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Updates

Four convicted on charges of scheming to loot insurer

ORLANDO, Fla.—A federal jury has convicted four people of participating in a variety of schemes to loot the now-defunct National Heritage Life Insurance Co.

Convicted last week on a range of fraud charges were Sholam Weiss, a New York businessman who engineered several bogus transactions that siphoned millions of dollars from National Heritage; Keith Pound, former president of a National Heritage affiliate; Jan R. Schneiderman, a lawyer for Mr. Weiss; and Yaakov Stark, also known as

See **Updates** *on next page*

Businesses fear privacy conflict with work comp

By MEG FLETCHER

WASHINGTON—In spite of efforts by federal officials to exempt workers compensation care from proposed medical records privacy rules, some employer and insurer representatives say the rules would still cause problems if adopted as drafted.

Other observers, though, say that their reading of the U.S. Department of Health and Human Services' proposals would adequately exempt workers comp cases from restrictions on access to medical records.

Both camps as of last week were still struggling to digest the 600-plus pages of the proposed federal regulations, which apply only to electronically transmitted data (*BI*, Nov. 1).

While interpretations differ over the rules' impact on job-related injuries and illnesses, there was greater agreement among observers about the general impact of the proposed regulations on group health care plans.

If enacted, the privacy regulations would increase costs and administrative burdens for employers and health plans, make it more difficult to measure health plan performance and chill research activities, summarized Helen Darling, a consultant with Watson Wyatt Worldwide in Stamford, Conn.

The proposed HHS regulations amount to "micromanagement," said a spokesman for the Blue Cross & Blue Shield Assn. in Washington.

"To the degree that health plans have to spend money to comply with this, the cost could very well be passed onto employers," he said. A recent BC/BS survey projected that employers, insurers and consumers would spend about $43 billion over a five-year period to comply with common pro-

See **Privacy** *on page 53*

D.C. lawmakers hope to attract captives

By JERRY GEISEL

WASHINGTON—The nation's capital could become the latest jurisdiction to join the growing ranks of U.S. captive domiciles.

Draft legislation now being circulated and which could be introduced in the District of Columbia City Council within a month or so, would incorporate provisions from other popular captive domiciles, including modest capitalization and surplus requirements, low premium taxes and allowing the formation of "branch" captives, which could only write parents' employee benefit risks, and "sponsored" captives, which could form protected cells.

Backers of the legislation say it fits with Mayor Anthony Williams' goal of revitalizing the District of Columbia.

"The mayor is looking for ways to boost the Washington economy. He is trying to encourage economic growth in the District," said Coletta Kemper, vp-industry affairs with the Council of Insurance Agents & Brokers in Washington.

Others say the District of Columbia could become a mecca for captives given the high number—roughly 6,000—of trade associations that are based in the Washington

See **Captives** *on page 51*

Washington, D.C., aims to become the capital for association captives.

RIMS to keep focus on quality Scorecard to survive

By GAVIN SOUTER

NASHVILLE, Tenn.—The board of the Quality Insurance Congress has voted to dissolve the organization, as was expected last week.

The QIC's controversial Quality Scorecard, however, will be taken over by the Risk & Insurance Management Society Inc., which co-sponsored the survey.

Seventeen members of the QIC's board voted for dissolution, while five voted against it. Eight other board members had not returned their votes late last week.

While the fate of the QIC was largely determined by votes from the insurers, brokers and other insurance industry service providers who financed it, several risk managers expressed regret at its passing.

But other risk managers who saw the QIC as only critical of insurers and brokerages through its Quality Scorecard ratings do not mourn the QIC's passing.

Among risk managers who are disappointed that the QIC folded is Lance J. Ewing, chair of RIMS' external affairs team and director-insurance and loss prevention at GES Exposition Services Inc. in Las Vegas.

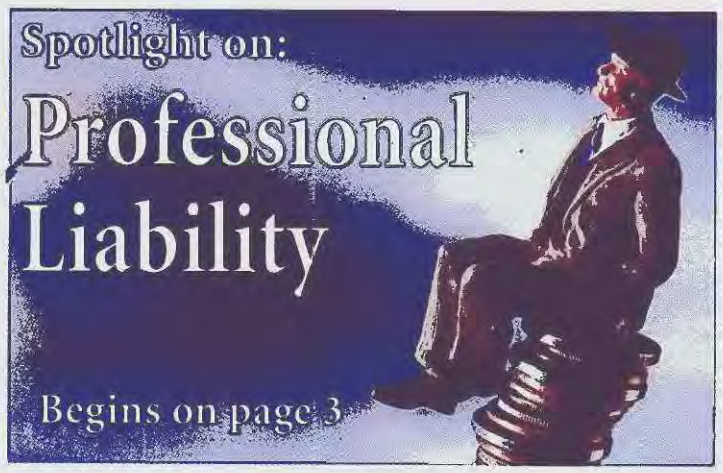
"The QIC had the vision to put the insurance industry on notice of the way it was treating its customers, and they did that job fairly admirably," he said.

And despite the demise of the QIC, RIMS and risk managers will continue to "keep quality under the magnifying glass," he said.

The QIC raised the issue of quality in the insurance industry, and "as customers, our voice is now being heard," Mr. Ewing said.

RIMS is planning to continue the Scorecard, at least on a bi-

See **Quality** *on page 53*



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NEWSPAPER

EgyptAir rates to increase

Tragic crash of Flight 990 occurs on eve of policy renewal

By DAVE LENCKUS

NEW YORK—As EgyptAir deals with the human tragedy of the crash of Flight 990, the airline also faces an immediate business toll of sharply higher risk financing costs, according to insurance market executives.

But the crash probably will not compel airline hull and liability insurers to raise rates significantly for most other airlines that renew their coverage in November and December, market executives say.

As a result, insurers and brokers of commercial airline risks expect another unprofitable underwriting year.

Some market executives predict, however, that the EgyptAir crash and other losses this year are beginning to turn the commercial airlines insurance market for 2000 and 2001.

Flight 990 crashed into the Atlantic Ocean in international waters about 60 miles off the coast of Nantucket Island, Mass., about half an hour after taking off from New York early Halloween morning. The 10-year-old jet, a two-engine Boeing 767-300ER, was carrying 202 passengers and 15 crew, all of whom perished.

See **EgyptAir** *on page 54*

PHOTO: AFP

Investigators hope to discover why EgyptAir's Boeing 767 jet crashed Oct. 31.

Excess liability market may be on verge of change

By GAVIN SOUTER

Rates for excess liability insurance are in the bargain basement but, in some cases, may be beginning to come back up again, brokers and insurers say.

Although ample capacity remains available, some high-risk exposures are seeing rate increases, including some double-digit rate hikes. As the prospect for firmer pricing seems more likely, excess liability insurers are less willing to offer buyers multiyear deals that lock in the same price as expiring coverage.

Coverage has also ceased to broaden, as policyholders grow more concerned about finding low rates rather than extended coverage. Even so, some new products have become available, including crisis management assistance, third-party recall and multiline liability policies.

The excess liability market appears to be going through a transition, said Anthony Defelice, senior vp at Willis Corroon Corp. in New York.

"Some insurers are trying to push for increases right now, and that's the first time I've seen that for 13 years," he said.

Insurers' generally poor results are probably the most significant factor in the push for higher rates, Mr. Defelice said.

But it is still not clear whether insurers will be able to make higher quotes stick at renewal, he said.

For example, one Willis client was recently quoted a 25% rate increase from its existing insurer, but the broker quickly was able to find a replacement insurer willing to cover the risk at the expiring rate, Mr. Defelice said.

Recent renewals have seen a steadying in pricing, said Robert Peretti, head of global broking casualty operations at Marsh Inc. in New York.

"The market has, for the most part, stopped going down and is stabilizing, he said.

Most opening terms for the coming renewal season look like "renewal as expiring," and insurers will likely try to force some rate increases on policyholders that have suffered significant losses, Mr. Peretti said.

While capacity in the market has generally not diminished, there also—for the first time in several years—has been no significant increase in excess liability capacity, he said.

"There's no real influx of new players, but nobody has dropped out yet," Mr. Peretti said.

The market is still extremely competitive, said Susan Rivera, president of American Home Assurance Co. in New York, a unit of American International Group Inc.

"It's still difficult to get rate increases, and sometimes it's difficult to get renewal as expiring," she said.

But some of the higher-risk exposures are seeing increases. Some transportation and construction risks, for example, are seeing double-digit rate increases, Ms. Rivera said.

Pharmaceutical companies may be the first to notice a change in the market, because they often buy most of the capacity made available to them, said Mr. Peretti of Marsh. Pharmaceutical companies can currently buy more than $1 billion in excess liability capacity, he said.

If capacity is cut or prices are increased, then the large pharmaceutical programs may shrink in size, Mr. Peretti said.

'The market has, for the most part, stopped going down and is stabilizing,' says Robert Peretti.

"They may decide to move to higher attachment points," he said.

The market is in a transitional mode, agreed Randy Tchon, managing director of excess casualty at Aon Risk Services, a unit of Aon Corp. in Chicago.

"Some clients are seeing modest reductions, but some are seeing some increases due to their loss experience," he said.

Capacity is still plentiful, with more than $2 billion in excess capacity available worldwide, Mr. Tchon said.

Few domestic insurers are increasing their capacity or entering the market, but some continental European insurers are providing some new capacity, he said.

The market is still soft, but there is some tightening in a few high-exposure areas, said David Perez, president of Starr Excess Liability Insurance Co. Ltd., a New York-based unit of AIG.

"Rates in those areas are holding up a lot better," he said.

In other areas, though, there is still stiff competition among insurers, Mr. Perez added.

Capacity for excess liability risks remains abundant. If an insurer decides to cut back in some area, there are always other insurers ready to offer alternative capacity, Mr. Perez said.

Several large losses have occurred in the past 18 months, including about 10 that have the potential to eventually evolve into losses of $100 million to $200 million, he said.

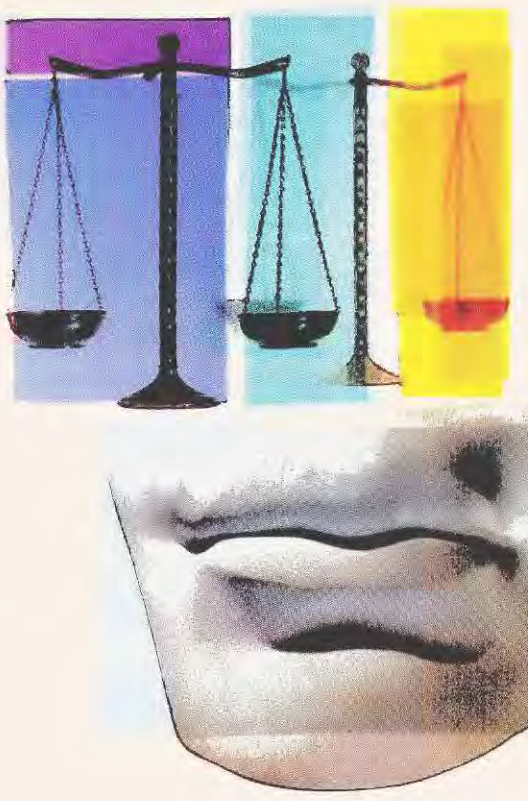
Insurers also have suffered several medium-sized losses, said John S. Edack, a senior vp at Westchester Specialty Group in San Francisco, a unit of ACE Ltd.

"There are a lot of $10 million, $15 million and $25 million losses that are hitting carriers quite frequently, but they don't get the same attention as the large losses," he said.

In the higher excess layers, pricing appears to have stabilized, Mr. Edack said.

Most insurers appear to have reached the minimum rates that

See **Excess** *on page 6*



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Excess

Continued from page 4
they are prepared to offer and are refusing to go any lower, he said.

"The blanket reductions appear to have gone away," Mr. Edack said.

As price declines have slowed, so has the expansion of coverage terms, he said.

"People are not looking for broader terms now; they are looking to secure excess limits at a stable price," Mr. Edack said.

In the umbrella market, there have been rate increases in some areas throughout 1999, he said.

In particular, Mr. Edack said, trucking companies and nursing homes have seen increased rates for umbrella liability coverage. More recently, risks such as crane operators and some manufacturing classes are also seeing some tightening, he added.

"There is a lot more submissions activity as people are shopping for some additional quotes, and they are bringing much better underwriting information," Mr. Edack said.

The apparent end of price declines has led to a reluctance by insurers to offer multiyear policies.

Discounts for multiyear policies have largely ended, because underwriters are unwilling to grant rock-bottom rates for several years in advance when there seems to be a chance that prices could soon increase, said Mr. Peretti of Marsh.

A three-year policy may now see rates for years two and three that are higher than year one, whereas, previously, the latter years in a contract could see premium reductions, he said.

Mr. Edack of Westchester agreed that fewer insurers are prepared to offer multiyear policies without increased premiums for the second and third years.

'People are not looking for broader terms now; they are looking to secure excess limits at a stable price,' says John Edack.

"Our inclination is to charge more," he said.

There are few new products being offered by excess liability insurers, said Mr. Defelice of Willis. In the past several years, the only notable new coverage has been the wrap-around offshore punitive damages coverage, which has been widely purchased by large commercial policyholders, he said. This policy provides coverage for punitive damage awards in states where U.S. insurers are barred from offering it.

Although there have been few new liability products launched in the past year, there has been a growing number of blended coverages offered to policyholders, Mr. Tchon said.

This would include, for example, excess liability policies that also provide coverage for, say, employment practices liability risks or products recall within the same aggregate limit, he said.

"Clients are interested in protecting catastrophe exposures efficiently, and underwriters are willing to entertain these exposures for a price," Mr. Tchon said.

As a result, there is more willingness to provide such customized programs, he said.

Last year, Starr introduced a range of products that offer multiline coverage for several lines, including excess casualty, directors and officers liability, errors and omissions coverage, and property insurance, Mr. Perez said.

The insurer's so-called "Omni coverage" requires risk managers to change how they place several different liability coverages. So the process of buying the Omni coverage can be slow, but Starr has already sold several programs, he said.

Starr was originally set up in Bermuda, but the company was brought onshore last year, when AIG became its sole owner. A Bermuda branch office now offers occurrence coverage, as well as the "occurrence reported" form offered by several excess liability insurers in Bermuda. The U.S. office offers occurrence coverage. Starr also has a subsidiary in Dublin.

American Home added crisis management coverage to its umbrella and excess liability policies earlier this year, Ms. Rivera said.

The free endorsement provides up to $25,000 for a policyholder to hire a public relations consultant in the event of a major crisis. The coverage is triggered if, in the reasonable opinion of an executive at the policyholder company, an event is likely to hit the excess layer of coverage and it is likely to generate adverse regional or national media coverage, Ms. Rivera said.

"We designed the product mostly thinking about the middle-market insureds, but the risk manager and national account insureds loved the product too," she said.

An endorsement providing crisis response coverage was launched by American Home on Nov. 1. The coverage provides $50,000 in limits to pay for PR consultants. It also allows a policyholder to call a toll-free number in the event of a crisis, and American Home's claims personnel will immediately come onsite to assist in managing the crisis. And the insurer will also advance $250,000 of its limit to secure the situation, Ms. Rivera said.

The endorsement costs $1,000 for middle-market policyholders and $2,500 for national accounts, she said.

Last year, American Home introduced a third-party product recall endorsement that pays the recall costs of a product that is impaired by a defective component produced by a policyholder. Another endorsement, third-party impaired property, extends the coverage to pay for the repairs of the product, Ms. Rivera said.

Meanwhile, one possible future loss that has received a lot of attention from most insurance markets is the Year 2000 problem.

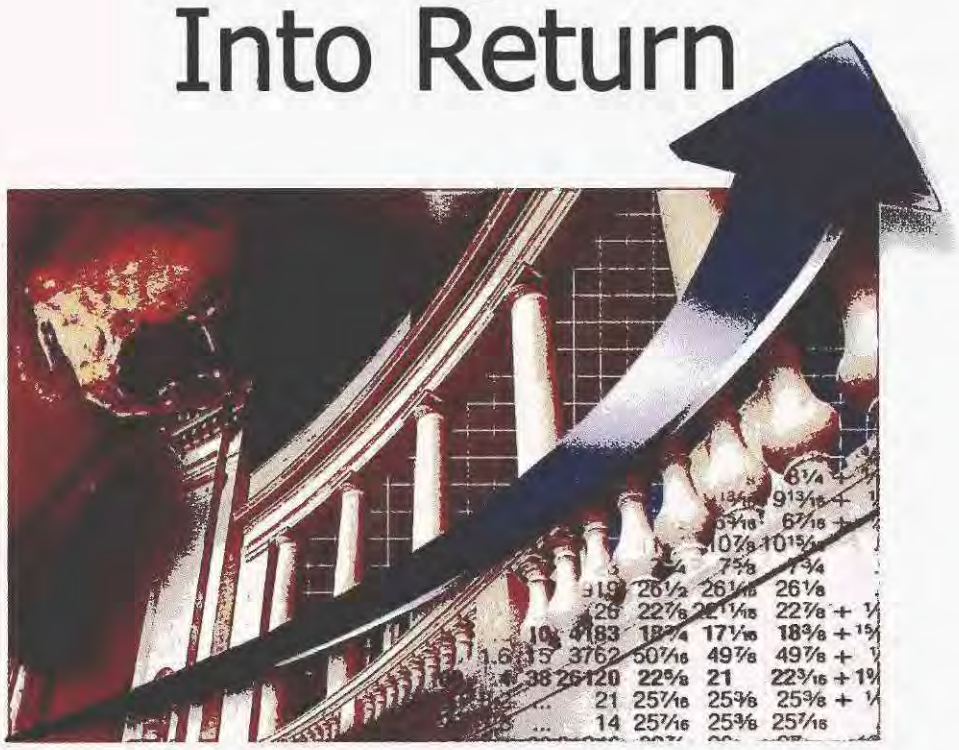
The risk has been a focus of the excess liability market for months, but now the issue is largely settled, because little more can be done by underwriters or policyholders to mitigate losses, said Mr. Peretti of Marsh.

Many policies were extended to cover risks past Jan. 1 to ensure that there would be no disputes over which policies should apply to Year 2000 losses, he said.

Many excess liability underwriters conducted due diligence studies to assess their policyholders' exposure to Year 2000 losses, Mr. Peretti said.

In most cases, the insurers were satisfied with policyholders' efforts, and specific Year 2000 exclusions were not imposed, he said. BI

Turning Risk Into Return



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Opinions

Don't give up on quality

THE DECISION BY the Quality Insurance Congress to fold up its tent is as baffling as the couple who seeks a divorce before making any effort to rescue their marriage. It is as self-destructive as the patient with a life-threatening illness who walks out of the hospital before treatment has begun. And it is as pathetic as the bright student who wastes an opportunity to continue learning because he is too lazy to attend class.

Let no one mistake the vote to disband by a majority of the QIC's board as an indication that industry quality has improved to the point at which the organization is no longer needed. There is much, much more that needs to be done by brokers, claims administrators and insurers. And another organization must take the QIC's place if progress is to be made.

If anything, the failure of the QIC's membership to recognize the value of such an organization shows how far the industry has to go. With insurance industry anxiety at an all-time high over competitive threats from e-commerce, banks and other financing alternatives, how can companies afford to abandon the QIC?

While some companies are farther along the quality continuum than others, an industrywide effort to improve quality would surely be more effective than efforts by insurance service providers to go it alone.

We suspect that too many companies have decided that their own quality efforts will give them a competitive advantage over others and that they actually are unwilling to share best practices to assist their competitors in improving quality of service.

This is so short-sighted, especially in a business where numerous companies are serving the same client, either by line of business or even as partners on a large insurance program.

Furthermore, if only a few companies in the insurance business improve their quality of service, but the overall industry does not keep up, everyone loses. Not only will this mean most buyers will continue to experience poor service, but also that the industry will continue to have a poor public image. That will harm all companies in terms of recruitment and retention, attracting investment and withstanding competitive challenges from outside the industry.

It also bears noting that those companies that would go it alone and see no value in a QIC aren't exactly wowing customers: In the latest Quality Scorecard, even the highest scoring companies were only in the "B-" to "C+" range.

The QIC, as it had been operating, may not have been a perfect solution—perhaps one in need of quality improvement itself—but no comparable vehicle exists in this business to bring buyers, intermediaries and sellers together to discuss how service can be improved.

We can only hope that buyers and sellers alike recognize the need to replace the QIC as quickly as possible with some other vehicle for continuing the work the QIC had started.

A coordinated approach is invaluable for driving a uniform means of measuring quality, helping set benchmarks for improvement and encouraging an ongoing dialogue among all stakeholders.

We also hope that the QIC's partner in the Quality Scorecard project—the Risk & Insurance Management Society—will continue this important work, which provides both discussion of quality and important benchmarks for improvement.

One unfulfilled promise of the QIC was to encourage buyers to re-examine their expectations and loyalty to service providers. It had even been suggested that perhaps service providers should also rate the quality of buyers. As several risk management leaders have noted, risk managers who place a short-term emphasis on low price to the exclusion of high quality are hardly helping the process.

Exchanging the viewpoints and opinions of all stakeholders in the industry is critical to effecting change. With the QIC gone, who will keep the dialogue going?

Maybe the insurance industry doesn't need a QIC to tell it how badly it is doing in meeting customer needs. But if the industry is to do better, it very much needs an organization to keep it focused and on the path to improvement.

Letters

CEOs should rally behind quality efforts

To the editor: Your Oct. 25 story on the Quality Scorecard, "Keeping Score on Quality," reports the need for the insurance industry and its customers to work more closely together to better understand the expectations and needs of one another.

Those in the quality movement in general and Quality Insurance Congress in particular have stressed this point seemingly "forever." Perhaps previously deaf ears now are beginning to open. Perhaps even minds now are beginning to welcome increased collaboration to address quality initiatives.

At the CPCU Society's annual meeting last month in Boston, Employers Reinsurance Corp. Executive Vp C. Alan Mauch described ERC's successful efforts in this regard. Customers are consulted before processes are mapped, he said. Customers are first and foremost in ERC's design of its systems. To do this, customer and vendor must communicate effectively with one another about their respective expectations.

It's reported that the RIMS/QIC Quality Scorecard has most CEOs in a state of denial about industry quality. It's also reported the "messenger"—the QIC—is about to be fatally shot (*BI*, Nov. 1).

The QIC sustained an enormous amount of flak following the initial customer scorecard in 1998. Should funding now be curtailed by CEOs in denial, there will be many other organizations that can pick up the quality ball and keep it moving.

CEOs should—as W. Edwards Deming recommended—demonstrate leadership and expand this effort within their own organizations for competitive advantage and improved bottom-line results.

The fact some CEOs and others continue to be blind to this reality will always be a factor—and a mystery. Particularly as our industry moves into the brave new world of the Internet, it'll be CEOs who understand the importance of customer focus in their design of processes and systems whose companies will excel.

It'll be they who provide an exciting, financially rewarding place to work. It'll be they who restore respect and trust of our customers, regulators, shareholders and the public. It'll be they who compete the pants off those CEOs who remain in denial.

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Spotlight report

Risk managers confident of Y2K D&O protection

By DAVE LENCKUS

Judging by risk managers' coverage strategies for their corporate directors and officers for next year, observers could reason there is little risk that Year 2000 computer bug problems will swarm Corporate America's systems on New Year's Day.

But risk managers' confidence that their companies have mitigated that risk is only one reason they largely have shunned the pricey special D&O policies designed to cover various Y2K risks, according to brokers, insurers and attorneys.

Most risk managers are confident that traditional D&O policies, despite their silence on the Y2K issue, will cover the securities claims that are expected if the glitch does crash companies' computers less than eight weeks from now, the market observers said.

And if that scenario develops, risk managers would have little reason to fear coverage rescissions, even if they had provided favorable Y2K compliance assessments to their D&O insurers, market observers said.

"I think that risk managers, for the most part, have done pretty well in trying to maximize their protection," said Phil Norton, president of the professional liability division at Arthur J. Gallagher & Co. of Itasca, Ill.

Risk managers 'have done pretty well in trying to maximize their protection' against Y2K-related D&O claims, says Phil Norton.

While there were some strong efforts to sell Y2K coverage enhancements in D&O policies, "the reality was the coverage had been and is already there," said Thomas Gamble, senior vp-financial products division for Reliance National Insurance Co. of New York. Reliance was one of several D&O insurers that stated last year that traditional D&O insurance will cover Y2K-related securities claims unless a policy specifically excludes such claims.

D&O insurers, unlike property and general liability insurers, typically are not adding such exclusions to their policies, noted Joseph P. Monteleone, senior vp and claims counsel for Reliance.

"So the majority of risk managers are comfortable with the position of where they are at," Mr. Gamble said.

"I give the underwriters a lot of credit," said Don Bailey, a senior vp with Aon Financial Services Group, a specialty group of Aon Risk Services Inc. in Philadelphia.

"For the most part, they've been very consistent since day one" on the Y2K coverage issue, which largely eliminated the need for the specialty D&O coverage, Mr. Bailey said.

Risk managers' concerns over whether traditional D&O policies would cover Y2K-related securities claims against directors and officers developed about 18 months ago, when American International Group Inc. unveiled its D&O Gold policy, Mr. Bailey recalled.

The policy expressly states that it covers Y2K-related securities claims, and it provides about 40 coverage enhancements not included in the insurer's traditional D&O policy, according to Ty Sagalow, chief underwriter for AIG subsidiary National Union Fire Insurance Co. of Pittsburgh, Pa.

That express statement of coverage prompted risk managers to question whether their companies' executives would be covered by D&O policies that were silent on the issue, Mr. Bailey said.

Even though many other D&O insurers quickly clarified that their policies would cover Y2K-related securities claims, additional specialty D&O products soon emerged. Marsh Inc. and Aon, for example, both unveiled products that provided business interruption and errors and omissions coverage as well as D&O coverage for Y2K-related securities claims.

But executives for those brokers said they believe that neither policy attracted a single buyer.

Risk managers' belief that they already had coverage for Y2K-related securities claims was just one reason why they opted against those specialty coverages, observers said.

While those products offered D&O coverage as part of a package of protections against Y2K-related risks, risk managers did not think the policies were worth the additional cost, said John Kuhn, senior vp and chief underwriting officer for Chubb Executive Risk, a division of Warren, N.J.-based Chubb Corp.

Risk managers did not believe their corporations and executives had significant exposures to the additional covered risks, Mr. Kuhn explained. In addition, the cost of the policies ranged from twice to 10 times the typical cost of D&O coverage.

Steven Anderson, managing director of Marsh in New York, agreed. He said many risk managers concluded that their companies' expensive Y2K remediation projects largely had eliminated the risk of problems.

Many market observers noted that several 1999 dates that posed potential computer date-recognition risks have passed without significant incident.

In addition, many risk managers believe that if Y2K computer problems do occur and cause losses, then they would have coverage under their property and general liability policies, Mr. Anderson said.

Of the approximately 80 Y2K-related lawsuits filed to date, the vast majority involved breach-of-

Continued on next page

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Continued from previous page

contract or consumer fraud claims in which only companies are named, noted policyholder attorney Carolyn Rosenberg of Sachnoff & Weaver Ltd. in Chicago. Policyholders in those cases most likely would seek coverage from their general liability, professional liability or property insurers, depending on the allegations, and not their D&O insurers, she said.

Some risk managers, however, were attracted to one D&O policy designed to cover Y2K-related risks. Ironically, it was the one that Aon's Mr. Bailey said sparked risk managers' concerns over their D&O protection.

Since its May 1998 introduction, AIG's multiyear D&O Gold policy has attracted 60% of the AIG D&O policyholders that have been up for renewal, according to Mr. Sagalow. And the policy's popularity is growing: 75% of AIG's D&O clients have opted for the Gold policy in 1999, Mr. Sagalow said.

The product has been most popular among middle-market clients, or those companies smaller than the Fortune 3,000, Mr. Sagalow said. Some 70% of those companies have opted for the Gold form since May 1998, and more than 90% of the middle-market companies renewing this year have switched to the new form, he said.

Mr. Sagalow attributed that trend to the minimal amount of red tape that middle-market companies must cut through when changing policy forms.

Despite its expense, the Gold form is gaining popularity more quickly than did AIG's 1995 D&O policy that was the first to provide entity coverage as a standard feature of D&O coverage for securities claims. The entity-coverage policy attracted 40% of AIG's clients during the first 18 months the policy was on the market, Mr. Sagalow said.

Numerous coverage enhancements attracted risk managers, Mr. Sagalow said.

Those included deleting the fraud exclusion if a policyholder's Y2K preparedness statements passed muster with attorneys appointed by AIG; expanding the definition of a "securities claim" to include a subpoena by the Securities and Exchange Commission; extending coverage to claims brought by bankruptcy trustees; and presetting allocations of coverage for non-securities-related claims to up to 50% of defense costs and up to 25% of indemnity. D&O liability insurers typically do not offer entity coverage for non-securities claims, and insurers consider that most or all of the liability in such cases rests with the entity.

While a large number of risk managers who are not AIG clients opted for traditional D&O policies that are silent on Y2K-related claims, some risk managers chose to tread what they considered the middle ground.

Some opted for traditional D&O policies with written endorsements in which insurers stated the policy covered Y2K-related securities claims.

Some policyholder attorneys, however, were wary of that option. Spelling out the coverage, they said, could limit it.

Some risk managers also decided to obtain a preset or floor allocation of indemnity and defense costs for non-securities claims.

But while such advance agreements will minimize future coverage disputes, policyholders lose the opportunity to negotiate potentially higher allocations once they face a non-securities claim, said policyholder attorney Douglas E. Phillips at Covington & Burling of Washington.

Risk managers at many companies said they never have faced such claims, Marsh's Mr. Anderson said. They saw no reason to pay extra for the preset or floor allocations and decided they would negotiate allocations if such claims should arise, he said.

Even if Y2K computer problems occur and trigger securities claims against directors and officers, risk managers should not fear that they will lose their D&O coverage, market executives said. D&O insurers, for the most part, would be unable to deny coverage based on the information that risk man-

See **D&O** *on next page*

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D&O

Continued from previous page
agers recently have provided on their companies' Y2K preparedness.

Risk managers generally succeeded in preventing insurers from adding the Y2K questionnaires to D&O policy applications. Risk managers and brokers feared that insurers could use omissions or comments that did not address unforeseen circumstances to deny coverage, even though insurers last year said that was not the intent of the questionnaires.

As an added precaution, many risk managers at large companies insisted on responding to the questionnaires verbally, either in person or through conference calls. AIG, Chubb and Reliance executives said the insurers did not object to those requests.

Occasionally, however, an insurer still attempted to get risk managers to sign off on those verbal representations, Marsh s Mr. Anderson noted.

"In a few cases, underwriters typed up their notes of the meeting or conference call and sent them to the broker to have the policyholder sign off on the notes," Mr. Anderson recalled. The broker and policyholders rejected those requests.

Insurers also compared their interview notes with the Y2K-preparedness information that their publicly traded clients had filed with the SEC.

"We found that the majority of clients had a handle on the situation," Chubb's Mr. Kuhn said.

Risk managers at smaller companies or those in financial distress were the ones who had to respond to the questionnaires in writing to obtain coverage, brokers and attorneys said.

Many risk managers, however, preferred answering the questionnaires in writing, according to Aon's Mr. Bailey. Those risk managers were concerned that they might ramble during an interview, he said. They were more confident that they could remain on the point by responding in writing to the questionnaire, he added.

Still other risk managers took pains to ensure that the information they provided their insurers was consistent with the disclosures their companies made to securities regulators, according to Ms. Rosenberg.

Some of those risk managers did not respond directly to the questionnaires, but instead provided their insurers with written narratives on their Y2K preparedness. Other risk managers referred their insurers to their companies' Y2K disclosures on file at the SEC, Ms. Rosenberg said.

Over the next eight weeks, risk managers renewing their top management's D&O coverage likely will not feel any pressure to make different coverage choices than those made by their peers in the past 18 months, market observers said.

"Both parties to the policy have pretty much figured out their concerns and what they wanted to do and how to implement it," said insurer attorney and D&O coverage specialist Dan A. Bailey, a partner with Arter & Hadden in Columbus, Ohio. "They haven't waited to the 11th hour."

Both insurers and D&O policyholders, however, will be making some important claims decisions in the next few months, he said.

Regardless of whether insurers believe they will face an onslaught of Y2K-related claims, they will be preparing for them, Mr. Bailey said. Insurers will be coordinating the claims-handling procedures among all of their departments—including property, general liability and D&O—that likely will be handling any Y2K-related claims that arise, he said.

Insurers want to avoid inadvertently taking inconsistent coverage positions, Mr. Bailey said. That could result in, for example, an insurer's D&O and property claims handlers both denying similar claims and contending that the other coverage should respond instead.

Mr. Bailey said he is not suggesting that insurers will manipulate their coverage decisions but that they will ensure that "whatever the right answer is, it's the same right answer in various product lines."

Policyholders, meanwhile, have to decide soon whether to file notice of any potential claims if their new D&O coverage is more restrictive than their expiring coverage, Mr. Bailey said.

Risk managers may create a coverage gap if they do not satisfy their insurers' information requirements for such notices, Mr. Bailey said. And filing the notices now would bar coverage for those potential claims under the new policy. "In essence, you've outsmarted yourself," he said. BI

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IPOs

Continued from page 3

companies, have volatile stock prices and boast enormous market capitalization, noted Mr. Rice, a senior vp in Denver with Aon Financial Services Group, a specialty group of Aon Risk Services Inc.

The IPOs face additional risk factors as well. They sometimes have even bigger market capitalizations than other high-tech companies. They often have little operating experience and no history of earnings. Yet the stock of these IPOs, even when measured by a price/revenues ratio instead of the more traditional price/earnings ratio, often trades at extremely large multiples.

All of those loss and risk factors have made layering coverage complicated, market executives say. Those D&O insurers that are willing to provide capacity in an IPO's first $10 million layer, or the working layer, generally will not offer more than a fraction of that layer.

Currently, about 58% of privately held companies have D&O coverage, according to Ty Sagalow.

Some insurers will offer no more than $2 million to $5 million of limits, according to Gallagher's Mr. Norton and John Kuhn, senior vp and chief underwriting officer for Chubb Executive Risk, a division of Warren, N.J.-based Chubb Corp.

Mr. Rice said that "credible and financially secure markets" will write $5 million layers.

As a result, risk managers likely will have to build their D&O layers in $5 million increments, though, in select cases, some markets may write up to $10 million in limits, Messrs. Norton and Rice agreed.

For most IPOs, one guideline for purchasing adequate D&O limits is that total limits should equal 25% of the offering's value, Mr. Norton said.

But for offerings valued around $100 million or more, that formula does not work well, because it would leave the IPO with inadequate coverage, according to Mr. Norton.

That is because a company's offering value often represents as little as 20% to 30% of the company's eventual anticipated market capitalization, Mr. Norton said. That happens because company insiders and venture capitalists often privately retain control of the vast majority of a company's stock, he explained.

An IPO's risk manager should be basing coverage decisions on the company's potential liability six months or so after an IPO is made, when insiders are allowed to begin trading their stocks, Mr. Norton said. The company's potential liability then will be more closely correlated to its market capitalization, he explained.

Brokers and insurers agree that D&O insurance rates for Internet-based IPOs have increased over the past year, but they disagree over how fast those rates have climbed.

Willis' Ms. Murray said the increases have been less than 50% and have varied from company to company. By comparison, rates for larger, financially stable companies have been flat to 5% or 10% higher, she said.

Chubb's Mr. Kuhn estimated the rate hikes for IPOs at between 10% and 30%, depending on the company's industry and the size of the offering.

But Aon's Mr. Rice and Gallagher's Mr. Norton said rates have nearly doubled or, in some cases, even tripled over the past year. For the first $5 million of coverage, risk managers generally can expect to pay from $150,000 to close to $300,000, they said.

The key to keeping the cost of the first $5 million of coverage at the low end of that range is to select a broker that knows which specialty markets to approach, Mr. Norton said.

Each subsequent $5 million layer should cost 60% to 70% of the cost of the layer below it, Mr. Rice said,

After lining up their D&O coverage, risk managers at Internet-based IPOs should exercise care with several terms and conditions of the coverage, according to market observers.

Because IPOs must agree to a broad indemnification agreement with their securities underwriters to retain them, D&O insurers in the past year have begun offering IPOs the option of covering their securities underwriters in their D&O policies.

Insurer attorney Dan A. Bailey said the option is attractive to IPOs because it prevents the insurer from allocating liability for a portion of a loss to the securities underwriter. Such an allocation would reduce the directors' and officers' indemnification for the loss, explained Mr. Bailey, a partner at Arter & Hadden in Columbus, Ohio.

The tradeoff of the coverage for securities underwriters is that it dilutes the total limits available for the company's directors and officers, Mr. Bailey said.

Mr. Rice suggested negotiating separate, rather than shared, limits for securities underwriters.

While entity coverage for securities-related claims is common in D&O policies for Internet-based IPOs, there is an argument against taking it, Mr. Bailey said. If a company goes bankrupt, its D&O policy with entity coverage would become an asset of the company's estate, which would leave top management without coverage, he said.

Directors and officers may be able to regain some of that coverage through legal procedures, but that can involve administrative hassles, Mr. Bailey said.

An easier way to minimize the risk of losing D&O coverage during a bankruptcy is to preset allocations of coverage for the entity and its top management when buying the coverage, Mr. Bailey said.

But if claims exceed policy limits, preset allocations still could leave directors and officers short of coverage for their ultimate liabilities, Gallagher's Mr. Norton noted. To avoid that, risk managers should negotiate a provision that requires the insurer to cover fully the directors' and officers' liability before the company's in the event of a bankruptcy, Mr. Norton said.

Aon's Mr. Rice warned of the recent trend by D&O insurers to push for exclusions that bar coverage for losses stemming from a secondary offering. The tactic, if successful, would allow the insurers to re-underwrite the risk at the time of a secondary offering, Mr. Rice said. But D&O insurers should factor in the potential that a company will make a secondary offering, because "it's a real possibility," he said.

Insurers have succeeded in imposing the exclusion "to the extent clients don't have any other options or don't realize they have other options," he said.

D&O insurers also will ask companies' top management for warranty statements affirming that they are unaware of any actions they have taken that could give rise to claims.

A company can purchase D&O coverage well before going public and supply the warranty statements at that time. Then at least the limits the company had as a privately held concern likely would be insulated from potential coverage disputes if a claim raises questions about whether top management knew that its previous actions would generate claims, Mr. Rice said.

The D&O market for privately held Internet-based companies is far more stable, and rates are much less expensive, market executives agreed.

Insurers want that business because there generally is little risk of a private shareholder lawsuit, Mr. Rice said.

The bigger risk for those companies is an employment practices claim. Mr. Sagalow said 62% of claims against privately held companies are related to employment practices.

Still, privately held Internet-based companies should purchase D&O insurance, beginning at least 12 to 18 months before going public so they can establish a relationship with their D&O insurers, advised Chubb's Mr. Kuhn.

A company still will suffer a significant rate hike when it goes public, but the hike may not be as steep if the underwriters have a keen understanding of the company's business plan, Mr. Kuhn said. As an underwriter, "you're able to make better judgments the longer you're on the risk," he said.

Currently, about 58% of privately held companies have D&O coverage, according to AIG's Mr. Sagalow.

Aon's Mr. Rice advised risk managers of private companies expecting to go public to press company executives to take ample time to share their vision for the company with D&O underwriters.

"Most Internet companies have a strong vision of what the company will be. They have to, because they have no earnings" track record to provide to underwriters, Mr. Rice observed. BI

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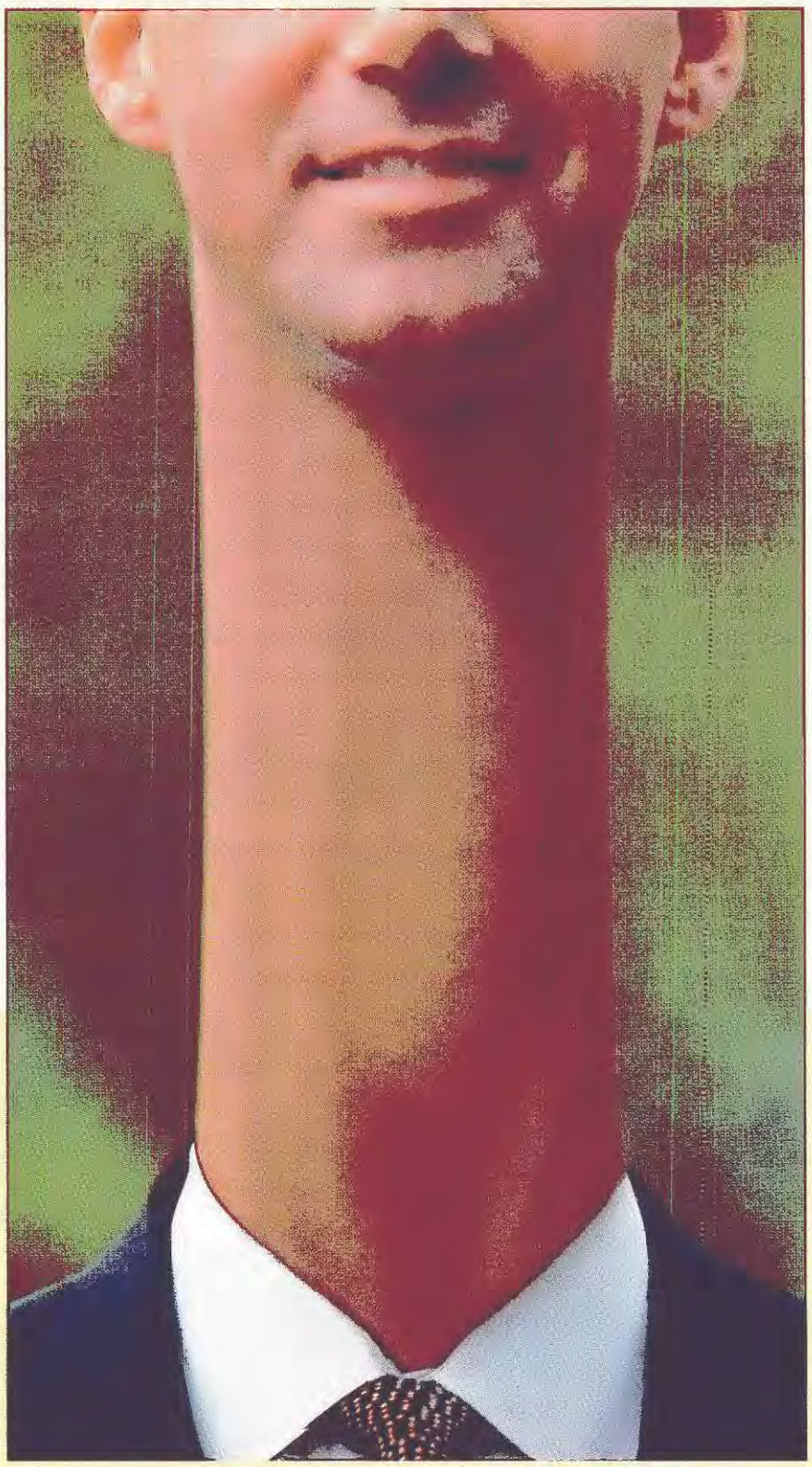

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Spotlight report

Market

Continued from page 3

renewal, while increases in D&O rates may be further away, sources say.

"Some isolated rate increases are being imposed" as insurers see their books of E&O business mature and can better determine what rates will make the business profitable, said Sean Fitzpatrick, senior vp for professional services at Chubb Executive Risk in Simsbury, Conn.

'We see very dramatic price increases on companies that are going public for the first time,' says Fred Podolsky.

Insurers are "playing off the same scorecard, if you will," he said. "We can look at the results with more certainty."

Small clients, in particular, are likely to see E&O prices rise, Mr. Fitzpatrick said. And some larger risks that have enjoyed low rates even as loss frequency and severity have increased probably will see costs go up, he noted.

Mr. Fitzpatrick said he doesn't expect E&O prices to rise dramatically in 2000. "My guess is you are likely to see a class-by-class approach," with smaller risks getting bills that are 4% to 5% higher, he suggested.

Terms and conditions on E&O policies haven't changed much in the past year, Mr. Fitzpatrick observed. He said that he has noticed fewer policyholders asking for a "stretched aggregate," which is a less expensive single aggregate that covers a three-year period.

"Rates for annual aggregates have gotten sufficiently low," he explained, that buyers now opt for the increased coverage.

Overall, E&O coverage is "very broad right now," Mr. Fitzpatrick said.

D&O prices, meanwhile, are skyrocketing for some risks and remaining flat for others.

Internet initial public offerings and established Internet-based companies are finding D&O insurance to be very expensive (see story, page 3).

"We see very dramatic price increases on companies that are going public for the first time, particularly for anything with a .com in its name," said Fred Podolsky, New York-based chief executive officer of Global Financial and Executive Risks at Willis Corroon Corp.

He said many insurers are withdrawing primary D&O capacity for Internet risks. It's difficult to put together more than $10 million in coverage with one insurer, he noted, whereas a single insurer in the past might write as much as $25 million in limits.

"I consider that a hard market," Mr. Podolsky remarked.

Kevin LaCroix, president of Genesis Professional Liability Underwriters in Beachwood, Ohio, said Internet initial public offerings are being viewed as "a completely different risk" than other D&O exposures. Buyers, he said, "are having to pay prices for D&O we haven't seen for several years."

"The extreme volatility of Internet stocks makes them a different risk," Mr. LaCroix said. "If they hit a bump, a stock price drop could be so severe that it makes them a magnet for plaintiffs lawyers."

In some cases, D&O coverage for Internet IPOs is more than twice as expensive as it was a year ago, Mr. LaCroix noted. "But the truth is, it was underpriced a year ago."

General high-technology and bio-technology companies are seeing rate hikes of 5% to 15% on their D&O policies, Mr. Podolsky said.

For Fortune 1000 accounts, "there is still a good degree of competition," Mr. Podolsky noted. "Pricing in general is fairly flat," he added, with some of those risks even seeing small price discounts.

D&O rates for many risks have stabilized over the past year, Mr. Fitzpatrick agreed.

He said many insurers are waiting to see whether Y2K problems spur lots of D&O suits, he said. Heavy losses, if they occur, could push rates higher in the future.

"Most underwriters will tell you it's not going to be an Armageddon," he said of the potential for Y2K computer problems and lawsuits related to them. "I think D&O is in a wait-and-see mode. "

Meanwhile, pricing for employment practices liability insurance is "all over the map," Mr. Brown said. "We don't see that that market is in sync with itself yet. Some underwriters are trying to be responsible, but we see more smaller carriers entering to take a piece of the pie."

He predicted that the EPL mar-

CNA HealthPro is 'pushing hard' for rate increases on the malpractice insurance it writes in most areas, says Alan Pritz.

ket eventually will contract, with some of the smaller players falling away. Those insurers that offer coverage for punitive awards are particularly vulnerable, Mr. Brown noted.

Mr. LaCroix said there is continued pricing pressure in the still-developing EPL market. Because the marketplace is relatively new, without an established loss history, "it may be slow to react" to the forces that should eventually boost rates, he suggested.

On the health side, medical malpractice rates appear to be tightening, said Alan Pritz, president and chief operating officer of CNA HealthPro in Chicago.

He said a slowdown in rate decreases for the coverage is "a little sign of firming," albeit, he said, prices are hardening only to "inadequate levels."

CNA HealthPro is "pushing hard" for rate increases on the malpractice insurance it writes in most areas and is "willing to walk away from business" without the hikes, Mr. Pritz said.

Rates still are much too low, he noted, in some cases "half what they were five years ago."

There are some new players in the medical malpractice business, Mr. Pritz pointed out, but "not a wave" of entrants. "There may be a perception out there that the market is bottoming out and on the verge of turning." That notion, he said, could lure companies that previously had focused on Main Street commercial lines to take a stab at specialty coverages such as medical malpractice. BI

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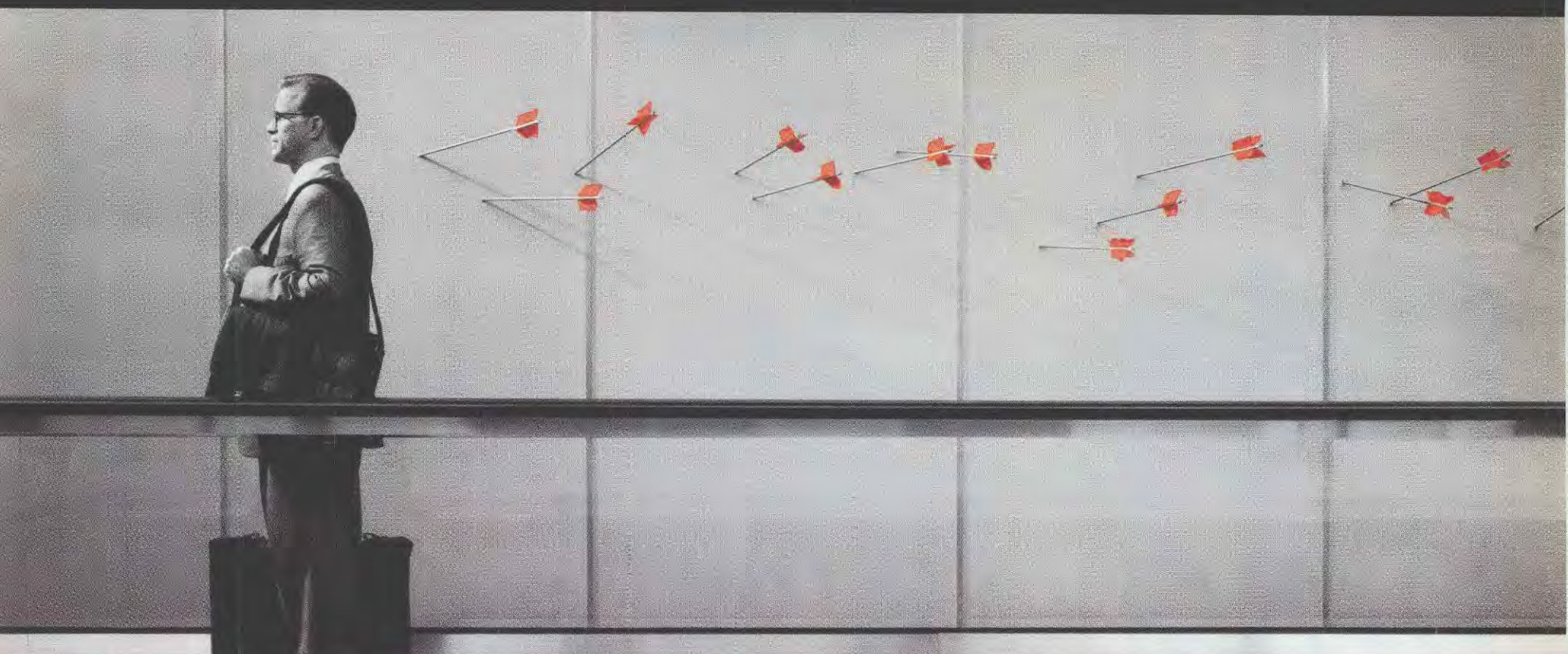

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Child care

Continued from page 3

corporations that offer child care as an employee benefit.

While he sees professional liability as one component of the exposures child care providers face, Mr. McNenney said the greatest exposure is general liability—exposures that could involve claims for bodily harm or inadequate supervision.

Nevertheless, "In many incidents, accidents and injuries fade into the question of whether or not there has been some sort of abuse," said John Mueller III, an attorney who specializes in child care law with McDowell, Rice, Smith & Gaar P.C. in Kansas City, Mo.

"When it comes to child abuse and child neglect, the general philosophy is it's better to be wrong and still protect these kids no matter what the adverse impact on the accused," he said.

Mr. Mueller said that an allegation of abuse could threaten a center's license to operate. "The climate is one of very stern protection for children." Allegations of abuse, he said, are "so charged that a provider would want coverage."

"You've got to have insurance in order to do business," he stressed.

A child care center's loss history and risk management practices could affect the coverage it is able to obtain.

"Underwriters must be careful in assessing their risks and perform detailed analyses of providers, their operations and their claims experience," Mr. Mueller pointed out.

Centers with bad loss histories are likely to look to the excess and surplus lines market for coverage that would also include a loss control component, said Beth Block, president of Block Insurance, an independent agency in Oviedo, Fla., that specializes in child care risks.

'The climate is one of very stern protection for children,' says John Mueller III. Allegations of abuse, he said, are 'so charged that a provider would want coverage.'

"By and large, as long as you have good risk management practices, the only thing you'll run into is bumps and bruises," said Ms. Block. Her agency provides its clients with an extensive manual to guide them through common child care center exposures and also informs them about how to mitigate such risks.

Ms. Block said several insurers underwrite policies that cover a whole range of child care center exposures, including professional liability for the staff. For example, she said, in Florida, a policy offering $1 million in liability coverage with a $100,000 sublimit per occurrence annually for professional liability costs about $16 annually per child. Such a policy, however, would not cover auto liability or workers compensation exposures, she noted.

When evaluating insurance policies for abuse and molestation coverage, Ms. Block said it is preferable to seek a policy that does not consider the cost of legal defense as part of the policy's limit.

Reliance offers up to $20 million in professional liability coverage for child care providers. Ms. Milliman said typical limits are $1 million.

The insurer's legal defense component is outside the policy's limits, and coverage for the defense is on a per occurrence basis, she said. Separate coverage for the defense of alleged perpetrators is also available, and the scope of the policy is tailored to each client. This policy enhancement would provide for an individual's defense until a guilty verdict is rendered against an alleged perpetrator.

"You want to be able to defend the people erroneously charged," said Ms. Milliman. Speaking about Reliance's clients only, Ms. Milliman said "It's more common to have an unsubstantiated claim than a substantiated one."

The professional liability market for child care providers currently is competitive, said Phil Glick, senior vp for the Clair Odell Group, a brokerage and consulting firm in Plymouth Meeting, Pa. Even so, some insurers are planning to increase premiums in some lines of business, including child care professional liability, by about 5% to 10%, said Mr. Glick. He anticipates increases may begin with the year-end renewals, he said.

Although the pricing increase is partially due to a slightly firming market, Mr. Glick said many insurers anticipate that claims experience could swell due to a continuing increase in litigation.

"Underwriters have a subjective fear (of) this business," he said, especially of policies written for schools or for facilities providing mental health care services.

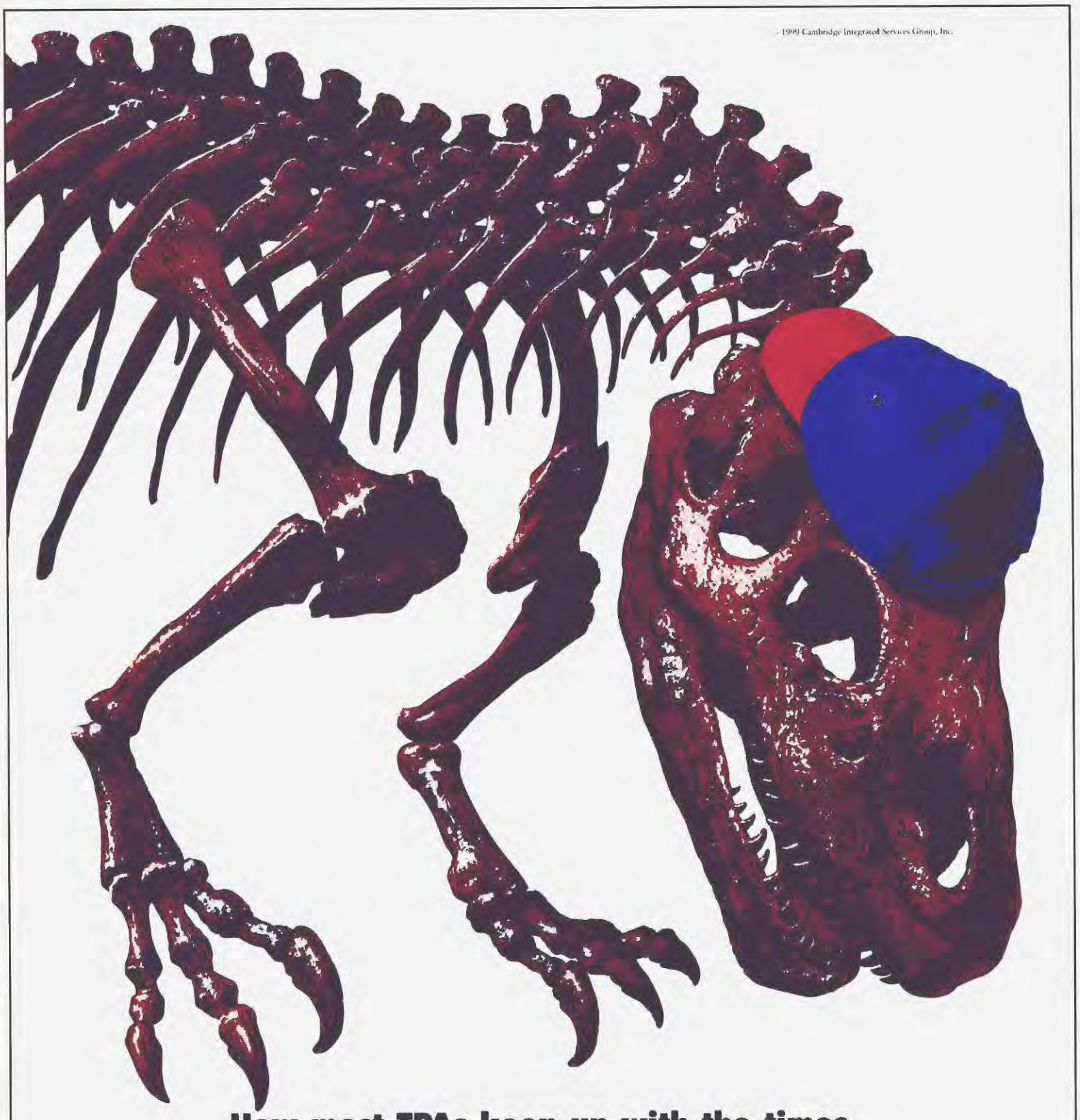
Litigation involving sexual misconduct in child care centers has increased in both frequency and severity as more employers have begun offering child care services, said Joe George, senior vp-casualty at Boston-based surplus lines insurer Lexington Insurance Co. Lexington is a subsidiary of American International Group Inc. of New York.

"The trend is to be more accommodating to employees," said Mr. George. "Part of that is to offer some sort of day care or babysitting, and from that comes the need for this coverage."

Wanda Johnson, product line manager for general casualty at Lexington, said the insurer offers both general liability and sexual misconduct policies. Sexual misconduct policies are available with limits up to $50 million.

In light of recent court decisions that hold schools liable for the actions of a student or group of students committed against another student, schools and other professions now are looking to insure these exposures, Mr. George said.

"It's an added exposure that didn't exist a year ago," he said. BI



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Spotlight report

Securities broker E&O coverage undersubscribed

Despite availability of coverage, few broker/dealers opt for it, observers say

By JOANNE WOJCIK KOCHANIEC

Professional liability underwriters remain bullish about the prospects for insuring Wall Street risks, as securities firms face increased exposures with the growth of personal investing.

But even though securities broker/dealer professional liability coverage is widely available—sometimes even on an admitted basis—only a fraction of those who should buy the coverage are actually doing so, industry observers say.

They note that many broker/dealers don't currently see a need for errors and omissions liability insurance because investors usually file claims only when they incur big losses, and few are suffering in the current bull market.

But securities brokers are still in a risky business, and they should take advantage of the soft market for E&O coverage just as they have the bull market for stocks, professional liability experts advise.

While "statistically, it is true that when the market is good, fewer claims are filed against brokers than when the market is bad, I would think that these days, with so many unsophisticated investors in the market, brokers would want to be more protective of themselves and exercise risk management by buying lots of insurance," observed Mark Carlin, a partner in the Washington law firm of Sherman, Meehan, Curtin & Ain who represents plaintiffs in securities cases.

In fact, the volatility of today's stock market could result in even more claims against brokers than are seen when the market is bearish, he suggested.

Eric Rush, assistant vp of Zurich-American Insurance Co. in New York, said that "there has been a slight uptick" in claims against securities broker/dealers insured by Steadfast Insurance Co., Zurich's surplus lines subsidiary.

He explained that claims often increase "with any type of business that takes off, and every mom and pop are in the market these days trying to capture their piece of the American Dream."

Indeed, nearly half of all American households are investing in the stock market, according to a joint survey released last month by the Investment Company Institute and the Securities Industry Assn., two Washington trade groups representing the nation's investment companies, securities firms and investment banks.

One of the more likely E&O claims to be filed against investment advisers is for "unsuitability" of their advice. A broker has a duty to make recommendations that fit an individual investor's circumstances. If a broker makes a recommendation that is unsuitable, he or she may be found liable for breaching that duty.

Most claims against securities brokers/dealers are submitted for arbitration by the National Assn. of Securities Dealers.

Unsuitability was the central issue in an arbitration case Mr. Carlin handled in 1997 on behalf of the estate of an investor who died at age 83. In the 14 months prior to the investor's death, a stockbroker allegedly engaged in inappropriate investments that caused losses "well into the six figures," he said.

Fortunately for stockbrokers, claims alleging unsuitability are covered under professional liability insurance policies.

"The insurance policy is designed to protect them for their errors and omissions. We're all fallible. The insurance is designed to protect their reputations and their assets," said John Iannotti, vp-financial institutions at American International Specialty Lines Insurance Co. in New York. AISLIC, a unit of American International Group Inc., underwrites the professional liability insurance program available to members of the NASD.

Like most insurers that write E&O coverage for stockbrokers, AISLIC sells it not to individual brokers but to the broker/dealer entity to cover itself and its registered representatives, Mr. Iannotti explained.

Continued on next page

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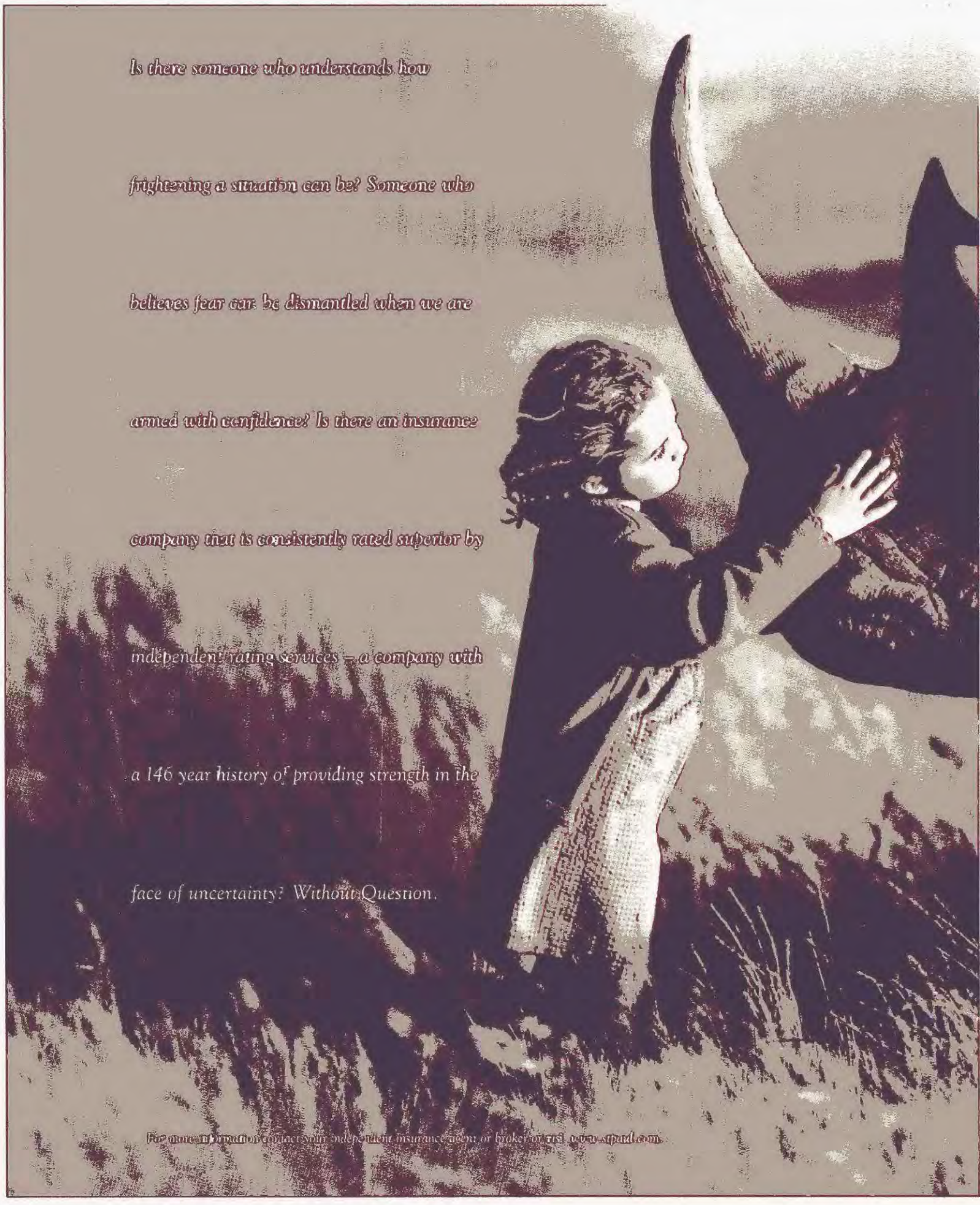

Continued from previous page

The minimum premium for the NASD program is $2,500. Limits start at $250,000 and can be arranged as high as is necessary, he said.

AISLIC's securities broker/dealer E&O program is experience-rated and is available on admitted paper in 25 states.

In addition to the NASD program, which usually is purchased by smaller trading firms, professional liability coverage is available on a surplus lines basis from Steadfast, Reliance Insurance Co. of Illinois and Lloyd's of London. These insurers, however, generally write for larger, established securities firms.

Even though securities broker/dealer professional liability coverage is widely available, only about 20% to 25% of firms buy it, Mr. Iannotti estimated.

Mark Freitas, chief operating officer of New York-based insurance broker Frank Crystal & Co. Inc. explained that securities brokers haven't been buying the coverage because many of them don't think the price or terms are very attractive.

Errors and omissions liability insurance for securities brokers 'has always been available, but for a price,' says Mark Freitas of Frank Crystal & Co. Inc.

"Securities broker E&O has always been available, but for a price," he said. "When the premium is combined with the large deductible, it's not an attractive product."

He said policies could cost as much as $15,000 for a $1 million limit with a $50,000 per occurrence deductible.

But he also acknowledged that premiums and terms vary based on the size and type of brokerage as well as the types of securities traded.

"There's also a lot of brokers who just don't know this coverage is available," Mr. Freitas said.

It's usually the large, well-established firms that purchase E&O coverage, industry sources say.

For example, Charles Schwab Corp., which has been in the discount stock brokerage business for more than a decade and was one of the first to launch an Internet trading site, has E&O coverage for both the company and its brokers, according to Phil Zimmerman, senior vp-risk and credit at the broker's San Francisco headquarters. He declined to identify Schwab's insurer or provide details of the coverage.

"Usually, it's the firms with 750 or more registered reps who buy it, but smaller firms are less likely," said AISLIC's Mr. Iannotti.

Despite this historic pattern, AISLIC, which writes the NASD program usually purchased by smaller firms, is beginning to see some interest among the newest members of the Wall Street community.

"We get a significant number of requests for online trading companies and day traders," said Mr. Iannotti.

But, he said, "we haven't done any day trading firms yet. We have a lot of difficulty in looking to extend coverage to this area. They just don't have a history."

Still, that doesn't mean insurers won't ever write such firms in the future.

"We're looking at each risk on an individual basis," Mr. Iannotti said.

"We look at all types of broker/dealers that come in," concurred Zurich-American's Mr. Rush. BI

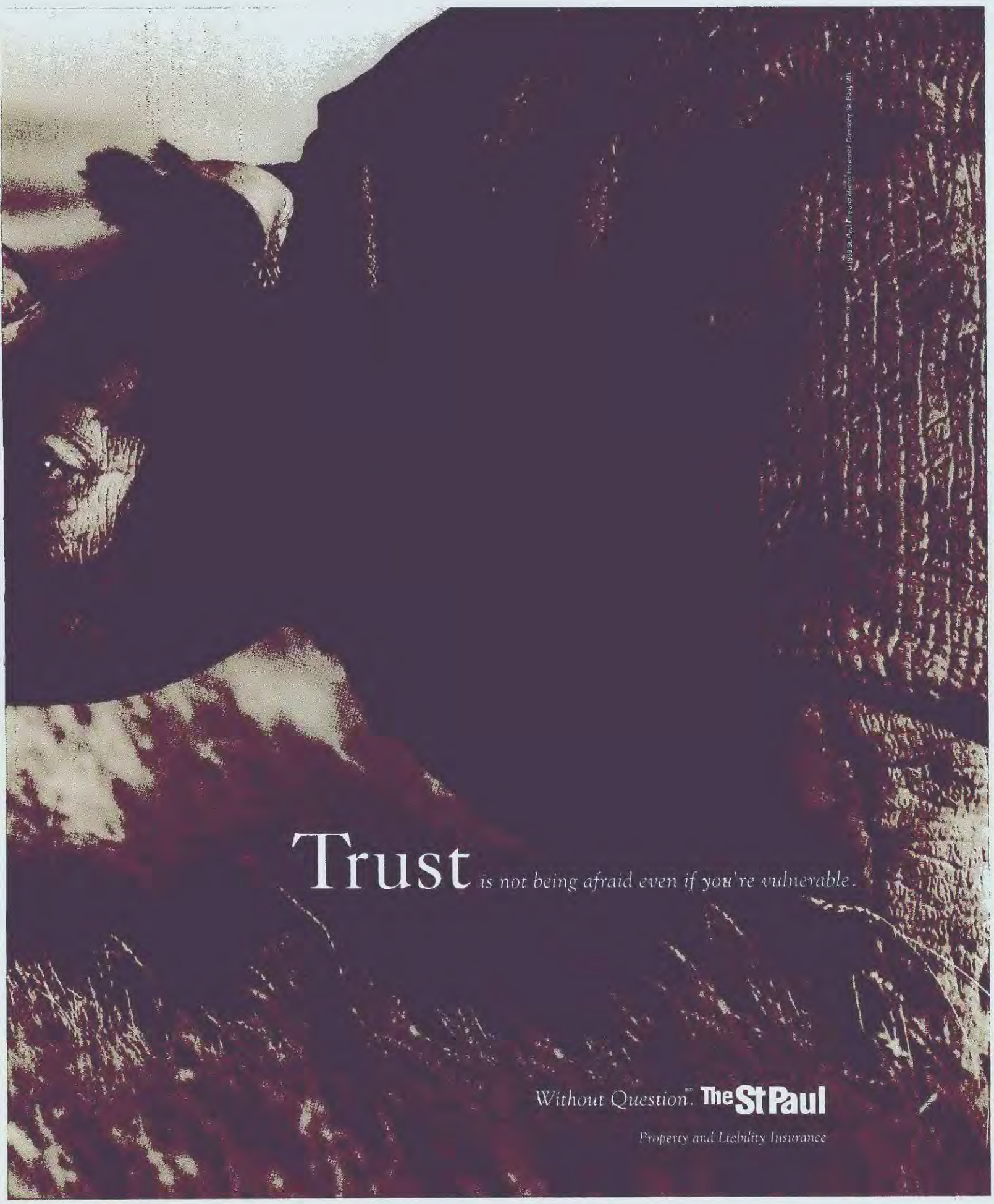

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PHOTO: EDWIN UNSWORTH

Reinsurance industry executives gathered late last month in Baden-Baden, Germany, to discuss the state of the market and where it is heading.

Renewals

Continued from page 2

first seemed a repeat of last year's weather conditions, with rain for the first day and a half.

But the sun finally came out for reinsurers—possibly in more ways than one.

Just as the final days of this year's meeting were marked by glorious autumn sunshine, the mood of reinsurance underwriters also seems to have lifted compared with previous meetings. While not all of their gloom about reinsurance market prospects has been dispelled, several executives at least see rays of hope that conditions could be ready to turn in their favor.

"There's a definite foundation to proceed without further reductions in rates, and the question in many classes will be whether rate increases will be modest or more significant," said Mike Schell, managing director of London-based St. Paul Reinsurance Co. Ltd.

The groundwork has been laid for either an increase in prices or a redistribution of business as some reinsurers walk away from underpriced risks in the current renewal round, he said.

"Reinsurers will either want less exposure or more significant price and appropriate terms," he said.

In some classes, particularly satellite excess-of-loss and retrocession business, "it's clear that rating activity is already changed and the rates are much more significant," Mr. Schell said.

Retrocessional rates in the second half of this year have been increasing by double digits, he said.

Other areas showing signs of strengthening in reinsurers' favor include property risk excess business in many parts of the world, particularly the United States, "where we would expect rate increases to be strong," Mr. Schell said. Property rate hikes also will be "strong" in areas where catastrophes have occurred, he added.

Bernhard C. Fink, CEO of ERC Frankona Reinsurance A.G. in Munich, said, "There is business where you can't expect rate changes better than flat or a slight increase, and there are others where we say unless we get a significant increase we'll just walk away."

ERC Frankona had reviewed all of its accounts ahead of the early September Monte Carlo Rendez-Vous and decided to take a firm line where it believed higher rates or tougher terms were needed (*BI*, Sept. 20). Some clients that at first resisted rate increases later returned, having found that other reinsurers also wanted higher rates, Mr. Fink said.

One reason that ERC Frankona believes tougher terms are justified is because of the aggregate level of losses—of which most people are still ignorant—built up from several catastrophes this year, he said.

Many of the medium-sized catastrophes that struck this year happened in areas like Turkey, Greece and Taiwan, where little of the insured loss remains in the home market and mostly falls on international reinsurers, he said.

"My hunch, and I hope I'm wrong, is that Taiwan could be significantly underestimated, and it might not be until the first or second quarter of 2000 that the real loss level is known," he said.

Mr. Fink added that even if 2000 will be an average year for catastrophe losses, it is unlikely to be a good year for reinsurers because so many of the losses from 1999 events will not show up until next year.

A similar point was made by Peter Hecker, deputy chairman of Hannover Reinsurance Co. of Hannover, Germany.

Reinsurers do not yet know the impact from the earthquakes in Turkey, Greece and Taiwan, or from a Japanese typhoon, he said. "The frequency and accumulation of these losses on top of a very soft market make reinsurance rates totally insufficient," he said.

Mr. Hecker said, however, that rates in the retrocessional market are already hardening, and other reinsurance rates generally "will not go further down. . .they will go up slowly and steadily."

The Copenhagen Reinsurance Co. Ltd. is another reinsurer that is trying to improve its own position in the market, said Henrik Haugaard Jensen, regional general manager for the Copenhagen-based reinsurer.

Copenhagen Re—which is still recovering from a defection by senior management who left to form Danish Re—cannot afford not to promote improvements in the market, he said.

Mr. Jensen said one area where he hopes pricing will change is facultative business, for which he has responsibility and which "has been close to disaster globally."

"I would guess that rates will go up, though we won't see huge rate increases," he said.

Some reinsurers this year have pulled out of the property facultative market, including St. Paul Re

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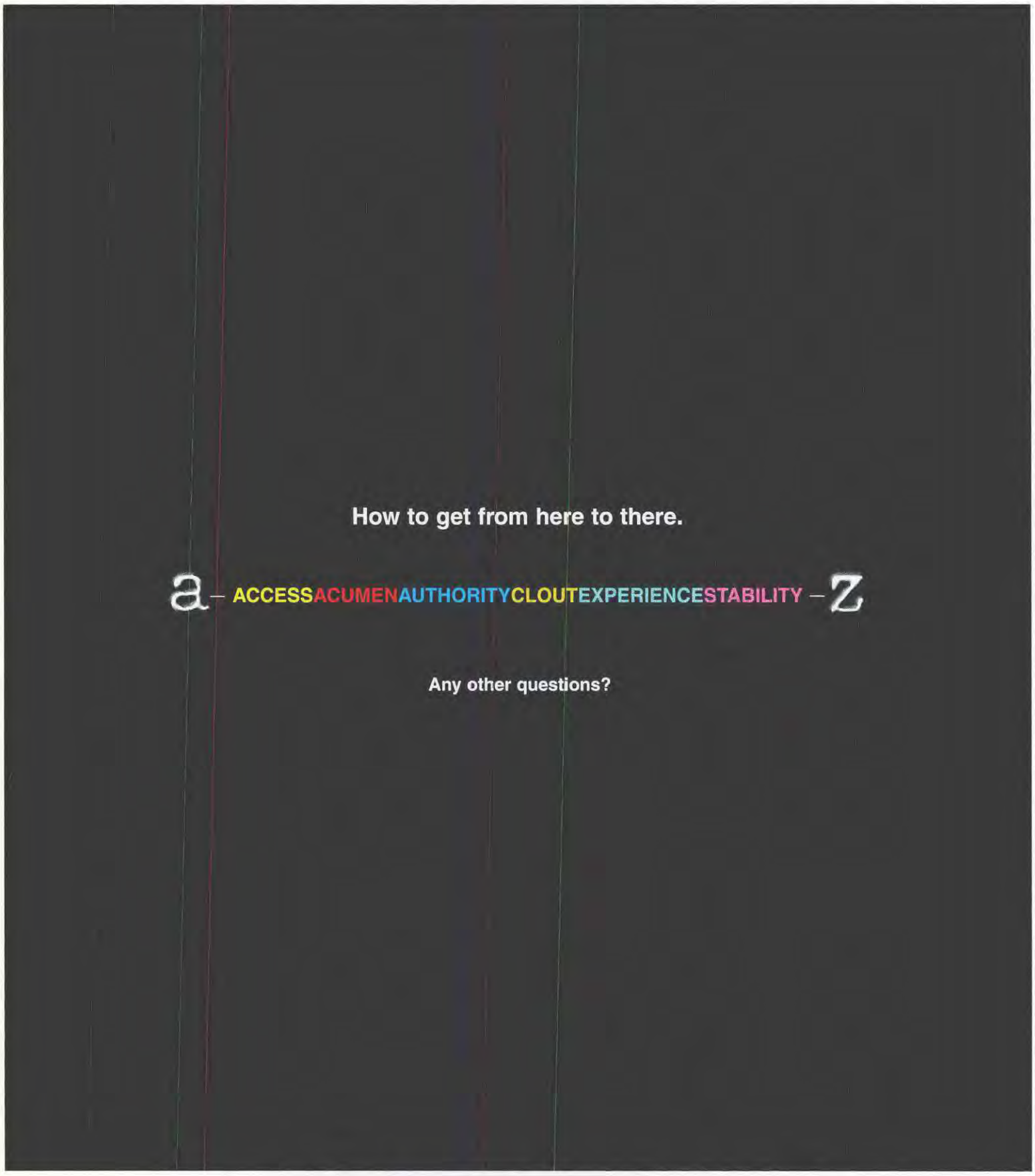

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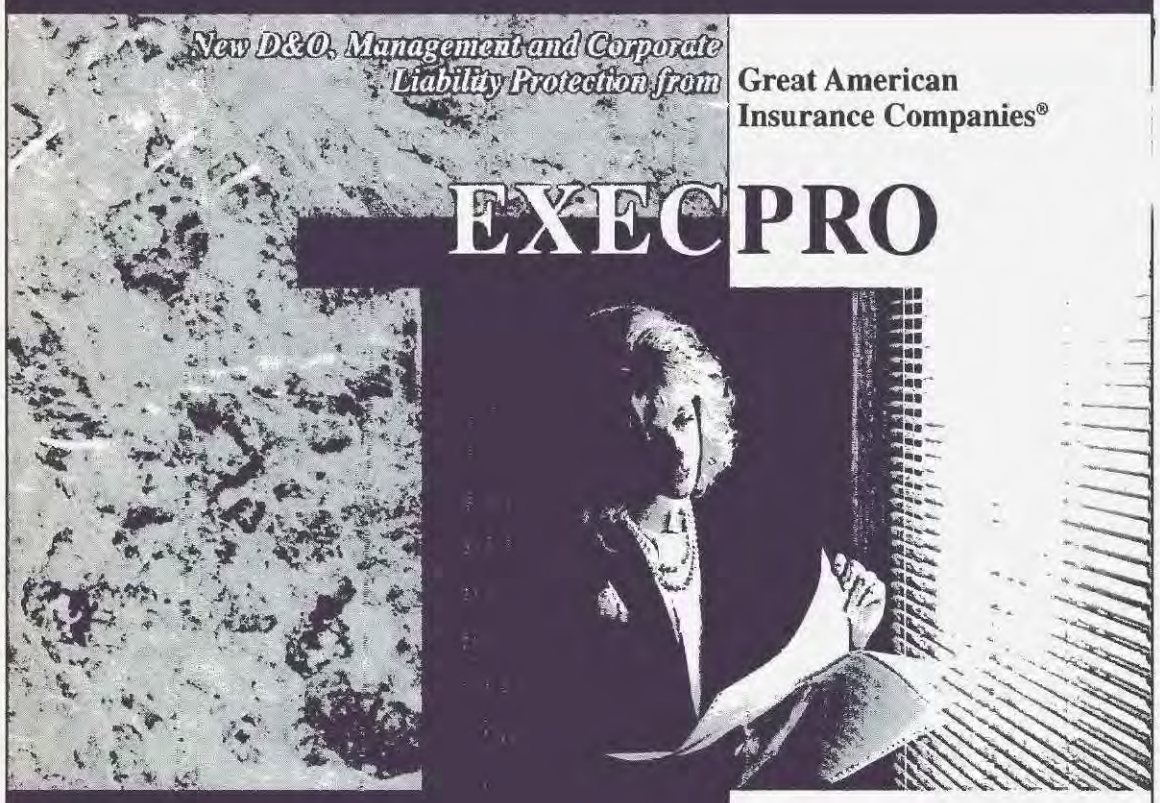

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Renewals

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and Employers Re, which both scaled back U.S. underwriting for that line (*BI*, Oct. 25).

Treaty business also will see rate increases over the next 24-36 months in specific areas as companies quit the market because of low rates, predicted Mr. Jensen. Latin American treaty business, for example, is showing pricing improvements this renewal, he said.

Reinsurers definitely want 'to start to negotiate the trend of improved terms and conditions,' says SCOR's Serge Osouf.

Serge Osouf, president and chief operating officer of SCOR S.A. in Paris, said that he, too, is more optimistic today.

'What reinsurers want is definitely to start to negotiate the trend of improved terms and conditions. . .it's absolutely essential that we get the movement going so that the primary insurance companies start putting it into effect in their rates as well," he said.

He made clear, however, that while the reinsurance pricing cycle may have reached bottom, this renewal round is unlikely to be the one that will get rates anywhere near what would be considered satisfactory.

For reinsurers, "we are still very far from a satisfactory situation," Mr. Osouf said.

Mr. Osouf said rate increases in the current renewal round would have to be generally between 20% to 30% to return just to the level of two years ago, but that is not likely to happen.

The catastrophes of 1999 were not sufficiently serious to shake out rate increases of this magnitude, however, and the most that reinsurers can realistically expect to achieve this time around is a "readjustment of prices in some areas," Mr. Osouf said.

He said aviation, satellite, offshore, and U.S. workers compensation accounts all are seeing rate increases, "but there is no general trend yet" for a broader hardening of rates.

Leif Corinth-Hansen, CEO of the newly created Danish Re Group, a Copenhagen-based reinsurer that underwrites at Lloyd's of London, said the market has worsened since a year ago, when he was with Copenhagen Re.

"We've seen the consequences (of that worsening), and hopefully reinsurers will now do the sensible thing. . .to toughen conditions, to maybe reduce deductibles, increase rates. . .to bring us back to a level at which we were in, say, the early to mid-'90s," he said.

Many reinsurers were burnt in 1998 and the first part of 1999, partly as a result of a significant increase in the frequency of medium-sized and large losses, said Mr. Corinth-Hansen. This has made it almost impossible to get commitment from reinsurers to support facultative underwriting, which Mr. Corinth-Hansen called a very sensible step.

While he said he had not seen any rate increases so far in Baden-Baden, events in the facultative market mean that tightening will happen over the next 14 months.

"Something will happen definitely this year, especially on the retrocession side. . .and that will eventually hit the direct (reinsurance) market. So, if the direct market is not moving this renewal, it will have to move next renewal," he said.

'Something will happen definitely this year, especially on the retrocession side,' says Leif Corinth-Hansen.

He noted that it is likely proportional business, which Danish Re intends to avoid, that will be renewed on the same terms as last year.

"Reinsurers should not write next year on the same terms as this year. . .but unfortunately I think we need to see some more losses before we get back to a sensible rating level," he concluded.

According to Dirk Lohmann, CEO of Zurich Re, there is a greater expectation among reinsurance buyers that year-end renewals will be a little more difficult for them.

"Results are poor. The market has had a large number of losses. There's a general expectation that there will be some tightening. The question is how much?" he said.

Michael Murray, London-based regional director of the reinsurance brokerage arm of Willis Corroon Group Ltd., said he detects signs of things happening "at the edges," beginning with retrocessional rate increases, to turn the market in reinsurers' favor.

He said, however, he hoped this doesn't turn into a knee-jerk reaction to raise rates across the board.

"There's got to be a little bit of discriminating between clients," he said.

Mr. Murray said the ingredients are there for a hardening of the property catastrophe market, though this may not really be felt until 2001.

Continued on next page

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Another broker, Juergen Grupe, chairman of Aon Re Europe in Hamburg, Germany, said "there is an urgent need for the reinsurance market to get a turn around."

He maintained that several major reinsurers are continuing to maintain, as they announced in Monte Carlo, that they will abandon loss-producing clients that seek additional rate cutting.

"Many reinsurers are saying they will no longer support rate reductions. . .some are looking for rate increases. The move by the market is not yet uniform, but I am almost certain we will see flat rates" in this renewal round, said Mr. Grupe.

Mr. Grupe, like a number of others in Baden-Baden, said the first steps toward taking a tougher stand on rates and conditions will have to come from the major players in the market.

'Last year everybody renewed very late. This year it's a more difficult call,' says Juergen Grupe.

This may already be happening in the United States, as European reinsurers report seeing more U.S. business this year, he said.

A number of reinsurance executives in Baden-Baden also pointed out the difficult choice facing cedents regarding when to complete the current renewals. While renewals for Jan. 1 are still late, signs that the market is at least poised for hardening make it difficult to foresee how long it is wise for buyers to hold off agreeing to terms.

According to Mr. Grupe, "Last year everybody renewed very late. This year it's a more difficult call."

Mr. Murray of Willis said he had spoken to a number of clients at Baden-Baden with good portfolios and clean claims records who are keen to complete renewals now, just in case the market turns against them in the coming weeks.

Zurich's Mr. Lohmann pointed out that a number of ceding companies are not renewing this year because last year they opted to purchase 18-24 month contracts to see them through potential Y2K problems. This could have a tempering effect on any hardening of rates, he said.

SCOR's Mr. Osouf concurred. Many two- to three-year contracts are not now due for renewal, and "to what extent that is going to influence this renewal season is still unknown," he said.

Client demand for multiyear deals appears not to have slackened, however.

"There is nothing wrong with multiyear programs provided that the terms and conditions are satisfactory," Mr. Osouf said. "The difficulty is to really have satisfactory mechanisms to adjust the price in case of drastic change in the composition of the basic portfolio, which does not exist in most of the existing multiyear programs."

SCOR's instruction to its underwriters is to discourage multiyear programs if the terms are not properly adjusted, Mr. Osouf added.

Ruurd de Fluiter, a member of the European executive team of Swiss Re, said he detected signs that the recent slide in rates is stopping, while the widening of conditions has already ended. This is still overcapacity, however, in the reinsurance market, he added.

Commenting on the geographic areas in which he specializes, Mr. de Fluiter said the market for Eastern Europe is soft and unlikely to harden this year, as reinsurers compete for business in what they see as a potentially big growth area. In the eastern Mediterranean, Greece stands out after the earthquake this year as facing a doubling of earthquake rates, he noted.

Another Swiss Re representative, Andreas Beerli, managing director of Swiss Re Italia S.p.A. in Rome, said the market has hit bottom and "is not going to go further down."

Mr. Beerli, who is responsible for Swiss Re in Europe as well as reinsurance for Swiss Re's eight big global cedents, said that while he'd come to Baden-Baden expecting no change in the market, he is nevertheless looking in almost all cases at least to improve conditions for Swiss Re and its clients.

He cited the "triple 20 program" adopted by Swiss Re earlier this year across its entire book of business. Under this program, the reinsurer plans to reduce its catastrophe reinsurance capacity by 20% in markets with inadequate rates, cut administrative costs 20% by 2001 and review the least profitable 20% of its business.

Another who agreed that the market may have bottomed out was Erich Herrgen, a member of the board of Swiss Re unit

See **Renewals** *on next page*

PHOTO: EDWIN UNSWORTH

The Steigenberger Hotel was one of several at which reinsurance executives stayed during the Baden-Baden meeting, held Oct. 25-29.

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PHOTO: EDWIN UNSWORTH

Reinsurer executives took advantage of the weather to conduct many meetings at Baden-Baden's outdoor cafes.

Renewals

Continued from previous page

Bavarian Reinsurance A.G. in Munich.

Mr Herrgen said there is a need to increase rates because reinsurers are incurring losses in years with relatively normal claims levels. While losses in 1998 and 1999 were more than in the two previous years, they were still relatively normal in terms of historical loss experience, but produced big losses for many reinsurers, he said.

Mr. Herrgen said that while there are signs of hardening in some sectors—including the retrocessional market, U.K. property, excess-of-loss reinsurance and earthquake cover—"there will not be a sudden hardening worldwide."

The market may firm further if there are large Y2K insurance losses, but this is unlikely, at least for Bavarian Re, which "went through the books of our clients for Y2K losses and we don't anticipate any surprises."

It is largely in the retrocessional market that reinsurers see the start of the recovery.

"There is a clear sign, it already started in Monte Carlo, and it has continued with this Baden-Baden conference. The retrocession market will harden now, and that goes basically for most types of retrocession, but in particular the facultative," said Danish Re's Mr. Corinth-Hansen.

"There will be a very significant shrinkage in the retro markets," predicted Mr. Lohmann. "This will drive the front-end pricing. If we start with a trend toward hardening in January, it likely will increase by March 2000, when companies' results become known."

ERC Frankona Re's Mr. Fink was another who cited the retrocessional market as a catalyst leading the upturn.

He said the upturn in retrocession has continued to gather pace over the past month, with the difference in rates most noticeable in aviation business, where accounts with losses are being asked to pay more.

Aon Re Europe's Mr. Grupe agreed that events in the retrocessional market will be one of the triggers for a general tightening of terms.

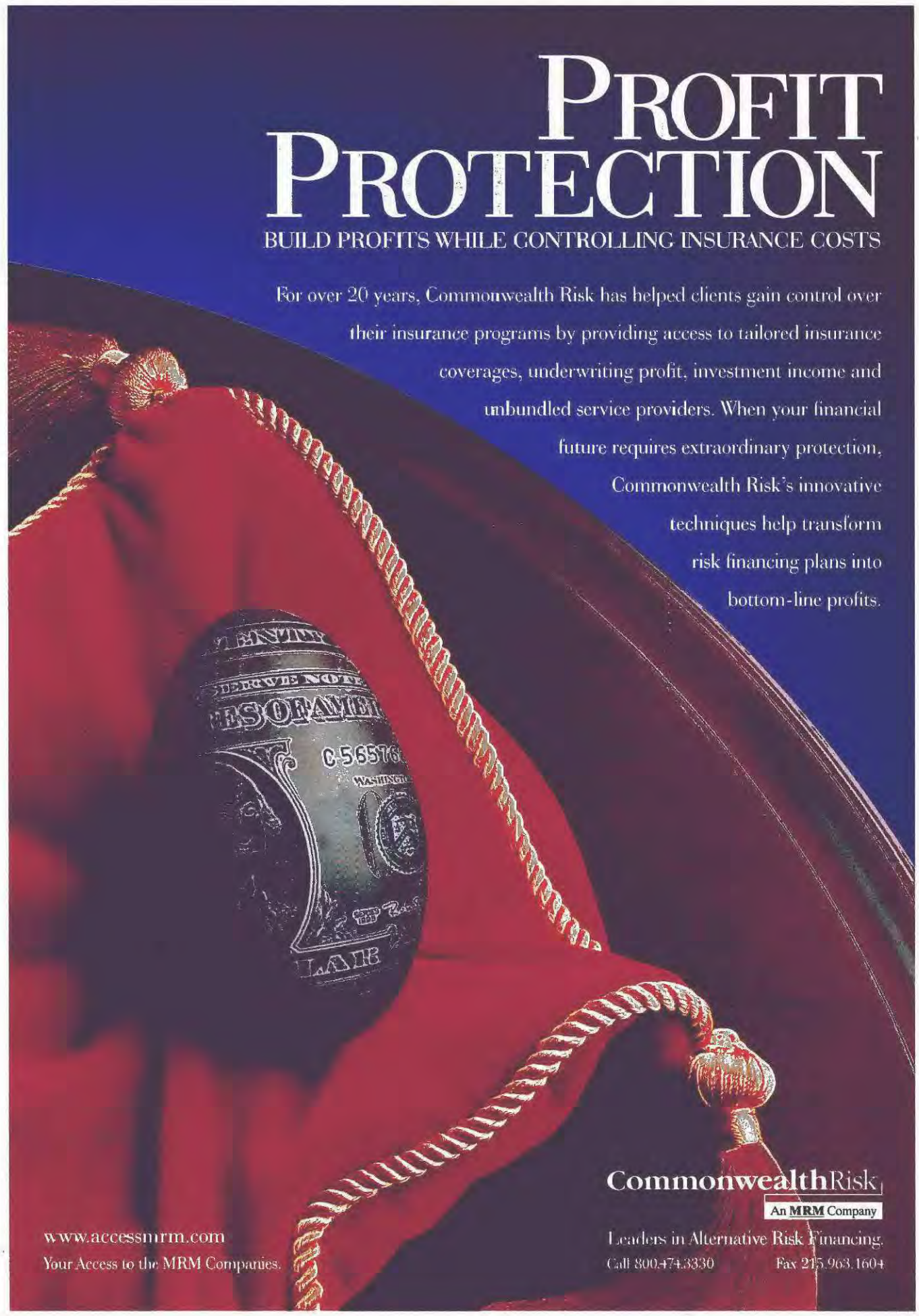
"We have a big crisis in the retro market. . .and retro rates are going to increase," he said.

Ross McKenzie, chairman of non-marine reinsurance for Aon Re Worldwide and Aon Re Europe, based at Aon Group Ltd. in London, explained that a large proportion of the retro market was provided by the Australian market, several companies of which are now in trouble.

Mr. Grupe took up the point, saying the Australian market was a key part of the retro market, and it will be difficult to replace this missing capacity.

"The effects of the collapsing retro market in Australia has been to sharpen peoples' minds on security," maintained Bruno Meyenhofer, chief operating officer-global reinsurance operations for Bermuda-based Partner Re Ltd.

"The retro market will put more pressure on companies who do not have the capital to write the business without retrocessional cover. . .so rates will go up, (though) not across the board," said Mr. Meyenhofer, who is based in Winterthur, Switzerland. BI



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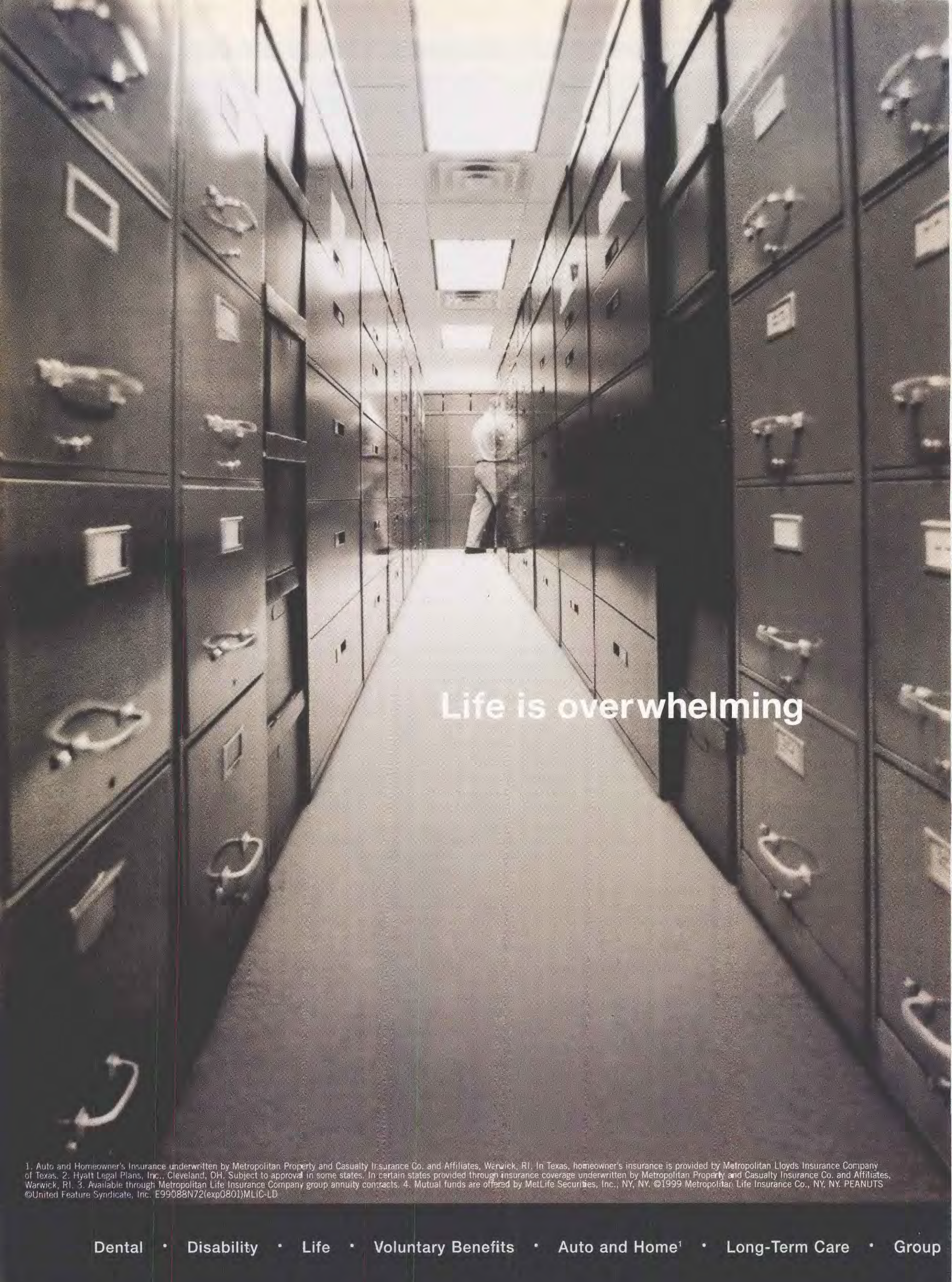

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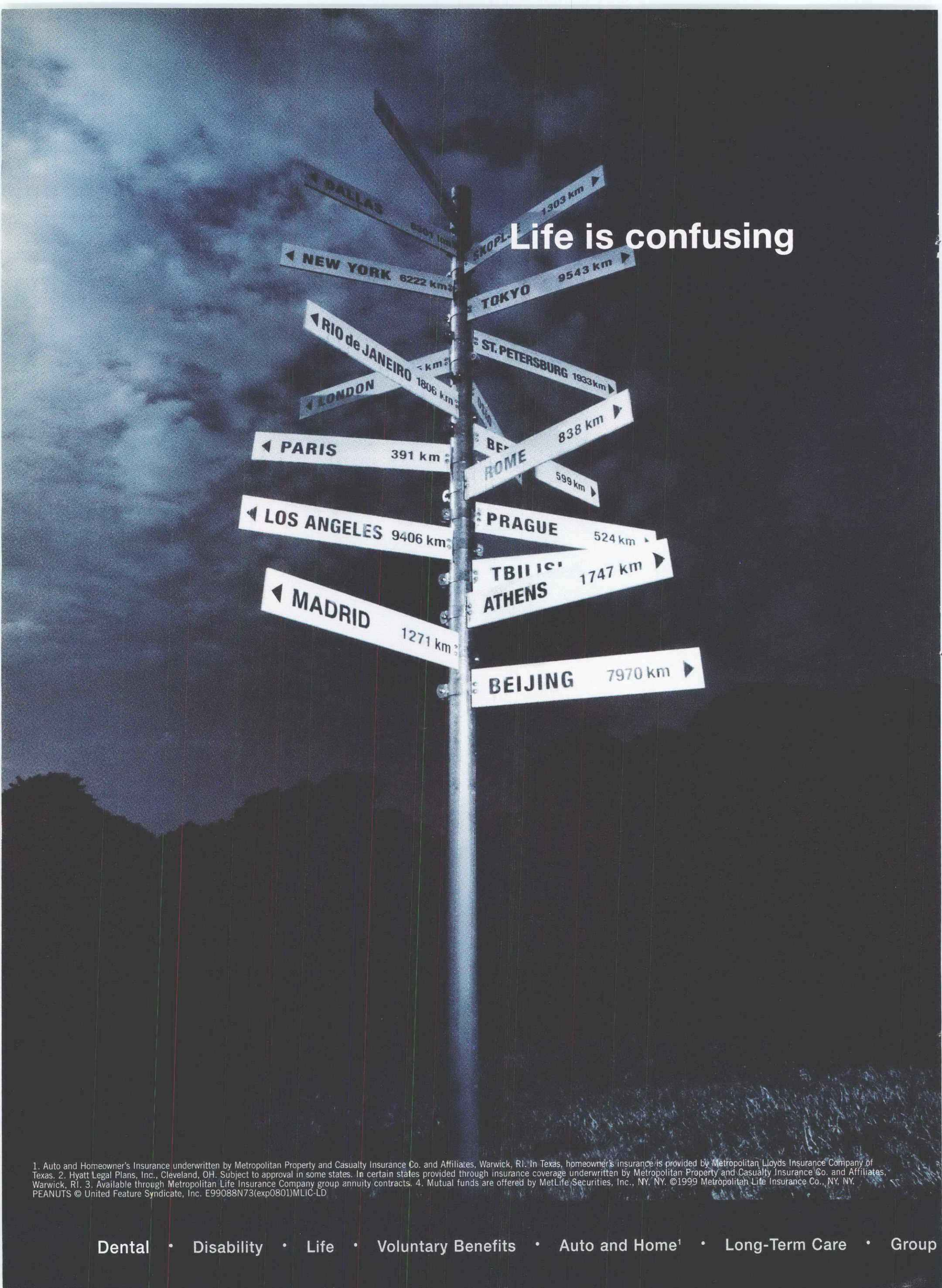

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Baden-Baden

Reinsurers get down to business at Baden-Baden

By CAROLYN ALDRED and EDWIN UNSWORTH

BADEN-BADEN, Germany—Baden-Baden remains an important meeting for the reinsurance industry even though fewer contracts are signed there now than in the past.

As it is closer to Jan. 1 renewals than Monte Carlo's Rendez-Vous de Septembre and with a heavy presence of North Europeans, discussions usually are more intense in the Black Forest resort town than in the south of France, noted executives who gathered here Oct. 25-29.

For one week each year, the wealthy German resort town—with its fashionable spas, expensive hotels, shops and restaurants and famous casino—resembles the London market, with dark-suited reinsurance executives marching up and down the streets clutching leather-bound folders.

Many attendees have up to a dozen half-hour meetings a day—meetings scheduled days, weeks and even months in advance—with representatives from reinsurance and insurance companies or brokers from all over Europe, Asia and the United States. The meetings take place in hotel lobbies, at tables laid out throughout the largest hotels in the town, in bars and restaurants, and even in the town's renowned spas.

Every half-hour there is a mass of movement in hotels and along the town's streets, as attendees move to the next meeting. Very few people wear name tags, and, for some five minutes at the beginning of each meeting period, the hotel lobbies are full of executives furtively looking at one another to work out who they are meeting.

'It's clear that people are coming to really start their renewal negotiations,' says Serge Osouf of SCOR.

Although fewer reinsurance contracts are actually finalized in Baden-Baden now than in the past, the meeting remains an important one—and quite different from the Rendez-Vous in Monte Carlo, reinsurers say.

"People are coming to Baden-Baden and avoiding Monte Carlo. This is for sure. It's very obvious," said Serge Osouf, president and chief operating officer of Paris-based reinsurer SCOR S.A.

"It's clear that people are coming to really start their renewal negotiations (in Baden-Baden)—not necessarily to conclude them, but to initiate them, much more than Monte Carlo," said Mr. Osouf.

Baden-Baden also tends to draw a different crowd than Monte Carlo, he said.

"You see less and less people from the southern part of Europe. The people coming here are more from Northern Europe—Germany, France, the U.K., Scandinavia. There are less people from Italy and Spain than there were in the previous years. Unlike Monte Carlo, there are fewer from North America, South America or from Asia, except Japan," Mr. Osouf noted.

"There's more business discussed here than in Monte Carlo. But again, the real business is done when people get back to their offices," said Michael Murray, regional director of reinsurance for the reinsurance brokerage arm of Willis Corroon Group Ltd. in London.

"I have seen tough negotiations here. I have seen progress getting to finalization, but I was not involved in meetings here where you would cut the deal," said Bernhard C. Fink, chief executive officer of ERC Frankona Reinsurance A.G. in Munich, who this year attended his fourth Baden-Baden meeting.

"I think this year, as a reinsurer, you would be ill advised to force renewal. As a ceding company, you try to renew faster because, I think, the general expectation is that prices will not soften during the renewal, that it will harden towards the end of the year," Mr. Fink noted.

Many attendees agreed that there was a growing realization during the meeting that rate reductions were becoming a thing of the past, even if expectations of a hard market were dampened (see story, page 2).

"This year, I'd say that more poor results have surfaced. There is some job insecurity, particularly if results don't improve for reinsurers, and the clients generally seem to believe that there's a catalyst that will prevent prices from becoming cheaper," said Mike Schell, managing director of St. Paul Reinsurance Co. Ltd. in London.

"There is a greater realism and less pessimism this year," noted Andreas-Peter Hecker, deputy chairman of Hannover Reinsurance Co. in Hannover, Germany.

"It's a trend back to reality," he added.

Mr. Hecker also said he believed that this year, as in the past, there were many discussions of technical issues, such as terms and conditions. The meeting, he said, consisted of more than just reinsurers drumming up business.

But at least one standing attendee believes that the event is becoming less of a business meeting and more of a social meeting, similar to the Monte Carlo rendezvous.

"This is my 20th year," said Leif Corinth-Hansen, chief executive officer of Danish Re Group in Copenhagen and formerly an executive with Copenhagen Re.

"Twenty years ago, or even 10 years ago, we could sit here in Baden-Baden, people had their contracts with them, we were negotiating, and, on the spot, we made deals," Mr. Corinth-Hansen said.

"That's slowly changed, certainly over the last five years. This year, what strikes me is that Baden-Baden is no different than Monte Carlo," he said. BI

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Reinsurer execs discuss the state of the ART

By CAROLYN ALDRED and EDWIN UNSWORTH

BADEN-BADEN, Germany—Although alternative risk transfer products are expected to surge in use if the property/casualty market hardens, they are unlikely to replace traditional underwriting, reinsurance executives say.

Many reinsurers are developing non-traditional product capabilities, as are their ceding company clients. But the actual number of transactions has been limited so far, due partly to the current abundance of low-priced conventional reinsurance capacity, reinsurers note.

Several executives attending the Baden-Baden reinsurance meeting predicted, however, that interest in alternative products will increase once the first signs of a tightening market appear.

"If rates are rising—especially for catastrophe risks—that could lead to more-frequent usage of cat bonds, for example, or securitization of risks," said Serge Osouf, president and chief operating officer of SCOR S.A. of Paris.

Several factors have hindered the growth of such products, according to Mr. Osouf. The products, he said, are "fairly complex from a legal and regulatory standpoint, are expensive to put in place, and not competitive vis-a-vis the traditional reinsurance market."

"But if prices go up substantially, then this competitive disadvantage will diminish, if not disappear," he predicted.

'We need to be at the front of the line in understanding ways the client can manage' risks, says Mike Schell.

Juergen Grupe, chairman of Aon Re Europe in Hamburg, Germany, said that a squeeze in retrocessional capacity could improve the outlook for non-traditional reinsurance solutions.

"I do foresee a difficulty in replacing missing capacity (in the retro market), and the big question is: Does the alternative market provide an equivalent?" said Mr. Grupe.

If existing retro markets seek rate increases that are viewed as too high, the capital markets, which currently are an expensive alternative to traditional reinsurance, may become a more viable option, he said.

"Capital markets may play a more important role in the future. They are happy with catastrophe exposure, but they need a lead time," Mr. Grupe said, noting that a complex risk securitization transaction can take several months to complete.

Dirk Lohmann, chief executive officer of Zurich Re in Zurich, Switzerland, pointed out that it can easily take three to four months to put together a non-traditional deal, which means that many alternative products would not be able to compensate for missing retro programs overnight.

Mike Schell, managing director of St. Paul Reinsurance Co. Ltd. in London, said that, in the long term, a firmer reinsurance market will lead clients to seek other methods of handling their risks.

"All other things being equal, there'd be more clients looking to captive programs, more clients looking to handle their exposure through cat bonds or other means," Mr. Schell said.

As a result, reinsurance companies must be versatile enough to meet these needs, he said.

"What we think we need to do, as a reinsurer, is to be able to respond through whatever channel the client wants to use to manage his exposures," whether through captives and other alternative risk market methods, securitization techniques, or traditional insurance and reinsurance contracts, said Mr. Schell.

"We need to be at the front of the line in understanding ways the client can manage their exposures, and we need to have the capabilities to see the business and analyze the business, whichever way the client chooses to proceed," he said.

"In London, we have been purchasers of catastrophe bonds and sellers of catastrophe bonds. We have an obligation to our clients, and it helps our long-term viability to continue to expand our non-traditional business capabilities," Mr. Schell said.

Other reinsurers also are building on their expertise in non-traditional areas in preparation for an increase in demand.

Alternative risk transfer is "an area which we and others should be prepared for," said Henrik Haugaard Jensen, regional general manager of The Copenhagen Reinsurance Co. Ltd. in Copenhagen, Denmark.

"Not a lot of customers are asking for these products, but (demand) will increase if the market hardens," he said.

Andreas Beerli, managing director of Swiss Re Italia S.p.A. in Rome, said that clients are becoming more sophisticated and that reinsurers "have to be much closer to their clients and have more understanding of their clients."

Europeans, Mr. Beerli contends, are increasingly looking for new products. He pointed out that the Italian market is "becoming more open to new products such as securitization."

Zurich Re's Mr. Lohmann agreed that there is now an "increasing level of understanding and acceptance in European and international markets" for non-conventional reinsurance.

"There's a greater push for transparency as European companies are moving towards U.S. GAAP-type accounting, and people increasingly will look for non-traditional reinsurance to better balance their balance sheets," he said.

See **ART** *on page 36*

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ART

Continued from page 34

The risk transfer debate will heat up "if you see a hardening market," agreed Bruno Meyenhofer, chief operating officer of the global reinsurance operations of PartnerRe Ltd. in Winterthur, Switzerland.

Mr. Meyenhofer pointed out that Europeans still lag behind the United States in their acceptance of non-traditional risk transfer.

There seemed to be a considerable degree of skepticism about the long-term viability of non-traditional reinsurance—particularly securitization—on the part of European reinsurers at the meeting, though most say they have continued to expand their capability in that area.

SCOR, for example, has been debating how to access the capital markets and whether it should participate as a buyer or seller of capacity. But Mr. Osouf pointed out that "we are not, as a company, basically opportunistic. We tend to take a continuous and long-term approach. Therefore, we do not want to be too much influenced by what is the fashion of the time."

"Obviously, we can't ignore what is going on. We are clearly active in ART. We have a strong Bermudian operation with Commercial Risk Partners, which will account for close to 25% of our worldwide activity in 1999. It is largely dealing with the North American market," Mr. Osouf said.

Commercial Risk Partners Ltd. is a Hamilton, Bermuda-based SCOR subsidiary. It recently developed an operating division, Commercial Risk Capital Markets, that will focus on opportunities in the convergence of insurance and capital markets (*BI*, Sept. 21).

'I doubt whether the capital markets will ever be a true alternative (to traditional reinsurance) for normal European cedents,' says Andreas-Peter Hecker of Hannover Re.

In addition, SCOR "has started underwriting weather derivatives. We have a team in place in Bermuda which is quite active now. We are also promoting ART in Europe, and we have a team dedicated to ART in Paris, which is supporting all our marketing and underwriting units in Europe. But, so far, the market is fairly restrictive because of the competitiveness of traditional reinsurance," said Mr. Osouf.

Hannover Re also has been exploring new risk securitization opportunities, having been a pioneer among reinsurers in tapping the capital markets. At the same time, however, Deputy Chairman Andreas-Peter Hecker remains dubious about how widespread the use of such approaches will become.

"I doubt whether the capital markets will ever be a true alternative (to traditional reinsurance) for normal European cedents," he said.

"We have done some analysis and looked at securitization and have done some securitization deals on life business, and it will have some use in the catastrophe market," he said.

Erich Herrgen, a board member of Munich-based Bavarian Reinsurance Co., agreed that while "there will be more securitization in the future than in the past if the market hardens, I do not believe it will ever be a big part of the market."

Securitization deals "are too complicated," involving considerable liaison work with the financial authorities, while traditional reinsurance remains "flexible, liberal and long-term thinking," Mr. Herrgen said.

While European reinsurers have built up long-term relationships with their clients, the capital markets are "more volatile and not long-term players," he said.

Aon Re Europe's Mr. Grupe said he believes many in Europe share this view.

"Classical reinsurance markets are used to thinking long term. There's a question mark as to how stable these (alternative) markets will be. This is a fear shared by a number of our clients. They question the sustainability" of the alternative markets, said Mr. Grupe.

Michael Murray, regional director of the reinsurance brokerage operation of Willis Corroon Group Ltd. in London, pointed out that none of his European cedents was currently looking to securitize books of business.

"I think the transactional cost is just still too high, and reinsurance is a more cost-effective product. But, obviously, it's our job to watch that market very, very closely," despite the lack of activity at present, said Mr. Murray.

Leif Corinth-Hansen, chief executive officer of Copenhagen-based Danish Re Group, said he believes that alternative risk transfer products will continue to represent only a very small part of the reinsurance market.

"Some very large programs and extremely large companies will, to some extent, use ART—and more so in the future, but it will not have any major impact on the reinsurance industry for many, many years," Mr. Corinth-Hansen said.

Bernhard C. Fink, CEO of ERC Frankona Reinsurance A.G. in Munich, noted that most of the new non-traditional deals continue to have a high degree of risk transfer in order to get past the tax authorities.

"We have a strong book of business which has a significant element of long-term finance aspects, but, in the last two years, most of the new deals we have seen were deals carrying risk. The tax authorities don't let you get away with deals which are not risk transfer," Mr. Fink explained.

Nevertheless, he said, there is "no question" that reinsurance is becoming "broader and more manifold in concept. It's getting more deal-driven than the historic structures of reinsurance quota share or stop loss. I think what you see more is the tailor-made deal for the necessity of the individual company."

"Reinsurance, in that respect, is becoming far more a tool for financing an insurer, and I would not expect this to be a fad and to disappear," said Mr. Fink. BI

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Torts

Continued from page 2

youth smoking or to what effect will rising prices have on the black market for cigarettes," he said.

A noted constitutional scholar backed Sen. Hatch's position.

"What draws me to this controversy is the process—not the products—involved in the lawsuits," said Jonathan Turley, Shapiro professor of public interest law at the George Washington University Law School in Washington.

"I believe that core principles underlying our government are being eroded through the pressures of political impulse and convenience," said Mr. Turley, who later called upon lawmakers to protect their own constitutional territory.

"If we're going to return to a government by litigation rather than a government by legislation," the Constitution will become simply a "noble lie," he said.

"What's new about these cases is that it makes the state a 'super-plaintiff' " that gets paid before the alleged victims of the defendants, said Victor Schwartz, general counsel of the American Tort Reform Assn. and senior partner in the Washington law firm of Crowell & Moring L.L.P.

"Is it tort law or is it outlaw?" asked Mr. Schwartz, who said that courts sometimes change tort rules to make sure that unpopular defendants are found liable.

And the list of unpopular defendants targeted by such suits may well grow, warned another witness.

"Some in the plaintiffs' bar have been vocal in announcing additional targets for litigation—alcoholic beverages, pharmaceutical products and even auto manufacturers, to name a few," said Bruce Josten, executive vp of the U.S. Chamber of Commerce.

Mr. Josten called on lawmakers to approve the Litigation Fairness Act sponsored by Sens. Hatch and Mitch McConnell, R-Ky. No action has been taken on the bill.

"These suits are becoming the great American hoax—pulled off by conspiring governments and trial lawyers," Sen. McConnell had earlier told the committee.

"The hoax is really quite simple: The governments and trial lawyers talk about sympathetic victims, innocent children and injured people, then they twist the law to file a suit on behalf of the government—the government, not the victims. The result? The government gets bigger, the trial lawyers get richer, and the injured people get nothing," said Sen. McConnell.

Sen. McConnell cited a Yale University professor who said that there is no difference between Ronald McDonald and Joe Camel, to which the senator said, "We are now living in a world of the absurd."

But not all witnesses condemned government-sponsored lawsuits. Sen. Jack Reed, D-R.I., noted that he and Sen. Robert Torricelli, D-N.J., have introduced legislation that would give the federal government the authority to sue the lead paint industry to recover the health care costs of treating children who suffer from lead poisoning and to recoup costs stemming from the removal of lead paint from homes.

Sen. Reed also said that government-sponsored suits against the tobacco industry were the only reason cigarette makers had admitted the dangers of their products after years of claiming that tobacco presented no health risks.

Turning to lead paint, Sen. Reed said that "taxpayers have already paid over a billion dollars to deal with the tragic consequences of childhood lead exposure." He suggested that there is "compelling evidence about the activities of the lead industry, showing that it aggressively marketed its product as safe, while knowing fully of its harmful effects. . . .Because of the severity of the problem and the behavior of the industries, Sen. Torricelli and I have introduced legislation that will ensure that justice is served," Sen. Reed said.

Sen. Richard Durbin, D-Ill., also defended the practice of government-sponsored lawsuits. He pointing to civil rights, environmental protection and antitrust lawsuits as examples of how government litigation had promoted the public good.

Did these government-inspired suits affect public policy? he asked rhetorically. "Thank God they did," he said.

"The public interest must be pursued in the courts when the special interests" get their way in Congress, said Sen. Durbin. BI

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Ergo

Continued from page 2

where at least two employees performing identical tasks have suffered repetitive stress injuries within a 12-month span.

In *Art Pulaski vs. California Occupational Safety and Health Standards Board*, the California Court of Appeals, 3rd Appellate District in Sacramento combined lawsuits from both sides and weighed their arguments, while Cal-OSHA sought to defend its regulation.

Organized labor argued that the Cal-OSHA standard was weak and riddled with enough loopholes to allow employers to ignore repetitive stress injuries, according to court papers.

At the same time, some employer representatives argued the entire regulation should be invalidated because it is scientifically unsound. They also argued that Cal-OSHA's implementation procedures violated state administrative guidelines, such as a requirement that it properly assess the rule's economic impact before adoption.

The Sacramento-based California Trucking Assn., the Washington-based American Trucking Assn., and the Atlanta-based United Parcel Service of America Inc. have been the major opponents of the regulation.

Many large employers, however, did not oppose the regulation's adoption because their existing ergonomics programs found them already in compliance (*BI*, June 16, 1997). Some large employers, such as Bank of America Corp. and Pacific Bell, even endorsed Cal-OSHA's adoption of the regulation, court records show.

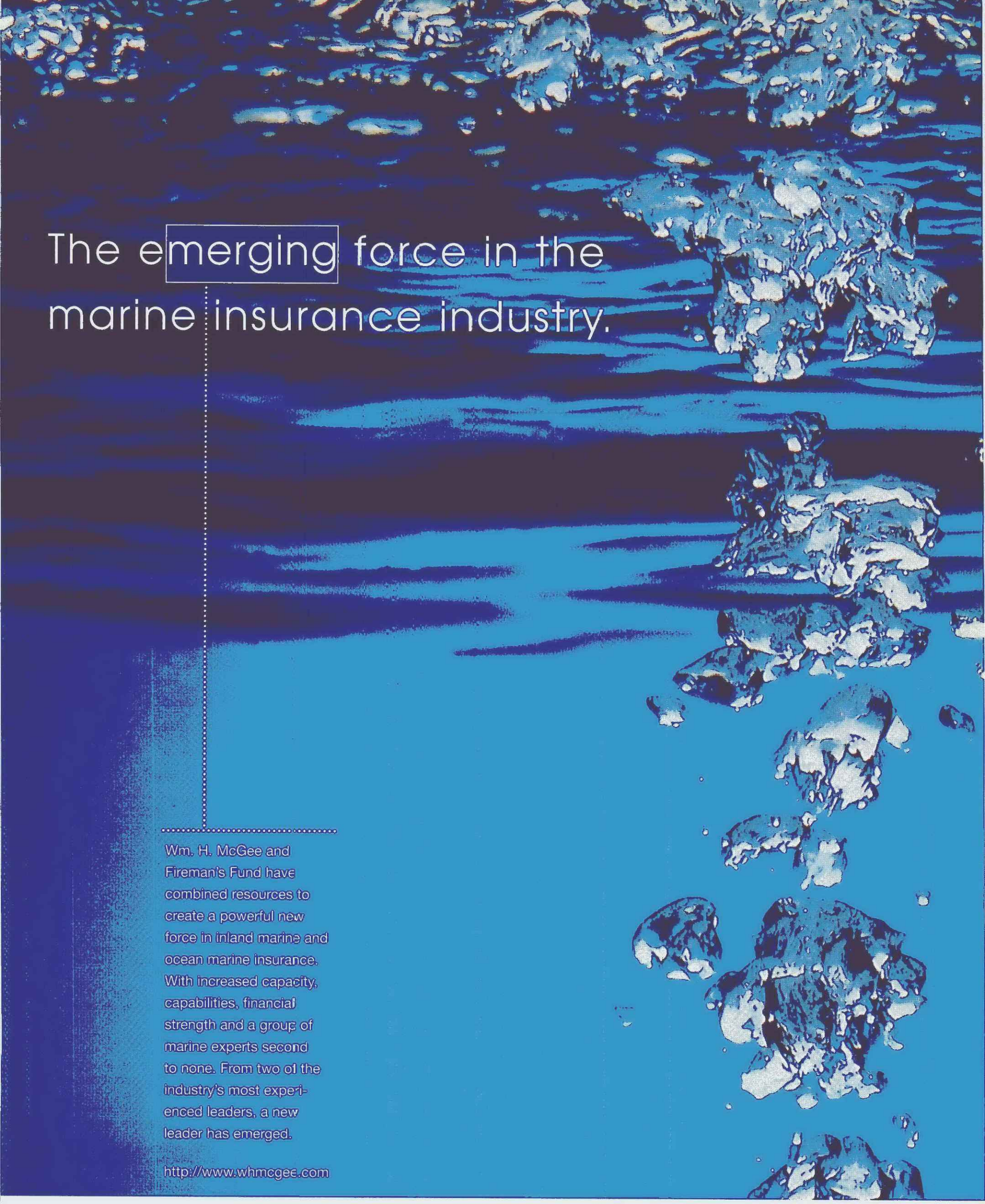
In its Oct. 29 ruling, the appeals court upheld most of the original standard as it was adopted by the state, including three provisions regarded as favorable to employers, said Julianne Broyles, director of insurance and employee relations for the California Chamber of Commerce in Sacramento.

Those provisions are:

- The injury must be predominantly caused by work activities rather than activities outside of the employee's job.
- A doctor, using objective standards, must rule that an injury was caused by work activities.
- A safe harbor for employers that adopt ergonomic remedies.

Once an employer introduces remedies, it is not required to introduce additional ergonomics measures unless "it is shown that a measure, known to but not taken by the employer, is substantially

See **Ergo** *on page 40*



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Ergo

Continued from page 38

certain to cause a greater reduction in repetitive motion injuries and that this alternative measure would not impose additional unreasonable costs."

That third provision would save employers from spending money needlessly to implement the ergonomics "remedy of the month," Ms. Broyles said.

"If we are going to be forced to have the nation's first ergonomics standard, certainly with all of the questions that surround the issue, it is right for the regulation to be a middle-of-the-road approach, not restrictive or prescriptive or dictating, 'These are the things you must do to be in compliance,' " Ms. Broyles said. "We are certainly pleased."

A spokesman for the California Trucking Assn. said the organization was still reviewing the court decision and had not met with its attorneys. He declined to comment.

The Sacramento trial court in its ruling had granted most of the relief sought by labor, records indicate, including excising the requirement that injuries be predominantly caused by work and removing the safe harbor provision.

The appellate court, however, found that the trial court "improperly invaded the rule making authority of the board" by striking its provisions.

In addition, the appeals court disagreed with employers' argument that Cal-OSHA had not assessed the rule's economic impact. The court found that the state safety board had reviewed the issue and concluded that "although precise costs figures could not be known, the costs of implementation would likely be offset by a significant amount of savings to be realized from the reduction in workers compensation and productivity costs associated with fewer repetitive motion injuries as a result of this proposal."

Labor viewed the overall outcome of the appeals court ruling as a victory, even though the court restored the provisions that labor viewed as problematic. That is because now even workers in the smallest workplaces will be subject to the ergonomics mandate.

AFL-CIO President John J. Sweeney shortly after the ruling issued a statement praising the ruling.

"The California Court of Appeals decision upholding and expanding the state's workplace ergonomics standard is a victory for working families in California and across the nation in the fight to end crippling workplace injuries," his statement said.

•

Art Pulaski vs. California Occupational Safety and Health Standards Board, Oct. 29, 1999, California Court of Appeals, 3rd Appellate District, Sacramento, Calif., No. C028525.

Pension

Continued from page 2

President Richard Thau, have a direct relevance to the ongoing controversy about cash balance pension plans and their impact on employees' benefits.

Hundreds of employers have converted to cash balance plans from their traditional final average pay plans, which often offer no other options than a monthly annuity benefit payable at retirement age and which involve benefit formulas that can be difficult for employees to understand.

Among the reasons employers have cited several reasons for converting their plans are employees' preference for plans in which benefits are expressed as visible lump sums and employees' ability to take the balances when they leave.

The Third Millennium survey reveals that benefit visibility and portability are features that employees value. For example, 64% of respondents said it was extremely important for them to be in a pension plan in which they always will know the current value of benefits they already have earned and one in which it is easy for them to project how their benefits will increase in the future.

At the same time, 75% of respondents said it was extremely important for them to take the cash value of the benefit when they change jobs.

"People like the portability offered through cash balance plans, and they like to know the value of their benefits. These are things employees appreciate," Mr. Thau said.

But many employees take a dim view of pension plan conversions that result in benefit cuts for older employees. For example, 57% of respondents agreed that it would be unfair if a pension redesign—implemented so a company could remain competitive and preserve the jobs of the current workforce—resulted in employees now in their 40s having to work to age 60 to get the same benefits that the current plan would have provided at age 55.

Such a situation can result in a cash balance plan conversion. That is because an older employee may not be quite old enough and/or not completed enough service to qualify for a certain benefit, such as an early retirement benefit that is heavily subsidized by the company. While losing out on features available in the old plan, the older employee also won't be in the new plan long enough to accrue significant benefits from that plan.

To address this problem, a few companies have given all their vested employees a choice between the old and new plans. Others will give employees within a certain number of years of retirement the right to choose between the two plans.

But sometimes this so-called transition issue can trigger an employee outcry. For example, International Business Machines Corp. initially decided to allow only employees within five years of retirement eligibility to remain in its traditional plan, which offers employees full benefits—regardless of age—after 30 years of service. All of the remaining employees at the Armonk, N.Y.-based corporation were to be shifted to the cash balance plan.

That change ignited a massive revolt of employees, chiefly among those in their 40s, who complained that the benefits they had expected to receive would have been cut between 20% and 50%. In the face of that revolt and under congressional pressure, IBM later retreated, agreeing to allow all those employees who were age 40 or older with 10 or more years of service to remain in the old plan.

The survey results and the employee revolt at IBM illustrate that "employers have a considerable challenge ahead of them if they move from traditional to cash balance plans, if the transition means reducing expected benefits for some workers," Mr. Thau said.

"Employees view pensions that have been earned and the pensions they think they will earn as just about equally inviolate," he said.

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Free copies of the "Third Millennium Cash Balance Survey" are available from the organization's World Wide Web site, www.thirdmil.org.

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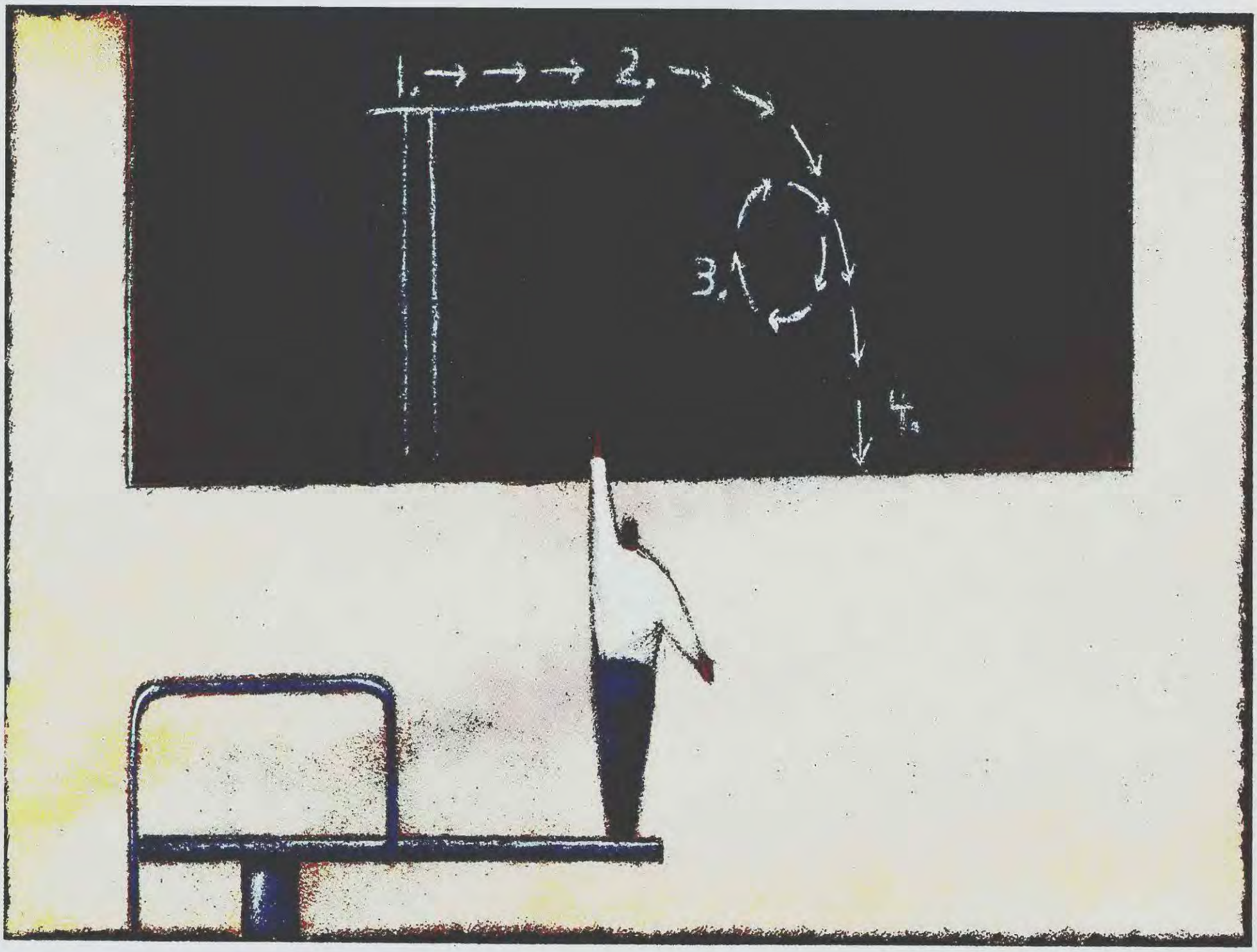

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RRGs, purchasing groups oppose Hawaii fee

By JERRY GEISEL

HONOLULU—Risk retention groups and risk purchasing groups are protesting yet another state's effort to hit them with fees that they contend are barred by federal law.

Last month, the Hawaii Insurance Division began sending out invoices for $406—due Dec. 30—to the more than 20 risk retention groups domiciled outside the state and the more than 140 purchasing groups that have policyholders in Hawaii.

The assessments are being collected to support a new "insurance regulation fund." That fund, created under legislation passed earlier this year, is to be used to defray the administrative costs of the Hawaii Insurance Division and make the Division self-sufficient.

The assessment is not imposed on Hawaii-domiciled captives, which pay other fees that are set under the state's captive statute. Commercial insurers in the state, however, must pay the fund assessment, which in their case is based on a number of factors, including market share.

Hawaii insurance regulators say state law gives them the authority to impose the assessment on RRGs and purchasing groups.

"This is the law, and we expect them to pay," said Gordon Nishiki, insurance program specialist at the Insurance Division in Honolulu.

But RRG and purchasing group advocates disagree. They say the Risk Retention Act, the federal law that created RRGs and purchasing groups, clearly pre-empts such assessments.

'This is the law, and we expect them to pay,' says Gordon Nishiki of the Hawaii Insurance Division.

A risk retention group is a special group captive that can operate nationwide after meeting the licensing requirements of at least one state. A purchasing group is simply an organization that buys insurance on a group basis from a commercial insurer.

While non-domiciliary states can impose premium taxes on RRGs or require the groups to file financial reports, they cannot directly regulate them, said Jon Harkavy, a member of the National Risk Retention Assn.'s government affairs committee.

A fee or assessment is a form of regulation, according to Mr. Harkavy, who also is vp and general counsel in the Arlington, Va., office of Risk Services L.L.C., a management company for RRGs and captives.

Purchasing group advocates note that federal law pre-empts state rules or statutes that discriminate against the groups. Because the Hawaii assessment is not imposed on other consumers, it discriminates against purchasing groups and thus violates the federal statute, they say.

Mr. Harkavy said he is hopeful that state regulators, given their knowledge of the alternative risk financing market, will rescind the assessment on RRGs and purchasing groups. Hawaii is home to more than 50 captives, he pointed out.

"Up to this point, there has been a very collegial relationship between the alternative market community and Hawaii. I would hope they would be sensitive to comments about how the Risk Retention Act pre-empts state law," Mr. Harkavy said.

The Hawaii assessment comes on the heels of charges that other states are imposing on the groups. For example, in Indiana, state insurance regulators are asking purchasing groups that have policyholders in the state to pay a $650 fee to offset the cost of a Year 2000 computer problem survey conducted for the state insurance department (*BI*, Oct. 25). In addition, Oklahoma is demanding that RRGs pay a $500 anti-fraud fee (*BI*, Oct. 18).

While individually these fees are modest, a proliferation of fees will significantly boost the groups' overhead and defeat the congressional intent in passing the Risk Retention Act, which was to give buyers of insurance a lower-cost alternative to the commercial market, Mr. Harkavy said. BI

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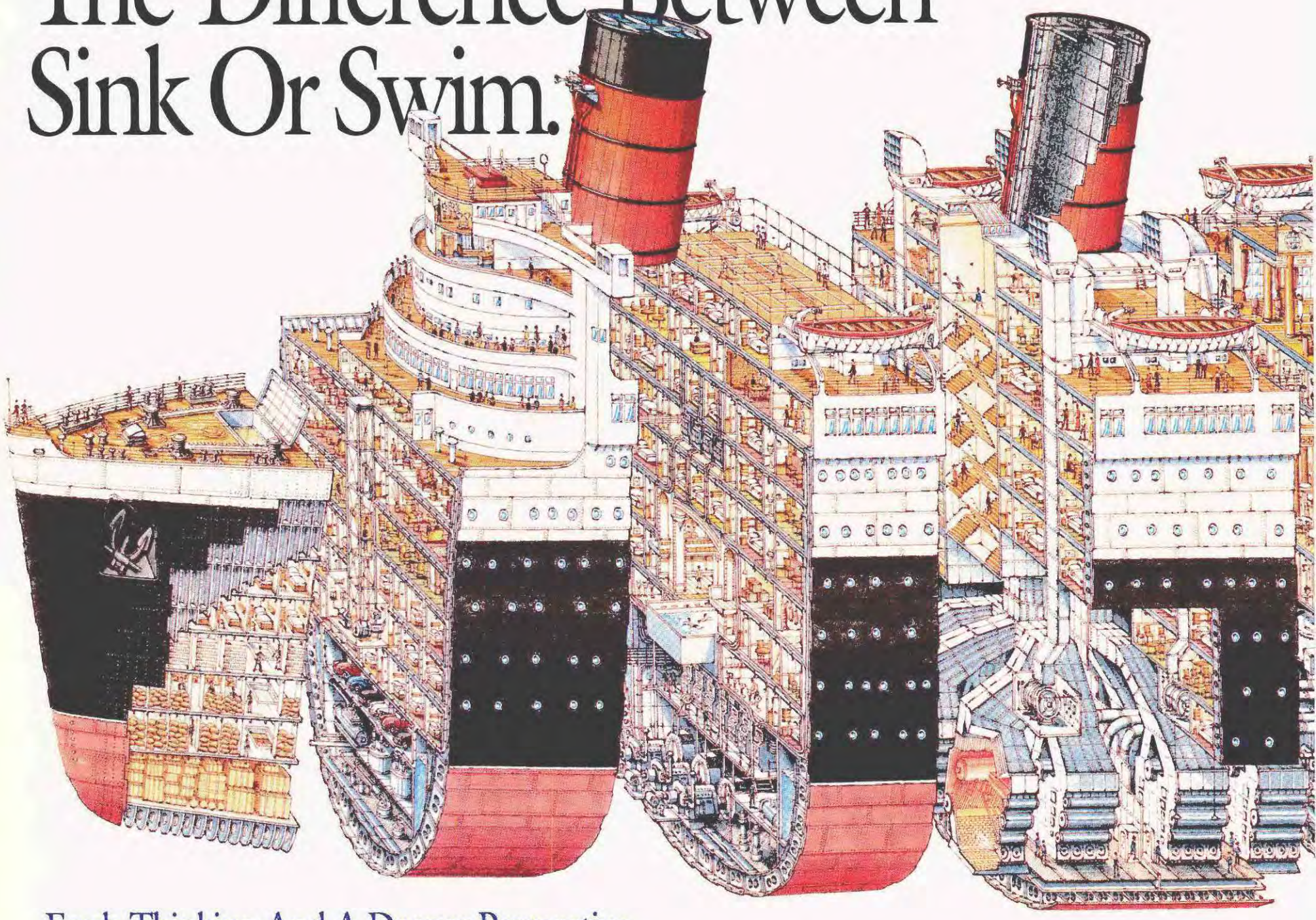

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INTERNATIONAL

Global Briefs

Gold salvaged from the **S.S. Central America,** a vessel that sank in 1857 off Virginia during a storm, will be auctioned by Sotheby's in New York on Dec. 8 and 9 on behalf of U.S. and U.K. insurers that paid claims on the ship. The gold, a mixture of bullion, coins and nuggets weighing 400 pounds, is expected to fetch up to $10 million. . . . Italian insurers **Assicurazioni Generali S.p.A.** and **Istituto Nazionale delle Assicurazioni** have agreed terms for a merger that would strengthen Generali's position as one of Europe's largest insurers. What began as a hostile takeover attempt turned into a friendly merger when INA recommended Generali's offer to its shareholders last week. If the merger is approved, INA will take over the life insurance business of the merged group. . . .**RSX, The World Insurance Portal,** has been launched to improve Internet communications between underwriters, brokers and risk consulting firms worldwide. Launching the service, Rowan Douglas, managing director of Wire, the U.K.-based provider of the Internet-based data and portal service, said it "provides the vital transparency risk managers, CFOs and brokers want, and the central distribution facilities that underwriters need". . . .Standard & Poor's Corp. has assigned its "A" long-term counterparty credit and insurer financial strength ratings to Austrian property/casualty insurer **UNIQA Sachversicherung AG.** It has assigned the same rating to **Versicherungsanstalt der österreichischen Bundesländer Vers AG.** The rating actions follow the merger of UNIQA Sach's holding company, BARC Versicherungs-Holding AG, into Bundeslander. The latter has been renamed UNIQA Versicherung AG, and its property/casualty business has been assumed by UNIQA Sach. . . .Hamilton, Bermuda-based XL Capital Ltd. has appointed **John C. Hodge** as global chief information officer. Mr. Hodge was chief information officer with NAC Re Corp., which merged with XL in June. . . .**John Mumford** has been appointed underwriter on the property casualty business at Amlin P.L.C. syndicate 2001 at Lloyd's of London. Mr. Mumford, who formerly was with syndicate 1141, replaces **David Shipley,** who has resigned. . . .Lloyd's of London insurer **Crowe Insurance Group** will write professional liability coverage beginning in 2000 on syndicate 1204. It has appointed Janet Helson and James Lewis, former professional liability underwriters with S.J.O. Catlin at Lloyd's, as underwriter and deputy underwriter, respectively. . . .**Ralph Jones III** has resigned as a director of Hiscox P.L.C. and managing director of Hiscox Insurance Co. to rejoin the Chubb Group. Beginning Nov. 15, he will assume the post of chief executive of Chubb Executive Risk Inc. in the United States. **Bronek Masojada,** group chief executive of Hiscox P.L.C., will assume the additional role of managing director of Hiscox Insurance Co. . . . Deutsche Bank A.G. **suspended its credit risk manager,** Otto Steinmetz, late last month after he filed a lawsuit in a Frankfurt labor relations court. Mr. Steinmetz charged in his suit that the bank allowed loan approvals to bypass his office. . . .London insurance broker **Bell, Clements & Doe Ltd.** has started offering professional business liability insurance for small U.S. professional firms. The coverage, written by St. Paul Reinsurance Co. Ltd. in London, covers errors and omissions, general liability, directors and officers liability, employment practices liability, and patent and copyright infringement. Limits range from $100,000 up to $2 million.

India deregulation bill introduced

By KAUMUDI MARATHE

BOMBAY, India—India's long-awaited move toward a more open market took a significant step late last month when a deregulation bill was introduced into the nation's lower house of Parliament.

The legislation had stalled earlier this year due to the collapse of India's coalition government in April (*BI*, April 26). A new majority coalition government, headed by Prime Minister Atal Behari Vajpayee, was elected earlier last month and pledged to press ahead with speedy economic reform.

The revised bill, which has been renamed the Insurance Regulatory and Development Authority Bill, would allow foreign equity investment in Indian insurers. That investment, however, would be capped at 26%, according to B.K. Chaturvedi, special secretary of insurance at the Ministry of Finance in New Delhi. In addition, it would establish a minimum capital requirement for life and property/casualty insurers of 1 billion rupees ($23.0 million), with a 2 billion rupee ($46.1 million) minimum for reinsurers, Mr. Chaturvedi said in an interview with *Business Insurance.*

While deregulating India's nationalized insurance sector, the IRDA bill permits only limited foreign investment and participation.

The Ministry of Finance estimates that the resulting direct investment would be $500 million. According to Mr. Chaturvedi, the Indian government plans to regulate and promote the sector's development through the tough solvency and deposit requirements set down in the IRDA bill.

See **IRDA** *on next page*

PHOTO: REUTERS

The new coalition government led by Prime Minister Atal Behari Vajpayee is raising hopes of Indian market reform.

Risk education sought in India

By KAUMUDI MARATHE

Deregulation of the insurance industry and risk management educational initiatives historically have been slow to develop in India, but academics and risk managers say interest is growing again.

India still lacks an indigenous, national-level certification program. It continues to rely instead on the United Kingdom's Institute of Risk Management for teaching materials and certification that is recognized in Europe and Asia.

The stall in the advancement of risk management education may be attributed to the fact that "in India, there is still no clear idea about what risk management really is," said Kamesh Goyal, manager at KPMG India's Insurance Consulting Practice in Bombay.

T. Nityananda S., assistant general manager at the Loss Prevention Association of India Ltd. in Bombay, agreed. "Most people still do not perceive the difference between insurance and risk management. This applies even to many professionals in the insurance industry," he said.

N. Subbarao, senior manager of risk services at Cholamandalam Guardian Risk Services Ltd. in Chennai, concurred. "There is no holistic understanding of risk management in India," he said. "It remains synonymous with safety."

But there are signs that this situation may be changing. Last month, the Reserve Bank of India announced it had established risk management guidelines for Indian banks. These cover the management of credit, market and operational risks.

Mr. Goyal predicted that, in India in the next year, "financial risk management mechanisms will be well in place."

Mr. Nityananda said he believe Indian students studying risk management as part of broader general business education programs can benefit by "an increased awareness about the impact of active risk management on the profitability of business, and how business growth could be furthered by using financial (risk management) tools."

According to Mr. Nityananda, there has been "no integration of financial markets and the insurance business so far, because of the nature of regulation and the near non-existence of derivative products."

Currently, no full-time risk management or insurance courses are offered in India. From 1989 to 1993, some undergraduate

See **Students** *on next page*

Insurers voice need to combat climate risks

By DON LEWIS KIRK

BONN, Germany—Frustrated by the slow pace of political action, some global insurers are taking a more active approach to tackling environmental issues.

At the Fifth United Nations Conference on Climate Change, held in Bonn, Germany, from Oct. 25 through Nov. 5, attending insurers voiced anger over European and U.S. disagreement about how to combat rising global pollution.

"We can't wait the 50 years or more for politicians to effect a change," said Andrew Dlugolecki, director of general insurance development for the London-based CGU P.L.C. "The international insurance industry confronts a drastic increase in the scope and frequency of natural disasters," he said.

Twenty-four of the last 28 major global economic disasters were caused by climate or weather-related events, insurers reported to the conference. The economic loses from these catastrophes exceeded $150 billion, with insured losses totaling $65 billion, they said. In addition, there were four times as many large-scale weather and flooding catastrophes as there were 30 years ago, and the insured losses for such catastrophes are 12 times larger.

Insurers at the conference presented a new option aimed at helping countries implement instruments to reduce global pollution—clean development mechanisms and joint implementation projects. Both instruments are part of the landmark Kyoto Protocol, which 150 countries signed in 1997. The agreement, which sets a quota of carbon dioxide emissions for each country, aims to reduce greenhouse gasses by 5% from 1990 levels by 2012.

Under the CDM credit system established by the Kyoto agreements, heavily polluting countries could

See **Climate** *on page 48*

PHOTO: AFP

Volcano forces evacuations

The Tungurahua Volcano, alongside the resort town of Banos, Ecuador, about 90 miles southeast of Quito, spewed fiery material last week, and local experts say an imminent eruption is likely.

Authorities evacuated 30,000 residents from the Banos area Oct. 16. Last week, police used tear gas to turn back some 300 residents who sought to return to their homes to retrieve belongings and feed livestock that was left behind.

Local authorities have estimated economic losses thus far at $3 million.

The largest property in the area prone to ash and lava fall from the volcano is the state-owned Agoyan hydroelectric power plant, which supplies 15% of Ecuador's total electricity. The plant, which has been closed, is believed to be insured for property damage to a limit of about $300 million with Quito-based Seguros Progreso, said Esteban Vela, technical manager at the Quito-based insurance company Seguros Equinoccial S.A.

Ecuador's large flower-cultivation industry, which is based in the mountainous areas around Quito, has also been affected by the falling ash. But insurers sell policies only for the industry's buildings and installations and not for damaged crops, said Alexandra Manosalvas, general manager of Quito-based broker Inreasig Cia Ltda., a unit of Aon Corp.

Tungurahua is one of 31 active volcanoes in Ecuador. Volcanologists say the Guagua Pichincha Volcano, just west of Quito, is also at the point of eruption. Should Guagua Pichincha erupt, Quito could suffer economic losses in the hundreds of millions of dollars. Insurance losses would likely be low, though, because less than 10% of the Ecuadoran population buys insurance.

—By Maria Kielmas

Climate

Continued from page 45

"buy" flexibility in reaching their emission targets by investing in projects in developing countries that use so-called "clean technologies," such as solar-, water- and wind-powered energy production.

Similarly, joint implementation programs offer credits for contributing to projects in other developed countries, such as those in Central and Eastern Europe. Both instruments allow for the buying and selling of emission credits.

To encourage the sale of credits, insurance industry representatives said they have been planning, with the banking industry, the creation of investment portfolios. The portfolios, dubbed Climate Value Funds or Carbon Value Funds, would spread the risk of credit default, thereby providing security for joint implementation projects.

Ivo Knoepfel, head of corporate environment management for Swiss Re in Zurich, said that, under the CVF program, companies in industrial countries would be more interested in investing in emerging or in transition countries, such as Russia or the nations of Eastern Europe.

Instead of single-project investments in, for example, energy or engineering companies, the planned CVF would spread risk among geographic areas and industries, such as technology and forestry. The comingling of many risks would, therefore, reduce the effect of a failure in any one area, said Mr. Knoepfel.

"We know some companies in the service sector are interested in marketing 'carbon-free' products or services. An airline, for example, could offer carbon-free air travel from Paris to New York. Of course, an airplane creates greenhouse gasses, but it could offset it with a credit certificate," he said.

Mr. Knoepfel said that the airline would be more inclined to purchase such a certificate if it could do so through a diversified fund, such as the proposed CVF, that would reduce the risks.

"The industry is ready to act quickly to implement many of these new mechanisms, if the right framework and signals come from government," said Jan Olaf Willums, senior vp for the Oslo-based insurance company Storebrand Insurance A/S. Mr. Willums added that agreement on CDM and JI mechanisms would give the Kyoto treaty an "incredible boost" and provide the "right signal" to the financial services sector to respond to climate-change issues.

Direct investment by insurers in clean technologies is 'a practical response while politicians haggle,' says Rolf Gerling of Gerling Group A.G.

Still, disputes among conference participants in regard to the credits are likely to continue to delay their sale. While U.S. representatives want to be able to buy unlimited pollution credits, the European Union would like to see a cap placed on the number of credits that a nation could purchase. Another disputed policy is the punishment for those countries that don't meet their pollution targets.

Rolf Gerling, supervisory board chairman of the Gerling Group A.G., said the Cologne-based industrial insurer has also stepped up direct investment into solar- and hydro-power projects in Europe. "It's a practical response while politicians haggle," he said. "It looks like it will take a major natural disaster" in a large city for political action.

Last year, Gerling set up a new company, Gerling Sustainable Development Project GmbH, to support a salt-water treatment plant in Milos, Greece, that is powered by solar energy. It also provides ecologically based loans and mortgages and has installed an "environment steering committee" to initiate and coordinate participation in international environment activities, such as those of the International Convention on Climate Change and the World Business Council for Sustainable Development.

Some insurers at the conference also discussed ways to mitigate weather-related losses.

One approach is to encourage the development and use of financial instruments, such as catastrophe bonds and weather derivatives, to reduce the financial impact of storms.

"New market-based mechanisms have the potential to restore environmental (quality) while creating new global market opportunities," said Heinrich Hugenschmidt, the head of environmental insurance risks management of the Zurich-based financial group UBS A.G.

Last year, several European insurance companies successfully introduced catastrophe bonds to financial markets, which has signaled to the insurance industry it can use these markets to expand its insurance capacity to cover natural catastrophe risks, Mr. Hugenschmidt said.

In addition to new financial instruments to mitigate catastrophes, insurer responses include catastrophe risk management, Mr. Dlugolecki said.

"Insurers have the know-how to manage catastrophe risk," he said. "In some countries, like France, government disaster funds are administrated by the private insurance industry. That sort of administration could serve as a model," he said.

Some insurers, Mr. Dlugolecki said, are thus boosting efforts to share meteorological data, as well as information on weather-based claims, that could aid in the forecasting, risk planning and claims administration for weather-related catastrophes. BI

Directory to provide benefit consultants info

Business Insurance will publish its annual Directory of Employee Benefit Consultants in the Dec. 13 issue. That issue will include a spotlight report on the employee benefits market.

The directory is published as an editorial service, and there is no charge to be listed. A company simply must submit a completed questionnaire by the extended deadline of Nov. 19.

Companies in the directory provide benefit consulting, which is defined as providing advice on benefit issues on a fee-for-service basis. This would not include health care or other claims administration, compensation, or other general consulting unrelated to benefits or brokering insurance. To be included, a company must report both its gross revenues for 1998 and an estimate for 1999.

If your company provides these services and has not received a questionnaire, please request one by calling Directory Editor Kevin Edison at 312-649-5279 or by downloading one from the *BI* World Wide Web site at www.business-insurance.com.

State rejects captive's financial backing

By WALT WILEY
Crain News Service

SACRAMENTO, Calif.—The California Integrated Waste Management Board has notified Waste Management Inc. that insurance from the company's in-house National Guaranty Insurance Co. no longer will be acceptable for closure and post-closure financial assurance at its landfills.

The board voted unanimously to adopt a resolution last month giving the Houston-based company company 60 days to provide financial assurance from a source other than its captive insurance company.

A state law allows the board to adopt regulations permitting a policy from a captive insurance company to stand as financial assurance for closure and post-closure.

But board staff recommended that the board not adopt the regulations because, even though NGIC is rated A- or "excellent" by the A.M. Best Co. insurance rating service, its financial health really is dependent upon the health of the parent company.

The staff argued that such financial backing is "circular," because the company's financial assurance is based on an insurance policy, and the insurance policy is based on the security of the parent company.

In addition, the arrangement would leave the state vulnerable because of a likelihood that any demand on the policy would come at a time when other jurisdictions across the country also are making demands, and California would have to get in line to tap into a limited amount of money being held in another state.

The board also noted that, because Waste Management officials have declared that the company intends never to file a claim against NGIC and that the policy is only for the benefit of the waste board, the policy falls under the definition of a surety bond and would have to meet the stricter state standards for such bonds.

Board staff also found that the NGIC policy is in conflict with federal law because it cannot be assigned to a subsequent owner of the landfill.

Waste Management officials hope to reopen insurance discussions with the board soon, said Chuck White, Waste Management's Western area director of regulatory affairs.

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Walt Wiley is a reporter for Waste News, a sister publication of Business Insurance.

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Datebook

NOVEMBER

NOV. 14-17. Mergers and Acquisitions in the Insurance and Financial Services Industry conference, in Southampton, Bermuda, sponsored by Strategic Research Institute; $1,595. Strategic Research Institute, 333 Seventh Ave., Ninth Floor, New York, N.Y. 10001-5004; 800-599-4950.

NOV. 14-17. Ninth World Captive and Alternative Risk Financing Forum, in Miami, sponsored by *Business Insurance*, Skandia/Sinser and Tillinghast-Towers Perrin; $975 for risk managers, $1,250 for all others. Tina Gassman, World Captive Forum, 4248 Park Glen Road, Minneapolis, Minn. 55416; 612-928-4659.

NOV. 15-16. Annual Employee Benefits Conference for Practitioners and Plan Sponsors, in Dallas, sponsored by SouthWest Benefits Assn.; $250 for members and $325 for nonmembers. SWBA, P.O. Box 781982, Dallas, Texas 75378-1982; 214-987-3271.

NOV. 15-16. Risk Securitization Conference, in New York, sponsored by IBC Conferences Inc.; $1,999 for conference and workshop. IBC USA Conferences Inc., 225 Turnpike Road, Southborough, Mass. 01772-1749; 508-481-6400.

NOV. 15-18. Annual Construction Insurance Conference, in Chicago, sponsored by the International Risk Management Institute Inc.; $1,025. IRMI, 12222 Merit Drive, Suite 1450, Dallas, Texas 75251-2276; 972-960-7693.

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

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

DECEMBER

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

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

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

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

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

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

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

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

JANUARY 2000

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

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

FEBRUARY

FEB. 2-4. Advanced Pension Conference, in Orlando, Fla., sponsored by Corbel/PPD; $725 early registration. Lesley Mauldin, 800-326-7235, ext. 1237; www.corbel.com.

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

MARCH

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

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

MARCH 15-17. Competition, Consolidation and Convergence in the Insurance and Financial Services Industry conference, in Scottsdale, Ariz., sponsored by Strategic Research Institute; $1,595. Strategic Research Institute, 333 Seventh Ave., Ninth Floor, New York, N.Y. 10001-5004; 800-599-4950.

APRIL

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

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

JUNE

JUNE 28-30. Advanced Pension Conference, in Boston, sponsored by Corbel/PPD; $725 early registration. Lesley Mauldin, www.corbel.com; 800-326-7235, ext. 1237.

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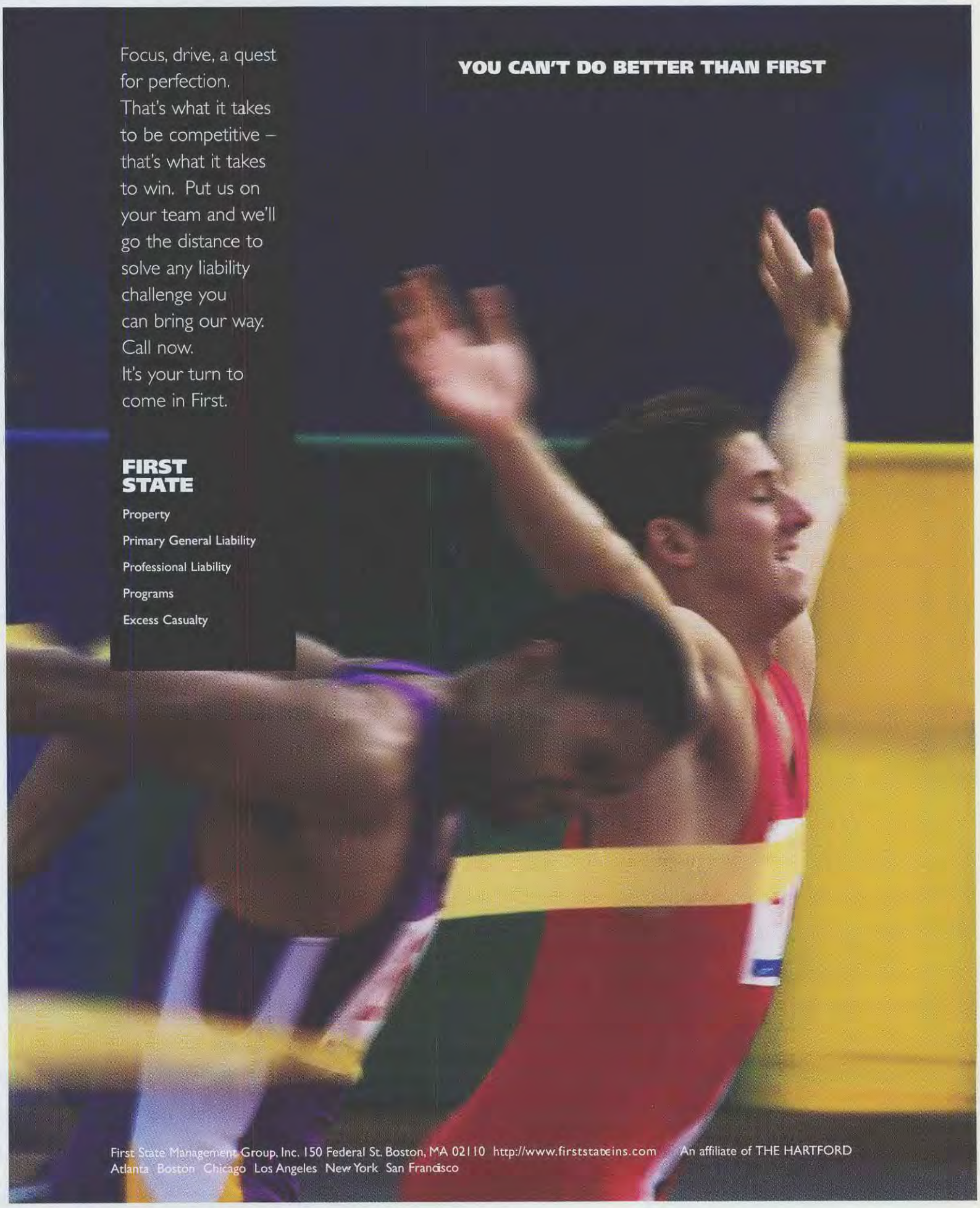
The Datebook is compiled from notices sent to Business Insurance. Notices should be sent at least eight weeks in advance to Datebook, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. Please include the cost, if any, to attend the meeting and information on registration for interested readers. Business Insurance reserves the right to select meetings of most interest to its readers and cannot guarantee that notices will be printed. Datebook listings also are available on the Internet at http://www.businessinsurance.com.



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REQUEST FOR PROPOSALS

ASSOCIATION OF WASHINGTON CITIES

Request for Proposals

The Association of Washington Cities Employee Benefit Trust is soliciting proposals from qualified consulting professionals to perform a feasibility study pertaining to the creation of a medical benefit program for eligible, retired municipal (city/town) employees from Washington State.

The AWC Employee Benefit Trust is a voluntary employee benefit association (IRC 501 (c)9) that provides medical, dental, vision, life, long-term disability, long-term care and employees assistance programs to employees and their dependents of municipalities and other quasi-municipal entities in Washington State.

Components of the feasibility study will include demographic tabulation and analysis, utilization and trending options for benefit design and corresponding fiscal impact analysis, regulatory identification and impact, inventory of other retiree programs, and other such analysis as may be determined.

Qualified consultants should demonstrate successful extensive experience in each of the above areas, as well as a working history with public sector employers.

Proposals shall include at a minimum a description of the firm, brief resume on firm principals and those having project involvement, accountability matrix, detail of previous work in the above noted areas, reference list of both municipal and private business clients, draft study design, and estimated length of project. Submissions shall include a letter of transmission and eight (8) copies of the proposal.

All submissions are due by noon on November 30, 1999, at the AWC offices, to the attention of:

Paul Chasco, Insurance Services Manager
Association of Washington Cities
1076 Franklin St. SE
Olympia, WA 98501-1346

Inquiries should be directed to Carol Wilmes or Paul Chasco at (360) 753-4137 or *carol.wilmes@awc.gen.wa.us, paul.chasco@awc.wa.us.*

REQUEST FOR PROPOSALS

REQUEST FOR PROPOSALS

The City of Champaign, Illinois, is interested in obtaining proposals for its insurance program for policies commencing April 1, 2000 and extending to April 1, 2001. Prior to distributing the request for proposals, the City wishes to identify those brokers interested in providing proposals to the City who are qualified to obtain adequate coverages or self insurance programs for the City. The City will send a Request for Proposals to all selected qualified brokers. These brokers will then be asked to submit further information, including the markets from which they wish to obtain quotes. the City will assign markets to the selected brokers in order to encourage competitive quotes from insurance companies capable of providing the coverages needed by the City.

Any insurance brokerage interested in participating in this process should contact Larry Krause, Risk Manager for the City of Champaign no later than 11:59 AM on November 19, 1999 to obtain a qualification response package.

Mr. Krause can be reached by mail at 102 N. Neil Street, Champaign, IL 61820 or by phone at (217) 351-4458 or fax at (217) 351-1784.

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LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

IN THE PETITION OF
ANTHONY JAMES MCMAHON AND
PHILIP WEDGWOOD WALLACE,
AS JOINT PROVISIONAL LIQUIDATORS
OF **SOVEREIGN MARINE & GENERAL INSURANCE COMPANY LIMITED,**
Case No. 97-B-44652(CB)

NOTICE IS HEREBY GIVEN that on October 27, 1999, the Bankruptcy Court entered an order (the "Order") continuing the Preliminary Injunction Order pursuant to 11 U.S.C. §§ 105 and 304(b) originally entered in this case on July 31, 1997. The Order shall remain in effect pending a hearing scheduled for April 14, 2000 at 2:00 p.m. before the Honorable Cornelius Blackshear, United States Bankruptcy Judge, in the Alexander Hamilton Custom House, One Bowling Green, New York, New York. Any person wishing to obtain a copy of the Order should contact Theresa D'Agostino (212) 504-6528.

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Peter T. Gilhuley
Executive Vice President & COO
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Next Issue: November 15
Closing: November 9

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Brokers' nine-month revenues increase

Special charges took a toll on Aon Corp.'s profits for the first nine months of 1999, but revenues remained strong for the world's largest publicly held brokers.

Marsh & McLennan Cos. Inc., Aon and Arthur J. Gallagher & Co. recently announced their nine-month results.

New York-based M&M reported $4.86 billion in revenues for the period—a 37.6% increase over the comparable period last year. Including investment income and revenues from M&M's investment management company, Boston-based The Putnam Co., corporatewide revenues increased 30% to $6.84 billion.

M&M's net income was up 11.3% to $679 million, which includes the $84 million charge the broker took in the second quarter. That charge primarily related to severance payments resulting from the acquisition of Sedgwick Group P.L.C. Excluding the charge, profits rose 20% for the period.

In a release, M&M pointed out that Mercer Consulting Group's results were "impressive" for the quarter and the period overall and that it is "beginning to see the positive effects of consolidation savings in our earnings, which should continue to be realized over the next 18 months."

Chicago-based Aon's brokerage and consulting revenues increased 8.8% to $3.50 billion for the first nine months. This figure includes corporate and fiduciary investment income. Corporatewide revenues, which include its underwriting operations, rose 8% to $5.19 billion.

Taking into account the $163.0 million pretax charge it took in the first quarter, Aon's nine-month profits were down 16% to $339 million. Excluding the charge, which covered certain restructuring and other costs, net income rose 10%.

In a statement, Aon said that revenue is growing in each of its business segments and that its brokerage and consulting services "made significant gains, led by strong international retail revenues and the continued strength of our reinsurance operations."

Brokerage revenues from Itasca, Ill.-based Arthur J. Gallagher & Co. rose 5.2% for the nine-month period to $417.2 million. Adding corporate investment and other income, corporatewide revenues increased 7.7% to $436.4 million.

Gallagher's profits also rose, increasing 6.4% to $49.0 million.

In a statement, the broker attributed the revenue gains to "substantial" new business production, account retention and "stringent" cost controls.

Suit alleges heterosexual partner bias

CHICAGO—An employee of the Board of Education of the City of Chicago filed a lawsuit last month challenging a denial of health insurance benefits to her opposite-sex domestic partner despite these benefits being granted to the same-sex domestic partners of Board of Education employees.

The lawsuit, which cites the 14th Amendment and the City of Chicago's Human Rights Ordinance prohibiting discrimination on the grounds "of actual or perceived heterosexuality, homosexuality or bisexuality," was brought by Milagros Irizarry individually and on behalf of other Board of Education employees with similar arrangements. Ms. Irizarry works as a school clerk at Lincoln Park High School.

The suit asks for equal benefit offerings to all employees' domestic partners and that a procedure for qualifying domestic partners for these benefits be established. No monetary award was specified.

In July, the Board of Education adopted same-sex health insurance benefits as part of a collective bargaining agreement with the local teachers' union, in addition to already providing health insurance benefits to married partners of Board employees.

"Once (the Board of Education) crossed the unmarried line, they can't draw these distinctions," said Richard P. Campbell, a senior partner at Campbell & DiVincenzo and the attorney for the plaintiff.

Board of Education General Counsel Marilyn Johnson said, "The legitimacy of this distinction is that same-sex couples cannot marry and unmarried heterosexual (couples) always have the prerogative to get married and get the benefit."

Greenberg named to advisory panel

WASHINGTON—American International Group Inc. Chairman and Chief Executive Officer Maurice R. Greenberg last week was named chairman of the Congressional Economic Leadership Institute, a bipartisan organization that educates members of Congress and their staff on a variety of issues, including trade, taxes, financial services and health care.

NAIC budget hearing changed

KANSAS CITY, Mo.—The National Assn. of Insurance Commissioners will hold a public conference call—in lieu of a hearing originally planned for Wednesday—to discuss the organization's budget for the coming year.

NAIC

The proposed budget calls for projected revenue of $46.3 million, a 4.23% increase over the current year. The NAIC also proposes spending $45.6 million, a 7.2% increase over the current year.

Many of the increased expenditures stem from reorganization of the association's Securities Valuation Office in New York. The changes to the SVO's structure and operations include instituting a wide ranging operational changes to increase efficiency, organizing the SVO professional staff into teams of specialized—rather than general—analysts and instituting a formal training program.

"Revenue increases would be only 0.8%, and the increase in expenses would be a modest 1.67% without the SVO reorganization," according to NAIC Executive Vp Catherine J. Weatherford.

The budget also calls for an average 4% salary increase next year.

Details about the conference call are available by contacting Patricia Bonanno at 816-842-3600.

Tobacco firms win warning case

SAN DIEGO—Tobacco companies can continue to sell their products in California without launching a "warning campaign" on the dangers of secondhand smoke, a San Diego judge has ruled.

San Diego Superior Court Judge Ronald S. Prager last week denied a request for a preliminary injunction that Los Angeles city attorneys had sought as part of a 1998 lawsuit against 16 tobacco companies.

The city's lawsuit charges the tobacco companies with violating California's anti-toxics law by selling their products without warnings.

Proposition 65, California's Safe Drinking Water and Toxic Enforcement Act, requires product manufacturers and distributors to warn the public if products contain any of the carcinogens on a list kept by the state.

The lawsuit was originally filed in Los Angeles Superior Court but the suit was consolidated in San Diego, where all of the California anti-tobacco suits are being heard, the state Attorney General's office said.

The Los Angeles suit, which had sought an injunction and civil penalties exceeding $2.5 billion, was the first such legal action filed by a governmental entity targeting tobacco companies on the issue of health risks posed by carcinogens and reproductive toxicants in second-hand smoke, according to the city attorney's office.

Florida jury deciding tobacco award

MIAMI—Cigarette makers are trying to convince a Florida jury that smokers knew the dangers of their habit and should not be awarded damages for their illnesses.

The damages phase of the so-called Engle case began last week in a Miami state court to determine whether representatives of the class of hundreds of thousands of Florida smokers should receive compensatory damages. If compensatory damages are awarded to the handful of plaintiffs who filed the original suit, the jury will then determine the amount of damages to be paid the remainder of the class.

In July, the Miami jury decided that tobacco makers produced a defective product that led to the smokers' illnesses (*BI*, July 12).

Meanwhile, the Florida Supreme Court, in a rare move to intercede in a case that is being tried, asked plaintiffs' lawyers to respond by Nov. 15 to the industry's argument against lump-sum damages. The Supreme Court earlier this year ruled that damages should be decided on a case-by-case basis but later vacated that ruling.

Comings & Goings: Industry

Kaye Insurance Associates Inc., the New York-based brokerage subsidiary of Kaye Group Inc., has named **Robert N. Munao** executive director of its National Benefits Practice. Previously, Mr. Munao served as president of broker Hilb, Rogal & Hamilton Co.'s KM Consulting division. . . .The National Insurance Crime Bureau has named **Robert M. Bryant**, former deputy director of the FBI, president and chief executive officer. Supported by property/casualty insurers and self-insured companies, the Palos Hills, Ill.-based NICB is a nonprofit organization that fights insurance fraud and vehicle theft. . . . The New York-based Risk & Insurance Management Society Inc. has named **Andrew Steggles** director of information systems. . . **John N. Wilson** has been named CEO of Constitution State Service Co., the Hartford, Conn.-based third-party administration subsidiary of Travelers Property Casualty Corp.

Information in Brief

ACE USA has sold the renewal rights of its middle-market California workers compensation business to Superior National Insurance Group in Calabasas, Calif. Superior National will pay ACE USA a 3% ceding fee on gross written premiums renewed from Dec. 1, 1999, to June 30, 2002. The book of business generates about $30 million in gross written premiums annually. The sale follows the announcement late last month that ACE USA had sold the renewal rights for the rest of its middle-market workers comp business to Wausau Commercial Insurance. . . .Benefit Concepts Inc., the employee benefit consulting unit of USI Insurance Services Corp. has changed its name to **USI Consulting Group**. The consulting firm will continue to focus on middle-market employers, defined as those with 100 to 10,000 employees. The company will be headquartered in Glastonbury, Conn., with seven other offices in the United States. . . .Columbia, S.C.-based Blue Cross & Blue Shield of South Carolina has acquired **Cerulean Workplace Health**, a workers compensation unit of Blue Cross & Blue Shield of Georgia's parent company, Cerulean Cos. Inc. The unit will be part of Companion Property & Casualty Group, a subsidiary of Blue Cross & Blue Shield of South Carolina that operates in 12 states. Terms of the deal, which was finalized Nov. 1, were not disclosed. BI

Captives

Continued from page 1

metropolitan area, and the growing number of high-tech companies in the area.

"There is a terrific opportunity here," said Robert H. "Skip" Myers Jr., a partner in the Washington office of law firm Morris, Manning & Martin L.L.P.

Washington also has in place the necessary infrastructure—huge numbers of accounting, actuarial and law firms—to provide the needed financial and legal services to captives.

"There is a sizable support base here," said Jon Harkavy, vp and general counsel in the Arlington, Va., office of Risk Services L.L.C., a captive and risk retention group management company.

Still, the District of Columbia could have a problem—its reputation of having a dysfunctional city government—to overcome before it would have a chance of convincing associations and employers to establish captives here.

"There has to be a comfort level that there would be a stable regulatory environment," Mr. Harkavy said.

However, since he took office on Jan. 2, Mayor Williams, a respected technocrat, has begun to streamline the city's notoriously lethargic bureaucracy and improve city services.

"Mayor Williams has placed the word that he wants Washington to be a good place to do business," said Mr. Myers, a former Washington counsel for the National Assn. of Insurance Commissioners.

Under the draft proposal, a pure or single-parent captive would have to maintain paid-in capital and surplus of at least $250,000,

'There has to be a comfort level that there would be a stable regulatory environment,' says Jon Harkavy.

while an association captive incorporated as a stock insurer would be required to maintain at least $500,000 of capital and surplus.

Sponsored captive insurers, which could maintain one or more protected cells to segregate the risks of participants, would have to maintain at least $600,000 in capital and surplus.

Premium taxes would be linked to the amount of business funded through a captive. For example, the tax would be 0.4% on the first $20 million in direct written premiums; 0.2% on the next $20 million; and 0.075% on each dollar thereafter. For reinsurance premiums, the tax would be 0.225% on the first $20 million; 0.150% on the next $20 million; and 0.025% on each dollar thereafter.

The captive application fee would be $500 and the annual license fee would be $300.

The captive's board of directors would have to meet at least once a year in the District of Columbia. The captive also would have to hire a manager that "meets the standards of competence and experience" satisfactory to the commissioner of insurance.

In addition, the captive would have to hire a certified accounting firm and employ actuaries to perform reviews and evaluations of the captive's operations.

A pure captive would have to file with the insurance commissioner its proposed investments. The commissioner would have authority to disapprove investments that could threaten, in the commissioner's judgment, the captive's solvency.

The legislation would take effect upon approval by the mayor. Congress then would have a 30-day period to review the legislation. BI

Hope to see you at the PLUS cybercafe sponsored by Kemper Professional at this year's conference in New York, Nov. 11-13.

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Commentary

Let's win one for the home team

State and local governments have been bitten by the litigation bug.

We all know about the 46 states that sued the tobacco industry for the cost of treating smoking-related illnesses and won a whopping $206 billion settlement. Having had a taste of victory, they are now hooked like heroin junkies, on the prowl for their next litigation score.

Handgun manufacturers have been another big target, with a wave of civil suits by U.S. cities seeking to recover the costs of gun-related injuries.

And Rhode Island now has set its sights on paint manufacturers, seeking to recover its costs for the removal of lead-based paint from public buildings. Even though that suit was filed only last month, the state already is looking to its next potential target: the makers of latex gloves.

What a bonanza for state and local governments when they successfully stick it to manufacturers! These winnings represent quite a windfall for the public. This is especially true since most of the expenses these suits are seeking to recover have already been paid from other sources, such as insurance payments, tax revenues and so on. The states and cities certainly didn't set aside any IOUs to taxpayers when, years ago, they removed the lead-based paint or treated gunshot victims.

So this is basically found money for the governments—and, of course, the citizens they represent. A stroke of good fortune!

Paul D. Winston

The governments can use this money for the public good any way they wish: to rebuild roads, bridges and schools; retire public debt; buy ice cream for elementary school lunches; give raises to government workers and fund their pension benefits; help offset future tax hikes or—dare I say it?—maybe actually result in tax cuts.

Hey, this litigation thing is easy money. And I want my share, don't you? So, as a taxpayer and citizen, I'm going to encourage my state attorney general to get in on the game. You know what they say about the lottery: You can't win if you don't play.

I think Rhode Island has the right idea. The key will be to identify the next lawsuit target and finance that case from the winnings of the previous suit.

If this keeps working so well, state attorneys general's offices eventually will supplant state revenue departments. After all, who needs taxes when you can make so much money for the public in the court system?

You know, not every state is like Alaska, with an abundance of natural resources that allow it to reduce or eliminate income taxes on its citizens. Other states, like mine, have to do whatever they can to ease the public burden, and litigation seems like a real winner.

When we run out of socially unpopular products, such as cigarettes, guns and latex, to go after in court, we'll have to be creative. As the states have already shown, none of these products has to be illegal; we're not trying to curb anyone's right to make a buck, after all, we just want our cut.

Some additional candidates could include cars and trucks, which, as we've known for years, cause pollution. It's time they paid for irritating our eyes and lungs. Some people are allergic to nuts, and while people could simply avoid eating them, the latex glove case shows that states should make companies pay for producing foods or products that cause allergic reactions. I'm sure states would sue beekeepers, too, if their pockets were deep enough. Breweries, wineries and distilleries can't be far behind. Consumption of alcohol causes some people to lose their wits and harm themselves and others.

State and local governments are limited only by their imaginations and their greed.

Some bellyachers are sure to gripe that litigation is bad for business. But that's probably because they live in states that haven't had any big court victories lately. They haven't gotten their share of the lucre.

They are sure to raise those tired old complaints that litigation raises the costs of producing goods, increases insurance costs and forces companies out of business. That means lost jobs, lost product innovation and research and higher prices, blah, blah, bah. I can just hear it.

But I've got an idea for states that would win over these naysayers, as well as citizens and businesses in their jurisdiction: sue only companies located in other states.

There already are lots of bases for rivalry between the states, including friendly competition to attract companies, win jobs and retain residents. Litigation is just one more way to vie with other states and raise the quality of life within a state's borders.

If your state is kicking butt compared with other states, it can be a strong source of civic pride, better even than college football bowl game victories. Go team! Get out there and score some cash!

Editor Paul D. Winston's commentary appears fortnightly. He can be reached at pwinston@crain.com

Quality

Continued from page 1

ennial basis rather than annually, confirmed Roger Andrews, first vp of RIMS and director of risk management at E.D. Bullard Co. in Cynthiana, Ky. Therefore, the cost to RIMS for producing the Scorecard will likely not increase, he said.

The next survey is expected to be released at RIMS' annual conference in 2001, Mr. Andrews said.

The end of the QIC is regrettable, said Richard M. Inserra, assistant treasurer-risk management, at Union Carbide Corp. in Danbury, Conn. The organization helped make the issue of quality a major discussion point, he said.

But risk managers themselves now need to continue to press for quality service from insurers and brokers and be prepared to move their business if necessary, Mr. Inserra said.

"If you know what you are looking for. . .there are many more brokers available to you," he said.

Underwriters and brokers will improve service if pressed by risk managers, and in the current soft market, risk managers have increased leverage over insurers and brokers who are hungry for business, said Stephen M. Wilder, vp-risk management at the Walt Disney Co. in Burbank, Calif., and president of the QIC.

For example, Mr. Wilder recently told an insurer that Disney would not pay its insurance premium until it had received an accurate policy, and the insurer accepted the condition, he said.

The QIC helped raise the issue of quality service in insurance; risk managers now need to build on that foundation, said Mr. Wilder, who voted against dissolving the QIC.

The insurers that have undertaken quality initiatives as a result of the Scorecards will be able to differentiate themselves from their competition, he said.

But the Scorecard also drew opposition from some risk managers, who said ti did not reflect their own experience with the same companies.

While the Scorecard results may have reflected some general views on insurers and brokers, they did not reflect his personal experience with the insurers and brokers examined, said David Hennes, director of risk management at The Toro Co. in Minneapolis.

For example, Toro's brokerage, Marsh Inc., received middling ratings in both years' surveys. "But I'll tell you, the local people we have here in Minneapolis are just top notch," Mr. Hennes said.

Risk managers should be able to assess the competence of their local insurers and brokers without using the survey, he said.

"Just by being active in RIMS and the local insurance community, I have developed a broad enough network to pretty well know the underwriters I want to do business with," Mr. Hennes said.

The Scorecard's national snapshot of insurers and brokers was of little use in rating local offices, agreed Gary A. Baxter, director of insurance at Weyerhaeuser Inc. in Tacoma, Wash.

In addition, risk managers in the same regions involved in the same industries may have differing views of the same insurers and brokers, depending on their own risk profile, their own demands and the different account representatives they deal with, he said.

"So I'm not that disappointed that it has gone," Mr. Baxter said.

But there was some validity to the QIC's view that the insurance industry provides poor service, he said.

For example, especially in the past two years, insurers have been extremely slow about delivering policies to risk managers, Mr. Baxter said.

"If you get it in six months, that is a breakthrough," he said. BI

Privacy

Continued from page 1

visions of patient confidentiality bills that currently are stalled in Congress (*BI*, Oct. 25).

The failure of Congress to act on privacy rules by an August deadline triggered the HHS to draft the first-ever set of national standards that would protect the privacy of individuals' personal health records. The congressional deadline was set under the Health Insurance Portability and Accountability Act of 1996.

According to the act's rigid timetable, publication of the HHS proposals in the Federal Register, which occurred last Wednesday, triggers a 60-day comment period. After the comment period ends, the HHS secretary must issue final regulations about seven weeks later—by Feb. 21, 2000—though they would not go into effect for another two years.

The proposals are being debated amid growing concern about the confidentiality of individuals' medical records, especially due to enhanced computer capabilities that expand the potential for unauthorized persons to gain access to patients' medical information, said Gail Shearer, director of health policy analysis for Consumers Union.

Proponents of privacy guidelines fear that with such restrictions the information may be used inappropriately, such as by denying job opportunities to patients due to a medical condition, said Jim Ellenberger, assistant director for the AFL-CIO's Department of Occupational Safety and Health in Washington.

"The privacy of Americans is protected in their bank transactions, their credit card statements and even their video rentals," but not their medical records until these regulations were proposed, HHS Secretary Donna E. Shalala said in a statement.

Key elements of the HHS draft standards would:

- Give patients the right to see their individual medical records, to request corrections to their records and to obtain documentation of disclosures of their health information.
- Impose new security and documentation responsibilities on organizations that control patients' health information and create new civil and criminal penalties for violators of up to $250,000 in fines and 10 years in prison.
- Bar employers that also provide health care coverage from using information for non-health purposes, such as hiring, firing or determining promotions.
- Bar insurers from using policyholder information to underwrite products, such as life insurance.
- Impose new standards on researchers and public health workers on the use of individual medical information.

The proposed HHS regulations are designed "to enhance the protections afforded by many existing state laws. In circumstances where the federal rules and state laws are in conflict, the stronger privacy protections would prevail," according to an HHS summary of the regulations.

Some employer representatives question whether the rules will hurt their efforts to manage workers comp and group health claims.

"The regulatory scheme, as proposed, would lead to a very disjointed approach to patient confidentiality," especially in how they would apply to integrated disability management programs, which combine management of occupational and non-occupational disability claims, said Ticia Gerber, manager of public policy for the Washington Business Group on Health, an employer coalition of Fortune 500 companies.

"The business community supports sensible controls, but the jury is still out on whether the HHS regulations satisfy that test, in the general sense," said Eric J. Oxfeld, president of UWC Inc. in Washington, a national business association that lobbies on workers compensation and unemployment issues.

As to whether the proposed regulations would apply to workers comp care, "there is confusion among legislative analysts," said Vince Sampson, the UWC's associate legislative counsel.

As of last week, analysts who believed the proposed regulations adequately excluded workers comp included Ken Schloman, Washington counsel of the Alliance of American Insurers, and Alan Mertz, executive vp of the Healthcare Leadership Council.

But others say that workers comp may not be exempt from the rules.

The HHS tried to address employers' concerns about preserving the free flow of medical information for workers comp claimants, but the actual regulations contain "serious flaws," according to the UWC's Mr. Oxfeld.

For example, he said, the HHS proposals seek to exempt from the regulations the release of medical information "mandated" by state workers comp laws. In most states, though, the authority for release of such information does not have the status of a mandate because it is implicit and not explicit, he said.

Another potential problem is that health care providers might still be subject to HHS patient confidentiality regulations, which could mean that a patient with a job-related injury or illness may still have to provide explicit authorization for the release of medical records, Mr. Oxfeld said. That prior approval could make the current workers comp system "unworkable," and unnecessarily delay claims payments and increase both litigation and costs for employers and workers alike, he said.

Even if workers comp is fully exempted from the HHS rules, "it's going to be very difficult convincing providers that workers compensation medical information can be released without specific patient authorization," said Billie Fae Fuschi, federal task force leader for the external affairs team of the Risk & Insurance Management Society Inc., and director of risk management or Methodist Healthcare in Memphis.

Having separate release standards for occupational and non-occupational injuries would put physicians in an "untenable" position, agreed the AFL-CIO's Mr. Ellenberger.

Overall, "I know that I don't like what I have seen," said Neil Trautwein, director of employment policy for the National Assn. of Manufacturers in Washington.

The HHS drafters "are sneaky/clever in the way they have gone about developing facets of this proposed regulation. . .it seems to us they have gone well beyond the scope of their charge," and swept in a lot more than the HIPAA law confined them to, he said.

One example Mr. Trautwein cited was the regulations' inclusion of employers as "business partners of covered entities," which may restrict employer access to their employees' information.

RIMS' leaders have begun reviewing the proposed regulations in detail and the society expects to voice its views on them during the HHS' comment period, said Ms. Fuschi. BI

EgyptAir

Continued from page 1

Shortly after taking off for Cairo, Egypt, the jet reached a cruising altitude of 33,000 feet. The pilots radioed air traffic controllers at 1:47 a.m. that the flight was proceeding routinely, according to the National Transportation Safety Board, which is leading the crash investigation at the Egyptian government's request.

That was the pilots' last radio transmission.

Beginning at about 1:50 a.m., radar tracked the jet's distressed flight for about two and a half minutes, according to the NTSB. The jet plummeted to 16,700 feet in 40 seconds, recovered and climbed to 24,000 feet, and then dove to 10,000 feet.

The jet disappeared from radar at that point, an NTSB spokeswoman said. She said the agency is unable to say definitively whether the jet was intact when it last appeared on radar, but radar indicates the jet may have been breaking up at that point.

The jet had logged more than 30,000 flight hours over the course of more than 6,900 flights, according to the Boeing Co. of Seattle, Wash.

The last few pilot teams who flew the jet reported to the NTSB that the thrust reverser on one of the jet's Pratt & Whitney 4000 turbofan engines was inoperative, according to NTSB Chairman Jim Hall. Flying the jet with an inoperative thrust reverser is approved under the jet's minimum equipment list, Mr. Hall said.

Pilots engage thrust reversers after landing to help brake planes.

A thrust reverser that activated during flight caused another Boeing 767 to crash in Thailand in 1991, but the NTSB is not blaming the inoperative reverser for the EgyptAir crash.

One pilot also reported that an air conditioning warning light in the cockpit had flickered occasionally in the past month but that maintenance examinations had not detected any system problems, Mr. Hall said.

He said the NTSB would investigate those issues.

Late last week, the NTSB was attempting to recover the jet's cockpit voice recorder and flight data recorder, which investigators hope will tell them what went wrong with the flight.

Boeing last week also announced that a cockpit condensation control shield failed an FAA flammability resistance test. But the company stressed that the problem, common to many Boeing models—including the 767—has not been linked to any accident or in-flight incident.

Of the 217 people aboard Flight 990, 103 were U.S. citizens, a U.S. State Department spokesman said. Citizens of Chile, Egypt, Sudan and Syria also were aboard, according to the State Department.

EgyptAir is a signatory to the International Air Transport Assn.'s agreement that waives restrictions on airline liability to passengers harmed on international flights.

Under the IATA agreement, airlines are strictly liable for 100,000 Special Drawing Rights ($138,330) per passenger. Airlines also may be liable for unlimited damages beyond that amount unless they can prove either that they were not negligent or that a third party was at fault.

EgyptAir has $1.25 billion of liability coverage, according to market sources.

The hull loss has been valued at $53 million.

EgyptAir's hull and liability insurance coverage is written by Giza, Egypt-based Misr Insurance Co. SAE, which almost fully reinsures the coverage with aviation markets worldwide, according to market sources.

The reinsurance is led by Paris-based La Reunion Aerienne, with the London market's participation led by British Aviation Insurance Group, the sources said. ERC Frankona Reinsurance A.G., the Munich, Germany-based subsidiary of Employers Reinsurance Corp., is among the other world markets that participate on the risk, sources said.

London-based Willis Corroon Group Ltd. placed the coverage.

Market sources said that EgyptAir, which renews its coverage on Nov. 16, had received its renewal quotes before the crash but had not signed off on the coverage. The sources said the market will re-quote EgyptAir's coverage to account for the crash and will impose a significant rate hike.

Some sources said EgyptAir now will face a 300% premium hike. That would boost the airline's premium to about $10.8 million from $2.7 million, according to sources. Last year, EgyptAir negotiated a 25% premium decrease from $3.6 million, according to one source.

EgyptAir could reduce its insurance costs by joining an airline consortium, a market executive observed.

One consortium—the Gulf Co-operation Council—renews its coverage this month, according to another source.

Premium hikes for some airlines with poor loss records have amounted to 50% to 100%, says Simon Clapham.

Even before the crash, the commercial airlines insurance market was heading for its second consecutive unprofitable year, market executives agreed.

For 1999, Willis estimates losses to date at $1.4 billion and premium volume at $900 million. Last year, the market's $1.8 billion of losses was double the premium volume it generated, according to Willis.

The $1.4 billion of net losses over the past two years is nearly double the $706 million in net premium gains the market generated overall during 1996 and 1997, according to Willis.

Steven Doyle, associate director of Aon Group Ltd. in London, estimated that premium volume through October totaled $612 million. Even with minor rate fluctuations, overall premium volume has increased 13% so far this year.

Even including the EgyptAir crash, passenger fatalities are markedly lower this year compared with the same period in 1998, according to Airclaims Ltd. of London. EgyptAir's passenger death toll of 202 accounts for nearly three-fourths of the 276 commercial airline passengers killed this year. At this time last year, 715 passengers had been killed.

But the value of hull losses is greater this year, according to Airclaims. In 1999, 20 known total losses of Western-built jets have been valued at $618 million. The value of major partial losses boost the hull loss figure to as much as $875 million, according to Airclaims.

In 1998, 21 total losses were valued at $517 million. That figure climbed to $758 million when the value of major partial losses was included, according to Airclaims.

While the commercial airline hull and liability market in 1999 has not been as soft as it was last year, most airlines with good experience have been able to negotiate improved rates and terms for much of the year.

Loss-free airlines have been able to negotiate flat premiums even if their exposures grew, concurred Aon's Mr. Doyle and Nigel Weyman, managing director of Heath Aviation, Marine & Energy, a division of Heath Group P.L.C. of London.

Underwriters continue to look for improved market share while also competing with new underwriters in the market, explained Joe Trotti, vp-airlines and major manufacturers for ACE USA in Philadelphia.

Market executives estimated that market capacity ranges from 150% to 250% of buyer demand.

Underwriters have hit airlines with shrinking exposures, though, with small rate hikes to maintain premium volume levels, observed Mr. Doyle.

Airlines with poor loss records typically faced significant rate hikes, Mr. Weyman said.

Mr. Trotti said that rate hikes for those risks varied considerably but averaged around 30%.

The premium hikes for some airlines with poor loss records have amounted to 50% to 100%, said Simon Clapham, underwriter for Wren Aerospace-Syndicate 800 at Lloyd's. "But the whole thing is still so underpriced," he added.

Through October, rates for the year were, on average, 4% lower for hull coverage and 2% higher for liability coverage, according to Mr. Doyle.

Because of the EgyptAir crash, underwriters likely will be tougher negotiators with airlines for the remainder of the year-end renewal season, Mr. Weyman said.

But, that probably will mean freezing—rather than hiking—rates, he said. He also predicted that following markets will be more successful in narrowing the gap between their rates and the higher rates that lead markets can impose.

Generally, underwriters probably will negotiate with airlines based on their individual loss records, Mr. Trotti predicted.

Mr. Clapham agreed. He said that not even underwriters' recognition that they are underpricing the coverage can generate enough market pressure to boost rates to adequate levels.

The lack of reinsurance cost pressure on underwriters and their desire to maintain their share of the commercial airlines insurance market primarily will influence underwriters, market executives agreed. Many underwriters do not face any reinsurance cost pressure because they are in the middle of multiyear reinsurance programs, market executives explained.

Underwriters, however, may be less willing to agree to write multiyear policies for airlines, some market executives said.

Those policies, however, make sense in some cases because they help stabilize the market for both the buyer and the underwriter, said Harold Clark, chairman and chief executive officer of New York-based U.S. Aviation Underwriters Inc. USAUI is the management company of aviation underwriting pool U.S. Aircraft Insurance Group. USAIG underwrites only U.S. aircraft.

Commercial airline underwriters will begin trying to recover from their losses first in 2000 and 2001, some market executives predicted.

The EgyptAir loss, coupled with the tough renewals that other airlines with losses have endured this fall, "give the market a feeling of power that it may improve its lot," Heath's Mr. Weyman said.

Mr. Clark also noted that while underwriters do not face reinsurance cost pressures now, they probably will face greater reinsurance costs when their programs renew next year.

The reinsurance market for commercial airline underwriters also is shrinking due to withdrawals, consolidations and bankruptcies, Mr. Weyman said.

He predicted rate hikes of 10% to 20% next year and a hard market in 2001, when rate increases could range from 30% to 50%.

"It's moving. It's turning," said Andre Clerc, general manager of La Reunion. "We're at the bottom end of the cycle." BI

Updates

PacifiCare announces changes

Continued from page 2

PacifiCare also announced last week that President and Chief Operating Officer Jeff Folick will step down and become an executive vp. Mr. Folick, 52, "said on his own that he would like to ultimately phase out of the company and retire," Mr. Erickson said.

As a result, Chairman Alan Hoops will step down and resume the role of president, while still continuing as chief executive officer. David A. Reed, who has served as a board director, will become chairman. Mr. Erickson said this represents a return to the structure PacifiCare had until about a year ago, in which the chairman is separate from management.

Meanwhile, PacifiCare also announced last week that it is buying Harris Methodist Health Plan from Irving, Texas-based Texas Health Resources. PacifiCare will pay more than $100 million for the HMO, Mr. Erickson said. The company said the acquisition will add about 300,000 HMO members to PacifiCare of Texas, boosting its total HMO membership in the state to about 500,000.

Crane new Stirling Cooke CEO

HAMILTON, Bermuda—Embattled broker Stirling Cooke Brown Holdings Ltd. has hired Stephen A. Crane as its new chief executive officer and halted a review of "strategic alternatives" that included a possible sale of the company.

The broker earlier this year hired Donaldson, Lufkin & Jenrette Securities Corp. to evaluate its options but decided that it made more sense to try turning the company around than selling at the low price to which its stock has fallen this year, Mr. Crane said. He said he believed Stirling Cooke had received "indications of interest" from possible buyers but nothing that approached a firm offer.

Stirling Cooke's shares dropped to less than $3 as of last week from nearly $20 in January, as it has fought a racketeering lawsuit and other disputes related to its handling of workers compensation reinsurance business. While acknowledging that the broker's reputation has been "tarnished" by the disputes, Mr. Crane said that Stirling Cooke still has a "strong franchise" in the workers comp market and a well-structured distribution system.

Mr. Crane was president and CEO of Gryphon Holdings Inc. for five years until its acquisition by Markel Corp. in January. He previously was chief financial officer of Corroon & Black Corp. and later president and CEO of Willis Corroon Corp.'s reinsurance brokerage group.

He replaces Stirling Cooke interim CEO Len Quick, who will reassume his previous role as chief operating officer.

Patient rights bill maneuvering

WASHINGTON—Action taken last week by the House Republican leadership decreases the likelihood that Congress will soon agree on legislation that would significantly expand the right of patients to recover damages from health plans and employers.

Of the 13 Republican members the House Republican leadership named to a conference committee to try to work out a compromise managed care reform bill with Senate conferees, only one—Rep. Michael Bilirakis, R-Fla.,—voted for the Norwood-Dingell measure that cleared the House last month. The eight Democratic conferees all voted for the bill.

The Norwood-Dingell bill, staunchly opposed by health plans and business groups, would allow patients with coverage disputes to sue plans and, in some cases, employers for damages allowed under state law. The Employee Retirement Income Security Act now limits damages to actual loss, such as the cost of a medical procedure.

Senate conferees, who were named last month, include seven Republicans who support the Senate-passed bill, which does not give patients new rights to sue, and five Democrats who favor the House approach to expand liability.

The conference committee will not begin meeting until next year.

Briefly noted

President Clinton is expected to sign **financial services modernization legislation** that won approval from both the House and the Senate last week. The measure would lower legal barriers that keep insurers, banks and securities firms separate (*BI*, Nov. 1). . . .Woodland Hills, Calif.- based **Foundation Health Systems Inc.**, the nation's fourth-largest publicly traded HMO, said it has completed the sale of subsidiary Intergroup of Utah Inc., an HMO with about 5,000 enrollees, to Altius Health Plans Inc., a Utah-based managed care company. Terms were not disclosed. . . .The **Pension Benefit Guaranty Corp.** will guarantee up to $38,659.08 in annual benefits to individual participants in underfunded pension plans that terminate in 2000 and are taken over by the agency. That's up from the 1999 maximum benefit guarantee of $36,613.68. . . .**Sen. Robert Smith**, R-N.H.—a proponent of Superfund reform—has been named chairman of the Senate Environment & Public Works Committee. Sen. Smith succeeds Sen. John Chafee, R- R.I., who died last month. . . .U.K.-based broker **Lambert Fenchurch Group P.L.C.** said last week in a statement to the London Stock Exchange that it has been approached about a possible merger. CEO David Margrett previously said he would consider any complementary linkup, but the company would not comment on the latest announcement. . . .Schaumburg, Ill.-based Zurich U.S. has appointed **J. Peter Connors** president and CEO of Zurich U.S. Energy and Zurich Global Energy. Mr. Connors, who will be based in New York, previously was with American International Group Inc., where he was senior vp of the AIU Energy Division. . . .CGU P.L.C. will become the second-biggest property/casualty insurer in Ireland following an agreement to acquire Dublin-based **Hibernian Group P.L.C.** Under the deal, which values Hibernian at 413 million Irish pounds ($544 million), CGU will acquire the 72% of Hibernian it does not already own. CGU plans to retain the Hibernian name. . . . San Francisco-based wholesale broker **Tri-City Brokerage Inc.** has completed its merger with Ulico Insurance Group, a subsidiary of Washington-based ULLICO Inc. (*BI*, Oct. 4). The merger was effective Oct. 29. The purchase price was not disclosed.

Program tackles operational risk

FMR Corp. crafts blended high-limit coverage

By RODD ZOLKOS

BOSTON—A new insurance program crafted by FMR Corp. with Swiss Re New Markets Corp. provides FMR with "major limits" on a catastrophe program that includes coverage for operational risks the company faces.

The new policy represents the evolution of a 3-year-old program that FMR, better known as Fidelity Investments, structured using a combination of conventional and finite risk insurance to blend the company's financial risks with traditional risks.

"The structured financial program that we had before has been expanded," said Judy Lindenmayer, vp of Fidelity insurance and risk management at the Boston-based investment management company. "And on top of that are two true risk transfer layers."

"We didn't just roll over the old program," Ms. Lindenmayer said. "This program is broader as well as deeper."

"At the end of the day, what they're really achieving. . .it's really looking at risk on an enterprisewide basis," said Brian M. Kawamoto, a director at Swiss Re New Markets in New York.

Mr. Kawamoto said that the new three-year program includes coverage of "risks associated and the procedures associated with the core business of the operation," such as losses resulting from human errors due to a breach of control or inadequate control, or losses due to systems failures.

"Some of these things are just unheard of," Ms. Lindenmayer said, noting that, among other things, the program addresses such exposures as counterparty risk and rogue trading risk. "You name it, we have it," said Ms. Lindenmayer, who is a former *Business Insurance* Risk Manager of the Year.

In addition to providing Fidelity with expanded operational risk coverage, the new program also dramatically increases the limits available to the company.

She would describe the limits only as "big."

Thomas Wronski, director of insurance and risk management at FMR, said the new program's limits are two and one-half times those of the program it replaces.

"When you really look at the way the program's evolved. . .with some of the towers that we've essentially built, there are some very large limits that we have today," Mr. Wronski said.

"That's a very substantial increase, because it wasn't small before," Mr. Kawamoto said.

"Swiss Re has been known to make large bets," he said. "I think this is characteristic of our heritage. And it has a lot to do with the comfort level our underwriting team had with the people at FMR."

A key element of the Financial Institutions Operational Risk Insurance—or FIORI—policy crafted for Fidelity is an accelerated payment provision in the event of a loss.

"And that's tantamount to having a liquidity facility," Mr. Kawamoto said. "This is one really critical feature that allows FMR to know they have another capital management tool in the event something goes wrong."

'What they're really achieving. . .it's really looking at risk on an enterprisewide basis,' says Swiss Re New Markets' Brian M. Kawamoto.

"That's a big plus," Ms. Lindenmayer said.

Another benefit to Fidelity is that the program frees up capital the company otherwise would have needed to hold in reserve against some of the operating exposures now covered in the FIORI policy.

In terms of the coverage's pricing, Mr. Kawamoto noted the difficulty of pricing low-frequency/high-severity exposures such as the operating risks the new Fidelity program addresses.

"How do you price that?" he asked. "I can only conclude that, since we had a buyer and a seller, the transaction met everyone's objectives."

In addition to Swiss Re, which is "at the top" of the new program, according to Ms. Lindenmayer, American International Group Inc. and XL America Inc. also are participating in the coverage.

"Not everyone is on similar policy forms. But the spirit of the transaction is that, for the major risks, everyone is covering them," Mr. Kawamoto said.

The new program definitely builds on the experience Fidelity gained in crafting its previous three-year structured financial insurance program, as well as developments in the market during the past three years, those involved in the transaction said.

In implementing the prior program, "we said this was really kind of a work in progress, so, as that particular program turned out to be a successful program, we decided that, probably over the last three years, underwriters have learned something and we have learned something," Ms. Lindenmayer said.

"When I think where we were three years ago, as opposed to where we are now, there are more options for transferring that risk," Mr. Wronski said, adding that Fidelity's program will continue to evolve as additional risk transfer options become available.

Mr. Kawamoto, who worked with Fidelity on the earlier program while with Aon Risk Services Cos. Inc., said that what was learned in crafting the earlier program and in the time since played an important role in assembling the new coverage.

"Being part of the previous three-year program, albeit in a slightly different role, and part of the process today, the educational aspect was significant," he said.

While the earlier program took approximately 18 months to assemble, the "earnest work" on the new one took only four, following one earlier "false start," Mr. Kawamoto said.

"The reality is, when I joined Swiss Re 18 months ago, Judy and I made an attempt inside Swiss Re at looking at something similar to this," he said.

Ms. Lindenmayer emphasized the importance of support within the organization in undertaking such an ambitious program, and she credited Michael Fox, FMR's senior vp and treasurer, with backing the effort to develop an insurance program covering operational risk.

"It's important, throughout this, that you have a boss that understands this and is supportive," she said. "And, in my case, he is."

The Fidelity risk manager also cited the work of Kelly Reyher, a director at SRNM, who crafted the policy's wording.

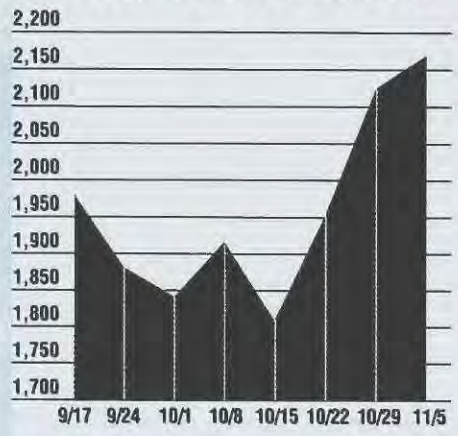
Ms. Lindenmayer and Messrs. Wronski and Kawamoto agreed that an insurance program such as Fidelity's truly becomes a partnership between the insurer and insured.

"These things don't come about without the vision of pioneering people like Tom and Judy," Mr. Kawamoto said. "We help effect that. . .but it ultimately has to start with someone else who has the vision."

"When you're doing a risk assessment for some very large limits, there has to be that vision on both sides," Mr. Wronski said.

And, Mr. Kawamoto noted, "At this level, it's heavily reputational risk on both sides." BI

BI Insurance Index



Source: *CNET Investor* (investor.cnet.com) Boulder, Colo.

PCS catastrophe options

As of Nov. 5

Call spread	Price bid/ask
National Annual 1999	
60/80	14.0/19.5
80/100	1.2/—
100/120	0.3/—
150C	0.2/2.0
Southeast December 1999	
40/60	—/1.8
60/80	—/1.6
80/100	—/1.4
Eastern December 1999	
10/20	—/4.0
20/30	—/2.0
40/60	—/2.0
60/80	—/1.8
California Annual 1999	
60/80	0.1/—
80/100	0.1/0.4
100/150	0.1/0.8
Western Annual 1999	
80/100	—/1.9
National Annual 2000	
100/150	6.7/—
150C	5.0/—
190/195	0.3/0.5
200/250	3.0/—

Total volume: 0 Total open interest: 6,737

For information on PCS cat options, call the Chicago Board of Trade at 312-435-3674.

Source: Chicago Board of Trade

British Issues

Companies	Price pence	P/E	Div. pence	Yield %	52-week high-low
Legal & Gen	165	20.4	3.6	2.2	237-142
Royal & Sun	392	NA	23.0	5.2	633-379
Brokers					
Lmbrt Fenchurch	89	8.8	4.2	4.7	95-58
JLT	249	11.2	12.0	4.8	286-166

Note: Prices are Nov. 5 closings; other numbers from Nov. 4.

Source: *CNET Investor* (investor.cnet.com) Boulder, Colo.

BI Industry Stock Report NOV. 1, 1999, THROUGH NOV. 5, 1999

BROKERS		Price	Weekly % change	Year to date % change	Year to date High	Low	Vol.(000)
Aon Corp.	NYS	40.00	12.68	7.02	46.69	26.06	8255
Clark Bardes Holdings	NDQ	14.38	4.55	-14.88	21.00	12.50	62
E.W. Blanch Holdings Inc.	NYS	62.25	-3.86	33.33	71.75	39.75	219
Gallagher Arthur J. & Co.	NYS	55.50	7.25	26.86	56.50	42.25	229
Hilb, Rogal & Hamilton	NYS	26.00	3.74	39.60	26.13	15.56	89
Kaye Group Inc.	NDQ	8.13	5.69	12.07	9.25	5.00	5
Marsh & McLennan	NYS	81.50	3.08	37.84	81.50	54.81	3839
Brown & Brown	NYS	34.50	2.22	-1.25	39.44	29.31	22
BROKERS	AVERAGE		3.02	24.74			
INSURERS/REINSURERS							
ACE Ltd.	NYS	21.00	8.04	-35.76	35.25	15.50	6489
Accel International Corp.	NDQ	0.63	5.26	-79.17	3.38	0.50	133
Acceptance Insurance Cos.	NYS	14.00	-3.03	-29.56	20.44	11.63	145
AEGON N.V.	NYS	90.50	-1.56	-25.78	130.13	69.63	1344
Aetna Life & Casualty	NYS	53.44	6.34	-33.05	99.88	46.50	9531
AFLAC Inc.	NYS	52.31	2.32	18.89	56.75	36.13	4085
Allmerica Financial Corp.	NYS	59.25	3.61	4.64	64.81	46.06	816
Allstate Corp.	NYS	29.44	1.51	-23.54	45.00	22.88	14391
Ambac Financial Group	NYS	58.50	-2.09	-2.40	63.00	44.69	1741
American Financial Group	NYS	30.00	1.27	-27.16	43.88	25.31	427
American General	NYS	76.56	3.20	-2.16	81.38	61.88	3086
American Heritage Life Ins.	NYS	38.75	0.00	61.04	38.75	19.50	0
American Intl Group	NYS	105.44	2.43	35.35	107.19	66.63	13711
American Safety Insurance	NYS	7.00	-1.75	-26.32	10.38	6.63	21
Argonaut Group	NDQ	24.38	1.30	1.56	28.38	22.38	271
AXA-UAP Group	NYS	71.44	2.42	-0.17	80.25	53.75	320
Baldwin & Lyons Inc.	NDQ	20.44	-0.91	-12.57	26.00	19.63	42
Berkley W.R. Corp.	NDQ	22.81	-0.54	-32.41	36.50	20.63	324
Berkshire Hathaway Inc.	NYS	65300.00	2.19	-4.39	81100.00	54200.00	2
Capital RE Corp.	NYS	14.88	5.31	-23.96	22.25	9.44	242
Capitol Transamerica Corp.	NAS	12.00	-3.03	-32.16	19.50	11.50	74
Centris Group Inc.	NYS	11.44	-0.54	22.00	14.06	7.50	453
Chubb Corp.	NYS	60.75	10.45	-6.45	76.38	44.00	4181
CIGNA Corp.	NYS	82.63	10.54	6.27	98.63	63.44	5855
Cincinnati Financial Corp.	NYS	36.00	0.52	0.88	42.50	30.69	1357
Citigroup	NYS	54.19	0.12	60.75	56.00	27.56	102316
CNA Financial Corp.	NYS	38.94	4.53	-0.95	45.31	33.00	560
CNA Surety	NYS	11.63	1.09	-22.18	16.00	9.75	216
EMC Insurance Group Inc.	NDQ	9.94	5.30	-22.06	13.38	9.25	22
ESG Re Limited	NDQ	7.44	-4.03	-62.46	22.25	7.25	205
Enhance Financial Services	NYS	16.06	-11.99	-46.90	30.38	15.56	779
Everest Reinsurance	NYS	27.06	5.10	-26.24	38.94	20.50	2476
Fremont General Corp.	NYS	9.13	5.80	-62.18	25.69	7.19	1118
Frontier Insurance Group	NYS	5.25	-40.85	-58.00	18.75	4.25	8647
Gainsco Inc.	NYS	6.00	5.49	-4.95	6.94	3.94	118
Harleysville Group	NDQ	17.00	-0.37	-33.33	26.13	13.13	179
HSB Group Inc.	NYS	37.56	-1.80	-6.53	42.38	33.25	235
HCC Insurance Holdings	NYS	11.19	-0.56	-33.95	25.13	8.00	931
ING Groep N.V.	NYS	61.00	3.17	0.00	70.00	47.44	268
IPC Holdings Ltd.	NDQ	17.75	4.41	-21.98	25.75	15.38	78
Hartford Financial Services	NYS	53.44	3.14	-4.26	66.44	36.50	4149
LaSalle Re Holdings Ltd.	NYS	14.19	9.66	-31.21	26.00	10.88	283
Lincoln National	NYS	47.38	2.71	14.33	57.50	36.00	3018
MAIC Holdings Inc.	NYS	24.56	5.08	-23.24	33.13	22.38	238
Markel Corp.	NYS	174.06	0.65	-3.43	193.00	149.00	24
MBIA Insurance Group	NYS	51.88	-9.09	-21.77	71.88	45.00	2672
Meadowbrook Insur. Group	NYS	8.38	-3.60	-48.66	18.75	8.00	25
MMI Cos. Inc.	NYS	5.06	-38.17	-69.66	18.13	4.38	1029
Mutual Risk Mgmt. Ltd.	NYS	15.25	0.83	-59.80	43.25	9.81	1777
Navigators Group	NDQ	13.75	2.80	-9.84	16.25	13.13	36
NYMagic Inc.	NYS	15.00	17.07	-28.14	21.38	12.00	123
Ohio Casualty Corp	NDQ	17.00	1.87	-17.33	21.69	14.88	767
Old Republic Int'l	NYS	14.06	2.74	-34.40	22.75	12.94	1492
Orion Capital Corp.	NYS	49.19	0.64	25.52	49.19	27.56	1088
Partner Re Ltd.	NYS	34.00	9.02	-24.76	46.50	28.56	482
Penn-America Group Inc.	NYS	7.75	5.08	-16.22	11.44	7.00	38
PMA Capital Corporation	NDQ	20.00	0.00	2.24	21.13	17.38	36
Philadelphia Cons. Holding	NDQ	15.19	4.74	-28.53	25.50	10.81	178
PXRE Corp.	NYS	12.00	-2.04	-52.48	26.69	11.31	81
Reliance Group Holdings	NYS	3.88	8.77	-70.05	15.13	3.19	3414
ReliaStar Financial Corp.	NYS	46.94	9.32	4.89	49.81	31.69	3259
RenaissanceRe Holdings Ltd.	NYS	37.00	1.54	2.42	41.56	30.00	207
Risk Capital Holdings	NDQ	13.88	6.22	-34.32	23.75	12.00	80
RLI Corp.	NYS	33.88	1.69	1.50	38.81	27.88	63
St. Paul Cos.	NYS	36.06	12.70	3.04	37.50	25.38	6370
SCOR	NYS	50.13	1.78	-22.88	68.50	44.63	25
SAFECO Corp.	NDQ	30.06	9.32	-29.26	46.75	25.75	4791
SCPIE Holdings Inc.	NYS	35.25	0.36	17.26	35.94	23.69	NA
Seibels Bruce Group	NDQ	2.25	2.86	-35.71	6.25	1.69	40
Selective Ins. Group	NDQ	17.81	-4.68	-12.04	23.00	17.25	181
Terra Nova Ins Co. Ltd.	NYS	31.00	-1.78	27.18	32.63	21.25	507
Tokio Marine & Fire	NDQ	65.00	0.00	10.40	66.50	50.00	50
Torchmark Corp.	NYS	34.25	9.82	-1.44	45.50	24.56	2120
Transatlantic Holdings	NYS	76.50	1.49	1.16	80.50	69.06	48
Travelers Property Casualty	NYS	37.38	3.82	22.04	41.88	27.69	1713
Trenwick Group Inc.	NYS	20.31	0.00	-35.77	35.25	18.50	286
Unico American Corp.	NDQ	7.56	-2.42	-34.42	13.75	7.25	12
United Fire & Casualty	NDQ	22.50	0.84	-32.39	38.50	20.50	40
Unitrin	NDQ	38.50	2.84	8.64	42.38	30.50	590
UNUM Corp.	NYS	34.19	3.80	-42.96	62.50	26.00	7254
Vesta Insurance Co.	NYS	3.94	-1.56	-31.52	9.88	3.38	311
XL Capital Ltd.	NYS	54.25	1.05	-24.19	77.25	41.94	3863
Zenith National Ins.	NYS	22.44	0.56	-2.97	26.69	20.31	13
INSURERS/REINSURERS	AVERAGE		1.25	-14.93			
HEALTH MAINTENANCE ORGANIZATIONS							
Foundation Health Systems Inc.	NYS	9.56	44.34	-13.07	20.06	6.25	5988
Humana Inc.	NYS	8.06	17.27	-57.43	22.13	5.88	9148
Oxford Health Plans	NDQ	16.63	40.74	18.75	24.25	9.75	37213
Pacificare Health Sys.	NDQ	45.31	14.90	-36.63	100.38	31.13	6418
Safeguard Health Enter.	NDQ	3.50	-2.62	-1.78	5.25	2.36	18
Sierra Health Services	NYS	8.00	9.40	-61.68	24.94	7.19	1370
United HealthGroup	NYS	52.56	1.69	17.95	70.00	39.38	8355
Wellpoint Health Networks	NYS	62.56	7.87	-27.15	97.00	48.25	2950
HMOs	AVERAGE		16.70	-20.13			
ALL COMPANIES	AVERAGE		6.99	-3.44			

Top advancing issues: Foundation Health Systems Inc., Oxford Health Plans, Humana Inc. Leading decliners: Frontier Insurance Group, MMI Cos. Inc., Enhance Financial Services. Most active issue: Citigroup. The *BI* Index rose 2.1%; the Dow Jones 30 Industrials fell 0.3%; the S&P 500 went up 0.5%, and the NYSE Composite increased 0.3%. Average P/E: Brokers, 18.3; Insurers/reinsurers, 20.8; HMOs, 17.4.

Source: *CNET Investor* (investor.cnet.com), Boulder, CO

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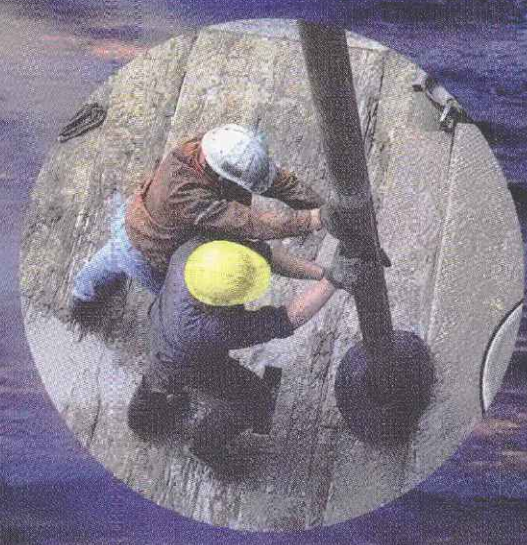
Casualty Risk Services

Reliance National Shows You the Way



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