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WEEK OF OCTOBER 25, 1982

business insurance®

Reporting weekly for corporate risk, employee benefit and financial executives/$1 a copy; $40 a year

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update:

Derailment, chemical spill could cost $12 million

LIVINGSTON, La.—A train derailment and chemical spill that forced the evacuation of 2,500 area residents will cost Illinois Central Gulf Railroad and its insurers an estimated $12 million, a federal investigator says.

But Harold Storey, chief of the National Transportation Safety Board's railroad acci-

Continued on next page

Birth centers deliver lower maternity costs

By DOUGLAS McLEOD

CHICAGO—Joining the ranks of health care cost-containment measures is an infant idea that could trim employees' childbirth expenses by half.

The idea is the "birth center," an alternative to traditional hospital maternity care.

Women expecting a normal delivery of a child can deliver in a birth center under the supervision of a nurse/midwife and return home with their babies within 24 hours.

While an obstetrician does not deliver the baby. a physician examines the woman and child before they are released. Nurses from the birth center often check on the mother and child during their first few days at home, and the new family may return to the center for postpartum checkups.

Several major corporations—like Rockwell International Corp., Atlantic Richfield Co. and

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NAIC model bill could curtail risk retention group formation

By JERRY GEISEL

WASHINGTON—Manufacturers and wholesalers could be effectively barred from forming new risk retention groups if states adopt a new model bill proposed by the National Assn. of Insurance Commissioners.

The NAIC wants to restrict a risk retention group to funding only those product liability risks as recognized under the laws of the state in which it is chartered.

State laws differ on what constitutes a manufacturer's liability for its products. As a result, if states adopt the NAIC model bill risk retention groups would be limited by different state laws on what they could cover and in most cases would be useless.

The extent of the problem created for risk retention groups can be illustrated by states' differing approaches to the liability of manufacturers when they are sued by a plainfiff who can't identify the specific manufacturer of a product

Only two states—California and New York—allow injured consumers to sue when they don't know who made the product that harmed them.

Therefore, only risk retention groups chartered in California and New York could issue policies to their members covering them for losses assessed under the theory of industrywide liability.

But legal experts fear other states could follow California and New York and expand manufacturers' liability. If that happens, members of a risk retention group chartered in states other than California and New York would be caught bare because their policies couldn't cover such an exposure.

Attorneys say the NAIC model bill limiting a risk retention group's coverage to risks defined by state law clearly conflicts with the broad definition of product liability contained in the 1981 Risk Retention Act.

"What an individual state does or does not recognize as product liability is irrelevant," said Victor Schwartz, a Washington attorney who helped draft the Risk Retention Act when he chaired a federal product liability task force.

Mr. Schwartz and congressional staffers say the definition of product liability contained in the Risk Retention Act pre-empts any state definition. The federal definition—which includes liability for damages from any personal injury, death, emotional harm, consequential economic damage or property damage—should be the only guide to what risk retention groups may cover, Mr. Schwartz says.

"We wanted as broad a definition as possible," Mr. Schwartz said. "The intent was to make self-insurers (in a risk retention group) protected if courts expand liability," Mr. Schwartz added.

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All systems go

Satellites aboard space shuttle find required liability coverage

By STACY SHAPIRO

When the space shuttle lifts off from Cape Canaveral Nov. 11 with its first commercial payloads, it will carry the largest liability risk ever launched, sources here say.

Each of the two communications satellites on board will have $500 million in coverage for liability to third parties, as required by the National Aeronautics and Space Administration.

Both Satellite Business Systems Inc. of McLean, Va., and Telesat Corp. of Ottawa, the owners of the two commercial satellites to be launched on the shuttle next month, have found the required coverage, *Business Insurance* has learned.

SBS Systems found the insurance capacity with little problems, NASA General Counsel Neil Hosenball confirmed.

But Telesat encountered some difficulties finding its last $100 million, said Robert Wojtal, an adviser to Mr. Hosenball.

Although the demand for satellite liability coverage is growing and

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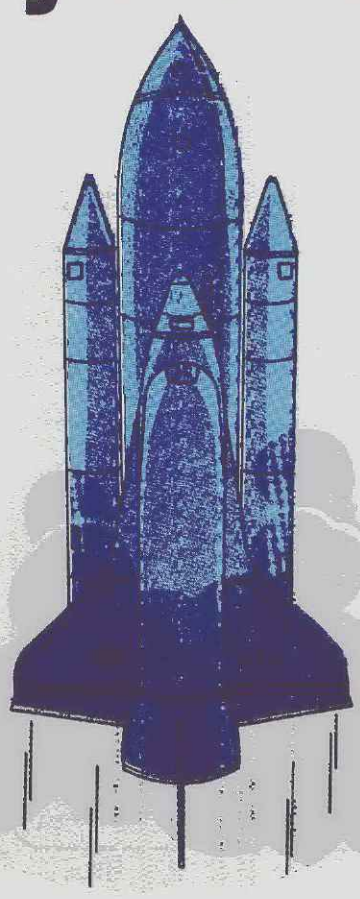

NASA asks Reagan to extend indemnification to contractors

By STACY SHAPIRO

The National Aeronautics and Space Administration is trying to simplify the circuitry of indemnification agreements before the first commercial space shuttle flight scheduled for Nov. 11.

NASA is hoping that President Reagan will amend an executive order that permits federal agencies to indemnify their U.S. contractors.

"We are pushing the president to get this signed before the first flight," said Robert Wojtal, an adviser to NASA General Counsel Neal Hosenball. "We are confident of getting it signed."

The executive order now on the books allows federal agencies to indemnify U.S. contractors only if the activity is unusually hazardous and it facilitates national defense.

However, NASA has never considered the space shuttle an unusually hazardous operation and commercial use of the shuttle is not considered to be essential to national defense, said Mr. Wojtal. So,

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update:

Accident could cost $12 million

Continued from previous page

dent division, said claims from physical damages, loss of business and evacuation could range as high as $20 million, depending on the costs of cleanup operations and resettlement of homeowners.

The Sept. 28 derailment of 42 cars of the 101-car train was followed by a series of explosions and fires fueled by tank cars loaded with a variety of deadly chemicals including tetraethyl lead, a gasoline additive, styrene and vinyl chloride.

The spokesman refused to comment about the railroad's insurance coverage, although he said ICG has "multimillion-dollar accident excess coverage with a deductible." Sources say Rollins Burdick Hunter Co. in Chicago is ICG's broker, but neither RBH nor the railroad would confirm it.

The railroad established a claims office in Livingston within 24 hours of the accident, giving money to residents to replace lost or abandoned clothing and provide immediate housing needs, the railroad spokesman said.

At least 1,700 claims had been filed within four weeks of the accident, he said, and about 500 of those claims have been settled, although he would not disclose the average settlement cost or anticipated total losses. He said all residents had returned to their homes by Oct. 13.

Five attorneys have also filed a class-action suit against the railroad in a Livingston Parish court, seeking unspecified compensatory and punitive damages.

Contractor cited in ramp report

INDIANAPOLIS—Superior Construction Co. has until Nov. 3 to appeal a proposed $22,680 fine for negligence resulting in the April 15 collapse of an East Chicago, Ind., bridge ramp that was under construction, says Indiana Labor Commissioner Howard Williams.

Thirteen workers were killed and 17 injured when a temporary concrete pad supporting construction scaffolding cracked, triggering the collapse. More than five lawsuits seeking from $15 million to $56 million were filed within two weeks of the tragedy, naming one or more of several companies involved in the project. Defendants included Superior, Midwest Steel Erection Co. and Figg & Muller Engineering Inc. (*BI*, April 26, May 3).

A study conducted by the National Bureau of Standards and released last week may lend additional evidence for suits filed against Superior, Mr. Williams said.

Although the study "doesn't point the guilty finger" at Superior, according to Mr. Williams, the report cited the firm with two knowing violations of construction safety standards and nine other safety violations, three of which related directly to the ramp collapse.

Drugmakers issue report

WASHINGTON—The federal Food and Drug Administration should let drugmakers develop tamper-proof packaging for over-the-counter drugs, an industry group says.

The Proprietary Assn., which represents the nation's leading manufacturers of over-the-counter drugs, recommended to the FDA last week "that the government regulate results, i.e., tamper-resistant packaging—but leave industry free to find the technical options to achieve these results."

The FDA has been waiting for the report before completing its packaging regulations, which are expected next month.

The industry recommendations were based on the findings of two association committees rapidly formed after seven deaths in the Chicago area were linked to cyanide-laced Extra Strength Tylenol capsules taken from tampered containers (*BI*, Oct. 11).

Judge dismisses complaint

CHICAGO—A Cook County Circuit Court judge dismissed the two remaining counts of a complaint against Crain Communications Inc. by Old Republic Insurance Co. relating to publication of an article in *Business Insurance* in November 1980.

Old Republic in 1980 sued Crain Communications, publishers of *Business Insurance*, alleging in a seven-count complaint that the Nov. 17, 1980, article was libelous, interferred with its prospective business advantage, violated the insurance codes of the states of Illinois and Kentucky and the Illinois deceptive trade practices act.

In March 1982, Judge Myron T. Gomberg struck all seven counts, dismissing five of them but granting leave to Old Republic to amend its complaint alleging interference with business advantage and violation of the Illinois deceptive trade practices act.

Old Republic's new two-count amended complaint on those theories was dismissed on Oct. 8 by Judge Gomberg in response to a motion filed by Crain Communications that argued that each count of the amended complaint failed to state a claim upon which relief could be granted.

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Vol. 16, No. 43—*Business Insurance* (ISSN 0007-6864) is published weekly at 740 Rush St., Chicago, Ill. 60611. Second-class postage is paid at Chicago, Ill., and at additional mailing offices. Postmaster: Send address changes to *Business Insurance*, circulation department, 740 Rush St., Chicago, Ill., 60611; 312-649-5221. Copyright 1982 by Crain Communications Inc.

Buyers, brokers object to proposed CGL policy

By BILL DENSMORE

NEW YORK—Insurance buyers, brokers and industry professionals are rejecting the Insurance Services Office's proposed new comprehensive general liability policy, saying it will hurt policyholders.

They are demanding that CGL policies continue to be written on an occurrence basis and not on the proposed claims-made or "first-discovery" basis proposed by ISO. If ISO pushes the policy, they say buyers will self-insure more of their risks or take them to insurers that don't use the ISO form.

"One of the major purposes of these new forms is the avoidance of liability of certain risks that are now covered," says the Public Risk & Insurance Management Assn.

PRIMA contends this perceived reduction in coverage will prompt more companies to remove their risks from the commercial insurance market and self-insure them or set up their own captive insurance companies.

". . . The language makes it obvious that the policies are being designed to support the insurance industry and not to provide maximum service and benefit to policyholders," PRIMA adds. If the new policy is implemented, it would be "detrimental to the best interest of the majority of policyholders."

The National Assn. of Insurance Brokers is equally blunt in its criticism of the new policy form, which among other things would eliminate payment of liability claims on an occurrence basis and instead pay them on a claims-made or a first-discovery basis.

The brokers' group says unless ISO rethinks and revises its proposal, NAIB brokers will place risks only with insurers that do not use the ISO form, including placing more business in the non-admitted market.

In a four-page analysis, the NAIB said a review by its special task force foresees "extensive problems for our clients in attempting to mesh excess and umbrella oc-

Continued on page 88

Benefit consultants list

Questionnaires seeking information to be published in the annual listing of benefit consultants in *Business Insurance* Dec. 13 have been mailed to all consultants included in last year's directory, which was published Dec. 14.

If you were included in last year's directory and do not receive a questionnaire by the end of this week, please call Sallie Drury at 312-649-5398.

If you were not in last year's directory but want to be included in this year's listing, please contact Ms. Drury this week.

Network is betting on smooth sailing

By EILEEN NORRIS

CHICAGO—CBS Inc. is taking a chance against the unpredictable.

It is betting (and hoping) Mother Nature will hold off freezing conditions over the Great Lakes for a couple of weeks so that the ship it rented for a movie can be returned to its East Coast owner on schedule.

Hopefully, the name of the film—"All the Sad Young Men"—won't describe the corporate decision makers at CBS if they lose the gamble.

CBS decided to forego paying an estimated $7,000 in premium for "ship interruption" insurance, a policy that would protect CBS if adverse weather conditions prevent the barkentine from returning from Lake Michigan to New Jersey on time.

CBS officials figure they have enough time for the ship to travel through the Great Lakes to New Jersey before the region's infamously cold and windy weather freezes the St. Lawrence Seaway, impounding the three-masted ship whose foremast is square-rigged and whose mainmast and mizzenmast are rigged fore and aft.

The ship, which caught many a motorist's eye as it sat full sail in Lake Michigan just off downtown Chicago's Lake Shore Drive during the filming, left Oct. 18 for the journey back to its owner, Atlantic Schooner Assn. Inc. in Franklin Lakes, N.J.

If the St. Lawrence Seaway were to freeze early this year, it could delay the ship's progress since the seaway links the Great Lakes and the Atlantic Ocean.

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Photo: Merrill S. Saltzman

The Scarlet Lady was sailed to Lake Michigan for a CBS film project.

Bell Helmet to appeal $3 million award

By RHONDA L. RUNDLE

LOS ANGELES—Bell Helmets Inc., a manufacturer of protective helmets, will appeal a $3 million judgment against it and two other defendants—the first jury verdict it has ever lost in a product liability lawsuit.

The verdict, rendered Oct. 18 in the New York Supreme Court, County of Bronx, apportioned 75% of the responsibility for damages arising out of a 1977 motorcycle accident to Bell Helmet, 15% to the motorcycle driver and 10% to the driver of a car that collided with the motorcycle.

If the verdict is upheld, Bell Helmet could be ordered to pay the whole award, offset by small amounts from insurance policies of the other defendants. Under New York state law, "a viable defendant" is held responsible for the balance of any award that other defendants cannot pay.

Plaintiff Denise Cornier, 28, a passenger on the motorcycle who was wearing a Bell helmet, was hospitalized for seven weeks following the August 1977 accident and suffers permanent coordination and memory difficulties.

The jury upheld her claim that Bell Helmet was negligent, violated the doctrine of strict liability and breached an implied warranty in selling an unsafe helmet she wore that was a foreseeable cause of her injuries.

Also negligent were James Spagna, driver of the motorcycle, and Mack Davis, driver of the car that collided with the motorcycle, the jury decided.

There were conflicting witness reports of the accident during the trial. But it was established that the motorcycle carrying Ms. Cornier bounced off the left front fender of the Davis car. She was thrown a distance of 20 to 25 feet from the point of impact.

The speed of the motorcycle and the position of one or two double-parked cars blocking traffic in one or both directions were disputed at trial.

"If the plaintiff had been wearing any other helmet, she would have been killed instantly," says Jim Galbraith, president and co-owner of Bell Helmets Interna-

Continued on page 85

errors & omissions

A story on bank insurance in the Oct. 11 issue erroneously identified the underwriter of an all-operations bank liability errors and omissions policy introduced earlier this year. The policy was introduced by L. W. Biegler Inc., the Chicago-based specialty underwriter that is a subsidiary of Crum & Forster.

Benefit costs rise despite cuts, survey shows

By JERRY GEISEL

PHILADELPHIA—Health care costs are rising faster than companies can pare benefits to reduce costs, driving total benefit costs still higher.

Among major corporations, benefit costs for salaried employees in various industries are now as high as 46.7% of wages, compared with up to 44.4% in 1981, according to a new survey.

But unlike the 1960s and '70s when employers' benefit costs zoomed as companies raced to add new benefit programs like dental insurance plans, the 1980s round of cost increases was caused by roaring inflation in existing benefit plans, especially health coverage.

In fact, if health care had been excluded from measuring the value of employees' noncash compensation, benefit costs as a percent of salary would have been flat, said Kenneth P. Shapiro, a partner with benefit consultant Hay Associates, a member of the Hay Group in Philadelphia, which surveyed costs.

"The benefit binge" may be over, but annual health care cost increases of 25% or more are bound to hurt, he added.

To get a handle on benefit trends among salaried employees, Hay surveyed 805 employers including 512 industrial, 186 financial and 107 service companies. About 40% of the participating companies are members of the Fortune 500.

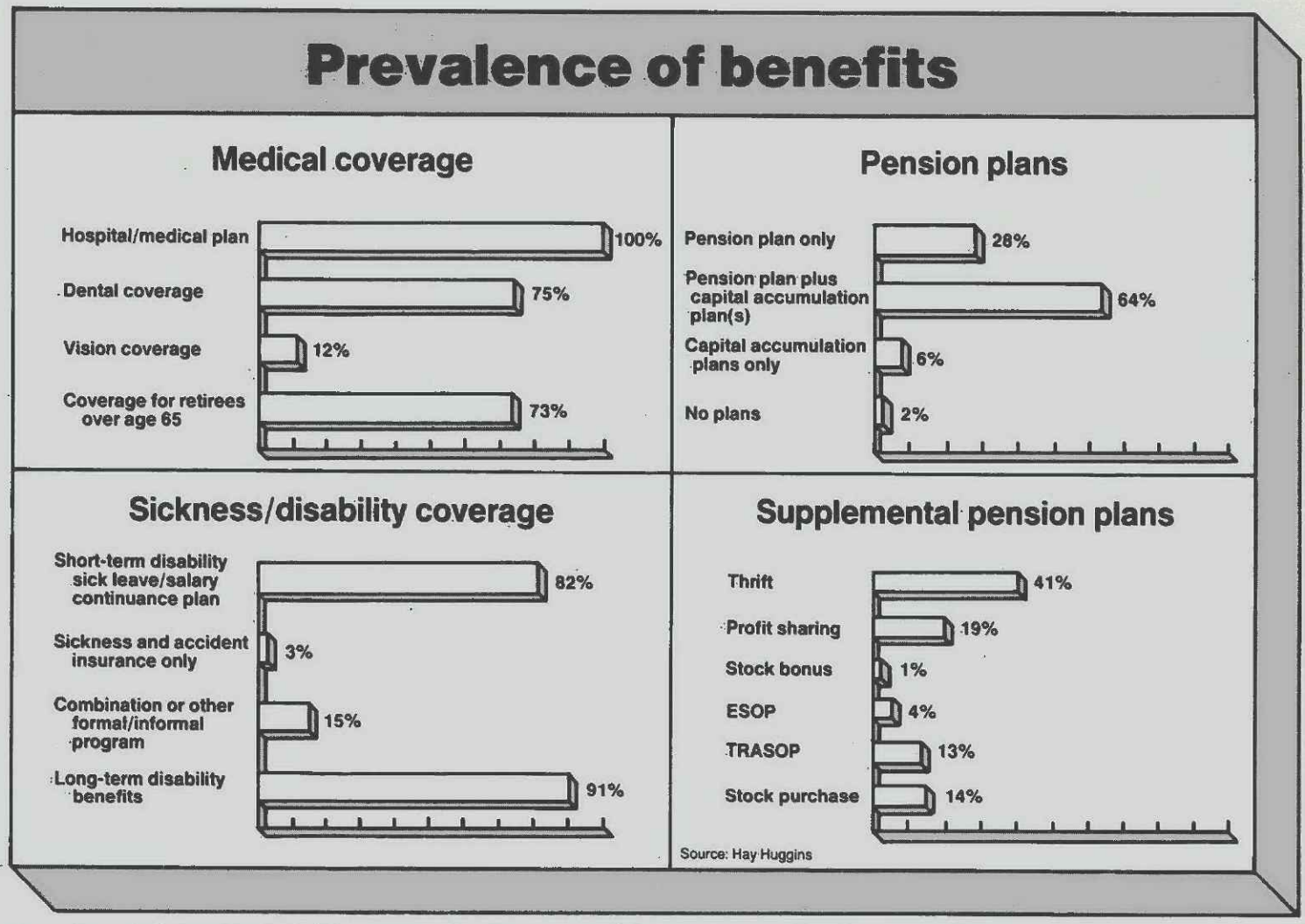
The "1982 Hay/Huggins Non-cash Compensation Comparison" is an important guide for benefit managers for two reasons.

The large number of companies and benefits surveyed gives a broad picture of the benefit trends now taking place at many of the nation's largest companies.

And, by concentrating on large employers, the survey gives an indication of future benefit developments since big companies often take the lead in benefit design. Large employers, for example, led in the development of private pension plans.

The survey reveals that even the nation's biggest companies with the greatest financial resources are holding the line or even trimming benefit programs as the prolonged economic recession cuts into corporate profits.

But the cuts have been selective. For example, except for higher deductibles for health care plans, employers' core benefit programs—health insurance, life insurance and retirement programs—continue to be "sacred cows" that are protected from cost cutting.



In fact, despite the economic downturn, many large employers have liberalized group life insurance programs and added new retirement savings programs.

The cuts that have been made are in areas that affect a small number of employees, like corporate aircraft and executive apartments and suites.

However, employers have had second thoughts about adding new benefit programs. For example, vision care plans and group legal programs, which some experts thought would be the hot new benefit plans of the 1980s, have shown little or no growth in the last year.

"More employers now realize that there is no need to add benefit on top of benefit," said Mr. Shapiro.

Individual benefits probed in detail in the Hay/Huggins survey include:

Health insurance

More employers overhauled their health plans to boost deductibles as one way to curb soaring costs.

For example, 11% of firms now impose deductibles of $100 or more in their health insurance programs, up from 6% in 1981 and 3% in 1978.

And deductibles will continue to rise: 21% of employers in the Hay/Huggins survey say they are considering raising deductibles soon.

To cope with rising costs, more employers are shifting from fully insured plans to self-funded or minimum premium plans. For ex-

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Controlling heart disease claims

Lockheed's health information program cuts number of heart attacks, sick days

By EILEEN NORRIS

DORADO, Puerto Rico—Lockheed Missiles & Space Co. Inc. is starry-eyed over the results of its down-to-earth approach to controlling heart disease in its employees.

Since it began an informational employee health program in 1978, it has cut by 80% the number of sick days due to hypertension, trimmed by 20% sick days due to heart disease and achieved a 50% decline in the number of heart attacks among its workers.

Dr. Sevelius

The program consists of nothing more than making health education material available free to employees, explained Dr. G.G. Sevelius, medical director of Lockheed, which is based in Sunnyvale, Calif., and employs 24,000 aerospace workers.

He was a speaker at the International Assn. of Industrial Accident Boards & Commissions' annual meeting, which was held earlier this month in Puerto Rico.

The program rotates around two philosophies:

- Stress is the spice of life.
- A little knowledge (about cardiac risk factors) is not a dangerous thing.

The company developed its philosophy on stress after research showed that its healthiest employees with the lowest risk of heart disease held the most stressful jobs, Dr. Sevelius explained.

A research team monitored 400 middle management male executives over a two-year period to see how the busiest workers handle job stress.

The company divided the men into four different business areas: new business, finance, products assurance and a group representing a cross-section of different jobs.

Lockheed decided the workers charged with getting new business for the corporation might have more mental and physicial stress than others in the study.

That job requires peak performance in responding to government requests for new products or services.

"To win a contract in competition with proposals submitted from other firms, bids

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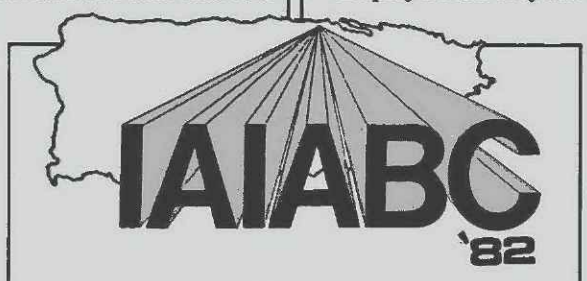

More than 525 registrants and their guests attended the annual meeting of the International Assn. of Industrial Accident Boards and Commissions Oct. 3-7 in Puerto Rico. Additional coverage begins on page 70.

Disagreement over 'cause' of ailments creates work comp headaches: Doctor

By EILEEN NORRIS

DORADO, Puerto Rico—Drastically differing interpretations of the cause of heart disease and widely varying state laws aren't tempering the rise in work-related heart disease claims.

Employers not only have to deal with the disagreement among legal and medical professionals over the definition of "cause" as it relates to heart disease, but also with states' varying evidence standards in work-related heart disease cases.

Most physicians called to testify in heart disease claim cases do not understand that judges and attorneys view "causation" quite differently than members of the medical community, said Dr. Elliot L. Sagall, a cardiac specialist at Harvard Medical School in Boston.

He spoke on the problem of work-related heart disease at the annual meeting of the International Assn. of Accident Boards & Commissions Oct. 3-7 in Puerto Rico.

"Medical practitioners tend to be concerned with all possible causes of a patient's medical condition, while attorneys generally focus on a particular event as possibly precipitating, hastening or aggravating a condition," said Dr. Sagall.

A major stumbling block between the medical and legal interpretations is the degree of proof required to show a particular cause prompted a heart problem, he added.

Dr. Sagall

For physicians, proof means scientific proof while the legal profession defines proof, depending on the state, as a "probability," "50.1%," "more likely than not" or "reasonable medical certainty."

The Committee on Stress, Strain & Heart Disease of the American Heart Assn. agrees that differing definitions of cause create problems in compensating work-related heart disease. Dr. Sagall is a member of that committee.

"An employer's responsibility is rarely in doubt when a clear-cut, well-defined accident results in violence to the body and leaves the recognizable imprint of trauma," the committee's insurance subcommittee

Continued on page 70

Reno airport workers receive new benefits

benefit beat

The Airport Authority of Washoe County in Reno, Nev., is offering its salaried and hourly workers dental and vision coverage for the first time as well as improved major medical benefits.

Salaried employees are also being offered first-time supplemental life benefits.

The authority is providing the new and improved benefits free to its 32 salaried employees while requiring 143 hourly workers, all members of the Airport Authority Employees Assn., to share 25% of the annual premium cost through payroll deduction. Hourly employees pay a monthly premium of $18.44 for individual life, health, dental, disability and vision coverage.

The authority now provides employees with a vision plan that covers one free eye examination and a pair of glasses and frames once every 12 months from a panel of local practitioners. The plan provides a maximum $75 payment for contact lenses.

Employees must pay a $10 deductible per claim.

The vision care plan is underwritten by Vision Service Plan, a prepaid vision care company in Reno.

The new dental plan pays 80% of all charges for diagnostic, preventive and minor restorative work and 50% of all charges for major dental work up to an annual maximum of $1,500. Employees must pay an annual $50 deductible. The dental plan is underwritten by the Washington National Insurance Co. of Evanston, Ill., the same insurer that underwrites the authority's hospitalization, major medical and basic life coverages.

As part of the benefit plan overhaul, the authority has also increased the major medical lifetime maximum to $1 million from $250,000.

It also now provides salaried employees supplemental life policies with face values equal to employees' annual salaries. This coverage is provided in addition to the basic life plan that provides $5,000 coverage for employees and $1,000 coverage for dependents.

The supplemental life policy, which is not available to hourly workers is underwritten by Mutual Benefits Life Insurance Co. of Kansas City, Mo.

Utility upgrades plan

Equitable Gas Co. of Pittsburgh has increased dental, health, major medical and pension benefits for 330 hourly workers who struck the company for 104 days.

The upgraded benefits, part of a three-year contract, were won by members of the International Brotherhood of Electrical Workers Local 1956, who ended their strike in late September. The new contract is retroactive to Jan. 1, 1982.

Under the pact, coverage for outpatient laboratory and X-ray charges was increased to $300 from $275 per year. The health plan now covers $3,000 of miscellaneous inpatient hospital charges, a $500 increase.

The major medical lifetime maximum has been increased to $250,000 and will rise to $500,000 next year. The previous lifetime maximum was $200,000. Under the major medical plan, employees must pay a $100 annual deductible, after which the plan pays 80% of all major medical charges.

The utility has also begun covering 80% of the cost of dentures and 50% of all orthodontic charges for dependent children up to age 18. Orthodontics are subject to a $500 lifetime maximum.

The dental coverage is part of the major medical portion of the health plan underwritten by The Travelers Insurance Co. The company pays all health insurance premiums for individual coverage.

Benefits provided by the utility's non-contributory pension plan have been increased to $14 per month multiplied by the retiree's years of service with the company. Next year, the base pension benefit will be increased to $15.50 per month and will be boosted again on Jan. 1, 1984, to $16.50 per month.

Equitable Gas Co. has employees in Pennsylvania and West Virginia.

Racing employees

The New York Racing Assn. Inc., operator of three thoroughbred tracks in New York state, has upgraded vision care benefits for its 1,000 salaried, administrative and racing personnel.

The 2-year-old prepaid vision care plan was upgraded by the Jamaica, N.Y.,-based association to allow employees to purchase cosmetic tints, photochromic lenses, sun tints, plastic multifocals and oversized lenses at no additional cost.

Employees previously could obtain coverage for conventional lenses only.

The plan provides employees with full coverage for examinations, lenses and medically necessary contact lenses once every 12 months if they use practitioners approved by the plan underwriter, Vision Service Plan of New York.

It also pays up to $35 for frames and $175 for contact lenses for cosmetic purposes.

Employees using non-participating practitioners are reimbursed only 80% of the usual and customary retail cost.

The three tracks operated by the association are Belmont Park in Elmont, N.Y.; Aqueduct in Queens, N.Y.; and Saratoga in Saratoga Springs, N.Y.

HMO hospital use

Employees who were members of hospital-sponsored health maintenance organizations spent more time in the hospital last year than patients of other types of HMOs, according to a survey by Interstudy, a national health care consulting firm.

Hospital-sponsored HMOs had an average hospital utilization rate of 547 days per 1,000 members while other types of HMOs only used hospitals 467 days per 1,000 members.

The report was based upon a survey of 268 HMOs nationwide.

•

Benefit beat keeps insurance and employee benefit managers informed on what other companies are doing and of current developments in the employee benefit field. We'd like to know if you've made any changes. Write James Lawson, Associate Editor, Business Insurance, 220 E. 42nd St., New York, N.Y. 10017; 212-210-0143.

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WALTON
Insurance Limited

Policy covers non-profit groups for many risks

By BETSY SHARKEY

NEW YORK—Overexposed.

With professional liability policies excluding everything from slander to restraint of trade, it's a position in which many non-profit associations are finding themselves.

But the lack of exclusions in a new professional indemnity policy offered by Calvert Insurance Co. is beginning to attract attention among potential buyers.

For example, broker Eric Sigel of Louis P. Sigel & Son Inc. in Philadelphia suggested the more extensive coverage to his client, the Society of Chartered Property & Casualty Underwriters, which has some 12,000 industry members nationwide.

On his recommendation, CPCU became one of the first non-profit associations to buy the coverage.

Non-profit organizations, often with a primary task of keeping their membership informed on industry developments, tend to be more vulnerable to certain risks, according to Mr. Sigel.

"For example, the society has various seminars and brochures whose primary content is information," Mr. Sigel said. "If the information is plain wrong and I used the information and I'm suffering a loss, the society could be liable."

CPCU never has been the subject of such litigation, he added.

The Calvert policy, just two months on the market, also has attracted several other non-profit clients and the insurer is preparing quotes for another 200.

Like CPCU, most non-profit corporations realize they no longer are immune from litigation and are being forced by current trends in liability actions to take a closer look at their exposures.

Other unique features of the policy include:

- Automatic discovery extension. The policy, automatically and without additional premium payments, extends coverage for claims that originated during the policy period but did not surface until later. The extension period continues for 12 months beyond either the cancellation of the policy by the insurer or the non-renewal of the policy by the policyholder.
- Combined policy benefits. Both directors and officers liability and errors and omissions coverages are included. The combination eliminates disagreements that might arise in determining which coverage should respond to a specific claim.
- ERISA fiduciary liability coverage. For a 15% additional premium, ERISA fiduciary liability coverage also may be rolled into the policy.
- Limited exclusions. While virtually all directors and officers policies specifically exclude libel and slander claims, Calvert's policy does not. Additionally, the policy does not incorporate other frequently used exclusions including antitrust, price fixing, restraint of trade, copyright infringement, discrimination and plagiarism.
- Coverage for other employees. The policy extends beyond the typical list of directors and officers to automatically include all association employees.

"Most of the companies we're developing quotes for have D&O coverage," said Stephen Sills, vp of New York-based Wrightson & Co., the underwriting division of the Stewart Smith organization. Stewart Smith acquired Calvert Insurance in 1980.

"Many of these policies have been cluttered up with a lot of exclusions," he added. "But you have people saying, 'If I'm going to serve on your board, I want some protection.'"

Deductibles for various sections of the policy sometimes are as low as $100, according to Mr. Sills, who is often dealing with groups whose net worth is less than $1 million.

"These entities just don't have much money," Mr. Sills said. "The fact is, the claim might run into more money than the entity has. And where is that money going to come from?"

There is a great deal of variety and flexibility on setting the deductibles.

D&O coverage for an individual within the association typically has deductibles ranging from $100 to $1,000. For aggregate D&O coverage, the deductible is usually $500 to $1,000.

On corporate reimbursement, which indemnifies the corporation for payments to a director or officer who is sued, the deductibles vary from $500 to $5,000. Finally, if the suit is against the entity itself, the deductibles range from $1,000 to a high of $10,000.

The upper limit of Calvert's policy is $10 million. However, most policyholders are buying a $1 million limit, according to Mr. Sills.

"The costs could vary, but it's not expensive," said Mr. Sills. "If you're talking about an average non-profit organization with $1 million in revenue, it would be something less than $2,000 a year in premiums."

Additionally, if non-profit associations are to continue to attract top corporate people to serve on their board of directors, a comprehensive D&O policy becomes a necessity.

The Calvert policy, which covers defense costs incurred by the organization in defending against a wrongful act claim, also would allow the director, officer or employee involved to choose his or her own attorneys.

"So the president of a major corporation, serving on an association board, would not have to be concerned that he had to rely on the insurance company's choice of defense," said Mr. Sills.

Others who serve on these boards also worry about would happen if the non-profit association disbands. With Calvert's automatic discovery extension, any incident that occurred while the policy was in force would be covered for a year after the organization ceased operations.

"Fifteen years ago, this (directors and officers liability) was not a major risk for a non-profit organization," said Mr. Sills. "But D&O has become a very serious exposure." ■

Safety course set for San Francisco

LOS ANGELES—A course for industrial hygienists and other occupational health professionals, "Sampling Strategies," will be held Jan. 17-19 in San Francisco.

Tuition is $325. For information, contact University of Southern California, Institute of Safety and Systems Management, Office of Extension and In-Service Programs, Los Angeles, Calif. 90089; 213-743-6523. ■

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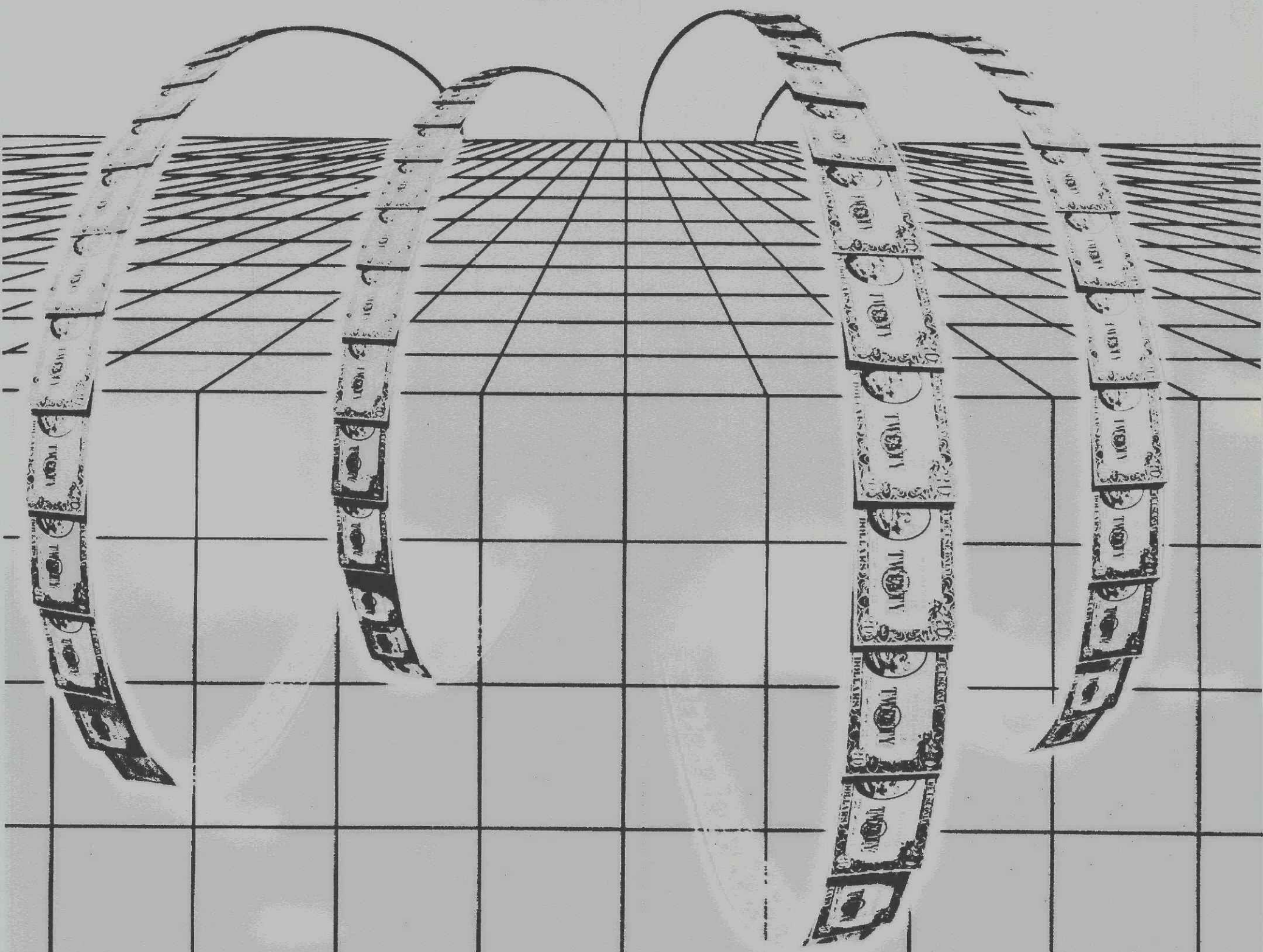

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editorial opinions

Freedom from fear and anxiety

INSURANCE AND reinsurance companies are finally taking their own cliches seriously, but it may be too late to avoid new reinsurance regulations.

Insurers and reinsurers have harped long and hard that everyone should "use only good security," buying protection from only the most financially strong and stable companies. But, obviously, some companies have not followed that time-tested advice. Either out of blind desire for a lower price or poor controls, some insurance and reinsurance companies have purchased reinsurance that may not cover claims in the future.

Shocked by some recent scandals in the reinsurance business and worried about the continued deterioration of underwriting results, many insurers and reinsurers are now tightening their controls over the type of companies they want as reinsurers and retrocessionaires. Nearly everyone interviewed for our special spotlight report on reinsurance, which starts on page 11, talked about security and said more ceding companies now are ordering "better security."

The industry, however, is not the only group shocked by these developments. State insurance regulators, who in the past have focused their time and energy on regulating primary insurance companies, are now interested in regulating the reinsurance business. They contend that recent scandals in the reinsurance business that have left unpaid claims prove the reinsurance industry can't regulate itself.

No one knows now what form the new regulation may take. Other states could imitate New York's Regulation 98, which puts the burden on the reinsurance intermediary, or state regulators could decide to impose more regulation on the reinsurers or even on how ceding companies use reinsurance.

Until we see specific proposals, we're not ready to endorse any of them. At this point, we do think it is a pity, and a paradox, that concern over security became so lax that all this is necessary.

After all, the foundation of the insurance industry is the concept of security. Policyholders buy insurance for the security of knowing that if they have a loss, they will be reimbursed. Insurers and reinsurers cede their risks to make their own companies more secure. Everyone wants to be free from fear or anxiety about his company's future.

How is it that the industry lost sight of this basic principle? Did ambition and greed short-circuit its basic instincts?

letters

Survey still has many problems

To the editor: Bernard Brown of Risk Planning Group didn't respond to my criticisms of the "Cost of Risk Survey" (*BI*, Oct. 4) other than to say that they were recognized in the survey, as though recognition somehow removes their limitations.

A study such as this can only be valid if one states mathematically the degree of uncertainty each shortcoming introduces. If you do so with this survey and properly cumulate the different variances, the product is impossibly inaccurate.

Mr. Brown says I missed the major point: to give the risk manager a working tool. On the contrary, it is exactly that point to which I object most vigorously. It is not a working tool because it supplies nothing of substance. It can only mislead. Or, I should say, the figures given for cost of risk will mislead. There is, however, much in the report that is interesting and useful, such as limits carried, salaries and other aspects of risk management.

Mr. Brown challenged me to be constructive rather than critical, and that's a fair request. Here's my response:

- Drop the quantitative aspect of cost of risk. The figures received not only mean nothing, but also can delude the unsophisticated into thinking they have something.
- In my judgment—and I realize this is controversial and I could be wrong—it will never be possible to develop a single figure by which one company's risk management program can be compared, even roughly, with another's.
- Continue the survey, but give it another title.
- In addition to the other useful survey items, provide data about: valuation sources (professional appraisers, insurance company, own staff, etc.); use of state boiler inspectors vs. insurance company sources; fidelity limits; ratio of workers compensation costs to payroll over past three years; source of loss runs (insurer, contractor, in-house, etc.); the extent to which risk manager helps broker with marketing; the most widely used reference sources; the professional background of risk managers; frequency of field inspections; and distribution of policy statements, manuals, etc.

David Warren
Orinda, Calif.

Quantitative tool

To the editor: The debate between David Warren and Bernard W. Brown that appeared in the Perspective section (*BI*, Oct. 4) intrigued me.

I endorse the concept of total cost of as revealed in the "1982 Cost of Risk Survey" produced by Risk Planning Group Inc. and the Risk & Insurance Management Society. My book, "Avoiding Surprises," devotes an entire chapter to its proper use as the prime quantitative tool in the risk management function.

Every risk manager must grapple at least annually with the costs associated with risk management (insurance premiums, self-insured losses, loss-control costs and administrative costs). The total expense then can be related to revenues, assets, net earnings or earnings per share to put them in a proper corporate perspective and then be compared with prior years' results for historical evaluation.

Finally, results can be compared with the industry figures in the "Cost of Risk" survey. Despite the caveats contained in the survey and in Mr. Warren's article, the survey produces the "best available" industry cost data and the most useful vehicle for measuring risk management cost effectiveness, with relative emphasis placed on the four major cost components: insurance, self-insurance, loss control and administration.

I agree with your editorial that risk managers should get on the bandwagon and contribute to better risk management by completing the survey questionnaire.

Frederic C. Church Jr.
President
Frank B. Hall Risk Management
Boston

Unscientific sample

To the editor: I read with interest the article, "Firms spending more on risk control: Survey" (*BI*, Oct. 4), which outlined the highlights of the "Cost of Risk Survey." I read with equal interest David Warren's critique of that study in the "Perspective" section of the same issue.

On the assumption that the article correctly notes the method used and the basis for the results, I feel Mr. Warren's conclusion is correct: the use of decimals tends to give the report an aura of accuracy that is unwarranted. But, it appears that the basis of his conclusion is solely in terms of the definitions employed in the study—what constitutes net premiums, unreimbursed loss costs, etc. He does not discuss the limitations of the statistical method used in the study and the basis for its findings, which may be of even greater reason for not imputing to it the degree of accuracy that decimals provide.

Yet, Bernard Brown of Risk Planning Group does employ the term "confidence limits"—a statistical concept used to specify the degree of confidence that can be imputed to an estimate derived from a sample. Its basis is in the sampling method employed, and the distribution of the estimate, not the basis of definition.

Your article points to the hazard of using the data as a "...completely true picture of what companies pay to reduce risk..." based upon an "unscientific sample." Hence, I believe Mr. Brown to be correct in his conclusion, but not entirely for the reasons he outlines.

Manny Tabackman
Vp
First Insurance Agency Corp.
Dayton, Ohio

Tribute to a friend

To the editor: *BI* readers east of London, west of Denver and in between will be saddened to learn of the untimely passing of Howard Wyatt at age 51.

Howard was active in the Risk & Insurance Management Society and other professional associations. Formerly with Continental Can and Amerada Hess, he had been manager of insurance for Hamilton Brothers Oil Co. in Denver for several years at the time of his death.

He was always quick to recognize and adopt the most up-to-date financial and administrative techniques of domestic and international insurance and risk management. A risk and insurance manager in the broadest sense, Howard handled a wide range of employee benefit and risk management tasks. He skillfully utilized conventional insurance markets, implemented ASO benefit programs, captives association mutuals and other innovative programs before many of his peers.

He was creative and resourceful and he was my friend. I'll miss him.

William T. Howard Jr.
Director of corporate insurance
Forest Oil Corp.
Bradford, Pa.

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ADVERTISING: New York: 212-210-0133; Chicago: 312-649-5276; Los Angeles: 213-651-3710
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Published by Crain Communications Inc., Chicago
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Published weekly at 740 Rush St., Chicago, Ill. 60611. Offices: 220 East 42nd St., New York, N.Y. 10017; Suite 515, National Press Building, Washington, D.C. 20045; 6404 Wilshire Blvd., Los Angeles, Calif. 90048; 5327 N. Central Expwy., Suite 200, Dallas, Texas 75205; 20-22 Bedford Row, London WC1R 4EB, England. $1 a copy. $40 a year in U.S. Canada and all other foreign add $14 for surface mail. Europe and Middle East only add $35 for air delivery. First-class mail to U. S. and Canada only; add $50. Bermuda only, $85 per year expedited delivery. WILLIAM STRONG, *vp-circulation*. DIANNE WALSH, *circulation manager*. ROGER DiGREGORIO, *fulfillment director*. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Dept., Business Insurance, 740 Rush St., Chicago, Ill. 60611 or phone 312-649-5221. Telex 25-4248; Cable CRAINCOM. Microfilm copies are available from University Microfilms, 300 Zeeb Rd., Ann Arbor, Mich. 48013. Microfiche copies available: Bell & Howell, Micro Photo Division, Old Mansfield Rd., Wooster, Ohio 44691.

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Reinsurers' security gains priority

By KATHRYN J. McINTYRE and LEN STRAZEWSKI

"Get good security" is the order going out to reinsurance intermediaries that are combing the markets to renew reinsurance agreements for 1983.

For the first time in this competitive cycle of the insurance industry, there are signs that insurance companies are becoming more concerned about the financial stability of their reinsurers than the price of the reinsurance.

If that concern results in higher reinsurance prices, it could be the beginning of a shift toward more stable if not higher commercial insurance rates.

"The current state of the market is deteriorating and there is more concern over the security of reinsurers," says Michael O'Halleran, senior vp in the Chicago office of Thomas A. Greene Co., a reinsurance intermediary owned by Alexander & Alexander Services Inc.

"Many of the clients for whom we negotiate treaties have told us that they will pay a little more for treaties from reinsurers with top security," he adds. "A year ago, they would have advised us to just play the heck out of the market and go for the lowest price.

"Since the insurers may be paying a bit more for their reinsurance in this regard, there may be some reflection in the cost of direct insurance to corporations," he says.

"There's a strong desire on the part of both insurers and intermediaries to look for greater security, even if if costs them a bit more," agrees John D. Dunn Jr., senior vp and manager of the treaty department at Buffalo Reinsurance Co. in Los Angeles.

"People want to upgrade their security," says Andrew Barile, chairman of New York-based intermediary Andrew Edwards & Co.

The new guidelines are to place reinsurance only with companies that have at least $20 million in surplus, both intermediaries and underwriters agree. "A couple of years ago, the magic number was $10 million in surplus," recalls Mr. Dunn of Buffalo Re.

And a rating of A or better from A.M. Best Co. Inc. is being ordered, too, notes Mr. Barile. This requirement could hurt some of the lesser known Bermuda-based captive insurers looking for unrelated risks to underwrite, he noted.

If, indeed, insurers are making security a top priority over price, the leading U.S. reinsurance companies could be among the top beneficiaries of this change in emphasis. Each of the 20 largest domestic reinsurance companies (see chart) has more than $20 million in surplus and all but three have an A rating or better from Best's.

(Transatlantic Re and Metropolitan Re, both of which started underwriting in 1977, will not be rated until 1983 under Best's policy not to rate a company until it has a five-year operating history. Universal Re carries a B-plus rating.)

And there are at least 10 more U.S.-based reinsurers with more than $20 million in surplus whose lower premium volume leaves them out of the top 20.

Mr. Dunn of Buffalo Re cautions, however, that basing security analysis on a minimum surplus level isn't particularly logical and is somewhat arbitrary.

Surplus needs vary according to a reinsurer's book of business, he explains. A reinsurer with a large collection of casualty treaties may need very strong surplus and reserves; $20 million may be inadequate. A property reinsurer may be well-capitalized at $20 million.

Not everyone, however, believes security

Continued on next page

Top 20 U.S. reinsurers at midyear (in thousands)

Reinsurance companies	1982 Premiums written	1981 Premiums written	1982 Premiums earned	1981 Premiums earned	1982 Ratio losses to reinsurance premiums earned	1981 Ratio losses to reinsurance premiums earned	1982 Combined ratio	1981 Combined ratio	1982 Policyholder surplus	1981 Policyholder surplus
General Reinsurance Group	$428,004	$395,577	$411,753	$410,011	72.9%	68.6%	101.2%	99.4%	$688,904	$745,502
North American/Swiss Re	240,709	191,499	238,878	196,321	83.7	76.2	109.7	109.2	216,028	291,132
Employers Re	229,306	174,158	238,879	197,753	82.9	74.4	106.4	101.9	287,540	224,949
Prudential Re Group	189,085	118,425	162,349	132,638	80.6	81.8	109.2	116.4	195,076	182,157
American Re	167,540	174,632	164,106	180,723	74.4	86.3	109.6	118.1	283,584	232,470
Munich Re Group	99,416	93,512	100,119	88,988	80.4	72.2	114.8	105.7	99,408	89,996
Skandia America Group	84,503	89,014	83,923	91,396	72.6	73.2	108.5	107.9	95,364	101,984
INA Reinsurance Co.	76,460	48,868	68,979	77,460	71.0	75.5	106.5	116.1	152,273	116,421
Transatlantic Re	65,506	63,750	64,123	62,936	76.5	75.8	105.5	103.3	124,593	116,931
Constitution Re	59,509	50,901	56,915	52,388	83.8	71.6	117.3	106.1	39,403	51,937
Kemper Re	50,166	52,515	52,553	55,776	84.6	82.6	111.7	107.1	92,137	84,903
Winterthur Swiss Insurance Co.	38,361	N/A	39,512	N/A	80.8	N/A	109.6	N/A	59,178	58,701[1]
National Re	37,578	41,195	45,554	61,430	101.3	85.9	123.4	110.3	66,392	77,310
Fremont Re Co.	35,006	N/A	34,741	N/A	84.7	N/A	115.5	N/A	39,241	N/A
Constellation Re	31,747	38,568	32,874	37,879	68.0	82.1	109.5	115.8	36,653	34,075
Buffalo Re	30,515	26,658	30,402	28,353	81.3	80.3	113.0	112.2	70,817	60,826
Northeastern/First Re of Hartford	27,347	29,256	28,372	29,516	78.3	79.9	114.5	114.2	39,354	38,960
Universal Re	26,522	22,124	27,753	21,411	110.4	109.5	136.0	132.2	59,946	11,421
Reinsurance Corp. of New York	25,307	27,197	25,860	28,286	80.8	76.9	117.5	111.1	34,740	37,353
Metropolitan Re	23,227	17,206	21,059	15,442	76.3	73.1	110.6	106.1	27,746	26,619
Totals/Averages	1,965,814	1,655,055	1,928,704	1,768,707	79.2	76.3	108.8	108.0	2,708,377	2,583,647

[1] Year-end 1981

N/A: comparable figures not available

Regulators want to pull in reins on reinsurers

By LAURENCE H. GROSS

Will reinsurers, particularly reinsurers operating from foreign countries, be there to pay claims in the years ahead?

That question, which concerns more and more ceding companies and reinsurance brokers (see story above), is now a top issue among state insurance regulators.

Afraid that the answer is no, state insurance officials are independently and through their national association studying how to exert some control over the largely unregulated reinsurance industry.

"There is a definite interest among the majority of state insurance commissioners that this whole area needs change," says James W. Schacht, acting director of the Illinois Insurance Department.

State officials were shocked by the allegations following the collapse of Promotora De Occidente de Panama, S.A. (POSA), a defunct Central American intermediary (*BI*, Aug. 30).

Alien reinsurers from around the globe were used and, according to allegations, misused in the placement of reinsurance for American and foreign insurance companies. So far no one is sure how much in reinsurance claims will go unpaid.

State officials also are concerned about the surge of new reinsurance companies, particularly alien nonadmitted reinsurers, entering the U.S. marketplace. They fear these reinsurers from foreign countries who operate outside of any U.S. regulation may not have the money to pay claims in the future and that they will be powerless to help recover losses for insurers in the United States.

Finally, state officials are alarmed at the overcapacity in the entire reinsurance market and the increasing combined loss and expense ratios. They worry that the foundation of the insurance industry may not be sound enough to withstand future catastrophic losses.

The New York Insurance Department this year was the first to institute comprehensive reporting requirements for reinsurance brokers with Regulation 98, which forces intermediaries to document transactions (see related story, page 20).

Now, insurance commissioners in Illinois, Texas and California have shown interest in regulating reinsurance transactions and the National Assn. of Insurance Commissioners is trying to draft some model legislation to regulate reinsurance transactions.

Mr. Schacht of Illinois, who wants state regulators to be able to obtain more financial data from reinsurance companies, believes any regulatory requirements should be directed toward reinsurers rather than intermediaries or brokers.

But Albert B. Lewis, New York superintendent of insurance, preferred to regulate the intermediaries because trying to regulate an overseas company presented jurisdictional problems.

"I'd like to be able to reach across the Atlantic Ocean to bring some of these guys in and lock them up," Mr. Lewis says. "We just don't have the jurisdiction over there."

Mr. Lewis contends the reinsurance industry has failed to regulate itself and is concerned that U.S. insurers are falling prey "to alien companies that float in and out of the market like pirates on the high seas."

"They (alien companies) are a threat and a menace to the business," he says. "Some of the language in (reinsurance) contracts is sheer stupidity that the pirates later use to their advantage."

Lyndon Olson, NAIC president and a member of the Texas State Board of Insurance, attributes revitalized interest in regulating reinsurance to the recent scandal involving POSA.

"The problem is that ceding companies do

Continued on page 19

Ceding companies want secure reinsurers

Continued from previous page
concerns will bring more business to the leading domestic companies.

"They want a domestic A-rated reinsurer for the same price," says Roger Eager, vp of National Reinsurance Corp. in Stamford, Conn. "It is not translating into a surge of business."

"People in the business are talking about being less likely to accept reinsurance from overseas or new and entrepreneurial reinsurers, but so far, it's all talk," says Paul Ingrey, senior vp of Prudential Reinsurance Co. "In general, the market is still letting the irresponsibilities take control."

Direct insurers seem to be retaining more risk, even as their own volume shrinks, adds Mr. Dunn. "A reinsurer writing exactly the same treaty bock as last year is seeing a 10% to 15% reduction in premium," he notes.

Even Bermuda-based captives are finding a way to keep business, Mr. Barile notes. Some have convinced the licensed insurer fronting their parent company business to front for unrelated reinsurance business. The ceding company gets the security on paper, but the captive gets the business.

Concern about security works both ways, too, Mr. Dunn notes. Reinsurers also are concerned about security and are scrutinizing potential treaty clients carefully, he said. "We have the same concerns as the ceding companies. We are looking carefully at the financial structure of the ceding companies before agreeing to new treaties."

The new concern about security could evolve into somewhat higher reinsurance rates, especially for insurers that want to replace aggressive foreign reinsurers that have drastically cut rates to get new business.

But while most everyone talks about security concerns, there is little talk about higher rates in the domestic market and only faint signs of any tightening in reinsurance underwriting.

"There's no change at all," says Mr. Ingrey of Prudential Re. "If anything, the competition is getting worse as some reinsurance underwriting managers are underwriting virtually anything just to generate cash flow and pay the rent.

"Our casualty renewal premiums are down about 15%—and those are the programs that we managed to renew. We are losing business to much bigger reductions."

Pru Re, for example, recently lost a product liability treaty reinsurance program to a West Coast underwriting manager who offered more than five times the coverage for less than half Pru Re's premium quotation.

"We offered coverage of $700,000 over $300,000 for $450,000 premium," Mr. Ingrey says. "Our competitors quoted a $200,000 premium for $900,000 over $100,000 and a $4 million over $1 million umbrella."

Mr. Ingrey

Mr. Ingrey does see some signs of a shift in market attitude.

"Some of the stock insurers and reinsurers are hanging a lot tougher and not cutting rates as far as they were, but it's not holding the market back at all," he says.

"In general, I can't see a market turnaround in the next three to six months, but I do see reinsurers chasing premium dollars less," says Mr. Dunn of Buffalo Re. "Reinsurers are fighting less viciously and the rate reductions are smaller."

Two other reinsurance company executives don't see any slackening in the competition, but they do see signs that it won't get worse.

"I can't see any change whatsoever from the same time last year," says Theron J. Strenk, president of INA Reinsurance Co. "Underwriters are saying that if you look hard enough, you can place anything, and that includes all kinds of financial guarantee business and retroactive insurance and reinsurance."

Mr. Strenk

INA Re "hasn't rejected any business as a class," according to Mr. Strenk, but it is avoiding financial guarantee risks and is trying not to lower its rates too much. A conservative approach, however, is not necessarily good for the company's results.

"Of course, we're losing premium and market share," he noted. "Our volume has been flat or slightly decreasing."

But Mr. Strenk also notices somewhat of a slowdown in new entrants to the reinsurance marketplace. "Two or three U.S. insurers have added reinsurance departments or companies, but that is much fewer than last year.

"However, several reinsurers, including the Japanese companies, that maintained only token offices and efforts in the U.S., have gotten into the domestic market in a more aggressive fashion."

N. David Thompson, president of North American Reinsurance Co., also has noted a slowing of new entrants into the reinsurance business.

"The market reached its crescendo two or three years ago with

Continued on page 14

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Fewer companies entering reinsurance market

Continued from page 12
many new overseas and U.S. reinsurers and more reinsurance departments from primary insurers. At that time, we were seeing a new company every eight weeks. But that has slowed now and new entrant possibilities are relatively quiet," Mr. Thompson says.

Mr. O'Halleran of Thomas A. Greene also sees more signs of tightening in the marketplace than actual rate increases.

Treaty retrocessions, the secondary placing of reinsurance for reinsurers, are getting more difficult, he says.

Reinsurers are looking at retrocession submissions and questioning the logic in accepting them, he adds. Why expand the reinsurance capacity of their competitor/clients and add to what most reinsurers already call overcapacity in the reinsurance market, they are beginning to ask themselves.

In facultative reinsurance, Mr. O'Halleran also notes some tightening for very exotic coverages.

"Among facultative property risks, there has been some drying up of capacity for earthquake coverage," he says. "It hasn't been major, but it has been noticeable. Some of the reinsurers have been cutting back on the capacity they have to offer for these risks."

Among facultative casualty risks, reinsurers are more wary of latent health exposures like asbestosis or occupational diseases and the potential exposures of the pharmaceutical/health business.

"I have been surprised to see some of the broad forms being used," he said.

Mr. O'Halleran suggests that a general reinsurance market tightening will begin in the second quarter of next year. First, underwriters will become less willing to take chances and then they will impose rate increases.

Mr. Thompson

"It all depends on the investment market," he adds. "The downturn will begin when the investment market turns downward, as it has already. When the investment offset stops sustaining the losses, the change will be inevitable for reinsurers and direct insurers, though the reinsurance market will somewhat lag behind."

Mr. Thompson of North American Re notes, however, "There's still some work-through time needed before (falling interest rates) can have any effect."

The ultimate effect of a tightening in the reinsurance market on the direct buyer of commercial insurance will depend upon just how much current cheap reinsurance prices have fueled competition in the primary insurance markets.

More insurance executives are pointing out now that reinsurance is only about 9% of the total insurance marketplace and so primary companies are more responsible for cheap rates than reinsurers.

But, Mr. Ingrey of Prudential Re contends that primary insurance companies are fueling the competition among reinsurers. Insurer demand for reinsurance continues to draw new capacity to the reinsurance market.

"Lots of new treaties are being sold all the time," Mr. Ingrey says. "Surplus lines insurers are giving their pen to managing general agents all over so the insurers are buying more reinsurance at higher limits to increase their underwriting and expand premium volume."

Underwriting managers for overseas reinsurers are helping keep the competition intense, Mr. Strenk of INA Re observes. "The underwriting managers have the same old conflict of interest that they have had since the beginning of the concept. Their management fees are derived from the amount of premium they write. Since they don't pay the losses, they are traditionally very aggressive and more interested in generating volume than anything else."

The six-month results of the 20 largest domestic reinsurance companies (see chart, page 11) reflect competition in the United States, too.

The underwriting results for the first six months of 1982 for 18 of the leading reinsurers are, on the whole, worse than at midyear 1981 while premium volume is up.

Midyear 1982 results of only 18 of the top 20 reinsurers can be compared with midyear 1981 results because comparable figures from 1981 were not available for two companies: Freemont Reinsurance Co., which wasn't formed until July 1981, and Winterthur Swiss Insurance Co.

Twelve of the 18 companies suffered higher pure loss ratios at midyear 1982 than in 1981, with the highest of 110.4% at Universal Reinsurance Co., a subsidiary of Armco Inc. Six of the 18 enjoyed a lower pure loss ratio at midyear 1982 than at midyear 1981, with the lowest of 68% at Constellation Reinsurance Co. The pure loss ratio on the combined business of the 18 reinsurers increased just 2.9 points to 79.2% from 76.3%.

Higher expense ratios pushed three more companies into higher combined loss ratios: 15 of the 18 leaders had a higher combined ratio at midyear 1982 than at midyear 1981. Universal Re's was the highest at 136% and General Reinsurance Corp.'s was the lowest at 101.2%.

An overall lower expense ratio for the 18 companies—29.6% in 1982 compared with 31.7% in 1981—resulted in the same 18 companies producing a combined ratio on their total business at midyear 1982 of just 0.8 percentage points higher than at midyear 1981, 108.8% up from 108%.

Of the 18 leaders, 11 expanded their written premiums, and as a group they increased their written premiums by 14%. The same group of companies increased their earned premiums by 5%.

Policyholder surplus, one measure of a company's financial stability, improved for most of the 18 leaders. Twelve increased their policyholder surplus during the 12-month period and six decreased it. But as a group, policyholder surplus for the 18 companies increased just 3%.

The figures in the chart, however, reflect larger increases in premiums and policyholder surplus because the 1982 figures include the results of the two companies whose 1981 results were not available. ■

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Reinsurers have loan plan ready if disaster strikes

By LEN STRAZEWSKI

WASHINGTON—Earthquake, hurricane, volcano. These words make risk managers and their insurers shudder.

One link further along the chain of risk, reinsurers are worried too. However, they are armed with a 10-year-old plan to cope with the massive amounts of money needed to pay claims if natural disaster strikes.

The Federal Catastrophe Loan Program, designed by the Reinsurance Assn. of America, is ready and waiting for one of two events to propel it into Congress: either the insurance industry support it has so far lacked or the dreaded natural disaster that will make its recommendations necessary, according to Franklin W. Nutter, president of the RAA.

The reinsurance group's proposal, designed as congressional legislation but never submitted in either house, calls for the federal government to guarantee loans to reinsurers that would be confronted with huge cash payouts if a large natural disaster strikes.

Although the plan has not received the widespread insurance industry support it needs to win sponsorship as a bill, Mr. Nutter says, "We are currently actively soliciting support from various segments of the insurance industry and interested members of Congress."

The loan program could now be submitted to Congress, without requiring pre-funding or a support staff, in preparation for any disaster. Nonetheless, it is ready for immediate submission to Congress when disaster strikes, he says.

RAA members are taking the loan proposal directly to other industry associations to which they belong, he added, and are speaking on the issue at any opportunity.

Unlike a federal catastrophe reinsurance company such as the one proposed by Maurice R. Greenberg, chairman of American International Group Inc. in New York, the catastrophe loan program would keep the federal government in "a passive role," according to Mr. Nutter, and insulate the insurance industry from direct federal involvement.

The plan also avoids the establishment of a reinsurers' guarantee fund, which has been rejected by reinsurers as too expensive and limiting although it has been promoted by some insurance industry leaders who fear that continued cheap rates and the entry of inexperienced reinsurers may lead to serious solvency threats.

The RAA loan proposal would not protect the reinsurance buyers from reinsurer insolvencies created by non-catastrophic events, Mr. Nutter stresses.

The plan is designed to help reinsurers with good security pay claims efficiently, not help reinsurers with poor security get funds to cover their mistakes, he says.

"The association developed the program a number of years ago as a means of providing the liquidity the reinsurance industry would need in event of a major catastrophe," he said. "But it is not a solvency protection for reinsurers whose rates or underwritings may be inadequate. The plan requires that reinsurers receiving loans pay back the funds.

"It is designed for reinsurers with ongoing operations," he noted.

The loan program, according to RAA background documents, would be triggered in one of two ways: by declaration of a federal agency or by the insurance industry itself, based on the magnitude of loss.

"First, a great natural disaster could be designated as qualifying by the Federal Emergency Management Agency. Such a designation parallels authority granted by several existing disaster-relief statutes," the RAA proposal states.

Continued on page 18

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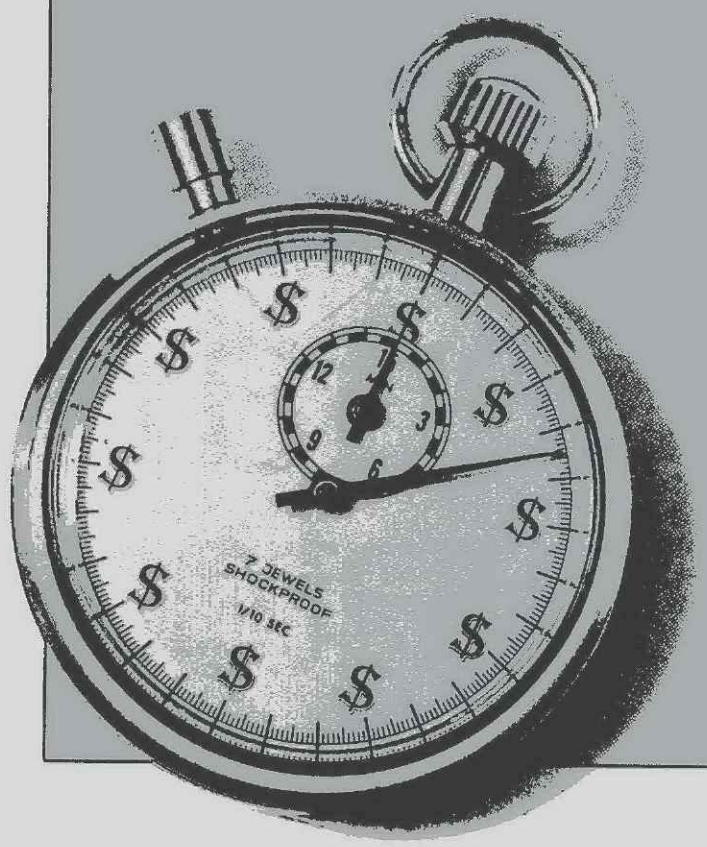

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Reinsurers draft catastrophe loan plan

Continued from page 16

"It is anticipated that comprehensive standards for disaster declaration could be established by the government working with a joint government-industry panel. A catastrophe might be designated under this provision where the loss was localized geographically but had nationwide impact."

The plan also could be triggered if a catastrophe produced insurance losses exceeding 20% of the industrywide net property insurance premiums written during the preceeding year, the RAA proposal says.

For example, in 1979, a disaster of approximately $7 billion would have been required based on 1978 property insurance premiums of almost $34.5 billion.

"Once the plan has been activated, federal loan funds would become available and insurers experiencing a surplus impairment in excess of 25% would be eligible to borrow up to 95% of the surplus loss in excess of the 25% threshold.

"Although the industrywide disaster threshold is determined by losses in property lines, individual company losses for the purposes of the loan program would include those from non-property lines such as workers compensation, accident and health insurance and other liability," the proposal says.

For example, after a catastrophe is declared, an insurance company with $10 million in surplus and $2 million in claims over and above reserves (a 20% surplus depletion) would not be eligible for funds. But a similar insurer or reinsurer with $10 million in surplus and losses of $5 million over reserves (50% surplus depletion) would have authority to borrow $2,375,000.

An insurer with $10 million in surplus and a surplus depletion of $10 million or more would be eligible for a maximum loan of $7,125,000, according to the RAA formula.

Loans would be available to insurers in the form of guaranty notes issued to insurers that appear to qualify under the plan, according to the RAA proposal.

"By issuing the notes when an insurer appears to qualify, the government would be making credit available to insurers in advance of of actual claims payment. This would permit insurers to adjust claims without the massive liquidation of assets which would otherwise be required.

"Immediately following a major natural disaster, financial markets would probably be greatly depressed by massive liquidations. This would require insurers to dispose of holdings at the worst possible time and would undoubtedly result in substantial losses.

"Should an insurer be determined subsequently to have been ineligible for the loan, the law provides for restitution of the funds to the government," the proposal says.

The guaranty notes, exchanged for the actual loan as cash is required to pay losses, would constitute assets in the hands of the insurers and the balancing obligations for the repayment of loans would be characterized as contingent obligations not affecting solvency in insurance accounting, thus preserving the insurers' statutory solvency.

Insurers would pay back the loans at whatever terms of interest the United States generally receives for obligations of similar maturity, the proposal says. Insurers would be required to make minimum annual payments of 5% of the principal plus accrued interest.

If an insurer is unable to make an annual payment, the director or the Federal Emergency Management Agency would have the same flexibility to adjust terms as is granted in similar federal programs. The language of the proposal would allow for adjustments of up to five years and is patterned after the Small Business Administration's disaster program.

The RAA emphasizes that the loan availability would not protect poorly managed insurers or reinsurers.

"Under the proposed loan plan, each insurer would be on its own and would be responsible to repay such borrowings as might be necessary following a great loss. Under a pre-funded reinsurance scheme, some insurers would undoubtedly be encouraged to buy unlimited protection and aggressively market insurance coverages in high-risk areas in hope of never having to answer for their reckless underwriting judgments," the RAA proposal says.

Also, "The loan plan should not be construed as suggesting that guaranty funds as presently organized and operated are inadequate to protect policyholders. Guaranty funds are designed for a few isolated insolvencies, not the widespread insolvencies which might result from a major natural disaster."

Two notable proponents of the program are Theron J. Strenk, president of INA Reinsurance Co. and author of the loan plan, and James D. Koehnen, president of American Re-Insurance Co.

Mr. Koehnen, also president of the National Assn. of Casualty & Surety Executives, made an appeal for insurance industry support at the recent joint annual meeting of the NACSE and the National Assn. of Casualty & Surety Agents.

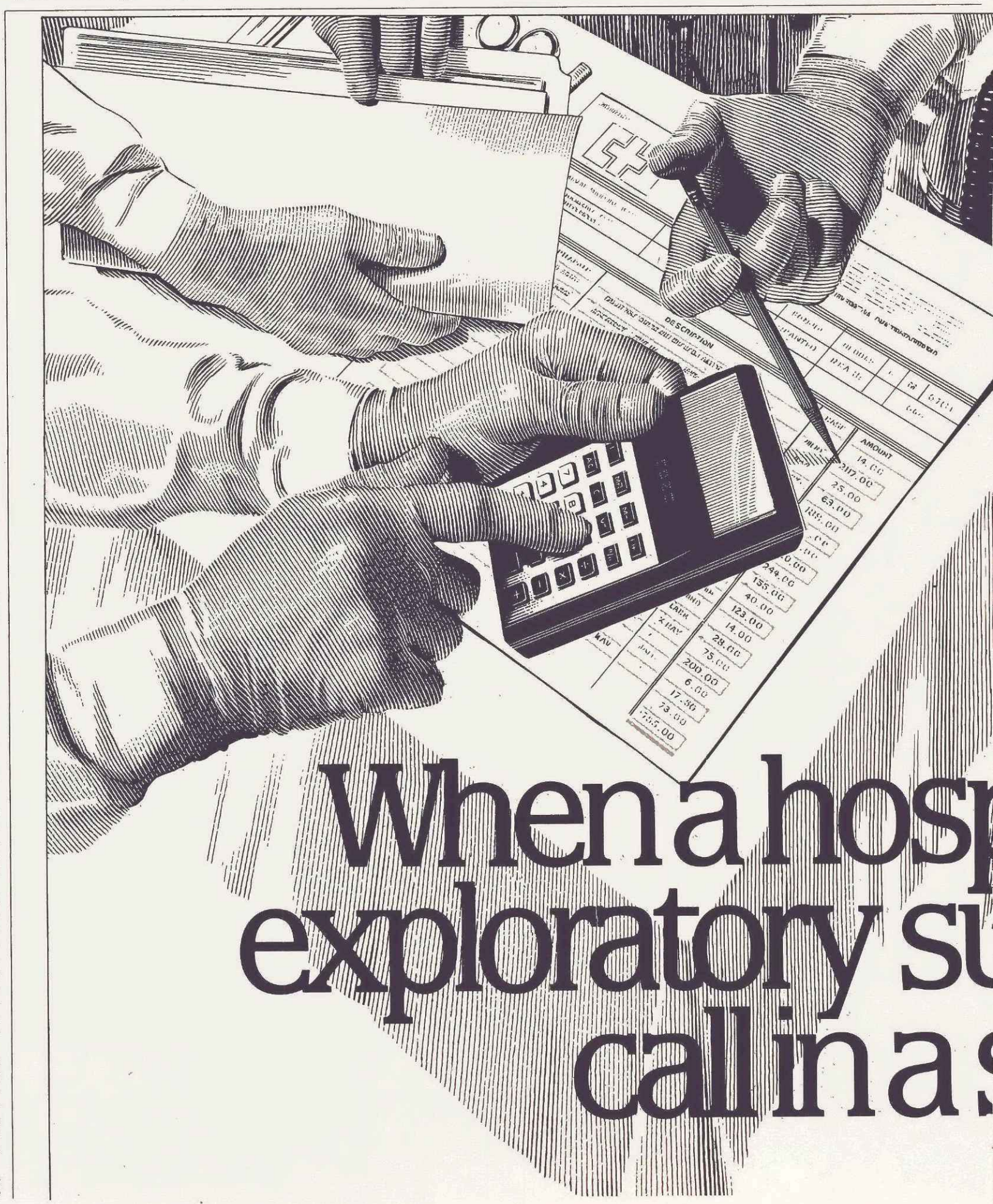
"Recent studies have indicated that there is a 50% liklihood that a disaster will occur before the end of this decade and that a large-scale disaster, such as a major California earthquake, could easily deplete the surplus of the insurance industry," he told executives of insurers and agencies and brokerages.

A major disaster could result in as much as $70 billion in property loss claims, he said. "The cash drain on the insurance industry would be devastating. A significant number of insurer insolvencies would occur.

"And if the reinsurers go under, recovery or rehabilitation of the affected areas would be limited," he continued.

Insurers and reinsurers that fear any form of federal government intervention should also realize that a major catastrophe is certain to attract the attention and the direct involvement of the federal government, he added. The wisest course for the insurance industry would be to formalize a catastrophe plan before it is needed.

"Any hastily drawn emergency legislation will have weaknesses and inaccuracies," he told the group. "It's to our advantage to support the catastrophe loan program now and get it into a form we can live with if a catastrophe does occur." ■



Regulating reinsurers

Continued from page 11

not know who the retrocessionaries are, and who has ultimate responsibility for the ceded risk," Mr. Olson said. "We (regulators) may not be able to stop fraud when dealing with people who are less than ethically inclined, but we can keep the ceding companies better informed."

Texas is considering legislation similar to New York's Regulation 98, but Mr. Olson said he is concerned about interfering with international trade.

"The export of service industries has become increasingly important to the U.S. trade balance," Mr. Olson says. "The big issue here is with the international trade implications."

The NAIC has organized a task force to review problems within the reinsurance industry, particularly the inability of insurers and reinsurers to track the ultimate retrocessionaires of their risks.

The goal of the task force is to establish model legislation to control the reinsurance industry, but it must decide whether to regulate the reinsurance companies or the intermediaries.

The state of California, meanwhile, recently announced a plan to establish a special bureau to investigate reinsurance industry practice and to determine whether the industry is capable of regulating itself (see related story, page 24).

Most industry experts acknowledge that the catalyst behind the regulators' concern is the POSA scandal, but the increasing concern about security behind alien reinsurers has been growing as U.S. insurers have increased their use of foreign reinsurers in the last decade.

The number of foreign insurers writing for U.S. insurers has tripled in the past 10 years, according to the NAIC. And, the amount of premiums paid to foreign insurers has grown to $2.04 million in 1981 compared with just $17.5 million in 1950 (see story, page 30).

Some of the recipients of those premiums are newer reinsurers without established track records or large surpluses and questions about their solvency are not easily answered.

Financial information on U.S. companies can be obtained from uniform annual statements filed with state insurance departments and the NAIC, but there is no one source of financial information on alien reinsurers.

The NAIC keeps a list of approved excess/surplus lines companies, but it stopped keeping track of reinsurers about two years ago.

A half dozen intermediaires contacted by *Business Insurance* did not know that such an approval list once had existed.

Ernie Fennell, the new director of the NAIC's office of non-admitted companies, doesn't like the idea of a list of approved companies. He says smaller reinsurance companies could be excluded from the list because they lack the financial resources to provide the financial data requested.

Concerned more about the operations of dishonest people in the industry, Mr. Fennell contends, "We need some type of central clearinghouse for the names of people and companies that are dishonest.

"Maybe only 1% of the business is outright fraud, but we may be talking about $500 million or so in premium dollars," Mr. Fennell said.

Risk managers who tap the reinsurance market directly in organizing their insurance programs turn to their brokers.

"We rely very heavily on the scrutiny of reinsurance companies by our intermediaires," says Spencer Traver, assistant treasurer for the BF Goodrich Co. of Akron, Ohio. "A lot of people are in the reinsurance market that weren't before, and some of them tend to be a lot more naive and adventuresome."

Key issues in trying to distinguish secure from less secure reinsurers are accounting and currency differences.

"Most intermediaires, except the larger ones, don't have the capability to look at foreign balance sheets," observes Wolfgang Buettner, senior vp for RFC Intermediaries Inc. in Los Angeles. "It presents the same type of obstacle as trying to use U.S. guidelines for alien reinsurers."

Mr. Buettner says, for example, that U.S. regulators become very concerned if a company is writing greater than a 3-to-1 ratio for its surplus to net premiums, but for a German company, a 10-to-1 ratio would be considered very acceptable.

"We are very cautious in recommending security for our clients," Mr. Buettner says. "In some circumstances, we cannot get the security of our choice, but we get the best we can do and advise the client of any additional risks."

There are indications of cause for concern about the financial stability of some alien reinsurers.

Robert A. Brian, an actuary with industry analysts Conning & Co. in Hartford, Conn., says their surveys of "responsible reinsurers" indicate they are tightening up underwriting practices. "But among the fringe reinsurance companies in Europe, we expect combined ratios to hit 180% within the next couple of years," he said.

Some observers perceive the new wave of regulation and industry concern about alien insurers as a knee-jerk reaction to the POSA scandal.

"Freedom of contract is essential to the reinsurance market—and regulation is taking that away," says Sol Kroll, partner in the New York law firm of Kroll, Pomerantz and Cameron, which represents several alien companies.

"POSA could have happened with the New York regulations in place. Alien non-admitted companies are responsible members of the marketplace, despite the regulations that would make you think otherwise."

Mr. Kroll, a member of the NAIC advisory committee on regulating the reinsurance markets, says that trying to restrict trade is an attempt to inhibit economics of the reinsurance market. The economics of the market alone will ensure that good companies will survive and poor ones will die, he contends.

Mr. Fennell of the NAIC observes that "alien companies are basically just as honest as the U.S. reinsurance companies. Thieves operate on both sides of the alien and U.S. market, but it is easier to work as a thief in the international market."

Dave Delaney, executive vp for Delaney Offices Inc., a New York-based intermediary, suggests the regulators cannot do a better job than the industry itself of policing its activities and security.

"I don't believe you can legislate morality or common business sense," Mr. Delaney says.

Another intermediary blames the move for regulation of the reinsurance industry on the industry itself.

"We have a move to regulation and it is the brokers' fault," says the intermediary who asked not to be identified. "But it is also the clients' fault. The weak link in the insurance chain is the greed for premium dollars. Everybody is worried about security, yet they all want to save a buck through cheaper premiums."

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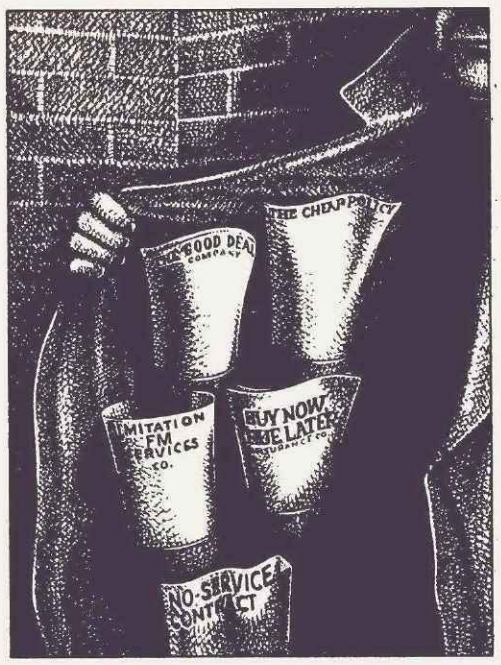

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N.Y. Regulation 98 will hurt industry, intermediaries say

By STEPHEN TARNOFF

NEW YORK—A new regulation in New York state governing reinsurance transactions will do little to deter wrongdoing and a lot to hurt business, reinsurance industry executives say.

Regulation 98, which went into effect Oct. 1, was developed by the New York Insurance Department to keep tabs on the financial condition of intermediaries and reinsurers in the wake of poor industry financial results, several recent scandals and their unease about certain industry practices.

But the rule will increase the amount of paperwork, may curtail traditional practices of reinsurance underwriting and possibly force smaller intermediaries out of business, reinsurance industry executives say.

It also could give direct reinsurance underwriters a competitive edge, increase intermediaries' legal liability, extend to company operations beyond the boundaries of New York and may be a major step toward regulation of what until recently has been a regulation-free industry.

A majority of all reinsurance intermediaries in the United States are subject to the regulation regarding business they do in New York. About 240 intermediaries, which procure reinsurance for ceding insurance companies, are currently licensed to do business in New York, "definitely a majority of the market," a spokesmen for the Insurance Department says.

Regulation 98 forces intermediaries to disclose to all parties any control of or by a party in the transaction, any retrocessions placed by the intermediary and its commissions.

The intermediary also must monitor the financial solvency of unlicensed reinsurers more closely and disclose its findings to the ceding company.

Intermediaries must have written confirmation of orders and authority to place reinsurance and keep more substantial books and records of transactions.

In the past, intermediaries only had to conform to minimal licensing requirements.

It is the most aggressive regulation of the reinsurance industry yet by a state insurance department.

Reinsurance intermediaries, however, fear the uncertain side effects of the regulation, not the least of which is the potential need for increased staff and more paperwork.

Kenneth French, an assistant vp for Paul Napolitan Inc. in New York, says additional staff may be needed to meet the requirements of monitoring the financial condition of unlicensed insurers.

In some cases, a broker may have to investigate several hundred reinsurers and decipher information presented in financial statements in different languages that can use different definitions of essential financial terms.

The responsibilities that the intermediaries will have to take on are really those of the Insurance Department's, Mr. French says.

"They are trying to get the brokers to do the Insurance Department's job."

New York attorney Harold Tract, who represents about eight intermediaries, said the new regulation will "make it more time-consuming and more expensive" for intermediaries.

Mr. Tract, of the New York law firm of Rein, Mound & Cotton, said the brunt of the legislation will be on the "brokerage-oriented reinsurance market".

Estimating that 60% of the reinsurance market is handled by brokers, the regulation will give direct writers a competitive advantage, he said.

Small or medium-sized intermediaries also may suffer at the expense of larger intermediaries as a

Continued on page 22

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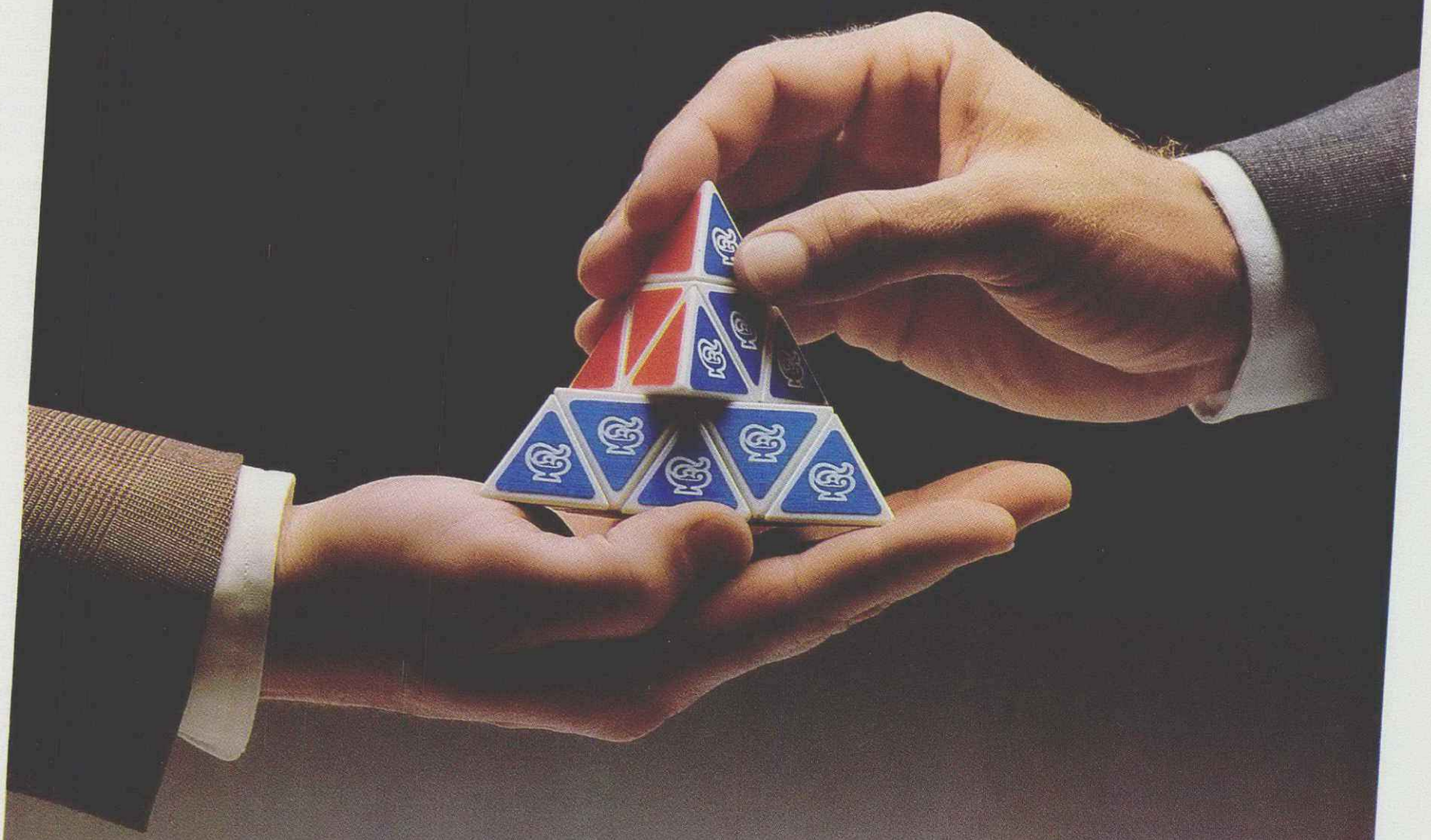

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Spotlight Report

Intermediaries say Regulation 98 will hurt

Continued from page 20
result of the regulation.

Many of the larger intermediaries either already provide the information or have staff and equipment to handle the increased load, said Michael D. O'Halleran, senior vp for Thomas A. Greene & Co. Inc., a subsidiary of Alexander & Alexander Services Inc.

Rather than go to companies that don't have that ability, some ceding companies may use intermediaries that have more resources. "It's going to bleed out some of the smaller intermediaries," he said.

"The whole process will create an incredible amount of additional paperwork," he added, but larger companies, such as Thomas A. Greene, will merely formalize a process they have used in the past.

Regulation 98 also may increase the potential legal liability of intermediaries if they don't conform to the rules.

It is likely that both ceding companies and reinsurers will be looking for intermediaries to carry increased amounts of errors and omissions coverage in the future, Mr. O'Halleran added.

Another reinsurer said the rule could cause problems for certain types of reinsurance transactions.

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The increased disclosure requirements that go beyond the custom and practice of the industry "might make it very difficult to do facultative reinsurance," says A. Edward Gschwind, president and chief executive officer of Overseas Management Corp., American Overseas Reinsurance Co. and Worexco Corp. in New York.

Both he and Mr. O'Halleran agree that the regulation could have an "extraterritorial application," where even companies doing business from offices in another state might be subject to the requirements if they are domiciled in New York.

Mr. Gschwind said Regulation 98 "portends an attempt on the part of regulators to seek an increased regulation of reinsurance. They seek this out of frustration."

He urged the entire insurance industry to be aware that regulators are worried and to do a better job of policing reinsurance itself.

The regulation will not be very effective in stopping scandals, Mr. Gschwind added.

"It's not an effective way of doing it," he said. "I belive the insurance industry has to police reinsurance by itself."

Some attorneys complain that the new regulation has only limited application.

"My concern is that people will feel that there is a simple regulation or statutory solution to reinsurance problems, which in fact don't exist," says Timothy McCaffrey, vp and general counsel of Continental Insurance Cos. and also National Reinsurance Corp.

The regulation addresses only part of the problem, he added. "It really focuses on only one part of the reinsurance transaction. Regulation 98 addresses the responsibility of intermediaries but it doesn't address the responsibilities of (ceding) companies for establishing adequate information on their own about their (reinsurance) markets." Despite the opposition from some in the industry, not everyone believes the effect will be entirely negative.

"It (the regulation) was a logical solution for some of the problems," says a spokesman at RFC International. "It creates its own problems for smaller intermediaries, but we're fortunate because we've been keeping those types of records all along. Frankly, I see it as a useful vehicle to discourage things such as POSA," he said referring to the recent investigation of an intermediary (*BI*, Sept. 4).

Reinsurance companies do not appear to be concerned about the regulation, although it may mean some additional paperwork.

"From the standpoint of reinsurers, it doesn't have a great deal of impact," Theron J. Strenk, president of INA Reinsurance Co., said.

Mr. Strenk does not see it as substantially interfering with the way business is conducted and suggests it may do some good.

"A degree of reasonable regulation of intermediaries doesn't bother us," he said. "It may be helpful."

Mr. Strenk acknowledged that the regulation will require more paperwork but that may be a one-time problem. He would not like to see similar filings in 50 different states, however.

The New York Insurance Department, which has had authority to promulgate such a regulation since 1976, contends that the effect will be positive.

The regulation will protect ceding companies, says Stewart A. Keir, supervising insurance examiner in the department's insurance exchange and excess lines bureau.

In the past, a ceding company could be told that reinsurance had been obtained for it only to find out the opposite when it went to collect on losses, Mr. Keir said.

Ceding companies also will be more aware of the solvency of the unlicensed reinsurers that intermediaries use. A reinsurance company's continued solvency can't be guaranteed, but the regulation does demand that the intermediary check the financial condition of the assuming unauthorized reinsurer and provide that information to the ceding company.

"It is the first step to assuring solvency," said Mr. Keir.

Also, detailed notification requirements will put ceding companies on notice of the financial involvements of intermediaries, Mr. Keir added.

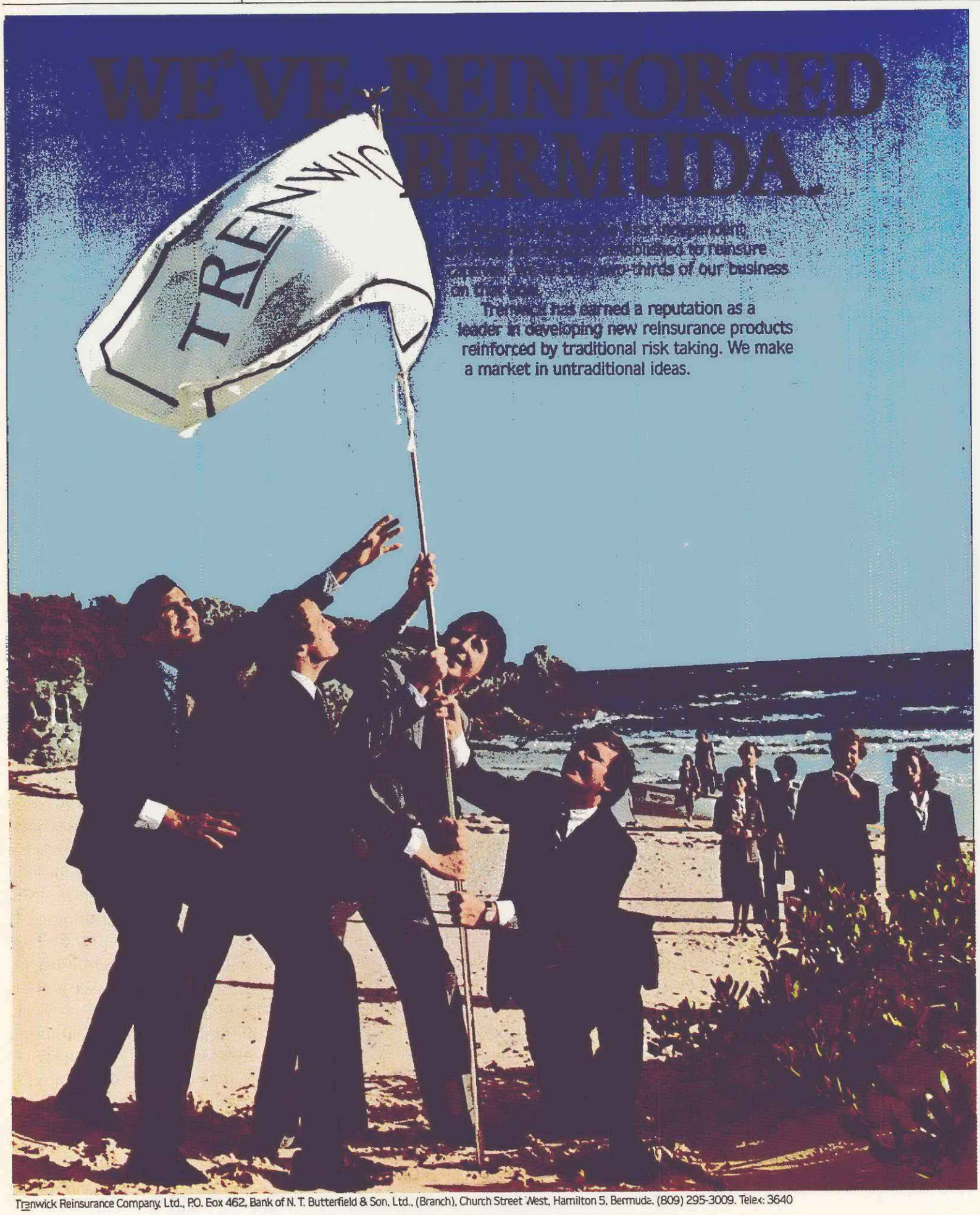
If an intermediary is taking a large slice of the premium on commission, the ceding company will have to be notified.

A ceding company might not be concerned, but if a retrocessionaire becomes insolvent, it could have a "domino effect" ultimately affecting the ability of reinsurers to pay, he said.

"At least the ceding company is put on notice," Mr. Keir added.

Regulation 98 also provides procedures by which an "audit trail" is established to permit tracking financial records.

There has been a problem of poor or a lack of record keeping that makes tracing difficult, Mr. Keir says. "This allows the Insurance Department to trace the transaction." ■



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California forms unit to investigate reinsurance deals

By BETSY SHARKEY

SAN FRANCISCO—Intent on taking a closer look at the largely unregulated reinsurance business, the California Department of Insurance is establishing a bureau to investigate this elusive segment of the insurance industry.

The bureau, the first of its kind in the nation, began setting up shop Oct. 15.

Impetus for establishing the bureau developed after the Insurance Department became aware that sophisticated methods of circumventing existing insurance laws were being used by various parties in reinsurance transactions.

Recent surveys, which noted the tremendous complexities of reinsurance placement, added fuel to the growing effort within the department to develop a reinsurance unit. "It has become increasingly clear that a reinsurance bureau is a necessity in view of the increasing uses of reinsurance," said state Insurance Commissioner Robert C. Quinn.

"We want to begin the process of obtaining more information about reinsurance practices such as accounting methods, underwriting practices and to what degree, if any, the industry has overextended itself," he said.

After looking at current market conditions, the Insurance Department also became concerned about the prospect of a major reinsurer going bankrupt in the next few years.

"We want to prevent insolvencies. To do that, we have to look at the problems and how to solve them," said Frank Damon, chief deputy commissioner.

"The market is very soft and there are reinsurers with 150% combined ratios. We have to understand what the fallout would be if a reinsurer fails."

Although the state Insurance Department currently has no regulatory power over reinsurance activity, legislation to correct problems in the reinsurance arena is a possibility once the bureau's initial findings are reported, according to Mr. Quinn.

The bureau's staff, which will be drawn from financial and legal staff members currently working in other areas of the Insurance Department, will assess the entire spectrum of reinsurance from the initial placement of reinsurance to claims payments.

Alexander Gershaneck, a 19-year veteran of the state Insurance Department, was named to head the reinsurance bureau. Most recently, Mr. Gershaneck served as supervisor of the department's financial statements and surplus lines unit.

"Reinsurance is a very sophisticated aspect of the industry and we have not yet crystalized where we're going to concentrate our efforts," explained Mr. Gershaneck, who is also a certified financial examiner.

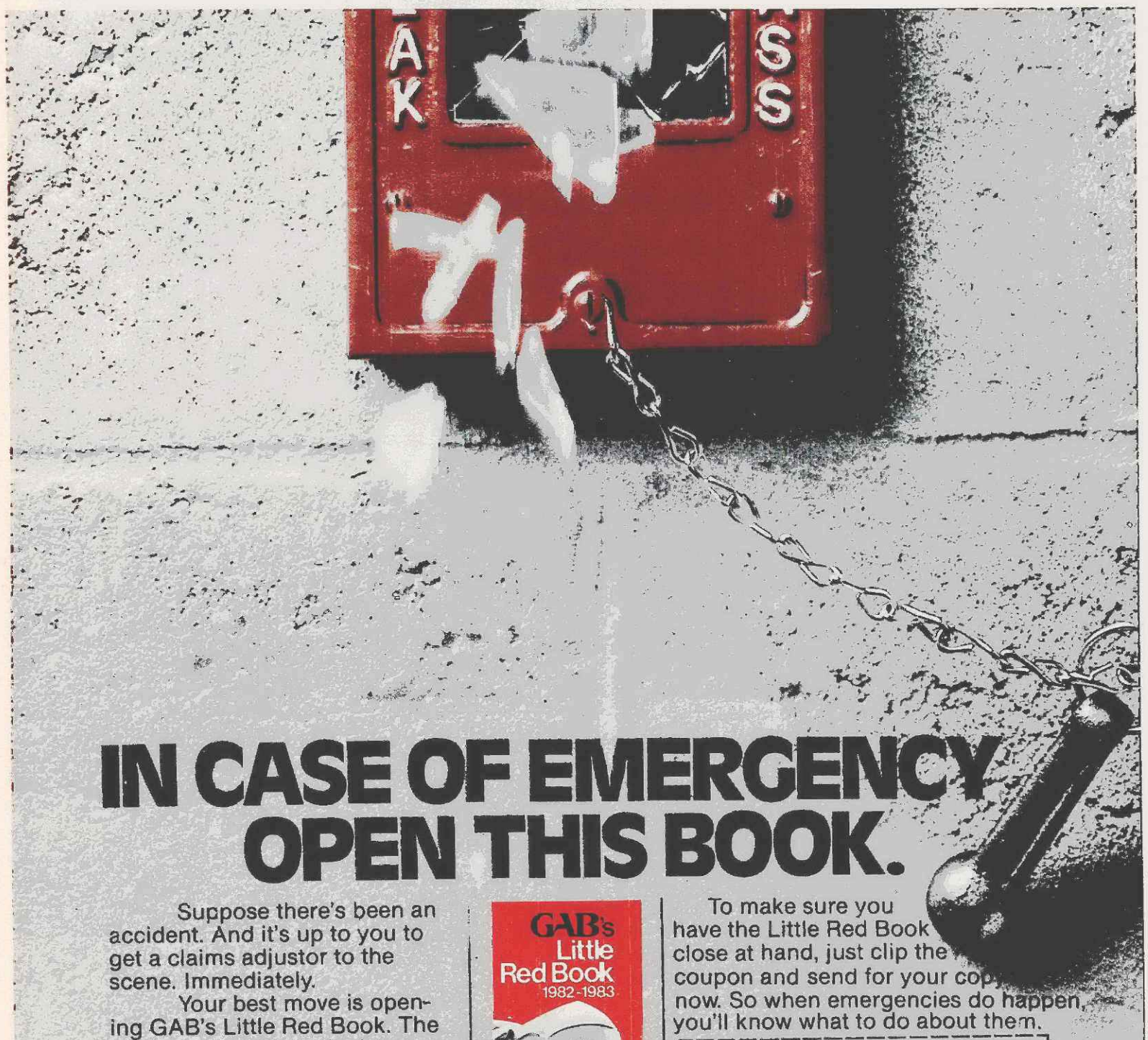
He is currently in the process of selecting staff members, determining what specific expertise the staff will need and identifying any additional training that may be necessary.

"One of our tasks will be to explore what other states do have," he added.

The bureau also will attempt to quantify the reinsurance market in California and plans to work with industry leaders to solve the problems tied to reinsurance transactions.

"The transactions are very complicated," Mr. Damon explained. "It is our view that it is a long time before anything (elements of the transactions) becomes tangible.

"There is concern about the reinsurance market and we just want to make sure the department is prepared to meet future challenges in this area." ■



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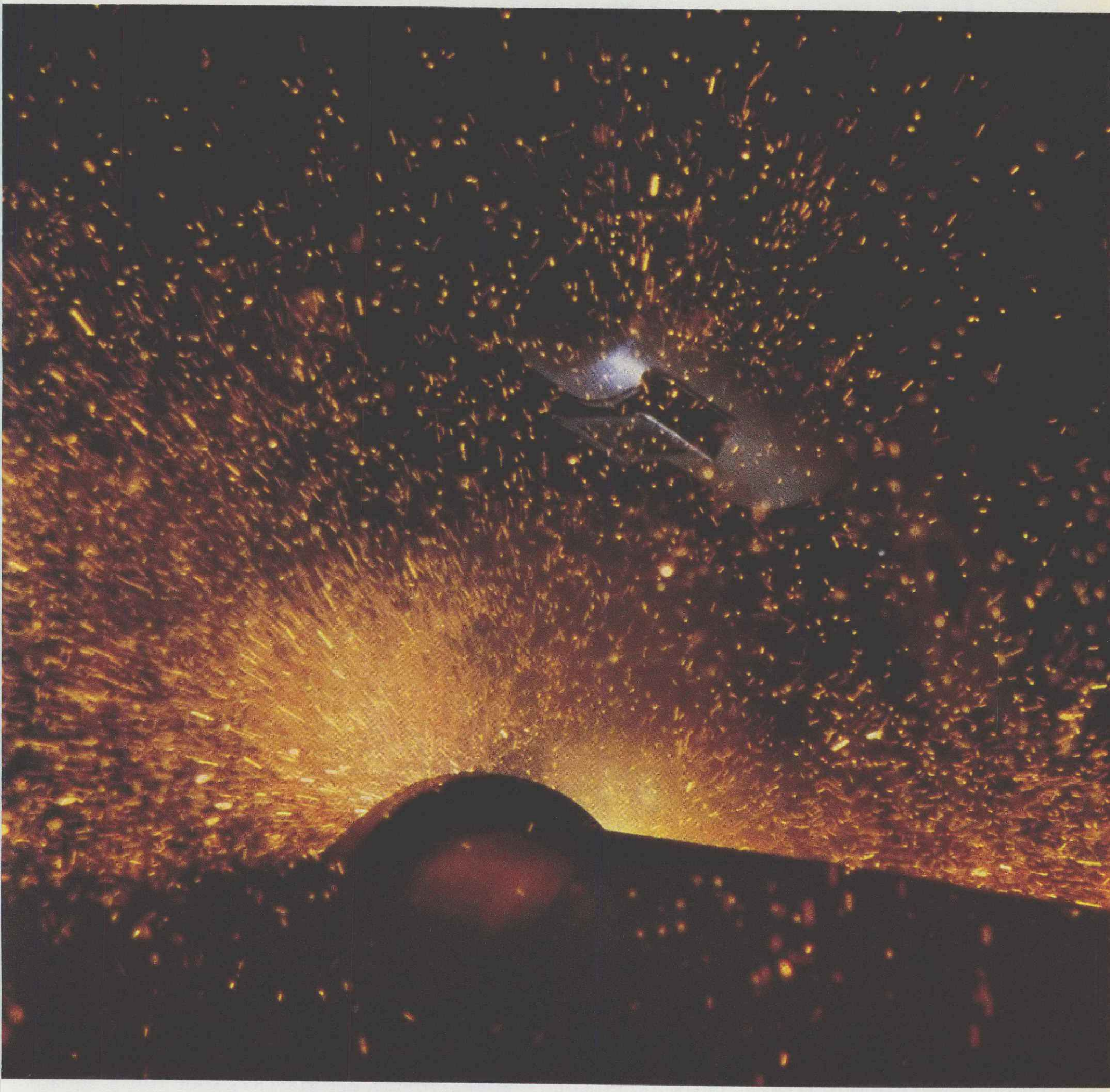

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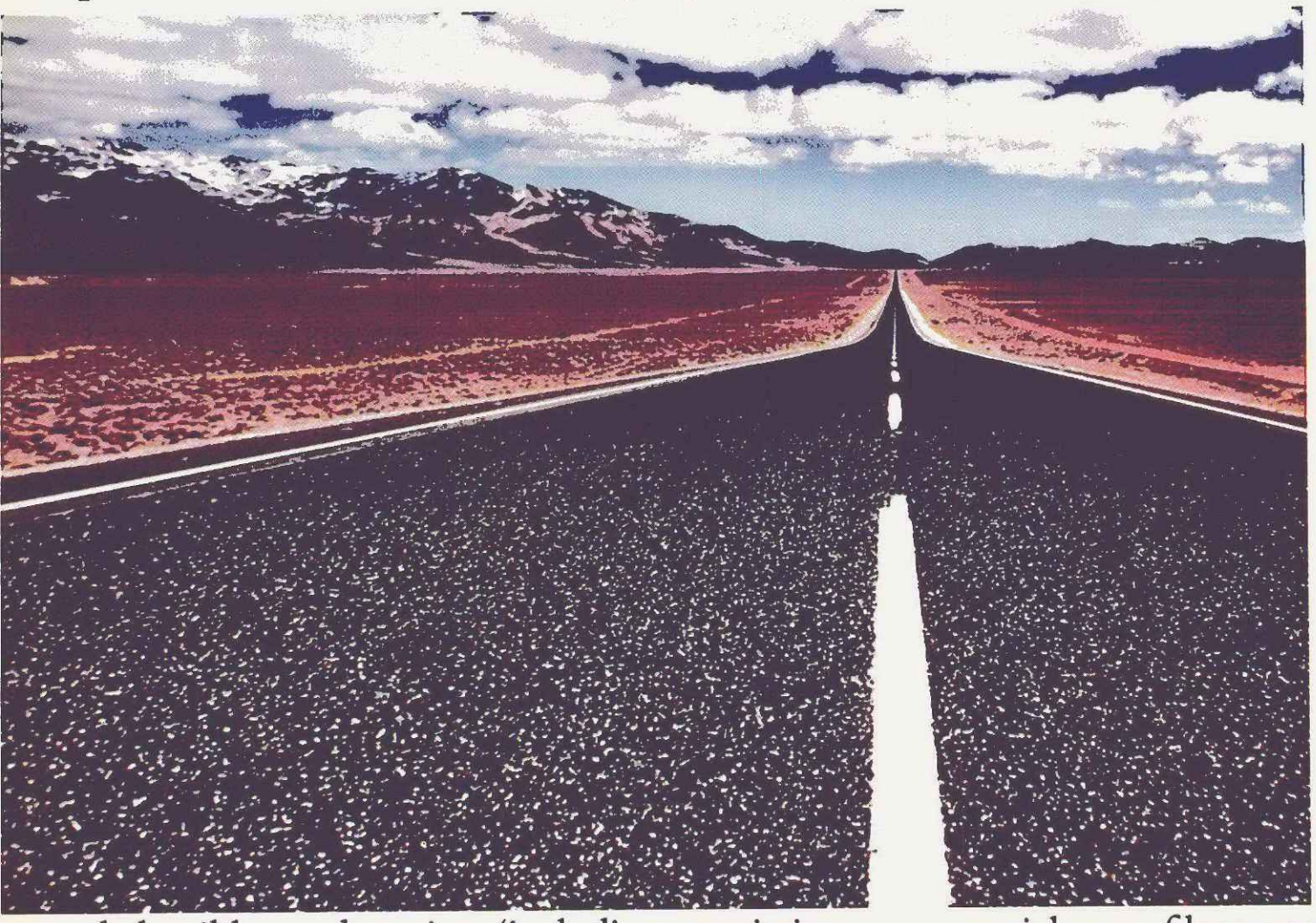

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Tax bill could hinder growth of exchanges

By BILL DENSMORE

The elusive private investors sought to develop the three U.S.-based insurance exchanges and their reinsurance business could be further deterred if President Reagan signs the most recent tax bill passed by Congress.

A bill intended to liberalize tax treatment of so-called "Subchapter S" corporations effectively bars individual investors from forming them for exchange syndicates after Dec. 31.

Currently, private investors can form syndicates as Subchapter S corporations and then deduct on their personal tax returns their share of the syndicates' loss reserves. If the tax bill is signed, as is expected, only investors in Subchapter S corporations qualified on exchanges before Dec. 31 would be allowed the current favorable tax treatment.

"The practical effect is to discourage individual investment in the insurance industry," says Bernard E. Epton, a Chicago attorney and a state representative who sponsored legislation creating the Illinois Insurance Exchange. "Without Subchapter S, an investor could be paying a heck of a tax on money he hasn't earned."

"It's an inhibiting factor on the success of any U.S. exchange," says Alan A. Teale, chief executive of the Miami-based Insurance Exchange of the Americas, which is scheduled to accept its first risks soon. "It's very regrettable, but we'll just have to work around it."

In recent weeks, the Insurance Exchange of the Americas, which has sought to parallel itself most closely to Lloyd's, has sent prospective syndicate members a memo urging them to beat the Dec. 31 deadline if they wish to elect Subchapter S tax treatment for their investors.

Each of the three exchanges, starting with the New York Insurance Exchange, was formed with the idea of attracting private investment capital, but the results so far aren't encouraging.

On the 2-year-old New York Insurance Exchange, only one of 31 member syndicates is a Subchapter S corporation, the KCC New York Syndicate, managed by KCC Syndicate Managers Inc.

The investors in KCC have been routinely filing their individual returns with appropriate deductions for loss reserves under existing law, says Donald Kramer, an investment banker and insurance industry consultant who is president of the management company and a syndicate investor.

None of the six funded syndicates on the Illinois exchange are Subchapter S corporations. All are affiliated with a U.S. insurance company.

In Florida, two of the 10 syndicates have been formed as Subchapter S corporations.

Exchange organizers in Florida had hoped that investment banks would be willing to market the benefits of syndicate membership. "But they didn't look at it that way," says Richard S. Adeline, treasurer and secretary of the Florida exchange, because other tax shelters generate more favorable investment-to-loss ratios and because of the underwriting risk.

Without a Subchapter S option, individual investors forming a syndicate could form a partnership. But the tax deductibility of loss reserves maintained by partnerships has never been assured by the IRS. Three requests for rulings from the IRS were withdrawn in March 1981 by New York Insurance Exchange interests for fear of an adverse result (*BI*, March 23, 1981).

Potential exchange investors have one other option: to form an offshore corporation whose ownership structure would not subject it to U.S. taxation.

Individuals with money to invest may turn to Lloyd's of London, whose American members are afforded favorable tax treatment in the United States, say organizers of the American exchanges.

An agreement between British and U.S. authorities extends to U.S. investors in Lloyd's the right to report underwriting results for tax purposes three years after the policy year when most losses have already been paid and are clearly deductible expenses.

"What we need is some approach whereby we can persuade Congress to establish parity between investors in U.S. exchange syndicates and the names at Lloyd's," says James M. Skelton, director of the Illinois Insurance Exchange.

Private investors in U.S. exchanges originally thought that a Subchapter S corporation would give them the best tax breaks.

Under Subchapter S status, the corporation does not pay taxes, but the individual shareholders report their share of the corporation's income or loss on their personal returns.

Removing the right of individual investors in U.S. insurance syndicates to deduct on their personal tax returns their share of the syndicate's loss reserves in effect treats cash tied up in reserves as profits and thus taxable until the actual losses are paid.

The section of the bill clamping down on the use of Subchapter S corporations as insurers after Dec. 31 was pushed by the Treasury Department and congressional aides on tax-writing committees who saw the current law as a potential tax shelter for syndicate investors, says Irving Salem, a corporate tax attorney with the Washington, D.C., firm of Caplin & Drysdale who

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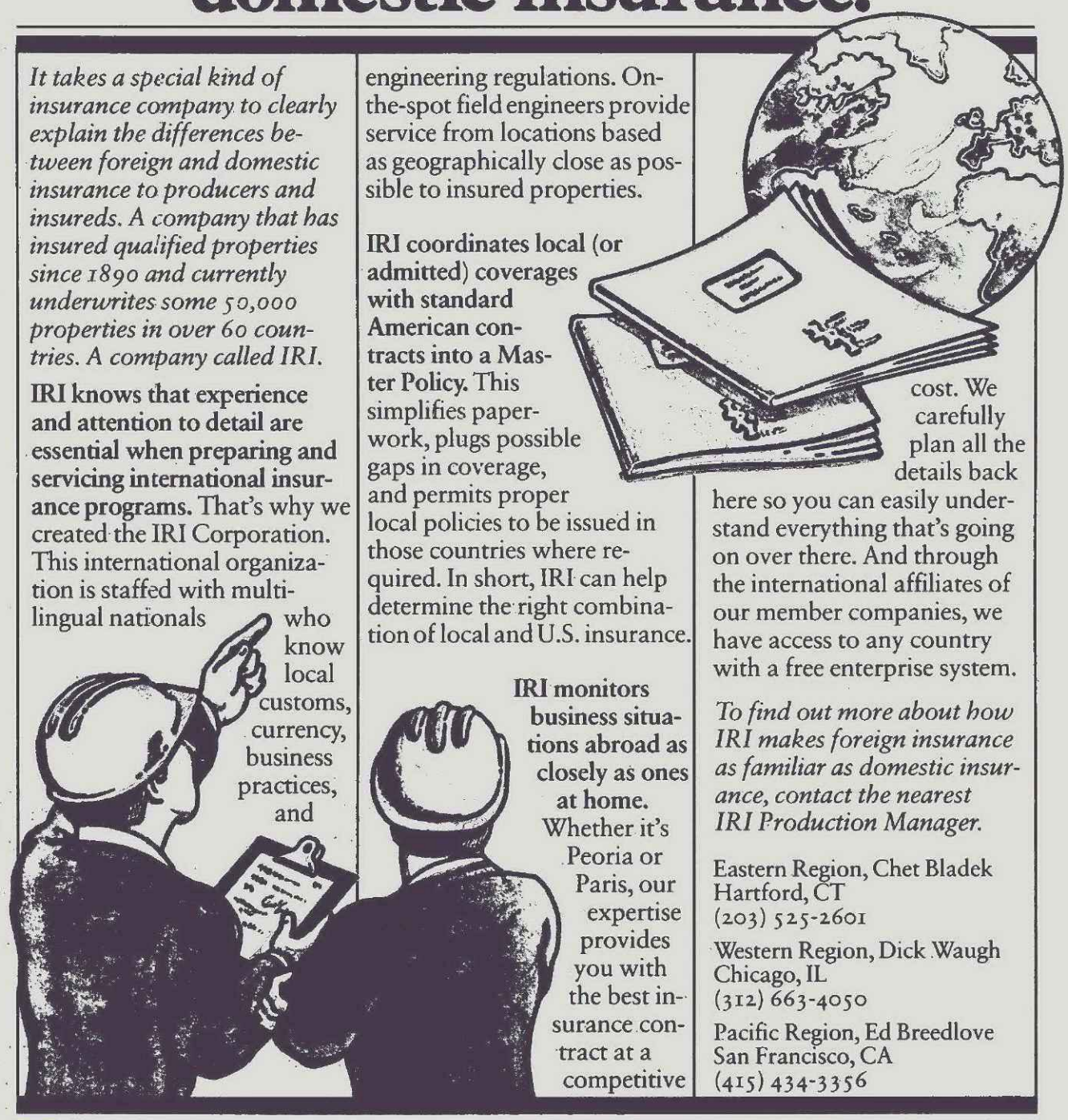

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Bill could hurt exchanges

Continued from facing page
lobbied for several Florida and New York syndicate members.

The Treasury and aides ignored the fact that U.S. insurance companies obtain such treatment routinely, he said.

"It's unfortunate the Treasury took such a strong position because they really were cutting the legs out from under the exchanges."

"I think the IRS was hostile to the issue without really understanding it," contends Mr. Kramer. The IRS thought the loss reserve deduction was a tax shelter, he said, but it certainly isn't under the traditional view of a tax shelter which provides a taxpayer with deductions worth two or three times his initial investment.

Commercial insurers did not take a position on the bill, which was passed Oct. 3, Mr. Salem noted. They are not affected directly and at best would benefit from less competition if individual investments in the exchanges were deterred.

"I don't think they were going to extend themselves for this particular type of individual investor," said Mr. Salem. "It would bring in competition, if nothing else, although I don't think they were really worried about it."

"I don't think anybody wins on this one," says Mr. Kramer. "I see it as a defeat for the individual investor, but I don't see it as a gain for the insurance industry, which had nothing to fear from individuals."

"It's very disappointing," Mr. Teale says. "I find it very ironical that having come across here from London the first thing we run into is Congressional approval of a tax provision which discourages individual investment in insurance."

Although disappointed, none of the exchange officials regard the change as critical to their development, which so far has been in reinsurance underwriting:

- Ninety-nine percent of the premium volume on the New York exchange represents reinsurance. Of that, 40% is treaty property, 17% is treaty excess-of-loss casualty. 23% is facultative casualty and 20% is facultative property. No one class of business represents more than $2 million in premium volume, Mr. Reutershan says.

The exchange, which wrote its first risk on March 31, 1980, reported premium volume of $63.2 million for the first six months of 1982, up from $27.1 million for the same period a year earlier—a 133% increase. Mr. Reutershan forecasts volume of $120 million to $150 million at year-end 1982 and $200 million to $300 million of businesss during 1983.

At June 30, the New York exchange had paid-in capital of $143.7 million and had 31 member syndicates, 59 member brokers and 26 associate member brokers.

- On the Illinois exchange, about 60% of the business is reinsurance and of that, about 40% is treaty and 60% facultative. Four of the exchange's six approved syndicates are currently underwriting, says Mr. Skelton, and their aggregate paid-in capital totals $20 million. He expects capital to reach $25 million by the end of the year and $35 million by the end of 1983.

Mr. Skelton says the exchange management doesn't know the premium volume written by the various syndicates but he said the exchange has written close to 100 contracts since its opening in November of 1981. It now has 30 broker members.

Of the broker members, he says, 11 are affiliated with an established U.S. or British reinsurance intermediary and 19 are tied to an existing U.S. or British excess/surplus lines wholesaler or broker.

- The Florida exchange, which is already chartered by Florida but is not yet writing risks, has paid-in capital of $12 million from 10 syndicates, according to Mr. Teale. There are 42 qualified broker members. One of the syndicates is an affiliate of a Spanish insurer.

Mr. Teale expects the exchange to record capital of $30 million by the end of 1982 and $60 million by the end of 1983. He forecasts that about 80% to 90% of its projected $25 million premium volume will be reinsurance, much of that on Latin American and Caribbean risks (*BI*, Sept. 27).

Of the brokers on the Florida exchange, he says, about one-third have links to a major U.S. or London broker, about one-quarter are tied to a reinsurance intermediary and about one-half are affiliated with an excess/surplus lines wholesaler or broker. ■

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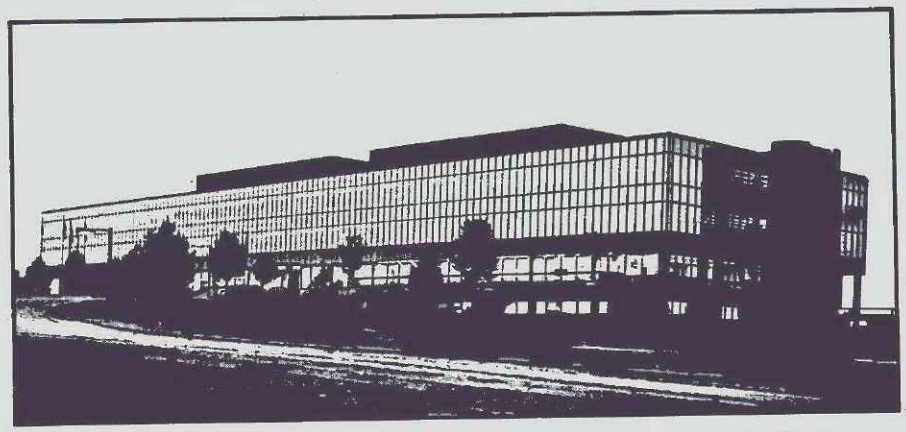

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More reinsurance flows out of U.S. than in

WASHINGTON—U.S. insurers netted a 32-year record of $900.5 million in reinsurance premiums for coverage in foreign countries in 1981, but still failed to equal what U.S. insurers paid to foreign reinsurers.

U.S. firms reinsuring foreign risks received net premiums (premiums minus commissions) of $900.5 million and paid out $709.7 million in losses for net receipts of $190.8 million, according to the U.S. Commerce Department's Bureau of Economic Affairs.

But at the same time, U.S. insurers paid out $2.038 billion in net premiums to foreign reinsurers in 1981, the largest amount in the department's reporting history.

Most of these payments, $753.3 million, went to Bermuda reinsurers, while British reinsurers received $649.4 million, according to the department.

U.S. insurers recovered $1.175 billion in losses on the $2.038 billion in net premiums they paid to foreign reinsurers, resulting in U.S. payments of $863.3 million for reinsurance of U.S. risks accepted abroad.

The Commerce Department cautions that the reinsurance payment results are meant to show the effect of reinsurance transactions on the nation's balance of payments. They are not meant to indicate the underwriting results of the reporting companies.

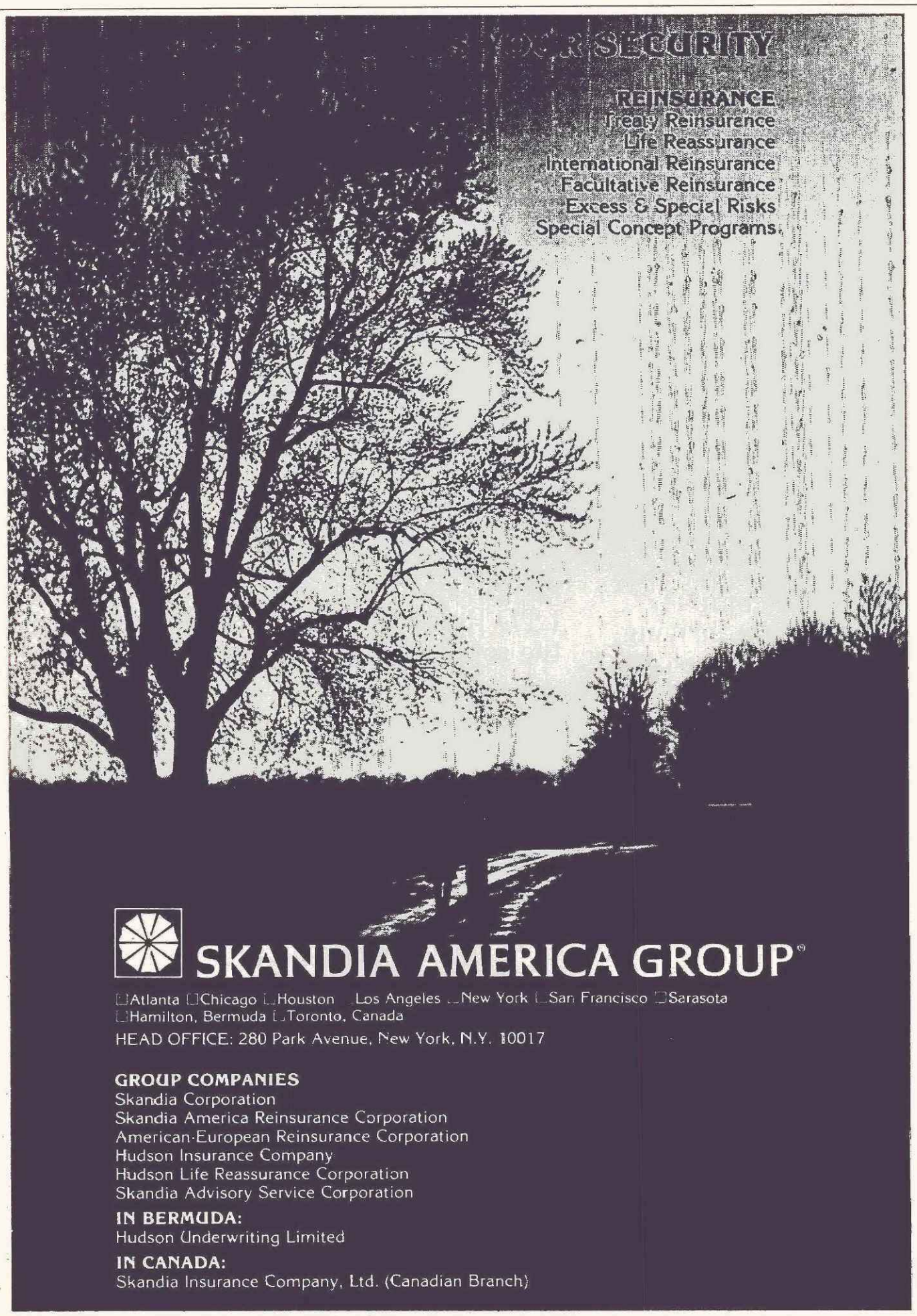
Comparing the U.S. receipts of $190.8 million with the net U.S. payments of $863.3 million, the effect of all 1981 international reinsurance transactions was a net outflow of $672.5 million to foreign reinsurers.

The Commerce Department insurance statistics indicate long-term trends in underwriting, with the growth of U.S. reinsurance payments outstripping receipts.

In 1950, the first year for which figures are available, foreign insurers received $129.7 million for reinsuring risks of U.S. companies. By contrast, the U.S. insurers received only $17.5 million for reinsuring the risks of foreign underwriters.

The Commerce Department breaks down the payments and receipts from abroad to show transactions with the European Economic Community, the United Kingdom, Canada, Japan, Switzerland, Latin America republics, Bermuda and other Western Hemisphere countries.

The statistics in this year's study are preliminary and will not be finalized until next year's report is released in late summer or early fall.



Howden affair may prompt regulations

By STACY SHAPIRO

LONDON—The scandal that has rocked Alexander Howden Group P.L.C. may prompt tighter reinsurance regulations, market observers say.

The Howden affair, which centers on reinsurance contracts made by Howden underwriting subsidiaries allegedly to benefit former directors, has caught the attention of the British Department of Trade (*BI*, Oct. 4).

That department, with the guidance of the Reinsurance Offices Assn., says it wants stronger reinsurance regulations by the end of this year.

At the same time, Lloyd's of London is hoping to insert more detailed reinsurance information into its global results to be issued next year.

The Department of Trade and Lloyd's are each investigating the reinsurance arrangements of Howden's underwriting subsidiary Sphere Drake Insurance P.L.C. Howden's parent, Alexander & Alexander Services Inc., alleges that $55 million in Howden funds were diverted to reinsurance companies secretly controlled by five former Howden directors.

Both the Department of Trade and the Committee of Lloyd's say they have studied tightening regulations governing reinsurance accounting for quite some time. But the Howden affair may push forward implementation of the regulations.

"The regulation reform by the Department of Trade is not because of the Howden affair," said Russell Chilvers, director of the Reinsurance Offices Assn. "But this may accelerate the outcome."

The department, which is responsible for regulating all insurance companies doing business in Britain, with the exception of Lloyd's, wants to beef up reinsurance rules in two ways, according to a spokesman.

First, the department has drafted legislation that will require all insurance and reinsurance companies operating in Britain to disclose the names of their main reinsurers and retrocesionnaires, he said. The department hopes to have the legislation passed by the end of the year.

The definitions of "main" reinsurers and retrocessionaires are spelled out in the new legislation. The definitions will vary for treaty and excess-of-loss reinsurance, the department spokesman said.

The legislation will be comprehensive enough to to detect the small reinsurance companies that have managed to slip through such regulations in the past, he said.

"At the moment, we get some indication of the British companies' reinsurance arrangements, but this will sharpen it up," he said.

Secondly, the department proposes to scrutinize the business accepted by British-licensed reinsurers.

"We are going to ask more about the business that is accepted by reinsurers," said the Department of Trade spokesman.

For example, companies will have to furnish the department with data about the run-off of policies accepted "to allow us to monitor how well companies assess their liabilities," he said.

Legislation incorporating the second area of regulation has not been finalized, but it should be soon, the department spokesman added. ■

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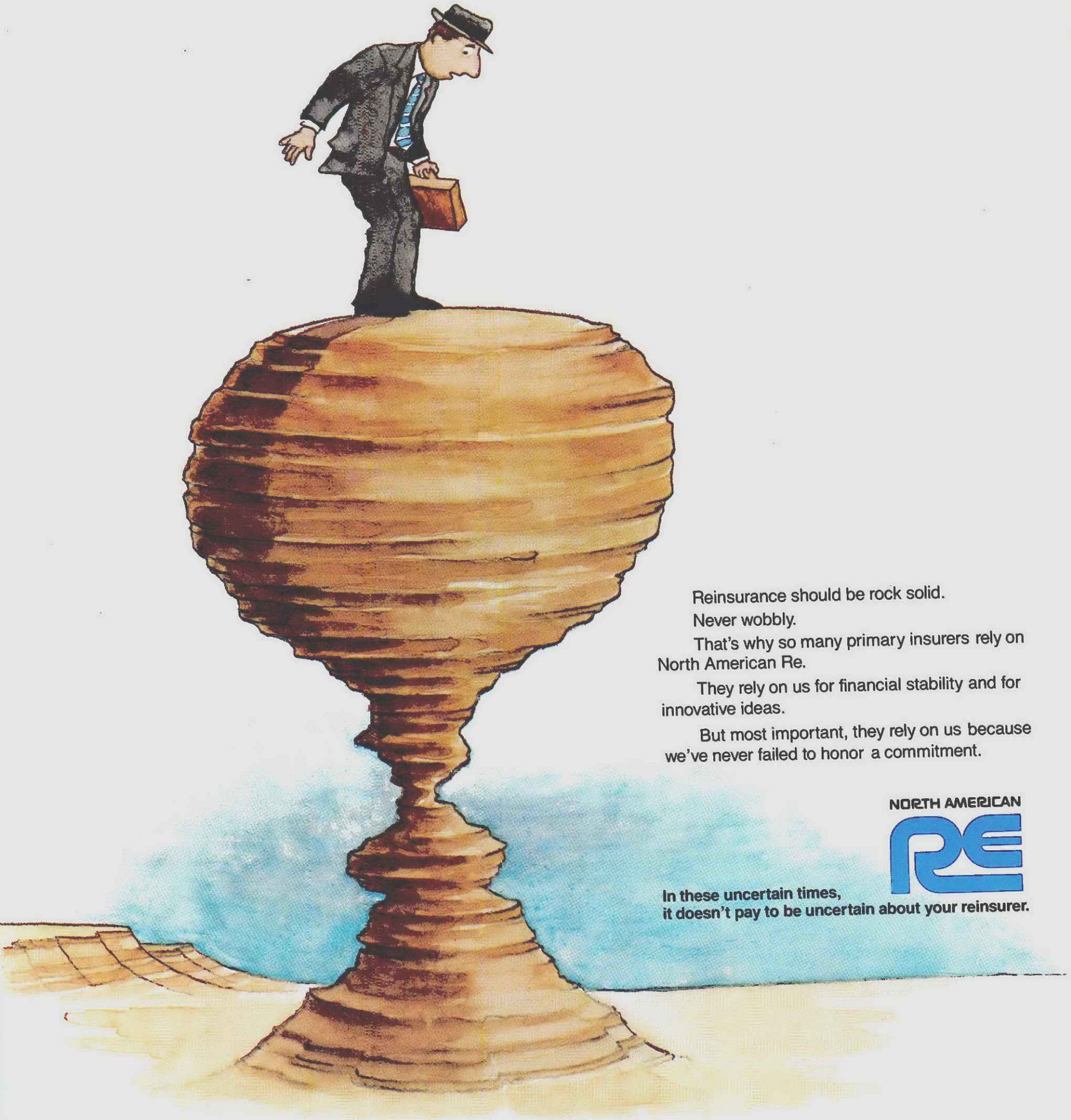

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Treaty market begins to firm: Underwriter

By STACY SHAPIRO

LONDON—The London reinsurance market may be setting a trend that could be noticed around the world.

"There are signs that the reinsurance rates are becoming harder," said Tony Taylor, general manager in charge of underwriting for the English & American Insurance Co. Ltd., a subsidiary of C.T. Bowring & Co. Ltd.

These "harder rates" are not necessarily showing up in dollars and cents or pounds and pence, Mr. Taylor said.

However, ceding companies are finding it much more difficult to place treaty reinsurance in the London market, Mr. Taylor pointed out.

Overriding commissions, paid by the reinsurer to the ceding company for producing the business, may be declining a bit. And, other treaty terms and conditions are becoming a lot stricter than they were last year, he added.

"This is happening in all areas of treaty reinsurance," said Mr. Taylor.

"It is becoming much tougher to set terms and conditions, which is a good sign because that is usually the first sign that the market is turning."

Treaty reinsurers in London do not set the rates charged by the primary insurer for coverage, however. But from what underwriters have seen, primary insurers are charging more for coverage, said Mr. Taylor.

Excess-of-loss or non-proportional reinsurance is a different kettle of fish, Mr. Taylor pointed out. London underwriters are still coping with bargain-basement rates in this competitive section of the reinsurance market.

However, "this class of reinsurance is very volatile" he said, "so premium rates could double overnight."

London underwriters have always had a great bearing on the world reinsurance market, but its influence could increase as London both seeks and is sent more reinsurance business.

On the whole, not as much premium is flowing to the London market from overseas as in the past.

British insurance companies in 1981 earned 974 million pounds (approximately $1.67 billion) from overseas premiums and related investment income, according to the British Insurance Assn. That is a 6% decline from the 1978 figure of 1,039 million pounds (about $1.78 billion).

As premium volume in the market decreases, more companies are opening their doors to write any reinsurance that is coming to London, sources say.

"With more companies creeping into the market, it appears that reinsurance is growing here," said one reinsurer. "But we are all taking the same (amount of) premium, with the world economies stagnant and some countries in trouble."

It is fair to say that despite declines in premium and stricter treaty reinsurance terms, London is still growing as a reinsurance market.

"In the international sense, I suppose this has always been true," said Russell Chilvers, director of the Reinsurance Offices Assn. in London.

'It is becoming much tougher to set terms and conditions, which is a good sign,' Mr. Taylor says.

"As a domestic market, the United Kingdom is small by any standard, so the actual domestic market for insurers is not enormous."

The overseas risks, which London underwriters thrive on, are becoming mostly reinsurance-oriented, he said.

"Reinsurance has been a growth area," Mr. Chilvers said. Although there are no actual statistics to show when the change took place, brokers and underwriters say that overseas reinsurance risks are more prominent today than direct insurance risks.

It is estimated that Lloyd's of London, for example, earns more than 60% of its premium from reinsurance, said a Lloyd's spokesman. "This percentage has gone up over the years," he said.

The focus on reinsurance was not created by the Lloyd's underwriters but by overseas forces.

Emerging Third World nations, which once placed risks directly with Lloyd's, have now developed their own, state-owned insurance companies. Usually risks in the countries must be insured through the national insurer.

But the bulk of these risks eventually come back to Lloyd's and the London market as reinsurance, said the Lloyd's spokesman. "So, whereas in the past it used to be direct insurance, now we get the same business as reinsurance," he said.

Other overseas risks that used to come to Lloyd's as direct insurance are now directly placed with captives, the Lloyd's spokesman said. "So risks that used to come here will now come as reinsurance to protect their captive or pool." ■

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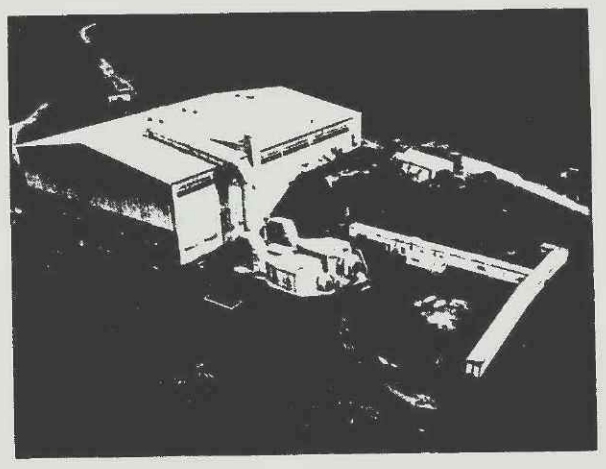

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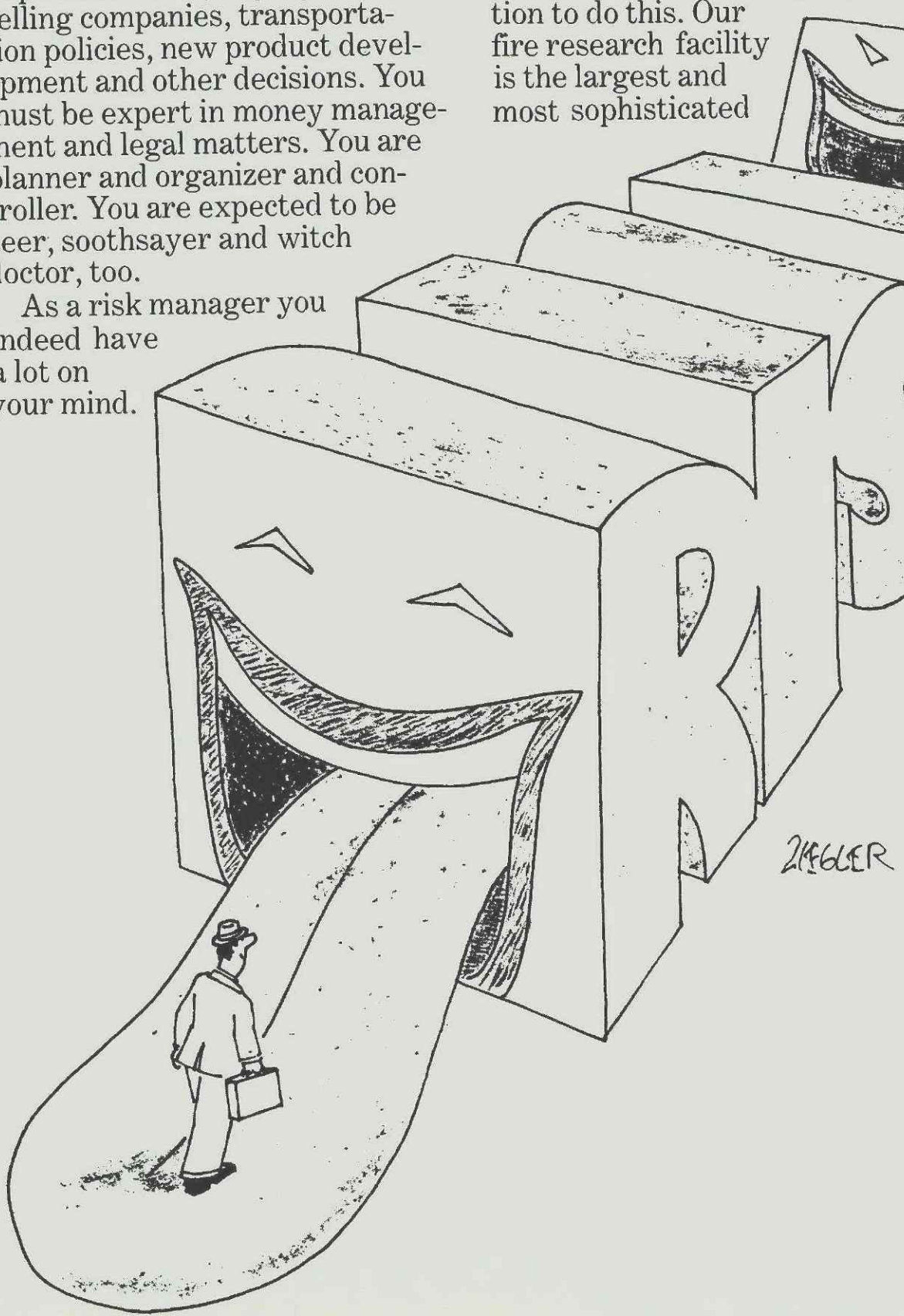

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Spotlight Report

IRU meeting

Beware of insurers that borrow from surplus: E/S broker

By DOUGLAS McLEOD

BLOOMINGDALE, Ill.—A steady increase in loss reserves is one sign of a sound insurance company. Or is it?

That depends on where the cash is coming from to increase reserves, says Charles A. McAlear, chairman of McAlear Associates Inc., a Grand Rapids, Mich., excess/surplus lines brokerage.

If an insurance company is drawing cash for reserves from surplus, the company may soon find itself in trouble.

Profits from underwriting operations and from investment income are necessary for maintaining both reserves and surplus, Mr. McAlear told an audience at the October meeting of the Independent Reinsurance Underwriters Assn.

"Without that, the balance sheet starts to go to hell in a hurry," Mr. McAlear said.

To illustrate his point, he charted the brief history of the Magnum Casualty Co., a hypothetical insurer.

Magnum's premiums for each of the years between 1982 and 1984 total $3 billion. Incurred losses in 1982 total $2.58 billion, climb to $2.94 billion in 1983 and rise slightly to $2.983 billion in 1984.

The loss ratio is high, but reserves have also climbed steadily, from $3 billion in the first year to $3.36 billion in 1983 and to $3.763 billion in 1984.

Magnum would seem to be adequately covered for losses coming due, Mr. McAlear told his audience. But appearances are deceiving in this case.

Operating expenses of $600 million each year combine with Magnum's incurred losses to produce steadily increasing combined underwriting and expense losses. The underwriting/expense losses start at $480 million in the first year and rise to $840 million in the second and $883 million in the third.

Meanwhile, rate cutting has forced Magnum to draw cash from its surplus to build up its reserves. Its surplus declines from $1 billion in 1982 to $640 million in 1983, and further to $237 million in 1984.

Because the $4 billion in total funds available for investment has not increased, with a portion only transferred from surplus to reserves, investment income—which Mr. McAlear figures at 12%—remains a constant $480 million per year.

This investment income is enough to offset the first year's $480 million underwriting loss, but Magnum quickly falls behind thereafter, suffering net operating losses of $360 million in its second year and $403 million in its third.

In other words, Mr. McAlear suggested, Magnum is in trouble.

The Magnum model realistically represents the problems some insurers may soon be facing, Mr. McAlear said. In some ways, he explained, it is even conservative.

Premiums for many insurers have remained as static as Magnum's, but in the real world investment income would probably decline with interest rates, while Magnum's investment income remained constant, he said.

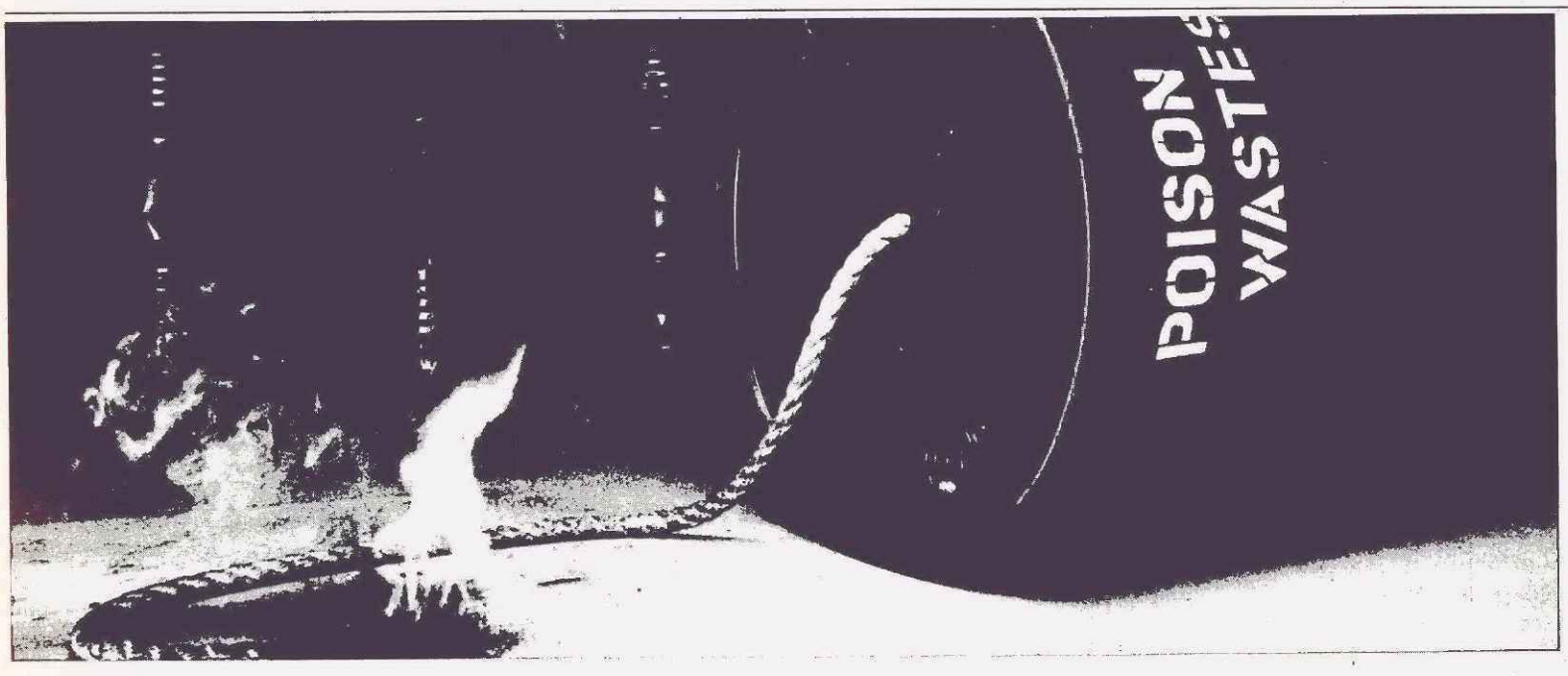
Magnum joins another of Mr. McAlear's hypothetical companies, Aardvark Casualty Insurance Co., which increased its writings by 20% a year while cutting its rates by the same 20% and maintaining the 60% loss reserves required by statutory accounting. Aardvark would have been out of business after eight years by Mr. McAlear's calculations.

Both companies point up the folly of trying to make up for underwriting losses with investment income, Mr. McAlear said. The Aardvark model, however, was intended to demonstrate the possible effects of long-tail losses on an underreserved company.

Mr. McAlear cautioned that too many Aardvarks and Magnums may lead the federal government to conclude that states have failed to properly regulate insurers. Today's state regulation would be gone overnight under such circumstances, he said.

He also advised his audience to pay attention to the ratio of reserves-to-surplus when judging the condition of an insurance company. The ratio provides one measure of a company's capital strength, he said, and helps in spotting trends.

"If (the ratio) starts to go up, the company's position is deteriorating," he said. "A lot of them today are deteriorating." ■



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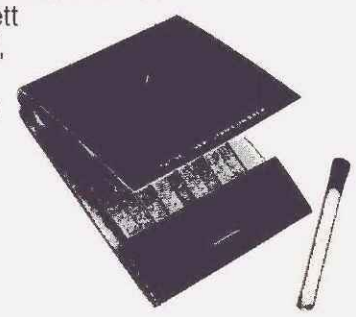

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Low turnout

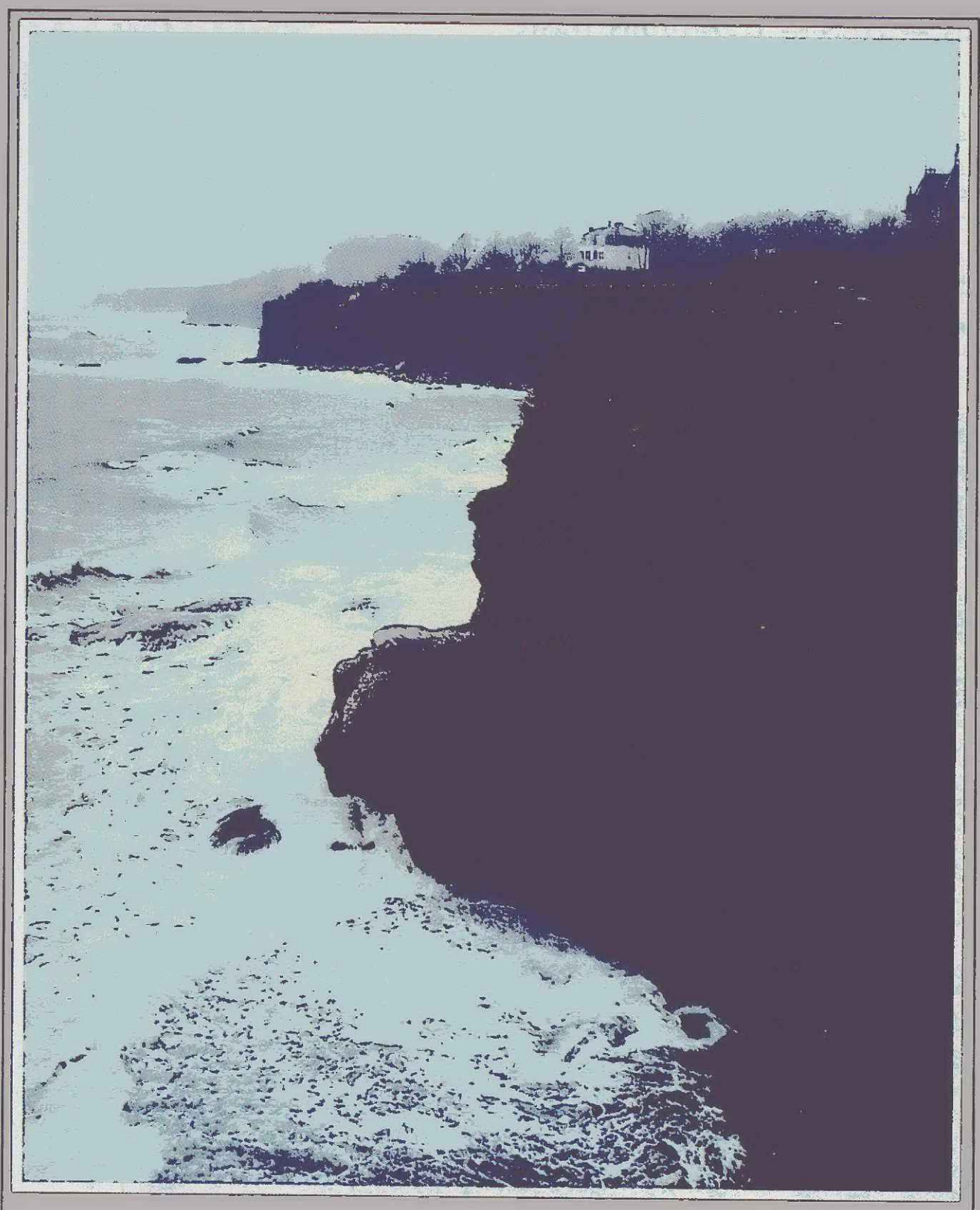
BLOOMINGDALE, Ill.—Indian Lakes Resort, in the wide open spaces west of Chicago, drew together 125 members of the Independent Reinsurance Underwriters' Assn. to discuss an even wider range of reinsurance topics.

The Oct. 6-8 conference was IRU's third this year, and offered presentations on subjects ranging from the present state of the Illinois Insurance Exchange to the future of the satellite insurance market.

Attendance here was lighter than at IRU's two previous conferences, according to Robert L. Sias, an IRU co-founder and past president, and vice-chairman of Signet Reinsurance Co.

Mr. Sias offered a few explanations for the low turnout, including the poor state of the economy, the scheduling of a third meeting this year when IRU normally holds only two, and the conflict with the Oct. 24-28 meeting of the National Assn. of Independent Insurers in Miami Beach.

IRU was formed nearly two decades ago as Midwest Reinsurers by six underwriters. Its membership now comprises about 114 U.S.-domiciled treaty reinsurers, "about 96%" of which are located in the Midwest and East, Mr. Sias said.



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in the affairs of men,
which, taken at the flood,
leads on to fortune."

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Misunderstandings can hurt reinsurers, ceding companies

By DOUGLAS McLEOD

BLOOMINGDALE, Ill.—No one wins when a reinsurer and ceding company disagree over the terms of a contract, a lawyer says.

Contractual misunderstandings and poor communications among ceding companies, reinsurance intermediaries and reinsurers may lead to litigation that could leave some insurers in financial trouble, says Anthony M. Lanzone, a New York insurance attorney with 25 years' experience.

Other times, reinsurers can find they are going to have to pay more to their ceding companies than they expected, he said.

"If (insurance companies and reinsurers) do not have a true meeting of the minds, inevitably it will lead to a breakdown between them," Mr. Lanzone cautioned participants at the meeting of the Independent Reinsurance Underwriters Assn.

In some cases, protracted arguments over liability for claims between an underreserved ceding company and its reinsurers could leave the ceding company in serious financial trouble.

As an example, he cited the current asbestos litigation in which, he said, many insurers and reinsurers have still not put up adequate reserves, and where disagreements among underwriters over liability are the rule.

Mr. Lanzone cited other cases in which minds failed to meet and the reinsurer was hurt.

In one case, a reinsurer issued an excess-of-loss policy covering a ceding insurance company for losses occurring on or after a particular date. After the contract was made, the ceding company turned around and issued a "buy-back" endorsement to its insured's policy agreeing to cover losses that occurred before the effective date of the policy, some going back as far as four years.

The ceding company then canceled its policy with the insured, but the buy-back endorsement, standing as a separate insurance contract, remained in force.

When claims started coming in, the ceding company expected the reinsurer to contribute under the excess-of-loss policy, he said.

A three-judge arbitration panel recently ruled 2-1 that the reinsurer must follow the terms of the ceding company's policy and endorsements, and that it is therefore responsible for claims under the buy-back endorsement.

Mr. Lanzone also said to beware of "letters of understanding," which he said some brokers and intermediaries use as substitutes for policy endorsements.

Brokers wishing to add coverage to a policy have occasionally signed letters of understanding with one of a number of co-reinsurers on a given risk, without actually drawing up endorsements and circulating them among all the reinsurers.

A reinsurer may be surprised to receive a claim brought under a policy condition he wasn't aware existed, but if he decides to ask about the condition in court, the ceding company may produce the letter of understanding as evidence of coverage, he said.

Mr. Lanzone also cautioned the reinsurers to look for the warning signs of a weak ceding company, one that might be close to bankruptcy. The signs include:

- Slow claims payments.
- Unwillingness to invest in preparations for defense against claims, like hiring investigators.
- A low level of loss reserves.

Insurers and reinsurers alike could avoid costly litigation by maintaining lines of communication and by carefully reading all policies and endorsements to eliminate any ambiguities.

"An absence of communication between husband and wife can cause problems," he said. "This is no less true for ceding companies and reinsurers." ■

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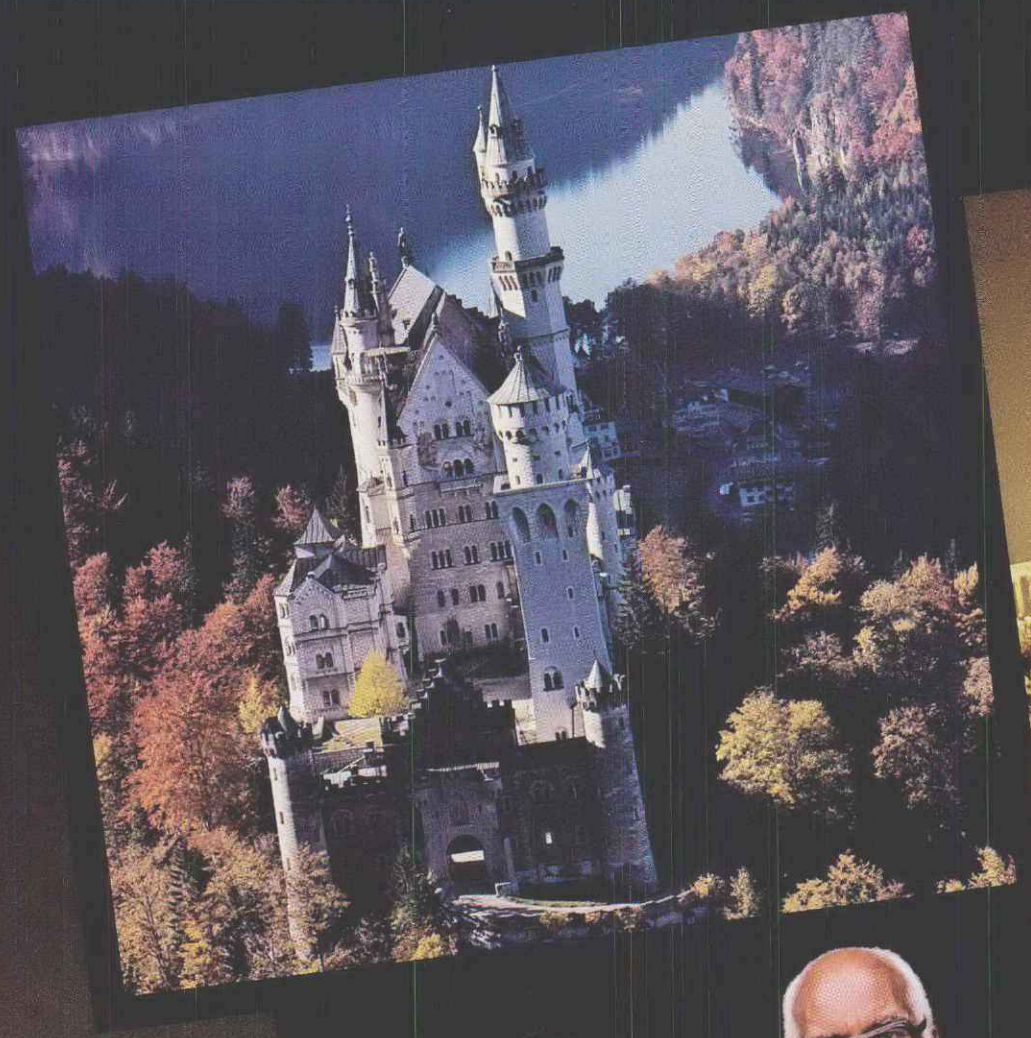

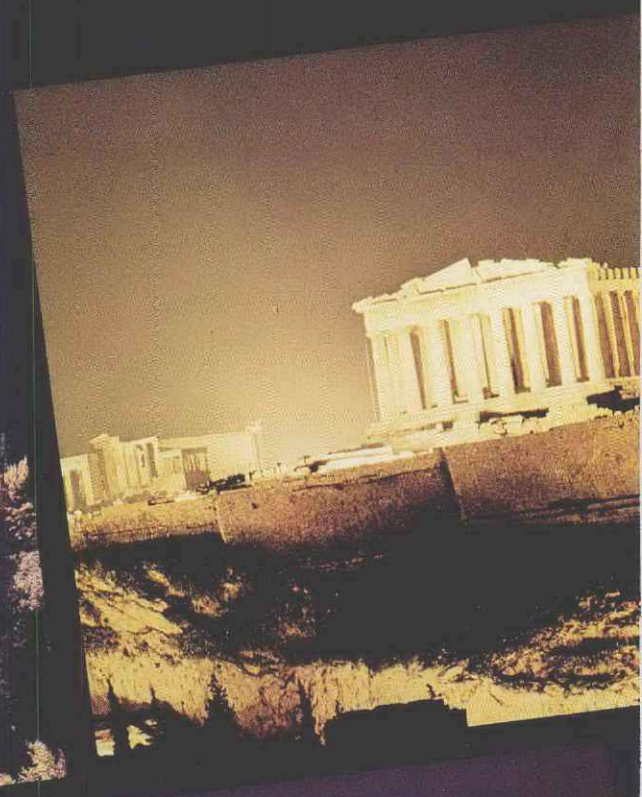

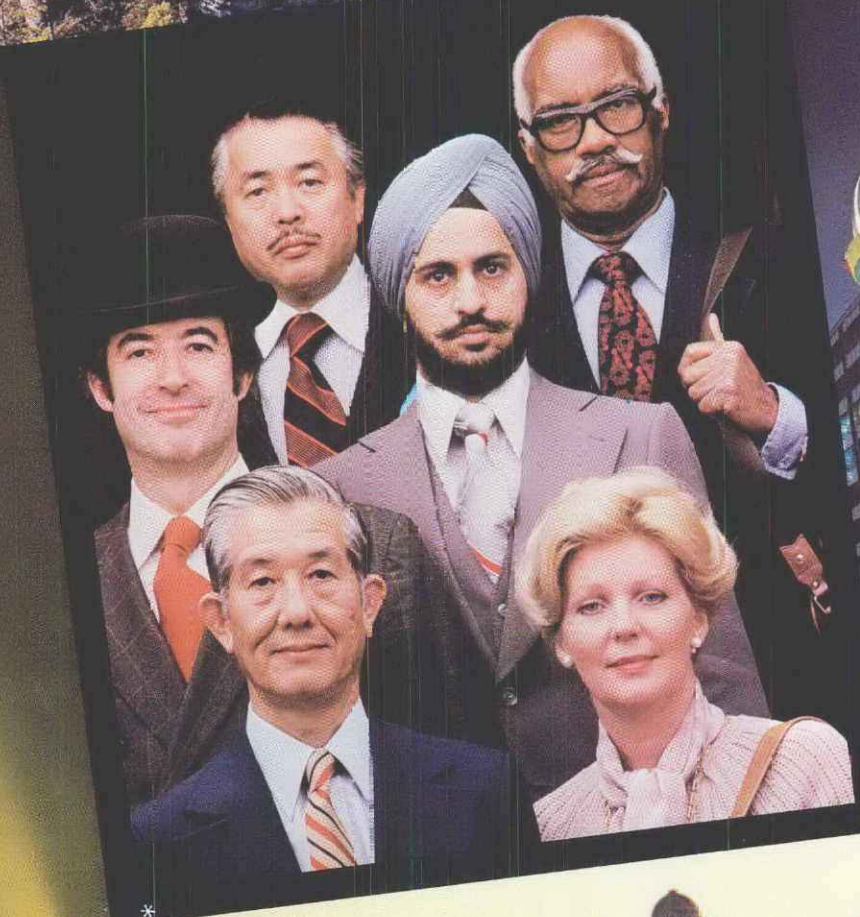

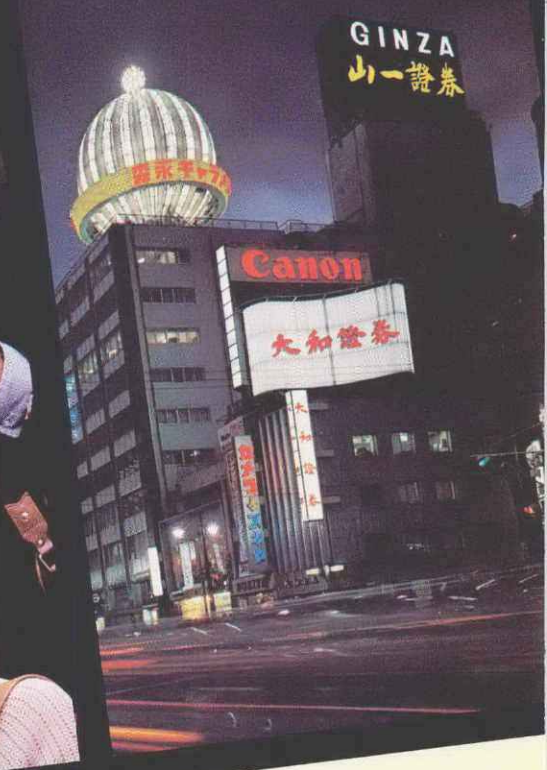

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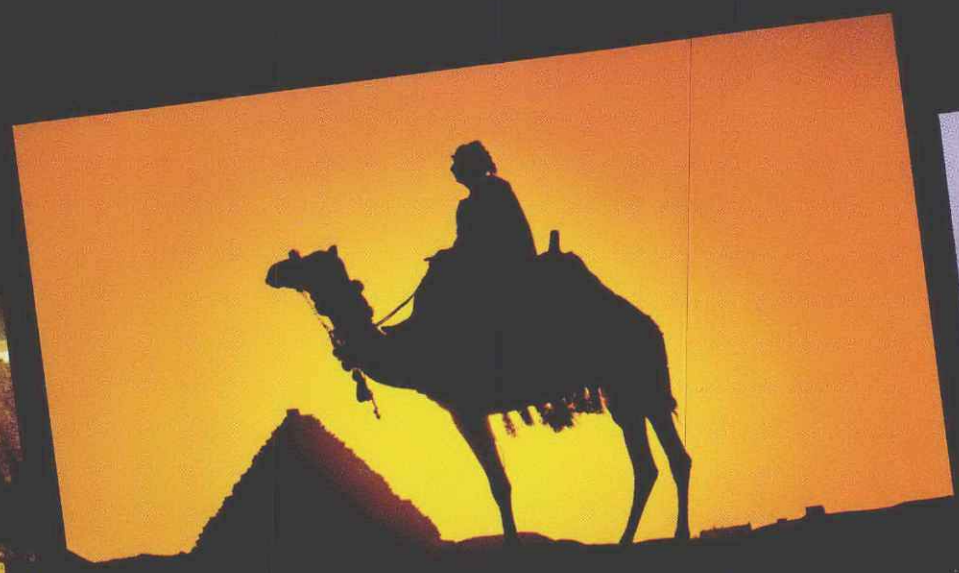

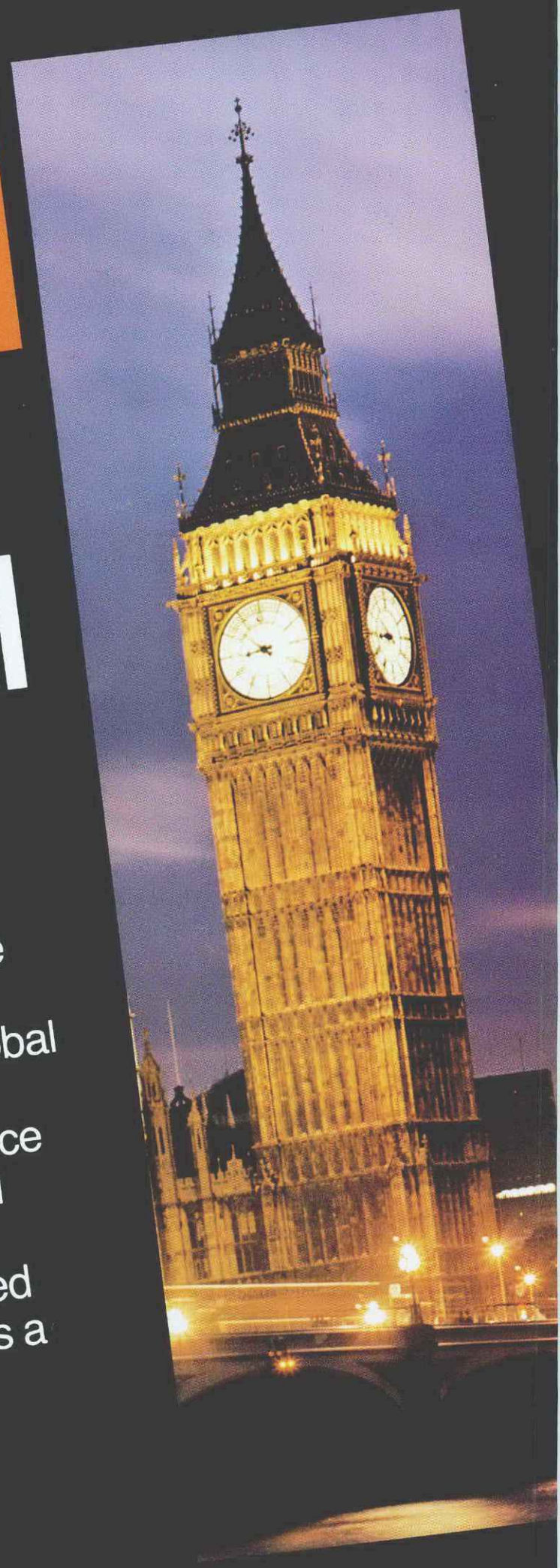

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Satellite capacity becoming strained

By DOUGLAS McLEOD

BLOOMINGDALE, Ill.—Capacity for satellite launch insurance must increase or the industrial development of space will be impeded, a satellite insurance expert says.

This needed additional capacity can't develop, however, until more underwriters are able to technically assess the risks they are underwriting, according to James W. Barrett, president of International Technology Underwriters, which underwrites space risks through CIGNA Corp.'s Insurance Co. of North America subsidiary.

The current market capacity of $185 million to $200 million per satellite is adequate, but as much as $300 million may be needed in the near future, Mr. Barrett told an audience at the October meeting of the Independent Reinsurance Underwriters Assn.

Between 1982 and 1985, 47 launches, some carrying more than one satellite, will require $5.5 billion worth of physical damage coverage, according to Mr. Barrett, who based the projections on National Aeronautics and Space Administration and European Space Agency figures.

Satellite life insurance,

Continued on facing page

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Exchange is flexible: Chief

BLOOMINGDALE, Ill.—Corporations will depend on new insurance coverages in the 1980s, says James Skelton, executive director of the Illinois Insurance Exchange. "And that's what the exchange has to offer."

The Illinois exchange's flexibility and freedom from regulation will make it a solid factor in reinsurance competition when the current rate-cutting cycle bottoms out, Mr. Skelton told the Independent Reinsurance Underwriters Assn. meeting.

"Lloyd's has always led in the development of new insurance coverage and the massing of insurance capacity clearly because it is a centralized marketplace," he said. "The Illinois exchange is an attempt to bring that kind of centralized market to the United States.

"Flexibility is what we have to offer. All policies are manuscripted," he noted.

Capacity is what the exchange lacks to get in the thick of competition, Mr. Skelton also told the reinsurers. Unlike Lloyd's, the Illinois marketplace does not have syndicates backed by individual investors. All of the exchange's six funded syndicates are operated by insurance companies.

And, Mr. Skelton said, capacity will soon be harder still to come by. "The tax regulation bill now on President Reagan's desk will restructure Subchapter S of the tax code and eliminate one possibility for favorable tax status for investors," he said (see story, page 27).

Subchapter S had allowed for professional corporations to amass capital under favorable tax structure in the United States. Another part of the code grants a favorable status to investors joining syndicates at Lloyd's of London.

Richard O'Rourke, underwriting manager of the exchange's Midwest General Syndicate (Reliance Insurance Cos.) agreed. Capacity is the key, he also told the reinsurers, appealing for their participation in the exchange.

"More than 30 brokers are already signed up, but they need more capacity to compete. I see risks every day that are writable today, but the exchange lacks the capacity," he said. Reinsurers could add to that capacity with new syndicates, he adds. ■

Continued from facing page
which covers the replacement cost of a satellite that fails in orbit during its first three years of operation, will be needed for 38 launches for values of about $3.8 billion, Mr. Barrett said.

Service interruption insurance, which covers the users of a satellite against its failure, will be needed for 30 launches covering values of about $5 billion, he said.

Premiums generated by these launches will reach $520 million, according to Mr. Barrett.

Between 1985 and 1994, 240 communications satellites valued at $25 billion will be lauched, generating premiums for all satellite coverages of about $2.5 billion.

The satellite industry will enter a boom period as a result of the space shuttle, Mr. Barrett said. But if a shuttle were launched in the immediate future carrying three satellites valued at $300 million—and several multisatellite shuttle launches are scheduled before 1985—today's insurance market would be hard-pressed to respond.

"If it were necessary to place all three of the projects this month, there would be a shortfall in (capacity)," Mr. Barrett said.

"If the insurance industry does not respond (to the needs of satellite companies), we could hinder the industrialization of space," Mr. Barrett added.

Capacity for launch insurance will probably be the slowest to grow because of the greater potential for catastrophic losses, according to Mr. Barrett. Capacity for the in-orbit coverages is "marginally" more available now and will be growing faster, he said.

The additional capacity is "out there," Mr. Barrett said, but it probably will not appear until more underwriters understand the technical aspects of a given risk and feel that there are satellite project owners "who know what they're doing."

As an example of the need to understand the technology, Mr. Barrett cited India's INSAT communications satellite, which was recently declared a $65 million total loss (*BI*, Sept. 20). Intec declined to underwrite INSAT because of objections it had to aspects of the satellite's design, including its thrust system, solar panels and the telemetry system that would have tracked it in orbit.

Too many underwriters don't bother or don't have the expertise to make such analyses, Mr. Barrett said. INA's Intec has satellite engineering consultants on staff, but some underwriters do not employ such experts.

"A lot of them are writing absolutely blind, and they're getting killed.

"Some underwriters are staying away for fear they don't know whom to rely on for data," he added.

Rates for satellite coverages will probably go up as insurers rely more on "technical rating," taking into consideration such factors as previous experience of a satellite, new systems installed for a particular launch and a project owner's quality assurance program.

"Right at the moment, rates are at or below technical rates that might be offered," Mr. Barrett said.

Mr. Barrett cautioned, however, that satellite owners should not be "tarred with the same brush" when it comes to rating. Satellite owners should be experience-rated, he said, and catastrophic failures like those of INSAT and the recent Ariane L-05 should not be allowed to push up rates across the board.

"Because there has been an Ariane failure, we don't think that the Deltas, the space shuttles, the Atlas-Centaurs should be penalized," he said.

Along with increasing capacity, Mr. Barrett expects changes in satellite insurance contracts, and the addition of new coverages.

Agreed value policies of the type currently written for many satellites "introduce inefficiency into the marketplace," sometimes reimbursing satellite companies for more than they have actually lost.

> Insurers could hinder the industrialization of space, Mr. Barrett fears.

"It's time to apply the principle of indemnity," Mr. Barrett said, adding that he expects the use of contracts of indemnity to grow.

Indemnity contracts would actually provide broader coverage, freeing insurers from following complex partial loss formulas that must be applied to carefully defined types of loss, he explained.

As more companies take advantage of the weightlessness of space for manufacturing, demand for process insurance to cover the output of orbiting plants will increase, Mr. Barrett said. Other additions to future satellite policies may include war risk, sabotage and wrongful acts covers, he said.

Underwriters of space risks should also consider covering loss-prevention expenses, Mr. Barrett suggested. For example, satellite owners could be insured for the extra expense associated with launch delays when additional testing to prevent a loss is required.

Recently, Satellite Business Systems insisted on a second test firing of a motor that failed a first test. SBS then waited for the results of a NASA review of the failed first test before launching its satellite. The satellite's operation was delayed several weeks as a result, but the company may have avoided a much more serious loss by waiting, Mr. Barrett said.

Marine and fire insurers pay salvage expenses to avoid larger losses, and the same should be done by satellite insurers, Mr. Barrett suggested. ■

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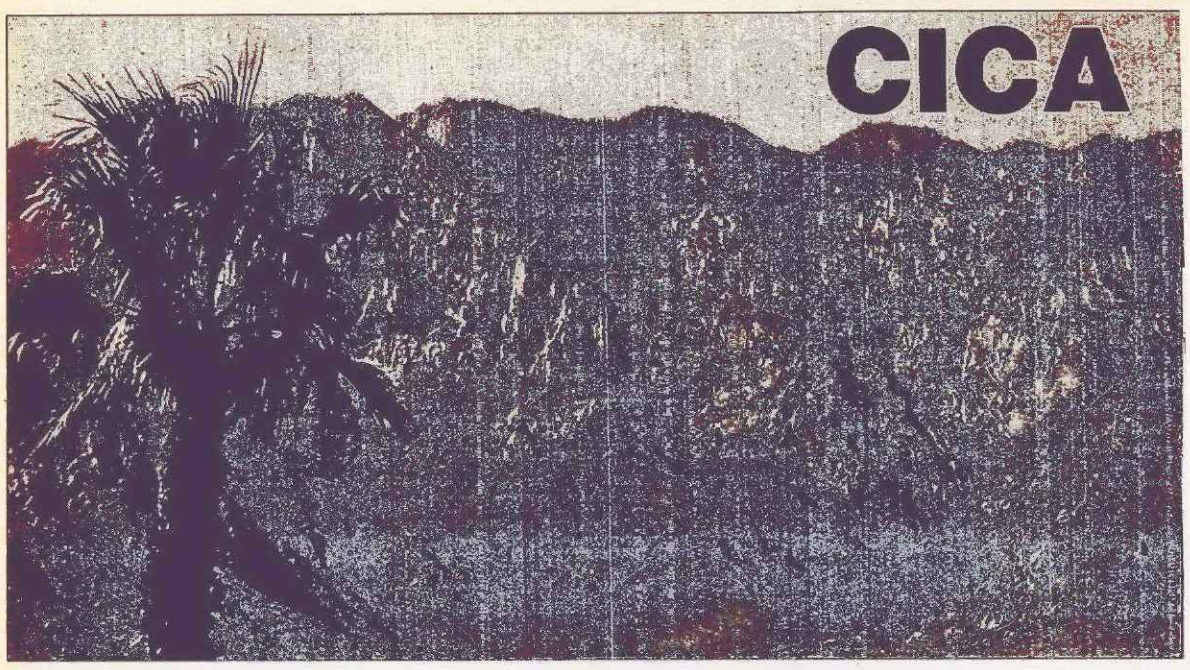


Tennessee plans new law for captive investments

By RHONDA L. RUNDLE

PALM SPRINGS, Calif.—The Tennessee Insurance Department will introduce a bill in the state Legislature next year to liberalize investment restrictions on captive insurance companies domiciled there.

The proposal, which has not yet been drafted, will be part of Gov. Lamar Alexander's legislative package and will not be controversial, state Insurance Commissioner John C. Neff reported at the recent Captive Insurance Cos. Assn. meeting in Palm Springs.

The legislative initiative is needed in light of a legal opinion rendered by the state attorney general's office several months ago, which states that captives are not exempt from the state's insurance company investment statutes. Those statutes restrict insurance company investments in foreign securities.

Many prudent Bermuda and other offshore captive managers invest their funds in Eurodollars and other foreign investments that yield a higher rate than U.S. financial instruments. These high-grade foreign investments are not speculative, Mr. Neff said.

"If a Bermuda captive wants to move to Tennessee, we don't think it should have to change its investment philosophy," he stressed.

Mr. Neff indicated that the department's interest in attracting Bermuda captives to Tennessee is a key reason why he is moving to modify current investment constraints.

Mr. Neff

"We would expect at least one Bermuda captive that we know is about to move to Tennessee if the law is changed," he said.

The interest among Bermuda captives in moving to Tennessee has quickened in the last three months, he added. "Maybe it's because more people are starting to look closely at their expenses."

Mr. Neff and Deputy Commissioner Roy F. Bess Jr., who also attended the meeting, were exuberant in their invitation to captives to relocate to the Volunteer State.

"We want you in Tennessee; that's why we're here," Mr. Neff said. Five captives are currently domiciled in the state.

Gov. Alexander also is determined to make Tennessee attractive to financial institutions. He has organized a committee to study what the state can do to improve the atmosphere for the financial services industry, Mr. Neff reported.

Tennessee, which first opened its doors to captives in 1978, took steps earlier this year to widen that portal (*BI*, March 29).

Single-parent captives were permitted to extend their direct underwriting to include all commercial property/casualty insurance lines. Previously, the law limited direct underwriting by captives to professional liability, errors and omissions and comprehensive general liability exposures.

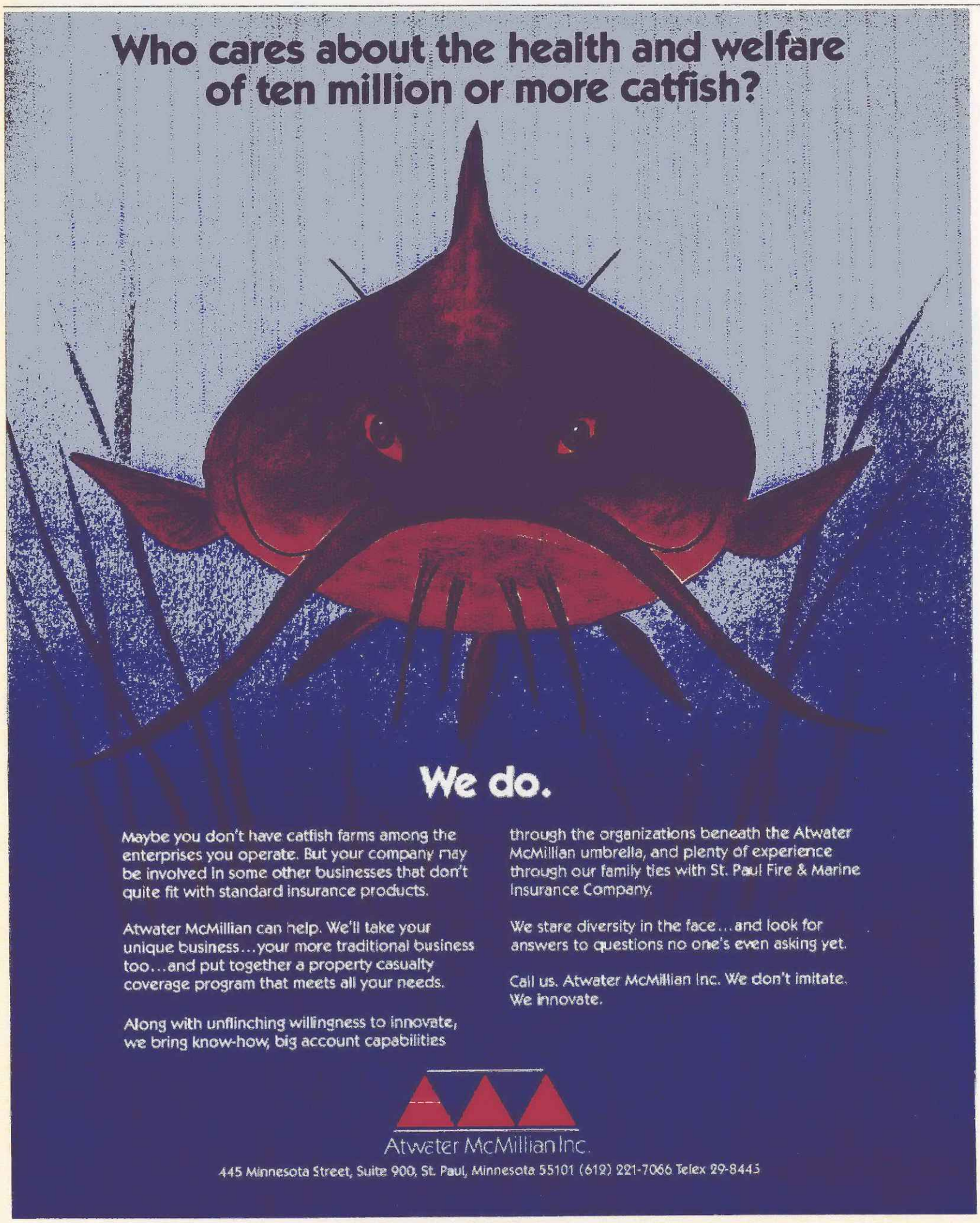
Also, an employer that wants to set up a captive in Tennessee no longer has to prove that adequate insurance markets do not exist in the United States or that rates are excessive.

The Legislature also simplified reporting requirements for both single-parent and association-owned captives.

Single-parent captives are no longer required to file a complicated financial statement, but instead can use a new form approved by the commissioner. Single-parent and association captives are also no longer required to file policy forms with the Insurance Department.

Tennessee's existing capital and surplus requirements of $750,000 for pure captives and $1 million for association captives were not changed by the legislation.

"We want to bring our statute in tune with your needs," summed up Mr. Bess, the deputy commissioner. "Let us hear your suggestions on how we can make business better. Remember: The Sun Belt is where it's at. We're in the Sun Belt." ■



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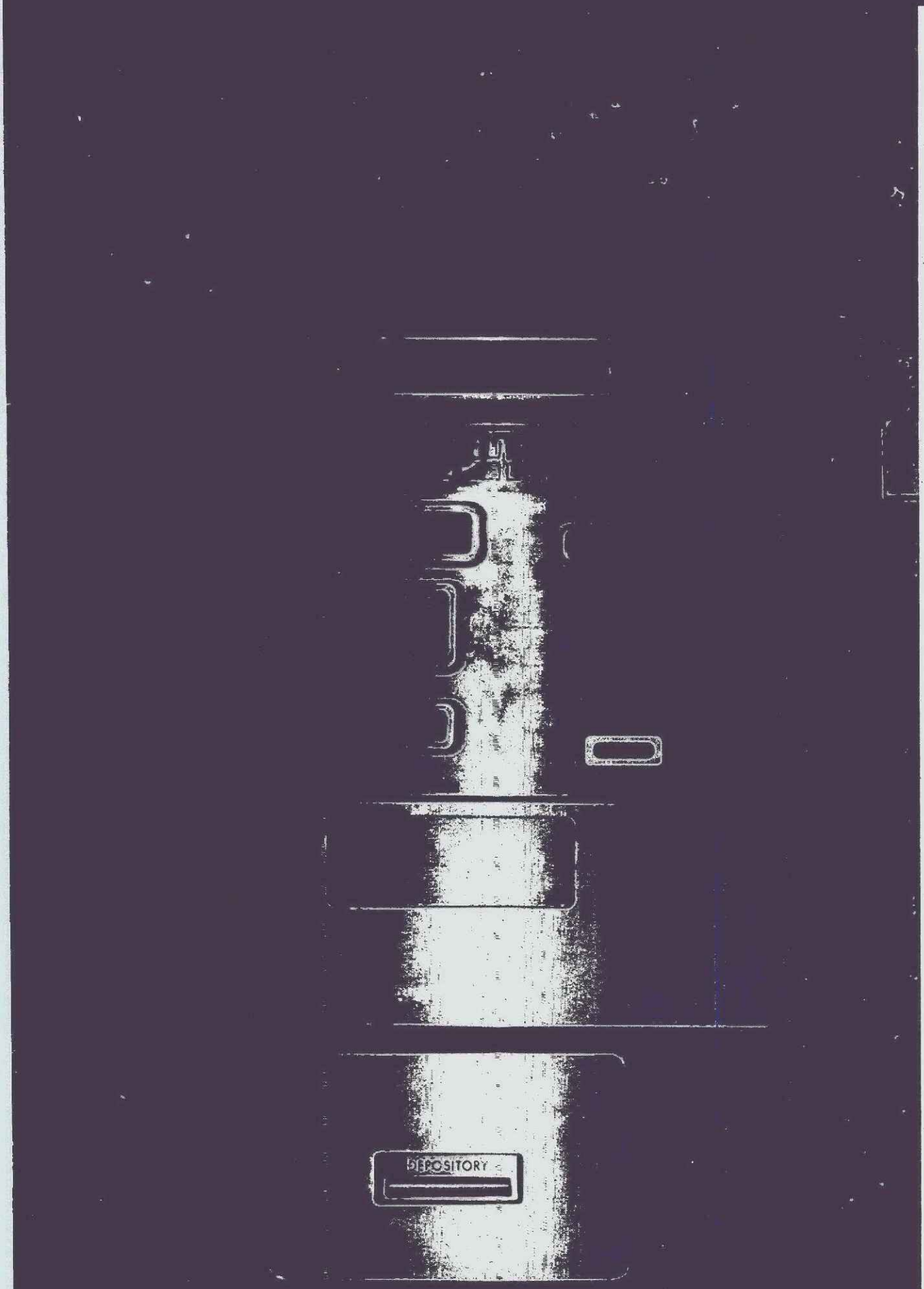

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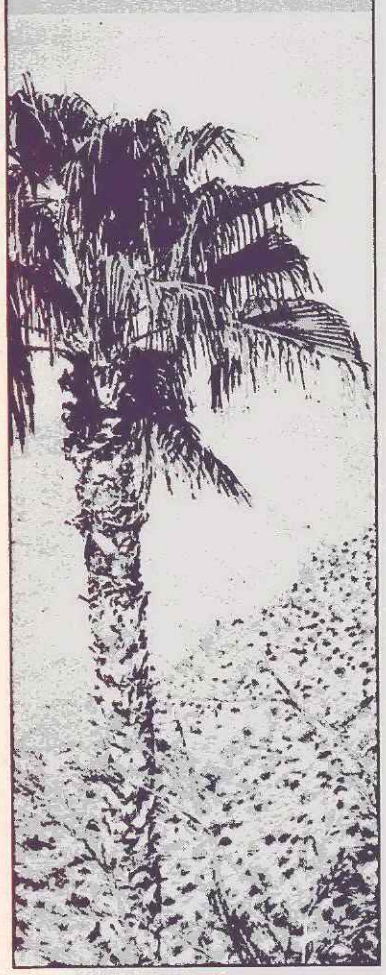

Redundant loss reserves disappear

By KATHRYN J. McINTYRE

PALM SPRINGS, Calif.—One insurance industry practice that is fueling cheap insurance prices is about to stop, an actuary predicts.

Property/casualty insurers have been tapping prior years' redundant loss reserves to hold down current reported losses, says Robert A. Brian of Conning & Co. in Hartford, Conn. But insurers are running out of redundant reserves to tap, he says.

"We will see some interesting fallout in the industry and in individual companies in the coming quarters," Mr. Brian told The Captive Insurance Cos. Assn. meeting earlier this month.

Specifically, Mr. Brian said the results would be apparent in 1983.

An insurance company's total incurred losses for the year is the total of claims paid in the year plus the change in the company's total loss reserves for both reported and incurred but not reported claims. Redundant loss reserves refer to the amount of money in excess of what is needed to pay claims.

"Reserves are bailing out results, but the redundancies are disappearing," Mr. Brian said.

To prove his point, he noted how the industry's loss reserves have grown and then decreased over the last five years (see chart).

In 1978, the total of all insurers' loss reserves was 22% greater than in the previous year. But in 1979, the increase was only 5%. In 1980, total reserves actually decreased by 8% and in 1981 total reserves decreased another 15%.

If insurers had continued to increase their loss reserves according to their 1978 practices, the total incurred losses for more recent years would have been larger and combined ratios higher. With bigger losses to report, insurers would have had to raise rates.

"Loss reserves are playing a big role in the underwriting cycle," Mr. Brian said.

Today, however insurance company reserves are much more realistic than they were five years ago, Mr. Brian said. "They are much leaner," Mr. Brian observed. "The underwriting cycle itself and the competition make it difficult to fatten reserves," he said.

"Overall, property/casualty loss reserves are slightly inadequate, especially for miscellaneous liability, medical malpractice and commercial multiperil," Mr. Brian observed. "Auto and workers compensation seem to be slightly redundant," he added

In the reinsurance industry, reserves are slightly redundant, Mr. Brian said, mostly for auto and workers compensation.

In workers compensation alone, Mr. Brian said, the release of prior years' loss reserves held the combined ratio to 102% instead of the 108% it would have been without the release of reserves.

Mr. Brian

A study of four unidentified workers compensation insurers showed that the insurers started to draw down their reserves in 1979, when reserves decreased 3% from 1978. In 1980, reserves increased 16% but in 1981 reserves dropped 19%.

"Keep your eye on it," he advised. "When there aren't reserves to release, you will see worse results."

In workers compensation, however, the impact may not be as dramatic as it could be if claims were increasing as would be expected in a recession.

Usually workers compensation claims increase with unemployment, he noted. "But claims didn't go up the first six months of 1982."

Conning & Co. believes that workers compensation claims aren't increasing now because "we have the corps of serious, hard workers employed. They are determined to keep their jobs."

While noting some deficiencies in loss reserves, Mr. Brian disputed the suggestion that primary insurers are not adequately reserved for asbestosis claims. "Most primary companies have considerable reserves for asbestos. It seems the excess and reinsurance companies will end up with more of the losses than originally thought," he said.

Conning & Co., a member of the New York Stock Exchange, is a research firm specializing in insurance stock research for institutional investors. It also has a large financial and actuarial consulting business and insurance management business. ■

U.S. property/casualty industry losses (billions)

	Change in reserves (% change from previous year)			Paid losses (% change from previous year)			Incurred losses (% change from previous year)	
1977	$ 9,686			$39,008			$48,694	
1978	$11,798	+ 22%	+	$43,382	+ 11%	=	$55,180	+ 13%
1979	$12,341	+ 5%	+	$51,178	+ 18%	=	$63,519	+ 15%
1980	$11,381	− 8%	+	$58,841	+ 15%	=	$70,222	+ 11%
1981	$ 9,728	− 15%	+	$65,235	+ 11%	=	$74,963	+ 7%

Source: Conning & Co.

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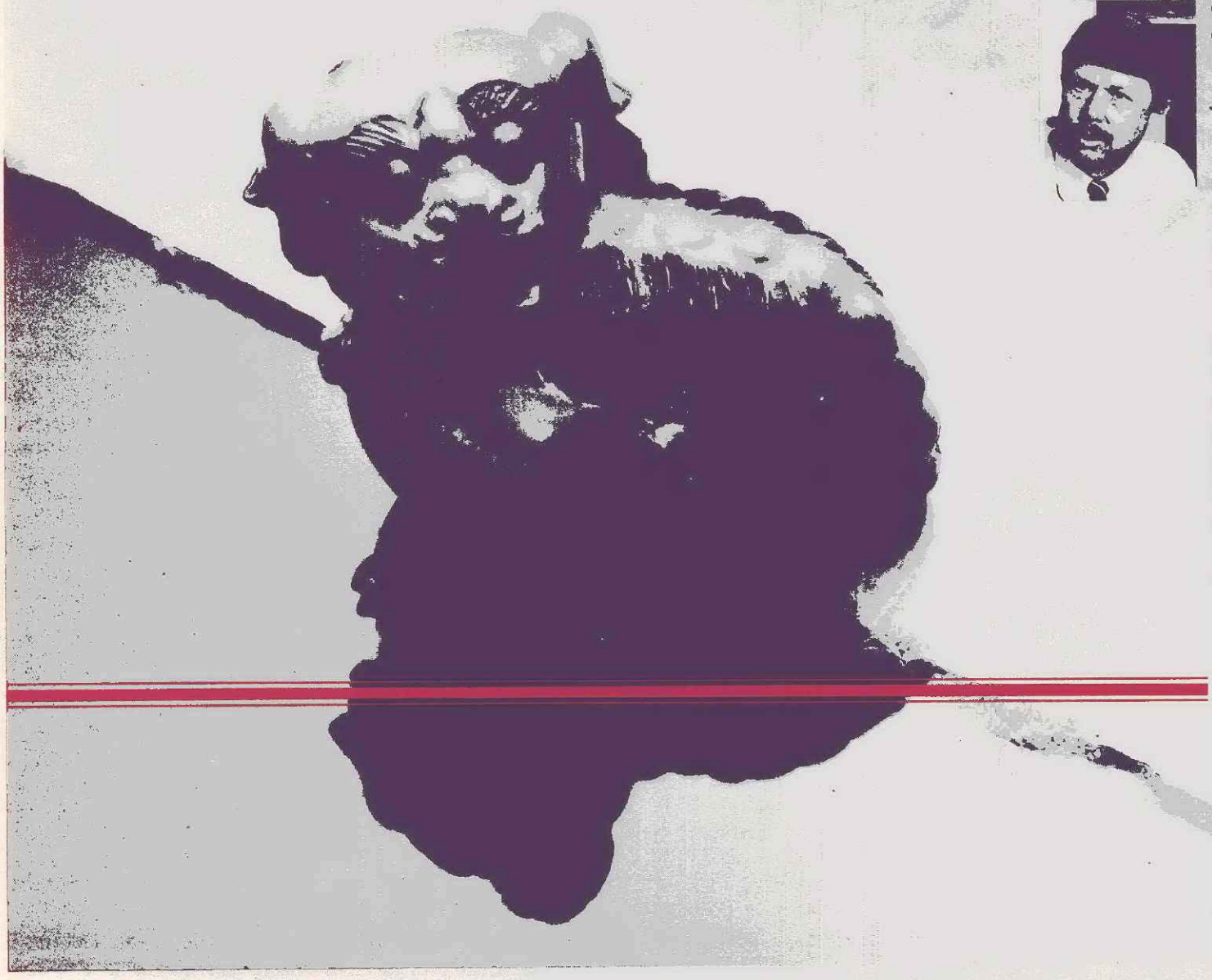

Discussing the value of the Structured Settlements™ concept in the resolution of wrongful death and injury claims, Greg Holcomb points out one of the Japanese Netsuke carvings in his collection. "This is an object of great beauty, in terms of its physical dimensions," he notes. "But, much of its value is based on its fourth dimension—the time that went into its creation."

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Fight for captive tax deductions: Attorney

By KATHRYN J. McINTYRE

PALM SPRINGS, Calif.—Fight early and fight hard for your right to take tax deductions for premiums paid to your captive insurance company, a tax attorney advises.

A fighting strategy with the Internal Revenue Service is "a lot more effective. It will make your life easier later on," says Ben Sciortino, an attorney with Baker & McKenzie in New York.

If, instead, a company concedes the captive tax issue one year, its fight will be twice as hard the next, he said.

"Put up a fight. Find outside business. Let the agent know everyone in your company considers the captive a bona fide insurance company. Make the agent perceive that management is serious about this."

A corporation's best weapon for defending its captive against an IRS attack is to show that the captive is insuring risks unrelated to the parent company, he told The Captive Insurance Cos. Assn. meeting earlier this month.

There is more than one kind of unrelated risk business, Mr. Sciortino stressed, and there is no hard-and-fast rule on how much unrelated business the captive must underwrite to satisfy the IRS.

The most obvious unrelated risk business is developed by underwriting insurance policies for unrelated companies. However, even captives that think they are not writing any unrelated risks may indeed be doing so, he said.

A captive that insures a building jointly owned by its parent and another company can argue that it is underwriting an unrelated risk. A captive insuring leased property can argue it is underwriting an unrelated risk. A captive insuring goods in transit after the title has been transferred to the receiver can argue it is underwriting an unrelated risk. Policies written to insure joint ventures involving the parent company include unrelated risks.

Mr. Sciortino

"You're fighting a factual war. You have to look different from Revenue Ruling 77-316," he said.

In that ruling, the IRS contends that a wholly owned captive insurance company underwriting risks of only the parent company is merely a self-insurance program and not a bona fide insurance company for tax purposes. A loss suffered by a policyholder is paid by a company in the same "economic family," the IRS says.

Since the captive is not a bona fide insurance company under this reasoning, premiums paid to a wholly owned captive insurance company are not tax-deductible to the extent the risk remains with the captive, the IRS concludes.

Experts on tax issues involving captives agree that a captive underwriting unrelated risks no longer exactly fits the facts in Revenue Ruling 77-316 and therefore should be considered a bona fide insurance company that affords its owner tax deductions for premiums paid to insure its own risks. The experts debate, however, how much unrelated risk business a captive must underwrite to win a challenge from the IRS.

There is no IRS ruling on what percent of unrelated risk business is needed. Local IRS agents have been instructed to decide whether the captive is a bona fide insurer.

In the past, some tax experts have suggested that 50% of unrelated premium volume—and perhaps even less—will satisfy the IRS that the captive is a bona fide insurance company.

"You can be below 50% (of unrelated premium volume) and be somewhat confident," Mr. Sciortino told the audience. "We have seen some weakening where there is a buildup of outside risk," he noted. "We have agents listening when we show them three, five, seven years of development of outside business."

So far, however, "There have not been any settlements yet where there has been less than 50% unrelated business," Mr. Sciortino noted. "But, generally I would say the future is bright in areas below 50%."

Mr. Sciortino considers dealing with a local IRS agent on this issue to be an advantage.

"I've dealt with 20 agents and I'd rather deal at the local level with an agent," Mr. Sciortino said. Although all the issues regarding captives have to be explained to the local agent, the taxpayer has an opportunity to develop its case and to lump the captive issue with other issues.

Many companies are taking a fighting stance, Mr. Sciortino noted. "A lot of cases are being docketed." So far, none has gone to trial since the Carnation Co. case in which the IRS won and the tax court disallowed tax advantages to using a Bermuda-based insurance company, including tax deductions for premiums paid to the captive insurer (*BI*, Nov. 9, 1981).

"It's a little discouraging not to have another case," Mr. Sciortino said. "But there are a lot of negotiations in the trenches." ■

IRS may question captive ownership

Check your ownership arrangment in any non-controlled foreign corporation.

The common structure of 11 equal owners is still safe, but "it looks like the IRS is going to go to war on non-control," said tax attorney Ben Sciortino.

Some companies have structured ownership of a captive to qualify as a non-controlled foreign corporation to protect the captive's earnings from U.S. taxation until they are repatriated. Certain earnings of controlled foreign corporations are taxable to the U.S. shareholders.

The Internal Revenue Service announced June 28 that it no longer "acquiesces" to a major 1976 court decision for the taxpayer involving a control issue, CCA Inc.

The recent change in the IRS position on CCA may mean the IRS is re-examining its position regarding the facts of the case, Mr. Sciortino said. CCA involved 50% foreign and 50% U.S. ownership.

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New tax law raises concern

The tax law enacted during the summer could create problems for corporations operating captive insurance companies.

Allocation of income among related insurers and larger tax penalties are at stake, according to Ben Sciortino, an attorney with Baker & McKenzie in New York.

One provision of the Tax Equity and Fiscal Responsibility Act of 1982 in the life insurance company section says that the Internal Revenue Service can reallocate income among related insurance companies involved in reinsurance transactions with each other.

The IRS commissioner already has the authority to reallocate income among related companies under Section 482 of the Internal Revenue Code. "This shows that the IRS will look more closely at related insurance companies. This will be an area they will push hard on," Mr. Sciortino predicted.

Captives that reinsure risks produced by another related insurance company, like a London subsidiary, or captives that reinsure an insurance exchange syndicate in which they have invested could be a target of this kind of review.

Risk managers in charge of captive insurance companies that deal with related insurance companies or syndicates should "get rid of two-page reinsurance agreements. Use contracts. Spend more time on pricing. Get competitive quotes," Mr. Sciortino advised. These actions will give the captives a defense against a reallocation of income that could result in more taxes due, he explained.

The new tax law also increases the interest penalty on overdue taxes. In the past the IRS charged simple interest. Now the interest charge is compounded daily and the interest rate used is adjusted twice a year to reflect the prime rate.

Finally, a provision not intended to apply to insurance companies could cost corporations with an aggressive tax posture a bundle if they lose a battle with the IRS.

A taxpayer that substantially underpays its taxes will be assessed a penalty of 10% of the underpayment unless there was a substantial reason for the underpayment or there was adequate disclosure of the transaction involved. These exceptions do not apply, however, when the transactions involve tax shelters.

Since the definition of a tax shelter is very broad, the IRS could argue that a captive insurance company is a tax shelter and levy the penalty when underpayments involve transactions with captive insurance companies.

Court decision could create double trouble

PALM SPRINGS, Calif.—There is more than one reason to keep an offshore captive's business truly offshore.

Initially, tax experts preached that offshore captives should conduct all their business outside the United States to avoid being found engaged in U.S. trade or business and thus forced to pay U.S. taxes on all their income.

Now, offshore captives should also be fearful of being hit with a double excise tax if they are found to be engaged in U.S. trade or business: One imposed on premiums paid to the captive and another on reinsurance premiums paid by the captive.

Tax attorney Ben Sciortino of Baker & McKenzie in New York said his firm just discovered the problem, created by an unpublished ruling of a U.S. District Court in New Jersey.

On Jan. 28, 1981, the court ruled that Northumberland Insurance Co. Ltd. had to withhold the 1% excise tax on reinsurance premiums it paid to foreign insurers.

Northumberland was a foreign corporation with a branch in the United States that underwrote insurance mostly for U.S. risks. Excise taxes were withheld on insurance premiums paid to Northumberland and the company paid U.S. income taxes, as required.

Northumberland then ceded 90% of its business to a foreign insurance company not engaged in U.S. trade or business. Northumberland did not withhold an excise tax on the reinsurance premiums it paid, arguing the transactions were exempt because they were between two foreign insurance companies.

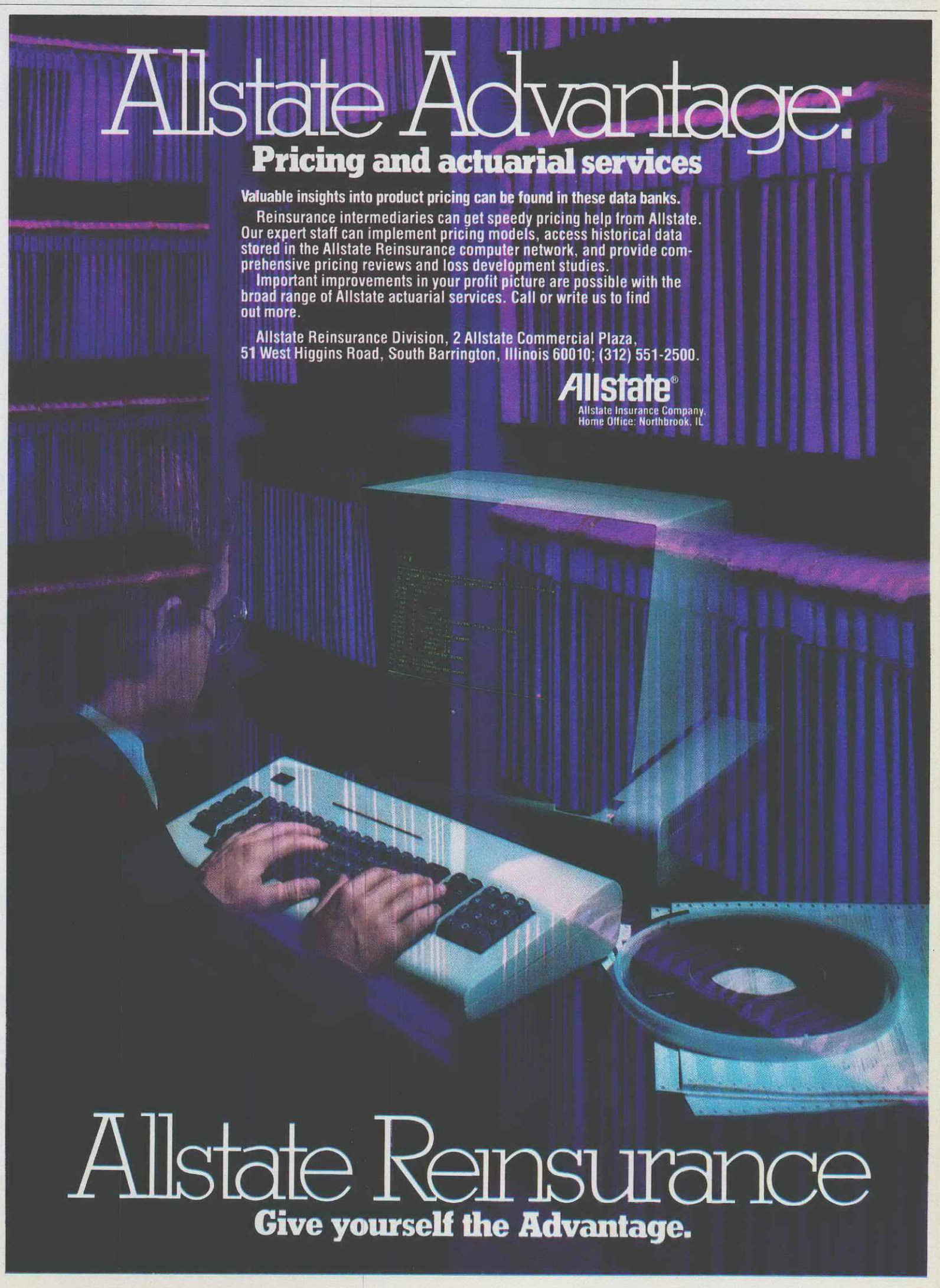
The Internal Revenue Service countered that Northumberland also had to withhold an excise tax on any premiums it paid to foreign reinsurers because the risks were based in the United States. The district court agreed.

Based on this obscure decision, "If a captive is found to be engaged in U.S. trade or business, the service could impose an excise tax on premiums ceded by the captive to a foreign reinsurance company that is not treaty-protected," Mr. Sciortino said.

The only countries in which reinsurers are protected from the excise tax by treaty are the United Kingdom, France and Hungary, and the last two to a lesser degree than Britain.

Mr. Sciortino is unaware of any other case like Northumberland's.

"One control point was that Northumberland filed an income tax return," Mr. Sciortino said. A foreign company not doing business in the United States and not filing a U.S. tax return probably would not attract the attention of the IRS. ■



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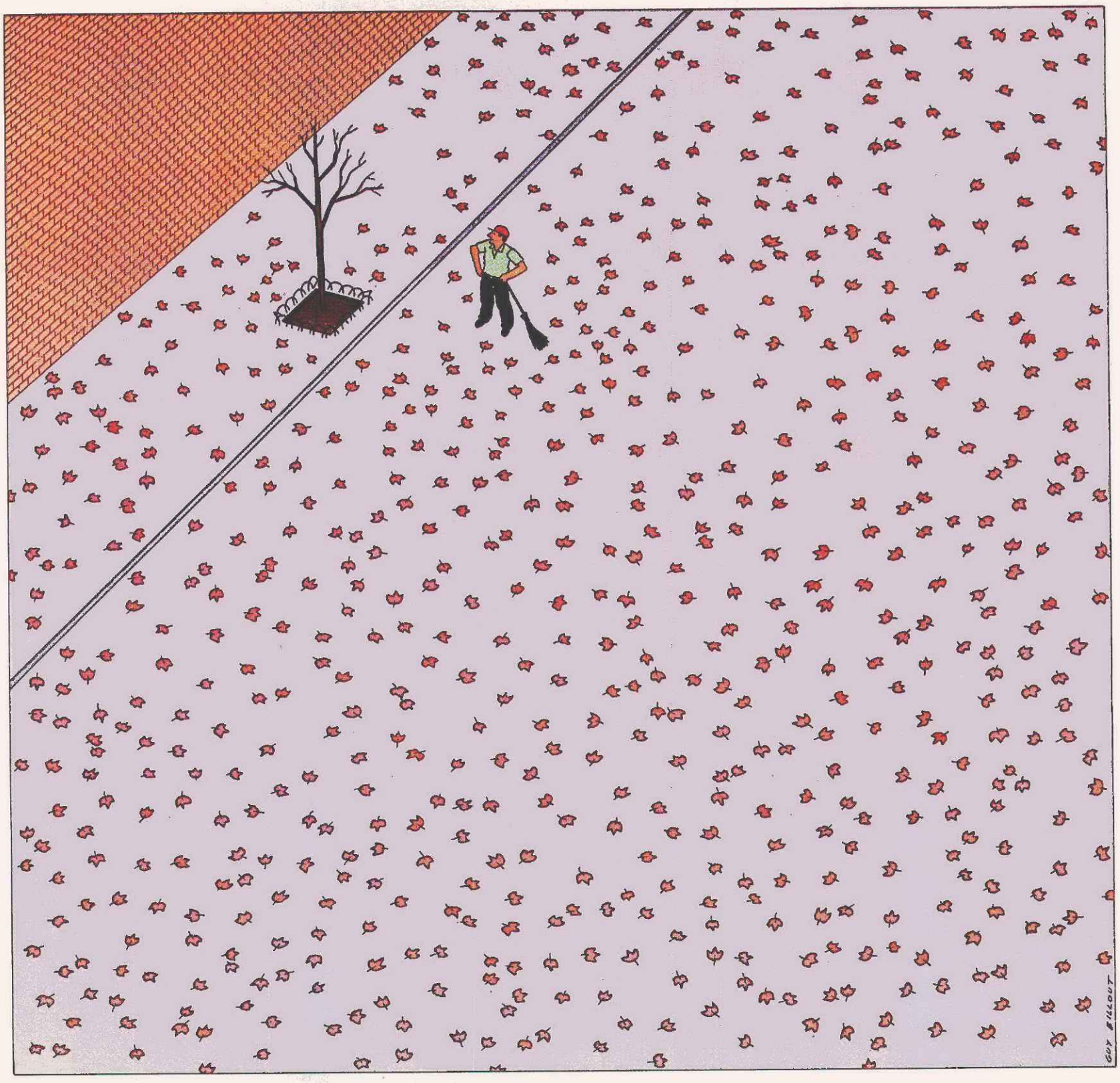

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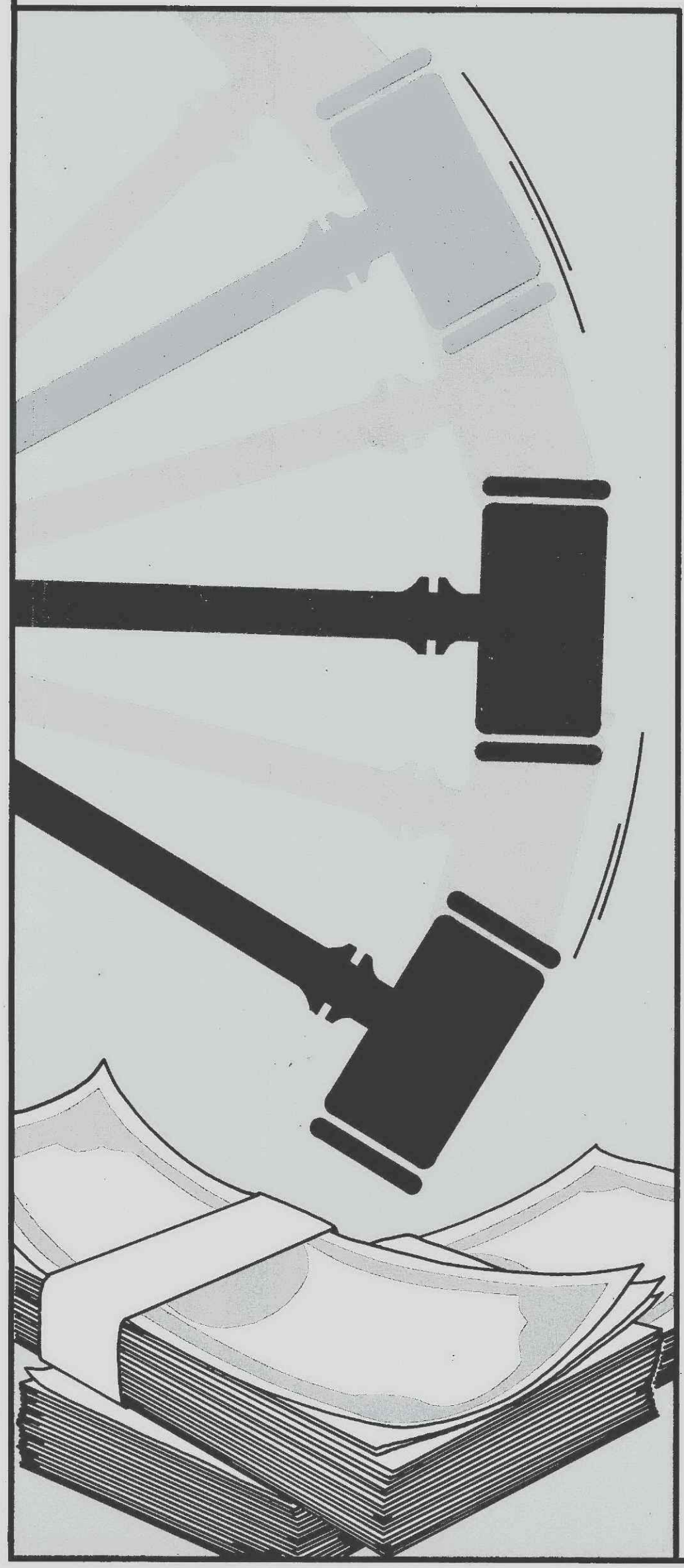

Intermediaries write excess of limits clauses into treaties

By Jonathan F. Bank

THE VOLUME OF extracontractual damage awards against insurers has increased dramatically in recent years. This phenomenon has not, however, caught the insurance community completely off guard. At a very early stage, insurers turned to their reinsurers for assistance in funding these awards.

Reinsurance intermediaries, therefore, began to develop clauses over the last two decades that were intended to pass part of this cost from the insurer to their reinsurers. This clause, often referred to as an excess-of-policy-limits clause, may be drafted to cover all types of awards in excess of policy limits, including punitive damages. It has gained relatively wide acceptance within the reinsurance community and, as one might anticipate, has finally drawn the attention of the courts.

The Supreme Court of Wisconsin in Ott vs. All-Star Insurance Corp., 299 N.W. 2d 839 (1981), recently analyzed an excess of policy limits clause contained in a reinsurance agreement and determined that, after all, this clause was not reinsurance but primary or direct liability insurance.

All-Star Insurance Corp. was reinsured by North Star Reinsurance Corp. pursuant to an excess-of-loss reinsurance agreement. Addendum No. 5, an excess of policy limits clause, was subsequently incorporated into the reinsurance agreement. By this clause, North Star agreed, in part, "that should the company (All-Star) become legally obligated to pay a loss in excess of its policy limits, the reinsurer (North Star) agrees to assume 75% of that part of such loss. . ." in excess of retention. It should be noted that the language used to trigger the reinsurer's payment obligation in the addendum was not that of indemnity against actual loss. In other words, it did not require All-Star to first pay the loss and only then seek reimbursement, a concept fundamental to reinsurance.

All-Star subsequently issued a liability policy with limits of $100,000 to DeNoon Beach Inc. While coverage was in force, Douglas Gould sustained injuries as a result of DeNoon's negligence. Mr. Gould, who became a quadriplegic due to the injuries, sued DeNoon and All-Star pursuant to a Wisconsin direct action statute and obtained a judgment in excess of $500,000, to which All-Star contributed policy limits of $100,000.

DeNoon subsequently became insolvent and its receiver, Robert Ott, sued both All-Star and North Star, contending that All-Star was guilty of bad faith in failing to settle the Gould claim within policy limits. Mr. Ott further contended that North Star was not a reinsurer, but by virtue of the addendum, the excess of policy limits clause had instead provided direct liability insurance to All-Star covering All-Star's bad-faith failure to settle.

North Star disagreed and sought to be dismissed from the lawsuit, contending that as a reinsurer, it had no privity of contract with DeNoon. It further stated the Wisconsin direct action statute was applicable only to liability policies, not to reinsurance agreements. The trial court agreed with North Star and dismissed it from the lawsuit; the Court of Appeals affirmed, and Mr. Ott appealed to the Wisconsin Supreme Court.

The Wisconsin Supreme Court agreed with Mr. Ott and reversed the lower courts' decisions. It determined that the primary risk for which All-Star sought coverage pursuant to the excess of policy limits clause was for "the potential that the company (All-Star) might become liable in tort to one of its insureds for a bad faith or negligent failure to settle a claim within policy limits." The addendum provided separate and distinct coverage from that offered by the reinsurance agreement and, as such, the addendum constituted direct liability insurance making the reinsurer, North Star, amenable to suit under the Wisconsin direct action statute. The court stated:

"The reinsured risk 'must be the same as that covered by the original insurance policy'. . . .' (A) contract of reinsurance extends no further than the risk taken by the original insurer, which cannot stipulate for indemnity against a risk which it has not undertaken.

"(A)n insurer's liability to his insured for tortious failure to settle within policy limits is 'extracontractual.' Because such liability is not a risk against which protection is extended to the insured, it cannot. . .be a proper subject for 'reinsurance.' By definition such risk cannot be reinsured. The subject matter of addendum five is not reinsurance."

The court, in deciding that the addendum was not reinsurance may have relied upon, as noted above, the fact that the addendum did not contain the type of indemnity language so common to reinsurance agreements. However, it is doubtful that even by employing traditional "reinsurance

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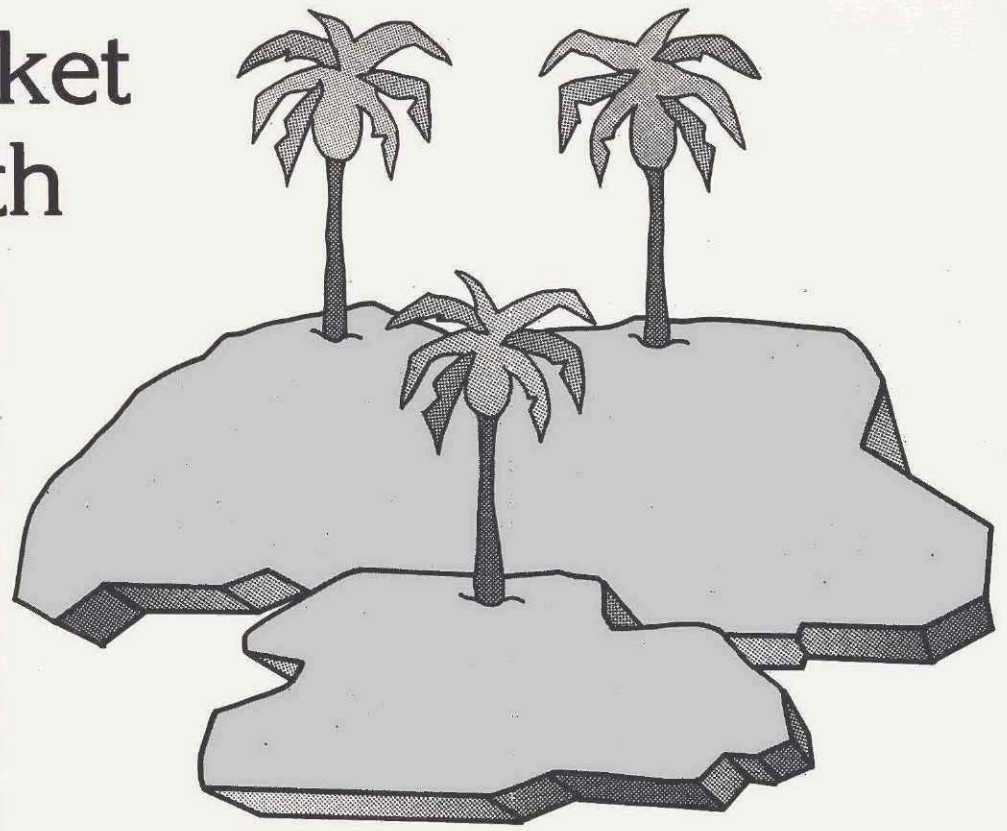
perspective

CAPTIVE INSURERS

How reinsurance market nurtured their growth



By John B. Laadt and Robert J. Rosser

THE MECHANISM OF reinsurance has played an important role in the development of captive insurers. The increasingly sophisticated techniques developed by risk managers would have remained only theory had it not been for the interest, flexibility, creativity and support found in the reinsurance market.

Consider, for example, the development of property captives over the late 1950s, '60s and early '70s. As property values increased, desired capacity was not offered by the primary market. In addition, foreign and domestic insurance companies were unwilling to offer significant deductibles with meaningful credits. Reinsurers responded to these needs by providing the required capacity and by allowing deductibles at premiums that adequately and fairly reflected the level of risk retained by both parties.

The industry upheaval resulting from the casualty capacity crunch of the mid-1970s hastened the next era of captive growth. Severe restrictions on coverage, double, triple or quadruple rate increases and anxiety over future availability made the commercial insurance market unacceptable to many risk managers. They found that, by dealing with reinsurers through a captive, they could effectively present their exposures and, through the purchase of reinsurance, have a greater opportunity to achieve future stability and reasonable pricing and coverage terms.

Since 1972, as a result of the increasing popularity and use of captives, the Internal Revenue Service has challenged the deductibility of premiums paid by a parent and its subsidiaries to a wholly owned, pure captive that insures exclusively the risks of the parent and its subsidiaries. One would think the challenge by the IRS would stop or slow the growth of captives. In fact, it has had an effect very much the opposite.

It has changed the corporate concept of the insurance subsidiary from that of a cost-reduction center to a possible profit center through the underwriting of unrelated business. It has also influenced the emergence of a number of new approaches such as net retention reinsurance and non-owned captive programs that have been designed not only to meet IRS objections but to provide other corporate benefits as well.

Much of the creativity in this current era of captive development has stemmed from ideas and resources provided by reinsurers.

This article reviews retrocessional facilities, pooling arrangements, net retention reinsurance and non-owned captive programs and the active role that reinsurers have played in all of them. It will also present information on a new development in the reinsurance world—the forward integration of reinsurance companies that promises to consolidate an already close relationship between reinsurers and risk managers.

One of the ways pure captives have sought to meet the IRS challenge is to diversify their risk portfolios. Theoretically, a captive could go into the primary marketplace and seek business on a direct basis, but this approach is so impractical that it has rarely been used. Two techniques have emerged, however, that permit captives to participate in unrelated business at relatively low cost and with professional underwriting management. These are retrocessional facilities and pooling arrangements.

These techniques have been highly successful in the sense that they are extremely popular. Many pure captives are involved in one or both. Both offer the means to substantially diversify risk portfolios. Retrocessional facilities permit the underwriting of unrelated business in addition to parental business. Pooling arrangements operate on the theory that 100% parental business is exchanged for a substantial amount of unrelated business. Both techniques are dependent on reinsurance mechanisms to operate and, in both, reinsurers have played an important role.

Historically, retrocessional facilities were the first means by which captives became engaged in outside underwriting in an effort to meet the IRS challenge. The sponsors of many of these plans have been U.S.-based insurance and reinsurance companies that have established reinsurance entities offshore. In most instances, the sponsor offers its offshore reinsurer participation in its own business. The offshore reinsurer in turn makes all or part of its business available to participating captives on a quota-share basis. Also a number of independent offshore reinsurance companies that offer captives similar facilities.

Although most facilities offer a mixture of property/casualty and marine business, one is pure highly protected risk property and another is pure casualty.

Retrocessional facilities tend to have a much higher property content than pooling arrangements. Participations are established in treaties with limits that start at $1 million and increase to amounts exceeding $10 million. These are structured in two ways:

- "Closed end" means that the limit is fixed and no futher participation is possible after the treaty is fully subscribed. Under this arrangement, captives share on a percentage basis.
- "Open end" means that the treaty capacity is expandable annually depending on the number of subscribers and the amounts subscribed. In these arrangements, participations are generally sold in units of $25,000 to $100,000 per risk for property and per occurrence for casualty.

The total premium available to captives via these facilities, which number about 15, is currently estimated at $150 million. On an individual basis, most appear to have what reinsurers call balance. Thus, a captive offering a $25,000 participation should get at least this amount or more in written premiums.

In addition to original acquisition cost, management fees are changed at rates that vary from 1.5% to 6% of written premium. Overall costs to captives are therefore in the range of 25% to 35%. Further, most of these plans have contingent commission provisions of 7% to 25% on underwriting gains. Consequently, if the business has made money, the captives' costs are increased.

Some facilities require letters of credit, while others do not. Most do not seek parental guarantees. The minimum capital and surplus requirement of a subscribing captive appears to be about $1 million, with a 10-1 capital and surplus risk-to-retention ratio. A number of reinsurers say they have no fixed rules regarding these requirements. One rule applicable in most cases, however, is that the captive or its parent must be a client of a sponsoring insurer or reinsurer.

In more recent years, a number of captive pools have been formed to enhance "risk shifting" and to pass premiums outside of a parent's economic circle. In the process, they convert parental business into unrelated business. In addition to the possibility of countering some of the IRS's challenges with regard to the deductibility of premiums, other benefits have resulted including cost savings, additional capacity and the development of new and flexible markets. At the end of 1981, there were approximately 13 to 15 pools that developed about $300 million in premiums.

Pools operate quite simply. Selected coverages of the parent at the primary or excess levels are passed into the pools and comingled with the business of other participants. A mixture of everyone's business is then reinsured back into the participating captives. Depending on how the pool is structured, this may or may not include a proportionate share of the parent's business. Participation is generally, but not always, in proportion to premiums paid. In some instances, it is a function of the captive's underwriting capacity.

There are two types of pooling vehicles. First, there are insurance, including reinsurance, companies that are either already in existence or have been created specifically to be the pool. Second, there is at least one arrangement that is not a capitalized insurance company but a bookkeeping mechanism to exchange the risks and the premiums of subscribing captives.

Most insurance companies that serve as the pooling vehicle offer underwriting limits to participants that exceed the collective capacity of the subscribing captives. This additional capacity is achieved by including reinsurers and the net underwriting capacity of the sponsoring insurer.

Contrary to popular opinion, pools are not all casualty-oriented. Most have been created to include general and auto liability and workers compensation coverages. Some, however, include both property and casualty business. In fact, one that is purely property develops more than $1 million in premiums per year.

If the pooling vehicle is an insurance company, the pool shares in the premiums and risks of the parent by way of direct insurance of the parent and its subsidiaries, reinsurance of a cooperating insurance company and reinsurance of the captive. If the vehicle is not an insurance company, the transactions resemble reinsurance ceded and assumed by participating captives.

Underwriting and rating for these pools are done by:

- The sponsoring reinsurer or insurer.
- An underwriting committee made up only of participating captives.
- An underwriting committee made up of participating captives and the sponsoring broker or manager.
- An underwriting committee consisting of participating captives plus independent lead insurers.
- The sponsor/manager plus lead reinsurers.

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Also, casualty and workers compensation lines are generally retrospectively rated and, in one instance, prospectively rated by projecting five-year losses of pool participants individually and collectively.

Limits provided vary considerably. In casualty lines, one finds a range of $25,000 per occurrence up to $3 million per occurrence with aggregate limits of 125% to 250% of premiums. For pools that involve property, one offers $20 million capacity. Another offers "unlimited capacity," although it is protected by a considerable amount of common-account excess reinsurance.

In addition to acquisitions costs, management fees vary from 0.75% to 5% of premium, with the most common being 1%. Generally, these fees are paid on cessions or retrocessions from the pool to the participating captives and other reinsurers.

All pools have membership requirements that fall into the following categories:

- Client relationship. In most cases, the participating captive or its parent must be a client of the sponsor. This usually means insurance and/or management.
- Capital and surplus. Most pool managers say they have no fixed rules but in at least two cases, $500,000 is the minimum amount.
- Letters of credit and parental guarantees. LOCs are frequently required; parental guarantees usually are not.
- Withdrawal. This varies widely. One pool requires an initial commitment of five years, with one year's notice thereafter. Another allows participants to withdraw at any time with a 90 days' notice. Others are "flexible." Others generally permit withdrawal at anniversary by giving notices ranging from 90 days to one year. Regardless of withdrawal rights, most pools require some sort of retrospective premium from ex-members if experience turns out to be adverse.

Despite the active involvement of many different insurance service providers—direct companies, brokers, management firms, etc.—most of these pools could not operate effectively without the aid of reinsurers. Their help has come in four areas:

- A number of pools have been formed and are currently underwritten and managed by reinsurers.
- Lead reinsurers have been appointed to provide independent objective underwriting management to pools sponsored by non-reinsurers.
- Reinsurers have acted as consultants in the formation of a number of pools.
- Reinsurers have provided underwriting capacity in the form of aggregate stop-loss covers and quota-share participations in large-capacity treaties.

There are two disadvantages to retrocessional facilities and pooling arrangements. The first concerns the amount of unrelated business necessary to make the captive legitimate in the eyes of the IRS. The second is the possibility of adverse experience in reinsurance portfolios over which a participating captive has little or no control.

One imaginative solution to these problems offered by a limited number of reinsurers in Bermuda is net-retention reinsurance. The idea is to reinsure the captive's net retention with a recognized, financially secure reinsurer. The objectives are to shift risk and premium outside of the economic circle and minimize the captive's exposure to adverse underwriting results.

In one of these plans, the reinsurer pays an overriding commission on ceded premium that is sufficient to meet the captives' operating expenses. A contingent commission is also returned, the percentage being negotiable up to 100% of the earned underwriting profit. Profits derived from both underwriting and investment may be included in the calculation. There is, of course, a contingent profit-recapture provision for adverse experience.

These same Bermuda reinsurers also have been active in developing imaginative non-owned captive arrangements for risk managers who feel that establishing a captive is not a suitable risk-financing technique. The reasons usually given for not starting a captive are high capitalization and start-up cost, insufficient premium volume and questions of tax deductibility.

The steps involved are for the risk manager to use a cooperating insurance company that reinsures a large portion of the highly predictable primary areas of selected casualty risks with the reinsurer in what is essentially a retrospectively rated program. The risk manager hopes to realize many of the benefits attributable to a captive, including lower administrative costs, by being able to unbundle and select various services and the possibility of participating in underwriting profit.

It also must be noted that some reinsurers require a capital contribution, usually in the form of the purchase of non-voting preferred shares, in the first year. The theory here is that the reinsurer must maintain a certain ratio of capital and surplus to premiums assumed. In the first year, new premiums under conservative insurance accounting practice actually reduce surplus; thus, the need for a compensating capital infusion. Other reinsurers do not require any capital contribution and still others may, depending upon circumstances.

John B. Laadt, left, is assistant vp at Skandia America Reinsurance Corp. in New York. Robert J. Rosser is assistant vp at Hudson Reinsurance Co. Ltd. in Hamilton, Bermuda.

In captive programs, risks and premium generally flow from parent to cooperating insurer to captive to reinsurer. The reinsurer's position in this chain would seem to indicate a rather passive role. As active as reinsurers have been in all of the programs described, their involvement has also been somewhat limited.

Yet something new is about to occur. Reinsurers are interested in risk management and their reinsurance techniques have become increasingly important in modern risk financing. At the same time, risk managers are keenly interested in establishing and maintaining close relations with reinsurers. Here we have a catalyst for change and, in one instance at least, it has taken place.

The change is the forward integration of services provided by reinsurers. Some of them, in addition to their active reinsurance support of captives and alternative risk-financing programs, are also establishing management firms, independent consulting divisions and primary insurance companies.

The main thrust of this development will be to provide a complete range of services for risk managers who seek more flexibility, independence and direct involvement in structuring their own programs.

These services also will be provided for general agents and brokers with commercial business who do not have the size and internal resources to compete effectively with large national brokers. The impact of this will be to make captive and alternative programs, with all of the services that are required, widely available in the insurance marketplace. ■

Intermediaries insert excess of limits clauses

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indemnity language" the parties could have converted the undertaking into what would otherwise be classified as reinsurance, since the risk reinsured by North Star was not an insured risk under All-Star's original policy.

In the Ott case, the reinsurer, North Star, specifically agreed to participate in any extracontractual damage awards assessed against its ceding company, All-Star. What would have resulted, however, if the reinsurance agreement had been silent with respect to extracontractual awards? There appears to be a philosophical split as to whether coverage should be provided. One opinion is that the very nature of a reinsurance relationship requires the reinsurer to contribute to such an award. Another, and probably a better view, contends that a reinsurance agreement covers only claims arising out of the original policy of insurance. Since a tort committed by the ceding company in its relationship with its policyholder is not a risk insured by the original policy of insurance, it is not reinsurable. The Ott case lends support to this latter view.

However, even when the reinsurer specifically provides coverage for the ceding company's extracontractual damages, Ott strongly suggests that the coverage is direct liability insurance as opposed to reinsurance, creating substantially different duties and obligations. Those duties can mean the reinsurer may have to amend its charter to permit direct insurance, as well as contend with a panoply of state licensing requirement.

Notwithstanding the question raised by Ott regarding the use of an excess of policy limits clause, another recent case offers a potential alternative. In Reliance Insurance Co. vs. General Reinsurance Corp., 506 F. Supp. 1042 (E.D. Pa. 1980), Reliance was found liable for punitive damages that it subsequently settled and paid. Reliance had previously issued to itself two policies: a general liability and an automobile policy. Both specifically covered negligent acts arising from the claims adjusting process and an excess umbrella policy for which General Re accepted 100% reinsurance.

Reliance attempted to collect a portion of the punitive damage settlement from General Re, which resisted by contending that neither the excess umbrella policy nor the underlying liability policy provided coverage for punitive damages. Ultimately the court agreed with General Re, but the holding in that case is not as important as the facts.

Hypothetically, what if Reliance had issued a policy to itself which specifically covered punitive damage awards and then fully reinsured the policy? This approach would seem to cure one of the major objections raised by Ott; one cannot reinsure a risk not covered under the original policy of insurance. Since, in our hypothetical instance, Reliance's original policy of insurance, issued to itself, specifically covered punitive damage liability, the reinsurer, which didn't write in any exclusionary language to the contrary, should probably honor such a claim, subject to policy limits, as it is simply a payment under that original policy.

The foregoing discusses only a reinsurer's contractual liability for extracontractual damage awards assessed against the ceding company without distinguishing between awards that are punitive in nature and those that are not. A reinsurer's contractual liability for either type of award primarily would depend upon the wording contained in the reinsurance agreement and whether that wording covers extracontractual damages including or excluding punitive damages. There may, however, be one further consideration.

Many states, including California and New York, hold that punitive damages are uninsurable as a matter of public policy. This type of legislation is partly intended to prevent policyholders from insuring against punitive damage awards. Yet, there seems to be no logical reason that this would not apply to insurers seeking such coverage from their reinsurer. Whether an insurer can successfully reinsure itself against punitive damage awards in jurisdictions prohibiting such insurance coverage appears to be an open question.

Finally, we have not discussed a reinsurer's liability for punitive damages assessed against a policyholder. Let's assume that such awards are insurable under state law and that kind of coverage was provided under the original policy. The reinsurer would probably honor such a claim, as it is simply coverage arising under the original policy, if there was no language in the reinsurance agreement excluding such coverage. ■

Jonathan F. Bank is a partner at the law firm of Buchalter, Nemer, Fields, Chrystie & Younger in Los Angeles.

Kaufman's prediction affecting cycle: Buge

By RHONDA L. RUNDLE

PALM SPRINGS, Calif.—Aug. 17, 1982, is the date that marks the beginning of the end of the current soft insurance market, a major insurance company executive says.

That's the day that Wall Street guru Henry Kaufman, who is chief economist for the investment banking firm of Salomon Brothers Inc., reversed his earlier prediction of continued high interest rates.

His explosive announcement set off the current bull market for stocks and bonds, which moves in the opposite direction of interest rates. It also put insurance companies on notice that investment income could plummet in the coming months, drowning their bottom lines in rivers of red ink.

The underwriting cycles have finally changed, but the impact on insurance policy prices will not be felt before 1984, Bernard A. Buge, executive vp at INA Corp., told those attending the recent Captive Insurance Cos. Assn. meeting.

Senior management of major U.S. insurance companies will assemble in corporate boardrooms in February of next year, he explained. That's when this year's disastrous financial results will dictate a change in policy pricing. But the first reaction in field offices will not be felt until the end of April.

It will be business as usual for another two months before the field offices take the directive seriously, he noted. By then, the vast majority of 1983 renewals will be in place.

"It's whistling Dixie to say anything will happen in 1983; the impact will have to wait until 1984," he predicted.

Mr. Buge looks for a major development next year in benefit products. "This is something we at INA are more conscious of since the merger with Connecticut General.

"If I had to put my money on the biggest change in insurance products in the next year, my bet would be on 24-hour protection," he said.

Corporate buyers are going to demand a new product to take the place of workers compensation, group, health, long-term disability and accidental death and dismemberment coverages, he believes.

Such a blanket policy, which would consolidate coverage for these different exposures, could go a long way toward eliminating double- and triple-dipping following an injury—something employers find to be both costly and difficult to control.

Recent California legislation that increases workers compensation benefits by 29% significantly raises the cost of doing business in that state, he noted. Such dramatic cost increases explain why the most innovative insurance products to debut in the next eight years will be in the area of workers compensation, he believes.

In a broad sweep view of the insurance industry future, Mr. Buge echoed many of the predictions often heard from his boss, INA President John Cox. Mr. Cox was originally slated to address the CICA meeting and asked Mr. Buge to be his "designated hitter" after a schedule conflict changed his plans.

Many insurance producers are on the brink of bankruptcy now and will be even more sorely strained over the next 18 months, noted Mr. Buge. They are squeezed by reduced cash flow, rising expenses and overhead costs and the problem of collecting overdue premiums.

The number of producers will be reduced by 20% to 50% by the end of the 1980s, he predicted. That means that 15,000 to 35,000 individual producers will disappear within the next eight years.

The number of producer companies also is declining due to the trend toward consolidation through agency acquisitions, he pointed out. Many major insurance organizations also are purchasing captive insurance agencies to market their products.

"Everybody is chasing the same girl," he said of the medium-sized commercial insurance account. "But the winners will be the major national brokers."

The trend toward flat fees in lieu of commissions and unbundling of services continues, he observed. Direct writers are making inroads on main street business traditionally written by small insurance agencies and brokerages.

Mr. Buge also foresees a resurrection of mass merchandising of insurance products. Some Fortune 1,000 companies are writing their employees' individual automobile insurance in their captive insurance company subsidiaries, he said.

A show of hands at the conference indicated that only a small number of approximately 230 people attending the meeting had read "The Invisible Bankers," a recently published book written by Andrew Tobias that is critical of the insurance industry.

The book paints the industry with a broad brush, but contains grains of truth, said Mr. Buge.

"Lots of people are eating off this industry," he noted. "And the public is looking for better value for their dollars. The industry will have to operate under leaner, tighter, slimmer expenses in the future." ■

CICA begins second decade

"We're the survivors of one of the worst business shakeouts any of us has lived through," declared Captive Insurance Cos. Assn. President Charles Eades as he opened the 10th anniversary meeting of The Captive Insurance Cos. Assn. held in Palm Springs, Calif., Oct. 10-12.

About 250 members and their guests attended the meeting to catch up on developments affecting captives.

Some members were there to swap risks among their captives. A group of risk managers trying to formalize a risk exchange, who first met on the project last year, picked up their effort but say it is still in the "working stages."

CICA has 209 member companies that operate captive insurers. Among its newest members are General Motors Corp. of Detroit and Quaker Oats Co. of Chicago.

Information about CICA can be obtained by writing The Captive Insurance Cos. Assn. Inc., 205 E. 42nd St., New York, N.Y. 10017.

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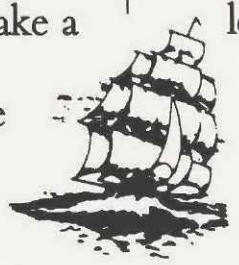

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Captives need numerous fund managers: Banker

By RHONDA L. RUNDLE

PALM SPRINGS, Calif.—A mature captive insurance company can benefit from using more than one investment manager, says a senior investment manager from a London-based merchant bank.

"Don't put all your eggs in one basket," advised Michael J. W. Daley from Credit Suisse First Boston Ltd. at the recent Captive Insurance Cos. Assn. meeting in Palm Springs.

Dividing your funds among a number of managers will tend to increase the captive portfolio's returns and reduce risk through diversification—of people as well as investments, he said.

The styles of investment managers differ, he pointed out. The major money-center banks may move slowly. Smaller banks can react more quickly to new information in the financial markets because they have fewer funds under management.

"If your portfolio is $100 million, I'd say three managers would give each portfolio manager a reasonable fee and sufficient incentive to do a good job," he counseled.

After four or five years, use of more than one investment manager provides the captive with a fair basis for comparison of the different managers' performances.

"A manager worth his salt should be able to come up with results in that period of time," said Mr. Daley.

One of the shortcomings of captives' investment management is that they are not close enough to the market, he observed. They should review what they do more often.

"I have over the years noticed a reluctance on the part of captive sponsors to manage their portfolios as actively as circumstances, which with the benefit of hindsight, may have suggested," Mr. Daley explained.

Switching securities is costly, he admits.

"But we emphasize the policy that preservation of capital always comes first and if that means switching to a more marketable issue or improving the quality of the issues in the portfolio, then this should be done without hesitation," he advised.

This does not mean that investment managers should be selecting high-risk securities or merely churning investments to earn a fee.

"Be conservative," urged Mr. Daley.

There is a strong and dangerous temptation in tough economic times for corporations to put pressure on captives to generate more funds, he pointed out.

"Remember what the reserves are there for—to meet liabilities. This basic objective should not be jeopardized to achieve a marginal gain. Anything else is icing on the cake."

Captive managers should ask their investment manager or managers at least once or twice a year to justify portfolio transactions, said Mr. Daley. This check will reveal whether the manager is making wise portfolio adjustments or merely turning over securities to earn a fee.

"A switch to a 14.5% coupon bond down from one paying 15% may appear silly on paper but it could turn out that the first issue was unmarketable," he added.

A reasonable return on the investments also indicates that the investment manager is probably adding value to the portfolio through turnover. Using more than one manager helps the captive manager to determine what "a reasonable return" should be, he explained.

The Euromarket is the natural market for the captive insurance company investor, said Mr. Daley. It provides a tax-free income, a rate of return usually higher than comparable domestic markets and a range of instrument types and maturities to meet most investment criteria.

"The Euromarket is independent of the domestic market although this has only recently become clear," said Mr. Daley.

"The market rate for dollar funds has ceased to be fixed in New York and transmitted to the rest of the world. The Eurodollar market has become big enough to price funds on its own criteria and on its own terms."

The recent growth in Eurodollar bond issues has been remarkable. At last count, there were more than 3,000 Eurobond issues outstanding with a total face value in excess of U.S. $140 billion. About $30 billion have been issued during the past eight months, more than the total for 1981, which was a record year.

The European Economic Community put out the first large Eurodollar bond issue for $500 million in 1975. Over the past year, the size of individual Eurobond issues has been rising rapidly, said Mr. Daley: $400 million for Du Pont; $400 million for AT&T; $650 million for Sweden and $750 million for Canada.

After Eurobonds, the floating rate note is the next-largest sector of the Eurodollar market. This instrument is a debenture with a coupon that is adjusted, usually every six months, at a small margin over a money market rate.

Such notes are rarely priced far from par and provide a considerable degree of protection from capital depreciation when rates are rising. Inversely, in a falling interest rate market, the FRN rarely trades significantly above par because its nominal interest rate will be regularly adjusted downward.

The uncertainties of the financial world have resulted in the birth of the zero coupon bond. This instrument may be attractive to investors who need to lock away funds for many years, including captives with long-tail exposures.

"Those who work with shorter time frames may find the zeros' lack of current income is not compensated for by progressive capital gains," noted Mr. Daley. The anticipated lead that zero coupon bond prices were expected to show during the current bull market have not been forthcoming, he added.

High interest rates have been a boon to many captives during the recent period of soft insurance markets. But others invested prematurely—and unwisely—in long-term bonds and failed to sell them, said Mr. Daley.

"They now languish in portfolios valued substantially below cost and many such old bonds are now unmarketable," he noted. ■

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Currency rates pose another captive risk

By RHONDA L. RUNDLE

PALM SPRINGS, Calif.—Fluctuations in the foreign exchange market can create a maximum 20% gain—or loss—in a captive insurance company's cash during a 12-month period, major banks estimate.

Until 1979, banks believed that the maximum gain or loss was only 10% of the principal, says Barbara Rockefeller, assistant vp of Citibank in New York.

But volatility in foreign exchange rates has increased the risk in the foreign currency markets since October 1979. That's when the Federal Reserve Board changed its monetary policy, placing less emphasis on maintaining stable interest rates.

Exchange rate volatility creates wide swings in investment yields in the home currency value of foreign assets and liabilities, including cash. Financial managers have responded with increasingly sophisticated methods to manage these risks.

"Before selecting the tools you will use to manage this exposure, you must decide what your degree of risk aversion to currency fluctuations is," Ms. Rockefeller explained during a workshop at the recent meeting of the Captive Insurance Cos. Assn.

She divided financial managers into three basic groups: those who prefer to keep their assets in dollars; those who prefer to diversify their risk with more than one currency, and those who will aggressively seek to optimize their return through active foreign exchange trading.

> 'If you don't understand the foreign exchange market, it is smart to stay in dollars,' Ms. Rockefeller of Citibank advises.

Active trading means buying currencies with actual and anticipated rising yields relative to U.S. dollars and selling currencies with actual and expected falling yields.

"If you don't understand the foreign exchange market, it is smart to stay in dollars," she advised.

But ignoring currency exposures can be disastrous. Converting foreign currencies into dollars when the rate is high can cost the captive a substantial amount of money.

To minimize losses in currency fluctuations, a captive's funds should be diversified in different currencies, she explained. Diversified portfolios are protected from exchange risk to the extent that the distribution of currencies on the asset side is matched to actual or expected liabilities.

If some currency exposure is accepted, diversification leads to lower portfolio risk because there is reason to expect fluctuations in the return of any one currency to be partially offset by opposite fluctuations in the return of another currency.

One strategy is to hold opposite positions—long and short—in two closely-correlated currencies, such as dollars and Kuwait dinar. If one of the currencies begins to lose value, the other will too. The investor will be protected because the captive's positions will be offsetting.

Captives with foreign currency exposures should cover them with forward contracts of differing maturities to buy or sell in the future. Forward contracts may be reversed at any time prior to maturity.

Captives may choose to hedge their foreign currency exposures independently of the parent corporation or they may wish to take a wider perspective to create a balanced foreign currency position for the parent, pointed out Ms. Rockefeller.

"If one subsidiary is long in French francs, the captive could be short in that currency and the corporation as a whole would have a balanced position," she explained.

The big question in foreign currency trading as in other forms of investment is "when to buy and when to sell," notes Ms. Rockefeller.

Technical analysis offered by banks and other financial consultants can be used by captive managers to issue buy or sell signals. This saves time because they do not need to reinvent the wheel every time new information forces them to re-examine their portfolios.

Ms. Rockefeller

Technical analysis uses trend-spotting techniques to analyze past price movements and generate buy/sell advice. It states whether rates are moving up or down and with what strength, based on historical price movements. It separates random price movements from significant trends.

Among the tools of technical analysis are charting, filter rules, momentum analysis, moving averages and crossover points, noted Ms. Rockefeller.

- Charting foreign currency prices graphically illustrates price patterns and trends in a non-systematic way. It is used by some analysts to judge where rates are going.
- Filter rules are simple mechanical rules that say: Buy when the price rises X% above the most recent trough; sell when the price falls X% below the most recent peak. Such rules may push the investor to move prematurely when market swings exceed the filter rule percentage.
- Momentum analysis seeks to define the strength of a price movement. A high momentum indicator shows a strong market rally; a weak indicator gives less confidence that a trend will persist.
- The moving average model is constructed to indicate the underlying direction of market prices and smooths spot price movements. A short-term moving average depicts current price movements in the context of the longer trend.
- When the short-term moving average rises above the long-term, prices are trending upward. When the short-term moving average drops below the long-term, prices are trending downward. The crossover points generate the model's buy/sell signals. ■

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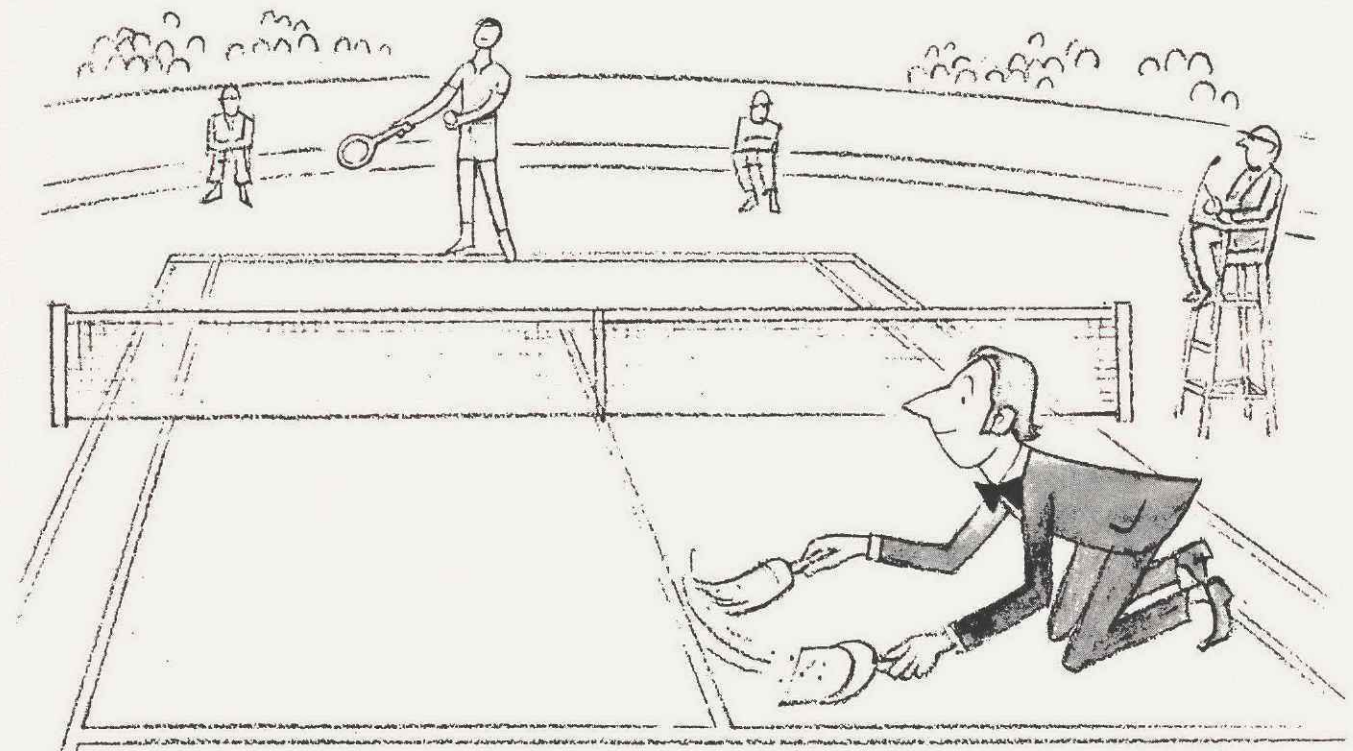

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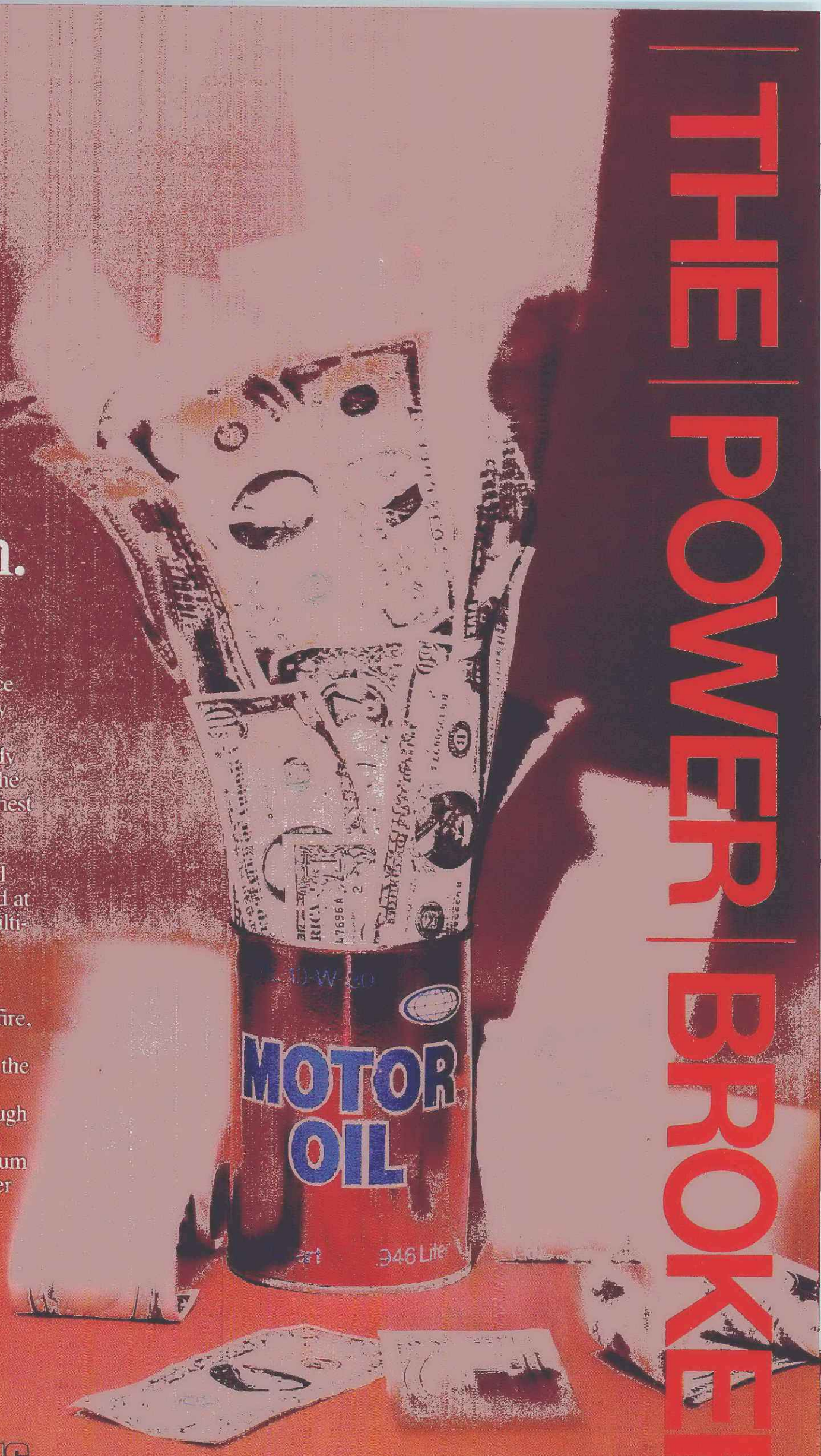

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Tax break bill to be reintroduced next year

PALM SPRINGS, Calif.—A bill that would allow employers to tax deduct self-funded loss reserves and premiums paid to captive insurance companies will be introduced again in Congress next year.

H.R. 6114, which is supported by a coalition of risk management interests, was first introduced in the House April 20 by Rep. Bill Frenzel, R-Minn. (*BI*, April 26).

Congress will reconvene Nov. 29 for a lame-duck session, but action on the bill is not expected until the 98th Congress assembles in January.

"We have a committee working on drafting technical changes to the bill to clarify our original intent," said Robert A. Reeves, president of Nashville, Tenn.,-based Hospital Corp. of America's health services group division. Mr. Reeves, a member of the coalition known as the Loss Reserve Deduction Committee, gave a progress report on the bill at the recent CICA meeting in Palm Springs.

Ron Stasch, risk manager for Federal-Mogul Corp. in Detroit and another member of the committee, is in charge of the technical drafting work on the bill. Among the changes to be incorporated by the committee is a clause that would prohibit a bankruptcy court from attaching a bankrupt corporation's self-insurance trust fund to pay creditors.

Rep. Frenzel will again introduce the bill, said Mr. Reeves. "He is up for re-election and we expect him to win."

Mr. Reeves said the Loss Reserve Deduction Committee had chosen not to seek co-sponsors for the bill until it finishes explaining the issues to legislators.

The climate in Washington has not been conducive to legislation that seeks to decrease tax revenues in the short run, Mr. Reeves added. "Over a 10-year period, we expect the proposal to increase tax revenues, but we don't elect presidents for that kind of term."

The Loss Reserve Deduction Committee contends that allowing employers to tax deduct their self-funded loss reserves will free up capital for companies to invest in their businesses and ultimately produce more profit and taxes than the taxes now collected on the reserves.

A number of risk management and insurance groups and companies have contributed to the Loss Reserve Deduction Committee. The Risk & Insurance Management Society, the Captive Insurance Cos. Assn. and the National Assn. of Insurance Brokers each have contributed $15,000. Marsh & McLennan and consultants Towers, Perrin, Forster & Crosby and The Wyatt Co. have donated their services.

Despite these contributions, the committee's books are in the red. The treasury has funds of about $27,000 and unpaid expenses of about $50,000, reported Mr. Reeves.

Patton, Boggs and Blow, the Washington law firm spearheading the legislative drive, "doesn't come cheap," he noted. "The longer the drive goes on, the more it will cost."

Review your reinsurance, broker advises

By KATHRYN J. McINTYRE

PALM SPRINGS, Calif.—The year 1982 will go down in reinsurance history as the "Year of Security," says a brokerage executive.

"Major insurance companies are reviewing their reinsurance portfolios," Marsh & McLennan Inc. Vp Lawrence Bell told a seminar at The Captive Insurance Cos. Assn. meeting.

Captive insurance companies should take a cue from the commercial insurers, Mr. Bell suggested. "You should consider reviewing your own portfolios and try to reinforce those companies that may not be there to assist you when you make a financial call," he advised the risk managers who are responsible for their companies' captive insurance companies' reinsurance protection.

Captive insurance companies that accept low layers of risk from insurance companies writing policies for the parent company may only purchase an aggregate stop-loss reinsurance policy to cap their losses in any one year. Other captives that write insurance direct for their corporations purchase reinsurance on a line-by-line basis to cover the risk beyond their financial capabilities and may purchase an aggregate policy.

Mr. Bell

"In the current recession, it is logical that some companies won't be able to pay," Mr. Bell said. "It takes years for aggregate losses to develop and if the reinsurance company isn't going to be around to pay, the policy isn't worth the paper it is written on."

The collapse of weak reinsurance companies, which Mr. Bell referred to as an "act of financial cleansing," occurs at the end of competitive insurance cycles, he added.

Executives in the commercial insurance industry fear that 25% to 40% of reinsurance would be uncollectible if a major disaster occurred, such as a hurricane hitting the East Coast, Mr. Bell said.

One major primary insurance company recently cut in half its list of acceptable reinsurers, he said, declining to name the company.

Mr. Bell recommended that captive insurance companies tap each other's capacity to strengthen their own reinsurance programs.

"Get a strong reinsurance lead to price the risk and then find captives" to fill reinsurance needs, he advised. "You perhaps will have a stronger reinsurance program."

If captives exchange risks to strengthen their reinsurance programs, they also may find the unrelated risks are profitable.

Many captive insurance companies are looking for risks to underwrite from unrelated companies to convince the Internal Revenue Service to recognize the captive as an insurance company for tax purposes.

The rules of thumb for determining a reinsurance company's financial strength to underwrite risks are $20 million in capital and surplus for casualty business and $10 million for property, Mr. Bell noted.

"But I don't like rules that simple," he said. There are captives with $5 million to $10 million in surplus which could weather a catastrophe better than some companies with $15 million to $20 million, he said. ■

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B1

Satellites have liability cover for shuttle launch

Continued from page 1

the market is pinched to come up with $1 billion in coverage for one launch (see story, page 1), SBS and Telesat found the premiums for coverage on the shuttle's first commercial flight to be cheap, industry observers say.

"It's peanuts," said one of the reinsurers on the risks. "You can get half a billion dollars' cover for just $100,000."

Telesat bought the first $400 million of its coverage for $76,500, he said. SBS Systems would not comment on its premium.

However, Lloyd's of London and other London market underwriters may be looking closely at the enormous liability risk they have taken for such low premiums, said the reinsurer.

"Some brokers are trying to lay off (through reinsurance arrangements) the aggregation of some underwriters who wrote part of both liability policies," he said. But they are finding it difficult to do, he said.

But, the rates for the liability coverage are low because of the stringent safety measures that NASA requires for manned flights, other sources say.

"Just look at NASA's record," said John Howes, a director of Crawley, Warren & Co. Ltd., SBS' broker in London. "Riskwise, it is safer than other ways of launching."

SBS Systems also has every confidence in NASA's manned flight safety.

"The shuttle is a man-rated launch system—an engineering term that means that all the technical work is more complex for the safety system," said an SBS spokesman in its headquarters in McLean.

Every precaution also will be taken to see that both SBS' and Telesat's satellites function properly before they are placed in orbit, the spokesman said.

Each satellite will undergo an extensive test before it is loaded onto the space shuttle. Electronic equipment and power sources are checked again to make sure everything functions properly.

The astronauts aboard the shuttle will conduct another series of tests on the satellites 160 nautical miles above the earth. If those tests are successful, they will place the satellite into geosynchronous orbit 22,000 miles above the earth.

But, if a satellite malfunctions during the test, the astronaut can bring it back to earth for repairs.

The opportunity to retrieve malfunctioning satellites may reduce the number of total losses and hold premiums down, sources say.

Coverage for the satellites launched by NASA's Thor Delta rockets and by the Ariane program operated by the European Space Agency in French Guiana costs up to 8% of the spacecrafts' insured value, says Brian Stockwell, president of Corroon & Black Corp.'s Inspace Inc., SBS' joint broker with Crawley, Warren. However, the recent failure of an Ariane rocket may push up rates (*BI*, Sept 20).

In contrast, premiums for space shuttle launches, in which satellites can be retrieved, run about 6% of insured value, he said.

"NASA says there is a 3% possibility that the shuttle would suffer an abort," says Mr. Stockwell, who says that figure represents good odds. "Besides, you have the possibility that when the thing is launched, it can be returned."

Other potential users of the space shuttle say there is no difference in premium rates between the three launch methods.

"Delta has had 163 launches and the success ratio has been very good—about 93%, I think," said Kevin J. Christel, director of insurance for Western Union Corp., which is launching a satellite in December 1983 aboard an Ariane rocket (see related story).

But, he noted, the Ariane has only been launched five times and the shuttle is an untried method, so there really isn't any sound loss data on which to base premiums for those two methods of launch.

SBS Systems will launch its next two satellites with the space shuttle because it's cheaper and they can retrieve a faulty probe, the company spokesman said.

"The last Thor Delta launch cost $25 million," he said. "The price we will pay for the space shuttle launch is about $8 million. That is why we are enthusiastic about the space shuttle."

Besides the $500 million in liability coverage, both SBS satellites will be insured for launch risks and loss of revenue in excess of $50 million, with Lloyd's and London companies insuring about 60% and other world markets insuring about 40%, said Mr. Stockwell. The premium will be less than 10% of insured value, the SBS spokesman said.

SBS will also pay an additional 2.5% of the insured value for premium if either of the satellites has to be returned to earth, said Mr. Stockwell. The extra premium will pay for the repair and re-launch of the satellite, an addition to satellite coverage spawned by the space shuttle. ■

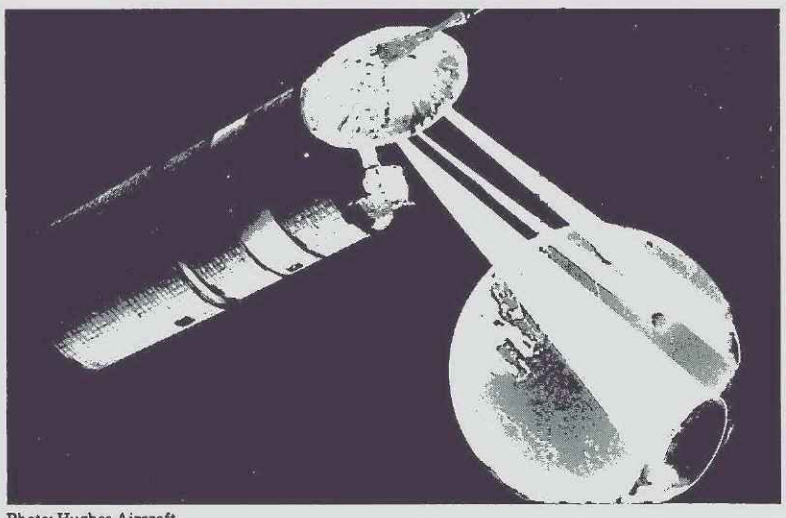

Photo: Hughes Aircraft

Hughes has placed coverage for its Galaxy series (see page 60).

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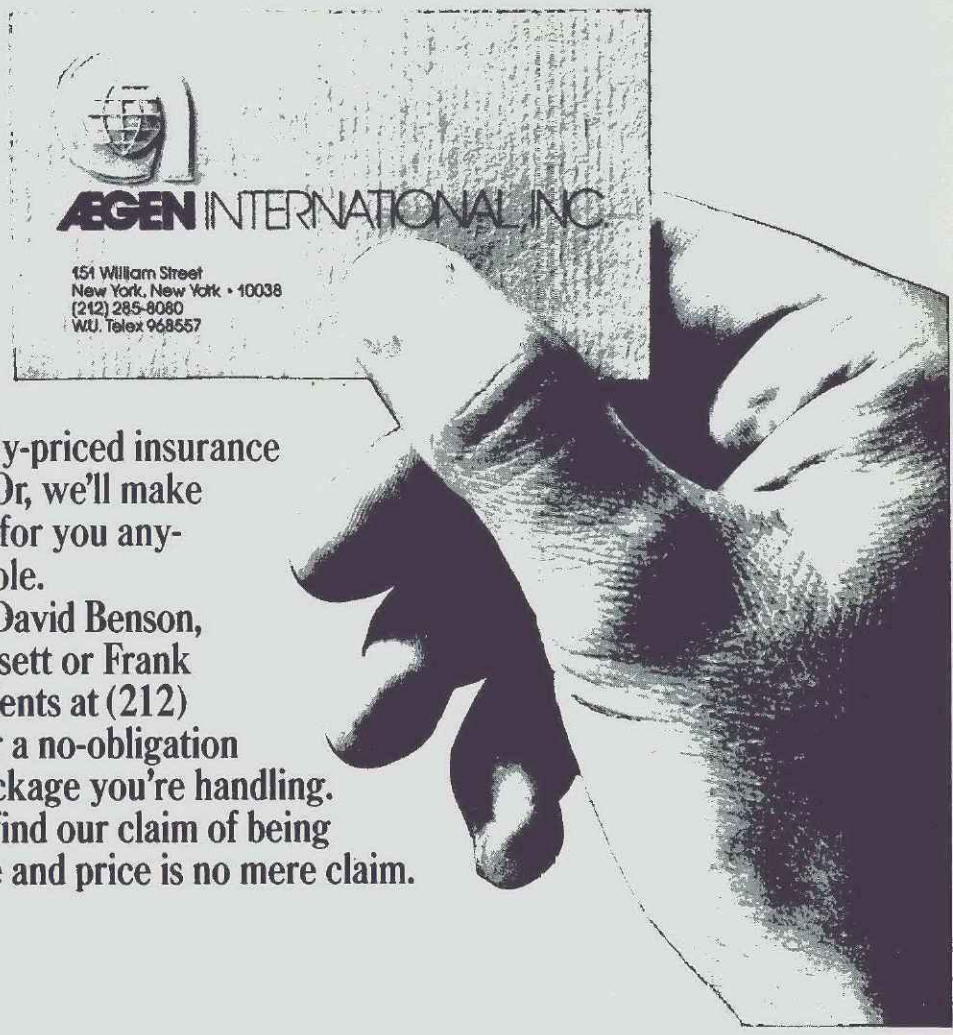

Indemnification program

Continued from page 1

NASA asked the president to amend the order to also include space activities.

The amendment was studied by various federal agencies including the Department of Justice, which is responsible for defending NASA against claims.

In addition, Mr. Hosenball is drafting an extended cross-waiver of liability for all participants on the space shuttle project. By Mr. Hosenball's authority, the waiver will say that no one can sue anyone else for damages to property.

"In effect, this means everybody assumes damage for their own property and holds no one responsible for damages, so no one would be liable (to each other) under any liability theory," he said.

This clause will be incorporated in all future contracts involving the shuttle and as an amendment in present contracts if so desired, he said.

NASA's actions may come as a relief to space shuttle users and contractors and their insurers.

Since the shuttle's first launch last year, NASA contractors and subcontractors have been concerned about their liability exposures if a mishap occurs. Since any claims would be made against their own product liability insurance policies, affecting future premiums and capacity, the contractors tried to formulate a wrap-up liability policy for the shuttle.

But that movement died because contractors did not want to pay the extra premiums involved, said Bob Butler, corporate director of risk management and insurance for Lockheed Corp in Burbank, Calif., a shuttle contractor.

London underwriters, however, have offered their own solution to the problem, Mr. Butler said.

During Lockheed's initial negotiations for its September coverage renewals, Lloyd's of London's Aerial Syndicate quoted a separate product liability premium for the shuttle risk, said Mr. Butler.

"For any insurance that goes through London, there will be a separate charge for manufacturers of the space shuttle on their product liability (coverage)," said Mr. Butler. The underwriters want to do this "to estimate the separate book of information and data on space shuttle claims," he said.

The separate charge will probably not be an extra charge, however. "The underwriters are saying that it probably would not be extra, but a portion of the product liability premium will be carved out for the shuttle risk," said Mr. Butler.

If NASA does indemnify shuttle contractors, thus removing the risk, the underwriters may waive this separate charge, Mr. Butler said.

NASA's move to indemnify all of the parties involved with the shuttle also may ease the difficulty the users of the space shuttle face in trying to find adequate liability insurance, sources agree.

"This will assist in the capacity problem," said Mr. Hosenball.

NASA indemnified the users of the shuttle at the outset of the program, but required that each user carry a $500 million liability insurance policy (*BI*, April 20, 1981).

That requirement could cause a capacity crunch if several satellites are launched on one shuttle, sources say.

"If you have two or three people flying payloads together, there may not be the capacity in the market for liability insurance," said Brian Stockwell, president of Inspace Inc., a subsidiary of Corroon & Black Corp. in Washington.

"The market can provide $1 billion but not much more," said Mr. Stockwell, whose firm works in joint venture with Lloyd's brokers Crawley, Warren & Co. Ltd. "So the third person looking for liability insurance in the market probably couldn't get coverage."

In this case, NASA has said it will provide the coverage itself if insurance cannot be found in the market, Mr. Hosenball confirmed.

Proposals have also been offered that shuttle users band together and become coinsureds on a single $1 billion liability insurance policy per flight, said Mr. Stockwell. Then, if an accident occurred, all parties would be insured equally and perhaps named as one defendant in any liability lawsuit.

NASA also confirms that it has been approached by International Technology Underwriters of Bethesda, Md., to provide such a $1 billion-per-flight policy for shuttle users.

"Right now, NASA has not blessed the policy, but it is being looked at favorably," said Mr. Wojtal. ■

Space coverages are tailor-made

By STACY SHAPIRO

LONDON—Companies can custom-build insurance coverage for their satellites before they are launched, London underwriters say.

More than a dozen commercial spacecraft will be launched into space within the next year, and pre-launch, launch and post-launch risks could total hundreds of millions of dollars.

Underwriters are offering unique satellite insurance policies that are custom-designed for each company, whether it is a satellite owner, user, manufacturer, contractor or middleman.

Although policies vary according to the project, sources say three main types cover damage to the satellite itself (*BI*, Aug. 10, 1981):

- Pre-launch insurance, which generally is divided into two parts. The first covers the spacecraft during transit from the manufacturer to the launch site. The second, called pre-ignition coverage, insures the statellite, launch vehicle and equipment before liftoff or intentional ignition.
- Launch insurance, which provides coverage from the time of launch until the undamaged satellite achieves permanent orbital position.

The insurance market capacity for launch insurance was discussed at a reinsurance conference earlier this month. (See story, page 40.)

- Life or in-orbit insurance, which protects against failure to perform intended functions.

Many other satellite coverages, however, are now on the market.

For example, satellite contractors can cover the risk that they will not receive incentive payments from satellite owners if the probe malfunctions.

Incentive payments are used so that a satellite's owner can pay a manufacturer or contractor according to how well the product meets expectations. The contractor receives monthly payments from the owner as long as the satellite remains in operation until the full purchase price is paid.

Ford Aerospace, a subsidiary of Ford Motor Co., is now in the process of settling an $800,000 claim on

Continued on facing page

Who can handle any case, anywhere, in rehab?

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Continued from facing page

an incentive insurance policy, said one of its reinsurers. One of its clients, INTELSAT, a consortium of more than 100 nations providing international telecommunications services, says one or two of its F-series satellites is not performing satisfactorily and will not pay Ford Aerospace incentive payments, London underwriters say.

Ford Aerospace is trying to retrieve the money through its insurance policy, said one reinsurer.

"Apparently, there is a claim in the process and a broker is handling it," said a Ford Aerospace spokeswoman in Detroit. She will not comment, however, on the amount of the claim.

Some people in the insurance market, however, believe that insuring incentive payments is unethical because it guarantees that a contractor will receive payment if it makes a defective product.

"The incentive payment is designed to make the contractor perform and if you insure it, you take that incentive away," said a broker in the industry.

INTELSAT, one of the largest purchasers of satellite coverage, in the future will probably refuse to buy satellites from companies if they purchase incentive payment insurance, said Brian Stockwell, president of Corroon & Black Corp.'s Inspace Inc., INTELSAT's broker in Washington.

If a satellite is launched aboard the National Aeronautics and Space Administration's space shuttle, other unique insurance policies may be attached.

Each satellite payload aboard the space shuttle must be insured by the satellite user for $500 million for third-party product liability risks (see related story).

In addition, some companies top their programs with lost revenue insurance should their satellites fail and the owner is forced to refund money others pay to use them.

"It is possible to cover some of the lost revenue," said Kevin J. Christel, director of insurance for Western Union Corp., which has five satellites in the air and another to be launched in 1983.

Until several years ago, satellite insurance was underwritten only by the world's aviation insurance market. But aviation underwriters have lost money over the last few years, particularly on the $77 million loss of the RCA Corp.'s Satcom III (*BI*, Dec. 24, 1979).

"Underwriters have lost a lot of money over the last 10 years," said one reinsurer, "and they were seeing 150% to 200% loss ratios."

The aviation underwriters were dumping their losses on their reinsurers. "Then reinsurers said they had enough," cutting the capacity aviation insurers could write, said an aviation reinsurer.

Marine and non-marine underwriters then picked up the slack in the satellite insurance market and expanded capacity. With the entry of these new players, competition for risks has increased and rates have remained low.

"You cannot say a satellite is just an aviation risk," said Tom Wallace, deputy chairman and managing director of Sedgwick Group P.L.C.'s aviation department in London. It is a mechanical property that may cause business interruption losses, he added.

One of the new leaders in the satellite insurance field—alongside Lloyd's Aerial Syndicate and Orion Insurance P.L.C—is Lloyd's marine underwriter Stephen Merrett.

"We began underwriting satellite insurance risks about three years ago as a new and experimental line of business and our experience was mixed," said Mr. Merrett, chairman of Merrett Holdings P.L.C.

"We are more involved this year than last year and the risks are substantial," he said, adding that the Lloyd's and London aviation underwriters still are the market leaders because of their expertise.

But the additional players have kept rates low.

"NASA claims that its non-success rate for satellites is one in 10," said one aviation insurer. "That means rates should start at around 10% of insured value." Instead, premiums rates hover around 8%, he said.

Usually, a satellite insurance policy insures several different spacecraft in a series rather than individual probes. Buyers pay the underwriter a deposit premium up front, securing the quoted premium rate for satellites that may not be launched for several years.

That is why some of the spacecraft that will be launched aboard the European Space Agency's Ariane rocket will be insured for relatively low rates even though the Ariane has failed on two of five launch attempts, one aviation reinsurer explained (*BI*, Sept. 20).

Whatever the rates, there seems to be no such thing as a standard satellite policy. For example, here are just a few of the insurance programs written by Lloyd's, London and U.S. insurers:

- INTELSAT is in the middle of its $1.3 billion, 10-satellite 1-5 program, which is brokered by Corroon & Black Corp.'s Inspace Inc. and Lloyd's broker Crawley, Warren Ltd.

Launches in the 1-5 series occur about every three months until 1985, an Inspace broker says. Four have already been launched by NASA's Atlas rockets. The next five will be launched by Ariane in French Guiana and six more are scheduled for NASA rockets.

- Western Union Corp. will be launching the last of its three communications satellites in December 1983. Each is insured for $70 million to $80 million, one of Western Union's London insurers says. Mr. Christel, the firm's director of insurance, will not comment on the insured value of the satellites.

Westar I and II were launched by NASA Thor Delta rockets, the last one on June 8, Mr. Christel said. Westar III will be launched by Ariane in December 1983.

The insurance process for satellites is long and involved, Mr. Christel said. The risk manager must select a broker who knows something about how satellites work and the satellite insurance market. He then must look at the details of the satellite project, like costs, and make recommendations in a report to upper management, said Mr. Christel.

Western Union uses Alexander & Alexander Services Inc. in the United States and Sedgwick Group's aviation department in London as its brokers.

- The Hughes Corp. in California, which already manufactures satellites for other users, is now building probes for its own use.

The three satellites in the Hughes Galaxy program will be insured for $75 million each through the London market, according to a broker at Sedgwick Group, which has the Hughes' account. The first of the three satellites will be launched in June 1983, with the others set for September 1983 and July 1984, all aboard NASA's Thor Delta rocket.

The premium for the launch coverage, however, fluctuates depending on the success of the launches, said one of its reinsurers. According to a complicated formula, if all three satellites are successfully placed in orbit, the premium will average around $12.3 million or 5.5% of the risk.

But if all the satellites fail, the premium will be around $19.4 million, or 8.6% of the insured value.

This amount includes life insurance for each of the satellites, which costs around $750,000 apiece, he said. ■

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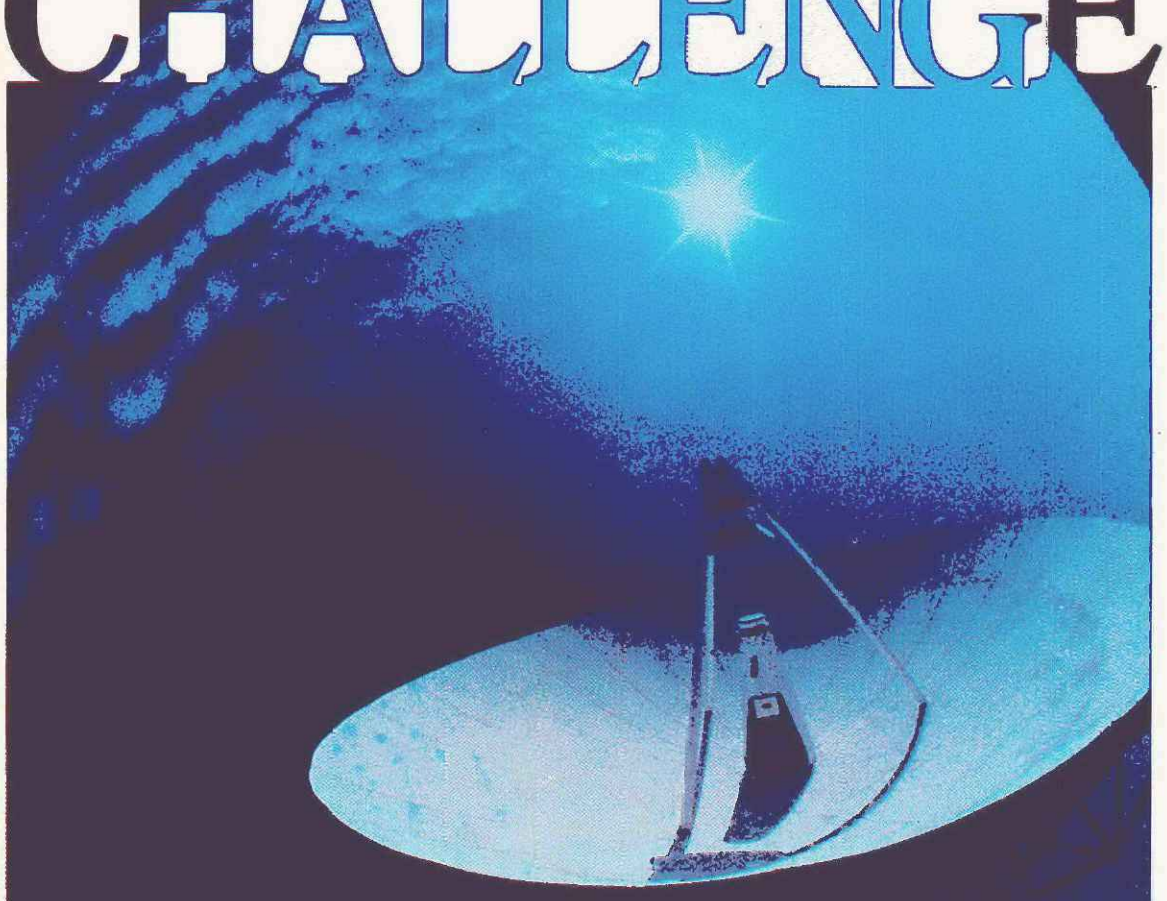

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OCT. 29; NOV. 5 and 12. Commercial Account Risk Analysis and Rating seminars in Livingston, N.J., sponsored by the Insurance Women of Northwest New Jersey. Seminar topics: Oct. 29, Manufacturing Risk; Nov. 5, Contracting Risk; Nov. 12, Garage Risk. For members, $30 per seminar; for non-members, $35 per seminar. JoAnn Flemming, Continental Insurance Co., 2 Peachtree Hill Rd., Livingston, N.J. 07039; 201-533-4500.

NOV. 1. Alternative Methods of Funding Employee Health and Disability Benefits course in New York, sponsored by the Society of Actuaries; members, $200; non-members, $235. Also, **Nov. 5** in Chicago and **Nov. 16** in San Diego. Society of Actuaries, Box 91901, Chicago, Ill. 60693; 312-236-3833.

NOV. 1-2. Communicating Employee Benefits conference in Chicago, sponsored by *Business Insurance*; $475; 10% discount for additional participants from same company. Ann Vazquez, *Business Insurance*, 220 E. 42nd St., New York, N.Y. 10017; 212-210-0137.

NOV. 1-5. Practical Reinsurance course in London, sponsored by Risk Research Group Ltd.; 660 pounds (approximately $1,112). RRG Ltd., Bridge House, 181 Queen Victoria St., London EC4V 4DD England; 01-236-2175; telex, 8811636 RRG G.

NOV. 1-5. Accredited Safety Auditor course in Atlanta, sponsored by the International Loss Control Institute; $625. Also **Jan. 17-21** in Atlanta. ILCI, Box 345, Loganville, Ga. 30249; 404-466-2208.

NOV. 3-4. Risk Financing seminar in Chicago, sponsored by St. Paul Risk Services Inc.; $335. Kathleen Moriarty, St. Paul Risk Services Inc., 230 Hamm Building, 408 St. Peter St., St. Paul, Minn. 55102; 612-221-7763.

NOV. 4-5. Product Safety Concepts and Practice course in Washington, sponsored by the International Institute of Safety & Health; $245. IISH, 5010A Nicholson Lane, Rockville, Md. 20852; 301-984-8969.

NOV. 5-6. The Banking and Insurance Forum in Scottsdale, Ariz., sponsored by Risk Planning Group Inc.; $600. Eileen B. Callahan, Conference Coordinator, Risk Planning Group, 722 Post Road, Darien, Conn. 06820; 203-655-9792.

NOV. 7-10. Health Care Cost Containment seminar in Hollywood, Fla., sponsored by the International Foundation of Employee Benefit Plans; members, $390; non-members, $465. IFEBP, 18700 W. Bluemound Road, Box 69, Brookfield, Wis. 53005; 414-786-6700.

NOV. 7-10. Property/Liability Insurance for Non-insurance Professionals seminar in Rye, N.Y., sponsored by The College of Insurance; $495. Margaret Wilder, The College of Insurance, 123 William St., New York, N.Y. 10038.

NOV. 8-12. Introduction to Risk Management course in Atlanta, sponsored by the International Loss Control Institute; $625. ILCI, Box 345, Loganville, Ga. 30249; 404-466-2208.

NOV. 8-12. Basic Safety Management seminar in Houston, sponsored by the International Safety Academy; $535. ISA, 10575 Katy Freeway, Box 19600, Houston, Texas 77024; 713-932-9400.

NOV. 8-12. Modern Safety Management course in Atlanta, sponsored by the International Loss Control Institute; $575. Also, **Jan. 10-14** in Atlanta. ILCI, Box 345, Loganville, Ga. 30249; 404-466-2208.

NOV. 9. Accident Investigation and Analysis seminar in Portland, Ore., sponsored by the International Safety Academy; $150. ISA, 10575 Katy Freeway, Box 19600, Houston, Texas 77024; 713-932-9400.

NOV. 8-12. Eighth Annual Computer Security conference and exhibition in New York, sponsored by Computer Security Institute; $575; group rates available. CSI, 43 Boston Post Road, Northboro, Mass. 01532; 617-845-5050.

NOV. 9. Will the Insurance Industry Ever Be Normal Again? dinner meeting in Schaumburg, Ill., sponsored by the suburban Chicago chapter of The Society of Chartered Property/Casualty Underwriters and the Insurance Women of Suburban Chicago; $15. Joe Fraser, Fort Dearborn Insurance Agency, 4849 Golf Road, Skokie, Ill. 60077; 312-676-1818.

NOV. 9-12. An Ergonomic Approach to Materials Handling seminar in Long Beach, Calif., sponsored by the International Safety Academy; $375. ISA, 10575 Katy Freeway, Box 19600, Houston, Texas 77024; 713-932-9400.

NOV. 10. Effective Safety Committees seminar in Portland, Ore., sponsored by the International Safety Academy; $150. ISA, 10575 Katy Freeway, Box 19600, Houston, Texas 66024; 613-932-9400.

NOV. 10-12. Society of Insurance Research annual conference in Washington, D.C., sponsored by the society; $145 for members, $170 for nonmembers. SIR, Annual Conference Committee, Box 933, Appleton, Wis. 54912; 517-323-7000.

NOV. 11-12. Exempt Organization: Tax Strategies and Legal Problems program in San Francisco, sponsored by the Practising Law Institute; $325. Also, **Dec. 9-10** in New York. PLI, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700.

NOV. 11-12. Confined Space Entry workshop in Dallas, sponsored by Loss Prevention Associates; $285. Loss Prevention Associates, Box 59888, Dallas, Texas 75229; 214-241-0396.

NOV. 15-17. Advanced Safety Management course in Atlanta, sponsored by the International Loss Control Institute; $350. ILCI, Box 345, Loganville, Ga. 30249; 404-466-2208.

NOV. 15-18. Inspector Training seminar in Houston, sponsored by the International Safety Academy; $490. ISA, 10575 Katy Freeway, Box 19600, Houston, Texas 77024; 713-932-9400.

NOV. 15-19. Practical Risk Management course in London, sponsored by Risk Research Group Ltd.; 590 pounds (approximately $1,000). Elspeth Jones, RRG Ltd., Bridge House, 181 Queen Victoria St., London EC4V 4DD England; 01-236-2175; telex, 8811636 RRG G.

NOV. 15-19. Assets Protection course in Saddle Brook, N.J., sponsored by the American Society for Industrial Security; members, $595; non-members, $650. ASIS, 2000 K St. N.W., Suite 651, Washington, D.C. 20006; 202-331-7887.

NOV. 16-19. Construction Insurance second annual conference in Dallas, sponsored by the International Risk Management Institute; $435. IRMI, Building III, Suite 208, 10300 N. Central Expressway, Dallas, Texas 75231; 214-363-9656.

NOV. 18-19. Fundamentals of Occupational Health Programs course in Long Grove, Ill., sponsored by National Loss Control Service Corp.; $250. George Krafcisin, Vp, NATLSCO, Long Grove, Ill. 60049; 312-540-2400.

NOV. 18-19. Techniques of Risk Management seminar in Washington, sponsored by the International Institute of Safety & Health; $245. IISH, 5010A Nicholson Lane, Rockville, Md. 20852; 301-984-8969.

NOV. 19. Loss Avoidance seminar in College Park, Md., sponsored by Shand, Morahan & Co. and the University of Maryland School of Architecture; architects/engineers insured through Shand, Morahan, $55; others, $145. Jim Ruiz, Shand, Morahan & Co. Inc., One American Plaza, Evanston, Ill. 60201; 312-866-0765.

NOV. 21-24. Apprenticeship and Training institute in Hollywood, Fla., sponsored by the International Foundation of Employee Benefit Plans; members, $390; non-members, $465. IFEBP, 18700 W. Bluemound Road, Box 69, Brookfield, Wis. 53005; 414-786-6700.

NOV. 21-24. Corporate Benefits Management conference in New Orleans, sponsored by the International Foundation of Employee Benefit Plans; members, $470; non-members, $545. IFEBP, 18700 W. Bluemound Road, Box 69, Brookfield, Wis. 53005; 414-786-6700.

NOV. 22-27. Aviation Safety Program Management course in Sydney, Australia, offered by the University of Southern California; $950. USC, Office of Extension & In-Service Programs, Institute of Safety & Systems Management, Los Angeles, Calif. 90007; 213-743-4617/6523.

NOV. 24-26. Captive Insurance Companies course in London, sponsored by Risk Research Group Ltd.; 350 pounds (approximately $595). Sue Moore, RRG Ltd., Bridge House, 181 Queen Victoria St., London EC4V 4DD England; 01-236-2175; telex 8811636 RRG G.

NOV. 25-26. Hazard Control Sampler for Managers program in Washington, sponsored by the International Institute of Safety & Health; $295; $250 if three or more are registered from the same company. IISH, 5010A Nicholson Lane, Rockville, Md. 20852; 301-984-8969.

DEC. 1. Accident Investigation and Analysis seminar in Houston, sponsored by the International Safety Academy; $150. ISA, 10575 Katy Freeway, Box 19600, Houston, Texas 77024; 713-932-9400.

DEC. 1-2. Oil Field Health and Safety conference in Houston, sponsored by The Energy Bureau; $695. Registrar, The Energy Bureau Inc., 41 E. 42nd St., New York, N.Y. 10017; 212-687-3178.

DEC. 2. Effective Safety Committees seminar in Houston, sponsored by the International Safety Academy; $150. ISA, 10575 Katy Freeway, Box 19600, Houston, Texas 77024; 713-932-9400.

DEC. 2-3. Nuclear Litigation program in New York, sponsored by the Practising Law Institute; $375. PLI, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700.

DEC. 2-4. Employee Benefits and Workers Compensation: A Shotgun Marriage? conference in Miami, sponsored by Risk Planning Group Inc.; $600. Eileen B. Callahan, Conference Coordinator, Risk Planning Group, 722 Post Road, Darien, Conn. 06820; 203-655-9792.

DEC. 5-8. Public Employees conference in Orlando, Fla., sponsored by the International Foundation of Employee Benefit Plans; members, $390; non-members, $465. IFEBP, 18700 W. Bluemound Road, Box 69, Brookfield, Wis. 53005; 414-786-6700.

DEC. 6-10. Basic Safety Management seminar in Houston, sponsored by the International Safety Academy; $535. ISA, 10575 Katy Freeway, Box 19600, Houston, Texas 77024; 713-932-9400.

DEC. 7. Safety/Loss Control by Objectives seminar in Tampa, Fla., sponsored by the International Safety Academy; $150. Also, **Dec. 14** in Los Angeles. ISA, 10575 Katy Freeway, Box 19600, Houston, Texas 77024; 713-932-9400.

DEC. 8-10. Captives: The Offshore Funding Alternative conference in Nassau, Bahamas, sponsored by Risk Planning Group Inc.; $200. Eileen B. Callahan, Conference Coordinator, Risk Planning Group, 722 Post Road, Darien, Conn. 06820; 203-655-9792. ■

info

• The Labor Department has published "Update No. 14," one in a series of opinion letters that explain the transactions employee benefit plans may engage in under the **Employee Retirement Income Security Act.** The cost is $7.60 per copy. Checks should be made payable to LMSA, U.S. Department of Labor. To order, write the U.S. Department of Labor, Division of Public Disclosure, Pension and Welfare Benefit Programs, Room N-4677, 200 Constitution Ave. N.W., Washington, D.C. 20216.

• The latest information on **state workers compensation developments** is contained in the "Analysis of Workers Compensation Laws-1982," published by the U.S. Chamber of Commerce. Single copies are $8 each; bulk rates are available. For a copy, write U.S. Chamber of Commerce, Data Processing, 1615 H St. N.W., Washington, D.C. 20062. Specify publication No. 6545.

• Kemper Group has published a new booklet, "The Kemper Approach to Alcoholism, Drug Addiction and Other Living Problems." The booklet details the company's award-winning **personal assistance program,** now in its 20th year. For a free copy, write Media Relations, Kemper Group, Long Grove, Ill. 60049.

• A new publication entitled "Loss Prevention and Control for Design Professionals" has been released by Professional Design Insurance Management Corp. The manual is intended to provide information about **professional liability insurance for architects, engineers, draftsmen and managers.** For more information, contact PDI, 222 N. New Jersey, Suite 200, Indianapolis, Ind. 46204.

• "Judging the Fire Risk" is a 59-page booklet that discusses **fire protection and prevention, exposure hazards and building construction.** To obtain a copy, send $4.75 to the Loss Control Department, Alliance of American Insurers, 20 N. Wacker Drive, Chicago, Ill. 60606.

• "Terrorism," a pamphlet for financial institutions listing **sources of information on worldwide terrorist activites and related security measures,** is available from the Bank Administration Institute.

The directory outlines agencies and organizations that monitor criminal activites and crime trends affecting the financial community. It also includes sources of information on bank security, fraud, embezzlement and protection for financial executives. The pamphlet contains information on security and protection in foreign countries. Ten of the pamphlets cost $7. Contact Keith D. Marshall, Security Research Manager, Bank Administration Institute, 60 Gould Center, Rolling Meadows, Ill. 60008

• Bayly, Martin & Fay has prepared a four-page report on the **Risk Retention Act.** For a free copy write Samuel Alcorn, Senior Vp, Bayly, Martin & Fay International Inc., 660 Newport Center Dr., Newport Beach, Calif. 92660.

• A booklet explaining **how workers compensation insurance rates are set** has been published by the National Council on Compensation Insurance. Items covered in the 12-page booklet, called "Ratemaking. . .The Price of Workers Compensation," include tests for premium level adequacy, calendar/accident year data, experience rating plans and premium discounts. It presents a step-by-step breakdown of the process used to set workers compensation rates such as formulas applied and the type of data and ratio adjustments used in the formulas. The booklet costs $2. To order, write NCCI, Box 6585, Church Street Station, New York, N.Y. 10249.

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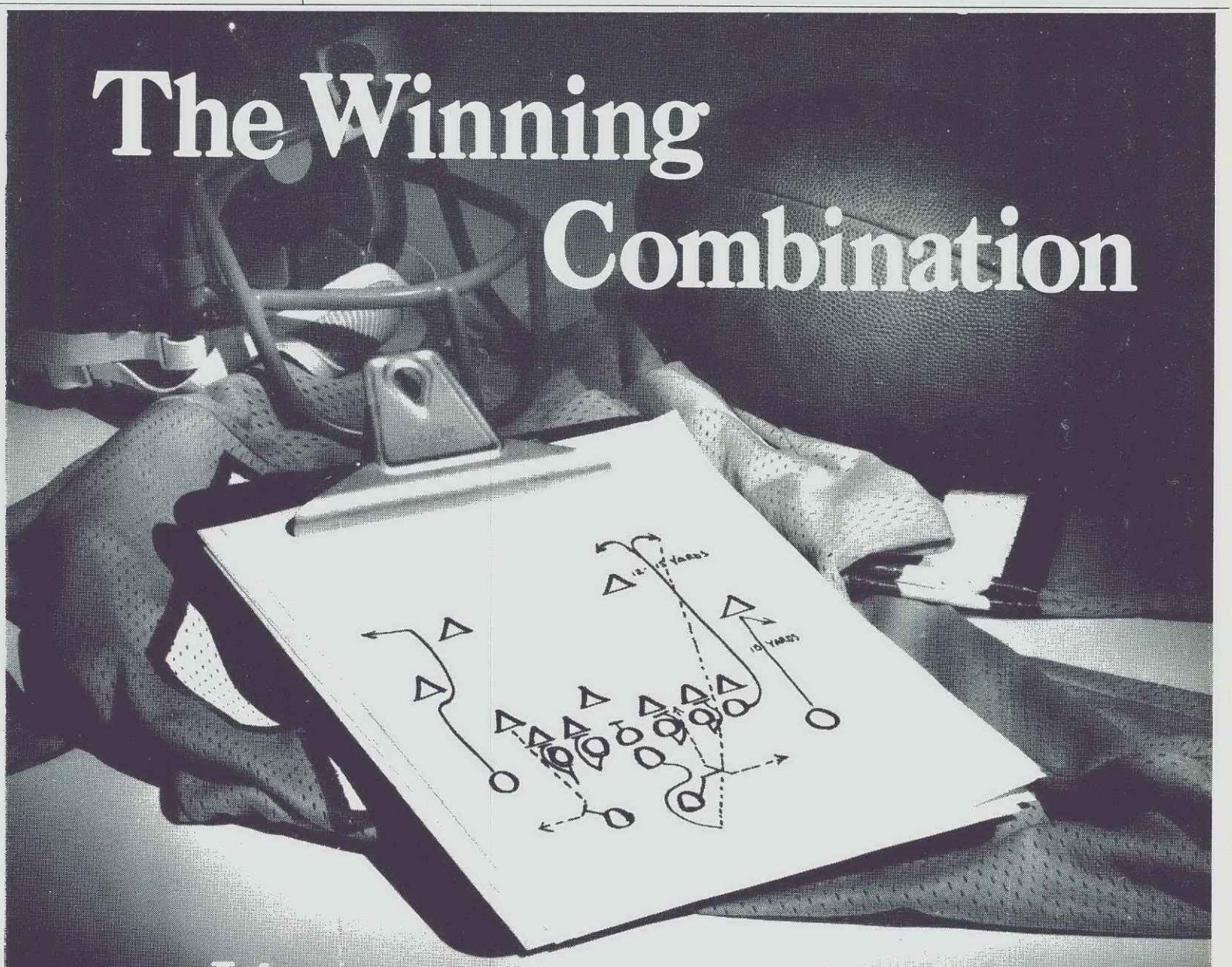

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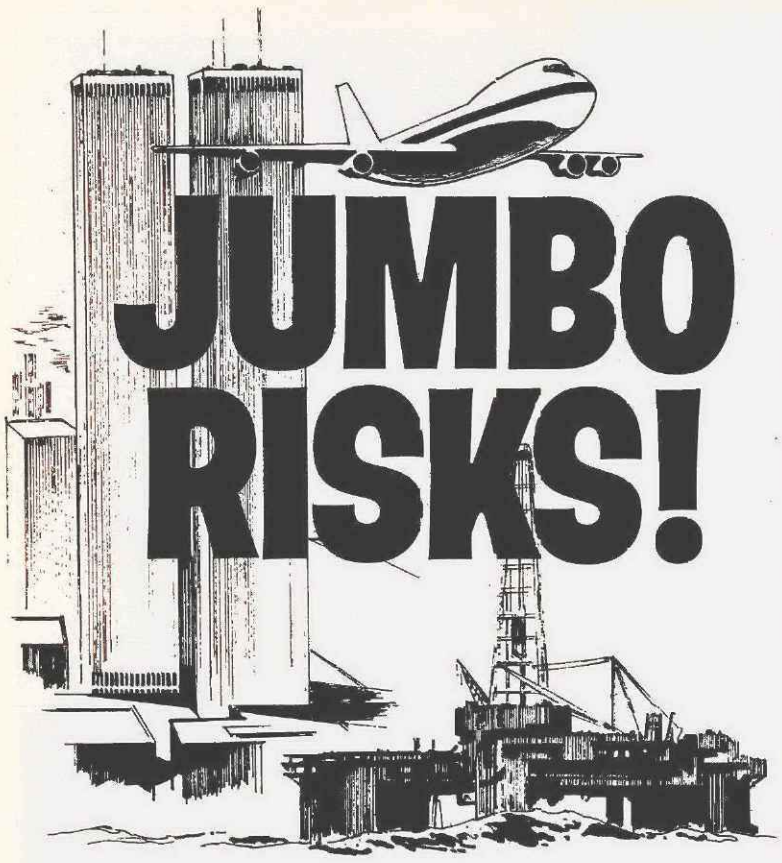

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Johnson & Higgins names John McEown executive vp

comings & goings: industry

John H. McEown has been elected executive vp of Johnson & Higgins in New York.

In his new post, Mr. McEown will supervise management of J&H's worldwide activities, directing the support system for managers of the United States offices and implementing planned expansion.

Mr. McEown, who joined the brokerage in 1962, was formerly a liaison with J&H branches in the United States and Canada.

Eight others were named J&H senior vps: **Sam W. Aiena,** who will assist in management of the New York casualty department; **Daniel J. Donahue,** manager of marine hull and cargo division of the marine and aviation department; **John N. Feldtmose,** manager of consulting and actuarial units of the employee benefit plan department; **George J. Kadri,** manager of J&H Energy Group; **Donald J. Matthews,** manager of the financial institutions division of the casualty department; **George R. Rainoff,** senior area manager in the international department; **Richard J. Rice,** manager of the risk services department; and **A. Kent Robinson,** manager of aviation and space group division of the marine and aviation department.

In addition, three senior vps have been assigned additional responsibilities in the J&H business development and research department. They are **Prescott S. Bush, Kenneth A. Hecken** and **George H. Shattuck Jr.**

Other agent/broker changes:

Charles M. Lederman joined Fred S. James & Co. as vp and actuary of the property/casualty division. He will be responsible for all client actuarial services and will work closely with the financial research and captives operations. He will be located in the Philadelphia office.

Also, **Michael R. Mead** appointed executive vp and profit-center manager of the James Chicago office. He had been senior vp of the Chicago office.

Insurers

J. Gerald Levey elected senior vp and chief financial officer of AFIA Worldwide Insurance in New York. He was most recently senior vp of INA.

Dr. Ronald A. Ferguson named vp and medical director for Blue Cross/Blue Shield of Illinois in Chicago. Dr. Ferguson was vp of the department of family practice at Columbus-Cuneo-Cabrini Medical Center and co-director of the section of family medicine at Northwestern University Medical School.

Harry Gordon appointed resident vp and manager of the San Mateo, Calif., division of Fremont Indemnity Co. He joined Fremont Indemnity earlier this year with responsibility for production. Mr. Gordon succeeds **Frank G. Rovere** who is retiring.

Thomas G. Faulds and **William F. Snellgrove** elected executive vps of Blue Cross/Blue Shield of South Carolina in Columbia, S.C. Mr. Faulds will have responsibility for private and government claims operations, information systems and other operations. He was most recently systems vp and senior vp of operations. Mr. Snellgrove was previously senior vp of finance and corporate treasurer of BC/BS of South Carolina. He will be in charge of underwriting, fiscal services, marketing and customer service.

R. Taylor Hoskins named managing director of the Sime-Fireman's Insurance Management (Pte.) Ltd. of the holding company newly formed by Fireman's Fund Insurance Cos. and the Sime Darby Group of Kuala Lumpur, Malaysia. Mr. Hoskins will be based in in Singapore. Sime Darby is the largest publicly owned, multinational nonbanking corporation in Southeast Asia. It operates in 25 countries. Mr. Hoskins most recently was with American International Underwriters.

Dr. Joseph L. Marcarelli named chairman and chief executive officer of INA Healthplan Inc., a subsidiary of CIGNA Corp., in Dallas. He previously was executive vp and chief medical officer at INA Healthplan. Dr. Marcarelli replaces **James E. Buncher,** who resigned. Also, **James B. Kingston** named vp and general manager of INA Healthplan in Miami. As general manager, he is responsible for providing direction for all operations of the Healthplan organization. Mr. Kingston was most recently vp-operations services and planning with the INA and Ross-Loss health plans in Los Angeles.

Terry L. Kendall joined The Reliance Insurance Cos. Inc. in Philadelphia as a vp. He will also be vp and controller of the life and specialty companies and bonding operations. Mr. Kendall was formerly division chief financial officer at Aetna Insurance Co, a CIGNA Corp. subsidiary.

Olive Mott named vp of underwriting at Pacific Marine Insurance Co. in Seattle.

George E. Anderer named New England division manager at Liberty Mutual Insurance Cos. in Weston, Mass. Mr. Anderer, a vp, most recently served as manager of special risks in the Liberty Mutual's home office business sales department in Boston.

Reinsurers

Julius Friedman joined John F. Sullivan Co., a reinsurance intermediary in New York, as vp of treaty production. He will be responsible for production on all classes of treaty reinsurance.

Excess/surplus

Brian R. Deans named president of West Coast Marine Managers Inc. in San Francisco. He heads all classes of business of ocean and inland marine insurance. Mr. Deans had been with St. Paul Fire & Marine Insurance Co. West Coast Marine Managers Inc. is a marine insurance underwriting company and an affiliate of New York Marine Managers Inc.

Albert Rieder joined Howard-James Co. in Sherman Oaks, Calif., as executive vp. He will work in entertainment, music, media, special risks, E&O, D&O and professional liability as well as develop new programs for the surplus lines brokerage.

Richard L. Thomas joined Reliance Underwriting Management Inc. in Philadelphia as vp. He will be responsible for the underwriting activities with specialty subsidiaries and related companies. Mr Thomas was most recently assistant vp of INA's Special Risk Facilities.

James A. Sce Jr. appointed resident vp and branch manager of the Boston branch of Alexander Howden Insurance Services. He is responsible for all marketing, production and underwriting aspects of the Boston operations. Mr. Sce was previously casualty manager in charge of production, marketing and casualty risk placement at Swett & Crawford.

Bermuda market

Warren H. Larson elected president and chief executive officer of Ivanhoe International Group in Hamilton, Bermuda. Companies in the Ivanhoe Group are Southampton Insurance Co. Ltd., Wellington Insurance Managers Ltd. and Shamrock Insurance Co. Ltd.

Other suppliers

Edward E. Kivari named vp at Maurice W. Pomfrey & Associates Ltd. in Syracuse, N.Y. Mr. Kivari was formerly vp of marketing for Blue Cross/Blue Shield of Central New York. Maurice W. Pomfrey & Associates is a risk management consulting firm.

Charles J. Mazza promoted to corporate vp of Meidinger Inc. in Milwaukee, Wis. Mr. Mazza had been director of compensation and benefits at Jos. Schlitz Brewing Co.

Walter T. Durell joined Ebasco Risk Management Consultants Inc. in New York as a vp. He is responsible for management of the consulting division specializing in services to utilities and manufacturers. Mr. Durell previously was a vp with Johnson & Higgins.

Robert G. Walters joined Robert M. Epler Co. Inc. in San Diego as vp for risk management and risk administrative services. He will be responsible for developing consulting and risk administration services. Mr. Walters was formerly director of risk administration for the County of San Diego. ■

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New Guernsey rules won't affect captives

By STACY SHAPIRO

LONDON—Guernsey is gearing up to enact its first insurance legislation.

A recently published document outlines what the island's legislation will say, said Andrew Richard, Guernsey's commercial relations assistant. "Now, we wait for comments on the proposals," he said.

The new legislation, if passed in its present form, will essentially protect the insurance policies of the people of Guernsey. Insurance companies underwriting domestic policies will have to be registered with the government and show their accounts to the state's Advisory and Finance Committee each year.

But insurance companies that do not write domestic risks, like the many captives insurers domiciled on the island, will be exempt from the new legislation, the document says. They are, however, still usually governed by the trade departments in their own nation or by the European Economic Community and they may be required by those authorities to show their records to the Guernsey government.

Guernsey, one of the Channel Islands, is located 200 miles south of Britain.

Howden affair

Four former directors of Alexander Howden Group P.L.C. accused of wrongdoing have answers to "each and every allegation" that has been made by Howden and its parent Alexander & Alexander Services Inc., their attorney says.

But the defendants in the suits filed by A&A and Howden will not publicly comment on the case because of the pending litigation, said their mutual attorney, Theodore Goddard, in a letter to the press.

The four defendants—former Howden Chairman Kenneth V. Grob and former directors Ronald C. Comery, Alan J. Page and Jack H. Carpenter—are accused in the suits of misappropriating funds handled by Howden underwriting subsidiaries for their own purposes.

A fifth defendant, Ian Posgate, former chairman of Alexander Howden (Underwriting) Ltd., has already filed a countersuit against Howden charging wrongful dismissal and has stated publicly that all accusations concerning him are false (*BI*, Oct. 4, Oct. 18).

"Our clients wish us to make it clear that this silence is not a waiver on their part of any right which may have arisen to pursue all their remedies in respect to allegations and insinuations so widely publicized," Mr. Goddard said.

Broker switch

Transamerica Airlines of Oakland, Calif., has switched its aviation insurance account from Alexander Howden Group P.L.C. in London to Stewart Wrightson Holdings P.L.C., *Business Insurance* has learned.

But Transamerica did not move its aviation insurance business to Stewart Wrightson because of the recent scandal at Alexander Howden, said J.A. Malone, senior vp of Transamerica.

"It was just a competitive change, just a better deal," said Mr. Malone from his office in Oakland.

The change in brokers occurred during the September renewal period, said Mr. Malone, though he would not disclose what kind of coverage and what rates were obtained upon renewal.

Most of Transamerica's dealings with the British insurance market go through Transworld Insurance Brokers in Beverly Hills, Calif., Mr. Malone said.

Stewart Wrightson has increased its aviation insurance business significantly during the year. It handles the British Airways account jointly with C.T. Bowring Ltd. It also serves as broker for Western Airlines, Scandinavian Airlines System and Swissair.

Satellite coverage

American Telephone & Telegraph Co. is trying to place the insurance for its Telestar series of communications satellites in the British market (see related stories, page 1).

So far, the giant American telephone company has received rate quotations from Sedgwick Group P.L.C. and C.T. Bowring Ltd., sources say.

The Telestar series consists of three satellites to be launched between 1983 and 1986.

The first satellite will be launched by a Delta rocket by the National Aeronautics and Space Administration.

The second and third spacecrafts will be carried into space aboard NASA's space shuttle.

AT&T is seeking $50 million in launch insurance for each satellite, sources say.

Lloyd's election

U.S. citizens may sit on the top governing board of Lloyd's of London for the first time, depending on the outcome of elections next month.

Eleven U.S. business executives are among the 83 candidates seeking one of the eight seats that will go to Lloyd's external members on the new Council of Lloyd's. Lloyd's members will vote Nov. 17 to select the new council members.

In addition to the Americans, two Canadians are also seeking places on the new council.

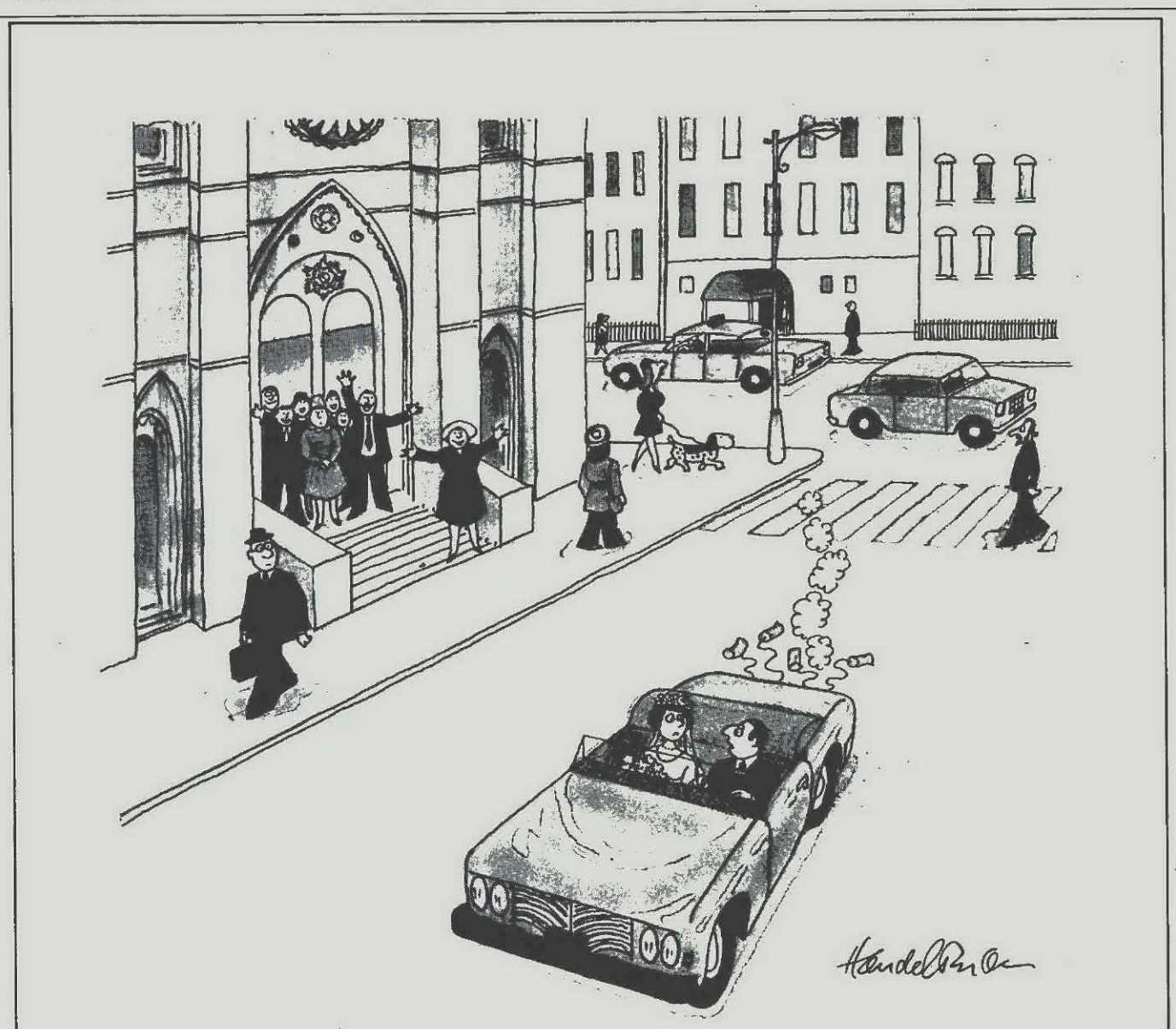
The new Council of Lloyd's, mandated by the Lloyd's self-regulation legislation approved by Parliament last summer, will replace the Committee of Lloyd's as the market's top governing body. ■

GM, UAW form health board

DETROIT—Six occupational health scientists will work with United Auto Workers and General Motors Corp. to improve worker health and safety.

These six experts will comprise the GM-UAW Health Advisory Board, which will advise the company and the union in the evaluation and development of research projects and related activities.

"During the 1982 national contract negotiations, GM and the UAW devoted considerable time and attention to the subject of occupational health and safety," UAW Vp Owen Bieber and GM Vp Alfred S. Warren Jr. said in a joint statement. ■



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AIG markets employee savings programs

American International Group Inc.'s life insurance subsidiaries are marketing voluntary payroll-deductible and non-deductible programs for corporations wishing to add thrift and salary-reduction plans to their employee benefit packages.

One feature of the AIG savings programs is that no charge will be assessed when an employee transfers funds from one investment vehicle to another. Many companies impose such market-value adjustment charges.

In addition, the AIG program can be used in conjunction with existing defined benefit pension plans.

A variety of investment plans is available through the AIG life companies, along with data processing services.

The program is available to current AIG clients as well as other employers. Start-up costs for the program are estimated at $5,000 to $7,000, depending on the size of the company.

The costs include all recordkeeping services.

Employees must contribute at least $10 per paycheck under the program. When the employer contributes to the plan, the lowest employer-paid contribution allowed is equal to 1% per paycheck.

For more information on the AIG guaranteed investment funds, contact James LaJoie, Assistant Vp-Pensions, AIG Life Cos., 70 Pine St., New York, N.Y. 10270; 212-770-7278.

products & services

Pollution policy

U.S. Insurance Group, a Crum & Forster company, has introduced a gradual pollution liability policy.

Coverage under the policy applies to both owned sites and sites not owned by the policyholder, like waste treatment, storage or disposal facilities.

The USIG policy includes cleanup costs, as well as liability coverage. There are "per-pollution incident" (per-claim) limits of $5 million, with an optional $5,000 minimum deductible. The policy aggregate limit is $10 million.

The gradual pollution policy is available in conjunction with a USIG general liability or package policy. Where the gradual pollution policy is purchased with a primary policy, the primary policy is endorsed to prevent overlaps.

For more information on the USIG gradual pollution liability coverage contact your local USIG office or your broker.

Energy risk book

Producing energy, from raw materials to the final energy production, and the risks involved are examined in a new book entitled "Energy Risk Assessment."

The book, by Dr. Herbert Inhaber of the Oak Ridge National Laboratory in Oak Ridge, Tenn., is based in part on an Atomic Energy Control Board of Canada report. In that report, Dr. Inhaber examines the risks involved with atomic energy and other sources of energy like wind and solar power.

Coal, oil, natural gas, nuclear, solar electricity, wind, ocean thermal, methanol, hydroelectricity and material and labor statistics are a few of the topics discussed.

The 408-page book is available by writing Gordon & Breach Science Publishers, One Park Ave., New York, N.Y. 10016. The cost is $67.50.

Fire code revisions

The National Fire Protection Assn. is publishing supplementary updates to the 1982 National Fire Codes.

The two-volume set of supplements covers codes and standards approved or revised at the NFPA annual meeting earlier this year. The revised codes affect fire prevention, water spray fixed systems and automatic fire detectors.

The NFPA National Fire Codes and National Fire Codes Supplements are revised annually.

The revised codes for 1982 are available for $40 per set.

To order, write the National Fire Protection Assn., Publications Sales Division, Batterymarch Park, Quincy, Mass. 02269; 617-328-9290. West Coast residents can order the codes through Global Engineering Documentation Services Inc., 3001 W. MacArthur Blvd., Santa Ana, Calif. 92704.

Well control manual

A manual describing the complex subject of well control insurance is available from British American Corp.

"Blowouts: Well Control Insurance and Risk Management" is written by Douglas B. Owen, president of Arthur L. Owen & Co., a Dallas brokerage specializing in oil, gas and petrochemical risks.

The manual explains in nontechnical language the basics of oil and gas drilling and the potentials for blowouts. The manual also discusses the options available for well control insurance and many other related coverages.

Other topics covered in depth in the book include: the impact of industry contracts; analysis of the policyholder's loss-bearing capacity; blowout prevention practices; recent court rulings on operators' extra-expense coverage; specialized endorsements; and approaches to underwriting and rating.

The book costs $95 plus $5 for postage and handling. Texas residents should add 5% sales tax.

To order, write British American Corp., Mercantile Commerce Building, 1712 Commerce St., Suite 2000, Dallas, Texas 75201.

Gas leak detection

Heath Consultants Inc. is offering a computer-based gas leak detection training program.

The system helps teach employees to detect gas leakage in various situations and what to do to combat leaks. Errors are pointed out to operators through the computer system.

A modified combustible gas indicator also is included to help the operator gauge the extent of the leak. Failure to make a system safe within a prescribed amount of time triggers an "explosion" message.

The Heath unit includes a computer system, a color graphics terminal, an instructor's control console and an optically read table that provides data on the position of a leak from a map.

The complete systems costs $20,000. For information contact Heath Consultants Inc., 100 Tosca Drive, Box CS-200, Stoughton, Mass. 02072; 617-344-1400. ■

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Carol A. Rennie, *President, HANSECO Re.*

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What's innovative about HANSECO Re's approach? "We offer innovation in the form of creative problem solving by a select team of reinsurance professionals. While we don't underwrite by committee, we make available to brokers the minds and expertise of the entire HANSECO Re team as a resource that can be used to brainstorm client needs.

"We are interested in being a 'lead reinsurer' and in doing the extra work that this entails. Presently, we write a U.S. domestic property and casualty treaty book of business."

Who are HANSECO Re's clients? "Reinsurance intermediaries. Particularly those brokers who are looking for excellent service as well as problem solving done in a timely fashion."

How does the HANSECO Re philosophy benefit brokers? "We're structured from top to bottom to provide quality reinsurance service. Our survival depends upon our responsiveness, accessibility and timeliness in working with brokers. In a nutshell, we are committed to achieving success by making sure our clients are successful."

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The Home restructures casualty lines operations

markets

The Home Insurance Co. has restructured its casualty insurance operations under the direction of Senior Vp Arthur Phillips.

Besides Mr. Phillips, three others will play key roles in The Home's casualty business: Peter A. Dolinac who has been named vp in charge of major lines (those risks that produce $300,000 or more of annual premium); Brian J. Samway, assistant vp with responsibility for a newly formed excess and special casualty lines division; and John J. Metelski, assistant vp in charge of the new area of product research and development.

"Until now, major lines underwriting at The Home has been on a net basis, meaning we accepted 100% of the premium," Mr. Dolinac said. "However, we also accepted 100% of the risk and that often made us reluctant to enter certain lines or to insure certain specific risks.

"We are now committed to a gross lines underwriting approach, which allows us to place primary emphasis on how much we can write rather than on what we should avoid writing," he explained.

A similar underwriting approach will be used by the new excess and specialty casualty lines division, which will include corporate umbrella, excess casualty, professional indemnity, errors and omissions and other specialty lines.

The Home has not been a major market for many of these lines for several years, Mr. Samway says.

Japanese subsidiary

Allstate Insurance Co., a subsidiary of Sears, Roebuck & Co. has received approval from the Japanese government to form a wholly owned property/casualty subsidiary in Japan.

The new company, Allstate Auto & Fire Insurance Co., is the first property/casualty insurer to be established in Japan since 1951, according to Allstate. It is also the first Japanese non-life insurer to be funded with foreign capital.

Allstate has been licensed to sell property/casualty insurance in Japan through branch offices since 1979. In 1975, Allstate and Seibu Retail Group, a large Japanese retailer, formed Seibu Allstate Life Insurance Co. Ltd., which writes individual and group life and health insurance in Japan.

The new Allstate property/casualty subsidiary will commence operations in April 1983 and market its products through Seibu's outlets.

Reinsurance subsidiary

The Travelers Corp. is forming a wholly owned subsidiary in London to operate as a multiline reinsurance company.

The Travelers Corp. (U.K.) Ltd., which will begin operations with fully paid capital of 5 million pounds (approximately $8.6 million), will provide Travelers with a position in the London insurance market, according to Travelers Executive Vp Richard J. Shima.

The British operation will be managed by Leslie & Godwin Agencies Ltd. in London, the British subsidiary of broker Frank B. Hall & Co. Inc.

Bermuda operations

Dana Corp. of Toledo, Ohio, has formed two new Bermuda subsidiaries: Fairway (Bermuda) Ltd. and Fairway Intermediaries Ltd.

Fairway (Bermuda) Ltd., to be directed by Executive Vp Norman J. Doree, will underwrite both U.S. and foreign reinsurance business through major international intermediaries.

Fairway Intermediaries Ltd., under the direction of Executive Vp Colin J. Davidson, will function as a reinsurance intermediary dealing with all major reinsurance markets.

Both companies will operate as part of the Dana Corp.'s Venture Group, which includes property development, leasing, finance, insurance and reinsurance interests.

Fairway Ltd. and Fairway Intermediaries are both located in the Butterfield Building, 73 Front St., Hamilton, Bermuda; 809-295-8473; telex 3766 FAIWY BA.

N.Y. exchange

The New York Insurance Exchange's Board of Governors has approved two New York-based brokerages, R/I Inc. and Walter Kaye Associates Inc., as associate brokers.

The exchange now has 31 underwriting members, 59 broker members and 26 associated brokers.

Franchise affiliations

Underwriters Adjusting Co., a New-York based subsidiary of The Continental Corp., has established four new franchise affiliations with independent claims adjusters.

The new franchisees are Cahill Adjustment Co. of Bismarck, N.D.; Idaho Intermountain Claims Inc. of Cody and Gillette, Wyo.; PCA Adjustments Inc. of McAlester, Okla.; and Teel & Associates of Montgomery, Ala.

Legal plan

American Family Corp. has formed a new wholly owned subsidiary called American Family LAWS Inc. to offer prepaid legal services plans.

American Family owns American Family Life Assurance Co., a special risk insurer.

New broker

Rappaport & Wilson, a newly formed insurance brokerage specializing in corporate and commercial accounts, has opened offices at 3550 N. Central Ave., Phoenix, Ariz. 85012; 602-234-3515.

Asian joint venture

Fireman's Fund Insurance Cos. of San Francisco and Sime Darby Group of Kuala Lumpur, Malaysia, are embarking on a new joint venture in Southeast Asia, including the Philippines.

The two companies are forming a joint-venture holding company, Sime-Fireman's Insurance Management (Pte.) Ltd., which will offer both underwriting and brokerage services in the region.

Fireman's Fund and Sime Darby will also acquire equity interests in each other's insurance operations, according to the agreement, and will exchange technical and marketing resources.

In addition, the two companies will form another holding company, Sime Darby Fireman's Insurance Management Ltd., in Singapore to combine their ownership interests in RMCA Re, RMCA Management and Sime Brokers.

Continued on facing page

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Continued from facing page

Market expansion

W.R. Berkley Corp. has formed All American Agency Facilities Inc. to handle the company's specialty agency operations and brokerage business for such items as crop insurance and certain types of surety bonds.

Robert G. Walters, formerly president of Berkley's Union Insurance Co. subisidiary, will become All American Agency Facilities' president and has been promoted to chairman of Union.

"The new organization is designed to facilitate our expansion within the property/casualty insurance industry," said Berkley Chairman William R. Berkley.

W.R. Berkley Corp. is a holding company based in Cos Cob, Conn., whose subsidiaries operate in three major segments of the insurance industry: regional property/casualty insurance, excess/surplus and specialty lines insurance and reinsurance.

Self-insurer services

EBI Cos. will market its specialized claims, data processing and loss-control services to employers that self-insure their workers compensation coverage through a new subsidiary called EBI Services Inc.

"The services in which EBI has pioneered now will be available to self-insureds in both packaged and unbundled form," said Jack R. Powell, the president of the new subsidiary. "EBI Services Inc. will provide the same high-quality service and expertise that its namesake has traditionally brought to workers compensation coverage."

Mr. Powell had been executive vp of claims with EBI Cos.

The new company will be headquartered at 66. E. Rosemary, San Jose, Calif. 95112, and will initially operate in California, Oregon, Washington and Idaho.

EBI Cos. and EBI Services are subsidiaries of Orion Group Inc. of Farmington, Conn.

Construction risks

American Home Assurance Co., an American International Group Inc. subsidiary, has opened a new facility designed especially for construction-related risks.

The new Construction Risks Profit Center will offer contractors both property and liability coverages including builders risk, contractors equipment, all casualty lines, floaters, wrap-ups, excess and umbrella coverages.

The new facility will be backed by American Home's engineering and claims departments.

Acquisitions

American International Group Inc. has completed its acquisition of four companies from **Audubon Holding Co. Inc.** of Baton Rouge, La. The four companies are Audubon Insurance Co., Audubon Indemnity Co., Agency Management Co. and Forty-One Fifty Corp., a service company.

Fiduciary & General Corp. of Indianapolis has agreed to a merger with **Fortune National Corp.** of Pittsburgh, an insurance holding company whose main subsidiary is **Fortune National Life Insurance Co.** Shareholders of Fiduciary & General are expected to vote on and approve the agreement in December.

James C. Haberman Insurance Inc. and **BSC Insurance Agency Inc.,** two regional insurance brokerages based in Massachusetts, have combined operations. BSC will become an affiliate of the Haberman organization and will operate from offices at 146 Chestnut St., Springfield, Mass. 01107.

General Re Corp. has reached an agreement in principle to acquire **Navco Corp.** of St. Louis, an insurance holding comapny.

Wausau Insurance Cos. has proposed an acquisition of **Lansing B. Warner Inc.,** a Chicago-based underwriting manager.

Rollins Burdick Hunter Co. has acquired **Hunter Agency Inc.** of St. Louis. The new acquisition will merged with **Rollins Burdick Hunter of Missouri Inc.**

New offices

Beal Insurance, an independent insurance agency, will open its new office at 5635 E. Thomas Rd., Phoenix, Ariz. 85018; 602-990-1111.

Confederation Life Insurance Co., a Canadian life and health insurer, has established its main U.S. office at 280 Interstate N., Box 105103, Atlanta, Ga. 30348; 404-953-5105.

PrideMark Corp., the agency franchise group, has moved its international headquarters to 3420 S. Bristol St., Costa Mesa, Calif. 92626. ■

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Lockheed program cuts heart ailments

Continued from page 3
must be as innovative as human knowledge can possibly produce, but still be kept within competitive cost restraints," Dr. Sevelius said.

"If the bidding is not successful, this maximum effort (by a new business manager) could be followed by a very depressive and anxious period of looking for a new assignment," he said.

The managers being studied reported their weekly overload and "stress" as they saw it while spouses and co-workers reported their impressions of the subjects' work environment.

During the study, medical exams for all known or possible risk factors for heart attack were given at frequent intervals, with some 500 different physical, chemical and psychological variables recorded.

Lockheed found, quite unexpectedly, that the healthiest, happiest and most outgoing people were the new business managers who supposedly were in the most stressful work environment.

"Despite heavy workloads and long working hours, they had energy to exercise regularly, they used less alcohol and cigarettes, and all the chemical risk factors tended to be lower, indicating less chance for a heart attack," Dr. Sevelius told the IAIABC.

"It actually appeared, from the standpoint of risk factors for heart attacks, that inactivity and not work, carries higher risk," he said.

In the stress study on managers, it wasn't found that any one group of workers was more "stressed" than others because of heavy workload.

"However, if one examined how certain personalities perceived certain work situations, one could identify instances of poor fit between an employee and his work," said Dr. Sevelius.

"An enlightened management can help workers learn how to handle risks for heart attacks and employers should appreciate the individual differences in employees," he said.

"The employer can improve the quality of work life by assisting employees in finding a good job fit," he added.

Lockheed's second philosophy on health education (a little knowledge is not a dangerous thing) followed another study that showed that an intensive employee health education program helped workers modify their attitudes toward the most correctable heart attack risk factors: lack of exercise, weight and cholesterol, smoking, high blood pressure and stress.

> 'It actually appeared, from the standpoint of risk factors for heart attacks, that inactivity and not work carries higher risk,' Dr. Sevelius says.

The employee health program is simple, consisting only of informational booklets that are printed and placed in bins around the plant at Lockheed.

"We've gone through several printings since starting this program three or four years ago," said Dr. Sevelius. "The last printing was for 50,000 and I hope that lasts the year."

The cost? Compared to earnings, "it's nothing," he says.

Since starting the awareness program, Lockheed has saved $1 million just in life insurance, a company-paid benefit which it self-in-

Continued on facing page

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Link between heart disease, jobs open to interpretation

Continued from page 3
found.

However, the subcommittee echoed Dr. Sagall's observation that disputed heart disease claims are seldom of this clear-cut nature.

The problems stem from cases involving "ill-defined and often nebulous areas of degenerative diseases such as arthritis, hypertension and. . .arteriosclerosis," the subcommittee concluded.

The conflict originates with the concept that an employer takes employees as he finds them and becomes responsible for any aggravation of underlying health conditions, the subcommittee said.

The once-clear line of distinction between an employer's responsibility for a work injury and his responsibility for the total health of a worker is being stretched beyond recognition, the subcommittee concluded.

> 'A mounting incidence of heart (disease) claims means a mounting cost for employers,' Dr. Sagall explains.

But for all heart disability claims, the same basic causation questions must be answered, Dr. Sagall pointed out:

- Was an identifiable "pinpointable" event—an incident, episode, trauma, exposure, accident, stress complication, treatment or lack of treatment—the "proximate cause" of personal injury?
- Did it aggravate or result in impairment or death sooner than would ordinarily have occurred during the natural history and progression of the pre-existing condition?

As the No. 1 killer in the United States, heart disease is and will continue to be a mounting expense for employers, Dr. Sagall said.

Because the workers compensation system "was never designed to handle these cases," he said the increase in claims will continue to be felt by employers.

"A mounting incidence of heart claims means a mounting cost for employers," said Dr. Sagall.

Irvin Stander, a Pennsylvania Workers Compensation Board referee who hears disputed cases, said he has many "vexing problems" in ruling on cardiovascular claims.

Much of the dilemma stems from the varying standards on heart disease in different states.

The standards range from the liberal rules in many states that presume a police officer or firefighter who dies from a heart attack has a work-related claim to stringent requirements such as those in New Jersey and Pennsylvania.

The work effort or strain that causes a compensable heart attack in a New Jersey employee must be in excess of the wear and tear of the claimant's daily living and there must be a clear connection to the injury or death, said Mr. Stander.

Proposed legislation in Pennsylvania goes a step farther.

It would change the current work-related standard of "sufficient, competent evidence" to require a "preponderence of evidence" to back up a claim that a heart disease is work-related.

To be compensable, it would have to be proven with overwhelming evidence that the heart injury or death was caused by a work effort or strain in excess of the claimant's normal work duties and daily living experience.

Even with the wide difference in state laws, Mr. Stander has some general observations on work-related heart disease claims:

- Almost always, the cause of a compensable heart injury is a strain caused by physical exertion or an emotional stress that happens in the course of the worker's employment, usually without any specific trauma or accident.
- About 15 states require that the strain precipitating the heart attack must have been caused by exertion *unusual* for the worker.
- In states that do not have the "unusual exertion test," a heart attack may be compensable if it happened while the worker was doing regular work. However, medical evidence must establish a causal relationship between the work and the heart attack.
- In many states that do not require proof of unusual exertion, an investigation is still made of the usual or unusual nature of the exertion prior to the attack.
- Some states hold that a "series of events" can cause a heart injury or attack, as long as the incidents in the series were physically or emotionally stressful and not merely routine to the job.

"As far as trends are concerned, it seems that the liberality of the courts on cardiovascular cases is being challenged and, in some states, overruled," said Mr. Stander. ■

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Continued from facing page

sures, he said.

He points to the decline in sick days as proof the program is working well, adding that the dramatic decline in lost time occurred during a period when the number of employees increased to 24,000 from 18,000.

Every worker off sick or injured for a week or more has to be examined by Lockheed's medical department before returning to work.

That requirement made it easy for the medical director to keep track of lost time and sick days due to hypertension or heart disease, he says.

"There has been absolutely no change in workload or work policy while this great improvement in the control of high blood pressure and heart disease has taken place," says Dr. Sevelius.

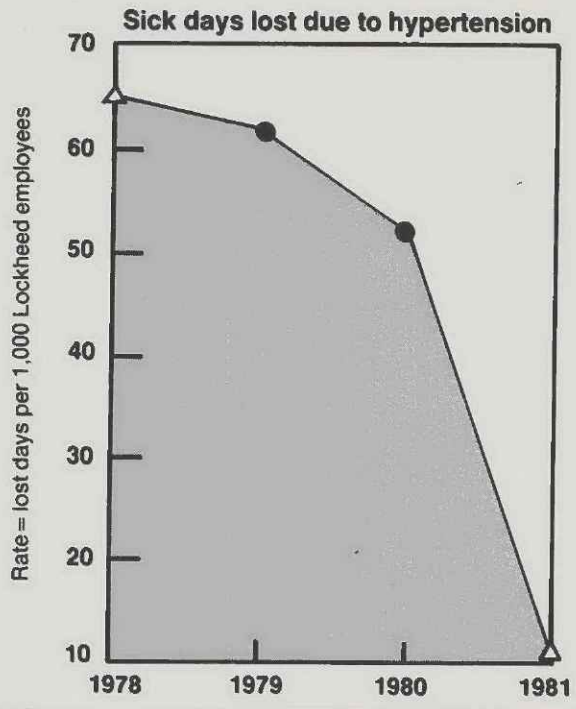
"The company is only making the educational health material available for free. Through self-taught employee health education, the workers take responsibility for their own welfare and health."

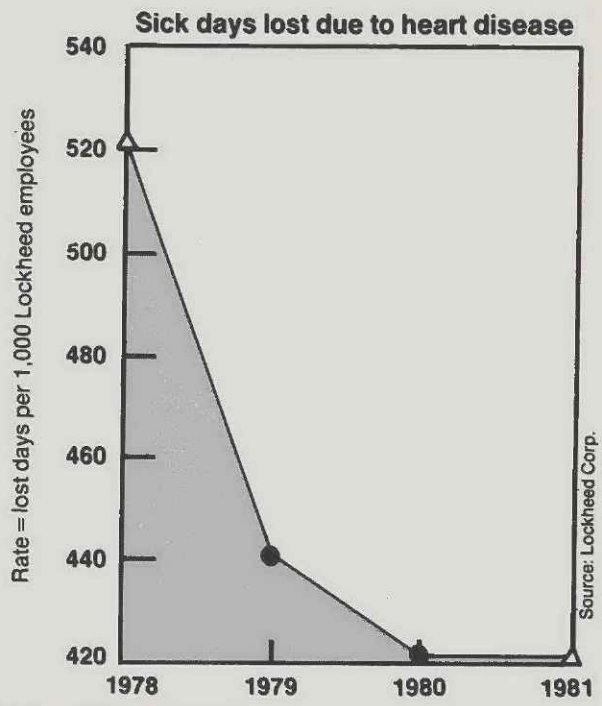
Lockheed doesn't have any continuous statistics for heart attacks, but in 1975 it recorded about 12 heart attacks per month among employees while in 1982 the company recorded only about six a month.

The actual death rate from heart attacks has been carefully monitored for both active and retired employees by examining death certificates, the medical director said.

In males 55 to 64 years old, the death rate for Lockheed has decreased 49% since 1978 to three deaths per 1,000 workers and is now less than half the U.S. mortality rate of seven per 1,000 and a third of the California mortality rate of five per 1,000.

"Although this experience (with health education) is encouraging, it should be followed for a few more years and be verified in some other industrial setting," cautioned Dr. Sevelius. ■





Federal comp program filled with abuse

DORADO, Puerto Rico—The program that provides benefits for federal workers injured on the job is riddled with abuse and should be revamped by Congress, says a deputy secretary of the U.S. Department of Labor.

The Federal Employee Compensation Act will pay out $1 billion in injury claims next year, but the price tag has been "written off" by the government, says Robert C. Collyer.

Speaking before the annual meeting of the International Assn. of Industrial Accident Boards & Commissions, Mr. Collyer said the act gives injured workers 75% of wages and absolutely no incentive to go back to work.

"You can't blame workers for staying home when they get 75% of wages," Mr. Collyer explained, adding the system has no investigators or adjusters to examine disability claims.

He said the Department of Labor recently decided to check on the workers receiving compensation and found some interesting results.

"We found one man who told the investigator, 'I was wondering when you would show up, but I thought you (the government) would tell me when to go back to work.'"

The worker had been receiving compensation for seven years, said Mr. Collyer, who added he would like to see federal employees put in jail if they illegally collect compensation.

FECA had 47,000 claims last year, including 7,000 death cases, he added.

"We estimate FECA will pay out $1 billion next year in claims. A federal program like this is hard to get out from under," he told industrial commissioners.

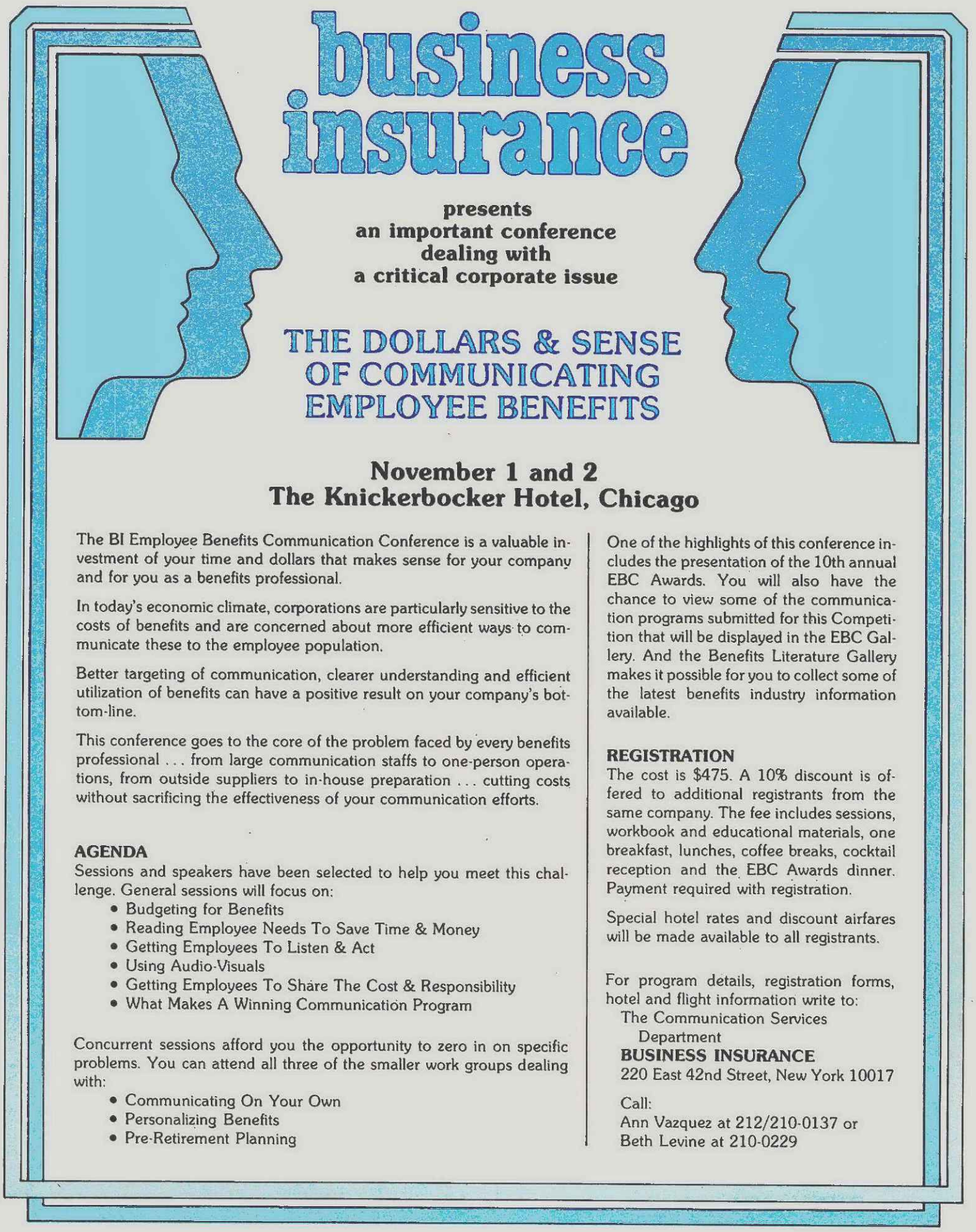
"This is not a model program and I don't understand why Congress doesn't do something about it," said Mr. Collyer.

"We need to work out a bill that will take care of injured federal workers but save money for taxpayers," he added.

He urged the commissioners to keep Congress "from deciding any model (workers compensation) statutes for the states," each of which has its own workers compensation system. ■

Group life sales slow

Group life insurance purchases fell 2.7% in August compared with August 1981, the Life Insurance Marketing & Research Assn. says. ■



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Detailed history of claimant needed to defend heart case

By EILEEN NORRIS

DORADO, Puerto Rico—Stanley H. Siegel has one basic rule of thumb in defending heart disability claims: "I want to know more about the claimant than anyone else.

"But if the worker is entitled to compensation, I say pay them," the Mitlin County, Pa., lawyer told the International Assn. of Industrial Accident Boards and Commissions.

"If there is no defense, I won't take the case," he said.

But when Mr. Siegel does take a case, he makes it his business to get a detailed work and personal history of the employee alleging work-related heart disease.

That means researching what the worker was doing in "the week, the month, and year prior to the (heart) attack," he said.

"Talk to co-workers, supervisors and other persons to find out if the employee made past complaints of so-called indigestion, tightness in chest or chest or heart pains.

"You need to know the detailed activities on the day of the occurrence and several weeks prior, if it's possible," said Mr. Siegel.

A defense attorney working for an employer should obtain personnel records, performance reports, employment applications and detailed records of lost time from work, he added.

But don't neglect the non-work history, Mr. Siegel stressed.

"Marital or business problems should be looked at. So should illegal activities. Is the worker a smoker or heavy drinker? What about eating habits? What about recreation activities?"

Defending a heart claim correctly means getting a detailed statement from the worker and spouse on their lifestyle, too, he said.

The worker and spouse should be asked for detailed medical history dating back at least 10 years prior to the alleged injury, Mr. Siegel said.

"You need names of all doctors who have treated the employee, details related to all hospitalization and any surgery," he said.

An attorney fighting a heart claim for an employer also should obtain all hospital records, full lab reports (not summaries) and charts for at least 10 years prior to the alleged injury, according to Mr. Siegel.

"It's important to get the entire unedited notes from the worker's treating physician or records of all health care providers treating the worker for the decade before the incident," he added.

Once the defense attorney has primed the case by obtaining all the relevant records, statements and testimony possible to rebut the claim, the next step is coming up with a defense against the employee's doctor, he said.

Some hints Mr. Siegel has for building a defense against the claimant's doctor include:

- Emphasizing the doctor's bias or lack of expertise.
- Pinning the claimant's doctor down on reasons for conclusions and assumptions, pointing to any out-of-court subjective or weak evidence relied upon by the doctor.
- Using well-accepted medical articles and treatises to contradict claimant's doctor.
- Having claimant's doctor agree on as many as possible of defense medical theories.
- Emphasizing the subjective nature of the facts relied upon.
- Confirming the type of activity the employee can do, such as allowed physical movements, commuting, driving a car, standing, sitting and walking. ■

Other side gathers details, too

DORADO, Puerto Rico—It never hurts to know how the opposition will try to link a worker's injury to the job.

One plaintiff's attorney speaking at the International Assn. of Industrial Accident Boards and Commissions' conference explained his techniques. And, he stressed, plaintiffs' attorneys are prepared to "make new law" where existing law is adverse to the claimant.

Apparently, that's not always hard to do.

"The area of law is so unclear," said William R. Caroselli, an attorney that represents injured workers in Pittsburgh.

However, while state workers compensation acts that are legally vague on what injuries or diseases are compensible help the worker's case, gathering medical evidence to substantiate claims isn't easy.

Hospital records are crucial evidence in a heart disability case, but those "records are notorious for containing errors," Mr. Caroselli said.

Records from the hospital should be obtained as soon as possible and reviewed for adverse facts, he said.

"History is often given by another person accompanying the claimant and that has to be checked out for the source and the accuracy," said Mr. Caroselli.

"Where no history of work injury is found in the hospital record, a claimant's attorney has to investigate why," he said.

"Maybe the claimant was unconscious or does not know the (work-related) connection at the time," he suggested. "The claimant could have been more concerned about his injury than with the cause."

When interviewing the worker, the plaintiff's attorney tries to get all the details of the entire week before the injury and especially the last 72 hours, Mr. Caroselli said.

To connect a heart injury to the job, he said the employee's attorney will check for "bridging symptoms" between a stressful event at work and the heart attack.

In rebutting a vocational rehabilitation expert's attempts to show job availability or what a disabled heart patient can do, a claimant's attorney will try to bring out how medication can affect the worker.

A good plaintiff's attorney also will point up the difficulties his client has using public transportation and the effects of extreme cold or hot weather on the disabled worker, Mr. Caroselli said.

"The plaintiff's attorney also attempts to show the limited job market for disabled persons," he said.

"We like to have the claimant actually try to get the positions claimed to be available and then testify about the results," he added. ■

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Wage-loss system won't work in some states, attorney says

By EILEEN NORRIS

DORADO, Puerto Rico—The Florida system of compensating injured workers only for wages lost will not work in labor-dominated states that have high unemployment and a transient workforce.

That is the assessment of John Lewis, an attorney who helped author Florida's wage-loss system, which replaces permanent partial disability benefits with compensation only for proven lost wages after an injury.

When asked to name the states in which the wage-loss system would not work, Mr. Lewis declined, saying he didn't want to commit a state to being anti-wage-loss.

"Let me just say that wage-loss is based on re-employment and the incentive to go back to work," Mr. Lewis said in a speech before the International Assn. of Industrial Accident Boards & Commissions' annual meeting.

"Don't say you are opposed to wage-loss because there is something in it for everyone. Some version of wage-loss will result in more benefits to the injured workers who really deserve it," he added.

He defended Florida's system as "better than (work comp) systems in most states" and had harsh words for critics he said "don't understand how wage-loss works."

"You can't do everything for everyone," he said. "And don't tell us our choice is wrong because we made it. This is a world of limits."

Under the 1979 wage-loss law, workers do not receive compensation beyond the time they are off work unless they can prove their injury caused them to lose wages when they returned to work.

The system has been successful in reducing by 31% the amount of benefits paid out since 1980.

If projections for 1982 are accurate, new claims filed will decrease 68% compared with claims in 1978, the year before wage-loss took effect. The number of lump-sum settlements has decreased 80% since 1978 and attorneys' fees have dropped 83%.

Mr. Lewis

The old Florida workers compensation system had a built-in incentive for a worker to challenge a work comp ruling because the employee paid only 25% of attorneys' fees while the employer or its insurer paid the other 75%.

When the wage-loss law was introduced, the reponsibility for paying attorneys' fees was shifted entirely to the claimants and the number of cases litigated has dropped significantly.

Although workers compensation insurance rates had dropped 54% since the wage-loss system began, a 10% increase was recently approved after a 24% increase was sought (*BI*, Aug. 23). Also, the number of appeals of claims by employers and their insurers is rising.

However, Mr. Lewis said only 3% of the 10% rate increase has "anything to do with permanent partial benefits under wage-loss.

"No one ever expected us to stay with a 54% reduction in work comp rates," he added.

Mr. Lewis does admit that, to date, studies of the success of wage-loss in Florida have been "biased" in favor of the reform.

"It's tough to get an unbiased study and I'm not happy about that and it needs to be cured," he said, adding there is talk of a labor and management oversight committee that may analyze the system and provide an independent assessment.

Mr. Lewis said he is now working with the state of Louisiana on a wage-loss system that will pay a higher level of impairment benefits for amputees and injured workers who are totally disabled from an on-the-job injury. He admits Florida's system is not perfect in this area.

In Florida, a worker must have permanent impairment that results in the loss of at least 15% of his pre-injury wages to qualify for wage-loss benefits, which make up the difference between pre- and post-injury wages.

Impairment benefits in Florida are based on the degree of disability with $50 per percentage point awarded for injuries under 51% disability and $100 per point for those over 51%.

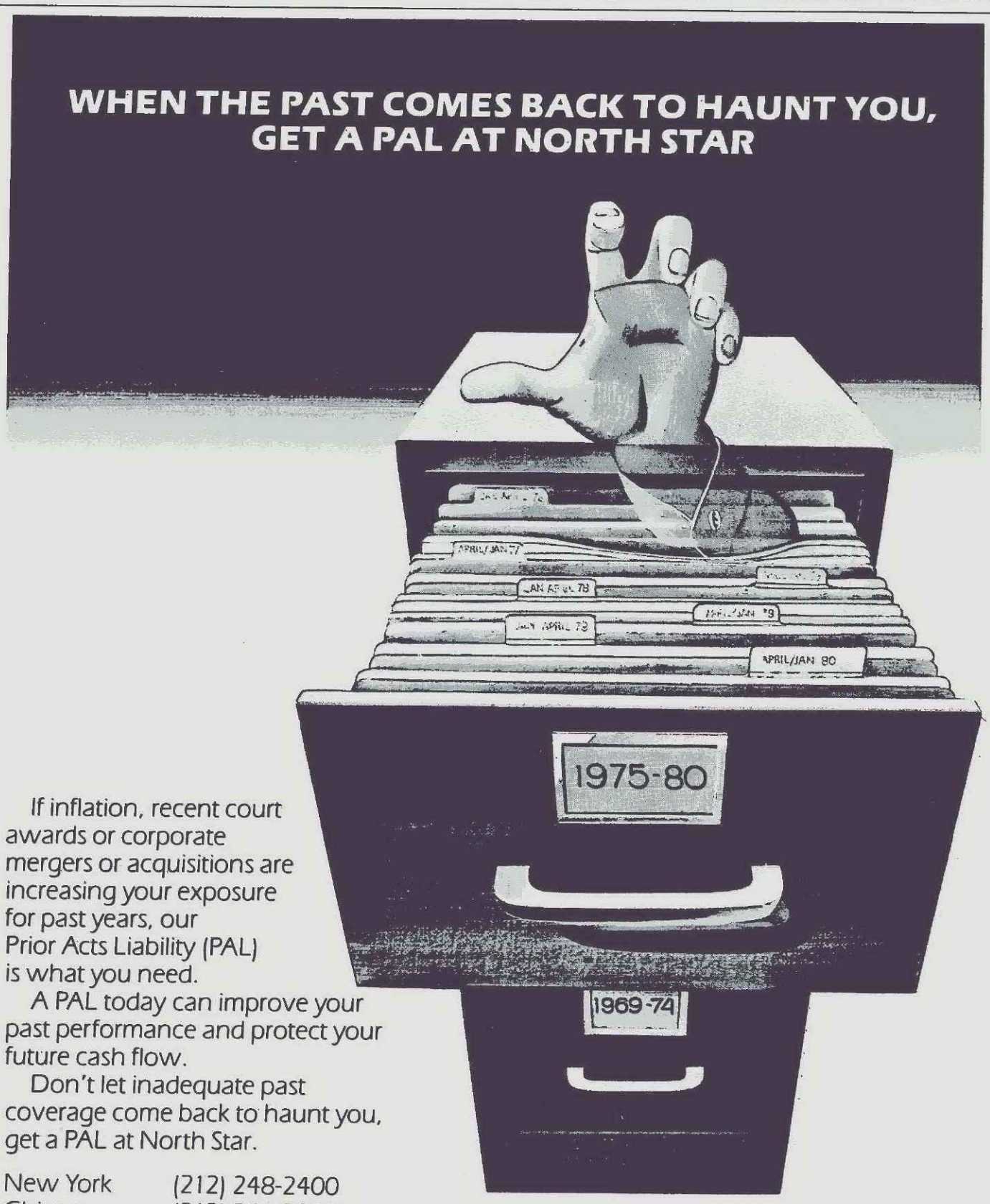
For example, if the loss of an arm caused a 12% disability, the injured worker would receive a $600 lump sum as well as wages while not working and full medical benefits.

"I don't like the impairment benefits in Florida. . .and they weren't my idea," said Mr. Lewis.

"But no workers compenstion system can come up with the proper benefits in every case. Florida is certainly a step up from what exisited," he said. ■

Photo: R. Bruce Dold

The meeting offered IAIABC members Puerto Rico's surf and sand.



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Saskatchewan has own version of wage-loss system in effect

DORADO, Puerto Rico—The Canadian province of Saskatchewan debuted its new "wage-loss" workers compensation system in 1980 with no knowledge that Florida had unveiled a similar system a year earlier.

A committee of review had recommended some changes in the province's work comp system in 1978, but it wasn't until 1980 that the reform took effect, said Brian King, chairman of the Saskatchewan Workers Compensation Board.

"It's an amazing coincidence, but it's the direction every state should be going," he said of the wage-loss program (see related story, page 73).

Mr. King spoke at the annual meeting of the International Assn. of Industrial Accident Boards & Commissions Oct. 3-7.

The changes in the Saskatchewan workers compensation system were the first for the province in 50 years. The theory behind the system was changed from the 1930s' notion of "compensating for life" to the modern-day notion of rehabilitation and return to work, Mr. King said.

Under the new system, an injured worker is covered for up to 75% of his or her lost wages until age 65.

For example, if a worker made $1,000 a month prior to an injury and returned to work at a salary of $600, the province would compensate the employee for 75% of the difference in salary. In this example, the worker would get $300 or 75% of the $400 difference until age 65.

If, however, the workers compensation board during its yearly review of the case decides the worker is capable of continuing in the earlier job, the wage-loss benefits would be curtailed, said Mr. King.

In the reform, the board also added a cost-of-living index to be used during the annual review of the case. For example, the worker cited above receiving wage-loss benefits could have the pre-injury salary increased by a 10% inflation factor, thus increasing the benefits.

"The key to the act in Saskatchewan is the rehabilitation of the injured worker," said Mr. King. "People aren't on a free ride.

"We had a railway conductor who was injured and wanted to retire because he was 62 years old. After the injury, he moved to another location, but his injury didn't require him to move. We deemed him capable of continuing as a conductor, so he received no wage loss," Mr. King said.

"Under the old system, we ended up paying a lifetime of benefits to workers who could still be working another job and collecting disability benefits from the province.

"Under this new system, if a worker is removed from wage loss on his yearly review, he is apt to go back to work because he will be off the benefits.

"We take our lumps with it, but it's better than paying a worker for a lifetime," said Mr. King. "This way, we're a loser only for a year." ■

Injury doesn't stop comp board chief

DORADO, Puerto Rico—Brian King knows all too well what it's like to be seriously injured on the job: His right leg was amputated as a result of an industrial injury in 1967.

But the chairman of the Saskatchewan Workers Compensation Board hasn't allowed his wooden leg to disable his sense of humor.

"It's not without some unusual moments," he told members of the International Assn. of Industrial Accident Boards & Commissions of his "limping disability."

One day the bolt that holds the ankle portion to the leg device broke and Mr. King said he went tumbling down.

Some helpful passerby saw his dilemma and shouted: "Call an ambulance, call an ambulance," to which he replied: "I think a tow truck would be more appropriate."

Another time, the rubber valve that holds the leg portion of the device onto his body popped out and rolled down the sidewalk. He stopped dead in his tracks.

"I asked two ladies passing by if they would go pick up that little rubber valve because if I stepped anywhere, my leg would fall off."

They obliged and returned the valve piece, he inserted it, thanked them and walked away.

It's that kind of outlook that has helped Mr. King, who in 1967 was a high school graduate working as a laborer when he was injured on the job. The accident resulted in the amputation of his right leg above the knee and severe injuries to his left leg.

Mr. King

Physical and vocational rehabilitation assistance was provided by the Workers Compensation Board, and Mr. King went to the University of Saskatchewan and graduated with a bachelor's degree in 1971. He has since completed work toward a master's degree.

In 1973, he started the office of the worker's advocate in the province's Department of Labour to assist other injured workers with their workers compensation claims.

Two years later, he became special assistant to the deputy minister of labour, and two years after that he was appointed senior industrial relations officer in the department to help solve labor disputes. He was named chairman of the Workers Compensation Board in 1979. ■

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Job hazards can affect reproduction

DORADO, Puerto Rico—Not enough is known about how workplace hazards affect the reproductive systems in both female and male employees, says an industrial medicine expert.

"Most of the attention has been directed to women because they provide the egg with the life-support system to nourish a new life," said Dr. Carlos Villafana, who heads the Puerto Rico Medical Assn.'s industrial medical section.

"However, now some concern is developing that shows workplace hazards can affect the male's reproductive system, which may lead to abnormal pregnancy," Dr. Villafana told the annual meeting of the International Assn. of Industrial Accident Boards & Commissions earlier this month.

With the increasing proportion of women in the workforce, more women are being exposed to hazards to their reproductive systems, he said.

Birth defects, stillbirths and spontaneous abortions account for 7% of all births in the United States, Dr. Villafana said, but the causes of 70% of those defects are not known.

Dr. Villafana

"The reproductive systems in both male and female parents may be at risk by toxic substances in the work environment," he said.

Sperm production in males is affected by a variety of factors and there are a number of environmental agents and drugs capable of causing male reproductive failure, he said.

"Some of the reproductive toxicants may be encountered as a result of the the parent bringing the contaminant home on clothing or shoes," he said.

"There is a need for increased national support toward research in this field because the information we have is very limited," added Dr. Villafana.

While many of the hazards involved are inherent to certain jobs, workers should be informed about the toxic substances that they are or will be exposed to as a protective measure, he added.

"If men and women in their reproductive states are eliminated from these jobs, who will be left to perform them? And since jobs are at a premium and few to choose from, would some people be denied the right to work?"

"It may be necessary to allow workers to use their own judgment about the risks they choose to take," he added.

"Industry has a responsibility in this regard," said Dr. Villafana, "and no effort should be spared to investigate the effects of manufactured products and necessary environmental control and provide protective equipment for workers," he said. ■

PBGC changes phone number

WASHINGTON—The Pension Benefit Guaranty Corp. has a new telephone number for employers who want to request agency documents.

The agency's disclosure office's phone number now is 202-254-5527.

Written requests for the agency's documents should be addressed to the Disclosure Officer, Pension Benefit Guaranty Corp., Room 7000, 2020 K St. N.W., Washington, D.C. 20006. ■

Licensing of rehabilitation firms urged

DORADO, Puerto Rico—Providers of rehabilitation services should be licensed—but not under state workers compensation systems, a committee of state industrial commissioners says.

Certification or licensing of the providers is recommended, but professional rehabilitation associations should assess and assure the quality of those services, said the rehabilitation committee of the International Assn. of Industrial Accident Boards & Commissions at the group's annual meeting in Puerto Rico earlier this month.

The increase in rehabilitation benefits and growth of state bureaus to oversee those services prompted the committee to investigate what standards, if any, should be set for providers.

California mandated rehabilitation benefits for injured workers back in 1975 and administrative bureaus have sprouted up since then in Georgia, Minnesota, Michigan, Colorado and Oregon to make sure that vendors provide quality services.

The basic conclusion reached by the committee is that each state should monitor or supervise the performance of the rehabilitation providers registered with the workers compensation bureau.

Mr. Kent

But the more formal procedure of certification or licensing should be left to the professional associations that represent each specialty and not be the responsibility of the state agencies, the committee decided.

"The primary role of the work comp agency should be to assess the merits of the rehabilitation plan created by the provider and to evaluate the quality and appropriateness of the services provided," the committee report reads.

"The goal of returning injured workers to the workplace must not be overshadowed by the business of providing rehabilitation services."

The report coincided with remarks at the conference by Lawrence J. Kent, president of General Rehabilitation Services Inc. of Philadelphia, Pa.

"The rehabilitation services being offered today are almost as widely diversified as the organizational structures," said Mr. Kent, a speaker at the IAIABC meeting.

The three methods state workers compensation agencies possibly could use to monitor providers—licensing, certification and accreditation—are costly, inefficient and imposing, he said.

"Consideration ought to be given to the merits of registry with the work comp agency and professional and organizational disclosure rather than imposing a grid of arbitrary standards on providers," Mr. Kent said.

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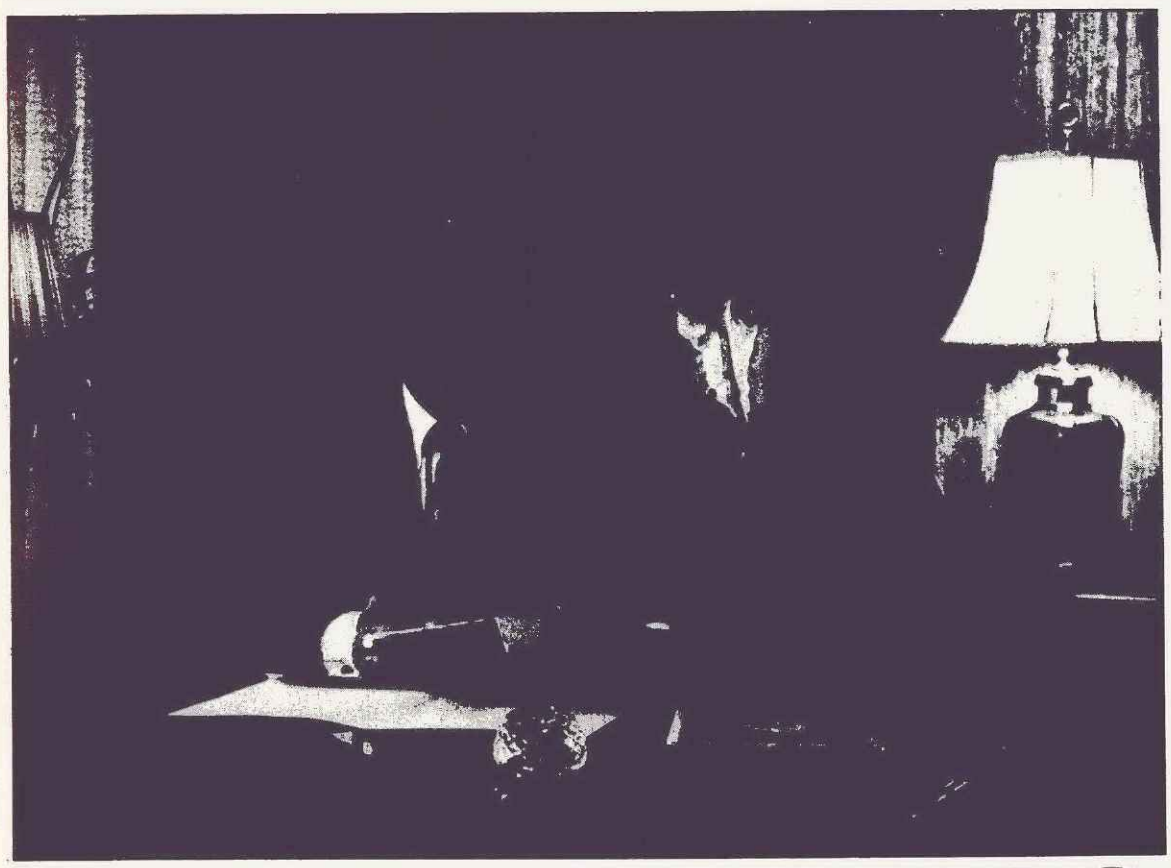
Photo: R. Bruce Dold
Participants at the IAIABC meeting had the opportunity to visit Old San Juan during their free hours.



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Open rating movement growing, NCCI vp says

DORADO, Puerto Rico—"The time is right" for competitive rating for workers compensation insurance in eight more states, according to an official of the National Council on Compensation Insurance.

Arizona, Alaska, Hawaii, Maine, Wisconsin, Virginia, Colorado and New Mexico are currently considering changing their laws to allow for some type of competitive rating for workers compensation insurance, said Robert D. Heitzmann, NCCI executive vp.

If those eight states change their laws, a total of 16 states will have moved to some form of formalized competition for workers compenstion insurance.

Those 16 states would represent 58% of the nation's workers compensation premium, Mr. Heitzmann told the annual meeting of the International Assn. of Industrial Accident Boards & Commissions.

To date, Oregon, Minnesota, Michigan, Kentucky, Arkansas, Illinois, Rhode Island and Georgia have changed their laws to force workers compensation insurers to compete against one another rather than file rates together through rating organizations such as the NCCI.

He said those states represent 21% of the nation's work comp premium, while the eight states considering open rating account for 37% of the premium.

Mr. Heitzmann

Under competitive rating, proponents say insurers will not have the advantage of filing rates en masse through the NCCI and other rating organizations.

The insurers instead will have to compete alone for the risk, a factor that could force rates down for employers that must purchase the insurance.

NCCI President Kevin M. Ryan has predicted that more than half of the states could adopt competitive rating for workers compensation insurance within the next few years (*BI*, Aug. 2). ■

Hennes joins Control Data

comings & goings: buyers

David J. Hennes, 29, is the new manager of casualty programs in the corporate risk management department of Control Data Corp. in Minneapolis. He is responsible for the administration of the company's domestic casualty program. Mr. Hennes was previously assistant manager of insurance at Dayton Hudson Corp. and a claims administrator with 3M Corp. He received a bachelor of arts degree from the University of Minnesota, a master of business administration degree from the College of St. Thomas in St. Paul and the ARM designation. Mr. Hennes replaces **Gail C. Klein,** now supervisor of corporate risk management at Farmers Union Central Exchance Inc. (Cenex) in St. Paul. He reports to Robert E. Abrahamson, director of risk management.

* * *

John P. Lenihan, 28, was named insurance and safety manager for The Grand Union Cos. in Elmwood Park, N.J. Mr. Lenihan has been with Grand Union since 1970, starting as a part-time clerk. Most recently, he served as claims and safety supervisor. In his new position, Mr. Lenihan will manage the company's insurance programs and monitor internal safety procedures. He received a bachelor of arts degree in business administration from William Paterson College in Wayne, N.J., and is a deputy member of the Risk & Insurance Management Society. Mr. Lenihan's duties replace those of the assistant treasurer. He reports to Roger W. Kennedy, corporate treasurer.

●

Report risk management and benefit staff changes to Sallie J. Drury, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611; 312-649-5398.

Hospitals evaluate risks before acquisitions

By LINDA PUNCH
Crain News Service

Risk management evaluations are playing a greater role in the acquisition plans of multihospital groups.

Several major hospital companies make sure their risk management departments or independent consultants routinely review potential acquisitions, placing emphasis on potential liability claims against the acquisition target.

In at least one case, a hospital chain has halted an acquisition when it found that the targeted hospital's potential for liability was too great.

Risk management evaluations are a relatively new consideration in reviewing hospital acquisitions, said Ray Hodges, vp for risk management at National Medical Enterprises in Los Angeles, a company that operates hospitals in several states.

"Not too many years ago, the risk management department wasn't asked to look into the different facilities hospital systems acquired," Mr. Hodges said.

"Now, because of the trend toward. . .integrating risk management with quality assurance. . . (risk management) is blooming rapidly as one of the things to really consider in a 'go/no go' on an acquisition. It's evolved in the last five or six years," he said.

After National Medical Enterprises determines that it's financially wise to make an acquisition, it calls on Mr. Hodges to review the hospital's insurance coverage and any outstanding liabilities. The study must cover the facility's liability history for at least the past five years.

"If there's not enough information to go on, then I go to the site to discuss liability with management or talk to the insurance agents," he said.

Evaluation of multihospital chains that own captive insurance companies "takes more time because we're buying that system and we'll be buying future liabilities."

The acquisition targets' own incident reports and claims data also are reviewed, although they aren't as reliable as insurance company records, Mr. Hodges said.

"Each hospital department reports (incidents) differently. You're not sure if you're getting a good look at what's really happening if you look at incident reports alone," he said.

"If you go to the attorney who handles the lawsuits and the insurance company that handles the claims, you get a better picture. You can see exactly what happened and the potential money involved," he said.

NME won't assume an acquired hospital's past liabilities, Mr. Hodges said, noting "that's such an unknown factor." An institution's former trustees also are responsible for their own professional liability coverage after the acquisition, he said.

The publicly held company has never killed a deal because of potential liability, Mr. Hodges added. "We try to find the problems in the past and what problems might be caused in the future.

"You can't really predict (the number of) claims. . .but you can predict that things will happen at a relative frequency. Once you find an historical trend of events, you can decide if you can turn it around, stop it or deal with it."

Hospital Corp. of America, based in Nashville, Tenn., once halted an acquisition bid after determining the target's potential liability was too great, said William G. White, the company's senior vp-acquisitions.

HCA normally uses a risk management consultant to evaluate acquisition targets because its own risk management staff is "quite busy," he said. "Our risk management staff takes an active part if they're available."

In addition to studying incident reports, HCA asks the acquisition target to supply an attorney's statement "stipulating what claims have occurred and been adjudicated over the last three years. We also ask the (candidate's) insurance company to determine the validity of what is being reported by the attorney."

A facility's potential liability "can be significant. We can't afford to ignore it," said Charles Reilly, senior vp and director of domestic hospital activities for American Medical International, another hospital chain based in Beverly Hills, Calif.

If an acquisition candidate has adequate insurance coverage, "we needn't be concerned about liabilities after the fact. If there's not adequate coverage, we have to examine (the facility) based on its historical experience. . .and what the prospects are for an undisclosed claim materializing subsequent to acquisition," he said.

A risk management study of an acquisition candidate is most important if a transfer of stock is involved, because a hospital's liabilities are carried over with its stock, said Gerard P. Breslin, director of corporate risk management for Humana Inc. in Louisville, Ky.

Although stock transfers were common in hospital acquisitions during the early 1970s, most acquisitions now involve only the purchase of assets, he said. Because of that trend, "The emphasis of (a risk management study) in terms of a business decision is diminished because we are concerned (only) with exposure to loss from the point we acquire the building."

Humana considers any possible exposure to past liabilities in determining its purchase price, Mr. Breslin added. ■

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Social Security commission will hold public meetings

washington

By JERRY GEISEL

WASHINGTON—President Reagan's Social Security commission will give the public a chance to watch when it hammers out its final recommendations next month.

The 15-member bipartisan commission will meet Nov. 11-13 near Washington to try to reach agreement on ways to put the Social Security program on a sound financial footing. Experts have warned that the program could run out of cash sometime next year.

The commission was set up last year after President Reagan's recommendations to overhaul Social Security, such as slashing early retirement benefits, were rejected by Congress.

Under its executive mandate, the commission, which is chaired by Alan Greenspan, the former chief economist in the Ford administration, must publish its final recommendations before the end of this year.

Aside from Mr. Greenspan, other commission members include: Robert Beck, chairman of Prudential Insurance Co. of America; Sen. Robert Dole, R-Kan., chairman of the Senate Finance Committee; and Lane Kirkland, president of the AFL-CIO.

The public meeting is tentatively scheduled for the Ramada Inn in Alexandria, Va. In case of a last-minute change, those who want to attend the meeting should first call the commission at 202-395-5132.

Malpractice suits

The trend toward making physicians and hospitals defend medical malpractice suits in the federal courts continues to grow.

During the court system's fiscal 1982, which ended June 30, 997 medical malpractice suits were filed in federal courts, a 9% increase over fiscal 1981 when 915 cases were filed, according to the courts' administrative office.

The latest increase marks the fourth consecutive year in which the number of medical malpractice suits filed in federal courts has increased.

Multiemployer plans

Many employers could walk away from multiemployer pension plans and not have to pay for a share of their massive unfunded vested benefits under legislation introduced in the House of Representatives late last month.

The bill, H.R. 7233, proposed by Rep. Ken Holland, D-S.C., would exempt withdrawal liability penalties in cases where a company's operations cease because of a natural disaster or the loss of a service contract or lease.

In addition, the effective date of the Multiemployer Pension Amendments Act would be pushed forward to Sept. 26, 1980, from April 29, 1980, the law's current effective date.

If that happens, the more than 60 employers that left multiemployer plans during that five-month period in 1980 would escape paying for a share of the plans' unfunded vested benefits. Those companies now face tens of millions of dollars in liability claims, and many are contesting the claims in federal court.

Mr. Holland's bill, which has the backing of about two dozen employers and trade associations, also would base the termination insurance premiums multiemployer plans pay to the Pension Benefit Guaranty Corp. on the ratio of plan assets to liabilities.

For example, plans that have 90 cents of assets for every $1 of vested benefits would pay an annual premium of 65 cents per plan participant. Plans with less than 50 cents of assets for every $1 of promised benefits would pay a $4.20 premium. Currently, the annual premium for all multiemployer plans, regardless of their financial condition, is $1.40 per participant.

While Mr. Holland's measure will not move out of committee this year, a major effort will be made next year by its supporters.

Tort reform battle

The number of manufacturers that will battle for federal product liability legislation continues to grow.

Some 125 U.S. manufacturers are now members of the Coalition for Uniform Product Liability Law, a coalition of businesses that want a uniform federal tort reform law.

Membership in the coalition is limited to manufacturers. "We're here to give the manufacturers' point of view on product liability issues," said Pat Rowland, a spokesman for the coalition and a governmental affairs representative in Borg-Warner Corp.'s Washington office.

By contrast, other business groups that also want federal product liability legislation, like the Washington-based Product Liability Alliance, have allowed non-manufacturers, like insurance companies and insurance trade associations, to join.

Since March, the number of companies belonging to the manufacturers' coalition has jumped from about 60 to the current 125.

Membership dues range from between $100 and $3,000. The amount of dues depends on the size of a company.

For more information about the coalition, contact Pat Rowland, Borg-Warner Corp. 1575 I St. N.W. Washington, D.C. 20005; 202-789-0284. ■

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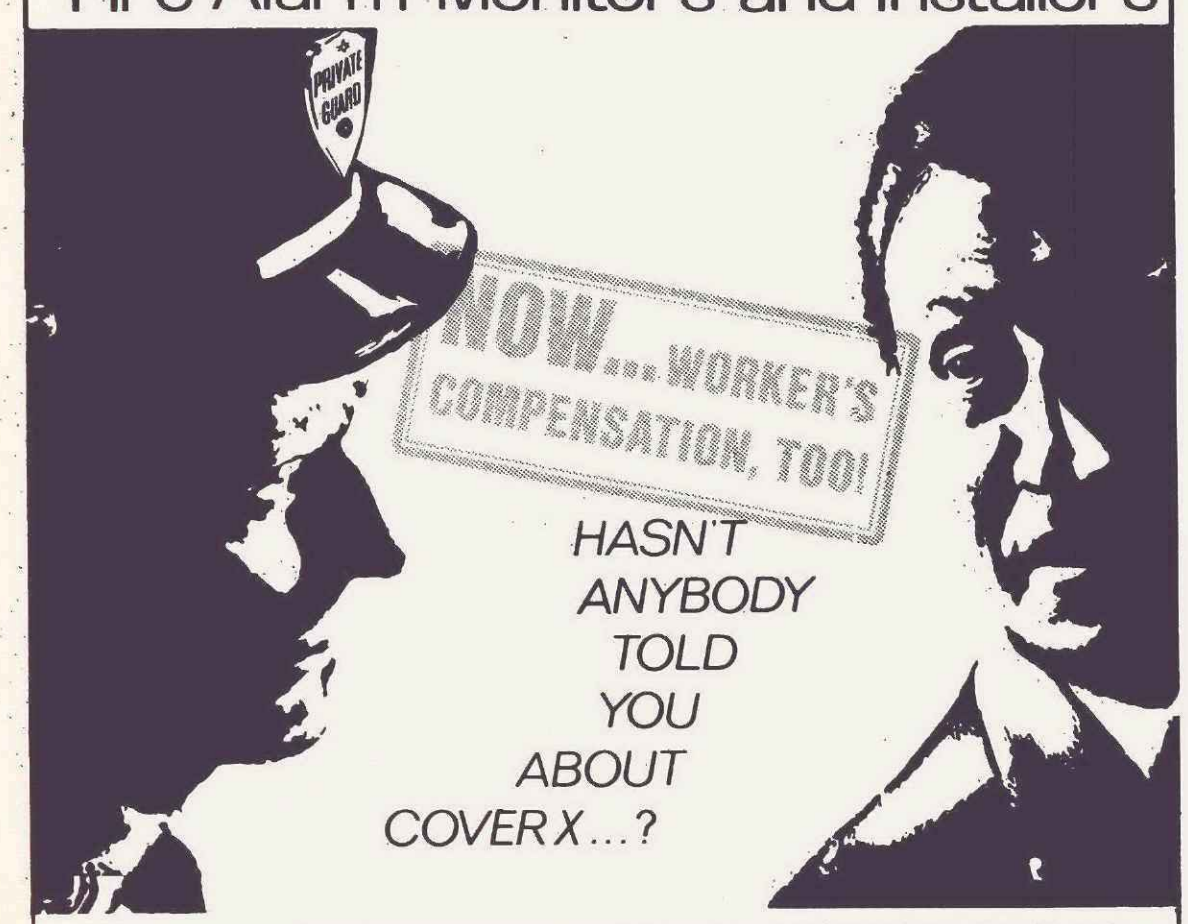

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MET bill may gain support after election: Rep. Burton

By DANIEL BRIGHAM

SAN FRANCISCO—Action on federal legislation that would allow states to regulate self-funded multiple employer trusts will have to wait until the election-year hoopla abates.

Regulatory loopholes have made it possible for self-insured METs to collapse, leaving in their wake millions of dollars in unpaid medical claims. Yet, according to Rep. Phil Burton, D-Calif., "Most of my colleagues don't have the slightest idea of what this is all about."

Congressmen are not likely to start studying the problem for next year's session while they are busy trying to be re-elected, he added.

Rep. Burton, chairman of the House Labor-Management Relations Subcommittee, is co-author with Rep. John Erlenborn, R-Ill., of legislation, H.R. 6462, that would give states the power to close poorly managed self-funded METs.

"I do have some fair basis for optimism about this bill," Rep. Burton said during hearings on the legislation Oct. 14 in San Francisco, "but not until after November."

"Some individuals have used the Employee Retirement Income Security Act as a smoke screen to conceal fraudulent activities," Rep. Burton said at the hearing. "They approach employers, particularly small businesses, offering a cheaper alternative to traditional group health insurance coverage.

"They set up trusts they administer themselves to provide health coverage. But unlike licensed insurance carriers, they often fail to comply with the basic solvency controls each state establishes to protect health care consumers.

"When the state tries to enforce these controls, the trusts claim to be beyond the reach of state law because they are 'employee benefit plans' covered by federal law," he said.

But by the time the U.S. Department of Labor decides if the self-funded MET is indeed protected from state regulation by ERISA, "the individuals who established the bogus insurance ventures have long since departed with the money and workers are left without any means of covering their unpaid medical bills," Rep. Burton said.

The legislation sponsored by Reps. Burton and Erlenborn would give state regulators the power to close down poorly managed self-funded METs by forcing them to abide by state insurance laws, including reserve requirements.

Under the bill, a MET could still apply to the Department of Labor for certification as an ERISA benefit plan, although it must prove, among other things, that it is controlled by participating employers and not by a third-party administrator.

But even if certification is granted by the Labor Department, the MET would be subject to state laws concerning reserves and contribution levels. Should it fail to measure up, the state could force it out of business.

Among those voicing support for the legislation at the hearing was Frank L. Damon, California's chief deputy insurance commissioner.

The legislation is necessary, Mr. Damon said, because "the Department of Labor, which is charged with the reponsibility of regulating METs, has all but abdicated this responsibility, and METs have been virtually unregulated since their inception."

He noted that self-funded METs face no capitalization requirements, no underwriting or actuarial standards, no reserve requirements, no requirements for financial condition examinations and no mandated coverage, policy language or unfair claims practices laws.

"Their (self-funded METs') first report to the U.S. Department of Labor is due within 19 months after the MET opens it doors," Mr. Damon noted, "and this seems an idle act as I'm sure nobody in the Department of Labor bothers to read it or perhaps even open the envelope if indeed it is sent.

"We estimate that there are about 150 METs in California with over 200,000 covered employees," Mr. Damon said. "Since adequate records are not kept, these estimates are just that, and there are some people who think upward toward 1 million people may be covered in this state.

"Since 1977, 45 METs that had transacted some business in California have closed their doors. In 1977, the year of the first crunch on insolvent METs, two self-funded METs alone went bankrupt, leaving over $7 million in unpaid medical bills and thousands of workers without any kind of health insurance coverage.

"Of the 45 that have gone under since then, 20 paid all outstanding claims, found insurance coverage, then closed their doors; 18 others merely went into bankruptcy, leaving unpaid bills; five became fragmented, which is to say that smaller trusts were carved out of the insolvent ones and the smaller ones also went into bankruptcy."

Although the state has little authority to shut down a MET, Mr. Damon said California has had some success in punishing trust operators who break the law.

"We were successful in obtaining criminal convictions in several of these cases for mail fraud, theft and counterfeiting," he said.

Another problem facing state regulators is a phenomenon called "rollovers," Mr. Damon said.

In a rollover, a self-funded MET is established and premiums are paid by employers and employees, who later complain to the state that claims are not being paid.

As soon as the state contacts the MET about the complaints, it closes its doors and "probably within hours, either down the street or in another part of the state, a new office is opened, new forms are printed and the closed MET has rolled over into a new MET with a new name, and they take the good risks they want from the old trust."

Mr. Damon said six such rollovers have occurred in California since 1977. He noted that although one trust has rolled over five times in five states, no criminal charges have ever been proven.

Since September, however, California regulators have been armed with a law that will help the crack down on such abuse, Mr. Damon said.

A.B. 2670 passed, Sept. 8, "creates a presumption that all providers of health care benefits are subject to the jurisdiction of the California Department of Insurance unless they can prove to the contrary," Mr. Damon said.

By giving the Insurance Department the legal authority to obtain documentation needed to determine if a MET is a bona fide ERISA trust, the law allows the state to sidestep the frustrating need of requesting certification from the Department of Labor.

The new state law was first used against American Benefits Administrators, also known as American Benefits Ltd., according to Mr. Damon (*BI*, Oct. 4).

"We obtained a court order appointing a receiver on Sept. 27. Since then, ABA or ABL filed for bankruptcy and a trustee was appointed by federal court. We are continuing to sift through the books of ABA, and it apears that there were about 70,000 subscribers and that liabilities exceed assets by at least $10 million." he said.

California's new law "will help weed out the bad actors," Mr. Damon said, but added that congressional action is still necessary.

He noted that the National Assn. of Insurance Commissioners is backing the federal bill and that the California Legislature passed a resolution during its last session urging Congress to pass such a law.

Stephen C. Shaw, president of the California Assn. of Life Underwriters, and Betty Combs, executive vp of the group, stated that both the California group and the National Assn. of Life Underwriters support the federal legislation.

They noted that the MET problem is hurting the consumer, damaging the reputation of the life and health insurance industry and creating credibility problems for agents, who now have a difficult time differentiating between a properly administered, well-run MET and one that is likely to go belly up.

"There is no third party we can seek out to verify the METs' promises, financial condition or other statements," Mr. Shaw complained. "How do we know that the reinsurance company they say they have isn't just a shell to send money downstream to avoid taxes?" ■

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Health care hikes increase benefit costs

Continued from page 3

ample, the percent of employers now using a minimum premium plan jumped to 21% from 17%, while just 37% of large employers' health care plans are fully insured, down from 41% in 1981.

"More and more employers realize they can reap the advantages of self-funding such as the ability to hold on to cash longer," said Mr. Shapiro. "Large firms have the resources to do this."

More employers also are amending their health care plans to encourage employees to stay out of cost-intensive hospitals for routine medical services. For example, 73% of employers now cover outpatient surgery on the same basis as in-hospital surgery.

But despite cost-containment efforts like higher deductibles, which benefit experts say are long overdue, health care costs show no sign of abating, according to the survey.

For example, 25% of participating employers said they pay more than $140 a month for each employee's family covered under corporate health care plans. That's more than triple the 7% of employers who reported monthly family health insurance premiums of $140 in 1981.

Although all employers surveyed offered a health care plan to active employees, only 73% extend medical benefits to their retirees.

Prevalence of benefits

Personnel policies	1982	1980	1978
Company cafeteria	56%	59%	61%
Recreational activities	63%	72%	76%
Paid leave for death in family	98%	98%	97%
Leaves of absence	97%	95%	93%
Professional/trade association participation	79%	78%	80%
Credit card usage authorization	81%	83%	84%
Non-executive company cars	56%	52%	63%
Employer products/services discount	48%	47%	47%
Civic/political activities	67%	65%	67%
Shift differential pay	66%	50%	59%
Overtime pay for exempt personnel	32%	45%	49%
Tuition reimbursement: part-time	95%	92%	87%
Tuition reimbursement: full-time	10%	8%	9%
Pre-retirement counseling	52%	53%	54%
Credit unions	59%	54%	49%
Group legal services	1%	1%	1%
Group auto insurance	5%	4%	5%
Company sponsored personal insurance	11%	11%	13%

Source: Hay Huggins

HMOs

While about half of surveyed employers offer health maintenance organizations to their employees, up from 30% in 1978, most workers opt for standard health insurance plans. Only 38% of employers said more than 7.5% of their employees are enrolled in HMOs.

"Most employees still want the freedom to select their own doctor," said Mr. Shapiro.

More employers say, however, that offering the HMO option no longer causes major administrative problems. This year, 36% of employers said allowing employees to participate in an HMO is an administrative burden, down from 42% in 1981.

Dental insurance plans

Seventy-five percent of employers now offer dental plans, compared with 69% in 1981. But the newest plans are more likely to make employees pick up at least some of the costs, the survey says.

According to the 1982 Hay survey, 76% of employers with dental plans paid the entire cost of individual coverage and 48% paid the full cost of dependent coverage. In 1981, 79% of employers with dental plans picked up the full tab for individual coverage and 52% paid for dependent coverage.

Vision care plans

Some benefit experts predicted that vision care programs would be the fastest-growing benefit during the 1980s. However, that's not happening, even at the nation's largest companies.

Just 12% of employers surveyed offer vision plans, only a 3 point increase over the last two years.

Pension plans

Although some financially troubled small and medium-size companies, like Rath Packing Co. in Waterloo, Iowa, are folding their pension plans to cut benefit costs (*BI*, Sept. 13), there is no trend toward pension plan terminations among larger employers.

Some 92% of surveyed employers offer pension plans, the same percentage as in the 1980 survey. In fact, 64% of employers offer supplemental retirement plans, like profit-sharing plans, to supplement their pension programs.

Only 6% of employers only offer a capital accumulation plan. Two percent of those surveyed offered no type of retirement plan.

"Multiple pension plans have been coming for a long time," Mr. Shapiro said. "There is a recognition of a need to supplement pension plans."

Other pension trends reported in the survey include:

- Just 11% of firms require

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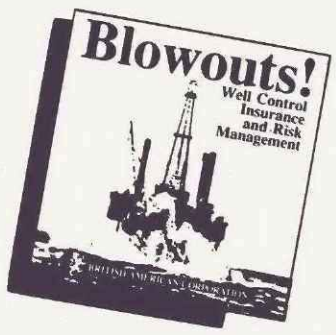

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This indispensable reference guide was written by Douglas B. Owen, JD, MBA, CPCU. Mr. Owen is president of Arthur L. Owen Company, Inc., a Dallas-based insurance broker specializing in insurance and risk management programs for oil, gas and petrochemical companies worldwide. He is a recognized authority on risk management and well control insurance and has used his expertise to write **Blowouts: Well Control Insurance and Risk Management.**

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Continued from facing page

mandatory employee pension contributions, a percentage that has held constant since 1980.

- About three of four corporate pension plans require an employee to work 10 years before he or she has vested in the company's pension plan.
- There's been a gradual shift toward pension plans that base benefits on final pay, usually the last five years of service, and away from plans that base benefits on career average salaries.

Just 7% of employers use career average formulas, down from 11% in 1980 and 7% in 1978. By contrast, 84% of employers use final average pay formulas to determine a benefit, up from 81% in 1978.

Final pay plans provide better protection against inflation than career average plans because employees' salaries usually are highest during their last years of work.

- Although not required by law, 41% of employers provide pension plans that allow employees to accrue pension credits after age 65.

For example, twenty-three percent of the plans recognize both the service and earnings of an employee working after age 65, 3% recognize service alone and 4% earnings alone.

- More companies are expanding their efforts to reduce the bite inflation takes out of their retirees' pension checks.

Some 60% of employers with pension plans this year said that they have boosted benefits to retired workers during the past several years. In the 1980 Hay/Huggins survey, only 57% of employers said they had recently increased benefits for retirees.

Capital accumulation plans

Thrift or savings plans continue to expand while the popularity of profit-sharing plans is waning, the survey shows. Forty-one percent of surveyed companies now offer thrift plans, compared with 36% in 1978 and 29% in 1976.

On the other hand, about 20% of the surveyed employers now maintain profit-sharing plans, compared with 25% in 1976 and 23% in 1978.

"With the increased instability of the stock market and equally increased employee concern for a predictable level of retirement income, few employers are using profit-sharing plans alone for retirement benefits," the report notes.

Other capital accumulation plans, like Employee Stock Ownership Plans or Tax Reduction Act Stock Ownership Plans, have also become more popular among publicly held companies.

This year, 30% of all publicly held companies surveyed offered ESOPs or TRASOPS, up from 23% in 1980 and 16% in 1978. Of all companies surveyed, 17% offered ESOPs or TRASOPs, with 4% offering ESOPs and 13% offering TRASOPs.

In addition, 14% of the surveyed employers offered stock purchase plans, while 1% offered stock bonus plans to salaried employees.

Disability benefits

While companies are forcing their employees to pick up a greater share of medical and hospital bills, cost-sharing arrangements for long-term disability plans have remained stable with 63% of employers paying all long-term disability coverage costs.

The number of companies offering lon g-term disability benefits has also remained stable over the last four years at about 91%.

Monthly LTD benefits, though, continue to rise, a reflection of the higher average employee salaries that LTD benefits are designed to partially replace. Some 79% of corporate LTD plans now pay a monthly benefit of at least 60% of salary, compared with 76% of the employers surveyed in 1981 and 72% in 1977.

In addition, 66% of the plans now provide maximum monthly LTD benefits of at least $2,500, compared with 55% in 1980 and 49% in 1978. Sixteen percent do not have a maximum monthly benefit; in 1978, 11% of LTD plans did not cap monthly benefits.

More employers also are looking for new ways to fund LTD plans. For example, 9% now say their LTD plans are funded through 501(C)(9) trusts, up from 6% in 1978. A 501(c)(9) trust, named for the section of the Internal Revenue Code authorizing them, allows employers to receive tax deductions for their contributions to the plans. Funds contributed to the trusts are shielded from income taxes.

All of the surveyed employers offer short-term disability plans to continue an employee's salary. Eighty-two percent of the employers self-fund this program, 3% insure the coverage and the remaining 15% offer a combination insured/self-funded short-term disability plan.

Life insurance

While health insurance costs have soared, life insurance rates have edged downward.

Seventy-two percent of the companies surveyed say they pay basic group life insurance rates of 50 cents or less per $1,000 of coverage. In the 1978 survey, 62% of the companies responding paid 50 cents or less per $1,000 of coverage.

As life insurance costs plunge, employers are paying more of the premiums and removing more coverage restrictions.

For example, 79% of employers now pick up all life insurance premiums, compared with 72% in the 1978 survey. In addition, 67% of basic group life insurance programs either provide immediate coverage or coverage beginning on the first day of the month following employment. Just 57% of plans in 1978 offered such rapid coverage.

More companies also are offering group life insurance plans that cover an employee's family. For example, 32% of employers offer dependent coverage, compared with 27% in 1978.

"The increase may be attributed to its being inexpensive, popular under collective bargaining plans and beneficial to the two-paycheck family where the loss of either spouse places a heavy financial burden on the survivor," the Hay/Huggins report said.

Holidays and vacations

While union employees in some major industries, like auto, have had the number of holidays and length of paid vacations trimmed, a similar trend isn't taking root among salaried employees.

Some 52% of employers provide 10 or 11 paid holidays each year to salaried employees, compared with 47% in 1978. Nineteen percent of employers provide more than 12 holidays, up from 16% in 1978.

Similarly, 43% of employers allow employees to take up to 25 days of vacation, compared with 39% in 1978. Another 14% offer 30 or more days of vacation each year, up from 10% in 1978.

Other benefits

While the recession hasn't cut deeply into such basic benefits as life and health insurance, disability coverage and retirement plans, non-core benefits have been among the first to be cut as corporations struggle to keep the bottom line intact.

For example, the percentage of companies offering cafeterias, recreational activities and overtime pay for exempt personnel experienced modest to sharp declines.

However, tuition reimbursement plans continue to increase as more companies want to help their employees keep up with rapid technological changes. Tuition reimbursement for part-time college courses is now offered by 95% of the companies surveyed, compared with 92% in 1980 and 87% in 1978.

Other once-highly touted non-core benefits that haven't taken off include:

- Group legal services, which are still only offered by 1% of Hay/Huggins participants, the same as in 1980, 1978 and 1976.
- Group auto insurance, which is only offered by 5% of companies, the same percentage as in 1978.

Executive benefits

Union and salaried employees aren't the only ones who've seen non-basic benefits cut. High-level corporate executives also are suffering. Executive perks that have been cut include:

- Directors and officers liability insurance, which is now provided by only 60% of the companies surveyed, down from 63% in 1980 and 67% in 1978.
- Executive apartments, which are offered by 10% of the employers, compared with 13% in 1980 and 20% in 1978.
- Special executive loan and mortgage programs, which are provided by 4%, down from 6% in 1980 and 11% in 1978.
- Special executive parking privileges, which are a perk at 64% of the companies, compared with 69% in 1980 and 79% in 1978.

And, that ultimate symbol of executive privilege—the corporate plane—is being grounded more often. Some 30% of the companies surveyed maintain their own aircraft, down from 38% in 1980. ■

How to obtain a copy of study

The "1982 Hay/Huggins Non-cash Compensation Comparison" can be purchased with two conditions.

A company must submit its benefits plans for the comparison report for the next year and it must pay a $680 first-year participant charge. The cost of the report is $580 per year thereafter.

Along with the report, a company receives two individual benefit analyses.

For more information about the survey, contact Francis Millis, Manager of Non-cash Compensation Surveys, Hay Associates, 229 S. 18th St., Fourth Floor, Philadelphia, Pa. 19103; 215-875-2660.

Illinois allows consortium suits

SPRINGFIELD, Ill—The state Supreme Court says widows are entitled to receive damages for loss of consortium in wrongful death cases.

The Sept. 30 decision involved a lawsuit brought by an Illinois woman who was seriously injured in a 1976 auto accident that killed her husband.

Verla Elliott was awarded more than $50,000 in damages for her personal injury but the trial judge instructed the jury that it could not award damages for loss of consortium, says her attorney Ron Hanley of the Fairbury, Ill., law firm of Hanley Traub & Hanley.

The case ultimately should be sent back to the trial court for a determination of damages for loss of consortium.

Allowing damages for loss of consortium, which is now law in more than 30 states, could raise jury awards in Illinois, he added. ■

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Companies eye birth centers to cut costs

Continued from page 1

E.I du Pont de Nemours & Co.—are including birth center coverage in their employee health plans as a cost-containment move. And several health insurers, often at the request of policyholders, are covering charges from approved birth centers.

In many cases, though, the benefit is so new that companies are unsure just how significant their savings will be because employee participation is still low.

However, it is clear that the cost of delivering a baby in a birth center is much less than in a hospital. For example, at the Maternity Center Assn.'s Childbearing Center in New York, the cost is almost half the normal maternity hospitalization cost.

The Childbearing Center, one of the nation's leading birth centers, has supervised more than 1,000 births since its formation in 1975.

The center's program for eligible women—those who present a low risk of complication during delivery—includes prenatal examinations and instruction in nutrition, family relationships and self-care.

The current cost for a delivery is $1,275, with an additional $50 charge for deferred payment, according to Ruth W. Lubic, general director of the Maternity Center Assn.

In contrast, Aetna Life & Casualty Co. says the average cost for normal maternity care with the traditional three-day hospital stay is $2,826 in the New York area. Metropolitan Life Insurance Co. found its costs range from $2,300 to $3,000.

Based on those figures, use of the Childbearing Center for normal maternity care could trim childbirth costs by 43% to 55%, depending on the length of the hospital stay.

And, while hospital costs have soared to double-digit annual rates, the average cost per delivery at the Childbearing Center declined by 43% between 1976 and 1980.

The decrease, according to a study of the center by Blue Cross/Blue Shield of Greater New York, can be attributed to initial overstaffing at the centers and steadily increased use of the facilities.

Fees charged by most freestanding birth centers are comparable to the Childbearing Center's, accord-

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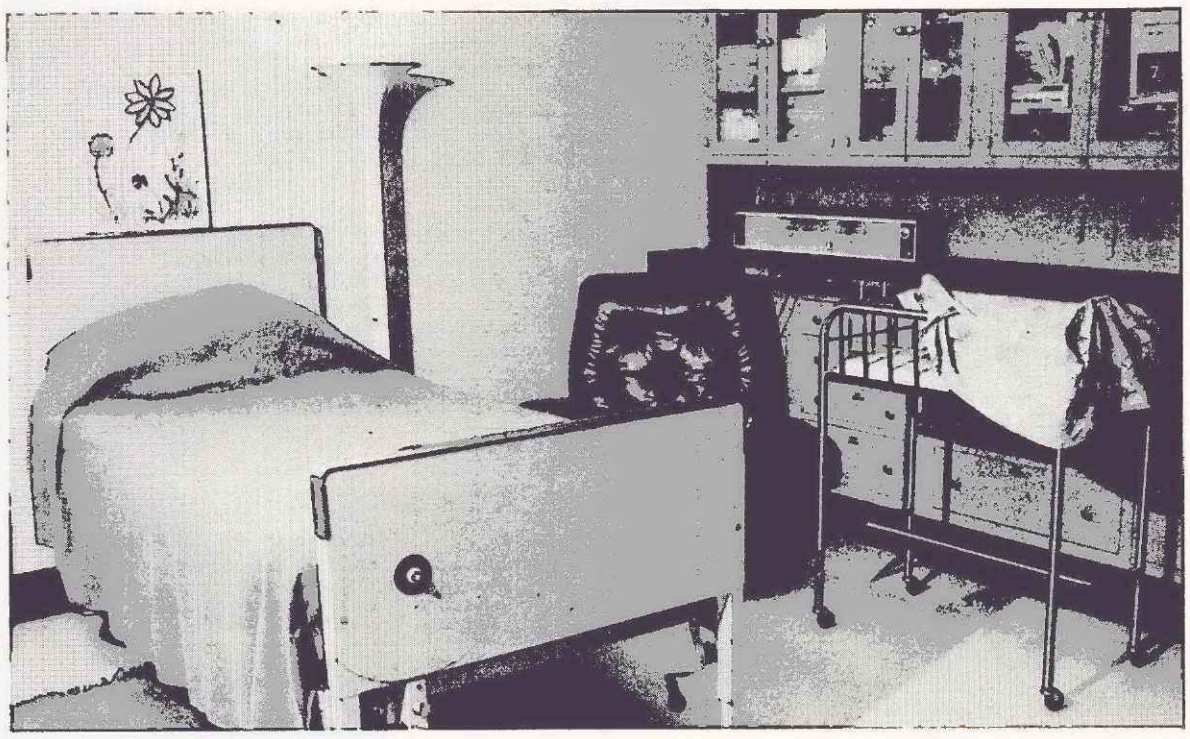

Photo: Maternity Center Assn., New York

A delivery room in a birth center resembles both a hospital room and a physician's office.

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ing to Kitty Ernst, director of the Cooperative Birth Center Network, which gathers information on birth centers nationwide.

"Most are around $1,000, give or take $300," she said.

Birth clinics within hospitals, where mother and infant are also discharged within 24 hours, are again less expensive than traditional in-hospital care.

The birth clinic at Douglas General Hospital in Douglasville, Ga., charges $600 to $700 for delivery by nurse/midwives.

Prenatal and two postpartum examinations are conducted separately by a physician at an additional charge of $750, and prenatal education classes can be arranged at an additional charge.

Rockwell International, based in Pittsburgh, added a birth center benefit for its 50,000 salaried employees when it revamped its plan with Metropolitan Life Insurance Co. on Oct. 1.

Rockwell now covers 100% of birth center costs, less deductibles of $100 per person and $200 per family. The Rockwell plan covers only 90% of normal hospital maternity care, less the same deductibles.

"We haven't had the chance to assess its impact (on costs)," said Howard Mowery, Rockwell's benefits director. "But, we included it because of the potential there might be."

Du Pont, based in Wilmington, Del., currently covers birth center charges for 36,000 employees in 20 states under various Blue Cross/Blue Shield plans, according to A. Dale Stratton, assistant director of compensation and benefits.

Du Pont's plan includes 100% reimbursement of birth center fees, except physicians' fees incurred prior to entry into a birth center program. The physicians' fees are subject to an 80/20 coinsurance provision, Ms. Stratton said.

Du Pont added the birth center coverage more than a year ago at the suggestion of employees, Ms. Stratton said. Although the company hopes it will prove to be a cost saver, claims data is not yet available to confirm this.

"Intuitively, it would seem that birth centers are more cost-effective than a hospital stay, if in no other way then based on the duration of the stay," Ms. Stratton said.

In May 1981, Hoffmann-LaRoche Inc. of Nutley, N.J., which self-insures major medical coverage for its 8,500 employees, added the birth center coverage to its basic medical plan with Blue Cross of New Jersey.

The 100% coverage of birth center expenses will mean savings for both the company and its employees, according to Lena Bellapianta, an associate manager of benefits for Hoffmann-LaRoche.

Normal hospital maternity coverage under the Hoffmann-LaRoche plan pays 100% of semi-private room costs, but only 80% of physicians' fees after 100% coverage of the first $200.

To date, however, only two Hoffmann-LaRoche employees have used birth centers.

Although "a lot of emphasis is put on natural childbirth (today)," too few centers exist in New Jersey, where most Hoffmann-LaRoche employees are located, to make for large-scale use, Ms. Bellapianta said. However, she said employees have asked about the benefit.

Other employers that have added birth center coverage to their benefit plans include:

- Atlantic Richfield Co. of Los Angeles, through Aetna Life & Casualty Co., and Anaconda Co., an ARCO subsidiary, through Metropolitan Life Insurance Co. ARCO's plan covers 50,000 active employees and 25,000 early retirees for the use of both freestanding and hospital-based birth centers, paying 100% of hospitalization and 80% of physicians' fees.
- Bank of America, which has a a self-insured program administered by Blue Shield of California covering 65,000 employees for the use of nurse/midwife services in hospitals but not freestanding birth centers. The plan covers 100% of hospitalization expenses and 80% of physicians' fees.
- Mervyn's, a California department store chain and a subsidiary of Dayton-Hudson Corp., with a self-insured plan administered by Blue Cross of California covering 11,000 employees for the use of free-standing and hospital-based birth centers. Mervyn's employees are covered for 100% of hospitalization and 90% of medical fees.

Two Mervyn's employees have used San Francisco-area birth centers since the coverage was offered last January, according to Barbara Zane, the company's employee benefits manager. One required a total reimbursement of about $800.

Ms. Zane said she expects use of the centers to increase after the company publicizes the benefit more because about 52% of Mervyn's employees are female.

Lack of rules hurts centers' growth. . .Page 84

Some companies that offer birth center benefits do not consider it a cost-containment move.

"We could get more mileage out of a program to encourage the use of seat belts than we can through the use of maternity centers," said the benefits coordinator for a self-insured, Connecticut-based auto parts manufacturer.

Eastman-Kodak Co., based in Rochester, N.Y., covers birth center charges both through its Blue Cross hospitalization and its Metropolitan medical-surgical plans, but not with the expectation of significant savings.

"(Cost containment) was not the motive. We just thought that if Blue Cross considered (a birth center) an approved facility, we would cover the expense," said Anita Turco, a benefits planning assistant with Kodak.

Insurers have added coverage for birth centers to their policies, either as experimental programs of their own or at the request of policyholders.

In 1980, Blue Cross of New Jersey offered 100% reimbursement on claims from two of the state's freestanding birth centers, the Childbirth Center of Englewood and FamilyBorn of North Brunswick. BCNJ included the coverage automatically for its community group and direct-pay subscribers and offered it as an option to experience-rated groups.

Aetna Life & Casualty Co., which has covered charges from approved birth centers since 1980, was not aware such centers existed until claims from policyholders started coming in, according to Gerhard Schade, director of Aetna's employee benefits division.

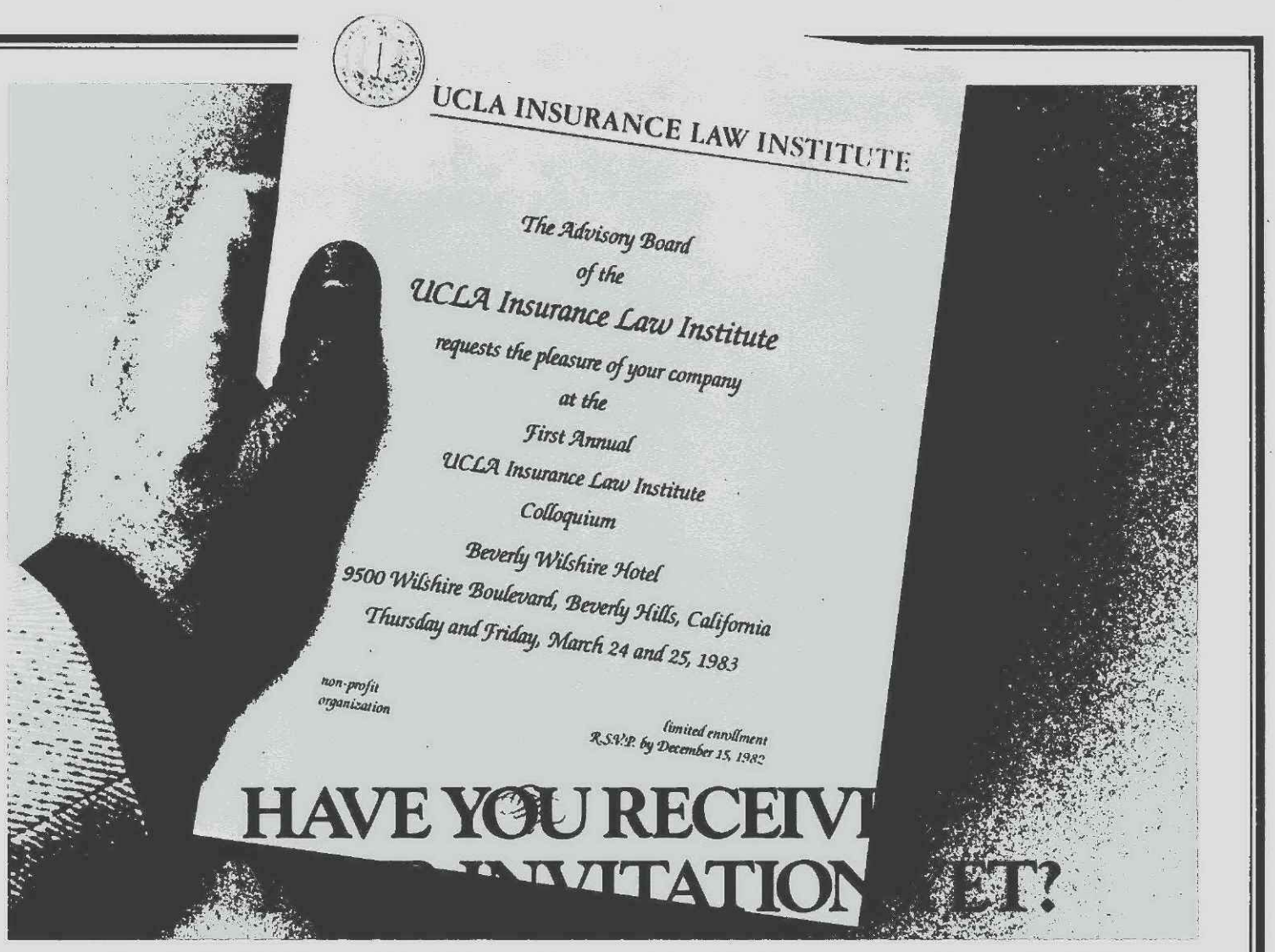
As a result of clients' use of the centers, the company made provisions for their regular coverage, Mr. Schade said.

Supporters see birth centers as the wave of the future, offering not only lower-cost maternity care but also a more natural, home-like setting for birth.

About 100 freestanding birth centers now handle an estimated 10,000 births a year, mainly on the East and West coasts, according to the Cooperative Birth Center Network.

At least 100 more centers operate as clinics within hospitals, says Sandra Perkins, a consultant with the Birth Center Network.

About 200 more birth centers are in various stages of formation, said Ms. Ernst of the Birth Center Network. ■



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Lack of rules hurts birth center movement

CHICAGO—The lack of a single set of standards is hampering the growth of birth centers.

Only six states—Alaska, Kansas, Kentucky, Washington, Oregon and Utah—have passed legislation establishing standards for birth center staffs and services, according to Sandra Perkins, a consultant with the Cooperative Birth Center Network in Perkiomenville, Pa.

Several other states—including Georgia, Hawaii, Ohio, Virginia, West Virginia, Arizona, New Mexico and South Carolina—have similar legislation in draft form, Ms. Perkins said.

In addition, New York licenses birth centers as "diagnostic and treatment centers" and California treats them as "primary care centers."

Where no legislative standards exist, birth centers operate either under interim state licenses, as is the case with centers in Pennsylvania, or without state licensing at all, Ms. Perkins said.

In some cases, this lack of licensing or set standards has prompted insurance companies to refuse to reimburse policyholders for use of the centers.

Two birth centers, one in Warwick, R.I., and another in San Jose, Calif., have closed recently because of reimbursement problems, Ms. Perkins said.

While state legislation is pondered, the setting of standards for the operation of birth centers has largely been left to the centers themselves and the insurers that cover their use.

The Maternity Center Assn.'s Childbearing Center in New York, which has served as a model birth center since its formation in 1975, has strict eligibility requirements for women wishing to enter its program.

> Where no legislative standards exist, birth centers operate either under interim state licenses, as is the case with centers in Pennsylvania, or without state licensing at all, Ms. Perkins says.

Patients who are not accepted into the program include:

- Women who are 35 and older for their first pregnancy or 39 or older for their second through fourth pregnancies.
- Women who need a Caesarean section.
- Women who have a physical illness such as diabetes or heart disease.
- Women who are more than 22 weeks pregnant before joining the program.

The Childbearing Center also rescreens expectant mothers regularly to be sure they are still a low risk for complications during birth.

Most insurance companies that include coverage for birth center charges approve the centers on a case-by-case basis using their own criteria. For Metropolitan Life Insurance Co., these criteria include:

- Some form of approval from government health authorities.
- A staff that includes certified nurse-midwives and at least one obstetrician and one pediatrician on staff.
- Regular prenatal laboratory examinations and regular rescreening to be sure the woman is in the low-risk category, along with follow-up examinations after the delivery.
- A prenatal education program concentrating on nutrition and hygiene.
- Examination of newborns by a pediatrician before release from the birth center.
- Availability of an obstetrician at all times and arrangements for the transfer of expectant mothers to a hospital in case of an emergency during birth.

Aetna Life & Casualty Co. has a similar set of standards, according to Gerhard Schade, director of Aetna's employee benefits division.

The Birth Center Network has lobbied for legislation in Pennsylvania, and has had some success.

The state has passed a bill providing for direct reimbursement of nurse-midwives and has added birth centers to the state's Health Care Facilities Act. These actions have resulted in interim licensing of the centers while operation standards are approved by various state agencies.

Kitty Ernst, the Birth Center Network's director, says that pressure will have to come from the marketplace for legislation to be passed in other states.

If families that want to use a birth center pressure insurance companies to reimburse the charges, pressure will in turn be placed on state governments to adopt standards to regulate the birth centers, she said. ■

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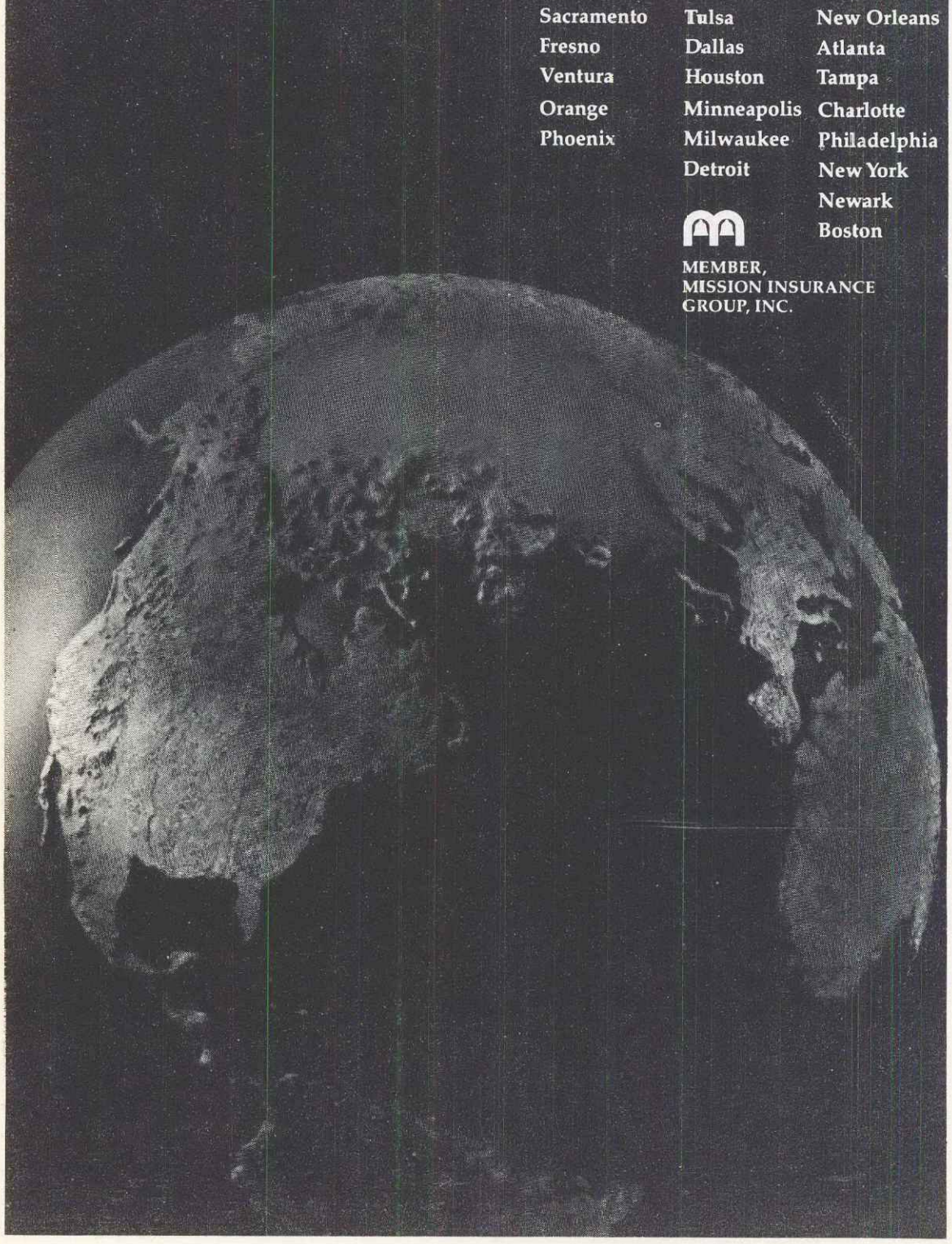

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CBS hopes ship has smooth sailing

Continued from page 2

"We paid $1,000 a day to rent the ship so it didn't make sense to pay $6,000 or $7,000 on a policy in case the ship doesn't get back on time," said Wally Samson, production manager for the film.

"I guess you could say we're self-insuring against getting the vessel back to the East Coast on time," he added.

CBS officials would not divulge what penalties CBS would have to pay if the ship is late coming into its home port.

However, had the ship been unexpectedly damaged on location, a third-party property insurance policy "in excess of $1 million" written by the Fireman's Fund Insurance Cos. would have covered repair costs, said Lindsley Parsons Jr., vp and executive production manager for CBS in Los Angeles.

His insurance broker, Scot Milne of Albert G. Ruben & Co. Inc., however, pointed out that the policy excludes any damage incurred during filming a particular scene, but Mr. Milne said a good film crew will always repair minor damage to property.

Atlantic Schooner also has marine hull insurance to cover the 102-gross-ton ship, which is valued at $500,000, he said. And, CBS has an umbrella liability policy with Fireman's Fund to cover damages to third-party property, said Mr. Parsons.

CBS also has insurance to cover losses if a cast member is injured, delaying the filming, or if film is lost due to technical problems.

Besides transferring its risks, CBS has also been careful to prevent any unnecessary risks during the filming.

A paramedic or registered nurse is present during all filming and the leased ship, named the Scarlet Lady, was repeatedly checked by the U.S. Coast Guard for safety equipment, like life vests.

And just in case there had been a problem aboard the leased ship, CBS had a support vessel riding alongside the Scarlet Lady. The support vessel served as both a backup for the barkentine and a camera boat for scenes filmed on the water.

"All the Sad Young Men," which has a $7 million budget, is based on the true story of four Chicago buddies who find out one of their friends is dying and decide to take him on one last fling—a voyage on the Pacific Ocean in the barkentine, which CBS altered to resemble a pirate ship.

Bell Helmet says it will appeal $3 million liability judgment

Contined from page 2

tional, Bell's parent corporation.

"The helmet's interior polyurethane bead lining cushioned her blow and, miraculously, she did not suffer a skull fracture." At the time, Bell made the only helmet with such a protective lining, said Mr. Galbraith.

At the trial, the plaintiff introduced evidence showing that Bell's Super Magnum helmet failed a time duration test administered by the Department of Transportation in 1976.

Bell took the helmet off the market the following year, according to Leonard L. Finz, the plaintiffs' attorney who represented Ms. Cornier. Mr. Finz is a partner in the New York City law firm of Julien, Schlesinger & Finz and a former New York state Supreme Court justice.

The time duration test, which measures ability to withstand pressure over time, does not measure a helmet's ability to absorb impact, said Mr. Galbraith. The Super Magnum was never denied Transportation Department certification, he stressed.

The motorcycle racing model of helmet worn by Ms. Cornier and Mr. Spagna was replaced with an updated version for marketing purposes that had absolutely no connection with the DOT tests, he added.

"We deal in trying to protect people from internal injuries, but we cannot protect adult individuals who are traveling at reckless speeds," declared Mr. Galbraith, who said the motorcycle riden by Ms. Cornier was traveling at a rate of 40 mph to 60 mph.

"If there was ever a case in which assumption of risk should apply, this is it."

Bell Helmet's product liability insurance is placed with Santana Ltd., a Bermuda-based captive insurer owned by Bell's parent company until Aug. 19 when it was sold, along with football helmet maker Riddell Inc., to a Chicago investor (*BI*, Oct. 4).

Mr. Galbraith said Bell's insurance could cover the claim, but declined to disclose the amount of the company's self-insured retention. The retention may have been in seven figures at the time the Cornier accident occurred, although it is known to be much lower today.

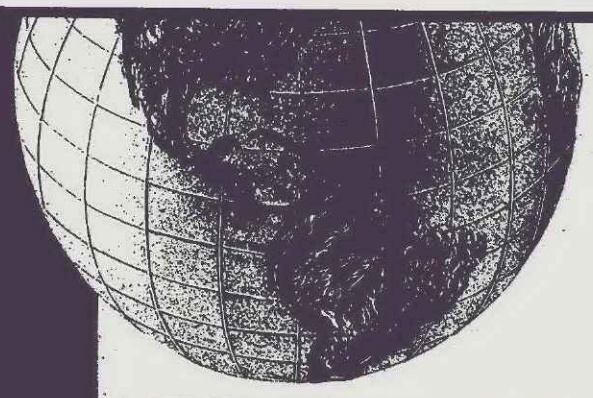
In 1977, INSCO Ltd. participated in Santana's reinsurance but not in the first layer.

"Bell never made a settlement offer in this case," stressed Mr. Galbraith. The helmet maker is defending two or three other suits. It occasionally settles nuisance suits out of court for a couple of thousand dollars.

The largest settlement ever offered by Bell was for $50,000 in a case where where was no evidence to link the claimant's injury to the helmet.

If the case had gone to trial, however, there might have been strong jury sympathy for the plaintiff, who was a quadriplegic.

The award to Ms. Cornier was broken down by jurors as follows: $450,000 for pain and suffering, disability and permanency of injuries; $1.75 million for future medical costs; $450,000 for custodial care; and $350,000 for diminution of future earning capacity. ■



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NAIC model bill criticized

Continued from page 1

The issue of whether a state's definition of product liability or the federal definition prevails when a risk retention group seeks a charter already has surfaced.

The Home Owners Warranty Corp., a national home builders' association, has locked horns with Delaware's insurance commissioner on whether the builder's insurance captive, HOW Insurance Co., is a risk retention group (*EI*, June 28).

Delaware Commissioner David Elliott says the warranty risks that HOW would cover are not product liability risks. He says home builders' exposures for defective products are surety and property exposures under Delaware law.

HOW President Robert Reid and his attorney, Mr. Schwartz, argue that under the Risk Retention Act damage to a product itself is product liability risk rather than just damage caused by a product. HOW and the Delaware commissioner are still negotiating.

The NAIC formed a special task force to clarify this and other potential disputes that could arise when risk retention groups want to begin operations in a state.

"Regulators are in a wonderment as much as the people who drafted the act," said Lyndon Olson, president of the NAIC. "We want to come up with a responsible piece of legislation."

However, NAIC model bills are only advisory. They must be adopted by individual states.

The NAIC's proposed model Product Liability Risk Retention Act, which was publicly aired for the first time at a NAIC meeting in Washington on Oct. 20, is on a fast track. Mr. Olson wants a final bill presented for adoption at the NAIC winter meeting in Dallas Nov. 28-Dec. 2.

This schedule will give manufacturers and other employers only until early November to comment on the NAIC model bill.

Already, though, several other provisions of the model bill are being criticized.

For example, Mr. Schwartz says one section of the bill suggests that a risk retention group must be a regular *commercial* insurance company.

"This is contrary to the intent of the Risk Retention Act, which states a risk retention group must be chartered or licensed as an insurance company and authorized to engage in the business of insurance," Mr. Schwartz said. The federal bill says nothing about commercial insurance.

Mr. Schwartz said when Congress passed the Risk Retention Act, it wanted to encourage the states to pass laws, like Vermont's captive law, that would make it easier for captives and risk retention groups to form. They were to be treated differently than multiline commercial insurance companies.

Mr. Schwartz says the NAIC ought to redraft the model bill to delete any reference to state product liability laws and to make it clear that the states do have the power to enact special captive insurance company laws that also would apply to risk retention groups.

The NAIC model bill is also criticized because it proposes that every policy an insurance agent places with a risk retention group should carry the warning in "not less than 10-point bold red type" that risk retention groups are not protected by a state's guaranty fund.

Mr. Schwartz said under the Risk Retention Act, states could only require such a warning if similar warnings also are required for other kinds of insurance policies.

Since all states do not require a "no guaranty fund" warning to be placed on excess/surplus lines policies, such a warning would discriminate against risk retention groups, a violation of the 1981 federal law, Mr. Schwartz said.

The NAIC model bill also would require agents, brokers and management firms to report to a state insurance commissioner "the activities and scope of services" they provide to risk retention groups.

Under the Risk Retention Act, a risk retention group—not its broker, agent or management firm—must submit its product liability loss experience and financial reports to the state insurance commissioner where it is domiciled.

"That job (of providing information) is simply not one properly allocable to the insurance agents or brokers," Mr. Schwartz said.

Other portions of the NAIC bill merely repeat provisions of the federal law that Congress passed in 1981 to make it easier for manufacturers and wholesalers to set up captives to insure their product liability exposures.

The act allows companies that receive an insurance charter in Bermuda, the Cayman Islands or any state to operate as a risk retention group as long as they meet the insurance capitalization requirements of at least one domestic state.

As risk retention groups, these companies can serve members in all states without being licensed in every state or having to use fronting insurers to avoid run-ins with state regulators.

To date, only the Home Owners Warranty Corp. says it has formed a risk retention group. The National Assn. of Wholesaler-Distributors also has been trying to form a group. While the wholesalers originally wanted to make Bermuda their domicile (*BI*, Jan. 25), they now are considering setting up the group in Vermont, sources said.

Interest in tapping the law to form risk retention groups, which can only cover member-owners' risks and not write business for the public, will increase when the commercial insurance market tightens, observers say.

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Comments on the NAIC's Model Product Liability Risk Retention Act should be mailed as soon as possible to Beth Kravetz, Washington Counsel, National Assn. of Insurance Commissioners, 1700 K St. N.W., Washington, D.C. 20006. 202-822-9544.

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Firms share larger slice of profits

By SALLIE J. DRURY

Employers contributed slightly more to profit-sharing plans in 1981 as a percent of their profit but contributions continued to decline as a percent of their employees' pay, evidence of the recession's impact on business.

These are the highlights of the "1982 Profit Sharing Survey" based on 1981 experience, compiled by Hewitt Associates in Lincolnshire, Ill., and the Profit Sharing Council of America in Chicago.

"Employers may contribute more as a percent of profit," said Walter Holan, president of the Profit Sharing Council, "but when profits are zero, a higher percent of them is still zero."

Plan contributions for the companies surveyed averaged 23.2% of net profits in 1981, up from 22.9% in 1980. However, only 9.2% of 1981 employee pay was contributed to the plans, down from 9.5% in 1980 and 9.8% in 1979.

The survey also found that smaller companies continue to contribute more, as a percent of both pay and profits, to profit-sharing plans than do larger companies, perhaps an indication that more and more small businesses are opting for profit-sharing plans over pension plans.

Companies with fewer than 99 plan participants contributed 29.2% of their 1981 net profits to profit sharing plans, compared with a 27.8% rate of contribution from 1980 profits. In contrast, companies with more than 5,000 participants contributed 10.5% of their 1981 net profits, compared with 11.4%.

The report surveyed 521 companies, three-fourths of which have fewer than 500 profit-sharing plan participants. Profit-sharing was the only retirement vehicle for 70% of the surveyed companies.

Sixty-one percent of surveyed plans allowed employee contributions, down from 62% in 1980. Of these, 84% allowed deposits on a voluntary basis, 10% required a specific deposit and permitted voluntary contributions and 6% had mandatory contributions only.

The wholesale and retail trade industry contributed the smallest percentage of employee pay to profit-sharing plans (7.8%). The finance, insurance and real estate group had the largest average employer contribution (10.5%).

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Copies of the report "1982 Profit Sharing Survey (1981 Experience)" are available to Profit Sharing Council of America members for $5 and to non-members for $7.50 each. To order, write PSCA, Suite 722, 20 N. Wacker Dr., Chicago, Ill. 60606 or 312-372-3411.

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EMPLOYEE BENEFITS: PERSONNEL ADMINISTRATION	SEP 27	Sep 14
	OCT 4	Sep 22
FINANCIAL SERVICES: FOR CAPTIVES & SELF-INSURERS	OCT 11	Sep 28
Employee Benefits Board Survey	OCT 18	Oct 6
REINSURANCE: NAII Conference	OCT 25	Oct 12
	NOV 1	Oct 20
NEW ENGLAND MARKET REPORT	NOV 8	Oct 26
Risk Management Board Survey	NOV 15	Nov 3
INTERNATIONAL INSURANCE	**NOV 22**	Nov 9
	NOV 29	Nov 17
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EMPLOYEE BENEFITS IN RETROSPECT	DEC 13	Nov 30
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Buyers, brokers criticize proposed CGL form

Continued from page 2

currence coverages with non-occurrence primary coverage policy forms.

"The result: (1) gaps in coverage and unpaid claims, (2) umbrellas forced to drop down to pay claims in the working liability layer, (3) chaos in rating and (4) continued litigation."

"While we sympathize with ISO's objectives in attempting to update and simplify the existing CGL form, we are convinced that the proposed changes go much too far and will not be found acceptable to many insurance buyers.

"ISO's well-intentioned proposal is tantamount to suggesting the demolition of a whole building just because there's a problem on the top floor that needs fixing," the NAIB adds.

The problem, as ISO sees it, is insurers' liability for long-latent injuries caused by products. Its new forms are designed to eliminate claims against policies years after they are expired and to cap insurers' liabilities down the road with an aggregate limit.

The Risk & Insurance Management Society, however, concluded in its analysis that the new policy "seems to substitute uncertainty for certainty in several major areas."

In an Oct. 11 memo to all RIMS members, the members of a RIMS-ISO liaison committee said, "RIMS believes that this form will surely bring about additional litigation, both between insured and insurer and insurers themselves.

"RIMS has concluded that it has strong reservations to the new forms as submitted by ISO at this time."

The Society of Chartered Property & Casualty Underwriters also responded to ISO's open request for comment on its proposed revision of the comprehensive general liability policy form.

In a very detailed analysis, CPCU repeatedly points out specific provisions of the new policy form that would be detrimental to buyers.

ISO unveiled drafts of two policy forms in early July with controversial new provisions for "triggering" coverage (*BI*, July 12). One form includes a claims-made trigger and the other a claims-discovered, or first-discovery, trigger. Most CGL policies are now written on an occurrence basis.

The exposure draft was published by *Business Insurance* on July 26 and ISO's executive summary of the draft's provisions appeared in the Aug. 30 issue.

If ultimately adopted by ISO, the drafts would be the first major revision of the CGL form since 1973. It would be a major weapon in the insurance industry's battle to pin down coverage to carefully defined time periods and aggregate limits in the hope of curbing potential billion-dollar, long-term losses from unrealized new product risks and latent injuries.

RIMS, PRIMA, the NAIB and CPCU all argue that the present occurrence-based trigger for CGL coverage is clearly the most favorable to insurance buyers.

Instead of replacing that trigger with others less favorable to buyers, ISO should instead "modernize, simplify and consolidate" the present occurrence-based form, the NAIB suggested.

Ninety-five percent of all CGL claims are appropriately handled by an occurrence-based policy, says the NAIB, "so why discard the entire policy and its supporting statistical plan when the problem is with the other 5%?"

The CPCU statement argues that introducing the two new coverage triggers—claims-made and first-discovery—will cause confusion in the marketplace.

"We would prefer a single standard policy rather than a choice of three, since the wrong choice can be detrimental to the insured in the distant future," says the CPCU statement. "Many insurance buyers are too unsophisticated to make the prudent decision on this point."

The RIMS liaison committee says the proposed form and the alternate trigger wordings are easier to read than the current policy, but are a good deal more difficult to understand and "will be almost impossible to implement." The panel says insurer efforts to eliminate or minimize long-term, unforseen losses would be better accomplished by modifying the occurrence-based form.

PRIMA is so firm in its belief that an occurrence-based CGL policy is the only one that is fair to buyers that it even suggests insurers increase prices on the current CGL occurrence-based coverages to cover bad loss experience "rather than market what many see as an inferior product."

PRIMA says it would be better for risk managers to obtain broad coverage at somewhat higher cost than coverage "riddled with time limits and aggregates" that cause constant worry.

There was no consensus among the buyer and industry groups on which of the two proposed new forms—claims made or first discovery—they would prefer if forced to choose one.

RIMS said claims-made, CPCU chose first-discovery and PRIMA and NAIB did not make a recommendation.

PRIMA says the concept of first-discovery seems to make the insured's coverage contingent on the claimant's level of awareness when the injury or damage was first discovered—in other words, the coverage is triggered at a certain point in time.

By contrast, PRIMA says, an earlier revision of the CGL policy defined occurrence as a continuous or repeated exposure to conditions, implying a recognition that some injuries or damages don't happen suddenly.

"The new proposal seems to return coverage to the old 'accident' concept while continuing to say 'occurrence,'" PRIMA says.

RIMS said the first-discovery trigger concept would add to the record-keeping burdens of risk managers and make loss control more difficult.

Besides the contoversy over what would trigger coverage, the groups responding to ISO's proposal also were very critical of the new proposed aggregate limits.

Both the claims-made and first-discovery forms invoke a definite aggregate limit intended to supersede all other per-occurrence or per-person aggregates to cap insurers' ultimate losses.

CPCU says the language specifying the various limits underneath the aggregate limit is confusing and could possibly lead to "adverse judicial interpretation."

"There are occurrence limits, aggregate limits, different aggregate limits for different exposures, per-person limits, a limit for fire damage, a limit for medical expense, etc., etc.," the CPCU quotes one of its members as commenting. "And most of them interrelate one way or another."

PRIMA says the forms take a step backward by splitting up the single aggregate limit into separate pieces for various exposures like personal injury, medical and products "instead of letting the insured use the general aggregate limits whenever needed in a loss."

This would result, PRIMA says, in the insured playing "coverage roulette—trying to guess the right spot to place adequate coverage limits."

RIMS says a single aggregate limit would shift the burden of incurred-but-not-discovered losses to the policyholder, whose coverage ends at the end of the policy year or at the end of an optional three-year extension period.

"In addition, an umbrella policy could be caused to step down and become a primary claims handler in cases of early exhaustion of the aggregate," the RIMS review adds.

PRIMA and the CPCU also attacked the extended coverage provision of the new CGL policy, which they say puts the buyer at a disadvantage.

The provision allows the policyholder to purchase extended coverage after the basic policy term expires to provide for the discovery or filing of claims from injuries that were incurred during the policy term but not discovered or reported then.

Under the ISO proposals, the insurer would be obligated to offer such "tail coverage" only to policyholders it decides to cancel or fails to renew—not to the buyer who decides to abandon the insurer. If the policyholder is behind in paying premiums, however, the insurer doesn't have to offer the tail coverage at all.

The coverage would be offered

Continued on page 90

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Grants to train health care policymakers

By CAROL CAIN

PHILADELPHIA—A charitable trust is investing almost $12 million to train future leaders in the health care and the health policy fields.

The Pew Memorial Trust has awarded five grants to universities and think tanks "to stimulate development of leadership needed to address the critical health policy issues the nation in now facing," said Brent Roehrs, health resources evaluator at The Glenmede Trust Co., trustee of the Pew Memorial Trust and the other Pew funds.

Training in health policy and health policy management is especially important for those who make decisions concerning Medicare and Medicaid and those who set health care reimbursement levels, Mr. Roehrs said.

The programs that will be funded by the Pew grants draw on a variety of academic disciplines including public administration, law, economics, biomedical sciences, ethics, sociology, political science and management.

The institutions receiving the grants, which are to be paid over a five-year period that began earlier this year, are:

- Boston University and Brandeis University of Waltham, Mass., which are receiving $3 million for a joint project.
- The Rand Corp. of Santa Monica, Calif., and the University of California at Los Angeles, which are also receiving $3 million for a joint project.
- The University of California at San Francisco, which is receiving $3 million.
- The University of Michigan in Ann Arbor, which is receiving $1.5 million.
- The American Enterprise Institute in Washington, D.C., which is receiving $1.25 million.

The Pew Memorial Trust originally invited 20 universities and freestanding think tanks to submit proposals to develop educational programs and advanced training in the broad fields of health policy and health policy management, Mr. Roehrs said.

The projects that were finally selected will include fellowships, courses and seminars aimed at senior and mid-level managers from business and government.

At the University of Michigan, for example, the grant will be used for the development of a doctoral training program that will focus on health policy development, design, implementation, management and analysis, said S.E. Berki, chairman of the university's department of medical care organization and administration.

The first class will be held by fall 1984, Mr. Berki said. The program could produce corporate benefit managers, insurance company officers, staff members for congressional committees dealing with health care policies and managers in the health care industry itself.

The joint program at Boston and Brandeis universities not only will lead to research into health care policy, but may also result in a master's program in benefits.

The universities are scheduled to open the program with a week-long program for corporate employee benefits and human resources personnel in April.

One of three programs to be developed by Rand Corp. and UCLA will be aimed at people "already in influential positions in the health policy process," said Allyson Ross Davies, associate director of the Rand-UCLA Center for Health Policy Studies, which was created in August as part of the proposal funded by the Pew grant.

The Rand-UCLA career development program, beginning next fall, will award three four-year stipends to candidates to better understand health policy analysis, she said.

The Rand-UCLA projects also include a health policy workshop series for medical students and five three-year doctoral fellowships.

The workshop series will expose medical students during their early training "to policies in the health care field," Ms. Davies said.

At the University of California at San Francisco, a post-doctoral program is being prepared for sociologists, economists, political scientists and physicians.

A health policy research program, a health policy management program and an enrichment series for graduate students is being developed this fall.

"We will be training people that industry can draw on," said Dr. Philip Lee, director of the Institute of Health Policy Studies at the university.

The smallest of the grants awarded by the Pew Foundation was awarded to the American Enterprise Institute, a non-profit research organization that has worked in public policy areas since 1943.

AEI proposed to hold seminars in several states for health care providers, insurers and university students, said Patricia Samors, a research associate at the institute.

The grant will also be used to continue an analysis of the Medicaid program at the state level.

All together, there are seven Pew charitable trusts that have been established in the past 30 years by the Pew family. The Pew Memorial Trust, with market-value assets of about $1 billion, is the oldest and largest. It was established in 1948 as the Pew Memorial Foundation, created in the memory of Joseph N. Pew, founder of Sun Oil Co., and his wife, Mary Anderson Pew, by their children.

The trusts are used to support charitable organizations and research in education, economics, defense, foreign policy, human services, religion, health care, conservation, arts and humanities. ■

Countries pose great credit risks

NEW YORK—Companies doing business with commercial firms in Argentina, El Salvador, Libya and Nigeria beware.

There is a "very high" risk of non-payment when dealing with companies in those countries, according to Frost & Sullivan, political risk analysts.

In addition, companies doing business with the government in Bolivia, El Salvador and Libya also run a "very high" risk of non-payment, F&S says.

The countries in which there is a "high" risk that companies won't pay debts are Algeria, Bolivia, Colombia, Costa Rica, Dominican Republic, Egypt, Iran, Jamaica, Nicaragua, Pakistan, Tunisia, Turkey, Yugoslavia, Zaire and Zambia.

The governments that have a high risk of non-payment are Argentina, Costa Rica, Dominican Republic, Iran, Israel, Nicaragua, Nigeria, Pakistan, Romania, Yugoslavia, Zaire, Zambia and Zimbabwe. ■

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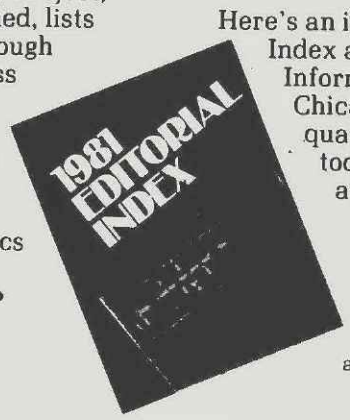

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CPCU outlines objections to CGL proposal

Continued from page 88
for a fixed term of three years and the insurer would be free to offer it at whatever price it liked.

Moreover, the insurer would only have to offer the coverage to the "insured first named" on the policy and not necessarily to additional insureds or to other named insureds.

CPCU says, "The pricing mechanism for the purchase of this option should be expressly stated in the form so that insurers cannot evade their duty to make coverage available by making it unaffordable."

CPCU recommends that the coverage be made available to more than the first named insured and suggests that a three-year period is too short for the development of most incurred-but-not-reported claims.

The PRIMA committee, chaired by Don LeMond, risk and insurance manager for the state of Missouri, also commented on other specific sections of the proposed policy. One of these areas is the form's exclusion of coverage for gradual pollution.

"In current CGL forms sudden and accidental pollution is covered: gradual pollution is not," PRIMA says. "In the proposed policies 'sudden' is covered only if the resultant injury or damage is 'immediate.' How soon is immediate?

"Most release into the air or water has to travel to someone's person or property in order to generate a claim. It isn't instantaneous or immediate. Sudden and accidental coverage, therefore, is virtually eliminated."

ISO officials take issue with this interpretation of the proposed forms. ISO says the policies do not require that all covered injuries be immediate in nature. The exclusion requires that some immediate bodily injury or property damage occur as a result of the polluting incident. Once that has occurred ISO says, claims for delayed injury or property damage related to the same incident would be covered.

On another point, PRIMA says the draft policy limits the definition of third-party "damages" to loss of use of tangible property that has been physically injured. The current CGL form, PRIMA says, covers loss of use without physical injury.

"A business cut off by a street excavation may not be physically injured but it would definitely suffer monetary damages from loss of use or access," the PRIMA review panel says.

"Such reductions in coverage are undesirable and will probably serve to further erode the insurance industry's position and increase the need and desirability of self-funding, pools and captives."

CPCU's response to ISO was 18 pages long, divided into specific comments on each of the major sections in the exposure drafts.

To come up with its recommendations, CPCU officials collated and summarized 109 responses received from a sample of 231 key members of the 13,700-member professional organization.

CPCU specifically criticizes:

- The insuring agreement clause of the proposed basic contract. It uses the phrase "insured first named." In other places, however, the contract talks about "insured," "named insured," "persons insured" and "first named insured." In the Coverage A—Liability section, the contract provides defense costs for "persons insured" but provides indemnity for "insureds."

"It appears that *persons insured* may have more rights than *insureds*," says the CPCU summary, "but we could not ascertain the distinction."

Overall, the contracts need to spell out in detail the definitions and distinctions among the various terms and specify whether a *person insured* refers to a natural person or to a corporation as well—which is considered a person under common law.

Such distinctions are key issues in the insurance coverage litigation arising from the collapse of the skywalks at the Kansas City Hyatt Regency Hotel (*BI*, Oct. 18).

- The definition of "covered bodily injury." CPCU recommends modifying a sentence that reads: "Discovery of the injury must take place during the policy term." To that sentence should be added the phrase "or any extended discovery period which applies to this policy," the group says.

CPCU also recommends modification of the next sentence, which reads: "Discovery means discovery by the person who sustains the injury, unless that person is unable to tell of the injury." Does this mean, CPCU asks, that the injured party "is not aware of the injury or is aware but unable to tell anyone about it?"

- The definition in Section 6 of "Covered Fire Damage." CPCU recommends including coverage for premises *leased* to the named insured, not just premises rented or loaned.
- An apparent new exclusion to the list of offenses covered by the present CGL policy. Section 7 of the proposed policy denies coverage for "an offense directly or indirectly related to the employment of a person by the named insured." This would appear to exclude coverage for suits alleging sexual or racial discrimination in hiring or promotion.

"We strongly oppose the deletion in coverage that is afforded in the present forms," says the CPCU statement.

Current CGL language also covers liability for "wrongful entry or action or other invasion of the right of private occupancy," a phrase which the CPCU says has been interpreted to afford coverage for discriminatory rental practices by landlords. The new language affords coverage for "wrongful entry into or eviction of a person from a room, dwelling or premises which the person occupies," but says nothing about a right of private occupancy.

- A quirk in the language of the proposed first-discovery trigger for medical payments coverage. CPCU says it infers that an insured must be proved liable for bodily injuries before medical payments involving such injuries will be paid. CPCU says this is so despite a sentence in the medical payments clause that reads: "Payments will be made regardless of fault."

CPCU says the proposed policy also does not "address situations such as medical expenses of club members if the insured is a club, or guests of hotels or motels. Will the rating class trigger the inclusion of an appropriate endorsement?"

- Several references to rating manuals. "We recommend deletion of the phrase 'in our manual,' unless the insurer contemplates furnishing all insureds with its manual."
- The claims-made policy specifies three triggers of coverage but does not specify which will control. The three triggers are when a suit is brought; when the insurer receives a notice of claim; and when the insured receives a notice of claim. Leaving the choice open might produce coverage disputes, CPCU says.

"We recommend rewording of this passage to establish that the event with the earliest date shall determine the date the claim is 'made.'"

- The definitions of products and completed operations. ISO should define what is meant by a job "site" and clarify when work on a site has been "completed." Both such concepts, CPCU says, are subject to judicial interpretation unless more fully defined.
- The conditions setting out the duties of the insured. The proposed policy now says, "You must not, except at your own cost, admit liability or make any payment, other than for first aid, without our consent."

CPCU says this has the effect of obligating the insurer to pay first-aid claims, something which currently is only covered by a supplementary payments endorsement. The CPCU also questions language that appears to give the insurer the right to require a physical examination for a policyholder's employee.

"This is a contract between first and second parties containing a condition that obligates third parties to do something," the CPCU comments.

Once finalized by ISO, the policy form and rating bureau financed by 650 insurers, the proposed CGL policy would become the basic contract used by most insurers in writing comprehensive general liability insurance. The terms could be modified by endorsements.

ISO predicts it could take years however, before the proposed form is filed and recognized in all jurisdictions.

However, the negative reaction in the marketplace to the new form, which was drafted without insurance-buyer input, also could delay its use.

OSHA sets goals for new fiscal year

WASHINGTON—The Occupational Health and Safety Administration has drafted 14 objectives that it hopes to fulfill during the new federal fiscal year, which began Oct. 1.

"Our overall agency goal is to provide leadership and assistance for the improvement of workplace safety and health conditions through a comprehensive program of government and private-sector activities," said Thorne G. Auchter, an assistant secretary of labor and head of OSHA.

"That's a very broad goal, however, and the only way we can hope to achieve it is by breaking it down into more concrete objectives —subgoals the agency intends to reach in 1983," he added.

The 14 guidelines, developed by an executive task force with input from senior OSHA managers, fall into six major categories: management, employer/employee assistance, state programs, compliance, federal agencies and standards.

The objectives dealing with management are:

- To deliver the full range of OSHA's safety and health services and information.
- To improve the use of data to help manage the agency and support its balanced approach to safety and health.
- To begin to implement the Integrated Management Information System—a data base that includes both state and federal inspection data—to improve the overall operations of OSHA.
- To ensure that all OSHA personnel have the essential awareness, knowledge and abilities required to effectively perform their duties.
- To exercise general management functions and tasks to link planning, execution and evaluation of all efforts to OSHA's mission; to establish accountability; and to communicate all essential policy and program information in a timely way to OSHA employees.

Under the employer/employee assistance category, OSHA hopes:

- To improve OSHA-funded onsite consultation services.
- To expand the employer/employee assistance program with particular emphasis on the needs of new workers.
- To promote participation in voluntary protection programs.

In the category of state programs OSHA proposes:

- To revise the system of monitoring states' performance.
- To begin resolving the issue of states issuing standards that differ from federal standards.
- To grant final approval to effective state programs.

There is only one objective in each of the three other categories—compliance, federal agencies and standards. They are:

- Compliance—To refine and expand the use of targeting mechanisms to improve effective use of field resources.
- Federal agencies—To develop and implement a program of OSHA assistance that will assure a safe and healthful workplace for federal employees.
- Standards—To develop improved standards to reduce injuries and illnesses in the workplace.

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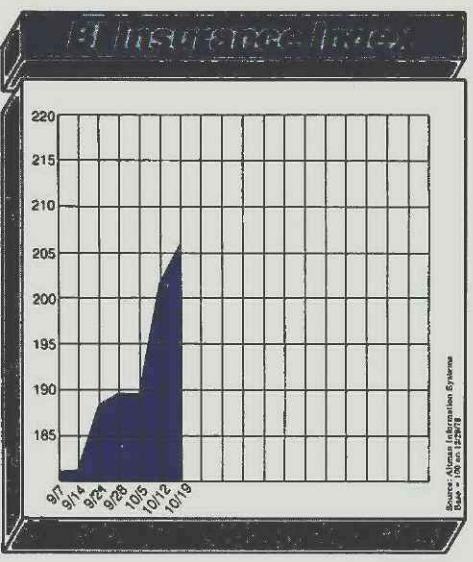


Insurance industry stocks continued their climb during the week ending Oct. 19 as the *Business Insurance* index rose 4.1 points to set a record high of 205.9, up from the previous record of 201.8. Thirty-eight stocks gained, 18 closed down and 12 were unchanged. The leading gainers were American Bankers Insurance Group, 13.1%; Preferred Risk Life Insurance Co., 12.0%; United Services Life Insurance Co., 11.6%; Integrated Resources Inc., 11.0%; and Zenith National Insurance Corp., 10.2%. The largest declines were reported by Chubb Corp., 6.5%; Northwestern National Life Insurance Co., 5.8%; Great West Life Assurance Co., 5.3%; Kemper Corp., 3.6%; and American International Group Inc., 3.1%.

British Issues

19 Oct Companies	Price pence	P/E	Div. pence	Yield %	1 Week High—Low pence pence
Comml Union	140	14.7	16.86	12.0	140—134
Eagle Star	330	11.8	21.43	6.5	330—307
Genl Accident	352	13.0	23.21	6.6	352—307
Gdn Royal Exch	392	9.9	25.00	6.4	392—362
Phoenix	306	11.8	24.00	7.8	306—292
Royal	467	12.6	36.07	7.7	467—435
Sun Alliance	950	13.6	61.43	6.5	950—885
Brokers					
CE Heath	363	9.9	18.71	5.2	368—360
Hogg Robinson	112	8.6	8.57	7.7	113—110
JH Minet	139	11.6	5.43	3.9	143—135
Sedg Grp	219	12.5	8.57	3.9	219—203
Stenhouse Hldg	103	9.1	7.28	7.1	103— 98
Stew Wrightson	255	9.1	18.57	7.3	255—240
Willis Faber	543	13.6	21.43	3.9	543—500

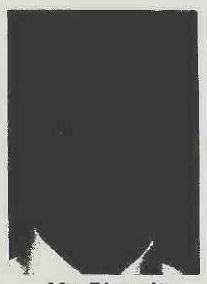
Source: Philip Olsen/Alan Clifton, Insurance Industry Specialists Kitcat & Aitken Stockbrokers, London

Insurers' balance sheet gains aren't as good as they look

By MYRON M. PICOULT

Special to Business Insurance

THE RELATIVELY strong performance by property/casualty insurance stocks in recent weeks has been related more to an improved perception about the holding of a financial asset than to any improvement in the industry's operating fundamentals. After all, the insurance industry is a major holder of financial assets.



Mr. Picoult

At the moment, it appears that the integrity of the industry's balance sheet has improved. For some companies, however, the improvement may be more apparent than real.

With few exceptions, industry observers have spent the bulk of their time reviewing income statements and the likely time frame for the bottoming of the current competitive underwriting cycle. What is to be noted from the industry's recent stock market performance is that the asset side of the balance sheet is interest rate-sensitive and the liability side is inflation-sensitive.

Hence, a closer perusal of the industry's balance sheet seems to be in order.

The asset side of the ledger is composed mainly of bonds, which were well below market value—as much as 30% to 35%—when interest rates were at peak levels. As interest rates declined, the value of the bonds improved.

As a general rule of thumb, it is assumed that insurers are rarely forced to sell their bonds. Since the bonds are normally held to maturity, they are carried at amortized cost as opposed to being valued at the current market price.

Two factors should be noted here. Given a marked and sustained reduction in inflationary pressures, it is conceivable for some bonds to sell at a premium. In addition, the purchasing power of maturing funds in not eroded as rapidly when the rate of inflation is relatively low. Hence, the industry's overall asset base appears to be healthier.

The major component of the liability side of the balance sheet is, of course, loss reserves, including loss adjustment expense reserves.

With the rising inflation rate, the probability that loss reserves were understated is primarily based on past trend factors using a one-to-five-year time frame. With the decelerating rate of inflation, the hope is that reserves may be less deficient, more accurate or even become redundant. We suspect the first of these will be the case.

Some observers have recently postulated that if the asset side of the balance sheet has improved and the liability side is also stronger, then the property/casualty insurance industry's capital position may be even better than what is stated on the ledger. Hence, a return to rational pricing of coverage may be delayed even further.

If, in fact, both sides of the balance sheet have improved, then the equity figure has increased. If earnings decline next year as expected, returns on equity will decrease.

It seems somewhat incongruous that companies would be more willing to endure a soft pricing environment on one hand, but allow their returns on equity to decline even farther.

The magnitude of the underwriting losses currently being sustained by the property/casualty industry, the outlook for even wider losses in 1983 and the prospect of red ink in underwriting accounts for several additional years, all based on very reasonable inflation expectations, create a problem with the companies' operating cash flows. Some companies are already on the verge of having negative cash flow. The sale of stocks and bonds could forestall the day of reckoning of some underwriters, but it seems inevitable.

If an underwriter were forced to liquidate bonds, logic implies that the first ones to be sold would be the higher-yielding issues, which presumably would be the most marketable. This would also have the greatest impact on investment growth.

Likewise, the sale of common equities and the use of those funds to cover losses eat even more deeply into the investment base. It is a game of self-destruction, which will have an ominous ending.

One final note about the balance sheet—specifically, its integrity. As we have noted previously, some companies are in the process of developing underwriting losses of such magnitude that all available deferred tax liabilities and carry-back provisions will be utilized in the next few years. A few underwriters are almost in this situation already. Hence, the loss carry forwards would have to be set up on the asset side of the balance sheet.

The new tax law provides for a five-year carry back and a 15-year carry forward on losses. From our perspective, this seems to besmirch the quality of the balance sheet as the value of these carry forwards in future years may diminish.

This concern played a part in the recently proposed merger between Xerox Corp. and Crum & Forster. While Crum & Forster is not currently in a position in which it could not make effective use of any underwriting losses, the possibility existed. Hence, the taxable income of Xerox provided a haven for prospective underwriting losses if the current industry-pricing conditions persist for several more years.

We suspect that much attention will be paid to the industry's tax position over the next several quarters. The implications of the merger between Crum & Forster and Xerox may be more far-reaching than is currently perceived with respect to a quick and sane return to adequate rates.

Then again, we may be seeing just the tip of the merger iceberg. Property/casualty companies are not cash cows; they are generators of cash flow. ■

Myron M. Picoult is a vp and senior insurance analyst with Oppenheimer & Co. in New York. He is the past president of the Assn. of Insurance & Financial Analysts and a member of the New York Society of Security Analysts. His column for Business Insurance appears the fourth Monday of every month.

BI ticker

Financial briefs

Reliance

Reliance Insurance Co. has declared a quarterly dividend of 67 cents per share of Series A preferred stock, payable Jan. 1 to shareholders of record Dec. 15.

Northwestern National Life

Northwestern National Life Insurance Co. has declared a quarterly dividend of 37.5 cents per share of common stock, payable Nov. 12 to shareholders of record Oct. 25.

Swiss Re

Swiss Reinsurance Co. of Zurich reported improved earnings for 1981 despite underwriting losses.

The company posted net earnings of 80.2 million Swiss francs (approximately $37.5 million), compared with earnings of 76.2 million Swiss francs ($35.7 million) in 1980.

The company's annual report said that earnings from its reinsurance business slackened but that investment income rose for the third consecutive year. Net premium volume increased only 1.8% in 1981, compared with an 11.2% hike in 1980.

American Family

American Family Corp. has declared quarterly dividends of 15 cents per share of common stock and 22.5 cents per share of Nonvoting Cumulative preferred stock. Both dividends will be paid Dec. 1 to shareholders of record Nov. 12. ■

BI Industry Stock Report

OCT. 19, 1982 — 10/13/82 THRU 10/19/82

Insurance Cos.		Price	% Chg	P E	S Div	% Yld	High	Low	Vol (000)
Aetna Life & Cas Co	NYSE	42.25	1.5	6.8	2.52	6.0	42.25	40.75	1,349.2
American Bankers Ins Group	OTC	11.88	13.1	8.9	0.48	4.0	12.00*	10.63	402.0
American Gen Ins Co	NYSE	46.00	3.7	6.3	2.20	4.8	46.00*	44.75	121.6
American Indty Finl Corp	OTC	16.63	-2.2	12.8	1.12	6.7	16.75	16.50	15.0
American Intl Group Inc	OTC	77.75	-3.1	11.9	0.48	0.6	80.00	77.75	209.4
American Natl Ins Co	OTC	16.00	4.1	6.8	0.76	4.8	16.00	15.38	38.3
American Sts Life Ins Co	OTC	16.50	-2.9	5.3	0.80	4.8	17.00	16.50	7.2
Aneco Reins Ltd	OTC	2.75	0.0	0.0	0.00	0.0	2.75	2.75	7.2
Avemco Corp	AMEX	12.25	-3.0	7.7	0.54	4.4	12.25	12.13	10.4
Banks Iowa Inc	OTC	40.50	1.2	7.7	1.48	3.7	40.50	40.00	8.9
Bitco Corp	OTC	33.00	-1.5	5.1	1.92	5.8	33.50	33.00	6.4
Carolina Cas Ins Co	OTC	6.50	-1.9	6.4	0.32	4.9	6.63	6.50	0.0
Chubb Corp	OTC	47.13	-6.5	7.5	2.92	6.2	50.25	47.13	842.9
Combined Intl Corp	NYSE	27.25	5.8	7.8	2.00	7.3	27.50*	26.25	599.7
Continental Corp	NYSE	29.88	4.8	9.0	2.60	8.7	29.88*	28.50	450.7
Crawford & Co	OTC	15.25	0.0	11.1	0.56	3.7	15.50	15.25	52.2
Crown Life Ins Co	OTC	80.00	6.7	5.2	3.10	3.9	80.00	80.00	0.5
Crum & Forster	NYSE	50.00	2.8	9.7	1.76	3.5	50.13*	48.63	1,287.0
Employers Cas Co	OTC	29.25	0.0	12.9	1.20	4.1	29.25	29.00	3.1
Equifax Inc	NYSE	20.50	1.9	11.6	1.30	6.3	21.00*	20.50	47.5
Excelsior Ins Co	OTC	11.25	0.0	0.0	0.70	6.2	11.25	11.25	0.1
Farmers Group Inc	OTC	38.25	0.3	10.7	1.24	3.2	38.50*	37.75	288.3
Foremost Corp Amer	OTC	33.00	-1.5	9.8	1.12	3.4	33.50	33.00	184.7
Great West Life Assurn Co	OTC	180.00	-5.3	14.7	10.00	5.6	180.00	180.00	0.5
Hanover Ins Co	OTC	35.75	-0.7	4.9	0.88	2.5	35.75	35.25	18.7
Hartford Steam Boiler Insptn	OTC	42.00	4.3	8.3	2.80	6.7	42.00	40.75	9.4
Jefferson Natl Life Ins Co	OTC	40.00	2.6	11.1	0.76	1.9	40.00	39.50	7.7
Kemper Corp	OTC	33.88	-3.6	6.0	1.80	5.3	34.75	33.50	73.2
Lincoln Natl Corp Ind	NYSE	43.50	3.0	7.5	3.00	6.9	43.50	41.00	131.5
Mission Ins Group Inc	NYSE	27.75	7.2	6.4	0.80	2.9	27.75*	26.50	69.8
Nationwide Corp Ohio	OTC	25.25	0.0	7.2	0.70	2.8	25.25	25.25	1.0
Northwestern Natl Life Ins	OTC	26.50	-5.8	5.8	1.50	5.7	27.63	26.50	53.9
Ohio Cas Corp	OTC	44.25	-2.2	8.1	2.36	5.3	44.25	42.25	136.6
Old Rep Intl Corp	OTC	20.75	4.4	4.8	0.92	4.4	20.75*	19.88	509.4
Preferred Risk Life Ins Co	OTC	24.50	12.0	6.9	0.92	3.8	24.50*	22.00	25.2
Provident Life & Acc Ins Co	OTC	47.00	2.2	6.7	2.44	5.2	47.00	46.00	17.3
Ryan Ins Group Inc	OTC	33.75	0.0	13.6	0.16	0.5	33.75	33.75	0.0
St Paul Cos Inc	OTC	57.75	4.3	7.6	2.60	4.5	57.75*	54.38	471.1
Safeco Corp	OTC	43.50	-0.3	8.0	2.20	5.1	44.13	43.50	98.4
Sri Corp	OTC	29.50	6.3	6.7	1.12	3.8	29.50*	27.75	136.2
Seibels Bruce Group Inc	OTC	27.00	-1.4	15.9	0.80	3.0	29.13*	26.50	167.0
Statesman Group Inc	OTC	6.88	10.0	6.2	0.15	2.2	6.88*	6.63	26.8
Tokio Marine & Fire Ins Co	OTC	83.25	-0.3	6.6	0.92	1.1	83.88	83.25	2.1
Travelers Corp	NYSE	24.88	1.5	6.5	1.64	6.6	25.50	24.00	1,147.0
United Fire & Cas Co	OTC	33.00	0.0	8.6	0.88	2.7	33.00	33.00	1.1
United States Fid & Gty Co	NYSE	42.50	4.9	9.0	3.60	8.5	42.50	41.38	268.1
United Svcs Life Ins Co	OTC	16.88	11.6	6.2	1.00	5.9	16.88*	15.63	73.6
Uslife Corp	NYSE	22.88	0.0	4.8	0.84	3.7	23.00	22.00	323.9
Washington Natl Corp	NYSE	21.13	7.0	10.2	1.08	5.1	21.75*	20.50	278.0
Zenith Natl Ins Corp	OTC	16.25	10.2	7.4	0.76	4.7	16.75	15.50	77.1
INSURANCE COMPANIES	AVERAGE			8.0		4.4			
Agents/Brokers									
Alexander & Alexander Svcs	NYSE	25.00	3.1	9.1	1.94	7.8	25.00	24.25	306.2
Baldwin & Lyons Inc	OTC	34.50	0.0	6.0	0.80	2.3	34.50	34.50	3.4
Corroon & Black Corp	NYSE	22.50	2.3	11.1	1.80	8.0	23.00*	22.25	10.5
Crump E H Cos Inc	OTC	10.63	1.2	19.7	0.40	3.8	10.63	10.50	40.7
Emett & Chandler Cos Inc	OTC	8.50	0.0	12.7	0.00	0.0	8.50	8.50	2.2
Hall Frank B & Co Inc	NYSE	25.00	-2.0	9.7	1.70	6.8	25.75	25.00	181.6
Integrated Res Inc	AMEX	24.13	10.9	8.2	0.00	0.0	25.00*	22.63	132.6
James Fred S & Co Inc	NYSE	25.00	1.0	12.2	1.60	6.4	25.25*	24.88	84.0
Marsh & Mclennan Cos Inc	NYSE	38.00	-2.6	11.5	2.20	5.8	39.00	37.50	290.2
Penncorp Fincl Inc	NYSE	11.50	4.5	8.0	0.16	1.4	11.50	11.00	574.2
Poe & Assoc Inc	OTC	9.00	0.0	10.2	0.80	8.9	9.00	9.00	1.9
Reed Stenhouse Cos Ltd	OTC	12.50	6.4	18.1	0.60	4.8	12.63	12.00	21.1
Rollins Burdick Hunter Co	OTC	17.38	3.7	12.4	1.32	7.6	17.38	16.25	34.2
AGENTS/BROKERS	AVERAGE			9.8		5.1			
Conglomerates/Holding Cos.									
American Express(Fireman's Fd)	NYSE	58.00	-1.9	9.9	2.20	3.8	58.00	54.63	2,508.8
Anderson Clayton(Ranger/PanAm)	NYSE	26.25	5.5	5.9	1.32	5.0	26.25	25.00	117.4
Armco Inc	NYSE	16.88	7.1	31.8	1.20	7.1	16.88	16.63	999.8
City Investing Co. (Home Ins.)	NYSE	25.88	6.2	8.0	1.70	6.6	25.88*	24.13	706.5
CNA Finl Corp (CNA)	NYSE	16.50	-0.8	6.9	0.00	0.0	17.13*	16.50	46.5
Control Data (Comml. Credit)	NYSE	34.63	7.4	8.5	0.55	1.6	35.00	33.25	1,290.2
General Re Corp	NYSE	54.63	0.5	12.5	1.08	2.0	54.63	51.75	312.4
Gulf Utd Corp	NYSE	25.00	4.2	8.8	1.32	5.3	25.00	24.63	379.1
Cigna Corp	NYSE	44.25	1.7	6.2	2.30	5.2	44.50	43.38	736.8
ITT (Hartford Group)	NYSE	30.38	2.1	6.9	2.68	8.8	30.38	29.13	1,977.1
Optimum Hldg Corp	OTC	8.38	0.0	6.6	0.00	0.0	8.38	8.38	2.2
Sears Roebuck & Co. (Allstate)	NYSE	27.00	1.9	12.6	1.36	5.0	27.00	25.38	3,934.7
Baldwin Utd Corp	NYSE	34.38	-4.2	7.3	0.88	2.6	36.63*	34.38	651.0
Teledyne Inc (Argonaut)	NYSE	126.00	9.9	7.6	0.00	0.0	126.00	112.50	2,370.5
Transamerica Corp (Occidental)	NYSE	23.13	0.5	8.1	1.50	6.5	23.63*	22.63	542.6
CONGLOMERATES/HOLDING COS.	AVERAGE			8.2		3.3			

*Record high/low since Jan. 1, 1982

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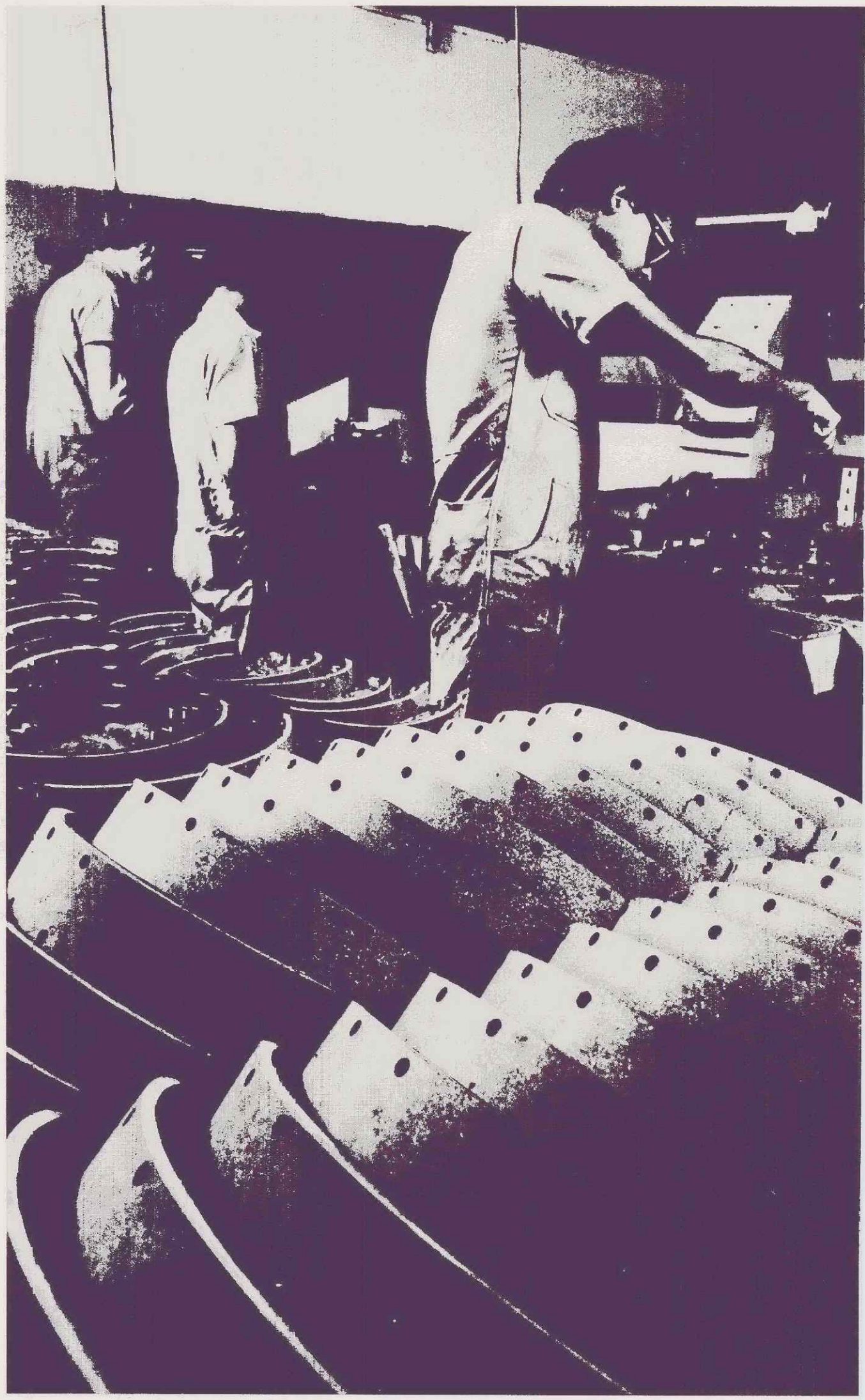

Production workers at Bendix do Brasil in Campinas, Brazil.

Alexander & Alexander

From the client's point of view.