

Business Insurance

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Sen. Kasten sponsors legislation amending Risk Retention Act

WASHINGTON—The U.S. Senate is considering a bill to amend the Risk Retention Act of 1986.

The bill, S. 1936, was introduced last week by Sen. Robert W. Kasten Jr., R-Wis., and generally follows changes proposed earlier this year by the U.S. Commerce Department and the National Risk Retention Assn. (BI, March 20).

Among other things, the bill would:

- Require risk purchasing group insurers to maintain capital and surplus of

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Employers score benefit victories in final budget bill

By JERRY GEISEL

WASHINGTON—Employers will not face increased insurance premiums from the Pension Benefit Guaranty Corp. under a budget reconciliation bill approved by Congress last week.

The compromise budget reconciliation bill, approved Nov. 22 after marathon negotiations by congressional conferees, drops a provision in the Senate budget bill that would have raised the PBGC premium for employers with well-funded pension plans.

The final bill also:

- Drops a provision in the House-passed budget reconciliation bill that would have barred employers terminating overfunded pension plans from recapturing the surplus assets.

- Allows former employees, in certain situations, to retain COBRA health care coverage even if they are covered under a new employer's health care plan.

House, Senate vote to repeal Medicare expansion. Page 30

- Reduces tax breaks available to employee stock ownership plans.

- Kills a provision in the House budget bill that would have allowed employers, on a limited basis, to transfer surplus assets from their pension plans without terminating the plans to fund retiree health care expenses.

- Retroactively extends the tax-favored status of employer-paid educational assistance benefits.

The passage of the budget reconciliation bill and the repeal of the 1988 Medicare Catastrophic Act brings to an end the tumultuous first half of the 101st Congress.

"It has been an extraordinary congressional year. And, it has been a year of surprises because employers, accustomed to losing, racked up some very important victories on major employee benefit issues," said Frank McArdle, a consultant in the Washington, D.C., office of Hewitt Associates.

Indeed, those employer victories have been impressive. For example, legislators earlier this year also agreed to:

- Repeal Section 89's non-discrimination rules for welfare plans. Repeal of Section 89 was included in a broader bill raising the federal debt ceiling, which was signed Nov. 8 by President Bush.

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Insurer earnings weather storm

Forecast for rate hikes is uncertain

By JUDY GREENWALD

Any rate increases imposed by property/casualty insurers now will not be reflected in their earnings until late next year at the earliest, market observers say.

However, few have yet to see concrete signs of higher prices, while some doubt whether rates will rise at all over the short term.

In the meantime, this fall's series of catastrophes will continue to fuel a deterioration in insurers' underwriting results until rate hikes finally take hold.

"I'd say things should be getting better, and you should see improvement by the end of 1990," said David Anthony, an analyst with Fox-Pitt Kelton in New York.

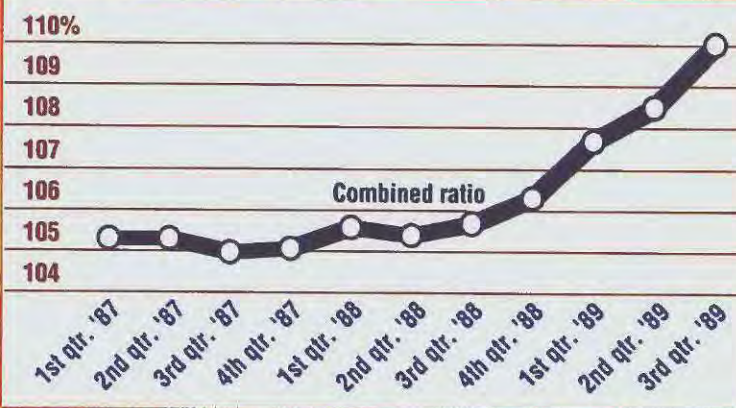
Assuming that rate increases are widespread by early next year, improved results should start "trickling" in during the second half of 1990 and "be noticeable in all of 1991," said a spokesman for Philadelphia-based CIGNA Corp., who noted it takes 12 months for rate hikes to be reflected in the bottom line.

The "real gains" will not be apparent until 1991, "but you could see some improvement by late next year," agreed Gloria Vogel, associate director at Bear, Stearns & Co. in New York.

But pointing to the insurance industry's strong capital position, some caution that any celebration

Hugo rips insurers' results

Hurricane Hugo losses in the third quarter of 1989 caused property/casualty insurers' combined ratio to jump.



Source: BI survey of leading commercial insurers

BI/JOHN HALL

of rate hikes and their potential impact on earnings may be premature.

Insurers' losses in the third quarter "were obviously catastrophe-driven," remarked Michael Lewis, first vp at Dean Witter Reynolds in New York. The recent catastrophes, along with the firming trend in reinsurance, "probably served to bring down the curtain on the property/casualty industry's three-year period of rate softness," said Mr. Lewis.

But, he added, the industry's re-

latively strong capitalization, combined with a hostile regulatory climate, should lead to restrained rate increases, "so it's not up, up and away, so to speak."

Insurers' results for the third quarter "were clearly devastated across the board by Hurricane Hugo," commented Udayan Ghose, an analyst with Shearson Lehman Hutton in New York.

The effects of the California earthquake and the explosion at the Phillips Petroleum Co. plant in

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Courts split on new pollution exclusion

By STACY ADLER

The absolute pollution exclusion in commercial general liability insurance policies is ambiguous because it fails to define what constitutes "waste," a federal judge has ruled.

Attorneys say the ruling is one of the first that challenges the absolute pollution exclusion in the "new" CGL policy form.

Meanwhile, in a ruling that follows most of the handful of previous decisions concerning the new CGL form, a Minnesota appellate court has ruled that the absolute pollution exclusion is clear and unambiguous.

The absolute pollution exclusion bars coverage for: "Bodily injury or property damage arising out of or in any way related to actual,

alleged, or threatened discharge, dispersal, release or escape of pollutants."

The clause was included in the commercial general liability policy that was formulated in the mid-1980s as a direct result of conflicting judicial opinions on the pollution exclusion clause in the old comprehensive general liability policy, which barred coverage for all pollution that was not "sudden and accidental."

"Insurers tried to give limited pollution coverage, but the courts wouldn't let them," explained insurer attorney Stephen Cohen of McElroy, Deutsche & Mulvaney in Morristown, N.J. He quipped that the absolute pollution exclusion is often referred to as the "drop dead" pollution exclusion.

Several attorneys predicted that disputes

surrounding the absolute pollution exclusion in the new CGL form will become the next major source of insurance litigation.

"We are going to see more cases on this issue," said policyholder attorney Eugene Anderson of Anderson, Kill, Olick & Oshinsky in New York.

"The area of controversy here is going to be whether or not the material or event giving rise to the claim is pollution," Mr. Anderson predicted.

"This is the first round in what is going to be a very difficult battle," he added.

Judge H. Lee Sarokin of the U.S. District Court in Trenton, N.J., ruled last month that the absolute pollution exclusion in the new CGL form was ambiguous because it failed to define "waste."

The case involved a dispute between Newark, N.J.-based Hub Recycling Inc. and California Union Insurance Co. of Los Angeles, a CIGNA Corp. unit that wrote liability insurance limits of \$1 million per claim/\$1 million aggregate for Hub.

Hub, which is now bankrupt, sued California Union for the costs of removing roughly 50,000 cubic feet of debris accidentally placed on third-party property.

Hub recycled various materials, including construction debris, rocks, bricks, wood, glass and aluminum.

The California Union policy defined pollutants as: "any solid, liquid, gaseous or thermal irritant or contaminant, including, but not limited to, smoke, vapors, soot, fumes,

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Update

Risk Retention Act changes

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at least \$3 million as determined by statutory requirements in the state where the purchasing group maintains its principal place of business.

In addition, insurers may not retain risk net of reinsurance in amounts exceeding the maximum allowed in each state where the purchasing group has members.

- Allow only one state—the state where the purchasing group maintains its principal place of business—to regulate rates and policy forms used by the purchasing group insurer.

- Define a purchasing group's principal place of business as the city and state where the group maintains its main office, as long as the group has members in that state. This amendment would negate a 1987 New York federal court decision that some argue allows rate and policy form regulation by all states in which a purchasing group has members.

On some points where the earlier Commerce Department and NRRA proposals disagreed, the Kasten bill adopts the NRRA position.

For example, the Commerce Department had proposed that purchasing groups would have to be established and controlled by buyers rather than by insurers or insurer representatives. The Kasten bill does not contain such a provision.

The Kasten bill also prohibits any state other than the domiciliary state from imposing registration fees on risk retention groups or purchasing groups, and authorizes the U.S. secretary of commerce or attorney general to file suit to prevent states from forcing risk retention and purchasing groups to abide by rules from which the Risk Retention Act exempts them.

Both these provisions had been proposed by NRRA.

Michael Mullen, a lawyer with Crowell & Moring in Washington, D.C., representing NRRA, said the association hopes to see a companion bill introduced in the House by early next year.

Proposition 103 ruling

SAN BRUNO, Calif.—Attorneys for insurers and the California Department of Insurance disagree over whether an administrative law judge's tentative ruling last week upholds the state insurance commissioner's authority to use a rate-of-return benchmark in determining whether to grant insurers relief from Proposition 103's mandated auto insurance charge rollbacks.

In his opinion, Judge William J. Fernandez said: "Proposition 103 provides no guidelines for the methodology of rate approval. The methodology is left to the broad discretion of the insurance commissioner. She has chosen a centuries-old method to determine the guidelines."

Judge Fernandez leaves no question that Roxani Gillespie "has the authority to determine allowable rates of return," said Karl L. Rubinstein, special counsel for the department.

"The bottom line is that the hearings will clearly have to determine base measures," such as allowable rates of return, he said.

While portions of the ruling "would seem to" deny insurers' motions to limit the scope of the hearings, "it's not at all clear," said Delia M. Chilgren, vp and general counsel for the Assn. of California Insurance Cos., one group that challenged the state's use of a rate-of-return benchmark for rate regulation (BI, Nov. 20).

But, the opinion was "a mixed blessing" for insurers, she said, because it emphasized the California Supreme Court decision upholding most provisions of Proposition 103, which said rates should not be "excessive, inadequate, or unfairly discriminatory."

"We believe that to be the appropriate rate standard," Ms. Chilgren said.

"I don't think Judge Fernandez wanted to address rate of return," Ms. Chilgren said. The "correct methodology" for determining rates will be dealt with "down the road," she predicted.

The judge also scolded insurers for impeding "the search for truth... by shotgun blasts of procedural questions and motions demanding consideration" during the hearings.

Reinsurer losses increase

WASHINGTON—U.S. reinsurers posted a 106.3% combined ratio for the first nine months of 1989, up from 102.4% for a comparable group of reinsurers during the first nine months of 1988, a Reinsurance Assn. of America survey of 66 reinsurers found.

The nine-month 1989 combined ratio reflects a 76% loss ratio and a 30.2% expense ratio, which totals 106.3% because of rounding.

The reinsurers surveyed reported \$7.96 billion in premiums written, down 4.9% from \$8.37 billion in the first nine months of 1988.

Policyholder surplus for the reinsurers totaled \$11.4 billion as of Sept. 30.

NYNEX workers approve pact

WHITE PLAINS, N.Y.—Unionized NYNEX Corp. workers throughout the Northeast began returning to their jobs last week after signing a tentative agreement under which they agreed to lower wage increases than originally offered in exchange for continuation of fully paid health insurance.

NYNEX and 40,000 members of the Communications Workers of America and 20,000 members of the International Brotherhood of Electrical Workers were expected to sign the agreement that would have ended a 13-week walkout on Nov. 13 (BI, Nov. 20).

But the CWA balked and continued to strike through early last week. The CWA had objected to the company's refusal to rehire more than 140 workers who had been fired during the strike.

However, CWA members were expected to return to their jobs over the weekend after agreeing to the contract on Nov. 22.

IBEW members had already returned to work the previous week-end after signing the tentative agreement.

NYNEX expected ratification of the contract by the end of the month.

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Lloyd's to establish new claims system

By STACY SHAPIRO

LONDON—Lloyd's of London will launch a controversial new claims settlement system next year that will give lead underwriters and market claims offices sole authority to settle claims on behalf of following underwriters.

The new system, along with other procedural changes, is being established to speed up claims handling at Lloyd's, which will make the market more attractive to policyholders, explains a Committee of Lloyd's document, "The Claims Agreement Process in Lloyd's," which was published last week.

The practice of allowing the lead underwriter to settle claims has been observed in Lloyd's marine

market for years, but it will be new to the non-marine and aviation markets.

Lloyd's hopes that the faster claims service it expects to attain under the new system, which goes into effect June 1, will give it a competitive edge.

"There is a fight for a world share of the business. So we have said, 'OK, let's get better than anybody else (at claims handling) to attract the business,'" said Sir Peter Miller, the former Lloyd's chairman who chaired the committee that drafted the new rules for streamlining claims procedures in the market.

"There is no doubt that we have an excellent record for handling catastrophic (and) complex claims," said current Lloyd's

Chairman Murray Lawrence. "But there are still certain areas where we are not as good as we could or should be. This scheme is designed to bring everyone up to a consistently high standard."

But, several members of the Lloyd's market oppose the concept of a lead underwriter or claims office settling claims for the following market.

They argue that, among other things, each Lloyd's underwriter has a sovereign right to agree to claims, Sir Peter confirmed. Some following underwriters also contend that their reinsurers require that they see each claim, he added.

But the Committee of Lloyd's concluded that unless the number of participants in the current

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Claims employer illegally denied benefits

AIDS patient files suit

By MICHAEL BRADFORD

HOUSTON—An AIDS patient who works at a Houston musical instrument dealer is suing his employer and its former health insurer, charging the defendants conspired to deny him nearly \$1 million in potential medical benefits.

The lawsuit, filed in U.S. District Court in Houston, charges H&H Music Co. and General American Life Insurance Co. with conspiring to cut John McGann's benefits by switching H&H employees from a group medical plan underwritten by General American to a self-insured plan administered by the St. Louis-based insurer.

Brook Mays Music Co., H&H's parent, which had purchased the insured plan, is also named as a defendant.

The new self-insured plan caps lifetime benefits for AIDS-related treatment at \$5,000, which the pre-

viously insured plan did not and could not under current Texas insurance law.

Defendants, however, say they were well within their rights to switch plans.

"The major change was that it put a cap on the AIDS-related coverage," Helen Brattin, a Houston attorney representing Mr. McGann, said of the change in insurance plans.

The General American group plan capped lifetime medical benefits at \$1 million.

The suit alleges defendants violated the Employee Retirement Income Security Act, the Texas Commission on Human Rights Act, state insurance laws and laws protecting the handicapped and the Texas Deceptive Trade Practices-Consumer Protection Act.

Mr. McGann seeks reinstatement of \$995,000 in medical insurance and punitive damages of at least \$4 million.

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California panel suggests merging health, comp plans

By MEG FLETCHER

SACRAMENTO, Calif.—A California Senate committee is recommending blending workers compensation, disability and group health insurance into a new mandated state-run insurance program.

Such a "bold" approach is needed because current systems do not meet the needs of employees or employers in California and contribute to a lack of productivity, said Sen. Bill Greene, D-Los Angeles, chairman of the Senate Committee on Industrial Relations.

Sen. Greene's comments followed the release last month of his committee's legislative study, "Healthy Worker-Healthy Workplace: The Productivity Connection." The \$100,000 study, which took two years to complete, was the result of three day-long conferences, an extensive review of literature and inquiries of more than 2,300 experts.

The committee's proposal would produce a hybrid system to provide insurance for illness or injury of employed Californians, regardless of whether the condition is occupational or non-occupational in

nature.

Under the no-fault insurance system, the state and employers would share financial responsibility for wage replacement for temporary, partial disability and rehabilitation with the goal of an early return of the employee to work.

Permanent partial and total disability coverage would be funded through a combination of progressive taxation based on income as well as employers and employees sharing premium costs.

Group health care insurance would be provided by a universal

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Doing business in the Soviet Union

Managing risk open to negotiation

By DOUGLAS McLEOD

NEW YORK—Dramatic economic changes in the Soviet Union are creating new interest in U.S.-financed joint ventures in that country, though such enterprises face a variety of risk management and other practical problems, U.S. and Soviet experts say.

The Soviet policy of perestroika, or restructuring, has led to numerous changes, among them the adoption in January 1987 of a law allowing foreign equity investment in Soviet enterprises for the first time in more than 60 years, pointed out John F. O'Sullivan, managing director with Marsh & McLennan Worldwide Services Co. in New York.

Mr. O'Sullivan was one of several speakers at a Nov. 15 conference on U.S.-Soviet joint ventures sponsored by M&M and Ingosstrakh, Insurance Co. of the

U.S.S.R. Ltd., a Soviet state-owned insurer.

Roughly 1,100 joint ventures with Western and East bloc partners have been registered under the Soviet joint venture law, Mr. O'Sullivan said.

In 1989, the number of joint ventures with U.S. partners grew to 97 from 16, he noted. West Germany accounts for the largest number of the joint ventures with Finland, Great Britain and Italy accounting for numerous others.

Few of these joint ventures have involved significant financial investment by foreign partners, he added, explaining that most have been legal, financial, marketing or industrial consulting ventures.

The Soviet joint venture law contains scant guidance on insurance-related matters, Mr. O'Sullivan said, noting that property of a joint venture is subject to compulsory insurance by Ingosstrakh.

Coverage for liability and other exposures is optional, he said, observing that the Soviets consider "discretionary" many of the coverages that are a top priority for U.S. risk managers.

Soviet partners are typically not familiar with many of the insurance coverages that are placed as a matter of course in the United States and generally are unfamiliar with such risk management concepts as self-insured retentions and deductibles, according to Mr. O'Sullivan.

Assessing the exposures of a joint venture can also be difficult, he suggested.

For example, Soviet laws do not spell out the duties of corporate directors and officers. Nevertheless, since directors and officers are subject to Soviet criminal, civil and labor laws, joint ventures should arrange directors and officers.

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An increasing number of Soviet-U.S. joint ventures will require more U.S. risk managers to travel to Moscow.

AP/Wide World Photos

401(k) participation up 600% since '83

By ADRIENNE C. LOCKE

WASHINGTON—Nearly four times the number of employees are eligible to join 401(k) salary reduction plans compared with five years ago, while employee participation has increased nearly sixfold, according to a new report.

More than 27.5 million employees—or 4.2% of the U.S. workforce—were eligible to participate in 401(k) plans in 1988, up from 7.1 million employees—or 7.1% of the workforce—in 1983, according to the report by the Employee Benefits Research Institute, which based its estimates on a current U.S. Census Bureau population survey.

And, of those workers who could join a 401(k) plan in 1988, 56.9%, or about 15.7 million workers, participated, up from 8.3%, or 2.7 million workers, in 1983, says

the report by the Washington, D.C.-based Employee and Employer Interest Bank.

Employee and employer interest in 401(k) plans is growing, contradicting some employee benefits consultants' initial doubts about the attraction of such voluntary retirement savings plans and their concerns over the reduced pretax contribution limit set by the Tax Reform Act of 1986, according to the EBRI survey.

Among the reasons cited for the increasing popularity of 401(k) plans were:

- The number of employers offering the plans is increasing.
- The plans permit employees to save for retirement on a pretax basis.
- In many cases, employers match employee contributions.
- The plans often provide a choice of investment options.

• Many plans have loan provisions.

In 401(k) plans, named after the section of the Internal Revenue Code that authorized them in 1978, participants may contribute a portion of their salary on a pretax basis toward a fund that earns tax-deferred interest until the funds are withdrawn, usually at retirement.

Employees contributed more than \$24 billion to 401(k) plans in 1988, EBRI estimates. However, EBRI cannot estimate total 1983 contributions because no comparable figures are available.

Annual contributions in 1988 averaged \$2,000 per worker, according to the survey. Contributions ranged from \$400 on average for workers earning less than \$10,000 annually, to \$3,500 on average for workers making more than \$50,000—all well below the \$7,000 limit set by the Tax Reform Act of

1986.

In 1988, the limit, which is inflation-adjusted, was \$7,313. The limit is now set at \$7,627. Prior to tax reform, employees could contribute up to \$30,000 to 401(k) plans annually on a pretax basis.

"Very few workers appear to have been affected" by the reduced contribution limit, the report said.

Participation in 401(k) plans increased from 1983 to 1988 at all salary levels, according to the EBRI report:

- 8% of employees earning \$10,000 to \$14,999 participated in 401(k) plans in 1988, up from 1% in 1983.
- 14% of employees earning \$15,000 to \$19,999 contributed in 1988, up from 3% in 1983.
- 20% of employees earning \$20,000 to \$24,999 contributed in 1988, up from 1% in 1983.

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Tort reformers narrow sights: ATRA chief

By JUDY GREENWALD

NEW YORK—The tort reform movement will focus on passage of specific measures, such as limits on punitive damages, rather than take a "generic," broad-based approach, says the head of a tort reform advocacy group.

The tort reform movement now will target punitive damage caps, medical malpractice and product liability reforms, predicts Martin Connor, president of the Washington, D.C.-based American Tort Reform Assn.

Questions about the efficiency of the U.S. legal system, including discovery and case management, also will receive more attention, Mr. Connor said during a seminar titled "Insurance in Crisis? A View of the Future," sponsored earlier this month by Johnson & Higgins in New York.

Mr. Connor said the tort reform movement's future emphasis on specific reforms is, in a sense, a return to its past.

Mr. Connor traced the history of the U.S. tort reform movement to the 1960s, when the medical profession achieved "moderate success" in reforming the medical malpractice liability system.

The movement continued through the product liability crisis that arose during the Ford administration in the mid-1970s to the hard property/casualty insurance market of the mid-1980s, which brought about the broad-based support that led to ATRA's creation, he said.

The broad-based tort reform movement, Mr. Connor later said in an interview, "is a product of the hard insurance market." But with the soft insurance market of the past few years, the movement's configuration has changed.

"An awful lot of the people who had tort reform No. 1 on their list of public issues now are worried about other things," he said, including rising health care costs and taxes.

"Tort reform is not everybody's No. 1 issue the way it was in '86," Mr. Connor said.

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EC directives

Stricter safety laws for products sought

By CAROLYN ALDRED

BRUSSELS, Belgium—A proposed European Community directive intended to "substantially improve the level of product safety" in the EC would impose stricter safety monitoring procedures on manufacturers, wholesalers and retailers.

In addition, the proposal would establish product recall regulations.

The proposed directive is designed to complement an existing directive on product liability that switches the burden of proof in EC product liability litigation from consumers to producers and makes producers strictly liable for damage and injury caused by their products.

The European Council passed the existing product liability directive in July 1985 and it was due to be implemented in every EC country by July 1988, though several countries still must enact enabling legislation.

The proposed safety directive is scheduled to be discussed at forthcoming meetings of the EC ministers responsible for consumer affairs.

However, a directive usually is not enacted until several years after its proposal.

The recently proposed directive would establish "a common general requirement for safety, with which all products marketed within the community must comply and by helping to coordinate measures taken in response, to protect the European citizen against injury or damage resulting from unsafe products, especially where such products are not at present regulated."

A product is defined in the proposed directive as "any manufactured product and agricultural product, and shall include any part of it such as raw materials, substances, components and semi-finished products."

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Waste producers face crackdown

By CAROLYN ALDRED

BRUSSELS, Belgium—Companies in the European Community that produce waste products that damage the environment would face increased liability and greater chances of detection if two proposed EC directives are adopted.

Producers of hazardous waste would be held to standards of both strict liability and joint and several liability under one proposed EC directive published this fall.

Another proposed directive would establish a European Environment Agency and a European Environment Monitoring and Information Network to improve environmental protection and monitoring in the EC.

The proposed waste directive is not expected to be discussed by EC environmental ministers until next year.

However, the establishment of the environmental agency and the monitoring network is scheduled to be discussed at the next meeting of EC environmental ministers, scheduled for Tuesday.

The proposed directive "on civil liability for damage caused by waste" is designed to establish "a uniform system of liability within the community," according to the proposal.

This will ensure "firstly, that victims of damage caused by waste receive fair compensation and, secondly, that industry's waste-related costs resulting from environmental damage are reflected in the price of the product or service giving rise to the waste," the proposal states.

The directive proposes that producers be subjected to a principle of strict liability for all types of waste generated "by an economic activity," except for pollution caused by

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Soviet ventures

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cers liability coverage, he recommended.

In addition, while Soviet environmental laws have been less than strict in the past, this may change and environmental impairment liability coverage may become a concern, Mr. O'Sullivan said.

Although product liability is not a significant exposure within the Soviet Union, joint ventures should consider product liability coverage for goods manufactured in the Soviet Union and exported to other countries, he suggested.

Liability exposures in the Soviet Union are far smaller than those in the United States, according to Jeffrey A. Burt, a partner with the Washington law firm of Arnold & Porter.

One reflection of this is the Soviet Union's relatively modest population of lawyers, Mr. Burt observed.

"For every 30 lawyers in the United States, there's only one lawyer in the Soviet Union," he said.

Mr. Burt cited several differences between U.S. and Soviet tort liability systems. In the Soviet Union, for example:

- Courts do not recognize damages for pain and suffering, finding that these are impossible to measure in monetary terms.

- "Perhaps after exposure to U.S. lawyers, they will understand the simple formula we use," Mr. Burt quipped.

- Manufacturers are not subject to the principle of strict liability. Product liability questions are instead based on fault of the manufacturer.

"Even if you can establish manufacturer negligence, you may not receive very much in damages," he noted.

- Awards for personal injury and death claims are modest by U.S. standards. Accident victims in the Soviet Union can only try to recover the difference between compensation

they receive from state funds and the amount they would otherwise have made at their jobs, along with medical expenses not covered by state agencies, Mr. Burt said.

- Remedies for defective consumer products are limited and require the consumer to wade through tremendous amounts of bureaucratic red tape in filing a claim.

While most of this represents good news for joint ventures, Mr. Burt also cautioned that the "Soviet economic and legal system is in flux," making an assessment of the risks of entering the Soviet market difficult.

For example, environmental laws, now lax by Western standards, could be toughened, he said.

Mr. Burt noted several additional questions about joint venture operations that have yet to be answered, among them how the Internal Revenue Service will treat joint ventures for purposes of attributing income to the U.S. partner.

The contract between joint venture partners should spell out some

things that the U.S. partner might take for granted, Mr. Burt added. For example, a contract for a 50/50 joint venture should make it clear that each partner is entitled to 50% of the value of the venture upon liquidation.

While this may seem obvious to U.S. managers, some Soviets have difficulty with the concept of a U.S. partner removing a substantial profit on an equity investment in the Soviet Union, Mr. Burt said.

U.S. joint venture partners face difficulties not only in identifying exposures but also in convincing Soviet partners they need to be insured, according to Stephen N. Raimondi, risk manager-projects for Combustion Engineering Inc. of Stamford, Conn.

Combustion Engineering is one of five Western partners currently negotiating a joint venture to build a \$2.2 billion petrochemical plant in Siberia, Mr. Raimondi said.

The company and the Soviet oil ministry are now partners in a joint

venture that sells processing equipment. The venture produces annual revenues of \$40 million to \$50 million and employs 500 people.

A joint venture with a Western partner may be the first enterprise for which the Soviet partner has ever needed insurance, since most property is government-owned and is self-insured, Mr. Raimondi noted.

While Ingosstrakh underwrites most of the property coverages mandated by the 1987 joint venture law, joint venture partners are on their own in identifying and insuring against other exposures, he said.

"That's really more of a challenge because there you're not being told what to insure. You just have to let your mind wander," he observed.

Mr. Raimondi also noted several other practical problems involved in a Soviet joint venture, like establishing communications.

Although some fax machines are available in the Soviet Union, the primary means of communication is still telex machines, which can take several months to acquire and install, he said.

U.S. joint venture partners also have to think about incentives to offer Soviet workers and systems for insuring quality control, since the Soviet track record in this area has been poor, he said.

In addition, Mr. Raimondi noted that joint venture contracts should allow loss adjusters unrestricted travel to a plant site in case of a loss.

"You have to think about things of that nature when you deal with the Soviet Union," he pointed out.

Among other problems facing U.S.-Soviet joint ventures is that the partners have different, sometimes conflicting, objectives, M&M's Mr. O'Sullivan observed.

For examples, a Soviet firm may want to increase the Soviet Union's hard currency export earnings, while a U.S. partner may be looking for access to a vast Soviet domestic market of roughly 285 million consumers, he noted.

A U.S. partner probably would not want to export the joint venture's products into markets where they would compete with the U.S. partner's own products, he pointed out.

Another problem for the U.S. partner is that the Soviet ruble is not easily convertible to other currencies, he said. This means that a U.S. partner's earnings would have to come either from the proceeds of goods exported by the joint venture or in the form of Soviet goods accepted in a kind of barter transaction, Mr. O'Sullivan said.

The Soviet Union recently conducted its first currency auction, Mr. O'Sullivan noted. Although it was restricted to state enterprises, joint ventures are expected to be allowed to participate in similar auctions next year as part of a long-term plan to make the ruble convertible, he said.

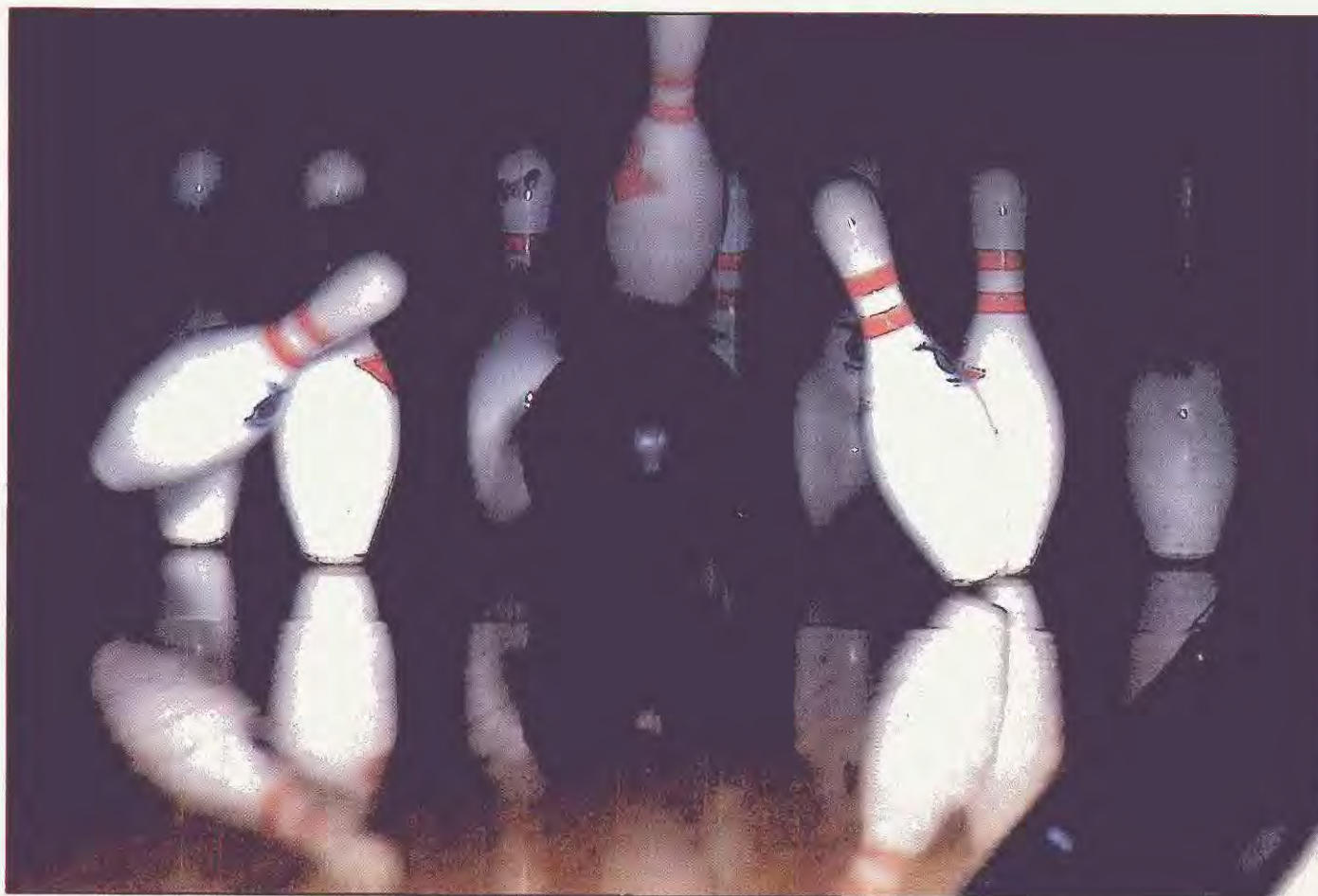
While annual trade with the U.S.S.R. has nearly doubled between 1987 and 1989—to about \$3 billion—major obstacles to further expansion remain, Mr. O'Sullivan added.

One, an amendment to the Trade Act of 1974 that bars most-favored-nation tariff status to countries that restrict emigration, has resulted in tariffs on Soviet goods that are five to 10 times higher than those on goods imported from other countries, Mr. O'Sullivan said.

However, an expected relaxation of Soviet emigration laws could soon lead to a U.S. waiver on higher tariffs, he said.

Other speakers at the conference included Pavel E. Mnatsakanov, director of the joint venture department at Ingosstrakh in Moscow; Alexandre V. Miniaev, general manager of Garant Insurance Co. Ltd. in Vienna, Austria; Antoine A. Picard, senior vp with M&M Worldwide in New York; James D. Halvorson, managing director with Marsh & McLennan Inc. in New York; and Steven J. Leifer, associate director-international tax services with Ernst & Young in New York.

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Monsanto to launch flex plan on Jan. 1

By MICHAEL SCHACHNER

Benefit beat

Monsanto Co. will pay cash to employees who select high health care plan deductibles and annual out-of-pocket maximums as part of a new flexible benefits plan.

However, monthly premium contributions for employees who maintain their current level of deductibles and annual out-of-pocket maximums will increase under the flex plan, which will be implemented Jan. 1.

In addition, the St. Louis-based chemical manufacturer is establishing an employee-paid long-term care plan for 6,500 employees in its corporate and agricultural divisions. That plan also will become effective on Jan. 1.

Monsanto is offering the flex plan to 15,500 non-union and salaried workers in its corporate, agricultural and chemical divisions.

The plan, under which workers can tailor their level of coverage and deductibles, was developed in response to both employees' demands for more freedom of choice and company concerns over skyrocketing health care costs, said J.R. Walters, consultant manager-compensation and benefits.

Monsanto estimates that its health care costs will increase by 21% to an average of approximately \$3,400 per employee in 1989 from about \$2,800 in 1988. And the company estimates its health care costs will rise another 21% to \$4,000 per employee on average in 1990, he said.

"We were faced with some tremendously increasing medical costs, which have become uncontrollable. 1990's anticipated costs made it important to bring medical costs under control. We could have charged employees for everything above what we wanted to pay for, but we thought it would be beneficial to give employees a choice to pay for more or take less," Mr. Walters said.

"The new plan will help create more efficient utilization of health care," Mr. Walters explained.

Core benefits under the flex plan, which is underwritten by New York-based Metropolitan Life Insurance Co., include health care benefits, with several levels of deductibles and annual out-of-pocket maximums; term life insurance, with several optional benefit levels; long-term disability coverage, with several optional benefit levels; and two dental plan options.

Each employee receives a flex credit account balance to purchase core benefits; optional benefits—like vision care coverage—may be purchased with any leftover flex credits. Employees also can receive any leftover flex credits in cash.

Currently under Monsanto's health care plan, also underwritten by Metropolitan Life, the individual deductible is \$125 with a \$900 annual out-of-pocket maximum. The family deductible is \$250 with an out-of-pocket maximum of \$1,350.

Currently, employees must contribute \$5 per month for individual coverage; \$9 for partial family coverage, which covers an employee and spouse or an employee and dependent children; and \$11 for full family coverage.

Monsanto pays 80% of health care expenses after deductibles up to the annual maximum. The maximum lifetime benefit under the medical plan is \$700,000.

However, under the flexible benefits plan for employees in Monsanto's corporate division, monthly contributions for workers who opt to maintain a \$125 individual deductible and a \$250 family deductible with the same out-of-pocket maximums as under the current

plan will increase to \$10 for individual coverage, \$18 for partial family coverage and \$22 for full family coverage.

The deductibles and out-of-pocket maximums differ slightly for employees in the chemical and agricultural plans, but those differences are "very insignificant," Mr. Walters said.

However, for eligible employees in all three divisions, the monthly premium contribution would be reduced and in many cases Monsanto will pay employees if they opt for higher deductibles and higher annual out-of-pocket maximums.

For example, the monthly pre-

mium contribution would be \$4 for partial family coverage with a \$500 deductible and a \$2,000 annual out-of-pocket maximum.

The monthly contribution would be \$8 for full family coverage with a \$500 deductible and a \$2,000 out-of-pocket family maximum.

And, individuals and families can pay nothing toward their health care and receive cash from the company for choosing the highest deductibles.

For example, individuals who choose a \$250 deductible and a \$1,500 annual out-of-pocket maximum will receive \$2 per month from the company.

Individuals who opt for a \$500

deductible and a \$2,000 annual out-of-pocket maximum, the highest levels possible for individual coverage, would receive \$21 per month from Monsanto.

Monsanto will pay \$16 per month to those who opt for partial family coverage with a \$1,000 deductible and a \$3,000 annual out-of-pocket maximum per family, which are the highest levels possible for family coverage.

And, Monsanto will pay \$12 per month to those who select full family coverage with a \$1,000 deductible and a \$3,000 out-of-pocket maximum per family.

In addition, if employees choose to "opt out" of Monsanto's health care plan and can prove they have full health care coverage, such as through an individual policy or a spouse's health care plan, they will

receive a \$600 annual payment from Monsanto, Mr. Walters said.

All 6,000 non-union, salaried, St. Louis-based employees in Monsanto's corporate, chemical and agricultural divisions also can participate in Metropolitan Life's managed care network, MetLife Healthcare Network-St. Louis. If they use a network provider, participants pay only a \$10 deductible if their health care deductible is normally \$125, \$15 if their deductible is \$250 or \$20 if their deductible is \$500.

Term life insurance is another core benefit under the flex plan. Employees can choose from one of six levels of employee term life insurance: 5.5 times base salary; 4.5 times base salary; 3.5 times base salary; 2.5 times base salary, which

Continued on next page

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The \$500 million Greater Pittsburgh International Airport project will take five years to complete.



Continued from previous page

Monsanto offered under its current benefit plan; 1.5 times base salary; or the lesser of \$50,000 or base salary.

Employees also can select long-term disability benefit levels equal to 70% of their base salary; 65% of base salary, which is the benefit level provided under the current plan; or 50% of base salary.

Workers also have two dental coverage options.

One option is the dental coverage currently offered by the company, under which Monsanto will pay the cost of all preventive dental work up to a scheduled maximum.

For example, Monsanto will pay \$12 of the cost of a checkup and \$20 of the cost of a single silver amalgam filling, with the employee paying the remainder, Mr. Walters said.

Employees must pay a \$25 deductible for work like bridges and complex fillings, after which Monsanto pays the rest up to the sched-

ule maximum.

The annual per person maximum is \$1,000, and the lifetime maximum is \$5,000.

In addition, the plan provides up to \$1,250 in lifetime orthodontia benefits for children under age 19.

Under an enhanced dental benefit option, Monsanto will pay the cost of dental work on a reasonable and customary basis. Under that plan, preventive dental procedures will be paid in full and complex procedures will be paid at 80% after a \$25 deductible is paid.

The annual per person maximum is \$2,000, and the lifetime benefit maximum is \$10,000.

The lifetime orthodontia benefit under this option is \$1,650.

Those who do not select any dental coverage will receive \$90.

Other benefits that employees can buy with their flex credits are:

- Vision care.
- The vision plan provides for a vision exam once each calendar year, standard eyeglass lenses and

frames once every two years and contact lenses once every two years.

Employees must pay a \$10 deductible for eye exams, a \$15 deductible for glasses and the first \$100 for contact lenses unless the lenses are medically required. When contact lenses are medically required, Monsanto pays the entire price of the lenses.

However, if employees opt out of the dental benefit, they are required to pay twice as much for vision benefits. Mr. Walters would not reveal the cost of the benefit to employees.

- A pretax health care reimbursement account under which employees can place up to \$2,500 to pay for health care expenses not covered by the Met Life plan.

- A pretax daycare reimbursement account in which employees can place up to \$5,000 annually.

- A personal financial planning benefit. Employees can call Arthur

Andersen & Co.'s St. Louis office for services such as: retirement planning, estate planning, investment and portfolio planning, income tax/cash flow analysis, dependent education/care analysis, life insurance planning and disability insurance planning.

Meanwhile, 6,500 non-union and salaried employees in Monsanto's corporate and agricultural divisions will be able to participate in an employee-paid long-term care insurance plan.

The long-term care program, also written by Metropolitan Life, is available to employees' spouses and parents and the parents of spouses, said Mr. Walters.

Monsanto will offer two levels of daily benefits to participants: \$100 for nursing home coverage and \$50 for home health care, or \$50 for nursing-home coverage and \$25 for home health care.

The lifetime maximum for long-term care benefits is \$182,500 for the \$100/\$50 benefit and \$91,250

for the \$50/\$25 benefit, Mr. Walters said.

Participants will pay group rates, which vary with age.

For example, a 40-year-old plan enrollee would pay \$190.80 per year for the higher level of daily benefits and a \$95.40 annual premium for the the lower benefit level.

A 25-year-old would pay \$58.80 for the \$100/\$50 level of benefits and \$29.40 for the \$50/\$25 level of benefits.

An employee who retires or leaves Monsanto can continue to participate in the program by paying the same group rate he or she paid while working for the company.

Metropolitan cites 15 physical conditions that would exclude an individual from coverage, including acquired immune deficiency syndrome, Alzheimer's disease, congestive heart failure and chronic lung disease, according to Mr. Walters.

Insider trading

American International Group Inc.: James T. Howe, vp, indirectly sold 1,000 shares of common stock at \$99.50 per share on Oct. 2 and now directly and indirectly holds 2,125 shares.

Maureen P. Tully, officer, exercised an option for 300 shares of common stock between \$30.69 and \$42.44 per share on Oct. 2 and now directly holds 300 shares.

AIG stock was trading at \$107.25 per share on Nov. 21.

Chubb Corp.: Percy Chubb, director, indirectly sold 7,000 shares of common stock at between \$83.63 and \$87.25 per share from Oct. 25 to Oct. 30 and now directly and indirectly holds 147,292 shares.

Chubb stock was trading at \$90.75 per share on Nov. 21.

Corroon & Black Corp.: Charles H. Blair, shareholder, sold 1,000 shares of common stock at between \$38 and \$38.75 per share on Oct. 19 and now directly and indirectly holds 2,872 shares.

Robert F. Corroon, officer and director, exercised an option for 15,040 shares of common stock at between \$15.16 and \$29 per share on Oct. 6 and now directly and indirectly holds 156,776 shares.

Corroon & Black stock was trading at \$39.625 per share on Nov. 21.

The Hartford Steam Boiler Inspection & Insurance Co.: John J. Kelley, officer, exercised an option for 4,700 shares of common stock between \$27.50 and \$32.56 per share on Oct. 12 and now directly holds 7,500 shares.

Hartford Steam Boiler stock was trading at \$51 per share on Nov. 21.

Marsh & McLennan Cos. Inc.: John M. Regan, director, exercised an option for 53,000 shares of common stock at \$33.19 per share on Oct. 10 and now directly and indirectly holds 172,638 shares.

Marsh & McLennan stock was trading at \$84.375 per share on Nov. 21.

U.S. Healthcare Inc.: Howard Arkans, officer and director, exercised an option for 4,167 shares of common stock at \$5.50 per share on Oct. 19 and now directly holds 4,267 shares.

U.S. Healthcare stock was trading at \$14.375 on Nov. 21.

Insider Trading, prepared by Invest/Net Group Inc. of Miami from reports filed with the Securities and Exchange Commission, tracks stock sales and purchases by insurance industry directors and officers.

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Opinions

Employer action pays off

EMPLOYERS, AND THEIR EMPLOYEES, can breathe a sigh of relief and satisfaction with the close of the first half of the 101st Congress.

For the most part, proposals that would have been damaging to employee benefit plans were defeated (see story, page 1). And, the dreaded Section 89—Congress' biggest mistake ever in employee benefit legislation—was repealed.

These successes in influencing legislation governing employee benefit plans prove the power of employer lobbying.

Interestingly, the small-business lobby was most influential in obtaining the repeal of Section 89, the overly complex law intended to promote equality of employee benefits between higher-paid and lower-paid employees. The strength of the small-business lobby in forcing repeal of Section 89 should stand as a lesson to large employers that it is important to build coalitions with small business on employee benefit issues.

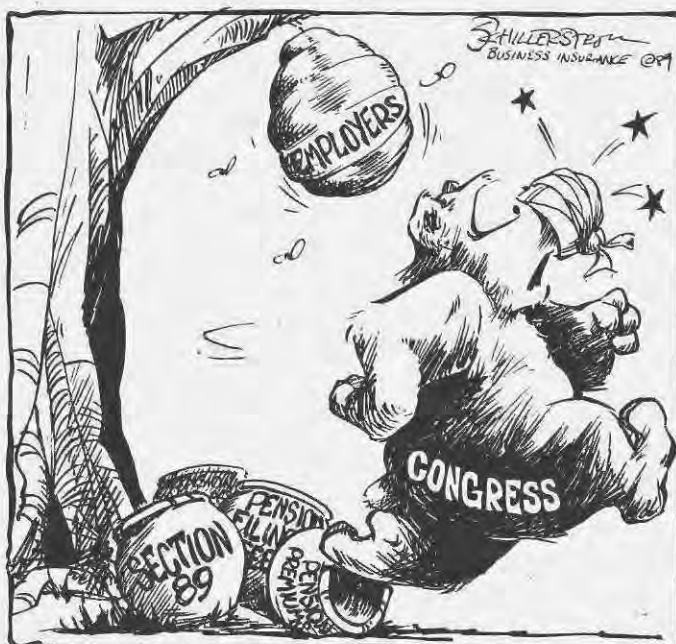
Meanwhile, strong lobbying by corporate benefit and financial executives persuaded Congress to drop the proposed filing fees for mandated government reporting on pension and welfare plans and the proposal to force employers to share control of pension plan assets with employees.

The filing fees would have cost employers hundreds of millions of dollars and, for some small employers, could have added as much as 10% to the cost of a defined contribution plan (BI, Aug. 7).

And, forcing employers to share control of both defined contribution and defined benefit pension plan assets with employees when employers are ultimately responsible for the full funding of defined benefit plans could have driven employers to fold their plans (BI, July 31).

In addition, the perennial proposal to restrict employers' rights to pension plan asset reversions and the surprise proposal to raise premiums charged by the Pension Benefit Guaranty Corp.—just to help reduce the budget deficit and not to improve the PBGC's finances—also suffered deserved defeat in the waning days of the first half of the congressional session, again under pressure from employers (BI, Oct. 16).

Employers lost on two issues: Congress has yet to adequately address the need for real tax incentives



"OOOOCH!! I THINK IT'S TIME TO GO HIBERNATE!"

for employers to prefund their retiree health care liabilities and Congress curbed tax breaks on loans to employee stock ownership plans. The former will certainly be proposed again, while the latter was to be expected given some of the abuse of the old tax breaks for funding ESOPs and the resulting drain on federal revenues.

We stress that employees as well as employers should cheer these victories in the legislative process. To the extent that Congress makes it more expensive and more difficult for employers to provide employee benefit plans, employees will suffer: Fewer new employee benefit plans will be established, and some employers will simply dismantle existing benefit plans when they reach the breaking point with bungled employee benefit legislation.

While employers and employees should enjoy the successes on employee benefit issues won in this first half of the 101st Congress, no one should expect this to be the end of federal legislation on employee benefits. The lobbying efforts of the past year will have to be emulated in future sessions when employee benefits legislation and taxation are sure to be at issue again.

Letters

Pooling risks makes sense in our society

To the editor: Regarding Howard J. Bolnick's perspective article, "Attack on Universal Health Coverage" (BI, Oct. 30), small business is not unprofitable per se and should carry the same load as large employers. Marginal operators using low-wage employees are placing a burden on all taxpayers by shortchanging their employee benefits. Society has to pick up the tab for the used-up bodies exploited by inefficient, short-term enterprises.

As seriously flawed as the Kennedy plan for regional insurers is, there are merits to increasing the size of the risk pool. Large health maintenance organizations use community-based rates very effectively—and profitably.

Community rating is not a bad tax policy, but an underwriting philosophy that

is inconclusive. Rather than differentiating by age, sex, race, dietary habits, genetic traits, occupation or whatever, community rating spreads the risk and thus allows more reliable calculations.

Mr. Bolnick has totally misunderstood the voter reasoning of Proposition 103. Californians did not attack subsidization, they attacked capricious and arbitrary underwriting. The proposition sought a rate based on driving record alone, regardless of territory. The voters wanted a community-based rate rather than the current ZIP code Balkanization.

Uninsurables are a small number of people, but they consume large amounts of public funds when ill. Small employers with a small number of sick employees are periodically shaken out of the health market by experience rating or canceled trusts. These bad risks are dumped on the public welfare system while the healthy risk avoids some of the burden inherent in any population.

As far as creating a special pool for the uninsurables, this will probably work as poorly as the automobile assigned risk pools.

Insurance is about pooled risks. Underwriting is about profit. Society will dictate to the underwriters if the economic

costs of current practice continue to rise. It's time to make money by expanding the risk pool instead of milking the healthy population until illness strikes.

Carl Heimann
Account Executive
SPWM Inc.
San Francisco

Captives' risk falls on fronting insurers

To the editor: Paul C. Blume's Nov. 6 letter to the editor, "Captives Should be Held to Strict Standards," misses the point. The "credit risk" in his supposed scenario would be that of the fronting insurer, not the workers and policyholders.

This "credit risk" to the fronting company—which must meet the minimums of capital and surplus—should lead it to adequately perform the necessary financials with due diligence. Captive reinsurance programs have been around for years. The results seem to track the financial savvy of the organizers and participants.

E. Richard Crebs
Commercial Insurance Alternatives Inc.
St. Helena, Calif.

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Tort reform

Continued from page 3

But at the same time, he said, "nothing has happened to slow down the interest of people" who want specific reforms in areas like medical malpractice and product liability.

One crucial difference between the tort reform movement now and during the 1960s, however, is that doctors and product manufacturers have been joined by other professionals—like accountants, architects and engineers—who have their own specific tort reform agendas as well, according to Mr. Connor.

Mr. Connor stressed that he is not proclaiming an end to the broad-based, generic tort reform movement.

But, he noted that "the issue is dropping down on people's priorities" in terms of being a broad-based issue.

Mr. Connor also noted during his presentation at the Johnson & Higgins seminar that reforming the tort system is "going to be a long, hard fight."

Whenever the tort reform movement has been successful, it has been challenged by the plaintiffs' bar, either through the courts or through attempts to repeal tort reform laws in the session following their approval, he said.

"They never give up" because tort reform is a "threat to their pocketbook," said Mr. Connor.

In particular, Mr. Connor described the Assn. of Trial Lawyers of America as being "relentless."

Mr. Connor encouraged concerned parties to take an active role in tort reform.

"This is not a spectator sport. I would urge all of you to bring your organizations into the fight," he said.

Today, a total of 42 states have tort reform coalitions working to streamline the civil justice system, he said.

Some are well-organized on their own, while others work out of state Chamber of Commerce offices, according to Mr. Connor.

Reviewing the tort reform movement's success, Mr. Connor noted that 32 states have imposed some type of limit on punitive damage awards, while a somewhat greater number of states have changed their joint and several liability laws.

He added that several states also have changed the collateral source rule, which prevents the introduction of evidence that a plaintiff has received recovery for alleged damages from another source.

"These are modest changes in the law but slowly, surely, we hope to get there," he said.

He said 4-year-old ATRA's public relations efforts have been successful, resulting in a supportive presentation of the product liability reform issue on the ABC News show "20/20."

But while there are encouraging signs of change, reforming the legal system will be difficult, stressed George L. Priest, a Yale law professor who also spoke during the session.

This is partly because one of the underlying precepts of U.S. law is that liability exposure encourages manufacturers, doctors and municipalities to provide safe products and services, he said.

Policymakers must be convinced that any change in the law will not increase the accident rate, Mr. Priest said.

Mr. Priest added that he believes, however, that the established standards of liability are "far above the level needed for optimal safety," although this is a "difficult argument" to make.

The session was moderated by Dennis Connolly, senior vp at J&H Law Advisory Division in New York.

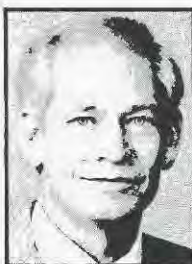
At issue

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Anton M. Kronenburg
risk manager
Ivy H. Smith
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Jerry B. Hill
vp-corporate insurance
Kinder Care
Learning Centers Inc.,
Montgomery,
Ala.

It's important to establish a close working relationship with all levels of personnel. The executive group wants to know the cost of the risk and the coverages they have, while other levels of management are interested in loss analysis. I communicate this information to them in quarterly reports. Typically those reports generate feedback and questions.



Jane A. Keegan
risk manager
Port of Oakland,
Oakland, Calif.

This department was established in 1986 and we've found we need a self-promoting educational campaign to help upper management understand the risk management function. Major claims or crises, like those from the Oct. 17 earthquake, for example, help risk management departments prove their importance.



Robert J. Ryan
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Compiled by Christine Woolsey

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Catastrophes aid industry image: Busti

By JUDY GREEDNWALD

NEW YORK—Although the insurance industry is "suffering badly" from a poor public image, its positive response to the recent series of catastrophes is beginning to change that image, says an insurance company executive.

A lot of the insurance industry's poor public image "was brought on by our own action," said Dennis Busti, president and chief executive officer of New York-based Reliance National Insurance Co., a unit of Reliance Group Holdings Inc.

For example, the extremely tight insurance market created in the mid-1980s by "irresponsible" price competition in the early 1980s led legislators to suspect collusion among insurers, he said.

To help improve the insurance in-

dustry's image, Mr. Busti suggested that the industry organize a national symposium that would include consumer advocates.

Mr. Busti addressed the insurance industry's image problems at a seminar sponsored by Johnson & Higgins earlier this month in New York.

In addition, Fredrick B. Molineux, corporate insurance director for New Brunswick, N.J.-based Johnson & Johnson Products Inc., called on all segments of the industry to work together to solve its problems.

In the past, "the industry did very little to change" its poor image, said Mr. Busti, adding that it did an "awful job" explaining its position on controversial issues like including defense costs within policy limits.

The insurance industry handled the debate over Proposition 103 in California in a similarly poor manner,

Mr. Busti said.

The industry should have pointed out the role that factors like deteriorating highways and the litigiousness of U.S. society have on automobile insurance rates, he said.

Once Proposition 103 was passed in California, "half the politicians in the country were drooling and jumping on the bandwagon," he said.

However, the insurance industry's response to catastrophes like Hurricane Hugo, the California earthquake and the explosion at a Phillips Petroleum Co. petrochemical plant in Pasadena, Texas, has begun to change its image, he said.

"I think the industry has really publicized the fact that we are here, we are viable—when catastrophes occur you can rely on insurance."

However, Mr. Busti warned that the three catastrophes will contribute

to an already deteriorating financial picture for many insurers. Even before the catastrophes, the industry was "not in the best of shape," he said, noting that, in many instances, reinsurance recoverables are "multiples of a companies' statutory surplus" (BI, Nov. 6).

The cost to insurers of residual markets is another serious problem, Mr. Busti said.

The three catastrophes, combined with the industry's deteriorating finances, are leading insurers to raise rates, said Mr. Busti, who warned insurers against price gouging.

People realize the rate hikes are needed, he said. The industry's surplus is probably overstated and insurers are probably underreserved.

Although rates are rising, the next hard market will not be as fierce as the 1985-86 market, he said. "The

conditions just aren't there," he said, explaining that a very soft market—like the ultra-competitive conditions of 1983 and 1984—is necessary before a market hardens as severely as the cycle that began in 1985 and 1986.

Mr. Busti predicted a move toward consolidation of insurance companies, a major movement toward greater efficiency and reduction of insurer expenses, and increased pressure to reduce costs in areas the insurance industry does not directly control, such as litigation.

"I look at the future very, very optimistically," he concluded. "The market is definitely changing."

With the challenge to reduce insurance costs, Johnson & Johnson's Mr. Molineux said it is time those connected with the industry stop talking in separate rooms, states and countries, with each saying: "It's not my fault, it's his."

Each party should become aware of his or her contribution to the industry's problems, he said.

A major component of the liability insurance crisis of the mid-1980s was the "total lack of prediction in the rules of the game," Mr. Molineux observed, referring to the tort system. Rules were constantly changing, when "an essential element of the insurance relationship is, in fact, prediction," he said.

As an example of this, he cited the cardboard sunshades people put in the windshields of their parked cars, which come with a rather obvious warning against keeping them on while driving. The infinitesimal cost of such a warning can be multiplied by millions of products on the market, said Mr. Molineux, advising the audience to think about other costs associated with dealing with the unpredictable tort system.

"Think of what these costs should do and what they could achieve" if they were instead applied to improve products and services, to increase production and to bolster research, he said. They would go a "long way" toward making American industry more competitive and the world economic leader, he added.

Legal costs associated with product liability cases, and how these resources could be more effectively used, also should be considered, he said.

Mr. Molineux also said that liability insurance underwriters should think of the long-term effects of pricing activity, pointing to the premiums that have left the traditional insurance market for alternative risk financing mechanisms. He noted that capacity among commercial insurers would be much larger if the premium volume and surplus generated by alternative facilities were combined with the traditional market.

Coverage disputes is another area of unpredictability, he said, complaining of frustrating disputes concerning multi-layered insurance programs in which 90% of the insurers agree the policy language means one thing, 10% say it means another and the policyholder "is in the middle."

Mr. Molineux also criticized claims handling procedures, noting that many cases that are settled for economic reasons should not be settled because of the possible impact it could have both on cases that already are filed and on potential cases.

He also urged regulator cooperation in permitting insurers to work together. What may be unpredictable for the individual insurer, he said, could be predictable collectively.

Regulators should also allow insurers to talk to one another to settle policy disputes, he said.

Risk managers, for their part, should manage their risks on a long-term basis, with the emphasis on stability, not just on premium reductions, Mr. Molineux advised.

"A strong, healthy insurance mechanism is essential to strong economic growth," said Mr. Molineux.

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Misconceptions hurt image: Reinsurer

By JUDY GREENWALD

NEW YORK—Tort reform and greater use of arbitration and mediation to reduce "unconscionable" legal costs could improve the insurance industry's poor public image, says N. David Thompson, president and chief executive officer of New York-based North American Reinsurance Corp.

Focusing on the misconceptions he said arose from the Proposition 103 campaign, Mr. Thompson outlined the industry's problems and some possible solutions at a luncheon sponsored by the New York Chapter of the Society of Chartered Property & Casualty Underwriters earlier this month.

After 27 years in the industry, "I do not recall a time at which we could say our industry has been

under siege or under attack as it is at this time," he said.

"Our customers, let's face it, are unhappy" because of high prices and coverage availability problems, but the fault does not lie with industry regulation or accounting, Mr. Thompson said. "Indeed, the system, by and large, functions pretty well," he said.

In fact, the insurance industry is like democracy, said Mr. Thompson, borrowing from Winston Churchill: "Democracy is the worst system of all the political systems in the world—except all the others."

"Yet the skepticism of the public is abundant," Mr. Thompson said.

Examples of this skepticism, he said, include passage of Proposition 103, which was a "classic of an attempt to legislate economic reality."

Mr. Thompson ran through a list

of charges he said were leveled against the industry in connection with Proposition 103, including:

- The industry will not open its books.

Not only do insurers release information required by the Securities and Exchange Commission and the accounting profession, but it also must release additional data through convention statements, he said.

"More about our industry is public information than any other industry in the United States," he said.

- The industry overreserves.

For 30 years, the industry has underreserved because of economic and social inflation, Mr. Thompson said.

- The industry operates on a 36% overhead.

This is actually the expense ratio, a major component of which is loss adjustment expense, he said. This re-

flects legal fees and transaction costs, neither of which insurers can control, said Mr. Thompson.

- The insurance industry is trying to stall implementation of Proposition 103 because "they" have "no respect for democracy."

Using the term "they" implies a monolithic industry, which is incorrect, said Mr. Thompson.

He added that courts are granting the industry constitutional protection against taking property without due process of law. Any rate rollback, he said, should permit a "just rate of return."

Meanwhile, "sons" of Proposition 103 are "taking hold" around the country, he said. "It's a gleam in the eye of certain people."

Almost all charges about the industry's extraordinary profits stem from invalid comparisons of written

premiums to paid losses, Mr. Thompson said. A rough analogy, he said, would be a customer depositing \$100 in a bank and withdrawing \$40. "Should I assume the \$60 is the bank's earnings?" he asked, rhetorically.

"I think we all know that Proposition 103 won't work. It's an attempt to sweep back the waves," he said. But what, he asked, will happen once the failure becomes apparent? His answer: Once advocates of a rate rollback are stymied, their response will be, "Let's let the state take over the writing of insurance."

"But history tells us" what will happen if insurance programs are used "as political coin in exchange for votes," said Mr. Thompson.

He cited Medicare and the federal black lung benefit program as cases where the ultimate cost "has become a multiple of the most pessimistic assumptions."

These programs were designed to meet social goals, but, in fact, "political upheaval has won out over economic reality."

Insurance is "simply not a well-understood industry," he said.

Ninety percent of the people questioned in Insurance Information Institute polls favor a 20% rate rollback, Mr. Thompson said, adding that was a natural response to the wrong question. People should have been asked whether, by law, any business should be compelled to sell its product at a price below its own cost, he said.

"That's an absurdity. But that is the message we have conspicuously failed to get across," he said.

For the past 20 years, the industry has generated a return on equity of about 10%, or 40% less than that generated by the Standard & Poor's 500 companies, he said.

"Fruitful lines" to pursue to solve the industry's problems include "true" no-fault in personal lines and tort reform in commercial lines. On the latter, Mr. Thompson said he is happy to report that on the federal level there is a growing sense there is something wrong with the economy that can be traced in part to the U.S. liability system.

Some U.S. industries have been forced out of the market by expensive liability insurance, said Mr. Thompson. Though traditionally the leader in the manufacture of aircraft, particularly small aircraft, U.S. companies have been hurt by liability insurance costs.

A similar situation exists for U.S. pharmaceutical companies and some chemical concerns, Mr. Thompson said. Products such as serums are now being manufactured abroad because U.S. pharmaceutical manufacturers' liability exposure is too great.

The insurance industry's "best hope" lies in Washington, where there is an increasing awareness of liability problems, he said.

Another fruitful area, said Mr. Thompson, lies in transaction costs, or legal fees. Mr. Thompson referred to a 1983 Rand Corp. study that found that of the \$1 billion spent in the previous decade by defendants in asbestos litigation, 60% went to defense costs, 24% to injured claimants and 16% to plaintiffs' attorneys (BI, Aug. 1, 1983). "That's unconscionable," he said.

But, Mr. Thompson added, a similar situation may exist today in environmental loss areas, particularly Superfund cleanups. Though he had no data, he estimated that more than half of every dollar goes toward assigning liability rather than to helping injured parties or cleanups.

The industry itself, however, can help resolve this situation by subscribing to arbitration and mediation methods, which would be "extraordinarily responsive to the amazing amounts of money wasted in disputes among ourselves over who's responsible for what."

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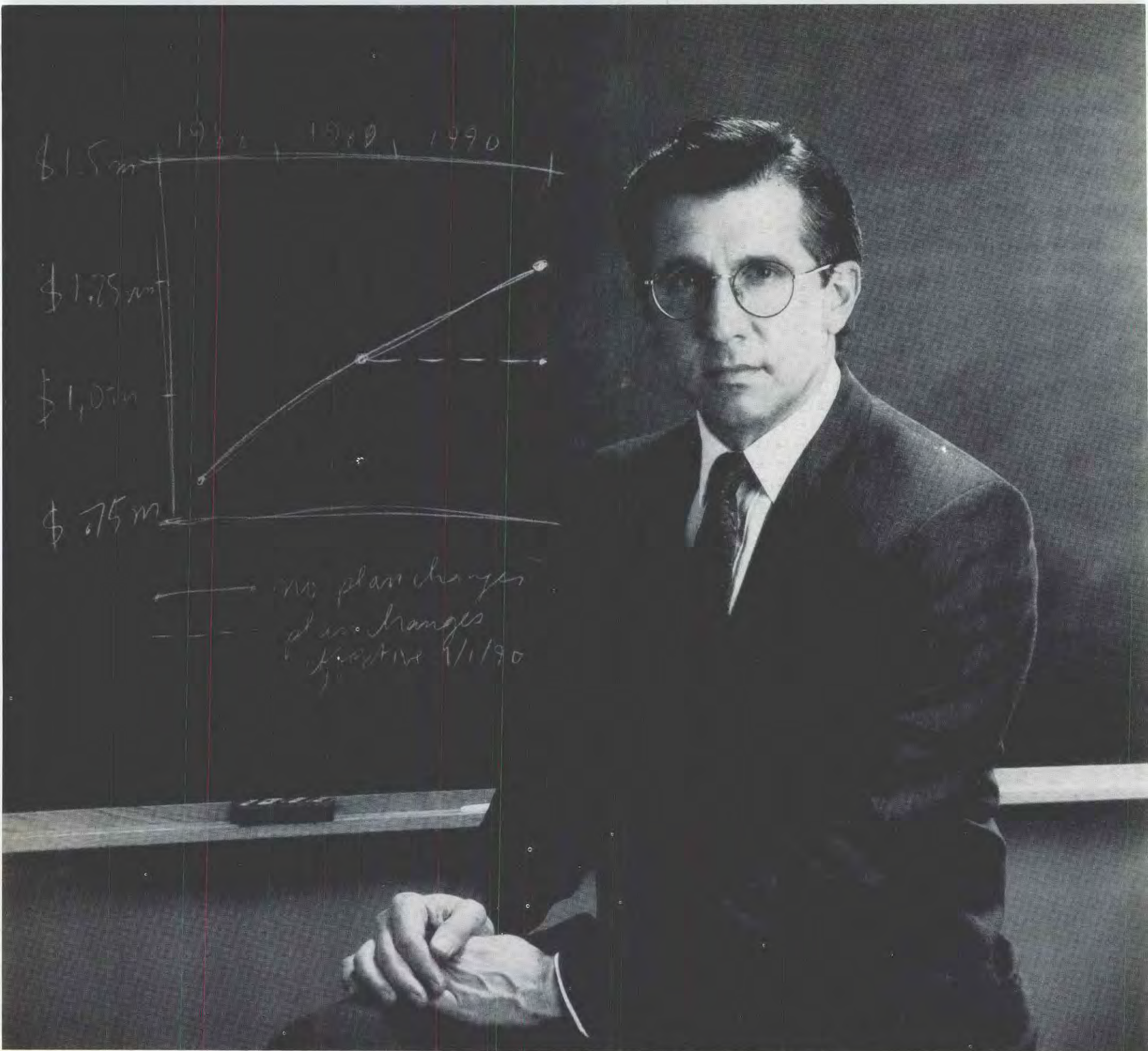
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Growing RMIS sophistication

Risk managers increasingly using systems as expertise grows

FROM TIME TO TIME, I like to divert from my normal pattern of focusing on one aspect of risk management information systems. Usually, this comes after a major speech or significant development in either the risk/employee benefit or systems environments.

This time, I would like to do both. From Oct. 1 through Nov. 3, I have discussed RMIS/ERIS with several different audiences (including one in San Francisco on Oct. 17) and have had the opportunity to both discuss and observe several trends in system improvements that will have a marked impact on the 1990s and beyond.

In a way, devoting almost an entire month to speaking to concerned risk management professionals about how systems can help them perform their jobs better was very enlightening for me. I have always preached RMIS and ERIS as almost a necessity to busy managers attempting to coordinate the vast amounts of information flowing through their offices. The message is certainly not only being received but also applied. For example, two of my speeches were to specific industry organizations: pipeline insurance managers and health care risk management and quality assurance personnel. In both of those speeches, the majority of the listeners had operational systems and were convinced of their necessity and usefulness.

In fact, in three of the speeches (Montreal, to the pipeline insurance managers; San Diego, to the Self-Insurance Institute of America Conference; and Orlando, Fla., to the American Society for Healthcare Risk Management National Conference), my comments, though varied to fit the particular group, were quiet comparable. I will discuss them momentarily.

The interesting result, however, was that the majority of listeners not only had systems and were using them but also asked questions that emphasized their increased sophistication in the knowledge and application of RMIS. This is despite the fact that they were not computer experts. Yet, they understood the value of a well-designed management information system in helping them to achieve both strategic (for the corporation) and tactical (for their department) objectives. Furthermore, I suspect that this demonstrated expertise and knowledge of RMIS/ERIS applications results from unfortunate current or previous systems experience. When asked, most commented that they had invested or had inherited some form of system that was woefully inadequate to meet not only what they wanted in the future but also their current needs. Therefore, they were attending to see how to assess the capabilities of their current system and see how, at minimal cost, to redesign or actually start over with a more responsive RMIS.

Finally, I believe that the degree of

increased sophistication by risk management professionals is obviously the result of greater application and use of the RMIS in their day-to-day activities. The system is being used for more than just claims monitoring and actual administration. Now, risk managers are seeking to use the benefits achieved by an RMIS through improved management reporting, safety and loss prevention integration, quality assurance in the health care area and integration with other company (or organization) departmental systems.

These actual observations from the question-and-answer periods following each speech, as well as interaction with the attendees after the speech, confirmed my suspicion that I had predicted in previous *Business Insurance* columns and our

it is bad enough if an initial mistake is made in selecting the wrong system or vendor. It would be catastrophic if, after having made an initial mistake, it were repeated by a faulty "retrofit" project!

Without doubt, the most interesting speech was the one I made at the Risk Sciences Group Users Conference at the Claremont Resort Hotel in Oakland, Calif., on Oct. 17. I would be stretching the truth if I did not say that the most exciting part of that day took place while I was in San Francisco at 5:04 p.m. (PST) and during the subsequent, interesting ride around San Francisco Bay back to Oakland/Berkeley while everyone was trying to escape San Francisco, including those at the Athletics-Giants game.

I was impressed that, during the

The users of RMIS and EBIS today are recognizing these tools' value in accurately and succinctly presenting summarized management information. Since senior management is recognizing the value of containing costs in the health and workers compensation areas, this information is increasingly valuable, as well as necessary.

Further, risk managers should recognize that their RMIS and EBIS should accurately reflect the strategic goals of the corporation. According to Michael O'Keefe and Robert Reisbaum of ASAP Consulting Corp., a risk management or employee benefit system must, of necessity, specifically follow the strategic objectives and mission statement of the organization. Departmental myopia must be avoided at all costs.

This dovetails with my recommendation to involve senior management immediately when redesigning or designing from scratch a new system, gaining their active support and participation in the project.

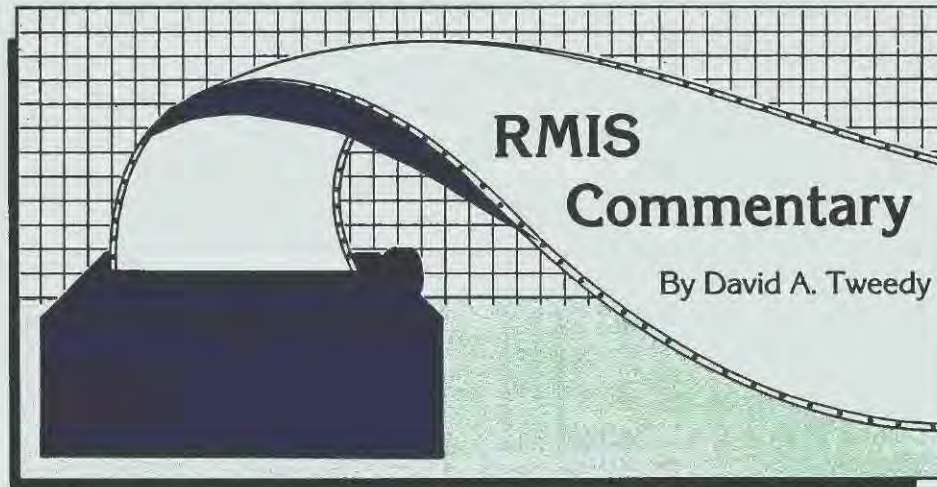
- Increased technological opportunities. The dramatic advances in both hardware and software have great implications for the RMIS/EBIS user of the 1990s.

Greater interactive ability among hardware platforms (micro, mini, mainframe) through systems applications architecture, increasingly powerful microcomputers, greater use of local area and regional area networks, imaging, increased uses of SQL (structured query languages), and artificial intelligence-neural networking offer fantastic opportunities to assist the risk manager in providing decision support.

The bottom line here is that an RMIS and/or EBIS will be able to interface with other systems and data bases, extracting what is necessary without hours of reprogramming or building sophisticated "bridges" (software programs that extract information from different data bases and applications software). Depending upon whom you talk to, that technology is here already or only a few years away.

Regardless, the opportunities are tremendous for the risk

Continued on next page



annual RMIS update.

Essentially, the comments I made to the three groups, with some deviation to meet the particular group, were similar. The main reason is that an RMIS or ERIS solution to any kind of organization has some essential similarities that are not alien to the professional risk manager.

Namely, the risk management professional must perform the following steps:

- Conduct a thorough needs identification/assessment.
- Carefully develop the system and user specifications to reflect those needs.
- Carefully identify appropriate vendors and systems to meet a majority of those identified needs.
- Manage the selected system/vendor implementation process.
- Continue to monitor the system and vendor after the contract is signed.

This process would hold true regardless of the size of system being considered, whether or not it was a "design from scratch" project or a retrofit of an existing system. The methodology is the same, and the risk manager must exercise this discipline carefully and prudently whenever changes are made. After all, as I have said many times in the past, a mistake made by inappropriately carrying through one of these stages or by omitting it altogether can have disastrous consequences. For example,

earthquake, the Risk Sciences Group hook-ups with their mainframe in Atlanta were not interrupted at all, which one of my clients attested to.

Seriously, the most interesting part earlier that day on Oct. 17 was the opportunity to speak on the future of RMIS in the 1990s and beyond. Many of those thoughts I have shared with readers in previous columns. However, interacting with RMIS vendors such as RSG provided me with some additional thoughts on how the future of RMIS/ERIS will develop. The bottom line is that it is all good news to RMIS users.

I would like to highlight the observations that I presented to the users conference that day:

- RMIS is a mature industry. There are few major new players in the RMIS arena. Those that do enter would be micro-based (with little cash investment, as would be in the time-share arena) or from other solid markets such as employee benefit system vendors. We spoke of this in the last two issues on ERIS—the merger of employee benefit and risk management information systems.
- Increasingly sophisticated users. We have already talked about that as well. This sophistication has resulted from years of using a system that may or may not be what is currently needed at the time. In fact, many of those in the market for a system today have grown beyond their current system's capability.
- Greater management emphasis.

David A. Tweedy is a senior consultant for D.A. Betterley Risk Consultants Inc. in Worcester, Mass. He is the editor of *Betterley Risk Management Commentary* and the author of *RMIS Update*, a yearly publication analyzing major risk



management information systems and vendors. Mr. Tweedy's column on risk management information systems appears the third Monday of the month.

RMIS Commentary

Continued from previous page
management professional who, ultimately, is a data/information manager. In fact, I consider that the risk manager is one of the most important data managers in any organization. What other department has as many connections and interdependencies with the rest of the corporation (i.e., finance, legal, personnel, senior management, subsidiaries, external vendors, etc.)?

- Increased specialization. The RMIS/EBIS will become even more specialized and decision-support-oriented as the rest of these trends simultaneously occur.

For instance, in the health care

industry, there is a great push now toward the merger of the quality assurance and risk management disciplines due to the JCAHO (Joint Commission on Accreditation of Healthcare Organizations). Essentially the JCAHO has released standards for accreditation that greatly encourage shared data between risk management and quality assurance and have therefore set specific standards for health care-related risk management information systems. The emphasis will be on collecting and evaluating information flows on patient care and claims and safety management. The ultimate objective is reduction of cost of risk (i.e., claims and incidents), which has a specific impact on the health care organization.

Other business sectors are similarly affected. The public sector, especially with the impact of the Governmental Accounting Standards Board regulations on reserve setting and other issues, will continue to encourage public sector risk management professionals to utilize systems in monitoring/tracking and administering self-insured programs involving high frequency of claims.

I could cite other examples but that should be sufficient.

- Increased emphasis on service and security. Another trend that should continue to the benefit of the risk management professional is the insistence on quality service provided by the system vendor. That not only means establishing user groups, hot

line services, user conferences and other areas of active support, but also building security for the user in the event the vendor suddenly exits the business. We spent a great deal of time in these speeches talking about how the risk management professional can effectively design a "disaster recovery program" if the system vendor no longer provide that service.

It was a very interesting month! I am greatly encouraged by seeing risk management professionals not only talking about but actually using systems to their benefit. I am further encouraged by both technological advances and service commitments that vendors are making to service the needs of their clients in the coming decade.

Legislator covered by life policy: Court

A state legislator was a "full-time employee" within the meaning of a group life insurance policy, according to a Louisiana appellate court decision.

Louis Jetson was elected to the state House of Representatives in November 1983. In December 1983 he learned that he was suffering from leukemia. He took office as a legislator on March 12, 1984, and completed a state employees group benefits enrollment document. He died on May 25, 1984. The group policy covered active, full-time employees not working less than 30 hours per week.

Rep. Jetson's widow sought to recover life insurance benefits under the group policy issued by CNA Insurance Cos. CNA denied the claim. The trial court found for Ms. Jetson, awarding her \$80,000.

On appeal, CNA argued that Rep. Jetson was not a "full-time employee" for insurance coverage or that insurance coverage was deferred until he returned to full-time employment after his illness. The appellate court said that the policy provisions establishing hourly work requirements were written prior to the inclusion of coverage for legislators and were ambiguous as to whether they applied to a legislator. According to the court, a legislator was a full-time employee by virtue of his election for a four-year term.

"A legislator is a 'full-time' legislator once elected and sworn in and, as such, is included in the group insurance policy as a covered employee," the court said. *Jetson vs. CNA Insurance Cos.*, Court of Appeal of Louisiana, Nov. 22, 1988 (BI/04/Aug.-\$10).

No comp benefit for gradual injury: Court

Cervical arthritis allegedly brought on by repeated stooping, lifting and twisting that a supermarket checker had done did not occur at a sufficiently definite point in time to qualify as a compensable "injury" under the Workers Compensation Act, according to the Supreme Court of Montana.

Joy Wear had worked as a checker for a grocery store since 1970. In 1978 she sought compensation for various maladies allegedly resulting from years of repetitive motion, constant stooping, lifting, standing and twisting. Among other things, she complained of weakness and pain in her left arm; cervical arthritis; pain in her lower trunk, pelvis and upper leg; a fallen arch; right knee bursitis; and low back pain. The employer denied her claim. The compensation court also denied benefits.

The appellate court said that the fact that Ms. Wear's ailments were so very gradual in onset excluded them from the definition of "injury." Justice Hunt, however, dissented, believing that the majority denied her claim by relying on a definition of "injury" that was much too narrow.

"The purpose of workers compensation is to provide benefits for employees who have been injured on the job," Justice Hunt observed. He concluded that the technical definition of injury in

Legal briefs

the decision here denied Ms. Wear the benefits she so justly deserved. *Wear vs. Buttrey Foods Inc.*, Supreme Court of Montana, Nov. 3, 1988 (BI/02/Aug.-\$10).

Sudden cardiac arrest compensable

The Supreme Court of Tennessee has upheld an award of workers compensation to a deceased employee who had suffered sudden cardiac arrest while working outdoors in unusually cold weather.

Arvil Hodge, age 46, was employed as a truck driver. He was in good physical health and apparently had no heart condition. On Jan. 27, 1986, it was very cold in Chattanooga, Tenn. Mr. Hodge went to work at 7 a.m. and worked without difficulty until he took a morning break at 9 a.m. He then returned to work and was found about 15 minutes later lying flat on his back on the ground. Mr. Hodge had suffered a cardiac arrest.

Cardiopulmonary resuscitation was administered and his heart resumed a normal sinus rhythm. Unfortunately, Mr. Hodge suffered severe brain damage from which he did not recover. He later died, and his wife filed for compensation. The claim was dismissed.

The state Supreme Court said that there was no question that Mr. Hodge was engaged about his employer's business when the incident occurred. The court observed that the workers compensation law must be rationally but liberally construed to promote and adhere to the law's purpose of securing benefits to those workers who fall within its coverage. The court said that there was evidence here of unusual weather conditions on the day of the incident.

"When an employee's work exposes him to an elemental force and requires him to continue work under the risk of hazard which the elemental force creates, the employee is to be compensated for injuries which result therefrom," the court said. The court was satisfied that Mr. Hodge had sustained injuries in the course of employment and was entitled to benefits. *Hodge vs. Diamond Container General Inc.*, Supreme Court of Tennessee, Oct. 24, 1988 (BI/05/Aug.-\$10).

Suit not pre-empted by ERISA: Court

The Employee Retirement Income Security Act does not regulate the purchase of health insurance where there is no indication that the employer intended to guarantee the continued furnishing of benefits, according to the Supreme Court of Nevada.

In November 1974, Harriet Turnbow, doing business as The Bottle Shop, subscribed to the Beneficial Employees Security Trust. Ms. Turnbow was the sole owner of The Bottle Shop. BEST was a multiemployer trust underwritten by Pacific Mutual Insurance Co.

As a subscriber to BEST, Ms. Turnbow obtained major medical insurance benefits up to \$1 million and paid the premiums through the business. The policy covered Ms. Turnbow and three employees. In August 1981, Ms. Turnbow suffered a stroke and received benefits under the policy. However, by May of 1983 the monthly premium had risen to \$1,256. Ms. Turnbow no longer could afford the premium payments and lost her benefits under the policy.

She sued Pacific Mutual seeking insurance proceeds and damages. The trial court dismissed her suit, finding that she had created an ERISA plan and that federal law pre-empted her from bringing suit in state court.

The appellate court reversed, concluding that Ms. Turnbow had not created an ERISA plan. According to the court, unless there is some indication that an employer is committed to or has guaranteed the continuation of such benefits, nothing is created for ERISA to protect and no plan exists. Even assuming such a plan was created, the court said that Ms. Turnbow was not an employee and was entitled to seek relief in state court. *Turnbow vs. Pacific Mutual Life Insurance Co.*, Supreme Court of Nevada, Dec. 21, 1988 (BI/03/Aug.-\$10).

CGL policy doesn't cover non-performance

A contractor's failure to perform its contractual obligation was excluded from coverage under a comprehensive general liability insurance policy, a Louisiana appellate court ruled.

Eulalia V. Castigliola entered into a rehabilitation contract with the local community development department and Construction & Renovation Enterprises Inc. for repairs to her home. C&R allegedly failed to complete all of the work contracted for, used defective materials for some of the work or performed the work improperly and contrary to specifications. C&R was covered under a CGL policy issued by the Insurance Co. of North America that excluded coverage for lack of performance.

Ms. Castigliola sued C&R, the community development department and INA for failure to properly perform. The trial court dismissed INA from the suit.

The appellate court affirmed INA's dismissal, pointing out that an insurer is liable only for acts or omissions covered by its policy. The court stated that a CGL policy is not intended to be a substitute for a performance bond. The court pointed out that the policy here did exclude coverage for failure to perform. *Castigliola vs. Department of Community Development*, Court of Appeal of Louisiana, Feb. 15, 1989 (BI/01/Oct.-\$10).

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

Waste directive

Continued from page 3

oil or nuclear waste, both of which are covered by other conventions.

Under Article 3 of the proposed directive, "the producer of waste shall be liable under civil law for the damage and injury to the environment caused by the waste, irrespective of fault on his part."

If passed, the directive will put the onus and liability on the manufacturer of the waste, rather than the disposer of the waste, which will dramatically change waste disposal procedures for many European manufacturers, said a West German underwriter.

However, the proposal still must be discussed by the EC Commission, he said, adding that even if it is passed by the commission, it will take several years before it becomes national legislation in each EC member nation.

The directive defines environmental damage to include bodily injury, property damage and environmental pollution.

However, it would not apply retroactively to pollution incidents.

If the producer of the waste cannot be identified or prosecuted, the "person who imports the waste into the community (or) the person who had actual control of the waste when the incident giving rise to the damage or injury to the environment occurred (or) the person responsible for the installation, establishment or undertaking where the waste was lawfully transferred to" shall be held strictly liable.

The directive generally does not establish limits on the amount of compensation payable to a claimant. However, it would limit a producer's liability when the costs to restore the environment to its pre-polluted condition "substantially exceed the benefit arising."

The directive also does not provide "for the setting up of a system of insurance to cover damage caused by waste."

The commission "believes it would be wise to proceed cautiously on this subject. For one thing, the insurance companies are currently against even limited mandatory insurance cover, as the market for environmental insurance is currently expanding rapidly," say the explanatory notes accompanying the directive.

"A minimum ceiling (which, politically could not be less than 70 million European Currency Units or \$77.8 million) might distort the market. Secondly, the parties liable may prefer other means of equal effectiveness—e.g., deposit, bill of exchange, etc.—as accepted by United States legislation in this field," the directive notes say.

Therefore "in these circumstances, it appears preferable not to legislate on this aspect for the time being," it concludes.

However, most environmental impairment liability coverage in Europe now excludes waste disposal, said a West German underwriter.

Under the directive, plaintiffs may take legal action up to three years after becoming aware of damage or injury and the identity of the producer and up to 30 years after the incident giving rise to the pollution occurred.

Legal action on environmental damage may be taken by public authorities or, when the member state's law allows, by "common-interest groups," including established groups whose goal "is to protect the environment or public health."

A "victim or his heirs" have the right to sue to seek compensation for property damage or bodily injury, according to the directive.

If the directive is passed as proposed, plaintiffs may sue to obtain:

- Indemnification for damage.
- A court order mandating that the polluter cease "the act causing the damage or injury."

- Reimbursement of expenditure arising from measures to prevent property damage, bodily injury or environmental pollution.

- The "restoration of the environment to its state immediately prior to the occurrence of injury to the environment or the reimbursement of expenditure incurred."

The producer "shall not be relieved of liability by the sole fact that he holds a permit issued by the public authorities," according to the proposed directive.

In addition, when "two or more producers are liable for the same damage or the same injury to the environment, they shall be liable jointly and severally," the di-

rective says.

But, "there is a need for a community policy to deal with cases where the party responsible cannot be identified or proves incapable of compensating the victim or repairing the injury to the environment," notes accompanying the directive explain.

More time is needed to investigate this area, and "it is proposed that the examination of the issue should be continued and the commission be instructed to draft rules," the notes say.

The commission also is considering a proposal to establish a European Environment Agency and a European Environment Monitoring and Information Network.

Currently, "there is no monitoring of environmental quality and trends on a European scale ... (and) there are at the present time important gaps in existing national environmental monitoring networks," according to the explanatory notes to the proposal.

Setting up the system "should act as a stimulus to efforts being undertaken to fill such gaps, ensuring a greater environmental monitoring at the national level and a greater validity for the European system as a whole," the notes say.

Among other things, the proposed agency and network would:

- Provide the EC and members states with information for the

"formulation and implementation of sound and effective environmental policies."

- Provide information requested by the EC "in its tasks of identification, preparation and assessment of the implementation and results of environmental action and legislation."

Proposed regulations do not spell out agency powers in detail, but do say "the agency shall have legal personality. It shall enjoy in all the (EC) member states the most extensive legal capacity accorded to legal persons under their laws; it may, in particular, acquire or dispose of movable or immovable property and may be a party to legal proceedings."



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AD CLOSING: DECEMBER 5

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BI editors will recap the events of the past 12 months — how these events have shaped the commercial insurance industry at home and abroad. The Year In Review serves as a barometer tracking news and trends: legislation and regulation; tort reform; section 89; prop 103; pollution liability; and the dramatic impact of the Valdez oil spill, hurricane Hugo and the San Francisco earthquake. This recap issue will provide readers with details of events and trends that will help shape the future.

AD CLOSING: DECEMBER 12

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BI editors will look at where property/casualty insurance rates are heading during year-end renewals. Will the spate of disasters that occurred in 1989 mean higher insurance prices as we enter the '90's? Editors will talk to insurers, brokers, reinsurers, surplus lines market executives, London market officials and risk managers for their views. To take the pulse of the property/casualty insurance marketplace readers turn to BI.

AD CLOSING: DECEMBER 18

Product safety

Continued from page 3

Under the proposed directive, EC "member states shall take all necessary measures in order to ensure that only safe products are placed on the market, irrespective of the commercial conditions of such placing on the market."

Moreover, "these measures shall extend to such activities as may affect the safety of a product, in particular its treatment, processing, packaging, storage, transport, installation, and, where necessary, its disposal," the proposal states.

The proposed safety directive "has implications for all manufacturing and processing industries, some businesses providing services to these industries and to retailers, and to wholesalers and retailers themselves," the EC proposal states.

If the directive is passed as pro-

posed, the 12 EC member nations would be required to ensure "that the supplier of a product makes appropriate arrangements for permanent monitoring... of the safety of the products supplied by him."

A supplier is defined as the manufacturer of a product, the importer into the community from a non-EC country, and distributors and other professionals in the supply chain insofar as their activities may affect the safety properties of a marketed product.

Suppliers would have to ensure, for example:

- That a product or batch of products are appropriately marked to allow identification at a later stage.

- Regular or random safety tests of a product.

- Appropriate arrangements with other suppliers, professional customers—such as businesses that buy components for use in their products—and industry organizations to receive and exchange ideas and information regarding product safety.

- Systematic assessment and evaluation of complaints about a product or reasons for returns.

- That a person is charged with the responsibility of organizing and supervising safety monitoring.

- Adequate record keeping of all such arrangements.

The proposed directive also would require all EC member nations to, among other things:

- Set up authorities to control "the compliance of products with the obligation to place only safe products on the market."

- Enable the authorities to order the withdrawal of any product considered unsafe.

- Ensure that the authorities "give due consideration to reasoned complaints about the safety properties of a product, in particular from consumer organizations, business associations and workers."

- Immediately inform the European Commission of any measures taken to "restrict the placing of a product onto or require its withdrawal from the market."

The proposed directive recommends that if the designated safety authority of any member EC state "has reasonable grounds for suspecting that a product presents an unacceptable risk of an immediate and grave nature, it shall serve a notice prohibiting those on whom it is served... from supplying, offering to supply, agreeing to supply or exposing the product concerned" for a maximum of three months.

The notice "may impose requirements as regards labeling or other notifications accompanying the product, as a condition for the resumption of the supplying of the product on the market," the proposal says.

Anyone with an interest in a product on which a withdrawal notice has been served "may apply to the appropriate authorities for an order setting aside the notice," the proposal says.

But if the safety authority subsequently finds that the product presents an "unacceptable risk," the authority "shall take all appropriate measures to withdraw those products from the market or to prohibit or restrict their being placed on the market."

And, if the risk is more than a local risk, the member state would have to inform the European Commission of the measures it is taking.

The commission, assisted by a Committee on Product Safety Emergencies, will then decide what action to take on a communitywide basis.

Any action decided by the commission must be implemented by member states within 10 days and will be valid for up to six months at a time, according to the proposed directive. ■

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Lloyd's claims

Continued from page 2

claims settlement system is abbreviated to just the lead underwriter and a market claims office, "there will be an unreasonable delay of claims being paid at Lloyd's," Sir Peter said.

By introducing this new claims system, "Lloyd's" reputation and standing in the global insurance market will be enhanced by the improved standards and streamlined procedures which these reforms will bring about," said the Committee of Lloyd's document.

Once the new claims procedures are implemented and information about claims can be provided to the following market via the London Insurance Market Network—a computerized link among virtually the entire London market—fewer brokers will have to line up beside the claims desk in Lloyd's underwriting boxes, Sir Peter said.

Those brokers then will have "handfuls of slips to carry, not claims files," Mr. Lawrence pointed out.

Currently, each of the three main market segments at Lloyd's—marine, non-marine and aviation—has its own claims office and its own claims procedures that are dictated by market committees rather than by Lloyd's.

Under the new system, all three markets will follow the same new claims procedures, but each market will retain its separate claims office, all of which will be based in Lloyd's 1958 building.

However, the Committee of Lloyd's plans to commission a study to determine whether a single claims office would be more efficient, according to the document.

Lloyd's decided last year to centralize its claims-handling operations before making it mandatory for Lloyd's underwriters to join LIMNET (BI, Oct. 17, 1988).

LIMNET will allow Lloyd's to link all of its claims data so that brokers and underwriters will be able to receive claims information via computer. Lloyd's expects to have its claims data on the LIMNET system by January 1991, which will eliminate the massive amount of computer punch cards that currently are used to record transactions in the Lloyd's market (BI, Aug. 28).

As part of its move to centralize claims handling, the Committee of Lloyd's—which consists of the working members of the Council of Lloyd's—set up a Unified Claims Steering Committee chaired by Sir Peter to review proposals for streamlining claims procedures throughout the market.

The Committee of Lloyd's published the Steering Committee's initial proposals in May.

Market members were asked to comment on the proposals and more than 121 responses were received, according to the Lloyd's Committee. These suggestions and concerns were considered by the committee before it released a revised version of the reforms last week in a report dubbed "The Gold Bullet."

For example, at least 31 people who responded to the initial proposals objected totally to the concept of following underwriters being bound by the leading underwriter and claims office to pay claims, says the Committee of Lloyd's.

Nevertheless, "the committee remains convinced that a scheme based on 'leader and claims office to bind' must apply in the future, and the final scheme will thus apply to the 1991 year of account onwards," says the Committee of Lloyd's.

But, the Steering Committee's latest document points out that responses to the earlier version generally showed "a strong feeling in favor of the intent of the reforms, (although) anxieties were ex-

pressed on various individual points."

For example, Stephen Burnhope, Lloyd's non-marine underwriter for a syndicate managed by Merrett Underwriting Agency Management Ltd., told *Business Insurance* that a letter he sent to the Steering Committee outlined his concern that the original draft would not allow underwriters to opt out of the "leading underwriter/claims office" system.

While Mr. Burnhope agreed that the leading underwriter and claims office should negotiate most claims for the following market, he contends that "there ought to be some scope for negotiation of opting out" of this arrangement with the broker at the time a policy is placed.

Other respondents were concerned about the initial report's proposed treatment of ex-gratia claims, which are payments made to policyholders to settle claims

Continued on next page

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Washington

Continued from previous page
 esses in world markets, said the National Assn. of Manufacturers, U.S. Chamber of Commerce, National Federation of Independent Business and the National Assn. of Wholesaler-Distributors in a joint letter to every member of Congress. Health care costs have been increasing 10% to 20% annually, the letter said.

The costs are making U.S. companies less competitive, said NAM President-elect Jerry J. Jasinowski, who said that improving the American health care system is a priority for business.

"The major business groups agree on the need to improve qual-

ity, reduce health care costs, expand access on a phased basis, make data on health care providers publicly available, and evaluate the safety and effectiveness of new medical technologies," the letter said.

The groups also stress the need for Congress to listen to employers, saying that "such cooperation is essential if we wish to retain the vitality of our current health care system and yet be economically competitive in the future."

\$2 million fine

The Labor Department has proposed more than \$2 million in fines

against Interstate Lead Co. Inc. of Leeds, Ala., for 154 alleged violations of lead exposure standards for workers.

The Occupational Safety and Health Administration said that this case is particularly blatant because Interstate Lead has been cited repeatedly for similar violations and has not corrected the situation.

Since 1979, OSHA has cited Interstate six times for alleged willful or serious violation of the lead standard.

Company medical records show that although most of the 137 employees have worked at the lead smelting plant less than five years, almost one-third are showing elevated levels of lead in their blood. And of employees that have worked more than five years, more

than half show elevated lead levels, OSHA said.

The alleged willful violations include:

- Exposing employees to airborne lead concentrations above the permissible OSHA limit of 0.05 millimeters per cubic meter of air.
- Failure to implement engineering and work practice controls to reduce this exposure.

- Failure to require employees to either wash lead dust from hands and face, or remove dust from clothing before leaving the work area.

The company faces about \$717,000 of the \$2 million in fines for failing to remedy previous violations, including:

- Failure to perform required quarterly air monitoring sampling, \$84,000 in fines.

- Failure to update a written compliance plan, \$84,000 in fines.

- Failure to provide pre-employment medical examinations to employees, \$342,000 in fines.

- Failure to provide annual medical exams to employees, \$207,000 in fines.

Independent Lead is contesting these citations before the independent Occupational Safety and Health Review Commission.

APPWP moves

The Assn. of Private Pension & Welfare Plans, a benefits lobbying organization representing employers, has moved its Washington, D.C., offices. The APPWP now is located at 1212 New York Ave., N.W., Suite 1250, Washington, D.C. 20005; 202-289-6700.

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negotiated the claim on behalf of the leading underwriters with Minet.

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BUSINESS Insurance

Willis Faber brokerage unit restructures

By CAROLYN ALDRED
and STACY SHAPIRO

LONDON—Willis Faber & Dumas Ltd., the principal Lloyd's of London brokerage subsidiary of London-based broker Willis Faber P.L.C., is restructuring.

Willis Faber & Dumas Ltd., formerly a collection of various-sized operating companies, is being reorganized into five main business areas, according to a company spokesman. For the first time, divisions will report to a managing director as well as to Chairman Robert Keville.

The new structure is designed to increase efficiency and responsiveness of the wholesale and reinsurance brokerage, said the spokesman.

Max Taylor, currently managing director of WF&D's reinsurance division, has been appointed the company's first managing director.

Chief operating officers of the five business groups also have been appointed. They are:

- Martyn Hedley, who will head aviation brokerage.

- Donald Payne, who will head marine and energy brokerage.

- Colin Methven, who will head non-marine brokerage.

- Ray Salter, who will head U.K. and North American reinsurance brokerage.

- Mr. Taylor, who also will head international reinsurance brokerage until a replacement is found.

Broker to liquidate

Directors of Rowbotham Baxter Ltd., a Lloyd's of London marine and reinsurance broker, are proposing that the company be put into voluntary liquidation.

The broker ceased operations this month and will hold a creditors meeting Dec. 6, a Lloyd's spokesman said.

A notice posted in the Lloyd's Underwriting Room Nov. 14 announced Rowbotham Baxter Ltd. ceased trading at 5 p.m. Monday, Nov. 13, and that "the directors have resolved to recommend that a meeting of creditors be held with a view to putting the company into liquidation."

Rowbotham Baxter directors referred all phone calls to Lloyd's and would not discuss the brokerage's closing.

The brokerage's 1988 revenues fell almost 39% to 1.1 million pounds (\$2 million at applicable rate) from 1.8 million pounds (\$3.4 million at applicable rate) in 1987, with pretax profits tumbling nearly 73% to 72,614 pounds (\$131,431) in 1988 from 268,213 pounds (\$504,240) in 1987.

The company, formerly called C. Rowbotham & Sons (Insurance Brokers) Ltd., was acquired in March 1988 by New Zealand businessman Robin Baxter from RMC Group P.L.C.

During 1989, Mr. Baxter "made available to the group without obligation and in the form of a loan capital, cash in excess of 750,000 pounds," according to Rowbotham Baxter's report and accounts filed with the British Department of Trade and Industry.

Also, "shortly after purchasing the group, a significant amount of unprofitable business was allowed to lapse or otherwise be disposed of. Simultaneously, we have recruited a number of established and respected people from the London Insurance Market," Mr. Baxter wrote in the company report earlier this year, adding that "unfortunately, of course, the 1988 results reflect the costs of these changes, and the benefits will not crystallize until the 1989 and future financial statements are pre-

London

pared."

Ferry insured

An \$18.5 million Panamanian-registered cargo ferry that rammed into the starboard side of passenger ferry Hamburg earlier this month is insured by Swedish underwriters for hull damage and third-party property damage other than bodily injury.

In addition, the cargo ferry—Nordic Stream, operated by Johnson Line and Finncarriers—is insured for third-party bodily injury liabilities through a protection and indemnity club.

Three Harwich, England-bound passengers died and five others were seriously injured when the Nordic Stream collided with the passenger ferry in the Hamburg, West Germany, harbor Nov. 8. The Nordic Stream left a hole above and below Hamburg's water line, extensively damaging the passenger lounge and car decks below. Two Hamburg crewmen also were injured.

West German shipping authorities are investigating the collision. Reports say harbor authorities notified both vessels that they were on a collision course 10 minutes before the accident.

The Nordic Stream is 100% insured with Oslo, Sweden-based Sirius Insurance Co. Ltd. for the damage to its own hull and also for third-party property damage to the passenger ferry, confirmed George Silfversward, senior vp of Sirius.

Under the Swedish Marine Act, Nordic Stream's owners would only be responsible for physical damage to the Hamburg of up to 11.5 million Swedish krona (\$1.8 million), added Mr. Silfversward.

The cargo ferry's third-party bodily injury liability coverage is placed with protection and indemnity association The Skuld Club in Oslo for an unlimited amount, the club confirmed.

The hull of the Bahamas-registered Hamburg, operated by Scandinavian Seaways and owned by DFDS Sea Cruises (Bahamas) Ltd., is insured for 180 million Danish krone (\$25.2 million) with underwriters led by Baltica Holdings A.S. in Copenhagen, Denmark, confirmed Baltica's deputy general manager, Jorgen Steffensen.

The hull insurance also covers third-party property damage for the total cost of the loss to the Nordic Stream if the Hamburg is found to be responsible.

The Hamburg also has third-party liability coverage written by P&I club West of England Ship Owners Mutual Insurance Assn. (Luxembourg), a spokesman for the club's manager, London-based West of England Ship Owners Insurance Services Ltd., confirmed.

Rig insured

A U.S.-owned jack-up rig that capsized in the North Sea during violent gales Nov. 9 is insured for \$12 million in the London market, sources confirm.

More than 50 crewmen were evacuated from the Interocean II before it capsized. No one was injured.

The 12-year-old rig, owned by Southern Natural Resource (Sonat) of Birmingham, Ala., is insured on the London Master Energy Line slip for \$12 million, sources in the market confirm. Sonat did not return phone calls.

Brokers move

Four oil and energy insurance

brokerage specialists are joining London-based Jardine Insurance Brokers International Ltd. from rival broker Bain Clarkson Ltd.

Tony McCallion, Ian Walker and Nick Sargo already have joined as directors of Jardine's Energy Resources division, and William Lowe is joining soon, according to Jardine.

Capital increased

The Charter Reinsurance Co. Ltd. has increased its capital by 9.95 million pounds (\$15.6 million) to 24.5 million pounds (\$38.5 million).

"We believe that this additional capital will permit Charter to grow and increase its market share for the foreseeable future," said Chairman Richard Fielding.

London-based Charter Re, formed in 1986, specializes in excess-of-loss treaty reinsurance.

Underwriting Center

The London Underwriting Center will be the name of a new complex designed to house up to 100 insurers and reinsurers with London underwriting operations.

The complex—due to be fully open in the spring of 1992—will be called the London Underwriting Center because that most aptly describes its function, said Victor Blake, chairman and chief executive officer of CNA Reinsurance of London Ltd.

Meanwhile, several more companies have become founding members and shareholders of the facility. They include Zurich Insurance Group of Switzerland and Aegon Group of the Netherlands.

Assurances Generales de France and Sweden's Wasa Forsakring also have applied to become founding members, bringing the total number of founding companies to 25, said Mr. Blake.

More than 80 companies have agreed to move into the building when it is completed, he said.

New compensation

Victims of industrial disease and accidents in the United Kingdom will be able to seek compensation from insurers of employers liquidated up to 20 years ago under legislation passed by Parliament this month.

Until now, defunct companies could be sued under British law only if they were liquidated within the previous two years.

However, an amendment to the 1989 Companies Act enacted this month will allow people suffering from work-related illnesses, such as asbestosis and other cancers, to sue companies that went into liquidation up to 20 years earlier.

The amendment, which will be effective retroactively, will mean "companies can be resurrected on to the company register up to 20 years after they collapse for the purpose of claiming for compensation for injury and death from the companies' insurers," said a Department of Trade and Industry spokeswoman.

Tax agreement

The current tax agreement between Lloyd's of London and the U.S. Treasury and Internal Revenue Service will be extended through 1990, pending continuation of negotiations to establish a new agreement.

Although the U.S. Treasury gave Lloyd's six months' notice of termination of the existing closing

agreement last July, "it has not been possible, in the time available, for a new agreement to be concluded" for implementation on Jan. 1, 1990, Lloyd's announced earlier this month.

It is now expected that a new closing agreement will be negotiated before Dec. 31, 1990.

Lloyd's members

A compensation program to protect Lloyd's of London members from underwriting agents' fraud or dishonesty will begin in January.

The Council of Lloyd's earlier this month approved proposals to compensate each member for up to 50,000 pounds (\$78,500) if he has a judgment or award against an agency that cannot be pursued because of the agency's insolvency.

The compensation plan protects a member against fraud, other dishonesty or failure to account for money by an underwriting agency.

However, the program does not cover negligence by the underwriting agency.

Claims will be met initially by the Corporation of Lloyd's up to an annual aggregate maximum of 50 million pounds (\$78.5 million). Lloyd's then will recoup the first 16.67 million pounds (\$26.2 million) from underwriting agents and the balance from all members of Lloyd's.

New Lloyd's rules

About 40% of Lloyd's of London underwriting agents currently do not meet new financial standards laid down by Lloyd's earlier this

month, according to Lloyd's Chief Executive Alan Lord.

The new bylaw, passed Nov. 1 by Lloyd's Council, requires both members' agencies and underwriting managing agents to implement the following capital requirements:

- Fixed capital of 150,000 pounds (\$235,500) for a members' or combined underwriting agent or 100,000 pounds (\$157,000) for a managing agent.

- Net current assets equal to, or greater than, three months' annual recurring expenditure.

- Net assets equal to, or greater than 0.2% of the total aggregate syndicate capacity for a managing agent, or 0.2% of the aggregate overall premium limit of members for a members agent.

No agent will be required to maintain net assets in excess of 2 million pounds (\$3.1 million).

The new requirements are effective for the agents' current financial year, and agents will be required to demonstrate that they meet the requirements after year-end.

Although some agents currently are having difficulty meeting the requirement, they will be able to use profits from the bumper 1986 underwriting year, which closed this year under Lloyd's three-year accounting system, to meet the requirements, Mr. Lord pointed out.

Meanwhile, Mr. Lord predicts the current trend of mergers and acquisitions among underwriting agents, particularly members' agents, will continue "for commercial reasons" rather than to enable them to meet Lloyd's new rules. ■

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California plan

Continued from page 2
state program that would be funded similarly to permanent disability coverage.

Sen. Greene plans to appoint an advisory committee to evaluate the committee's recommendations and develop legislative proposals. No timetable has been set.

"We are looking to create dialogue on the issue," said Dr. Phillip L. Polakoff, one of two consultants with Oakland, Calif.-based Integrated Health Management Associates who served as project consultants and wrote the 44-page report on the study.

"It became very apparent during this project that the numerous issues which relate to this subject are too often dealt with in a compartmentalized fashion," Sen. Greene said in a statement. That leads to "fragmented and uncoordinated policy" as well as incentives for employers and employees to fight over whether an injury is

workers compensation for claims that do not involve permanent disability, the report recommends. Permanent disability claims should be handled without any reference to whether they were caused or aggravated by work.

In addition, employees suffering from permanent and total disabilities would be able to retire under the proposal.

- Require the program to provide coverage for pre-employment and periodic health evaluations and employee assistance programs.

- Restructure and reinvigorate California's workplace safety agency, Cal/OSHA, by targeting the most disabling occupational injuries and ailments, expanding data reporting and better coordinating technical expertise.

Response to the plan is mixed.

Blending workers comp and typical employee benefit coverages would be difficult because they are "apples and oranges," said a spokesman for the Alliance of American Insurers in Schaumburg, Ill.

For example, workers compensation usually pays the first dollar of claims for job-related injuries while accident and health insurance usually includes employee-funded deductibles for non-job related injuries and diseases, the spokesman noted.

It would be difficult to calculate an appropriate rate, he said.

The concept has "a certain appeal to employers" because it makes sense to them, said Alan Tebb, general manager of the California Workers' Compensation Institute in San Francisco.

However, there would be "substantial practical problems" with successfully implementing such a blended system, Mr. Tebb said. For example, workers comp is primarily a disability system that has historically operated under very different rules than an employers' health care program, he said.

Tom Rankin, research director of the California Labor Federation AFL-CIO, said he "generally supports the notion of trying to integrate benefits." Integration of benefits may improve the delivery of benefits to workers and may result in more benefits for workers, if the money that is saved on overhead costs is used for workers' benefits, he explained.

"It's a very ambitious undertaking and will require a great deal of thought from people in various disciplines," said Joseph Markey, legislative advocate for the California Self-Insurers Assn. in Sacramento.

Copies of the report, No. 432-S, are available for \$5.85, payable to the state of California, from the California Joint Publications Office, 1100 J St., Room 445, Sacramento, Calif. 95814.

Focus failing new solvency test

By ROGER SCOTTON

HAMILTON, Bermuda—Bermuda-based Focus Insurance Co. Ltd., the former Trenwick Reinsurance Co. unit that went into runoff three years ago, has told ceding company creditors that it is unable to meet Bermuda's new minimum solvency rules.

In an Oct. 24 letter to creditors, Chairman Mark Hardy said that after reviewing Focus' financial obligations, "It is apparent that Focus' liabilities far exceed its assets."

Mr. Hardy also is chairman of Focus' ultimate holding company, Bermuda-based Forum Reinsurance Co. Ltd., which purchased Focus in December 1987 and whose affiliate—Monument Square Associates Inc., of Concord, Mass.—is managing the runoff (BI, April 18, 1988).

His letter says that on a U.S. generally accepted accounting principles basis, Focus' capital and surplus was deficient by \$11.8 million as of July 31. Unaudited balance sheets issued with the letter show liabilities of just more than \$50 million, including

\$36.6 million in total loss reserves.

On a discounted basis, as allowed by Bermuda law, Focus' capital and surplus is \$802,840, the letter says. "Unfortunately, Bermudian regulators promulgated new regulations effective July 7, 1989, requiring a minimum of 10% of reserves in capital and surplus at all times," says the letter. "It is our opinion that we are in violation of this new regulation and will be unable to meet its requirements by Dec. 31, 1989."

The letter reveals that Focus has drawn up a commutation plan intended to meet obligations to creditors "as best it can in view of its current deficiencies" but says the plan is predicated on Focus' financial position as of July 31. Details of the company's booked obligations at that date have been sent out with each letter, and creditors are being urged to confirm their accuracy.

Focus, predicts Mr. Hardy, will not

Bermuda briefs

be the only Bermuda company in runoff that will have difficulty complying with the new solvency rule—a safeguard adopted this summer to bolster Bermuda's reputation as a well-regulated insurance center.

The requirement is intended to prevent insurers that had stopped writing new business from distributing dividends and risking insolvency in later years.

Bermuda's insurance regulator, Registrar of Companies Verbena Daniels, said her department is aware that some companies may have difficulty complying with the 10% minimum solvency rule.

Five insurers already have told her that they are taking "corrective action" to meet the new requirement.

But "five companies, and not all of these are in runoff, is an insignificant number considering we've got 1,200 or so insurers here, of which 30 are in run off," she said.

Tom Rankin of the California AFL-CIO 'generally supports the notion of trying to integrate benefits.'

attributable to work or non-work activities.

"In fact, many injuries are the combined result of occupational and non-occupational causes and, as health and disability costs escalate, there is more incentive to employ resources to attempt to shift costs to another payer," he said.

It may be time to stop "the non-productive cost-shifting games" and instead concentrate available resources on health promotion and disease prevention as well as on providing needed services to workers who become ill or injured when prevention fails, Sen. Greene said.

The report specifically recommends that the state:

- Merge occupational and non-occupational health and disability programs into one program under a newly created Department of Human Resources.

- Combine medical-only work comp claims with group health care claims for coverage purposes.

Short-term indemnity claims should be handled by combining state disability insurance with

Employee sues for AIDS coverage

Continued from page 2

Ms. Brattin said she did not know if Mr. McGann—who still works at the store—had been denied any benefits as of last week.

Defendants believe ERISA "allows us to do exactly what we did," said Mark Huvard, a Houston attorney representing H&H.

In a motion seeking dismissal of the case, defendants argue that ERISA does not regulate self-insured health plans, said Mr. Huvard, of Engelhardt, Harberg & Huvard.

"For the purposes of the motion, if everything the plaintiff says we did we can assume is true, so what?" Mr. Huvard asked. "We've got a right to do it."

Mr. McGann was covered from 1982 until August 1988 under medical insurance written by General American for Brook Mays and employees of H&H Music, according to court papers. In December 1987, Mr. McGann was diagnosed as having AIDS, according to the suit.

H&H Music's August 1988 move to a self-insured health plan "potentially excluded \$995,000 in insured expenses available" to Mr. McGann, the suit says.

General American, H&H and Brooks Mays conspired "to violate

Plaintiff's rights under ERISA and to discriminate against Plaintiff on account of his handicap," the suit charges.

Texas insurance law as of September precludes sublimits on health insurance policies and as of Jan. 1 no insurance policy can exclude coverage for AIDS.

However, the federal law does not prevent an employer with a self-funded benefit plan from cutting coverage for AIDS-related expenses, said a benefits expert.

Gerard Dewolf, senior consultant with William M. Mercer Meidinger Hansen Inc. in Los Angeles, said although it is legal under ERISA to restrict benefits for AIDS patients, it is not wise.

"We are recommending to our clients not to do it," said Mr. Dewolf. One argument against restricting benefits is that AIDS claims costs are not excessive, he added, "especially when you employ case management."

Mr. Dewolf said he is not familiar with Mr. McGann's case, but noted the employer's decision to cut benefits "was an unwise thing to do and had it been our client, we would have strongly advised against it."

Phoenix-based Circle K Corp. came under fire last year when it

instituted a policy that excluded medical coverage under its self-insured plan for "lifestyle-related claims" including AIDS (BI, Sept. 26, 1988; Aug. 15, 1988). Although the policy was allowed under ERISA, Circle K eventually dropped the exclusion, saying it was misunderstood.

Mr. McGann's suit also charges General American with violation of the state's Deceptive Trade Practices-Consumer Protection Act for allegedly "causing Plaintiff's existing medical policy to prematurely terminate." As a result, Mr. McGann "has been damaged by the untimely loss of benefits and has been forced to accept benefits that are virtually useless in assisting him in his medical needs related to his handicapped condition."

A General American spokesman said the claim is invalid because Mr. McGann's employer was within its rights to terminate its coverage.

H&H and Brook Mays also violated the Deceptive Trade Practices-Consumer Protection Act, the suit says, "by their efforts to conceal information that they were purposely modifying their insurance policies to eliminate medical/hospitalization benefits that they knew were necessary to sustain Plaintiff."

Insurer results

Continued from page 1

Pasadena, Texas, will not be reflected until insurers release their year-end results.

However, Hurricane Hugo—which caused about \$4 billion in insured damage, according to

American Insurance Services Group Inc.—has already fueled an increase in the nine-month combined ratio of 30 major commercial insurers surveyed by *Business Insurance*.

The insurers' aggregate combined ratio ballooned to 110% as of Sept. 30, compared with 105.8% a year earlier and 108.5% as of June 30 (BI, Sept. 4). The 110% combined ratio is the worst reported by the insurers surveyed by *Business Insurance* since the 110.9% posted in the first quarter of 1986 (BI, June 2, 1986).

The rise in the combined ratio is a reflection of increasing underwriting losses, which swelled 78.2% to \$6.8 billion in the first nine months of 1989 from \$3.8 billion during the comparable period a year ago. Underwriting losses had increased 57.1% in the first half of this year.

Among other results posted by the insurers surveyed by *Business Insurance*:

- Insurers' premium volume decreased 0.6% to \$69.5 billion in the first nine months of 1989, from \$69.9 billion for the comparable period a year ago. Premium volume had been essentially flat during the first half of this year.
- Investment income increased 12.6% to \$10.7 billion from \$9.5

billion. This is a slight improvement over the 12.2% growth in investment income in the first half.

- Policyholder surplus increased 13.7% to \$40.3 billion from \$35.4 billion. Surplus grew 11.2% in the first half.

- Despite the hurricane, net income among the surveyed insurers increased 14.4% to \$5.4 billion in the first nine months of 1989 from \$4.7 billion in the corresponding period of 1988, though nine of the 26 insurers releasing earnings data reported lower profits. Earnings among the surveyed insurers had grown 17.7% during the first half.

Spurred by losses from Hurricane Hugo, the earthquake and Phillips catastrophe, insurers have warned commercial insurance buyers to expect rate increases when renewing property and casualty insurance policies in coming months (BI, Nov. 13).

CIGNA, for instance, has asked its underwriters to obtain significant rate increases, said the CIGNA spokesman.

And while CIGNA admits that it does not know how successful it will be, "We're certainly going to give it a try, and we're prepared to lose some proportion of our business to demonstrate our

Continued on next page

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Summary of major property/casualty insurers' nine-month results

Ranked by change in net income. All amounts in thousands of dollars

Corporate						Property/casualty operations								
Rank 1989	Consolidated revenues 1989	Net income 1989	Percent increase (decline) 1988-1989	Combined ¹ ratio 1989	Combined ¹ ratio 1988	Net premiums written 1989	Percent increase (decrease) 1988-1989	Pretax underwriting income (loss) 1989	Percent increase (decline) 1988-1989	Pretax investment income 1989	Percent increase (decrease) 1988-1989	Policyholders surplus 1989	Percent increase (decrease) 1988-1989	
1	Travelers Corp.	9,347,200	306,100	257.1	114.4	105.5	3,569,400	(11.0)	(477,900)	(163.6)	545,500	17.5	2,057,400	27.5
2	Lincoln National Corp.	5,594,700	171,700	93.6	105.8 ²	99.7 ²	1,779,000	4.9	(110,100)	(1,675.8)	235,100	15.8	1,442,500	13.2
3	CNA Financial Corp.	6,791,900	558,500	39.5	113.3 ²	107.3 ²	4,268,700 ²	8.2	(601,900) ²	(79.8)	766,200 ²	20.3	3,055,600	19.0
4	General Re Corp.	2,061,200	445,600	36.2	99.8 ²	99.2 ²	1,306,400 ²	(5.6)	7,000 ²	(83.7)	497,800	19.1	2,596,800	19.3
5	Royal Group (U.S. subs.) ²	N/A	(76,900)	33.4	121.9	120.7	1,698,500	(0.3)	(363,000)	(12.0)	233,700	11.3	N/A	N/A
6	Sentry Insurance Cos. ²	919,020	41,870	23.5	105.7	104.3	789,131	(9.8)	(48,402)	2.0	110,624	10.5	601,522	13.4
7	SAFECO Corp.	2,190,751	220,860	16.4	103.2	101.0	1,203,555	4.7	(36,872)	(224.9)	193,634	20.2	1,025,867	27.7
8	American International Group	10,428,463	1,019,434	15.5	99.6 ²	99.4 ²	6,824,499	5.1	39,311	(18.2)	701,301	14.9	3,164,927	29.1
9	Chubb Corp.	2,990,100	313,700	13.8	100.9 ²	99.1 ²	2,055,600	(0.9)	(21,400)	(181.7)	325,100	18.7	1,471,239	11.4
10	CIGNA Corp.	11,512,600	369,900	13.5	115.9	107.8	4,397,000	(2.6)	(699,000)	(98.6)	639,900	7.2	2,065,000	(4.9)
11	Hartford Steam Boiler	356,153	58,434	11.6	82.8	84.2	212,663	0.5	36,806	6.9	29,891	14.4	320,600	26.1
12	Ohio Casualty Corp.	1,196,188	95,049	11.2	102.7 ²	101.0 ²	1,049,329 ²	1.6	(36,526)	(86.4)	141,372	11.0	590,530	33.0
13	Crum & Forster Inc.	3,484,900	240,300	4.8	118.2	108.7	2,528,400	(1.4)	(460,300)	(117.4)	453,000	12.0	1,712,000	29.2
14	Aetna Life & Casualty Co.	14,457,800	525,800	4.3	113.0	111.6	4,951,400	(3.2)	(705,100)	(33.8)	766,800	9.3	2,206,500	6.4
15	Home Insurance Cos.	2,664,900	75,700	2.2	109.6 ²	108.0 ²	1,601,300	(1.2)	(155,300)	(10.3)	271,900	3.9	884,300	6.5
16	Old Republic Int'l	856,452	73,015	1.5	114.7	106.9	439,326	1.6	(64,905)	(111.4)	110,058	17.7	679,592	8.5
17	The St. Paul Cos. Inc.	2,817,430	271,618	0.2	106.2 ²	103.8 ²	2,102,902	7.5	(136,895)	(101.6)	458,595	15.7	1,446,979	10.6
18	Berkshire Hathaway Group	509,350	138,032	(4.8)	108.7	104.9	241,190	(37.2)	(29,305)	(33.4)	172,934	(1.9)	N/A	N/A
19	Argonaut Insurance Co.	345,286	53,993	(20.1)	101.7 ²	114.4 ²	276,846 ²	25.1	(7,293) ²	77.4	83,760 ²	(0.5)	371,583	19.6
20	Continental Corp.	4,528,100	81,700	(28.3)	114.0 ²	106.0 ²	3,598,500 ²	(6.6)	(469,900) ²	(78.0)	530,900 ²	22.4	2,087,000	32.7
21	Hartford Insurance Group	6,572,006	191,633	(33.0)	107.0	103.5	4,799,504	(1.6)	(381,831)	(80.1)	643,330	13.0	2,663,237	6.9
22	Fremont General Corp.	339,390	8,060	(45.2)	105.3	103.8	239,049	13.5	(12,443)	(54.3)	42,583	24.2	184,583	105.0
23	Transamerica Ins. Group	1,413,593	56,756	(45.7)	110.9	108.8	1,288,805	2.0	(134,670)	(29.2)	164,028	10.0	996,440	6.9
24	Fireman's Fund Ins. Cos.	2,615,848	88,767	(45.9)	120.7	108.4	2,085,474	(5.0)	(413,921)	(114.3)	347,440	3.2	1,367,001	3.7
25	Reliance Ins. Co. & subs.	2,715,581	56,036	(57.1)	106.2 ²	102.3 ²	1,380,762	8.0	(93,036)	(104.8)	169,364	14.3	725,084	34.8
26	USF&G Corp.	3,396,540	14,609	(92.5)	109.9 ²	104.9 ²	2,822,108 ²	(5.4)	(289,181)	(89.1)	469,307	1.3	1,416,800	(0.3)
—	Nationwide Mutual Ins. Co. ²	N/A	N/A	N/A	107.6	104.6	4,329,844	4.1	(277,105)	(60.1)	517,903	11.7	2,942,576	10.3
—	Kemper National P/C Cos. ²	N/A	N/A	N/A	108.9	103.4	1,910,252	13.6	(187,891)	(124.2)	228,263	16.5	1,650,717	(6.3)
—	Commercial Union Ins. (U.S.) ²	N/A	N/A	N/A	111.9 ³	105.8 ³	945,100	2.8	(122,400)	(83.5)	123,400	11.2	564,000	3.1
—	Liberty Mutual Ins. Co. ²	N/A	N/A	N/A	116.1	111.7	4,810,173	(7.3)	(519,983)	(83.4)	754,529	12.0	N/A	N/A
Cumulative		100,105,451	5,400,266	14.4	110.0	105.8	69,504,712	(0.6)	(6,773,442)	(78.2)	10,728,216	12.6	40,290,377	13.7
¹ After dividends.		² Statutory.		³ Before dividends.		N/A—Company did not provide data								

¹ After dividends.

² Statutory.

³ Before dividends.

N/A—Company did not provide data

Insurer results

Continued from previous page

seriousness." "I think the market is turning as we speak," said Shearson's Mr. Ghose. "The evidence is mounting daily."

"We're more bullish on the insurance stocks now than we've been any time in the last three years," Mr. Ghose said.

But, rate hikes will not be immediately introduced across the board, he said. For instance, liability insurance rates may not begin to increase until sometime next year, he said.

The three catastrophes are probably going to lead to an increase in rates in 1990, said Fox-Pitt's Mr. Anthony. However, although primary insurers are seeking rate increases of up to 15%, "I'm a little skeptical rates will translate into premium gains of that order of magnitude," said Mr. Anthony, who agrees there is too much capital in the market to propel a sharp turn in the market.

The catastrophes should at least stabilize the "outflow of blood" in the market, said Herbert Goodfriend, an analyst with Prudential/Bache Securities Inc. in New York. But whether they will lead to rate increases is "another matter," said Mr. Goodfriend, adding that this is too premature to determine.

"I'd like to see more concrete evidence coming through" before concluding the market has turned, said Keith Like, executive vp in charge of the commercial insurance group for Kemper Group's national property/casualty companies in Long Grove, Ill.

"It's a little early," Mr. Like said. But, he added that "we think there's plenty of pressure there" to raise rates.

"I don't see any dramatic change at this point," said Bernard C. Hlavac, vp and treasurer at Sentry Insurance Cos. in Stevens Point,

Wis. "We see some signs, but they're modest. It's not widespread."

"I don't think that it has (turned), personally. I think there's some signs that it may," said George Yonker, assistant comptroller at SAFECO Corp. in Seattle. "I think there's been some false starts at times."

Mr. Yonker said SAFECO has followed the market down "as far as we're going to" and is seeking a minimum 10% overall rate increase in 1990.

Barbara Stewart, president of Stewart Economics in New York, is among those who are less optimistic the market will turn soon. The stock market and other industry observers "may have jumped the gun," said Ms. Stewart, referring to improved insurer stock prices on Wall Street (BI, Oct. 23).

"Catastrophes have been part of the insurance business for centuries, and these do not change anything fundamental about the business or the lines within which we operate," she said.

The catastrophe claims are "well within the financial capabilities of the market," Ms. Stewart said.

"My feeling is it will have no effect on pricing, and I'm also skeptical of it having an effect on the reinsurance business," she said.

"I think it's just premature," Ms. Stewart said, adding that the market may not turn yet for another couple of years. While there have been a lot of pronouncements in the press and bulletins to field offices, "I haven't heard any reports of actual increases in prices," she added.

Changes in rates are a function of change in supply and demand, Ms. Stewart said. "There is plenty of capital left and a willingness to write business," she said.

Joanne Morrissey, a principal with Morristown, N.J.-based Firemark Consultants Inc., said the catastrophes will lead to an increase

in property insurance rates, but she noted that property insurance accounts for only one-third of property/casualty insurers' premium volume.

"I don't think this is going to be enough" to turn the entire cycle around, she said.

Despite chief executives' pronouncements, companies cannot simply raise prices across the board, Ms. Morrissey said. "I think that's an emotional reaction that some of the companies are having," she said.

Observers seem to be evenly split over the direction of the market, commented Sean Mooney, senior vp and economist with the Insurance Information Institute in New York.

Half say the market is either turning now or will do so after year-end reinsurance renewals, Mr. Mooney said. "Then you see the other half saying things are not bad enough yet," he said.

As for himself, "I'm just waiting to see more numbers," Mr. Mooney said. He added, however, that the industry's capital base is still relatively strong compared with 1984, when the market hardened.

Observers also point out that while rate hikes may help insurers' results by late next year, their year-end 1989 results will be battered by all three major catastrophes: the hurricane, the earthquake and the Phillips explosion.

"I don't think things are going to be good," said Bear Stearns' Ms. Vogel, discussing fourth-quarter results. Not only will they reflect the earthquake and Phillips losses, but insurers tend to boost their reserves during the fourth quarter as well, she said.

Even excluding the disasters' impact, "I think we're going to see further deterioration" in insurers' results, said David Seifer, vp at Donaldson Lufkin & Jenrette Securities Corp. in New York.

"Overall, we doubt we'll see

much of a strong profit figure at all in the fourth quarter," said IIT's Mr. Mooney.

One bright spot for multiline insurers is improving group health insurance results, which has helped offset deteriorating property/casualty earnings.

Sharp rate increases and a moderation in health care inflation has led to distinctly better profit margins on indemnity accounts, while managed care plans like health maintenance organizations have benefited from rate increases and tighter expense controls, Mr. Lewis said.

"I think earnings for the group should peak in '91," though 1990 will be a good year as well, said Mr. Anthony, referring to group health insurance operations.

And when profits from employee benefits operations again turn downward, the decline could be balanced by improved property/casualty results, Mr. Seifer said.

But now, at Lincoln National Life Insurance Co. in Fort Wayne, Ind., an improvement in group health operations helped offset poor property/casualty results.

Lincoln National reported its employee life-health benefits division posted \$8.5 million in net income in the third quarter but its property/casualty operations produced a \$53.9 million underwriting loss.

For the nine months, Lincoln National reported its employee life-health benefits division posted only a \$3.1 million loss compared with a \$118.2 million loss in the comparable period of 1988. Last year's results included a \$61.7 million charge related to restructuring certain health maintenance organization divisions.

Its nine-month property/casualty underwriting losses increased to \$110.1 million in 1989 from \$6.2 million in 1988. But, Lincoln National reported a 93.6% increase in its net income to \$171.7

million, partly on the strength of \$235.1 million in pretax investment income from its property/casualty operations.

At CIGNA, "We're seeing a good, strong sustained recovery in the earnings in the indemnity side of our employee benefits business" and that should continue, said a spokesman, adding that HMO results also have improved.

Premium increases are moderating because rates are adequate, said the spokesman. "We're more or less back to where we should be in terms of pricing," he said.

For the first nine months of the year, CIGNA's employee life and health benefits segment posted \$120 million in income, compared with a \$17 million loss for the comparable period a year ago.

Charles T. Bell, a vp in the employee benefits department at Aetna Life & Casualty Co. in Hartford Conn., commented that while group health premium increases are moderating, "they are not moderating very far."

"We're still seeing a very large rate of inflation emerge in the cost of the underlying services," said Mr. Bell, noting that insurers still are coping with high health care inflation. As a result, while the average premium increases Aetna plans to seek during the first half of 1990 will be less than those sought in early 1989, they still are "likely to be higher than 15%," he said.

Aetna's employee benefits division reported \$258.8 million in net income for the first nine months of the year, up 67.2% from \$154.8 million in 1988.

Property catastrophe losses, however, reduced Aetna's net income during the third quarter alone by \$50 million, including a \$36 million reduction from Hurricane Hugo. Aetna reported a 4.3% increase in overall net income, to \$525.8 million in the third quarter from \$504.2 million.

Medicare cutback will cost employers billions of dollars

By JERRY GEISEL

WASHINGTON—Congressional repeal of the Medicare Catastrophic Act quells a political firestorm but means employers will have to pick up billions of dollars in retiree health costs they had expected Medicare to cover.

After weeks of wrangling, the Senate caved in last week to House demands to kill the 1988 law, which gave the elderly more protection from acute care catastrophic health care costs but also imposed a highly unpopular surtax on middle- and upper-income retirees.

That surtax, under which some retirees would have had to pay as much as \$800, was to have been used to help finance the expanded benefits.

The Senate already had agreed to eliminate the expanded physician benefits and a new prescription drug benefit but had favored retaining the hospital benefits that were expanded under the 1988 law. The physician benefits were due to be expanded next year, and the prescription drug program was scheduled to go into effect in 1991.

But the House's will to repeal the 1988 law proved stronger than the Senate's desire to save at least a portion of the expanded benefits.

Repeal of the Medicare Catastrophic Act means a return to Medicare's former benefit structures for Part A beginning Jan. 1.

Previously, Medicare Part A's high deductibles and coinsurance requirements meant that beneficiaries could have been liable for thousands of dollars in hospital bills. The 1988 law placed a \$560 cap on out-of-pocket hospital expenses.

And, under an expansion of Medicare Part B, which had been scheduled to go into effect in 1990, beneficiaries' out-of-pocket medical expenses for physician expenses would have been limited to \$1,370. Medicare Part B currently pays 80% of physician expenses with no stop-loss limit.

Many employer-sponsored retiree health care plans, which cover more than 10 million people, are designed to pay hospital and physician expenses not covered by Medicare. With Medicare benefits being cut back, many employer plans now will have to pay more.

"Over the long term, employers will have to pick up more retiree health care costs at a time when they can least afford to do so," said Helen Darling, a principal in the Stamford, Conn., office of benefit consultant William M. Mercer Meidinger Hansen Inc.

In fact, the General Accounting Office earlier this year estimated that the Medicare expansion would reduce employers' accrued retiree health care liabilities as of year-end 1988 by \$30 billion, or 13.2%, to \$197 billion from \$227 billion (*BI*, Oct. 16).

Unless employers amend their retiree health care plans to cut back benefits, that \$30 billion in liabilities

now will bounce back to companies.

The repeal of the 1988 law will only partially affect the so-called maintenance-of-effort provision in that law. Under that provision, employers that eliminate portions of the retiree health care plans that duplicate the expanded Medicare program were required to return savings to beneficiaries in two stages.

This year, employers were required to pass on to retirees the savings they achieved when they eliminated hospital benefits that duplicated the expanded Part A benefits.

And, next year, employers were supposed to pass on savings on physician coverage they would have reaped when Medicare Part B was expanded.

Employers still will have to comply with the Part A refund requirement because the repeal measure passed by Congress will not go into effect until Jan. 1. As a result, employers will have enjoyed a one-year savings by eliminating benefits in 1989 that duplicated the expanded Part A.

The maximum Part A refund, due eligible retirees by Dec. 31, is \$65, according to a notice published by the Health Care Financing Administration.

However, the repeal of the Medicare Catastrophic Act means that the 1990 Part B expansion is killed as well as that phase of the maintenance-of-effort requirement.

Benefit consultants earlier estimated that individual retirees would have received a maximum of about \$95 in refunds under that phase.

In addition, a Medicare provision in budget reconciliation legislation Congress also passed last week could lead to increased health care costs for employers over the long term.

That provision will radically change the way the federal government reimburses physicians who participate in the Medicare program.

Under the new payment plan, known as a resource-based relative value system, Medicare fees will be set for thousands of medical procedures rather than doctors being reimbursed on the basis of customary and prevailing fees.

With Medicare placing tight controls on what physicians can charge, doctors may be inclined to boost their charges for patients covered by commercial insurers or by self-funded employers, some benefits experts fear.

"This is a revolutionary step by Congress and has major implications for employers. Unless they take action, employers could be victims of additional health care cost-shifting," said Frank McArdle, a consultant in the Washington, D.C., office of Hewitt Associates.

Indeed, when Medicare placed fixed limits—known as the diagnostic-related group approach—on what it pays hospitals in the mid-1980s, hospitals raised charges for other patients to make up for cutbacks in revenues, many insurers contend. ■

Benefit issues

Continued from page 1

• Kill an amendment by Rep. Peter Visclosky, D-Ind., in the original House budget bill that would have required employers to share control of defined benefit and defined contribution pension plan assets with employees (*BI*, Oct. 2).

• Drop provisions in both the Senate and House budget bills that would have imposed unprecedented fees on employers filing federally required pension and welfare plan reports (*BI*, Oct. 9).

Those earlier actions set the stage for the last big round of benefit decisions made last week as conferees hammered out a compromise budget reconciliation bill.

Benefit experts were reluctant until last week to predict the fate of the provision included in the Senate budget bill to increase the PBGC premium.

Under that provision, initially proposed by the Senate Labor and Human Resources Committee and opposed by the PBGC as unnecessary, premiums for employers with well-funded pension plans would have increased to \$18 per plan participant from \$16.

However, the increase would not have been applied to employers whose plans were less than 100% funded. Their premiums would have continued to be based on the financial condition of their pension plans.

Benefit experts saluted the conferees' decision to kill the PBGC premium hike.

The proposal "was a cheap shot

to impose a tax on employers with well-funded plans. Ultimately, Congress refused to take action that would have reflected poorly on it," said Richard Raskin, a Wyatt Co. consultant in New York.

"We are glad the premium increase was stripped from the bill because we could not justify an increase at this point. Our goal is to reduce the PBGC's deficit without a premium increase," said PBGC Executive Director James B. Lockhart III.

The provision to ban employers from recovering surplus pension assets after terminating overfunded defined benefit plans originally was included in the House's budget bill, while a similar provision had been stripped from the Senate bill.

Benefit experts say the conferees decided to reject a ban on asset reversions because they thought such a far-reaching proposal should be considered independently rather than be part of a broader bill.

"There is increased congressional sensitivity since the Section 89 debacle that benefit issues must be carefully thought out and not be attached to larger bills without hearings," said Henry Saveth, a principal with A. Foster Higgins & Co. Inc. in New York.

Other experts say legislators simply concluded that a ban on asset reversions was a bad idea.

"There was a recognition that a ban on reversions was overreaching, expensive and impractical,"

said Mark Ugoretz, executive director of the ERISA Industry Committee, a benefits lobbying organization in Washington, D.C.

While the asset reversion provision was knocked out of the budget reconciliation bill, observers say new efforts, perhaps as early as next year, will be made to resurrect the proposal.

"Backers of asset reversion restrictions are unlikely to give up in their efforts," Mr. Raskin said.

"We expect this battle will continue. The supporters of reversion restrictions are down, but certainly not out," said Howard Weizmann, executive director of the Assn. of Private Pension & Welfare Plans in Washington, D.C.

Under the COBRA provision, employees can keep their COBRA health care continuation coverage to pay for pre-existing medical conditions for which a new employer's plan denies coverage.

The Consolidated Budget Reconciliation Act of 1985 had allowed employers to automatically cancel COBRA coverage when a former employee is covered under a new employer's health care plan.

Meanwhile, in another COBRA change, individuals who receive Social Security disability benefits would be eligible for COBRA coverage for up to 29 months, up from the current 18-month maximum.

The beneficiaries would continue to pay 102% of the group rate for the first 18 months of coverage, but employers could charge up to 150%

Update

Insurer fined nearly \$500,000

NEW YORK—Jefferson Insurance Co. of New York has agreed to pay a \$447,800 fine for rating violations uncovered in a New York Insurance Department market conduct examination.

Separately, Jefferson, based in Jersey City, N.J., also has been fined \$46,400 for removing accounting records from its New York office without prior approval from the Insurance Department.

The market conduct exam covered the period from May 1, 1987, to May 31, 1988, and found that Jefferson had overcharged commercial liability policyholders by using an unfiled and unapproved rating plan.

Jefferson violated New York's flex-rating law and other regulations by:

- Failing to charge filed rates.
- Applying rating plans without proper justification and applying the plans to ineligible risks, resulting in overcharges.
- Improperly notifying policyholders that their deductibles would be used to offset defense costs and loss adjustment expenses.

Jefferson has agreed to review premium charges on each commercial liability policy in force as of Oct. 31 this year as it comes up for renewal, and to re-rate the policy for the current term, the New York department announced. The insurer must refund overcharges of more than \$15, and generally only current policyholders will be eligible for refunds.

In a separate announcement, Jefferson described the violations as inadvertent.

Jefferson's settlement agreement with the Insurance Department notes that the violations were "largely due to disruption while the company was undertaking major changes in management and system control and not the result of any attempt to evade insurance law or regulations," the insurer said.

Pollution exclusion upheld

NEW YORK—The pollution exclusion in a comprehensive general liability insurance policy bars a policyholder that purchased polluted land from recovering cleanup costs from its insurer, New York state's highest court has ruled.

The New York Court of Appeals' decision affirms a lower court decision in a coverage dispute between photographic supplies manufacturer Powers Chemco Inc. of Glen Cove, N.Y., and Federal Insurance Co. of Warren, N.J. (*BI*, Dec. 5, 1988).

The case centered around a claim Powers Chemco filed with Federal, its CGL insurer since 1977, for the cost of cleaning up property it purchased in 1978 in Glen Cove, N.Y. Powers Chemco discovered after the purchase that hazardous waste was buried on the site and agreed to clean up the site in a consent decree with the New York State Department of Environmental Conservation.

However, Federal denied the claim, arguing that the pollution exclusion bars coverage. But Powers Chemco responded that the exclusion did not apply since it was not the actual polluter.

The New York Court of Appeals rejected Powers Chemco's argument: "Simply put, there is nothing in the language of the pollution exclusion clause to suggest that it is not applicable when liability is premised on the conduct of someone other than the insured."

The court also said that it was standing by its earlier decision in a case involving Tarrytown, N.Y.-based Technicon Electronics Corp., in which it held that the pollution exclusion clause is "unambiguously plain and operative" (*BI*, July 10).

Briefly noted

The Wyoming Insurance Department has obtained a court order freezing the assets of **Oxford Indemnity Insurance Co.** and has filed a petition to place Oxford in receivership. The Casper-based insurer reported an \$822,000 shortfall in minimum required capital and surplus of \$4 million as of June 30. . . **Wyoming Insurance Commissioner** Gordon Taylor will resign effective Friday, Insurance Department officials confirm. An acting insurance commissioner had not been named last week. . . New York-based **Belvedere Corp.** has reached what it describes as a "definitive agreement" to sell its Bermuda reinsurance unit, Belvedere Holdings Ltd., to a group including the local management and Citicorp. . . Hearings are being rescheduled with insurance regulators in several states over Paris-based AXA Group's proposed \$4.5 billion acquisition of **Farmers Group Inc.** while Claude Bebear, chairman of the French insurer, recovers from heart surgery.

of the group rate for the remaining 11 months of coverage.

Under the ESOP provision, lenders generally could no longer exclude from their taxable income 50% of interest earned from loans made to ESOPs after Nov. 17.

However, this provision would not apply if an ESOP holds at least half of a company's outstanding stock.

The final budget reconciliation bill also drops a provision in the House bill that would have given employers a one-time opportunity to transfer surplus pension assets to special accounts, known as 401(h) accounts, to finance retiree health care expenses.

Under the House bill, the transfer generally would have been limited to assets needed to fund retiree health care expenses paid or incurred in 1990 or 1991, and the transfer would have had to be completed by Dec. 31, 1991.

However, as a condition to such

a tax-free asset transfer, an employer would have had to vest participants' accrued pension benefits and purchase annuities for those benefits.

Because of the conditions that were attached, the asset transfer provision would have had only limited appeal to employers.

A more favorable provision was earlier stripped from the Senate bill.

The budget bill also retroactively extends through Sept. 30, 1990, Section 127 of the Internal Revenue Code, which had allowed employees to receive up to \$5,250 in tax-free educational assistance benefits from their employers.

Section 127 expired on Dec. 31, 1988.

"Educational assistance benefits has nine lives," said Foster Higgins' Mr. Saveth, referring to earlier congressional extensions of Section 127 after the law had expired. ■

401(k) survey

Continued from page 1

\$24,999 contributed in 1988, up from 4%.

- 24% of employees earning \$25,000 to \$29,999 contributed in 1988, up from 5%.

- 33% of employees earning \$30,000 to \$49,999 contributed in 1988, up from 7%.

- 45% of employees earning \$50,000 or more contributed in 1988, up from 9%.

Although employees earning more than \$50,000 annually are most likely to contribute to 401(k) plans, most 401(k) participants earn less than that amount, EBRI says.

Initially, "there was a question about whether this form of pension would be attractive to employees because participation is voluntary," said Joseph Piacentini, research associate at EBRI.

A major reason 401(k) plans are gaining in popularity is that more employers are offering them, according to the EBRI report.

To support its findings, EBRI cites a Hewitt Associates survey of 256 major U.S. employers that found that 91% offered some form of 401(k) salary reduction plan in 1987, while none had offered one six years earlier.

Many employers also are modifying their existing defined contribution pension plans to allow employees to make pretax contributions, the report says.

Still other employers with established pension plans are launching supplemental 401(k) plans to let employees augment their retirement income.

In these cases, the 401(k) plan creates a "three-legged stool" retirement plan, observed Donald Hasbargen, a Hewitt consultant in Minneapolis.

"Employees can look at what Social Security and the pension plan will provide, then look at where they want to be. If there is a shortfall, they can then invest in the 401(k)

to help make up that difference," Mr. Hasbargen said.

Another attractive incentive for employee participation in 401(k) plans is the tax savings created by contributing on a pretax basis, according to the EBRI report.

Most other tax-deferred retirement savings vehicles that had been accessible to lower and middle-income workers have been severely restricted or eliminated by the Tax Reform Act, he said. "It's the last real tax shelter for the common man."

In addition, saving for retirement is less painful on a pretax basis rather than on an aftertax basis for many workers since their 401(k) contributions are deducted from their paychecks, he said.

Employer matching contributions also encourage employees to participate in 401(k) plans, EBRI's Mr. Piacentini points out.

"Some employees feel they can't afford not to participate because they would be turning down additional compensation," he said.

Most employers that offer 401(k) plans also offer some kind of matching contribution to employee contributions to the plans, the EBRI report says.

For example, EBRI estimates that 64% of employees in the population survey who are offered a 401(k) plan also are offered some form of matching contribution from their employers. Moreover, EBRI says, 71% of employees that participate in a 401(k) plan receive some kind of matching employer contributions.

However, the percentage of employers that make matching contributions varies among industries. For example, 96% of the employees in the mining industry receive matching contributions by their employers; 87% in the communications industry and in the finance, real estate and insurance industry; 84% in the trade industry; 78% in the manufacturing

industry; 69% in the transportation industry; 66% in the services industry; and 61% in the construction industry.

In addition, 56% of federal government employees and 41% of state and local government employees receive some kind of matching contribution.

Among employers of different sizes, EBRI found that 58% of firms with fewer than 10 employees offer some kind of matching contribution; 63% with 10 to 24 employees; 62% with 25 to 49 employees; 74% with 50 to 99 employees; 70% with 100 to 249 employees; and 72% with 250 employees or more.

The EBRI report did not compare the size of employers' matching contributions.

Another reason for employees' increased interest in 401(k) plans is that "some of the vehicles in which an employer can invest money for the employee are not accessible by an individual," Hewitt's Mr. Hasbargen said.

Comprehensive nationwide data on the different investment options in not available, but EBRI used various surveys conducted by the U.S. General Accounting Office, Hewitt and Buck Consultants Inc. to give some idea of where 401(k) plan funds are invested.

Generally, 401(k) plan participants have the option of investing in two types of funds at once, but in some instances the employer directs the investment of its portion of the contribution, the EBRI report said.

Equity funds were the most common investment option offered by employers, followed by guaranteed investment contracts, company stock and money market funds.

Only a few employers offer commodity futures and real estate as investment, which are considered more risky investments, the EBRI report said.

Most of the employees surveyed favored GICs and company stock for their 401(k) investments, while fixed income funds, which include government bonds, were less popular, the report said.

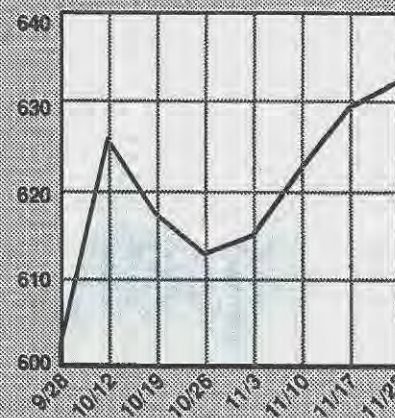
Another popular feature of 401(k) plans is the ability to borrow against contributions for home purchases or emergencies.

While many 401(k) plans offer this option, there is some danger in allowing employees' easy access to retirement funds, warned Timothy Hankins, a consultant in The Wyatt Co.'s Los Angeles office.

"When you have access, people may not look at these funds seriously as retirement money or as savings for retirement," he said.

Copies of the Employee Benefit Research Institute's October 1989 "Issue Brief," are available for \$19.95 from EBRI, P.O. Box 4866, Hampden Station, Baltimore, Md. 21211; 301-338-6946.

BI Insurance Index



Base = 100 on Dec. 29, 1978
Source: Nordby International Inc.

Insurance industry stocks advanced last week as the *Business Insurance* stock index rose 2.8 points to 632.1 on Nov. 22 from 629.3 on Nov. 17. The largest advances were posted by Phoenix Re Corp., up 10.9%; Fremont General Corp., up 4.7%; and Statesman Group Inc., up 4.2%. The largest declines were reported by Nobel Insurance Ltd., down 10.0%; American Indemnity Financial Corp., down 8.6%; and Frank B. Hall & Co. Inc., down 4.2%. The *Business Insurance* index jumped 0.5% last week, which outpaced the increase in the major stock market averages. The Dow Jones 30 Industrials rose 0.2%, while the S&P 500 rose 0.1% and the NYSE composite lost a fraction of a percentage point.

British Issues

Nov. 22	Price	P/E	Div.	Yield	1 Week
Companies	pence		pence	%	High-Low
Comml Union	441	24.5	29.3	6.7	447-440
Genl Accident	1038	14.8	68.0	6.6	1042-1035
Gdn Royal Exch	212	16.7	15.7	7.4	219-212
Royal	470	22.6	34.0	7.2	479-470
Sun Alliance	290	10.1	17.0	5.9	298-290

Brokers

Nov. 22	Price	P/E	Div.	Yield	1 Week
Companies	pence		pence	%	High-Low
Bradstock	218	14.9	10.0	4.6	219-218
CE Heath	494	13.9	34.5	7.0	498-493
Hogg Robinson	155	10.8	9.7	6.2	156-155
Lloyd Thompson	274	18.3	9.3	3.4	274-274
PWS Holdings	49	13.2	2.7	5.4	49-49
Sedgwick Grp	273	20.3	16.0	5.9	283-273
Steel Brl Jones	254	15.9	15.3	6.0	257-252
Willis Faber	257	18.1	15.3	6.0	260-257

Source: Philip Olsen/Alan Clifton, Insurance Industry Specialists Kileat & Aitken Stockbrokers, London

Benefits are increased at Boeing

SEATTLE—Machinists union members at Boeing Co. will receive increased retirement benefits and access to child and elder care resource and referral services under a three-year contract approved Tuesday.

Under the agreement, Boeing will increase by 25% to \$30 per year of service the monthly pension benefit for about 59,000 machinists union employees in nine states.

Also, employees still will not have to pay for health care coverage under either Boeing's self-insured indemnity plan or three health maintenance organizations.

About 85% of the machinists are covered by an indemnity plan that requires deduct-

ibles of \$75 for individuals and \$225 for families, said a company spokesman. Employees pay 20% of expenses after deductibles are met up to an annual out-of-pocket maximum of \$500 for individuals and \$1,000 for families. The plan has a \$1 million lifetime maximum benefit.

Employees enrolled in the HMOs are not subject to deductibles.

Boeing pays 100% of expenses, after deductibles are met, for union members who receive care through a preferred provider network.

The agreement ends a 48-day strike by 43,000 employees in Seattle, 12,000 in Wichita, Kan., and 3,700 in Oregon, California, Hawaii, Montana, Texas, Utah and Wyoming.

BI Industry Stock Report

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11/17/89 THROUGH 11/22/89

BROKERS

Alexander & Alexander	NYS	32.88	0.38	41.40	34.00	22.63	111	1.00	3.04	20	9.18	3.58
Corroon & Black	NYS	39.63	0.00	24.80	41.00	29.13	74	1.24	3.13	18	12.73	3.11
Gallagher Arthur J. & Co.	NYS	25.50	0.00	50.00	26.50	15.88	22	0.52	2.04	18	5.33	4.78
Frank B. Hall	NYS	2.88	-4.17	-4.17	4.63	2.50	55	0.00	0.00	-1	-2.80	-1.03
Hibb, Rogal & Hamilton	OTC	25.75	0.98	85.76	25.63	12.50	63	0.32	1.24	23	4.60	5.60
Marsh & McLennan	NYS	84.50	-0.44	52.25	89.75	55.00	439	2.48	2.93	21	10.56	8.00
Poe & Associates	OTC	10.00	0.00	14.29	10.00	8.00	1	0.40	4.00	10	1.43	6.99
BROKERS	AVERAGE		-0.5	37.8					2.3	15		

CONGLOMERATES & HOLDING COMPANIES

Berkley W.R. Corp.	OTC	46.13	0.82	55.70	46.00	29.25	250	0.40	0.87	10	25.06	1.84
Berkshire Hathaway Inc.	NYS	8300.00										
			-0.30	78.49	8900.00	4600.00	0	0.00	0.00	27	2669.00	2.89
ITT (Hartford Group)	NYS	58.00	-0.43	15.71	64.50	48.75	722	1.60	2.76	9	56.33	1.03
Sears (Allstate)	NYS	37.88	-1.94	-6.19	48.13	37.25	1151	2.00	5.28	12	37.75	1.00
CONGLOMERATES	AVERAGE		-0.5	35.9					2.2	15		

INSURERS/REINSURERS

Aetna Life & Casualty	NYS	60.50	0.00	29.07	62.50	46.00	465	2.76	4.56	10	58.11	1.04
Ambar Corp.	NYS	13.83	1.87	22.47	16.38	10.50	45	0.20	1.47	5	29.08	0.47
American General	NYS	33.88	-1.81	12.92	38.50	29.50	733	1.48	4.37	10	34.68	0.98
American Heritage	NYS	28.38	0.44	11.27	28.50	25.00	1	1.20	4.23	11	22.60	1.26
American Indemnity/Fin'l	OTC	8.00	-8.57	-23.81	13.00	8.00	3	0.56	7.00	-5	17.38	0.46
American International	NYS	107.63	0.70	61.54	109.00	61.88	614	0.48	0.45	13	41.92	2.57
Aon Corp.	NYS	38.63	-0.96	39.82	39.25	26.00	179	1.40	3.60	11	19.62	1.97
Argonaut Group	OTC	68.00	0.37	56.32	69.50	43.25	7	1.00	1.47	8	36.83	1.85
AVEMCO Corp.	NYS	23.13	0.54	-9.76	27.50	20.38	3	0.40	1.73	14	9.52	2.43
Baldwin & Lyons Inc.	OTC	20.13	-2.42	38.79	21.13	14.38	3	0.28	1.39	6	20.80	0.97
Belvedere Corp.	ASE	4.75	0.00	5.56	6.50	4.25	5	0.04	0.84	15	8.03	0.59
Chandler Insurance	OTC	11.63	0.00	55.00	12.25	6.88	6	0.00	0.00	6	9.53	1.22
Chubb Corp.	NYS	91.88	1.66	59.09	92.00	55.00	263	2.32	2.53	10	55.49	1.66
CIGNA Corp.	NYS	64.63	-3.18	39.73	66.75	45.75	380	2.96	4.58	11	66.64	0.97
CNA Financial Corp.	NYS	97.50	0.39	65.96	98.38	57.63	64	0.00	0.00	9	54.87	1.78
Continental Corp.	NYS	33.63	1.13	5.08	38.63	31.50	280	2.60	7.73	69	41.36	0.81
Durham Corp.	OTC	34.25	1.48	7.03	34.75	30.00	1	0.92	2.69	26	26.32	1.30
Fremant's Fund	NYS	34.38	-3.51	18.03	40.75	28.50	222	0.60	1.75	12	32.74	1.05
Fremont General Corp.	OTC	19.38	4.73	55.00	18.63	11.88	127	0.80	4.13	18	19.09	1.01
Frontier Insurance Group	NYS	19.75	3.95	77.37	21.75	10.00	15	0.00	0.00	10	7.29	2.71
General RE Corp.	NYS	93.00	-2.87	69.09	96.25	53.63	400	1.36	1.46	15	29.04	3.20
Hanover Insurance Co.	OTC	31.75	0.79	19.81	33.00	25.50	76	0.44	1.39	7	32.03	0.99
Harleysville Group	OTC	27.88	3.72	57.04	27.25	17.38	19	0.60	2.15	9	18.94	1.47
Harford Steam Boiler	OTC	51.50	0.98	39.19	59.25	31.00	87	1.60	3.11	14	18.94	2.72

		Price	Weekly % change	Year to Date % change	Annual		Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk. value
					High	Low						
Kansas City Life Ins.	OTC	35.50	0.00	3.65	39.50	32.25	0	1.04	2.93	19	39.22	0.91
Kemper Corp.	NYS	47.88	-0.26	103.72	51.88	22.75	85	0.84	1.75	10	29.97	1.60
Lawrence Insurance Group	ASE	7.25	1.75	-9.38	9.88	6.63	3	0.28	3.86	15	3.29	2.20
Liberty Corp.	NYS	36.13	0.00	-0.69	39.25	32.50	3	0.80	2.21	15	31.82	1.14
Lincoln National	NYS	61.25	1.66	41.62	61.13	42.75	119	2.60	4.24	11	49.19	1.25
NAC Re Corp.	OTC	39.50	-3.36	91.14	41.00	19.75	198	0.20	0.51	17	22.81	1.73
Navigators Group	OTC	28.00	2.75	36.59	28.00	19.25	17	0.00	0.00	11	15.22	1.84
Nobel Insurance LTD.	OTC	2.25	-10.00	-51.35	5.50	1.50	13	0.00	0.00	0	7.76	0.29
NWNL Companies	OTC	38.75	2.65	26.02	40.63	26.88	111	1.20	3.10	9	37.50	1.03
Ohio Casualty Corp.	OTC	50.38	-0.74	40.91	52.50	34.50	100	2.08	4.13	8	33.30	1.51
Old Republic (n'l)	OTC	28.50	0.44	25.35	30.38	22.63	186	0.72	2.53	15	30.70	0.93
Orion Capital Corp.	NYS	24.50	-2.00	53.13	28.50	13.88	28	0.84	3.43	7	19.72	1.24
Phoenix RE Corp.	OTC	15.25	10.91	56.41	14.75	8.75	159	0.00	0.00	12	12.99	1.17
Protective Life Corp.	OTC	14.38	-1.71	8.49	16.25	12.88	27	0.68	4.73	27	14.54	0.99
Provident Life	OTC	27.00	1.89	39.35	29.38	17.75	252	0.80	2.96	9	23.24	1.16
Re Capital Corp.	ASE	13.88	0.00	50.00	14.88	8.88	8	0.00	0.00	12	12.60	1.12
RLI Insurance Corp.	NYS	8.75	0.00	14.75	9.38	6.88	10	0.40	4.57	8	10.71	0.81
St. Paul Companies	OTC	62.50	1.83	45.35	62.75	40.75	721	2.20	3.52	8	43.47	1.44
SAFECO Corp.	OTC	37.38	1.36	59.89	38.63	23.13	860	1.20	3.21	9	24.87	1.52
SCOR U.S. Corp.	NYS	13.00	-0.95	50.72	13.38	6.88	43	0.40	3.88	13	10.61	1.25
Seibels Bruce Group	OTC	10.38	0.00	-7.78	13.63	10.25	8	0.80	7.71	-49	13.75	0.70
Selective Ins. Group	OTC	17.75	-1.39	-22.83	19.50	14.50	98	0.96	5.41	6	15.72	1.11
Statesman Group Inc.	OTC	3.13	4.17	8.70	4.00	2.00	184	0.20	6.40	17	4.19	0.75
Tokio Marine & Fire	OTC	77.50	0.65	-15.53	95.50	66.00	3	0.92	1.19	33	70.93	1.09
Torchmark Corp.	NYS	52.63	3.95	72.54	52.25	29.88	180	1.40	2.66	14	13.23	3.95
Transamerica	NYS	44.88	-0.28	34.46	48.00	31.50	304	1.92	4.28	11	34.63	1.30
Trenwick Group Inc.	OTC	26.25	0.00	84.21	26.63	13.25	214	0.36	1.37	13	16.91	1.55
United Fire & Casually	OTC	32.75	0.77	7.38	34.50	28.75	3	1.20	3.66	9	22.56	1.44
USF&G Corp.	NYS	30.00	3.90	-3.45	34.00	28.25	886	2.80	9.33	47	22.87	1.30
UNUM Corp.	NYS	46.00	3.66	71.96	46.13	26.38	170	0.60	1.30	13	31.20	1.46
USLIFE Corp.	NYS	44.50	0.85	29.45	48.13	32.88	115	1.48	3.33	10	54.34	0.80
Washington National	NYS	26.25	1.94	-1.41	29.13	24.00	23	1.08	4.11	-	32.90	0.80
Zenith National Ins.	NYS	18.50	1.37	-4.96	21.50	15.63	69	0.84	4.54	8	13.81	1.33
INSURERS/REINSURERS		AVERAGE	0.4	31.0					3.0	11.9		

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