

# Business Insurance

Reporting Weekly For Corporate Risk, Employee Benefit and Financial Executives / \$4

© Entire contents copyright 1994 by Crain Communications Inc. All rights reserved

## Northridge quake's insured toll rises another 25% to \$9 billion

RAHWAY, N.J.—The Northridge earthquake that struck the Los Angeles area last January did \$9 billion in insured damage, estimates the Property Claim Services division of the American Insurance Services Group.

That 25% increase from a \$7.2 billion estimate in August reflects the fact that insurers are reporting more than 100 new claims a day, said Gary Kerney, assistant vp at PCS. Most new claims come from property owners who have just found out that repair

*Continued on next page*

# Antitrust settlement to alter ISO, industry

By JUDY GREENWALD

The long-awaited settlement of the massive antitrust litigation brought six years ago against the insurance industry will significantly change the Insurance Services Office Inc., and perhaps indirectly the industry it serves.

In settling the suits, insurers agreed to end their domination of ISO, which develops standardized policy language and compiles ag-

gregate data property/casualty insurers use to set rates.

Under the agreement between 20 state attorneys general and 32 industry defendants, only four of 11 directors will be from insurance companies. Currently, 18 of 21 directors are from insurance companies.

Also, insurance company employees will have a lower profile in many ISO decisions, such as standardized policy language, and

the organization will bring in more outsiders like risk managers, insurance brokers and agents as advisers.

The defendants, which neither admitted nor denied fault or liability in settling the litigation, also agreed to pay \$36 million. Some \$21 million will go to fund a new Public Entity Risk Institute, which would provide education, training and technical services to enhance public and private risk

management. And \$5.2 million will be used to establish a public entity insurance data base. The remaining \$9.8 million will be used to reimburse state attorneys general's expenses and private plaintiffs' legal fees.

The litigation began in 1988, with the states alleging that the defendants—including major U.S. insurers, reinsurers, ISO, the Reinsurance Assn. of America and several London underwriters—en-

gaged in a "boycott" to force changes in ISO's commercial general liability policy form to manipulate the U.S. liability insurance market (*BI*, March 28, 1988). Under the McCarran-Ferguson Act, insurers are exempt from most federal antitrust laws, but not a prohibition on boycotts.

The states charged that ISO was forced to rewrite its then-new CGL form to exclude pollution

*Continued on page 37*

# Gooda ruling sets precedent

Names to recover majority of losses

By STACY SHAPIRO

LONDON—Champagne is flowing as 3,096 Lloyd's of London members of the Gooda Walker Action Group declare victory against 71 members agents and stand to recover more than 500 million pounds (\$793 million) in damages.

High Court Justice Phillips ruled last week that underwriters of defunct syndicates formerly managed by Gooda Walker Ltd. were negligent in failing to properly reinsure their London market excess-of-loss reinsurance business.

The judge also set out a complex formula for deciding on the amount of damages members should receive.

The House of Lords had earlier ruled that members agents could be held liable for the negligence of syndicate managers.



AP/Wide World photo

The Gooda Walker Action Group's Michael Deeny displays the decision.

The Gooda Walker Action Group's lawyer, Philip Rocher of *Continued on page 28*

# Global settlements draw praise, scorn

By MICHAEL SCHACHNER

Class action settlements of mass tort cases may be unfair to some victims, but with courts increasingly receptive to them—and defendant companies convinced of their value—legal experts expect the settlements to remain popular.

So-called global settlements are increasingly popular with companies trying to close off massive and potentially open-ended liabilities such as those related to silicone breast implants, asbestos products and medical devices.

By negotiating with a select group of plaintiffs lawyers on behalf of all possible plaintiffs, in-

cluding those not even injured yet, companies such as Dow Corning Corp., Pfizer Inc., and Ciba-Geigy Inc. are moving away from what one expert calls the "scorched earth" defense strategy of fighting each claim and using court backlogs to their advantage.

But that negotiation tactic is prompting charges of unfairness and conflicts of interest.

Some lawyers for victims criticize the companies for trying to close the books before their true liabilities can even be measured. They also criticize some other plaintiffs lawyers for overlooking the interests of future victims in a *Continued on page 35*

# Uphill legislative battle

## Despite big agenda, few benefit changes

By JERRY GEISEL

WASHINGTON—Contradictory.

As the 103rd Congress nears an end, that would seem to best describe—at least on the surface—legislators' action on a number of employee benefit issues.

Consider these developments:

- Within two weeks of the start of the session, Congress passed and President Clinton signed into law legislation providing up to 12 weeks of job-protected leave for employees who need to take time off because of family or medical problems.

Enactment of the Family and Medical Leave Act seemed a promising start in breaking legislative deadlock that had been at least partly the result of years of a Democrat-controlled Congress and a Republican administration.

But despite having a Democrat in the White House as well as Democratic majorities in both the House and Senate, which occurred for the first time since Jimmy Carter was elected president in 1976, Congress didn't even come close to passing comprehensive health care reform legislation—one of President Clinton's top domestic priorities.

- In the first half of the session, legislation was passed that includes a provision requiring employers to report to the government health care coverage information, as well as the names of employees and dependents, their Social Security numbers and the health plans in which they are *Continued on page 38*

### Congressional scorecard

#### What was accomplished

- Passed Family and Medical Leave Act
- Created Medicare data bank (then denied funding)
- Expanded benefits for employees returning to work after military service
- Cut executive pension benefits
- Expanded employer liability for end-stage renal disease treatment
- Set federal penalties for insurance fraud
- Set time limits on suits against general aviation manufacturers
- Allowed former pension plan participants to sue employers for ERISA breaches

#### What was left undone

- Superfund reauthorization
- Health care reform
- McCarran-Ferguson reform
- Insurance solvency standards
- Product liability reforms

#### What may still pass

- Pension funding and PBGC reforms\*

\* To be decided during lame-duck session

GRAPHIC BY MIKE GARVEY

# Failed P/C bills likely to return

By MARK A. HOFMANN

WASHINGTON—With Superfund reauthorization put off until next year, risk managers can be forgiven for thinking that the legislative play list slated for the 104th Congress contains more than its share of golden oldies.

The Clinton administration's Superfund reauthorization package was declared dead last Wednesday by congressional leaders who wanted to see it passed. Ironically, the measure wasn't done in by questions about the extent of its liability reforms or even by the controversial Environmental Insurance Resolution Fund. Instead, it died because House of Representatives negotiators couldn't resolve a dispute over wages at certain cleanup sites.

Although supporters of the reform package

mourned its demise, they promised that the issue would soon be back on lawmakers' agenda. As Sen. Max Baucus, D-Mont., one of the bill's most enthusiastic backers, put it, "Further work is needed, but I remain committed to working with (all interested parties) in order to pass the Superfund Reform Act during the 104th Congress."

Thus, Superfund joins an already considerable list of risk-management related measures that the 103rd Congress failed to resolve. These include such perennials as product liability reform, federal solvency regulation and amending the McCarran-Ferguson Act. Also certain to be argued in the next Congress is an insurance issue that emerged during this session—alleged insurer redlining.

In fact, only two major risk management-related initiatives became law during the 103rd Congress. *Continued on page 38*

## Updates

### L.A. quake toll hits \$9 billion

Continued from page 1

costs exceed their policy deductibles, he said.

PCS now estimates that 350,000 quake-related claims have been filed, up 52% from its original projection of 230,000.

Commercial losses account for 12% of the claims, with 76% of losses coming from homeowners. Another 9% stem from auto losses and the remainder from inland marine and other coverages.

### United Air Lines verdict

CHICAGO—United Air Lines Inc., McDonnell Douglas Corp. and General Electric Co. will appeal last week's \$28.3 million jury award to a survivor of the 1989 crash in Sioux City, Iowa.

The case brought by Doris Levenberg, who was injured in the crash and whose husband was killed, was the second from Flight 232 to reach trial. The DC-10 skidded short of a runway during an emergency landing in 1989, killing 112 of 296 people aboard (BI, July 24, 1989).

The Cook County, Ill., jury awarded Ms. Levenberg \$24.25 million for personal injuries and \$4 million for her husband's estate.

The award exceeds the largest settlement relating to the crash, \$25 million to the family of a Michigan man who died in the crash (BI, Sept. 21, 1992). In that case, the defendants agreed not to contest liability because the family was not seeking punitive damages.

Before last week's award, United's insurers had paid about \$120 million; McDonnell Douglas' insurers had paid about \$110 million and General Electric's insurers had paid about \$90 million.

Each of the three companies is paying one-third of all liability payments, so eventually the figures will be the same. The cases of 19 more crash victims are pending.

### Allianz to sell Swiss Re units

MUNICH, Germany—Henning Schulte-Noelle, chairman of Allianz A.G. Holding, says it will likely sell the two German insurers, Vereinte Versicherung A.G. and Magdeburger Versicherung A.G., it is acquiring from Swiss Reinsurance Co. to appease federal regulators.

Mr. Schulte-Noelle said Allianz had aroused the interest of the German government's cartel office when it revealed plans to buy the two German insurers, along with majority holdings in ELVIA Group of Zurich and Lloyd Adriatico S.p.A. of Trieste, Italy (BI, Oct. 3). Last week, he said the entire deal would cost Allianz about 5 billion Swiss francs (\$3.91 billion).

The addition of the two German multiline insurers, which are slated to merge by year end to form Vereinte Magdeburger A.G., would give Allianz about a 30% share of the German private health insurance market, which the cartel office considers too high.

### Insured Japan quake toll small

LONDON—Insured damages are projected to be about 1 billion yen (\$10 million) from a huge earthquake that hit the northern Japanese island of Hokkaido and Russia's disputed Kuril Islands Oct. 5, killing at least nine people and injuring 180 others.

Adding to the direct damage from the undersea quake, which measured 7.9 on the Richter scale, was a subsequent tidal wave that hit houses and fishing vessels. Insured losses are not expected to tap the catastrophe reinsurance programs of the major Japanese insurers placed in London and international markets.

"It's difficult to say what the impact will be on the non-life Japanese fire companies, but there is not much industrial or commercial risk in the area and so should not be a significant loss for them," said one Lloyd's broker involved on the largest Japanese reinsurance treaty in London.

London loss adjusting firm Thomas Howell Group estimates that Typhoon Orchid, which hit Japan two weeks ago, caused a much higher insured loss of about 20 billion yen (\$200.5 million).

That loss also is unlikely to be felt beyond the domestic market.

### Kemper National to tap Mathis

LONG GROVE, Ill.—David B. Mathis, 56, chairman and chief executive officer of Kemper Corp., will succeed Gerald L. Maatman, 64, as chairman, president and CEO of Kemper National Insurance Cos. when Mr. Maatman retires next year.

Mr. Mathis will stay on at Kemper Corp. until its merger with CONSECO is completed; Mr. Maatman is scheduled to retire March 1, but will remain until Mr. Mathis takes the Kemper National position.

A 34-year Kemper veteran, Mr. Mathis was elected president and chief operating officer of Kemper Corp. when the company split with Kemper National in 1990. He assumed his current post in 1992.

Kemper National faces the same challenges as the rest of the industry, including a continuing soft market, said Mr. Mathis, and raising rates will be a goal.

"I think the attitude about pricing your product right is an attitude that comes from the top. While I can't speak for others in the industry, clearly that will be an objective of mine."

### Insurer campaign support flap

SACRAMENTO, Calif.—Insurance industry campaign contributions are the focus of charges and countercharges flying back and forth between the two candidates for California insurance commissioner, who are neck and neck in recent polls.

Reversing an earlier stand, Republican Charles Quackenbush now plans to accept contributions from large property/casualty insurers. He had previously taken money only from agents, brokers and smaller insurers, said his campaign manager, Greg Butler.

Continued on page 38

# A.M. Best rebuts GAO study that finds agency slow to act

By DOUGLAS McLEOD

WASHINGTON—Upstart rating agency Weiss Research Inc. was quicker than A.M. Best Co. to assign "vulnerable" ratings to a number of life/health insurers that became financially impaired between 1989 and 1992, concludes the General Accounting Office.

Examining 30 life/health impairments and insolvencies, the GAO found that Weiss assigned a "vulnerable" rating before Best in 23 cases, on average more than a

year earlier.

The GAO also noted that West Palm Beach, Fla.-based Weiss assigned its top rating less frequently than other agencies and assigned a median rating of C-, lower than its competitors, which also include Standard & Poor's Corp., Moody's Investors Service and Duff & Phelps.

Rep. Cardiss Collins, D-Ill., commissioned the study in 1992 after her House Subcommittee on Commerce, Consumer Protection and Competitiveness held a hear-

ing on rating agency performance in the failures of Executive Life Insurance Co. and Mutual Benefit Life Insurance Co. (BI, Feb. 3, 1992). "The study shows Best is not always best," Rep. Collins said in a statement. "Consumers should consult ratings of more than one rating agency before purchasing an insurance policy."

Officials at Oldwick, N.J.-based Best charge that the report is fundamentally flawed.

"We believe our track record in

Continued on page 4

## RIMS backs Canadian members' request for input

# Risk control standards drafted

By ROBERTO CENICEROS

Some Canadian risk managers fear that the next step in the development of risk management guidelines by the country's oldest and most respected standards association could require lining up to receive "government-approved" tattoos.

That Orwellian assessment might be overly dramatic, but it underscores complaints about the Canadian Standards Assn.'s ongoing development of a document

called "Risk Management: Guidelines for Decision Makers."

The document focuses on standardizing risk controls and the need to keep a broad range of "stakeholders" informed of risks facing an organization, even including them in decision-making and monitoring processes. Stakeholders can include the public, environmental and civil liberty groups, government regulators and employees. Absent from the document is any discussion of risk financing.

Several risk managers believe it is a misdirected effort that could adversely affect their profession. They contend it fails to comprehend the uniqueness of risks facing companies and other obstacles to creating a uniform program to address all situations.

"I think it's a poorly written document," said Susan Meltzer, a risk manager in Toronto and also a member of the Executive Council of the Risk & Insurance Management Society Inc. "They have

Continued on page 39

# Fiduciary liability risks

Claims payments average \$876,689 since 1987: Wyatt

By MARK A. HOFMANN

The frequency and severity of fiduciary liability claims has increased "dramatically" during the past seven years, according to a soon-to-be published survey from The Wyatt Co.

Payments on closed claims averaged \$876,689, an increase of 23.5% from the \$710,000 average Wyatt found in its previous survey in 1987 (BI, July 6, 1987).

Claims also became more fre-

quent, rising to an average of 0.23 per respondent, or 218 claims from 948 companies, during a nine-year period ending in 1993 compared with 0.087 per respondent in the 1987 survey, said Mark W. Larsen and Phillip N. Norton, the Wyatt consultants who prepared the survey.

Some 8.2% of the companies surveyed in 1993 reported having been the subject of at least one claim, up from 5.7% in the earlier survey.

Perhaps not surprisingly, the prevalence of fiduciary liability insurance also increased during the seven years. More than nine out of 10 respondents in the 1993 survey—91.3%—reported carrying fiduciary liability insurance, compared to 79.3% in 1987.

"The danger of exposure to ERISA has taken a while to come to the front of the minds of risk managers," said Mr. Carlsen, in reference to the Employee Retirement

Continued on page 36

## Managed care directory deadline approaches

Business Insurance will publish its eighth annual Managed Care Market Report in December, listing health maintenance organizations, preferred provider organizations and point-of-service plans along with articles on the state of the managed health care market.

The report will be published as a special issue in addition to the regular weekly editions of BI. All subscribers will receive this issue free of charge.

In addition to addresses and phone numbers, the directories will provide information on individual HMOs, PPOs and POS plans, including: federal

and state qualification; model type; number of participating physicians, hospitals, pharmacies and diagnostic labs; service areas; services offered and rating options; and the number of employers contracting with the organizations.

The directories are published as an editorial service. There is no charge to be included, but HMOs, PPOs and POS plans must complete and return a questionnaire by the extended deadline of Oct. 26.

HMOs, PPOs and POS plans that have not yet received a questionnaire should contact Directory Editor Kathy Welyki at 312-649-5279.

## Inside

• Despite its failure to enact sweeping health care reform, Congress did pass some important benefits and risk management-related legislation in this session, this week's editorial says. **PAGE 8**

• Concerns over cutting the cost of insurance coverage will someday eliminate the need for brokers, an insurer executive says. **PAGE 27**

• An exhibit at the National Maritime Museum in London of items from the Titanic includes the loss book that Lloyd's of London used to record information on the 1912 disaster. **PAGE 31**

• U.K. employers are angry about a series of European Court of Justice rulings mandating the equalization of pension benefits, but pension experts say employers' fears may be unfounded. **PAGE 31**

## Departments

Advertiser Index.....	28
Benefit Beat.....	6
Classifieds.....	34
For the Record.....	7
Insurance Services Guide.....	35
International.....	31
Legal Briefs.....	25
Opinions.....	8
Perspectives.....	23

Vol. 28, No. 41—Business Insurance (ISSN 0007-6864) is published weekly by Crain Communications Inc., 740 N. Rush St., Chicago, Ill. 60611. Second-class postage is paid at Chicago and other mailing offices. Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 0293512, GST No. 136760444. Printed in U.S.A. Postmaster: Send address changes to Business Insurance, Circulation Department, 965 E. Jefferson Ave., Detroit, Mich. 48207; 313-446-1611. Copyright 1994 by Crain Communications Inc.

# Settlement tool structured to add benefit

By JUDY GREENWALD

Structured settlements can provide tremendous benefits to claimants as well as self-insurers and insurers, but many attorneys and judges still don't seem to realize it.

Getting them to do so could fuel growth in the \$3.5 billion to \$5 billion annual market for structured settlements, which provide periodic payments—rather than lump sums—to plaintiffs in personal injury and other types of

lawsuits.

Also standing in the way of growth for the structured settlement market are legal barriers in two potentially large growth areas: workers compensation and environmental liabilities.

Structured settlements generally take the form of single-premium annuities that are purchased from life insurers by defendant property/casualty insurers or self-insurers in personal injury cases.

About 50 specialist brokerage

firms generally act as liaisons with one or more of the 25 or so insurers offering these annuities, said Randy Dyer, executive vp of the Washington-based National Structured Settlement Assn.

Some structured settlements are also funded by U.S. bonds sold by banks or by other companies that specialize in U.S. government securities.

In some ways, structured settlements can be a "win-win" proposition for both sides in personal injury cases.

Annuities let property/casualty insurers or self-insurers remove the liability from their books for less than they would have to pay out as a lump sum.

And they help ensure that injury victims will not squander the money. Even claimants who are wise investors may be at a disadvantage compared with those who receive structured settlements. Although lump-sum awards are tax-free, profits from investing them are not. With a structured settlement, the principal as well

as any interest the insurer is passing on remains totally tax-free.

Not that claimants are not taking a chance.

They can run the risk that rising interest rates will leave them locked in at rates too low to provide for their needs.

Structured settlements have been around for years, but growth was spurred by a 1982 tax law that helped clarify their use.

Insurers face particular investment challenges because struc-

*Continued on page 34*

## ERISA case now before high court could erode pre-emption

By JERRY GEISEL

WASHINGTON—The U.S. Supreme Court could determine the extent to which states can enact health care reform legislation without first obtaining the approval of Congress.

Late Friday, the court agreed to review a 1993 appeals court decision that struck down a New York law that allowed hospitals to add a 13% surcharge on bills covered by employer-provided health care plans.

The 2nd U.S. Circuit Court of Appeals said the New York hospital surcharge clashed with the Employee Retirement Income Security Act, which pre-empts state laws that "relate" to employee benefit plans.

Ultimately, the justices' decision could have huge health care reform implications for both states and employers.

If the court rules that ERISA does not pre-empt the New York law, it would give other states a green light to pass legislation that would add new costs to employer-provided health plans.

"A decision in this case could be vital. At issue is how extensive is ERISA's pre-emption of state laws" that affect benefit plans, said John Piro, a consultant with Hewitt Associates L.L.C. in Rowayton, Conn.

States have long cast a hungry eye on employer-provided health

*Continued on page 26*

## Russia: A work in progress

### Building insurance infrastructure no easy task for former Soviet republics

By MEG FLETCHER

Many Russians and Belarussians see the development of their fledgling insurance industries as a source of hope for their countries.

It may be an epic struggle for most insurers, though, because the republics' few advantages are outweighed by their disadvantages.

"Right now, we are having the crisis that the United States was having in the 1930s," said Aleyander Tihonov, deputy mayor of St. Petersburg and president of the SPHINX Insurance Co., referring to the Great Depression.

But, "crisis is crisis, and we will find our way out of it," he added with a stoic smile.

A delegation of 38 U.S. insurance professionals repeatedly encountered that optimistic attitude among the insurers, employers, regulators and educators they met

**Insurance and risk management techniques remain sketchy on Russia's industrial canvas.**

during a 13-day visit to Moscow and St. Petersburg in the Republic of Russia, and Minsk in the Republic of Belarus.

At the end of the trip, several U.S. visitors better understood the challenges that both republics face, and some shared that optimism.

"In so many ways, they are in the 1930s, but we are in the 1990s. How do you make the leap?" asked

James P. Hathcock, general manager of Compensation Insurance Services in Jackson, Miss.

"I think they are a long way from developing a viable insurance market, but they are committed to do it," said Irvin "Pete" Parker, an attorney who manages the South Carolina State Accident Fund in Columbia, S.C.

"Because it is such a wide-open (economic) market, I think everybody will look to insurance to

*Continued on page 10*



Photo by Meg Fletcher

## Modernized plant has old safety woes

By MEG FLETCHER

MOSCOW—A tour of a major textile manufacturing plant in Moscow is an eye-opening experience that underscores the progress at least one Russian manufacturer has made, as well as the challenges it still faces.

The Trehgornaya Manufactura plant first opened its doors more than 100 years ago and is now the oldest textile manufacturer in Moscow. It has been privatized as a result of a joint-stock program.

Plant officials welcomed the U.S. delegation of workers compensation specialists

from the Citizen Ambassador Program into the sprawling, tan-colored building and directed them to walk up flights of stairs to the cotton-thread manufacturing section.

That section consisted of several rooms containing rows of modern, mint-green machinery that separate and process the long fibers used to manufacture high-quality thread. The plant also recycles the waste fibers, which are made into lower-quality threads and mattresses.

The thread-making operation produces 1,500 tons annually and employs more than 200 mostly female workers, with about 70

people working each of three shifts, a plant official explained.

The new equipment came from Western Europe and was installed in 1989 and 1990. It reduced personnel costs nearly 90%, because 2,000 workers had previously been needed to run that operation.

Updating the equipment in the thread-manufacturing operation reduced the maximum noise level to 65 to 70 decibels from the old equipment's 85-decibel level, the production manager said.

A quick glance at the site prompted com-

*Continued on page 11*

## Leaves changing, market isn't

By PAUL D. WINSTON

### Execs focus on improving operations to weather soft market

WHITE SULPHUR SPRINGS, W.Va.—Industry executives hoping to hear news of a turn in the soft market during their annual

### COUNCIL/NACSE The Greenbrier CONFERENCE

retreat to The Greenbrier last week had to content themselves with the turning foliage instead.

Most of the top insurer, agent and brokerage executives gathered at the West Virginia resort

from Oct. 2-5 appeared resigned to operating in the market as is. In fact, there was more discussion of golf, tennis and other recreation than talk of market conditions and problems facing the insurance industry during social events at the 81st annual joint conference of the Council of Insurance Agents & Brokers and the National Assn. of Casualty & Surety Executives.

One possible reason for the relative quiet: the settlement announced late last week of the massive antitrust case brought against the insurance and reinsurance industry (see story, page 1).

Some of that lawsuit's allegations of price fixing stemmed from calls at past Greenbrier meetings for rate increases and other concerted industry actions.

Otherwise, a prevalent theme seemed to be that business hasn't improved, but it hasn't grown any worse, either.

One bellwether that business isn't too bad: More jokes were being told by executives attending the meeting this year, quipped Jack Doetzer, chairman and president of Consolidated Insurance Center Inc. in Owings Mills, Md.

Improvement in brokers' income, he said, is due to increased

automation and expense controls.

"No change; it's business as usual," summed up Ajit Jain, president of the reinsurance division of Berkshire Hathaway Inc. in Stamford, Conn.

Some executives did question whether insurers can afford to continue writing business at such low rates for too much longer.

Some casualty insurance lines could begin turning within a few years if insurers "bleed badly enough" because of low prices, predicted Paul Ingrey, president of F&G Re in Morristown, N.J.

But Diros Iordanou, chief oper-

*Continued on page 16*



Photo by Kathryn McIntyre

# GAO

Continued from page 2

terms of (predicting) insolvencies is very effective," said Larry G. Mayewski, senior vp of Best's life/health division. "We look at this report as being very flawed and biased."

The GAO itself noted that the study focused on a relatively small number of failures over a short period of time and that "our results are not projectible and should not be construed as applying to any other time period."

The GAO study reviews the rating systems of the five rating agencies from Aug. 31, 1989, to June 30, 1992. Ratings from the various agencies are difficult to compare. Identical letter ratings can mean different things at different agencies: An A+ rating, for example, is described as "excellent" by Weiss, "su-

perior" by Best and "good" by S&P.

All of the agencies except Weiss said they rely heavily on their analysts' judgment in assessing insurer management and adjusting ratings at the end of the rating process. Weiss's ratings are based on a mathematical model applied to insurer financial data (*BI*, July 6, 1992). S&P's largely quantitative qualified solvency ratings, launched in 1991, were not included in the study.

The agencies' rating scales also differed during the period of the study: Weiss, for example, considered ratings of D+ or below to be "vulnerable," while the comparable threshold was C++ at Best and BB+ at S&P, the report says.

Best has since revised its scale to define any rating of B or below as "vulnerable."

The number of companies rated also differed sharply among the agencies, with Weiss rating 1,449 life/health insurers as of June 30,

1992, Best rating 795 insurers and S&P, Moody's and D&P rating even fewer companies.

The agencies all rated most of the largest insurers, meaning that they all cover a larger percentage of the overall industry when the numbers of rated companies are weighted to consider their asset size, the study showed.

The GAO concluded that:

- Weiss and Moody's assigned their top ratings less frequently than other agencies. Weiss assigned its top rating to 4% of the companies analyzed and Moody's to 10%. Best gave its top mark far more frequently, to 35% of insurers.

- Weiss's median rating was C-, the lowest of all the agencies, while Best's median rating was A.

- As of the end of the study period, agencies almost always agreed whether an insurer was "secure" or "vulnerable." Weiss was more likely to assign a "vulnerable" rating in

cases where agencies disagreed.

- Of 30 insurers to fail or become financially impaired during the study period, Weiss was first to assign "vulnerable" ratings 23 times and Best seven times.

Of the 158 life/health insurers that became impaired during the period, the GAO studied 30 companies that were rated by both Weiss and Best and that were not already rated "vulnerable" by both at the beginning of the period. The other agencies rated only a few of the 30 companies.

Mr. Mayewski faulted the GAO's decision to consider insurers rated B and B- by Best as "secure" rather than "vulnerable" in this comparison with Weiss.

The GAO noted that Best at the time did not designate its ratings "secure" and "vulnerable" and that Best described the B rating as "good."

If companies rated B and B- by

Best were considered "vulnerable"—as they now are—Weiss would have beaten Best in assigning "vulnerable" ratings only twice as often, rather than three times, the GAO noted.

- Weiss assigned a "vulnerable" rating much earlier than Best in cases where it was first to assign the rating.

Examining 26 of the 30 impairment cases, the GAO found that Weiss assigned its "vulnerable" rating an average of 443 days, or about a year and three months, before Best did in the 19 cases where Weiss was first with the rating.

In the seven cases where Best was first, it beat Weiss by an average of 302 days.

- Focusing on six large insurer impairments, the study found that Weiss was first to assign a "vulnerable" rating in five of the six cases and beat the other agencies by periods ranging from a little over a month to just under two years.

The six insurers were Executive Life of California, Executive Life of New York, Mutual Benefit Life, Fidelity Bankers Life Insurance Co., First Capital Life Insurance Co. and Monarch Life Insurance Co.

Moody's was first to assign a "vulnerable" rating to Executive Life of California, doing so about one year and two months before the first public regulatory action, the study says.

Best assigned a "vulnerable" rating before regulatory action in only one of the six cases, and this was only six days before the action occurred, the study said.

Best, S&P and Moody's all criticized the GAO's methodology, noting that the rating systems of the various agencies differ significantly and that a study covering a longer period would produce different results.

The GAO said it didn't disagree with this criticism but that it was directed to include Weiss in the study and Weiss did not begin rating insurers until 1989.

Moody's and Best also argued that the study focused too much on the type of error where high ratings were assigned to insurers that failed and ignored the type of error where low ratings were assigned to companies that were financially stronger than the ratings would indicate.

Weiss tends to assign more low ratings than other agencies, which means "you are going to catch the problems but you are also going to underrate many insurers," Best's Mr. Mayewski complained. **BI**

20,000 claims  
in 365 days

Strength in Numbers

When it comes to paying claims, our 5-day standard turnaround is among the best in the business. In 1994 we continue to build our reputation for servicing claims promptly, cutting our standard turnaround to a record 3 1/2 days. For close to 100 years we have demonstrated this commitment to service by responding to customer claims quickly and efficiently. No wonder so many insurance professionals count on Skandia America Re to deliver the answers they need when they need them.



**Skandia America**  
**Reinsurance Corporation**  
Rated "A Excellent" by A.M. Best Company

One Liberty Plaza, New York, NY 10006  
Tel: (212) 978-4700 Fax: (212) 385-2169

#### Branch Offices

**New York**  
Tel: (212) 978-4925  
Fax: (212) 385-8660

**Chicago**  
Tel: (312) 236-7833  
Fax: (312) 236-3826  
(800) 621-9260

**Atlanta**  
Tel: (404) 393-4300  
Fax: (404) 393-9639  
(800) 242-7044

**Norwalk**  
Tel: (203) 854-9966  
Fax: (203) 853-4005

**San Francisco**  
Tel: (415) 398-1700  
Fax: (415) 398-1544

**Skandia/Facman**  
Tel: (203) 854-9966  
Fax: (203) 853-4005

## Blannounces staff change in ad sales

*Business Insurance* announces a change in the advertising sales staff.

Cheryl Butler, 28, joins *BI* as classified advertising sales manager in the Chicago office.

Before joining *BI*, Ms. Butler worked at a sister publication, *Advertising Age*, as advertising sales coordinator. Before that, she was employed three years as assistant to the publisher of *Sports Afield*, a monthly fishing and hunting magazine published in New York.

Ms. Butler can be reached at 312-649-5340. **BI**



Ms. Butler



# Hollywood Survived Tons Of Environmental Accidents. With The Wrong Insurer, You Might Not Survive One.

Our leadership in the field of environmental insurance is no accident. Our specialists pioneered the industry, and have evolved with it's ever-changing needs. So today, we know that progressive risk management can only come from a willingness to take risks ourselves.

By forming an active partnership with our agents, brokers and customers, the Zurich-American Environmental Group forges a bond of shared expertise that

recognizes no boundaries when it comes to creative risk management products and solutions. We're willing to take risks other companies won't. And we'll service our policies in a way other companies can't. Because we're backed by the financial strength, stability and The Power of Partnership only The Worldwide Zurich Insurance Group can provide. For more information, contact your agent or broker, or call 1-800-382-2150.



**ZURICH-AMERICAN  
INSURANCE GROUP**

**The Power of Partnership™ in Environmental Insurance**

A MEMBER OF THE WORLDWIDE  ZURICH INSURANCE GROUP

# Group health cost hikes slowing

A new study provides more evidence that the era of soaring group health plan costs is over.

Health care premiums—or claims costs in the case of self-funded plans—rose an average of 4.8% between the spring of 1993 and the spring of 1994, according to a survey released last week by the compensation and benefits practice of KPMG Peat Marwick L.L.P. The 1,037 surveyed employers—organizations with at least 200 employees—were not asked to provide actual dollar figures for overall health care plan costs for the prior year.

That increase is a dramatic drop compared with the 8% rise in group health care costs between the spring of 1992 and 1993.

And the 4.8% increase pales in comparison with the double-digit hikes that were the norm in the late 1980s and early '90s.

The new Peat Marwick survey is the latest evidence that health care cost increases are no longer a crisis for many companies.

Indeed, last month, the Federal Employees Health Benefits Program, which is the nation's largest employer-sponsored plan with 9 million participants, reported that premiums next year will fall an average of 3.4% (*BI*, Sept. 26).

And earlier this year, A. Foster Higgins & Co. Inc. found that group health care costs in 1993 increased an average of 8% (*BI*, Feb. 14).

Clinton administration officials earlier said the slowdown in cost increases is likely to be temporary. They said increases were being held in check by providers and insurers to reduce pressure to overhaul the health care system. Prices will soar again once it becomes clear that health care reform is unlikely, officials said.

But Derek Liston, KPMG's associate director of research in Washington, says the prospect of health care reform legislation—informally known as the "Hillary effect," a reference to Hillary Rodham Clinton and her health care task force—has not been a significant factor in the slowdown in health care costs.

The most important factors include the continuing profitability of health insurers, the increased effectiveness of managed care plans in controlling costs, and managed care organizations' increased clout in negotiating better contract terms and prices with physicians and hospitals, Mr. Liston said.

The increased leverage of managed care plans in negotiating with providers is a direct result of the growing size—and clout—of the plans as their enrollments rise. Responding employers said 65% of their employees in 1994 were enrolled in managed care plans, up from 58% in 1993 and 53% in 1992.

HMO premiums, which employers said rose an average of 5.3%, were the lowest-cost programs of the four types of surveyed plans. Monthly premiums for individual coverage averaged \$166 per employee, while premiums for family coverage averaged \$450 a month.

Other cost increases and premium charges by type of plan include:

- Preferred provider organizations, for which premiums rose an average of 3.2%. Monthly premiums for individual coverage averaged \$177 per employee and \$453 per employee for family coverage.
- Point-of-service plans, for which premiums rose an average of 5.9%. Monthly premiums for individual coverage averaged \$179 and \$477 for family coverage.
- Traditional indemnity plans, for which premiums rose an average of 5.1%. Monthly premiums averaged

## Benefit Beat

\$181 for individual coverage and \$463 for family coverage.

Copies of "Health Benefits in 1994" are available from Derek Liston, KPMG Peat Marwick L.L.P., 2001 M St. N.W., Washington, D.C. 20036; 202-467-3410. The cost is \$100, plus local sales tax.

—By Jerry Geisel

## Chicago retiree costs

CHICAGO—The city of Chicago expects its retiree health care coverage costs to increase nearly 14% next year to \$51.6 million from \$45.3 million this year.

Chicago's retiree health care plan

covers 18,295 retired city workers.

Retirees who remain in the city's indemnity plan will shoulder premium increases of 18.1% next year, while those who participate in an optional preferred provider organization will see premium increases of 13.2%, Comptroller Waiter K. Knorr said.

High utilization and increasing drug costs were cited as the principal reasons for the increases.

The city currently pays 62% of the total cost of retiree health care coverage and will continue to do so in 1995, above the 50% required by law, Mr. Knorr said.

The additional premium contribution will not exceed \$15 per month for 70% of the retirees. Twenty-two percent of the retirees will pay a monthly premium increase of be-

tween \$16 and \$35. The remaining 8% of retirees will pay a monthly premium increase of \$36 or more.

Per capita costs of the indemnity plan far exceed those of the PPO, but the majority of retirees—about 71%—choose to enroll in the indemnity plan, Mr. Knorr said. "The cost gap between the two plans continues to grow, with the optional managed care plan now costing 30% less than the indemnity plan."

For example, the monthly premium for single coverage for a retiree who is not eligible for Medicare will be \$71 next year under the PPO, while the monthly premium will be \$123 under the indemnity plan. The monthly premium for family coverage for a retiree, his or her spouse and dependents, all of whom are not eligible for Medicare, will be \$259 under the PPO and \$454 under the indemnity plan.

—By Deborah Shalowitz Cowans

## Allstate retirements

NORTHBROOK, Ill.—As part of its effort to be more cost-efficient, nearly 700 of Allstate Insurance Co.'s 5,300 employees in its Northbrook, Ill., headquarters have been offered voluntary early retirement.

The insurer expects to take an \$80 million aftertax charge in the fourth quarter to fund the program, which is being offered to employees who are at least 49 years old with at least 16 years of service.

Under the plan, eligible employees can add five years of age and three years of service to their record for calculating retirement benefits. Those who take the offer will continue to have medical coverage but will share in an additional 25% of the cost, a spokesman said.

Allstate expects the program to save about \$30 million a year.

—By Sally Roberts

## WE'VE BECOME RATHER FOND OF THE OSTRICH. FAR FROM YOUR AVERAGE BIRD.

**BIG.** Eight feet tall, 300 pounds or so.

**FAST.** Scampers along at up to 50 miles an hour.

**VALUABLE.** Breeding pairs worth \$50,000.

## BUT THE BIG BIRD CAN'T FLY. THAT'S WHERE WE PART COMPANY.

We are Hilb, Rogal and Hamilton Company, the unique American insurance agency system. People who raise ostriches are among our clients. Quite different than our typical business, commercial, industrial, and government clients. (Most of them can't fly either). But, not having our head in the sand, we heard opportunity knock.

We see some similarities between HRH and this running *rara avis*.

We're getting pretty big ourselves, and moving fairly fast. From virtual obscurity a decade ago to 15th largest in the world, from a handful of offices to some 50 locations here, plus HRH International. Revenues are up seven-fold, and we make money on every dollar.

Value? We've created a whole new future for 100 or so independent agents who have joined our system. Shareholders see their dividends increase each year. Clients benefit from our sophistication and access to major insurance markets, available through every HRH local, community-based agency and our national support organization. Once private, HRH moved first to over-the-counter, then in 1992, to the New York Stock Exchange. This year could be our best ever.

We keep spreading our wings and we start each day expecting that this is our day to fly.

Great companies have great expectations. Call or write on letterhead if you want to fly.

# NOT YOUR AVERAGE



**Hilb, Rogal and Hamilton Company**

4235 Innslake Drive • P.O. Box 1220 • Glen Allen, Virginia 23060-1220  
(804) 747-6500 • Fax: (804) 747-6046

## For the Record

### Pan Am loss may be biggest ever at PBGC

WASHINGTON—Despite a record cash settlement, the termination of three massively underfunded pension plans sponsored by now-defunct Pan American World Airways Inc. could result in the Pension Benefit Guaranty Corp.'s biggest loss ever.

Under a proposed settlement with Pan Am's estate, the PBGC will receive \$115 million, including \$60 million that had been held in escrow for a missed 1990 pension payment as well as an additional cash payment of \$50 million. The PBGC also will receive \$5 million in disputed plan assets. The PBGC sought more than \$900 million from Pan Am, which is

now being liquidated.

"Although little was left in the Pan Am estate, we were able to recover over a third of what was available," said PBGC Executive Director Martin Slate.

The settlement, which still must be approved by a federal bankruptcy court, falls far short of the roughly \$700 million in guaranteed, but unfunded, benefits that the PBGC must pay to the plans' 37,000 participants.

### Two-year accounting seen in 1995 at Lloyd's

LONDON—Lloyd's of London plans to introduce two-year accounting in 1995, according to a consultative document on accelerated reporting.

The change to two-year accounting would be voluntary, however, so some syndicates may continue to

use the traditional three-year accounting system.

Under the proposals, the market would have a "rehearsal" for the 1993 underwriting year, with syndicates giving preliminary forecasts of their three-year accounts as of Dec. 31, 1995, rather than year-end 1996.

The proposals also suggest that syndicates would be able to release at least 50% of the 1993 profit a year early. Lloyd's seeks comments on the proposals by Oct. 24.

### Waste transporter liable under CERCLA

PITTSBURGH—For the first time, a federal appeals court has held a transporter of hazardous waste liable under Superfund for a portion of cleanup costs because the hauler played a significant role in selecting the dump site.

The Sept. 12 ruling by a three-

judge panel of the 3rd U.S. Circuit Court of Appeals marked the first time a federal appeals court had considered the question.

In *Tippins Inc. vs. USX Corp.*, the court held that a transporter can be found liable for some of the costs of cleanup at a later date, even if it didn't ultimately select the site, so long as it had substantial input in the decision.

The suit involves the cleanup of a Rochester, Ind., landfill, one of several sites recommended in 1987 to Tippins by Petroclean Inc., a Pittsburgh-area waste hauling contractor. After discussing waste removal options, Tippins awarded Petroclean a contract to haul toxic steel dust to the Rochester site.

When the Indiana site was identified by the government for cleanup in 1992, Tippins sued USX and Petroclean to force the companies to pay cleanup costs.

*Tippins Inc. and International*

*Mill Construction Inc. vs. USX Corp. and Petroclean Inc.*; 3rd U.S. Circuit Court of Appeals; Nos. 93-3587, 93-3599 and 93-3609.

### ERISA defense denied in disability claim

ST. LOUIS—An employer that inadvertently omitted an explanation of appeals procedures in a letter denying an employee's request for long-term disability payments cannot use the "failure to exhaust plan remedies" defense under ERISA as a defense to an employee lawsuit, says a federal appeals court.

In a Sept. 13 decision, the 8th U.S. Circuit Court of Appeals held that Donald E. Conley, a disabled Pitney Bowes employee, did not have to exhaust all administrative procedures before suing because the letter denying him benefits did not explain appeals procedures.

Injured in a 1989 auto accident, Mr. Conley received short-term disability payments from Pitney Bowes and workers compensation benefits. When those payments ceased, he sought long-term disability benefits. Pitney Bowes refused, saying that he was characterized as only 7% disabled when he settled his workers comp claim.

The Employee Retirement Income Security Act requires employers to notify plan participants of all appeals procedures at the time benefits are denied.

Pitney Bowes did not include the information in a denial letter, though a summary plan description sent to Mr. Conley did contain the information.

Reversing a lower court's 1993 grant of summary judgment for Pitney Bowes, the 8th Circuit ruled that the summary plan description was not adequate to inform the employee.

"The 8th Circuit's decision could be read as creating another recognized exception" to using ERISA's "failure to exhaust plan remedies" clause as a defense against employee lawsuits, said Keith Rabenberg, an attorney with Armstrong & Teasdale in St. Louis, which represented Pitney Bowes.

*Conley vs. Pitney Bowes*, No. 93-3957, 8th U.S. Circuit Court of Appeals.

### National Steel to appeal denial of INA coverage


DETROIT—National Steel Corp. will appeal a Michigan state court judge's ruling that Insurance Co. of North America need not pay part of the \$1.99 million the steelmaker paid to the widow of an employee killed on the job in 1986.

Oakland County Circuit Court Judge Richard Kuhn ruled last month that the CIGNA Corp. unit does not have to contribute to the settlement with the wife of steelworker George Kachadoorian.

The judge found that National Steel cannot tap its \$1 million primary liability policy for two reasons: INA did not participate in settlement talks; and, since the 1991 suit was brought under Michigan's Intentional Tort Exception to the Workers Compensation Act, policy language barring coverage for losses stemming from intentional acts effectively blocks contribution.

On appeal, National Steel will argue that the tort law definition of intentional act does not apply to the insurance policy, said Timothy Wittlinger, a lawyer for the company.

INA was offered the opportunity to participate in settlement talks, but refused. The company did not participate because it had determined that no coverage was due, said a CIGNA spokesman. ■



BIRD

## Opinions

## All was not lost this session

**A**MID THE GRIDLOCK that gripped Congress during the closing weeks of the session, it would be easy to overlook legislators' earlier accomplishments on a number of employee benefit and risk management issues.

Indeed, the very first major bill that Congress passed this session—the Family and Medical Leave Act—is both pro-employer and pro-employee. By assuring workers that their health insurance will continue while on leave and that their jobs are protected, the law helps reduce employees' stress and ultimately increases productivity.

Another positive step legislators took this year was undoing the effect of an earlier, ill-considered piece of legislation: the Medicare data bank law.

Congress last month effectively gutted the law, at least for the next year, by denying funds for the Health Care Financing Administration to implement it. The law requires employers to produce annually and send to the government reports listing the names and Social Security numbers of every employee and dependent covered in their health plans.

We hope the one-year delay will give Congress time to tailor a reporting requirement—if one is even necessary—more in line with a narrow problem: Medicare, rather than employer health plans, paying claims for workers who stay on the job after 65.

While the issue won't be decided until after the November elections, legislators did agree on a reform package that will close many loopholes in pension law that have made it relatively easy for employers to promise big pension benefits but not adequately fund those promises. Those pension funding reform provisions—long overdue—are part of a trade bill scheduled for congressional action during a special lame-duck session in early December.

There also were accomplishments on the risk management side. Congress ended a plaintiffs' bar bonanza in which accident victims could sue manufacturers of small aircraft that came off the assembly line decades ago.

Striking what we think is a fair balance between the rights of victims and manufacturers, Congress passed legislation that sets a time limit for filing suit of 18 years after an aircraft is manufactured.

Legislators also gave prosecutors new weapons to



combat insurance fraud by creating specific federal penalties for such illegal activities as embezzling insurance premiums.

Certainly, though, there were plenty of failures, but they may prove only temporary or even beneficial over the long run.

For example, last week Congress threw in the towel on reauthorizing the federal Superfund law. But that will give legislators a new chance next year to again try to eliminate one of the biggest problems in the law that this session's major proposals did not address: retroactive joint and several liability, which means even small contributors to hazardous waste sites can be forced to pay all costs associated with cleaning up a site.

With the retirement of key federal product liability reform opponent Senate Majority Leader George Mitchell, D-Maine, reform proponents next year may have their best chance ever of getting legislation enacted.

And, last but not least is health reform. Having learned lessons this session, such as the dangers of acting in secret, and with a lot more time, we hope legislators and the Clinton administration will do a better job of assembling a package that employers can support.

## Letters

## Self-funding may not be a panacea, but should be a choice

To the editor: For the past 20 years or so, consultants and brokers like myself have recommended self-funding as the magic bullet to control medical costs. We told employers to stop buying the package, that they could buy the parts cheaper. They could save administrative charges. They could gain control.

Well, it's time to admit that it hasn't worked!

It used to be that insurance companies which administered insurance programs assumed some risk. It was to their advantage to keep costs under control, as they knew that losses might not be recoverable. They also needed to keep their prices in line or lose customers. With self-funding, much of this accountability has been lost.

In a Sept. 26 letter to the editor, "Self-funded Plans No Panacea for Small Firms," Alice Ward focuses on a company

with 100 employees, but even much larger firms are finding that the self-funded approach is no panacea. Because a company is large enough to take on self-funded risks, does that mean automatically that self-funding is the prudent approach? More often than not, the answer is no.

The new magic bullet on the street is managed care. Perhaps we should ask—"Who's managing the managed care plans?" It's time to get back to basics. Managed care won't work without accountability. Managed care and managed insured plans provide this accountability and achieve meaningful cost control.

Years ago, insurance companies developed experience rating refund formulas and dividend formulas to satisfy the requirements to their larger employers. These concepts work—and work well.

**Mark A. Mitchell**  
President  
U.S. Benefit Consultants  
Acworth, Ga.

\*\*\*

To the editor: I strongly disagree with the Sept. 26 letter, "Self-funded Plans No Panacea for Small Firms."

The individual writing is obviously in the minority as small businesses everywhere praise the ability to self-insure from my experience. However I realize there are two sides to every story.

More important is that the government should not take away "choice." Let the small employers decide if they want to pursue self-insurance. The government should not remove their ability to decide for themselves.

If self-insurance for small business is bad, which it definitely is not, market forces will kill it and not the government.

**Ronald G. Blasko**  
Executive vp  
Professional Risk Management  
Youngstown, Ohio

Health reform story  
a successful summary

To the editor: My high opinion of *Business Insurance* was solidly confirmed again by "Death Knell for Clinton's Dream," a Sept. 5 article by Jerry Geisel and Dave Lenckus on the Clinton administration health insurance project.

It is a masterpiece—of summary and order, both so difficult. If I were an American professor of political science, I would make a copy of it for each of my students and tell them that we would use it as basic material for a case study that would probably last through the semester.

**Douglas Barlow**  
North York, Canada

# Business Insurance

Reporting weekly for corporate risk,  
employee benefit and financial executives

Vice president/  
Publisher/Editorial Director: Kathryn J. McIntyre, A.R.M. (Chicago)

Editor: Paul D. Winston (Chicago)

Editor-at-Large: Jerry Geisel (Washington)

Managing Editor: Timothy Stanton (Chicago)

International Editor: Stacy Shapiro (London)

Senior Editors: Dave Lenckus (Chicago)

Douglas McLeod (New York)

Assistant Managing Editor/Graphics: Jeanne M. Bartels (Chicago)

Assistant Managing Editor/News: Roseanne White (Chicago)

Assistant Managing Editor/Spotlight reports: Christine Woolsey (Chicago)

Bureau Chiefs: Michael Schachner (New York)

Joanne Wojcik (Los Angeles)

Copy Editors: Regis J. Caccio (Chicago)

Sara J. Harty (Chicago)

Assistant Copy Editor: Kerry A. Dziubek (Chicago)

Associate Editors: Deborah Shalowitz Cowans (Chicago)

Roberto Ceniceros (Los Angeles)

Meg Fletcher, A.R.M. (Chicago)

Judy Greenwald (San Jose)

Mark A. Hofmann (Washington)

Adrian Ladbury (London)

Sara Marley (Chicago)

Sally Roberts (Chicago)

Gavin Souter (New York)

Rodd Zolkos (Chicago)

Kathy Welyki (Chicago)

Rich Trout (Chicago)

Editorial Assistant: Ovie Dent (Chicago)

Assistant to the Publisher: Karen Brown (Chicago)

Editorial Cartoonist: Roger Schillerstrom (Chicago)

Advertising Director: Martin J. Ross III (New York)

Eastern Advertising Manager: Stephen P. Lincoln (New York)

Midwest Advertising Manager: Robert L. Nlesse (Chicago)

District Managers: Cynthia Bykowski (New York)

Blake Delany (New York)

Barrie Harmelin (New York)

Charles A. Harvath (New York)

Deborah D. Neale (Chicago)

Sales Assistant: Lori Lieberman (Los Angeles)

Classified Advertising Manager: Cheryl Butler (Chicago)

Production Manager: Elmer Kerstowski (Chicago)

Director of Communications: Ronnie I. Drachman (New York)

EDITORIAL: Chicago: 312-649-5398

London: 71-608-1172

Los Angeles: 213-651-3710

New York: 212-210-0100

San Jose: 408-379-1790

Washington: 202-662-7200

ADVERTISING: New York: 212-210-0228

Chicago: 312-649-5276

Los Angeles: 213-651-3710

COMMUNICATIONS: New York: 212-210-0132

SUBSCRIPTIONS: Detroit: 800-678-9595

Published by Crain Communications, Inc., Chicago

Founder: G.D. Crain Jr. (1885-1973)

Chairman: Mrs. G.D. Crain

Vice chairman: Keith Crain

President: Rance Crain

Chairman-executive committee: S.R. Bernstein (1907-1993)

Treasurer: Mary Kay Crain

Secretary: Merrilee P. Crain

Executive Vice president-operations: William A. Morrow

Vice president-circulation: William Strong

Vice president-production: Robert C. Adams

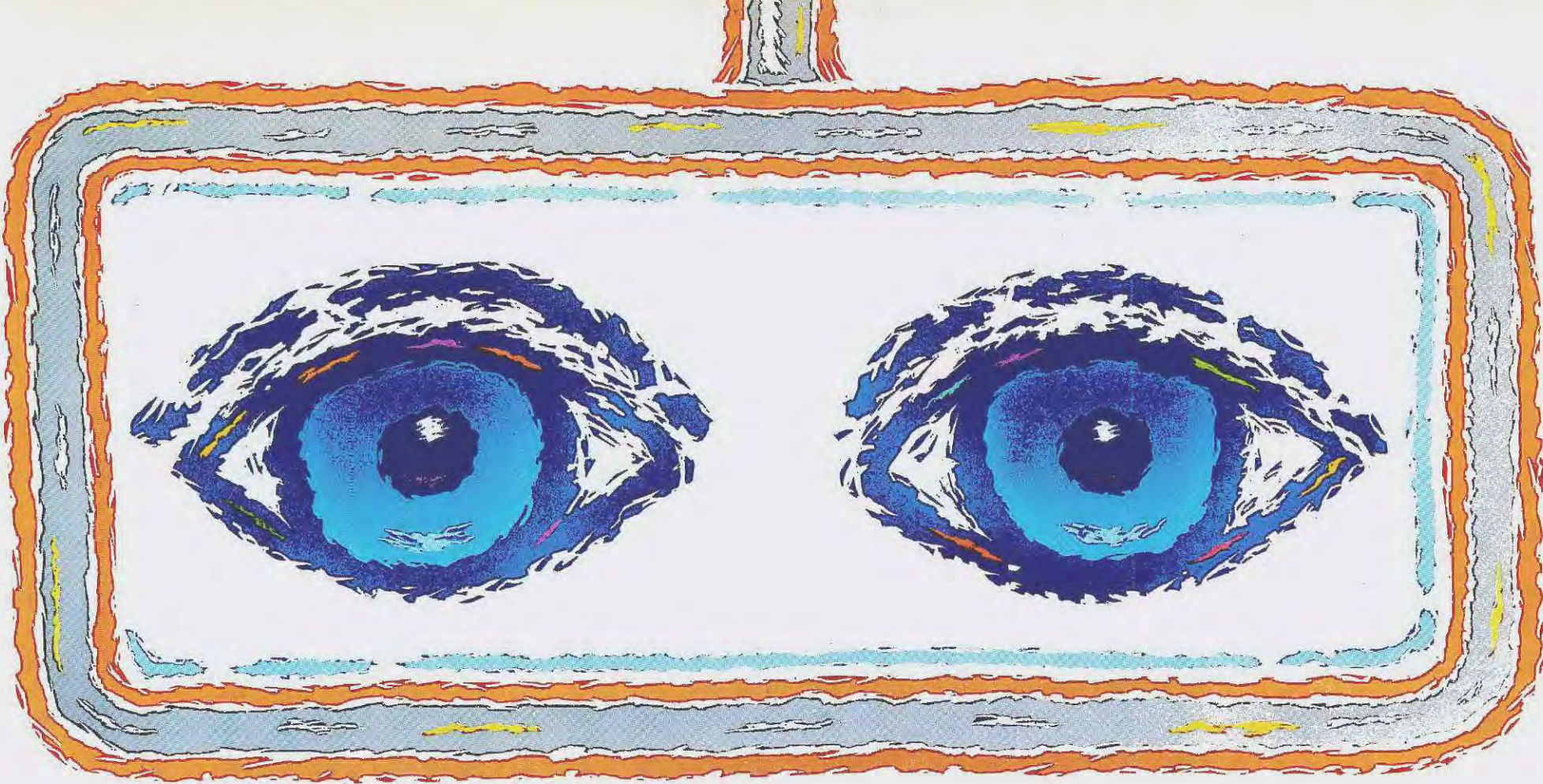
Published weekly at 740 Rush St., Chicago, Ill. 60611-2590, Telex 6871241, Fax 312/280-3174, Cable CRAINCOM. Offices: 220 E. 42nd St., New York, N.Y. 10017-5806, Fax 212/210-0704, CRAIN COM NYK; 1 Northpark, East Suite 114, 8950 N. Central Expressway, Dallas, Texas, 75231-6415, Fax 214/696-1936; Suite 814, National Press Building, Washington, D.C. 20045-1801, Fax 202/638-3155; 6500 Wilshire Blvd., Suite 2300 Los Angeles, Calif. 90048-4947, Fax 213/655-8157; 540 Latimer Circle, Camarillo, Calif. 93008, Fax 408/379-3257; Cowcross Court, 2nd Floor, 75-77 Cowcross St., London EC1M 6BP, England, Fax 71/608/1173. \$4 a copy. \$80 a year in U.S. \$126 in Canada (includes GST). First-class mail subscriptions in U.S. \$175, in Canada \$198 (includes GST). All other countries \$200/yr (includes expedited air delivery). DAVE KELLEY, circulation manager. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, Business Insurance, 965 E. Jefferson Ave., Detroit, Mich., 48207-3185, or phone 800-678-9595 or 313-446-0450, Fax 313/446-6777. Microfilm copies are available from University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48103. Microfiche copies available: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For information and rates to reproduce in general circulation media, contact: JOSEPH P. HANLEY, Crain News Service, 220 E. 42nd St., New York, N.Y. 10017-5806, 212-254-0890. For reprints or reprint permission contact: KAREN BROWN, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590, 312-649-5519, Fax 312/280-3174.

TO SUBSCRIBE TO THE WORLD'S LEADING  
COMMERCIAL INSURANCE PUBLICATION, CALL  
800-678-9595

313-446-0450 outside of the U.S.



*Business Insurance welcomes letters from its readers. Please keep your comments as brief as possible. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters. Send your comments to Letters to the Editor, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590.*



## A Company Wanted Its Truckers To Drive Safely.

Computer analysis told us a small truck fleet was having big trouble backing up. We saw too many dents,

dings and scratches. They saw too many expenses. So Liberty Mutual recommended a safety plan—including

Decision Driving™ seminars **We Suggested They Drive Backwards.**

and a mirror check station to help the drivers back up. Today, accidents are down and the truck fleet has

a big dent in their expenses. To see solutions for your loss prevention problems, see Liberty Mutual.

**FACING**  
THE ISSUES THAT  
**FACE OUR**  
**CUSTOMERS**  
TM

© 1994 Liberty Mutual Insurance Group/Boston

LIBERTY  
MUTUAL. 

# Russia

Continued from page 3

protect risks," said Arthur I. Moll, president and consultant of Compaudit Services in Little Neck, N.Y. If the Russian people truly decide to relinquish communism, those insurers with U.S. partners will get "dragged along."

"I'm very optimistic," said William D. Hager, president of the National Council on Compensation Insurance in Boca Raton, Fla. "There is no question in my mind that if the free market continues to develop, concurrently the insurance mechanism will mature and thrive along with the emerging free market."

Mr. Hager led the Citizen Ambassador Program delegation sponsored by the People To People Program.

Apart from an upbeat attitude, the former Soviet Union has only a few other distinct advantages to help it develop a modern insurance marketplace.

"The Russian Republic has 150 million people," Mr. Hager points out. It has "unlimited, untapped potential."

Under the former Soviet system, the state, or employers, claimed to provide the essentials for workers while the black market helped meet their other needs.

Now, the government is slowly privatizing assets like factories and land, which will theoretically make the average person wealthier.

Unsettled conditions predominate at this time, though.

A small group—dubbed "new Russians"—have become very wealthy. Meanwhile, strongmen from organized crime routinely seek "protection" money from both neighborhood merchants in tiny kiosks as well as international businesses, which have hired their own armed guards to protect their offices.

In this changing society, the first real need many felt for insurance was to guarantee the repayment of loans, which is still a popular need in Belarus.

As markets begin to mature, an emerging need is for insurance to protect cargo transported within the country's borders. This sometimes includes providing loss prevention services in the form of armed guards, insurers say (BI, Oct. 3). In addition, there is a growing demand for health care coverages, spurred by a law in some areas requiring that individuals or companies buy coverage to help supplement declining national health care systems.

In the more advanced Russian Republic, insurers' gross premium volume in 1993 totaled about 1.109 trillion rubles (\$618.9 million). Of that, 44% was in personal lines, including life, accident and health insurance; 28% in property coverage; and 18.3% liability coverage (BI, May 2, 1993).

Rosgosstrakh, a state-owned Russian insurer, even offers individual citizens more than 40 types of coverage.

There are now about 3,000 insurers in Russia, though many are considered very poorly capitalized, said K.E. Turbina, of the Moscow-based insurance regulatory agency Rosstrahnadzor. The minimum capital and surplus for some insurers is only 2 million rubles (\$770).

In practice, many of these insurers act more like brokers and reinsure their business outside Russia.

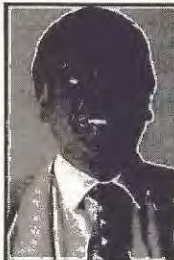
In addition to the vast market, Russia also benefits from the degree of cooperation among unions and management.

Such cooperation has become very important in dealing with the financial and social uncertainties caused by the decline of the Soviet state, said Pavel Markov, head of the trade union representing workers on the Otyabrskaya Railroad in St. Petersburg.

It's a particular challenge now that the volume of production is down and both the union and railroad are struggling to avoid layoffs, he added. "It is done against elementary economics, but we are managing."

"It appears that the union is actively considered a partner with management in resolving worker issues, rather than an adversary," said U.S. delegate Phyllis C. Stockfisch, executive vp of risk management for employee leasing company TeamStaff Cos. Inc. in Tampa, Fla.

A final advantage is that Russian insurers and regulators say



**Russian insurers want visitors from other countries to ask about Russia's problems and try to help solve them, says Alexander Tihonov.**

they are flexible about adopting any nation's insurance law, as long as it works.

"We are putting together our new insurance system. It could be the American model or British, French or German," said Ivan Kovrov, general director of the Baltic Insurance Co. Ltd. in St. Petersburg, which is co-owned by the railroad.

However, Russian insurers want visitors from other countries to ask about Russia's problems and try to help solve them, rather than merely teach Russians how the other systems operate, said SPHINX's Mr. Tihonov.

Russia also faces many disadvantages that generally outweigh its advantages.

"We need to develop a whole national insurance market," he said.

That includes developing an insurance-buying culture among people who previously had little or no need for it, because the centralized government controlled nearly all property and assets.

Even individuals who saved and bought automobiles on their own generally did not insure them, despite the high frequency of accidents, several insurer spokesmen said.

Would-be insurance customers

are "very passive," said Vyacheslav P. Glebov, another Moscow-based insurance regulator.

Average citizens are more concerned with trying to survive while government programs are cut back and the influence of the Russian mafia rises.

Fueling this attitude are low salaries, which average about 200,000 rubles (\$77) a month in Moscow, a guide said. The mindset is that a worker would rather buy a second television set than pay an insurance premium to protect the first TV.

Also, an insurance contract that promises to pay specific loss limits in the future diminishes in importance as inflation rates rise. Inflation is now about 6% per month in Moscow and 40% per month in Belarus, insurer spokesmen said.

Employers and citizens are so

Continued on next page

## IF YOU WANT TO SAVE MILLIONS LIKE THESE RISK MANAGERS,



Diana Forrest  
Wendy's

Bruce Wilson  
Bell & Howell

Del Smith  
Rubbermaid

Continued from previous page used to having a strong central government that they still hold the hope that the government may step in and provide relief in the event of a disastrous loss, like the 1986 explosion and fire at the Chernobyl nuclear power plant.

That disaster is often in the minds of Belarussians, because 70% of the nuclear fallout rained on southern Belarus and radiation poisoning affected more than 2 million residents.

An individual citizen's lack of interest and understanding of insurance is mirrored at the government level, too, insurers say.

The biggest problem is that the law generally does not consider most insurance expenses a cost of production, several insurers say. As a result, a company's insurance premium is not considered a deductible business expense and can only be paid with after-tax dollars.

That significantly reduces the

company's incentive to buy insurance.

Proposed changes to Russia's insurance law would increase insurers' minimum capital and surplus and make businesses' insurance premiums a tax-deductible business expense.

In addition, insurance companies also lack important investment options like municipal bonds, according to Victor Khomyarchuk, executive director of the Belarussian Union of Insurance.

Foreign investors are sometimes discouraged from doing business in the former Soviet Union because the law requires that they can own only 49% of a Russian insurer, which guarantees that Russian financial interests retain control.

The best solution now is for U.S. and other foreign companies to participate in joint ventures with Russian and Belarussian insurers, regulators and insurers say. ■

## Factory

Continued from page 3

pliments. "This is an ultramodern plant," said Ken Compton, president of WorkComp Solutions Inc. in Atlanta.

"We've got plants in Georgia that are not this modern," he remarked.

"I see some things that are very positive," such as good noise reduction in some processing rooms and well-maintained equipment, said Jeff McIntosh, vp of sales for Energy Insurance Agency Inc. in Lexington, Ky.

However, a closer inspection of the plant's operations revealed some problems.

"The biggest thing was the occupational disease exposure workers face from all the lint in the air," said Barry Zalane, vp

and regional marketing director for Reliance National Insurance Co. in Wilmington, Del.

Like other members of the visiting U.S. delegation, Mr. Zalane has extensive experience in loss control.

The Russian textile plant attempted to remove airborne cotton fibers by automatically vacuuming waste fibers off the floor using a series of flexible, vertical tubes—dubbed "snuffers"—that continuously travel back and forth through the rows of machinery.

However, enough tiny, lint-like fibers escaped to visibly cling to ceiling sprinkler heads as well as the dark jackets of men and women touring the plant.

Workers, who wore no protective equipment like masks, would likely breathe in those fibers, which could cause work-related lung ailments, Mr. Compton and

other observers noted.

Those fibers also could create a fire hazard, especially since the electric wiring was covered in aluminum, which is itself considered enough of a fire hazard to be prohibited in the United States, Mr. Zalane said.

Workers also faced the possibility of leg and foot ailments from standing on hard, concrete floors to tend the machines, Mr. Zalane said.

At least one female employee must have experienced some symptoms because she was wearing elastic bandages on her leg, he said.

Such problems could be prevented if the plant's workers wore cushioned shoes or stood on mats during the workday.

Other problems that delegates noted included inadequate and, in some cases, improperly placed fire extinguishers, poor lighting in many areas and the lack of warning devices on tow motors used to pull carts loaded with bolts of



Chris De Palma  
British Airways

Ken Albrecht  
Frito-Lay

Bob Manning  
Pepsi-Cola

JoLynn Holzwart  
Sears

## KEEP COMPANY WITH KEMPER.

Many Fortune 500 risk managers are saving their companies millions of dollars in medical benefits this year because they have Kemper workers' compensation insurance.

Kemper's special cost containment programs have saved up to 40 percent for companies like Bell & Howell, British Airways, Frito-Lay, Pepsi-Cola, Rubbermaid, Sears and Wendy's — without sacrificing quality health care.

And with similar cost-effective Kemper programs, you could save big money too, even if you're not a big company.

What's more, you can see your savings in a customized Client Savings Analysis, four times a year.

You see, at Kemper, we don't just talk about saving money on workers' comp.

We give you proof.



### FOLLOW THE LEADER.

For more information, contact your independent insurance agent or broker who represents Kemper.



Photo by Meg Fletcher

Vertical vacuum equipment in the Russian textile plant is designed to remove airborne fibers that might be harmful if workers inhale them.

fabric from one processing station to another.

When about a dozen U.S. visitors became separated from the main group, the lack of telephones in most areas of the plant became apparent and created communication problems that delayed re-grouping.

"In the United States, you would just never see a factory this size without telephones so you could call any department," said Charles H. Conley, president of Data Co-Ordinators, a workers comp services firm in La Habra, Calif.

In a discussion after the tour, plant officials said that the textile manufacturer has developed its own insurance company. The manufacturer currently has cargo insurance as well as coverage to protect employees' wages from inflation.

While the plant has no fire insurance now, the company expects to obtain it soon, officials said.

While the plant employs special nurses and doctors to help keep employees healthy, it also plans to acquire health insurance coverage for employees.

Another important benefit for the mostly female workforce is a company-subsidized child care center that prepares the employees' children for school.

Working parents pay the equivalent of about \$5 per month for that care. ■

Accident & Health,  
Workers' Comp, Auto



Are you paying too much? Medical bills can be significantly reduced!  
We have been an industry leader for over 12 years.

- Free pre-screen • Usual & Customary • PPO Network
- Chart Audits • Fee Schedules • Negotiations • Case Management

**YOUR COST CONTAINMENT SOLUTION!!**  
**CALL (800) 244-5532**

CA: (909) 980-1122 ▲ (415) 777-9070 ▲ Fax (909) 945-1162  
FL: (904) 241-8338 ▲ Fax (904) 241-0370

# Where Uncle Joe ruled, average Joes fare poorly

## Injured U.S. workers better off than Russian counterparts

By MEG FLETCHER

An average Igor who is injured on the job in Russia may have his case resolved quickly and even receive a paid trip to a resort to help him recover.

Usually, though, Igor is worse off than an average working Joe in the United States because he may work in more hazardous sur-

roundings and may receive little or no compensation for an accident he causes.

He also received little or no compensation for occupational diseases under the former Soviet system, though this is improving.

In addition, Igor may receive lower-quality medical care and any wage-loss rubles he receives buy less in an inflation-wracked economy where the minimum wage is \$11 per month and the poverty level is \$40 per month.

Under the Russian system, Igor would get basic medical benefits

provided by the nation's compulsory health care system, though private health insurance is beginning to emerge, especially for specialized care, expensive medicine and appliances. Some employers provide additional health care coverage as well as onsite health care services.

The Russian system offers some novel benefits beyond those available to U.S. workers: Igor may be able to visit special resorts and go to the front of a line of people waiting to buy goods, said Dr. Natalya A. Bishel, a Russian ophthalmologist who acted as program coordinator for the group of U.S. workers compensation specialists on the Citizen Ambassador Program trip.

Igor's wage-loss benefits are provided by the nation's pension fund, which his employer helps fund on the basis of a set percentage of each employee's salary, now 5.4% in Russia. That is very different from Joe's situation, in which his U.S. wage-loss benefits are the responsibility of his employer, which either self-insures or buys insurance coverage that reflects the employer's individual loss experience.

The amount Igor receives depends upon several factors, including his degree of impairment as well as the number of people in his family. His duration of employment also may be considered.

"There seems to be an adequate mechanism in place, at least theoretically," said William Hager, president of the National Council on Compensation Insurance and leader of the U.S. delegation.

In reality, though, "the system is not very good or developed," said Tatyana M. Gudima, a professor of social insurance at St. Petersburg State University.

In a best-case scenario, Russia's system appears to have limited advantages over the U.S. approach to compensating injured workers.

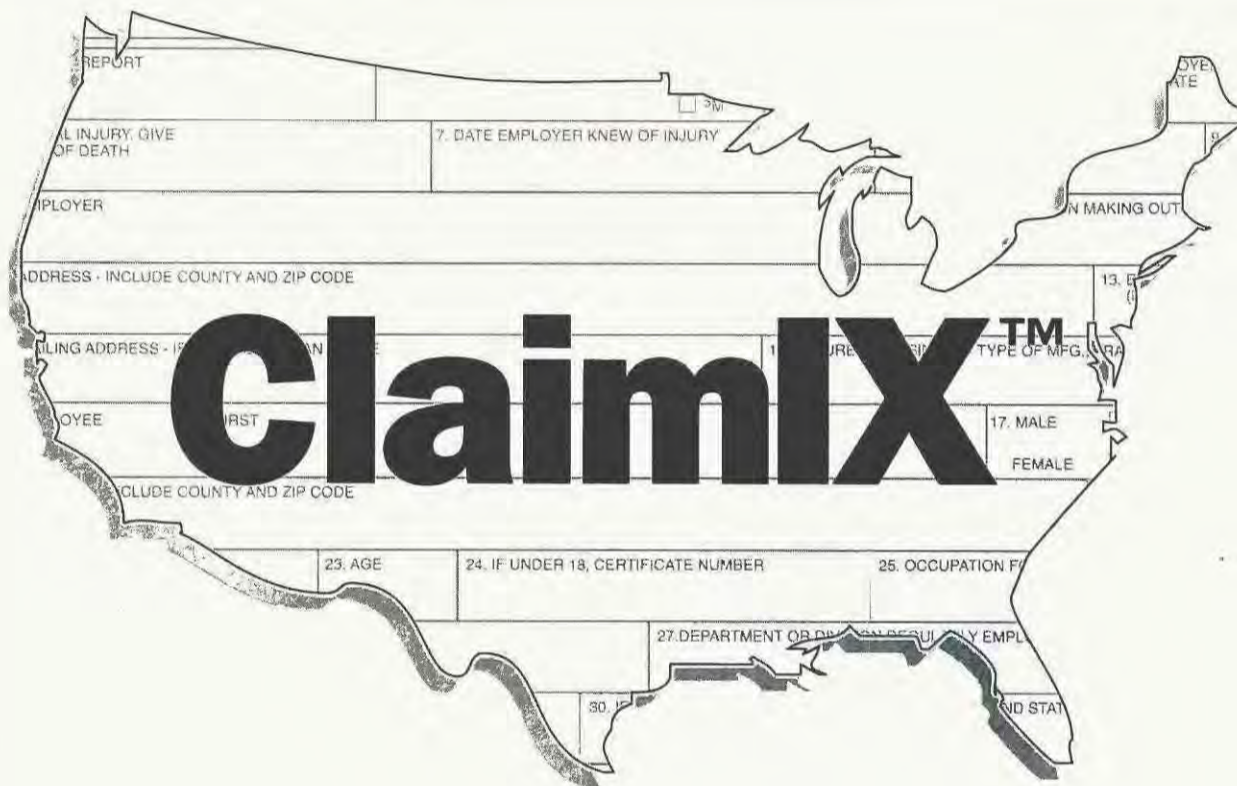
At least some workers do enjoy prompt determination of benefits following an accident. For instance, workers on the St. Petersburg-based Octyabrskaya Railroad usually receive benefits within 72 hours, especially if the accident occurs in a geographically accessible area, said Ivan Kovrov, general director of the Baltic Insurance Co. Ltd. in St. Petersburg, one of the railroad's insurers.

The railroad was designed more than 150 years ago so Czar Nicholas I could travel from his St. Petersburg palace and Hermitage art museum to his summer residence. Since then, it has expanded its services to include transporting cargo as well as passengers, especially overnight between major cities.

Labor and management representatives working together to investigate claims is helping Russians to make prompt benefit determinations. Government officials are sometimes added to the team, if needed, said Ms. Gudima.

Among the things investigators determine is who was at fault. If Igor caused the accident, he would usually not be paid, Ms. Gudima said. However, an employer can encourage the payment of some wage-loss benefits,

*Continued on page 14*



## Save Time and Money by Using Electronic FROI Claim Filing.

Introducing PC-based software for agents, employers, self-insureds, state jurisdictions and carriers that makes it easy to report workers compensation claims.

And saves you money!

For years, filing workers comp claims meant understanding the 50 independent paper-process requirements of each state.

That's all changing with ClaimIX™, an easy-to-use automated package from IVANS that makes processing easy, fast and accurate.

ClaimIX™ can:

- Reduce your claim reporting cost.
- Transmit "First Reports of Injury" (FROI) in an EDI standard, the IAIABC 148.
- File electronic forms and/or print hard copy reports for state workers comp agencies and insurers.
- File OSHA reports without additional work.
- Interface with the IVANS/EDS Workers Compensation Reporting Service (WCERS™).

Call 1-800-548-2675.

Access to the Insurance and Health Care Electronic Marketplace.



777 West Putnam Avenue  
Greenwich, Connecticut 06830-5012

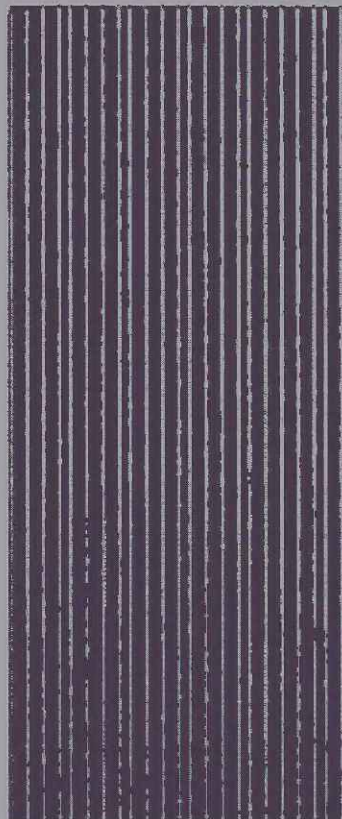
# This Spring at RIMS in San Francisco everyone will be watching...

**Business  
Insurance**

*presents*

RIMS  TV

1 9 9 5



**For  
details  
call:  
Martin Ross  
212  
210-0228**

In 1995 *BI* will expand its news coverage of the Risk & Insurance Management Society's annual conference to include televised conference reporting.

*Business Insurance's* RIMS' TV will be shown on exclusive channels in major official conference hotels and on monitors around the exhibit hall.

Original programs, shown 24 hours daily, Monday, Tuesday and Wednesday, will include coverage of major conference sessions, interviews with association leaders, industry leaders, conference speakers, attendees and exhibitors, plus daily conference highlights and updates.

Executives attending the conference will tune in to *Business Insurance's* RIMS' TV for the same timely, accurate news reporting that nearly 146,000\* readers rely on each week in print. Book your time now on the conference's official daily television program.



\* Includes pass-along readership

**“When the Southward Ho Country Club needed comprehensive insurance coverage, they talked to us — and we talked to the Brownyards.”**

Barney Runcie  
Runcie & Waters  
Massapequa, NY



If you'd like to offer the same comprehensive coverage to your Country Club clients, talk to the Brownyards.

No matter how difficult or complex the exposures for private Country or Golf Clubs, call or Fax Brownyard today for a quote.

**THE BROWNARD GROUP**

21 Maple Avenue, CN9175  
Bay Shore, NY 11706-9175

(800) 645-5820 • In NY (516) 666-5050 • Fax (516) 666-5723



**Tamarack American<sup>SM</sup>**

A Division of  
Great American Insurance Company

SM

## Building a New Tradition

- Excellent paper —  
Rated A, by A.M. Best Co.

---

- Flexible underwriting: admitted and non-admitted companies, available in 50 states

---

- Reliable service

---

- Umbrella, Excess, D&O, E&O, Primary General Liability and Professional Liability Coverages

---

- Substantial policy limits capacity

---

- NYC Headquarters:  
100 East 42nd Street, NY 10017

---

- Offices in Atlanta, Chicago, Dallas, New York, San Francisco



**(212) 949-5757**  
**Fax: (212) 949-6881**

**Give us a call for more information and to place business**

**Tamarack American**  
100 East 42nd Street, New York, NY 10017

## Workers

*Continued from page 12*

though it might be less than the poverty level of \$40 per month, she said.

Textile manufacturer Trehgor-naya Manufactura in Moscow usually considers most worker injuries to be its own fault, especially if the injury was caused by a worker's lack of training, according to Valentina N. Rodionova, a trade union leader at the plant.

If an employer is at fault, a worker may get compensation ranging from 60% to 100% of salary, depending upon the actual situation.

Any controversy about whether Igor or his employer were at fault is generally referred to a regional arbitration system or court, Ms. Rodionova added.

In some cases, an employer can be sued, according to Pavel Markov, leader of the railroad workers union at Ochyabrskaya Railroad.

One area of Russia's workers comp system that is improving from a worker's perspective is occupational disease.

Occupational diseases have been a feature of Russian life for centuries.

For example, the gilded domes atop many Russian Orthodox churches caused fatal diseases in the past, a guide said. Workers died of poisoning from the mercury used to attach gold leaf to the domes. A less toxic process was later developed.

Under the prior Soviet system, Igor would have received little or no compensation if he suffered an occupational disease, though that appears to be changing.

“During the Soviet period which ended in the early 1990s, a professional disease was considered part of the capitalistic system,” Dr. Bishela said.

The official view was that Russia is the workers' state and that

“Now, we accept professional diseases as a fact of life,” she said.

Beyond occupational disease, many Russian and Belarussian workers also face hazardous working conditions, an insurer and labor representative said.

Before perestroika, the hazardous working conditions were carefully monitored. Individual enterprises had safety inspectors who could stop the manufacturing process, said Victor Khomyarchuk, executive director of the Belarussian Union of Insurance.

“Unfortunately, it is a terrible situation today. There is no longer order in this process,” he said.

Belarussian authorities have been working with the problem “very actively” for the past six months, he said.

Improving safety and general



Photo by Meg Fletcher

**A common occupational disease used to be caused by the process used to place gold leaf on domes like these.**

working conditions have always been a trade union's concern, but even more so now as unions become more active, said Mr. Markov, who identified himself as a former Communist.

About 15 or so railroad workers die annually, most often from being hit by passing trains as they work in a construction zone, he said. Another cause of serious accidents stems from misused electricity, which is sometimes the worker's fault, though Mr. Markov did not provide details.

Despite its flaws, there are some useful lessons in the Russian system of compensating injured

**‘During the Soviet period, which ended in the early 1990s, a professional disease was considered part of the capitalistic system’ and officially viewed as something that was inappropriate to get, says**

**Nataly A. Bishela.**

getting professional diseases was not appropriate, she explained.

Occupational disease statistics were kept hidden, in part because only specific health care providers were given authority to certify ailments as occupational diseases, Dr. Bishela said. For example, only 2,000 cases were reported in the entire country in the late 1980s, which is “impossible” given Russia's size and the number of dangerous manufacturing processes operating within it, she said.

Workers who were certified as having occupational diseases were placed in one of three categories. Those workers often tried to get physicians to categorize them at a higher level of disability so they could get more benefits, Dr. Bishela said.

workers, according to some members of the American delegation.

“They do some things right that we don't do,” such as involving all interested parties in some accident investigations, said Phyllis Stockfisch, executive vp of risk management for the TeamStaff Cos. Inc. in Tampa, Fla., an employee leasing company with 150 clients in 15 states. “That would have the effect of limiting liability and allaying the fears and suspicions of workers because it encompasses all the critical parties that have divergent interests.”

The railroad's 72-hour response time for deciding claims is “phenomenal,” said American delegate Linda Moreland, an independent insurance agent with Olson & Associates Insurers Inc. in Sioux Falls, S.D. **BI**

# Hungry for insurance knowledge

## But Russian efforts to learn hindered

By MEG FLETCHER

MOSCOW—Russian educators and insurers are hungry for educational information that will help them better understand the growing insurance industry and the role it plays in their emerging entrepreneurial marketplace.

Satisfying that need is difficult, though, because of problems in

communication and the limited availability of Russian-language insurance textbooks as well as computer and other office equipment.

Despite the problems, groups of educators and insurers in both Moscow and St. Petersburg are sponsoring and participating with a variety of private and public educational institutions that now teach insurance-related courses to students on either a part-time or full-time basis.

Russians and Belarussians who met recently with the U.S. delegation of insurance professionals have "an insatiable appetite for information and assistance from the United States community, in-

cluding the academic community," said William Hager, the president of the National Council on Compensation Insurance, and leader of the delegation sponsored by the Citizen Ambassador Program.

For example, professors at the French-Russian Institute of Business Administration in Moscow are seeking information about enhancing the Institute's curriculum by adding more insurance-related courses.

Among the things students need to learn is how to detect fraudulent claims, said Victor Mitrohin, director of the Insurance Investigation Center, known as PETO, in Moscow.

Detecting such claims would be easier if Russian insurers shared

claims data among themselves, rather than keeping it on a company-by-company basis, Mr. Mitrohin said. Lack of a centralized data pool allows perpetrators to operate undetected and submit duplicate claims for payment.

He also wants to share information with U.S. experts on ways to detect fraud rather than "reinvent the bicycle," an often-used Russian expression akin to reinventing the wheel.

Educators and insurers in St. Petersburg are working through two organizations to fill the educational void.

One is the Russian Union of Insurers' Training Centre, which offers introductory and advanced courses on insurer finances, management, marketing, accounting,

reinsurance and actuarial services. Each course lasts between three days and two weeks.

The other is the Academy of Insurance, which was established in August 1993 by professors from the Department of Economic Cybernetics at St. Petersburg University, which combines economics, mathematics and computer techniques.

The academy is working toward becoming a research, educational and consulting center that offers three graduated levels of training in insurance-related areas, including risk management.

The academy has the advantage of being able to draw on the university's professors to teach courses. It also was able to find teaching space near the university in a convenient, though aged, low-rise building like the empty ones preserved in the city's his-

*Continued on next page*

## U.S. work comp on Russian tour

Associate Editor Meg Fletcher accompanied a group of U.S. workers compensation professionals on a recent tour of Russia and Belarus.

It was a trip to remember.

For 13 days, 38 Americans plus guests traveled to the former Soviet republics of Russia and Belarus to discuss insurance-related issues with insurers, regulators, academicians and consultants.

The U.S. delegation of workers compensation professionals was sponsored by the Citizen Ambassador Program of People to People International. The group was headed by William Hager, president of the National Council on Compensation Insurance in Boca Raton, Fla.

Each member of the delegation prepared a short presentation on topics ranging from proposed changes in U.S. health care to recommendations for better safety and loss control in the workplace.

Through interpreters, members of the delegation took turns presenting those topics that the hosts wanted to hear, while the hosts explained the operation of their insurance system.

Some of the best discussions came from the informal chats that followed the formal meetings and banquets that ended our stay in each city. We traveled by plane, overnight train, bus and boat while visiting Minsk, the capital of the Republic of Belarus, as well as Moscow and St. Petersburg in the Republic of Russia from Aug. 22 to Sept. 3.

We also had guided tours of cultural highlights ranging from a roomful of Rembrandt paintings in the Hermitage to the chandelier-lit halls of Moscow's subway.

The aim of People to People, which was founded in 1956 by President Dwight D. Eisenhower, is to foster better communication between Americans and the citizens of other countries.

The trip did that and more, both inside and outside the group.

We bonded as only those people who help each other cope with a new culture and its different customs, food and facilities can.

Before it ended, we all attempted to speak some Russian and a New York couple also learned to speak "South Carolinese."

Most of us also came away with a deep appreciation of two things we previously took for granted: The integrated financial structure of the United States allows us to earn a decent living. Also, educational opportunities are readily available to further develop professional skills.

Those realizations—and others—prompted delegates on the flight home to break into applause when the plane touched down on U.S. soil.



Most people would see a disabling leg injury.  
We saw a forklift operator  
stepping up to a new career in computers.

When a 35-year-old forklift operator had a very serious motor vehicle accident, he could no longer continue at his job. In personal interviews, we suggested an occupational evaluation, where we discovered he had a high aptitude for computer programming.

We immediately put together an action plan which involved his benefits manager, his physician, therapists, the rehabilitation agency and potential employers. We then helped cover the costs for everything from books and transportation to living expenses.

In a short time, he was completely "reprogrammed" for his new career. And, best of all, gainfully employed.

This is an example of how our unique approach to long-term disability management can return employees to the workplace to be productive again—as soon as possible. An approach pioneered by the same company that was a pioneer in managed health care. The Prudential.

Which explains why so many people are now taking some steps of their own. And calling us.

To find out more about The Prudential Disability Solution, call (800) 242-5413.

The Prudential 

## Greenbrier

*Continued from page 3*

ating officer of Zurich-American Insurance Co. in Schaumburg, Ill., said the market cannot afford to harden significantly since policyholders now have so many risk financing alternatives to traditional insurance.

And in property catastrophe reinsurance, one of the few areas of the commercial property/casualty market to have firmed in the past year, several executives said rates may have been raised too high and may need to be lowered.

The theme of consolidation continues in the current market as companies try to create economies of scale—particularly among agents and brokers, with a few mergers and acquisitions discussed during the meeting—and expense control remains high in the minds of executives.

Among the transactions that occupied executives' minds at the meeting: Chicago-based Mesirow Insurance Services Inc. has acquired R.C. Hanchette & Associates Inc. of Elgin, Ill.; and NIA Ltd. of Paramus, N.J., is merging with Kornreich Insurance Services of New York.

News discussed on the insurance company front included a quota share reinsurance contract between Continental Corp. and General Reinsurance Co. Under the deal, struck this summer, Con-

tinental is ceding roughly half of its \$800 million personal lines book to Gen Re under a contract retroactive to Jan. 1.

Many companies are now exploring ways to improve quality and processes as a means of boosting productivity and profits, rather than merely trimming headcount or increasing sales.

In addition, agents and brokers appeared anxious for assurances that insurers are still committed to them during the lean market.

The meeting's industry roundtable discussion, which traditionally concludes the conference, touched on several of these themes.

"Many of us began our careers in the early to mid-60s. The industry we enjoy and serve today is much different from the one we first entered," said Ernest P. Stevens Jr., senior vp of Putnam Agency Inc. in Ashland, Ky., and

panel moderator. The changes include enormous liabilities from pollution and asbestos, insurer insolvencies, frequent agency mergers and acquisitions, and greater workplace exposures and liabilities.

"Companies did not re-engineer and seldom reorganized. We were insurance people, we did not think about financial services. Few of us were impacted by globalization. Today, all of us are a part of the rapid change. If we wish to remain an important part of the industry, we must deal with this change," he said.

One such change is a shrinking number of agents and brokers, panelists agreed.

"It does present a challenge in that the number of opportunities for you to do business, prospective agents, obviously goes down," said Cary Blair, president and chief executive officer of West-

field Cos. in Westfield, Ohio. "We have to adapt to doing business with larger and larger agents."

"We're witnessing an effort on behalf of agents and brokers to deal with the cost of doing business today, critical mass and capital requirements and what we do to maintain our margins in today's business world," said Gary Griffith, president and CEO of Bain Hogg Robinson Inc., which itself is expected to be acquired by Acordia Inc. as part of a deal with parent Bain Hogg Group (BI, Sept. 26).

In today's competitive market, Mr. Stevens questioned whether insurance companies are as committed to the agent as they traditionally have been. He cited the "information superhighway" and other possible new means of distribution for insurers to reach their ultimate customer, the policyholder.

"We're continuing to focus on the agent as our primary customer, and have no plans to change that," said Mr. Blair. But if shrinkage continues, insurance companies have to consider their strategies, he added.

"We think there are some fundamental changes coming. A lot of personal lines will increasingly be written on a so-called direct writer basis, while commercial lines will continue to be sold through the American agency system," he predicted.

"As an industry, it would be very difficult to find another group that's able to deliver the personal service aspects and personal relationships that agents and brokers provide," said Mr. Griffith. At the same time, he added, there are consumers who would prefer to deal directly with the market, similar to what's hap-

*Continued on next page*

## Educate

*Continued from previous page*

toric district. However, the academy faces several problems, including supplying students and teachers modern textbooks and journals as well as computer and office equipment.

There is a specific need for an English-Russian dictionary of insurance terms as well the translation of English insurance texts into Russian, said Natalia Kouzhetsova, head of the university's foreign countries division and the academy's vice director.

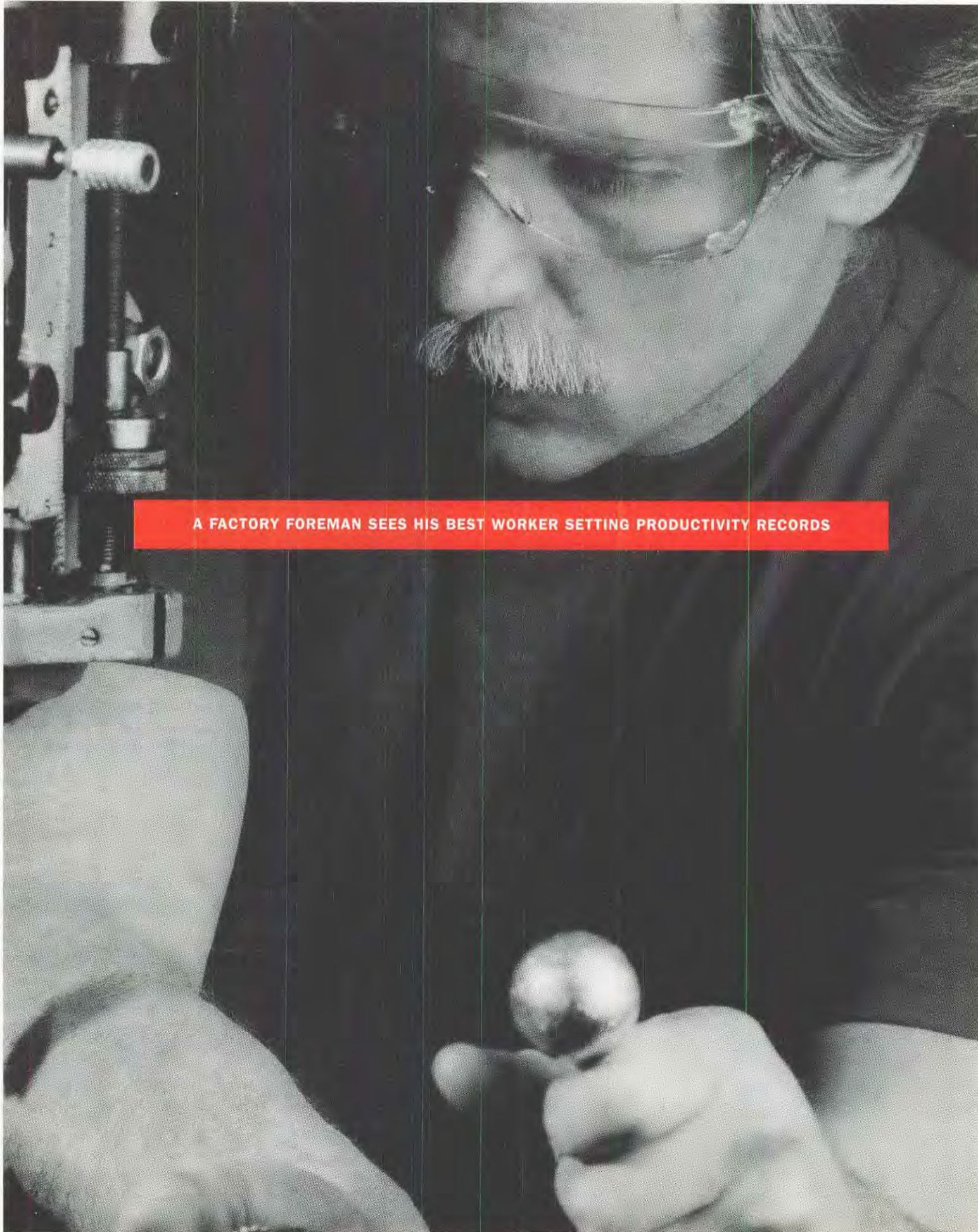
While translators are available, money to pay them is not, she said. "Unfortunately, funding for education is among the last priorities for government funding," she explained.

Ms. Kouzhetsova and the other professors—along with other dignitaries the delegation met on its tour—seemed particularly pleased to receive copies of some books on the U.S. workers compensation system, including one on the medical management of workers comp claims. The books, which were donated by Malvern, Pa.-based Insurance Institute of America, were presented by Gail M. Burns, a senior workers compensation claims consultant with Hanover Insurance Co. in Scarborough, Maine.

In discussions afterward, U.S. delegates wondered about ways to help the educators, including the feasibility of using computer software to translate English text into Russian.

Such software programs are available in the United States, a U.S. computer expert later confirmed.

However, Robert J. Decker, assistant vp for loss control with the Florists' Mutual Insurance Co. in Edwardsville, Ill., said his experience in using English-to-Spanish translation software taught him that any computer-translated text requires careful editing for it to make sense. **BI**



**A FACTORY FOREMAN SEES HIS BEST WORKER SETTING PRODUCTIVITY RECORDS**

Continued from previous page  
 opened in the stock industry with full-service stock brokers and discount brokers providing a minimum of services.

Mr. Stevens suggested that to provide a better agency force for insurance companies, insurers should support educational programs and provide other assistance to help "make better agents."

Mr. Blair said Ohio Casualty has provided financial support for educational programs developed by some of its agents. "The perpetuation of the system is important to us."

In addition, Mr. Blair noted that the insurance company has hired numerous college graduates.

"You would think that's not an investment in the agency system, but we lose a lot of them to the agents and, frankly, it's good for us," he said.

In addition to investing in training, the panelists agreed there is a serious need to improve the racial and gender diversity within the industry, particularly given the scrutiny the industry is receiving amid allegations of redlining.

Indeed, of the approximately 600 top executives from agents,

"I heard that in the incoming workforce in the year 2000, one out of five will be male and Caucasian; four out of five won't be... we have to address that issue and if we don't, there will be all sorts of ramifications politically," said James Pender, chairman of The James B. Oswald Co. in

added.

This can only be done by ensuring minority-owned agencies are healthy; not simply by hiring minorities within existing "male Caucasian-owned companies," he said.

Some buyers are even evaluating the cultural diversity of the agents with which they do business, Mr. Griffith said.

Unless the insurance industry wants Congress to intervene on this issue, it must take action, said Mr. Blair.

"Show Congress what you've done, not what you're going to do," he urged.

While the industry is seeking to avoid federal intervention on that front, it seeks government assistance to cope with another problem: catastrophe exposures.

"The industry has been basically united over the issue of creating a federal reinsurance role

for large natural disasters. But this legislation won't be enacted this year and, in the meantime, more of our carriers are withdrawing from states like California and Florida because of the catastrophe risk," observed Mr. Stevens.

"It's not economical for an agency or brokerage to take the time necessary to place that business," he said.

"The worst is not behind us," said Frank J. Coyne, president and chief operating officer of General Accident Insurance Co. in Philadelphia.

The industry cannot shoulder a big catastrophe like a major earthquake, such as a quake along the New Madrid fault in the Midwest, he said.

"The cost of catastrophe reinsurance because of catastrophe exposure is tremendous, making the cost of delivering property products almost prohibitive. This issue needs to be addressed and can only be addressed at the federal level," he said.

"No one is interested in inviting more federal regulation... but we have a responsibility to seek out answers," said Mr. Griffith. "If we want to maintain control over business that is attractive to us, we have a responsibility to develop solutions to difficult problems," he said.

"We have to do something as an industry at a federal level," such as tax credits for insurance companies to build catastrophe reserves, said Mr. Blair.

"We get hurt as an industry when we can't respond to an insurable need," said Mr. Coyne.

In catastrophe-prone areas "where you have the exposure and you already think you have as much as you can bear under any reasonable model, the perception is the industry's unwilling to pay claims, take risks or respond to what the customer needs. It hurts the industry, and it hurts the agent. You'd like to provide a market but you can't," Mr. Coyne said. **[E]**

**'I heard that in the incoming workforce in the year 2000, one out of five will be male and Caucasian; four out of five won't be... we have to address that issue and if we don't, there will be all sorts of ramifications politically,' says James Pender.**

brokers and insurers at this year's Greenbrier meeting, only 16 were women.

That is higher than a few years ago.

Cleveland.

And, given the redlining issue, the industry needs to explore what it can do to ensure minority agencies become healthier, he

**A HOME UNDERWRITER SEES 32 DAYS DISABILITY DUE TO A REPETITIVE MOTION INJURY**

**AND SEES AN INTEGRATED WORKERS' COMP PROGRAM TO CONTROL COSTS.**

On-the-job injury is an unfortunate and costly reality in the industrial workplace. That's why our underwriters tailor workers' comp programs to integrate loss control and cost containment measures. Our safety engineers seek to mitigate risk,

our medical case management professionals control medical expenses, and our rehabilitation specialists help injured employees return to work as soon as possible. Together as a team, Home Insurance professionals protect you from the unexpected. Ask your broker or call 1-800-TEL-HOME.

**WE SEE RISK BEFORE RISK SEES YOU.**



**Council officers elected**

**WHITE SULPHUR SPRINGS, W.Va.**—The Council of Insurance Agents & Brokers elected new officers during last week's meeting at The Greenbrier resort.

Erland P. Stevens Jr., senior vp of Putnam Agency Inc., was elected 1995 president. He succeeds Fred C. Burns, managing partner of John L. Wortham & Son L.L.P. in Houston.

Other key elections included: Harry A. Koch Jr., president and CEO of The Harry A. Koch Co. in Omaha, Neb., was elected vp; Albert R. Counselman, president and CEO of Riggs, Counselman, Michaels & Downes Inc. of Baltimore, was elected treasurer; and John C. Adams Jr., executive vp and chief operating officer of Hilb, Rogal & Hamilton Co. in Glen Allen, Va., was elected secretary.

Next year's joint annual meeting of the Council and the National Assn. of Casualty & Surety Executives will be held at The Greenbrier Oct. 8-11, 1995. For more information, contact the Council, Suite 400, 316 Pennsylvania Ave. S.E., Washington, D.C. 20003-1146; 202-547-6616.

# Producing results takes balance

By PAUL D. WINSTON

WHITE SULPHUR SPRINGS, W.Va.—After years of only modest revenue growth, the issue of increasing productivity and profitability has become critical for in-

## COUNCIL/NACSE

The Greenbrier

## CONFERENCE

surance agents and brokers, said the president of the Council of Insurance Agents & Brokers.

But, efforts to control expenses must be balanced against the need to attract and retain quality personnel to provide superior service to customers, he added.

"There is consensus now that the expense level (in agent and broker ranks) is higher than it should be. Those who have been successful in mastering the process and controlling their expenses are viewed as the most successful in our industry. For those who haven't, the need to increase productivity through expense and headcount control is vital," said Fred C. Burns, managing partner of John L. Wortham & Son L.L.P. in Houston.

He was addressing the opening general session of the joint annual conference of the Council and the National Assn. of Casualty & Surety Executives at The Greenbrier resort last week.

Analyzing *Business Insurance's* annual reports on the top agents and brokers, he noted that growth has been modest (*BI*, July 18).

"Looking back over the last seven years, the gross commission and fee income of the 100 largest insurance brokers doing business in the U.S. increased from \$4.5 billion to \$8 billion. Adjusted for inflation, an average of about 6% per year," he said. That is "a modest growth, especially when you consider the number of business combinations, mergers and acquisitions which have taken place during that period of time."

Profitability has fared similarly over this period.

"During this past year, I'm sure you have noticed the lack of profitability of many of the publicly held brokers. Though less publicized, many private firms have had similar results," Mr. Burns said.

Many agents and brokers have coped with this environment, he observed, with a strategy to increase revenues by selling more business. However, "with a limited universe of income, we can't all use this strategy. We would simply be trading accounts," he added.

"While increasing the profitability of the enterprise is essential to long-term success, it is only half the equation, in my opinion," Mr. Burns said.

"Agents and brokers are considered personal service professionals. . . . These professionals must grow economically as well as the enterprise," he said. "Our firms are only as good as the people who manage them and advise our clients. It is this required growth in professionals' income which poses a problem for many in our industry today."

With a limited universe of revenues for agents and brokers, many firms have found it difficult to balance the needs of their producers with those of the business itself, Mr. Burns said.

## Agents, brokers need to satisfy business and client needs

"Many firms in our business have found the needed balance; they are easy to spot. They are the firms with good financial results. They do good work and they have stable and talented professionals who have remained loyal to their institutions. They keep their clients, and their insurance companies make a profit," Mr. Burns said.

While one might think such firms have elaborate plans or unique solutions to problems, it "may be as simple as their business structure and their core beliefs," he said.

Mr. Burns cited as an example his own firm, John L. Wortham & Son, which is the largest broker in

**'Our firms are only as good as the people who manage them and advise clients,' says Fred C. Burns.**

Houston and one of the 25 largest brokers of U.S. business. Wortham has been successful because it pays close attention to its productivity and benchmarks with other brokers as well as other service firms.

"Our revenue per employee is equal to or greater than the finest

and most productive firms in the country. This past year our friends at Marsh, one of the great financial success stories in our industry, had a revenue per employee of \$124,000. Ours was just over \$130,000," he said.

Mr. Burns credits the greater productivity of his smaller firm with its ability to attract and retain quality professionals. This is made possible, he said, by forming as a partnership, so it pays no federal corporate income tax. And because it located itself in Texas, its partners and employees pay no state income tax.

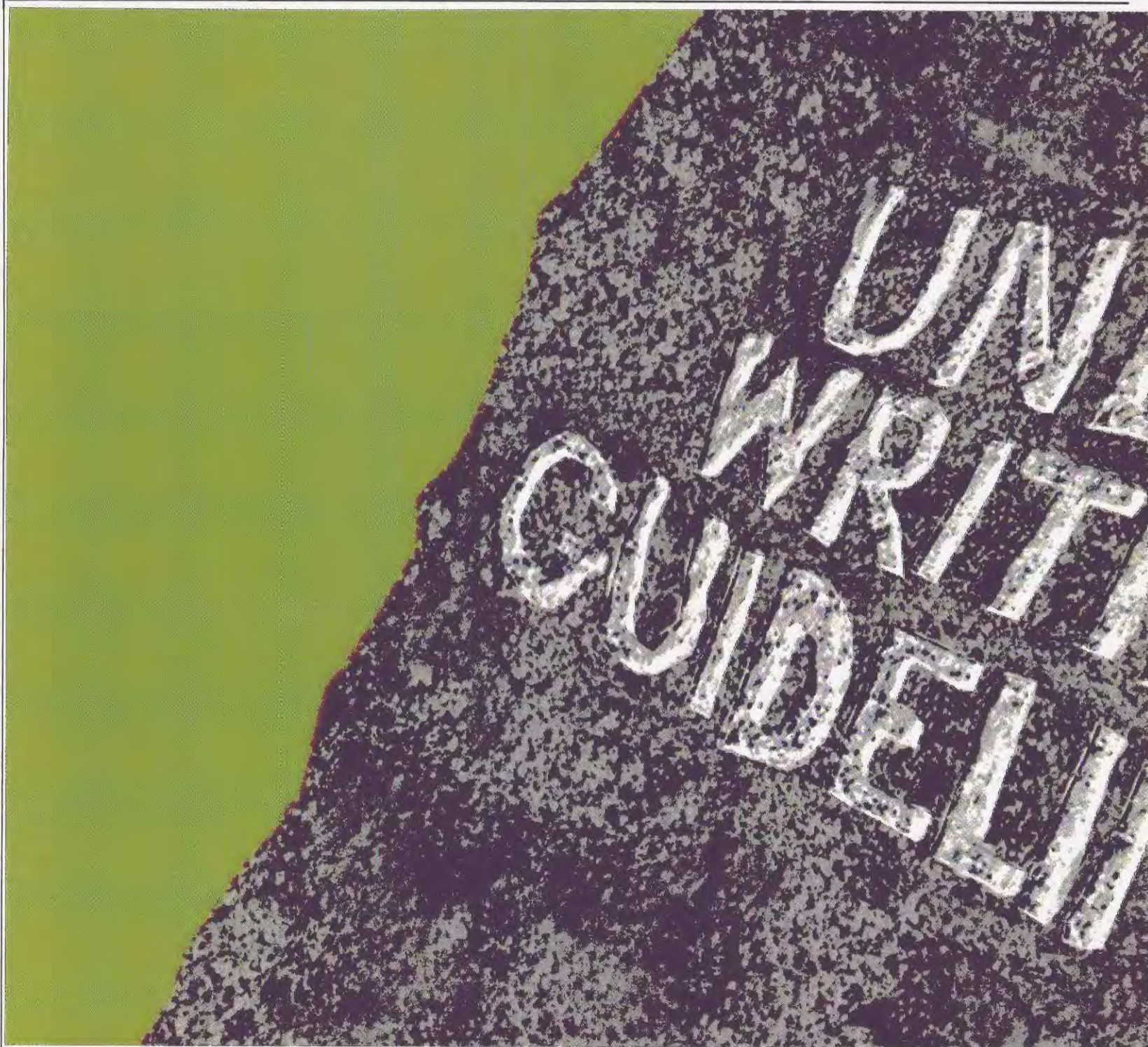
While some might say this has little to do with the insurance business, Mr. Burns said it actu-

ally is the broker's core strategy.

Clients don't care about a firm's internal structure, taxation and other business issues, he said. Rather, they care about the solutions they receive from that service firm. "Experience tells me that better people offer better solutions. Our clients and our insurance companies want stability in our professional ranks so that long-term relationships can be established," he said.

"If our respective firms are to succeed, grow and prosper, we must find creative, sometimes simple, ways to distribute the income paid to us by our clients for superior risk management programs," said Mr. Burns.

"It is that blend of profitability through productivity and the ability to attract and retain the best qualified personnel that will, in the end, carry the day," Mr. Burns said. **BI**



## How can you get customized solutions

If it seems like your reinsurer is offering solutions that date back to the dark ages, you may not be getting coverage that prepares you for the future.

At American Re, we have a different way of approaching risk. We start by assigning a multidisciplinary team of specialists to analyze a client's business from the inside out. We'll call

on experts in treaty, facultative, actuarial, claims or finite risk. Whatever the mix, they'll work together to build and deliver a customized reinsurance program that works for our clients, not just for us.

Our goal is to serve our clients as a consistent, strategic partner. To start at the conceptual phase

# Health reform post-mortem looks to revival

By PAUL D. WINSTON

WHITE SULPHUR SPRINGS, W.Va.—Health care reform may have failed to clear this session of Congress, but some form of change is likely within the next decade, an economist predicts.

"There will be compulsory insurance in America, probably within this decade. It will be catastrophic coverage and not comprehensive and it will be put in by a Republican president," predicted Uwe Reinhardt, professor of economics and public affairs at Princeton University in Princeton, N.J. "I call this the China syndrome. There are certain things only Republicans can do. Only Nixon could go to China and only a Republican president could sign such a bill."

## COUNCIL/NACSE The Greenbrier CONFERENCE

Mr. Reinhardt reviewed the causes and effects of "the meltdown" of health care reform in a speech before the joint annual session of the Council of Insurance Agents & Brokers and the National Assn. of Casualty & Surety Executives at The Greenbrier last week.

Paraphrasing Winston Churchill, Mr. Reinhardt summed up the failure to enact health care reform: "Never before in history has so much been done by so many to achieve so little."

Lawmakers' inability to make the

politically unpopular decision to mandate coverage is a key reason why reform efforts failed in this session of Congress, Mr. Reinhardt said. "They didn't have the guts."

Each of the three main components of the Clinton administration's reform package—universal coverage, underwriting reforms and cost control—contained inherent problems, Mr. Reinhardt noted.

Health care reform also failed because no one, from President Clinton to Sen. Robert Dole, R-Kan., would honestly discuss the added costs that would be created by universal coverage, according to Mr. Reinhardt. Universal coverage would require a big redistribution of income from the middle and upper classes to cover the cost of coverage for the poor, he said.

"The truth is, if you want to be your brother's and sister's keeper, you have to be able to say the tax word," which politicians tried to avoid through legislative language and euphemistic terms, he said.

Community rating, for example, is really a tax on the young and healthy to subsidize health care for older and sick people, he said. "There is no other name for that."

To ensure that burden was shouldered by everyone in the community, health insurance would have to be compulsory, which he said is "un-American."

"But, if you want universal insurance, you can't have young indestructible yuppies running around and saying, 'I'm not going to get insurance because I'm not going to get sick'... and then they get hit with

cancer or by a truck and go to the nearest emergency room, rack up a bill of \$80,000... and then say, 'Well, didn't those docs swear a Hippocratic oath? They should treat me for nothing and the community should take care of me.'

"I don't personally like rugged individualists who spit on the community when they're vertical but rediscover it when they're horizontal," said Mr. Reinhardt.

Although individuals will have to obtain coverage, there will not be an employer mandate, he predicted. Coverage could be bought individually, like auto insurance, he said.

The second major aspect of reform—underwriting reforms—was politically very popular, Mr. Reinhardt noted. "I hate to say it, but I don't think you're the darlings of the electorate," he told his insurance industry audience.

But without compulsory insurance, the health insurance industry is right to object to underwriting reforms, he said. "How am I going to run an insurance company when patients can cherry pick and come to me when they know I'm losing money on them, but they don't come when I'm making money?"

No matter how politically popular some underwriting reforms are, such as limiting pre-existing exclusions, community rating and portability of coverage, they won't work without some form of compulsory insurance, Mr. Reinhardt said.

When lawmakers sat down to work out how such changes would work, it became evident how difficult it would be and, amid lobbying from insurers, "they got cold feet and said, 'This is too difficult, we can't do this,'" he said.

Plenty of changes can be made without sweeping legislation, however, such as allowing purchasing pools to create greater economies of scale and drafting common policy forms, among other things, he said.

Cost control was the next major plank in the health reform agenda.

However, apart from continued controls on Medicare and Medicaid costs, which merely shift more of these expenses to the private sector, "Congress otherwise doesn't want to touch this topic," he said.

It also may not be as urgent a matter as it was a few years ago, he noted, pointing to lower trend lines for various types of health care coverage. This in turn means employers are not complaining as loudly to the government as they did a few years ago, Mr. Reinhardt noted.

"But we don't know if this will hold," he said. "My own private forecast is that in 1997, costs will be on the front pages of the newspapers again. Why? Because by then the HMOs will have squeezed out the fat that there was and then the wondrous technology of American medicine will drive costs up again."

Given the failure of these aspects of health care reform to take hold, Mr. Reinhardt made several predictions for the future of the U.S. health system.

"First of all, I believe that... we will have a three-tiered health care system," he said. Under this scenario, the health care system would be keyed to individuals' income:

- The poor would receive care through public clinics and public emergency rooms, as is largely the case now.
- The employed middle class would receive care through HMOs.
- Upper-income people would continue to obtain traditional fee-for-service care.

Another development will be the continued transformation of health

*Continued on page 22*



## when you're given fossilized answers?

and work together to actualize their vision. To give them well-conceived products and services that provide stability regardless of fluctuations in the market cycle.

So, plan for your future with American Re; because these days if you're not moving forward, you're history.

 **AMERICAN  
RE-INSURANCE COMPANY**

555 College Road East, Princeton, NJ 08543-5241 (609) 243-4200

Atlanta, Bermuda, Bogota, Boston, Brussels, Cairo, Chicago, Columbus, Dallas, Hartford, Kansas City, London, Los Angeles, Melbourne, Mexico City, Minneapolis, Montreal, New York, Philadelphia, Princeton, San Francisco, Santiago, Singapore, Sydney, Tokyo, Toronto, Vienna



THE SECOND ANNUAL  
**Business Insurance**<sup>®</sup>  
WORKERS COMPENSATION  
CONFERENCE



**CONFERENCE  
CHAIRMAN**

Kathryn J. McIntyre  
*Vice President,  
Publisher and Editorial Director  
Business Insurance*

**CONFERENCE  
ADVISORY  
BOARD**

Arnold Davenport  
*Vice President, Risk Management  
Marriott International, Inc.*

Allen Iampaglia  
*Risk Manager  
City of Glendale, Arizona*

John Kessock, Jr.  
*Chairman  
Commonwealth Risk Services, Inc.*

David J. McLean, Ph.D.  
*Chief Executive Officer,  
Care Management Services  
United HealthCare Corporation*

Adrian Tocklin  
*President  
Continental Risk Management  
Services, Inc.*

Richard A. Victor, Ph.D., J.D.  
*Executive Director  
Workers Compensation Research  
Institute*

Susan M. Werner, ARM  
*Director of Risk Management  
Hardee's Food Systems, Inc.*

Stephen M. Wilder  
*Vice President, Risk Management  
The Walt Disney Company*

Edward C. Woodward  
*President  
California Workers Compensation  
Institute*

**SPEAKERS**

Kennerth Albrecht  
*Risk Manager  
Frito-Lay, Inc.*

Charles Armstrong, Jr.  
*Manager, Corporate Risk Management  
Xerox Corporation*

E. Randall Clouser  
*Executive Vice President  
Continental Risk Management  
Services, Inc.*

Dr. Stephen Dawkins  
*Occupational Health Physician  
Occupational Health Institute  
International*

Rachel Ebert  
*Director, Occupational Health Services  
Marriott International, Inc.*

Susan England  
*Partner  
England, Hodik & Trevillion*

Meg Fletcher  
*Associate Editor  
Business Insurance*

Lucille A. Gallagher  
*Vice President of Risk Management  
ConAgra Red Meat Cos.  
and Monfort Inc.*

Ronald Guilfoile  
*Risk Manager  
City of St. Paul*

Norman Hainlen  
*Regional Manager  
AlexComp Consulting Corporation*

Thomas Henderson  
*Corporate Risk Manager  
Texas Instruments*

Allen Iampaglia  
*Risk Manager  
City of Glendale, Arizona*

Richard Inserra  
*Assistant Treasurer  
Union Carbide Corporation*

John Kessock, Jr.  
*Chairman  
Commonwealth Risk Services, Inc.*

Barry LaFleur  
*Vice President  
Crawford & Company*

Audrie Lawton  
*Risk Control Consultant  
AIGRM/American International  
Group*

Michael R. Levin  
*Consultant  
Towers Perrin/Tillinghast*

Charles Manzo  
*National Director of Claims Services  
Home Insurance Company*

Douglas McCoy  
*Resident Vice President,  
Commercial Lines  
The Travelers Corporation*

Kathryn J. McIntyre  
*Vice President, Publisher  
and Editorial Director  
Business Insurance*

David J. McLean, Ph.D.  
*Chief Executive Officer,  
Care Management Services  
United HealthCare Corporation*

Joel Myers  
*President,  
National Accounts Business Unit  
Zurich-American Insurance Company*

Terez Recinas  
*Occupational Health Coordinator  
Authentic Fitness Corporation*

John W. Roberts  
*Manager, Workers' Compensation  
University of California at Oakland*

John Ryan  
*Vice President  
Liberty Mutual Insurance Company*

Gregory Saxum  
*Director, Workers Compensation  
Legal Division  
Eastman Kodak Company*

David Sullivan  
*Senior Vice President  
Kemper Risk Management Services*

Patrick Venditti  
*Director  
Industrial Consultants Group, Inc.*

Dr. John Warbritton, III  
*Private Practice Physician  
Oakland, California*

Susan M. Werner  
*Director of Risk Management  
Hardee's Food Systems, Inc.*

Gregory Worrell, Ph.D.  
*Director of Ergonomics  
Monfort Inc.*

Cindy Zehnder  
*International Representative  
International Brotherhood of  
Teamsters Joint Council No. 28*

## WHO SHOULD ATTEND

Risk managers, employee benefit managers, safety managers, insurers, claims administrators, workers compensation and loss control specialists, consultants, insurance brokers, lawyers and providers from a broad range of companies and organizations involved in workers compensation.

## CONFERENCE AGENDA

### WEDNESDAY, OCTOBER 19, 1994

- EARLY REGISTRATION & WELCOME RECEPTION

### THURSDAY, OCTOBER 20, 1994

- Registration & Continental Breakfast
- NEW INITIATIVES FOR CONTROLLING WORKERS COMPENSATION HEALTH CARE COSTS
- DISABILITY MANAGEMENT
- LUNCHEON SPEAKER – ALLEN IAMPAGLIA RISK MANAGER, CITY OF GLENDALE, ARIZONA
- EMPLOYER CASE STUDIES
  - ▶ IN-HOUSE CASE MANAGEMENT WORKS
  - ▶ CARPAL TUNNEL SYNDROME CASES DON'T HAVE TO COST AN ARM
  - ▶ THE TRUTH AND CONSEQUENCES OF COMBATTING FRAUD
- FINANCING ALTERNATIVES FOR WORKERS COMPENSATION: HOW TO EVALUATE AND DECIDE WHICH FINANCING METHOD IS RIGHT FOR YOUR COMPANY
- Reception

### FRIDAY, OCTOBER 21, 1994

- Continental Breakfast
- DEALING WITH CONTESTED CLAIMS
- CUMULATIVE TRAUMA DISORDERS: CONTROLLING THE WORKERS COMPENSATION MONSTER
- ESTABLISHING AND MANAGING THE CLAIMS AUDIT PROCESS
- LUNCHEON SPEAKER – DOUGLAS MCCOY RESIDENT VICE PRESIDENT, COMMERCIAL LINES, THE TRAVELERS CORPORATION
- APPLYING TOTAL QUALITY MANAGEMENT TO WORKERS COMPENSATION: UTILIZING BENCHMARKING TO STREAMLINE THE WORKERS COMPENSATION PROCESS
- Closing Reception

## CORPORATE SPONSORS

Commonwealth Risk Services, Inc.  
Continental Risk Management Services, Inc.  
United Healthcare Corporation

## OCTOBER 19-21, 1994

*Loews Coronado Bay Hotel  
San Diego, California*

### COMMENTS FROM SOME OF LAST YEAR'S ATTENDEES:

*"Consistently good speakers—educating and entertaining—made the conference valuable and palatable."*

Mary Dymond  
Risk Manager  
ACX Technologies

*"A high-powered conference with dynamic and informative presentation. An excellent opportunity to network with other workers' compensation professionals."*

Paul Yontz  
Employee Safety Coordinator  
City of Glendale, Arizona

*"The conference was an excellent forum for gathering ideas and networking. It was well run. I'm glad I came."*

K. Mildenhall  
Workers Compensation Product Manager  
USF&G Corp.

*"The conference was great! The facility was beautiful. I received a lot of information that will be valuable once applied."*

Sharon Vansant  
Claims Administrator  
Bergen Brunswig

### ACCREDITATION

IBF•International Business Forum is registered with the California Insurance Board as a course provider. Attendees will earn 11 CEU credits.

### REGISTRATION

To register or to receive more information call IBF•International Business Forum, or fill out the coupon below and Fax or mail to IBF•International Business Forum at 7 Penn Plaza, Suite 901, New York, New York 10001.

**TEL: (212) 279-2525 FAX: (212) 279-9307.**

### REGISTRATION COUPON

## THE SECOND ANNUAL BUSINESS INSURANCE WORKERS COMPENSATION CONFERENCE

**YES, PLEASE REGISTER ME TO ATTEND THE SECOND ANNUAL BUSINESS INSURANCE WORKERS COMPENSATION CONFERENCE, OCTOBER 19-21, 1994. I UNDERSTAND THAT I WILL BE INVOICED IF PAYMENT ISN'T ENCLOSED.**

I am a service provider – \$795

I am a risk, benefits or safety manager – \$595

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Telephone: ( \_\_\_\_\_ ) \_\_\_\_\_

Fax No. ( \_\_\_\_\_ ) \_\_\_\_\_

Please send me information on being an exhibitor.

Please register the following individual(s) as listed on the attached page.

# Reforms

Continued from page 19

care providers from profit centers to cost centers, Mr. Reinhardt said.

The fee-for-service system used to work in such a way that the more services provided, the higher the revenues and profits a health care provider earned. "The old-fashioned way was...the more they did, the more they made. The new way is to buy a private regulator, called an HMO. We give them a lump sum at the beginning of the year and then we say, you keep up the docs and the hospitals and keep the change."

Compensation was previously linked directly to the number of tests and scans and services provided, he noted. Now, though, each of those services cuts into managed care companies' potential profits.

"Doctors find this hard to take—that somebody should with a com-

puter check everything they are doing, tabulate it and then present it at staff meetings and make high-priced doctors look bad," Mr. Reinhardt said. "Traditionally, high-cost doctors thought of themselves as high-quality doctors. It turns out the data doesn't support that."

As a result of this managed care movement, "what you now see are doctors in open warfare with the insurance companies because they have discovered that the enemy is not really Hillary Clinton but...the insurance industry, and that is what they're now fighting," he said.

As the implications of managed care begin to sink in, physicians are increasingly embracing the concept of regulated fee-for-service care, as under a single-payer plan, Mr. Reinhardt said, citing as an example the single-payer plan ballot initiative in California (BI, May 9).

"This fight is far from over," he concluded. ■

# Play now or pay the price

By PAUL D. WINSTON

WHITE SULPHUR SPRINGS, W.Va.—Company executives must have greater personal involvement in legislative affairs if they hope to steer or deflect government involvement in the insurance industry, a top insurer executive said.

"We have become accustomed to viewing government as something akin to a force of nature, like a tornado, a hurricane or an earthquake...government affects our lives and our livelihoods, but it's beyond our control. We have to change that way of thinking," said William Bolinder, a member of the corporate executive board of Zurich Insurance Group.

Mr. Bolinder, the outgoing president of the National Assn. of Casu-

Executives urged to take lobbying role

## COUNCIL/NACSE

### The Greenbrier CONFERENCE

alty & Surety Executives, made his remarks during the annual joint conference of NACSE and the Council of Insurance Agents & Brokers at The Greenbrier resort last week.

As recent examples that illustrate the impact such active involvement can have on government, Mr. Bolinder cited lobbying by police and prosecutors to convince Republicans to cross party lines and vote in favor of the crime

bill, as well as efforts by the health insurance industry and others to fight the concept of mandatory purchasing alliances under health care reform.

"These lessons, and others like them, teach us that we can't afford to be spectators in the legislative arena. Those who don't play run the risk of being forced to pay a high cost for their inaction," Mr. Bolinder told the audience of insurer, reinsurer, agency and brokerage executives.

Key issues on the legislative agenda that call for more active involvement include:

- Health care reform. "The health care reform debate will be reignited in the next Congress, and probably several congresses thereafter, if necessary," he said. "Our industry and our customers would have been hurt by proposals that would have shifted workers compensation, automobile, general liability, homeowners and medical benefits into this national health care system."

- Superfund reauthorization and reform. Efforts to renew the Superfund law have fostered "debate regarding the distribution of financial liability, a discussion that involves hundreds of millions of dollars—some might even say hundreds of billions," Mr. Bolinder said.

"Whenever stakes of that magnitude are involved, our voices must be heard."

- State workers compensation reforms. "We have been successful in reforming workers compensation systems in 30 states in the last two years. But right now, there are constant attempts to undo the improvements that have been made," he said.

- Solvency regulation issues. "We have to let congressional powers know that we don't need excessive, unnecessary, duplicative regulations that will complicate transactions, reduce cost-effectiveness and threaten our competitiveness."

Several changes in society mean there is a greater chance the industry's voice will be heard, according to Mr. Bolinder.

"The relationship between policymakers and the public has dramatically changed," he said, citing several examples.

Changes in technology, voter independence and legislators' responsiveness make it easier to get the message across. It is easier to communicate the industry's views to elected officials and they are spending more time listening to their constituency, Mr. Bolinder said.

"My message is: We have to be involved so that the results serve our customers, shareholders and our employees...not our government affairs people alone, but us, you and I, the senior management of agencies and companies," he said. Mr. Bolinder offered several steps that executives in the audience could take to make the industry heard, including personally contacting legislators, making one's stance on key issues known to all those in one's circle of influence and getting employees involved in the political process.

"As we look ahead to 1995 and beyond, we know that we have the need to strengthen our voice in Washington and in the state capitols. We have the ability. We have the opportunity. The next and most important step is to make our voices heard...The stakes are enormous." ■



Their coverage.



Our coverage.

## Go with the insurer that can help cover your entire collection.

As the value of your collection increases, you need an insurance policy that can keep up with it.

Announcing AIG Companies' Fine Arts Policy for museums and collectors. That's *one* worldwide insurance policy, with limits of up to \$50 million and higher, to help cover the full value of your paintings, collectibles, antiques and sculptures.

One policy that covers risks of loss or

damage to art either owned or on loan. Damage that could be caused by fire, theft, shipping and overseas war. And we provide higher limits that other insurance organizations may find hard to match.

One policy that helps cover all your needs. And that makes the process easier for you.

American International Group, Inc. (AIG) is the leading U.S.-based international insurance organization, and its

domestic property/casualty companies have the highest ratings from the major ratings services. So even the most rare and precious collections can receive the financial stability they require.

For more information, please call Richard B. Alexander, Fine Arts Manager, at (212) 478-7219. And discover that the beauty of covering your entire collection with one policy is in its simplicity.

**AIG** World leaders in insurance and financial services.

American International Companies, Dept. A., 70 Pine Street, New York, NY 10270  
Coverages and/or services may not be available in all states. Please check the actual policy for full details of the coverage. Issuance of coverages subject to underwriting.

# Preparing for a 'mega-loss'

By Richard A. Archer

Failure to achieve a prompt and fair loss settlement of a "mega-loss" should be of nightmarish concern to any risk manager. Who needs trouble with the largest loss your company will ever experience?

Let me explain the economics of such a nightmare. In one case, a policyholder paid out \$380 million to replace a property for which the insurer refused to pay more than \$144 million—a spread of \$236 million! And, I know of another case where the insurer is offering \$120 million and the policyholder's loss was \$280 million. Even when the numbers aren't so large, the percentages often are the same.

Beyond the loss itself, expenses quickly add up. For losses in excess of \$100 million, costs stemming from the settlement process can easily reach \$10 million and have been known to exceed \$70 million.

Perhaps as many as 80% of all mega-losses end up in the nightmare category. How can this be the case? Can't risk managers work with their brokers to arrange coverage in such a way that once a loss occurs payment is automatic?

Unfortunately, logic is not the criterion for settlement of mega-losses in the present environment. Today, too many people see insurance as a commodity, letting price drive the buying decision. It has been said that "cheap insurance begets inadequate loss adjustments."

In today's cutthroat environment, there is little or no room for generosity.

When you talk to an underwriter or loss adjuster regarding the dispute of a mega-loss, in almost every case you will find they believe the policyholder is a villain, thief or overreaching greedy party trying to bankrupt the insurer. At the same time, the policyholder will tell you that the insurer is reneging on coverage it willingly agreed to provide when it collected the premium and is failing to adjust the loss in good faith or with any degree of competency.

This coverage dispute usually takes some time. After several years have passed, opinions are fixed, communications are almost nonexistent and the adjustment process is stalemated—and the lawyers are usually already in force.

## Dealing with generic issues

If logic does not apply to the settlement of a mega-loss, what does? It is important to understand that a three-dimensional environment exists, involving both psychological and economic considerations. To only consider one and ignore the other will in most cases spell disaster. Here is a list of generic issues that I believe affect the adjustment and settlement of a mega-loss. By dealing with these soon after the loss occurs, delays and substantial additional costs may be avoided. Starting with the most significant issues:

- Adjuster skill and competence.

No one would use a five-ton capacity crane to lift a 100-ton object.

Yet some people expect adjusters who are much more accustomed to handling a \$5 million claim to handle a \$100 million claim. Many people assume that to adjust a loss 20 times larger than the norm would require 20 times more time or effort—and to some extent a higher level of competency. And, one might assume that the basic approach used to adjust the loss should be the same.

Unfortunately, both of those assumptions are false and are two of the principal reasons for major claim disputes.

There probably aren't 10 independent adjusters in the world qualified to adjust property losses in excess of \$100 million. Those adjusters understand that mega-losses require a special process and a level of expertise many times greater than that of a typical claims adjuster.

Essential qualifications for a mega-loss claims adjuster include:

## Early intervention key to getting grip on losses that exceed \$100 million

- ✓ Prior experience in losses of similar size and type.
- ✓ A graduate degree in an engineering discipline.
- ✓ An understanding of the mega-loss adjustment process, focused on the big picture and not getting trapped in minutiae.
- ✓ Full knowledge of property insurance coverage, including business interruption.
- ✓ The ability to deal with senior executives of the policyholding company and the insurer.
- ✓ An understanding of construction and an ability to deal on a peer level with architects, engineers and contractors.
- ✓ An understanding of insurance industry practices.
- ✓ Knowledge of legal issues, which always will be a factor in major losses.
- ✓ Good negotiating skills.

Such a person should be highly regarded by both the policyholder and insurer. This adjuster would either have actual or implied authority to agree on major coverage issues and allocate value to each area of coverage.

- The insurer's claims-paying practices.

In general, generosity and timeliness in the claims payment area have waned in the past 20 years. An insurer that delays payment on a loss obviously gains income on the value of those funds. Payment of less than the actual insured loss also works to the insurer's benefit.

So, for some insurers, delays are a deliberate strategy and general practice. For others, it is due to:

- ✓ Current high loss and expense ratio condition.
- ✓ Immediate liquidity problems.
- ✓ Loss adjusters' incompetent work.
- ✓ Need to obtain approval or money from reinsurers.

All insurers are not created equal, nor do they have the same claims-paying policies or practices. The wise risk manager will study the available information on various insurers' loss-paying attitudes.

- Sheer quantum of loss.

Any property loss exceeding \$100 million in itself suggests that something very serious happened. Usually there will be injuries or deaths, which complicate things further. When the numbers get this large, coverage disputes involve big dollars. After all, a dispute on even 1% of the loss involves \$1 million.

- Disputed coverage.

Most major properties are insured on large blanket property schedules. My experience is that they are covered on broader forms than the standard off-the-shelf policy. Yet many adjusters try to retreat to standard policy language, ignoring the broader provisions. Whether the adjuster is trying to be a hero with the insurer or simply is unable to cope with broadened coverage, the results are major disputes and conflicts.

I have seen legal briefs prepared by opposing counsel, and I find it appalling how two lawyers can differ so much on basic coverage issues. These disputes typically involve issues of code upgrade, betterments, constructibility, replacement cost, interest, averted costs and imposition of limits on accelerated costs to reduce the business interruption period.

This issue becomes exacerbated if costs are not accurately segregated early in the mega-loss process. Expert counsel to is a must for the policyholder.

- Inadequate reinsurance.

The larger a loss to the direct or primary insurer, the greater their need for reinsurance. Inadequate reinsurance may be due to:

- ✓ A mistaken assessment by the underwriter of the maximum foreseeable loss to a given property or location.
- ✓ Exhaustion of excess-of-loss amounts under treaty.
- ✓ Reinsurance costs that are too high to remain competitive, resulting in a conscious decision not to buy.
- ✓ Carelessness.
- ✓ Unavailability.

Regardless of the reason, the knee-jerk reaction of many insurers is to look for a way to ameliorate their situation and adopt tactics to mitigate or reduce their loss.

- Involving the insurer's senior-level management. Unless the client or broker moves heaven and earth to achieve this, it won't happen. In most insurance companies, the management/underwriting side and the claims side are separated by what seems like the Great Wall of China. If the chief executive officer or chief operating officer is not involved in the process, the senior vp of claims will assign or delegate the claim within his sphere of influence and it will be lost from the conscious oversight of management. I think this is standard practice with most insurer managements that are burdened with many other issues.

If you can keep senior management aware of the loss as it is adjusted, you will achieve a level of sensitivity or concern that otherwise won't exist.

- Claims involving policy limit settlements.

It may seem strange, but insurers dislike paying full policy limits, especially when there are issues to be negotiated. The fact that the loss may well exceed policy limits does not seem to influence most claims adjusters. Maybe they feel that by settling for less, they enhance their reputation with insurers. My experience suggests that it is far more difficult to collect the limits than some negotiated figure shy of the limits.

- Legal issues and bad precedents.

Many times coverage is extended by law rather than by the insurance policy itself. If an insurer believes there is a legal precedent working against it, it is far more apt to pay a difficult or questionable loss. By the same token, insurers try to avoid setting precedents that may come back to haunt them. They will refuse to pay on issues that they think fall outside typical insurance coverage.

The importance of retaining competent legal counsel cannot be overestimated in mega-losses, where there are bound to be coverage issues.

- Multiplicity of insurers.

In mega-losses, coverage is generally layered. Even where a single insurer arranges the policy, there will be reinsurance involving other insurers. Payment by one or two of the major insurers puts enormous pressure on all the insurers since if they refuse to pay, bad faith suits may follow.

The lead underwriters may be more cautious in that situation than if they are handling the loss for their own company's account, especially assuming adequate reinsurance is in place. The lead underwriter cannot do anything that the other insurers would interpret as generously giving their money away.

Again, a highly respected independent adjuster whose recommendations will be accepted by all insurers is essential.

- Contributions from third parties.

Whenever a third party contributes to a loss, it often acts as a catalyst for final settlement.

Normally these contributions come because of a professional liability exposure on the part of a managing general agent, insurance broker or other professional adviser.

Subrogation claims often can be significant and should not be overlooked by either the policyholder or

Continued on next page

# Mega-losses

*Continued from previous page*

the insurer. As third-party recoveries reduce the insurers' losses, insurers should be more amenable to settlement.

- Inadequate insurable values.

Insurers first look to see if there is a requirement under the policy to insure to some percentage of value. If there is such a requirement, they will impose a penalty when the amount of coverage falls below the required amount.

However, generally the amount of value used for premium payment purposes is less than the amount of a mega-claim. This upsets most underwriters and tends to have negative implications during the adjustment process.

Inadequate values are sometimes developed at the direction of underwriters to retain a competitive edge.

This happens because blanket property policies contain a loss limit greater than the value of any single property. When you factor in substantial code upgrades and perhaps demolition costs exacerbated by environmental issues, the loss in most cases will exceed the values used to establish premium.

- Interest.

Insurers will always take the position that interest is not covered. Suffice it to say that the interest issue is very troublesome and a deterrent to achieving final settlement.

Nevertheless, it is ultimately considered in most adjustments, usually buried in the "global" settlement.

## Dealing with the frustrations

Let's consider the environment that usually exists with a mega-loss.

By its nature, the adjustment process takes time and may lead to frustration. Virtually the only way to cut the time required to settle a claim is to accept an inadequate settlement.

Some issues to be aware of include:

- Dealing with the non-decision-maker.

Avoid this situation. You are wasting your efforts if the person with whom you are dealing does not have direct access to the ultimate decision-maker.

- Surprises.

There will be surprises. Information that no one thought existed may come to light and ultimately lead to a loss settlement.

Often issues build up slowly and then are resolved suddenly. The process you thought could have taken another six months may be over in two hours.

- Perceived hardened insurer position.

An insurance adjuster who is a good negotiator will usually be quite consistent and tough on the key issues, even when you have a good negotiating point. This is designed to invoke compromise and, in many cases, is successful. An equally persistent position by the policyholder is necessary.

- Delay tactics.

Time is often on the insurer's side. They may try to wear down the policyholder with delays and negative negotiating tactics.

If a policyholder is too anxious to settle a loss, it is highly probable that anxiety will result in a reduced loss settlement.

Deliberate delays are also common when the insurer has weak defenses but wishes to avoid paying the loss for as long as possible. This could occur if the insurance company wishes to make more money on funds not paid out, or if it wants a loss to fall in a subsequent accounting period. It also might occur because of an adversarial relationship between the insurer and policyholder.

- Insurer mood swings.

Many good negotiators change their personality back and forth, keeping the policyholder off balance. Be aware of this so it does not influence or upset you in the negotiating process.

- Business judgment vs. legal issues.

Most businesspeople will attempt to have business logic prevail rather than get hung up on legal issues. Staying with business issues in most cases tends to resolve these problems more quickly than if they are left to the courts.

## Preparing the team

So how can a nightmarish situation be turned into something more acceptable? Believe me, it can never become any better than "acceptable."

Mega-losses will involve uncharted waters for most companies. Attempting to deal in this area without good planning and the best of outside advisers and legal counsel is suicidal. I encourage any company facing a mega-loss to plan and organize immediately. If not, in the long run the planning will be done piecemeal at considerably higher costs.

A strong mega-loss team is crucial. Internal participants should include:

- Corporate general counsel.

General counsel should be involved from Day One due to the likelihood of litigation. General counsel plays a key role in negotiations and hiring and overseeing outside counsel.

- Senior corporate operations officer.

The officer responsible for the facility or property damaged or lost must be involved. He or she must marshal the necessary people to go through the detailed process required to present the claim to the insurer. Also, he or she will be involved in all loss negotiation sessions and draw against company resources as needed.

- Divisional chief financial officer.

**The insurer may try to wear down the policyholder with delays and negative negotiating tactics. If a policyholder is too anxious to settle a loss, that anxiety could result in a reduced loss settlement.**

Number crunching and access to myriad financial details will be required. A senior financial officer familiar with the operation will not only gather information required by the adjuster but also evaluate numbers developed by his or her own staff and the adjuster. Usually business interruption coverage is involved and the financial officer will be key in that process. He or she also should be involved in negotiations.

- Risk manager.

Knowledge of how coverage was placed and background on the insurance coverage is vital. This will also include historical information of expired policies and work papers. Also, coordination of the broker's activities should fall to the risk manager.

- Engineering or construction coordinator.

If the company does not have such a position, a plant manager or someone charged with the responsibility of the rebuild is needed. This individual will work not only with outside engineers and contractors but also with the adjuster in developing the scope of works and procedures that the adjuster will want monitored.

Keeping records in an agreed-upon way must be overseen and followed. On a mega-loss, this should be set up on a computer data base adequate for prompt retrieval and sorting by adjuster-defined categories.

Specific care should be given to methods of allocations of "indirect" costs, such as architectural and engineering costs, policyholder personnel used in the rebuild and data processing. If this is not agreed to initially, it almost certainly will be disputed later.

The following external individuals should also be added to the team:

- Coverage counsel.

Many times insurance policy, insuring agreements and conditions are broadened by legal precedent. An attorney experienced in coverage litigation can clarify for the policyholder what can reasonably be expected in the way of recovery. The attorney can also help evaluate and analyze what almost certainly will be more limited coverage opinions by insurers or their counsel. They also can help structure a legally correct partial and final proof of loss. If litigation follows, they are indispensable.

- Independent engineering consultant.

In two major claims in which I was involved, the insurers proposed their own scope of repairs and refused to pay based on a more complete scope

proposed by the policyholder. Rather than wait for this to occur, I would line up an engineering consultant who not only is knowledgeable in the proper scope of works and allocation of cost but can also serve as an effective witness, if necessary.

- Negotiator and valuation expert.

If the basis of a loss settlement is by a "damage assessment" or "cash buyout," then an expert in valuation of the specific property lost is needed. There will be much discussion regarding the basis of value, so this person should also possess strong negotiating skills.

The policyholder should avoid the arbitration or mediation approach usually proposed by insurers. Differences tend to be resolved by cutting the settlement down the middle and the policyholder almost always loses.

• Insurance industry generalist with mega-claims loss experience. This can sometimes be handled by a highly skilled insurance broker. However, if the broker is not experienced in mega-losses or is conflicted by a potential errors and omissions problem, the policyholder should go elsewhere.

The generalist should be someone who is knowledgeable regarding virtually all aspects of insurance. He or she needs to know his way through the insurance maze and be able to accurately evaluate and assess each move by the insurer.

The job requires a person whose career has been one of representing the policyholder. He or she must have a strong knowledge of coverage and major claim or loss dispute resolution. The generalist must be a team player and understand how to cooperate and complement the work of legal counsel.

A grounding in construction, mathematics and analytical analysis is helpful.

Patience is a virtue for the generalist, who will be involved in every aspect of the process.

I can't overemphasize the importance of the full insured mega-loss team. There is no room for individualists or superstars; each member should complement the other. No one can achieve a satisfactory settlement single-handedly.

## Taking advantage of every edge

Other steps can be taken that will give the policyholder an extra advantage.

- Controlling information.

Among other things, documentation of all meetings and close monitoring throughout the process is necessary.

This can best be set up in a CD-ROM data base system or equivalent. On mega-losses, the volume of documents justifies the expense. The ability to find and retrieve information promptly is important and indispensable in the event of litigation.

- Policyholder persistence.

The policyholder must not allow a claim dispute to become idle since it is important to keep the process moving. Insist that what was agreed on does get done.

- The threat of litigation.

There may be a time when litigation is needed to keep the process moving. Once the lawsuit is filed, the clock starts ticking. But the process still is long and expensive. If settlement can be achieved without going to court, it is desirable.

I have never been involved in a loss in excess of \$10 million where a lawsuit has not been filed. In each case, every claim was settled—some at the courthouse steps.

Despite the filing of a suit, settlement discussions should continue at the business level. The policyholder must not leave the negotiating process solely to attorneys.

Resolution under these conditions is more apt to be left to the courts. At the same time, lawyers can be very helpful to the business negotiator and their advice should be sought and followed. **BI**



*Richard A. Archer is deputy chairman of Jardine Insurance Brokers Inc. in Los Angeles.*

# An ill-conceived proposal

## California health reform could influence other states

By Debra T. Ballen

WHILE MUCH OF THE nation has been watching the national health care debate, developments in California bear close watching. A "single-payer" health care initiative will appear on the Nov. 8 ballot.

If approved, the initiative will create a \$40 billion state-run health care delivery system that will oversee how, when and where Californians have access to health care (BI, May 9). To finance the program, the measure will mandate a new tax on employers (up to 8.9% of payroll) and a 2.5% income tax surcharge on individuals—the largest tax increase in California's history. Moreover, the ill-conceived initiative holds grievous implications for California's economy. If the measure becomes law, Californians can expect to see job losses, payroll and personal tax increases, budget shortfalls and health care rationing.

Passage of the initiative also will have severe, negative consequences for workers compensation, the 83-year-old insurance mechanism that provides medical care and cash benefits for work-related injuries and illnesses. Although workers comp medical costs constitute only about 4% of California medical expenditures, the issues raised by the single-payer initiative have profound implications for millions of California workers and employers.

The results of the measure also have implications outside of California. With the failure of national health reform this year, more states may be inclined to proceed with reforms at the local level.

The single-payer initiative poses both short- and long-term concerns for workers comp.

During the transition period, injured workers would obtain medical care from either the state-run Health Security System that would be created by the measure or from workers comp. Employers and insurers would be required to reimburse the state for the cost of treatment provided by the HSS. This approach contravenes recent workers comp reforms and would result in higher medical costs and lower-quality care. Because the measure almost certainly will result in significant revenue shortfalls—\$14.5 billion to \$27.5 billion per year by some estimates—there will be a real incentive to shift treatment costs to the workers comp system.

In the long term, the clear intent of the initiative is to merge all California health care, including workers comp, into the state-run program. This would result in even higher costs and a greater tax burden on employers and employees. Moreover, safety would suffer and the exclusive remedy doctrine—the foundation of the no-fault workers comp system—would be destroyed.

### Effects on medical care

Passage of the initiative would change the manner in which medical care is provided to injured workers, creating a number of serious problems:

- A dual medical system would raise costs and slow recovery.

The initiative would establish a dual system in which injured workers receive care from either the HSS or the workers comp system—or in some cases, both. This runs the risk of duplicate or inconsistent treatment and makes it virtually impossible for employers and insurers to effectively manage medical care and return-to-work programs.

- Quality of care would suffer and costs would rise.

To the extent that injured workers use the state-run HSS for occupational medical care, they are likely to encounter long waits, cursory examinations and cost-cutting treatment strategies. As a result, it will take them longer to return to employment, causing additional disruption in their lives and higher benefit costs for the system.

- Managed care will be restricted.

Restrictions on fees providers can accept from outside the state-run system will leave little opportunity to develop the sort of specialized managed care networks that the 1993 amendments to the California Workers Compensation Act encourage. This will prevent employers and insurers from contracting with providers that can deliver the best, most cost-effective care.

- Cost shifting will be rampant.

Under the initiative, if an injured worker receives treatment from the state system, the HSS will decide whether the injury is work-related and thus eligible for workers compensation. Since the state is to be reimbursed for all workers comp medical costs, there will be strong pressure for the HSS to adopt a very expansive definition of "work-related injury." The employer/insurer obligation for such claims is not limited to medical care but also includes wage replacement benefits.

- Overcharges will be common.

Once the state classifies an injury as work-related, there are no clear standards for determining how much the HSS can recover from the workers comp system. This raises another concern that workers comp will be perceived as a windfall and charged higher fees to make up for other budgetary shortfalls. Employers and insurers no longer will be able to use negotiated provider discounts to help control costs but will have to pay whatever the HSS demands.

### Workers compensation concerns

The initiative envisions the eventual merger of all medical benefit systems, including workers compensation, into the HSS. Although the text itself does not articulate a process or timetable for accomplishing this, passage of the measure poses a clear threat to the existence of workers comp and would have serious, adverse consequences for both workers and employers, as follows:

- The tax burden will rise.

California workers comp medical expenditures total more than \$4 billion annually. In a merged system,

some of these costs would have to be absorbed by the HSS, adding an even greater tax burden on businesses and individuals. Contrary to current law, workers would pay a share of workers comp medical costs, reversing the widely supported principle that they should not be required to pay for medical care associated with work-related injuries.

- Workplace safety will suffer.

Workplace safety incentives would be reduced because employers no longer would pay medical premiums that are sensitive to their own workers comp claims experience. Research suggests that altering safety incentives in this manner is likely to result in more work-related injuries and illnesses. In addition, it is unfair to make safe employers subsidize those with poor safety records.

- Disability costs will rise.

In a merged system, injured workers will have no alternative to obtaining medical care from the HSS. No safeguards have been planned to ensure that medical treatment is prompt and effective. As a result, injured workers are likely to be disabled longer, and wage-related benefits will cost more.

- The exclusive remedy doctrine will be destroyed.

The foundation of the California workers comp system is the exclusive remedy doctrine, which establishes workers comp as a "no-fault" alternative to tort liability. In an effort to raise funds for the cash-strapped HSS, the initiative would permit separate recoveries against employers in the event of "unsafe" workplaces or "negligent" behaviors—terms that the initiative does not define. Conceivably, every employer could face a lawsuit for every injury, which could cost billions of dollars per year.

- Workers also could face a lawsuit risk.

Another consequence of destroying the exclusive remedy doctrine is the possible loss of tort immunity now enjoyed by co-workers. If litigation showed that the co-worker was actually at fault, it would be difficult to argue that there is no liability.

The single-payer initiative will cause major disruptions in all California health care programs, including workers comp. In the short term, the quality of care will be reduced and costs will rise. In the long term, the initiative seeks to destroy the basic foundations of the workers comp system. Coupled with the largest potential tax increase in California's history and other economic consequences, voters have compelling reason to reject this measure. If they don't, employers across the nation will have reason to watch what follows. **BI**



Debra T. Ballen is senior vp of policy development and research at the American Insurance Assn. in Washington.

## State can collect comp benefits in worker's death, court rules

The statutory distinction between heirs who were dependents of a deceased worker and heirs who were not dependents was constitutional, the Court of Appeals of Kansas ruled.

Patrick Riley died from an accident that arose out of and in the course of his employment. This required his employer and its insurer, Hartford Accident & Indemnity Co., to be responsible for payment of the statutory workers compensation benefits. These benefits included medical payments, burial

### Legal Briefs

allowance and the payment of \$18,500 to the insurance commissioner to the credit of the Workers Compensation Fund because Mr. Riley had no dependents entitled to compensation.

Mr. Riley's mother, brother and sisters said the state law was unconstitutional because it provided a remedy for an employee with dependents but did not provide a similar remedy for an employee

who had no dependents.

The family argued there was no rational basis for this and the state had no right to compensation when Mr. Riley's family heirs got nothing. The relatives lost in the trial court.

The appellate court said there was clearly a difference between heirs and family members who are dependent on a worker for support, and the relatives who were not dependent on Mr. Riley. The court ruled this was a rational basis for the workers comp benefits classification.

The trial court ruling was affirmed.

*Riley vs. National Mills Inc.*, Court of Appeals of Kansas; April 29, 1994 (BI/04/N.-\$10).

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

## High court

Continued from page 3

plans as a potential source of revenue for starting or expanding programs to provide coverage to the uninsured or for partially reimbursing hospitals for the cost of treating the uninsured.

If the court were to rule in favor of New York, other states likely would follow a similar approach and add surcharges to hospital bills paid by employer-provided plans to cover such costs.

Alternatively, states could attempt—in the wake of a favorable high court ruling—to directly impose taxes on bills paid by employer plans.

The justices could decide as soon as this week whether they will review the New York surcharge decision.

One factor that could push the

justices in favor of reviewing the New York case is that lower courts are divided on whether ERISA pre-empts states from imposing surcharges on group health plans.

While the 2nd Circuit overturned the New York law, the 3rd U.S. Circuit Court of Appeals in 1993 said ERISA did not pre-empt a New Jersey law allowing hospitals to impose a 19.1% surcharge on health care bills (*BI*, May 24, 1993).

New Jersey, though, scrapped the surcharge before the 3rd Circuit handed down its decision (*BI*, Dec. 7, 1992).

In the past, the Supreme Court has shown considerable interest in reviewing lower court rulings involving ERISA pre-emption issues.

In what is widely considered its most important ruling on the relationship of ERISA's pre-emption

**The justices could decide as soon as this week whether they will review the surcharge decision.**

provisions and state benefit laws, the justices in 1985 said that states could require insurance companies—but not self-funded employers—to offer specific benefits in their health care plans.

The high court, though, has never directly ruled on the issue of whether ERISA pre-empts state laws allowing hospitals to impose surcharges on bills paid by employer plans.

"We really need clarity from the court on this issue," said a spokeswoman for the Albany, N.Y.-

based Healthcare Assn. of New York State, which represents hospitals, nursing care centers and other health care providers.

In New York, the impact of last year's appellate court decision was temporarily blunted by an amendment Congress approved as part of a broader budget bill.

The amendment effectively keeps the 13% surcharge in place by giving employers the choice of either paying the surcharge or not paying it but at the price of losing their federal tax deduction for health care expenses. The amendment, though, expires next May.

While the Supreme Court has not yet announced if it will review the legality of New York's hospital surcharge, it earlier agreed to review another court ruling involving the type of procedures employers must follow when cutting their retiree health care plans (*BI*, Jan. 10).

That case involves a December 1993 ruling by the 3rd U.S. Circuit Court of Appeals that Curtiss-Wright Corp. violated ERISA when it cut retiree benefits in 1993.

Although the company reserved its right to amend the plan in plan documents, the 3rd Circuit ruled that the Lyndhurst, N.J.-based contractor violated ERISA because it did not specify which company representatives can amend the plan and what procedures they must follow.

Benefit experts earlier said that as many as 75% of health plans do not contain such language, though most pension plans do.

If the decision is affirmed, employer actions to hold down costs by boosting plan participants' premium contributions, cutting participants' benefits or adding managed care features could be in jeopardy. **BI**

## Supreme Court settles PCB leakage decision

By GAVIN SOUTER

WASHINGTON—A seven-year legal battle between Texas Eastern Transmission Corp. and its insurers over a \$750 million pollution claim is finally over.

By refusing to review the case last week, the U.S. Supreme Court let stand a ruling by the 3rd U.S. Circuit Court of Appeals that denied coverage.

The appeals court ruling is unlikely to impact other cases because of the unique facts of the case and the appellate court's refusal to publish the decision (*BI*, June 7, 1993).

The case centered on coverage for the costs to remove polychlorinated biphenyls, or PCBs, from a Texas Eastern natural gas pipeline that stretched through 14 states.

A lubricant that contained PCBs and was used on the pipeline beginning in 1957 leaked into the ground and groundwater in numerous areas along the length of the pipeline (*BI*, July 20, 1992).

Texas Eastern, which lower courts found knew that liquids were escaping between 1958 and 1976, notified its insurers of problems in 1987.

When the coverage was denied Texas Eastern filed three lawsuits against its 23 insurers: in Dallas, it sued its primary insurer, Fidelity & Casualty Co., a unit of Continental Corp.; in Philadelphia, it sued its excess insurer, Associated Electric & Gas Insurance Services Ltd.; and in Houston, it sued its other liability insurers, including Lloyd's of London syndicates.

A federal district court denied coverage based on the pollution exclusion in the commercial general liability policies.

On appeal, the 3rd Circuit ruled in a consolidated case that Texas Eastern did not give timely notice of claims.

The 3rd Circuit found that Texas Eastern did not notify its insurers of the problem until more than a decade after it was aware of its release and not until months after it began negotiating a cleanup deal with the Environmental Protection Agency.

Houston-based Texas Eastern made provisions for the estimated cost of the cleanup in 1990, and the refusal of the Supreme Court to hear the case will not "have any adverse effect on the financial condition of the company," a spokesman said. **BI**

# This List is Incomplete.



That's because there are more service businesses than you can think of, let alone list. And nearly every one of them has an errors and omissions exposure, meaning that in their everyday line of work, these companies risk getting sued for making mistakes. They may end up having to pay at least attorney's fees, even if they didn't make a mistake!

As America's E&O Authority,<sup>®</sup> Media/Professional Insurance underwrites and handles claims for a wider variety of these E&O risks than any other firm. And backed by A.M. Best-rated A+ Gulf Insurance Group, our Specialty E&O Plan can be tailored to large, medium or small service businesses.

So call today and find out more about E&O from Media/Professional. Because in today's atmosphere, any service business can be roadblocked by an unexpected lawsuit.

For a free Specialty E&O Kit, brokers may call **(816) 471-6118 x 281**.



**Media/Professional Insurance**

A division of Aon Direct Group, Inc.  
Two Pershing Square, Suite 800 • 2300 Main Street  
Kansas City, Missouri 64108 • 816-471-6118  
Facsimile: 816-471-6119

**America's E&O Authority<sup>®</sup>**

# A world without brokers?

## Experts say cost cutting drive may force brokers' hands

By GAVIN SOUTER

NEW YORK—Insurance brokers' days are numbered, an insurance executive says.

In the future, policyholders will deal directly with insurers or other organizations that provide financial services, predicted Frank A. Patalano, executive vp of The Home Insurance Co. in New York.

The role of intermediaries will be confined to specialist coverages, he said.

Those intermediaries are already changing to meet the developing needs of policyholders by offering more services, a brokerage executive added.

But as brokers increase the number of services they offer, they should be careful not to overlap with services already provided by underwriters, a reinsurance executive added.

"Brokers will go away," Mr. Patalano said.

"It will be a direct-business world except for highly specialized areas," Mr. Patalano said during a panel session at a meeting of the Assn. of Professional Insurance Women in New York late last month.

Instead of going to brokers, policyholders will go to teams of people that provide insurance financing solutions, Home's Mr. Patalano said.

These sources of financing solutions could include investment banks that provide futures and options trading services that will be increasingly used to finance risks, he said.

The removal of brokers from the insurance buying process will be driven by the need to cut costs for corporate consumers, Mr. Patalano said.

As policyholders seek to become more efficient, they will put more pressure on their insurance providers to reduce their costs, he said.

"There will be fewer premium dollars to go around. . . . It needs to be a lot less expensive, and the only way that can happen is if you take out a lot of the middle," Mr. Patalano said.

For the specialized coverages for which intermediaries are still needed, the remuneration will be paid as a fee rather than a commission, he said.

The role of the broker has already changed substantially, said Myra L. Tobin, a managing director at Marsh & McLennan Cos. Inc. in New York.

"I used to be a broker, then I was a broker/consultant and now I'm a consultant/broker," she said.

Although brokers have historically been advocates for policyholders, now clients are not concerned by what party handles their insurance needs, Ms. Tobin said.

"Clients don't care how the insurance industry is organized. They have a problem and need someone to solve it. If brokers are able to do that, then we are going to stay around," the Marsh & McLennan executive said.

To help solve those problems, brokers need to provide added services to policyholders, Ms. Tobin said.

Clients are demanding additional services from insurers, reinsurers and brokers, agreed Bonnie L. Boccitto, senior vp at Prudential Reinsurance Co. in Newark,

N.J.

"But who will provide the services? Will it be intermediaries or insurers and reinsurers?"

"The worst thing that we could do is have intermediaries developing products at the same time we are producing the same services," Ms. Boccitto said.

Brokers and underwriters should agree in advance which organization will provide which service to policyholders, Ms. Boccitto

said, adding that those agreements will vary from broker to broker.

"Once we have an understanding on what can be provided, we can move on to decide how the services will be paid for," Ms. Boccitto said.

The panel session at the APIW meeting was moderated by Kathryn McIntyre, vp, publisher and editorial director of *Business Insurance*. **BI**

Nowhere in the world can you find more information on . . .

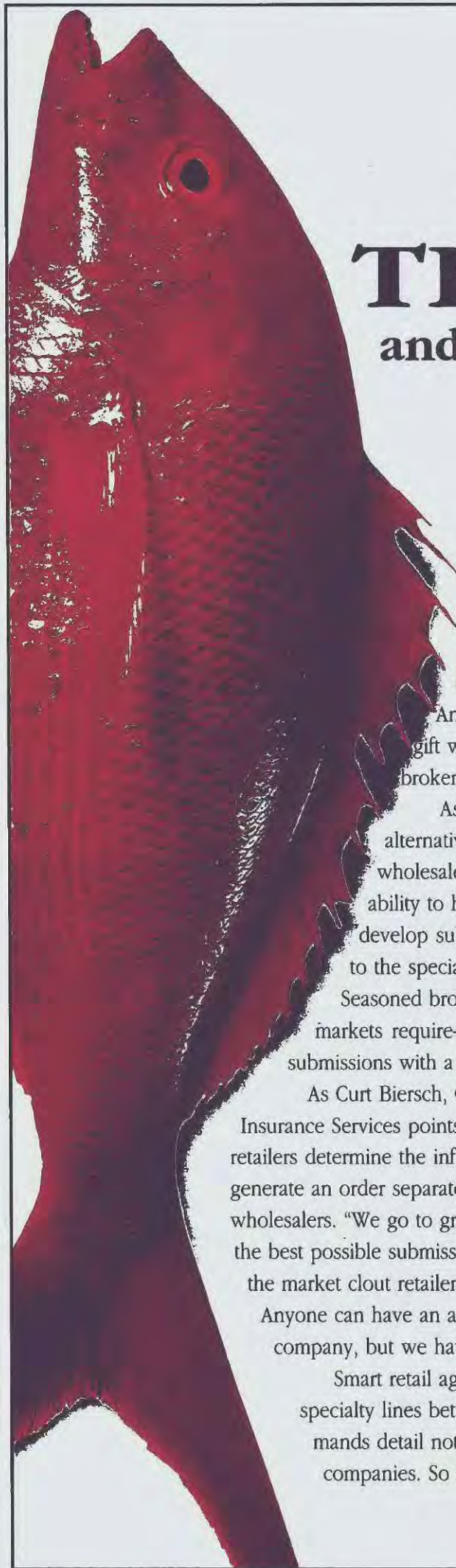


### SELF-FUNDED HEALTH CARE BENEFITS

Only SELF-FUNDING ENTERPRISES can offer you the following:

- Texts (Self-Funded Text; Underwriting Guide; Training Guide; Practitioner Guide; Claims Examiner Guides)
- Subscription Services (Claims/Administration Guide; Legal Guide; Document/Booklet Guide; Newsletters)
- Actuarial, Consulting and Educational Services
- Access to the *Self-Funding Academy*

For information, catalogs or brochures, contact Carlton Harker or Vana Bris-Bois, SELF-FUNDING ENTERPRISES, 8025 North Point Blvd, Ste. 255W, Winston-Salem, NC, 27106 or call 910-896-0144 (Fax: 910-759-0404).



**GIVE** a man a fish,  
and you feed him for a day.

**TEACH** a man to fish,  
and you feed him for a lifetime.

## RLI BROKER SALUTE

There is no substitute for experience. And knowledge is the gift which top wholesale brokers have to give.

As gatekeepers to the alternative marketplace, wholesalers have the unique ability to help retail agents develop submissions acceptable to the specialty underwriter.

Seasoned brokers know what their markets require—comprehensive submissions with a clear direction.

As Curt Biersch, CPCU, of Sherwood Insurance Services points out, helping his retailers determine the information necessary to generate an order separates his firm from other wholesalers. "We go to great lengths to provide the best possible submissions, which leads to the market clout retailers seek from us.

Anyone can have an appointment with a company, but we have relationships."

Smart retail agents will get to know specialty lines better; this market demands detail not required by standard companies. So remember retailers,

when the hard market returns, a capable wholesale broker will be your best friend.

Do yourself a favor . . . learn to fish. Take a wholesaler to lunch.



Curt Biersch, CPCU  
Sherwood Insurance Services  
Woodland Hills, CA

*RLI salutes Curt Biersch as a wholesale broker from whom we can all learn a thing or two about quality submissions. Together, we're working to solve our clients' and our industry's problems.*

**RLI**

Fundamentally Innovative

9025 North Lindbergh Dr. • Peoria, IL 61615  
Ph: (309) 692-1000 • Fax: (309) 692-1068

# Gooda

Continued from page 1

the law firm Wilde Sapte, estimates that damages total 504 million pounds (\$796.8 million) based on the judge's formula, which is about 75% of the 629 million pounds (\$994.4 million) the members were seeking. If that is so, this is the largest award by the British judiciary.

"It's a great day for the Gooda Walker names," said Michael Deeny, chairman of the Gooda Walker Action Group. "This judgment represents salvation for many of them. It means in many cases that they will be able to save family homes that they would have been forced to sell to pay for (Lloyd's) losses."

Many Gooda Walker names are elderly and retired, he added. "They hoped that Lloyd's would provide them with some income in their old age. They thought it was an ancient and honorable British institution."

Instead, the judgment showed that "there was a massive regulatory failure by Lloyd's," he said. The Gooda Walker underwriters "should never have been allowed to underwrite in a totally reckless fashion."

The judgment could set a precedent for the other members action groups seeking damages for negligent underwriting on defunct LMX syndicates. This would include the 1,650 names of the Feltrim Names Assn. whose trial against members agents begins next Monday before Justice Phillips.

"The judgment is encouraging to all names litigating for negligence at Lloyd's," Mr. Deeny said. "It shows that if you organize yourselves and you're willing to go to court and you're willing to stand up and fight, you can get justice."

"Let us hope that this victory paves the way for settlements amongst the spiral action groups. . . in the next few months," said Tom Benyon, director of the Society of Names and vice chairman of the Gooda Walker Action Group.

"It is a famous victory which establishes beyond argument that investors in the worst loss-making LMX syndicates are the victims of gross professional negligence and not of mere commercial misfortune," stated Alan Porter, chairman of The Devonshire Names Action Group, whose members have lost more than 174 million pounds (\$275.1 million) on LMX syndicates.

Val Powell, chief executive of the Assn. of Lloyd's Members, has called on Lloyd's to help negotiate another settlement offer greater than the one that was rejected earlier this year.

In that earlier 900 million pound (\$1.42 billion) offer, Gooda Walker Action Group members would have received 220 million pounds (\$347.8 million)—less than half of what they now expect to be awarded from the High Court. The Gooda Walker names' rejection of the deal sank the first offer (BI, Feb. 21).

"The time has now come for another offer to end much of the litigation that is facing Lloyd's," said Mr. Powell. "The decisive result achieved by the Gooda Walker Action Group should make it clear that the defendants of this and other spiral cases can expect no advantage from resisting names' claims further in court."

However, any settlement offer from Lloyd's would have to exceed what the High Court has awarded, Mr. Deeny said. Lloyd's might think it is in the market's commercial interest to supply an offer, "but it has to be substantially more" than what Justice Phillips is offering, he said.

But, Lloyd's will not offer another settlement that includes contributions from the Central Fund, a spokesman said last week.

"If there is a settlement, it will be from the (members agents') errors and omissions underwriters," said the Lloyd's spokesman. He added that Lloyd's was not incompetent in regulating the market in the mid-1980s when the LMX losses took place. "The Council chose not to regulate underwriting" at the time.

Lloyd's has changed, though. All

personnel now must take courses to qualify for underwriting, intersyndicate reinsurance is monitored and there's a hands-on attitude to regulating underwriting, he said.

Meanwhile, Gooda Walker Action Group members could wait a long time before they see any money and may not get as much as they expect, warned the defendants' attorneys at Clyde & Co.

Sixteen of the 71 members agents are insolvent, said Michael Payton, a partner at Clyde & Co. Their only assets would be their errors and omissions coverage.

Members agents E&O coverage is estimated to total more than 1 billion pounds (\$1.58 billion). Up to a third of the E&O coverage is placed with other Lloyd's syndicates, leading to some of the "double counting" in Lloyd's results.

The insolvent agents include two members agencies belonging to the Gooda Walker group, which have E&O coverage totaling 40 million pounds (\$63 million), he said. The E&O underwriters are refusing to pay losses, alleging that the Gooda Walker directors committed fraud. The Gooda Walker Action Group members are taking legal action to overturn this decision, he said.

Only eight of the agencies have enough assets beyond their E&O cover to pay for damages from all the LMX cases, including Gooda Walker, without going bust, said Charles Sturge, syndicate analyst at Chatset Ltd.

Payment to the members also could be delayed if the defendants and their 160 E&O insurers appeal the judge's decision, added Mr. Payton. He is seeking advice from his clients soon on whether to do so.

Mr. Deeny thinks it would be a waste of time and money for defendants to appeal, but he still expects damages to be awarded to members by next summer.

Meanwhile, the 504 million pound recovery is "highly speculative" on the part of the members, Mr. Payton said. "I would be surprised if it was that much."

The judge only ruled on how the quantum of damages could be calculated. The actual amount must still be argued before the judge. Gooda Walker members in the meantime will ask for an interim payment, Wilde Sapte's Mr. Rocher said.

Justice Phillips limited the damages that could be recovered mainly to the syndicates' LMX losses from five catastrophes. He also said the members should only recover damages where "such sums will put them in the same position as if their exposure had been protected by reinsurance."

The judge admitted that these syndicates would probably have suffered losses from the catastrophes anyway, but the inadequate reinsurance of the syndicates enhanced those losses.

Individual awards also will be reduced because members who have been paid claims on their stop-loss insurance policies must pay back their stop-loss insurers before they get any money back, according to earlier court rulings. Anything left over would be paid to members directly.

However, "this isn't about making a profit," said Ian McClelland, a Gooda Walker member. "This is about surviving." If damages are paid—up to 500,000 pounds (\$790,500) each for some names—members will be able to pay off institutional guarantors that have paid Lloyd's losses on members' behalf, he said.

There is much to glean from Justice Phillips' 146-page decision handed down in a chaotic courtroom last Tuesday.

Generally, he criticized the LMX market in the 1980s, where London

underwriters reinsured each other, creating a "spiral" effect when claims poured in. The judge questioned whether LMX was reinsurance at all and called it "arbitrage" and "an aberration."

"I believe that the reality is that if (the Gooda Walker underwriters) and all others who were writing excess-of-loss business had adopted a competent approach to underwriting, the LMX market would not have existed in the form in which, and with the capacity with which, it in fact developed," he wrote.

Although excess-of-loss reinsurance is a valid form of coverage, the LMX market was "rather like a game of pass the parcel," the judge said. "Those left holding the liability parcels were those who first exhausted their layers of excess-of-loss reinsurance protection."

The only ones who seemed to benefit were the brokers who made commissions each time the LMX coverage was placed, he said.

The catastrophic losses, which are the basis of the Gooda Walker case, are what destroyed the spiral, the judge noted.

The plaintiffs' expert witness, Ulrich von Eicken, former managing director of Munich Reinsurance Co., said that a competent underwriter would not write LMX business.

But in fact underwriters such as Lloyd's underwriter Tony Berry did write the business profitably, said the judge. "It is possible that his syndicate remained profitable by luck rather than good judgment. His reports lead me to conclude, however, that this was not the case and that, despite the opacity of the business, it was possible for a competent excess-of-loss underwriter who followed the approach of Mr. Berry to write a book which included spiral business."

Justice Phillips concluded that the three Gooda Walker underwriters writing for four syndicates were incompetent and negligent in not assessing their aggregates or probable maximum losses, or PMLs, and therefore not buying enough reinsurance to cover their losses.

Stan Andrews, underwriter for syndicate 298, who "was not a satisfactory witness," thought he was acting in the best interest of his names. But he kept no record of his aggregates, miscalculated probably maxi-

mum losses and "demonstrated incompetence" in estimating his syndicate's exposure to potential losses, the judge said.

Mr. Andrews also failed to "exercise the skill and care . . . of a reasonably competent underwriter" when buying high-layer reinsurance. "His failure to assess and buy cover for his names against such exposure was negligence," the judge ruled.

Anthony Willard, underwriter for syndicate 299, was "certainly an emotional witness and at times showed deep distress," the judge said. Some of his testimony could not be believed, but that's probably because Mr. Willard was deceiving himself more than the judge, the decision states.

Mr. Willard kept aggregate exposures but he did not calculate PMLs properly, the judge concluded. He also accepted any rate that was going, which showed that he "lacked the skill and expertise to be expected of a competent underwriter of excess-of-loss business." He was also "at fault" for not buying sufficient reinsurance for the syndicate and for failing to have two full reinsurance reinstatements to protect against catastrophes.

Derek Walker, underwriter for syndicates 290 and 164 and chairman of the Gooda Walker group, had a "deliberate" underwriting policy that exposed members to periodic losses when catastrophes occurred. But Mr. Walker had no idea that a loss such as Hurricane Hugo in 1989 could hurt his names so badly.

That's because, the judge said, Mr. Walker made no attempt to estimate how often his members might have to face a year of loss. And he did not grasp the level of catastrophe that would result in a serious loss.

"I believe that Mr. Walker underestimated the extent of his names' maximum exposure to a single event," said Justice Phillips. For these reasons, Mr. Walker was in breach of his duty as underwriter, the judge ruled.

The underwriters, Mr. Walker in particular, did warn members that the syndicates were involved in a "high-risk" business. But these warnings did no good because the underwriters did not know just how high the risk was, Justice Phillips ruled. **BI**

*This announcement appears as a matter of record only.*

## CONNING INSURANCE CAPITAL LIMITED PARTNERSHIP III

and

## CONNING INSURANCE CAPITAL INTERNATIONAL PARTNERS III

**\$56,000,000**

PRIVATE EQUITY CAPITAL FOR INSURANCE AND INSURANCE SERVICE COMPANIES

# Conning & Company

CityPlace II ♦ Hartford ♦ Connecticut ♦ 06103 ♦ 203-527-1131

# ADVERTISER INDEX

## Issue of October 10

Advertiser	Page #	Advertiser	Page #
AI Entertainment	22	Kemper National Insurance	10-11
American Re-Insurance Co.	18-19	Liberty Mutual	9
Brownyard/Chubb	32	Media/Professional Ins.	26
Brownyard Group	14	Mutual of Omaha	40
Business Insurance	13,20-21,29	Prudential Insurance Co.	15
Commonwealth Risk Service	32	Retrospect	12
Conning & Company	28	RLI Corp.	27
Great American Insurance Co.	33	Royal Insurance	36
Hilb Rogal & Hamilton	6-7	Self Funding Enterprises	27
Home Insurance	16-17	Skandia America Group	4
Industrial Risk Insurers	30	Tamarack American	14
Ivans	12	Zurich American Ins.	5

# Gooda Walker names' three-year struggle ends

By STACY SHAPIRO

LONDON—Three years is a short time in legal circles.

That's how long it has taken members of the Gooda Walker Action Group to organize, file lawsuits, go to trial and ultimately win a favorable judgment in London's High Court.

"I'd like to take the opportunity to pay a compliment to the English judiciary," Michael Deeny, chairman of the Gooda Walker Action Group, remarked last week after the action group won a historic judgment against 71 members agents to recover more than 500 million pounds (\$790.5 million) in losses.

"The English courts are often criticized, but in the case of Lloyd's names they know that people's lives have been destroyed by these losses, and they're willing to give us expedited hearings and changes in the court calendar."

Three Gooda Walker syndicates ceased underwriting in August 1991 after suffering losses of 220 million pounds (\$347.8 million at current exchange rates) for the 1988, 1989 and 1990 underwriting years. The other four group syndicates ceased underwriting after Gooda Walker Ltd. went into liquidation in October 1991 (*BI*, Aug. 5, 1991; Oct. 14, 1991).

Total current and future losses have ballooned to more than 1 billion pounds (\$1.6 billion), of which the action group members have been asked to pay 629 million pounds (\$994.4 million).

The members of the Gooda Walker Action Group first gathered in August 1991 (*BI*, Sept. 2, 1991). The inaugural meeting was organized by Vice Chairman Tom Benyon, Chairman Alfred Doll-Steinberg and lawyers from Michael Freeman & Co.

At the meeting, Mr. Benyon said, "the losses you face are tremendous. When you get home tonight, lie on the floor for a minute and a half, and allow yourself the worst sobbing. Then forget your self-pity and get up and decide how we'll get our money back."

During the course of the fight, both the law firm and the chairman of the action group were changed. Mr. Deeny took over as chairman and Philip Rocher of Wilde Sapte was appointed the group's attorney in September 1992.

The Gooda Walker Action Group raised 5 million pounds (\$7.9 million) for its litigation from more than 3,000 members and filed its first suit against members agents in March 1993. Approximately 80 members were later withdrawn from the lawsuit when it was discovered they were also directors of the members agencies that were being sued, said Sarah Gibb, the action group's secretary.

In July 1993, the High Court agreed that the Gooda Walker trial would begin April 26 this year. Before the trial, however, several preliminary issues were heard in court.

Among these issues, agents alleged that the members were contractually liable to pay 100% of their losses before they could sue the agents. But the agents lost that argument in the High Court and in the Court of Appeal.

The members agents also argued they were not contractually responsible for any negligence by the Gooda Walker managing

agency and underwriters.

The House of Lords decided April 12 that the members agents could be held liable, however. But, the lords' decision was not published until the day the Gooda Walker trial finished in July.

Late last year, Lloyd's assembled a 900 million pound (\$1.4 billion at current exchange rates) settlement offer to end litigation regarding London market excess-of-loss syndicates.

But, after a raucous meeting, Gooda Walker members—who accounted for 23%, or about 207 million pounds (\$322 million), of the value of the deal—rejected the offer, opting instead to take their chances in court (*BI*, Feb. 21; Jan. 24). **BI**

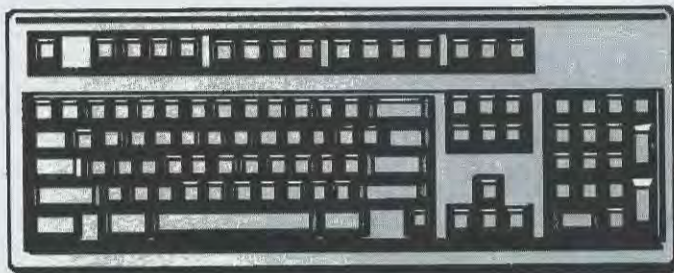
## Can Business Insurance Be of Service?

- Need to change your address?
- Want to enter/renew your subscription?
- Have a question about your subscription?
- Need a back issue?
- Want our *Directory of Corporate Buyers of Insurance, Benefit Plans and Risk Management*?



Just Call **1-800-678-9595** TOLL-FREE.  
Outside of the USA call 313-446-0450 — We'll be happy to help.

44RSA



## Corporate buyers are a keystroke away.

*BI's Directory of U.S.-Based Corporate Buyers of Insurance, Benefit Plans and Risk Management Services*, published for 12 years in a printed volume, now is available in an electronic edition for IBM-PC and compatible computer users. Now, you can print your own labels or reports in a variety of formats with the touch of a key.

The new **BID Software** is a self-contained program ... just load it in and put it to work. Each alphabetical listing includes:

- company name, address, telephone and fax
- nature of business
- company size in assets or sales
- number of employees
- corporate buying influentials by name, title and area of responsibility.

### The **BID Software**

- puts more than 14,000 corporate buying influentials from nearly 2,700 companies throughout the U.S. at your fingertips
- puts the facts and figures you need easily at hand
- lets you search by company name; geographic location — including city, state or zip code; company size — by range in assets, sales or number of employees; or individual's name, title or area of responsibility.

### And, with **BID Software**

- mailing labels or hard copy reports are just a keystroke away.

### To install and use the **BID Software** you must have:

- an IBM-PC or 100% compatible computer
- 512K RAM
- 3.5" or 5.25" low density floppy
- DOS version 3.1 or above
- 7MB free hard disk space

To order the 1994/95 **BID Software** for the *Business Insurance Directory of U.S.-Based Corporate Buyers* for only \$595, complete the form below and mail to:

Dorothy Wood, BID Software  
Business Insurance  
965 East Jefferson Avenue, Detroit, MI 48207

Or, fax your order to: Dorothy Wood, BID Software, 313-446-1650

Format for **BID Software**:  3.5" disk  5.25" disk

Residents of the following states are required to pay corresponding sales tax:

CA ... 7¼% IL ... 8¼% MI ... 4% NY ... 4% NYC ... 8½% OH ... 5%

Enclosed is a check for \$ \_\_\_\_\_ payable to *Business Insurance*,  
or charge my:  VISA  AmEx  MasterCard  Discover

Account # \_\_\_\_\_ Expiration Date: \_\_\_\_\_

Name \_\_\_\_\_

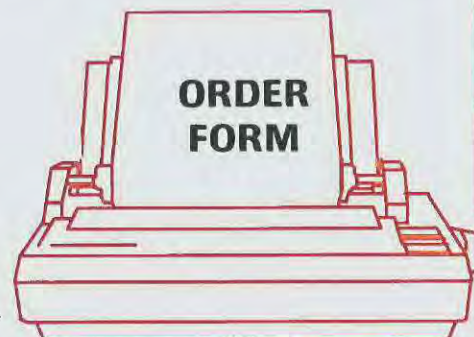
Title \_\_\_\_\_

Company \_\_\_\_\_

Address \_\_\_\_\_

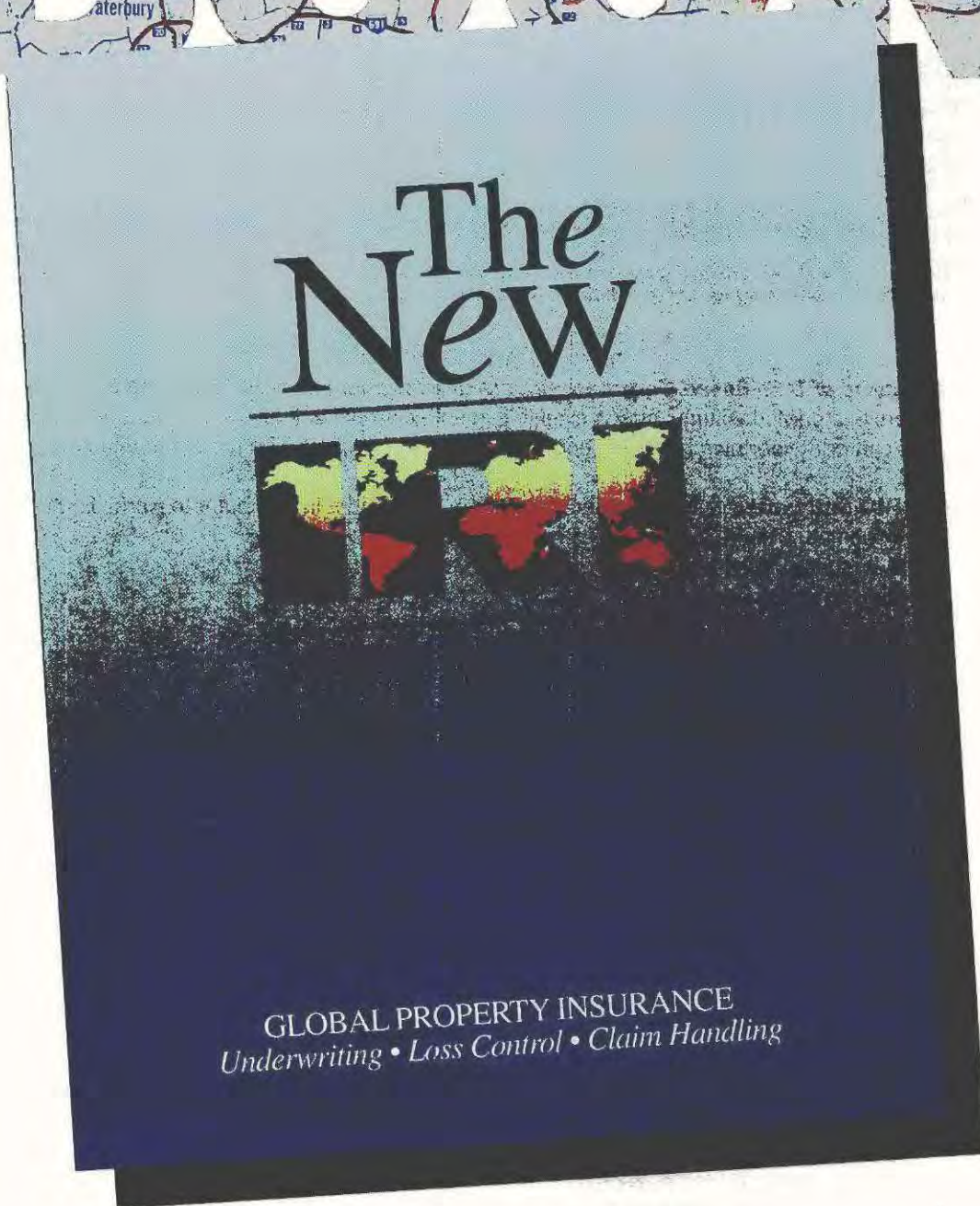
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone (\_\_\_\_) \_\_\_\_\_ Fax (\_\_\_\_) \_\_\_\_\_



**Business Insurance**

# TOUR BOOK



## Here's Your Free Guide to the HPR Market

New travel kit of maps and brochures helps you access The New IRI • 8 New Underwriting Areas • 16 Technical Service Centers • Leading HPR insurer offers global capacity and stability backed by \$120 Billion in assets and \$30 Billion in surplus • 47,000 insured properties in over 70 countries



INDUSTRIAL RISK INSURERS®

For your free copy of The New IRI Tour Book, contact Trish Sasso, IRI Marketing at 1-800-243-8308, Ext. 7412. From outside the USA, call (203) 520-7412.

©1994 Industrial Risk Insurers, Hartford, Connecticut

## INTERNATIONAL

## E.U. court upholds retroactive benefits

By ADRIAN LADBURY

LONDON—Employer groups in the United Kingdom fear that a group of six decisions by the European Court of Justice could cost them billions of pounds and deter the formation of new benefit plans.

Two of the rulings, all of which were announced Sept. 28, mean that part-time employees can now claim benefits, retroactive to 1976, from former employers that excluded them from company pension plans. The U.K. Treasury Department actuary has estimated that those decisions could cost employ-

ers up to 7 billion pounds (\$10.6 billion).

Pension experts believe, however, that employers may have overreacted to the rulings and that many part-timers will not be able or willing to demand retroactive pension rights.

The rulings also contained some good news for employers. Once benefits have been equalized, employers in the future will not be required to increase a lower benefit to create parity, but instead may reduce higher benefits to achieve equal levels.

The European Court's rulings

came in a package intended to clarify for E.U. member states how gender equality in pension arrangements can be achieved.

The principle was established in May 1990 in the *Barber vs. Guardian Royal Exchange Assurance Group* case. In that case, the European Court decided that pension benefits are the same as pay and therefore must be non-discriminatory under Article 119 of the Treaty of Rome, the European Union's founding charter.

The *Barber* judgment left so many loopholes, however, that the court decided to deliberate the six

separate cases in unison and try to settle the issue once and for all (*BI*, Oct. 18, 1993). Courts in E.U. member states can now proceed with national judgments on the basis of the European Court's rulings.

Most attention had been focused on a case brought by employees of Coloroll P.L.C., a British paint manufacturer that became bankrupt in 1990. When the European Court of Justice announced its decisions, however, all focus shifted to two Dutch cases, *Vroege vs. NCTV et al.* and *Fisscher vs. Hengelo et al.*

In these cases, the court held that neither part-time employees nor

married women can be excluded from employer-sponsored pension plans and are entitled to retroactive benefits.

The court ruled that under Article 119, neither group—both of which were excluded from the Dutch plans—can be excluded from plans as long as a greater proportion of women than men are affected and provided that employers cannot prove that they have an "objective justification" for exclusion.

The court said it had made this point clear in *Bilka-Kaufhaus*  
*Continued on next page*

## U.S. insurance gains stronger foothold in Japan

By GAVIN SOUTER

WASHINGTON—Insurers and brokers in the United States will have far greater access to the Japanese market thanks to a new trade agreement signed between the two countries.

And policyholders in Japan can look forward to greater variety in insurance products as U.S. insurers seek to gain a firm foothold in Japan, insurance company executives say.

Although most of the benefits of the agreement will be reaped by U.S. insurers in future years, some parts of the agreement could boost sales this year, they say.

The agreement to liberalize the Japanese insurance market for foreign insurers was part of wide-ranging trade talks between the two countries, the results of which were announced Oct. 1.

Under the agreement, foreign insurers will be allowed greater penetration of the Japanese market and their progress will be measured and reported in regular meetings between officials of the two countries, said Mickey Kantor, the U.S. trade representative, in a statement announcing the agreement.

The Japanese insurance market is the second largest in the world with a gross premium volume of \$320 billion, only 3% of which is controlled by foreign insurers, according to Mr. Kantor.

About one-third of the business available to foreign insurers is in the "third sector," which includes both specialized life and non-life cover-

ages such as personal accident, medical, hospital and nursing-care insurance. The first two sectors are life and non-life insurance.

In 1993, foreign insurers had 75%, or \$3.4 billion, in gross written life insurance premiums in the third sector and 15%, or \$1.07 billion, in gross written premiums in the third-sector property/casualty market, according to the International Insurance Council in Washington.

"The limited access by foreign firms stems from a combination of barriers such as an opaque regulatory system, exclusionary purchasing practices associated with old interconnected corporate structures... and obstacles in the distribution system," Mr. Kantor said.

In particular, foreign insurers have to contend with very general insurance laws that enable Japanese regulators to handicap outsiders seeking access to the Japanese market, he said. The trade agreement comes as Japan is conducting a lengthy review of its insurance market.

"Japanese regulators using their discretionary powers are able to arbitrarily require foreign insurance companies to meet a variety of conditions and requirements, such as coordinating their product applications with Japanese insurance companies," Mr. Kantor said.

U.S. insurers complain that Japanese regulators submit their product plans to local insurers as part of a consultative process. This gives Japanese insurers early warning of innovative products that they will

*Continued on next page*

## Titanic exhibit opens

Lloyd's of London loss book among first items on display

By STACY SHAPIRO

LONDON—On Tuesday, April 16, 1912, Lloyd's of London's loss book records the sinking of the Titanic.

The entry reads: "TITANIC—Southampton for New York, foundered April 15 about 2:20 a.m. . . after collision with ice. . . Further reports state that the loss of life is very serious." The leather-bound handwritten book is one of the first items on display at the National Maritime Museum's historic exhibition of "The Wreck of the Titanic," which opened last week and runs until April 2, 1995.

The new exhibition is the world's first major presentation of artifacts recovered from the ocean floor around the wreck of the ship that's 12,500 feet below the surface of the Atlantic Ocean, approximately 400 miles off the southern coast of Newfoundland.

More than 150 artifacts—out of the 3,600 items that have been lifted from the sea bed by RMS Titanic Inc., which owns legal rights to the wreck—are on display. They include the first item lifted in 1987 by the Institute of France for the Research and Exploration of the Sea contracted by RMS Titanic: a small silver platter.

Other artifacts on display include a porthole, a Royal Doulton china sink, china plates, jewelry, glasses, silver cigarette cases and wallets. Unusual items have been well preserved: dollar bills, pound notes, a seaman's white coat and cigarette wrappers.

The Titanic hit an iceberg on her maiden voyage from Southampton to New York, killing 1,523 passengers and crew out of the 2,228 people on board. Had there been more life boats, more people than the 705 rescued by the vessel *Carpathia* would have survived, subsequent investigations concluded.

The youngest living survivor is Millvina Dean, now 82, who opened the exhibition last week along with the oldest living survivor Edith Haisman, now 98. Ms. Dean told *Business Insurance* that she was 9 weeks old when she was lowered in a sack onto Lifeboat 13 along with her mother. Her two-year old brother was missing in the upheaval, but was reunited with his family on the *Carpathia*. Her father went down with the ship. The Deans were traveling to the United States to settle there, but after the disaster, the three survivors returned to England.

The Titanic was insured along with its sister ship,



AP/Wide World photo

Millvina Dean, the youngest survivor of the Titanic, attends the opening of an exhibit on the ship last week in London.

the Olympic, for 1 million pounds (\$1.5 million at current exchange rates) on a line slip led by Commercial Union Assurance Co. P.L.C. and including Lloyd's underwriters. Though the underwriters could have declared salvage rights to the Titanic under international agreements, they never lodged any rights to the vessel, a C.U. spokesman said.

In June, a federal District Court in Virginia declared that RMS Titanic is the "true, sole and exclusive owner" of any items recovered from the Titanic. The exhibition will travel on a barge throughout the world before it finds a permanent home, said John P. Eaton, a New York-based Titanic historian and consultant to RMS Titanic. The artifacts will not be sold individually, he emphasized. The exhibition currently is protected by the National Maritime Museum's agreement that the government will indemnify any losses.

## Analysis of Estonia disaster focuses on bow door

By MARIA KIELMAS

Accumulation of water on the car deck is responsible for the sinking of the ferry "Estonia," which killed more than 900 people, according to a preliminary report from the commission investigation the Baltic Sea disaster.

The vessel's visor-style outer bow door was lost in the process, though the commission said it did not know why.

Meanwhile, the Swedish Maritime Administration, Sjöfartverket, has ordered that the bow doors of all Swedish ferries be welded and rein-

forced.

The safety of roll-on, roll-off ferries like the "Estonia" will be discussed at a December meeting of the Maritime Safety Commission of the International Maritime Organization in London.

The ferry was en route to Stockholm from the Estonian capital of Tallinn when it sank in heavy storms Sept. 28 (*BI*, Oct. 3).

Authorities are still discussing the possibility of salvaging the vessel, but such an operation could only be undertaken in the spring, said a Swedish maritime official.

Trygg-Hansa Insurance Co. Ltd.

in Stockholm, the ship's hull insurer, regards the ferry as a total loss and is not considering a salvage operation, a spokesman said.

The total insured loss from the disaster, including hull and liability claims, could exceed \$300 million, depending on which maritime laws are applied.

The panel investigating the disaster includes representatives from Sweden, Finland and Estonia and is headed by the Estonian transport minister, Andi Meister. Preliminary conclusions announced last week include:

• The vessel lost stability and cap-

sized due to an accumulation of water on the car deck. The water entered the car deck at the forward ramp.

• The bow door was lost. Underwater videos show that the hull part of the lower latch mechanism is fractured. It is unknown if the failure was due to metal fatigue or to an isolated overload condition. The two side latches have not been examined.

• After the loss of the bow door, pounding waves apparently made the ramp latching mechanisms release, causing the ramp to open slightly. This allowed waves to spill

onto the car deck. It's not yet known if the ramp latches failed or if they later moved out of their locking position. It's unknown if hull damage due to the loss of the bow visor caused additional leakage.

• No signals were received from the ship's emergency beacon. In theory, these beacons should float free after an accident.

The Swedish Maritime Administration ordered Swedish shipowners to close and weld bow visors last week when video of the wreck confirmed the bow door locking fault.

Johannes Palmgren, head of the  
*Continued on next page*

## INTERNATIONAL

## Rulings

Continued from previous page  
*GmbH vs. Hertz* in May 1986, and therefore employers cannot claim the law should be limited to only after the May 1990 *Barber* judgment. Claims can be made as far back as April 8, 1976, when Article 119 became E.U. law.

U.K. and Dutch employers will be hit much harder than most of their E.U. counterparts because they are the only member states with significant numbers of both employer-funded pensions and part-time workers, most of whom are women. U.K. employer groups focused their anger at the retrospective element, which they say is unfair, contravenes national law and could lead to huge costs.

"The plug has got to be pulled on

European law, which has such perverse effects. It is a principle of British law that we do not have retrospective legislation. The judgment will cost British business billions of pounds but will have little effect in other member states that do not have the great advantages of Britain's funded company pensions," said Tim Melville-Ross, director general of the Institute of Directors, which represents 48,000 company directors both in the United Kingdom and throughout the world.

"If those costs can be increased retrospectively by decisions outside their control, then employers will be discouraged from running (pension) schemes," said Ron Amy, chairman of the National Assn. of Pension Funds. "The European court is imposing today's social standards on decisions which employers originally took in good faith, and in the worst case, this could cost companies close to 10 billion pounds (\$15.8 billion)," he added.

However, Peter Felton, chairman of the Assn. of Consulting Actuaries, said the impact of the decisions is likely to "fall well short" of the 10 billion pounds stated by the NAPF. Nevertheless, he warned that it will deter pension fund managers from improving current plans and setting up new ones.

The ACA said it is "likely to join with other bodies" in an effort to persuade the European Council of Ministers and European Court of Justice to call a halt to "back-dated decisions" of all types.

David Marshland, employment law consultant with William M. Mercer Ltd., was one of many pension experts who tempered employers' fears with some sober comment.

He pointed out that the *Fischer* judgment contains a number of elements that will seriously restrict part-timers' willingness and ability to claim full benefits back to 1976.

For example, in *Fischer*, the European Court of Justice stated:

• In pension plans requiring employee contributions, plan members will have to pay full contributions before they obtain full benefits. Most part-time workers simply will not have the cash to pay the contri-

butions in one lump-sum, Mr. Marshland said.

The exception to this rule will be non-contributory plans, which are fully funded by employers and are expected to be hurt most by retrospective claims. About a third of U.K. plans are non-contributory.

• Time limits under national law are applicable as long as they "do not render the exercise of rights conferred by community law impossible to practice." The basic U.K. limitation for claims of this nature is six years, a third of the 18 years suggested by the judgments.

Richard Malone, European policy director at Sedgwick Noble Lowndes Ltd., agreed that high back-contributions will deter many claimants from seeking pension benefits. But, he focused on the equalization of benefits between the sexes, which was clarified by *Colorall Pension Trustees Ltd. vs. Colorall Group P.L.C. et al* and *Smith vs. Avdel Systems*—decisions welcomed by employers.

Under the new rules: unequal benefits are permitted up to May 17, 1990, the date of the *Barber* judgment; between May 17, 1990, and the date at which a pension plan is equalized, the benefits must be equalized upward to the level of those employees receiving a higher level of benefits; and, after the date of equalization, higher benefits may be reduced as long as they are then equal to other benefits.

Most female members of U.K. pension plans retire at age 60 but receive the same or similar benefits as men in the same plan who retire at 65. According to the *Barber* judgment, this constitutes sex discrimination against men. The European Court rulings attempt to rectify that discrimination.

But the new rules mean that women will be disadvantaged as employers in most cases are expected to opt to equalize the plan by raising the retirement age to 65 and save cash, Mr. Malone said. "We believe that around 40% of U.K. pension plans have still to equalize benefits and introduce a common pension age for men and women. Some plans have equalized at age 62 or 63, but 65 is the favored age." ■

## Trade

Continued from previous page  
have to compete with, they say.

Under the insurance agreement, the Japanese government has committed itself to:

• Enhance the transparency of its regulatory system, provide important procedural protection, introduce specific liberalization measures and strengthen its antitrust policy.

• Compile and publish standards of approval for licenses and new products and put administrative guidance in writing.

• Introduce a notification system for large commercial insurance in which companies will be allowed to introduce products by simply notifying the regulators instead of going through the prior-approval process.

• Implement a three-stage deregulation plan on insurance products and rate approval that includes easing insurance rate restrictions applicable to large commercial fire insurance risks.

• Introduce a broker system.

• Agree to implement its Anti-Monopoly Act in the insurance sector and for the Japanese Fair Trade Commission to conduct a study of the Japanese insurance market.

• Avoid any radical changes in the third sector until liberalization takes place in other sectors of the market. This is designed to prevent any erosion of foreign insurers' market share in the Japanese market while the deregulation process takes place.

• Review the progress of the reforms using quantitative and qualitative analyses, and hold twice yearly meetings with U.S. officials for the next three years and annual meetings thereafter to discuss the progress.

The quantitative measures will include: the number and ratio of approvals for new products and rates, and the value and market share of premiums for foreign insurers in Japan.

The qualitative measures will include: whether the Ministry of Finance promptly and fairly reviews product applications; makes the standards transparent and available; and provides opportunities for foreign companies in Japan to be informed about, comment on and exchange views with officials regarding insurance reform.

"The U.S. industry predicts that

the new agreement can lead to an increase in (foreign premiums) of nearly \$1 billion over the next several years," Mr. Kantor said.

The agreement was hailed as a major breakthrough by several U.S. insurance executives and representatives with interests in Japan.

"We are confident that, as a result of this agreement, the U.S. presence (in Japan) will be expanded significantly. In addition, the agreement should benefit the insurance consumers of Japan since a more competitive environment will provide better access to new and enhanced products and services," said H. Edward Hanway, president of CIGNA International in Philadelphia and chairman of the International Insurance Council.

"We are very pleased with the end result of the U.S.-Japan framework negotiations, which will more fully open the market to foreign insurers in Japan," said Maurice R. Greenberg, chairman of American International Group Inc. in New York.

The main benefits of the agreement will come in the future as the barriers to foreign insurers are broken down, said Gordon J. Cloney, president of the IIC.

"The liberalization has started and hopefully it will continue," he said.

One of the most important aspects of the agreement is the formalization of regulatory procedures for foreign insurers, Mr. Cloney said.

"Foreign insurers will now have a degree of confidence on how the system works and what they will be expected to do," he said.

And foreign insurers will receive immediate benefits from the agreement, said Robert Rusis, senior vp and general counsel at Chubb Corp. in Warren, N.J.

For example, standards due to be published later this year will give insurers a "road map" of what they need to do, he said.

"On balance it promises to be a good deal for U.S. insurers and Japanese insurance buyers," Mr. Rusis said.

Brokers, too, will benefit from the deal. Currently, foreign brokers operating in Japan act as agents and are sponsored by licensed insurance companies, said Christopher M. Collins, a managing director of Marsh & McLennan Cos. Inc. in New York.

The agreement is "a step forward and a beginning for more sweeping changes," he said. ■

## High Tech Workers' Comp



The business world is so sophisticated. Technology enables us to do things that were unimaginable a generation ago.

Workers' Compensation insurance reflects that sophistication, with multi-state exposures and difficult-to-write coverages. That's why Commonwealth Risk is a leader in the Alternative Market. We provide creative solutions (captives, rent-a-captives, large deductibles, and self-insurance wraparounds) to address complex Workers' Compensation issues.

Commonwealth Risk's founders began developing alternative risk financing products in the late 1970's, and product sophistication has grown with the times. And yet, in this rapidly changing, high-tech world, we offer the old-fashioned service of a generation ago.

For more information, have your broker call:  
Philadelphia, PA (215) 979-3300  
Orange, CA (714) 978-0577  
London, England 071-217-1066

An MRM Company

A leader in Alternative Risk Financing  
Commonwealth Risk

## THIRD PARTY FIDELITY

What is it?  
Who needs it?  
Why do they need it?  
How can they get it?

For complete information on this important coverage, underwritten by Chubb, call or fax The Brownyard Group.



THE BROWNYARD GROUP

21 Maple Avenue, CN9175  
Bay Shore, NY 11706-9175  
(800) 645-5820 • In NY (516) 666-5050 • FAX: (516) 666-5723

## Estonia

Continued from previous page  
accident investigation units at the Swedish Maritime Administration, said reinforcing bars must also be added to the bow doors when they are welded shut.

Even after this has been done, the ships will stay in port during particularly bad weather, he noted.

Shipowners must pay for the reinforcements, which take a couple of days in a shipyard and are not covered by insurance, a Trygg-Hansa spokesman said.

The London-based International Maritime Organization announced that a number of proposals concerning the safety of ro-ro ferries will be considered by the IMO's senior technical body, the Maritime Safety Committee, at a December meeting. IMO Secretary General William O'Neill listed a number of items requiring special attention, including:

• The strength and watertightness of openings to the vehicle spaces, in particular bow and stern doors.

• Increasing the chances of surviving a breach by fitting bulk-

heads into the car decks.

• The evaluation of lifesaving devices and onboard evacuation arrangements.

• Onboard communication, in particular when ships are manned by multinational crews carrying multinational passengers.

• Reporting of incidents regarding the safety of ro-ro ships to appropriate authorities and the action the authorities should take on receiving these reports.

The Swedish Maritime Administration's Mr. Palmgren said the idea of installing horizontal bulkheads in ro-ro ferries has been discussed in depth and he believes it will be required.

Even though modern vessels have watertight cells below the car deck and the car deck is above the water line, water on the deck can still make the ship unstable, Mr. Palmgren said. "So you have got to have some sort of bulkhead either on the car deck or have a car deck grille so that the water seeps to the cells underneath."

The possibility of salvaging the wreck and recovering bodies is under discussion but is unlikely to be done before spring, Mr. Palmgren said. ■

## INTERNATIONAL

**Paid-up Lloyd's names angered at being dunned by syndicate**

By CAROLYN ALDRED

LONDON—Thousands of Lloyd's of London members who have paid up cash calls made by loss-making syndicates are outraged over a debt recovery letter sent by Lloyd's.

The letter, signed by Philip Holden, head of Lloyd's new Financial Recovery Department, was sent to 4,600 Lloyd's members on Sept. 28, two days before the deadline set by Lloyd's for names to meet their liabilities.

Many names who had already made arrangements to pay their losses and meet Lloyd's solvency requirements, or were in the final stages of doing so, received the letter, which was headed in bold capital letters: "Without Prejudice. Debt Recovery."

A director from one of Lloyd's largest members agents estimates that more than 50% of members who received the letter had paid up their syndicate cash calls.

Dozens of angry and confused members have called their agencies.

"Quite a lot of letters have gone to elderly people who have never been in debt in their lives and have paid all their cash calls," said John Parkinson, a director of Willis Faber & Dumas (Agencies) Ltd. "These names have all been financially damaged by Lloyd's and the letter has damaged their faith in Lloyd's further."

At least one name who contacted Willis Faber had been on

usually with a cover letter to members. The agents would not send the letters on to members who they knew had paid cash calls and met solvency or were in the process of doing so, Mr. Parkinson said.

However, the letter from the newly established Financial Recovery Department was sent directly to names without allowing members agents to exclude those

names to whom it no longer applied. Because many members agents were waiting for the Sept. 30 deadline before submitting complete figures of names' payments, dozens of their names would have received the Lloyd's letter despite assurances from their agent that they had met solvency requirements.

A Lloyd's spokesman explained that the system had been changed

after the new department was set up at the beginning of the month. The department is headed by Mr. Holden, who is a partner with Dibb Lupton Broomhead, a law firm that specializes in debt recovery (BI, Aug. 8).

The aim is to handle members' solvency centrally and directly—and therefore more efficiently, said the spokesman.

Lloyd's Underwriting Agents

Assn., which represents all Lloyd's members agents, had been informed of the letter and had even amended it, he said.

But, many agency executives were unaware the letter had been sent until they received telephone calls from angry names.

"The first we heard of the letter was when we got calls from names on Thursday morning," Sept. 29, said Mr. Parkinson. **BI**

# We Have A Winner!!

## Great American's® Drug-Free Workplace Program™ PIA National's 1994 Company Award Of Excellence

The Professional Insurance Agents (PIA) National's Company Award of Excellence recognizes Great American for "developing a specific, innovative, and caring program that meets a consumer need." The Drug-Free Workplace Program helps Great American's workers' compensation customers reduce workplace accidents and claim costs and increase productivity. Great American has made it easy and affordable for our customers to adopt Drug-Free Workplaces.

Our drug-and alcohol-testing customers have consistently yielded lower loss ratios and boasted about other benefits, such as increased produc-

tivity and lower absenteeism. Where legally allowed, we provide a 5% workers' comp premium credit for the Program.



This Program is just one of many services Great American offers workers' compensation customers and is one reason we have increased our workers' comp writings by 60% in our emphasis states. We are proud of our association with PIA and thank all our agents for making the Drug-Free Workplace Program a success. Are you part of our winning team? For information about the Award-winning Program or Great American in general, give us a call.

**1-800-523-DFWP**

 **THE GREAT AMERICAN INSURANCE GROUP®**  
STRENGTH WITH INTEGRITY

**'The letter has damaged (names') faith in Lloyd's further,' says John Parkinson.**

his way to the bank to arrange a transfer of funds to meet Lloyd's solvency requirements when he received the letter. He immediately canceled the appointment with the bank manager on reading the letter, and only arranged another appointment after reassurance from a Willis Faber executive, said Mr. Parkinson.

Mr. Parkinson predicts that the letter will encourage some names who were undecided about underwriting in 1995 to resign.

Under U.K. Department of Trade and Industry regulations, all members of Lloyd's must prove each year that they have sufficient assets to meet their liabilities, even if payment has not yet been demanded.

As a result, Lloyd's names with increased liabilities who plan to continue underwriting must make "good the shortfall," Mr. Parkinson said.

Names can do this by several methods, including paying in more money to Lloyd's, assigning a stop-loss policy to meet the liabilities or showing that they have additional capital.

The letter sent to members refers to their "Lloyd's liabilities" and requests that they contact the "new debt recovery department" with their "proposals for settlement" of these and future liabilities.

In the past, Lloyd's Solvency Department sent out similar letters to names via members agents, who would then pass them on,

# Structured

Continued from page 3

extend settlement payments can extend as much as 50 years or longer if the plaintiff is a child, as opposed to the much shorter durations of other insurer payouts.

"These are long-term liabilities and somewhat risky from that framework," said Robert Riegel, vp at Moody's Investors Service Inc. in New York.

Insurers must make some possibly risky interest rate assumptions. For instance, insurers that had invested in bonds carrying high interest rates that were called would have to reinvest the proceeds at lower prevailing interest rates.

As a result, the insurers' profits—the spread between what insurers are earning on their assets and paying out on structured settlement liabilities—could have become squeezed, he said.

Most insurers, however, balance these long-term liabilities with other, short-term liabilities "so you have a nice balance within the company," said Mr. Dyer.

Furthermore, the business demands little in marketing or advertising expenses so once insurers understand how to work with structured settlements, it is not a difficult product to add, he said.

"I think it requires a particular kind of investment discipline," said Roger Harbin, senior vp at Seattle-based SAFECO Corp., one of the major insurers in the field, with about \$450 million in premium volume last year.

"The skills are not all that mysterious. You need to understand what the liability structure looks like and to buy assets to match that liability

structure as closely as you can."

"It's moderately profitable," said Joan Kautsky, senior annuity analyst with Prudential Preferred Finance Services of Newark, N.J., a Prudential Insurance Co. of America unit that did \$195 million in structured settlement business last year.

Expanding the market beyond the current \$3.5 billion to \$5 billion annually will require insurers to get the word out on the benefits of structured settlements.

"We estimate the size of the potential market for structured settlements in the order of \$20 billion to \$30 billion, so the penetration is somewhere over 10% and under 20%," said Mr. Dyer.

That share could reach 20% to 30%, said Mal Deener, assistant vp and national director of structured settlements for New York-based Metropolitan Life Insurance Co., which says it has the largest market share in the industry.

"Unfortunately, a lot of people see or have a need to receive the income all at once and don't really understand the advantages of a structured settlement," he added.

"There needs to be a lot more focus" on communicating structured settlements' advantages, said Cindy Chanley, director of payout options marketing for Louisville, Ky.-based Providian Corp., formerly Capital Holding Corp., which writes about \$100 million in annuity business through two subsidiaries, Commonwealth Life Insurance Co. and National Home Life Assurance Co.

Acceptance of structured settlements may be on the rise, though.

At Liberty Mutual Insurance Co., about one-third of claimants offered structured settlements opt for them, said Bill Urmstead, assistant manager of home office claims in Dover,

N.H. "The success rate has increased as the acceptance in the marketplace has increased over the years," said Mr. Urmstead. Liberty Mutual offers the option of structured settlements in all settlements involving at least \$50,000.

Judges, too, are more receptive to the settlements. Judges are actually starting to promote the concept when it is clear that someone receiving a damage award is "not likely to be in a good position to manage a lump sum in a way to produce a reliable lifetime income," said SAFECO's Mr. Harbin.

Even if issuing companies can convince more people of the advantages of their products, other potential problems remain.

One is the recent insolvency of Toronto-based Confederation Life Insurance Co., which had 3,000 structured settlements on its books as of 1993 (BI, Aug. 22). A spokesman for the company said it will be another 30 to 60 days before further details are available. All annuity payments are continuing to be made in full, he said.

Many observers say they believe the company was taken over early enough to avoid some of the problems that plagued the 1991 insolvency of another major insurer in the structured settlement market, Executive Life Insurance Co. (BI, Aug. 23, 1993).

After that failure the structured settlement market shrunk somewhat, Booz, Allen & Hamilton Inc. found in a 1992 study commissioned by GE Capital Assignment Corp. of Stamford, Conn., which entered the structured settlement market last January.

"I think (the Confederation Life failure) might cause some ripples," said Tony Wilkey, vp and marketing

director for the structured settlement unit of Transamerica Occidental Life Insurance Co. in Los Angeles. "I don't think it's going to be that serious" though, he added.

However, "If there is a shortfall, I think that would have a significant impact on the use of structures," said Kevin Mack, national director of structured settlements for The Travelers Insurance Cos.' casualty operations. He arranges structured settlements both internally from Travelers' in-house operation as well as from other life insurers.

While it's still too early to tell the impact of Confederation Life on the market, it is safe to say "it will focus people's attention on the safety and stability of the companies that are involved in this market," said Prudential's Ms. Kautsky.

One major potential growth area for structured settlements is long-term workers compensation claims. Standing in the way, however, is the Internal Revenue Code. Section 130, which permits a property/casualty insurer to remove the liability from its books and assign the payment of structured settlements to a third party, applies to personal injury claimants but not workers compensation cases.

At the time the section was added in 1982, workers comp was just not a consideration, said Kyle Hording, general counsel and executive vp with broker Settlement Services Inc. in Los Angeles, who lobbied for the bill. "It's the kind of thing where you just kind of kick yourself."

Industry participants hope to see legislation that will change that. "There's no real logic from the standpoint of tax law or the regulatory environment as to why you shouldn't be able to assign a workers comp claim as well as you might

assign a straightforward personal injury claim," said John Jefferies, director of structured settlements of American General Corp. in Houston, which is entering the structured settlement market this month and expects to write \$50 million in its first year.

"We think the market will grow substantially once that particular hurdle is overcome," he said.

Andrew Larson, senior vp at Lynchburg, Va.-based First Colony Insurance Co., agreed. "We honestly think that workers comp will be the area where there will be the most rapid growth in structured settlements over the next few years," he said.

First Colony offers a reinsurance product that can in effect provide insurers with a benefit comparable to Section 130 by permitting them to remove the settlement's liability from their books, although to what degree depends on the particular jurisdiction involved and the documents used.

Another large potential area is environmental liabilities.

For now, though, issues including ownership of the annuity, releases from liability and tax issues are inhibiting use of such settlements.

"I think the growth potential in this piece of the market exceeds the growth potential in any other segment of the market," said Scott Novak, director of environmental settlements at Metropolitan Life Insurance Co. in New York, which is among the insurers active in this area.

"If you look at the dollars that are involved in environmental cleanup in the insurance policy litigation area, they far exceed the amounts happening in personal injury," he said. ■

## The Professional Marketplace

### RATES AND CLOSING TIME:

**Rates:** Display classified is \$142.00 per column inch, minimum of one inch. Straight classified is \$12.50 per line, minimum of 5 lines. Count 34 characters per line (include each space and punctuation as a character). Additional \$20.00 charge for all blind box ads. Only those responses which fit into a business size envelope will be forwarded. Responses are forwarded daily.

**Closing:** Published every Monday. Copy must be in typewritten form by noon Tuesday, 6 days preceding publishing date. No verbal phone copy accepted. Prepayment required for all advertisements. Mail ads to, Cheryl Butler, Classified Advertising, 740 N. Rush St. Chicago, Ill. For more information call 312-649-5340. FAX 312-649-7799

#### WANTED

Reinsurance company looking to purchase inactive insurance/reinsurance books of business. Most interested in recent run-off up to 5 years on last book. For confidential information call Olga at (813) 577-3771 ext. 215.

#### PART TIME WORK

Our expanding insurance litigation consulting business requires additional insurance professionals to provide consultation and expert testimony for our attorney clients throughout the United States.

The typical individual is retired, semi-retired or seriously self employed and has several years experience in underwriting and/or claims in auto P/C marine aviation life disability medical WC fidelity Surety Title.

If interested, please send a resume including education, work experience and areas of specialization to: O'Hara & Associates  
10447 Des Moines Avenue  
Northridge, CA 91326

#### Director of Workers Compensation

Builders Transport, Inc., one of the nation's largest truckload companies, has an immediate opening for a director of workers compensation. This position requires 5 years supervisory experience and a comprehensive knowledge of workers compensation laws in multiple states. This individual must possess proven management communication, organizational and interpersonal skills. Must be able to work effectively with defense counsel and attend hearings throughout a number of states. Computer experience and the ability to work quickly, creatively and independently in the aggressive handling and settling of claims is required.

Builders transport, Inc. offers an excellent salary and benefit package which includes life, medical and dental insurance as well as a 401(k) retirement program. Please include your salary history in your cover letter.

For immediate consideration, please forward resume to:

**Builders Transport, Inc.**  
Department RM  
P.O. Box 7005  
Camden, SC 29020  
E.O.E

#### Associate Risk Analyst \$3,330 - \$4,018/month

The California Office of Risk and Insurance Management within the State Department of General Services is seeking candidates for the position of Associate Risk Analyst. Minimum qualifications include: three years of technical experience working with commercial property and casualty insurance, the adjusting of tort liability claims, or risk management related duties.

Interested parties are requested to contact the Office of Risk and Insurance Management of the Department of General Services for a job description and State application. Applications will be accepted from October 14 - 31, 1994.

Gary Estrada  
Department of General Services  
Office of Risk and Insurance Management  
1325 J Street, Suite 1800  
Sacramento, CA 95814  
(916) 445-4612

#### W/C CLAIMS ADJUSTER

Nat'l co. located in New Hyde Park, New York seeks individual with Workers' Compensation claims exp. for a five-month assignment in its corporate HQ's Insurance Dept. Responsibilities include contact with 60 field offices and insurance carrier adjusters to ensure proper claims administration and reserve accuracy. Some involvement in loss control/risk management & analyses. Multi-state exp a plus. Fax/mail resume & salary requirements to MDB at:

**UNIFORCE SERVICES**  
P.O. Box 432, NHP, NY 11040  
Fax: (516) 327-0249 EOE

#### DIRECTOR OF PRODUCT DEVELOPMENT

Seek, evaluate, develop, and manage specialty insurance products for a national marketing organization.

Our ideal candidate manages specialty insurance programs at a large, independent or national, broker or MGA. Prior experience may include underwriting, sales, and/or product management at a major P&C carrier.

We are a dynamic company created by leading North American agents and brokers. Our focused, direct distribution capabilities provide a unique competitive advantage.

We seek an aggressive, hands-on, insurance professional with a sense of sales and finance, and a willingness to focus on results.

If you are ready to step up to the challenge of building an emerging company - write, in confidence (no calls); include a resume, compensation history, and recent accomplishments.

President  
**Assurex Marketing Group**  
445 Hutchinson Avenue  
Columbus, OH 43235-1408

#### Business Insurance Circulation Breakdown

##### Commercial Consumers

##### Administrative:

CEO's, Presidents, and Owners, ..... 2,528  
Vice Presidents, General Managers and Other Administrative Personnel ..... 4,118

##### Financial:

Chief Financial Officers and Vice Presidents of Finance ..... 2,171  
Secretaries, Treasurers, controllers and other Financial Personnel ..... 3,335

##### Risk/Employee Benefits:

Vice Presidents, Directors, Managers, and other related department personnel of: insurance, risk employee benefits, personnel, compensation, pension, safety, security, industrial relations, human resources and employee/labor relations ..... 16,157

**Sub-total** ..... **28,309**

Associations ..... 369  
Government, Unions and Educational Institutions ..... 974

##### Commercial Consumers

**Sub-total** ..... **29,652**  
Insurance Agents and Brokers ..... 8,408  
Insurance Companies ..... 8,181  
Accountants, Actuaries, Attorneys & Consultants ..... 3,611  
Managers & Health Care Providers ..... 1,903  
Others Allied to the Field ..... 849

**TOTAL** ..... **52,604**

★ Source Business/Occupational breakdown of qualified circulation, May 30, 1994 Issue, as submitted to BPA for June 1994 BPA Publisher's Statement

#### SALES MANAGER

Powell-Walton-Milward, Inc., a leading independent insurance agent located in Lexington, KY, is seeking an experienced Sales Manager. Qualified candidates will have documented insurance experience, strong organizational abilities, be computer literate and have excellent written and oral communication skills. For consideration, please forward your resume and salary expectations to:

Kevin C. Kelly  
Powell-Walton-Milward, Inc.  
P.O. Box 2030 • Lexington, KY 40594  
An Equal Opportunity Employer M/F/D/V.

## RECRUIT THE INDUSTRY'S MOST QUALIFIED CANDIDATES.

The most talented men and women in the insurance industry know where to turn when they want to make their moves.

Advertise in **Business Insurance's** Professional Marketplace

Call 312/649-5340 for advertising details.

# Mass torts

Continued from page 1

rush to negotiate huge settlements—and collect fat fees—on terms too favorable to wrongdoing companies.

Many plaintiffs lawyers say that any settlement that does not allow plaintiffs to opt out at any time and that does not provide for more money to be put in if needed is inherently unfair to victims.

One much-maligned deal is a \$1.3 billion class action settlement agreed to last year between the Center for Claims Resolution, a group of 20 former asbestos manufacturers, and two prominent plaintiffs lawyers—Ronald Motley of Ness, Motley, Loadholt, Richardson & Poole in Charleston, S.C., and Eugene Locks of Greitzer & Locks in Philadelphia.

Despite complaints from many outside lawyers, a federal judge in Philadelphia recently approved the deal, thus paving the way for the CCR to begin payments over the next 10 years to all individuals with asbestos-related ailments who had not filed claims against CCR members prior to January 1993.

Some outside experts complained that the deal treats future claimants unfairly in that it requires them to show relatively high degrees of impairment to receive payment (*BI*, Jan. 25, 1993).

More pointedly, they contend that Messrs. Motley and Locks agreed to the tougher terms on future claimants in exchange for better terms on a settlement for some 14,000 current asbestos claimants they represent. The attorneys will split an estimated \$70 million to \$75 million in contingency fees for settling existing claims en masse.

Both lawyers say they see no conflict of interest, and add that the judge didn't see any either.

In cases like the CCR suits, the terms of the settlement were negotiated before either side petitioned the court for class-action status and the lawyers that negotiated on behalf of victims were selected by the defendants.

Both practices are roundly criticized by some legal experts.

"With the CCR, there was no legitimacy in the choosing of these attorneys. They were the only ones who would go along with the settlement. Making them class counsel for all potential claimants was wrong," contends John Coffee, a professor at Columbia University School of Law.

For settlements to be fair, courts need to be more careful in naming class counsel, Mr. Coffee said. He suggested that courts assemble teams of attorneys to represent the plaintiffs class during negotiations, rather than "a willing caucus."

Even as opposition grows in some circles, class action settlements are proving appealing to courts around the country.

Victor Schwartz, a defense lawyer at Crowell & Moring in Washington, said the efficiency of the settlements appeals to overburdened courts and the cost savings appeal to corporations.

"Handling a liability exposure a drop at a time has proven itself to be the road to bankruptcy," said Mr. Schwartz. "With protracted litigation, the victims, the companies and corporate shareholders don't win. The only winners are a few plaintiffs lawyers working on contingency fees and a few defense lawyers."

It was the fear of becoming one of those corporate losers that led Dow Corning to initiate conversa-

tions in early 1993 with several plaintiffs lawyers about settling the booming number of silicone breast implant suits against the company.

The critical moment for Dow Corning may have come in 1991, when a California jury returned a \$7.3 million judgment in a breast implant liability action (*BI*, Dec. 23, 1991).

Soon lawsuits began pouring in, and pursuing a quick settlement became the company's only option, said Gary Anderson, president of the Midland, Mich.-based company.

"For corporations with mass litigation, it's impractical, if not impossible, to deal with every case and still expect due process in every court," he said.

A federal judge recently approved a \$4.2 billion global settlement (*BI*, Sept. 5; July 18). Dow Corning will be paying about \$2 billion with funding also coming from about 50 other major manufacturers, including Baxter International Inc., Bristol-Myers Squibb Co., Union Carbide Corp. and 3M Co.

To Dow Corning, such a settlement was the only way to realistically deal with an expected 70,000 to 100,000 suits.

"It's the only way to handle that many suits," said Mr. Anderson. "It also proves that we desperately need tort reform. Without it, we'll experience the gradual breaking down of U.S. corporations. Today's court system encourages companies to shut down research and development and domestic manufacturing."

Whether the breast implant suit will ultimately be a success for any of the parties involved remains to be seen. Already, some 10,000 women have opted out of the settlement. Many had sued in Texas, which is considered a very favorable jurisdiction for plaintiffs.

Companies are moving toward global settlements partially out of a sense of responsibility, said Stanley Chesley, a leading plaintiffs class action lawyer.

"Defendant companies are seeking to move away from the scorched earth defense whereby cases are still pending all over the country at the end of the day. Historically, defendants would sit on their money waiting for the court backlog to save them," said Mr. Chesley, who was the lead class counsel in the breast implant settlement, and who also negotiated a \$500 million class action settle-

ment with Pfizer Inc. over that company's faulty heart valves (*BI*, Feb. 3, 1992).

"But responsibility and sanity call for disposing of litigation in a timely and fair manner," said Mr. Chesley, who is with Waite, Schneider, Bayles & Chesley in Cincinnati.

But class action settlements are not fair to victims when plaintiffs attorneys agree to settle for a payment schedule that pales in comparison to what their clients could be awarded in court, said Fred Baron of Baron & Budd, another prominent personal injury attorney.

"Defendants today are holding an auction, and what's up for bid are attorneys fees. Whomever will take the lowest fees while still taking the case becomes class counsel," said Mr. Baron.

One common corporate strategy, he said, is to demand that the window for plaintiffs to opt out be relatively small. That's fine for people who are already injured or ill and can assess whether they would fare better in court or under the deal. But it requires many people who have been exposed to a harmful product, but are not yet injured, to gamble on their future health status.

"With breast implants, if you have them you know it. But with asbestos or tobacco, no one knows if and when they'll get sick," Mr. Baron said. "I'd like to see the federal appeals court tackle the issue of whether future settlements with defined opt-out periods are legal. If they are shot down, than all these settlements will vanish."

It's easy to see why corporations find the class action settlement appealing.

"All you have to do is look at the breast implant situation," said Thomas Demetrio of Corboy, Demetrio & Clifford in Chicago, who represented victims of the Dalkon Shield intrauterine device in a settlement with A.H. Robins Co. "One plaintiff was awarded more than \$7 million. Under the class settlement, the amounts of payment aren't even close to that amount."

He and other plaintiffs lawyers who oppose class actions in personal injury cases do so, at least in part because they say that the health and exposure conditions are rarely similar enough among all plaintiffs to justify certification of a true class action.

Defense specialists counter that

Continued on next page

## Insurance Services Guide



To Be Heard...  
You Have  
to be Seen!

Call Cheryl Butler for  
information on  
advertising in

The Insurance  
Services Guide.  
(312) 649-5340

To advertise in  
the **INSURANCE  
SERVICES GUIDE**

Contact:  
Cheryl Butler...

Phone:  
312-649-5340

Fax:  
312-649-7799

### HEALTH BENEFIT MANAGEMENT NEW...INTEGRATED MANAGED CARE SOLUTIONS



12 Years & over 90 installations nationally • Wide range of operating systems  
Used by TPA's, Insurance Companies, Hospitals HMOs, PPOs, and Self-insured  
employers. Learn why healthcare payors chose comprehensive solutions  
from Eldorado. Call us today for a complete information package.



**ELDORADO COMPUTING, INC.**  
2880 East Northern Avenue • Suite 4 • Phoenix, Arizona 85028  
Tel. (602) 493-0288 • FAX(602) 867-7920

### ISP Insurance Software Packages

A **(PMSI)**® Company

- ✓ **Micro & LAN Based Claims Systems since 1985**  
Workers Comp W/ Fee Schedule & PPO  
Employee Benefits  
Auto, GL, Property
- ✓ **Fee Schedule and PPO repricing System**
- ✓ **First Notice of Injury Service & Software**
- ✓ **Over 300 Systems Country Wide**
- ✓ **Powerful, Complete systems, Easy to use**
- ✓ **Mini & Mainframe Integration**
- ✓ **Certified IBM, Novell, Microsoft**



ISP systems can provide information interfaces with the PMSI family of services and other 3rd party systems and services. For the best in claims and cost containment software, Call ISP.

Call us for more info at 800-237-8133



*the technology leader*

### PYRAMID CLAIMS & RISK MANAGEMENT SOLUTIONS

#### PYRAMID SYSTEMS

Risk Management  
Claims Administration  
Policy Administration & Rating  
Medical Management  
*fee schedules, bundling, clinical edits*  
800 Claims Reporting  
Data Conversions  
Paperless Office  
(Imaging)

#### PYRAMID TECHNOLOGY

Windows  
DOS  
LANs  
*Novell, Banyan, etc.*  
File Server  
*dBase, Paradox*  
Client Server  
*Oracle, DB2, Sybase*  
*Gupta, etc.*

Call Gary Michaels at 203-438-3883 x244

Pyramid Services, Inc. An AON Company

Ridgefield, CT • Pittsburgh • Kansas City • San Francisco • Ann Arbor

For advertising information in the INSURANCE SERVICES GUIDE Contact: Cheryl Butler, Classified Advertising  
740 N. Rush Street, Chicago, Illinois 60611. Telephone (312) 649-5340

## Mass torts

*Continued from previous page*  
individual litigation can often be duplicative and needless and many plaintiffs are actually hurt when cases are tried one at a time.

"What happens then is the plaintiffs that get in early get the huge awards, which then bankrupts the company leaving nothing for the others," said Dianne Nast of Kohn, Nast & Graf in Philadelphia.

To understand how such concerns can be addressed, consider a \$45 million settlement recently approved by a federal court in Alabama in suits related to Galecron, a pesticide manufactured by Ciba-Geigy that may be linked to bladder cancer.

Like the asbestos settlement, class members in this settlement

are represented by the Ness Motley law firm.

The settlement, which is currently in the opt-out stage, is open to a class of about 20,000 to 25,000 people exposed to the pesticide.

The pesticide has been pulled from the market.

But anyone who doesn't want to participate must opt out by Dec. 16.

Under the terms of the settlement, Ciba-Geigy would contribute a total of \$45 million to two separate funds.

One would offer up to 20 years of medical monitoring and treatment to someone exposed to Galecron.

The other fund would compensate people who had contracted diseases allegedly caused by the pesticide with up to \$410,000.

"There has been no determination that Galecron causes blad-

der cancer," emphasized Martin Teicher, who is chief litigation counsel with Ciba-Geigy in Ardsley, N.Y.

"While we still believe there are valid and strong defenses, we saw years of litigation staring at us and we knew that litigation costs could easily approach what we paid to fund this settlement," Mr. Teicher explained.

Mr. Teicher said Ciba-Geigy is comfortable with the monetary amounts the settlement will provide claimants.

"Bladder cancer is the fourth-most common form of cancer among males. There still are questions about exposure and whether the chemical is tied to cancer," he said.

"Remember, we're settling cases, not paying judgments. We examined the payment schedule long and hard with class counsel," he said. **BI**

## Fiduciary

*Continued from page 2*  
ment Income Security Act, which governs benefit plans.

Mr. Norton noted that participants in the previous survey had reported relying on fidelity bonds, but such bonds protect plans, not the fiduciaries responsible for them. Realization of that exposure also probably played a role in the increased purchases of insurance.

Availability and affordability were not among the major reasons for not purchasing insurance, the survey found. In fact, among the 9% of the 1993 respondents that reported having no fiduciary coverage, only 1% said they were unable to obtain coverage and 6% said the cost was too high. The most common reason for going without coverage, cited by 31% of those without it, was they saw no

reason to have it.

The 1993 survey found that plan participants were by far the most likely source of claims, accounting for 90.4% of all claims. Government ranked a distant second as a source of 3.2% of claims, unions third with 2.3% of claims and all other entities brought the remaining 4.1%.

Benefit disputes were the most common issue generating claims, constituting 44.1% of those reported in the 1993 survey. Administrative error accounted for 10.4%, communications for 8.9%, misrepresentation for 5.9%, reduction of benefits for 5.4%, discrimination and plan termination for 5% each. Another 15.3% listed other causes.

Mr. Carlsen noted that the percentage of respondents with first-dollar fiduciary liability coverage shrank significantly during the seven years between surveys. Only 30.5% of the 1993 respondents reported having no deductibles, compared to 40.8% of the 1987 respondents. The size of deductibles also increased, he said.

"The most common deductible has gone from \$1,000 to \$2,500," said Mr. Carlsen. Mr. Norton said the increase was partially driven by insurers that, facing more frequent and costly claims, want to protect themselves but find it hard to raise prices in a soft market and therefore seek higher deductibles to compensate.

*"Fiduciary Liability Insurance Coverage and Claims Analysis" is expected to be available in early November at a cost of \$495 for non-participants. Participants in The Wyatt Co.'s current D&O liability survey will receive a 50% discount on the fiduciary survey. For more information, contact Mr. Norton or Mr. Carlsen at The Wyatt Co., Suite 2400, 303 W. Madison St., Chicago, Ill. 60606-3308; 312-704-0600.*

## Industry money at heart of flap in California race

SACRAMENTO, Calif.—Insurance industry campaign contributions are the focus of charges and countercharges flying back and forth between the two candidates in a tight race for California insurance commissioner.

Reversing an earlier stand, Republican Charles Quackenbush now plans to accept contributions from large property/casualty insurers. He had previously taken money only from agents, brokers and smaller insurers, said the candidate's campaign manager, Greg Butler.

That reversal has been criticized by Democrat Art Torres. Mr. Torres "hasn't taken one dime from insurance companies agents or brokers," according to his campaign manager.

Mr. Torres has accepted donations from insurance lawyers, though, which his opponents charge is hypocritical.

"It's kind of a wink, wink, nod, nod arrangement he's been trying to foster," said Mr. Butler. "Art Torres is a hypocrite."

Dario Frommer, Mr. Torres' campaign manager, responds that "Quackenbush is trying to run away from a record that is anti-business and anti-consumer insurance... He has voted against every piece of insurance reform legislation that has crossed his desk during seven years as an Assembly member."

—By Judy Greenwald

# ROYAL FAMILY



James Ortenzio owns Long Island Beef, which exports to 17 countries and where his father once was a supervisor. So it's more than a business to him; it's like family. And since Royal insures all his property and liability, we're treated like family, too. Just ask his agent, Don Readlinger, from the Elizabeth Agency and Janice Gilbert, our East Hanover, N.J., branch underwriter. Great service is just one way we beef up a relationship.



## Royal Insurance

Your Shield Against the Unexpected.

# Antitrust

*Continued from page 1*  
coverage and to include a retroactive date in the claims-made version of the form.

Some of the defendants also unsuccessfully conspired to eliminate occurrence-based CGL coverage and include defense costs within policy limits, the states alleged.

The U.S. Supreme Court last year said in a 5-4 decision that narrow grounds did exist for a trial court to find that the defendants' alleged attempt to limit liability coverage in the mid-1980s constituted a "boycott" (*BI*, July 5, 1993).

In October, the case was returned to the court of U.S. District Judge Charles A. Legge, with discovery the next anticipated step. Discovery in the initial suit had been stalled while the two sides argued over whether the states had accused the defendants of conduct that would actually constitute a boycott.

Six months later, in an order that some observers believe may have encouraged defendants to settle, Judge Legge essentially refused to limit discovery to the issue of whether there had been a boycott (*BI*, April 4).

Even before that order, though, serious settlement talks may have been going on between foreign defendants and the state attorneys general.

The big break in these negotiations occurred, say lawyers for both sides, when foreign defendants agreed to the establishment of a public entity insurance data base. This idea proved appealing because such a vehicle that could benefit the public generally.

Foreign defendants and the states signed a letter of agreement on May 27, but attorneys say it was not released until talks with the private plaintiffs concluded.

The agreement with the foreign insurers, in turn, spurred negotia-

tions with the domestic defendants. The significant breakthrough in those negotiations was ISO's expressed willingness to restructure its financial base.

One key element in the talks that led to the settlement, attorneys say, was District Judge Eugene Lynch, who was appointed by Judge Legge to supervise negotiations.

Still, negotiations dragged on. "It wasn't the single meeting in the smoke-filled room that went late into the night," said one defense lawyer.

"There were lots and lots of efforts. We were back before the judge a number of times and between each visit there were lots of telephone calls and letters back and forth between the various groups. There was a fair amount of intensity," he said.

Although both sides have signed a letter of principle, additional details still need to be worked out, and it is expected to be another few months before Judge Legge is asked to give his final approval to the plan.

Under terms of their May 27 agreement, foreign defendants will contribute \$5.2 million for the data base and another \$800,000 in legal expenses. Domestic defendants will pay the remainder of the settlement, or \$30 million.

Settlement payments will not be apportioned evenly among insurers, and the agreement signed last week provides that defendants will not disclose how much each will contribute "unless required to do so by law."

"We contributed an amount that really was an estimate of what the cost of litigation might be for us," said Charles F. Barr, senior vp and general counsel for General Reinsurance Corp.

"We took an estimate of what it might cost to defend it through trial, and that gave us a base line in which to consider any settlement," said Mr. Barr, who said he suspects other industry defen-

dants weighed the settlement on the same basis.

He said the amount will not appear on Gen Re's financial statements. "Our contribution is immaterial to us and will have no impact on earnings since we have already accrued the amount that we would likely settle for," he said.

One person close to the negotiation said the four domestic primary insurers in the case—Hartford Fire Insurance Co., Aetna Casualty & Surety Co., Allstate Insurance Co. and CIGNA Corp.—along with Gen Re are expected to contribute the bulk of the funds. None of the companies would confirm this.

**'Corporate culture changes. If it didn't, any organization would be in trouble,' says ISO's Fred Marcon.**

More important than the money may be the changes at ISO wrought by the settlement.

"The restructuring of ISO is going to force several changes in the way ISO operates," said Fred R. Marcon, its president and CEO.

For example, its committees of insurance company employees, which decide on standardized language for insurance policies, will be dissolved. Instead, decisions will be in the hands of ISO staff members. Advisory panels will be established, though, consisting of insurance company employees and non-insurer liaison panels that could include risk managers, agents and brokers.

The changes, subject to a Dec. 8 membership vote, are expected to become effective Jan. 1.

There have been several other changes to ISO during the time the antitrust litigation was pending. In 1989, for instance, ISO began the phase-in of advisory loss costs in place of advisory rates for all lines in all states. It also put three non-insurer directors on its board and transferred complete decision-making authority on all

rate-related matters, including actuarial methodology, to ISO staff from insurer committees.

"We have to do a great deal more in the area of market research even though in the last few years we've expanded on that quite a bit," said Mr. Marcon.

"Corporate culture changes all the time," he said. "If they didn't, any organization, not just ISO would be in deep trouble. I think the corporate culture of ISO has changed dramatically over the past five or six years," he said. "I think this change is in keeping with the changes that we've made, and merely pushing along that road to where most corporations are."

RAA President Franklin W. Nutter agreed. "I see this as just completing the circle, if you will, of something which they had initiated on their own."

The agreement will not interrupt ISO's day-to-day activities, said William H. Bolinder, ISO's chairman and a member of the executive board of Zurich Insurance Group.

The agreement does serve to remove "the misplaced concern about whether or not insurance-controlled organizations can be trusted to provide accurate and complete data," Mr. Bolinder said.

The settlement could also change the practices of the London market where underwriters work together to write policy wordings and discuss rating.

Under the settlement, the foreign defendants must educate their employees to make them more aware of their antitrust responsibilities. It will be decided in the next few weeks whether this will be done via a London market education program or independently through individual corporate channels.

Both sides said they were happy with the decision.

"The RAA never felt that it had any culpability related to the alleged conspiracy," said Mr. Nutter.

"Nevertheless, we're glad to put the case behind us. If the settlement serves to improve risk management for municipalities and others, then as a result of an un-

fortunate situation some good will have occurred. The association is not anxious to pay a large sum of money when it feels it's not at fault, but given the cost of continuing to defend the case we felt the prudent course was to settle it."

Settlement also saves a considerable amount in legal costs, noted Mr. Bolinder. "I think it's safe to say" the case has already cost tens of millions of dollars and going forward it "would probably be more of the same," he said.

Lloyd's of London officials said they were satisfied with the agreement.

"We maintain our stance that there's been no wrongdoing on the part of Lloyd's or the people working in Lloyd's," said Sir Peter Miller, former Lloyd's chairman who was named individually in the suit. "The settlement appears to bring a favorable end to a tiresome case on terms acceptable to Lloyd's."

"We're happy this matter has been resolved for the benefit of all parties and we will be examining the settlement to see what we've got to do (to satisfy its terms)," said Philip Marcell, chairman and chief executive officer of defendant Unionamerica Insurance Co. Ltd.

The plaintiffs appear equally satisfied with the outcome.

"The trick to solving the litigation was finding the right vehicles that could achieve our goals," said William M. Rubenstein, assistant attorney general for Connecticut, one of the plaintiff states.

"We think we found those vehicles" in restructuring ISO and establishing the data base and institute, he said. "I think those vehicles will leverage benefits to the people we represent many times in excess of the dollars invested by the defense."

"I'm personally very happy with it," said Kathleen Foote, deputy attorney general for California. "I think that it actually represents the achievement of an awful lot of our goals when we started the litigation."

Stacy Shapiro contributed to this report.

## Weiss Research ratings show most HMOs in good health

By RODD ZOLKOS

WEST PALM BEACH, Fla.—The debut of ratings by Weiss Research Inc. of the country's health maintenance organizations show the majority of HMOs to be in good or excellent financial condition.

The newly established rating program, described as the first such examination of the financial security of nearly all the country's largest HMOs, is directed at health care consumers who need to be aware of companies that might cut back medical services in the face of financial pressures, the West Palm Beach, Fla.-based company says.

But of the 273 HMOs rated in the first Weiss listing, most are in sound financial shape, with only 38 receiving a rating of D+ (weak) or lower.

The companies rated by Weiss cover more than 34 million people, 76% of the country's total HMO enrollment. Over the past year, the total net worth of the 273 companies has increased more than 35% to \$5.7 billion, Weiss says, and their total premiums increased nearly 9% to \$50 billion from \$46 billion during the same period.

With the growth of HMOs' role in the health care marketplace, the ratings were a natural extension of the ratings of Blue Cross & Blue Shield plans Weiss began compiling a year ago, a company spokeswoman said.

There's no correlation between the size of the HMOs and the quality of their rating, she said. "There were

some good small ones and some bad big ones, some good big ones and some bad small ones."

The company credits the fact that more HMOs were on the high end of the ratings than the low end to the rapid growth in the companies' enrollment and premium volume. The spokeswoman noted, though, that the ratings do go back and look at company performance over the past five years to "avoid peaks and valleys based on any kind of anomaly."

Based on data as of Dec. 31, 1993, the highest rated HMOs in Weiss' listing included Total Health Care Inc. and M-Care, both of Michigan, Physicians Health Plan of Northern Indiana and HMO New Mexico Inc., all with A+ (excellent) ratings.

Seven other HMOs received A ratings including CaliforniaCare Health Plans, with 2 million subscribers and \$2.1 billion in premiums.

Kaiser Foundation Health Plan Inc. of California, the largest HMO plan in the country with 4.8 million subscribers and nearly \$8.4 billion in annual premiums, received a B+ (very good) rating.

Weiss ratings will be updated annually.

Ratings are available over the telephone for \$15 per company, or consumers can obtain a one-page Personal Safety Brief on an HMO for \$25 from Weiss Research Inc., 2200 N. Florida Mango Road, West Palm Beach, Fla. 33409; 800-289-9222.

## Skandia recovery from MGA denied

By DOUGLAS McLEOD

KANSAS CITY, Mo.—Skandia America Reinsurance Corp. is not entitled to recover damages from a former managing general agent of Omaha Indemnity Co., despite Omaha's alleged failure to pay claims under a stop-loss reinsurance agreement, a state court jury has found.

The verdict may be the last chapter in a 6-year-old case in which New York-based Skandia claimed it was misled by MGAs World American Underwriters Inc. and Royal American Managers Inc. and their principal, James R. Wining.

The suit, filed in 1988 in Jackson County Circuit Court in Kansas City, named several defendants, including:

- WAU, Mr. Wining and Financial Guardian Group Inc., WAU's parent.

- RAM, a company formed by Mr. Wining and others to take over portions of WAU's business.

Mr. Wining and another RAM official, Willie A. Schonacher Jr., separately pleaded guilty to criminal charges of conspiring to defraud Omaha Indemnity in 1992, and Omaha won a \$225 million arbitration award against RAM for negligence and fraud in 1989

(*BI*, March 23, 1992; June 12, 1989).

- Angelina Casualty Co., which acted as a fronting insurer for business produced by WAU. WAU arranged 100% reinsurance on the business with Skandia and others.

- Omaha Indemnity, for which WAU and later RAM acted as MGA and which wrote stop-loss reinsurance protecting Skandia on the Angelina business.

Skandia assumed a quota share of the Angelina reinsurance program in 1981 but notified Mr. Wining that it would stop participating on the program at year-end 1983, the suit said.

After discussions with Mr. Wining and others, Skandia later agreed that it would remain on the program in 1984 if Mr. Wining could obtain stop-loss coverage to protect Skandia from excessive losses on the 1981-1983 Angelina account, the suit said.

RAM then bound the stop-loss coverage with Omaha Indemnity.

Omaha paid Skandia's stop-loss claims until December 1985, but later stopped the payments and charged that RAM and Mr. Wining did not have authority to bind the stop-loss agreement.

Skandia was hit with Angelina claims totaling more than \$13 million on the 1981-1983 business

and more than \$6 million on the 1984 business. Omaha in turn owed Skandia more than \$5.5 million under the stop-loss agreement, the suit alleged.

Omaha and Skandia settled the litigation for an undisclosed amount shortly before a scheduled 1991 trial. Skandia commuted its contracts with Angelina and dismissed it from the suit.

WAU and Financial Guardian won a summary judgment that Skandia was not entitled to pursue \$5 million in losses still unpaid after the stop-loss settlement. However, the summary judgment was overturned on appeal and the case was remanded for trial.

Skandia had dismissed the other defendants before the appeal, according to Patrick K. McMonigle, a lawyer with Dysart, Taylor, Penner, Lay & Lewandowski in Kansas City, representing Financial Guardian and WAU.

On Oct. 4, a jury decided in WAU's favor, dismissing the sole breach of contract claim Skandia had pursued.

John W. Morrison, a lawyer with Altheimer & Gray in Chicago who is representing Skandia, said the reinsurer is considering whether to appeal.

# Benefits

Continued from page 1  
enrolled.

But, at the end of the session, Congress denied funds for the measure, preventing the Health Care Financing Administration from implementing the health care data bank.

Congressional conferees agreed on a sweeping pension funding reform proposal to make pension plans more secure by requiring employers with underfunded plans to accelerate contributions to those programs.

A year earlier, however, Congress drastically cut the amount of employee compensation that employers can recognize in computing pension benefits and contributions.

The result of the lower so-called covered compensation limit has been an expansion of non-qualified pension plans, which, because they are not funded, may provide less security for executives' pension benefits.

While these developments may appear contradictory, there are logical explanations for why they occurred, benefit experts say.

Enactment of the Family and Medical Leave Act was a certainty because legislators had passed identical legislation during the previous session, but President Bush vetoed the bill.

The only thing that had prevented the family leave legislation from passing before was not having a Democrat in the White House who would support it. That situation ended with the election of Bill Clinton. But, health care reform was an entirely different matter than family leave. Unlike family leave, health care reform was massively complex, highly controversial and enormously expensive.

Having a Democrat in the White House certainly increased the chances that health care reform legislation would be enacted. But, the numerous mistakes made by the administration—including repeatedly delaying its package, putting together an overly complex proposal, refusing to work with Republicans as well as more conservative Democrats—offset the Democrats' advantage in controlling the executive and legislative branches.

"The administration was too slow to compromise and by the time it appeared willing to compromise, it was too late," said Frank McArdle, a consultant with Hewitt Associates L.L.C. in Washington. At the same time, as President Clinton's popularity waned, his ability to rally Democrats in support of comprehensive health care reform legislation also declined. That, in turn, emboldened Republicans to more forcefully oppose the reform proposals of the Clinton administration and Democratic leadership, Mr. McArdle said.

There also is a logical explanation behind the apparent congressional contradiction—first passing and then denying funds—for the health care data bank.

The data bank had been included in 1993—with no congressional hearings—as part of a broader budget bill. The reason behind its inclusion was simple: legislators viewed the data bank as a way of raising revenues and reducing the federal deficit.

The data bank, according to the Congressional Budget Office, would save the government about \$1 billion over a five-year period. That was supposed to occur because HCFA, the agency charged with administering the data bank, would have health care coverage records for all individuals. That would enable it to more quickly spot claims that employer health care plans, and not Medicare, were supposed to pay.

But congressional support for the data bank began to unravel almost as soon as it passed, chiefly as the

result of an employer lobbying campaign. Employers pointed out that collecting all the information could be impossible. Employers, for example, often lack Social Security numbers for employees' dependents as well as a way to force workers to provide the information.

More importantly, employers pressed home the point that much of the information—perhaps 98% of it—would be irrelevant to the chief purpose of the data bank: reducing the likelihood that Medicare would pay claims of older workers who stay on the job after age 65.

"It was a big task for very little results. So little of the data was relevant," said Henry Saveth, a principal with A. Foster Higgins & Co. Inc. in New York.

Last month, Congress acted on those employer complaints and denied HCFA funds to enforce the data bank for 1995. Legislators say that will give them more time next year to kill the data bank. HCFA last week issued a notice saying it will not enforce the data bank next year.

Tapping benefits as a revenue source also was a key reason behind the pension funding reform legislation—which is part of a broader trade bill that Congress will take up during a special lame-duck session in December—as well as the measure that cut to \$150,000 from \$235,000 the maximum amount of employees' wages that employers can recognize in determining pension benefits and contributions.

But, revenue isn't the only factor behind the pension funding legislation. A key aim of the measure is to speed up employer contributions to underfunded pension plans. Because plans will be better funded, it will be less likely that the federal Pension Benefit Guaranty Corp. will be hit with big claims when companies go out of business and terminate their pension plans.

Those provisions, among other

things in the legislation, will raise over a five-year period nearly \$1 billion in revenues for the government. Those provisions would nearly double—to about \$140 per plan participant from \$72—the annual premium employers with the most underfunded plans must pay the PBGC.

The lower covered compensation limit was 100% revenue-related. By decreasing the amount of employee compensation that can be recognized in computing benefits and contributions, employers will make smaller tax-deductible contributions to their pension programs and thus have higher taxable incomes. In all, the provision is projected to raise \$2.5 billion over five years.

"Pensions are always a target when Congress is looking to come up with revenues," said Gerald Uslander, a principal with William M. Mercer Inc. in Washington.

Not all legislative activity on benefits was revenue-related, though. Congress passed legislation—which had been lingering from the prior session—to increase employers' benefit obligations, including making retroactive profit-sharing contributions for employees who return to work after military service (BI, Sept. 26).

"The intervention in Haiti may have jarred the bill loose," Mr. Uslander said.

In addition, legislation was passed this month making clear that former pension plan participants can sue their employers for fiduciary liability breaches involving employer purchases of insurer annuities.

The legislation was triggered after a court ruled that individuals could not sue their employer that purchased annuities from now-defunct Executive Life Insurance Co. to replace a terminated pension plan. The court reasoned that since there no longer was a pension plan, the individuals were not plan participants and had no standing to sue their employer under ERISA. ■

# P/C bills

Continued from page 1

After years of debate, Congress did enact a federal statute, S. 1458, limiting the product liability of manufacturers of certain general aviation aircraft. And certain types of insurance fraud became federal crimes courtesy of the crime bill that passed late in the session (BI, Aug. 29).

The fraud provisions of the crime bill attack insurer fraud and insider fraud, said Dennis Jay, executive director of the Coalition Against Insurance Fraud in Washington. He said federalizing insurance fraud will enable more effective prosecution of "the huge scams that could potentially bring down insurers." Thus, the crime bill's insurance provisions should be viewed as a means of protecting solvency, he said.

"It's huge, no doubt about it, and it's going to have ramifications," said Mr. Jay.

Less clear is whether there are any added ramifications of the statute limiting the period in which product liability suits can be brought against general aviation aircraft manufacturers, said Victor E. Schwartz, a partner in the Washington law firm Crowell & Moring and an advocate of wide-ranging product liability reform. The enactment of S. 1458 "does break the perfect record of the trial lawyers in blocking any federal product liability legislation," he said.

But Mr. Schwartz noted that the bill enjoyed "strong support from the people who actually use the products"—pilots and aircraft owners. He said that it's extremely unlikely that any organized consumer group would ever support broader

product liability reform.

Mr. Schwartz said that it is too early to make any predictions about how a broad-based product liability reform bill would fare in the next Congress. He said that a lot depends on the composition of Congress, adding that simply because a lawmaker is a Republican doesn't mean that that lawmaker can be counted as a pro-reform vote. To illustrate, he said that the failure of six GOP senators to cut off a filibuster in the most recent vote on product liability legislation was a major factor in its defeat. But the defections were far from the only factor.

"What was the most important thing that killed the bill? I would say two words—George Mitchell. Procedurally, he had us for lunch. He was a very formidable opponent," said Mr. Schwartz.

But Senate Majority Leader Mitchell, D-Maine, is not seeking re-election and his three most likely successors as majority leaders—Sens. Thomas Daschle, D-S.D., Jim Sasser, D-Tenn., and, if the GOP gains control of the Senate, Robert Dole, R-Kan.—have either cosponsored the most recent bill or opposed the filibuster, Mr. Schwartz pointed out.

The death of product liability reform was "a major failure as far as we were concerned," said Paul Brown, vp-government affairs for the Risk & Insurance Management Society Inc. "We will work very hard next year to get it."

Three other pieces of property/casualty legislation—McCarran-Ferguson reform, creating a federal solvency regulatory role, and dealing with alleged insurer redlining—will be revisited in the next Congress, said Jack Ramirez, executive vp of the National Assn. of Independent

# Updates

## Insurer campaign support flap

Continued from page 2

That reversal has been criticized by Democrat Art Torres. Mr. Torres "hasn't taken one dime from insurance companies agents or brokers," according to his campaign manager.

Mr. Torres has accepted donations from insurance lawyers, though, which his opponents charge is hypocritical.

"It's kind of a wink, wink, nod, nod arrangement he's been trying to foster," said Mr. Butler. "Art Torres is a hypocrite."

Dario Frommer, Mr. Torres' campaign manager, responds that "Quackenbush is trying to run away from a record that is anti-business and anti-consumer insurance. . . . He has voted against every piece of insurance reform legislation that has crossed his desk."

## Briefly noted

**International Business Machines Corp.** has chosen Marsh & McLennan Cos. Inc. and Johnson & Higgins to take over its worldwide risk management and insurance functions. M&M will be worldwide property broker and administrator of North American and Latin American property business and European property and casualty risks. J&H will handle worldwide casualty brokerage and administration of North American and Latin American casualty business and Asia/Pacific property/casualty risks (BI, Aug. 15). . . . **Liability insurance reserves** for claims from last month's crash of USAir Flight 424, which killed all 132 people on board (BI, Sept. 12), have been set at \$375 million by the airline's underwriters. Hull reserves are set at \$30 million to \$35 million. . . . **Eastman Kodak Co.** will pay \$5 million to the Environmental Protection Agency and improve its waste handling—offsetting \$3 million in penalties—to settle civil pollution law violations at its manufacturing site in Rochester, N.Y. . . . Following the retirement of Michael W. Cashman, president and chief operating officer of E.W. Blanch Holdings Inc. and chairman and CEO of its E.W. Blanch Co. Inc. unit, E.W. Blanch Jr., chairman and CEO of E.W. Blanch Holdings, took the added roles of president and COO. Chris L. Walker, president of E.W. Blanch Co., assumed the additional roles of chairman and CEO. . . . **E.I. du Pont de Nemours & Co.** and two companies that distributed its **Benlate DF fungicide** agreed to pay \$1 million to the EPA to settle charges of distributing a contaminated product. . . . **The Minnesota Supreme Court** won't review a lower court ruling that an employer does not have to accommodate a disabled worker with a disease that causes fatigue and other physical maladies by allowing him to work days rather than nights (BI, Aug. 8). . . . **Two violent hailstorms** caused at least \$100 million in insured property damage in eastern Colorado on Oct. 2 and Oct. 5, say state insurance officials.

Insurers, which opposes each of those measures.

If the next Congress proves to be more conservative than the 103rd, though, there will be less appetite for undertaking new federal initiatives, and that could slow down efforts to involve Washington in insurance matters, Mr. Ramirez said.

David M. Farmer, senior vp-federal affairs for the Alliance of American Insurers, said that legislative attempts to amend McCarran-Ferguson failed because there is not "a great deal of sentiment" in Congress for getting involved in a regulatory area that has traditionally been left to the states. "If history is a guide to the future, I imagine that the bill will be reintroduced, but clearly, the upcoming midterm elections could have a significant impact on the ultimate outcome of the issue," he said.

Ultimately, H.R. 9, the antitrust bill written by House Judiciary Committee Chairman Jack Brooks, D-Texas, became part of the dead health care reform bill.

David Pratt, senior vp-federal affairs for the American Insurance Assn. and a supporter of McCarran-Ferguson changes, explained the maneuver by saying "I think Chairman Brooks was looking for any vehicle he could find." He called the H.R. 9 language an improvement over the Clinton administration's original antitrust language, but added that "the fact that the whole health bill collapsed was fine with us," because of its treatment of workers compensation. He said that he thinks Rep. Brooks will continue to seek changes to McCarran-Ferguson.

Another powerful lawmaker—House Energy and Commerce Chairman John D. Dingell, D-

Mich.—has already indicated that he will keep pushing for some system of federal solvency regulation of insurers. Although Rep. Dingell did introduce a bill, H.R. 1290, that would have granted federal authorities an oversight solvency role for interstate and foreign insurers, he did not press to get the bill to the House floor.

That should change in the 104th Congress, predicted Mr. Pratt, who supported the concept of H.R. 1290. In fact, he added, there are indications that Rep. Dingell will have an "aggressive agenda."

Both Mr. Pratt and Mr. Farmer, who opposed H.R. 1290, gave Rep. Dingell high marks for focusing attention on solvency regulation. Mr. Farmer said that Rep. Dingell's investigations into the effectiveness of state solvency regulation spurred state officials to be more zealous in their oversight of insurers.

"The industry has to thank the pressure that was created by John Dingell and his inquiry," Mr. Farmer said.

Redlining is the area where the "threat of federal regulation looms most severe," said Mr. Farmer.

Although a redlining bill supported by much of the insurance industry—H.R. 1188—did pass the House after considerable debate over whether it was stringent enough, the Senate failed to take action on the matter.

Mr. Farmer predicted that without a firm industry commitment to dealing with the redlining issue, "there's going to be continued pressures" from Congress, state officials and the Department of Housing and Urban Development for more data and more regulation.

"I believe redlining is the topic on the front burner," he said. ■

# Guidelines

Continued from page 2  
just missed so many basic elements of what risk management is."

However, the Canadian Risk & Insurance Management Society Inc., in a letter critical of the CSA project, said that it is willing to work with the standards association in developing the guidelines. The letter was prepared by Lloyd Hackett, director of the Legislative Committee for the Ontario Chapter of RIMS and a member of the Canadian RIMS Legislative Committee.

New York-based RIMS is backing the position of its Canadian affiliate.

That official position represents a change from two years ago, when RIMS chose to ignore CSA's invitation to participate in developing the risk management standards.

That oversight caused dissension among some Canadian RIMS members, who fumed that RIMS did not take a strong enough stance on the issue and did not take Canadian concerns seriously.

RIMS decided not to get involved back then because the association felt it would not be able to dictate the final outcome and then would be in the awkward position of having contributed to the process, according to RIMS leaders.

"There are some people that are annoyed we didn't take their advice and get involved in the beginning," said Ms. Meltzer, who is assistant-director of risk and insurance with Bell Canada in Toronto. "Now, in retrospect, no one is saying we shouldn't get involved."

CSA, a non-profit organization similar to the Northbrook, Ill.-based Underwriters Laboratories Inc., certifies products and creates standards.

While CSA does not have legislative powers, risk managers worry that the final risk management document—now in its fifth draft—could be influential because of the standards association's popularity. It could then become public policy, with government agencies demanding compliance with the standards from private companies that provide them with goods and services.

However, "Risk Management: Guideline for Decision Makers" states that it is not intended to provide a legal definition or a basis for insurance or finance qualification.

Nevertheless, some risk managers fear they could eventually end up in court with an attorney demanding to know if a company followed the CSA risk management guidelines.

"Some of the evidence will be worth whatever weight juries give to it," said Paul Brown, director of government affairs for RIMS in New York. "It's a concern, but I don't know that it is a fear."

Ms. Meltzer noted that relatively few risk managers are on the CSA's 23-member Technical Committee on Risk Management now formulating the guidelines. The standards focus on initial risk control steps to prevent hazards, but an understanding of the "circular nature" of risk management seems absent, meaning there is little emphasis on provisions for constant monitoring, she explained.

Terry G. Campbell, a CSA technical coordinator and administrator for the Technical Committee on Risk Management in Ontario,

**'To actually put a standard on-risk management makes some people very leery,' says Ray Bracewell of Canada's Treasury Board.**

said the CSA is acting in the interest of all Canadians affected by industry's risk management practices.

Documents prepared by CSA are often presented during courtroom arguments, he acknowledged. But, he added, they can just as frequently help a company's defense as hurt it.

Only three people on the committee are RIMS members because the intent is not to limit input to one organization of risk managers, he said. The purpose is to protect everyone, and environmentalists, corporate and government decision-makers and academics are represented.

"We can't just fill up the committee with one interest group," Mr. Campbell said. "They are some of the best people we have in Canada that are interested in risk, but they are not all risk managers."

Companies such as IBM Canada Ltd. and Dow Chemical Canada Inc. are also represented.

Some risk managers, though, said they fear a "Big Brother" influence because government entities like the Treasury Board of Canada have contributed financially to the CSA and

are participating in the process.

But, Ray Bracewell, the Treasury Board's policy officer on risk management in Ottawa, said the board is simply an interested participant in the guidelines' formation and has no intention to use them to influence other entities.

The Treasury Board is a corporate member of RIMS, and there is a difference between guidelines and enforceable standards, he pointed out.

"It's creating quite a stir," Mr. Bracewell said. "Management wants to manage as it sees fit for its organization. That is where the concern comes up. To actually put a standard on risk management makes some people very leery."

The CSA's Mr. Campbell said RIMS' involvement is welcome. Yet, even with RIMS' participation, the final product might not be popular with all risk managers.

The issue was a hot topic of discussion last month in Winnipeg during the Canadian Risk & Insurance Management Society's annual conference. The Canadian RIMS chapters authorized Mr. Hackett's letter and RIMS executives decided it would stand as official policy.

Even though the letter states the CSA guidelines are too broad, not practical and will confuse people, it includes the offer to participate.

"The ideal thing would be if we could get in there and make it more compatible with the educational information provided through the RIMS courses," Mr. Hackett said.

"CSA is a little more dominant here in Canada than some of the RIMS people considered when they said, 'They are just a standards association and maybe they will go away,'" he added.

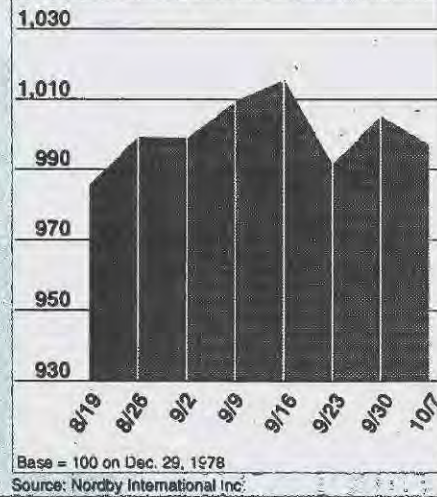
The focus on communicating risk from such varied interests could actually benefit risk managers, said Jim Swanson, past president of the Manitoba RIMS chapter.

Many corporate directors are likely to read a document prepared by CSA and consider expanding their risk management departments to focus more on safety, instead of merely relying on risk managers to satisfy their organization's insurance needs.

"If you're looking at what the risk manager should be doing, I don't think consultation with outside parties is out of line," he said. "I think it's the future of risk management."

On the other hand, Mr. Swanson said, decision-makers could read the document and walk away without comprehending the finance aspect of risk management.

## BI Insurance Index



Insurance stocks fell last week, as the Business Insurance Index lost 8.0 points to 997.0 Oct. 7 from 1,005.0 on Sept. 30. Advancing issues for the week were led by: Seibels Bruce Group, up 18.0%; Sierra Health Services, up 14.6%; and Acceptance, up 6.2%. Declining issues for the week followed: Home Holdings Inc., down 15.3%; Navigators Group, down 12.1%; and Phoenix Re Corp., down 9.5%. The most active issue was U.S. Healthcare, 9.1 million shares traded. The BI Index fell 0.8%; the Dow Jones 30 Industrials lost 1.2%; the NYSE Composite fell 1.6%; and the Standard & Poor's 500 fell 1.6%.

## British Issues

Oct. 6 Companies	Price pence	P/E	Div. pence	Yield %	1 week high-low
Comml Union	512	16.3	31.0	6.0	512-481
Genl Accident	540	10.7	34.4	6.4	540-529
Gdn Royal Exch	181	11.5	9.5	5.2	131-175
Independent	253	8.2	10.4	4.1	253-251
Royal	280	12.1	9.4	3.4	232-275
Sun Alliance	315	14.1	18.4	5.8	316-309
<b>Brokers</b>					
Bradstock	86	9.7	6.9	8.8	36-86
Fenchurch	142	11.0	9.0	6.3	142-142
CE Heath	244	8.3	20.0	8.2	244-241
JIB Group	127	11.1	9.4	7.4	126-127
Lloyd Thompson	157	7.9	9.8	6.2	157-157
Lowndes Hmbrt	171	7.8	9.4	5.5	173-171
Nelson Hurst	174	7.1	7.0	4.0	174-174
PWS Holdings	36	N/A	2.5	6.9	39-35
Sedgwick Grp	144	6.0	7.5	5.2	144-141
Steel Bri Jones	109	11.3	10.4	10.9	109-105
Willis Corroon	146	3.3	8.3	5.7	149-144

Source: Philip Olsen, London. \* Latest actual year

## BI Industry Stock Report OCT. 3, 1994, THROUGH OCT. 7, 1994

BROKERS	Price	Weekly % change	Year to date % change	Annual				P/E	Book value	Mkt./Bk. value	Description	Price	Weekly % change	Year to date % change	Annual				P/E	Book value	Mkt./Bk. value				
				High	Low	Vol.(000)	\$ Div.								% Yield	High	Low	Vol.(000)				\$ Div.	% Yield		
Acordia Inc.	NYS	27.38	0.46	11.17	28.75	21.00	47	0.60	2.19	14	13.24	2.07	NAC Re Corp.	NDQ	24.38	-4.41	-16.31	34.50	24.00	292	0.16	0.66	13	9.75	1.23
Alexander & Alexander	NYS	19.50	0.00	-1.89	22.75	14.00	270	0.10	0.51	-150	6.08	3.21	National Re Corp.	NYS	24.00	-5.42	-21.63	33.75	23.50	113	0.16	0.67	9	7.31	1.39
E.W. Blanch Holdings Inc.	NYS	21.88	-4.37	25.90	23.50	15.75	17	0.32	1.46	23	4.55	4.81	Navigators Group	NDQ	14.50	-12.12	-58.57	39.00	14.25	38	0.00	0.00	-5	-0.21	1.42
Gallagher Arthur J. & Co.	NYS	31.75	-3.42	-11.19	37.13	28.13	56	0.88	2.77	17	6.48	4.90	Nobel Insurance Ltd.	NDQ	8.13	1.56	6.56	8.63	6.75	23	0.20	2.46	4	6.84	1.19
Hibb, Rogal & Hamilton	NYS	12.50	2.04	-4.76	13.63	11.13	86	0.48	3.84	17	4.72	2.65	NWNL Companies	NYS	29.25	-2.09	-10.00	37.50	27.00	319	0.90	3.08	10	24.81	1.18
Marsh & McLennan	NYS	75.13	-3.84	-7.88	75.13	75.13	822	2.90	3.86	15	19.40	3.87	Ohio Casualty Corp.	NDQ	29.75	-4.80	-6.67	34.63	26.50	372	1.46	4.91	12	24.68	1.21
Poe & Brown	NDQ	20.00	-2.44	11.11	22.75	16.88	79	0.40	2.00	14	4.49	4.45	Old Republic Int'l	NYS	21.75	4.19	-3.33	26.00	20.75	358	0.48	2.21	8	24.60	0.88
AVERAGE			-1.7	3.2					2.4	-7			Orion Capital Corp.	NYS	28.88	-3.75	-6.48	36.19	28.25	130	0.80	2.77	8	25.86	1.12
ACE Ltd.	NYS	25.00	4.17	-18.03	35.00	22.38	242	0.44	1.76	-33	22.46	1.11	Partner Re Holdings Ltd.	NDQ	21.38	-2.29	-1.72	23.50	18.50	616	0.40	1.37	18	N/A	N/A
Acceptance Insurance Cos.	NYS	15.88	6.72	36.56	15.88	11.13	250	0.00	0.00	15	9.83	1.61	Penn-America Group Inc.	NDQ	7.25	0.00	-5.69	9.50	6.50	19	0.00	0.20	8	6.21	1.7
AEGON N.V.	NYS	59.00	1.72	7.76	59.50	49.00	121	2.94	4.97	11	43.84	1.35	Phenix Re Corp.	NDQ	26.25	-9.48	-4.55	37.75	18.50	178	0.30	1.14	7	22.86	1.5
Aetna Life & Casualty	NYS	47.00	1.35	-21.99	66.25	44.63	1338	2.76	5.87	-7	57.21	0.82	Provident Life	NYS	25.88	-4.17	-18.18	31.88	24.38	152	1.04	4.22	-10	27.09	0.96
Allied Group Inc.	NDQ	29.63	-2.07	18.50	31.00	22.75	67	0.60	2.03	7	23.43	1.26	Re Capital Corp.	NDQ	13.25	0.00	-2.75	15.50	12.25	0	0.32	4.22	12	17.63	0.75
Allmerica Prop. & Casualty	NYS	16.50	0.00	-23.40	22.16	14.25	87	0.16	0.97	10	19.45	0.85	Reliance Group Holdings	NYS	6.13	-5.77	-20.97	10.38	4.88	436	0.32	5.22	11	3.48	1.26
Allstate Corp.	NYS	23.63	-1.05	-20.59	34.25	22.63	710	0.72	3.05	15	19.60	1.21	RLI Corp.	NYS	21.13	-2.31	-21.03	27.75	20.63	11	0.60	2.34	-41	23.51	1.03
American General	NYS	26.75	-1.38	-6.14	34.75	24.88	1380	1.16	4.34	21	20.39	1.31	St. Paul Companies	NYS	42.00	3.38	-6.41	49.00	37.69	797	1.50	3.57	9	21.88	1.22
American Heritage Life Ins.	NYS	17.50	-4.76	-6.04	20.50	16.50	26	0.66	3.77	11	12.42	1.41	SAFECO Corp.	NDQ	50.13	-1.72	-8.24	65.75	48.50	1421	1.96	3.31	9	65.94	1.07
American Indemnity/Fin'l	NDQ	10.63	-1.16	-18.27	15.00	10.00	38	0.24	2.26	4	15.92	0.67	SCOR U.S. Corp.	NYS	11.13	-1.11	-11.88	16.75	10.13	4	0.36	3.24	7	13.60	0.82
American International	NYS	89.00	0.14	0.99	96.88	81.75	2026	0.46	0.52	14	49.75	1.79	Seibels Bruce Group	NDQ	2.88	17.95	64.29	3.50	0.50	155	0.00	0.30	-6	1.05	2.74
American Re Corp.	NYS	30.00	-0.83	6.19	35.75	23.50	111	0.00	0.00	15	16.85	1.78	Selective Ins. Group	NDQ	25.50	0.00	-15.70	31.00	23.00	121	1.12	4.30	10	23.36	1.09
Aon Corp.	NYS	32.38	-3.00	0.65	36.66	30.00	422	1.28	3.95	11	21.96	1.47	Sphere Drake Holdings	NYS	14.50	-2.52	-12.12	21.63	14.50	25	0.12	0.33	6	13.15	1.10
Argonaut Group	NDQ	28.88	-2.94	-5.33	33.75	26.25	135	1.16	4.02	8	29.80	0.97	TIG Holdings	NYS	19.63	-0.63	-13.26	26.13	17.25	463	0.20	1.02	18	17.25	1.14
AVEMCO Corp.	NYS	17.38	6.11	-7.33	21.25	13.75	17	0.44	2.53	13	6.30	2.76	Titan Holdings Inc.	NYS	8.88	-2.74	-18.39	12.25	7.75	75	0.28	1.15	8	3.31	0.55
Baldwin & Lyons Inc.	NDQ	15.13	-2.42	1.68	16.25	13.75	0	0.24	1.59	9	13.56	1.12	Tokio Marine & Fire	NDQ	57.13	-5.58	5.78	66.00	49.25	50	0.41	0.11	-	57.72	0.29
Berkley W.R. Corp.	NDQ	35.13	-2.43	7.25	42.00	32.00	467	0.44	1.25	16	36.47	0.96	Torchmark Corp.	NYS	42.75	-1.72	-4.47	55.50	36.75	608	1.12	2.62	11	17.49	2.44
Berkshire Hathaway Inc.	NYS	18300.00	-3.43	12.10	19750.00	15150.00	0	0.00	0.00	25	9157.79	2.00	Transatlantic Holdings	NYS	51.00	1.24	-4.45	56.38	45.38	63	0.36	0.11	13	32.43	1.57
Capital Re Corporation	NYS	22.63	-2.69	-12.14	27.50	18.50	41	0.20	0.88	9	21.48	1.05	Transnational Re Corp.	NDQ	20.75	-1.19	-23.15	27.00	0.13	64	0.00	0.00	16	N/A	N/A
Capsure Holdings Corp.	NYS	13.00	-3.70	-3.70	17.00	12.25	46	0.00	0.00	12	13.72	0.95	Travelers Corp.	NYS	31.50	-4.18	-18.97	48.63	31.00	2850	0.60	1.90	8	24.26	1.30
Chubb Corp.	NYS	70.88	-0.18	-9.86	84.13	68.63	631	1.84	2.60	25	48.40	1.46	Trewick Group Inc.	NDQ											



*Each year, in late October, Canada Geese sense the onset of winter and begin their seasonal migration southward. This journey takes some of the geese over 2,000 miles in search of the warm marshes that will sustain them through the winter.*

## Knowing That Change Is Coming Is One Thing. Doing Something About It Is Another.

Reacting to change as it happens isn't enough. To survive and flourish, the successful company must be able to see change coming and be ready to deal with it.

At Mutual of Omaha, we recognize that change is inevitable — and rapid. That's why we help benefits managers manage their changing environments with comprehensive reporting and fast, efficient claims processing. Our leadership in managing costs includes the spectrum of managed care products ... available on an experience-rated, minimum premium, or administrative services only basis. Benefits managers can choose the options that best meet their changing needs.

We offer customized, individualized programs and administrative support that help our group clients prepare for and deal with change — not just react to it.

Find out what the Mutual of Omaha Companies Group Operation can offer your company. Call Patrick Moeschler, 1-800-877-1052.



The Managed-Cost Professionals<sup>SM</sup>