

# Business Insurance

## Xerox discussing possible sale of Talegen to Fund American

NORWICH, Vt.—Fund American Enterprises Holdings Inc. is holding "preliminary discussions" with Xerox Corp. about the possible purchase of all or part of Talegen Holdings Inc., formerly Crum & Forster Inc.

"It is a very preliminary stage, and negotiation's too strong a word," said a Fund American spokesman. Fund American says it disclosed the talks because it is about to repurchase some of its own stock and needs to keep shareholders informed.

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## California city forms mutual liability insurer

By JOANNE WOJCIK

GARDENA, Calif.—City officials think the municipal insurer that Gardena formally launched last month is just what California municipalities need to ride out commercial insurance market storms.

Other municipal risk managers, though, warn that Gardena officials may be deluding themselves if they think their insurer will stay afloat.

Incorporated in March 1992, Gardena-based Municipal Mutual Insurance Co. was licensed last month and has issued its first policy to the city of Gardena, a community of 51,000 southeast of Los Angeles.

But, to attract other municipal policyholders, the company will have to compete with the state's 132 public entity pools. That's a tall order. Some of the pools have been very successful, returning dividends equal to 100% of premiums plus interest.

In fact, the pool in which Gardena itself had participated until this year returned virtually all of the city's premiums, according to Tom Vance, past president of the Authority for California Cities Excess Liability pool and risk manager of the city of Anaheim.

"The cities in the pool got back 100% of their deposits—or premium equivalent—in the first year, plus interest," he said. "This was the second year ACCEL returned deposits."

In contrast, "a lot of mutuals say they'll return premiums by way of dividends but don't," Mr. Vance noted.

The new insurer also will provide \$5 million in liability coverage, while ACCEL provides up to \$9 million excess of a \$1 million self-insured retention, he said.

But Gardena officials are adamant that they will turn a profit while also enabling public entities throughout the state to weather

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## Health reform revisions offer big employers less

By JERRY GEISEL

WASHINGTON—President Clinton's revised health care reform package gives big employers an all-or-nothing proposition.

Employers with more than 5,000 employees could provide health care coverage to all their employees by setting up their own corporate health alliance. Or, they could have all their employees covered through public regional alliances. They can't have it both ways, though.

An earlier proposal President Clinton and Hillary Rodham Clinton presented to Congress—but never formally introduced—gave large employers more flexibility in how they could cover workers. Big employers that chose to set up a corporate alliance would have had the option of covering employees at company units with fewer than 100 workers through regional health care alliances rather than the corporate alliance.

"A small bone given to employers with corporate alliances has been taken away," said Henry Saveth, a principal with A. Foster



Higgins & Co. Inc. in New York.

Other changes in the proposal—introduced Nov. 20 as S. 1757 and H.R. 3600—include details of how much employers would have to pay if their health care coverage programs for early retirees were shifted to the government. The regional alliances would pay the bulk of those premiums.

In addition, the proposal details certain rules employers would be required to follow if they want to pay more than 80%—the minimum required under the Clinton plan—of employees' health care premiums.

However, the late introduction of the legislation means it will be well into 1994 before Congress begins the arduous task of seriously considering and then attempting to pass health care reform legislation.

The formal introduction of the Clinton health plan was nearly seven months after the date—May 1—the president had promised to have a comprehensive package ready.

Despite the delays, the administration hasn't even come close to building a congressional consensus behind his approach. Indeed, the number of congressional cosponsors of President Clinton's proposal isn't much higher than the number of backers for other health care reform proposals in Congress. Some members are supporting more than one measure.

For example, in the House, an even 100 representatives have cosponsored the Clinton proposal. That's only slightly better than the roughly 90 backers of a single-payer bill introduced earlier this year by Rep. Jim McDermott, D-Wash. And a managed competi-

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## Aviation rate hikes differ according to airlines' losses

By ADRIAN LADBURY

LONDON—Aviation hull and liability insurance rate increases are taking off again after a temporary slump in 1992.

Airlines, though, are pleased that increases—which average about 60%—differ widely among airlines according to their loss experience, brokers report.

However, they will not be so pleased to hear that even though rates have generally been on the rise for the past three years, underwriters believe that further rate hikes are needed in 1994.

Worldwide premium volume is still not sufficient to cover expected claims and build reserves for unforeseen catastrophes, aviation insurers contend.

The current worldwide aviation premium volume is now not much larger than it was in 1987, the year

before rates began a three-year free fall. And, as underwriters are keen to tell airline risk managers, fleet values and miles flown have shot up since that time, increasing insurers' potential exposure.

Some believe, however, that aviation underwriters will not find it easy to keep up the pressure. Brokers note the recent growth of many of the continental European markets, the French market in particular, at the expense of London during its particularly energetic rate squeeze. This could lead to more competition.

Also, while the aviation market has lost many players in the last few years, it may still suffer from overcapacity.

One broker estimated that capacity has fallen from 300% of the necessary level in the late 1980s to about 180% this year. But, he ar-

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## Back from the brink

How a turnaround expert and insurance outsider righted a listing USF&G

By MARK A. HOFMANN

BALTIMORE—When Norman P. Blake Jr. took over the top spot at USF&G Corp. three years ago, he moved into the choicest office in a tower that dominates the Baltimore skyline.

Unfortunately, the tallest building in Baltimore housed a company whose fortunes had sunk deeper than the bottom of the harbor the tower overlooks.

Put mildly, the 94-year-old insurer was in trouble. USF&G's balance sheet was out of balance. Rating agencies were reviewing its claims-paying ability in anticipation of a downgrade. The former president, chairman, and chief executive officer had abruptly retired several years ahead of schedule. The board slashed the company's dividend by two-thirds as USF&G's stock price sank nearly 66% from its 52-week high. The board also instituted a \$75 million cost-cutting program.

USF&G's predicament reflected trends that the entire insurance industry had followed during the 1970s and 1980s, said Bob Hogue, vp-research for

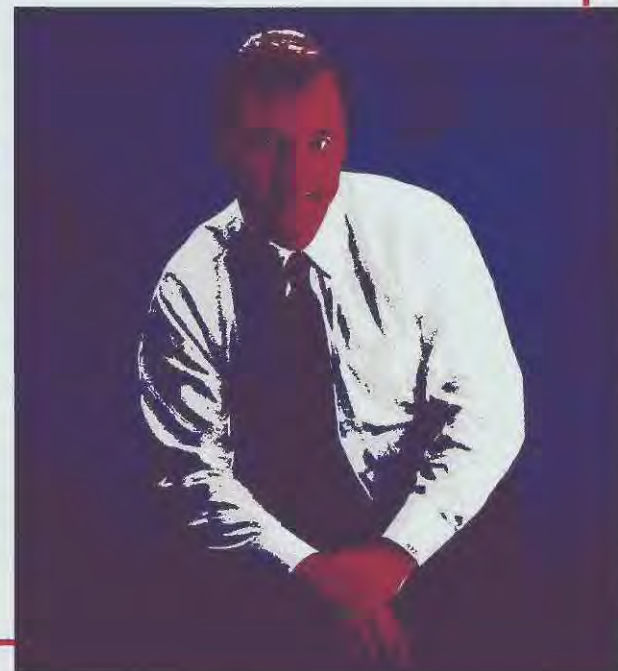
**Norman Blake, a corporate turnaround specialist, has repaired USF&G's bottom line.**

Firemark Consultants Inc. in Parsippany, N.J.

In the 1970s, insurers decided that the best way to make money was to diversify into the full financial services business, he said. In the 1980s, they eagerly acquired unrelated companies as they sought more growth.

USF&G was far from alone in this pursuit. But

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## Updates

### Talegen in acquisition talks

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Fund American, whose chairman is John J. Byrne, sold Fireman's Fund Insurance Co. in 1990 to Allianz A.G. Holding. Joseph W. Brown Jr., now Talegen's chairman, president and chief executive officer, had been Fireman's Fund president.

### State health plan in deficit

ANNAPOLIS, Md.—Maryland officials are seeking a way to cover an approximately \$100 million deficit in the state's self-insured employee health plan.

The plan, administered by Blue Cross & Blue Shield of Maryland, faces an immediate shortfall of about \$44 million. The rest of the shortfall is from claims that the state does not have to pay the Blues for immediately, state Budget Secretary Charles Benton told an emergency legislative meeting.

To generate the money needed for the health plan, Mr. Benton advocates a formula that would almost double state employees' contributions to their health plans. For example, individuals who now contribute \$22.54 monthly toward their health coverage would pay \$44.36 as of Jan. 1 under Mr. Benton's proposal.

Various state officials blamed each other's departments for the deficit. The problem was attributed to: an "error" under which the state paid Blue Cross for only nine and a half months' worth of claims instead of one year; an additional monthly underpayment of about \$3.5 million less than Blue Cross' estimate of costs; general rising health care costs; and a lack of communication among state agencies that led to the shortfall going unnoticed since 1992.

### Firms get break on reporting

WASHINGTON—Companies that fail to properly file health plan data for a new Medicare data bank will not be penalized until after the Health Care Financing Administration issues some guidelines on complying with reporting rules, the agency says.

Sen. Joseph Lieberman, D-Conn., had opposed allowing the penalties before firms had any guidelines. In a letter to the senator last week, HCFA Administrator Bruce C. Vladeck said, "It would be unreasonable for us to impose penalties in the absence of instructions, and I assure you that we will not impose penalties until after instructions are issued and employers have a reasonable time" to comply. HCFA plans to issue interim instructions by March 1, 1994, he said.

Sen. Lieberman spent the last two weeks trying to gain support for S. 1719, a bill he introduced earlier this month that would delay the penalties (BI, Nov. 22). If his bill isn't acted upon this session, Sen. Lieberman will again seek repeal or delay of the data bank reporting requirement when the Senate reconvenes in January, said a staffer.

Under the budget bill passed last summer, employers that offer group health plans would be required to compile data on groups of people that probably aren't being tracked now. The data would go into a data bank, which the government would use to recoup about \$1 billion in medical bills that should have been paid by group health plans, not Medicare or Medicaid (BI, Sept. 13).

### Texas department layoffs

AUSTIN—Some of the Texas Department of Insurance employees who analyze workers compensation rates may be laid off by newly appointed Insurance Commissioner J. Robert Hunter.

In a report to the Texas House of Representatives' Budget Committee last week, Mr. Hunter said he is considering layoffs and outsourcing to comply with a 1992 law that limits the department to 1,000 full-time employees by Sept. 1. It now has 1,032.

He also asked the panel to approve three deputy commissioner positions at salaries of up to \$95,000 each.

Mr. Hunter suggested cutting some of the 39 employees who analyze workers comp rates since the department no longer sets base rates. Insurers and businesses now negotiate to set the final rate. He outlined other ideas for streamlining operations, such as improving the efficiency of workers comp data computing.

### EDI could save \$42 billion

WASHINGTON—Using standard electronic communications throughout the health care industry would save about \$42 billion in six years, says a public/private task force on health care.

The Workgroup for Electronic Data Interchange, which represents insurers, health care providers, government entities and others, last week unveiled its blueprint for cutting paperwork.

Adopting the single format instead of the some 400 formats now in use would eliminate the need for patients to fill out claims forms and would cut costs, said Bernard R. Tresnowski, WEDI's co-chairman and CEO of the Blue Cross & Blue Shield Assn.

WEDI, which was created two years ago, wants large insurers, providers and employers to adopt the new standards by the end of 1994, with all others doing so by the end of 1995. WEDI plans to release an implementation manual sometime during the first half of 1994.

*Updates continued on page 22*

### Errors & Omissions

Under Forbes magazine's health plan bonus program, an employee who incurs \$200 in medical expenses for the year, and submits those claims to the insurance company, would receive an \$800 bonus. This example was unclear in a Sept. 6 story. Forbes also has taken the position that only bonus payments that represent unreimbursed medical claims are non-taxable; any incentive payments above claims amounts are treated as taxable income to employees.

# Market ready to pick up HPR accounts from IRI

By GAVIN SOUTER

Several insurers are eagerly snapping up small highly protected risk property insurance accounts following Industrial Risk Insurers' decision to cut back on this segment of business.

IRI is also trying to impose tougher terms and conditions on public utilities, but plenty of other insurers are willing to take on the business at more favorable terms.

This abundance of capacity for all types of HPR risks will ensure

that rates remain soft, brokers say.

IRI last month began cutting back on smaller HPR accounts as part of a restructuring effort (BI, Nov. 1). IRI, an association of about 40 insurers, instead will focus on larger accounts that produce annual premiums of more than \$100,000, said President Gail P. Norstrom Jr.

"Technically we are not offering renewal to accounts that do not produce \$25,000" in premiums, he said. Those accounts represent

about 30% of IRI's accounts, but less than 4% of its total revenues. IRI also will be much more selective when writing accounts that produce between \$25,000 and \$100,000 in premiums, Mr. Norstrom said.

"We want to become more involved with new and medium-sized companies that have the potential to grow into much larger companies," he said.

IRI believes there is more opportunity to make profits from

*Continued on page 4*

## 3 Merrett execs defect

Lloyd's steps in to assist troubled underwriting group

By ADRIAN LADBURY

LONDON—The future of Merrett Holdings P.L.C. continues to look grim after the resignation of three of its top executives and the decision by Lloyd's of London to step in to try to bolster the underwriting group.

Lloyd's had told *Business Insurance* on Friday, Nov. 19, that it would not get involved in Merrett's problems unless "we feel we have to look after the interests of

policyholders and members."

However, on Monday, Nov. 22, Lloyd's set up a special task force under the leadership of Richard Keeling, deputy chairman of Lloyd's, to do just that.

One possible reason for that decision was the news on Monday that Dennis Purkiss, chief executive of Merrett Holdings, had left to join Zurich Re (U.K.) Ltd. along with two other executives.

Merrett entered its current crisis when several members agents in

September threatened to withhold capacity from the group's flagship syndicates 418 and 1067 unless several management changes, including the resignation of Stephen Merrett as chairman of Merrett Underwriting Agency Management Ltd., were made (BI, Aug. 23).

However, though Mr. Merrett resigned from MUAM in September, the syndicates failed to attract the level of capacity for 1994

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### Insurers must defend if 'potential' for cover exists

## Court expands duty to defend

By JUDY GREENWALD

SAN FRANCISCO—Policyholder attorneys are hailing a California Supreme Court's ruling last week that liability insurers have a duty to defend policyholders whenever the "potential" for coverage exists.

They say the decision, which was delivered in an environmental liability dispute involving seven insurers, will probably be used as a guide to courts in other states as

well as in California.

"It's a great decision," said policyholder attorney Jordan Stanzler of Anderson Kill Olick & Oshinsky in Palo Alto, Calif.

The unanimous decision sends a "very strong message" to insurers that environmental cases are going to have to be defended, said Mr. Stanzler. "The insurers have been doing everything possible to show why they don't have to defend."

The case—*Montrose Chemical*

*Corp. of California vs. the Superior Court of Los Angeles County*—is related to another case also now before the Supreme Court. In that case, *Montrose vs. Admiral*, Admiral Insurance Co. is seeking to overturn an appellate decision that granted a continuous trigger of coverage (BI, March 8).

Montrose, which manufactured DDT, had purchased liability insurance from various insurers to cover operations at its Torrance,

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## AIDS discrimination trial ordered

By SALLY ROBERTS

NEW YORK—A suit brought by a self-insured multiemployer health plan will proceed to trial after a federal judge threw out the plan's claim that barring coverage for AIDS, HIV and other conditions did not violate the Americans with Disabilities Act.

In denying the plan's motion for summary judgment, Judge John E. Sprizzo ruled that a construction

union fund is a "bona fide benefit plan" as defined by the disabilities act and thus is covered by the ADA.

That preliminary ruling, one of the first to address the treatment of AIDS benefits under the ADA, came in a case involving the Mason Tenders District Council Welfare Fund, which excluded coverage for AIDS and AIDS-related conditions.

That restriction violated the

ADA, an Equal Employment Opportunity Commission official concluded in a non-binding ruling early this year (BI, Feb. 15).

Shortly after that ruling, the fund went to court to try to block further action by the EEOC as well as two complaints by two union members, including Terrence P. Donaghey Jr., a construction worker who contracted AIDS (BI, March 8).

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• San Diego County, Calif., will issue bonds worth \$430 million to retire its unfunded employee retirement fund liability. **PAGE 6**

• A proposed health plan data reporting requirement is an inefficient approach to eliminating Medicare overpayments, this week's editorial says. **PAGE 8**

• Dennis Nirtaut discusses health plan requirement changes under the Omnibus Budget Reconciliation Act of 1993 in Ask a Benefit Manager. **PAGE 15**

• A U.K. court last week restricted North American policyholders eligible for guaranty fund coverage. **PAGE 19**

• Captives are proving to be diverse business tools, an expert says at the Seventh International Reinsurance Congress in Bermuda. **PAGE 19**

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# Pension plan shortfalls increase: PBGC

By MARK A. HOFMANN

WASHINGTON—The net liabilities of employers with the nation's 50 largest underfunded pension plans jumped nearly 31% last year.

The Pension Benefit Guaranty Corp. reports that unfunded guaranteed benefits at the nation's 50 largest underfunded plans stood at \$31.67 billion in 1992, up 30.7% from \$24.24 billion in 1991. Guaranteed benefits are those that the PBGC would be legally obligated to pay to participants if an underfunded pension plan were terminated.

But with last week's release of

the annual Top 50 List came the now annual question: Does it serve a constructive purpose?

Some business observers and pension consultants say the Top 50 List gives an inaccurate picture of the nation's pension system, contending that the report's numbers are subject to misinterpretation.

The finding that unfunded liabilities in 1992 had increased for the fifth consecutive year led the Clinton administration to reiterate its commitment to pension funding reforms, according to PBGC Executive Director Martin Slate.

"These results underscore the

need for pension funding reforms and provide additional evidence that current law is not working. The Clinton administration has reforms before Congress to strengthen the law and to improve pension security," he said.

Mr. Slate cautioned, however, that a company's presence on the list does not signal an imminent collapse of its pension plans.

"Many companies on the list are strong and will be able to fund their pension plans. However, to better prepare themselves for retirement, participants should know more about their plan's funding and PBGC guarantees," said Mr. Slate.

According to the PBGC, the list includes the 50 companies with the largest underfunded plans, but not necessarily the worst funding ratios, which show the percentage of liabilities that are matched by plan assets.

Some of these same companies may have other plans that are overfunded. But overfunded and underfunded plans aren't aggregated, because there is no legal right for the PBGC or a participant in an underfunded plan to tap the assets of a company's overfunded pension plan.

Once again, General Motors Corp. had the largest dollar amount of unfunded guaranteed

benefits, reaching \$17.2 billion in 1992, up from \$9.3 billion a year earlier (*BI*, Nov. 23, 1992). GM's funding ratio was 70%, down from 81% in 1991.

Other companies with more than \$1 billion in unfunded guaranteed benefits in 1992 and their funding ratios are: Bethlehem Steel Corp., with \$2.14 billion, 62%; LTV Corp., \$1.93 billion, 40%; and Westinghouse Electric Corp., \$1.01 billion, 79%.

Chrysler Corp., which in 1991 had an unfunded liability of \$3.58 billion and a funding ratio of 58%, improved to an unfunded liability of \$876 million and a ratio

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Without a completion bond, the 1992 film "Malcolm X," starring Denzel Washington, might never have been made.

## Film guarantors vie for top role after firm folds

By JOANNE WOJCIK

LOS ANGELES—There's no business like show business—unless, of course, a movie producer can't get a completion bond.

The show simply didn't go on for many independent filmmakers this past summer after TIG Holdings Inc., the spunoff property/casualty unit of Transamerica Corp., announced it was folding its Completion Bond Co. subsidiary (*BI*, June 21).

Los Angeles-based CBC had been the leading underwriter of movie completion bonds, which obligate the insurer to step in and finish a film if it goes over budget or falls behind schedule. When a bonding insurer takes over a film, it acts as the film's producer. It can either stop production of the film and pay off outstanding debts or finish producing it.

Most financial institutions and investors require independent producers—those not connected with a studio—to purchase completion bonds as a condition of lending.

Since it was created in 1981, CBC has guaranteed films with aggregate budgets of nearly \$3 billion and was generally acknowledged to be Hollywood's biggest guarantor, bonding between 100 and 120 films per year.

Some acclaimed independent productions, such as Academy Award-winning "Driving Miss Daisy," might never have been made without CBC's backing.

The three other bonding companies remaining in the market—International Film Guarantors and Film Finances Inc., both based in Los Angeles, and Toronto-based Motion Picture Guarantors—have been gearing up to assume CBC's business. But, it's been a difficult transition that has left many independent filmmakers down and out.

The Transamerica unit had guaranteed a sizable chunk of the market, since only 120 to 150 films are bonded each year.

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## Tapping a captive market

Use of captives to help insurers and policyholders share future risks

By GAVIN SOUTER

NEW YORK—Mutuality and partnership will be the hallmarks of the relationship between insurers and commercial policyholders by the end of the decade, a consultant predicts.

Risk managers will be able to encourage the use of risk management techniques throughout their companies by the extensive use of captives, he said.

Sharing risks, rather than laying off risks with insurers, will lead to long-term relationships and extensive coverage, a risk manager added.

And, despite current difficulties in obtaining some catastrophe coverages, the insurance industry will continue to develop innovative coverages to overcome the current capacity problems, an insurance company executive said.

These views were expressed earlier this month at the Fourth An-

nual World Captive Forum, which was held in New York and co-sponsored by captive manager SINSE Group, Skandia International Risk Management and Tillinghast, a unit of Towers Perrin.

The concept of mutuality has pervaded the insurance industry for centuries and it will grow in importance over the next few years, said H. Felix Kroman, vp and principal at Tillinghast in Stamford, Conn.

In particular, both single-parent and group captives will help develop mutual sharing of risks, he said.

"A single-parent captive is a mutual," Mr. Kroman said. Its mutuality will be of great benefit to decentralized companies, he said.

"It begins with the acknowledgment of ownership of risk in all operating units, so it should be strongly capitalized," he said.

Successful captives should be capitalized at more than \$100 million to ensure that they can accept

the risks of a corporation, Mr. Kroman advised.

Without sufficient capital, captives will not be able to handle "macro risks" such as pollution liability, he said.

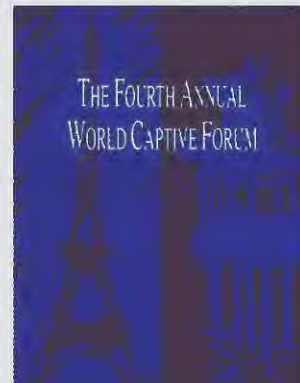
The mutual nature of a captive allows the company's units to retain a certain amount of choice and flexibility in their insurance coverage.

For example, each unit should be able to select its own level of retention within maximum and minimum guidelines, he suggested. And, if the captive produces a profit, dividends should be paid back to the operating units in proportion to their individual loss experience records, he said.

Mutuality will be more firmly established if the operating units commit themselves to the captive for five or 10 years, Mr. Kroman said.

"They are given a great deal of

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## Closing fidelity bond gaps

Coverage for employee dishonesty more than a matter of trust

By DAVE LENCKUS

CHICAGO—Employers that blindly count on fidelity bonds as a safety net to protect them against losses resulting from dishonest employees may find some gaping coverage holes on closer inspection, an attorney warns.

"Most insureds get the bond and assume everything is covered that can be considered employee dishonesty," observed Peter D. Sullivan, a partner with Hinshaw & Culbertson in Chicago.

In fact, though, coverage under fidelity bonds "is quite limited," he said at the firm's insurance symposium on Nov. 2.

For example, before a loss is covered under the dishonesty, disappearance and destruction—or 3-D—commercial crime policy, the bondholder must first prove the employee's intent in two areas, Mr. Sullivan said. The employer has to show that the acts were committed with the "manifest intent" of:

- Causing a loss for the employer.
- Obtaining a financial benefit for the employee or a third party.

Those requirements are not as straightforward as they appear.

To illustrate, Mr. Sullivan cited a 1991 6th U.S. Circuit Court of Appeals case involving loans the

president of a now-insolvent bank made to companies in which he held a financial interest.

The court ruled there was no

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## Combating redlining without regulation

By DAVE LENCKUS

CHICAGO—Illinois Insurance Commissioner Stephen F. Selcke hopes that a recent stroll with several insurer executives through some Chicago neighborhoods will lead to a voluntary end to redlining there—if redlining exists.

Unlike most of the homeowners' insurance markets in the state, Chicago's is dominated by just two companies—Allstate Insurance Group of Northbrook, Ill., and State Farm Group of Bloomington, Ill. Combined, they control 65% to 70% of the market.

That situation doesn't sit well with the commissioner, who wants to spur greater competition through cooperative efforts with the industry rather than through a regulatory or a legislative approach. The problem with anti-redlining regulations is that there is no general agreement on what redlining is, he said.

Such concentration in the Chicago market would "put Illinois in a vulnerable position if something happened to those two insur-

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## HPR market

Continued from page 2

the larger HPR accounts, he said.

Other insurers are expected to take on former IRI clients easily.

"There are other markets which have been doing a good job on the smaller risks all along and they will continue to write the business," said James Costner, chairman of the property interests group of Willis Corroon Americas in Nashville, Tenn.

Existing HPR insurers that will likely take on the business, he said, include Kemper Insurance Co. and Wausau Insurance Cos.

In addition, IRI member Aetna Life & Casualty Co. says it is interested in this business.

Several insurers, including Kemper and Wausau, have sent memos to producers saying that they are interested in taking on more small account HPR business.

"We have sent communications to producers saying that we are very interested in the business," confirmed Bill Simmons, HPR officer at Kemper in Long Grove, Ill.

Already Kemper has bound coverage for one account with a premium of less than \$25,000 that had been insured by IRI, he said. "And we have several others that we may take on that have premiums greater than \$25,000."

Kemper is able to make a satisfactory profit from accounts that produce less than \$25,000 in premium by controlling costs and building up a sufficient volume of the business to make such accounts economically viable, Mr. Simmons said.

Kemper's current premium volume for HPR risks is around \$150 million annually, he said.

Wausau also wants some of the business jettisoned by IRI.

"We are looking to grow our HPR book and we have a memo going

out to brokers saying that we are here and looking for more business," said Mike Ehlers, assistant vp for HPR property specialty risks at the Wausau, Wis.-based insurer.

Wausau's HPR and layered special risk premium income for 1993 is

around \$85 million, Mr. Ehlers said.

It's not just IRI competitors that are interested, either. Some IRI member companies like Chubb Corp., CIGNA Corp., and The St. Paul Cos. Inc. may want to take on the business on their own, said Suzanne Douglas, senior vp at Alexander & Alexander Services Inc. in New York.

Chubb and St. Paul confirmed they are interested in these risks.

CIGNA said it has not stepped up its effort to write smaller HPR ac-

**'Many of the IRI member companies have developed in-house staff to handle HPR business. They know that they can't handle the Fortune 500 accounts but they can handle the smaller business,' says A&A's Suzanne Douglas.**

the smaller business," she said.

Non-HPR insurers might also want to step in take on some of the former IRI accounts. "We will probably be able to get some people from the non-HPR market to come in and write it at the HPR rate," said one HPR specialist broker.

But not all companies want to take on this business.

"We are a direct writer and we don't have the distribution system for those accounts," said Dick Roth, senior vp and director of underwriting at Arkwright Mutual Insurance Co. in Waltham, Mass., a member of the Factory Mutual companies.

Arkwright is already focused on large-account HPR business, he added.

Several brokers predict IRI will succeed with its change of focus.

"IRI is already looked upon as a good competitor with the Factory Mutual companies and I think it could do well in what it is trying to do," said Alicia O'Donnell senior vp and property department manager at Johnson & Higgins in New York.

Even though HPR insurers often have long-term client relationships, the soft market should enable IRI to pick up some new accounts without cutting rates, said Ms. Douglas.

For example, she explained, if another insurer seeks to increase the premium on a poor account and include a loading in the premium to help pay past losses, IRI may be able to take over that business for the original or slightly higher premium without having to try to impose a pay-back loading.

In the same way, though, IRI may lose some of its public utility business by imposing new terms and conditions, Ms. Douglas said.

Throughout the year IRI has been talking to public utility clients about changes in terms and conditions. "Our experience has not been good in this area," said Mr. Norstrom.

Problems have included insuring aging equipment on a new-for-old basis, he said. "In some cases, we have found ourselves replacing new for old or new for worn out."

Brokers and other underwriters say that IRI was too competitive when it entered the public utility market around six years ago.

"They had some bad losses and they got burnt," said one insurance company executive.

The changes at IRI are unlikely to affect premium rates in the HPR market, brokers say.

Outside of catastrophe-prone regions, HPR accounts are still highly sought after by many underwriters, they say.

"I don't think rates are going to go up because of IRI," said Charles Fisk, senior vp-national marketing at Sedgwick James Inc., in Memphis, Tenn. The volume of underwriters eager to take on the business will ensure that HPR rates remain soft. This will also ensure that IRI's image will not be tarnished by the move, Mr. Fisk said. "People are not concerned about it at all."

In fact, IRI's decision could be prove to be beneficial, said Mr. Costner of Willis Corroon.

"IRI is analyzing its problems and getting its act together and I don't think that insureds or brokers will worry about it," he said.

Meanwhile, CNA Insurance Cos.' decision earlier this year to stop writing property accounts for businesses with revenues exceeding \$75 million has had little impact on the market, brokers say.

"We did not write a great deal of national account property business and we wanted to concentrate on casualty business," a CNA spokesman explained.

CNA formerly had property insurance revenues of \$30 million compared with casualty revenues of nearly \$1.5 billion, he said. **SI**

# A Global Perspective...



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# County issues bond to cover pensions

SAN DIEGO—Taking advantage of low interest rates, San Diego County, Calif., will issue bonds worth \$430 million to retire its unfunded liability to the county's employee retirement fund.

It is the first time the county has issued debt to cover its pension liabilities, although Los Angeles County used a bond issue in 1986 to retire some of its unfunded pension liability, said San Diego County Treasurer Paul Boland.

"The only thing that makes this

## Benefit Beat

worthwhile is the interest rate—only that," he said.

The bond issue will go to market about Jan. 1. San Diego hopes to save some \$65 million over 14 years, Mr. Boland said.

Savings will result from the difference between the low prevailing interest rate when the bond is issued and the 8% annual interest

the San Diego County Employee Retirement Assn. now charges the county on its unfunded liability.

The SDCERA covers about 25,000 county employees. The county currently is making annual payments to the fund designed to erase its unfunded liability over a 14-year period, Mr. Boland said.

With the proceeds of the bond issue, the SDCERA has an opportunity to generate larger investment returns, which could eventually reduce county contributions

to the fund, Mr. Boland said.

Because a public entity cannot issue stock—like General Motors Corp. did recently to retire part of its unfunded pension liability (see story, page 3)—it makes sense to use a bond issue to take advantage of lower interest rates on debt, said David Nunley, claims manager for the City of Anaheim, Calif., and president of the Orange County chapter of the Risk & Insurance Management Society.

—By Louise Kertesz

## Bristol-Myers offer

NEW YORK—As part of an overall cost-saving initiative, Bristol-Myers Squibb Co. offered about 2,600 domestic employees early retirement with enhanced monthly pension benefits.

Until Nov. 15, employees age 50 or over with at least 10 years' service were eligible to leave the company voluntarily and have five years of age and five years of service added to their pension benefits calculation formula.

Costs for the program will be covered by an \$890 million charge the pharmaceutical company took during the fourth quarter of 1992.

—By Michael Schachner

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## Work/family benefits

All kinds of work and family benefits are slowly but surely becoming more prevalent in corporate America, according to the latest results of an annual survey.

Some type of child care assistance remains the most frequently offered work and family benefit, offered by 78% of 1,034 employers surveyed this year by Hewitt Associates. In 1992, Hewitt found that 74% of 1,026 employers surveyed offered some kind of child care assistance, up from 66% of 1,006 employers surveyed in 1991.

The popularity of flexible scheduling arrangements also is inching up. Sixty percent of those surveyed this year by Hewitt offered some kind of flexible scheduling arrangement, up from 58% last year and 53% in 1991. Flex time and part-time employment remain the most popular arrangements, offered by 73% and 67%, respectively, of employers offering flexible scheduling arrangements.

"There is a growing recognition among employers of the needs of employees with children and without," said Carol Sladek, a work and family specialist at Hewitt.

Dependent care spending accounts remain very popular among those offering child care assistance: Ninety-four percent of these employers are offering these accounts this year, up from 93% last year and 91% in 1991.

One in five employers offers elder care benefits, the survey found.

Hewitt has calculated the number of employers offering elder care benefits differently this year than in previous years, a spokeswoman said.

Offering a dependent care spending account no longer is counted as an elder care benefit. Because there are so many regulations limiting the use of a dependent care spending account for elder care, using that approach is almost precluded, she explained.

When last year's results were recalculated to be compared with this year's results, Hewitt found only 16% of employers offered elder care benefits in 1992.

Adoption benefits are now offered by 18% of employers, up from 15% last year and 12% in 1991.

Reimbursement of \$2,000 per adoption remains the most frequently offered benefit.

Copies of "Work and Family Benefits Provided by Major U.S. Employers in 1993" are available for \$35 from Diane Schuett, Hewitt Associates, 100 Half Day Road, Lincolnshire, Ill. 60069; 708-295-5000.

—By Deborah Shalowitz

## Aviation rates

*Continued from page 1*

gues, this level is still too high to enable market leaders to force further meaningful rate increases next year without losing more major accounts to other markets.

About 70% of world airlines' coverage is placed in October and November. Latest figures from London brokers estimate the average rate increase for both hull and liability coverage in October was about 60%, and brokers say that November was not much different.

Willis Corroon Aerospace Ltd. calculated from a sample of 14 major international airlines with widely differing loss experience that hull rates increased on average by 61.7% and liability rates by 54.9% during October renewals.

Sedgwick Aviation Ltd. calculated that hull rates had increased by 61.6% and liability rates by 50.3% in October. For the entire first nine months of this year, hull rates had increased by an average of 63.9% and liability rates had jumped 51.6%, Sedgwick said.

Alexander & Alexander Services Inc. in London, which included renewals up to the third week of November, reports that hull rate increases averaged 57.4% and liability rate hikes averaged 65.9% this year.

La Reunion Aeriennne, the biggest French aviation insurer, reported an average increase of "about 60% in October and 70% in November."

A leading U.S. broker said that rates had risen in the U.S. market "between 50% and 100%" in October, with liability rates increasing more rapidly for U.S. airlines than hull rates.

Some U.S. airlines "received substantial liability increases due to insurers' perception of worsening U.S. liability exposures rather than from specific loss deterioration. Interestingly, liability claims from North America are greatly improved in 1993, with zero passenger fatalities—so far," said Sedgwick's latest *Airline Insurance Review* bulletin.

According to one London aviation broker, Trans World Airlines Inc. saw its hull rates increase 25% and liability rates climb 55%, and United Airlines Inc., which insures its fleet on a per-departure basis—meaning that it buys hull and liability coverage on a combined basis—paid 96% more on Oct. 1.

Aloha Airgroup Inc., which renewed Nov. 1, paid 52% more for its hull insurance and 84% more for its liability coverage. American Airlines Inc.'s 1992 rate of \$23.30 per departure is expected to jump 85% when the carrier renews Dec. 1, the broker said.

The airlines' risk managers could not be reached.

## AIDS coverage

*Continued from page 2*

Attorneys for the fund argued that cutting coverage for HIV and AIDS was part of a major cost-cutting effort and not discrimination against people with the viruses. They also argued that the cuts were permitted by the Employee Retirement Income Security Act.

Before the ADA was passed, courts had ruled that ERISA allowed self-insured plans to restrict AIDS coverage (*BI*, Nov. 16, 1992).

No decision has been made on whether to appeal, said Damien Mysak, a partner at the law firm of Levin & Weissman in New York, who represented the welfare fund.

Attorneys for the workers say they are optimistic they will prevail at trial. The fund has to prove that excluding AIDS coverage was part of a cost-cutting effort, said Cary LaCheen of New York Lawyers for the Public Interest. The fund has attributed its decision to cut the benefits to deteriorating economic conditions in the construction industry.

"We had fundamental increases in all the major accounts for the October and November renewals, which was long overdue. Things are going in the right direction as far as insurers are concerned," said Richard Maylam, underwriter for Lloyd's of London syndicate 270, managed by A.J. Archer & Co. Ltd.

"Insurers are trying to get the airlines' business back onto a gross profit basis, which they haven't achieved since 1987. They want to try and make sure that they can make a profit without having to subsidize the business from other classes, which has been happening all too often," said Mr. Maylam.

Apart from the obvious desire to make profits, the drop in capacity—and a shortage of reinsurance in a market that is heavily dependent on reinsurance—are the primary factors behind the rate increases.

But many in the market believe that the increases will not be sufficient to guarantee clear-cut profits for aviation underwriters.

And, as one London broker said, most underwriters believe they need to "keep the foot firmly on the pedal into 1994."

Most in the market agree that worldwide premium will total about \$1.5 billion by year-end, compared with total premiums last year of about \$900 million.

Current estimates of losses, including the recent \$145 million claim for the loss of a China Airlines hull in Hong Kong (*BI*, Nov. 8), stand at about \$1 billion so far this year. A crash last week of a Macedonian airline's jet is believed to be uninsured (see story, page 19).

So-called unreported "attritional" losses, which include claims for lost baggage and parts, are predicted to climb to about \$300 million for the year.

When coupled with accidents that may yet happen this year, aviation insurers will post slim profit margins, if any, in 1993.

"1986 premiums were approximately \$1.3 billion, and it sunk as low as \$350 million in 1990, rose back up to about \$900 million last year and will probably reach about \$1.3 billion to \$1.4 billion for 1993," said Mr. Maylam. But, he said, "You must remember that this is with substantially higher fleet values."

But since losses in the aviation industry average between \$1 billion and \$1.2 billion per year, "we are just about keeping our heads above water," he said. "We need more increases to increase reserves to cover any bigger losses. I would expect further increases in 1994. If you look at the dramatic fall in rates between 1986 and 1990, we cannot possibly catch up all in one jump. We need further increases."

"I do not think we will see the

same level of increases as this year, but I hope we will still see an upward trend to meet the necessary levels for a financially sound market," said Jean-Michel Giquel, general manager at La Reunion Aeriennne in Paris.

"The big fluctuation in rates over the last five or six years has been capacity-led," noted Matthew Day, research officer at Willis Corroon Aerospace. "The successful years back in the mid-'80s attracted capacity into the market, so that the rates were driven down. But then, the reinsurance market collapsed and capacity began to fall again. Last year it was about 200% (of the amount necessary) and this year it looks like about 180%."

"Rates are rising, but only in the sense that they are returning to the levels of 1985 and 1987. The increases may seem big, but this must be seen against years of decreases," he explained.

Many brokers doubt whether underwriters will be able to keep up the pressure on rates. The latest renewal figures underline the growing trend toward more selective underwriting, which produces very wide margins between airlines depending on loss experience.

Willis Corroon reported that Syrian Arab Airlines paid 6% less for its liability coverage, while China Airlines, paid 110% more.

In this "selective" environment, it will be tough for underwriters to build up reserves through "across-the-board" increases, brokers say.

Also, while overall capacity has fallen dramatically, some markets, notably the French, are winning some major accounts from London. For example, three major accounts have moved to Paris—Aer Lingus and Syrian Arab in October and Qantas Airlines in November—from London.

Brokers say the competition between London and Paris could act as a brake on further rate increases, compounded by the financial pressures on airlines to cut costs.

"London is still very much the creative center in terms of rating trends and policy wordings, but certainly this year we have seen the re-emergence of the continental market either as reinsurer or a direct market, especially Paris where La Reunion particularly has led

non-French business. It is emerging as an alternative market for major airlines along with other European markets like Germany, Holland and even Ireland," said David Trezies, chairman of Sedgwick Aviation.

"London is the motor driving the rates up and the Europeans are providing more competition. You've got to remember that it's a very tough time for airlines. With very few able to make a profit, this places a great deal of pressure on airline management. So a very small difference in rates or the package can force buyers to reevaluate all the old relationships," Mr. Trezies said.

Mr. Trezies called the aviation market an "odd market" with continued overcapacity but rising prices.

"1994 will prove a watershed for the market. It's difficult to see how underwriters can continue to charge the prices without the competition setting in. We are forecasting a flat year, but of course this could all change with a couple of major losses," added Mr. Trezies, whose London-based brokerage places 60% of its aviation business outside London.

It is doubtful, however, that the aviation market is witnessing a fundamental shift in power that a few losses and some fickle reinsurers could not rapidly alter.

"I don't think there has been a big change between the markets. Paris has always been an international market and brokers will always trade internationally," said Bill Smith, director of the recently merged aviation departments of London brokers Leslie & Godwin Insurance Brokers Ltd. and Nicholson Chamberlain Colls Ltd. The aviation unit of the new company will be called Nicholson Leslie Aviation Ltd. starting in 1994.

Mr. Smith also stressed that underwriters are paying more attention to individual airline loss experience, which, if it continues, could limit the influence of market cycles to the benefit of the airlines with good safety records. "Underwriters are starting to discriminate," said Mr. Smith.

"The cost has gone up, but I wouldn't necessarily point the finger at London," said the U.S. broker, noting that terms quoted in the aviation market "vary by month and

by airline."

Other markets have used the higher rates being charged in London to justify their own rate increases rather than lowering rates to chase after the business, he said.

Mr. Giquel at La Reunion was keen to downplay the role of price in his company's new business gains at the expense of London this year, but does agree that there is an increased internationalization in the aviation market.

"We are not new. We have just celebrated our 40th anniversary and so our success is nothing new," said Mr. Giquel. "I think we are able to offer buyers an alternative and this is the reason for our success," he said, explaining that "airlines look for a different approach and an individual way of thinking, so we may win business at higher or lower rates—it depends on the package."

Mr. Giquel believes that the shortage of reinsurance and insurers' increased retentions will help improve underwriting discipline and support the trend to a more individualized approach to aviation insurance.

Underwriters like Mr. Maylam welcome the rising deductibles on which insurers are insisting and their attempts to limit coverage for small, "attritional losses" in an attempt to return airline coverage to its former status as a catastrophe coverage.

Many underwriters believe that the rising level of attritional claims, like baggage claims, has blurred the vision of buyers and insurers alike.

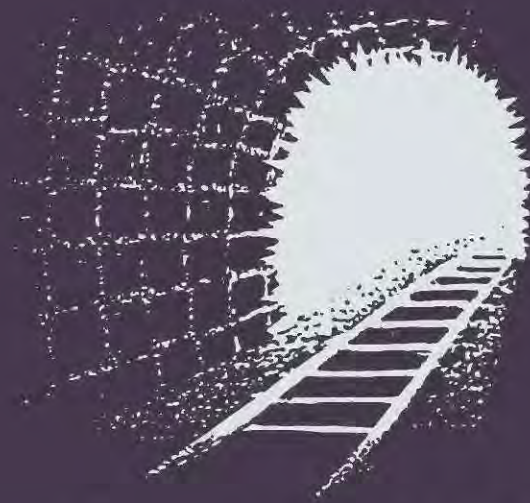
"Deductibles started to increase in 1992, especially on things like baggage, cargo and spare (parts)—all the things which were producing additional losses outside of the core catastrophe business," added Mr. Maylam.

Mr. Day at Willis Corroon said that underwriters have been determined to tighten coverage through raising deductibles, setting targets earlier this year of \$10,000 for destruction of cargo and spare parts and \$2,500 for baggage losses. Willis Corroon says that cargo and spare part deductibles have reached \$10,000, while baggage deductibles now are at about \$1,250.

"It's all part of the overall philosophy to concentrate on catastrophe losses rather than dents and bumps," said Mr. Day. **[B]**

## The workers' compensation crisis:

There's light at the end of the tunnel.



# Opinions

## Government overkill again

IT WAS BAD ENOUGH when Congress passed Section 89, the infamous part of the Internal Revenue Code that created ridiculously complicated and unnecessary non-discrimination tests for group health care plans.

Under a barrage of employer complaints, chagrined legislators ultimately repealed Section 89 in 1989. At the time, employers predicted that the Section 89 embarrassment would make Congress much more careful about imposing new and unneeded administrative requirements on benefit programs.

Alas, employers spoke too soon.

Tucked into a budget bill enacted by Congress earlier this year is a new health care plan data reporting requirement that shares the same feature—government overkill—that made Section 89 the object of such derision.

Under the new reporting requirement, employers will have to file a new report with the Department of Health and Human Services listing the name and Social Security number of each employee and former employee and their dependents covered under their group health care plans.

Employers also will have to indicate whether single or family coverage is selected and the period during the calendar year that coverage was in effect for each person.

The data reporting requirement was drafted in response to a legitimate problem: The government is not saving as much as it should from a series of laws from the 1980s that made employers the primary payers of health care for certain employees, like those over 65, and made Medicare the secondary payer.

There is no doubt that Medicare has been paying bills that should have been covered by employer plans. But whose fault is that? In many cases, hospitals sent those bills to Medicare, which paid them.

Years later, after Medicare found out that it paid bills for which it was not responsible, it went after employers and their plan administrators and insurers to try to recover the overpayments. This process is continuing.

While there still may be a problem with Medicare paying bills that should rightfully be going to employers, the solution does not lie in requiring employ-



ers to send a mountain of forms to the government, where they will likely accumulate unread.

Why should employers, for example, file information on health care enrollment for all their employees when the problem of Medicare overpayments rests with about 2% of employees—workers and dependents over 65?

Like Section 89, with all those complicated tests, the data reporting requirement is overkill.

We have a much simpler solution. When a person checks into a hospital—regardless of age—the patient should indicate whether he or she has employment-based coverage. The hospital then should verify that coverage. Penalties for improper billing should then be assessed on hospitals or other providers.

As an added safeguard, employees, when they first become eligible for Medicare, should let the government know if their employer continues to provide them with health care coverage.

These two approaches, neat and targeted, would largely eliminate the problem of improper billing.

We hope Congress considers these recommendations and that the onerous data reporting requirement meets the same fate as Section 89: repeal.

## Letters

### Comp fee schedule analysis missing one item

To the editor: I read your Nov. 15 article, "Comp Fee Schedules Could Lead to Huge Savings: WCRI Study," with great interest. You took a very complicated piece of research and made it very understandable to your audience. I wish that we could do half as well.

The article pointed out correctly that fee schedules have great potential to reduce both workers comp prices and total medical costs. It also captured many of the more important but subtle points that are important to having a solid understanding of the potential issue. In presenting the cost savings estimates, the tables missed an important point that unfortunately was hidden in a footnote:

"When prices are reduced, many observers believe that providers alter their behavior to retain revenues—changing billing and treatment practices. This change could be very substantial, undermining some or most of the potential savings of fee schedules. No good research estimates exist on the magnitudes of these effects. But Medicare thinks it is substantial; in their esti-

mates of the potential savings of the Medicare fee schedule, they assume that changes in utilization and billing practices may offset as much as 50% of the price reductions."

**Richard Victor**  
Executive Director  
Workers Compensation  
Research Institute  
Cambridge, Mass.

### Comp system best left alone

To the editor: The letter from James N. Ellenberger, assistant director of the AFL-CIO's department of occupational safety and health—which strongly supports directing workers compensation care through President Clinton's health care plan—causes me extreme concern (BI, Oct. 25).

Workers compensation illnesses and injuries are usually covered 100%. We all are aware of how the government likes to shift costs to any other program seen as a viable way to reduce "government costs." If we cover workers comp medical care through the Clinton health plan, will this not become a prime area for cost shifting? The

health care alliance will be reimbursed by the workers compensation plan at 100%, as required by workers comp law.

It will be interesting to see how workers compensation cases increase when handled through the health plan. The regional alliances could actually increase their funding through this mechanism. What a windfall for the government!

It appears to me that this puts a primary trust into a system that has not been proven viable or trustworthy.

**Nancy B. Feurstein**  
Supervisor-Employee Benefits  
Imperial Irrigation District  
El Centro, Calif.

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# More property pools expected

## Cat cover shortage to spur formation

By GAVIN SOUTER

NEW YORK—The current shortage in catastrophe coverage capacity will lead to increased development of property insurance pools, much like the liability insurance crisis of the mid-1980s produced several liability insurance pools, a broker says.

Companies that join those pools will reap benefits that they will be unwilling to give up even when traditional insurance prices fall, said a captive management executive.

The insurance industry is suffering from an acute shortage of catastrophe insurance capacity, observed Nick Maher, managing director non-marine at Alexander Howden Ltd. in London.

Insurers and reinsurers are reluctant to offer catastrophe coverage with the same terms as they have in the past and the slack in capacity will not be taken up by new Bermuda reinsurance facilities, he said.

"It's my feeling that there will be a shortage and now may be the time for industry to consider pooling at the higher catastrophe levels," Mr. Maher said.

He was speaking at the Fourth Annual World Captive Forum in New York earlier this month, which was co-sponsored by SIN-SER Group, Skandia International Risk Management and Tillinghast, a unit of Towers Perrin.

## Sharing risks

Continued from page 3

latitude, but one of the decisions should be to stick with the facility for the long term," he advised.

Only then will the captive be able to accept difficult-to-place macro risks, he said.

Group captives will operate along similar lines of mutuality, Mr. Kroman said.

And, the mutuality principle should extend to the relationship between captive insurers and the traditional insurance market, he said.

Captive owners should seek long-term policy terms with insurers and reinsurers to avoid market volatility, Mr. Kroman said.

But, despite their uses as risk financing vehicles, captives will not be able to operate independently of the insurance market, said Tony Benson, head of group risk management at Guinness P.L.C. in London.

"Captives have never reached a stand-alone, un-market-supported position," he said.

They might seem to in certain areas, such as environmental liability impairment coverage, but in reality they do not, he said.

A captive may accept some of an EIL exposure without reinsurance coverage, but it does not cover 100% of the parent company's EIL exposure, he said.

Other areas where captives' uses are limited include coverage for global risks such as AIDS and climatic change, Mr. Benson said.

The main advantages of captives are fiscal and their use in avoiding "dollar swapping" for working-layer losses, he said.

Consequently, large corporations should seek to establish

insurers and reinsurers are reassessing their catastrophe exposures in the light of recent large losses and, as a result, the future may hold even less capacity than is now available, Mr. Maher said.

In particular, underwriters were shocked by the severity of European windstorms in 1987 and 1990 that cost them billions of dollars, he said.

"Their views have been affected by the storms in the U.K., which were supposed to happen once in every 300 hundred years but in fact we had two in three years," Mr. Maher said.

Underwriters do not want to suffer a similar shock any time soon and are drastically reducing their capacity and increasing their rates for catastrophe exposures, he said.

And the new conservatism by underwriters is not restricted to storm losses; earthquake insurance capacity is also shrinking and coverage restrictions are being enforced, he added.

Despite the proliferation of new catastrophe reinsurance facilities in Bermuda, these reinsurers will not be enough to satisfy worldwide demand for catastrophe insurance, according to Mr. Maher.

Consequently, policyholders seeking coverage for catastrophe exposures increasingly will have to look outside of the traditional insurance market, he said.

"There are plenty of other examples of industry pooling resources, directly or indirectly involving captive insurance companies, as a solution to capacity problems," Mr. Maher said.

long-term relationships with large insurers and reinsurers, he said. The relationships should be cooperative rather than confrontational, he added.

"If an insurer says that I will pay Guinness' losses as defined by (Mr. Benson), then I have flexibility," Mr. Benson said.

This would make risk financing more or less a banking function rather than an insurance function, he said.

"Our business is not about captives or insurance, it's about financing risk, and captives are just an arrow in the quiver of survival," Mr. Benson said.

However, no more than six major insurers and reinsurers are big enough and have the vision to establish such a relationship with large commercial policyholders, he said.

But the insurance industry as a whole does have the vision and ability to continue financing catastrophe coverages for all policyholders despite the current shortage, said James M. Stone, president of Plymouth Rock Cos. in Boston.

"If you look at the capital that's coming into Bermuda and corporate capital in Lloyd's, I believe that the market will be able to deal with the supply-and-demand gap and deal with it pretty well," he said.

And, insurance futures trading at the Chicago Board of Trade demonstrates that innovative methods can be developed to deal with the capacity problem, Mr. Stone said.

"So I do not see any reason for the government to say that it should supply catastrophe reinsurance," he said. **BI**

He cited as examples: Transportation & Railroads Assurance Co.; X.L. Insurance Co. Ltd.; and ACE Ltd.

"All of these companies were originally set up with capital injections from industry, to fulfill a need that was not being satisfied by the traditional market," Mr. Maher said.

And they have been successful at underwriting risks that the traditional market found unattractive, he added.

Those companies that choose to pool their risks will gain more than just capacity, said Jack Ryan, president of American Risk Group Inc. in Fort Lee, N.J.

"The main idea of a pool is to bring in risks of a number of companies that are underwritten on an aggregate basis with agreed coverages," he said.

Pools add to available capacity by either funding low level losses or offering coverages that the market is unwilling to offer, Mr. Ryan explained.

The companies in pools have three main advantages over companies that obtain their coverage in the traditional insurance markets, Mr. Ryan said.

First, they provide a controlled environment. For example, the pool can maximize cash flow with premiums that are paid promptly,

Mr. Ryan said.

Secondly, exposures are minimized. "There's a commitment to risk management and safety on behalf of the companies that are participating" since their money is at stake, he said.

The risk managers involved tend to be sophisticated and give a long-term commitment to the pools, Mr. Ryan said. In fact, most companies that enter a pool tend to remain with the pool for long periods, he said.

Thirdly, the premiums paid to captive pools are tax deductible, he said.

In the future, pools should be able to expand the types of coverage they provide to members, Mr. Ryan predicted. "We see people talking about benefits programs and other risks," he said. **BI**

# TOPS investors taking a big risk

By GAVIN SOUTER

NEW YORK—If there are no major oil rig catastrophes in the North Sea in the next three years, the 16 oil company members of TOPS Insurance Ltd. will have a well-capitalized captive, an insurance manager says.

But, if a catastrophe similar to the 1988 Piper Alpha explosion occurs, there will be "16 guys gnashing their teeth," said Brian Henderson, manager of insurance at Oryx Energy in Dallas.

The explosion and subsequent fires on the Piper Alpha oil platform in the North Sea, which killed 67 workers, cost insurers \$1.4 billion in property and liability costs (*BI*, Feb. 22; July 11, 1988).

TOPS, which stands for "total-loss offshore production structure," was established in Bermuda in January to cover total-loss exposures for large North Sea oil production platforms, said Mr. Henderson at a session during the Fourth Annual World Captive Forum in New York earlier this month, co-sponsored by SIN-SER Group, Skandia Interna-

tional Risk Management and Tillinghast, a Towers Perrin company.

The TOPS facility covers the uppermost \$100 million layer of catastrophe insurance protection. TOPS has \$100 million in capital and another \$100 million has been pledged by its original investors, if needed to meet claims (*BI*, April 26).

The facility, which was set up by 16 major international oil companies, is managed by Oil Management Services Ltd., a unit of property mutual Oil Insurance Ltd. Some of TOPS founders are also members of OIL.

Given the facility's capitalization, TOPS currently is equipped to pay only two full limits losses in one year.

TOPS will need two to three years without a loss before it has enough capital and surplus to comfortably pay a claim, Mr. Henderson said.

But if it faces a large loss, the rest of the energy insurance market also will be in disarray, he said.

"If TOPS is wiped out, then the rest of the industry will be in tatters and we will have a humongous problem," Mr. Henderson said.

TOPS was established due to the lack of capacity in the traditional market and the "unscientific underwriting" offered by insurers, Mr. Henderson said.

"The rates for the top layers were higher than those for the lower layers, so it was a very inefficient insurance market," he said.

So far, TOPS has been successful. The premiums are realistic, and the expense ratio is less than 3%, he said. And, about half of the North Sea platforms are covered by the facility, Mr. Henderson said.

At the end of the year, the members will have the option of taking a dividend from TOPS' profits or using the capital to increase the limits offered by the facility, he said.

"It looks like the group will opt to push the limits up," he said.

Next year, the members may also consider accepting non-North American and non-European oil companies, including government-backed operations, he said. Currently, the membership comprises eight U.S. companies, seven from Europe and one from Canada.

TOPS members have given a two-year commitment to the facility, but most of them will probably remain with it for a much longer period, he said.

"Once a group of buyers form an alternative market facility and they start to control their destiny, then that business virtually never goes back to the commercial market," Mr. Henderson said. **BI**

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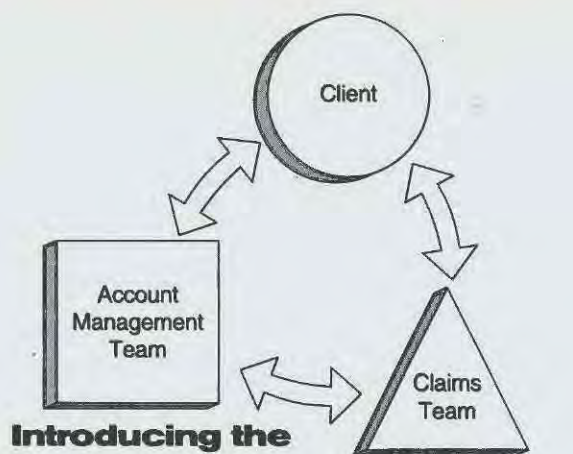
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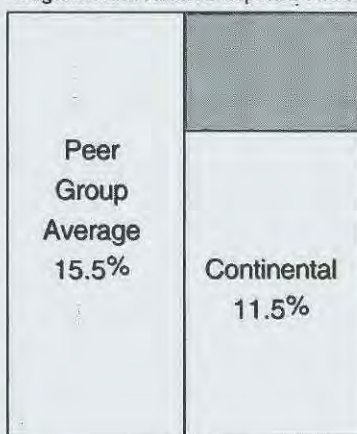
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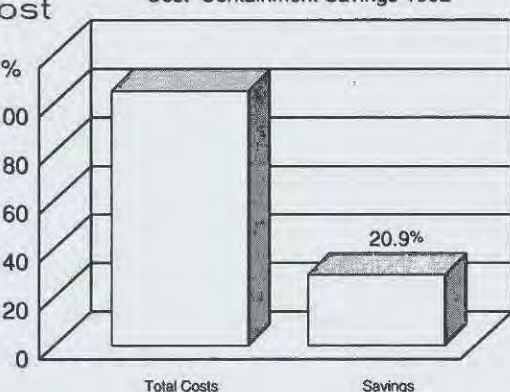
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## USF&G

Continued from page 1

USF&G "got caught," said Mr. Hogue. "They tried to do too much. They expanded beyond their skills base more than most people did."

As a result, the company found itself following the trends of 1990s: downsizing, cutting expenses and concentrating on core businesses.

The man chosen to keep the company on this new course was Mr. Blake, then chairman and CEO of Heller International Corp., a Chicago-based diversified financial services company owned by Japan's Fuji Bank Ltd.

Mr. Blake had no experience in property/casualty insurance. What he had was a track record as a turnaround specialist, which was exactly what was needed at USF&G.

"The biggest problem when I arrived was there was no real focus and strategy for the business. There was a preoccupation with diversification into businesses that were not compatible with a knowledge-based business, that really did not lend themselves to the expertise of the management," said Mr. Blake, who became the company's chairman, president and CEO on Nov. 27, 1990 (BI, Dec. 3, 1990).

"The first order of business in 1991 was to save the company from a financial disaster and it required immediate surgery," he recalled.

USF&G, which had registered profits of \$119 million in 1989 and \$247 million in 1988, posted a net loss of \$569 million in 1990. During the fourth quarter of 1990

alone, USF&G's losses reached \$610 million.

USF&G was reeling from the effects of its ill-fated diversification into financial services, a high expense structure, maintaining an investment portfolio with above-average risk, a high dividend policy and poor financial controls, said Steven A. Gavios, vp and senior insurance analyst with Kidder, Peabody & Co. Inc. in New York.

The company was spread too thin, Mr. Blake acknowledged. In addition to property/casualty and life insurance, USF&G was in the investment management and real estate businesses. The real estate operations alone, he said, were being managed by four or five different entities without any common management structure. The company also had heavily invested in commercial real estate—which was taking a financial beating—as well as in junk bonds.

USF&G also was engaged in several businesses with no clear link to insurance, such as computer and business equipment leasing. In fact, it had even entered the oil and gas drilling business through a subsidiary.

The businesses were "characteristically capital intensive and were cash hogs," said Mr. Blake. What's more, most of them also were "substantially cash losers," he added.

The biggest issue facing him in his new post, therefore, was "to stop the hemorrhaging, to bring order to the liquidity aspects of the business, to get at costs quickly," Mr. Blake said.

Because he first had to "try to bring the financial house in or-

der," Mr. Blake said that in 1991, "I left the insurance businesses pretty much alone. Not because it wasn't important, but in order of priorities, unless I could fix my balance sheet, it was moot how good the financial operations were and how good our underwriting was, and I was in the process of changing all of the senior managers."

Leaving USF&G's core insurance business alone for the time being apparently didn't hurt the company's turnaround.

"As we ended the year in 1991, we had a clear shot at being a good insurance company" and USF&G's losses had dropped to \$176 million for the year, Mr. Blake said.

By 1992, the company was back in the black with profits of \$28 million.

For the first nine months of 1993, USF&G posted \$106 million in net income (BI, Nov. 22).

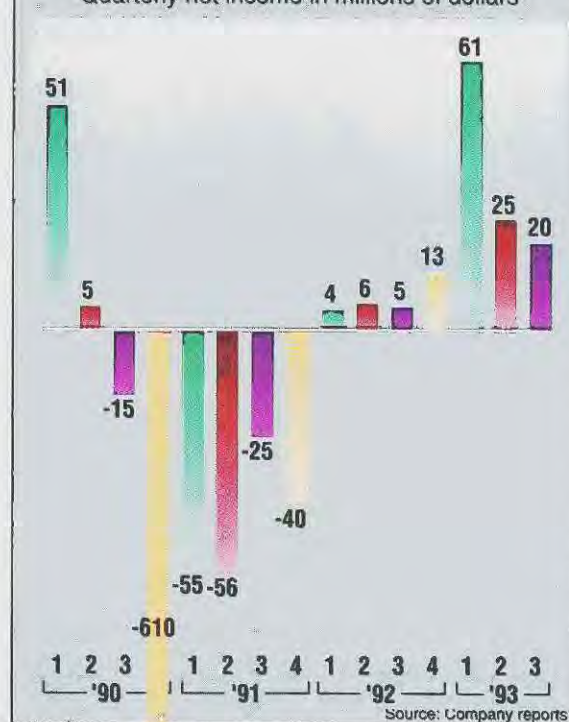
The insurer's stock is trading at about \$13 per share, which is down from a high of \$19.63 earlier this year. USF&G's stock price fell about 19% last month after Mr. Gavios in September cut his earnings per share estimate for the company due to declining investment income and higher catastrophe reinsurance prices (BI, Oct. 4). But those are factors that hit most insurers, and Mr. Gavios still lists USF&G among his "strong buy" recommendations.

In addition, Donaldson, Lufkin & Jenrette last week issued a report maintaining its "moderately attractive" rating for USF&G stock after the release of third-quarter results.

The reversal of USF&G's fortunes marks the second time in

## USF&G's long road back

Quarterly net income in millions of dollars



less than a decade that Mr. Blake had faced such a situation. The first time was in 1984, when he left a position at General Electric Credit Corp. to assume the helm of Heller International.

"He was at least as much a turnaround guy at Heller as he was at USF&G," said Andrew Douglass, who was executive vp, general counsel and secretary at Heller from 1985 until this September, when he became senior vp and general counsel for The St. Paul Cos. Inc. in St. Paul, Minn.

Mr. Douglass said that Mr. Blake brought organizational and strategic skills to Heller at a critical time.

"Heller was almost a Harvard Business School case of how not to manage a diversified financial services company," said Mr. Douglass. The company exemplified "entrepreneurialism gone mad," as the heads of various subsidiaries made decisions that did not always take into consideration the interests of the company as a whole, he said.

Mr. Blake set up a reporting structure and shed non-performing lines of business. He also recruited key managers to oversee Heller's resurrection.

In addition, "the company was in dire need of the imposition of a strong value system," said Mr. Douglass, who added that the values imposed by Mr. Blake were straightforwardness, fairness and honesty.

He added that Mr. Blake "treats a company's money like his own."

"Having a CEO with those values helped me sleep a lot better at night," said Mr. Douglass.

Mr. Blake's impact was reflected in Heller's performance. The company went from a \$181 million loss in 1984 to a \$102 million profit five years later.

Mr. Blake had to embark on a similar "total cultural change" at USF&G, said Mr. Gavios of Kidder, Peabody.

According to Mr. Blake, USF&G's new culture stresses empowerment rather than bureaucracy. He meets with randomly selected employees every three weeks to discuss their concerns. These meetings, which have no predetermined agenda, are known as "NB with NB," or "No Bull with Norm Blake." There are also regular Monday night dinners with the company's senior management team.

Mr. Blake said that everyone is supposed to follow a core set of

corporate values: Customer first, integrity, professionalism, innovation and team work.

If people refuse to conform to those values, "they're not here," he said.

Mr. Blake's experience at Heller coupled with his status as an industry outsider may have given him an advantage in dealing with some of USF&G's problems. For example, he said that he was able to view the company with "absolute objectivity" and didn't go in with any "presumptions or preconceived notions."

Mr. Blake said that it took him a while to learn how to read how well the insurance operations were doing. He had to learn how to determine whether the insurance companies were reserving properly and said it was hard to know what to think of the "credibility of the underwriting performance."

What was clear to him, though, was that insurance operating expenses had nearly doubled in a five-year period while underwriting performance had deteriorated.

While as an outsider, Mr. Blake didn't have knowledge of the "nitty gritty" of the insurance business, he was able to overcome that through both his own ability as a quick study and by surrounding himself with talented people, according to Mr. Gavios of Kidder, Peabody.

"There's always an advantage to an outsider coming in when you've got a turnaround situation," particularly in the insurance industry, said Firemark's Mr. Hogue. The outsider has no alliances with existing management, while an insider would have known the people who ultimately lost their jobs, he added.

Twenty-five percent of USF&G's workforce—approximately 2,800 people—were laid off by April 1991 (BI, April 8, 1991). Mr. Blake also brought in several new people to fill the most senior management positions.

Among the new top executives are: Dan L. Hale, executive vp-chief financial officer, formerly president and CEO of Chase Manhattan Leasing Co.; Gary C. Duntun, executive vp-commercial lines, previously vp-standard commercial accounts for Aetna Life & Casualty Co.; Richard J. Potter, senior vp-personal lines, formerly president of Credit Life Insurance Co.; and Warren E. Coupland, executive vp-field operations, formerly president-service providers for custom programs at CIGNA Corp. All joined the company in 1991 or 1992 and all are under the age of 50. Mr. Blake turned 52 earlier this month.

"Norman Blake has done a myriad of things" to turn the company around, said Mr. Gavios. The USF&G chief reduced the company's dividend again and wrote down and shed poorly performing investments, sold off non-insurance subsidiaries, cut expenses dramatically, exited troubled in-

Continued on next page

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 surance lines and troubled states, such as Louisiana, and improved the company's management information systems.

Mr. Blake and USF&G employees did not accomplish all of these goals alone.

The company's independent agency force was the "most significant intangible asset" in the turnaround, according to Mr. Blake.

The agents supported every step of the restructuring, Mr. Blake said.

The resurrected USF&G is "very, very sharply focused on being the best in the businesses we choose to be in," he said.

USF&G has to "differentiate" itself in the insurance marketplace if it is to succeed, Mr. Blake said.

"Fundamentally, it is a very hotly contested business, it is a displacement business. We will ultimately win or lose based on our ability to differentiate successfully against our competition and still earn a profit in the process," he said.

Rather than take a broad approach to writing commercial property/casualty insurance, USF&G now focuses on two areas: Main Street-type accounts and what Mr. Blake characterized as "the middle of the middle mar-

**USF&G must  
 'differentiate' itself in  
 the marketplace if it  
 is to succeed,  
 Norman Blake says.**

ket to the lower end of the middle market."

He said that the Main Street business is cost-driven and that USF&G stresses quality service to differentiate itself from competitors.

The middle-market business is aimed at accounts that generate between \$25,000 and \$500,000 in annual premium, according to Mr. Blake.

USF&G is not trying "to displace Chubb or anybody else" by targeting the larger commercial accounts, Mr. Blake said.

The commercial market niche USF&G has chosen fits well with the strengths of the insurer's distribution force, he noted.

"We have clear underwriting in terms of who the end customer is, and we have an understanding of the role our partner—our agent—plays in the access of that market," he said.

USF&G has established very specific account service programs for its commercial policyholders.

One example of an account service program is that USF&G loss-control engineers will evaluate a potential client's workers compensation exposures and join the agent in presenting the results, telling the prospect, "Here's what your workers comp costs are, here's our game plan to drive down those costs," explained Mr. Blake.

Clients can then call upon the services of a dedicated team from the insurer, including a loss-control contact responsible for their account.

In order to better serve specific industries, USF&G holds focus groups for different types of employers—like restaurateurs—to understand exactly what the business entails, said Mr. Blake.

"There are a lot of very capable competitors out there," he said.

According to Mr. Gavios, the lesson learned from USF&G's experiences is that while turnaround in the insurance industry is very difficult, it is possible if you have the right management team and the right dynamism.

Looking ahead, Mr. Blake said that "by the turn of the century, the property/casualty company will be viewed as a global business more than ever before. There will be significant consolidation. For this industry to be successful, it has to become more efficient."

For USF&G, that means it has to remain very focused, he said.

Mr. Blake said USF&G's role in the international marketplace in the near future will involve strategic alliances and joint ventures with foreign companies rather than attempting to penetrate overseas markets on its own.

"We're not going to get ahead of ourselves," he said. **BI**

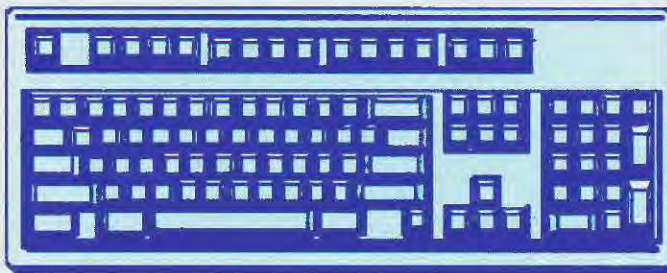
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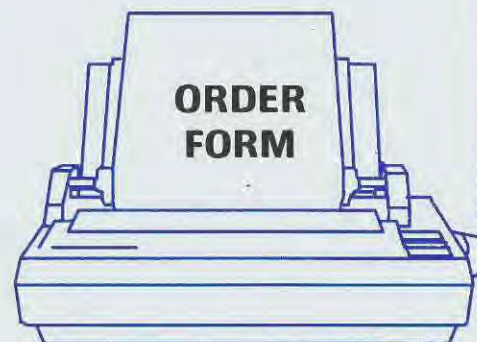
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# Risk managers' opportunities increasing

By DAVE LENCKUS

CHICAGO—Many risk managers may lose an opportunity to become more valuable members of corporate management if they don't react to changing management trends, a consultant warns.

As more corporations embrace a decentralized management approach to shed layers of management and give more power to workers, many risk managers are "doing the same (old) thing, though there's a lot more they can be doing," said John F. Roskopf, a senior vp and risk management consultant with broker Rollins Hudig Hall of Illinois Inc., a unit of Rollins Hudig Hall Group Inc. in Chicago.

Mr. Roskopf likened the unweaving ways of many risk managers to those of an old polar bear that was released into a new, larger habitat at a zoo. After a lifetime of being able to pace only six steps in each direction in his old cage, the bear continued the same six-step pacing in its larger surroundings.

"It took a long time before the bear realized there was more to life" in its new environment, Mr. Roskopf said during a session at the fifth annual insurance symposium sponsored by Chicago law firm Hinshaw & Culbertson earlier this month.

The importance of risk managers changing their hands-on style to

looking at the broader picture is underscored by corporate economic trends, he said.

Decentralization of management will likely continue as corporations keep looking to cut financial staff and other costs with the objective of shifting those expenses to individual units, he said.

Corporations also are outsourcing many duties that risk management departments handled in the past, like claims administration and safety management.

And, competition is heating up among vendors of these services as insurers begin unbundling their services in an effort to recoup profits that are eroding as companies assume more risk.

At the same time, brokers see a metamorphosis in their roles from selling insurance to helping clients solve their coverage problems in other ways, he said.

As a result of those trends, risk

management staff functions in five to 10 years will look different than they do today, Mr. Roskopf said. And, the difference compared with 10 to 15 years ago "will be like night and day," he said.

For example, RHH helped one company outsource certain risk management functions. As a result, the company's risk manager became a consultant with the broker who now works at his former company three days a week, Mr. Roskopf said.

At some other companies, the risk management department competes with outside vendors to provide services to a company's units.

Outsourcing gives operating units more autonomy, and "I think it's great," Mr. Roskopf said.

However, "many risk managers are afraid of the whole concept of outsourcing," he said. They are afraid of what will happen to their departments and their jobs, he said.

As a result, many begin turning their attention—or retrenching—to risk financing rather than concentrating on other elements of risk management, he said. "Nothing could be worse for those people."

"Others look at this as an opportunity" to take a more holistic approach to risk management, Mr. Roskopf said. They become true managers and more valuable to their companies.

"Too many of us are victims of our own context, much like that polar bear," he said. "We're comfortable. We have to get out of that comfort zone."

Drawing on another analogy, Mr. Roskopf said risk managers should consider themselves ship captains.

But, he distinguished between the captain who, as a technical specialist, rolls up his or her sleeves to jump into a problem in the boiler room and the captain who remains in the pilot room to steer a better

course.

In today's changing management environment, the captain who remains at the helm is more valuable, he said.

"Despite the economic trends, there are a lot of opportunities" for risk managers because there is a greater need for risk management throughout the entire company, Mr. Roskopf said.

"I think there is a tremendous future for risk managers for those who look for it," for those who look to manage resources available to them, he said.

The key to success for risk managers will be becoming teachers, facilitators and leaders to personnel in their field offices, he said.

"What is frightening to some will be a great opportunity for others," he said.

Mr. Roskopf also called on service providers to continue honing their expertise but also to reduce their "sometimes threatening appearance to clients, who are seeing their jobs squeezed," by improving their communications skills. **BI**

## Fidelity bonds

Continued from page 3

coverage because the bank president did not intend to cause the bank a loss, Mr. Sullivan said. The court found that the president "only wanted to increase the bank's business," he explained.

In addition, a loss would not be covered if an employee's only financial gain from his dishonest acts were additional salary, commissions, fees, bonuses, profit-sharing benefits, pensions or other compensation or benefit earned in the normal course of employment, Mr. Sullivan said.

Courts have struggled at times with the definition of "manifest intent," he said.

However, judges and juries typically may infer that an employee intended to cause a loss, even if the employee claims the scheme was designed only to result in a personal financial reward. The test is whether the employee's acts would obviously hurt the company, Mr. Sullivan said.

Other losses may not be covered if the involved workers do not meet a 3-D bond's three-part definition of a covered employee. The workers must be in the regular service of the

bondholder and compensated by salary, wages or commissions. In addition, the employer must have the right to govern and direct the workers.

This definition excludes independent contractors and vendors, Mr. Sullivan noted.

Less clear is whether losses resulting from the dishonest or fraudulent acts of leased employees would be covered, he said. He recommended that bondholders discuss that with their insurers and cover those workers in a policy endorsement.

Fidelity bonds also typically do not cover the owners of companies, Mr. Sullivan said.

"The question arises as to whether anyone had the right to control or govern that person," which means the owner would not meet a bond's definition of an employee, Mr. Sullivan said.

Covering a company's losses caused by an owner's dishonest acts is "also arguably against public policy," he pointed out, because that "would allow him to insure against his own dishonest acts."

The timing of a company's discovery of an employee's dishonest acts also could jeopardize coverage, Mr. Sullivan said.

Foremost, the dishonest acts must

be discovered during the policy period.

What amounts to discovery also may vary from bond to bond because some bonds define it and others don't, Mr. Sullivan noted. "It's difficult to say when discovery occurs."

But, mere suspicion of dishonesty definitely does not constitute discovery, he said.

Courts typically have ruled that discovery occurs when facts have been discovered and a reasonable person could assume a loss has occurred. But, the employer does not have to know the exact details of the dishonest act or the amount of the resulting loss.

A bondholder, though, usually must notify the insurer within 30 days of the discovery.

But, the type of loss information that a bondholder provides an insurer could jeopardize its own attorney/client privilege, Mr. Sullivan warned. He suggested that the bondholder send only a generic notice that announces it is investigating a loss. The notice should identify the employee in question.

A bondholder must submit proof of a loss within six months of discovery, but bonding companies often will grant extensions for filing

proof, Mr. Sullivan said.

The employer also has to file suit against the employee within two years of the discovery.

There are other coverage consequences when a loss is discovered, he said.

For example, when an employee's continual dishonest acts cause losses after the employer first discovers a loss, the subsequent losses typically are not covered.

That exclusion is broader than it appears, because bonding companies will try to exclude coverage for a loss if the involved employee was reprimanded years ago for even minor infractions that cost the employer money, according to Mr. Sullivan.

For example, a company 10 years ago gave an employee "a slap on the wrist" for submitting personal expenses on his expense account. The employer now discovers that the employee is involved in another dishonest scheme to defraud the firm.

"The bonding company will take the position that an illegal act was discovered long before the bond was in effect, so the current loss is not covered," Mr. Sullivan said.

Fidelity bonds cover only actual losses and not lost profits or consequential damages, he added. **BI**

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IN THE HIGH COURT OF JUSTICE  
CHANCERY DIVISION

NO 009126 OF 1993

IN THE MATTER OF  
BRYANSTON INSURANCE COMPANY LIMITED  
-and-  
IN THE MATTER OF THE COMPANIES ACT 1985

NOTICE IS HEREBY GIVEN that by an Order dated the 28th day of October 1993 made in the above matter the Court has directed a Meeting of the Scheme Creditors (as defined in the Scheme of Arrangement hereinafter mentioned) of the above-named Company (hereinafter called "the Company") to be convened for the purpose of considering and, if thought fit, approving (with or without modification) a Scheme of Arrangement proposed to be made between the Company and its Scheme Creditors and that such Meeting will be held at Glaziers Hall, 9 Montague Close, London Bridge, London SE1 9DD, England on Thursday the 20th day of January 1994 at 2:00 pm at which place and time all the aforesaid Scheme Creditors are requested to attend.

Any person who is or believes that he may be entitled to attend the said Meeting can obtain copies of the Scheme of Arrangement, the Explanatory Statement required to be furnished pursuant to Section 426 of the above-mentioned Act, and Forms of Proxy from the Company at Trinity House, Russell Street, Gloucester, GL1 1EL, England (Telephone: 0452 528691 or if outside the United Kingdom (44) 452 528691) or Price Waterhouse, 200 East Randolph Street, Chicago, Illinois 60601, USA (Telephone: 312 540 2515) during usual business hours on any day (other than a Saturday, Sunday or a public holiday) prior to the day appointed for the said Meeting.

Scheme Creditors may vote in person at the said Meeting or they may appoint another person, whether a Scheme Creditor of the Company or not, as their proxy to attend and vote in their stead.

It is requested that forms appointing proxies be lodged with the Joint Provisional Liquidators, Bryanston Insurance Company Limited, PO Box 102, Gloucester, GL1 1YJ, England and fax no: 0452 301387 (or if outside the United Kingdom (44) 452 301387) not less than 48 hours before the time appointed for the said Meeting but if forms are not so lodged they may be handed to the Chairman at the said Meeting. A faxed copy of the form will be accepted subject to receipt of the original within 14 days of the meeting.

By the said Order the Court has appointed Richard Claude Boys-Stones or failing him Colin Graham Bird to act as Chairman of the said Meeting and has directed the Chairman to report the results thereof to the Court.

The said Scheme of Arrangement will be subject to the subsequent approval of the High Court of Justice.

DATED this 11th day of November 1993

Stephenson Harwood  
One St. Paul's Churchyard  
London  
EC4M 8SH  
Solicitors for the Company

## Redlining concerns

Continued from page 3

ers," Mr. Selcke warned during an insurance symposium last month sponsored by Chicago law firm Hinshaw & Culbertson. "Without insurance, some neighborhoods will end up in decay."

Mr. Selcke's recent tour of inner-city neighborhoods with 15 to 20 insurer executives was designed to show them where they could write business at reasonable rates and still make a profit.

"Insurers have to become more familiar with neighborhood makeup," rather than lump good risks together with nearby poor risks, he said.

Mr. Selcke would prefer that the market voluntarily increase competition for property risks in Chicago, but he wants to see results soon. If he doesn't, insurers can expect the department to look to regulatory or legislative relief.

"Something will be done" to increase competition, Mr. Selcke vowed. "The question is: Will it be the hard way or the easy way?"

Insurers in Illinois are being offered a rare opportunity to avoid regulatory intervention to ensure competition, said Mr. Selcke, point-

ing to efforts already underway in other states and at the federal level to prevent redlining.

Congress is reviewing two redlining bills, and the Clinton administration thinks redlining is an important issue, he said.

He also noted that lawmakers and regulators in California, Missouri and Texas are hammering out anti-redlining legislation, ordering market conduct examinations or promulgating regulations to address the issue.

In addition, the National Assn. of Insurance Commissioners is undertaking its own analysis.

One problem facing regulators is the lack of an accepted definition of redlining. Regulators are being "challenged to take a stance, but there's no agreement on what is the problem," said Mr. Selcke. "The answers are dependent on what it—what redlining—is."

Does redlining mean just refusing to write based on geography? "Or, are there more complex social issues involved?" he asked.

Does it mean just offering less coverage in one area compared with another?

Is an insurer redlining if none of

its agents has offices in an area? Mr. Selcke asked.

"Consumer advocates will argue that everyone...should have a right to buy insurance at a fair price," he said.

Insurers contend they have a right to underwrite a risk, to price coverage to make a fair profit and even to determine whether a property is insurable, he said.

Like the child caught between squabbling siblings in the back seat of a car on a driving vacation, "regulators are caught in the middle," he said. "And, the middle position is not a particularly comfortable position to be in."

As the Illinois Insurance Department works with insurer executives to increase competition in Chicago, it also will be trying to identify pockets of insured and uninsured risks to determine whether there is a pattern of redlining by race or income level.

It also is looking at increasing FAIR plan limits to \$200,000 or \$300,000 from the current \$100,000.

Mr. Selcke also said that the advertising budget for the FAIR plan coverage may be boosted and that a business policy may be offered. **BI**

# ASK A BENEFIT MANAGER

## Health plan changes under 1993 budget act

**Q**

I have heard some reference to new requirements in health care plans that are a result of OBRA '93. Can you describe these requirements so that I can ensure that my company's plans are in compliance?

**A**

The Omnibus Budget Reconciliation Act of 1993 (OBRA 93) was a fairly extensive piece of legislation. The major focus in the press with regard to OBRA 93 was the increase in individual income tax rates.

There has also been a fair amount of discussion about the \$1 million limit for executive pay for tax deduction purposes and the reduction in compensation taken into consideration for qualified plans, but very limited discussion regarding the new requirements for group health plans.

OBRA 93's new requirements for group health plans include several wide-ranging provisions. You should note that these changes became effective on Aug. 10, 1993. Plan amendments do not need to be made prior to the first plan year beginning on or after Jan. 1, 1994. However, plans must be operated in accordance with the OBRA 93 amendments effective Aug. 10, 1993.

Each required change is discussed below:

- **Medicare secondary payer provisions.**

It was refreshing to look at legislation and find some good news. Medicare will now be the primary payer if an individual covered by an employer's plan is no longer working because of a disability, qualifies for Social Security (due to the disability) and becomes eligible for Medicare.

You should check with your insurer or third party administrator to ensure that this change has been made in their operating procedures. Additionally, those disabled individuals affected by this change should be notified so that they can file their claims with Medicare first.

However, keep in mind that the disabled individual may not have signed up for Medicare Part B coverage. Therefore, you should encourage such individuals to sign up for Medicare Part B.

- **Qualified medical child support orders.**

This legal requirement is similar to the concept of QDROs—qualified domestic relations orders—in that they call for health care benefits to be assigned to an "alternate recipient," much like a QDRO requires the assignment of qualified pension benefits to an "alternate payee," such as a former spouse or other dependent. An alternate recipient would be any child of a group health plan participant who is recognized under a medical child support order as having a right to enroll in the plan.

The purpose of the QMCSO is to ensure health care coverage for children through non-custodial parents.

Some medical plans would normally exclude coverage since the employee did not have custody of the child or the child was not a dependent for income tax purposes.

Just as with QDROs, QMCSOs must meet specific requirements such as: name and address of the health plan participant and each alternate recipient; a reasonable description of the type of coverage to be provided by the plan to each alternate recipient; and the time period for coverage. Also, employers must establish written procedures for handling QMCSOs.

Since QMCSOs are covered under ERISA, plan administrators will need to meet the ERISA reporting and disclosure requirements. This would include providing the alternate recipient with a summary plan document, summary annual report and COBRA notification.

Although QMCSOs are effective Aug. 10, 1993, I assumed plan administrators would have some time to develop procedures—assuming it would take some time for the attorneys to learn about this provision (many attorneys are not very knowledgeable about QDROs). However, I recently spoke to a plan administrator who had already received a QMCSO.

Therefore, you should consider developing procedures sooner rather than later.

- **Pre-adoption group health plan coverage.**

Group health plans that provide coverage for dependent children must treat dependent children placed for adoption in the home of medical plan participants the same as dependent children who are natural children of the participants—regardless of whether the adoption has or has not become final. Also, a group health plan generally cannot restrict coverage under a plan for an adopted child because of a pre-existing condition.

These changes will help adoptive parents since many plans would not provide coverage to an adopted child until the adoption was final—placing the adoptive parents in a "Catch 22" situation since a condition of many placements and adoptions is medical coverage for the adopted child. This change will help adoptive parents while probably adding minimal expense to employer plans.

- **Coverage for plan participants eligible for Medicaid.**

Group health plans cannot take into account Medicaid eligibility when enrolling an employee or beneficiary in a group health plan or in determining the payment of benefits under the plan. This provision would have little or no impact on most plans, but employers need to ensure that their plan's administration is in compliance.

- **Group health care plan reporting requirements.**

OBRA 93 requires employers to collect information on employees who elect coverage under a group health plan and forward this data to a federally administered health coverage data bank identified as the "Medicare and Medicaid Coverage Data Bank."

The information to be reported includes the plan participant's name and taxpayer identification number (TIN), which is usually their Social Security number; name and TIN of any covered dependents; name, address and TIN of the employer; and type of coverage elected by the employee and dependents.

More than likely, employers will have this information in their systems, with the exception of the dependent

information. Employers will need to develop a mechanism to collect this information and to also keep this information up to date. For many employers, it would appear that the best opportunity to collect this data is during annual plan enrollment.

Employers might consider collecting this data through a "voice response system" to make the process easier.

This health care coverage data needs to be reported at the same time that W-2 data must be filed with the Internal Revenue Service. Despite employer opposition, so far these requirements must be met for the calendar years 1994 through 1997 (BI, Nov. 22).

- **New York state surcharge.**

OBRA 93 requires group health plans—whether insured or self-insured—to pay a surcharge in New York state to cover the costs of uncompensated care. This surcharge can be as high as 24%.

This change will only impact a plan that has covered members receiving health care in the state of New York. However, the penalty for non-compliance is significant: loss of the federal tax deduction for the health care plan.

- **Pediatric vaccines.**

Group health plans cannot reduce coverage for pediatric vaccines below the coverage they provided as of May 1, 1993. This provision is effective for plan years beginning on or after Aug. 10, 1993.

A plan's failure to comply with any of OBRA 93's new group health requirements—with the exception of the New York state surcharge—may result in the imposition of civil penalties of up to \$1,000 for each violation.

Based on these required changes, benefit managers have work to do to ensure that their company's plans are in compliance with OBRA 93. Action that needs to be taken ranges from notifying plan participants of changes, as with the Medicare secondary payer provisions, to developing new procedures, as with QMCSOs. **BI**

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

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

*This month's column on employee benefit management issues is written by*



Mr. Nirtaut

*Dennis J. Nirtaut, manager of employee benefits at Continental Bank Corp. in Chicago. Susan M. Werner, director of risk management at Hardee's Food Systems Inc. in Rocky Mount, N.C., answers questions on risk management issues. William J. Miner, an actuary with The Wyatt Co. in Chicago, answers actuarial questions on benefits issues. And, Richard E. Sherman, president of Pacific Actuarial Resources (PAR)*

*Excellence in Ashland, Ore., answers actuarial questions in the casualty field.*

*Mr. Nirtaut's next column will appear in February. Address your questions to ASK, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. Please give us your name, title and employer; however, Business Insurance will consider unsigned letters.*

## Post-injury suicide ruled compensable in Wyoming

Is a worker's post-injury suicide compensable under workers compensation law? The Supreme Court of Wyoming, in a case of first impression in that state, awarded benefits where the work-related injury and its consequences directly resulted in the worker's loss of judgment and his disturbed state of mind.

Steven Ramsey suffered a severe industrial accident. He was eligible for and received workers compensation benefits.

In addition, Mr. Ramsey received regular medical care after the accident,

### Legal Briefs

including psychiatric care and the use of anti-depressant medication.

Mr. Ramsey was unable to resume any significant employment after his injury. In 1990, he committed suicide. His widow's application for survivor benefits was initially denied; however, after further proceedings she was awarded benefits. The Compensation Division appealed.

The appellate court reviewed cases

from other jurisdictions and concluded that it would adopt the rule followed in a majority of jurisdictions that suicide is compensable if the injury produces mental derangement and the mental derangement lead to suicide.

According to the court, the act causing death in such cases is an intervening act but not an intervening cause that would contravene payment of benefits. Thus, the court said there was a chain of causation from the original industrial accident to the death by suicide. The court was satisfied here that Mr. Ramsey would not

have committed suicide if not for his work place injuries.

*State Ex Rel Workers Comp vs. Ramsey*, Supreme Court of Wyoming, Oct. 8, 1992 (BI/04/Au.-\$10). **BI**

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

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### LEGAL NOTICE

#### NOTICE OF PRESENTATION AND PROOF OF CLAIMS AGAINST NORTHEASTERN INSURANCE COMPANY OF HARTFORD.

To the Policyholders, Reinsureds, Creditors, Obligees, and Persons having claims against Northeastern Insurance Company of Hartford, a Connecticut corporation, 405 Sixth Avenue, Suite 840, Des Moines, Iowa 50309.

NOTICE IS HEREBY GIVEN that persons who may have claims against NORTHEASTERN INSURANCE COMPANY OF HARTFORD are required to present the same in writing duly subscribed and affirmed by them as true to NORTHEASTERN INSURANCE COMPANY OF HARTFORD, c/o Joseph L. Torpy, 405 Sixth Avenue, Suite 840, Des Moines, Iowa 50309 ON OR BEFORE December 16, 1993 WHICH IS THE LAST DAY FOR THE FILING OF CLAIMS. Request for forms for filing claims and for inquiries may be addressed to the undersigned at the above address.

A Creditors Meeting will be held at the Sheraton Hotel, 315 Trumbull Street, Hartford, Connecticut beginning at 10:30 a.m. on December 16, 1993.

Liabilities will be determined as to all claims duly presented and all assets of Northeastern Insurance Company of Hartford will be distributed in accordance with a plan of distribution without further notice to persons failing to present claims within the aforesaid time.

Dated at Des Moines, Iowa this 22nd day of November, 1993.

NORTHEASTERN INSURANCE  
COMPANY OF HARTFORD

Joseph L. Torpy

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3702

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15,094

Sub-total

28,112

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385

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Sub-total

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8,714

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3,532

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1,936

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1,936

TOTAL

52,816

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Statement.

### GET RESULTS!

#### The Professional Marketplace



Lisa Mazzetti

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Call (312) 649-5340, or FAX (312) 649-7799 to place your reservation.

## Underfunded plans

Continued from page 3  
of 90%.

The unfunded liabilities of Navistar International Corp. and Goodyear Tire & Rubber Co. also dropped below \$1 billion in 1992. Navistar's unfunded liabilities totaled \$413 million in 1992, an 83% funding ratio. Goodyear had \$265 million in unfunded liabilities and an 83% ratio.

Both the PBGC and business observers attribute much of the increase in net unfunded liabilities to declining interest rates. Mr. Slate said that to compensate for lower interest rates being earned by plan funds, employers "should have been contributing larger amounts to their pension plans to keep their liabilities manageable."

But some critics of the PBGC report noted that the aggregate funding ratio for the 50 companies with the largest unfunded pension liabilities was virtually unchanged between 1991 and 1992, hovering around 74%. That indicates that plan assets increased despite the drop in interest rates, they say.

These critics also point out that much of this year's aggregate increase in net unfunded guaranteed liabilities can be attributed to GM.

"What is the significance of a

list where over half of the underfunded dollar amount is attributable to one company—GM?" asked James Klein, executive director of the Assn. of Private Pension & Welfare Plans in Washington.

GM itself questioned the PBGC's numbers, which are based on Standard & Poor's Compustat Services Inc.'s data base, the PBGC's premium payment files and information provided by individual companies.

A GM spokeswoman said that the automaker estimates its unfunded U.S. pension plan liability to be roughly \$12 billion for 1992—compared with the PBGC's \$17.2 billion figure—or roughly 77% funded.

The decline in GM's funding ratio compared with 1991 stemmed from three factors: declining interest rates, a new contract with the United Auto Workers that increased benefits and an early retirement program, the spokeswoman said.

She also pointed out that GM plans to put \$5.7 billion in company stock into its hourly workers' pension plan and hopes to have the plan fully funded by the end of the century.

GM, though, will first have to win regulatory approval of the transaction. Among other things, the contribution would violate an Employee Retirement Income Se-

| The PBGC hit list                                     |          |                                       |     |
|-------------------------------------------------------|----------|---------------------------------------|-----|
| Largest funding shortfalls <sup>1</sup> (in millions) |          | Worst funding ratios <sup>2</sup>     |     |
| General Motors Corp.                                  | \$17,195 | Ravenswood Aluminum Inc.              | 11% |
| Bethlehem Steel Corp.                                 | 2,138    | LTV Corp.                             | 40  |
| LTV Corp.                                             | 1,933    | New Valley Corp.                      | 41  |
| Westinghouse Electric Corp.                           | 1,012    | Tenneco Inc.                          | 46  |
| Chrysler Corp.                                        | 876      | Keystone Consolidated Industries Inc. | 47  |
| American National Can Co.                             | 464      | Loews Corp.                           | 51  |
| Uniroyal Goodrich Tire Co.                            | 450      | Uniroyal Goodrich Tire Co.            | 53  |
| Trans World Airlines Inc.                             | 426      | Laclede Steel Co.                     | 55  |
| Navistar International Corp.                          | 413      | Rockwell International Corp.          | 57  |
| New Valley Corp.                                      | 394      | Trans World Airlines Inc.             | 58  |

<sup>1</sup> For benefits guaranteed by PBGC. <sup>2</sup> Percentage of liabilities matched by assets.  
Source: Pension Benefit Guaranty Corp.

GRAPHIC BY KIM ROME

curity Act rule that says employer stock cannot exceed 10% of a pension plan's assets. The GM contribution would push the plan well over the 10% ceiling.

"If you took GM out of the numbers last year and this year, the unfunded guaranteed benefit went down almost half a billion," said Dominick Cardace, a partner with Kwasha Lipton in Fort Lee, N.J.

Mr. Cardace called the list "highly imperfect and subject to a lot of politicizing."

"I think at least with GM and probably with some other companies, a considerable amount of the underfunding may be due to low-

ered interest rates," said Linda Laarman, a principal with William M. Mercer Inc.

Though critical of the Top 50 approach, the APPWP's Mr. Klein refused to dismiss the list out of hand. Such a list gets the public's attention and provides impetus for reform, he said.

But focusing simply on the top 50 in terms of net unfunded liabilities probably misses companies that pose a greater likelihood of terminating their plans and transferring the liabilities to the PBGC, he added.

"I think a far better way to go about doing this is if the PBGC each year issued a list of those

companies it believes posed a reasonable threat of terminating plans," said Mr. Klein.

The practice of issuing the list "should be terminated immediately," said Mark Ugoretz, president of the ERISA Industry Committee in Washington.

The list "fails to take into account the real problem that the PBGC faces, which is that companies and unions are permitted to make promises for pensions that they need not fund," Mr. Ugoretz said.

"This is a simple issue—people should not be allowed to make promises that they cannot fund," he said. E1

## Municipal Mutual

Continued from page 1  
fluctuations in the commercial market.

"There is a definite need for risk transfer by cities; this provides that option," said Dennis Evans, financial administrative director of Exclusive Insurance Services Inc., a San Francisco firm created to manage the new insurer. EISI is a unit of Coregis Group Inc., a Chicago-based company formed earlier this year by the reorganization of Crum & Forster Managers Group and Industrial Indemnity Co. Coregis writes public entity, professional liability and property/casualty coverages (BI, Aug. 16).

EISI will provide underwriting, actuarial, claims handling, loss prevention, reinsurance, accounting, statistical and state filing services to Municipal Mutual. The exclusive marketer for the program will be Municipal Insurance Marketing Services, a Willis Corroon Group unit in San Francisco.

"We rode (the commercial market) roller coaster for so many years," said Jim Gregg, who serves as Gardena's risk manager, referring to the city's inability to find coverage in the commercial market. For a public entity, steep premium increases mean making unpopular tradeoffs, he said. "It means (less money for) bats and balls in the park."

Municipal Mutual will "allow cities to transfer risk at a consistent premium price," Mr. Gregg said.

Gardena officials say it offers risk managers another advantage. It will free up their time by allowing "cities to focus on managing their own risks rather than managing a pool's risk," said Kenneth Landau, Gardena's city manager and Municipal Mutual's president.

That approach, though, strikes some municipal risk managers as provincial. "What better way to spend some of my time?" asked Mr. Vance. "One part of risk management is risk financing." In addition, exposure to other cities' risks is good experience, he said.

Gardena officials trace the development of Municipal Mutual to misgivings about the pooling arrangements popular among cities after the liability crisis in the mid-1980s.

"There is an increasing concern among cities that one day they will have to explain to their council and constituency the need for an assessment to pay a judgment that is entered against one of the other cities in their pool," said Mas Fukai, a city council member who is chairman of the insurer.

Outside experts criticized that idea, however.

By their very nature, pools are designed to cushion the blow of a major loss, said Greg Trout, principal of Sacramento-based ARM Tech Inc., the accreditation manager for the California Assn. of Joint Powers Authorities, which sponsors public entity pools in California.

"The idea of not sharing risks is a false one," because risk-sharing is the nature of insurance, he said.

But "with Gardena's mutual, you're sharing risks with Gardena and its economic development agency," Mr. Trout explained. "Pools have a greater spread of risk."

Pools can also assess members to meet liabilities that exceed their surplus, he said. By contrast, a big loss "will eat up all of (a mutual's) capital and surplus."

And that scenario may not be so far-fetched in the case of Municipal Mutual, said Mr. Trout. Initially capitalized by a \$10 million bond issue, it is a "highly leveraged" venture. Gardena plans to pay off the bond before subsequent policyholders receive dividends, and the city will also receive higher dividends than other policyholders because it arranged the initial capitalization.

"Compare that with ACCEL, which has \$37 million in assets" and only \$2 million in liabilities, including incurred-but-not-reported losses, Mr. Trout said. ACCEL currently has 11 members.

Municipal Mutual also is heavily reinsured, critics point out, while ACCEL retains 100% of its risks.

Municipal Mutual reinsures its first \$1 million layer over self-insured retentions that can be as low as \$50,000 under a quota-share arrangement with Coregis, said EISI's Mr. Evans.

Its \$4 million excess of \$1 million  
Continued on next page

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## Montrose ruling

Continued from page 2

Calif., facility from 1960 to 1986. The company was sued in 1990, by the federal government and the state of California under the Superfund act for allegedly causing environmental contamination.

Last year, a California appellate court said Montrose's insurers had a duty to defend (*BI*, Aug. 24, 1992). The Nov. 22 Supreme Court decision affirmed that ruling.

"To prevail," says the 27-page ruling written by Justice Edward Panelli, "the insured must prove the existence of a potential for coverage, while the insurer must establish the absence of any such potential. In other words, the insured need only show that the underlying claim may fall within policy coverage; the insurer must prove it cannot."

Montrose demonstrated that the Superfund complaint broadly fell within the coverage of the various policies, the judge wrote.

## Municipal Mutual

Continued from previous page

layer is reinsured by Transatlantic Reinsurance Co., Kemper Reinsurance Co., The St. Paul Cos. Inc., Prudential Reinsurance Co., Transamerica Reinsurance Co. and Signet Reinsurance Co., he added.

Municipal Mutual premiums are being touted as competitive and, in fact, Gardena's policy cost \$160,000 with a \$500,000 self-insured retention, compared with the \$200,000 the city paid for a policy with a \$1 million self-insured retention when it was a member of ACCEL in 1992.

But critics of the Gardena venture contend that the premiums will eventually rise as a reflection of higher operating costs.

"Pools have a low cost of doing business and no profit motive," Mr. Vance pointed out. "Gardena has higher administrative costs, and it has to pay taxes and fees for regulatory compliance, as well as its business partners."

Some municipal risk managers doubt the Gardena mutual will have the staying power demonstrated by public entity pools.

While some insurers have gone out of business, "no work comp or property/liability pool run by an association has failed," said Cal Wray, administrator of the Georgia Municipal Assn., which sponsors a property/casualty pool and a workers compensation pool.

"Some health insurance pools in Texas ran into problems, and in Georgia we had some trouble with a work comp pool sponsored by a trade association, but the failure rate of public entity pools is low," said Mr. Wray, who is also president of the pooling section of the Public Risk Management Assn.

"The assessment feature for pools is a positive for long-term viability," said Mr. Vance. "But if MMIC has a big loss, it will have to pay both its bond obligation as well as its claims. If its retained losses exceed its ability to pay claims, I don't see how it will stay in business long-term."

Other California municipal risk managers also took issue with Gardena's assessment of pools. "They seem to be suggesting that pools are poorly run and have poor loss experience, but that's not true," said Tom Phillips, risk manager for the city of Santa Monica and a member of ACCEL.

"Granted, of the 130-some pools in California some are better than others, but on average their performance is good," he said.

Mr. Phillips also questioned Municipal Mutual's underwriting criteria. One reason ACCEL has been so successful, he said, is that it re-

"Although the (Superfund) complaint did not specify whether Montrose negligently or intentionally disposed of DDT process wastes... its allegations sufficed to raise the possibility that Montrose would be liable for property damage covered by the policies."

The decision also said judicial proceedings on whether there is a duty to defend should be delayed until resolution of a third-party suit if those proceedings would prejudice the case against the policyholder.

Because of the magnitude of environmental claims, the insurance industry has tried to establish different rules related to the duty to defend, said David Mulliken, an attorney who represented Montrose.

But this ruling says "no distinctions should be made despite the expense involved and despite the fact that the claims are different from the kind of claims that might traditionally be handled," said Mr. Mulliken, who is with Latham & Watkins in San Diego.

Insurers may have won at least a minor victory. The court dismissed an argument policyholders "continually make" that insurers cannot use extrinsic facts outside the complaint to show there is no coverage and no duty to defend, said Peter Abrahams, an insurer attorney with Horvitz & Levy in Encino, Calif.

The decision states that "under appropriate circumstances," insurers can in fact do this, said Mr. Abrahams. "That has been the subject of debate for some time and this opinion puts that issue to rest, I think."

Meanwhile, the Supreme Court sent back to trial court for further proceedings a related case, *Montrose vs. American Motorists*, which contested whether Montrose was a named insured under liability policies written by American Motorists Insurance Co.

*Montrose Chemical Corp. of California vs. The Superior Court of Los Angeles County, Supreme Ct. No. S024390.*

ing to Mr. Trout.

That could explain why the city went ahead with the new insurer at such a low point in the market, said Anaheim's Mr. Vance.

"There are a number of people who don't understand why the city kept working on it. There's also commercial coverage available now at competitive rates," he said. **[B]**

## Merrett

Continued from page 2

In another effort to regain the confidence of members agents, Merrett reached a deal to sell a 51% stake in MUAM to a consortium of U.S. investors led by Travelers Corp. However, that deal collapsed earlier this month, leaving Merrett searching for other sources of capital at the 11th hour (*BI*, Nov. 22).

Apart from dissatisfaction with Stephen Merrett's managerial style, members agents are believed to have withheld capacity because of ongoing litigation from names over syndicate 418's still-open 1985 account and because the size of the syndicate's 1990 underwriting loss had not been disclosed to agents at an earlier stage.

A Lloyd's spokesman described the job before Mr. Keeling's task force as "to try to ensure that as much of the business can continue trading either under the Merrett group or with other agents in the interests of members and policyholders."

As of the middle of last week, negotiations with other managing and members agents were still "ongoing," the spokesman said.

Immediately prior to the announcement of Lloyd's initiative, news emerged that Mr. Purkiss and Ken Barrett, underwriter for syndicate 1067, and Stewart Laderman,

underwriter for syndicate 418, had defected to Zurich Re. The trio are expected to commence working at the Swiss reinsurer's London operation by the end of the month.

Mr. Merrett wasted no time replacing Mr. Purkiss, on Wednesday promoting Alan Cleary, chairman of the group's loss adjusting subsidiary, Miller Knight, to group chief executive of Merrett Holdings.

Mr. Cleary will have a tough job on his hands ensuring that Merrett syndicates continue underwriting in 1994. The group may be forced to focus on providing other insurance services such as loss adjusting and run off existing business in the near future.

Ian Mengies, finance director of Merrett Holdings, last week could not give specific figures on the amount of capacity amassed so far for syndicates 418 and 1067 in 1994, but said the closure of 418 and 1067 as active underwriting units is looking increasingly likely.

If syndicates 418 and 1067 go into runoff, it is thought that other managing agencies, with the help of Mr. Keeling's task force, would take over Merrett's four remaining active syndicates for 1994: syndicates 179, 332, 1038 and 1184.

The closure of 418 and 1067 "seems to be what the names' agents want to happen... that seems to be what they are planning for... The other four are fine, though," said Mr. Mengies. **[B]**

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## INTERNATIONAL

## U.K. court limits cover for some professionals

By ADRIAN LADBURY

LONDON—Britain's highest court last week restricted the class of North American policyholders eligible for guaranty fund protection under the U.K. Policyholders Protection Act.

However, the House of Lords' decision still leaves some coverage questions unanswered, which means more litigation is likely to be required to resolve these issues.

The House of Lords ruled in July that North American professionals who bought policies from the five insolvent insurance companies owned by London United Investments P.L.C. would have part of their losses paid by a British guaranty fund.

That ruling, though, was limited to individual policyholders and those individuals who belonged to professional partnerships (*BI*, July 19).

However, in a subsequent ruling delivered last week, the House of Lords determined that professional corporations and individuals within such corporations are not eligible for coverage under the Policyholders Protection Act.

One of several issues in the underlying dispute was language in the act limiting coverage to "private policyholders."

While it is generally agreed the act was intended to restrict guaranty fund protection to individual rather than corporate policyhold-

ers, it was unclear how professional corporations organized by individuals—such as law firms, accounting firms and physician groups—should be treated under the law.

However, the House of Lords' ruling leaves other questions unresolved.

The decision stated that individuals who work for a professional corporation are protected under the act if they had contracted with one of the KWELM companies in "some other capacity." The ruling does not elaborate, though, how this could occur.

The ruling also said that individuals who are not defined as "policyholders" because they do not have a direct contract with the company—which could include professionals who were covered through a policy written for an association—would be regarded as a policyholder if "a sum is due." But the ruling did not clarify under what circumstances such a sum would be due.

Lord Musthills, the law lord who delivered the judgment, said the case was particularly difficult to decide because of what he described as "a confusing set of interlocking problems," leading up to its arrival at the House of Lords.

"These proceedings come before the House in a very odd state... If these proceedings had not gone so far, I would have proposed that

the best solution would be to recognize that the case had taken a wrong turn at the first instance and try to set it back on course," he said.

This House of Lords' ruling that a professional corporation is not regarded as a "private policyholder" clarified "some of the issues raised by the plaintiffs, but it leaves unanswered important questions of great interest to the insurance community," Lord Musthills acknowledged.

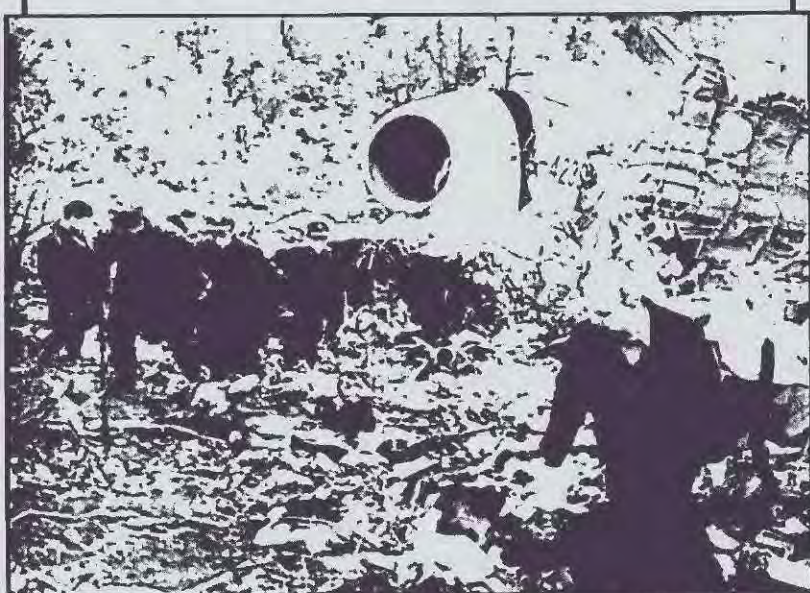
Despite the uncertainty remaining around some policyholders, the ruling gives the KWELM companies' provisional liquidators, Coopers & Lybrand, to start payments under its scheme of arrangement. According to the liquidators, the scheme was passed by an "overwhelming majority" of the KWELM companies' 100,000-plus policyholders who voted Nov. 17 (*BI*, Nov. 22).

Final figures are not yet available.

The Policyholders Protection Board estimates that the gross cost of covered North American claims in light of the ruling will total 600 million pounds (\$885 million). After recoveries have been made under the KWELM scheme of arrangement, the PPB's net cost will be between 170 million and 250 million pounds (between \$250.8 million and \$368.8 million).

The PPB is funded by a levy on

*Continued on page 21*



AP/Wide World Photo

## Hull cover unlikely for jet

OHRID, Macedonia—A Russian-made jet that crashed last week in Macedonia, killing all but one of 116 people on board, is unlikely to be insured for hull damage, aviation brokers in London say.

The Russian-built Yak-42 passenger jet crashed into mountains four miles east of the Ohrid airport on Nov. 21. The jet, which was operated by Macedonian air carrier Avioimpex, was on lease from Russian carrier Aeroflot.

It was on a charter flight from Geneva to Skopje, the Macedonian capital, when it was diverted by blizzard conditions to Ohrid. All of the 108 passengers were from nations that formerly were part of Yugoslavia, mostly ethnic Albanian and some Macedonians, government officials in Ohrid said.

The survivor, identified as a Serbian man, was thrown from the plane in the crash and was reported in critical condition last week.

While the jet is believed to lack hull coverage, it was unclear last week whether Avioimpex had any liability coverage that would respond to claims from crash.

—By Gavin Souler

## Still room for captives to grow

## Captives can help parents add value, boost revenues

By ROGER SCOTTON

HAMILTON, Bermuda—Captive insurance is steadily growing worldwide as companies find new uses for the risk financing method, according to Roger Gillett, senior vp of Johnson & Higgins in Bermuda.

One growth area for captives is offering programs that enhance a company's core insurance product, Mr. Gillett told reinsurance executives at the Seventh International Reinsurance Congress held in Bermuda last month.

"A good example of this is the fast-food chains that offer, through a fronting insurer, certain property and casualty covers as part of the franchise they sell," he said. "This enhances their franchise and will cause an entrepreneur in some small town to select their franchise, rather than one offered by a competitor, thereby enhancing that company's ability to grow."

"We also know of situations where auto manufacturers are offering a free year's insurance cover with the sale of their cars and funding that through a captive arrangement," he said.

Captive insurers that generate revenues for their parent company will continue to play a major part in the future growth and development of the captive industry, said



Mr. Gillett.

Profit-center captives are companies used in situations directly related to the sale of a product or service: an appliance manufacturer could use a captive to fund payouts on extended warranties on its products; a bank could use a captive to provide credit life insurance to its customers; or a trucking company could offer its customers transit coverage.

Another growth area for captives, according to Mr. Gillett, is channeling self-insured employee benefit coverages, such as group health or life insurance coverage, though such a facility to produce a tax advantage. Employee benefits are considered truly non-related business and are therefore tax-deductible under U.S. law, he said.

However, such an arrangement may not meet all the requirements set by the U.S. Department of Labor (*BI*, July 26).

Finite risk products also are being used by some captives insurers

*Continued on next page*

## Impact of new cat capacity

Prices now reflect loss exposure, not loss experience: Exec

By ROGER SCOTTON

HAMILTON, Bermuda—How much catastrophe reinsurance capacity is enough?

That was the question Donald Kramer, chairman of Tempest Reinsurance Co. Ltd., the \$500 million property catastrophe underwriter, put to attendees of the Seventh International Reinsurance Congress held in Bermuda last month.

While it is impossible to say with certainty how much capacity is enough, catastrophe reinsurers are beginning to more accurately price the capacity that is available, Mr. Kramer said.

Catastrophe product pricing is right, policy terms



and conditions are right and the industry, "motivated by fear," is generally more sophisticated than ever before, he said.

According to Mr. Kramer, Bermuda's \$4 billion influx of new catastrophe reinsurance capacity has increased the catastrophe coverage available worldwide by more than 50% (*BI*, Nov. 1; Sept. 20).

He said that total catastrophe capacity worldwide is now estimated at \$7.5 billion.

But that capacity is small in relation to a worst-case loss, he said. A catastrophic California

*Continued on next page*

## No end to finite risk options seen

By ROGER SCOTTON

HAMILTON, Bermuda—The overwhelming volume and variety of finite risk submissions indicates the continued appeal of the product, according to an executive with Centre Reinsurance Holdings Ltd., which pioneered the product.

Developing other new types of financial reinsurance will benefit the entire insurance industry, not just Centre Re, said David Brown, chief accounting officer.

Finite risk reinsurance generally is defined as contracts in



which anticipated investment income is an acknowledged component of underwriting, and the reinsurer's ultimate liability is capped. Unlike some financial reinsurance products, finite risk contracts involve a significant transfer of underwriting risk. The contracts are non-cancelable by the reinsurer but subject to commutation by the policyholder.

Centre Reinsurance (Bermuda) Ltd., a Centre Re unit, is involved in a joint venture with affiliate

Centre Financial Products to develop hybrid products that will enable insurers to work with the capital markets in assuming risk (*BI*, April 26).

One proposed investment-oriented product, which Mr. Brown said was aimed at captive insurance companies, is a "cash equivalent vehicle." This product would be designed to appeal to captives, which often avoid long-term investments so they can keep significant cash in their accounts to cover claims as they occur.

Centre Re's approach would be

*Continued on page 21*

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 11:25 - 12:15 p.m. — Statutory Update — Model Investment Law,  
 Peter Noris, VP, Salomon Bros.  
 12:15 - 2:00 p.m. — Reception — Lunch  
 2:00 - 4:00 p.m. — Risk-Based Capital — Special Session —  
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## INTERNATIONAL

## Captive growth

*Continued from previous page*  
 ers, especially for leveraging capital, smoothing out profits, catastrophe funding and the closing out of prior years, Mr. Gillett said.

The captive movement has gained momentum partly from a hard market, he said.

The number of captives, Mr. Gillett predicted, will rise as much as 33% from about 3,000 currently to up to 4,000 by the year 2000.

Captive formation will continue in Europe, the Pacific Rim and Latin America, but North America will have the lion's share of the facilities—about 2,680—by the end of the decade, Mr. Gillett said. North America currently has about 2,200 captives, he said. "And, by the way, those people who think that the U.S. market is saturated are, we be-

lieve, simply out of touch."

Mr. Gillett, who is responsible for the production and development activities of J&H's worldwide captive management unit, listed other factors that have generated increased global interest in captives.

• Better communication is spreading awareness of captives even in remote markets.

• Continued dissatisfaction with the extremes of the traditional insurance market.

• Purchasers of risk financing products are becoming increasingly sophisticated and willing to retain risk. **[B]**

## Cat coverage

*Continued from previous page*  
 earthquake or Florida hurricane could produce an insured loss in the range of \$50 billion to \$60 billion, he said.

"If one assumes a cumulative net retention in the range of \$5 billion, the theoretical demand for cat reinsurance is \$45 billion to \$55 billion," he said at the congress, co-sponsored by Coopers & Lybrand and Hawks Mere Ltd., a U.K. conference organizer.

Mr. Kramer estimated that \$65 million in program limits is currently available from Bermuda's new cat companies, with Tempest being one of four reinsurers writing up to \$10 million per program.

These limits replaced about half the capacity lost on major national accounts in the aftermath of Hurricane Andrew, he said. "Whereas a large U.S. national account bought about \$250 million in cover prior to Hurricane Andrew, it could place only \$140 million after it."

Hurricane Andrew uncovered a fatal flaw in the industry, showing how it had failed to keep track of exposures, Mr. Kramer said. Prior to Hurricane Andrew, "the (property catastrophe) industry was like an inefficient roulette wheel." That inefficiency has led to what he described as "the Bermuda gold rush."

Now, cat coverage rates reflect exposures rather than experience. "It's no good saying to us you've never had a claim. It's your exposure that counts in this business."

Likening Bermuda's cat facilities to municipal bond insurers, Mr. Kramer said monoline companies like Tempest are prepared to dedicate large amounts of capital to their business.

But, he said the time will come when Tempest and other reinsurers will want to develop new products. And he said that was a process best undertaken in a flexible regulatory climate like Bermuda's.

With a couple of "benign" catastrophe years, Bermuda's new reinsurers will be set to make "a great deal of money. But it's a very seductive product. When an event doesn't occur, you start to feel like you're overcharging," he said.

"The question is, what do we do with it? Will we be seduced into writing other lines of business? Will we stray from our original business plan?"

Mr. Kramer said that established lead syndicates at Lloyd's of London "still enjoy high credibility and will make leading business difficult for any Bermuda market, unless these markets provide significantly more attractive terms and conditions and/or pricing."

However, he added, "The differences between the new Bermuda companies and Lloyd's is that the new arrivals are not burdened by prior obligations. The biggest single problem for Lloyd's is facing historic exposure. Because no matter how much you try to isolate it, you have to pay the losses." **[B]**

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## INTERNATIONAL

## Centre Re

Continued from page 19

to pool several captives' business and, in so doing, make their risks more measurable and claims payments more predictable. In pooling the captives' funds, Centre Re also hopes to offer them an improved rate of investment return, while still providing needed liquidity.

Though it is not strictly an insurance program, Centre Re believes this is the kind of product that, typically, would not be available from the investment industry, which is generally disinclined to accept the risk that claims payments and interest payments could develop adversely.

Another area of research, Mr. Brown told the conference, is the se-

curitization of insurance risk. This involves repackaging the risk into investment products for sale in financial markets.

By securitizing risk and attracting the investment firms, insurers and reinsurers could expand their capacity and generally help the base of their industry grow.

Centre Re reported capital and surplus of more than \$680 million for 1992 and net income of \$65.9 million.

Interviewed after his speech, Mr. Brown added that recently formed Centre Investment Services Ltd. is currently managing more than \$3 billion of Centre Re Holdings' fixed-income portfolio, providing investment services within the units and offering services to outside clients. **BI**

## A disunited defense courts trouble: Expert

By ROGER SCOTTON

HAMILTON, Bermuda—Consensus management is the most effective way for a policyholder and its insurers and reinsurers to defend claims and minimize losses in environmental catastrophe lawsuits, a claims management expert contends.

Following many catastrophic events, "litigation is filed with demands that exceed the basic level of cover before the occurrence...can be adequately investigated," said John Knight, catastrophe services operations supervisor for Crawford & Co. in Atlanta.

"To the extent that the primary carrier asserts a reservation of rights, the litigation control on which the excess and reinsurance layers depended is now lost or severely curtailed," he said at a session during the 7th International Reinsurance Congress in Bermuda last month.

Consensus management is the process of all parties to the defense putting aside their conflicting interests and working together as a team to combat the plaintiff's suit at all layers of actual or potential coverage exposure, Mr. Knight explained. This method addresses what he called "the drawing apart of the interests of the insured and the insurer, when unity is the only viable approach to match up against plaintiff litigation."

From the policyholder's perspective, the primary motivation must be "corporate survival," Mr. Knight said. The potential for uninsured damages could create a shift in stock price and bring on a class-action lawsuit from shareholders, "so any officer or director of an offending company must walk very lightly in the aftermath of a major environmental event."

Any possibility for a settlement within the policy limits "has to look good to the insured," which will not want to waive its rights to coverage, he said.

Most primary insurers will want to reserve their rights with the policyholder and avoid taking action that may jeopardize their own reinsurance and excess coverage. As a result, he said, "they are unlikely to mount a proactive defense, with effective cost controls on claims and litigation costs."

Mr. Knight suggested excess insurers and reinsurance companies "keep informed, acquaint those at risk with the potential for a disastrous outcome, while doing nothing

to expose yourselves to charges of mishandling or bad faith."

Consensus management can involve defense and/or funding agreements, information sharing among the various parties to the defense and common legal representation of all layers of coverage, he said.

Defense or funding arrangements provide policyholders with a way to work with their insurers while still controlling the litigation.

"We know that there may be questions of a policy violation or exclusion that would jeopardize coverage," he said. "Nevertheless, it is all important to concentrate the defense efforts in the hands of counsel as soon as possible. A defense agreement allows the insurers to support the defense of the suit without prejudice to either party. If information later arises that gives rise to an acceptance or rejection of coverage, there is no obvious impact on the litigation."

Information sharing is a powerful tool in a major environmental lawsuit, Mr. Knight said. "The fact that all of the parties are engaged in the active defense of the insured simplifies the issue of discovery," he noted. "There is a much-improved chance of frustrating the plaintiff's discovery requests where all the records and communications are concentrated in the hands of the insured's defense counsel," he said.

Adopting a common claims effort and legal representation is "the most delicate element of consensus management," according to Mr. Knight. "This means there will only be one defense attorney, working for the insured, and one claims effort in support of the defense. The most common mistake we see in major environmental events is that the claims programs are not dedicated to the defense of the entire lawsuit."

Once all agree that a common defense without prejudice to any party works best, "then it is much easier to agree to act for the benefit of the insured's defense, regardless of internal disputes on the defense side," he said.

The aim of the agreement is to keep the defense and claims effort afloat while deferring any disputes between the parties to the defense until some later stage, he said.

He warned that litigation or arbitration among these parties before settlement or adjudication of the original complaint is "a recipe for disaster."

"Insureds, insurers and reinsurers must ally against the common foe or be vanquished individually on the battlefield of catastrophic litigation," Mr. Knight said. **BI**

## KWELM

Continued from page 19

all authorized U.K. insurers, including foreign insurers in the United Kingdom.

Neither Coopers & Lybrand nor the PPB were prepared to estimate the potential size of claims that could have been made by partners involved with professional corporations. However, Derek Wright, PPB secretary and financial reporting manager for

the Assn. of British Insurers, said the figure would likely have been "substantial."

Mr. Wright and Coopers & Lybrand were quick to point out that the House of Lords' ruling will not affect the level of payments received by other KWELM policyholders.

The PPB contribution will simply "top up" whatever percentage the scheme pays to protected policyholders—estimated to reach 40% over a 20- to 40-year peri-

od—so that it reaches the 90% level stipulated by the Policyholders Protection Act.

The ABI welcomed the House of Lords' latest decision and reiterated its determination to persuade the U.K. government to exclude non-E.C. policyholders from protection under the act.

The ABI currently is discussing revision of the act with the Department of Trade and Industry, said Mark Boleat, the ABI's director general. **BI**

## Completion bonds

Continued from page 3

While Motion Picture Guarantors has the No. 2 spot, it is very selective, bonding fewer than 50 films per year.

"We avoid the big pictures. We think they're dangerous," said MPG Chairman Douglas Leiterman. "And we don't bond special-effects films, which have been the graveyard of many bonders."

As a result, Film Finances Inc. and International Film Guarantors—a joint venture of Novato, Calif.-based Fireman's Fund Insurance Co. and Near North Insurance Group of Chicago—are expected to pick up much of the slack in the big picture market.

A combination of factors led to CBC's departure.

Competitive pressures had pushed premiums down to as low as 1% of a film's budget, compared with a historical average of 6% of budget with a back-end return of 3% if no claims were made. At least two other minor underwriters succumbed to the market conditions.

Premiums this fall went back up to 3% of budget if no claims are made.

But over the last seven years, losses soared, with bond underwriters paying out an estimated \$60 million on such high-budget productions as "Hoffa," "Malcolm X," "Ishtar," "Highlander II" and "The Thief and the Cobbler," a hand-drawn animated film that took more than 20 years to complete.

One film—"The Adventures of Baron Munchausen"—inspired "Losing the Light," a 1991 book by Andrew Yule that chronicles how Film Finances and its reinsurer, Lloyd's of London syndicate 370, were forced to take over production when director Terry Gilliam ran almost \$20 million over budget.

And, CBC President Bette L. Smith was publicly berated by director Spike Lee when "Malcolm X" went over budget and she ordered some work stopped.

Tinseltown rumors tied CBC's demise to delays in the completion of Sylvester Stallone's "Cliffhanger," but most of those costs, several millions of dollars of which were weather-related, were paid by Star Insurance Co. of Southfield, Mich., and not CBC. The weather coverage was placed by Worldwide Weather Inc., a managing general agent based in Great Neck, N.Y.

"We had some poor loss experience," acknowledged one source close to CBC who requested anonymity. "In the completion bond business, you either don't have any losses or you have a big one."

The real problem was pricing. "There were more suppliers than demand for bonds, which was driving the price down," the source said.

"Competition in the last few years was disastrous for all parties," agreed MPG's Mr. Leiterman. "Our company has been in business for 17 years. We had sta-

ble clientele. Yet even while our volume was steady, we had to lower our rates to compete."

And, in some cases, "some producers or directors saw guarantees as an extra source of financing," observed Steve Fayne, a partner with Rosenfeld, Meyer & Susman, a Los Angeles-based entertainment law firm that represented CBC.

"They saw that it wasn't such a tragedy if a guarantor took over the film. It would still get made, and their name would still appear on the credits," he said.

"Many things took the profit out of the market," said Lee Proimos, senior vp of Fireman's Fund in Novato, Calif., and a director of IFG.

"Terms and conditions were made broader, while contingencies were reduced," causing the bonds to be triggered earlier, he said. In the past, completion bonds paid when a film's cost exceeded a contingency—similar to a deductible—of 10% of budget.

In some cases, "guarantors were allowing directors to exclude some direct-cost items from the

independent film producers.

For example, some entertainment lenders had been hesitant to lend against Film Finances guarantees because they are backed by Lloyd's. But, now most banks are accepting all three remaining markets for completion bonds.

"Lloyd's is having their own problems. That, coupled with the changing market (triggered by CBC's departure), has made banks and other financiers a lot more conservative," Ms. Stigliano said.

And, the remaining film guarantors are short-handed, still scrambling to fill the void created by CBC's departure.

"The lower-budget films are having the biggest problem," Mr. Fayne said. "They're risky and very labor-intensive."

"If a guarantor has a choice, it makes sense to choose higher-end films," since bonding a \$25 million film and a \$2.5 million film requires the same amount of work, he pointed out.

"We try to deal with films that are economical for us," said Fireman's Fund's Mr. Proimos.

"May, June and July were the

**'Competition in the last few years was disastrous for all parties,' says MPG Chairman Douglas Leiterman. 'Our company has been in business for 17 years. We had stable clientele. Yet even while our volume was steady, we had to lower our rates to compete.'**

contingency," like costs involved in gaining rights to scripts, development costs and rewriting expenses, added Joan Stigliano, an IFG senior vp who left her post as director of business affairs at CBC two months ago.

"The result is a contingency that's 10% of a smaller amount," she explained.

While film guarantors were taking big hits in the United States, completion bond reinsurers overseas were having problems of their own.

Syndicate 370, which had reinsured several completion bond underwriters, was named as one of nine defendants in four lawsuits filed by Barclays Bank over non-payment of completion bonds issued by now-defunct Performance Guarantees Inc. to back the films "The Gift," "Bethune: Portrait of a Hero," "Red Scorpion" and "Hotel Oklahoma."

The syndicate, led by underwriter Victor Broad, also lost considerable capacity when Lloyd's names resigned from the market after incurring heavy losses as a result of their involvement in other claims-riddled syndicates.

Since then, "there has clearly been a change in the reinsurance market," Ms. Stigliano said. "Reinsurers are re-examining the extent to which they want to be involved in this market."

The media attention to Lloyd's record losses has had a domino effect that has ultimately reduced the availability of financing for

worst months for independent filmmakers," recalled Greg Bernstein, a partner with Gipson, Hoffman & Pancione, an entertainment law firm in Los Angeles that acts as a broker for many filmmakers seeking completion bonds.

"For the independent producers trying to make a \$5 million film or lower, it was an extremely tough time," he said.

But, the picture is becoming brighter as the remaining players in the completion bond market settle into their new niches.

IFG, which usually bonds only a half-dozen films annually, is now expected to do 30 to 40 films a year.

"There's no question the disappearance of CBC has meant increased business for the rest of us," said MPG's Mr. Leiterman.

And the increased pricing, reflecting the reduced competition, is being viewed as a positive development by banks and producers, according to Chris Ball, vp at Daiwa Bank Ltd. in Los Angeles, a leading film financier. "The demise of CBC has impacted cost, but it makes for a healthy bonding market, and a healthy bond business makes a healthy financing business."

Unfortunately, the market turn came too late for CBC.

"That's the irony," the industry source observed.

Only by leaving the market could CBC drive up prices to the point where the business was profitable again. **BI**

## Health care reform

Continued from page 1

tion bill introduced by Rep. Jim Cooper, D-Tenn., now has 57 co-sponsors.

In addition, many of the Clinton bill co-sponsors are what benefit lobbyists call "soft" backers. Translation: The legislator agreed as a courtesy to the administration to co-sponsor the bill, but does not actively support it.

For example, House co-sponsors of the Clinton measure include a number of staunch advocates of a single-payer, government-run health care system, including Reps. Pete Stark, D-Calif., and Sam Gibbons, D-Fla.

"If you count a Pete Stark, a dyed-in-the-wool single-payer advocate as a co-sponsor, it shows how soft that 100 co-sponsor number is," said Sean Sullivan, president of the National Business Coalition on Health in Washington.

And the passage of time hasn't helped the administration develop a bipartisan consensus for its proposal. For example, of the 31 Senate co-sponsors, only one—James Jeffords, the liberal Vermont senator—is a Republican.

The introduction of the Clinton bill was a decidedly low-key affair, occurring while Congress was meeting in an unusual Saturday session with a few introductory remarks by several congressional Democratic leaders. President Clinton was in Seattle meeting with the leaders of Asian/Pacific nations.

The almost stealthy way in which the bill was introduced contrasts sharply with the huge public relations offensive the administration launched in September when President Clinton outlined his proposal before a joint session of Congress and later when Mrs. Clinton testified before several congressional committees.

But the public relations offensive sputtered after the administration was unable to quickly introduce a bill and after a number of legislators, most notably Senate Finance Committee Chairman Daniel Patrick Moynihan, D-N.Y., said the administration's revenue assumptions for its proposal were not credible.

Benefit consultants last week echoed those concerns in testimony before a House panel (see related story).

While the administration's health care PR machine is on standby, it is expected to be cranked up again when Congress returns in January to begin the second half of the 103rd session.

The biggest change for employers between the most recent draft and the bill that has been introduced in Congress is that big employers much pick between a corporate alliance and regional alliances.

The earlier option appealed to some big employers that have large concentrations at a few company worksites, but a relative handful of employees at other locations, observed Mark Ugoretz, president of the ERISA Industry Committee in Washington.

Instead of covering those employees in their own alliance, employers may have found it easier to shift those employees to regional alliances.

"It would have streamlined administrative functions for some employers," said Mr. Sullivan of the NBCH.

Big employers also would have had an economic incentive for tapping regional alliances to cover employees at small worksites. Despite a company's overall size, its presence in some areas of the

country could be so small that the employer wouldn't have much buying clout with providers.

In that case, an employer probably could purchase coverage at a lower cost if its employees were covered by a regional alliance, which because of its size would have much greater buying power than the employer.

The administration didn't explain why it dropped this option.

The early retiree health care provision is more of a clarification than a substantive change.

Under both Clinton proposals, the government would pay 80% of premiums for workers who retire between the ages of 55 and 64—a

gation to pay a share of the retirees' health care premium.

The new bill also would prevent employers from paying a higher percentage of health care premiums for some employees than for others.

Under the legislation, employers must pay at least 80% of the premium of the average-priced plan offered by an alliance. However, employers can, without adverse tax consequences to employees, pay more than 80%.

However, if an employer did pay more than 80%, it would have to pay the same percentage for all of its employees covered by an alliance. For example, if an employer

**'If you count a Pete Stark, a dyed-in-the-wool single-payer advocate as a co-sponsor, it shows how soft that 100 co-sponsor number is,' says Sean Sullivan, president of the National Business Coalition on Health in Washington.**

huge windfall for many employers, especially some companies in smokestack industries that have balance sheets loaded with retiree health care liabilities.

There had been some confusion, though, over what obligation—if any—employers that now provide early retiree health care benefits would incur to pay for the 20% share of the premium the government would not pick up.

Under the new provision, an employer that paid at least 20% of the premium for early retirees who were at least 55 and had retired as of Jan. 1, 1993, would continue to pay 20% of the premium for that group.

This provision would go into effect on Jan. 1, 1998, with the employer continuing to pay 20% of the premium until the retirees turned 65, died or resumed full-time employment.

"The employer obligation only is for a closed group of retirees. It is a limited maintenance-of-effort provision," said Chip Kerby, a principal with William M. Mercer Inc. in Washington.

The provision would not affect employers that currently do not offer an early retiree health care plan. They would not have an obli-

gation to pay 100% of the premium for management employees, it also would have to pay 100% of the premium for low-paid workers.

Under an exception for health plans offered through collective bargaining, employers could pay more than 80% of the premium for unionized employees without being forced to bump up—over the 80% minimum—the percentage of the premium they would pay for non-union employees.

In addition, if an employer agrees to pay more than 80% of the premium of an average priced plan, the company would have to provide a taxable cash rebate to employees selecting lower-cost plans (BI, Nov. 1).

The new bill also incorporates a provision from the earlier Clinton proposal under which health insurers would face new scrutiny from the Federal Trade Commission.

Insurance industry attorneys say that a provision in the proposal that would repeal health insurers' exemption from the McCarran-Ferguson Act would give the FTC the authority to investigate health insurers' activities for possible antitrust violations and unfair or deceptive trade practices. **BI**

## Clinton plan underestimates cost of health care: Hewitt

WASHINGTON—Clinton administration cost estimates for the benefits packages promised under its health reform plan appear to be unrealistically low, contends a benefit consulting firm.

The cost of standard benefit package using the four-tier pricing structure called for in the president's plan would range anywhere from 19% to 59% more than administration estimates, Hewitt Associates concluded in an analysis presented to a House Energy and Commerce subcommittee last week.

For example, the administration's preliminary cost estimate for family coverage under the average plan is \$4,360; Hewitt estimates it as \$6,946 in a high cost-sharing plan and \$6,591 in a low cost-sharing plan.

Hewitt's analysis added, though, that "a true comparison with the administration's pricing is difficult to make because of internal inconsistencies in the various published descriptions of the way the plan would be priced."

Hewitt based its pricing model on its own data base of actual claims data, Dale H. Yamamoto and Frank B. McArdle told the Subcommittee on Health and the Environment on Nov. 22.

The two Hewitt consultants also said that regional differences in health care costs were found to be quite significant. For example, the cost for a single person in a high cost-sharing plan ranged from \$1,766 in Charlotte, N.C., to \$4,181 in Los Angeles.

"We would suggest that no single number on the pricing will turn out to be exact. Rather, we would anticipate that Congress consider a range of optimistic and pessimistic projections to appreciate the true financial dimensions of the benefit package," said Mr. McArdle.

—By Mark A. Hofmann

## Updates

### \$63 million plane crash award

CHICAGO—Mitsubishi Aircraft International Inc. and another company are liable for \$62.6 million in damages to the heirs of two men killed in a 1986 plane crash.

Both companies say they will appeal if the trial judge rejects motions to set aside the jury award.

A Cook County Circuit Court jury this month awarded \$55 million to the heirs of F. Francis D'Addario, a construction, real estate and casino executive; and \$7.6 million to the heirs of Ivan Smejkal, one of his employees. The two men were killed when the Mitsubishi turbo-prop plane they were flying in stalled and crashed in March 1986.

Mitsubishi blamed the crash on pilot error, while Air Hi-Ho Inc., a Bridgeport, Conn., firm that operated the plane, blamed it on aircraft defects. The jury apportioned 35% of the fault to Mitsubishi and 65% to Air Hi-Ho, which Mr. D'Addario owned.

Mitsubishi is "adequately" insured, said attorney Marshall S. Turner of Condon & Forsyth in New York. Its insurers include Tokio Marine & Fire Insurance Co. Ltd., lawyers involved in the case say.

Air Hi-Ho has a \$7 million primary liability policy from Planet Insurance Co., a Reliance Group unit, and a \$5 million excess policy from Insurance Co. of the State of Pennsylvania, an American International Group Inc. unit, confirmed John S. Hoff, a Chicago lawyer representing the company. Planet earlier paid a \$535,000 hull loss on the plane, Mr. Hoff said.

### GTE Re settles dispute in part

PHILADELPHIA—Bermuda-based GTE Reinsurance Co. Ltd. has agreed to pay \$25.2 million to the rehabilitator of Mutual Fire, Marine & Inland Insurance Co. to settle part of a reinsurance dispute.

The settlement resolves amounts GTE Re owed the Mutual Fire estate under two treaties as of March 31, 1992, with interest through Sept. 21, 1993.

GTE Re also agreed to give up claims it has against the Mutual Fire estate on business that it ceded to Mutual Fire. The Bermuda company in 1990 filed proofs of claim against Mutual Fire totaling \$20.8 million, court records show.

However, the settlement does not cover a number of other Mutual Fire claims, including amounts GTE Re allegedly owes for case and incurred-but-not-reported loss reserves under the two treaties and for losses under several other reinsurance contracts.

Mutual Fire, which went into rehabilitation in 1986, claims GTE Re still owes \$30.4 million for case and IBNR reserves under the two treaties, while GTE Re says Mutual Fire has overstated the balance due by nearly \$8 million.

### Jury finds pregnancy bias

SAN JOSE, Calif.—California Casualty Insurance Co. must pay \$2.7 million to a 28-year-old claims adjuster in what the woman's lawyer says is the nation's largest pregnancy discrimination award.

Lana Ambruster had worked in the insurer's San Jose claims office for just over a year in 1991 when she was placed on written probation and then fired. The jury found she was fired for informing her claims manager she was pregnant.

California Casualty—which says Ms. Ambruster was fired for poor performance—will move for a new trial and will appeal if its motion is denied, said Mark Schickman, a partner with Fox & Grove in San Francisco, who represented the insurer.

### Briefly noted

Several National Assn. of Insurance Commissioners committees tomorrow will discuss significant technical changes that a working group made last week to the proposed risk-based capital standard for property/casualty insurers. . . . The Internal Revenue Service said last week that pension plan administrators are not required to notify participants when they amend plans to comply with the new maximum \$150,000 compensation limit for calculating retirement benefits set by the Omnibus Budget Reconciliation Act. . . . Keene Corp. has reached an agreement in principle with five claimants' attorneys on a mandatory class-action settlement that would respond to all of the approximately 100,000 pending asbestos-related cases Keene faces. The final amount of the settlement depends on how much coverage Keene eventually collects from various insurers. . . . The Risk & Insurance Management Society Inc. is seeking input from RIMS members as it formulates a position on President Clinton's health care proposal. Millicent Workman, director-corporate risk management at Memphis-based Belz Inc., is the chair of the National Employee Benefit Legislation committee, which is working on the topic. . . . The St. Paul Cos. Inc. has formed Camperdown Corp., which can provide up to 40 million pounds (\$59.49 million) to about one dozen Lloyd's of London syndicates in 1994. . . . William F. Souder Jr., a former chairman and CEO of Marsh & McLennan Cos. Inc., died Nov. 19. He was 82. . . . J. Bransford Wallace, chairman of Willis Corroon Corp., has been named the chairman of the proposed Quality Insurance Congress (BI, Oct. 4; Sept. 6). He hopes to fill the board of directors shortly after the first of the year. . . . Supermarket chain Albertson's Inc. said it has settled a class-action employment discrimination lawsuit for \$29.5 million and is suing several unidentified insurers in an effort to recover a portion of the settlement cost. . . . A Matagorda County, Texas, jury ordered Amoco Corp. to pay breach of contract and fraud damages of \$417 million—including \$250 million in punitive damages—after finding that an Amoco unit wrongly backed out of an agreement to sell Wyoming oil fields to Rubicon Petroleum Corp. for \$18 million. . . . Without health care reform, medical expenses will consume nearly 20% of the average family's pretax income by the end of the decade, up from about 9% in 1980, concludes a study by Washington-based consumer group Families USA.

## For the Record

### Grand jury indictment on MEWA fraud charges

SANTA ANA, Calif.—A federal grand jury indicted an Orange County man earlier this month on charges of mail fraud in connection with his marketing and administration of multi-employer welfare arrangements in the late 1980s.

According to the seven-count indictment, Henry Hay designed, marketed and administered group health benefit plans for small businesses. In 1983, he formed the Building Employers Trust and the Professional Employers Trust to collect premiums from participating employers and purchase coverage, the U.S. attorney's office said. The health plans were self-funded and purchased stop-loss insurance from Lexington Insurance Co.

The indictment alleges that beginning in 1987, Mr. Hay misrepresented the trusts' health plans as fully insured by Landmark Insurance Co. and later claimed they were insured by California Benefit Life Insurance Co. In September 1989, he bankrupted Building Employers Trust, leaving thousands of employees with more than \$6 million in unpaid medical claims, the indictment charges. In 1990, he ceased operating the Professional Employers Trust, leaving additional unpaid claims.

The indictment says the scheme generated about \$17 million in premiums, some of which Mr. Hay allegedly diverted for personal use. The indictment also alleges that Joseph Bartholomew, the former president and chief executive officer of now-defunct California Benefit Life, helped Mr. Hay misrepresent that his health plans were fully insured.

Trial has been set for Jan. 4 at the U.S. District Court in Santa Ana, Calif. If convicted, Mr. Hay could face up to 35 years in prison and a fine of \$1.75 million. Mr. Bartholomew could face 25 years in prison and a fine of \$1.25 million, the U.S. attorney's office said.

### D&O insurance to cover \$40 million settlement

STAMFORD, Conn.—Insurance will cover the \$40 million that Lone Star Industries Inc. will pay to settle two class-action suits

brought by shareholders.

The suits alleged that the construction materials manufacturer made false and misleading statements to shareholders about its financial situation.

The settlement is covered by National Union Fire Insurance Co. of Pittsburgh, Pa., a unit of American International Group, which wrote directors and officers liability insurance for Lone Star.

Stamford, Conn.-based Lone Star filed for Chapter 11 bankruptcy protection in December 1990. The company is currently recommending a reorganization plan to its shareholders.

The settlement is not an admission of liability by Lone Star, a company spokesman said.

### Wyatt posts slim profit, reversing 1992 loss

WASHINGTON—Despite virtually flat revenues, The Wyatt Co. made a small profit in the year ending June 30, reversing a big loss the year before.

Wyatt reported a profit of \$963,000 on revenues of \$410.1 million. In fiscal 1992, Wyatt lost \$10.8 million on revenues of \$411.6 million.

Wyatt President A.W. Smith Jr. attributes the turnaround at the nation's third-largest employee benefit consulting firm to aggressive cost control, better project planning and improved cooperation of efforts throughout the company's offices.

### Missouri firms face varied comp forecasts

JEFFERSON CITY, Mo.—Employers in Missouri are facing widely divergent predictions about 1994 workers compensation rates following recent reforms.

Key reforms require the state to switch to open rate competition next year from prior approval for voluntary market coverage, though the insurance commissioner will still approve rates for the assigned risk plan. Also, workers comp insurers will be required to offer coverage to good risks that previously could only find coverage in the state's residual market (BI, Sept. 6).

The Insurance Department presented actuarial projections calling for a 5.7% decrease in voluntary market advisory loss costs.

That projection, and the elimination of a

14.7% residual market subsidy expected from recent reforms, should encourage individual insurers to file for decreases of up to 19% in voluntary market premiums, the department contends. That could be worth up to \$113 million to employers.

But, the National Council on Compensation Insurance said that assigning immediate savings to recent reforms is "misleading Missouri employers." It has filed for a 19.4% increase in voluntary market advisory loss costs, said Michael Taylor, director of government, consumer and industry affairs.

The NCCI also has filed for a 23.2% increase for the state's assigned risk plan beginning Jan. 1.

Insurance Commissioner Jay Angoff has not yet ruled on the assigned risk plan rate increase request.

### Regulatory laws not pre-empted by ERISA

PITTSBURGH—Two New Jersey laws that bar discrimination in health insurance premiums and rates are not pre-empted by ERISA, a federal appeals court has ruled.

Those laws fall within ERISA's "savings clause," which protects from pre-emption state laws that regulate insurance, the 3rd U.S. Circuit Court of Appeals ruled last month, affirming a lower court ruling.

In *PAS vs. Travelers Insurance Co.*, a woman using the pseudonym PAS became disabled with a manic-depressive condition. She received disability benefits through her employer's health plan, underwritten by Travelers Insurance Co.

Travelers later terminated her benefits under a provision that generally limits coverage for mental illness to two years.

The woman filed suit against Travelers in the Superior Court of New Jersey, claiming that the policy provision under which her benefits were terminated should be declared void because it is contrary to New Jersey law. She also sought to have Travelers ordered to restore her coverage.

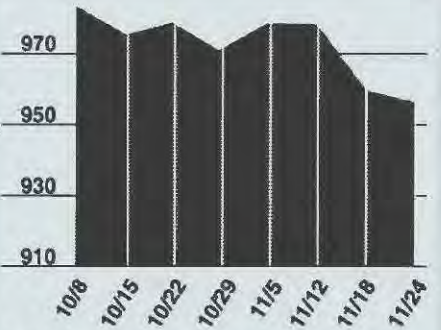
Travelers and the employer moved to have the case heard in federal court because they contended that the case contained several counts that needed to be resolved under ERISA.

The 3rd Circuit found that the New Jersey statutes meet the U.S. Supreme Court's qualifications for the "savings clause." The case was partially remanded to state court. **BI**

## BI Insurance Index

1010

990



Base = 100 on Dec. 29, 1978  
Source: Nordby International Inc.

Insurance stocks fell last week, as the *Business Insurance Index* lost 5.6 points to 954.2 Nov. 24 from 959.8 on Nov. 19. Advancing issues for the week were led by: Gainsco Inc., up 13.3%; Phoenix Re Corp., up 8.1%; and Allied Group Inc., up 7.9%. Declining issues for the week followed: E.W. Blanch Holdings Inc., down 7.0%; Sphere Drake Holdings, down 5.2%; and Guaranty National Corp., down 5.0%. The most active issue was U.S. Healthcare, 3.3 million shares traded. The *BI Index* fell 0.6%; the Dow Jones 30 Industrials lost 0.2%; the NYSE Composite fell 0.2%; and the Standard & Poor's 500 lost 0.1%.

### British Issues

| Nov. 23 Companies | Price | P/E | Div. pence | Yield % | 1 week High-Low |       |
|-------------------|-------|-----|------------|---------|-----------------|-------|
|                   |       |     |            |         | pence           | pence |
| Comm Union        | 588   | N/M | 29.8       | 5.1     | 606—588         |       |
| Genl Accident     | 639   | N/M | 33.8       | 5.3     | 671—639         |       |
| Gdn Royal Exch    | 192   | N/M | 9.0        | 4.7     | 208—192         |       |
| Royal             | 282   | N/M | 8.0        | 2.8     | 305—282         |       |
| Sun Alliance      | 356   | N/M | 19.0       | 5.0     | 374—356         |       |

#### Brokers

| Nov. 23 Brokers | Price | P/E  | Div. pence | Yield % | 1 week High-Low |       |
|-----------------|-------|------|------------|---------|-----------------|-------|
|                 |       |      |            |         | pence           | pence |
| Bradstock       | 135   | 15.9 | 6.4        | 4.7     | 135—135         |       |
| CE Heath        | 399   | 19.1 | 20.0       | 5.0     | 399—399         |       |
| Hogg Group      | 157   | 17.4 | 10.4       | 6.6     | 157—155         |       |
| JIB Group       | 174   | 17.1 | 9.5        | 5.4     | 174—174         |       |
| Lloyd Thompson  | 282   | 19.0 | 8.4        | 3.0     | 282—280         |       |
| Lowndes Lmbt    | 414   | 15.0 | 16.8       | 4.0     | 417—414         |       |
| PWS Holdings    | 67    | 10.0 | 5.0        | 7.5     | 68—67           |       |
| Sedgwick Grp    | 193   | 23.1 | 7.5        | 3.9     | 195—183         |       |
| Steel Bri Jones | 144   | N/M  | 15.0       | 10.4    | 149—144         |       |
| Willis Corroon  | 230   | 21.5 | 8.3        | 3.6     | 233—226         |       |

Source: Philip Olsen, London

\* Estimated

## BI Industry Stock Report

NOV. 22, 1993 THROUGH NOV. 24, 1993

| BROKERS                     |     |        |                 |                       |             |        |           |         |         |     |            |                | INSURERS/REINSURERS              |         |                 |                       |             |       |           |         |         |      |            |                |       |
|-----------------------------|-----|--------|-----------------|-----------------------|-------------|--------|-----------|---------|---------|-----|------------|----------------|----------------------------------|---------|-----------------|-----------------------|-------------|-------|-----------|---------|---------|------|------------|----------------|-------|
|                             |     | Price  | Weekly % change | Year to date % change | Annual High | Low    | Vol.(000) | \$ Div. | % Yield | P/E | Book value | Mkt./Bk. value |                                  | Price   | Weekly % change | Year to date % change | Annual High | Low   | Vol.(000) | \$ Div. | % Yield | P/E  | Book value | Mkt./Bk. value |       |
| Acordia Inc.                | NYS | 21.88  | 2.36            | 1.77                  | 27.63       | 18.38  | 51        | 0.44    | 2.01    | 12  | 9.57       | 2.29           | Mutual Risk Mgmt. Ltc.           | NYS     | 29.63           | -1.23                 | 9.74        | 32.75 | 21.16     | 71      | 0.28    | 0.94 | 21         | 11.39          | 2.60  |
| Alexander & Alexander       | NYS | 17.75  | -3.40           | -33.02                | 28.88       | 17.75  | 222       | 1.00    | 5.63    | 32  | 5.02       | 3.54           | NAC Re Corp.                     | OTC     | 28.25           | 0.89                  | -30.25      | 44.75 | 28.00     | 144     | 0.16    | 0.57 | 15         | 17.23          | 1.64  |
| E.W. Blanch Holdings Inc.   | NYS | 20.00  | -6.98           | N.A.                  | 23.50       | 16.50  | 106       | 0.32    | 1.60    | 19  | 3.60       | 5.56           | National Re Corp.                | NYS     | 30.88           | -3.88                 | 4.24        | 39.63 | 27.00     | 42      | 0.12    | 0.39 | 10         | 14.18          | 2.18  |
| Gallagher Arthur J. & Co.   | NYS | 34.75  | -2.11           | 23.01                 | 37.38       | 25.50  | 121       | 0.72    | 2.07    | 17  | 6.26       | 5.55           | Navigator Group                  | OTC     | 37.00           | -2.63                 | 13.85       | 39.00 | 28.50     | 8       | 0.00    | 0.00 | 21         | 16.99          | 2.18  |
| Hibb, Rogal & Hamilton      | NYS | 12.63  | 0.04            | -19.17                | 16.88       | 11.38  | 105       | 0.48    | 3.80    | 19  | 2.73       | 4.63           | Nobel Insurance LTD.             | OTC     | 7.00            | 0.00                  | 19.15       | 8.25  | 5.25      | 23      | 0.00    | 0.00 | 3          | 6.84           | 1.02  |
| Marsh & McLennan            | NYS | 79.38  | -0.78           | -13.13                | 97.63       | 78.75  | 267       | 2.68    | 3.38    | 18  | 15.03      | 5.28           | NWNL Companies                   | NYS     | 30.88           | 2.51                  | 21.40       | 38.75 | 22.19     | 159     | 0.80    | 2.59 | 14         | 21.65          | 1.43  |
| Poe & Brown                 | OTC | 19.00  | 0.00            | 13.43                 | 21.25       | 15.50  | 0         | 0.40    | 2.11    | 33  | 2.60       | 7.31           | Ohio Casualty Corp.              | OTC     | 58.13           | -1.47                 | -7.91       | 72.00 | 57.63     | 121     | 2.84    | 4.89 | 10         | 45.85          | 1.27  |
| BROKERS AVERAGE             |     |        | -1.6            | -4.5                  |             |        |           |         | 2.9     | 22  |            |                | Old Republic Int'l               | NYS     | 22.13           | -1.09                 | -11.04      | 27.63 | 21.50     | 218     | 0.44    | 1.99 | 8          | 21.06          | 1.05  |
| ACE Ltd.                    | NYS | 29.25  | -2.50           | N.A.                  | 36.00       | 25.50  | 195       | 0.40    | 1.37    | 7   | 25.37      | 1.15           | Orion Capital Corp.              | NYS     | 29.38           | 1.75                  | 3.82        | 37.50 | 23.84     | 74      | 0.72    | 2.45 | 8          | 24.32          | 1.21  |
| Acceptance Insurance Cos.   | NYS | 12.00  | -4.00           | 24.68                 | 15.63       | 8.25   | 187       | 0.00    | 0.00    | 13  | 9.11       | 1.32           | Phoenix RE Corp.                 | OTC     | 28.38           | 8.11                  | 80.19       | 38.25 | 13.25     | 845     | 0.28    | 0.99 | -          | 11.88          | 2.39  |
| AEGON N.V.                  | NYS | 50.00  | 0.00            | 20.12                 | 51.75       | 40.50  | 31        | 1.22    | 2.44    | 10  | 32.78      | 1.53           | Provident Life                   | NYS     | 30.00           | 1.69                  | 5.26        | 31.75 | 25.50     | 89      | 1.04    | 3.47 | 12         | 30.72          | 0.98  |
| Aetna Life & Casualty       | NYS | 60.25  | 1.90            | 29.57                 | 66.25       | 43.38  | 362       | 2.76    | 4.58    | 21  | 65.43      | 0.92           | Re Capital Corp.                 | OTC     | 13.63           | -4.35                 | -17.39      | 16.63 | 13.25     | 29      | 0.28    | 2.05 | 14         | 14.76          | 0.92  |
| Allied Group Inc.           | OTC | 25.63  | 7.92            | 21.09                 | 32.75       | 19.66  | 362       | 0.52    | 2.03    | 7   | 10.45      | 2.45           | Reliance Group Holdings          | NYS     | 7.88            | 1.68                  | 28.65       | 10.38 | 5.63      | 783     | 0.32    | 4.06 | 3          | 2.99           | 2.64  |
| Allmerica Prop. & Casualty  | NYS | 56.75  | -0.22           | 12.38                 | 62.50       | 47.75  | 170       | 0.44    | 0.78    | 5   | 46.94      | 1.21           | RLI Corp.                        | NYS     | 25.75           | 0.98                  | 4.04        | 28.63 | 23.25     | 17      | 0.56    | 2.17 | 12         | 18.62          | 1.38  |
| Allstate Corp.              | NYS | 29.63  | 3.51            | N.A.                  | 34.25       | 27.13  | 734       | 0.72    | 2.43    | 14  | 12.26      | 2.42           | St. Paul Companies               | NYS     | 88.88           | 2.75                  | 15.43       | 98.00 | 72.75     | 236     | 2.80    | 3.15 | -40        | 52.24          | 1.70  |
| American General            | NYS | 27.88  | 0.92            | -2.18                 | 36.50       | 26.19  | 1417      | 1.08    | 3.87    | 11  | 21.31      | 1.31           | SAFECO Corp.                     | OTC     | 56.38           | -0.65                 | -0.65       | 66.75 | 54.75     | 314     | 1.80    | 3.19 | 11         | 38.95          | 1.45  |
| American Heritage Life Ins. | NYS | 18.50  | 4.96            | -8.26                 | 25.34       | 17.25  | 19        | 0.60    | 3.24    | 12  | 12.44      | 1.49           | SCOR U.S. Corp.                  | NYS     | 14.13           | 1.84                  | -19.26      | 20.75 | 13.50     | 12      | 0.32    | 2.26 | 22         | 14.69          | 0.96  |
| American Indemnity/Fin'l    | OTC | 13.00  | 0.00            | 116.67                | 16.25       | 5.75   | 41        | 0.12    | 0.92    | 5   | 16.18      | 0.80           | Seibels Bruce Group              | OTC     | 1.00            | 6.61                  | -46.67      | 2.38  | 0.31      | 55      | 0.00    | 0.00 | 0          | 1.90           | 0.53  |
| American International      | NYS | 86.13  | -2.54           | 11.38                 | 100.25      | 73.41  | 1824      | 0.40    | 0.46    | 15  | 40.25      | 2.14           | Selective Ins. Group             | OTC     | 30.00           | 0.00                  | 36.36       | 31.00 | 20.50     | 82      | 1.12    | 3.73 | 20         | 22.92          | 1.31  |
| American RE Corp.           | NYS | 26.88  | 0.49            | -27.35                | 41.75       | 25.75  | 160       | 0.00    | 0.00    | 22  | 6.67       | 4.03           | Sphere Drake Holdings            | NYS     | 15.88           | -5.19                 | N.A.        | 21.63 | 15.88     | 266     | 0.00    | 0.00 | 17         | N.A.           | N.A.  |
| Aon Corp.                   | NYS | 50.00  | -1.72           | -7.41                 | 58.50       | 50.00  | 326       | 1.80    | 3.60    | 16  | 31.79      | 1.57           | Statesman Group Inc.             | OTC     | 12.00           | -2.04                 | 0.00        | 15.72 | 9.28      | 174     | 0.16    | 1.33 | 6          | 8.65           | 1.39  |
| Argonaut Group              | OTC | 30.25  | -1.63           | -0.82                 | 35.50       | 27.75  | 64        | 1.00    | 3.31    | 10  | 25.52      | 1.19           | TIG Holdings                     | NYS     | 22.38           | -3.22                 | N.A.        | 28.00 | 21.88     | 417     | 0.20    | 0.89 | -9         | 17.14          | 1.31  |
| AVEMCO Corp.                | NYS | 18.38  | -2.62           | -21.37                | 25.50       | 16.75  | 6         | 0.44    | 2.39    | 15  | 7.75       | 2.37           | Tokio Marine & Fire              | OTC     | 56.88           | -2.77                 | 18.50       | 67.00 | 45.50     | 35      | 0.37    | 0.65 | -          | 57.72          | 0.99  |
| Baldwin & Lyons Inc.        | OTC | 42.63  | 0.31            | 16.79                 | 45.00       | 33.50  | 1         | 0.60    | 1.41    | 11  | 34.75      | 1.23           | Torchmark Corp.                  | NYS     | 43.25           | 0.87                  | -37.79      | 64.75 | 41.13     | 402     | 1.12    | 2.59 | 12         | 15.15          | 2.85  |
| Berkley W.R. Corp.          | OTC | 32.50  | -0.76           | -24.42                | 50.50       | 32.38  | 567       | 0.40    | 1.23    | 12  | 26.31      | 1.24           | Transatlantic Holdings           | NYS     | 50.25           | -1.47                 | -10.47      | 61.50 | 49.00     | 90      | 0.28    | 0.56 | 13         | 24.57          | 2.05  |
| Berkshire Hathaway Inc.     | NYS | 171.75 | 0.72            | 46.17                 | 178.00      | 100.25 | 0         | 0.00    | 0.00    | -   | 7742.67    | 2.22           | Travelers Corp.                  | NYS     | 32.00           | 0.79                  | 17.43       | 38.88 | 23.13     | 912     | 1.60    | 5.00 | -8         | 31.77          | 1.01  |
| Chandler Insurance          | OTC | 5.25   | 2.44            | 10.53                 | 5.38        | 3.50   | 68        | 0.00    | 0.00    | 13  | 8.87       | 0.59           | Trenwick Group Inc.              | OTC     | 38.75           | 0.65                  | -4.91       | 49.75 | 37.25     | 257     | 0.88    | 2.27 | 12         | 26.00          | 1.49  |
| Chubb Corp.                 | NYS | 78.88  | 0.48            | -11.25                | 96.38       | 76.00  | 567       | 1.72    | 2.18    | 18  | 45.65      | 1.73           | United Fire & Casualty           | OTC     | 36.00           | 0.00                  | -13.25      | 43.00 | 34.75     | 1       | 1.08    | 3.00 | -          | 28.96          | 1.24  |
| CIGNA Corp.                 | NYS | 63.88  | -0.19           | 8.96                  | 68.38       | 55.50  | 457       | 3.04    | 4.76    | 11  | 79.82      | 0.80           | Unitrin                          | OTC     | 41.68           | 0.31                  | -2.04       | 46.75 | 37.00     | 185     | 1.40    | 3.34 | 14         | 37.69          | 1.11  |
| CNA Financial Corp.         | NYS | 77.00  | -1.91           | -21.43                | 102.88      | 77.00  | 47        | 0.00    | 0.00    | -15 | 75.07      | 1.03           | UNUM Corp.                       | NYS     | 49.63           | 0.01                  | -6.36       | 60.13 | 47.75     | 982     | 0.80    | 1.61 | 13         | 21.25          | 2.34  |
| Continental Corp.           | NYS | 29.75  | 0.85            | 10.70                 | 34.63       | 24.38  | 300       | 1.00    | 3.36    | 13  | 34.73      | 0.86           | US Facilities Corp.              | OTC     | 10.50           | 0.00                  | 5.00        | 14.00 | 6.50      | 83      | 0.00    | 0.00 | 10         | 10.48          | 1.00  |
| EXEL Ltd.                   | NYS | 44.00  | -0.28           | -6.88                 | 52.25       | 42.00  | 209       | 1.20    | 2.73    | 7   | 29.54      | 1.49           | USFG Corp.                       | NYS     | 13.25           | 1.92                  | 7.07        | 19.63 | 11.13     | 535     | 0.20    | 1.51 | -          | 9.63           | 1.38  |
| Fremont General Corp.       | NYS | 24.88  | 1.55            | -27.88                | 28.75       | 16.84  | 303       | 0.72    | 2.89    | 8   | 19.81      | 1.26           | USLICO Corp.                     | NYS     | 16.88           | -2.14                 | -6.22       | 20.00 | 15.00     | 9       | 0.24    | 1.42 | -6         | 23.61          | 0.71  |
| Frontier Insurance Group    | NYS | 44.38  | -1.10           | 2.02                  | 50.00       | 32.50  | 13        | 0.60    | 1.35    | 15  | 14.78      | 3.00           | USLIFE Corp.                     | NYS     | 37.50           | -3.85                 | 3.45        | 45.75 | 32.91     | 216     | 1.24    | 3.31 | 10         | 39.48          | 0.95  |
| Gainco Inc.                 | ASE | 9.63   | 13.29           | -31.82                | 17.69       | 8.25   | 208       | 0.04    | 0.42    | 13  | 3.27       | 2.94           | Washington National              | NYS     | 24.25           | 0.00                  | 5.43        | 28.00 | 21.75     | 31      | 1.08    | 4.45 | 10         | 28.84          | 0.84  |
| General RE Corp.            | NYS | 109.88 | -0.45           | -5.07                 | 133.38      | 107.00 | 556       | 1.88    | 1.71    | 14  | 49.90      | 2.20           | Zenith National Ins.             | NYS     | 22.13           | -0.54                 | 12.05       | 29.25 | 16.50     | 22      | 1.00    | 4.52 | 11         | 15.82          | 1.40  |
| Guaranty National Corp.     | NYS | 19.00  | -5.00           | -3.80                 | 24.75       | 17.50  | 16        | 0.48    | 2.53    | 11  | 10.44      | 1.82           | Zurich Reinsurance Centr.        | NYS     | 29.63           | 2.45                  | N.A.        | 36.38 | 29.13     | 130     | 0.00    | 0.00 | -          | 23.99          | 1.24  |
| Harleysville Group          | OTC | 25.00  | -2.91           | -11.50                | 32.75       | 22.63  | 120       | 0.84    | 2.56    | 12  | 18.35      | 1.36           | INSURERS/REINSURERS AVERAGE      |         |                 | 0.1                   | 3.2         |       |           |         | 2.0     | 9.3  |            |                |       |
| Hartford Steam Boiler       | NYS | 45.88  | -2.12           | -20.55                | 59.88       | 43.75  | 77        | 2.12    | 4.62    | 53  | 18.03      | 2.54           | HEALTH MAINTENANCE ORGANIZATIONS |         |                 |                       |             |       |           |         |         |      |            |                |       |
| HCC Insurance Holdings      | OTC | 29.13  | 0.45            | 43.85                 | 35.75       | 15.25  | 77        | 0.00    | 0.00    | 20  | 10.12      | 2.88           | FHP International                | OTC     | 25.00           | 0.00                  | 25.00       | 30.00 | 17.38     | 387     | 0.00    | 0.00 | 17         | 9.50           | 2.63  |
| ITT (Hartford Group)        | NYS | 91.13  | -2.14           | 26.57                 | 94.75       | 69.00  | 611       | 1.96    | 2.15    | -   | 55.03      | 1.66           | Pacificare Health Sys.           | OTC     | 38.00           | -4.40                 | -25.49      | 57.50 | 25.50     | 196     | 0.00    | 0.00 | 17         | 3.90           | 9.74  |
| Kemper Corp.                | NYS | 35.00  | -3.45           | 18.14                 | 43.00       | 26.13  | 699       | 0.92    | 2.63    | -8  | 33.69      | 1.04           | Safeguard Health Enter.          | OTC     | 11.25           | 0.00                  | 15.38       | 12.25 | 7.75      | 3       | 0.00    | 0.00 | 14         | 5.04           | 2.23  |
| Lawrence Insurance Group    | ASE | 5.38   | 4.98            | -37.62                | 8.75        | 4.00   | 7         | 0.16    | 2.97    | -   | 4.17       | 1.29           | Sierra Health Services           | ASE     | 16.00           | 0.79                  | -26.01      | 22.00 | 11.50     | 61      | 0.00    | 0.00 | 12         | 1.73           | 9.25  |
| Liberty Corp.               | NYS | 24.63  | 2.09            | -12.81                | 34.75       | 23.88  | 100       | 0.56    | 2.27    | 10  | 20.00      | 1.23           | TakeCare Inc.                    | OTC     | 46.25           | 3.35                  | 3.93        | 50.25 | 25.75     | 107     | 0.00    | 0.00 | 16         | 13.64          | 3.34  |
| Lincoln National            | NYS | 42.13  | -1.16           | -42.39                | 48.25       | 34.69  | 370       | 1.64    | 3.89    | 9   | 31.41      | 1.34           | United Healthcare Corp.          | NYS     | 72.88           | -1.35                 | 28.14       | 76.38 | 40.00     | 909     | 0.03    | 0.04 | 33         | 9.46           | 7.70  |
| Market Corp.                | OTC | 38.00  | -3.49           | 21.60                 | 40.50       | 28.25  | 31        | 0.00    | 0.00    | 10  | 20.21      | 1.88           | U.S. Healthcare                  | OTC     | 56.00           | 4.19                  | 25.49       | 59.75 | 36.75     | 3308    | 0.64    | 1.14 | 23         | 5.21           | 10.75 |
| Mid Ocean Ltd.              | OTC | 27.38  | 3.32            | N.A.                  | 34.75       | 25.00  | 641       | 0.00    | 0.00    | -22 | 20.24      | 1.35           | Wellpoint Health Networks        | NYS     | 28.63           | 1.35                  | N.A.        | 39.75 | 23.00     | 225     | 0.00    | 0.00 | 17         |                |       |
|                             |     |        |                 |                       |             |        |           |         |         |     |            |                | HMOs                             | AVERAGE |                 | 0.5                   | 3.5         |       |           |         | 0.1     | 16   |            |                |       |
|                             |     |        |                 |                       |             |        |           |         |         |     |            |                | ALL COMPANIES                    | AVERAGE |                 | -0.3                  | 0.7         |       |           |         | 2.2     | 13   |            |                |       |



# PROTECTION FROM A DIFFERENT PERSPECTIVE.

A perspective on business insurance that comes from a combination of international roots with national presence. Strength and stability with experience and innovation.

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## Royal Insurance

*YOUR SHIELD AGAINST THE UNEXPECTED.*