

Business Insurance

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

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Hager announces he will leave post as president of NCCI

BOCA RATON, Fla.—In a surprise move, William D. Hager announced last week that he will leave his post as president of the National Council on Compensation Insurance in February 1998.

His resignation from the NCCI after more than seven years apparently stems from the NCCI board's decision this spring to sidestep a vote on converting to a for-profit entity from a not-for-profit organization (*BI*, April 14).

Mr. Hager, who strongly supported the
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J&H/M&M curbs local office options

By GAVIN SOUTER

Regional brokering to Chubb sparks client concern

NEW YORK—A J&H Marsh & McLennan Inc. directive to channel property/casualty insurance placed with Chubb Corp. through regional rather than local brokerage offices is sparking fears among some risk managers that the world's largest insurance broker increasingly may dictate how all their accounts are handled.

The Risk & Insurance Management Society Inc.'s Executive Council is expected to discuss the memo and the issues it raises at a

meeting later this week.

J&H Marsh & McLennan and Chubb both contend, however, that the strategy is limited to middle-market accounts and is designed to improve efficiency, which they say accrues to the benefit of buyers.

J&H Marsh & McLennan also denies that the memo, obtained by *Business Insurance*, signals intention to pressure risk managers to use the Global Broking Centers.

"Over time, our objective is to

have Global Broking facilitate placement for all of our business, but not by dictate," said Robert J. Newhouse III, executive vp and chairman of U.S. operations at J&H Marsh & McLennan.

The August memo specifically refers to property and casualty business the broker places with Chubb, and not to financial and professional insurance lines, marine and energy and aviation business, Mr. Newhouse said.

Nearly all of the property/casualty business that J&H Marsh & McLennan places with Chubb is middle-market business and not large-account, or risk management, business, he said.

The broker defines middle-market as a company without a professional risk manager.

The Global Broking Centers were established by Marsh & McLennan Inc. in 1995 prior to its merger with Johnson & Higgins. The six centers

in the United States are New York, Chicago, San Francisco, Los Angeles, Atlanta and Dallas.

The centers are linked by computer with insurers. Account managers nationwide deal with Global Broking Center brokers, who place the risks with insurers connected to the centers, rather than through the local offices of the insurers.

In the memo, written by Mr. Newhouse and sent to regional J&H Marsh & McLennan managers, he noted that the business placed with Chubb through the
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New PBGC chief is confident in agency's future

By JERRY GEISEL

WASHINGTON—Employers with defined benefit pension plans can look forward to stable federal termination insurance premiums, says the head of the Pension Benefit Guaranty Corp.

Vice President Al Gore, comes at a time when the agency's financial position has turned around.

Four years ago, the PBGC amassed a nearly \$3 billion deficit in its single-employer insurance program as it incurred huge losses from the takeover of massively underfunded pension plans from failed companies such as Pan American World Airways and Eastern Airlines Inc.

The agency's financial woes prompted open speculation that only a taxpayer-funded bailout and a new round of premium increases could

save it from collapse.

Those predictions now are a distant memory. In its last fiscal year, the PBGC, aided by strong investment returns and small losses from plan terminations, posted an \$869 million surplus.

This turnaround is no fluke, Mr. Strauss said. It results from several factors, especially a 1994 law that requires employers to accelerate contributions to underfunded plans and that phased out a cap on PBGC pre-

See PBGC on page 18



'Our situation has dramatically improved. I'm bullish. All the trend lines are positive,' new PBGC head David Strauss says.

Tougher pension funding requirements, better enforcement tools and an aggressive early warning program are part of a strong foundation to keep the PBGC solvent, said Executive Director David Strauss.

"Our situation has dramatically improved. I'm bullish. All the trend lines are positive," he said.

The assessment of Mr. Strauss, who joined the PBGC in the summer after nearly four years as deputy chief of staff to

Product liability reform plan has backing of White House

By MARK A. HOFMANN

WASHINGTON—A "discussion draft" of proposed product liability reform legislation is backed by the White House but is receiving a tepid welcome from many product liability reform advocates.

The draft is the result of months of negotiations between the White House and Sen. John D. Rockefeller IV, D-W.Va., a longtime product liability reform advocate. It does not include several key provisions contained in legislation approved by Congress last year but vetoed by President Clinton (*BI*, May 6, 1996). President Clinton said in his veto message, however, that he would support "reasonable" product liability re-

form legislation.

"The White House is working very closely with Sen. Rockefeller, who has developed a proposal that we think could be the basis for a bipartisan bill," an administration spokesman said Friday morning.

The spokesman said the White House wants: no provision on several liability for non-economic damages; caps on punitive damages only for tiny businesses; national standards for punitives that don't include a requirement that actual malice be proved; and an 18-year statute of repose that covers only durable goods in the workplace where the injury is covered by workers comp.

"This is not a starting line for
See Product on page 4

Another push for product liability reform

Key provisions of the product liability "discussion draft" would:

Cap punitive damages for small business only

Retain joint liability for non-economic damages

Set 18-year statute of repose for workplace goods

Limit sellers' liability

GRAPHIC BY JOHN HALL

Equitas off to good start

Lloyd's, market execs encouraged by financial results

By STACY SHAPIRO

LONDON—Equitas Holdings Ltd. has plenty to crow about in the runoff reinsurer's interim financial accounts for its first year.

The results for its first seven months of operation show a marked improvement from the reinsurer's position at the time it was launched, on Sept. 4, 1996.

"The Equitas Group has made a solid start in carrying out its mandate to run off the 1992 and prior liabilities of the Lloyd's syndicates it has reinsured," Chief Executive Michael Crall stated in the group's published accounts last week. "While it is far too early to declare Equitas a success, we have made encouraging progress."

When Equitas in April published its financial accounts as of Sept. 4, 1996, the date of its inception, executives within the Lloyd's of London market complained that the figures painted a grim picture of Equitas' prospects because they were heavily qualified by the auditor and the size of the reinsurer's surplus was questioned (*BI*, April 14).

However, Equitas' newly published results for the seven months ending March 31 are more upbeat.

The reinsurer's surplus increased 5% to £618 million (\$1.02 billion) as of March 31, from £588 million (\$920.8 million) as of Sept. 4, 1996. "Although modest, this increase is encouraging," David Newbigging, chairman of Equitas, said

in the published results.

Equitas also paid £2.5 billion (\$4.13 billion) in claims during the seven months ending March 31.

Claims payments were made at a slower pace than was first calculated by Lloyd's Reserve Project, which established Equitas, though executives would not say how much slower. The slower pace helped boost the group's first reported investment income of £256 million (\$422.4 million) from original forecasts, though again it was unclear by how much.

The slower claims payments also boosted the benefits of discounting by £162 million (\$267.3 million). Equitas has discounted Lloyd's syndicate liabilities by 6% annually to take
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Updates

NCCI president to leave

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conversion proposal, could not be reached for comment Friday. The NCCI board unanimously accepted his resignation at the start of its quarterly meeting last Thursday in St. Louis. The board also appointed David Kocher, the NCCI's chief operating officer, interim president and made him immediately responsible for day-to-day operations.

Mr. Hager will serve as a consultant both before and after his resignation becomes effective, the NCCI said.

Secondhand smoke suit settled

MIAMI—Tobacco companies may yet face secondhand smoke claims by flight attendants even though the industry is paying more than \$300 million to settle a class-action lawsuit related to such charges.

Last week's settlement of *Broin vs. The Philip Morris Cos. et al.* calls for tobacco companies to make three annual payments of \$100 million to establish a research foundation to study diseases associated with cigarette smoking. The defendants also agreed to pay attorneys' fees and court costs.

The settlement, reached in Miami Circuit Court as the trial was in its fourth month, permits class members to file personal injury claims on a case-by-case basis. However, those claims cannot seek punitive damages, according to the settlement terms.

In a statement, the tobacco companies said flight attendants who pursue individual claims "must prove that they were directly harmed by environmental tobacco smoke. On that basis, the companies remain confident of their respective positions on this issue and intend to present compelling evidence to juries in any individual cases that may be filed."

The defendants called the settlement "a common-sense approach to resolving the class-action aspects of the case in a way that is consistent with the much broader legislative resolution now pending before Congress."

That \$368.5 billion settlement between state attorneys general and the tobacco industry is pending.

Suit filed in insurer collapse

ORLANDO, Fla.—The Delaware Insurance Department has filed a massive civil racketeering complaint against 60 individuals and corporations allegedly responsible for the collapse of National Heritage Life Insurance Co.

The complaint, filed in U.S. District Court in Orlando, charges that several of the defendants gained control of National Heritage in 1990 through a check-kiting scheme in which they used \$3 million of the insurer's own money to acquire the company.

The dozens of defendants then played roles in an alleged conspiracy to siphon away tens of millions of dollars of National Heritage assets while producing a blizzard of bogus paperwork to conceal the fraudulent transactions from regulators, the complaint charges.

Named in the lawsuit are Patrick Smythe, former president of National Heritage parent Lifeco Investment Group Inc.; David L. Davies, the insurer's former treasurer; Michael Blutrich, a New York attorney and National Heritage adviser; Joseph Rouadi, a former Lifeco director; Lyle Pfeffer and Sholam Weiss, New York businessmen involved in several deals with National Heritage; and Keith Pound, former president of a Lifeco mortgage unit.

In total, the suit names 22 individuals and 38 corporations they formed or operated.

National Heritage was ordered into rehabilitation in May 1994 and into liquidation in November 1995 after Delaware regulators found more than \$200 million of its assets were missing (*BI*, March 11, 1996).

The collapse already has produced criminal charges: Messrs. Smythe, Blutrich, Pfeffer and Weiss were indicted on federal fraud and money-laundering charges in July (*BI*, Aug. 4). Separately, Mr. Davies and three other men have pleaded guilty to federal charges stemming from the collapse (*BI*, April 15, 1996).

High court declines two cases

WASHINGTON—The Supreme Court has declined to take up an age discrimination case involving broker Johnson & Higgins.

The 2nd U.S. Circuit Court of Appeals ruled last year that J&H, now part of J&H Marsh & McLennan Inc., violated the Age Discrimination in Employment Act with its policy requiring employees who also served as directors to retire at age 62—or 60 if they had been directors for more than 15 years (*BI*, Aug. 26, 1996).

Although no J&H director was involved in the lawsuit, the Equal Employment Opportunity Commission argued that it had the power to bring action on its own, an argument the divided appellate court panel found persuasive. J&H appealed, but the Supreme Court declined to review *Johnson & Higgins vs. EEOC* as the court opened its 1997-1998 session last week.

The high court also declined to get involved in a case involving the fungicide Benlate when it refused to review the 11th U.S. Circuit Court of Appeals' decision in *DuPont vs. Bush Ranch*. The appeals court had overturned a \$115 million fine imposed on Wilmington, Del.-based E.I. du Pont de Nemours & Co. by a U.S. District Court judge who held that DuPont had violated his orders to turn over to plaintiffs testing data for Benlate (*BI*, Oct. 28, 1996).

Plaintiffs claimed Benlate had contained a toxic substance that killed plants, and DuPont paid out hundreds of millions of dollars to settle product liability claims. The appeals court ruled that DuPont had been deprived of constitutional protections by the district court.

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Connie Lee discussing sale to 'highly rated' company

By JUDY GREENWALD

WASHINGTON—Officials of financial guarantee insurer Connie Lee Insurance Co. are in exclusive negotiations for a possible sale to a "highly rated insurance company."

Speculation on possible candidates includes others in the financial guarantee business, including Armonk, N.Y.-based MBIA Inc. and newly created financial guarantee reinsurer RAM Reinsurance

Co., based in Hamilton, Bermuda. Other companies that have been named as potential acquirers include Swiss Reinsurance Co., CNA Financial Corp. and ACE Ltd. Spokesmen for those companies had no comment or could not be reached.

Connie Lee's exclusive negotiating period with the insurer it is talking to is expected to end in mid-October. But the company may not necessarily be sold, said its chairman, Caspa L. Harris Jr.

Connie Lee is "just checking out" a proposal, "but no decision has been made to sell at this point," he said.

Connie Lee, which had about \$155 million in shareholders' equity as of June 30, was established in 1986 as a government-sponsored enterprise and began reinsurance operations in 1988.

It originally was restricted to reinsuring higher education debt rated no higher than BBB, though See Connie Lee on page 30

Employer wins contractor ruling

But obstacles may prevent major shift to independents

By JUDY GREENWALD

LOS ANGELES—California employers have scored a victory with a state appellate court ruling that says fired independent contractors cannot sue for discrimination.

Observers say the ruling could encourage employers to restructure their workforces and hire or reclassify employees as temporary contractors.

They warn, though, that both the law and the courts could make

this process difficult. In a recent decision, for instance, a federal appellate court found that Microsoft Corp. was obligated to pay benefits to workers it had wrongly classified as independent contractors (*BI*, July 28).

The Oct. 1 ruling by the 2nd Appellate Court in Los Angeles in *Anna Maria Sistare-Meyer vs. Young Men's Christian Assn. of Metropolitan Los Angeles* eventually may be considered by the California Supreme Court as well, say some observers. Ms. Sistare-

Meyer's attorney said he is considering such an appeal.

According to the decision, in 1991 Ms. Sistare entered into an independent contractor agreement with the YMCA to provide a program of teaching, dancing and tumbling at the YMCA's Crenshaw branch. Her contract was terminated in March 1993.

Ms. Sistare-Meyer filed suit in 1994, charging wrongful discharge in violation of public policy. She claimed she had been

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Equisure reorganizes

Reinsurer's former chief executive faces fraud charges

By DOUGLAS McLEOD

NEW YORK—Troubled reinsurance holding company Equisure Inc. has announced a wholesale reorganization in which it will spin off most of its business to another insurer and to companies in Panama and elsewhere.

Equisure does not identify the new reinsurer of its business,

however, other than to give its name: Polfin Insurance Co. Regulators and rating agencies contacted last week had never heard of Polfin.

Meanwhile, a man Equisure identifies as its former chief executive officer has been jailed in New York pending extradition to Australia to face fraud charges.

Peter Daniels Clarke II—who allegedly used the name Peter

d'Orleans-Clarke while acting as Equisure's CEO—was arrested after prosecutors filed a sealed extradition complaint Aug. 28.

According to the complaint, Australian authorities have charged Mr. Clarke with embezzling client funds of Burns Philp Trustee Co. (Canberra) Ltd., a now-defunct Australian trust company he operated. He also is

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Chicago Board of Trade explores bid to form insurance exchange

By MICHAEL FRITZ

Crain News Service

CHICAGO—The Chicago Board of Trade may challenge the Illinois Insurance Exchange for licensing rights to start a new insurance exchange.

The CBOT's executive committee last week recommended hiring Ernst & Young L.L.P. to assess

competitors, estimate start-up costs and assemble a business plan for the project, which the CBOT tentatively dubbed Chicago Board Insurance Exchange.

Board of Trade Chairman Patrick Arbtor said the CBOT would tap its underlying physical security to augment and build the futures contracts.

The effort follows the CBOT's decision not to participate in the Bermuda Commodities Exchange that opens this week, led by New York-based American International Group Inc. (*BI*, March 17).

In its potential bid to create a state-chartered exchange, the Board of Trade could edge out the

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Inside

• Almost 80% of eligible employees are participating in 401(k) plans, up from previous levels, a new survey shows. **PAGE 6**

• State regulators should quit standing in the way of an idea that would remedy the difficulty of differing state licensing requirements for intermediaries, this week's editorial says. **PAGE 8**

• Because of a treaty, a South Korean company can demote an American in favor of a South Korean citizen for an executive post, a court says. **PAGE 14**

• Assurances Generales de France has teamed with an Italian family to bid for French conglomerate Worms & Cie. **PAGE 25**

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Risk managers urged to prepare for merger issues

By ROBERTO CENICEROS

SEATTLE—Risk manager Julie K. Long received little advance warning when telecommunications giant SBC Communications Corp. combined with Pacific Telesis Group in one of the largest mergers in U.S. corporate history.

The merger was completed in April after being announced the year earlier.

"I have a tendency to walk in my office, pick up the newspaper and see what the company will do next and how it will impact my job," she told about 200 risk managers gathered last week in Seattle for Liberty Mutual Insurance Co.'s Sixth Annual Risk Management Forum. "Which is exactly how I found out about our merger with Pacific Telesis Group."

A merger "is a huge challenge, but it is also a huge opportunity," said the risk manager for SBC Communications Inc., whose parent company is now based in San Antonio, Texas. Pacific Telesis is a subsidiary.

Mergers can elevate risk management's visibility by giving the risk manager an opportunity to arrange a world-class program and risk financing strategy while obtaining savings derived from consolidation, Ms. Long said.

The highly regulated nature of her industry enhanced Ms. Long's challenge because upper management limited potential antitrust violation allegations by restricting information sharing between the two companies

before the merger process began.

She was only able to compare renewal dates for both companies' coverages 60 days before the merger began.

In doing so, Ms. Long found that PacTel's property catastrophe program's renewal date fell on June 1, the same date that SBC renewed its excess casualty coverage, giving her only 120 days to integrate both companies' risks under the programs.

"No risk manager in their right mind ever has a property and a liability renewal on the same day that is the size of these," she said after her presentation.

SBC now has 118,000 employees and generates \$24 billion in revenue with net income in excess of \$3 billion. The risk management budget has increased to about \$100 million, Ms. Long said.

While circumstances in her industry limited advanced planning, Ms. Long advised that risk managers can make or break their reputations by understanding the issues involved in a merger and being prepared to tackle one, if needed.

"Internal client communications are absolutely critical to your success," she said.

Risk managers should make sure that their communication to company officials includes discussion of how information management systems, such as those for risk management, benefits and payroll will be affected.

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Easy confirmation seen for OSHA nominee

By MARK A. HOFMANN

WASHINGTON—Charles Jeffress appears to be moving easily along the road toward Senate confirmation to head the federal Occupational Safety and Health Administration.

Mr. Jeffress, currently North Carolina's deputy commissioner of labor in charge of that state's own OSHA program, also appears unlikely to deviate greatly from the path marked by his immediate predecessor, Joseph A. Dear.

For example, Mr. Jeffress repeatedly emphasized his commitment to consultation rather than confrontation in his approach to workplace safety during his first confirmation hearing before the Senate Labor and Human Resources Committee last week. But also like Mr. Dear, Mr. Jeffress made clear that OSHA would not shy away from using its enforce-

ment powers to achieve safe workplaces.

Mr. Jeffress took over the North Carolina OSHA program in the

winning more funding from the General Assembly and targeting the agency's efforts more effectively.



'We've saved more lives through education than we could with enforcement alone,' OSHA nominee Charles Jeffress says of his efforts in North Carolina.

The full committee is expected to vote on Mr. Jeffress' nomination later this month and if last week's hearing is any indication, he should have no trouble winning approval.

That was evident as he was introduced by two OSHA critics: Sen. Lauch Faircloth, R-

N.C., and Rep. Cass Ballenger, R-N.C. "I'm thoroughly convinced he will do a great job," said Sen. Faircloth.

Rep. Ballenger, who pushed a comprehensive OSHA reform bill

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wake of one of the state's worst industrial disasters—the September 1991 fire that killed 25 workers at a Hamlet, N.C., chicken processing plant. He has been credited with turning that troubled state program around by

Conflicting legislation on MSAs hampering sales to employers

Some state coverage requirements at odds with federal law

By JERRY GEISEL

WASHINGTON—A conflict between federal and state law in some states is blocking the efforts of insurers to sell tax-favored medical savings accounts to small employers throughout the country.

At the same time, regulatory problems combined with sluggish sales have led at least one health insurer to pull out of the tax-favored MSA market.

The conflict involves a 1996 federal law that gives MSAs—if they meet certain conditions—tax-favored status. Employer contributions to MSAs are not added to taxable income. In addition, em-

ployees can withdraw money from an MSA tax- and penalty-free to pay for uncovered health care-related expenses, while withdrawals for other purposes are subject to taxes and penalties.

However, to be eligible for tax-favored status, the MSA must be linked to a high-deductible health insurance policy. Currently, annual deductibles for individual coverage can be no less than \$1,500 and no more than \$2,250, while the deductible for family coverage must be at least \$3,000 and no more than \$4,500. The federal law also limits the availability of tax-favored MSAs to employers with no more than 50 employees.

But those high-deductible requirements directly conflict with some state requirements that policies sold by health insurers offer either first-dollar coverage or very low deductibles for certain benefits, especially mental health and home health care. For example, a Connecticut law says \$50 is the maximum deductible for home health care.

This puts in an impossible position insurers that want to sell tax-favored MSAs to small employers in states with benefit laws mandating first-dollar or low deductibles for certain health care benefits.

If they meet the state require-

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Convergence, computer technology shaping the future: Panel

By PAUL D. WINSTON

WHITE SULPHUR SPRINGS, W.Va.—The convergence of insurance and financial services, as well as advances in technology, are shaping the insurance industry's future, a panel of insurer and broker executives says.

The increased use of capital market instruments, acquisitions by insurers of investment banks and the entry of banks to the insurance field were cited as examples of this convergence.

At the same time, advances in personal computing technology were seen as producing a possible split in the market between buyers who would prefer to buy commodity-type products online and those who would still rely on traditional brokers and insurers to meet their needs.

"Convergence is not new, it is merely accelerating," said Steven Gluckstern, a member of the corporate executive board of Zurich Insurance Group in New York and head of Zurich's reinsurance operations. To be successful in this environment, an insurance company doesn't necessarily have to buy an investment bank, as Travelers Corp. did with its recent purchase of Salomon Bros., but it needs to know what investment banks are doing, he said.

"The typical insurer doesn't need to own an investment bank. Their core activities don't assist the insurer," agreed Dennis Chookaszian, chairman and chief executive of CNA Financial Corp. in

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PHOTO: PAUL D. WINSTON

Insurance executives met at West Virginia's Greenbrier resort last week in time to see the turning leaves.

ART market attracts investors

Market's fast growth appealing: Analyst

By MICHAEL PRINCE

PHILADELPHIA—Alternative risk transfer companies, which have been popular with risk managers seeking non-traditional insurance options, have been attracting investors as well.

Companies in the alternative market represent a good investment, said Alice Schroeder, managing director for Oppenheimer & Co. in New York.

Not only are alternative risk transfer companies growing faster than traditional insurance companies, but they also don't possess the underwriting risks of traditional companies, Ms. Schroeder said late last month at The Producers' Forum in Philadelphia, sponsored by Commonwealth Risk Services L.P.

Many of the attributes that make alternative risk transfer companies attractive to investors also are good indicators for risk managers.

A number of factors attract Wall Street investors, she said re-

gardless of industry. Investors want growth and earnings that increase over time.

They also want companies involved in new and emerging markets so the companies "can have growth without having market share competition," Ms. Schroeder said.

Investors want sustainable earnings, and not where one-shot transactions, such as a merger, boost growth.

The quality of a company's management also is important, she said.

Investors want value. "Investors don't like to overpay," Ms. Schroeder pointed out. Stability of income is also preferred over volatility by portfolio managers, and the investment must be liquid, so investors can sell, she added.

What risk transfer companies must realize is that investors don't want to invest in a business they don't understand. Also, she added, investors don't want to invest

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Product

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negotiations. This is our bottom line. We're waiting to hear whether the Republican leadership can support this," the spokesman said.

Among the missing provisions are limitations on joint liability for non-economic damages in product liability cases and a uniform formula for determining punitive damage awards in such cases. Instead, the proposal grants punitive damage relief only to small businesses.

Under the draft, only businesses with 25 or fewer employees and annual revenues of \$5 million or less would be protected by a punitive damage cap of the lesser of two times compensatory damages or \$250,000.

The proposal would require, however, that a claimant establish "by clear and convincing evidence that the harm that is subject to the action was the result of conduct

Like previous proposals, the draft includes a statute of repose for durable workplace goods—in this case 18 years—as well as proposed limitations on the liability of prod-

workers compensation insurers against manufacturers to recover "any claimant's benefits relating to harm that is the subject of a product liability action" under certain circumstances.

Another new section would allow courts to impose fines of up to \$50,000 on parties that refuse pre-trial settlements that are subsequently lowered or rejected in trial.

The draft also spells out that product liability suits involving tobacco or breast implants would not be covered by the proposed legislation.

No business group had embraced the proposal by the end of last week, and consumers already had rejected it.

"On first look, it appears that the new reform proposal contains reform concepts that RIMS has previ-

ously endorsed, like a higher evidentiary standard for punitive damage awards. Unfortunately, we were disappointed that several other of RIMS reform recommendations—like elimination of joint liability for non-economic damages—were not included," said Paul Brown, director of government affairs for the Risk & Insurance Management Society Inc. in New York.

"In addition, the bill includes a workers compensation subrogation provision that RIMS has argued should not be included in a product liability reform measure. Our government affairs committee is currently reviewing and evaluating the proposal," said Mr. Brown.

Victor Schwartz, counsel to the Arlington, Va.-based Product Liability Coordinating Committee, which supports comprehensive reform, called the draft "a complex document," which the PLCC is still reviewing. He emphasized that the PLCC has not endorsed the measure.

"People are going to look at this very carefully," he said. He noted that while the proposal contains many provisions that were in the bill vetoed last year, Sen. Rockefeller has "put forth what is purportedly a new bill." He said the proposal contains many small and subtle changes in wording.

Mary Beth Reilly, manager-Senate legislative affairs for the National Federation of Independent Business in Washington, said: "We are disappointed. Overall, we're really keeping our powder dry. It's our understanding that negotiating is still continuing. Until we see a final product, we're going to abstain from critiquing."

"There were portions in the bill that would have significantly benefited our members that were taken out—for example, the portion eliminating joint liability for non-economic damages," she said, adding that the NFIB was also concerned about the subrogation provision.

Not surprisingly, that concern was shared by insurance groups, which were trying to determine exactly what the provision would mean for their members.

"We're still looking at it. We are unhappy that the workers comp section is back in there," said Melissa Shelk, assistant vp of the American Insurance Assn. in Washington.

"Workers comp is a no-fault system. This introduces fault into that system," she said.

"We're taking a very close look at the subrogation provision to see how it would affect our member companies and their customers," said Ken Schloman, federal affairs counsel for the Alliance of American Insurers in Washington.

Nevertheless, "we're pleased that a draft is out there that might provide a good jump start for this legislation and might get it moving again," said Mr. Schloman.

"We would have liked to have seen some provisions dealing with joint and several liability. I think we would have liked to have seen a more comprehensive provision on punitive damages, but this constitutes a good starting point for continuing the discussions," he added.

Not surprisingly, consumer activists do not view the proposal in the same light.

"The bill contains nothing for consumers," said Joanne Doroshov, a staff attorney with Public Citizen in Washington.

Regarding the punitive damage cap for small businesses, Ms. Doroshov noted that "many businesses with fewer than 25 employees produce products that threaten the public's health and safety," including such items as fireworks and handguns. **BI**

'The new reform proposal contains reform concepts that RIMS has previously endorsed, like a higher evidentiary standard for punitive damage awards,' says Paul Brown.

carried out by the defendant with a conscious, flagrant indifference to the rights and safety of others" before a punitive damage award can be made.

uct sellers and a defense for manufacturers whose products were deliberately misused.

One new section would provide an ambiguous subrogation right for



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With an average of more than 15 years experience in the field, Zurich-American's HPR engineers bring unparalleled insight to engineering highly protected risks – insights that translate to superior HPR coverage, and creative, flexible solutions that stand out from the rest.

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MSAs

Continued from page 3
ments, the MSA will no longer qualify for tax-favored status. That would mean that employer contributions to the MSA would be added to employees' taxable income as would interest earned on assets held by the account.

But if the insurer does not follow state laws and sells policies with high-deductibles for all health care-related conditions, it would violate those laws and be subject to fines and other penalties.

"This is a real problem. At the state level, you can't legally sell a health insurance policy unless you offer certain coverages. Yet, the Treasury Department says if you offer that coverage the policy does not qualify for favorable tax benefits," said Tom Wildsmith, policy research actuary with the Health Insurance Assn. of America in Washington.

"It puts you between a rock and a hard place," Mr. Wildsmith added.

No one knows how extensive the problem is, though insurers say it could be an issue in about a dozen states.

However extensive the problem is, insurers say a remedy does exist: amending state laws. One way this could be done, they say, is to clarify that amounts contributed

to an MSA would be considered first-dollar coverage. Another approach would be to exempt insurance policies linked to tax-favored MSAs from state mandated benefit requirements.

"I think the states are going to

Conflicting regulations over MSAs put employers 'between a rock and hard place,' says Tom Wildsmith.

take care of it. It is matter of time before it is resolved," said Jim Perry, director of state affairs at the Alexandria, Va.-based Council for Affordable Health Insurance, an insurer group that lobbied Congress for the MSA legislation.

At least one state is likely to resolve the conflict.

Wisconsin Gov. Tommy Thompson is expected to sign legislation, A.B. 100, that would allow group health insurers to impose the same deductibles for mental health, drug and alcohol abuse as they do for other health care conditions. This would change current law that bars deductibles for mental health, drug and alcohol abuse.

Alternatively, Congress could

pre-empt state laws that interfere with MSAs, though MSA lobbyists say that such action is unlikely.

Meanwhile, Employers Health Insurance Co. in Green Bay, Wis., says it has stopped writing insurance policies linked to tax-favored MSAs and will not renew already-issued policies when they come up for renewal. Employers Health says it has sold about 1,000 high-deductible policies linked to MSAs.

The health insurer, a unit of Humana Inc., cites regulatory policies as well as sluggish sales for its decision to leave the MSA market.

Given the regulatory problems and limited consumer interest, "It makes more sense to spend our energy elsewhere. Why should we spend so much time on a product that has only 1,000 policies when we can spend time on products that have many more customers," an Employers Health spokesman said.

But Golden Rule Insurance Co., which through the end of last month had sold 17,300 insurance policies linked to tax-favored MSAs, says it is satisfied with sales of the product.

"We believe in the product, and the agents we work with are getting more and more enthusiastic about MSAs all the time," said Lee Tooman, a Golden Rule vp in Indianapolis. **BI**

Exchange

Continued from page 2

IEE, which in the past year has lost several syndicates to insolvency (*BI*, Sept. 15).

Meanwhile, IIE Chairman and Chief Executive Officer James E. Tait has been meeting with insurers such as CNA Financial Corp. and Allstate Corp. and investment banks to drum up support for a second insurance exchange. That IIE-led effort could compete directly with the CBOT and perhaps other groups for a new exchange license that's slated to become available in January.

If the CBOT wins the new exchange license, the Board of Trade's individual members, customers and member firms could in effect form their own mini insurance companies—assembling capital pools to underwrite risks. They would offset those risks through insurance futures contracts offered at the Board of Trade.

The catalyst in the CBOT initiative is a new Illinois law aimed at stabilizing the ailing IIE. The statute, which increases the Illinois Department of Insurance's oversight of the IIE, also enables Illinois Insurance Director

Mark Boozell to authorize one new state-chartered insurance exchange.

The IIE's Mr. Tait is optimistic about attracting interest in a new market that would focus on risk securitization and insure risks currently placed offshore.

Since late last year, three of the IIE's underwriting syndicates — Geneva Assurance Syndicate Inc., First Oak Brook Corp. Syndicate Inc. and Resure Inc.—have been declared insolvent. Several others have stopped writing new business, and Comprehensive Ensurers Market Syndicate Inc. is in the process of pulling out, the Illinois Department said.

The IIE and the CBOT aren't likely to be the only groups vying for the exchange license.

"We've had confidential discussions with at least five groups interested in forming an exchange," said Mr. Boozell. "They are all in the talking stages about how to go about it and what the regulatory framework is."

A CBOT decision on whether to seek the license is still at least a month off, said Richard Sandor, second vice-chairman and architect of the Board of Trade's catastrophe futures market. **BI**

401(k) plan options growing, survey finds

By DEBORAH SHALOWITZ COWANS

Benefit Beat

More employers are enhancing their 401(k) plans, which is paying off in higher participation levels, a new survey finds.

Participation rates, investment options and loan provisions all have grown in the past several years, according to a Hewitt Associates L.L.C. survey of 460 plan sponsors.

About 79% of eligible employees are participating in 401(k) plans this year, the survey found. Previous surveys of plan sponsors that the benefit consulting company conducted in 1995 and 1993 found participation rates of 74% and 75%, respectively.

Plan sponsors also are continuing to increase the number of investment options from which participants can choose. Sponsors this year are offering an average of 8.2 investment options, up from 6.3 in 1995 and 4.5 in 1993.

Also on the rise is the number of plan sponsors offering a loan provision in their 401(k) plan. Ninety percent of the plan sponsors surveyed this year offer a loan provision, up from 81% two years ago and 74% in 1993.

Employee use of the loan option is fairly stable. Approximately 23% of participants had an outstanding loan balance as of the end of the 1996 plan year, employers noted. The 1995 survey found that 20% of participants had an outstanding loan balance at the end of the previous plan year, and Hewitt's 1993 survey found that 21% of participants had outstanding loans.

Survey respondents said that the most common mistake that participants make in investing their 401(k) accounts is they are too conservative—an observation cited by plans sponsors in 1995 and 1993. Employers said that other common mistakes participants make are insufficient diversification and taking a short-term view instead of a long-term view of investments.

The most effective way to communicate investment education to employees is seminars and workshops, the Hewitt survey found.

Forty-four percent of plan sponsors responding to the survey cited seminars and workshops as very effective. Other particularly effective communications materials include one-on-one

counseling or financial planning and written materials, according to plan sponsors.

The survey will be available in November for \$125 from Hewitt Associates L.L.C., Hewitt Publications Desk, 100 Half Day Road, Lincolnshire, Ill. 60069; 847-295-5000; fax: 847-883-9019.

Child care centers

Several large employers are offering workers new near-site or on-site child care centers.

Merck & Co. Inc. opened its third child care center last month. The new center, which is located at the pharmaceutical maker's West Point, Pa., facility, can accommodate 224 children ages 6 weeks through kindergarten. Currently, 176 children are using the West Point Child Learning Center.

The center is open from 6:30 a.m. to 7 p.m. Merck in the future plans to offer a summer camp program for young and school-age children, a back-up care room and a care program before and after school hours.

The center was designed and built by Bright Horizons, a Cambridge, Mass.-based child care facility management company.

A consortium child care center in Princeton, N.J., also opened last month.

The facility is located on the grounds of Princeton Forrestal Center, an office park that is home to Merrill Lynch & Co. Inc., Bristol-Myers Squibb Co., American Re-Insurance Co., Dow Jones & Co. Inc. and several smaller companies. The center was built by Prodigy Child Development, a child care facility management company based in San Rafael, Calif.

The Princeton center, which can accommodate 148 children ages 6 weeks through 12 years old, cost \$1.4 million to build, according to a Prodigy spokeswoman. The center is open from 7 a.m. to 6:30 p.m.

Employers in the office park can buy child care slots for their employees for either full-time day care or back-up care. The center also is open to the public. **BI**



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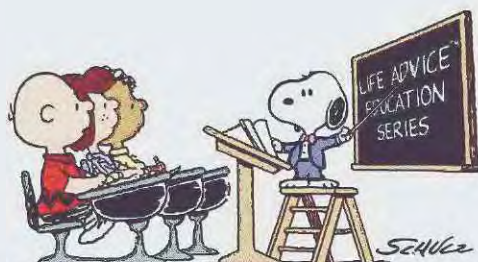


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Opinions

NAIC: Step up or aside

IT'S TIME FOR state insurance regulators to lead or follow—but get out of the way—when it comes to fixing the problem of conflicting state licensing requirements for insurance intermediaries.

Regulators themselves admit licensing is a mess, yet they continue to stubbornly oppose a key insurance industry proposal for fixing the problem that calls for their guidance and oversight. Why? Because the fact that the proposal comes in the form of federal legislation is anathema to them.

In the meantime, agents and brokers that seek to operate in multiple states continue to jump through hoops to meet the current plethora of differing and cumbersome state licensing requirements. The more egregious examples of these are state countersignature laws, as well as residency and incorporation requirements.

The National Assn. of Insurance Commissioners has had ample opportunity to remedy its acknowledged problem. In the early 1990s, Rep. John Dingell, D-Mich., highlighted the burdens and inefficiencies of a system of differing state licensing requirements. Regulators assured the lawmaker that the problem could be solved within five years.

It's now five years later, and little has been done to harmonize state rules in this regard.

We can only surmise that state insurance regulators are more interested in trying to protect their turf from the feds rather than their consumers.

This issue does affect consumers. The expense of compliance with this Byzantine licensing system is passed directly to buyers, both in terms of actual filing costs and also in hurdles and delays in putting together multistate insurance programs.

We think the proposed National Assn. of Registered Agents & Brokers, which would serve as a voluntary licensing clearinghouse, would eliminate this problem—without eliminating the states' role in protecting consumers or revenues from agent licensing. NARAB is contained in the Financial Services Competitiveness Act, H.R. 10, currently stalled in the House.

Under the NARAB proposal, states still would receive licensing fees and retain the right to discipline licensed producers that violate their laws. In addition, NARAB's board would be drawn from recommendations made by the NAIC and is likely to include state regulators.

NARAB also could raise the quality of insurance professionals by setting higher standards than some



states now require.

Under the proposal, members of NARAB would have to meet criteria, such as completion of continuing education, based on the highest standards currently in the marketplace.

If that weren't enough, the proposal gives the NAIC ample opportunity to put its own house in order and eliminate the need for NARAB. The Commerce Committee bill essentially would give the states up to three years from the date of the legislation's enactment for a majority to adopt uniform licensing laws. If that is achieved, NARAB would not be created.

If it is not accomplished in three years, the NAIC would have up to two more years to launch and administer NARAB itself, under the federal proposal.

We think state regulators should see NARAB as an opportunity rather than a threat.

The proposal gives them an opportunity to build on the best of state regulation while eliminating the worst.

It is an opportunity to make regulation more effective by setting uniform licensing standards. It is an opportunity to raise the standards of agent and broker professionalism by setting a high benchmark.

Most importantly, the proposal gives them an opportunity to lead efforts to fix a problem they admit exists, before they are asked to follow the lead of others.

Letters

Providing quality care to seniors

To the editor: The nation's 56 independent Blue Cross & Blue Shield Plans agree that the recently enacted Medicare reforms make important strides toward improving the program ("Medicare Reform Merits Praise," Sept. 15). But, we believe the debate must move forward to more carefully examine the quality of health care delivered to older Americans.

So far, most of the debate about preparing Medicare for the 21st century has focused on cost and benefit design is-

ssues. Beyond that, the scope of health services for seniors should be expanded to focus not only on treating chronic diseases, but also on the unique aspects of wellness and risk screening for older adults.

That's why the Blue Cross & Blue Shield System has joined forces with the American Geriatrics Society to create the National Blue Initiative for Quality Senior Care. Together, we will provide primary care physicians with expertise and

the latest clinical knowledge in geriatric medicine. Our goal is to help physicians implement this expertise in their day-to-day practices so they can improve the quality and effectiveness of care they provide to older adults. This initiative represents the next critical step in improving the quality of care for seniors.

Patrick G. Hays
President and Chief Executive Officer
Blue Cross & Blue Shield Assn.
Chicago

Letters to the Editor

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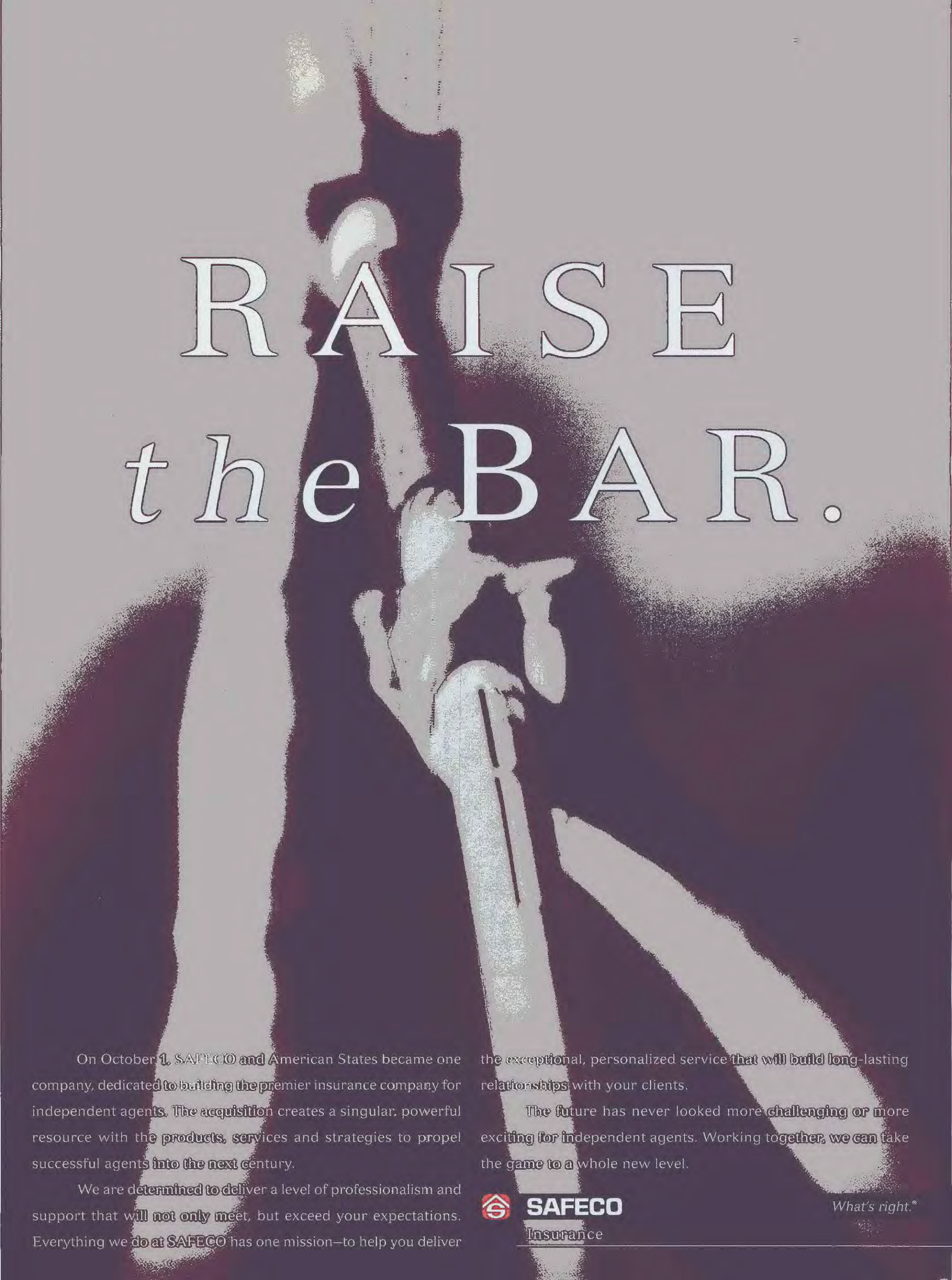
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Equisure

Continued from page 2
charged with producing a phony Burns Philp financial statement.

While not mentioned in the complaint, documents show that Mr. Clarke also operated a New Zealand company that was a business partner of two insurers barred by California regulators in recent years: OMSTRAK Insurance Co., purportedly a Russian insurer; and Greater Indemnity & Casualty Insurance Co. Ltd. of the Turks & Caicos Islands.

Mr. Clarke, who is being held in the Metropolitan Correctional Center in Manhattan, and David Greenwald, an assistant U.S. attorney handling the case, could not be reached.

Peter G. Uttley, Equisure's chairman and newly appointed CEO, is quoted in company statements blasting Mr. Clarke and blaming

Equisure's many troubles on the news media, the American Stock Exchange—where Equisure's stock formerly traded—and Belgian police officials who have said they are investigating the company. "I am proud to champion the fight" for Equisure, Mr. Uttley, a British citizen, is quoted as saying. "It is a part of British culture to face impossible odds when you fight for what you know to be right."

Equisure, a Minneapolis-based holding company for Belgian reinsurer Equihot Herverzekering N.V., last Wednesday announced a reorganization plan under which all of Equihot's assets and liabilities will be transferred to Polfin Insurance Co. The agreement requires that 95% of net profits be remitted to Equisure, the company said.

Equisure provided no information about Polfin, such as where it is based, and the insurer last week remained largely a mystery. A.M. Best

Co. and Standard & Poor's Corp. have no information about Polfin; the insurer has no National Assn. of Insurance Commissioners company code and does not appear on an NAIC list of reinsurers that assumed business from U.S. companies last year, an NAIC official said.

After the transfer to Polfin, the shell of Equihot will be sold to Cambrea Inc., a Panama company, for \$1, Equisure said. Equisure also is selling its majority interest in a Monaco insurance brokerage unit to an entity identified as Hong Kong & Shanghai Investment Trust. The announcement provides no other information about the trust company.

Equisure officials could not be reached to elaborate.

The statement concludes by noting Equisure is now "a holding company engaged primarily in portfolio management agreements."

The reorganization and Mr. Clarke's arrest are the latest twists

in the Equisure fiasco.

Only months after the company was listed on the AMEX, the exchange halted trading in the stock pending an investigation of Equisure's accounting practices and possible manipulation of its shares by insiders.

The exchange acted after being contacted by Belgian police, who are investigating both Equihot and Dai Ichi Kyoto Reinsurance Co. S.A., a fraudulent Belgian reinsurer that collapsed in 1995.

Belgian authorities have issued an arrest warrant for Ronald Charles Bridle, an Equihot official, and have questioned a United Kingdom accountant who has acted as bookkeeper for both Equisure and Dai Ichi Kyoto. Both men have denied wrongdoing, and Mr. Bridle has denied any connection to Dai Ichi Kyoto.

Meanwhile, an Austin, Texas, reinsurance producer alleged in a

civil fraud lawsuit that Equisure's chief financial officer—identified in Equisure financial filings as David Sachman—was actually Paul Yorke-Wade, who was jailed in France earlier this year on a Belgian warrant related to the Dai Ichi Kyoto investigation. The suit was later settled.

Amid its mounting troubles, Equisure said in August that it had hired a new CEO: Peter d'Orleans-Clarke, a self-described wealthy investment banker and expert in regulatory compliance matters.

Mr. Clarke quickly reached a settlement with the American Exchange, agreeing that Equisure would withdraw rather than face possible delisting.

Within days, though, Equisure announced it had fired Mr. Clarke for agreeing to the delisting without approval from the company's directors. It also leveled a barrage of charges against Mr. Clarke, including that he had lied about his professional background and that his name was actually Peter Daniels Clarke (BI, Sept. 8).

On Aug. 28, the U.S. attorney's office in New York filed a sealed complaint against Peter Daniels Clarke II—the same man, according to Equisure—seeking his arrest and extradition to Australia.

According to the complaint, Australian authorities in Canberra have charged Mr. Clarke with embezzling several hundred thousand dollars from clients of Burns Philp Trustee, which he acquired in 1991 and headed as managing director until 1993.

Australian prosecutors charge, among other things, that Mr. Clarke:

- Transferred \$1.5 million of Burns Philp client funds out of Australia, purportedly to buy two jet aircraft. He later diverted \$300,000 of this money to himself, partly through payments to Clarke Daniels & Co. Ltd., a New Zealand company he controlled.

- Defrauded the Australian government by filing false Burns Philp financial statements, including a 1992 statement claiming that Burns Philp had acquired a majority stake in International Casualty & Surety Co. Ltd. of New Zealand.

IC&S has been hit separately with civil charges that its own assets include worthless or grossly overvalued stocks and that it is a successor to First Assurance & Casualty Co. Ltd., an allegedly fraudulent offshore insurer that collapsed under scores of claims from the 1992 Los Angeles riots (BI, Jan. 6, 1997; March 7, 1994).

Samuel B. Love, a Scottsdale, Ariz.-based IC&S director, said no such transaction with Burns Philp was ever completed. In previous interviews, he has also defended IC&S' financial strength.

In late 1993, Clarke Daniels & Co. changed its name to America Pacific Insurance Co., and Mr. Clarke and APIC went on to become business partners with two insurers that ran into regulatory trouble in the United States, documents show.

APIC acted as 100% reinsurer of Greater Indemnity, a now-defunct Turks & Caicos insurer barred in California in 1993 after regulators were unable to confirm the value of its assets or the existence of a trust account for U.S. policyholders. The trust account reportedly was maintained at Burns Philp. Two Greater Indemnity officials, Roman Gorodnitsky and Ilya Bond, were also directors of APIC.

APIC was also a founding minority partner of OMSTRAK, a Russian insurer supposedly capitalized with lead and zinc mining rights in southeastern Russia. California regulators barred OMSTRAK in 1994 (BI, Aug. 8, 1994).

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Nominations are now being accepted for the first annual Arthur Quern Quality Award. Nominations may include insurance companies and products, brokers, agents, third party administrators, risk managers or risk management departments, and others in the risk management and insurance community whose commitment to quality can be demonstrated.

Nominations will be accepted from anyone familiar with the product or the candidate's work. The application, which requires essay responses, will be kept in the strictest confidence. The nomination application is available through the RIMS New York office (tel. 212-266-9364 x248) or through the RIMS home page at www.rims.org.

Deadline

The deadline for the first Arthur Quern Quality Award, which will be bestowed at the RIMS Annual Conference & Exhibition in 1998, is December 19, 1997.

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- ☐ identified, addressed and solved one or more specific quality programs
- ☐ initiated innovative techniques or policies resulting in the superior quality of a risk management product or service
- ☐ contributed to the enhancement of ongoing quality programs
- ☐ embraced training and continuous improvement

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California

Continued from page 2

fired because she is Caucasian. The appellate court upheld a lower court ruling dismissing the charge, which was her sole remaining claim. The court notes the California Constitution says a person cannot be kept from "pursuing a business, profession, vocation or employment" because of discrimination.

"The question thus represented is whether the policy... reaches beyond the employer/employee relationship to encompass those who hire independent contractors," says the decision.

"Here, the longstanding distinction between employees and independent contractors presents important competing policy concerns," the decision says. "California common and statutory law distinguishes independent contractors from employees, and their statuses, though rooted in contract, are significantly different."

The decision notes independent contractors typically have greater control over the way they carry out their work than employees, while businesses assume fewer duties with respect to contractors.

"Thus, the independent contractor status provides the hiring party and the worker with an alternative relationship that gives each more freedom and flexibility than the employer/employee relationship," according to the decision.

Neither the constitution nor the body of law concerning independent contractors "clearly favors

the public interest in curbing discrimination over the existing social benefits attached to the independent contractor-hiring party relationship," says the decision. The court concluded that independent contractors cannot bring discrimination-based suits.

"I think the opinion opens the door for employers to creatively characterize their workforce as independent contractors and then discriminate at will," said Ms. Sistare-Meyer's attorney, Drew E. Pomerance of Roxborough, Pomerance & Gallegos in Los Angeles.

Employers in the past have succeeded at "getting around" buying workers compensation insurance or fulfilling their tax responsibilities by characterizing employees as independent contractors, Mr. Pomerance added. "I don't see any reason why this would be different."

Jeffrey D. Wohl, an employer attorney with Orrick, Herrington & Sutcliffe in San Francisco, said, "The case will serve as an impetus for companies to consider recharacterizing workers as independent contractors to avoid the discrimination laws and the employment laws."

Most employers think those laws give rise to a large number of claims "and would like to avoid those claims if they could by characterizing people as independent contractors," Mr. Wohl said.

Patricia Gillette, an attorney with Heller Ehrman White & McAuliffe in San Francisco, noted that many businesses in California's Silicon Valley already have adopted the use of independent

contractors.

"Some employers may read this as an even bigger incentive to do that, because now they have no liability for discrimination, at least under the California constitution," she said.

"I think it might encourage more flexibility in the workplace," said Angela Bradstreet, an employer attorney with Carroll Burdick & McDonough in San Francisco. "I think it might encourage employers and individuals to explore more creative forms of working with one another rather than just an employer/employee relationship," she said.

Observers warn, however, there could be dangers in doing this.

Characterizing workers as independent contractors is "easier said than done," said Mr. Wohl. "It's not the case that every employee can be magically transformed to an independent contractor, and therefore, some employers will mistakenly think that (by) just renaming people independent contractors, they can take advantage of the case and thereby avoid employment law liability," he said.

Mr. Wohl noted the decision does not address who is and is not

an independent contractor.

The more that companies use the fiction of independent contractors to circumvent labor and discrimination laws, "the more likely the courts and Legislature will find ways to address these problems," said Cliff Palefsky, an attorney with McGunn, Hillsman & Palefsky in San Francisco. He represents employees.

In cases such as *Microsoft*, he said, the courts already have succeeded in "getting through to the substance of the relationship."

"Most of the employees that are considered to be an independent contractor by an employer are, in fact, employees, and you can usually convince a court" of that, said Barbara Lawless, an attorney with Lawless, Horowitz & Lawless in San Francisco who represents employees.

Ms. Lawless said that in every case she has had involving people classified as independent contractors, she has successfully argued that an employee so classified was in fact an employee.

If there is any type of employer control, such as having these workers report at 9 a.m. for seven hours of work, they are deemed to be employees, not independent

contractors, said Ms. Lawless. Because of this, "I don't think (the decision) is going to be all that significant in its application," she said.

Ms. Gillette said, "Given the limited rights now of independent contractors," there may be new emphasis by the Department of Labor, one of the entities responsible for making sure workers are correctly classified, to come down harder on employers that classify workers as independent contractors. "In reality, the number of truly independent contractors is slim," she added.

"That whole area is terribly complex," said Kent Jonas, an employer attorney with Thelen Marrin Johnson & Bridges in San Francisco. "Employers need to be very wary before they leap to classify someone as an independent contractor, because if they're wrong," the benefit, workers compensation and tax consequences can be substantial, he said.

Anna Maria Sistare-Meyer vs. Young Men's Christian Assn. of Metropolitan Los Angeles et al., California Court of Appeal, 2nd Appellate District, Division 4; No. B105274.

Jeffress

Continued from page 3

in the last Congress, noted that while he has often disagreed with Mr. Jeffress, the North Carolina OSHA chief "doesn't view employers and business as adversaries" and has proved himself "willing to try new approaches" to achieving safer workplaces.

During his testimony before the committee, Mr. Jeffress emphasized his commitment to using education as a means of increasing workplace safety.

"We've saved more lives through education than we could with enforcement alone," he said. He pointed to an initiative with the logging industry as an example of how this approach worked.

In 1993, the state labor department joined forces with the North Carolina Forestry Assn. in an effort to reduce fatalities among loggers. This wasn't easy, for loggers generally are small operations, often consisting of family members, and work in remote areas, he said.

The joint effort featured mailings to loggers and their families, consultation, safety workshops and enforcement visits, he said. In addition, the department of labor con-

tacted loggers' customers and asked that they give preference to those loggers who had participated in the program. He credited the program with helping to reduce the number of fatalities among loggers to three from 13 in a one-year period.

"We must focus our compliance resources where they are most needed," said Mr. Jeffress.

In North Carolina, that meant targeting 134 employers with unusually high rates of workers compensation claims. Those sites were inspected, and employers that asked for it got help developing safety and health programs, Mr. Jeffress said. The targeting program resulted in a significant drop in workers comp claims for those employers, he said.

Mr. Jeffress avoided direct answers to questions about the new Safety Advancement for Employees Act, S. 1237, introduced recently by a bipartisan group of lawmakers (BI, Oct. 6). Among other things, the bill calls for a system whereby employers would be able to contract with third-party auditors to conduct compliance inspections. Employers then could correct safety problems and avoid OSHA citations for two years.

Mr. Jeffress said he had considered doing something similar in North Carolina but found that the

overwhelming majority of employers surveyed—88%—said they would prefer waiting six months to receive a free visit from state OSHA workplace consultants than pay for an outside audit. He said he would like to find a way to use private consultants in the workplace but that he retains reservations about doing so.

On another contentious issue, the setting of an ergonomics standard, Mr. Jeffress said, "We've found it's not one size fits all" in dealing with ergonomics questions. He said ergonomics requirements would have to be tailored to workplaces. He added that dealing with ergonomic maladies requires management commitment to alleviating the problem and a willingness of employees to speak up when they are suffering ergonomic-related injuries before the injuries become too severe.

In general, a "positive safety culture" with management commitment is crucial in creating safe workplaces, Mr. Jeffress told the committee.

After Mr. Jeffress concluded his testimony, the committee's chairman, Sen. James Jeffords, R-Vt., said he could look forward to swift action on his nomination.

"Please go away relaxed," the senator told him. **BI**

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Court OKs Samsung firing

CHICAGO—Samsung Heavy Industries Co. Ltd., a South Korean company with operations in Chicago, did not violate Title VII of the Civil Rights Act by demoting an American citizen in favor of a South Korean citizen, a federal appeals court ruled late last month.

As a South Korean corporation doing business in the United States, Samsung is protected by the Treaty of Friendship, Commerce and Navigation between the United States and the Republic of Korea, the 7th U.S. Circuit Court of Appeals ruled in *Harry D. Weeks vs. Samsung Heavy Industries Co. Ltd.*

The U.S.-Korea FCN Treaty is one in a series signed after World War II to encourage U.S. investment abroad. The treaties grant reciprocal protection to foreign businesses operating in the United States, allowing them to place their own citizens in key management positions.

Mr. Weeks, a former Samsung national sales manager for North America who was demoted to sales representative, alleges, among other charges, that Samsung discriminated against him based on race and national origin when it replaced him with Sung Ho Lee, a South Korean citizen. Mr. Weeks also contended Samsung was not protected by the FCN treaty in this case because the treaty allows for the choice of executives and that the position of national sales manager is not executive rank.

In affirming a lower court decision, the appeals court ruled that the FCN treaty indeed protects Samsung's employment decision.

"We are convinced that S.H. Lee's status is sufficiently 'executive' in character to come within the ambit of the plain language" found in the FCN treaty, the court said in its 43-page opinion. Samsung's "replacement of Weeks by S.H. Lee involved (Samsung's) decision to engage an executive of its choice and is therefore protected by the FCN Treaty."

Samsung's attorney, Gerald L. Maatman Jr. of Baker & McKenzie in Chicago, said the decision takes a "very, very broad" reading of the term "executive" in FCN treaties.

The question people now will argue is, "How far down into the company does the treaty go to protect a choice in preference of its own people over Americans?" he said.

Overall, "any foreign-based multinational corporation doing business in the U.S. has a significant amount of discretion, unlike its U.S. competitors, to utilize citizens of its own country" for high-level positions without violating federal laws.

Harry D. Weeks vs. Samsung Heavy Industries Co. Ltd., 7th U.S. Circuit Court of Appeals; No. 97-1857.

—By Sally Roberts

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WHO SHOULD ATTEND

Risk managers, loss prevention and safety managers, workers compensation administrators and analysts, employee benefit executives, plus insurers, brokers, consultants, representatives from HMOs and PPOs, state and local government representatives, association members, attorneys and providers from a broad range of companies and institutions.

PROGRAM AGENDA

MONDAY, OCTOBER 27

9:30 AM
GOLF TOURNAMENT:
Hosted by
Deloitte & Touche LLP and SAC3

3:00 PM
EARLY REGISTRATION

4:30 - 5:30 PM
EMPLOYERS PRIVATE ROUNDTABLE

Moderator:
Kathryn J. McIntyre
Business Insurance

5:30 - 6:30 PM
COCKTAIL RECEPTION:
Hosted by *Liberty Mutual Group*

TUESDAY, OCTOBER 28

7:45 - 9:00 AM
REGISTRATION
CONTINENTAL BREAKFAST:
Hosted by
Kemper Insurance Companies

9:00 AM
OPENING REMARKS

Alexandra Scott
International Business Forum

9:05 AM
KEYNOTE SPEAKER

**THE CASE FOR INTEGRATION:
SORTING OUT THE MYTHS AND
REALITIES OF DISABILITY
INTEGRATION MANAGEMENT**

Dwight E. Davis
Wausau Insurance Companies

9:45 AM
**ERGONOMICS: EFFECTIVE
WORKPLACE PRACTICES
AND PROGRAMS**

Moderator:
Wayne S. Maynard
Liberty Mutual Group
Michael Lichtenberger
BOC Gases

Russell C. Opferkuch
Bankers Trust Company

Cynthia R. Parks
Turner Broadcasting System, Inc.

Michelle Robertson
Herman Miller, Inc.

Neal J. Taslitz
National Repetitive Strain Injury Foundation

10:45 AM
**TABLE-TOP EXHIBITS
REFRESHMENTS:**
Hosted by *Commonwealth Risk*

11:15 AM
**DEVELOPING A SUCCESSFUL
ANTI-FRAUD PROGRAM**

Moderator:
Peter C. Madeja
GENEX Services Inc.
Donald Elisburg, Esq.
Department of Labor Fraud Commission
William Kizorek
InPhoto Surveillance

Christopher E. Mandel
PepsiCo Restaurant Services Group

Philip J. Polazzo
Olsten Corporation

12:15
LUNCHEON:
Hosted by *Intracorp*

1:15
LUNCHEON SPEAKER
Adam W. Potter
Continental Airlines Inc.

**SOARING TOWARD THE
YEAR 2000**

1:45 PM
BREAK

2:00 PM
**INTEGRATING OCCUPATIONAL
WORKERS COMP WITH NON-
OCCUPATIONAL SHORT-TERM
AND LONG-TERM DISABILITY
PLANS**

Moderator:
Kathryn J. McIntyre
Business Insurance
Elizabeth M. Lindner
Kemper Insurance Companies
Ruth D. Theule
Steelcase North America
Jenny Parker Emery
Towers Perrin
Charles A. Amis
Provident Companies Inc.

3:00 PM
**TABLE-TOP EXHIBITS
AND REFRESHMENTS**

3:30 PM
CONCURRENT SESSIONS
Concurrent Session A:
**RETURNING EMPLOYEES
TO WORK**

Moderator:

Rebecca S. Bruce
Aon Management Institute

Daniel L. King
Host Marriott Services Corporation

Larry Kurtz
The Achievement Institute

Rosemary Osman
University of Pennsylvania Health System

Concurrent Session B:

**WORKERS COMPENSATION
TRENDS IN CALIFORNIA
TODAY: WHERE IS REFORM
GOING?**

Moderator:

John G. Pasqualetto
American Home Assurance Company

Rachel Kaganoff Stern
RAND

Edward C. Woodward
California Workers Compensation Institute

4:30 PM

CONCURRENT SESSIONS

Concurrent Session A:

**IDENTIFYING FACTORS
THAT DRIVE WORKERS
COMPENSATION COSTS:
CASE STUDY OF AN
INNOVATIVE APPROACH**

Introduction by:

Christopher Mandel
PepsiCo Restaurant Services Group

Christopher A. Duncan
Frito-Lay

I. Jeff Turshen
The MEDSTAT Group

Concurrent Session B:

**CREATIVE INCENTIVES AND
PAY-FOR-PERFORMANCE
METHODOLOGIES**

Michael Gibney
Rollins, Inc.

Lizbeth Mackenzie
Coors Ceramics Company

5:30 PM

COCKTAIL RECEPTION

WEDNESDAY, OCTOBER 29

7:45 - 9:00 AM

CONTINENTAL BREAKFAST:
Hosted by GENEX Services Inc.

9:00 AM

**OPENING REMARKS FROM
THE CHAIR**

9:05 AM

**OUTCOMES MEASUREMENT—
MANAGED CARE VS.
MANAGED COSTS**

Moderator:

Maddy E. Bowling
Intracorp

Mary Furnanz
Levi Strauss & Company

Brenda Olsen
J & H Marsh & McLennan, Inc.

Richard A. Victor
Workers' Comp Research Institute

10:00 AM

**TABLE-TOP EXHIBITS
REFRESHMENTS:**

Hosted by
Wausau Insurance Companies

10:30 AM

**ALTERNATIVE RISK
FINANCING**

John Kessock, Jr.
Commonwealth Risk

Art Engel
Southwest Marine, Inc.

Keith Terrano
Labor Ready, Inc.

11:30 AM

CONCURRENT SESSIONS

Concurrent Session A:

**NEW MEDICAL APPROACHES
TO OLD PROBLEMS**

Moderator:

Mary Stoik Dymond
ACX Technologies Inc.

Peter G. Hanson, M.D.
Hanson Peak Performance Clinic

Robert S. Ivker, D.O.
American Holistic Medical Association

Concurrent Session B:

**RISK MANAGEMENT
INFORMATION SYSTEMS**

Moderator:

David P. Duden
Deloitte & Touche LLP

Michelle DeLizio
CompReview

Tim East
The Walt Disney Company

Scott Lund
SAC3

12:30

LUNCHEON:

Hosted by
American International Group, Inc.

1:30

LUNCHEON ADDRESS

Sandra M. Jenson
CNA Insurance Companies

**INNOVATIVE PRINCIPLES
FOR REDUCING WORKERS
COMPENSATION CLAIM
COSTS**

2:00 PM

BREAK

2:15 PM

CONCURRENT SESSIONS

Concurrent Session A:

**SCREENING OUT YOUR
PROBLEMS—HOW FAR CAN
YOU GO?**

Moderator:

Jeffrey W. Pettegrew
Western Staff Services

Chris Berka
Psychomedics Corporation

Brent A. Winans
Avert, Inc.

Concurrent Session B:

**BUILDING A LABOR/
MANAGEMENT TEAM TO
WORK TOGETHER IN
REDUCING WORKERS
COMPENSATION COSTS**

William C. Bruce, Esq.
Mayo, Gilligan & Zito

Catherine M. Hopkins
The New York Times

3:00 PM

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Wendy M. Gocha • Manager, Risk Finance • IDV, North America

"The conference has been an informative experience containing many applicable theories to present to management for consideration."

Jennifer A. Beukers • Disability Coordinator • The BOC Group, Inc.

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Strauss

Continued from page 1

premiums paid by employers with underfunded plans. Under the old cap, employers with underfunded plans could be charged a maximum of \$53 per participant in addition to the basic \$19 per participant premium. Removal of the cap has generated more revenue for the agency and has encouraged employers to better fund their plans.

Indeed, the PBGC's financial position has so improved that speculation about whether it could survive without a major infusion of government or employer money has been replaced by suggestions from some business groups that it might be time to consider lowering premiums.

Employers with fully funded pension plans pay the PBGC an annual premium of \$19 per plan participant, while the rate for employers with underfunded plans is \$9 per plan participant per \$1,000 of plan underfunding.

Mr. Strauss, though, says it is too soon to consider a premium rollback.

"I would be very reluctant to make any recommendations based on a couple of years' snapshot," he said. "We have good tools, but we need more time for them to work before we make any judgments about (changing) the premium," Mr. Strauss said. In fact, the PBGC announced last month that it is taking over a pension plan sponsored by Allis-Chalmers Corp. That plan is underfunded by \$63 million.

The reforms in the 1994 law and

other factors did lead Mr. Strauss to make his first major decision—one widely applauded in the business community—since joining the PBGC this summer: elimination of the agency's list of the 50 worst-funded pension plans.

The so-called Top 50 list has been published annually since 1990. Publication of such a list, former PBGC officials said, would encourage employers—fearful of the negative reaction from employees and the public—to plow more money into their plans to get off the list.

But Mr. Strauss said the 1994 law made the list obsolete. That law, for example, requires employers with underfunded plans—plans less than 90% funded—to advise participants of funding shortfalls and the limits of what they would get if their employers failed and the PBGC had to take over those plans.

In addition, the list itself was unfair, Mr. Strauss said. "We were singling out companies that were meeting or exceeding legal requirements" to fund their pension plans, he said.

At the same time, few plans on the Top 50 list posed a significant risk to the PBGC or participants, because most were relatively well-funded.

"We have better tools, including improved funding requirements and participation notification requirements. These new tools made the list obsolete," Mr. Strauss said.

Reaction to the elimination of the list has been very positive from employer and union groups. Mr. Strauss said he wants to get more feedback and suggestions from the

pension community.

"Customer service is not just for retirees and workers. It also is for premium payers. I see an important part of my role here as facilitating two-way communications with our customers to find out the sorts of things they are concerned about," he said.

In fact, Mr. Strauss encourages employers to use the Internet to

'This is an important insurance program that is rightfully run by the government,' David Strauss says of the PBGC.

send him e-mail about any problems, thoughts or comments they have. His e-mail address is strauss.david@pbgc.gov.

But Mr. Strauss rejects as impractical one suggestion—made by James Lockhart, the PBGC executive director during the Bush administration—that the agency's functions be privatized and that employers purchase pension termination insurance premiums from private insurers.

"We need a PBGC because there is a significant number of plans out there for whom it would be very difficult and expensive to buy insurance. This is an important insurance program that is rightfully run by the government. When you go back to (when ERISA was being drafted), it was pretty clear that these kinds of needs were not being met in the private sector and

that is why we needed a government program," Mr. Strauss said.

He also rejects the possibility that the PBGC itself might become obsolete as more employers terminate defined benefit plans and establish defined contribution plans, which the agency doesn't insure. Since 1980, the number of single-employer plans insured by the PBGC has fallen to about 48,000 from about 95,000.

While the number of plans covered by the agency has declined, the numbers of single-employer and multiemployer plan participants have held steady since 1980 at about 33 million and 8 million, which reflects that most terminations have been by very small employers while large employers have maintained their defined benefit programs.

"About one in three workers is covered by a pension plan insured by the PBGC. Those are pretty significant numbers," he says.

Mr. Strauss says he intends to use his position as PBGC executive director to encourage defined benefit plans. Such plans, aside from the security they offer partici-

pants, can be less costly administratively when a pension plan reaches a certain size, he said.

"We think we have a very good story to tell about defined benefit plans," he said.

Unlike most of his predecessors, Mr. Strauss lacks an extensive pension background. Aside from his tenure with Vice President Gore, he worked for 13 years in senior management positions in the U.S. Senate, including serving as chief of staff to Sens. John Breaux, D-La., and the late Quentin Burdick. Previously, Mr. Strauss administered federal farm programs for four years in North Dakota.

Mr. Strauss says his professional background is an advantage as PBGC executive director. Through 21 years of federal management experience, he has developed good relationships with many senators and representatives as well as the White House.

After nearly four years in the White House, Mr. Strauss says he was looking for a new management challenge, and he thought the PBGC "was the perfect place to come to."

BI

Invest

Continued from page 3

money where they can't assess the risks. Therefore, alternative risk transfer companies have to explain their business to investors, she said.

One publicly traded alternative risk transfer company generally satisfies these criteria to date, she said: Mutual Risk Management Ltd. in Bermuda, which provides rent-a-captive and captive management services. MRM owns Commonwealth Risk, which sponsored The Producers' Forum.

Wall Street is interested in alternative risk transfer companies, she said, primarily because of their growth possibilities. Although most large U.S. companies already use a captive insurer in some capacity, midsize companies represent an area for growth, she said.

Mutual Risk Management's growth underscores this point. Ms. Schroeder said that since 1991,

when the company first traded publicly, fee income has grown by 27% per year and the market capitalization of the company has grown by 22.6% per year.

What investors also like about Mutual Risk and other alternative risk transfer companies is the lack of underwriting risk along with growth rates that exceed those of traditional insurance companies.

Ms. Schroeder, however, is not optimistic about all aspects of the alternative market. For example, she said securitization of risk does not have a bright future. She called it "an elegant solution to a non-existent problem."

To date, Ms. Schroeder said, these types of risk transfers, such as the United Services Automobile Assn.'s recent catastrophe bond offering, are more expensive than traditional reinsurance (BI, June 23).

This is done to attract investors. The soft market and plentiful reinsurance capacity provide little reason for such deals to exist, she added.

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IN MEMORIAM

MAC W. HENDERSON

Former Chairman of Swett & Crawford Group and founder of Reinsurance Facilities Corporation (RFC), the first facultative-only reinsurance intermediary, passed away recently after a lengthy illness. He was 76.

Those of us who worked with Mac will miss his leadership, his friendship, his wisdom and his wit.

Swett & Crawford

Complete anti-discrimination policies key

By Bruce Atkins

A NEW JERSEY SUPERIOR COURT judge earlier this year upheld a verdict awarding \$6.5 million in compensatory and punitive damages and more than \$600,000 in attorney's fees to Martha Mogull, a former vp of CB Commercial Real Estate. The decision is one of the largest gender discrimination verdicts against a company in the commercial real estate industry.

The *Mogull* case underscores the liability faced in gender discrimination cases not only by companies in commercial real estate but in all industries as well. The case also demonstrates the issues faced by companies that knowingly or unknowingly maintain a glass ceiling policy, whereby a woman reaches a certain status in the company and is not allowed to advance any further.

No one will disagree that merit, not gender, should determine an employee's advancement, but in reality, management may continue to permit obstacles that discriminate, assuming women will not come forward for fear of repercussions or termination. However, cases like Ms. Mogull's are demonstrating a shift in attitudes and are sending a message that companies had better institute a more thorough and vigorous anti-discrimination policy or be prepared to pay a hefty price.

To protect themselves from liability in discrimination litigation, businesses should establish several fundamental policies that provide a mechanism by which employees can come forward and address such issues. Past trends of disguising the problem as "poor performance" or ignoring it altogether are not steadfast courses and often adversely affect the company.

The first step a company must take to protect itself is to establish a zero-tolerance policy, whereby the specific discriminatory incident is addressed immediately and

rectified expediently. If it is determined that the accused is in violation of the corporate policy, it will result in disciplinary action deemed appropriate to the particular incident(s)—oftentimes employee termination.

Upon implementation of the zero-tolerance policy, the company should inform all employees that any kind of discrimination will not be permitted and that the company will do everything in its power to bring those who violate the policy to swift justice. The policy must include the company's definition of discrimination, underscore the sanctions and outline the appropriate procedures for complaints and investigations. Most importantly, the managers and employees must have a shared understanding of the program's implications and objectives.

In creating its policy, a company also must make the complaint process as easy as possible for the employee—meaning all managers should be trained to identify discrimination and correct it according to company policy. This way, employees won't feel maligned, as they can choose among several managers when reporting a specific incident. This policy also ensures employees will not have to present their cases to supervisors who may be the ones accused of the discrimination.

The company must make sure any investigation or remedial action related to the incident is conducted in a prompt, responsive and fair manner and that all steps in the process are appropriately documented. This means a neutral party interviews the accused, the complainant, supervisors and related witnesses. The neutral investigator should be fair, and a written report should be filed that outlines the findings of the investigation and the supporting evidence.

Both parties also must be advised of the conclusions and the basis for them.

Once the proper action is determined by the neutral

investigator, the evidence should be presented to an advisory council experienced in handling discrimination cases. If found to be in violation of company policy, the employee in question must be properly addressed according to published corporate policy. Such an action will re-establish a healthy working environment and will send a message that the company will not stand for discriminatory actions now or in the future.

The *Mogull* verdict should warn companies that they are extremely vulnerable to gender discrimination lawsuits and their financial repercussions. As more and more women continue to challenge the gender discrimination that impedes them from excelling in the workplace, companies will be forced to address discriminatory practices or face serious litigation. To protect themselves from such a situation, companies must develop policies that address discrimination in areas such as race, religion, age, nationality, disability and gender. The best way for a company to create a discrimination-free workplace is to implement a zero-tolerance policy and enforce it. Then, if brought to litigation, the company will be able to appropriately document the incident and protect itself from liability. **BI**



Bruce Atkins, an attorney at Contant, Scherby & Atkins in Hackensack, N.J., represented the plaintiff in the Martha Mogull gender discrimination verdict against CB Commercial Real Estate.

Appeals court says 'top-hat' plan exempt from ERISA

An employee's severance agreement with his former employer was a "top-hat" plan.

A top-hat plan is an unfunded plan maintained by an employer primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees exempt from the Employee Retirement Income Security Act, according to the 9th U.S. Circuit Court of Appeals.

Danny G. Hobbs was president and one of three directors of Chemworld Corp. William Duggan was the company's top salesman from 1975 to 1983. A dispute arose between Messrs. Hobbs and Duggan over the computation of Mr. Duggan's commissions and other issues. Unable to find a resolution to the dispute, the parties entered into a written severance agreement in April 1983.

Under the agreement, Mr. Duggan agreed to retire two days later, and Chemworld agreed to pay him about \$1,000 per month for life in retirement benefits and up to \$300 per month for life and health insurance benefits. Chemworld made the required payments for about nine years. In 1992, Chemworld ran into financial difficulties and stopped making the payments. Eventually, Chemworld became insolvent. Mr. Duggan brought this suit under ERISA against Chemworld and against Mr. Hobbs, individually, alleging breach of contract. The trial court ruled against Chemworld but in favor of Mr. Hobbs. The court concluded that the severance agreement was a top-hat plan and was exempt from ERISA and, as a result, Mr. Hobbs had no personal liability to Mr. Duggan.

The appellate court said the payments owed to Mr. Duggan under the severance agreement are deferred compensation, within the meaning of the top-hat exemption, because they provide compensation for services substantially after the services were rendered. According to the court, Chemworld was providing Mr. Duggan deferred compensation (monthly payments for life) for his past services and loyalty. The court was satisfied that "The compensation was deferred because Mr. Duggan did not receive it until well after he rendered most of the services for which he was being compensated."

Legal Briefs

The trial court decision was affirmed.

William Duggan vs. Hobbs, 9th U.S. Circuit Court of Appeals, Oct. 29, 1996 (BI/03/My.-\$10).

Absent father gets benefits

Does a natural father's abandonment of his son disqualify him from being a "father" entitled to death benefits under the Workers Compensation Act? The Supreme Court of South Carolina ruled that it did not.

John F. Adkins was the natural father of Stephen W. Adkins. John F. Adkins and his wife, Mary, resided in Georgia during substantially all of their son's childhood. Many years before Stephen's death in a work-related accident, his father abandoned the family. John Adkins sought to recover workers compensation benefits for the death of his son. Mary contested the father's entitlement to any death benefits, asserting that he was not entitled to benefits, as he had abandoned his son. The compensation commission ruled John was not entitled to receive any benefits. The trial court and Court of Appeals reversed, finding the father was entitled to share equal benefits with the mother.

The state Supreme Court concluded that there was no basis for finding John Adkins was not Stephen's father within the meaning of the workers compensation law. Because there was no order terminating John's parental rights, the court said he was entitled to death benefits. The court emphasized that the state law did not define "father" and placed no restrictions on who is considered a father. Because John was Stephen's legal father at the time of Stephen's death, the court said John Adkins was entitled to benefits.

John F. Adkins vs. Comcar Industries Inc., Supreme Court of South Carolina, Sept. 3, 1996. Rehearing denied Oct. 4, 1996 (BI/04/My.-\$10).

Pension participation denied

An employee who worked for a law partnership, which was an affiliate of a law partner who created his own pension plan, was not an "employee" of the partner entitled to coverage under the Employee Retirement Income Security Act plan, according to the 4th U.S. Circuit Court of Appeals.

In 1986, Clarke Murphy Jr. and Koehler, West & Associates formed a law partnership known as White, Page & Lentz. Mr. Murphy joined WPL in his individual capacity. Brian G. West, who was an employee of Koehler, became an employee of WPL. In December 1986, Mr. Murphy created a pension plan designating himself as the plan's sponsor, administrator and sole proprietor. Mr. West alleged he was eligible to participate in the plan as an affiliated employee of Mr. Murphy. He sought a portion of the plan's accrued benefits along with statutory penalties. The trial court dismissed Mr. West's complaint.

The appellate court said the "essence of an employee's pension benefit plan covered by ERISA is an employer/employee relationship." To participate in an ERISA plan, the court said, an individual must be an "employee or former employee of the employer." It was undisputed here, the court said, that Mr. West was never employed by Mr. Murphy in any capacity but was employed by WPL. Furthermore, the court noted that neither Mr. West nor WPL had contributed to the plan. Thus, the court agreed that Mr. West was not eligible to participate in Mr. Murphy's plan.

Brian G. West vs. Clarke Murphy Jr. Self Employed Pension Plan, 4th U.S. Circuit Court of Appeals, Nov. 5, 1996 (BI/05/My.-\$10). **BI**

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

Panel

Continued from page 3

Chicago. "The issue is more a convergence of distribution systems," he said, noting that insurers might eventually wish to turn to an investment bank rather than insurance agents to sell securitized insurance products.

The two executives were part of a far-ranging panel discussion held during the Insurance Leadership Forum at the 84th joint annual conference of the Council of Insurance Agents & Brokers and the Council of Insurance Company Executives at the Greenbrier resort in White Sulphur Springs, W.Va., last week.

Two brokers on the panel defended the role insurance agents and brokers will play in the convergence of insurance and financial services.

"I don't see brokers as a threat but as an opportunity for partnerships," said Donald K. Morford, vice chairman of Sedgwick Inc. in Seattle.

"Our customers will always need our help," said J. Patrick Gallagher Jr., president and CEO of Arthur J. Gallagher & Co. of Itasca, Ill. "Part of convergence on the brokerage side is that (brokers) need more expertise, not less. How it's delivered is the big issue."

Technology also will play a key part in determining what products brokers deliver in the future, suggested Mr. Morford.

"The information now available to us via the Internet will have a major impact. Commodity-type policies will increasingly be sold via the Internet or other more efficient means," he said.

Mr. Chookaszian agreed the Internet will be used for commodity products but emphasized that these will be predominantly personal lines policies. "Commercial lines will continue to be sold via independent agencies and brokerages," he said.

Mr. Gallagher agreed. "The basic goal of insurers is to sell as little coverage for as much money as possible. Someone has to step in and help (the policyholder) with that transaction," he quipped.

The panel was divided on the role capital markets will play in the insurance industry.

One hurdle to be overcome is raising investors' understanding of and comfort with securitized insurance risk, said Mr. Gluckstern.

"If you want speculators like George Soros, or hedge funds, to take the other side, you need them to understand the risk," he said.

One thing that stands in the way may be a mistrust of instruments whose return is based on insurers' own calculation of catastrophe losses, Mr. Gluckstern said.

"Until we get some true third-party indices of losses, investors will be reluctant to put up money against losses," he said.

"I see things like the USAA deal and what happened with the mortgage industry and see a lot of potential," said Mr. Gallagher, who noted that each tranche of the USAA catastrophe bond offering was oversubscribed.

The first such deals have been one-year instruments, he noted. As they are renewed or reissued, it is likely to be for longer periods of time, he said. As a result, "a market will develop to trade ownership of multiyear contracts," Mr. Gallagher predicted.

Ultimately, insurers may come to be seen as "accumulators of risk" that is then sold to investors, he said.

Another factor influencing the insurance industry is consolidation, especially among brokers, the panel noted.

"Consolidation among the major brokers is largely done," said Mr. Morford. The next wave of broker consolidation is more likely to focus on midsized brokers, he said.

In addition, future consolidation may involve not only brokers buying brokers, but also brokers merging with Big 5 accounting firms, banks or other financial services entities, he said.

Consolidation is driven by a pressure to grow larger and increase earnings, said Mr. Gallagher. "We're an inefficient business, with huge costs, and there is pressure to grow," he said.

Some in the industry say customers are demanding consolidation, Mr. Gallagher noted. "I don't agree; I think it comes from pressure to grow profits."

Zurich's Mr. Gluckstern said consolidation is being partially driven by stock analysts.

"There's more and more consolidation because they want to increase top line growth, not profits," he said of companies involved in mergers and acquisitions. "This shows analysts and the capital markets that business is growing."

But showing growth of premiums and revenues is difficult to achieve in the current market, he noted. "So acquisitions are made to boost top-line growth."

Mr. Chookaszian took the opportunity of the panel discussion to also criticize the number of property/casualty trade organizations, which presents a fragmented front to customers and lawmakers.

"The multiplicity of trade organizations makes no sense. There are too many organizations on the agency side and company side; it's counterproductive," he said.

"If you asked me to describe what each of these organizations do, I'd be hard-pressed to do it, and I dare say no: many other people could," he said.

"We need to put our resources together and speak with one strong and clear voice. . . . Our congressmen tell us that repeatedly," he added.

Mr. Morford noted that consolidation should serve to shrink the number of industry trade associations.

Globalization also was on the minds of the panelists.

CNA is largely focused on the domestic market, though it is expanding into international markets, said Mr. Chookaszian.

"We've addressed globalization and international opportunities by starting small, often with international alliances and small acquisitions," he said.

But there are significant hurdles to doing business in emerging markets, he said. For example, while India and China represent huge potential markets for insurance, at the moment only a small minority have any need for such products as auto insurance, he said.

"Emerging markets is not Zurich's strength," noted Mr. Gluckstern. "The only way to do it is to get your feet a little wet."

One way to do this is to make investments in emerging economies, which can give a company a sense of how the market operates, he said.

The panel discussion was moderated by James R. Woods, a managing partner with LeBoeuf, Lamb, Green & MacRae in San Francisco. **BI**

Council pushes for NARAB

By PAUL D. WINSTON

WHITE SULPHUR SPRINGS, W.Va.—The Council of Insurance Agents & Brokers continues to push for a national agent/broker licensing clearinghouse, even as the fate of the legislation containing the proposal hangs in the air.

The current state-by-state licensing system is unduly burdensome to agents seeking to do business in multiple states, and their costs of complying with a maze of differing requirements is directly passed on to customers, the Council contends.

If the financial services reform legislation now stalled in the House fails to see a vote this year, the Council and its allies may press for a standalone measure that would set the stage for a licensing clearinghouse.

In addition to the cost issue, agents and brokers are pushing for the measure for two other reasons, said Joel Wood, vp of government affairs for the Council.

• The Comptroller of the Currency is likely to protect banks entering the insurance arena from having to comply with state countersignature laws and other burdensome licensing requirements.

• The U.S. Trade Representative has indicated in talks with the World Trade Organization that foreign insurers and brokers seeking to enter the U.S. market would also be exempt from state-by-state licensing, as is the case in the European Union.

"They are right that this is a trade barrier," he said of the current state licensing system. "But it's no less a hassle for domestic brokers," Mr. Wood added.

The financial services bill, H.R. 10, contains a provision calling for creation of a clearinghouse to be run by a newly created National Assn. of Registered Agents & Brokers (BI, July 7). Membership in NARAB would be open to all state-licensed

agents and brokers that meet the new voluntary organization's membership criteria. That criteria, such as continuing education, would be based on the highest standards currently in the market. NARAB would be overseen by a board of directors, the majority of which would be state insurance regulators.

NARAB would not issue a federal license but would streamline the multistate licensing process by devising uniform licensing requirements. It would therefore allow agents and brokers to obtain licenses from each of the states in which they wish to do business from one source and in an informed manner.

States would continue to collect licensing fees, but NARAB members would be exempt from state residency requirements, countersignature laws and duplicative continuing education requirements.

The House Banking Committee approved NARAB as part of H.R. 10. It was included in the House Commerce Committee's version of the bill, but the legislation has stalled in the House.

The insurance industry is broadly aligned in support of the measure. In addition to the Council, supporters include the Risk & Insurance Management Society Inc., the American Insurance Assn., the Reinsurance Assn. of America and the Independent Insurance Agents of America Inc., according to Mr. Wood. The Alliance of American Insurers and the National Assn. of Mutual Insurance Companies do not oppose the measure, he added.

The only two organizations actively opposed to NARAB are the National Assn. of Insurance Commissioners and the National Assn. of Independent Insurers, though both concede the current maze of state licensing requirements needs to be simplified.

The NAII supports streamlining producer licensing but opposes any perceived erosion of state regulation. Any pre-emption of state reg-

ulatory authority would set a dangerous precedent and could invite greater federal oversight of insurance, the NAII said earlier this year. It has said the state regulatory system can deal with this issue.

For its part, the NAIC argues that NARAB is not needed because the state regulators group is working to improve the efficiency of broker licensing, such as through its Producer Information Network. While the Council welcomes regulators' efforts, they will not have the same effect as NARAB at reducing the filing burdens from varying state fees, licensing standards and residency requirements, the Council contends.

"The NAIC is making some progress in the area of state licenses, but their agenda will not reduce the multiplicity of licenses that must be obtained, nor will it remove protectionist state residency requirements," said Albert R. Counselman, president and chief executive officer of Riggs, Counselman, Michaels & Downes Inc. of Baltimore and outgoing chairman of the Council.

"The NAIC is now considering ways to make the licensing system more uniform and hopes to gain enough agreement among the states to head off NARAB. We applaud the NAIC's actions and will continue to work cooperatively with regulators to develop a workable licensing system for agents and brokers operating in multiple states," Mr. Counselman said.

Mr. Wood noted that under the stalled legislation, state regulators can put their own house in order and eliminate the need for NARAB.

If states representing at least 50% of U.S. commercial insurance premiums essentially adopted uniform licensing requirements within five years, NARAB could be shelved, he explained. Or, under the legislation, the NAIC itself could implement and operate NARAB if enough states don't act within three years. Only if enough states failed to act within five years would NARAB be created as an independent entity.

"We'll be prepared to fight for NARAB as a free-standing measure, if necessary," Mr. Counselman said.

Banking offers regulatory lessons

By PAUL D. WINSTON

WHITE SULPHUR SPRINGS, W.Va.—The burdens of state regulation may put insurers and brokers at a competitive disadvantage with banks and other financial services companies that operate in a less regulated environment, a former federal regulator says.

State banking laws contributed to the banking crises of the 1980s, he says. Once reforms were initiated clearing the way for interstate banking, among other things, banks soon entered a period of consolidation and profitability.

The experience of banks offer lessons for the insurance industry as it faces the prospect of new competition as a result of federal financial services reform, says L. William Seidman, chief commentator on the cable network CNBC and publisher of Bank Director magazine. Mr. Seidman, chairman of the Federal Deposit Insurance Corp. from 1985 to 1991 and chairman of the Resolution Trust Corp. from 1989 to 1991, spoke during a session at the Insurance Leadership

Forum, the 84th joint annual meeting of the Council of Insurance Agents & Brokers and the Council of Insurance Company Executives at The Greenbrier resort last week.

Officials of the CIAB also raised the issue of regulation; the group is lobbying for Congress to enact a national licensing clearinghouse for agents and brokers (see related story).

"When I left banking, it was in the worst shape since the Great Depression. Now, five years later, banks' capital and earnings are better than ever," said Mr. Seidman.

This improvement has been achieved as a result of "tremendous change" in banking regulation, he asserted.

Spurred by the banking problems of the 1980s, federal regulators removed barriers to interstate banking, as well as barriers to entry in other financial services fields, he said.

"Banking changes have been driven more by regulators looking at new ways of doing things, rather than by legislation," he noted.

The regulatory reforms sparked a period of competition and consolidation that has resulted in a banking in-

dusty whose demographics resemble a barbell, with several huge banks on one end, thousands of small banks on the other and few mid-sized banks in between, he said. Roughly 1,000 smaller banks go out of business each year, as supply confronts market demand, he added.

"Consolidation has eliminated duplication of services and excessive costs that were produced by regulators driving the structure of the industry," Mr. Seidman said.

"If you look at the insurance industry today, market-determined change has not occurred as it did in banking," he said.

If the insurance industry were less regulated and structured itself to meet market needs, regulation would be reserved for solvency oversight, he said.

The issue of insurance regulation becomes all the more relevant as the industry faces competition from banks, which have less restrictive oversight.

More and more banks are getting into the business of insurance sales, Mr. Seidman noted. "I know of no subject that's higher on banks' agendas," he said, noting that at a recent American Bankers Assn. meeting, one-fourth of the conference was devoted to insurance expansion. **BI**

USI venture with Chase Manhattan to target bank's mid-sized customers

By PAUL D. WINSTON

WHITE SULPHUR SPRINGS, W.Va.—Commercial insurance buyers have a new outlet for purchasing integrated financial services.

Broker USI Holdings Corp. and Chase Manhattan Corp. have formed a partnership that will provide Chase's middle-market banking clients with a broad range of insurance products and services.

The new alliance is likely to serve as a model for other brokers and banks looking to develop partnerships that play to each other's strengths, executives of the two companies said.

The jointly owned venture, called Chase/USI Employee Benefit & Commercial Insurance Agency Inc., will focus on servicing the insurance needs of Chase clients.

The deal gives San Francisco-based USI an ally in the banking community and access to potential new clients while giving New York-based Chase a broader array of financial services to offer its customers.

Chase/USI, which is expected to be operating some time in the fourth quarter and initially will focus on New York, New Jersey and Connecticut, was announced last week during the 84th annual joint conference of the Council of Insurance Agents & Brokers and the Council of Insurance Company Executives at the Greenbrier resort in White Sulphur Springs, W.Va. USI's New York unit, Carpenter & Melton Insurance Inc. of Mount Kisco, will work closely with the new entity.

"The genesis of the deal comes from a shared philosophy of bringing integrated financial services to the middle market," said Bernard I. Mizel, chairman and chief executive officer of USI.

"This is the first major example of a strategic move to provide a multidimensional distribution system," he said.

Chase was attracted to USI not only because of that shared philosophy but also because the broker was capable of immediately delivering a range of products, as well as access to major insurance markets, said Dennis Kosovac, president and CEO of New York-based Chase Insurance Agency Inc., which is an existing brokerage sub-

siary of the banking giant. Chase Insurance Agency, which specializes in personal and small commercial clients, will assist with the development of Chase/USI.

The existing agency will continue to sell insurance products, but to serve the needs of the bank's middle-market commercial clients, a partner with specialized expertise was needed, he explained.

The partnership is a unique among bank-insurance ventures in the breadth of services that will be available to Chase clients, the executives said.

"USI will be able to deliver property/casualty products, employee benefits services, life insurance, retirement planning and other services," said David L. Eslick, senior vp of sales and marketing for USI Insurance Services Corp. in Cincinnati.

The idea of providing customers with one-stop shopping was a driving force behind the deal, said Mr. Kosovac, noting its business clients have expressed a desire for it. Eventually the alliance aims to expand beyond the New York metropolitan region to other areas of the country.

Texas is the next potential site for expansion of the joint effort, said Mr. Mizel, noting that both partners have strong operations there.

"The key to gaining strategic advantage in the commercial property and casualty market is scale," Mr. Kosovac said. "This new vehicle should provide that scale immediately, combining USI's product breadth with Chase's expansive middle-market customer base."

In addition, the partnership eventually could lead to Chase marketing banking products to USI's customers, Mr. Mizel said. This could take the form of having Chase personnel within USI offices

to market various banking products or services, he said.

As banks and insurers consider forays into one another's businesses, the Chase/USI partnership is a model likely to be copied, the executives predict.

While a bank the size of Chase Manhattan could afford to acquire an agency, as some other banks have done, it was not interested in that model to achieve its aims, said Mr. Kosovac.

To serve the middle market requires specialized expertise and a

partner that has access to the major markets, he said.

The cultures of banks and insurance intermediaries are also quite different, he said.

"The complexities of taking a bank culture and managing an entrepreneurial business like insurance brokering is difficult," he said.

Mr. Mizel agreed, noting: "You have to be a heart surgeon to perform heart surgery. You can't take a veterinarian and ask him to do dentistry."

An alliance between the two types of financial services professionals is going to be more successful than if a bank tries to sell insurance itself or buys an agency, Mr. Mizel said.

In those models, the bank won't get its operation to the critical mass needed to be competitive and attractive to insurers "because they lack the leadership, the people to do it," he said.



PHOTO: PAUL D. WINSTON

Insurance executives met at West Virginia's Greenbrier resort to discuss industry issues.

TRINITY INSURANCE COMPANY LIMITED

NOTICE OF APPLICATION FOR PERMANENT INJUNCTION

YOU ARE HEREBY NOTIFIED THAT ON NOVEMBER 13, 1997, THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK WILL HEAR THE APPLICATION OF THE SCHEME ADMINISTRATOR OF TRINITY INSURANCE COMPANY LIMITED ("TRINITY"), CASE NO. 92B-43498(JLG), FOR A PERMANENT INJUNCTION ENJOINING AND RESTRAINING ALL PERSONS FROM, AMONG OTHER THINGS:

(1) RELINQUISHING OR DISPOSING OF ANY PROPERTY OF TRINITY IN THE UNITED STATES, OR THE PROCEEDS OF SUCH PROPERTY, TO THIRD PARTIES;

(2) INSOFAR AS IT RELATES TO TRINITY, COMMENCING OR CONTINUING ANY JUDICIAL, ADMINISTRATIVE OR REGULATORY ACTION OR PROCEEDING OR ANY ARBITRATION PROCEEDING INVOLVING TRINITY OR ANY OF ITS PROPERTY, EXCEPT AS PERMITTED BY (A) THE SCHEME OF ARRANGEMENT BETWEEN TRINITY AND ITS CREDITORS AS SANCTIONED BY ORDER OF THE HIGH COURT OF JUSTICE IN LONDON, ENGLAND ("SCHEME OF ARRANGEMENT") AND (B) THE PROPOSED CLAIMS RESOLUTION PROCEDURES ("PROCEDURES"); OR

(3) ENFORCING ANY JUDICIAL, ADMINISTRATIVE, OR REGULATORY JUDGMENT, ASSESSMENT OR ORDER OR ANY ARBITRATION AWARD OR DECISION OR COMMENCING OR CONTINUING ANY ACT OR ANY JUDICIAL, ADMINISTRATIVE, ARBITRATION OR REGULATORY PROCEEDING TO CREATE, PERFECT OR ENFORCE ANY LIEN, SET-OFF OR OTHER CLAIM AGAINST TRINITY OR ANY OF ITS PROPERTY, EXCEPT AS PERMITTED IN THE SCHEME OF ARRANGEMENT AND THE PROCEDURES.

IF YOU BELIEVE THAT YOU MAY BE AFFECTED BY THE APPLICATION FOR PERMANENT INJUNCTION, YOU SHOULD REVIEW THE PROPOSED FORM OF ORDER. A COPY OF THE PERMANENT INJUNCTION PLEADINGS MAY BE OBTAINED, FREE OF CHARGE, BY SENDING A WRITTEN REQUEST TO THE ADDRESS BELOW.

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Ranks of uninsured rise

WASHINGTON—The number of people in the United States without health insurance in 1996 hit a record 41.7 million, up 1.1 million from 1995, the U.S. Census Bureau reported last month.

In all, about 15.6% of the population was uninsured last year, up from 15.4% in 1995.

States in 1996 with the highest percentages of uninsured people include Texas, 24.3%; Arizona, 24.1%; and New Mexico, 22.3%. States that had the highest coverage rates include Wisconsin, with only 8.4% not insured; Hawaii, 8.6%; and Michigan, 8.9%.

About 163.2 million people in 1996 had employment-based coverage, compared with 161.5 million in 1995.

The number of people without health insurance should be come down over the next few years thanks to government initiatives.

This summer, for example, Congress passed legislation that will give states about \$24 billion during the next five years to establish programs to provide health care coverage to children in low-income families. Last year, Congress passed a measure that, starting next year, will curb the ability of health care plans to deny coverage for individuals with pre-existing medical conditions.

—By Jerry Geisel

Carvill

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Industry must learn to ride new wave

Consolidation, competition and technology reshaping the business: Ayer

By PAUL D. WINSTON

WHITE SULPHUR SPRINGS, W.Va.—Understanding various forces influencing change in the commercial insurance industry is key to the industry remaining profitable and continuing to serve its customers well, an insurance executive says.

These forces, which include consolidation, financial services reform, technological change and rising buyer expectations and sophistication, make the industry appear to be in a state of chaos, said Ramani Ayer, chairman, president and chief executive officer of Hartford Financial Services Group Inc. of Hartford, Conn.

But if one draws parallels to the

chaos theory of physics, a system in disarray eventually will coalesce into a new form, as will happen in the insurance industry, he said. For insurance companies and their intermediaries, making sense of these changes and being flexible enough to adapt to the new system to come will ensure they continue to thrive in the future, he said



during a presentation at the Insurance Leadership Forum.

The forum was held in conjunction with the joint annual meeting of the Council of Insurance Agents & Brokers and the Council of Insurance Company Executives last week at the Greenbrier resort in White Sulphur Springs, W.Va. Mr. Ayer is chairman of the CICE.

Forces shaping the insurance industry, he said, include:

- Mergers and acquisitions.
- New technology that expands access to information and ideas.
- New distribution channels for insurance sales and services.
- Competition from other financial services sectors.
- New and higher customer expectations of cost, quality and

service.

"The underlying trends driving change in our industry do create tremendous challenges. But they also offer tremendous opportunities for all of us," Mr. Ayer said.

One of the most important trends, he said, is technological advancement, particularly in terms of computing power and affordability.

"Today we buy more computers in America than cars or televisions," he noted. "Combined with more user-friendly software and options like the Internet, the PC penetration creates possibilities we couldn't imagine even five years ago."

Advances in technology allow the insurance industry to enhance its productivity, better understand customer needs and habits, cut the time customers spend shopping for insurance products and develop analytical systems to help make decisions and refine business processes, Mr. Ayer said.

Many industries, including banking, supermarkets and catalog retailers, already are tracking their customers' buying habits and custom-tailoring their products and services, he noted.

"The possibilities to agents and insurers are just as great, if not greater. We ourselves possess a virtual storehouse of information about our customers, more even than the banks and credit card companies," Mr. Ayer said.

"But we haven't always understood—nor have we tried—to mine and share that data. And we haven't spent the money it takes to do so," he said.

In fact, he said, research has showed that insurers only invest 2.4% of their revenues in information technology, compared with 4% for banks and brokerage firms.

Another key trend shaping the industry's future is the increasing complexity of the customer.

"Customers have new and higher expectations for cost, quality and service," Mr. Ayer said. "The bar is being raised not just by financial service competitors but also by members of other industries, companies like FedEx and L.L. Bean. If they can deliver a contract or a cardigan overnight, our customers must wonder why it takes so long to get an insurance policy endorsement or a claim settled," he said.

Some believe customers increasingly will make insurance-buying decisions at their comput-

ers, he noted. "They will become do-it-yourself shoppers, and our role will diminish to commodity providers. Face-to-face meetings and other value-added interactions will become obsolete," that view holds.

However, similar sentiments were raised in the 1960s about banking services, and a "checkless society" and the death of branch banking were predicted, he noted. Today, however, the majority of consumers still write checks and use a branch bank on average three times per month, he said.

Mr. Ayer said he thinks both views are right: Some customers will use new technology and take a more active role in their insurance-buying habits, while others will continue to depend on traditional systems and solutions.

"Customers have a way of confounding the experts because they insist on making their own choices. And customers today are more diverse and far more sophisticated than ever," he said.

In the commercial insurance arena, for example, some buyers embrace alternative markets and self-insurance, while others don't.

A third trend is increasing competition within the insurance industry.

Although the insurance business always has been competitive, what's different today is the number of competitors and the intensity of competition, Mr. Ayer said.

Financial services companies are trying to carve out new opportunities in this environment by entering new sectors of the industry, he said. For example, banks are selling insurance and buying agencies; insurance companies are buying stock brokerages and mutual funds; and brokerage and mutual fund companies are offering banking and insurance products, he said.

One response to this competition has been consolidation in all sectors of the financial services industry, including insurers and brokers, Mr. Ayer noted.

"Bigger companies can better afford the technology and the advertising and promotional efforts it takes to reach an increasingly fragmented market," he said.

"Whether the driving force behind these consolidations is cost reduction, revenue enhancement or both, my belief is they will certainly continue," he said.

The question now facing the insurance industry is what is it going to do about the challenges it faces, Mr. Ayer said.

"Whenever we see systems in apparent chaos, our leadership training urges us to interfere, to stabilize, to shore things up," he

Continued on next page

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PHOTO: PAUL D. WINSTON

Early morning fog greeted executives of property/casualty agencies and brokerages and insurance and reinsurance companies who gathered at The Greenbrier for the Insurance Leadership Forum.

Continued from previous page

said, citing a management theory advanced by Margaret Wheatley in the 1992 book "Leadership and the New Science."

"Instead, Wheatley argues, we've got to trust the workings of chaos and, rather than hands-on control, should focus on purpose and direc-

tion of the organization and, in so doing, create the flexibility and responsiveness that every organization craves. That's the leadership challenge we face today," Mr. Ayer said.

Mr. Ayer outlined four things he said will characterize the successful insurance business of the future:

- Winners will focus on the right market segments and create the right business systems.

There is a real danger in trying to

'Winners in our industry will understand their diverse customer groups,' Ramani Ayer says.

be all things to all people, he said. As an illustration, he cited the mass-market retail industry, in which department stores have lost ground to specialty stores, mail-order retailers and deep discounters.

"Winners in our industry will understand their diverse customer groups. They will offer products and expertise specific to the segment," Mr. Ayer said.

They also will build their businesses processes and models around the market, rather than the other way around, he said.

Successful financial services companies will increasingly rely on alliances, outsourcing and partnering to create products or provide distribution, he said.

"That's good news for both agents and insurers, not only because it creates new opportunities, but also because the practice of partnering is second nature to us—it's the way we work already," he said.

- Winners will provide expert professional advice and distinctive service.

"Given the diversity and complexity of the marketplace, meeting

this need will require certainly using multiple distribution channels," he said. "But for most segments, meeting this need will involve agents and insurers working closely together."

This partnership is critical, he said, because most customers want face-to-face relationships with people they trust and the knowledge their future is secure.

"By themselves, most insurance companies can't provide the former and most agents can't provide the latter. Together, however, we can do it very well," he said.

- Winners will use technology wisely.

The insurance industry relies on outdated information technology, he said. "So computers will continue to be a primary weapon in our battlefield."

- Winners will build competitive organizations that can quickly capitalize on market opportunities.

"In a rapidly changing industry, insurers and agencies must be both flexible and aggressive. They must be led by demanding and passionate people," Mr. Ayer said.

Successful companies must have: the ability to attract and retain the best employees; flexible structures that encourage people to work across organizational lines in teams; risk-taking, entrepreneurial cultures; and superior skills in acquisitions, alliances and product development, he said.

"This is a tremendous challenge for us. Let's face it: Insurers and agencies haven't always been hotbeds of innovation. Traditionally, we design jobs that are tightly defined and grooved from many years of experience," Mr. Ayer said.

"But the new competitors we're facing are aggressive and nimble. They move quickly from one idea, one market to another."

Ultimately, he said, the best way to manage change in the financial services industry of tomorrow will be to be a leader in the future's creation.

Adams elected new chair of CIAB

Leads list of new, returning officers

WHITE SULPHUR SPRINGS, W.Va.—The Council of Insurance Agents & Brokers, the association of leading commercial property/casualty agencies and brokerages, elected new officers during its annual meeting last week.

John C. Adams Jr., executive vp of Hilb, Rogal & Hamilton Co. and chief executive of its Florida operations in Daytona Beach, was elected chairman for 1997-98.

Mr. Adams, who had served as vice chairman, succeeds Albert Counselman, president of Riggs, Counselman, Michaels & Downs Inc. in Baltimore.

Other newly elected officials included James J. Kilbride, chairman of Morse, Payson & Noyes Insurance of Portland, Maine, who was elected vice chairman; Robert A. Gleason Jr., chairman and CEO of The Gleason Agency in Johnstown, Pa., who was elected treasurer; and John Van Osdall, senior vp of USI Insurance Services Corp. of Houston, elected secretary.

Elected and re-elected to the Council's board of directors were:

James R. Davis, a partner with John L. Wortham & Son L.L.P. of Houston; John W. Doetzer, president of Consolidated Insurance Center Inc. of Owings Mills, Md.; Joseph H.

Feitelberg, president of The Feitelberg Co. Inc. of Fall River, Mass.; Bruce D. Guthart, president and CEO of Kaye Insurance Associates Inc. of New York; Martin B. Hughes, president of Mack & Parker Inc. of Chicago; Bill G. Jensen, senior vp of Arthur J. Gallagher & Co.

of Itasca, Ill.; Alan D. Mathog, managing principal of Mathog & Moniello Cos. Inc. of East Haven, Conn.; John C. Pearson, president and CEO of the Central Division of Willis Corporation of Nashville, Tenn.; James R. Pender, CEO of The James B. Oswald Co. of

Cleveland; Richard S. Rhode, partner of Barney & Barney of San Diego; Dell G. Van Gilder Jr., president of Van Gilder Insurance Corp. of Denver; and J. Dixon Witherspoon, vp of Gale, Smith & Co. Inc. of Brentwood, Tenn.

The Council's 85th annual joint conference with the Council of Insurance Company Executives will be held Oct. 3-7, 1988, at the Greenbrier resort in White Sulphur Springs, W.Va.

For more information about the conference, contact the Council, 701 Pennsylvania Ave. N.W., Suite 750, Washington, D.C. 20004-2608; 202-783-4400; fax: 202-783-4410; Internet: www.ciab.com



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17. I certify that the statements made by me above are correct and complete.		
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Mid Ocean names Michael Butt as chairman

Michael Butt named chairman of Mid Ocean Reinsurance Co. Ltd. of Hamilton Bermuda, in addition to his position of chief executive officer. In addition, **Henry C.V. Keeling** named president, COO and chief underwriting officer of Mid Ocean.

In other reinsurer changes:

Steve J. Hartman named senior vp and chief treaty officer of Constitution Reinsurance Corp. in New York.

Dan R. Osterhout named managing principal for the U.S. operations of Swiss Re New Markets, Swiss Re Group's alternative risk transfer division in New York. Mr. Osterhout previously was chairman and CEO of Alexander & Alexander Services Inc.'s capital markets division and most recently was an executive vp at Aon Risk Services Inc. Also at Swiss Re New Markets: **Bruce P. Reich** named principal and co-head of Insurance Company Marketing worldwide; **Jeffrey H. Mayer** named principal and global head of the Client Service Group; and **Prakash A. Shimpi** named principal and head of the Financial Solutions Group.

Geraldine Del Prete joined American Re-Insurance Co.'s Domestic Insurance Company Operations in Princeton, N.J., with responsibilities for marketing and strategic planning.

Mauricio Riesco, vp of American

Comings & Goings: Industry

Re's Chilean operations, appointed general manager of the operations and American Re's Chilean representative office. He is responsible for American Re's operations in Chile, Bolivia, Paraguay, Uruguay and Brazil.

Insurance

At New York-based American International Group Inc., **Frank G. Wisner**, former U.S. ambassador to India, named a director and vice chairman of external affairs for American International Group Inc. in New York. Also at AIG, **Henry B. Lunde** named president and general manager of The Mount Mansfield Co. Inc., a Stowe, Vt.-based subsidiary.

Jeffrey C. Paige named senior vp and chief information officer of the Utica National Insurance Group in New Hartford, N.Y. Previously, Mr. Paige was vp-information systems at Amerisure Insurance Co.

Socorro Morales named chief information officer of GAN North America, the New York-based commercial property/casualty insurer.

John W. Reynolds named senior vp and **Paul Murdoch** named vp of

Kemper Insurance Cos.' newly created Princeton, N.J.-based business unit, Kemper Environmental. Also at Kemper, **Robert K. Smialek** named a senior vp in Long Grove, Ill., and four new vps also were named: **William A. Hickey**, director of corporate development; **Maureen O'Connor**, manager of the personal lines group's west region in Overland Park, Kan.; **John L. Riggio**, commercial casualty underwriting officer; and **William E. Simmons**, highly protected risk officer.

Kim B. Rich named president of USF&G's Family & Business Insurance Group, succeeding **Gary C. Dunton**, who is leaving the insurer in mid-October to pursue other interests.

Carl Chanson Williams named senior vp and chief information officer of The Principal Financial Group in Des Moines, Iowa.

Donna Galer named executive vp of strategic alignment for the Zurich Group in Schaumburg, Ill.

Agents/brokers

Robert J. Solomon named head of J&H Marsh & McLennan's international specialty operating group with responsibilities for the

firm's operations in Latin America, Japan, Korea, the Middle East and North Africa.

Also at J&H Marsh & McLennan, **Sheldon M. Rankin** named president and chief executive officer, and **William J. McAleer** named chairman of the insurance brokerage's Canadian operations based in Toronto.

Richard C. Moody named senior vp of Willis Faber North America Inc. specializing in aviation, marine and international non-marine reinsurance in New York. In addition, **David B. Nelson** named vp of Willis Corroon Corp.'s Cleveland division.

Brian K. Lazarz named senior vp in the insurance services division of Mesirov Financial in Chicago.

Michael J. La Fleur named vp of Frank Crystal & Co. of California in San Francisco.

Elise Gordon named vp-life operations for USI Insurance Services Corp. in San Francisco.

Tom Eschen named president of SANNY Inc., a network of privately held independent agencies throughout New York.

Jann McCully named chief information officer for Alburger Basso & Grosz Insurance Services Inc. in Belmont, Calif.

Robby Savitch named vp and producer at The Robert F. Driver Co. Inc. in San Diego.

Charles de Vilder named executive vp and **Bill Baker** named se-

nior vp of Lockton Cos.' Dallas operations.

In addition, at Lockton Insurance Brokers Inc. in Los Angeles, **Lenny Fodemski** named chief operating officer.

HMO/PPOs

Gregory H. Wolf, president and COO of Humana Inc. in Louisville, Ky., will become CEO of the managed health care company effective Jan. 1, 1998. Mr. Wolf will succeed **David A. Jones**, who is retiring.

Gary C. Baker named senior vp and chief financial officer of United HealthCare South in Birmingham, Ala. Previously, Mr. Baker was corporate controller at Blue Cross & Blue Shield of Maryland.

Robert P. White will join Health Net on Oct. 1 as executive vp in Woodland Hills, Calif. Currently, Mr. White is president and CEO of CareAmerica Health Plans. At Health Net, he will oversee the merger integration of Health Net and Foundation Health and will have management responsibilities over a number of operations.

Mary Ann Nagy named COO of Consumer Health Network, the Piscataway, N.J.-based preferred provider organization.

George Becker named executive vp and CFO at NYLCare Health Plans Inc. in New York. And at its Fort Lee, N.J.-based subsidiary NYLCare Atlantic, **Catherine Czar** named vp-network development and provider relations. **BI**

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Datebook

OCTOBER

OCT. 20. Annual Fall Conference: Risk Management Around the World in Dallas, sponsored by the Dallas-Fort Worth Chapter of RIMS; Joanne Walles, Pappas Restaurants Inc., 1304 Copeland Road, Arlington, Texas 76011; 817-461-4700.

OCT. 20-22. Property and Casualty Insurance Product Management Skills and Techniques seminar in Atlanta, sponsored by Dorman Consulting Associates; \$995 per person, \$895 per person if two or more attend from one company. Also Nov. 10-12 in Chicago. Richard W. Dorman, Dorman Consulting Associates, 1 Haverhill Court, Beachwood, Ohio 44122; 216-464-5678.

OCT. 20-22. Global Risk Management Solutions '97 conference in New York, sponsored by the Institute for International Research and the National Underwriter Co.; \$2,195 for the conference and both workshops, \$1,795 for the conference and one workshop, \$1,295 for the conference only. Customer Service Manager, IIR, 708 Third Ave., Fourth Floor, New York, N.Y. 10017; 800-999-3123 or 212-661-8740.

OCT. 20-24. Managing Operations: The College of Insurance Management Program in New York, sponsored by the College of Insurance; \$1,995. The College of Insurance Center for Professional Education, 101 Murray St., Room 426, New York, N.Y. 10007; 212-815-9201.

OCT. 21-22. Risk Management Employee Benefits Conference and Exhibition—REBEX '97 in Chicago, sponsored by Chicago, Northeast Illinois and Wisconsin RIMS Chapters. \$200 to \$250 for two-day conference, \$150 to \$200 for one-day. REBEX Headquarters, 60 Revere Drive, Suite 500, Northbrook, Ill. 60062; 847-480-9712.

OCT. 22. Mitigating Year 2000 Corporate Risk conference in New York, sponsored by IBC Group P.L.C.; \$1,095. IBC USA Conferences Inc., 225 Turnpike Road, Southborough, Mass. 01772; 508-481-8400.

OCT. 23. Fifth Annual Construction Defect Seminar in Anaheim, Calif.; \$94.00. David Stern, Construction Defect Unit Manager,

West Coast Casualty Service, 7334 Topanga Canyon Blvd., Suite 215, Canoga Park, Calif. 91303; 818-703-0141.

OCT. 23-24. Benefits Evolution: A Time for Reflection in Boston, sponsored by the Council on Employee Benefits and International Foundation of Employee Benefit Plans; \$610 for members, \$660 for non-members. IFEBP, P.O. Box 69, Brookfield, Wis. 53008-0069; 888-33-IFEBP or 414-786-6710 ext. 8257.

OCT. 23-24. Insurance Fraud and Suspicious Claims Seminar in Seattle, sponsored by the Defense Research Institute; \$545 for members, \$595 for non-members. DRI, 750 N. Lake Shore Drive, Suite 500, Chicago, Ill. 60611; 312-944-0575.

OCT. 24-28. 1997 Pharmaceutical Care Management Assn. Annual Membership Meeting & Conference in La Jolla, Calif., sponsored by the PCMA; \$995 for members, \$1,650 for non-members. PCMA, 2300 Ninth St. S., Suite 210, Arlington, Va. 22204-2320; 703-920-8480.

OCT. 24-29. 43rd Annual Employee Benefits Conference in Vancouver, British Columbia, sponsored by the International Foundation of Employee Benefit Plans; \$695. For members only. IFEBP, Registrations Department, P.O. Box 69, Brookfield, Wis. 53008-0069; 888-334-3327, option 2 or 414-786-6710, ext. 8257.

OCT. 26-29. American Society for Healthcare Risk Management 19th annual conference and exhibition in Atlanta, sponsored by the ASHRM; \$495 for members, \$650 for non-members. ASHRM, 1 N. Franklin, Chicago, Ill. 60606; 312-422-3980.

OCT. 27. "Violent Crime" Seminar in San Francisco, sponsored by Employers Reinsurance Corp. Susan Newburger, Employers Reinsurance Corp., 5200 Metcalf, P.O. Box 2991, Overland Park, Kan. 66201-1391; 913-676-5070.

OCT. 27-28. 27th International Insurance and Risk Management Conference in Brussels, Belgium, sponsored by the Management Centre Europe and International Risk Management; 75,000 Belgian francs (\$2,074) for corporate risk and insurance managers, 95,000 Belgian francs (\$2,627) for others. Management Centre Europe,

rue de l'Aqueduc 118, 1050 Brussels, Belgium; 32-2-543-2100.

OCT. 27-28. Statistical/Data Quality Conference in New York, sponsored by Insurance Services Office Inc.; \$550 for employees of ISO-participating companies, \$800 for others. Sal Aurora, ISO, 7 World Trade Center, New York, N.Y. 10048-1199; 212-898-5977.

OCT. 27-29. The Second Insuring Mega Projects in Asia '97 conference in Manila, Philippines, sponsored by IBC Asia Ltd. Jeannie Chong, IBC Asia Ltd., 268 Orchard Road, Suite 18-02, Singapore 238856; 65-732-1970.

OCT. 27-29. Fifth Annual Business Insurance Workers Compensation Conference in Santa Monica, Calif., sponsored by *Business Insurance*; \$995 with discounts to \$595 for risk managers registering early and \$895 for other early registrants. International Business Forum, 7 Penn Plaza, Suite 901, New York, N.Y. 10001; 212-279-2525.

OCT. 27-31. Baden-Baden Reinsurance Meeting in Baden-Baden, Germany, sponsored by Colonia Konzern A.G., Auf dem Hunnenrucken 3, 50668 Köln; 49-221-148-32641.

OCT. 28-29. How to Gain A Competitive Advantage Through Work/Life Programs conference in Chicago, sponsored by the International Quality & Productivity Center; \$1,295 for conference only, \$1,695 for conference plus one workshop, \$1,995 for conference plus two workshops, \$2,195 for conference plus three workshops. IQPC, 150 Clove Road, P.O. Box 401, Little Falls, N.J. 07424-0401; 800-882-8684 or 973-256-0211.

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

Global Briefs

Loss adjusting firm **McLarens Toplis** has been granted a permit by the People's Bank of China to open a representative office in Shanghai. This is the first license granted to a loss assessment and surveying organization, and the office will be managed by Paul Lam, managing director of McLarens Toplis' Hong Kong operations. McLarens Toplis plans to apply for a license next spring to open a second office in China. . . . **The United Kingdom Mutual Steam Ship Assurance Assn. (Bermuda) Ltd.**, more generally known as the UK P&I Club, has set up a claims-handling service in Hong Kong. Launched last week, Syndicate HK deals with claims relating to ships owned by Hong Kong-based club members and has grown out of the UK P&I Club's relationship with Hong Kong-based Transport Services Asia, an independent claims adjuster. The club hopes to extend Syndicate HK's services to other club members in the area, particularly elsewhere in China, though TSA will continue to adjust claims for the club, acting on behalf of members outside Hong Kong. . . . South African broker **Price Forbes** has acquired a controlling interest in Malawi Insurance Brokers, extending its network of African representation to eight countries outside South Africa. Price Forbes paid 980,000 rand (\$209,916) for 51% of MIB. . . . Leigh Hollywood has been appointed chief underwriting officer of **Sovereign Risk Insurance Ltd.**, a Bermuda-based specialist political risk insurer formed in April. Sovereign Risk is a joint venture of ACE Ltd., X.L. Insurance Co. Ltd. and Risk Capital Reinsurance Co. . . . Unlimited liability members of **Lloyd's of London** could fall to fewer than 8,000 for the 1998 underwriting year. More than 1,850 traditional names lodged their intention to resign from trading on an unlimited liability basis by the Sept. 30 deadline, though a number will convert their membership to limited liability. This year, 9,953 people are underwriting at Lloyd's as traditional names, compared with a peak of more than 32,000 in 1988. Lloyd's expects the number of resignations to increase before 1998 trading starts and, for the first time, limited liability members will provide most of the market's capacity. . . . **AIG Europe (UK) Ltd.** has set up a new medical professional liability unit, headed by Ross May, previously with broker Alexander Howden Group Ltd. The new unit writes domestic and international medical professional liability insurance, with typical limits of up to £10 million (\$16.2 million), though higher limits are available. . . . **Capital Re Corp.** in New York is buying Lloyd's of London managing agency C.I. de Rougement Holdings & Co. Ltd. for an undisclosed sum. Rougement manages marine syndicate 112 and non-marine syndicate 732. Capital Re bought another Lloyd's agency, RGB Underwriting Agencies, in 1996. . . . **X.L. Insurance Co. Ltd.** is reorganizing into four units: underwriting; customer solutions, which will handle marketing and client relations; organizational development, which will include training and development and communications; and international insurance operations. William M. Thornhill will head the underwriting unit, and Richard R. Morano will head organizational development. The leaders of the other two units have not yet been determined. . . . An **Indian communications** satellite insured for \$60 million malfunctioned early last week. The satellite may be irreparable, leading to a total loss. The coverage for the Insat-2D satellite, launched in June by an Ariane-4 rocket, is placed by J&H Marsh & McLennan in London.



PHOTO: AFP

Smog from forest fires continues to blanket Southeast Asia, but insurers do not expect many claims to stem from the haze.

AGF making bid for Worms & Cie.

By MARIA KIELMAS

PARIS—Assurances Generales de France has joined with Italy's Agnelli family in a bid for French conglomerate Worms & Cie.

If the bid succeeds, AGF would acquire Athena Assurances, which is 99.7% owned by Worms & Cie. It follows a hostile takeover bid for Worms last month by French businessman Francois Pinault; the supervisory board of Worms & Cie. advised shareholders to reject that bid (*BI*, Sept. 29).

Worms & Cie. Chairman Nicolas Clive Worms has said he is in favor of the new offer, made earlier this month. The supervisory board of Worms & Cie. voted last week to recommend the new offer to shareholders. A vote on the offer is scheduled for Nov. 14.

AGF also remains interested in buying state-controlled French insurer Groupe des Assurances Nationales, slated to be privatized. The combination of AGF, GAN and Athena would make AGF the second-largest insurer in France. AXA-UAP is the largest French insurer.

The new offer for Worms & Cie. is worth 31.5 billion French francs (\$5.33 billion),

compared with the Pinault offer, which values Worms for 28 billion francs (\$4.74 billion). Until the AGF/Agnelli offer, the Pinault bid was the largest ever takeover bid in France.

Stock market analysts do not think the situation will be resolved very soon. "It seems the market is not convinced the (second) offer will go through. It could be trumped by someone else. Mr. Pinault could come back," said Michael Lindsay, insurance analyst at London-based investment bank Lehman Brothers.

Even if the AGF/Agnelli offer succeeds, AGF still could be targeted for takeover by a foreign insurer or bank as financial institutions in Europe consolidate in anticipation of the European Monetary Union, Mr. Lindsay believes.

If AGF succeeds in acquiring both Athena and GAN, it will take some time to merge the acquisitions into its organization, a period at which its share price could be low and make AGF a takeover target for a foreign company.

"In the interim period when the share price is low, it is difficult not to see AGF in the

See Worms on page 27

Trygg Hansa owner denies it will sell non-life units

Analysts say bank wants life, savings markets

By MARIA KIELMAS

STOCKHOLM, Sweden—The future of Trygg Hansa Insurance Co.'s non-life operations remains in doubt in the wake of a Swedish bank's takeover of the insurer.

Jacob Wallenberg, chief executive of the commercial bank, Skandinaviska Enskilda Banken, in a news conference denied that the bank plans to sell the insurer's non-life operations. The deal was announced earlier this month.

Also, Per-Erik Coos, head of the insurer's domestic division, has been quoted in news reports denying plans to sell the operations.

The denials have not convinced stock market analysts, however.

"The main reason for the takeover is

Trygg Hansa's life insurance and asset management operations, which are the growth areas," said Matthew Reece, an analyst with London-based Banking Analysis Ltd.

In the first six months of this year, Trygg Hansa's life and savings premiums increased about 15%, while non-life premiums fell slightly compared with the same period last year.

Non-life business made up almost half of Trygg Hansa's 1996 gross premium volume of 12.16 billion Swedish kronor (\$1.73 billion). The company had 1996 net income of 2.37 billion kronor (\$346 million).

Oslo, Norway-based insurer Storebrand A/S has been cited as a possible buyer for Trygg Hansa's non-life opera-

See Trygg on page 27

Thick haze in Asia leads to few claims

Losses widespread, but insurance is not

By YVETTE HIGGINS and KATE TILLEY

JAKARTA, Indonesia—Businesses in southeast Asia will file few insurance claims as a result of widespread smoke haze caused by forest fires, insurers in Indonesia say.

Few Indonesian business carry business interruption coverage, and even those that do would not be able to make claims, because the haze is not an insured event, insurance sources said.

Insurers expect the only major claims to result from the Garuda Indonesia airlines crash near Medan and the collision of a merchant ship and a tanker offshore from Indonesia last month (*BI*, Oct. 6).

Smoke from forest fires that have raged for the last four months in

Kalimantan, Sumatra and other areas of Indonesia has enveloped Indonesia, Singapore, Malaysia, southern Thailand, Brunei and the Philippines.

Indonesia President Suharto has apologized to neighboring countries. Plantation owners and forestry companies that use slash-and-burn methods to clear the land are thought to be responsible for the fires. The fires are intentionally set every year, but due to drought conditions they burned out of control this year.

Last month, President Suharto banned the use of fire to clear land.

Indonesia's Environmental Impact Control Agency has been gathering samples to link forestry companies to pollution and other environmental damage.

See Haze on next page

Lloyd's offers cover for rogue trading

By EDWIN UNSWORTH

LONDON—Financial institutions worried about their exposure to losses from rogue traders have a new coverage option.

Lloyd's of London has launched a new fidelity insurance policy designed to protect financial institutions from the risk of losses from rogue trading by employees—including those who incur losses trying to trade their way out of a loss, as well as employees motivated by personal profit. The policy provides up to \$250 million of coverage.

The Lloyd's Unauthorised Trading Policy has been developed by underwriting agency SVB Syndicates Ltd., with coverage provided by Lloyd's syndicates 1007 and 1212, which SVB manages.

According to SVB, the policy plugs a hole in the fidelity insurance market that until now has left most financial institutions without protection against some kinds of financial fraud committed by their employees.

However, J.P. Morgan & Co. Inc. and FMR Corp. each have structured programs that cover rogue trading (*BI*, Aug. 11).

Stephen Burnhope, a director of SVB Syndicates, explained that the policy is unique in that it covers a financial institution's losses caused by a rogue trader, even in cases when that trader was not dealing for his own gain. In at least one previous precedent-setting legal case, a bank's insurers did not reimburse it because the trader, although she had exceeded her trading limit and caused losses totaling millions of dollars, had done so only to make up earlier losses.

Mr. Burnhope said a dozen banks so far have shown interest in the policy, and three have asked for quotations. However, he believes the potential market is many times bigger.

The policy initially will be marketed primarily to existing Lloyd's clients, which currently include 60% of the world's largest 100 banks, 70% of the 50 largest U.S. banks and 80% of the biggest U.K. banks, according to SVB.

To qualify for coverage, banks will have to demonstrate certain internal controls are in place, such as written

See Lloyd's on page 27

INTERNATIONAL

Haze

Continued from previous page

Forestry officials said 110 of 176 forestry companies denied using fire to clear land, and 65 had provided audited evidence to show they were not responsible.

Airline companies have been hit hard by the fires. A Singapore Airlines spokesman said the airline would not be able to recoup its loss because it does not have insurance for losses from delayed and canceled flights.

The spokesman said that between Sept. 14 and Oct. 8, the airline has canceled eight flights and delayed eight departures to destinations in Malaysia and Brunei. He would not give a figure on the total cost to the airline but said some governments were advising tourists to stay away from the region.

"It is too early to give our financial loss at this stage, but we have to take into account not only the flights canceled, but individual bookings lost," he said.

Malaysia Airlines has canceled

some flights, including those to the resort island Langkawi, because of poor visibility, a spokesman said.

Malaysia Airlines alone canceled more than 600 flights in the last two weeks of September.

Still, Scott Pickering, president and director of Jakarta-based CIGNA Indonesia PT Asuransi, said insurers would see few claims arising directly from the haze.

"CIGNA has not seen claims specifically attributed to haze," he said.

Chin Siew Chi, ASEAN region underwriter for GIO Insurance Ltd., based in Kuala Lumpur, said she was unaware of any claims. She said business interruption policies would not be triggered, as no insured event had occurred.

Insurers say most claims in southeast Asia will be for medical compensation, and Mr. Pickering said they would most likely originate from Singapore, where chest and respiratory complaints had increased.

Areas in Indonesia where the haze was at its worst are remote, and few people have personal medical insur-

ance, so few claims will result, he said.

Mr. Pickering said workers compensation claims will increase over the next one to five years as a result of the haze, and "the (Indonesian) government would have to look at that."

Insurance awareness is not vast in Indonesia, and indigenous business is often uninsured, says Scott Pickering.

Indonesia's workers compensation system is an employer contribution plan. Claims would be "a regional issue" depending on how heavy the haze was in certain areas, he said.

Businesses in a high-haze area might make prevention-of-access claims, but those claims would have to be triggered under a property damage policy, he noted.

Insurers said few businesses in Indonesia had property damage policies, let alone business interruption coverage.

Peter Meyers, president director of Jakarta-based AIU Indonesia PT Asuransi, said business interruption policies would not be triggered unless governments in southeast Asia ordered people to stay home.

Mr. Pickering said few businesses in Indonesia have business interruption cover, and larger corporations usually have high deductibles, meaning claims are unlikely.

"Although the haze is a very real problem, the insurance industry has seen no great consequences," Mr. Meyers said.

"Indonesia is a place where insurance awareness is not vast and indigenous business, if insured, would only be covered for fire."

Mr. Pickering said the only other claims that might arise from the haze are automobile claims if drivers have accidents due to poor visibility.

Two deadly accidents have been at least partly blamed on the haze.

On Sept. 26, the Indian cargo ship

MV ICL Vikraman collided with the tanker MV Mount 1, about 7 miles off Port Dickinson.

Only five of the 34 on board survived.

A spokesman for the Malaysian Maritime Rescue and Coordination Center said poor visibility because of the haze caused the accident, which sank the ICL Vikraman and left the Mount 1 slightly damaged. Insurance for those vessels was placed in local markets.

The Garuda Airlines plane crash 870 miles northwest of Jakarta, near Medan, killed 234 people.

Garuda places its hull and liability coverage with Jasa Indonesia Asuransi P.T. in Jakarta.

Poor visibility has been suggested as a cause of the accident, but that has not been proven, said CIGNA's Mr. Pickering.

He said the company already had received seven accident and loss-of-life claims from the Garuda Indonesia crash.

Mr. Pickering would not say how much CIGNA was likely to pay in claims but said the company was "acting quickly."

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Inquiry examines cruise liner

LONDON—The Cyprus Department of Merchant Shipping will investigate the fire that began Oct. 4 on board the Cyprus-registered cruise liner *Romantica*.

All 667 passengers and crew were evacuated without serious injury, but the inquiry will examine passenger claims that the ship, built in 1939, had inadequate fire detection and warning systems, insufficient fire fighting equipment and faulty lifeboat launching mechanisms. The fire burned for several days. Though the *Romantica* did not sink, it is unlikely to be put back into passenger service. Hull insurance for \$4 million was placed in the London market and liability coverage was written by the Newcastle Protection & Indemnity Assn.

One of the world's major ship classification societies, Lloyd's Register of Shipping, spent two months carrying out "extensive" surveys of *Romantica*'s hull and machinery as well as passenger ship safety surveys earlier this year. These surveys included examination of the operation of fire safety systems and lifeboats, and a Lloyd's Register spokesman said the ship "was fully in order as far as we're

concerned."

However, Cyprus had given *Romantica*'s owners, Med Duchess Lines of Cyprus, a three-month extension to comply with new stricter international maritime fire safety regulations that went into effect this month under the Safety of Life at Sea convention (BI, Aug. 18).

The convention, put together by the London-based International Maritime Organization, part of the United Nations, applies to signatories, of which Cyprus is one.

Lloyd's Register has offered to help Cyprus with its investigation into the fire.

—By Edwin Unsworth

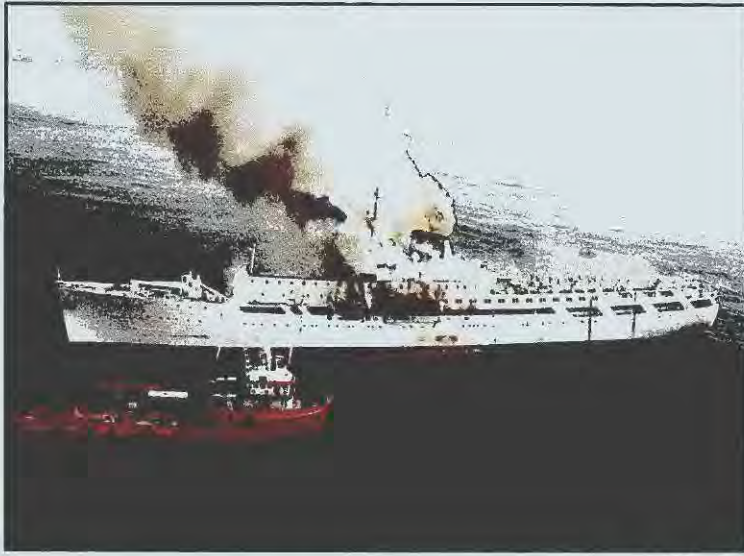


PHOTO: AFP

A British fireboat attempts to control a fire on board the Cyprus-registered cruise liner *Romantica*. All the passengers were evacuated safely. The Cyprus Department of Merchant Shipping will investigate the fire.

Lloyd's

Continued from page 25

trading policies and procedures and independent oversight and review of trading activities. Loss-making trades within a dealer's authorized limit will not be covered.

Mr. Burnhope said the risk of a "bad apple" rogue trader is always a concern for senior management even in the best-run institutions. "We believe this new product will be in strong demand by bank directors as a backstop to prudent controls and will become a standard line of cover purchased by larger institutions," he added.

The relevant clause in SVB's Unauthorized Trading Policy, which will protect financial insti-

tutions in such cases, says compensation will be paid for "direct financial loss... caused by unauthorized trading by any trader while trading for the assured, which unauthorized trading was concealed or was falsely recorded."

Other standard policies do not provide this protection for financial institutions. Professional indemnity policies cover liability for clients' losses due to negligence or errors but do not cover the institution's own account loss. Fidelity policies do cover the institution's own account loss, but only from theft or other dishonest or fraudulent acts intended to cause a loss, or for an employee's own personal financial gain.

They do not cover the financial institution in cases such as the one in 1995 where Barings P.L.C. lost

£864 million (\$1.40 billion) through the actions of rogue trader Nick Leeson. While Mr. Leeson's trades in stock index futures were unauthorized, the bank was not protected because he had not exceeded his trading limit to make a personal profit for himself, but rather to make up earlier losses. The SVB policy will fill this gap, Mr. Burnhope said.

The policy provides coverage limits of up to \$250 million for the policy period, which can range up to three years. Rupert Villers, a director of SVB Syndicates and underwriter of syndicate 1007, said, "We certainly aim to build up this sum assured over time."

There is a policy deductible of \$10 million to \$25 million. Annual premiums will range between \$2 million and \$10 million. **BI**

Trygg

Continued from page 25

tions. The company, looking for merger partners, has held discussions with Trygg Hansa and other Scandinavian financial institutions (BI, Sept. 15).

A Storebrand spokesman in Oslo said the company had been overwhelmed with questions on whether it would buy Trygg Hansa's non-life assets and said, "We are not negotiating with anyone at the moment."

Asked whether the company wants to buy any Trygg Hansa assets, he said he could not comment.

In a statement, Trygg Hansa said the rationale behind the transaction is that Trygg Hansa has ambitions to grow in the pension savings market. The new group will become the leader in the Nordic market for asset management and a front-runner in exploiting the possibilities for selling insurance products through the branch office network of a bank.

Synergies are expected to come from the cross-selling of life insur-

ance and non-life personal lines to S-E-Banken customers, the statement added.

The statement did not mention Trygg Hansa's industrial insurance operations. The company has a division called Industry, which pro-

Trygg Hansa said the new company would have a decentralized structure with each division separate.

vides primary insurance and risk management services to more than 200 Swedish corporations.

Last year Trygg Hansa sold its stake in Hansa Industrial Insurance, a reinsurance subsidiary, as part of a decision to get out of the reinsurance market, a spokeswoman said.

S-E-Banken is the only Swedish bank with a sizable corporate banking and investment banking division, which services Swedish and Nordic clients overseas, said

Mr. Reece. But its operations are predominantly in Sweden, a country that "is not over-banked," he said. The bank could be expected to come under great pressure from other European rivals once European Monetary Union is in place after 1999. While most European banks and insurers are strong only in their domestic markets, a single currency is expected to spur more competition as the companies pursue more European market share.

S-E-Banken is offering 244 kronor (\$32.40) in cash or 13 new S-E-Banken series A shares for every five Trygg Hansa shares. The cash bid amounts to a premium of 30% over Trygg Hansa's share prices in the 10 days before the bid, while the paper offer comes at a premium of 27%.

The structure of the company has not been detailed precisely. Trygg Hansa said the new company would have a decentralized structure with each division separate.

Mr. Wallenberg will be the chairman of the joint company, while Trygg Hansa's chief executive Lars Thunell will be the new company's president and chief executive. **BI**

Worms

Continued from page 25

middle of a game for survival," Mr. Lindsay said.

Athena is the 15th-largest insurer in France. It wrote 18.6 billion francs (\$3.58 billion) in gross premiums in 1996, divided about equally between life and non-life business.

Last year AGF considered the possibility of buying Athena, but

• A main offer to exchange five Worms & Cie. shares for 1,820 francs (\$308), two AGF shares and one AGF contingency value right share. A CVG guarantees a minimum share price to the investor.

• To exchange one Worms & Cie. share for two AGF shares and one CVG AGF share. This offer is limited to a maximum of 7 million Worms & Cie. shares.

The AGF CVG guarantees the value of one AGF share at 270 francs (\$45) as of May 31, 2000, with a maximum limit of 60 francs

'The acquisition of Athena will provide an opportunity for AGF to make further efficiency gains in both France and Spain,' says Michael Lindsay.

the talks ended as Worms decided what to do with the company.

AGF holds 7.3% of Worms. The Agnelli family, which controls the Turin, Italy-based car manufacturer Fiat S.p.A., is using its holding company IFIL, which holds 20% of Worms, as its instrument in the bid. These stakes will be placed in SOMEAL, a 100%-owned subsidiary of IFIL. In addition, Worms family members will contribute a further 13.3% stake in Worms & Cie. to SOMEAL. As a result, the initiators of the offer already will control more than 40% of Worms & Cie., SOMEAL and AGF said in a joint statement.

In addition to Athena, Worms holds major stakes in food, paper, transport and other financial services companies. The joint statement said the aims of the bid are:

• To avoid breaking up Worms & Cie. industrial assets.

• To strengthen the position of AGF as the second-largest French insurance group.

If the offer is successful:

• AGF will acquire Athena on a valuation of 12 billion francs (\$2.03 billion) for 100% of the company.

• All of the shares Worms & Cie. contributed to AGF in the context of the bid will be sold to SOMEAL.

The offer to Worms' shareholders is two-fold:

(\$10) per CVG. The CVG will be quoted immediately at 30 francs (\$5).

The merger push among European financial institutions is a reaction to both customer demand to buy all their financial services from one company and to the imminent EMU, said Mr. Lindsay. "Things are changing. Maybe we are seeing the creation of financial powerhouses in Europe," he said.

Most insurers and banks in Europe are strong only in their domestic markets, so a single currency will force them into more competition. "We are going to see companies pursuing European market share," Mr. Lindsay says.

Standard & Poor's reaffirmed the AAA-claims-paying ability rating for AGF after the offer. The affirmation was based on the present offer price and deal structure and reflects the potential for AGF to strengthen its position in the French non-life market, S&P said.

"The acquisition of Athena will provide an opportunity for AGF to make further efficiency gains in both France and Spain, where both companies have operations although progress towards the target return on equity may be held back by a general softening in premium rates across the French insurance market," the S&P statement said. **BI**



PHOTO: COURTESY OF THE ATLANTIC INSURANCE REGATTA

London market wins annual Regatta

HAMILTON, Bermuda—Representatives from the London market won the fifth Atlantic Insurance Regatta late last month. The Regatta is held periodically in an effort to foster personal and business relationships among representatives of the London, New York and Bermuda insurance and reinsurance markets. The next Regatta is scheduled for 1999 in Manhattan. For information, contact William Thiele, vp at General Re Corp., 203-328-6100.

Diligence

Continued from page 3

"Systems issues can turn out to be a big deal," she said.

In her case, numerous workers compensation financing issues had to be resolved. SBC generated about 1,500 claims annually while PacTel generated 4,000 a year. Each company also had separate financing mechanisms. Two separate fronting programs had to be merged for employees in 40 states. There also were four different third-party claims administrators with six separate claims administration contracts.

There were a variety of terms, conditions and cancellation notices, and they all had to be evaluated to determine if claims could be rolled into a new TPA or left as they were due to contractual issues.

"You would be absolutely astounded at the number of people you need for teams to make this work," she said.

While assimilating those types of changes, risk managers can't afford to let other responsibilities fall through the cracks, Ms. Long said.

"You have to know the status. You have to know how you are going to respond going forward. This is at the same time you are trying to figure out everything else that is going on and (deal with) new clients," she said.

Surety bonds, letters of credit and insurance certificates are pretty straightforward, she said. But they can add to a merger's challenges when there are two different sets to merge, and that must be managed at the same time as other merger issues are being resolved.

"Any one of these by themselves are very easily managed, but when

you have it all come at you at the same time with a management directive that says 'Do it quickly, make it happen fast,' you have your hands full."

Determining which employees and service providers must be re-

During mergers, risk managers can't let other responsibilities fall through the cracks, says Julie K. Long.

tained for the transition also is critical.

"Identify these key players very, very early on in the process because there are going to be certain areas of specialized knowledge or expertise (that you will need), or

you are just going to need bodies around to make this happen," she advised.

"You must also be prepared for the delivery of difficult messages, and this makes the process even more challenging. We had a risk management staff reduction of five people."

Many long-term service providers to the risk management department may be affected. For example, the broker function has been consolidated with the exception of a few specialized people in the property area for earthquake marketing and property loss control. "It impacts their budgets, their operations and their need for planning. So think about them when you go into a merger or acquisition."

Risk managers also should be able to show upper management the financial fruits of their departments' participation.

If possible, the acquisition should follow a couple of years of benchmarking, Ms. Long said. "We used the... Tillinghast corporate cost of risk standard. It is extremely helpful in reporting results to management. It also helps you focus on the high-priority areas."

Another risk manager with acquisition experience is Glenn A. Eisenberg, senior vp and chief financial officer for Charlotte, N.C.-based United Dominion Industries, which has 10,000 employees worldwide. In just a few years, United Dominion transformed itself from a construction company to a manufacturing concern that fuels rapid growth through the acquisition of smaller manufacturing companies specializing in engineered products.

At United Dominion, the risk management due diligence process helps qualify potential acquisition targets, and it substantiates their true value, Mr. Eisenberg said during his portion of the session presentation.

An environmental engineer and a risk management team evaluate such things as potential acquisition sites, loss histories and trailing liabilities.

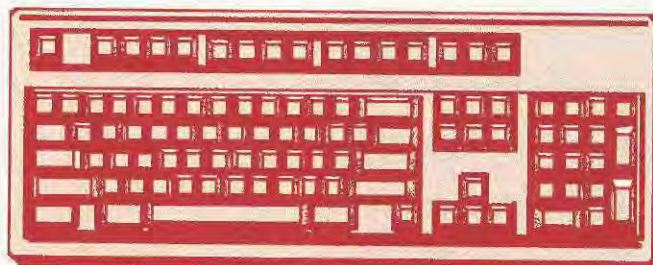
A disciplined approach to due diligence is critical, because five years ago United Dominion did not own 75% of the businesses it does now, Mr. Eisenberg said. Additionally, the company's sales have tripled since 1991, due in part to acquisitions.

That disciplined approach requires having insurance practices and systems in place so the company can act quickly.

"For an asset purchase (which Mr. Eisenberg distinguished from a stock purchase), we simply bring the company in under our existing insurance coverages," he said. "Through our excess liability coverage, we can bring the acquisition candidate under our coverage with no additional premium. We negotiated that with our carriers."

That practice saved United Dominion more than \$1 million annually after one 1993 acquisition, he added. Acquisitions also have been used to cut insurance costs in other ways.

For example, during that 1993 acquisition, "we also created some healthy competition between (their) carrier and ours, which reduced our premium costs significantly." **BI**



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Risks to property, safety high in Asia

By ROBERTO CENICEROS

SEATTLE—Just days after Whirlpool Corp. bought a manufacturing facility in India, a warehouse full of paints and chemicals burned as fire fighters stood by, smoking cigarettes.

"There was nothing else they could do. There was no water to extinguish the fire. But that is not unusual for some of these situations," said J. Kevin Witt, director of corporate risk management for Whirlpool in Benton Harbor, Mich.

As more U.S. manufacturing companies turn to emerging economies to capitalize on Asia's growing consumer markets, risk managers are likely to face property and employee safety issues not encountered in the United States since the 1920s, Mr. Witt told 200 risk managers attending Liberty Mutual Group's 6th Annual Risk Management Forum last week in Seattle.

In an interview after his presentation, Mr. Witt also discussed the need to evaluate political risk coverage and risk managers' role in preventing their company's management teams from waking up to unpleasant surprises.

International relationships that are fine today could change tomorrow because of diplomatic and political issues beyond a company's control, he said.

"Political risk is an issue of rapid change," Mr. Witt said. "It's not like other risk management issues where you have time to look at it and assess it and it stays somewhat stable."

An evaluation may not lead a company to buy political risk insurance, but factors to consider include: coverage for expropriation or nationalization of facilities; currency and convertibility problems should the country's money become worthless; contract frustration, because there may not be a legal mechanism for redress or enforcement should misunderstandings arise; and civil unrest, which could become a factor as developing countries gain access to Western media and citizens become frustrated over their inability to enjoy the freedoms or consumer goods they see portrayed.

"Those are assessments that risk managers should make and take some measurement as to exactly what is our exposure, how much do we have exposed, how much do we have invested in this facility, how much could we lose and under what circumstances could we lose it," Mr. Witt said. "It ought to be looked at, and I recommend that risk managers who don't have a lot of background in that area align themselves with somebody who does, whether it's another risk manager or broker."

Whirlpool buys a global political risk program, with coverage led by London market companies and several other insurers, Mr. Witt said in the interview.

During his presentation, he said Whirlpool's political risk insurance costs are driven mostly by its operations in Brazil,

with other countries, such as China, added on nearly for free.

While operating in Asia has its rewards and well-educated local managers are eager to introduce safety concepts, there are still rudimentary risk issues to consider.

For example, in some regions of India, electricity demand exceeds supply by 20%. Daily brownouts can cause more than just a temporary halt to production. They also can burn up electrical motors as their lubrication processes malfunction, Mr. Witt said.

To overcome the problem, Whirlpool installed its own back-up power supply system for peak demand times. But the brownouts also raise contingent business interruption issues, because local suppliers Whirlpool seeks to contract with face the same problem. The issue is crucial to companies that rely on single-source or "just-in-time" inventory methods.

Consider what time of day electrical failures most frequently happen and what products are produced during that time, Mr. Witt advised.

"Those lines might not be ones you want to be dealing with just-in-time inventory," he said. "You might want to have a back-up inventory to cover those periods of time each day."

To prevent a recurrence of the water shortage problem in India that left fire fighters helpless when the warehouse burned, Whirlpool installed its own water tanks and hydrant system.

But Asia has other unique issues. Plants in China, for example, often have multistory buildings with fire hazards where the workers and their families live. "That may be your greatest exposure," Mr. Witt said.

Manufacturing plants also lack safety standards because safety has not been ingrained in management culture and education. Meanwhile, U.S. parent companies face a dearth of loss control and safety training services in Asian languages that they can supply to their foreign units.

"There is a market need for it," Mr. Witt said. "American companies like Whirlpool and others would pay to have somebody supply it, but we just can't find the resources. That is a niche we are looking for."

Whirlpool values employee safety, and in the past three years, the company tripled safety quality in its Asian plants, Mr. Witt said. Success comes fast, partly because the region is so far behind Western standards and area managers are eager to implement safety programs.

A crucial first step for U.S. risk managers, however, is to build relationships with Asian managers and other risk management sources. "Relationships are very important," he said. "When you go to these countries, it's not like the United States. You can't plan to go in there on a Monday and catch a red-eye out on Wednesday night. You must leave a lot of time. They expect it."

Equitas

Continued from page 1

into account the investment income that will be incurred before mainly long-tail liability claims are paid. Gross claims before discounting totaled £17.7 billion (\$27.72 billion) as of Sept. 4, 1996, but were reduced to £11.8 billion (\$18.48 billion) after discounting.

"There are people out there who are saying Equitas has stopped paying claims," observed Group Finance Director Jane Barker.

"Well, £2.5 billion in seven months doesn't sound like we've stopped paying claims. But, it would be fair for them to say that we are admitting in the accounts that we are not paying them as fast as first expected. That's true, too. But we're certainly still paying them."

Equitas also has collected £840 million (\$1.39 billion) in reinsurance on paid claims, which again is "better than projected," said Mr. Crall.

The 400 Lloyd's syndicates that reinsured 740 open years of account into Equitas had ceded reinsurance to more than 2,900 reinsurers. About £1.8 billion (\$2.97 billion) in reinsurance is still recoverable on paid claims, and Equitas calculates £3.1 billion (\$5.12 billion) in reinsurance recoverable for incurred-but-not-reported claims.

There are coverage disputes between Equitas and reinsurers, as would occur in the normal course of business, acknowledged Ms. Barker.

However, "the formation of Equitas has not yet given rise to a new form of reinsurance dispute," she said. Ms. Barker was referring to a potential contention by reinsurers that because Equitas assumed the liabilities of their cedes, the reinsurers no longer would have an obligation to pay claims. Some in the market had speculated such an argument

would emerge.

Executives at Lloyd's welcomed the improvements in Equitas' accounts.

"I believe that all members of Lloyd's, past and present, together with clients of the market, will be encouraged by the competence displayed by the Equitas management and by the steady progress shown in their accounts," said Lloyd's Chairman Sir David Rowland.

"So far, so good," summed up the Assn. of Lloyd's Members, which also welcomed the group's

'Well, £2.5 billion in seven months doesn't sound like we've stopped paying claims. But...we are not paying them as fast as first expected,' says Jane Barker.

accounts. "The ALM welcomes the reported financial position, which will provide names with further reassurance."

Despite the encouraging results, auditor Coopers & Lybrand has heavily qualified Equitas' accounts. But that is likely to be the case for several years to come because of the uncertainties surrounding the liabilities reinsured into Equitas, Ms. Barker said.

Coopers & Lybrand stated that it qualified the accounts because "there are significant uncertainties as to the accuracy of the provision for the claims outstanding of £11.8 billion, reinsurers' share of claims outstanding of £3.1 billion and reinsurance recoveries of £1.5 billion."

Future claims experience is likely to differ from the estimated liability, "potentially to a material degree" because the ultimate liability will be influenced by future events that cannot be predicted with certainty, the auditor stated.

These uncertainties, "if adverse in the aggregate, could be material enough to exceed" the group's surplus, the auditor stated.

Ms. Barker believes fundamen-

tal uncertainties will mean auditors will qualify Equitas' accounts "for the foreseeable future."

However, Ms. Barker said she hopes auditors might improve their view of the quality of Equitas' data as the reinsurer improves its claims information and systems.

Equitas has several projects under way to streamline claims handling. For example, Equitas plans to reduce the number of runoff management contractors to 44 from 69 by the end of the year.

The Equitas Claims Unit also is surveying hundreds of law firms and other claims service providers that were inherited when it assumed the syndicate liabilities to ensure they meet its performance, cost and efficiency criteria.

Meanwhile, Equitas is only weeks away from assuming the runoff business of Syndicate Underwriting Management Ltd., which manages the runoff of Lioncover Insurance Co. Ltd.

Equitas did not accept £700 million (\$1.16 billion) in premium to reinsure Lioncover at the time of Lloyd's reconstruction and renewal plan but has since been negotiating with Lloyd's on how to reinsure the facility.

The ALM welcomed Equitas' caution that Lioncover would only be reinsured "if the terms are in the interests of Equitas."

Equitas also by the end of the year plans to distribute final reinsurance statements to Lloyd's members who accepted the R&R plan and paid their portion of the reinsurance premium.

These certificates, which are not shareholder certificates, will explain to each member what percentage he or she contributed to the reinsurer's total £11.2 billion premium (\$17.54 billion).

Equitas also is now looking for a chairman to succeed Mr. Newbigging, who announced he will retire at the end of next year. **EL**

Work with OSHA, not against it

Employers can reduce inspections, boost safety: Speakers

By ROBERTO CENICEROS

SEATTLE—While sophisticated employers have become less defensive in their interactions with the federal Occupational Safety and Health Administration, the agency also is setting goals to improve safety and win employers' approval for its professionalism.

Employers that develop compliance strategies stand a better chance of minimizing OSHA inspections, reducing the impact of unwarranted employee complaints and improving workplace safety records, two presenters said at the Sixth Annual Liberty Mutual Risk Management Conference last week in Seattle. OSHA documents were made available at the session.

Under a five-year plan for 1997-2002, OSHA plans to reduce its focus on penalties and stop treating responsible employers the same as neglectful ones, said Karl A. Jacobson, senior vp for Liberty Mutual's Loss Prevention Department in Boston. Instead, OSHA wants to change workplace culture so that employers and employees get more involved in safety, he said.

"I'm advocating that employers take a proactive, strategic view of

working with OSHA and not be hostile," he said. "It wasn't many years ago when OSHA knocked on your door, the strategy was to close the door and tell them to come back with a warrant."

But hostility will only bring further scrutiny, multiple citations and other hard-line measures, agreed Michael Lichtenberger, manager of loss control for BOC Gases in Murray Hill, N.J.

Not everyone is convinced OSHA has turned over a new leaf, however. One audience member said he still sees poorly trained OSHA inspectors who act as if they have personal vendettas.

OSHA still faces internal problems and may have some overzealous regulators in some regions, Mr. Jacobson said. But he cites a long list of specific performance goals the agency has set for itself.

For example, OSHA wants to ensure 75% of employers and workers rate its documents as readable and understandable, he

said, and that 80% of employers and employees view its staff as satisfactory in professionalism, competence and knowledge. OSHA also wants to investigate complaints within five working days and resolve 75% of all whistle-blower cases within 90 days, he said.

"I've never seen performance measures like that relative to how OSHA is going to measure itself," Mr. Jacobson said.

A strategic compliance plan also can help prevent unwarranted OSHA inspections, Mr. Lichtenberger said. For example, if an unhappy employee files a complaint, an employer can respond that such a problem is impossible because the company has a policy addressing the issue, making an inspection less likely.

Employers should provide documentation about their workplace policies, he advised. Good employee relations also can help. "If the employee agrees with your response, you can also benefit."

In cases where inspectors are intent on issuing citations, however, he advises negotiating to reduce the severity and number of complaints. **EL**

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Connie Lee

Continued from page 2

1992 legislation permitted it to insure A rated debt as long as it had first been rejected by private monoline financial guarantee insurers. The insurer never claimed more than a small portion of the financial guarantee market.

In 1996, after several years of lobbying by Connie Lee, President Clinton signed legislation that privatized Connie Lee and permitted it to expand its scope. The privatization process was completed in February, when Connie Lee repurchased 1.9 million shares of its common stock from the U.S. Department of Education for \$18.4 million.

Then in April, Oliver R. Sockwell, Connie Lee's president and chief executive officer, who had been with the insurer since its inception, announced he planned to retire, and the company said it would seek a successor.

In June, after a potential bidder contacted it, Connie Lee put off a search for a successor and brought in investment banker Wasserstein Perella & Co. to explore its strategic options, including a sale. According to one market report, that bidder was Russ Fraser, who now heads American Capital Access, a new financial guarantee insurer (see related story). Mr. Fraser could not be reached for comment.

"When we got the first inquiry, others felt that they should have an opportunity to look as well," said Mr. Harris. "So we said to a limited group... 'OK, we'll let you come in and take a look,'" said Mr. Harris, who noted that a number of companies had responded.

Meanwhile, Standard & Poor's Corp., the only agency that rates the firm, put Connie Lee's AAA rating on Credit Watch. AAA ratings traditionally have been crucial to financial guarantee insurers, because they confer these on the lower-rated issues they insure.

S&P noted in its announcement that the company has historically demonstrated low growth, but in the

three months since it said it was examining its strategic options, growth has stalled. "This inability to grow and ultimately generate adequate returns to shareholders raises concern about the company's ability to maintain its AAA claims-paying ability," S&P said in its announcement.

"Their momentum was hurt by the CEO resignation announcement and

'They've not really made any headway in increasing their market share,' says Anne Ross of Roosevelt & Cross.

then was compounded by the uncertainty of whether or not the company would be sold," said Richard P. Smith, a S&P senior vp in New York.

Mr. Harris said he disagreed with S&P's action, noting it was normal for people to stop bringing the insurer deals if they were not sure whether it would be sold. "We don't think we should be (on the Credit Watch)," he said.

Discussing Connie Lee's decision to consider a sale, Brady N. Tournillon, an analyst with Fitch Investors Service in New York, said, "Now that they've privatized and are able to insure deals in other sectors, they're just at a competitive disadvantage to the larger bond insurers," partly because their smaller capital base limits the size of the deals they can insure. Their insured bonds trade at a lower level than do those of the larger bond insurers as well, said Mr. Tournillon.

Anne Ross, vp and manager of research at Roosevelt & Cross in New York, said, "They've not really made any headway in increasing their market share."

Although its staff was expanded, "nothing really took shape on the deal's origination side," she said. In addition, the company was "not having a tremendous amount of luck" in securing Mr. Sockwell's successor.

Louise Costikyan, an analyst with

Merrill Lynch & Co. Inc., said: "I think the reason for the sale is that they had a long list of institutional shareholders... who were just ready to get out. They were in it for a number of years and were ready to liquidate their investments."

Ms. Costikyan said she thinks one possible buyer for Connie Lee would be a property/casualty insurer.

"The credit skills that are inherent in a bond insurer have real value as the capital markets and the insurance markets converge," she said. "I think the bridge between those two is these credit underwriting skills," which are found in bond insurers. Furthermore, while Connie Lee "doesn't have top-notch underwriters," its AAA rating does have value, said Ms. Costikyan.

S&P's Mr. Smith said there are two likely scenarios: "One set of buyers would be someone who wants to get into the (bond insurance) industry who's not in the industry today."

"Maybe there's some synergies with what they do, i.e., a company that's involved with securitization" and wants to link up with a company that can provide financial guarantees, said Mr. Smith. It could be a firm that may not intend to follow Connie Lee's original game plan but is interested primarily in its AAA rating, he said.

Another scenario would be a company already in the financial guarantee industry that "just views it as an opportunity to get a block of business, and under that scenario, they'd have no interest in an ongoing entity," he said. Connie Lee then would be put in runoff.

"There's a lot of possibilities" as to how a runoff would be structured, said Mr. Smith.

Fitch's Mr. Tournillon said he thinks one possible risk for bond holders is that an institutional buyer that does not plan to continue operating it would buy the company, put it into runoff and distribute its capital in the form of dividends up to the statutory limits, because maintaining an AAA rating no longer would be a consideration. In that case, anybody holding Connie Lee insured bonds would risk having those bonds downgraded, said Mr. Tournillon. **BI**

Updates

Chrysler to appeal jury award

CHARLESTON, S.C.—Chrysler Corp. will appeal a U.S. District Court jury's verdict and subsequent \$262.5 million award to the family of a 6-year-old boy killed when he was thrown from a 1985 Dodge Caravan.

The federal court jury in South Carolina held that a defect in the minivan's rear gate latch allowed the boy to be ejected from the vehicle as it rolled over after a collision in 1994.

Chrysler contends the boy was thrown through a side window of the vehicle rather than the lift gate and was not restrained by a safety belt or a child safety seat when the accident occurred.

The award, which includes \$12.5 million in actual damages and \$250 million in punitive damages, is the largest to date against an automaker.

Auburn Hills, Mich.-based Chrysler contends the "outrageously large" punitive damage award "shows that the jury was unduly influenced by the highly emotional nature of the circumstances of the accident."

Hurricane Pauline kills scores

ACAPULCO, Mexico—Hurricane Pauline, which struck Mexico's Pacific coast near Acapulco last Thursday, caused severe damage to poor residential areas and killed scores of people but did little damage to hotels and commercial structures in the area.

"There was a lot of rain, which caused mudslides, but we should be able to clear that up within one week, and none of the hotels will have to close even for one day," according to Eduardo Marron, president of the Acapulco Assn. of Hotels and Tourist Business.

Initial reports from Mexico indicate that Hurricane Pauline did not inflict substantial damage on insured commercial buildings in Acapulco, said Philip E.W. Munday, chief underwriting officer-international at Cat Ltd. in Bermuda.

If the hotels will be able to operate with the minimal damage, business interruption losses will be limited, he said.

"The big question is business interruption," Mr. Munday said.

Cat Ltd. only has a \$10 million exposure in Mexico, Mr. Munday said.

Large business interruption claims are unlikely, said Richard Atherton, international business director for Mexico in Mexico City for Aon Group Inc.

California building bill vetoed

SACRAMENTO, Calif.—Gov. Pete Wilson vetoed the building defect bill that supporters had rushed to passage in the last days of the California legislative session.

A.B. 594 would have made changes to the alternative dispute resolution process relating to construction defect disputes between builders and common interest developments.

In particular, it would have provided that subcontractors receive early notice of potential claims and require that their insurers participate in pretrial mediation (BI, Sept. 15).

The California Building Industry Assn., the group that had lobbied hardest for the passage of A.B. 594, hasn't given up the fight.

"I don't think we're going to go back to square one" when the Legislature reconvenes in January, predicted George Dale, a partner at Dale, Braden & Hinchcliffe in Los Angeles and a CBIA member.

Briefly noted

A bipartisan group of senators introduced legislation last week that would establish a set of **uniform standards for private class-action suits** involving nationally traded securities, assuring that such cases would be heard only in federal, rather than state, courts. . . . The Massachusetts Supreme Judicial Court last week heard oral arguments on a proposed settlement among the Massachusetts Insurance Division, Electric Mutual Liability Insurance Co. and EMLICO policyholder General Electric Co. over the terms of **EMLICO's liquidation**. The settlement is opposed by EMLICO reinsurers Kemper Reinsurance Co. and Lloyd's of London underwriters. . . . **Frontier Insurance Group Inc.** of Rock Hill, N.Y., is buying medical malpractice insurer Western Indemnity Corp. in Houston for \$48.5 million from Galtney Group Inc. Frontier Group's stock declined 8.56% last week, following an announcement that Chairman CEO Walter A. Rhulen is being treated for leukemia. . . . The National Transportation Safety Board has blamed Amtrak management for the **1996 derailment of a train** in Secaucus, N.J., that caused \$3.6 million in damage. The accident occurred last November when an Amtrak train derailed while crossing a movable bridge and sideswiped another train. Forty-two people were injured (BI, Dec. 9, 1996). . . . Florida Insurance Commissioner Bill Nelson cited mandatory managed care and lower claims costs as reasons he ordered a **3.2% cut in workers compensation insurance rates** in the state. The National Council on Compensation Insurance had requested an 8% increase. . . . **Mark T. Hvidsten**, former chairman and chief executive officer of Minet Reinsurance International Ltd. and president and CEO of Minet Re North America Inc., was named executive vp of Willis Faber North America Inc. in New York. . . . The California Supreme Court will not review an appellate court decision in an environmental case that says a **self-insurer cannot be treated as an insurer** when it comes to contributing to defense costs. The state appellate court in San Diego had ruled in July in *Pacific Indemnity Co. vs. County of San Bernardino* that while the county was self-insured for much of the relevant period, it was "not an insurer for purposes of allocation of costs of defense of the underlying actions" (BI, Aug. 4).

Guarantee insurer welcomed

American Capital will confer A ratings on bonds

By JUDY GREENWALD

NEW YORK—A new financial guarantee insurer that plans to confer an A rating on the lower-rated municipal bonds it insures is rated as having a good chance for success.

Traditionally, financial guarantee insurers confer their AAA ratings on the bonds they insure. Newly formed American Capital Access Corp., which has initial capital of about \$117 million, would be the first to confer a single A rating.

The New York-based insurer, which opened its doors last week, plans to insure transactions in the municipal, asset-backed, special surety and international markets and will focus on issues that are unrated or have underlying ratings of A- or lower, according to Fitch Investors Service, which has given ACA an A rating.

A spokesman for ACA could not be reached for comment.

ACA is headed by H. Russell Fraser, who recently retired as Fitch's chairman and formerly was president and chief executive officer of AMBAC Indemnity Corp. ACA management also includes former officials of MBIA Insurance Corp. and Connie Lee Insurance Co., as well as broker Johnson & Higgins.

The outlook for ACA is good, in part because it addresses an unfilled

market niche and in part because of its experienced management, observers say.

"I think it has a good possibility for success," said Brady Tournillon, a financial analyst with Fitch. "They're looking to serve an underserved market."

Andrew Jones, group vp at Duff & Phelps Credit Rating Co. in New York, said: "I think that they are looking at a broader market of potentially insurable credits. They're not under constraints that are as stringent as for an AAA-rated guarantor, and there is a market in securities that are rated in the single A range, so I think that they have carved out a very practical niche in the marketplace."

"I think the entrance of ACA in the marketplace creates opportunities," added Mr. Jones. "It could lead to a tiering of structures, because ACA can bring some non-investment grade credits up to single A, and perhaps other guarantors could in turn take those credits up to AAA."

Bob Green, director at rating agency Standard & Poor's Corp. in New York, said, "We think there's a reasonable expectation that this company will write sufficient volume to generate the kind of return that its investors are looking for."

Louise Costikyan, an analyst with

Merrill Lynch & Co. in New York, said, "It is a company with an idea in search of a market, and I think there are a number of questions but, overall, I think it's a very interesting idea, and possibly more interesting from the asset-backed side than the municipal side."

"They're trying to serve the only niche that's in the municipal marketplace that's not covered by existing insurers," said Richard A. Ciccarone, senior vp and co-head of municipal investments at Oak Brook, Ill.-based Van Kempen American Capital.

Mr. Ciccarone said he thinks it will appeal primarily to retail investors satisfied with an A rating and the higher yield it provides.

However, Anne Ross, vp and director of research at Roosevelt & Cross, said, "I don't know if there's going to be a large enough market to build the market share that will build enough premium to offset the risk... time will tell."

ACA's investors include Insurance Partners L.P., Stephens Group Inc., GCC Investments Inc., AEGON USA and Third Avenue Value Fund Inc. It also has a \$50 million contingent capital commitment from Zurich Reinsurance (North America) Inc. and a \$75 million excess-of-loss reinsurance agreement with Capital Reinsurance Co.

Memo

Continued from page 1

Global Broking Centers is subject to a "placement service agreement," or PSA.

The PSA grants J&H Marsh & McLennan an additional commission for the placement of large volumes of business through the centers.

Other U.S. brokers have commission agreements with insurers providing for the payment of contingent commissions based on the profitability of the business they place with insurers.

Based on 1996 placements, J&H Marsh & McLennan has determined that \$60 million in premiums this year would be placed locally and not produce the additional commission provided by the PSA. Mr. Newhouse would not say how much additional commission the PSA agreement provides.

"Because the bulk of the Chubb business placed outside Global Broking is primarily middle-market business, it was decided that all Chubb business is to be placed through Global Broking, whether coded (large accounts) or (middle market)," the memo said.

Exceptions to the policy of placing Chubb business via the centers will be made on a case-by-case basis, the memo said.

Offices that don't place their Chubb property/casualty accounts through the Global Broking Centers will forfeit their commission, which will be placed in a separate corporate fund, the memo noted. This will penalize local brokerage offices.

Risk managers contend the memo could indicate that J&H Marsh & McLennan increasingly will use its clout and influence in the market to push more of its large policyholders and their insurers to use its Global Broking Centers, rather than place those risks locally.

The memo runs contrary to the predictions made by large brokerages that they would be able to provide better service as a result of the consolidation among brokerages, said Mark A. DeLillo, vp-risk management at Celotex Corp. in Tampa, Fla., and first vp of RIMS.

"It would seem to me that they are looking at things from a perspective that puts the policyholders' interests second," he said.

By using the Global Broking Centers, J&H Marsh & McLennan clients could be giving up local relationships with underwriters and may receive little benefit in exchange, said Mr. DeLillo, who uses Aon Group Inc. to place his risks.

"I think they will use their clout to extract larger commissions. One would hope that they would also use their clout to secure lower rates for policyholders, but the memo doesn't indicate that," Mr. DeLillo said.

J&H Marsh & McLennan's Global Broking Centers are an example of how large brokers may try to control the market, said Scott K. Lange, director of risk management at Microsoft Corp. in Redmond, Wash.

"They seem to be flexing their muscles and controlling access to the markets and saying, 'OK, we are going to play by our rules now,'" he said.

Mr. Lange, who uses J&H Marsh & McLennan, said he would not want to give up his existing relationship with local underwriters.

"I have a very good working relationship with Chubb underwriters in Seattle. It's a real partnership, and if J&H Marsh & McLennan wants all of its Chubb business to go through San Francisco, I'm not sure that Chubb will find it profitable to staff its local office," Mr. Lange said.

The insurers accessed via the Global Broking Centers will not have any personal relationship with him, Mr. Lange said.

If J&H Marsh & McLennan seeks to pressure more than its middle-market accounts into using the Global Broking Centers, it is likely to lose clients to other brokers, said David R. Haight, director of risk management at CF Industries Inc. in Long Grove, Ill.

"People sometimes forget where the real control is," he said.

J&H Marsh & McLennan's Mr. Newhouse said that risk managers should not be concerned that they will be pressured to use the Global Broking Centers to access U.S. insurers.

The system is primarily used for middle-market clients and for larger clients that need J&H Marsh & McLennan's excess and surplus lines brokerage units to access surplus lines and overseas insurers, he stressed.

Those risk managers that choose to use the centers, though, will receive several benefits, according to Mr. Newhouse.

"The idea is to improve efficiencies and cut costs and the benefit of that will accrue to clients, markets and brokers," he said.

All of J&H Marsh & McLennan's middle-market business with other major insurers is placed through the centers. The broker has negotiated varying commission structures with each of those insurers.

The Global Broking Centers will reduce costs for brokers, insurers and middle-market policyholders, said a spokeswoman for Chubb in Warren, N.J.

Chubb benefits from the arrangement by replacing a contingent profit sharing commission, which could vary from year to year, with a fixed payment of the PSA, she said. Also, it is more efficient for Chubb to consolidate its middle-market business in regional centers, she said.

It's more efficient because Chubb underwriters will be dealing with fewer brokers, which

free up staff to focus on other business, the spokeswoman said.

One property/casualty insurance company executive, however, said there may be little advantage to insurers in using J&H Marsh & McLennan's system, as long as the insurers still need to maintain their office networks to deal with other brokerages.

An executive with Aon Group Inc. said it was unlikely to adopt a comparable regional system for its middle-market accounts.

"Middle market business, we believe, is driven very much by relationships and it is important to respond locally," said Teresa Pahl, president and CEO of Aon Enterprise in Chicago, which provides commercial insurance support to small businesses and entrepreneurs.

The need for insurers to maintain networks of nationwide offices, though, will likely diminish in the future, driven especially by technological changes, said Mr. Newhouse.

"We think that in the future, the economics of the industry will not permit that, and that's why we support things like WIN," he said.

WIN, the World Insurance Network, is an electronic network being developed by the world's largest brokers to allow subscribing brokers to communicate with insurers. The Global Broking Centers will access the WIN system, Mr. Newhouse said.

While Chubb sees economies in dealing with J&H Marsh & McLennan's Global Broking Centers, it nonetheless intends to maintain its network of local offices, said the spokeswoman.

"Notwithstanding the pressure to consolidate, we remain committed to the independent agency system and serving regional and local producers and their customers through our U.S. network of 54 branch offices," she said.

Not all risk managers oppose the concept of the Global Broking Centers.

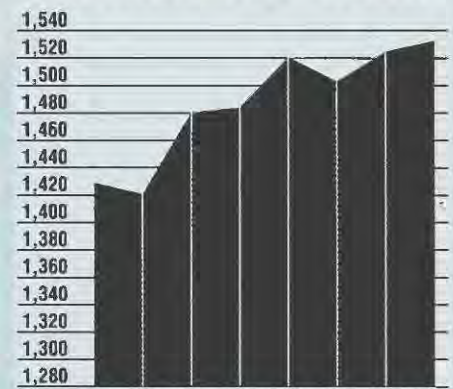
The system will provide advantages to large clients that use the centers, said Lori Varner, risk manager at Coca-Cola Enterprises Inc. in Atlanta.

Coca-Cola Enterprises this year for the first time used the Global Broking Center in New York to gain added leverage in the market for the lead on its casualty umbrella coverage program, she said. She used the New York office because the Global Broking Center in Atlanta only handles middle-market business.

"We have seen that it's the best of both worlds. I have the local brokers that have placed the business before and are familiar with the account, and we utilize the Global Broking of J&H Marsh & McLennan and that gives us additional leverage," Ms. Varner said.

Despite placing the risk centrally, Coca-Cola Enterprises will continue to be serviced by the insurer's employees in New York and Atlanta, she said.

BI Insurance Index



Base=100 on Dec. 29, 1978
Source: Nordby International Inc.

PCS catastrophe options

As of Oct. 10			
Call spread	Price bid/ask	Call spread	Price bid/ask
Eastern September 1997			
30/50	—/2	National Annual 1998	
40/60	—/1	40/60	9.5/11.0
		60/80	6.5/8.3
National Annual 1997			
60/80	—/2.0	Eastern September 1998	
80/100	3/1.5	40/60	3.2/4.2
National December 1997			
5/25	3.2/6.4	California Annual 1998	
10/30	1.0/3.0	40/60	1.8/2.4
Southeastern September 1997			
30/50	—/2	Western Annual 1998	
40/60	—/1	40/60	2.0/2.7
		70/90	1.3/2.5
Total volume: 12		Total open interest: 15,753	

For information on PCS cat options, call the Chicago Board of Trade at 312-435-3674.
Source: Chicago Board of Trade

British Issues

Companies	Price	P/E	Div.	Yield	52-week high—low
Comm Union	802	12.4	35.8	4.5	824—630
Genl Accident	1085	7.3	35.4	4.2	1139—686
Gdn Royal Exch	327	4.5	12.2	3.9	335—248
Independent	1230	12.7	14.2	1.5	1230—566
Royal & Sun	609	17.1	19.7	4.0	641—414
Brokers					
Bradstock	83	12.0	6.4	9.8	90—54
Lmbt Fenchurch	133	8.9	8.4	7.9	135—101
Lloyd Thompson	183	15.2	10.8	7.4	206—163
Sedgwick Grp	125	10.1	7.4	5.9	144—115
Steel Bri Jones	24	NA	1.5	7.7	36—22
Willis Corroon	128	12.9	6.6	6.5	165—117

Note: Prices are Oct. 10 closings; other numbers from Oct. 9.

Source: Nordby International Inc.

BI Industry Stock Report OCT. 6, 1997, THROUGH OCT. 10, 1997

BROKERS																							
	Price	Weekly % change	Year to date % change	Year to date				Price	Weekly % change	Year to date % change	Year to date				Price	Weekly % change	Year to date % change	Year to date					
				High	Low	Vol.(000)					High	Low	Vol.(000)					High	Low	Vol.(000)			
Aon Corp.	NYS	56.44	1.12	36.27	58.44	36.13	1442	Enhance Financial Services	NYS	54.63	-1.02	49.66	56.25	32.50	178	St. Paul Companies	NYS	83.56	0.30	42.54	85.06	53.50	370
E.W. Blanch Holdings Inc.	NYS	33.00	3.33	63.98	34.00	18.00	293	Everest Reinsurance	NYS	42.25	-0.59	46.96	43.00	24.63	340	SCOR	NYS	42.50	-1.73	23.64	44.50	34.00	506
Gallagher Arthur J. & Co.	NYS	37.88	2.36	22.18	38.25	29.13	100	Executive Risk Inc.	NYS	66.44	0.00	84.97	69.19	33.88	199	SAFECO Corp.	NDO	50.38	-3.13	27.73	55.38	36.13	1314
Hilt, Rogal & Hamilton	NYS	18.63	-1.00	40.57	19.63	12.13	268	EXEL Ltd.	NYS	63.00	2.75	66.34	64.19	36.50	509	Seibels Bruce Group	NDO	7.75	-4.62	-6.06	10.75	5.88	226
Kaye Group Inc.	NDO	8.88	3.65	69.05	9.00	4.38	10	Fremont General Corp.	NYS	48.13	-0.13	55.24	49.38	26.38	964	Selective Ins. Group	NDO	54.50	2.59	43.42	55.38	33.25	3
Marsh & McLennan	NYS	74.94	-3.62	44.11	80.00	49.13	1408	Frontier Insurance Group	NYS	33.38	-8.56	74.51	39.25	18.13	2763	Sphere Drake Holdings	NYS	8.69	0.00	-2.11	10.50	8.50	312
Poe & Brown	NDO	42.00	2.75	58.49	42.00	24.63	9	Gainsco Inc.	NYS	10.06	5.92	4.55	10.88	8.13	330	TIG Holdings	NYS	35.31	-0.53	4.24	38.00	26.38	640
Sedgwick Group PLC	NYS	10.31	-0.60	-0.60	10.88	9.38	4	General RE Corp.	NYS	206.06	1.20	30.63	208.88	142.75	713	Titan Holdings, Inc.	NYS	21.63	-1.14	31.06	25.00	13.50	185
Willis Corroon Corp.	NYS	10.75	4.24	-6.52	13.50	9.38	516	Gryphon Holdings	NDO	16.88	0.75	19.47	17.75	12.50	28	Tokio Marine & Fire	NDO	59.88	-3.04	28.42	66.00	42.00	283
BROKERS AVERAGE																							
			1.39	36.41				Guaranty National Corp.	NYS	34.00	0.37	102.99	35.25	15.38	156	Torchmark Corp.	NYS	40.25	-1.23	59.41	41.63	23.25	1014
INSURERS/REINSURERS																							
ACE Ltd.	NYS	98.88	-0.88	64.45	101.06	51.50	385	Harleysville Group	NDO	24.88	15.03	63.11	24.88	13.25	315	Transatlantic Holdings	NYS	74.19	-0.34	38.24	75.75	46.13	450
Acceptance Insurance Cos.	NYS	27.81	3.97	40.82	28.00	17.75	61	Hartford Steam Boiler	NYS	52.88	-4.62	14.02	56.69	42.75	308	Travelers Property	NYS	39.81	-1.55	12.54	43.56	28.38	4186
AEGON N.V.	NYS	81.75	-4.04	29.25	87.13	50.25	361	HCC Insurance Holdings	NDO	29.94	2.35	33.80	30.50	19.88	1632	Travelers Corp.	NYS	74.50	3.92	64.19	76.25	37.75	8027
Aetna Life & Casualty	NYS	78.56	0.80	-1.80	118.13	60.13	7960	IPC Holdings Ltd.	NDO	29.94	2.35	33.80	30.50	19.88	1632	Trenwick Group Inc.	NDO	37.25	-3.87	20.81	39.63	30.75	44
AFLAC Inc.	NYS	54.06	-2.04	26.46	57.88	35.75	532	Hartford Financial Services	NYS	84.75	-4.71	25.56	90.31	59.88	2208	Unico American Corp.	NDO	11.88	0.00	9.20	12.25	7.88	21
Allied Group Inc.	NYS	47.19	-3.58	44.64	53.63	26.25	113	LaSalle Re Ltd.	NDO	35.25	0.71	20.51	36.13	23.25	139	Unionamerica Holdings	NYS	21.63	0.58	21.83	22.75	14.75	9
Allstate Corp.	NYS	83.38	1.21	44.06	84.25	50.75	3588	Lila Re Corp.	NYS	55.06	-0.35	35.71	73.63	45.75	754	United Fire & Casualty	NDO	40.25	-2.13	14.18	41.50	29.75	70
AMBAC Indemnity Corp.	NYS	44.38	-1.80	33.71	47.56	28.75	770	Lincoln National	NYS	71.25	-0.35	35.71	73.63	45.75	754	Unitrin	NDO	68.25	1.53	18.83	67.38	48.50	570
American Bankers Ins.	NDO	39.19	3.98	53.30	40.00	22.88	464	MAIC Holdings Inc.	NYS	28.88	1.32	70.48	30.50	15.13	57	UNUM Corp.	NYS	48.06	0.13	33.04	50.88	30.50	1984
American Financial Group	NYS	45.00	-1.23	19.21	49.25	32.38	237	Market Corp.	NYS	160.00	0.12	77.78	161.13	83.00	95	USF&G Corp.	NYS	22.31	-2.72	6.89	25.50	17.75	1217
American General	NYS	53.06	-3.08	29.82	56.06	35.75	2388	MBIA Insurance Group	NYS	128.25	-0.58	26.67	134.50	88.38	266	Vesta Insurance Co.	NYS	61.06	4.38	94.82	61.06	24.50	112
American Heritage Life Ins.	NYS	37.94	-3.65	44.52	40.50	19.75	57	Meadowbrook Insur. Group	NYS	24.81	2.32	18.15	28.00	15.25	185	Washington National	NYS	32.75	0.58	19.09	33.13	27.13	152
American Indemnity/Fin'l	NDO	14.50	-2.52	41.46	15.50	9.50	7	Mid Ocean Ltd.	NYS	64.00	3.23	21.90	64.75	44.13	241	Zenith National Ins.	NYS	28.19	-1.74	2.97	28.75	24.63	#N/A
American International	NYS	106.56	-0.93	47.68	110.50	67.75	4024	MMI Cos. Inc.	NYS	26.81	0.47	-16.86	32.75	20.75	110	INSURERS/REINSURERS AVERAGE							
Argonaut Group	NDO	36.25	0.00	17.89	38.13	26.75	101	Mutual Risk Mgmt. Ltd.	NYS	52.38	3.97	41.55	53.00	30.00	260								
Baldwin & Lyons Inc.	NDO	21.00	3.07	14.29	22.63	17.38	5	NAC Re Corp.	NYS	50.94	-1.81	50.37	52.88	32.63	238								
Berkley W.R. Corp.	NDO	41.69	-5.79	23.21	46.38	28.88	1240	Navigators Group	NDO	20.50	-3.53	12.33	22.50	15.75	17								
Berkshire Hathaway Inc.	NYS	45000.00	-2.17	31.96	48600.00	30000.00	0	Nobel Insurance Ltd.	NDO	14.50	-2.52	15.42	15.38	11.25	22								
Capital RE Corporation	NYS	59.94	-1.94	28.55	62.63	38.25	123	NYMagic Inc.	NYS	27.63	3.03	53.47	27.75	17.13	47								
Capital Transamerica Corp.	NAS	28.00	2.75	36.59	28.13	15.63	40	Ohio Casualty Corp.	NDO	-8.50	0.78	36.62	51.00	31.75	584								
CapMac Holdings Ltd.	NYS	32.31	0.78	-2.45	36.88	22.50	253	Old Republic Int'l	NYS	39.56	-0.47	47.90	40.19	24.50	739								
Capsure Holdings Corp.	NYS	15.00	0.00	30.43	15.38	8.00	0	Orion Capital Corp.	NYS	50.13	8.23	64.01	50.75	25.13	301								
Centris Group Inc.	NYS	23.00	2.79	17.20	23.56	17.13	105	Partner Re Ltd.	NYS	43.00	-0.29	26.47	44.94	28.00	632								
Chartwell Re	NYS	35.44	1.61	32.48	36.25	24.50	70	Penn-America Group Inc.	NDO	20.75	0.61	93.02	21.25	10.38	38								
Chubb Corp.	NYS	72.00	-1.96	33.95	76.31	45.50	1447	Philadelphia Cons. Holding	NDO	45.50	0.55	95.70	46.50	21.75	19								
CIGNA Corp.	NYS	175.00	0.43	28.09	200.75	122.00	2219	PXRE Corp.	NYS	33.44	3.08	35.10	33.44	23.25	484								
CNA Financial Corp.	NYS	127.44	-3.27	19.10	132.25	95.88	195	Reliance Group Holdings	NYS	14.44	-0.86	58.22	14.88	8.13	803								
CNA Surety	NYS	16.00	0.79	6.67	16.50	12.88	145	Reliant Financial Corp.	NYS	39.75	-0.78	37.66	40.75	25.25	452								
EMC Insurance Group Inc.	NDO	13.38	-1.38	11.46	15.00	10.75	77	RenaissanceRe Holdings Ltd.	NYS	45.00	0.56	36.36	46.13	28.13	194								
								Risk Capital Holdings	NDO	23.38	0.54	20.65	23.38	15.88	48								
								RLI Corp.	NYS	14.88	-0.55	34.46	46.25	26.75	216								

HEALTH MAINTENANCE ORGANIZATIONS																					
	Price	Weekly % change	Year to date % change	Year to date				Price	Weekly % change	Year to date % change	Year to date				Price	Weekly % change	Year to date % change	Year to date			
				High	Low	Vol.(000)					High	Low	Vol.(000)					High	Low	Vol.(000)	
Humana Inc.	NYS	23.56	1.07	24.01	25.31	17.38	6555	Oxford Health Plans	NDO	73.75	0.00	25.93	89.00	41.00	7765						
Pacificare Health Sys.	NDO	67.88	2.84	-16.46	86.25	55.50	152	United Healthcare Corp.	NYS	51.81	6.83	15.14	60.13	35.13	7668						
Safeguard Health Enter.	NDO	14.50	6.91	-17.14	20.75	9.63	168	Wellpoint Health Networks	NYS	58.00	2.43	68.73	61.13	28.25	1155						
Sierra Health Services	NYS	39.44	-0.32	60.15	41.63	22.38	1968	HMOs AVERAGE													
ALL COMPANIES AVERAGE			1.41	30.97																	

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