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UPDATES

Asbestos liabilities bankrupt Owens Corning

TOLEDO, Ohio—Asbestos liabilities are forcing Owens Corning to reorganize under bankruptcy protection.

The Toledo, Ohio-based manufacturer filed for protection from creditors under Chapter 11 bankruptcy laws last week, stating the move was prompted by the "growing demands on its cash flow" resulting from its multibillion-dollar asbestos liabilities.

Owens Corning said its asbestos liabili-

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PHOTO: COURTESY OF ERICSSON

The loss of a key chip supplier contributed to a six-week loss of production for Swedish cellular phone manufacturer Ericsson Telecom A.B.

Ericsson filing $500 million claim for production loss

By CAROLYN ALDRED

STOCKHOLM, Sweden—A massive business interruption claim filed recently by Swedish mobile phone manufacturer Ericsson Telecom A.B. will focus underwriters' and risk managers' minds on business interruption risks and could tighten the market for that coverage, insurance sources warn.

Ericsson stands to lose up to 5 billion Swedish kronor ($511.5 million) in revenue following a fire that temporarily shut down a key supplier's semiconductor plant in March.

The Royal Philips Electronics plant in Albuquerque, N.M., which supplied critical semiconductor components for Ericsson's consumer mobile phone operations, was forced to stop production for six weeks. Ericsson's struggle to find secondary suppliers at a time when demand for mobile phones has soared meant the company has been unable to fill customers' orders.

In its first-half financial report released in July, Ericsson stated that the component shortage would reduce its revenues by 1.5 billion kronor ($170.7 million) in the first half and by an additional 2.5 billion to 3.5 billion kronor ($255.8 million to $358.1 million) during the second half.

Insurance sources said Ericsson presented a business interruption claim with a reserve of several hundred million dollars recently.

According to market sources, the Swedish telecommunications giant has a property program that includes business continuity coverage with no separate sublimits.

Reinsurance of the program, which is initially self-insured through Ericsson's insurance and reinsurance captives, both based in Dublin, is placed in the international reinsurance market, mainly London and Europe, by London-based broker Jardine Lloyd Thompson Group P.L.C. Reinsurers of the risk include units of Allianz A.G. Holding, AXA Group and Zurich Financial Services Group, and Lloyd's of London syndicates, including syndicate 33, managed by Hiscox Syndicates Ltd., sources said.

Ericsson, JLT and several reinsurers on the program re-

See **Loss** *on page 31*

New health plan shifts control to employees

By JOANNE WOJCIK

MINNEAPOLIS—Two U.S. employers are launching innovative health care programs that give employees more control over how their health care dollars will be used.

The programs link a high-deductible indemnity plan to what promoters say is a tax-favored medical savings account.

Under the program, Chicago-based Aon Corp. and Wackonia, Minn.-based Ridgeview Medical Center are offering their employees a new health plan developed by Minneapolis-based Definity Health that allows employers to "define" their annual contributions to the accounts and gives employees control over how to spend those contributions.

And they're doing it using existing federal regulations governing health and welfare plans, something that many other employers and consultants have said isn't possible without rewriting the tax code and the Employee Retirement Income Security Act of 1974.

It begs the question: why hasn't anyone done it before?

Tony Miller, president and chief executive officer of Definity Health—formerly known as HealtheCare—says it's because it wasn't really necessary until now.

"We weren't ready for consumer-driven health care," he said. "Managed care had control of the employer-provided health care market. And why would insurance companies want to create a banking account product?"

"But now, with the failure of managed care and the return of double-digit health care cost in-

See **Definity** *on page 29*

Court rejects age bias suit

Cash balance plan credits found not discriminatory

By JERRY GEISEL

INDIANAPOLIS—Cash balance pension plans do not violate federal age discrimination laws, a federal court has ruled.

In a class-action suit filed against Onan Corp., a subsidiary of Cummins Engine Co., employees and retirees charged that the company's cash balance plan discriminated against older employees.

Minneapolis-based Onan provided all of its cash balance plan participants with the same pay-related credits: 2.5% of compensation—up to what is referred to as Social Security-covered compensation—and 4.25% of compensation above that.

The lawsuit charged that although the credits, as a percentage of compensation, were the same for all employees, the plan discriminated against older employees because the credits they received would purchase a smaller annuity at normal retirement age than would those received by younger employees.

But U.S. District Court Judge David Hamilton, in the first and potentially precedent-setting ruling on the issue, rejected that assertion.

Nothing in federal law, Judge Hamilton wrote, requires that the rate in which employees earn benefits be measured only in terms of an annuity payable at normal retirement age.

In addition, while plaintiffs charged that Onan's plan violated 1986 amendments to the Age Discrimination in Employment Act because it reduced the rate of benefit accrual by age, Judge Hamilton said those amendments don't apply to employees who have not reached normal retirement age. Instead, he ruled, they were intended to ensure that employees working past normal retirement age would continue to accrue pension benefits.

Finally, Judge Hamilton concluded that there is no statutory or pub-

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ERISA pre-emption eroding

HMOs' exposure grows

By MICHAEL PRINCE

WASHINGTON—In its first statement on the issue since a landmark Supreme Court decision earlier this year, the U.S. Department of Labor has filed in another case an amicus brief that contends managed care organizations should receive less protection from litigation under federal law.

In a brief filed Sept. 22 in a Pennsylvania case, the Labor Department argues that heath plans should enjoy no protection under the Employee Retirement Income Security Act when they are sued in certain circumstances.

This position by the government agency that oversees ERISA comes in the wake of the *Pegram vs. Herdrich* decision issued in June by the U.S. Supreme Court. In that case, the Supreme Court ruled, among other things, that a new category of lawsuits against HMOs is not preempted by ERISA. The new category deals with claims arising from HMO decisions that include both an administrative decision about plan eligibility and a medical treatment decision.

"In practical terms, these eligibility decisions cannot be untangled from physicians' judgments about reasonable medical treatment," the Supreme Court stated in the *Pegram* decision.

As a result of the *Pegram* decision and the Labor Department's stance, legal experts say, health plans can expect to see more lawsuits and may be paying more in damages and legal fees.

The brief "is an expansion of what we've argued before," said Leslie Kramerich, acting assistant secretary of the Pension and Welfare Benefits Administration at the Department of Labor.

Before the *Pegram* decision by the U.S. Supreme Court, there essentially were two categories of suits against HMOs, legal experts say.

The first type involved coverage decisions made by the plans. These suits were subject to ERISA preemption, which barred lawsuits brought under state law. Unlike federal actions, state suits would allow plaintiffs to seek non-compensatory awards, including punitive damages.

The second category of suit concerned medical treatment decisions

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UPDATES

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Owens Corning files for bankruptcy

ties stem from a high-temperature pipe insulation product called Kaylo, which the company distributed and/or manufactured from 1952 to 1972. The company has received more than 460,000 asbestos-related personal injury claims and has paid or agreed to pay more than $5 billion in awards, settlements, legal expenses and claims processing fees.

The U.S. Supreme Court in 1998 set aside a $1.5 billion global settlement that would have resolved claims against Fibreboard Corp., a unit of Owens Corning that for decades produced a variety of products that contained asbestos. Owens Corning this year has paid $600 million into the National Settlement Program, a plan developed with plaintiffs attorneys to pay asbestos claims filed against Owens Corning and Fibreboard.

Owens Corning is scheduled to contribute another $1.5 billion over the next five years, a spokesman said. He could not say how much insurance Owens Corning has left to pay asbestos claims.

Florida rains bring flood of claims

MIAMI—Insurers are handling thousands of claims from the heavy rains that soaked Miami last week.

Some areas of South Florida received as much as 20 inches of rain in the downpour that eventually became Tropical Storm Leslie and moved into the Atlantic Ocean. The storm was tracking toward Bermuda after drenching Miami and nearby counties. At least two deaths were blamed on the storm.

Farmers were among the hardest hit, with the Florida Agriculture Commission estimating crop losses of around $500 million. Growers of ornamental crops have lost about $397 million, and vegetable growers will see losses of more than $55 million, the department predicted. President Clinton has declared the region a disaster area.

As of late last week, State Farm Group had received around 5,000 claims from homeowners and around 4,000 automobile claims. No estimates were given on the dollar amount of those claims.

Allstate Insurance Co. had recorded 2,250 auto claims and 485 homeowners claims as of late Friday. The insurer said it had received 12 small-commercial property claims. No dollar figures were available.

Quake shakes Japan

TOKYO—An earthquake of magnitude 7.3 hit western Japan on Friday afternoon, shaking buildings and disrupting high-speed train services.

The quake, which struck at 1:30 p.m., was centered in the area around the Sea of Japan between Yonago and Matsue, about 700 miles west of Tokyo. There were no reported casualties, and early reports suggested that only 22 people had been injured, none seriously. No damage estimates were available late last week. Minor aftershocks were reported.

"We believe that the quake has not caused any large number of casualties or any huge damage," Tadao Ando, head of the Japanese government's crisis management team, announced.

The earthquake shook buildings at the Suzuka city racetrack, where drivers were practicing for a Grand Prix race on Sunday. There were no injuries at the track, and no plans to cancel or postpone the race were announced last week.

The quake also collapsed some homes in the region, government officials announced. Bullet train services in western Japan were halted.

A spokesman from the country's electric power industry said none of the region's nuclear power stations were operating at the time of the quake because they were closed for maintenance.

The quake is the most powerful to hit Japan since the 7.2-magnitude Kobe earthquake in 1995, which killed 6,000 people and caused about $100 billion in economic losses.

Japan's meteorological agency did not issue any warnings that a tsunami, or seismic wave, was predicted to follow the quake.

New England HMOs' solvency woes

KENNEBUNK, Maine—Forty percent of the licensed New England HMOs that reported risk-based capital data at the end of 1999, would have failed to meet new solvency standards set by the National Assn. of Insurance Commissioners, according to the New England HMO Monitor, a quarterly publication that analyzes local and regional performance of all New England health maintenance organizations.

The NAIC's 1998 requirements mandate various levels of regulatory action if an HMO does not meet a 200% minimum ratio of adjusted net worth to risk-based capital, which measures the degree to which an HMO's capital is at risk. When an RBC solvency ratio falls below 70%, the insurance commissioner is required to seize control of the HMO.

Since 1999, four of the six New England states have enacted the NAIC's risk-based capital requirements for HMOs, according to the report.

Mark Farrah Associates, the Kennebunk, Maine, market research firm that publishes the HMO Monitor and conducted the analysis, said 40% of the HMOs in Connecticut, Massachusetts, Rhode Island, Maine, New Hampshire and Vermont failed to meet the 200% minimum requirement in 1999. Specifically, the research firm found that solvency ratios for the 30 HMOs in that region varied from 34% to 1,075%.

As the RBC solvency test becomes a requirement in every state, HMOs likely will divest themselves of less profitable lines of business and take fewer expansion risks to improve their capital positions, the marketing re-

See **Updates** *on page 34*

Errors & omissions

• A story in the Sept. 25 issue gave an incorrect title. William D. Smith is president and chief operating officer of Kemper Insurance Cos. in Long Grove, Ill., not CEO.

California comp bill vetoed but push for change intact

By ROBERTO CENICEROS

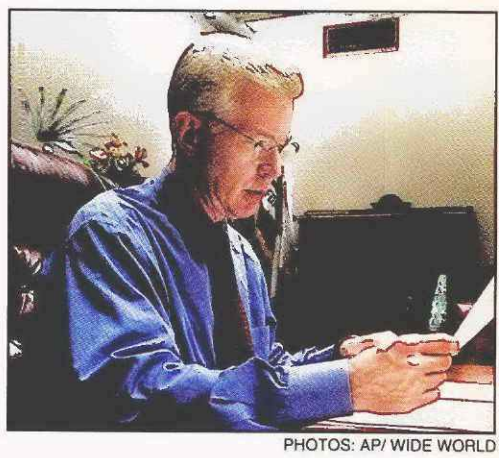
SACRAMENTO, Calif.—When California Gov. Gray Davis recently vetoed a proposed workers compensation benefits increase, he cited employers' biggest argument against the legislation.

Senate Bill 996 "includes proposed reforms to the workers compensation system that are not sufficient to support such a large benefit increase without having an adverse impact on the California economy," the governor said.

And so, for the second year in a row, California employers avoided a substantial benefits increase. S.B. 996, sponsored by Sen. Patrick Johnston, D-Stockton, would have raised benefit costs statewide by more than $2.6 billion over five years—a 24.7% increase from current levels, according to the San Francisco-based California Workers Compensation Institute.

Last year, the Democratic governor vetoed S.B. 996's predecessor, S.B. 320, which would have increased benefits by

See **Veto** *on page 33*



PHOTOS: AP/ WIDE WORLD

Gov. Gray Davis says comp benefits need moderate, not steep, increases.

Aging wiring poses risks

Airlines told to improve maintenance, use of technology

By DAVE LENCKUS

DANA POINT, Calif.—The risk of electrical wiring problems in commercial airplanes, particularly older aircraft, require that airlines both improve wiring maintenance procedures and embrace new technology designed to greatly reduce the risk of in-flight electrical system fires.

That was the message delivered to attendees at the Aircraft Builders Council Inc.'s annual conference in Dana Point, Calif., late last month by representatives of electrical engineering firms that have been working on the problem for years.

A government/industry group's analysis of the problem is expected later this week. Already, though, the National Transportation Safety Board has offered several recommendations, stemming from its investigation into the midair explosion of TWA Flight 800 over the Atlantic Ocean shortly after taking off from New York in July 1996.

NTSB officials in late August concluded that a fuel/air explosion inside an overpressurized center wing tank blew apart the jet and that the "most likely" ignition source was faulty wiring outside the tank. The faulty wiring likely transferred excessive voltage into the tank through wiring for the fuel-quantity indication system, the NTSB found (*BI*, Aug. 28).

In its hearings on the tragedy, the NTSB recommended several safety improvements, including better training of airline maintenance workers, more complete reporting of suspect wiring by maintenance workers and greater use of technologically advanced

See **Wiring** *on page 22*

New plan would screen doctors

Mercer, PacifiCare to form HMO

By ROBERTO CENICEROS

LOS ANGELES—Critics of health maintenance organizations have long charged that HMOs limit doctor choice, but some health plan experts now say that might help improve California's ailing managed care system.

In a meeting with large employers last week in Los Angeles, representatives of William M. Mercer Inc. and PacifiCare Health Systems Inc. said they are teaming up to create a better HMO in 2001. Their model, however, would counter the current trend of offering unlimited access to all doctors and their provider groups.

Mercer and PacifiCare's proposal calls for offering plan members a limited number of doctors or medical groups that are efficient and have a record of quality outcomes. Employers then can design their benefit plan and communications to encourage employees to seek treatment from providers in the smaller network. Employees desiring access to a broader array of doctors could pay more.

The idea is still under development, however, and is being offered to large employers as a possible alternative to existing arrangements. The specifics of its design would not apply to all PacifiCare health plans but would be a new HMO.

Employers' reaction to the proposal so far has been generally positive, Mercer representatives say.

Last week's plan announcement comes amid a backdrop of failing medical groups in California and strain on the capitation payment system on which the state's HMOs rely (*BI*, Oct. 4, 1999).

Many California employees currently are enrolled in medical groups that are on the brink of failure, Mercer principal Mary Young told a group of employers last week. About 25% of existing provider groups now have operational problems and will disappear. Another

See **HMO** *on page 34*

INSIDE

• Federal pension regulators should provide guidance on cash balance retirement plans, stopping the wave of litigation against the plans, this week's editorial says. **PAGE 8**

• Almost before the ink has dried on the new statute, the European Convention for the Protection of Human Rights and Fundamental Freedoms is creating new challenges for employers in the United Kingdom. **PAGE 27**

• Construction workers face the highest risk of injury among all European employees, but workplace stress is the risk most in need of greater loss prevention efforts, according to a wide-ranging study of occupational safety and health in the European Union. **PAGE 27**

• The Health Insurance Portability and Accountability Act's goal is paperless medical transactions. **PAGE 20**

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IUMI exec sees brighter future for market

By EDWIN UNSWORTH

This year's annual gathering of the International Union of Marine Insurance closed on a hopeful note—at least one of greater optimism than has been seen at IUMI gatherings of recent years.

Although the market may not yet have returned to profitability, insurers' present outlook has them anticipating better terms and conditions for their markets. Insurer representatives were careful, however, to temper this optimism with some of their usual caution. In particular, they note, the cargo market is showing little improvement for both the year just completed and the one in store.

Georg Mehl, president of the International Union of Marine Insurance, said at the start of the group's conference last month in London that the meeting was taking place amid "bright prospects for our marine insurance business."

"All in all, the environment will cause marine underwriters to end their lament about the market," said Mr. Mehl, who is also chairman of the financial services and insurance company Wurttembergische A.G. of Stuttgart, Germany.

Remarking on the theme of this year's conference, "Marine Insurance—Safely into the Future," Mr. Mehl said he was convinced current conditions "will promise a safe future" for marine insurers.

He added, however, that the outlook is entirely positive. He singled out fraud and piracy as examples of persistent problems that continue to plague marine underwriters.

In another change, whereas speakers at recent IUMI gatherings have tended to blame others for the depressed state of the marine insurance market, this year several leading members of the underwriting community said underwriters themselves must bear part of the blame for the market's condition.

"If we are producing bad results, then plainly we deserve these results because we are delivering a bad service," said Jean-Francis Le Garrec, general manager-marine, aviation and transportation of Assurances Generales de France S.A. in Paris. He said marine underwriters are providing poor service at high cost. Elements of this lackluster service include delayed policy documentation, slow claims processing, little loss prevention advice given to policyholders, slow response to large marine casualties and fragmented claims payment.

John Hickey, president and chief executive officer of the American Hull Insurance Syndicate in New York, maintained that it is marine underwriters who have become "substandard," rather than the vessels they insure. This is one of the reasons the global marine insurance market is at "the lowest in the 40 years I've been in the business," he said.

Mr. Hickey cited as an example a case involving insurance of a fleet of five merchant ships valued at around $65 million. In 1994, the premium to insure these vessels was $2.5 million. At the fleet's 1999 renewal, the premium on the same ships, the value of which had changed very little, was only $452,000.

See **Future** *on next page*

Hull premiums still haven't hit bottom

By EDWIN UNSWORTH

Although the worst of the underwriting cycle may be over for insurers of merchant ships, a return to profitability for that sector is not yet in the offing.

That was the message heard by delegates attending this year's meeting of International Union of Marine Insurance meeting, held last month in London.

For one, hull insurers' overall level of premiums continues to fall.

CEFOR, Norway's Central Union of Marine Underwriters, which collects and collates figures annually for the IUMI gathering, estimates that total global hull premiums paid in 1999 fell to around $2.2 billion, compared to $3.0 billion in 1998 and $3.6 billion in 1997. CEFOR acknowledges that actual figures could be slightly different from these because fewer IUMI member associations this year responded to its questionnaire.

Profitability among hull underwriters is no better.

Peter Chrismas, chairman of IUMI's ocean hull committee, said the potential gross underwriting loss for hull underwriters in 2000 could be similar to that seen in 1990—$735 million—three years before the cycle's peak was reached in 1994.

Mr. Chrismas said the figures from CEFOR "are very depressing," including its forecast that, with long-term contracts still in force, it will be some time before improvements are achieved in certain areas.

And the experience of the London marine market has been similar, added Mr. Chrismas, a hull underwriter with Wren Syndicates Management Ltd. syndicate 735 at Lloyd's of London. In general, rates this year globally are only around 20% of their level in 1994, he said.

It is widely expected that reinsurers will apply strong pressure this renewal season to increase premiums, following a series of heavy losses, said Mr. Chrismas. This, in turn, will exert pressure on direct premiums. "However, the ability to pass this on will be restricted and protracted, as shipowners enforce long-term contracts," he added.

Mr. Chrismas expressed concerns about a number of questions that merchant ship underwriters currently face, including:

- Will hull insurance, which appears to become more volatile in each cycle, continue to attract the necessary long-term capital?
- Does the industry have a part to play in promoting safety at sea and high-quality maritime standards, or is hull coverage price-driven commodity?
- Will marine underwriting continue as a separate discipline or become absorbed as a small part of a larger non-life sector of insurance, and will it be able to attract

See **Hull** *on next page*

Web makes inroads into salvage auctions

By MICHAEL BRADFORD

Marine salvage brokers are using the Internet to change the way damaged goods are bought and sold.

By trading online, sellers are fetching high prices for their goods, and buyers are getting instant access to a more efficient marketplace than under the traditional system, the brokers point out.

The Internet lends itself well to the salvage business, a highly fragmented industry that is "about a $50 billion market in the U.S. alone," said Daniel S. Parsley, chief executive officer of SalvageSale.com. "We estimate that there are about 6,000 to 8,000 salvage brokers in the U.S."

Mr. Parsley's Houston-based SalvageSale.com handles goods damaged in marine transport as well as items that were damaged in onshore accidents. He explained how his company operates and the advantages of Internet trading in a presentation at the Houston Marine Insurance Seminar held Sept. 24-26.

SalvageSale.com has increased returns for insurers that use the service to dispose of salvaged goods, he said.

In a case study that Mr. Parsley presented, 388 reels of commercial liner paper were damaged when they were unloaded in the United States after being transported from the United Kingdom. The reels were damaged when they were set down on a graveled surface. The buyer rejected them and a U.K. insurer took possession of the goods as salvage.

"The first 200 reels were sold through the traditional offline method," Mr. Parsley explained. For the remaining 188 reels, the insurer agreed to

See **Salvage** *on page 12*

Technology changes risks dramatically

By MICHAEL BRADFORD

Technology that is changing the energy industry is also presenting insurers with new underwriting challenges.

Insurers must adjust their underwriting to account for the changing processes used to design and manufacture offshore oil rigs, platforms and other machinery and equipment used in the energy industry, according to Dominic J. Frederico, chairman, president and chief executive officer of ACE INA Holdings Inc. in Hamilton, Bermuda.

"More things that were traditionally done on a manual basis are now done on computers," he said. And the method of computerized construction design "dramatically increases risk," Mr. Frederico noted.

Speaking last month at the Houston Marine Insurance Seminar, Mr. Frederico pointed out that, as is the case in other industries, when design and construction technology changes, there is a "period of adjustment" that insurers must recognize.

The use of technology to design a movable platform, for example, creates a new risk; and underwriters cannot rely on loss experience from previous years to determine what premium to charge for that risk, Mr. Frederico said.

In an interview after the seminar, Mr. Frederico pointed out that insurers writing coverage on newly designed construction have to rely on engineering data and information from the test

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MARINE MARKET REPORT

Future

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In this case, the 1999 premium was only 18% of its 1994 level. That, he said, was slightly worse than the industry average, which is 20% of the 1994 level. Premiums would have to rise by a staggering 540% just to return them to the 1994 levels, he noted.

Mr. Hickey also claimed that underwriters "have given control to the brokers and have become part of the problem and not the solution."

He said to return to profitability, the marine market must do three things: attract and retain better underwriters; improve delivery of products to customers, whether directly or via brokers; and improve communication with shipowners. Moving to full electronic processing is essential in making headway with these goals, said Mr. Hickey (see story, page 6).

Another speaker who said that insurers must to change if they want to remain competitive and grow was David Williams, head of marine at the Lloyd's Claims Office in London.

Mr. Williams agreed that marine underwriters need to improve service to policyholders, expand use of e-commerce and reduce processing costs.

He said current London market processing is "elongated, expensive and slow." Significant benefits can be derived through collaboration and cooperation, so Lloyd's Claims Office is looking at ways to enhance the service offered by the market, Mr. Williams said.

Speakers at the IUMI meeting also criticized classification societies, the bodies that inspect ships and certify them as safe.

Mr. Hickey said the International Assn. of Classification Societies "can't decide who they want to be." He suggested it would be better for the shipowning and marine insurance communities if classification societies operated more like the United Kingdom's Marine Accident Investigation Bureau. The societies should investigate accidents, as is common practice in the aviation industry, to determine their cause to help prevent them happening again, he said. Currently classification societies inspect and classify ships; maritime accidents are investigated by governmental bodies.

The more upbeat outlook for marine insurance in general was tempered somewhat by the state of the marine cargo market (see story, page 10).

Kevan Gielty, chairman of IUMI's cargo committee, said: "The fact that premium levels are reducing in contrast to increased world trade numbers seemingly highlights the need for continued examination of premium related to risk.

"Last year in Berlin, (former cargo committee chairman) Mr. James Zrebiec offered some solid advice on what to do when one finds oneself in a hole—you stop digging. Unfortunately, as the late Irish playwright Samuel Beckett once said, 'We are all born mad. Some remain so,'" said Mr. Gielty, who is the director of Coast Underwriters Ltd. in Vancouver, British Columbia. One of the few positive trends was increased awareness and trade resulting in major premium growth in the Russian market, he noted.

One of the few positive factors over the past year for cargo underwriters is that 1999 was free of any major claims, Mr. Gielty said.

Another positive has been the lack of millennium bug problems, which seemed a significant threat at this time last year. "In the end, the biggest Y2K surprise was its total non-surprise," he said.

•

Sarah Veysey contributed to this article.

Hull

Continued from previous page

people with the needed expertise?

- Will the business continue to be conducted as in the past, or are there better ways of absorbing or transferring risk?
- Will the older generation of underwriters be able to impart their experiences to their successors, or will the new generation fail to heed the lessons of the past?

Mr. Chrismas said the hull market is undergoing "dramatic" change. This includes the introduction of e-commerce approaches, and, more importantly, the reduction in the role of the wholesale broker.

"It is now quite clear that the major wholesale brokers will expect that many of the servicing functions currently conducted by themselves are undertaken by insurers in the future. This is particularly relevant in the area of claims management and the issue of documentation. The end result of this move will be a significant increase in the transactional costs faced by insurers," Mr. Chrismas said.

This shift coincides with a growing awareness that insurers will be unable to complete on price alone in the future and will need to deliver significant "value-added" services, such as streamlined claims management, in order to retain and attract business, he said.

It was such a realization that prompted Lloyd's and companies in the London-based International Underwriting Assn. to jointly compile the "London Market Principles 2001." The document, which establishes the basis upon which London underwriters will be expected to trade with brokers, calls for significant improvements in service among underwriters, particularly in regard to determining wordings and streamlining the underwriting and claims-handling process. "If introduced, the proposals will place a phenomenal load on leading underwriters, and it is envisaged that on virtually all underwriting and claims issues, the broker will want to deal with a single London market lead only," Mr. Chrismas said.

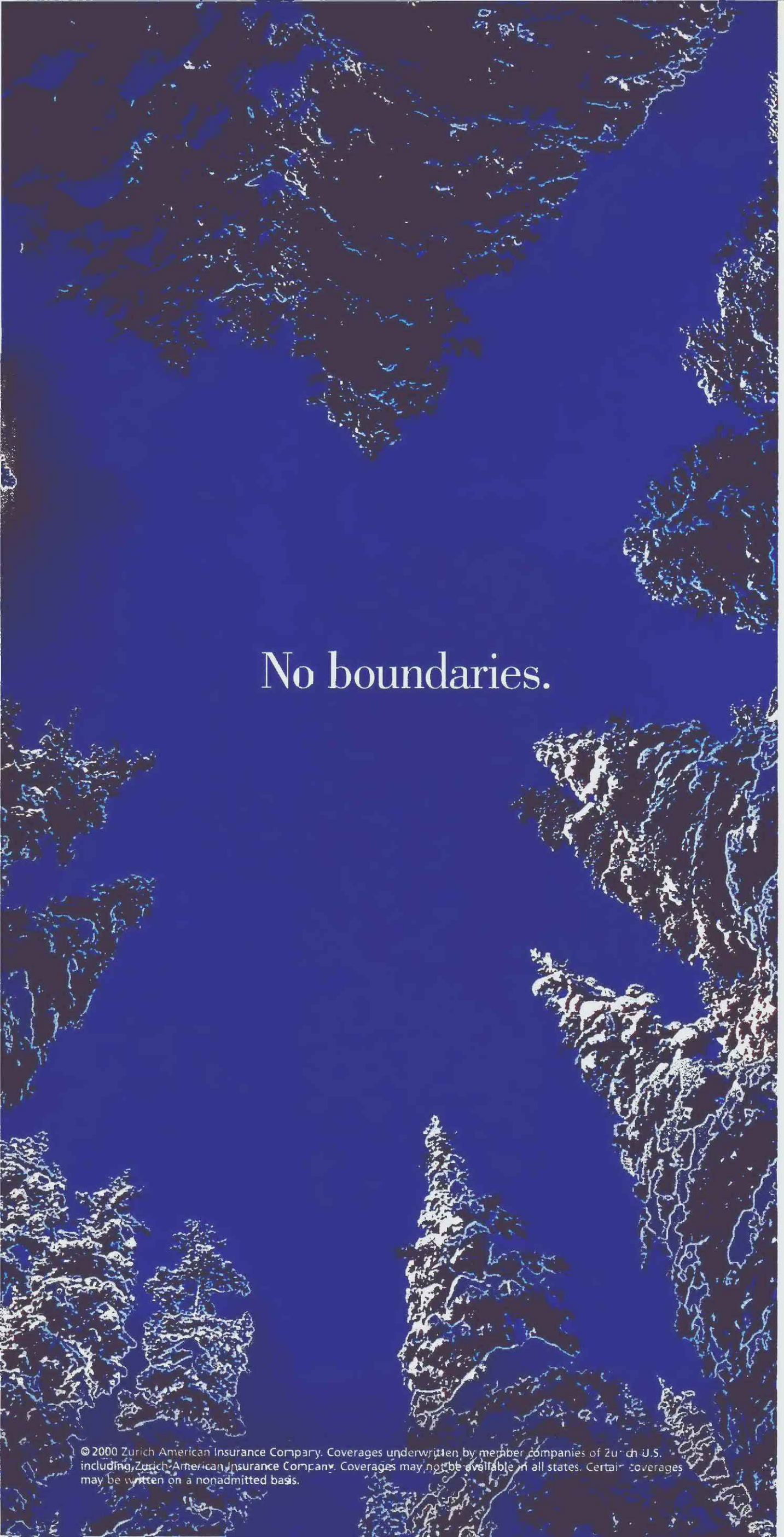
Mr. Chrismas said he was also concerned about the growing sophistication of ships seen over the past decade, and, in particular, what risks lie in wait when these vessels reach the secondhand market.

When new, these expensive ships, which are full of high-tech equipment and often are capable of high speeds, are generally operated by wealthy shipowning companies. Such owners, Mr. Chrismas noted, generally have the means to maintain such ships and ensure their safe operation. But, he said, "I am particularly concerned what will happen when today's sophisticated, high-speed vessels get passed on secondhand" to owners that may lack the resources to operate them safely, he said.

Figures on merchant ship losses presented at the conference by the International Underwriting Assn. show that in 1999, there were fewer total hull losses, but those that did occur involved larger ships on average.

Last year, 130 merchant ships of 500 gross tons or more were lost, down from 140 ships in 1998. Their combined gross tonnage, however, was 922 tons in 1999, up from 858 tons in the prior year.

The figures also confirm insurers' claims that the risk of loss increases with a ship's age. Over the 10 years ending in 1999, vessels up to 4 years old made up only 2% of total hulls lost. Vessels aged 20-29 years, however, accounted for 44% of losses. BI



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Marine market is urged to embrace technology

By SARAH VEYSEY

Marine underwriters must make more use of technology if they want to remain competitive in today's tough insurance marketplace, marine insurance executives say.

"There isn't a single broker today who can't trade electronically," Denis Mahoney chairman and chief executive officer of Aon Group Ltd. in London, said to delegates at the International Union of Marine Insurance annual conference last month in London. "But underwriters won't even turn the screen on, let alone respond to an electronic message."

John Hickey, president and CEO of the American Hull Insurance Syndicate in New York, agreed that marine underwriters must embrace technology. Underwriters need to communicate better with shipowners, he said. In addition, they need to get their products to their customers more quickly and less expensively. To those ends, marine underwriters should conduct more of their business online, Mr. Hickey said. "We need full electronic processing," he said.

But, Mr. Mahoney warned delegates, efforts to take advantage of technological developments must not be done piecemeal. "There is no point in just automating old processes. We need to re-engineer the whole market process," he said. "Rush at change, don't fight it," he urged delegates. "The whole market has to change; we cannot wait for the slowest."

Electronic commerce is the future of business, but the insurance industry is not yet up to speed, according to Mr. Mahoney. WISe, the group set up in London last year to promote e-commerce in the insurance industry worldwide, is an important step, according to Mr. Mahoney "but about 10 years too late."

The joint forum forged last year by Lloyd's of London and the International Underwriting Assn., which seeks to streamline processes in the London insurance market, also is a significant effort, Mr. Mahoney said. But, he asked, "Why didn't we do it 10 years ago? Why don't we now have a virtual bureau?"

Peter Chrismas, chairman of the IUMI hull committee and a hull underwriter at Lloyd's, said that technology could improve business processes for marine underwriters.

"It will not change the role and discipline for a lead underwriter, but it could assist with the processes of greater transparency and enable the business to be underwritten on a more technical basis, in line with other classes of insurance," Mr. Chrismas said. "We believe that, in the future, underwriters will be under greater pressure to justify their decisions with an audit trail to back their judgment," he added.

But Mr. Hickey stressed that some marine underwriters were beginning to rise to the challenge of incorporating technology into their processes. Responding to Mr. Mahoney's characterization of marine underwriters, he quipped: "My company can do it now. If Denis Mahoney sends me the business, I can do it." BI

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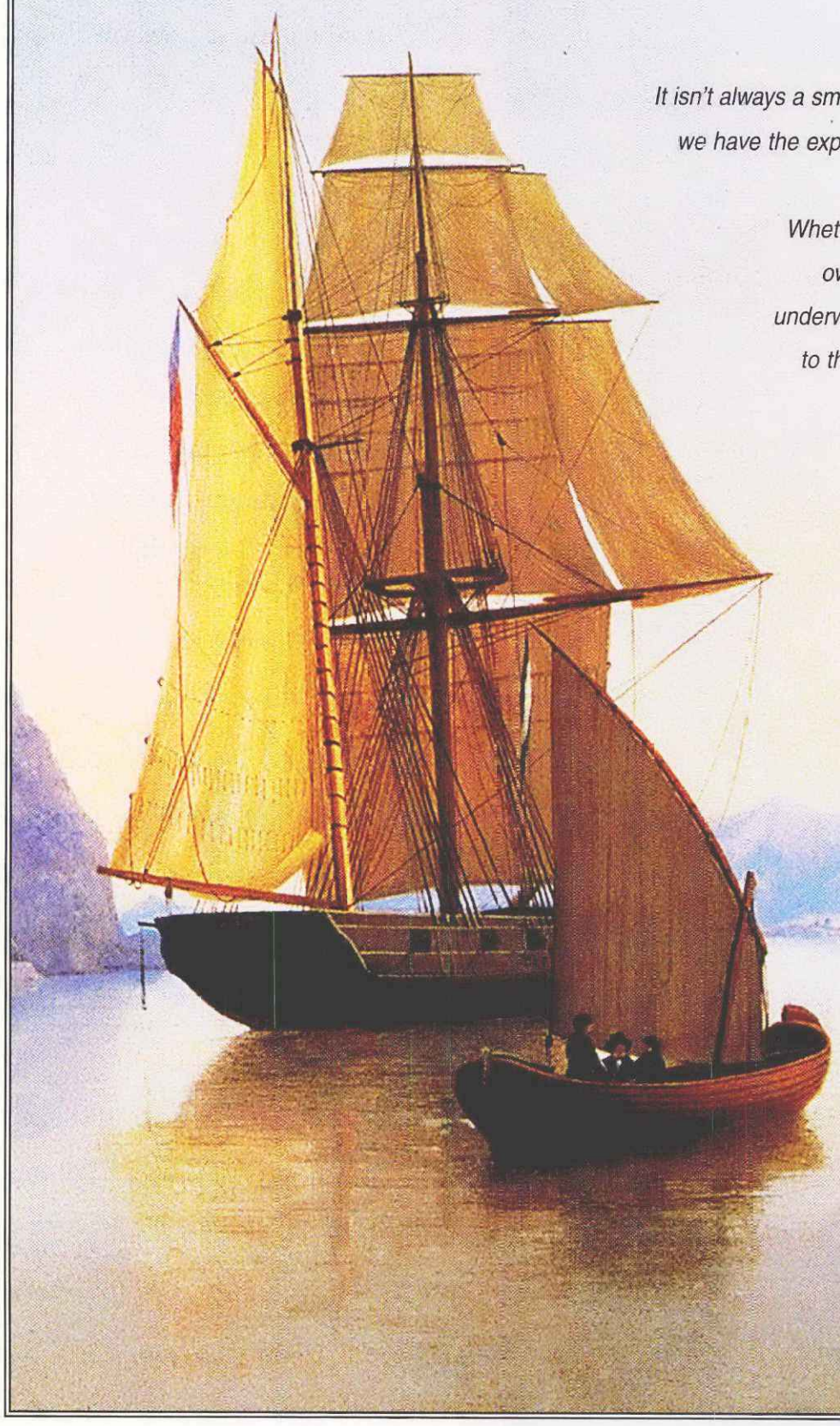

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IUMI draws over 500 to London

The International Union of Marine Insurance annual conference, held in London Sept. 10-14, was attended by nearly 550 delegates from 46 countries.

The theme of the 2000 meeting was "Marine Insurance—Safely Into the Future."

IUMI President Georg Mehl, who is also chairman of Wurttembergische A.G. of Stuttgart, Germany, said conference organizers chose this theme because they wanted this year's event, the first of the new millennium, to take a forward look at the business.

The meeting, which was IUMI's 55th in its 126 year history, closed with the announcement of the organization's new president. Richard DeSimone, New York-based president of global marine for St. Paul Fire & Marine Insurance Co. and a leading figure on IUMI committees for several years, was elected to a three-year term.

He is the first American president of the group and only the second non-European, after Canadian Maurice Jaques, who served from 1988-1991. Mr. DeSimone, who is a recent past president of the American Institute of Marine Underwriters, also sits on the boards of both the American Bureau of Shipping and the National Cargo Bureau.

Next year's conference will be held Sept. 16-20 in Genoa, Italy. For additional information, contact Associazione Nazionale fra le Imprese Assicuratrici, Sezione Tecnica per le Assicurazioni Trasporti, Piazza S. Babila 1, I–20122 Milano, Italy. Phone: 39-02-77-641; Fax: 39-02-776-4811.

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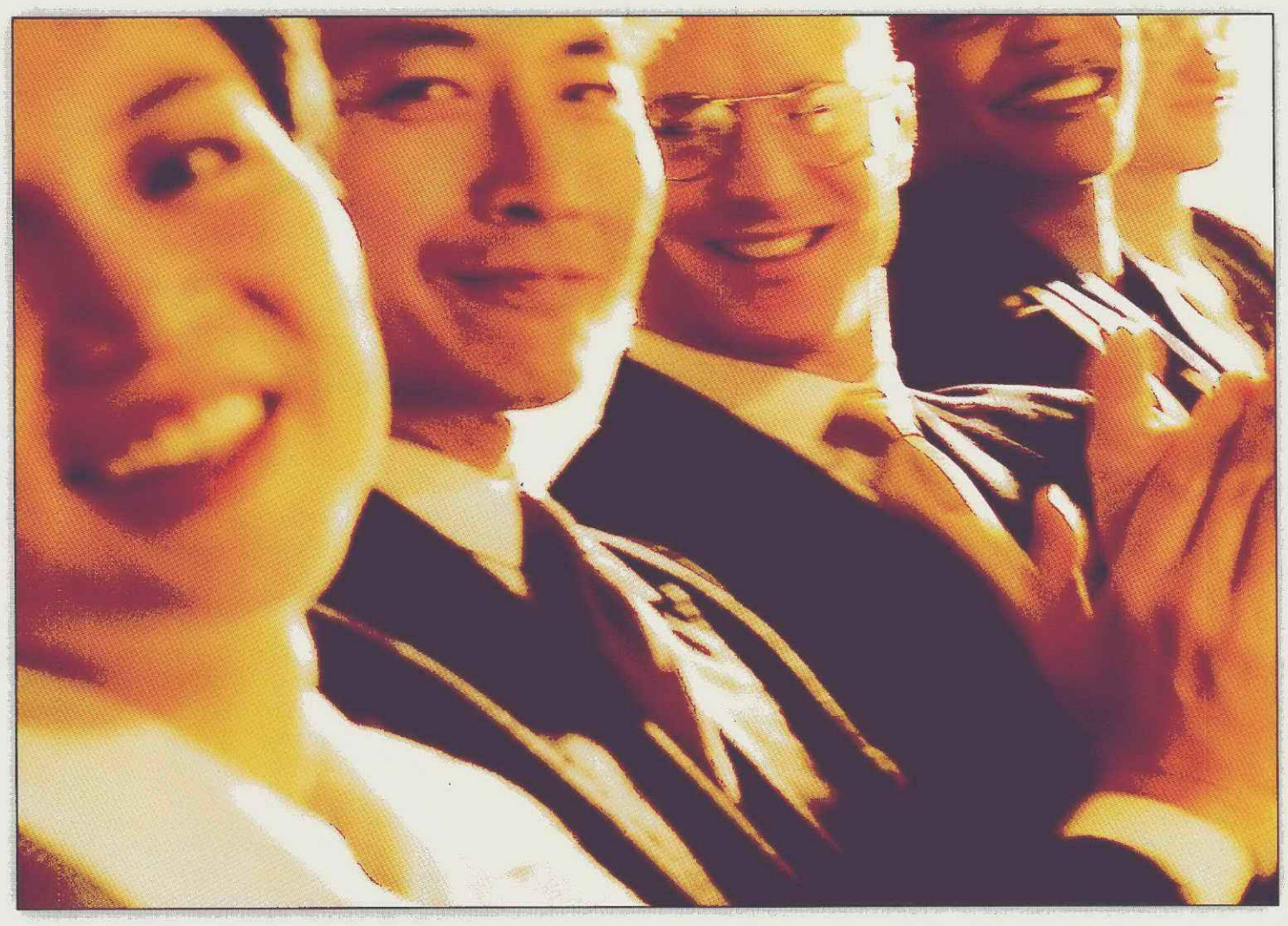

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OPINIONS

Cash balance rules needed

WHY IS THERE SO MUCH litigation and controversy surrounding cash balance pension plans?

One of the reasons, alluded to by U.S. District Court Judge David F. Hamilton in a recent ruling, is that the federal regulatory agencies charged with the responsibility of developing rules for the plans have largely failed to do so, leaving it to the courts to develop standards in resolving suits.

The regulatory lapse that has existed until now is understandable—but it must be addressed. While cash balance plans have been around since the mid-1980s, only in the last few years have employers begun to add the plans in large numbers. Given the relative few plans that existed until now, regulators undoubtedly felt that their resources would be better used in other areas that affected more plans and more participants.

The same cannot be said today, however. Roughly 200 Fortune 1000 companies have cash balance plans, covering about 2.1 million employees, according to the General Accounting Office. Looking at all employers, it wouldn't be unreasonable to assume that roughly 1,000 cash balance plans have been established. Suffice it to say, cash balance plans no longer are a rarity.

But employers sponsoring these plans are doing so largely in a regulatory vacuum. Many administrative questions are unanswered. For example, are employees who leave the plans entitled, as some lawsuits have charged, to more than just the amounts credited to their accounts? Do the plans discriminate against older employees, as other lawsuits have alleged, because amounts credited to younger employees' accounts will have more time to accumulate interest—and thus be worth more than the same amount credited to older employees' accounts?

These are reasonable questions and it is well within the ability of federal pension regulators to provide definitive guidance. We hope that guidance comes soon to reduce the involvement of the courts in resolving this uncertainty. A tidal wave of litigation and perhaps a multitude of conflicting court decisions would not benefit plan sponsors or plan participants.

As for the controversy attached to cash balance plans, some of it also is very understandable. In terms of design, cash balance plans represent, in many cases, a radical change from the plans they are replacing. Typically, the plans give employees a credit equal to a flat percentage of their salary. In addition, employees' account balance plans are credited with interest, such as an amount equal to the one-year Treasury bill rate. In effect, these are career average plans in which benefits are based on employees' salaries throughout their service at a company.

Contrast that with the old-style defined benefit plans in which benefits are based on an employee's final years of salary. The result of that design is that employees who stay only a few years—compared to cash balance plans—receive smaller benefits, but longer-service employees receive more.

More significant perhaps is that many of the old-style plans provided rich early retirement subsidies that allowed employees to retire with full benefits long before age 65, the normal retirement age. In converting to cash balance plans, employers typically have eliminated those early retirement subsidies.

The elimination of such subsidies is a fundamental change. But even if cash balance plans never had been created, employers would be eliminating the subsidies. Employers are recognizing that, in today's business environment, where they need to retain their most experienced employees, it doesn't make much sense to push those employees out the door by offering them a rich early retirement package. To blame cash balance plans for the demise of those rich plans is misdirected; it would be happening anyway.

A much tougher issue is not the elimination of the subsidies—that is inevitable—but how they are eliminated. Older employees could have a legitimate gripe because they may not be in the new cash balance plan long enough to earn a meaningful benefit, while just missing out on qualifying for the subsidized benefits in the old plan.

Employers have not been unmindful of this problem. Most offer some type of transition program so employees who have reached a certain age can choose between the new and old plan.

Of course, those transition plans rarely cover all current employees, and that essentially is the heart of the controversy. Pension activists argue that all employees in the changeover to a cash balance plan should have a choice between the old and new plans. After all, goes the argument, they had an expectation of receiving benefits provided in the old plan.

To that we say nonsense. As voluntary plans, employers have every right to change their pension plans so long as employees receive what they have already earned. Those nearing retirement also should be protected. But if employers were locked into a given design for decades, few employers would set up plans, much less keep them. If there were such a requirement, the decline of the defined benefit plan system would become a freefall and that certainly would not be in the national interest.

The sooner that regulators can help eliminate the confusion among participants and sponsors of cash balance plans, the better.

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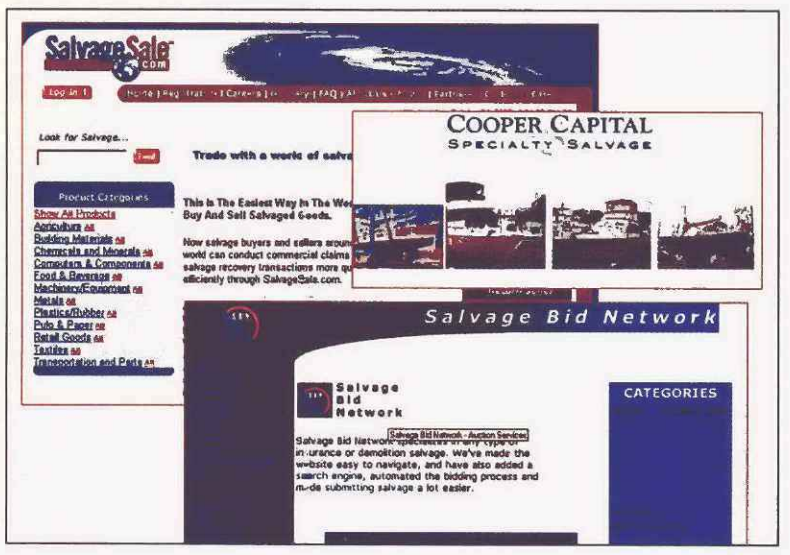

Marine salvage companies are using their Web sites to streamline the selling process and obtain higher bids and faster payments for insurers on salvaged equipment and cargo.

Salvage

Continued from page 3

use SalvageSale.com to move the goods.

A marine surveyor used by the underwriter to auction the first batch received only three firm bids, while bids that came in from SalvageSale.com's extensive database of buyers drew eight firm bids on the second batch of reels, creating a "much more competitive environment," he said.

When the winning bids were accepted, the second batch of reels had sold for $200 per ton, twice the $100 per ton amount recovered on the first 200 reels.

Mr. Parsley said the traditional method of selling salvage has turned very low profits for sellers, with, in some cases, "40% to 50% in gross profit margins being left on the table."

Prices through SalvageSale.com are so much higher than those realized in the offline method that sellers take much bigger profits, even after paying the Internet service its commission of 10% to 12.5%, he noted.

Marine surveyors and claims adjusters are embracing the service because it is a much more streamlined method for selling goods, Mr. Parsley said. Much less paperwork is required in an Internet transaction.

Another salvage operation took to the Internet around 2½ years ago as a way to better display the items it was offering for sale.

Cooper Capital Specialty Salvage, whose Internet site is *www.cooperss.com*, handles a lot of damaged boats, and the Internet gives the service a better way to communicate with potential buyers, according to Ron Milardo, president of the Old Saybrook, Conn.-based company.

"The reason we're on the Web is basically for photos; it's a way we can transmit images," he said.

He explained in a telephone interview that, because of the expense involved, damaged boats generally are not moved to an open lot for a live auction. Instead, buyers typically travel to look at the boat before putting together a bid. The Internet site gives a potential buyer a quick look at a damaged boat before the decision is made to make the trip to inspect it.

Marc Capelluto, vp of operations at Salvage Bid Network in Bothell, Wash., said that the ability to post images on the Internet is one of the efficiencies that is saving insurers and buyers a lot of time and money. The company's Internet site, *www.salvagebid.com*, deals in damaged cargo and other salvage items.

In a telephone interview, he explained that the traditional auction method for some heavy goods like trucks and machinery was to tow them to a salvage yard so potential bidders could have a look. The bidders incurred travel costs and insurers were paying transportation and storage fees.

Insurers now can provide images that are hosted at Salvage Bid Network's site, Mr. Capelluto pointed out, and potential buyers can "see what the damage is" before bidding.

"The timeline is also greatly reduced," he said, with transactions from beginning to end taking an average of about 45 days, compared with an average of 75 days under the traditional auction process. That means, among other savings, insurers get their payments faster and save on storage fees.

Salvage companies point out that image hosting does not mean the goods forgo inspection before they are listed.

"There's so much more than just putting it on the Internet and letting people bid on it," Mr. Milardo said. His company performs diligent inspections of the goods it lists. And, in some cases, refurbishing is required before a boat is sold.

He referred to one boat that his company waited seven months to sell in order to have it cleaned and refurbished. After spending $20,000 on the cleanup, the boat that underwriters had figured was a $2 million loss sold for $970,000.

Mr. Milardo emphasized that bidders looking to pick up a boat for next to nothing are not welcome at Cooper's site. "A lot of times we e-mail people back to tell them to do their practicing somewhere else." As a result, the site will soon require minimum bids, he said.

"If people could buy salvage for the dollars they bid to us, insurance companies would be leaving tons of money on the table," Mr. Milardo pointed out.

"Our client is the insurance company," he stressed, "and our business is to get a tremendous return for them." Although buyers are treated well in the process, the real focus is on getting the best deal for the seller, Mr. Milardo said.

Mr. Capelluto pointed out that salvagebid.com's sealed bid system brings a range of offers from buyers and usually ends in a high price. A load of redwood sold at the site had offers of $3,000 and $11,000 before selling for $23,000, he said.

In a sealed bid, the buyer bids for the goods according to their perceived value rather than simply bidding a few dollars higher than another potential buyer, Mr. Capelluto said. "Those are the ranges you get from a sealed bid auction." BI

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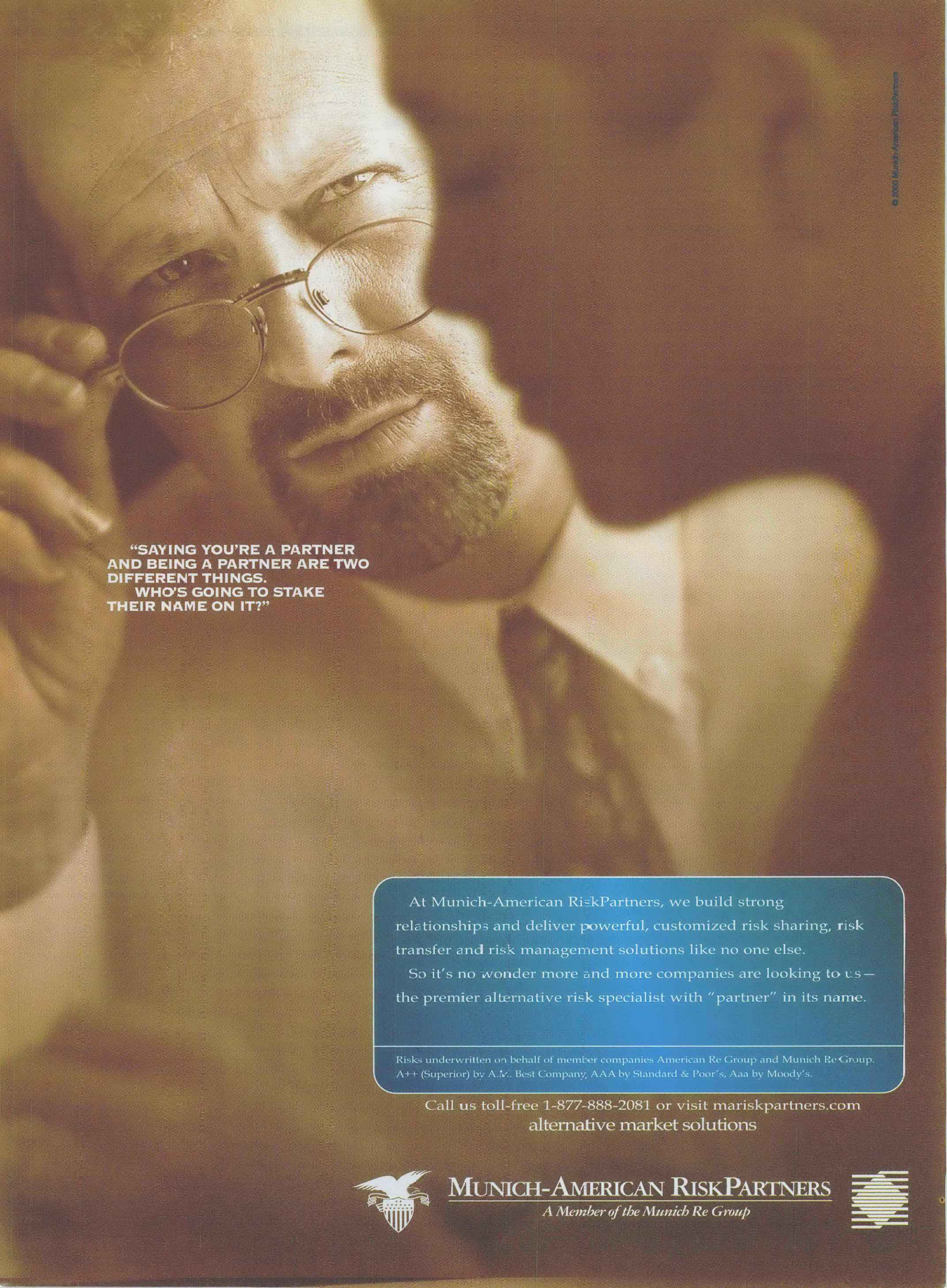
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Innovations

Continued from page 3

phase of the equipment, machinery or materials.

"And maybe you've got to be a little more conservative" and consider reducing the limits that are made available, he suggested. In addition, an insurer might opt to increase the amount of reinsurance on the equipment until it and the technology that was used to design it are proven sound, Mr. Frederico said.

Equipment is more familiar to insurers after it has been in the field for 18 months to two years, he said. With energy industry equipment, two years of operation gives underwriters the chance to see how it will hold up in various weather conditions and what effect changes in tides could have on platforms and rigs.

Changes in design and technology have made it possible for offshore equipment to be built more quickly, and the finished product often is stronger, lighter and more mobile, Mr. Frederico pointed out. Insurers must consider all those factors.

'Like with your personal computers, each time a new chip is developed. . . these things have bugs,' says Dominic J. Frederico, referring to innovations in control technology.

Mobile offshore platforms that can be moved from site to site are replacing the fixed-site equipment that oil companies traditionally have used. In addition, "what's in the platforms is different," Mr. Frederico said. New synthetic materials have made the equipment more durable and lighter, he explained.

He pointed out that, increasingly, computers—rather than old-fashioned gauges—control operations on offshore platforms. This change also presents underwriting challenges.

Computerized equipment that is moving thousands of gallons of oil or sand and water is susceptible to glitches that could cause disruptions, Mr. Frederico said.

"Like with your personal computer, each time a new chip is developed or Microsoft comes out with a new operating system, these things have bugs," he explained. "There is kind of a learning curve. The old technology was cumbersome, but it was proven."

Mr. Frederico pointed out, however, that the changes in technology do not automatically translate into higher prices for policyholders. In fact, there is a kind of "tug of war" between the two sides over whether the changes should make coverage less or more expensive, he said.

The push and pull between insurers and policyholders is apparent when considering that while underwriters must be concerned with the risks that new technology can introduce, they can also be assured that the technology has helped boost the level of testing that offshore equipment undergoes, Mr. Frederico said.

In addition, policyholders are able to counter some insurer arguments that new technology presents unknown risks by arguing that risks, in some cases, are reduced because of the advances.

For example, computers have replaced crew members on offshore sites, which means there is less chance of injury or operator error that could lead to a loss, according to Mr. Frederico.

"Oil companies will say this is a lot safer business" than it once was, he noted, and will point out that it has been many years since a major offshore accident has occurred. "If I represent the energy business, I have a fairly strong argument that the risk is less."

But, Mr. Frederico added, while there have not been large energy losses in recent years, there have been "enough midsized ones" that energy insurers' results have been less than adequate. BI

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Energy insurers must improve service to stay afloat: Exec

By MICHAEL BRADFORD

Energy insurers that continue to write business for market share and ignore their policyholders' needs are going to find themselves in a no-growth situation, according to an executive with one such insurer.

In recent years, energy insurers have underperformed the property/casualty market as a whole, which has seen large underwriting losses, said Daniel S. Glaser, president of American International Group Inc.'s Global Energy Group in New York. In fact, he remarked, "you would be hard pressed to find any insurer that has been profitable on a multiline basis" in the last few years.

The result likely will be some "real differentiation between pricing for different insureds," Mr. Glaser said, as insurers practice "back to basics" underwriting in an effort to return to profitability.

Speaking at the Houston Marine Insurance Seminar, which was held Sept. 24-26, Mr. Glaser reminded his audience that "for many companies, the focus has been on market share, rather than underwriting," and that has put some insurers in financial distress. "Many in this industry seem to have forgotten the basic principle that no company can exist endlessly without making a profit."

It is important to note, however, that "whatever the competitive challenges of the market may be at any given time, opportunity will always exist, because everything is always changing," he said. That means policyholders will need new products and services as their businesses grow and face new and different risks, Mr. Glaser pointed out.

Energy insurers that don't respond to policyholders' needs will be left behind, he warned.

"At the end of the day, the key point in this is service, because service must improve," Mr. Glaser said. "Our competitors are not just other insurance companies," but other capital providers, such as commercial banks, that are finding ways to help employers finance risk.

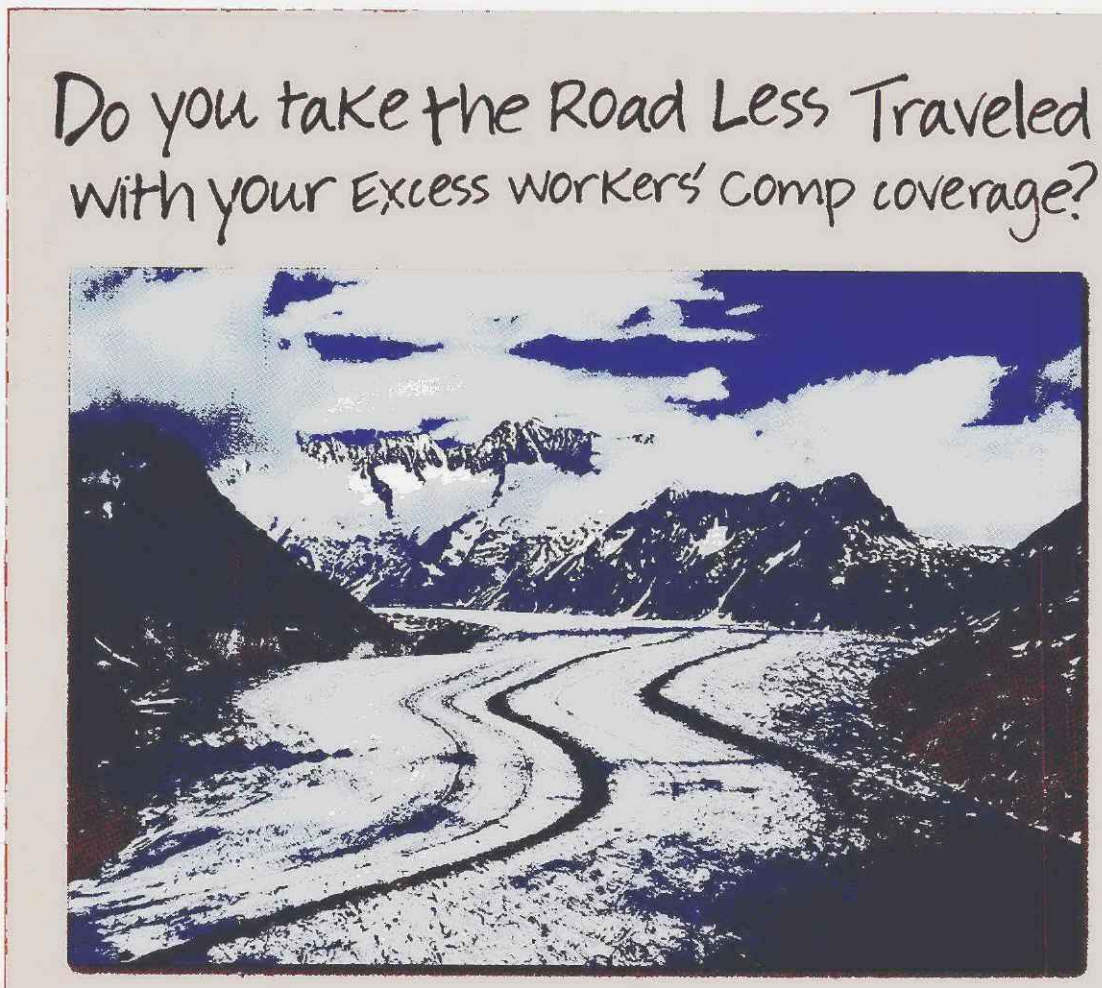
Service is the emerging battlefield for insurers fighting to gain a competitive advantage, he said.

AIG is working to exploit the service edge with a new program it calls the Performance Management Program, Mr. Glaser said. "We do see service as a fundamental differentiator at some point."

"In our view, clients, brokers and underwriters all must work to improve the process," he explained. AIG's program aims to involve all those parties in improving the service end of the business, he said.

"One of the things that we are doing on a weekly basis is measuring the timeliness and accuracy of things like policy issuance and billing," Mr. Glaser noted. "Obviously, training and communication are very important."

Mr. Glaser said the formula for AIG Global Energy is "really very simple for us. In our view, if we increase client and broker satisfaction levels, we'll get more business." BI



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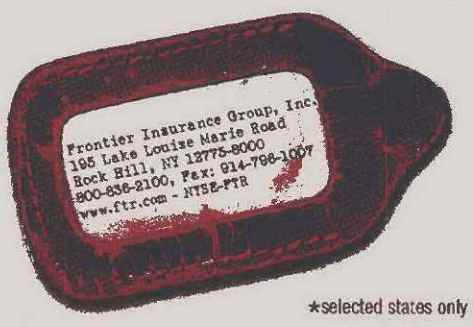

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Funds from the event are donated to various universities, and students were invited to attend the seminar's educational sessions.

The 2001 Houston Marine Insurance Seminar is scheduled for Sept. 23-25 at the same location.

For more information, contact Marine Insurance Seminar Inc., 2000 Bering Drive, Houston, Texas 77057; 713-430-6774; fax: 713-430-6510.

More information also will be available at *www.houstonmarineseminar.com*, a Web site that is currently under construction.

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HIPAA standards aiming for paperless transactions

By MICHAEL PRINCE

SAN DIEGO—If employers need to know only one thing about the Health Insurance Portability and Accountability Act, it's that HIPAA is all about electronic standards, a health care consultant says.

Most industries have such standards, and now health care administration has them as well, pointed out James Moynihan, principal with Agoura Hills, Calif.-based McLure-Moynihan Inc., an e-commerce consulting firm.

Under HIPAA, standards are being set for the electronic transmission of data between payers and payees. Also, HIPAA sets standards for the security and privacy of health care information.

The goal under HIPAA is the elimination of paperwork. Paperless transactions have been used for more than 20 years by the private sector and are "at the heart of the supply revolution," Mr. Moynihan said. But that approach has yet to come to health care information, he said. And everyone is paying the price. An estimated $125 million is wasted per week because of a lack of health care information standards, he said.

But HIPAA will change all that. Under the federal law, health care claims and other information will be exchanged electronically. Although the law passed in 1996, the final regulations were not issued until this year. Because of HIPAA, "claims administration will move into the mainstream of corporate electronic document exchange" from where it is today, said Mr. Moynihan at the 19th Annual International Society of Certified Employee Benefits Specialists Symposium in San Diego last month.

One question under the law is whom it covers. Mr. Moynihan said that all payees and payers must comply with the standards as well as those with whom they share information, called those in a chain of trust. This definition includes self-insured employers, third-party administrators and insurers.

Fully insured employers, however, are not directly covered but cannot ignore the law entirely because any employer that receives claims data is deemed part of a chain of trust, he said.

Two areas are of most concern to employers—security and privacy. Under HIPAA, any organization that fails to secure health care information or that does not keep such information private can face severe penalties.

All entities covered by HIPAA must take steps to protect individually identifiable health care data. This means establishing policies and procedures to secure this information. For example, health care files must be locked in cabinets and computer systems need protection from hackers.

"A culture has to be created where security is important," he said.

The most common risk stems from people taking files containing this private information or leaving it in public where unauthorized individuals might see it, he said.

To prevent this from happening, all employees within an organization must be trained on the importance of security and become familiar with the established procedures.

The other critical area is privacy, or to whom the health care information can be disclosed. The first step in complying with the privacy requirements is establishing a privacy policy. A privacy official, who could be a benefit manager, should then be named and privacy training given to workers. Mr. Moynihan sees this privacy official growing to become a critical part of any organization.

"The privacy advocate will be to the information age what the environmental advocate was to the industrial age," he said.

Safeguards also need to be established to prevent accidental release of private information. Finally, penalties need to be handed out to policy violators.

The first standards established deal with the exchange of data between the employer and health plan. The final rules for this standard were issued in August and compliance must start in October 2002, he said.

Despite the work needed to comply, Mr. Moynihan said that employers ultimately will save money as electronic exchanges in this area have "the highest single return on investment of any standard." This is because with many health plans, claims are often paid for ineligible people because it takes a while for the plan to make note of enrollment changes. But by notifying the plan electronically, this lag ends and improper claims paying is greatly reduced.

"Ultimately e-commerce will reduce lost time and lower health care costs," he said. BI

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Considering options for curbing drug plan costs

By MICHAEL PRINCE

SAN DIEGO—Drug costs will continue to rise, and employers need to explore various strategies—some of them multi-pronged—to help curb the cost of their pharmaceutical benefit offerings.

"There is not one silver bullet here," said Susan Peard, principal with Pharmacy Outcomes Specialists in Lake Zurich, Ill.

From 1995 to 1999, the per-member, per-year average wholesale price for prescription drugs grew by 79.5%, Ms. Peard noted. "That's staggering, if you think about it," she said during a presentation at the 19th Annual International Society of Certified Employee Benefits Specialists Symposium, held last month in San Diego.

Between 1998 and 1999, drugs costs rose by 17.4%, Ms. Peard said, citing data compiled by Express Scripts Inc., a pharmacy benefit manager in St. Louis. Breaking the data down further, Ms. Peard noted that costs grew by 18.0% among plans that were not managed and by 16.3% among managed plans.

The cost increases are being driven by three principal factors, Ms. Peard explained. There has been an increase in the number of users of prescription drugs, she said, and the average length of prescription drug treatment periods also has increased. The third factor is a rise in the per-day cost of the drugs. Given these factors, any plan to control costs must address the jump in utilization, Ms. Peard said.

The cost hikes are expected to continue. It is estimated that drug costs will double from 1999 to 2004, Ms. Peard said, with per-member, per-year costs reaching $759 by 2004, up from $387 in 1999. In the future, "costs will need to be managed—and managed more strategically than in the past," she said.

And things can get even worse. If the government begins to offer a Medicare drug benefit, "we as employers will be the ones paying for the lower costs for the elderly," she said, because drug companies will charge employers more if they are getting less from Medicare than they currently are getting from seniors.

Ms. Peard discussed several cost-control strategies that have not proven effective.

A strategy that forces patients to switch from one expensive drug to another does not work, Ms. Peard contends. What's lacking in such a strategy is that it fails to address the question of whether the patient needs the drug in the first place, she said.

In addition, arrangements that involve only rebates for employers generally are not effective, Ms. Peard said. The main drawback to such an approach is that, in order to receive a rebate from the drug maker, the plan must purchase a minimum amount. If that minimum threshold is not reached, no rebate is provided.

In addition, a change in plan design that does not provide enrollees incentives to switch to a less expensive drug won't succeed, Ms. Peard said.

Basically, these strategies fail because they don't address utilization. Reducing utilization, Ms. Peard maintains, is the key to controlling rising drug costs.

What will work, however, is focusing on "ABC"—audit, benefit design and clinical management—Ms. Peard contends.

An employer should conduct an audit of its prescription benefit manager at least every three years, she said. Audits typically result in savings of between 1% and 3% of plan costs, she said.

But, she stressed, the audit must have an objective. Audits can be conducted to determine whether the PBM is applying for and receiving rebates from drug makers, or whether the employer is receiving the proper drug discounts. Another type of audit focuses on the administration of the plan by the PBM. In addition, an audit can be used to examine how a PBM handles its retail network of pharmacies. Audits can help an employer determine whether its PBM is covering unapproved drugs, is failing to provide discounts and rebates or is violating agreed-upon administrative procedures, Ms. Peard said.

Making changes in its benefit design is another way an employer can address drug plan costs, she said. A so-called defined contribution approach "makes a lot of sense in this area," she said. Such an approach would put more decision making into the employees' hands and would make them more sensitive to the actual price of drugs, she said.

In addition, a plan design that requires the mandatory use of generic drugs or one that requires the employee to pay a percentage of the drug costs—rather than a fixed dollar amount—can help reduce costs, she said.

Another strategy is to implement a clinical management program. Such programs examine the mix of drugs taken by patients to determine whether all the drugs are needed. Under such an approach, coverage for many drugs can be eliminated or prior-authorization requirements can be imposed upon certain medications. In addition, such a program can put limits on refills of some drugs, such as antibiotics or pain medication. BI

Future

Continued from page 20
tion.

- Employers absorbing higher health care costs because of the tight labor market.
- Employers putting more decision-making power into the hands of the employees in such areas as picking a health plan and treatment.
- Health plans facing more lawsuits for their treatment decisions.
- Employers facing lawsuits over their role in the health care system.
- Managed care firms continuing to consolidate and grow, reducing choice for employers.
- Employers using the Internet to provide employees with health care information.

These changes, however, will not happen overnight. "The system is simply too complex, too large and with too many vested political and economic interests to change quickly," Mr. Laszewski said.

Because employers represent the center of the health care system, the most drastic changes will occur when they have to alter their behavior. This depends on two factors. First is the tight labor market. If it continues, employers will have to continue absorbing the rising health care costs and not pass them along to employees.

Second, if ERISA protections are eroded, employers will face greater liability, possibly reducing the number of employers that offer coverage.

Even without those transformations, Mr. Laszewski foresees the role of employers changing, but doing so more gradually. Employers will look to disengage from the management of the health care system, although they will continue to fund it.

"Employers as financiers of benefits is fundamental to the American system of compensation, as well as being politically expedient," he said.

And don't expect government to come up with any solutions to today's problems, he warned.

"Washington is not going to change the market—you are," he said.

Over the long term, he said other changes could be expected, including a move toward a defined contribution type of health care system, Mr. Laszewski said. This in turn will force health plans to respond.

"Private health plan menus will likely become available as entrepreneurs create new products and risk pools to meet employer needs to move health plan decisions out of the workplace," he said. BI

Forming vendor partnerships

By MICHAEL PRINCE

SAN DIEGO—Successful partnerships between employers and outsourcing vendors depend on more than "just giving and delivering services," a benefit consultant says.

"While we all may be doing it, we may not all be doing it well," said Debra Krause, principal in the Minneapolis office of Hewitt Associates L.L.C.

A partnership is multidimensional, Ms. Krause said during a presentation at last month's 19th Annual International Society of Certified Employee Benefits Specialists Symposium in San Diego. The key to a successful partnership is shared responsibility, not mutual blame, she said.

A good starting point is the development of a system that can measure the success of the relationship in various areas, she said.

For example, Ms. Krause said, there are four broad categories of measurements:

- Operational. An operational measurement looks at items such as the number of activities completed, accuracy rates and their timeliness. One or a combination can be selected, depending on what's deemed important to measure, she said.
- Financial. Financial measures can include the fees charged by the vendor or the money that the vendor is saving the company. Ideally, an employer should figure out the cost of the service and the money it saves to determine the real value of the service the vendor is providing, said Ms. Krause.
- Customer. This category looks at vendor satisfaction from the perspective of the employee and the benefits department.
- Strategic. Strategic measures look at whether the vendor "understands our business and the challenges we deal with," she said.

Ms. Krause cautioned employers, however, against using the measurements to cut costs or assign blame. Rather, they should be used to enrich vendor relationships. Used properly, measuring creates "an abundance mentality," and both sides—the employer and outside administrator—can work on improving service and achieving goals.

By using measurements, the employer can hold the outsourcing vendor accountable, better support the strategic goals of the employer and add value to its operations. The entire organization benefits as the accountability helps to improve the bottom line, and the vendor benefits as it can more easily prove how it adds value and provides service with a focus.

But measurements must be limited to what matters. Measuring everything dilutes the impact from measuring the few critical elements, Ms. Krause said. A better approach is to link the measurements to the strategic goals of the organization, she said.

It's important to pick the measurements carefully, she explained. For example, measuring only the financial aspects of the relationship results in just a financial relationship. "You become what you measure," she said.

Whatever combination of strategies is used, it's important for employers to "consider it a process, not just a matter of keeping score," Ms. Krause explained.

No matter what measures are used, employers should establish an open line of communication. "Your outsourcing partner is not a mind reader," she said. "Share information and share it freely."

Hundreds at symposium

SAN DIEGO—More than 500 people came to San Diego for the 19th Annual International Society of Certified Employee Benefit Specialists Symposium, held Sept. 17-20 at the Hyatt Regency San Diego, on the city's bay.

The symposium included more than two dozen seminars and included the conferral of the Certified Employee Benefit Specialist designation on 105 benefit professionals.

Next year's symposium will take place Sept. 9-12 at a city with a different bay, Boston. For more information, contact the International Society at 262-786-8771 or visit its Web site at *www.iscebs.org*.

Wiring

Continued from page 2
wire testing equipment, noted Vincent L. Press, director of marketing at Lectromechanical Design Co. of Dulles, Va. Lectromec specializes in electrical systems and circuitry testing and consulting.

Degraded wiring in airplanes can promote arcing faults, explained Mr. Press and Joseph C. Engel, manager of electronics research and development in the Cutler-Hammer group at Pittsburgh-based Eaton Corp.

An arc, which is hotter than the surface temperature of the sun, occurs when an electrical current flows through two pieces of separated metal, Mr. Engel explained.

Although in some circumstances arcing is a planned and desired event, it can be dangerous when it occurs unexpectedly. An arc can begin in one circuit and jump to another circuit and ignite nearby material, such as lint or insulation.

The usual cause of an unintentional arc is wiring insulation failure, Mr. Engel said.

Degraded wiring and resulting smoke and fire is a widespread problem in the commercial airline industry, asserted Mr. Press, citing research by Jim Shaw, who heads the Air Line Pilots Assn.'s In-flight Fire Project Team.

In a paper published last spring by the Society of Automotive Engineers Inc., Mr. Shaw examined airlines' service-difficulty reports over the first 10 months of 1999 and found that crews onboard 964 flights reported smoke or fire. Of those incidents, 578 were attributable to "high-temperature events," 82% of which were caused by electrical problems, Mr. Shaw found. In 359 cases—or more than one flight per day—the problem forced pilots to make unscheduled landings. In 85 additional cases, the problem forced departing planes to return to their gates.

Mr. Shaw, the chief accident investigator for Delta Air Lines Inc. of Atlanta, also is ALPA's representative on the Aging Transport Systems Rulemaking Advisory Committee. ATSRAC, which was formed in response to Vice President Al Gore's 1997 White House commission report on aviation safety, is a group of industry, government agency and safety authority representatives that is developing strategies to improve inspections of all aircraft systems as they age. Its initial emphasis is on wiring.

The group is scheduled to release its report on the general condition of wiring later this week.

Lectromec's own analysis of wiring on older military and commercial aircraft around the world over the past few years underscores the problem highlighted by Mr. Shaw's research. The firm has found, on average, two wire insulation breaks for every 1,000 feet of wiring, this meaning that, on average, there are 159 wire breaks in narrow-body jets and 318 breaks in wide-body aircraft, Mr. Press said.

"Most of these problems won't bring an aircraft down," he said.

Still, they can create potentially disastrous in-flight problems, he said. In addition, the problems can cause flight delays and diversions as well as in-flight lighting problems, he said.

Mr. Press said that airline maintenance crews often are not detecting wiring problems because: "Basically, the sole method of wiring inspections is visual inspection. And, some wiring is never looked at."

"But we've been saying for years that visual inspection alone is inadequate," Mr. Press said.

That is because a bad wire, which could be as thin as one-eighth inch, may be tucked in the middle of a bundle of wires, he said. He also noted

See **Wiring** *on page 24*

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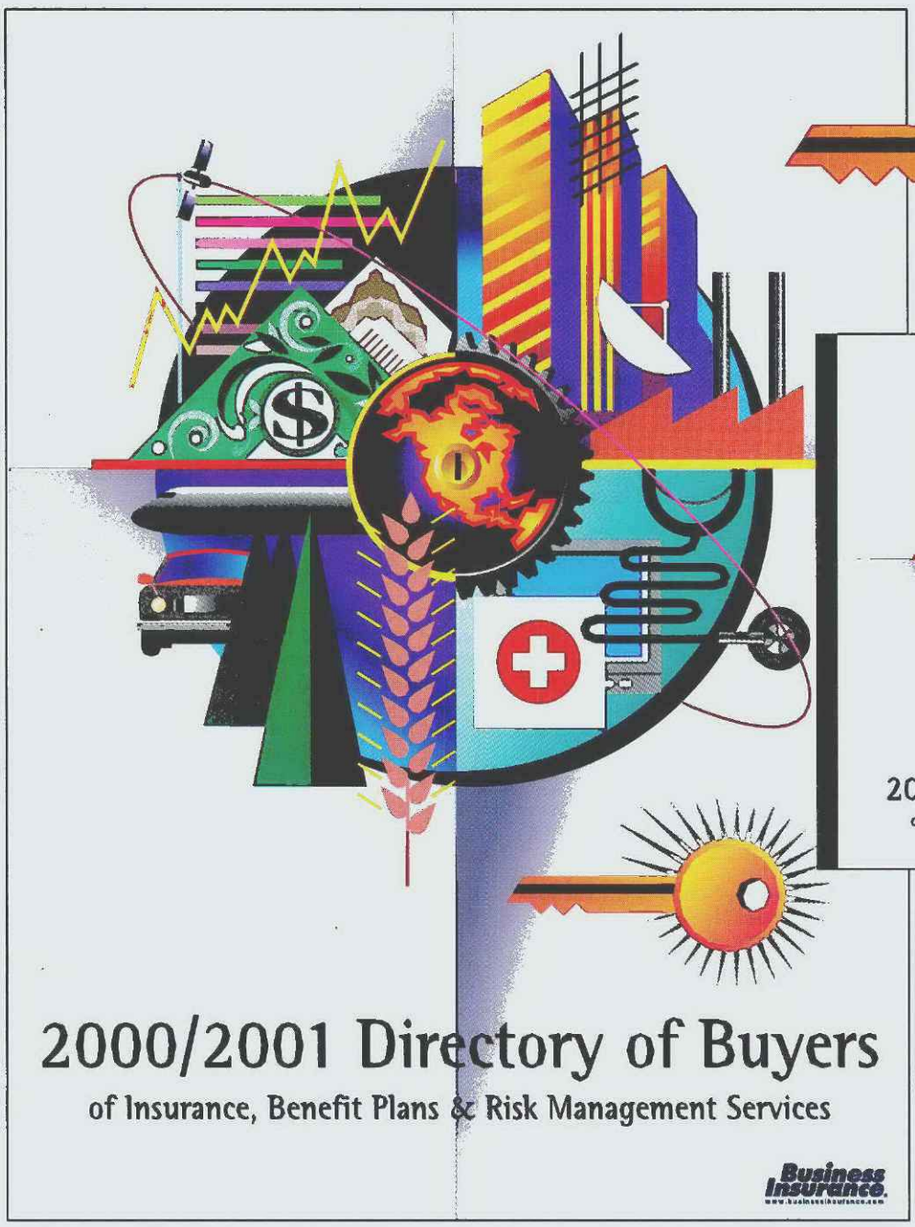

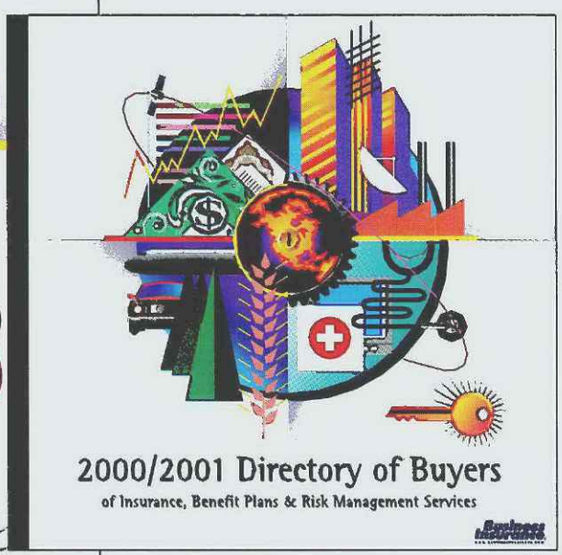

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Wiring

Continued from page 22

that weak and brittle wire, including some new wire, sometimes might appear to be in good condition.

"The standard of care in regard to wiring systems needs to advance itself to our level of current understanding," Mr. Press asserted.

He said this is especially crucial in light of the Federal Aviation Administration's directive to airlines to remove thermal/acoustics insulation blankets that have metalized Mylar backing, which is flammable.

Insulation removal poses additional risk of wire damage, because the insulation often is in areas that are difficult to access and can be near and even intertwined with wires.

Mr. Press called on airlines to test their wiring before removing the insulation and after it has been replaced to ensure that the wires were not damaged during the project.

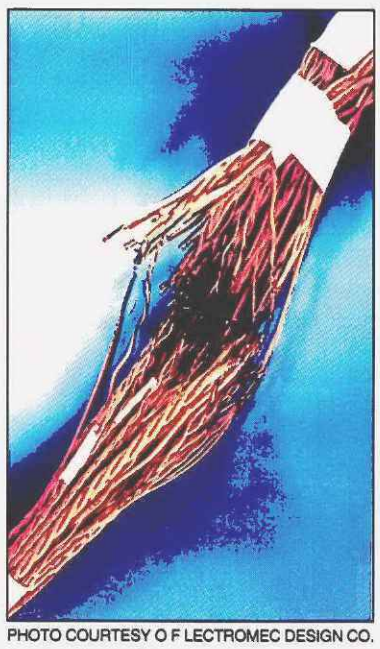
Mr. Press also said he would like to see airlines test aircraft that are scheduled to be retired during the next few years to speed up the retirement of those with potential wiring problems.

He said his firm has assisted various worldwide militaries with similar assessments.

The cost of such an inspection can vary widely.

For example, a 15% sampling of one European country's military aircraft fleet of 800 planes over a one-and-one-half-year period cost approximately $1.5 million, Mr. Press said. With that sampling, Lectromec was able to characterize the wiring conditions throughout the fleet, he said.

A less intensive analysis of a fleet's aircraft that does not look at as many planes and does not review as many zones in each plane can cost $75,000 to $100,000. That analysis may hold up only for the planes that were tested, but it also could be valuable in predicting the conditions of wiring in other fleet aircraft that are operated in similar environments and serviced by the same maintenance crews, Mr. Press said.



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Degraded aircraft wiring may cause problems during flight.

Airlines have expressed concern that they would be admitting liability if they investigated and adopted new maintenance technology, Mr. Press said. But he maintained that that reasoning was faulty and that airlines should investigate the new technology as soon as possible.

At some point, the airlines "will lose their ability to say, 'I didn't know about that' technology and how it could have helped prevent an accident," he said.

"Any preventive maintenance action you take presents good benefits," he said. "Knowing the risk of any situation is invaluable."

While bad wire is a problem, rewiring an airplane is not the solution, Mr. Engel maintained.

"Existing aircraft will not need to be rewired. It's just not possible," Mr. Engel said. "It's a system problem rather than a wire problem. With the proper circuit protection, it has been shown that today's airplane can be made safer."

Normal circuit breakers are useless in preventing arcing, because the breakers are not fast enough to detect arcing faults, which occur in "sputters," Mr. Engel explained.

Eaton is developing an arc-fault circuit interrupter designed especially for aircraft. The national electric code already requires a similar type of breaker that Eaton designed for residential use in bedroom areas in homes built in 2001 and later, he noted.

"It's a very practical solution to a real-life problem." Mr. Engel said.

Eaton is one of the firms that have received partial funding of $1 million over the past two years from the FAA and the Naval Air Force to develop an arc interrupter for airplanes.

Eaton is developing an arc breaker for aircraft systems powered by alternating current. Among other things, an airplane's hydraulics, entertainment and lighting systems are powered by alternating current, Mr. Engel said.

Another firm is designing an arc breaker for systems, including avionics, powered by direct current. But all power in an aircraft stems from the alternating current power generated by the aircraft's engines, Mr. Engel noted. Direct current power is created through an AC/DC converter, which is powered by alternating current.

The precise cost of the new type of breaker is difficult to estimate at this time, because the product still is under development and there is no telling how big demand will be, Mr. Engel said. Significant demand would likely drive down the price of the breakers, he said.

He noted, though, that in the residential market, arc breakers are five to seven times more expensive than normal breakers.

That additional cost is small, though, "if you think in terms of saving an aircraft that might not be certified to fly" otherwise, Mr. Engel said.

But obtaining FAA approval for the device, not its price, will be the biggest factor in getting the breakers installed on aircraft, Mr. Engel predicted.

Some carriers have expressed "a lot of interest" in the device, but Eaton needs more carriers to allow the firm to use their aircraft to conduct more tests of non-critical airplane systems on the ground and in the air. Such tests will help Eaton design a device that will not trip unnecessarily. Such nuisance tripping could get flight crews in the habit of routinely resetting circuits, which could be dangerous in cases when the breaker tripped because of an actual problem.

With the proper support from carriers, Eaton could have a retrofit arc breaker ready for non-critical systems by the end of 2001, Mr. Engel predicted.

Eaton needs to test the breaker with many different carriers, so the device can be tested on systems manufactured by different builders, Mr. Engel explained. That data would help Eaton design a device that will not trip needlessly, because Eaton would be able to use the data to "train" its arc breakers to recognize the various current loads in comparable systems made by different manufacturers, Mr. Engel explained.

A retrofit arc breaker for critical systems will not be ready until at least 2002, he said.

Mr. Press said that arc circuit interrupters appear promising but that the technology had some limitations.

"It isn't a near-term fix. But it's a promising long-term thing" if a breaker recognizes arcs and will not trip unnecessarily, he said.

Mr. Press also said that even a perfected arc breaker would not prevent all problems. He said that a properly functioning breaker likely would not help prevent a fire or explosion when an arc of even a very short duration occurs in a sensitive area of a plane.

For example, he said, such a breaker may not have prevented the explosion of TWA Flight 800 four years ago.

Another area where a breaker may be of little value is where two to three inches of lint has built up, he said. Even if the breaker trips, an arc in that area may still ignite the lint, he said. BI

New technology promises to improve air safety

By DAVE LENCKUS

DANA POINT, Calif.—A far more technologically advanced and cheaper system than radar would help commercial airlines improve both safety and operating efficiency even as air traffic soars to accommodate burgeoning passenger loads, according to a researcher involved in developing the system.

The major work left in adopting the system industrywide is getting airlines to recognize its potential and invest in it, says Capt. Karen D. Lee, advanced flight systems manager with Louisville, Ky.-based United Parcel Service Airlines, which has taken a leading role in developing the system.

"There's not a lot of leadership out there right now," Ms. Lee said during a session at the Aircraft Builders Council Inc.'s annual conference in Dana Point, Calif., late last month.

Ms. Lee later explained: "We, as an industry, have looked to the (Federal Aviation Administration) and the government to provide traffic services. Now we're forcing people to say we have to put equipment on airplanes to improve the way we do business and to improve safety."

Changing that industry mindset will take continued education efforts, and "that education is starting to take hold," Ms. Lee said.

She noted that at the Air Transport Assn.'s conference for airline operations and safety personnel in late September, much of the agenda revolved around the system, known as the Automatic Dependent Surveillance-Broadcast system, or ADS-B.

"That's a group of people we really have to crack open," Ms. Lee said.

"What's making people start to like the message is the runway incursion problem that's facing us," which has led to a growing frequency of accidents on the ground, and the solution that the ADS-B system offers, Ms. Lee said.

That risk will only mushroom as airplane traffic swells to accommodate an expected doubling of the flying public to 1 billion passengers by 2015, Ms. Lee said.

At the same time, air traffic congestion will significantly worsen.

One idea to reduce that congestion is to implement so-called "free flight"—or direct—routes for commercial flights. Currently, flights take more circuitous routes to their destinations.

Before moving to a free-flight system, however, new technology is needed to give pilots more and better information about air traffic, Ms. Lee explained. Pilots need a "technology-based, distribution-redundant air traffic management system," she said.

Pilots currently must rely on only the verbal information that air-traffic controllers radio them.

ADS-B provides pilots as well as various ground personnel a graphic display of air traffic, including the identity of each aircraft that the system depicts and the aircraft's position and speed. Pilots would control how wide a range of air traffic that their individual cockpit systems would display.

The system also can display weather conditions to give pilots a better visual representation of the conditions they will face in flight.

"This is a very powerful, powerful situational awareness tool," Ms. Lee said.

The industry has invested $30 million so far in developing the system, with most of that investment made by UPS, Ms. Lee said.

UPS has eight aircraft fully equipped with the system, and 95 more are wired and ready to be activated. In addition, UPS is committed to equipping an additional 125 aircraft with the system next year, Ms. Lee said.

The FAA contributed $10 million to the project last fiscal year, and this year UPS hopes the FAA will kick in $30 million.

With ADS-B, "everyone has access to information when they need it," Ms. Lee said.

"With moving maps in the air and on the surface, it provides unparalleled situational awareness," Ms. Lee said. Air traffic sees each other, which is not possible today, she said.

Such awareness can help the industry operate more efficiently, even as air traffic grows, by safely allowing reduced air space between planes so landings and departures can be managed more efficiently, according to Ms. Lee.

A July 1999 test of the system in Wilmington, Ohio, showed the system's promise, she said.

Twenty-four aircraft, under the eye of the FAA and National Aeronautics and Space Administration, participated in the system's first in-flight test.

To show how the system could help reduce air-traffic congestion, test conditions were set up to provide only the aircraft's' pilots with the ADS-B system.

The test was planned to measure the system's effectiveness in 95 approaches to the airfield. But the system "worked so well," and the test pilots were so impressed with it, that the pilots performed 217 approaches, Ms. Lee said.

That is time that can be saved in airlines' operations, and the same efficiency can be applied in scheduling closer spacing in departures and even reducing the spacing of aircraft over the ocean or other areas not served by radar to 15 miles from 60 miles, she said.

The increased efficiency in spacing aircraft will be an important motivation for the airline industry to adopt the system, Ms. Lee said.

In addition, because the system can provide pilots with information about aircraft traffic on the ground, the system would help pilots avoid runway collisions, all of which "are preventable," she said.

"Situational awareness today is horrible," Ms. Lee asserted.

Plus, the system would be a tremendous help to rescue crews, according to Ms. Lee. She noted, for example, that emergency crews took 19 minutes to find the American Airlines jet that skidded off the runway and crashed during a rainstorm in Little Rock, Ark. in June 1999. An ADS-B system in the rescue vehicle would have reduced that time tremendously, she said.

Rescue crews responding to at least 17 other emergencies have encountered the same problem in recent years, she said.

From a safety and rescue perspective, "this has tremendous, tremendous application," Ms. Lee said.

Through last week, the system was approved for use only in general aviation, but late last week it was up for certification for use with commercial aircraft.

The FAA also has been working with European aviation authorities to establish a global frequency on which the system could operate, Ms. Lee noted.

The system costs a fraction of the amount a radar system costs, Ms. Lee said.

Equipment and rewiring costs per airplane would run from $50,000 to $130,000, depending on whether the aircraft's transponders must be upgraded or replaced and whether the airplane already is equipped with global positioning system sensors and antennae, Ms Lee said.

The system's low cost is important for small countries that cannot afford radar but where air traffic is increasing.

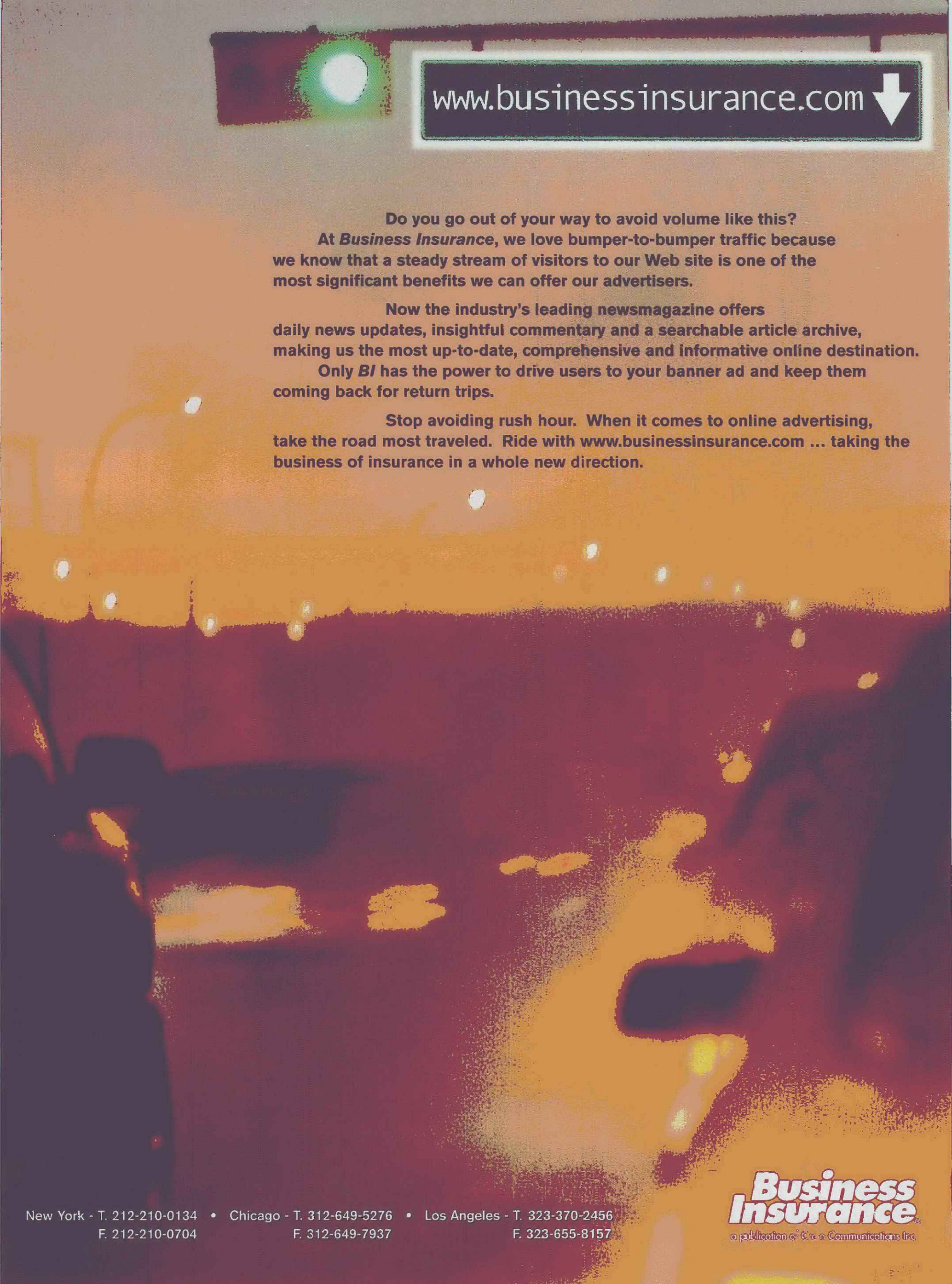
Only a few countries in Africa have radar, and very few in the Amazon region have it, she said. ADS-B also would be useful over huge parts of China and Russia as well as over the North Atlantic and Pacific Oceans she said. BI

ABC annual meeting held

DANA POINT, Calif.—The Aircraft Builders Council Inc., a product liability insurance program for aircraft builders, drew 174 registered attendees to its annual conference in Dana Point, Calif., Sept. 24-26.

Presentations included an analysis of electrical wiring problems in commercial aircraft and how airlines could address the problem; an overview of a new system designed to be a more advanced but cheaper alternative to radar; other technological improvements in aircraft operations and maintenance, and an insurance market report.

ABC's next annual conference is scheduled for Sept. 23-25, 2001, at the Ritz-Carlton in Naples, Fla. More information about that conference is available by calling Gretchen Huetteman at ABC's Minneapolis headquarters at 952-928-4662.



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GLOBAL BRIEFS

Chiyoda Fire & Marine Insurance Co. (Europe) Ltd. has ceased trading in the London reinsurance market and plans to run off its London market reinsurance operations. Chiyoda said that it would instead focus on expanding its U.K. primary business and increasing its auto insurance business through a link it has with Japanese auto manufacturer Toyota Motor Corp....London-based **Aon Group Ltd.** has announced that its specialty business of arranging coverage for corporate transactions has grown more than 300% since it formed a transaction liability unit in February. As part of Aon's financial institutions/professional risks division, the unit provides insurance solutions for corporate transactions. Its specialty coverages include tax opinion liability insurance, warranty and indemnity, loss mitigation/known loss capping and coverage for initial public offerings....Standard & Poor's Corp. has lowered its financial strength and counterparty credit ratings to A from A+ on **Caisse Centrale des Assurances Mutuelles Agricoles**—the mutual parent company of Paris-based Groupama insurance group—and related entities. S&P said the action is "based on the group's weak operating performance, which is unlikely to improve in the near future." The rating agency said it believes the problem is linked to the company's difficulties in fully restructuring and integrating GAN Incendie-Accidents' non-life operations and distribution network. The A rating, however, also reflects "Groupama's overall strong business position in the French market and excellent capitalization," S&P said....Swiss Reinsurance Co. has added a new e-business product, **Swiss Re Portal**. Swiss Re said that the portal "is a platform for promoting dialogue with customers, investors, the media and other interested groups." In addition, Swiss Re Portal gives customers access to ELRiX, Swiss Re's proprietary Web-based risk trading platform; and ELRAC, its new system for electronic policy management ....Paris-based **SCOR S.A.** has launched a new division dedicated to large corporate risks, SCOR Business Solutions. Under the management of Renaud de Pressigny and Victor Peignet, the unit is designed to consolidate SCOR's position in the fields of energy, major projects and space risks, and to become a leading player in other sectors of industry. The aim of the division is "to go beyond a traditional facultative reinsurance approach by offering true risk financing solutions," including global multiperil, multiyear programs; programs that combine traditional risk transfer with alternative solutions; and extended capacity, SCOR said....London-based rating agency Fitch IBCA has assigned an A+ insurer financial strength rating to **Sampo Insurance Co. Ltd.** Sampo Insurance is the parent of the Sampo Group, Finland's largest insurer. Fitch said the rating is based on Sampo's "exceptionally high capitalization and strong business profile in Finland." The outlook on the rating is positive, the rating agency noted. Sampo, which holds 34% of Finland's non-life market and 19% of its life business, is heavily focused on Finland and Northern Europe....Cox Insurance Holdings P.L.C. has sold **Groves, John & Westrup Ltd.** to Munich Re Holding Co. (U.K.) Ltd., part of Munich Reinsurance Co. Liverpool, England-based Groves, John & Westrup specializes in pleasure craft and cargo insurance. Neil Utley, chief executive of Cox's retail division, said the sale is part of a strategic decision by Cox "to concentrate on other core areas of its business."

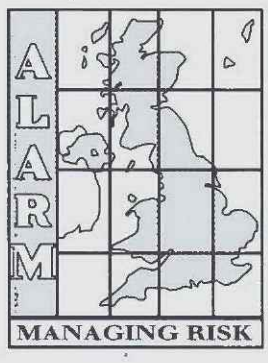
ALARM sounds its success

By CAROLYN ALDRED

Public sector risk managers in the United Kingdom have many opportunities to improve their standing, says Liz Taylor, the Assn. of Local Authority Risk Managers' chief executive.

With increased awareness of risk management by senior management and the public, risk managers of very large public sector organizations are becoming much more than just insurance buyers, said Ms. Taylor.

As she leaves the association this month to take a new post with Marsh Inc. as head of Marsh Public Risk Services in London, Ms. Taylor said she can be satisfied that ALARM has 1,200 members, compared with 450 at the start of 1997, making it by far the largest public sector risk management organization outside the United States. Of the United Kingdom's 475 local authorities, 390 now are members, according to ALARM.



"This is clear confirmation that ALARM has come of age" and is in a position to promote "risk management and the role of the risk manager in the public sector," said ALARM Chairman Kevin McGlone.

"ALARM has grown from a group of six local authority risk managers getting together in 1990," noted ALARM Vice Chairman Ian Horwood.

"Our rapid growth in membership shows no sign of slowing down. New members represent not just local authorities but also health care services, police, fire brigades and voluntary organizations," said Mr. McGlone, who is also assistant director of finance with Knowsley Metropolitan Borough Council.

Not only is U.K. membership continuing to grow, but ALARM also is receiving "increasing interest from (mainland) European colleagues to join," said Ms. Taylor.

"There are growing numbers of sophisticated risk managers in local authorities looking at a wide brief beyond insurance," she said.

One of risk managers' major concerns—and one of the reasons the profile of risk management within organizations has increased—is the increased accountability of

See **ALARM** *on page 29*

Study highlights workplace health issues

By CAROLYN ALDRED

Construction workers face the highest risk of injury among all European employees, but workplace stress is the risk most in need of greater loss prevention efforts, according to a wide-ranging study of occupational safety and health in the European Union.

The report, which was produced by the Bilbao, Spain-based European Agency for Safety and Health, is based on national reports from the 15 E.U. member states as well European and national statistics on workplace accidents and occupational diseases and surveys on working conditions.

"The study marks a first step toward the development of a monitoring system for safety and health in the E.U. aimed at helping decision-makers at the member state and European level in the identification of common challenges and priority areas for preventive actions," according to a statement issued by the agency last month.

"At the moment, when the European Commission is about to embark on preparing a new occupational safety and health strategy for Europe, its publication could not be more timely," said Anna Diamantopoulou, European commissioner for employment and social affairs.

The study found that the construction industry was the industrial sector with the highest risk of injury. The report cited that industry as having the greatest exposure to prolonged absence—defined as more than three days away from work—due to injury; the most fatal accidents; and the most occupational diseases and musculoskeletal disorders.

According to the survey, about one-third of all European workers are exposed to the risk of work-related musculoskeletal disorders, particularly laborers in the mining, construction, manufacturing and transport industries.

Meanwhile, roughly the same percentage of European workers are exposed to stress problems on the job, with employees working in health, social work and education most at risk, according to the report.

In addition, the study found that health and social workers also are at the highest risk of prolonged absence due to occupational illnesses, followed by workers in public administration, according to the report.

Of the areas identified as most in need of additional preventive action, stress came out on top, according to the survey. Ten member states—Belgium, Denmark, Finland, Greece, Ireland, Italy, Portugal, Spain, Sweden and the United Kingdom—cited a need for greater development of preventive measures for reducing the risk of injury or illness due to workplace stress. Greater loss prevention for injuries caused by vibration and by lifting and moving of heavy loads were both cited by nine members states, while both safer handling of chemicals and musculoskeletal disorders were cited by eight member states.

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The full 450-page report, "The State of Occupational Safety and Health in the European Union," is available online at http://agency.osha.eu.int.

U.K. rights mandate takes effect

Act sparks new privacy debate, employer concerns over litigation

By SARAH VEYSEY

LONDON—Almost before the ink has dried on the new statute, the European Convention for the Protection of Human Rights and Fundamental Freedoms is creating new challenges for employers in the United Kingdom.

The United Kingdom's version of the European convention, the U.K. Human Rights Act, took effect on Oct. 2. Under the act, every public authority or company with a public function will have to act in accordance with the convention and can be sued for violations. Examples of companies most likely to fall under the act include privatized utilities, such as power and water companies; regulatory bodies and professional associations that serve in regulatory capacities; charities; residential homes; hospitals and schools. But the act may also apply more broadly, as it does not specifically define "public authority" or "public function."

The 15 basic rights specified in the act are: right to life; prohibition of torture; prohibition of slavery and forced labor; right to liberty and security; right to a fair trial; no punishment without lawful authority; right to respect for private and family life; freedom of thought, conscience and religion; freedom of expression; freedom of assembly and association; right to marry; prohibition against discrimination; protection of property; right to education; and right to free elections.

Just days after it took effect, alleged violations of the U.K. Human Rights Act were cited by trade unions unhappy with U.K. government plans to grant employers access to employee e-mail and telephone calls. The government's plans were announced Oct. 3 by Patricia Hewitt, the U.K. minister for e-commerce and small business, and will go into effect on Oct. 24. Under the rules, employers will be allowed "routine access" to their employees' e-mails and phone calls to ascertain whether they are business-related. A draft code of practice on workplace surveillance was due to be published by the Data Protection Commissioner, a government regulator, last week.

Trade unions promptly pledged to fight the rules on the grounds that they contravene the newly signed human rights act, which enshrines the principle of a right to privacy.

"Employers should not be allowed to routinely screen e-mail and phone calls, and certainly not without consent," said Lucy Anderson, employment rights officer at the Trades Union Congress, an umbrella organization of trade unions. The TUC said that a union-backed legal challenge to the new rules is likely.

Risk managers contend the surveillance is needed to protect corporate security and minimize potential liability exposures arising from employees' unauthorized or inappropriate workplace communication.

Companies are becoming increasingly concerned about breaches of Internet security and potential reputational and financial risks involved, said David Gamble, executive chairman of the Assn. of Insurance & Risk Managers. "I do see some really major difficulties for organizations—you have never be-

See **Rights** *on next page*

ALARM

Continued from previous page
public sector executives and elected public officials, said Ms. Taylor.

"Risk management is about accountability—someone taking responsibility," she said, pointing out that the same issues of corporate governance that the private sector faces also "will have an impact within the public sector."

Mr. Horwood agreed that "corporate governance is coming right to the top of the risk management agenda."

"Within the next few years, the chief executive of every local authority will have to sign a statement of compliance" that risks within an organization have been identified and assessed and that risk management controls are in place, he predicted.

Mr. Horwood, who is risk manager for Wycombe District Council in Buckinghamshire, believes the higher profile of risk management among senior executives and the issue of corporate governance will make it easier for ALARM to change the focus of many risk managers.

"A significant number of local authorities have found it convenient to rebadge their insurance officers as risk and insurance officers. The problem is, that person tends to concentrate on insurable risk, which represents only about 25% of an organization's risk profile. ALARM is trying hard to change that perception," he said.

'The perception...that risk management is all to do with insurance has to be changed quickly,' says Ian Horwood.

"The perception amongst a significant number of local authorities that risk management is all to do with insurance has to be changed quickly," he stressed.

Duncan MacDonald, a vice chairman of ALARM and the risk manager of Fife Council in Scotland, agreed. "A lot of people are still looking at risk management as insurance. That is a culture we are trying to change," said Mr. MacDonald, adding that there already is a change within many government entities.

Educating risk managers is one of the ways in which ALARM plans to reinforce the culture of risk management.

For example, ALARM is working with the Institute of Risk Management to set up a public sector risk management qualification, said Mr. Horwood.

The public sector has in many ways felt the brunt of the increasing litigiousness of European society more than the private sector during the past decade.

"The compensation culture (in the United Kingdom) is growing almost daily, and public bodies are seen to have deep pockets," said Mr. Horwood. As a result, public authorities "are having to handle many more claims for compensation, with increasing numbers of claims being highly speculative but which all take time to administer," he said.

Employment liability also is becoming a high profile headache for many in the public sector.

Stress claims, unfair practices and discrimination claims as well as new claims likely to arise out of the Human Rights Act due to come into effect this month (see story, page 27) all will increasingly affect risk managers.

"Several local authorities have put in new procedures such as looking at why people are off work and introducing back-to-work plans" that will help to reduce employment claims, said Mr. MacDonald.

However, Jane Glyn, an underwriter in the public service department of St. Paul International Insurance Co. Ltd., is surprised at how few public authorities are buying employment practices liability coverage, which St. Paul International offers as a policy extension or as a stand-alone product.

"It is taking local authorities awhile to appreciate the need for EPL cover," said Mr. Horwood.

Meanwhile, a recent House of Lords decision on the failure to educate likely will have huge implications for local education authorities, risk managers say.

In the case, *Phelps vs. London Borough of Hillingdon,* the Law Lords ruled that the authority failed in its "duty of care" to recognize a student's dyslexia and to give appropriate education to the student.

"This ruling has important risk management implications for all local education authorities, and the public sector in general," said Ms. Taylor. "Underlying the decision is the risk of increased costs for authorities that may now face a flurry of similar claims, some requiring lengthy legal determination."

ALARM encourages schools to work closely with their local education authority risk managers "to ensure that a comprehensive and robust risk management program is in place," Ms. Taylor stressed.

The Lords' decision is "causing all sorts of tremors in the market," said Ms. Glyn, adding that insurers are considering "imposing higher deductibles for claims of this kind and encouraging risk managers to introduce monitoring systems for people with learning difficulties."

The *Phelps* case "has ramifications across the board, and most education authorities are having to look at their procedures," said Mr. MacDonald.

"There were a number of claims sitting behind waiting for the *Phelps* decision. This will give the claimants more heart," said Mr. McGlone. BI

Rights

Continued from previous page
fore had a situation where you could actually create so much havoc by one person's actions. From the employer's point of view, you can see just how important it is that the damage that could be done by an individual using his computer to the reputation or financial standing of the company could be quite enormous," Mr. Gamble said.

"Society is going to have to recognize that there are certain controls that it may have to put on people," he added. With the risk of computer viruses, for example, employers "want to be able to double-check that people aren't damaging their company," he said

Meanwhile, a survey conducted by London-based law firm CMS Cameron McKenna found that the majority of U.K. businesses are not prepared for the new act.

Surveying senior managers at large publicly traded companies and local authorities, the law firm found that 24% of companies said they had little or no knowledge of how the act would affect their business, while 50% said they had some knowledge but were not particularly prepared. The survey also found that 69% expect the act to result in increased litigation. In addition, while 93% of senior management said the act would have an impact on employee relations, only 19% have reviewed their employment procedures, the survey revealed.

Although the new act is particularly focused on public authorities, it also has huge implications for private businesses, according to Tony Marks, an attorney with CMS Cameron McKenna. "Not only do the obvious public authorities—local authorities, police, government departments—have to be careful not to act in a way that is in breach of the convention rights, but it also applies to any company that has a license from the government or is performing any public function in the course of their operation," he said.

He cited in particular companies that have government contracts or operate under government licenses that, as a result, may be said to perform a "public function."

"These sort of quasi-public bodies are going to have quite a difficult time until the law is clarified. We don't quite know how the courts will interpret this idea of public functions," he said.

The U.K. Human Rights Act will have far-reaching effects in the field of employment relations, said Mr. Marks. "The courts and tribunals are public bodies which have to apply the law compatible with the convention. So when they have cases dealing with, say, unfair dismissal and the employer has acted in a way that is in breach of the privacy rights of the employee, the court has to interpret the law consistently with the convention, so the principles from the convention start to filter through and affect the way the law is interpreted," he said.

The U.K. Human Rights Act will have 'very broad implications for business,' says the IOD's Ruth Lea.

The U.K. Institute of Directors, which represents company directors, has warned its members that the act will have "very broad implications for business." The IOD's policy director, Ruth Lea, said it would add to the growing "compensation culture," in which people turn to the courts to seek monetary redress for perceived wrongs.

Of particular concern to the IOD are the implications for how the act will be viewed in regard to employment and dismissal, the directors group said in a statement. "Central to employment law is the concept of reasonableness, which may well be reinterpreted within a human rights context," it said. "The employer-employee relationship of trust and confidence will need to be reassessed against a formalized human rights background. It may, for example, become more difficult for employers to defend unfair-dismissal proceedings by alluding to behavior to which an employee may be entitled as a human right," it said.

The IOD cited as examples an employee dismissed for observing religious holidays on days when contracted to work, or employees terminated for refusing to comply with a company's dress code by invoking Article 10 of the act—the right to freedom of expression.

Risk managers must monitor carefully the impact of the new act, said Mr. Gamble. AIRMIC has sought legal opinion on the act, which is available on the association's members-only Web site. "I think risk managers are considering it. Whether they are worried about it, I think not at this moment, but they are perhaps a little apprehensive because there is so much out there which is uncertain," said Mr. Gamble. BI

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Definity

Continued from page 1

creases, and seeing what 401(k) has done for retirement funding, now employers see this as the latest solution," he said.

Under the plan, employers deposit a predetermined amount of money each year into each employee's "Personal Care Account." Employees can use the money to pay for any health care service, including those that are not covered by traditional health benefit plans, such as vision correction surgery or massage therapy.

In addition to the Personal Care Accounts, employers provide employees with high-deductible indemnity coverage to pay 100% of any catastrophic medical costs. The employer determines employees' share of contributions toward the premium for the coverage and employees choose the deductible level they are most comfortable with, though the lowest available deductible is $500 over the amount in the Personal Care Account.

Under the Definity program, employees are encouraged to use doctors in a preferred provider network administered by Preferred One by paying discounted fee-for-service prices. There is also a discounted prescription drug component administered by Merck Medco's pharmacy benefit manager. Employees who choose drugs on the PBM's preferred list pay nothing for their prescriptions, while those who select so-called designer drugs or those that are more expensive, simply pay the difference between the formulary price and that drug's price. But even these drugs are offered at wholesale prices. Prescriptions can either be filled online via the Internet or at participating pharmacies.

If there is any money left over in an employee's Personal Care Account at year-end, it is rolled over for use in subsequent years. This also allows employees to "save up" for more expensive procedures, like corrective eye surgery.

When an employee leaves his employer or retires, he or she can choose to use the money in the Personal Care Account in any one of three ways: to pay COBRA premiums; to pay for retiree health care coverage; or as cash. In this last case, the money would become taxable income to the employee, Mr. Miller explained.

The carryover and cash-out components of Definity's new health plan are raising the eyebrows of many benefits law experts.

Kyle Brown, retirement counsel to Watson Wyatt Worldwide in Bethesda, Md., said that allowing year-to-year carryovers of funds in health care reimbursement accounts converts these plans from health and welfare plans into retirement plans.

"This sounds like a pension plan, which makes it subject to ERISA's funding and vesting requirements," he said.

"Let's say they can only spend the money on medical expenses, then there's no actual 'cash,'" Mr. Brown said. "But if you make it a defined contribution by offering cash at the end, you have to create an actual account and you have to vest it like a pension plan."

But Definity's Mr. Miller says this is not so.

"Section 125 (which applies to flex plans) or 220 (which governs Medical Savings Accounts) do not apply," he insisted. "Section 105 is what's being used."

Section 105 of the Internal Revenue Code, which provides for employer-funded health care reimbursement accounts, allows for carryovers, Mr. Miller said.

Still, Mr. Brown says he has "serious questions about the design. Section 105 allows for carryovers, but the only thing the money can be spent on is health care," he insisted. "I don't understand how it meets all the various restrictions on benefit plans—both the tax code and ERISA."

"It's like having a second little retirement nest egg," he added.

Indeed, "The IRS is concerned about people putting a lot of money into a (health care spending account), say a dentist who sets aside $50,000 a year, and having the taxes on this money be deferred," agreed Henry Saveth, Washington resource group attorney at William M. Mercer Inc. in New York.

Over time, that $50,000 could turn into $1 million, and all of the money would have been shielded from regular income tax, he said.

But it is unlikely such a buildup would occur under the Definity Health plan, which, in most cases, limits annual contributions to the Personal Care Accounts to about $1,000 per person, according to Tom Wildsmith, policy research actuary at the Health Insurance Assn. of America in Washington.

"$1,000 a year is real money, but it's well below the average per-employee cost of most health benefit plans," he said, pointing to HIAA statistics that show employers spend an average of $2,200 per year on health benefits for each individual covered by their plans. Furthermore, "over 70% of employees will submit a claim in a given year," he said.

"My impression is most employees are not going to be accumulating hundreds of thousands of dollars," Mr. Wildsmith said.

Bob Stevens, chief executive officer of Ridgeview Medical, a hospital with six clinics in the Minneapolis suburbs, hopes the plan will teach its employees to be better health care consumers, thus saving the employer money. About 800 Ridgeview employees are eligible to participate in the plan.

"Over the long term, say five years from now, we think we'll save money," he said. "I think employees will be fairly conservative about their spending" instead of seeing their health benefits as an entitlement. "Right now most of our employees don't think too much about how much they're spending. They think more about whether something is covered or not."

But this new plan is not just about saving money, Mr. Stevens said.

"As an employer, we wanted to give our employees more choice of providers, make employees more responsible for spending and give them more benefit choices," he said.

Aon will make the Definity health plan available to approximately 3,000 employees in Minnesota and Illinois beginning Jan. 1, 2001, according to John Reschke, vp, compensation and benefits. In Chicago, it will be offered in addition to the company's self-insured PPO indemnity plan and three HMOs; in Minneapolis, it will be offered in addition to the self-insured PPO indemnity plan and two HMOs, he said.

Mr. Reschke said Aon decided to offer the plan in response to employees' request that they "have more freedom to select providers, better health information and have more control over their health care."

"The personal choice, access to information and comprehensive coverage through top quality providers offered by Definity Health should be well received by our employees," he said. "We'll see how they respond" during open enrollment, which begins this week.

For some employers, giving employees a limited amount of money to use for their health care spending can be a tough sell, according to Sibyl Bogardus, vp and national director of Willis North America Inc.'s National Benefit Resource in St. Louis.

"Some smaller employers tried to sell their employees on medical spending accounts, but it's just not an attractive type of coverage," she said.

Congress authorized tax-favored MSAs under a 1996 federal law. But that law limits MSAs to employers with 50 or fewer employees. Employers or employees—but not both—can contribute to the MSA. And the law itself expires at the end of this year. MSAs that have been established can continue, but no new MSAs—unless Congress extends the law—could be set up.

"I see it flying with the more highly educated and highly paid workforce like consultants or law firms, but this is not a good plan design for employers with a less-sophisticated workforce, like manufacturers," Ms. Bogardus said.

Mr. Stevens says he would be satisfied if just 20% of Ridgeview Medical's 800 eligible employees sign up for the plan, which is being offered as an alternative to the employer's traditional 80/20 indemnity plan, also administered by Definity.

Just as it took a while for employees to get used to the new defined contribution pension plans, it will take a while for this new type of health plan to catch on, he said.

But, like 401(k), "I think this is the wave of the future," he predicts.

Ms. Bogardus shared his view.

"While I'm not endorsing this plan, I think it's something employers should consider," she said.

Health care costs, especially prescription drug costs, are increasing annually at double-digit percentage rates, she pointed out. "And so many employees today are complaining about their health benefits, employers need to do something."

Furthermore, "I don't see the IRS or the Department of Labor challenging this unless something goes terribly awry," Ms. Bogardus said. "The employer as a fiduciary has an obligation under ERISA to make sure they're providing a high quality plan," she said. "There's nothing illegal or inappropriate about the concept as long as the disclosures meet ERISA requirements."

But if the IRS or the Department of Labor do decide to intervene, that might not be all bad, according to Regina Herzlinger, a Harvard professor and author of a book advocating the use of the defined contribution approach to employer-provided health benefits.

"We need a test case on this and they'll provide the test case," she said, adding: "Why shouldn't they be able to do it? It's certainly in our national interest." BI

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Preliminary Schedule Summary

Monday, November 13
Golf Tournament and Golfers' Luncheon on Masters Lawn
Captives 101: The Benchmark Course or Basics of E-Commerce and E-Business
Registration and Welcome Reception with Exhibitors

Tuesday, November 14
Continental Breakfast
Keynote Address: "Into the 21st Century"
Beverage Break
Group Captives ***or***
Capital Markets and Risk Management
Buffet Luncheon
New Ways to Use Your Captive/ Decontrolling Captives ***or***
New Risks: A Healthcare Perspective
Beverage Break
Rent-a-Captives ***or***
Employee Benefits/Pensions and Captives
Cocktail Reception
Dinner and Entertainment

Wednesday, November 15
Continental Breakfast
Captive Case Studies
Beverage Break
Reinsurance ***or*** Enterprise Risk
Buffet Luncheon
New Tax Developments
Conference Roundup

For further information, including exhibit and sponsorship opportunities, contact:

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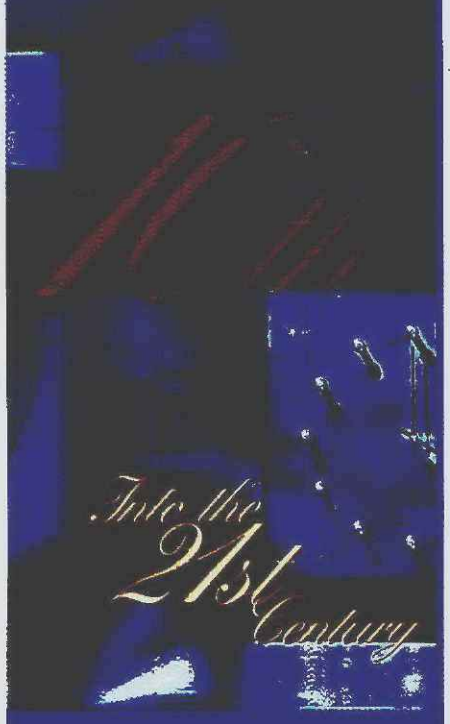

Fees for the 10th World Captive Forum

$2,750	Exhibit Booth (Includes one free registration)
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$975	Risk Manager Registration
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Loss

Continued from page 1

fused to comment on the insurance coverage.

Sources in the market remarked on the late notification of the claim, even though the fire occurred in March and the losses were known to Ericsson in the second quarter. Also, no mention was made of the insurance coverage when the company reported the loss to investors in July.

Meanwhile, Ericsson's reinsurers were seeking additional retrocessional coverage last week because the telecommunications company's property insurance was renewed in May with no business interruption sublimits; underwriters at that time were unaware of a claim likely to be filed on the previous policy, London market sources said.

Such a large loss will influence both underwriters and risk managers, observers say. "At the bottom of a soft market cycle, any major losses are likely to hasten the speed of a hard market return. During that period of turning, underwriters are looking much more carefully at both pricing and terms and conditions," said a Hiscox spokeswoman, who refused to discuss Ericsson's claim.

"A loss like Ericsson's will focus people's minds," said David Foreman, the partner responsible for the general non-marine division of Wellington Underwriting P.L.C.'s syndicate 2020, which did not participate in Ericsson's coverage.

Such a loss "will harden the market, depending on how well spread it is," he noted.

"Without a doubt, it will impact the market," said Charles Franks, deputy underwriter for marine and special risks on syndicate 510, managed by R.J. Kiln & Co. Ltd. Syndicate 510 did not take part in Ericsson's insurance program.

The loss likely will lead to much tighter underwriting and lower sublimits for contingent business interruption, said Jonathan Tay, director of property underwriting at ACE Global Markets Ltd. in London.

Underwriters will have to start tracking loss aggregates and the potential claims stemming from the loss of any one supplier or customer. They will require more information on policyholders' contingency plans and may be more reluctant to cover companies that rely on single suppliers for components, said Mr. Tay.

"An Ericsson-type loss will heighten awareness of underwriters, who will want to see more risk mitigation and contingency planning" from prospective policyholders, said John Eltham, a director of The Miller Insurance Group Ltd. in London.

Most large companies purchase business interruption coverage as part of their property programs. This type of policy covers losses sustained as a result of an insured peril.

'Businesses now are more aware of the interruption risks they face,' says Helen Thornton of Willis Risk Solutions.

Additional coverage can be purchased to cover property damage sustained by a third party, such as a supplier or customer, which could result in loss of revenues for the policyholder. More specialized stand-alone products also are available, including trade disruption insurance, which protects policyholders against the financial consequences—including loss of profits, contractual penalties, product replacement costs and relocation costs—of a permanent or temporary disruption to their trade arising from any insured event, including fire, natural perils and political risks.

Demand for contingent business interruption coverage is increasing as companies realize their exposure to inadequate or untimely delivery of supplies, according to Mr. Eltham, who helped pioneer TDI coverage with the Kiln syndicate at Lloyd's.

"The level of awareness of risk managers of contingency risks and the importance of the supply chain has increased dramatically in the last four to five years," said Mr. Eltham, who believes the "change in perception and awareness is coming from the board level."

The complexity of supply-chain logistics and the enormity of exposure are leading some risk managers to turn to external logistic consultants to assess and manage the risks, he noted.

"Businesses now are more aware of the interruption risks they face," which are often "far greater than the property damage exposures," said Helen Thornton, an associate responsible for business interruption and continuity for Willis Risk Solutions, a London unit of Willis Group Ltd.

"There have been several big BI (business interruption) losses recently because of supply chain problems and underwriters are likely to start looking at companies' BI risks in more detail," said Ms. Thornton.

"Supply chain analysis is now more relevant due to changes in business practices, such as just-in-time supply and delivery, and is becoming more recognized because of the losses occurring. It takes a lot of time, and many companies do not have the necessary skills in risk evaluation and identification, so they may turn to consultants," she said.

Demand for business interruption coverage, including stand-alone TDI policies, is definitely increasing, particularly among the more sophisticated U.S. and European companies that understand the potential losses, said Kiln's Mr. Franks.

"Business interruption is insurable. The problem is understanding the risk," said Wellington's Mr. Foreman.

In a soft market, business interruption coverage has often been "rolled into" the property program and not rated sufficiently by underwriters, he said.

To rate the risk effectively, underwriters need to be able to assess the potential losses and examine how a company can manage the risk by, for example, having back-up supplies or suppliers, he explained. Mr. Foreman added that the underwriter also needs information on the main suppliers. A policyholder's dependence on one main supplier would have to be taken into account in the rating, he noted.

Ericsson's dependency on a sole supplier for a particular component, however, is not unique in the telecommunications sector, said Per Lindberg, an analyst with Dresdner Kleinwort Benson in London.

"Strategic suppliers making unique components are used by many other companies," he said, noting that Ericsson and other companies may be "reassessing that strategy and putting other policies in place, such as dual sourcing or having a standby supplier."

This can, however, be problematic, particularly for components such as semiconductors, where demand often outstrips supply, and fire damage can put a semiconductor plant out of operation for weeks because of the need for a dust-free production environment, he noted. BI

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Frontier trying to avoid delisting from NYSE

ROCK HILL, N.Y.—Frontier Insurance Group Inc. is preparing a business plan for the New York Stock Exchange that it hopes will prevent the exchange from delisting the troubled insurer's stock.

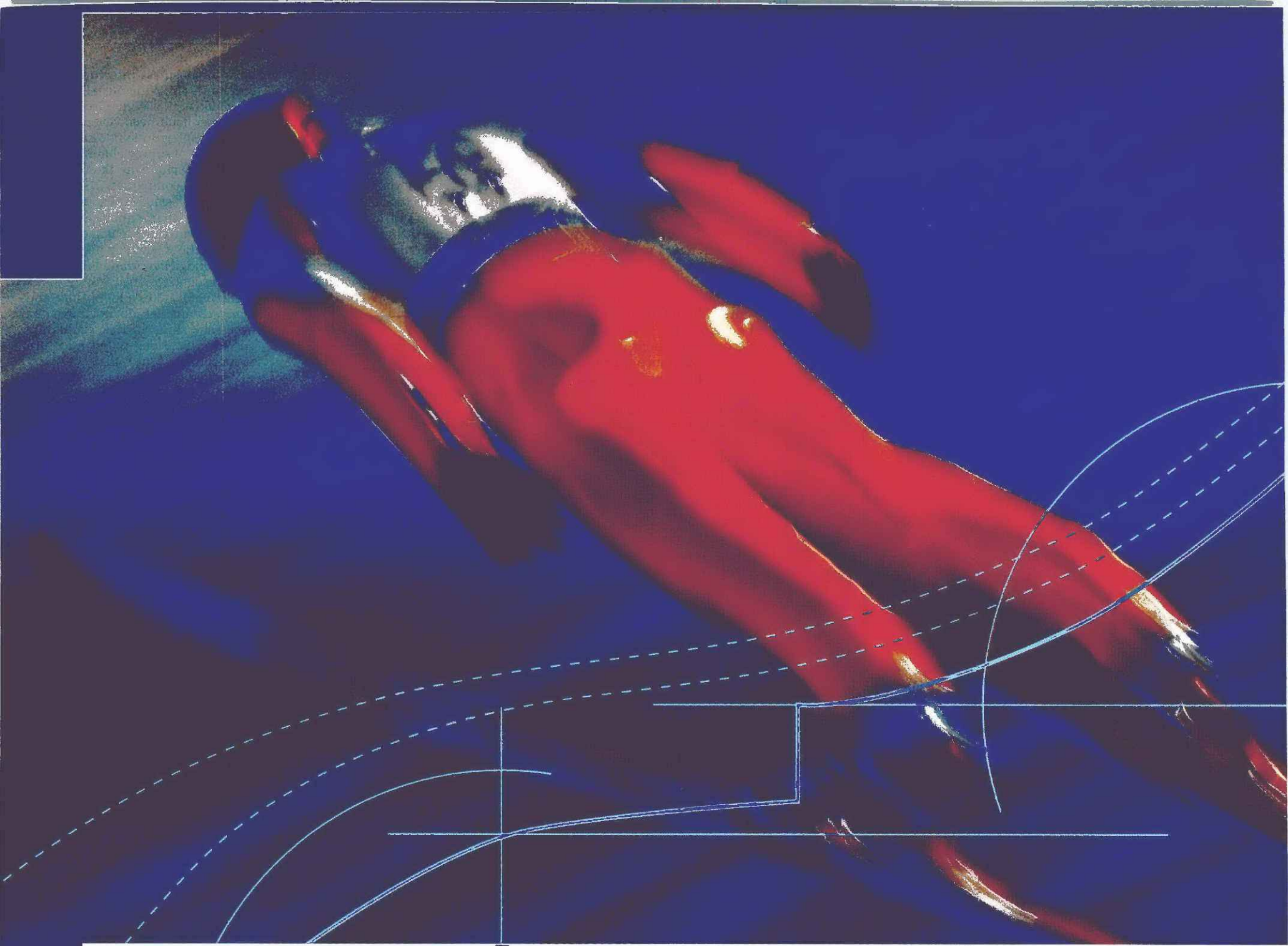
The NYSE notified Frontier that it has dropped below certain exchange criteria for continued listing. These include at least $50 million of both market capitalization and shareholders equity and a minimum $1 share price. Frontier's shareholders equity had fallen to $16.4 million at June 30 from $78.6 million at year-end 1999, while its share price has been stuck below a dollar since June. Frontier's market capitalization stood at about $31.2 million on Monday, based on a share price of $0.75 and 41.6 million shares outstanding.

"We have submitted a business and capital plan to the NYSE that we believe will demonstrate the ability of Frontier to comply with the continued listing criteria of the exchange," Frontier Chairman Jerry Goldress said in a statement.

Frontier's stock price must also climb above $1 by Dec. 16 or the company must present a shareholder-approved plan to boost the share price by its June 2001 annual meeting, the insurer was told by the NYSE.

Frontier has made progress in improving its eroded shareholders equity. The insurer announced last week that it has completed a series of privately negotiated deals in which it exchanged Frontier common stock for convertible preferred securities previously issued by a Frontier financing unit. Cancellation of the preferred securities and $41.7 million of associated convertible subordinated debentures has increased the insurer's shareholders equity by $41 million, Frontier said.

—By Douglas McLeod



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COMMENTARY

Reader feedback overwhelming

Every aspect of our 100 Leading Women project has exceeded my most optimistic expectations.

As I said last week in my note accompanying our special report, I was overwhelmed by the number of women who were eminently qualified to be included in our issue last week honoring the leading 100 women in risk management, employee benefits, commercial insurance and related fields. Our working list approached 300.

Since publication of our report, all of us at *Business Insurance* have greatly appreciated the enthusiastic response of our readers, which has come from both women and men. People not only have applauded us for taking on this assignment but also have recognized what a huge effort it entailed for our entire staff who conducted the interviews, assembled the photographs and edited the copy.

A retired male insurance brokerage executive wrote last week to our editor: "Congratulations on recognizing the real power of the commercial insurance industry: women. Your challenge to select 100 leading women from the thousands of highly qualified decision-makers, promise makers and promise keepers must have been daunting. Your write-up on how you picked the 100 seemed reasonable and fair, with due acknowledgement to those not on the list."

Kathryn J. McIntyre

That comment was most welcome and is representative of what many others have said to me personally.

We also received gracious congratulations from women who were not on the list.

A woman specializing in marketing for the insurance business wrote: "What a great idea! I think the list is wonderful and is a good way to illustrate just how many women are in top positions in the industry. I must admit I was beginning to feel as if women were really being forced out of the major companies because of all the mergers and acquisitions. Paranoia was setting in. Your article and list made me rethink my bias and realize that there are a lot of women in high positions."

That is exactly the message that we hoped to send with this special project.

And I will treasure the letters that I have received from women on the list who have shared with me how much this acknowledgement means to them personally as well as to all women in the business.

As one honoree eloquently wrote: "Thank you for your salute to 100 Leading Women. I am very honored and appreciative to be included in such august company. I was inspired by the group's accomplishments and the survey demonstrated in very real terms the increasing influence that women have exercised in this industry. I liked the combination of individual experiences along with feature stories on the general issues women face today. It was an excellent overview of where we have been and where we are heading in a tumultuous and highly competitive market. The issue was terrific and a landmark for us all."

I'm also looking forward to the historic luncheon that will be held on Tuesday, where we will honor these 100 women. We've had to move to a larger ballroom at The Fairmont Hotel in Chicago to accommodate the nearly 500 people who want to gather in celebration of our honorees. Among the guests will be representatives of the seven insurers and three brokers who have generously signed on with us as sponsors of the luncheon. Thanks to the support of ACE USA, Aon Corp., CNA Financial Corp., Kemper Insurance Cos., Marsh Inc., XL Capital Ltd., American International Group Inc., FM Global, Arthur J. Gallagher & Co. and Swiss Re, we will make a generous contribution to the annual insurance industry campaign to raise money for breast cancer research at City of Hope in honor of these women.

Finally, I was personally overwhelmed by the flattering column that Editor Paul Winston wrote about me last week, which I did not know he was doing. I hadn't seen it before publication, a feat he managed because I was out of the office when his column closed.

When I opened my copy of *Business Insurance* Monday morning and saw his column for the first time, I was at first a little miffed that he had found a way to work me into the issue after all, since we had agreed it would be inappropriate for me to be on this list. But now I am indebted to him for all his kind words. I am especially grateful because his column has saved me a lot of explaining when people asked me why I wasn't on the list. All I had to say was: "Read Paul's column." Thanks, Paul.

Publisher and Editorial Director Kathryn J. McIntyre's commentary appears fortnightly and at www.businessinsurance.com. She can be reached at kmcintyre@crain.com

Labor

Continued from page 1

made by the HMOs' providers. For these suits, no ERISA pre-emption existed, and HMOs could be sued for malpractice under state law.

"This is what most of the courts of appeal were saying," said Marc Machiz, a partner with Cohen, Milstein, Hausfeld & Toll in Washington who specializes in ERISA-related litigation.

But the *Pegram* decision added a new, third category of lawsuit—mixed-eligibility and treatment decisions. The Labor Department's brief says that for cases that fall into this new category, there is no ERISA pre-emption, and lawsuits under state law can proceed against the plans.

The Labor Department's most recent brief was filed with the Pennsylvania Supreme Court in *Pappas vs. Asbel*. The suit arose in 1991, when Basile Pappas began to experience paralysis and numbness in his arms and legs. While at the emergency room, the treating physician recommended emergency surgery at a nearby hospital that specialized in such procedures.

Mr. Pappas belonged to United States Healthcare Systems of Pennsylvania Inc., and the HMO refused to authorize the transfer, because the other hospital was not part of its network. Mr. Pappas was treated at the original hospital but was left paralyzed.

Mr. Pappas sued the hospital and the HMO in a Pennsylvania court, claiming that the refusal to transfer him and resulting delay in treatment caused his paralysis. The HMO countered that ERISA—not state negligence law—covered the suit. Eventually, the case was appealed to the U.S. Supreme Court, which remanded it to the Pennsylvania Supreme Court to reconsider in light of the court's decision in *Pegram*.

Before the *Pegram* decision, the Labor Department submitted a brief in the *Pappas* case, arguing that the suit stemmed from a coverage decision and therefore ERISA pre-emption should apply. But after *Pegram*, the government's views have changed.

In its new brief, the federal agency states that "ERISA does not pre-empt a state negligence action challenging the decision." The government then asked the Pennsylvania Supreme Court to send the case back to the trial court to gather more facts to determine whether the case falls into the new mixed category.

'The Department of Labor's position on ERISA is always significant,' says Elizabeth Bondurant.

This change of position "is an important next step," in the government's attempt to define the limits of ERISA pre-emption, said Ms. Kramerich of the Labor Department.

The government's switch "is a dramatically important one," said Mr. Machiz, the employment attorney, who said it could mean that ERISA would not pre-empt state lawsuits within this new category. The majority of cases that are in dispute in this field deal with coverage decisions based on medical judgment, he said.

Although courts make the final determination on whether ERISA applies, "the government's analysis is quite influential," Mr. Machiz said.

With the new government position, courts will more likely rule that no ERISA pre-emption exists in lawsuits against health plans, said Barry Barnett, a principal with Unifi Network in Teaneck, N.J.

The primary result of the brief is that "plaintiffs attorneys will now call every decision an HMO makes a mixed-eligibility decision to avoid ERISA," said Elizabeth Bondurant, a partner with Carter & Ansley in Atlanta. She represents health plans in ERISA suits.

She said that the *Pappas* case is being "closely watched," by ERISA attorneys, and the government's brief could have a big impact in this field.

"The Department of Labor's position on ERISA is always significant," she said.

Citing concerns of more lawsuits being filed against HMOs, Louis Saccoccio, general counsel of the American Assn. of Health Plans in Washington, criticized the Labor Department's position.

The brief "certainly leaves the door open for plaintiffs lawyers," he said. One possible result will be higher costs to defend these suits, which could mean higher costs to employers, he said.

In Mr. Saccoccio's view, the Labor Department has misread the *Pegram* decision and is applying it to situations—like the *Pappas* case—where it shouldn't.

"They read it much too broadly," he said.

Another impact of the brief will be on the so-called patients' bill of rights proposals in Congress, Unifi's Mr. Barnett said. A main provision of these bills would allow patients to sue HMOs for their coverage decisions under state medical malpractice laws. Such provisions, he said, would be unnecessary if the courts adopt the new DOL viewpoint. BI

Veto

Continued from page 2

about $3 billion. But, although the governor on Sept. 29 vetoed the most recent benefits bill—just one day before a deadline to act on 2000 legislation—he also said that benefits paid to workers have not been raised in many years and need to be increased.

"I intend to sign a bill that incorporates reasonable benefit increases and additional reforms to ensure that California's system of workers compensation operates in a fair and cost efficient manner," the governor said in a veto message.

Gov. Davis said he has asked Steve Smith, the state Director of Industrial Relations, to meet with labor leaders, employer representatives and other stake holders to work out a consensus bill for the 2001 legislative session. The new session begins in January.

There is likely to be much fighting over the issue, however, because both groups have much at stake, said Lori Kammerer, managing director of Sacramento-based Californians for Compensation Reform.

Employers not only disagree with organized labor and workers comp attorneys over how much of a benefits increase is needed, but also contend that significant system changes are necessary, Ms. Kammerer said. Among other things, they want medical evaluations for determining worker disability based on objective criteria rather than subjective doctor opinions.

That demand is an employer "stall tactic," said leaders for the California Federation of Labor and the California Applicants' Attorney Assn.

As long as employers can count on the governor to veto a significant benefits increase they have no interest in compromising, said Marc G. Marcus, president of the Applicants Attorney Assn.

Both sides will have to temper their demands, predicted Doug

'I intend to sign a bill that incorporates reasonable benefit increases,' says Gov. Gray Davis.

Widtfeldt, a workers comp expert and vp for the Sacramento-based Assn. of California Insurance Companies.

"I think there will be more pressure and motivation to try and accomplish something next year," he said.

The greater burden to negotiate, however, may rest on employers precisely because the governor does believe that benefits need to be increased and he has vetoed a bill for two years in a row, Mr. Widtfeldt said. In addition, he added, labor has threatened to put the issue on a ballot and let voters decide it.

"Real or otherwise, that (potential action) is something that folks have to consider," Mr. Widtfeldt said.

In other action, the governor on Sept. 30 signed at least two other insurance-related bills. Both emerged after state legislators investigated allegations that former insurance commissioner Chuck Quackenbush improperly allowed insurers to avoid penalties for their Northridge earthquake claims handling practices.

S.B. 1899, by Sen. John Burton, D-San Francisco, extends to victims of the Northridge earthquake until January 2002 the deadline for filing insurance claims. Several homeowners insurers had imposed a 12-month moratorium on new property damage claims from the 1994 quake.

The bill addresses a few hundred claims filed by homeowners. Yet it does not distinguish between claims filed by commercial and personal-lines policyholders, according to insurer representatives

"As far as we know, there were not many, if any, commercial claims that fall in that category," said Bill Gausewitz, assistant vp for state affairs in Sacramento for the American Insurance Assn. Personal lines insurers, however, fear the legislation will encourage class-action lawsuits against them. There are now about 10 lawsuits filed against insurers by Northridge earthquake claimants and several are seeking class-action status, said a spokesman for the Personal Insurance Federation in Sacramento.

The governor also signed S.B. 1805, introduced by Sen. Martha Escutia, D-Whittier. It requires that the Department of Insurance make public the final reports resulting from insurer market conduct examinations. It would apply to commercial forms of insurance such as workers compensation coverage. In the past, those reports were kept confidential. BI

Plans

Continued from page 1

lic policy reason why the rate at which benefits are earned can't be measured simply be looking at changes in employees' cash balance plan account balances. That method provides a "precise, quantifiable and clear measure that does not require any estimates or actuarial assumptions," Judge Hamilton wrote.

Benefit experts hailed the ruling, thought to be the first on the relationship between age discrimination laws and cash balance plans, as one that could influence the course of subsequent litigation.

"It is so well reasoned and laid out. The decision will stand out for its reasoned and rational discussion of the issue. It is quite possible that this decision will be cited and quoted by many courts in the future," said Ethan Kra, chief actuary with William M. Mercer Inc. in New York.

"We think this decision is very important, as it goes in considerable depth in analyzing the legal and policy issues. It is an excellent decision," said John Woyke, a principal with Towers Perrin in Valhalla, N.Y.

Others note that although the decision is a vital one, it hardly will be the last word on the legality of cash balance plans.

"It seems certain that litigation will continue. Still, to have this well-reasoned and thoughtful decision certainly helps," said Kyle Brown, an attorney with Watson Wyatt Worldwide in Bethesda, Md.

To be sure, age discrimination is only one of the issues opponents have cited in attacking cash balance plans. Plaintiffs already have won cases involving the question of whether cash balance plan participants are entitled, upon leaving employment, to more than the amount credited in their cash balance plan accounts. And Onan itself still faces other legal issues involving its cash balance plan.

In a statement, Onan said it "always believed that the conversion of its more traditional retirement plan to a cash balance plan was in full compliance with the law, and will continue to work to resolve the remaining issues left in the case expeditiously."

The question of whether cash balance plans violate age discrimination laws—the central issue in the Onan case—has ramifications for virtually all cash balance plans.

Judge Hamilton noted in his ruling that if plaintiffs' view is correct, "It is likely that hundreds of cash balance plans with millions of participants will be deemed illegal."

Plaintiffs in the Onan case agreed that the pay-based credits and the interest employees earned on the accounts do not depend on age. But rather than measuring the rate in which benefits are earned in terms of current pay credits, the plaintiffs said federal age discrimination law requires benefit accrual to be measured in terms of an annual benefit payable at normal retirement age.

'It is quite possible that this decision will be cited and quoted by many courts in the future,' says Ethan Kra.

If measured that way, Judge Hamilton said, "then the Onan Pension Plan and probably any other cash balance plan" violates federal age discrimination law. That conclusion, he explained, "results simply from the time value of money. All other things being equal, the service credit for a younger employee adds more to the value of an annuity payable at that employee's normal retirement age than an identical service credit for an older employee."

That is because "the younger employee's service credit will earn interest credits for more years than the older employee's before each reaches the age of normal retirement. The effect is inherent in virtually any cash balance pension plan design," Judge Hamilton wrote.

An example under Onan's pension plan illustrates that point, Judge Hamilton noted.

Consider two employees, one age 25, the other, 45. Each earns $30,000 per year. Each employee earns a service credit at the end of the first year under the cash balance plan of $960. Assuming an interest rate of 8.75%, the 25-year-old's $960 credit in that one year will grow to a projected account balance of $25,293.71 at age 65. For the 45-year-old employee, the projected account balance from the same $960 credit would be $4,725.28 at age 65.

In turn, when these projected account balances are converted to a lifetime annuity payment, the 25-year-old's one-year credit accrued an annuity of $3,025.56, while the 45-year-old's credit accrued an annuity of $565.22. If benefit accruals are measured as the ratio of an annuity payable at age 65 to an employee's current compensation, the 25-year-old's benefit accrual rate is 10.09%, or more than five times greater than the 45-year-old's 1.88% benefit accrual rate.

While the arithmetic is correct, Judge Hamilton said that federal age discrimination law does not require that a retirement benefit accrual rate be calculated solely on the basis of the value of an employee's annuity payable at normal retirement age.

"The concept of benefit accrual rate does not have a single, self-evident meaning, especially in the complex world of pension regulation," he said.

Indeed, federal law requires employers with defined contribution plans not to make age-based distinctions, even though contributions made for younger employees have greater value because of the time value of money. "It is difficult to fathom why Congress might have wanted to outlaw similar effects under defined benefit plans, and plaintiffs have offered no such reasons," Judge Hamilton said.

Judge Hamilton also said that 1986 amendments to the ADEA, which, among other things, bar reduction in the rate of an employee's benefit accrual because of age, don't apply to employees under normal retirement age, but to employees working past normal retirement age.

The legislative history behind the statute suggests that Congress intended to ensure that employees deciding to work past normal retirement age would continue to accrue pension benefits, he said.

For example, Rep. William Clay, D-Mo., said at the time Congress was considering the legislation that these "changes will assure that older Americans who work beyond normal retirement age continue to earn pension credits."

In addition, Rep. Marge Roukema, R-N.J., said the legislation amends current law to "preclude the attainment of any age as a reason for eliminating or reducing pension benefits accruals after normal retirement age."

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IP 97-0814-C H/G Eaton et al. vs. Onan Corp., U.S. District Court, Southern District of Indiana, Indianapolis Division.

HMO

Continued from page 2

40% are reporting weak results, meaning only 35% of existing groups are operating effectively.

Many plan members, meanwhile, are complaining about problems such as billing disputes, Ms. Young said. They are feeling lost in the system.

At the same time, the capitation payment system is in trouble in California. More hospital groups are declining to see patients under that payment system. They are insisting on fee-for-service arrangements or declining to see new patients. The system is unstable, Ms. Young said.

The problems are fueled by some doctor groups that quickly formed under managed care and made promises they could provide quality medical services efficiently, said Brad Bowlus, president and chief executive officer of PacifiCare Health Plans Division in Santa Ana, Calif. But some groups have failed to deliver on those promises and there now exists great variation in operating costs and the quality of medical groups operating in the state.

There also has been a steady increase in the number of doctors under contract with health plans. Some of that increase, however, can be attributed to the acquisition of another HMO. For example, five years ago, about 18,000 California doctors contracted with PacifiCare. Now there are about 35,000 doctors under contract, Mr. Bowlus said.

Managed care still can provide employees with health care value and is worth saving, particularly in California, Ms. Young said. Managed care in some other states, such as Texas, has not fared as well. Hysterectomies in that state, for example, are performed at a rate five times greater than in California, she pointed out.

In an attempt to improve the system weaknesses in California, PacifiCare plans to roll out its new HMO in 2001. Currently, health plans mask provider group inefficiencies from plan members, Mr. Bowlus said. Members do not choose their providers based on the doctors' operating efficiencies. Efficiency and good outcomes get swapped for accessibility.

The proposed HMO model has the potential to address that issue by downsizing doctor offerings. "Every industry needs a way to cleanse itself of non-performers," Mr. Bowlus said.

The new HMO concept calls for providing plan sponsors with increased provider profiling and accountability through performance guarantees, said Greger Vigen, a Mercer principal in Los Angeles. Mr. Vigen hopes those measures will eliminate complaints about providers and HMOs.

Mercer developed the concept and presented it to several HMOs. PacifiCare, which now has 3 million members enrolled in group health plans in several states, agreed to help carry it out.

Mercer will not have a financial stake in the HMO to be created by PacifiCare.Many of the details still are under development. But PacifiCare may introduce the idea in other states, where appropriate, should it work well in California, Mr. Bowlus said.

The early adapters likely will be large employers, said Mr. Vigen. To help implement the plan, Mercer has asked several California employers to participate on an advisory council. Employer support is vital to winning employee participation, he added.

Employers so far have reacted positively, aside from two concerns, Mr. Vigen said. They feel they already are paying HMOs to create quality health plans. Secondly, employers are wary of making decisions regarding provider solvency issues.

But the HMO will still handle provider solvency concerns, Mr. Vigen said. BI

UPDATES

Ballot initiative on health access

BOSTON—A battle is heating up in Massachusetts as opposing sides face off over a controversial ballot initiative.

On Nov. 7, Massachusetts will vote on Ballot Question 5, designed "to ensure that there will be access to health care for all Massachusetts residents, including strong patient protections and a bill of patients' rights," the initiative states.

If passed, the initiative would set up a Health Care Council to recommend legislation that would bring down barriers to accessing care and to ensure that patients can see the provider of their choice. The initiative also would require that 90% of all health care premiums be spent on patient care and no more than 10% on administrative costs. Any laws would go into effect by July 2002.

In Massachusetts, 10.5% of the population in 1999 had no health insurance, according to a recent U.S. Census Bureau study. This is up from 10.3% in 1998.

Supporters of the bill include consumer groups, health care provider organizations and others interested in health care for the uninsured. Labor unions are also prominent supporters. To place the initiative on the ballot, more than 110,000 registered voters signed a petition supporting it.

But passage is far from certain. A coalition of health insurers, employers and business groups are working to defeat the measure. A group called the NO on 5 Coalition has raised about $1.1 million to date, mostly from the state's health maintenance organizations, a spokeswoman said.

Information on the ballot initiative is available at the Web sites of both its supporters, *www.question5.org*, and opponents, *www.question5.com.*

Pollution verdict pleases neither side

TUCSON, Ariz.—Associated Aviation Underwriters Inc. and more than 1,600 Tucson, Ariz., residents plan to appeal a trial judge's ruling that AAU must cover at least part of the residents' $35 million to $40 million pollution liability claim against the Tucson Airport Authority.

The residents claim they have suffered a variety of illnesses caused by ingesting drinking water that was polluted with the industrial cleaning solvent trichloroethylene, or TCE, beginning in the early 1940s.

The original defendant in the pollution liability case, Hughes Aircraft Co., now Raytheon Missile Systems Co., settled for $85 million in 1991. The TAA that year also settled with the claimants by assigning its insurance rights to them.

Two of the TAA's insurers—underwriters at Lloyd's of London and U.S. Aviation Underwriters Inc.—later settled with the claimants for $7.3 million and $5 million, respectively. AAU, which had agreed to defend the authority under a reservation of rights, refused to settle. AAU covered the TAA under accident-based policies from 1960 through 1968 and occurrence-based coverage from 1969 through 1972.

Pima County Superior Court Judge Bernardo P. Velasco ruled Sept. 29 that losses stemming from the pollution's dispersal, migration and ingestion were covered by the accident-based policies but not the occurrence-based policies.

The claimants plan to appeal that portion of the ruling, because the language in the occurrence-based coverage defines a covered loss just as Judge Velasco did in his opinion, said independent plaintiffs' attorney Richard J. Gonzales of Tucson. In addition, the occurrence-based coverage did not exclude pollution liability, Mr. Gonzales said.

AAU also plans to appeal, said AAU attorney Peter Collins of Gust Rosenfeld P.L.C. in Tucson. The judge misapplied a 1987 Arizona Supreme Court decision in finding that the TAA's 1991 settlement with the claimants obligated AAU's accident-based policies to respond to the claims even though the insurer did not have the opportunity to contest whether the policies covered the authority for such a loss, Mr. Collins said.

Watson Wyatt IPO set for this week

BETHESDA, Md.—Benefit and actuarial consultant Watson Wyatt & Co. is expected to make its initial public stock offering this week.

According to a company prospectus, 5.6 million shares—half held by Watson Wyatt and half held by employees—will be offered at a share price estimated at between $11.50 and $13.50. Shares will trade on the New York Stock Exchange, most likely under the symbol WW.

Watson Wyatt says it expects to use the proceeds from the IPO, which was announced about 10 months ago (*BI*, Nov. 29, 1999), for general corporate purposes and for possible "strategic acquisitions."

Shares of the newly issued Class A common stock will make up about 17% of Watson Wyatt's total outstanding common stock.

Separately, Watson Wyatt recently reported that its revenues for the year ending June 30 climbed 12.2%, to $624.6 million.

OPL's Reliance Re purchase done

PHILADELPHIA—Overseas Partners Ltd. last week completed its purchase of Reliance Reinsurance Co. for an undisclosed amount.

Hamilton, Bermuda-based OPL, which will rename the U.S. reinsurer Overseas Partners US Reinsurance Co., plans to take on about 40 of Reliance's 70 staff members. Reliance Re wrote about $300 million in gross premiums in 1999.

The U.S. unit will remain in Philadelphia and will be headed by Ed Stanco, who was chief operating officer of Reliance Re. Additionally, OPL has taken on Steven McElhiney as senior vp and chief financial officer. Mr. McElhiney formerly was with TIG Holdings Inc.

Reliance Re's old liabilities will remain with its former parent, New York-based Reliance Group Holdings Inc.

"The acquisition gives us a U.S. platform with no existing liabilities, and a management team and professional staff with recognized technical expertise who have a proven track record," Mary Hennessy, chief executive officer of OPL, said in a statement.

FOR THE RECORD

Excerpts from *BI*'s Daily Online Updates, Oct. 2 - 6, 2000

TRAVELERS PROMOTIONS In a realignment of management responsibilities in its property/casualty operations, Travelers Property Casualty Corp. has made several executive promotions. Charles J. Clarke, vice chairman of Hartford, Conn.-based Travelers, has been given day-to-day responsibility for all of the company's property/casualty business. In addition, Christine B. Mead was named senior vp and chief financial officer for Travelers' property/casualty business. Douglas G. Elliot was promoted to president and chief executive officer, commercial lines, reporting to Mr. Clarke. Mr. Clarke, who has been with Travelers since 1958, was named vice chairman of Travelers in 1998. Ms. Mead joined the company in 1989, and since 1996 has been chief financial officer for personal lines. Mr. Elliot joined Travelers in 1987 and most recently has headed the company's Select Accounts organization. Travelers is a subsidiary of Citigroup Inc.

TravelersInsurance
A member of citigroup

BROADER TIRE SUIT PROPOSED A Chicago attorney is seeking approval for an expanded class-action lawsuit against Bridgestone/Firestone Inc. and the Ford Motor Co. on behalf of claimants outside the United States who allege they were harmed by defective tires. Kenneth B. Moll filed the suit in federal court in Chicago on Oct. 3, seeking approval for a worldwide class-action suit on behalf of all U.S., Venezuelan and other foreign citizens who claim that defective tires designed, manufactured, sold and distributed by Bridgestone/Firestone Inc. and the Ford Motor Co. resulted in economic losses, personal injury or death. Judge Charles P. Kocoras of the U.S. District Court for the Northern District of Illinois announced last week that he had entered an order allowing an amended complaint to be filed. The amended complaint adds a number of Venezuelans to the group of plaintiffs and adds more types of allegedly defective Bridgestone/Firestone tires not previously mentioned in the original complaint. The amount of damages sought by the complaint was unavailable. Mr. Moll is an attorney with Kenneth B. Moll & Associates Ltd.

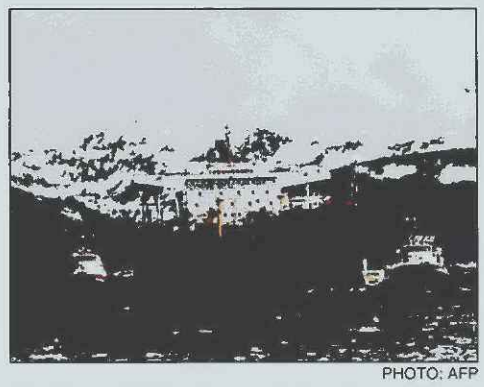


PHOTO: AFP

The Exxon Valdez is towed after the accident.

VALDEZ AWARD OK'D The Supreme Court's decision to let stand a $5 billion punitive damages award against Exxon Mobil Corp. for the 1989 Exxon Valdez oil spill is not the end of the oil giant's fight to avoid paying the award. The court's decision last week not to review the case "does not affect the appeals before the 9th Circuit Court of Appeals" that seek to have the award overturned, an Exxon Mobil spokesman said. Furthermore, the decision does not obligate Exxon Mobil to pay the "unwarranted and excessive damages," the spokesman said. The Supreme Court let stand the U.S. appeals court ruling that the damages should be paid in the lawsuit brought by fisherman and other plaintiffs. The Exxon Valdez ran aground in Alaska's Prince William Sound in March 1989, spilling 11 million gallons of heavy crude oil that fouled the shoreline and killed wildlife. Exxon's insurance at the time of the accident was written by syndicates at Lloyd's of London, other London market underwriters, and Scandinavian insurers; coverage provided $250 million in liability limits and $600 million in property limits. Exxon also had a $400 million pollution liability policy at the time, written by International Tanker Indemnity Assn., a Bermuda-based protection and indemnity club.

KAISER SUING COLORADO Kaiser Foundation Health Plan of Colorado is suing the state to recover three years of alleged underpayments to its Medicaid HMO. The suit is the second filed against the Colorado Department of Health Policy and Financing in connection with Medicaid reimbursements. Grand Junction, Colo.-based Rocky Mountain HMO was awarded $15 million in back payments by a district court judge in May. The court found Colorado's Medicaid program underpaid health maintenance organizations beginning in 1996 and discouraged participation in Medicaid managed care. The state is appealing that decision. Kaiser's suit, filed Sept. 29 in Denver District Court, was spurred by the Rocky Mountain HMO decision, according to a Kaiser spokesman. Denver-based Kaiser officials hadn't considered the matter until they saw documents from the Rocky Mountain HMO suit, he said. Kaiser hasn't yet calculated how much it believes the state owes the HMO, the spokesman said. Kaiser's Medicaid HMO enrollment has fluctuated between 3,300 in 1999 and 7,200 this year, the spokesman said. State officials did not return phone calls.

CNA RE RESTRUCTURES CNA Re has reorganized its operations, structuring them around global underwriting "centers of excellence" rather than geographical boundaries. The underwriting centers of excellence defined in the reorganization are: facultative; global catastrophe unit; global financial lines; global specialty lines; standard lines, Americas; and standard lines, Europe and Asia. The three functional centers of excellence developed as part of the reorganization are: London company management; pricing and risk management; and underwriting policy. The reorganization also involved the creation of a chief operating officer position. Debra L. McClenahan, who formerly was executive vp, financial services, was named to that post. The underwriting centers of excellence and the functional centers that support them report to Ms. McClenahan. Chicago-based CNA Re is a unit of CNA Financial Corp.

CNA RE

ISONET ENHANCED Insurance Services Office Inc. is upgrading its Web-based Property Claim Services information delivery service, ISOnet. ISOnet now will have current weather maps and forecasts and will send e-mail alerts to customers about new potential catastrophes. In addition, the site will provide expanded information on other catastrophic events in addition to its tropical storm coverage. ISOnet currently has nearly 1,000 subscribers, including insurers, reinsurers, risk managers and other clients.

ONLINE COVERAGE A new Internet portal for independent agents lets them place middle-market e-commerce risks online. For $89 per month, CyberCover offers agents access to insurers offering specialized Internet insurance coverage, said Philip A. Eifert, chief executive officer at the Goldens Bridge, N.Y.-based company at the CyberCover's launch in New York. Among the coverages available online are: property, including tangible and intangible assets; computer crime; business interruption; virus damage; public relations expenses; cyber-publishers liability; intellectual property infringement; and errors and omissions liability. Agents submit their clients' information to the site at *cybercover.com*, and the information is then sent out to participating insurers that include American International Group Inc., Chubb Corp., Zurich Financial Services Group Inc., The Hartford Financial Services Group Inc. and Kemper Insurance Cos. The insurers then submit quotes to the agents through the site. "The value we bring is that, on specialty lines of business, clients will not (have to) complete 10 applications," Mr. Eifert said. Agents receive a 10% commission for the placements. BI

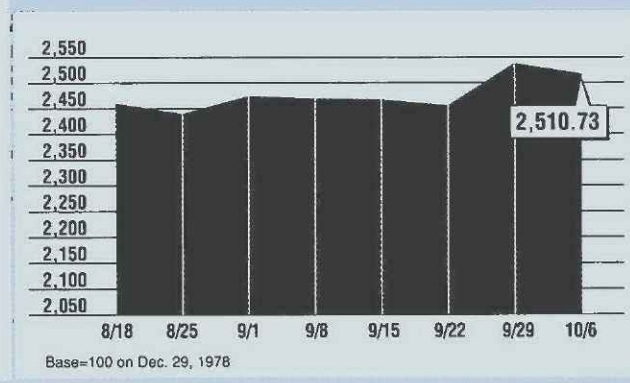
To get breaking news as it occurs, visit Business Insurance's free online Updates at www.businessinsurance.com. All of the material in the For The Record column, as well as other content in this week's issue, is generated from daily news postings that appeared on the Web site in the previous week.

Find daily coverage on Corporate Risk, Employee Benefit and Managed Health Care News at www.businessinsurance.com

BI Industry Stock Report OCT. 2, 2000, THROUGH OCT. 6, 2000

BROKERS		Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)
Aon Corp.	NYS	38.56	-1.75	-3.59	42.75	20.69	3019
Brown & Brown	NYS	32.69	2.75	70.64	32.69	15.38	92
Clark Bardes Holdings	NDQ	10.44	2.45	-27.39	20.63	8.50	276
E.W. Blanch Holdings Inc.	NYS	20.94	0.90	-65.82	65.00	16.56	583
Gallagher Arthur J. & Co.	NYS	54.88	-7.19	69.50	60.50	23.06	509
"Hilb, Rogal & Hamilton"	NYS	38.81	-6.90	37.39	42.13	24.25	82
Kaye Group Inc.	NDQ	5.81	-2.11	-30.60	11.88	5.00	40
Marsh & McLennan	NYS	128.69	-3.06	34.49	134.94	64.38	4433
BROKERS	AVERAGE		-2.60	19.27			
INSURERS/REINSURERS							
ACE Ltd.	NYS	35.63	-9.24	113.48	40.19	14.06	5181
Accel International Corp.	NDQ	0.47	-6.40	-53.20	1.19	0.47	45
Acceptance Insurance Cos.	NYS	5.94	-10.38	3.26	15.13	2.75	107
AEGON N.V.	NYS	38.00	2.36	-20.42	49.13	31.50	1330
Aetna Life & Casualty	NYS	60.63	4.41	8.62	73.69	38.50	4869
AFLAC Inc.	NYS	65.13	0.77	38.01	68.00	33.56	4354
Allmerica Financial Corp.	NYS	63.50	-0.68	14.16	67.19	35.06	835
Allstate Corp.	NYS	34.13	-1.80	41.82	36.00	17.19	16500
Ambac Financial Group	NYS	71.75	-2.05	37.49	76.63	38.88	2332
American Financial Group	NYS	21.50	-7.28	-18.48	30.25	18.38	301
American General	NYS	79.06	1.36	4.20	82.19	45.63	4578
American Intl Group	NYS	93.63	-2.16	29.88	97.50	52.38	17959
American Safety Insurance	NYS	3.69	-4.84	-43.27	7.44	3.50	24
Argonaut Group	NDQ	17.13	-2.14	-13.84	26.00	14.44	59
AXA-UAP Group	NYS	65.00	0.48	-8.45	81.50	58.50	1406
Baldwin & Lyons Inc.	NDQ	19.63	1.29	-11.30	23.94	15.25	34
Berkley W.R. Corp.	NDQ	33.75	-2.35	61.68	35.23	14.00	500
Berkshire Hathaway Inc.	NYS	59900.00	-6.99	6.77	66900.00	40800.00	2
Capitol Transamerica Corp.	NAS	12.00	1.05	19.25	14.00	9.38	62
Chubb Corp.	NYS	74.75	-5.53	32.74	82.00	43.25	3653
CIGNA Corp.	NYS	109.95	5.32	36.48	112.48	60.75	4537
Cincinnati Financial Corp.	NYS	34.94	-1.58	9.61	43.31	26.19	2040
Citigroup	NYS	53.50	-1.04	27.78	59.13	31.55	65639
CNA Financial Corp.	NYS	36.00	-5.88	-7.54	42.13	24.56	285
CNA Surety	NYS	11.69	1.63	-10.10	14.94	9.75	256
EMC Insurance Group Inc.	NDQ	10.13	-1.22	10.96	11.38	6.81	6
ESG Re Limited	NDQ	3.00	1.05	-56.76	9.38	2.50	134
Enhance Financial Services	NYS	12.88	-0.96	-20.77	19.31	8.63	567
Everest Reinsurance	NYS	47.56	-3.91	113.17	50.25	20.50	1439
Fremont General Corp.	NYS	3.56	3.64	-51.69	9.63	2.69	1701
Frontier Insurance Group	NYS	0.38	-40.00	-89.09	9.13	0.28	1597
Gainsco Inc.	NYS	4.06	-2.99	-24.42	6.50	3.69	113
Harleysville Group	NDQ	19.94	4.76	39.91	20.50	11.63	1157
HSB Group Inc.	NYS	40.13	0.00	18.67	40.63	21.50	427
HCC Insurance Holdings	NYS	19.38	-4.62	46.92	22.94	8.00	510
ING Groep N.V.	NYS	66.94	1.61	9.73	69.94	46.81	620
IPC Holdings Ltd.	NDQ	19.13	3.38	28.57	20.38	9.75	234
Hartford Financial Services	NYS	72.00	-1.20	51.98	77.81	29.38	5048
John Hancock Financial Services	NYS	27.38	1.86	61.03	28.38	13.44	5233
LaSalle Re Holdings Ltd.	NYS	18.88	0.00	14.39	19.38	10.88	0
Lincoln National	NYS	46.63	-3.12	16.56	56.38	22.63	6726
MAIC Holdings Inc.	NYS	12.56	2.55	-40.71	23.80	10.00	102
Markel Corp.	NYS	144.13	-5.02	-7.02	182.06	111.50	54
MBIA Insurance Group	NYS	66.50	-6.50	25.92	73.44	36.31	1485
Meadowbrook Insur. Group	NYS	4.19	4.69	-36.19	12.06	3.94	26
MetLife	NYS	26.19	0.00	83.77	27.63	14.25	8014
Mutual Risk Mgmt. Ltd.	NYS	20.88	-4.84	24.16	23.75	9.81	375
Navigators Group	NDQ	11.38	7.06	16.67	14.13	8.63	29
NYMagic Inc.	NYS	15.13	1.26	14.69	15.75	12.25	5
Ohio Casualty Corp.	NDQ	6.75	6.40	-57.98	17.88	6.13	4543
Old Republic Int'l	NYS	23.44	-2.60	72.02	27.06	10.63	4089
Partner Re Ltd.	NYS	51.13	7.77	57.61	53.00	28.38	1564
Penn-America Group Inc.	NYS	7.44	-0.83	-4.03	9.75	6.63	4
PMA Capital Corporation	NDQ	17.06	-5.21	-14.15	20.50	15.50	50
Philadelphia Cons. Holding	NDQ	21.13	1.20	45.69	22.63	13.13	267
PXRE Corp.	NYS	15.25	-3.17	17.31	17.56	9.94	50
Reliance Group Holdings	NYS	0.16	-16.67	-97.64	7.75	0.13	1742
ReliaStar Financial Corp.	NYS	53.94	0.00	37.64	53.94	23.75	2055
RenaissanceRe Holdings Ltd.	NYS	63.81	-0.20	56.12	66.00	33.19	553
RLI Corp.	NYS	37.88	-1.78	11.40	39.63	26.25	41
St. Paul Cos.	NYS	46.81	-7.07	38.96	51.31	21.31	3952
SCOR	NYS	44.38	2.90	0.28	53.63	38.38	21
SAFECO Corp.	NDQ	25.75	-5.50	3.52	30.69	18.00	2076
SCPIE Holdings Inc.	NYS	20.44	1.55	-36.38	36.94	19.00	NA
Seibels Bruce Group	NDQ	0.81	-18.75	-53.57	3.88	0.53	10
Selective Ins. Group	NDQ	17.63	-1.40	2.55	20.38	14.63	210
Tokio Marine & Fire	NDQ	51.75	3.11	-12.47	67.00	45.00	69
Torchmark Corp.	NYS	28.56	2.70	-1.72	36.00	18.75	1741
Transatlantic Holdings	NYS	95.38	3.11	22.18	95.38	68.75	42
Trenwick Group Inc.	NYS	17.19	-9.54	1.48	21.25	12.00	704
Unico American Corp.	NDQ	7.00	5.66	0.00	8.63	4.50	6
United Fire & Casualty	NDQ	16.94	-1.81	-25.14	23.38	15.50	39
Unitrin	NDQ	31.75	0.20	-15.61	39.75	27.19	405
UNUM Corp.	NYS	28.31	3.90	-11.70	36.19	11.94	5774
Vesta Insurance Co.	NYS	5.31	-1.16	37.10	7.88	3.44	178
XL Capital Ltd.	NYS	77.25	4.39	48.92	80.00	39.00	2674
Zenith National Ins.	NYS	21.56	-1.43	4.55	24.94	18.75	21
INSURERS/REINSURERS	AVERAGE		-1.38	8.65			
HEALTH MAINTENANCE ORGANIZATIONS							
Foundation Health Systems Inc.	NYS	17.69	6.39	77.99	18.56	6.25	2678
Humana Inc.	NYS	11.38	5.81	38.93	12.38	4.75	8011
Oxford Health Plans	NDQ	31.38	2.14	147.29	34.25	9.75	5955
Pacificare Health Sys.	NDQ	35.50	1.97	-33.02	72.31	31.13	3061
Sierra Health Services	NYS	5.13	9.33	-23.36	10.00	2.44	1164
United HealthGroup	NYS	102.94	4.24	93.76	107.94	39.38	5022
Wellpoint Health Networks	NYS	96.13	0.13	45.78	100.31	48.25	3340
HMOs	AVERAGE		4.29	49.62			
ALL COMPANIES			0.10	25.85			

BI Insurance Index



Base=100 on Dec. 29, 1978

Top advancing issues: Sierra Health Services, Partner Re Ltd., Navigators Group. Leading decliners: Frontier Insurance Group, Seibels Bruce Group, Reliance Group Holdings. Most active issue: Citigroup. The *BI* Index went down 1.1%; The Dow Jones 30 Industrials decreased 0.5%; the S&P 500 Industrials dropped 1.9%, and the NYSE Composite went down 1.0%. Average P/E: Brokers, 22.6; Insurers/reinsurers, 24.5; and HMOs, 14.9.

Source: *CNET Investor* (investor.cnet.com) Boulder, Colo.