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Update

Georgia pulls license of Victoria Insurance Co.

ATLANTA—The Georgia Insurance Department has suspended the license of Victoria Insurance Co. and ordered the insurer not to write any new or renewal business.

The Georgia department entered the suspension order after finding that only $307,540 of Atlanta-based Victoria's reported $25.3 million in assets are located in Georgia. State law requires insurers to have a minimum of $1.2 million in assets in the state.

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Courts order broke insurers to pay feds first

By MEG FLETCHER

Two federal appellate court decisions that give the federal government priority in recovering claims owed by insolvent insurers could be disastrous for policyholders and liquidations.

In addition, the decisions—which uphold a 1797 federal law that also says liquidators may be held personally liable if claims owed to the federal government are not paid in full—could delay the completion of liquidations.

Some liquidators already are halting payment of policyholders' claims or administrative expenses because of the rulings, said Patrick Cantilo, a partner with the law firm of Rubinstein & Perry in Austin, Texas.

However, other liquidators—including those in Delaware and Idaho—are proceeding with liquidations as usual, according to commissioners in those states.

If the two decisions are upheld, the federal government would be given priority over policyholders in insurer liquidations, increasing the risk that no assets would be available to pay policyholders' claims.

Currently, states differ on the priority given to claims by the federal government, like tax claims and amounts owed under performance bonds. However, some states now pay these claims only after policyholders' claims are paid.

In addition, the decisions could make liquidators hesitate before filing suit to recover additional assets owed to an insolvent insurer because they could not be sure whether they would have enough money to pay attorneys to pursue those cases, regulators say.

"Liquidators are in a Catch-22," said Illinois Insurance Director John Washburn, president of the National Assn. of Insurance Com-

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10 indicted for fraud in benefit plan scam

By DOUGLAS McLEOD

A California employee benefit consultant and nine others are facing criminal charges that they tried to defraud several corporate and union benefit plans by paying bribes and kickbacks to obtain health care contracts.

In a sweeping series of indictments unsealed in five cities late last month, several defendants are accused of conspiring to obtain contracts for employer- and union-sponsored prepaid health care services at inflated prices by paying off company and union representatives.

In two cases, the representatives were undercover FBI agents posing as consultants for Munford Inc., a large Atlanta-based retailer, and National Semiconductor Corp. of Santa Clara, Calif.

The indictments—returned in Baltimore, Atlanta, Chicago, San Francisco and San Diego—resulted from a three-year investigation by the FBI and the U.S. Labor Department's Office of Labor Racketeering into alleged corruption in the employee health care industry, prosecutors announced last week.

The principal defendant in the indictments is Angelo T. Commito, 43, of Palm Desert, Calif. Mr. Commito, identified as an organized crime associate in a 1981 Pennsylvania Crime Commission report, was a top officer of several Chicago-based brokerage and consulting firms involved in the alleged fraud, including AnCom Group Services Inc. and Diversified Benefit Systems Inc., a successor company to AnCom; Labor Health Plans Inc.; and Special Vision Services Inc.

The nine other individuals named in the indictments include other health care consultants, officers of health care service providers and officials of two Chicago-based labor unions.

Also named in one of the indictments is United HealthCare Inc., a Baltimore-based provider of optical, dental, prescription drug and hospital case management programs that serves roughly 1.5 million families.

The firm is not related to United HealthCare Corp., a Minneapolis operator of health maintenance organizations.

An indictment filed in U.S. District Court in Baltimore named Mr. Commito, United HealthCare Inc. and Alan S. Cohn, a United vp.

According to the indictment, FBI Agent Joseph Carroll—calling himself "Joseph Edwards" and posing as a consultant representing Munford—contacted Mr. Commito in December 1985 about locating a provider for a prepaid optical benefit plan covering Munford's 8,000 employees.

Mr. Commito referred the agent to Mr. Cohn, who then offered to structure a contract in such a way that a kickback for Mr. Carroll would be built into United's charges, the indictment alleges.

The defendants conspired to set up a fictitious corporation into which the alleged kickbacks would be funneled to conceal them from Munford, which had been told that no brokers' commissions or finder's fees would be paid on the program, the indictment says.

In addition, Mr. Cohn arranged for C&H Professional Associates—a Jonesboro, Ga.-based partnership associated with United through common ownership—to provide an inflated bid on the Munford optical program to make United's bid look more attractive, court papers allege.

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401(k) rules upset half of plans: Study

By JERRY GEISEL

LINCOLNSHIRE, Ill.—The tough non-discrimination rules in the 1986 tax law are forcing many employers offering 401(k) plans to reduce maximum salary deferrals by highly-paid employees.

In addition, the average percentage of salary deferred to a 401(k) by highly paid employees far exceeded average deferrals by lower-paid workers, employers report (see chart).

Some 50% of the employers surveyed by benefit consultant Hewitt Associates reported that they had to adjust the amounts contributed in 1987 to 401(k) plans by highly paid employees to prevent their 401(k) plans from failing the tax law's non-discrimination tests.

The most common action taken by employers in 1987—the first year the tougher non-discrimination tests were effective—was to limit the contributions of the highly paid.

Among the companies that had to make adjustments to pass the non-discrimination tests, almost 80% said they had to limit contributions by the highly compensated during the plan year.

Nineteen percent of employers said highly paid plan participants were allowed to convert pretax contributions to aftertax contributions, while 18% returned excess contributions to participants after the end of the plan year. Another 7% took other steps to make their plans comply with the non-discrimination tests, such as returning excess contributions during the plan year.

The number of 401(k) plans that were unable to pass the non-discrimination tests in 1987 without making adjustments to the contributions of the higher-paid is unprecedented.

"For the most part, employers prior to 1987 did not have problems with the non-discrimination test. Such as there were problems, they were, by and large, limited to 401(k) plans without matching contributions," said Maryann Laketek, a partner in Hewitt's Chicago office.

But the survey—which will be released later this month—indicates that problems in passing the non-discrimination tests now are widespread. And, reducing or making other

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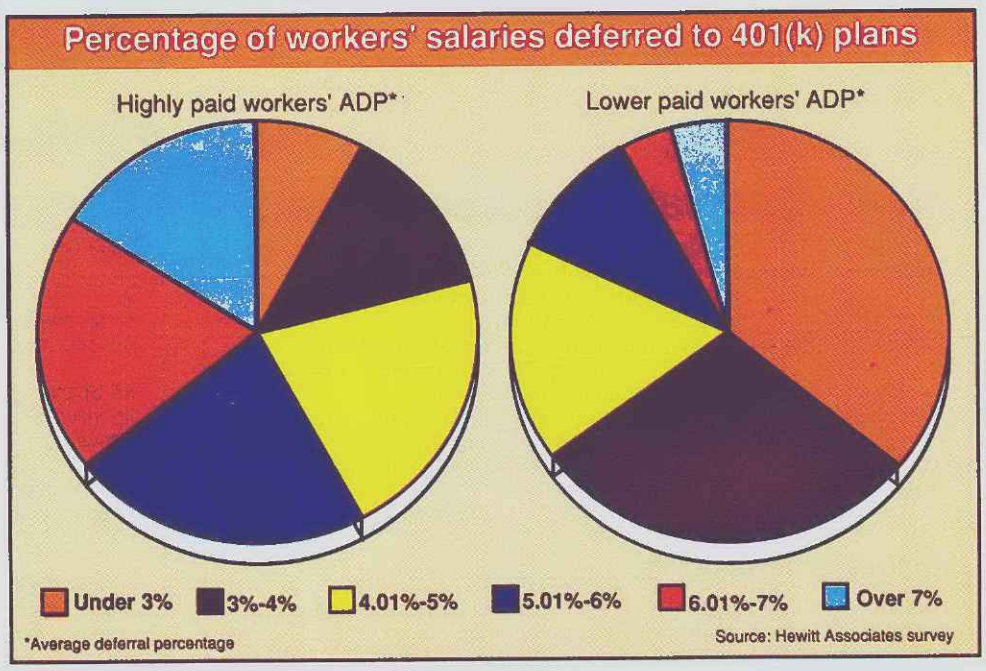

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Update

Victoria's license suspended

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Most of Victoria's assets—including roughly $21 million in zero-coupon U.S. Treasury bonds, 90-day certificates of deposit and money market instruments—are held by Goldman Dollar Securities Inc., an investment firm in Paris, confirmed Charles Gordon-Seymour, Victoria's president.

Mr. Gordon-Seymour said the insurer intends to transfer assets from Goldman Dollar to an Atlanta bank as soon as possible to meet the insurance department's capital and surplus requirements.

The license suspension led to the cancellation of a hearing scheduled for last Thursday on a proposed acquisition of Victoria by Aram Investment Co., a British corporation.

Mr. Gordon-Seymour said the application for change of control was withdrawn but will be refiled as soon as Victoria's license suspension is lifted. Aram represents numerous individual investors, including Middle Eastern interests, he said.

Mr. Gordon-Seymour also confirmed that in the first six months of 1988, Aram contributed $17.3 million to Victoria—which had year-end 1987 assets of $9.5 million—despite the fact that the proposed acquisition had not yet been approved. While noting this represented a "most unusual situation," he added it demonstrated the proposed future owners' commitment to Victoria.

The capital contribution allowed expanded underwriting by Victoria, which reported gross written premiums of $7.5 million for the first six months of 1988, compared with $5.5 million for all of 1987. Much of the insurer's business represents purchasing group risks, said Mr. Gordon-Seymour, who emphasized that Victoria will continue to pay claims during the license suspension.

TRT Associates Inc., an Atlanta-based company headed by Alan Teale, acts as an underwriting manager for Victoria.

Ruling backs Merrell Dow

WASHINGTON—A federal appeals court last week upheld a 1986 decision to dismiss a $1.2 million jury award against Merrell Dow Pharmaceuticals Inc. in a Bendectin case.

The U.S. Court of Appeals for the District of Columbia said U.S. District Judge Thomas Penfield Jackson was correct when he found that the evidence did not support the jury's conclusion that Bendectin caused birth defects in a 10-year-old girl whose mother took the anti-nausea drug during pregnancy.

In the appellate court decision, Judge Spottswood W. Robinson III wrote Bendectin "has been extensively studied and a wealth of published epidemiological data has been amassed, none of which has concluded that the drug is teratogenic."

This is the second major federal appellate court ruling in favor of Merrell Dow. On Aug. 30, the 6th U.S. Circuit Court of Appeals in Cincinnati upheld a verdict that Bendectin did not cause birth defects in 1,150 plaintiffs (*BI* Sept. 5; June 20).

Insurers placed in receivership

PROVIDENCE, R.I.—The Rhode Island Superior Court last week ordered the state Department of Business Regulation to place two property/casualty insurance subsidiaries of Resolute Holdings Inc. into temporary receivership because of "questionable investment practices" by the companies' management, according to Department Director Mark Pfeiffer.

The companies are American Universal Insurance Co. and Canadian Universal Insurance Co., which wrote $78.7 million and $19.7 million in net premiums last year, respectively.

"There's no solvency problem" with the companies, Mr. Pfeiffer said. "There's no risk to any policyholder," stressed Mr. Pfeiffer, whose department regulates insurance in the state. He is to report the results of his investigation to the Superior Court next month.

The questionable investments "may have benefited some officers and directors" of the company, he said, refusing to elaborate.

Mr. Pfeiffer said that among the questionable investments by the company, which was acquired by Dallas-based Resolute in May, was a $3.4 million promissory note secured by the assets of a Texas company, Fiberflex Corp., currently in bankruptcy proceedings.

Also under investigation are investments in notes secured by real estate, but the potential losses from these investments have not yet been evaluated, Mr. Pfeiffer said.

New financial reinsurer forms

HAMILTON, Bermuda—Skandinavian Reinsurance Co. Ltd. is the newest financial reinsurer established in Bermuda.

The new reinsurer, a unit of the Sirius Insurance Group of Stockholm, Sweden, is capitalized at $25 million.

Jens Juul, who has been managing director of GTE Reinsurance Co. Ltd. for 2½ years, has been appointed managing director of Scandinavian Re. He will assume his post Oct. 18.

The new insurer will write financial insurance and reinsurance programs, including loss portfolio transfers, prospective and retrospective aggregate covers, funded excess layers and surplus relief transactions.

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Errors & omissions

- Due to an editing error, a story in the Sept. 26 issue erroneously attributed a statement by Francis Mackie, a London attorney who represents several creditors of Mentor Insurance Ltd., to Mentor joint liquidator Michael Arnold. Mr. Mackie said: "We are not trying to unseat the liquidators. We are trying to get the whole position (of the liquidation) reviewed."

- The summary of major property/casualty insurers' first-half results in the Aug. 29 issue misstated CNA Financial Corp.'s pretax underwriting income. CNA actually reported a $213.5 million underwriting loss for the first half.

American Mutual rebuilds reserves, surplus position

By LINDA J. COLLINS

WAKEFIELD, Mass.—The financially troubled group of American Mutual insurance companies is bolstering its surplus and loss reserves and positioning itself for future growth after a management reorganization.

Following decades of significantly underreserving for workers compensation and medical malpractice claims, the Wakefield, Mass.-based American Mutual companies have a basically new management team that has raised and recovered over $238 million in capital to bolster reserves and surplus by such measures as selling assets, terminating a pension plan and properly documenting its reinsurance recoverables and unearned premium reserves.

Still, the Massachusetts insurance commissioner characterizes the insurer's reserves as "understated," a problem he says would be resolved if a $100 million capital infusion is finalized through a transaction under negotiation with an investment banker specializing in the insurance industry.

In the meantime, the insurance group has arranged a temporary quota-share reinsurance arrangement as short-term relief of its leveraged position.

And, to position itself for the future, the American Mutual companies have, among other things, implemented a series of checks and audits to more closely monitor underwriting and claims handling.

The insurance group consists of two mutual property/casualty insurers, a stock property/casualty insurer, a holding company and various other subsidiary service operations. Combined, the three insurers wrote $373.4 million in net premiums in 1987. The group's policyholder surplus totaled $140.5 million at year-end 1987.

The group's financial problems stemmed from the two mutual insurers: American Mutual Liability Insurance Co. of Wakefield, Mass., the first mutual liability insurer formed in the United States, and American Mutual Insurance Co. of Boston. Both found in the mid-1980s that they were substantially underreserved for losses, especially workers compensation asbestosis-related claims and medical malpractice claims spanning past decades.

Workers compensation business accounts for more than 50% of each insurer's volume. Both also write a large amount of general liability business, primarily for manufacturers. About 20% of their business is personal auto and homeowners lines.

The group writes business in all states, with about 25% of its premiums written in Massachusetts. Other states where the group writes its largest volumes of business are: Connecticut, Minnesota, New Jersey, New York and Pennsylvania.

The two mutuals historically pooled their writings, with AMLICO writing approximately 85% of the premium and AMI writing about 15%. Their business is written by the group's own direct sales force.

The third insurer in the group, American Policyholders' Insurance Co., did not experience loss reserve problems. APIC is owned by holding company American Patriot Group, which is wholly owned by AMLICO. About 60% of APIC's business is small to medium-sized commercial business and 40% is personal

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BI to feature international directories

The Nov. 21 issue of *Business Insurance* will contain directories of global property/casualty insurers and multinational benefit networks.

The directories will be published in conjunction with a spotlight report focusing on trends in the international insurance market.

Listings in the directories are free of charge; however, companies and networks that wish to be included must fill out and return a *BI* questionnaire.

If your company provides global property/casualty underwriting services or is a member of a multinational benefit network and you have not yet received a questionnaire, please request one by calling Christine Woolsey at 312-649-5460.

The deadline for returning completed questionnaires to *Business Insurance* is Oct. 24.

New coverage tools meet EPA approval

By DEBORAH SHALOWITZ

WASHINGTON—Owners and operators of hazardous waste treatment, storage and disposal facilities may use several new risk financing mechanisms—including letters of credit and surety bonds—to meet federal requirements for third-party liability coverage under regulations effective today.

The Environmental Protection Agency rule still requires owners and operators of hazardous waste TSDFs to comply with the financial responsibility requirements outlined by the Resource Conservation and Recovery Act.

That law requires owners and operators of hazardous waste TSDFs to demonstrate, on a per-firm basis, sudden and accidental pollution liability coverage of $1 million per occurrence/$2 million annual aggregate, excluding legal defense costs.

Owners and operators of a surface impoundment, landfill or a hazardous waste land treatment facility also are required to demonstrate, on a per-firm basis, non-sudden pollution liability coverage of $3 million per occurrence/$6 million annual aggregate, excluding legal defense costs.

Previously, financial responsibility for third-party liability could be demonstrated only by buying insurance, passing a financial test to self-insure, obtaining a corporate guarantee from a direct parent corporation that passes the financial test or a combination of these mechanisms.

These mechanisms continue to be valid ways to prove financial responsibility.

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Inside

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RIMS North Central Regional Conference

'Rebuild relations,' panel tells buyers

By KATHRYN J. McINTYRE

PITTSBURGH—Risk managers should start rebuilding long-term relationships with insurers now because "a year from now is too late," advises Tinsley H. Irvin, chairman and chief executive officer of Alexander & Alexander Services Inc. in New York.

"I think now is the time is to start building those long-term relationships again," Mr. Irvin advised risk managers attending the Risk & Insurance Management Society Inc.'s 1988 North Central Regional Conference last week in Pittsburgh.

"Find your partners. Find somebody that you think is competent, that you trust, that you think is going to be around," because current rate cutting makes another hard market inevitable. Mr. Irvin said.

Some observers do not believe that price cutting in the current property/casualty insurance marketplace is as severe as it was in the last competitive market, Mr. Irvin said. "I see it totally differently from that," he said, noting that prices are being cut 30%, 40% or 50%.

There has been 'more churning of business in two years than I've ever seen,' says Mr. Irvin, who has been with A&A for 35 years. 'We and our competitors had record new business. We also had record lost business.'

Mr. Irvin made his remarks as a member of a seven-person panel assembled to discuss "Unreasonable Expectations? Risk Manager-Broker-Underwriter Relations" at the regional RIMS meeting, which was held in Pittsburgh to commemorate the 50th anniversary of the Pittsburgh RIMS Chapter.

The panelists discussed the benefits of long-term relationships among risk managers, brokers and insurers, why those relationships have broken down and how they can be rebuilt.

There has been "more churning of business in two years than I've ever seen," said Mr. Irvin, who has been with A&A for 35 years. "We and our competitors had record new business. We also had record lost business. And that's true of most of the risk-takers."

Risk managers' long-term relationships with insurers have "been eroded" because "in the last market, we all lost credibility," Mr. Irvin said. "You as risk managers and buyers of insurance have been very angry. You really feel like you have been jerked around. And you were."

But, he suggested: "There are ways to build within the cycle some stability. Now is the time. Not a year from now. A year from now is too late.

"Time is incredibly important," he stressed. "You can build long-term relationships. You can build expectations, and you can even contractually define those to a point you can smooth out the peaks and the valleys. It's impossible to do it at the depth. It's impossible to do it at the peak."

Ronald Stasch, corporate risk manager at

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Marine underwriters plan to up rates, tighten market

By STACY SHAPIRO

SYDNEY, Australia—Marine insurance underwriters plan to tighten conditions and increase rates for all types of marine risks during year-end renewals in light of several losses in the marine insurance market this year that could total nearly $2 billion.

However, their plans may go astray if they cannot squelch competition created by overcapacity in marine insurance markets around the world, participants at the International Union of Marine Insurance conference agreed.

The annual conference was held Sept. 18-22 at the Sheraton Whitworth Hotel in Sydney.

The July explosion of the Piper Alpha oil and gas platform, estimated to cost insurers around $1.5 billion, coupled with the $325 million claim for the blowout of the Brazilian Enchova oil platform and other losses, will cost marine underwriters worldwide more than twice the annual worldwide marine premium volume, said Francois Drouault, chairman and general manager of the marine division of La Reunion Europeenne in Paris (*BI*, Sept. 26).

Therefore, reinsurance prices should go up this year, which would restrict marine market capacity, he said.

"Inevitably increased (reinsurance) rates will affect the whole market and not just the marine market. . .and the overall capacity available will be restricted. Rate increases are inevitable," said Mr. Drouault.

However, he added that he was not sure if rate increases would occur immediately.

"I agree almost entirely," added Lloyd's marine underwriter Alan Jackson, a member of the Council of Lloyd's.

"Reinsurance is hardening in London in almost all areas, particularly in excess-of-loss (reinsurance)," said Mr. Jackson. Capacity would have been more iimited in London's marine reinsurance market if Hurricane Gilbert had hit the rigs in the Gulf of Mexico, he added.

Nevertheless, this year's losses "will have the effect of stabilizing the (marine) market in London where it is needed," according to Mr. Jackson. If conditions in the London market, which provides 45% of the world's marine insurance capacity, stabilizes, "maybe there will be a stabilization of the market internationally."

But, the marine insurance market may not harden because of the losses this year, warns Christian Kluge, executive manager of the marine department of Munich Reinsurance Co. in Munich, West Germany. Echoing the sentiments of many of the IUMI delegates, Mr. Kluge pointed out that there will be a time lag for the payment of this year's largest loss, the Piper Alpha, which killed 167 people (*BI*, July 11).

Although the physical damage claims from the platform have been settled, many of the liability or loss-of-use claims have not been estimated or paid as yet, he said. As a result of this delay, underwriters may not insist on tighter conditions or higher rates.

"We will have to wait and see," said Mr. Kluge, adding that "shipowners will not be happy if rates go up because of the Piper. This should happen, but they won't be happy."

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Commercial Inland executive faces federal charges

By DOUGLAS McLEOD

PHILADELPHIA—A Colorado insurance executive who has been the target of several state regulatory actions now faces federal charges that he fraudulently misrepresented the financial condition of one of the insurers he controlled.

Jonathan P. Saunders was arrested by FBI agents in Denver Sept. 9 on charges that he misrepresented the licensure and finances of Commercial Inland & Marine Indemnity Co. Ltd., an insurer purportedly domiciled in St. Kitts, British West Indies.

A complaint and supporting affidavit filed in U.S. District Court in Philadelphia allege, among other things, that Mr. Saunders and a business associate provided a Chicago-area surplus lines agent with a Commercial Inland financial statement showing roughly $32 million in assets that later could not be traced, according to Assistant U.S. Attorney Paul L. Gray.

According to the complaint, Peter Dietl, a surplus lines agent with Specialty Underwriting Agency Inc. in Brookfield, Ill., agreed to produce business for North American Fire & Casualty Co. Ltd., another insurer controlled by Mr. Saunders and purportedly based in St. Kitts. Mr. Saunders later told Mr. Dietl that he was transferring assets to a new insurer, Commercial Inland, court papers say.

Commercial Inland is not licensed or eligible as a surplus lines insurer anywhere in the U.S., state regulatory officials have said.

In the fall of 1987, Mr. Saunders and Walter Taylor—identified as Commercial Inland's president in a statutory financial statement—provided Mr. Dietl with information on Commercial Inland's assets, the complaint says.

Neither Mr. Dietl nor Mr. Taylor is named as a defendant in the complaint.

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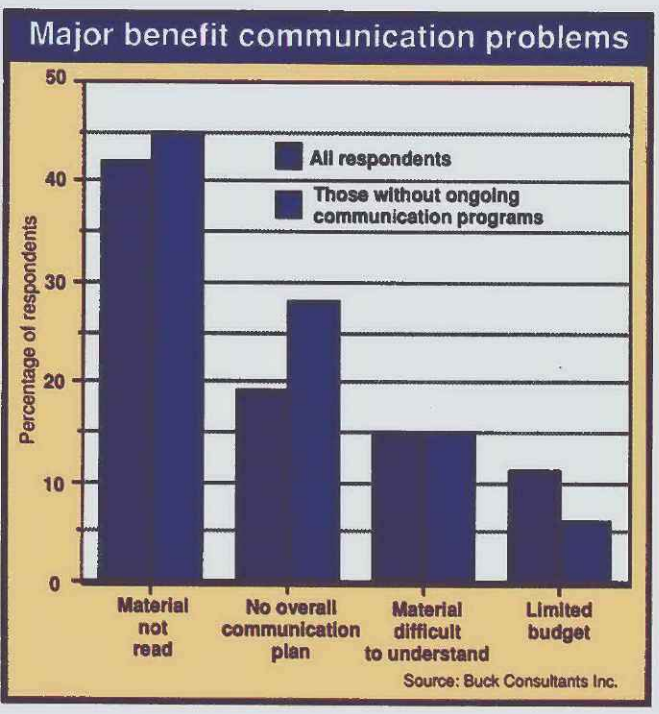
Benefit messages fall on deaf ears: Study



By ALISON KITTRELL

A major problem facing benefit managers is that many employees don't read or understand benefit communications, according to a recent survey.

But, there are ways to improve the chances that employees will understand—and therefore appreciate—their benefits, and the most successful way is to take a planned, active, integrated approach to informing employees of their benefits, according to "Getting the Message Out: A Survey on Employee Benefit Communication," in which Buck Consultants Inc. surveyed benefit managers at 156 large and mid-sized employers.

"Perception is reality—especially when it comes to employee benefits. No matter how good an organization's benefits, unless employees know and understand them, the money spent to provide benefits is wasted," the authors of the survey pointed out.

Many employers indicated that is the problem they are facing. Forty-two percent of the survey respondents said that their biggest benefit communication problem is that employees just don't read the employee benefits information they are given.

An almost identical number—43%—of respondents said either they felt their benefit communication effort was unsuccessful or they were unsure about its success.

In addition to the problem of employees not reading their benefit material, 19% of the respondents said their biggest benefit communication problem was the lack of an overall communication plan, and 15% said the biggest problem was that the benefit material was difficult for employees to understand.

Only 11% said the primary obstacle to effective benefit communication was a limited budget.

Eighty percent of all respondents—including a whopping 93% of those with more than 25,000 employees—said that communication is very important to successfully implementing benefit changes or human resources policies.

"Communication—a two-way exchange of information to help employees understand and make smart decisions about their benefits—is critical to the success of any benefit program," the survey authors noted.

Yet, only 66% of the total respondents have an ongoing benefit communication program.

Even fewer respondents said they introduce major benefit changes or information through a formal communication program, which the survey defined as one in which objectives are set, several communication elements are used over time, and there is a follow-up and measurement of results.

While 65.7% of respondents with more than 10,000 employees use a formal program to communicate major benefit changes, the percentage drops to 42.8% among employers with 1,001 to 10,000 employees and only 18.5% among respondents with 1,000 or fewer employees.

The respondents' companies spent a median of $20,000 on

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Michigan bill mandates health coverage

By LAURA MAZZUCA

LANSING, Mich.—Michigan employers that do not provide health care coverage to their workers would be taxed under a universal health insurance bill introduced last week in the state Senate.

The bill is designed to provide private health care coverage to workers at primarily small and medium-sized businesses, said Sen. John F. Kelly, D-Detroit, sponsor of the bill.

Companies that already provide health care plans with the minimum benefits—or actuarially equivalent benefits—outlined in the bill would not have to join the new program. Most large employers in the state already provide extensive health insurance benefits, Sen. Kelly noted.

The universal health insurance program would be financed through a combination of employee, employer and state contributions.

Eligible employees would contribute 3% of their wages, while employers and the state would each make contributions equal to 3% of a covered employee's wages, for a total contribution of 9% of a worker's salary.

The state's contribution would be shifted from its Medicaid program. Current Medicaid recipients would be transferred to the new program. To cover Medicaid recipients, the state would contribute a sum equal to 9% of the average wage of the participating workers in each county.

Under the program, the state would be broken into health insurance zones, which would be composed of one or more counties. A board of directors in each zone would contract with private insurers to underwrite the coverage.

A state advisory board—which would include representatives of employers, labor unions, actuaries and insurers—would establish guidelines for deductibles, coinsurance and other plan features that each health insurance zone would have to follow.

However, the bill limits maximum annual deductibles to $150 per individual and $250 per family. Coinsurance is generally limited to 10% up to an out-of-pocket maximum of $1,000 per family.

Although the bill does not include tax incentives to offset small businesses' premium contributions, Sen. Kelly said he still is looking at possible tax breaks for those employers.

But Sen. Kelly called the cost to employers "insignificant in terms of what they're really already paying" in social service costs. For example, if the employer is paying an employee $5 per hour, the employer's per-hour contribution would be 15 cents per hour for that worker, he said.

The bill is not expected to pass this year, but Sen. Kelly believes that its introduction will generate interest from labor, health care providers and the general public, which will increase its chances for approval later.

"We need to have it in a bill form before we can begin dissecting it," said Sen. Kelly. "We want to get discussion rolling on something concrete."

The bill is the latest in a series of state and federal proposals for universal health coverage.

In April, Massachusetts became the second state to enact a universal health care coverage law (*BI*, May 2). In addition, the Senate Labor and Human Resources Committee in February passed a bill sponsored by Sen. Edward Kennedy, D-Mass., that would require most employers to offer minimum health care benefits (*BI*, Feb. 22; May 25, 1987).

Sen. Kelly concedes that his proposed "Universal Health Care and Safety Net Act" probably will face some opposition from business.

"It's a typical Democratic ploy," said William Alcott, president of Northern Group Services, third-party administrators in St. Clair Shores, Mich., who believes the bill will be defeated this year.

Symond R. Gottlieb, executive director of the Greater Detroit Area Health Council, a coalition of business, labor, health care providers and insurers, said the bill may be "a little premature," because Michigan Gov. James Blanchard has named a task force to study the problem of adequate access to health care.

The task force is expected to recommend how to increase the availability of health insurance in the state, Mr. Gottlieb said.

The coalition has not yet taken a position on the bill.

Although reluctant to comment directly on the bill without more knowledge of its specifics, a spokesman for the Michigan State Chamber of Commerce pointed out that the group traditionally is opposed to any government-mandated benefits.

Sen. Kelly expects support from health insurers, who stand to gain business by writing more policies. "What they don't want to see happen is a socialized system that would be state administered," Sen. Kelly said. "This is a totally private, insurance-administered program."

"The insurance industry would certainly want to be working with Sen. Kelly," said Woody Eno, general counsel for the Health Insurance Assn. of America in Washington, D.C. "As an industry we are concerned about the uninsured and willing to work with anyone who doesn't single us out" as solely responsible for financing such insurance, he added.

Although HIAA is withholding a position on the bill until it can be studied, bill summaries show it is "a good concept to serve as a base for discussion," Mr. Eno said.

The bill defines eligible employees as those working at least 17½ hours per week. Employers with fewer than 10 employees would be exempt until 1995, according to the bill.

Health care coverage under the bill would include inpatient and outpatient physician services and hospital care, diagnostic and screening tests, prenatal and well-baby care to children who are 1 year old or younger and optional mental health care.

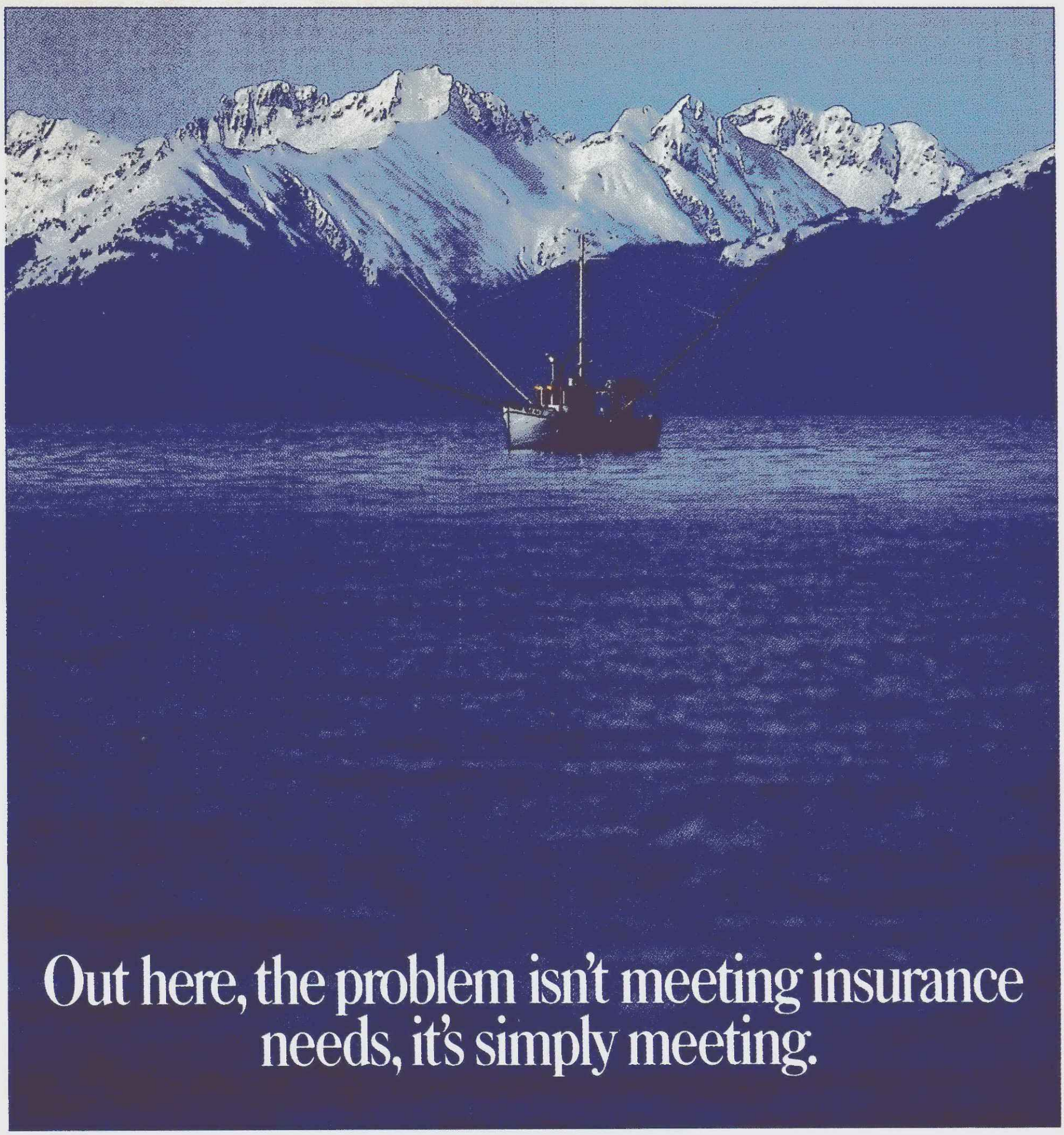
A health benefit plan would not be required to cover items and services that are not medically necessary or experimental.

Currently the state spends $2.2 billion per year to provide health care for its 920,000 Medicaid recipients, or 2½ times what it would cost the state under a private insurance program, assuming an individual health insurance policy would cost about $780, he added.

Under the universal health care insurance program, workers without employer-sponsored health insurance may be less tempted to quit their jobs merely to qualify for Medicaid, Sen. Kelly predicted.

"Right now there is a disincentive to work in Michigan," he said. "You have the best insurance available and you don't have to pay for it."

The program would be regulated by the state public health and insurance departments. Funds would be collected and administered by a 10-member board of directors composed of local officials, participating employers and officials elected by subscribers. ■



Out here, the problem isn't meeting insurance needs, it's simply meeting.

Along a 4,000-mile stretch of rugged Alaskan coastline, you find the operations of Icicle Seafoods, the largest processor and exporter of seafood in the Northwest.

In a region this remote, service becomes the true measure of an insurer's capabilities.

"Wausau safety consultants regularly visit our locations—which are spread out all across Alaska," says Icicle President Bob Brophy. "They work with our supervisors and safety managers on a personal level, providing specific suggestions on improving working conditions.

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Midwest employers form purchasing plan

Chicago-area members of the Midwest Business Group on Health are eligible for a new health care purchasing plan intended to cut costs of health care services.

Under the program, MBGH—an employer coalition on health care and benefit issues—is seeking rate reduction arrangements with area hospitals, said Jim Mortimer, MBGH president.

The purchasing plan enables employers to direct insured employees to providers who charge lower rates, without requiring employers to form or join a preferred provider organization. Employers could include financial incentives, such as waived or reduced copayments and deductibles, to encourage employees to use the plan's services.

CCN Inc. of San Diego, a health care management administrator, will contract with providers, implement a quality assurance system and offer a detailed management information system. It also will subcontract with a utilization review firm to provide services as an option to participating employers.

The hospital network should be operational early next year, Mr. Mortimer said. A network of preferred physicians is scheduled to be in place by mid-1989.

MBGH expects to have contracts with 40% to 60% of the 120 hospitals in the Chicago service area after review and approval of hospital proposals, he said.

The service area covers six Illinois counties and two neighboring counties in Indiana, he said. About 50 MBGH-member companies are located in the service area.

Employers that are not members of MBGH may join and become participants in the health care purchasing plan, Mr. Mortimer said.

Purchasing plan members will pay a per-capita fee to CCN for the health care arrangement, Mr. Mortimer said.

"Our members are firm in their conviction that we must move beyond discounted prices and create an alternative health (care) delivery system that truly acknowledges quality as a key concern and creates a mechanism for monitoring it," said Janice Ypsilantes, chairwoman of MBGH's purchasing council and manager of health care programs at Navistar International Corp. of Chicago.

Chicago-area employers involved in the program planning include Navistar, Federal Signal Corp., General Foods Corp., The Northern Trust Co., Premark International Inc., Wilson Sporting Goods Co. and Zenith Electronics Corp.

—By Glenn Huntley

Benefit beat

Health plan cost hike

Some Wisconsin state employees enrolled in a traditional indemnity health plan face contribution increases of more than 100% under rates set recently by the state Group Insurance Board.

Overall, gross contributions toward the state's self-insured indemnity plan are rising 40% this year, said Tom Korpady, Madison-based director of health and disability benefits for the state's Group Insurance Plan. The increases are designed to cover the plan's multimillion-dollar deficit.

Employee contributions vary geographically based on a formula that sets the state's contribution according to the lowest HMO bid in the service area, he said.

In Dane County, site of the capital and home to more state employees than any other county, monthly employee contributions to the traditional fee-for-service plan will more than double to $104.77 from $47.84 for family coverage. Contributions for individual coverage will increase 83% to $45.40 from $24.81 per month.

The contributions for Dane County-based employees will be the highest in the state.

But, Mr. Korpady said, roughly 90% of the state employees living in Dane County already are enrolled in five area HMOs.

In some sparsely populated counties where there are no HMOs, family coverage will cost employees as little as $38 per month and individual coverage about $14 per month, he said.

Annual deductibles for the indemnity plan have been frozen at $25 per year since the early 1960s by the Group Insurance Board. Employees also must pay a 20% copayment for durable medical equipment, such as wheelchairs.

Mr. Korpady said the state's self-insured health plan's costs have "skyrocketed" during the past few years. The plan ran up a deficit of $8 million for 1987, and the state is still paying claims for that year. He could not project the 1988 deficit.

At the same time, HMOs appear to be more successful in holding the line on health care cost increases, he said. The average HMO rate increase was less than 20% this year, he said, adding that the state continues to pick up the entire tab for the majority of enrollees.

Of the approximately 67,000 employees and retirees entitled to medical coverage under state plans, about 45,000—or 67%—are currently enrolled in HMOs, he said.

Mr. Korpady said the board had authorized "no major changes" in the benefits provided by HMOs. But individual HMOs did make some changes, like increasing to $5 from $3 prescription drug copayments. In addition, coverage for some services was eliminated, such as payment for artificial insemination, and the number of days of extended care coverage was reduced.

While few of the HMO coverage changes by themselves were significant, collectively they could be costly, said Martin Biel, executive director of the Wisconsin State Employees Union, an affiliate of the American Federation of State, County & Municipal Employees that represents about 25,000 state workers.

He also questioned what would happen if the state indemnity plan went out of business. "If there isn't an indemnity plan, the HMOs will have us over a barrel," he said.

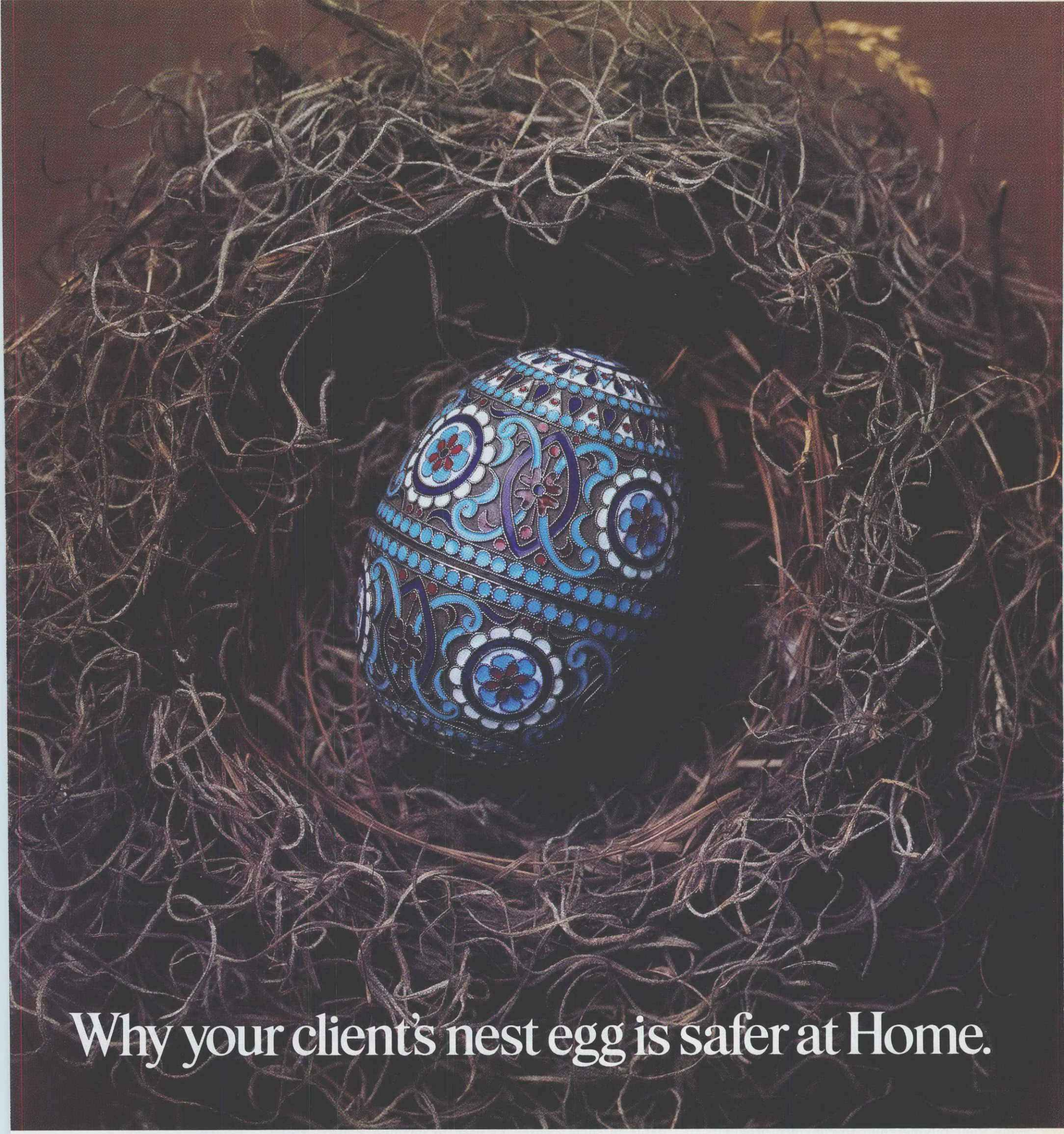
He noted that in every year since the HMO option was first offered in 1985, more workers choose the HMOs.

"Now we have a serious problem—the indemnity risk pool has shrunk; we've got older, sicker people," he said.

—By Mark A. Hofmann

●

Benefit beat keeps insurance and employee benefit managers informed about current developments in the employee benefit field. We'd like to know if you've made any changes. Write Glenn Huntley, Business Insurance, 6404 Wilshire Blvd., Los Angeles, Calif. 90048; 213-651-3710.



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Transit liquidator can't collect from Wal-Mart, court rules

By DOUGLAS McLEOD

ST. LOUIS—Wal-Mart Stores Inc. will not have to pay an additional $16.8 million in workers compensation premiums to the liquidator of Transit Casualty Co., a federal appeals court ruled.

In reversing a federal judge's 1987 order, a three-judge panel of the 8th U.S. Circuit Court of Appeals ruled that because representatives of both Wal-Mart and Transit knew that the terms of Wal-Mart's workers comp contracts were illegal, neither side should be granted relief.

Therefore, the appellate judges concluded, Wal-Mart should not be required to pay additional premiums and Transit should not be liable for future claims under the policies.

Wal-Mart paid a total of $7 million for the coverage and has so far collected between $16 million and $21 million in claims payments from Transit, the court noted. However, the judges added that Wal-Mart will be responsible for "a significant amount" of future claims.

Former Transit managing general agent Carlos I. Miro wrote workers compensation coverage for Wal-Mart in 1983 and 1984 for a flat premium of $3.5 million per year.

Wal-Mart sued Transit in U.S. District Court in Fayetteville, Ark., in 1985, seeking a declaratory judgment that it was covered under the two policies and a retroactive general liability insurance contract bound by Miro & Associates Risk Management Inc. of Dallas.

Transit—which was ordered liquidated in December 1985—counterclaimed, seeking additional premiums.

In a July 1987 ruling, U.S. District Judge H. Franklin Waters found that Mr. Miro had exceeded his authority as a Transit MGA and that the terms of the workers comp coverage violated state law (*BI*, July 20, 1987).

The $3.5 million flat yearly premium was "pulled out of the air," and Wal-Mart payrolls, on which premiums were based, were intentionally depressed to arrive at the figure, the judge concluded. Although Wal-Mart's policies called for retroactive adjustment of the premiums using an experience modifier, Mr. Miro and Wal-Mart officials agreed that no actual adjustment would occur, Judge Waters found.

Concluding that Wal-Mart and its broker, Alexander & Alexander Inc., should have known that the deal was "too good to be true," Judge Waters ordered Wal-Mart to pay an additional $16.8 million to Transit's liquidator.

The premium terms of the contracts 'were deceptive as written,' according to the appellate panel.

The appellate panel—while finding that Mr. Miro acted within his apparent authority in offering the $3.5 million guaranteed premium—agreed that the premium terms of the contracts "were deceptive as written, and thus violate the laws of each state involved."

However, the appellate judges refused to affirm the lower court's award to Transit's liquidator.

"If the premium term of the contract is illegal and unenforceable, as we believe it is, the coverage portion of the same contract is necessarily unenforceable as well. The district court's resolution of this matter requires the execution of contractual terms to which there was no agreement by any party to the negotiations," the appellate court found.

"The level of culpability of the parties was best put, we think, by the district court when it said, 'there is more than enough fault to go around in this case,' " the panel concluded in its ruling that neither Transit nor Wal-Mart are entitled to relief in the litigation.

"The district court correctly concluded that all parties were active and willing participants in a knowingly illegal venture."

While Judge Waters reasoned that refusing to grant relief to Transit would allow Wal-Mart to benefit from its illegal activities, the appellate judges disagreed.

"Requiring payment of greater premiums by Wal-Mart not only stands in direct conflict with the terms of the original agreement as all parties expected it to be carried out, but operates to reward Transit for structuring an illegal arrangement," the court ruled.

Transit's liquidator, the Missouri Insurance Division, filed a petition on Sept. 22 for a rehearing by the appellate court. The court has not yet ruled on the petition. ■

TAKING THE TIME

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Marine rates

Continued from page 3

Mr. Drouault, Mr. Kluge and Mr. Jackson all spoke at the Hull Workshop on the first day of the IUMI conference.

All three marine underwriters agreed that overcapacity still exists in the marine insurance market, though capacity now is probably insufficient for major catastrophe risks for offshore structures in the North Sea.

For example, in France there are 2,500 ships to be insured with values between $12 million and $50 million each. Capacity is so great, however, "that all these risks could be easily absorbed by a single market, even by a single underwriter," said Mr. Drouault.

In fact, only in a few instances in history have genuine capacity problems in the marine hull insurance market been demonstrated, said Mr. Kluge.

Munich Re points to examples such as the Titanic, which was insured for 1 million pounds ($2.4 million at the appropriate exchange rate) but was valued at 1.5 million pounds ($3.6 million), and the Ekofisk tank—the first prototype platform for North Sea oil production—which was valued at $25 million and eventually insured for the full value through coinsurance arrangements since the London Master Oil Rig line slip at the time could only offer $15 million in capacity, pointed out Mr. Kluge.

Today, however, there may not be sufficient capacity for catastrophic exposures in the North Sea, warned Mr. Kluge. "I believe that the catastrophe element is dangerously concealed, overlooked or deliberately disregarded," he said.

Today, the London Master Rig line slip offers $870 million of coverage for offshore oil and gas platforms, up from the $15 million in 1971. In addition, there are a number of other facilities offered by brokers. As a result there is insurance and reinsurance capacity for "even the largest producing platform in the North Sea" of between $2.75 billion and $3 billion, said Mr. Kluge.

However, this capacity "is in reality a soap bubble," said Mr. Kluge. Few underwriters retain high levels of risk before they cede it to reinsurers and retrocessionaires, he said.

"This usually reduces the net line per risk to very small amounts indeed," said Mr. Kluge. As a result, out of that $3 billion in capacity, the aggregate net retention by direct underwriters is closer to $150 million to $2 million, he contends.

"The huge capacity for offshore risks seems to be based on the firm belief that the big loss can be recovered from somebody else," said Mr. Kluge.

"I wonder what the situation would be if the insurance and reinsurance world were not confronted with the loss of a single, rather old North Sea platform like the Piper Alpha, but with an accumulation claim involving more than one of the giant platforms, for example during a severe winter storm, plus possibly even larger claims caused by the same even on land under property, accident and life insurance policies?" Mr. Kluge asked.

"Only a really large loss will help make it clear that underwriters should look at the amount of the actual risk they accept and not so much at the amount of premium. But I doubt that the Piper Alpha claim, as large as it is, will change the picture for good. There will certainly be a shrinkage of capacity, possibly even a dramatic one in the short term, but will it last?" he asked.

Meanwhile, Mr. Jackson told IUMI conference delegates at the workshop that London marine underwriters have made some changes in the Joint Hull Understandings, contract wordings followed by Lloyd's and Institute of London Underwriters marine insurers and reinsurers, as a result of the Piper Alpha loss.

'I believe that the catastrophe element (in the North Sea) is dangerously concealed, overlooked or deliberately disregarded,' warns Christian Kluge, executive manager of the marine department of Munich Reinsurance Co.

The changes in the understandings, which are only recommendations for insuring ships and are not always followed by all London underwriters, were released on Aug. 12.

The main change, spurred by the Piper loss, calls for all marine underwriters to receive permission from the Joint Hull Committee if there is any reduction in rates or changes in terms that would cause premium reductions for fleets of two or more vessels valued at more than $300 million. The specified value had been $150 million.

Lloyd's marine underwriter Peter Wingett, chairman of the Joint Rig and Associated Business Committee of Lloyd's underwriters and Institute of London Underwriters, also told IUMI members about that group's recommendations to restrict rig coverage following the Piper loss (*BI*, Sept. 26).

Mr. Drouault complimented the London underwriters on these and other efforts to tighten coverage conditions. "I would like to express my appreciation for all these efforts and would like to support them 100%," said Mr. Drouault.

However, Mr. Drouault pointed out that if insurance markets that compete with London insurers matched all of London's recommendations, business would probably flow to London rather than to the other markets.

"What would be the use of supporting a leading market if by doing so we lose access to international business?" Mr Drouault asked. "Why should a broker place business outside his market unless he can find better terms elsewhere? We are condemned to compete." ■

Underwriters impose safety clauses for ships

By STACY SHAPIRO

SYDNEY, Australia—Shipowners could lose their hull coverage if they do not abide by new classification clauses designed by London underwriters to improve the seaworthiness of ships.

However, the clauses will not be costly for shipowners, according to the underwriters.

'It is no exaggeration to say that the clauses will have a considerable effect on (the safety of) ships and their crews and will not have a detrimental effect on good shipowners,' said Lloyd's underwriter Derek Wills, chairman of the Joint Hull Committee.

The Joint Hull Committee of the Institute of London Underwriters and Lloyd's of London marine underwriters, which approved its "Classification Clauses (Hulls)," on Aug. 11, introduced the clauses to the International Union of Marine Insurance at last month's IUMI conference in Sydney.

The clauses impose a warranty on all hull insurance policies that voids coverage if certain safety requirements are not met.

"The widespread use of these clauses, the Joint Hull Committee believes, will be welcomed by shipowners" that are concerned about safety, Lloyd's underwriter Derek Wills, chairman of the Joint Hull Committee, told IUMI conference delegates.

"That may sound naive," he said. But, if shipowners abide by the new clauses, they will not be affected administratively or financially, he said.

"It is no exaggeration to say that the clauses will have a considerable effect on (the safety of) ships and their crews and will not have a detrimental effect on good shipowners," Mr. Wills said.

Shipowners now must ensure that their vessels meet statutory safety standards and requirements imposed by worldwide classification societies that inspect vessels and issue certificates of safety, according to the new clauses.

Governments and insurers depend on the classification societies' certificates of safety to approve vessels for their seaworthiness.

However, over the past few years, classification societies have become very competitive, and some societies have approved vessels that may not have been seaworthy, insurers have said.

Shipowners also have operated vessels under different national "flags" to take advantage of the more lenient safety standards of different countries.

As a result, Mr. Wills last year called for adding warranties to hull insurance policies to make sure statutory requirements are followed.

Mr. Wills told IUMI members that since the 1987 IUMI conference in Nice, France, "much discussion has gone on" that has culminated in the Joint Hull Committee's classification clauses.

The clauses are welcomed by the International Assn. of Classification Societies, which discussed the matter with the Joint Hull Committee before the warranties were published, according to Hartmut Hormann, representing the chairman of the IACS.

Mr. Wills pointed out to IUMI members that one of the important aspects of the warranties is a provision stating that any outstanding recommendations, requirements or restrictions imposed on the vessel by the named classification society that relates to the seaworthiness of the insured vessel must be complied with by the named due date.

If any recommendations are made by the classification society after the due date but before the termination of the insurance policy, the ship's underwriters must be informed immediately.

The clause "requires that restrictions imposed by classification societies are complied with" by shipowners, Mr. Wills said.

Another clause specifies that the policyholder—including the shipowner, manager and superintendents—must inform the classification society of any defects in the vessel or accidents involving it.

"This is important because the correct operation of the classification societies depends on their knowledge of past defects and damage," Mr. Wills said.

Another clause that Mr. Wills said is "very important" to underwriters deals with vessels moved from one classification society to another. The clause requires that underwriters be informed of all outstanding recommendations, requirements or restrictions made by the immediate past classification society "relating to the seaworthiness of the vessel should a change of the classification society have occurred."

Underwriters, when necessary, will then require shipowners to comply with such recommendations, requirements or restrictions, the clause says.

Underwriters "must be prepared to take independent advice on this and be willing to adhere to that advice," Mr. Wills noted.

Continued on next page

Australia says 'G'day' to IUMI delegates

SYDNEY, Australia—There are few places in the world more beautiful or hospitable than Australia during its bicentennial celebration, delegates to the International Union of Marine Insurance conference agreed.

The Insurance Council of Australia—which hosted IUMI's first conference in the Southern Hemisphere since the organization was founded 110 years ago—was continually complimented by delegates for the well-organized meeting, which included dinners and receptions at some of Sydney's most famous sites.

The IUMI conference, held Sept. 18-22, kicked off with a reception in the north foyers of the famous Sydney Opera House overlooking the city's harbor. More than 770 people—including 453 IUMI delegates from 42 countries—were welcomed to Sydney by Air Marshal Sir James Rowland, governor of the Australian state of New South Wales.

Another evening, IUMI conference attendees dined at the Opera House and later attended a concert by the Sydney Symphony Orchestra conducted by Jorge Mester.

The Insurance Council of Australia exposed attendees to less formal music during an "Australiana night" at Argyle Tavern Center, located in one of the city's oldest sections, known as The Rocks underneath famous Harbor Bridge. Greeted by two Australians holding live koalas, conference delegates and guests were treated to an informal evening of Australian country music, including "Waltzing Matilda," and to sheep shearing demonstrations on small stages in the several restaurants in the center.

Wool, as IUMI delegates learned in formal sessions, is Australia's largest export commodity.

The Australiana Night also included competition among conference delegates to determine who could blow an aboriginal pipe, known as the didgeridoo, the loudest.

Other industry associations and marine insurers, including the American Institute of Marine Underwriters and Storebrand International Insurance A/S of Norway, hired ferries for evening receptions and dinners in Sydney's harbor.

Many conference attendees, especially those from Europe and the Middle East, took advantage of the long trek to Sydney to visit other countries en route, including the United States, Singapore and New Zealand.

But, the most popular tourist stop to and from the conference probably was Australia's Great Barrier Reef. Many IUMI delegates visited Cairns or some of the many islands that dot the coast near the reef. ■

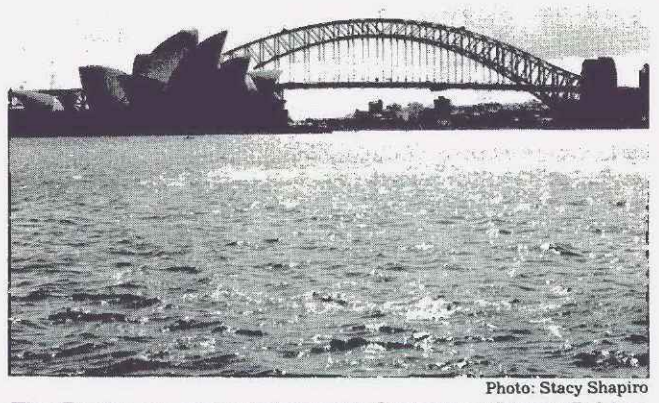

Photo: Stacy Shapiro

The Rocks, an area underneath Sydney's Harbor Bridge, was the site of an 'Australiana night' for IUMI attendees.

Shipping safety

Continued from previous page

Many IUMI members already support such a move.

Sixteen countries returning IUMI hull committee questionnaires by last July said they saw the need for strengthened hull policies wording to improve safety standards and the condition of vessels, said Tony Nunn, chairman of the hull committee and general manager for The Scottish Lion Insurance Co. Ltd. in London.

"Some indeed—Australia for example—have already implemented a new clause. Others seemed to consider a stronger application of existing wording, and some felt it was up to surveyors to raise their standards," Mr. Nunn said.

At the conference, W. Patrick Crone, first assistant secretary for the Australian Ministry of Transport, also urged the marine insurance market to use its influence to increase safety standards.

Harry Keefe, vp of GRE of America Corp., suggests there be only one worldwide classification society.

But Harry Keefe, vp of GRE of America Corp. of New York, suggested finding a way "to eliminate the competitive pressures that are adversely affecting the performance of the classification societies."

Mr. Keefe suggests that there be one worldwide classification society "with strong uniform standards effectively enforced."

"The backbone for that strength (in one classification society) could come from the international hull underwriters of the world if they required ships they insured to be classed with such a society," Mr. Keefe said. He stressed that these were his own views and not those of the American Institute of Marine Underwriters or of IUMI.

While Mr. Keefe supports healthy competition on rates, terms and conditions, "we should not ever be willing to compete on terms that will compromise the safety of ships and their crews."

Mr. Hormann of the International Assn. of Classification Societies opposed Mr. Keefe's idea. Competition between the societies "is healthy," he said. The establishment of one universal society would be cumbersome, he said.

"This is certainly not what the marine community would wish to happen," he said. "I would hope that the classification societies stand for technical competence without which the marine society could not exist as they do now." ■

North Sea rig safety may be bolstered

By STACY SHAPIRO

SYDNEY, Australia—The British Department of Energy may require oil and gas companies to provide risk analyses for each new structure built in the North Sea following the Piper Alpha explosion in July that killed 167 people.

The British Department of Energy is expected to make an interim report after a public inquiry to be held on the Piper Alpha disaster that would call for "the introduction of risk analysis techniques" in North Sea drilling platforms, according to Trevor Scutts, group marine underwriter for English & American Insurance Co. Ltd. in London.

The demand for these risk analyses "could change the whole balance of responsibility with regard to the safety of these structures," Mr. Scutts told delegates to the International Union of Marine Insurance conference last month in Sydney.

"It would mean that an operator in making an application to develop (an oil) field would have to submit his own risk and reliability report, as it relates to the particular aspects of the proposed development, for approval by the Department of Energy," he said.

Therefore, the operator would be responsible for the safety of the rig rather than the certifying authorities that now assess the safety of North Sea drilling structures, according to Mr. Scutts.

Currently, safety certification for British drilling platforms in the North Sea is the responsibility of the British Department of Energy, which divides the certification among four departments, namely:

- The British Civil Aviation Authority, which inspects the handling of helicopters on and off the platform.
- The Department of Transport, which is responsible for the safety and firefighting equipment on board.
- Classification societies that certify ocean vessels for safety on behalf of the Department of Energy. These certificates of fitness are issued every five years, said Mr. Scutts.
- The Pipeline Inspectorate of the Department of Energy, which is responsible for certifying all pipes coming into the platform.

The Piper Alpha platform was installed in an oil field 120 miles northeast of Aberdeen, Scotland, in June 1975 under a safety certification of Lloyd's Register of Shipping—one of the classification societies authorized by the Department of Energy—and began production in December 1976. The rig was designed with an eight-legged steel jacket, weighing 34,000 tons and standing in a water depth of 470 feet. The overall height from the mud line to the drilling derrick's top was 650 feet, with pilings dug a further 117 feet into the seabed.

There were accommodations on the rig for 241 crew members, "though normal manning would have been 200," according to Mr. Scutts.

The Piper Alpha platform and oil field were operated by Occidental Petroleum (Caledonia) Ltd., which held a 36.5% stake in the platform. In addition to Occidental, Texaco Britain Ltd. had a 23.5% share in the platform and Union Texas Petroleum Ltd. and Thomson North Sea Ltd. each held 20% stakes.

Altogether, approximately 340,000 barrels a day of oil flowed through Piper from these fields and those owned by Texaco, said Mr. Scutts. "This throughput is equivalent to 15% of the U.K.'s total oil production," he said.

Despite certification of its safety, the Piper Alpha exploded on July 6 (*BI*, July 11), following what surviving workers described as the sound of escaping gas, Mr. Scutts said. The force of the blast ripped the Piper Alpha platform apart, he said. The only remaining structure above the waterline was the extensively damaged wellhead module, two flare booms, two jacket legs, interconnecting braces and the well conductors, he added.

The 36 wells were cemented after well control expert Paul "Red" Adair extinguished the fires. Search and recovery of missing personnel could not be started until the wells had been stabilized, said Mr. Scutts.

With the major part of the reservoir now depleted after years of operation, underwriters believe that rather than redrill the 36 wells, the operators will abandon the present Piper Alpha site. This would then trigger an obligation to the British government on the part of Occidental, the platform's operator, to remove the entire drilling structure.

"It is estimated that this work could take at least two years to complete," said Mr. Scutts. Underwriters of the four owners would be responsible for the cost to remove the platform.

An alternative arrangement, however, could allow Occidental to remove only the top 75 meters below the sea level line, "which could reduce that time—and consequence expense—considerably," said Mr. Scutts. Such a course would be subject to approval by the British government.

Occidental's first priority is to establish a method of bypassing the Piper Alpha rig so that oil and gas production can be resumed from five other North Sea oil fields that utilized the platform "as quickly as possible," according to Mr. Scutts. This process could take between three months and a year, he added.

Of the Piper Alpha's owners, only Union Texas Petroleum is insured for such business interruption costs (*BI*, July 18).

The IUMI conference hall at the Sheraton Wentworth Hotel in Sydney was particularly packed for the presentation given by Mr. Scutts and Jon Reiersen, senior vp of Vesta General Insurance Co. of Bergen, Norway, both of whom were leading underwriters on the Piper Alpha.

In addition, many of the 453 delegates from more than 40 nations who listened in total silence to Mr. Scutts describe the Piper Alpha had a portion of the loss, which Mr. Reiersen estimated would total between $1.25 billion and $1.5 billion.

One delegate believes that altogether as many as 6,000 insurance and reinsurance policies are involved in the loss. Aside from the 76 IUMI delegates who were hit by Piper Alpha claims, the Norwegian market alone had about 20% of the total insured loss before reinsurance, estimated one Norwegian delegate.

Continued on next page

Swedish Club targeting Asian market

By STACY SHAPIRO

SYDNEY, Australia—A Swedish mutual hull insurance association that competed heavily for U.S. hull business in 1984 is losing some of the business it picked up earlier in the decade.

However, the Swedish Mutual Hull Club now is moving fast into the Asian market.

In the last 12 months, the Swedish Club has lost two large clients: U.S. Lines Inc. of New York, which was sold to Sealand Service Inc. of Iselin, N.J., and Sealand itself confirmed Lars Lindfelt, managing director of the club. Sealand moved its hull insurance back to the London market in January for a $1 million reduction in premium, he said.

The Swedish Club also lost 25% of the hull insurance for an Israeli fleet last December, he confirmed.

Mr. Lindfelt admits the club's premium volume is down from the lost business, though he will not say by how much. However, according to Mr. Lindfelt, the club's directors chose to lose some business rather than compete because rates had fallen too low.

"We elected to reduce the volume when we couldn't get the rates we wanted," he said. "But now we are on the increase. Our members are buying more ships and we have new members," primarily in Southeast Asia.

To administer this business, the Swedish Club has established a large office in Hong Kong. Three Swedish Club executives have moved to the office in the past six months.

"We are placing a lot of emphasis on the Asian market, which shows by having our board of director's meeting in Hong Kong on Oct. 20," said Mr. Lindfelt. "About 25% of our business comes (from Hong Kong and Japan) since the center of shipping is here."

Mr. Lindfelt

Mr. Lindfelt was one of the marine insurers from around the world who attended the International Union of Marine Insurance conference, held last month in Sydney.

The Swedish Club, which was founded in 1872, currently insures more than 500 vessels totaling more than 13 million gross tons in weight, Mr. Lindfelt said. The club suffered six total losses in 1987 and one in 1988: the loss of the Vinca Jorthon, a roll-on, roll-off vessel owned by Jorthon Lines, which sank Feb. 29 off the Dutch coast, costing the club $25 million.

Mr. Lindfelt could not estimate the value of the six vessels that were insured by the club that were lost last year.

"Some of our competitors say that we will have trouble with our reinsurance in 1989 following the total losses in 1987," he said. However, he doesn't believe those reports.

"We continue to be present in the international market. We see shipping moving to Asian shores and that is why we are expanding our office in Hong Kong."

The club now is starting to negotiate Jan. 1 hull insurance renewals with its members, Mr. Lindfelt confirmed.

The club is encountering stiff competition from other markets, particularly from London insurers, which only a few years ago charged the Swedish Club with undercutting standard marine hull insurance rates (*BI*, Sept. 24, 1984).

"Hull insurance rates have so far not shown any sign of improvement," he said. "I was called the villain a couple of years ago, and now the London market is the culprit for reducing rates. Our main competition is from London."

Like other marine underwriters attending the IUMI conference, Mr. Lindfelt said he hopes hull insurance rates will tighten as a result of the July explosion of the Piper Alpha oil platform, which killed 167 people and may cost insurers more than $1.5 billion (*BI*, July 11).

However, whether marine insurance increases as a result of the Piper Alpha loss is "a theoretical argument," he said. "We won't know until December what will happen." ■

North Sea rigs

Continued from previous page

American marine insurers were also hit by Piper claims, although not as badly as by the $330 million loss of the Enchova oil platform off the coast of Brazil, American delegates agreed (*BI*, July 11; May 5). For example, Marine Office of America Corp. only lost between $11 million and $12 million from Piper claims, but is expected to pay $24 million from the Enchova loss, said MOAC Chairman and Chief Executive Officer George Zacharkow.

Mr. Reiersen told IUMI delegates that Piper Alpha's physical damages comprise only $650 million of the total loss.

However, he added, the $650 million property damage claim would pay for the replacement of the Piper platform, "but what if the platform is replaced by a subsea installation or floating production worth, say, $250 million?" Then the owners could make a handsome profit, he said.

Vesta is one of the insurers on one of the Piper Alpha's liability policies that are being asked to settle third-party liability claims as quickly as possible in order to avoid litigation in the United States, said Mr. Reiersen.

But, Occidental and contractors had standard contracts whereby each party should bear responsibility for its equipment and employees unless gross negligence can be proved, according to Mr. Reiersen.

"Therefore, until the actual cause of the accident is found and negligence or gross negligence is proven, I can see no third-party liability," he said.

Meanwhile, Mr. Reiersen is particularly concerned about insurance for Occidental's share of the platform, which was written by OIL Insurance Ltd. of Bermuda.

OIL will only write physical damage on a "written-down or depreciated basis," Mr. Reiersen said in a written analysis of the Piper loss that was distributed to IUMI members.

Therefore, many OIL members place package policies in the commercial market that include difference-in-conditions coverage to pay for the difference between the depreciated value insured by OIL and the actual cost to replace a platform, "as was the situation with Occidental in this case," he wrote.

The situation has worsened because OIL last year abolished its old rule that depreciation be capped at 50% of the original value of the platform.

"I think the time is here for this commercial market to put pressure on OIL and the brokers to provide in the policies the actual values at any time within OIL," said Mr. Reiersen. ■

Australia briefs IUMI on indigenous risks

By STACY SHAPIRO

SYDNEY, Australia—Marine insurers writing Australian risks face unique risks, underwriters attending last month's International Union of Marine Insurance conference in Sydney learned.

In particular, Australians are concerned about damage to the famed Great Barrier Reef by unpiloted ships and the theft of and damage to wool, which is the country's largest export.

In a joint presentation to IUMI delegates by the Insurance Council of Australia and the Queensland Coast and Torres Strait Pilot Service, Chris Henri, marine manager for the insurance council, called for action by marine underwriters to protect the Great Barrier Reef.

Too many vessels currently are sailing through the reef—the world's largest collection of coral reefs—without being navigated by a skilled local pilot who knows the waters, Mr. Henri explained.

'Many of those in control of most unpiloted ships lack the essential knowledge required to guarantee safe passage or the ability to establish an understanding with pilots or masters of other ships in restricted waters,' says Mr. Henri.

Mr. Henri was particularly concerned about these "unpiloted" ships crossing the Torres Strait, a thin stretch of water between Australia and Papua New Guinea, which he said "constitutes the shortest safe shipping track between Australian East Coast ports and those of our trading partners to the north."

Some 2,000 oceangoing merchant ships cross the strait annually.

In his address, Mr. Henri explained the danger that unpiloted ships could encounter in the Torres Strait and what insurers can do to stop this situation.

"The volume of unpiloted traffic has expanded and with it an increase in strandings and near collisions," he pointed out. Also, he noted that accidents then create the danger of polluting the reef.

Unpiloted ships also may encounter fishing trawlers that obstruct shipping channels and display incorrect signals that could confuse navigators not familiar with the area.

"Many of those in control of most unpiloted ships lack the essential knowledge required to guarantee safe passage or the ability to establish an understanding with pilots or masters of other ships in restricted waters," said Mr. Henri.

In January 1986, the International Maritime Organization's maritime safety committee recommended that the Torres Strait and the waters around the 80,000-square-mile Great Barrier Reef be a "piloted district" in which ships had to be professionally piloted.

But shipowners have paid little heed to the recommendation, said Mr. Henri. "Many of the regular unpiloted ships have been continuing to proceed without pilots," he said, singling out Soviet and Hong Kong vessels as offenders. And, since the recommendation was issued, two accidents involving unpiloted ships have occurred in the northern section of the reef, he said.

The Australian government has the authority to impose a compulsory pilotage district in part or all of the Great Barrier Reef region but has not yet done so, he added.

Compulsory pilotage, though, would increase the costs for ships that regularly travel in the region since Australia would have to finance additional supervision of the area, Mr. Henri said.

The Insurance Council of Australia and the Queensland Pilot Service both urged marine insurers to enforce proper piloting on the reef.

"A clause to the effect that policy coverage is conditional upon compliance with the IMO recommendation might be sufficient, Mr. Henri told the IUMI members. "Certainly it is the hope of Australian marine underwriters and the (pilot service) that a solution can be found which is effective but does not result in unnecessary increased costs to shipping."

Meanwhile, delegates attending the IUMI conference also learned about the risks associated with wool, which Australians call "white gold."

In a speech to the conference, Ralph Allan of Mercantile Mutual Insurance (Australia) Ltd. pointed out that wool has long been Australia's leading export except for a period in the 1970s when it was eclipsed by mineral exports.

And, he noted, in the past 12 months the price of wool has doubled. "The value of Australian wool exports in the financial year ended June 30, 1988, was $5.22 billion Australian ($4.07 billion U.S.), which represented approximately one-third of all primary industry exports," said Mr. Allan.

Some underwriters in recent years have reported that there "has been a substantial increase in theft or mysterious disappearance" of wool packed in a three-bale package, known as a tri-pack, when shipped to certain countries, he pointed out. "It is believed by some underwriters that counting tri-packs as one bale instead of three bales may be a contributing factor in these mysterious disappearance cases."

Water damage to wool also produces some claims for marine underwriters, but other than that "wool does not present any special maritime risks," Mr. Allan said.

However, wool is insured from the time it is sheared until it is delivered to the exporter, so underwriters should realize the "many risks" faced by wool companies before the fiber is loaded onto ships.

In particular, wool has been destroyed by fires in holding sheds, as was shown in a film viewed by IUMI delegates. "There have been at least three major fires in recent years that have resulted in very substantial claims," he said. For instance, the loss depicted by the film cost insurers $20 million.

Flood damage and theft from holding sheds are other risks faced by insurers, he said. ■

IUMI urges radioactivity exclusions

By STACY SHAPIRO

SYDNEY, Australia—The International Union of Marine Insurance is asking marine insurers worldwide to consider adopting exclusions for radioactive contamination risks.

The move follows two years of debate at IUMI conferences over the need to exclude radioactive contamination and cleanup exposures resulting from nuclear accidents, like the 1986 disaster at the Chernobyl nuclear power plant in the Soviet Union.

IUMI delegates called for a worldwide cargo insurance exclusion for radioactive contamination losses at the association's meeting last year in Nice, France (*BI,* Oct. 5, 1987).

But marine underwriters argued this year that the IUMI needed to go further and recommended an absolute, worldwide radioactive contamination exclusion for all risks underwritten in the marine insurance market. The risks would include ships, cargo and offshore oil and gas installations.

IUMI on Sept. 22 issued its recommendation that: "In view of the catastrophic nature of a nuclear accident, the executive committee of IUMI recommends that all members consider the implementation of a nuclear exclusion clause. This recommendation does not eliminate the possibility that some markets may wish to provide certain limited cover. However, IUMI urges individual markets to consider the matter very carefully."

The one-page recommendation concludes that the association, through its committees, will continue to monitor coverage in the 44 nations in which the IUMI has members.

The IUMI recommendation followed many comments made at the Sydney conference about the need to exclude coverage for losses stemming from a nuclear accident.

Already, non-marine insurers worldwide generally exclude radioactive contamination risks from property/casualty insurance policies, delegates to the conference pointed out. Instead, these risks are written by special nuclear insurance pools.

The topic of nuclear exclusions was brought up this year by cargo underwriters when Samuel Byron Jr., president of Marine Office of America Corp. in New York and chairman of the IUMI's cargo committee, addressed conference delegates.

Mr. Byron noted that of the 38 national delegations to the IUMI conference that had responded to a cargo committee questionnaire, 18 already exclude coverage for radioactive contamination risks. These nations include Italy and Japan, which took "a careful, prudent underwriting policy" toward radioactive risks following the discussion at last year's IUMI conference, Mr. Byron said in a written report.

Five nations—including the United Kingdom, Ireland and Australia, use the Institute of London Underwriters' cargo clauses, which do not exclude radioactive contamination, he said. However, as it did last year, the Irish delegation is asking that the ILU clauses be amended to exclude radioactive contamination, Mr. Byron said.

The British delegation said in reply that the London insurance market "remains seriously concerned by the potential magnitude of impact implicit in a Chernobyl-type incident and is accordingly ready to cooperate in any internationally based reappraisal of traditional marine market philosophies toward nuclear contamination risks."

'In view of the catastrophic nature of a nuclear accident, the IUMI recommends that all members consider the implementation of a nuclear exclusion clause. . .(though) some markets may wish to provide certain limited cover.'

Besides cargo underwriters, marine hull and energy underwriters also expressed their concern over radioactive contamination risks at this year's conference.

The IUMI hull committee asked delegates to comment "on your market's view on an absolute exclusion of nuclear damage" in a questionnaire sent to delegations from all nations, said Tony Nunn, chairman of the IUMI hull committee and general manager of The Scottish Lion Insurance Co. Ltd. in London.

"We had an illuminating variety of answers," he said.

Thirteen countries voted for an absolute exclusion, he said, adding that four nations said they already did not cover radioactive contamination risks under hull and offshore marine policies

In addition, five countries said they are currently considering a wording to exclude the risk.

Six other countries replied that coverage for radioactive contamination should be written only on a restricted basis, while three nations said they would follow the decision of the U.S. or London market, Mr. Nunn said.

Specifically, according to the IUMI reports on ocean and inland hull coverage:

- The French marine market "is not in favor of an absolute exclusion (on) nuclear damage. As a consequence, no clause has been drafted," said the response from Syndicat des Societes Francaises d'Assurances Maritimes et des Transports, the French marine insurance federation.
- The West German Marine Insurance Assn. said it is "in favor of a restrictive cover as it is the practice in our market."
- The Central Union of Marine Underwriters in Norway has adopted a standard exclusion in the Norwegian standard hull policy for any loss due to the release of nuclear energy in connection with the explosions of atomic weapons or atomic test explosions. The association, which is studying an absolute exclusion for all nuclear perils, said "there is a general consensus that all losses arising from nuclear accidents should be excluded from the hull policies."

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● Leading hull and energy underwriters in the London market at a meeting in July "agreed that nuclear damage (other than from a war-related peril) was not excluded from a marine insurance policy and no further discussions have been held on this matter," said the Institute of London Underwriters.

● The American Institute of Marine Underwriters said that "an absolute exclusion is left to the judgment of the individual underwriter."

Several delegations spoke about the need for an absolute radioactive contamination exclusion.

Michael Hill, of Associated Marine Insurers Agents Pty. Ltd. in Sydney, urged the London market to alter the ILU clause for cargo and hulls to exclude radioactive contamination.

A round of applause showed the support of other delegates for Mr. Hill's proposal.

John Parton, chairman of the ILU, said that "the London market is of the opinion that the situation must be examined. . .we see strong support among IUMI members."

Mr. Parton pointed out that if there is a nuclear catastrophe, there would be a "massive accumulation" of losses for marine insurers. "Are we sure that the market can respond to such an event?" he asked.

However, he later said in an interview that London underwriters are wary of imposing any clauses that restrict coverage. The London market tried to restrict non-marine coverage offered by London marine underwriters a few years ago and were opposed by many underwriters, he said, adding that "London is reluctant to impose (radioactive contamination exclusions) on the rest of the world."

'London is reluctant to impose (radioactive contamination exclusions) on the rest of the world,' says John Parton, chairman of the ILU.

The London market is also wary about imposing any nuclear exclusions unless governments promise they will indemnify private parties for their nuclear-related losses, said Mr. Parton.

However, a delegate from South Africa, who agreed that there should be a worldwide marine exclusion for radioactive contamination from nuclear accidents, said he was pessimistic about London's resolve to adopt an exclusion.

"We are sick of the situation," he said. "When will the London market stop paying lip service to this?" ■

Spanish plant walkout triggers coverage battle

By MARIA KIELMAS

MADRID, Spain—Industria Espanola del Alumino S.A., the giant Spanish aluminum producer known as Inespal, is battling with its insurers and reinsurers over its 11 billion peseta ($88 million) claim for losses at its San Ciprian smelting plant.

However, insurers in Madrid deny reports that litigation concerning the claim already has been filed.

"Inespal is obviously uneasy and upset because it has not collected. Inespal is crying out louder and beginning to threaten insurers, but nobody is suing anybody yet," said a Spanish insurer who asked not to be named.

The claim stems from a January employee walkout at the Inespal smelting plant in San Ciprian, a coastal town in northern Spain (*BI*, Jan. 18). The employees stopped work without maintaining what Inespal termed minimal services required to maintain the smelting process. As a result, the metal under process solidified and the plant was forced to shut down until June.

Employees at the plant walked off the job to protest possible contamination from chemical drums stored at the plant's harbor facilities. The drums were recovered from a Panamanian-registered freighter that ran aground nearby.

Inespal filed an 11 billion peseta claim with insurers, of which 25% was for material damage and 75% was for business interruption losses.

Inespal, which is 72.5% owned by Spanish state holding company Instituto Nacional de Industria (INI) purchased property damage and business interruption coverage from Musini Sociedad Mutual de Seguros y Reaseguros a Prima Fija, another INI affiliate.

Musini retains only 1.5% of the risk. It cedes about 96% of the risk to a unit of American International Group Inc. of New York.

A spokesman for Musini said that his company is inclined to agree to Inespal's claim. However, "the reinsurers are disputing the claim," he added. "There are different interpretations of the policy, but we are working to resolve the situation."

An AIG spokeswoman in New York could not comment on the claim.

Spanish insurance industry sources say the disagreement is triggered by the fact that the Inespal coverage was written on a U.S.-type, all-risk property insurance policy.

"We are not familiar with the principle of this type of policy where everything is covered except what is excluded. We normally operate the other way around," said one Madrid-based insurer.

In addition, the state-owned Consorcio de Compensacion de Seguros, which wrote catastrophe coverage for the plant for material damage losses, has rejected the claim.

Leon Benelbas, director of insurance at the Spanish Ministry of Economy and Finance and also director general of the Consorcio, said the claim was rejected "because it does not fall within the coverage of the Consorcio."

However, Mr. Benelbas pointed out that Inespal could appeal that ruling.

Inespal had filed the claim for material damage under the "tumulto popular"—or civil commotion—clause of the Consorcio policy.

But, the Consorcio ruled that as there was no violence, the employee walkout could not be classified as a civil commotion.

Mr. Benelbas said the Consorcio's analysis of the Inespal claim was influenced by a Labor Court ruling that apportioned blame for the incident at the smelting plant on government ineptitude, violation of the principles of good faith and honesty on the part of the employees and management negligence.

Loss adjusting firms involved in the case are saying nothing for the record. "My mouth will remain shut for the moment," said John Barlow, head of the Madrid office of Thomas Howell, Selfe & Co., a London loss adjuster.

Spokesmen for Inespal in Madrid declined to comment. ■

College risk retention group expands

By JERRY GEISEL

Risk retention roundup

WASHINGTON—A Vermont-domiciled risk retention group is expanding its operations by providing liability coverage to educational institutions previously insured by an offshore group-owned captive.

United Educators Insurance Risk Retention Group Inc. now is writing policies for educational institutions that had purchased coverage from SCUUL, short for School, College & University Underwriters Ltd., a Bermuda-based captive owned by about 55 schools.

As part of a restructuring, educational institutions that had purchased about 170 policies annually through SCUUL will receive the same coverage from United Educators. With the addition of SCUUL policyholders, United Educators will have about 380 policies in force and a premium volume of $11 million, up from $3.7 million.

United Educators currently has capital and surplus of $4.9 million.

Also as part of the change, SCUUL will stop directly writing policies, but will continue to reinsure a major part of United Educators' risks, a role it has assumed since both captives began doing business last year.

Aside from transferring policies it had directly written, SCUUL will transfer the unearned premiums on those policies and $2 million in cash to United Educators.

The transactions have been approved by the Vermont Department of Banking and Insurance.

The restructuring is intended to eliminate the confusion caused by two captives providing the same coverage, said Arthur Broadhurst, a vp in United Educators' Washington, D.C., office.

In addition, as an offshore insurer, SCUUL faced difficulty communicating its program to educational institutions because of restrictions of doing business in the United States. By contrast, United Educators, as a risk retention group, is free to operate throughout the country.

"We have the advantage of United Educators being able to operate in the U.S., while SCUUL can operate as an offshore reinsurer," Mr. Broadhurst said.

United Educators provides two types of policies: educators legal liability insurance, which can be written on a primary or excess basis, and excess general liability insurance.

Educators legal liability provides coverage for such exposures as denial of tenure, breach of contract and age discrimination. Coverage is written for trustees, officers, faculty and the educational institution itself.

The coverage is written on a claims-made form.

United Educators offers up to $5 million in educators legal liability coverage limits written on an occurrence form, with policies issued in multiples of $1 million. A variety of deductibles are available.

In addition, limits of up to $15 million are offered for excess general liability coverage. Mr. Broadhurst says the excess general liability policy is written on a very broad form covering such risks as athletic contests, liquor liability, sudden and accidental pollution, and day-care center liability.

"We offer the coverage that educational institutions really need," Mr. Broadhurst said.

Premiums for both educators liability and excess general liability insurance are based on such factors as number of employees and students, size of operating budget and prior claims experience.

Mr. Broadhurst notes that premiums, especially for smaller institutions buying educators liability insurance, may be somewhat higher than what the commercial market currently is charging. However, the United Educators policy is broader than those offered by commercial insurers, he said.

In addition, United Educators is promising policyholders long-term coverage and pricing stability. "We will be there when things get tough. Premiums will be based on individual risk, not on market conditions," he said.

"By buying coverage through United Educators, educational institutions are ensuring the future availability of coverage because they will own their own company," he added.

United Educators retains the first $50,000 of risk on each educators legal liability policy, ceding the remainder to SCUUL. On excess general liability policies, United Educators retains the first $100,000 of risk, ceding the remainder to SCUUL.

SCUUL retains $5 million of risk per policy before purchasing retrocessional coverage.

M&M Insurance Management Services Inc. in Burlington, Vt., provides accounting and other financial services. Victor O. Schinnerer & Co. Inc. in Chevy Chase, Md., is United Educators' underwriting manager.

The United Educators program is accessible through brokers and agents. A 12% commission is paid.

Educational institutions eligible for the program include public and private colleges and universities and private and independent elementary and secondary schools.

For more information, contact Mr. Broadhurst at United Educators Insurance Risk Retention Group Inc., 1910 K St. N.W., Washington, D.C. 20006; 202-785-8322. ■

Lloyd's members' agencies join forces

By CAROLYN ALDRED

London

LONDON—"Big is beautiful" appears to be a popular slogan among Lloyd's of London underwriting agencies.

Three members' agencies acquired smaller rivals in September, and several more acquisitions and mergers currently are being negotiated, London sources say.

Bankside Underwriting Agencies last month announced an agreement to buy Frizzell Members' Agency Ltd., from broker The Frizzell Group Ltd. for an undisclosed amount.

Frizzell Members' Agency acts for 230 underwriting members at Lloyd's, representing a premium capacity of about 66 million pounds ($110.2 million).

The acquisition will give Bankside Members' Agency Ltd. responsibility for a total of 620 members with a combined premium capacity of 275 million pounds ($459.3 million), said Bankside's Company Secretary Lawrence Holder.

Bankside also owns a managing agency, Bankside Syndicates Ltd., that currently manages 14 syndicates at Lloyd's.

In a letter to Frizzell's Lloyd's members, Frizzell Group Chairman Colin Frizzell said that "in a market dominated by the big managing agencies" Frizzell decided that members' long-term interests would be best represented by a larger members' agency.

Also last month, London Wall Holdings announced plans to acquire members' agency Alexander Howden & Beck Ltd. for an undisclosed amount from Alexander Howden Group Ltd., a unit of Alexander & Alexander Services Inc. AHB acts for 572 Lloyd's members with a premium capacity of 159 million pounds ($265.5 million).

After completion of the acquisition, which like the Frizzell acquisition is subject to Lloyd's approval, London Wall will act for 1,145 members with a premium capacity of 312 million pounds ($521 million).

London Wall also manages four Lloyd's non-marine syndicates and one aviation syndicate.

Combined members' and managing agencies also are expanding operations.

Octavian Underwriting Ltd. announced plans last month to acquire fellow underwriting agency Bolton Ingham (Agency) Ltd.

Octavian currently manages eight Lloyd's syndicates and looks after the affairs of about 370 Lloyd's members. Bolton Ingham, meanwhile, manages three syndicates and looks after 270 members.

However, if Lloyd's agrees, two of the Bolton Ingham syndicates will be merged with other syndicates, underwritten by the same underwriters, and their management transferred to other agencies, said Octavian Managing Director Nigel Rogers.

These are marine syndicate 926, underwritten by Chris Rome, which will be transferred to C.W. Rome (Underwriting Agency) Ltd., and non-marine syndicate 1041, which will be transferred to the management of Janson Green Ltd.

"There is a general feeling that there are too many (underwriting) agents operating in the Lloyd's market. Small members' agencies, in particular, are finding it difficult to make ends meet with the introduction of new market regulations," said Mr. Rogers, predicting additional acquisitions in the Lloyd's market.

Lloyd Thompson

Lloyd's of London broker Lloyd Thompson Group P.L.C. last week announced a 24% increase in fiscal year pretax profits to 5.2 million pounds ($8.6 million at applicable exchange rates) from 4.2 million pounds ($6.8 million).

Brokerage revenues also increased 28% to 11.8 million pounds ($19.6 million) for the year ended June 30, from 9.2 million pounds ($15 million) the previous year.

Most areas of the company's business expanded, with energy risks remaining the largest sector, followed by hull, cargo and reinsurance accounts. However, North American property business suffered from competitive rates, particularly in the domestic U.S. insurance market, noted Chief Executive Ken Carter.

The company also hopes to expand its involvement in financial institution business, political risk insurance brokerage and U.S. casualty business, including medical malpractice risks, Mr. Carter said.

Meanwhile, the broker is hoping recent signs of a hardening in the marine reinsurance market and a stabilization in energy risk rates will be sustained in the wake of the July explosion of the Piper Alpha oil platform. Losses from the explosion could total $1.5 billion.

"We have seen an immediate cessation of spiraling premium reductions, although there has been no trend upwards in direct rates" for energy-related risks, said Director John Lloyd.

However, marine reinsurance rates, particularly for high-layer excess-of-loss business, have risen sharply, added Director Jonathan Marland.

Hogg Robinson

Lloyd's of London broker Hogg Robinson & Gardner Mountain P.L.C. has acquired the brokerage

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London

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subsidiaries of Edward Lumley Holdings Ltd., together with its Lloyd's members' agency subsidiary, for a total of 2.46 million pounds ($4.1 million).

The deal will be financed by the payment of 245,000 pounds ($409,150) in cash and 1.3 million in new HRGM shares, according to a statement from HRGM.

For the year ended Dec. 31, 1987, the brokerage subsidiaries reported losses of 800,000 pounds ($1.5 million at appropriate exchange rates) after reorganization costs, and revenues of 3.3 million pounds ($6.2 million). HRGM estimates revenues this year will total more than 4 million pounds ($6.7 million at current exchange rates).

Citicorp acquisition

Citicorp Insurance Holdings Ltd., the London-based insurance brokerage unit of New York-based Citicorp, plans to acquire Lloyd's of London broker Nelson Hurst & Marsh Ltd., which specializes in professional liability insurance brokerage.

"The merger of the insurance brokerage operations of Citicorp and Nelson Hurst & Marsh will create a substantially larger London-based firm which will greatly further Citicorp's objective of becoming a global, full-service broker," said Peter W. Carlson, chairman and chief executive of Citicorp Insurance Brokers Ltd.

Citicorp and Nelson Hurst refused to discuss the acquisition.

Lloyd's nominations

Several prominent Lloyd's of London members are seeking to fill vacancies on the Council of Lloyd's.

Candidates include John Greig, chairman of Lloyd's broker Greig, Fester Ltd.; Anthony Hines, chairman of Crowe Underwriting Agency Ltd.; Robin A.G. Jackson, a director of Merrett Holdings P.L.C. who is retiring at year-end as underwriter for non-marine syndicate 799; and Colin Murray, chairman of underwriting agency R.J. Kiln & Co.

The four members are competing for three council vacancies created by the retirements of working members Alan Parry, Peter Daniels and Henry Dobinson.

Meanwhile, two vacancies for external members also have been created by the retirement of Christopher Davidge and Colin Baillieu.

Among the nine candidates for the vacancies are Dr. Mary Archer, a scientist and the wife of best-selling author Jeffrey Archer; Miami-based insurance broker Phil C. Gallagher, president of Gallagher-Cole Associates; London attorney Robert Elborne; and Dutch banker John Van der Hagen.

Ballots will be issued to Lloyd's members on Oct. 14. Voting will close on Nov. 16.

New AIU unit

American International Underwriters (U.K.) Ltd. is restructuring its international operations in preparation for the removal of trade barriers within the European Community in 1992.

The company is forming an international division, headed by Carl Bach, to "take advantage of market opportunities, better communicate our wide range of international capabilities and to provide a more centralized underwriting unit for brokers wishing to negotiate in multinational insurance programs," according to a company statement.

"We are really beefing up our international operations," said Brian Street, city production manager.

Comings & goings

Derek Bayley has been named a director of Bain Clarkson Ltd.'s reinsurance division. Previously he was director of the captive division of Alexander Howden Ltd.

Robert Keville has been appointed chairman of Durtnell & Fowler Ltd., a subsidiary of Willis Faber P.L.C., following the retirement of Fred Murdoch.

Keith Hadden has been appointed a director of Bowring Non-Marine Insurance Brokers Ltd. and **Peter Bernhard** has been appointed executive director of Bowring Aviation Ltd. ■

Product liability lawsuits filed in federal courts still increasing

By DEBORAH SHALOWITZ

Washington

WASHINGTON—The number of product liability cases filed in federal courts around the country still is on the rise.

Product liability complaints in U.S. District Courts rose 13% in fiscal 1988 to 17,140 from 15,151 in fiscal 1987, according to statistics compiled by the Administrative Office of the U.S. Courts in Washington. Product liability cases filed in federal courts rose 11% in fiscal 1987 from 13,595 in fiscal 1986.

The states with the most product liability suits filed in federal courts in fiscal 1988, which ended June 30, include:

- Pennsylvania—2,985 cases, up a dramatic 170% from 1,103 in fiscal 1987.
- Ohio—2,831 cases, up a steep 116% from 1,310.
- Texas—1,425 cases, down 44% from 2,535.
- Iowa—934 cases, up a phenomenal 1,197% from 72.
- New York—792 cases, down 39% from 1,289.
- Hawaii—501 cases, up 61% from 311.
- Louisiana—489 cases, down 27% from 673.

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- California—475 cases, down 31% from 690.

The states with the fewest product liability lawsuits in fiscal 1988 include Vermont with 18, up from 11 the previous year; South Dakota with 18, down from 32; North Dakota with 20, the same as the previous year; Wyoming with 22, up from 21; and Delaware with 25, up from 15.

MGA criticism

The executive committee of the American Assn. of Managing General Agents says it is "shocked and dismayed" by a House subcommittee staff report that criticized the use of MGAs to write property/casualty insurance.

"The use of MGAs by insurance companies to write business on their behalf is an industry practice that can be exceedingly dangerous," said the memorandum released earlier this month by the staff of the House Oversight and Investigations Subcommittee (*BI*, Sept. 19).

However, the Kansas City, Mo.-based AAMGA disagrees with the committee staff's "blanket indictment of the entire MGA profession."

"It is evident to the AAMGA that inadequate research had been done and that, to the best of our knowledge and information, no hearings were held or other opportunity offered to provide managing general agents a forum in which to be heard," said a statement released last week by Peter B. Scobie, president of the AAMGA and president of R.W. Scobie Inc./Mid-West General Agency in Eau Claire, Wis.

"We are amazed that a congressional staff would issue a report based upon such a lack of complete information about this very significant element of the insurance industry," Mr. Scobie said.

The criticism of MGAs came in conjunction with the subcommittee's investigation of the insolvencies of Mission Insurance Co. and Integrity Insurance Co.

Manufacturer fined

A Colorado manufacturer is being fined $709,000 for alleged violations of federal safety and health standards.

The Occupational Safety and Health Administration is charging Norgren Co. in Littleton, Colo., with 96 willful violations of federal recordkeeping rules and four willful violations of machine guarding rules.

Willful violations are those in which an employer either knew that a condition constituted a violation or was aware that a hazardous condition existed and made no reasonable effort to correct it.

Injuries and illnesses allegedly not recorded or improperly recorded by the company included lacerations requiring stitches, broken bones, burns, infections and muscle strains, according to OSHA.

However, OSHA's charges of recordkeeping violations are "absolutely false," said Norgren President George C. Loury in a statement.

Norgren plans to fight the charges and expects "any eventual penalties to be very minor and certainly not willful or flagrant as charged by OSHA," Mr. Loury said.

Norgren employs 650 people to manufacture valves and pipe fittings for pneumatic tools.

Asbestos rule

A new federal short-term asbestos exposure limit that will protect approximately 36,000 workers is expected to cost employers about $29 million annually.

The new limit, issued by the Occupational Safety and Health Administration, requires employers to limit workers' exposure to asbestos to one fiber per cubic centimeter of air averaged over 30 minutes.

The existing asbestos exposure standard, adopted in June 1986, only requires employers to limit workers' exposure to asbestos to 0.2 fibers per cubic centimeter of air averaged over an eight-hour day.

The construction industry will have to spend about $23 million annually to comply with the new short-term limit, estimates OSHA.

The new rule was published in the Sept. 14 Federal Register.

Communication aid

A kit to help employers comply with the federal hazard communication standard is available from the U.S. Government Printing Office.

The federal right-to-know law requires all businesses except those in the construction industry to inform workers of potential hazards in the workplace, train them in how to deal with those hazards and label potentially hazardous substances (*BI*, Aug 24, 1987).

The 3rd U.S. Circuit Court of Appeals has ordered a stay of the standard for the construction industry (*BI*, Sept. 5).

The new kit, produced by the Occupational Safety and Health Administration, includes:

- A copy of the complete hazard communication standard.
- An explanation of material safety data sheets and a glossary of terms used on the MSDS.
- A list of audiovisual materials and publications available from various sources on the standard.
- OSHA regional and area offices and states that operate their own OSHA programs.

The kit can be purchased for $18 from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402-9325. Request GPO Order No. 929-022-00000-9—OSHA 3104 Hazard Communication Compliance Kit.

It also may be ordered by phone from the GPO by calling 202-783-3238 and using a credit card for payment.

Employee protection

Legislation that would protect federal employees from being held personally liable for performing their official duties passed the House and is pending in the Senate Judiciary Committee.

The bill, H.R. 4612, would make the federal government the defendant in any tort lawsuits brought against a civil servant.

The legislation was introduced this spring after the U.S. Supreme Court ruled Jan. 13 in *Westfall vs. Erwin* that civil servants could be held liable for some actions taken during the performance of their official duties.

The bill passed the full House earlier this summer and is expected to be passed by the Senate.

Superfund hot line

The Superfund hot line, a service of the U.S. Environmental Protection Agency, is now open from 8:30 a.m. to 7:30 p.m. EDT. The public can call the hot line toll-free at 800-535-0202 for answers to questions about a wide variety of EPA regulations. ■

Losses from Lisbon fire less than feared

LISBON, Portugal—Insurance claims stemming from the massive fire that destroyed a large part of Lisbon's historic Chiado shopping district last month are expected to be much less than originally feared, sources say (*BI*, Aug. 29).

"Only 10% to 20% of the total loss caused by the fire is likely to be insured," said Tony Dodd, treaty underwriting manager of the British & European Reinsurance Company Ltd., a subsidiary of the Commercial Union Assurance Co. P.L.C. that reinsures several Portugese insurers.

Estimates of the total damage caused by the fire range from 100 million pounds ($168 million) to 160 million pounds ($268.8 million), said Mr. Dodd.

However, insured losses probably will not exceed 16 million pounds ($26.9 million), he said, explaining that many of the buildings were either uninsured, had no contents insurance or were substantially underinsured.

Portugese insurers have reinsured at least 75% of their losses, he estimated, with about 50% of the reinsurance placed in London, he noted.

—By Carolyn Aldred

Australian reinsurance

SYDNEY, Australia—Plans to make Australia a major regional reinsurance market for the Western Pacific are being developed by the Government Insurance Office, which writes all classes of insurance for the government of New South Wales, an Australian state.

The GIO argues that a healthy Australian reinsurance market would boost the development of Sydney as a major center in the rapidly developing Western Pacific financial market. The flow of Asian investment capital, particularly from Hong Kong and Singapore, to Sydney has increased dramatically in recent years and shows no signs of slowing down.

At present, most Australian and Asian reinsurance business travels to the London market. In fact, the whole Western Pacific market is dominated by British, West German and Swiss reinsurance corporations, according to the GIO.

The GIO established a reinsurance division two years ago and now has an office in Tokyo as well as a good working relationship with Indonesia's state-owned insurance office. The GIO also has a wholly owned subsidiary operating in the London reinsurance market.

The GIO's long-term plans are to build a strong worldwide presence but with emphasis on the southeast Asian region. Half of Australia's major export markets are in Asia.

Although the GIO is accepted in Australia as a major treaty and facultative reinsurer, others in the Australian market believe that other Australian and Western Pacific insurance companies need to enter the reinsurance business to add diversity and depth to the Australian market.

A small but growing reinsurance market already is developing in Singapore, but the GIO says that a strong Australian market would only complement other Asian markets.

The GIO is Australia's largest general insurer, writing 25% of all homeowners policies and 20% of the nation's automobile insurance. It has a staff of 2,300 in 102 retail offices.

—By Geoffrey Lee Martin

Swiss takeovers

GENEVA, Switzerland—Mergers and takeovers prompted by the abolition of trade barriers among European Community nations in 1992 will reduce the number of insurance companies in Switzerland, a financial analyst predicts.

Already, both foreign and Swiss companies are buying interests in Swiss insurers and this may accelerate as the country's insurance industry consolidates in anticipation of 1992, said Beat Schweitzer, a financial analyst at Union Bank of Switzerland.

There were 52 Swiss insurance companies as of Jan. 1, of which seven are foreign-owned, according to a 1987 report by the Ombudsman of Private Insurance, a state-run watchdog operation

However, mergers and acquisitions could reduce the number of Swiss insurers "drastically" between now and 1992, said Mr. Schweitzer, although he would not predict how many insurers would remain.

Mr. Schweitzer's comments follow last summer's heated takeover of La Suisse Insurance Co. by Switzerland's largest insurer, Swiss Life Insurance & Pension Co. (Rentenanstalt). Swiss Life purchased La Suisse, the country's eighth-largest insurer, last August for 576 million Swiss francs ($366.8 million).

Swiss Life completed its acquisition after a bidding war with rival bidder Saurer Group Holding a Swiss conglomerate. The takeover battle forced the shares of La Suisse to more than double in value in less than a month. The Saurer bid followed public accusations that its financier-owner, Tito Tettamanti, was acting for unidentified "foreign interests." Mr. Tettamanti said in a statement, however, that more than 90% of Saurer's voting rights are in Swiss hands.

Mr. Tettamanti's statement came too late, though, to change La Suisse shareholders' minds. La Suisse's board unanimously recommended Swiss Life's bid, even though it was less than Saurer's bid. It was important, La Suisse President Emile Meyer said, that La Suisse be associated with an insurance company that could provide the synergy necessary to compete in 1992, rather than with a conglomerate with no previous experience in the insurance field.

At the same time as the battle was on for La Suisse, West Germany's largest insurer, Allianz A.G., was acquiring 14% of La Genevoise, a Geneva-based insurance group. Allianz's purchase was opposed by several La Genevoise stockholders, including Swiss Reinsurance Co.

Allianz, which has been seeking a foothold in most European countries, succeeded in buying the shares of La Genevoise from Zurich businessman Werner Fleischman because the company's management had refused to register Mr. Fleischman's stock in its share register after he had consistently criticized management. Mr. Fleischman then promptly sold his

Continued on next page

Continued from previous page
holdings to Allianz, reports say.

—By John Parry

Malta seeks captives

VALETTA, Malta—The Mediterranean island of Malta is bidding to become a major offshore insurance and financial services center during the next decade.

Legislation to provide for the registration of captive and offshore insurance companies is expected to be passed by the Maltese government later this year, said a government spokesman.

The International Business Activities Bill, to be debated in the Maltese Parliament this fall, proposes a number of incentives to attract financial-oriented companies to the island, as well as the establishment of an authority to regulate them.

According to government documents accompanying the bill, the "main incentives and exemptions granted by the bill to trading offshore companies" include:

- Exemptions from, and a modified application of, Maltese laws regulating banking and insurance.
- A special income tax rate of 5% of taxable income, and the right of companies to compute their own tax except where the tax authorities can prove that the self-assessment is incorrect.
- Exemption from duty on documents.

"Banking and insurance companies are exempt from a number of requirements imposed by law on onshore banks or insurance companies. These concern such matters as. . .margins of solvency, inadmissible assets and reserve funds. These and similar requirements have been considered as not appropriate or necessary. . .in the case of overseas companies and certain subsidiary companies which. . .must be important international corporations of standing and repute," the document says.

Among the benefits Malta has to offer as an offshore financial center are:

- A strategic geographical position in the Mediterranean midway between Europe and Africa. Malta is located south of Sicily.
- A stable sovereign and independent neutral state.
- A political and legal system similar to Great Britain's.
- An educated, largely English-speaking population.

—By Carolyn Aldred

Earthquake cover

AUCKLAND, New Zealand—The New Zealand Earthquake and War Damage Commission has purchased catastrophe earthquake coverage of $1 billion New Zealand excess of $1 billion New Zealand ($640.1 million U.S.).

The reinsurance, effective Sept. 1, was placed with insurers around the world by a consortium of three London brokers: Greig Fester Group Ltd., Alexander Howden Reinsurance Brokers Ltd. and E.W. Payne Companies Ltd., said AHRB Chairman Ronald Iles.

A percentage of all property insurance premiums collected by insurance companies in New Zealand are paid into the commission's pool to cover earthquake and war damage claims, said Mr. Iles.

The reinsurance protection, one of the biggest single placements ever, only covers earthquake exposures, said Mr. Iles.

—By Carolyn Aldred

SGS expands

GENEVA, Switzerland—Swiss multinational loss adjusters Societe Generale de Surveillance acquired Australian loss adjusters MBS Network for an undisclosed sum.

MBS was purchased by Robins Davies & Little International, the SGS loss adjustment subsidiary, as part of a move away from SGS's traditional field of grain and cargo inspection.

The move follows the appointment last year of former Alcan executive P.J. Rich as SGS's chief executive, who announced that he would be diversifying SGS into other fields such as insurance.

SGS insurance subsidiaries include GAB Business Services and Norman Reitman Co. in the United States, and the Robins group, which operates in Europe, the Middle East, Africa and now in Australia.

Loss adjusting activities of SGS affiliates include the investigation and settlement of claims for insurance companies, Lloyd's of London, captives and self-insurance funds of major corporations; as well as other services such as risk management.

—By John Parry

Freedom of trade

INTERLAKEN, Switzerland—European risk managers likely will benefit from more competitive insurance premiums and broader coverages when trade barriers in Europe are dismantled in 1992, according to a Zurich Insurance Co. executive.

At the same time, risk managers within the European Community may find themselves subjected to much greater swings in pricing and the withdrawal of some essential coverage such as U.S. product liability insurance, warned Edward J. Hester, Zurich's assistant manager for the United Kingdom at an International Symposium for risk managers held by Zurich Insurance in Interlaken, Switzerland.

A freer European market probably will create a "more flexible response to the buyer's needs as well as a simplification of existing practice. But there could also be a downside. Roller-coaster premiums in soft and hard markets as well as the withdrawal of essential coverage such as U.S. product liability have been a feature of unregulated markets," said Mr. Hester.

As a result of freedom of trade, "multinational companies will be able to obtain one policy document covering all their exposures in the EC and thus be able to dispense with the issue of local primary policies in each country," said Mr. Hester.

However, "how many insurers will be able to meet (risk managers') requirements on a Europewide basis remains to be seen. We are already beginning to see a flurry of takeover and merger activity amongst insurers in Europe. (But) becoming larger does not necessarily mean that an insurer is better able to meet the changing needs of its customers," he added.

—By Carolyn Aldred

Landoil prosecution

MANILA, Philippines—The Philippine Supreme Court has granted the government permission to prosecute 14 executives of the defunct Landoil Resources Corp. for misappropriating the salaries of their overseas workers.

The executives, including Congressman Jose de Venecia, former Landoil president, will be accused by government prosecutors of misappropriating the portions of Filipino overseas workers' salaries.

A Landoil attorney was unavailable for comment.

Attorneys for Landoil argued before the Supreme Court that there was no fraud because the workers were to be paid partly through insurance proceeds. Landoil said it told its workers when it halted operations in 1985 that Landoil's political risk insurance would cover all claims such as unpaid salaries.

Landoil in 1985 filed a $500 million lawsuit against Lloyd's of London political risk underwriters in the Philippines over the underwriters' refusal to pay $40 million in political risk. Earlier this year, Landoil also filed suit against broker Alexander & Alexander Services Inc. and underwriters in New York (*BI*, Jan. 18; Jan. 20, 1986).

So far, no money has been recovered from the insurers.

—By Kathleen Barnes

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Professional Liability and Specialty Insurance

Cargo insurance

Controlled program offers benefits for foreign exposures

By Jerome Karter

IT'S A SMALL, SMALL world for U.S. multinationals that sail the seas of coordinated cargo insurance programs. By charting a course of consolidation, many U.S. risk managers have reduced worldwide cargo premiums, broadened coverage and improved controls.

Additional economic benefits often are realized when U.S. multinationals reinsure consolidated transit premiums to an existing offshore captive insurer.

In recent years, many U.S. multinationals have favored the controlled program approach when insuring foreign property/casualty exposures. But the advantages of a such a program sometimes are overlooked. Let's look at some of the benefits that can be achieved through a controlled foreign cargo program:

- Worldwide coverages negotiated with a single underwriter on broad terms.
- Pooling of worldwide premiums to increase buying leverage and reduce costs.
- Uniform global cargo claims, data processing and loss control services.
- Easier compliance with local insurance regulations.
- Increased flexibility of captive involvement.

None of these benefits should be dismissed. In fact, it is important to recognize the far-reaching advantages offered by each one.

First, a consolidated cargo program, underwritten by one worldwide insurer, offers broader coverage than the more fragmented local underwriting approach.

Marine underwriters classify cargo as under-deck or above-deck and as general (a variety of goods shipped by one or more interests) or full (a single commodity shipped by one interest). Under a decentralized program, a local cargo insurer will underwrite each of these classifications separately. Local underwriting criteria also will include such diverse elements as type of packing and seaworthiness of a vessel. Vessels over 15 years old often are charged a surcharge.

On the other hand, a consolidated cargo program allows the worldwide insurer to issue a global master "all-risk" contract covering any goods or merchandise incidental to the policyholder's business—whether on-deck, under-deck or by air and throughout the transit exposure, including connecting inland movements—until the goods are in place at their final destination.

In most cases, the master all-risk contract will be substantially broader than any local cargo policy and will impose fewer obligations on the policyholder. Where legally permissible, the master all-risk policy can be duplicated at the local level, thereby diminishing both excess and difference-in-conditions exposures under the master insurance program.

Besides broadened peril coverage, a controlled cargo program will provide uniform worldwide master all-risk policy wording, whether coverage is locally admitted or maintained on a non-admitted basis.

As most U.S. risk managers know, standardized ocean cargo policy forms are not required by law. Instead, each insurer is free to use its own policy wording or manuscript broker forms. Moreover, while most cargo policies are worded similarly, insuring customs vary from country to country. For this reason, special attention must be paid to local endorsement wording, which generally is held to represent the specific interests of the policyholder. Remember, if a coverage dispute arises at the time of loss, local policy wording will be interpreted according to the established custom of the country.

International issues

Another objective of a controlled cargo program is streamlined rating. The decentralized approach allows the local insurer to charge market rates for each cargo classification. But, in the event of a catastrophic loss or a series of shock losses, the local policyholder may suffer a dramatic rate increase or, worse, coverage cancellation.

A consolidated cargo program allows the worldwide insurer to issue a global master 'all-risk' contract covering any goods or merchandise incidental to the policyholder's business—whether on-deck, under-deck or by air and throughout the transit exposure—until the goods are at their final destination.

The "pooling" concept of a program, however, allows the U.S. parent insurer to mandate worldwide rates since all premium and loss experience is treated as one book of business.

In theory, a controlled program operates like a captive, but the insurer accepts all premium and losses. The U.S. parent insurer may develop individual rates for the risks of ocean or air; difference-in-conditions/contingency/guarantee collectibility; and war and strike, riots and civil commotion.

These individual rates then can be applied to all shipments reported under the non-admitted master all-risk cargo contract as well as to all shipments reported in countries where the master all-risk contract can be legally issued.

For a fronting fee, the U.S. insurer's overseas network will issue the all-risk cargo contract at worldwide rates (in countries where it is legally permissible). All remaining premium is reinsured with the U.S. parent insurer. Losses are shared proportionately.

Sensitivity to service is another fundamental component of a controlled cargo program, especially in the areas of global claims handling, data processing and loss control services. Although there are advantages of scale to be gained through service consolidation, a well-designed controlled cargo program should respond to the service needs of both the foreign subsidiary and the corporate parent.

While consignees initially fear that centralized claims administration will delay processing, experience has shown that loss payments actually are accelerated.

Centralized U.S. claims administration also eliminates settling agent fees that can add as much as 20% annually to a policyholder's gross claims. Instead, the consignee pays an overseas surveyor to prepare a claims report detailing the cause and extent of loss or damage. The documentation is forwarded to the U.S. control point for "turnaround payment."

Consistency of data is another benefit of program consolidation. When raw claims and recovery data are compiled and manipulated by a central control point, the analysis can be used to monitor claims trends and underwriter performance. Data collection, simplified by using one worldwide insurer, serves as the design basis for electronic data processing programs that record and analyze losses by vessel, subsidiary, nature and size of loss.

A well-designed controlled cargo program will include loss-control services that inform the policyholder of current international port conditions and recommend port facilities, shipping methods and packaging plans.

As noted, economies of scale are available through premium pooling and coverage consolidation. But, additional benefits often are gained when worldwide transit premiums are reinsured to an existing offshore captive.

But, before involving an existing offshore captive in a controlled cargo program, premium and loss information should be reviewed to determine the desired level of captive participation. If the U.S. multinational does not wish to retain 100% of the cargo exposure, quotations should be obtained from a worldwide insurer or reinsurer willing to participate in the program.

Some options for captive participation in a controlled cargo program include:

- Quota-share arrangements. The offshore captive assumes an agreed percentage of liability for each and every loss. Net premiums are shared proportionately.
- Deductible buy-backs. When a commercial insurer is providing admitted coverage and first-dollar claims service, the offshore captive can be used to reimburse the commercial insurer in amounts equal to the agreed deductible amount.

Substantial premium credits, available at optimum buy-back deductible levels, becomes the captive's share of net premium income.

- Mid-level aggregate plans. The global insurer pays all losses up to a fixed percentage of annual premium and the offshore captive reinsures a mid-level loss amount subject to an annual aggregate.

Under this plan, the captive's income is equal to the annual aggregate loss amount. To protect the captive's underwriting profits from depletion, the commercial insurer will step back in and pay all losses in excess of the captive's annual aggregate.

An offshore captive usually will enjoy a cash-flow advantage from any of these participation options, since claims payments generally lag well behind receipted premium cessions.

However, an existing offshore captive that reinsures consolidated transit premiums must maintain essential services that are not normally provided by a captive. These services, available from commercial facilities or participating insurers, include:

- Premium assessments to consignees.
- Loss surveys.
- Loss adjustments.
- Claims payments.
- Subrogation against negligent third parties.
- General average guarantees.
- Comprehensive statistical information.
- Certification of insurance.
- Loss-control and loss-prevention services.

In summary, any U.S. multinational can have a successful controlled cargo program, with or without captive involvement, as long as the following elements are present:

- Risk management personnel who are authorized to coordinate the consolidated program with all foreign subsidiaries.
- Support for the program, both local and corporate.
- An underwriting facility that is experienced in transit risks and is capable of providing admitted coverage with flexible claims service.
- An insurance broker with worldwide marine expertise and a strong international network to provide global claims handling, data processing and loss control.

A quick review of your worldwide cargo policy may show that it is time for your corporation to chart the course of consolidation and learn what many U.S. risk managers already know: It's a small, small world!

Jerome Karter is senior vp and manager of the New York International Department of Johnson & Higgins. His column appears the first Monday of every month.

ASK A BENEFITS ACTUARY

Congress could cure Section 89 headaches

Q **Will technical corrections simplify compliance with Internal Revenue Code Section 89?**

A This question comes from an employee benefits manager who is attempting to plan for compliance with the welfare benefits non-discrimination and qualification rules of Internal Revenue Code Section 89. The benefits manager is aware that the Technical Corrections Act of 1988 has been introduced in the Senate as S. 2238 and has cleared the Senate Finance Committee. (A similar, but not identical, version of the Technical Corrections Act has been passed in the House.) The benefits manager is concerned about the effect these changes would have on complying with Section 89.

In general, the Technical Corrections Act would make compliance with Section 89 much simpler. One major change under the proposed legislation deals with the frequency with which a plan must demonstrate compliance with Section 89 non-discrimination rules. Under current law, the non-discrimination rules must be met continuously throughout the year based on the benefits available or provided.

The Technical Corrections Act recognizes the difficulty in proving continuous compliance and would require the non-discrimination rules to be applied based on benefits available and provided on one day during the year.

The Technical Corrections Act recognizes the difficulty in proving continuous compliance and would require the non-discrimination rules to be applied based on benefits available and provided on one day during the year.

However, adjustments would be required if, during the year, there is a change in plan design or in any benefit election by a highly compensated employee.

The annual testing date would be specified in the plan document for the health or welfare plans. And, all plans sponsored by the employer of the same type—i.e., all health plans, all group term life insurance plans—must have the same testing date. A change in a plan's testing date would generally require the consent of the Internal Revenue Service.

However, the testing date used in 1989 could be changed in 1990 and later years without the IRS' consent.

A second simplification concerns determining if benefits provided to former employees comply with the Section 89 non-discrimination requirements. Under current law, an employer must demonstrate that benefits provided to former employees comply with the non-discrimination rules. This is done by testing former employees as a group under the Section 89 non-discrimination tests.

The Technical Corrections Act recognizes that employers may not have maintained sufficient data to enable them to test the benefits for former employees.

The Senate version of the Technical Corrections Act would provide that employees who separated from service prior to Jan. 1, 1989, would generally be disregarded by applying the Section 89 non-discrimination rules.

However, if benefits are increased for former employees after Dec. 31, 1988, the increase would have to be tested for discrimination under Section 89.

Another simplification concerns the valuation of benefits provided by multiemployer plans. In the typical case, an employer will make contributions for health and welfare benefits to a multiemployer trust based on the hours worked by the employee. Frequently, the employee works sporadically for the employer throughout the year. The employer will often know very little about the actual benefits provided by the multiemployer plan and will only know the contributions that it makes to the plan.

One hopes that the Technical Corrections Act will be passed by Congress. If, however, it is not passed, one hopes that the Internal Revenue Service will administer Section 89 rules as if the legislation were passed.

The Technical Corrections Act recognizes this situation and would provide special rules for valuing benefits provided by a multiemployer plan.

Also, the act would provide that an employer may generally treat the contribution it makes to the trust on behalf of the employee as the value of the benefit provided by the employer. If the plan contribution relates to several different types of benefits—such as health benefits and group term life insurance—the employer would be required to use a reasonable allocation method for determining a portion of the contribution attributable to each benefit.

The Technical Corrections Act would also significantly ease the plan qualification requirement that plans be in writing. Congress has apparently recognized the immense burden that it has created for plan documentation.

Under the Technical Corrections Act, plan sponsors would be required to comply with the written plan requirement by the end of the plan year beginning in 1989, as long as employees have reasonable notice of the plan's essential features on or before the beginning of this plan year.

In addition, the plan provisions in the written document must be retroactive to the beginning of the plan year.

The Technical Corrections Act would provide certain health plan valuation rules that in some instances could simplify compliance.

The act would provide for a temporary special valuation rule for health plans that will be in effect for at least 1989 and 1990. For the purpose of determining if a health plan is discriminatory, the value of the health benefit could be determined under "any actuarially reasonable valuation method" adopted by the employer. This valuation method must be consistently applied to all health plans. It need not take into account every feature of a health care plan.

However, if any feature of a health plan has a significant value or is available to a highly disproportionate number of highly compensated employees, such feature must be taken into account for the valuation method. Clearly, allowing employers some reasonable flexibility in valuing plans will ease difficulties in compliance for the first years.

The Technical Corrections Act goes on to specify that basing the benefit value on Consolidated Omnibus Budget Reconciliation Act premium rates would be considered to be a reasonable actuarial method.

In order to facilitate planning, the COBRA premium rates used could be those for a substantially similar coverage provided in the immediately preceding one or two years.

The employer would be able to adjust the COBRA premium rates for differences in geographical areas, demographic characteristics for covered employees and differences in utilization of certain health care features (this latter adjustment for differences in utilization appears to be an adjustment for large claims, though this is not entirely clear). Again, the use of COBRA premium rates for determining the total value of the plan could simplify compliance for plan sponsors.

Finally, the Technical Corrections Act would provide for ease of compliance in those areas where the IRS has not issued regulations to clarify interpretation of Section 89.

An employer would be found to be in compliance of Section 89 if it makes a reasonable interpretation of Section 89 in good faith.

The determination of whether an employer has acted in good faith will not be based on whether there is any reasonable argument that the employer's position is correct; rather, it would be made with reference to an objective determination of the likely position that would be taken by the IRS and the courts.

One hopes that the Technical Corrections Act will be passed by Congress because of the many simplifications it would provide for compliance with Section 89.

If, however, the legislation is not passed, one hopes that the IRS will administer Section 89 rules as if the technical corrections were passed.

And, the sooner the final rules are known the better.

The date for compliance with IRC Section 89 requirements is drawing near very rapidly and planning for compliance is very difficult when the rules are subject to change.

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

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


Mr. Miner

This month's column on actuarial issues in the benefits field is written by William J. Miner, an actuary with The Wyatt Co. in Chicago. Richard E. Sherman, a principal with Coopers & Lybrand in San Francisco, answers actuarial questions in the casualty field. Susan M. Werner, director of risk management at Hardee's Food Systems Inc. in Rocky Mount, N.C., answers risk management questions. And, Joseph W. Duva, director of employee benefits at Allied-Signal Inc. in Morristown, N.J., answers benefits management questions.

Mr. Miner's and Mr. Sherman's columns appear alternately on the first Monday of each month. Mr. Duva's and Ms. Werner's columns appear alternately on the second Monday of each month. Mr. Miner's next column will appear in December.

Address your questions to ASK, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. Please give us your name, title and employer; however, Business Insurance will consider unsigned letters.

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One loss affects several entities

By The Insurance Institute of America

A.R.M. exercises

The following question and answer are drawn from the curriculum for the Associate in Risk Management designation awarded by the Insurance Institute of America. They represent the type of question asked—and the possible answers—in one of the three examinations for the A.R.M. designation.

This month's exercise, drawn from a recent national examination for ARM 54, illustrates how several entities may be exposed to loss from a single event and describes ways of valuing their respective loss exposures.

Q: Theatrics Inc. owns the theater building in which Local Players Co., a regional theater company, stages theatrical productions. LPC leases the theater for nine months a year and 60% of its total revenues are derived from the sale of season tickets. The terms of this lease permit LPC to store its sets and costumes in the building's basement the entire year.

Theatrics Inc. contracts with other entertainers to stage shows in the building during the three months that LPC does not use the theater. To raise additional capital, Theatrics Inc. has mortgaged the theater building to First Bank.

For each of the following property valuation standards, define the standard and explain how that standard can be used to estimate the severity of potential losses to Theatrics Inc.'s building or its contents:

- Actual cash value.
- Replacement cost.
- Reproduction cost.

In addition, assume a tornado causes severe damage to the theater building four weeks before the start of LPC's production season.

Identify three legal entities likely to suffer a loss as a result of that storm. And, describe the legal interest, if any, that each of the entities described above has in the theater building and its contents.

A: Theatrics Inc., like any organization, is likely to find different valuation standards particularly appropriate for different kinds of property losses:

- Actual cash value—normally defined as the replacement cost of damaged or destroyed property minus its physical depreciation or obsolescence—probably would provide the most meaning as a standard for valuing Theatrics' losses to the theater structure or to the theater's general contents.
- In contrast, replacement cost—the current cost of rebuilding or purchasing new property that is comparable in function (but not necessarily identical) to that damaged or destroyed—probably would be most germane in measuring Theatrics' losses to the fixtures and decorations in the theater, as well as for replacing the entire theater building with a new structure, which would perform the same functions as the old theater building.
- Reproduction costs—typically the cost of duplicating precisely damaged or destroyed property with new property indistinguishable from the old—could be significant to Theatrics for valuing any losses to property that is of unique construction or of special historic interest such as special stage settings or unique decorations.

The question introduces at least five entities that may suffer tornado loss, some of them having a legal interest in the theater building and its contents, while others have no such interest in the theater or its contents.

The entities that may suffer loss from severe damage to the theater building include Theatrics, LPC, First Bank, other entertainers who may use Theatrics' building and LPC season ticket holders.

Of these five entities, those having a legal interest in the theater building and its contents include Theatrics as owner of the building, LPC as a building tenant and as an owner of sets and costumes stored there and First Bank as a mortgagee of the building.

Other entertainers who may use the building, along with LPC and season ticket holders, generally have no recognized legal interest in the theater building or its contents—unless one considers the right to use the theater for certain highly specific times to be a legal interest in the building.

The sample questions and answers used in this column are taken from the Associate in Risk Management designation curriculum of the IIA. For more information on the content of the A.R.M. program, write Dr. G.L. Head, Vp, Insurance Institute of America, P.O. Box 314, Mal–vern, Pa. 19355.

Liability crisis vs. tort reform debate

"Liability: Perspectives and Policy"
Edited by Robert E. Litan and Clifford Winston
The Brookings Institution, 1775 Massachusetts Ave. N.W., Washington, D.C. 20036-2188; 202-797-6258
1988, 248 pages

By Alison Kittrell

Books & ideas

MUCH HAS BEEN written and said by both sides in the debate over the liability insurance crisis and the need for tort reform. This scholarly book attempts to sort through the rhetoric and get to the issues.

"Liability: Perspectives and Policy," which is edited by two senior fellows in the Brookings Economic Studies Program, sets up the history of the conflict between liability insurance rates and tort reform. The authors recall that rising liability rates and diminishing coverage in recent years brought the call for a reform of the civil justice system, as insurers and others said a court system gone amok was causing claims that were forcing the closing of the liability market. Opponents of this position, however, said that the insurers' own greed and mismanagement, characterized by price-cutting, led to the severe losses suffered by liability insurers.

Recent easing in the liability insurance market has quieted the debate. But, the authors say, "The issues raised by the most recent crisis. . .will not disappear. If nothing else, the dramatic increases in premiums and curtailments of coverage have called greater attention to the nation's civil justice system. . .than at any point in recent memory."

The book attempts to develop a "framework" for resolving the dispute by looking at the issues it raises through the comments of a distinguished panel of contributors, including economists, insurance professionals and experts in liability law.

First, Mr. Winston and John E. Calfee, assistant professor of management at the University of Maryland in College Park, set up a methodology for evaluating the performance of the current civil justice system. The purpose of the system, they say, should be to deter injury and to provide compensation for injuries that occur despite that deterrence. But, they conclude that because the goals of deterrence of injury and compensation may conflict, no system can achieve both goals.

Then Scott E. Harrington, associate professor of insurance at the University of Pennsylvania in Philadelphia, examines the liability insurance market and concludes that the market mirror trends in the civil liability system.

Subsequent chapters, "demonstrate how, in moving toward broader compensation, the tort system has affected the medical system, the environment, the workplace and the development of products," according to the authors.

These chapters conclude that the liberalized court interpretations of liability standards have had an adverse impact on the availability and affordability of insurance, and that those two factors have compromised the concept of a tort/liability system designed to deter injury and compensate fairly. However, the authors find no clear alternative to the current system.

In writing on medical malpractice, Patricia M. Danzon, professor of health care systems at the University of Pennsylvania, says: "The liability system as it relates to malpractice is costly to operate and its benefits remain unproven, but there is no obviously superior alternative. The two extreme alternatives—no liability or physician liability without regard to fault—would probably cost even more than the current system relative to benefits. The search for cost-effective reforms should focus on modifications of the tort system to reduce uncertainty and eliminate inappropriate levels of compensation while retaining a fault-based rule of liability."

Consultant Peter Huber, writing on environmental liability, says: "The simplest and most readily available solution that is affordable, stable and predictable is a return to rigorous standards of proof within the liability system. Regrettably, that also appears to be socially unacceptable to both the public and the courts."

And, George L. Priest, professor of law at Yale University in New Haven, Conn., writes on product liability law and its effect on accident prevention and concludes: "Modern products liability law fails to provide adequate control over the accident rate involving products because it fails to establish sensible and effective incentives for accident prevention."

Based on these findings, the authors form several conclusions:

- Because the insurance market reflects civil liability trends, stiffer regulation of the industry "would accomplish very little and, by inducing insurers to withdraw coverage, would likely be counterproductive."
- The court system would be a more effective deterrent to undesirable behavior if it were "to balance the costs and benefits of the behavior of both plaintiffs and defendants."
- Schedules should be set up for pain and suffering awards, based on the age of the injured party and the severity of the injury.

However, the authors conclude, "Given the limited data available, we simply know too little about the total costs and benefits of the current liability system to be confident that any radical change—in particular, replacing the tort system with a government-administered compensation program—would produce benefits to society that would outweigh the costs."

The book is extremely technical and research-oriented; in fact, it probably is so technical that many casual readers would not want to—and may not be able to—wade through it. But, it does remove the partisan hysteria from the debate over liability and tort reform, and replaces that hysteria with facts—if not with many answers.

Decision could hike liabilities of British firms in the U.S.

By CAROLYN ALDRED

LONDON—British companies with offices in one state can be held liable by British courts for damages awarded by a U.S. federal court applying stricter tort laws of another state, according to a London High Court.

The ruling, which could significantly widen the potential liability of British companies operating in the United States, likely will be appealed, said a London lawyer.

The ruling refutes the generally held belief of British attorneys that a British company must have a permanent office in the state in which a lawsuit is filed for British courts to recognize a U.S. court's jurisdiction over the company, according to John Parker, a partner of London law firm Davies Arnold & Cooper.

The issue is one of several legal arguments addressed by Mr. Justice Scott in his 98-page judgment stemming from 205 consolidated asbestos bodily injury claims brought against London-based Cape Industries P.L.C. in London's High Court.

The plaintiffs were attempting to enforce a $15.6 million damage award against Cape Industries rendered in a 1983 default judgment by a U.S. District Court in Texas.

The claimants alleged that Cape Industries was liable as the parent company of North American Asbestos Corp., an Illinois-based, U.S. marketing subsidiary that marketed asbestos, without warning of its dangers, to a Texas-based manufacturer between 1953 and 1972, when the manufacturer closed down.

In his decision, Mr. Justice Scott refused to enforce the U.S. court's judgment against Cape Industries, ruling—among other things—that the parent company had no presence in the United States at the time the Texas proceedings began.

However, the judge ruled that, under English law, British courts would enforce a U.S. federal court judgment against a British company if the parent company had a presence anywhere within the United States at the time court proceedings begin.

"This is the first time such a ruling has been made" in the United Kingdom, Mr. Parker said.

"Most U.K. companies are extremely concerned about being exposed to U.S. litigation, because of the high awards, inconsistent judgments and the ease in which the corporate veil is pierced," he said.

He added that it is "extremely difficult (for U.K. companies) to get insurance coverage for claims in the U.S."

Currently, many British companies avoid locating in certain states because of their legal histories, Mr. Parker explained.

However, Mr. Justice Scott's ruling means that British companies with operations based in one state and sued in another now may be held liable for damages by a federal court applying the laws of the state where the litigation was filed, whether or not the company has operated in that state, he said.

The judgment "potentially has far-reaching consequences for the insurance market," said Graham Charkham, an attorney with the London law firm Clyde & Co. who specializes in jurisdiction disputes.

The plaintiffs in the Cape Industries case last week appealed Mr. Justice Scott's June decision, said Steven Loble, associate partner with the London law firm of Herbert Oppenheimer Nathan & Vandyk, which represented the plaintiffs.

And, Cape Industries likely will cross-appeal other aspects of Mr. Justice Scott's decision, including his ruling concerning a U.S. federal court's jurisdiction over a British company, Mr. Parker said.

Cape Industries has until mid-October to file a cross-appeal, he added.

The litigation now heading for London's Court of Appeal began in January 1974, when seven claimants sued in the U.S. District Court for the Eastern District of Texas in Tyler, claiming they suffered injuries because of exposure to asbestos dust from an asbestos factory in Owentown, Texas.

Named defendants included factory owner Pittsburgh Corning Corp. of Pittsburgh; Pittsburgh Corning affiliates PPG Industries Inc. of Pittsburgh and Corning Glass Works of Corning, N.Y.; South African mining company Egnep Pty. Ltd., which mined the amosite asbestos that was used in the factory; and North American Asbestos Corp., which acted as a marketing liaison between Egnep and U.S. purchasers.

The shares of Egnep were held by Cape Asbestos South Africa (Pty.) Ltd., which Cape Industries owned prior to December 1975. In addition, Cape Industries incorporated NAAC in Illinois in 1953.

As a result, Cape Industries also was named as a defendant in the proceedings.

"Liability was alleged on the ground that (defendants) had been responsible for the supply of the amosite asbestos used in the Owentown factory and, notwithstanding knowledge of its dangers, has failed

Continued on page 37

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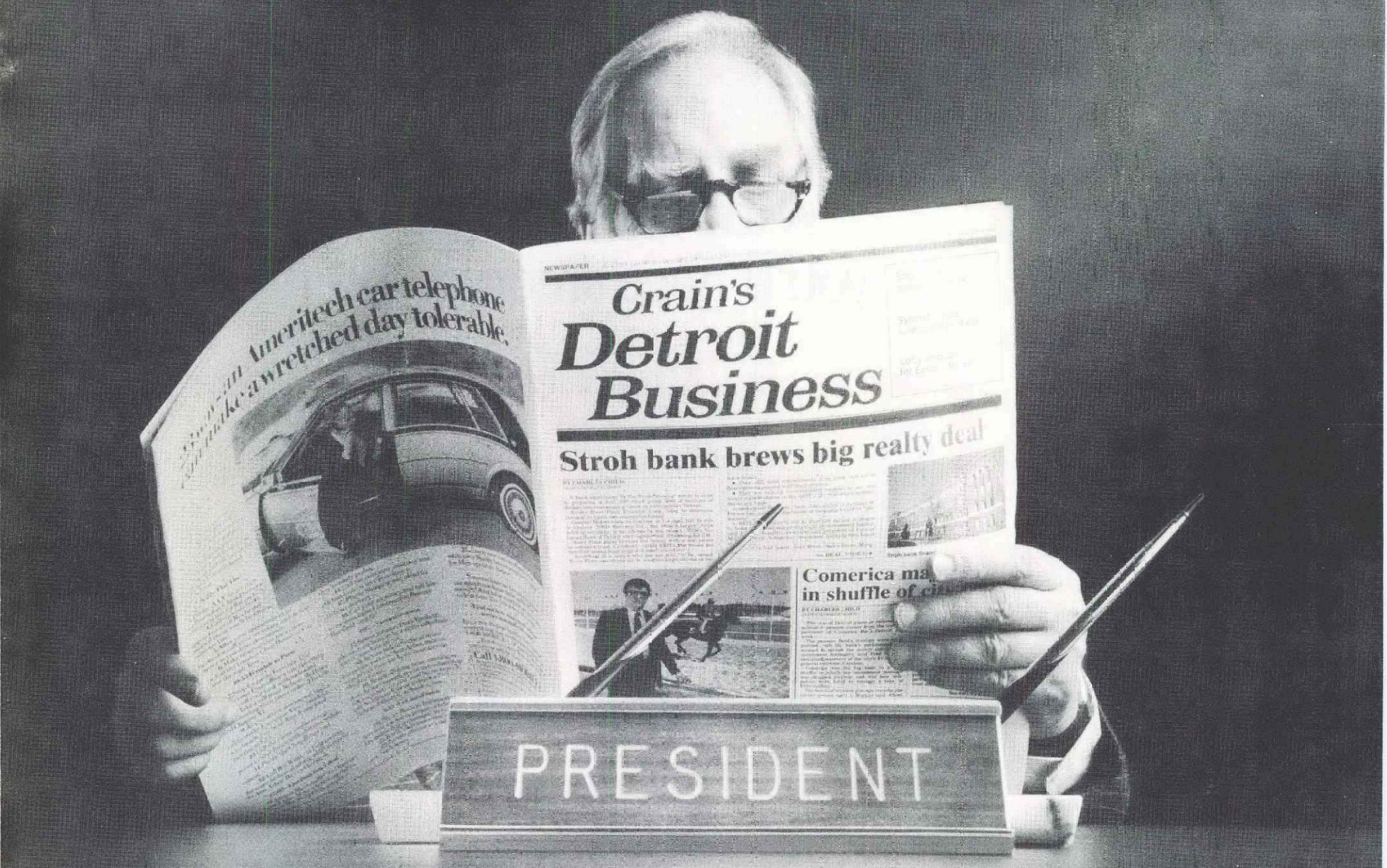

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*Source—Erdos and Morgan, Inc. Subscriber Survey, 1988.

British ruling

Continued from page 35

to warn against those dangers," according to court papers.

Other defendants—including the U.S. government and the Oil Chemical and Atomic Workers International Union, of which most of the Owentown factory workers were members—also were brought into the action. Because all of the defendants were not Texas residents, the action was brought in a federal court rather than a state court, Mr. Justice Scott noted.

The case was settled in September 1977 for $20 million, paid by the defendants in agreed proportions, including a total of $5.2 million paid by NAAC, Cape Industries and Egnep.

According to Mr. Justice Scott, $4.1 million of the $5.2 million settlement was paid by NAAC's insurers, which are not named in the court papers. That "virtually exhausted" NAAC's insurance.

In the meantime, however, other plaintiffs filed additional actions in the same court also naming Cape Industries; Egnep; NAAC; and Capasco, Cape Industries' worldwide marketing subsidiary. Those lawsuits were consolidated into a second action.

However, "Cape had no assets in the U.S. save for the shares in NAAC. . .(which) were, by reason of the number of outstanding asbestos-related claims, assets of no value. So the decision was made by the senior management of Cape that Cape, Capasco and Egnep would take no step at all in any of the (further) actions," according to the High Court judgment.

"There were no U.S. assets against which any judgments could be enforced and they were prepared to defend actions brought in England to enforce any judgments on the ground that, under English law, the U.S. courts had no jurisdiction over" them, said the judge.

He added that Cape Industries also decided to liquidate NAAC in November 1977.

"The liquidation of NAAC was accompanied by the devising and implementation of alternative marketing arrangements," he noted in his judgment.

In September 1983, the U.S. District Court judge in Texas issued a default judgment against Cape, Capasco and Egnep for $15.65 million.

"The purpose of obtaining these default judgments was that they should be enforced in England," Mr. Justice Scott noted.

However, the London judge ruled that the default judgments should not be enforced in this case because the presence of NAAC in Illinois "did not constitute the presence in Illinois of Cape or of Capasco so as to subject them, on a territorial basis, to the jurisdiction of U.S. courts."

"Trading in a country is insufficient, by the standards of English law, to entitle the courts of the country to take in personam jurisdiction over the trader. . .The trading must be reinforced by some residential feature, be it a branch office or a resident agent with power to contract," he explained.

But, Mr. Justice Scott ruled the Illinois offices "were NAAC's offices. NAAC's business was its own business, not the business of Cape or of Capasco. NAAC had no authority to contract on behalf of Cape or Capasco or any other company in the Cape group."

However, on the assumption that the case likely would be appealed, Mr. Justice Scott further ruled on "whether a presence in Illinois is, under English law, a sufficient foundation for jurisdiction to be taken by the federal district court sitting in Tyler, Texas."

There is no doubt that "for conflict of law purposes, each state within the United States is a 'country' and that for many conflicts-of-law purposes the United States is not a 'country,' " Mr. Justice Scott stated.

For example, "each state has its own common law. The United States has no common law," he said, adding that "the proper law of a contract or of a tort may be the law of a state but cannot be the law of the United States as a whole."

However, "I find it difficult to accept that for some private international law purposes the United States may not be a 'country.' Take the case of a federal district court hearing a federal antitrust damages suit. . .federal antitrust law is the product of United States statute, not state statute, and applies to the whole of the United States," he said.

"In my judgment, where a federal district court is exercising federal question jurisdiction, it is doing so as a court of the United States in which the 'country' of the court is, for English law purposes, the United States," he said.

However, "the question before me is whether a federal district court sitting in diversity in a tort case is to be regarded, for enforcement purposes, as a court of the state in which it is sitting and whose law it is applying, or a court of the United States which established it. There is no authority that provides an answer," he said.

"The United States is a sovereign power with a territory over which its sovereignty extends. It has established courts whose in personam jurisdiction, although subject to limits and derived from state statutes, is capable of extending to individuals anywhere in the United States," the justice said.

He concluded that "the exercise of jurisdiction by a federal district court over a person resident in the United States is, by the standards of English law, a legitimate and not an excessive exercise of jurisdiction. If I had felt able to conclude that Cape and Capasco were, when the Tyler 11 actions were commenced, present in Illinois, I would have held that to be a sufficient basis in English law for the exercise by the Tyler Court of jurisdiction over them." ■

Pollution cleanup cost cover introduced

Businesses can now purchase up to $1 million in insurance coverage that will indemnify them for pollution cleanup expenses incurred at their own locations.

The new coverage, written through underwriting manager Environmental Compliance Services Inc. in Downingtown, Pa., is written on a claims-made basis and carries a minimum self-insured retention of $25,000 and a minimum premium of $10,000, according to William Kronenberg, president of ECS.

Planet Insurance Co., a unit of Reliance Group Holdings Inc. of New York, is the insurer.

The policies can be tailored to indemnify operators, buyers and sellers of properties, or financial institutions.

"Our policy is the first policy available in the market to specifically address on-site pollution cleanup," Mr. Kronenberg said. "This fills a void currently created by exclusionary language in most property, casualty and pollution liability policies," which exclude coverage for on-site pollution cleanup.

Other EIL coverage currently available covers only third-party liability for sudden and gradual pollution on a per-site basis (*BI*, March 28).

ECS' new on-site pollution coverage is written on a site-specific basis. Policyholders may need to pay for a risk assessment.

For further information and applications for ECS' Pollution Clean-Up Policy, contact ECS Marketing, 721 E. Lancaster Ave., Downingtown, Pa. 19335; 800-327-1414 or 215-269-6731 in Pennsylvania.

Products & services

Medical reviews

Benefit managers, insurance companies and third-party administrators concerned about excessive claims arising from magnetic resonance imaging procedures many seek help from The Medical Review Institute of America, which now offers resonance review services.

Magnetic resonance has proved superior to conventional enhanced and unenhanced CT scans for diagnosing diseases in cerebral white matter, Alzheimer's disease, central nervous system lesions and certain primary malignancies of soft tissue.

The use of magnetic resonance has proliferated in the past year, according to Robert A. Christenson, a review services representative with the MRIA.

However, because of widely varying regional costs and fear of litigation, claims abuses have become rampant, said Mr. Christenson.

Costs for legitimate MRI procedures are usually double that of CT scan procedures, Mr. Christenson said. For example, in California an MRI procedure performed on the back costs between $900 and $1,400.

In light of such high costs, the Medical Review Institute will review resonance claims to evaluate appropriateness of treatment, as well as determine accurate usual and customary charges for the procedure in the location where it was performed.

All claims are reviewed—at a general cost of less than $100—by a board-certified radiologist and an experienced MRI center director, Mr. Christenson said.

For more information contact the Medical Review Institute of America, 525 E. 100 South, Suite 300, Salt Lake City, Utah 84102; 1-800-654-2422.

Books/videos

"The Insurance Legislative Fact Book and Almanac 1988" contains more than 480 pages of directory listings, issues analyses and opinion articles on insurance and public policy. One to nine copies are $37.50 each; 10 to 19 copies are $25 each; and 20 copies or more are $20 each. Contact The Conference of Insurance Legislators, P.O. Box 217, Brookfield, Wis. 53005; 414-782-6669.

The Practising Law Institute has released its new **Employee Benefits Audio Reports**, a quarterly series of audio cassettes, providing four 20-to-30-minute reports by experts on the most recent legislative or regulatory developments affecting employee benefits. The first and second reports, "Pension Reform Legislation" and "Securing Executive Benefits" are available. Subsequent cassette reports will be available in October and in January 1989. The annual subscription price is $55. For more information, or to receive PLI's 1988 catalog, contact June E. McDonald, Sales Manager, Practising Law Institute, Department AG, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700.

"Case Management: Guiding Patients Through the Health Care Maze," a special quarterly review bulletin available from the Joint Commission on Accreditation of Healthcare Organizations, examines case management theory and practice from the perspective of the physician, the nurse, the patient's family and third-party payers. Copies are $30 each. To order, or for more information, contact the Joint Commission's Customer Service Unit, 875 N. Michigan Ave., Chicago, Ill. 60611; 312-642-6061, ext. 650.

Financial Times' World Insurance Yearbook 1988 provides annually updated **details on more than 1,300 insurance companies and associations in 80 different countries.** The entries are arranged by country and listed alphabetically within that country. Included in the information are: telephone, telex and fax numbers; names of senior personnel; subsidiaries and associate companies; recent activities and developments. Copies are $125 each. For information, contact Doreen Jesseph at 800-345-0392.

The **International Foundation of Employee Benefit Plans** offers a variety of books on benefits. Books include such titles as "Utilization Review—A How-to-Guide" by Richard E. Johnson, "A Guide to Better Employee Benefits Forms," "Employee Benefit Plans: A Glossary of Terms," and "Multiemployer Benefit Plans—1987." The new releases range in price from $20 to $40 plus shipping. For ordering information, contact Publications Department, International Foundation of Employee Benefit Plans, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700. ■

Forster named president of Ryder MGA unit

Louis L. Forster, senior vp-development of Ryder System's Insurance Management Services division, has been named president of Southern Underwriters Inc. in Miami, a managing general agent and a Ryder System unit.

Mr. Forster joined Ryder System's Insurance Management Services division in February 1986. Prior to that, Mr. Forster had been vp-executive staff with Fidelity & Deposit Co. of Maryland, where he worked for 15 years.

Mr. Forster succeeds **Joseph H. Pero Jr.**, who was appointed vice chairman of Southern Underwriters, a newly created position.

In other excess/surplus changes:

Anita Wuhr joined Francis Special Risk Inc. in Cherry Hill, N.J., as vp of a new branch office in Independence, Ohio. Previously, Ms. Wuhr was an account executive with Alexander Howden North America Inc.

Agents/brokers

Judith A. Leo promoted to vp of Frank B. Hall & Co. of Fairfield/Westchester in Briarcliff Manor, N.Y., a division of Frank B. Hall & Co. of New York Inc.

Also, **Donald H. Willhite** joined Frank B. Hall & Co. of California in Los Angeles as vp-business development. Mr. Willhite previously was with Johnson & Higgins in Los Angeles.

Thomas H. Tyrell Jr. joined Frank B. Hall & Co. of California in Costa Mesa as vp-Southern California area surety director. In his most recent position, Mr. Tyrell was an executive vp with Insco/Dico Group in Anaheim, Calif.

Robert M. Whitmarsh appointed president and chief executive officer of Corroon & Black of Oregon Inc. in Portland, Ore.

John C. McCutchen appointed president of Fred S. James & Co. of Nebraska in Omaha and profit center manager of the Omaha office. Previously, Mr. McCutchen was senior vp of Fred S. James & Co. of Colorado in Denver.

John C. Adams Jr. named vp of Hilb, Rogal & Hamilton Co. in Richmond, Va.

Harry R. Johnson promoted to vp of The Graham Co. in Philadelphia.

Hobbs Group Inc. in Waltham, Mass., announced the following appointments: **Steven W. Sachs** to vp and regional manager; **Karen B. Hale** to vp and regional commercial lines manager; **Daniel J. Kelliher** to vp and regional group and benefits manager; and **Thomas R. Beamer** to regional vp and regional financial services manager.

Tom Gallagher promoted to area president and manager and **Tom Welbourn** promoted to area vp at Arthur J. Gallagher & Co. in Rolling Meadows, Ill.

W. Kingsley Flynn named senior vp of Johnson & Higgins of Delaware in Wilmington.

James V. Martin joined Rollins Burdick Hunter of Colorado Inc. as chairman and chief executive officer.

William E. Ure promoted to vp of Great Lakes Benefits in Chicago, a unit of Great Lakes Agency Inc.

Insurers

Richard H. Miller promoted to vp-actuarial, industry affairs and financial services in the commercial insurance division of Aetna Life & Casualty Co. in Hartford, Conn.

Keith T. Liddiard joined The United States Life Insurance Co. in New York, a subsidiary of USLIFE Corp., as regional vp-group sales. Prior to joining United States Life, Mr. Liddiard was second vp/director of alternate distribution for Lincoln National Life Insurance Co. in Fort Wayne, Ind.

Richard D. Gastley named senior vp and branch office coordinator of Associated Aviation Underwriters' home office in Short Hills, N.J.

Also, **James Hannon** appointed vp of the Atlanta office of Associated Aviation Underwriters.

Richard R. Greer joined National Life Insurance Co. of Vermont in Montpelier, Vt., as vp-product development. In his previous position, Mr. Greer was chief actuary of First Capital Life Insurance Co. of La Jolla, Calif.

Sheldon M. Davidow appointed vp-governmental relations of The Doctors' Management Co. in Santa Monica, Calif., a subsidiary of The Doctors' Co.

Reinsurance

Richard D. Robinson promoted to vp of American Re-Insurance Co.'s corporate rating department in New York. Also, **Richard E. Nelson** promoted to vp-treaty production at American Re's Chicago branch.

HMOs/PPOs

Christopher L. Binkley promoted to vp of Kaiser Foundation Health Plan Inc. and Kaiser Foundation Hospitals in Oakland, Calif. ■

Comings & goings: industry

Datebook

OCT. 9-12. Annual Society of Chartered Property & Casualty Underwriters Meeting: Responding to Need, Helping You Lead in Cincinnati, $275 for Society of CPCU members; $170 for guests. Society of Chartered Property & Casualty Underwriters, Kahler Hall, 720 Providence Road, CB#, Malvern, Pa. 19355-0709; 215-251-2728.

OCT. 10-12. Managing Program Implementation course in Atlanta, sponsored by the International Loss Control Institute; $513 for ILCI members; $570 for non-members. Pat Bennett, International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 404-466-2208.

OCT. 10-12. Reinsurance Auditing and Accounting course in Chicago, sponsored by The College of Insurance; $795 for college sponsors; $895 for non-sponsors; less $100 for subsequent registrants from the same organization. The College of Insurance, 1 Insurance Plaza, 101 Murray St., New York, N.Y. 10007; 212-962-4111.

OCT. 10-12. Designing a Flexible Benefit Program: a Workshop in New York City, sponsored by the American Management Assn. Human Resources Division; $745 for AMA members; $635 for three or more people from the same organization; $850 for non-members; $725 for three or more people from the same organization. American Management Assn., P.O. Box 319, Saranac Lake, N.Y. 12983; 518-891-0065.

OCT. 10-14. Modern Safety Management (Spanish) course in Orlando, Fla., sponsored by the International Loss Control Institute; $675 for ILCI members; $750 for non-members. Pat Bennett, International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 404-466-2203.

OCT. 10-14. Advanced Reinsurance Practice seminar in London, sponsored by Insurance & Reinsurance Research Group Ltd.; 725 pounds ($1,211) plus VAT. Caroline Atkinson, Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

OCT. 11. Risk Management and Safety Techniques for Public Agency Recreation Programs, School Playgrounds, Parks and Facilities seminar in Ontario, Calif., sponsored by Risk Management Seminars; $150. **Also Oct. 12** in Irvine, Calif., **Oct. 25** in Sacramento, Calif., and **Oct. 26** in Pleasanton, Calif. Risk Management Seminars, P.O. Box 1601, Sonoma, Calif. 95476-1601; 415-943-1556.

OCT. 11-12. Loss Commutations: Planning, Preparation, Negotiation and Agreement seminar in New York City, sponsored by Executive Enterprises Inc.; $990; $895 for each additional registrant from the same organization. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880 within New York.

OCT. 12. Professional Indemnity seminar in London, sponsored by Insurance & Reinsurance Research Group Ltd.; 190 pounds ($317) plus VAT. Caroline Atkinson, Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

OCT. 12-13. Transportation of Hazardous Materials/Waste course in Los Angeles, sponsored by the University of Southern California Institute of Safety and Systems Management; $300. Institute of Safety and Systems Management, Professional Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-6523.

OCT. 12-14. Understanding Property-Casualty Statutory Financial Statements seminar in Chicago, sponsored by Executive Enterprises Inc.; $990; $895 for each additional registrant from the same organization. **Also Nov. 30-Dec. 2** in New York City. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880 within New York.

OCT. 12-14. Workshops for a New Age of Retirement Planning in Charlotte, N.C., sponsored by Retirement Advisors; $495. **Also Nov. 16-18** in New York City. Retirement Advisors, 919 Third Ave., New York, N.Y. 10022; 212-421-2400.

OCT. 12-14. Fundamentals of Property and Casualty Reinsurance seminar in New York City, sponsored by Executive Enterprises Inc.; $990; $895 for additional registrants from same organization. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880 within New York.

OCT. 12-14. Reinsurance Claims course in New York City, sponsored by The College of Insurance; $595 for college sponsors; $695 for non-sponsors; less $100 for subsequent registrants from the same organization. The College of Insurance, 1 Insurance Plaza, 101 Murray St., New York, N.Y. 10007; 212-962-4111.

OCT. 13-14. Financial Analysis For Risk Management seminar in Chicago, sponsored by The College of Insurance; $595 for College of Insurance sponsors and Insurance Services Office Inc. members; $695 for non-sponsors and non-members of ISO. **Also Nov. 3-4** in Atlanta and **Dec. 8-9** in San Francisco. The College of Insurance, 1 Insurance Plaza, 101 Murray St., New York, N.Y. 10007; 212-962-4111, extension 201.

OCT. 13-14. Problem Solving Team Leadership course in Atlanta, sponsored by the International Loss Control Institute; $342 for ILCI members; $380 for non-members. Pat Bennett, International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 404-466-2208.

OCT. 13-14. Insurance Mergers and Acquisitions Update seminar in New York City, sponsored by Executive Enterprises Inc.; $990; $895 for each additional registrant from the same organization. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880 within New York.

OCT. 13-14. Current Issues in Insurance Letters of Credit conference in New York City, sponsored by Executive Enterprises Inc.; $990; $895 for each additional registrant from the same organization. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880 within New York.

OCT. 13-14. Practical Approaches to Reduce Environmental Cleanup Costs seminar in New York City, sponsored by the Practising Law Institute; $425; $45 for coursebook only. Practising Law Institute, Dept. 8A-105, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700, ext. 271.

OCT. 13-15. The American Medical Care & Review Assn.'s 17th Annual Managed Health Care Conference and Exhibition in Boston; $475 for AMCRA members; $575 for non-members; $125 for spouses/guests; $125 for students; $475 for government employees. American Medical Care & Review Assn.'s Annual Conference, 5410 Grosvenor Lane, Suite 210, Bethesda, Md. 20894; 301-493-9552.

OCT. 13-15. Pension, Profit-Sharing and Other Deferred Compensation Plans seminar in Washington, D.C., sponsored by the American Law Institute-American Bar Assn. Committee on Continuing Professional Education; $500, $25 for coursebook only. Registrar, ALI-ABA, 4025 Chestnut St., Philadelphia, Pa. 19104; 800-253-6397; 215-243-1661 within Pennsylvania.

OCT. 13-15. Litigating Medical Malpractice Claims course in Charleston, S.C., co-sponsored by the American Law Institute, the American Bar Assn. and the South Carolina Bar; $400. Registrar, ALI-ABA, 4025 Chestnut St., Philadelphia, Pa. 19104; 800-253-6397; 215-243-1661 within Pennsylvania.

OCT. 13-15. 60th Annual American Society of Chartered Life Underwriters and Chartered Financial Consultants Forum in Nashville, Tenn., sponsored by the American Society of CLU & ChFC; $285 for members; $310 for non-members; $495 for members attending forum and clinic; $580 for non-members. Annual Forum Information, American Society of CLU & ChFC, 270 Bryn Mawr Ave., Bryn Mawr, Pa. 19010; 215-526-2500; 800-392-6900.

OCT. 13-15. Profit Sharing Council of

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America's 41st Annual Conference in Toronto; $585 for PSCA members; $645 for non-members. Annual Conference, Profit Sharing Council of America, 20 N. Wacker Drive, Suite 722, Chicago, Ill. 60606.

OCT. 14. Managing and Controlling Asbestos Contamination/Exposure course in Los Angeles, sponsored by the University of Southern California, Institute of Safety and Systems Management; $160. Institute of Safety and Systems Management, Professional Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-6523.

OCT. 17. Health Care Cost Management seminar in Long Beach, Calif., sponsored by the Government Finance Officers Assn.; $150 for GFOA members; $200 for non-members. Rosemary Buckley, Government Finance Officers Assn., 180 N. Michigan Ave., Suite 800, Chicago, Ill. 60601; 312-977-9700.

OCT. 17. Confronting the Complexities of Section 89 Non-discrimination Rules for Welfare Plans seminar in New York City, sponsored by the International Foundation of Employee Benefit Plans; $185 for IFEBP members; $210 for non-members. **Also Oct. 18** in Chicago and **Oct. 19** in Los Angeles. International Foundation of Employee Benefit Plans, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

OCT. 17-18. Second Annual National Disability Management Conference: Strategies for Effective Cost Control in Washington, co-sponsored by the Washington Business Group on Health's Institute for Rehabilitation & Disability Management and Thomas L. Jacobs & Associates; $300 for WBGH members; $300 for non-members. Susan Dickinson, Institute for Rehabilitation & Disability Management, 102 Irving St. N.W., Washington, D.C. 20010; 202-877-1196.

OCT. 17-18. Annual Statistical/Data Quality Conference in Chicago, sponsored by the Insurance Services Office Inc.; $390 for ISO members; $500 for non-members. **Also Oct. 31-Nov. 1** in New York City. Sal Aurora, Manager-Statistical Division, Insurance Services Office Inc., 160 Water St., New York, N.Y. 10038; 212-487-5150.

OCT. 17-18. Managing the Costs of Health Care and Employee Benefits conference in Green Bay, Wis., sponsored by Wisconsin Manufacturers & Commerce; $150. Teresa Lemens, Wisconsin Manufacturers & Commerce, P.O. Box 352, Madison, Wis. 53701.

OCT. 19. Ocean Marine Insurance course in New York City, sponsored by The College of Insurance; $195 for college sponsors; $245 for non-sponsors. The College of Insurance, 1 Insurance Plaza, 101 Murray St., New York, N.Y. 10007; 212-962-4111.

OCT. 19-21. Structuring HMO Drug Benefit Programs conference in Atlanta, sponsored by the Group Health Assn. of America Inc.; $550 for GHAA members, $650 for non-members. Registrar, GHAA, 1129 20th St. N.W., Suite 600, Washington, D.C. 20036; 202-778-3228.

OCT. 20. The Insurance Information Institute's 13th Annual Research Seminar in New York City, co-sponsored with the National Assn. of Insurance Brokers; $145. Carlet Incontro, Insurance Information Institute, 110 William St., New York, N.Y. 10038; 212-669-9200.

OCT. 20-21. Municipal Liability: Money Damages for Municipal Activities and Regulations course in Chicago, sponsored by the American Law Institute-American Bar Assn. Committee on Continuing Professional Education; $375. Registrar, ALI-ABA, 4025 Chestnut St., Philadelphia, Pa. 19104; 800-253-6397; 215-243-1661 within Pennsylvania.

OCT. 20-21. Advanced Safety Management seminar in Salt Lake City, sponsored by Organizational Safety Services; $285; $260 each for three or more attendees from the same organization. **Also Nov. 21-22** in Herndon, Va. Organizational Safety Service, 11831 Rothbury Drive, Richmond, Va. 23236; 804-794-0691.

OCT. 20-21. Hospital Law: A Program for Attorneys, Physicians, Insurers and Risk Managers in Chicago, sponsored by the Defense Research Institute: $370 for DRI members; $395 for non-members. Defense Research Institute, 750 N. Lake Shore Drive, Suite 500, Chicago, Ill. 60611; 312-944-0575.

OCT. 20-21. Managing Intergovernmental Pools seminar in San Diego, sponsored by the Public Risk Management Assn.; $175 for PRIMA members; $275 for non-members. Public Risk Management Assn., 1120 G St. N.W., Suite 400, Washington, D.C. 20005; 202-626-4650.

OCT. 20-22. Key Decision Points for HMOs conference in Seattle, sponsored by the Group Health Assn. of America Inc.; $450 for GHAA members, $550 for non-members. Registrar, GHAA, 1129 20th St. N.W., Suite 600, Washington, D.C. 20036; 202-778-3228.

OCT. 21. Effective Administration of Workers Compensation Cases conference in Novi, Mich., sponsored by the Michigan Self-Insurers' Assn.; before Oct. 14: $60 for MSIA members, $85 for non-members; after Oct. 14: $70 for MSIA members, $95 for non-members. Michigan Self-Insurers' Assn., % Karmazin Products Corp., P.O. Box 126, Wyandotte, Mich. 48192; 313-282-3776.

OCT. 21. Claim Management '88 seminar in New York City, sponsored by Intracorp; $125. Intracorp, 701 Westchester Ave., Suite 305W, White Plains, N.Y. 10604; 914-328-0335.

OCT. 23-26. The Society of Actuaries and American Academy of Actuaries Annual Meeting in Boston; $250 for FSA, ASA and MAAA members; $265 for CAPP, CAS, CIA, American Statistical Assn. and local actuarial club members; $125 for retired SOA members; $300 for others. Society of Actuaries, P.O. Box 71293, Chicago, Ill. 60694.

OCT. 23-28. First World Congress on Risk and Insurance Management in Brisbane, Australia, co-sponsored by the International Federation of Risk & Insurance Management Associations and the Australian Risk & Insurance Management Assn.; $700 Australian ($546) for IFRIMA members; $750 Australian ($585) for non-members; $420 Australian ($328) for spouses/guests. Risk & Insurance Management Congress Secretariat, P.O. Box 731, Toowong QLD 4066 Australia; phone: 07-371-7900; fax: 07-371-4876.

OCT. 24-25. Annual American Assn. of Insurance Services conference in St. Louis, $290 for first registrant; $175 for each additional registrant from the same organization; $130 for spouses. American Assn. of Insurance Services, 1035 S. York Road, Bensenville, Ill. 60106; 312-595-3225.

OCT. 24-26. Industrial Hygiene Sampling Strategies course in Los Angeles, sponsored by the University of Southern California, Institute of Safety and Systems Management; $460. Institute of Safety and Systems Management, Professional Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-6523.

OCT. 24-27. Loss Control Management course in Calgary, Alberta, sponsored by the International Loss Control Institute; $625.50 for ILCI members; $695 for non-members. Pat Bennett, International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 404-466-2208.

OCT. 24-27. Insurer Solvency Assessment seminar in London. sponsored by Insurance & Reinsurance Research Group Ltd.; 595 pounds ($994) plus VAT. Caroline Atkinson, Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

OCT. 24-28. Accredited Safety Auditor course in Atlanta, sponsored by the International Loss Control Institute; $750 for ILCI members; $950 for non-members. Pat Bennett, International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 404-466-2208.

OCT. 24-28. Developing and Managing a Basic Safety and Health Program course in Long Grove, Ill., sponsored by the National Loss Control Service Corp.; $750. NATLSCO, K-3, Long Grove, Ill. 60049-0075.

OCT. 25. Making Your EAP More Effective seminar in Richmond, Va., sponsored by Health Management Corp.; $35. Health Management Corp., P.O. Box 26016, Richmond, Va. 23260; 804-342-4084.

OCT. 25-26. Inside Superfund conference in Arlington, Va., co-sponsored by Inside EPA's Superfund Report and Risk Management Technologies Inc.; $650. Inside EPA Weekly Report, P.O. Box 7167, Ben Franklin Station, Washington, D.C. 20044; 703-892-8504; 800-424-9068.

OCT. 25-26. Second Annual Illinois and Region V Environmental Regulation Conference in Chicago, sponsored by the California Business Law Institute; $595. California Business Law Institute, Dept. E, P.O. Box 3727, Santa Monica, Calif. 90403; 213-450-0500.

OCT. 25-26. Quantitative Techniques for Risk Management seminar in Washington, D.C, sponsored by Tillinghast, a division of Towers, Perrin, Forster & Crosby; $750. **Also Nov. 16-17** in Marina Del Rey, Calif. Conference Director, Tillinghast/TPF&C, 722 Post Road, Darien, Conn. 06820; 203-655-9791.

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Iowa's Hager blasts federal regulation

By MICHAEL BRADFORD

DALLAS—Repeal of the McCarran-Ferguson Act would place regulation of the insurance industry into the irresponsible hands of the federal government, charges Iowa Insurance Commissioner William D. Hager.

If the federal government is given regulatory control over the insurance business, the industry would be supervised by officials who have already failed at regulating other types of financial institutions, Mr. Hager said.

Speaking at the 99th Annual Convention of the National Assn. of Life Underwriters in Dallas last week, Mr. Hager reminded his audience that the liability insurance crisis of the mid-1980s and the 19 antitrust lawsuits filed against the insurance industry by state attorneys general have "resulted in congressional scrutiny related to either the amendment or the repeal of the McCarran-Ferguson Act."

The law grants insurers limited immunity from federal antitrust laws and gives the states primary regulatory authority over the insurance industry.

Although there is not much chance Congress will make a decision regarding McCarran-Ferguson during its current session, the potential for future changes to the act remains, Mr. Hager warned. He said the arguments for amending or repealing McCarran-Ferguson do not hold up under examination.

"First of all, proponents for repealing the McCarran-Ferguson Act indicate that limited antitrust immunity. . .ought to be thrown out because of lack of competition" among insurers, he remarked. "They also indicate that state regulation of insurance is ineffective" and charge that the federal government could do a better job, he said.

"Let's take a look at the lack of competition," Mr. Hager said, pointing out that the number of life insurance companies in the United States has grown to 2,400 by year-end 1987 from 650 in 1950.

Regarding the market share of those companies, Mr. Hager said the top eight life insurers in 1957 held onto 60% of the market. Today, these insurers' market share has dwindled to only 20%, he noted.

"Nationwide, there are 3,500 property/casualty companies," he continued. "Individual companies whose market share is less than 1% of the total market. . .write 45% of the business in this country.

Regarding arguments that state regulation of insurance is inadequate, the Iowa commissioner pointed out that the budgets of state insurance departments total $275 million annually. Those departments, he added, employ 6,400 workers, 1,300 of whom are examiners. By comparison, the federal government's 1988 appropriation to the Securities and Exchange Commission, which oversees more than $1 trillion in transactions daily, amounts to only $170 million, Mr. Hager said.

And the financial commitment by the government to the Federal Trade Commission is only $65 million this year, he added.

Mr. Hager said at the NALU meeting that the Iowa Insurance Department has "six lawyers that do nothing but field complaints from consumers." Within 30 days, 90% of the complaints are resolved, he said. "That's our commitment to people. Now, has anybody in this room written to the federal government lately?"

The federal government already has a bad track record at managing insurance companies, the commissioner pointed out.

The government has a "hell of a big insurance company," he said. "It's called the Federal Savings & Loan Insurance Corp."

Economists and analysts estimate that the total unfunded liability for the FSLIC will reach about $100 billion when the current crisis involving failed savings and loan institutions is resolved, he said. Of that amount, Mr. Hager said, projections show taxpayers will end up paying around $60 billion.

"Now, how long would state insurance commissioners keep their jobs regulating insurance if they, through their inadequate oversight and inadequate regulation, ran up in a 10-year period of time a $100 billion insolvency and sent a bill to the taxpayers of $60 billion? That ought to outrage all of us," he said.

And, there are indications that the Federal Deposit Insurance Corp. may be on its way to joining the FSLIC with its own huge unfunded liabilities, according to Mr. Hager.

"The whisper in Washington from credible sources is the FDIC's unfunded liability exceeds assets by $10 billion," he said.

Mr. Hager also charged that the federal government is unresponsive regarding regulatory matters.

As an example, he pointed to the Federal Trade Commission, an agency that gets "a lot of mail. You know what they do with a lot of that mail? They box it up and they put it in the basement, folks. Try writing them a letter and see what happens."

Mr. Hager said that federal officials, "having proven their competence, want to regulate insurance. . . .If that doesn't scare the hell out of everybody in this room, we're not in the same room." ■

RICO proposals would hinder regulators: NAIC

By MEG FLETCHER

Since RICO's adoption, 'state insurance regulators have found the federal civil RICO statute one of the most effective enforcement tools to combat insurance fraud,' the National Assn. of Insurance Commissioners resolution says.

MACKINAC ISLAND, Mich.—Pending legislation amending the Racketeer Influenced and Corrupt Organizations Act would significantly hinder insurance regulators who are fighting insurance fraud, according to the National Assn. of Insurance Commissioners.

The NAIC objects to measures in several proposals that would shorten the statute of limitations for filing RICO actions and that would prohibit insurance company receivers, who act on behalf of state regulators, from obtaining treble damages from defendants found guilty of RICO violations, according to the NAIC.

"The effect of current proposals would be to protect the insurance industry and others involved with the industry from any civil RICO liability and interfere with the right of state regulators to bring civil RICO lawsuits against those who would commit insurance fraud upon the public," says a resolution adopted by insurance commissioners at the NAIC's Fall Zone Meeting last month.

In addition, some proposals may create "procedural roadblocks" that could make it impractical for state regulators to file RICO lawsuits.

Since the adoption of RICO, "state insurance regulators have found the federal civil RICO statute one of the most effective enforcement tools to combat insurance fraud," the NAIC resolution states.

Adding to regulators' concerns are provisions they say would make the amendments apply to ongoing RICP lawsuits brought by many state insurance departments.

As a result, "it may be difficult, if not impossible, to recover treble damages in pending federal civil RICO actions in Illinois, North Carolina, Texas, Tennessee, Rhode Island, New York and Iowa," according to the NAIC resolution.

At least three bills are pending in Congress that would modify the RICO act: S. 1523, H.R. 4923 and H.R. 4920.

The Senate is expected soon to consider S. 1523, which has been reported out of the Judiciary Committee.

Commissioner James E. Long of North Carolina and others aired the NAIC's concerns before the House Subcommittee on Criminal Justice at a hearing in August.

Regulators attending the NAIC meeting, held Sept. 18-20 on Mackinac Island, also examined:

Proposed model laws

NAIC subgroups released exposure drafts of proposed model laws on several topics, including minimum surplus requirements for property/casualty insurers; civil liability protection for investigators and informants during insurance fraud investigations; divorced parents' responsibility for providing dependent health care coverage; and benefits provided under long-term care insurance policies.

The drafts were released to allow for public comment before the NAIC considers formally adopting them at its Winter National Meeting to be held Dec. 11-16 in New Orleans.

If adopted, the proposals would:

- Establish a minimum $10 million policyholders' surplus requirement for domestic property/casualty reinsurers.

Most states now have no such minimum requirement, an NAIC representative said.

However, the proposed model would exclude reinsurers writing coverages required by law or regulation as well as companies that assume reinsurance as part of a pooling arrangement among affiliated companies.

The proposal also would give state insurance commissioners authority to exempt a reinsurer from the requirement.

- Broaden the NAIC's existing model Immunity Act so that state investigators and informants are protected from civil liability while investigating fraud in the insurance industry.
- Clarify the NAIC's existing Group Coordination of Benefits Model Regulation to specify which parent's health care plan should take precedence when divorced parents have joint custody of a dependent child.

The proposal states that the health plans covering the child shall follow standard benefit determination rules, unless a court decrees that one parent is responsible for the health care expenses of the child.

The standard NAIC "birthday" benefit determination rule states that "the benefits of the plan of the parent whose birthday falls earlier in a year are determined before those of the plan of the parent whose birthday falls later in that year."

- Improve benefits offered under long-term care insurance products by amending a current model act.

Proposals related to nursing home insurance include measures that would prohibit requiring that a policyholder must first be hospitalized for three days before becoming eligible for benefits and expand the definition of long-term care so coverage would exist for at least 24 consecutive months rather than the 12 months currently called for in the model.

The proposed changes also would give an individual whose coverage under a group policy is due to terminate the right to continue obtaining the coverage, in accordance with certain provisions of the proposed model law.

The NAIC also is researching whether any group-related long-term care insurance programs are affected by the health care continuation provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, which allow terminated employees to purchase group health benefits from their former employer for 18 months at a cost of up to 102% of the premium.

Insolvency offset issues

The NAIC's Rehabilitators and Liquidators Task Force plans to disseminate two questionnaires about setting public policy to address the issue of offsets in insurer insolvencies.

One questionnaire applies to offset issues related to reinsurers and reinsurance intermediaries with insolvent ceding companies. The other is concerned with offset issues relating to policyholders, agents, brokers and managing general agents with insolvent insurers.

The questionnaires are to be returned to the Delaware Insurance Guaranty Assn. by Oct. 21.

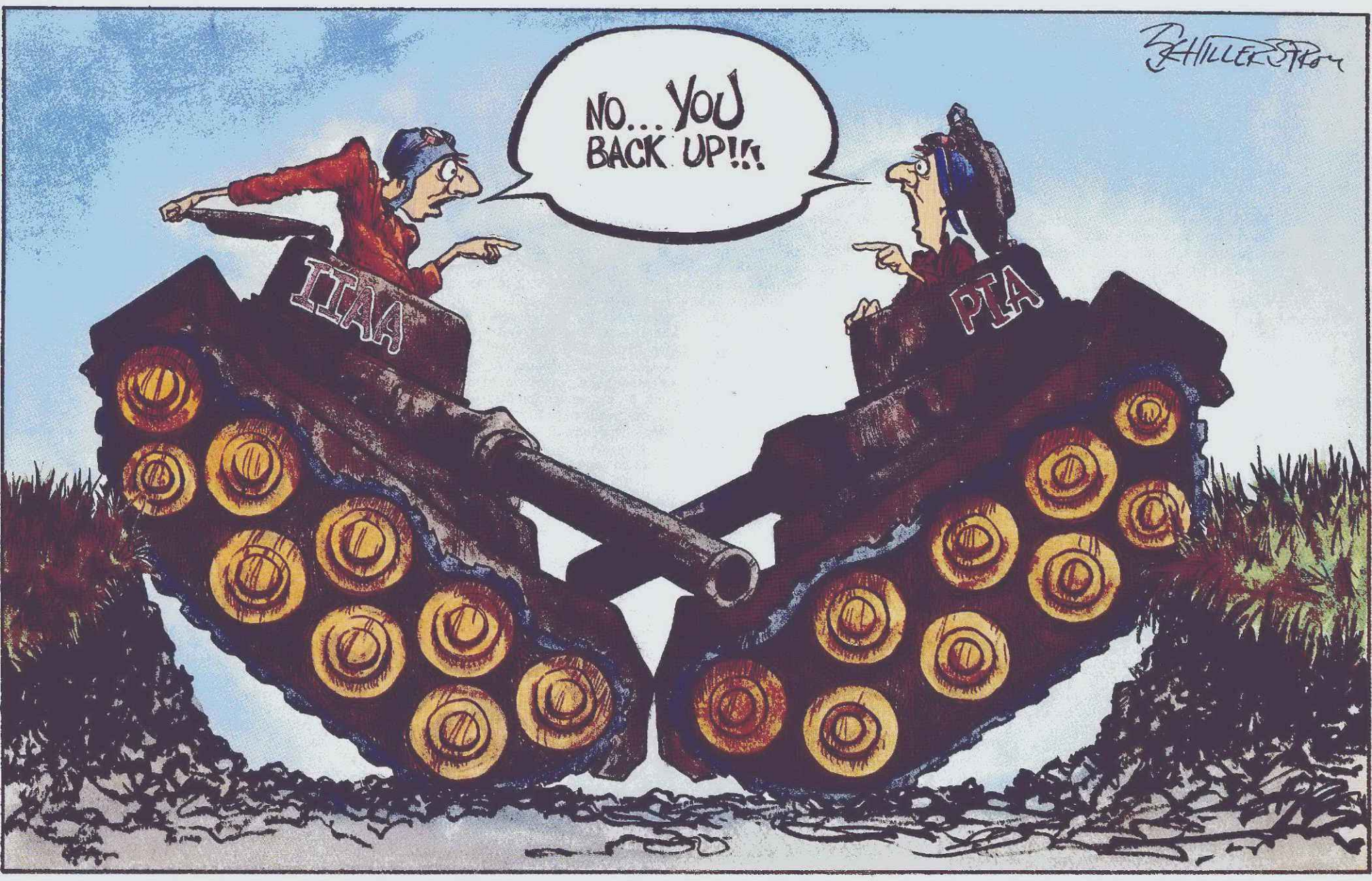
The task force also is compiling a resource directory of companies and individuals that provide services to insurance regulators who manage insolvent insurance companies.

Applications for a listing in the directory are available from the State of Delaware Insurance Department, 841 Silver Lake Blvd., Dover, Del. 19901.

Applications must be returned by Dec. 1 to be considered for the first edition of the directory, according to Delaware Commissioner David N. Levinson, who heads the task force. ■

Agent/Broker Topics

A monthly editorial section sent exclusively to agents and brokers



Standing their ground

Agents want the IIAA and PIA to stop fighting and join forces

By LAURA MAZZUCA

The vast majority of independent agents would like to see the two major agent trade associations merge, according to a new survey.

More than 82% of the agents surveyed by *Agent/Broker Topics* favor a national merger between the Independent Insurance Agents of America Inc. and the National Assn. of Professional Insurance Agents for a variety of reasons.

For example, agents who back a merger believe that one united association would lead to more "clout" and a stronger industry voice, a clearer public image of agents, the elimination of duplicative efforts and lower dues.

"If we are going to succeed in winning our battle against government control of our business, the IIAA and PIA should wake up and get together!" wrote a principal of an Ohio agency with $5 million in premium volume.

"It would be easy for customers to understand the two associations" if they merged, wrote a Houston agent.

Continued on next page

Two associations' leadership reluctant to give up their turf

By LAURA MAZZUCA

Despite statistics that show many members of the two largest independent agent trade associations are interested in combining forces, the leaders of the National Assn. of Professional Insurance Agents and the Independent Insurance Agents of America Inc. are standing their ground.

Little action has been taken since 1983, when the PIA turned down the IIAA's overture to merge.

That merger offer was a result of "private conversations from previous leaders of both organizations," said Donald K. Gardiner, executive vp for the Alexandria, Va.-based PIA.

Discussions about a merger began in the early 1980s, with officers of the two associations agreeing to exchange budgets and constitutions in order to address the potential issues involved in a merger before the PIA board cut off negotiations, said Jeffrey M. Yates, executive vp of the IIAA in New York.

While the PIA's national board of

Continued on next page

IIAA conference coverage . . . Page 44H

Agents' survey

Continued from previous page

"The IIAA and PIA confuse many non-insurance people. We should merge nationally, but not state by state."

"There is no need for the traditional separation of the stock agent and the mutual agent," wrote the principal of a Michigan agency with $3 million in premium volume.

"Separate efforts cost the agencies money in the long run," wrote the principal of California agency with $4 million in premium volume. "We belong to both and find the dues excessive."

The state chapters of each association set their own membership fees incorporating national dues. Fees are determined either by a flat sum per agency, a fee based on premium volume or a combination of both, explained PIA Executive Vp Donald W. Gardiner.

Mr. Gardiner added that the IIAA uses a similar fee system.

Although merger proponents cited potentially lower dues as a major advantage, one agency president in New Jersey commented: "I would be willing to add the dues I now pay for both organizations and remit that amount to one organization, which should be known as 'The Professional Independent Agents of America (kind of pacifies the bureaucrats in both)."

Indeed, some proponents said one of the few merger disadvantages would be some ego damage.

A merger would cause "bruised egos of the officers and executives of both organizations," wrote the vp of an Indiana agency with $24 million in annual premium volume.

However, the president of a Denver agency with $1 million in premium volume who favors a merger said personalities should not stand in the way of a merger. "Egos might be stepped on, and if they are, they probably need it."

The issue of whether the two associations should merge has been simmering since the early 1980s, when the IIAA approached the PIA with an offer to merge.

Although the PIA expressed a willingness to cooperate with the IIAA on various issues, it dismissed the possibility of a merger.

Currently, the IIAA represents 100,000 individual members and the national PIA represents 43,000 individual members.

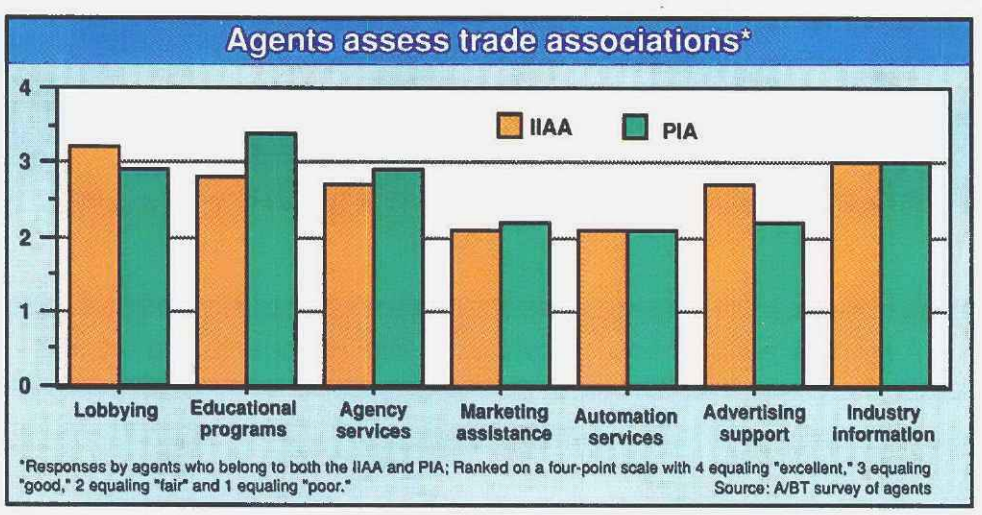
To conduct the survey, *Agent/Broker Topics* mailed questionnaires to 1,200 random agent/broker subscribers asking whether the two associations should merge and what the ramifications would be of such a move.

Respondents also were asked to grade the associations in nine areas: lobbying, educational programs, agency services, marketing assistance, automation services, industry information, advertising support and legal services.

Some 247 agencies of all sizes nationwide responded, for a response rate of almost 21%. Of the respondents, 89, or 36%, were IIAA members; 22, or 9%, belonged to PIA; 121, or 49%, were members of both associations; and 12, or 5%, were members of neither. Three respondents did not answer whether they were members of either organization.

An overwhelming 82.2% of the respondents favored a merger of the IIAA and the PIA, while 16.2% opposed it. Some 1.6% of the survey respondents did not answer this question.

Of those supporting a merger, nearly half—49%—were already members of both groups; 37% were IIAA members only; and 7% were PIA members only. Some 5% who are members of neither group supported a merger.



Of those opposing a merger, 53% were members of both groups; 28% were IIAA members only; and 18% were PIA members only. Some 3% of those opposing a merger were members of neither group.

Even a state-by-state merger would be attractive to 62.8% of the respondents.

"I tried to get them together in New York state when I was president (of the PIA state association) in 1970," a New York agency principal wrote. "I believed then, and still do, that the roadblock (to merger) is the paid professional staff of both associations. No one wants to get kicked off the gravy train—and a gravy train it is!"

However, 27.5% of the respondents oppose a state-by-state merger; 9.7% did not respond to the question.

Those opposed to an IIAA-PIA merger listed several reasons why a combination would not be beneficial, including loss of competitive drive; reduction of association-sponsored insurance coverages, such as agents errors and omissions insurance; and the potential that a single, large association would become little more than a monolithic bureaucracy.

"I have been personally involved in merger talks between the IIAA and PIA," wrote an agency president in Ohio. "PIA's philosophy is at direct loggerheads with IIAA, and honest efforts to affect a merger of the two organizations have been thwarted by PIA's officers."

"It would be too big of an organization. Big agents would have too much clout!" opined the principal of an Indiana agency with $1 million in premium volume. Small agent members might be overshadowed by their larger competitors in one association, the principal said.

The IIAA, which recently held its 92nd annual convention, was founded primarily as a group for stock agents—those representing insurers owned by stockholders. The PIA was founded as an association of mostly mutual agents—those representing insurers owned by their policyholders. However, these distinctions eventually blurred, and now both groups accept either type of agent.

But old images die hard, and the IIAA still is associated with the large insurance companies, while the 57-year-old PIA is associated with "the little guy."

And some agents consider these perceptions important. Since the two associations may present a "different point of view" on specific issues, the existence of two associations is "beneficial for a good checks and balances system," wrote the district manager of a large agency in San Francisco.

"This industry deserves more than one viewpoint," wrote the principal of an agency in St. Louis with $2 million in premium volume. "There are differences between small and large agencies and companies and differences between city and rural (agencies) among the states."

Other opponents were concerned that one of the two associations would become dominant in a merger.

"PIA has everything to gain and nothing to lose in a merger, and that doesn't make a good deal," a Florida agent wrote. "A merger might save the PIA, but I don't see what it would do to help the IIAA."

One agency principal in Louisiana even lamented that a merger would mean "there would only be one convention instead of two!"

And, while most merger proponents believe a single trade group would strengthen the industry's lobbying voice, many opponents believe that two voices are better than one in Congress.

"There would be only one loud lobbying voice in Washington instead of two," commented an agency owner in Tennessee.

Both associations generally received good marks from agents for their lobbying efforts, although more than one-fourth of all respondents rated the PIA's efforts as "fair" or "poor."

The IIAA's lobbying efforts were rated "excellent" by 35.6% of all respondents and 31.4% of the respondents who were members of both the IIAA and the PIA.

The PIA received "excellent" lobbying ratings from 10.5% of all respondents 17% of the respondents who were members of both groups.

The IIAA's lobbying was rated "good" by 43.7% of all respondents. Some 38.9% of all respondents thought PIA's lobbying efforts were "good." And, 52% of the respondents who are members of both groups gave the associations "good" ratings in this area.

The PIA received "fair" or "poor" lobbying marks from 25.9% of the all respondents and 24.1% of respondents who were members of both groups.

Lobbying efforts by the IIAA were rated "fair" or "poor" by 9.7% of the all respondents and 12% of respondents who were members of both groups.

While the IIAA's lobbying efforts were rated higher than the PIA's, the PIA edged out the IIAA in agents' evaluation of educational programs.

Among all respondents, 36% ranked the PIA's programs as "excellent," while 24% gave the IIAA's program the highest rating.

Among respondents who were members of both groups, 50.4% ranked the PIA's educational program "excellent," compared with 16.5% who gave the IIAA that ranking.

But the IIAA received a "good" rating from 44.5% of all respondents and from 50% of respondents who were members of both groups.

Among total respondents, 36% rated the PIA's educational programs "good," and 38% of the members of both groups rated them "good."

The IIAA's education efforts were ranked "fair" or "poor" by 22% of all respondents and by 29% of the members of both groups.

However, the PIA's educational programs were ranked "fair" or "poor" by 9% of the total respondents and by 9% of the members of both groups.

In fact, an agency principal in Kentucky commented that an IIAA/PIA merger would combine "the education programs of PIA (Certified Insurance Counselor) and the strong political arm of the IIAA."

However, one PIA member, the president of an Anchorage, Alaska, agency with $4 million in premium volume, left the questionnaire blank and bluntly commented: "Generally, we have no opinion, because we do not understand the issues. We need more generic education."

Both associations generally provide "good" agency services, with the IIAA having a slight edge, according to many of the survey's respondents: 45% of the total respondents rated IIAA "good," and 38% rated PIA "good."

Among respondents who were members of both groups, 51% ranked IIAA agency services "good," and 52% ranked similar services from PIA as "good."

Another 13% of all respondents rated IIAA agency services "excellent," and 11% of the respondents ranked the PIA's services "excellent."

However, nearly 30% of all respondents thought IIAA's agency services were only "fair," or "poor" and 34% of respondents who were members of both groups ranked the IIAA services "fair" or "poor".

Examining the PIA's agency services, nearly 27% of total respondents ranked them "fair" or "poor" and nearly 26% of the respondents who were members of both groups ranked the PIA's services "fair" or "poor."

The benefit programs available through both groups—such as retirement plans—also were generally rated as "good," with 34% of all respondents rating the IIAA's programs "good," and 29% rating the PIA programs "good."

Among respondents who were members of both groups, 41% rated the IIAA's and the PIA's programs "good."

Another 3% of the total respondents called the IIAA's efforts in this area "excellent" and 2% gave the PIA a grade of "excellent."

However, 42% of all respondents rated the IIAA's benefits offerings "fair" or "poor," and 36% of all respondents gave the PIA similar marks.

The IIAA's benefits received a "fair" or "poor" rating from 45% of the members of both groups and the PIA's benefits received a "fair" or "poor" rating from 44% of the members of both groups.

On the average, the largest percentage of all respondents ranked both associations only "fair" on their marketing assistance programs. Forty-one percent rated the IIAA's marketing assistance as "fair," while 33% rated the PIA programs "fair."

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Associations' leadership

Continued from previous page

directors declined the invitation to merge, it expressed a willingness to cooperate with the IIAA on "any issue meaningful for membership," added Mr. Gardiner.

Since 1983, the PIA national board has had standing instructions that officers are "not in a position to talk about the issue," said the IIAA's Mr. Yates, who added, "We're ready when they are to talk about it."

Discussions to merge the two organizations on a state association level also have failed, most recently in California earlier this year, said Mr. Yates.

About three years ago, the IIAA approached the California membership of PIA with a merger proposal. This spring each group conducted its own feasibility study, according to James Johnson, executive vp of the California PIA in Van Nuys. The IIAA asked its members' opinions about a state merger and the PIA commissioned an independent study examining the benefits and disadvantages of such a change.

The PIA decided not to pursue the matter further when it found "no real benefits," said Mr. Johnson.

The two national associations do cooperate in various states on issues like education and training. Nationally, the IIAA and the PIA are jointly involved in lobbying against potential bank entry into the insurance business, as well as through Future One surveys—coordinated by the IIAA—in which both associations and a number of property/casualty insurers collaborate to study topics of interest to agents.

But for now, the national merger issue is on a back burner.

"This has been a hot issue for five to 10 years," said a Minnesota agency manager responding to a survey of *Agent/Broker Topics* readers that addressed a possible merger. "Why won't IIAA and PIA make a commitment to merge?"

"We dropped (our membership in) PIA several years ago when a merger in Michigan between IIAA and PIA was not approved by the Michigan PIA," commented an agency president in that state. "We believe two associations are redundant and wasteful."

One possible disadvantage of a merger is that "perhaps the smaller agent/agency would get 'lost in the shuffle,' " wrote a Wisconsin agency president.

Observers point out that even if the two associations did agree to merge, they would still be faced with the problem of determining how that merger could be accomplished to avoid one association simply "buying the other's expiration lists," as Mr. Gardiner put it.

And, although the PIA refuses to consider a merger, it has proposed several areas of potential cooperation with the IIAA between 1984 and 1987, said Mr. Gardiner. These areas included the creation of a national agent sales school; a combination of the two associations' technical and federal legislative committees; and a coordinated voice for press releases and public statements on association lobbying issues.

But, "in each instance, either the response (from IIAA), or lack thereof, was in the negative," said Mr. Gardiner.

"In those particular cases, we didn't think it made much sense" to merge, said Mr. Yates, because Future One already had similar programs in place when the offer was made.

However, many agencies are members of both organizations.

For instance 43% of the PIA's members last year also belonged to the IIAA, though Mr. Gardiner notes that dual membership has fallen from more than 60% in 1984.

However, the IIAA refutes PIA's dual membership figures, claiming that membership figures submitted to Future One by the PIA show the PIA's 1987 dual membership figures closer to 60%.

About 49% of the IIAA's members in 1987 also belonged to the PIA, which has "roughly remained unchanged" from 1984 figures, said Todd Muller, IIAA's technical advisor.

Although merger proponents who responded to the *A/BT* survey predict that a merger would reduce membership dues, Mr. Gardiner predicts that membership cost per agency would increase because of the legal costs, accountants' fees, addition of new staff, etc., that would accompany a merger.

But the main problem blocking a combination of the two associations is the fact that both associations are still basically at odds, said Mr. Gardiner. "If we can't, because of organization purposes or structure, find a way to (cooperate). . .then the likelihood of going further is certainly in question." ■

A 'good' producer is very hard to find

By LAURA MAZZUCA

OAK BROOK, Ill.—Hiring a good producer can trigger additional growth for an agency, improve its equity value and aid perpetuation.

But the operative word is "good," and a good producer is hard to find, said John Reynolds, director of education and training for Seattle-based SAFECO Corp. at a recent seminar in Oak Brook, Ill., held by Insurance Marketing Services.

In fact, only about 10% of the general population has the right attributes to make a successful producer, he said.

These people have three personality traits that principals should look for when hiring a producer: ego drive, empathy and persistence, said Mr. Reynolds.

Good producers can create a "down-the-road group of potential owners" of the agency, and they also make the agency more attractive to insurers through agency bonus contracts for property/casualty and life insurance sales, he said.

For example, he estimates that in five to 10 years, a producer can generate $1 million of property/casualty premiums annually. Multiplying this amount by 15%—the average agency commission—yields $150,000 in annual commission when the producer is working up to his full potential. And that $150,000, multiplied by 10% (estimated profit margin for the agency), yields $15,000 in additional annual profits for the agency. When those additional profits are multiplied by additional producers, the agency can realize a substantial gain.

And, in spite of merger and acquisition increases among agencies, the addition of a producer can often be more beneficial since a brand new producer is likely to tap areas that the agency is not now focusing on, said Mr. Reynolds.

But principals must be careful to think about what they want from the producer before attempting to hire, he said.

The first step is to define the producer's job and the qualifications sought from an applicant, said Mr. Reynolds. Principals should focus on the pure producer—one who is proficient in selling and doesn't waste a lot of time and effort on performing other tasks, he added.

Stripped to its bare bones, a pure producer's job is to prospect, sell and service, said Mr. Reynolds. And although there is some overlap in the areas of marketing and collections, the pure producer should not perform routine service work, claims processing or office work.

Once the job itself is defined, the principal can focus on the potential producer's qualifications, with particular emphasis on ego drive, empathy and persistence.

Ego drive is defined as a "narcotic" need to persuade other people in order to gain personal satisfaction, said Mr. Reynolds. An ego-driven producer, when faced with failure, will only drive harder to succeed the next time.

Empathy is important in a producer because it gives him the ability to understand a client's needs without necessarily sympathizing with them, said Mr. Reynolds.

And persistence supports the ego drive and allows the producer to rise above rejection, he said.

Other attributes that are important in a producer include self-acceptance, growth potential, detail and delegation ability, decisiveness, initiative, communications skills and ambition, said Mr. Reynolds.

Once the agency principal knows what he wants in a producer, he must start looking for that elusive 10% of the population who are best-suited to be producers, said Mr. Reynolds. In order to catch as many likely prospects as possible, he suggests "casting a wide net" for job applicants.

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Agents' survey

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Among respondents who were members of both groups, 43.8% ranked the IIAA marketing assistance "fair," and 38% ranked the PIA's services "fair."

Some 22.3% of all respondents ranked the IIAA's marketing assistance as "good," compared with 17.8% for the PIA's assistance.

Some 33% of the members of both groups ranked the IIAA's marketing assistance "good," while 36% ranked PIA's assistance "good."

Only 4.5% of all respondents gave the IIAA's marketing aid an "excellent" rating, and only 3.2% gave the PIA's efforts the highest rating.

Regarding automation services, "fair" was the operative word among respondents, with 40.1% of the total respondents rating IIAA's services "fair" and 35.2% rating the PIA's similarly. Among respondents who were members of both groups, 41.3% ranked the IIAA "fair" in the automation service category and 42.1% ranked the PIA "fair."

The IIAA also received "good" or "excellent" ratings from 26.5% of the agents who belong to both groups. Among those same respondents, 26.4% rated the PIA "good" or "excellent" in its automation services.

Both organizations were rated "good" by the largest percentage of respondents for their industry information services, such as newsletters: IIAA received "good" ratings from 49.4% the entire group of respondents, while PIA received 'good" marks from 38.5% of all respondents.

Among respondents who are members of both groups, 77% gave the IIAA a "good" or an "excellent" rating, and 74.4% gave the PIA a "good" or an "excellent" rating.

IIAA outpaced the PIA in the category of advertising support. The IIAA's advertising support was ranked "good" by 34% of the total respondents and "excellent" by 22%. Among respondents who were members of both groups, nearly 53% gave the IIAA a "good" or an "excellent."

In comparison, 23.9% of all respondents gave the PIA's advertising support a "good" or an "excellent" rating. And, 36.3% of members of both groups gave the association either "good" or "excellent" ratings.

The PIA received a "fair" rating for advertising support from 34% of the total respondents. Among respondents who are members of both groups, 40.5% ranked it "fair."

Agent perception of legal services provided by the associations was fuzzy: 27% of the total respondents did not rate the IIAA's performance and 39% did not rate the PIA's activities. Of all the respondents who did make a judgment, 33% ranked IIAA "fair" and 23% rated it "good" or "excellent."

Among all respondents, 26% ranked the PIA's legal services "fair" and nearly 16% ranked them "good" or "excellent." ■

Hiring producers

Continued from previous page

Sources through which producers can be found vary by region, since what works in one region may not in another, said Mr. Reynolds. But sources can include:

- The agency's current staff. One drawback is that if an employee wants the job and is not qualified (for example, a customer service representative without outside sales skills), he may become disgruntled and leave the agency.
- Insurers that distribute their products through independent agents. Marketing reps, field reps and sales managers can all make good producers, said Mr. Reynolds. Even underwriters and claims adjusters could make the transition, though there are some basic personality differences that could be a problem; these detail-minded types don't always transfer to a sales/ego job.

Claims adjusters, though, can be particularly good prospects, since they are used to dealing with pressure, talking with clients and have the ability to negotiate, he said.

- Direct writers. Liberty Mutual Insurance Cos. of Boston and Wausau Insurance Cos. of Wausau, Wis., are two companies that offer good training programs for producers. Also, if a producer is drafted from a direct writer, his track record is readily available, since insurers keep detailed records of sales efforts, Mr. Reynolds said.

However, if a producer does not succeed in the "cradle to grave," highly structured direct writer environment, chances are they won't survive in the more competitive atmosphere of an independent agency, he added.

- Life insurance company producers. These agents are "aggressive" and can add revenue to an agency, as long as the principal is careful not to overcompensate them, said Mr. Reynolds. However, if a life company producer approaches the agency principal for a job, beware: It probably means he doesn't like prospecting, which is an inescapable part of the agency business.

And, as a rule, life insurance company producers are not detail-oriented, and therefore need a good support staff, he said.

- Other agencies. Hiring away a competing agency's producers can work well since they bring with them their own books of business, said Mr. Reynolds. However, such an action can turn an atmosphere of friendly competition into a cold war.

Also, the hiring principal must be able to offer the producer more compensation than the competing agency. And he should keep in mind that the producer's contract with the competitor may contain a non-piracy clause, which stipulates that the producer cannot take business away from the agency for a specified period of time, often six months to a year.

- Friends and relatives. However, hiring a friend of family member brings with it an inherent problem: "You can't fire 'em," said Mr. Reynolds. And if they can't sell, "it makes for a very expensive office manager."
- Other qualified people. This can include college recruiting through placement offices, existing customers, company marketing reps, etc.

Employment agencies, however, should be avoided, since recruiters sometimes do not understand what qualifications are needed for an insurance producer.

When placing a newspaper ad for a producer, Mr. Reynolds suggests keeping the wording generic, rather than requiring specifics such as "seven years' underwriting experience." And rather than using a blind ad with a post office box, more applicants will surface if the ad encourages candidates to contact the agency.

Although this may bring too many applicants for the job, Mr. Reynolds suggests a simple screening process composed of initial contact through a phone call, a short in-person interview and, finally, a probing interview.

The initial contact over the phone allows the principal to quickly assess whether he wants to interview the applicant further, said Mr. Reynolds. The principal can determine the applicant's phone skills, attitude and enthusiasm in the two or three minutes of this initial contact.

If he passes this initial phone screening, the applicant can be scheduled to come in for a 10-minute preliminary interview. Once again, the applicant's appearance, demeanor and rapport with the principal can be gauged in conjunction with the completed application to determine if the candidate should be considered for the position.

This phase should also include what Mr. Reynolds calls the "acid test": asking the applicant if he or she would make a cold prospecting call over the phone with the help of a script. "You're not looking for the great communicator at this point, but someone who doesn't jump up and run out of the room," he quipped.

Finally, the applicant should undergo a probing interview, said Mr. Reynolds. This gives the principal an opportunity to ask questions concerning the candidate's resume and/or application, discuss the job requirements, match the applicant's personality with essential traits and get better acquainted. It also allows the applicant to ask his own questions.

Before this interview, the principal should describe the procedure to the candidate, and the principal should take notes for both protection and objectivity—"to avoid the after-glow effect."

Each question asked by the principal should focus on specific past events, Mr. Reynolds said. For example, a question like "How did you obtain your last job?" allows the applicant to describe the circumstances, the actions he took and the outcome.

The interviewer should direct specific questions toward key personality traits, Mr. Reynolds suggested. For instance, to test for ego drive, the principal can ask the applicant to tell him how he handled his toughest sale. Persistence can be gauged by asking the applicant to describe his most frustrating experience at his last job and how he conquered it. And initiative can be determined by posing a question about how the applicant handled a temporary drop-off of sales.

The principal should be leery of answers that involve vague statements, opinions or feelings, future-directed statements or incomplete sequences in answering questions. The interviewer should ask one question at a time, pause, let the candidate occupy center stage and always tell the candidate when the final selection will be made, added Mr. Reynolds.

To help the principal reach a final decision, Mr. Reynolds recommends using a personality test (*A/BT*, March 4, 1985). These tests, which are readily available and commonly used by agents, measure personality traits. They display a high degree of accuracy, and can be administered quickly and relatively inexpensively within the agency, he added.

When making the final decision, the principal should consult with other executives in the agency to assess the applicant, Mr. Reynolds said. ■

Top producers are made, not born: Trainer

By LAURA MAZZUCA

OAK BROOK, Ill.—An agency principal must train and indoctrinate a new producer to the agency's policies and philosophies, according to an insurance training director.

"Every agency should have a basic training plan" rather than a "hit-or-miss process" to execute when a new producer comes aboard, said John Reynolds, director of education and training for SAFECO Corp. in Seattle. Mr. Reynolds spoke during a recent seminar sponsored by Insurance Marketing Services.

For instance, the agency should furnish the new employee with a current agency policy and procedures manual, he said.

"One of the most frustrating things for a new employee is to break a rule that he didn't know existed," said Mr. Reynolds.

To avoid this, agencies can purchase generic manuals sold by a variety of sources, such as industry trade associations and agency consultants, and customize them for use in their agencies.

This manual should include:

- Job responsibilities of various agency personnel.
- Office hours.
- Agency sick leave and vacation policies.
- Phone procedures.
- A description of the agency's relationships with various insurers.
- Procedures for the disbursement of funds for petty cash and expense accounts.
- The types of applications that the agency should submit to various insurers.

Producers should be asked to sign a contract with the agency as soon as they are hired, so there is no confusion about compensation, contract validation and other basics, said Mr. Reynolds.

For a new producer, Mr. Reynolds suggests making pre-contract assignments that spell out the bare essentials the candidate must satisfy before actually starting the job. For example, the agency may require the producer to obtain a license before starting (although in some states you must be be employed before you can be licensed).

Experienced producers should come to the job with an idea of where business will be marketed—with some sources provided by the agency. The agency should supply a set number of prospect policy expiration dates as qualified leads to begin the sales process.

The new producer should also be at least somewhat proficient in basic technical skills such as policy contracts, ratings and policy writing systems, said Mr. Reynolds. If he is completely new to the industry, self-study courses are available through insurers and trade associations.

For producers who might have insurance experience but are inexperienced in selling, there are many sales skills training programs with books and videotapes that "deal with human behavior rather than knowledge," said Mr. Reynolds.

These should stress how to ask questions, how to listen to customers, how to relate benefits to needs, how to deal with various customer attitudes and how to close a sale.

But the most important aspect of sales skills training is coaching from the principal, said Mr. Reynolds. This involves regular field work in which both the principal as mentor and the new producer work together to call on prospects.

The producer will initially be involved in finding target markets in order to drum up business and, at first, the agency itself will have to "prime the pump" by supplying the producer with leads, said Mr. Reynolds.

At large agencies and brokerages, new producers work from house books of business, from which they are gradually weaned as they generate their own leads. However, the drawback to this is that the producer can sometimes develop an over-dependency on the agency's leads.

This is why it is so important for the agency principal to show the new producer how to prospect effectively, and the most effective method is through target marketing, or zeroing in on prospective clients through demographics, such as new auto or home buyers. This creates prospecting efficiency and takes advantage of both the agency's and the producer's expertise, said Mr. Reynolds.

The producer might have brought prospecting expertise to the agency as well. For example, if the producer was formerly an educator, he would be familiar with the insurance needs of teachers, as well as how to contact prospects through teachers' organizations.

Referrals are also very important in prospecting, said Mr. Reynolds. He recommends a method he calls an "endless chain," in which the producer is expected to generate three referrals per policy sold. If this rule of thumb is followed, the producer will never run out of leads, he added.

Once the producer begins prospecting, the principal must set goals for him, to be measured in terms of items rather than premium dollars, such as the number of contacts made and the number of specific policies sold, said Mr. Reynolds.

As an example, he suggests setting a goal of obtaining 600 expiration dates—or renewals—the first year, or 50 per month.

During the producer's first year, the principal should refer to these quotas in weekly meetings to ensure that the producer is working up to expectations.

By closely monitoring a producer's activities, the principal will be able to pinpoint trouble areas early, said Mr. Reynolds.

The producer should also have several general performance appraisals during the first year, said Mr. Reynolds. The first should come a month after he starts; followed by three-month and six-month reviews; and finally, a one-year review, after which the producer is reviewed annually.

Finally, if the producer seems to be working out well, Mr. Reynolds offered several tips for keeping him.

Producers expect goals, job security and interesting work, as well as good compensation and a chance at agency ownership, he said. They expect the boss to be loyal to them, interested in their work, fair, tactful and consistent in discipline. They also want some appreciation for a job well done.

Most of all, "Producers want the boss to be a good role model; someone they are proud of," he said. ■

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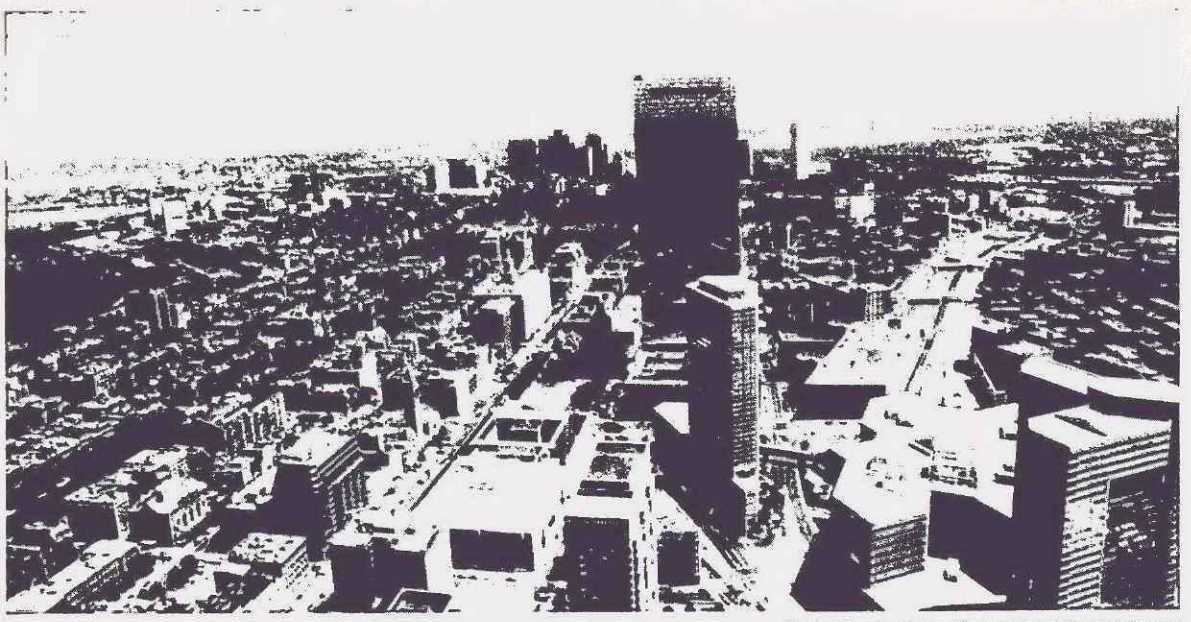

Photo: Greater Boston Convention & Visitors Bureau

The Boston skyline was a beautiful backdrop for the 92nd annual IIAA convention, held Sept. 14-18.

IIAA conference

Agents should adapt to cycles or face ruin, former IIAA chief says

By LAURA MAZZUCA

BOSTON—Insurance agents must find ways to control the rapidly vacillating insurance cycles of recent years or face "a financial bloodbath" in the very near future, according to outgoing president of the Independent Insurance Agents of America.

"We are on the verge of succumbing to suicidal price cutting," warned Thomas J. Baker Jr. of Tom Baker Insurance Agency in Houston.

Mr. Baker made his remarks at the 92nd annual IIAA convention Sept. 14-18 in Boston, where the soft insurance market and slipping profitability were the main issues of concern for attendees.

While independent agency insurers "were slow to resume marketing at fair, economic price levels, our competitors—the direct writers—in the past year have sought new business and continue to show significant market gains vs. the independent agency system," Mr. Baker noted.

Agents cannot "remain sluggish" and only react during rapid market changes but instead must find ways to adapt to insurance cycles, he said.

"Cycles have always been an economic fact of life for the insurance industry," he said. "We need to find ways to write business, provide stable availability of insurance and still make a profit."

Agents' market concerns—especially dwindling independent agency market share—were underscored by the findings of a 1988 Future One study presented by

'Cycles have always been an economic fact of life for the insurance industry,' says Mr. Baker.

IIAA Executive Vp Jeffrey M. Yates.

Citing the study, conducted by a task force consisting of representatives of agents' trade associations and insurers, Mr. Yates reported that independent agencies continue to steadily lose market share to direct writers in both commercial and personal lines.

For example, during the period from 1983 to 1987, independent agents' share of private passenger auto dropped from 38.9% to 37.2%, a 1.7 point loss, Mr. Yates said.

During the same period, independent agents' market share of homeowners coverage dwindled from 53.7% to 48.6%, a loss of 5.1 points, he added.

"Even more alarming, some of the largest (insurers) of personal lines seem to have made the conscious decision to shrink in personal lines and have lost one-third to one-half of their book over the last four years," he continued. "The regional agency companies have picked up some market share in all but the Western states, but the figures show the direct writers have gotten the lion's share."

The commercial lines situation is not much better, Mr. Yates added. The Future One survey indicated that independent agents' market share of commercial multi-peril business declined by 3.6 points during the 1983-1987 period to 82.7% in 1987, he said.

However, the survey results are not all bleak Mr. Yates pointed out. For example, he pointed out that most agents continue to experience good premium growth.

Mr. Yates encouraged agents to become more aware of local marketing opportunities to expand their market share, particularly in personal lines business. For example, he said, lines such as private passenger automobile and homeowners together constitute a $75

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Continued from previous page
billion market.

"Two of your strengths are that you are resilient and have a 'can do' attitude," Mr. Yates said.

"You have survived the worst hard market in history and the last thing you want to hear about is another problem. My concern, however, is that there is even more opportunity out there, and the independent agency system is continuing to let it slip through its fingers."

Market share concerns also can affect agency/company relations, Mr. Yates noted.

"Each time we discuss the market share issue, we end up with agents blaming the companies and companies blaming the agents," he said. "The accusations back and forth have gotten us nowhere. We continue to lose market share."

However, the smaller agent has proved to be an asset rather than a liability for insurers, Mr. Baker said.

"In the last hard market cycle, many smaller agencies suddenly found themselves without companies or unable to accept new business. The public was not served," he said.


Mr. Baker

"While there is some cost for companies involved, many such small agencies generated superior loss ratios that make them a profitable outlet to sell insurance," he said. "Now that the market has turned softer, there is some renewed interest in this type of agent."

In a panel discussion on areas in the agency/company relationship that need improvement, agency and company representatives agreed that to ride out the soft market both sides need to keep a tight rein on the activities of their branch offices through better monitoring devices (see story, page 44J).

And, some panelists predicted that the market might tighten sooner than expected. The impact of Hurricane Gilbert on reinsurers may affect insurance costs if reinsurers increase their rates, said Francis W. Purmort Jr., president and chairman of Central Mutual Insurance Co. in Van Wert, Ohio.

However, poor public perception of the insurance industry is agents' most pressing problem, said Lawrence E. Hite, incoming IIAA president and president of Insurance Systems Inc. of Ona, W.Va.

"Declining public respect for our business is the No. 1 issue challenging us today," he said.

For example, he pointed to the massive antitrust litigation that 18 attorneys general filed against the property/casualty insurance industry in March in federal district court in San Francisco and also in state court in Texas; the increasing demands for both state and federal insurance legislation reforms; and the continuing push for the repeal of the McCarran-Ferguson Act, which gives insurers limited immunity from federal antitrust laws and gives states the primary authority to regulate the industry.

In addition, agents face competition from sources outside the industry, like as banks, Mr. Hite said. "If left unchecked, this could lead to legislative changes that could destroy insurance markets."

Instead, Mr. Hite envisions an industry in which "agents and companies take up the workload and implement programs to reverse the 20-year decline of the industry."

To achieve this, "agents must become more aggressive in their sales techniques, with help and financial backing from insurers."

Mr. Hite pointed to the IIAA's national advertising campaign as "the industry's most effective program" in countering poor public perception of independent agents and opening new avenues for sales.

'Declining public respect for our business is the No. 1 issue challenging us,' says Mr. Hite.

The IIAA's $5 million advertising budget, featuring actor Raymond Burr as spokesman, is shared equally by agents and insurers, a perfect example of cooperation to further a single goal, he said.

In addition, agents must expand their public service activities and keep the lines of communication open with their elected representatives in Washington, Mr. Hite said. ■

Next tight market won't be as bad: Panel

By LAURA MAZZUCA

BOSTON—The property/casualty insurance market will harden within the next two years, but the market tightening will not be as devastating as the hard market of the mid-1980s for several reasons, predict agents and insurers.

Because insurance rates are not as severely underpriced as they were during the soft market of the early 1980s and there is now greater public scrutiny of the insurance industry, the next hard market will not approach the extremes of the last market squeeze, agents and insurers say.

They made their predictions in a panel discussion, "The Agency/Company Relationship at the Crossroads," at the 92nd annual convention of the Independent Insurance Agents of America last month in Boston.

The panel also covered such topics as how agents can plan for changes in market cycles; alternative insurance markets; and the antitrust suits that 19 state attorneys general have filed against the property/casualty industry.

The next hard market will not mirror the 1984-1986 market crunch in part because interest rates are lower now, explained Walter E. Farnam, president and chief operating officer of General Accident Insurance of Philadelphia.

As a result, underwriters are not now using cash-flow underwriting to the extent they were in the early 1980s, when insurers could afford to underprice insurance to generate premium volume because high interest rates produced increased investment income.

Insurers' profit margins may drop to single digits by next year, Thomas F. McCann says.

In fact, Mr. Farnam predicts there probably will be another year to 18 months of market softening followed by a stabilization of rates in 1990 before conditions begin to harden again.

"The public won't allow it to happen the same way it did before," predicted Lawrence E. Hite, president-elect of the IIAA and president of Insurance Systems Inc., an agency in Ona, W. Va.

For example, current threats of federal regulation of the insurance industry, as well as the antitrust lawsuits, are the direct result of public dismay about the last hard market, Mr. Hite said.

If the market tightens too quickly, public attention already focused on the industry will make regulatory matters worse for insurers, predicted Thomas F. McCann, president and chief executive officer of New Hampshire Insurance Co. in Manchester, N.H., a unit of American International Group Inc.

"When the cycle gets to the point where it attracts all the attention that the last one did, it's a great opportunity for a politician" to step in and act as champion of the public good, he observed.

Since public attention is already focused on the insurance industry, the potential for more regulation of the industry will be "awesome" if the market tightens suddenly, he added.

"My concern is the fact that I don't believe some companies recaptured their profits" before the last market softening, said Francis W. Purmort Jr., president and chairman of Central Mutual Insurance Co. in Van Wert, Ohio.

Since many insurers already were on a weak financial footing, the current soft market is hurting them more than it would have otherwise, he explained.

In fact, profit margins for insurers may drop to single digits as early as next year, Mr. McCann predicted.

As a result, insurers are increasing rates for new business, although they are attempting to hold prices stable for renewals, said George W. Ansbro, chairman and chief executive officer of Royal Indemnity Co. in Charlotte, N.C.

Although market fluctuations are an inevitable aspect of the insurance industry, the panelists believed that insurers could help clamp down on cyclical excesses by more closely monitoring underwriting in their branch offices.

Even though some branch offices seem to be "bulletin-proof" or impervious to admonishments from the home office, insurers often can identify potential problem branches using sophisticated automated systems to track underwriters' pricing practices, Mr. McCann said.

Mr. Farnam, who pointed out that many of these monitoring advances came "after the fact" of the last soft market, warned that branch managers and underwriters must be careful to stay within the guidelines of the pricing profile set forth by the home office.

Both agents and insurers are concerned about the impact of the attorneys general's suits on the industry. Public perception of the industry is suffering as a result of the suits, said Mr. Farnum, who is concerned that public pressure against the industry will grow worse before the suits are resolved.

However, he believes the courts will side with the industry when all the facts come out, though the litigation will cost both the industry and the public "a lot of money."

"Our business is unique," he said. "Once the facts are out on the table, and once the courts have an opportunity to examine what the true issues are, I think they're going to come down in favor of the industry."

Most people in the industry believe the attorneys general's accusation of industry collusion is impossible, panelists said.

"The accusation of a conspiracy is ludicrous," Mr. McCann stressed. "Anybody who really looks at it, who's been in the business for a while, knows you can't get anybody to agree on any issue."

There will be a loser in the litigation, but it will not be the insurance industry, Mr. Hite agreed. "The single biggest loser will be the consumer, who is either the purchaser of insurance or the taxpayer. It's a lose-lose situation on either side," he said.

And, the suits do draw public focus away from state and federal tort reform efforts, Mr. Ansbro observed.

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However, the insurance industry has a legitimate concern that the the suits will cause opponents of the McCarran-Ferguson Act to push harder for its repeal, which is the real "insidious factor of the suits," Mr. Ansbro said. The 1945 law gives insurers limited immunity from federal antitrust laws and gives states the primary authority to regulate the industry.

But, the dual state and federal regulation of the industry that could replace McCarran-Ferguson would be more expensive for consumers and more difficult for agencies and insurers to deal with, Mr. McCann said.

The best way for agents to fight repeal of the act is to inform their clients that the resulting changes "will hit them in the pocketbook," Mr. Ansbro advised.

In addition, if McCarran-Ferguson is repealed, insurance policy forms no longer would be standardized and the court system will have to undergo a new "learning curve" to understand policy language, Mr. Hite pointed out. "The public will be poorly served as a result," he added.

Meanwhile, most panelists feel that the threat of bank holding companies encroaching on the traditional territory of agents and insurers has been exaggerated.

"Banks are not that organized or interested" in selling or underwriting insurance, said Mr. Purmort of Central Mutual Insurance.

"I personally talked with a couple of large savings and loan banks about the possibility of our company representing or managing them," he said. "When talking to their executives and asking them what they want to write, they don't know—they don't understand the insurance business."

Therefore, even if banks do get approval to sell insurance, their lack of knowledge about the business means "they'll be treading on thin ice," he said.

Agents, however, seem a little more concerned about the possibility of competing with banks.

"We don't want banks in the business, but that doesn't lessen their resolve" to get in, Mr. Hite said. "So you can't lessen your resolve" to keep them out.

Most national banks and state-chartered bank holding company subsidiaries located outside of their parent company's principal state of business would not be allowed to sell insurance under a bill passed by two House committees earlier this month. But, national banks in towns of 5,000 or less would be exempt, and national banks and state-chartered bank holding company subsidiaries currently underwriting insurance would be allowed to continue (*BI*, Sept. 26).

The panel moderator was Norman A. Baglini, president and chief executive officer of the American Institute for Property & Liability Underwriters and the Insurance Institute of America in Malvern, Pa. ■

IIAA draws 3,000 to meeting

BOSTON—More than 3,000 agents from across the country, as well as from Canada and Australia, converged on the Boston Marriott Copley Place Sept. 14-18 to discuss a myriad of issues facing independent agents.

Keynote speaker Fred Marcon, president of the Insurance Services Office Inc. in New York, blasted the 19 state attorneys general who have filed antitrust litigation against the property/casualty insurance industry, calling the lawsuits a "concerted political effort to tear down the very foundation" of the U.S. insurance industry (see story, page 44L).

General session highlights included panel discussions on agency/company relationships, automation and legislative issues facing the industry.

Also featured was Henry Kissinger, former U.S. Secretary of State, who addressed the agents on foreign policy and current events.

Nationally syndicated political satirist Art Buchwald and IIAA spokesman Raymond Burr also appeared at the conference. Mr. Burr swore in the IIAA's incoming officers.

Workshops were offered on a variety of issues, including money management, condominium insurance, sales psychology and commercial general liability insurance policy forms issues.

However, agents complained that the choices were not as varied as in previous years.

A trade show comprising almost 90 exhibitors—including a variety of insurers, vendors, consultants and trade publications—also was featured at the convention.

Antitrust suits to hurt agents: Marcon

By LAURA MAZZUCA

BOSTON—The massive antitrust litigation pending against the property/casualty insurance industry is an "outright attempt" to halt tort reform and repeal the industry's limited immunity from federal antitrust law, charges the president of the Insurance Services Office Inc.

Mr. Marcon

If successful, the lawsuits filed by 19 attorneys general would hurt consumers, independent agents and insurers, ISO President Fred R. Marcon contends.

"If our opponents succeed in substantially changing or repealing the McCarran-Ferguson Act, they'll send a cold, cold chill through the industry," warned Mr. Marcon in his keynote address at the 92nd annual convention of the Independent Insurance Agents of America, held Sept. 14-18 in Boston.

The 1945 act gives insurers limited immunity from federal antitrust laws and gives states primary regulatory authority of the insurance industry.

"I can give you the damage report in advance: Some small and mid-sized insurers could be driven into mergers or insolvency" if the act is repealed, he said.

If this happens, both competition and insurance availability will shrink, ultimately hurting the consumer, he said. "The potential for an ensuing dual system of state and federal regulation would create a regulatory nightmare, not to mention an explosion in administrative costs," he added.

"We want you to know that these ill-founded lawsuits will ultimately cost taxpayers and consumers tens of millions of dollars—dollars that just don't have to be spent, dollars that are wasted," Mr. Marcon said.

The ISO president characterized the attorneys general's lawsuits as an attention-getting device implemented by office seekers who have "learned that insurance industry bashing is always good for a headline or two, with little risk of losing votes."

"Using some of the most inflammatory and uninformed rhetoric ever applied to our business, several of these attorneys general's press statements were designed to anger and frighten the vast majority of the public, who know little about the workings of our industry," Mr. Marcon said. "It's obvious these attorneys general arrived at their conclusion and didn't want to be swayed by facts."

Mr. Marcon noted that during the year before the lawsuits were filed last March, ISO repeatedly offered to meet with five of the eight attorneys general who first filed antitrust litigation in U.S. District Court in San Francisco to answer any questions. But, the offer was never accepted, he said.

"In fact, 14 of the 19 AG offices that sued us never even bothered to talk to us before filing their complaints," he said.

Mr. Marcon also exhorted agents —both on an individual basis and through their trade associations—to block attempts to repeal McCarran-Ferguson. If the act is repealed, the result would be a greater concentration of market share among fewer companies, he said.

Mr. Marcon suggested that agents attempt to inform their state and national legislators that McCarran-Ferguson is the "cornerstone of our industry."

He also stressed that agents need to explain to their customers that if the act is repealed, it could increase insurance rates.

"Let your customers know that they—and you—have an important stake in preserving our time-tested system of state regulation that makes for a healthy and competitive insurance industry," he said.

The ISO president cited three major benefits to consumers under McCarran-Ferguson:

- ISO has developed standard policy forms written in simple language "so agents know what they're selling, consumers know what they're buying, and both can compare prices and coverages among insurers."
- ISO has published advisory rates, which leads to industry competition by encouraging more insurers to enter more markets.
- Cooperation among insurers encourages them to jointly provide coverages for such high-hazard catastrophe risks as nuclear power plants. Most, if not all, insurers would be unwilling to cover these risks on an individual basis.

"A loss to such a large risk could result in billions of dollars in damage, and no one company has the capital to assume all that risk," Mr. Marcon said. "However, by spreading their risk, insurers can, and do, work together to provide such coverage." ■

Liquidations

Continued from page 1

missioners. "They truly don't know what they should be doing."

The two decisions befuddling regulators are:

- A Sept. 7 ruling by the 9th U.S. Circuit Court of Appeals in San Francisco, which overturned a lower court decision. The appellate court ruled in a case involving $113,996 in federal taxes owed by the insolvent Pacific Insurance Administrators Inc. and Pacific Insurance Administrators Agency Inc. that liquidation is not the "business of insurance" and thus does not pre-empt the federal priority statute.

The Idaho department has requested that the 9th Circuit rehear the case.

Even though the two companies are not insurers, they are being liquidated under Idaho insurance law rather than state corporate or federal bankruptcy law.

- A May 20 ruling by the 4th U.S. Circuit Court of Appeals in Richmond, Va., that upheld a lower court's decision. The lower court held that federal government claims relating to performance and payment bonds written by the now-insolvent Eastern Indemnity Insurance Co. of Maryland must take priority over other policyholders' claims in the liquidation.

MACKINAC ISLAND

The Maryland Insurance Department has asked the U.S. Supreme Court to rehear the case.

"In both cases the question was whether the priority scheme included in the states' insurance liquidation laws would govern the order in which the federal government would be paid," said Mr. Cantilo, who discussed the impact of the rulings in a closed-door meeting at the NAIC's Fall Zone Meeting last month in Mackinac Island, Mich., and during subsequent interviews.

The "heart and soul" of both cases was the question of whether state liquidation laws regulate "the business of insurance" under the aegis of the McCarran—Ferguson Act, and both courts concluded that it did not, said Mr. Cantilo, who represents liquidators in Texas and North Dakota.

As a result, the courts ruled that the state statutes under which liquidators operate are superseded by the 191-year-old Federal Insolvency Statute that requires that the assets of a bankrupt "person" must first be used to pay debts owed to the federal government.

In addition, the law states that "representatives of a person or an estate (except a trustee acting under Title 11) paying any part of a debt of the person or estate before paying a claim of the government is liable to the extent of the payment for unpaid claims of the government."

Title 11 refers to Chapter 11 of the Federal Bankruptcy Act, which does not apply to insolvent insurance companies.

The statute's "provisions have been in effect since 1797, without any significant modifications," according to the lower court ruling in the Maryland case, even though the law had not previously been applied to insurance company insolvencies.

"The (Idaho) decision is kind of like saying that a state can control the birth but not the death," said Wayne Soward, the former Idaho Insurance Commissioner who is named in the lawsuit filed by the federal government in the 9th Circuit.

The ruling is "ludicrous," said Mr. Soward, who is currently working in Seattle as a deputy receiver for the Alaska Division of Insurance in its rehabilitation of Pacific Marine Insurance Co. of Alaska.

"These (court) opinions should be of concern to all rehabilitators and liquidators," Mr. Cantilo added. "But a compelling argument can be made that they should not—and in all probability do not—apply to true rehabilitations because the company is an ongoing insurer" and the McCarran-Ferguson Act applies to ongoing insurance activities, he explained.

The decisions also raise additional questions because neither discusses whether the federal government must follow procedures established by state liquidation statutes governing when and how claims should be filed, Mr. Cantilo said.

The "worst" case for policyholders and liquidators would be if federal officials are also exempt from state laws that require claims to be filed by a certain deadline and in a particular manner, he said.

'These (court) opinions should be of concern to all rehabilitators. . .,' says Mr. Cantilo.

Delaware Insurance Commissioner David Levinson said he understood the decisions to allow federal officials to assert claims beyond the reporting period set aside for all claimants, and even after a liquidation is closed.

However, Larry Schattner, branch chief in the general litigation division of the office of the IRS' chief counsel in Washington, D.C., said he expects that federal officials would have to file proof of tax claims and determine the amount due in a timely manner.

"We realize that liquidators must liquidate the estate and don't want to drag it on indefinitely," Mr. Schattner said.

While the decisions could cost policyholders money, the rulings already are troubling regulators.

The decisions are "really causing quite a strain" because they make it much more difficult to understand how regulators ought to proceed with a liquidation when the federal government claims an insolvent insurer owes it money, Mr. Washburn said.

For example, "what should I do about marshaling assets?" he asked.

Even though a liquidator believes he could recover funds owed to the insolvent insurer by suing other parties, "I can't pay lawyers ostensibly under this thing so I would have to drop the suits" if the federal government's claims must be paid before administrative expenses are paid, Mr. Washburn said.

"I can't find out who the claimants are. I can't use any assets from the estate before the federal government gets money," he explained. "It is an unworkable situation for a liquidator."

However, federal case law appears to allow liquidators to pay administrative expenses before claims owed to the federal government because liquidators must be free to do their jobs, including marshaling assets, said Paul W. Grimm, an attorney with Jordan, Coyne, Savits & Lopata in Baltimore, which represents the Maryland department in the 4th Circuit case.

Liquidators in various states have responded differently to the decisions.

In Illinois, "we have really stopped a lot of things we were doing," Mr. Washburn said.

In one current liquidation, which he declined to identify, "we have really closed down a lot of the different operations. . .until we figure

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Liquidation rulings

Continued from previous page
out where we are at," he added.

One liquidator whom Mr. Cantilo declined to identify won't even pay administrative expenses before federal claims are resolved, he said.

Resolving federal claims "may take years," depending on the case, he added.

Other liquidators are taking the position that they cannot pay any other claims from an insolvent company's assets, Mr. Cantilo said.

Henry Kass, deputy receiver for Eastern Indemnity Co. of Maryland, said the 4th Circuit decision "has more or less put us on hold."

Although Eastern Indemnity's liquidators have adjusted non-federal claims and have about $3 million on hand to pay some claimants on a pro rata basis, they will not pay any claims until the 4th Circuit case is decided, said Mr. Kass.

Mr. Kass cut back on staff handling the Eastern Indemnity liquidation nearly a year ago following the lower Maryland court's decision.

The Eastern Indemnity policyholders originally requested about $68 million, including an estimated $3 million in federal claims, Mr. Grimm said.

Liquidators in at least one other state—Wisconsin—have made some agreements with the U.S. Justice Department, but these are "individual agreements on individual cases," Mr. Cantilo said.

However, some state regulators are ignoring the decisions and are proceeding with liquidations as usual under state law.

"The decisions are so bad, they are being ignored," said Mr. Levinson of Delaware, who said he is convinced that no jury would convict him if he performs his job conscientiously.

It would be "hideous" to have federal regulators put a lien on his house due to a failure to pay federal claims. "How can you expect any public servant to accept that kind of burden," he asked.

Idaho Insurance Director Anthony Fagiano said his department has made no changes in its handling of other liquidations, despite the 9th Circuit's ruling in the case involving his department.

The Rehabilitators and Liquidators Task Force of the NAIC plans to request that a bill be introduced in Congress that would eliminate any potential for a liquidator to be held personally liable for unpaid federal claims.

'The decisions are so bad, they are being ignored,' says Mr. Levinson, who adds that he is convinced no jury would convict him if he performs his job conscientiously.

The NAIC task force also is establishing a subgroup to better inform commissioners of the decisions and to provide a forum for their questions and comments, said Mr. Levinson, who heads the task force.

He expects the NAIC will support review of the decisions by the U.S. Supreme Court.

Mr. Cantilo, who serves on the task force's advisory committee, said it plans to form a working group to address what actions liquidators should take in light of the two decisions.

Liquidators have several alternatives they can use in an attempt to comply with the rulings, Mr. Cantilo said.

If all sides agree to the maximum amount of money owed to the federal government, that amount could be placed in an escrow account or the federal claims could be settled immediately.

Such an escrow account was established in the case involving Pacific Insurance Administrators and Pacific Insurance Administrators Agency.

Other alternatives include seeking court determination of who is owed money, negotiating a waiver with federal officials or obtaining a receiver's bond, though Mr. Cantilo questioned the availability of such an instrument.

Mr. Cantilo said he is also concerned that federal officials may begin to apply other federal laws, including tax and securities laws, to insurers in liquidation.

Some observers point out the court decisions are yet another assault on the McCarran-Ferguson Act, which has come under fire from consumer groups, state attorneys general and some congressmen.

While the attacks are not coordinated, "a number of things are going on that are causing us some real discomfort," Mr. Washburn said. ■

Benefit communications

Continued from page 3
benefit communication during the last fiscal year, though there was a huge range in budgets, depending on the size of the company.

For example, respondent companies with 500 or fewer employees spent a median amount of $5,000 on benefit communications, while those with 5,001 to 10,000 employees spent a median amount of $23,750, and companies with more than 25,000 employees spent a median amount of $200,000.

However, the authors note, "The results also indicate how economies of scale affect the cost of producing benefit communications—as the number of employees increases, the cost per employee decreases."

For example, among employers with 500 or fewer employees, the median cost per employee for benefit communication was $13.64. At companies with 5,001 to 10,000 workers, the median per employee was $5.75. And at companies with 25,001 or more workers, the median per employee was $5.26.

But despite this not-insignificant expenditure of corporate funds, many employers don't know whether their money is well-spent, nor whether it actually is providing effective communication that employees read and understand.

According to the authors, "Surveys are one commonly used method to measure how well employees understand their benefits and to evaluate the effectiveness of benefit communications. Overall, only 35% of the responding organizations have surveyed employees on benefit communication issues during the past five years."

Larger employers are much more likely to have conducted such surveys: Some 71% of respondents with more than 25,000 employees had surveyed their employees on benefit communication issues during the past five years, compared with only 18% of respondents with 500 or fewer workers.

And, among respondents that did survey employees, 60% changed the way benefits are communicated as a result of those surveys.

"That so many applied the results indicates that surveys are being used as tools for change, not just as information-gathering vehicles," the authors concluded.

Finally, Buck surveyed the extent to which benefit managers work with corporate communications departments on employee benefit communications.

"The results indicate that, overall, those organizations where the two areas work together produce more effective benefit communication," the survey authors say.

About 64% of the respondents said their benefit department has worked with their communication department. Most received assistance with production matters, such as arranging printing or design. Many also received assistance on special writing, such as letters to employees, while very few worked with corporate communicators on technical writing projects, such as summary plan descriptions.

And, most of the respondents who had worked with their firm's communication department said they would like to work even more closely together, while most of those who had not worked together expressed no desire to do so.

"The message to benefit managers seems to be, 'try it, you'll like it,' " the survey authors say. "One joint effort with the general communication department to produce benefit communication tends to lead to a continued partnership."

In general, the survey authors conclude, "Those organizations likely to produce effective benefit communication are those where there is a commitment to employee communication in a broad sense, where there seems to be an open communication culture."

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Copies of the survey, "Getting the Message Out: A Survey on Employee Benefit Communication," are available for $50 from Carolee P. Martin, Manager of Marketing, Buck Consultants Inc., 500 Plaza Drive, Secaucus, N.J. 07096.

RIMS panel

Continued from page 3

Federal-Mogul Corp. in Detroit, agreed: "I would very much like to see a return to the continuity and stability of the old long-term relationships.

"The relationships between the various parties have been severely strained in the past few years," he said. "Somehow, these problems with wild swings in pricing, and seemingly irrational underwriting practices of the industry, have to be addressed."

The relationships between policyholder, insurer and broker "need some heavy restoration work in order to get them back in good working condition," Mr. Stasch said. "We have to recreate that bond of mutual respect and trust between the risk manager, the broker and the underwriter."

Mr. Stasch

Better relationships are needed because of the "changes currently taking place in corporate America," Mr. Stasch said, pointing to "the downsizing and streamlining of organizations designed to reduce the number of staff positions."

"These changes will create a need for a different style in the way we conduct our operations. There will be greater emphasis on the team approach. Service level will have to be significantly improved."

Dennis Busti, president of Reliance National Risk Specialists in New York, also suggested that risk managers benefit from building long-term relationships with insurers, while noting that "human nature, being what it is, everyone acts in his own self interest.

Mr. Busti

"The broker, for example, with certain modifications, is looking to maximize his commissions and his income to his organization. The insurance company is looking to maximize its underwriting and investment profits, and the risk manager clearly, as an expense center in most organizations, is looking to come in with the best price achievable and the broadest coverage available in the market.

"Once we understand people are going to act in their own self-interest, then we can start to come up with some realistic and reasonable expectations of behavior."

Mr. Busti suggested that risk managers "try to say, 'I want a program that is going to be here. I know that the cycles are inevitable. I want a program that when the cycle turns, I'm not going to grind the company into the ground and make it give me the maximum rate cuts. Maybe I'll modify that a little bit in the expectation that when the cycle turns the other way, it won't be as enthusiastic in its rate increases.' "

And, Mr. Busti reported: "We've done that. I don't think that's naive to expect that. We've had a number of clients who have said, 'The market will allow me to write my coverage at $1 million in premium. I realize you feel you need $1.1 (million). We're willing to pay that because we know you, we know your organization and we are comfortable with you. But try to remember that when the cycle changes.'

"And we've done that," he continued. "When the cycle changed and the market rate went up to $2 million, perhaps we raised it only to $1.5 million.

"If the three parties think about future consequences—and that is acting in your own self-interest—I think we can have a more stable marketplace, and hopefully the cycles won't be as horrible as they have been," Mr. Busti said.

Christopher Robinson, a director of Lloyd's of London broker Leslie & Godwin Ltd., a unit of Frank B. Hall & Co. Inc., pointed out that: "Generally in a hard market the London prices will rise, but not as much as the domestic, and in a soft market they will fall, but not as much as the domestic. I would like to think that I could say that the London market does not run away from insurance and offers professional service and speedy response along with consistency, loyalty and integrity."

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RIMS panel

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While the panelists agreed that wild fluctuations in the price of insurance have broken down relationships in the market, there were differing views on how much risk managers are responsible for driving down the price of insurance.

Risk managers say they "want catastrophe protection at a fair price and budget stability over a period of time," Mr. Irvin said. But "I have to tell you in all candor it is rare that the risk manager will pay a higher price in order to go with an insurance underwriter who offers relatively better security and more stability.

"It is just a fact of life. In most organizations, the risk manager who can save his company significant sums of money on insurance costs will go with price over relatively better security and stability.

"Your CEOs are reading stories that insurance costs are down. They are not interested in having their CFO or risk manager come in to them with the bad news about how they can pay more money and buy relatively better security and stability by going with underwriter X over underwriter Y. Besides, if something goes wrong, there is always the state guaranty fund and perhaps the broker to sue."

Mr. Irvin also accepted brokers' responsibility for driving down prices, too. "Once the market starts going in a particular direction, there is little doubt that brokers do accentuate the change.

'Brokers drive prices. We're also driven by price. As a broker, my aim is to serve my client in the best possible way I can. Part of that is to find him insurance at the best possible price,' says Joseph Deutsch, senior vp of HDH Group Inc.

We are driven by our clients' desires, needs and, yes, by self-preservation. You want us to find the lowest price, and we do it, in spades."

But, Mr. Irvin warned, "if all of us in the business can't do a better job of managing our way through the cycle, then a fourth party is inevitably going to see if it can't change the pattern of volatile cycles. . . .A federal legislative intrusion into the business of insurance could be inevitable.

Mr. Bryant

"We must, each of us—the risk manager, the broker and the underwriter—honestly and thoughtfully examine our contributions to this destructive pattern of sharp cyclical turns. We must think about how we can change our behavior."

Michael Bryant, director of property and casualty insurance for Westinghouse Electric Corp. in Pittsburgh, suggested that risk managers do seek stability and security over price.

While Mr. Bryant acknowledged that Mr. Irvin "deals with many more risk managers" than himself, Mr. Bryant said: "I believe that risk managers with whom I've dealt tend to forego in soft markets sometimes significant savings to achieve underwriting quality and stability.

"The real question is: What does one mean by significant savings. I am aware of savings of 10%, 20% or more were foregone to achieve quality. I am aware of very few situations in which savings of 100% or 200% were foregone to achieve quality. But I'm unaware of relatively few times that savings of 100% to 200% were achievable at all in a market that could begin to pay the claims."

Joseph Deutsch, senior vp of HDH Group Inc., a Pittsburgh-based regional insurance brokerage, added: "I do not find that the risk management community is causing us to be price-driven.

"As a matter of fact, I think in the types of insurance we're dealing with, they are looking for stability of market," Mr. Deutsch said, referring to specialty programs that his company brokers for risk managers.

Noting, however, that he generally deals with insurance budgets of less than half a million dollars, Mr. Deutsch said: "On the other hand, the general insurance buyers that I deal with tend to certainly look for price. It's only after you have established a very long-term relationship as a broker can you overcome that level of buyer's insistence on price. Once the broker has established that relationship with the client—a two- or three-year relationship—the client has found stability in its broker and tends to look for stability in its market, too."

Mr. Deutsch also agreed that "brokers drive prices. We're also driven by price. As a broker, my aim is to serve my client in the best possible way I can. Part of that is to find him insurance at the best possible price. It would be remiss on any broker's part to sacrifice stability. It would be remiss to sacrifice coverage.

"On the other hand, if the client is so price-driven, the broker's integrity comes into play," Mr. Deutsch said. "We've walked away from accounts that are like that because ultimately we can't make money on them either. But most clients aren't demanding any more than what they see is going on in the marketplace."

Mr. Deutsch noted: "I deal with clients that, until I have a relationship with them, will move for 5% to 10%. Or I have clients that won't move for 20% to 25%."

Roger Moreschi, vp in the Cleveland office of Arkwright Mutual Insurance Co., commented: "We're a little bit different as a direct writer. What we find is that when we decide to work with a customer we do a very thorough investigative job in both risk analysis and the buying decision process.

"What we find most times is that the pricing that you see in print and hear on the streets is probably based on some factor—perhaps going into a renewal that was overpriced to begin with.

"We deal in the highly protected risk arena, which means that our whole crux is sound loss prevention advice. Our ultimate goal is if we can get a risk manager to work with us and the services we deliver through Factory Mutual and improve those risks to the quality we think that needs to be improved, we effectively want to lower the cost of that risk. We really want to reduce that price.

"If we can lower that cost of risk, we've put the risk into a very predictable standpoint. We know what the losses might be. The insured can take some comfort in that and perhaps take a higher deductible or retention or other mechanisms," Mr. Moreschi said.

"If there is a way to effect cost decreases through loss prevention, that's the way that we should all be gearing ourselves."

Leslie & Godwin's Mr. Robinson observed: "There have been a lot of clients that have stayed in the Lloyd's market for a very long time, but they are the certain type that know they pretty well have to stick there because as the cycles go, coverage may very well become unavailable elsewhere. That's good.

"Then we do get a fair amount of business that comes in and out rapidly, and I suppose you could say that underwriters grab some dollars and reasonably expect that business to disappear back into the domestic market which it now has done."

Mr. Busti of Reliance said: "I've seen many clients over the years—small, medium-sized and very large—in the majority of instances price was the driving factor. But when the client gets to know the carrier better, that majority changes somewhat."

Whether a client moves for 10%, 15% or 20% savings is "obviously a very subjective thing," Mr. Busti said.

There are other pressures driving down prices, too, such as stock market demands that insurers show growth in premium, it was pointed out.

Mr. Irvin noted that General Reinsurance Corp., which he said is generally acknowledged to be one of the better-run reinsurance companies in the world, was penalized by the stock market this spring when it announced a decline in premiums.

General Re reported a decline in premium volume of about 25% in the fourth quarter of 1987, and its stock price fell 8.3% on Feb. 4. The stock has since recovered its value.

"They were doing exactly the right thing," Mr. Irvin said of Gen Re's decision not to write as much business as premium rates went down.

The panelists also commented on how risk managers can commit their companies to long-term relationships.

"If you want to be at the peak and you want to be at the valley" of the pricing cycle, "then you better be prepared as a risk manager to go to your management with those peaks and valleys," Arkwright's Mr. Moreschi pointed out.

"Conversely, if you want to at least slide with the marketplace up and down somewhat, I believe that's the type of relationship that you need to develop."

Mr. Bryant, commenting on Mr. Moreschi's reference to ameliorating peaks and valleys, said: "It makes lots of sense to some of us whose careers are financing risk, buying insurance or explaining why we can't buy it. But I also believe that the relative smoothness that we seek doesn't look at all smooth to those whom we serve. I don't believe in the sense of a CEO or CFO that we are going to see, at least for high-capacity needs, smoothness."

Nonetheless, he suggested how everyone can "manage the relationships so that you get the types of service and coverage that you need over time.

"The incumbent can always give coverage breadth—something that the commodity market cannot give. That is important to long-term relationships because it allows the professionals to talk to the CFOs and the CEOs and say, 'Look, it's a little more expensive or a lot more expensive but it tastes better or it's a prettier color.' But that coverage breadth has got to be real," Mr. Bryant said.

He also suggested that risk managers "be sure that our underwriters are plugged into over a long period of time what is happening in our corporations."

Mr. Stasch suggested that each party to the transaction should have a "commitment to quality," maintain open communication and be concerned with the "well-being of the other two members of the team."

Risk managers will have to engage in "a lot more travel and a lot more meetings" with the underwriters on their main insurance programs, he stressed.

"You're going to have more face-to-face meetings with them to try to get them up to speed so that there are no surprises for them and give them the opportunity to make the same exchange with you. You are probably going to get them around to some of your operations more than you would have in the past rather than just have an engineer visit a location and then send in a report."

Mr. Busti also stressed the benefits of "greater communication between not only the risk manager but his chief financial officer and chief executive officer and the insurance organization."

Mr. Deutsch, however, warned that "the insurance companies are not going to make that easy for you" to build a relationship with an underwriter, "because they constantly go back and forth from centralization to decentralization." A risk manager dealing with a good underwriter in Pittsburgh might suddenly find underwriting has been moved to a home office elsewhere.

Mr. Deutsch

"What's the point of getting an underwriter and a client together when the underwriter is going to change on him?" Mr. Deutsch asked.

Mr. Busti responded: "True, there is turnover" in underwriters. "But the relationship really is with a company, not with just one underwriter. When you commit to an insurance carrier, you are committing to that carrier regardless of the local underwriter who may be servicing the business. You need a dialogue with broader range of personnel within the organization," he commented.

Mr. Deutsch acknowledged that "there is a lot truth to that. However, I'd rather make the relationship with the underwriter," because an individual underwriter can have more commitment to a client, especially a smaller client, than the company.

Mr. Irvin advised: "You can build a relationship beyond just an individual underwriter. The key to that is to get high enough in the organization where you have some stability to do that. To reinforce that relationship, come up with some contractual understandings to implement that."

Mr. Irvin also commented: "You as risk managers have an incredible opportunity and an incredible challenge. I don't know any time in my 30-some odd years in the business that senior management was so aware of risk, insurance and costs.

"For the first time you can honestly insist on getting an adequate amount of time to get an understanding of what the philosophy of senior management is," Mr. Irvin said. "It might well be to get the cheapest price at the bottom and worry about the top. If that's it, at least you know your charge and you can explain the ramifications to your management." ■

Workers sue Lockheed over toxic exposure

By DONNA DiBLASE

BURBANK, Calif.—Lockheed Corp., along with several chemical companies, knowingly exposed a group of Lockheed employees to hazardous chemicals, according to a suit filed Lockheed employees.

The suit, filed in Los Angeles County Superior Court in August by 39 employees at Lockheed's Burbank plant, seeks $245 million in punitive damages and an as-yet-undetermined amount of compensatory damages.

In addition to Lockheed, the suit names chemical manufacturers E.I. du Pont de Nemours & Co., of Wilmington, Del.; General Electric Co. of Fairfield, Conn.; and Lockheed-California Corp. and CALAC, which have since been merged into a newly named subsidiary, Lockheed Aeronautical Systems Co.

The workers charge that Lockheed and the other defendants fraudulently concealed the hazards of various chemicals used in the Burbank plant; negligently failed to correct alleged defects in the substances and adequately warn employees of the chemicals' hazards; and intentionally caused the plaintiffs to use harmful chemicals.

Lockheed denies the charges and argues, among other things, that the employees' exclusive remedy for mental and physical illness suffered in the workplace is workers compensation system, according to an answer to the complaint filed by Lockheed and its subsidiaries.

While some of the employees have filed workers compensation claims, the workers filed suit because Lockheed and the chemical manufacturers "were guilty of malice, oppression and fraud," the suits says.

The workers charge they were continuously exposed to toxic chemicals, were not provided with protective clothing and devices and were forced to work with the chemicals in a non-ventilated building. As a result, the plaintiffs "developed severe illnesses and injuries of the skin and organs, including, but not limited to, skin discoloration, soreness and rashes, cancer of various organs and other related diseases and disorders," the suit says.

The plaintiffs also charge that Lockheed and the other defendants knew from the time the employees began using the substances that prolonged exposure would be a health hazard, but concealed this knowledge from the employees and advised them that it was safe to work with the substances.

Lockheed then retained doctors who misinformed the employees about the cause and nature of their illnesses and who discouraged them from seeking further medical advice when they complained of skin irritations and illnesses, according to the suit.

Furthermore, Lockheed and the chemical firms "failed to post material safety data sheets" detailing the chemicals' properties and the nature of their hazards, the suit alleges. Material data safety sheets are required to be available to employees in virtually all industries by the federal Occupational Safety and Health Administration (*BI*, May 16; Aug. 24, 1987; June 15, 1987).

The suit also says that the defendants concealed from employees that some of the chemicals they were using had been banned for use by the federal government. In addition, the plaintiffs charge that the hazardous properties of the chemicals were concealed from employees as the company "renamed all labeling and warnings placed on the containers" that stored the chemicals.

The court papers include an inventory of chemicals used in the department in which the plaintiffs worked. While most of the chemicals are identified by their names and manufacturers, several are identified simply by code, such as "AF333."

A spokesman for Lockheed explained that "those chemicals that are designated numerically are chemicals that are proprietary to Lockheed. These were developed by Lockheed rather than purchased from another supplier and to identify them by name would" divulge this information to competitors.

In addition, the spokesman refuted the suit's claim about the absence of MSDS: "Employees can find out what ingredients are in a chemical like this through material safety data sheets available throughout the company. Employees can take these sheets to their doctors if they need to explain the chemicals they are working with," he said.

Media reports have speculated that some of the employees involved in the suit work in a building that houses the assembly of secret defense projects—such as the Stealth fighter aircraft, which Lockheed has contracted to develop—and that these employees were intimidated by Lockheed not to discuss their work-related health problems with their physicians.

The Lockheed spokesman acknowledged that some of the employees may have at some time worked on classified projects, but said, "There have been outright allegations in the media by the plaintiffs' attorney that Lockheed intimidated employees to not disclose their health problems when they are working on classified projects, but these allegations are untrue," the Lockheed spokesman said.

Timothy Larson, the Encino, Calif., attorney representing the plaintiffs noted that "I don't know what project the employees are working on. They never disclosed that and are afraid to disclose that."

In addition to denying the charges contained in the suit, the answer filed by Lockheed and its subsidiaries says that the plaintiffs had a duty to mitigate any damages they may have suffered by seeking proper medical and psychological treatment, which it says the plaintiffs failed to do.

And, if the plaintiffs ever are entitled to receive any compensation for the alleged damages, the amount should be reduced by the proportion of the plaintiffs' contributory negligence, according to the defendants' response.

Also, the alleged actions of the defendants, such as misinforming employees of the hazardous chemicals being used and renaming the chemicals, "were committed outside the scope of employment and not by agents of the defendants, and thus defendants are not liable for such acts," the answer says.

Lockheed also says that the plaintiffs' exclusive remedy for all claims of physical, emotional or mental distress is the workers comp system.

Referring to work comp claims filed by some of the plaintiffs, the spokesman said: "The first of those claims are now in the later stages of processing. I don't know at this point whether the company will settle any of these claims.

"Each of the claims filed so far is being looked at individually and carefully," he added.

Lockheed self-insures its workers compensation risks, he said.

No court dates have been set in the suit, according to Mr. Larson, the plaintiffs' attorney. ■

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Commercial Consumers

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Vice-Presidents, General Managers and Other Administrative Personnel	3,657
Financial:	
Chief Financial Officers and Vice-presidents of Finance	2,993
Secretaries, Treasurers, controllers and other Financial Personnel	4,454
Risk/Employee Benefits:	
Vice-presidents, directors, managers, and other related department personnel of: insurance, risk, employee benefits, personnel, compensation, pension, safety, security, industrial relations, human resources and employee/labor relations	10,994
Sub-total	**24,719**
Associations	477
Government, Unions and Educational Institutions	979
Commercial Consumers	
Sub-total	**26,175**
Insurance Agents and Brokers	10,557
Insurance Companies	7,380
Actuaries, Attorneys, Adjusters, Appraisers and Consultants	3,843
Others Allied to the Field	2,991
TOTAL	**50,946**

* Source Business/Occupational breakdown of qualified circulation, May 30, 1988 issue, as submitted to BPA for June 1988 BPA Publisher's Statement.

401(k) non-discrimination

Continued from page 1

adjustments to highly paid employees' 401(k) deferrals is not a one-time fluke.

Eighty percent of the employers surveyed by Lincolnshire, Ill.-based Hewitt said they planned in 1988 to set new limits on highly paid employees' deferrals, either at the start of the plan year or during the year, to ensure that their plans would pass the non-discrimination tests.

The survey, which is based on responses by 327 employers with 401(k) plans, contains the first hard evidence of the substantial impact that the new non-discrimination rules have had on 401(k) plans.

The survey also provides some of the most comprehensive statistics compiled on 401(k) plans and their practices. For example, the survey examines how employers provide and administer loan and hardship withdrawal provisions, the investment options offered to employees and how employees invest their 401(k) contributions (see story, page 53).

But the most compelling statistics reveal the impact of the non-discrimination rules established by the 1986 tax law on 401(k) plans.

"The test has become a lot tougher, and employers have had problems," Ms. Laketek said.

Under the Tax Reform Act of 1986, the average percentage of salary deferred by highly paid employees—generally considered those earning more than $50,000 annually—cannot exceed the greater of these two amounts:

- 25% of the average deferral percentage (ADP) elected by lower-paid employees.
- The lesser of either 200% of the average ADP among the lower-paid employees or the ADP of the lower-paid plus 2%.

These new tests—which became effective for most employers on Jan. 1, 1987—replaced more liberal rules. Under the old rules, the ADP of the top-paid one-third of a company's employees could not exceed the greater of two amounts:

- 150% of the ADP among the lower-paid two-thirds.
- 250% of the ADP among the lower-paid two thirds as long as the difference between the two groups' ADP did not exceed 3%.

This tightening of the allowable disparity between the ADPs of the highly-paid and lower-paid employees has forced companies whose plans previously passed the non-discrimination tests with flying colors to alter their plans. "The test is much stricter. In fact, if anything, I'm surprised that more companies did not have problems," Ms. Laketek said.

The survey reveals how lower-paid employees' salary deferrals lag behind contributions by the higher-paid.

For example, 36% of the 267 companies reporting information said the ADP of their higher-paid employees exceeded 6% in 1987 before any cutbacks in deferrals were made to comply with the non-discrimination tests. By contrast, just 8% of the employers reported that their lower-paid employees' ADP exceeded 6%.

At the other end of the scale, only 8% of employers said their highly paid employees' ADP was less than 3%, while 36% of employers reported that the ADP among lower-paid employees fell under 3%.

Overall, prior to making cutbacks to comply with the non-discrimination tests, the median ADP of the highly-paid employees at all surveyed companies was 5.4%, compared with a median ADP of 3.5% for the lower-paid workers.

This big disparity in ADP reflects a fundamental difference in the reasons motivating lower-paid and highly-paid employees to participate in 401(k) plans, Ms. Laketek observed.

While both groups are interested in saving for retirement, lower-paid workers are motivated to contribute by the opportunity to obtain matching employer contributions. However, the highly paid, with more taxable income, want to make maximum contributions to defer taxable income as well as to obtain the employer matching contributions.

"The higher-paid will try to get as close to the maximum (deferral) as possible," Ms. Laketek said.

While not specifically surveyed, lower-paid employees boost contributions to 401(k) plans as they become older and big expenses are behind them, Ms. Laketek said.

Employers also reported that the 401(m) features in their savings plans, which cover both employer matching contributions and employee aftertax contributions, did not have as many problems passing the non-discrimination tests as did the 401(k) portions of their plans, which apply to employee pretax contributions.

In fact, some 80% of 211 responding employers said the 401(m) portion of their savings plans passed the non-discrimination test in 1987 without necessitating adjustments to the contributions of the highly-paid.

The relative ease with which 401(m) contributions passed the non-discrimination tests illustrates that lower-paid employees may be more interested in aftertax contributions than the highly paid.

Since 401(m) contributions are made on an aftertax basis, there is no tax advantage to the employee beyond tax deferral of accumulated interest. That reduces the appeal of aftertax contributions for highly-paid employees.

But, aftertax contributions are more accessible than pretax contributions, because employees do not have to prove hardship to make withdrawals and because aftertax contributions are exempt from the special 10% excise tax that applies to most pre-retirement withdrawals and distributions of pretax contributions. This accessibility of funds is especially important for lower-paid employees who may lack other financial resources to pay unexpected expenses, Ms. Laketek said.

But, employers with plans that accept 401(m) contributions soon will find it tougher to pass the non-discrimination tests.

Employers through the end of this year are allowed to use the so-called 200%, two percentage points test on both the 401(k) and 401(m) portions of their savings plans.

However, proposed Internal Revenue Service rules, slated to take effect on Jan. 1, will ban the double use of the 200%/two percentage points test. Instead, the IRS is proposing a new combination test in which ADPs and ACPs—average contribution percentages for 401(m) contributions—are combined and subsequently compared (*BI,* Sept. 5).

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Copies of the survey, titled "What's New in 401(k) Plan Experience and Administration," will be available in mid-October. To obtain a copy, contact Cathy Schmidt, Hewitt Associates, 100 Half Day Road, Lincolnshire, Ill. 60015; 312-295-5000. The cost is $100.

More 401(k) plans adopt loan provisions

By JERRY GEISEL

LINCOLNSHIRE, Ill.—More employers, faced with the challenge of boosting participation in 401(k) plans by lower-paid workers to pass non-discrimination tests, have added loan provisions to their plans, a soon-to-be released survey shows.

Sixty-two percent of employers with a 401(k) plan offered a loan provision in 1987, while 9% said they were considering adding a loan provision to their 401(k) plans, according to the survey by benefit consultant Hewitt Associates.

Of companies with loan provisions, 53% added them during the last three years.

Among employers that responded to this section of the survey, 52% said the introduction of a loan provision increased participation by the lower-paid, which helps employers pass non-discrimination tests (see story, page 1).

However, 77% of companies said participation by higher-paid workers remained the same after a loan provision was added, while 22% perceived an increase in the participation of the highly paid.

While loan provisions may boost participation of the lower-paid, the price of such a feature is an administrative headache for many employers.

Indeed, among companies with loan provisions, some 77% reported administrative difficulties, especially additional paperwork.

"When employers add loan provisions, they almost are operating a bank," said Karen Frost, a Hewitt consultant in Lincolnshire, Ill.

Other survey findings involving 401(k) plan loan provisions include:

- Few employees default on their loans. While 20% of companies with loan provisions reported defaults in 1987, the median percentage of participants who defaulted was just 2%.
- The most common maximum loan period for paying back a home loan from a 401(k) plan is 10 years, with companies reporting a range of four to 30 years. For general purpose loans, the most common maximum period for paying back the loan is five years, with companies reporting a range of three to five years.
- The most common minimum home loan is $1,000. The minimum among the plans surveyed ranged from $250 to $10,000. The most common minimum general purpose loan also is $1,000, ranging from $100 to $5,000.
- The average interest rate charged for new loans is 9%, with many employers tying the interest rate charged to either the prime rate or the prime rate plus 1% or 2%.
- A majority of the surveyed plans, 54%, allow a participant to have only one outstanding loan at a time. However, 29% of the plans allow two outstanding loans, while 4% had no limit on how many loans a participant could have outstanding at one time.
- The average disbursement period—the time from loan application to the issuance of a check—was four weeks, though respondents noted a wide range of practices. For example, 7% of employers disbursed loans in just one week or less, while 10% said the process took more than seven weeks.
- Just 13% of employers assessed administrative charges on participants applying for loans.
- Some 92% of employers allow prepayment of loans, while 6% allow partial prepayment and 2% do not allow prepayment.

Nearly all—94%—of the surveyed employers with 401(k) plans allow employees to make in-service withdrawals of funds. For example, among plans allowing withdrawals, 91% permit withdrawals for purchase of a primary residence, 88% for education of a family member and 82% to cover an uninsured illness or death in the family.

Some 70% of employers require written evidence of need before they will allow a hardship withdrawal. For example, some companies require a participant to sign a statement saying that no other funds were available to meet the hardship, with others requiring a loan rejection statement or a financial statement.

Employers were evenly divided on whether the 10% excise tax penalty—established by the Tax Reform Act of 1986—that participants must pay on most pre-retirement withdrawals has cut down on the number of withdrawals.

According to the survey, employers typically offer employees three investment options for 401(k) contributions, with guaranteed investment contracts, equity funds and employer stock as the most common options. However, some companies offered participants as many as seven different investment options from which to choose.

While employers may offer a range of options, employees clearly gravitate toward GICs. For example, among plans offering a GIC option, 64% of plan participants' contributions are invested in GICs.

By contrast, among plans offering employer stock as an investment option, only 33% of participant contributions are invested in the stock.

"Employees are risk-adverse," said Maryann Laketek, a partner in Hewitt's Chicago office, on the popularity of GICs.

Contrary to what might have been expected, 401(k) plan participants who had invested in equity funds did not—in large numbers— move investments out of the funds after last October's stock market crash, according to the survey.

For example, 73% of employers said that less than 10% of plan participants moved existing account balances out of equity funds, while 18% reported that between 10% and 24% of participants shifted some contributions out of equities following the crash. Just 1% of employers said more than 50% of the plan participants moved funds out of equities because of the crash.

Employees did not flee equities following the stock market crash because equity investors are relatively sophisticated and believe their investments will pay a premium—compared with fixed-income funds—over the long term, Ms. Laketek said.

"Equity fund investors are in for the long term. They are not trying to play the market," she explained.

However, the stock market crash appears to have made 401(k) plan participants more cautious about where to invest new contributions. For example, 4% of employers said more than 50% of employees were moving away from equities as an investment for new contributions, while 8% of employers said between 25% and 49% of participants were moving away from equities for new contributions.

Other survey findings include:

- Nearly all, or 96%, of employers offer 401(k) plans in conjunction with other retirement and capital accumulation programs.
- Some 78% of plans require employees to work a minimum period, usually a year, before they are eligible to participate.
- Some 72% of companies said no plan changes were made or are planned as a result of the stock market crash.

Among companies making changes, some are considering more investment options, increasing communications to participants and reducing the amount available for loans and hardship withdrawals.

- An average of 3% of employees participating in 401(k) plans deferred the maximum $7,000 of salary that was allowed in 1987.
- Not surprisingly, plan participation shoots up when an employer offers a matching contribution feature.

For example, some 95% of plans with "high participation"—where more than 85% of eligible employees participated in the plan—matched at least 50% of employee deferrals. However, only 75% of the plans in which less than 70% of eligible employees participated matched at least 50% of employee contributions. ■

Fraud indictments

Continued from page 1

While the C&H bid was to be $7.50 per employee per month, United's bid was $6.75, from which 75 cents was to be paid to Mr. Carroll and 25 cents to Mr. Commito.

Of an initial $50,000 payment to United by Munford in late 1986, $25,000 was turned over to Mr. Commito, who retained $5,000 and forwarded $20,000 to Mr. Carroll in a check drawn on an AnCom Group Services account, the indictment charges.

The indictment charges the defendants with conspiracy, mail and wire fraud and money laundering.

William Slavin, president and chief executive officer of United in Baltimore, denied the allegations, calling the indictment a "set-up operation by a government agency."

"We are completely innocent," Mr. Slavin said. "Nobody at United HealthCare has ever defrauded any of our clients."

"United HealthCare has expressed its full support for Mr. Cohn," said H. Russell Smouse, Mr. Cohn's Baltimore lawyer, who said Mr. Cohn will plead not guilty at his arraignment this week.

Two additional indictments unsealed in U.S. District Court in Atlanta also involve benefit plans for Munford employees.

One indictment, relating to a second optical program for Munford, names Mr. Commito; Elliott F. Kusel, 54, an officer of Mesquite, Texas-based Total Ophthalmic Professional Care Inc. (Top Care) and part owner with Mr. Commito in Special Vision Services; Marc L. Kusel, 31, chief executive of Contact Contact Corp., an optical goods dealer in Huntington Beach, Calif.; and Thomas A. Parnham, 39, an officer of two Washington, D.C.-based health care firms.

According to this indictment, Mr. Parnham contacted Mr. Carroll, the undercover FBI agent, in August 1987 about replacing the United optical program with a new program. Between August 1987 and January 1988, the defendants conspired to defraud Munford on the new plan, provided by Top Care, the indictment charges.

'We are innocent. Nobody at United HealthCare has ever defrauded any of our clients,' says President William Slavin.

As part of the alleged conspiracy, the defendants arranged for Top Care to pay commissions of $8,000 per month, or $192,000 over the two-year term of the optical contract, to Special Vision Services, the indictment says. Special Vision Services, in turn, would pass on payments to Mr. Carroll and Mr. Parnham to ensure their help in maintaining the Top Care deal, the indictment charges.

In addition, Contact Contact was to make monthly payments to Special Vision Services, which in turn would pay Mr. Carroll $2 for each contact lens Munford employees purchased from Contact Contact through the optical plan, the indictment alleges.

Top Care was to inflate its charges to Munford by amounts equal to those paid to Mr. Carroll and Mr. Parnham, and these payments were to be concealed from Munford, court papers charge.

The second Atlanta indictment, involving an employee assistance program for Munford, names Mr. Commito; Carl A. Mattison, 64, president of J.D. King Corp., an insurance brokerage in Monterrey, Calif.; and Monica E. Oss, 32, senior vp-marketing for U.S. Behavioral Health Inc., an EAP provider in Emeryville, Calif.

According to this indictment, Mr. Commito introduced Mr. Carroll in January 1987 to David M. Anderson, an employee of U.S. Behavioral Health and an unindicted co-conspirator in the case.

Over the next year, Mr. Anderson and the three defendants developed a scheme to defraud Munford by arranging an EAP for its employees through U.S. Behavioral Health, court papers charge.

Mr. Mattison, Ms. Oss and Mr. Anderson provided the undercover agent, Mr. Carroll, with a sample EAP bid-request letter and specification sheet and gave him the names of two EAP service providers that would bid on the program to ensure that no one submitted a bid lower than U.S. Behavioral Health's bid of $3.50 per eligible employee per month, the indictment says.

Mr. Mattison, Ms. Oss and Mr. Anderson also submitted a post-dated proposed contract to Mr. Carroll to make the contract appear to be a response to Mr. Carroll's bid-request letter, although the bid-request had not yet been prepared or delivered to U.S. Behavioral Health, court papers say.

Of the $25,000 per month Munford was to pay for the program, Mr. Commito, Mr. Mattison and Ms. Oss agreed that $6,500 would be turned over to Diversified Benefit Systems, Mr. Commito's Chicago company. Diversified would retain $1,625 per month and pass along $1,625 to Mr. Mattison and $3,250 to Mr. Carroll to ensure all of the parties' cooperation in maintaining the program, the indictment charges.

Again, U.S. Behavioral Health's charges for the program were inflated to provide for the illegal payments to Mr. Commito, Mr. Mattison and Mr. Carroll, the indictment charges.

Noting that the U.S. Behavioral Health contract warranted that no broker's commissions or finder's fees would be paid, the indictment also charges the defendants with conspiring to hide the payments from Munfofd.

Both Atlanta indictments accuse the defendants of conspiring to embezzle from a welfare fund, along with money laundering and mail and wire fraud violations.

Separately, a grand jury in U.S. District Court in San Francisco has returned another indictment, brought under the federal Racketeer Influenced and Corrupt Organizations Act, that names Mr. Commito and Mr. Mattison.

The San Francisco indictment sets out four instances of alleged racketeering activity, including the alleged frauds involving Munford's optical program with United HealthCare and its EAP with U.S. Behavioral Health.

In addition, the indictment accuses Mr. Commito and Mr. Mattison of scheming to extract kickbacks totaling $5,896.50 from U.S. Behavioral Health on another EAP for Western Employers Trust, a multiemployer benefit plan for which Mr. Mattison was an administrator.

In a fourth scheme similar to the alleged Munford frauds, Mr. Commito and Mr. Mattison are accused of defrauding National Semiconductor on another EAP contract with U.S. Behavioral Health.

The indictment alleges that Mr. Carroll, the FBI agent, introduced Mr. Mattison in November 1987 to Donald McPherson, another FBI agent posing as "Don Mills," a representative of National Semiconductor.

The defendants then set in motion a plan to establish an EAP contract between National Semiconductor and U.S. Behavioral Health in which $7,500 of National Semiconductor's monthly payments—or 75 cents per employee per month—would by diverted to AnCom, Diversified and Labor Health Plans, Mr. Commito's companies, the indictment charges.

Mr. McPherson would then be paid an illegal kickback for his cooperation in maintaining the contract, and these payments would be concealed from National Semiconductor, court papers say.

Under the RICO statute, prosecutors are seeking forfeiture by Messrs. Commito and Mattison of property and funds in several bank accounts, along with their interests in several corporations, including AnCom, Diversified, Labor Health Plans and J.D. King Corp.

In a separate count, the San Francisco indictment also charges Messrs. Commito and Mattison and Ms. Oss with conspiring to defraud National Semiconductor by paying kickbacks to Mr. McPherson stemming from the EAP with U.S. Behavioral Health.

Meanwhile, a federal grand jury in Chicago returned two indictments accusing four individuals of defrauding the welfare plans of two Chicago-area unions.

Charged in one of the indictments are Mr. Commito, Mr. Mattison and William J. Wire, 52, former administrator and director of funds for the Service Employees International Union Local 1 Pension Fund.

According to the indictment, Mr. Wire was paid kickbacks totaling $12,773.02 between 1983 and 1985 to steer the union's life insurance business to North American Life & Casualty Co. of Minneapolis.

Mr. Commito and Mr. Mattison also received 75%—or $112,500—of the first year's premium of $150,000 from North American Life but told the insurer to defer the commissions to conceal their size from union trustees.

The three defendants also conspired to conceal the payments to Mr. Wire, the indictment alleges.

The second Chicago indictment names only William Hainsworth, 45, former administration manager of the Welfare Fund of Local 803 of the DuPage County Cement Masons. Mr. Hainsworth is accused of forging the names of welfare fund trustees on a dental benefit contract with Labor Health & Benefit Plans Inc. of Chicago, also controlled by Mr. Commito, and on five checks totaling $33,000 payable to the dental service provider.

The indictment also alleges that Mr. Hainsworth forged trustee signatures on a vision care plan with Illinois Vision Service Plan and on seven checks totaling $29,484 payable to the plan.

In addition, Mr. Hainsworth is charged with lying to a grand jury investigating Mr. Wire's activities.

In San Diego, a seventh indictment alleges a conspiracy to defraud EyeCare U.S.A. Inc., a San Diego-based provider of optical services, of funds that were then used to establish Top Care and Special Vision Services, companies in which Mr. Commito and Elliott Kusel had financial interests.

Besides Mr. Commito and Elliott Kusel, the indictment charges Marc Kusel and Cheryl E. Fyten, former vp-personnel at EyeCare.

Mr. Commito was arrested in California last week and released on $1 million bond. His lawyer, Dan K. Webb, a former U.S. Attorney in Chicago, would not return phone calls.

Attorneys for Mr. Mattison, Mr. Wire and Ms. Oss said their clients will plead not guilty to the charges.

"Carl has always acted in a way that was within the law," said Mr. Mattison's attorney, Frank Ubhaus of Ubhaus & Collins of San Jose, Calif.

"The charges against Monica Oss are without substance, and she will be ultimately fully vindicated," said Walter M. Phillips Jr. of Phillips & Phelan in Philadelphia.

Attempts to reach the other defendants or their lawyers were unsuccessful. ■

Update

New financial reinsurer forms

Continued from page 2

Sirius Insurance Group had 1987 premium income of $240 million and assets exceeding $630 million. It has subsidiaries in London and New York and branch offices in Geneva, Switzerland; Hamburg, West Germany; and Hong Kong. It is a member of the Asea Brown Boveri Group.

At GTE Re, President and Chief Executive Officer W.L. Hyland announced that all department directors will report to him until a successor to Mr. Juul is appointed.

Mr. Hyland, commenting on Mr. Juul's resignation, said: "Under his direction over the last 2½ years we have achieved our goal of being widely recognized as first-rated security."

GTE Re, a subsidiary of GTE Corp., is the second largest reinsurer in Bermuda based on 1987 gross premiums of $125 million.

Senate dilutes family leave bill

WASHINGTON—Employers with fewer than 50 workers would not have to give workers unpaid leave for serious illnesses and the birth or adoption of children, under an amendment the Senate adopted last week during its debate of a parental leave bill.

Under the original version of the bill, S. 2488, only firms with fewer than 20 employees would have been exempt.

In addition, the Senate reduced the number of weeks of unpaid leave seriously ill employees would be entitled to under the bill to 10 weeks in a one-year period from 13 weeks in a one-year period.

As of late last week, the Senate was still debating the bill. A similar parental leave bill in the House, H.R. 925, has not been scheduled for floor debate.

Crews blamed in Denver crash

WASHINGTON—An inexperienced cockpit crew and confusion among air traffic controllers led to the November 1987 crash of a Continental Airlines DC-9 in Denver, federal investigators say.

Ice buildup on the plane's wings led an inexperienced cockpit crew to lose control of the plane during takeoff, the National Transportation Safety Board says in a preliminary report it released last week.

Twenty-eight people died in the crash (*BI*, Nov. 23, 1987).

The NTSB report says the ice accumulated on the wings because confusion among air traffic controllers caused the plane to sit on the runway too long during a snowstorm without being de-iced before the plane attempted to take off. "Air traffic controllers did not know where the plane was," an NTSB spokesman said.

As a result of its investigation, the board is recommending the Federal Aviation Administration set minimum experience standards for cockpit crews. The captain, Frank Zvonek, was an 18-year veteran but had only 33 hours as a DC-9 captain. The 26-year-old co-pilot, Lee Bruecher, who was at the controls during takeoff, had only 36.5 hours of DC-9 flying time. Both died in the crash.

Aon completes acquisition

CHICAGO—Chicago-based Aon Corp. has completed its acquisition of Chicago-based Reinsurance Agency Inc., the ninth-largest U.S. reinsurance intermediary based on 1986 revenues (*BI*, Aug. 1). Financial terms of the transaction were not disclosed.

Aon President and Chief Executive Officer Patrick G. Ryan said Reinsurance Agency's premium volume and gross revenues will be consolidated with those of Aon's other reinsurance intermediary, Old Bridge, N.J.-based Cole Booth Potter Inc. However, both operations will retain their names in their geographic markets.

Reinsurance Agency's President and CEO Paul R. Davies will keep his position with the combined operations, Mr. Ryan noted.

Reinsurance Agency reported 1986 gross revenues of $17.5 million, while *Business Insurance* estimated Cole Booth Potter's gross revenues at about $10 million. The combined revenues would have ranked Reinsurance Agency as high as the fifth-largest U.S. reinsurance intermediary based on 1986 revenues.

Briefly noted

Ocean Odyssey, the semisubmersible oil exploration platform that exploded last month off the coast of Aberdeen, Scotland, likely will be at least a 50% loss, according to Tony Pickering, a director of Lloyd's of London broker Jenner Fenton Slade Ltd. The platform is insured for $50 million by U.S. insurers, Lloyd's syndicates, the London company market and Norwegian insurers (*BI*, Sept. 26). . . . A Louisiana district court judge on Oct. 7 will rule whether the state Board of Ethics' lawsuit against **Louisiana Insurance Commissioner Doug Green** over disclosures of campaign contributions should be dismissed because several board members are appointed by the state Legislature. A motion filed by attorneys for Mr. Green and other defendants says the suit violates the state's separation of powers statute preventing legislators or their agents from enforcing laws they create (*BI*, July 25). . . .A New York bankruptcy judge last week approved an additional $82.75 million in settlements that Denver-based **Manville Corp.** has reached with 15 insurers for asbestos-related coverage provided to the company from July 1980 to July 1983. . . .**Corroon & Black Inspace**, a Corroon & Black Corp. subsidiary, has donated a $500,000 personal accident insurance policy to each of the five crew members of the Discovery space shuttle, launched last Thursday. The coverage was written by Lloyd's of London syndicates. . . .The former head of Britain's judiciary, Lord Havers, has been named chairman of Lloyd's of London underwriting agency **R.H.M. Outhwaite (Underwriting Agencies) Ltd.**, pending approval by Lloyd's. Lord Havers would succeed Maurice Hussey, who will serve as deputy chairman. . . .John Wallace and Ken Eldret last week resigned as joint managing directors of **Sedgwick Offshore Resources Ltd.**, a unit of Sedgwick Group P.L.C., to join C.E. Heath P.L.C., where they will head a new energy risks department.

EPA rules

Continued from page 2

However, under the EPA's new rule, owners and operators of hazardous waste TSDFs also may use the following risk financing mechanisms:

- A letter of credit. The EPA said many banks have told the agency they would consider issuing letters of credit to established hazardous waste TSDF clients.

The EPA "believes that letters of credit may be more readily available to owners and operators than many other mechanisms, if the owner or operator has an established relationship with a qualifying financial institution and can provide adequate collateral," the rule says.

- A surety bond. Under the new rule, owners and operators of TSDFs may purchase surety binds by companies that issue surety bonds to the federal government and are listed by the Treasury Department as a surety company.
- A fully funded trust fund. However, if a liability claim is paid out of the fund, the fund must be refinanced to bring the balance up to the financial responsibility requirements.
- A guarantee provided by a firm that is not the direct parent of the owner or operator. The new rule allows any corporate affiliate or other principal shareholder of a TSDF owner or operator to provide a guarantee for liability claims payment.

The rule also allows a firm that has a "substantial business relationship" with the TSDF owner or operator to provide a corporate guarantee.

For more information about the new rules, contact the RCRA Hotline at 800-424-9346, or in Washington call 202-382-3000. For technical information, contact Carlos M. Lago, Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, 401 M St. S.W., Washington, D.C. 20460; 202-382-4780. ■

American Mutual

Continued from page 2

lines business through independent agents. APIC reported $29.4 million in net written premiums for last year.

J. John Wortman, who has 26 years of experience in the property/casualty industry, was brought in as president and chief executive officer of all of the American Mutual companies in January 1986. Mr. Wortman previously held various top management positions at Chicago-based CNA Cos. since 1976.

Mr. Wortman estimates that of the group's 80 top executives, about 60 have been hired within the last 2½ years. In addition, several positions have been redefined and supervisory roles have changed.

Mr. Wortman

The new management over the past three years has strengthened the group's loss reserves by over $238 million, according to Mr. Wortman.

He explained that to strengthen surplus and bolster loss reserves, the insurance group:

- Properly documented unearned premium reserves in 1986 and 1987 that had not been documented in the past, through which it recovered $80 million.
- Sold 40 acres of real estate and an office building the group owned in the Boston area for $41.4 million. The insurer had carried the real estate on its books at a value of less than $20 million.
- Re-documented its reinsurance recoverables in 1986 and 1987, recovering $36.8 million.
- Sold Wakefield, Mass.-based A.M. Life Insurance Co. for $32 million to Les Cooperants Mutual Life Insurance Co. of Montreal in the fall of 1986. The sale of the unit, which was valued on the insurance group's books at $18 million, resulted in the addition of $14 million to reserves.
- Terminated an overfunded AMLICO pension plan in the fall of 1985 and funded the plan's old obligations by purchasing a group annuity. It recaptured the surplus assets that had existed in the plan, totaling $80.9 million.
- Borrowed, through APG, $21 million from a Boston-based bank. The money was put into API in the form of surplus notes in December 1987.
- Sold its auto fleet and then leased it, gaining about $2 million.

The search for funds to boost loss reserves was not an easy process. 'We took our balance sheet and went through it item by item,' Mr. Wortman explains.

- Renegotiated its real estate leases, recovering about $2 million.
- Recovered approximately another $12 million through various other small transactions.

The search for funds to boost loss reserves was not an easy process. "We took our balance sheet and went through it item by item. It was a long, tedious process," Mr. Wortman explained.

The American Mutual companies also are arranging a capital infusion of more than $100 million through the investment banking firm of John Head & Partners in New York, Mr. Wortman noted.

The structure of the financial infusion "will probably involve several equity investors—three to five—and will probably include some long-term debt," he said. He added that any loan probably would "come from major banks."

Since the insurance industry "doesn't have patent-protected products" and its "products are under public scrutiny, an investor has to look for other qualities in determining whether or not an insurer is worth an investment risk," pointed out John C. Head III, a partner with John Head & Associates.

The key issues are management and the company's reputation, he said. "American Mutual is a fine, old-line company that has fallen on hard times, but there is still a great deal of loyalty among its customers and policyholders. The company just needs to be adequately capitalized to sell insurance in a responsible manner," Mr. Head said.

Because the transaction has not been finalized, Mr. Wortman could not be more specific about its terms. Mr. Wortman said the insurance group expects to sign the agreement by the end of October.

The cash infusion would be placed into American Policyholders, which, effective in 1988, began to 100% reinsure all business written by AMLICO and AMI, which continue to write workers compensation, general liability and some personal lines business.

Continued on next page

Insurance executive charged

Continued from page 3

Court papers say this information included a balance sheet dated Aug. 31, 1987, showing roughly $32 million in assets, including $27 million in certificates of deposit and a $5 million trust deposit with the Bryn Mawr Trust Co. in Havertown, Pa., a suburb of Philadelphia.

As evidence of the trust deposit, Mr. Saunders and Mr. Taylor showed Mr. Dietl a copy of a $5 million cashier's check issued by the Commercial & Industrial Bank of St. Kitts and supposedly deposited in Bryn Mawr Trust, according to court papers.

Mr. Dietl was also told that Commercial Inland's $27 million in CDs were held by Commercial & Industrial Bank, the complaint says.

Mr. Saunders further informed Mr. Dietl that Commercial Inland was licenced as an insurer in St. Kitts, and Mr. Dietl was shown a document that appeared to confirm the insurer's status as a licensed company, court papers say.

Once Mr. Dietl agreed to produce business for Commercial Inland, Mr. Saunders instructed him to send premium checks to Mr. Taylor at Commercial Inland's office in Broomall, Pa., another Philadelphia suburb, according to court papers.

In September and October of last year, Mr. Dietl sent five checks totaling $79,770.60, which were deposited in a Commercial Inland account opened by Mr. Saunders at Bryn Mawr Trust, the complaint says.

However, an FBI agent was later told by the minister of finance for St. Kitts that Commercial Inland was not licensed as an insurer on the island, Mr. Gray said.

FBI investigators also obtained a letter from the St. Kitts official saying that Commercial & Industrial Bank was not registered as a bank or corporation on the island.

The $5 million cashier's check that Mr. Saunders tried to deposit at Bryn Mawr Trust was returned to the bank with a note on the envelope indicating that Commercial & Industrial Bank was "no longer in business," Mr. Gray said.

Mr. Saunders, who was released on $100,000 bond after his arrest, could not be reached for comment. The telephone at Commercial Inland's office in Broomall has been disconnected.

Michael Axt, a Denver lawyer representing Mr. Saunders, declined to comment on the complaint.

Mr. Saunders and his companies have been the targets of regulatory action in several states.

The Illinois Insurance Department moved to liquidate Commercial Inland and North American Fire & Casualty last April after finding they had been operating in the state through Mr. Dietl (*BI,* April 25).

At about the same time, a Colorado state judge enjoined Mr. Saunders and Commercial Inland from unlawfully engaging in the insurance business in the state and from doing business in any state without a license.

In late 1987, the Texas attorney general filed a civil fraud lawsuit against Mr. Saunders and North American Fire & Casualty, charging that Mr. Saunders misrepresented the licensure and financial status of North American (*BI,* Sept. 7, 1987).

In a default judgment, Mr. Saunders was permanently enjoined from engaging in the insurance business in Texas and was ordered to pay $1 million in fines and penalties. He was also ordered to serve jail time for contempt of court after he continued to operate North American Fire & Casualty after being enjoined from doing so. ■

PBGC takes over 3 Kaiser pension plans

WASHINGTON—The Pension Benefit Guaranty Corp. has formally agreed to become trustee of three Kaiser Steel Corp. pension plans with an unfunded liability of more than $200 million, according to a PBGC spokeswoman.

The pension plans, which have assets of about $30 million, have a monthly pension obligation of about $3.5 million to more than 4,600 retirees.

The Bankruptcy Court in Denver approved terminating the plans in May.

Kaiser Steel, based in Fontana, Calif., filed for bankruptcy in February 1987, at which time the PBGC took over a fourth pension plan (*BI,* March 9, 1987; Feb. 16, 1987).

The fourth plan covered approximately 1,000 participants and had an unfunded liability of about $27 million. The plan had a monthly pension obligation to 176 retirees of about $175,000, with no assets available to pay these benefits.

The PBGC also has agreed to extend a $4 million secured line of credit to Kaiser to help fund the company's litigation against former Kaiser management.

The company is seeking more than $300 million from former managers, charging them with mismanagement, among other things. A portion of any damages Kaiser recovers would be used repay the PBGC, which is an unsecured creditor.0

Continued from previous page

American Policyholders also continues to write through independent agents, about 60% commercial business and 40% personal lines business.

American Policyholders has a 50% quota-share reinsurance arrangement with American Re-Insurance Co. of Princeton, N.J., and Aetna Casualty & Surety Co. of Hartford, Conn. The agreement, reached in September, is retroactively effective as of Jan. 1, 1988. Under the agreement, American Policyholders is ceding 50% of all premiums, except for commercial and personal automobile insurance written in Massachusetts.

The agreement was reached because the American Mutual companies were "highly leveraged and writing at an inadequate premium-to-surplus ratio," explained Thomas W. Snyder, vp-corporate marketing.

Mr. Snyder, who called the reinsurance agreement a "temporary measure," added that it offers "a short-term relief of our leveraged position until the new capital comes into the company."

Massachusetts Insurance Commissioner Roger Singer says the department is "relatively certain the group's reserves are understated" even after the addition of about $238 million.

The commissioner explained that the insurance group "has enough reserves for its known losses, but workers compensation carriers have a lot of losses they don't know about."

However, Mr. Singer said he is confident that if the American Mutual group is successful in securing the $100 million financial infusion through John Head, loss reserves will be brought up to more than sufficient levels.

And, AMLICO's and AMI's "current business is good business and is written at adequate levels," he said, noting that the insurance group's current management team has been working closely with the department for three years to reposition the insurer and establish adequate reserves.

"We've developed a good working relationship with American Mutual management," which exhibits a "tremendous amount" of talent, Mr. Singer said. "They know they need our support, and we know we need theirs.

"Before the new management team came in in 1986, the companies had not done a good job of underwriting risks," Mr. Singer continued.

"They weren't doing a good job of auditing their accounts and collecting sufficient premiums."

Concerning the medical malpractice business, he noted: "Someone decided to get into a market they knew nothing about."

Mr. Wortman explained that the insurance group wrote medical malpractice coverages beginning in 1962. It wrote in only two states: New Jersey, where it stopped writing business in 1968; and California, where it stopped writing in 1973. It has not written a medical malpractice policy since that time.

'We've developed a good working relationship with American Mutual management,' which exhibits a 'tremendous amount' of talent, Massachusetts' Mr. Singer says. 'Before the new management team came in in 1986, the companies had not done a good job of underwriting risks.'

The American Mutual group's 1987 annual statement reports $2.65 million of earned premiums for medical malpractice business but $59.34 million of total losses and loss expenses incurred.

In addition to the medical malpractice losses, the insurer "incurred in excess of $80 million in (workers compensation) asbestosis losses over the last several years," Mr. Wortman said. Those losses "really hit us and the industry in the early 1980s."

Mr. Singer said that while the insurer was never on the department's official watch list, the department has recognized that "it has been a company with problems for a number of years. It had management and financial problems since the 1970s and there has always been some concern."

The department's concern grew in the mid-1980s. "We've had people watching them carefully pretty continuously for about three years," Mr. Singer pointed out. Since the summer of 1986, the insurance group has been under a regularly scheduled three-year exam by the department. While the exam was not prompted by the group's financial problems, the exam is still continuing.

Mr. Wortman also emphasized the close working relationship the insurer has kept with the Massachusetts Insurance Department. "It's important that we have a proper relationship with the department," he stressed.

"We've tried to be open and honest with them and they with us. As we work the issues, we need to determine the impact on policyholders, employees, investors, our community and regulators," Mr. Wortman added.

While optimistic that the $100 million capital infusion will be made, American Mutual has contingency plans. "We are spending most of our energy to make this deal happen," said Mr. Snyder. "But we do have some back-up plans."

Mr. Wortman stressed that management's emphasis over his tenure with the company has not been exclusively focused on clearing up past problems. "We determined that it was most important, regardless of these organizational and financial issues. . .to develop a going forward operation," he said.

To position itself for the future, American Mutual management has "established new underwriting guidelines, new claims handling disciplines with a formal audit process and improved automation capabilities," Mr. Wortman said.

He characterizes the insurance group's current loss ratios as "generally in line with the industry.

However, the insurer's "expense ratio is still way too high," he said. Its expense ratio was 27%, compared with the average of 21% for mutual insurers.

"We are now looking at ways to be more efficient" and have already implemented some of those procedures.

For example, the group's new audit system includes both a formal review, during which home office representatives audit various claims offices, and a self-review program that puts "controls in place for the office to examine itself," Mr. Wortman noted.

"People were given specific accountability for their results. We reorganized our field offices and put accountabilities under the field people," he said.

To further emphasize underwriting discipline, the insurer took the underwriting function out of the control of the sales department and "made underwriting and sales equal," Mr. Wortman stressed.

"It's important that they be equal, because if either gets out of balance, you do a poor job" of writing business, he explained. "This was a key piece in the development of a proper structure of checks and balances to improve our profitability," Mr. Wortman noted.

The insurer also has installed a new automated rate/quote and billing system to replace its former processing system, which was 90% manual.

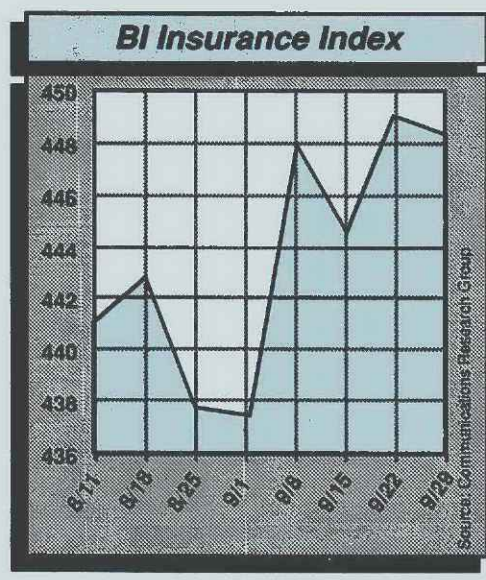
And, through attrition, consolidation of some claims and policy processing offices and closure of four of the least productive sales branches, the insurance group has reduced its employee count by approximately 270—roughly 16%—to about 1,400.

Both Mr. Wortman and Mr. Snyder stress that this streamlining will not adversely affect the insurer's ability to service its clients, nor will it shrink the geographic markets in which the insurer writes business.

In fact, Mr. Snyder characterized the effort as "pulling our operations into more efficient hubs."

It is evident that Mr. Wortman takes pride in the accomplishments the company has made so far and in the enthusiasm and support of employees, clients and the insurance department.

"We have a group of dedicated people working very hard to make American Mutual a responsible competitor" in the marketplace, Mr. Wortman said. ■



Insurance industry stocks faltered slightly last week as the *Business Insurance* stock index fell 0.9 points to 448.5 on Sept. 29 from 449.4 points on Sept. 22. The largest advances during the period were recorded by Tokio Marine & Fire Insurance Co., up 7.0%; AVEMCO Corp., up 6.3%; CNA Financial Corp., 5.5%; SAFECO Corp., up 4.6%; and Argonaut Group, up 3.1%. The largest declines were posted by BMA Corp., down 8.3%; Frank B. Hall & Co. Inc., down 6.3%; Seibels Bruce Group Inc., down 5.9%; Statesman Group Inc., down 5.2%; and Nobel Insurance Ltd., down 4.5%. The most active stocks were Farmers Group Inc., 2.98 million shares traded; USF&G Corp., 2.19 million shares traded; and Sears, Roebuck & Co. (Allstate Insurance Co.), 2.09 million shares traded. The *BI* index fell 0.2 %, lagging behind the increases in the other major market averages. The Dow Jones 30 Industrials average rose 1.9%, the New York Stock Exchange composite advanced 1.1% and the Standard & Poor's 500 index rose 1.0%.

British Issues

Sept. 29 Companies	Price pence	P/E	Div. pence	Yield %	1 Week High—Low pence	pence
Commil Union	341	12.6	25.3	7.4	341—335	
Genl Accident	885	8.0	58.0	6.6	885—875	
Gdn Royal Exch	188	10.1	13.1	7.0	190—185	
Royal	394	8.1	30.0	7.6	392—376	
Sun Alliance	1009	7.6	54.7	5.4	1012-995	
Brokers						
Bradstock	229	11.7	8.0	3.5	233—229	
CE Heath	410	13.2	34.5	8.3	410—403	
Hogg Robinson	141	11.9	8.0	5.7	143—140	
Lloyd Thompson	190	15.0	8.0	4.2	190—189	
PWS Holdings	149	21.3	6.0	3.5	149—148	
Sedgwick Grp	229	19.1	16.0	7.0	229—227	
Steel Birl Jones	227	18.7	13.3	5.8	228—227	
Willis Faber	249	13.9	16.0	6.4	249—232	

Source: Philip Olsen/Alan Clifton, Insurance Industry Specialists Kitcat & Aitken Stockbrokers, London

BI Industry Stock Report

SEPTEMBER 29, 1988 **9/23/88 THRU 9/29/88**

		Price	Weekly % change	Year to Date % change	Annual High	Annual Low	Vol.(000)	$ Div.	% Yield	P/E	Book value	Mkt/Bk. value
BROKERS												
Alexander & Alexander Svcs	NYSE	25.50	1.0	43.7	25.88	17.75	252	1.00	3.9	18.2	3.71	6.87
Baldwin & Lyons Inc.	OTC	17.00	0.0	41.7	17.50	12.00	0	0.20	1.2	6.7	18.31	0.93
Corroon & Black Corp.	NYSE	31.38	0.4	11.1	34.75	28.00	37	1.08	3.4	4.7	5.43	5.78
Gallagher Arthur J. & Co.	NYSE	16.88	-0.7	5.5	18.88	13.88	4	0.48	2.3	12.1	5.16	3.27
Hall Frank B. & Co.	NYSE	3.75	-6.3	30.2	5.50	2.88	36	0.00	0.0	12.1	0.00	N/A
Hilb, Rogal & Hamilton	OTC	12.00	0.0	23.1	12.75	9.75	7	0.00	0.0	12.1	0.00	N/A
Marsh & McLennan Cos. Inc.	NYSE	56.50	1.6	14.1	58.50	45.25	305	2.50	4.4	13.8	6.74	8.38
Poe & Assoc Inc.	OTC	8.50	0.0	21.4	9.25	6.75	0	0.40	4.7	13.1	0.27	31.48
BROKERS	AVERAGE		-0.5	23.9					2.6	11.4		
CONGLOMERATES & HOLDING COMPANIES												
Berkley W.R. Corp.	OTC	27.75	-0.9	15.6	29.00	23.50	80	0.36	1.3	6.2	17.63	1.57
Berkshire Hathaway Inc. DEL	OTC	4900.00	0.0	66.1	5000.00	2755.00	673	0.00	0.0	21.7	69.38	13.27
ITT (Hartford Group)	NYSE	49.88	2.6	10.8	53.38	43.25	746	1.25	2.5	6.8	52.23	0.96
Sears Roebuck & Co. (Allstate)	NYSE	38.25	2.3	13.7	39.88	32.25	2092	2.00	5.2	9.5	34.74	1.10
CONGLOMERATES	AVERAGE		1.0	26.6					2.3	11.0		
INSURERS/REINSURERS												
Aetna Life & Cas Co.	NYSE	51.38	-0.2	13.5	52.50	39.50	770	2.76	5.4	8.0	53.56	0.96
American General Corp.	NYSE	34.13	0.4	7.5	36.38	27.50	502	1.40	4.1	9.2	28.04	1.22
Amer Heritage Life Invt	NYSE	26.13	3.0	7.8	26.25	24.00	6	1.08	4.1	11.4	20.98	1.25
Amer Indty Fin'l Corp.	OTC	10.50	-4.5	16.7	12.00	8.25	3	0.56	5.3	40.4	15.26	0.69
American Int'l Group	NYSE	65.88	1.5	9.8	66.00	49.00	1543	0.40	0.6	10.2	33.56	1.96
Aon Corp.	NYSE	26.88	-0.4	17.5	28.25	21.88	105	1.28	4.8	9.2	15.13	1.78
Argonaut Group	OTC	42.00	3.1	41.2	49.00	29.50	116	0.00	0.0	6.9	29.19	1.44
AVEMCO Corp.	NYSE	25.50	6.3	29.9	28.75	17.88	19	0.34	1.3	12.4	7.74	3.29
Belvedere Corp.	AMEX	4.38	0.0	0.0	6.00	4.00	1	0.04	0.9	6.1	7.87	0.56
BMA Corp.	OTC	27.50	-8.3	2.8	36.75	25.50	155	1.20	4.4	25.5	24.45	1.12
Chubb Corp.	NYSE	58.13	0.2	4.0	63.38	51.25	217	2.16	3.7	6.7	46.13	1.26
CIGNA Corp.	NYSE	54.38	-0.5	23.9	55.38	42.75	490	2.96	5.4	8.8	49.19	1.11
CNA Fin'l Corp.	NYSE	62.25	5.5	11.9	64.25	51.00	304	0.00	0.0	9.2	46.40	1.34
Continental Corp.	NYSE	38.38	-1.3	-1.0	41.63	34.75	291	2.60	6.8	7.9	42.10	0.91
Durham Corp.	OTC	35.50	-1.4	65.1	36.25	21.50	79	0.92	2.6	33.5	26.00	1.37
Farmers Group Inc.	OTC	71.25	-0.3	77.0	71.63	40.50	2982	1.44	2.0	17.0	22.02	3.24
Fireman's Fund Corp.	NYSE	32.50	-1.5	25.0	33.50	25.75	267	0.50	1.5	11.4	26.17	1.24
Forum Re Group	OTC	0.69	0.0	-24.2	1.19	0.63	0	0.00	0.0	-1.2	0.51	1.35
Fremont Gen Corp.	OTC	11.25	-3.3	16.8	13.50	8.75	23	0.60	5.3	-1.2	16.24	0.69
General Re Corp.	NYSE	56.25	2.3	0.7	57.38	45.50	699	1.20	2.1	12.1	26.21	2.15
Home Group Inc.	NYSE	11.50	-4.2	-3.2	14.38	11.25	163	0.20	1.7	2.8	17.75	0.65
Hanover Ins Co.	OTC	26.75	-1.8	15.1	27.75	20.50	109	0.36	1.3	5.6	25.10	1.07
Harleysville Group Inc.	OTC	15.50	0.0	18.1	16.38	13.38	26	0.48	3.1	6.6	16.65	0.93
Hartford Steam Boiler	OTC	31.00	2.5	34.8	32.75	22.50	80	1.20	3.9	11.2	10.65	2.91
Kans City Life Ins	OTC	30.25	-0.8	15.2	32.00	25.25	0	0.00	0.0	11.2	29.60	1.02
Kemper Corp.	OTC	26.00	1.0	26.8	27.50	20.75	163	0.72	2.8	8.1	26.50	0.98
Lawrence Ins. Group	AMEX	10.75	0.0	138.9	11.63	4.50	0	0.21	2.0	17.6	2.90	3.71
Liberty Corp. S.C.	NYSE	39.25	-0.3	10.6	47.25	34.50	10	0.80	2.0	13.9	17.40	2.26
Lincoln Nat'l Corp.	NYSE	52.00	0.0	29.6	53.50	40.25	139	2.36	4.5	10.1	36.62	1.42
NAC Re Corp.	OTC	29.75	-1.7	67.6	30.88	18.50	73	0.00	0.0	15.2	19.92	1.49
Nobel Ins Ltd.	OTC	5.25	-4.5	-40.0	9.50	4.50	28	0.44	8.4	25.0	9.37	0.56
Northwestern Nat'l Life	OTC	31.25	-0.8	36.6	31.88	22.63	101	1.12	3.6	7.3	35.05	0.89
Ohio Cas Corp.	OTC	35.00	-2.8	-3.4	38.25	32.25	120	1.88	5.4	7.0	27.86	1.26
Old Rep Int'l Corp.	OTC	24.38	1.0	21.9	25.88	19.13	24	0.74	3.0	5.8	27.82	0.88
Orion Cap Corp.	NYSE	15.38	2.5	13.9	17.63	13.13	7	0.76	4.9	4.9	9.34	1.65
Phoenix Re Corp.	OTC	9.13	1.4	40.5	9.50	6.75	68	0.00	0.0	5.3	11.08	0.82
Protective Life Corp.	OTC	13.75	0.9	12.2	15.13	12.25	72	0.70	5.1	14.9	17.25	0.80
Re Capital Corp.	AMEX	8.88	-4.0	-15.4	11.75	8.88	61	0.00	0.0	27.8	11.49	0.77
Provident Life & Acc Ins Co.	OTC	24.63	0.0	57.6	25.00	15.63	406	0.84	3.4	53.5	27.45	0.90
St. Paul Cos. Inc.	OTC	43.25	-0.6	-6.0	51.00	38.25	1148	2.00	4.6	6.2	35.83	1.21
SAFECO Corp.	OTC	26.38	4.6	2.3	30.00	22.75	304	1.08	3.8	8.8	21.39	1.33
SCOR US Corp.	NYSE	7.63	-1.5	-17.5	9.50	6.63	33	0.10	1.3	5.3	9.39	0.81
Seibels Bruce Group Inc.	OTC	12.00	-5.9	6.7	14.25	11.00	39	0.80	6.7	8.0	12.51	0.96
Selective Ins Group Inc.	OTC	24.00	-0.5	26.3	26.25	19.25	71	1.24	5.2	5.4	19.52	1.23
Statesman Group Inc.	OTC	3.44	-5.2	-26.7	5.56	3.13	75	0.05	1.5	5.4	3.48	0.99
Tokio Marine & Fire Ins	OTC	71.00	7.0	7.8	85.88	63.25	6	0.22	0.3	63.4	0.00	N/A
Torchmark Corp.	NYSE	31.75	0.8	29.6	33.50	24.50	269	1.20	3.8	10.1	12.24	2.59
Transamerica Corp.	NYSE	35.00	-1.8	17.6	36.75	29.75	410	1.88	5.4	7.3	24.94	1.40
Travelers Corp.	NYSE	34.88	0.7	-0.7	40.00	33.00	727	2.40	6.9	12.0	45.28	0.77
Trenwick Group Inc.	OTC	13.13	-0.9	28.1	13.50	9.75	11	0.16	1.2	10.2	15.41	0.85
United Fire & Cas Co.	OTC	26.75	1.9	2.9	27.25	24.00	7	1.08	4.0	4.8	22.56	1.19
United States Fid & Gty	NYSE	30.63	0.8	7.5	34.38	28.88	2188	2.64	8.6	7.7	19.53	1.57
UNUM Corp.	NYSE	25.00	1.5	35.1	25.50	17.88	237	0.48	1.9	11.4	28.53	0.88
USLIFE Corp.	NYSE	38.13	0.3	33.8	40.13	28.00	109	1.28	3.4	9.9	46.77	0.82
Washington Nat'l Corp.	NYSE	26.38	1.0	10.5	28.75	24.00	17	1.08	4.1	12.3	32.33	0.82
Zenith Nat'l Ins Corp.	NYSE	18.50	0.7	23.3	23.88	15.00	42	0.80	4.3	8.9	12.53	1.48
INSURERS/REINSURERS	AVERAGE		-0.1	17.9					3.3	12.8		
ALL COMPANIES	AVERAGE		-0.1	19.1					3.1	12.6		

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