthcare's plans.

"It's perfect timing for them," Mr. Chalfant said.

Another potential benefit for UnitedHealthcare is that, by no longer making treatment decisions, it eliminates any potential liability that might come out of the current legislative proposals in Congress, said Segal's Mr. Jacobsen, referring to patient-protection bills that would permit suits against HMOs for alleged harm caused by treatment decisions.

Although many believe UnitedHealthcare's move is a giant step forward for managed care, others are concerned it could turn out to be a step backward.

Without a managed care company looking over doctors' shoulders, many fear an increase in unnecessary medical treatments, eventually prompting a return to the steep medical cost hikes prevalent in the pre-managed care era.

Carmine Morano, president of Anthem Health & Life Ins. Co. of New York, said he is skeptical about ending review of treatment decisions.

"We don't think you can do without utilization review management without escalating prices," he said. Mr. Morano said that utilization review has indeed succeeded in controlling medical costs.

"We can't go back to a system where doctors are in charge without some mechanism of (reviewing) how they can treat patients," Mr. Morano said. "That's essentially putting the fox in charge of the hen house."

Even though nearly all treatment received approval, doctors still knew UnitedHealthcare reviewed their decisions, said Ms. Darling of Watson Wyatt. The lack of that sentinel influence could lead to higher medical costs, she said.

To prevent that from occurring, UnitedHealthcare "must be able to deploy other tools" to control unnecessary utilization that leads to higher cost, she said.

The benefits director said she will start looking closely at X-ray and laboratory costs in the coming months, which are two early indicators of increasing medical utilization.

Like many others, Mr. Chalfant of Willis is adopting a wait-and-see approach on whether UnitedHealthcare's costs will increase. And, like many others, he wants to know more details on UnitedHealthcare's plan. Some areas where more information is needed, for example, include how physicians will be evaluated by the company and the circumstances under which the HMO will cut physicians from its network. Others say they would like to see more details from the pilot program studies supporting the HMO's claim that health care costs have not increased without the physician oversight.

Despite the positive feelings that UnitedHealthcare's move has generated, it's unclear whether other HMOs will follow suit. No other HMOs have announced similar steps, though the move has certainly grabbed their attention.

The benefits director predicted, however, that other health care companies will be forced to follow UnitedHealthcare's lead as employers and physicians pressure plans to change.

"Plans will be taking a hard look at their utilization management programs," the NCQA's Ms. O'Kane said.

UnitedHealthcare's move might spur his company to take similar action, Anthem's Mr. Morano said. Like UnitedHealthcare, Anthem New York spends more money on treatment reviews than it saves, as it approves over 99% of all treatments, he said. Although the company has not made any decision, "this might be the thing that motivates us to make a change," he said. BI

Updates

Aviation suits settled

Continued from page 2

The London market led the US Airways coverage, a source said. Co-leads on the risk were British Aviation Insurance Group and Lloyd's Hill Syndicate 800.

A Parker Hannifin spokeswoman said the company is fully insured, though it may be subject to a self-insured retention.

The defendants still face about four wrongful death lawsuits, which are pending in federal court in Pittsburgh, said independent Chicago plaintiff's attorney Don Nolan. Mr. Nolan, who represents two plaintiffs, said documents show Boeing had known about the rudder problem on its 737s for years before the crash.

RAND suggests judicial angle

SANTA MONICA, Calif.—Greater judicial management of class-action settlements and awards is the key to class-action reform, according to a report that will be released by the RAND Institute for Civil Justice early next year.

According to a summary of the report released earlier this month, RAND researchers examined several proposed reforms to class-action litigation—including the removal of certain cases to federal from state court, prohibiting the creation of classes for settlement purposes only and imposing a cost/benefit test for certifying classes—and found problems with each. The researchers recommended instead that judicial regulation of class actions would be more effective in creating a "better balance between public goals and private gains."

"Judges need to take more responsibility for the quality of settlements, and they need to reward class counsel only for achieving outcomes that are worthwhile to class members and society," according to RAND. The study recommends, among other things, that judges require that settling parties disclose their plans for disbursing awards, exercise "heightened scrutiny when coupons comprise a substantial portion of the settlement value," exercise heightened scrutiny when the amount of fees is negotiated separately between the class counsel and defendants before a settlement is reached and award class counsel fees as a percentage of the fund actually paid out to class members or other beneficiaries.

The report also recommends that judges handling class-action cases be given more resources in order to carry out their jobs.

Group health could rise 10%

LINCOLNSHIRE, Ill.—Employers estimate that their health care plan costs will rise by 10% as health care inflation shows no sign of easing.

According to a survey of about 600 large employers by Lincolnshire-based Hewitt Associates L.L.C., group health care costs next year will average $4,853 per employee, up from $4,412 this year.

Among different plan types, employers expect traditional health maintenance organization costs to rise 10% to an average of $4,341 per employee, while preferred provider organization plan costs also are projected to climb 10% to an average of $4,966 per employee. Point of service plan costs are expected to increase 9% to $4,763 per employee.

The survey also found that group health care costs this year tended to be highest on the East Coast. For example, health plan costs increased by an average of 11.6% in New York City, 11.1% in Washington and 10.6% in Boston. By contrast, group health plan costs increased by only 6% in Detroit and 6.1% in Chicago.

ACE, NEIL form alliance

HAMILTON, Bermuda—ACE Bermuda Insurance Ltd. and Nuclear Electric Insurance Ltd. have entered a joint marketing agreement to offer property and liability insurance coverage to nuclear utilities outside the United States and Canada.

Under the agreement, NEIL will offer $2.75 billion in property capacity and ACE will offer liability coverage up to the limits determined by local regulators, which typically range from $200 million to $500 million, said Patrick Figorito, vp of underwriting at NEIL in Wilmington, Del.

NEIL will offer the coverage through its Dublin subsidiary, Overseas NEIL Ltd.

Through the alliance, ACE will be able to enter an expanding and generally profitable line of business, said Gary Schmalzriedt, president and CEO of ACE Bermuda. Each deal will be structured differently, but some will likely include other insurers. ACE also expects to participate on the property coverage for some deals, Mr. Schmalzriedt said.

Briefly noted

XL Capital Ltd. said in a statement last week that it does not intend to continue bidding for **Capital Re Corp.** following the financial guarantee reinsurer's acceptance of a revised $511.3 million cash and stock offer from ACE Ltd. ACE had originally offered an all-stock deal that diminished in value as ACE's stock price dropped and then fell apart when XL made a last-minute cash offer for Capital Re. . . .President Clinton last Friday signed S. 900, the **financial services reform** bill. . . .Duff & Phelps Credit Rating Co. has lowered its **ratings of Reliance Group Holdings Inc.** Duff & Phelps lowered the claims-paying ability rating to A- from A+ following a review of Reliance's exposure to the Unicover workers compensation pool. For similar reasons, Moody's Investors Service Inc. placed its insurance financial strength rating of Reliance under review for possible downgrade. . . .**Sumitomo Marine & Fire Insurance Co.** has decided not to join the planned alliance of three other Japanese property and casualty insurers (*BI*, Oct. 25). It said differences over key issues, such as computer and personnel management systems and corporate culture, were too great to bridge by the 2002 target merger date. Those still planning to merge to form Japan's largest non-life insurer are Mitsui Marine & Fire Insurance Co., Nippon Fire & Marine Insurance Co. and Koa Fire & Marine Insurance Co. . . . On Monday, **Chris Duncan** moves to Delta Air Lines Inc. in Atlanta as director of risk management and insurance. Mr. Duncan had been director of risk management at Frito-Lay Inc. in Plano, Texas.

Credibility could use some tweaking

By MYRON M. PICOULT
Special to *Business Insurance*

For the most part, the property/casualty insurance industry is devoid of management credibility. The only other group that probably has less credibility than property/casualty management is the Wall Street sell-side insurance analysts.

This credibility void for company management has been building for some time, but it seems to have peaked in recent weeks, following numerous pre-third-quarter earnings announcements about shortfalls relative to consensus estimates. In fact, so many insurers have pre-announced that those that remain silent seem to be in the minority.

Many announcements note losses from Hurricane Floyd. But Floyd was not as big a storm as it could have been, which underscores the fact that there are no margins for error left in the business. Floyd is being used as a cushion! Indeed, in "good," or more-normal times, Floyd would have been just another loss.

Intense competition has chipped away at the premium dollar to such an extent that nothing is left to absorb major events and catastrophes without negatively affecting earnings. Put another way, it appears that the losses are average but the premiums are way too low.

The Insurance Services Office Inc.'s Property Claim Services unit has announced that it is estimating $2.1 billion in catastrophe losses for the industry for the three months ended Sept. 30, 1999, compared with $4.1 billion in losses incurred a year ago. This was the fifth-highest third-quarter cat loss figure since recordkeeping began 50 years ago.

The third-quarter number of $2.1 billion compares with a $1.9 billion catastrophe loss for the first quarter of 1999 and a $3.5 billion loss for the second quarter.

There are several factors undermining management credibility. To begin with, it seems that internal earnings expectations at the beginning of the year were way too high, and most managements were either unaware of their optimism or were hoping to be bailed out.

Wall Street analysts have to learn to weigh management commentary more carefully and not blithely accept everything uttered or implied. Most 2000 consensus estimates are also too high. Indeed, everybody got sucked into the pricing downdraft, and it is obvious that most purveyors were more-willing participants than they knew or were willing to admit.

The inevitable compromising of the underwriting templates covers both pricing, terms and conditions and some misclassification of risks. The undermining of the underwriting template did not just happen overnight, of course; it has been underway for some time. It is also obvious that pricing trends in the personal automobile line were funkier than anybody thought, and this will have to be worked out over the next nine to 12 months. This further raises the question as to why so many insurers rushed to raise their overall retentions and did not make more-effective use of low-priced reinsurance.

Perhaps the most damaging factor, however, was the comments surrounding a reversal in pricing trends. It is painfully obvious that management commentary about the advent of rate relief, at least in the middle-market commercial sector, was not as heartfelt in the first quarter as some implied and others believed. To be sure, some of the cheering about rate relief was apparently more for internal consumption than for external use.

Having noted this, I finally believe that most managements and boards are now feeling pain and beginning to react. Still, year 2000 premium trends have already been set by what has transpired thus far in 1999. Actions taken today will have a minimal effect on the numbers for the latter part of 2000.

I have been arguing for some time that the industry, which is really just a compilation of companies, has been severely undermining the integrity of its balance sheet by cheating on reserve levels. Another area to be sensitive to is the long-lost category of reinsurance recoverables. Any insurer that has some balance sheet items that it is aware of shouldn't go into the year 2000 without addressing them. There are, of course, those situations where balance sheet pressures may preclude fully addressing the situation. Herein lies Wall Street's blatant shortfall on balance sheet analysis!

All of the aforementioned underscore the industry's weakness of being monochromatic on its revenue stream, relying too long on net investment income as its savior, missing the boat on the need to retain seasoned underwriters, and being dazzled by its excess capital position—both real and apparent.

Investors should note that some insurers furloughed seasoned underwriters because they "cost too much." Indeed, many underwriters in the trenches—even those with 10 years of experience—have never really experienced a hard market, and they simply do not understand how to properly react. Client commentary about the paucity of rate increases says it all!

Cash flow constraints have also precluded many insurers from more effectively executing their buyback programs. It will be interesting to see just how much stock insurers have repurchased since their stocks were pummeled.

Of course, there are instances of extenuating circumstances, and it is incumbent upon managements to point these out when they release their third-quarter results. It is also curious that so many entities are once again stressing the need to become more aggressive on expenses.

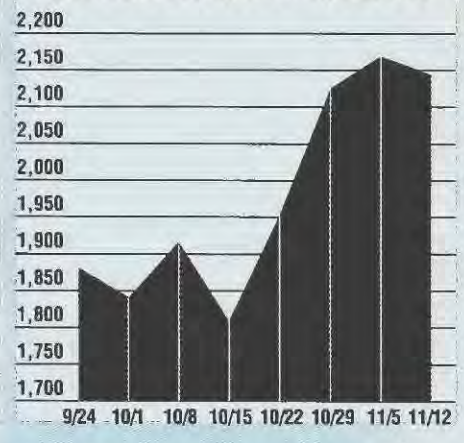
I have no major problem with this approach, but I note that the leverage of a one-point improvement on the loss ratio is double what one gets out of the expense ratio. The industry has much to do to reduce its expense levels, but it also has lots to do on the loss side of the equation.

We are at the point where there is likely to be an interesting interplay between the rush back to basics and the gnawing and clawing of Darwinism. However, one cannot resist asking why more of the industry's excess capital is not being more aggressively returned to shareholders, and why we are not seeing more entities disappear.

Myron M. Picoult is a director and senior insurance analyst at Wasserstein Perella Securities Inc. in New York. He is the past president of the Assn. of Insurance & Financial Analysts and a member of the New York Society of Security Analysts. An archive of Mr Picoult's columns for Business Insurance can be viewed on the World Wide Web at: http://www.businessinsurance.com/ticker/headlines.html



BI Insurance Index



Source: *CNET Investor* (investor.cnet.com) Boulder, Colo.

PCS catastrophe options

As of Nov. 12

Call spread	Price bid/ask
National Annual 1999	
60/80	14.0/19.5
80/100	1.2/—
100/120	0.3/—
150C	0.2/2.0
Eastern December 1999	
10/20	—/4.0
20/30	—/2.0
40/60	—/2.0
60/80	—/1.8
Southeast December 1999	
40/60	—/1.8
60/80	—/1.6
80/100	—/1.4

Call spread	Price bid/ask
California Annual 1999	
60/80	0.1/—
80/100	0.1/0.4
100/150	0.1/0.8
Western Annual 1999	
80/100	—/1.9
National Annual 2000	
100/150	6.7/—
150C	5.0/—
190/195	0.3/0.5
200/250	3.0/—

Total volume: 0 Total open interest: 6,737

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

Source: Chicago Board of Trade

British Issues

Companies	Price pence	P/E	Div. pence	Yield %	52-week high-low
Legal & Gen	171	20.6	3.6	2.2	237-142
Royal & Sun	444	NA	23.0	5.2	633-379
Brokers					
Lmbrt Fenchurch	93	9.1	4.2	4.5	95-58
JLT	250	11.3	12.0	4.8	286-166

Note: Prices are Nov. 12 closings; other numbers from Nov. 11.

Source: *CNET Investor* (investor.cnet.com) Boulder, Colo.

BI Industry Stock Report NOV. 8, 1999, THROUGH NOV. 12, 1999

BROKERS		Price	Weekly % change	Year to date % change	Year to date High	Low	Vol.(000)
Aon Corp.	NYS	38.69	-3.28	3.51	46.69	26.06	4918
Clark Bardes Holdings	NDQ	13.50	-6.09	-20.06	21.00	12.50	142
E.W. Blanch Holdings Inc.	NYS	58.88	-5.42	26.10	71.75	39.75	162
Gallagher Arthur J. & Co.	NYS	55.19	-0.56	26.14	57.25	42.25	127
Hilb, Rogal & Hamilton	NYS	26.94	3.61	44.63	27.38	15.56	29
Kaye Group Inc.	NDQ	8.88	9.23	22.41	9.25	5.00	5
Marsh & McLennan	NYS	82.19	0.84	39.01	83.38	54.81	3054
Brown & Brown	NYS	36.13	4.71	3.40	39.44	29.31	46
BROKERS	AVERAGE		2.07	26.95			
INSURERS/REINSURERS							
ACE Ltd.	NYS	20.25	-3.57	-38.05	35.25	15.50	5894
Accel International Corp.	NDQ	0.66	5.00	-78.13	3.38	0.50	62
Acceptance Insurance Cos.	NYS	13.88	-0.89	-30.19	20.44	11.63	212
AEGON N.V.	NYS	89.00	-1.66	-27.01	130.13	69.63	1093
Aetna Life & Casualty	NYS	57.25	7.13	-28.27	99.88	46.50	5302
AFLAC Inc.	NYS	51.63	-1.31	17.33	56.75	36.13	2971
Allmerica Financial Corp.	NYS	56.88	-4.01	0.44	64.81	46.06	716
Allstate Corp.	NYS	28.81	-2.12	-25.16	45.00	22.88	20143
Ambac Financial Group	NYS	57.50	-1.71	-4.07	63.00	44.69	1622
American Financial Group	NYS	28.75	-4.17	-30.20	43.88	25.31	542
American General	NYS	78.50	2.53	0.32	81.38	61.88	3140
American Heritage Life Ins.	NYS	38.75	0.00	61.04	38.75	19.50	0
American Intl Group	NYS	105.75	0.30	35.75	109.50	66.63	9943
American Safety Insurance	NYS	6.75	-3.57	-28.95	10.38	6.63	104
Argonaut Group	NDQ	23.00	-5.64	-4.17	28.38	22.38	376
AXA-UAP Group	NYS	71.75	0.44	0.26	80.25	53.75	180
Baldwin & Lyons Inc.	NDQ	20.44	0.00	-12.57	26.00	19.63	27
Berkley W.R. Corp.	NDQ	22.63	-0.82	-32.96	36.50	20.63	185
Berkshire Hathaway Inc.	NYS	60300.00	-7.66	-11.71	81100.00	54200.00	2
Capital RE Corp.	NYS	14.56	-2.10	-25.56	22.25	9.44	760
Capitol Transamerica Corp.	NAS	11.75	-2.08	-33.57	19.50	11.50	17
Centris Group Inc.	NYS	11.75	2.73	25.33	14.06	7.50	367
Chubb Corp.	NYS	56.81	-6.48	-12.51	76.38	44.00	2320
CIGNA Corp.	NYS	83.38	0.91	7.23	98.63	63.44	3307
Cincinnati Financial Corp.	NYS	35.69	-0.87	0.00	42.50	30.69	1285
Citigroup	NYS	54.94	1.38	62.98	56.00	27.56	48171
CNA Financial Corp.	NYS	40.31	3.53	2.54	45.31	33.00	753
CNA Surety	NYS	10.81	-6.99	-27.62	16.00	9.75	191
EMC Insurance Group Inc.	NDQ	9.75	-1.89	-23.53	13.38	9.25	22
ESG Re Limited	NDQ	5.31	-28.57	-73.19	22.25	5.31	3264
Enhance Financial Services	NYS	16.75	4.28	-44.63	30.38	15.56	457
Everest Reinsurance	NYS	25.00	-7.62	-31.96	38.94	20.50	1752
Fremont General Corp.	NYS	5.00	-45.21	-79.27	25.69	5.00	6020
Frontier Insurance Group	NYS	4.38	-16.67	-65.00	17.25	4.25	2025
Gainsco Inc.	NYS	5.81	-3.13	-7.92	6.94	3.94	96
Harleysville Group	NDQ	17.06	0.37	-33.09	26.13	13.13	187
HSB Group Inc.	NYS	36.25	-3.49	-9.80	42.25	33.25	181
HCC Insurance Holdings	NYS	11.31	1.12	-33.21	25.13	8.00	775
ING Groep N.V.	NYS	61.50	0.82	0.82	70.00	47.44	545
IPC Holdings Ltd.	NDQ	20.25	14.08	-10.99	25.63	15.38	177
Hartford Financial Services	NYS	49.75	-6.90	-10.86	66.44	36.50	5097
LaSalle Re Holdings Ltd.	NYS	14.56	2.64	-29.39	25.63	10.88	181
Lincoln National	NYS	46.38	-2.11	11.92	57.50	36.00	2333
MAIC Holdings Inc.	NYS	22.81	-7.12	-28.71	33.13	22.38	301
Markel Corp.	NYS	167.19	-3.95	-7.25	193.00	152.00	55
MBIA Insurance Group	NYS	52.19	0.60	-21.30	71.88	45.00	2423
Meadowbrook Insur. Group	NYS	7.81	-6.72	-52.11	17.44	7.63	40
MMI Cos. Inc.	NYS	4.81	-4.94	-71.16	18.13	4.38	692
Mutual Risk Mgmt. Ltd.	NYS	14.50	-4.92	-61.78	43.25	9.81	1526
Navigators Group	NDQ	12.75	-7.27	-16.39	16.25	12.75	41
NYMagic Inc.	NYS	14.88	-0.83	-28.74	21.38	12.00	46
Ohio Casualty Corp.	NDQ	16.13	-5.15	-21.58	21.69	14.88	907
Old Republic Int'l	NYS	13.25	-5.78	-38.19	22.75	12.94	2973
Orion Capital Corp.	NYS	49.88	1.40	27.27	49.88	27.56	897
Partner Re Ltd.	NYS	31.50	-7.35	-30.29	46.50	28.56	382
Penn-America Group Inc.	NYS	7.50	-3.23	-18.92	11.44	7.00	37
PMA Capital Corporation	NDQ	19.88	-0.63	1.60	21.13	17.38	300
Philadelphia Cons. Holding	NDQ	14.75	-2.88	-30.59	25.50	10.81	148
PXRE Corp.	NYS	12.25	2.08	-51.49	26.25	9.94	1947
Reliance Group Holdings	NYS	3.19	-17.74	-75.36	15.13	2.81	4098
ReliaStar Financial Corp.	NYS	45.94	-2.13	2.65	49.81	31.69	2490
RenaissanceRe Holdings Ltd.	NYS	37.50	1.35	3.81	41.56	30.00	247
Risk Capital Holdings	NDQ	12.63	-9.01	-40.24	23.25	12.00	293
RLI Corp.	NYS	35.38	4.43	5.99	38.81	27.88	46
St. Paul Cos.	NYS	34.25	-5.03	-2.14	37.50	25.38	4495
SCOR	NYS	46.63	-2.99	-25.19	68.50	44.63	18
SAFECO Corp.	NDQ	27.38	-8.94	-35.59	46.75	25.75	5238
SCPIE Holdings Inc.	NYS	34.50	-2.13	14.76	36.06	23.69	NA
Seibels Bruce Group	NDQ	1.94	-13.89	-44.64	6.25	1.69	227
Selective Ins. Group	NDQ	17.75	-0.35	-12.35	22.50	17.25	486
Terra Nova Ins Co. Ltd.	NYS	30.75	-0.81	26.15	32.63	21.25	457
Tokio Marine & Fire	NDQ	64.25	-1.15	9.13	66.75	50.00	92
Torchmark Corp.	NYS	34.38	0.36	-1.08	40.25	24.56	2251
Transatlantic Holdings	NYS	74.63	-2.45	-1.32	80.50	69.06	71
Travelers Property Casualty	NYS	35.06	-6.19	14.49	41.88	27.69	1832
Trenwick Group Inc.	NYS	20.50	0.92	-35.18	35.25	16.50	207
Unico American Corp.	NDQ	7.50	-0.83	-34.96	13.75	7.19	23
United Fire & Casualty	NDQ	22.38	-0.56	-32.77	38.50	20.50	10
Unitrin	NDQ	37.31	-3.08	5.29	42.38	30.50	1080
UNUM Corp.	NYS	33.56	-1.83	-44.00	62.50	26.00	2364
Vesta Insurance Co.	NYS	4.06	3.17	-29.35	8.38	3.38	253
XL Capital Ltd.	NYS	55.69	2.65	-22.18	77.25	41.94	2368
Zenith National Ins.	NYS	21.31	-5.01	-7.84	26.69	20.31	17
INSURERS/REINSURERS	AVERAGE		-3.16	-16.74			
HEALTH MAINTENANCE ORGANIZATIONS							
Foundation Health Systems Inc.	NYS	9.50	-0.65	-13.64	20.06	6.25	2414
Humana Inc.	NYS	7.50	-6.98	-60.40	21.56	5.88	4284
Oxford Health Plans	NDQ	15.88	-4.51	13.39	24.25	9.75	5588
Pacificare Health Sys.	NDQ	51.06	12.69	-28.58	100.38	31.13	4011
Safeguard Health Enter.	NDQ	3.38	-3.54	-5.26	5.25	2.36	4
Sierra Health Services	NYS	9.69	21.09	-53.59	24.94	7.19	1046
United HealthGroup	NYS	53.25	1.31	19.50	70.00	39.38	4453
Wellpoint Health Networks	NYS	52.69	0.20	-27.00	97.00	48.25	1797
HMOs	AVERAGE		2.45	-19.45			
ALL COMPANIES	AVERAGE		0.45	-3.08			

Top advancing issues: Sierra Health Services, IPC Holding Ltd., Pacificare Health Sys. Leading decliners: Fremont General Corp., ESG Re Ltd., Reliance Group Holdings. Most active issue: Citigroup. The *BI* Index fell 1.2%; the Dow Jones 30 Industrials edged up 0.6%; the S&P 500 increased 1.9%, and the NYSE Composite gained 1.5%. Average P/E: Brokers, 18.3; Insurers/reinsurers, 21.0; HMOs, 14.2.

Source: *CNET Investor* (investor.cnet.com), Boulder, CO

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