

Business Insurance

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

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Court OKs claim strategy in Integrity's liquidation plan

HACKENSACK, N.J.—In a ruling that eventually could speed the liquidation of insolvent insurers in other states, a New Jersey judge said Integrity Insurance Co.'s liquidator is not barred from estimating Integrity's contingent liabilities and immediately recovering from its reinsurers.

An estimation strategy would speed up Integrity's liquidation by decades, cutting administration costs by at least \$45 million. It also would provide recoveries to many policyholders and third parties that otherwise

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Electing lower surcharges

Surcharges paid on hospital and other provider bills in New York will vary enormously depending on whether health care plans elect by a Dec. 2 deadline to pay surcharges directly to a state pool, or later pay the surcharge on provider bills.

	Employers with employees living in New York	Employers with no employees living in New York
Pay the state pool	Surcharge of 8.18% of hospital bill plus "covered lives" assessment ranging from \$4.69 to \$385.29 per employee	8.18% surcharge
Pay the provider	32.18% basic surcharge, plus "graduate medical education" surcharge of between 2.36% and 25.09%. Total maximum surcharge: 57.27%.	Same as for employers with New York employees. Total maximum surcharge: 57.27%.

GRAPHIC BY ADAM DOI

Employers face deadline to reduce N.Y. surcharges

By JERRY GEISEL

NEW YORK—Employers beware: Missing a filing deadline next week over how New York hospital and other medical care surcharges will be paid could result in health care plans being hit with thousands of dollars in additional costs next year.

The surcharge, designed to finance care for the poor and to fund graduate medical education in New York, will affect any employer nationwide whose workers

end up in a New York hospital, such as on a business trip or vacation.

To avoid the hefty charges, health care plan administrators must put in the mail by Dec. 2 an election form indicating that they will pay an 8.18% surcharge on hospital and laboratory bills directly to a New York state pool.

The penalty for missing the election deadline is staggering: Providers will tack on surcharges totaling as much as 57.27% per medical claim. A \$100,000 bill

racked up at a hospital in New York City, for example, would mushroom to roughly \$157,000.

"We are not talking about trivial amounts. Big bucks are involved," said Fred Hunt, president of the Society of Professional Benefit Administrators in Chevy Chase, Md.

And it isn't just employers in the Empire State that have to worry about these surcharges. They will apply to every group health care plan in the country

See Surcharge on page 6

Large European surety deal unravels

By DOUGLAS McLEOD

DENVER—The deal offered to Bain Hogg International Ltd. last year seemed straightforward at first: An insurance company client wanted reinsurance for bonds it planned to write guaranteeing a \$1.1 billion debt issue by a European investment firm.

Bain Hogg took on the client's business, but more than a year later was only beginning to realize it had stepped into a financial twilight zone.

The client was Pan Oceanic Insurance Co. AVV, an Aruba-domiciled insurer operating from Denver whose

claimed \$1.9 billion in assets included several hundred million dollars in "gold dore certificates" acquired from a convicted con man.

The European investment firm was EuroInvest S.A., a company owned by a Portuguese family whose claim to \$6.3 billion in assets consisted almost entirely of worthless World War II-era Philippine notes, documents show.

Several people involved in the proposed EuroInvest transactions also turned out to have criminal records or histories of civil fraud charges (see story, page 29).

Among these was Anthony Guar-

iglia, a convicted felon who handled EuroInvest's U.S. operations in Piscataway, N.J., and who is the former president of Wedtech Corp., a defense contractor that collapsed in a widely publicized political corruption scandal in the 1980s.

Unaware of potential problems, Bain Hogg spent several months in the spring and summer of 1995 discussing the terms of the reinsurance placement. The broker was never actually asked to approach underwriters with the risk, but it did finally issue draft documents outlining possible reinsurance structures. EuroInvest

said it needed the drafts to complete the sale of its notes, Pan Oceanic records obtained by *Business Insurance* show.

What followed was a tangled series of abortive efforts by EuroInvest and others to interest lenders and investment brokers in the notes. The proposed deals featured forged Bain Hogg and bank documents and repeated misrepresentations that Bain Hogg had actually placed reinsurance on the notes with Lloyd's of London underwriters, documents show.

In May, Bain Hogg wrote to EuroInvest that it was "astounded" to

learn of the misrepresentations and was "no longer prepared to assist in any way" in a EuroInvest reinsurance placement. The broker also demanded a list of companies and people that may have received Bain Hogg material relating to the proposed note deals. EuroInvest officials never responded, a Bain Hogg spokeswoman said.

Bain Hogg later published disclaimer notices in several newspapers and referred the matter to the FBI and London Metropolitan Police fraud investigators.

A London police detective cor-

See Pan Oceanic on page 27

\$3 million in grants awarded to assist comp research

By MEG FLETCHER

PRINCETON, N.J.—Employers expect to benefit from several research programs that received grants last week to stimulate innovative delivery and financing of workers compensation.

The programs include efforts to introduce more managed care techniques, implement experimental 24-hour coverage programs and evaluate the effectiveness of medical care practice parameters.

Ten research programs from six states received grants totaling nearly \$3 million from the Robert Wood Johnson Foundation in Princeton, N.J. The foundation is a philanthropy that has committed itself to improving health care in the

United States.

"Everybody—and by that I mean state government agencies, employers, labor unions, insurers, health care providers and others in the field—seems to be very interested in undertaking new initiatives," said Dr. Jay Himmelstein, the director of the program. "They want to make sure that the rate of workers comp medical cost increases continues to decline without forsaking quality of care."

"I think it is an exciting opportunity for employers to pilot these programs and do information-sharing with each other," said Marilou Calasanz, manager of workers compensation for Minneapolis-based Norwest Corp. She also represents a local

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Eurotunnel fire insured

By EDWIN UNSWORTH and GAVIN SOUTER

LONDON—Eurotunnel P.L.C. is insured for up to nearly \$450 million for material damage and business interruption claims resulting from last week's fire that shut down the tunnel linking England and France.

The coverage, with a limit of 350 million European Currency Units (\$449 million), is led by French insurer Union des Assurances de Paris.

However, the material damage portion of the policy carries a small deductible and the business interruption portion has a deductible of 7.5 million ECUs (\$9.6 million), which represents about five to seven days of normal operation.

Reinsurer SCOR S.A. has a 15% share of the reinsurance coverage but does not expect large claims from the loss, said Serge Osouf, vice chairman of SCOR in Paris.

It is still difficult to estimate the amount of the loss, but because some trains already have resumed using the tunnel, the business interruption loss should be limited, according to Mr. Osouf.

Eurotunnel's rolling stock coverage is led by Chubb Insurance Co. of Europe S.A. and carries a 32 million ECU (\$41 million) limit, with the excess covered by the material damage policy.

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AP/WORLD WIDE PHOTOS

Eurotunnel P.L.C. has up to \$450 million in coverage for losses stemming from a fire that shut down the tunnel last week.

Updates

Court clears Integrity strategy

Continued from previous page
might be time-barred from recovering from Integrity's estate because of the long-tail nature of their claims, New Jersey insurance regulators say. The Nov. 15 ruling by New Jersey Superior Court Judge William C. Meehan is not a final approval of Integrity's liquidation plan. But, it removes a major roadblock for the plan, which adopts the estimation strategy. Judge Meehan, who already is reviewing the plan, is not expected to rule on it for several months.

Integrity, insolvent by \$1 billion, has an estimated \$1.67 billion of contingent liabilities, including \$1.32 billion of incurred-but-not-reported losses. Case reserves total \$349 million. Integrity's reinsurers are estimated to owe it \$876 million under the estimation strategy. The reinsurers, led by Munich Reinsurance Co.—Integrity's main reinsurer— plan to seek approval to appeal the ruling.

The reinsurers argue that New Jersey law does not expressly allow the estimation strategy. Judge Meehan acknowledged that New Jersey law requires policyholders and third parties to provide absolute proof of their losses by a predetermined date. But, in 1987, when Integrity became insolvent, the court exempted policyholders with contingent claims from a March 1988 claims-filing deadline, Judge Meehan noted. He also ruled that barring third-party contingent claims would violate public interest.

The judge also said that state case law before the current statute was enacted and federal bankruptcy law gives him and the Integrity liquidator broad powers to adopt the estimation strategy.

A liquidation attorney predicted that the state appellate court, if it hears an appeal, will uphold Judge Meehan's decision. "There are plausible arguments why a literal interpretation of the statute should be rejected," said Thomas S. Novak of Sills, Cummis, Zuckerman, Radin, Tischman, Epstein & Gross of Newark, N.J.

Mr. Novak and reinsurance attorney Michael Zeller, who is not involved in the case, say the ruling could impact other insolvencies, because many states' statutes are similar to New Jersey's. "Reinsurers are extremely alarmed over this, largely because they question the actuarial science" of estimating contingent claims, said Mr. Zeller, a partner with Grais & Phillips L.L.P. of New York.

A California appellate court rejected a similar plan for Mission Insurance Co. (BI, June 24).

EMLICO letter questioned

BOSTON—Electric Mutual Liability Insurance Co. lawyers contacted Coopers & Lybrand, EMLICO's eventual liquidator, in late 1994, several months before Massachusetts regulators approved the insurer's move to Bermuda believing it was solvent, a Massachusetts Insurance Division letter reveals.

Coopers & Lybrand recently responded to a Massachusetts division summons for EMLICO-related material by providing a list of documents the accounting firm says are privileged.

The list shows that an EMLICO lawyer wrote to Coopers & Lybrand Bermuda partner David Lines and London partner Christopher Hughes on Dec. 28, 1994, regarding the "feasibility of redomestication option"; and that another EMLICO lawyer sent a fax to Mr. Lines and his Bermuda partner Peter Mitchell on Feb. 18, 1995, regarding a "proposed action plan for EMLICO restructuring."

Regulators approved EMLICO's move to Bermuda in June 1995. Soon after, it declared itself insolvent by more than \$500 million, and Messrs. Lines, Mitchell and Hughes were named joint provisional liquidators.

Because EMLICO had hired accountant Price Waterhouse in Bermuda before the move, "it would appear that EMLICO was already well represented on financial matters in Bermuda," Massachusetts Assistant Insurance Commissioner Kevin McAdoo says in a Nov. 15 letter to the Bermuda Registrar of Companies. "For this reason, communication between EMLICO and partners at (Coopers & Lybrand) almost 10 months before their selection as provisional liquidators is troubling to me."

Mr. McAdoo wrote to Registrar Kymn Astwood to complain that Coopers & Lybrand in Bermuda has refused to comply with a Massachusetts division summons for EMLICO material, arguing it is barred by Bermuda's liquidation statute.

"As regulators, we are troubled to find that liquidators of an insolvent insurer are unwilling to respond to regulatory inquiries concerning potential misrepresentations by the insurer's former management," Mr. McAdoo wrote.

Reinsurers have charged that EMLICO planned its Bermuda liquidation and concealed its insolvency to get regulatory approval for its move. The Massachusetts division is investigating the charge as part of an exam of a former EMLICO unit still based in Massachusetts and managed by former EMLICO officials.

The Massachusetts division filed Mr. McAdoo's letter in Bermuda Supreme Court, where a judge is hearing an EMLICO reinsurer's challenge to the Bermuda government's approval of the redomestication.

Thomas Martin, a lawyer with Shearman & Sterling in Washington, representing the liquidators, said EMLICO's contacts with Coopers & Lybrand were part of a "due diligence process" prior to a meeting with Bermuda regulators. "The contact was entirely appropriate," he said.

Coopers & Lybrand partners could not be reached.

Pennsylvania docs get relief

HARRISBURG, Pa.—Gov. Tom Ridge is expected to sign comprehensive medical malpractice reform legislation that was approved last week by the state Legislature.

Among other things, H.B. 2210 would limit litigation by requiring re-
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Errors & omissions

• AIG Consultants Inc. and Barron Risk Management Services Inc. were omitted from the Nov. 4 Directory of Safety Consultants. Full listings appear on page 13.

Opinions differ on ISO

For-profit move brings predictions of better service but price hikes

By MEG FLETCHER

NEW YORK—Member approval of the Insurance Services Office Inc.'s plan to convert to a for-profit entity is prompting varied predictions on how ISO's identity and goals will change.

One risk manager, who works closely with ISO as a Risk & Insurance Management Society Inc. official, says the conversion will encourage ISO to continue working closely with customers to better compete with a growing number of insurance data-gathering companies. The result should be better products and services tailored to meet risk managers' needs, the official predicted.

However, state insurance regu-

lators and a few other critics are concerned about potential drawbacks, such as the impact of ISO's new for-profit goal on monopolistic services like the creation and issuance of model policy forms.

A few critics also say that, as a for-profit entity, ISO might increase prices for services and products beyond the range of some customers, especially small data users like self-insurers.

The executive committee of the National Assn. of Insurance Commissioners "is particularly concerned about the impact of conversion on the soundness of the insurance marketplace," NAIC President Brian Atchinson of Maine said in a recent letter to ISO. He also asked ISO to delay

the effective date of its conversion for 90 days to allow state regulators to study the proposed conversion and review actual documents, but ISO declined.

The conversion, effective Jan. 1, was approved last week by nearly 73% of eligible votes, which exceeded the minimum two-thirds vote needed. The tally was 117,837,329 in favor, out of a total of 162,394,940 votes.

In voting for the conversion each of ISO's approximately 250 insurer members was entitled to one vote, plus one vote for every dollar a member paid for services purchased from ISO and its subsidiaries during the year that ended June 30.

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Berkshire Hathaway to reinsure CEA

By ROBERTO CENICEROS

SACRAMENTO, Calif.—The California Earthquake Authority has arranged up to \$1.5 billion in reinsurance from Warren Buffett's Berkshire Hathaway Inc., abandoning original plans to finance excess layers through capital markets.

Reinsurance was less expensive, less cumbersome to arrange and more plentiful than expected, said aides to California Insurance Commissioner Chuck Quackenbush and an intermediary involved in the transaction.

Omaha, Neb.-based Berkshire Hathaway will receive \$590 million in premiums for guaranteeing coverage to be triggered if CEA losses exceed \$7 billion during a four-year period beginning April 1, 1997, a spokesman for the commissioner said. A Berkshire Hathaway spokeswoman said the insurer was declining comment and referred calls to the Department of Insurance.

The insurance commissioner originally announced in 1995 that he would create the CEA and seek the \$1.5 billion excess of
See CEA on page 26

Despite soft market, alternative solutions still popular: Study

By RODD ZOLKOS

A continuing soft property and casualty insurance market has done nothing to erode the alternative market's share of the overall risk protection market, a new study shows.

With most large companies already having moved to using captive insurers and other alternatives to traditional insurance, however, any growth in that share is likely to remain limited for the foreseeable future, according to the new Conning & Co. study.

The midsize companies that represent the alternative markets' future growth aren't likely to make the move until market forces give them an incentive to

do so, the study suggests.

The alternative market is "holding its own in terms of size," said Mary Ann Godbout, an assistant vp at Conning & Co. and author of the study. "Despite the fact that we're in a very soft insurance marketplace, companies that have gone the alternative route are staying there."

Extrapolating on the basis of 1994 data, the study shows the alternative market representing about 33% of the total risk protection market, and perhaps as much as 37% if more aggressive assumptions are used.

When the asset management and insurance research firm first began tracking the size of the alternative market in 1980,
See Alternative on page 12

Soft prices, slow growth continue in P/C market

By JUDY GREENWALD

Slow premium growth and soft pricing continue to be the hallmarks of commercial property/casualty insurer results, with no dramatic changes expected any time in the near future.

Despite high catastrophe losses, increased reserves and continued pressure on margins, the industry's ample capital is expected to allow competition to remain intense and prices low.

"The industry has a lot of capital right now and everyone's chasing after the same risks, so short of a major catastrophe—natural or securities-related—I don't see anything really changing," said Gloria Vogel, senior vp with Advest Inc. in New York.

Ron Frank, an analyst with Smith Barney in New York, agreed.

"The industry has never demonstrated a propensity to price its product according to marginal cost or anything close, and I don't see why it should start now," he said.

"The cycle has been capacity driven, and I would expect it to remain so," Mr. Frank said. "And given that the weight of excess capital is still very much present—if not increasing—there's no reason to expect a cycle turn
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Inside

- New York's surcharges on hospital and other provider bills wrongly force those who provide health insurance to their employees to subsidize it as well for those who don't, this week's editorial says. **PAGE 8**
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- A retailer used a warm incentive to improve safety and cut related costs at its outlets. **PAGE 38**

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Liability rates soft from extra capacity

By GAVIN SOUTER

ORLANDO, Fla.—It's still a buyer's market for professional liability insurance, a panel of reinsurers says.

Excess capacity in the insurance market continues to drive prices down for most coverages, they say.

The low rates reflect insurers' unquenched thirst for specialty business and a disregard for the potential catastrophes that could hit the market, they say.

While the reinsurers bemoan the low rates, they, too, like the business. But with the growing number of professional liability insurers, they like to look closely at the attitude and makeup of the insurers they cover as well as the rates and commission, they say.

Professional liability insurance rates continue to fall as more underwriters enter the market and existing professional liability insurers write more business, said Michael Schell, senior vp at St.

Paul Re, a New York unit of The St. Paul Cos. Inc.

"The lower the prices get, the more you like the business and the more you retain," he said earlier this month at the Professional Liability Underwriting Society conference in Orlando.

In many ways, insurers have good reasons for aggressively pursuing professional liability business, Mr. Schell said.

"Fundamentally, there are a lot of reasons to be optimistic about the professional liability business on a going-forward demand basis," he said.

In particular, when the U.S. economy started to move away from industry toward service businesses, more professional liability exposures were created, he said.

"And, as we move toward an information economy, there will be more new exposures," Mr. Schell said.

Another factor that should generate confidence in the professional liability insurance business is the generally good business practices of professional liability insurers, he said.

Professional liability underwriters have done a better job of

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Variables create tough row for industry investors to hoe

By GAVIN SOUTER

ORLANDO, Fla.—Investors looking to place their money in the insurance industry face



some complex and difficult decisions, says Jeffrey W. Greenberg, chairman of Marsh & McLennan Risk Capital Corp.

A look at the past 10 years in the insurance industry shows just how difficult it is to predict which

insurance investments will pay healthy dividends over the next 10 years, he said.

While certain trends in the insurance business may seem apparent, other factors often appear to contradict those perceptions, he said.

For example, the notion that a consolidation process is taking place is true only for parts of the business—in other areas there is a deconsolidation, Mr. Greenberg said.

Other variables adding to the challenge of assessing a potential insurance industry investment are a company's capital management and the emergence of capital markets-based products.

One of the few constants investors can look for before investing is good management, Mr. Greenberg said.

Investors who want to understand the difficulties of assessing sound investments in the insurance industry over the next five to 10 years only need to look at the changes in insurance over the past 10 years, said Mr. Greenberg.

As chairman of M&M Risk Capital, Mr. Greenberg is responsible for originating, structuring and managing insurance industry investments.

"Think about what we knew 10 years ago and what we thought might happen," he said at the Professional Liability Underwriting

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ability insurers, they like to look closely at the attitude and makeup of the insurers they cover as well as the rates and commission, they say.

Professional liability insurance rates continue to fall as more underwriters enter the market and existing professional liability insurers write more business, said Michael Schell, senior vp at St.

Comp self-insurers can lessen collateral

By MICHAEL BRADFORD

CALLAS—Employers with assets tied up as collateral for their self-insured workers compensation programs can use some loss portfolio transfer techniques to reduce the funds that have to be put on hold.

How much collateral an employer must post is determined by regulators and often depends on its workers comp liabilities. Reducing those liabilities can mean collateral requirements come down at least to statutory minimums.

States require self-insurers to estimate their workers comp liabilities based on previous loss experience and to post varying amounts and types of collateral.

Alaska, for example, asks for security in the amount of 125% of workers comp liabilities, with a minimum of \$300,000.

California, meanwhile, requires 135% of those liabilities, or a minimum of \$220,000. Surety bonds, letters of credit, cash and other options are ways employers can post collateral.

Collateral is required because regulators "want to have confidence that the benefits to which an injured worker is entitled are actually going to be paid for," said Harry Tipper III, a senior vp with Zurich-American Insurance Group in Schaumburg, Ill.

"They have confidence when an insurance company does that because of the insurance department regulations of solvency," said Mr. Tipper. "But when we come to self-insurance, it's an entirely different game."

Speaking earlier this month at the Self-Insurance Institute of America Inc.'s 18th Annual National Educational Conference & Expo in Dallas, Mr. Tipper pointed out there are a couple of ways for self-insurers to lower collateral requirements by transferring liabilities.

Both methods also have advantages beyond reducing collateral re-

See Collateral on page 13



Memphis group returns

Preparedness Council to focus again on disaster planning

By MARK A. HOFMANN

MEMPHIS, Tenn.—The Business Emergency Preparedness Council was an idea whose time seemed destined to come again, and it has.

The Memphis-based business group, which fell into a state of suspended animation four years ago, is back up and running with a renewed message of the need for catastrophe planning by business and government alike. The resurrected BEPC is sharpening its focus on the nuts and bolts of disaster planning, with a special emphasis on reaching small businesses that don't have full-time risk managers.

The group is also working with other organizations, such as the Memphis-based Central United States Earthquake Consortium, to promote broader awareness of the need to be prepared to respond to the impact of natural catastrophes. That's particularly true regarding earthquakes, given Memphis' position in the New Madrid zone.

The New Madrid earthquakes of 1811-12 were the strongest to hit the continental United States in recorded history and caused the Mississippi River to reverse course

and mentioned to Donald Batchelor, then risk manager for Memphis-based Union Planters Corp., that Memphis Mayor Richard Hackett had directed the agency



Source: U.S. Geological Survey

GRAPHIC BY JOHN HALL

to get more involved in business disaster planning (BI, April 29, 1991). Mr. Batchelor and other risk managers began working closely with Jeff Crenshaw, who was then director of the local emergency management agency.

"When we met Jeff, he said 'I'm from the government and I'm here to help you,' and he really meant it," said Mr. Batchelor.

The government had access to disaster information the private sector did not know existed, and private industry had the resources to disseminate it, said Mr. Batchelor. "When we hooked up with each other, it just fit," he said.

From its formal beginning in April 1990, the BEPC worked to get information about business disaster planning out to businesses and the community alike. The group sponsored workshops and distributed safety brochures at

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Sphere Drake straightening curves

By SARAH GODDARD

HAMILTON, Bermuda—Sphere Drake Holdings Ltd. hopes to improve its image and its insurance rating with a reorganization designed to strengthen its balance sheet.

"The rating agencies want to see some success" in implementing a strategic plan that follows a six-month review of the company's operations, said President and Chief Executive Michael Watson. "We intend to deliver better earnings over time to justify higher

ratings," he said.

Sphere Drake also will explore ways to improve its image. These may include high-profile reinsurance transactions or entering a deal with Equitas Ltd., Lloyd's of London's runoff reinsurer, to settle each other's liabilities on pre-1993 Lloyd's related business.

Sphere Drake recently announced that as part of a major strategic review, the company is withdrawing from writing marine insurance, professional liability and financial institutions coverage (BI, Nov. 18). In 1995, Sphere

Drake wrote about \$147.4 million in net premium in those lines, or about 25% of its total net premiums.

Sphere Drake recently entered negotiations with Lloyd's agency Cox Insurance Holdings P.L.C. over the sale of Sphere Drake's yacht and cargo agency, Groves, John & Westrup (Underwriting) Ltd., based in Liverpool, England. The deal is expected to be concluded by the end of the year.

Following those moves, Sphere Drake will concentrate on reinsurance business, particularly

property excess of loss, marine and aviation excess of loss, casualty and alternative risk transfer mechanisms. On the insurance side, it will focus its efforts on U.S. excess and surplus lines and U.K. and European property coverage.

The company has pulled out of marine insurance "because we have set out some strategic criteria for the businesses we wish to take forward—the marine lines did not fit in," Mr. Watson said. The overall cost of the restructuring

See Sphere on page 38



CEO Michael Watson is hoping to boost Sphere Drake's earnings.

Grants

Continued from page 1

employer coalition that belongs to the Minnesota Health Partnership, which received a grant to focus on ways to increase health care providers' focus on disability management within a 24-hour program.

The Mid-America Coalition on Health Care in Kansas City Mo., will use its grant to expand an existing program to coordinate workers comp medical care and disability management efforts in the community.

In addition to including more employers, enhancements will focus on improving treatment outcomes and increasing early return to work and employee satisfaction, said Robert L. Brown, president of the employer coalition.

The Robert Wood Johnson Foundation's Workers Compensation

Health Initiative is well-timed because it follows crisis-driven reforms and rate reductions in many states, said Beth Stevens, the foundation's senior program officer. "Grantees have the breathing space to flesh out the reforms and test their effectiveness, while maintaining a climate that encourages further experimentation."

A grant also will allow one of the most innovative workers comp programs nationwide to experiment more.

Since its inception nearly 30 years ago, the Electrical Employers Self-Insurance Safety Plan, a union/management health plan set up as an alternative to traditional workers comp, has saved about 300 electrical contractors in the New York City area millions of dollars in workers comp premiums, said John Calascibetta, EESISIP administrator.

The new grant, which will fund

an experimental 24-hour care program and an expanded drug prescription plan, should save employers even more money, he predicted. At the same time, workers continue to receive quality care and extra wage-loss benefits above state-

Enhancements will focus on improving treatment outcomes and increasing early return to work, says Robert L. Brown.

mandated levels.

The 10 grant recipients were selected from among 60 applicants in more than 30 states. The grants range from one to three years.

Organizations winning three-year grants are:

- UCLA Center for Health Policy Research in Los Angeles, which will receive \$458,994 to study four 24-hour coverage pilot programs operating in California.

- The Electrical Employers Self-Insurance Safety Plan, which will receive \$374,094 to provide 24-hour health care and disability benefits to the electrical workers in the Flushing, N.Y.-based program. The program will also extend a discounted prescription drug program to work-related injuries.

Recipients of two-year grants are:

- Foundation for Health Care Evaluation in Bloomington, Minn., which will receive \$386,708 to evaluate the impact of Minnesota's mandatory treatment parameters for occupational back pain.

- Mid-America Coalition on Health Care, which will receive \$270,439 to expand a program that coordinates approaches for im-

proving workers comp medical care and managing work disability in the Kansas City area.

The grant will enable the program to expand membership to 50 employers and 60,000 employees, up from 12 employers and 15,000 to 18,000 employees.

New initiatives will include a uniform workability reporting form, case management assessment, medical treatment protocols and surveys of employees, physicians and supervisors.

- Union of Needletrades, Industrial and Textile Employees in New York, which will receive \$263,138 to collaborate with the union's health clinic and Mount Sinai Center for Occupational and Environmental Medicine to devise new methods for providing union members with prompt access to basic medical care for cumulative trauma disorders without regard to the status of their workers compensation claims.

Many workers with carpal tunnel-type complaints do not receive prompt diagnosis or medical treatment because their employers contest the claims, said Rebecca Platus, an official with the Local 89-22-1.

- Institute for Research and Education in Minneapolis, which will receive \$254,270 for the Minnesota Health Partnership, a broad coalition that includes health care providers, labor, insurers and state government agencies, said Ms. Calasanz, the project manager representing the employer-dominated Buyers Health Care Action Group. The program will create a coordinated health care delivery model that blends traditional employee health care and workers comp medical coverage and will focus on expanding disability management in day-to-day medical care.

- The New York State Department of Civil Service in Albany, which will receive \$253,282 to develop and implement an integrated prescription drug program for workers compensation and health insurance, expanding the state's existing drug card program.

- The University of Washington in Seattle, which will receive \$252,768 to test the use of experience-rated, capitated medical benefit premiums as well as occupational medicine-centered networks for workers compensation.

- The Maine Bureau of Insurance in Augusta, which will receive \$250,000 to develop 24-hour coverage pilot projects in the state.

The only one-year grant was awarded to the American College of Occupational and Environmental Medicine in San Francisco.

It will receive \$121,560 to aid the adoption and dissemination of its new occupational medicine practice guidelines. The guidelines are intended to provide information and guidance for health care providers caring for patients with work-related disorders of the neck, back, upper and lower extremities and eyes.

Nearly all programs that received grants included provisions for formal evaluations to be conducted by a variety of local researchers, which will help determine the significance of the outcomes and their applicability.

"We expect that the results of these projects will point the way toward future regulatory and market reforms," said Dr. Himmelstein, who is also assistant chancellor for health policy at the University of Massachusetts Medical Center in Worcester.

The Robert Wood Johnson Foundation also plans to offer an additional \$3 million in a second round of grants under the initiative next year. **B**

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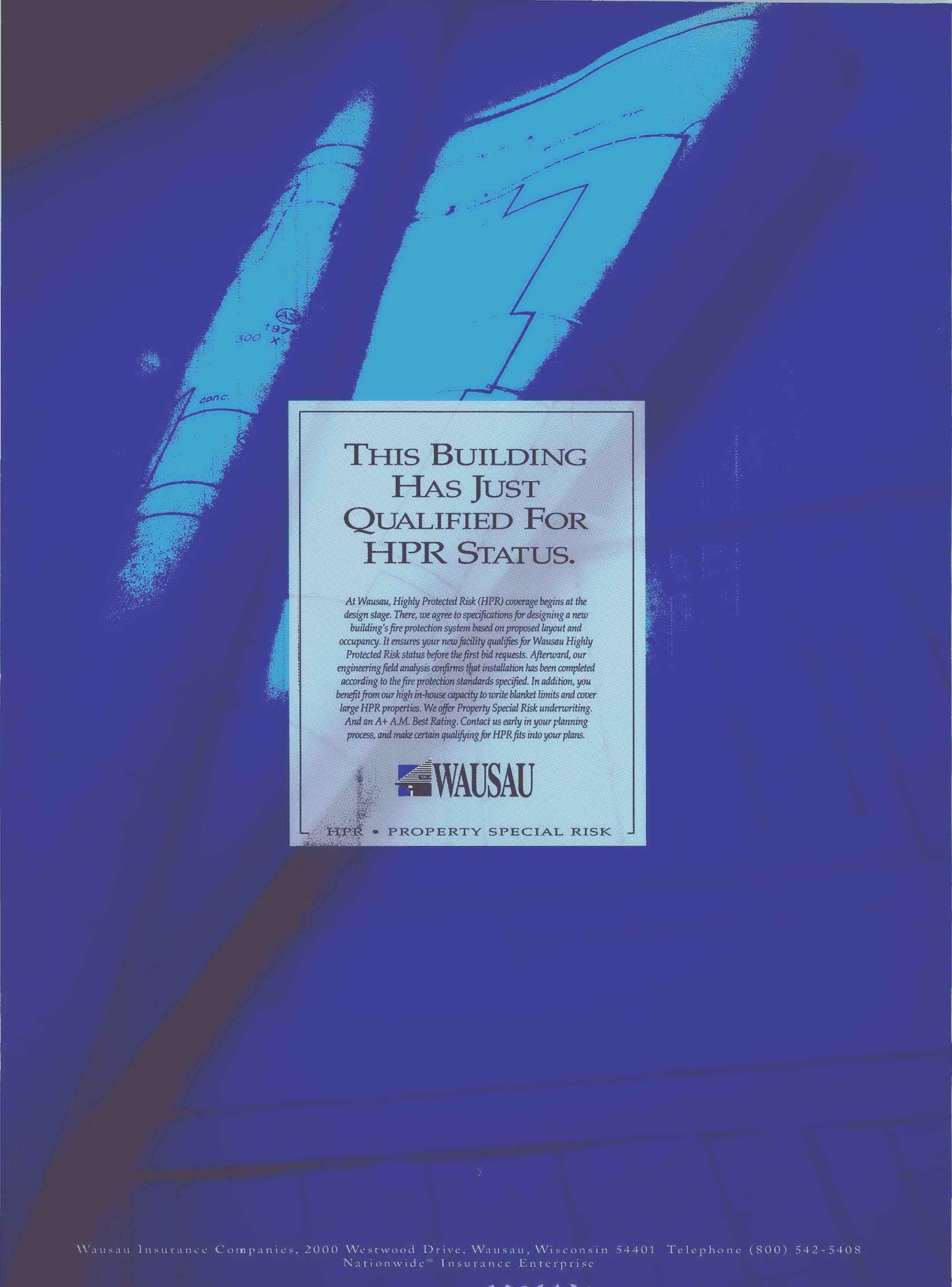
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Surcharge

Continued from page 1

whose participants are treated in a New York hospital or by certain other medical providers in the state.

"It does not matter if you are a New York employer or not. You are affected," said Steve Parahus, a consultant with Kwasha Lipton L.L.C. in Fort Lee, N.J.

"Just because you are out of state doesn't mean you will not be impacted. You are," concurred Henry Saveth, a principal with A. Foster Higgins & Co. Inc. in New York.

The surcharges—created as part of health care reforms enacted earlier this year and effective Jan. 1—will be used to fund care for the indigent at New York hospitals and to support a state pool that will help finance professional medical education.

The election forms filed with the state indicate a health care plan will pay surcharges directly to the state pool, rather than wait for providers to add the surcharges when billing.

But many employers—especially those outside New York—have no idea about the new law, much less their exposure to these surcharges.

Health plan administrators that file by the deadline can cut their plan's exposure to the surcharges.

Companies with New York employees that elect to file directly to the state pool will pay:

- An 8.18% surcharge added to their hospital bills. The surcharge would be remitted by plan administrators to Blue Cross & Blue Shield of Central New York, which is operating the pool for the state.

- An annual "covered lives" assessment to fund graduate medical education. The assessment, payable monthly, is based on whether em-

ployees have single or family coverage and in which of eight geographic areas they live. The assessments range from a low of \$4.69 for each employee living in the Utica/Watertown area opting for single coverage to a high of \$385.39 for employees living in the five New York boroughs who have family coverage.

By contrast, employers with New York residents that don't elect to pay surcharges directly to the state pool will be liable for:

- A basic surcharge on hospital and other provider bills of 32.18%. The surcharge will be collected by hospitals and other providers.

- An additional surcharge based on the region of New York in which their employees receive a health care service. For example, a 25.09% surcharge would be added to a medical bill if an employee was hospitalized in any one of New York's five boroughs. For an employee hospitalized in a Long Island hospital, by contrast, the

surcharge would be 11.66%.

Even employers without employees in New York state would be liable to pay surcharges, though they can minimize their exposure by meeting the filing requirement.

Companies without New York employees that agree to file surcharges directly with the pool administrator only would be liable for the 8.18% surcharge if their employees were treated by a hospital in New York. They would not be liable for the covered lives assessment.

However, if out-of-state employers do not elect to pay surcharges directly to the pool, they will be liable for:

- A basic surcharge of 32.18%.

- Additional surcharges that range—depending on where in New York their employees receive services—from 2.36% to 25.09%.

In short, benefit experts note, employers that don't elect to pay surcharges directly to the state pools could be slapped with surcharges sev-

en times greater than direct payers.

"It is a no-brainer that you want to pay directly," said Richard DeBell, president of SIEBA Ltd., a health plan administrator in Edicott, N.Y.

But, to avoid the higher surcharges, plan administrators have until Dec. 2 to obtain and file the necessary forms with BC/BS of Central New York.

That has triggered a mad scramble by TPAs and benefit consultants to obtain the election forms and get their clients to sign them. While the election form asks for only basic information, such as the employer's federal tax identification number, the form must be signed by the company's chief financial officer. A more detailed form, which asks for information on where employees live in New York, will be due by the end of the month.

While the New York Department of Health sent out 7,000 information and filing packages, undoubtedly thousands of employers and TPAs—especially those that do not do business in

New York—did not receive election forms and are unaware of the filing deadline. As a result, they also are unaware of how much it could cost them in higher surcharges if any of their employees ends up in a New York hospital next year.

Employers' immediate priority—regardless of their location—is to mail the election form by Dec. 2, notes Michael Langan, a principal with Towers Perrin in Valhalla, N.Y.

"Be absolutely sure that your TPA or insurer takes responsibility and makes the election," Mr. Langan said.

Many employers are stunned about the magnitude of the surcharges and how quickly the forms must be returned. The information packages were sent in early November.

"The reaction we hear from employers is one of disbelief about the deadlines. And they are agog about the surcharges," said Chip Kerby, a principal in the Washington office of

See **Surcharge** on next page

How to get N. Y. forms

NEW YORK—With a Dec. 2 deadline looming to mail an election form to pay directly to a New York state pool surcharges on hospital and other provider bills—or pay surcharges as much as seven times higher—health care plan administrators need to know now where to get the forms.

Requests for the election form can be faxed to Blue Cross & Blue Shield of Central New York, which is administering the state pool, at 315-448-6786 or 315-448-4999, attention Jerry Alaimo. Requests also can be sent via e-mail to bluebs9@vcomm.net.

Once forms are filled out, plan administrators' involvement with the surcharge law does not end. Assuming an election is made, plan administrators will have to remit the 8.18% surcharge—which will be assessed on hospital, laboratory and other provider services—to the state pool. The surcharges will have to be remitted to BC/BS of Central New York for all affected services on or before the 30th day following the end of a calendar month for which monies have been paid to providers.

In addition, employers with New York residents covered in their health care plans, who elect to directly pay the surcharges, also have to pay a so-called covered lives assessment. The size of the assessment is based on where in New York their employees live and whether they have single or family coverage.

The assessment is payable to the pool administrator in 12 equal monthly assessments.

For 1997, the covered lives assessment would be based on health care enrollment and employee residence in June 1996. In future years, an employer could choose a representative month in a year on which to base the covered lives assessment.

—By Jerry Geisel

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Surcharge

Continued from previous page
William M. Mercer Inc. If a plan administrator misses the Dec. 2 deadline, there will be three more opportunities next year to elect to pay surcharges directly to the state pool. But that would leave a health plan exposed to huge surcharges for at least the first quarter of 1997.

The new surcharges are part of a broader law enacted this summer. That law also eliminates New York's old hospital rate setting system and lets health care buyers negotiate rates directly with hospitals. The old law included flat and simple surcharges

on hospital bills. Generally, the surcharges were 13% of all hospital bills, though Blue Cross & Blue Shield plans were exempt.

Those surcharges were challenged by insurers, which argued they violated a provision in the federal Employee Retirement Income Security Act that pre-empts state laws that "relate to" employee benefit plans. The U.S. Supreme Court, though, ultimately affirmed those surcharges.

The new surcharge system also is likely to be challenged on ERISA pre-emption grounds.

"There is going to be a lot more discussion on whether ERISA pre-empts the New York law," said Mr. Kerby of Mercer. **BI**

ISO

Continued from page 2

The proposal, which ISO's board unanimously recommended in September, calls for converting the property/casualty data-gathering organization to a Delaware-based stock company from a Delaware-based 501(c)6 corporation.

Under the conversion, ISO management and insurer members will receive shares in the organization. No shares were offered to the public.

ISO increased the value of the shares to \$40 per share from the \$25 originally proposed. Under the plan, 15% of ISO's shares will be owned

by class A stockholders, who will elect seven of 11 directors. The seven will be individuals not affiliated with insurers and not employed by ISO.

Class A shareholders are members of the newly created employee stock ownership plan, accounting for two-thirds of the class A stock, and ISO executives and managers, who account for the remaining third.

The remaining 85% of ISO shares will be owned by class B shareholders consisting of insurers and reinsurers. This class will elect three directors from the ranks of insurer members.

The conversion will give ISO "the long-term financial flexibility and

access to capital needed to develop and support new products in a more technology- and capital-intensive business environment," said Fred R. Marcon, ISO's chairman, president and CEO. He will chair the new board, which will be elected on a rotating basis beginning in January 1998.

Sharing that optimism was David Adler, risk manager for Atlanta-based Portman Holdings L.P. and chairman of RIMS' Risk Management Industry Liaison Committee. "Over the past 1 1/2 years, we have developed a good working relationship with ISO and I expect it will continue," he said, voicing his personal views. RIMS does not plan to take a formal position on ISO's conversion.

Insurance customers currently are represented on two ISO committees that deal with commercial casualty and commercial property coverages, Mr. Adler said.

In addition, ISO has been working with the RIMS committee to gauge the usefulness of ISO's products and services to risk managers.

"I think that with the for-profit motive, ISO may be more responsive to risk managers and risk managers' needs," Mr. Adler said. For example, ISO has extensive data that can help assess the replacement cost of a property risk, as well as obtain loss estimates by geographic location.

Market forces and competition with other data services also should help keep a lid on ISO's costs, he said.

But critics disagree. A profit-oriented ISO may eventually raise prices for services and products, especially for small users, they warn.

"The first step you'll see is ISO being tougher on cutting costs and somewhat harder prices for small users of data," such as third-party administrators and self-insurers, predicted William R. Berkley, chairman and CEO of W.R. Berkley Corp. in Greenwich, Conn.

"I am concerned about the willingness of a for-profit ISO to meet the needs of small customers who just want general assistance, especially if they can't afford to pay much," said another insurer executive.

If such predictions prove true, state insurance regulators will likely increase scrutiny of ISO's operations.

Regulators are especially concerned about ISO "services, such as the creation of policy forms, for which it has little or no competition," wrote the NAIC's Mr. Atchinson to ISO.

Although ISO said it would not grant the 90-day delay regulators asked, it pledged to provide details of the conversion, said ISO Executive Vp Carole J. Banfield. In a reply to Mr. Atchinson, she said a review of the details "will allay your reservations."

Heightening regulators' interest in the public policy impact of the conversion is a proposal for a similar change in status at the National Council on Compensation Insurance, the leading workers compensation data provider (BI, Oct. 7).

Mr. Atchinson last week, though, complimented the NCCI for doing a relatively better job than ISO of openly discussing proposals.

Regulators do not have authority to intervene in such conversions, though they often help choose which data-gathering organization is the authorized statistical agent in their states. In most states, insurers must report their financial data to those agents.

"I hope these changes don't encourage regulators to create inefficient options like an additional database that would require our members to report to additional data gatherers," said Rodger Lawson, president of the Alliance of American Insurers in Schaumburg, Ill. **BI**

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Opinions

State's surcharge unfair

OUTRAGEOUS. THAT'S the only way to describe New York's new health care surcharge system that takes effect Jan. 1.

As we report on page 1, employers are going to be in for a stunning and incredibly expensive surprise if they don't act quickly. Employers or health care plan administrators have until Dec. 2 to file paperwork in connection with the new health care surcharges.

If they miss the deadline for electing to pay an 8.18% surcharge directly to the state, health plans will be socked with surcharges levied by providers that could total as much as 57% of the bill.

A \$100,000 bill, for example, could balloon to \$157,000.

Despite an incredibly short period for notifying companies of the impending deadline—about three weeks—most New York employers by now are probably aware of what they need to do and when it must be done to avoid the worst of the surcharges.

Much less prepared are employers outside New York, which can be subject to the surcharges and penalties, as well. Many employers and administrators outside New York likely have no idea of what is required and of how little time they have to act.

An out-of-state employer could be socked with the surcharges, for example, if an employee is traveling in New York, becomes ill and must be hospitalized. His or her employer is going to be surprised—outraged would be more like it—when it finds that the employee's hospital bill has a 57% surcharge tacked onto it.

We have no doubt that a wave of protest will soon (if it hasn't already) hit the New York Legislature, which is responsible for the surcharge law. If legislators don't respond and fix the law, we are sure that employers will challenge it in court on grounds that it violates the Employee Retirement Income Security Act. ERISA pre-empts state laws that "relate" to employee benefit plans and it would be hard to see how New York law doesn't fit that bill.

We hope lawmakers act and that the matter doesn't come down to a long, drawn-out battle in the courts.

It would make more sense and avoid such litigation if New York legislators fixed the law to make it fairer and more reasonable.



Our problem with the New York law isn't just the size of the surcharges, which will be used to fund care for the indigent, but who will have to pay them. The surcharges will be shouldered by employers that offer group health care plans. In effect, the surcharge means they pay for health care twice: once for their own employees through health insurance premiums and claims costs, and again for the uninsured through the surcharges.

Providing care to the uninsured and paying for it is a general societal problem. It hardly seems fair to place the burden of funding care for the uninsured on employers that already provide health insurance to their own employees.

A much fairer approach would be a sales tax or other broad-based revenue source.

We also think employers with no employees in New York should be given more time to comply with the filing deadline, or not subject to penalties at all.

We hope that is something New York legislators consider if they—as they should—go back to the drawing board on the surcharge law.

City disaster plan back on track

THE RESURRECTION OF MEMPHIS' Business Emergency Preparedness Council continues a story of risk management at its best, a story that never should have been interrupted.

The group, which originally coalesced in 1990, was a textbook example of public/private cooperation in disaster planning. By getting its version of the Boy Scout motto, "Be Prepared," out to various segments of the population, ranging from risk managers to small-business owners and even high school students, the council served as a model for community-based disaster response efforts.

But the council was barely up and running before it dropped off the screen. A change at City Hall meant considerably less interest in the effort than had been the case before. Most of the council's top leadership changed jobs during a period of only a few months, and found themselves unable to devote the time and energy needed to make the council's efforts a success. By mid-1992, the council's activities had ceased.

But the threat that brought the council into being hasn't gone away. Memphis sits on some of the least stable geology in North America, the New Madrid zone. The council had stressed the inevitability of a major earthquake within the New Madrid zone, which was the site of the most pow-

erful North American earthquake in recorded history in the early 19th century, as a chief reason for business preparedness.

Those efforts got a boost by the earthquake that didn't happen when a maverick scientist named Iben Browning predicted that a major earthquake would devastate the Mississippi Valley on or around Dec. 3, 1990.

Fortunately, Memphis City Risk Manager John Britt decided to try to reactivate the council about a year ago and found that almost all of the council's key players had moved once again into jobs that included responsibilities for disaster planning.

Like its predecessor, the reconstituted council reaches out to all segments of the community, holding workshops and seminars and disseminating preparedness information. Even though Memphis still lies across a major fault, the approach favored by the council embraces all perils, sensibly stressing that disaster planning may come into play whether an event strikes a single business or shuts down an entire city.

The Memphis council provides a model for cooperation between employers and public emergency management officials considering the impact of a catastrophe upon a city. It's a model that ought to be emulated elsewhere.

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Reinsurers face tough Wall Street: Analyst

By GAVIN SOUTER

NEW YORK—Most reinsurers will have a hard time meeting investors' profitability expectations from now on, an investment analyst said.

In recent years, reinsurers have relied largely on cost cutting to keep profit levels up, but that option is dwindling fast now that costs have been reduced so much, said V.J. Dowling, managing director of Dowling & Partners L.L.P., a stock broker in Hartford, Conn.

While a few trends should help bolster reinsurers' profitability, such as overseas growth and new products, they won't be enough to meet Wall Street's demands, Mr. Dowling said.

But the picture is not all grim, said a reinsurance executive. Reinsurers have always had the ability to change in adverse business conditions, and that ability will help save many companies, said Michael Schell, senior vp at St. Paul Reinsurance Co.

The executives sounded off late last month at the 21st Annual Research Seminar, sponsored by the Insurance Information Institute and the Reinsurance Assn. of America.

Reinsurers will have a hard time meeting the 15% return on equity level that has become the "holy grail" of investors, Mr. Dowling said.

"Ten percent just doesn't cut it," he said.

Over the past several years, reinsurance companies have offset ever declining premiums by shaving claims settlement costs to the bone, Mr. Dowling said.

"Companies were bailed out on the claims side, but now the decline in prices has gotten ahead of what's been happening on the claims side," he said.

On top of declining premiums, reinsurers also must face declining investment returns themselves, he said.

An analysis of investment yields shows that aftertax portfolio yields of reinsurers have declined from a high of 8.28% in 1982 to 3.46% in 1995, he said. "That is probably the single most important underlying change in the economics of the insurance business," he said.

Another major influence on the profitability of reinsurers is the "flight to quality" trend, where cedents

seek reinsurers with huge surpluses, he said.

Between 1986 and 1995, the number of reinsurers with surplus in excess of \$500 million jumped to 10 from two, Mr. Dowling said. As a result of the demand for well-capitalized reinsurers, in recent years, most reinsurers have been more interested in getting bigger than in increasing profitability, he said.

Also, in the past 10 years the number of new broker market reinsurers has increased dramatically, Mr. Dowling said. The new reinsurers, who do not carry past liability problems, have increased their share of the business to 15% in 1995 from 2% in 1985, Mr. Dowling said.

Reinsurers do have three trends working in their favor, he said: insurance premium growth in international markets; alternative markets are bypassing insurers and going straight to reinsurers; and reinsurers are well placed to be intermediaries to access capital markets for reinsurance capacity.

But these positive aspects will not be enough to ensure the profitability of most reinsurers, he said.

Mr. Dowling's bleak forecast should be tempered by the creativity of the reinsurance industry, Mr. Schell said. The large increase in surplus at many reinsurers shows the companies have been successful in the past, he said.

Now, prices are declining and cedents are taking larger retentions, but going on the past record of reinsurers, something is bound to happen to increase profits, he said.

"The one thing about our business is that there is change. I would not have predicted any of the past demands for reinsurance," Mr. Schell said.

Forces that might help increase the profitability of reinsurers include increase in international premiums and also the increase in property construction in catastrophe-prone areas, he said.

"We have declining rates because there have been no major catastrophes, but there's no change in the basic trend that a disproportionate amount of economic activity in this country is in catastrophe-prone areas and, long term, that's bullish for our business," he said.

Alternative

Continued from page 2

non-traditional options represented about 21% of the total risk protection market.

The 1994 data showed the alternative market representing about \$60.7 billion of a nearly \$191 billion market for risk protection.

The study showed Fortune 1000 companies to be heavily involved in the alternative markets, with \$22.1 billion—about 54.8% of their cost of risk—in alternative "premiums" in 1994, vs. \$18.2 billion, or 45.2%, in traditional premiums.

A similar look at midsize commercial companies shows the clear potential for alternative markets growth in that segment, where only about 31.6%—\$34.6 billion—of their 1994 risk protection expenditures went to the alternative market, while 68.4%, or \$75.0 billion, went to traditional premiums.

Small companies placed only \$4.0 billion—9.8% of their risk protection expenditures—in the alternative market in 1994, with \$36.9 billion—90.2%—going to traditional premiums.

When the midsize companies do ultimately move to the alternative market, Ms. Godbout said she doesn't think they'll find that jump any more difficult than did their larger counterparts, and it might be an easier move.

"In fact, they will have an easier time of it because there is an infrastructure in place now to support those alternative choices," she said. "Plus, in terms of their own minds, I think there's a level of reassurance."

Having seen the larger companies move to the alternative market and stay there might make midsize companies more inclined to follow suit, she rea-

soned.

"And I think what they'd find when they do make that step over is that they will gain that benefit of more strategic planning, and they'll find that they like that level of control," Ms. Godbout said.

Indeed, the opportunities the alternative markets provide to work risk management into an organization's overall strategic planning have been a key reason why large companies have stuck with the alternatives despite a soft market for traditional coverage, the study found.

During the liability insurance crisis of the mid-1980s, companies' decisions to embrace the alternative market were "tactical," Ms. Godbout said—"I need insurance and I need it now."

But, as companies made the move, they found "they could and should apply a more strategic approach to risk management," she said.

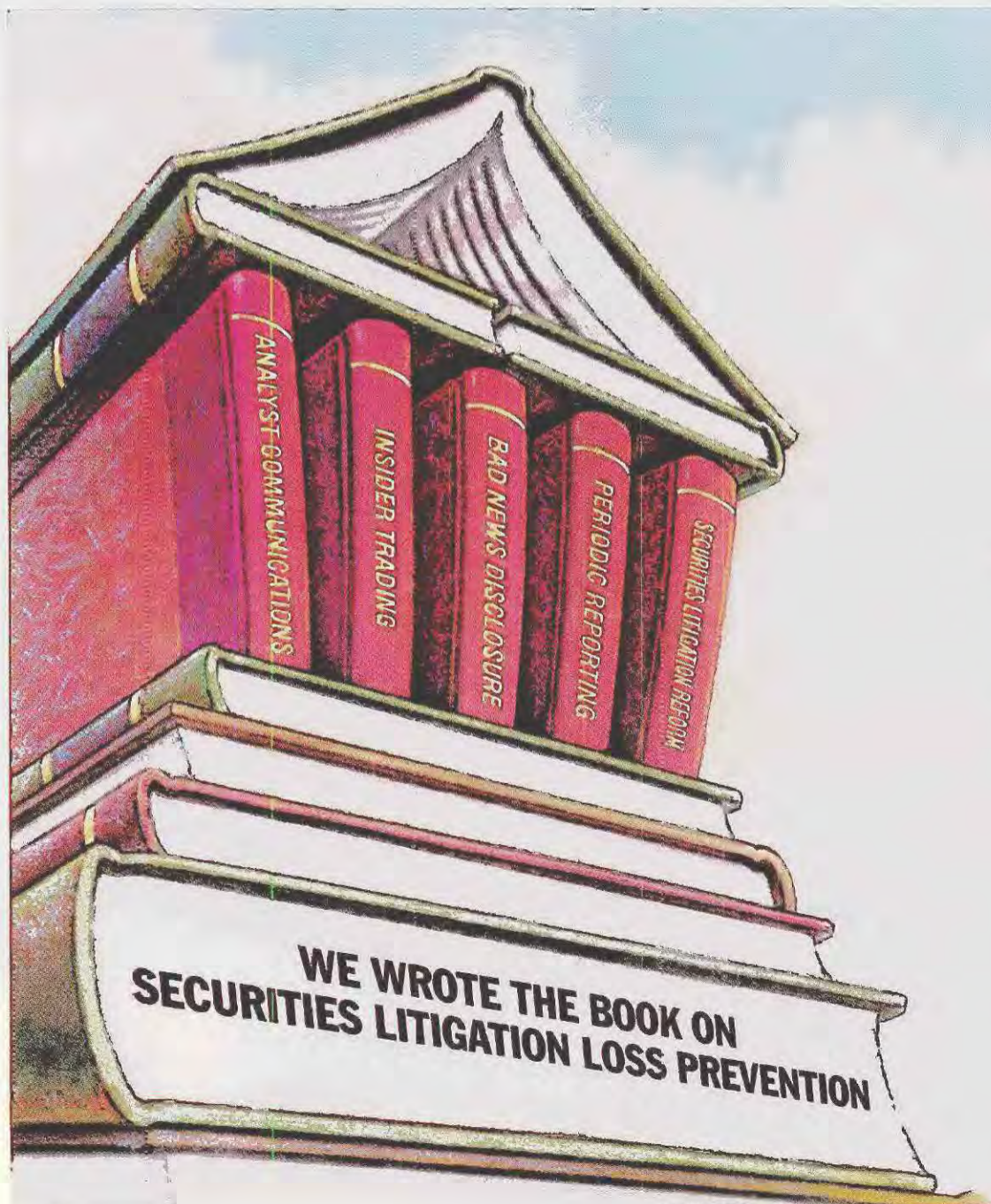
That approach saw companies taking a more financial outlook toward risk management, asking "How will all this risk affect the bottom line?" Ms. Godbout said. "So I think the drivers have changed."

Another important study finding is that the perception of what constitutes market "alternatives" has evolved.

What once was considered the alternative market—risk retention groups and captives, for example—now are part of what Ms. Godbout said she considers the "traditional menu of insurance choices."

Now, such techniques as turning to the capital markets for risk financing or multiyear/multiline programs are viewed as the true alternatives, she said.

Copies of the Conning & Co. study "Alternative Markets: Evolving to a New Layer" can be purchased by calling Lauri Ann Scotti at 860-520-1521.



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Continued from page 3
quirements.

The most common technique is a retroactive loss funding method, otherwise known as an incurred loss assumption transaction.

Industry "old-timers" remember it simply as a loss portfolio transfer, Mr. Tipper said.

Essentially, it is a method by which the loss portfolio is ceded by a self-insurer to a reinsurance company.

One of the advantages to structuring such a program on a retroactive basis is the ability to initially fix the ultimate cost of liabilities at a known price, explained Taylor

Collings, executive vp at Sedgwick Re in Seattle.

"It's a one-time charge at the policy inception," Mr. Collings said.

Once the premium is paid, the liability is transferred, Mr. Collings explained. Premiums sometimes are

cleaning up a company's financial statements, Mr. Collings pointed out, and eliminates administrative expenses associated with the liabilities.

"Typically, all claims management and most regulatory compli-

"Another technique which has been used a little less frequently but with equally good results is a prospective loss funding transaction," Mr. Tipper noted.

That is a method by which a self-insurer's obligations for future losses are determined and an arrangement is structured so the self-insurer is indemnified for losses as they emerge.

Under the arrangement, emerging liabilities within the self-insured retention are considered, Mr. Tipper explained.

When ceding the obligation, the expected amount of the losses is calculated, along with the timing of expected losses, thereby accounting for possible gains from investment earnings before the losses are paid.

An advantage to such an arrangement is the ability to fix a price for the program at the beginning of the contract, Mr. Tipper said.

"That makes it an expense item,

and I'm not a tax accountant, so I won't tell you you can deduct it for tax purposes, but I know a bunch of people that have," he said.

Under a prospective loss funding plan, a self-insurer gains the advantage of more stable financial results with the fixed price for future liabilities.

A self-insurance plan becomes more "budgetable in a working capital sense," according to Mr. Tipper. "It's very helpful to those companies that have to manage that type of bottom-line situation very carefully."

The disadvantage is the same as with a retroactive funding plan—cash out of pocket.

"You have to put it up," Mr. Tipper said. "It comes out of your pocket and into somebody else's."

The session was moderated by Kurt J. Ridder, executive vp at Spectrum Underwriting Managers Inc. in Indianapolis. **BI**

In an incurred loss assumption transaction, the loss portfolio is ceded to a reinsurer, with the advantage of initially being able to fix the ultimate cost of liabilities at a known price.

paid to the reinsurer in installments, he said.

"As (claims) payments come due, the insurer or the reinsurer makes those payments."

Moving the liabilities off the balance sheet has the advantage of

ance are assumed when these transfers take place" by the reinsurer, he added.

There is the disadvantage of a reduction in cash, though, because the transaction is paid for up front, Mr. Collings said.

Safety listings omitted

The following listings were omitted from the Nov. 4 directory of safety consultants:

AIIG Consultants Inc.

72 Wall St., New York, N.Y. 10270;
212-770-7000; fax: 212-785-8287

Staff	
Total	175
Safety consultants	86
Occupational health consultants	30
Industrial hygiene consultants	10
ASSE members	58

Clients	
Total	4,000

1995 revenues

Safety consulting	\$4,049,360
-------------------	-------------

Founded: 1970.

Parent: American International Group.
Services: Safety audits/reviews, evaluations or inspections; safety, ergonomic, industrial hygiene and occupational health program assistance; onsite and off-site training classes or seminars; emergency/contingency plan reviews; natural hazard evaluations.

Other services: Publication of safety materials or videos; development of training materials; OSHA compliance; research involving occupational health; fire protection engineering; behavioral safety.

Specialties: Banking, construction, manufacturing, health care, transportation, public entities, communications, retail, real estate, utilities, food processing, pharmaceutical, entertainment, natural resource mining and refining.

Offices: Phoenix; Costa Mesa and Los Angeles, Calif.; Denver; Washington; Tampa, Fla.; Atlanta; Chicago; Boston; New Orleans; Southfield, Mich.; Parsippany, N.J.; Charlotte, N.C.; Cleveland; Philadelphia; Dallas; Houston; Seattle.

Service area: Nationwide.

Officers: William J. Frey, president; George Toth, COO/senior vp; Charles Benda, Jan Young, Steve Werner, vps.

Contact: Walid Sidani, vp-business development.

Barron Risk Management Services Inc.

5815 Callaghan Road, San Antonio, Texas 78228; 210-681-6055;
fax: 210-681-8617

Staff	
Total	3
Safety consultants	3
ASSE members	3

Clients	
Total	59
Corporate/institutional clients	59

1995 revenues

Safety consulting	\$214,000
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Founded: 1969.

Services: Safety audits/reviews, evaluations or inspections; safety, ergonomic, industrial hygiene and occupational health program assistance; onsite and off-site training classes or seminars; hazard surveys; site inspection.

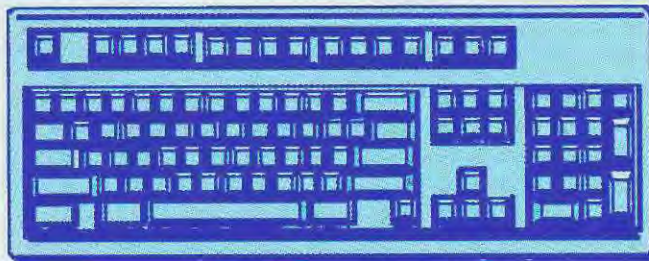
Other services: Publication of safety materials or videos; development of training materials; OSHA compliance; research involving occupational health and ergonomics.

Specialties: Public entities, school districts, hospitals, cities and counties.

Offices: Austin and Harlingen, Texas.

Service area: Texas.

Officers: M.M. (Buddy) Barron, president. **BI**



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To install the **BID Software—Non-U.S. Edition** you need:

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- 512K RAM
- DOS version 3.3 or above

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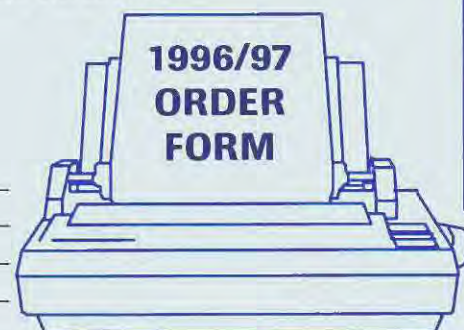
Title _____

Company _____

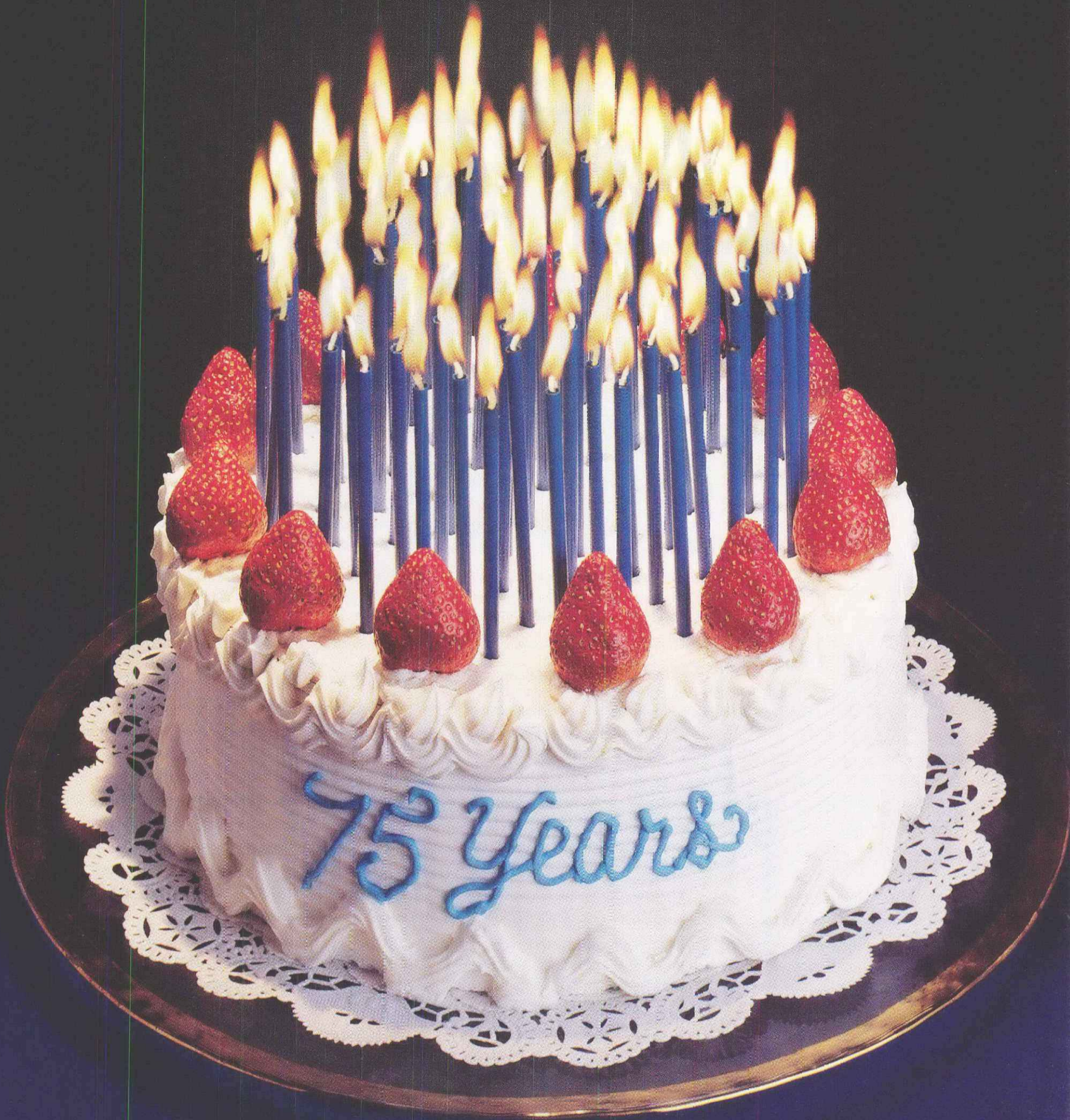
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Educating employees saves health care dollars

By MICHAEL BRADFORD

DALLAS—Managing health care demand by educating and encouraging workers to improve their health and make wise medical choices can pay off quickly for employers.

"A good reason for the growing popularity of demand management programs is because self-care programs like books and telephone nursing advice can show favorable cost-benefit ratios even from the first year," said Dr. Robert G. Harmon, national medical director at United

HealthCare Corp. in McLean, Va.

Other programs like those aimed at smoking cessation can take a little longer to show a favorable return but still are worthwhile investments, he added.

Demand management, a term trademarked and popularized by Dr. Don Vickery, author of the book "Take Care of Yourself," is a method that focuses on making people healthier and smarter

and therefore less frequent consumers of medical services.

Dr. Harmon told attendees at a session during the Self-Insurance Institute of America Inc.'s 16th Annual National Educational Conference & Expo in Dallas that United HealthCare prefers the term "health and human risk management shared intelligence." Whatever it's called, demand for health care services can be managed through a number of techniques, according to Dr. Harmon.

Wellness programs are among the tools that can help lower the odds that

a person will need costly health care.

Such programs are moving from the work site into the home with the use of printed materials, telephone advice and electronic media, Dr. Harmon said.

Some of the traditional wellness programs focus on smoking prevention and cessation techniques, nutrition education and weight reduction, stress management, cardiovascular disease prevention, cholesterol reduction, control of blood pressure and prenatal health.

Dr. Harmon said at least 25 studies

show benefits related to wellness programs. Those studies show that some of the tangible benefits are a reduction in absenteeism, lower workers compensation costs, fewer injuries and a reduction in disability management costs. In addition, employee morale is better among a healthier workforce that is more loyal and productive, the studies indicate.

Books and newsletters that can be read at home are popular forms of educating health care consumers, Dr. Harmon pointed out. Apart from Dr. Vickery's book, some of the most popular titles include: "Healthwise Handbook," "The AMA Guide to Your Family's Symptoms," "Mayo Clinic Family Health Book" and "What to Expect When You're Expecting."

The use of electronic media is growing as a way to provide health information, Dr. Harmon said.

Web sites like United HealthCare's optumcare.com are online to provide users with health-related information, and besides the Internet, a host of other media are being used to promote wellness. Those include interactive videodisc programs, videotapes, computer software, CD-ROM programs, cable and satellite television, video telephone systems and others.

While printed materials remain the most popular way to educate health care consumers, there is a shift toward electronic media as it continues to gain footholds in homes and workplaces. "More and more employees have Internet access at their workstations," Dr. Harmon noted, which means health and benefit information can be made available at work.

And, he added, intranets are becoming popular ways to share information within companies and can provide a method for educating workers on wellness topics.

The session moderator was Judy Garber, managing director at ESLU Inc. in Lake Mary, Fla. **BI**

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Cost only one factor in network

By MICHAEL BRADFORD

DALLAS—Employers choosing managed care programs to save on medical costs have to consider much more than discounts when evaluating the networks.

"I would encourage you, if you are looking to get involved with evaluating networks, that you get comprehensive information and get some validation on that information by talking

to other administrators that have used that network," advised Eric Westberg, assistant vp of managed care for Management Facilities Corp., a Warren, N.J.-based medical reinsurer unit of Sun Life Group.

In a presentation earlier this month at the Self-Insurance Institute of America Inc.'s 16th Annual Educational Conference & Expo in Dallas, Mr. Westberg pointed out that often only discounted fees are considered when networks are evaluated.

"There are a lot of people that do evaluation of networks out there," he said. "Typically, they go into a network and they look at their discounts; what is their hospital discount? What kind of discount are the physicians giving in this particular PPO?"

That's not enough, he said. "We need to find out just what this discount arrangement is bringing of value to the table."


See Networks on page 18

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Networks

Continued from page 16

Mr. Westberg, whose company provides network evaluation services, said a good place to start is "plan maturity."

"How many years has this particular network been around? Years of operating experience is one indicator of their long-term viability" and gives an indication of the network's reputation with employers, providers and competitors in a community, he said.

Compare a network's growth rate with its competitors, Mr. Westberg advised. A network growing amid competition is well-received and has a service worth considering, he added.

But, a membership drop doesn't necessarily mean a network is faltering if there are declines or slow growth among other competing net-

works in the area, Mr. Westberg said.

A high turnover of employer groups in the network could indicate "some dissatisfaction in not meeting employers' needs," said Alan Riippa, director of research and product development at National Benefit Resources Inc., a managing general un-

derwriter in Minneapolis. Mr. Riippa, who has evaluated more than 150 networks, said it is important to find out enrollment projections for the upcoming year. "Do they expect to grow? That's a significant

question, not a killer, but do they believe in themselves enough that they think they're going to grow in the next year or so?" Mr. Riippa said. Consider the management experience of a network, said Mr. Westberg. "There are many PPO operators who have gotten into the business because

area as the network providers, Mr. Westberg noted. An evaluation should include asking employers that use the network whether their employees are satisfied, Mr. Riippa suggested. "If employees aren't satisfied, they're not going to use the network and the employer's costs, which he expects to decrease significantly, could in fact increase greatly."

Messrs. Riippa and Westberg suggested other areas for evaluation, including:

- Types of hospitals and tertiary facilities that are a part of a network.
 - Hospital and physician reimbursement methods and fee schedules.
 - Provider credentialing.
 - Education and peer review programs.
 - Prescription drug services.
 - Claims and information systems.
- The session moderator was Debbie Scheff, president of Health Cost Consultants Inc. in Vienna, Va. **BI**

'If employees aren't satisfied, they're not going to use the network and the employer's costs, which he expects to decrease significantly, could in fact increase greatly,' Alan Riippa says.

derwriter in Minneapolis.

Mr. Riippa, who has evaluated more than 150 networks, said it is important to find out enrollment projections for the upcoming year. "Do they expect to grow? That's a significant

they have seen a business opportunity" but are mostly concerned with selling access to a network rather than bringing value to the buyer.

It is preferable for network management to be located in the same

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SIIA meeting attracts 1,800

DALLAS—The Self-Insurance Institute of America Inc.'s 16th Annual National Educational Conference & Expo drew about 1,800 attendees to the Wyndham Anatole Hotel outside downtown Dallas.

The conference, held Nov. 5-9, began with a golf tournament followed by a series of workshops and general sessions.

Registrants were able to choose from an array of discussions on topics ranging from "ABCs of Self-Insurance" to more technical talks such as "Getting Out From Under: Using Financial Reinsurance to Lower (or Eliminate) Self-Insurance Program Collateral."

The 1997 conference is scheduled for Sept. 9-13 in Atlanta. Information is available from the SIIA at P.O. Box 15466, Santa Ana, Calif. 92735; 800-851-7789; fax: 714-261-2594.

Blues facing Texas suit over merger

AUSTIN, Texas—A proposed merger between Blue Cross & Blue Shield of Illinois and Blue Cross & Blue Shield of Texas would violate Texas law and siphon hundreds of millions of dollars out of the state, a lawsuit filed by the Texas attorney general charges.

The suit filed earlier this month in state district court in Travis County claims Texas law would forbid the non-profit Texas plan from merging with the Illinois plan, which does not qualify as a non-profit corporation under Texas law.

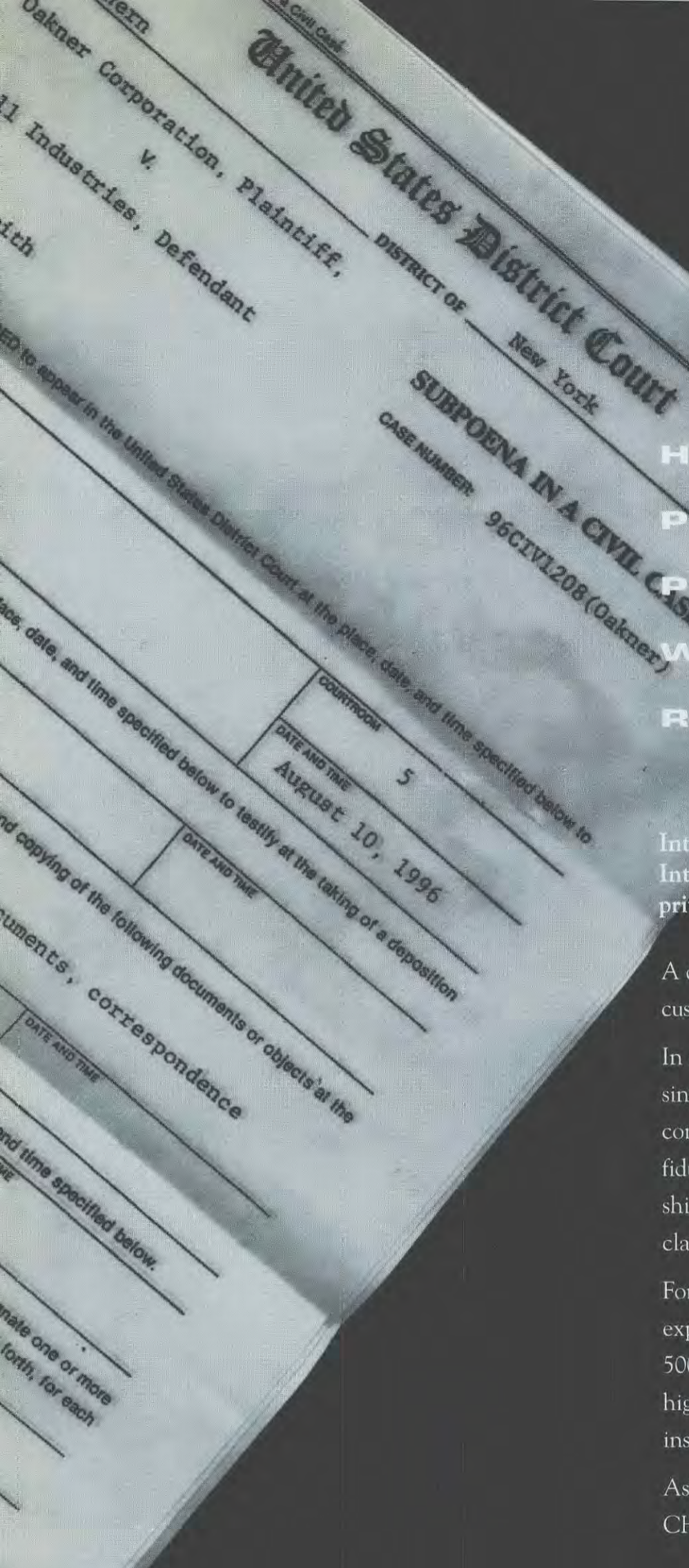
"Blue Cross/Blue Shield's assets belong to the people of Texas," according to Texas Attorney General Dan Morales. "If it wants to merge with another entity, then it must do so in strict accordance with the law. This proposed deal does not appear to meet the test."

A merger agreement was signed in July that calls for the Texas plan to merge into BC/BS of Illinois. The union would create an organization with 3.8 million subscribers, annual revenue of about \$6 billion and reserves of about \$1.1 billion (BI, Feb. 5).

In other Blues plan news, BC/BS of Kansas City, Mo., and neighbor BC/BS of Kansas in Topeka are working on a definitive merger agreement. As a combined Blues plan, it will cover more than 1.4 million people in the Kansas City, Mo., and Topeka areas.

Richard P. Kreckler, president and chief executive officer of BC/BS of Kansas City, will become CEO of the merged company, and John Knack, who previously was named to succeed Tom Miller as president and CEO of the Kansas Blues at the end of the year, will become president and chief operating officer of the merged company.

Meanwhile, spokesmen for both St. Louis-based Blue Cross & Blue Shield of Missouri and BJC Health System, which operates 13 hospitals primarily in the St. Louis metropolitan area, said they would have no comment on reports that their organizations are considering a merger. Blue Cross, whose operations include a publicly traded health maintenance organization, Right-CHOICE Managed Care Inc., has a total of approximately 1.8 million members and is the largest provider of health care services in Missouri. **BI**



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A

The legislation to which you are referring is the Health Insurance Portability and Accountability Act of 1996, or H.R. 3103. The main thrust of this legislation is to enhance the portability of health insurance coverage. The focus is on pre-existing condition exclusions; however, there is some spillover

into COBRA. Other provisions impacted are, most notably, the employer and employee deductibility of expenses related to long-term care and some life insurance payments.

Two provisions will help ensure there are no gaps in health care coverage for employees: non-discriminatory eligibility and pre-existing conditions.

Non-discriminatory eligibility

A group health plan or health insurer may not condition eligibility, including continued eligibility, of an individual to enroll in a plan based on health status; medical condition, both physical and mental; claims experience; receipt of health care; medical history; or evidence of insurability or disability. This means individuals cannot be excluded from a group health plan for the reasons cited above; however, pre-existing condition exclusions for a limited period are still allowed with limitations as discussed below.

Pre-existing conditions

Group health plans cannot impose a pre-existing condition exclusion that exceeds 12 months for conditions for which medical advice, diagnosis or treatment was received or recommended within the previous six months. However, a pre-existing condition exclusion cannot be applied in any case to newborns, adopted children or a pregnancy that exists on the date coverage takes effect.

A key element of the law that will in most cases eliminate a pre-existing condition exclusion is providing credit for prior health care coverage. Employees and covered dependents must be credited in the new plan with periods of continuous coverage for purposes of reducing any pre-existing condition exclusion period. Note that an individual will not be deemed to be continuously covered if a period of more than 63 days without health coverage elapses. Creditable coverage is to be counted for periods beginning after June 30, 1996.

Certification

An additional administrative burden for employers under this law is the requirement to automatically provide certifications of creditable coverage to individuals when:

- An individual loses coverage.
- When an individual becomes covered under COBRA.
- When COBRA coverage ends.
- Upon request, no later than 24 months after coverage ceases.

Certifications are applicable to events occurring after June 30, 1996, but generally do not have to be provided before June 1, 1997. However, the law

includes a special rule for events occurring between June 30, 1996, and Oct. 1, 1996, during which certifications have to be provided upon written request.

Special enrollment period

The health care law requires employers to offer special enrollment periods in two types of circumstances:

- Individuals who previously opted out and then lost other health care coverage.
- An individual who opted out because he or she was covered under another plan, and who then lost that coverage, must be allowed to enroll in the plan immediately. The special enrollment period only applies if the individual was covered under the other coverage when plan enrollment was first offered and the other coverage was later lost due to these reasons:
 - Exhaustion of COBRA coverage.
 - Termination of the other coverage by loss of eligibility, including divorce, separation, death, termination or reduction in work hours.
 - Cessation of employer contributions for the other coverage.
 - Individuals who become dependents.

Key dates

Nov. 1, 1997: Amend COBRA notices to include portability changes including coverage for disabled and newborn/adopted coverage.

Jan. 1, 1997: COBRA provisions effective.

Jan. 1, 1997: Accelerated death benefits—non-taxable benefit effective.

Jan. 1, 1997: Long-term care insurance—non-taxable if employer-provided or tax deductible.

June 1, 1997: Provide "Certification of Creditable Coverage" to terminating employees.

June 30, 1997: Portability provision effective for plan years commencing after June 30, 1997.

If a group health plan offers dependent coverage, the plan must offer a special enrollment period for individuals becoming a dependent through marriage, birth, adoption or placement for adoption. The special enrollment period must be no less than 30 days. The dependent may be enrolled as a dependent of the employee during that time and may not be subject to any waiting periods.

Individual coverage

Effective July 1, 1997, the new law provides that any individual seeking individual coverage after having been covered under a group health plan for at least 18 months must be afforded immediate coverage—with no pre-existing condition limitations—by an insurer that offers individual health care coverage in that state. To obtain this coverage, however, an individual cannot have or be eligible for coverage under another group health plan and must have exhausted his or her rights under COBRA.

The law also gives states the option to set up arrangements such as health insurance coverage pools and mandatory group conversions that will meet the access to individual health coverage goals.

While it is the intention of this provision to assist individuals in attaining health care coverage, a key question that remains is the affordability of this coverage. While access to coverage is important, so is affordability. If the affordability issue is resolved, this provision can be a major help for those mid- to late-career individuals caught in downsizing. A frequent concern to employers is the availability and

affordability of health care coverage for this group of employees.

COBRA

Effective Jan. 1, 1997, the new law expands rights under COBRA for newborns and disabled individuals. Individuals and dependents who become disabled during the first 60 days of the 18 month COBRA coverage period may extend their coverage for 11 additional months beyond the 18 months. The purpose of the additional 11 months is to extend coverage to the date the individual becomes eligible for Medicare, which is 29 months (five-month waiting period and 24 months receiving Social Security disability benefits). Previously, the 11 additional months applied only if the individual was disabled at the time of the qualifying event. This change should have a very nominal impact on employers.

The definition of qualified beneficiary under COBRA is amended to include a child born or adopted during the COBRA continuation period. Also, COBRA-qualified beneficiaries must be allowed to change coverage status, e.g. from individual to family, upon the birth or adoption of a child under the same terms as for active employees.

A time-critical requirement under the new law is the requirement of notifying qualified beneficiaries of the changes to COBRA made by H.R. 3103 by Nov. 1, 1996. COBRA notices will need to be amended.

In addition to the insurance portability provisions of H.R. 3103, there were several others, of which I will address two provisions I think are important.

Accelerated death benefits

Under the new law, accelerated death benefits received under a life insurance contract on the life of an individual who is terminally ill, or expected to die within 24 months as certified by a physician, may be excluded from the individual's gross income. Also, if a portion of a life insurance contract is assigned or sold to a viatical settlement provider, amounts received from such a provider also are excludable from gross income.

I addressed the issue of accelerated death benefits in a prior column (*BI*, May 22, 1995). One item of note is that the law provides for the definition of terminally ill as expected to die within 24 months. Many current policies have different definitions, such as "within 12 months." I suggest discussing this with your insurer.

In addition, an insured individual certified as chronically ill would be able to exclude amounts received under a life insurance contract but only in amounts up to the limits under long-term care policies.

These provisions are effective for amounts received after Dec. 31, 1996.

Long-term care

The tax treatment of long-term care insurance has been modified. If a long-term care plan is provided by an employer, premiums are deductible by the employer and benefits received by the beneficiary are tax-free up to specified limits. Individual premiums for long-term care insurance contracts will be treated as deductible medical expenses, if they exceed, together with other health care premiums or unreimbursed medical expenses, 7.5% of adjusted gross income. However, the maximum annual long-term care premium excludable from income or deductible by an employer varies by age from \$200 for a 40-year-old to \$2,500 for an individual over age 70. These amounts will be indexed by using the medical care Consumer Price Index.

To qualify, a long-term care contract must meet certain requirements, e.g. guaranteed renewability, and may only pay for services required to treat a "chronically ill" individual. The new law defines such an individual as one who is unable to perform two

Continued on next page

Employee stress an important cost in mergers

Better communication can stop rumors after deal and keep workers focused

By Sally E. Mann

WHEN COMPANIES MERGE, they pay close attention to balance sheets, income statements and financial projections. They review cash flow, book value and the potential return to shareholders. But there is a major expense that is never considered, even though it costs corporate America billions of dollars a year: the cost of increased insurance claims and reduced productivity caused by stress-related illness.

Stress costs employers \$75 billion to \$80 billion a year in increased workers compensation claims, increased absenteeism and turnover, and higher health and disability claims, according to the New York Business Group on Health. In a recent Gallup Poll, nearly 60% of managers at U.S. corporations said stress-related illness is pervasive in the workplace, and they estimated it is costing their companies \$8,000 per employee per year.

While there are no hard numbers to measure the stress-related cost of mergers, experts agree that few workplace incidents are as stressful as a merger. According to independent consultant Price Pritchett, for example, after a merger "it may appear that some parts of the company have virtually gone into a coma." Morale suffers, rumors spread and employees spend much of their time worrying about their jobs.

The employees who receive pink slips aren't the only ones affected by a merger. Even employees who retain their jobs may experience a feeling of profound loss that can mirror the sense of loss felt when a family member dies. Other symptoms of what experts broadly call "survivor sickness" include depression, stress and fatigue.

Survivors sickness is often accompanied by feelings of distrust and betrayal, especially among long-time employees. Twenty years ago, it was not uncommon for a person to work at one company for his or her entire career. Many still believe today that they have a life-long "contract" with their employer, and that any threat to their job after a merger is a breach of that contract. While some employers believe survivors should be happy to have a job, more enlightened employers recognize that the survivors are under a great deal of stress—and that the stress must be addressed.

Failure to deal with stress can lead to both "mental-physical" and "mental-mental" workers comp claims. Mental stress has been linked to major physical illnesses, including heart disease and cancer. Because stress can lead to increased incidents of substance abuse, it can also indirectly lead to diseases such as cirrhosis of the liver.

In recent years, the legal definition of stress has broadened, resulting in stress-related "mental-mental" claims, such as post-traumatic stress disorder and depression caused by stress in the workplace. When mental-stress compensation is included in the settlement of a claim, there is a significant increase in the cost. The National Council on Compensation Insurance found that average stress claims are 52% higher than average claims for physical injuries.

With mergers taking place at a record pace, the cost of stress-related claims is likely to continue to escalate. The \$193.3 billion in mergers announced through April 1996 was nearly double the pace of mergers for 1995.

While it would be unrealistic to expect fear of stress-related illness to slow the pace of mergers and acquisitions, employers would do well to consider the people issues involved with mergers and to do what they can to minimize the stress involved. Failure to consider the impact of a merger on employees not only has the potential to increase stress-related claims, it can also mean the difference between a merger that succeeds and a merger that fails.

Communicate with employees

The most important step the employer can take after a merger is to communicate fully with all employees and with customers. It is sometimes impossible to be completely forthcoming about what a merger will mean to individual employees, but the more open the employer is, the more employees will feel that they are in control of their lives. They will be better able to focus on the tasks at hand and will be less likely to be affected by stress-related disorders.

Failure to be open and honest about how employees will be affected results in the spreading of catastrophic rumors. The office grapevine is most active when substantial change, such as a merger, takes place. Employers who fail to communicate with employees about what is happening will create a "false reality" that frequently will be worse than what is really happening.

Information is power. Employees who have no information will feel powerless and will be more likely to suffer from survivor sickness. Their job performance will be impaired and productivity will be diminished.

It is also important to communicate honestly. Do not tell employees their jobs are secure if they are not. By being less than honest, the employer ruins any credibility that may exist.

Even when employers try to communicate honestly and openly, they sometimes say the wrong things at the wrong times. In trying to communicate fully, they may give out information before fully thinking out the consequences.

Employers should communicate as quickly and openly as possible, but they also must determine exactly what they're going to do before telling employees.

It is especially important to communicate with key

people who are vital to the merger's success. Let them know quickly that they will be needed. Otherwise the employer may find that the people who are wanted and needed most are gone. We've heard of an executive, for example, who decided to reduce his staff by leaking information about a pending downsizing.

He figured, correctly, that once the information was leaked, some people would seek jobs elsewhere and he wouldn't have to worry about reducing his staff. The problem with that approach is that the most talented people are the ones who can find jobs elsewhere. The people who left were the ones who were needed most.

Merger hotlines, weekly merger newsletters, focus groups and employee transition teams can provide the consistent communications needed to mitigate the symptoms of survivor sickness. Structured groups may also be established where survivors can identify and acknowledge what happened, what will be happening and how they will be affected.

As an outside resource, a company's Employee Assistance Program can be helpful before, during and after a merger, but employees need to know their use of the program is confidential. Many merger-related employee problems, such as drug and alcohol abuse, are the types of problems dealt with regularly by EAPs.

Leaner, not meaner

After a merger, the acquiring company is often too hasty about putting its own people in charge. It is never easy for two companies with distinct and different cultures to merge, but if a merger is going to work, some continuity is needed. The survivors need to feel they can control their destiny. The middle and senior managers in an acquired company are typically the first to be let go, but they're also the people who can best help the acquiring organization make the merger work.

It is also important for the employer to tend to the needs of employees who are being let go. If the employer fails to act with compassion toward employees who lose their jobs, the stress level among those who stay behind will be higher. Employees who lose their jobs should receive outplacement help, including career counseling and resume assistance. After a merger, a company is likely to be leaner, but if it wants to control stress-related costs, it shouldn't be meaner. **BI**



Sally E. Mann is president of The Jernberg Corp. of Worcester, Mass., an independent employee assistance program that provides services to help employees with personal problems that affect their work performance and productivity.

Portability

Continued from previous page
activities of daily living, like eating, bathing, dressing, etc. unassisted for a minimum of 90 days. This determination is to be made by a doctor, nurse or social worker.

The maximum daily long-term care tax-favored benefit is \$175 and is indexed for inflation by using the medical care CPI.

Coverage under an employer-provided long-term care contract may not be offered through a cafeteria plan or flexible spending account. Therefore, employee contributions may not be made on a salary reduction basis. Also, the COBRA continuation rules do not apply to coverage under long-term care contracts.

These provisions generally are effective for premiums or benefits paid after Dec. 31, 1996.

Consistent with any legislation, there are some additional administrative chores for employers. Notable among these are:

- Tracking "creditable coverage" and providing notices to employees.
- Amending COBRA notices.
- Changing some procedures, like for "special enrollment periods."

Overall, the additional administrative burden is generally nominal. Note the various effective dates of the various provisions (see chart).

A key question is if the health care law will have a cost impact on employers. Today, many large employers do not have pre-existing condition requirements; therefore, these provisions will have minimal impact on large employers. One potential cost savings element is that due to minimizing pre-existing conditions, individuals likely will move off COBRA coverage sooner.

In the big picture, this legislation appears to be generally cost-neutral outside of some additional administrative costs.

Material in this article does not constitute accounting, tax, investment, legal or business advice. Employers should review their specific situations with professional advisers.

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This month's column on employee benefit management issues is written by Dennis J. Nirtaut, managing director of compensation and benefits for Andersen Worldwide S.C. in Chicago. Address questions to ASK, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. Please provide your name, title and employer; however, Business Insurance will consider unsigned letters.

Niche book offers essentials for design pros

"Different by Design: The Evolution of Design Professionals Liability Insurance Company and Its Unique Contribution to the Insurance Industry"

By Edward B. Howell

Published by AMACOM, a division of American Management Assn.,

135 W. 50th St., New York, N.Y. 10020,

212-903-8315

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By Kevin M. Quinley

HOW DO RISK MANAGERS obtain customized insurance solutions when all they see are off-the-shelf proposals? A new book offers a case study of how one industry—comprising architects and engineers—tackled the problem.

"Different by Design" chronicles the evolution of Design Professionals Liability Insurance Co., which benchmarked the concepts of limitation of liability and loss prevention. This earned DPIC the distinction of being "different by design." Written by the company's founder, Edward B. Howell, this book also explores business essentials that all contractors and design professionals should know to protect themselves from liability claims. Professional liability claims, especially ones involving design professionals, are unique and do not lend themselves to a "one-size-fits-all" approach.

Architects, contractors, engineers, insurers and brokers—indeed, anyone interested in quality issues—all can learn something from this first-person account, which chronicles the birth of a specialty insurance company. Highly anecdotal, occasionally amusing, Mr. Howell clearly marches to the beat of a different drummer. In 13 chapters and 220 pages, he covers much ground. Much of it is historical.

Books & Ideas

"Different by Design" is not likely to appeal to all risk managers. It does not pretend to have generic appeal. Instead, it will hold the most interest for design professionals who want to survive their first liability claim. Further, project and account managers who deal with clients and customers on behalf of their companies will enjoy this tale.

Still, it would be unfortunate if many risk managers wrote off "Different by Design" as an esoteric book that really doesn't apply to them, either because they couldn't care less about how the insurer was formed or because their jobs have nothing to do with design professionals. Instead, risk managers can view the DPIC saga as a case study in how specific industry sectors can meet needs largely unaddressed by the conventional insurance industry. The fact is, DPIC helped its own clients avoid crippling liability losses while spurring its own growth. In doing so, DPIC blended a customer-oriented philosophy with a solid loss-prevention focus.

Using both actual and fictionalized examples, Mr. Howell illustrates both the historic insurance problems of design professionals and the stages leading up to the founding of DPIC as a specialty insurer.

"Different by Design" also gives a fascinating behind-the-scenes look at how an insurance company works.

Many risk managers have found that the conventional insurance market has at times been sluggish in meeting the needs of specialized buyers. Hence the growth in captives and interest in risk retention groups and alternative funding mechanisms.

This has contributed to a flight of capacity away from conventional insurance options, contributing to cutthroat competition among insurers fighting over a shrinking pie.

"Different by Design" demonstrates some of the reasons that special groups of insurance buyers often believe they can do the job just as well as—or probably better than—insurers whose allegiance is diluted by ties to myriad groups. Industry-based captives and tailored insurance solutions are nothing new to most risk managers.

What is unusual about "Different by Design" is its portrayal of the process in a lively, highly readable and, at times, entertaining way. It offers no cookbook approach for other risk managers or brokers toying with the same notions, but it stimulates "what if" thinking from which creative juices flow.

"Different by Design" offers insights to readers and risk managers that transcend the realm of architects and engineers.

Its core idea, which is relevant for virtually all risk managers, is that insurance buyers often can be their own architects and engineers in building solutions to insurance problems inadequately addressed by the conventional market.

BI



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He holds the Chartered Property Casualty Underwriter and Associate in Risk Management designations.

Waitress who helped in tornado wins comp benefits

An employee injured when a tornado blew out a window in a restaurant where she worked could receive workers compensation benefits because the injury arose out of a risk incidental to her employment rather than being the result of an "Act of God," according to the Court of Appeals of Oklahoma.

Lorene Thornhill was working as a waitress at a truck stop restaurant when a tornado destroyed a window. At the time Ms. Thornhill was struck and injured, she was checking to see whether patrons had moved away from the window in accordance with her prior request. She was warning patrons to take cover under tables.

Ms. Thornhill applied for compensation. The employer argued that her injuries arose from an "Act of God" and were not compensable. The Compensation Court awarded Ms. Thornhill benefits, and the employer appealed.

On appeal, the employer argued that Ms. Thornhill's risk of injury was due to the peril of an "Act of God" to which she had no greater exposure than the general public.

But the court said Ms. Thornhill was warning patrons about the impending danger and was performing duties that subjected her to an unusual risk of being injured should the building be destroyed by the storm. Thus, the court said she was properly awarded benefits.

Bruce's Tulsa Truck Plaza vs. Thornhill, Court of Appeals of Oklahoma, March 26, 1996 (BI/04/N.-\$10).

Summary doesn't govern coverage

A primary insurer was not precluded from relying on exclusionary language in the policy that has not been provided to the insured, according to the Supreme Court of New Hampshire.

The Town of Londonderry and the Boston North Associates Inc. were involved in a project to develop a new interstate interchange. The town repealed the appropriation for the project, and Boston North lost its

Legal Briefs

bank financing for the project. Boston North sued the town, alleging a breach of contract.

The town sought defense and indemnity from its primary and excess insurers. The insurers denied coverage. The town sued, seeking a declaration that the insurers were bound to defend it. The trial court ruled for the insurers.

On appeal, the town argued that the summary of coverage provided by the primary carrier controlled the insurer's defense obligations, rather than the policy itself issued by Lloyd's of London.

But the court pointed out that the summary of coverage provided by the primary carrier clearly stated that the document merely summarized coverage and referred the participant to the Lloyd's policy for coverage specifics. Thus, the court said a reasonable insured would understand that the Lloyd's policy and not the summary controlled the insurer's defense obligations.

Furthermore, the court said the Lloyd's policy, which contained exclusionary language, governed coverage. According to the court, failing to provide the town with a copy of the exclusionary language in the Lloyd's policy was not a fatal flaw. The trial court decision was affirmed.

Londonderry vs. NH Mun. Assn. Prop. Liab., Supreme Court of New Hampshire, Nov. 15, 1995; rehearing Denied, Dec. 28, 1995 (BI/04/Jy.-\$10).

Insured isn't double-dipping

A case of first impression in Pennsylvania raised the issue as to whether sick pay and Social Security benefits received by an insured should be deducted by an insurer in calculating the insured's actual loss of gross income. The Supreme Court of Pennsylvania ruled that the payments were not deductible.

Anthony J. Panichelli was insured under a policy

issued by Liberty Mutual Insurance Group, which was written in accordance with the provisions of the state's motor vehicle financial responsibility law. The policy provided for income benefits.

Mr. Panichelli was injured in a motor-vehicle accident and was unable to work. He filed a claim with Liberty Mutual for loss of income benefits. During the period of December 1987 through Aug. 1, 1988, Mr. Panichelli received sick pay benefits from his employer in an amount equal to his gross income. Thereafter, he received monthly Social Security disability benefits.

The insurer took the position that it was entitled to a setoff for both. Mr. Panichelli sued, seeking the full amount of his monthly salary minus a 20% statutory deduction. The trial court ruled for Mr. Panichelli.

On appeal, the insurer argued that, to allow Mr. Panichelli to recover the sick pay and Social Security benefits, as well as the income-loss benefits, would amount to a "double recovery" by the insured. But the court concluded that Mr. Panichelli's receipt of both employer-provided sick leave benefits and Social Security disability benefits, as well as full income-loss benefits, did not result in "double-dipping." "These are benefits for which the employee has paid in the form of lower wages for the sick leave benefits and in the form of payroll deductions for the Social Security benefits," the court said.

Thus, the court concluded he was entitled to income-loss benefits under his policy in the full amount of his income loss without any offset for the sick pay of Social Security benefits he received.

Panichelli vs. Liberty Mutual Insurance Group, Supreme Court of Pennsylvania, Jan. 18, 1996 (BI/02/Au.-\$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.

Pan Oceanic

Continued from previous page

EuroInvest last year also appeared to have a relationship with Lehman Bros., documents show: A Dec. 29, 1994, letter to Mr. Matias apparently on Lehman letterhead confirms that EuroInvest "has in excess of \$1 billion available against presentation of acceptable collateral."

A Lehman spokesman said the letter is a forgery.

Mr. Matias could not be reached at EuroInvest's Portugal number, which apparently rings at his home.

Joel Green, who acts as "attorney in fact" for EuroInvest at its Piscataway office, declined to comment and referred questions to Mr. Guariglia, who now heads a company called Euro Capital Corp. in Freehold, N.J. Mr. Guariglia did not return calls.

Mr. Richter said Pan Oceanic performed a due diligence review of EuroInvest and "came out confident of what it was and what it was doing." Asked what EuroInvest is, Mr. Richter described it as a large European investment company, but said he could not disclose the nature of its business because of confidentiality restrictions.

Bain Hogg, which was acquired by Aon Corp. earlier this year, did not perform a due diligence review and would only have done so if it had actually been asked to place the reinsurance, the spokeswoman said.

EuroInvest was introduced to Pan Oceanic in late 1994 or early 1995 by John Macari, a convicted insurance swindler who heads Summit Enterprises Inc. of Jupiter, Fla.

The Portuguese company was seeking bonds guaranteeing its sale of \$1.1 billion in 10-year corporate promissory notes and two related series of notes covering annual interest payments of \$45.3 million and \$39.6 mil-

lion, documents show.

Pan Oceanic agreed to issue the bonds and in early 1995 approached Bain Hogg about reinsuring part of its exposure.

Initially, the deal was represented to Bain Hogg as involving Lehman clients: In a March 15, 1995, memo to Mr. Richter, Michael J. McPhelimy, managing director of Bain Hogg's Credit & Political Risk Reinsurance Brokers unit requested numerous documents, including a loan agreement showing EuroInvest's obligation to repay Lehman clients and confirmation of EuroInvest's net worth.

Over the next several months, lenders and other parties involved in the proposed EuroInvest transaction changed repeatedly. By August 1995, though, a complex deal appeared to be set, Pan Oceanic documents show.

Under this deal, EuroInvest was to sell one set of notes paying \$45.3 million in annual interest to Penn Atlantic Trust, headed by Richard L.

Shope; Penn Atlantic would then pledge them as collateral for a \$1.1 billion loan or letter of credit from Huang Mao Tsung through his bank, Kansai Kogyo Bank of Osaka, Japan. Mr. Tsung was described in Pan Oceanic documents as the owner of a large toy manufacturing concern and also a director of Penn Atlantic.

Proceeds of the loan would then be managed by AMFS Asset Management Inc. of Harrisburg, Pa., which was acting as escrow agent and asset manager for EuroInvest, documents show.

AMFS officers include Wilbur A. Stile, president, and Theodore Graino, executive vp. Both men refused to answer questions about EuroInvest.

"This has nothing to do with (the insurance) industry. Why don't you stay in your industry," Mr. Stile said.

Penn Atlantic and Mr. Shope could not be located. Kansai Kogyo also could not be located, though there is a credit union in Osaka with a similar

name.

Meanwhile, in a concurrent deal, EuroInvest was going to pledge another set of the 10-year notes paying \$39.6 million in annual interest as collateral for a loan from Kuomintang Investments Ltd., also described as Osaka-based. Kuomintang could not be located.

As the scheduled August 1995 closing approached, Pan Oceanic and EuroInvest pressed Bain Hogg to issue "draft reinsurance placement slips" outlining the terms of the intended reinsurance cover, Pan Oceanic's records show.

Bain Hogg officials raised last-minute objections to language in some of EuroInvest's documents—for example, that one of the agreements incorrectly said the notes were reinsured by Lloyd's. But after these problems were apparently fixed, Pan Oceanic had only one hurdle left to clear: paying Bain Hogg's \$25,000 fee.

The fee was originally due in March 1995, and Bain Hogg's Mr. McPhelimy threatened in late August to drop Pan Oceanic unless the payment was made.

Pan Oceanic appeared to have trouble coming up with the fee, its documents suggest. In an Aug. 23 memo to Mr. Wagoner, Mr. Richter noted that "we all know our problem with regards to having the funds necessary to cover Bain Hogg's fee."

On Aug. 29, EuroInvest's Mr. Green faxed Mr. Richter, demanding "Where is the \$25,000?"; when Mr. Richter replied that a transfer of the money had had been delayed in Mexico, Mr. Green shot back, "Roger—Your problem!! Pan Oceanic creditability—0. This could blow deal!!!"

In an interview, Mr. Richter denied having trouble meeting the fee but conceded that Pan Oceanic dragged its feet: "It was repugnant to me to pay a brokerage fee before we had been paid our fee," he said.

Bain Hogg did get the \$25,000, though, and on Aug. 30 Bain Hogg Director Christopher J. Brownlees issued the draft reinsurance slips.

For Bain Hogg, things went downhill from there.

For reasons that are unclear, the EuroInvest deals with Kansai Kogyo and Kuomintang fell through. Mr. Richter declined to discuss the transactions other than to say that Pan Oceanic ultimately canceled its bonds.

In late October 1995, Mr. Brownlees received a copy of a forged Bain Hogg letter purportedly bearing his signature and confirming that a separate \$400 million issue of EuroInvest promissory notes had been reinsured at Lloyd's.

Mr. Brownlees faxed letters to Mr. Guariglia and Mr. Richter demanding an explanation. Both denied knowledge of the forgery; Mr. Richter agreed that it was a "gross misrepresentation" and said that Pan Oceanic "has made no misrepresentation of your position whatsoever," the insurer's documents show.

The forgery, though, would turn out to be only one of several false claims over coming months that the EuroInvest notes were reinsured by Lloyd's.

Throughout the end of last year, EuroInvest, AMFS and Pan Oceanic were involved in several abortive efforts to interest lenders and investment intermediaries in the promissory notes. Proposed EuroInvest partners included:

- JBRJ Inc., a Scottsdale, Ariz., company that signed an agreement with Mr. Matias to try to negotiate bank lines of credit using the EuroInvest notes as collateral, Pan Oceanic documents show.

The forged Bain Hogg letter was purportedly responding to EuroInvest regarding questions raised by JBRJ about the reinsurance coverage.

At about the same time, JBRJ appeared to obtain a letter from Phoenix-based M&I Thunderbird

See Pan Oceanic on next page

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Pan Oceanic

Continued from previous page

Bank expressing interest in opening a line of credit based on \$400 million in EuroInvest notes, Pan Oceanic documents show.

However, Leonard J. LaBrie, the M&I officer who purportedly signed the letter, said in an interview that it is a forgery and that he referred it to bank security personnel.

A JBRJ representative could not be reached.

• Codo Venture Holdings of Philadelphia and R.W.A.I. Group Inc. of Harrisburg, Pa., which signed an agreement with Mr. Matias to accept \$1.1 billion of EuroInvest notes into an investment program they manage that would reportedly generate a 160% annual return to EuroInvest, the agreement shows.

Joseph N. Donatucci, a Codo director, would not provide details of the investment program but said he would have used the EuroInvest notes to obtain loans or lines of credit.

EuroInvest claimed the notes were reinsured with Lloyd's through Bain Hogg, though it asked Codo not to contact the London broker directly, according to Mr. Donatucci, who described this as a "problem" in his attempt to conduct a due diligence review.

No deal was ever completed, he said: "It just died on the vine."

• Min Thai Holdings (Hong Kong) Ltd., an asset management company represented last year by Stephen W. Beik, a Maitland, Fla., attorney, and headed by Kenneth D. Man-shon, who Mr. Beik said is a South

African businessman.

Min Thai signed an agreement last November with Mr. Stile's AMFS to accept \$1.6 billion of EuroInvest notes into an investment program that would generate an annual return of 200%. The program would have used the notes to acquire debentures from the "top 100 World Prime Banks," which would then be traded to produce huge profits, according to the agreement.

An attachment to the agreement signed by Mr. Stile says that "Underwriters at Lloyd's are responsible for full payment" on the EuroInvest notes in case of default.

Mr. Beik said nothing ever came of the deal and that he no longer represents Min Thai.

• TAT Inc., a New York company operated by Robert Bass and Roy Dickerson that proposed a joint

venture with EuroInvest and Pan Oceanic in September 1995 to place EuroInvest notes in an investment program that would generate a 100% annual return.

The fate of this proposal is uncertain; Mr. Bass and Mr. Dickerson could not be reached and Mr. Richter declined to comment.

• Patrick Perrin, who was to form a joint venture with EuroInvest late last year to invest \$400 million in notes in yet another program that would earn up to 160% a year.

Mr. Richter said he believed Mr. Perrin to be a principal of jeweler Cartier International. A Cartier spokeswoman said Patrick Perrin is unrelated to Alain Perrin, chairman of Cartier International. Patrick Perrin could not be reached.

Pan Oceanic's files include a letter apparently written by its gener-

al counsel E.J. Morgan last December to Mr. Matias—and copied to Mr. Perrin—stating that Bain Hogg is "known to me to be a registered broker with the underwriters at Lloyd's... and as such are legally obligated as reinsurers pursuant to the issuance of their draft reinsurance placement slip."

The language of the letter is identical to two Sept. 6, 1995, letters from Mr. Morgan to Kansai Kogyo and Kuomintang, Pan Oceanic records show.

In an interview, Mr. Morgan raised doubts about the letters: "It was on my letterhead and it does appear to be my signature, but it did not sound like my language," Mr. Morgan said. "The language is just not my style, and I don't have a copy in my file, which is very strange."

Mr. Morgan said the language of

the letters may have been altered, but he could not say who might have done this.

Mr. Richter, meanwhile, said that Mr. Morgan may simply have misunderstood Bain Hogg's role.

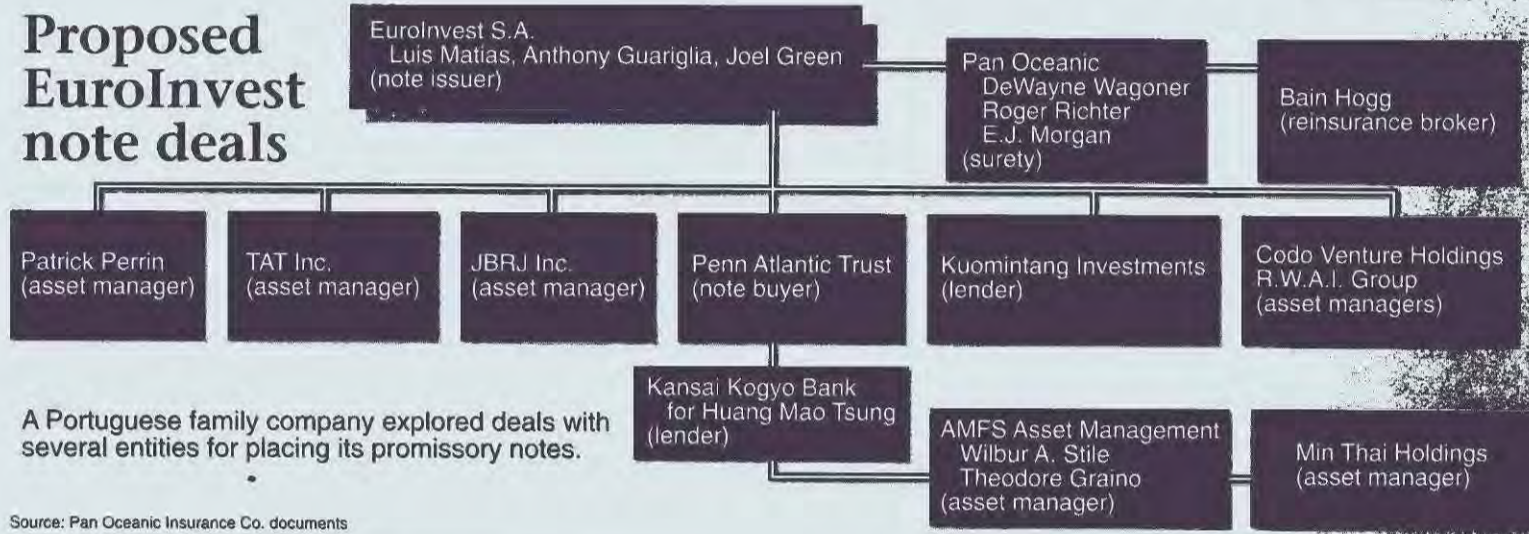
"It was just an honest mistake of what Bain Hogg was," Mr. Richter said.

"I think they are misleading," he added of the letters, "but they are not misrepresentations."

Despite all the time and effort expended on EuroInvest deals that never worked out, Mr. Richter says philosophical,

"One of the problems of running a company that provides financial insurance is you get lots of people coming up and saying, 'Will you do this, or will you do that,'" Mr. Richter observed. "We probably wind up with one solid transaction after looking at 10 or 20 different

Proposed EuroInvest note deals



A Portuguese family company explored deals with several entities for placing its promissory notes.

Source: Pan Oceanic Insurance Co. documents

GRAPHIC BY ADAM DOI

Unusual cast of characters seen in prior deals

By DOUGLAS McLEOD

NEW YORK—EuroInvest S.A. and Pan Oceanic Insurance Co. business deals have involved an unusual cast of characters, among them several people who either are convicted felons or have been hit with civil fraud charges. These include:

• Anthony Guariglia, a EuroInvest representative. He is the former president and chief operating officer of Wedtech Corp., a New York-based defense contractor that collapsed in a 1987 fraud and influence-peddling scandal that engulfed several prominent New York politicians and Reagan administration officials.

Mr. Guariglia and other top Wedtech officers pleaded guilty in 1987 to federal and state charges of bribing members of Congress and other federal and local government officials; defrauding the U.S. Department of Defense with phony and inflated bills; misrepresenting Wedtech as a minority-owned company to win no-bid federal contracts; and swindling investors who bought millions of dollars of Wedtech stock.

He cooperated extensively with prosecutors, testifying at the trial of convicted former U.S. Rep. Mario Biaggi, D-N.Y., and aiding investigations of other political figures, including former U.S. Rep. Robert Garcia, D-N.Y., ex-Reagan political adviser Lyn Nofziger and former U.S. Attorney General Edwin Meese III, federal court records show.

A New York judge sentenced Mr. Guariglia in 1990 to five months in prison and three years' probation on the federal charges. Mr. Guariglia also was ordered to join a counseling program after he told the judge he was a compulsive gambler.

• Joel Green, EuroInvest "attorney-in-fact." Mr. Green, the former president of Cymaticolor Corp. of Edison, N.J., was charged by the Securities and Exchange Commission in 1984 with a scheme to manipulate the price of Cymaticolor stock.

Mr. Green allegedly issued bogus press releases about the company's prospects and orchestrated purchases of its stock by third parties, driving the price to \$64 per share from \$5. Meanwhile, he sold his own shares, the SEC charged.

Without admitting or denying guilt, he agreed in 1986 to a permanent injunction barring him from violating securities laws or from serving as a director or officer of a public company without prior SEC approval. He also agreed to disgorge \$100,000 of his Cymaticolor profits.

• John Macari, president of Summit Enterprises Inc. of Jupiter, Fla., a former Pan Oceanic client. Mr. Macari said he introduced EuroInvest to Pan Oceanic.

The Florida State Attorney's office in Palm Beach County charged Mr. Macari in 1993 with grand theft for collecting \$15,600 in premiums from an Arizona company for a surety bond that was never placed.

Instead, Mr. Macari used the money to cover office and personal expenses, prosecution records contend.

Mr. Macari pleaded no contest to a single grand theft charge and was sentenced to three years' probation and payment of \$15,600 restitution to the defrauded Arizona company, state records show.

In an interview last week, Mr. Macari blamed the problems on

another man who he said he allowed to use Summit's bank account and offices.

"Based on that, I got hung," Mr. Macari said. "I knew nothing about the deal, but I didn't have the money to fight it."

• Robert E. Cheney, president of R&M Holdings Internacional of Guadalajara, Mexico. R&M, a Pan Oceanic surety client, supplied a purported \$480 million in "dore metal certificates" that Pan Oceanic claimed as assets in a March 1996 balance sheet.

Mr. Cheney was jailed from 1979 to 1981 on a California grand theft conviction and was hit with additional grand theft charges by the California Attorney General's office in 1988 for allegedly embezzling more than \$100,000 from several limited partnerships in the mid-1980s, court records show.

Mr. Cheney also at one time

owned a slag pile in Deming, N.M., that purportedly contained \$2 billion in valuable ore; the alleged ore was used by First Dominion Trust Co. of Austin, Texas, to issue "precious metal trust receipts" that were then sold to insurers as assets.

Regulators later concluded the slag pile's value was "negligible," and the Texas Department of Banking ordered First Dominion liquidated in 1988.

• Wilbur A. Stile and Theodore Graino, president and executive vp, respectively, of Harrisburg, Pa.-based AMFS Asset Management Inc., escrow agent and asset manager for EuroInvest.

Messrs. Stile and Graino formerly were officials of Standard Grains Inc., a commodities dealer, and were sued in the 1980s for allegedly swindling an Iranian businessman in a \$6 million grain

deal. Federal appeals court records show Mr. Stile, Mr. Graino and other defendants used bogus shipping documents to draw down a \$6 million letter of credit posted by the Iranian businessman to cover a shipment of grain to Iran.

In fact, the defendants never procured or shipped any grain, and a federal appeals panel labeled the drawdown "clearly a fraud."

Messrs. Stile and Graino later returned \$5.3 million that the Iranian victim traced to a bank in the Bahamas, and the two men agreed to settle the lawsuit the victim had filed, according to court records.

In an interview, Pan Oceanic President Roger A. Richter Sr. said he was not aware that any of the men the insurer dealt with had legal troubles. **BI**

Proposals have been varied in content and geography

By DOUGLAS McLEOD

NEW YORK—Pan Oceanic Insurance Co.'s business does not lack for variety.

Over the past two years, the insurer has pursued myriad deals in far-flung corners of the world, ranging from international credit risk covers to surety bonds and construction financing for projects in Papua New Guinea, Mexico, Africa and Europe.

Along with the EuroInvest S.A. transactions (see story, page 1), Pan Oceanic's proposed deals have included:

• A planned joint venture with

Delaware North Co., a Buffalo, N.Y.-based food service giant that owns Boston's Fleetcenter and whose chairman, Jeremy M. Jacobs, owns the Boston Bruins hockey team.

Pan Oceanic was to put up \$3 million to become a 50/50 partner with Delaware North in a new European company that would acquire a United Kingdom catering concern. The joint venture would later join a German food service consortium in developing European sports stadiums, according to a May 1996 memo on the plan from Alan W. Broughton, Pan Oceanic's London representa-

tive, to Pan Oceanic President Roger A. Richter Sr.

Joseph Trimboli, director of business development for Delaware North, confirmed discussions with Pan Oceanic over the proposed U.K. acquisition but said no deal ever was completed. Delaware North has had no further contact with the insurer, Mr. Trimboli said.

Mr. Broughton and Mr. Richter declined to comment.

• A proposed deal to finance the construction of a \$50 million hotel and casino at Jomo Kenyatta International Airport in Nairobi, *See Deals on next page*



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Deals

Continued from previous page
Kenya.

Draft Pan Oceanic documents identify its proposed partner in the development as Kenya Reinsurance Corp., a state-owned reinsurer in Nairobi.

However, a Kenya Re official told Mr. Richter in an April 22, 1993, letter that the two companies have no agreement, Pan Oceanic's records show.

In an interview, Mr. Richter confirmed that Pan Oceanic has never finalized an agreement on the hotel project. Kenya Re officials could not be reached.

- Performance bonds guaranteeing repayment of \$13.5 million in bank loans sought by Summit Enterprises Inc., a Jupiter, Fla., firm headed by convicted swindler John R. Macari.

Mr. Macari confirmed that he sought the loans last year from a branch of Deutsche Bank in Sorrento, Italy.

As collateral, he was to put up \$13.5 million in "standby letters of credit" issued to Summit by a Panamanian credit union. While LOCs typically relate to a specific commercial transaction—like a purchase of goods—the Panamanian LOCs do not specify a purpose and describe themselves as "transferable."

In an interview, Mr. Macari said the loan deal fell through because the bank would not accept Pan Oceanic's bonds. Mr. Richter said the bonds were canceled for non-payment of premium.

Mr. Macari also said there was nothing unusual about the Panamanian LOCs.

"If it's not transferable, you have a problem. It means you can't take it to another bank," to borrow against it, Mr. Macari said.

Officials of the Italian bank and Panamanian credit union could not be reached.

- Twelve bonds totaling \$315 million guaranteeing the "delivery and validity" of purportedly

'If it's not transferable, you have a problem. It means you can't take it to another bank,' says John Macari.

negotiable "pay orders" issued by R&M Holdings Internacional, a Guadalajara, Mexico, company operated by convicted con man Robert E. Cheney.

The bonds were issued last year to La Palapa Club Vacacional, another Mexican company that was to receive the R&M pay orders, Pan Oceanic documents show.

As collateral for the bonds, Mr. Cheney provided Pan Oceanic with "gold dore certificates" supposedly worth \$340 million and apparently representing part of an \$80 billion hoard of precious metal that Mr. Cheney claims to own in Argentina, Pan Oceanic documents show.

Pan Oceanic canceled the bonds for non-payment of \$15.75 million in premiums and never called on Mr. Cheney's gold collateral, according to Mr. Richter.

- Reinsurance covering the "Death Care Industry Assn.," a group apparently offering "pre-need funeral" coverage for costs of transporting the remains of policyholders who die while traveling.

Pan Oceanic was to reinsure 100% of the Death Care risk written by General Surety Co. Ltd., a company domiciled in St. Kitts, British West Indies, and operated last year from an office in Dresher, Pa. Pan Oceanic would then have retroceded 50% of the business back to General Surety, according to Pan Oceanic documents.

Mr. Richter, though, said Pan Oceanic never became a reinsurer of General Surety.

General Surety's president, Roger F. Burns Jr., and its chairman, Joseph J. Italiano, could not be reached. The company's Dresher phone number has been disconnected.

Worldwide Assistance Network, a Bradenton, Fla., company that was to administer the Death Care program and whose officers included Mr. Italiano, was dissolved in August for failure to make required state filings. **B**

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Global Briefs

Jean-Jacques Bonnaud is expected to be dismissed from his post as chairman of Paris-based state-owned insurer Groupe d'Assurances Nationales. A GAN spokeswoman confirmed that Mr. Bonnaud had been asked to resign by French minister Jean Arthuis but refused to do so. The decision is expected Wednesday from the French Council of Ministers. . . . Four foreign insurance companies have won approval from the Reserve Bank of India to set up representative offices in India, confirmed a spokeswoman for the bank in Bombay. The four companies, the first to win regulatory authorization, are: Allianz Versicherungs A.G. of Germany; Yasuda Fire & Marine Insurance Co. Ltd. of Japan; Zurich Insurance Co. of Switzerland; and CIGNA International Corp. of the United States. These are the first foreign insurers to be allowed representation in India since the market was nationalized in 1972 and their office openings precede the expected reopening of the market to foreign insurers next year. . . . The Corporation of Lloyd's of London will base one of its five new business units in New York as part of a major restructuring to improve the market's competitiveness. The "North America" business unit will be headed by Lloyd's head of marketing, Peter Lane, who is relocating to New York. The five new business units, which will report to "user boards" made up of market executives, were conceived after a major consultation with the market to decide what central services are needed. Meanwhile, Sir Alan Hardcastle, chairman of Lloyd's Regulatory Board, has been reappointed as one of the six nominated members of Lloyd's council. . . . Graham Orme has been appointed chief executive of the U.K.'s Loss Prevention Council, which specializes in loss prevention and control. Mr. Orme, who was deputy chief executive, replaces John Hill, who is retiring. . . . A dozen lung cancer victims filed suit in London's High Court earlier this month against tobacco manufacturers Imperial Tobacco Ltd. and Gallahers Ltd. The case is the largest group action case to be fought in the United Kingdom on a contingency basis, following recent changes in the law. Leading London-based plaintiff law firm Leigh, Day & Co. is acting for the plaintiffs. . . . London broker C.E. Heath P.L.C. has posted six-month pretax profits down almost 50%, from £6.4 million to £3.4 million (\$10.7 million to \$5.7 million). The drop, for the half-year to Sept. 30, has been caused by Heath's withdrawal from non-insurance brokering business. It demerged its computer services operations and sold off its 5% shareholding in Trade Indemnity Group P.L.C. in April and in September sold its 56% interest in Lloyd's New York Insurance Co. Along with the £4.1 million (\$6.9 million) contribution to Lloyd's reconstruction and renewal plan, these items netted a profit of £1.25 million (\$2.1 million). Also, the broker has obtained shareholder permission to buy back 10% of its shareholding and has announced it will purchase 3.4 million—or 5%—of the total company shares.

Health costs may exceed estimates

By SARAH GODDARD

LONDON—Estimates that U.K. employers foot costs of £1.5 billion (\$2.51 billion) each year due to workplace sickness and injury could be much higher, according to health care, risk management and insurance experts.

Instead, the hidden and complex expenses that make up the final bill for employers has yet to be unraveled, an audience of occupational health, risk management and insurance professionals was told at an Assn. of Insurance & Risk Managers conference earlier this month.

Although 70% of illness is related to lifestyle, its impact on the workplace still makes non-work-related sickness

Some expenses hidden, complex

an organizational problem. "It was always a given that corporations are responsible for the health and welfare of employees," said risk management consultant Donna Thomas.

The emphasis is falling more on the employer as political pressures force increased cost-sharing between the state and the employer. And as corporations have "downsized, rightsized and re-engineered into corporate anorexia . . . absences have become more disruptive and costly," she said.

U.K. employers can learn from the U.S. experience, said Richard Bolmen, senior vp at Minet Insurance Services Inc. in Palo Alto, Calif. U.S. employers have significantly reduced

costs through "injury management" programs, which manage the employee—from the time of injury to return to work—as well as the insurer and the health care provider. This cost reduction has occurred despite a three-fold increase in occupational illnesses over the past eight years.

Between 70% and 80% of disabilities in the United States are not work-related, according to Mr. Bolmen, and though these take a lower priority for return-to-work schemes than workplace injuries, the costs are still the same. He estimated that the indirect costs of disability are between five and seven times the benefit costs—and U.S. workers compensation costs

exceed \$80 billion annually.

U.K. organizations cannot afford to duck the issue, and disability management could be a mechanism to significantly reduce these costs. A disability management scheme makes no distinction between occupational and non-occupational injuries, said Mr. Bolmen.

"The optimal end results are a reduction in medical costs, reduction in lost work time and lost productivity and early return to work," he explained.

Its three main thrusts are early intervention, control of the medical case and claims, and early return to work. The longer an employee is off work injured, the less likely it is that the em-

See Costs on page 33

Bullying settlement may prompt coverage reviews

By EDWIN UNSWORTH

LONDON—British school districts may have to re-examine their liability insurance protection after a settlement this month between a school and former pupil who claimed his life was ruined because school authorities failed to protect him from bullies.

A number of other similar cases are pending against British school boards.

The settlement was accepted by Sebastian Sharp, a former student at Shene School, a public school in the London Borough of Richmond upon Thames.

Although the settlement was only £30,000 (\$50,277), the local district in southwest London that governs the school decided to settle out of court on the advice of its insurers.

Jack Rabinowicz, Mr. Sharp's lawyer, said he sees bullying claims as a "growth area" for litigation because schools are not taking enough notice of the problem. He added that he knew of several more cases being prepared around the country involving bullying claims against schools and that he was preparing 10 such

cases.

Mr. Rabinowicz acknowledged that while the case does not set a legal precedent because it did not go to court, he added that "it represents the first successful settlement of such a claim."

In the same week Mr. Sharp reached his settlement, a woman won the first round of her legal bat-

went to court. He said the settlement will make it more difficult for other local authorities facing such claims because it means there is still no legal precedent for schools' duties to prevent bullying. Until such a precedent is set, it "will encourage a flood of claims," he predicted.

Mr. Sulman said that since ALARM held a claims seminar in

upon Thames issued a statement saying that while Shene School denies the allegations against it and was prepared to contest them in court, "the decision to settle has been taken by the borough's insurance company to avoid a costly and time-consuming court process."

The borough's insurers, Royal & Sun Alliance Group P.L.C., issued a statement saying its recommendation to settle was based on legal advice, which "reflected the considerable and irrecoverable cost of defending litigation in the High Court even if that defense proved wholly successful."

Mr. Sharp, whose case was funded by public legal aid, started at Shene School when he was 11, and the bullying started a year later.

On one occasion he alleged that he was tied with string and thrown through a glass door. His parents were unaware of the problem until he ran away from home three years later at age 15.

Mr. Sharp, who is now 20, had claimed the school's failure to protect him from violence had affected his personality.

See Bully on page 33

'Generally speaking, this hasn't happened before. Most boroughs will have to look and see if their insurance covers them for this sort of thing,' David Forster says.

tle for damages against a Scottish regional government council for alleged negligence stemming from bullying she suffered at a school in Edinburgh, according to Mr. Rabinowicz.

Bill Sulman, chairman of the Assn. of Local Authority Risk Managers, regrets that Mr. Sharp's case never

October, it has been trying to get its member risk managers to cooperate more closely in sharing claims experiences. How the failure to prevent bullying relates to schools' liability exposures is one area in which the association will encourage greater cooperation and news sharing.

The London borough of Richmond

Law may hurt some insurers: Study

By EDWIN UNSWORTH

Legal environments more favorable to consumers are causing acute problems for some European liability insurers, but awards are unlikely to be as large as they are in the United States, a report says.

Datamonitor, a strategic management consultant that maintains offices in London and New York, attributes this change to a combination of circumstances centered on people becoming more aware of their consumer rights and committed to punishing negligent parties, and more European courts deciding in consumers' favor.

"Mirroring past developments in the (United States), legal decisions in Europe continue to push back the boundaries of liability in Europe at both a national and a European level," Datamonitor says in the report, European General Insurance, which measured statistical data based on court rulings and awards and their effect on insurance company results.

Many countries are forming tougher legislation reinforcing the "polluter pays" principle for envi-

ronmental liability, while stricter liability is beginning to emerge in other areas of professional liability, such as medical negligence. Insurers are facing higher court awards and in some markets are posting underwriting losses in what Datamonitor says are "many lines of liability insurance."

"More worrying for liability insurers, however, is that there is a clear trend towards reducing the burden of proof in favor of claimants," adds Datamonitor. It cites as an example medical claims in Denmark, where a policy of strict liability means claimants do not have to prove causation, but only show that a medical procedure was the probable cause. Datamonitor warns that "this may also spread to other areas."

All this is happening as competition at the top end of the liability market is increasing, according to Tim Storrie, an analyst with Datamonitor. He says that while there is generally no pan-European market for liability insurance, as each country has its own fiscal requirements, market practice and legal system, a number of international



GRAPHIC BY TONY BUCCINI

insurance groups underwrite liability risks in a number of countries in order to serve their larger commercial clients.

While the situation in the liability insurance market mirrors events in the United States, it is unlikely to go as far in consumers' favor, adds the report. It says that in the majority of European cases, court awards will not escalate to U.S. levels because Europe has no policy of awarding punitive damages, and there are few areas of joint-and-

several liability.

"In fact, U.S. legal decisions have had very little or no influence on legal decisions in Europe. Instead, the trend has been more a case of learning from the faults in the U.S. system and avoiding making the same mistakes," the report states.

Europe's generally different legal systems and social trends patterns compared with the United States mean "fundamental changes" would have to

See Liability on page 33

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U.K. computer theft concerns risk managers

By SARAH GODDARD

LONDON—Risk managers can properly fight computer theft only if they understand how the criminals operate and take the right precautions, according to a senior broker.

Computer theft is the fastest growing crime in the United Kingdom and showing few signs of abating, while recovery rates of the stolen goods are almost zero in some parts of the country.

In the first nine months of this year, £300 million (\$502.8 million) hardware losses and £100 million (\$167.6 million) in data losses have been reported in the United Kingdom, David Sedgwick, a risk management team member at Willis Corroon London Ltd., said last month at a Willis Corroon risk management seminar.

And recovery rates are extremely low. The Kent Police Force has located just 2% of the equipment stolen in its region.

Mr. Sedgwick said the theft of computer chips in particular had rocketed after the Kobe, Japan, earthquake in February 1995. A major microchip manufacturer temporarily had been forced out of production by the quake, said Mr. Sedgwick, causing a worldwide chip shortage.

As demand rocketed, black market supply did its best to keep pace. But when the microchip manufacturer came back online, chip theft continued to soar.

Risk managers can take some simple precautionary steps to tackle the growing problem. Look at your weaknesses, said Mr. Sedgwick. Often, hardware is highly visible and accessible. For example, PCs often are placed near large windows and are even more visible when offices are lit. Open plan offices can provide a rich harvest for a nighttime visitor who may have been tipped off about new hardware by the empty boxes left for the trash collectors.

And many companies are guilty of poor equipment identification, exacerbating problems of getting what little stolen equipment is recovered back to its owners. Organizations can easily put unique indelible markings onto equipment that cannot be removed, and should have a regularly audited list of property, suggested Mr. Sedgwick.

What's worse, he said, are inoperative security systems. These may have been turned off for short-sighted financial reasons, or because they generate too many false alarms. But beware: This may have been the criminals testing the systems. "They will time the response," explained Mr. Sedgwick, "and do so several times. The company will lose confidence in the system." Even if the security systems have not been turned off, the thieves now know exactly how long they have to get the equipment.

Other weaknesses include poor defects reporting—broken windows, broken fences and faulty alarms—and poor business continuity planning.

"You need a business continuity plan which reflects the company's dependence on information technology," he said.

Once lightning has struck, it can well strike again—soon, he warned. Almost inevitably, a com-

pany will upgrade its hardware after a theft. The thieves are well aware of a good source of new equipment, and more than likely the security systems protecting it. "Does your security system match your risk exposure?" asked Mr. Sedgwick.

One of the most important weapons in the risk manager's armory is a well-defined computer security strategy. Most important, employees need to know what is expected of them individually to help computer security. "Policy, procedures and instructions," he emphasized, must be enforced. A good security strategy will reduce the potential for collusion, and procedures should be audited regularly to ensure they are still appropriate.

Another issue is site security, both the site perimeter and specific building access. "The level of specific protection must match the level of risk and potential loss," he advised. Next on the security strategy comes hardware location and protection, though Mr. Sedgwick said the metal security tabs that anchor computers to desktops are "impractical."

Access to both the system and the data contained on it need to be carefully considered.

"Who can access the data?" he asked. "Are passwords changed?" And how much do you really know about the people operating the equipment? Many organizations use temporary labor, Mr. Sedgwick pointed out, and maintenance and cleaning is usually undertaken by contract staff. "The waste paper in baskets is always a good source of information," he warned.

Some chip manufacturers are considering encoding microchips as a response to the soaring numbers of computer losses, though it will likely be some time to come before it happens.

The insurance industry generally has responded with premium increases, higher deductibles and mandatory risk improvements. In some cases, said Mr. Sedgwick, cover has been withdrawn and certain insurers have stopped offering coverage.

Computer thieves fall into four categories.

First, there is the opportunist who seizes the chance as it happens. For example, he might surreptitiously hang around security scanners at airports until an unsuspecting traveler puts a laptop computer on the conveyor belt and snatch it.

Next is the common burglar. "If it's not screwed down, he'll take it," said Mr. Sedgwick.

The third type of thief, the high-tech specialist, is frequently armed with a shopping list of computer parts and inside information.

One U.K.-based multinational recently had its computers cleared out the night new state-of-the-art models had been delivered. An internal investigation has led to the arrest of one employee and others are under suspicion.

Lastly, organized crime has a huge stake in computer theft. "They are often better organized than the businesses when it comes to security measures," said Mr. Sedgwick. Also, they are very fast and the resulting losses are very high. **B**

RPLU 1996 DESIGNEES

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INTERNATIONAL

Bully

Continued from page 31

leaving him depressed and psychologically damaged. It also forced him to move to another school in the middle of his course of education, resulting in his finishing his education with lower qualifications than he would otherwise have expected. Mr. Sharp currently is a clerk with stockbroker HSBC James Capel.

David Forster, marketing manager for Zurich Municipal, a Portsmouth, England-based unit of Zurich Insurance Group and one of Britain's major insurers of local authorities, said that while the case sets no legal precedent, it will inevitably lead many schools to re-examine their lia-

bility insurance arrangements.

"Generally speaking, this hasn't happened before. Most boroughs will have to look and see if their insurance covers them for this sort of thing," Mr. Forster said.

In particular, many insured schools carry a high deductible of £40,000 to £50,000 (\$67,036 to \$83,795) per incident, which could prove costly if there were a flood of such claims, he said.

Mr. Sulman said Nottingham County Council, for which he is risk manager, has a £100,000 (\$167,590) deductible with its insurers. He said he feared if bullying claims against schools were to increase then insurers would probably begin insisting that councils absorb an even higher level of losses. **BI**

Liability

Continued from page 31

occur in Europe before awards reached par with those in the United States, it adds.

From a liability insurer's point of view, Switzerland is the most attractive country in Europe, according to the study. It leads when judged on market size, perceived growth potential, attractiveness of the legal system, competition and profitability.

Next in terms of attractiveness come Austria and Germany, while least attractive of the 16 countries rat-

ed is Ireland because of its unfavorable legal environment, consistent losses suffered by insurers and the small size of the market. In overall terms, general liability insurance, with annual gross written premiums of \$21.6 billion a year, is worth only 7% of the total European non-life insurance market. Five countries dominate: Germany, the United Kingdom, France, Italy and Switzerland.

"European General Insurance" is available from Datamonitor, 106 Baker Street, London W1M 1LA. Tel: (44) 171 625 8548. Fax: (44) 171 625 5080. Cost \$2,045.

Self-insurance fund part of review for Australian state

By KATE TILLEY

PERTH, Australia—The state government of Western Australia, in an effort to avoid cash-flow problems and reduce its total cost of risk, is conducting Australia's largest risk management review and establishing a self-insurance fund to pool all government departments' and government-owned entities' insurable risks.

The fund will pay claims for four main classes of risk: workers compensation, motor vehicle, property and liability. It also will cover some miscellaneous risks, such as personal accident and travel.

The first phase of the government's program is a review of each government agency's risk exposures. The review, which will include underwriting information on each agency and enough information on exposures for the fund to purchase reinsurance, is to be finished by Dec. 31. It is being conducted by RiskWest, a joint-venture of the Perth offices of brokers Alexander & Alexander Ltd. and Jardine Australian Insurance Brokers Pty. Ltd.

RiskWest also is providing initial risk assessments to each government agency, an overview of systematic risk management methodology to allow them to begin implementing risk management programs, and advice on their risk retention levels.

The Western Australia government's planned implementation date for the fund, to be called RiskCover, is July 1, 1997.

Stuart Bassett, a risk management consultant with A&A, said there are 240 state government agencies to assess. Each involves meetings first with senior executives, then a risk review, including risk identification and analysis.

"Each agency will be benchmarked against others," he said. Workshops will be held for large agencies or

groups of related agencies to help identify unique exposures and outline the principles behind risk management and coverage from the fund.

In 1995, the Western Australia government set up a committee with representatives from the State Government Insurance Commission and the Western Australia Treasury Department to review existing risk financing and insurance arrangements, and it considered other Australian states' arrangements before recommending a self-insurance fund similar to a fund run by the New South Wales state government.

Victoria also has a government fund, and the South Australian government has established its own captive.

The committee found the government's coverage for catastrophic losses was inadequate, and there was "minimal or no cover" for emerging risks like medical malpractice, public liability, professional indemnity or computer-related fraud, according to the committee's report.

The committee recommended a "managed fund" that requires participants to adhere to new risk management programs because increased reinsurance coverage would be available for the same, or less, expenditure if the government could assume a greater self-insured retention. The fund will pay losses with the premiums collected from each department and investment income. Losses are paid from the fund only when a department loss goes above its self-insured retention level.

The report also found many government entities had no insurance or were not following government policy to insure their risks through the government-owned, Perth-based State Government Insurance Corp. and were seeking cover from various private insurers.

See Australia on next page

Costs

Continued from page 31

ployee will ever return, said Mr. Bolmen. It may be that the employee may be forced to take on different tasks because of the nature of the injury, and the employer should support that wherever possible.

But how are the costs quantified in order to justify using devices such as disability management programs? "In many cases it is very easy to get up-front costs," said Mr. Bolmen. "The indirect costs are more difficult." These may include items such as overtime payments, temporary employee costs, additional staffing levels, increased supervision, training and hiring costs, lower morale and decreased productivity. "The hidden costs cause most grief because they are the hardest to come by," he said.

"Wellness programs" or corporate screening programs also were featured in the conference. Mr. Bolmen cited figures produced by consultant William M. Mercer Inc. that high-risk employees participated in less than two-thirds of wellness programs. "They are not hitting the focus groups," he warned. "The healthy employees are more interested in the data from the wellness programs... they must target high-risk employees and incentivize them" with cash or non-cash awards such as premium discounts.

U.K. employers can significantly improve workers' health care if the human resources, safety and risk management departments start working together, sharing information. "Effective employee risk management demands a holistic approach," said consultant Ms. Thomas.

British Telecommunications P.L.C. had addressed these problems, bring-

takes a holistic approach to risk management, Mr. Charlesworth explained, focusing on cost-reduction strategies using back-to-work and managed health care techniques.

The Pandora's box for employee well-being is psychological health, said Dr. Doreen Miller, the principal of occupational health consultancy Miller Health Management. "Organizations are awash with change, lead-

'The hidden costs cause most grief because they are the hardest to come by,' says Richard Bolmen, senior vp at Minet Insurance Services Inc.

ing together safety, occupational health, personnel, legal and risk and insurance departments, as well as business units, into an employers' liability forum. This forum considered the issues and developed policy and strategy on employee health.

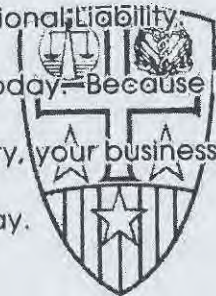
The benefits, explained Ray Mattholie, head of group risk and insurance at BT, and Kevin Charlesworth, controller of casualty risk management, have been a well-defined health and safety strategy acknowledging that finance is the common goal. The organization now

ing to uncertainty," she said. "There are no jobs for life and a whole new way of thinking... the impact on people is dramatic."

And organizations find it difficult to quantify the costs of ill-health when employees are still attending the workplace, as people "sit at work and underperform." But employers can train their workers to cope better, she said, with stress management, health education and screening. "If you don't manage health, it is going to cost you," warned Dr. Miller. **BI**

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Australia

Continued from previous page

The report said a preliminary assessment of the risks suggested potential savings of \$1.9 million Australian (\$1.5 million) a year on property coverage alone for insured entities.

It noted a managed fund would achieve economies of scale because private insurers "target only good risks, leaving a residue of poorer performing or high-risk exposure agencies" without cover or with increased premiums.

The committee estimated savings on commercial insurance premiums of 30% to 50% over current costs.

Mr. Bassett said A&A and Jardine established the joint venture in July to bid for all three components of the Western Australia government's program: the risk assessment, to manage establishment of the fund, and to arrange its reinsurance program.

The joint venture won the first part of the project, with the Perth office of the international accounting firm Coopers & Lybrand winning the second. The reinsurance brokers are yet

to be determined.

The RiskCover fund will be managed by SGIC for the first five years. The management contract will then go to bid, Mr. Bassett said.

Jeff Keen, SGIC risk management coordinator, said the process began with the 1994 government Auditor-General's report, which found there was no requirement for government agencies to systematically assess risk and implement appropriate control mechanisms.

Mr. Keen said once the fund is established, government entities will have no option but to use it, unless they can demonstrate greater long-term efficiencies through alternative arrangements.

He said the government currently does not insure all its assets and liabilities, and major losses are funded by special allocations or through operational budgets, which "creates cash-flow crises."

He said the RiskWest exercise is aimed at "getting an idea of the loss expectancies, so there are not too many surprises."

Government agencies' insurance/risk management representatives are attending workshops across

the state and filling out questionnaires detailing their agencies' losses over the past three years in specific areas of exposure.

Mr. Keen expects some agencies will "pick up a bigger bill" than in the past, once they are assessed for self-insuring their own risks. "You must put responsibility back to

'You must put responsibility back to where the risk is being generated,' says Jeff Keen.

where the risk is being generated," he said. "That gives them incentive to manage risk."

Once the workshops are completed, which is expected to be at the end of November, the data will be analyzed and retention levels recommended.

Mr. Keen said RiskCover would fund all insurable government risks and, if reinsurance was unavailable

in the commercial market, the Treasury would be the "backstop."

All government agencies will be required to implement risk management programs, and these will be assessed in accordance with the new Australian and New Zealand Risk Management Standard.

Agencies will be able to get help from risk management consultants, and Mr. Keen said the government wants to assist in the formation of a government risk management organization. He is discussing that with the Assn. of Risk & Insurance Managers of Australasia, under whose auspices a government body would run.

Mr. Bassett said specific areas in which government agencies lacked knowledge in the past were D&O and professional liability. "Governments have been shielded, in the past, to some degree," he said.

However, Australia's implementation of an increased competition policy and the breaking down of barriers to open competition has seen state governments required to abide by the federal Trade Practices Act, through mirror legislation passed in July in each state.

The Act is overseen by the Australian Competition & Consumer Commission, a powerful federal agency that can take companies, and now also government agencies, to court if they engage in anti-competitive conduct.

Mr. Bassett said RiskCover's advantage will be "an amalgamation of disparate risks which allowed a reinsurance bulk buy."

It also gives agencies greater ownership and control over their risks.

As the fund grows, the aim is for agencies to increase their retention levels. Agencies' retention levels will vary according to classes. The fund will include penalties for agencies that fail to control losses.

Agencies will pay a cash outlay into a self-retention fund to fund losses below their deductible and will pay a premium for losses above the deductible, which will go into a pool.

Agencies with good performance will receive rebates from the self-retention fund. For workers' compensation and motor vehicle covers, there will be a stop-loss limit, pegging losses to 150% and 125% the amount assessed as required for their self-retention fund. **BI**

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related department personnel of: insurance, risk,
employee benefits, personnel, compensation,
pension, safety, security, industrial relations,
human resources and employee/
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Sub-total29,775
Associations301
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Sub-total31,045
Insurance Agents and Brokers8,664
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Adding Value

Foreign investment leads to insurance reform in Cuba

By MARIA KIELMAS

HAVANA—Cuba is reforming its insurance regulations in response to growing foreign investment in the country and accompanying risks.

Insurance reform is necessary given the increase in foreign investment in tourism and other industries over the past three years, said Manuel Millares, minister of finance and prices, who spoke last month at the first general conference of the Assn. of Insurers & Reinsurers of Developing Countries in Havana, a new organization with members worldwide.

New insurance regulations Cuba is preparing will pertain to "the solvency of insurers and reinsurers to the benefit of insureds," said Mr. Millares, who would not elaborate or say when such regulations might be introduced.

"The sudden collapse of Cuba's traditional markets in the former Soviet Union and Eastern Europe, the ensuing economic crisis and the current gradual recovery and opening to foreign investment have given a major challenge to the Cuban insurance industry. Traditional (sugar and nickel) business has decreased considerably and has been compensated by a strong expansion in emerging sectors such as tourism," Mr. Millares said.

As foreign investment prompts more construction projects, like new port facilities, risks in Cuba are growing more complex and expensive.

"Bond and credit insurance and special products for financial in-

stitutions are beginning to show their potential in the Cuban economy," he said.

The Havana conference coincided with the announcement of a joint venture between London-based broker C.E. Heath P.L.C. and the Cuban state-owned insurance company for international business, Empresa de Seguros Internacionales de Cuba S.A., to create a Havana-based broker, Heath de Cuba S.A.

ESICUBA will own a 51% stake in the venture while Heath will own 49%.

'Bond and credit insurance and special products for financial institutions are beginning to show their potential' in Cuba, says Manuel Millares.

Heath de Cuba is the first insurance joint venture in Cuba's insurance industry since 1959.

"They will try to find new markets in Cuba, provide risk management expertise and training in claims handling," said Daniel Hung, head of reinsurance at ESICUBA.

Spokesmen for C.E. Heath in London confirmed the deal but did not provide details.

Despite such ventures, the United States' recent Helms-Burton law, which tightened the U.S. economic embargo against Cuba, is likely to hamper the development of Cuba's insurance market.

"The effect of the law will be

negative against Cuba not so much for its practical application, more for the climate of uncertainty which it creates among those companies ready to invest in Cuba," said Mr. Millares.

One London-based broker who asked not to be identified doubted, though, that many companies will be interested in Cuba despite regulatory reform.

"The economy is sick, there is a U.S. embargo and it's doubtful whether they could get enough business. The only way for this to work would be if Cuba opened up

ed in 1978 to cover agriculture and auto risks. A third insurer, La Isla Aseguradora del Turismo, was created in the 1990s to cover risks related to the tourist sector and for foreign business visitors.

Under the proposed new regulations, foreign insurers would be able to compete for any business involving foreign investment and tourism in Cuba.

Mr. Millares explained that Cuba's policy is to control the cession of premiums to international markets and to create a regulatory framework that would stipulate conditions like solvency margins for locally registered insurers and reinsurers.

Currently, six foreign insurers, including one from Brazil, have operations in Cuba, but only to run off pre-Castro liabilities, said Mr. Hung of ESICUBA.

Insurance sources in London say Cuba has always maintained a sizable domestic retention on its reinsurance, which ESICUBA has placed internationally mainly in the form of excess-of-loss treaties.

This retention was "multiplied by 10" in the mid-1980s, when prices on international oil—a major source of Cuba's revenue—plummeted, the London-based broker said.

According to Mr. Hung, today his company cedes about \$12 million annually to international reinsurers, mainly in the London market, with a domestic retention of \$250,000 to \$500,000 per risk.

There is also some placement on a facultative basis for major risks from the large state-owned corporations, such as the sugar company Cubazucar and the oil compa-

ny Cuba Petroleo. These two companies place mainly cargo insurance on a facultative basis, he said.

ESICUBA uses London-based intermediary Anglo-Caribbean Insurance Agencies U.K. Ltd. to place reinsurance in the international markets.

New demand for coverage may come from new foreign business ventures in Cuba.

Under Cuba's foreign investment act, passed in September 1995, foreign businesses may own 100% of ventures in Cuba.

Previously, foreigners were restricted to a maximum stake of 49%.

Any foreign company now may open an office in Cuba, though it must be included in the Registry of the Republic of Cuba's Chamber of Commerce and must first be authorized to operate by the Ministry of Finance and Prices.

Foreign companies may operate in Cuba under three forms of association:

- Joint ventures with a Cuban partner.
- International economic association contracts, which do not imply a separate legal entity from the contracting partners.
- A totally foreign-owned company.

In each case, foreign companies are required to buy property and liability coverage from insurers authorized to do business in Cuba by the finance ministry.

At present, Cuba has only three licensed insurers, but eventually foreign-owned insurers also may receive licenses under the proposed reforms. **BI**

PLUS

Continued from page 3

operating their business than other parts of the insurance business," Mr. Schell said.

For example, most of the policies are written on a claims-made basis rather than the occurrence forms other liability underwriters often have used, he said.

To some extent the clarity of claims-made coverages is being clouded by the growing popularity of multiyear policies. Multi-year policies make it more difficult for underwriters to take corrective measures if they suffer a poor claims experience under the policies, Mr. Schell said.

Another factor that undermines the attractiveness of the professional liability market is the largely unacknowledged catastrophe element of the business, said Adrienne W. Reid, senior vp at Zurich Reinsurance Centre Inc. in New York.

"A number of companies feel that it's a bit more predictable and has less catastrophic potential than other areas of the property/casualty market...but what about the savings and loans crisis or the medical malpractice crisis?" she said.

One reason the professional liability insurance market is subject to catastrophes is that many of its products can be affected by "the whims of the U.S. economy," Ms. Reid said.

For example, a change in an administration's economic policy or a change in regulations by the Securities and Exchange Commission can produce significant expo-

sures and losses for the professional liability market, she said.

When reinsurers cover insurers in the inherently tricky market, they seek several qualities in the cedents they prefer, aside from the normal risk assessment and pricing issues, Ms. Reid said.

Franchise value is one of those, she said.

"We ask, 'Is this a good franchise that's not only going to perform today but will perform in a turbulent market?'" Ms. Reid said.

Reinsurers also want to feel like cedents have a good understanding of the business they write, the risks involved in the business and risk management techniques that

'This is a very difficult business, and straightforward actuarial assumptions don't apply,' says Frederik M. Fontein.

can mitigate those risks, she said.

In essence, professional liability reinsurers are looking to develop true partnerships with their cedents, where each partner has an intimate knowledge of the other, said Christopher J. Migel, senior vp at General Reinsurance Corp. in Stamford, Conn.

"We like to build a profile of a company in our own minds," he said.

The assessment would start with the overall business plan of the cedent and its strategic goals, Mr. Migel said.

Then reinsurers want to study the specialty markets the cedent is

covering and be reassured that the strategy is based on sound research, he said.

Once the business plan is understood, reinsurers want to know about the whole underwriting process and how claims are handled, Mr. Migel said.

Claims staff at professional liability insurers often must have very specialized skills to deal with the new and unusual claims they face, he said.

Insurers themselves also are discriminating in the reinsurers they choose, said Frederik M. Fontein, senior vp at Coregis Indemnity Co. in Chicago.

"This is a very difficult business, and straightforward actuarial assumptions don't apply," he said.

Consequently, professional liability insurers look for high-quality reinsurers who are selective in the insurers they cover, Mr. Fontein said.

"Buying reinsurance is not something that goes from year to year, it's a relationship that goes on for many years...so we are looking for high-quality reinsurers, not just the cheapest rate," he said.

As well as being financially secure, those reinsurers should have their own expertise in professional liability issues, Mr. Fontein said.

"It is nice to have another set of eyes," he said.

And reinsurers also add a broader perspective in their risk assessment as they see a wide range of professional liability business, Mr. Fontein said.

The panel discussion was moderated by Susan Marino, senior vp at Guy Carpenter & Co. Inc. in New York. **BI**

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Investors

Continued from page 3

Society conference held earlier this month in Orlando.

Unforeseen changes include: a 10-year-long soft market for liability insurance; the near-end of Lloyd's of London; Aetna dropping out of the property/casualty business; Munich Reinsurance Co. becoming a major player in the United States casualty reinsurance market through the purchase of American Reinsurance Co.; and billions of dollars being invested in Bermuda reinsurers, Mr. Greenberg said.

Looking at today's market, a few trends are discernible—in particular, the financial deals going on within the insurance industry, he said.

Merger and acquisitions among insurance businesses in 1995 were worth a historic high of \$27 billion, Mr. Greenberg said.

And \$4.6 billion was raised through initial public offerings, he said. But this should not be viewed as a surge of capital in the insurance industry, Mr. Greenberg said. "That was mostly replacing exiting capital," he said.

The trends that seem to be implied by the M&A activity are not as clear as they might first seem, Mr. Greenberg said.

"If you look at the broad sweep of the business, it's very tempting to label the M&A activity as consolidation," he said.

While that may be true in the reinsurance and personal lines sectors, it is not true for the commercial insurance sector, Mr. Greenberg said.

"In commercial lines, I would say, it's a very overrated concept, and what we have been seeing is deconsolidation," he said.

Lots of individual insurers are trying to carve out specialty niches rather than cover all areas, he said.

And despite all the mergers and ac-

quisitions, there has been little change in the distribution of premiums among commercial insurers: In 1979, the largest 25 wrote 60% of the total premiums, and in 1995 they wrote 59%, he said.

One definite trend investors can see is globalization, Mr. Greenberg said. "You can make a case that that is occurring and that it will continue," he said.

Two main forces encourage globalization, Mr. Greenberg said: Insurers are following their clients to other areas and at the same time seeking a broader spread of risk.

In addition to a growing demand for global insurance coverage, there will be a growing demand for risk management services from insurers, he said.

Another trend that is clear but has additional complexities is the growing emphasis on capital management, Mr. Greenberg said.

Opposing factors influence the

management of insurers' capital, he said. On one side, rating agencies, regulators and customers are looking for strongly capitalized and secure insurers, while on the other side investors are looking for high returns.

Also unclear is the role that capital markets will play in the insurance industry, Mr. Greenberg said.

A lot of work is being carried out in the field, and although little has been achieved so far, some form of capital markets products will likely be successful if a hard market follows a large catastrophe, he said.

"There will be a capital markets approach to parts of our market," Mr. Greenberg said.

Further complicating the task of discerning good investments in the insurance industry are the changing roles of the various components of the industry, he said.

"Serving the customer or face being replaced has become an axiom of all business," Mr. Greenberg said.

For example, insurers are threatened by clients that self-insure or go directly to reinsurers; reinsurers are threatened by insurers that choose to retain more of their risks; reinsurers and insurers are threatened by banks seeking to enter the insurance market; and brokers and managing general agents are threatened by insurers going directly to clients.

Given all of these complexities, investors looking at the insurance business will look first at very broad but fundamental issues, such as the makeup of the management and the business plans of the companies, Mr. Greenberg said.

"The first thing they will look at is people. A management that knows its business and knows how to manage is very important," he said.

And investors will look for business plans focused on issues such as: Who are the customers? How do you reach them? What are the costs? And how will the business grow over time?, Mr. Greenberg said.

They also will look for a good track record in the business and a good financial structure, he said. **BI**

Lawyers divided on effects of act

By GAVIN SOUTER

ORLANDO, Fla.—Investors and their lawyers will be undeterred by securities legislation designed to end frivolous lawsuits, a plaintiffs lawyer said.

While the Private Securities Litigation Reform Act of 1995 will end the impetus for plaintiffs lawyers to rush to court to file suits ahead of rivals, the likely result is that suits will be more thoroughly researched and therefore stronger, he said.

Often the cases will be fought more aggressively by institutional investors who may step forward to lead plaintiffs cases under the new legislation, he said. And other aspects of the law, such as the "safe harbor" designed to protect a company from prosecution over forward-looking statements, will do little to help defendants, he said.

Other lawyers disagree. While there have been too few cases since the passing of the act to judge its effect, it will likely reduce the number of cases alleging securities fraud brought against companies, they said.

Plaintiffs lawyers and investors in companies that suspect securities fraud at those companies will continue to file plenty of actions despite the law, said William S. Lerach, a partner at Milberg Weiss Bershad Hynes & Lerach in San Diego who often files suits against companies.

He spoke at the Professional Liability Underwriting Society conference held earlier this month in Orlando.

The act, passed last year, was designed to reduce the number of shareholder suits brought against companies for securities fraud. Among other

things, the law introduced tougher pleading standards; it set requirements for courts to select a lead plaintiff for the suit, which usually should ensure the plaintiff with the most at stake leads the suit rather than the one who filed first; and it introduced the concept of a "safe harbor" for forward-looking statements that would protect companies from liability for statements not known to be false when they were made.



The tougher pleading requirements and deterrents to rush to court simply will lead to better-prepared actions with greater chances of success, Mr. Lerach said.

While there seems to be a reduction in the cases filed since the passage of the law, that does not reflect a decrease in the number of potential actions, Mr. Lerach said. "The rate of filings has slowed down but not because there is less fraud," he said.

Instead, the plaintiffs lawyers now allow themselves more time to prepare their cases, Mr. Lerach said.

"Under the old system there was a rush to the courthouse and many cases, at the front end, were not properly investigated, so the plaintiffs lost the opportunity to find out damaging information," he said.

But that extra research will likely lead to fewer of the fringe cases, said Joseph M. Hassett, a partner at Hogan & Hartson in Washington involved in securities cases.

Plaintiffs lawyers will be forced to prepare their cases more thoroughly, and cases with little merit will be weeded out before they reach court, he said.

Other aspects of the act that defendants hope will reduce the number of lawsuits alleging fraud also could strengthen plaintiffs' suits, Mr. Lerach said. For example, the provision for courts to select the lead plaintiff could mean other plaintiffs put a greater pressure to win on any institutional investors that take the lead position, he said.

"If institutions come in and take cases away from the lawyers who started them, they will be under pressure to get such a good result that the lawyers won't object to the decision," Mr. Lerach said.

Also, the weight of institutional investors behind a lawsuit will lend more credibility to the suits, he said.

It is unclear how many institutional investors would be prepared to participate in securities fraud lawsuits, said Mr. Hassett.

So far, some public pension funds have indicated they would be prepared to act, and the Council of Institutional Investors has retained Mr. Hassett as counsel to examine what role its members could play, he said.

If the institutional investors do get involved, it could lead to longer lawsuits and bigger settlements in some cases, Mr. Hassett said.

"You may find that institutional investors will have more staying power," he said.

On the other hand, institutional investors may decide that a case in which they have an interest has little

merit and step in to advise the court the case should be terminated, Mr. Hassett said.

The "safe harbor" provision of the act also will not have the effect defendants hoped it would, said plaintiffs lawyer Mr. Lerach.

Defendants hoped the provision would stop suits based on statements companies made about future operations or results they believed at the time but later were shown to be false.

However, the text of the law could be interpreted to mean any forward-looking statements must be identified as such when they are made. While this would be possible in written statements, it is impractical to make the identification repeatedly in conversations with securities analysts, Mr. Lerach said.

The "safe harbor" may not lead to a reduction in lawsuits alleging fraud, but it should mean more information will be generated about companies, said John F. Olson, senior partner at Gibson, Dunn & Crutcher L.L.P. in Washington. He represents corporations in securities matters.

"You will see that, particularly among high-tech companies, that there is more information generally, and I think that that is a good thing," he said.

The "safe harbor" and other provisions in the act reflect a change in the public's tolerance for frivolous lawsuits, Mr. Olson said.

The session was moderated by John F. McCarrick, principal of McCarrick & Mayer P.C. in New York. **BI**

Conference draws 1,950

ORLANDO, Fla.—About 1,950 attendees gathered here Nov. 13-15 for the first Professional Liability Underwriting Society conference to be held in a resort location.

The added attractions of Orlando included exclusive use of the Universal Studios theme park for the final evening of the conference.

During the formal sessions of the meeting, the organization's leadership for the next year was inducted.

PLUS officers will include: President William R. Mullin, senior vp at American Professional Agency in Amityville, N.Y.; Vp Frederick J. Fisher, principal of Frederick John Fisher Insurance & Surplus Lines Broker in Torrance, Calif.; and Secretary/treasurer Christopher J. Cavallaro, principal at ARC Excess & Surplus, Inc. in Mineola, N.Y.

The 1997 meeting will be held Nov. 12-14 at the Sheraton Hotel and Towers in Chicago.

For information, contact the Professional Liability Underwriting Society at 4248 Park Glen Road, Minneapolis, Minn. 55416; 800-845-0778; fax: 612-929-1318; <http://www.insweb.com/plus>

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Major property/casualty insurers' nine-month 1996 results

Ranked by change in net income. All amounts in thousands of dollars.

Rank 1996	Corporate					Property/casualty operations								
	Net income 1996	Percent increase (decrease) 1995-1996	Consolidated revenues 1996	Combined ratio 1996	Combined ratio 1995	Net premiums written 1996	Percent increase (decrease) 1995-1996	Pretax underwriting income (loss) 1996	Percent increase (decline) 1995-1996	Pretax investment income 1996	Percent increase (decrease) 1995-1996	Policyholders surplus 1996	Percent increase (decrease) 1995-1996	
1	CIGNA Corp.	750,000	1,156.3	14,061,000	101.9	105.0	2,608,000	(1.1)	(51,000)	62.0	291,000	1.7	2,000,000	1.5
2	Fremont General Corp.	59,578	37.7	450,448	95.8	100.7	360,649	(17.5)	15,667	590.5	85,739	14.9	370,106	15.8
3	Berkshire Hathaway Group	454,500	37.2	3,415,100	96.3	109.2	3,200,700	261.7	107,700	326.3	510,300	19.6	N/A	N/A
4	CNA Financial Corp.	769,900	33.7	12,670,000	108.3	110.3	7,910,000	2.7	(720,300)	13.9	1,336,300	(6.3)	5,870,000	5.0
5	Old Republic Int'l	167,795	18.1	1,340,283	100.7	102.4	647,697 ²	(2.1)	(20,432) ²	33.1	145,020 ²	2.4	1,392,128	3.4
6	SAFECO Corp.	332,672	17.6	3,054,647	98.1	100.4	1,748,749	4.8	31,877	571.4	211,179	(3.3)	2,039,882	15.2
7	American International Group	2,127,023	15.8	20,782,835	96.8	96.9	9,722,560	7.2	299,808	6.7	1,243,380	8.7	N/A	N/A
8	USF&G Corp.	158,700	10.1	2,596,400	106.4 ²	106.5 ²	2,021,800 ²	5.2	(133,500)	(9.4)	329,700	1.6	1,309,800	(1.2)
9	General Re/Cologne Re Group	645,400	8.3	5,971,300	100.5	100.9	4,178,700	3.1	(20,900)	43.1	814,500	20.2	5,152,800	14.1
10	The St. Paul Cos. Inc.	387,808	6.0	4,425,451	105.8 ²	101.4 ²	3,259,507	2.9	(168,378)	(153.3)	584,636	7.7	2,751,426	18.6
11	Chubb Corp.	490,900	(2.4)	4,714,700	98.3	96.5	3,589,400	10.3	23,200	(67.1)	477,300	6.8	2,467,400	15.7
12	Sentry Insurance Cos. ²	63,963	(8.3)	1,200,204	106.5	104.6	952,331	7.8	(68,440)	(41.0)	151,221	3.5	1,239,427	13.3
13	Hartford Steam Boiler	42,000	(8.7)	415,000	95.5	90.4	334,200	11.5	13,500	(48.7)	23,500	14.6	273,900	1.1
14	Ohio Casualty Corp.	44,103	(13.4)	1,080,577	113.2	105.8	917,354	(4.7)	(121,102)	(114.0)	132,090	(4.6)	946,394	18.1
15	American States Financial Corp.	117,100	(17.0)	1,488,100	107.2	105.4	1,219,000	(5.5)	(82,500)	(20.7)	174,900	(0.3)	1,383,900	(9.5)
16	TIG Holdings	40,000	(52.8)	1,372,800	105.6 ²	106.0 ²	1,183,300	(4.2)	(56,000)	(16.7)	226,500	9.1	988,000	4.9
17	Travelers/Aetna P/C Corp.	128,800	(54.7)	5,805,600	121.2	106.5	4,530,900	66.6	(1,005,000)	(368.3)	1,159,500	122.3	5,379,900	128.2
18	Reliance Ins. Co. and subs.	12,462	(81.7)	2,285,792	111.7	101.5	1,385,665	1.6	(161,636)	(573.4)	190,537	3.7	1,161,796	8.5
19	ITT Hartford Group Inc.	(304,000)	(172.7)	9,140,000	106.1	103.9	5,260,000	0.8	(997,000)	(374.8)	607,000	4.3	3,819,000	3.5
20	Argonaut Insurance Co.	(144,588)	(399.9)	161,101	369.1	135.7	107,599	0.3	(245,894)	(1,596.7)	61,366	(11.1)	463,909	(21.7)
	—Liberty Mutual Ins. Co. ²	N/A	N/A	N/A	112.5	110.1	3,944,283	(1.2)	(505,786)	(17.4)	775,139	—	5,143,182	14.8
	—Nationwide Mutual Ins. Co. ²	N/A	N/A	N/A	114.0	107.9	6,153,114	4.2	(889,126)	(77.5)	868,297	0.4	5,328,530	(0.5)
	—Kemper National Ins. Cos.	N/A	N/A	2,968,571	131.2 ²	109.1 ²	2,591,827 ²	5.7	(802,720) ²	(257.5)	313,452 ²	15.8	1,777,514	(6.7)
	Cumulative	6,344,116	6.4	99,399,909	107.0	104.2	67,827,335	9.5	(5,557,962)	102.3	10,712,556	13.2	51,258,994	13.0

¹After dividends ²Statutory N/A-Company did not provide data

Results

Continued from page 2

in the mid-future, certainly not in the magnitude of what happened in the mid-'80s."

Higher rates only occur when all players in the market decide there's a need to raise rates, said Michael Smith, an analyst with Salomon Bros. in New York. "I don't see it soon. I think the price competition is going to continue in the primary market."

"I don't see much change in rates," agreed Robert M. Steinberg, chairman and chief executive officer of Reliance Insurance Group in New York.

And Jerry Gallogly, executive vp of Indianapolis-based American States Financial Corp., said, "We see the intense competition continuing, in fact even moving even further into the small to medium-sized lines."

Catastrophe losses, reserve increases and soft pricing combined to deepen underwriting losses for the 23 insurers in *Business Insurance's* survey of major commercial property/casualty insurers. Underwriting losses in the first nine months of the year deteriorated by 102.3% to \$5.56 billion from \$2.75 billion a year earlier. That result compares with a 69.6% decline for the first half (*BI*, Aug. 26) and a 39.5% decline in the first quarter (*BI*, May 20).

Results do not include Commercial Union Insurance, which is no longer participating in the *BI* survey.

Among other property/casualty results for the nine-month period:

- Net premiums written for the insurers surveyed rose 9.5% to \$67.83 billion from \$61.96 billion in the year-earlier period. But, if the results of the Berkshire Hathaway Group Inc., which has started to include the results of GEICO Corp. in its report, are excluded, the 19 remaining insurers reported a more modest 5.8% increase to \$64.63 billion from \$61.07 billion.

- Investment income rose by 13.2% to \$10.71 billion from \$9.46 billion. This is an improvement from the 10% increase in the first half and the 7.3% increase posted for the first quarter.

- Policyholder surplus for the 21 companies that report this data increased 13% to \$51.26 billion from \$45.38 billion, a decline from the 17% improvement in the first half and the

first quarter's 16.3% increase.

- Insurers reported a 107% combined ratio for the first nine months vs. 104.2% a year ago. This is an improvement from the 107.7% combined ratio reported for the first half, though a deterioration from the 105.5% combined ratio posted for the first quarter (*BI*, May 20).

- The 20 commercial property/casualty insurers surveyed by *Business Insurance* that report this information posted a 6.4% increase in net income, to \$6.34 billion from \$5.96 billion, though half the insurers reported declines. This increase compares with the 3.1% increase reported in the first half (*BI*, Aug. 26) and the first quarter's 14.2% jump (*BI*, May 20).

Reserve increases during the quarter include a \$510 million aftertax boost by ITT Hartford Group Inc. to its asbestos and environmental reserves (*BI*, Oct. 21); and the addition by Argonaut Insurance Co. of \$229 million pretax to its reserves for a variety of claims, including asbestos and environmental claims, on old policies.

However, catastrophe losses had an even greater impact. According to the Property Claim Services division of the American Insurance Services Group in Rahway, N.J., cat losses during the third quarter increased by almost half, to \$2.23 billion from \$1.56 billion a year earlier.

But the impact was not necessarily evenly spread. ITT Hartford's catastrophe claims, for instance, more than tripled to \$49 million from \$14 million reported for the same period last year.

"The common theme across the third quarter for the property/casualty companies was for disappointing earnings due to catastrophe losses," said Peter Wade, an analyst with Lehman Bros. in New York.

"Another tough quarter for the property/casualty industry and—you could almost play this tape again every quarter—largely due to the unusually high level of catastrophes," said John L. Ward, CEO of Cincinnati-based Ward Financial Group.

He added, "Hurricane Fran was the culprit in the third quarter, and for those companies with coastal exposures in the mid-Atlantic states... it took a toll on results for the quarter."

Hurricane Fran, which struck North Carolina before moving inland,

caused an estimated \$1.6 billion in insured losses (*BI*, Sept. 16).

"This is a year which is proving to be a typical catastrophe year, and I think it's very clear that property exposure is significantly underpriced," said Weston Hicks, an analyst with Sanford Bernstein & Co. in New York. Given a period like the third quarter, where there are hurricanes and more Midwestern storm activity, "anybody with any reasonable amount of property exposure is reporting disappointing results."

One reason insurers are feeling catastrophe losses is increased retentions, said Mr. Wade. "So many companies have moved their reinsurance purchases up to higher layers to protect their solvency that they've really exposed their earnings to volatility," even in cases of what would otherwise be considered only modestly sized storms and catastrophes, he said.

However, Mr. Hicks said that while higher retentions are a contributing factor, "I would say in addition that property pricing doesn't allow for hurricanes, spring storms, winter freezes and California fires, which seem to happen every year."

But aside from catastrophes, "I would say looking at the last quarter we see business as usual," said Reliance's Mr. Steinberg.

"It looks like premiums slowed down even more in the third quarter and investment income is doing the same thing," said Salomon Bros.' Mr. Smith. At the same time, underwriting results show only some deterioration from a year ago, though "sometimes when we dig a little bit, we find the quality of the earnings has eroded even more," said Mr. Smith, who dubbed the situation, "same song, different verse."

"Aside from the unusual losses such as catastrophes, the insurers seem to be in most cases benefiting from continued reasonable, favorable, underlying loss trends," said Mr. Frank. However, "on the top line we are continuing to see pressure on premium growth because of the highly competitive environment and the resulting absence of possible growth opportunities," he said.

The fundamentals of the industry are, however, improving, said Mr. Ward. "The irony of the whole thing is

when you peel the onion back and look at the fundamental operating performance of the industry without unusual items like catastrophes and reserve strengthening due to environmental and asbestos exposures, the industry's really improving the fundamentals."

The immediate outlook is for "probably more of the same," though the effect of catastrophes is hard to predict, said Advest's Ms. Vogel. "That's the unpredictable factor, but short of that, I really don't see much changing. Pricing still seems to be very soft. The really big renewal season comes Jan. 1, so nothing is really going to change in the fourth quarter. Investment yields are coming down. That suggests investment income is going to be under some pressure, perhaps."

Meanwhile, the big insurers "have already done some very significant reserving for the asbestos and environment, so I don't think you'll have anything other than loose ends or some catch-up. To my knowledge, none of the big companies left has announced they're looking at the issue," said Ms. Vogel.

However, David Seifer, an analyst with Donaldson Lufkin Jenrette Securities Corp. in New York, said, "Our position is that there's still a lot of reserving to do, and if there's any significant reserving in the fourth quarter, I think that will be dictated by either credit rating agency pressures or bond and stock market profits... on an individual company basis."

As for next year, tighter margins and perhaps lower earnings are expected, say analysts.

Insurers are likely to underperform because it will be another year of slow top line growth, said Mr. Wade. More importantly, he said, there will be tighter margins, "that is, we could be potentially staring at some adverse development in the commercial insurance industry."

"Pricing can't continue to go down as it has and companies post the same relative margins on their premiums," Mr. Wade said. "And at some point in time price declines eat into margins, and I think '97 is the year we start to see that."

There will not be a significant rate of change between this year and next, said American States' Mr. Gallogly.

"Rates would, in all probability, continue at about the same depressed levels, given the rate of competition," he said.

"It's very difficult to be optimistic when the top line momentum is moving in the direction that it is," said Salomon Bros.' Mr. Smith. "Then again," he added, "when the quality of the earnings appears to be eroding, one has to wonder how much longer the good earnings can last," he said.

"I think the key thing is that commercial casualty and property catastrophe renewals on Jan. 1 will be soft, and so the competitive pricing and underwriting pressures continue," said DLJ's Mr. Seifer.

He added, "Pricing and underwriting standards are testing the favorable trends in loss costs and inflation in recent years, and we're very concerned about what the impact can be on margins."

"We enter 1997 with a very fragile underwriting picture," said Mr. Seifer.

Mr. Frank said, "Going forward, though it's very hard to predict how claims will behave, I would certainly not expect to see any change, certainly not any positive change, in the premium trend. The competition remains intense and is getting more so under the weight of excess capital."

Nevertheless, he added, "I think you'll see earnings increases at several companies for various reasons" in 1997. "No. 1, those companies that are generally superior underwriters and are well positioned in their markets will have a better ability to stabilize their underwriting results even in the current competitive environment and, as a result, will be able to carve out earnings gains notwithstanding the top line pressures."

"On the other hand, you will probably see some earnings increases among companies that are not as well positioned but are undergoing dramatic changes such that their operating results are improving... because of cost and business mix changes internal to the company," said Mr. Frank.

Some insurers' earnings per share may improve as well if those companies that cannot effectively use the capital they are generating in the business decide to return some of it to their shareholders, he said. **BI**

Sphere

Continued from page 3

ing is estimated at \$15 million, but the company did not state when it planned to take the charge to earnings.

Mr. Watson said the changes will make the company more customer-focused and improve its stability and financial performance. Marine business had been the weakest area in the group, he said, adding that Sphere Drake tended to be a follower in marine subscription business.

The focus is now on "lines of business where we can provide meaningful policy limits for customers," Mr. Watson said.

The business has been consolidated to six lines from 17, though its withdrawal from protection and indemnity business will be gradual. Mr. Watson confirmed Sphere Drake is seeking a buyer for its P&I book but will offer renewals through year end. Hull and cargo business is being put into runoff.

"The fact we are pulling out of certain business does not mean the business is bad," Mr. Watson said. "It is more a case of 'not being all things to all people,'" he added.

Capacity freed up will be used to support the remaining lines of

business, he said, where Sphere Drake tends to be the lead.

Over time, up to 25% of capital should become available to both its London subsidiary, Sphere Drake Insurance P.L.C., and Bermuda-based Sphere Drake Insurance (Bermuda) Ltd. There are no plans on how the capital will be divided between the company's two key locations.

Following the restructuring announcement, Standard & Poor's in London confirmed its BBB rating. Rob Jones, associate director of S&P in London, said Sphere Drake's actions were "supportive of the BBB rating" and "secures their position."

S&P had downgraded Sphere Drake to BBB from BBB+ after it posted an \$18 million loss due to reserve strengthening. In January, Sphere Drake took a \$45 million charge to strengthen reserves after an independent assessment of its reserving levels (BI, Jan. 22).

About the same time as the downgrade, John Head resigned from the holding company's board of directors, alleging there had been undisclosed related-party transactions involving management (BI, May, 6). And former President and Chief Executive Officer Ian Dean had resigned suddenly four months previously over the same matter (BI, Jan. 1), ac-

ording to Mr. Head.

S&P is now confident the management has "a more conservative bias" and wants to "achieve greater operational stability," according to a rating statement.

But Mr. Watson said he knows Sphere Drake needs to overcome a perception problem in the eyes of rating agencies, analysts, customers and competitors.

"Our first priority is for our most successful renewal season," said Mr. Watson, though he acknowledged it is going to be a tough season because of low rating levels. After renewals, Sphere Drake aims to grow business in the areas that have been identified in the review and to continue to strengthen its balance sheet.

Sphere Drake is not contemplating taking another charge to strengthen reserves, Mr. Watson confirmed.

"Sphere Drake has significantly improved its capital-to-premium ratios during the year and has adequate capital in the near term to support its present level of business in continuing terms," he said. "However, we are conscious of the demand from customers for ever-increasing levels of financial security and we are committed to increasing our capital, solvency ratios and claims-paying ability ratings in 1997." ■

Work comp: case by case

Employers share guidance and ideas for cutting costs

PASADENA, Calif.—In the continual campaign to reduce workers compensation costs, employers always are looking for ideas, guidance and—most of all—documented results. In addition to the sessions of the Fourth Annual Business Insurance Workers Compensation Conference reported on in the Nov. 18 issue, there were other sessions in which employers offered case studies of their efforts to keep workers safe and at work and reduce workers comp costs.

Following are a few of those case studies.

A Caribbean cruise did wonders for Pier 1 Imports Inc.'s claims costs from June 1994 to May 1995. The company gave store and regional managers the opportunity to enter a drawing for a Caribbean cruise by meeting safety goals during that period, explained Reta Lewis, senior manager of the casualty program and safety department for the Fort Worth, Texas-based retailer.

The result: Claims costs dropped by \$2 million, and there was a 30% drop in the average cost per claim and a more than 100% increase in the number of stores reporting no accident costs, she said.

In fact, at the conclusion of the "Memories for a Lifetime" incentive, Pier 1 had the lowest number of workers comp claims since 1988, when the company had 398 stores, instead of the 692 stores it had when the program ended.

Announcement and promotional ticklers for the drawing were mailed to store and regional managers' homes.

To qualify for a drawing with the potential of winning the five-day, all-expenses-paid Caribbean cruise for two, store managers had to have facilities free of workers comp and general liability accident costs for one year.

Regional managers automatically qualified for a cruise if they reduced accident costs in their regions by 30%.

"The way to sell this type of program to upper management is to talk about the bottom line," Ms.

Lewis advised. "If you are a company with a 5% profit margin, and Pier 1 was that kind of a company, it would take \$40 million in sales to generate \$2 million to the bottom line."

"Our object was to make it fun, make it exciting, so it would be something the store managers would want and they would talk about it," she said. "There really was some interest developed."

Pier 1 now has about 700 stores nationwide and about 9,000 employees, many working part time.

Other steps Pier 1 has taken to reduce workers comp costs include: development of safety training and behavior modification programs, surprise store visits by loss control representatives and establishment of a light-duty return-to-work-policy. ***

Joan E. Spiegel, consultant and former vp of risk management for Safeway Inc. in Oakland, Calif., detailed a 1991 study conducted

'Why do we practice ergonomics? People and profit,' says L.L. Bean Inc.'s Robert Morency Jr.

by Safeway to evaluate its return-to-work program. Safeway examined the cases of nearly 500 clerks with back injuries. Not all of the cases involved Safeway employees. A portion of the clerks worked for a competitor that did not have a return-to-work program but otherwise shared demographic characteristics similar to their Safeway counterparts in the study.

Safeway found it was paying 22% less in temporary disability costs than its competitor and 75% less in medical treatment costs. Those results still are valid, Ms. Spiegel said. But a return-to-work program requires risk manage-

ment oversight.

"There needs to be someone who can stand back and be somewhat objective about whether someone should be on modified work," she said. "Is the manager working effectively? Is the person doing productive work? Are you getting cooperation from your medical provider? Are you getting cooperation from your employee? I think that is an appropriate role for someone in the risk management department." ***

Robert Morency Jr. is the ergonomic specialist for L.L. Bean Inc., but he also suffers from carpal tunnel syndrome himself.

At Freeport, Maine-based L.L. Bean, only 30% of Mr. Morency's time is spent on prevention; the remaining time is spent controlling losses. Instead of going into the production facilities and teaching safety and prevention to the mail-order company's 4,000 regular employees and 9,000 employees during peak season, Mr. Morency develops guidelines and educates supervisors, who then are responsible for setting up ergonomically correct workstations, he said.

Mr. Morency said he advocates corner computer workstations because they shorten an employee's reach. He also favors adjustable workstations.

"I'm an advocate of the use of sit-and-stand workplaces, if an employee is required to work at the computer station more than four hours a day," Mr. Morency said.

The self-insured clothing catalog company found that by following the guidelines on ergonomic workstations, its employees were more comfortable, and it increased productivity and reduced workers comp losses as well as the risk of further injury.

"Why do we practice ergonomics? People and profit," Mr. Morency said. "They really go hand in hand."

—Reported by Roberto Cenicerros and Sally Roberts

Updates

Pennsylvania docs get relief

Continued from page 2

view of medical liability cases by experts and permitting fines of up to \$5,000 against lawyers who file suits that courts deem frivolous; make it easier for physicians wrongly named in a medical malpractice suit to have their names removed; create a standard of informed consent for certain medical treatments; cap punitive damages in medical malpractice cases to 200% of compensatory damages; and allow structured settlements whereby damages are paid over a specified period of time rather than all at once.

The state's Medical Professional Liability Catastrophe Loss Fund—or CAT Fund—announcement earlier this fall that it would seek a 254% surcharge on the primary insurance premiums paid by physicians and hospitals for medical malpractice caused physicians to redouble their efforts to get relief legislation enacted.

The amount will change in light of the new law, but the figure is not yet known. Under the new law, hospitals and physicians will be required to pay into the fund.

The state requires that physicians carry at least \$1.2 million in medical malpractice insurance, the first \$200,000 of which is purchased in the private market and the next \$1 million from the state CAT Fund.

Because the CAT Fund operates on a pay-as-you-go basis, each year's surcharge is determined largely on the amount paid out by the CAT Fund the previous year, with a small buffer amount added. A spokeswoman for the Pennsylvania Medical Society in Harrisburg noted that as recently as 1990, the surcharge was only 50%.

"This is the first time in two decades that any significant measure of tort reform has been accomplished. This bill does not correct all of the problems with the medical tort system, but it is an important step forward," said the society's president, Dr. Victor F. Greco.

The spokeswoman said the society expects Gov. Ridge, a Republican, to sign the bill.

Order to Golden Eagle upheld

SAN FRANCISCO—California Insurance Commissioner Chuck Quackenbush acted within his authority when he ordered Golden Eagle Insurance Co. to boost its reserves by \$138.5 million, a San Francisco Superior Court judge has ruled.

However, Golden Eagle has until Dec. 10 to increase its reserves, Judge William Cahill said, granting the insurer a 10-day extension from the department's original order.

But Golden Eagle hasn't thrown in the towel yet: The San Diego-based insurer plans to appeal the judge's Nov. 21 ruling, which marked the third time in three months he has sided with the department.

"While the law may give Quackenbush that authority (to establish reserves), that doesn't mean he's right or that he acted fairly and impartially," the insurer said in a statement responding to the ruling.

Meanwhile, Commissioner Quackenbush is urging Golden Eagle Chief Executive Officer John Mabee to meet with him and department actuaries to discuss the company's future.

"I sincerely hope that John Mabee will stop his public spectacle and get down to the business of working with the department to assure his company's long-term viability," Mr. Quackenbush said.

OCC OKs bank insurance sales

WASHINGTON—National banks will have an easier time getting into the business of insurance, courtesy of a final rule issued by the Office of the U.S. Comptroller of the Currency last week.

The new regulations, made public last week by U.S. Comptroller Eugene Ludwig at a Washington lunch, will permit national banks to set up separate operating subsidiaries to engage in such activities as the sale and underwriting of insurance and securities underwriting, provided that the bank maintains a controlling interest in the new entity.

The rules also limit a bank's investment in a subsidiary to a maximum of 10% of the bank's assets and require OCC approval for entering the new lines of business. The new rules, however, do not allow insurers or securities firms to own banking subsidiaries.

The OCC rules drew immediate criticism from insurance and consumer groups. Insurers hold that the new rules could give banks an unfair competitive advantage. Consumer groups fear that the new rules don't adequately protect consumers' rights.

Briefly noted

Norman Barham has been elected president of Johnson & Higgins, responsible for all lines of the international insurance broker's business. Mr. Barham, who was named an executive vp last year, has been a member of the J&H Executive Committee and the company's global practice leader. Mr. Barham succeeds Richard A. Nielsen, who was elected vice chairman and retains the title of chief operating officer. . . . The U.S. Equal Employment Opportunity Commission has filed a motion in U.S. District Court in White Plains, N.Y., to intervene in the race discrimination lawsuit against Texaco Inc., which would allow the EEOC to participate in the final negotiations of the \$176.1 million settlement reached Nov. 15. . . . A state court judge in Houston slashed to \$43.5 million from \$108.8 million the fees and expenses sought by lawyer George M. Fleming of Fleming, Hovenkamp & Grayson in Houston for settling claims charging polybutylene plumbing was faulty. Mr. Fleming's clients agreed to a settlement of \$170 million in cash and replumbing valued at \$180 million with Shell Oil Co. and Hoechst Celanese Corp. . . . Eric Oxfeld, former assistant general counsel at the American Insurance Assn., has been elected president of UBA Inc., a Washington-based organization that represents employers on workers and unemployment compensation issues. . . . Eagle-Fischer Industries Inc. will pay into a trust about 37% of its estimated \$2 billion liability for asbestos-related personal injury claims. The U.S. Bankruptcy Court in Cincinnati last week confirmed the manufacturer's third amended reorganization plan, which includes the settlement.

Tunnel

Continued from page 1

A Eurotunnel spokeswoman said it is fully insured for damage to the structure and equipment, as well as for third-party liability, rolling stock and business interruption. Eurotunnel's insurance staff people was working with an internal safety investigation team last week and was unavailable for comment.

Both UAP and Eurotunnel's broker, Alexander & Alexander Services Inc., would not comment on the coverage details.

Some businesses that use the tunnel also may have business interruption claims because they can't use it at the moment, "but those (losses) will be nominal," said David Cowdrey, commercial property manager for Commercial Union Assurance Co. P.L.C., which was a co-leader on Eurotunnel's coverage during its construction but is no longer involved.

The tunnel was shut down last week after a truck on a Eurotunnel freight shuttle bound for Folkestone, England, from Calais, France, caught fire 12 miles into the 32-mile long tunnel. The freight shuttle was carrying 29 heavy goods trucks with 31 drivers and three crew.

If the unidentified trucking company is found liable for the blaze, the truck's statutory unlimited auto third-party liability coverage could pay for the untold costs caused by the fire, underwriters say.

Emergency services, firefighters and ambulances arrived at the scene within 20 minutes and helped evacuate everyone on board the shuttle.

Although there were no fatalities, eight people were treated in a French hospital for smoke inhalation. Damage included the destruction of 15 trucks on board the train, as well as damage to rail wagons, part of the track, power cables and the tunnel's walls, said a spokesman for Eurotunnel. He would not comment on the cost of the damage, estimated repair costs or time the repairs would take.

All of the approximately 200 daily train services through the tunnel were halted immediately after the fire, which reports say could cost Eurotunnel approximately £1 million (\$1.7 million) a day in lost revenues.

By the end of last week, the Channel Tunnel Safety Authority, an Anglo-French agency that regulates tunnel safety, allowed only a small number of freight services to operate on a single track, though Eurotunnel had been hoping to restart limited services the day after the incident.

Full service, particularly resumption of the Eurostar passenger services and the Le Shuttle car-carrying trains, will not be restored until crucial safety questions are answered, which could take an estimated three to four weeks.

Investigations are now under way into the fire and will focus on whether safety procedures—which had been well scrutinized at every stage of the tunnel's development—worked properly during the incident.

"The rescue system worked broadly as planned," said Sir George Young, secretary of state for transport in the House of Commons last week. He praised emergency services personnel for the "way in which they coped with the incident and (wished to) express relief that there were no fatalities."

Three inquiries have been set up, including ones by: the Channel Tunnel Safety Authority; the French government; and by Eurotunnel itself.

The inquiries will look at such factors as the freight shuttle's design, the tunnel's ventilation system and the train driver's actions. Attention also will focus on the cause of the incident, whether safety provisions were adequate, lessons to be learned, and when full normal services will be resumed.

Since Eurotunnel opened for business two years ago, it has claimed that fire would be its single largest risk. As a result, emergency procedures were in place and practiced regularly (BI, Aug. 28, 1995; June 6, 1994). Reports claim the last drill occurred 10 days before the fire.

The train driver in last week's incident had three options when he discovered there was a fire on board under Eurotunnel's safety procedures, said a Eurotunnel spokeswoman.

He could continue driving the train through the tunnel; uncouple the front locomotive and club car from the rest of the burning train; or stop the train and evacuate, which is what he chose to do.

The investigations will focus on why he chose the third option, said the spokeswoman.

Until last week, Eurotunnel's safety record was exemplary. Indeed, a Channel Tunnel Safety Authority spokesman pointed out that last week's closure was the first since the start of services in May 1994, and that there have been only two other documented safety incidents. The first, in December 1994, involved a fire in a car's engine as it was being driven on board Le Shuttle, the car-carrying train service; and the second was the derailment of one car of a freight train on Feb. 20, 1995. There were no injuries in either incident.

Last week's incident, however, raises questions about the tunnel's safety measures, according to fire brigade sources and members of Parliament. In particular:

- Why did it take just over an hour to notify the Kent Fire Brigade, which has a fire station beside the Dover entrance to the tunnel, when French firemen were at the scene within 19 minutes?

- Why did a senior Eurotunnel crew member

open the door of the train car in which all the truck drivers and crew were traveling, thus letting smoke into what was otherwise a sealed car?

- Why did the tunnel's ventilation system, designed to blow smoke away from stationary trains, apparently fail to do so?

- Given allegations that smoke had been seen coming from a truck on board the train before it entered the tunnel, why was it allowed to proceed?

The fire has also resurrected questions about the safety of using open-sided rail wagons for carrying trucks through the tunnel, according to a spokesman for the Kent Fire Brigade.

The CTSA had approved Eurotunnel's use of the wagons against the advice of some safety experts, including that of Kent Fire Brigade Chief Jeremy Beech, who is one of the safety authority's members, the Kent Fire Brigade spokesman said. Mr. Beech stated as far back as five years ago that the open-sided rail cars could be dangerous because they would not contain a fire.

In a debate last week in the House of Commons on the tunnel fire, opposition members of Parliament claimed that the CTSA had been instructed by the French and British governments when it was first assessing the wagons that it must also take account of the costs and commercial interests of Eurotunnel, which had maintained the open-sided cars would be lighter and therefore more economical to operate.

The incident also raises questions about what sort of freight should be allowed on tunnel trains. Eurotunnel maintains a list of prohibited cargo, but as of late last week the company was unable to confirm whether polystyrene, a plastic frequently used as packing material, was on the list. Reports said that the accident involved burning polystyrene, which gives off dense smoke as it burns.

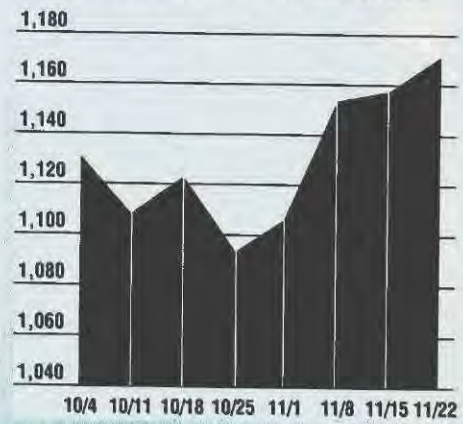
In the meantime, the CTSA gave permission to Eurotunnel to resume partial freight services last week that are operated by Rail Freight Distribution Ltd., formerly part of British Railways Board, and the French state railway, Societe Nationale des Chemins de Fer. The permission came after a 13-hour meeting last Wednesday in Calais with Eurotunnel officials.

It followed Eurotunnel's assurance that "all the necessary equipment for the safety of this type of traffic and, in particular, the in-tunnel fire detectors in the sections concerned, are all operational," stated the CTSA. Additionally, Eurotunnel has assured the CTSA that the train's drivers will be "rebriefed" on the tunnel's emergency procedures.

A spokesman for CTSA said the Channel Tunnel would not be allowed to extend other train services until the authority is satisfied that it is safe.

Stacy Shapiro contributed to this report.

BI Insurance Index



Base=100 on Dec. 29, 1978
Source: Nordby International Inc.

PCS catastrophe options

As of Nov. 22		Call spread		Price bid/ask	
Eastern September 1997					
40/60	3.3/4				
50/70	2.2/—				
80/100	2.1/2.5				
Southeast Dec. 1996					
40/60	—/—				
80/100	—/—				
National Annual 1997					
80/100	8.1/8.4				
120/140	5.6/6.5				
Total volume: 22 Total open interest: 8,049					
For information on PCS cat options, call the Chicago Board of Trade at 312-435-3674.					
Source: Chicago Board of Trade					

British Issues

Nov. 21	Price	P/E	Div.	Yield	1 week
Companies					
Comml Union	635	12.2	35.3	5.6	644-633
Genl Accident	718	10.8	38.8	5.4	718-712
Gdn Royal Exch	257	9.5	11.3	4.4	264-254
Independent	605	11.3	14.1	2.3	605-603
Royal & Sun	434	10.3	21.6	5.0	434-424
Brokers					
Bradstock	62	10.3	7.1	11.5	62-62
Fenchurch	61	4.1	10.6	17.4	77-61
CE Heath	79	9.3	6.3	8.0	79-74
JIB Group	111	11.0	9.4	8.5	111-111
Lloyd Thompson	188	11.0	12.5	6.6	188-187
Lowndes Lmbmt	112	7.3	10.5	9.4	114-112
Nelson Hurst	150	9.2	9.8	6.5	187-147
Sedgwick Grp	124	9.7	8.1	6.5	124-123
Steel Brl Jones	30	N/M	2.8*	9.3	30-30
Willis Corroon	127	11.4	8.3	6.5	128-127
Source: Philip Olsen, London *Estimate					

BI Industry Stock Report NOV. 18, 1996, THROUGH NOV. 22, 1996

BROKERS			INSURERS/REINSURERS			HEALTH MAINTENANCE ORGANIZATIONS																		
Price	Weekly % change	Year to date % change	Price	Weekly % change	Year to date % change	Price	Weekly % change	Year to date % change																
Acordia Inc.	NYS	30.5	5.17	2.52	33.75	27.50	22	EMC Insurance Group Inc.	NDO	12	-2.04	-12.73	14.50	10.13	5	St. Paul Companies	NYS	56.25	1.35	1.12	60.50	50.13	1342	
Alexander & Alexander	NYS	14.375	-4.17	-24.34	23.13	13.75	772	Everest Reinsurance	NYS	28.125	4.65	20.32	28.13	20.13	551	SAFECO Corp.	NDO	38.125	-0.33	10.51	39.75	30.88	2425	
E.W. Blanch Holdings Inc.	NYS	19.5	-1.27	-16.58	25.50	17.75	290	Executive Risk Inc.	NYS	39.5	-1.56	36.21	42.38	24.00	139	Seibels Bruce Group	NDO	2,312.5	0.00	54.17	4.25	1.00	221	
Gallagher Arthur J. & Co.	NYS	31.375	4.15	-15.77	39.50	29.13	38	EXEL Ltd.	NYS	38	0.66	24.85	40.25	29.63	468	Selective Ins. Group	NDO	33.75	0.37	-4.93	38.75	31.00	293	
Hilb, Rogal & Hamilton	NYS	13.25	0.00	-0.93	14.38	11.38	123	Fremont General Corp.	NYS	30,875	2.92	26.02	31.38	21.50	292	Sphere Drake Holdings	NYS	9.75	0.00	-30.36	15.13	8.13	425	
Kaye Group Inc.	NCO	5.5	-8.33	-31.25	8.25	4.63	4	Frontier Insurance Group	NYS	37	-4.21	15.63	41.13	28.25	100	TIG Holdings	NYS	29.875	0.42	4.82	34.25	26.00	605	
Marsh & McLennan	NYS	112.625	1.92	26.90	113.25	83.88	867	Gainsco Inc.	NYS	9,375	-1.32	-17.58	12.38	9.13	167	Titan Holdings, Inc.	NYS	14.875	0.85	3.48	16.63	12.50	76	
Poe & Brown	NCO	26.5	1.92	6.53	26.50	22.75	9	GCR Holding Ltd.	NDO	22,625	-0.55	NA	27.25	19.75	329	Tokio Marine & Fire	NDO	56.875	-0.66	-13.83	69.25	53.63	13	
BROKERS AVERAGE			-0.1	-6.6				General RE Corp.	NYS	184,375	4.95	6.05	164.38	138.75	913	Torchmark Corp.	NYS	50.75	1.00	12.15	51.00	40.25	728	
									Gryphon Holdings	NDO	14.5	3.57	-24.68	20.25	12.00	212	Transatlantic Holdings	NYS	77.125	6.38	5.11	77.13	62.38	189
									Guaranty National Corp.	NYS	15.75	0.80	2.44	18.00	13.38	112	Transnational Re Corp.	NDO	25.5	0.00	4.08	27.25	20.88	187
									Harleysville Group	NDO	30	7.14	-7.34	33.00	24.50	117	Travelers Aetna Property	NYS	32,375	0.78	NA	33.25	23.13	214
									Hartford Steam Boiler	NYS	44,875	3.46	-10.25	52.50	42.75	389	Travelers Corp.	NYS	60.125	-0.21	44.01	63.13	35.38	5191
									HCC Insurance Holdings	NYS	28.75	7.98	55.41	32.75	12.38	250	Trenwick Group Inc.	NDO	48,675	0.26	-13.11	57.50	46.00	38
									IPC Holdings Ltd.	NDO	22,375	-0.56	NA	22.88	19.00	979	Unico American Corp.	NDO	9.125	0.00	46.00	9.25	5.88	53
									ITT Hartford Group	NYS	67	1.52	38.50	67.75	44.50	1646	Unionamerica Holdings	NYS	18.5	4.96	NA	20.75	14.75	16
									LaSalle Re Ltd.	NDO	25	-6.98	NA	29.50	19.50	479	United Fire & Casualty	NDO	31.25	0.00	11.61	40.00	23.88	3
									Lincoln National	NYS	53.25	3.40	-0.93	57.00	40.75	837	Unitrin	NDO	53.5	1.42	11.46	53.50	44.25	237
									Market Corp.	NDO	85	-2.30	12.58	94.50	70.50	27	UNUM Corp.	NYS	71.5	6.92	30.00	71.50	52.63	1391
									MBA Insurance Group	NYS	96.125	3.36	28.17	96.75	70.00	478	US Facilities Corp.	NYS	19	6.29	-11.11	23.38	14.88	78
									Meadowbrook Insur. Group	NYS	20,875	12.08	-37.69	34.13	15.25	150	USF&G Corp.	NYS	19,875	1.27	17.78	20.00	14.25	1908
									Mid Ocean Ltd.	NYS	48.125	-4.23	29.63	50.50	35.25	136	USLIFE Corp.	NYS	30.125	0.42	0.84	33.25	26.88	562
									MMI Cos. Inc.	NYS	30.125	3.43	25.52	33.38	22.00	55	Washington National	NYS	28.125	-0.88	1.81	30.75	23.25	341
									Mutual Risk Mgmt. Ltd.	NYS	33.25	-0.75	-3.10	34.88	26.88	156	Zenith National Ins.	NYS	26	-0.95	21.64	26.88	20.00	40
									NAC Re Corp.	NYS	35.125	2.18	-2.43	40.63	28.50	556	Zurich Reinsurance Centr.	NYS	29.75	-4.03	-2.06	32.63	28.38	172
									Navigators Group	NDO	19.75	1.28	12.06	20.25	15.63	39	INSURERS/REINSURERS AVERAGE			0.9	11.1			
									Nobel Insurance Ltd.	NDO	12	0.00	5.49	12.75	10.88	10								
									NYMagic Inc.	NYS	17.75	0.00	4.41	22.00	15.63	153								
									Ohio Casualty Corp.	NDO	33.25	3.10	-14.19	40.00	30.00	230								
									Old Republic Int'l	NYS	27.125	0.93	14.61	27.75	20.13	723								
									Orion Capital Corp.	NYS	82.25	1.22	43.52	63.00	39.88	118								
									Partner Re Ltd.	NYS	31,375	0.40	14.09	32.00	23.75	493								
									Penn-America Group Inc.	NDO	15.75	-2.33	10.53	16.75	11.50	14								
									Philadelphia Cons. Holding	NDO	23.75	0.00	46.15	24.25	16.25	20								
									PXRE Corp.	NDO	24.5	-2.00	-7.55	28.00	22.25	51								
									Reliance Group Holdings	NYS	8.875	-1.39	2.90	9.25	6.50	531								
									Reliastar Financial Corp.	NYS	54,875	2.09	23.66	55.00	40.00	369								
									Renaissance Re Holdings Ltd.	NYS	32,125	1.98	5.76	33.13	25.63	44								
									Risk Capital Holdings	NDO	17.5	0.00	-25.13	23.38	16.50	459</								



FAST-TRACKED: APRIL 9, 1970
DOWNSIZED: MARCH 10, 1995

(EMPLOYMENT PRACTICES LIABILITY INSURANCE CREATED: MARCH 12, 1992)

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